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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FOURTH CONGRESS—FIRST SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

FOURTH CONGRESS—FIRST SESSION.

COMPRISING THE PERIOD FROM DECEMBER 7, 1795, TO JUNE 1, 1796, INCLUSIVE.

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WASHINGTON:

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1849.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, HELD IN THE CITY OF PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following Senators appeared, and took their seats:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

CALEB STRONG and GEORGE CABOT, from Massachusetts;

THEODORE FOSTER, from Rhode Island;

OLIVER ELLSWORTH and JONATHAN TRUMBULL, from Connecticut;

MOSES ROBINSON, from Vermont;

RUFUS KING, from New York;

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania;

HENRY LATIMER, from Delaware;

HENRY TAZEWELL and STEPHENS T. MASON, from Virginia;

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;

PIERCE BUTLER and JACOB READ, from South Carolina.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the Constitution provides, and HENRY TAZEWELL was duly elected.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business; and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

Ordered, That Messrs. READ and CABOT be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled; that they have elected JONATHAN DAYTON their Speaker; and that they have concurred in the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that the two Houses of Congress are assembled, and are ready to receive any communications that he may be pleased to lay before them.

Mr. READ, from the joint committee appointed for that purpose, reported that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress were assembled; and the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives Chamber at 12 o'clock to-morrow.

TUESDAY, December 8.

HUMPHREY MARSHALL, from the State of Kentucky, attended.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the PRESIDENT OF THE UNITED STATES shall be pleased to make to them.

Whereupon, the Senate repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress was read, as follows:

Fellow-citizens of the Senate, and of the House of Representatives:

I trust I do not deceive myself, while I indulge the persuasion that I have never met you at any period, when, more than at the present, the situation of our public affairs has afforded just cause for mutual congratulation, and for inviting you to join with me in profound gratitude to the Author of all Good for the numerous and extraordinary blessings we enjoy.

The termination of the long, expensive, and distressing war in which we have been engaged with certain Indians Northwest of the Ohio, is placed in the option of the United States, by a Treaty which the Commander

of our Army has concluded, provisionally, with the hostile tribes in that region.

In the adjustment of the terms, the satisfaction of the Indians was deemed an object worthy no less of the policy than of the liberality of the United States, as the necessary basis of durable tranquility. The object, it is believed, has been fully attained. The articles agreed upon will immediately be laid before the Senate, for their consideration.

The Creek and Cherokee Indians, who alone, of the Southern tribes, had annoyed our frontiers, have lately confirmed their pre-existing Treaties with us, and were giving evidence of a sincere disposition to carry them into effect, by the surrender of the prisoners and property they had taken; but we have to lament that the fair prospect in this quarter has been once more clouded by wanton murders, which some citizens of Georgia are represented to have recently perpetrated on hunting parties of the Creeks, which have again subjected that frontier to disquietude and danger; which will be productive of further expense, and may occasion more effusion of blood. Measures are pursuing to prevent or mitigate the usual consequences of such outrages, and with the hope of their succeeding, at least, to avert general hostility.

A Letter from the Emperor of Morocco announces to me his recognition of our Treaty made with his father the late Emperor, and, consequently, the continuance of peace with that Power. With peculiar satisfaction I add, that information has been received from an agent deputed on our part to Algiers, importing that the terms of the Treaty with the Dey and Regency of that country had been adjusted in such a manner as to authorize the expectation of a speedy peace, and the restoration of our unfortunate fellow-citizens from a grievous captivity.

The latest advices from our Envoy at the Court of Madrid give, moreover, the pleasing information that he had received assurances of a speedy and satisfactory conclusion of his negotiation. While the event, depending upon unadjusted particulars, cannot be regarded as ascertained, it is agreeable to cherish the expectation of an issue which, securing, amicably, very essential interests of the United States, will, at the same time, lay the foundation of lasting harmony with a Power whose friendship we have uniformly and sincerely desired to cultivate.

Though not before officially disclosed to the House of Representatives, you, gentlemen, are all apprised that a Treaty of Amity, Commerce, and Navigation, has been negotiated with Great Britain; and that the Senate have advised and consented to its ratification, upon a condition which excepts part of one article. Agreeably thereto, and to the best judgment I was able to form of the public interest, after full and mature deliberation, I have added my sanction. The result, on the part of His Britannic Majesty, is unknown. When received, the subject will, without delay, be placed before Congress.

This interesting summary of our affairs, with regard to the foreign Powers between whom and the United States controversies have subsisted, and with regard also to those of our Indian neighbors, with whom we have been in a state of enmity or misunderstanding, opens a wide field for consoling and gratifying reflections. If, by prudence and moderation on every side, the extinguishment of all the causes of external discord which have heretofore menaced our tranquility, on terms compatible with our national rights and honor, shall be the happy result, how firm and how precious a foundation will have been laid for accelerating, maturing, and establishing, the prosperity of our country!

Contemplating the internal situation, as well as the external relations, of the United States, we discover equal cause for contentment and satisfaction. While many of the nations of Europe, with their American dependencies, have been involved in a contest unusually bloody, exhausting, and calamitous; in which the evils of foreign war have been aggravated by domestic convulsions and insurrection; in which many of the arts most useful to society have been exposed to discouragement and decay; in which scarcity of subsistence has embittered other sufferings; while even the anticipations of a return of the blessings of peace and repose are alloyed by the sense of heavy and accumulating burdens which press upon all the departments of industry, and threaten to clog the future springs of Government; our favored country, happy in a striking contrast, has enjoyed general tranquility—a tranquility the more satisfactory, because maintained at the expense of no duty. Faithful to ourselves, we have violated no obligation to others. Our agriculture, commerce, and manufactures, prosper beyond former example; the molestations of our trade (to prevent a continuance of which, however, very pointed remonstrances have been made) being overbalanced by the aggregate benefits which it derives from a neutral position. Our population advances with a celerity which, exceeding the most sanguine calculations, proportionally augments our strength and resources, and guarantees our future security. Every part of the Union displays indications of rapid and various improvement; and with burdens so light as scarcely to be perceived; with resources fully adequate to our present exigencies; with Governments founded on the genuine principles of rational liberty; and with mild and wholesome laws—is it too much to say, that our country exhibits a spectacle of national happiness never surpassed, if ever before equalled?

Placed in a situation every way so auspicious, motives of commanding force impel us, with sincere acknowledgment to Heaven, and pure love to our country, to unite our efforts to preserve, prolong, and improve, our immense advantages. To co-operate with you in this desirable work, is a fervent and favorite wish of my heart.

It is a valuable ingredient in the general estimate of our welfare, that the part of our country which was lately the scene of disorder and insurrection, now enjoys the blessings of quiet and order. The misled have abandoned their errors, and pay the respect to our Constitution and laws which is due from good citizens to the public authorities of the society. These circumstances have induced me to pardon, generally, the offenders here referred to, and to extend forgiveness to those who had been adjudged to capital punishment. For, though I shall always think it a sacred duty to exercise with firmness and energy the Constitutional powers with which I am vested, yet it appears to me no less consistent with the public good than it is with my personal feelings, to mingle, in the operations of Government, every degree of moderation and tenderness which the national justice, dignity, and safety, may permit.

Gentlemen:

Among the objects which will claim your attention in the course of the session, a review of our Military Establishment is not the least important. It is called for by the events which have changed, and may be expected still further to change, the relative situation of our frontiers. In this review, you will doubtless allow due weight to the considerations that the questions between us and certain foreign Powers are not yet finally adjusted; that the war in Europe is not yet terminated; and that our Western posts, when recovered, will demand provision for garrisoning and securing them. A statement of our present military force will be laid before you by the Department of War.

With the review of our Army Establishment is naturally connected that of the Militia. It will merit inquiry, what imperfections in the existing plan further experience may have unfolded. The subject is of so much moment, in my estimation, as to excite a constant solicitude that the consideration of it may be renewed until the greatest attainable perfection shall be accomplished. Time is wearing away some advantages for forwarding the object, while none better deserves the persevering attention of the public councils.

While we indulge the satisfaction which the actual condition of our Western borders so well authorizes, it is necessary that we should not lose sight of an important truth, which continually receives new confirmations, namely: that the provisions heretofore made with a view to the protection of the Indians from the violences of the lawless part of our frontier inhabitants are insufficient. It is demonstrated that these violences can now be perpetrated with impunity; and it can need no argument to prove, that, unless the murdering of Indians can be restrained by bringing the murderers to condign punishment, all the exertions of the Government to prevent destructive retaliations by the Indians will prove fruitless, and all our present agreeable prospects illusory. The frequent destruction of innocent women and children, who are chiefly the victims of retaliation, must continue to shock humanity, and an enormous expense to drain the Treasury of the Union.

To enforce upon the Indians the observance of justice, it is indispensable that there shall be competent means of rendering justice to them. If these means can be devised by the wisdom of Congress, and especially if there can be added an adequate provision for supplying the necessities of the Indians, on reasonable terms—a measure, the mention of which I the more readily repeat, as in all the conferences with them they urge it with solicitude—I should not hesitate to entertain a strong hope of rendering our tranquility permanent. I add, with pleasure, that the probability even of their civilization is not diminished by the experiments which have been thus far made under the auspices of Government. The accomplishment of this work, if practicable, will reflect undecaying lustre on our national character, and administer the most grateful consolations that virtuous minds can know.

Gentlemen of the House of Representatives:

The state of our revenue, with the sums which have been borrowed and reimbursed pursuant to different acts of Congress, will be submitted from the proper Department, together with an estimate of the appropriations necessary to be made for the service of the ensuing year.

Whether measures may not be advisable to re-enforce the provision for the redemption of the Public Debt, will naturally engage your examination. Congress have demonstrated their sense to be, and it were superfluous to repeat mine, that whatsoever will tend to accelerate the honorable extinction of our Public Debt, accords as much with the true interest of our country as with the general sense of our constituents.

Gentlemen of the Senate, and of the House of Representatives:

The statements which will be laid before you relative to the Mint will show the situation of that institution, and the necessity of some further Legislative provisions for carrying the business of it more completely into effect, and for checking abuses which appear to be arising in particular quarters.

The progress of providing materials for the frigates, and in building them; the state of the fortifications of our harbors; the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; and the steps which have been taken towards the execution of the law for opening a trade with the Indians—will likewise be presented for the information of Congress.

Temperate discussion of the important subjects which may arise in the course of the session, and mutual forbearance where there is a difference of opinion, are too obvious and necessary for the peace, happiness, and welfare, of our country, to need any recommendation of mine.

G. WASHINGTON.

UNITED STATES, *December* 8, 1795.

Ordered, That Messrs. KING, ELLSWORTH, and CABOT, be a Committee to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

WEDNESDAY, December 9.

The VICE PRESIDENT of the United States attended.

The following motion was made by Mr. MARTIN:

"*Resolved*, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions therein mentioned, a suitable gallery having been erected and provided in the Senate Chamber, in the late recess of Congress, for that purpose."

And, the motion being amended, it was

Resolved, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions in said resolution mentioned.

A message from the House of Representatives informed the Senate that the House have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly; in which they desire the concurrence of the Senate.

Whereupon, the Senate proceeded to consider the said resolution; and

Resolved, That they do concur therein, and that the right Reverend Bishop WHITE be the Chaplain on the part of the Senate.

Resolved, That each Senator be supplied during the present session with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

THURSDAY, December 10.

JOHN BROWN, from the State of Kentucky, and FREDERICK FRELINGHUYSEN, from the State of New Jersey, severally attended.

Mr. KING, from the committee appointed for that purpose, reported the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which was read, and ordered to lie for consideration until to-morrow.

FRIDAY, December 11.

ELIJAH PAINE, from the State of Vermont, attended.

ADDRESS TO THE PRESIDENT.

The Senate took into consideration the report made by the Committee, of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which is as follows:

SIR: It is with peculiar satisfaction that we are informed by your Speech to the two Houses of Congress, that the long and expensive war in which we have been engaged with the Indians Northwest of the Ohio is in a situation to be finally terminated; and, though we view with concern the danger of an interruption of the peace so recently confirmed with the Creeks, we indulge the hope, that the measures that you have adopted to prevent the same, if followed by those Legislative provisions that justice and humanity equally demand, will succeed in laying the foundation of a lasting peace with the Indian tribes on the Southern as well as on the Western frontiers.

The confirmation of our Treaty with Morocco, and the adjustment of a Treaty of Peace with Algiers, in consequence of which our captive fellow-citizens shall be delivered from slavery, are events that will prove no less interesting to the public humanity, than they will be important in extending and securing the navigation and commerce of our country.

As a just and equitable conclusion of our depending negotiations with Spain will essentially advance the interest of both nations, and thereby cherish and confirm the good understanding and friendship which we have at all times desired to maintain, it will afford us real pleasure to receive an early confirmation of our expectations on this subject.

The interesting prospect of our affairs, with regard to the foreign Powers between whom and the United States controversies have subsisted, is not more satisfactory, than the review of our internal situation: if from the former we derive an expectation of the extinguishment of all the causes of external discord, that have heretofore endangered our tranquility, and on terms consistent with our national honor and safety, in the latter we discover those numerous and wide-spread tokens of prosperity which, in so peculiar a manner, distinguish our happy country.

Circumstances thus every way auspicious demand our gratitude, and sincere acknowledgments to Almighty God, and require that we should unite our efforts in imitation of your enlightened, firm, and persevering example, to establish and preserve the peace, freedom, and prosperity, of our country.

The objects which you have recommended to the notice of the Legislature will, in the course of the session, receive our careful attention, and, with a true zeal for the public welfare, we shall cheerfully co-operate in every measure that shall appear to us best calculated to promote the same.

JOHN ADAMS,
Vice President of the United States, and President of the Senate.

The Address was taken up by paragraphs.

The fourth and fifth paragraphs were moved to be struck out by Mr. MASON.

Mr. MASON observed, that he had hoped nothing contained in the Address reported as an answer to the PRESIDENT's Speech, would have been such as to force the Senate to precipitate decisions. The two clauses he objected to disappointed him in that hope. They were calculated to bring again into view the important subject which occupied the Senate during their June session. This he conceived could answer no good purpose; the minority on that occasion were not now to be expected to recede from the opinions they then held, and they could not therefore join in the indirect self-approbation which the majority appeared to wish for, and which was most certainly involved in the two clauses which he should hope would be struck out. If his motion were agreed to, the remainder of the Address would, in his opinion, stand unexceptionable. He did not see, for his part, that our situation was every way auspicious. Notwithstanding the Treaty, our trade is grievously molested.

Mr. KING observed, that the principal features observable in the answer reported to the PRESIDENT's Address, were to keep up that harmony of intercourse which ought to subsist between the Legislature and the PRESIDENT, and to express confidence in the undiminished firmness and love of country which always characterize our chief Executive Magistrate. He objected to striking out especially the first clause, because founded on undeniable truth. It only declares that our prospects, as to our external relations, are not more satisfactory than a review of our internal situation would prove. Was not this representation true, he asked; could it be controverted? This clause, he contended, contained nothing reasonably objectionable; it did not say as much as the second, to which only most of the objections of the member up before him applied, an answer to which he should defer, expecting that a question would be put on each in order.

The clause he said appeared to him drawn up in such terms as could not offend the nicest feelings of the minority on the important decision in June; it was particularly circumspect and cautious. If liable to objection it was in not going as far as the truth would warrant.

Some conversation took place as to the mode required by order of putting the question; whether it should be put on each clause separately, or whether upon striking out both at once.

The Chair requested that the motion should be reduced to writing. Mr. MASON accordingly reduced it to writing, and it went to striking out both clauses at once.

Mr. MASON agreed most cordially that the situa-

tion of our external relations were not more a cause of joy than our situation at home. But the obvious meaning of the clause, he conceived, was an indirect approval of our situation relative to external concerns; and to this he could not give his assent, as he did not consider their aspect as prosperous or auspicious.

Mr. BUTLER said, that when the committee was appointed to draft an answer, he hoped they would have used such general terms as to have secured an unanimous vote. He was willing to give the Chief Magistrate such an answer as respect to his station entitled him to, but not such a one as would do violence to his regard for the Constitution and his duty to his constituents. He could not approve of long and detailed answers, however unexceptionable the Speech might be in matter, and however respectable the character might be from whom it came. He had hoped, from the peculiar situation of the country, and of the Senate, that nothing would have been brought forward in the answer, on the subject which agitated the June Executive session, calculated to wound the feelings of members. He had been disappointed; it was evident that some members of the Senate could not give their voice in favor of the Address in its present shape, without involving themselves in the most palpable inconsistency.

He had long since, for his own part, declared himself against every article of the Treaty, because in no instance is it bottomed on reciprocity, the only honorable basis. After this declaration, how could he, or those who coincided in opinion with him, agree to the present Address without involving themselves in the most palpable inconsistency?

He did not agree with the gentleman of New York in his exposition of the meaning of the clauses objected to. They certainly declare our situation as to our external relations to be favorable. Our situation, as far as it respects Great Britain, he contended, was not in the least ameliorated. Their depredations on our commerce have not been less frequent of late than at any period since the beginning of her war with France. Her orders for the seizure of all our vessels laden with provisions cannot surely be a subject for congratulation. When it became authenticated that our trade was relieved from these embarrassments, then he was confident the members of the Senate, who were with him in sentiment, would readily express their satisfaction at the auspicious prospect opened for this country to the enjoyments of tranquility and happiness. But, until that happy time should arrive, he could not give his voice to deceive the inhabitants of the United States, remote from the sources of information, to hoodwink them by sanctioning with his vote a statement unwarranted by truth, and presenting to them a picture of our public happiness not sanctioned by fact.

The sentence objected to, notwithstanding the explanation of the gentleman from New York, appeared to him so worded as to lead the citizens at large to believe that the spoliations on our commerce were drawing to a fortunate close. This was not, he conceived, warranted by the existing state of things. Indeed, he protested, he knew no more of the actual situation of the Treaty negotiation than the remotest farmer in the Union; could he then declare, he asked, that it was drawing to a happy close? Indeed, from the latest information received, far from our situation having been ameliorated by the negotiations of our Executive, he conceived our trade as much in jeopardy as ever.

As to the internal prosperity, he owned there was some cause for congratulation; but even in this his conviction could not carry him as far as the clauses in the Address seemed to go. In a pecuniary point of view, the country had made a visible progress; but he saw in it no basis of permanent prosperity. There were no circumstances attendant on it that gave a fair hope that the prosperity would be permanent. The chief cause of our temporary pecuniary prosperity is the war in Europe, which occasions the high prices our produce at present commands; when that is terminated, those advantageous prices will of course fall.

Mr. B. now came to speak of the second objectional clause. He regretted whenever a question was brought forward that involved personality in the most indirect manner. He wished always to speak to subjects unconnected with men; but the wording of the clause was unfortunately such as to render allusion to official character unavoidable. He objected principally to the epithet *firm*, introduced into the latter clause, as applied to the Supreme Executive. Why *firmness*? he asked. To what? or to whom? Is it the *manly* demand of restitution made of Great Britain for her accumulated injuries that called forth the praise? for his own part he could discern no firmness there. Is it for the *undaunted* and *energetic* countenance of the cause of France, in her struggle for freeing herself from despotic shackles? He saw no *firmness* displayed on that occasion. Where then is it to be found? Was it in the opposition to the minority of the Senate and the general voice of the people against the Treaty that that *firmness* was displayed? If it is that *firmness* in opposing the will of the people, which is intended to be extolled, the vote shall never, said Mr. B., leave the walls of the Senate with *my* approbation.

He could not approve, he said, that *firmness* that prompted the Executive to resist the unequivocal voice of his fellow-citizens from New Hampshire to Georgia. He would have applauded the firmness of the PRESIDENT, if, in compliance with the unequivocal wish of the people, he had resisted the voice of the majority on the Treaty, and refused his signature to it.

This was, he understood, (and it should be mentioned in honor of the PRESIDENT,) his first intention; why he changed it, time, he said, must disclose.

He concluded by proposing an amendment to be substituted in lieu of the objectionable clauses, should they be struck out.

Mr. READ said, he was not in the habit of giv-

ing a silent vote, and, as many of his constituents were adverse to the instrument to which he had given his assent, he thought this a fit opportunity to say something on the subject.

Gentlemen on the other side had spoken of their feelings; did they suppose, he asked, that those who were in the majority had not feelings? Also, gentlemen declared they would not recede from their former determinations; did they expect that the majority would recede?

He had, he said, taken the question of the Treaty in all its aspects, and considered it maturely, and though he lamented that he differed in opinion on that subject with his colleague, and a portion of the people of his State, he nevertheless remained convinced that the ratification of it was advisable: It rescued the country from war and its desolating horrors.

After reading that part of the PRESIDENT's Speech to which the clauses objected to were an echo, he asked, whether any one could say, under the conviction that the measures of Government had prevented a war, that our view of foreign relations was not consolatory? On all hands, he observed, the idea of a war was deprecated; both sides of the House wished to avoid it; then is it not a consolatory reflection to all that its horrors have been averted? Is there a man who does not believe that, had the Treaty not been ratified, we should have had war? If the country had been plunged into a war, would it be as flourishing as if is?

The trifling vexations our commerce has sustained are not to compare to the evils of hostility. What good end could have been answered by a war? The Address, in the part under discussion, says no more than that we rejoice at the prospect that the blessings of peace will be preserved; and does not this expectation exist?

Great Britain, in the plenitude of her power, had availed herself of the right she had, under the Law of Nations, of seizing enemy's goods in neutral vessels; but has allowed compensation to some Americans, and a system of mild measures on our part is the best security for further.

He adverted to that part of Mr. BUTLER's observations which related to the probable fall of provisions at the peace. We ought not to be grieved if Europe was rid of the calamities of war at that price. But he contended that, from the measures of the Administration, permanent advantages were secured to this country. The value of our soil has been enhanced; wealth has poured in from various parts of the globe, and many permanent advantages secured.

There had been one assertion made, which, by repetition, had by some almost been taken for granted, but which required proof to induce him to believe it, and that was, that a majority of the citizens of the United States are opposed to the Treaty. In the part of the country he came from, he owned there might be a majority of that opinion, but he believed the contrary of the United States at large; he expressed a conviction that, when his constituents came to consider the measure maturely, they would change their opinions, and, indeed, he understood that the false impressions by which they were at first actuated, were already wearing off.

But the Senate and PRESIDENT are the Constitutional Treaty-making powers. If mistaken in their decisions, they cannot be accused of having been misled by sudden and immatured impressions. He should conceive himself unfit to fill a chair in the Senate, if he suffered himself to be carried away by such impressions. The people could not, in their town meetings, deprived of proper information, possibly form an opinion that deserved weight, and it was the duty of the Executive not to be shaken in their determination by tumultuous proceedings from without. Upon this ground he much approved the PRESIDENT's conduct, and thought it entitled to the epithet, firm.

In local questions, affecting none but the interests of his constituents, he should attend to their voice, but on great national points, he did not consider himself as a Representative from South Carolina, but as a Senator for the Union. In questions of this last kind, even if the wishes of his constituents were unequivocally made known to him, he should not conceive himself bound to sacrifice his opinions to theirs. He viewed the PRESIDENT as standing in this situation, and though he might hear the opinions of the people from every part of the United States, he should not sacrifice to them his own conviction; in this line of conduct he has shown his firmness, and deserves to be complimented for it by the Senate.

The Address reported, he said, contained nothing that could wound the feelings of any member. The Senate would not, in his opinion, act improperly if they expressed opinions coincident with their act in the June session. The feelings of the majority should be as much consulted as those of the minority. The minority are not asked to retract; but there is a propriety in the Senate's going as far in their Address as the Speech went, though it should be styled a vote of self-approbation. He hoped the clauses would not be struck out.

Mr. ELLSWORTH was opposed to striking out. The clause records a fact, and if struck out the Senate deny it. The PRESIDENT asserts it, in the Address reported, the Senate assent, a motion is made to strike out, is it because the truth of it is doubted? It cannot be called an unimportant fact, therefore its omission will not be imputed to oversight. The latter part of the clause expresses our gratitude to Almighty God. Will the Senate refuse to make an acknowledgment of that kind? Do they not admit that He is the source of all Good, and can they refuse to acknowledge it? And if so, is it possible that, in admitting the fact and expressing the sentiment, which so naturally flows from it, the Senate should wound the feelings of any friend to his country?

The truth of the fact is as clear as that the sun now shines; the sentiment is unexceptionable; he, therefore, recommended to his friend the mover, not to insist upon striking out merely, but that he should vary the motion, and propose a substitute.

To bring the mind to the point with precision,

it was necessary to attend to the wording of the clause. He read it. As to the signification of that part which relates to our foreign concerns, he did not consider it as hypothetical, but a positive declaration of a conviction that their situation is satisfactory, and on that ground he wished to meet the question.

The clause objected to expresses an expectation that the causes of external disagreement which have unhappily existed, will be peaceably done away. He said he had that expectation; many have it not. Those who have it not will negative the clause; those who have it will vote in its favor; the result will be the sense of a majority; the Senate could not be expected, more than on other occasions, to be unanimous; if the declarations contained in those clauses are supported, they will be considered as the sense of the majority of the Senate, others may dissent; but because unanimity could not be obtained it was no reason why the majority should give a virtual negative to the declaration which they conceived founded on truth.

He examined in detail the situation of our external relations, to show the foundation on which he rested his expectation of a satisfactory arrangement of them, and of our general prosperity in that respect. With Morocco, our treaties are renewed. With Algiers, assurances are given by the Executive that a peace is not far distant. With Spain, on the same authority, it is understood that our prospects are favorable in that quarter. With the hitherto hostile Indians, a peace is within reach; and the only quarter in which doubt can arise is from Great Britain. But even with respect to that nation, his expectation was, that our differences there would terminate amicably; and he believed this to be the expectation of the Senate, as a collective body.

Mr. E. then went into the examination of some other parts of the clauses objected to, and vindicated the propriety of the epithets, enlightened, firm, persevering, and concluded by lamenting that there existed a difference of opinion, but hoped that this would not deter the majority from an expression of their sense.

Mr. TAZEWELL said, the discussion had taken a turn different from that which he expected when he heard the motion. He understood the motion at the time it was made, and still so understood it, as not intending to question the propriety of any thing which was contained in the PRESIDENT's communication to both Houses of Congress. But from what had been said (by Mr. READ, of South Carolina) that part of the answer to the PRESIDENT's communication which had given rise to the motion, was intended to have a further operation than he originally believed. He asked what had given rise to the practice of returning an answer of any kind to the PRESIDENT's communication to Congress in the form of an Address? There was nothing, he said, in the Constitution, or in any of the fundamental rules of the Federal Government, which required that ceremony from either branch of the Congress. The practice was but an imitation of the ceremonies used upon like occasions in other countries, and was neither required by the Constitution, nor authorized by the principles upon which our Government was erected. But having obtained, he did not intend now to disturb it. To allow the utmost latitude to the principle which had begotten the practice, it could only tolerate the ceremony as a compliment to the Chief Magistrate. It could not be permitted to arrest all opinions previous to regular discussions, nor to operate as a means of pledging members to the pursuit of a particular course, which subsequent and more full inquiries might show to be extremely improper. Every answer, therefore, to the PRESIDENT's communication ought to be drawn in terms extremely general, neither seducing the PRESIDENT into a belief that this House would pursue a general recommendation into points not at first contemplated by them, nor pledged themselves to the world that that state of things was just, which time had not permitted them thoroughly to examine. The clauses now under consideration had, at least in one instance, deviated from this principle. They declare to the world, "That the interesting prospect of our affairs with regard to the foreign Powers, between whom and the United States controversies have subsisted, is not more satisfactory than the review of our internal situation." The communications from the PRESIDENT have not uttered so bold a sentiment, nor is there any thing in those communications that justifies the assertion of this fact: Placing the Treaty with Great Britain out of the question, which seems to have been the uppermost consideration when this sentence was penned, the seizure of our provision vessels since the signature of that Treaty, and the unwarrantable imprisonment of our seamen, are acts which cloud our prosperity and happiness. The minds of the Americans must be brought to consider these things as trivial incidents in our political affairs, before the sentence under consideration can be approved. He said he must, therefore, vote for the motion to strike out the two clauses of the answer, in order that some more fit expressions might then be introduced to succeed them. He hoped the answer might be couched in terms just and delicate towards the PRESIDENT, without wounding the feelings of any Senator; and he believed both might be done without any difficulty after the two clauses were expunged.

After some further observations from Messrs. MASON, BUTLER, and BLOODWORTH, in which the latter expressed the opinion that he did conceive the terms of our peace with Great Britain consistent with the dignity and honor of the United States, the question was put, and decided for striking out—ayes 8, noes 14.

On a further attempt to amend one of the clauses some conversation took place more remarkable for ingenuity than interesting for solidity, being chiefly a debate upon words. The Senate divided on it—7 to 15.

On the question, of agreeing to the Address, it was carried—14 to 8, as follows:

YEAS.—Messrs. Bingham, Cabot, Ellsworth, Foster,

Frelinghuysen, King, Latimer, Livermore, Marshall, Paine, Read, Ross, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Langdon, Martin, Mason, Robinson, and Tazewell.

Ordered, That the Committee who prepared the Address wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. KING reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would receive the Address of the Senate to-morrow at 12 o'clock. Whereupon, resolved, that the Senate will, to-morrow at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

A message from the House of Representatives informed the Senate that the House have proceeded to the choice of a Chaplain to Congress on their part, and the Rev. ASHBEL GREEN is duly elected.

SATURDAY, December 12.

Agreeably to the resolution of yesterday, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address then agreed to.

To which the PRESIDENT OF THE UNITED STATES was pleased to make the following reply:

GENTLEMEN: With real pleasure I receive your Address, recognising the prosperous situation of our public affairs, and giving assurances of your careful attention to the objects demanding Legislative consideration; and that, with a true zeal for the public welfare, you will cheerfully co-operate in every measure which shall appear to you best calculated to promote the same.

But I derive peculiar satisfaction from your concurrence with me in the expressions of gratitude to Almighty God, which a review of the auspicious circumstances that distinguish our happy country have excited; and I trust the sincerity of our acknowledgments will be evinced by a union of efforts to establish and preserve its peace, freedom, and prosperity.

G. WASHINGTON.

The Senate returned to their own Chamber, and soon after adjourned.

MONDAY, December 14.

JOHN RUTHERFURD, from New Jersey, attended.

The petition of John Blanch was presented and read, praying Congress to grant him a patent, for executing and vending a new hydrostatic pump or engine, for such length of time as may be judged expedient.

Ordered, That this petition be referred to Messrs. BUTLER, STRONG, and READ, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a communication from the Secretary for the Department of State, with copies of two reports, made by the Directors of the Mint, to the PRESIDENT OF THE UNITED STATES; which were read, and referred to Messrs. CABOT, BINGHAM, and RUTHERFURD, to consider and report thereon to the Senate.

TUESDAY, December 15.

AARON BURR, from New York, and JOHN VINING, from Delaware, severally attended.

The VICE PRESIDENT laid before the Senate a communication from the Department of War, with the following statements:

No. 1. Of the present Military force of the United States.

No. 2. A report of the measures which have been pursued to obtain proper sites for Arsenals.

No. 3. A report of the measures which have been taken to replenish the magazines with military stores.

No. 4. A report of the measures taken for opening a trade with the Indians; and,

No. 5. A report of the progress made in providing materials for the frigates, and in building them.

Which statements were severally read, and ordered to lie for consideration.

WEDNESDAY, December 16.

WILLIAM BRADFORD, from Rhode Island, attended.

Ordered, That Messrs. BURR, BROWN, and ELLSWORTH, be a committee to take into consideration the report from the Department of War, of the measures taken for opening a trade with the Indians, and report thereon to the Senate.

The petition of Samuel Jones, and others, in behalf of some hundreds from Wales, who have left their native country with a view of forming a permanent establishment in America, praying liberty to purchase a certain tract of land mentioned in the petition, was read, and ordered to lie on the table.

THURSDAY, December 17.

The VICE PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer, together with his accounts, ending 31st December, 1794, 31st March, 1795, and 30th June, 1795.

Also, his accounts in the War Department, ending 31st March, 30th June, and 30th September, 1795; which were read, and ordered to lie for inspection.

Ordered, That Messrs. STRONG, LIVERMORE, and BURR, be a committee to inquire what business remained unfinished at the last session, and report such part thereof as is proper to be taken into consideration the present session.

On motion, that it be

"*Resolved*, That the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents:"

It was agreed that this motion lie until to-morrow for consideration.

FRIDAY, December 18.

GEORGE WALTON, appointed a Senator of the United States by the Executive of the State of Georgia, in place of JAMES JACKSON, resigned

produced his credentials, and, the oath required by law being administered, he took his seat in the Senate.

The motion made yesterday, that the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents, was resumed, and it was agreed that the consideration thereof be further postponed.

Mr. STRONG, from the committee appointed to inquire what business remained unfinished at the last session, which, in their opinion, it is proper should be taken into consideration at the present session, reported—

That the following bills originated in the Senate, and were postponed until the present Congress, or had only two readings, and remained unfinished, viz:

1. A bill authorizing the purchase of Indian goods.
2. A bill to punish frauds committed on the Bank of the United States.
3. A bill to regulate proceeding in cases of outlawry.
4. A bill declaring the consent of Congress to an act of the State of Virginia, passed the 25th of December, 1794, for the support of a marine hospital.
5. A bill to authorize the holding of special Courts in certain cases.

Which bills, upon the motion of any member of the Senate, may be taken up at the present session.

The VICE PRESIDENT laid before the Senate the Report of the Commissioners of the Sinking Fund; which was read, as follows:

"The Commissioners of the Sinking Fund respectfully report to Congress:

"That, pursuant to the act, entitled 'An act supplementary to the act making provision for the Debt of the United States,' and in conformity to resolutions agreed upon by them, and severally approved by the President of the United States, they have caused purchases of the said Debt to be made, through the agency of Samuel Meredith, Esq., Treasurer of the United States, subsequent to their report, dated the 18th day November, 1794, to the amount of $42,639 14, for which there have been paid, including a sum of $160 allowed for commissions on purchases formerly made and reported, the sum of $37,612 37, in specie.

"That the documents accompanying this report, marked A, B, C, show the aforesaid purchases generally and in detail, including the places where, the times when, the prices at which, and the persons of whom, the purchases were made.

"That the purchases now and heretofore reported amount, together, to $2,307,661 71, for which there have been paid, in specie, $1,618,936 04, as will more particularly appear from the document marked A.

"That there remains at this time in the hands of their said Agent the sum of $70,96815, arising from dividends subsequent to the 1st day of April last, on stock heretofore purchased and redeemed, which sum, with the dividends to be made thereon, at the close of the present year, and other funds appropriated by law, will be applied, on the 1st day of January ensuing, to the reimbursement of the six per cent. stock, bearing a present interest, pursuant to the directions contained in the act, entitled 'An act making further provision for the support of Public Credit and for the redemption of the Public Debt.'

"On behalf of the Board,

"*December* 18, 1795. JOHN ADAMS."

MONDAY, December 21.

The motion made on the 17th instant, "that the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents," was withdrawn, and the following motion substituted:

"That the Secretary of War be requested to lay before the Senate a statement of the military force actually employed against the insurgents in the four Western counties of Pennsylvania, and an account of the expenditures in that expedition; showing, in particular, the periods of time for which the militia of the respective States drew pay; also, a list of the general and regimental staff, with the pay respectively received by them, and an account of the pay and disbursements of the Commander-in-Chief."

Ordered, That this motion lie for consideration.

TUESDAY, December 22.

The Senate took into consideration the motion made yesterday that the Secretary of War be requested to exhibit certain accounts of the expenditures for the militia employed against the insurgents in the four Western counties of Pennsylvania: Whereupon,

Resolved, That the Secretary of War be requested to lay before the Senate a statement of the military force actually employed against the insurgents in the four Western counties of Pennsylvania, and an account of the expenditures in that expedition; showing, in particular, the periods of time for which the militia of the respective States drew pay; also, a list of the general and regimental staff, with the pay respectively received by them, and an account of the pay and disbursements of the Commander-in-Chief.

Mr. BURR, from the committee to whom was referred the report from the Department of War, of the measures taken for opening a trade with the Indians, reported, "That, in the opinion of the committee, it will be expedient to appropriate a further sum for the purposes of Indian trade; and that a bill should be introduced for that purpose."

And, the report being adopted, the committee was directed to bring in a bill accordingly.

WEDNESDAY, December 23.

Mr. BURR, from the committee yesterday instructed to that purpose, reported a bill making provision for the purposes of trade with the Indians; which was read, and ordered to a second reading.

Ordered, That Messrs. ELLSWORTH, STRONG, and TAZEWELL, be a committee to prepare and report a bill to regulate proceedings in cases of outlawry.

Ordered, That the Secretary for the Department of Treasury be requested to lay before the Senate returns of the imports and exports of the United States, similar to those heretofore exhibited, up to the latest periods to which he has received the accounts from the several districts, and commencing from the last returns made.

THURSDAY, December 24.

The bill making provision for the purposes of trade with the Indians, was read the second time; and, after debate, the further consideration thereof was postponed.

Ordered, by unanimous consent, that Mr. TAZEWELL have permission to introduce a bill declaring the consent of Congress to "An act of the State of Virginia, passed the 25th of December, 1794, for the support of a Marine Hospital;" which bill was read, and ordered to a second reading.

Mr. BUTLER reported, from the committee to whom was referred the petition of John Blanch, and the report was read, and ordered to lie for consideration.

MONDAY, December 28.

The bill declaring the consent of Congress to "An act of the State of Virginia, passed the 25th of December, 1794, for the support of a Marine Hospital," was read a second time, and referred to Messrs. TAZEWELL, STRONG, and BINGHAM, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill making provision for the purposes of trade with the Indians.

Ordered, That this bill be referred to Messrs. ELLSWORTH, TAZEWELL, BURR, ROSS, and BROWN, to consider and report thereon to the Senate.

TUESDAY, December 29.

The Senate resumed the consideration of the report of the committee on the petition of John Blanch; which is as follows:

"That, in their opinion, it will be proper to permit aliens, who are residents in the United States, to obtain an exclusive property in any useful art, machine, or manufacture, they may have invented, in case such aliens, before their application for such exclusive property, shall have taken an oath that it is their intention to become citizens of the United States, in the manner pointed out in the first section of the act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject;' and that a bill be brought in for that purpose."

On motion to amend the report, by adding, after the word "subject," the following words: "and, also, that he has not obtained a patent for such invention or improvement from any foreign Prince or State," it passed in the negative.

Ordered, That the report be adopted, and that the committee be instructed to bring in a bill accordingly.

WEDNESDAY, December 30.

The Senate assembled, but transacted no business.

THURSDAY, December 31.

The Senate assembled, and, in order to give the committees opportunity to perfect their reports, adjourned to 12 o'clock to-morrow.

FRIDAY, January 1, 1796.

Mr. ELLSWORTH, from the committee appointed for the purpose, reported a bill to regulate proceedings in cases of outlawry; which was read, and ordered to a second reading.

MONDAY, January 4.

The bill to regulate proceedings in cases of outlawry was read the second time, and its further consideration postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Dandridge, his Secretary. Captain Sedam, of the first Sub-Legion, bearing the Colors mentioned in the Message:

Gentlemen of the Senate, and
of the House of Representatives:

A Letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress; and also informed me that he was instructed by the Committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors with an Address, to which I returned an answer. By the latter, the Senate will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated. G. WASHINGTON.

UNITED STATES, *January* 4, 1796.

The Message and papers were read; after which the Colors were withdrawn, and the Message and papers ordered to lie for consideration.

TUESDAY, January 5.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and proceeded to the consideration thereof in paragraphs; and, after progress, the bill was postponed until to-morrow.

PRESENTATION OF FRENCH FLAG.

A motion was made by Mr. TAZEWELL, seconded by Mr. LANGDON, that it be—

"*Resolved by the Senate of the United States in Congress assembled*, That the President be informed th

Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of yesterday.

"That he be requested to assure that magnanimous nation, through the proper organ, that the Senate unite with him in all the feelings expressed to the Minister of France, on the presentation of the Colors of his Nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so happily united."

Mr. ELLSWORTH moved that these resolutions should lie on the table until to-morrow, that members should have an opportunity of perusing attentively the papers accompanying the Message of the PRESIDENT.

Mr. BUTLER said, that he should very reluctantly, in general cases, oppose a motion of the kind now made; but, on the present occasion, he could not give it his assent. If the resolutions were intricate, or by the question the judgment of the Senate could be committed, he should accord in the wish expressed by the mover; but, as the resolutions go merely to an expression of the sentiments of the House respecting the French Republic, their feelings and judgment must be as ripe for such expression now as they can be at any future period. It was not like a law that was to affect the Senate hereafter; it had nothing to do with the internal situation of the country or municipal regulations; but they only went to express a sympathetic feeling for the French Republic, and a wish to see them enjoy every happiness under the form of Government they have lately chosen.

This cannot commit the Senate, he conceived. If the motion for postponement prevailed, it might convey a distrust of the sense of the Senate respecting that Republic. He felt a lively sense towards that nation on account of the glorious cause in which they had embarked; of their gallantry and spirit in their arduous struggle to place men upon a footing they were entitled to, raising them from a state of the most abject and debasing slavery.

He declared himself always ready to express his feelings on the magnanimity of such a people. If other members of the Senate possessed not those feelings, they could now give the resolutions their negative. He did not wish for a postponement, as it might be viewed as in a manner slighting the Republic.

Mr. ELLSWORTH believed there was no real difference of opinion on the subject. All felt an ardent friendship for the French; but one mode of expressing it might be more proper than another. Besides, it might be a doubt whether an expression of the feelings of the Senate on this occasion was necessary—the Representatives had already spoken. He was not, as the member who spoke before him, ready on all occasions to express his sentiments; but only on fit occasions, and then he wished to do it in the most proper manner. The operations of his mind, he confessed, were slow. He wished more time for the perusal of the documents laid before the Senate by the PRESIDENT.

Mr. LIVERMORE was also in favor of postponement.

Mr. LANGDON observed, that since members did so earnestly require time, he should not urge an immediate decision; he should no longer object to a postponement till to-morrow. He was happy to hear gentlemen say there was no difference of sentiment upon the present occasion; he hoped that, upon subjects relative to France, this might always be the case, and that the Senate would not confine itself to empty professions of attachment, but would evince it by substantial deeds.

Mr. TAZEWELL did not wish to press the business to an immediate decision, since members desired time. He confessed he did not expect a motion for a postponement would be made, as the resolutions he offered contained nothing more than the PRESIDENT had expressed on the occasion. However, if it was wished that the Senate should express their sentiments in still stronger language than the PRESIDENT, he should not object.

The opposition to the motion for postponement being withdrawn, it was agreed to.

WEDNESDAY, January 6.

The Senate resumed the consideration of the motion made yesterday on the Message of the PRESIDENT OF THE UNITED STATES, of the 4th instant, and the presentation of the flag of the French Republic; and,

On motion of Mr. CABOT, seconded by Mr. ELLSWORTH, to expunge these words from the second paragraph of the motion: "that he be requested to assure that magnanimous nation, through the proper organ"—

Mr. STRONG was in favor of striking out. He observed that the communication made to the Senate by the PRESIDENT consisted of two distinct parts, the letter from the French Committee of Safety and the address accompanying the flag. In the letter not one word was said about the flag; it was written in October, '94, and there was probably then no idea of sending one. The letter and the flag only happened to be delivered at the same time; there was no other connexion between them. The letter, he said, was in answer to one from this country, and was meant to close a complimentary correspondence. It required no answer; it would puzzle any one to make an answer to it. An attempt was made by the resolution offered, which proved it impossible to answer it. The resolution forsook the contents of the letter, which, he repeated, closed the correspondence. The United States had presented to the National Convention our flag; or rather our Minister (and he was unwilling to question the propriety of his so doing) presented it on behalf of this Government; a French flag was sent in return; then the propriety of an answer on this ground became the sole question. This flag had been delivered to the PRESIDENT, who made an

answer on the presentation of it—a complete and perfect answer. He communicated his answer to the Senate. Then was it proper, he asked, that the Executive should be requested to make a second answer, and nearly in the same words? The PRESIDENT, in his answer, expressly says, that he speaks not only his own sentiments, but those of the citizens at large, including, no doubt, the Senate. In this situation of the transaction nothing can be proper to be done by the Senate but to express their opinion of the propriety of his answer; and this would be accomplished by adopting the substance of the resolution, after striking out the words proposed.

There could be (he concluded, by observing) no difference of feeling in the Senate on the occasion. The only difference was in the mode of expressing it, and he inclined, for the reasons given, to that which was the object of the motion for striking out.

Mr. ELLSWORTH was also of opinion that the subject divided itself into two distinct parts. The first object was an expression of the pleasure of the Senate at this new evidence of the friendship of France, and joining with the PRESIDENT in all the feelings he had expressed on the occasion. This would be effectually done by entering on the Journals the resolution as proposed to be amended. The PRESIDENT received the flag and answered, then communicated the transaction to the Senate.

It appeared, by the papers communicated, he contended, that there was no connexion between the letter of the Committee of Public Safety and the flag. He would not say that both were not very important transactions, but they were disconnected. The letter was written much antecedent to the sending of the flag—it was written in '94, and was intended to close a correspondence. The correspondence began by an address from the Convention, while Robespierre was an active member of it. This address was to Congress: the PRESIDENT transmitted it to each House, and they sent it back to the Executive, requesting he would answer it, with expressions of the friendly dispositions of the United States towards France. The resolutions of the Houses and the letter of the Executive were transmitted through Mr. Monroe. The letter now in the view of the Senate is in answer to that, and closes the complimentary correspondence, if it ever can close. Propriety did not require another word from the Senate; indeed, decency did not admit it, for it could not be contended that the correspondence should be kept up *ad infinitum*.

As to the flag, how can it require an answer from the Senate? It was not presented to them by the French Minister, but to the PRESIDENT, who had answered, not only for himself, but for the citizens of the United States; and he imagined it would not be contended that the members of the Senate were not citizens.

It is not advanced, he said, that the PRESIDENT did not express the sentiments of the Senate in the answer to the Minister; on the contrary, his words are borrowed in this resolution. But it is wished he should answer again in the same strain, and this was, in his opinion, neither necessary nor even proper.

Mr. ELLSWORTH next combated the resolution as originally offered as unconstitutional. Nothing, he contended, could be found in the Constitution to authorize either branch of the Legislature to keep up any kind of correspondence with a foreign nation. To Congress were given the powers of legislation and the right of declaring war. If authority beyond this is assumed, however trifling the encroachment at first, where will it stop? It might be said, that this was a mere matter of ceremony and form, and, therefore, could do no harm. A correspondence with foreign nations was a business of difficulty and delicacy—the peace and tranquility of a country may hinge on it. Shall the Senate, because they may think it in one case trifling, or conceive the power ought to be placed in them, assume it? If it was not specially delegated by the Constitution, the Senate might, perhaps, but it is positively placed in the hands of the Executive. The people who sent us here, (said Mr. E.,) placed their confidence in the PRESIDENT in matters of this nature, and it does not belong to the Senate to assume it.

So forcibly, he said, were both Houses impressed with the impropriety of the Legislature corresponding with any foreign Power, that, when it was announced to them that the unfortunate Louis XVI. had accepted the Constitution of '89, the communication was sent back to the PRESIDENT, with a request that he would answer it on their behalf, with congratulations and best wishes.

But even this, he considered, they had not strictly a right to do. It was only saving appearances. Neither branch had a right to dictate to the PRESIDENT what he should answer. The Constitution left the whole business in his breast. It was wrong to place him in the dilemma of disobliging the Legislature or sacrificing his own discretion. But if such practices had inadvertently been followed, it was full time to recede from them.

He recapitulated, in a few words, and concluded, by observing, that should the motion for striking out prevail, members would still be in order to amend the resolution, if they chose, by adding to the warmth of expression it already contained.

Mr. BUTLER considered the situation into which the member up before him seemed desirous that the Senate should be placed, as highly degrading; they were to be deprived of the right of expressing their own sentiments, they were to have no voice, no will, no opinion of their own, but such as it would please the Executive to express for them.

The only fault he fonnd in the resolve was, that it was not full and expressive enough. He observed, that it appeared the studied desire of one part of the House to cut off all communication between the people of the United States and the people of the French Republic. Their representatives are now told, that they can have no will, no voice, but through the Executive. Their constituents never intended that they should be placed in this

ridiculous point of view, and he declared he never could sit under it silently.

He turned to the Journals of the Senate to show that in the proceedings in the case of the answer to the communication from Robespierre and others, there was a considerable division in the Senate, and the mode adopted was by a majority only; but did not meet the sense of the Senate very generally.

Upon the presentation of the flag to the PRESIDENT, the Minister particularly observes, that it is for the people of the United States. The PRESIDENT in his answer, speaks of himself and his own feelings. He read part of his answer—"Born in a land of Liberty," &c. He does intimate, he observed, in a cursory manner, that he trusts he speaks the sentiments of his fellow-citizens: but does not attempt to make any professions of either branch of the Legislature, thinking, no doubt, that when the subject came before them, they would speak for themselves.

Suppose, he asked, that the expression of friendship contained in the PRESIDENT's Address on the occasion, fell short of the feelings of the Senate, would they, he asked, adopt the expressions for their own? For his own part, he declared, he could not leave it to others to speak his sentiments, but chose to reserve that right to himself. Even if no communication had been received from the French Republic, no token of attachment, the present period in their affairs, the establishment of a new Government, would warrant an address of congratulation. There could be no impropriety in it, unless there were objections to drawing nigher to the Republic. Besides, the address of the Committee of Safety, was certainly intended for the Legislature, being directed to the Representatives, unless it could be denied that the Senate were Representatives of the people of the United States.

There was nothing in the Constitution, he contended, that could prevent the Legislature from expressing their sentiments: it was not an Executive act, but a mere complimentary answer to a complimentary presentation. If this right was denied them, where would the principle stop, the Senate might be made in time mere automata. It was as proper, he contended, for the Senate to express an opinion on the occasion as for the PRESIDENT or House of Representatives.

He concluded by observing, that the resolution as offered, said as little as could be said on the occasion, and he never could consent to the striking out, which would cause it to be entered only on the Journal, and would be an indirect slight of the French Republic, as the sentiments of the Senate would not be communicated to them.

Mr. TAZEWELL was happy to find no difference in the Senate as to the substance of the resolution. As the form, however, had been made matter of debate, some importance had been given to it which its intrinsic consequence perhaps did not deserve, and it became the Senate to weigh well their decision. It certainly, he said, could not be unknown to the Senate, that unfavorable impressions had traveled abroad respecting their feelings and sentiments towards the French, and he suggested to their consideration, whether if the present motion for striking out prevailed, even in the face of their own precedents, it would not give countenance to the surmise. On a former occasion he stated a communication was made to the Senate through the PRESIDENT, informing that the King of France had accepted the Crown under the Constitution of 1789. The Senate were not content on that occasion with barely approving what the PRESIDENT had done, but requested the PRESIDENT to say in their behalf, that they were happy at the event, and to assure the King, of their good will for the prosperity of the French nation and his own. What difference, he asked, was there on that occasion and the present, when the French just adopted and organized a new Government? Will it not be said, he asked, that the robes of royalty have charms with the Senate, which the humble habiliments of Democracy do not possess in their eyes, if on the present occasion they should deviate from a precedent established before royalty was abolished? This would be naturally implied, and the Senate, he conceived, should avoid the imputation. There was no necessity pleaded in favor of striking out, if the motion was not insisted on, it would remove impressions which it was useful should be removed, and which he trusted would be removed.

He dwelt on the impropriety of the Senate's rejecting a form of proceeding in this case, not only sanctioned by their own precedent, but by the practice of both the PRESIDENT and Senate. Why, especially, he asked, should they give rise to invidious comparisons between themselves and the other branch? He hoped the motion for striking out would not prevail.

Mr. ELLSWORTH conceived there existed a material difference between the present case and that cited by the member last up. The communica- was then to Congress, now to the PRESIDENT, who had only given given an account of the transaction to the Senate. He added, however, that the line of conduct pursued by the Senate on the former occasion did not meet his approbation; they expressed hopes which he never thought could be realized, and in the event it proved so; for before the sentiments of the Senate could cross the Atlantic, the unfortunate King and Constitution were both overthrown. This, he argued, should make the Senate wary in their proceedings in analogous cases. Upon the communication from Robespierre, Barrere, and others, the Senate were more cautious, they said nothing about the Constitution, but only requested the PRESIDENT to express in their behalf the sentiments of friendship, &c., which the Senate entertained for France. The Senate gave the PRESIDENT a short text on that occasion; and he wrote according to his own discretion, and perhaps expressed more than the Senate would have said. If a short text was given this objection occurred; if the Senate amplified, then they dictated improperly to the PRESIDENT what he should write.

The example of the House of Representatives had been mentioned; he conceived it was no rule,

of proceeding for the Senate. The fact was, that the resolve carried in that House was upon a very slight view, indeed of the papers communicated. Indeed, it would appear upon the face of it, that it was penned before the papers were read. This was, in his opinion, no example for imitation; the Senate ought to proceed with their usual deliberation.

It had been said that doubts had gone abroad, whether the Senate were friendly to France. Those doubts had been raised by writers among us, the same who also endeavor to convince the Americans that the friendship of France towards them was not cordial. This must appear unfounded from the proceeding now the object of debate, and the former suspicion must be removed by an insertion of the substance of the resolution now before the Senate on their Journals.

Mr. TAZEWELL said a few words to show that there was no difference between the case he had already cited, the proceeding of the Senate, when they expressed their satisfaction at the manner in which the National Convention had honored the memory of BENJAMIN FRANKLIN, and the present case.

Mr. ROSS differed. In the former instances, the PRESIDENT made the original communications to the Senate before he had answered them; now he has answered and only communicates an account of the transaction.

Mr. BURR was against striking out. The National Convention, he observed, might, when they received the answer to their first communication, have said, as is now said on the floor of the Senate, that the correspondence there ended, and that it was not necessary to make us a reply; but they acted differently, and he hoped the Senate would acknowledge the receipt of their pledge of friendship. Indeed, he said, he could not see that any great harm would arise in the two branches of the Legislature interchanging even once a year a letter of friendship and good will with the Republic. It was objected that the present resolution was no answer to the letter. A few lines would make it so, and they might easily be added. The omission did not prove, as had been asserted by one member, that it was impossible to answer it. That it was not impossible was testified by the proceedings of the other branch. He did not intend to slight the dignity of the Senate, however, he said, by quoting the proceedings of the other House as a binding rule of proceeding for this; but their proceedings certainly proved the possibility of making an answer; and besides, there was full as much propriety in looking for precedents in their conduct, as in the proceedings of a British Parliament. Each, however, in their place might deserve weight though not implicit reliance.

He advocated the rights of the Senate to answer for themselves, and the propriety of acknowledging the receipt of the Colors, which were not sent to the Executive exclusively.

He concluded by citing the Senate's own precedents in analogous cases, and he hoped, that it would not be insisted that the practice of two or three successive years deserved to be laid to the charge of inadvertency.

After a few words more from Messrs. STRONG, BURR, REED, and BUTLER, the yeas and nays were called upon striking out, which were taken and stood—yeas 16, nays 8, as as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Ellsworth, Foster, Gunn, Latimer, Livermore, Marshall, Paine, Reed, Ross, Rutherfurd, Strong, Trumbull, and Walton.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Langdon, Martin, Robinson, and Tazewell.

Whereupon, it was

Resolved, unanimously, that the PRESIDENT be informed the Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of the 4th inst.

That the Senate unite with him in all the feelings expressed to the Minister of France on the presentation of the Colors of his nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so happily united.

Ordered, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

THURSDAY, January 7.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, in paragraphs; and, after consideration, the bill was further postponed.

FRIDAY, January 8.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I transmit to you a memorial of the Commissioners appointed by virtue of an act, entitled "An act for establishing the temporary and permanent Seat of the Government of the United States," on the subject of the public buildings under their direction.

Since locating a district for the permanent Seat of the Government of the United States, as heretofore announced to both Houses of Congress, I have accepted the grants of money and of land stated in the memorial of the Commissioners. I have directed the buildings therein mentioned to be commenced, on plans which I deemed consistent with the liberality of the grants and proper for the purposes intended.

I have not been inattentive to this important business intrusted by the Legislature to my care. I have viewed the resources placed in my hands, and observed the manner in which they have been applied: the progress is pretty fully detailed in the memorial from the Commissioners; and one of them attends to give further information if required. In a case new and arduous, like the present, difficulties might naturally be expected: some have occurred; but they are in a great degree surmounted; and I have no doubt, if the remaining resources are properly cherished, so as to prevent the loss of property by hasty and numerous

sales, that all the buildings required for the accommodation of the Government of the United States may be completed in season, without aid from the Federal Treasury. The subject is therefore recommended to the consideration of Congress, and the result will determine the measures which I shall cause to be pursued with respect to the property remaining unsold.

G. WASHINGTON.

UNITED STATES, *January* 8, 1796.

The Message and memorial therein referred to were read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and, after progress, the further consideration thereof was postponed.

The PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer of the United States, together with his specie account for the quarter ending the 30th December, 1795; which were read, and orderd to lie on the table.

MONDAY, January 11.

RICHARD POTTS, from Maryland, attended.

The VICE PRESIDENT laid before the Senate a communication from the Secretary for the Department of Treasury, in consequence of the order of the 23d of December last, with a return (marked A) of the exports of the United States, supplemental to that transmitted on the 26th of February, 1795, which completes the returns of exports to the 30th of September, 1794:

A statement (marked B) showing the specific articles imported into the United States in each calendar year, commencing with the establishment of the revenue, and ending on the 30th of December, 1794; and

An abstract (marked C) containing a list of the articles of merchandise enumerated in the laws of the United States, as being subject to ad valorem rates of duty, prior to the year 1795; which papers were read.

Ordered, That they lie for consideration.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and, after agreeing to sundry amendments, the bill was ordered to a third reading.

TUESDAY, January 12.

The bill to regulate proceedings in cases of outlawry, was read the third time, and passed.

WEDNESDAY, January 13.

Mr. BUTLER, from the committee instructed to that purpose, reported a bill to amend an act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose; which was read and ordered to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I lay before you an official statement of the expenditure to the end of the year 1795, from the sums heretofore granted to defray the contingent charges of the Government.

G. WASHINGTON.

UNITED STATES, *January* 13, 1796.

The Message and statement were read, and ordered to lie for consideration.

Ordered, That Messrs. READ, ELLSWORTH, ROSS, STRONG and LIVERMORE, be a committee to revise the Judiciary system of the United States, and to report what alterations or amendments may be necessary in the same.

THURSDAY, January 14.

The bill to amend an act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," was read the second time, and the further consideration thereof postponed until to-morrow.

FRIDAY, January 15.

The Senate resumed the consideration of the bill to amend the act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose."

Ordered, That the further consideration thereof be postponed to Monday next.

MONDAY, January 18.

The Senate resumed the second reading of the bill to amend the act. entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," and having agreed to the first paragraph thereof, the bill was ordered to a third reading.

The VICE PRESIDENT laid before the Senate a Report of the Secretary for the Department of War, on the state of the fortifications, which was read and ordered to lie for consideration.

TUESDAY, January 19.

The bill to amend the act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," was read the third time.

On motion to amend the bill, by subjoining the following proviso:

"That such alien or aliens before he, she, or they, shall obtain such letters patent, shall take an oath, before the Secretary of State, that such invention has not been published and used, so far as his, her, or their knowledge extends, in any foreign country; and that he, she, or they, have not obtained letters patent for the same from any foreign Power:"

It passed in the negative.

On the question to agree to the bill, it passed in the affirmative—yeas 12, nays 11, as follows:

YEAS—Messrs. Bloodworth, Burr, Butler, Ellsworth, Frelinghuysen, Langdon, Marshall, Martin, Potts, Read, Robinson, and Rutherfurd.

NAYS—Messrs. Bingham, Bradford, Brown, Cabot, Henry, Latimer, Livermore, Paine, Strong, Trumbull, and Walton.

So the bill was passed.

WEDNESDAY, January 20.

No business was transacted in the Senate to-day.

THURSDAY, January 21.

Mr. KING attended to-day.

Ordered, That Messrs. ELLSWORTH, BROWN, and BRADFORD, be a committee to inquire what laws will expire before the next session of Congress, and report thereon to the Senate.

Mr. ELLSWORTH reported, from the committee appointed to consider the bill making provision for the purposes of trade with the Indians, that the bill pass without amendment.

Ordered, That this bill lie on the table.

FRIDAY, January 22.

Mr. ELLSWORTH, from the committee appointed yesterday, to inquire what laws will expire before the next meeting of Congress, reported the following:

The "Act for allowing compensation to the members of the Senate and House of Representatives of the United States and to the officers of both Houses;" passed September 22d, 1789.

The "Act declaring the consent of Congress to a certain act of the State of Maryland, and to continue, for a longer time, an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations," passed March 19th, 1792.

The "Act to regulate trade and intercourse with the Indian tribes;" passed March 1, 1793.

The "Act making further provision for the expenses attending the intercourse of the United States with foreign nations; and further to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations;" passed March 20th, 1794.

The "Act directing a detachment from the militia of the United States;" passed May 9th, 1794.

And the "Act to continue in force for a limited time the acts therein mentioned;" passed March 2, 1795.

The provisions of the "Act to regulate the compensation of clerks," extended only to the 31st of December last; passed March 3, 1795.

The report was read, and ordered to lie for consideration.

MONDAY, January 25.

A message from the House of Representatives informed the Senate, that the House had passed a bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary for the Department of Treasury, with a statement from the Commissioner of the Revenue, of the exports of the United States, to the 30th of September, 1795, which were read, and ordered to lie for consideration.

TUESDAY, January 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," was read the second time, and referred to Messrs. RUTHERFURD, ELLSWORTH, and CABOT, to consider and report thereon to the Senate.

WEDNESDAY, January 27.

On motion,

"That the proper officer be directed to furnish Senate with an accurate return of the imports and exports into and from the United States, from the period to which the last returns were made, and, in a similar manner, to the latest period to which returns are made by the different districts:"

It was agreed that this motion should lie until to-morrow for consideration.

THURSDAY, January 28.

Mr. RUTHERFURD, from the committee appointed to take into consideration the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," reported amendments, which were in part adopted; and the consideration of that part of the bill which respects the appropriations for the Mint was postponed until to-morrow.

The Senate resumed the consideration of the motion made yesterday, for a return of the exports and imports of the United States, which was amended, by inserting "Secretary of the Treasury," in lieu of "proper officer."

Ordered, That the further consideration of this motion be postponed until Monday next.

FRIDAY, January 29.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," and, having agreed to the amendments reported by the committee, the bill was ordered to a third reading.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

In pursuance of the authority vested in the President of the United States, by an act of Congress passed the third of March last, to reduce the weight of the copper coin of the United States, whenever he should think it for the

benefit of the United States, provided that the reduction should not exceed two pennyweights in each cent, and in the like proportion in a half cent, I have caused the same to be reduced, since the twenty-seventh of last December; to wit, one pennyweight and sixteen grains in each cent, and in the like proportion in a half cent, and I have given notice thereof by proclamation.

By the Letter of the Judges of the Circuit Court of the United States held at Boston in June last, and the enclosed application of the under-keeper of the jail at that place—of which copies are herewith transmitted—Congress will perceive the necessity of making a suitable provision for the maintenance of prisoners committed to the jails of the several States, under the authority of the United States.

G. WASHINGTON.

UNITED STATES, *January* 29, 1796.

Gentlemen of the Senate, and
of the House of Representatives:

I send herewith, for the information of Congress—

1. An Act of the Legislature of the State of Rhode Island, ratifying an amendment to the Constitution of the United States, to prevent suits in certain cases against a State.

2. An Act of the State of North Carolina, making the like ratification.

3. An Act of the State of North Carolina, assenting to the purchase, by the United States, of a sufficient quantity of land on Shell Castle Island, for the purpose of erecting a beacon thereon, and ceding the jurisdiction thereof to the United States.

4. A copy from the journal of proceedings of the Governor, in his Executive Department, of the Territory of the United States Northwest of the river Ohio, from July 1, to December 31, 1794.

5. A copy from the records of the Executive proceedings of the same Governor, from January 1, to July 30, 1795; and

6 and 7. A copy of the journal of the proceedings of the Governor, in his Executive Department, of the Territory of the United States South of the river Ohio, from September 1, 1794, to September 1, 1795.

8. The Acts of the 1st and 2d sessions of the General Assembly of the same Territory.

G. WASHINGTON.

UNITED STATES, *January* 29, 1796.

Ordered, That the last recited Messages of the PRESIDENT OF THE UNITED STATES, with the papers therein mentioned, be severally referred to Messrs. LIVERMORE, WALTON, and MARSHALL, to consider and report thereon to the Senate.

Mr. CABOT presented the petition of Jose Roiz Silva, praying that the officers of the revenue for the State of New York may be authorized to refund him two thousand five hundred and twenty-one dollars, overrated duties, on a cargo of Graciosa wines, imported in the brigantine Mary, in June, 1793.

The petition was read, and ordered to lie on the table.

MONDAY, February 1.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," was read the third time and passed.

The Senate resumed the consideration of the motion made on the 27th of January last, that the Secretary of the Treasury make a return of imports and exports; and, on motion, permission was given to withdraw the motion, for the purpose of substituting the following:

"That the Secretary of the Treasury be directed to furnish, for the use of the Senate, a statement of the imports into the United States, from the 30th of September, 1791, to the latest period to which he may have received returns from the different districts; specifying therein, as particularly as the returns admit of, the articles imported; the cost thereof, and the countries from which they have been imported; together with the tonnage employed in the import trade, and the Kingdoms or States to which the vessels belong."

On motion, it was agreed that this motion should be referred to Messrs. KING, BUTLER, ELLSWORTH, CABOT, and LANGDON, to consider and report thereon to the Senate.

TUESDAY, February 2.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for establishing trading houses with the Indian tribes," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of the Department of War, in reference to the order of Senate of the 22d December last, respecting the expenditures on the expedition against the insurgents in the four Western counties of Pennsylvania.

Ordered, That it lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I transmit herewith the copy of a Letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of lands belonging to the Cherokees, and which the United States have, by treaty, solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

G. WASHINGTON.

UNITED STATES, *February* 2, 1796.

The Message and Letter were read, and ordered to lie for consideration.

WEDNESDAY, February 3.

The bill, sent from the House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes," was read the second time; and, after consideration, the bill was postponed until to-morrow.

THURSDAY, February 4.

The Senate resumed the second reading, and consideration in paragraphs, of the bill, sent from

the House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes;" and, having amended the same, the bill was ordered to a third reading.

Mr. BUTLER presented the petition of John Howell, commander of the revenue cutter of the United States for the port of Savannah, and the coasts of the State aforesaid, which was read, praying that he, and the other commanders of the revenue cutters, may be placed on the full Naval Establishment.

Ordered, That it be referred to Messrs. BUTLER, LANGDON, and WALTON, to consider and report thereon to the Senate.

FRIDAY, February 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes," was read the third time; and on motion, it was agreed to expunge the 5th section, which is as follows:

"*And be it further enacted*, That six thousand dollars be appropriated, under the direction of the President of the United States, for the purpose of paying the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk, one ration per day."

On motion, it was agreed to amend the last section, by adding, after the word "years," the words, "and to the end of the next session of Congress thereafter."

On motion, to add, after the word "aforementioned," section 6, these words, "and to defray all salaries, commissions, and charges, attending the same," it passed in the negative.

On motion, to amend the proviso, in the 7th section, by adding, after the word "reside," these words, "or be found," it passed in the negative.

On motion, it was agreed to commit the bill to Messrs. ROSS, KING, and MASON, to consider generally, and report thereon to the Senate.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, of the 29th of January, with a copy of a Letter from the Judges of the District Court, held at Boston in June last, together with the application from the under-keeper of the jail there, be referred to the committee appointed to consider the petition of Jeremiah Allen.

The VICE PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, with his account of receipts and expenditures in the War Department, for the quarter ending the 31st of December last.

The Letter was read, and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate, from the Secretary for the Department of War, a return of invalid pensioners.

Ordered, That it lie on the table.

MONDAY, February 8.

Mr. LIVERMORE, from the committee to whom was referred the memorial of Jeremiah Allen, Sheriff of the County of Suffolk, in the State of Massachusetts, reported:

"That the petitioner prays for a law to be passed relative to the support of prisoners in jail, committed under the authority of the United States, in order to indemnify the sheriff or keeper of the jail for their cost and expenses in such support. The committee have considered the subject, and examined the laws relative thereto, and are of opinion that the existing laws are sufficient for the purpose aforesaid; and, therefore, that the memorialist have leave to withdraw his memorial."

And the report was adopted.

TUESDAY, February 9.

Mr. ROSS presented the memorial of Thomas Leiper & Co., and others, manufacturers of snuff, stating the discouragements they meet with in the prosecution of the business, and praying an entire repeal of the existing excise upon that article; which was read, and ordered to lie on the table.

WEDNESDAY, February 10.

Ordered, That the memorial of Thomas Leiper & Co., and others, manufacturers of snuff, be referred to Messrs. READ, BLOODWORTH, and LIVERMORE, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further extending the time for receiving on Loan the Domestic Debt of the United States;" in which they desire the concurrence of the Senate.

This bill was read, and ordered to a second reading.

Mr. KING reported, from the committee appointed the first of February, on the motion that the Secretary of the Treasury make return of imports and exports; and the report was adopted. Whereupon,

Resolved, That the Secretary of the Treasury do cause to be annually prepared, and reported to the Senate in the month of January in each year:

A statement of the tonnage of the ships and vessels employed in the trade of the United States for one year, ending the first of October preceding such report; distinguishing the foreign from the domestic tonnage, and the quantity belonging to each foreign nation; distinguishing, also, the domestic tonnage employed in foreign trade, from that engaged in the coasting trade and fisheries;

Also, a statement of the quantity and estimated value of the exports of the United States, for the like term of one year, showing the amount exported to each foreign nation;

Also, a statement of the goods, wares, and merchandise, imported into the United States, for the like term of one year, distinguishing, in classes, those which pay an ad valorem duty from those denominated enumerated articles, showing the value of the former, and the quantity of the latter; and showing, also, the amount of each imported from each foreign nation.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act for establishing trading houses with the Indian tribes," reported

sundry amendments, which were read; and, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, February 11.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act establishing trading houses with the Indian tribes;" which was in part adopted as follows:

Sec. 3, line 9, strike out "of this act," and insert "aforesaid." Line 10, after the word "shall," insert "upon conviction thereof." Same line, strike out the words, "a sum not exceeding." Line 11, strike out the words "upon conviction thereof." Line 13, after "United States," strike out the remainder of the section.

Make a new section, as follows:

"SEC. 5. *And be it further enacted*, That offenders against this act may be prosecuted in the Circuit or District Courts of the United States, or in the Supreme or Superior Courts of the Territories of the United States, or in any State Court having jurisdiction over like offences; although the misdemeanor shall not have been committed within the bounds of their district or ordinary jurisdiction. And all forfeitures accruing under this act shall be one half to the use of the informant, and the other half to the use of the United States; except where the prosecution shall be first instituted by a public prosecutor, on behalf of the United States, in which case the whole shall be to their use."

The bill was amended, agreeably to the above recited report.

On motion, it was agreed to expunge the 7th section of the bill.

On motion, it was agreed to add these words to the end of the new section reported by the committee:

"And it shall be the duty of the superintendents of Indian affairs, and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, and prosecute the offender without delay."

On motion, to reduce the appropriation, from one hundred and fifty thousand dollars to one hundred thousand dollars, it passed in the negative.

On motion, to substitute the following in lieu of the 4th section:

"*And be it further enacted*, That it shall be lawful for the President of the United States to apply, of the moneys hereinafter appropriated, such sum as he may judge to be necessary, not exceeding the rate of ten thousand dollars per annum, for the compensation of the agents, and also of their clerks, where he shall authorise the employment of clerks; which agents shall be allowed to draw out of the public supplies two rations, and each clerk one ration per day:"

It passed in the negative.

On motion, it was agreed to expunge, from section 3d, these words: "is provided by this act;" and, in lieu thereof, insert, "shall be authorized by the PRESIDENT OF THE UNITED STATES."

Whereupon, *Resolved*, That this bill pass as amended.

FRIDAY, February 12.

Mr. LANGDON presented the petition of Hopley Yeaton, commander of the revenue cutter called the Scammel, praying an allowance of rations and wages during the time he superintended the building and fitting out said cutter; which was read.

Ordered, That it be referred to the committee appointed the 4th instant, on the petition of John Howell.

Ordered, That Messrs. LANGDON, ELLSWORTH, and GUNN, be a committee to report a bill to regulate the compensation of clerks.

Mr. ROSS presented the memorial of the clerks under the Government of the United States, who remained in the city of Philadelphia, and attended to the duties of their station, during the prevalence of the yellow fever; which was read, and referred to Messrs. ROSS, BRADFORD, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, February 15.

The bill, sent from the House of Representatives for concurrence, entitled "An act further extending the time for receiving on Loan the Domestic Debt of the United States," was read the second time, and ordered to a third reading.

Mr. LANGDON, from the committee appointed for the purpose, reported a bill to regulate the compensation of clerks; which was read and ordered to a second reading.

TUESDAY, February 16.

The bill to regulate the compensation of clerks was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act further extending the time for receiving on Loan the Domestic Debt of the United States," was read the third time, and passed.

WEDNESDAY, February 17.

The bill to regulate the compensation of clerks was taken into consideration, and the third reading of the bill was postponed.

Ordered, That Messrs. STRONG, POTTS, and WALTON, be a committee to consider the expediency of amending "the act for the relief of persons imprisoned for debt," and, if they think proper, to report a bill for that purpose.

THURSDAY, February 18.

After receiving the report of the Committee on Enrolled Bills, the Senate went into the consideration of the Executive business.

FRIDAY, February 19.

On motion, that the bill to regulate the compensation of clerks be recommitted, it was agreed to refer it to a special committee, and Messrs. CA-

BOT, ELLSWORTH, and ROSS, were appointed thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States;" also, a bill, entitled "An act for the relief of Benjamin Strother;" to which bills, respectively, they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

MONDAY, February 22.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Benjamin Strother," was read the second time, and referred to Messrs. LIVERMORE, PAINE, and LANGDON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States," was read the second time, and referred to Messrs. ELLSWORTH, STRONG, and FOSTER, to consider and report thereon to the Senate.

TUESDAY, February 23.

Mr. LIVERMORE, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Benjamin Strother," reported, that the bill pass without amendment, and the report was adopted. And, by unanimous consent, the rule was dispensed with, and the bill read the third time, and passed.

WEDNESDAY, February 24.

Mr. STRONG presented the petition of Rufus Putnam and others, in behalf of the Ohio Company, praying for Legislative aid in making use of the reserved rights; which was read, and referred to Messrs. BROWN, CABOT, and ROSS, to consider and report thereon to the Senate.

THURSDAY, February 25.

The Senate assembled, and, after the consideration of the Executive business, adjourned.

FRIDAY, February 26.

The VICE PRESIDENT laid before the Senate a Letter from the Governor of the State of Kentucky, with divers papers accompanying the same.

The Letter and papers therein referred to were read, and ordered to lie on the table.

Mr. STRONG, from the committee appointed for that purpose, on the 17th instant, reported a bill for the relief of persons imprisoned for debt; which was read the first time, and ordered to a second reading on Tuesday next.

The VICE PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer, accompanied by his account of expenditures in the quarter ending the 31st of December last, which was read.

Ordered, That the Letter and account lie for consideration.

MONDAY, February 29.

On motion, by Mr. MARSHALL,

"That the Letter from the Governor of the State of Kentucky, with divers papers accompanying the same, communicated to the Senate on the 26th instant, be referred to a committee:"

It was agreed to postpone the consideration of the motion until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "an act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses;" a bill, entitled "An act for the relief of Jose Roiz Silva;" a bill, entitled "An act providing relief, for a limited time, in certain cases of invalid registers; and a bill, entitled "An act for the relief of Israel Loring;" in which several bills they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to a second reading.

TUESDAY, March 1.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Israel Loring," was read the second time, and referred to Messrs. STRONG, LANGDON, and LIVERMORE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read the second time, and the consideration thereof postponed.

The bill for the relief of persons imprisoned for debt, was read a second time; and, after debate, it was agreed to postpone the further consideration of this bill.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

The Treaty of Amity, Commerce, and Navigation, concluded between the United States of America and His Britannic Majesty, having been duly ratified, and the ratifications having been exchanged at London on the 28th day of October, 1795, I have directed the same to be promulgated; and herewith transmit a copy thereof for the information of Congress.

G. WASHINGTON.

UNITED STATES, *March* 1, 1796.

The Message was read, and ordered to lie on the table.

WEDNESDAY, March 2.

Mr. STRONG, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Israel Loring," reported that the bill pass without amendment. And, by unanimous consent, the rule was dispensed with, and the bill was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing relief, for a limited time, in certain cases of invalid registers," was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Jose Roiz Silva," was read the second time, and referred to Messrs. KING, ELLSWORTH, and BRADFORD, to consider and report thereon to the Senate.

The Senate resumed the consideration of the motion, made on the 29th of February, respecting the Letter and papers from the Governor of the State of Kentucky; and

Ordered, That they be referred to Messrs. LIVERMORE, ROSS, KING, RUTHERFURD, and STRONG, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes."

THURSDAY, March 3.

Mr. BURR attended to-day.

The Senate proceeded to the consideration of their amendments disagreed to by the House of Representatives, to the bill, entitled "An act for establishing trading houses with the Indian tribes."

Resolved, That they insist on their said amendments.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing relief, for a limited time, in certain cases of invalid registers," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read the second time; and after agreeing to an amendment,

Ordered, That this bill pass to a third reading.

The Senate resumed the second reading of the bill for the relief of persons imprisoned for debt.

On motion to amend the bill in the second section by inserting the word "persons," in lieu of the words "Justices of the Peace;" it was determined in the affirmative—Yeas 23, nays 1, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Bradford, Brown, Cabot, Ellsworth, Foster, Henry, King, Langdon, Latimer, Livermore, Mason, Paine, Potts, Robinson, Ross, Rutherfurd, Strong, Tazewell, Trumbull, Vining, and Walton.

Mr. Martin voted in the negative.

Ordered, That this bill pass to the third reading.

Mr. MASON presented the memorial of Richard Claiborne, praying that such encouragement may be granted to original pioneers of inventions, being Americans, as may be thought expedient; which memorial was read, and ordered to lie on the table.

FRIDAY, March 4.

The bill for the relief of persons imprisoned for debt, was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read a third time, and passed.

MONDAY, March 7.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making a partial appropriation for the support of the Military Establishment, for the year one thousand seven hundred and ninety-six," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

TUESDAY, March 8.

The VICE PRESIDENT communicated a Letter from OLIVER ELLSWORTH, in which he states that he hath accepted the appointment of Chief Justice of the United States, which, of course, vacates his seat in the Senate; which Letter was read, and ordered to lie on file.

The bill, sent from the House of Representatives for concurrence, entitled "An act making a partial appropriation for the support of the Military Establishment for the year one thousand seven hundred and ninety-six," was read the second time, and, by unanimous consent, the rule was dispensed with, and the bill was read the third time, and passed.

Mr. RUTHERFURD presented the memorial of Anthony Walton White, Colonel of the first regiment of dragoons in the service of the United States, praying the reimbursement of a sum of money advanced to his command in the year 1780; and the memorial was read, and referred to Messrs. STRONG, RUTHERFURD, and FRELINGHUYSEN, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I send, herewith, for the information of Congress, the Treaty concluded between the United States and the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, *March* 8, 1796.

The Message was read, and ordered to lie on the table.

WEDNESDAY, March 9.

Ordered, That the VICE PRESIDENT be requested to notify the Executive of the State of Connecticut that OLIVER ELLSWORTH hath accepted the appointment of Chief Justice of the United States, and that his seat in the Senate is of course vacated.

THURSDAY, March 10.

The Senate assembled; and, on motion, adjourned.

FRIDAY, March 11.

Mr. LIVERMORE reported, from the committee to whom was referred the Letter of the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them; and the report was read, and ordered to lie on the table.

Mr. KING reported, from the committee to whom was referred the bill, entitled "An act for the relief of Jose Roiz Silva," that the bill pass; and, after debate,

Ordered, That the consideration of this bill be postponed until Monday next.

Mr. ROSS, from the committee to whom was referred the memorial of the clerks under the Government of the United States, reported a bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks; which was read, and ordered to a second reading.

Mr. STRONG, from the committee to whom was referred the memorial of Anthony Walton White, reported a bill authorizing the settlement of his demands against the United States; which was read, and ordered to a second reading.

On motion,

"That a committee be appointed to bring in a bill reviving, for a limited time, the act, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions:"

It was agreed that the motion lie for consideration.

MONDAY, March 14.

Mr. LIVERMORE presented the memorial of Catharine Greene, widow of General Greene, praying the interposition of Congress in respect to a decree of the Court of Equity of the State of South Carolina, obtained by Harris and Blackford, merchants, of Great Britain, against the heirs of her late husband; which was read, and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate a Report of the Secretary for the Department of the Treasury, with a return of exports for the year ending 30th September, 1795.

The report was read and ordered to lie for consideration.

On motion,

"That so much of the resolution of the Senate, of the tenth day of February last, as requires the statements therein mentioned to be reported to the Senate, in the month of January, annually, and to be made up to the first day of October next, preceding, be repealed; and that the said statements be reported to the Senate in the month of December, annually, and made up to the first day of October, of the year preceding such reports:"

It was agreed that the motion lie on the table.

The bill authorizing the settlement of the demands of Anthony Walton White against the United States, was read a second time; and, after debate,

Ordered, That the further consideration of the bill be postponed.

The bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks, was read the second time; and, after debate,

Ordered, That the further consideration of this bill be postponed.

The Senate resumed the consideration of the motion, made on the 11th instant, that a committee be appointed on the subject of destroyed certificates. Whereupon,

Ordered, That Mr. KING have permission to introduce a bill reviving, for a limited time, the act, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions."

Ordered, That the Secretary of the Senate deliver to the Chairman of the Committee of the House of Representatives, on the subject of Weights and Measures, the Standards transmitted, by order of the Committee of Public Safety of France, to the PRESIDENT OF THE UNITED STATES, and, with his Message, transmitted to Congress, during the last session.

The Senate resumed the second reading of the bill, sent from the House of Representatives, for concurrence, entitled: "An act for the relief of Jose Roiz Silva."

Ordered, That this bill pass to a third reading.

The Senate proceeded to the consideration of the report of the committee, to whom was referred the letter of the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

TUESDAY, March 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

By the ninth section of the act, entitled "An act to provide a Naval Armament," it is enacted, "That, if a peace should take place between the United States and the Regency of Algiers, that no further proceedings be had under this act."

The peace which is here contemplated having taken place, it is incumbent upon the Executive to suspend all orders respecting the building of the frigates, procuring materials for them, or preparing materials already obtained, which may be done without entrenching upon contracts and agreements, made and entered into before this event.

But, inasmuch as the loss which the public would incur might be considerable, from the dissipation of workmen, from certain works or operations being suddenly dropped or left unfinished, and from the derangement in the whole system, consequent upon an immediate suspension of all proceedings under it; I have therefore thought advisable, before taking such a step, to submit the subject to the Senate and the House of Representatives, that such measures may be adopted, in the premises, as may best comport with the public interest.

G. WASHINGTON.

UNITED STATES, *March* 15, 1796.

The Message was read and ordered to lie for consideration.

The bill sent from the House of Representatives, for concurrence, entitled "An act for the relief of Jose Roiz Silva," was read the third time, and passed.

Mr. STRONG, from the committee to whom was referred the bill, entitled "An act for the relief of certain officers and soldiers, who have been wounded or disabled in the actual service of the United States," reported that the bill pass without amendment; whereupon, the bill was ordered to a third reading.

The second reading of the bill authorizing the settlement of the demands of Anthony Walton White, against the United States, was resumed; and, on the question to agree to the enacting clause in the bill, it passed in the negative. So the bill was rejected.

On motion, it was agreed that the motion made yesterday, respecting returns from the Department of Treasury, of imports, exports, and tonnage, should be further postponed.

The Senate resumed the consideration of the report of the committee, to whom was referred the letter of the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them; and, after debate, the Senate adjourned.

WEDNESDAY, March 16.

The VICE PRESIDENT laid before the Senate a Report from the Secretary for the Department of War, on the case of certain invalid pensioners of the State of Massachusetts; which was read and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of certain officers and soldiers, who have been wounded or disabled in the actual service of the United States," was read the third time, and passed.

The Senate resumed the second reading of the bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks; and, having agreed to an amendment, the bill was ordered to a third reading.

Ordered, That the consideration of the report of the committee, to whom was referred the letter of the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them, be further postponed.

The Senate resumed the consideration of the motion made the 14th instant, respecting the returns from the Department of Treasury, of imports, exports, and tonnage: whereupon,

Resolved, That so much of the resolution of the Senate, of the tenth day of February last, as requires the statements therein mentioned to be reported to the Senate, in the month of January, annually, and to be made up to the first day of October next preceding, be repealed; and that the said statements be reported to the Senate in the month of December, annually, and made up to the first day of October, of the year preceding such reports.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, of the 15th instant, respecting the equipment of the frigates, be referred to Messrs. BINGHAM, READ, and CABOT, to consider and report thereon to the Senate.

THURSDAY, March 17.

The bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks, was read the third time.

On motion to insert the names of William Lambert and Bernard Webb, it passed in the negative.

On motion to strike out "one hundred dollars," the provision for the widows of deceased clerks, for the purpose of inserting a larger sum, it passed in the negative.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks."

Mr. BINGHAM reported, from the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 15th instant, respecting the equipment of the frigates. The report was read, and ordered to lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them, which is as follows:

"That the representatives of the freemen of Kentucky state, in their memorial, that, in February, 1795, a pamphlet was published by George Muter and Benjamin Sebastian, (who were two Judges of the Court of Appeals,) in which they say that Humphrey Marshall had a suit in chancery, in the said Court of Appeals, in which it appearing manifest, from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradictions contained in his own answer, that he had committed a gross fraud, the Court gave a decree against him; and that, in the course of the investigation, he was publicly charged with perjury. That Mr. Marshall, in a publication in the Kentucky Gazette, called for a specification of the charge; to which the said George Muter and Benjamin Sebastian, in a like

publication, replied, that he was guilty of perjury in his answer to the bill in chancery, exhibited against him by James Wilkinson, and that they would plead justification to any suit brought against them therefor. That no such suit, as the said Representatives could learn, had been brought. The said Representatives further say, that they do not mean to give an opinion on the justice of the said charge, but request that an investigation may immediately take place relative thereto.

"Your committee observe that the said suit was tried eighteen months before Mr. Marshall was chosen a member of the Senate, and that previous to his election, mutual accusations had taken place between him and the Judges of the said Court, relating to the same suit.

"The Representatives of Kentucky have not furnished any copy of Mr. Marshall's answer on oath, nor have they stated any part of the testimony, or produced any of the said records or documents, or the copy of any paper, in the cause, nor have they intimated a design to bring forward those or any other proofs.

"Your committee are informed, by the other Senator and two Representatives in Congress, from Kentucky, that they have not been requested by the Legislature of that State to prosecute this inquiry, and that they are not possessed of any evidence in the case, and that they believe no person is authorized to appear on behalf of the Legislature.

"Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle that consent takes away error, as applying on this occasion, to give the Senate jurisdiction; but, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged, by the memorialists, why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law concur in presuming that he is innocent. And the committee are compelled, by a sense of justice, to declare, that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by the recriminating publications of two men, who take no pains to conceal their personal resentment against him.

"Whatever motives induced the Legislature of Kentucky to call the attention of the Senate to the above mentioned publications, the committee are of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it, and that, therefore, the said memorial ought to be dismissed."

On motion to postpone the consideration of the report until to-morrow, it passed in the negative, and, after debate, on motion to reconsider the question for postponement, it passed in the negative.

On motion to expunge all the words from "if in the present case," inclusive, to the end of the report, a motion was made to amend the report proposed to be struck out by expunging these words: "of two men who take no pains to conceal their personal resentment," and it was agreed that this motion was not in order.

A motion was made to divide the original motion for striking out, and retain the words from "if in the present case," inclusive, to the word, "innocent," at the end of the first paragraph; and, after debate, the Senate adjourned.

FRIDAY, March 18.

Mr. VINING presented the petition of Charles King and others, citizens of the State of Delaware, praying the establishment of an office to license, register, enter, and clear vessels, more conveniently placed than at Wilmington; which petition was read, and referred to Messrs. VINING, HENRY, and BINGHAM, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, together with the motion made thereon, and under debate yesterday; and a motion was made to amend the motion by expunging from the report all that follows the words "the memorial could not be sustained."

And, after debate, the Senate adjourned.

SATURDAY, March 19.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them; also, the motion made thereon, and under debate yesterday, together with the motion for amendment, by expunging from the report all that follows the words "the memorial could not be sustained;" and a motion was made to postpone the report, and the motions made thereon, and to take into consideration the following resolution:

"Whereas the honorable the Legislature of the State of Kentucky have, by their memorial, transmitted by the Governor of said State, informed the Senate that Humphrey Marshall, a Senator from the said State, had been publicly charged with the crime of perjury, and requested that an inquiry might be thereupon instituted, in which request the said Humphrey Marshall has united; and it being highly interesting, as well to the honor of the said State as to that of the Senate, and an act of justice due to the character of the said Humphrey Marshall that such inquiry should be had: therefore,

"*Resolved*, That the Senate will proceed to the examination of the said charge on the ——— day of the next session of Congress; that, in the opinion of the Senate, a conviction or acquittal in the ordinary courts of justice of the said State would be the most satisfactory evidence on this occasion; but that, if this should not be attainable, by reason of any act of limitation or other legal impediment, such other evidence will be received as the nature of the case may admit and require

"*Resolved*, That the Vice President be requested to transmit a copy of the foregoing resolution to the Governor of the said State."

And, after debate, the Senate adjourned.

MONDAY, March 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" and a "Resolution directing further returns in the cases of claimants for invalid pensions;" in which bill and resolution they desire the concurrence of the Senate.

The Senate resumed the consideration of the motion, made on the 19th instant, to postpone the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, together with the motions of amendment made thereon, in order to consider the following resolution:

"Whereas the honorable the Legislature of the State of Kentucky have, by their memorial, transmitted by the Governor of the said State, informed the Senate that Humphrey Marshall, a Senator from the said State, had been publicly charged with the crime of perjury, and requested that an inquiry might be thereupon instituted, in which request the said Humphrey Marshall has united; and it being highly interesting, as well to the honor of the said State as to that of the Senate, and an act of justice due to the character of the said Humphrey Marshall that such inquiry should be had: therefore,

"*Resolved*, That the Senate will proceed to the examination of the said charge on the ——— day of the next session of Congress; that, in the opinion of the Senate, a conviction or acquittal in the ordinary courts of justice of the said State would be the most satisfactory evidence on this occasion; but that, if this should not be attainable, by reason of any act of limitation or other legal impediment, such other evidence will be received as the nature of the case may admit and require.

"*Resolved*, That the Vice President be requested to transmit a copy of the foregoing resolution to the Governor of the said State."

And, on the question for postponement, it passed in the negative—yeas 7, nays 17, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Langdon, Mason, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Martin, Paine, Read, Ross, Rutherfurd, Strong, Trumbull, and Vining.

TUESDAY, March 22.

The bill sent from the House of Representatives for concurrence, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read, and ordered to a second reading.

The resolution directing further returns in the cases of claimants for invalid pensions, was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force 'An act for ascertaining the fees in Admiralty proceedings in the District Courts of the United States,' and for other purposes;" and a bill, entitled, "An act for the relief of Henry Messonnier;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to a second reading.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them.

On the question to expunge these words: "if there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained," it passed in the negative

On the question to expunge the following words:

"They think that in a case of this kind no person can be held to answer for an infamous crime unless on a presentment or indictment of a grand jury, and that in all such prosecutions the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If in the present case the party has been guilty, in the manner suggested, no reason has been alleged why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law concur in presuming that he is innocent;"

It passed in the negative.

On motion, it was agreed to amend the next paragraph, to read as follows:

"And the committee are compelled, by a sense of justice, to declare that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by recriminating publications, which manifest strong resentment against him."

And on the question to expunge the paragraph, as amended, it passed in the negative.

On motion, it was agreed to amend the last clause of the report to read as follows:

"And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed."

On motion to expunge the clause last agreed to be amended, it passed in the negative—yeas 7, nays 16, as follows:

YEAS.—Messrs. Bloodworth, Burr, Langdon, Martin, Mason, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Paine, Read, Ross, Rutherfurd, Strong, Trumbull, and Vining."

Mr. BROWN requested and was excused from voting on the question.

On motion, it was agreed to amend the last paragraph but two of the report, beginning with the words, "If in the present case," by inserting the words "by the memorialists," after the word "alleged."

On the question to adopt the report, as amended, it passed in the affirmative—yeas 16, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Paine, Read, Ross, Rutherfurd, Strong, Trumbull, and Vining.

NAYS.—Messrs. Bloodworth, Brown, Burr, Langdon, Martin, Mason, Robinson, and Tazewell.

So the report was adopted, as follows:

"The committee to whom were referred the letter of the Governor, and the memorial of the Representatives of Kentucky, with the papers accompanying them, report:

"That the Representatives of the freemen of Kentucky state, in their memorial, that, in February, 1795, a pamphlet was published by George Muter and Benjamin Sebastian, (who were two Judges of the Court of Appeals,) in which they say that Humphrey Marshall had a suit in chancery in the said Court of Appeals, in which it appearing manifest, from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradictions contained in his own answer, that he had committed a gross fraud, the Court gave a decree against him; and that, in the course of the investigation, he was publicly charged with perjury. That Mr. Marshall, in a publication in the Kentucky Gazette, called for a specification of the charge; to which the said George Muter and Benjamin Sebastian, in a like publication, replied, that he was guilty of perjury in his answer to the bill in chancery exhibited against him by James Wilkinson, and that they would plead justification to any suit brought against them therefor. That no such suit, as the said Representatives could learn, had been brought. The said Representatives further say, that they do not mean to give an opinion on the justice of the said charge, but request that an investigation may immediately take place relative thereto.

"Your committee observe that the said suit was tried eighteen months before Mr. Marshall was chosen a member of the Senate, and that, previous to his election, mutual accusations had taken place between him and the Judges of the said Court, relating to the same suit.

"The Representatives of Kentucky have not furnished any copy of Mr. Marshall's answer on oath, nor have they stated any part of the testimony, or produced any of the said records or documents, or the copy of any paper, in the cause, nor have they intimated a design to bring forward those or any other proofs.

"Your committee are informed by the other Senator and the two Representatives in Congress from Kentucky, that they have not been requested by the Legislature of that State to prosecute this inquiry, and that they are not possessed of any evidence in the case, and that they believe no person is authorized to appear on behalf of the Legislature.

"Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle that consent takes away error, as applying, on this occasion, to give the Senate jurisdiction; but, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialists why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law, concur in presuming that he is innocent. And the committee are compelled, by a sense of justice, to declare that, in their opinion, the presumption in favor of Mr. Marshall is not diminished by the recriminating publications, which manifest strong resentment against him.

"And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed."

Resolved, That the VICE PRESIDENT of the United States be requested to transmit a copy of the foregoing report to the Governor of Kentucky.

NAVAL ARMAMENT.

The report of the committee to whom was referred the communication from the PRESIDENT OF THE UNITED STATES, on the subject of the Naval Armament, was read, as follows:

"That it is the opinion of the committee it will be expedient to authorize the President of the United States to cause to be completed, with all convenient expedition, two of the said frigates of forty-four, and one of thirty-six guns.

"That a discretionary power be committed to the President of the United States to cause the others to be finished, having a due regard to the existing price of labor and materials.

"That so much of the sum of six hundred and eighty-eight thousand eight hundred and eighty-eight dollars and thirty-two cents, as, by the act of June, 1794, was appropriated to pay the expenses to be incurred by the act to provide a Naval Armament, remains unexpended, as well as so much of the sum of eighty thousand dollars, appropriated for a provisional equipment of galleys, by the before-recited act, be appropriated for carrying into effect the provisions of the aforesaid resolution."

Whereupon, it was ordered, that the committee be instructed to bring in a bill conformable to the report of the committee.

WEDNESDAY, March 23.

Mr. BINGHAM, from the committee instructed to that purpose, reported a bill supplementary to an act, entitled "An act to provide a Naval Armament;" which was read, and ordered to second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Henry Messonnier," was read the second time, and referred to Messrs. BRADFORD, BINGHAM, and FRELINGHUYSEN, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a Report from the Secretary of War, of the claims of four invalid pension applicants, forwarded by the Judge of the District Court of Virginia, with

sundry papers; which were read, and ordered to lie for consideration.

Ordered, That Messrs. MARTIN, LIVERMORE, and BLOODWORTH, be a committee to bring in a bill making certain provisions in regard to the Circuit Court for the District of North Carolina.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force an act 'for ascertaining the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes," was read the second time, and ordered to a third reading.

THURSDAY, March 24.

Mr. MARTIN, from the committee instructed to that purpose, reported a bill making certain provisions in regard to the Circuit Court for the district of North Carolina; which was read, and, by unanimous consent, the rule was dispensed with, and the bill was read the second and third times, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of George Knowel Jackson," and a bill entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the the same respects the States of Georgia and Rhode Island and Providence Plantations;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force an act 'for ascertaining the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes," was read the third time, and amended.

Resolved, That this bill pass as amended.

On motion, by Mr. MASON, it was agreed to reconsider the vote passed the 15th instant, on the second reading of the bill authorizing the settlement of the demands of Anthony Walton White against the United States, and that the bill be still considered as in its second reading.

FRIDAY, March 25.

The bill supplementary to an act, entitled "An act to provide a Naval Armament," was read the second time, and amended.

Ordered, That this bill pass to the third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I send herewith, for your information, the translation of a Letter from the Minister Plenipotentiary of the French Republic to the Secretary of State, announcing the peace made by the Republic with the Kings of Prussia and Spain, the Grand Duke of Tuscany, and the Landgrave of Hesse Cassel; and that the republican Constitution, decreed by the National Convention, had been accepted by the people of France, and was in operation. I also send you a copy of the answer given, by my direction, to this communication from the French Minister. My sentiments, therein expressed, I am persuaded will harmonize with yours, and with those of all my fellow-citizens.

G. WASHINGTON.

UNITED STATES, *March* 25, 1796.

The Message and papers therein referred to were read, and ordered to lie for consideration.

Mr. BROWN presented the memorial of Ebenezer Zane, praying liberty to locate such military bounty lands, lying at the crossings of certain rivers, mentioned in the said memorial, as may be necessary to enable him to establish ferries and open a road through the Territory Northwest of the Ohio to the State of Kentucky; which memorial was read.

Ordered, That it be referred to Messrs. BROWN, ROSS, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, March 28.

The bill supplementary to an act, entitled "An act to provide a Naval Armament," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read the second time, and referred to Messrs. TAZEWELL, STRONG, and TRUMBULL, to consider and report thereon to the Senate.

Ordered, That the "resolution directing further returns in the cases of claimants for invalid pensions," be referred to the last-mentioned committee, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of George Knowel Jackson," was read the second time, and referred to the last-mentioned committee, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island and Providence Plantations," was read the second time, and referred to Messrs. HENRY, BRADFORD, and STRONG, to consider and report thereon to the Senate.

TUESDAY, March 29.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief and protection of American seamen," in which they desire the concurrence of the Senate.

Mr. FRELINGHUYSEN presented the memorial of Stephen Sayre, praying compensation for his time and services as Secretary, acting under the Commissioners at Versailles, in the year one thousand seven hundred and seventy-seven; which memorial was read, and ordered to lie on the table.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

Mr. TAZEWELL reported from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of George Knowel Jackson;" and the report was adopted. Whereupon,

Resolved, That this bill do not pass.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I send herewith a copy of the Treaty of Friendship, Limits, and Navigation, between the United States and His Catholic Majesty, which has been ratified by me, with your advice and consent. A copy of the Treaty will be immediately communicated to the House of Representatives; it being necessary to make provision, in the present session, for carrying into execution the third and twenty-first articles, particularly the former; seeing that execution must commence before the next meeting of Congress.

Estimates of the moneys necessary to be provided for the purposes of this and several other Treaties with foreign nations and the Indian tribes, will be laid before you by the proper Department.

G. WASHINGTON.

The Message was read, and ordered to lie for consideration.

Mr. BRADFORD reported, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Henry Messonnier," that the bill do not pass.

Ordered, That the report lie until to-morrow for consideration.

WEDNESDAY, March 30.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen," was read the second time. On motion, that the bill be referred to a committee, it passed in the negative.

Ordered, That this bill lie on the table.

Mr. CABOT, from the committee, reported a bill to regulate the Mint of the United States, and to punish frauds by counterfeiting the coins thereof, or otherwise; which was read, and ordered to a second reading.

THURSDAY, March 31.

Mr. LIVERMORE reported, from the committee to whom were referred the Message from the PRESIDENT OF THE UNITED STATES of the 29th of January last, with the papers accompanying the same—

"That the laws and journals of the respective Territories of the United States Northwest and Southwest of the river Ohio, being part of the said papers referred, should lie for consideration. And that the act of the State of Rhode Island, ratifying an amendment to the Constitution, respecting the suability of a State; also, an act of North Carolina, to the same effect; and an act of the same State, ceding the jurisdiction of Shell Castle Island, for the purpose of erecting a beacon, being the residue of the said papers referred, should lie for the information of the Senate."

The report was read.

FRIDAY, April 1.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned;" a bill, entitled "An act authorizing the erection of a light-house on Baker's Island, in the State of Massachusetts;" and a bill, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds, received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine;" in which bills, severally, they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a Letter from the Hon. Oliver Wolcott, Lieutenant Governor of the State of Connecticut, in answer to the notification from the Senate that the seat of the Hon. OLIVER ELLSWORTH is vacated by his appointment to the office of Chief Justice; which letter was read, and ordered to lie on file.

Mr. CABOT, from the committee to whom was referred the bill to regulate the compensation of clerks, reported amendments; which were read, and ordered to lie for consideration.

Mr. BROWN, from the committee to whom was referred the memorial of Ebenezer Zane, made a report; which was read, and ordered to lie for consideration.

The VICE PRESIDENT laid before the Senate a confidential communication from the Secretary of the Department of State, with sundry estimates referred to in the Message of the PRESIDENT OF THE UNITED STATES of the 29th of March last; which were read, and ordered to lie for consideration.

MONDAY, April 4.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," was read the second time, and referred to Messrs. KING, HENRY, and TAZEWELL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of

the United States, since the 4th of March, one thousand seven hundred and eighty-nine," was read the second time, and referred to Messrs. STRONG, HENRY, and LIVERMORE, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate an abstract from the Department of Treasury, to the 2d instant, of the compensations of certain officers employed in the collection of the duties of impost and tonnage; which was read, and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Baker's Island, in the State of Massachusetts," was read the second and third times, and passed.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen;" and, after debate, the Senate adjourned.

TUESDAY, April 5.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen."

A motion was made to expunge the first section; and, on motion to postpone the consideration of this motion, it passed in the affirmative. And it was agreed to postpone the further consideration of the bill until Thursday next.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to sundry amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes," ask a conference thereon, and have appointed managers at the same on their part.

The Senate took into consideration the resolution of the House of Representatives, insisting on their disagreement to sundry amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes," and asking a conference thereon.

Resolved, That the Senate agree to the proposed conference, and that Messrs. ROSS and KING be managers at the same on their part.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill to regulate the compensation of clerks, and having agreed thereto, and amended the bill accordingly, it was read the third time, and passed.

WEDNESDAY, April 6.

Mr. TAZEWELL reported, from the committee to whom was referred, the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" which was read, and ordered to lie for consideration.

The committee to whom was referred the petition of Ebenezer Zane, states—

"That the petitioner sets forth, that he hath, at considerable trouble and expense, explored, and in part opened, a road Northwest of the river Ohio, between Wheeling and Limestone, which, when completed, will greatly contribute to the accommodation of the public, as well as of individuals. But, that several rivers intervening, the road proposed cannot be used with safety, until ferries shall be established thereon. That the petitioner will engage to have such ferries erected, provided he can obtain a right to the land which is now the property of the United States. And therefore prays that he may be authorized to locate, and survey, at his own expense, military bounty warrants, upon as much land at Muskingum, Hockhocking, and Sciota rivers, as may be sufficient to support the necessary establishments; and that the same be granted to him by the United States.

"That they, having received satisfactory information in support of the above statement, are of opinion that the proposed road will be of general utility, that the petitioner merits encouragement, and that his petition being reasonable, ought to be granted.

"The committee therefore submit the following resolution:

"*Resolved*, That the petition of Ebenezer Zane is reasonable; that he be authorized to locate warrants granted by the United States for military services, upon three tracts of land, not exceeding one mile square each, at Muskingum, Hockhocking, and Sciota, where the proposed road shall cross those rivers, for the purpose of establishing ferries thereon; and that leave be given to bring in a bill for that purpose.

On motion, it was agreed that this report be adopted, and that the committee who were appointed on the petition be instructed to bring in a bill accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Henry Messonnier." And, after debate, the further consideration thereof was postponed.

Mr. BROWN, from the committee instructed for the purpose, reported a bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio; which was read, and ordered to a second reading.

THURSDAY, April 7.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was considered.

Ordered, That the second reading of this bill be the order of the day for Monday next.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen."

On motion, that it be committed, it passed in the affirmative—yeas 12, nays 10, as follows:

YEAS—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Paine, Read, Ross, Strong, and Trumbull.

NAYS—Messrs. Bloodworth, Brown, Burr, Butler, Langdon, Livermore, Martin, Mason, Robinson, and Tazewell.

On motion, that this committee consist of five members, it passed in the negative. And it was agreed that Messrs. KING, BURR, and LIVERMORE, be the committee.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the second time.

Ordered, That this bill lie for consideration.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list."

Ordered, That the further consideration thereof be the order of the day for Monday next.

FRIDAY, April 8.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

Ordered, That this bill be referred to Messrs. ROSS, KING, BROWN, MARSHALL, and STRONG, to consider and report thereon to the Senate.

Mr. STRONG, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine, reported amendments; which were read, and ordered to lie for consideration.

Mr. ROSS reported from the managers on the part of the Senate, at the conference on the bill, entitled "An act for establishing trading houses with the Indian tribes;" and the report was adopted, as follows:

"The managers on the part of the Senate have conferred with those on the part of the House, and do recommend that the Senate recede from their amendments disagreed to by the House.

"And that the fifth section be amended to read as follows:

"SEC. 5. *Be it further enacted*, That, during the continuance of this act, the President of the United States be, and he is hereby, authorized to draw annually from the Treasury of the United States a sum not exceeding eight thousand dollars, to be applied under his direction, for the purpose of paying the agents and clerks, which agents shall be allowed to draw, out of the public supplies, two rations each, and each clerk one ration per day.

"And in section 6, line 2, after the word 'dollars,' insert these words: 'exclusive of the allowances to agents and clerks.'

"Section 7, line 6th, strike out the words, 'a sum not exceeding,' and insert 'the sum of.'"

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Henry Messonnier." Whereupon,

Resolved, That this bill do not pass.

MONDAY, April 11.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

of the House of Representatives:

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the Territory of the United States South of the river Ohio should enjoy all the privileges, benefits, and advantages, set forth in the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio; and that the government of said Territory South of the Ohio should be similar to that which was then exercised in the Territory Northwest of the Ohio; except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2d of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of Western territory."

Among the privileges, benefits, and advantages, thus secured to the inhabitants of the Territory South of the river Ohio, appear to be the right of forming a permanent Constitution and State Government, and of admission, as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: Provided the Constitution and Government so to be formed should be Republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the Territory South of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the Constitution and form of government on which they have agreed; which, with his letters accompanying the same, are herewith laid before Congress.

G. WASHINGTON.

UNITED STATES, *April* 8, 1796.

The Message and papers were read, and ordered to lie until to-morrow for consideration.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armanent," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt;" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" which was adopted, and the bill amended accordingly.

Ordered, That this bill pass to a third reading.

The amendments of the House of Representatives to the bill, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armament," were read, and ordered to lie until to-morrow for consideration.

The bill, last brought from the House of Representatives for concurrence, was read, and ordered to a second reading.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine." And, after debate, the Senate adjourned.

TUESDAY, April 12.

JOSIAH TATTNALL, elected a Senator by the Legislature of the State of Georgia, in place of Mr. Walton, appointed by the Executive of the said State to succeed Mr. Jackson, produced his credentials, and, the oath required by law being administered, took his seat in the Senate.

Mr. HENRY, from the committee to whom was referred the bill, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue 'An act, declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations,' so far as the same respects the States of Georgia and Rhode Island, and Providence Plantations," reported an amendment, which was adopted, and the bill was amended accordingly.

The bill was then read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read the third time.

On the question to concur in the bill as amended, it passed in the affirmative—yeas 15, nays 8, as follows:

YEAS—Messrs. Bloodworth, Bradford, Burr, Cabot, Foster, Frelinghuysen, Gunn, King, Livermore, Martin, Paine, Read, Robinson, Strong and Trumbull.

NAYS—Messrs. Bingham, Brown, Henry, Marshall, Mason, Ross, Rutherfurd, and Tazewell.

Mr. Tattnall excused.

So it was *Resolved*, That this bill pass with amendments.

The Senate resumed the consideration of the "resolution directing further returns in the cases of claimants for invalid pensions;" and

Resolved, That they do concur therein.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States since the fourth of March, one thousand seven hundred and eighty-nine.

On the question to agree to the last amendment reported by the committee, as followeth:

Line 13, after the word "States," insert "and to the widows and orphans of those commissioned officers, in the late Continental army, who died by reason of wounds received before the fifteenth day of May, one thousand seven hundred and seventy-eight, in the actual service of the United States, and for whom no provision has been made:"

It passed in the negative—yeas 8, nays 16, as follows:

YEAS—Messrs. Gunn, Henry Livermore, Martin, Mason, Potts, Read, and Tattnall.

NAYS—Messrs. Bingham, Bloodworth, Bradford Brown, Cabot, Foster, Frelinghuysen, King, Marshall, Paine, Robinson, Ross, Rutherfurd, Strong, Tazewell, and Trumbull.

So the report of the committee was not adopted.

On the question, Shall this bill pass to the third reading? it passed in the affirmative—yeas 13, nays 13, as follows:

YEAS—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Henry, Martin, Mason, Potts, Read, Ross, and Tattnall.

NAYS—Messrs. Bradford, Cabot, Foster, King, Langdon, Livermore, Marshall, Paine, Robinson, Rutherfurd, Strong, Tazewell, and Trumbull.

The number of votes being equal, the VICE PRESIDENT determined the question in the affirmative.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armament;'" and,

Resolved, That they do concur therein.

Ordered, That the bill to regulate the Mint of the United States, and to punish frauds by counterfeiting the coins thereof, or otherwise, be recommitted.

WEDNESDAY, April 13.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt, was read the second time, and referred to Messrs. LIVERMORE, CABOT, and KING, to consider and report thereon to the Senate.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the second time, and referred to the committee, appointed on the 8th instant, on the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," to consider and report thereon to the Senate.

Mr. BUTLER presented the petition of Charles Colvil, mate and carpenter of the ship Dauphin,

and late a prisoner in Algiers; which was read, praying Congress to enable him to refund the principal and interest of the money advanced for his ransom.

Ordered, That it be referred to Messrs. BUTLER, READ, and MASON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States since the fourth of March, one thousand seven hundred and eighty-nine, was read the third time.

On motion, that the words, "and of the militia," lines 6th and 7th, be expunged, it passed in the negative—yeas 12, nays 16, as follows:

YEAS.—Messrs. Bradford, Butler, Cabot, Foster, Henry, King, Langdon, Latimer, Livermore, Paine, Strong, and Trumbull.

NAYS.—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Marshall, Martin, Mason, Potts, Read, Robinson, Ross, Rutherfurd, Tattnall, and Tazewell.

On motion to add the following words, line 7th, after the word "died," "or who may hereafter die;" it passed in the negative.

On the question to concur in the passing this bill, it was determined in the negative—yeas 13, nays 15, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Henry, Martin, Mason, Potts, Read, Ross, and Tattnall.

NAYS.—Messrs. Bradford, Butler, Cabot, Foster, King, Langdon, Latimer, Livermore, Marshall, Paine, Robinson, Rutherfurd, Strong, Tazewell, and Trumbull.

So it was *Resolved*, That this bill do not pass.

A message from the House of Representatives informed the Senate that the House agree to all the amendments of the Senate to the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," except the seventh, to which they disagree. They have adopted the report of the Committee of Conference on the bill, entitled, "An act for establishing trading houses with the Indian tribes," and they have passed a bill, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" in which bill they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to the seventh amendment of the Senate to the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" And,

Resolved, That they do recede from their said amendment.

THURSDAY, April 14.

The Senate proceeded to the consideration of the Message of the PRESIDENT OF THE UNITED STATES, of the 8th instant, and of the papers accompanying the same. On motion, that they be referred to a committee, to consist of a member from each State, it passed in the negative.

On motion, that they be referred to a committee to consist of five members, it passed in the negative. And it was agreed that they be referred to Messrs. KING, READ, and RUTHERFURD, to consider and report thereon to the Senate.

FRIDAY, April 15.

Mr. KING, from the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen," reported amendments.

Ordered, That they be printed for the use of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the second time, and the further consideration of the bill was postponed.

MONDAY, April 18.

The Senate resumed the second reading of the bill sent from the House of Representatives for concurrence, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers."

Ordered, That this bill be referred to the comtee, appointed on the 8th instant, on the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," to consider and report thereon to the Senate.

Mr. BUTLER presented the memorial of a number of the merchants of Charleston, in the State of South Carolina, praying that speedy measures may be adopted whereby they may be compensated for the depredations committed by the British cruisers on their vessels and property in the West Indies: and the petition was read, and ordered to lie on the table.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen;" and, after debate, the further consideration thereof was postponed.

TUESDAY, April 19.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen."

The third section, proposed to be substituted by the committee, was read, as follows:

"SEC. 3. And, in order that full and speedy information may be obtained of the seizure and detention, by

any foreign Power, of any seamen employed on board any ship or vessel of the United States:

"*Be it further enacted*, That it shall, and hereby is declared to be, the duty of the master of every ship or vessel of the United States, any of the crew whereof shall have been impressed or detained by any foreign Power, at the first port at which such ship or vessel shall arrive, if such impressment or detention happened on the high seas, or, if the same happened within any foreign port, then, in the port in which the same happened, immediately to make a protest, stating the manner of such impressment or detention, by whom made, together with the name and place of residence of the person impressed or detained, distinguishing, also, whether he was an American citizen, and, if not, to what nation he belonged."

On motion, to amend this section, by expunging these words, "distinguishing, also, whether he was an American citizen, and, if not, to what nation he belonged;" it was determined in the negative—yeas 3, nays 16, as follows:

YEAS.—Messrs. Bloodworth, Burr, and Butler.

NAYS.—Messrs. Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, King, Latimer, Livermore, Martin, Potts, Read, Ross, Rutherfurd, Tattnall, and Trumbull.

And the report of the committee being amended, was adopted; and it was agreed that the bill be amended accordingly.

Ordered, That this bill pass to the third reading.

WEDNESDAY, April 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen," was read the third time.

On motion, it was agreed to insert, after the first section, the following amendment:

"SEC. 2. *And be it further enacted*, That, if it should be expedient to employ an additional agent or agents for the purposes authorized by this law, during the recess of the Senate, the President alone be, and hereby is, authorized to appoint such agent or agents."

On motion, it was agreed to amend the last section of the bill, by striking out these words: "the first and second sections of."

Resolved, That this bill pass with the amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain;" and a bill, entitled "An act making appropriations for defraying the expenses which may arise in carrying into effect a Treaty made between the United States and certain Indian tribes Northwest of the river Ohio;" in which bills they desire the concurrence of the Senate.

The bills were severally read twice, by unanimous consent.

Ordered, That these bills, together with the confidential communication from the Secretary for the Department of State, with sundry estimates referred to in the Message of the PRESIDENT OF THE UNITED STATES, of the 29th of March last, be committed to Messrs. KING, LIVERMORE, POTTS, BINGHAM, and READ, to consider and report thereon to the Senate.

THURSDAY, April 21.

Mr. LIVERMORE, from the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," reported that the bill pass without amendment; and the report was adopted.

Ordered, That this bill pass to the third reading.

FRIDAY, April 22.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," was read the third time.

Mr. KING, from the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned," reported that the bill pass without amendment.

Ordered, That the report lie for consideration.

MONDAY, April 25.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned."

On motion, that the bill be referred to a special committee, to examine the estimates and expenditures, and report generally thereon, it passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bingham, Cabot, Foster, Frelinghuysen, Gunn, King, Latimer, Livermore, Read, Ross, Rutherfurd, and Trumbull.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Burr, Butler, Henry, Marshall, Martin, Mason, Potts, Robinson, Tattnall, and Tazewell.

And, after debate, the further consideration of the bill was postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers;" and a bill, entitled "An act making further provision relative to the revenue cutters;" in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

TUESDAY, April 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision relative to the revenue cutters," was read the second time, and referred to Messrs. CABOT, BINGHAM, and BLOODWORTH, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers," was read the second time, and referred to the committee appointed the 20th instant, on the bills respecting the Treaty with the King of Spain, and with certain Indian tribes Northwest of the river Ohio, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned."

A motion was made to expunge from the second section, these words:

"And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said Loan."

Whereupon, a motion was made to postpone the motion for amendment, together with the report of the committee, until this day se'nnight; and on the question to agree to the postponement, it passed in the affirmative—yeas 13, nays 11, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, King, Latimer, Livermore, Read, Ross, Rutherfurd, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Henry, Marshall, Martin, Mason, Potts, Robinson, Tattnall, and Tazewell.

On motion, that Mr. BURR be permitted to vote on the question, having been absent when it was taken, it passed in the negative.

WEDNESDAY, April 27.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," reported amendments; which were read, and ordered to be printed for the use of the Senate.

Mr. ROSS, from the committee to whom was referred the bill "to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio," reported amendments, which were read and adopted; and the bill was amended accordingly, and ordered to a third reading.

Mr. BINGHAM presented a memorial, signed by Walter Stewart and others, merchants, which was read, stating, that, in the years 1793, 1794, and 1795, they exported provisions, to a large amount, to the French West Indies, and sold them to the officers of the Colonial Administration of the Republic of France; and that other property was taken from them by force, by the said officers, at prices arbitrarily fixed by themselves; for all which the petitioners remain unpaid; and they, therefore, pray the interposition of Congress in their behalf.

Ordered, That the memorial be referred to Messrs. BINGHAM, KING, and BUTLER, to consider and report thereon to the Senate.

THURSDAY, April 28.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the third time, and, being further amended, was passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

Herewith I lay before you a Letter from the Attorney General of the United States, relative to compensation to the Attorneys of the United States in the several Districts, which is recommended to your consideration.

G. WASHINGTON.

UNITED STATES, *April* 28, 1796.

The Message and Letter referred to were read, and ordered to lie for consideration.

FRIDAY, April 29.

Mr. CABOT, from the committee to whom was referred the bill, entitled "An act making further provision relative to the revenue cutters," reported amendments, which were read and adopted.

Ordered, That this bill pass to the third reading.

The VICE PRESIDENT laid before the Senate a Report from the Attorney General, of the 28th instant, respecting the lands situated in the Southwestern parts of the United States; and the Report and papers therein referred to were read.

Ordered, That they be committed to Messrs. KING, TAZEWELL, and GUNN, to consider and report thereon to the Senate; and that the committee be instructed to have them printed.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, referring to the Report of the Attorney General, on the compensation to the Attorneys of the several Districts of the United States, be referred to Messrs. BLOODWORTH, BURR, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, May 2.

The bill sent from the House of Representatives for concurrence, entitled "An act making further provision relative to the revenue cutters," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring

the consent of Congress to an act of the State of Maryland, passed the 28th day of December, one thousand seven hundred and ninety-three, for the appointment of a Health Officer,' and a bill, entitled 'An act to ascertain and fix the Military Establishment of the United States," in which bills they desire the concurrence of the Senate. They have also passed a resolution, and appointed a committee on their part, jointly with such committee as may be appointed on the part of the Senate, to consider and report what further business is necessary to be done during the present session, and at what time it will be proper to adjourn; in which they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States," was read, and ordered to a second reading.

The Senate proceeded to consider the resolution last brought from the House of Representatives for concurrence.

Resolved, That they concur therein, and that Messrs. KING and POTTS be of the joint committee on their part.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" and, after debate, the further consideration thereof was postponed until to-morrow.

TUESDAY, May 3.

On request, the VICE PRESIDENT was excused from attending in Senate, after Thursday next, for the remainder of the session.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," and a bill, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases;" in which bills they desire the concurrence of the Senate. They disagree to all the amendments of the Senate to the bill, entitled, "An act for the relief and protection of American seamen," desire a conference on the subject-matter of the said amendments, and have appointed managers at the same on their part.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned."

On motion, further to postpone the consideration of this bill, it passed in the negative—yeas 4, nays 16, as follows:

YEAS.—Messrs. Bingham, Frelinghuysen, Ross, and Rutherfurd.

NAYS.—Messrs. Bradford, Brown, Burr, Cabot, Henry, King, Latimer, Livermore, Marshall, Mason, Potts, Read, Robinson, Tattnall, Tazewell, and Trumbull.

On motion to expunge the following words from the 2d section, line 16 to 20:

"And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said loans"—

It passed in the negative—yeas 8, nays 16, as follows:

YEAS.—Messrs. Bingham, Burr, Butler, Frelinghuysen, Latimer, Robinson, Ross, and Rutherfurd.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Henry, King, Livermore, Marshall, Martin, Mason, Potts, Read, Tattnall, Tazewell, and Trumbull.

On motion to insert these words in the 1st section, after the words "six per centum per annum," "including all charges and expenses," it passed in the negative—yeas 10, nays 14, as follows:

YEAS.—Messrs. Bingham, Butler, Frelinghuysen, Gunn, King, Latimer, Martin, Robinson, Ross, and Rutherfurd.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Henry, Livermore, Marshall, Mason, Potts, Read, Tattnall, Tazewell, and Trumbull.

Ordered, That this bill pass to a third reading.

The second reading of the bill authorizing the settlement of the demands of Anthony Walton White against the United States was resumed; and, after debate, on motion that this bill be referred to a special committee, it passed in the negative.

Ordered, That the further consideration thereof be postponed until to-morrow.

The Senate proceeded to consider the resolution of the House of Representatives disagreeing to all the amendments of the Senate to the bill, entitled "An act for the relief and protection of American seamen," and desiring a conference on the subject-matter of the said amendments.

Resolved, That they do insist on their said amendments, and agree to the proposed conference; and that Messrs. KING and BURR be managers at the same on their part.

The bill sent from the House of Representatives for concurrence, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases," was read, and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," was read the first time, and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-

three, for the appointment of a Health Officer," was read twice, and ordered to a third reading.

The petition of John Nicholson was presented and read, stating that he is a manufacturer of glass-ware, and praying Congress to lay a duty of twenty per centum ad valorem on imported glass, for the encouragement of the manufacture.

Ordered, That this petition lie on the table.

WEDNESDAY, May 4.

Mr. KING reported, from the joint committee appointed for that purpose, the business necessary to be passed upon previous to a recess; and that Congress may adjourn on the 20th instant; and the report was read, and ordered to lie for consideration.

The bill sent from the House of Representatives for concurrence, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," was read the second time, and referred to the committee appointed the 20th of April, on the several bills making appropriations for carrying into effect the Treaties between the United States and the King of Spain, between the United States and the Dey and Regency of Algiers, and between the United States and certain Indian tribes, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases," was read the second time, and referred to Messrs. ROSS, FOSTER, and POTTS, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," was read the third time; and, on the question, Shall this bill pass? it was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Gunn, Henry, King, Livermore, Marshall, Martin, Potts, Read, Tattnall, Tazewell, and Trumbull.

NAYS.—Messrs. Bingham, Burr, Frelinghuysen, Latimer, Robinson, Ross, and Rutherfurd.

So, it was resolved that this bill pass.

The bill sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, an act entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth December, one thousand seven hundred and ninety-three, for the appointment of a Health Officer," was read the third time, and passed.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" and the report being amended, was adopted, and the bill amended accordingly.

Ordered, That this bill pass to a third reading.

Mr. KING, from the committee to whom were referred the following bills, to wit: the bill, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain;" the bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers;" and the bill, entitled "An act making appropriations for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and certain Indian tribes Northwest of the river Ohio"—reported that these bills severally pass without amendment; and that the bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain," pass with amendments; and the report being adopted, the bill was amended accordingly.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that these bills be now severally read the third time.

Resolved, That these bills severally pass, agreeably to the report of the committee.

Ordered, That the Secretary acquaint the House of Representatives with the concurrence of the Senate to the bills providing for carrying into effect the three Treaties first mentioned; and desire their concurrence in the amendments of the Senate to the bill respecting the Treaty with the King of Spain.

Mr. BLOODWORTH reported, from the committee who had under consideration the Message of the PRESIDENT OF THE UNITED STATES, referring to the Report of the Attorney General on the compensation to the Attorneys of the several Districts of the United States; which report was read, and ordered to lie for consideration.

The bill sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States," was read the second time, and referred to Messrs. GUNN, FRELINGHUYSEN, and BRADFORD, to consider and report thereon to the Senate.

THURSDAY, May 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the third time.

On motion to amend section 7th of the report, so that the forfeiture of the money paid in case of failure in the contract be one half, instead of the whole sum advanced; it passed in the negative.

On motion to restore the words "streams or,"

expunged from section 7th of the original bill; it passed in the negative.

On motion to affix the price of the land at two dollars the acre; it passed in the negative.

On motion, that the bill be further amended, it was agreed to postpone the consideration thereof until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services;" a bill entitled "An act for the relief of Moses Myers;" a bill entitled "An act for the relief of Samuel Brown;" a bill entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts;" a bill entitled "An act allowing compensation for horses killed in battle belonging to officers of the Army of the United States;" and a bill entitled "An act in addition to an act entitled 'An act supplementary to the act entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels;" in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

The Senate proceeded to consider the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 28th of April last, respecting the compensation to the District Attorneys of the United States; and having adopted the same, the bill was recommitted, with an instruction to the committee to report a bill accordingly.

Ordered, That the bill authorizing the settlement of the demands of Anthony Walton White against the United States, be postponed until the next session of Congress.

Mr. KING reported from the committee, appointed to consider the Message of the PRESIDENT OF THE UNITED STATES of the 8th of April last, respecting a new State Southwest of the river Ohio; and the report was read, and ordered to be printed for the use of the Senate.

FRIDAY, May 6.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides; and SAMUEL LIVERMORE was duly elected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making provision for the payment of certain debts of the United States;" and a bill, entitled "An act to repeal so much of an act, entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes;" in which bills they desire the concurrence of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal so much of an act, entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes," was read the first time, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making provision for the payment of certain debts of the United States," was read twice, and referred to Messrs. BINGHAM, CABOT, and KING, to consider and report thereon to the Senate.

Mr. BLOODWORTH, from the committee appointed for that purpose, reported a bill to provide for the compensation of the District Attorneys of the United States; which was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act allowing compensation for horses killed in battle, belonging to officers of the Army of the United States," was read the second time, and referred to Messrs. ROSS, MARTIN, and BRADFORD, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," was read the second time, and referred to Messrs. POTTS, CABOT, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Moses Myers," was read the second time, and referred to Messrs. FRELINGHUYSEN, FOSTER, and TATTNALL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," was read the second time, and referred to Messrs. RUTHERFURD, BRADFORD, and CABOT, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Samuel Brown," was read the second time, and referred to the committee last named, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services," was read the second time, and referred to Messrs. GUNN, BRADFORD, and CABOT, to consider and report thereon to the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

On motion, it was agreed to amend the second section reported by the committee, line 15th, by inserting, after the word 'by,' the words following:

"Running through the same each way, parallel lines, at the end of every two miles; and by marking a corner on each of the said lines, at the end of every mile, the sections shall be numbered, respectively, beginning with the number one, in the northeast section, and proceeding west and east alternately, through the township, with progressive numbers, till the thirty-sixth be completed. And it shall be the duty of the Deputy Surveyors, respectively, to cause to be marked, on a tree, near each corner made as aforesaid, and within the section, the number of such section, and over it the number of the township within which such section may be; and the said Deputies shall carefully note in their respective field-books the names of the corner trees marked, and the numbers so made."

On motion, it was agreed to reconsider the amendment to the 4th section of the original bill, and to concur in fixing the price of the land at two dollars per acre.

On motion, to insert a new section, as follows:

"*And be it enacted*, That aliens, residing within the United States or elsewhere, shall be capable of purchasing and holding the lands directed to be sold by this act, and their heirs may succeed them *ab intestato*, in the same manner as if they were citizens; and they may grant, sell, and devise, the same to whom they please, whether citizens or aliens, and that neither they, their heirs, or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens:"

It passed in the negative—yeas 11, nays 11, as follows:

YEAS.—Messrs. Bingham, Bradford, Burr, Cabot, Foster, Gunn, Marshall, Potts, Read, Ross, and Rutherfurd.

NAYS.—Messrs. Bloodworth, Brown, Frelinghuysen, Henry, King, Latimer, Martin, Strong, Tattnall, Tazewell, and Trumbull.

The PRESIDENT determined the question in the negative.

Resolved, That this bill pass with the amendments.

MONDAY, May 9.

On motion, that a paper purporting to be the appointment of WILLIAM BLOUNT and WILLIAM COCKE, respectively, to seats in the Senate, should be read, it was agreed that the motion be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" and a bill, entitled "An act for the relief of Sylvanus Bourne;" in which they desire the concurrence of the Senate.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act allowing compensation for horses killed in battle, belonging to officers of the Army of the United States," reported that the bill pass without amendment; and the report was adopted.

The bill was then read a third time, and passed.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," reported amendments; which were read.

Ordered, That the amendments be printed for the use of the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States," reported amendments; which were read, and in part adopted.

Ordered, That the further consideration thereof be postponed until to-morrow.

The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal so much of an act, entitled 'An act to establish Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes," was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Bourne," was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," was read twice, and referred to Messrs. RUTHERFURD, TAZEWELL, and BURR, to consider and report thereon to the Senate.

The PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, accompanying his account of receipts and expenditures in the War Department, for the quarter ending the 31st of March last; which were read, and ordered to lie on the table.

TUESDAY, May 10.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster, at Boston, for extra services," reported an amendment, which was read, and the consideration thereof postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States."

Ordered, That the further consideration thereof be postponed.

The bill to provide for the compensation of the District Attorneys of the United States was read the second time, amended, and ordered to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act altering the sessions of the Circuit Courts in the districts of Vermont and Rhode Island, and for other purposes," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal so much of an act entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court, for the district of Pennsylvania, shall be holden at Yorktown, and for other purposes;" was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Bourne," was read the second time, and referred to Messrs. FOSTER, MARTIN, and LANGDON, to consider and report thereon to the Senate.

Ordered, That the consideration of the paper, purporting to be the appointment of WILLIAM BLOUNT and WILLIAM COCKE to a seat in the Senate, respectively, be postponed until Friday next.

The Senate took into consideration the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; and, after debate,

Ordered, That the further consideration thereof be postponed.

WEDNESDAY, May 11.

Ordered, That the bill, entitled 'An act making provision for the payment of certain debts of the United States," be recommitted.

The bill to provide for the compensation of the District Attorneys of the United States was read a third time, and postponed to the next session of Congress.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT, of the 8th of April last, respecting a new State South of the river Ohio.

A motion was made to strike out of the report the following words: "and providing for an enumeration of the inhabitants thereof, in the manner prescribed in the act, entitled 'An act providing for the enumeration of the inhabitants of the United States,' passed on the first day of March, one thousand seven hundred and ninety;" and, after debate, the further consideration thereof was postponed.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, sent from the Senate for concurrence, entitled "An act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States, Northwest of the river Ohio," with amendments, in which they desire the concurrence of the Senate.

Mr. RUTHERFURD, from the committee to whom was referred the bill entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," reported that the bill pass, with amendment.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States, Northwest of the river Ohio."

Resolved, That they do concur in the amendments.

The Senate proceeded to consider the amendments of the House of Representatives, to the amendments of the Senate, to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territoty Northwest of the river Ohio, and above the mouth of Keatucky river;" and

Ordered, That they be referred to the committee who were originally appointed to consider the bill, who are to report thereon to the Senate.

Mr. CABOT gave notice that he would to-morrow ask permission to introduce a bill, providing passports for the ships and vessels of the United States.

The bill sent from the House of Representatives for concurrence, entitled "An act altering the sessions of the Circuits Courts in the Districts of Vermont and Rhode Island, and for other purposes," was read the second time and referred to Messrs. BRADFORD, ROBINSON, and FOSTER, to consider and report thereon to the Senate.

THURSDAY, May 12.

The Senate proceeded to consider the amendment reported by the committee to whom was referred the bill, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," which was adopted.

Ordered, That the bill pass to the third reading.

Mr. ROSS reported from the committee to whom were referred the amendments of the House of Representatives to the amendments of the Senate to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," that the Senate agree to all the amendments to the amendments, except to the first, and that they disagree to the first, and ask a conference on the disagreeing votes of the two Houses; and the report was adopted.

Ordered, That Messrs. ROSS and KING be managers at the conference on the part of the Senate.

Mr. ROSS reported, from the committee to whom was referred the bill, entitled, "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," that the bill pass without amendment.

Ordered, That the consideration of this report be postponed.

Mr. RUTHERFURD reported, from the committee to whom was referred the bill, entitled "An act for the relief of Samuel Brown," that the bill do not pass; and the report was agreed to; and on the question that this bill be read the third time, it passed in the negative. So the bill was rejected.

Conformable to notice given yesterday, Mr

CABOT had permission to introduce a bill providing passports for the ships and vessels of the United States; which bill was read, and ordered to a second reading.

On motion, it was agreed, by unanimous consent, that Mr. STRONG have permission to introduce a bill to continue in force, for a limited time, the acts therein mentioned.

Mr. BINGHAM reported, from the committee to whom was recommitted the bill, entitled "An act making provision for the payment of certain debts of the United States; which report was in part rejected; and, after debate, the further consideration of the report was postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio.

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to prevent the sale of prizes brought into the United States, by vessels belonging to any foreign Prince or State;" in which they desire the concurrence of the Senate.

They recede from their amendment, disagreed to by the Senate, to their amendment to the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

FRIDAY, May 13.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," was read the third time and passed.

The bill providing passports for the ships and vessels of the United States, was read the second time, and the further consideration thereof postponed.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and the report of the committee being adopted, the bill was ordered to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act relative to quarantine," in which they desire the concurrence of the Senate.

The bill, entitled "An act relative to quarantine," was read twice, and referred to Messrs. RUTHERFURD, BINGHAM and LANGDON, to consider and report thereon to the Senate.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled, 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," reported amendments.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States;" and, after debate, the further consideration thereof was postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; together with the motion for amendment on the 11th instant under consideration; and a motion was made to postpone the proposed amendment to the report, in order to introduce a more general one; and, after debate, the Senate adjourned.

SATURDAY, May 14.

The bill, sent from the House of Representatives for concurrence, entitled "AN act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the third time.

On motion to subjoin the following to the end of the third section:

"Provided, that the said penalty shall not be inflicted on any person or persons who may have crossed the line in search of stray horses, cattle, or any other stock:"

It passed in the negative—yeas 11, nays 13, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Henry, Langdon, Martin, Robinson, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Bradford, Cabot, King, Latimer, Livermore, Marshall, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

On motion to expunge from the 2d and 3d lines of the 3d section, the words "South of the river Ohio," it passed in the negative.

On motion to expunge the 3d section, which is as follows:

"SEC. 3. *And be it further enacted*, That, if any such citizen or other person shall go into any country which is allotted or secured by Treaty, as aforesaid, to any of the Indian tribes, South of the river Ohio, without a passport first had and obtained, from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may, from time to time, authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned not exceeding three months:"

It passed in the negative—yeas 11, nays 14, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Langdon, Marshall, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Henry, King, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

The question on the bill was determined in the affirmative—yeas 17, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Henry, King, Langdon, Latimer, Livermore, Marshall, Martin, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Robinson, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass.

The bill to continue in force, for a limited time, the acts therein mentioned, was read the second and third times, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to prevent the sale of the prizes brought into the United States by vessels belonging to any foreign Prince or State," was read the second time, and referred to Messrs. READ, BURR, and CABOT, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; together with the motion for amendment, made on the 11th; and on the question to agree to the proposed amendment, it passed in the negative.

On motion, it was agreed to amend the report by inserting, after the first paragraph, immediately subsequent to the words "original States," these words:

"On the 9th of July, 1787, the State of South Carolina ceded, without any condition whatever, their claims to all lands lying between the Mississippi and the ridge of mountains which divides the Western from the Eastern waters; the same being South of, and contiguous to, the Territory ceded by North Carolina, and uninhabited except by Indians."

Also, to add, after the words "act of cession," in the second instance, the words "of North Carolina;" and, in the same line, to strike out the word "same," and insert "Territory thereby ceded."

It was further agreed, to expunge the words, "ceded by North Carolina," and insert, "South of the Ohio."

On motion to expunge the whole of the report, after the word "district," and to substitute he following:

"In the year 179–, proofs satisfactory to the Governor of the said Territory having been given that there were more than five thousand free male inhabitants in the said last last-mentioned Territory, Representatives were chosen, and a Government organized, pursuant to the provision of the said ordinance in such case declared; the Governor and Council being appointed by, and removable at the pleasure of, the President. On the 11th of July, 1795, an act was passed by the Legislature of the said Territory for taking a census of the inhabitants thereof; and it appearing, from the census so taken, that there were more than sixty thousand free inhabitants in the said Territory, the said Governor, on the 28th of November, 1795, issued his Proclamation, as by the said last-mentioned act is prescribed, requiring the said inhabitants to choose persons to represent them in Convention for the purpose of forming a Constitution or permanent form of Government.

"The persons so chosen, met in Convention, on the 11th of January, 1796, declared the people of that part of the said Territory which was ceded by North Carolina to be a free and independent State, by the name of the State of Tennessee, (a great majority of the said inhabitants having expressed their wish to form together one State,) and for their permanent Government, expressly recognising the aforesaid Ordinance of Congress, formed a Constitution consistent with the principles and articles thereof.

"By the provisions of the Constitution, so formed, the Legislature thereby directed to be chosen was required to meet on the last Monday in March then next, for the avowed purpose of obtaining a representation in Congress during the present session. The Legislature met accordingly, and the temporary Government established in the said Territory has ceased and been suspended. Due notice of all the aforesaid acts and proceedings has, from time to time, been given by the Governor of the said Territory to the Government of the United States, and no dissatisfaction thereupon expressed by the latter.

"Upon the preceding state of facts, the committee remark, 1st. That, although Congress have not, by any formal and direct act declared that the Territory South of the Ohio should, for the purpose of permanent Government, be one State; yet, inasmuch as it doth appear to be the desire of a great majority of the inhabitants thereof, that so much of the said Territory as is contained within the cession of North Carolina should be formed into one State; and, as the Government of the United States hath acquiesced in the proceedings founded on that idea: considering, also, the dissatisfaction and temporary anarchy which would probably be produced by the attempt to dissolve the permanent Government, so formally established, and to divide the said Territory into two or more States, subject to the temporary Government of the United States: it doth appear to the committee to be highly expedient, if not obligatory on the United States, to lay out into one State the whole of the Territory ceded by North Carolina.

"2d. That, although the law directing the said census doth not, so far as regards the enumeration of transient persons, provide the check contained in the act for the enumeration of the inhabitants of the United States; yet, seeing that the said law was passed, and made with the assent of the Governor and Council appointed by, and removable at, the pleasure of the Government of the United States, and executed by officers also appointed by the same authority—seeing that no material error in fact can probably have been made by reason of the supposed inaccuracy of the said law, and that, by the enumeration aforesaid, there doth appear to have been, in the month of November, 1795, upwards of 67,000 free inhabitants, and upwards of 10,000 slaves, in the said Territory, the committee are of opinion that the census, so taken, is and ought to be deemed satisfactory evidence that the said Territory doth contain 60,000 free inhabitants.

"The committee therefore recommend the following resolutions:

"*Resolved*, That the Territory of the United States South of the Ohio, which hath been ceded by North Carolina, be one State, and that the same be and hereby is acknowledged as one of the United States, by the name of the State of Tennessee, and entitled to a representation in Congress, "on an equal footing with the original States in all respects whatsoever," according to the Constitution of the United States.

"2. *Resolved*, That, until the next General Census, the State of Tennessee shall be entitled to send —— members to the House of Representatives."

And, on the question to agree to this amendment, it passed in the negative—yeas 9, nays 14, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Martin, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

MONDAY, May 16.

On motion, the Senate resumed the second reading of the bill, entitled "An act making provision for the payment of certain debts of the United States."

On motion, to add at the end of the third section, in lieu of the proviso, the following words:

"And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such, and so many, of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper; and that they apply the proceeds thereof to the payment of the said debts, instead of selling certificates of stock, in the manner prescribed in this act:"

It passed in the affirmative—yeas 13, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Ross, Rutherfurd, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Strong, and Trumbull.

And the bill being further amended, it was ordered to a third reading.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES of the 8th of April last, respecting a new State South of the river Ohio; and sundry other amendments being agreed to, a motion was made to insert, after the word "district," the following:

"In the year 179–, proofs satisfactory to the Governor of the said Territory having been given, that there were more than five thousand free male inhabitants in the said last mentioned Territory, Representatives were chosen, and a Government organized, pursuant to the provision of the said ordinance in such case declared: the Governor and Council being appointed by, and removable at the pleasure of, the President. On the 11th of July, 1795, an act was passed by the Legislature of the said Territory for taking a census of the inhabitants thereof; and it appearing from the census, so taken, that there were more than sixty thousand free inhabitants in the said Territory, the said Governor, on the 28th of November, 1795, issued his proclamation, as by the said last mentioned acts is prescribed, requiring the said inhabitants to choose persons to represent them in Convention, for the purpose of forming a Constitution or permanent form of Government. The persons so chosen, met in Convention, on the 11th of January, 1796, declared the people of that part of the said Territory which was ceded by North Carolina to be a free and independent State, by the name of the State of Tennessee, (a great majority of the said inhabitants having expressed their wish to form together one State,) and, for their permanent Government, expressly recognising the aforesaid ordinance of Congress, formed a Constitution consistent with the principles and articles thereof.

"By the provisions of the Constitution, so formed, the Legislature, thereby directed to be chosen, was required to meet on the last Monday in March then next, for the avowed purpose of obtaining a representation in Congress during the present session. The Legislature met accordingly, and the temporary Government established in the said Territory has ceased and been superseded. Due notice of all the aforesaid acts and proceedings has, from time to time, been given by the Governor of the said Territory to the Government of the United States, and no dissatisfaction thereupon expressed by the latter:"

It passed in the negative—yeas 9, nays 15, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Martin, Robinson, and Tazewell.

NAYS.—Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, Tattnall, and Trumbull.

And, on the question to agree to the report, as amended, it passed in the affirmative—yeas, 14, nays 11, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Tattnall, and Tazewell.

So the report was adopted, as follows:

"The report of the committee to whom was referred the Message of the President of the United States of the 8th of April, 1796, relative to the Territory of the United States South of the river Ohio.

"By the Deed of Cession of the State of Virginia, the United States are bound to lay off the Territory Northwest of the river Ohio into States, not less than one hundred nor more than one hundred and fifty miles square. And, by the Ordinance of the 13th day of July, 1787, Congress resolved that, so soon as Virginia should, by law, consent to the laying off the said Territory, so as to form three States, that the same should be bounded in the manner therein specified. By the same Ordinance the whole of the Territory of the United States Northwest of the Ohio is made one district for the purpose of temporary Government, and it is therein declared that, so soon as any one of the said States, so to be laid out as aforesaid, should contain sixty thousand free inhabitants, the same should be admitted by their Delegates into Congress on an equal footing with the original States.

"On the 9th of July, 1787, the State of South Carolina ceded, without any condition whatever, their claims to all lands lying between the Mississippi and the ridge of mountains which divides the Western from the Eastern waters; the same being South of, and contiguous to, the Territory ceded by North Carolina, and uninhabited except by Indians.

"By the Deed of Cession of the State of North Carolina, of the lands therein described, it is made a condition that the Territory so ceded shall be laid out, and formed into a State or States, containing a suitable extent

of territory; the inhabitants of which shall enjoy all the privileges set forth in the Ordinance for the government of the Western Territory of the United States. By the act for the government of the Territory of the United States South of the river Ohio, the whole of the said Territory, for the purpose of temporary Government, is made one district, and it is declared, that the inhabitants thereof shall enjoy all the privileges set forth in the Ordinance for the Government of the Territory of the United States Northwest of the Ohio. As, in the Territory Northwest of the Ohio, it is necessary that the same shall, by Congress, be laid out into States, according to the conditions of the act of cession, or to the provisions expressed in the Ordinance of Congress, and that such States shall each contain sixty thousand free inhabitants before they are entitled to be admitted into the Union; so, in the Territory South of the Ohio, Congress are obliged, by the act of cession of North Carolina, to lay out the the Territory thereby ceded into one or more States, the inhabitants of which, so soon as they shall amount to sixty thousand free persons, will be entitled to be admitted into the Union.

"Congress have declared that the whole of the Territory Northwest of the Ohio shall, for the purpose of temporary Government, compose one district; and, likewise, that the whole of the Territory South of the Ohio shall, for the like purpose, compose one district; but they have not definitively laid out the Territory Northwest of the Ohio into States, nor have they decided whether the Territory South of the Ohio shall be laid out into one or more States. If the district Northwest of the Ohio contained more than sixty thousand free inhabitants, it would not, from thence, follow that the District could demand admission as a new State into the Union, because the District must, by the terms of its cession, be previously divided into a number of States, the free inhabitants of each of which must amount to sixty thousand, before such State would have a right of admission into the Union; in like manner, although the District South of the river Ohio should contain sixty thousand free inhabitants, it cannot from thence be inferred, that the District, or that portion thereof, ceded by North Carolina, would have a right to be admitted as a new State into the Union, because Congress have not decided whether the same shall compose a single State, or be laid out into two or more States. The number of inhabitants which establishes a claim of admission must be the number of inhabitants of a State previously laid out, and defined in its boundaries by Congress, and not the number of inhabitants of a Territory which, for the purpose of temporary Government, composes a District which may be divided by Congress into several States.

"Hence results this conclusion:

"That Congress must have previously enacted that the whole of the territory ceded by North Carolina, and which is only a part of the Territory of the United States South of the Ohio, should be laid out by Congress for one State, before the inhabitants thereof (admitting them to amount to sixty thousand free persons) could claim to be admitted as a new State into the Union.

"Had the Territory South of the Ohio, which, for the purpose of temporary Government, composes one district, been laid out by Congress into one State, the enumeration of the inhabitants, in order to ascertain whether such State was entitled to be received into the Union, ought to have been made under the authority of Congress: For the enumeration of the inhabitants of the original States, for the purpose of apportioning the Representatives, and ascertaining a rule for the apportionment of direct taxes, must, by the Constitution, be made by Congress, and cannot be made by the individual States. And, as the rights of the original States, as members of the Union, are affected by the admission of new States, the same principle which enjoins the census of their inhabitants to be taken under the authority of Congress, requires the enumeration of the inhabitants of any new State laid out by Congress, in like manner to be made under their authority. Did not the principles of the Constitution seem to leave Congress without discretion on this point? Yet the propriety of the enumeration being made under their authority will be manifest, on comparing the fifth section of the law for the enumeration of the inhabitants of the United States with the law under which the census has lately been taken in the Territory South of the Ohio. By this comparison it will be perceived that the guards against error, provided in the former law, are omitted in the latter, and that, instead of confining the enumeration to the free inhabitants of the Territory South of the Ohio, the law authorizes and requires the enumeration of all the people within the said Territory at any time within the term allowed to complete the same, including as well the persons casually within or passing through the said Territory, as the inhabitants thereof.

"From the preceding view of the subject, the committee are of opinion that the inhabitants of that part of the Territory South of the Ohio, ceded by North Carolina, are not at this time entitled to be received as a new State into the Union.

"But, as the said territory ceded by North Carolina may, by Congress, be laid out into one State, although, from the distance between its extreme parts, the inhabitants thereof may thereby be exposed to some inconvenience, and, as it appears to be the desire of a majority of the inhabitants of the said Territory to be received as a new State into the Union, the committee recommend that leave be given to bring in a bill laying out the whole of the said territory ceded by North Carolina into one State, and providing for an enumeration of the inhabitants thereof, in the manner prescribed in the act, entitled 'An act providing for the enumeration of the inhabitants of the United States,' passed on the 1st day of March, 1790."

Ordered, That the report be recommitted, and that the committee be instructed to bring in a bill accordingly.

The bill providing passports for the ships and vessels of the United States, was read the second time and amended.

Ordered, That this bill pass to the third reading.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels;" which was adopted, and the bill amended accordingly.

Ordered, That this bill pass to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an additional allowance to certain public officers for the year

1796," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence, was read, and ordered to a second reading.

TUESDAY, May 17.

The bill providing passports for the ships and vessels of the United States, was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making an additional allowance to certain public officers for the year 1796," was read the second time, and referred to Messrs. GUNN, BUTLER, BROWN, BURR, and STRONG, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act making provision for the payment of certain Debts of the United States," was read the third time.

On motion to expunge the clause, agreed to yesterday, in addition to the third section, as follows:

"And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such and as many of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper; and that they apply the proceeds thereof to the payment of the said Debts, instead of selling certificates of stock, in the manner prescribed in this act:"

It passed in the negative—yeas 8, nays 12, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Gunn, Latimer, Livermore, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Henry, Langdon, Marshall, Martin, Potts, Robinson, Rutherfurd, Tattnall, and Tazewell.

On motion to insert, in the amendment agreed to yesterday, to the third section, after the word "proper," the following words: "so far as may be consistent with existing laws:" it passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bingham, Bradford, Burr, Cabot, Gunn, King, Latimer, Read, Ross, Rutherfurd, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Foster, Henry, Langdon, Livermore, Marshall, Martin, Potts, Robinson, Tattnall, and Tazewell.

On motion to insert, after the word "that," section third, line first, these words: "for two millions of the aforesaid five millions:" it passed in the negative.

On motion, it was agreed to insert, at the end of the amendment to the first section, the following words: "and to sell the stock received for such loan."

On the question to agree to the bill as amended, it was determined in the affirmative—yeas 14, nays 10, as follows:

YEAS.—Messrs. Bingham, Brown, Burr, Henry, Langdon, Latimer, Marshall, Martin, Potts, Robinson, Ross, Rutherfurd, Tattnall, and Tazewell.

NAYS—Messrs. Bradford, Butler, Cabot, Foster, Gunn, King, Livermore, Read, Strong, and Trumbull.

So it was resolved that this bill pass as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" and a bill, entitled "An act altering the compensation of the Accountant of the War Department; in which they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to a second reading.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, entitled "An act regulating the grants of land appropriated for military services and for the Society of the United Brethren for propagating the Gospel among the Heathen," be now read a second time.

Ordered, That this bill be referred to Messrs. ROSS, READ, and KING, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to an act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," was read the third time, and sundry amendments agreed to.

Ordered, That the further consideration thereof be postponed until to-morrow.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" and, after debate,

Ordered, That the bill, together with the amendments, be recommitted; and that Mr. ROSS be of the committee in place of Mr. FRELINGHUYSEN, absent by permission; and the committee are instructed to report generally thereon.

WEDNESDAY, May 18.

The bill sent from the House of Representatives for concurrence, entitled "An act altering the compensation of the Accountant of the War Department," was read the second time, and referred to the committee appointed on the bill, entitled "An act making an additional allowance to certain public officers for the year 1796," to consider and report to the Senate.

Mr. BINGHAM, from the committee to whom was referred the memorial of the citizens of the United States who have suffered from French spoliations, reported:

"That, considering the advanced period of the session, it will be expedient to refer the said memorial to the Secretary of State, in order that he may investigate the nature and extent of the claims exhibited therein, and report on the same at the next meeting of Congress."

And the report was adopted.

Mr. RUTHERFURD, from the committee to whom was referred the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," reported amendments; which were in part adopted; and the bill was amended accordingly.

Ordered, That this bill pass to the third reading.

Mr. KING, from the committee instructed for that purpose, reported a bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof; which bill was read, and ordered to a second reading.

Mr. CABOT, from the committee to whom was referred the bill to regulate the Mint of the United States, and to punish frauds by counterfeiting the coins thereof, or otherwise, reported a new bill; which was read and ordered to a second reading.

A message from the House of Representatives informed the Senate that the House have passed a resolution that the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Wednesday, the 25th instant; also, a bill, entitled "An act in addition to an act, entitled 'An act to establish the Post Office and Post Roads within the United States;" in which bill and resolution they desire the concurrence of the Senate.

The resolution last brought from the House of Representatives for concurrence, was read, and ordered to lie for consideration.

The bill last brought from the House of Representatives for concurrence, was read twice, and its consideration postponed to the next session of Congress.

The Senate resumed the third reading of the bill sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels."

On motion, it was agreed to insert the following words after "vessels," in section four, line four, "and, also, all provisions by law relative to exports and drawbacks."

On motion to add the following to the end of the fourth section:

"*Provided always*, That spirits distilled from domestic materials, exported by way of the Mississippi, shall be entitled to a drawback, although exported in vessels of less than thirty tons burden:"

It passed in the negative.

Resolved, That this bill pass as amended.

TUESDAY, May 19.

The bill sent from the House of Representatives for concurrence, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," was read the third time.

On motion, to strike out, from section 1st, line 26th, these words: "And upon every other two wheel carriage;" it passed in the negative.

On motion, to insert in section 1st, line 28th, after the words, "two dollars," the following words: "for and upon every other two wheel carriage, the yearly sum of one dollar and a half:" it passed in the negative.

On motion, it was agreed to amend the first section, line 14th, by inserting, after the words "top carriage," the following words: "and upon every two wheel carriage hanging or resting upon steel or iron springs; and, also, to insert in the same section, line 15th, after the word "carriage," in the first place, the following words, "the yearly sum of two dollars."

Resolved, That this bill pass with the amendments.

Mr. TATTNALL, from the committee to whom was referred the bill, entitled "An act for the relief of Moses Myers," reported that the bill pass without amendment.

Ordered, That the consideration of the report be postponed.

Mr. GUNN, from the committee to whom was recommitted the amendments to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," reported further amendments, which were adopted, and the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended; and that the amendments be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House had passed the bill, sent from the Senate for concurrence, entitled "An act for the relief of persons imprisoned for debt," with amendments; in which they desire the concurrence of the Senate. Also, that the House had passed a bill, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations;" also, a bill, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States," in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

FRIDAY, May 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act altering the compensation of the Accountant of the War Department," was read the third time, and passed.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act making an additional allowance to certain public officers for the year one thousand seven hundred and ninety-six," reported, that the further consideration there-

of be postponed until the next session of Congress.

Ordered, That the consideration of the report be postponed until to-morrow.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Moses Myers," and the report was not adopted.

On motion to agree to the bill, as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Collector of the Customs for the port of Norfolk and Portsmouth be, and he is hereby, authorised to have ascertained the rate of damage sustained by Moses Myers, on the goods contained in the twenty-three bales, cases, and trunks, of merchandise, unladen from on board the French ship-of-war, the Jean Bart, and which were damaged by the overset-ting of the schooner Quantico; and remit to the said Moses Myers the duties, in proportion to the damage sustained on the goods damaged as aforesaid:"

It passed in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Butler, Foster, Henry, Langdon, Martin, Strong, Tattnall, and Tazewell.

NAYS.—Messrs. Bradford, Burr, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, and Trumbull.

On the question that the bill pass to the third reading, it passed in the negative.

So it was, *Resolved*, That the Senate do not concur in this bill.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act for the relief of persons imprisoned for debt," and on motion, it was agreed to concur in the first of the proposed amendments.

On the question to agree to the following amendment, to wit: strike out the second and third sections, and insert the following:

"*And be it further enacted*, That persons imprisoned for debt, under process from the Courts of the United States, shall have the same benefit of the laws of their respective States, for the relief of persons imprisoned for debt, and the same right of discharge from confinement, which they would have if imprisoned under process of their respective States: And that the Judges of the District Courts in the States, respectively, shall be, and are hereby, authorised to commission such persons as they may think proper, and give them the powers necessary for executing the provisions of the said laws of their respective States: *Provided*, That nothing herein contained shall prevent the suing out process against the estate of a debtor, at any time after his discharge; any thing in the laws of the respective States to the contrary notwithstanding:"

It passed in the negative—yeas 7, nays 14, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Marshall, Martin, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Henry, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, Tattnall, and Trumbull.

Resolved, That the Senate agree to the first, and disagree to all the other amendments to the said bill.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia;" in which they desire the concurrence of the Senate. They disagree to the first, and agree to the other amendment of the Senate to the bill, entitled "An act altering the compensation of the Accountant of the War Department.

The bill last brought from the House of Representatives for concurrence was read twice, and referred to Messrs. POTTS, GUNN, and STRONG, to consider and report thereon to the Senate.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to their first amendment to the bill, entitled "An act altering the compensation of the Accountant of the War Department;" and,

Resolved, That they do recede from their said first amendment.

The bill respecting the Mint was read the second and third times, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States," was read the second time, and referred to Messrs. RUTHERFURD, TAZEWELL, and MARTIN, to consider and report thereon to the Senate.

The bill, laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof, was read the second time.

Ordered, That the consideration of this bill be the order of the day for to-morrow.

Mr. BURR, from the committee to whom was referred the Report of the Attorney General, of the 28th of April last, respecting the lands situated in the Southwestern parts of the United States, together with the papers therein referred to, reported, as follows:

"Whereas, from documents laid before Congress, pursuant to a resolution of the third day of March, one thousand seven hundred and ninety-five, questions appear to arise as to a claim of the United States, as well of property as jurisdiction, of certain lands within the bounds following, to wit: north by the cession of South Carolina, west by the Mississippi, south by the thirty-first degree of latitude, and east by the river Chatahouchee and a line from the head thereof due north to the South Carolina cession; the jurisdiction of which territory is also claimed by the State of Georgia, and the property thereof, or of certain parts thereof, as well by the State of Georgia, as by certain individuals claiming under the said State; and whereas it is highly expedient that the rights of the parties, as well to property as to jurisdiction, should be ascertained and declared,

and that the minds of those claiming or holding should be quieted, and that provision should be made for the temporary Government of the inhabitants of the territory aforesaid; it is therefore

Resolved, That the President of the United States be authorized to treat and conclude (subject to the ratification or dissent of Congress) with the State of Georgia, for the cession of the claim of said State to jurisdiction in and over the said territory, and to adopt such measures as to him shall seem expedient (subject to the future approbation of Congress) for ascertaining, declaring, confirming, by an agreement to be entered into between the parties aforesaid, their respective claims to the territory aforesaid.

Secondly. That, as soon as the ratifications of the Treaty lately concluded with His Catholic Majesty shall be exchanged, the President of the United States be authorized to establish a temporary Government in and over the inhabitants of all that tract of country lying within the territory aforesaid, and bounded as follows, to wit: west by the Mississippi, north by a line to be drawn due east from the mouth of the Yazoo to the Chatahouchee, east by the Chatahouchee, and south by the thirty-first degree of latitude, conformably with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven; such temporary Government to continue until the end of the next session of Congress, without prejudice to the right of any State or individual whatsoever."

Ordered, That the report be printed for the use of the Senate.

SATURDAY, May 21.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations; and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,'" was read the second time, and referred to Messrs. BINGHAM, TAZEWELL, and STRONG, to consider and report thereon to the Senate.

On motion, to take into consideration the resolution of the House of Representatives, to adjourn on the 25th instant; it was agreed that it should be postponed.

The Senate resumed the second reading of the bill, laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof.

A letter, signed William Cocke, purporting that he is appointed a Senator for the State of Tennessee, and claiming a seat in the Senate, was presented and read.

Ordered, That it lie on the table.

MONDAY, May 23.

Mr. BRADFORD, from the committee to whom was referred the bill, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," reported amendments, which were read.

Mr. BURR, from the managers at the conference on the part of the Senate, on the disagreeing votes of the two Houses, on the bill, entitled "An act for the relief and protection of American seamen," reported certain modifications to the bill, as agreed to by the joint committee of conference.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate for concurrence, entitled "An act to regulate the compensation of clerks;" with an amendment, in which they desire the concurrence of the Senate. They agree to the amendments of the Senate to the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" with an amendment to the seventh amendment, in which they desire the concurrence of the Senate. They agree to the report of the joint committee of conference, respecting the amendments proposed by the Senate to the bill, entitled "An act for the relief and protection of American seamen." They insist on their amendments, disagreed to by the Senate, to the bill, entitled "An act for the relief of persons imprisoned for debt;" ask a conference thereon, and have appointed managers at the same on their part. They agree to some, and disagree to other, amendments of the Senate to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States." They have passed a bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar;'" and a bill entitled 'An act limiting the time for the allowance of drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi;" in which bills they desire the concurrence of the Senate.

The Senate took into consideration the resolution of the House of Representatives adopting the report of the joint committee of conference, on the bill, entitled "An act for the relief and protection of American seamen;" and,

Resolved, That the consideration thereof be postponed until to-morrow.

The Senate took into consideration the resolution of the House of Representatives, insisting on their amendments, disagreed to by the Senate, to the bill, entitled "An act for the relief of persons imprisoned for debt;" and asking a conference thereon.

Resolved, That they do agree to the proposed conference, and that Messrs. STRONG and POTTS be managers at the same on the part of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to regulate the compensation of clerks;" and,

Resolved, That they do disagree thereto.

The Senate proceeded to consider the amendment of the House of Representatives to their

seventh amendment to the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" and,

Resolved, That the Senate concur in the said amendment.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" and,

Resolved, That the Senate insist on their amendments disagreed to.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act making an additional allowance to certain public officers for the year one thousand seven hundred and ninety-six;" which was adopted, and the bill was accordingly postponed to the next session of Congress.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the bill, entitled "An act to regulate the compensation of clerks." They insist on their disagreement to the amendments of the Senate to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," ask a conference thereon, and have appointed managers at the same on their part. They agree to the first, and disagree to all the other amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships or vessels." They have passed the bill, sent from the Senate for concurrence, entitled "An act respecting the Mint," with an amendment; in which they desire the concurrence of the Senate.

The Senate resumed the consideration, in paragraphs, of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof.

A letter, signed William Blount and William Cocke, was read, stating that they have been duly and legally elected Senators to represent the State of Tennessee in the Senate.

On motion,

"That Mr. Blount and Mr. Cocke, who claim to be Senators of the United States, be received as spectators, and that chairs be provided for that purpose until the final decision of the Senate shall be given on the bill proposing to admit the Southwestern Territory into the Union:"

A motion was made to refer the consideration thereof to a committee; and it passed in the negative.

On motion to agree to the original motion, it passed in the affirmative—yeas 12, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Foster, Henry, Langdon, Martin, Potts, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Gunn, Latimer, Livermore, Marshall, Read, Ross, Rutherford, Strong, and Trumbull.

After debate, the further consideration of the bill last mentioned was postponed until to-morrow.

A letter from RUFUS KING was read, stating that he had accepted the appointment of Minister Plenipotentiary at the Court of London, and resigning his seat in the Senate.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia," reported that the bill pass without amendment.

TUESDAY, May 24.

The Senate considered the report of the committee to whom was referred the bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia;" and the report was not agreed to.

On motion that this bill pass to the third reading, it was determined in the negative. So the bill was rejected.

The bill sent from the House of Representatives, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar," was read a second time, and referred to Messrs. BINGHAM, STRONG, and HENRY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act limiting the time for the allowance of drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits, exported in vessels of less than thirty tons, by the Mississippi," was read the second time, and referred to the committee last mentioned, to consider and report thereon to the Senate.

Mr. STRONG reported, from the managers at the conference on the bill, entitled "An act for the relief of persons imprisoned for debt," that they had agreed to sundry amendments.

Mr. RUTHERFURD, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act relative to quarantine," reported, that the bill be amended, by inserting after the word "that," "until general regulations relative to quarantine are made by law." And, on the question to agree to the report, it was determined in the negative.

Ordered, That the bill pass to the third reading.

The Senate proceeded to consider the report of the managers at the conference on the disagreeing votes of the two Houses, on the bill, entitled "An act for the relief and protection of American seamen."

On motion, to postpone the further consideration of this bill to the next session of Congress, it passed in the negative.

On motion, to modify the report of the conferees, so as that the surveyor, instead of the collect-

or, be the certifying officer, it was ruled not to be in order. Whereupon,

Resolved, That the Senate agree to the report of the joint committee of conference on the said bill, and that the bill be amended accordingly.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act respecting the Mint."

Resolved, That they do concur therein.

The Senate proceeded to consider the resolution of the House of Representatives, insisting on their amendment to the bill, entitled "An act to regulate the compensation of clerks;" and,

Resolved, That they insist on their disagreement to the said amendment.

The Senate considered the resolution of the House of Representatives disagreeing to sundry amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships and vessels;" and,

Resolved, That they do recede from their said amendments.

The Senate considered the resolution of the House of Representatives, insisting on their disagreement to the amendments to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," and asking a conference thereon; and,

Resolved, That they do agree to the proposed conference, and that Messrs. GUNN and ROSS be managers at the same on the part of the Senate.

The Senate considered the report of the committee to whom was referred the bill, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," which was adopted; and the bill was amended accordingly.

Ordered, That this bill pass to the third reading.

The Senate resumed the consideration of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof; and, after debate, the further consideration thereof was postponed until to-morrow.

WEDNESDAY, May 25.

The bill, sent from the House of Representatives for concurrence, entitled "An act relative to quarantine," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," was read the third time, and passed.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations," reported that the bill pass without amendment; and the report being read, was adopted.

Ordered, That this bill pass to the third reading.

On motion, by Mr. BURR,

Ordered, That the PRESIDENT be requested to notify the Executive of the State of New York that RUFUS KING hath accepted the appointment of Minister Plenipotentiary from the United States to the Court of London, and that his seat in the Senate is vacated.

The Senate proceeded to consider the report of the joint committee of conference on the bill, entitled "An act for the relief of persons imprisoned for debt:" whereupon,

Resolved, That they concur in the amendments to the bill accordingly.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

The measures now in operation for taking possession of the posts of Detroit and Michilimackinac, render it proper that provision should be made for extending to these places, and any others alike circumstanced, the civil authority of the Northwestern Territory. To do this will require an expense, to defray which the ordinary salaries of the Governor and Secretary of that Territory appear to be incompetent.

The forming of a new county or new counties, and the appointment of the various officers, which the just exercise of Government must require, will oblige the Governor and Secretary to visit those places, and to spend considerable time in making the arrangements necessary for introducing and establishing the Government of the United States. Congress will consider what provision will in this case be proper.

G. WASHINGTON.

UNITED STATES, *May*, 1796.

The Message was read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof.

On motion to strike out, from the word "inhabitants," section 1st, line 33d, to the end of the bill, and insert as follows:

"And whereas satisfactory evidence has been received that the said State did, on the 11th January, 1796, contain a greater number of free inhabitants than 60,000, and the people thereof did then proceed to form a permanent Constitution and State Government, which in all respects accord with the Articles of the Compact between the United States and the said inhabitants:

"*Be it therefore further enacted*, That the said State shall be, and the same is hereby, received into the Union as a free and independent State, under the name and title of 'The State of Tennessee,' on an equal footing with the original States, in all respects whatever.

"*And be it further enacted*, That, until the next general census, the said State of Tennessee shall be entitled to one Representative in the House of Representatives of the United States, and in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in, the State of

Tennessee, in the same manner as if that State had originally been a member of the Union."

A motion was made and agreed to, that the question be divided, and be taken on striking out from the word "inhabitants," section 1st, line 33d.

And on the question for striking out, it passed in the negative—yeas 11, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Latimer, Livermore, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

And, after agreeing to sundry amendments, the bill was ordered to a third reading.

The Senate proceeded to consider the resolution of the House of Representatives, of the 8th instant, proposing that the two Houses adjourn on this day; and,

Resolved, That they do not agree thereto.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services."

On the question to agree to the first enacting clause, it passed in the negative.

On the question to agree that the bill pass to the third reading, it passed in the negative. So the bill was rejected.

THURSDAY, May 26.

Mr. FOSTER reported from the committee to whom was referred the bill, entitled "An act for the relief of Sylvanus Bourne" that the bill pass without amendment; which report was adopted. The bill was then read a third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,'" was read the third time, and passed.

A message from the House of Representatives informed the Senate that they agree to some, disagree to some, and have amended other, amendments of the Senate to the bill, entitled "An act making provision for the payment of certain Debts of the United States." They have passed a bill, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to consider the resolutions of the House of Representatives, disagreeing to some, and amending other, amendments of the Senate to the bill, entitled "An act making provision for the payment of certain Debts of the United States." Whereupon,

Resolved, That the Senate insist on their amendment to the 11th line of the first section of the bill; that they insist on their amendment to the third section for striking out the proviso; that they disagree to the amendment of the House of Representatives to their amendment of the third section, as follows:

"And such of the revenues of the United States heretofore appropriated for the payment of interest of debts thus discharged, shall be, and the same are hereby, pledged and appropriated towards the payment of the interest and instalments of the principal, which shall hereafter become due on the Loan obtained of the Bank of the United States, pursuant to the 11th section of the act for incorporating the subscribers to the said Bank."

The Senate insist, also, on their amendment to the 5th section of the bill, and ask a conference on the subjects of disagreement, and have appointed Messrs. BINGHAM and STRONG managers on the part of the Senate.

A message from the House of Representatives informed the Senate that the House desire a conference on the disagreeing votes of the two Houses on the bill, entitled "An act to regulate the compensation of clerks," and have appointed managers at the same on their part.

The Senate proceeded to consider the resolution of the House of Representatives, desiring a conference on the disagreeing votes of the two Houses on the bill, entitled "An act to regulate the compensation of clerks." Whereupon,

Resolved, That the Senate do agree to the proposed conference, and that Messrs. STRONG and ROSS be managers at the same on the part of the Senate.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act to continue in force, for a limited time, the acts therein mentioned," with amendments; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill mentioned in the above message; and,

Resolved, That they do concur therein.

Mr. GUNN reported from the joint committee of conference on the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," certain modifications, as agreed to by the committee; which were read.

Ordered, That the report lie for consideration.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen," reported amendments; which were read, and the consideration thereof postponed until to-morrow.

The bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof, was read the third time.

On motion, that the bill be amended, so that the State be called and known by the name of Tennessee, it passed in the negative.

And, after agreeing to sundry amendments, on motion, that the following be an additional section to the bill:

"*And be it further enacted*, That if, on the returns by the Supervisor of the Revenue for the District of Tennessee, as directed by this act, it shall appear to the President of the United States that the territory by this act laid out, and formed into a State, doth contain sixty thousand free inhabitants, that then it shall be lawful for the President, by his Proclamation, to declare the same; and that, in that event, and on their forming a Constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, the said State, by the name and style of 'The State of Tennessee,' shall be received and admitted into the Union as a new and entire member of the United States of America. And, until an enumeration shall be made, under the authority of Congress, for the purpose of apportioning Representatives, the said State of Tennessee shall be entitled to choose one Representative:"

A motion was made to amend this motion, by striking out the following words:

"And on their forming a Constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven:"

It passed in the negative—yeas 11, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Livermore, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Latimer, Marshall, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

And, on the question to agree to the motion without amendment, it passed in the negative—yeas 10, nays 12, as follows:

YEAS.—Messrs. Burr, Foster, Gunn, Henry, Latimer, Livermore, Martin, Potts, Tattnall, and Trumbull.

NAYS.—Messrs. Bingham, Bloodworth, Bradford, Brown, Langdon, Marshall, Read, Robinson, Ross, Rutherfurd, Strong, and Tazewell.

On the question, that the bill pass, it was determined in the affirmative—yeas 15, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Brown, Foster, Gunn, Latimer, Martin, Potts, Read, Ross, Rutherfurd, Strong, Tattnall, Tazewell, and Trumbull.

NAYS.—Messrs. Bloodworth, Burr, Butler, Henry, Langdon, Livermore, Marshall, and Robinson.

So it was resolved, that this bill pass; that it be engrossed; and that the title thereof be "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

FRIDAY, May 27.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States, in the Territory Northwest of the river Ohio;" and a bill, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky;" in which they desire the concurrence of the Senate. They agree to the report of the joint committee of conference on the amendments to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States." They also agree to the proposed conference on the disagreeing votes of the two Houses on the bill, entitled "An act making provision for the payment of certain Debts of the United States;" and have appointed managers on their part.

Mr. STRONG, from the joint committee of conference on the amendment to the bill, entitled "An act to regulate the compensation of clerks," reported, that it will be proper for the House of Representatives to recede from their amendment; which was read, and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States in the Territory Northwest of the river Ohio," was read the first and second times.

Ordered, That the bill last mentioned be referred to Messrs. ROSS, RUTHERFURD, and BURR, to consider and report thereon to the Senate.

On motion, that it be

Resolved, That the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Wednesday the 1st of June next.

It was agreed that the consideration thereof be postponed until to-morrow.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar;'" reported amendments, which were read. And, on the question to adopt them, it passed in the negative.

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky," was read the first time, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war," was read the second time, and referred to Messrs. TAZEWELL, STRONG, and HENRY, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of

the joint committee of conference, on the disagreeing votes of the two Houses on the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" which was adopted, and the bill amended accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing passports for the ships and vessels of the United States;" in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" which was in part adopted.

Ordered, That the remainder of the report be recommitted.

The committee again reported, and it was agreed to postpone the consideration thereof until to-morrow.

A Letter from the Treasurer of the United States, with his account to 31st March last, was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House recede from their amendment to the bill, entitled "An act to regulate the compensation of clerks."

The Senate took into consideration the report of the committee, appointed on the 29th of April last, to consider the report of the Attorney General, of the 28th of April, on the subject of the lands situated in the Southwestern parts of the United States; and, after debate, the consideration thereof was postponed.

The bill last sent from the House of Representatives for concurrence, entitled "An act providing passports for the ships and vessels of the United States, was read the first and second times, and referred to Messrs. BINGHAM, BRADFORD, and LANGDON, to consider and report thereon to the Senate.

SATURDAY, May 28.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a farther compensation to the Attorney for the District of Kentucky," was read the second time, and referred to Messrs. BROWN, BUTLER, and ROSS, to consider and report thereon to the Senate.

Mr. BINGHAM, from the joint committee of conference on the bill, entitled "An act making provision for the payment of certain Debts of the United States," made a report; which was adopted; and it was agreed to amend the bill accordingly.

The Senate proceeded to consider the report of the committee, to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" which report, being amended, was adopted; and the bill was amended accordingly.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben;" and a bill, entitled "An act for the relief of John Sears;" in which bills they desire the concurrence of the Senate.

The bill last mentioned was read twice, and referred to Messrs. BRADFORD, POTTS, and STRONG, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

The extraordinary expenses, to be incurred in the present year in support of our foreign intercourse, I find will require a provision beyond the ordinary appropriation, and the additional twenty thousand dollars lately granted.

I have directed an estimate to be made, which is sent herewith, and will exhibit the deficiency, for which an appropriation appears to be necessary.

G. WASHINGTON.

UNITED STATES, *May* 28, 1796.

The Message and estimate were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House agree to the report of the joint committee of conference on the bill, entitled "An act making provision for the payment of certain Debts of the United States." They have passed a bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to cause to be located one mile square of land, at or near the mouth of the Great Miami river, reserved out of the grant to John Cleves Symmes, and for other purposes;" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the motion made yesterday in respect to an adjournment.

On motion, to expunge "Wednesday," and insert "Tuesday," it passed in the negative. Whereupon,

Resolved, That the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session by adjourning their respective Houses on Wednesday, the first day of June next.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

The bill last brought from the House of Representatives for concurrence was read twice, and referred to Messrs. BURR, BROWN, and POTTS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben," was read twice, and

referred to the committee last mentioned, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" was read the third time.

On motion, it was agreed to amend the bill agreeably to the report of the committee made yesterday, and then rejected.

Resolved, That this bill pass as amended.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act providing passports for the ships and vessels of the United States," reported amendments; which were read and adopted; and the bill was read the third time and passed.

MONDAY, May 30.

The memorial of William Somarsall and son, and John Rice, merchants, of Charleston, South Carolina, was presented and read, stating certain spoliations to have been made on their property by a privateer from the Island of Bermuda, and praying the interposition of Congress.

Ordered, That the memorial and documents therein mentioned be referred to the Secretary of the Department of State.

The bill, sent from the House of Representatives for concurrence, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," was read the third time, and passed.

Mr. BROWN, from the committee to whom was referred the bill, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky," reported that the bill pass without amendment.

On motion, sundry amendments to the bill were adopted; it was then read the third time and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof," with amendments; in which they desire the concurrence of the Senate. They agree to the resolution of the Senate to adjourn on Wednesday, the first day of June next. The House of Representatives disagree to the amendments of the Senate to the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar."

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act limiting the time for the allowance of drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi," reported that the bill pass without amendment.

On motion, it was agreed to amend the bill, and, by unanimous consent, the bill was read the third time, and passed.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to their amendments to the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled, 'An act laying certain duties upon snuff and refined sugar;" and,

Resolved, That the Senate insist on their amendments, and ask a conference thereon, and that Messrs. BINGHAM and STRONG be managers at the same on their part.

A message from the House of Representatives informed the Senate that the House agree to the proposed conference on the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar;" and have appointed managers at the same on their part.

Mr. READ, from the committee to whom was referred the bill, entitled "An act to prevent the sale of prizes brought into the United States, by vessels belonging to any foreign Prince or State," reported that the bill do not pass.

On motion, it was agreed to amend the bill, and that it pass to the third reading as amended.

Mr. BURR, from the committee to whom was referred the bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to cause to be located one mile square of land, at or near the mouth of the Great Miami river, reserved out of the grant to John Cleves Symmes, and for other purposes;" and the bill, entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben," reported that they do not pass.

On the question, that these bills severally pass to the third reading, it was determined in the negative. So the bills were lost.

Mr. BRADFORD, from the committee to whom was referred the bill, entitled "An act for the relief of John Sears," reported that the bill do not pass.

On the question, to agree to the third reading of this bill, it was determined in the negative.

So it was resolved that this bill do not pass.

A message from the House of Representatives informed the Senate that the House have passed a "resolution appointing a committee, jointly, with such as the Senate may appoint, to notify the PRESIDENT OF THE UNITED STATES of the proposed recess of Congress.

The Senate proceeded to consider the resolution last sent from the House of Representatives, in relation to the proposed recess.

Resolved, That the Senate concur therein, and that Messrs. HENRY and BUTLER be the committee on their part.

The Senate proceeded to consider the amendments of the House of Representatives to the bill

entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

Resolved, That they disagree to the first, and agree to all the other amendments to the said bill.

Mr. BINGHAM, from the joint committee of conference on the bill, entitled "An act to suspend, in part, the act entitled 'An act to alter and amend the act entitled 'An act laying certain duties upon snuff and refined sugar,'" reported that the Senate recede from their amendments, and the report was adopted.

Mr. BROWN, from the committee to whom was referred the memorial of the Directors and Agents of the Ohio Company, reported—

"That so much of the said memorial as prays that regulations may be adopted by Congress, whereby the sale of certain lots reserved by contract for the sale of certain lands to said Company, for the support of schools, and for religious purposes; also, of two complete townships reserved for the endowment of an university, may be brought into speedy operation, and the benevolent intentions of the Government thereby more fully answered, is reasonable. But the committee are of opinion that it is expedient that the further consideration thereof be postponed to the next session of Congress, when some general regulations on this subject may be made.

"That, in the opinion of the committee, so much of the said memorial as prays to be allowed to take from the lots reserved out of the grants to said Company, for the future disposition of Congress, twenty lots, of one mile square each, as an allowance for an equal number of lots appropriated by the said said directors and agents, for the support of schools and religious purposes, and not provided for in said contract; also, so much thereof as solicits the right of pre-emption to the whole of the reserved lots within the tracts granted to the said Company, be rejected."

Ordered, That this report lie on the table.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States in the Territory Northwest of the river Ohio," reported that the bill do not pass.

On the question, that this bill pass to the third reading, it was decided in the negative.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases," reported amendments, which were adopted. And, by unanimous consent, the bill was read the third time, and passed.

On motion, it was agreed, by unanimous consent, that Mr. RUTHERFURD have permission to introduce a bill to amend "An act for the more general promulgation of the laws of the United States," and that it be now read the first and second times.

Ordered, That this bill pass to the third reading.

And the House adjourned.

TUESDAY, May 31.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter the time of the next annual meeting of Congress;" in which they desire the concurrence of the Senate. They insist on their amendment, disagreed to by the Senate, to the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof;" ask a conference thereon, and have appointed managers at the same, on their part. They agree to all the amendments of the Senate to the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of United Brethren, for propagating the Gospel among the Heathen;" except to the last, to which they disagree.

The bill, sent from the House of Representatives for concurrence, entitled "An act to prevent the sale of prizes brought into the United States by vessels belonging to any foreign Prince or State," was read the third time.

On motion, to expunge the proviso agreed to yesterday, as an amendment, it passed in the negative.

So it was *Resolved*, That this bill pass with an amendment.

The Senate proceeded to consider their amendment disagreed to by the House of Representatives to the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" and,

Resolved, That they do insist on their said amendment.

The Senate proceeded to consider the resolution of the House of Representatives, desiring a conference on the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

On motion, to postpone the further consideration thereof until the next session of Congress, it passed in the negative—yeas 10, nays 13, as follows:

YEAS.—Messrs. Bingham, Bradford, Foster, Latimer, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Henry, Langdon, Livermore, Marshall, Martin, Robinson, Tattnall, and Tazewell.

Resolved, That the Senate agree to the proposed conference, and that Messrs. BURR and STRONG be managers at the same on their part.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to alter the

time of the next annual meeting of Congress," was read and ordered to a second reading.

The bill to amend "An act for the more general promulgation of the Laws of the United States," was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred ninety-six," was read twice and referred to Messrs. POTTS, BROWN, and STRONG, to consider and report thereon to the Senate.

Mr. RUTHERFURD reported from the committee to whom was referred the bill, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States."

Ordered, That the report be printed for the use of the Senate, and that the consideration of this bill be referred to the next session of Congress.

Mr. BURR, from the joint committee of conference on the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof," reported, as the opinion of the majority of the joint committee, that the Senate recede from their disagreement to the amendment of the House of Representatives. Whereupon,

Resolved, That the Senate recede from their disagreement to the said amendment.

A motion was made by Mr. BURR, as follows:

"*Resolved*, That any enumeration of the inhabitants of any district under the temporary Government of the United States, for the purpose of furnishing evidence to Congress that such district contains the number which may entitle it to admission into the Union, shall have been taken and made, under a law to be made by the Legislature of the said district, of the free inhabitants only, and, in all other respects, pursuant to the provisions contained in the act, entitled "An act providing for the enumeration of the inhabitants of the United States:"

Which motion was read and ordered to lie until to-morrow for consideration.

Mr. TAZEWELL reported from the committee to whom was referred the bill, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war;" which report was read, as follows:

"The committee to whom the bill to indemnify the estate of the late Major General Greene, for a certain bond entered into by him during the late war, was committed, submit the following report to the Senate:

"It appears to the committee that, some time in the fall of the year 1782, the Department of War authorized General Greene to contract for the clothing of the army then under his command. That, sometime in November or December, of the same year, he did contract with John Banks, a member of the house of Hunter, Banks, and Co., who acted for that house, to furnish the necessary supplies of clothing for the army. That John Banks, after entering into the contract, procured upon credit, of certain British merchants then in Charleston, the necessary articles of clothing. That General Greene, at the time he made this contract, paid down to the said Banks the sum of eleven hundred guineas, and drew bills in his favor on the Superintendent of Finance for the residue of the money necessary to complete the contract. That, about the same time, General Greene received authority to contract for the necessary supplies of provision for the army, which he found considerable difficulty in accomplishing. That, after exhausting the time which admitted of delay in making this latter contract, he entered into an agreement with the same John Banks, as a member of the house of Hunter, Banks, and Co., for the provision supplies of the army, sometime in the month of February, 1783. That, about this time, the creditors of Banks, as he had disappointed and deceived them in his promised payments, became pressing in their demands, and threatened, upon his refusal either to pay them or secure their debts, the use of means that might have disabled him from fulfilling his provision contract. That General Greene, in order to prevent the inconvenience which the loss of the provision contract would occasion to the army, and to leave Banks at liberty to pursue it, by satisfying his creditors, on the 8th of April, 1783, agreed to become his security, and, accordingly executed bonds with the said Banks to his creditors, for the amount of their debts; one of which bonds is the debt that gave rise to the present bill. That, in order to indemnify himself, he compelled Banks, at the same time, to give orders on Charles Pettit, his (Banks's) agent in Philadelphia, for the full amount of the debts for which he had become bound, to be paid out of the public money that would become due to Banks in virtue of his contracts. That these orders would have been productive enough to satisfy all the debts, if Banks had not continued to divert the funds to other purposes. That, after the death of General Greene and of Banks, Harris and Blackford instituted a suit against the executors of General Greene, and have obtained a judgment for the sum stated in the bill. No satisfactory evidence has been offered to the committee to prove that Hunter, Banks, and Co., are insolvent; but, on the other hand, there is reason to believe that some, at least, of that company are fully able to pay the debt due to Harris and Blackford, from the public notification of one of the company, in the newspapers of Virginia, requiring the creditors of Hunter, Banks, and Co., to come in and settle their claims, and receive payment. Nor does it appear that the executors of General Greene have ever attempted, at law, to recover the debt in question of Hunter, Banks, and Co. Some of the papers submitted to the committee intimate that General Greene was a member of the house of Hunter, Banks, and Co., in this transaction; and it appears that General Greene gave no notice of his suretyship to the Government until several years after, nor until he was called upon to pay the bond: but the committee have not discovered any satisfactory evidence that General Greene was a partner with Hunter, Banks, and Co. If Hunter, Banks, and Co., were actually insolvent, and if General Greene was not a partner in the house of Hunter, Banks, and Co., in this transaction, the committee would not hesitate in believing that the United States ought to indemnify General Greene's estate against the effects of this securityship; since they do not discover any other motive which could have governed him, in becoming security for Banks, but that of essentially promoting the public service.

"The committee further observe, that they have not had time fully to investigate all the facts in this case; and being desirous that justice should be finally done, they submit to the Senate the propriety of referring the

consideration of this subject to the second Monday of next session of Congress."

And, after debate, the consideration of the bill was postponed until to-morrow.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act making further appropriations for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill was read twice, and referred to the committee appointed this day on the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six."

WEDNESDAY, June 1.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six" reported amendments; which were read and adopted. The bill was then read the third time and passed.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act making further appropriations for the year one thousand seven hundred and ninety-six," reported that the bill pass. And, by unanimous consent, the bill was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of the next annual meeting of Congress," was read, and referred to Messrs. POTTS, GUNN, and BUTLER, to consider and report thereon to the Senate.

Mr. POTTS reported, from the committee, that the bill do not pass, and the report was adopted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress;" in which they desire the concurrence of the Senate.

The consideration of the motion, made yesterday, for regulating the enumeration of the inhabitants of any district, under the temporary Government of the United States, was resumed. On motion,

Ordered, That it be postponed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress," was read twice, and referred to Messrs. BINGHAM, BUTLER, and POTTS, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war;" and, it being amended, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

On motion, to add the following proviso to the bill:

"*Provided, also*, That if, at any time hereafter, it shall appear that the said General Greene was interested in this transaction, as a member of the house of Hunter, Banks, and Company, either directly or indirectly, the estate of the said General Greene shall be liable to reimburse the United States the money, with interest, hereby directed to be advanced to his executors."

It passed in the negative.

On motion, it was agreed to amend the bill, by adding these words, after the word "bond," "not exceeding the aforesaid sum of eleven thousand two hundred and ninety-seven pounds eight shillings and eight pence, with interest from the 31st of December last."

Resolved, That this bill pass with amendments.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, of the 25th of May last, be referred to Messrs. ROSS, RUTHERFURD, and BROWN, to consider and report thereon to the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress," reported, that the bill pass without amendment. And it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

On motion, to agree, by unanimous consent, to dispense with the rule, and that this bill be now read the third time, it passed in the negative—yeas 14, nays 5. The consent not being unanimous. The yeas and nays being required by one-fifth of the Senators present, those who voted in the affirmative, are:

Messrs. Bingham, Bloodworth, Bradford, Foster, Latimer, Livermore, Marshall, Martin, Potts, Read, Ross, Rutherfurd, Strong, and Trumbull.

Those who voted in the negative, are—

Messrs. Brown, Burr, Butler, Langdon, and Tazewell.

Wednesday Evening—5 o'clock

On motion, that it be

"*Resolved*, That the sum of one hundred dollars each be allowed to the principal and engrossing clerks in the office of the Secretary of the Senate, to be paid by the Secretary out of the money appropriated for the contingent expenses of the Senate:"

The motion was objected to, as not in order, and so determined by the PRESIDENT; and, on an appeal to the Senate, the determination was overruled. Whereupon, the question being taken on the original motion, it passed in the negative.

On motion, by Mr. MARTIN, that it be

"*Resolved*, That the honorable William Blount, and William Cocke, Esquires, who have produced credentials of being duly elected Senators for the State of Tennessee, be admitted to take the oath necessary for their qualification, and their seats accordingly:"

Ordered, That a paper, purporting to be the credentials of Mr. Blount and Mr. Cocke, be read.

And, on the question to agree to the resolution, it passed in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Langdon, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Latimer, Livermore, Marshall, Potts, Read, Ross, Rutherfurd, and Trumbull.

A message from the House of Representatives informed the Senate, that the House, having finished the business before them, are about to adjourn to the first Monday in December next.

Mr. BUTLER, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he had any further communications to make to them, they were ready to adjourn, reported, that the PRESIDENT OF THE UNITED STATES had no further communication to make, except the nomination of certain persons to execute the laws passed the present session.

After the consideration of the Executive business, the PRESIDENT adjourned the Senate to the first Monday in December next.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, BEGUN AND HELD AT THE CITY OF PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following members appeared and took their seats:

From New Hampshire.—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHERBURNE, and JEREMIAH SMITH.

From Massachusetts.—THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, JR., BENJAMIN GOODHUE, GEORGE LEONARD, SAMUEL LYMAN, WILLIAM LYMAN, JOHN REED, THEODORE SEDGWICK, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

From Rhode Island.—BENJAMIN BOURNE and FRANCIS MALBONE.

From Connecticut.—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, ZEPHANIAH SWIFT, and URIAH TRACY.

From Vermont.—ISRAEL SMITH.

From New York.—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLEN, JONATHAN N. HAVENS, EDWARD LIVINGSTON, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

From New Jersey.—JONATHAN DAYTON, AARON KITCHELL, ISAAC SMITH, and MARK THOMPSON.

From Pennsylvania.—DAVID BAIRD, ALBERT GALLATIN, DANIEL HEISTER, JOHN WILKES KITTERA, SAMUEL MACLAY, FREDERICK AUGUSTUS MUHLENBERG, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

From Delaware.—JOHN PATTEN.

From Maryland.—GABRIEL CHRISTIE, GEORGE DENT, GABRIEL DUVALL, WILLIAM HINDMAN, and WILLIAM VANS MURRAY.

From Virginia.—SAMUEL J. CABELL, JOHN CLOPTON, ISAAC COLES, WILLIAM B. GILES, GEORGE HANCOCK, CARTER B. HARRISON, JOHN HEATH, GEORGE JACKSON, JAMES MADISON, ANDREW MOORE, JOSIAH PARKER, ROBERT RUTHERFORD, and ABRAHAM VENABLE.

From North Carolina.—THOMAS BLOUNT, NATHAN BRYAN, DEMPSEY BURGESS, JESSE FRANKLIN, WILLIAM B. GROVE, JAMES HOLLAND, MATTHEW LOCKE, NATHANIEL MACON, and ABSALOM TATOM.

From South Carolina.—SAMUEL EARLE, ROBERT GOODLOE HARPER, and WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN.

And a quorum, consisting of a majority of the whole number being present,

The House proceeded, by ballot, to the choice of a SPEAKER; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JONATHAN DAYTON, one of the Representatives for the State of New Jersey: Whereupon,

The said JONATHAN DAYTON was conducted to the Chair, from whence he made his acknowledgments to the House, as follows:

GENTLEMEN: It is with real diffidence that I undertake the execution of the duties which you have done me the honor to assign to me.

In discharging them to the best of my abilities, I anticipate, on your part, a liberal and indulgent temper towards those decisions which may be required from the Chair, and flatter myself that I shall experience, upon all occasions, your co-operation and support.

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was then administered by ISAAC SMITH, one of the Representatives from the State of New Jersey, to the SPEAKER, and then by Mr. SPEAKER to all the members present.

The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

A message was received from the Senate, informing the House that a quorum of members of that body is assembled, and the VICE PRESIDENT being absent, they have proceeded to the choice of a PRESIDENT *pro tempore*, and that HENRY TAZEWELL has been duly elected.

Ordered, That a message be sent to the Senate to inform that body that a quorum of this House is assembled, and have elected JONATHAN DAYTON their SPEAKER; and that the Clerk of this House do go with the message.

Another message from the Senate was received, informing this House that they have appointed a committee on their part, to act jointly with such committee as may be appointed by this House, to

wait on the President of the United States, to inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them.

Ordered, That Mr. Madison, Mr. Sedgwick, and Mr. Sitgreaves, be appointed a committee on the part of this House, for the purpose expressed in the message of the Senate.

Petitions from sundry persons, praying to be appointed to the offices of Sergeant-at-Arms and Doorkeeper, were presented to the House and read: Whereupon,

The House proceeded, by ballot, to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of Joseph Wheaton, as Sergeant-at-Arms, Thomas Claxton, as Doorkeeper, and Thomas Dunn, as Assistant Doorkeeper.

Ordered, That the said Joseph Wheaton, Thomas Claxton, and Thomas Dunn, do severally give their attendance accordingly.

Mr. Madison, from the joint committee appointed to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them, reported that the committee had, according to order, performed that service, and that the President signified to them that he would make a communication to both Houses of Congress to-morrow, at 12 o'clock, in the Representatives' Chamber.

Ordered, That a committee be appointed to prepare and report such Standing Rules and Orders of proceeding as are proper to be observed in this House; and that Mr. Muhlenberg, Mr. Murray, and Mr. Baldwin, be the said committee.

Resolved, That the Rules and Orders of proceeding, established by the late House of Representatives, shall be deemed and taken to be the Rules and Orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

Resolved, That a Standing Committee of Elections be appointed, whose duty it shall be to examine and report upon the certificates of election or other credentials of the members returned to serve in this House; and to take into their consideration all such matters as shall or may come in question touching returns and elections, and to report their proceedings, with their opinion thereupon, to the House.

And a committee was appointed, of Mr. Venable, Mr. Dent, Mr. Kittera, Mr. Swift, Mr. Dearborn, Mr. Harper, and Mr. Blount.

Tuesday, December 8.

Several other members, to wit: from Maryland, Samuel Smith; from Virginia, Richard Brent; and from Georgia, John Milledge, appeared, produced their credentials, and took their seats in the House; the oath to support the Constitution of the United States being first administered to them by Mr. Speaker, according to law.

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in receiving the communication from the President of the United States, agreeably to his notification to both Houses yesterday; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and, being returned,

The Senate attended and took seats in the House; when, both Houses being assembled, the President of the United States came into the Representatives' Chamber, and delivered his Speech to the two Houses. [For a copy of this Speech, see the Proceedings of the Senate, *ante* page 10.]

The President of the United States then withdrew, and the two Houses separated.

Ordered, That the Speech of the President of the United States to both Houses be committed to a Committee of the Whole House to-morrow.

A petition of Matthew Lyon, of the State of Vermont, was presented to the House and read, complaining of an undue election and return of Israel Smith, to serve as a member of this House for the said State.

Ordered, That the said petition be referred to the Committee on Elections; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Ordered, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers, printed in this city, such as the members, respectively, shall choose, to be delivered at their lodgings: *Provided*, They do not exceed the price at which subscribers, citizens of Philadelphia, are furnished with them.

Wednesday, December 9.

James Hillhouse, from Connecticut, appeared, produced his credentials, was qualified, and took his seat.

ADDRESS TO THE PRESIDENT.

The House, according to the order of the day, resolved itself into a Committee of the Whole on the Speech of the President of the United States to both Houses of Congress, Mr. Muhlenberg in the Chair; when, the Speech being read,

Mr. Vans Murray moved the following resolution:

"*Resolved*, That it is the opinion of this committee, that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress, at the commencement of this session, containing assurances that this House will take into consideration the various and important matters recommended to their attention:"

Mr. Sedgwick seconded the motion.

Mr. Parker offered an amendment, which was seconded by Mr. Macon.

The substance of this amendment was, to strike out all that part of the resolution which goes before the word *assurances*; in place of which, Mr. Parker proposed to appoint a committee, who should personally wait on the President, and assure him of the attention of the House, &c., and concluding as above. Mr. P. had the highest respect for the President, but he had always disapproved of this practice of making out Addresses in answer to these Speeches, and of the House leaving their business to go in a body to present them. Last session, the framing of this Address had cost very long debates, and produced very great irritation. Some of the most disagreeable things that happened during the session occurred in these debates. He wished unanimity and the despatch of business, and so, could not consent that any Address should be drawn up, as he preferred ending the affair at once by sending a committee with a verbal answer.

Mr. Murray replied, that the practice of drawing up such an Address was coeval with the Constitution. It was consistent with good sense; and he did not see that any arguments had been employed by the gentleman who spoke last against it. It was true that the House might send a verbal answer, and it was likewise true that the President might have sent them his Speech by his Secretary, without coming near them at all. He had come to Congress, and Mr. M. could perceive no impropriety in Congress returning the compliment by waiting on him.

The Committee divided on the amendment proposed by Mr. Parker. Eighteen members rose in support of it: so it was lost. The Committee then agreed to the resolution as offered by Mr. Murray. They rose, and the Chairman reported progress. The resolution was agreed to by the House. The next question was, of how many members the select committee should consist that were to be employed in framing a draft of the Address. The different numbers of five and three were proposed. A division took place on the former motion, when only thirty-one gentlemen rose in its favor. The motion for a committee of three members to report an Address was of course carried. Mr. Madison, Mr. Sedgwick, and Mr. Sitgreaves, were appointed.

It was then moved that two Chaplains should be named, as usual; which was agreed to.

A motion was next made for referring the President's Speech to a Committee of the Whole House on the state of the Union. An explanation as to a point of order here took place between Mr. Muhlenberg and Mr. Sedgwick. The result was, that the Speech was referred to a Committee of the Whole House to-morrow.

On account of some casual conversation, the Speaker then read a rule of the House, which is:

"That the unfinished business in which the House was engaged at the time of the last adjournment shall have the preference in the orders of the day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of."

A committee of three members was appointed to report the unfinished business of last session; and the House adjourned.

Thursday, December 10.

Francis Preston, from Virginia, appeared was qualified, and took his seat.

COMMITTEE OF CLAIMS.

It was proposed and agreed to appoint a Committee of Claims. Seven members were named. Mr. Tracy, Chairman of the same committee in last Congress, was also first named this day. He rose, and observed, that he had been extremely hard employed last year, and had undergone much trouble about this business of claims. He would therefore, if agreeable to the House, be very glad of being left out of the nomination; and for that reason he objected to the motion.

Mr. Sedgwick wished the member to continue his services. These claims were now drawing to a conclusion. The task would not probably be so arduous as it had been. He thought that the House could not excuse Mr. Tracy, from his known abilities.

Mr. Giles said, that Mr. Tracy was, perhaps, better qualified than any other member in the House for expediting that business. He had been at much trouble about it, for which the House were obliged to him. It was something of a systematic nature, and new members would not be able to go on it with the same degree of information and experience.

The Speaker (Mr. Dayton) remarked, that he had under the latter idea named the same gentlemen at this time as those who were in the last committee—only two members were not here, viz: Mr. Montgomery and Mr. Mebane, in the room of whom he had named Mr. Heister and Mr. Macon.

Mr. Heath, a member both of the old and new Committees of Claims, observed that he would very willingly be excused, if the sense of the House were in that way. At the same time, he came to Congress to do his duty and the business of his constituents, and if the House entertained an opinion that he ought to undertake the same office a second time, he had nothing to urge against it.

The House divided on the question, whether Mr. Tracy should be a member of the Committee of Claims. It passed in the affirmative.

Mr. Christie, another member of the old and new committees, then rose, and observed that, notwithstanding the negative passed on the proposal of Mr. Tracy, he should trouble the House with an application of the same nature upon his own account. The state of his health required that he should ride every morning, and the time necessary for despatching the business of the Committee of Claims put it out of his power to take the requisite exercise. On that account alone he begged the indulgence of the House.

Mr. Tracy attested that Mr. Christie had exerted himself very considerably to accelerate the business of the claims. He knew that the gentleman had suffered much in his health by that means. He should be very sorry to lose him as an assistant, for he had attended almost constantly last winter to the business. Sometimes want of health had indeed compelled him to be absent.

The House agreed to the request of Mr. Christie.

The Committee of Claims, therefore, consists of Mr. Tracy, Mr. Malbone, Mr. D. Foster, Mr. Heath, Mr. Macon, Mr. Heister, and Mr. Duvall.

A message was received from the Senate, announcing the election of the Right Rev. Bishop White as Chaplain on its part.

Mr. W. Smith presented a petition for Edmund Hogan, requesting to be admitted as Stenographer to the House. Mr. Smith also moved that a committee should be appointed to receive proposals on that subject. Mr. W. Smith, Mr. Giles, and Mr. Swift, were appointed a committee to this effect.

CONTESTED ELECTION.

Mr. Sitgreaves presented a petition for John Richards, of the county of Montgomery, claiming a seat in the House. He had, as he alleged, been legally elected, but James Morris, who is since dead, had obtained the return as member. Mr. S. moved that the petition be referred to the Committee on Elections. The motion was agreed to.

Also a petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House, for the said State. Referred to the Committee of Elections.

After the reception of several petitions of a private nature, the House went into a Committee of the Whole on the state of the Union, Mr. Muhlenberg in the Chair.

PRESIDENT'S SPEECH.

Mr. W. Smith presented a set of resolutions, in substance as follows:

"*Resolved*, as the opinion of this Committee, that more effectual provision ought to be made for organizing, disciplining, and arming, the Militia of the United States.

"*Resolved*, as the opinion of this Committee, that further provision ought to be made for the security of the frontiers, and for protecting the Indians against certain lawless inhabitants of the frontier.

"*Resolved*, as the opinion of this Committee, that provision should be made for supplying the necessities of the Indians in times of peace.

"*Resolved*, as the opinion of this Committee, that inquiry ought to be made whether further means should be provided to reinforce the provisions heretofore made for the extinction of the Public Debt.

"*Resolved*, as the opinion of this Committee, that an inquiry ought to be made into the state of the Mint, and whether any further provisions are necessary in that department.

Mr. Giles thought it better to let these resolutions lie on the table for this day. He thought some of the resolutions required evidence before the House proceeded on them.

Mr. W. Smith said, that the resolution for organizing the militia did not require evidence.

Mr. Swanwick moved an additional resolution, which was for inquiring into the present situation of the American Navy. It was a point on which he felt himself extremely interested.

Mr. Baldwin made some remarks, wherein he alluded to the awkward outset of the House last session. They had been for three weeks before they could get at the papers laid on the table before them. He did not wish to see the House in the same situation, or to make such a beginning again.

Mr. Goodhue saw no use for hastening the resolutions on the Committee just now.

The Committee rose. The Chairman reported that they had made some progress, but had come to no resolution.

Mr. Swanwick then moved that the resolutions read in the Committee on the state of the Union should be printed. He said that it was difficult for members to form an opinion upon them, without they had an opportunity of reading them.

The Speaker observed, that as they were only read in the Committee, and not regularly before the House itself, to print them would be against order.

Mr. W. Smith did not see the necessity for this rule.

Mr. Macon objected to taking up the resolutions at all. He supposed them to be bottomed on the President's Speech, on which there is an order for a Committee of the Whole House. It would thence be improper to proceed with them till the Speech itself had been discussed.

Mr. Hillhouse was of opinion that there was no occasion for being in such a hurry with printing the resolutions.

The Speaker repeatedly observed that this whole conversation was irregular and improper, because there was in reality no question before the House. He informed them that there was now a motion to adjourn. This was made by Mr. Smith. Mr. Sedgwick wanted him to withdraw it. He refused; and the House, at half after twelve o'clock, adjourned.

Friday, December 11.

Several other members, to wit: from Vermont, Daniel Buck; from New Jersey, Thomas Henderson; from Pennsylvania, William Findley; and from Virginia, John Nicholas—appeared, produced their credentials, were qualified, and took their seats.

RULES OF THE HOUSE.

After the reception and reference of several petitions—

Mr. Muhlenberg made a report from the committee named to draw up Standing Rules and Orders for the House. He observed that they differed in some respects from those of last Congress. He moved that they should be printed, with the new variations separately marked, for the consideration of members, and referred to a Committee of the Whole House. This was agreed to, and, on another motion, Monday was appointed for taking them up.

CHAPLAIN TO THE HOUSE.

It was next moved and resolved to proceed to the choice of a Chaplain. The Speaker directed the House to prepare their ballots. Mr. Hillhouse said that it would first be proper to make, as on former occasions, a nomination. The House consented, and Mr. Hillhouse named Dr. Azabel Green. The Speaker then reminded the House that any other gentleman was at liberty to make what other nomination he should think fit. Mr. Giles and Mr. W. Smith were appointed tellers. Sixty-three were in favor of Dr. Green, besides seven scattering votes. He was declared duly elected.

After transacting some other ordinary business, the House adjourned to Monday next, at 11 o'clock.

Monday, December 14.

Two other members, to wit: from Pennsylvania, Thomas Hartley, and from Virginia, Anthony New, appeared, produced their credentials and took their seats.

Mr. Gilman, from the committee appointed to examine the Journal of the last session, and to report therefrom such matters of business as were then depending and undetermined; and also to examine and report such laws of the United States as have expired, or will expire before the next session, made a report; which was read, and ordered to lie on the table.

Mr. Venable, from the Standing Committee of Elections, reported, that the committee had, in part, examined the certificates and other credentials of the members returned to serve in this House, and had agreed to a report; which was read, and ordered to lie on the table.

The Speaker laid before the House a Letter from the Secretary of the Treasury, accompanying an account of the receipts and expenditures of the United States, for the year one thousand seven hundred and ninety-four; which were read, and ordered to lie on the table.

The Speaker laid before the House a Letter from the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year one thousand seven hundred and ninety-six; also, statements of the application of certain sums of money granted by law; which were read, and ordered to lie on the table.

The Speaker laid before the House a Letter from the Secretary of War, accompanying sundry statements and reports relative to the present military force of the United States; to the measures which have been pursued to obtain proper sites for arsenals; to the measures which have been taken to replenish the magazines and military stores; to the measures which have been taken for opening a trade with the Indians; and to the progress made in providing materials for the frigates, and in building them; which were read, and ordered to be committed to the Committee of the Whole House on the state of the Union.

THE MINT.

A letter, enclosing some papers, was received from Mr. Timothy Pickering, Secretary of State. This communication regarded the Mint. It was moved to be referred to the Committee on the state of the Union.

Mr. Hillhouse wished to know what it was about. The Clerk read the letter to the President, from Mr. William Henry de Saussure, late Director of the Mint, which stated it will, if properly supplied with bullion, be able to make a million and an half of dollars, in silver, and an equal value of bullion, in the course of a year, with as much copper as shall be necessary for circulation. The price of copper has risen, and from causes that are expected to be permanent. He therefore hinted that it might perhaps be proper to reduce the weight of the cent, to prevent its being melted down. The second paper read was a memorial from Mr. Elias Boudinot, present Director of the Mint, dated 3d of December current. He stated various circumstances, from which the operation of coinage is, at present, in a state of suspense. The papers were referred to the Committee on the state of the Union, and, on motion by Mr. Bourne, were ordered to be printed.

ADDRESS TO THE PRESIDENT.

Mr. Madison, from the select committee appointed to draft an Address in answer to the Speech of the President, made a report, which was read by the Clerk.

Mr. Giles moved that the usual number of copies of the Address should be printed for the use of the members.

Mr. Sedgwick objected, but with some degree of hesitation, because he could not distinctly charge his memory as to the accuracy of the circumstance which he was going to relate. It ran in his memory, that, on some former occasion, similar to the present, a printer got hold of one of these Addresses, printed for the use of members. He had published it, and some improper consequences ensued, but of which Mr. Sedgwick had not a distinct recollection. He was rather averse to printing the draft of the Address, though he was not disposed to give the proposal a direct negative.

Mr. Giles considered the printing of such drafts as having been a common practice.

Mr. Parker said, that if the Address was to be considered as the work of the House, it would be improper to print it, because their only business then was to wait upon the President with it. But as it was only the production of a select committee, it should be printed, that the members might read it, before they adopted it as their own. With every proper feeling of respect for the gentlemen of that committee, he could not give up his own opinion. He hoped that the draft would be referred to a Committee of the Whole House, and when once corrected, and given in to the President, then let it be published as coming from the House. No member, from only hearing it

read by the Clerk, would be able to tell whether or not he approved entirely of its contents, so that it was requisite to print it, before the House could be sure that they understood it.

Mr. Giles wished to learn, from the Clerk of the House, what the practice of the House hitherto had been.

It appeared that the usual practice was to print, but that it was sometimes departed from.

Mr. W. Smith said that it was wrong to divulge to the public the particular sentiments of the gentlemen who drew up the sketch of the Address. It was unfinished, and as such, if printed for the use of the members, it might be printed in the newspapers, a natural or probable effect.

Mr. Swanwick recommended the printing.

Mr. Parker, in reply to Mr. W. Smith, hoped that nothing would ever be done in the House tending to infringe the freedom of the press. The public are entitled to know the sentiments of the Committee individually, as well as of the House collectively.

Mr. Tracy said that the draft of the Address had indeed been last year printed for the use of members. But it had been agreed, without one dissenting voice, that to print it in the newspapers would not be right. Nay, when he himself had in the House expressed apprehensions on that head, a printer of one of the papers had taken him up in a reply, and assured him that the printers of Philadelphia had too much value for the time of their readers to publish any paper which they knew to be incomplete, and on the point of being perfected. As to the liberty of the press, which the member last up had spoken about, it might be in greater danger now than last year, but he was not acquainted with its being so.

It was then unanimously agreed to print this paper for the use of the members; and, on motion of Mr. Parker, it was referred to a Committee of the Whole House. To-morrow was agreed upon for taking it up.

PRIVATE CLAIMS.

On a motion from Mr. Tracy, the House took up a report from the Committee of Claims, which was read, and which stated, that at the rising of last session, many petitions had never been examined, from their having been presented at so late a period, that time was wanting to go through with them. The report closed with recommending the adoption of a resolution, the substance of which was, that these unexamined claims be recommended to a new Committee of Claims. This recommendation was agreed to.

RULES OF THE HOUSE.

A motion was made that the House should go into Committee of the Whole, on the report from the Select Committee on the Standing Rules and Orders of the House. This was accordingly done, Mr. Muhlenberg in the Chair.

The Chairman inquired if it was the pleasure of the Committee that this report should be read over again, as a printed copy was already in the hands of every gentleman. It was the sense of the House that the report should be read over again, which was done, partly by the Chairman, and partly by the Clerk of the House.

The following clause was the first in any ways objected to:

"When the reading of a paper is called for, *which had before been read to the House*, and the same is objected to by any member, it shall be determined by a vote of the House."

The Speaker, (Mr. Dayton,) did not understand thoroughly the intent of this clause.

A member explained that formerly the custom had been to read any paper as often as it was desired by a member. The consequence was found to be, that papers of more length than importance had been read over and over again, in the course of a session, to the great waste of time. The rule in question was one of those of last session.

The Speaker replied that papers had sometimes been read, which, as it appeared afterwards, had much better not have been read at all. He referred to a particular instance in the last session. He, therefore, highly approved the idea of the Committee, but objected that it did not go far enough. He, on this account, proposed to strike out the words in *italicks*, by which means, if the paper was of an improper description, even a first reading would be prevented. The member, if he has any doubts, may communicate its contents to some other gentleman, previous to his laying it before the House, and, if it appears improper, the nature of its contents being thus indirectly conveyed, members can easily form their minds, without the trouble of reading it.

Mr. Giles approved the proposition of Mr. Dayton, which was agreed to by the Committee. The words in italicks were thus to be struck out.

Mr. W. Smith moved to strike out the following clause:

"No committee shall sit, during the sitting of this House, without special leave."

Mr. Smith had no objection to the rule, if the House seriously intended to adopt and enforce it; but if they did not, it was diminishing the respect due to the House. It was entirely improper to make rules, knowing that they would be broken. He moved to strike out the clause only that he might obtain the sense of the House whether they chose to adhere to the rule or not. We might as well have no rules as not observe them.

Mr. Muhlenberg remarked that the Committee on Enrolled Bills, from the nature of their business, can only sit while the House itself is sitting.

Mr. Kitchell said that if the House were to have no rules made, but such as were never broken, they would have no rules at all, for he believed that they never made a rule, which was not transgressed on some occasion or other. He was for keeping in the clause.

Mr. Dayton was for leaving it in the power of the Speaker to send for committees into the House when they might be wanted. Excepting as to the case of Enrolled Bills, already noticed by the Chairman, others very seldom had occasion to sit, while the House was sitting. But when such a

necessity happened, there was no doubt that the permission would be granted.

Mr. W. Smith, Mr. Murray, and Mr. Giles, said a few words, and, in the end, Mr. Smith withdrew his amendment.

Another rule was read, which directs clearing the House of all persons, except the members and the Clerk, when confidential communications are received from the President. Mr. W. Smith inquired why the Sergeant-at-Arms was not, as formerly, to be admitted. Mr. Murray replied that the committee had not thought his presence essentially necessary. No motion was made on this subject.

The reading of the Rules was then finished. The Committee rose, and the Chairman reported that there had been one amendment adopted.

The House then took up the rules. One of them hath these words:

"A Sergeant-at-Arms shall execute the commands of the House, from time to time, *either by himself or a special messenger, to be by him appointed for that purpose.*"

Mr. Hillhouse objected to the words in *italics*, as they now stand, because they give the Sergeant a discretionary power of going idle, and hiring another person to do his business. He proposed, as an amendment, to add these words, "*or in case of sickness.*"

Mr. Venable preferred, as an amendment, to strike out all the words in italics.

Mr. Hillhouse had once thought of that; but he recollected that the Sergeant might be sent to Georgia to arrest a member. After proceeding three fourths of the way, he falls sick; and not being able to proceed further himself, nor having time at such a distance to consult the House, the result will be that, unless he is qualified to appoint a delegate in his room, the orders of the House will not be executed.

Mr. Venable still thought it better to leave out the clause, than suffer a Sergeant-at-Arms to appoint an officer for that House. The words were, on a motion to that effect, struck out.

Another clause was for appointing a Committee of Commerce. On motion, it was agreed to add the words *and Agriculture.*

One of the rules is in these words:

"No petition to controvert the election of a member returned to serve in this House, shall be received, unless the same be presented within fifty days after the member petitioned against shall take his seat."

Mr. Giles wished to hear a reason for this restriction, in point of time, from any of the gentlemen, who were on the committee that framed the report before the House. He had doubts of its propriety.

Mr. Sedgwick inclined to think that the rule should be expunged. It was a delicate matter to pass restrictions, wherein they might be personally interested. The clause was struck out.

Mr. Goodhue objected that the Doorkeeper should not be excluded from the House during the reading of confidential communications. He might be wanted, were it only to take care of the fire.

Mr. Sedgwick said that then there would be occasion to make him swear an oath of secrecy, and to form a rule to that effect. The proposal was negatived.

The rules were then, on motion, agreed to by the House, as follows:

STANDING RULES AND ORDERS OF THE HOUSE OF REPRESENTATIVES.

First.—Touching the Duty of the Speaker.

He shall take the Chair every day at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order, and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

He shall preserve decorum and order; may speak to points of order, in preference to other members, rising from his seat for that purpose, and shall decide questions of order, subject to an appeal to the House by any two members.

He shall rise to put a question, but may state it sitting.

Questions shall be distinctly put in this form, to wit: "As many as are of opinion that (as the question may be) say Ay;" and after the affirmative voice is expressed, "As many as are of a contrary opinion, say No." If the Speaker doubts, or a division be called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the Speaker still doubts, or a count be required, the Speaker shall name two members, one from each side, to tell the numbers in the affirmative; which being reported, he shall then name two others, one from each side, to tell those in the negative; which being also reported, he shall rise, and state the decision to the House.

All committees shall be appointed by the Speaker, unless otherwise specially directed by the House; in which case they shall be appointed by ballot; and if, upon such ballot, the number required shall not be elected, by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail; and in case a greater number than are required to compose or complete the committee, shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

In all cases of ballot by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal; and, in case of such equal division, the question shall be lost.

All acts, addresses, and joint resolutions, shall be signed by the Speaker; and all writs, warrants, or subpœnas, issued by order of the House, shall be under his hand and seal, attested by the Clerk.

In case of any disturbance or disorderly conduct in the gallery or lobby, the Speaker, (or Chairman of the Committee of the Whole House,) shall have power to order the same to be cleared.

Secondly.—Of Decorum and Debate.

When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to Mr. Speaker.

If any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so

called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House.

When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

No member shall speak more than twice to the same question, without leave of the House; nor more than once, until every member choosing to speak shall have spoken.

Whilst the Speaker is putting any question, or addressing the House, none shall walk out of, or across the House; nor in such case, or when a member is speaking, shall entertain private discourse; nor, whilst a member is speaking, shall pass between him and the Chair.

No member shall vote on any question in the event of which he is immediately and particularly interested; or in any other case where he was not present when the question was put.

Upon a division and count of the House on any question, no member without the bar shall be counted.

Every member who shall be in the House when a question is put, shall give his vote, unless the House, for special reasons, shall excuse him.

When a motion is made and seconded, it shall be stated by the Speaker, or, being in writing, it shall be handed to the Chair, and read aloud by the Clerk, before debated.

Every motion shall be reduced to writing, if the Speaker or any member desire it.

After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in possession of the House, but may be withdrawn at any time before a decision or amendment.

When a question is under debate, no motion shall be received, unless to amend it, to commit it, for the previous question, to postpone it to a day certain, or to adjourn.

A motion to adjourn shall be always in order, and shall be decided without debate.

The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by five members; and, until it is decided, shall preclude all amendment and further debate of the main question.

On a previous question, no member shall speak more than once without leave.

Any member may call for the division of a question, where the sense will admit of it.

A motion for commitment, until it is decided, shall preclude all amendment of the main question.

Motions and reports may be committed at the pleasure of the House.

No new motion or proposition shall be admitted under color of amendment, as a substitute for the motion or proposition under debate.

When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House.

The unfinished business in which the House was engaged at the time of the last adjournment, shall have the preference in the Orders of the Day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of.

In all other cases of ballot than for committees, a majority of the votes given shall be necessary to an election; and when there shall not be such majority on the first ballot, the ballot shall be repeated until a majority be obtained.

In all cases when others than members of the House may be eligible, there shall be a previous nomination.

If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member who has spoken twice on the day preceding shall be permitted again to speak without leave.

Every order, resolution, or vote, to which the concurrence of the Senate shall be necessary, shall be read to the House, and laid on the table, on a day preceding that in which the same shall be moved, unless the House shall otherwise expressly allow.

Petitions, memorials, and other papers, addressed to the House, shall be presented by the Speaker, or by a member in his place, and shall not be debated or decided on the day of their being first read, unless where the House shall direct otherwise; but shall lie on the table, to be taken up in the order they were read.

Any fifteen members, (including the Speaker, if there is one,) shall be authorized to compel the attendance of absent members.

Upon calls of the House, or in taking the yeas and nays on any question, the names of the members shall be called alphabetically.

Any member may excuse himself from serving on any committee at the time of his appointment, if he is then a member of two other committees.

No member shall absent himself from the service of the House, unless he have leave, or be sick, and unable to attend.

Upon a call of the House, the names of the members shall be called over by the Clerk, and the absentees noted; after which, the names of the absentees shall be again called over, the doors shall then be shut, and those for whom no excuse, or insufficient excuses are made, may, by order of the House, be taken into custody, as they appear, or may be sent for, and taken into custody, wherever to be found, by special messengers to be appointed for that purpose.

When a member shall be discharged from custody, and admitted to his seat, the House shall determine whether such discharge shall be with, or without, paying fees; and, in like manner, whether a delinquent member, taken into custody by a special messenger, shall, or shall not, be liable to defray the expense of such special messenger.

A Sergeant-at-Arms shall be appointed, to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sitting; to execute the commands of the House, from time to time, together with all such process issued by authority thereof, as shall be directed to him by the Speaker.

The fees of the Sergeant-at-Arms shall be, for every arrest, the sum of two dollars; for each day's custody and releasement, one dollar; and for traveling expenses of himself, or a special messenger, going and returning, one-tenth of a dollar per mile.

Four standing committees shall be appointed at the commencement of each session, viz:

A Committee of Elections, a Committee of Claims, a Committee of Commerce and Manufactures—to consist of seven members each: And a Committee of Revisal and Unfinished Business—to consist of three members.

It shall be the duty of the said Committee of Elections to examine and report upon the certificates of election

or other credentials of the members returned to serve in this House, and to take into their consideration all such petitions and other matters touching election, and returns, as shall or may be presented, or come in question, and be referred to them by the House.

It shall be the duty of the said Committee of Claims to take into consideration all such petitions and matters or things touching claims or demands on the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report their opinion thereupon, together with such propositions for relief therein, as to them shall seem expedient.

It shall be the duty of the said Committee of Commerce and Manufactures to take into consideration all such petitions and matters or things, touching the commerce and manufactures of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report, from time to time, their opinion thereon.

It shall be the duty of the said Committee of Revisal and Unfinished Business to examine and report what laws have expired, or are near expiring, and require to be revived or further continued; also, to examine and report from the Journal of the last session, all such matters as were then depending and undetermined. It shall also be the duty of the said committee to revise the laws for the establishment of offices, and to report, from time to time, such provisions or expenses attending them, as may appear to have become necessary.

No committee shall sit, during the sitting of the House, without special leave.

The Clerk of the House shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities; and shall be deemed to continue in office until another be appointed.

It shall be the duty of the Clerk of the House, at the end of each session, to send a printed copy of the Journal thereof to the Executive, and to each branch of the Legislature, of every State.

Whenever confidential communications are received from the President of the United States, the House shall be cleared of all persons, except the members and the Clerk, and so continue during the reading of such communications, and (unless otherwise directed by the House) during all debates and proceedings to be had thereon. And when the Speaker, or any other member, shall inform the House that he has communications to make, which he conceives ought to be kept secret, the House shall, in like manner, be cleared till the communication be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

Thirdly.—Of Bills.

Every bill shall be introduced by motion for leave, or by an order of the House, on the report of a committee; and, in either case, a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice, at least, shall be given of the motion to bring in a bill; and every such motion may be committed.

Every bill shall receive three several readings in the House previous to its passage; and all bills shall be despatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day without special order of the House.

The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, "Shall the bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.

Upon the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment; and, if committed, then a question shall be, whether to a select committee, or to a Committee of the Whole; if to a Committee of the Whole House, the House shall determine on what day. But, if the bill be ordered to be engrossed, the House shall appoint the day when it shall be read the third time. After commitment and report thereof to the House, a bill may be recommitted, or at any time before its passage.

All bills ordered to be engrossed shall be executed in a fair round hand.

When a bill shall pass, it shall be certified by the Clerk, noting the day of its passing at the foot thereof.

Fourthly.—Of Committees of the Whole House.

It shall be a standing order of the day, throughout the session, for the House to resolve itself into a Committee of the Whole House on the state of the Union.

In forming a Committee of the Whole House the Speaker shall leave his Chair, and a Chairman to preside in Committee shall be appointed by the Speaker.

Upon bills committed to a Committee of the Whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper, as the same shall be agreed to by the Committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken.

All amendments made to an original motion in Committee, shall be incorporated with the motion, and so reported.

All amendments made to a report committed to a Committee of the Whole House, shall be noted and reported as in the case of bills.

All questions, whether in Committee or in the House, shall be propounded in the order in which they were moved, except that in filling up blanks the largest sum and longest time shall be first put.

No motion or proposition for a tax or charge upon the People shall be discussed the day in which it is made or offered, and every such proposition shall receive its first discussion in a Committee of the Whole House.

No sum or quantum of tax or duty voted by a Committee of the Whole House, shall be increased in the House, until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House; and so in respect to the time of its continuance.

All proceedings touching appropriations of money, shall be first moved and discussed in a Committee of the Whole House.

The rules of proceeding in the House shall be observed in Committee, so far as they may be applicable, except the rule limiting the times of speaking.

No standing rule or order of the House shall be rescinded without one day's notice being given of the motion therefor.

Joint Rules and Orders of the two Houses.

In every case of an amendment of a bill agreed to in

one House and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their Chairmen, meet in the Conference Chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon.

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.

While bills are on their passage between the two Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House, respectively.

After a bill shall have passed both Houses, it shall be duly enrolled on parchment by the Clerk of the House of Representatives, or the Secretary of the Senate, as the bill may have originated in the one or the other House, before it shall be presented to the President of the United States.

When bills are enrolled, they shall be examined by a Joint Committee of one from the Senate, and two from the House of Representatives, appointed as a Standing Committee for that purpose, who shall carefully compare the enrolment with the engrossed bills as passed, in the two Houses, and, correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the House of Representatives, and then by the President of the Senate.

After a bill shall have thus been signed in each House, it shall be presented by the said committee to the President of the United States for his approbation, it being first endorsed on the back of the roll, certifying in which House the same originated; which endorsement shall be signed by the Secretary or Clerk (as the case may be) of the House in which the same did originate, and shall be entered on the Journal of each House. The said committee shall report the day of presentation to the President, which time shall also be carefully entered on the Journal of each House.

All orders, resolutions, and votes, which are to be presented to the President of the United States for his approbation, shall also, in the same manner, be previously enrolled, examined, and signed; and shall be presented in the same manner, and by the same committee, as provided in case of bills.

When the Senate and House of Representatives shall judge it proper to make a joint Address to the President, it shall be presented to him in his Audience Chamber by the President of the Senate, in the presence of the Speaker and both Houses.

Ordered, That a Committee of Commerce and Manufactures be appointed, pursuant to the Standing Rules and Orders of the House; when Mr. Goodhue, Mr. Bourne, Mr. Livingston, Mr. Swanwick, Mr. S. Smith, Mr. Parker, and Mr. W. Smith, were appointed, and the House adjourned.

Tuesday, December 15.

Mr. Heath laid the following motion on the table:

Resolved, That a committee be appointed to inquire whether any and what amendments may be necessary to the act regulating processes in the Courts of the United States.

Mr. Livingston laid the following motion on the table:

Resolved, That a committee be appointed to inquire and report whether any and what alterations should be made in the penal laws of the United States, by substituting milder punishments for certain crimes for which infamous and capital punishments are now inflicted.

Mr. Smith, of S. C., laid the following motion on the table:

Resolved, That a committee be appointed to inquire and report what proceedings had been had in pursuance of the act passed at the last session for the promulgation of the laws of the United States, and whether any and what amendments may be necessary to the said act.

ADDRESS TO THE PRESIDENT.

Sundry memorials and petitions having been presented and referred,

The House then resolved itself into a Committee of the Whole, Mr. Muhlenberg in the Chair, on the draft of an answer to the President's Speech. The following sentence being under consideration:

"Contemplating that probably unequalled spectacle of national happiness, which our country exhibits, to the interesting summary which you, sir, have been pleased to make, in justice to our own feelings, permit us to add the benefits which are derived from your presiding in our councils, resulting as well from the undiminished confidence of your fellow-citizens, as from your zealous and successful labors in their service."

Mr. Parker moved to strike out the words "probably unequalled," and from the word "councils," to the end. He owned that the United States owe much to the President for his services on most occasions; but he had sometimes erred as other men. He could not for his own part subscribe to the expressions contained in the words which he had moved to strike out; his confidence in the President was diminished in consequence of a late transaction.

Mr. Sherburne called for a division of the question; that a question should first be put upon the words "probably unequalled," and afterwards upon striking out the latter part of the clause.

The question was accordingly put upon the words "probably unequalled," and they were struck out 43 to 39.

Mr. Murray rose to make a few observations on the motion for striking out from the word "councils." As a Representative from Maryland, he said, he could not on this occasion be contented to give a silent vote. The Legislature of that State had not long since declared, that their confidence in the President remains undiminished; and though his single sentiment might be deemed unimportant when viewed in connexion with the

unanimous vote of his State, yet he was free to declare, that his confidence in the Chief Magistrate had experienced no diminution. The Legislature of Maryland, he observed, had foreseen that attempts would be made, and saw that unjustifiable attempts were actually making to diminish the confidence of the people in the President; they therefore resolved to give the sanction of their unanimous vote to his character, declaring that the President retained their confidence, and that he had merited it. Though not bound by the opinion of the Legislature of that State, he conceived it his duty not to give a silent vote on the present occasion.

Mr. Giles had hoped that nothing would have been brought before the House calculated to disturb the harmony that ought to subsist, by involving the discussion of delicate points. He had as much zeal as any man for the preservation of the President's fame and reputation; but he could not go the length of the expressions in the clause objected to. He could not agree to it in its present shape, because the assertion in it does not correspond with the fact. After this remark, there could not, he conceived, be any inconsistency in voting against the word and still feeling a regard for the President. He hoped his fame and reputation might never receive a stain, but pass unimpaired to posterity. He should vote for striking out.

Mr. Freeman wished the motion might be so modified as to involve the striking out of the word "undiminished" only. Though he for himself, he observed, might say that his confidence in the President was undiminished, he could not utter the same sentiment in behalf of the people at large. In his opinion the confidence of a part (a very small one perhaps) of the people was diminished; though that of a majority might be unshaken.

Mr. Harper said he had no difficulty in declaring, that his own confidence in the President was undiminished, but he could not go so far as to pledge himself that that of all the people was so. He never, he said, had been in the habit of worshipping the President. He considered him as a man, not infallible, but as a wise, honest, and faithful public servant, and he was prepared in all places and situations to declare this opinion; but he was not ready to pronounce concerning the opinion of the people of the United States. Some time hence they may become unanimous in their confidence; but he could not say that it was not diminished. He was ready to declare for himself but not for others. If called upon to declare whether a majority, whether four-fifths of the people retained their confidence in the President, he could declare it as his opinion in the affirmative; but the clause as it stands includes the whole, and he declared as it stood could not command his vote. He concluded by expressing his intention, when it would be in order, to introduce a modification of the clause, so as to express the undiminished confidence of the House in the President.

Mr. Parker, in coincidence with the wish of Mr. Freeman, agreed to confine his motion to striking out the word "undiminished."

Mr. Sedgwick doubted whether, after a division of the question, and a question being taken on the first part, a modification of the second part would be in order.

The Chairman declared it in order.

Mr. Sedgwick viewed the present motion as even more objectionable than the first; it went directly to a denial of undiminished confidence for the President on the part of the House and the public. There was a time, he said, when no man could have supposed that the period would have arrived, that in the popular branch of the Government, the confidence of the people and their Representatives in that man could have been questioned.

Having been on the committee that framed the answer, and maturely considered the subject in every part, he would mention some of the observations that occurred to his mind particularly in favor of the part now objected to. Lest in the course of them his sensibility on this subject should betray him into some warmth of expression, he begged leave to premise that he wished to wound the feelings of no man.

It was proper he said to inquire into facts on which the expression now objected to was grounded. Is the confidence of the people in the services, and patriotism, and wisdom, of the Chief Magistrate diminished? His experience led him to say no; then, in the existing circumstances, is it not right for the Representatives to make the declaration to their constituents and the world? To suppose the people, who, at the present moment, enjoyed so many blessings under the President's administration, could feel their confidence in him impaired, would suppose a baseness of disposition unworthy of them and of the services he has rendered. Who could review the glorious conduct of our Chief during the conflict of the Revolution, his unwearied labors for the public good, his bravery, moderation, and humanity; who could observe him in his happy retirement, covered with glory, and accompanied by the blessings of his country; then forsaking his retirement, putting at hazard the mighty mass of his reputation, and be insensible of his services? Who could review the critical situation in which he preserved our peace and prosperity during a glorious administration of six years; who could review these things and not have his heart filled with gratitude and esteem? He expressed his belief, that a late measure of the Executive was less the object of the dislike of some, than affording the opportunity for the vent of passions and feelings deep-rooted before.

As to the sense of the people of the President, he believed it unaltered, as to his immediate constituents he was sure it was; and if so, it was the duty of the House to make the declaration to the world—a duty the House owed to themselves and their constituents, and the more binding from the nature of the Government the people had chosen.

Though the President had twice been called to the Presidency by the unanimous and unsolicited voice of his fellow-citizens; though in obe-

dience to that voice he had made a sacrifice no other man would have made; though the only reward he has received for his services has been the approbation of his country, yet, nevertheless, licentious presses had lately teemed with infamous and scandalous abuse of him. Is this, he asked, consonant to the feelings of the House, and shall they not attempt to counteract its effects in the only Constitutional manner? Shall they not declare their own and their constituents' confidence undiminished in that officer of the Government?

He has told the Legislature that he wishes to co-operate, to preserve unimpaired the blessings we enjoy. Does the House believe this? then is it wrong to express their confidence?

He believed, he said, that the efforts made to destroy the character of this first of men, instead of producing the mischief intended, would effect the contrary; and he also expressed his belief that the tide of his popularity at the present moment flowed with unusual strength.

It has been intimated, he observed, that sanctioning the vote of confidence contemplated in the clause of the Address under consideration, would implicate an approbation of a late measure of the Executive, and would preclude the possibility of a free opinion when that measure might come under the consideration of the House. He declared, upon his honor, that he had no intention that the vote now contemplated should have that effect. He did not conceive, that the vote of undiminished confidence, which he now pressed, involved an approbation of all the measures of the Executive; it did not exclude the idea of fallibility; for what man is infallible? It only implied, according to his conception, an approbation of the general tenor of the conduct of the Executive. When the House express their confidence in a public officer, they cannot mean that they believe him infallible, but only that his character, grounded on his general conduct, receives their approbation.

If, when the Chief Magistrate is attacked in the manner the President has been attacked, he is left to be overwhelmed with unmerited abuse; what man with talents to be useful, a reputation to be injured, or feelings to be wounded—what man will hazard all to serve an ungrateful country? It will render the station of Chief Magistrate sought only by mercenaries. If confidence is denied to the Executive, it will only create vacancies in the high offices of Government to be filled by those harpies who prey upon the vitals of the State.

Another consideration, he said, should have an influence on this occasion. The fame of the Chief Magistrate's character has filled the whole world; the Americans are particularly distinguished as a people for their uniform attachment towards him. If, at this time of day, they indirectly declare their want of confidence in that man, they will justify the malignant predictions which have been uttered against our system of Government.

These considerations, he said, had weighed on his mind. If the motion for striking out prevailed, he declared it would distress him beyond any circumstance that had occurred to him during his public life, especially at this period, and under the present circumstances of affairs. He should consider the prevalence of this motion as tantamount to a declaration, that the House and their constituents did not feel their confidence in the President unimpaired.

Mr. Livingston lamented the situation which the drafted Address reduced the House to; but he could not give his assent to it as it stood; he should vote for striking out the word "undiminished," if a question on it should be urged. He did not conceive himself called to a seat in the House to express opinions, much less the opinions of others, but to make laws. He felt so much the delicacy of the situation which the wording of the Address had placed the House in, that he wished the dilemma of a vote might be avoided. The gentleman last up also lamented the situation, and justly observed, that striking the word out was tantamount to a declaration that the confidence reposed in the President was diminished. But he begged to remind him that it was the framers of the Address, and he was one of them, that involved the House in this disagreeable situation.

He declared himself so young in the parliamentary proceedings, as not exactly to know how to avoid a question on the present motion. He declared he was not prepared to say what the opinion of his constituents concerning the President was. The confidence of many of them he knew was shaken; that of others was increased.

He moved, if in order, that the Committee should rise, and the Address be recommitted.

This was carried, and Messrs. Freeman and Baldwin added to the committee.

Adjourned.

Wednesday, December 16.

Thomas Claiborne, from Virginia, appeared, produced his credentials, was qualified, and took his seat.

ADDRESS TO THE PRESIDENT.

Mr. Madison, from the committee to whom had been recommitted the draft of the Address in answer to the President's Speech, brought in a report. The clause now added consisted of a modification of the clause objected to yesterday. On motion, the House went into a Committee of the Whole, Mr. Muhlenberg in the Chair. The amendment was unanimously agreed to. Mr. Giles then moved an amendment in the third line of the last paragraph. It was thus: for "the several interesting subjects which you recommended to our consideration will receive every degree of *it*," read of *attention*. The Committee then rose, and the House agreed to the report.

It was then moved and agreed to, that the Speaker, attended by the House, do present the Address, as amended, to the President, and that a committee should be appointed to wait on the President, to know where and when he will be ready to receive the Address of the House.

The same gentlemen, viz: Mr. Madison, Mr. Sedgwick, and Mr. Sitgreaves, who had been first appointed to draft the Address, were named for waiting on the President.

SURVEY OF THE SOUTHERN COAST.

Mr. Harper moved that a committee should be appointed to report on the memorial presented to the House, last session, by Messrs. Parker, Hopkins, and Mears. These gentlemen had been employed in making drafts of some part of the coast of the Southern States. The funds were not adequate to defraying the necessary expenses; and, as the undertaking was in reality of serious national concern, the memorialists entertained a hope that Congress would interfere, and grant them some aid towards completing the charts. This is a summary of the business, as laid before the House of Representatives a short time before the end of last session. The memorial was now read over by the Clerk, and referred to a committee of five members.

Mr. Tracy submitted a resolution relative to the law for receiving subscriptions to the last loan of the Government of the United States, which law is now nearly expired. The resolution was laid on the table.

Mr. Giles moved that a committee should be appointed to bring in a bill for establishing an uniform system of bankruptcy in the United States. This was agreed to. It was then asked of what number the committee should consist? Mr. Harper hoped that three, the smallest number proposed, would be preferred, as it was constantly found that the more numerous a committee was, the less probability there would be of their going speedily through the business. Mr. Giles, Mr. Hillhouse, and Mr. Duvall were named as the committee.

Mr. Hillhouse moved a resolution that a committee be appointed to examine whether any and what alterations ought to be made in an act entitled, an act for laying a duty on carriages for conveying of persons. The resolution passed, and a committee of three members was named.

Leave was asked to bring in a bill for allowing compensation to members and officers of both Houses of Congress, from the 3rd of March next. Mr. Goodhue, Mr. Nicholas, and Mr. Earle, were appointed.

It was next moved for leave to bring in a bill for the relief of John R. Livingston. Mr. Tracy stated, that the business was now before the Committee of Claims, and he thence conceived, that in this state of the business, it was improper to name a committee for bringing in of such a bill. On motion, a former report of the Committee of Claims was referred to a Committee of the Whole House, and made the order of the day for to-morrow.

Mr. W. Smith stated, that by order of the House, he had brought in a bill, last session, for opening a Land Office, but it was too late in the session to get the business gone through. He now gave notice that he would move for leave to bring in a bill for opening a Land Office.

Mr. Hartley called the attention of the House to several petitions, presented last session, from sundry persons settled on lands in the Western territory, and gave notice that he should bring the subject before the House to-morrow.

The committee that had been appointed to wait on the President, returned with notice that he would be ready to receive their Address, at his own house to-morrow at 12 o'clock.

The House then adjourned.

Thursday, December 17.

Wade Hampton, from South Carolina, and John Hathorn, from New York, appeared, produced their credentials, were qualified, and took their seats.

The Clerk read a letter from Mr. Samuel Meredith, Treasurer of the United States, to the Speaker of the House. It was accompanied with statements of public expenditure of money, of which the usual number were ordered to be printed.

SNUFF MANUFACTURE.

There was then presented and read by Mr. Sedgwick, the petition of Francis Wright, snuff-maker in Boston. He complained, in very strong terms, of the present excise law as to snuff manufactured in the United States, as in the highest degree unequal and oppressive to the manufacturer. He represented, that there was the utmost facility in smuggling, while the duty on foreign snuff imported was too small to prevent an alarming competition. He considered the law altogether as a prohibition of working. The reader will observe, that by the first act passed in 1794, the duty was imposed in proportion to the quantity of snuff manufactured; many objections and complaints having been made against this mode of collecting the revenue, the duty was transferred to the mills, mortars, and hand-mills employed, which now, by the act of 1795, pay a certain stipulated sum, whether they work much or little, and this is the basis of the complaint made by Mr. Wright, who states that by exacting an arbitrary sum, the great manufacturer and the lesser one are placed upon a level in regard to the quantum of excise, and of this circumstance, Mr. Wright warmly complains. He concludes by earnestly soliciting that the new law may be repealed, and the old one restored in its place. The petition was, on motion, referred to the Committee of Commerce and Manufactures.

MAGNUS KING.

Mr. Tracy moved that the report of the Committee of Claims of last House of Representatives, on the petition of Magnus King and others, should be taken up for the purpose of permitting the petitioners to withdraw their petition. This was agreed to.

The House then resumed the consideration of the report on the petition of Magnus King and others. Mr. Gallatin wanted to hear the papers on this subject read before the petition should be

rejected, that the House might know with certainty what they were doing.

In reply, it was observed by Mr. Tracy, that the motion for granting leave to withdraw the petition was made at the desire of the parties themselves, who had been with Mr. Tracy this morning, and requested leave to withdraw their petition. He hoped that, after this explanation, no objection could be made. Leave was accordingly granted.

On motion of Mr. W. Smith, the resolution for opening a Land Office, was taken up and passed; and Mr. Smith, Mr. Hartley, Mr. Nicholas, Mr. Kitchell, and Mr. Glen, were appointed a committee to prepare and bring in a bill.

A memorial was presented and read against the election of Mr. John Swanwick, present Representative of the city of Philadelphia in Congress.

Mr. Swanwick observed that he had, some time ago, heard of the intention to bring forward this memorial. He felt himself extremely interested to have the facts stated in it examined with the utmost celerity, and should move that the memorial may be immediately referred, for this purpose, to the Committee of Elections. The memorial was referred accordingly.

PRESIDENT'S SPEECH.

The House then went into a Committee upon the resolutions proposed by Mr. W. Smith, some days ago.

On the article which mentions the farther provision which ought to be made for the security of the frontiers, and for protecting the Indians from the disorderly inhabitants of the frontiers, Mr. Blount observed that the expressions used on this subject by Mr. Harper, and by a member from Connecticut, had given very great offence to the frontier people. He said this from having lately been in that country, where he learned the circumstance. He was glad to hear that the gentlemen in question did not wish to use the same words again. He was for striking out the offensive implication in the clause. Mr. Findley and Mr. Nicholas concurred in this opinion, which was agreed to.

Mr. Tracy said that he was ready to vote for the resolution thus curtailed, if gentlemen would declare it as being understood, that the Indians were to be protected against the frontier people. He did not think that we were to protect them against the Spaniards, who never, to his knowledge, had attempted to disturb them. It was not certainly against the other Indians. If, then, it was not against the frontier people, the resolution had no meaning.

Mr. Milledge stated the impropriety and imprudence of offending the frontier people, many of whom, if not the best, were among the best people in the United States.

Mr. Heath stated, as a notorious fact, known to every person in the United States, that there are lawless persons on the frontiers, who have committed very great enormities against the Indians. He did not wish to irritate. There may be many very good people upon the frontier; he was satisfied that there were many very bad ones. The resolution was agreed to as amended.

The next resolution was for making provision to supply the Indians in time of peace, and on such principles as might tend to promote mutual tranquility.

Mr. Venable thought, that instead of taking up this resolution, it would be better to take up the law of last year, and see if it wants amendment.

Mr. Dearborn moved that a special committee should be appointed to inquire if any alteration was necessary in the act, passed last year, for establishing trading houses with the Indians.

Mr. Swift said that no law had been passed, so that there could be no alteration of it. There was only an appropriation of fifty thousand dollars for the establishing of Indian trading houses.

Mr. Parker stated that this was the fact. He had given a great deal of attention, last year, to this business. No law had passed.

Mr. Smith said, in the last session there was only provision made of a fund for trading with the Indians. The matter was finally referred to a special committee, to bring in a bill.

The next resolution taken up was, that inquiry ought to be made whether farther means should be provided to reinforce the existing operations for the discharge of the Public Debt.

Mr. Gallatin gave in a long amendment. Its object was to appoint a committee to superintend the general operations of finance. No subject, Mr. G. said, more required a system, and great advantages would be derived from it. The motion was seconded by Mr. Findley.

Mr. W. Smith did not object to the amendment in itself, but as embracing a quite distinct object from the original resolution, he apprehended that, in the shape of an amendment, it would be out of place. The resolution was withdrawn.

The resolution suggested by Mr. Swanwick, as to an inquiry into the state of the American Navy, &c., was likewise agreed to. The Committee then rose, and the Chairman reported that they had gone into consideration of the state of the Union, and come to sundry resolutions, which were again read over by the Clerk.

The first resolution, for inquiring into the state of the Military Establishment, passed, and a committee of five members was appointed to report.

The resolution regarding the Militia of the United States was likewise agreed to, and a committee of fourteen members named.

The resolution for the protection of the Indians gave occasion for a few words as to the mode of wording the clause. A committee of three members was proposed for preparing and reporting a bill.

Mr. Blount thought this number too small. He would wish for a much larger one, consisting of at least seven. He thought that some of the members from the frontier should be in it, as they could give considerable information on the subject, and because, if not named in the committee, it could not be so certain that they would give their assistance. The motion for seven members was seconded by Mr. Nicholas. On a division of the House, the numbers on each side were thirty-eight, and the casting voice of the Speaker was for the larger number. It was proposed by Mr. W. Smith, that Mr. White, delegate from the Territory Southwest of the Ohio, should be added to the committee, as his local knowledge, and peculiar opportunities of information, pointed him out as an extremely proper member of it. The motion was agreed to.

Mr. Blount having observed that he himself could cast considerable light on the state of the frontiers, from a recent journey through that part of the Union, he was named by the Speaker as one of the committee of seven. He requested to be excused, as he was already on the Committee of Elections, which would engross much of his attention, but assuring the House, at the same time, that he should, if his name was permitted to be withdrawn, give the committee every aid in his power. Leave was granted.

On reading the resolution as to a committee for inquiring about the existing operations on the Public Debt, Mr. Nicholas moved to reject it, that the resolution by Mr. Gallatin might be adopted in its room, as it comprehended the object of Mr. W. Smith in its own.

Mr. Venable seconded the motion, on the same ground.

Mr. Harper approved the idea, but did not see the use of rejecting the resolution of Mr. Smith. He would rather have that of Mr. Gallatin added as an amendment. Mr. Swanwick, was of the same opinion.

Mr. Gallatin himself, on further consideration, thought his resolution not sufficiently digested for acting upon. He desired a postponement until Monday next of the resolution before the House.

Mr. Sedgwick would readily have consented to this, if it had not been out of order.

Mr. Gallatin read a rule of the House to show that the motion was in order. The Speaker declared the same thing. The motion for postponement was then adopted.

The following is a copy of the resolutions, as read at the Clerk's table:

Resolved That it is the opinion of this committee that a committee be appointed to inquire whether any, and what, alterations ought to be made in the present Military Establishment of the United States.

Resolved, That it is the opinion of this committee that more effectual provision ought to be made for organizing, arming, and disciplining the Militia of the United States.

Resolved, That it is the opinion of this committee that effectual provision ought to be made for the security of the frontiers, and for the protection of the Indians from any injuries by any of the inhabitants of the United States.

Resolved, That it is the opinion of this committee that provision ought to be made for supplying the necessities of the Indian nations within our limits, on such principles as shall best conduce to the preservation of harmony between those nations and the United States.

Resolved, That it is the opinion of this committee that inquiry ought to be made whether further measures are necessary to reinforce the existing provision for the redemption of the Public Debt.

Resolved, That it is the opinion of this committee that an inquiry ought to be made, whether any, and what, further provisions are necessary for carrying the operations of the Mint more completely into effect.

Resolved, That it is the opinion of this committee that a committee ought to be appointed to inquire into the state of the Naval Equipment ordered by a former law of the United States; and to report whether any, and what, further provision is necessary to be made on that subject.

The first, second, third, and fourth resolutions were severally read the second time, and on the question put thereupon, agreed to by the House.

Ordered, That Mr. Baldwin, Mr. Burges, Mr. Maclay, Mr. Wadsworth, and Mr. Griswold, be appointed a committee, pursuant to the first resolution.

Ordered, That a bill or bills be brought in pursuant to the second resolution, and that Mr. Giles, Mr. Gilman, Mr. Dearborn, Mr. Malbone, Mr. Buck, Mr. Tracy, Mr. Van Cortlandt, Mr. Thompson, Mr. Heister, Mr. Patten, Mr. Samuel Smith, Mr. Locke, Mr. Hampton, and Mr. Milledge, do prepare and bring in the same.

Ordered, That a bill or bills be brought in pursuant to the third resolution, and that Mr. Hillhouse, Mr. Cooper, Mr. Findley, Mr. Jackson, Mr. Franklin, Mr. Henderson, Mr. Harper, and Mr. White, do prepare and bring in the same.

Ordered, That a bill or bills be brought in pursuant to the fourth resolution, and that Mr. Parker, Mr. Samuel Lyman, and Mr. Tatom, do prepare and bring in the same.

Ordered, That the consideration of the fifth resolution be postponed until Monday next.

Ordered, That the sixth and seventh resolutions do lie on the table.

ADDRESS TO THE PRESIDENT.

At twelve o'clock, the Speaker, attended by the House, waited upon the President of the United States, and delivered to him the following Address, in answer to his Speech to both Houses at the opening of the session:

Sir: As the Representatives of the people of the United States, we cannot but participate in the strongest sensibility to every blessing which they enjoy, and cheerfully join with you in profound gratitude to the Author of all Good for the numerous and extraordinary blessings which he has conferred on our favored country.

A final and formal termination of the distressing war which has ravaged our Northwestern Frontier, will be an event which must afford satisfaction proportioned to the anxiety with which it has long been sought; and in the adjustment of the terms, we perceive the true policy of making them satisfactory to the Indians as well as to the United States, as the best basis of a durable tranquility. The disposition of such of the Southern tribes as had also heretofore annoyed our frontier, is another prospect in our situation so important to the interest and happiness of the United States, that it is much to be la-

mented that any clouds should be thrown over it, more especially by excesses on the part of our own citizens.

While our population is advancing with a celerity which exceeds the most sanguine calculations—while every part of the United States displays indications of rapid and various improvement—while we are in the enjoyment of protection and security, by mild and wholesome laws, administered by Governments founded on the genuine principles of rational liberty, a secure foundation will be laid for accelerating, maturing, and establishing the prosperity of our country, if by treaty and amicable negociation, all those causes of external discord which heretofore menaced our tranquility shall be extinguished, on terms compatible with our national rights and honor, with our Constitution and great commercial interests.

Among the various circumstances in our internal situation, none can be viewed with more satisfaction and exultation than that the late scene of disorder and insurrection has been completely restored to the enjoyment of order and repose. Such a triumph of reason and of law is worthy of the free Government under which it happened, and was justly to be hoped from the enlightened and patriotic spirit which pervades and actuates the people of the United States.

In contemplating that spectacle of national happiness which our country exhibits, and of which you, sir, have been pleased to make an interesting summary, permit us to acknowledge and declare the very great share which your zealous and faithful services have contributed to it, and to express the affectionate attachment which we feel for your character.

The several interesting subjects which you recommend to our consideration will receive every degree of attention which is due to them. And whilst we feel the obligation of temperance and mutual indulgence in all our discussions, we trust and pray that the result to the happiness and welfare of our country may correspond with the pure affection we bear to it.

To the foregoing Address the President was pleased to make the following reply:

Gentlemen: Coming as you do from all parts of the United States, I receive great satisfaction from the concurrence of your testimony in the justness of the interesting summary of our national happiness, which, as the result of my inquiries, I presented to your view. The sentiments we have mutually expressed of profound gratitude to the source of these numerous blessings—the Author of all Good—are pledges of our obligations to unite our sincere and zealous endeavors, as the instruments of Divine Providence, to preserve and perpetuate them.

Accept, gentlemen, my thanks for your declaration, that to my agency you ascribe the enjoyment of a great share of these benefits. So far as my services contribute to the happiness of my country, the acknowledgment of my fellow-citizens, and their affectionate attachment, will ever prove an abundant reward.

G. WASHINGTON.

Friday, December 18.

CONTESTED ELECTION.

Mr. Venable gave in a report from the Committee of Elections on the memorial of John Richards, respecting the contested election between him and James Morris, now deceased.

The report was read by the Clerk, which was that the seat of James Morris is declared vacated; and it is recommended that the Governor of Pennsylvania should issue writs for a new election.

Mr. Sitgreaves moved that the report of the Committee on Elections should be read a second time. This being done, the member stated that Mr. Richards had gone back to the country under an idea of acquiescing in the report. Upon this ground he moved that the report should be approved of by the House.

Mr. Heister stated that he had seen a letter to Mr. Richards, informing him of sickness in his family, and that was the only cause of his immediate return to the country, as he had no design of submitting tacitly to the report.

Mr. Venable entered into a detail of the circumstances attending this election. He recommended that the House should avoid precipitation. He said that the committee, in their report, had not completely decided the business.

Mr. Kittera likewise entered into a minute discussion of the circumstances attending the election.

Mr. Sitgreaves explained, that he had proposed to the House to take up the report of the committee, under an impression that Mr. Richards, by leaving town, was satisfied and willing to submit to it. He withdrew his motion.

Mr. Venable was proceeding to the merits of the case, when he was reminded by the Speaker that there was no question before the House.

Mr. Gallatin then moved that the report should be re-committed to the select committee, for which he gave various reasons. Mr. Sitgreaves seconded the motion.

Mr. Harper was for the re-commitment. He observed that the arguments of Mr. Gallatin had been adopted and acted upon by the committee.

The report was, on motion, read a second time. The cause of this contested election appears to have been chiefly the absence of a great number of electors in this district of Pennsylvania, upon the Western expedition. They were authorized, by a particular law to that effect, to vote for a Representative in Congress, provided that the returns were made within a specified legal time. The votes returned within that time for the deceased Mr. Morris were 1,648, and those for Mr. Richards 1,635. This gave to the former a majority of 13.

Mr. Sitgreaves understood the complaint of Mr. Richards to be, that the unsound votes objected to were comprehended in the preceding numbers, whereas Mr. Sitgreaves, himself a member from the same district, and who being on the spot at the time of the dispute, could speak with accuracy, knew that the fact was otherwise.

Mr. Swift said, that as the gentleman who was last up spoke from personal knowledge, he supposed of course that his assertion was true; but Mr. Richards himself had said to the committee that all the unsound votes had been returned after the time prescribed by law. Perhaps he had misunderstood himself, but Mr. Swift thought a re-

commitment necessary for the sake of explanation. Mr. Findley argued on the same side. The report was re-committed.

UNFINISHED BUSINESS.

The House, on motion of Mr. Goodhue, took up the report of the Committee on the Unfinished Business. The report was again read.

The first law recited as being near expiring, is the law for receiving on loan the Domestic Debt of the United States; this law expires the 31st December, 1795. A committee of three was appointed, to report by bill or otherwise on the expediency of extending the term of the law.

The next article in the report refers to sundry acts which will expire at the end of the present session.

These acts are for establishing a Health Office, the act respecting light-houses, beacons, &c.

On motion, they were referred to the committee last appointed.

The several acts providing for the intercourse of the United States with foreign nations, will expire at the end of the present session.

On motion, referred to the same committee, to consider and report on the propriety of continuing these acts.

The act for renewing lost or destroyed certificates will expire in June next. It was moved that this should be referred to the same committee, to report on the expediency of continuing the same beyond that period. This motion was withdrawn, it appearing that the object of this law would then be fully accomplished.

The unfinished business of the last session was then recapitulated.

Mr. Sedgwick moved that the opinion of the committee, annexed to the report, which is, that all reports and petitions depending or undecided upon by the last House, should be taken up on motion of individual members or application of the petitioners, should be adopted by the House. This proposition was agreed to.

The House then proceeded in the consideration of the resolutions reported by the Committee of the Whole on the state of the Union.

The resolution relative to the Mint was passed over. It appearing that the subject was before the Senate.

The resolution relative to the Naval Equipment was then read.

Mr. Bourne proposed that the Committee should be instructed to extend their inquiries to the state of the fortifications of the ports and harbors. It appeared that information on the subject of the Naval Equipment was preparing to be laid before the House.

On motion of Mr. Sherburne, it was voted that the resolution should lie over till Monday. Mr. Swanwick laid on the table a resolution for a committee to inquire into the state of the fortifications; the progress made relative to procuring sites for arsenals; also, in relation to procuring arms and military stores.

It was moved that the Committee of the Whole be discharged from the consideration of the letter from the Secretary of War, accompanied with sundry statements and reports. The motion was agreed to.

The House then attended to the reading of the papers received from the Secretary of War. The first paper read was a report relative to the Military Establishment of the United States.

2d. Report of the measures that have been pursued for obtaining proper sites for arsenals.

3d. Report of the measures that have been taken for replenishing the arsenals with arms, ordnance, and military stores.

4th. Report of the measures taken for opening trade with the Indian tribes.

5th. A statement of the progress that has been made in the building the frigates generally:

The 6th, 7th, 8th, 9th, and 10th particular statements of the progress made in building the frigates constructing in Philadelphia, New York, Boston, Norfolk, Baltimore, and Portsmouth, New Hampshire.

On motion of Mr. Swanwick, the letter of the Secretary of War, with the accompanying statements and reports, were referred to the Committee of the Whole on the state of the Union.

There was next received and read a report, dated this day, from the Commissioners of the Sinking Fund, stating the progress which has been made in redeeming the Public Debt. The usual number of copies of the report, and statements which accompanied it, was ordered to be printed for the use of the members.

Mr. Heath laid on the table a motion for appointing a committee to inquire if any, or what alterations are necessary to be made in the act for establishing Post Offices and Post Roads in the United States.

Mr. Gallatin also laid on the table his resolution respecting the establishment of a Committee of Finance, which is to be taken up on Monday next.

Mr. Livingston called up his motion, laid on the table a few days ago, for appointing a committee to inquire and report whether any, and what, alterations ought to be made in the penal code of the United States.

After an amendment, the resolution was adopted, and a committee of three members appointed to report.

Mr. Harper called up his motion that a select committee should be appointed to examine and report on the petition of Parker, Hopkins, and Meers, relative to a Survey of the Southern Coast. The report of the select committee of last session was read. Mr. Lyman saw no use for referring to a new committee. He would have the report referred as it stands, to a Committee of the Whole.

Mr. Harper persisted in his motion for a new select committee. As far as he had been able to learn the rules and practice of the House, a new committee was requisite. Perhaps they might adopt the old report, without altering a word of it. They were at liberty to do so.

Mr. Macon said that it was the practice to make everything begin *de novo*. The resolution was

accordingly carried, and a committee of three members, viz: Mr. Harrison, Mr. Hampton, and Mr. Havené, were nominated for that purpose.

The House then adjourned till Monday next.

Monday, December 21.

A petition was presented by Mr. Brent, from sundry inhabitants of Loudoun and Fairfax counties, Virginia, praying the extension of the post road through those districts. Laid on the table.

The House took up the resolution respecting the Post Office law, laid on the table last week by Mr. Heath. This resolution was agreed to, and a committee appointed to make the necessary inquiry whether any, and what, alterations are necessary in that law. Nine members were nominated on the committee. The petition presented by Mr. Brent was referred to the above committee.

Mr. Gallatin called up his resolution for the appointment of a standing Committee of Ways and Means. This motion was agreed to *nem. con.*

It was moved that the committee consist of seven; this was objected to, as being too small a number. Fourteen were moved for. The inconveniences of so large a committee were stated; it was difficult to convene them; much time was wasted in waiting. The result had been, that a sub-committee had generally done the business. The advantages of a large committee were urged; more general information would be obtained; the objects were numerous and important; the settlement of principles would be more satisfactorily determined in a large committee, while the details and examination of accounts might be attended to by a sub-committee.

The motion for fourteen was agreed to, and the following gentlemen were appointed, viz:

Messrs. William Smith, Sedgwick, Madison, Baldwin, Gallatin, Bourne, Gilman, Murray, Buck, Gilbert, Isaac Smith, Blount, Patten, and Hillhouse.

To this committee are to be referred all reports from the Treasury Department, all propositions relating to revenue, and they are to report on the state of the Public Debt, revenues, and expenditures.

Tuesday, December 22.

Nathaniel Smith, from Connecticut, appeared, was qualified, and took his seat in the House.

Among the petitions presented to-day was one from Nathaniel Appleton, Loan-office Commissioner for the State of Massachusetts; which petition was referred to a Committee of five.

Mr. Sedgwick moved, that this committee be directed to report whether any, and if any, what additional compensation ought to be allowed to the Commissioners of Loans and their clerks, for 1796.

The high price of living was pleaded in favor of the motion. In opposition, it was mentioned, that the States can get men to fill their most important offices, reputably, for sums which Federal officers, in less responsible and easier stations receive. This difference creates invidious distinctions, which might be increased, if the motion should prevail. The motion was lost.

A report was then read from the Committee of Claims, on a variety of petitions.

On motion, from Mr. Tracy, the first of these petitions was read a second time. The petitioner was Colonel Benjamin Titcomb. By a law of last session, an officer cannot be entitled to a future salary, till he shall have returned the commutation formerly received. Mr. Titcomb had sold his commutation, and he could not return it.

The report of the Committee of Claims was, that the prayer of the petition could not be granted, but the petitioner have leave to withdraw it.

Mr. Sherburne moved that the report should lie on the table for the present. He had heard of the petitioner's case, that it was an extremely hard one, and that he was, in every way, a worthy and deserving man. Mr. S., the motion not being in order, varied it, and moved that the report should lie on the table till Monday.

Mr. Tracy said, that when the report came to be taken up, he hoped it would be on the principle which had actuated the committee. He, as well as the other members, was fully impressed with a sense of the merits of the petitioner, and if it was possible to devise a mode of granting him relief without contravening the act, it should be done; but the committee had thought themselves bound by the former act. The report lies on the table till Monday.

Mr. Harrison laid the following motion on the table.

"That so much of the report of the Secretary of State of the 13th of June, 1790, and of the Message of the President of the United States of the 8th of January last, as relates to Weights and Measures, be referred to a committee to examine and report to the House."

Mr. Venable moved that the Committee of Elections should have power to send for persons, papers, and records, as former committees had done.

Wednesday, December 23.

Mr. Goodhue moved that a new member should be added to the committee appointed to bring in a bill respecting compensation to members of both Houses of Congress, and their officers, after the 3d of March next. The cause of this motion was, that Mr. Earle, one of their number, was indisposed.

Mr. Giles recommended that a member should be added without laying aside Mr. Earle, so that in case of his recovery, he might still afford his services to the committee. Agreed to.

Divers petitions of sundry citizens and inhabitants of the State of Virginia, whose names are thereunto subscribed, were presented to the House and read, praying that the Representatives of the

people, in Congress assembled, will, in their wisdom, adopt such measures, touching the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, lately negotiated by authority of the President of the United States, and conditionally ratified by the Senate, as shall most effectually secure, free from encroachment, the Constitutional delegated powers of Congress, and the chartered rights of the people, and preserve to our country an uninterrupted continuance of the blessings of peace.

Also, a memorial of sundry citizens of the State of New York, whose names are thereunto subscribed, praying to be indemnified by the Government of the United States, for the property which has been unjustly taken from them by the armed vessels of the British, when in the regular pursuit of their commerce.

Ordered, That the said petitions and memorial be committed to the Committee of the Whole House on the state of the Union.

The House then went into a Committee of the Whole, on the report of the Committee of Claims.

DANIEL GOODWIN.

The report on the petition of Daniel Goodwin, was taken up and read. It recommended that, in opposition to the act of limitation, the Secretary of the Treasury should be appointed to settle the debt, agreeably to the desire of the petition.

Mr. Swift wished to know the motives for this distinction in favor of Mr. Goodwin.

Mr. Tracy, as Chairman of the Committee of Claims, rose to give this explanation. The substance of the case was shortly this: During the late war, Mr. Thomas Cushing, a gentleman in public service, had received orders for building, at Boston, a seventy-four gun ship. On this occasion, he occupied a wharf and some buildings belonging to the late Mr. Benjamin Goodwin, father to the petitioner. The sum due by him, as compensation, had been determined by arbitration. Both Mr. Cushing and Mr. Goodwin died, some years after; and the award and other papers, which were in the custody of the former gentleman, were mislaid; and could not be found, till after the act of limitation took place. The Committee considered this circumstance as forming an excuse for the omission of presenting the claim within the time prescribed by law. They had no doubt that the debt was, in itself, just and fair; for, on examination, they found that Mr. Cushing had not received, at the settlement of his official accounts, any money on that head from the Treasury of the United States. The amount really due was likewise ascertained by the award. Mr. Tracy stated that this report was not a favorite with the Committee of Claims. They wished for the direction of the House, to serve them as a rule in similar cases, to which they would pay the strictest regard. The Committee had thought that it was by an act of Providence that Mr. Goodwin had been prevented from lodging his claim, not by any negligence of his own. Mr. T. then went into a long statement of the measures taken by Government to satisfy its creditors. From this detail, he inferred the necessity for a statute of limitations. Government had done everything possible to warn its creditors. It had almost gone to the highways and hedges to compel them to come in. There was great pleasure and honor in looking back upon such conduct. One cloud only hung over the transaction. This was the necessity for paying with certificates, which had frequently been resold, at a very low rate, to the great loss of the real creditor. It was an object of regret, but could not possibly be helped. The Committee of Claims had, in general, been very cautious of admitting exceptions to the statute of limitations. In this instance, they had not thought themselves authorized positively to reject a demand that was unquestionably just in itself, but had left the matter to the decision of the House.

Mr. Christie was opposed to the report. He had at first thought the act of limitation an unjust one; but when one of this committee, last winter, he was convinced of the necessity for something of the kind. There had been negligence in some quarter about this demand, for it lay asleep six years and eight months. He would have no partial repeal of the statute.

Mr. Swift saw no act of God which had intervened to prevent the petitioner from prosecuting the claim within the legal time. Thousands of other cases, just as equitable, might be admitted on the same ground as the present one. It would be endless to open such a door. He hoped that the committee would not agree to the report, because shoals of demands would arise, of which it was impossible, from the distance of time, to prove whether they were just or not. To enforce the statute of limitation might seem rigorous upon individuals, but it was a real act of equity to the public. There were reasons to believe that many thousands, if not millions of dollars had been paid for dishonest demands, and on fictitious evidence. The House might sit all the year round, if they took up such a principle, and yet never get through.

Mr. Gilbert was opposed to the resolution, as reported by the committee. He said that the claim of the petitioner was either barred or not barred by the act of limitation; if it was not barred by such limitation, there needed no such Legislative interposition; if it were barred by the act of limitation, he could not agree to the resolve, because he could never consent to a partial repeal or suspension of that act; he doubted of the justice or policy of repealing the act of limitation partially, and much more of repealing it generally. The report of the committee, he said, shows that the claim of the petitioner is barred by the act of limitation, and therefore he could not consent to the resolution proposed.

Mr. B. Bourne was satisfied to stand by the law in general; but urged that there might be reasonable exceptions, of which the present formed one. He denied that there had been any negligence on the side of the petitioner, and entered into an explanation to demonstrate that there had been none, and where there was none, the Government were in justice bound to pay.

Mr. Dearborn showed the unfairness of debarring a person from payment of a debt admitted to be due, because, by an accident which he could not help, his papers had been for some time mislaid. He insisted that no voluntary delay had taken place on the part of Mr. Goodwin, and that there ought to be a distinction between those who were negligent and those who were not so. He observed that, for a long time, there had been very little encouragement, indeed, to make any demands on the American Treasury. He put the case of a private person, who is unable to pay his debts; few people would choose to be at the expense of prosecuting him, merely for the sake of ascertaining the amount of a claim from which nothing can be hoped for. In the progress of human affairs, he improves in his circumstances, and then his creditors are entitled to state their demands. Something like this happened to the United States, from about 1779 till 1789. The prospect of a public creditor was unpromising, and he would not undertake a journey of some hundreds of miles to present a claim apparently worth little or nothing. Matters have since altered for the better, and now it is but fair that those who want money should come forward and claim it.

Mr. Hillhouse was decidedly against the report. The reasons given by the member who spoke last, might apply to many other petitions as well as that on the table. The lodging of a claim could not have been either troublesome or expensive. There was no necessity for a journey of some hundred miles, for it might have been sent by post. He was convinced of negligence on the part of Goodwin. Why did he not lodge his claim as directed by the statute? It was said that he had applied personally to the public officer for payment; of this application, there was no proof. It was plead, that this was a strong case. If we agree on that account, there will soon be another so closely resembling the former, that it will be hard to point out the difference. Then we shall have a third, and so on, till the whole statute is in fact repealed. It would be much better to repeal the law at once. He had voted against allowing some claims, which he would otherwise have supported, but that the precedent would have had a general and dangerous operation. He was for adhering rigidly to the law.

Mr. Duvall insisted that there was no neglect on the side of the petitioner. He regarded the people of the United States to be as much obliged to pay this debt, as any one against them. The vouchers had been left in the hands of the public officers, so that the blame did not attach to the private party.

On motion by Mr. Malbone, the petition was read.

Mr. Swift then contended that proper application had not been made by Goodwin; no case could more justly come within the statute.

Mr. Lyman was against the claim.

Mr. Gallatin rose to inquire if Mr. Cushing, as Continental Agent, was the proper officer to settle Mr. Goodwin's account. If he was so, Mr. G. would not consider the claim as bound by the act of limitation.

Mr. Sedgwick.—Unless we adhere to the statute of limitation, the derangement will be endless. He was convinced that, to pay this demand, we must get over the statute. He could look on the award as nothing more than evidence of the amount of the debt. It should have been presented in proper time to the officer of the Treasury. It was not; and the creditor, in consequence of his neglect, is now precluded from doing so.

Mr. Hillhouse thought that there never was, nor could be, a clearer case.

Mr. Venable warned the Committee of the danger of granting one claim which could not fail of producing multitudes.

On dividing, the ayes in favor of the report were only twenty-nine. It was therefore lost.

The Committee then rose. The Chairman reported, and the House agreed to the report.

An address was then presented and read from certain merchants and underwriters in New York, who complained heavily of British depredations, and entreated the interference and protection of Congress. It was, on motion, referred to the Committee of the Whole on the state of the Union.

Thursday, December 24.

Christopher Greenup, from Kentucky, appeared, was qualified, and took his seat.

Mr. Sedgwick laid on the table a resolution, that, when the House adjourn this day, the President of the Senate, and the Speaker of the House of Representatives, be authorized to adjourn both Houses, respectively, till Monday next.

Mr. Giles recommended that the House, without this formality, should at once adjourn themselves from Thursday till Monday. They were authorized to do so by the Constitution.

Mr. Sedgwick preferred the idea of Mr. Giles, for his own opinion, but as some very respectable gentlemen entertained scruples on the point, he was willing to obviate them by his own resolution, as above stated.

As to the present adjournment, there was not, (Mr. Giles thought) much importance attached to the mode of it; but, as forming a precedent against the privileges of the House in future, it might be of consequence.

Mr. Tracy had been disposed for simply adjourning till Monday.

Mr. W. Smith was of the same opinion.

The resolution of Mr. Sedgwick was then negatived, and another for adjourning till Monday, when the House rises this day, was proposed by Mr. Goodhue, and adopted.

Mr. Hillhouse then moved that, for one week to come, twelve o'clock shall be the hour of meeting. The reason for this alteration was, that the numerous committees into which the House is divided, may have leisure to prepare their reports.

It was then moved, and agreed to refer to the Committee of Ways and Means, the estimates of appropriations for the support of Government, for the year 1796.

It was also moved that so much of the report of the Secretary of State, of the 13th July, 1790, and the Message of the President, of the 8th of January last, as relates to Weights and Measures, be referred to a select committee; and Mr. Harrison, Mr. Sherburne, and Mr. Maclay, were appointed.

After receiving and disposing of a number of petitions—

The report of the Attorney General, on the fees in the Courts of the United States, was committed to a committee of three members, to prepare and bring in a bill.

On a motion by Mr. Giles, one member was added to the Committee of Ways and Means, and another to the Committee on Organizing the Militia.

Monday, December 28.

Andrew Gregg, from Pennsylvania, appeared, produced his credentials, was qualified, and took his seat.

Mr. Venable, from the Standing Committee of Elections, reported that the committee had examined several other certificates and credentials of the members returned to serve in this House, and had agreed upon a report, which he delivered in at the Clerk's table, where the same was read, and ordered to lie on the table.

Mr. Venable, from the Committee of Elections, laid on the table a resolution, that the committee should be empowered to take the depositions of the witnesses who cannot personally attend the committee, and that they should be authorized to point out the mode of taking such evidence. The resolution passed.

Mr. W. Smith, from the Committee of Ways and Means, presented a resolution, that an appropriation of moneys be made, for the service of the Civil List, during the year 1795. It was referred to a Committee of the Whole House to-morrow.

LANDS IN NORTHWESTERN TERRITORY.

A petition from certain persons requesting lands in the Northwestern Territory, on which they stated that they had already made various improvements, was presented by Mr. Foster, read, and referred to the Committee of Claims.

The Clerk then proceeded with reading the report of that committee.

The names of the petitioners are, Joseph Cateau, Francis Proctor, Noble Benedict, James Clarke, John Strawbridge, William Morris, and others, legal representatives of Thomas Morris, Jacob Shoemaker, Thomas Boyd, Andrew Johnson, Jesse Coles, Jane Godfrey, Henry Shade, Isaac Sherman, John Hollinshead, William M'Kie, Tristram Coffin, and John Turner. The report was, in every instance, unfavorable. The House took up the report and agreed to it, with the exception of the cases of William Morris and John Turner, which were postponed to Monday next.

When the petition of Noble Benedict, James Clarke, and John Strawbridge, was read, which prayed compensation for their arrears of pay in the Continental Army, and which had been paid in depreciated paper, a motion was made for granting leave to the petitioners to withdraw it.

Mr. Giles did not wish to bring the House into difficulties, but he wished, for the sake of information, to defer considering the case for a week, to which the House consented.

ROBERT RANDALL—CASE OF BRIBERY.

Mr. Smith, of South Carolina, requested the attention of the House, for a moment, to a subject of a very delicate nature. He understood that a memorial was, this morning, to be presented from some individuals, applying for a grant of a large tract of Western territory, and as the House had referred all such applications to the committee for bringing in the Land Office bill, of which he was Chairman; and, as it was probable that the memorial, about to be presented, would be disposed of in the same manner, he conceived it a duty incumbent upon him to disclose to the House, at this time, some circumstances which had come to his knowledge. Mr. Smith then said that, on Tuesday evening last, a person of the name of Randall called on him, requesting an hour of confidential conversation. In the interview which took place, Randall made a communication to the following effect: He intended to present a memorial, on the Monday following, to Congress, for a grant of all the Western lands lying between Lakes Michigan, Erie, and Huron, to the amount of about twenty millions of acres. He, and his associates, some of whom were Canada merchants, who had great influence over the Indians, proposed to form a company, and to undertake the extinction of the Indian title, provided Congress would cede to them the fee simple of the land. The property would be divided into forty shares, twenty-four of which should be reserved for such members of Congress as might favor the scheme, and might be inclined to come into it, after the adjournment of Congress, on the same terms as the original associators. Randall himself had the disposal of twelve shares, for members from the Southern States, and a colleague of his, a like number for those of the Eastern States. A certain number of shares were to be the property of those Canada merchants, who had an unbounded influence over the Indians occupying those lands, and who would, if this plan succeeded, pacify those Indians, who were the most hostile to the United States; that Gen. Wayne's treaty was a mere delusion, and that, without the co-operation of those influential persons, the United States would never have peace in that quarter. Mr. Smith said that he communicated this overture, the next morning, to Mr. Murray, one of the members from Maryland, requesting his advice how to proceed on so delicate an occasion; that Mr. Murray recommended a disclosure to Mr. Henry, of the Senate, and that, on a consultation with those gentlemen, it was resolved that it was Mr. Smith's duty to make an immediate com-

munication of the matter to the President, which was accordingly done.

Mr. Murray rose next. He had received an application of the same nature, but having already heard of the proposal, "I was," said he, "in a state of preparation, and my virtue had not such a shock to encounter, as that of the gentleman last up." Mr. M. corroborated what Mr. Smith had said as to the communication of this affair to himself. He added, that he had advised Mr. Smith to give Randall another meeting, for the purpose of developing his schemes and expectations more fully. Mr. M. said that Mr. Smith informed him on Wednesday morning; next day, in the morning, he informed Mr. Henry, of the Senate. Mr. Smith, on that day, informed the President. On that day, (Thursday,) Mr. Randall was introduced to him, and asked an interview at his lodging; he gave him an appointment, at five in the afternoon. Mr. Henry and he were together when Randall came in. Randall talked about the policy of extinguishing the Indian title to the Peninsula formed by Lakes Erie, Huron, and Michigan, containing about eighteen or twenty millions of acres of very good land; and talked in terms that he might have employed from a pulpit. He did not make any corrupt overtures, till Mr. M. had carried him into his own apartment. There Randall opened his proposals, as had been before mentioned by Mr. Smith, observing that if Congress would sell this land to him and his company, they intended to divide it into forty or forty-one shares. Twenty-four shares were to be appropriated to such members of Congress as chose to support the memorial, which would be presented on Monday. The members were to have their shares upon the same terms on which his company should obtain the land. The company would give five hundred thousand, or perhaps a million of dollars; but on Mr. M.'s apparent acquiescence in his views, he said that the shares would be given to the members who advocated the measure, if they pleased to accept them, after they returned to their homes. Mr. M. started a difficulty about the embarrassment of land speculations, for which he, personally, had no genius; and then Randall instantly turned out the cat, and told him that if he did not choose the share of land, he should have cash in hand for his share. Mr. Smith and Mr. Murray had resolved to disclose this to the House, lest some innocent member might offer a memorial and become liable to suspicion. Randall had hinted that larger proportions would be assigned to the more active members, and lesser ones for the small fish.

The Speaker then rose, and expressed a wish that some gentleman would move for an order to apprehend Randall. Upon this Mr. Smith again rose, and said that a warrant to this effect had yesterday been issued by the President, and to support which Mr. S. had made oath before a magistrate to the particulars above mentioned. He hoped that by this time the person was taken.

Mr. Giles next rose, and observed that an application from the same Mr. Randall had been made to himself. Besides a repetition of some particulars already stated, he told Mr. G. that he had already secured thirty or forty members of this House, but he wanted to secure three other members, if Mr. G. recollected right. He added, that he had already secured a majority of the Senate. When this proposal was first made, which Mr. G. thought was about ten days ago, a member from New York [Mr. Livingston] was present. Randall had even gone so far as to say, that a written agreement was drawn out, and subscribed by a number of Eastern members, and he wished Mr. G. to extend another obligation of the same kind for the Southern members; the purport of which paper was understood to be, that the members who voted in support of the disposal of the lands, were to be secured in a stipulated share of them, without having their names mentioned in the deed. Mr. G. was solicitous to learn the names of the members who had already entered into the negotiation, but Randall assured him, that, from motives of delicacy, he durst not communicate any of the names. Mr. G. then desired a sight of the agreement, that he might be able to comprehend its meaning, before he should attempt to draw any similar paper. The man called a second time, and, as Mr. G. conceived, about four days ago, but had never produced the deed or any draft of it. Mr. G. had already communicated the proposal to several members, and, in particular, to the Speaker.

The Speaker [Mr. Dayton] mentioned, that Mr. Giles had, some time ago, informed him of the proposal. He replied, that if an opportunity offered, he would take care to select a committee consisting of members sure to detect the guilty, if any such could exist; adding that he expected the House to believe that he would not have used such words, but on so extraordinary an occasion.

Mr. Christie said, that he was the person who had introduced Randall to Mr. Smith and Mr. Murray. He had long known him, as a respectable man. Randall had mentioned to Mr. C., in general, that it was a landed speculation, and hinted that he, Mr. C., might accept of a share. In reply, Mr. C. had assured him that he could not possibly have a concern in any such transaction. Randall had not, to Mr. C., insinuated that any undue advantage would accrue to members supporting the intended purchase.

Mr. Buck, a member from Vermont, mentioned that a person of the name of Whitney, who appears to have been an associate with Randall, had called upon him in the country with a proposal of this kind.

Mr. Madison said, that the person referred to had also called upon him, and told him of his having waited upon many members, and, among the rest, upon the Speaker. Mr. Madison said, that the conversation was rather short, owing, perhaps, to the coldness with which the advances of Mr. Randall were received. Mr. Madison had already learned, through his friend from Virginia, [Mr. Giles,] the state in which the business was. He did not wish to alarm the person by too much abruptness, and, at the same time, he did not wish to give himself any unnecessary trouble about it,

as he understood that it would be properly managed without his interference.

Mr. Lyman mentioned, that Whitney had called on him, but spoke only of the plan generally. He was to have seen him again, but had not.

Mr. Heister wished to know whether any gentleman to whom Whitney had made proposals had made a communication to the Executive about it.

A resolution was then passed for directing the Sergeant-at-Arms, by an order from the Speaker, to apprehend Whitney.

Mr. Harper moved that the warrant should include Randall. It was objected, that he was already in custody of the City Marshal.

Mr. Venable doubted whether an order from the Speaker of the House would have the effect to recover him from the custody of that magistrate. He likewise wished that a more particular description of Whitney could be given to the Sergeant-at-Arms. In the course of some conversation, it appeared that the House were not acquainted with the Christian names either of Randall or Whitney.

Mr. Swanwick was of opinion that Randall should also be included in the warrant, as he might tell something which would cast light on the share of Whitney in this transaction.

Some debate ensued on the privileges of the House, and how far they were warranted to apprehend Randall.

Mr. W. Smith said, that there was yet no official notice of his being apprehended; he therefore wished the warrant to run against him. If the Sergeant-at-Arms returned for an answer, that he was already in custody, then the House might discuss the propriety of interfering with the office of the civil magistrate.

Mr. Sedgwick had been informed by one of the Doorkeepers of his having seen Randall in custody. He implicitly believed the intelligence to be true.

Mr. Madison said, that since Randall was already in custody, he did not perceive the necessity for issuing the writ against him instantly. It was a new case; and he would give his vote with more satisfaction if he was permitted to wait till to-morrow.

Mr. Livingston considered the offence as bailable. By this means Randall might in the interim escape. This would cast a serious reflection on the House. He advised to proceed immediately. The resolution to this effect was put, and carried.

Tuesday, December 29.

CASE OF RANDALL AND WHITNEY.

A return was made by Mr. Joseph Wheaton, Sergeant-at-Arms to the House of Representatives. Mr. Wheaton stated that, agreeably to the order from the Speaker, he had taken into custody the bodies of Robert Randall and Charles Whitney, and kept them at the disposal of the House.

Mr. W. Smith moved, that a Committee of Privileges, consisting of seven members, should be appointed, and instructed to consider and report with respect to the proper mode of proceeding in this case as to Robert Randall, and that the said committee shall have leave to sit immediately.

It was likewise moved that the name of Charles Whitney should be comprehended in the resolution, because he also was taken into custody. The resolution, as amended, was agreed to. Mr. Baldwin, Mr. W. Smith, Mr. Murray, Mr. Coit, Mr. Giles, Mr. Livingston, and Mr. Goodhue, were named for a committee.

INDIAN TRADING HOUSES.

Mr. Parker made a report from the committee appointed to prepare and bring in a bill for establishing trading houses with the Indians. Mr. Parker moved that it should be referred to a Committee of the Whole House, and recommended an early day, because he believed the present provisions expire about the end of this year. The bill was referred to a Committee of the Whole House on Thursday next.

SURVEY OF THE SOUTHERN COAST.

The report of the special committee on the petition of Parker, Hopkins, and Meers, was next taken up and read. Mr. Harrison moved that it should be referred to a Committee of the Whole House on Thursday next.

Mr. Bourne observed, that it would be proper to have the report printed for the use of members; and that consequently Thursday would be too early a day. On this, the consideration of the report was postponed till Friday.

THE TREATY WITH GREAT BRITAIN.

A letter was then delivered to the Speaker, enclosing a petition, subscribed by two hundred and forty inhabitants of Bennington, in the State of Vermont, which he was requested by the letter to communicate to the House. The subject of this petition was the late Treaty with Britain, which the subscribers censure in severe terms. They state that they now look up exclusively to the House of Representatives, as the guardians of the public peace, welfare, and prosperity. They considered the House as more immediately concerned than any other branch of Government, in the interest of the United States. The petitioners were apprehensive of being involved in European politics, and in a contest with the magnanimous Republic of France. They enumerated many articles of the Treaty, which they regarded as objectionable. Among others, they specified the arbitrary definition of piracy, and the interference, by various clauses of the Treaty, with the Legislative power of Congress; an interference which they dreaded, as tending to overturn and effect a total change in our present happy Constitution.

Mr. Cooper wished to have the names of the subscribers read over by the Clerk, that he might know whether every one of them could subscribe his name, and whether some of them signed only

by marks. The petition was referred to the Committee of the Whole House on the state of the Union.

Mr. Venable, immediately after, presented two other petitions on the same topic, and after the same tenor, from certain citizens of the State of Virginia. They were referred to the same committee.

EXCISE DUTIES ON SNUFF.

Mr. Muhlenberg presented a petition from Mr. Stimble, a snuff maker, in or near Philadelphia. He stated the oppressive and destructive consequences of the excise upon snuff. Besides which, the late heavy rains, in the end of last Summer, had swept away his mill, and a large quantity of manufactured snuff. His mill, for which he paid a large annual sum ($560) of excise, had stood idle for a considerable time, and the petition pointed out, in strong terms, the hardship of laying an excise upon a heap of ruins. Referred to the Committee on Commerce and Manufactures.

APPROPRIATIONS FOR 1796.

The House, on motion of Mr. Sedgwick, then went into a Committee of the Whole, on the report from the Committee of Ways and Means. The resolution reported was as follows:

"*Resolved*, That an appropriation of moneys should be made to defray the expenses of the Civil List for the year 1796."

This resolution being read, Mr. Sedgwick moved that the Committee should consent to it, and rise; which they did. The Committee rose, and reported progress. The House agreed, and the report was recommitted to the Committee of Ways and Means, to prepare and bring in a bill to this effect.

The House then proceeded to consider the resolutions from the Committee on the state of the Union [*Vide*, Proceedings of Thursday, December 17.]

The resolution as to enforcing the existing operations for the discharge of the Public Debt was read, agreed to, and referred to the Committee of Ways and Means.

The resolution respecting the Mint was referred to a committee of three members.

It was then moved that the Committee of the Whole should be discharged from further consideration of the Letter from the Secretary of State, and the other communications by him formerly stated on this head, that they might be referred to the above committee. Both these motions were agreed to.

The resolution as to the Naval Department was then read, and referred to a committee of five members. On motion, by Mr. Parker, the letter on this head, from the Secretary of War, and the papers that accompanied it, were referred to the same committee.

CASE OF RANDALL AND WHITNEY.

Mr. Baldwin brought in a report from the Committee of Privileges. It was, in substance, that Robert Randall and Charles Whitney should be brought to the bar of the House, and interrogated by the Speaker, touching the information lodged against them, on written interrogatories, which, with the answers, were to be entered on the Journals of the House; and that then, every additional question proposed by members should be reduced to writing, and put, on motion, by the Speaker. Thereafter, if any further measures were thought necessary, that they be proceeded in by a committee, to be appointed for that purpose. The report was agreed to by the House.

Mr. Harper next moved a resolution, that the two prisoners shall be brought to the bar of the House to-morrow at 12 o'clock; and, in the mean time, that the Committee of Privileges be ordered to prepare interrogatories to be put to them. He feared that time would be lost, if the prisoners were, this day, brought before the House.

Mr. Blount was against the delay, for which he stated several reasons. He insisted that, at least, all intermediate communication between the prisoners should be prevented.

Mr. Sedgwick recommended avoiding precipitation. He thought it better to delay the examination till to-morrow.

Mr. W. Smith said, that it was usual for matters touching privilege to be determined immediately. From what was already known, he believed that the Speaker was sufficiently informed to put the requisite queries. He wished Randall and Whitney to be directly brought to the bar.

Mr. Havens had been applied to by Randall. He did not mention this circumstance yesterday, because so many other gentlemen had spoken in that way, that he felt himself unwilling to encroach on the time of the House. He was ready to communicate the particulars, when necessary. The proposals made to him were, in sum and substance, the same with those communicated yesterday.

Mr. Harper argued strongly against being in haste. The culprits were fellow-citizens, and entitled to time. It was alleged as an usual practice, to decide instantly on questions of privilege. It might be so, and perhaps this custom was not the more commendable for that. He thought that there was scarcely time before to-morrow, to prepare the necessary interrogatories. He was for delaying till to-morrow, but would cheerfully acquiesce in the vote of the House.

Mr. Sedgwick, in answer to the precedent urged by his friend from South Carolina, [Mr. Wm. Smith,] observed, that the promptitude to decide questions of privilege arose, very likely, from the impulse of passion, every appearance of which ought to be avoided.

Mr. Nicholas understood the end of this affair to be, exculpating the members, and satisfying the public mind. He was for beginning the examination immediately, without giving the prisoners time to prepare answers.

Mr. Harper withdrew his motion, to make room for one brought forward by Mr. Blount, which was for examining the prisoners immediately. Mr. H. did not recede from his original opinion, but by taking the sense of the House on Mr. B.'s motion, he would be directed as to his own.

The House agreed to bring in Randall immediately. In the mean time, a member observed that there was a material omission in the Journal of yesterday, as read this day by the Clerk. It had stated the attempt to corrupt members, but not that Randall had pretended thirty or forty of them to be gained already. This the gentleman thought the most criminal part of the charge. He therefore moved for an amendment of the Journal.

This motion produced a long and desultory debate.

The Speaker had never known an instance of this sort, after the Journal was, as in the present case, read over and already agreed to. He did not think that it could be done at all, unless the House were unanimous in it.

Mr. Thatcher said, that, as there was not any rule on the subject, he would be for adhering to the old practice, and not be for altering the Journals.

Several gentlemen now spoke. Mr. Jeremiah Smith saw no necessity for an amendment in the Journals at all. The additions proposed may be entered on the Journals of this day, and make a part of it; and, if it is needful, additions may be made, in this way, for ten days to come. It was not like an indictment, which must be found by the jury all at one time.

Randall was now brought in, by Mr. Wheaton, Sergeant-at-Arms, and the City Marshal. That part of the Journals which refers to his conduct was read to him.

The Speaker then interrogated the prisoner, whether these charges were true or false? Randall replied that he was not prepared to answer. He hoped that time would be given him. The Speaker asked what time he wanted? He could not positively tell; perhaps till the day after to-morrow.

Mr. W. Smith was disposed to give him the time required.

Mr. Blount said, that he felt for his own dignity as a member of the House, and for the dignity of the House. To suffer the prisoner to go away from the bar till he had said guilty, or not guilty, when thirty or forty members are positively charged with such conduct, and we suffer the culprit to withdraw, without obliging him to explain, will excite public suspicion that guilt is here.

Randall was then ordered to withdraw, till the discussion should be over.

Mr. Rutherford was for making him say yes or no, directly, as to the guilt. If he wants to have time for pleading any thing in mitigation of his punishment, that is a quite different affair. But the honor of the House was concerned in making him give an immediate answer to the queries now put.

Mr. Hillhouse was for bringing Randall forward directly. He ought not to be allowed time to think of an answer.

Mr. Harper felt as much as any man for the dignity of the House, but this would not induce him to proceed in a hurry. Mr. H. enlarged on the danger of indulging passion on this subject. It would be wrong to force the prisoner to answer unprepared. What if he refuses to answer at all? Confession amounts, in this case, to conviction. He was for granting indulgence.

Mr. Venable felt as much as any man for the dignity of the House. At the same time, he felt himself above suspicion, and the House above it. He would not wish to trample on the rights of an individual. He saw no danger that could arise to the House from a short delay. He referred to what Mr. Harper had said about the hardship of making any man convict himself.

Mr. Claiborne was also against hurrying the prisoner. He recommended that coolness and moderation should distinguish the proceedings of the House.

The question was then put, whether the prisoner should be obliged to answer immediately. Ayes 42, noes 48.

It was then moved, by Mr. W. Smith, that he should be allowed till twelve o'clock, to-morrow.

Mr. Blount proposed the yeas and nays on the latter question. A member observed that they should rather have been put on the one immediately preceding. The motion was supported only by four or five members. A fifth part of the House are requisite for calling the yeas and nays.

Mr. Blount then laid on the table a long resolution. It was, in substance, that before Randall was recommitted, he should be interrogated as to who were the thirty or forty members that had been gained to the scheme.

Mr. Harper thought it extraordinary to bring a culprit before the House for contempt of it, and then encourage him to criminate members. He should ever protest against persons being brought to the bar for that purpose. He therefore moved to strike out from the resolution proposed by Mr. Blount, the words: "And if you did, who are 'the members whom you considered as so secured; 'and what were your reasons for thinking them so 'secured?" This was the last clause of an interrogatory which Mr. Blount proposed putting to Randall.

Mr. Blount declared that he had never meant bringing an accuser to the bar, or propounding a question that should bring forth an accusation.

Mr. Harper replied.

Mr. Blount then modified his resolution, by striking out the exceptionable words; to which Mr. Harper then agreed.

Mr. Murray called upon gentlemen by their sensibility to personal dignity, and the character of the House, to arrest the motion. Its tendency certainly was to place the honor of the House, or of a very great part of it, in the power of a man of whose profligacy of principle there could now be no doubt. Will you, he observed, permit, nay, invite him, whom you arraign at the bar of this House, to be a public accuser? Will you adopt a charge against him, which is in its nature an imputation that however lightly and wickedly made, will implicate perhaps innocent men? These men, to rescue their own reputations, will be obliged to risk their characters, on the weight of their veracity, by denying this man's charge in the face of a world but too prone to suspect. By this motion,

Randall's assertion to the gentleman from Virginia, [Mr. Giles,] the only member who has mentioned it, is to be alleged against Randall as an offence. That Randall said to the gentleman that there were thirty or forty members secured, he had no doubt; but he believed the fact to be that Randall was both deceived himself and attempted to deceive the gentleman. Why, said Mr. M., the fellow told me that those thirty members were secured. Mr. M. had not thought proper to state that circumstance, because he did not so much consider it as a fact material to the detection of Randall's guilt, as it was one which, if mentioned, might possibly afford to malice an opportunity of affixing a stigma to any thirty or forty names at which personal enmity might point. No public good could result from such a disclosure; for the assertion of such a man as Randall could not, among men of honor, be deemed a sufficient ground of suspicion; and yet the malice of the world, or the rancor of personal enemies, might attach suspicion and infamy to almost the whole House, from the indefiniteness of the charge. When Randall informed him, on Thursday night, that there were thirty members who would support his measures, he had felt in the very conduct which he then was himself pursuing to detect Randall, to arrest his scheme, a principle of candor towards others, which taught him that other gentlemen to whom Randall had communicated his scheme confidentially, were probably determined as honestly as himself to crush the infamous plot against the honor of the House. He knew that he who would be wicked enough to attempt seduction, might be weak enough to use this intelligence artfully, for the purpose of leading him the more readily to accept terms of infamy; because the object was painted as easily attainable, and that Randall might wish to diminish all qualms, by exhibiting a pretended group of accomplices whose company would at least diminish the appearance of singularity. I entertained, said Mr. M., no suspicion of any man—I knew Randall to be a corrupt man from his offers to myself—I therefore placed all his intelligence to the score of flimsy art: I knew that such a man was not to be fully believed, where his interest was to magnify his success. I drew favorable auspices with respect to the corps to which I belong, from another piece of intelligence of his, which was, that he communicated to some members, one of whom he had named, and whom I knew to be a man of honor, in what he called the *general way*. This general way was a display of the sounder part of his scheme merely, and not the corrupt; consisting in developing the advantages which would result to the Union in the disposal of their lands, provided the harmony of the Indians could be secured. In this view of his plan he gave the subject an attitude far from unimposing; and I conceived that, as in proportion to the numbers engaged confidentially he must know that the hazard of detection increased, he would not communicate the corrupt view as long as he found the more honest part of the policy might appear to strike any gentleman as a measure useful to his country; I therefore did not believe Randall, in the sense he evidently intended; therefore, sir, I did not feel myself at liberty to mention the assertion which I conceived to be unavailing as a circumstance necessary to the example I wished to make, but which, if communicated, I thought might cast a stain, by the mystery that enveloped it, upon a body whose character ought to be held sacred to the confidence of the country. My duty was to bring Randall's attempt to corrupt unequivocally into light, not by repeating all the arts which he excited to corrupt; nor by exhibiting them in a way that might wound the feelings of men of honor, who, if charged even personally by Randall, would have no refuge from odium but in their characters and counter-assertion: this, though always conclusive with those who personally know them, is not a protection to minds of sensibility against the stings of calumny. The voice of fame is not composed from the voice of men of honor.

It was, he said, in the spirit of such reflections, that he and the gentleman with whom he had concerted the mode and time of disclosure [Mr. W. Smith] had determined to trust rather to the as yet unstained honor of the House, than to the loose declarations of Randall; and therefore had resolved on Friday morning to make the disclosure before, that some gentleman, innocent of the corrupt scheme, and acquainted with the sounder part of the plan only, might have cause to blush at having presented a memorial which it would be their duty to defeat and to cover with infamy. If this charge is exhibited against Randall he will confess or deny it: if he confesses it, and in the disposition that often accompanies detected guilt, should name particular gentlemen, though their counter-assertion would completely, in his own mind, outweigh the charge of a corrupt and profligate accuser like Randall, yet would every man of delicacy have cause to regret that merely for the purpose of adding to the charges against a man proved to be wicked, a stain had glanced from him upon a name innocent and honorable. Let gentlemen act with magnanimity upon this occasion. Let them resist a motion, which, however purely conceived, may eventually wound honest fame, without detecting guilt. Mr. M. solemnly believed that Randall's assertion was either false totally, or true only as it respected those who had listened to him, for the purpose of making an example, or those to whom he had spoken in what he called the general way. If Randall denied this charge, it would rest on the assertion of the gentleman from Virginia, but could not affect members farther, than as the measure of inquiry seemed to imply suspicion. He and the gentleman from South Carolina had both acted upon the presumption of innocence in members, and they had resolved on the timely disclosure yesterday, lest even one member, however innocent, might be placed in a painful situation by presenting the memorial. If Randall is charged with this as an offence, he verily believed the House betrayed its own honor to the malice of the world; he would therefore vote decidedly against it.

Mr. M., in the course of his speech, added several other observations. He did not doubt that in every district on the Continent thirty favorites would be pointed out, whom the people in that quarter, or at least some among them, would be disposed to consign to infamy, and perhaps there was not one district in the Union where the same thirty members would be named. It would be said, "Sir, they are not named, but I know who are the men." So rapid were the communications of the press, so keen the appetite for scandal, that when once the story was circulated, it might be impossible ever to get rid of it.

Mr. Giles replied. He was in favor of the motion of Mr. Blount. He said it was evident, from the way in which this whole communication had been brought forward, that there had been no previous correspondence between Mr. Murray and himself. They had felt differently. Mr. Giles had informed the Speaker of the House. Mr. Murray and his friend [Mr. W. Smith] had communicated the affair to the President—a measure of which, as it struck Mr. Giles, he did not distinctly perceive the propriety. Mr. Giles had considered it as best to wait in silence, till the petition of Randall should come forward. Mr. Murray had suggested a variety of delicate motives for breaking the matter to the House, lest the petition should come forward, and hurt the feelings of an innocent and unsuspecting member. Mr. Giles did not wish to diminish the credit fully due to the gentleman in this respect. He himself had felt somewhat differently. He had acted differently.

Mr. Hillhouse was convinced that there was not a gentleman in the House, whose character rested on so slender a foundation, as to be affected by any thing that this man could say. He felt no anxiety for the reputation of the House, for he knew that it was not in the smallest danger. The resolution went merely to make Randall confess that he had said so and so. It implied nothing to affect members. A man covered with infamy making such charges could not expect credit, or obtain it from anybody. Mr. Hillhouse was, for these reasons, in favor of the resolution for interrogating Randall.

The resolution was now read, as follows:

"*Resolved*, That it be made a charge against the said Robert Randall, that he declared to a member of this House, that a number consisting of not less than thirty members of this House, had engaged to support his memorial."

Randall was then brought to the bar. The resolution was read to him, and he was informed that he must answer it to-morrow, at 12 o'clock.

A motion for adjourning was then made. Ayes 26; so it was lost.

It was next moved and agreed, that Whitney should be brought to the bar. The Speaker then said, Is this the prisoner? Answered, yes. What is your name? Charles Whitney. What is your usual place of residence? Vermont. What are you? I was bred to the farming business. Do you know one Robert Randall? Yes. The Clerk will read to you the charge that has occasioned your being brought here. The charge, as stated in the Journal of the House, was then read to the prisoner. He was next interrogated by the Speaker, as follows: Are you guilty, or not guilty? Not guilty. Are you ready to speak in your defence? I am ready to tell every thing. Are you prepared to do so just now? Yes. Whitney then stated that he was connected with Randall in a plan for the purchase of eighteen or twenty millions of acres of land, lying between the Lakes Erie, Huron, and and Michigan. He had come to town on the design of presenting a petition to Congress, but had no knowledge of any improper kind of applications. Randall had several times called upon him at his lodgings, at the Green Tree, in North Fourth street. He considered the scheme to be of probable advantage, and a handsome thing to the United States as well as to the prisoner himself, who repeatedly observed that he would not have engaged in it, but with a view partly to his own interest. He had wished to engage influential characters in the business. He was then asked what associates he had. He answered, Colonel Pepune and Mr. Jones, of the State of Massachusetts; and Mr. Ebenezer Allen, of Vermont. He also, upon a query from the Speaker, mentioned the name of another person, which was not distinctly heard. He was asked if the partners meant to divide the land into forty shares. He answered forty-one; but this was only in speculation. They had only a rough idea of the extent of the land, which was inhabited by the Wyandots, and was of a very good soil. The land was to be divided among the proprietors. The prisoner knew, in general, from Randall, that he called on Mr. Smith, and other members; but was not privy to, nor suspected any unbecoming overtures. He was then asked the names of the associates at Detroit. He mentioned Mr. Erskine, Mr. Robertson, Mr. Innes, Mr. Pattison, and Mr. Erskine, junior. He said that some of them were Indian traders, to a considerable extent. He had called at Mr. Buck's, of Vermont, (a member of the House,) as he was riding by his house. He knew him to be a gentleman of character, whose name would add credit to the business. He had told him that there were several other persons intending to be concerned, and that, if it was consistent with his situation as a member of Congress, he would be glad to have him engaged, but at the same time carefully noticed that this proposal was conditionally made, and only if it was proper. He was asked what Mr. Erskine was. He is called Judge Erskine, but whether he is now a Judge, or only was one in some other part of the country, at a former period, the prisoner cannot tell. You say that you came to Philadelphia about a month ago. Why were you so long in presenting your petition? He had a bad cold, and had been sick, and wanted to make a personal explanation to the members before bringing the affair before the House. Have you got any new associates in this city? None. Mr. Livingston then proposed a question, Whether any of the shares had been left unappropriated by your associates and you? An-

over: It was at his own option to dispose of shares as he pleased. He was asked if he could produce any written agreement between himself and his associates. He believed that he could, and that it would do him no harm to do so. It was at the Green Tree. But, as a matter of candor, he requested time to consider whether the production of it could hurt him or not. This ended the examination.

Mr. W. Smith then made a motion, consisting of three points, that Whitney should be ordered to re-appear at the bar, at twelve o'clock, to-morrow; that he should be ordered to produce the bond; and that, till to-morrow, he should be remanded to the custody of the City Marshal. It was likewise recommended that, till to-morrow, the two prisoners be kept in separate apartments.

Mr. Goodhue requested that Whitney might be ordered to withdraw; which was done. He then related that the prisoner had made an application to him at different times. Mr. Goodhue told him that he knew very little of the Western country; he had always lived on the seacoast, and land jobbing was quite out of his line. Whitney did not make any corrupt proposals to him. He believed that it was because he was very averse to wasting time in speaking at all on the matter.

Mr. Sedgwick said that, as no direct charge of corruption had been made against Whitney, he apprehended it would be improper to detain him as a prisoner. It might be considered as a wanton act of arbitrary power.

Mr. Buck then rose, and said that he had not yesterday told the whole of what passed between him and Whitney. Mr. Buck had received offers plain enough to be understood. He might either have land, or money in lieu of it.

Mr. Sedgwick said, that he had now no opposition to the resolutions; which were carried.

Mr. Harper then laid on the table a resolution relative to the duties on exports, which was read;

And the House then adjourned.

Wednesday, December 30.

John Page, from Virginia, appeared, was qualified, and took his seat.

CASE OF RANDALL AND WHITNEY.

Mr. W. Smith moved an amendment of the Journal to this effect, that the said Charles Whitney had made overtures to Mr. Buck, to this purpose, that he should have a share in the lands to be purchased, or in money.

Mr. Nicholas objected to the motion. The reading of the Journal was called for. It was read.

Mr. Sedgwick said, that the original charge against the man was complete and full. He thought the amendment unnecessary.

A petition was then presented from Randall requesting that he might be indulged with a reasonable time to make his defence, and with counsel.

Mr. W. Smith moved that the prayer of the petition should be granted, and that the further examination should be referred to a select committee.

Mr. Hillhouse had no objection to granting counsel. I am willing, said he, that every man shall make the best defence which he can. But bring him before us. Were I to decide on the criminality, I would wish to hear the evidence.

Mr. Williams observed, that as it had been said that a number of members were implicated in the business, he conceived that all further proceedings should be before the whole House. It was true, it might require more time; but the honor and dignity of the Legislature is concerned in giving the greatest publicity to their proceedings.

Mr. Swanwick objected to a reference to a select committee. The attempt is the first of the kind that has ever been made against the members of the Legislature of the United States; and, therefore, our proceedings cannot be too public, and ought to be attended with the utmost solemnity.

Mr. Bradbury proposed a division of the question, and that the sense of the House should be first taken on that part relative to allowing him counsel.

Mr. Kitchell objected to allowing counsel; he stated the difficulties and delays which would be the result of allowing counsel. The consequences he feared would be, that an opening would be made for an imputation on the honor of the House. He thought the duty of the House was plain, and that they ought immediately to proceed to an examination of the prisoner.

Mr. Livingston objected to both parts of the motion in the present stage of the business. When the interrogatories are put, and the answers received, it will then be time to determine on the propriety of granting counsel. He was equally opposed to a reference to a select committee until a more complete examination of the business.

Mr. Smith withdrew his motion, so far as it relates to a reference to a select committee.

Mr. Baldwin said, that the motion for a reference to a select committee, if rejected, would be to counteract the report of the Committee of Privileges, which has already been adopted by the House. Mr. B. entered into a consideration of the inconveniences attending the discussion of complicated facts by so large a body as the House. He instanced several precedents to show that Congress had almost in every case proceeded by select committees. Mr. B. added, that if further satisfaction was wanted by any member, he supposed it proper that the prisoner should be further interrogated.

Mr. Sedgwick was in favor of allowing counsel. He insisted that it was not merely a privilege, but a right of every citizen of the United States. He said that the circumstance of the House being both accuser and judge, afforded very great additional reason why he should be allowed counsel. Mr. S. cited the Constitution to show the right of the prisoner to counsel.

Mr. Madison was in favor of allowing counsel. He thought the motion would stand better if it went to allow him to answer the interrogatories by the advice of counsel.

Mr. Nicholas supported the affirmative of the motion. He thought it of consequence that every indulgence used in courts of law, so far as they are applicable to the present case, should be allowed.

Mr. Murray said, that he was decidedly for the prayer of the petition itself, rather than for any amendment of the proposition before the House. He wished the prisoner to have the advantage of all the ingenuity of all the counsel he chose to employ. He thought Randall entitled certainly to the aid of counsel, as well on his examination as on his defence: and he believed that the dignity of the House, as well as the rights of the offender, would be best consulted by permitting him to have every advantage. As he was one of those who disclosed the prisoner's crime, so he felt himself peculiarly bound to see that every indulgence consistent with the justice which gentlemen owed themselves should be extended to him. He felt that the grant of the prayer would be a particular indulgence to himself.

Mr. Harper objected to the interference of the House in respect to counsel. It appeared to him that the prisoner had a right to employ what counsel he pleased; and he may answer the interrogatories of the House by the advice of one or more lawyers, standing at his side, as any other citizen might stand. He suspected, however, that the prisoner meant, by counsel, to bring a lawyer into the House to plead his cause. If this was the case, he thought the prayer of the petition was improper.

Mr. W. Smith was very ready to allow the prisoner counsel for his defence, but, in so doing, he wished it to be understood, not as a matter of right but of favor. He was apprehensive that gentlemen in proceeding from one step to another, would at last reason away the privileges of the House altogether. His friend from Massachusetts [Mr. Sedgwick] had quoted the clause of the Constitution which gave a right to have counsel in all trials for crimes; but it did not apply to this case, any more than the clause which immediately followed it, declaring that all trials for crimes should be by a jury of the vicinage, and after presentment by a grand jury. The present inquiry was of a special and peculiar nature, resulting from the rights and privileges which belonged to every Legislative institution, and without which such institution could not exist. As every jurisdiction had certain powers necessary for its preservation, so the Legislature possessed certain privileges incident to its nature, and essential for its very existence. This is called in England the parliamentary law; and as from that law are derived the usages and proceedings of the several State Legislatures, so will the proceedings of this House be generally guided by the long-established usages of the State Legislatures. There would be a manifest absurdity in conforming the proceedings in this case to the ordinary proceedings at law in jury trials, for the House, instead of being able to protect itself, would be altogether dependent on the other branches of the Government, and in every case of aggression be obliged to send the offenders to the civil magistrate. If there was any weight in such reasoning as had been heard, then the House would have to tread back all the unconstitutional steps they had been taking, and to discharge, without delay, both the prisoners, for the arrest by the Sergeant-at-Arms, under the Speaker's warrant, was only justifiable on the ground he had mentioned, namely, the inherent and indispensable power of self-preservation. That the House possessed power to arrest had not been denied, but the power of commitment was incident to that of arrest, and if it possessed both these high powers, it must of consequence possess the necessary incident of trial or inquiry, in regulating which the House was only to be governed by its own wisdom and discretion. On this occasion Mr. S. said he felt, as he trusted every member did, a proper respect for the rights of individuals brought to the bar, as well as for those of the House, and he hoped that their conduct would be marked with discretion and temper; but, willing as he was to grant the prayer of the petitioner, he could not suffer the argument which had been relied on, to pass unanswered. This was the first instance, since the organization of this Government, in which it had been found necessary to resort to this high prerogative; it was right, therefore, that the principles on which it was founded should be well understood, and that the privileges of the House should stand unimpaired. The importance of the subject would be his apology for deviating a little from the question before the House. He then remarked, on the assertion of his colleague, [Mr. Harper,] that "there was no rule of the House which prevented the prisoner being accompanied to the bar by half a dozen lawyers, who might all prompt him in his replies." If any person, said Mr. S., whether lawyer or not, should intrude himself to furnish answers for the prisoner to the interrogatories put by the Speaker, such person would be undoubtedly guilty of a gross indecorum, for which he would be liable to the censure of the House. He confessed he saw no necessity for counsel to aid the prisoner in simply answering whether he was guilty or not; if he acknowledged the charges, they would then decide on the mode of punishment; if he denied them, then counsel would be very properly allowed to aid him in proving his innocence. In the precedents, he said, which had come to his knowledge, he found the practice to be this: The prisoner, on being brought to the bar, was interrogated as to the charges; if he admitted them, he was either reprimanded and discharged, or committed to prison, to abide the further order of the House, but such imprisonment could not continue beyond the session; if he denied the charge, then an inquiry was had before a select committee, who reported the facts to the House. This appeared the proper mode of proceeding, and he hoped it would be pursued on the present occa-

sion. He concluded with saying, that he should vote for allowing counsel to assist the prisoner in his defence.

Mr. Sedgwick moved that the prayer of the petition should be granted, and that Randall be allowed till to-morrow, to be heard at the bar.

The petition was again read.

Mr. Christie had known Randall for many years, and had never heard of any thing against him before. He had lately been at Detroit, and Mr. C. believed that he had been injured by keeping bad company. He was not the first man in the country who had been corrupted by British influence and British company. He moved that Randall should be allowed till to-morrow at twelve o'clock. This was negatived.

The Speaker then said, that, if agreeable to the House, he would send for Randall, and inquire what time he wanted. This was done; Randall came in, and asked till Saturday, but as the House does not sit on Saturday, Friday was appointed.

The bond or agreement between the intended purchasers of the land was then read. It was dated at Detroit, the 26th of September last. Allen, Whitney, and Randall, were to have the disposal of 36 shares out of 41.

Mr. Murray informed the House that he had yesterday morning made a deposition as to the circumstances of the application to him before a District Judge, and that he would move for putting it on the Journals.

Charles Whitney was then called in; the information of Mr. Buck was then read to him. He denied having made any corrupt overtures. He was ordered to withdraw.

Mr. Millledge observed that the proposals to Mr. Buck took place before the session began. It is admitted that the utmost which can be done to the prisoners is confinement till the rising of the session; if our power does not go beyond the end, it seems not to extend previous to the beginning of the session.

Mr. W. Smith thought this a new question. He was for referring to a select committee.

One or two resolutions were made and withdrawn: at last, on a motion made by Mr. Madison, the subject was referred to the Committee on Privileges, to consider and report to the House the proper mode of conducting the further inquiry. Adjourned.

Thursday, December 31.

Richard Winn, from South Carolina, appeared, was qualified, and took his seat.

TARIFF OF DUTIES.

Mr. Harper called up his resolution, laid on the table some days ago, that the proper officers of the Treasury Department should be ordered to make out a tariff of duties, and goods imported, and the respective amount of the duty on each article, in the years 1793 and 1794, with a statement of the expenses of collection. Mr. H. thought it of consequence for the House to know precisely the effect of their operations in imposing duties. On some articles it might be found expedient to reduce, and on others to augment the burden.

Mr. Gallatin proposed that the resolution should be printed, as it was of considerable length, in order that the members might know exactly its meaning.

Mr. Venable did not entirely comprehend the object of the resolution. He imagined that a tariff of duties might be obtained from the laws without having recourse to the officers of the Treasury.

Mr. Harper thought it was not unusual for a Legislative Assembly to cause the officers of the Treasury, or other characters of that kind, to select and combine materials for their own information.

The resolution was referred to a Committee of the Whole House, and made the order of the day for Monday next.

CASE OF RANDALL.

A letter was read from Robert Randall, addressed to the Speaker. He represented that at present counsel were not to be had, because the Supreme Court sits till Saturday evening, and, till it rises, all the gentlemen of the bar are pre-engaged. Sensible of the obligations which he had incurred already to the indulgence of the House, it was painful for him to solicit any further delay. The circumstances of the case made this step necessary. But if the House were to grant him a further indulgence, he should be prepared with his defence by the earliest part of next week; and, at any rate, he should on no account whatever ask longer time.

Mr. Swanwick was for granting Randall a delay till Tuesday. To-morrow was the first day of the new year, and it was likely, when the House adjourned, that they might adjourn till Monday. On some explanation he withdrew his motion, and Randall's letter was ordered to lie on the table.

FORTIFICATIONS, MILITARY STORES, &c.

Mr. Malbone laid on the table a resolution for appointing a committee to take into consideration the state of the harbors and fortifications of the United States, and of the military stores, and what measures had been taken for procuring proper sites for arsenals. The resolution was taken up and agreed to, and a committee of three members was appointed to inquire and report.

NAVAL ARMAMENT.

Mr. S. Lyman observed, that two years had elapsed since, upon an estimate then brought forward, a Naval Armament was ordered. As progress had been made in the business, he wished that the House should learn how far experience had proved the estimates just. It was also interesting to know what sums had been expended in this business. Towards obtaining this information, he laid on the table a resolution to the following effect:

"*Resolved*, That the President of the United States be requested to cause the proper officers to lay before the House a statement of expenses already incurred for the Naval Armament."

PENAL CODE.

Mr. Livingston, from the committee appointed to inquire whether any, and what, alterations may be necessary in the penal laws of the United States, laid on the table a motion from that committee. This was, that the President should be requested to obtain for their information a list of all the convicts who have been tried under the present laws, with a note of the date of their trial, the place where the offence was committed, and an account of the punishment inflicted. The committee were not able to proceed without information of this sort to make a basis for their report. It was moved to amend the motion by adding, after the words "criminal offences," "after conviction," as it might be an endless business to inquire about offences, where no trial or punishment had ensued. This amendment was agreed to.

Mr. Venable did not know of any immediate connexion between the President and the Federal Courts. Many convictions might happen in places where records would not easily be come at. He did not wish to cast obstructions in the way of the business, but had mentioned this as a difficulty which struck him.

Mr. Hillhouse did not see the use of the motion. There must be some uniform system of punishment in every part of the United States. If more crimes were committed in one State than another, still the punishment would be the same.

Mr. Livingston defended his resolution; which was carried.

Mr. Sedgwick then moved that a committee should, as usual in such cases, be appointed to wait on the President with the resolution. A committee of two members was accordingly appointed.

CASE OF RANDALL AND WHITNEY.

Mr. Baldwin, the Chairman of the Committee of Privileges, reported, in part, on the subject of the further proceedings to be had in the case of R. Randall and C. Whitney, in substance as follows:

1. That a further hearing of R. Randall should be held at the bar; that the information given by members against the said Randall be reduced to writing, signed by the informants respectively, and entered at large on the Journals; that the said information should be read to the prisoner, and he be asked by the Speaker what he had to say in his defence. If the prisoner should desire to produce any parole evidence to exculpate himself, the same shall be heard at the bar, and the Judge of the District of Pennsylvania be requested to attend to administer an oath or affirmation to the witnesses on the part of the prisoner; that the Speaker shall put all questions to the witnesses. When any debate should arise, that the prisoner and his counsel be directed to withdraw; and, when he has concluded his defence and withdrawn, that the sense of the House be taken on the guilt or innocence of the prisoners, respectively.

Mr. Lyman wished to know upon what principle the committee had introduced the Judge into their report. He could see none. He feared that they would encroach on the privileges of the House. Mr. L. moved to strike out that clause. The motion was negatived.

Mr. Thatcher then moved to amend the clause thus: "Witnesses on behalf of this House and of the prisoner." After some debate, the motion was withdrawn.

A motion was then made to insert the words "sworn to," after the word "writings;" referring to the information already given by members to the House.

Mr. W. Smith objected to this amendment. He stated a distinction between this examination and a common law suit. He had never heard of any member of a Legislative Assembly being called on to make oath to his information. He would, for his own part, cheerfully acquiesce in the resolution adopted by the House. A member might be liable to be cross-questioned by the counsel for the prisoner or by himself. We are not here to proceed by law, but by privilege. Suppose a member were to be insulted by a stranger in the lobby, would he, on making his complaint, be obliged to swear to it? Surely not. What is to become of the privileges of the House if we go on as a Court of Law? It would be giving them up. Mr. S., as to himself, was ready to make oath over again to his deposition before the Judge of the District.

Mr. Madison was of opinion that no citizen can be punished without the solemnity of an oath, to the fact. Of consequence, it is needful to the information of members, if the punishment of a fellow citizen is implicated. Perhaps it may be urged that members, having taken an oath to support the Constitution, this supersedes the necessity of an oath in the present case.

Mr. Murray had his deposition in his hand. He believed that all the gentlemen who had given information on this affair would make oath to it. He imagined that the gentleman from Virginia [Mr. Giles] had done so already.

Mr. Gallatin thought it reasonable that members should be liable to be questioned upon oath. That there was no precedent for it, had little weight. There are many absurdities in the Law of Nations which gentlemen would not wish to introduce here.

Mr. Swift was against the members being subject to this regulation. The case was quite novel to him. But this was, at first view, his way of thinking. Suppose that some person in the gallery were to commit an insult on the House, before the whole members, would it be necessary that they should all swear to the offence before proceeding to punish it? This Mr. S. regarded as a parallel case.

Mr. Thatcher made a distinction when an offence had been committed in presence of the whole House, and when committed out of their view. In the former case, there could not be any use for evidence being sworn, because the whole House had the testimony of their senses. It was

different when the circumstances occurred in another place; and Mr. T. was convinced that the charge ought to be sworn to. The passage under amendment was in these words: "That it should be reduced to writing;" and the dispute was about adding the words, "and sworn to." Mr. T., though for examining the members on oath as to the charge against Randall, was opposed to the amendment as useless, because the members must, in his opinion, be sworn when Randall is brought to the bar. The mere declaration of a prosecutor, not under oath, and of a defendant in the same situation, are equally exceptionable. A phrase had been repeatedly used which Mr. T. did not understand. It was said that a member was entitled "to stand up in his place" and give information so and so. With the meaning of this expression Mr. T. was unacquainted, nor did he know any law which authorized the imprisonment of a fellow-citizen on a mere charge unsupported by oath. He did not see the use of the amendment, but he was clearly satisfied that members ought to be examined and sworn touching their accusations, as well as any other persons.

Mr. Nicholas was not, in this instance, for departing from the principles of Common Law. Instead of supporting the dignity of the House, about which so much has been spoken, he was afraid that, by arrogating too much on the side of privilege, they might lessen their dignity. He declared, upon his honor, that he thought the gentlemen concerned should, for their own sakes, insist on being cross-examined by the prisoner and his counsel. To be cross-examined implies no reflection on a witness. The imperfection of human nature requires such a precaution, and were Mr. N. a party, he would insist on being cross-examined. The proposed amendment would narrow the business too much. It would be better to lay it aside, and let the members be, as above proposed, subject to cross-examination from the prisoner.

Mr. Madison said, that when Randall came to the bar he would possibly save all this trouble, by confessing his guilt, and casting himself on the mercy of the House. He mentioned an anecdote of a Judge who had been publicly insulted. He informed his brethren of the Bench, and, on his complaint, the offender was apprehended. When he was brought before the Court the oath was administered to the Judge. Mr. M. related this story to show the propriety of every accusation being sworn to, whatever may be the rank or situation of the accuser.

The motion for amendment was withdrawn.

Mr. Sedgwick hoped that the members would be sworn and cross-examined. He was decidedly of opinion that this ought to be the case.

Mr. Murray said, that if the House were not defensible on the doctrine of privilege, where would an authority be found for what they had already done? We all know, and we all knew at the time of committing Randall, that it was done without any support from law. By carrying this reasoning to its utmost length, the Speaker might be liable in an action of damages; and Mr. M. would rejoice in the ingenuity of any lawyer who should discover that all the House were in the same predicament.

It was then moved to adjourn. The motion was negatived. Another amendment was proposed, and, after a few words, withdrawn. A member next proposed that when this House adjourn, it shall be till Monday next. Negatived. The House then, without coming to any decision, adjourned till to-morrow.

Friday, January 1, 1796.

A letter from Mr. Charles Petit to the Speaker, was read by the Clerk. Mr. Petit stated that he was the surviving partner of the late Major General Greene and Mr. John Coxe, in the office of Quartermaster General. There was enclosed a long memorial to the House, to which he requested particular attention. The memorial was read, and ordered to lie on the table.

CASE OF RANDALL AND WHITNEY.

The House proceeded in the consideration of the report of the Committee of Privileges. The report was read.

Mr. Baldwin remarked, that the discussions of yesterday had served to convince him more and more that the plan proposed by the Committee of Privileges, in their first report, was the most eligible that could be adopted; and, he added, that the further the House proceeded in the business, as they did yesterday, the more they would be convinced of the necessity of referring the ulterior proceedings to a select committee. After the House have had the parties before them, interrogatories have been proposed and answered, the prisoners do not plead guilty, and yet there appears to be cause of retaining them in custody. He was convinced that the select committee was alone competent to taking and arranging the evidence for the decision of the House. Mr. B. concluded his remarks by moving that the further consideration of the report of the Committee of Privileges should be postponed till Thursday next. If that was agreed to, he should then move for a select committee.

Mr. Hillhouse stated a variety of objections to a reference to a select committee. He supposed it highly improper for the witnesses to be sworn by a select committee, and that committee to send for the members and have them sworn and examined in that private way. However troublesome and difficult, the House must meet all the questions and decide them on this floor. He insisted that the practice of the House did not justify a reference to a select committee of a business of this magnitude. Adverting to the debate of yesterday, relative to the members being under oath, he said that he was opposed to the measure. The great and important interests of the citizens of the United States are committed to the wisdom of the members of this House, and they are under a solemn oath for the faithful discharge of their duty; and, therefore, the declaration of the members, as such, is entitled to full and entire credit.

Mr. W. Smith said, that the objections of the gentleman from Connecticut are contrary to the daily practice of the House. The investigation of facts is constantly performed by select committees, and he saw no force in the remarks of the gentleman relative to a private investigation. The prisoners will be attended by their counsel, and, as to the members of the House, the committee can take no measures which are not sanctioned by the House. Mr. S. cited several incidents in the precedents of the House, to show that equally important cases had been referred to select committees. The report is not to be final, it is to be submitted to the House for a final decision. Mr. S. remarked that he supposed a select committee would be appointed which would not include any of the members who had given information to the House on the subject.

Mr. Isaac Smith next rose, and spoke as follows: I will take up the subject where we left it yesterday. Debates have run into length and perplexity on this occasion, which, I presume, has been owing to our ideas running too much in the legal line. We seem to consider ourselves as bound by the rules and usages of Common Law Courts. If we are, I am free to say that we have begun wrong, we have progressed wrong, and we will end wrong. The rules and usages of Law Courts arise from, and are founded upon, pre-existing laws. Here there is no preceding law, and, therefore, whatever we have done, or shall do, is a mere nullity. Shall we then give up this business as impracticable? No. We will assert the privilege of this House. And what is this privilege? Perhaps it never has been defined, nor its extent and limits ascertained; perhaps it never ought. The Parliament of Great Britain has studiously avoided the discussion. But I will presume to assert that it is a necessary and competent power lodged in this House, *ex necessitate rei*, by which we are enabled to defend ourselves against insult from within and contamination from without; and this power is to be exercised at the discretion of the House, and is bound by no rules but what arise from common sense and common justice. Shackle it by standing regulations and it is no longer discretion, it is law. Every case that occurs must stand on its own bottom, and be determined according to attendant circumstances.

My opinion, therefore, and I do assure you, sir, I speak with great diffidence, but my duty compels it—is this: that Randall be brought to the bar of this House; that it be demanded of him whether he is guilty of the facts he has already been charged with? He no doubt will say, No, I am not guilty. In reply, I would say to him, sir, I do not believe one word you say, for several honorable members have solemnly declared that you are guilty; and what you have now to do, and all you have to do, is to convince the House, if you can, that, although your conduct was crime, still you are not criminal, because your motives were not corrupt, and your intentions were pure, and you offended merely from ignorance. Then you may, perhaps, meet with a gentle reprimand for your indiscretion. But, if you fail in this, we will put it out of your power, during the session, to insult the members with your rascally proposals. A dozen lawyers may attend him, pocket his money, and walk away at their leisure. I have no objection, if they do but keep silence whilst they are here.

Mr. Sherburne said, that, if the gallery had been cleared before the affair of Randall and Whitney was first brought before the House, he would have been ready to consent to a private examination before a select committee; but the charge was made in the face of the world, and hence a citizen of America was entitled to an open trial. Alluding to the speech of Mr. Isaac Smith, Mr. Sherburne thought it highly injurious to presume any man guilty, because he had been accused by members of the House. What is it to Randall who are the accusers, what are their characters, or whether they are members of this House or not? We talk about the dignity of the House—the rights of our fellow-citizens are equally entitled to respect and attention. What a doctrine has been held up to-day! That a man is guilty, because he has been accused by members of this House! No, sir: every man is presumed innocent till he is proved guilty. Mr. S. concluded by wishing that the doors had been shut when the subject was first introduced.

Mr. Murray recommended that the subject should be remanded to a committee, which would save a good deal of time.

Mr. Sherburne.—When we speak of privileges of the House, it seems a word of cabalistic meaning. Will any gentleman define or point out these privileges? In what book of the laws are they written? If they are indefinite, we may come to be hereafter as irregular as a Convention, and our sentences as dreadful as those of a revolutionary tribunal. The latter, when they thought fit, refused to hear the evidence of a prisoner, under pretence that they had already conveyed to their minds a sufficient conviction of his guilt, and he was instantly hurried off to the scaffold. It seemed that this allusion referred to the idea of a gentleman from New Jersey, that because Randall had been accused by members of that House, the House were authorized to conclude him guilty. The term of *leges non scriptæ* had been used by the gentleman last up as to the privileges of the House. The phrase, Mr. S. thought, to be derived from the first Constitutional Assembly of France. They had applied it, along with the word inviolability, to Louis XVI., and soon after cut off his head. They had declared that he, like the King of England, could do no wrong. We have no such officers, thank God, in America, and Mr. S. hoped that we never should have them. The President is, by the Constitution, declared impeachable; this House, &c. are also declared to be so. Where, then, is the inviolability talked of?

Mr. Murray said, that we might represent this matter in a painful light to the public eye; but he insisted that it was essential to support the privileges of the House. The measure of apprehend-

ing Randall and Whitney had at first been assented to by all the members. The gentleman who spoke last had, among others, embarked himself in it.

A vote was then taken on the motion for postponing the further consideration of this affair till Thursday next. Only eighteen gentlemen rose in the support of it.

Mr. Hillhouse then moved to strike out the following words from the report, viz: "witnesses on behalf of the prisoner," and to insert, "all witnesses, excepting members of this House, who may give information in their places; and that all questions to any member shall be put by the Speaker, under the direction of the House."

Mr. S. Smith rose to speak a few words on the question of swearing members; because, when the examination should commence, it would be necessary for him to come forward. He also had the honor of a visit from Mr. Randall. Before Mr. Smith went last to Baltimore, the man had called upon him at his lodgings. He requested and obtained a private conference, wherein he represented the great advantage that would accrue to the United States by removing the Indians to the other side of the Lakes; that this could be done by the influence of certain merchants in Canada. And then he proceeded to the detail of the plan, in much the same terms as have already been mentioned in the accounts of Mr. W. Smith, Mr. Murray, and Mr. Giles. When Mr. S. Smith came back into the room, he said to a gentleman now sitting by him, and who lodged with him, [Mr. Brent, from Virginia,] that he suspected there was another Georgia business going forward; and that "I might, perhaps," said Mr. Smith, smiling, "make my fortune in the Northwestern Territory." The man spoke with so much decisiveness, that Mr. Smith was forced to give him some degree of credit when he said that he had secured a majority. He was afraid of coming into a delicate situation, if he should mention the proposal in the House, if there was really any sort of foundation for the report. He could not have had an idea of any man coming forward and flatly telling such a story, without some reason to think himself telling truth. Mr. Smith now understood how these people, while attempting to deceive others, had in reality deceived themselves. Mr. S. Smith had listened with patience to the man in the view of getting the whole out of him. Other gentlemen did the same, and this Randall construed into approbation. Randall clearly conveyed to me the idea that such members of Congress who actively supported their memorial might have a large share in those lands, and those who only gave their consent, a smaller. These were the words of Randall, who likewise mentioned the number of Senators who were, as he termed them, snug. Just after this application, Mr. Smith was obliged to return to Baltimore on business, and had, on his way, been puzzled in his own mind what to think of this intelligence, or what to make of it. [Mr. S. Smith had not been in the House since the Randall affair was laid open, which explains the lateness of his rising to speak.] As to the point before the House, Mr. Smith was for the members (of whom he would be one) being examined upon oath.

Mr. Nicholas was in favor of the oath being administered to members. It had been alleged that the oath taken to the Constitution took away the necessity for another on giving evidence against Randall and Whitney. If that oath serves here, it may also regulate our conduct everywhere else, and we may refuse to swear before an ordinary Court of Justice. The oath to the Constitution was not sufficiently connected with the present case. It either does not apply to the question before the House, or it likewise applies to all other judicial cases. He hoped that the House would never arrogate to themselves such a privilege as that now contended for. Any improper assumption would make the House incur suspicion, and, he would add, contempt.

Mr. Sherburne, in reply to something which had fallen from a preceding member, rose again to take away any possibility of suspicion that his arguments glanced at members personally—an idea the most remote from his mind. If he had a trial depending where all he had to lose in the world was at stake, so perfect and unlimited was his confidence in the members who gave information about Randall, that he would take their verbal declarations on any point with as much readiness as if they had been on oath. It was the principle which he looked to. Randall himself had a right to be satisfied of his having a fair trial. The House, like Cæsar's wife, ought to be above suspicion. As to the argument that the oath taken by members at their admission to a seat in the House prevented the necessity of swearing in the present case, this doctrine reminded Mr. Sherburne of something which he had once seen. A clergyman of New England was, in the course of a trial, called on to give evidence. When the Clerk was going to administer the oath, he turned round to the Judges, and inquired whether his ordination oath, taken many years before, would not save him a repetition of that ceremony now.

Mr. Brent, in a few words, related the application of Randall to Mr. S. Smith, as already stated, with Mr. S. Smith's remark that this seemed to be a second Georgia business.

Mr. Giles had hitherto been silent; but the turn which the question was taking, induced him to rise and submit his opinion to the House. He saw only two reasons for proceeding on the doctrine of privilege. First, where it rose from the necessity of the case. In the present instance, he saw no necessity for any exemption of members from giving evidence with the usual solemnities. The second reason for insisting on privilege might be the dignity of the House. In a country like this, where parade is laid aside, dignity consists in doing right—in adhering to the principles of substantial justice. The House would not consult their dignity if they should attempt to separate themselves from the mass of the people. For his own part, Mr. G. should not feel right, if he was to give information without the usual solemnities. He would, therefore, vote that the amendment, so far as it related to exempting members from giving oath, should be struck out.

Two other amendments were successively proposed to the amendments of Mr. Hillhouse. It was difficult to hear them distinctly; and the less material, because all the reasonings of gentlemen turned on this single point, whether it was consistent with the privileges of the House to let its members be examined upon oath.

Mr. W. Smith stated the inconsistent situations in which this plan, if adopted, would involve gentlemen. A member is giving evidence, upon oath, at the bar: a question is proposed to be put to him, and the member leaves his place as an evidence, and assumes that of a judge, to give his vote in deciding whether such a question shall be put to himself. Where was the propriety of shifting characters in this Proteus-like manner? Mr. S. knew no instance where the members of a Legislative body were ever sworn by that body, on giving evidence about a question of privilege. It happened only where there was a trial before the House. The moment you decide that members are to be sworn, they are virtually suspended; for, on any question which they were to answer as witnesses, they would not have a title to determine as judges. The moment that you resolve this thing to be determined by the rules of judicial evidence, you alter the whole nature of the transaction: your former proceedings are admitted to have been wrong, and Randall may bring an action against the Speaker for damages and wrong imprisonment.

Mr. Brent observed, that when the writ for apprehending Randall and Whitney was issued, he had his doubts that the House were proceeding too far; he was suspicious that they exceeded the limits of their authority. In the present stage of the business, he was less indeterminate in his opinion on the present question, relative to the members being on their oath as witnesses. He thought it noways derogatory to them as members, nor would it be so to the President of the United States; it could not lessen the dignity of any character whatever. Mr. B. was in favor of the House proceeding so as to give the accused all the advantages they could derive from counsel in a Court of Law. He saw no reason for a departure from the common rules of taking evidence. It is said not to be usual for Legislative bodies to proceed as a Court of Judicature, and that members of Legislative bodies are not put on oath in their Legislative capacities. This idea is derived from the practice of the Parliament of Great Britain. Is that a sufficient precedent for us? He hoped not. Our great object is this: that the House be secured from disrespect and insult. This idea forms the basis on which its privileges as a Legislative body are supported. It is from the nature of the case, and not from British precedents, that the privileges of this House is derived. Adverting to the members being sworn, he conceived that there was no more impropriety in it, on the ground of their being judges, than there is in the Judge of a Court, who, when called on to give evidence, descends from the Bench—is sworn—gives his testimony with the customary solemnities—resumes his seat—and ultimately gives judgment.

Mr. Harper was in favor of the members being sworn to the truth of the declarations, when called on to give evidence. He knew of nothing in the present case that rendered it necessary they should be exempted. Evidence on oath is the basis of law proceedings in this country. It had been affirmed by Mr. Smith, (his colleague,) that if a Judge were insulted in his office, the Court would proceed immediately to punish the offender. Mr. H. said he apprehended not: the Judge must make oath to his complaint. It has been said that the members cannot with propriety be interrogated or cross-questioned. The inference from this is, that because we are judges in our own cause, we will preclude the accused from the usual modes of vindicating themselves. Mr. H., in adverting to the members being sworn, disclaimed all personal considerations. The gentlemen who would probably be affected by the regulation possessed characters far above suspicion. Mr. H. considered the discussion as forming an uninteresting precedent.

A motion was now made to adjourn—ayes 34, noes 50.

The amendment before the House, at this particular place of the debate, was, in substance, as follows: Instead of saying, in the report, that "the Judge of the District of Pennsylvania should be requested to attend to administer the oath to witnesses on behalf of the prisoner," the amendment proposed to strike out the last six words, and insert, "to all witnesses."

Mr. W. Smith rose after Mr. Harper, and remarked, that if the doctrine laid down by that gentleman was right, it was a judicial proceeding altogether, and the House had been in the wrong from the beginning to the end of the matter. He would oppose the present motion, in every possible shape and stage of it; for if we must go on by judicial rules, we must have a Grand Jury, &c., and (though by what authority Mr. S. could not tell) must convert ourselves into a Court of Law. If the motion succeeded, he gave notice of his design to move that Robert Randall and Charles Whitney should be dismissed from the bar of the House, and that the President of the United States should be requested to prosecute them for their offence in one of the Federal Courts.

Fifty-four gentlemen rose in support of the amendment, which was carried. The House then agreed to the report of the Committee of Privileges; which report, as amended, is in the following words:

"That the proper mode of conducting the further inquiry and the trial in the case of Robert Randall and Charles Whitney will be to proceed, first, with a further hearing of Robert Randall at the bar of the House.

"That the information that has been given against the said Robert Randall and Charles Whitney be reduced to writing, and signed by the informants themselves, respectively, and entered at large on the Journal; that the said information be read to the prisoners, and that they be called upon by the Speaker to declare what they have to say in their defence.

"That, if the said prisoners shall offer any parole evi-

dence in their exculpation, the same shall be heard at the bar of the House, excepting the members of the House, who may give their testimony on oath, in their places; and no question shall be put to any member on the part of the prisoner, by way of cross-examination, unless leave be first given by the House; and every such question shall be put by the Speaker; and that the Judge of the District of Pennsylvania be requested to attend, for the purpose of administering an oath or affirmation to all witnesses. That all questions on the part of the House, to be asked of the said witnesses, shall be put by the Speaker.

"That, on every debate, the prisoners and their counsel shall be directed to withdraw; and that, when they shall have concluded their defence, and are withdrawn, the sense of the House shall be taken on the guilt or innocence of the prisoners, respectively."

Monday, January 4.

THE BRITISH TREATY.

Mr. Parker presented five petitions against the late Treaty with Britain, from certain citizens of Virginia. He said that they were copies of some other petitions on that head already presented to the House, which made it perhaps unnecessary to read them. Mr. Tracy asked whence the petitions came? Mr. Parker answered, from Norfolk county. Mr. Thatcher inquired if they were from corporate bodies. Mr. Parker replied that they were from individuals. The petitions were referred to the Committee of the Whole House on the state of the Union.

COMMERCIAL RESTRICTIONS.

Mr. S. Smith laid on the table a resolution, which was ordered to be printed. It was in substance as follows:

"*Resolved*, That, from and after the —— day of ——, it shall not be lawful for any foreign ship or other vessel to land in the United States any goods, wares, or merchandise, except such as are of the produce, growth, or manufacture, of the nation to which such ship or other vessel may belong."

Mr. S. observed, that at the session before last, one of the resolutions offered by a member from Virginia was in substance analogous to the present resolution, and that resolution, there was reason to believe, would have passed. The Treaty lately negotiated made some provision, of the kind contemplated, more essentially necessary than ever. Such a protecting encouragement to the American navigation was the more proper, as, when the said Treaty should be in force, it must receive a severe shock.

PRESENTATION OF THE FLAG OF FRANCE.

The Speaker informed the House, that a Message was ready to be delivered to the House, of a nature calculated to give the most pleasing satisfaction to every American breast. He suggested to the House, and the citizens in the galleries, the propriety of not suffering the fervor of enthusiasm to infringe on the dignity of the Representative Councils of the United States. He recommended that a respectful silence should be observed, as most compatible with the true dignity of the House, and the honor of the magnanimous Republic that was the subject of the Message.

The President's Secretary was then introduced, with an American officer bearing the Standard of the French Republic,* sent by the Committee of Public Safety, Organ of the National Convention, as a token of friendship to the United States. The Secretary presented a Message in writing from the President, with sundry papers accompanying it to the Speaker, by whom they were read as follows:

Gentlemen of the Senate, and
of the House of Representatives:

A Letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress; and also informed me that he was instructed by the Committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors, with an Address, to which I returned an answer. By the latter, the House will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated.

G. WASHINGTON.

United States, *January* 4, 1796.

[translation.]

The Representatives of the French People, composing the Committee of Public Safety of the National Convention, charged by the law of the 7th Fructidor, with the Direction of Foreign Relations, to the Representatives of the United States of America in Congress assembled:

Citizens Representatives: The connexions which nature, reciprocal events, and a happy concurrence of circumstances, have formed between two free nations, cannot but be indissoluble. You have strengthened those sacred ties by the declarations, which the Minister Plenipotentiary of the United States has made, in your name, to the National Convention, and to the French people. They have been received with rapture by a nation who know how to appreciate every testimony which the United States have given to them of their affection. The Colors of both nations, united in the center of the National Convention, will be an everlasting evidence of the part which the United States have taken in the success of the French Republic.

*Description of the Flag.—It is tri-color, made of the richest silk and highly ornamented with allegorical paintings. In the middle, a Cock is represented, the emblem of France, standing on a thunderbolt. At two corners, diagonally opposite, are represented two bombshells bursting; at the other two corners, other military emblems. Round the whole is a rich border of oak leaves, alternately yellow and green; the first shaded with brown and heightened with gold; the latter shaded with black and relieved with silver; in this border are entwined warlike musical instruments. The edge is ornamented with a rich gold fringe. The staff is covered with black velvet, crowned with a golden pike, and enriched with the tricolor cravatte and a pair of tassels worked in gold, and the three national colors. The flag is to be deposited in the archives of the United States.

You were the first defenders of the rights of man in another hemisphere. Strengthened by your example, and endowed with an invincible energy, the French people have vanquished that Tyranny, which, during so many centuries of ignorance, superstition, and baseness, had enchained a generous nation.

Soon did the people of the United States perceive that every victory of ours strengthened their independence and happiness. They were deeply affected at our momentary misfortunes, occasioned by treasons purchased by English gold. They have celebrated with rapture the successes of our brave armies.

None of those sympathetic emotions have escaped the sensibility of the French nation. They have all served to cement the most intimate and solid union that has ever existed between two nations.

The citizen Adet, who will reside near your Government in quality of Minister Plenipotentiary of the French Republic, is specially instructed to tighten these bands of fraternity and mutual benevolence. We hope that he may fulfil this principal object of his mission, by a conduct worthy of the confidence of both nations, and of the reputation which his patriotism and virtues have acquired him.

An analogy of political principles; the natural relations of commerce and industry; the efforts and immense sacrifices of both nations in the defence of liberty and equality; the blood which they have spilled together; their avowed hatred for despots; the moderation of their political views; the disinterestedness of their councils; and especially, the success of the vows which they have made in presence of the Supreme Being, to be free or die; all combine to render indestructible the connexions which they have formed.

Doubt it not, citizens, we shall finally destroy the combination of tyrants. You, by the picture of prosperity, which, in your vast countries, has succeeded to a bloody struggle of eight years; we, by the enthusiasm which glows in the breast of every Frenchman. Astonished nations, too long the dupes of perfidious Kings, Nobles, and Priests, will eventually recover their rights, and the human race will owe to the American and French nations their regeneration and a lasting peace.

Paris, 30th Vindemaire, 3d year of the French Republic, one and indivisible.

The Members of the Committee of Public Safety.

J. S. B. DELMAS,
MERLIN (of Douai) &c.

October 21, 1794.

[translation.]

Mr. President: I come to acquit myself of a duty very dear to my heart; I come to deposite in your hands and in the midst of a people justly renowned for their courage and their love of liberty, the symbol of the triumphs and of the enfranchisement of my nation.

When she broke her chains; when she proclaimed the imprescriptible rights of man; when, in a terrible war, she sealed with her blood the covenant she had made with Liberty, her own happiness was not alone the object of her glorious efforts; her views extended also to all free people. She saw their interests blended with her own, and doubly rejoiced in her victories, which, in assuring to her the enjoyment of her rights, became to them new guarantees of their independence.

These sentiments, which animated the French nation from the dawn of their revolution, have acquired new strength since the foundation of the Republic. France, at that time, by the form of its Government, assimilated to, or rather identified with, free people, saw in them only friends and brethren. Long accustomed to regard the American people as her most faithful allies, she has sought to draw closer the ties already formed in the fields of America, under the auspices of victory, over the ruins of tyranny.

The National Convention, the organ of the will of the French nation, have more than once expressed their sentiments to the American people; but above all, these burst forth on that august day, when the Minister of the United States presented to the National Representation the Colors of his country. Desiring never to lose recollections as dear to Frenchmen as they must be to Americans, the Convention ordered that these Colors should be placed in the hall of their sittings. They had experienced sensations too agreeable not to cause them to be partaken of by their allies, and decreed that, to them, the National Colors should be presented.

Mr. President, I do not doubt their expectations will be fulfilled; and I am convinced that every citizen will receive, with a pleasing emotion, this flag, elsewhere the terror of the enemies of liberty, here the certain pledge of faithful friendship; especially when they recollect that it guides to combat, men who have shared their toils, and who were prepared for liberty by aiding them to acquire their own.

P. A. ADET.

The Answer of the President of the United States to the Address of the Minister Plenipotentiary of the French Republic, on his presenting the Colors of France to the United States:

Born, sir, in a land of liberty; having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country; my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banner of freedom. But, above all, the events of the French Revolution have produced the deepest solicitude, as well as the highest admiration. To call your nation brave, were to pronounce but common praise. Wonderful people! Ages to come will read with astonishment the history of your brilliant exploits! I rejoice that the period of your toils and of your immense sacrifices is approaching. I rejoice that the interesting revolutionary movements of so many years have issued in the formation of a Constitution designed to give permanency to the great object for which you have contended. I rejoice that liberty, which you have so long embraced with enthusiasm; liberty, of which you have been the invincible defenders, now finds an asylum in the bosom of a regularly organized Government; a Government, which, being formed to secure the happiness of the French people, corresponds with the ardent wishes of my heart, while it gratifies the pride of every citizen of the United States by its resemblance to their own. On these glorious events, accept, sir, my sincere congratulations.

In delivering to you these sentiments, I express not my own feelings only, but those of my fellow-citizens, in relation to the commencement, the progress, and the issue of the French Revolution: and they will cordially join with me in purest wishes to the Supreme Being, that the citizens of our sister Republic, on

magnanimous allies, may soon enjoy, in peace, that liberty which they have purchased at so great a price, and all the happiness which liberty can bestow.

I receive, sir, with lively sensibility, the symbol of the triumphs and of the enfranchisement of your nation—the Colors of France—which you have now presented to the United States. The transaction will be announced to Congress, and the Colors will be deposited with those archives of the United States, which are at once the evidence and the memorials of their freedom and independence. May these be perpetual, and may the friendship of the two Republics be commensurate with their existence.

GEORGE WASHINGTON.

United States, January 1, 1796.

When the reading of the Message and papers had been concluded—

Mr. Giles informed the House that, having been aware that the Flag would be presented to the House this day, considering it as an additional testimony of the affection of France, and it having been the practice on analogous occasions for the House to express their sentiments independent of the other branch, he had prepared a resolution expressive of what he conceived would be their sense on the occasion. It was nearly in the words following:

"*Resolved*, That the President of the United States be requested to make known to the Representatives of the French people, that this House has received, with the most lively sensibility, the communication of the Committee of Public Safety, of the 21st of October, 1794, accompanied with the Colors of the French Republic, and to assure them that the presentation of the Colors of France to the Congress of the United States is deemed a most honorable testimony of the existing sympathy and affections of the two Republics, founded upon their solid and reciprocal interests; that the House rejoices in the opportunity of congratulating the French Republic on the brilliant and glorious achievements accomplished under it during the present afflictive war, and that they hope those achievements will be attended with a perfect attainment of their object, the permanent establishment of the liberty and happiness of that great and magnanimous people."

Mr. Sedgwick wished that a thousand copies of the communications might be printed, and the further consideration of the Message deferred till to-morrow.

Mr. W. Smith also recommended a delay. In the sentiments of the resolution they all agreed. Perhaps the wording might be somewhat altered.

Mr. Harper rose and moved that, for various reasons, which he stated, the resolution should be immediately taken up and acted upon.

Mr. Swanwick was against postponing the consideration of the Message, and observed that the Convention, on receiving a similar present from this country, had proceeded instantly to a vote respecting it.

Mr. W. Smith, recommended to alter the wording of the resolution, by inserting the Executive of France, instead of the Representatives of the French people, to whom the message in reply was o be directed.

Mr. Sherburne observed, that the difference of opinion respecting the branch of Government to which the answer of the House should be addressed, furnished an additional reason for postponement. He highly respected the author of the motion, and believed his own feelings on the present occasion as fervent as those of any member. And though the feelings of the House might not be as ardent on the morrow as at this moment, yet he presumed that the sentiment would be the same. He conceived that it would be more satisfactory to the Republic, and more consistent with the dignity of the House, that their answer should be the result of cool deliberation, than a sudden impulse of enthusiasm, which the present occasion was calculated to inspire. He would therefore move that the further consideration of the resolution on the table be postponed until to-morrow.

Mr. Swanwick thought a postponement in this case, as in any others, would only be a waste of time. The motion was negatived.

Mr. W. Smith's amendment was then taken up, and, after some conversation, was also negatived.

Mr. Parker moved an amendment as follows: "That this House has received with the most *sincere and* lively sensibility," &c. The amendment was for inserting the two words in italics, to which the House consented. The message was then voted unanimously, and a thousand copies of the communications and resolution were ordered to be printed. A committee of two members was appointed to wait on the President, and inform him of the resolution agreed to by the House.

CASE OF RANDALL AND WHITNEY.

Pursuant to the proceedings of the House on Friday last, Mr. Smith, of South Carolina, Mr. Murray, of Maryland, Mr. Giles, of Virginia, and Mr. Buck, of Vermont, delivered in at the Clerk's table their several informations in writing, subscribed with their names, respectively, in the cases of Robert Randall and Charles Whitney; which are as follow:

William Smith, one of the Representatives of the State of South Carolina in the Congress of the United States, declares—

That, on Tuesday last, the twenty-second instant, a person who called himself—— Randall, and who is said to be from the State of Maryland, applied to him at his lodgings, in the city of Philadelphia, and requested a private and confidential conversation of an hour, which the informant agreed to; and at the time appointed, which was the same evening, the said Randall being alone with the informant, communicated to him a proposal for procuring from the Legislature of the United States a grant of about eighteen or twenty millions of acres in the Northwestern Territory, between Lakes Michigan, Huron, and Erie. That the said Randall observed, that the grant he proposed would be of great service to the United States; from the persons who would be interested therein, (to wit: certain Canada merchants at or near Detroit, whose names he did not mention,) having great influence over the Indians, who were not pacified by the late Treaty concluded with General Wayne; and that the said persons would extinguish the Indian claims at their own expense; and after setting forth the saving of expense, by the cessation of the Indian war, and other reasons to induce a belief that the proposed grant would be of public utility, he proceeded to inform the informant, that the intention was to divide the land into about forty shares, twenty-four of which would be allowed to, or distributed among, such persons (meaning, as this informant understood him, from the whole purport of his conversation, members of Congress) as would favor the measure: that of these twenty-four shares, he had the management or distribution of twelve for the Southern part, (meaning, as the informant understood, the Southern members of Congress,) and another person, whose name he did not mention, had the disposition of the other twelve, for the Eastern part, (still, as the informant understood and believes, meaning as aforesaid.) That he, the said Randall, proposed subdividing the said shares into so many portions, as to have a sufficiency to obtain a majority, (meaning, as the informant understood him, a majority of Congress,) and that gentlemen, after the session was over, or when they returned to private life, might then have such parts of shares, as the said twenty-four shares would be reserved for such of them as would favor the business, on the same terms as the original associates. That the view of him, the said Randall, and of those concerned with him, was to present a memorial on the following Monday, to Congress, to obtain the said grant for a small price, mentioning half a million of dollars; and that he supposed the land was worth more than two shillings an acre. On taking leave, he pressed the informant for an early and decisive answer to the foregoing proposals; to which the informant replied, that he would not wish to see him again before Friday morning, and requested him to call on him at Congress, and not at his lodgings; but the House did not sit on Friday, and the informant has not seen him since. The informant further says, that the foregoing is the substance and purport of the communication to him made by the said Randall, on the subject above set forth; and that the impression clearly made on the mind of the informant, by the overtures, was, that, under a pretext of public utility, the object of the application was, to secure the informant's influence, as a member of Congress, by a temptation of great personal advantage. That the informant, the next morning, communicated the substance of the foregoing to Mr. Murray, one of the members from Maryland, and consulted him on the most proper mode of proceeding on so delicate an occasion; that Mr. Murray advised a consultation with Mr. Henry, of the Senate; and that, in consequence of such consultation with Mr. Murray and Mr. Henry, on the following day (Thursday) it was resolved, that the informant should immediately communicate the whole transaction to the President of the United States; which he accordingly did.

WILLIAM SMITH.

December 28, 1795.

Mr. Murray declares, that, on Wednesday last, the twenty-third instant, Mr. Smith, member of Congress, of South Carolina, informed him that a man of the name of Randall, of Maryland, had, the evening before, attempted to bribe him in Western lands, on condition of his supporting an application which Randall told him he should soon make to Congress; the object of which application was, a grant from Congress of from eighteen to twenty millions of acres of land, between Erie, Huron, and Michigan. That Mr. Smith was extremely solicitous that some other gentleman should immediately be informed of the infamous proposal, and that he said he would mention it to Mr. Henry, of the Senate, and advise with him upon proper measures for the detecting of the full extent of the scheme, and crushing it: That he had no opportunity of talking to Mr. Henry on that day; but early on the morning of the twenty-fourth instant, communicated the intelligence to Mr. Henry, who recommended that Mr. Smith should immediately inform the President: that on the said day, Mr. Randall, of Maryland, was introduced to him, the informant, and requested a confidential interview at his, the informant's lodgings, which the informant readily promised him, to be at five, for the purpose of developing his scheme. That Randall came at or near five, that day last named, to wit: on Thursday, and communicated to Mr. Henry and himself, in general terms, the outline of a plan by which he, Randall, and his Canada friends, would extinguish the Indian title to all the lands between lakes Erie, Huron, and Michigan, as marked on a map which Randall then showed, containing from eighteen to twenty millions of acres. That he, the informant, then asked Randall into his apartment, where they were alone. That Randall expatiated at first upon the public utility of his scheme, which was, that Congress should grant to him and his company, all the land aforesaid mentioned, for five hundred thousand, or, at most one million of dollars; and that he would undertake, in four months, that the harmony of the Indians should be secured to the Union: or, if Congress thought proper, that the Indian tribes now on said land should be removed to the British side, or down lake Michigan, reserving to some aged chiefs a few miles square; that his company and himself had determined to divide the lands aforesaid into forty (or forty-one) shares. That of these shares twenty-four were to be reserved for the disposal of himself and his partner, now in town, for such members of Congress as assisted them, by their abilities and votes, in obtaining the grant aforesaid: That of these twenty-four shares, his partner had twelve under his management for the Eastern members of Congress, and that he, Randall, had the other twelve shares under his management for the Southern members of Congress. That these shares were to be so divided as to accomplish the object by securing a majority of Congress. That the informant started an objection to land speculation as troublesome, and that he, Randall, said, if you (meaning the informant) do not choose to accept your share of the land, you shall have cash in hand for your share. That the informant appointed Randall to meet him in the lobby of the House on Monday, the twenty-eighth instant. That Randall told him a memorial was to be handed in upon this subject on said Monday; but refused to inform the informant what member was to present it: That Randall told him, that he, Randall, mentioned his plan to some members in the *general way* only—meaning thereby, as he understood him, a view of the sounder part of the plan, as being conducive to public utility. That, in the early part of the confidential and secret conversation, Randall said, that the members of Congress who would behave handsomely, should come into their shares on the same terms upon which the company obtained the grant; but soon after, made proposals more openly seductive and corrupt; closing them with the offer of cash in hand as aforesaid. That the informant, on that evening, when Randall went away, told Mr. Henry of the whole of Randall's offers aforesaid; then called on the Secretary of State, and communicated the same to him; and the next morning, early, informed the President of the transaction.

W. V. MURRAY.

December 29, 1795.

William B. Giles, a member of the House of Representatives in the Congress of the United States, declares—

That in the evening of Thursday, the seventeenth of December, one thousand seven hundred and ninety-five, as well as this informant recollects, a person called upon this informant at his lodgings, under the name of Robert Randall, with an introductory note from Mr. Gabriel Christie, in the usual form, dated the fifteenth of the said month.

That the said Robert Randall informed this informant, that he had some business of importance to communicate to this informant, which would probably come before Congress: That it respected the fur trade at present carried on by the British traders with the Indians, through the lakes. He observed that it would be important to change the course of that trade into some channel through the United States: That he believed he could put Congress upon some plan for effecting that object: That the plan was of a secret nature: That he was not then prepared to disclose it, and requested a private interview with this informant for that purpose, at some other time. Upon which request, this informant appointed the next Saturday, at twelve o'clock, (being the nineteenth of December,) to receive the communication.

That about the time appointed, the said Robert Randall called on this informant, and after some general conversation, informed this informant, that an association had been formed by himself and others, with some of the most influential traders at Detroit, for the purpose of purchasing all the lands contained in the Peninsula formed by lakes Erie, Huron, and Michigan, and the waters connecting those lakes, amounting in the whole to twenty or thirty millions of acres, if the consent of Congress could be obtained for the extinguishment of the Indian claims thereto. The said Randall then produced a map of the Peninsula and Lakes.

That this tract of country was to be divided into shares, and that a number of shares was to be left unappropriated, until the necessary law of Congress should pass, authorizing the extinguishment of the Indian claims; and might then be filled up by those who might think proper to concur in the plan, and should give their aid for procuring the passage of such law. Upon this intimation, this informant observed, that he hoped the said Randall did not intend to address the information of the unappropriated shares particularly to this informant.

To which the said Randall replied that he did not; that he only meant it as general information; but he could see no impropriety in the members of Congress being concerned in the scheme, if the public good was to be promoted by it; and that thirty or forty members were already engaged in its support; or words to that effect.

After some further conversation of a general nature, respecting the present state of the fur trade, the value of the lands contained in the peninsula, and the probable effect of the late Treaty upon that trade and country, the said Randall inquired of this informant "whether he deemed his plan advisable, and whether it would meet with the support of this informant in Congress." To which this informant replied, that if the said Randall should bring his proposals before Congress, this informant would give them the consideration which his duty required, and should give such vote as he deemed right; or words to that effect. Very shortly after this conversation, Mr. Edward Livingston, a member of Congress from New York, entered the room, and the said Randall left it, without further observation, as well as this informant recollects. This informant immediately communicated the contents of this conversation to Mr. Livingston, and declared that he considered the proffer of the unappropriated shares to the members of Congress, as a direct attempt at corruption.

This informant, on the same day, communicated the substance of the conversation to the Speaker of the House of Representatives of the United States, to Messrs. Blount, and Macon, of North Carolina, and to Messrs. Madison, and Venable, of Virginia. It was deemed advisable by all these gentlemen, as well as by this informant, to permit the plan to be brought before Congress in the usual way, by memorial, and to cause a detection, by means of a committee, to whom the said memorial should be referred: and in the mean time, if the said Randall should again call on this informant, he should proceed to make further discovery of the real state and nature of the transaction.

That on the next day the said Randall did again call on this informant, and informed him, that he, the said Randall, then proposed to disclose his plan more particularly; and after some general remarks upon the public utility, as well as individual benefit of the plan, he said that it was in substance as follows;

The tract of country before described was to be divided into forty-one shares, five of which were to be reserved to the Indian traders at Detroit; the other thirty-six were to be divided into two departments; eighteen to the Eastern and eighteen to the Southern department. That six out of the eighteen shares were to be reserved to his Eastern partner and associates, and six out of the remaining eighteen, to himself and his associates. That the remaining twenty-four shares were to be left unappropriated, for the use of such members of Congress as should support the measure. That the names of those members were not to be made known until after the law for the extinguishment of the Indian claims had passed; and then requested this informant to prepare some writing which would compel the ostensible persons to surrender the unappropriated shares to the real supporters of the measure, after it should be effected. That one million of dollars were spoken of as the price of the lands; but that he deemed that sum by far too much; and as Congress would have to fix the price, they might make the terms such as to insure considerable emoluments to the purchasers. That a majority of the Senate had consented to give the plan their support, and within three of a majority of the House of Representatives. After much further conversation on the subject, which this informant thinks unnecessary to particularise, the said Randall promised to wait again on this informant, at his lodgings, on Tuesday evening, at seven o'clock, and introduce to this informant his Eastern associate.

The said Randall did not call at the appointed hour, and this informant did not see him again until Friday, the twenty-fifth of December, when the said Randall again called on this informant, and, after making an apology for not calling at the appointed hour of the preceding Tuesday, informed him at the door of his apartment, that his memorial to Congress would be ready to be presented on the next Monday; but as several gentlemen were in this informant's room at that time, the said Randall did not enter, and no further conversation was then had; since which time this informant has not seen the said Randall, until he was brought to the bar of the House of Representatives, in custody.

This informant further saith, that he communicated the substance of every material conversation with the said Randall, to the Speaker of the House of Representatives, and to the several gentlemen before mentioned.

WILLIAM B. GILES.

January 1, 1796.

I, Daniel Buck, inform and say, that about ten days previous to my setting out on my journey to Congress, (which was on the thirtieth day of November last,) a stranger whom I now know to be Charles Whitney, in custody of the Sergeant-at-Arms, called at my office in Norwich, in the State of Vermont, introduced himself by the name of Whitney, and informed me that he had some business of importance which he wished to converse with me upon. I asked if he wished to be in private; he signified that he did, upon which my clerk withdrew; and the said Whitney proceeded to inform me that the business of which he wished to converse was of great importance to the public, as well as to the individuals immediately concerned. That it would come before Congress, but was so circumstanced as to render it necessary to make a previous statement to some of the members, that they might be able to explain to others; and the whole thereby be better prepared to judge upon the business: he declared he wished for nothing improper, and that he did not want that I should favor the plan unless I saw it to be consistent: for he said he wanted nothing but what was perfectly just and honorable, and was confident that if the matter could be understood, it would appear to be of great public utility. He then stated that he and his associates had discovered a large and immensely valuable tract of land, between or contiguous to lakes Erie, Huron, and Michigan, (if I mistake not the names,) which he said might be purchased of the Indians at a low rate: That this purchase would conciliate the affections, and secure the friendship of the hostile tribes: That he, the said Whitney, together with Ebenezer Allen, Doctor Randall, and a number of Canadian merchants at Detroit, had formed an association for the purpose of extinguishing the Indian title, and petitioning Congress for the pre-emption right to those lands; that if they succeeded, it was their intention immediately to make settlement on them: That those merchants had such influence with, and control over the Indians, that there would be no difficulty with them; and that such a settlement would be a barrier against the savages, and effectually secure peace to the United States: That those merchants were then employed in the business among the Indians; and that his partner, Doctor Randall, and his other associates, had such connexions, that there was a fair prospect of success. That it was not their intention, however, to engross all this property to themselves; but that it was to be divided into a number of shares, and that he and the said Randall had the disposal of them. That he, the said Whitney, was then directly from Philadelphia, and that it was agreed that Randall should dispose of a part amongst his friends, and the influential characters in the Southern States; that he, the said Whitney, was to distribute the other part amongst his, the said Whitney's friends, and the influential characters in the Eastern and Northern States. That they had already got a number engaged, but that the subscription was not full, and that I might become an adventurer if I wished for it; and as he conceived that I could make myself acquainted with the facts, they, the said associates, would be able so clearly to demonstrate the public utility of the measure, that there could be no impropriety in my being concerned in the business, as I should thereby only connect my private interest with the public good; and while I was advancing the greatest interest of my country, might put two or three thousand dollars into my own pocket. Upon my suggesting, that, by a late Treaty, a peace was already concluded with the Indians, and that this was a business that might involve in it an important national question, as, by the Treaty, the right of purchasing lands of the Indians, was reserved to the United States, the said Whitney replied and said, that the Indians were greatly dissatisfied with the Treaty, and would not keep it; and that another war would be the certain consequence, unless other measures were adopted. He then renewed the protestation of the purity of his intentions, and said that he conceived that they (meaning himself and associates, as I understood him) should so clearly evince the utility of the plan, as that there could be no doubt of its propriety in the mind of any well-wisher to his country; and said, that he thought it would be hard to suppose that members of Congress were, in consequence of their appointment, to be deprived of those advantages to acquire property which might be taken by others. The said Whitney showed me a plan of the country, and the articles of agreement between the associates, which appear to be the same as have been read in Congress: he also said much upon the magnitude of the object, in respect to the subscribers and partners; and though I cannot now repeat his expressions, yet I can truly assert, that I then clearly understood him, that if I would subscribe as a partner, my name might be kept secret, and after the grant was obtained, if I chose to relinquish my share in the lands, I might receive money in lieu of it; though no specified sum was mentioned, other than has already been stated; and the conversation finally broke off, upon my declaring that I would make no engagement in the business, until I was better informed as to the merits of the question.

DANIEL BUCK.

January 2, 1796.

It was then moved that Robert Randall should be brought to the bar of the House. He was brought in accordingly. Seats were placed for the Judge of the District of Pennsylvania, and the two counsellors for Randall, Mr. Lewis and Mr. Tilghman, jr. The informations given in by Mr. W. Smith, Mr. Murray, and Mr. Giles, were read over, and the Speaker asked the prisoner, what he had to say in his defence? I am not guilty. You declare yourself not guilty? Yes. Have you any proof to cite that you are not guilty. No. Are you ready to answer.

Mr. Lewis then rose. He observed, that these declarations had been made in the absence of the prisoner, who, as he conceived, was entitled to have been present. His request was, that the informants might now be placed in a situation to be examined by the prisoner and his counsel, and that the information may now be given in the prisoner's hearing. The prisoner and his counsel were ordered to withdraw.

Mr. Jeremiah Smith made the following motion:

"That the prisoner be informed, that if he has any questions to propose to the informants, or other members of the House, he is at liberty to put them, [in the mode already prescribed,] and that they be sworn to

answer such questions as shall be asked, and that the informants be sworn to the declarations just read."

The words in parenthesis were an amendment suggested by Mr. Giles. The resolution and amendment were adopted by the House, and the prisoner with his counsel were again brought to the bar. The resolution above stated was read to Randall.

Mr. W. Smith, Mr. Murray, and Mr. Giles, were then sworn, standing up in their places: the oath being administered by the Judge.

Mr. Tilghman then observed, on the delicate situation in which the counsel stood, with which they were strongly impressed. The high character of the gentlemen who stood forth in support of the accusation, gentlemen whom Mr. T. had known personally for many years, with the odious nature of the crime charged on the prisoner, embarrassed them considerably; as they had, however, been permitted by the House to appear in this business, they were bound in duty to do every thing consistent with a fair and honorable defence. If Mr. T were to declare his own opinion of the conduct of the prisoner, it would be thus, that his behaviour was highly improper and indelicate; but Mr. Randall denied having made any offer either of lands or money, as in fact he had none to give. The disposal of the lands depended entirely on the subsequent vote of Congress.

Mr. Lewis spoke a few words. The prisoner's defence was, that he denied any proposal of a corrupt nature. The members who favored the sale of the lands, were only to have their shares on the same terms, and on paying an equal share of the expenses, as the other partners.

Mr. W. Smith was then examined upon that part of his information where he says, that those members who should be concerned with Randall, were to have shares of the lands. Mr. Smith was asked whether the offer was that they were to be granted at an inferior rate? In reply, he understood it was to be on the same terms as other partners were to have them. Mr. Goodhue proposed a query, whether the offer made by Mr. Randall was in order that Mr. Smith might use his influence to forward the scheme in Congress? Mr. Smith replied, that he certainly understood it so. The prisoner had all along referred to members of Congress, though he did not expressly name them. His phrase was, "for persons who would favor the scheme."

Mr. Tilghman then, through the Speaker, asked Mr. Murray, whether he understood he was to pay for his share of land as the other associates or not?

Mr. Murray.—I understood him as is explained in the declaration. At first I understood, that the members who should assist in getting the thing through, might then retire to their homes, and when the scheme was in activity they might come in on the same terms as the original associates. But afterwards, I understood from Randall that I might have a share if I would accept of it, and this I understood from the whole tenor of the latter part of his conversation. The shares set apart were to be for acceptance as donations. I so understood him.

Mr. Tilghman.—Did he expressly say, that they were intended as donations, or did Mr. Murray collect this to be the man's meaning from a variety of circumstances?

Mr. Murray.—He did not say, if you will do so and so, I will give you so and so; his proposal, though more delicate, was as unequivocal as a direct offer. I so understood him.

Mr. Harper asked Mr. Murray, whether Randall did not tell him, that if he did not like land, he should have money, and whether the money was not to be more than the value of the share of land?

Mr. Murray said, that from this part, and indeed the general tenor of the conversation, he did infer, that a donation was intended, and when he objected to land, the prisoner then said, if he did not choose to accept of a share in land, he might have cash in hand.

Mr. Lewis, counsel for the prisoner, asked Mr. Murray, whether he did not state to Randall his aversion to dealing in land, and whether Randall did not say that this need not be an objection, since the share might be sold, and then that he would have cash instead of land?

Mr. Murray. I did not so understand it.

Mr. Harper wished Mr. Murray to relate, as nearly as possible, the words of the prisoner in this important part of the conversation.

Mr. Murray said, that immediately after it took place, and he had communicated it to his friends, he took notes of it. It stood in this manner: "I stated objections to land speculations as troublesome: Randall then said, if I did not choose land, I might have cash in hand."

Mr. Tilghman asked, whether Mr. Murray, did not, to get the man's whole secret from him, go beyond his views to draw him on?

Mr. Murray said, he affected to think well of the more sound part of the plan.

Mr. Tilghman asked what Mr. Murray expressed to Randall when it was proposed to him to engage in the land scheme?

Mr. Murray. A strong repugnance to land speculations.

Mr. Lewis. Then it was, he said, that if it was not convenient for Mr. Murray to be concerned in a share in land, he might have it in money?

Mr. Murray. Yes.

Mr. S. Smith, was next sworn. There was here a motion made for adjourning.

Mr. Lewis stated that Mr. Tilghman and himself had never seen the prisoner until yesterday in the evening. They had been ino Court until late on Saturday evening. They went yesterday to prison, and back again this morning. They had received a long written state of the case from Mr. Randall, but, from absolute want of time, they had not been able to read one third part of it. The motion to adjourn was negatived.

Mr. S. Smith was then proceeding with his evidence when Mr. Sedgwick rose. He considered it as unfair to examine Mr. Smith in order to prove the information given by other gentlemen.

It was totally inapplicable. The offences were as distinct as any two things could be.

Mr. Blount moved to put this question, whether any conversation passed between Mr. S. Smith and Randall, which had an appearance of intending to corrupt the integrity of members of this House?

Mr. Sedgwick objected, that this was deviating from the original specific motion. Mr. Giles was of an opposite opinion. Mr. Madison thought the motion proper, in the strictest sense. The charge was general; and the answer to the question might be of a nature to corroborate that general charge. After a few words from some other members, the motion was carried.

Mr. Smith, of Maryland, then on oath stated in substance as follows:

That on the 9th or 10th, Randall whom he had known in Maryland, called on him and asked half an hour's conversation with him. He said he had a plan in view, that would be to the advantage of the United States, and turn to his own private emolument.

Randall informed Mr. S., that he was last year at New York, that he thence went to Detroit to explore the country on lakes Erie, &c., that he contracted an acquaintance with certain influential characters with whom he had formed an association to procure the lands in question. He mentioned the outlines of the plan and dwelt on the public advantages that would arise from it. He indirectly insinuated that gentlemen in Congress who chose to be interested in the plan might have a portion of the land in contemplation. He asked Mr. S. to fix a day when he should enter more particularly into a detail of the business. Mr. S., fixed Saturday following, and then retired into the room where his fellow lodger was, and told him that some great land business was on foot and that he believed he might make his fortune. On Sunday Randall came with a map on which he explained the position of the land and expatiated on the richness of the soil. He detailed the particulars of the project which Mr. S. related as has been heretofore stated with some little variations. He enlarged upon the public advantages to the United States if the purchase was allowed. He said, he would be glad if Mr. S. would embark in the undertaking, and give the plan his countenance; but, that, if he did not choose to so do, it could be accomplished without his assistance, as a decided majority of both Houses were agreed to support it. Mr. S. asked him, whether in the Senate? he said, yes. He asked him for names, he objected to mentioning any. Randall explained, that members who were most active were to have larger shares, and such as only gave their assent, smaller; Mr. S. understood that he might have one of the larger. No money was offered as a temptation to engage, but he fully understood that every gentleman was to pay his full proportion of the price. He stated to Mr. S., that it would save the United States much in men and money to have the scheme accomplished, and added, that if Congress desired it, he could remove the Miami Indians to the other side of the lakes. Mr. S. asked him what he proposed should be offered for the lands. He said, that would remain in the breasts of the gentlemen in Congress. Mr. S. asked whether one dollar an acre could be afforded, he objected to that as by far too much. Mr. S. mentioned twenty-five cents, that was too much. Mr. S. then suggested that he supposed two and a half cents were contemplated. Randall answered, that if Congress fixed this price it would be well so. He offered no direct bribe to Mr. S., but proposed to take such members into the scheme at first cost as chose to embark in it. Mr. S. asked him who was to offer his memorial. He mentioned a gentleman of great weight in the House.

Mr. Smith, of South Carolina, asked the date of this conversation.

Mr. Smith, of Maryland, answered, on the Sunday following the 10th, which must have been the 13th.

Mr. Lewis, through the Speaker, asked Mr. S., of Maryland, whether Randall had not said, that he had actually a majority in favor of his scheme; or, that he expected to get a majority?

Mr. Smith, of Maryland, understood that he had a majority, and on this ground, he said to Mr. S. that his co-operation was not absolutely necessary.

The prisoner was remanded and the House adjourned.

Tuesday, January 5.

CASE OF ROBERT RANDALL.

After disposing of the morning business—

Robert Randall was then brought to the bar, attended by his two counsel; the Judge of the District of Pennsylvania likewise took his seat, as yesterday, at the Clerk's table. The Speaker then addressed the prisoner as follows: "Robert Randall, this is the day and hour, to which your farther examination was postponed; you are now at liberty to proceed with your defence."

Mr. Giles then moved that Mr. Christie should be sworn. This was done. The member then stated that he had been at Philadelphia, about the month of October last. He met with Mr. Randall, who made up to him, and observed that he had this Summer been in Canada. He had missed the object for which he went; but he had met with another which he thought would prove advantageous. He at first advised Mr. Randall to apply to the Secretary of State. Mr. Randolph had just then resigned his office; and no other person was appointed in his stead. Mr. C. then advised him to lay the affair before the President. When he came back to town at the sitting down of Congress, Randall came again to him, and said that by good advice he had altered his plan. He complained that Mr. C. was the only member who had not been ready to assist him. A considerable majority of the House of Representatives were secured to the scheme. Mr. C. said, that he never would advise Congress to sell their lands under a dollar per acre; and as Mr. Randall wanted the lands so much cheaper, he must in the course of his duty oppose the plan. Mr. C. inquired who were his advisers. He answered, that Mr Whit-

ney had told him that Mr. Sedgwick recommended this way of proceeding, and was to draw up a memorial to be laid before the House upon the subject.

Mr. Sedgwick finding his name thus unexpectedly introduced, wished to be allowed to give oath in order that he should tell all he knew.

The oath was administered to Mr. Sedgwick, who gave information to the following effect: He had never in his life seen Randall, till he was produced at the bar. Whitney he had seen two or three times. The Mr. Jones mentioned by Whitney, in his declaration, lives within about thirty-four miles of Mr. Sedgwick's house. Whitney, with Mr. Jones, came, a considerable time ago, to him one morning, while he was at breakfast. They asked his opinion; which was, that Government would not sell any lands, till the Indian claim was first extinguished. Mr. Jones endeavored to convince Mr. Sedgwick of the benefits which would result to the United States from this sale. Mr. Sedgwick accompanied them to the door of his house, where Mr. Jones asked him whether there would be anything improper in a member of the Legislature being concerned in such a purchase? Mr. Sedgwick said, that this would depend entirely on the mode of application. If it was to the Land Office, there would be nothing wrong in it; if to Congress, then it would be a man making a bargain with himself. Whitney, since Mr. Sedgwick came to town, had called two or three times on him. He got his servant, for more than once, to deny him, as he was busy. Once, however, he did see him; the first question of Mr. Sedgwick was, from what State did he come? He said he resided in Vermont. He then spoke of the matter in a general way; and Mr. Sedgwick, whose object it was to shake him off, advised his calling on Mr. Buck, a member from that State, as it would be more proper to call on him. Mr. Sedgwick believed that he was more teazed with applications of this private kind than any member in the House. During the conference with Whitney, he did not remember that Randall's name was ever introduced. Mr. Sedgwick heard, with astonishment, the name of Colonel Pepune mentioned. He lived opposite to Mr. Sedgwick's house, in the town of Stockbridge. He rode down from that place to New York, along with Mr. Sedgwick, and never spoke one word of the matter to him.

Randall had, among other stories, told Mr. Samuel Smith that Mr. Wm. Smith *should* bring forward this land business, in the House. He positively said so to Mr. S. Smith on the 13th of December, and it would be proved that he had never exchanged a word with Mr. W. Smith, nor ever seen him till the 22d of that month, viz: *about nine days after*. This is the substance of a short explanation which took place between some of the members, after Mr. Sedgwick had ended his declaration. Mr. W. Smith then asked Randall, whether it was not true, that he spoke to Mr. Samuel Smith before he spoke to himself? Mr. Tilghman, in reply, said that he was authorized to answer in the affirmative. This puts to rest the story related by Randall to the member from Baltimore.

The testimony being now closed, Mr. Tilghman asked leave to make some remarks in defence of the prisoner. He recapitulated the charges. They divided into two heads. The first, was an attempt to corrupt members. The second, was his having said that thirty members of the House of Representatives had engaged to favor his scheme. If the first head was not proved in the fullest manner, then it would be entirely improper to punish the prisoner at all; for he is entitled to the strictest justice.

Mr. T. began with the charge of corruption, which led him to take a view of the circumstances that gave rise to this subject, the journey of Randall to Canada, last Summer, the association for buying the Peninsula between Lakes Erie, Huron, and Michigan, the proposal of extinguishing the Indian claim, the scheme of forty-one shares, with many other particulars. In the plan itself, there was nothing exceptionable, provided that it was fairly pursued. It was at first view clear, that other assistance would be wanted, besides the persons subscribing the association. Five or six private individuals were altogether unequal to grasping so immense an object. Accordingly, Randall first applied to Mr. Christie. From the declaration of that gentleman, it appeared that no offer was made to him either of land or money, or any improper overture, for Mr. Christie had so little suspicion of foul play, that he afterwards gave a letter of introduction to another member to explain the subject. Randall had next applied successively to Mr. Samuel Smith, to Mr. Giles, Mr. William Smith, and Mr. Murray. From probability, independent of the proof which Mr. T. was about to examine, he argued that nobody but a madman would have attempted to bribe five gentlemen of respectable characters, and of independent fortunes. What was the language of the prisoner to Mr. Samuel Smith: "If you, as a member of Congress, see no impropriety in being concerned, we shall willingly accept you; but, if you do not think it right, we do not ask your aid, for we can do without you." These were the identical words of Randall, as attested by the honorable member to whom they were addressed. There was no guilt here. It was the genuine language of innocence. Mr. Samuel Smith said, that Randall had told him that Mr. William Smith *should* bring the matter forward. By this, Randall plainly signified, that he *expected* Mr. William Smith to do so, and Mr. S. Smith had mistaken the supposition for an affirmation. The fourth gentleman, in the order of application, was Mr. William Smith; and there was not one of the first four gentlemen who said that any direct proposal was made to him. They only understood and inferred it. But a man is not to be convicted on the inferences, impressions, and ideas, of witnesses. It would, in a Court of Law, cost Mr. T. but a very few words, indeed, to establish this point. A witness was only to relate facts. The jury were to make inferences, and form conclusions. Every one of the four gentlemen had expressly declared

that there was no explicit offer made to him. Had Randall said: "Give me your vote, and you shall have so many dollars, or so many acres for it," the accusation of bribery would have been fully established. But we find no such thing. The offer was improper, indelicate, and indecent in the highest degree, but no direct offer was made, and none could be made, till the law passed. The lands were, by the lowest estimate, to cost five hundred thousand dollars of purchase money, besides the expense of extinguishing the Indian claim, and many other previous charges, before anything could be made of the speculation. Thus, each of the forty-one shares would require, in advance, a very large sum of money. There might even be a loss upon the business, instead of a gain. After adverting to the evidence of the four first gentlemen, Mr. T. came next to Mr. Murray. He seems to give the most heavy accusation against the prisoner; but Mr. T. was ready to rest the cause of his client, his good name, or his infamy, on proving that Mr. Murray had mistaken his meaning. In the first place, by the account of that gentleman, twenty-four shares out of the forty-one, were to be at *the acceptance* of members, which had been conceived as if they were to be given gratuitously. The donation was to come out of these thirty-six shares, reserved for Randall and Whitney; and it was too immense, in proportion to the whole shares, to have admitted any chance of profit to these two people, on the twelve remaining shares. For this inference, Mr. T. appealed to the candor and judgment of every gentleman within his hearing. The thing being thus, in its own nature, incredible, would, of course, require the highest degree of evidence to support it. It had been proved that no direct offer of this had been made to other members. They understood that these shares were to be paid for, in proportion along with the other partners, in the sale. This was another reason for thinking that the member was mistaken. Messrs. William and Samuel Smith, and Mr. Giles, had unanimously declared, that they were to pay for their shares? Upon the question being put to Mr. W. Smith, he answered: "I understood that those should pay upon the footing of the original associators." Mr. Giles, on this point, had replied thus: "No direct offer was made him in land. The proposition was general, as related to members of Congress, who would favor the scheme. He considered himself as included; but, then, all were to come in on paying their proportions." Again, Mr. Samuel Smith declared, that Randall "offered no direct bribe to him, but proposed to take into the scheme, at first cost, such members as chose to embark in it." These three testimonies clearly established, that Randall had not thought of any gratuitous offer to these gentlemen. Mr. T. could account for the mistake of Mr. Murray. He had heard from Mr. W. Smith of the man, and his proposals; and that they were supposed to be of a corrupt nature. While his mind was filled with these impressions, Randall waited on him, but had so little dread of his being upon a criminal errand, that he made no scruple to begin the subject before Mr. Henry, a Senator who happened accidentally to be in the room. Mr. Murray took him into a private room, for the purpose of sifting him; and there it was that he disclosed the unsound part of his scheme.

By the word *accept*, Mr. T. insisted that, while Mr. Murray understood a donation, Randall could only mean a share, as offered to other members. Where had Randall cash in hand to have laid down? [Randall was not long since insolvent.] Now, could he give perhaps twenty or thirty thousand dollars in hand, for the vote of a member? The word *accept*, as coming from Randall, only meant, "you shall have a share on the same terms as others; and if you do not choose to have a share, we will sell your share of the lands for you, and you may get the profit made by the sale." Here Mr. T. quitted the first head of the charge, by expressing his hopes that no satisfactory proofs of direct bribery had been offered. He was happy to live in a country whose legislators possessed so much delicacy. The second head of the charge was, Randall having said that thirty members of the House of Representatives were to favor his scheme. The Counsel apprehended that this was no breach of privilege. He turned to the laws of the United States, and read over every passage regarding the privileges of the House and its members. Nothing was to be found which could even remotely apply to this kind of conversation. He then went into the subject of practice in the English House of Commons. There were no journals further back than the reign of Edward VI. Blackstone says, that Parliament never chose to define its privileges, lest afterwards a new case might arise that did not come within their rules, and then their ground against the offender might be foreclosed. Caution, in that respect, might be necessary in England, but not in the United States, where the House of Representatives are the darling of the people. They have nothing to fear as to any undue advantage being taken of a defect in their rules. Besides, it by no means follows that, because the privileges of the House of Commons extend to a certain degree, this country will bear the same extent of privileges in their Representatives. The idea of the Counsel was, that the House had the privilege essential to its existence to defend itself from any insult from within or from without, but not further. The Constitution says nothing of privilege, that reaches to the case of the prisoner; and one of the amendments to it, says, that the people shall be understood to have retained whatever they have not granted. It follows, then, that since what has been expressly granted reaches not to Randall, that it is retained. It is in contemplation to prosecute this man in a Court of Law. With what feelings must he be supposed to go there, if he shall be previously condemned in this House? A man would thus in fact be convicted in the public view, before his trial began. The Counsel then read a number of precedents from English books of law, to prove that, even for a direct offer of bribery to a member of Parliament, the prisoner would have been remitted to the Attorney General, and prosecuted with the usual and indispensable solemnities, in a

Court of Justice. Mr. T. said, that he would next venture to ask what kind of a Court of Law is this? The members are not upon oath, while they are at once parties, judges, and witnesses. Mr. T. would have thought it more delicate for the House to leave the prisoner to a trial in the common form. He may be acquitted by a jury, after being condemned here, which may produce disagreeable feelings in the public mind. It is, in reality, trying a prisoner twice for the same offence, and making him hazard a double sentence. All this is inconsistent with every idea of justice. The offence was punishable at Common Law. What good reason can then be given for trying it here? The safety of the House is not in danger. This is not a case, wherein they ought to insist on *privilege*. A thousand reasons might be adduced, besides those stated by the Counsel, why it was inexpedient to bring the subject here. The privileges of an English Parliament rested on immemorial usage; those of this House, on a written Constitution, which had considerably narrowed them, in comparison with those of British Parliaments. The charge of having thirty or forty members engaged to support a scheme is not a breach of privilege. Mr. T. argued that, from the very face of the charge, as worded by the House, no crime arises. Are the House to bridle conversations without doors? When a bill comes into the House, is it not common for the people to say that such a law will pass, or it will not pass? Are they not at liberty to conjecture what members will vote for it, or against it? Randall's story about thirty members comes within this description. Are the House to lock up the mouths of people? Mr. T. closed, by urging that, as Randall was to be tried by a Court of Law, as he had been taken out of the hands of an officer belonging to a Court of Law, upon what authority the Counsel did not see, the best thing which could be done, was to remit him to the ordinary form of trial.

Mr. Lewis then rose. He read the charge, as adduced by the House, and agreed that this was not bribery, but a wild land-jobbing scheme. He objected to the having admitted subsequent depositions and informations in support of a charge previously made and specified. This alludes to the subsequent evidence given by some members after the prisoner had received a copy of the charge. He contended that the evidence of Mr. Samuel Smith, given subsequently, had no connexion with the original charge, and should not have been admitted in corroboration of it. Mr. L. then took up the second point of the charge, that the prisoner had said thirty or forty members would favor his scheme. The saying so was no offence at all; for the thing itself, the agreeing to support a particular scheme, was consistent with perfect innocence. He trusted that the prisoner would be as safe in this House as anywhere else; that his unalienable rights would be as sacredly watched; for it would be a dreadful reflection if that House were less delicate in administering justice, than Courts of Law. He hoped that the House would adhere to these fundamental rules of trial, which had stood the test of ages. He then read some of the articles of the bond between the original partners, to show the absurdity of supposing that bribery ever could have been intended. It was impossible to have ever bribed members in the way alleged by Mr. Murray. He stated that, out of forty-one shares, Whitney and Randall were to have thirty-six, out of which they were to give away twenty-four; a proportion in itself incredible, inasmuch as the remaining twelve shares would, so far from making their fortunes, have cost them more than they were worth. Mr. L. then argued on the offer to Mr. Murray, on the same ground as the former Counsel. The plain history of the affair was this: A number of people wanted the lands. They thought that it would accelerate their scheme to get members of Congress to embark in it, and offered them, for this effect, a share in the lands, on paying an equal share of the expenses, and with a promise of concealing their names. "If the gentlemen," said Mr. L., "to whom this application was made, *had kicked my client out of the room*, they would have served him right; and there, I think, that the matter ought to have ended." The British Parliament send people attempting bribery to the Attorney General. They send people to a trial by jury. Mr. L. denied that any part of this offence came within the definition of corruption, or the reach of law. He had no conception that it could be punished upon any legal principle whatever. Besides, there was nothing in the history of privileges, like thus dragging a man from the jurisdiction of the Circuit Court, by whom he had been apprehended, and whose prisoner he was. Again, there could be a breach of privilege only, if the proposal regarded a bill actually before the House. It never could arise from a thing not in existence. All the books which Mr. L. had consulted, spoke only of bribery, about a bill or a lawsuit actually on hand. It was hazardous to quote precedents from an English Parliament. Its privileges had no limits, so that some writers on law called it *omnipotent*. Mr. L. admitted that the House had the essential power of punishing violence, or open insult, which did not reach the case before them. He would not further intrude on the time of the House, by apologising for the time which he had taken up already. He trusted that a power of creating offences would not be assumed; and that a thing which is not illegal, will not be declared punishable.

Mr. Lewis here sat down. The further defence of the prisoner was postponed till to-morrow, (Wednesday,) at twelve o'clock.

And then the House adjourned.

Wednesday, January 6.

CASE OF ROBERT RANDALL.

Mr. Sedgwick laid before the House some additions to his evidence, delivered yesterday. He gave in a written copy of the whole, and wished that it might be added to the declaration already made. (The paper was read, and, on motion, ordered to be inserted in the Journals. Mr. Sedgwick said he had yesterday mentioned Col. Pepune being in Philadelphia, but he had not seen him. He has since done so. The Colonel lodges at the sign of the Drover, in Third street, and is ready, when called upon by the House, to tell every circumstance which he knows about the transaction of Randall or Whitney.

The following is Mr. Sedgwick's written testimony:

"The informant, Theodore Sedgwick, a member of the House of Representatives of the United States, declares, that, some time before he left the place of his residence, in Massachusetts, one Israel Jones, Esq., of Adams, in that State, waited on him and introduced to him a man whom he now knows by the name of Charles Whitney, of the State of Vermont. That Mr. Jones is a man of respectable character, a magistrate, a member of the State Legislature, (as the informant believes,) and a trustee of the Corporation of Williams College. That Mr. Jones informed the informant that he, with others, had in contemplation an application to Congress for a grant of a tract of country lying between the Lakes Huron, Michigan, and Erie. Considerations of a public nature having been stated and enlarged upon, the opinion of the informant was requested relative to the propriety and success of the proposed application. He answered, in substance, that he believed it was to be doubted whether the Legislature would undertake actually to contract for any of the vacant public lands, and that the doubt was still stronger respecting these lands, the Indian claim to which had not been previously extinguished. He stated to Mr. Jones that, by reason of sickness in his family, it was not probable he should attend the next session of Congress; at all events, however, he advised Mr. Jones not to make an early application, as it was probable the subject of disposing of the public lands would occupy the attention of Congress during the then ensuing session; and that, by the delay, Mr. Jones could form a more correct judgment of the course which it would be most eligible for him to pursue relative to this subject. That, while the informant was waiting on Mr. Jones to the door, at his departure, Mr. Jones asked him if there could be any impropriety in a member of Congress being concerned in an application for a grant of lands? The informant answered, that it would depend on the circumstances under which the application was made: proper, if the application was made to a Land Office, but otherwise, if made to the Legislature; because, in the latter case, it would be for a man to contract with himself. To this answer Mr. Jones gave an explicit assent. That the informant never, at any time, before or afterwards, to his remembrance, saw the said Whitney, until he saw him in this city, during the present session. That the informant came from his own home to New York in company with Colonel Pepune, stated by the said Whitney as one of his associates. That the informant hath been informed, and believes that the said Pepune is now in this city, but that he had never spoken to the informant on the subject of the said land speculation. That, not long after the arrival of the informant in this city, the said Whitney one morning waited on him, and stated to him an intended memorial respecting the tract of land aforesaid, and urged on the consideration of the informant the motives of a public nature for a grant thereof. That the informant inquired of the said Whitney to what State he belonged? and being answered, to Vermont, he recommended to him to request the Representatives of that State to present the memorial. That the said Whitney requested the informant to peruse his memorial, when it should be prepared, which he understood was not then the case. That he answered, according to his best recollection, that, whenever he had leisure, he should be willing to do it; or to that effect. That the whole time of the interview he believes did not exceed six, he is very confident could not exceed ten, minutes. That twice afterwards the informant's servant informed him that the said Whitney wished to see him, and that he caused himself to be denied; and the informant is very confident he never undertook either to draft or present any memorial for the said Whitney.

"On the morning of the twenty-eighth of December, Mr. Smith, of South Carolina, informed the informant of what he afterwards stated in evidence to the House respecting Robert Randall. The informant advised Mr. Smith, as soon as possible, to make the same known to the House of Representatives, which Mr. Smith informed the informant he had determined to do; and the informant, having previously advised the said Whitney to apply to the Representatives of Vermont, he thought it his duty, and he accordingly took the earliest opportunity to request Mr. Smith, of that State, to avoid presenting any memorial with which he might be intrusted for a grant of land, and desired him to make the same request to Mr. Buck, the other member from the same State.

"The informant further declares, that he never, to his remembrance, saw Robert Randall, till he saw him at the bar of the House.

"THEODORE SEDGWICK."

Mr. W. Smith submitted, whether it would be proper to proceed any farther in the case of Randall, till some hearing had been given to Whitney.

Mr. Rutherford was happy to find the business drawing to a conclusion, and that the character of the servants of the people would come through it pure, in the view of every unbiased mind. The grounds of the whole matter were plain enough. Some British traders wanted to secure the lands between the lakes to themselves, and the traffic with the Indians. They made dupes of these two men; and then the latter attempted to dupe the Representatives of the people. These circumstances were in the nature of things. They might be traced to that immense keenness for landed speculation so common in America. Randall had run the gauntlet very well. He had been through the hands of the civil officers. He had also been in the hands of another set of gentlemen, who, as Mr. Rutherford judged, had conducted themselves with great propriety. The character of the House was fairly cleared, at which Mr. R. was happy. He wished Randall to be now sent for, to receive a reprimand from the Speaker, and then be sent back to a short confinement, perhaps for a day or two. Then let him go, without further loss of time. Some people have thought that it was wrong to have pushed the inquiry. This opinion was erroneous; but now, since we have got honorably over with it, let the man be set off.

It was then moved by a member that the case of Randall should be postponed. After some con-

versation, as to the point of order, the motion was negatived.

Mr. Harper then read two resolutions. Of the first, the following is the substance:

"*Resolved*, That any attempt to influence the conduct of this House, or its members, on subjects appertaining to their Legislative functions, by motives other than the public advantage, is an high contempt of this House, and a breach of its privileges."

The second resolution was, in substance, that Randall having committed such an offence, was guilty of such a contempt, &c.

Mr. Harper thought it proper, before deciding as to Randall, to lay down certain principles, and decide whether the offence was in itself criminal or not, before determining the conduct of the prisoner.

Mr. Kittrell thought these resolutions unnecessary. The only thing before the House was to call on the prisoner, and pronounce him either innocent or guilty.

Mr. Harper, in defence of his resolutions, said, that one misfortune attending privileges was, that they could not be exactly defined; but, as far as they could be ascertained, it was the business of the House to do so. If this offence is a breach of privilege, we are entitled to declare it such, that the people of the United States may be informed that it is so.

Mr. W. Smith could not conceive how any member would vote against this first resolution. If we refuse to say that the act itself is a crime, how can we condemn Randall as criminal? We are, in every sense of the word, bound to vote for the proposition. We have declared the attempt of Randall to be an high offence and contempt. If any member thinks it not so, then, to be sure, he will vote against it. Mr. Smith said that Legislative bodies had frequently, while a prisoner was on trial before them, laid down rules to guide them, previous to their pronouncing sentence. A former member had suggested that it was better to make the resolution a preamble to the sentence, and introduce it with a *whereas*. As it stands at present, it is agreeable to what had been done already.

Mr. Nicholas hoped that members were not to be bound by anything yet done. At the first embarking of the House in this affair, he had felt doubts. His scruples had gradually augmented, and he was now of opinion that Randall should not have been meddled with at all, in the present way. The right of privilege had been given up, unless in cases of absolute necessity. He did not think that any resolution had yet passed the House, upon due consideration, whether they had a right to proceed or not. Mr. Nicholas recommended lenity, rather than a parade of integrity, where there was no ground of suspicion—a parade which would not have been made if there had been any real danger.

Mr. Williams thought the resolutions altogether unnecessary. The principle is already entered on the Journals. All that the House have to do is to declare Randall guilty or not.

Mr. Hillhouse agreed with Mr. Williams, but he was astonished at the doctrine held up by the gentleman from Virginia. We had been told yesterday, at the bar, that the offence is not punishable by the common law. We are not to do so by privilege. The consequence is, that an attempt to corrupt members cannot be punished at all. It would not be proper to tell this to the public. Any body may then come here and bid for votes.

Mr. Hillhouse thought that the counsel yesterday had fairly given up the point, for they admitted that improper violence without doors was a breach of privilege. Mr. H. argued that this was as great a violence as could be. He was for inflicting a punishment.

Mr. Livingston thought the wording of the first clause too broad. Any member spoken to without doors might come into the House and complain of a breach of privilege on trifling grounds.

Mr. Giles would not at present enter into the question whether there had been a breach of privilege or not. From anything yet seen, he was doubtful. He was against the preamble. Privilege was of an insinuating nature. Mr. Livingston had taken up a thought which occurred to Mr. Giles. Any man meeting on the street a member of this House, may say to him, "Sir, by voting for such a thing in the House, you will destroy your popularity in your district." This argument was not on motives of public good, and a member might by this resolution be warranted to come into the House and complain of it as a breach of privilege. He wished for the previous question, which was taken, and by a great majority the resolution was negatived.

Mr. Livingston then read two resolutions. Their tenor was, that it appears to this House that Robert Randall has been guilty of a contempt and a breach of the privileges of this House, by attempting to corrupt the integrity of its members, in the manner laid to his charge, and that Randall should be called up to the bar, reprimanded by the Speaker, and recommitted to custody, till further orders from this House.

On the first resolution the yeas and nays were called for—yeas 78, nays 17.

After some conversation, the second resolution was likewise agreed to.

Randall was then brought to the bar, and in a few words reprimanded by the Speaker. To call his offence indiscretion, impropriety, or indelicacy, was too mild a name. His conduct was *crime*. His apparent ignorance of the nature and extent of his guilt had induced the House to be more indulgent than they otherwise would have been. The Speaker informed him that he was recommitted to custody till further orders from the House.

Mr. Christie then asked leave to have his written declaration entered in the Journals, which was agreed to, in the words following:

"The declaration of Gabriel Christie is, that some time in the month of October or November last, this informant was in Philadelphia, when he saw Robert Randall, who had, as he informed this informant, just returned from Canada, where he had been disappointed

in the business he went to that country on; but he, Randall, informed this informant that, on his way home, he had called at Detroit, where he had spent some time, and had, he believed, entered into an association, to which, if he got the consent of the Government of the United States, would be a considerable advantage to him, and those who chose to associate with him, provided he liked the speculation. He then informed this informant that he had associated with a number of influential persons at Detroit for the purpose of obtaining the preemption right to a large tract of country within the territory of the United States, and produced to this informant the original association. After this informant had heard all that Randall had to communicate to him, this informant told Randall that he considered his scheme as a wild-goose one, and that this informant would not have any concern in it. Randall then requested this informant to give him his opinion in what manner he, Randall, ought to proceed. This informant told him that the most proper person to apply to was Mr. Randolph, the late Secretary of State, and if he, Randall, thought proper, this informant would inform Mr. Randolph of it, and get his advice; which Randall agreed to. This informant then went to Mr. Randolph, and gave him all the information that the informant had received from Randall. After considering the business for some time, Mr. Randolph advised that an application should be made to the President of the United States; which advice the informant gave to Randall, who seemed, at that time, fully satisfied with the proposal, and requested the informant to introduce him to the President for that purpose; but, as this informant was going out of town in a day or two, he told Randall that he would introduce him to the President on his return to Congress. When the informant came to Philadelphia, in December, he found Randall in the city; and, after asking Randall what he had done in his business, and whether he still meant to apply to the President, Randall then informed the informant that his friend and associate, Mr. Whitney, had arrived in Philadelphia, and that, upon consulting with him, they came to a determination not to apply to the President, as he heretofore had agreed, but had determined to present a memorial to the Legislature for a grant of the said land. This informant told Randall that he disapproved of this mode, and asked Randall who had advised him to it. Randall then informed the informant that the said Whitney had informed him that he had consulted with a number of the Eastern members of Congress, and in particular with Mr. Sedgwick, who had advised this mode of proceeding. Randall also informed this informant that Mr. Sedgwick had agreed to draw up and present his memorial. This informant then informed Randall that, by this mode of proceeding, he had put it out of this informant's power to be concerned with him, if he thought ever so well of it. Randall asked the informant the reason. The informant answered, that it would be improper in any member of Congress to be concerned in anything that he was to vote on. This informant was not able to impress Randall with the propriety of his remark. The informant never understood that Mr. Sedgwick was, in any manner, concerned with Randall or his associates; but that he, Mr. Sedgwick, thought the thing a public benefit, and would support it. That Randall never informed this informant that any of the members of Congress were concerned, but that a majority of them thought favorably of the plan, and would support it. In all the conversation the informant had with Randall, this informant told him that he could not expect this informant's assistance, as the informant would never agree to sell any of the lands of the United States for less than a dollar per acre. Randall then informed the informant, before a witness, that it was strange that the informant was the only person in Congress that he had applied to but what seemed to think favorably of his plan. The informant told Randall that his opinion was fixed, and still advised his application to the President, which Randall declined.

"G. CHRISTIE.

"*January* 5, 1796."

And then the House adjourned.

Thursday, January 7.

CASE OF CHARLES WHITNEY.

After disposing of sundry petitions—

Mr. Sedgwick called for the order of the day, viz: the farther proceeding in the hearing of Charles Whitney. This was agreed to.

Mr. Giles, while Mr. Whitney was sent for, rose, and said that he was strongly impressed with the propriety of paying honorably every man to whom the United States were in arrears for military service. He should therefore lay on the table a resolution on which he did not wish immediately to take the sense of the House. The resolution was then read, and, in substance, proposes that the proper officers be directed to lay before this House a list of all officers and soldiers of the late Continental Army and Navy who appear, on the books of the United States, to have arrears due to them, with a statement of the respective amounts.

Mr. Whitney was now brought in. The Speaker addressed him as follows: "Charles Whitney, the information lodged against you on the Journals of the House will now be read to you by the Clerk." This was accordingly done.

Mr. Whitney was next asked at what time he would be ready to proceed with his defence? He replied that he thought he could be ready to go on just now, if he had counsel. If he could get them to-morrow, he should be glad to go on then, in order to get the thing over. If counsel could not be got, he would request a delay till Monday. He was sure Mr. Buck had mistaken his meaning. He was told that he would be called on again to-morrow, and if he had not been able to obtain counsel then, there was a probability of his being allowed a delay till Monday.

Mr. Bourne stated the hardship of obliging the prisoner to fee counsel; no probability existing of any thing farther being brought against him. There was but little in the charge, admitting it to be true. Mr. B. made a distinction of the conversation having passed in Vermont, not in Philadelphia. It was before Mr. Buck came to Congress at all.

Mr. Giles had yesterday expressed but little satisfaction at the mode of conducting this business, nor had his satisfaction been since augmented by farther reflection. He read a motion, which was seconded, for dismissing Whitney immediately. Admitting all which stood charged, Mr. Giles did

not consider it as containing any breach of privilege.

Mr. W. Smith regarded this resolution as premature; he wished to have the regular forms of trial gone through, as in the other case. When the trial was finished, the House could then decide on the guilt or innocence of the prisoner. He thought that Mr. Buck ought to be sworn. When the offer was made in Vermont, he was looked upon as a member of Congress, and the temptation which had been held out to him was a contempt of the House. There was not yet a sufficient explanation to justify his discharge.

Mr. Hillhouse supposed corruption to be equally criminal in Vermont as in Philadelphia. It would commit the dignity of the House to say that we have kept a man in jail for a week, and then have dismissed him without a trial. It implies that we never had any right to arrest him. Mr. H. had not formed his ultimate opinion on the subject. He wished the trial to be gone through, and then, if the prisoner proved innocent, dismiss him. He had made application to a member in this town, besides Mr. Buck in Vermont. [Mr. Goodhue, on whom Mr. Whitney called, after he came to Philadelphia.]

Mr. Buck objected to the immediate dismission of Whitney. It struck him as an impropriety to dismiss the prisoner by an unqualified resolution. It would be better to state, as a reason, that the attempt to corrupt the integrity of a member had happened in Vermont, before the sitting down of Congress. Then let the question come forward and be tried.

Mr. Sedgwick had, more than was usual with him, avoided speaking on this question. He early entertained an idea that an application to a member of Congress, before it sat, was not a breach of privilege. It was an unfortunate circumstance when the same persons were to be both judges and parties. People were apt to get into a passion when one came to them and said, "I consider you as rascals, and I want to purchase a portion of your rascality."

Mr. Madison said, it appeared to him that the House could have no privileges, unless what arises from the necessity of the case. He differed from the opinion formed by the House, but he wished them to act in conformity to their own principle. The object at present before the House is, to keep its members free from corruption. Whether a proposal is made in town or country, if we dismiss names and circumstances, and look only to the substance of the thing, there is no distinction between the two cases.

Mr. Page said, that if the motion for dismissing had come on a week ago, he would have voted for it. He wished to get rid of the matter as fast as possible. He alluded, though not in direct terms, to the idea of Mr. Lewis, that it would have been better to have kicked some people down stairs, than to have made them objects of prosecution.

Mr. Harper considered it as a material distinction between a member being attacked and beaten, for example, in Philadelphia, during his attendance on Congress, and the same accident occurring during the recess, in a distant part of the country. It was admitted that the doctrine of privilege violated the rights of the people, and could be justified only upon the plea of necessity: it being so liable to misapprehension and misconstruction, he wished to see as little of it as possible. He gave his hearty concurrence to the resolution of Mr. Giles. He had been desirous of seeing such a thing brought forward. He adverted to the delicate situation of the House, at once accusers, judges, and witnesses.

Mr. Gallatin spoke a few words in favor of the motion.

Mr. Isaac Smith was persuaded that the House possesses privileges, and has a right to exert them. They are pointed out by the Constitution. Mr. S. wished to dismiss the prisoner. It had been said that dismissing him without a trial, after having apprehended and confined him, would be casting a reflection on the House. No such thing! There existed probable grounds of suspicion. We have waited full time, and no proof has come forward. Then let him go, and the sooner that we do it the better.

When Mr. Isaac Smith sat down, Mr. Giles rose to offer a resolution, in place of his former one:

"Resolved, That it appears to this House that the information lodged against Charles Whitney does not amount to a breach of the privileges of this House, and that he therefore be discharged from custody."

Mr. Freeman voted yesterday in a minority for dismissing Randall. He would this day vote for discharging Whitney. As to the dignity of the House, even an outrage upon it could be as well punished by a Justice of the Peace as by ourselves. He stated the extreme difficulty of adopting, in practice, the doctrine laid down, that an improper offer made to a member when in the country, was to be punished as a breach of privilege. A member, suppose from Georgia, comes here, and tells a story of somebody in that State who has made him an unsuitable proposal: the Sergeant-at-Arms is instantly despatched a thousand miles to bring this person to the bar for contempt of the House. What kind of a business would this be?

Mr. Hartley thought the resolution last offered by Mr. Giles had too much narrowed the ground of dismissing Whitney. He had been taken up as an associate with Randall. The charge had not been properly supported by evidence. Dismiss him, and let the want of proof be your reason for it. Mr. H. cordially agreed with the substance of the resolution, but he objected to the wording of it.

Mr. Nathaniel Smith believed that the great difference in opinion on this question arose from the different grounds on which the doctrine of privilege had been placed. Some gentlemen had supposed the only ground for the privilege contended for was to secure the members from actual bribery. Of course they supposed that equal danger might occur before or after leaving their residence in

the country. Mr. Smith contended that this idea placed privilege on a wrong ground. This idea would be disgraceful to the members. He would not admit that any gentleman in the House would take a bribe, that there was real danger of it, or that there could be a necessity to prevent it. Personally, he held such an imputation in the highest contempt. He imagined that the question ought to be set on a very different ground. If the opinion which he would now state was correct, it would evince the propriety of convicting Randall yesterday, and of acquitting Whitney to-day. The ground of privilege he took to be this: the indignity offered to the House, through the medium of its members. It might be asked, why members ought to be privileged from insults while sitting as a deliberative body? He had several answers. In the first place, members ought to be able to proceed with due deliberation. They could not, as Mr. S. conceived, do so, if subject to be insulted with the offer of bribes, or with other indignities, every time that they went without the bar. Mr. S. had a second reason why members should not, while acting as a Legislative body, be liable to offensive intrusions. It was requisite for their being publicly useful, that they should enjoy public confidence, which confidence the being open to intrigues tended to destroy. These Mr. S. regarded as the true grounds on which the doctrine of privilege ought to be founded; he conceived that this doctrine could not extend to a member at his residence in the country. Hence the propositions made by Whitney to Mr. Buck in Vermont, were not a breach of the privileges of the House. For this reason he was in favor of discharging the prisoner from the bar, though in doing so, he differed from the reasons of several other gentlemen.

Mr. Kitchell pointed out the wide distinction between the cases of Randall and Whitney. It had been said that the latter must be criminal, for he was an associate with Randall. Mr. K. saw no such thing. There was no criminality in the bond. Keep a man in jail week after week upon idle suspicion! In justice, Whitney ought to have been tried at first, when he declared himself ready for trial. Mr. K. was for discharging him this day.

Mr. Harper now moved an amendment to the resolution before the House: it was in these words:

"Inasmuch as the proposals made by the said Whitney took place before the member to whom they were addressed had taken his seat in the House."

Mr. Giles. If the amendment succeeded, he would vote against the whole proposition. This was a renewal of the attempt to define privilege. It was not practicable. Every case of the kind must stand upon its own merits. Mr. G. would vote against the amendment.

Mr. Macon read a resolution, that Charles Whitney be discharged from the custody of the Sergeant-at-Arms. This was, in fact, reducing the second resolution offered by Mr. Giles back into his first one.

Mr. Sedgwick thought it an awkward thing to attempt giving any reasons. If gentlemen are willing to agree to discharge Mr. Whitney, they ought to discharge him. They assign different reasons for the same proceedings, and will not consent to it, but each in his own particular mode.

Mr. Harper was astonished to hear so many invincible objections to telling the motives why we agree in a measure. It had been complained that privilege was undefined; that it was an assuming, creeping monster. An attempt had been made to define it, in part, and this also had been objected to.

Mr. Macon said, that he would vote to discharge Whitney, for a particular reason alleged by Mr. Giles.

Now, replied Mr. Giles, if the gentleman is to vote for the dismission because that is my reason, I desire him to vote against the dismission. My reason for discharging Whitney is totally different. I argue, that all which we have entered on the Journals, admitting it proved, does not amount to any breach of our privileges. That is my motive for dismissing the prisoner.

An amendment was proposed to strike out of the resolution of Mr. Giles the following words: "That it appears to this House, that the information lodged against Charles Whitney, does not amount to a breach of the privileges of this House; and". The amendment was agreed to—ayes 43, noes 41.

It was then moved to alter the remainder of the resolution, by striking out the word "he," and inserting "Charles Whitney." The amendment was adopted; and the resolution so amended, stood thus:

Resolved, That Charles Whitney be discharged from the custody of the Sergeant-at-Arms.

This, also, was agreed to.

Mr. William Smith proposed an amendment. It was, in substance, assigning as a reason for the discharge of Mr. Whitney, that the offence against Mr. Buck had been committed in Vermont, before that gentleman took his seat in Congress.

Mr. Macon objected that this amendment was only bringing the House back to the ground which they had just quitted, and making them go over the same arguments a second time.

Mr. Giles said, that the former amendment to his resolution, viz: that suggested by Mr. Harper went at the head of his resolution. The one now proposed by the member from South Carolina went at the tail of it. This was the only difference between them. This way of making amendments was endless.

Mr. Bourne was in favor of this amendment. It would be singular to discharge the man without assigning some reason for it on the Journals.

Mr. Gallatin. Mr. Whitney was at the bar this morning, and we directed him to prepare for his defence. He is now gone, after having denied the charge laid against him. In the absence of the man himself, and without allowing him an opportunity for vindication, we are, by this amendment, to declare on the Journals, that he made an attempt on the integrity of a member, but be-

cause it was before the member took his seat, &c. What kind of treatment is this? What right have this House to keep an American citizen ten days in jail, and then declare him infamous, without permitting him to be heard in his defence? He has said that the gentleman from Vermont misunderstood him. I believe that what the member said is true; but it may possibly be explained away. I will not vote for insulting a man by declaring him guilty, at the very moment when we are forced to dismiss him, because we cannot find proof that he is so.

Mr. W. Smith, in answer to what Mr. Giles had said about the head and tail of his resolution, said that he could make neither head nor tail of the argument used by the gentleman from Virginia. He had risen to make his amendment, because he thought himself as well entitled as that member, or any other in the House, to deliver his own opinions, and to suggest such amendments as he judged proper. The objections of Mr. Gallatin could be readily obviated by an amendment which he would read.

Mr. Venable was against the amendment before the House. It was quite immaterial where an offence was committed. A plan might be laid in Vermont. A gentleman might afterwards come to this House, and act upon it; and vote for a measure that would ruin the country.

The amendment of Mr. W. Smith was, on a division, negatived.

Mr. Livingston was for discharging the prisoner immediately, though he believed both him and Randall guilty of the offences alleged against them. They had not been in good company; he did not like the proposal the better because it originated with British merchants; though that circumstance did not amount to a proof of guilt. He alluded to the wars excited by British emissaries on the frontiers. *Timeo Danaos dona ferentes.* I dread these Britons and the gifts they bring. He then entered into a calculation, in order to prove, that Randall and Whitney could actually have given away twenty four shares out of thirty-six, and still, at the rate proposed, have a very large revension of profit to themselves. He warned the House that he did not intend to affirm that the guilt of the prisoners was positively ascertained, but the evidence adduced had made an impression of that sort upon his mind.

Mr. Page said, he would vote for the motion to discharge Whitney, that he might be consistent with his vote of yesterday, and because he could not find any definition of the offence with which Whitney is charged in the books of our laws. If he could even find it, in definitions of breach of privilege in the British Parliament, he found no punishment which this House was, by the Constitution, authorized to inflict. Parliament rules are, it is true, applicable to the proceedings of this House, and some of them have been happily applied here. But Mr. Page did not think parliamentary precedents respecting cases of breach of privilege, by any means applicable to the situation or powers of Congress. The Constitution had defined those powers, and he hoped never to exceed them. He hoped that the House would get rid of an affair so foreign to their peculiar business of legislation as quickly as possible. He would have agreed to the present motion, had it been made a week since, and had it even extended to Randall. An insult had been offered by both prisoners to individual members; but how far that was an insult to Congress, or how Congress should resent it, might be doubted. He thought, with one of Randall's counsel, that the insulted member might have chastised him, or might have prosecuted him. He believed that there was no conceivable offence, but what could either be punished in a court of law, or a repetition of it be prevented by a new law. The present proceedings are not calculated to preserve the House against similar insults, nor necessary for securing the reputation and integrity of its members. As for protection from insults offered by the gallery, or persons in the street, he would go as far as any member in support of it; but he believed, that the House might rely on the laws, and on their constituents, for protection, with more propriety than on British precedents. The present proceedings, if published as a precedent, will more likely produce discontent than respect. It is the duty of legislators to prevent injustice and establish uniform rules for proceeding against offenders. Hence it does not become them, in their own cause, to be prosecutors, witnesses, judges, and jurors. The majority who voted yesterday to punish Randall, may with consistency vote against the dismission of Whitney. Both are charged with the same offence, and similar proof has, in both instances, been adduced. It is said that the offence was committed at Vermont, before the privilege of the member commenced. This was not an extenuation. It was more dangerous for a member to get such applications when at home than after he came to Congress. Mr. P. would rather be attempted here than at home. He was for the resolution.

Mr. W. Smith had, early in the debate, observed that a final determination, this day, would be premature. He, therefore, moved to postpone the farther consideration of the resolution till Monday. Gentlemen seemed to regret the extreme criminality of the plan. It went to rob the United States of a property worth perhaps twenty millions of dollars.

Mr. Giles was for discharging the prisoner instantly, because though every tittle were true, that stands on our Journals against him, it does not, all together, amount to a breach of privilege. He had been, he believed, this day, a dozen of times upon his legs, to explain his reasons, and they had still been misunderstood. Indeed, if we are to talk on from day to day, for the purpose of protracting Whitney's confinement, it would be better to vote plainly for so many days of imprisonment. Mr. G. could not help observing, that in all which was said this day, he did not hear a single sentiment of sympathy for the sufferings of this poor man, who had been kept ten days in jail on an accusation, that, if proved, did not amount to an offence.

The motion for postponing till Monday was negatived, only eighteen members rising to support it.

A second motion was then made for postponing till to-morrow (Friday.) Only thirty-two members rose in its favor. Negatived.

The resolution was then read:

Resolved, That Charles Whitney be discharged from the custody of the Sergeant-at-Arms.

The yeas and nays were called for and taken—yeas 52, nays 30.

The prisoner was then brought to the bar. The Speaker addressed him thus:

"Charles Whitney: the House have thought proper to discharge you without further hearing, by a resolution that will be read to you by the Clerk."

This was done; the prisoner went off; and the House, at half past three o'clock, adjourned.

Friday, January 8.

Jeremiah Crabb, from Maryland, appeared, was qualified, and took his seat.

INDIAN TRADING HOUSES.

The House went into Committee of the Whole, Mr. Muhlenberg in the Chair, on the bill to establish trading houses for the Indian tribes.

Mr. Dayton objected to the bill, so far as it empowers those who are to sell the goods to the Indians, to procure or purchase the goods. He considered the uniting these powers in the same persons as highly exceptionable, and liable to great abuse. He moved to strike out the words "procure or."

Mr. Parker said that the objection was misapplied, for subsequent clauses placed the business under the special direction of the President of the United States. He should not, however, object to striking out the words. His view in rising was merely to justify the committee who reported the bill, as they had supposed that sufficient guards were provided.

Mr. Giles did not think the reason given for retaining the words sufficient. The President cannot be supposed to have such cognizance of every part of this business as will enable him to secure the public, or Indians, from imposition. He was for increasing the checks against abuse.

The motion for striking out was agreed to.

In the third section, Mr. Sedgwick objected to the words "laying aside all view of gain by the trade." They might operate disadvantageously to the people of the United States, if Government should enter into this trade on a principle that would preclude all private adventurers in the same line by citizens. The words were expunged.

Mr. Parker presented a substitute. It relates to compensation of agents and clerks to be employed. The sum of —— dollars was to be appropriated. The substitute was adopted by the Committee.

In the seventh section, Mr. Sedgwick moved an amendment, providing for the forfeiture of licences in case of contravening the provisions of the law. This motion was withdrawn in order to introduce the provision elsewhere.

Mr. Milledge moved to strike out the whole of this seventh section. It appeared to him to involve provisions which would be proper in another law, but in this bill blended two different subjects.

Mr. Sedgwick considered the provisions in this section referring to certain rules for regulating the public trade with the Indians, as proper, since similar rules would be made in regulating the trade of individuals with Indians. On this ground he was for retaining the section.

It was moved to modify the section by confining the provisions to "the agents or clerks," specially employed by the United States. This amendment was agreed to.

On the motion of Mr. Sedgwick, the last clause of the seventh section, relative to the oath or affirmation, was expunged.

The Committee then rose; the Chairman reported the bill with the amendments, which were taken up, and agreed to by the House, with one verbal amendment.

Mr. Swift expressed his disapprobation of the bill. He thought the object unattainable to any important extent. He disapproved of public bodies being concerned in trade. It is always managed better by individuals. Great loss and dilapidation are the consequence; nor is it possible to guard against frauds and abuses. The public have no money to spare. It is the opinion of the Committee of Ways and Means, that additional taxes will be necessary for the public service. We must not tax our constituents for the sake of trading with the Indians. He hoped not. Mr. S. concluded by a motion for striking out the first section.

Mr. Parker supported the principle of the bill; he wished a fair experiment to be made. The plan is founded on humanity and benevolence. It has been recommended by the President from year to year. Mr. P., on this subject, had been in sentiment with him. It was well known he had never lightly advocated a disbursement of public money; on this occasion, it would be a saving of public money. It will cost much less to conciliate the good opinion of the Indians than to pay men for destroying them.

Mr. Hillhouse was in favor of an experiment. Much had been anticipated from the plan; a beginning had been made, and he thought it best to try it for such a length of time as would afford a fair experiment of what could be done.

Mr. Swanwick said he was in favor of the principles of the bill, were it merely as a change from our usual system of Indian affairs. We have hitherto pursued war at an expense of a million and a half of dollars nearly annually; let us now try the fruits of commerce, that beneficent power which cements and civilizes so many nations; barbarous till they became acquainted with its influence. To encourage us, indeed, a fact hath come to our knowledge on the investigation of the case of Randall. Gentlemen will remem-

ber his assertions to them, and the deed read in the House, in which so much was stated of the influence of the Canada traders over the Indians: well, let us try to balance or countervail this influence; but it has been observed, our private citizens will do this sufficiently in the way of their private trade. In general I am friendly to let commerce take its own level, without Governmental interference; but the little influence our traders have yet obtained, shows plainly enough defective capital or a defective extent of trade; both are to be apprehended. So many objects of speculation offer in this country, that individuals may not pay sufficient attention to this branch, in which they have so powerful a British interest to contend with. Government alone, can do this in the infancy of the commerce. Let the experiment be made; we can lose little by it; we may gain a great deal. It has been observed, that this act hath been rejected in three different sessions of Congress already; and this is argued as a proof of its want of merit; but this hath been the fate in England of the navigation act; it was hundreds of years struggling to get into existence, but was not the less acceptable when at last it succeeded. Perhaps we may find this bill, on experience, none the worse for the difficulties, which, as an untried step, it hath hitherto had to encounter: it is recommended by general reasoning; let us try it; we can only repeal it if we find it does not answer the sanguine expectations entertained of it.

Mr. MACON was opposed to the bill. He thought the circumstance of the business having been so long in agitation, was a reason why it should be longer considered. The reason for delay was certainly not weakened by that. The business was highly improper for Government to embark in.

Mr. MURRAY had but one idea to suggest, as it was unnecessary to go over the general policy, which had been amply stated by other gentlemen. There appeared to him two objects; first, the securing the Indian friendship by a supply of their wants; second, the supplanting the British traders in their influence over the tribes whose hostilities might embarrass us. To the last object, therefore, the meditated mode of supply by public agency was peculiarly well adapted. The Indians are now supplied by a great company long established, very wealthy, and possessing this influence, in which we must supplant them. We are to consider whether, if private individuals are left to be the only competitors with the Canada company, this influence and this trade will be transferred agreeably to sound policy. He thought they would not. Small capitalists, and adventurers young in this trade, would certainly prove unequal to a competition with so well established and rich a company as the Canada company. It was no uncommon thing for great companies, when they were apprehensive of what they would call interlopers, to crush all competition by making a voluntary sacrifice of a few thousand pounds sterling. By underselling, on a large scale, for a time, and even a certain loss, they secured themselves in future from competition. This great company can afford to pay this price for the perpetuity of this trade and influence. In order to meet the capital of this company, we must not trust to individual small capitalists. By a sum appropriated by Government to the object, however large the capital in competition in Canada, the Government will be able to beat down the trade of this company and place it in American hands; and in a few years after the competition has ceased, the Government may then withdraw its agency, and leave it to private capitals, to which the field will then have been rendered easy.

The motion of Mr. SWIFT was negatived; and the bill was ordered to be engrossed for a third reading.

PERMANENT SEAT OF GOVERNMENT.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I transmit to you a memorial of the Commissioners appointed by virtue of an act, entitled "An act for establishing the temporary and permanent Seat of the Government of the United States," on the subject of the public buildings under their direction.

Since locating a district for the permanent Seat of the Government of the United States, as heretofore announced to both Houses of Congress, I have accepted the grants of money and of land stated in the memorial of the Commissioners. I have directed the buildings therein mentioned to be commenced, on plans which I deemed consistent with the liberality of the grants and proper for the purposes intended.

I have not been inattentive to this important business intrusted by the Legislature to my care. I have viewed the resources placed in my hands, and observed the manner in which they have been applied: the progress is pretty fully detailed in the memorial from the Commissioners; and one of them attends to give further information if required. In a case new and arduous, like the present, difficulties might naturally be expected: some have occurred; but they are in a great degree surmounted; and I have no doubt, if the remaining resources are properly cherished, so as to prevent the loss of property by hasty and numerous sales, that all the buildings required for the accommodation of the Government of the United States may be completed in season, without aid from the Federal Treasury. The subject is therefore recommended to the consideration of Congress, and the result will determine the measures which I shall cause to be pursued with respect to the property remaining unsold.

G. WASHINGTON.

UNITED STATES, *January* 8, 1796.

The Message and memorial were read, and referred to a select committee.

CHARLES WHITNEY.

A letter was read from Charles Whitney, enclosing a petition. Mr. Whitney requested the House to hear the evidence of Colonel Silas Pepune, who is now in town, in his vindication. The letter was dated in prison. His creditors, alarmed by the proceedings of the House, have arrested him in jail, so that this affair has virtually ruined him.

The letter and petition were ordered to lie on the table, and then the House adjourned to Monday.

MONDAY, January 11.

INDIAN TRADING HOUSES.

The bill for establishing trading houses with the Indians was read.

Mr. S. SMITH moved, as an amendment, to strike out the words "jurisdiction thereof." The motion was withdrawn to make room for another, suggested by Mr. BLOUNT. This was, that the engrossed bill should be referred to a Committee of the Whole House. It was accordingly made the order of the day for to-morrow.

EXCISE DUTY UPON SNUFF.

Mr. GOODHUE presented a petition from certain snuff-makers, in the State of Massachusetts. They complain of the hardship of laying on the excise upon the mortar. If an excise is necessary, they recommend that it should be transferred back again to the weight. The petition was referred to the Committee of Commerce and Manufactures.

ARREARS FOR MILITARY SERVICES.

Mr. GILES called up his motion, laid on the table a few days ago, relative to procuring from the proper officers an account of arrears, due by the United States for military services to individuals. It was referred to the Committee of Claims, to report on the practicability and expediency of the resolution.

NAVAL ARMAMENT.

Mr. W. SMITH observed to the House, that, in the law regarding the equipment of the six frigates, there was a clause directing that the building should be suspended, in case of a peace being concluded between this country and the Algerines. Mr. S. read the clause in the act. He had not yet formed his own opinion. He wished the sense of the House to be known. If it was thought better to sell the materials, there had been so great a rise in the price, that they could be disposed of at such a rate as to avoid any loss to the United States. If it was thought proper to lay the money aside, as a naval fund, Mr. S. read a number of resolutions, which he would probably submit to the House; in the present stage of the business they were premature. He now submitted to the House the following resolution:

"*Resolved*, That a committee be appointed to prepare and bring in a bill to repeal the last section of the act, entitled 'An act to provide a Naval Armament.'"

Mr. PARKER said, that the committee appointed on the state of the Naval Armament were in the daily expectation of getting information on the subject from the proper officers. He advised that any proceeding on it should not be had till after that was obtained. Ordered to lie on the table.

SURVEY OF THE SOUTHERN COAST.

On motion of Mr. MILLEDGE, the House went into a Committee of the Whole, on the report of the select committee on the memorial of Parker, Hopkins, and Meers. The report was dated the 29th of December last, and being on a subject of the highest consequence to the commercial interest of this country, the following abstract of the report is presented:

"The coast not only of Georgia, but also of South Carolina, North Carolina, and Virginia, has never been surveyed with the degree of accuracy which their importance to the commerce and navigation of the United States demands. As to Georgia, in particular, whose harbors are numerous, and as yet very little known, few observations have been made upon its coast, and those few have now become uncertain, from the shifting of bars, banks, and channels. The committee are of opinion, that, to obtain accurate surveys and charts of those coasts and inland navigation, would be an object of national importance and general advantage. They find that the memorialists have undertaken, and made considerable progress in this useful work. The whole coast of Georgia, from St. Mary's to Savannah, inclusive, with its harbors, rivers, and inland navigation, has been completed by them with a degree of accuracy and skill, as it appears to the committee, which will entitle their work to public patronage; and, although it is now ready for engraving, they, having exhausted their resources, declare themselves unable to proceed without assistance. The sum which they require is three thousand dollars, which, together with the copy-right, would be a reasonable compensation for what they have done, and would enable them to prosecute their enterprise with prospects of bringing it to an early completion. The copy-right, as the committee think, ought to be a part of the compensation, because it would lessen the actual expense to the public, and operate as an inducement to the undertakers to make the work as perfect as possible. Though the committee conceive a high opinion of the capacity of the memorialists, and accuracy of their work, they will not pronounce them the most proper persons to be employed in an undertaking so useful and important, nor say what sum may be necessary to carry it into effect; they think it would be more advisable to leave those points, under proper limitation, to the direction of the Executive, which will be disposed, no doubt, to give the memorialists preference, which the committee are inclined to believe they merit, and which, after making the proper inquiries, will be enabled to estimate the sums requisite, and adopt such expedients as may tend to lessen the expense. The employment of the revenue cutters in that service, when not more usefully occupied, is one measure which the committee consider as highly proper: they therefore recommend the following resolution:

"*Resolved*, That the President of the United States be requested to obtain, as soon as possible, complete and accurate charts, made out from actual survey and observation, of the seacoast, from the river St. Mary's, in Georgia, to Chesapeake Bay, inclusive, and that ——— dollars be appropriated for that purpose."

The SPEAKER and Mr. SWANWICK read each of them a motion for referring the subject generally to a committee. They wished to have the object of the motion extended.

Mr. MILLEDGE thought that if the matter took this turn, it would clog the business. The committee report that the surveys have been made with accuracy, and he therefore recommended such measures as would lead to an early publica-

tion. He represented the dangerous state of navigation on the coast of Georgia, where were many harbors totally undescribed.

Mr. Swanwick hoped that there would not be an opposition to a general reference. He would vote for a recommitment on that principle.

Another member stated, that from Charleston to St. Mary's river, there are few or no charts; many ships are lost for want of them. He hoped that the motion for recommitment would not prevail. This motion passed.

The Committee rose, and the Chairman reported. Mr. Swanwick thought that the motion should be referred to the Committee of Commerce and Manufactures, which has some analogous subjects before it. This was agreed to.

REMISSION OF DUTIES, &c.

A report from the Committee of Claims, on the petitions of Wright White, John Devereaux, and William and Archibald McNeills, was taken up and considered. They severally requested remission of duties on certain articles which had paid them. One of these was for a cargo of salt destroyed, on the second of August last, in a storm. The committee were of opinion that there seems no reason for remissions of this kind, any more than of the price itself, with which the duties paid must be understood to be incorporated. The petitions of William Smith and Joshua Carter were of the same nature. The whole of these petitioners had leave granted to withdraw their petitions.

In the case of Smith and Carter, the petitioners claim compensation for a vessel lost in consequence of having been misled by lights under the care of Government officers. It appeared that accident had destroyed one of the lights, and the principle established by this decision of the committee against the petition, determines that Government cannot be responsible in this way for even the negligence of the persons employed in the service of the light-houses.

The committee, also, on the petition of Moses Myers, recommended that he should have leave to withdraw it. Mr. Goodhue said that it involved certain important points. He therefore moved that it should be referred to the Committee of the Whole. Wednesday is appointed.

WILLIAM TOMKINS.

The report in the case of William Tomkins, of the county of Louisa, Virginia, was taken up. There had been a negative on this petition, during the last session, by a report from the Committee of Claims. Lieut. Robert Tomkins, brother to the petitioner, returned from the American Army with the small-pox. He infected the family. Henry Tomkins, the father, died, and his wife and children were reduced to distress.

Mr. Tracy remarked that Robert Tomkins died in 1777, before any commutation was promised, and therefore he thought the claim incompetent.

Mr. Parker had known Mr. Tomkins, who was an officer in the regiment that he commanded. He likewise thought the prayer of the petition was inadmissible. Negatived.

CALEB NEWBOLD.

The report on the petition of Caleb Newbold, and others, was next read. The petition was for the price of a quantity of pork, taken in the late war, for the use of the American Army. The father of the petitioner had sued the State of Pennsylvania, and had been refused payment by a jury. The limitation act passed while this was first depending, so that time had been lost by an application in the wrong quarter, but not by negligence.

On motion, by Mr. Mason, the petition was referred back to the present Committee of Claims.

Mr. Tracy moved that such parts of the reports of the Committee of Claims, of this Congress, as have not been acted on, with the petitions and vouchers whereon they are founded, be referred back to the new committee. This was agreed to.

JABEZ JOHNSON.

A report on the petition of Jabez Johnson was taken up. He claimed payment for sixteen new four-pounder pieces. They had been, in 1775, removed from New York to King's Bridge, to prevent their falling into the hands of the British. The petitioner knew not what became of them afterwards. The report was unfavorable; but, on a motion by Mr. Kitchell, the petition was referred back to the committee, because some new documents have appeared since the report was made.

SAMUEL HENRY.

The report on the petition of Samuel Henry was unfavorable, and the committee made such a report with the utmost reluctance and regret. He had been possessed of large property in Charlestown, when it was burnt by the British, at the battle of Bunker's Hill. He was reduced from affluence almost to want, and had, not long after, lost four sons in the war. The committee could not grant redress for property destroyed in this way, and the refusal of Mr. Henry's petition arose from the absolute necessity of adhering to some fixed rule. Multitudes of other persons were in the same situation; and it was, as Mr. Sedgwick observed, beyond the power of this Government to satisfy such claims. Negatived.

The House then adjourned.

Tuesday, January 12.

A bill from the Senate to regulate proceedings in cases of outlawry was read a first time. By a special order of the House, it was read a second time—there being for a second reading 41 against 26. This was done, and the bill was referred to a Committee of the Whole on Monday.

Mr. W. Smith, from the Committee of Ways and Means, presented a report of appropriations and expenditures for the year 1796. The report was read, and referred to a Committee of the Whole House on Thursday.

INDIAN TRADING HOUSES.

After receiving a number of petitions, the House went into a Committee of the Whole, on the bill for establishing trading houses with the Indians. The Chairman read the bill.

A motion was made to strike out of the seventh section the words "having jurisdiction thereof."

Mr. Parker wished the amendment to be withdrawn, lest the bill itself might be lost by the delay. The amendment might, if thought necessary, be made in the Senate.

The amendment produced a long conversation. At last, the Committee rose, and the Chairman reported the bill with two amendments, which were agreed to. The bill was ordered to be engrossed for a third reading to-morrow.

CASE OF ROBERT RANDALL.

A petition was presented and read from Robert Randall. It represented that he was under close confinement by the orders, and during the pleasure, of the House. He hoped that his confinement, and the reprimand which he had received, would be judged a sufficient atonement for any offence or contempt which he might have committed against the honorable House. He solicited his release, and should, as in duty bound, ever pray, &c.

Mr. W. Smith moved that this petition should be made the order of the day for to-morrow. Mr. Sedgwick reminded the House of the petition presented some days ago for Whitney, soliciting that the House would consent to examine Colonel Pepune in his exculpation. Both petitions are to be taken up to-morrow.

CASE OF JOHN SEARS.

A report was made on the petition of John Sears. He solicited payment of arrears of pay due to John Fitzgerald, a soldier in the Maryland line. Sears had given him his own certificates, and was in lieu of them to receive the arrears expected to be due to Fitzgerald. On coming on to Philadelphia, Sears found that Fitzgerald had been returned as a deserter, and that his pay was of consequence forfeited. The committee, however, entertained suspicions that Fitzgerald might have been improperly entered as a deserter, which the man himself asserted. They found that General Greene, under whom Fitzgerald served in the Southern States, had once, from some circumstance of military necessity, advertised that soldiers who did not, by a certain day, appear at headquarters, should be ranked as deserters. In the end, several men whose furloughs were not expired, and others who were upon duty in different quarters, were returned as deserters; and as Fitzgerald had been in the service under Greene, it occurred that he might come under this description. They recommended that the proper accounting officers of the Treasury should be instructed to inquire, first, whether Fitzgerald was really a deserter or not; and, if he was not, whether the certificates had actually been delivered by him to Sears; and, if they were genuine, to pay them, notwithstanding the limitation act, within which, under the circumstances above stated, they did not consider the case to come. There did not appear, on the face of the transaction, that there had been any jobbing in the matter, but merely that Sears had wanted to accommodate Fitzgerald. This is a summary of the case, as related by Mr. Tracy, Chairman of the Committee of Claims.

Mr. Giles wished to strike out of the resolution recommended in the report the words following: "In the same manner as though no statute of limitation had barred his claim." The fact, as explained, seemed to be that the case was not within that statute.

Mr. Tracy was not anxious about the words. The committee had thought that the resolution read better with them. He gave some reasons for this opinion. The words were struck out; the resolution passed, and the Committee of Claims were directed to bring in a bill to that effect.

WILLIAM FINDLEY.

A report was read on the petition of William Findley, a soldier in the late Continental Army. He had received, by his own account, nineteen stabs of a bayonet, and no compensation. The Committee of Claims remark, that if only the nineteenth part of the story were true, he might have had a pension long ago: there was nothing to hinder it. He brought no evidence of his assertion. The House, on recommendation from the committee, granted him leave to withdraw the petition.

JOHN BAPTISTE DUMON.

The House then went into Committee of the Whole, and took up the report of the Committee of Claims on the petition of John Baptiste Dumon. As this report produced some debate, and as the circumstances which it relates are interesting, it is here inserted at length.

"John Baptiste Dumon, of the Province of Canada, prays consideration and payment of the amount of four thousand three hundred and thirty-six dollars, which he thinks in equity the United States owe him, on the following statement, viz: His father was a warm friend to the American cause and Revolution; he lived in Quebec, and in 1775 and 1776, being a merchant, supplied the troops under General Wooster's command with many articles of clothing, and received paper money; that on the 6th May, 1776, he lent Colonel John Winslow, Paymaster, 692½ dollars, for which he took his bond for that sum in Continental bills of credit, not on interest, and was to have his money out of the first which arrived; that, when Colonel Winslow was on the road to Quebec, soon after the British landed, and prevented his making the payment. His father's house, on the Heights of Abraham, was used as a hospital by the Americans, for which reason the British troops burnt it; and for his attachment to the American cause his father was imprisoned, and suffered to a large amount. The petitioner, after the death of his father, and peace between Great Britain and the United States, found this bond of Colonel Winslow and 735 paper dollars in his father's desk; and on the 18th September, 1791, he received of Colonel Winslow the principal of the bond, without interest, and the bond was cancelled. He now requests a consideration for the interest of the sum contained in the bond; for the 735 dollars depreciated paper;

for the house burnt; and for his sufferings in prison—amounting to the sum of four thousand three hundred and thirty-six dollars, as stated above. His father died in 1783; was an aged and infirm man, and the petitioner a foreigner. These seem to be the reasons why an application was not made earlier than December, 1791, at which time this petition was preferred, and then referred to the Secretary of the Treasury; returned without any report, and, on the 5th January, 1795, referred to the Committee of Claims. By some documents with this petition, the committee are led to believe the actual bills were originally lodged with the petition: they were not delivered to this committee. The committee are of opinion the prayer of this petition cannot be granted, and that the petitioner have leave to withdraw it."

Mr. Livingston argued for paying the interest of the bond granted by Captain Winslow. He confined himself to this point.

Mr. Tracy said, that he and the other gentlemen of the Committee of Claims would have been glad to gratify their feelings by complying with the prayer of the petition, if it could be done on any general principle by which business could be got along. They thought it impossible to comply with the request.

It was said by some member that there might have been an interested motive for letting the bond lie over, in order to get the principal, interest, and all together. To this it was replied, that there never could be any rational motive for such conduct. The compound interest of the money that would be sunk must very nearly have equalled the principal sum itself. The matter had lain over fifteen years. It was unjust to ascribe any such design to the petitioner.

Mr. Dayton said, that before gentlemen opposed the report, they would do well to reflect. The bond was to have been paid in Continental paper money: this had depreciated so much that Mr. Dumon was in reality better off with a late payment in specie.

In answer, a gentleman observed, that when he had money in his pocket, he was entitled to consider it worth as much as its value at that time in currency. Continental paper, in 1776, was not at all depreciated, and Mr. Dumon, he had no doubt, could have got it off his hands at full value.

The Committee agreed to the report. They rose, the Chairman reported progress, and the House agreed, and leave was granted to withdraw the petition.

Wednesday, January 13.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and of the House of Representatives:

I lay before you an official statement of the expenditure to the end of the year 1795, from the sums heretofore granted to defray the contingent charges of the Government.

G. WASHINGTON.

United States, *January* 13, 1796.

Ordered, That the said Message and statement do lie on the table.

A report from the Committee on Elections was presented by the Chairman, Mr. Venable. The Committee reported that Mr. John Richards, a member from the State of Pennsylvania, was duly elected, and recommended that he be permitted to take his seat. The report was ordered to lie on the table.

Mr. Giles, from the committee for reporting on an universal system of bankruptcy, introduced a bill, which was made the order of the day for Monday week, in Committee of the Whole.

INDIAN TRADING HOUSES.

The bill for establishing trading houses with the Indians was read a third time by the Clerk.

The Speaker proceeded to read it over again, in order to fill up the blanks.

The first blank in the bill was filled up with the words "one thousand" before "dollars."

The second blank was for the penalty for carrying on any other trade with the Indians, by the agents, than that warranted by the statute. It was filled up with "one thousand" dollars.

Another blank was for the sum to be allowed to Agents and Clerks. Six thousand dollars allowed.

The blank for the sum to be expended on goods was proposed to be filled up with one hundred and fifty thousand dollars.

Mr. Parker argued for this sum. Two hundred thousand had been recommended by the Secretary of State. Mr. P. told him that the fifty thousand granted formerly would be added to the appropriation of this year, and make up what was wanted. He said, that, having been lately at war with the Indians, and having happily closed it by a desirable peace, he hoped that measures would be taken to preserve a perpetual tranquility on the frontiers. He felt very sensibly for the distressed situation which these poor people had been in ever since the Europeans first landed in America. He hoped that steps would be pursued similar to those which France pursued before she lost her Colonies on this Continent, and which have been adopted by Britain ever since the United States became independent. It was well known, that though Carolina and Virginia had, while Colonies, been in constant war with the Indians, Pennsylvania supported a perpetual peace. No instance had occurred in history of a war between them till the war of the Revolution. The reason was, that the former Colonies carried the sword among the Indians—the latter, wagons loaded with goods. He considered this measure not only as beneficent, but he felt for the honor, the dignity, and the interest of the country, that the sum should be liberal. He wished that there should be at least a fair experiment for two years. All inquiries had tended to prove to the Committee that the sum proposed was not too much.

Mr. Williams thought an hundred thousand dollars were enough.

Mr. Hillhouse was for the larger sum. Economy, in this case, required the allowance to be liberal. He did not conceive, by voting this money, that it was to be sunk or lost, but if employed in the military service against them, the whole

was gone for ever. If the sum proved larger than was necessary for the use intended, part of it would be saved.

Mr. Isaac Smith and Mr. Kitchell concurred in opinion with the preceding speaker. They did not think the sum too large.

Mr. Williams, if in order, would move to postpone the further consideration of the bill until Tuesday next. The resolution was accordingly moved and seconded.

Mr. Giles wished, that after the blanks in the bill had been filled up with an hundred and fifty thousand dollars, the bill should lie over for some time, till the House have learned from the report of the Committee of Ways and Means what funds are unappropriated, or what new taxes may be wanted. The House had often been embarrassed by voting money without having provided to supply it.

Mr. Macon thought it would be better not to fill up the sum in the blank of the bill, but rather to let the whole blanks be open till the bill should be taken up again; for, if they are filled up now, and the sums appropriated shall hereafter be found too large, there will be no way of touching that part of the bill, but by referring it back to a Committee of the Whole House. This trouble would be saved by leaving it blank.

Mr. Sedgwick said, that Mr. Macon had anticipated the chief thing which he meant to say. He wished, however, to learn more of the subject before he gave his vote for the sum. It may be too much, or it may be too little. He had not yet information to determine him on that head. There were large anticipations on the revenue. He disapproved of hurrying this affair, till the House were better informed about it.

Mr. Venable moved that the first Monday of February should be named for taking up the bill.

Mr. S. Smith observed, that if the bill did not go through immediately, the season for sending to Europe for goods would be lost. The bill would thus be thrown back for a whole year.

Mr. Gallatin wished for a delay of three or four weeks. He would not appropriate any part of the war funds for this scheme. There is no excess in the receipts over the expenditures. On the other hand, from his view of the funds, two millions of dollars of additional permanent funds would be wanted, if any progress was to be made in discharging the Public Debt. He would not vote for the bill, unless there was to be a reduction in the expense of the Military Establishment.

Mr. Madison said that the object of the bill was so extremely benevolent, that he must agree to the principle. He recommended a delay.

Mr. S. Smith, who had spoken before Mr. Gallatin, observed, that if there was a delay of the bill it would afterwards take a month to get through both Houses. The goods, if wrote for on the 1st of April, could not be here till October. They would then be too late to answer the purpose for the year. He would ask Mr. Gallatin, who knew the back country better than he did, how it would be possible to transport goods through it in that season of the year. This was a way of destroying the bill. After making it impracticable to do anything, gentlemen would say, *see your bill!*

Mr. Swanwick recommended the present moment as the most favorable to be expected for making investments from Europe. Ten per centum would be saved by making the investments at so favorable a time. There was also another reason against delay: the loss of the season. He did not approve of procrastination. We debate, and adjourn, at a very great expense to the public, and finally go through much less business than we might have done.

Mr. Hillhouse considered this an indispensable object. He would not, perhaps, oppose a delay till Tuesday next, but he would not agree to a delay till the first Monday of February.

Mr. Venable said, that hurrying the bill forward would not answer any end, till the House know the funds from which the sums thus voted are to be defrayed. The ten per centum upon investments could not be saved at present, as suggested by the gentleman from Pennsylvania, for though the act were passed, the money cannot be had for a considerable time to come. It is impossible, by any degree of haste, to bring over the goods from England before next Fall. Every gentleman in this House may know, that it is impossible to have them here before next Fall.

Mr. Giles was exceedingly disposed to doubt whether the bill, if passed, would produce any of the good consequences expected from it, notwithstanding that he was in the habit of trusting much to the judgment of those from whom it came. There is, at this time, no money in the Treasury but what has been already appropriated. The delay till February is nominal, but not real, since, from the want of cash, we cannot take advantage of the present rate of exchange. It was said that this rise in favor of America was owing to the intended British expedition against the French islands in the West Indies. If the supposition were true, Mr. G. apprehended little danger that the rate of exchange in favor of the United States would lessen for several months to come. He would rather imagine that it had not yet arrived at its height. This kind of conjecture was, however, too vague to build any public measures upon. He would vote for the delay till he saw what funds could be ascertained for discharging the sums appropriated by the bill.

The question was then to be taken on the two resolutions before the House, the one for postponing till Tuesday, and the other till the first Monday of February.

By the rules of the House, the latter resolution, as including the greatest length of time, was taken first. It was carried—yeas 45, nays 40. So the bill stands over till the first Monday of February.

Mr. Claiborne read a resolution for requesting the President to lay before Congress a statement of the number of trading houses which would be necessary, of the different species of goods, and of the sums of money which will be requisite to carry on intercourse with the Indian tribes.

Mr. Giles said that the House knew as much on this subject as the President. He hoped that the motion would be withdrawn. It was in fact telling the President to pass the bill. Last year a requisition of this nature was made to the President, who, in the opinion of Mr. G., acted with much propriety. He sent it at once to the Secretary of War, and thus took away all responsibility from himself.

Mr. Parker thought some resolution of this nature to be proper. He did not know whether the present one was strictly proper or not. It had been hinted by some former speaker, that the select committee might be expected to give particular information. They had performed the duty assigned to them, and had now no more concern with the subject than any other members of the House.

Mr. Venable expected that the committee, though not strictly bound to do so, would give all the information in their power. This they might do, and it would be of use: They could state their reasons for recommending particular clauses in the bill.

Mr. Claiborne said, that his reason for proposing the resolution was in order to obtain better information than what he at present had. He wished to be guided by the President. He desired to have his mind more satisfied than it is now on this subject.

Mr. Parker wished to strike out the word "President," and insert "the Secretary of the Treasury." He would then vote for it.

Mr. Goodhue was against the resolution. He observed, that the official duty of the Secretary did not lead him to such a knowledge any more than that of any member of the House.

The Speaker then reminded the House, that there was a communication from the Secretary of War upon this subject, which had not yet been read to the House. This was No. 4, which was accordingly read.

The resolution offered by Mr. Claiborne was negatived without a division.

RANDALL AND WHITNEY.

On motion of Mr. Christie, the House took up the petition of Robert Randall, and on motion of Mr. Sedgwick, that of Charles Whitney.

Mr. W. Smith moved that Randall should be discharged from the custody of the Sergeant-at-Arms, on payment of the fees. He said that the petitioner had been guilty of a great offence; but he was willing to dismiss him. He had suffered some imprisonment, and been put to expenses with lawyers. The House could not however discharge him from the custody of the City Marshal. They might apply to the President, that there should be granted a *nolle prosequi*.

Mr. Swanwick objected to the style of the petition as not sufficiently submissive. The passage he disapproved was in these words: "any offence or contempt which, in the opinion of the honorable House, he may have committed." The prisoner ought to have acknowledged his guilt. Mr. S. was sorry to be obliged, from a sense of duty, to oppose the prayer of the petition. This paper looked like an insult upon the House. The petition was, at the desire of a member, read a second time.

Mr. Murray did not think that the petition could have been more delicately worded. The prisoner was still liable to prosecution from the Attorney General. A confession in this House might operate against him. Mr. M. had felt much pain in being obliged to lodge a complaint against Randall. He would vote with pleasure to discharge him.

Mr. Swanwick, in answer, said, that the remarks of the member from Maryland had brought new ideas into his mind. He withdrew his objection; but saw no reason for the House to go further, or to interfere against a prosecution by the Attorney General.

Mr. Reed, from Massachusetts, spoke in favor of the discharge.

Another member hoped that the House would not interfere to stop the proceedings by the Attorney General. He would suffer too little if discharged now. He was proceeding at length against the House interfering for a *nolle prosequi*, when

The Speaker rose: He observed that arguments as to the prosecution before the Attorney General were irregular. The only resolution before the House was as to dismissing Randall from the custody of the Sergeant-at-Arms. He made these observations with pain, but they were requisite. The House agreed to the request of Randall.

The petition of Charles Whitney was then read. Mr. Sedgwick moved that the prayer of the petition should be granted; and that Whitney should be allowed to exhibit the evidence of Colonel Silas Pepune, and enter it on the Journals of the House.

It was objected as not in order to move to bring up a paper not yet, as it appeared, in existence.

Mr. Macon moved to insert the word "not;" that Whitney should not be allowed, &c.

Mr. W. Smith thought Whitney was entitled to enter this evidence. He had never been heard in his defence. He had, no doubt, behaved very ill in the business. Mr. S. made no question of his being an associate with Randall, but still his vindication had not been admitted. He had been discharged without an acquittal. Randall was allowed the use of counsel. They had been permitted to examine members of the bar. Randall had been asked if he could produce any witnesses in his defence; and if he had offered twenty witnesses they would have been examined. To enter this evidence of Colonel Pepune, Mr. S. considered as a point of right and justice.

Mr. Murray was satisfied that the deposition of the member from Vermont [Mr. Buck] was strictly true. He could entertain no scruple about the truth of the charge; but let that and the evidence go to the world together.

Another member considered the petition of Whitney as an insult. He hoped that the House would not pay as much respect to it as to take a question upon it. He had said at the bar of this

House that Mr. Pepune was his partner, and now we are desired to let his partner come and give evidence in his favor. He would as soon permit Randall himself to come to the bar in defence of Whitney. He believed Whitney to be just as guilty as the other, and thought that his confinement should have lasted, in point of justice, as long; though he was willing to get rid of both as early as possible.

Mr. Sedgwick said, that he had only one idea to state. He considered Colonel Pepune as a competent evidence. The House had seen the original bond, which contained nothing unjustifiable in it. Whitney did not, in his examination at the bar, say, that Mr. Pepune had been concerned in any thing criminal, nor was there any reason to think so. If an agreement is made on honest principles, and afterwards one of the partners starts off from the original idea into any thing bad, no blame can rest on his original associates. An honest partner may be properly called in to exculpate him, if it can be done. Mr. S. cared very little whether the question was carried or not; and saw no reason for that *holy indignation* which had been expressed about it.

Mr. Hillhouse thought that to enter this deposition on the Journals would be the height of absurdity.

Mr. Freeman began to speak, when Mr. Sedgwick rose and declared that he withdrew his motion. He never would have proposed it, had he expected so strong an opposition.

It was then moved to adjourn. The Speaker addressed the House. He said that as decorum was highly necessary in the House, he was sorry at being obliged to observe, that the business of the House had this day been very considerably interrupted by strangers on the right hand side of the Speaker's Chair. He was therefore obliged to request of members, that no strangers whom they might introduce, should go upon the right hand side of the Chair, but to turn to the left hand side, (that is, towards the gallery,) till some new order of the House was made on the subject. Members of the Senate will always have chairs placed for them on the right hand side of the Speaker's Chair, as long as they continued to give a permission of the same kind in their Chamber, to the members of this House.

After these remarks, the Speaker, at half past two o'clock, adjourned the House.

Thursday, January 14.

This day the House met at the usual time. After reading the Journals of yesterday by the Clerk, the Speaker informed the House, that it would be necessary for them to elect a gentleman to the Chair for this day in his place, as, from want of health, he was incapable of giving longer attendance. The House immediately adjourned.

Friday, January 15.

COMMERCIAL RESTRICTIONS.

Mr. S. Smith called up the resolution, which he laid on the Clerk's table some days ago, for restricting foreign vessels, that they shall only bring into the harbors of the United States, the growth, product, and manufactures of the respective countries to which they belong. He moved that this resolution should be referred to a Committee of the Whole House.

Mr. Hillhouse recommended referring this resolution to the Committee of Commerce and Manufactures, as the subject was rather new.

It was objected by a member, that this reference could only tend to procrastinate the decision. He had no doubt that this Committee would report the resolution as it stood. There are no documents in the hands of the Committee which are not before the House.

Mr. Swanwick.—The principle is not a new one; but a very old one. It has been adopted, in a greater or less degree, by the most distinguished maritime nations. France has, at present, permitted a partial suspension of it, on account of the exigencies of the war. In Britain, the principle is above an hundred years old. It was the foundation of all her greatness by sea. He did not wish to object to this reference, if necessary, for digesting the principle. Of its propriety, he had no doubt.

Mr. Hillhouse replied, that many British writers regarded the act of navigation as having been injurious to the commerce of England. The propriety of adopting that resolution rested not on the principle abstractedly; but whether the circumstances of the United States rendered such a step eligible. He thought that a few members would be better for digesting the resolution, in the first instance.

Mr. Madison was of opinion, that all important propositions, and especially all those of an abstract nature, should be referred, in the first place, to a Committee of the Whole House. There could only be two reasons for referring, upon any occasion, to a select committee; either when there was an absolute want of time for the House to digest the subject themselves; or when any particular papers or documents were to be examined. This case wes clearly not one of those. He recommended a Committee of the Whole in the first place. The general rule of propriety required it.

Mr. Goodhue was in favor of a reference to the Committee of Commerce and Manufactures. He had not yet fixed in his own mind whether the resolution was right or otherwise.

Mr. Murray was for a select committee. The question would be more accurately investigated, and information more readily collected there than in a Committee of the Whole House. It was not so much to be discussed as a general abstract principle; but, as whether, from a consideration of the present circumstances, it was an advisable measure. This could only be learned from a particular detail of facts.

Mr. Gilbert.—The present question is not perhaps of the greatest importance, for it relates only to the mode of bringing the proposition with the most advantage before the view and consideration of the House. This House has lately appointed

standing committees for considering certain particular subjects. The question now is, whether the proposition before the House does or does not relate to the general ground or branch of the subject of any one of those select committees. If it falls within the general view or department of any of these committees, it clearly ought to go to such committee, in pursuance of the system adopted here for doing business. Mr. G. believed that the resolution obviously related to the business of the Committee of Commerce and Manufactures. The resolution comprises a subject of moment; it ought to be well considered from a minute investigation of the facts. If it were a proposition respecting revenue, it would, without hesitation, be referred to the Committee of Ways and Means; and if we would uniformly pursue the course of transacting the business lately settled by the House, there would be no hesitation in referring the proposition, in the first instance, to the Committee of Commerce. He wished to see the proposition presented to the House, accompanied with all the facts necessary to be considered in deciding on its merits. This, he thought, could only be expected by the special inquiry and investigation of that standing committee, to which he hoped that the resolution would, in the first instance, be referred.

Mr. S. Smith observed, that he saw no use in a reference to a select committee, but to procrastinate the business. He alluded to the Committee of Commerce and Manufactures; a Committee of Navigation has been mentioned—there is no such committee—and he insisted that there was no propriety in a reference to the above standing committee. Mr. S. alluded to the late Treaty, said to have been concluded with Great Britain, and remarked that the proposition he had brought forward, contained the only provision which was left us by that Treaty to save our commerce from prostration. Mr. S. said the public business was greatly delayed by postponements; six weeks have already elapsed, and scarcely anything was done.

Mr. Bourne was in favor of a select committee; and he urged the competency of the Committee of Commerce and Manufactures to take the subject into consideration; subjects of commerce are connected with those of navigation, and so *vice versa*. Mr. B. did not see the propriety of introducing the Treaty on the carpet. The question is simply, whether the resolution shall be referred to the Committee of the Whole or to a select committee. Mr. B. urged a variety of reasons in favor of a select committee in the first instance.

Mr. Giles could not frame an idea of anything that was to be learned from such a select committee, unless they were to report a commercial history of the size of an ordinary volume. The report of a late Secretary of State [Mr. Jefferson] had condensed the whole information, which, at its date, could be obtained; and this paper is now before the House. All that possibly remained to be done, was to add the history of commerce from the time of that report to the present. No specific report could arise from them, but only the other over again. The resolutions above alluded to had been referred to a Committee of the Whole, because the subject was general. The same reason would apply now, as this was an important principle. More information will be had on the floor of this House than can be had from any select committee. He was against any delay that could be avoided.

Mr. Goodhue admitted the right of the United States to lay such restrictions. The expediency alone was doubtful; and this was his only reason for wishing that the subject should be referred to a select committee; that facts and circumstances might direct the House. He had not yet formed his opinion on this resolution.

Mr. Sedgwick had not yet made up his opinion. He asked where gentlemen learned that there was a disposition in any part of the House to protract the discussion. He thought the reference to Mr. Madison's resolutions rather unfortunate, for, after a very long discussion, the House came only to a preliminary resolution, which was doubtful in its meaning. Mercantile people might easily complete their ideas; but farmers might not be so prompt on a subject new to them. Mr. S. recommended a select committee, because, in one of the Whole House, the debate would be desultory. The former would enter more minutely into the subject, and feel a degree of anxiety and responsibility. They would be more deliberate. Gentlemen were wrong in supposing this a subject of party. No gentleman here could have any interest separate from that of the United States.

Mr. Baldwin was in favor of a reference to a Committee of the Whole, in the first place; this was agreeable to the practice of the House, from which the happiest effects had resulted. After the Committee of the Whole had discussed the proposition, the subject may then be referred to a select committee.

Mr. Page was in favor of a reference to a Committee of the Whole. He thought every subject should come before the members of this House, unaccompanied with the opinions of the select committee or of any individual whatever; this was consonant to the general practice of the House; this would divide the responsibility of public measures. He had no opinion of having public measures smuggled into the House, no one could tell how. Let every proposition be submitted fairly to the Committee of the Whole; in this way a general result will be obtained, and the sentiments of the majority will be fairly drawn forth.

Mr. Hillhouse denied any intentional design of delay. How that had been lugged into the debate he did not know. He had no disposition for hustling business through the House. In the course of this conversation, he had somewhat changed his opinion; and was ready to go into a Committee of the Whole immediately. He was willing to take it up here. It might next be sent to a select committee, and come back to the House. All this would throw so much more light upon the question.

Mr. Tracy was not for making laws by the rod. If we get through the session without doing any mischief, it is, I think, (said Mr. T.,) a great point

gained. He did not wish to hurry matters. He was for a Committee of the Whole.

Mr. Swanwick thought it was a proud day for the United States, when their Representatives were to meet for the discussion of so great a subject. He had not so low a hope as the member from Connecticut, that we might merely do no mischief. He hoped that we should do good, perhaps, more than any of our predecessors. He was for a Committee of the Whole House.

Mr. Sedgwick was for a select committee first, for, after discussing in a Committee of the Whole, it would be putting the cart before the horse completely, to send it to a select committee for information. They will have nothing to do, but to draw a bill.

By a large majority, it was agreed to take up the resolution, in a Committee of the Whole on Wednesday next.

CIVIL APPROPRIATIONS FOR 1796.

The House went into a Committee of the Whole, on the report of the Committee of Ways and Means, containing an estimate of the appropriations for the public service for the year 1796.

The Committee proceeded through the report without alteration or debate; the Chairman made his report accordingly.

The House took the same into consideration.

Mr. Williams moved that the clause containing the items for the Mint Establishment should be postponed for further consideration; the whole subject of the Mint is now referred to a Committee of the Whole, and the sense of the Committee remains to be known. In the present situation of the business, he was not prepared to give a vote on the subject. The motion for a postponement was not seconded. The Speaker then put the question on the several parts of the report, which were agreed to; and the Committee of Ways and Means were directed to bring in a bill or bills accordingly.

Monday, January 18.

CASE OF WILLIAM LITTLE.

Mr. Goodhue, Chairman of the Committee of Commerce and Manufactures, pursuant to instructions from that committee, moved that they should be discharged from further consideration of the petition of William Little, merchant in Boston. Mr. Little had shipped for Europe seventy-one kegs of New England rum. Forty were, with difficulty, sold at Cadiz. The remainder were brought back, and, by some mistake, a custom-house officer seized them. The petitioner prayed for restitution or compensation. The motion of Mr. G. was agreed to. He then moved that the petition should be referred to the Secretary of the Treasury; which was also agreed to.

CONTESTED ELECTIONS.

The report of the Committee on Elections, made on the 13th of January, 1796, on the memorial of John Richards, came up next in order. The former report of this committee, was dated the 18th of December last. The present report has finally determined the question in favor of Mr. Richards.

The following is an abstract of the Report:

"On the second Tuesday of October, 1794, an election was held in the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, for electing a member to the House of Representatives of Congress. On the same day, the militia of that district who had marched on the Western expedition, held an election for the same purpose.

"The law of the State, made for that special end, directs, that the county Judges of the elections, instead of meeting on the third Tuesday of October, as formerly, should meet on the 10th of November. The army election returns were to be sent forward by that day to the Prothonotaries of the respective counties, and the Prothonotaries were to deliver them over to the county Judges, to enable them to make their returns. The district Judges were to meet on the 15th November, five days after the county Judges, to examine the county returns to make an estimate of all the votes, and to return, as Representative for the district, the candidate who had the highest number of votes.

"The county Judges, agreeably to law, met on the 10th of November, 1794. At this time, no army returns had been received, excepting from the militia of Northampton.

"After the 10th, and before the 15th of November, the army returns of the county of Montgomery were received by the Prothonotary of the county. He delivered them to some of the county Judges. Two of these made up a return, and certified it, on the 14th of November, to be a true return of the votes that had come to their hands.

"On the 15th of November, the district Judges met, agreeably to law. There was then laid before them the last-mentioned return, made by the county Judges of Montgomery, with the respective returns of the county elections, and the original return of the election held by the militia of Northampton, on which the return above recited, dated the 14th of November, 1794, from the county Judges, was founded. The district Judges reported, that by the general return of the county elections, and that of the Northampton militia, James Morris had the highest number of votes, to wit: 1,648.

"By the Montgomery militia return, as put into the hands of the district Judges, John Richards had 156 votes, and James Morris 58. This number, together with all the other votes, on the other returns, in favor of John Richards, amounted to 1,791, and those for James Morris to 1,706. At this time, no returns had come to hand from the Bucks county militia.

"On the 18th of November, after the above report had been made to the Governor of Pennsylvania, certain papers were lodged with the Secretary of State. They purported to be a return of the votes from the Bucks county militia. They were unaccompanied by any list of the names of the voters, at the election, nor had any certificates of their having been examined by the county Judges. On this return, it is stated that James Morris had ninety-one votes.

"On these grounds the petitioner states, that he is entitled to a seat in the House:

"1st. Because, upon an estimate in the returns produced before the district Judges, on the 15th of November, including the Montgomery militia, he has 1,791 votes, and James Morris 1,706.

"2d. Let the army returns, both for Montgomery and Bucks be rejected. Take then the army returns for

Northampton. Sixteen votes were given by persons unqualified, and two by proxy. Deduct these eighteen, and he has 1,636, to 1,630 for James Morris.

"2d. If you admit the whole army votes for each of the three counties, of Bucks, Northampton, and Montgomery, and strike out the eighteen bad votes, on the Northampton return, Mr. Richards would still have 1,791 votes, against 1,779 for the late Mr. Morris."

The committee were of opinion, *first*, that the Montgomery return ought to have been received by the District Judges, as it came to the County Judges before the 15th of November, the time prescribed by law for the District Judges to meet.

Second. That the Bucks county return ought to have been rejected, as never having been examined by the County Judges, and being unaccompanied by a list of the voters.

Third. That sixteen votes in the Northampton militia were given by persons not on the tax lists of the county, and otherwise not in the description of freeholders. Two other votes were by proxy.

The committee recommend the following resolution:

Resolved, That John Richards is duly elected as one of the Representatives for the district composed of the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, and that the said John Richards be permitted to take his seat.

Mr. Sedgwick moved that the further consideration of this business should be postponed till to-morrow. His reason for this was the absence of Mr. Sitgreaves, the only member, as it appears, in the House who was possessed of full information as to the facts and circumstances relative to the business before the House.

Mr. Venable, Mr. Gallatin, Mr. Swift, and Mr. Findley, severally objected to any delay. Mr. Bourne argued in favor of it.

Mr. Parker supposed that nothing had been said on the side of Mr. Morris, because the gentleman himself was dead, and his family did not concern themselves about the matter. There might have been evidence.

Mr. Swanwick said that the Journals were covered with motions of adjournment. He saw no good purpose that could possibly be answered by it. One member of the State Legislature is absent, and because his leave of absence expires this day, we are to have the additional loss of another member. He saw no occasion for such a waste of time.

Mr. Giles opposed further delay. He was generally against motions of adjournment; nor could he discover any use for it in the present instance.

Mr. Nicholas thought that if Mr. Sitgreaves possessed any material information, he might have laid it before the House in an early part of the business.

Mr. Hartley recommended a delay of one day, which could do no harm, and would be more satisfactory to the mind of the public.

Mr. Murray argued for a delay. The first report had been against Richards; and if any gentleman had since wanted to oppose him, his vigilance might be slackened by hearing that the former report was against Mr. Richards. Mr. Murray did not know that he would object to the second report, but he wished it not to be too much hurried.

Mr. Gallatin. The whole ground of opposition to the report is on this idea: that some facts may come out which are not yet proved. Now, every fact and circumstance concerning the transaction, was published six months ago by the Governor.

Mr. Hartley could conceive no inconvenience resulting from a postponement of one day. The badness of the weather had probably prevented Mr. Sitgreaves from coming forward. He thought it highly probable that Mr. Richards was entitled to the seat.

Mr. Swanwick said that the case was of less importance than the principle on which it went. Why should a gentleman be kept out of his seat even one day for a surmise? He thought it highly unjust to postpone the matter, even for one day. It is an old saying, that *sufficient for the day is the evil thereof;* but we are going further, by anticipating the evil of future days. It would be a very extraordinary mode of reasoning to keep one member out of his seat because another member was absent.

Mr. Parker said that, if we take up this report to-day, we shall perhaps be sorry for it to-morrow. Of Mr. Richards or his constituents he knew nothing, but he thought it likely that, before the gentleman was warm in his seat, there would be a petition against him. Mr. Parker had no other motive for wishing a delay for one day.

Mr. Venable said there was a mistake in asserting that the first report had been against Mr. Richards. This was not the case. Mr. Sitgreaves had not mentioned to the House any information that could be expected to reverse the report; nor had any other person come forward with any such. If any gentleman will say that new evidence has come out, let the report be recommitted. If there is none, let us proceed to decide upon it. This report has been six weeks in the hands of the committee.

On motion of Mr. Macon, it was ordered that Mr. Richards should in the mean time have a chair placed for him within the bar of the House. This was accordingly done.

The report was amended to read thus:

"*Resolved*, That John Richards is entitled to take his seat in this House as one of the Representatives from the State of Pennsylvania."

The resolution was then agreed to unanimously.

Mr. Richards was immediately qualified, and took his seat.

TONNAGE AND IMPORTS.

On motion, it was

Resolved, That the Secretary of the Treasury do report a comparative view of the tonnage employed in the trade between the United States and foreign countries, for the years 1790, 1791, 1792, 1793, and 1794; and that he report the actual tonnage of vessels of the United States employed in the years 1790 and 1794, between the United States and foreign countries, beginning for each year, agreeably to the practice of the Treasury.

And, on motion, it was further

Resolved, That the Secretary of the Treasury lay before this House a statement of the goods, wares, and merchandise imported annually into the United States, with their value, since the thirtieth of September, one thousand seven hundred and eighty-nine, discriminating the amount of the articles imported in ships or vessels of the United States from the articles imported in foreign ships or vessels.

CONTESTED ELECTION.

Mr. Venable, from the Committee of Elections, to whom was referred the petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House for the said State, made a report, which was read; whereupon,

Ordered, That Wednesday next be assigned to take the said report into consideration.

Mr. W. Smith reported a bill from the Committee of Ways and Means, making appropriations for the year 1796; which was read a first time.

After the reception and reference of several petitions, The House adjourned.

Wednesday, January 19.

APPROPRIATIONS FOR 1796.

The House went into Committee of the Whole on the bill making appropriations for the support of Government in the year 1796.

Mr. Williams, agreeably to notice given on a former day, moved to strike out all that gross sum appropriated for the officers of the Mint.

Mr. W. Smith said that a great proportion of the sum was for salaries established by law. They must be paid, till the law is repealed. If the gentleman means to suspend the whole appropriation bill till an inquiry is gone through with respect to the Mint, the bill may be delayed for two months, and the consequence be the greatest embarrassment in Government.

Mr. Jeremiah Smith had never been much in favor of the Mint, nor had experience increased his good opinion of it. But passing this appropriation bill would not prevent a full investigation of this subject hereafter. He was for deferring any proceeding about the Mint till the select committee made their report. He opposed the motion.

Mr. Sedgwick thought that the course which the gentleman is pursuing had never been adopted before. It is incorrect to discuss the merits of the Mint in passing this bill. We might as well take up the salary of the Chief Justice, or any other article in the bill, as the Mint. We never should have done, at this rate. We are now only to vote for the bill, as agreeably to the laws already made. Mr. Sedgwick said that if the gentleman from New York [Mr. Williams] would bring forward any proposition for the regulation, or even the abolition of the establishment of the Mint, if it could be proved productive of public benefit, he, with every other gentleman, would give him their aid to effect the object; but that now, he conceived, it could not regularly be brought forward. He thought an appropriation bill should be conformed exactly to the state of the public engagements, and that where establishments had been formed and salaries provided, the amount of them should be the principle of calculating the amount of appropriations; and that the House ought not, by withholding appropriations, to break in upon and destroy establishments formed by the whole Legislature. That these observations had hitherto been sanctioned by the practice on this subject. He observed, that if the House was to investigate, in the discussion of an appropriation bill, the amount of salaries and the legal establishments of Government, the public service would be dangerously destroyed. He remarked, that it was to be observed that no appropriation was made, for any purpose, since the commencement of the year.

Mr. Gallatin felt alarmed at the principle advanced by Mr. Sedgwick, for, if admitted, it might be applied in future on some other and important occasion. The motion made by the member from New York ought not, perhaps, to be adopted; but there was certainly a discretionary power in the House to appropriate or not to appropriate for any object whatever, whether that object was authorized by law or not. It was a power which, however inexpedient on the present occasion, was vested in this House for the purpose of checking the other branches of Government whenever necessary. That such a right was reserved by this body, appeared from their making only yearly appropriations both for the support of the Civil List and of the Military Establishment. Had they meant to give up the right, they would have such appropriations *permanent*. There was one instance in which this House had thought it proper to abandon the right. In order to strengthen Public Credit, they had consented that the payment of interest on the debt should not depend on their sole will, and they had rendered the appropriation for that object not a yearly, but a permanent one. Whenever that was not the case, and the right had been reserved, it was contradictory to suppose that the House were bound to do a certain act, at the same time that they were exercising the discretionary power of voting upon it.

Mr. Sedgwick said that he certainly had no intention to have given occasion to the observations which had been made; but, as the general principle which he had laid down had been denied, and as it had some relation, either intimate or remote, to the subject before the committee, he would take the liberty to repeat the principle, and say a few words in support of it.

The principle, then, which he had assumed, was, that when legal establishments were made, it was the duty of the Legislature to make appropriations conformably to the public engagements; and that neither branch had a right to withhold its assent. He observed that the whole Legislature, and not a part, were competent to form contracts, and to establish and alter compensations and sala-

ries. The Legislature, and not either branch of it, had the power of expressing the public will, and pledging the public faith; that when a salary is ascertained, the public faith is pledged that it shall be paid, according to the stipulation; and that, therefore, the Public Credit is involved in making the necessary appropriations, without which it could not be paid. He asked, if, in such a case, it was competent to the House rightfully to withhold the means necessary for the performance of the public engagement?

He said he had always supposed that the power of the House, in the case of appropriations, did not give a power to yield or withhold assent on such a subject. He believed, in every such instance, the exercise of discretion was restrained. To illustrate his ideas, he could mention a similar instance. The Constitution had declared that the President should receive a stated compensation for his services, to be ascertained by law, which could neither be diminished nor enlarged during the term for which he should have been elected. Here was a duty imposed on the Legislature, with the performance of which they could not, they had no power to dispense. Yet, after the compensation was stated, no payment could be made in consequence of appropriating. He asked, if, in this case, when the public will was expressed, the engagement and the national faith pledged, the Legislature could of right withhold the necessary appropriation? The same observations might, he said, be applied to every instance where public contracts were formed. The public faith was pledged, the necessary appropriation must be made to prevent a violation of it; and if withheld, such violation might justly be charged on the Legislature.

Mr. Williams was willing to confine the resolulution to one clause—that for purchasing copper for the use of the Mint.

Mr. Dayton (the Speaker) took up the resolution of amendment on the ground of expediency. He thought it was too extensive. It was like bringing a side wind against an institution established by law. I am free, said M. D., to declare that the Mint has not answered the expectations of the Legislature that founded it. An impression is made on the public mind that it has been conducted with negligence. He would have agreed to the resolution, if it was only to strike out the new purchase of copper. He wished to wait for further information, till the report of the select committee was given in.

Mr. Williams agreed to restrict his motion as pointed out by the Speaker. He stated the enormous expense of the Mint—out of all proportion to any possible utility. He wished to have the subject fairly before the House. His resolution, as amended, was to strike out the following words: "For the purchase of copper for the use of the Mint, ten thousand dollars."

Mr. Nicholas was for the resolution. It had been urged that the House were to pass the appropriation bill as a matter of course. He thought otherwise. The House, in enacting a law, were entitled to consider all its consequences.

Mr. Giles adverted to a fact stated by Mr. Williams, viz: that the cents are issued from the Mint at a cheaper rate than the price of the copper itself; so that, if a person chooses to melt down a pound weight of cents into a lump of copper, and takes this lump back again to the Mint, he will receive more money for it than what it was worth in cents. Thus the whole expense of workmanship is cast away. Mr. Giles described the ridiculous and wasteful effects to be looked for from such a way of coining money.

The amendment of Mr. Williams was agreed to by a very large majority.

Mr. Nicholas moved to strike out some of the subsequent clauses, for payments to mechanics, for stationery, &c.

Mr. Isaac Smith wanted to know if it was meant to stop the whole operations of the Mint.

Mr. Page objected to dispersing the workmen, who could not easily be collected again; at least it would require an immense expense to re-assemble them. It has been stated, in the course of this discussion, that *every cent coined in the Mint* has cost the public ten; but if the workmen are to be dispersed, and if at any future time assembled again, the cents may come to cost *an hundred cents* a piece. Mr. P. recited various reasons for hoping that the business of the Mint will in future be conducted with more expedition, economy, and success. He stated the immense benefit arising to the country from the plenty of copper money, and especially to the poorer classes of people. A Mint was of more consequence than gentlemen seemed to think it was. He said that private Mints were reported to be setting up. He wished to refer the amendment of his colleague from Virginia to the third reading of the bill. By that time, the House would be better informed.

Mr. Nicholas did not wish to abolish but merely to suspend the operations of the Mint till nearer the end of the session. This amendment was negatived.

The deficiencies of the Mint, for the last year, form an article of eighteen thousand three hundred dollars. Mr. Williams said that it was an amazing sum. He wished to know the meaning of it.

Mr. W. Smith, Chairman of the Committee of Ways and Means, replied that this article had not passed without due examination. The committee, consisting of fifteen members, were too numerous to enter into a detail of every article. They appointed a sub-committee to inquire about them, and in particular about the Mint. The original allowance of copper to be purchased was twenty thousand dollars. They had reduced it to ten thousand.

Mr. Williams moved to strike out these eighteen thousand three hundred dollars.

Mr. Dayton complained that the Chairman of the Committee of Ways and Means seemed reluctant to give information.

Mr. W. Smith stated that the gentleman had entirely mistaken him. His censure had been rather premature. He felt no reluctance to give every light possible. He then explained the steps

taken by the Committee to convince themselves that there was nothing wrong in the Mint statement.

Mr. Dayton apologized for his former observations on the Chairman of the Committee.

Mr. Bourne objected to striking out these eighteen thousand three hundred dollars. The House cannot do it. The accounts are either settling, or already settled at the Treasury. Debts are actually contracted that must be paid. No gentleman points out an overcharge on any of the articles. It is not competent for the House to go through each one separately. It never was the design of the law.

Mr. Jeremiah Smith considered this as one of the plainest cases imaginable. Debts have been contracted, and must be paid. If the gentleman, [Mr. Williams,] who seems to have so many suspicions, will be at the trouble of going to the Treasury office, he may look at the accounts, and if they are wrong, let him impeach the officers of the Treasury.

The amendment was negatived.

The Committee rose, the Chairman reported, and the House took up the bill as reported.

The amendment for striking out the ten thousand dollars to purchase copper, was objected to by Mr. Bourne, who hoped that the House would disagree to it.

Mr. Madison stated the fact already mentioned by Mr. Williams, that it would be profitable to melt down the cents, and carry the bullion back to the Mint for sale! He had it from the Chairman, and one of the members of the Mint Committee.

Mr. Livingston was for keeping in the amendment. Many people had strong doubts as to the utility of the Mint. He wished the whole appropriation for it to be struck out. The Mint he regarded as altogether an expensive and extravagant project, in the way wherein it had hitherto been conducted.

The House adhered to the amendment of the Committee of the Whole.

Mr. Livingston next moved that the whole appropriation for the Mint should be struck out.

Mr. Jeremiah Smith regarded this motion as too precipitate. He would recommend waiting for the report of the Select Committee on the Mint. He might then think that the Mint was an extravagant, wasteful, and useless institution; or he might think that it could be modified in a way to do much good. He was against the motion as being too early. The gentleman has perhaps ripened his opinion, while others may not have matured theirs.

Mr. Livingston replied that he wanted time to deliberate, before voting any thing about the matter. He had asked, and the question had not yet been answered, whether any bad effect would arise from delaying to pass this appropriation at the present moment. His object in the motion was not precipitation, but deliberation.

Mr. Hartley thought it would not be fair, when we feel ourselves very comfortable here, to be striking off the salaries of other people, at this hard season of the year. He was against the motion, and hoped that the amendment of the Committee, as to the purchase of copper, would also be expunged.

A member observed that there need be no apprehension of people starving. The parties were provided for by law, up to the thirty-first of December; and it had been the custom to advance salaries beforehand. The motion of the member from New York had nothing of defrauding in it, otherwise he himself would not have risen to second it. He hoped the resolution would prevail. He had occasion to go to this Mint, on business for a country bank which he named, and had seen the way in which the business was conducted. The institution is a bad one, and badly conducted. It has been most scandalously carried on, and with very little advantage to the public. If the institution is not to be better carried on than it has been, it ought to be thrown aside. The principal artist in the Mint is dead, and it will not be easy, at present, to get another in his place.

Mr. Murray said, that had the gentleman from New York moved for delay, for the purpose of introducing a motion to repeal the law which rendered this appropriation necessary, he would not have troubled the House with a single remark; but his motion to strike out an appropriation for the purpose of bringing the policy of the law itself into discussion, contained a principle in his mind so repugnant to the great Legislative duties of the House that he would oppose it. The object of the appropriation is not a temporary one, but a part of the machinery of our Government, under the express authority of the Constitution by law. The doctrine now contended for by the gentlemen from New York and Pennsylvania [Mr. Livingston and Mr. Gallatin] was 'that this House have a discretionary power of appropriating or not. To this doctrine, taken in the extent which he conceived they contended for, he could not give his support. On the contrary, he thought that in all cases where an appropriation flowed from a law to make good a contract, or to erect a permanent organ in the Government, and from any law whose object was permanent, the true doctrine was, that it was the duty of the House to vote an appropriation. A law is the will of a nation. The same powers only that formed it can repeal it. If it be a Constitutional act, no power can lawfully obstruct its operation or its existence. But attending to the doctrine maintained to-day it would follow, that though this House had not the power of repealing a law made by all the branches of Government, it may obstruct its operations and render it a dead letter; though it cannot repeal, it may do what shall amount to a repeal, which is the assumption of a power almost equal to that of exclusive legislation. He thought he saw in this an evil of great extent, and an anarchy of theoretic principles. It appeared to him that though we originate money bills, we had no right to refuse an appropriation to existing laws that either secured a debt or any contract, or that related

to objects permanent by the law that created, or acknowledged them as long as the law itself remained unrepealed. We had but a share of Legislative power. Where a law relative to such objects as he had alluded to existed, from which an appropriation followed, till the law ceased by repeal or by other Constitutional means, it was obligatory upon us as well as upon our constituents, and the only powers we could exercise of a discretionary sort resolved themselves either into this mode of making good the appropriation, or of voting for its repeal. The other branches would then judge of the propriety of our proceeding; but till they who assisted in its enacting, judged with us the necessity of doing it away, a duty resulted that we should give it the energy intended by its enaction.

Mr. Dayton conceived the question brought under discussion of too delicate a nature to be decided at the present time. He however expressed it as his opinion that the power of making appropriations was intended and ought to be a check on establishments.

Mr. Nicholas conceived the House bound to weigh the merits of every law when an appropriation was to be passed to carry it into effect, and no appropriations should obtain the sanction of the House, unless they were convinced of the propriety of the law.

Mr. Giles said he did not expect to hear a doctrine so novel broached in the House as that advanced by the member from Massachusetts [Mr. Sedgwick.] He had declared that he conceived the House could exercise no discretionary power when about to pass an appropriation bill.

Mr. Sedgwick rose to explain. The principle he advocated was, that when a law was made pledging the public faith, the House had no discretion to withhold, or not, an appropriation; at least as long as common honesty was more than a name.

Mr. Giles said that if this doctrine was admitted in its full latitude, the House would become a mere office for the registering of edicts. He contended that the House had a right, by withholding appropriations, to put an end to an institution without the concurrence of the Senate. He would not say that the present was a case that called for the exercise of that right, but they had in all cases of this nature a right to exercise their discretion.

Mr. Murray considered the laws of the land as depending upon two other branches of the Government besides this House, and conceived it highly improper in the House to attempt to obstruct them by withholding necessary appropriations. What would be the effect of a contrary doctrine? It must contain the seeds of governmental anarchy. While a law remained in force it was the duty of the House to do what was needful to carry it into operation. He made some allusion to the British House of Commons, who, by privilege, contend for the right of withholding supplies to be a check on the patronage of the Crown. But such a principle, he contended, could not apply here; our Government could not proceed if it were admitted. As long as a law exists, it is the duty of the House to make the needful appropriations. The whole wisdom of the Government is not in this House. The same power is required to repeal laws as to make them. It is true the Constitution has given to the House the more immediate command of the purse-strings; but they were under an obligation to open them when necessity required. There is a Constitutional way of repealing laws; but the House has no right to obstruct their operation while in force. A member from Pennsylvania, [Mr. Gallatin,] he observed, appeared on a former occasion to coincide with his opinions on this subject; for he argued that the House was bound to pass such an appropriation, as a law existed giving the salary to the officer which it was meant to provide for.

Mr. Gallatin said, in answer, that his observation had simply been, that the Committee of Ways and Means, and not the House, conceived itself bound to report an appropriation for an item established by law; but he never doubted the power of the House to pass, or not, an appropriation. In such cases the line of duty must remain to be drawn by opinion. With what degree of consistency can the House be called on for a vote if, as some members contend, they cannot have an opinion? Why are they called upon to say, yea or nay, if they are obliged to say yea?

Mr. Murray conceded that a member might say yea or nay, but his duty must in cases of this nature clearly point to one of the two; for he could not mistake the black and white marks in the court of conscience. He has the physical power to say yea or nay; but if he does his duty he must say yea. The contrary principle would go to this, that the House had a right to refuse an appropriation to pay a just debt.

Mr. Gallatin observed, in reply, that each member will be the sole judge whether it was or was not his duty to say yea, or the contrary. The Constitution, he said, declared that no money should be drawn from the Treasury but by appropriations made by law: this did not look as if the voting of appropriations was intended to be merely a matter of form. In the second place, the Constitution declares, that no appropriation for the support of an armed force shall be made for more than two years. Thus, though a Military Establishment may be formed by enlistments for three or more years, yet the Constitution provides that the question shall be submitted to the House every two years; and this surely is not as a matter of form; but in order, at such short periods, by voting on an appropriation bill, to determine whether such an establishment should exist longer or not. He conceived the power which he advocated as residing in the House of great consequence, and to be used in important occasions only.

Mr. Nicholas, who had risen at the same time with Mr. Gallatin, and had given way to him, observed, that when he first rose, he was going to read the clause of the Constitution which the

member last up had referred to. As to the black and white marks the member from Maryland spoke of, they were differently placed in different persons; in matters of opinion men will differ; but the Constitution is a guide not to be departed from. The power of appropriation was vested by that instrument chiefly in the House, and no power on earth would prevent his exercising his discretion when that power was to be put in activity.

Mr. Giles observed, that the member from Maryland had got into the doctrine of checks, and seemed to think that if the House exercised its Constitutional check it would produce governmental anarchy.

Mr. Murray explained. He had alluded to the mode of getting rid of an establishment by refusing appropriations to carry it into effect. The Constitutional mode of procuring the repeal of the law should always be had recourse to; but he insisted that the House could not, as they were bound by their duty, obstruct a law in force by refusing an appropriation.

Mr. Giles conceived that the checks provided by the Constitution might be used by each of the powers of Government to their full extent, limited in every particular case only by their own discretion. If the harmony of the branches was to be made an argument to prevent the exercise of checks, what, he asked, became of the checks provided by the Constitution? Each branch of the Government (if he understood what was meant by Constitutional checks) was to exercise its own opinions and use its discretions within Constitutional limits, without a reference to the opinions of other branches. He next adverted to the powers of appropriation, which he contended were in a greater degree vested in the immediate Representatives of the people, to be a wholesome check. In case of an Army Establishment, for example, suppose the President or Senate were to refuse their assent to the repeal of a law establishing it? Will it be said that the clause of the Constitution empowering the House to make a biennial appropriation for the object, does not vest in them a discretionary power in such instances of overturning the establishment by its own will? for it cannot be kept up without an appropriation. Is the House to be told that, for the sake of harmony, they must give up their own powers and opinions? He maintained that, in cases of appropriations, they had a discretionary power, to be exercised, as in all cases, discretionarily. Was one branch to be judges of discretion for another? No; each should judge for itself.

Mr. Murray said, it was known to every one that an appropriation for the support of a Military Establishment could not be made for a longer term than two years; but that case was widely different from the present. It was known that, by the Constitution, a military appropriation cannot exist more than two years; but the doctrine he supported was in cases of debt or obligation under a law; and, in such cases, he still contended that though the House had the physical power to refuse an appropriation to satisfy a claim thus founded, they had not the right.

Here the debate was interrupted by a motion for adjournment; which was carried, and the House adjourned.

Wednesday, January 20.

PROMOTION OF USEFUL ARTS.

A bill from the Senate for the promotion of Useful Arts, was read the first time.

APPROPRIATIONS FOR 1796.

The House resumed the subject of yesterday. Mr. Livingston had restricted his resolution for striking out the appropriations for the Mint, sometime before the House rose. The pensions to the officers were an exception.

Mr. Williams observed, that he had made an estimate of the expenses of the Mint, and the sums coined, which he begged leave to state to the House, in order to aid them in their determination:

Expenditures.

In the year 1792 - - - -		$7,000 00
Do. 1793 - - - -		18,648 28
Do. 1794 - - - -		32,746 33
		$58,394 61

Credit.

Cents and half cents coined:		
In 1793 - - -	$1,281 79	
1794 - - -	9,593 21	
		10,875 00
		47,519 61
Appropriations in the year 1795,	24,600 00	
Deficiencies now called for	18,300 00	
		42,900 00
		91,419 61
Deduct from the purchase of lands, buildings, apparatus, machines, &c. - -		28,887 09
		$61,532 52

From this statement the sum of $61,532 52 hath been lost by the Establishment, excepting a small sum which hath arisen from the coining of the precious metals. The total amount of the issues of the Mint, from its first establishment, is as follows:

Eagles - - - -	2,795
Half eagles - - - -	8,707
Dollars - - - -	202,791
Half dollars - - - -	323,144
Half dimes - - - -	86,416
Cents - - - -	1,066,033
Half cents - - - -	142,534
Total in dollars - -	453,541 29

This has cost the United States $61,532 82, which amounts to more than 13 per cent. for coinage.

Mr. Rutherford.—It is with diffidence that I ever speak in this House, because I pay the great-

est respect to the opinions of gentlemen; but I will venture a few observations. First, is it necessary that the United States should have a Mint? I think it requisite, because all Governments have considered this as a necessary measure. I hope that the Mint may still operate to the advantage of the Union; for occurrences in common life teach us in the clearest manner, the wide difference between theory and practice. This is the case in the business of the Mint, as, indeed, the public expectations have been raised very high on this occasion. Specie was to rise almost spontaneously; but, I repeat it, all theory and practice differ widely, and, of course, this matter has not been so productive as was expected. But now to arrest the matter, while in actual motion, and by a kind of electrical shock, stop the whole pulsation, and totally defeat the measure, when in reality we have the agreeable port in view, appears to me unwise and imprudent. This measure would immediately impress the public mind with an opinion that Congress had abolished the Mint. This might turn the course of materials necessary for coining gold and silver to other markets, and if the measure was hereafter considered wise and necessary, the whole business must begin over again, and consequently make its outsets under many and conspicuous disadvantages. I am hence for giving it another year of trial.

Mr. Giles was for the motion. It did not go to the total destruction of the Mint. The design of the resolution was mistaken. It was better to wait for the report of the select committee. We shall then appropriate with more understanding than we do now. We shall see reasons for our conduct.

Mr. Madison wished that the articles could be separated from the Civil List, when they are of a nature to admit of dispute. The military expenses had been separated from it, because an emergency might render it necessary to vote instantly for the Civil List; and the military expenses, by being connected with the other, might be voted without due deliberation. He wished that the articles could be divided, and the vote taken on them separately. He was not against voting for pensions to the officers of the Mint. He saw no harm in doing so in the mean time.

Mr. W. Smith insisted that the money which had been advanced should be paid, such as $18,300 of deficiencies.

Mr. Giles saw more reason for objecting to this than to any other part of the articles. It did not seem that the money had been paid.

Mr. Giles was stopped by the Speaker. The question was on the amendment to the amendment of yesterday. The gentleman might, after that was decided, speak to any particular clause.

Mr. Giles explained, that he had merely intended a reply to the remark of the gentleman from South Carolina.

Mr. Sedgwick gave credit to Mr. Giles, when he said it was the design of no member to destroy the Mint. It would be a total prostration of national character to do such a thing. It was in the power of the House to modify or repeal the appropriation, if they did not like it. If the materials and workmen were struck out of the appropriation, the Director and Officers would not think themselves authorized to proceed. Mr. Sedgwick, if one of them, would be of this opinion.

Mr. Giles rose only that he might not be misunderstood by the gentleman from Massachusetts. He had not said, nor meant to say, that he would never vote against the existence of a Mint, for it was very possible that he might give such a vote. He only said that the present amendment did not go that far. He waited to ground his opinion on the report of the select committee. He had as yet not formed a resolution. Before he sat down he could not help noticing a curious argument employed by the gentleman last up in favor of the appropriation being voted, that if it was found improper the House had it in their power to modify or repeal it. Mr. G. thought it would be much better not to make a law till they had time to learn whether it was a right one, than to pass it, under the notion of repealing it, if it proved unadvisable.

Mr. Jeremiah Smith imagined that the House had annexed much more importance to the question than it deserved. It was very little matter which way the votes went. He would vote for retaining the appropriations in the bill, and he cared very little whether other gentlemen did so or not. If any thing proved wrong in the appropriation it could easily be rectified.

Mr. Page was against the amendment. It would be the height of extravagance to vote the continuance of pensions, and at the same time to deny materials for the workmen and their wages. This would be creating sinecures. He would rather vote double the sum of an appropriation than to strike out the articles. Every independent nation had a Mint. The present state of American coin was a kind of piracy on the Mints of other nations.

A Member remarked that he had seen members vote for postponing the bill for Indian houses, because there was not a fund secured for paying the expenses. That was $150,000. He thought that he saw a gentleman who voted against that bill voting for the present appropriation, and saying that the sum was trifling. Yet it was $62,641, or very near the half of the former. He agreed with the gentleman from New Hampshire, [Mr. Jeremiah Smith,] that the difference, whether the amendment passed or not, was but a trifle, and, therefore, hoped that the gentleman would oblige him by voting for it.

Mr. Sedgwick rose to explain. He had not voted against the Indian bill, but for postponing. There was not a gentlemen, he believed, on that floor, who was an enemy to the bill.

Mr. Claiborne was for the amendment, but did not, by this, mean destruction to the Mint.

The amendment was for striking out all the items except the deficiencies of last year. On a division—yeas 40, nays 45; the amendment was thus negatived.

The House then took up the clause for deficiencies. The motion for striking out was negatived

The amendment for striking out the $10,000 for the purchase of copper, reported yesterday from the Committee of the Whole House, was next taken up.

Mr. Page argued strongly for supporting the Mint. Formerly, there was a very ingenious but complicated machine, which, in coining, struck the dies with so much force as to break them. He believed that another was to be employed that would do much better.

Mr. Hillhouse had formerly been against the Mint, as a premature establishment; but he thought it would be disgraceful to retract now. He read a passage from the report made by the last Director, when quitting his office, and, of consequence, when he had no temptation to exaggerate; and this gentleman stated that the progress in future would be very great.

Mr. Williams, in reply, observed that the report contained many particulars very discouraging to the future prospect. If the institution is to be persisted in, he thought it should be removed to the permanent Seat of Government. He alluded to the great expense which has been incurred for buildings. Mr. W. further observed, that, as the burden of the Mint extended equally over all the Union, every part of it ought to reap the benefit. This was very far from being the case. Its advantages extended to a very small part of the Union.

For striking out the $10,000, yeas 38, nays 44.

The amendments from the Committee being thus gone through, the bill was ordered to be engrossed for a third reading.

STATE OF THE FORTIFICATIONS.

A Letter from the Secretary of War, respecting the state of the Fortifications, was next received, and the Clerk began to read it; but there being some difficulty in obtaining the requisite attention from the House, the Speaker thought that it had better be referred to the select committee on that subject; which was done accordingly.

CONTESTED ELECTION.

The House proceeded to consider the report of the Committee of Elections, to whom was referred the petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House for the said State; and the said report being twice read at the Clerk's table, was, on the question being put thereupon, agreed to by the House, as follows:

"It appears that an election was held on the 16th day of March, 1795, in the district composed of the counties of Henrico, Hanover, New Kent, Charles City, and James City, in the State of Virginia, to elect a member to this House.

"That, upon an estimate of all the polls taken at the several elections, John Clopton had 432 votes, and Burwell Bassett 422.

"That, out of the number of persons who voted for John Clopton, 37 were unqualified to vote, and of those who voted for Burwell Bassett, 33 were also unqualified to vote.

"Whereupon, your committee are of opinion that John Clopton, who has the highest number of votes, after deducting the before mentioned defective votes from the respective polls, is entitled to a seat in this House."

The House then adjourned.

Thursday, January 21.

The Clerk informed the House that the Speaker was ill, and unable to attend: when the House, after some conversation, adjourned.

Friday, January 22.

The Speaker being still indisposed, the several orders of the day were postponed, and the House adjourned till Monday next.

Monday, January 25.

The bill, entitled "An act to amend the act to promote the progress of Useful Arts," passed by the Senate, was read a second time, and committed for to-morrow.

The bill making appropriations for the support of Government for the year 1796, was read the third time, passed, and sent to the Senate for concurrence.

A bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was read and referred to a Committee of the Whole on Thursday.

PERMANENT SEAT OF GOVERNMENT.

A report was made by the Committee on the Federal City, which recommends two resolutions, in substance as follows:

"*Resolved*, That the President of the United States be authorized to borrow such sums as, in his judgment, he shall see proper, not exceeding in the whole $500,000, nor more than $200,000 in one year, to complete the Public Buildings in the City of Washington. The loan to be secured on the public property of said city; the rate of interest to be by him agreed, and the term of payment, which is not, however, to be before the year 1800. The United States to guarantee the loan, should the property of the city prove inadequate, and that they engage to make good any eventual deficiency.

"*Resolved*, That it shall be the duty of the Commissioners appointed under the act establishing the temporary and permanent Seat of Government to render, every six months, to the Secretary of the Treasury an account of the moneys expended, of the progress made, and of the funds remaining in their hands, and an account of their administration—all to be laid before Congress."

Referred to a Committee of the Whole for Monday next.

ORGANIZING THE MILITIA.

Mr. Giles, from the Committee for Organizing, Arming, and Disciplining the Militia of the United States, reported a bill; which was read a first and second time, and made the order of the day for Monday next.

It was afterwards moved that it should be printed; and this motion was withdrawn. This was afterwards retracted, it having been stated by a member that only fifty copies of the old bill were preserved.

COMPENSATION OF MEMBERS.

Mr. Goodhue said, that the Committee of Compensation to Members and other Officers of Government were, from sickness, only four—they were equally divided. Mr. Coit was added.

EXPORTS OF THE UNITED STATES.

A Letter was read from the Secretary of the Treasury, enclosing a statement from the Commissioners of the Revenue of the exports of the United States, from October 1, 1790, to September 30, 1795.

Another communication was read from the Secretary of the Treasury. It enclosed the statement called for by two resolutions of the House of the 18th instant, so far as the Treasury documents furnish materials for the purposes therein mentioned.

These communications were referred to the committee appointed by the resolution introduced by Mr. Samuel Smith.

Tuesday, January 26.

Mr. Tracy submitted two resolutions. The first for giving the privilege of franking to the Accountant of the War Department; the second to augment his salary. The resolutions lie on the table. [These resolutions were taken up on the subsequent day and referred.]

Mr. Harper moved that a committee be appointed to inquire what proceedings have been had on the act for the more general promulgation of the Laws of the United States. He also laid on the table a resolution that the number of copies to be printed should be augmented.

Mr. W. Smith, from the Land Office Committee, reported a bill for establishing land offices for the sale of lands in the Northwestern Territory. The bill was read a first and second time, and referred to a Committee of the Whole House on Tuesday next.

EXECUTIVE SALARIES.

About twenty printed petitions and remonstrances from certain inhabitants of the State of New Jersey, were laid on the table by Mr. Kitchell. They were all copies of the same tenor. They complained of the high salaries of the Executive and members of the Legislature. A militia-man, returning from service to his family, has only ten cents per day; a member of Congress has thirty cents per mile. This they regard as an aristocratical distinction.

Mr. Kitchell said, that he had kept these papers for some time by him, as it was expected that many others of the same kind would be sent to join them. The complaint, he thought, had more foundation formerly than at present, since the great rise in the rate of living.

The petitions were referred to the committee who are to bring in a bill for ascertaining the compensation of members.

COMMERCE AND NAVIGATION.

Mr. Samuel Smith laid the following resolution on the table:

"*Resolved*, That the Committee of Commerce and Manufactures do consider whether any, and what, alterations are necessary in the laws of the Union with respect to commerce and navigation."

Mr. Smith then addressed the Speaker as follows: When the proper time shall arrive, it will be prudent, 1st, To make it the interest of all nations to meliorate their deportment towards the United States; 2d, To induce well-disposed nations to act favorably towards us, in their commercial regulations; and 3d, To correct positive evils by indirect means, where prudence restrains us from direct measures. The present time, when the nations of Europe, with whom we have the greatest relation, are on the eve of a peace, appears to me proper to consider these subjects, and I have therefore thought it my duty to lay before the House the resolution just read, that gentlemen may direct their attention to the propriety of repealing that part of the laws which lays an extra duty of 44 cents on foreign tonnage, and of one-tenth additional duty on goods imported in foreign ships. Such duties are in fact commercial war; and will be submitted to by nations in competition no longer than your commerce was insignificant. France resented it in 1791, at which time she employed but 8,941 tons of shipping to the United States, and she passed a law laying seven livres per cwt. extra duty, on tobacco imported in American ships. This was equal to 46*s.* 6*d.* sterling per hogshead, when the whole freight was but 32*s.* 6*d.* per cwt. Thus she secured the carriage of 40,000 hogsheads of tobacco to her own ships. The stroke was immediately felt. Our ships were thrown out of the trade, and in 1792, there entered in our ports, 24,017 tons of French shipping, an increase of 15,076 tons in one year. Circumstances have compelled France to suspend that law, but will she not renew it, if we continue ours? Can we complain if she should? And is there not good ground to fear that she will extend her extra duties to rice, fish, lumber, and other objects of exportation, and thus secure to her ships the carrying of all the products of the United States, that she may have occasion for? It will be remarked that the French goods imported to the United States are fine, and would employ but few ships. But those from America to France are very bulky, and would employ a great number. Mr. Jefferson says, that in 1792, we employed 116,410 tons of shipping to France, almost the whole of which advantage will be lost in case she should countervail our protective duties.

In 1791, the merchants of Liverpool complained that our protecting duties had enabled us to monopolize the whole carrying trade between Great Britain and the United States, and prayed the King to take measures of retaliation. The subject was submitted to some merchants of London and Bristol, who acquiesced in the fact, but gave their advice against violent measures, expressing their hope that the evil might be removed by a Treaty of Commerce. In the late Treaty with Great Britain, she has reserved to herself the right of countervail, and bound us from laying any new duties

on her shipping. Mr. Speaker, I fear this countervail. It will be made at her discretion, and may or may not be just. If unjust, it will be an endless scene of negotiation and misunderstanding. But suppose that Great Britain, in our own words, lays an extra duty of one-tenth on goods imported in foreign vessels, what will be the consequence? Why effectually to secure to herself the exclusive carrying of all our products to her markets. For instance, the duty on tobacco, in Great Britain, is about fifteen pence sterling per lb. One-tenth additional to be paid by our ships is three halfpence. The hogshead, on an average contains 952 lbs. which will make the extra duty amount to £5 18*s.* 9*d.* per hhd., when the average of freight in times of peace is but thirty-five shillings per hogshead. Rice pays a duty of seventeen shillings and four pence per cwt. in Britain. Suppose the tierce of rice to weigh 672 lbs., the duty will then be £2 7*s.* 8*d.* One-tenth added will be 4*s.* 9*d.* sterling per tierce, if the rice is imported in an American vessel; when the freight of the tierce of rice in times of peace is only from 10 to 12 shillings sterling per tierce. On every other article of our commerce, Britain having the right, will make the countervail such as to secure the carrying thereof to their own shipping. Having once tasted its sweets, they will not easily relinquish the advantages. Portugal also complains. All nations that can, will resent those protecting duties, and having it in their power, will countervail. I therefore submit to the serious consideration of the House, whether prudence does not dictate a repeal of those duties.

The motion was ordered to lie on the table.

The House then adjourned.

Wednesday, January 27.

Mr. Harper moved that all reports which had been made by Heads of Departments to either House of Congress, and printed, up to the commencement of this session, be reprinted for the use of the members, and that a committee be appointed to bring in a bill for that purpose. Ordered to be laid on the table.

Mr. Venable, from the Committee of Elections, to whom was referred the petition of Mathew Lyon, of the State of Vermont, complaining of an undue election and return of Israel Smith, to serve as a member of this House for the said State, made a report; which was read: Whereupon,

Ordered, That Wednesday next be assigned to take the said report into consideration.

On a motion made and seconded that the House do come to the following resolution:

"*Resolved*, That the salary of the Accountant of the Department of War, be augmented to the sum of —— dollars, and that he receive the same in the same manner, and under the same regulations, as he receives his present salary, to commence on the —— day of ——."

Ordered, That the said motion be referred to Mr. Goodhue, Mr. Nicholas, Mr. Earle, Mr. Williams, and Mr. Thomas; that they do examine the matter thereof, and report the same with their opinion thereupon, to the House.

On a motion made and seconded that the House do come to the following resolution:

"*Resolved*, That the privilege of franking letters be extended to the Accountant of the Department of War; and that all letters to and from the said Accountant, be transported free of postage."

Ordered, That the said motion be referred to the committee appointed to inquire if any, or what, alterations are necessary to be made in the "Act to establish the Post Office and Post Roads within the United States;" that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. Gregg presented a petition from sundry inhabitants of Dauphin, Northumberland, and other counties in Pennsylvania, soliciting the making of a cross post road for two hundred and forty-three miles. Referred to the Post Road and Post Office Committee.

A petition from several merchants in Newbern, in North Carolina, praying remission of the duty on sundry goods destroyed by water, was read and referred to the Committee of Commerce and Manufactures.

A report was then read on the petition of Lucas Fitch. He had settled with Mr. Steele, an army agent, for his claim, and got a note for £70 or £80, and gave a receipt in full. He intrusted his note to an agent, who lost it, and now the petitioner comes forward and asks the United States to pay the note. This, with the petitions of Timothy How and Margaret Lint, were negatived by the House.

REUBEN COLBURN.

The House then went into a Committee on the report of the Committee of Claims, on the petition of Reuben Colburn. The report of the select committee being unfavorable, was read.

Mr. Dearborn urged that the petitioner had done every thing in his power to lodge his claim within the time limited by law. He asked a farther postponement for the sake of getting information.

Mr. Harper objected, that the delay was owing entirely to the negligence of Mr. Colburn himself. He was completely ready to decide on the question. For deferring ayes 41, noes 38.

The Committee rose. The Chairman reported progress, and leave was granted by the House for the Committee to sit again.

The remainder of the day was spent in the consideration of reports on private claims; and then the House adjourned.

Thursday, January 28.

Mr. Goodhue presented a bill from the committee appointed for reporting on the compensation to members of Congress, and certain of their officers. The bill was made the order of the day for Wednesday next.

Mr. W. Smith moved that the Committee of the Whole House should be discharged from farther considering the bill from the Senate to amend an act to promote the progress of the Useful Arts.

This was agreed to, and it was then referred to a select committee.

Mr. W. SMITH, from the Stenographical Committee, reported that they had conferred with Mr. David Robertson, of Petersburg, in the State of Virginia. They had thought him qualified; his demand for a session was to be four thousand dollars for preparing his reports for the press, exclusive of the expense of printing; and that Andrew Brown, printer of the Philadelphia Gazette, had offered to pay eleven hundred dollars of this sum, so that there would remain two thousand nine hundred dollars to be paid by Government. The report was made the order of the day for to-morrow.

PROCEEDINGS IN OUTLAWRY.

The House went into a Committee of the Whole on the bill from the Senate to regulate proceedings in cases of outlawry.

To the third section several amendments were proposed. The section itself was in these words:

"SEC. 3. *And be it further enacted*, That if the said person, so indicted, shall not be found within thirty days after the said second writ of *capias* shall come to the Marshal's hands, or being found shall escape, the said Marshal shall, at least thirty days before the return thereof, read or cause to be read, the said second writ and the copy of the indictment thereto annexed, at the court house of the county within which the offence is charged by the said indictment, to have been committed, and also of the county in which the party is by the indictment supposed to dwell, if such county be within the district, or if the offence be committed on the high seas, then at the court house or one of the court houses where the said court from which the said writ issued is statedly held, and in the presence and hearing of at least twelve persons, which number, if need be, he is hereby authorized forthwith to summon and convene from the neighborhood, and then and there shall make or cause to be made a public proclamation in manner following, to wit: "A B, [naming the person indicted] is hereby notified that an indictment is found against him, [or her, as the case may be,] and is commanded to appear at the day and place at which the writ now read is returnable and answer the said indictment and abide the judgment of the court, on pain and penalty of being outlawed, and every person so summoned by the said Marshal to attend and hear the said proclamation, shall be subject to the same penalty for non-attendance, and entitled to the same mileage for attendance, as persons summoned to attend as jurors in the Circuit Court of the same district, or in the District Court in the Districts of Maine and Kentucky."

Mr. GILES saw no propriety in giving the Marshal power to summon twelve persons, for the purpose above mentioned, and to fine them for not attending. He moved that the words "and in the presence and hearing of at least twelve persons," be struck out; so as that the proclamation should be made at the time of some court, for the purpose of greater notoriety. Courts would be sufficiently frequent to obviate any difficulties arising from the want of a reasonable collection of people to witness the transaction.

It was objected, that it might happen that no court was in session at the time when it would be necessary to make the proclamation.

Another motion was made to strike out these words following the former, "which number, if need be, he is hereby authorized forthwith to summon and convene from the neighborhood." This motion was negatived—ayes 29, noes 34. A division was then taken on the motion of Mr. GILES. This was carried—ayes 42, noes 33.

Mr. GILES then moved, as a matter of course, to strike out from the words, "and every person so summoned," &c., to the end of the clause. Agreed to.

Mr. NICHOLAS proposed to add, in the 6th line of the third clause, after the words, "the court house," "and during the sitting of the court." The amendment was agreed to.

In the third line of section fourth, Mr. MILLEDGE moved to insert after the words, "thereto annexed," "to be posted in three or more places of public resort in the county in which the indictment was had, and in the county in which the offence was committed and." This also was agreed to.

The Committee rose. The Chairman reported the amendments, and the House took them up. After some conversation, the bill was recommitted to a select committee of three members.

And the House adjourned.

FRIDAY, January 29.

Mr PARKER presented a report from the committee appointed to inquire into the state of the Naval Equipment of the Union, which was read a first and second time. They recommended that one of the forty-four gun. and one of the thirty-six gun frigates should be fitted out. As the United State are at peace with the Emperor of Morocco, and most likely so with the Dey of Algiers, a larger armament, at this time, is superfluous. They recommend that the materials of a perishable nature should be sold by the PRESIDENT OF THE UNITED STATES, and the money appropriated for discharging the Public Debt. The other materials are to be laid up. This report was made the order of the day for a Committee of the Whole, on Wednesday next.

A petition was presented and read, from Nicholas J. Roosevelt and J. Hart, merchants in New York. They stated that they had been considerably engaged in the business of mining, and wished for encouragement and protection of the House. On motion of Mr. LIVINGSTON, the petition was referred to a select committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

In pursuance of the authority vested in the President of the United States, by an act of Congress, passed the 3d of March last, to reduce the weights of the copper coin of the United States, whenever he should think it for the benefit of the United States, provided that the reduction should not exceed two pennyweights in each cent, and in the like proportion in a half cent, I have caused the same to be reduced, since the twenty-seventh of last December; to wit, one pennyweight and sixteen grains

in each cent, and in the like proportion in a half cent. and I have given notice thereof by proclamation.

By the Letter of the Judges of the Circuit Court of the United States held at Boston in June last, and the enclosed application of the under-keeper of the jail at that place—of which copies are herewith transmitted—Congress will perceive the necessity of making a suitable provision for the maintenance of prisoners committed to the jails of the several States, under the authority of the United States.

G. WASHINGTON.

UNITED STATES, *January* 29, 1796.

The Message and papers were read, and ordered to lie on the table.

Another Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I send herewith, for the information of Congress—

1. An Act of the Legislature of the State of Rhode Island, ratifying an amendment to the Constitution of the United States, to prevent suits in certain cases against a State.

2. An Act of the State of North Carolina, making the like ratification.

3. An Act of the State of North Carolina, assenting to the purchase, by the United States, of a sufficient quantity of land on Shell Castle Island, for the purpose of erecting a beacon thereon, and ceding the jurisdiction thereof to the United States.

4. A copy from the journal of proceedings of the Governor, in his Executive Department, of the Territory of the United States Northwest of the river Ohio, from July 1, to December 31, 1794.

5. A copy from the records of the Executive proceedings of the same Governor, from January 1, to June 30, 1795; and

6 and 7. A copy of the journal of the proceedings of the Governor, in his Executive Department, of the Territory of the United States South of the river Ohio, from September 1, 1794, to September 1, 1795.

8. The Acts of the 1st and 2d sessions of the General Assembly of the same Territory.

G. WASHINGTON.

UNITED STATES, *January* 29, 1796.

The Message and papers were read, and ordered to lie on the table.

JEAN MARIE DE BORDIE.

The petition of Jean Marie de Bordie was next read. He was a native of St. Domingo, and had served in the fourth Georgia battalion, during the war. He had been a man of property, and did not receive all his pay. He went to St. Domingo and staid there until the massacre. He has since found that his claim for pay is barred. The fact of his not being fully paid does not appear to be certified. A certificate signed Abraham Jones, was read from the Treasury Office of the State of Georgia. This attested that no trace was there to be found of any payment made to the petitioner.

Mr. HARRISON moved, that the report on the petition should be postponed until Monday sennight.

Mr. SWANWICK hoped, that this gentleman would be relieved. He had come forward to support America in the hour of her distress; and on every principle of justice, of generosity, and of gratitude, he hoped that America would now assist him. Mr. S. was even now ready to vote him some relief. If any gentleman had doubts on this subject, Mr. S. would be glad to vote for recommitment, in order that he might have time to satisfy himself. Mr. S. seconded the motion of Mr. HARRISON.

Mr. GALLATIN thought it better to refer this matter to the Committee of Claims; Mr. HARRISON accordingly withdrew his motion, and the former passed, for referring to the Committee of Claims.

STENOGRAPHER TO THE HOUSE.

The House then went into a Committee of the Whole on the report from the Stenographical Committee. The report was read:

Mr. SWANWICK then rose for the sake of asking information. He inquired whether the House were to sanction and authorize the reports of the proposed stenographer? He had very considerable apprehensions about the propriety of entering into the subject in any mode.

Mr. W. SMITH replied, that the gentleman engaged by the committee had undertaken to have his reports ready for Mr. Brown, printer of the Philadelphia Gazette, in the morning of the succeeding day.

Mr. SWANWICK rose again. He observed, that to give universal satisfaction was impracticable. So many gentlemen were to be satisfied, that it never could be accomplished. He observed that one of the principal causes of complaint against reporters was of a nature that did not admit a remedy. Gentlemen rose, in the ardor of discussion, and suffered many remarks to escape from them, which, neither in thought nor expression, were perfectly correct. If the reporter, as was his duty, took them down, and stated them exactly, gentlemen were irritated by seeing themselves exhibited in this shape, and then blame was cast on the reporter. Every degree of praise was due to the editor of a Philadelphia daily newspaper, whom Mr. S. named, and who had not only done every thing in his power to obtain the debates of the House at full length, but had frequently advertised, that if errors were committed by his reporter, they should, on application, be instantly rectified. More than this, it was impossible to desire, for no mode of conduct could be more liberal or candid. But Mr. S. did not see the propriety of blending the House of Representatives and the editor of a newspaper in this business. The stenographer is to be called an officer of the House, while he receives eleven hundred dollars from the printer of a Philadelphia newspaper. He is thus also the officer of the printer, as well as ours. If we give the gentleman the proposed salary, we are to depend on him alone, whereas at present we have different reporters, and two or three of them frequently and mutually both corroborate and correct each other. What has escaped one reporter, or what he has misunderstood, is often observed by his competitor. The error is amended, or the defect supplied. Mr. S. farther observed, that as far as he had read or heard of, such an institution as the one

now proposed, was never known under any Government, or in any country, that had hitherto existed. [It was observed, in some part of the debate, that an attempt of this kind was once made by the National Assembly of France.] Mr. S. expressed himself warmly against Government making any composition of the nature now proposed with a printer, and against any attempt for giving one newspaper an advantage over another, by any preference as to the copy. If Mr. S. wanted any person to be sure of dismission and disgrace, he could not name any other situation where that dismission and disgrace were so absolutely certain, as to a person accepting the proposed office of stenographer. If he did his duty, gentlemen would frequently not like to see their speeches exactly as delivered. If he altered them, his utility was at an end. It would therefore be much better to let the gentleman stay at his own business.

Mr. Giles objected particularly to the opposition made in this late stage of the business. He admitted that it was a delicate step, but he complained in strong terms of the inaccuracy of the reports now given. He observed that the object was not merely to find a stenographer who would satisfy the members of that House, but who would also give satisfactory information to the public at large.

Mr. Sherburne agreed with the gentleman last up, that the object of the resolution could not be merely to give satisfaction to members, but information to the public; though, if it was important that the public should be informed of what was said in that House, the proposed resolution would be inadequate to its objects. But he conceived it more important for the public to be informed of what was done, and that, he observed, was not always to be inferred from what was said; as (the mind being always open to conviction) it had not been unusual in a former—he would not say the present—House, for gentlemen to argue one way, and vote another. As, therefore, no certain inferences of the conduct of members would be drawn from their speeches, and as the public were more interested in their actions than their sayings, (a knowledge of which the present resolution was not, in his opinion, calculated to promote,) it would not meet his concurrence. But, Mr. S. further observed, that if the speech was to be considered as the infallible *indicium* of the subsequent conduct, as the avowed object of the resolution was to diffuse, through the various parts of the States a knowledge of that conduct, he should oppose it from a conviction that the means were not competent to the end. The resolution proposed a publication of the debates in a daily Philadelphia paper. These debates would necessarily be so voluminous as to engross the greater part of such a publication. Except in Philadelphia, New York, and one or two other large cities, there were no daily papers; in all other places, they were not published oftener than once, or, at most, twice a week. The daily papers, in comparison with others, were few. If, therefore, a daily paper was engrossed by a detail of the debates, when would the public arrive at a knowledge of them through the more common medium of a weekly paper? The inhabitants of this, and a few other large towns, might be gratified, perhaps benefited, by a speedy perusal of them; but when would the citizens of more distant parts of the Union, through their usual weekly channels, be indulged with the like opportunities? The difference would be as one to six; and what the inhabitants of Philadelphia might become acquainted with in one year, the people of New England and Georgia would not be informed of in six years, unless they relinquished their own weekly publications for a Philadelphia paper.

Mr. Sedgwick said, that he would candidly confess that the House had put itself in a delicate situation on this subject; yet if, on the whole, gentlemen be of opinion that the measure was improper, it ought not, by reason of any antecedent conduct, to be now further pursued, to the public detriment. It was also but just to say, that if the measure was proper, a more competent and more impartial agent than the one proposed could not be obtained. He said that the printers had much merit from their endeavors to communicate to the public the debates of the House, yet it must be allowed that their endeavors had been too unsuccessful; that, in consequence, much injury had been done, not only to the characters of gentlemen as men of talents, but also, in some instances, to the motives which had produced public measures. These were evils to which a remedy should be applied, if it did not involve those which would be more injurious. It ought to be remembered that the man appointed would be an officer of the House, responsible to it for his fidelity and accuracy. The debates would then be published under authority of the House, and it of consequence was responsible for his precise execution of the trust. It was impossible to conceive that at some times, with the best intention, he should not mistake, and of course misrepresent. The member in such a situation, would feel the injury, but redress would be obtained only by the interposition of the House. This would afford ground for numerous appeals, and endless litigation; and, in the end, might be ruinous to many valuable and respectable characters. It was of importance that no constraint should exist which would prevent gentlemen from expressing freely and without fear their own feelings and opinions and those of their constituents. How far the fear of misrepresentation, and the difficulty of correcting it, under such a system, would produce such an effect, gentlemen he hoped would consider before they assented to this proposition.

There was one other consideration, which had great weight on the mind. Whatever opinion we might entertain on the subject at present, all would remember the powerful influence of party and faction, and their intimate connexion with free Governments. From hence it might be easy to conceive, that hereafter this might be rendered the most powerful engine of an unprincipled majority, to overawe and to prostrate and destroy a virtuous minority. For no character was so established as to withstand for any length of time

constant misrepresentation supported by the authority of the House of Representatives.

Mr. Harper rose in reply to Mr. Sedgwick, who, immediately after he began speaking, observed that the gentleman had mistaken his meaning. Mr. H. said that he perfectly understood the member, and proceeded to recommend the object of the report. He gave credit to the present reporters for diligence and good intention, but thought them far inferior to what might be done. Great attainments had been made, he admitted, but more might be done. He thought it of the highest consequence that the speeches of members should be correctly published and disseminated among the people. As to the sum now proposed, a London newspaper would give, he had no doubt, five thousand dollars a year for such a reporter. He questioned not that Woodfall would receive ten thousand pounds a year from the printer for his reports. It had been objected that daily papers alone could hold such debates; but weekly and semi-weekly papers could select the most interesting passages of them from the daily papers. Mr. H. recommended either that this report or a similar one should be adopted, or that the business of reporting should at once be put to an end. He spoke of *atrocious* mistakes. The debates, as now published, held up the House to the scorn of the world. He would rather have the doors shut up altogether. He would, if the present resolution was rejected, make a motion to that effect. He was sorry to learn that the debates had been collected into a book, entitled "The Political Register," of which he doubted not that immense numbers would be sent to Europe, and this book he reprobated in the strongest terms.

Mr. Sedgwick observed, if gentlemen were misrepresented, in one of the newspapers, where debates were reported, the editor of that paper had advertised that he was ready to publish any corrections which might be offered. This notice had been long and frequently given, and gentlemen had it in their power to do themselves justice.

The first resolution in the report was then read, and the question going to be put, when

Mr. Baldwin said, that the more the House advanced into this affair, the greater was the number of difficulties which occurred. The resolutions had the less weight with him because they were hurried through at the close of last session. The institution was unprecedented in any other Government. He knew that members might be misrepresented, but this scheme would not cure the evil. He repeatedly declared, that on all great questions, where talents found an object worth exertion, the debates in that House were very well represented. He had seen many speeches, sketched by printers in this city, that he would not wish to see better done. He did not know of any recent or particular complaints about inaccuracy. We have now been in session for seven or eight weeks, and there has not occurred much interesting matter, to make any remarkable debate out of. He said that the debates, if taken at full length, would far exceed the limits of any newspaper. As to the expense of printing, that of the laws of this session would cost twenty thousand dollars, and he conjectured that to print the speeches would require an hundred thousand dollars; and even after they were printed, it would be necessary to pay people for being at the trouble to read them, for otherwise nobody would go through a perusal of every word spoken in the House.

Mr. Nicholas said, that the reports at present published were full of notorious falsehoods, and the characters of members with their constituents would have been sunk, if it had not been known that this kind of things deserved no credit. He was in favor of the report. He complained that even when pieces were sent to the printers, they were embodied in the sketch, by which means the reporter got the full credit of them, which had pernicious consequences. One of his objections to the present mode of reporting was, that the speeches of members were often much improved. He mentioned an instance from his own experience. A speech was once made for him by a person who reports in this House, and who has a very good style of writing. The style, said Mr. N., was above mine. There was not a sentiment in it which I would have disavowed. It was a better speech than mine; but, in an entire column, there was nothing that I said. As for sending corrections to the printers, Mr. N. was above it.

Mr. Hillhouse was against the report. The loss of four thousand dollars would be a much greater harm to the public than any injury arising from inaccurate reports. He did not see that the characters of members with their constituents depended on these publications.

Mr. Swanwick.—The gentleman from Virginia last up has suggested that the House have somehow committed themselves to appoint a stenographer, by their previous resolution on this subject; but that resolution goes only to the committee receiving proposals. It therefore remains with this House whether to accept them or not when made. As to the gentleman who is the subject of the resolution, if I have more strenuously than usual opposed the motion, it is from a desire to keep him from quitting the lucrative situation he is said to find himself in, to embark on the stormy sea he is contemplating. To be the organ of the members of this House to their constituents is indeed a very delicate task; one for which, considering the danger he might be in of an Orpheus's fate—that of being torn to pieces—the salary is but a poor compensation. He is to do justice to the eloquence of some members; he is to clothe in an elegant dress the uncouth, yet well-meaning expressions of others; but what will he do with the silent members, who never speak at all? What will their constituents think of them? Indeed, sir, if he has the idea I have formed of his danger, he will not undertake it at all. Faction and party have been mentioned: happy stenographer, if he can keep clear of these! If he fall into their power, insensibly he will represent one side in clouds and darkness, the other as ornamented with the brightest beams of light. How will he please both? Misrepresentation is complained of: alas, sir, how quick is error—how slow is the pro-

gress of truth in almost all things. Our stenographer must indeed be a wonder-working man, if he can revert this tide, and make every where light and correct reasoning prevail. The best mode of informing our constituents is, by the yeas and nays on our acts; this truly shows, as a gentleman from New Hampshire has observed, our doings, which are much more interesting to them than our abstract reasonings; these our constituents will easily form to themselves ideas of, when they know our votes; as the celebrated Dr. Johnson is said to have written speeches for members of Parliament whose general political sentiments he knew, by knowing these he applied arguments pretty accurately, as he supposed them to bear on every question offered. But, it has been observed, if we do not agree to have an official stenographer, a motion will be made to clear the House of those who now take down debates. These persons are tolerated only on the principle that our galleries are open. Woodfall, a celebrated printer, took down debates from memory: could we prevent this being done here? Or should we drive all printers from us who take notes, for the inaccuracies of some? I hope not. The liberty of the press has great title to respect. How can we agree by a miscellaneous union, the most strange, to commute with Mr. Brown, the printer, the salary of four thousand dollars, so as to possess him first of the proof-sheets, without supposing other printers will become rivals of this business, and complain if they are thwarted in an equal pursuit of their own livelihood? The best way is, to leave this business, like others, to regulate itself. Mr. Brown, by his labor in this way, has already widely extended the circulation of his paper—evident in his present overture—and, by the by, this is no mean proof of correctness on the whole in his success; he or others will still go on to improve the business, if left to themselves. If he or they fall into errors, they are their own. Members may correct them, or write their own speeches out, if they please. But what has the House to do with this; or why should it become the censor and promulgator of the speeches of its own members? Our time is wasted often, already, by too many long discussions on unimportant objects; but what would it be if we were to be every morning saluted with motions to correct the performances of the stenographer of the preceding day? All the advantage of the motion is to obtain more accuracy; but, it is said, the House means not to pledge itself for this accuracy: if so, why employ an officer under its authority for this purpose? On the whole, sir, we shall in vain seek to escape abuse and misrepresentation; these are by far too much in vogue. All the consolation left is, what I usually apply in such cases,—that is, the consciousness of not deserving them.

Mr. Gilbert was against the report. He thought the publication of the laws and the yeas and nays, a sufficient means to communicate the proceedings of the House.

Mr. Wm. Lyman said that the debates in one of the newspapers (he either named or plainly alluded to the Philadelphia Gazette) had, for the two last sessions, been altogether exceptionable. He was sorry to learn, that these debates had been collected by a person who comes here, so that they would now, perhaps, descend to posterity. If they were as incorrect in the volume (The Political Register) as they were in the newspaper, they were a libel on that House, and would disgrace it with the world. If this resolution was rejected, it would be advisable to send all the printers to the gallery.

Mr. Kitchell was entirely against the object of the report.

Mr. Giles said, that he might have taken up wrong impressions, but he thought the matter worth trying. It was a thing of experiment, by which he believed that the printer would make money. He acknowledged that, for some time past, several of the reports had been pretty correct. It is better to let them go out as they are, than to stop them altogether. He would not wish to press the motion, if it was to meet with opposition from several gentlemen who had this day spoken against it. He moved that the Committee should rise, and the further consideration of the report be deferred till Monday.

Mr. W. Smith said, it was admitted on all sides, that it was highly important for the people to receive the most accurate information of the proceedings of the House, and that the debates were, in general, extremely misrepresented. Was it not, then, the duty of the House to remedy this evil, and to adopt such measures as would transmit to the people in every part of the United States the most accurate information of the conduct of their Representatives? The House had now an opportunity of obtaining the services of a gentleman peculiarly distinguished for the rare talent of reporting with accuracy public debates; the compensation which would be adequate to such useful and laborious service, was beyond the ability of any printer; the House ought therefore to contribute towards it; the sum required was a trifle, when compared with the advantages; it was no object. The only question, then, was, whether the stenographer ought to be an officer of the House; in that capacity he certainly would be more easily restrained from the commission of any wilful misrepresentation. Mr. S. did not feel the force of the objections against the report. It had been said that, although the members were now misrepresented, yet, they had it in their power to publish corrections; but these corrections were often overlooked, while the misrepresentation was operating very injuriously to the character of the member; this was generally the case in places remote from the Seat of Government; the mangled account of a debate was republished in a distant paper, and the correction, if it reached the distant printer, was generally disregarded. Among the opponents to this report, Mr. S. said he was surprised to find the gentleman who represented this city, [Mr. Swanwick,] who, more than any other member, should have withdrawn his opposition to the measure proposed; that gentleman's constituents had it in their power, at any time, to hear the debates of Congress; they were on the spot; ought

he not, then, in candor, to assist in facilitating to the remote citizens the means of obtaining the best knowledge of the proceedings, and the most correct statement of the discussions of the House? Ought they, from their remoteness, to be kept in the dark, or to be furnished with such light as would only mislead? Had they not a claim on the House to adopt such means as would enable the citizens in every State to judge of the propriety of public measures? The member from this city had another exclusive advantage; if misrepresented, he could correct the error, and the correction would be read; that was not the case with the members from the remoter States, whose reputation might be injured by misrepresentation, without a similar advantage: the member from this city was in the midst of his constituents; he had daily opportunities of setting right any misstatement by personal explanation.

Mr. Smith said, he did not agree with some gentlemen, that it was sufficient for the people to know what laws were passed, without knowing the previous discussions; he thought, on the contrary, the favorable or unfavorable impression of a law on the public mind would depend in a great degree on the reasons assigned for and against it in debate, and the people ought to know those reasons. When a law passes, imposing a tax, would not the people be reconciled if they saw, from the discussions of the House, that such tax was unavoidable, and that the particular mode of taxation was the best which could be devised? And ought this information to depend entirely on the caprice or convenience of the reporters, who attended when it pleased them, and who published just as much of the debate as they found leisure or patience to accomplish? Mr. S. said he was convinced that the errors which had excited so much complaint were not the effect of design, but merely of inadequacy to the task. Very few were competent to such a business, which required peculiar skill in stenography, very laborious application, and a clear comprehension of the subject-matter of debate. It could not be expected that persons thus qualified would devote their whole time to this business without an ample reward. The report was objected to because there was novelty in the plan: it was true the House of Commons of England had no such officer, but their practice was not a fit precedent for us on this occasion, for they admitted no person to write down, in the House, their proceedings; their debates were taken from memory. This House, on the contrary, had, from its first institution, facilitated, by every accommodation, the reporting their proceedings. The thing was not altogether, however, without precedent. During the existence of the National Assembly of France, there were officers of the House who composed a daily work called the Logography, which was an exact account of the debates of that body. It had been asked, what control the House were to have over this officer? He answered that the stenographer would be liable to be censure or displaced, if he should be guilty of wilful misrepresentation. It would be always easy to discriminate between a casual inadvertence and a criminal misstatement: the officer's character and talents, his responsibility to the House, and his oath to report with impartiality, would be a sufficient pledge of his accuracy. Mr. S. seriously believed that the character of the House had suffered from the erroneous statements which had gone abroad. He wished to guard against this evil in future; he was willing, for himself, that every syllable he uttered within those walls should be carried to every part of the Union, but he deprecated misrepresentation. He was anxious that the truth should be known in relation to every act of the Government; for he was as satisfied that the affection and confidence of the people in this Government would increase with the promulgation of truth, as that whatever it had lost of that affection and confidence was owing altogether to the propagation of detraction and calumny. It was under these impressions that he had originally brought forward the proposition and that he now recommended the report, and having heard no reasons to change his sentiments of the expediency of the measure, he should persist in supporting it.

The motion by Mr. Giles was agreed to. The Committee rose, and, a few minutes after, the House adjourned to Monday.

Monday, February 1.

The appropriation bill was received from the Senate with amendments. None of importance: the most material one is a proposed appropriation of thirteen thousand dollars, instead of ten thousand, for the purchase of copper for the Mint.—Ordered to lie on the table.

Mr. Harper laid on the table a resolution, in substance as follows:

"*Resolved*, That such reports, as well from Heads of Departments as select committees, as are important to explain the acts of Government, be published at the expense of the United States."

INDIAN TRADING HOUSES.

The engrossed bill for establishing trading houses for the Indian tribes was taken into consideration. The first blank was for the gross sum to be appropriated for the general objects of the bill. It was moved to fill this blank with $150,000.

Mr. Williams spoke in favor of the bill.

Mr. Swift stated some general objections to an appropriation at the present time. The bill had been postponed for the purpose of obtaining further information from the Committee of Ways and Means relative to the actual state of the finances; this information is not yet received, and considering the great sums that must be raised and appropriated for other objects, he conceived that a further postponement was necessary. He moved that it should be postponed to the third Tuesday in February.

Mr. S. Smith urged the necessity of an immediate decision, in order to an[illegible]ing the object of th[illegible]ll in any degree wha[illegible]er. He recited a passage from the Report of the Secretary of the Treasury, to show that the funds were not so de-

ficient as the gentleman had stated; but all objection on this account was done away by the plan which he was well assured was before the Committee of Ways and Means, and that was, a reduction of the Military Establishment, by which means a sufficient sum would be found without having recourse to new taxes. The goods ought to have been written for last September. There is, perhaps, just time enough left to procure them, but any further delay will totally defeat the salutary purposes of the bill.

Mr. Giles asked, if voting the money would raise it? He did not suppose that a delay of a few days would make any difference in regard to the final object. He confessed he had his objections to the principle of the bill; he did not consider the plan calculated to produce the effects anticipated from it.

Mr. Hillhouse urged a speedy decision. The gentleman from Virginia says, that voting the money will not procure it, but will the money be realized unless it is voted? Mr. H., alluding to the retrenchment of public expenses by the proposed reduction of the Military Establishment, said there would be no difficulty about raising the money; but the money will not be immediately wanted. The Government will not be the importer of the goods. Some merchant will probably be employed for this purpose, and the payment called for at a future day. He urged the necessity of despatch.

Mr. Parker supported the general provision of the bill, and urged the necessity of an immediate attention to the subject. He calculated on a surplus in the appropriation for the War Department to provide for this object.

Mr. Harper moved that the bill should be recommitted. He then entered into a general consideration of the principle of the bill, which he reprobated altogether. Alluding to the general objects of commerce, he said that public bodies never manage these matters without loss. He adverted to the repairs of roads, construction of canals, &c.; all these objects prosper under private individual direction, but when entered into by public bodies nothing is ever brought to perfection, and the public money is lost. He applied these ideas to the plan of the bill. Persons at fifteen hundred or two thousand miles distance, are to be intrusted with public property to a large amount. It is not in human wisdom to guard against frauds and impositions; no check or control can be devised which will be found adequate to repressing private rapacity. Mr. H., therefore, wished the bill recommitted, for the purpose of an entire new modification. If the motion should obtain, he should then move a resolution providing for a loan to individuals for the purpose.

Mr. Swanwick supported the general principle of the bill, and reprobated the idea of loans to individuals; he considered such a plan as one of the worst kind of sinking funds. The plan is an experiment; it is not, perhaps, possible to predict what will be the result; but the object is worth the trial and worthy the attention of the Legislature. He considered the objections against the plan of the bill as applying with greater force against the proposed substitute.

Mr. S. Smith said, when the gentleman from South Carolina made his motion for a recommitment, he had supposed he would have accompanied the motion with some reasons; but since he had heard what he offered as reasons, he found himself confirmed in his opinion of the inexpediency of his motion. Mr. S. said, the only reason for the commitment was, that the principle of the bill might be changed, by individuals being substituted for the Government, that is, by loaning the money to private persons for the purposes of the trade. He was entirely opposed to this principle. Public debtors are the worst kind of citizens. These persons, after having expended or lost the money, will be coming forward with their petitions to be released from their bonds. He did not wish to increase the business of the Committee of Claims.

Mr. Swift enlarged on the idea suggested by Mr. Harper. He thought it infinitely preferable to leave the business to the enterprise and resources of individuals.

Mr. Harper rose in reply to Mr. Smith. He entered into a further consideration and defence of the plan he had proposed as a substitute.

Mr. Dearborn objected to Mr. Harper's idea; he saw no sufficient reasons to support the preference that gentleman gave to a loan to individuals. He was in favor of the general principle of the bill; he thought it economical to appropriate money for the object of cultivating good understanding and harmony with the Indians, but should vote for the bill only on the condition of a reduction of the Military Establishment.

Mr. Giles entered more largely into a consideration of the principle of the bill. He had no opinion of Governmental bargains—he believed they always turned out losing bargains. The clause which provides that the original stock shall not be diminished, he conceived, would operate against the general object of the bill, if adhered to; but this he did not contemplate; he supposed that it would terminate in an annual provision. Mr. G. alluded to the President's Speech, a clause of which had been recited; he did not consider that, or a former recommendation of this matter, as binding on the House. If the President's Speech is considered as the political Bible of the Government, the case is different; but he presumed no person was disposed to assert this. He considered the House as perfectly free to adopt or reject the proposition. With respect to the effects of the measure, gentlemen had differed in their predictions. Predictions which were the nearest to the effects produced, may be considered as the result of the greater political sagacity. He would venture to predict that the whole sum proposed to be appropriated would be sunk in three years. With respect to the fund contemplated from the surplus of the War Department appropriation, he considered it as altogether illusory; there is no such surplus, none had heretofore been found, and he presumed none ever would. For though the number of troops voted had never been raised, yet the

whole of the money appropriated was always expended.

Some further remarks were made by several members, and then the motion for recommitting the bill being put, was lost—52 to to 34.

Mr. Swift then renewed his motion for a postponement. This, after a few remarks from that gentleman, and a short reply from Mr. Gilbert, in support of the bill, was negatived.

The motion for filling the blank with $150,000, was then put and agreed to, fifty-six members rising in the affirmative.

On reading the section in which the blank for the penalty is included, Mr. Venable moved for a partial recommitment of the bill, for the purpose of new-modifying the section. This motion gave rise to a variety of observations, in the course of which the motion was extended to a general commitment. This motion being put, was lost.

The motion then was, to recommit the second, fourth, and sixth sections. The second section was recommitted. The fourth section provides that the capital stock of the United States embarked in this business shall not be diminished. Mr. Venable's object was to have the section so modified as to blend the interest of the individual who is to conduct the business with that of the public. Mr. S. Smith said the motion went to destroy the bill, for no person would engage in the business on such a plan. The motion for committing the fourth section was lost. The sixth section assigns the sum of $150,000 to be appropriated for the general objects of the bill. The motion to recommit this section was negatived.

The House then resolved itself into a Committee of the Whole on the second section, Mr. Muhlenberg in the Chair.

Mr. Venable moved that the section should be altered to read, that the agent should give bonds to the amount in value of the goods committed to his charge.

Mr. J. Smith supposed that the sum should be sufficient to cover the amount of the goods which may at any time be found in the hands of the agents; from ten to fifteen or twenty thousand dollars, he supposed, might be sufficient for this purpose.

Mr. Dearborn suggested the idea of leaving this part of the business to the President of the United States. He moved to amend the clause accordingly.

Mr. Venable's motion was lost. Mr. Dearborn's motion was agreed to.

The Committee then rose, and the Chairman reported the amendment, which was adopted by the House. It was then ordered that the bill be again engrossed and read the third time to-day.

[The bill was subsequently read a third time and passed—58 members rising in the affirmative.]

Tuesday, February 2.

Mr. New and Mr. Isaac Smith were appointed a committee on the part of the House to examine the enrolled bills. A message was afterwards received from the Senate, informing the House of their having appointed Mr. Paine for the like purpose on their part.

The amendments of the Senate to the appropriation bill were taken into consideration, and agreed to.

On motion of Mr. Smith, of South Carolina, the Committee of the Whole was discharged from any further proceedings on the report of the select committee relative to the appointment of a Stenographer to the House.

Mr. Harper called up a motion laid on the table yesterday, the purport of which is, that such reports from the Heads of Departments and select committees, as may conduce to explaining and understanding the laws, should be published at the expense of the United States. The motion being read, Mr. H. moved that it should be referred to a select committee.

Mr. Varnum objected to the motion. He did not see what purpose would be answered by it. The laws are sufficiently explicit. He did not suppose they would be rendered more so by printing the reports.

Mr. Sherburne suggested the propriety of extending the resolution to the first, second, and fourth volumes of the Journals of the Congress under the Confederation. This idea was reduced to a motion that the committee should be instructed accordingly.

The motion for a reference to a select committee was agreed to. Also, that the committee be instructed to report on the expediency of republishing the above volumes of the Journals of the old Congress. A committee of three was appointed.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

I transmit herewith the copy of a Letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of lands belonging to the Cherokees, and which the United States have, by treaty, solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

G. WASHINGTON.

United States, *February* 2, 1796.

The said Message and Letter were read, and ordered to be referred to the Committee of the Whole House to whom is committed the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

INTERCOURSE WITH THE INDIANS.

The House then went into Committee of the Whole, on the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

The first section of the bill came under consideration. This refers particularly to the line laid down in treaties already concluded.

Mr. Nicholas moved to strike out the word "said," referring to the ideal line in the treaties. He remarked, that treaties were now holding for the purpose of forming an actual line of demarcation, which might be very different from that recognised by existing treaties.

Mr. Hillhouse supported the clause in its present form. He remarked, that the reference to the line laid down in the treaties was of the utmost consequence to the objects of the bill. The design is to recognise, in a summary and pointed manner, the line of demarcation. This law is to serve as a directory to the people on the frontiers, and will be sent into the Indian country. This will be a simple mode of bringing into one view the stipulations of the several treaties relative to this important point.

Mr. Dayton objected to the section on account of its connexion with the preamble to the bill, which is not in itself binding.

Mr. Greenup said the section stood, in his opinion, perfectly well; if it is amended, it will leave the business in such a state of uncertainty as will defeat all the salutary purposes of the bill.

Mr. Nicholas said, that his motion, so far from producing the uncertainty anticipated by the gentleman, would have the direct contrary effect. This motion went to enlarge, not to narrow the provision for guarding against the violation of the line so much dreaded.

Mr. Gallatin and Mr. Venable supported the motion for striking out.

Mr. Tracy remarked, that the only reason for striking out the word appeared to be, that other Treaties may be made which would alter the line; he saw no great force in the objection. The clause provides that the President of the United States shall ascertain and cause the line to be marked. That is surely desirable. Should the line be afterwards altered by subsequent Treaties, the new line will then be marked under the direction of the President. This will then become the line. And he conceived that there was the utmost propriety in referring to such line in the most plain and positive terms.

Mr. Findley thought the reference in the clause to the preamble might be of use, and could certainly do no injury. He was against the amendment.

The motion for striking out was negatived.

Some amendments took place in the second section on motion of Mr. Hillhouse.

Mr. Milledge moved to amend the clause which prohibits the citizens of the United States from crossing the line for the purpose of hunting and destroying the game. He said if this provision is restrained, it will be necessary to remove all the citizens on the frontiers at least twenty miles within the line.

Mr. Hillhouse recited the clause of an Indian Treaty, in which the United States had expressly stipulated with the Indians, that their citizens should be restrained in this particular point. He said this very circumstance is the occasion of the greatest difficulty with respect to the Indians; they were fully sensible of it, and well understood the restrictions which were imposed, and it would be attended with the most pernicious consequences to give the occasion to find fault with the Government in this respect.

Mr. Milledge's motion was not agreed to.

The Committee made various amendments in the course of the discussion. Without finishing, they rose and reported progress. Adjourned.

Wednesday, February 3.

Lemuel Benton, from South Carolina, appeared, was qualified, and took his seat.

Mr. W. Smith reported a bill further extending the time of receiving on Loan the Domestic Debt of the United States. It is proposed by this bill to extend the time to the 31st day of December next. Twice read and committed.

DISCOVERY OF THE LONGITUDE.

A report on the petition of Frederick Guyer was read. This petition was for pecuniary aid from Government to enable him to prosecute his researches for the discovery of the longitude by lunar observations. The report is against the prayer of the petition—the compliance therewith being considered by the Committee as unconstitutional.

Mr. Page moved that the report should be accepted. He observed that the principle contained in it, if adopted by the House, would, in future, save Congress from similar applications.

Mr. Sedgwick said, if the object of the gentleman was to have the report placed on the Journal, and to be considered as establishing a principle, he should have his doubts as to its propriety. He should be sorry to have it established as a principle, that this Government cannot Constitutionally extend its fostering aid to the useful arts and discoveries; he did not think that it was true that the Government had not such a power; he, however, was not prepared at present to go into the discussion of the subject. He should have no objection to agree to the report on the principle which had been mentioned: That it did not appear that the object was probably attainable by the plan of the petitioner. The petitioner had leave to withdraw his petition.

INTERCOURSE WITH THE INDIANS.

The order of the day, on the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was called up.

Mr. Gallatin moved, if it was in order [the Speaker said it was,] that the Committee of the Whole should be discharged from any further proceedings on the bill, and that it be recommitted to the select committee. He grounded his motion on a motion of amendment brought forward yesterday, founded on the Message from the President of the United States, and on a report of the Attorney General, which, though it had not been formally communicated, had been shown to a particular gentleman of the House. It was understood that the amendment referred to respected the line of demarcation.

Mr. Hillhouse saw no use in recommitting the bill to the select committee; no amendment had been proposed which he did not suppose could be made in the Committee of the Whole.

Mr. Harper, who seconded the motion of commitment, said he saw no impropriety in sending the bill back to the select committee—much light had been thrown on the subject in the course of the discussion, and it was the duty of the House to avail itself of this light. Due deliberation on this important bill was certainly highly necessary, and if further information should arise in a subsequent stage of the business, he should be in favor of a new recommitment.

Mr. Giles was in favor of the recommitment, and if that motion should fail, he should then move for a postponement. The Treaty referred to in the bill has never been officially before the House. He referred to General Wayne's Treaty.

Mr. Sedgwick saw no purpose that could be answered in a recommitment. It is not pretended that there is any information to be received which is not already in possession of the House. After recommitting, in the present state of the subject, the select committee will bring in the same report which is already before us.

The Speaker here informed the House that the Treaty had been printed, and laid on the desk of every member; but had not been formally laid before the House. This was exactly the state of the matter.

Mr. Hillhouse said, that the motion to recommit in this stage of the business was not agreeable to the practice of the House, and conveyed an oblique censure on the select committee.

Mr. Dearborn said, he did not suppose the committee had neglected to avail itself of all the information within its reach; but as there had been a great variety of opinions expressed in the Committee of the Whole, for the sake of greater unanimity, he should wish to have the bill recommitted, and that an addition of two members be made to the committee.

Mr. Swanwick supported the motion on the ground that the bill was predicated on a Treaty which was not before the House.

Mr. Gallatin asked if it would be in order to offer a motion grounded on a public document (referring to the Treaty) which is not before the House. The Speaker said it would not be in order.

Mr. Heath was opposed to the recommitment; he considered it as a retrograde movement, and compared the proposition to Dr. Franklin's carriage with horses before and behind; Congressional business progresses too slowly; he hoped the Committee of the Whole would be suffered to proceed; he saw no difficulty in the way of maturing the bill in the Committee of the Whole.

The motion for recommitting was agreed to, and the committee enlarged so as to consist of a member from each State.

Mr. Blount then moved the following in substance: That the above committee be instructed to inquire and report, by bill or otherwise, whether any and what relief ought to be granted to persons claiming lands on the Southwestern Territory, purchased from the State of North Carolina; which lands, since they had been purchased, had been ceded by Treaty to the Indians.

This motion was agreed to.

Mr. S. Smith observed, that the bill was predicated on the Treaty made by General Wayne with the Indians. He doubted the propriety of proceeding on a public document not in possession of the House. It had been laid before the members nobody knew how.

Mr. Bourne said, the Constitution was silent as to the mode to be adopted respecting the promulgation of Treaties after they had become the supreme laws of the land. He supposed the printing and publishing the same, accompanied with a proclamation, was sufficient ground for the House to go upon in relation to any acts or appropriations which were rendered necessary in consequence of such Treaties.

The Speaker here interposed by observing, that there was no question before the House.

PERMANENT SEAT OF GOVERNMENT.

The House then went into Committee of the Whole on the report of the select committee relative to the Federal city. This report concludes with the following resolutions:

"*Resolved*, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of five hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington; the said Loan to be secured on the public property in the said city, and at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper, after the year one thousand eight hundred; and that the United States guarantee to the money-lenders, that in case the property so pledged shall prove inadequate, the United States will make good the deficiency.

"*Resolved*, That it shall be the duty of the Commissioners appointed by virtue of the act, entitled 'An act for establishing the temporary and permanent Seat of the Government of the United States,' every six months to render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys intrusted to them; and, also, the progress and state of the business and the state of the funds in their hands; and generally an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received; and that a bill or bills be brought in accordingly."

The Message of the President on this subject—a particular detail of the progress of the public buildings, state of the funds in the hands of the Commissioners, &c., signed Alexander White; and the act for establishing the temporary and permanent Seat of the Government of the United States, on motion by Mr. J. Smith, were read.

Mr. J. Smith, Chairman of the select committee, who had made the report, said, that the reading of the papers had been called for, that the Committee of the Whole might have a full view of

the whole subject before them, that they might be able more fully to judge of the propriety of the report. The committee had proposed a Loan on the principle of economy. Mr. SMITH and Mr. SWIFT called for the reading of several other papers—these were accounts of the expenses hitherto incurred, balances due to the Commissioners, &c.

The first resolution was then read.

Mr. SWIFT observed, that he would not propose any thing which should tend to contravene the act for establishing the permanent Seat of the Government of the United States. He was willing that that act should be carried into execution, but then he was not willing to go to any unnecessary expense to effect the object.

He stated some objections to the resolution: he did not think that a Loan was necessary for the purposes of the act. The funds in the hands of the Commissioners, he said, are sufficient to complete the public buildings in such manner as to accommodate Congress at the period pointed out. He referred to the details of the funds which had been read. Another objection he had to the first resolution, was the discretion vested in the PRESIDENT to institute a Loan at an indefinite rate of interest—another objection to the resolution, in his mind, was the guarantee of the Loan by the United States.

He was averse from the Government's being implicated in this business; he believed it was entirely unprecedented. Adverting to the idea of the lots being enhanced in price at a future day, he very much doubted the accuracy of this. He was rather of opinion that the Government would eventually be obliged to make good the whole Loan. On the whole, he thought it best for the Government to have nothing to do with the business, but to leave the management of it to the Commissioners by the aid of the funds in their hands; with economy they will be sufficient; but the more money there is granted, the less will be the economy in expending it.

Mr. MURRAY said, that the gentleman had taken the only ground which he believed could be taken to set aside the report of the committee, and that was that due economy had not been observed in the expenditures already made; he believed he would be puzzled extremely to substantiate this idea to the amount of one shilling.

Mr. M. said, that no public money to the amount of one shilling had hitherto been expended on the Federal city; nor is any public money now asked for. The object of the resolution is simply a Loan—a Loan on terms that individuals would think eligible. Adverting to the objection on account of the interest, he did not suppose with the gentleman that ten, fifteen, or twenty per centum would be necessary; he had been informed that it could be procured for eight per centum.

Taking a general view of the subject, he remarked, that all that was asked, was as little as could be expected. It is not a grant, a gift; it is simply to guarantee a loan for a public economical purpose.

Mr. GALLATIN objected to the indefiniteness of the rate of interest. He said it would militate against the loans proposed by the Secretary of the Treasury. He moved that the resolution should be amended so as to express the rate of interest at six per cent.

Mr. BRENT said he hoped that the motion would not obtain. The sum of 500,000 dollars is so inconsiderable compared with the loans contemplated by the Secretary of the Treasury, amounting to six millions; that the rate of interest on Governmental loans could not be supposed to be effected by a rate of eight, ten, or twelve per cent. for the sum mentioned in the report. The security he considered so good, that the money would be immediately obtained, and the reimbursement made with ease at almost any rate of interest. He supposed the economy of the plan was so obvious, that no man who was disposed to comply with the act for establishing the permanent Seat of Government, would oppose it. Mr. B. then adverted to the objections offered by Mr. SWIFT, and entered into a general statement of the affairs of the city, to show the policy and expediency of adopting the report of the committee.

The SPEAKER here remarked, that the merits of the report were not under consideration, on which Mr. BRENT waived any further observations.

Mr. W. SMITH stated the difficulties that would result from not restricting the rate of interest. He said it was unprecedented in the practice of the Government; even in the loan for the benevolent purpose of making peace with Algiers, the rate of interest was fixed at five per cent. He adverted to the principle of the report, and said that when the permanent Seat of Government was first agitated, assurances were given that the United States would never be called upon for any pecuniary assistance. It has been said that the money is not now asked for; but only the guarantee of a loan; he observed on this, that the Government ought to make the same calculations as it would were the payment inevitable on its part, for the public faith should be pledged to make good any deficiency that may happen. Mr. S. was proceeding, when

Mr. BRENT rose and said, he would withdraw his opposition to the motion. He was willing that six per cent. should be inserted.

Mr. GILES moved that a blank should be left for the rate of interest. Mr. GALLATIN consented to vary his motion accordingly.

Mr. HARPER, adverting to the period when payment of the instalment shall commence, observed, that in the year eighteen hundred, the United States would be called upon for the sum of 1,200,000 dollars, on account of the deferred debt, &c. He moved that the term should be left blank.

Mr. W. SMITH seconded this motion.

Mr. J. SMITH said, that it was not to be supposed that the United States would be called upon to pay one farthing of the loan. If the measure proposed should be adopted, the property in the Federal City will immediately rise in value; but if it fails, it will paralize the whole business.

Mr. CRABB said, he hoped the report would not

be altered. No man can seriously suppose that the United States will ever be called upon to reimburse one shilling of this money. The property is now the public property, and every principle of prudence and economy forbids that it should now be sold. But if the public faith is supported for fixing the permanent Seat of Government, the property at the period when the instalments become due, when the Government removes to the Federal City, will be so enhanced in value as to furnish a sum much more than amply sufficient for the purpose of reimbursement.

The term of repayment was finally left blank.

Mr. SWIFT then moved to strike out the sums of 500,000 and 200,000, before the word dollars, and leave blanks.

A motion for the Committee rising prevented any further discussion. They rose, reported progress, and had leave to sit again.

THURSDAY, February 4.

Mr. HARPER, after a considerable preparatory address relative to the Excise Laws, in which he recited the difficulties, embarrassments, and perplexities attending the execution of those laws, offered three resolutions, the objects of which are,

1st. To transfer the duties from the commodities to the instruments or machines used.

2d. To transfer the collection to the collectors of the State taxes.

3d. To give the State Courts cognizance of causes arising under those laws. Laid on the table.

Mr. W. SMITH, of the Committee of Ways and Means, brought in a report relative to reinforcing the existing provisions for reducing the Public Debt. This report contains several resolutions on the subject; they were twice read and committed for Monday next.

PERMANENT SEAT OF GOVERNMENT.

The House then went into Committee of the Whole on the report of the select committee relative to the Federal City.

The motion for striking out the sums of 500,000 and 200,000, before the word dollars, in the first resolution, under consideration.

Mr. MACON supported the motion for striking out. He offered some objections to the general scale of expenses.

Mr. FINDLEY said he was against striking out. He was on the select committee, and recited the motives which had governed them in the report they had brought forward. The question submitted was not whether what had been done was proper or not, but what was necessary to complete the plan already begun. The committee had thought proper to report the sum of 500,000 dollars in order to draw the attention of the House more particularly to the object for which the money is wanted. Mr. F. thought it was always disgraceful to a Legislative body to make appropriations which fall short; the consequence always was further applications. The resolution only empowers the PRESIDENT to borrow the sum, but it does not follow that it will be all borrowed or expended. He said the sum might be struck out, and reinserted again, but he saw no good purpose that would be answered by this.

Mr. NICHOLAS was opposed to striking out. He supposed that if a sacrifice of the public property was not determined on, there would be no hesitation in making a liberal provision; a niggardly supply on the other hand would necessarily produce that effect.

Mr. CRABB. Mr. Chairman, I flatter myself that the words five hundred thousand will not be struck out on any principle, but more especially on the one suggested by the gentleman from North Carolina. What, sir, is the object meant to be obtained by the memorial on which the resolution now before you is grounded? Is it not a reserve of the public property, under the well-founded expectation of a rise in its value? This will not, cannot be controverted. Then let us examine the proposition for annual loans and annual guarantees, and we shall find the completion of this desirable measure in a great extent defeated, should we adopt that proposition. For, inasmuch as the public confidence will be diminished by this parsimonious mode of legislation that will require annual Legislative aid, as certainly will it operate as a check on the rise of public property. If the present application of the City Commissioners is fully and completely gratified, public confidence will be fully established; but if left dependent on the passions and prejudices of future Legislatures, I apprehend it will not.

The gentleman from Connecticut, with whom this motion for striking out originated, yesterday, more than intimated a waste and extravagant expenditure of the funds that had already been in the possession of the Commissioners. If this is a fact, as the gentleman has made the charge, it becomes a duty in him to designate and point out the particular objects of abuse, and that might lead to a correction of them; but round assertions, unsupported by proof, can have no good effect, and may tend to injure the reputation and interest of your public agents, and at all events, must wound their feelings, perhaps unjustly. For a moment reflect on the nature and origin of these funds, and I am persuaded the Committee will think with me, that expenditures hitherto made by the Commissioners, under the direction of the PRESIDENT, is hardly a proper subject for examination by this Committee. For, sir, it is well known that not one cent has yet been expended by the Union for the progress or accomplishment of this great national object. But the funds applied have arisen from donations, or grants of lots by private citizens of Maryland, and by voluntary liberal donations from the States of Virginia and Maryland, accompanied by acts of the granting Legislatures, that required annual accounts of the expenditure. Then, sir, it follows, that the Legislatures that made those grants, are the proper bodies to make this scrutiny. When the United States have made grants, or guaranteed loans to cherish and increase the city funds, and thereby become responsible, then,

sir, will that kind of discussion be proper: before that it appears premature. The necessity of this application on the part of the Commissioners is objected to. I will not contend for the necessity. I think none existed. Nor was it policy, unless certain of success. Yet I feel satisfied that it is sound policy in the General Government to aid and assist the funds by complying with the resolution. Sure, I am, that if the application had not been made, the city property was commensurate to all the public objects required; and no doubts rests on my mind, if the resolution passes, but it will increase the funds far beyond the necessary demands: but I feel it a duty to declare, that I much doubt the sufficiency of the funds, provided this application should, from an ill-timed, illiberal, contracted policy, miscarry. The refusal of this small parental aid would strongly convey the idea and enforce belief, that the General Government was not serious, not firmly fixed in their purpose of making the present location the permanent Seat of Congress. Consequently a sudden and dreadful fall of lots, the value of which depends on public opinion respecting that event.

And thus, sir, a sacrifice of the public interest must be the result of such mistaken policy. And, sir, from this loss, one of two evils must follow: that is, we must either have direct recourse to the Federal Treasury to supply this deficiency, or relinquish this momentous object, hitherto so solemnly adopted after the fullest discussion by the General Government. Sir, the first and least of these evils should be cautiously guarded against; but, sir, the second is an evil of that extent and magnitude, that no comprehension, however extensive, can by anticipation arrive at the fatal result; nor no language, however strong, paint it in proper colors, to show fully its baneful effects; such a manifest, indecent, impolitic violation of public faith and private rights, acquired under the sanction of the original law, would shake the Union to the centre, if not burst asunder those political bands that so happily cement and bind this wide extended Union in the governmental compact—the sheet anchor of America, on which all her strength, wealth, and happiness must depend.

The motion for striking out 500,000 and 200,000 was carried, there is a blank consequently before the word "dollars;" no amendment was made to the second resolution.

The Committee rose and reported the two resolutions with the amendments to the first.

The amendments were taken into consideration by the House and agreed to.

The question then was on the first resolution as amended.

The debate was renewed on the general policy and expediency of the measure.

Mr. Ketchell was opposed to it. He said the public faith was sufficiently pledged by the act for establishing the permanent Seat of Government. He did not suppose this would be more firmly secured by going into the measure. Adverting to the exigencies of the Government for money, he considered the present as the most improper time to make any grants or loans; besides, he saw no necessity for them. The funds already in the hands of the Commissioners are sufficient to complete the buildings for the accommodation of Congress in season. If money should be wanted at a more favorable time, there was no doubt it would be granted; but at present he was opposed to doing anything in the matter.

Mr. J. Smith said there was no doubt that Congress had a right to withhold their aid in this business at the present time, or any other: the only question is, whether the measure is expedient or not. The committee had thought it was on the principles of economy and sound policy.

The first resolution was agreed to, fifty-seven members rising in the affirmative.

The second resolution was also adopted. They were then referred to the select committee who brought in the report, to prepare and bring in a bill or bills.

The resolutions, as amended, are as follows:

Resolved, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of —— dollars in the whole, and not exceeding —— in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington; the said loan to be secured on the public property in the said city, and at a rate of interest not exceeding —— per cent., and payable at such time or times, as he may judge proper, after the year ——; and that the United States guaranty to the money lenders, that in case the property, so pledged, shall prove inadequate, the United States will make good the deficiency.

Resolved, That it shall be the duty of the commissioners, appointed by virtue of the act, entitled "An act for establishing the temporary and permanent Seat of the Government of the United States," every six months to render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys intrusted to them; and, also, the progress and state of the business, and the state of the funds in their hands; and, generally, an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received.

CONTESTED ELECTION.

On motion of Mr. Swift, the House took up the report of the committee on the contested election of Israel Smith, one of the members of the State of Vermont. The report was read, which concludes thus: "That they are of opinion that Israel Smith is entitled to take his seat in this House."

Mr. Tracy moved that the report should be recommitted. His reason for the motion was, that the petitioner might have an opportunity to bring forward *legal proof*, if such was the fact, that two towns, which had been deprived of the opportunity of voting, through the failure of notice on the part of the Sheriff, contained a sufficient number of freemen to have changed the result of the election. It appeared that the evidence of this fact had been taken *ex parte* by the petitioner.

This motion occasioned a long, desultory conversation; in the course of which it was said that evidence had been laid before the committee (but which had not been admitted) that those two towns contained more than thirty persons entitled to vote. It was said, that if this was the case, the election ought to be set aside.

The reading of a great number of papers was called for. Among these were the certificates of the town clerks of Kingston and Hancock, stating the number of freemen in those towns, amounting to upwards of thirty. These certificates, it was said, were sufficient and legal evidence.

It was observed by Mr. J. Smith, that the first question to be determined appeared to him to be this: How far the omission of an officer to notify the citizens of one or more districts, ought to influence in vitiating an election.

Mr. Tracy withdrew his motion for re-commitment, and moved that the report be postponed; this was agreed to, and Monday assigned.

MILITIA PENSIONS.

A report of the Committee of Claims on the petition of John Griffin was taken up in Committee of the Whole. This report contains a resolution for placing on the pension list such non-commissioned officers, musicians, privates, and volunteers of the Militia, as may be wounded or disabled when in actual service, called out by any law of the United States.

Mr. Tracy stated the reasons which had induced the committee to report this resolution. They were, among others, the uncertainty of the existing law, and the justice, policy, and expediency of the measure.

The report was agreed to and reported to the House. The House adopted the same, and the Committee of Claims was directed to bring in a bill accordingly.

Friday, February 5.

Mr. William Smith reported a bill regulating the grants of lands appropriated for military services, and for the Society of United Brethren, incorporated for the purpose of propagating the Gospel among the Indians. This was twice read, and committed.

Mr. S. Smith called up a resolution which he had laid on the table some time ago, and moved that it should be referred to the Committee of Commerce and Manufactures. The purport of the resolution is, that that committee be instructed to inquire and report whether any, and, if any, what, alterations may be proper to be made in the laws of the United States relative to commerce and navigation. The resolution was referred, pursuant to the motion.

Mr. Madison, after some general remarks on the subject, offered a resolution, the purport of which is to authorize the President of the United States to cause a survey of the main post road from Maine to Georgia—the expense to be defrayed out of the surplus revenue of the Post Office. Laid on the table.

BENJAMIN STROTHER.

A report of the Committee of Claims on the petition of Lieutenant Benjamin Strother was taken into consideration. This report refers the settlement of the claim of the petitioner to the accounting officers of the Treasury.

It appeared that the petitioner had marched a number of troops to the Army on a route on which there was no contractor, in consequence of which Mr. Strother had incurred expenses for the supply of the troops under his command. The vouchers for the charges had been destroyed by a fire which burnt the hut of the petitioner; all the evidence that he could now offer in support of his account was his oath. The report is founded on an opinion of the committee that no account ought to be allowed on the oath of any person.

The report occasioned some conversation, but was finally accepted, and a bill ordered pursuant thereto.

ARREARAGES OF ARMY PAY.

The House then went into Committee of the Whole on a report of the Committee of Claims, to whom had been referred a resolution respecting a list of arrearages of pay or other emoluments, which may appear by the books of the Treasury to be due to the officers and soldiers of the late Army of the United States for services performed during the late war. The report states various reasons for not instituting the inquiry proposed by the resolution.

Mr. Giles said, he supposed a book had been kept in the proper Department, in which a general view of the accounts of all persons employed by the public had been stated, but, to his astonishment, he found that no such book was in existence. A strong reason why such a book should have been kept might be drawn from the statement of the Accountant of the War Department, who says that persons had been twice paid, and that instances of this kind had come to his knowledge.

The committee say that the subject cannot be gone into without a repeal of the limitation acts. He acknowledged this, and he therefore supposed those acts should be partially repealed; for in many respects they appeared to him to operate unjustly. From the report, it appeared highly probable that there were arrearages due to many persons; this might be inferred from the deranged state of the business. If anything was due, justice demands that it should be paid. But, from what was disclosed, he was aware that it would be impossible to do anything the present session. He should, however, reflect on the subject, and prepare something in lieu of the resolution he had offered. There are, said he, about an hundred clerks in the Treasury Department; he supposed some of them might not be very busily employed at the present time, and he thought they might be advantageously engaged in digesting these accounts, and bringing forward the different balances.

Mr. Williams was in favor of agreeing to the report. He recited some facts to show that the business would probably result in the United States

being called upon to pay a great number of accounts, which no principle of justice obliged them to discharge.

Mr. Findley said, if the business was practicable, he should think nothing of the limitation acts; they might easily be set aside. But he was convinced, at this time of day, the statement wished for could be partially executed.

Mr. Baldwin stated a variety of insuperable difficulties which would present themselves in prosecuting the investigation proposed.

Mr. Claiborne spoke in favor of the investigation. He hoped that, because some culprits had imposed on the public, and been twice paid, that Government would not refuse to pay a just debt. He had rather pay ten times the sums than refuse justice to a man who had a claim on the country for actual services. He had always opposed limitation acts as unjust in the extreme; they had operated most injuriously. He felt peculiarly concerned on this occasion, and he hoped the inquiry would be made. There is a sufficient number of persons in the public service, at high salaries, to undertake the business, and he hoped it would not be lost sight of.

Mr. Dearborn said he had not supposed that the books were in the situation exhibited in the report. He was not, however, prepared to vote in favor of the report; he was rather of opinion that something might be done.

Mr. Tracy said that the suspension of the limitation act was not the question before the Committee of Claims, but simply this; the expediency of making a list of the persons who may appear to have balances due to them. What purpose could such a list answer, but to afford an endless scope of speculation? The consequence would be, forging of powers of attorney without number, by which means thousands of persons would gain twenty dollars for what did not cost them half a dollar.

On this account, no such book as had been mentioned had been kept, and he rejoiced that this was the case. All the evils attendant on the publication of the list contemplated would have resulted from such a book; for all the care and secrecy that could have been used would not have prevented such a list from having been made. Adverting to the mighty mass of public papers that must be examined in the investigation proposed, he said that ten years would not be sufficient to complete the business. He then recapitulated the uncertainty, perplexity, and eventual injustice that would attend the work. A large box of papers had lately been found, which, on examination, proved to be settlements of accounts, the parties to which, he had no doubt, had entirely forgotten that any such documents were in existence.

Mr. Giles differed entirely from Mr. Tracy as to the effect which would result from framing the list referred to; he thought it would prevent speculation. Only persons interested would apply for information, and from such the information was improperly withheld. This uncertainty led persons to dispose of their claims below their value. He hoped the book he had first mentioned would be made; he did not conceive it would require the time stated by the gentleman from Connecticut. The persons in the Treasury Department might easily adjust and reduce these accounts to a simple form in a much shorter period. He was, however, sensible that such was the present mode of keeping the accounts in the Treasury Department, that his resolution would not answer the purpose he had in view. He should, therefore, take an opportunity to reduce his opinion to a different form, in order to bring forward a measure that would reach the object.

Mr. Harper remarked, that the report of the committee would not preclude any person from coming forward with a just claim. He saw no necessity for such a list as had been proposed; every man who had a demand against the public was fully sensible of it, and needed not any publication of a list to inform him. Mr. Harper then adverted to the evils which would result from the forming such a list on account of the speculation which it would occasion. He instanced the experience of the State of South Carolina. He said he hoped the report of the committee would be agreed to.

Mr. Dayton remarked, that it appeared to him to be very unscandid on the part of the gentlemen to attack a member on account of a resolution he had brought forward, when that member had himself withdrawn his support from it; he conceived that such conduct was indelicate and improper.

Mr. Harper here rose, and observed, that if he had said anything which implied the slightest imputation on the motives of the gentleman from Virginia in bringing forward the resolution, he had been misunderstood—he meant no such thing. If his remarks were susceptible of such a construction, he asked the gentleman's pardon.

Mr. Dayton replied that the remarks of the gentleman from South Carolina had struck his mind in the manner he had stated. He did conceive that it was entirely improper to take up the time of the House in discussing a resolution which was not supported by the original mover. While he was up, Mr. Dayton said that he would just observe that he had the fullest confidence in the purity of the motives which had influenced the gentleman from Virginia; he had done what was strictly within the line of his duty. Adverting to the report, he observed, that though he did not object to it in all its parts, he was clearly of opinion that it was not well founded in stating that it was impossible to form the list mentioned. He thought such a list could easily be made, as the vouchers were in existence to establish the claims.

Mr. Tracy said that the committee had not said that it was impossible to make the list; such an intimation is contained in the Accountant's statement, but is not in the committee's report.

Mr. Harper offered a few more remarks on what had fallen from the Speaker, in which he questioned the propriety of a member's being reflected on for offering such observations as he had offered on the report of the Committee of Claims.

The question being called for, the report of the Committee of Claims was agreed to.

CASE OF SILAS CLARK.

The report of the Committee of Claims on the petition of Silas Clark was taken into consideration by the Committee of the Whole.

The report is against the prayer of the petition, which was for full half pay. The petitioner was a captain in the Massachusetts line, had returned his commutation, but was not allowed any interest on the certificates returned, so that he never derived any advantage from them. He is an invalid from wounds and disabilities incurred in the public service during the late war; his pension is only one-third of a captain's pay.

Mr. Nicholas proposed that a general provision should be made. By a calculation which Mr. Nicholas offered, he said the petitioner had, from some cause or other, made a bad bargain in consenting to give up his commutation in lieu of a pension of one-third of his full pay. He conceives that the claim was founded in justice, and supposed the case was not a solitary one.

Mr. Heister said that, according to his calculation, the bargain was in favor of the petitioner; the interest of his half-pay did not amount to so much per annum as his pension. The pension is $160 a year, the interest on the commutation is only $144.

Mr. Tracy went into an extensive consideration of the subjects of commutation, half-pay, and pensions. The petitioner had received the pension from the beginning, and was therefore not entitled to interest.

Mr. S. Smith supported the claim of the petitioner. He recited some circumstances of the battle of Monmouth, in which this petitioner was wounded, and in which Captain Clark had borne a conspicuous part. He expatiated on the merits of the officers of the late Army. Adverting to commutation, he recited the circumstances under which it was given. Captain Clark had exchanged it for a pension, but, in doing this, he had, through ignorance, made a bad bargain; this is as demonstrable as figures can make it. Now, the question is, whether the Government shall take an advantage of this contract? He could not believe that it would; when fully informed of the circumstances, this Government will always allow and pay a just claim. Mr. Smith said the petitioner was entitled to his half-pay for serving through the war, and to his pension for his wounds and disabilities; and there was a third demand which he was entitled to, and that was for interest on his pension during the time he did not receive it.

Mr. Nicholas read a resolution which he would offer, if in order, in lieu of the report of the committee. The purport of this was to make a general provision. It was remarked that the report of the committee ought to be first disposed of.

Mr. Sedgwick hoped the report of the committee would be accepted. He adverted to the frequent allusions to personal services, and said that the distinction which was made was not, in his opinion, either candid or just. Mr. S. asked what class or description of persons can be named who did not suffer by the events of the late war. The farmer, the mechanic, the merchant—all suffered by the depreciation of the paper money. It was infinitely to be regretted that the officers and soldiers who carried us triumphantly through the glorious contest should not be paid every shilling due to them for their personal services; but it is also to be regretted that the farmer, the mechanic, and every other description of persons, who surrendered up their property to the call of the public did not receive an equivalent: they all made sacrifices, and were all victims to their patriotism in a greater or lesser degree. Can any man seriously contemplate a reimbursement of these losses, or compensation for these sacrifices? The attempt is impracticable, however desirable; it is entirely beyond the abilities of this country.

Mr. S. Smith, in reply to Mr. Sedgwick, said, there was a wide difference, in his opinion, between personal services and those which had been mentioned. While the soldier was fighting the battles of his country for a pittance, and suffering all the evils incident in his destitute and hazardous situation, his merit was infinitely superior to that of the farmer who sold his corn or his ox for paper money, or that of the merchant or mechanic who took the paper for the purpose of speculation.

Mr. Hillhouse said, that he thought it very extraordinary that the gentleman from Maryland should bring forward a charge of speculation against the persons who took paper money: all classes of persons took it voluntarily for a long time. The charge involved all the funds of the Revolution; for, unless they had given it a currency, the cause would have been lost. But this was not all. Did not the States make *tender* laws to compel the people to take the paper, and were not thousands ruined by it—thousands of as good friends to the Revolution as any description of persons whatever? He saw no good purpose to be answered by such comparisons.

Mr. J. Smith said, he conceived that the two gentlemen who had lately spoken [Mr. S. Smith and Mr. Nicholas] did not understand the subject. These gentlemen had blended two things which ought to be kept separate and distinct, viz: the engagement on the part of Congress to give half-pay to the officers who should serve to the end of the war, which was afterwards, by agreement, commuted for five years' whole-pay, and the engagement to give a pension to such officers as should have the misfortune to be wounded or otherwise disabled in the service. Mr. S. considered these engagements as referring to two different classes of men, viz: able and sound men, and invalids. Those of the former description who should continue in the service to the end of the war were promised half-pay for life; those who were disabled in the service were allowed to retire upon a pension. No man was obliged, against his will, to be placed on the pension establishment; and the fact was, that numbers of officers who were wounded, either from patriotic motives, or other views, chose to be considered as sound and able men, and received the emoluments of such full pay and the commutation. They could not surely complain that they, though disabled, were still

allowed the emoluments of able-bodied and sound men. But they cannot be, at the same time, of both descriptions—both able and disabled. If the journals or acts of the Government were examined, Mr. S. was confident that this would be found to be the sense of the Government. If an officer had the misfortune to be wounded in the service, he might retire, and receive the reward promised to the disabled. If he chose to continue in the service as an able man, and the public were pleased to permit him to do so, and to accept of his services as such, he was at liberty to continue, and receive the emoluments of the able officer who served through the war. Mr. S. threw these ideas out for the consideration of gentlemen, and should be obliged to those who would set him right, if he was wrong. He conceived that it was not the intention of gentlemen to take the question immediately, for the usual hour of adjournment had arrived: he moved that the Committee rise and report progress.

The Committee accordingly rose, reported progress, and had leave to sit again.

Monday, February 8.

Mr. Tracy, from the Committee of Claims, presented a bill for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States; which was read twice and committed.

Mr. Henderson moved a resolution in nearly the following words:

"*Resolved*, That the Committee of Revisal and Unfinished Business be instructed to inquire into the number of clerks that are now employed in the Department of the Treasury, the Department of State, and the War Department, and that they inquire into the number of clerks that, in their opinion, may be necessary for the services annexed to those Departments and offices, and that they make report thereon."

The resolution was agreed to.

Mr. Sherburne took notice of the very great expense attending the present mode of payment of the interest on the Domestic Debt, and, with a view to remedy the evil, moved—

"That the Committee of Ways and Means do inquire whether any and what alterations and amendments are necessary in the mode of paying the interest of the National Debt."

Mr. Murray moved "that a committee be appointed to inquire whether any, and what, alterations are necessary in the offices of the Government of the United States." Ordered to lie on the table.

THE PUBLIC DEBT.

Mr. W. Smith moved for the order of the day for taking into consideration the bill for further extending the time for receiving on Loan the National Debt of the United States. The House accordingly formed itself into a Committee of the Whole, read the bill, and agreed to it without amendment. The House being again resumed, Mr. Swift requested the bill might lie over till to-morrow, as he wished then to propose an amendment. Agreed to.

The report on the petition of Silas Clark was taken up again in Committee of the Whole, and a resolution adopted that the petitioner have leave to withdraw his petition.

COMPENSATION OF MEMBERS.

The House resolved itself into a Committee of the Whole, on the bill for allowing a compensation to the members of both Houses, which proposes an annual salary of one thousand dollars to each member, instead of six dollars per day.

Mr. Giles moved that the word "annually" be expunged from the bill. He thought the present mode of compensating the members of the Legislature a good one, and could not conceive why an alteration should be made. Such a mode of payment as was now proposed ought to be sanctioned only upon the maturest deliberation.

Mr. Goodhue explained the reasons which induced the Committee to propose an annual instead of a daily payment to members, which was, that members might be induced to greater despatch in business, and to do away an idea which had gone abroad amongst many people, that, being paid by the day, the members of that House protracted their session to an unreasonable length.

Mr. Giles thought there ought to be no pecuniary inducement to members to push forward business in too rapid a manner, or to shorten their sessions. An annual salary would doubtless have this effect, and business, in consequence, would most certainly be neglected. It would be an evil of the greatest importance; it would be a constant temptation to members to neglect their duty; it would tend to embarrass all their deliberations. Indeed, it was a perfectly new mode of requiting Representatives, and would be supposed to be introduced for the purpose of advancing their pay—an idea which he did not wish to prevail, as he thought the present allowance sufficient. He therefore hoped the principle would not be agreed to.

Mr. Swanwick was against the bill, and said, that to pay members in the way proposed would be to offer them a bounty to neglect the business of the Legislature.

Mr. Hillhouse was in favor of the bill. He said, that the Constitution had provided that Congress should meet once a year, and that more time was spent during their sitting than was taken up by the Circuits of the Judges. Yet the Judges had a salary allowed them, and it was not found to have any bad effect. Complaints are now made out of doors that their sessions are protracted for the sake of the daily allowance paid to them. Persons who said this, said he, do not know that we are all the time deeply engaged in business, which is much lengthened by clashing interests of different States. A yearly salary would do away this idea, without making any real difference in the amount paid by the Treasury for their services. If he thought the mode of payment would cause members to neglect their duty, as has been observed, he too would be against the adoption of it; but surely it cannot be supposed that members

would not sit as long as business should require them. He observed, they had now been in session two months, and but very little important business had been done. He thought the mode proposed would tend to remedy this evil: it was an experiment at least worth trying.

Mr. Findley did not object to the bill merely as a novelty, but because it offered no advantage. Many persons, no doubt, would think one thousand dollars a year too much; but he believed it best for members to do their duty, without regarding the misapprehensions and prejudices of they know not whom. He did not think the pay of members influenced their sittings. The greatest difficulty, towards the close of the session, was to keep members together. If, indeed, members would attend better at the beginning of a session, and take up less time in speaking, sessions might be shorter; but there must, however, be full liberty given to every member to express his sentiments in his own way. No law can regulate people's conceptions. He thought it best that the members should be paid by the day. He should never boast of passing laws in a short time, but of passing good laws.

Mr. Nicholas was in favor of the present mode of compensating members, as the period of their session was uncertain, and wherever salaries were paid, they were for certain business. Give members one thousand dollars, and he did not doubt but some of them would wish to return home sooner than if they had been paid in proportion to the time spent in business. Water, though insensibly, wears away stones; and such an influence, he feared, would have a tendency to undermine the integrity of members. It was better to be slow than too hasty in business. He hoped this bill would not pass as an experiment, for the effect must be corruption; and when once this enemy of all Governments is suffered to take root, it is difficult to eradicate it. Indeed, this bill would be supposed by many as a cover to advance the pay of members. If there were any such view, he wished members to propose the measure openly. He thought the present pay too much, and if the people thought it influenced the length of their sittings, they were of the same opinion.

Mr. Williams was against the bill, though he believed it to be brought in by the Committee from the best of motives. It was their opinion it would shorten the sessions, and, if carried into effect, it might do so. If our wages were lowered, the measure would shorten our sessions. Every penny beyond expenses is too much: a medium salary was desirable. If the pay of members was increased, officers of Government will do the same. At present, it was true, all the necessaries of life were at a high price; but when the war in Europe ceases, the case will be different. Whenever we adjourn our sessions, (said he,) much business is necessarily left unfinished; and if members were paid by the year instead of by the day, all those whose business was not completed would be ready to say that members were hastened away to enjoy their salary at home.

Mr. Sedgwick did not think the business before the House important. He was inclined, however, to favor the bill, not that he would grant a larger amount in that way than the amount of the present allowance per day. The argument of novelty, he said, would not apply: we are in the business of experiment. He would observe a fact well known, that every member in the House was deprived of the opportunity of pursuing his occupations at home, and of the emoluments arising therefrom, by his attendance to public business. He did not believe a yearly allowance would shorten the sessions, but it would remove the charge brought against members of protracting the sessions for the sake of their pay. Whether it is necessary to increase or diminish the present pay is not the question.

Mr. Livingston expected stronger motives for the bill than he had heard. It is acknowledged a perfect novelty. This, though by no means decisive, is an objection against the measure, and there is nothing else to recommend it. It has, indeed, been said, it will shorten our sessions; but would this be a benefit? If to continue in session be an evil, why are we here? If it could have been proved that expense would have been saved by the measure, that would have been a real advantage; but this has not been hinted at. It has, indeed, been said, it will remove from our constituents a suspicion that we are living here too long. It has been said, that an idea has gone abroad that we receive six dollars a day through the year. Few, he believed, were so ill informed; but this bill, if passed, will cause much more discontent than the present pay occasions. Deliberation in a Legislative body is necessary. The dearest interests of the people, he said, were committed to their charge, and he trusted they would watch over them, and never suffer them to be injured; and then, it was his opinion their constituents would not think much of their pay.

Mr. Baldwin said, that it was a disagreeable business to be employed in discussing the subject of paying themselves for their services: it would be a desirable thing to supersede the necessity of doing so. The Committee doubtless thought one thousand per annum would be an improvement upon the present mode of paying members, but he could not think so. He thought it best that the allowance should be paid in the old way.

Mr. Gilbert was willing to try the experiment of the bill proposed. He did not believe that either the present daily allowance lengthened, or that an annual salary would shorten, the sessions. He thought to say the contrary was a base insinuation.

Mr. Bourne never heard it was the wish of their constituents that their payment should be annual instead of per day. He had heard it complained that their pay was too high; but now, since the price of living is so much advanced, he believed the people were satisfied. He saw no advantages from the proposed change. It cannot be thought that the pay is an inducement to members to prolong their sessions: he had not heard such a complaint. He was in favor of striking out the word "annually," and for recommitting the bill.

Mr. Madison observed, that the present bill pro-

posed no alteration with respect to the amount of money to be drawn from the Treasury, and it can make but little difference to members. What had been mentioned as the advantages of this bill, in his opinion, would operate against it. A novelty, he said, always called for hesitation.

Mr. Swanwick thought, if they enacted good laws—laws that should encourage agriculture and commerce—their constituents would not trouble themselves about their salary.

Mr. Giles rose to remark upon an expression which fell from Mr. Gilbert, viz., that, to say members were likely to be influenced by the proposed salary, was a vile insinuation. He declared that it was a recommendation of the bill in the committee, that it would tend to shorten their sessions.

Mr. Gilbert explained, and justified the expression.

The motion for striking out the word "annually" was called for, and passed.

The Committee rose, and asked leave to sit again, which being granted, the House resumed itself; and the motion being put by the Speaker for leave that the Committee sit again, it was negatived; and the bill was recommitted.

And the House adjourned.

Tuesday, February 9.

Fisher Ames, of Massachusetts, appeared, was qualified, and took his seat.

The bill for allowing a certain compensation per day to members of both Houses, was read a first and second time, and ordered to be referred to a Committee of the Whole to-morrow.

THE DOMESTIC DEBT.

It was then moved that the House take up the bill for further extending the term of receiving on Loan the Debt of the United States; which being agreed to,

Mr. Swift moved a clause to be added to the bill to the following effect:

"That it shall be lawful for the officers of the Treasury to receive on Loan Continental bills."

He observed that he moved this clause because the officers of the Treasury had, for some time past, refused to receive Continental bills, as usual, and it was necessary to have the matter regulated by an act of Congress. Different constructions had been put upon the laws regulating the payment of these bills; he thought they ought to be received as usual; for though the act of limitation be supposed to have barred the payment of them, an act passed since must extend it. He was not disposed to repeal the statute of limitation; but, with respect to Continental money, there can be no fraud or deception, and there was certainly justice in the claim.

Mr. Goodhue noticed that it had been observed that the officers of the Treasury had put a wrong construction upon the law regulating the funding of the Public Debt; but he thought differently. He thought they acted right in refusing to receive Continental bills. None of them, he observed, had been received for the two last years. No one could say which was just, or the contrary: There were many counterfeits, and many of them had been bought up for a mere trifle.

Mr. Macon said these bills should have been funded sooner. There were immense counterfeits, he observed, and if there were one case more than another in which the act of limitation ought not to be repealed, it was this.

Mr. Hillhouse said, that all that part of Continental money which was not barred by the statute of limitation was now received at the Treasury. Much of it was now in the Auditor's office, which would be received without objection. But if any one wished old Continental money, which had long been considered as dead, to be received on loan, a bill should be brought in for repealing a part of the limitation law.

Mr. Gallatin was in favor of the clause. The act of limitation was not sufficiently clear with respect to Continental money, to be understood by the holders of it. The officers of the Treasury themselves, it seems, mistook the meaning of the law, and therefore others less versed in matters of this sort, might be supposed to do the same. The construction put upon the act, though true, was forced, and there ought to be a chance given to those who were mistaken. The reason the holders of this money did not fund it, when the funding system was adopted, might be owing to the unfairness of preference to different kinds of securities. He allowed there might be danger from counterfeits, but that these might be avoided by the customary means. He wished always to act for the public, as in a case of his own; and if the present case was his own, he should be for allowing the claims.

Mr. Sedgwick remembered that when the funding law passed, that the value of the certificates was very low, which was the reason, he concluded, many were not funded. The speculators, no doubt, had taken care to fund what bills they had in time; and what bills remained, he believed to be in the hands of real holders. If these claims had been barred by law, he should be opposed to opening a door for their admission; but if not, he should wish to declare that they will now be permitted to fund. The funding law explained the various species of debt which were to be funded; afterwards came the act of limitation; then an act to authorize a re-loan. If this act authorized officers of the Treasury to receive Continental bills, they should have done so. If the construction put upon the law by the officers of the Treasury, be wrong, a declaration should be made by that House to set them right. There are doubtless counterfeit bills, but he believed the persons who had heretofore been employed to detect these, were yet to be found. He had always thought the House went too far in depreciating, by an act of the Legislature, this species of money, and wished the House to be explicit whether it would be received or not.

Mr Swanwick remarked, that the situation of the House was one of the most curious they had yet been placed in. After a lapse of nearly twenty

years from the emission of Continental money, they were called upon now to say whether it should be admitted to subscription as part of the Domestic Debt of the United States? Every body would pause at such a moment, and think a while on wars; on Government; on paper credit: subject to such revolutions; such strange incidents of time: Who, in 1776, could have predicted such a debate within these walls in 1796? But, since it has happened, let us inquire a little into the merits of this question.

A gentleman [my colleague, from Pennsylvania,] has remarked, that he draws, in point of debt, the line for the public as he would for himself. The general principle is doubtless a correct one; but there are exceptions. The public, with respect to money matters, is placed in the situation of the widow or the orphan. Frauds may be practised that it cannot guard against: hence the necessity of statutes of limitation. One hath been accordingly passed on this very subject, supposed to include the Continental money. The Treasury Department hath understood it so; the late Attorney General (Mr. Bradford) hath so interpreted it; but it is said, after all, to be doubtful: and so we, in order to clear away the doubt, are to pass a new clause to settle the doubt. Were there no tribunals, no Judiciary competent to settle the construction, it certainly is a delicate thing for us to unsettle the practice and opinion that hath prevailed. The statute of limitation is a delicate ark to touch. We have had before us many of our suffering officers and soldiers, brothers at least with the Continental money, in effecting our freedom; but these we have transmitted to the Committee of Claims, who usually report only that their claims are barred. Why not send the money to the same committee we send the Army to? What is there in the form or substance of these bills that entitles them to more respect? It is said they remain in the hands of the original holders, and have not passed into those of the speculators. Alas, sir! the wounds of our soldiers may at least be identified as much as the possessors of this money can be. If the law be positive as to one, shall it be doubtful as to the other? In the money, we are said to be in danger of counterfeits; but it is said some clerks are still alive who can vouch for the authenticity—what good fortune that time hath spared them! Suppose they had fallen with the numerous victims of the war, what would have become of this claim? In short, I am for supporting the Funding System and statutes of limitation as they are, without innovation—without alteration. This paper money hath passed away like that of the States before the Revolution; and since, as a kind of indirect tax, it hath fallen into a silent oblivion; let us not resuscitate it; let us not disturb its ashes. I am against the clause.

Mr. Madison said it was the intention of the Legislature to apply the act of limitation to Continental money, as well as to other claims; and if it was to be admitted, other claims must be allowed. If a review of the act of limitation be proper, he would not wish to blend it with other business.

Mr. Swift acknowledged that it was his object to comprehend Continental money, which was in the hands of individuals; he made no reference to what was already in the Treasury. He wished to have the clause he proposed in the present act to prevent future misunderstanding; though he thought there could be no doubt of the meaning of former acts; indeed the officers of the Treasury construed them in favor of the bills in question for seven months. We had nothing to do with the consideration whether speculators or others had the bills; he thought they ought to be received.

Mr. Baldwin touched upon the nature of the general and definite construction, and the manner of applying these to laws. He observed the quantity of counterfeits of the kind of paper in question was notorious. It was well known that during the war mills were employed to manufacture it; and upon that ground, he supposed it was excluded.

Mr. Giles was against a declaratory law, and against the clause brought into the House so suddenly. He thought the officers of the Treasury were right in their opinion; indeed it was confirmed by that of the Attorney General, whom they had consulted upon the occasion. He wished to disconnect this clause from the present bill, and to move that it be referred to a Committee of the Whole House. If the statute of limitation can be justified any where, it is where it prevents abuses; and none could be subject to more than the admission of these bills. It would be impossible to detect counterfeits.

Mr. Williams said, that it appeared, from members on both sides of the present question, that the acts alluded to are so complicated as not to be clearly understood, which shows the necessity of making laws as plain and simple as possible. As some of these bills had been received since the passing of the act of limitation, he thought others ought to have the same privilege. He wished the clause, therefore, to receive farther discussion.

The question whether the clause proposed be added, being put, it was negatived. It was then moved and carried, that the bill be engrossed for a third reading to-morrow.

THE PUBLIC DEBT.

The order of the day was called for on the report of the Committee of Ways and Means, to whom it was referred, "Whether further measures are necessary to reinforce the existing provisions for the Public Debt."

The House accordingly formed itself into a Committee of the Whole; and, after some remarks from Mr. W. Smith, Mr. Corr, Mr. Gallatin, Mr. Swanwick, and Mr. Hillhouse, respecting a small variation in interest, to prevent the introduction of too many fractions, the business being allowed to be somewhat complex, it was moved that the Committee rise and ask leave to sit again.

This was agreed to, and soon after which the House adjourned.

Wednesday, February 10.

It being near 12 o'clock, and the Speaker having waited a considerable time for a quorum of the House, an order was made by the House that the members absent should be sent for, and the Sergeant-at-Arms was accordingly commissioned to summon the absentees. A quorum being at length obtained, the House proceeded to business.

The bill for further extending the time for receiving on Loan the Domestic Debt of the United States, was read a third time and passed.

REFUNDING DUTIES.

The order of the day was called for on the report of the Committee of Commerce and Manufactures on the petitions of Jose Roiz Silva, Nehemiah Somes, James Strange, Israel Loring, & Co. And the report of the committee on the first petition being read, a number of observations were made by many members, for and against receiving this report, which was in favor of the petitioner, who prayed for the return of $2,521 60, which he over-paid in duty upon 197 pipes and 7 quarter casks of wine from the Island of Graciosa. The way in which he was stated to have done this was, no invoice arrived with his wine; and the Collector of the District charged the wine at 20 cents per gallon, as wine of a superior quality, and Mr. Silva having given bond for the securing of the duty, on condition of its being duly regulated when the invoice was received. When it did arrive, it appeared that the wine was of very inferior quality, and should have been charged only with a duty of 40 per cent. ad valorem; but the Collector had transmitted his accounts to the Treasury of the United States, and, though he acknowledged the duty to be overrated, yet the account must be discharged, and he must look for relief from Congress.

This business having considerably occupied the time of the House, the Speaker observed it was become necessary to recommit the bill for the sake of order; for several members had spoken twice and others three times upon the question of receiving the report, some of whom had not spoken at all when the subject was before a Committee of the Whole.

Several members said, that, as all the circumstances of the case was before the House, there was no necessity for a recommittal. Others spoke in favor of it; and, the motion being put for a recommittal, it was agreed to.

The House having resolved itself into a Committee of the Whole, several certificates being then read to prove the inferior quality of the wine, one of which asserted it was no better than cider—

Mr. Dearborn observed, that though Government ought to treat merchants with lenity and candor, yet that House ought to be cautious of opening a door to merchants who might be inclined to be dishonest, to take advantages of the officers of the revenue. He should be freely disposed to grant relief to the petitioner if he was certain that in case it was not granted he would be the only sufferer. But he was not certain whether the wine had not been disposed of conditionally, with respect to the duty to which it was liable.

Mr. Claiborne said, it was true that their door was open to petitions, but they were seldom granted. It plainly appears that this man has paid upwards of $2,500 for duty more than he ought to have paid. The transaction appears free from fraud, and, therefore, he ought to have the money refunded. We ought either to do justice to petitioners, or shut our doors against them. To trifle with petitioners was an amusement he was tired of. The equity of Congress ought to give relief in all cases where it can be done with propriety. As much time was spent in discussing the merits of petitions as would satisfy many of the claims.

Mr. Samuel Smith thought this one of those cases upon which there could be no doubt. He stated it to be the practice of merchants to give bond for duties in the way Mr. Silva had done. The transaction throughout was perfectly fair. Upon what principle, then, can Congress refuse to do justice to this merchant? It has no plea but one. We have given (said he) so many leaves to withdraw, that we are unwilling to allow a prayer to be granted. No door is open to fraud by this act. Merchants do not expect to be treated with rigor by Government; they expect Government will rather show lenity towards them. The Collector at New York, he said, would have returned the over-paid duty, but it was not in his power. He himself had had two similar cases to this, only that his invoices arrived in time; but, if they had not, he should have thought it hard not to have had his petition to Congress for relief granted.

A member had supposed the wine might have been sold as paying 20 cents duty; but merchants must sell upon the same terms as their neighbors. Besides, Mr. Silva never thought of paying 20 cents per gallon for it, but always calculated upon the ad valorem duty. It was one of those claims we ought by all means to allow. We ought to keep friends with the merchants, for they are the collectors of duties for the United States. At present they do all they can for Government; but if they were to be set against it by ill treatment, it would be in their power to be of considerable injury to the revenue.

Mr. Gilbert saw no reason why the petitioner should not be relieved. He wished officers would confine themselves within the law.

Mr. Bourne said, it appeared to him that the Collector did very wrong in stating the wine as Fayal wine, which seems to have been of so inferior a quality. He was not authorized to do this. A value should have been put upon it. It does not appear that the importer consented to this duty. Indeed, the Collector himself allows the justice of his claim. It would be unreasonable, indeed, that the petitioner should suffer for the irregularity of the Collector.

Mr. Williams could not hear the officer blamed in this business without justifying him—he did not believe him blameable. He doubted not that the merchant had consented to have the wine

charged 20 cents per gallon, rather than give it up into the hands of the Collector until the invoice arrived. Certificates are brought to prove that 37 out of 197 pipes of wine were of inferior quality. But how is it clear that this is the wine he imported? Why not bring a certificate of more than 37 pipes? The wine never having been in the hands of the Collector, he could not know the quality. Eleven months had elapsed before the invoice arrived. It was possible for this to have been a second invoice, charged on lower terms than the wine was really purchased at. It has been said we ought to be cautious not to offend merchants. He allowed merchants to be serviceable to Government, but Government was also favorable to them in allowing them considerable credits. He wished not to be thought inimical to merchants; he wished only to prevent abuses.

Mr. Israel Smith was of opinion that these were facts sufficient to show that the merchant was in no way to blame. If there was any culpability, it must attach to the officer and not to him. He should be sorry if the House did not feel inclined to grant relief to real sufferers.

Mr. Parker observed, so much had already been said upon the subject, that he felt reluctant to rise; but he wished to do away some objections which had been stated to this claim. It had been said that certificates had only mentioned 37 casks as being of inferior quality. He caused to be read a certificate from the Inspectors at New York, declaring that the wine imported in the vessel alluded to was no better than cider. It has been hinted that there might have been a collusion in the business. He did not think so. Relief ought to be granted. We should be more parsimonious than wise to reject this claim. Merchants, it was well known, always paid their duties with honor, and no advantage should be taken of them.

Mr. Goodhue, of the committee, rose to answer a question put to him by a member. He went through the practice of the custom-house upon these occasions, and justified the regularity of the whole proceedings.

The report was put to the vote, agreed to, and the Committee rose.

The House being resumed, agreed to the report of the committee.

The report of the committee on the petition of James Strange and Nehemiah Somes, for the remission of duties on a quantity of salt lost at sea and by fire, was read and agreed to. The petition was not granted.

The committee's report upon the petition of Israel Loring was next read, which called forth a number of observations from different members. He is stated to have imported a quantity of indigo from New Orleans, in July, 1794, on which the duties were secured according to law, and that in August following he re-shipped the said indigo for Amsterdam, under the inspection of one of the port officers, and his return was duly made to the Custom-house; and that in the transaction of this business every requisite was complied with except that of giving bond and taking the oath prescribed by law, that the indigo should not be re-landed in the United States; that the omission was in consequence of the great number of persons who were in the office at the time he went to give bond and take the oath, and the hurry of business he was then engaged in, and also conceiving that it might be done as well at any other time; by means of which omission the drawback on the exportation is not allowed, notwithstanding he has all the necessary proofs to show that the said indigo was *bona fide* landed and sold at Amsterdam. He, therefore, prays for the interposition of Congress, and that the drawback on the said indigo may be allowed.

The report of the committee was in favor of the petitioner; but several objections were urged against agreeing to it; the principal of which were that the law was positively against the claim, and that there was a possibility he intended to re-land the indigo in this country. In the course of the debate upon this claim considerable illustration was thrown upon the nature of bounties and drawbacks.

The report of the committee was finally agreed to; and then the House adjourned.

Thursday, February 11.

POST ROADS FROM MAINE TO GEORGIA.

Mr. Madison moved that the resolution laid upon the table some days ago be taken up, relative to the survey of the post roads between the Province of Maine and Georgia; which, being read, he observed that two good effects would arise from carrying this resolution into effect; the shortest route from one place to another would be determined upon, and persons, having a certainty of the stability of the roads, would not hesitate to make improvements upon them.

Mr. Baldwin was glad to see this business brought forward; the sooner it could be carried into effect the better. In many parts of the country, he said, there were no improved roads, nothing better than the original Indian track. Bridges and other improvements are always made with reluctance whilst roads remain in this state, because it is known as the country increases in population and wealth, better and shorter roads will be made. All expense of this sort, indeed, is lost. It was properly the business of the General Government, he said, to undertake the improvement of the roads, for the different States are incompetent to the business, their different designs clashing with each other. It is enough for them to make good roads to the different seaports; the cross roads should be left to the government of the whole. The expense, he thought, would not be very great. Let a Surveyor point out the shortest and best track, and the money will soon be raised. There was nothing in this country, he said, of which we ought to be more ashamed than our public roads.

Mr. Bourne thought very valuable effects would arise from the carrying of this resolution into effect. The present roads may be much shortened. The Eastern States had made great improvements

in their roads, and he trusted the best effects would arise from having regular mails from one end of the Union to the other.

Mr. Williams did not think it right for the revenues of the Post Office to be applied to this end. He acknowledged the propriety of extending the post roads to every part of the Union; he thought the House had better wait for the report of the committee to which business relative to the Post Office had been referred, which was preparing to be laid before the House.

Mr. Madison explained the nature and object of the resolution. He said it was the commencement of an extensive work. He wished not to extend it at present. The expense of the survey would be great. The Post Officer, he believed, would have no objection to the intended regulation.

After some observations from Mr. Thatcher, on the obtaining of the shortest distance from one place to another, and the comparing old with new roads, so as to come at the shortest and best, the resolution was agreed to, as follows:

Resolved, That a committee be appointed to report a bill authorizing the President of the United States to cause to be examined, and, where necessary, to be surveyed, the general route most proper for the transportation of the mail between ——, in Maine, and ——, in the State of Georgia, and to cause to be laid before Congress the result of such examination and survey, with an estimate of the expense of rendering such route fit, in all its parts, to be the established route of the post; the expense of such examination and survey to be defrayed out of the surplus revenues of the Post Office.

Ordered, That Mr. Madison, Mr. Thatcher, Mr. Baldwin, Mr. Henderson, and Mr. Sherburne, be appointed a committee pursuant to the said resolution.

INVALID SHIPS' REGISTERS.

The report of the Committee of Commerce and Manufactures on the petitions of sundry merchants of Philadelphia and New York, whose registers of ships had become invalid, in consequence of all the owners not having taken the oath required by the act concerning the registering of vessels, and transmitted the same within ninety days to the Collector, by which means their ships and cargoes are subject to the same duties as though their ships were foreign; stating that such omissions were, in some cases, unavoidable, from the absence of some of the owners, in others from ignorance of any such requisite, but in none from wilful negligence: they pray, therefore, relief from the very heavy extra duty. The report of the committee is in favor of the petitioners; which, being read, was agreed to; and this report, with those on the cases of Israel Loring and Jose Roiz Silva, were referred back to the committee to bring in the proper bills.

CASE OF CONTESTED ELECTION.

Mr. Swift moved that the House take up the report of the Committee of Elections on the petition of Matthew Lyon against an undue return of Israel Smith, a member of that House. The report being read, which was against the petitioner and in favor of the sitting member, a very long debate ensued.

Mr. W. Smith objected to the form of the committee's report, and moved that it be recommitted. It appeared, he said, that depositions which had been transmitted by the petitioner had not been received as evidence. These depositions proved that the Sheriff had omitted to notify the time of election to the two towns of Hancock and Kingston, which contained fifty votes. This evidence being *ex parte*, and not admissible, the committee, finding that at a former election fifteen votes only came from these two places, and the sitting member having a majority of twenty-one votes in his favor, determined to set aside the petition, and declare Mr. Smith entitled to his seat. But he was of opinion that the committee had not sufficiently gone into the merits of the case. He said there appeared to have been an enmity between Mr. Lyon and the Sheriff, which had led him to neglect the notification of the election to the two towns above mentioned, in order to secure a return to his friend; and that this being the case, further evidence ought to be had, and the business fairly investigated.

Mr. Israel Smith supposed it would be expected he should say something on a subject in which he was so materially concerned. He thought the committee had done all they could in the business; and if Mr. Lyon did not think proper, or had it not in his power to come forward with evidence which could be received, he did not think it the business of that House to hunt after it. Indeed, the petitioner had expressed his desire that the House should determine the case upon the evidence which he had given in. If all the circumstances of the case were before the House, no hesitation would be made to declare in his favor. The towns in question, he observed, were of little consequence; that they were unorganized places, and, therefore, excluded by the election laws of Vermont. He detailed, at considerable length, circumstances relative to the nature of carrying on elections in Vermont, and assured the House that he did not believe the petitioner had any expectations of gaining a seat in the House at present, but that he took these measures only to influence the people in his favor at the next election, for which purpose he had industriously circulated copies of his memorial. Mr. Smith spoke at considerable length, and, in the course of his speech, touched upon the nature of personal and political rights. He concluded with hoping the House would not admit of any further delay in the business, but come to a decision.

Mr. Buck was opposed to a recommitment. It was not the business of the House to search after evidence. It does not appear that there were votes sufficient in the towns of Hancock and Kingston to have turned the scale of the election, had they all voted in favor of the petitioner. And who, said he, can pretend to say how these men would have voted? They themselves cannot tell

how they might have been induced to have voted then; and, therefore, no testimony can be obtained on this subject. Shall the election, then, be considered void, because there has been a defect in it? It appears by the law of Vermont that officers are to give notice to the people to meet to vote for members. In giving this notice it appears that two towns were omitted. The law does not say how the notices shall be distributed. In this case the Sheriff distributed them. All the towns which had notice met and voted, and Mr. Smith was duly elected. Has Mr. Lyon any better right to say the people who did not attend would have voted for him than Mr. Smith? But though the writs did not reach these towns, they might have given their votes. But, the truth is, these persons do not complain, they are satisfied with the election. It is Mr. Lyon only who complains; and, not having brought forward sufficient evidence, he saw no reason for going further into the business.

Mr. W. Smith took a view of the circumstances at length which had influenced the committee in their determination. He denied that the inhabitants of Hancock and Kingston knew the time of the second election: the time of the first was appointed by law, but of the period of the second they were ignorant, owing to the neglect of the Sheriff. Yet this, it was said, ought not to set aside the election. If this doctrine be admitted, said he, officers may omit giving notice to any town they please with impunity. He could not agree to the propriety of this principle, which cuts up by the roots the right of election. Mr. S. gave some account of the manner in which elections were managed in the quarter from which he came; and then insisted that if two towns might be omitted to exercise the right of election, four, six, or any other number might also be overlooked. If, he added, the fact were as the committee conceived it, that there were not so many votes in the two towns omitted to be notified, as might have given a majority in favor of Mr. Lyon, then he should willingly agree to their report; but the fact appearing doubtful, he wished it to be recommitted, in order to ascertain the number of freemen in these two towns.

Mr. Swanwick observed, that, if notification was essential to the legality of the election, no number of electors in the two towns would influence the election. It had been stated, he observed, by the member from Vermont, that there was a great extent of towns, and that it would be almost impossible that all of them should receive due notice. Two towns are said not to have voted. We are told these towns should have voted so and so; but no one can ascertain this. In a former election they threw in fifteen votes; in the present, it is said, they would have come forward with fifty. This is no evidence of what would have been the case—it is more fair to suppose there would have been no more than fifteen. The danger of Sheriffs being suffered to neglect giving proper notice to electors, from improper motives, has been mentioned. He saw nothing alarming in it. For what purpose, said he, shall we recommit this matter? It is said we may hunt up facts. Mr. Lyon called upon us to do justice; he ought to have substantiated his evidence. Why has he not done this? But, because he has not done it, shall we do it for him? Shall we, instead of having our Sergeant-at-Arms attending upon us here, despatch him to all parts of the Union? To effect this new business a balloon would be necessary to convey the messenger. He hoped the time of the House would be employed more profitably for the public than to pursue this affair. The burden of proof ought certainly to lie upon those who dispute the election. The petitioner expected it; but we say, No, we will have evidence. He thought this was wrong. We are judges in this matter, and not parties.

Mr. Nathaniel Smith wondered the sitting member should oppose the recommittal of this subject. He is in possession of his seat, and not remaining here upon expense. He saw no mischief which could result from delay. It has been said the petitioner can expect no more than a fair hearing. But all his testimony has been excluded. Shall we then refuse to give him a further opportunity of producing testimony that will be received? It is said the testimony he brings is immaterial. But let it be brought before the House, and then the House will be able to decide upon it. He thought the number of votes in the two towns not notified material. The omission of a single town is important when the state of an election is pretty evenly contested. If there be near fifty votes in these towns, they might have turned the scale of the election. It has been said we should be volunteers in this business; he thought not. The petitioner's testimony is excluded, unknown to him, and he should have time to produce other evidence. A contrary conduct would be unfair.

Mr. William Lyman was against a recommitment of this report. Mr. Smith, he said, was entitled to hold his seat until proof was brought to supplant him. Mr. Lyon states that the rights of the electors of Vermont are violated; but his petition is accompanied with evidence which is not admissible, and yet he has desired the House to determine decidedly upon it. This, it has been hinted, is not intended to set aside Mr. Smith's seat, but for another purpose. Shall the House, then, solicit Mr. Lyon to come forward? No. It was his opinion Mr. Lyon had abandoned the matter. With respect to the two towns not having received notice of the election, no one could say where the omission lay. The inhabitants of those towns, it was possible, might have voted, though they had no notice.

Mr. Gilbert was in favor of the recommittal, that all the facts relative to the subject might be brought forward. It had been said that it was extraordinary that they should volunteer themselves to send for evidence into all parts of the Continent; he did not think this was likely to happen. He thought that the petitioner had not had an opportunity of coming forward with the necessary evidence, and whilst this was procuring, the sitting member would suffer no injury.

Mr. Madison observed, that it seemed to be supposed that they must either decide for the petitioner or against him. But the House might determine the business in this way, viz: That the evidence before it was not sufficient, and give further time for fresh testimony to be brought in, if the petitioner chose to proceed in his complaint. In acting thus, says he, we shall leave a door open to the petitioner without volunteering ourselves to gain evidence. If the report was recommitted this might be done.

Mr. Giles was surprised to hear the opposite opinions which were held on this subject. If he understood the matter, an election had been held, and that two towns, out of a great number, had not been notified; all the rest voted. He was not suprised that two were omitted to be notified, but that more were not omitted. If all the elections which had been had for the members of that House were examined, it would be found that few of them were so perfect. He was certain that his own was not. It appeared from some members that they were making great inroads into the right of election by a practice of this sort, because it was impossible the persons who did not vote might have voted for the petitioner. He was of opinion Mr. Smith was entitled to his seat. Gentlemen speak of the rights of election being injured; but, as it has already been observed, these people do not complain. He thought it extraordinary that the House should wish to hunt after objections to Mr. Smith's claim to his seat. This was straining the business of election too far, for they could not be always perfectly regular.

Mr. Findley observed, that every State had its own rules for managing elections. The notice given of elections was never general. It was difficult to make it so. The Sheriff advertises, but many persons never see a newspaper. This House, he said, should always be open to complaints, but never invite them. As the petitioner has not chosen to come forward with his evidence in a proper way he should not wish to take any further notice of his petition.

Mr. Coit understood that the petitioner had commissioned a member of that House to inform him of the progress of this business.

Mr. Venable said, he had a letter from Mr. Lyon requesting him, if the sitting member changed his ground, to give him notice thereof. The sitting member had said that the two towns omitted to be notified were not organized; the committee, therefore, wrote to the Treasury to know whether these towns were organized. The Treasury gave for answer that they were not represented in the State. It has been said that leave has been allowed in other cases to take evidence in any part of the country most convenient to the petitioner; but then the petitioner has come forward in person to make his averments. He thought the committee were justified in making the report they had done.

Mr. W. Smith again complained that the petitioner had not been informed that his evidence would not be received, and went over nearly the same ground of argument which he had before urged against receiving the report of the committee.

Mr. Gallatin was against the recommitment, not that he was perfectly satisfied with the report of the committee. Two reasons were given why a recommitment should take place: the first was because two towns were not notified; the second, because the kind of testimony given by the petitioner is insufficient. He was of opinion that notification was not essential, and that it was not necessary to send information to the petitioner that his evidence was insufficient. The inhabitants of Hancock and Kingston, he said, were not deprived of their right of voting by notification not being given. The law of Vermont fixed the day of election, and therefore notification was a mere matter of form. When the Sheriff neglects to give due notice, he might be prosecuted, it was true, for a breach of his duty; but this was never done. Elections, he said, were never wholly regular. In the last election for President and Vice President of the United States, several places did not give their votes. They were not, he said, to send after petitioners to that House to remind them of what they ought to do; but those petitioners should attend upon their own business. The House can only decide upon the evidence before it. But if gentlemen thought more information on the subject necessary, the proper way was to postpone and not recommit the report.

Mr. G. having sat down, and it being near four o'clock, a call from different parts of the House was made for adjournment. The House therefore adjourned without coming to a resolution on the subject.

Friday, February 12.

A message was received from the Senate, importing that the Senate had read three times and passed, with some amendment, the act for establishing trading houses with the Indian tribes; which was read.

Bills were brought in by the Committee of Commerce and Manufactures, read a first and second time, and ordered to be committed to a Committee of the Whole on Monday, for providing relief to merchants whose registers of ships were become invalid for want of complying with certain requisitions of the law; for granting a return of overpaid duties to Jose Ros Silva; and to Israel Loring, to recover the drawback duties on certain indigo.

The committee to whom the petition of Nicholas Roosevelt, and others, was referred, reported in its favor, and it was read a first and second time, and committed to a Committee of the Whole for Tuesday.

CONTESTED ELECTION.

The order of the day on recommitting the report of the committee on the election of Israel Smith, was taken up.

Mr. Nicholas said, there was no ground for committing the report, for the committee could not report in any other way than they had done

He did not think the election had been altogether properly conducted; but said the House must not refine too much upon the business. The law of Vermont, he observed, showed that if the two towns in question contained more than twenty-one votes, that would not set aside the election. The time of the second election was expressly appointed in the law as well as the first, and these voters certainly knew when it took place. A defect in form, therefore, ought not to affect the legality of the election; if it were, the principle of the election would be confounded. It was not certain but these voters might have attended at some other place, as no list of the votes was taken. The committee has sat two months on the business, and no evidence is brought forward that can be received; they knew of no public source from whence to learn even the number of the inhabitants in the two towns alluded to, and could gain no information without going to seek for it. It was improper for the committee to open a correspondence with Mr. Lyon. To have done so, would have tarnished the honor of that House. It has been said commissions to receive evidence have been given in former cases; but these commissions had been applied for in person. He remarked there was no application from the people themselves who are said not to have voted, but from the man who wishes to have a seat here. He thought the committee had determined properly; for it was not certain that if Mr. Lyon was sent after he would trouble himself farther in the matter.

Mr. Tracy observed, due attention ought to be paid to the forming of precedents. In all elective Governments, the importance of keeping them clear of corruption was one of the first considerations. Due attention, he said, was due to the practice of different States. He felt a delicacy with respect to the sitting member, for whom he had a high respect; but the principle of the question before them was every thing. Lyon, he said, wrote to the committee, desiring if any farther information was wanting, that he might be informed. No information had been given him. It had been said he had abandoned the business; this did not look like it. He was influenced, he said, in advocating Mr. Lyon's cause by no other motive than a wish to defend the rights of election. He might not come forward, it had been said, if he were applied to. True; but he should have an opportunity of doing so if he chose. If the two towns omitted to be notified contain more than twenty-one votes, and it be true that this circumstance ought not to influence the election, then there is no propriety in committing the report. He allowed that in the Vermont law, made specially for this election, the time was fixed, but he insisted that it was essential that the Executive power should give the necessary information.

It has been urged that none of the neglected voters have come forward; but they have sent certificates, which is a conclusive proof that they were not satisfied. Indeed the law was not obeyed in a very essential part, for it is surely essential that every corporation have notice of an election. To illustrate the bad effects of corruption in returning officers, he referred to Great Britain, who owed many of the mischiefs in her system to this source. Mr. T. dwelt a considerable time upon the nature and practice of elections in general, and applied them to the case of this contest. He said it certainly could be proved how many freemen there were in the two towns; and this being done it ought to set aside the election. It had been suggested that these men might have voted in other places; but this was not reasonable to suppose, and if it had been done, the practice would have been contrary to law.

Mr. T. next adverted to what had fallen from Mr. Swanwick on this subject, and wondered that that gentleman, whose own election was contested, should come forward with such zeal in behalf of the sitting member, and endeavored to ridicule what he had said respecting impressing balloons in their service for the purpose of hunting evidence.

Mr. W. Smith and Mr. Swanwick rose together; but the latter giving way, Mr. Smith proceeded to explain some parts of the election law of Vermont, which he alleged had been misstated, from which he read several clauses, and asserted the towns of Hancock and Kingston were incorporated and entitled to vote. He insisted upon the propriety of holding another election; and touched upon most of the grounds which had been gone over by Mr. Tracy and by himself yesterday. He spoke at length, and asserted that no part of the people should be deprived of their right of voting.

Mr. Swanwick.—On this subject, Mr. Speaker, I had not intended to have spoken again: My own mind, and that of the other gentlemen of this House, seems so fully made up upon it, that I should not have again ventured to intrude on their time; but I owe to an honorable member from Connecticut to make him my acknowledgments for his remark on the zeal I have expressed already on two contested elections in this House; that zeal it was, sir, that first impelled me to quit a situation at least as eligible as that of any other member on this floor, to encounter all the abuse and vexation necessarily incident on public life; that same zeal the gentleman shall always witness on my part on every occasion wherein the interests of my country are in question. But the gentleman thinks I should have repressed it, because I had myself a contested election at stake. Sir, this would have been furnishing the finest triumph possible to my adversaries, because it would have been silencing me on these great public questions, and thereby rendering myself unworthy of the honor I have received of representing one of the first cities in the Union on this floor. No, sir, nothing shall prevent me, while I have a seat here, to deliver on any, or on all questions, where it may be my duty to do so, my sentiments in this House. Neither of these contested elections have besides any analogy to that in which I am engaged. In the case of Mr. Richards, what was the objection? why, a motion was made to keep him a day longer out of his seat, in order that opportunity might be given for new matter to come

against him. Has any thing of this kind appeared since? No, sir. Then one of the Representatives of this State would have been improperly delayed in taking his place, and this it was my duty to prevent. I have indeed been told, that those who wish to vacate my election, think on that occasion some favorable principles to them were established; if so, I have the merit at least of impartiality in getting them brought forward; but what has Mr. Smith of Vermont's election to do with mine? there it is alleged two small towns did not receive notice of the election; but is it pretended that Dock ward, or Walnut ward, or any other ward of this city, were not notified of the election in my case? then, where is the analogy? So much, sir, for what respects me. I now proceed to the merit of this particular case.

Here is a petition from Mr. Lyon, complaining of the undue election of Mr. Smith, the sitting member. It has been referred to the Committee of Elections, but your committee have found it unsupported by any but *ex parte* evidence, not deemed by them to be competent. Well, what are we to do; are we to look after new evidence; are we to send our Sergeant-at-Arms into Vermont to solicit testimony to turn out, as it has been called, our own member? At this rate, I have stated he ought to have a balloon to transport his car; for nothing short of this could do it with sufficient celerity: a few disputed elections over the Continent, might employ, at this rate, all the time of Congress, of its committees, and its officers, in seeking and collecting evidence as to the seats of its own members, to the great waste of the public time and public money. Sir, when a petitioner comes here to complain of an undue election, he ought to come with the proof in his hand, not taken *ex parte*, or the petition should be dismissed; because the door is never shut to such applications, when the parties injured come properly prepared to substantiate their claims: much has been said of the rights of the election, and certainly, sir, no rights can be more sacred, or ought to be more respected; but there is also a right in the party elected; he ought not, on frivolous or idle pretences, or without sufficient proof, to be exposed to such law expenses in defending his seat, as his circumstances may disable him from discharging; for, at this rate, the competition for such seats must soon be confined to the opulent only, much to the prejudice of the equal system of our Government.

On the whole, I am against the recommitment of the report, and in favor of declaring Mr. Smith duly entitled to his seat because I see no proof to the contrary. I am always ready, however, to attend to any remonstrance that may afterwards come forward from the towns of Hancock or Kingston, or from Mr. Lyon, when these shall be supported by substantial evidence taken after giving due and timely notice to the sitting member.

Mr. Buck said a few words, principally to correct a statement which he had made respecting the election law of Vermont.

Mr. Hillhouse said the petitioner never had had it in his power to take the necessary evidence; as there were no regulations in being at present for that purpose. He observed, there was a law wanted to regulate this subject. He might have appeared in person, it is true; but this would have been very expensive, as he might have been kept in Philadelphia all the Winter. Some way ought to be adopted for taking evidence; but he had no thought of despatching the Sergeant-at-Arms for the purpose of hunting it up. The principle was important, and ought to be established. The principle and facts were two things, which he wished to be separated, so that the House might give an unbiased decision whether official notice was necessary to the legality of elections, or not.

Mr. Gallatin agreed that it was essential to establish principles, and to secure the rights of electors. They should decide, he said, upon what was important or useful, and what was essential. With respect to two towns not being notified, their votes would have been taken, though they had not official notice; therefore, notification is not essential; but it is said, the Governor of Vermont should have given notice, not only of the second election, but of the state of the poll at the first. This information would have been useful, but not essential; notice of the election was essential, but not the Governor's notice. There was sufficient ground to believe the day of election was known at these two towns, as a month had elapsed from the time of casting up the votes of the first election, and the holding of the second. There is no proof, even *ex parte*, to show this was not known. The consequence of this doctrine was, he said, that an officer could do no material harm; but, if a contrary position was taken, an officer might tire out the people by frequent elections, omitting continually to notify some place or other. By adopting the report of the committee, he thought, they should best secure the rights of election.

Mr. Sedgwick was persuaded, that if ever the time arrived when, instead of adhering to principles in contested elections, the House favored a sitting member at the expense of principle, the case would be alarming. He had attended to the arguments adduced on both sides of the question, and endeavored to profit by them. He thought them, however, more diffuse than truth required. It was said that the petitioner ought to be dismissed, because there was no evidence; but he said, there was no mode in which he could produce this evidence. If the petition was vexatious, it ought to be dismissed, but if the rights of election be intimately connected with it, the means ought to be provided for discussing the question, in order to prevent the operation of corruption in future. He thought if the arguments were compressed, they could not be mistaken; and for that purpose he took a short view of the whole subject, and concluded by saying that the two towns in question were called insignificant. He said they might go from towns to men, and say that such and such men being insignificant, their rights were not worth attending to. This

was a doctrine he could not consent to. He spoke of frequent elections, which he disapproved, as tending to create political controversies amongst the people.

Mr. Findley and Mr. Gilbert each said a few words on the same ground as yesterday; and an adjournment being called for, Mr. Hillhouse wished the House before it adjourned to take up the inquiry respecting the Treaty with the Indians; but several members seeming to wish an adjournment, the sense of the House was taken, and decided against the adjournment. The inquiry was then read by the Speaker, as follows, to wit:

"Can this House proceed to legislate upon the Treaty said to be made by General Wayne, with the Indians Northwest of the river Ohio, upon the information now before the House?"

But Mr. Dearborn proposing a resolution instead of it, caused considerable debate; but the House at length agreed to the resolution to this effect:

"*Resolved*, That the President of the United States be requested to cause to be laid before this House the Treaty mentioned in his communications to the Senate and House of Representatives, at the commencement of the session, to have been concluded with certain Indian nations Northwest of the Ohio."

This resolution was agreed to, and a committee of two appointed to carry it into effect.

Monday, February 15.

The committee appointed to wait upon the President to request a copy of the Treaty, said to have been concluded with the Indians, reported that he would order it to be laid before the House.

A bill for authorizing the President of the United States to borrow money for completing the buildings erecting in the Federal City, to sell any part of the same, &c., was read a first and second time, ordered to be printed, and committed to a Committee of the Whole on Wednesday.

It was moved that the Journals of the House be amended, by striking out the question submitted to the House, by the committee to whom it was referred, to bring in a bill respecting Indian affairs, "Whether the House can proceed to legislate on the Treaty said to be concluded by General Wayne with the Indians Northwest of the Ohio?" This motion was objected to, on the ground of no inconvenience arising from its remaining upon the Journals; for as it was postponed for the sake of getting rid of it, no member will ever think of calling it up; if he did, the House will certainly not consent to it.

Mr. Murray called up a resolution laid upon the table some days ago, to this effect, "That a committee be appointed to consider whether any and what alteration is necessary in the compensation of the officers of the Government of the United States," which, being put to the vote whether or not it should pass, was negatived; being thirty-seven for it, and forty-two against it.

It was moved, that the amendments made by the Senate to a bill for establishing trading houses with the Indian tribes, be taken up; which being done, was ordered to be committed to a select committee of three.

CONTESTED ELECTION.

The order of the day being called for upon the report of the committee on the petition of Matthew Lyon, against Israel Smith's election.

Mr. Giles said he had made a few remarks on this subject already, in which he gave his opinion against recommitting the report; but many gentlemen, for whose opinions he had the highest respect, having thought differently, and wishing that the subject might be so discussed that a pretty unanimous determination might be had upon it, he had now no objection to a recommitment.

Mr. Nicholas thought the committee had reported rightly; but in order to give Mr. Lyon opportunity to come forward with evidence, if he chose to do so, he should move that the further consideration of the subject be postponed till the 15th of March.

Mr. Williams said, if a postponement took place, sufficient reason should be assigned for it. It was said it was to give the petitioner time; but, he observed, it did not appear clear, that if Mr. Lyon proved that there were forty or fifty voters in the two towns omitted to be notified, that it would vitiate the election; and if not, it would be only a waste of time and expense to the petitioner, to put off the decision.

Mr. Hillhouse was also for a postponement. It was only just, he said, that a day should be appointed on which to hear the petitioner. A distant day; instead of the 15th, he would recommend the 29th of March, when, whether the petitioner chose to appear or not, the matter might be determined. At present, he said, the House only heard one side; further information was wanted. He wished the questions of law and fact might both be settled. For this purpose, he hoped the postponement would be adopted; and if no one brought forward a motion for ascertaining a proper method of taking evidence in the case, he would himself bring in a motion for that purpose.

A letter from Mr. Lyon to the Speaker was called for and read, when

Mr. Rutherford expressed himself pleased with the candor of the letter. He said he had not yet troubled the House upon this matter. It was a very nice subject. Representation (said he) is the right eye of the people. It appeared that the electors were very nearly balanced in their opinions of Mr. Lyon and Mr. Smith. He thought the House had done their duty in the matter, and that they had had enough of it. It was an old adage, he said, "That too much of a thing was good for nothing." He hoped Mr. Smith would be allowed to possess his seat.

Mr. Heath thought a great deal had been said unnecessarily on this occasion. He said much had been urged about the purity of elections. He was a friend to the purity of elections. Let

Mr. Lyon show himself entitled; we ought not to seek for his evidence. His prayer was not supported; and why (said he) do gentlemen manœuvre for three or four days in this business? He detested all ex-officio hunters of prosecutions. The House was fully possessed of the merits of the case. He did not entirely agree with the form of the report of the committee; but hoped the question would neither be re-committed nor postponed.

Mr. Bourne was against the postponement, and in favor of a recommitment, that the matter might be fully developed.

Mr. Venable [one of the committee] said, the committee would again go into the business if the House desired it, but that they could do no more without further evidence. He was also against a postponement. At the commencement of the session, the House gave the committee power to take evidence in any way they pleased; this gave Mr. Lyon as much information as a resolution to-day would give him. If the House agreed to a postponement, he hoped it would give special instructions for further proceeding in the affair.

Mr. Dearborn said there were different opinions on this subject; to him there appeared only one proper way of proceeding. When a person petitions against the seat of a member, if there be no agreement to the contrary, he ought to come forward in person. Without this, the House cannot, with propriety, go into the subject. Two or three months were passed, and nothing was done by the petitioner. It is said there is a possibility of there being more evidence. This is nothing to the House. He wished the matter neither to be committed nor postponed.

Mr. Isaac Smith wished to watch over the purity of elections, and always to aim at perfection in their Government. No election was ever altogether regular. He did not think the Sheriff was partial to Mr. Smith, or that there was any corruption in the case. Out of the electors who were said not to have voted, twelve were in favor of Mr. S. at a former election. The people had already been called together twice to make choice of a member; he hoped they would not have to meet a third time. He was for adopting the report.

Mr. Nicholas explained his view in making his motion for postponement; he did not think it necessary to issue a commission for taking evidence; it was enough to postpone the subject to give Mr. Lyon an opportunity of coming forward if he chose to do so.

Mr. Page said there was a material difference between recommitting and taking time to reconsider the subject. It was not their business to tell the petitioner how to come forward; but to give him time. A postponement would give him this time.

Mr. Kittera observed, the House could not make rules respecting a subject of this kind, until a controversy took place. He mentioned several difficulties which arose in legislating on this subject; but thought they might make regulations on a matter of this sort, without the concurrence of the other two branches of the Legislature. This being the case, how will the postponement operate? Will it have the effect to bring forward evidence? No. Rules for taking evidence must first be fixed, and a recommitment would have this effect.

The question being called for, the House divided: for the postponement till the 29th of March, thirty-six; against it, fifty-two.

Mr. Gilbert said he had voted against the postponement; but as evidence had been offered and not admitted, he wished the report to be recommitted, that the petitioner might have an opportunity of properly substantiating it.

Mr. Cooper thought it absolutely necessary, that every town in a district should have notice of an election, and that it was of consequence to establish this principle; for what was the practice to day, would be a precedent to-morrow.

The motion for a recommitment being put, it was negatived—47 being for it, and 49 against it.

This motion being lost, Mr. Gilbert moved that the sense of the House should be again taken on the postponement, as many members, he was persuaded, voted against the motion when put before, from the expectation of the report being recommitted. The question was, therefore, put and carried—being for it 49, against it 44.

TREATY WITH INDIANS.

A communication was received from the Department of State, with a copy of the Treaty concluded with certain Indians on the Northwest of the Ohio; which, being moved to be referred to the committee appointed to bring in a bill respecting Indian affairs,

Mr. Gallatin said, he thought it unnecessary to refer the Treaty to the committee. It was enough for them to know that is was on the table. He wished it to be committed to a Committee of the Whole, as it was necessary appropriations should be made for carrying it into effect. He moved, therefore, that the Treaty, and papers accompanying it, be committed to a Committee of the Whole to-morrow. Agreed to.

LAND OFFICE NORTHWEST OF THE OHIO.

Mr. Harper called for the order of the day on a bill for opening a Land Office, for the sale of lands in the Territory Northwest of the Ohio. The House accordingly formed itself into a Committee of the Whole, Mr. Muhlenberg in the Chair.

Mr. Van Allen expressed his opinion that the House might have greatly simplified the business, by having the lands properly surveyed and persons employed to sell them. The expenses of carrying the present bill into effect would be very great. He thought it best that the lands should be sold at public vendue. He moved that the first section be struck out.

Mr. Rutherford said, there never was a bill of greater importance than that before the House. He said that House were the fathers of the country, and that they were about to set out new farms to their sons, by doing which he hoped they should destroy that hydra, speculation, which had

done the country great harm. Let us, said he, dispose of this land to original settlers, 150,000 families are waiting to become occupiers of this land, (a member called out for his authority, when he said there were more than that number.) The bill before the House, he said, was exceptionable. It would not, he said, defeat the speculators. The monsters in Europe, added he, are ready to join the monsters here, to swallow up the country. He said this tract of country should be disposed of to real settlers, industrious, respectable persons, who are ready to pay a reasonable price for it, and not sold to persons who have no other view than engrossing riches. He had made out a rough plan, he said, of what struck him as proper regulations. He was proceeding to read the whole of them, when the Chairman reminded him that the first section only of the bill was under consideration. He said he was against the whole bill, and might as well then express his sentiments upon it. He said he was a mere child of nature, an inhabitant of the frontier, as untaught as an Indian; but he had some faint glimmerings of reason, and he was confident his plan would answer the desired purpose. After explaining and dwelling some time on the merits of it, he concluded with saying, he loved his country and all honest men, but hated speculators, and hoped the present bill would not pass.

Mr. Findley said, it was a difficult matter to legislate well on a subject of such extent as this bill comprehended. He enumerated several defects in the bill before the House. The duty of superintendents, he said, was not sufficiently explained: there was no responsibility in the surveyor; no salary appointed. By these omissions, a part of Legislative duty is transferred to agents. It becomes the Legislature, said he, to improve the advantages of nature; this bill does not do this. He spoke of the necessity of properly dividing bottoms, water, &c., into the different divisions. He said the size of the tracts was too large. It will be said they may be divided between a number of farmers, who might agree to purchase in company. He showed the inconveniences attending a practice of this sort, and said it was inviting people into a snare, which would cast dishonor upon Government. He thought the imperfections of this bill could only be remedied by a new bill. He wished a plan to be adopted that should divide bottoms, and have more precision in the surveys. Many confusions, he said, had arisen in all new settlements, which might have been prevented with care. He said a surveyor had great power, and ought to be responsible. He touched upon the different kinds of surveying, and said, magnetical surveys were not always to be depended upon. Delay is objected to, but it is better, said he, to delay the business for a time, than pass a bad bill.

Mr. Dayton (the Speaker) observed, that the objections which had fallen from the member just sat down, were of importance, but that this was not the proper time to consider them. He wished to be informed by the member who proposed to strike out the first section of the bill, whether he meant to substitute another section in its place.

Mr. Van Allen said, he meant to propose a new clause, and objected to the bill generally. He thought the Treasury and State Departments might undertake the business. He objected to the present survey. He said he thought of dividing the land into parcels of six miles square, which might again be subdivided; that exact surveys of the land should be taken, upon which should be marked the qualities of the land, the rivers, springs, &c., with great precision; that these should be published. If this was not done, he said, purchasers in general would not know any thing of what they purchase, and the country would be involved in law suits. He was of opinion the present bill would prove a very expensive one; objected to the terms of payment, and the mode of selling the land, and thought the evils of it could only be remedied by a new bill.

Mr. Cooper was nearly of opinion with the last speaker. He said he also had prepared the sketch of a bill.

Mr. Nicholas acknowledged, though he was one of the committee, that he was very imperfectly acquainted with the subject. He wished to hear gentlemen make specific propositions, and not to hear of new bills. Many objections might be urged against any bill which might be proposed. He hoped full liberty would be given to members to express their sentiments, which might be proposed as clauses to be added to the bill, and that they might not be confined in their discussions to any particular section. One great object of the committee was to get the highest price for the land, and for this purpose they thought it necessary to make the titles sure. It has been said that the land should be laid out according to water, &c.; he thought this impossible to be done, so as to make titles certain. He trusted many of the objections stated might be remedied without a new bill. He thought the offices alluded to could not do the business, though he thought there were offices under Government that might do it; and hoped every member would speak his sentiments fully upon the subject.

Mr. Jeremiah Smith thought it improper to discuss the principle of the bill at present, until they had examined its parts. It was now the time, he said, to propose alterations and amendments. When the bill is matured and reduced to form, then will be the time for discussing the principle. The first section he thought proper for any bill, and he hoped the motion for striking out would be withdrawn.

Mr. Page was of opinion the first clause was of the greatest consequence; he hoped it would be open to discussion. He had taken a view of the whole bill, and thought it a bad one, and the sooner they entered upon the discussion of it the better. He thought a better bill might be formed, but wished rather to bring on the discussion than to enter on it himself.

Mr. Murray wished the question of policy had first been agitated whether it was necessary to open a Land Office at all. He thought it should

have been best to have laid off the land in ranges of lots, and when one range was patented and settled, to take another, until the whole was disposed of.

Mr. W. Smith said the committee did not think it necessary to agitate the question of propriety respecting the establishment of a Land Office; the House having authorized them to bring in a bill for the purpose, they thought that sufficient. The committee for preparing a plan for reducing the National Debt, proposed a sale of the Western lands. The question was, whether the present bill was the best that could be formed for the purpose. He believed it liable to objections, as he believed any bill would be that was proposed. The committee, he said, had thought well of this bill. With respect to the motion for striking out the first clause, he thought it now improper, until we know in what manner the lands are to be sold; and when we learn what duties the officers will have to perform, we shall best know who can do them. The second clause, he said, related to the surveying of lands; the third clause is that which has been objected to with respect to the size of tracts. In a former bill it was proposed that the lands should be divided into tracts of six miles square; but the committee thinking these too large, determined upon having them three miles square only. These are yet thought too extensive. He said he wished to hear every objection that could be urged against the bill, and should be open to conviction. The committee had two objects in view—to raise revenue, and to sell the land in such lots as would be most convenient to purchasers. It was once thought of selling the lands by auction; but it was feared, to have done so, would have been to open a door to speculators. They determined, therefore, to fix it at the price of two dollars an acre, and to sell no lands at present which would not bring that price, because, hereafter, when settlements are made, inferior land will command the same price. These were their sentiments, but they wished the subject to receive full discussion.

Mr. Van Allen withdrew his motion, and the Committee rose and asked leave to sit again; which was granted.

Tuesday, February 16.

CONTESTED ELECTION.

Mr. Hillhouse said he wished, before the order of the day was gone into, to propose to the consideration of the House a resolution which he yesterday mentioned as his intention of bringing forward, if he was not anticipated by any other member, for regulating the taking of evidence in case of Contested Elections. He read the resolution, which went to make legal all evidence taken before any judge, justice, mayor, &c., in a way therein described, and wished it to be taken into consideration immediately, supposing that no objection would be made to the enacting a regulation so necessary for settling disputed elections.

Mr. Baldwin said he should be against passing the proposed resolution immediately. It was a matter of considerable importance. Besides, to pass it now, would seem as if it was intended for an invitation for Mr. Lyon to come forward; and he apprehended that most gentlemen who voted for a postponement of that business did not mean to take any further steps in it, except Mr. Lyon himself personally solicited it.

Mr. Giles thought the resolution proposed was of serious import. When the question was formerly agitated whether that Assembly could make its own regulations for taking evidence on Contested Elections, it occasioned considerable debate, and the motion was negatived. He was at that time, as he now was, of opinion that the House had the power. But he thought the question ought to be matured, and not passed on a sudden. The regulation should be general, and not fitted for any particular case. He should move that the consideration of the resolution, therefore, be committed to a Committee of the Whole House on a distant day.

Mr. Sedgwick thought this resolution should be committed to a select committee, which was better calculated for the business than a Committee of the Whole. He was of opinion with the gentleman who spoke last, that the House was competent to make its own regulations with respect to controverted elections. He said the determination upon Mr. Lyon's case had been put off till the 29th March. Some way ought to be pointed out in which he might bring forward evidence, or the postponement would be of no service to him. He hoped, therefore, no more time would be taken than necessary to mature the consideration of the measures, that the proposed regulations might apply to the case of Mr. Lyon.

Mr. Baldwin said the resolution should be referred to a Commitee of the Whole. He doubted whether Congress could make these regulations go beyond the present session. It had been said no delay should be allowed, as it would prevent Mr. Lyon's having the advantage of the regulations. He said he wished the present resolutions to apply to no particular case, but to be general, and then no mischief could arise from delay.

Mr. Varnum urged the impropriety of making regulations for Mr. Lyon's case, when he did not wish them. It was the wish of several members of that House, but not of himself, unless, indeed, he could have a certainty of displacing Mr. Smith. Mr. Lyon very well knew what evidence was necessary; he chose to act differently, and he should abide the consequences. This resolution goes to the admission of *ex parte* evidence. If it was necessary for the House to make a general rule, it was well; but if gentlemen wished only a regulation in favor of Mr. Lyon, he hoped they would have the candor to say so.

Mr. Hillhouse was indifferent as to what committee the subject was referred. It had been said that Mr. Lyon had given up the contest, except invited to renew it. He thought a principle was involved in this consideration, which he wished to be cleared. Mr. Lyon, he said, wanted a full and fair investigation, and he ought to have

it. No evidence, he said, was legal, except taken according to a rule approved by the House. It has before been a question whether we could make these regulations. It required discussion. His motive for bringing forward the motion was, that Mr. Lyon might have the means of coming forward; but he had been cautious in wording it, that the House might not appear to be volunteering in the cause of Matthew Lyon, though he owned he did not himself feel any delicacy upon the subject.

The Speaker observed that it was out of order to bring into view the Contested Election business, and was about to put the motion, when

Mr. Buck informed the House that he had that morning received a letter from Mr. Lyon, by which it appeared that he intended to prosecute the business of his memorial, and that though he [Mr. Buck] was opposed to a recommitment or postponement of the report of the Committee of Elections, yet, as the House had declared in favor of postponement, for the obvious purpose of giving Mr. Lyon an opportunity of further investigating facts, he considered it his duty, and the duty of every member, now to endeavor to forward that investigation, by removing out of the way every obstacle to it; and as the proposed resolution then before the House contemplated a provision for taking evidence in all cases of Contested Elections, it was of consequence that it should be adopted as soon as possible, that Mr. Lyon might take the advantage designed by it. He further said, that though he really believed that Lyon had no serious intention of prosecuting his memorial when he first sent it forward; yet, since he had found that Congress had given it a serious attention, he was persuaded Lyon now intended to follow it up.

Mr. Harper said the time was fixed for finally determining the contest between Mr. Smith and Mr. Lyon; to adopt a distant day, therefore, for the consideration of the proposed regulations, would be to deprive Mr. Lyon of the opportunity of substantiating his evidence. He hoped, therefore, a distant day would not be fixed upon, as the regulation was certainly intended to include his case.

Mr. Harper was proceeding to remark upon different observations which had fallen from members in the course of debate, with respect to the late contest, when the Speaker reminded him that if such observations had been made, they were out of order, and any remarks upon them would be equally so.

Mr. Jeremiah Smith thought the House should make the necessary regulations, and let Mr. Lyon learn them as he could; he would soon be informed, he doubted not, of their determinations. The Committee of Elections, he said, were discharged from the subject. He thought a special regulation should be made for this particular case, and not a general rule.

Mr. Giles regretted whenever a general rule arose out of a particular case; it too often was warped by it. He wished every fact which could be brought in Mr. Lyon's case to be heard. If gentlemen would bring forward a particular rule for taking evidence in this case, it should receive his support. For the discussion of the general principle he wished, and should vote for a distant day to be fixed, as he apprehended much difference of opinion would take place on the occasion.

Mr. Gilbert was for a general rule that would embrace all future cases as well as the present.

Mr. Jeremiah Smith rose to inquire if the general regulation was put off to a distant day, whether it would be in order to bring forward a motion to suit the case of Mr. Lyon? He was answered by the Speaker it would be perfectly in order.

The question was then put for postponing the motion until Monday week, and negatived—being for it 31, against it 50. It was then put for Monday next, and negatived—being for it 39, against it 42. It was then put for Thursday, and carried without a division.

Mr. Jeremiah Smith then moved "that the Committee of Elections be instructed to describe the mode of taking evidence in the case of Matthew Lyon;" which, after several observations from different members, was put to the vote and negatived—being for it 36, against it 43.

NORTHWESTERN LAND OFFICE.

The order of the day being called for on the bill for establishing Land Offices, and the House having formed itself into a Committee of the Whole—

Mr. Williams said there was a diversity of opinion on the bill before the Committee. It embraced two objects, as had before been observed, to raise money and invite settlers. He did not think this bill was calculated to encourage settlers. They could not become first purchasers, but must have the second or third transfers. It behooved the House, he said, to deliberate well the subject. It had been said, if the land were divided into small parcels, the expense attending the disposal of it would swallow up the price. He trusted, however, a mode would be devised of bringing double the sum into the Treasury that would be raised by the present bill, and, at the same time, encourage settlers. He hoped, therefore, to attempt to effect this would not be deemed a waste of time. The Surveyor General, he said, should be a man of abilities and integrity, and well acquainted with the country. When this officer is appointed, the bill should be so framed as that he should be directed to lay the land out in small lots, by the course of the rivers, pointing out every situation which he thinks likely to be of importance. He thought the best mode of selling would be by auction, and that a longer time should be given for payment. Let the Surveyor General or Superintendent first explore the country, and cause to be surveyed into small lots all the places which, from the locality and situation, would command an immediate settlement, (reserving all salt-springs and places of importance to be hereafter disposed of;) to these small lots let there be lots of larger denominations also laid out, so as to accommodate the purchasers of the small ones—these to be sold together. Then cause to be laid out the next most valuable places, to be run off in squares of ten

miles, which would make one hundred lots of six hundred and forty acres each. Four lots in the centre of each tract should be reserved for public use. Accurate surveys of these lots should be taken. This plan would enable settlers to be purchasers in the first instance. The land, thus divided, would sell for a higher price, and it would be settled with freeholders. On the contrary, if the present bill be enacted, the land will be engrossed by speculators. The method he recommended, he said, had always been found to answer best in the settlement of a new country.

The plan had been acted on in the State which he had the honor to represent, and land much inferior to this had been sold with ease at two dollars per acre. The expense of disposing of the land in this way, he said, would be somewhat greater, but this would be amply repaid by the price it would command. When the Surveyor had finished the survey of a certain part, persons might be employed to sell it, and so proceed progressively. He should waive any further remarks at present. He thought it necessary to throw out these hints for the use of the Committee, and hoped other gentlemen would deliver their sentiments freely upon the subject.

Mr. Findley, in order to bring the subject more fully before the House, moved a clause to this effect: "that the Superintendent to be employed under this act, shall be well skilled in surveying, and shall be paid ——— per annum, out of the moneys arising from the sale of the lands, and that he shall form boundary lines to be run between the territory belonging to the State of Connecticut, the lands secured to the Indians by Treaty, and the territory of the United States." These lines, he said, would be necessary to be run before anything be done, that the territory might be ascertained. He wished to have an officer responsible, and to ascertain what his salary should be.

Mr. Greenup did not see the necessity of employing two Superintendents. If two were employed, why not have a commission in every place? He should propose to strike out two, and put one. He thought, indeed, of moving to strike out the whole of the first clause, and introduce another in its place. He was against the whole of the bill, but particularly the third clause, which proposes lots to be three miles square, so that no payment will be received of less than 5,760 dollars down, and at the end of a year, a like sum must be advanced. The land must, therefore, go into the hands of monopolizers or not be sold at all. Mr. Greenup said the unappropriated lands in the country were the property of the whole community. In his opinion, districts should be first laid off; when these were sold, more might be offered. If two millions of acres a year could be disposed of, that would be sufficient. There was land, he said, (alluding to the salt-springs,) too valuable to be put into the hands of speculators at two dollars per acre. He objected to the mode of paying the money for the lands, and reprobated the bill in general.

Mr. Kitchell said, it was necessary to confine remarks to specific parts of the bill, and not to the whole. The Committee had done the best they could, but would be glad to have their labors improved. Four or five different systems were already offered to the House, to every one of which, perhaps, as many objections might be raised as against the bill under discussion.

Mr. Gallatin wished to know whether it would be in order to postpone the consideration of the first section of the bill, to take up the second and third: the first section was of no great consequence.

Mr. W. Smith said, he had before wished this mode to be adopted. He thought it would be best to proceed to the consideration of the second section.

The Chairman having read the second section—

Mr. Gallatin observed, that two remarks had been made which applied to these sections. The proposed mode of surveying, it had been said, would throw out the natural boundaries of the country. The next objection was to the largeness of the tracts. Two amendments which he should propose would bring these two questions before the House; and if the amendments be thought material, the bill will of course be recommitted. His motion would leave the power of the Surveyor more discretionary; that the words "parallel lines, at the distance of six miles from each other," be struck out; that the Surveyor shall put the lands into such lots as may be most convenient, to be bounded by lines due North and East, or by natural boundaries. In this case, the lands must be surveyed before they are sold, and the lines may be run parallel on by rivers.

This motion being put into form, and read by the Chairman—

Mr. Dayton (the Speaker) wished the amendment to be made more correct with respect to the boundary lines.

Mr. Nicholas also objected to the amendment, as not being clearly expressed.

Mr. Gallatin explained.

Mr. Havens said, before he could give his vote on the amendment, he wished to know the size of the lots into which the land was proposed to be divided. He said, the State of New York held out an example for them to follow. No State had had more to do in settlements than it. That State had directed their lands to be laid out in squares by means of ideal lines, and found little embarrassment from this plan. He thought it very necessary to ascertain, first, in how large tracts the land should be parcelled—who is to sell it—to ascertain the powers of officers, and the discretion to be allowed them; and, also, that maps be taken of the land.

Mr. Nicholas remarked, that if the country was not square, the lines could not be run in squares; but, he said, there was no necessity for going into arrangements for the sale of every foot of land they had to dispose of. Fractional parts might remain unsold with Government. He took notice of the uncertainty of natural boundaries. He thought a discretion in an officer might be used to greater advantage than they could possibly give directions to him for laying out the lands. No officer, he said, could be expected to go into a critical examination of different kinds of soil, situation, and description of water, &c.; nor could it be expected that Government could make the same advantages in disposing of this land as if it were private property. Large capitals, he said, were necessary in a business of this kind. There was great difficulty, he observed, in starting farmers, by any advantages which might be offered, from situations in which they were placed. It might be expected, that at first, large purchases would be made by moneyed men, upon which a profit would be made. But if the land were to be divided into small lots, there would be no encouragement for men of property to come forward: the best land would be bought by farmers, and the rest left. He was fully of opinion, that the first purchaser of the land was not likely to be the cultivator.

The House calling for a rise of the Committee, leave was asked to rise and sit again; which was granted. Adjourned.

Wednesday, February 17.

THE CANADIAN REFUGEES.

It was moved that the report of the committee on the petition of certain Canadian refugees be taken into consideration, for the purpose of committing it to the Committee of Claims.

Mr. Livingston thought this business ought not to go to the Committee of Claims, as a promise of a grant of lands had been made to these claimants by a former Congress; and therefore it was not the justice of their claim which was to be considered, but whether the promise made them should or should not be fulfilled by the present Congress.

Mr. Sedgwick said, there was no difference, in his opinion, betwixt a claim for land and a claim for money. All claims, he said, should be referred to the Committee of Claims, and no other.

Mr. Livingston requested that the reports of a former Congress might be read; which, being done, he insisted upon this case being totally different from ordinary claims. He said, the sufferers whose case was under consideration were men who had sacrificed much in the service of this country, and that, in consequence of the justice of their claims, a former Congress had positively promised them a recompense of a grant of land; they had therefore only to say whether this should or should not be done. He was desirous that the business should be expedited, as these men had been a long time kept from what they were justly entitled to.

A report of a committee in February, 1793, was called for and read.

Mr. Williams thought it best for the report to be recommitted, in order to determine what quantity of land should be granted to these persons. He said he was well acquainted with many of these persons, who were very deserving men; many of whom had given up their fortunes to engage in the service of this country. The State which he represented had recompensed many of them, and he trusted the House would not hesitate to carry into effect the promise of a former Congress in their favor.

Mr. Giles said, the report before the House contained sufficient information to proceed upon, which ought to be committed to a Committee of the Whole House. He did not think the business proper to go either to the Committee of Claims or a select committee. If no fresh testimony was likely to be adduced, he should move the report of 1793, as a foundation to act upon. Some compensation, he said, should certainly be made to these sufferers for the sacrifices which they had made of their persons and fortunes; or, if the country should hereafter have need of like sacrifices, with what reason could they expect them to be made?

Mr. Greenup observed, there was another report in favor of these sufferers made on the 1st April, 1794, which was never acted upon. He thought it best that this business should be referred to some committee to be considered. He said it was time these claims were satisfied. A select committee might soon decide upon their merits. He had other papers in his possession which would throw light upon the subject. He thought the report should be disagreed to, and committed for amendment.

The motion was put for committing the subject to a Committee of the Whole, and carried—45 against 21.

Mr. Greenup then moved that the report of the 1st April, 1794, on this subject, be referred to the same committee. Agreed to, and made the order of the day for Monday next.

CONTESTED ELECTION.

Mr. Lyman moved for a reconsideration of the resolution postponing the determination upon the case of Matthew Lyon's petition against the election of Israel Smith to the 29th of March. Mr Lyon having announced his intention to proceed in the business, he should wish the report of the committee to be recommitted.

Mr. S. Smith hoped the House would agree to the report of the committee; and, if in order, he would make a motion to that effect.

Mr. Hillhouse said, if the gentleman who spoke last had made up his mind on the subject, he had not, and was not prepared to determine so suddenly on a matter of importance. He thought it improper to put such a resolution, and hoped it would be withdrawn.

Mr. S. Smith understood that his motion was superseded by the motion for commitment, or he should have wished it to have been put. He said gentlemen repeated, day after day, the same sentiments upon this business, in a tiresome manner, and that it had already occupied too much of the time of the House.

The resolution for postponement was rescinded, and the report of the Committee of Elections was recommitted to the same committee.

NORTHWESTERN LAND OFFICE.

The order of the day being called for, on the bill for opening land offices for the disposal of lands in the Northwestern Territory, the House resolved itself into a Committee of the Whole, and the amendments of the 2d and 3d sections, offered by Mr. Gallatin, being under consideration—

Mr. Findley observed, that there were different opinions on the subject before them: some were for making complete surveys; some for large and some for small tracts. Surveys, he said, should not destroy natural boundaries; and the fewer parallel lines, the less destruction of this kind. It was not necessary, he said, to say much upon the size of tracts. A gentleman had said, it was necessary to sell the land in large quantities. He was glad to hear members express themselves so clearly. His views were directly opposite: he was for encouraging farmers, and against engrossing. He wished every man to have an opportunity of purchasing fifty or one hundred acres. They ought not only to keep a wholesale but a retail store. It was the interest, he said, of every country to encourage freeholders: they are interested in supporting the laws. This, he added, is not only good for Government, but it tends to make the people happy. Land is the most valuable of all property, said he, and ought to be brought within the reach of the people. He next spoke upon the subject of boundaries, and answered the objections which had been made against taking natural ones. He was for the amendment, and trusted all those who wished to encourage industrious farmers would also vote for it.

Mr. Gallatin wished to withdraw his motion, in order to introduce one of greater importance. He did not think the present one material to be determined upon at present. He proposed to strike out part of the second section, and to add the following: "to cause one-half of the townships to be subdivided into tracts of, as nearly as may be, —— miles square, and the other half to be divided into tracts not exceeding —— acres, nor less than ——." This, said he, will bring into discussion and to the determination of the committee whether they will agree to the selling of part of the land, at least, in small and convenient farms.

Mr. Rutherford thought the bill altogether improper. If he asked a fine painter to present him a peacock, and he painted him a bat, he should tell him, that though he might be a fine painter, yet he had totally mistaken him. He was proceeding to object to the whole bill, when he was called to order, and concluded by saying he was for the amendment.

Mr. Havens did not see the propriety of having large and small tracts: he wished all the land to be in small tracts. Men who have large capitals will have always an advantage over those who have but little property, though the land be in small tracts. He thought a tract of one mile square large enough. He was against the bill altogether, and thought a special committee should be appointed to bring in a bill that would be more likely to answer the desired purpose. He read some propositions which he had prepared on the subject, which recommended the allotting of tracts into six miles square, and subdividing them again into lots of one mile square.

Mr. Dayton said, there was an impropriety in moving to recommit the bill before it had received discussion. The amendments proposed by a member from Pennsylvania were in order, and should be first considered. If every member were to propose different systems, there would be no possibility of proceeding in the business. The object of the last speaker might be obtained by an alteration in the second section. It was easy to divide one mile square into tracts of 160 acres each. In the third section a subdivision might be proposed, if members pleased. He touched upon the subject of natural boundaries, and said he should be against the amendment, except he heard it explained more to his satisfaction.

Mr. Gallatin declared his reason for bringing forward the amendment was, to have the important matter settled respecting the size of tracts. It was immaterial whether this amendment was introduced in one section or another. The bill, he doubted not, would be recommitted, and then the committee might place it where they pleased. He considered that there were three classes of purchasers: the first were moneyed men, who were commonly called speculators, who were not likely to settle upon the land they purchased, but who would sell it again for a profit; the second class were farmers of small property, who would purchase and settle upon the land; the third class were men who have not money to purchase, except the land was sold much below its value. He said there was no object of so great importance to the United States as the extinction of the curse of the country, the Public Debt, and no class of citizens would be more benefited by this extinction than the poor. It was in the power of the United States, he said, to redeem and extinguish the whole Debt in ten years. He considered that a certain proportion of farmers of small property, who are able to pay for land, and who wish to remove from their present situations backward, would purchase: he wished to give them an opportunity. But there remains another class, said he, who are likely to purchase large tracts; and this is the only class from whom poor persons can get lands. The farmer, he observed, would not buy land to sell. These poor persons must purchase on long credit, and pay out of the profits of the land. Many parts of the United States, it was true, had been peopled by persons of no property at all; but they got their land for nothing. After a term of fifteen years' possession, the State, indeed, called upon them for some trifling consideration. The purchasers of large lots may, it is true, choose whom they will credit, and what profit they will have; but this must be so. The money, by these means, would be got into the Treasury, and therefore he thought the amendment proper, by dividing the land into two classes. If the whole, he said, were to be divided into small tracts, persons would choose here and there, and prevent men of property from purchasing large tracts lying together. Mr. G. concluded, with observing, he might be mistaken in some things, in others he thought he was not, having paid much attention to the subject. It was necessary, he said, to make some compromises, in order to reconcile different opinions.

Mr. Nicholas was confirmed in his opinion that speculators would be of service in the disposal of this land. He was willing that the plan proposed by the amendment might be adopted, but was afraid by the alteration proposed, the certainty which was contemplated by the bill of a person's going over the land, and fixing upon this or that part, would be defeated.

Mr. Kitchell thought the amendment might be so formed as not to destroy the parallel lines marked in the original bill, by inserting the amendment at the end of the section.

Mr. Gallatin was willing to agree to the proposed alteration.

Mr. Rutherford again occupied a considerable time in making objections against the bill, which were pretty much the same as those he brought forward yesterday.

Mr. Crabb was in favor of the amendment. It would provide, he said, for different classes of citizens, and, by causing the land to bring a better price, be productive to the Treasury. He was against having all the land laid out in large lots; in that case men of small property could not become adventurers, except by combining into companies—a plan he did not like. A member had said, it would still give moneyed men an opportunity of purchasing to advantage; he thought differently, as there would be great uncertainty in getting lots lying together.

Mr. Havens moved that the words "one-half" be struck out of the amendment. He had no doubt the amendment was brought forward with the best intentions; but it would not sufficiently prevent monopolizing. He thought if the land was put in small lots, which was the object of this motion to strike out, moneyed men would have all the advantages they ought to have.

Mr. Moore said it was desirable that every citizen who had a wish to purchase a part of this land should be accommodated. Security in every purchase of land was a principal thing; and the security given by purchasers will not be equal to that given by Government. If the land were divided into small tracts, he doubted not the best land would sell immediately, and when that was settled inferior land would command a price equal to the best. He hoped the amendment would pass.

Mr. Williams said there would be no competition, if all the land were in large tracts. A man who can purchase a few hundred acres cannot oppose a man who is ready to purchase as many thousands. If the amendment was agreed to, the bill would be so framed as to accommodate all classes of purchasers, by laying out the lands into small and large lots, as the situation and quality of the land required; this would embrace two objects, to wit: the settlement of the lands, and bringing money into the Treasury, to discharge the Public Debt.

Mr. Greenup did not like the amendment; he wished the whole of the land to be divided into small lots.

Mr. Nicholas observed, that persons who could purchase large lots, would not purchase small ones, and, therefore, the public Treasury would be injured by dividing the whole into small parcels.

Mr. Dayton was against the amendment to the amendment. Some purchasers, he said, would go out in companies, and some single. If persons of the first description could not have a certainty of purchasing a sufficient quantity of land lying together, it would be a great discouragement to them. Besides, he said, the expense attending the mode, would exceed calculation. He was willing that a part of the lands should be laid out in small lots, but not that the whole should be so divided.

Mr. Dearborn was against both amendments, because they would not answer the purpose intended. He thought the land would be settled without these regulations. He had no objection to the accommodating persons of small property, but he would lay out small lots in certain parts lying together. Persons, he said, who purchase with a view of selling again, would not purchase unless they were to purchase a township six miles square.

Mr. Duvall was in favor of the original amendment; but he would burden the public with no expense of surveying lots less than one mile square, or six hundred and forty acres. Persons who purchased might divide such a lot into four parts, if they pleased, at their own expense. The large tracts of three miles square might be left for those who chose to purchase. He would confine all surveys to four lines, except in cases of water, &c. If these principles were agreed upon, the bill might be recommitted.

Mr. Livingston thought they should either adopt the plan of selling in large parcels only or in small tracts only. No person, he said, would purchase a large tract at the same price which a small one was sold for. He was in favor of the amendment amended. He was for dividing the land into lots of a mile square. It has been said if this was done, large purchasers would not come forward, because small lots might be taken from a parcel which they might wish to purchase together. The plan, he said, likely to reduce the Debt soonest, and encourage settlers, was the best. Small tracts will do this. They will bring a higher price, and from real settlers. The State of New York, he said, first divided their unappropriated lands into large lots, which sold from one shilling to three shillings per acre; afterwards they were divided into small tracts, and sold for two dollars per acre.

Mr. Venable said there was not one man in an hundred who could purchase three miles square of land; but ninety-nine out of an hundred might be found willing to purchase a small tract. A fair competition, he said, ought to be given. He saw no difficulty in dividing the lots. Purchasers might do this. The great mass of money in this country, he said, lay in the hands of persons of small property.

Mr. Findley said the amendment to the amendment came nearest to his opinion of right. It was said putting the land in small parcels would prevent men of money from purchasing. Experience in this State, he said, contradicted this, where, though lots were limited to four hundred

acres, names are in the books for much larger purchases. When land was divided into small lots, no particular political interest was formed. He did not think large purchases were likely to accommodate poor persons. He believed many persons of this description were already on the lands. The expense of dividing the land into lots of one hundred and sixty acres each would not be so great as had been supposed: he would engage to do it for less than two per cent. on the lowest purchase. The surveys must not, he said, be taken by purchasers, but by a surveyor appointed by Government. He was not for sub-dividing the whole, but a part of the land.

Mr. Kittera said it was wished, by making small lots, to prevent the necessity of purchasing of speculators. Instead of lots of six miles square, he would propose lots of five miles square, or sixteen thousand acres, as attended with more certainty in the division. Townships might then be divided into four cross lines, making four thousand acres, and then again into four, making lots of one thousand acres each. This might be done with certainty, would save expense in surveying, and answer the purpose of the amendment.

Mr. Havens again rose to defend his amendment, and said the reasoning against it was fallacious. Whatever part of the land was sold in large lots, speculators would get the profit of, but of the small lots Government would receive that profit.

Mr. Dayton controverted the last speaker's arguments, on the same ground as before, that they would prevent companies of persons, or numbers of families agreeing to settle together from purchasing as they would wish.

Mr. Craig was against the amendment to the amendment. He thought the last speaker had completely defeated the arguments in support of it. Both poor and rich classes, he said, would be disappointed by the proposed plan, and the view of gaining revenue would be frustrated. If smaller lots than a mile square be not laid out, thousands of persons would not be served. Farmers of middling property could only purchase. Two-thirds of the purchasers would be excluded. By laying out the land in large and small tracts, persons of every description would be suited. At least the experiment was worth trying.

Mr. Sherburne said if the whole of the land were to be divided into small lots, men of property would be excluded; as if they were to purchase a number of small lots, they could not sell them again on the same terms with Government. He did not think there were many families ready to go and settle upon these lands, as had been asserted; and he was not, he said, desirous of removing the inhabitants of the Atlantic States into these back settlements, but wished rather to import settlers. He was therefore for having part of the land in large tracts.

Mr. Claiborne was for the latter amendment, and if adopted, he had a clause which he wished to be added. He thought the poor ought to be accommodated as well as the wealthy; and he could not see that the latter would be excluded by the proposed division.

Mr. Van Allen spoke a considerable time upon the subject. He was in favor of making the tracts five miles square, which might, he said, be so divided as to suit all purchasers.

At this point the Committee rose, and the House adjourned.

Thursday, February 18.

A member expressing a wish that before the order of the day was taken up, the bill granting relief to Lieutenant Benjamin Strother, for supporting a number of recruits on their march to the Army might be considered, and the sense of the House being in favor of doing so, it went through the necessary forms, was agreed to, read a second time, and ordered to be engrossed for a third reading to-morrow.

AMERICAN SEAMEN.

After disposing of a number of petitions—

Mr. Livingston wished to call the attention of the House to the cause of an important body of men, the seamen of this country. They were, he said, of three descriptions, native Americans, Europeans, or naturalized citizens. All these, said he, are equally entitled to the protection of the laws of the United States, though their profession sometimes puts them out of it. These men, he said, sailing under the American flag, have been illegally seized, cruelly torn from their friends and country, and ignominiously scourged; yet this country has for three years been silent, looking upon their sufferings with listless apathy. An instrument had indeed been formed between this country and that whose subjects had thus treated our seamen; but it was in vain that they looked for redress in that. He should, however, always think it his duty to endeavor to procure this ill-treated body of men some relief. He then read a resolution, proposing to appoint a committee to examine into the subject, and to furnish some remedy to the evil complained of.

After a few observations from Mr. S. Smith, Mr. Murray, and Mr. Swanwick, the resolution was ordered to lie on the table.

DISABLED OFFICERS AND SOLDIERS.

The order of the day being called for, Mr. Tracy wished, in order the sooner to furnish relief to their suffering fellow-citizens, that the order of the day might be dispensed with for a short time, for taking up the bill for the relief of wounded and disabled officers and soldiers in the actual service of the United States.

Mr. Gallatin did not see the necessity of postponing the order of the day for the consideration of the bill in question; but he mentioned another which was of the first consequence, viz., the report of the Committee of Ways and Means for making further provision for the Public Debt.

The sense of the House being taken, it was in favor of taking up the business recommended by Mr. Tracy; and the House resolved itself into a Committee of the Whole on the subject, and

agreed to the bill without amendment. The House then proceeded to take it into consideration. A few remarks were made by different members on the propriety of including in the bill wounded militiamen also. This was objected to as a separate consideration, which would be better brought forward at another time. The words, "fourth of March, seventeen hundred and eighty-nine," (restricting the benefit of the act to persons wounded subsequent to that time,) were, on motion, agreed to be struck out. The bill was then agreed to, and ordered to be engrossed for a third reading.

PUBLIC DEBT.

Mr. Gallatin brought forward the consideration of the report of the Committee of Ways and Means on what further measures are necessary to reinforce the existing provisions for the Public Debt.

The House having resolved itself into a Committee of the Whole, Mr. Gallatin moved three different amendments, which went to the making more clear the time of paying dividends, the making of payments more uniform, and the leaving open the rate of interest, which being severally agreed to, the Committee rose, and the report and amendments being read to the House, were agreed to as follows:

"*Resolved*, That, in respect to the funded stock of the United States bearing a present interest of six per centum, there shall be dividends made on the last days of March, June, and September, for the present year, at the rate of one and one-half per centum; and from the year one thousand seven hundred and ninety-seven to the year ——, inclusive, at the rate of —— per centum upon the original capital. That there be dividends made on the last days of December, from the present year to the year ——, inclusive, at the rate of —— per centum upon the original capital; and that a dividend be made on the last day of December, in the year ——, of —— per centum upon the original capital, in full of the said stock.

"*Resolved*, That provision ought to be made for reimbursing, in the same proportions as the other six per cent. stock, the balances bearing, and to bear, interest at six per centum, due to certain States, which were funded in consequence of an act passed May the thirty-first, one thousand seven hundred and ninety-four.

"*Resolved*, That the Commissioners of the Sinking Fund be authorized to appoint a Secretary for the purpose of recording and preserving their proceedings and documents; and that a sum not exceeding two hundred and fifty dollars be annually allowed the said Secretary for his services."

Ordered, That a bill or bills be brought in pursuant to the said resolutions, and that the Committee of Ways and Means do prepare and bring in the same.

NORTHWESTERN LAND OFFICES.

The order of the day was next taken up on the bill for establishing Land Offices, and the two amendments of Mr. Gallatin and Mr. Havens being under consideration,

Mr. Kitchell hoped, the words *one half* would not be struck out, as he wished purchasers of every description to be accommodated. If the latter amendment were to pass, a favorite spot might be taken from the midst of a large lot, and prevent large tracts of land being sold. The Treasury, he said, should be considered as well as the convenience of purchasers. One half of the land divided into small lots would be amply sufficient, and the remainder remaining in large tracts, might be purchased by foreigners or others.

Mr. Williams said, the chief objections urged against small lots, were chiefly that they would not suit persons of large property to purchase so well as large lots. Persons of property, said he, can generally accommodate themselves; we ought to accommodate the lower classes of the people. He hoped the bill might be so framed as to embrace all the objects. He would not wish to prevent companies of persons from purchasing large districts; he believed there were such in this city who would wish to do so. Or townships, he said, might be divided into halves or quarters. By thus dividing their lands, the State which he represented had acquired three times the sum that they would otherwise have got. This plan had not, he said, prevented speculation; but it had excited a competition which had greatly favored their treasury. If the measures now agreed upon, should not be found the best, they might be remedied in the next Congress. A surveyor, he said, should explore this country, and point out the most valuable lots. These would bring a high price. When a settlement took place, he said, the unoccupied land near to it would immediately rise in price. It would be best, therefore, to do the business gradually, as this mode would eventually bring the largest sum into the Treasury; a sum which he hoped would nearly discharge the National Debt. It had been said, it mattered not who got the lands, provided we got the money; but, he thought it of the first consequence that the country should be settled with industrious freeholders. He concluded by hoping the latter amendment would be agreed to.

Mr. Baldwin thought the original amendment went far enough; he believed the price put upon the land would be a sufficient check upon speculators. Perhaps it would be well, he said, to divide every alternate square into small tracts. If speculators bought the large tracts, when the small ones came to be settled, they would divide and sell theirs; or, if the large tracts remained in the hands of Government, they might afterwards be divided into small lots. He thought it best to commence the business with large and small lots.

Mr. Maclay was of opinion that the committee who brought in the present bill had principally the Treasury in view; but if a mode could be adopted that would equally encourage settlers and benefit the public funds, it would be desirable. It must be evident, he said, to every one, that an actual settler would not be able to purchase the quantity of land mentioned in the bill. He believed there would be no difference of opinion on that head. It would be well to inquire what plan would operate most to the advantage of the Treasury. He believed it was a fact generally allowed

that the greatest quantity of the money in this country lay in the hands of agriculturists. These purchasers, then, should be met; for if the quantities of land offered be too great, or the price too high, these men would be shut out from the market; but he thought a system might be devised which would equally suit moneyed men and men of small property. In the extent of country they were about to dispose of, there was land enough to satisfy the demand of purchasers of every class. The only question is, the best way of doing this. It must be on terms which they can embrace. Men of little money must have small parcels of land, whilst men of large property may have as much as they please. Shall these purchasers be mingled together or separate? Persons purchasing small lots, would wish to be near their friends or connexions, who might also have been purchasers, that they might be of mutual service to each other. The way then, in his opinion, to meet both demands, would be to lay off one part of the land in large tracts, and the other in small lots. Besides, said he, suppose a lot of six miles square settled, the adjoining lots would immediately increase in value, and as no one would have a claim to it, it ought to go the Treasury of the United States, which it would do, if the lands were undisposed of. The two plans, he observed, should by all means be kept distinct, as there was an impossibility of doing two things at the same time. One would interfere with the other. He said, the land they were about to dispose of, was a great common right to which every citizen in the country was entitled to a share, therefore, to bring it to market in such lots as but few can purchase, was injustice; besides, persons of small property would be lost as purchasers by such a conduct. If the Treasury, indeed, alone was considered, small lots would best answer the purpose. He said it would be also unjust to bring the whole of the land into the market at once; for, as it is a common right, all ought to have a chance of purchasing, and some persons who cannot just now raise money, might be able to buy in the course of a few years. Nor would it be prudent, he said, to glut the market. The quantity necessary for the present demand might easily be calculated.

With respect to boundaries, Mr. M. thought it easy to describe lots sufficiently correct, by means of rivers, creeks, &c. As one part of the country, he said, became settled, another would increase in value, and by a proper disposal of these lands the National Debt would be extinguished; but, if this plan failed, there would be no resource left but taxation, which it would be desirable to avoid. It has been said that the survey should be bound down by the cardinal points; this method, he said, might prove to be the most inconvenient of any. He concluded by saying, that policy and justice equally required that purchasers of every description should be attended to, and hoped, therefore, that the amendments would be agreed to, and the bill recommitted.

Mr. Harper wished to call the attention of the House to the business immediately before it. Members still wandered, he said, and lost sight of the point to be decided upon. If these desultory discussions were permitted, there would be no end to the business. Amendments have been made, he said, with a view of bringing before the House the question, whether the land should be laid off in large tracts, in part large and part small, or all small. Some members have given their opinion in one way, some in another. He wished the question to be decided, whether all the tracts should be of one size or not.

Mr. Havens again rose to support his amendment, and, in answer to the objection which had been brought against the plan of small lots on the ground of expense, said that the charge of surveying the land into lots of a mile square would not exceed 2*d.* per acre. In support of his argument, he referred to the experience of the State of New York.

Mr. Cooper said, that though the land in the State of New York had been sold in lots of 100 acres, no farmers were purchasers. He said, he bought many of the tracts himself. Neither did farmers purchase when land was sold at 8*d.* per acre, at vendue. The true cause of the land selling high in that State, was the competition of moneyed men at vendue.

Mr. Havens answered, that it was sufficient to support his amendment, to prove that land in small lots produced a better price than when disposed of in large tracts.

Mr. Crabb, was in favor of the original amendment as embracing both the wholesale and retail plans. No attention, it is said, should be paid to moneyed men, they will take care of themselves. Though this was true, yet if the Treasury was to be served, it was necessary to accommodate them, as they could not be expected to become purchasers, if obstructions were thrown in their way. If our Treasury was indeed swelled with riches, there would be no necessity, perhaps, for this attention; but, in its present state, their money would be useful. We might say there is no man in the community who has not a claim upon our unappropriated lands. Every man has a right in them; but policy will not admit of a strict inquiry into this, yet we must go as near the mark as possible. It has been said, that selling a part of these lands would raise the price of those adjoining. This was true, and the strongest incitement to purchasers. Men of property, he said, would not lay out their money, if no chance of gain was held out to them. He thought if the price of the land was fixed at two dollars per acre, speculators who purchased it would not injure, but benefit the United States. If nothing, he said, was contemplated but the sale of a small portion of land, Government might reserve a part for future demands; but the Treasury wanted the money. No calculation, he observed, could be made of the quantity of land necessary for the present demand. Many persons would become purchasers who had not yet applied. He said the only way in which the poorer classes could get possession of land, would be by means of the purchasers of large lots, who would give them long credit.

Mr. Gallatin thought the difference betwixt

his amendment and that proposed by the member from New York, was not so great as had been conceived by that gentleman. He did not mean by his amendment (as seemed to have been understood by several members) that one-half of every tract should be laid out in small lots, but that certain townships should be laid out in large, and others in small lots. He thought the plan he proposed, would provide as many small lots as would be wanted, and more was unnecessary. The large tracts, he said, would be purchased by men of large property, and they would sell again to the poorer classes on credit, which was the only way in which they could get possession of a part of this land, as Government would not be inclined to give the credit necessary to be given to these purchasers.

The question being called for, the second amendment for all small lots was first put and lost, and then the first for large and small, which was carried without a division; and the House adjourned.

Friday, February 19.

The committee to whom was referred the bill for establishing trading houses for the Indian tribes, with the amendments proposed by the Senate, report it as their opinion, that the amendments should not be adopted, except one of them which was read.

The bill for relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States, was read a third time. And the blank which was at first filled up with the words, "4th of March, 1789," was agreed to be again so filled, as the member who moved these words to be struck out, said he found that the amendment would not include the persons he intended to include. The bill was then passed.

The bill for relief of Lieutenant Benjamin Strother was read a third time and passed.

DUTIES ON DISTILLED SPIRITS.

Mr. Harper wished the unfinished business before the House to give way for a short time to enable him to present some resolutions relative to the duty paid on distilled spirits, for the purpose of committing them to the Committee of Ways and Means. The resolutions were accordingly read as follows:

"*Resolved*, That the duties now payable on spirits distilled within the United States, ought to be transferred from the commodity, and laid upon the instrument.

"*Resolved*, That the collection of those duties, and of all other internal revenues of the United States, ought to be made by the Collectors of the various States under the direction of the Treasury Department, and of the Supervisors of the Revenue, except in cases where the District Judge, on application of the Supervisor, shall declare any such Collector to be an improper person.

"*Resolved*, That all fines and forfeitures incurred under the Revenue Laws of the United States, ought to be sued for in the State Courts; unless where the Commissioner of the Revenue, under particular circumstances stated to him by the Supervisor, shall otherwise direct."

Mr. Harper observed, that though it might not be found practicable to carry all the proposed measures into effect, yet he wished them to be committed to the committee he had mentioned, in order to have their report thereon.

After a number of observations from several members, for and against the resolutions being committed, it was finally agreed to, 39 to 44.

AMERICAN SEAMEN.

Mr. Livingston said, as the unfinished business might take up much time of the House, before it was entered upon, he wished the resolution to be taken up, which he yesterday laid upon the table relative to the case of American seamen.

The House consenting, the following resolution was read, agreed to unanimously, and referred to a committee of five members.

"*Resolved*, That a committee be appointed to inquire and report whether any and what Legislative provision is necessary for the relief of such American seamen as may have been impressed into the service of any foreign Power—and also to report a mode of furnishing American seamen with such evidence of their citizenship as may protect them from foreign impressment in future."

LAND OFFICES NORTHWEST OF THE OHIO.

The order of the day on the bill for establishing Land Offices for the sale of the Northwestern Territory, being again taken up, and the House having formed itself into a Committee of the Whole, and the second section being read,

Mr. Harper said he wished to move an amendment. The vote of yesterday, he observed, had decided upon one principle of this business, viz: that the land should one-half be sold in tracts of a large size, and one-half in lots of a small size. Another important principle which he thought proper now to be determined upon, was, what quantity of land should be sold—whether the whole of the extensive territory, or a part of it only. It had been observed, that the two important objects in view were to produce revenue, and to lay off the land in such a manner as to conduce to its settlement. These were certainly important objects, he said, but not the only ones. Another object was, to adopt such a mode of settlement as should preserve peace, and continue to give a stable and orderly system of government to this new society. The object of revenue, he said, was not the most important though desirable—as we might do without this for the present—but to settle this land in a way so as to secure order and good government was of the first importance.

The bringing of the whole of this land into the market at once, Mr. H. observed, would be a great disadvantage; as it was a well known fact, that the price of a commodity always depended on the proportion the quantity to be disposed of bore to the demand. Here is a country, said he, containing twenty millions of acres—a part of which are appropriated and part unappropriated. The unappropriated part he supposed would amount at least to ten millions of acres—a tract considerably larger than many large States—larger than Maryland. What number of people, said he, is necessary to people this tract of country? More than can be

spared from other States. To bring the whole of this land forward to sale at once would overstock the market; and if you sold at all it must be at a low price to moneyed men, and it would be even doubtful whether purchasers of this class could be found sufficient.

It will, therefore, said Mr. H., be necessary to make the object of revenue productive, to proportion the quantity of land to be disposed of, to the demand. If, instead of the present plan of laying out the whole Territory, one and a half million of acres were to be set out, this quantity would sell at a good price, be soon settled, and then an additional quantity adjoining to this might afterwards be laid off, which would bring a higher price, and be bought by actual settlers. The price of land must ultimately be paid by the cultivator, and if Government can meet his wants, it will be better than referring him to second-hand dealers. There were a class of cultivators, indeed, he said, who could be accommodated only by speculators. (In speaking of speculators, he said he did not mean to cast any odium upon the character; he thought land as fair an object of speculation as coffee, or any other article of merchandise.) The operation will be this: Government offers the land for sale at a minimum price. Persons applying for land will offer their plans, explain their wants, and fresh parcels of land can be laid off as occasion requires. Though, by a plan of this kind, so much money be not raised this year or next year to the Treasury, it will be best ultimately. Had a private individual a large stock of land to dispose of, he would adopt a similar proceeding; he would sell it off in parts and reserve the remainder in his hands to meet future demands as they should arise.

In support of his argument, Mr. H. cited the example of other States which had experience in business of this kind. If the whole ten million acres were to be exposed to public sale at once, it would either not be sold at all, or fall into the hands of capitalists. The 150,000 families which have been said to be ready to settle in this country would do but little towards purchasing this land. By this plan, Government would put into the hands of capitalists, to retail on any terms they pleased, that land which it should keep in its own for the accommodation of its citizens.

The next object, Mr. H. said, was to secure such a mode of settlement as would preserve peace and good government. This, he said, would not be done by selling the whole at one time, but by selling it progressively. To offer the whole for sale at once, and let persons settle on any part of this wide extended country, would be to put them out of all government, out of all reach of the laws of society, and take away from them all power of defence. On the contrary, to limit the settlements, would be to obviate all these difficulties. It might not, however, he said, be expedient to confine settlements to one point—there might be settlements in three different parts of this land, so as to accommodate emigrants from different quarters of the United States. Besides, this plan would increase in a greater proportion the value of the remaining unsold land, as each settlement would enhance the value of the land in its vicinity.

Mr. H. concluded by saying it was an important object to attend to the manner of settling this country. Perhaps, he said, the most important differences which had arisen betwixt the different States in America, was owing to the different methods adopted in their original settlement. If a settlement was commenced by degrees, order begins at first, and grows with its growth, and strengthens with its strength; but if a country be settled before any regular order takes place, if a good Government is ever established, it is by struggling with a variety of difficulties. For these reasons, he thought it of vast importance to adopt the plan he proposed, and read his resolution, the purport of which proposes to divide and subdivide the lands within certain limits, having reference principally to natural boundaries.

Mr. Macon asked if the motion was in order; he supposed it was not, as the section had already been amended. He thought it would be best to proceed with the bill, in the mode now pursued; he was sure the House would not get through the bill by next March twelve-month. He suggested to the mover the propriety of reserving his motion for the purpose of bringing it forward in the House.

The Chairman considered the motion as out of order, unless part of the amendment agreed to yesterday was first struck out. Mr. Harper agreed to alter his motion, so that it might not interfere with that amendment, which he was not opposed to.

Mr. Swanwick.—The only thing that appears to me to be material to inquire, is how far we have occasion for money, so as to engage us to enter into the sale of these lands. It is allowed on all hands to be a very desirable measure to pay off our Debts. The President has strongly recommended it in each of his Addresses to several successive Legislatures. No blame can rest upon him if it be not done; the moment appears favorable. Owing to the war in Europe all funded Debts are low in price; though we are not engaged in the war, yet our stocks feel the effect; they are even below the British in the market rate in London, according to prices lately quoted from thence, which I attribute in a great measure to the interest being payable, and the principal transferable here only. At the peace it is probable all these funds will rise, perhaps twenty-five to thirty per centum or more, beyond their actual rates; as in Britain, before the war, their three per cents. were nearly at par value; at that rate our six per cents. may be worth twenty-five to thirty shillings per pound deferred, and three per cent. in proportion. Whether lands will rise in proportion to the rise of the price of our Public Debt in the market, is uncertain. The general eagerness to sell lands, and the general idea of their present high prices, seems to indicate the contrary as the most prevalent opinion. Be this, however, as it may, I cannot see that it is less right for a nation, than it would be for an individual, to sell off his landed property to pay off

his Debts. On this principle, therefore, consulting all due fairness and publicity in the sale, and dividing the tracts so as to accommodate the greater number of purchasers in the market, I believe we shall run no risk of doing wrong in bringing these lands to sale.

Much has been said about speculators and settlers; a good deal about laying out the lands in particular divisions to suit emigrants from different States; but, however laudable I consider the views of gentlemen who have supported these ideas, yet I cannot conceive them as solid as they suppose. It is immaterial to us who buys the lands so we get a good price for them. Speculators will probably purchase, because they have capital, and can afford to give long credit on the lands; but our plan being to pay off our Debts most advantageously, we must have the money soon to effect it. I have, therefore, no fears of speculators. Their money laid out in paying off our Debts, will do us at least as much good as our lands will do them; for the moment we get our Debts paid, our revenues of seven or eight millions a year will be freed, and at our disposal; by this means we shall cease to be told that our Treasury is empty, and that we must sell off the materials of our frigates, because we cannot afford half a million of dollars to finish them. Our roads, the object of a gentleman from Virginia, can then be perfected; and our seamen, the object on which another gentleman from New York has laid a motion before you, will receive ample protection. In short, nations, like individuals, are respectable only in proportion to their resources. If ours are released from their actual embarrassments; if our Debts are paid, and our revenues left at our disposal, a few acres in the wilderness will have produced the great blessings of peace, union, and respectability, on the Atlantic, and the independence and sovereignty of our country will be, as it ought, properly asserted. For such purposes I think it worth while to employ the present moment of avidity to speculate in our lands, so as to clear off our Debts and produce a nett revenue to our Treasury, to be employed to the most salutary purposes of internal improvement and of exterior defence.

Mr. Dayton said, if he approved of the principle, he should not approve of the loose manner in which the proposed amendment was drawn up. If the principle recommended in the resolution was adopted, tracts should be marked by certain lines or boundaries; but as he disapproved of the principle, he should not dwell upon the form of the resolution. He thought the arguments of the mover more specious than solid. Every one would see that by limiting the price of the land, the quantity was also limited. The settlement of land, he said, increased the value; but if purchasers be confined to a certain situation, no value will be put upon land five hundred miles distant. If the plan of the committee be adopted, he said, all the land will increase in value. Land contiguous to a settlement now not worth a dollar an acre, will then be worth two dollars. Every year a fresh quantity of land can be brought into the market. Mr. D. did not understand what the mover meant by fixing settlements in different quarters of the land to suit different parts of the United States.

Mr. Harper explained.

Mr. Nicholas said it was necessary to throw land enough into the market to meet the demand. He said they had not only land to dispose of, but they had a million and a half acres of such land as could not be found anywhere else, and if they should limit purchasers to certain districts of the country, where there is good and bad land, if only one-fifth be good, four-fifths of purchasers will be discouraged. If inducements, said he, are to be held out, they must be such as cannot be resisted. Suppose, he said, they were successful in selling one and a half million of acres on the frontiers, nothing would be added to the value of the land in the interior country. The demand for good land, he said, would be certain, and all the rest would become so by settlement. With respect to civilization, so much dwelt on by the mover of the amendment, he had so little theory on the subject, that he should not have thought of introducing it. He lived, he said, where Government scarcely showed its arm, and there seemed to be no defect. The people were just, orderly, and happy; and yet this State was settled in the way which was described as introducing nothing but disorder.

Mr. Gallatin said, there were two considerations which favored the mover's principle of bringing forward only a limited quantity of land at a time for sale, which were the self-interested landholders, and the fear of too great an emigration from the Atlantic States to this country. He dwelt a considerable time in remarking on these two different views, and concluded with dissenting from the amendment in its present form.

Mr. Harper replied to the several objections which had been made to his amendment. The propriety of the remarks of the gentleman from Pennsylvania [Mr. Swanwick] relative to the funds, derives all its force from the practicability of immediately raising a sufficient sum of money from the sale of the lands, in order to going into the market now while the funds are low; but he conceived that no gentleman had an idea that this could be suddenly done. The diminution of the Public Debt is a most desirable object; but an immediate operation to this purpose, from this source, was a thing quite out of the question.

He next noticed the remark of Mr. Dayton, relative to sparse settlements. He said the gentleman's reasoning might apply to a comparatively small territory, but applied to a territory of twenty millions of acres, was lost. The gentleman had reference to Symmes's purchase, a tract of about 1,200,000 acres, settled by about 5,000 families. That tract had appreciated in value in consequence of the sparse settlement. But extend the idea to twenty millions of acres, and twenty times five thousand families would form but a thin settlement of the country supposed to be laid open.

His amendment, however, agreed in some mea-

sure with that of the gentleman. He was in favor of a sparse settlement, so far as extended to forming three or four grand central points, round which settlements may be extended to certain limits. Mr. H. added many other observations in support of his amendment, which he defended with great ability and ingenuity.

The motion being put on the amendment, it was lost.

The third section of the bill being read, Mr. Harper said there was a necessity of striking out some words in order to accommodate it to the amendment passed yesterday.

Mr. Williams moved an amendment to have the lands sold by auction, in order to bring the question before the House.

Mr. Nicholas proposed a motion to supersede that of the last member to nearly the same effect.

After several observations from different members, principally in favor of a sale by auction, the Committee rose, reported progress, and asked leave to sit again.

Monday, February 22.

The committee to whom was referred a bill originating in the Senate, for the amendment of an act to encourage Useful Arts, report as their opinion, that it would be inexpedient and impolitic to pass the said bill into a law.

The report was ordered to lie on the table.

Mr. Heath proposed to the House a resolution to the following effect:

"*Resolved*, That until a Stenographer be appointed, or further provision made for taking the debates of this House, no printer be permitted to publish abstracts of the Speeches of members, unless permitted by the members making the same."

Ordered to lie on the table.

WASHINGTON'S BIRTH-DAY.

Mr. W. Smith moved that the House adjourn for half an hour.

This motion occasioned a good deal of conversation upon its propriety. In favor of it, it was said, that it had been a practice ever since the commencement of the Government, for that House to make a short adjournment on that day in order to pay their compliments to the President, and that several members were absent, from an idea that the House would adjourn at 12 o'clock as usual. On the other hand, it was objected that it was the business of the members of that House first to do their duty, and then attend to the paying of compliments; that just at that time the house of the President was filled with militia and others; and that, therefore, it would be better, upon the whole, to wait upon the President after the business of the day was finished.

Mr. Gallatin moved that the words "half an hour" be struck out.

The sense of the House was first taken on the amendment, which was lost, without a division. The motion was then put and negatived, being 38 for it, and 50 against it.

LOAN TO THE CITY OF WASHINGTON.

It was moved that the unfinished business of Friday be laid aside, to take up the consideration of the bill authorizing a loan for the use of the City of Washington.

The resolution being carried by a vote of forty-eight against thirty-four, the House formed itself into a Committee of the Whole, Mr. Muhlenberg in the Chair, and the first section of the bill being read, and also the resolution of the House authorizing the committee to bring in the bill—

Mr. Swift wished to know why the committee had deviated from the principles contained in the resolution directing them to bring in the bill. By this bill the buildings in the City of Washington are to be conveyed to the President of the United States, though there were no instructions in the resolution of the House to this effect.

Mr. Jeremiah Smith said the lots were conveyed to the President, in order to reimburse the loan authorized by the Senate, and as a security for the sum to be borrowed by the President, in consequence of the present bill.

Mr. Brent said the bill was framed in a mode which the committee thought best calculated to carry into execution the resolution of the House.

Mr. Swanwick objected to the bill on the principle, that if the United States were to accept a grant of the lots in the Federal City, they might, if they thought proper, afterwards grant such a sum as they should suppose sufficient for completing the public buildings, out of the general funds; but he was entirely against opening a loan for the special purpose; first, because he thought it degrading to the United States to have it observed in Europe, or elsewhere, that they could not complete the buildings requisite for their own immediate use, without making a loan for the purpose; and secondly, because he had no notion of superadding to the public faith any security of lots, as it might prove injurious to the United States to have loans opened in various quarters on different securities, though ultimately bottomed on the same stock, viz; the credit of the United States. On these grounds, he was for having the bill recommitted, to be new modified.

Mr. Nicholas offered his observations upon the bill; but from the firing of cannon, the beating of drums, &c., which took place during his speaking, in honor of the President's birth day, the reporter could not hear his sentiments sufficiently distinct to attempt an abridgement of them.

Mr. S. Smith moved that the fourth section of the bill offering lots as a security of money borrowed, be struck out as altogether unnecessary.

Mr. Crabb said the lots were not offered in aid of the credit of the United States; but as a security to them for the money borrowed under their authority.

Mr. Brent said, if this section of the bill was struck out, the object of it would be defeated. The preceding clause provides for the conveying of the lots to the President as a security for any sum of money he shall borrow for completing the buildings. And provided the property be not equal to the payment of the money borrowed, the United States guarantee the making good the deficiency. If this clause were struck out, the lenders of money would have no further security, if the buildings were not sufficient to pay. So that, after passing this act, the business would remain in the same state it was in before the House took it up. It has been said, that it would be derogatory to the dignity of the United States to offer these lots as a security, in addition to their own credit; but, that a person should become disreputable by offering too ample a security, was a novel doctrine to him; and that gentleman's ideas of dignity and his, were so opposite, as not likely to meet. It has been said, that it will be necessary to open a loan for 600,000 dollars on the public account, and he could not see the dishonor of opening a loan for this object more than for that. The form of the act was necessary to secure the repayment of money received by the Commissioners, and it was necessary that the lots should be conveyed to the President as a guarantee for the money borrowed. He was, therefore, for the bill remaining in its present form.

Mr. Swift thought the faith of the United States sufficient for money lenders, and expressed his disapprobation of the bill in other respects.

Mr. Hillhouse said, if it would be in order, he should wish to move that the Committee rise, and that the bill be recommitted in order to have it moulded into a somewhat different form.

Mr. Dayton wished, as there was matter perfectly new to him introduced into this bill, that the Committee would rise, that the bill might be recommitted, and formed agreeably to the resolution of that House authorizing it to be brought in.

Mr. Jeremiah Smith had the greatest respect for the opinion of the last speaker; but could not see the difference stated by him to exist between this bill and the resolution authorizing the committee to bring it in. This he endeavored to show at considerable length, and observed, that the committee did not conceive themselves confined to the words, but to the spirit of the resolution.

Mr. Nicholas justified the form of the bill, as being agreeable to the resolution of the House, and said if the fourth section was struck out, the law would be destroyed altogether.

Mr. Sedgwick wished the bill to take a different form.

Mr. Madison did not see any necessity for the Committee to rise. He thought the bill conformable to the resolution of the House, and sufficiently simple in itself.

Mr. Swift was for having the bill recommitted. He wished to know how far a committee had the power to deviate from a resolution instructing them to bring in a bill. He said there were new principles introduced into this bill which he could not agree to.

Mr. Gallatin said there was no necessity for recommitting the bill. If any provisions of the bill required amendment, the present was the time to amend them. He, therefore, saw no ground for the Committee to rise on that head.

Mr. Brent was very desirous that a final decision should be come to on the subject; as whilst it was yet pending, the property in the Federal City was subject to much speculation, the minds of persons concerned were kept in an unsettled situation, and the season was advancing in which the Commissioners wished to take steps to forward the undertaking. He answered the objections which had been made against the form of the bill, and justified the conduct of the committee. He remarked upon what had been said with respect to the security offered for the meditated loan. He acknowledged that the credit of the United States was good for any amount, and said that the lots were intended as a security to the United States, and not to the persons who subscribed money to the intended loan.

Mr. S. Smith understood that the Commissioners of the Federal City were to make the loan in their own name; but in this bill the President of the United States guarantees the loan, which, he thought, would interfere with the interests of the United States. He should, therefore, vote for a recommitment. The fourth clause of the bill, he thought useless, and objected to the making of a loan with a mortgage of lots. But though he made these objections to the bill, he was in favor of furnishing money to complete the works in this city.

Mr. Harper wished to suggest some ideas by which the question might be immediately taken. The first plan was, that the Commissioners of the Federal City mortgage the property, and that the United States should give security; another plan was, that the property should be vested in the United States, and assigned to the President. He thought the latter plan the best, but it would be extremely proper that the sense of the Committee should be expressed. If the motion, then, for the Committee to rise could be withdrawn he would move to strike out certain words, to introduce the proposed amendment.

Mr. Giles wished the subject to go before the committee again; but, he said it was necessary they should have instructions upon which to act, as they could not be guided by a debate of that House only.

Several members calling for a rising of the Committee, it rose, and asked leave to sit again.

Tuesday, February 23.

The Committee of Ways and Means gave in their report on the revenue laws, which was twice read, and ordered to be committed to a Committee of the Whole House on Thursday.

LOAN FOR THE CITY OF WASHINGTON.

The House having resolved itself into a Committee of the Whole, on the bill for authorizing a loan for the use of the City of Washington.

Mr. Williams proposed an amendment, which, after a few observations from Mr. Murray and Mr. Jeremiah Smith, was withdrawn.

Mr. Varnum said he understood a motion had been yesterday made to strike out the fourth clause of the bill; but the gentleman who had made the motion not appearing in his place, he renewed the motion to strike out that clause.

Mr. Murray thought that clause essential. For though he believed the lots worth considerably more than the money proposed to be borrowed, yet more implicit confidence would be placed on the security, and it would be a means of accelerating the business, if the sanction of the guarantee of the United States was added to it.

Mr. Varnum objected to the United States guaranteeing this loan. He did not know with any certainty what would be the expense of the proposed buildings, or the extent of them. To guarantee this loan, was to guarantee what they knew not; and if they guaranteed it, he believed they would have the money to pay. He was of opinion the whole of the buildings necessary for the use of Government might be built for a less sum than was asked to finish what was already begun. Why should the United States guarantee this loan? Because it would be for the interest of certain individuals. It would be the interest of the United States to sell the whole of the lots, and then guarantee a loan. At any rate, before the United States went into the business, they ought to know to what extent they pledged themselves.

Mr. Crabb said the fourth section was a necessary part of the bill, which was to complete a great national object. He could not see, therefore, why it should be objected to. If, indeed, gentlemen wished to defeat the whole business, it would be well for them to declare their intentions at once. It has been said, if the United States make the guarantee, there is no security, but they may have to pay the money. There was all the security that could be expected—a vestment of the lots. It was laudable to attend to economy in public affairs; but there would be no economy in refusing to make the guarantee required, but the reverse; as, in that case, the property would not sell for one-third of its value; and if the Government was to be removed there at the time proposed, the money for completing the necessary buildings, would have to be drawn from the Treasury. He expatiated at considerable length on the merits of the bill, and insisted upon its conformity to the resolution empowering the committee to bring it in.

Mr. Hillhouse was in some degree of the same opinion with the member last up. But he thought it impossible to draw a bill which should perfectly correspond with the resolution of the House so frequently referred to. It had been said yesterday that it was not possible to frame a bill more conformable to the resolution than the one now under discussion. To show that this was possible, he had drawn up a clause which would make the bill in perfect unison with the resolution. [He read the clause.] The bill, so altered, would not tie up the lots so that they cannot be sold to raise the money. And if this clause was adopted, the United States would not be called upon for the money. He wished, therefore, the Committee to rise, and recommit the bill.

Mr. W. Lyman was against the Committee rising. He wished the sense of the House to be taken, whether it was in favor of the United States guaranteeing the loan, or not. He did not see anything material in the bill which was not in the resolution of the House, except what related to public squares.

Mr. Murray said, to strike out the fourth section of the bill would be to do violence to the property in the Federal City. The first clause transfers the property into the hands of the President, and now objections are raised against the clause necessary to complete the business. If gentlemen mean to destroy the bill altogether, it should be done in a way not to injure the property of individuals.

Mr. Rutherford spoke in favor of the bill.

Mr. Swanwick was in favor of the Committee's rising for the purpose of recommitting the bill. He objected to the bill generally upon the same ground as yesterday, with respect to joining the securities of the lots, and the faith of the United States together. He asked how the passing of this bill could give value to the buildings of the Federal City? Is it not already enacted that Congress shall sit there in the year 1801? The value of the lots was to be increased only by selling them to a number of persons. The city must owe its prosperity to its peculiar advantages as a commercial spot, and not from its being the Seat of Government. It was, therefore, the interest of the United States to sell the lots and induce people to settle there. The higher price the lots bore, the greater would be the obstacles to settlement. If it was the intention of the United States to grant money for the completion of the Building, let the House say so. When it was first proposed to remove the Government to the Federal City, it was said that it would be the interest of persons to give lots to encourage the Government to come there. The security now asked for was never contemplated. He had, however, no objection to the United States granting money, but he was against the making of two loans, one on the credit of the United States, and another on that of the United States and certain lots.

Mr. Dayton did not altogether like the present motion, and he was against the form of the bill. He wished it to be determined, whether the United States were only to become eventually guarantees for the money borrowed, and whether on the sale of any lot it should be exonerated from the loan. The property he should wish to be placed in the hands of the Commissioners, or in the President, to make sale of it.

Mr. Gallatin was against the Committee rising, and against the bill being recommitted, until principles be agreed upon on which they mean the bill to be recommitted. Two or three plans, directly contrary to each other, are produced, yet all are in favor of a recommitment. It was necessary first to establish the principle. A gentleman had said he had drawn up a clause, which would completely carry the resolution of the House into effect, but he thought the bill before the House more conformable to that resolution than the clause proposed, which contains a different principle. He wished, therefore, that the gentleman would withdraw his motion, for the purpose of settling the principle.

Mr. Hillhouse had no objection to withdraw his motion.

Mr. Jeremiah Smith thought it would be economical in the United States to guarantee the Loan. He thought the substitute offered for a clause of the bill more defective than the one it was meant to supply. He said the United States would not be actually responsible for any part of the money borrowed; and the committee had thought they could not do better than place the property under the direction of the President; but if it was thought too heavy a burden to be laid upon him, the business might be placed in the hands of the Secretary of State or Secretary of the Treasury.

Mr. S. Smith said, the House was willing to give its responsibility; the way of doing it, was the matter contended for. If the fourth clause had been agreed upon to be struck out, he should have introduced another in its place. If the bill remained in its present state, he said, the United States cannot sell the lots; the people, therefore, who go there, must purchase of speculators, who may ask what price they please. It has been said, to strike out the fourth section would be to destroy the bill; if so, he would not vote for it. If the fourth section were struck out, he would return to the second, and make some alteration in it, so as to pledge the faith of the United States. It was ridiculous, he said, to think of mortgaging lots for the money to be borrowed; there was no occasion for a counter-security to the faith of the United States. The bill, in its present form, was calculated to advance the price of the lots for the interest of speculators. He would have the faith of the United States pledged for the proposed Loan, and the lots consigned to them as a security. He saw no occasion for the first section of the bill, as he believed the property already vested in the United States, and that the Commissioners cannot convey any lots without the consent of the President—at least, that they ought not to do it. He wished the Loan to be made by the Commissioners, with the guarantee of the United States.

Mr. Crabb replied to the arguments of the last speaker, and noticed what had fallen from Mr. Swanwick on the subject of tacking the faith of the United States and the lots together. He said that gentleman knew it to be the practice of bankers to reqdire endorsers to the notes of men of the first property, and the guarantee of the United States was on the same principle. There would be no necessity for the guarantee of the United States, if the property was as well known in Europe as it is known here. He said, the House had the assurance of the President, that if the property was duly attended to, it would be worth all the money borrowed. But suppose the property was not worth the money, the passing of this bill will not lessen, but increase its value. He said, the faith of the United States was already pledged, and they were bound to pass the present bill.

Mr. Murray thought it would save time, if the motion for striking out the fourth section was withdrawn, for the purpose of considering the first and second sections.

Mr. Varnum consented to this, but again cautioned the House against guaranteeing what they did not know the extent of. He believed the property would not be equal to the money to be borrowed; and although the President considered the property as of that value, yet it became them, as a branch of the Legislature, to be convinced of it also. If it be true that there is money enough in the hands of the Commissioners to complete the buildings, there is no occasion for this Loan.

Mr. Jeremiah Smith said, the committee who brought in the bill thought, as the United States were made responsible, they ought to have a security under their immediate control. If this had not been the case, he should have been against the bill. He went into an explanation of the nature of the Federal City property, and showed that gentlemen were mistaken when they said that the United States had already the property in their hands; they had no control over it, and could not prevent the Commissioners from alienating it, but if this bill pass, they will have that power, and security for the Loan proposed to be negotiated.

Mr. Dayton conceived the object of reconsidering the first and second clause was to reconcile two opposite principles introduced; this, he said, might be done by moving to strike out a part of the first, or a part of the second clause; he thought the latter would be the best.

Mr. Hillhouse wished to move to strike out the first section, in order to introduce another, which he read, for guaranteeing only a part, instead of the whole Loan. He thought the business should still remain in the hands of the Commissioners.

Mr. Giles thought the plan proposed by the member from New Jersey best adapted to taking the sense of the House.

Mr. Dayton proposed an amendment to the second section, which went to the preventing of lots being mortgaged, and to enable the President to sell them.

Mr. Jeremiah Smith would not oppose the motion, though he thought there was no necessity for it, as he believed the President would have the same power as the bill stood.

Mr. Brent said, it was the wish of the committee that the property might remain in the hands of the President, to be disposed of as he thought proper; but as different members seem to think the property will not be at sufficient liberty to be sold, by the bill as it stands, he should vote for the amendment. It had been said, by a member, that before he voted for the bill, he should wish for information respecting the extent of the intended Loan, &c. If that gentleman had attended to the documents laid before the House, he would hav

seen accounts of all the money received and expended, and how much was necessary to complete the business. He may, therefore, be easy on that subject. It had been said, if the lots be a sufficient surety for the Loan, why guarantee it? At present, he said, they were not sufficient. Mr. B. observed, that the bill before them would be considered as the touchstone to determine whether the Seat of Government will go to the banks of the Potomac, or not. Motives of policy and economy, and objections to increasing the Public Debt, will not apply in this case. The very act provides funds to guarantee the Loan; for though the property, until the proposed Loan be guaranteed, would sell for a mere trifle, when it is guaranteed it will sell for a great price. So great a difference would it make, that he believed property which will then sell for two millions of dollars, would not otherwise be worth one hundred thousand dollars. If, therefore, gentlemen are against the bill from economical views, they are mistaken; for, it was his opinion, the property would not only pay off the Loan, but eventually be a considerable fund towards the discharge of the Public Debt. It had been suggested that the United States were under no obligation to make this guarantee. He thought differently; he believed the credit of the United States materially concerned. The public have relied fully upon the countenance of Government in this business; many persons indeed, have made great sacrifices to procure lots in this new city, and if, after holding out temptations to people, Government should not go there at the proposed time, all these persons will be ruined, and a stain will be laid upon the national character. He hoped, therefore, no objection would be made to carrying the bill into effect.

Mr. Sedgwick could not assent to the proposed amendment. He had no objection to the guarantee, but he did not consider the United States as under any obligations to provide accommodations for the Government in the Federal City. The friends of the act when it passed, every one who was present at the time must remember, disclaimed all intention of calling on Government for this purpose; he could not conceive, therefore, with the gentleman who spoke last, that the faith of the United States was any way pledged. Motives of accommodation would, however, influence him to vote in favor of the guarantee. But he was against the amendment; as, if the funds proved inadequate, every one would look to Government to make good the deficiency. He was willing to guarantee the loan of half a million. To pledge the United States for the whole of the deficiency, if ever so great, he was not willing.

Mr. Murray thought the objection of the last speaker might be done away with by an attention to the third section of the bill, which says the President shall sell the lots, to make good the Loan. He hoped the amendment would pass.

Mr. Gallatin said, an objection was made to the amendment, because it was a deviation from the original law. We are told, said he, of a sort of contract, and members are called upon to recollect the conditions. He should, however, follow the law. It is said, that Government shall be at such a place, in such a year; but if they change their mind, they may establish Government where they please. The question is, whether the law is to be carried into effect or not. He believed they had the power to determine this. The law says the Government shall be transferred at a certain time; by another law, certain buildings are to be erected by the President. The law must, therefore, either be carried into effect or repealed. The amendment under consideration, Mr. G. said, placed the Loan on the credit of the United States, and not on the lots. It was possible they might have occasion to borrow money on public account, and it would be an awkward circumstance to have two different kinds of Loans. By this amendment, the President has also the power to sell the lots when he pleases, and either pay off the Loan with the money or deposite it in the Treasury. He was, therefore, for the amendment.

Mr. Sedgwick explained.

The Committee now rose, and asked leave to sit again.

Wednesday, February 24.

Alexander D. Orr, from Kentucky, appeared, was qualified, and took his seat.

Mr. Hillhouse, of the committee to whom it was referred to bring in a new bill for regulating intercourse with the Indian tribes, and for preserving peace with the Indians, presented a bill; which was read a first and second time, and ordered to be committed to a Committee of the Whole on Monday next.

LOAN TO THE CITY OF WASHINGTON.

The House having resolved itself into a Committee of the Whole, Mr. Muhlenberg in the Chair, on the bill for authorizing a Loan for the use of the Federal City—

Mr. Swift observed, it had been said that the fate of the bill depended upon the fourth section; he thought not. He was ready to guarantee the Loan, but would have the money obtained on the lots, and the faith of the United States pledged only for any deficiency which might remain eventually. He wished to keep the United States as detached from the subject as possible, by letting it remain in the same channel which was intended by the original act. The Commissioners might then proceed as usual. If this plan was adopted, he would move not to strike out the words proposed to be struck out; as, when the principle was settled, he should wish the bill to be recommitted.

Mr. Havens did not think the motion for striking out certain words of great importance. He saw no impropriety in borrowing money on lots; he did not think money lenders would be influenced in any considerable degree by the lots being in the security; but if it was the opinion of a majority of members, that this would be the better plan, he should not object to it.

Mr. Dayton said the words moved to be struck out were certainly of consequence, as they admit-

ted of two constructions. If the amendment took place, he said, the United States would not be pledged, as had been stated, to finish the buildings; all they would be pledged for would be to make good any deficiency which there might be before the sum guaranteed by the present bill and the amount of the sale of the lots. If, indeed, the lots produce more money than will pay off the Loan, then the surplus might be applied to the finishing of other buildings; but he did not consider the United States pledged by the present bill to a greater amount than the sum with which the blank in the bill would be filled up.

Mr. Swift said, his wish was that the business should go on in the hands of the Commissioners, as heretofore. This bill, he said, changes the original principle of the plan, by placing the whole of the property in the hands of the United States, leaving it with them to complete the buildings. When once this is determined, he said, the United States might consider the Federal City as a child of their own; and the moment it is known that the Government has interfered in the matter, every expense attending it will be increased. This was a necessary consequence, and ought to be guarded against.

Mr. Williams was in favor of the buildings remaining in the hands of the Commissioners. He could wish to move, in order to have an important principle decided upon by the committee, that the words "the President of the United States" be expunged. Until this was decided upon, he said, they might go on from day to day, without making any progress in the business. [On being informed by the Chairman that his motion was not in order, Mr. W. proceeded to remark generally.] He said it was imprudent to go farther than the original law intended. When business of this sort, he said, is taken up by public bodies, there is no end of the expense. It had been said, great economy had been used by the Commissioners; he did not think so. He called for the reading of a paper, which lay on the Clerk's table, stating the expense already incurred; which being read, he remarked, that for the single article of surveying alone, more than twenty-two thousand dollars had been paid. It had been computed, he he said, that 700,000 dollars would complete the contemplated buildings, but when the high price of materials and labor were considered, most gentlemen would think with him that it would require three times that sum. It was calculated, he said, the other day, that two hundred thousand dollars would complete the buildings for the reception of Congress. There were now lots sold to the amount of three hundred thousand dollars; but it is supposed there will be a failure in the payment of this sum; but it has not been stated why. Is it right, said he, for Government to interfere in this business, to advance the value of property purchased by individuals on speculation? When they legislated, he said, they should legislate with their eyes open. A gentleman had said, that members who opposed the bill would do well to throw off the cloak; he wished the cloak to be thrown off on all sides. But we are told, that if we do not give energy to this business the public will not have assurance that the Government will be removed to the Federal City at the appointed time. There was no ground for this remark, as the original act stood unrepealed, and he hoped would remain so. He wished to keep that act in view, and not vary from it. He said the public buildings had been begun upon a wrong principle—upon a plan much too magnificent; they were more so than any palace in Europe: they would cost a million of dollars more than calculated. And, said he, everything must be in proportion: the officers who go into those palaces must have their salaries proportioned to the grandeur of their habitations.

Mr. Williams supposed he should be told this land was a gift—but where is the gift? Was not every other lot reserved to the proprietors? and are not these lots now more valuable than the whole was when it was first laid out for a city? It had been resolved, he said, that the permanent Seat of Government should be in this city, and he was willing it should be so. He did not think with some members, that by keeping the lots in hand they would increase in value; he thought the contrary. He wished the House would agree to complete the public buildings alone; for, he believed, the instant the United States guaranteed a loan they would have it to pay, and he did not think it right to engage in any thing likely to increase the public debt. He thought the best plan would be to sell the whole of the lots whilst they will bring a high price—he should not object, however, to a reasonable guarantee, but would, by no means consent to the United States taking the business wholly into their own hands.

Mr. Dearborn said, there appeared a reluctance to give the House the documents relative to the public buildings. The committee, he said, should receive some information on the subject of the money due on account of lots sold, with respect to a part of it being doubtful.

Mr. Brent believed, if the gentleman examined the memorial of the Commissioners, he would find the papers alluded to. The Commissioners who made sale of the property, he said, were not now the Commissioners. The contracts they made were supposed to be good at that time. The first stipulated payment had been made, the second had been some time due, and was not paid. There was, therefore, reason to believe there would be some failures. It was one of the conditions of these contracts, that a certain number of houses should be built in a given time. Part of these houses have been erected; he believed there were nearly 300. There is no danger, therefore, he said, if the purchasers should not complete their contract, of there being any eventual loss; but, in the meantime, immediate resources are wanting to prosecute the buildings in hand.

Mr. Giles wished this subject might be treated with candor. He hoped gentlemen who were opposed to the principle of the bill, would allow the committee to form as unobjectionable a bill as they were able. He thought it unfair to prevent a thing being brought into as perfect a state as

possible, by attempting to destroy it. When the bill has received its final shape, gentlemen could then object to it if they chose. The present question was on the striking out of certain words, which he did not think material. The arguments in favor of striking out on the ground of a double construction, had some weight, but he did not think the objection valid. The guarantee, said he, will be sufficient to satisfy every purchaser; but it was said, the object of this motion was to reconcile different opinions; if that could be done he had no objection to it.

Mr. Giles wished to remark on what had fallen from a member from Pennsylvania yesterday, with respect to the law providing for the removal of the Seat of Government. That law, he said, differed from all others. The Constitution, itself, he said, prescribes the rule, the act only fixes the spot where it should be carried into effect. The act is, therefore, not repealable. The Constitution does not give a power to fix upon two spots, but upon one spot. He thought it necessary to make this remark, lest he might be supposed to countenance the opinion he combated. It had been remarked that it would be in some degree degrading to the United States to borrow money on the credit of lots; he thought differently, and showed that it was a common thing in Governments to borrow money on different funds. It had been wished to disconnect the Government from the business. Whilst Government guaranteed the loan, he said, it would make no difference whether the loan was bottomed on the lots or otherwise. The nature of the engagement was the same. The question was whether the House would agree to guarantee the loan, or not.

Mr. Swanwick explained what he had said on the nature of loans, justifying his remarks on the impolicy of going to Amsterdam to borrow money to complete a building for their Legislature to meet in.

Mr. Venable did not feel the delicacy of the member who spoke last, on the subject of borrowing money to carry into effect the present bill. He believed that gentleman was not disposed to give the assistance required; but he thought the majority of the House was in favor of pledging the lots. If this was the case, he should wish to supersede the present motion by striking out the first and second clauses, to substitute another in their place, and amend the third section; this will have the wished-for effect; the House may fill up the blanks as it pleases, and it will probably never hear of the subject again in a Legislative way, except in case of a final deficiency.

Mr. Giles hoped the amendment proposed would accommodate gentlemen who wished to disconnect the Government from the business. He, however, thought it a strong reason for Government's having something to do in the completion of the buildings, that it might have some control over the management of them. He had seen, and was acquainted with, the buildings carrying on in the Federal City. He thought the house erecting for the residence of the President was much too magnificent, much more so than was intended. Every one thought so who saw it. But this was no reason for obstructing the progress of the business. He hoped the bill would be formed in a manner so as to meet the general sense of the House. Though he had objected to the grandeur of the house intended for the President, he would have the buildings for Congress erected on a grand scale, and fitted for the Representatives of a great and free people.

Mr. Sedgwick said, he had seconded the motion, because it was in conformity to the original act. It undertakes only to guarantee the deficiency between what the lots sell for, and the sum to be borrowed. Thus far he was willing to guarantee, and thought this the most unobjectionable way of doing it.

Mr. Sitgreaves observed, that a member had said that it was uncandid to obstruct the committee in their endeavors to make the bill as perfect as possible. He said it was his design to oppose the bill in toto. There was, however, an objection to the present motion, which he thought it important to make. He said, if the lots were conveyed to Commissioners, there was no occasion for the Legislature to pass an act to enable them to borrow money; but he understood the conveyance had been made in trust; if so, these trusts could not be interfered with by the Legislature, they could not be altered. If they were conveyed to be sold, they cannot mortgage, nor can this House give them authority to do so. Even if the Commissioners could be enabled to mortgage, the one design is incompatible with the other.—The idea of borrowing on mortgage is inconsistent with the sale of the lots.

Mr. Dayton said, the conveyances were made in conformity to the original act for the use of the United States; of course it was necessary to authorize the Commissioners to make any loan; that authority must go from this House. The question is, whether it is best to place the property in the hands of the President of the United States, or let it remain in the hands of the Commissioners; he thought the former the best, as it would be in the power of the President so to manage the loan as that it might not interfere with any lien made for the use of Government. With respect to the objection respecting mortgages, it was the same which he had already made, and would be removed by the amendment.

Mr. Sitgreaves was not perfectly satisfied with respect to his objections, and wished the Committee to rise, as, before he gave a vote on the subject, he wished for further information.

After a few observations from Mr. Giles, Mr. Havens, Mr. Brent, Mr. Venable, Mr. Hillhouse, Mr. Nicholas, and Mr. Jeremiah Smith, the Committee rose, and asked leave to sit again.

Thursday, February 25.

CONTESTED ELECTION.

Mr. Sedgwick presented four different memorials from inhabitants of the second middle district, State of Massachusetts, complaining of the undue election of Joseph Bradley Varnum, Esq.,

and praying for an investigation into the matter.

Mr. Varnum said, this business was perfectly new to him. He inquired the number of petitioners, and was informed that one memorial contained 36 names, another 12, another 23, and another 6. He moved that the memorials be referred to the Committee of Elections; which, being seconded, was agreed to.

LOAN TO THE CITY OF WASHINGTON.

The House resolved itself into a Committee of the Whole, on the bill authorizing a loan for the use of the City of Washington; and the motion being being put for striking out the first and second sections, in order to introduce another in their place, it was carried—42 against 32.

The third section being read,

Mr. Venable moved an amendment, making the lots an appropriated fund for the repayment of the loan.

Mr. Jeremiah Smith thought this amendment would not answer the purpose. By it they appropriate property over which they have not absolute control. He said the fee simple of the property was in the hands of Trustees or Commissioners; that they have a right to sell, and can make good deeds. There were general words, indeed, in the trust designating the use; yet if these Trustees were not to appropriate the money to the completion of the public buildings, the titles which they had given to the property sold would not be injured. There was no way, he said, in which the United States could have an absolute sway over the property, but by a conveyance of it to some person for that purpose. For if the Commissioners can make a good title, they had no assurance that they might not sell the lots, and the United States be obliged to make good the loan. The United States should, therefore, have a control over the property before the loan be guaranteed. He thought the amendment did not go far enough. The lots should be conveyed to the President, as a fund to answer the guarantee, which he should have the power of selling, whenever he pleased to reimburse the loan. Any bill which did not give security to the United States, he could not agree to.

Mr. Venable said, the gentleman last up had mistaken the ground on which this property was held. He asserted that the Commissioners were subject to the control of the President in the sale of the property, and that they could not act without him. The conveyance to the Commissioners was only a conveyance in trust. They now come forward to request the United States to authorize them to borrow money, which, if they borrow, they must take up under the control of the President. The Commissioners, it was true, might abuse their trust, but if they did, they are answerable; nor will the abuse of their trust affect the title of lots sold according to the powers placed in them. The amendment, he said, would not at all alter the ground of the original act.

Mr. Jeremiah Smith said, the deed of conveyance to the Commissioners was not a deed of trust, and that the United States had no property in the lots. He read some clauses of the act to prove his assertion.

Mr. Dwight Foster wished to hear the deed referred to read. [It was read.]

Mr. Giles said, the amendment which had been introduced into the bill, permits the property to remain in the hands of the Commissioners; the bill, as brought in, proposed to convey the property to the President. Objection was made to the bill in its original form, because it connected Government in the business. He thought the Government no more concerned by directing the President to have the legal, than his having the equitable, right to the property. All Government does is to guarantee the deficiency. The only difference between the two plans is, the difference betwixt the responsibility of the President and the responsibility of the Commissioners. As to the objection that purchasers would not be ready to hold property sold by the Commissioners, it had no weight; the guarantee would satisfy every one. He had agreed to the amendment, but if gentlemen thought it material that a conveyance should be made from the Commissioners to the President, he should not object to it. He wished the bill to be so formed, as to meet general approbation.

Mr. Nicholas believed it was always in the discretion of the Commisioners to apply the money as they pleased; but they cannot make a title to any property without the consent of the President of the United States. He must be as much a party as if the lots were vested in him, and no purchaser who had not the assent of the President, has a legal title. Government would not have accepted of the grant on other terms.

Mr. Havens thought there was a considerable difference betwixt the original act and the deed which had been read. He wished to know the reason of it.

Mr. Dayton said, that he had not intended to have troubled the House again on this subject; but what had fallen from the gentleman from New Hampshire had alarmed him. That gentleman had said that the Commissioners had an absolute title of the property; that they could sell it as they pleased; so that the United States had no right to remove the Commissioners, no right to the buildings, nor any right to appropriate the money arising from the sale of lots. If this were the case, he would never vote for the bill. It has been also said, that the Commissioners may refuse to sell if they choose; were this so, it would furnish another reason for withholding his vote. He hoped the title of the property would be better understood, before the bill was further discussed. Three different gentlemen held different opinions on the subject, and he was at a loss to decide on the matter.

Mr. Hillhouse thought the amendment did not go far enough; he did not think it sufficiently secured the United States. He would add a proviso, "that, before the lots were conveyed to the President, no money should be borrowed." He should wish also to have an additional amendment, in order to obviate the objections mention-

ed by the member from New Jersey, of the Commissioners having absolute power over the lots; and, when the loan is repaid, if any lots remain, they might be reconveyed to the Commissioners. If this amendment was agreed to, the President would have full power over the lots.

Mr. Brent said, in order to convince the member from New York that the deed which had been read was in conformity to the act, he would read some clauses of the act. No particular mode of making the conveyance is pointed out, but it is left to the President of the United States to make such a conveyance as he thought best. This conveyance fixes the fee simple of the property in the hands of the Commissioners, and obliges them to sell publicly, subject to the consent of the President, and that the money arising from the sale shall be appropriated to the erecting of buildings for Congress. The amendment is, therefore, no more than we ought to agree to.

With respect to what had fallen from a member from New Hampshire, that we were legislating on a subject on which we had no right, Mr. B. said they had a right to designate the disposition of the money, when it shall be received by the President of the United States. By this amendment, it is said, the Commissioners may dispose of the property as they please; but the consent of the President of the United States is necessary before any sale can be legitimately made. He could not, therefore, see any ground for the fears of gentlemen on this head.

Mr. Swift moved that the Committee rise. They were come, he said, to an important question on the title of the land. Some members say it is in the President, others in the Commissioners, who have sold lots without the consent of the President. The House had heard the deed read, but it was a matter that could not be determined upon in a moment; it required to be examined. If the motion for the Committee's rising was carried, he should wish the bill to be referred back to a select committee.

Mr. Brent hoped the Committee would not rise, but proceed with the consideration of the bill. He could not help thinking that the procrastination of this business did not arise so much from any doubts entertained on the subject of the title, as from a dislike to the bill itself.

Mr. Crabb said, the House had already deliberated a long time upon this business. If the bill contains a guarantee, that is all that is wanted. If the House will not agree to this, let the bill be thrown out at once. Clauses had been objected to which were immaterial. If gentlemen would show themselves in their proper colors, they might be met on proper grounds; at present they could not. A gentleman had said yesterday he blushed on account of the magnificence displayed in the public buildings carrying on in the Federal City, and hinted that no gift had been made to Government by certain States; but, he said, the public buildings would be an honor to the country; and, if he will refer to the Journals of the Legislatures of Virginia and Maryland, he will find that each of those States have granted a considerable sum in money towards erecting the public buildings.

Mr. Nicholas wished the Committee to rise, in order to reconsider the business.

Mr. Giles said, there was a propriety in referring the bill to a select committee, as he thought they might be able to bring in a bill which would meet the wishes of the House.

The Committee rose, and the House refused it leave to sit again. The bill was then agreed to be recommitted, and that four additional members be added to the select committee to whom it was referred; and Mr. Brent wishing to decline to act again on the committee, a member was voted for in his stead.

AMERICAN SEAMEN.

The report of the committee to whom was referred the resolution which passed the House on Friday, respecting the case of American seamen, was read a first and second time, and ordered to be committed to a Committee of the Whole on Monday.

The report states, that the facts relative to the sufferings of American seamen are too notorious to need reference to particular cases, and recommends a plan to be adopted to afford them relief; the principal part of which is that two agents shall be appointed by the United States, one to be sent over to England, and the other to the West Indies, to inquire into the situation of American seamen; to release such as they are able to release, afford relief to others, and learn the number of citizens who have been illegally seized; and that proper offices be opened to which all American seamen may apply to obtain certificates of citizenship.

LOAN TO THE CITY OF WASHINGTON.

Mr. Dearborn moved a resolution to the following effect: "That the committee to whom is referred the bill authorizing a loan for the use of the City of Washington, be instructed to inquire whether any, and what, alterations ought to be made in the plans of the buildings intended for public use at the permanent Seat of Government of the United States, and make their report thereon."

Mr. Murray hoped the resolution would not be agreed to. The buildings had progressed towards such a state of finishing as to put it out of the power of any one, without great waste of money, to make alterations in them. And, though gentlemen may see faults in the plans, or think the buildings too magnificent, yet, as they had no concern in originating these plans, and, as the plans or errors are out of the reach of amendment, what reason is there for the inquiry? No money is asked, either of this House or of the United States; and it would be, therefore, improper to undo what has been done by two States who have made large donations for this purpose. What, then, can be the object of this motion? Nothing can be done, except gentlemen can point to any error which can be rectified. And though he admitted these buildings were the property of the United States, yet there was a delicacy in interfering in a matter in which they had not expended any money. He hoped, therefore, the resolution would not be agreed to.

Mr. Dearborn said, that if the committee found, upon due examination, that no alteration can be made with propriety in the public buildings alluded to, they would report accordingly. How these facts were it was at present uncertain. As to the question of delicacy, he said, if the business had gone on without application to them, it would have been improper to have interfered in it; but, as the assistance of Government was called for, he thought it became that House to make the proposed inquiry. If the plan was such as it would be impolitic to carry into effect, it would influence his vote on the subject; but if the plan was such as he approved, it would be otherwise. There could be no danger in making the inquiry.

Mr. Crabb thought the proposed inquiry very improper. The law, said he, has appointed the President of the United States to manage this business. Suppose the inquiry were to take place, and the buildings are found on too large a scale, shall they be pulled down, and smaller ones erected? If gentlemen were indulged, where would their inquiries end? He read the Message of the President to the House on the subject, wherein he says the sale of the lots will be equal to the expense of the buildings. It would be well, he said, if gentlemen would gain a little more information on subjects, before they brought them forward. If this had been the case, he thought much of the debate which had occupied the House for several days might have been saved.

Mr. Dearborn acknowledged he lacked information, but that he had attempted, without effect, to gain it from his accuser.

Mr. Bourne did not see why the proposed resolution should not be agreed to. Considerable information had come out in the course of the debate on the subject of the public buildings, and more might be got. It appeared to be a subject of doubt whether the House have or have not the power of control over these buildings. The question is worth inquiry. If the committee thought an interference necessary, their report would be so framed. He believed much opposition to the bill for authorizing the loan had arisen from objections to the extravagant style of building employed in the Federal City.

Mr. Murray said, he did not think the resolution was worded as if it was intended to gain information. He said the public buildings had been erected under the control of the President, and according to plans, as he understood, first submitted to him. And, if he has acted legally and consistently, if he has not exceeded the powers given him, why should the House interfere in the business? He believed the trust had been performed in the best manner. If the object of the resolution had been to learn how far certain buildings were progressed, or other information, he should not have objected to it; but could not agree to it in its present form.

Mr. Thatcher wished to know if the committee found the buildings too large, they were to divide them, or cut off an end, or, if not large enough, enlarge them? The resolution appeared to give a greater latitude to the committee than he thought the mover intended. It would be difficult to form a judgment of the buildings unless they were in possession of the original plans.

Mr. Giles thought the committee should report facts to the House, and not their opinion, relative to the state of the public buildings at the permanent Seat of Government. He had a resolution, which he thought might be substituted in place of the one proposed.

Mr. Dearborn said, the resolution just read did not go to the length he wished. He wished that if the house erecting for the President should be thought too large that it might be made the Capitol, and erect another in its stead, and perhaps on another piece of ground.

Mr. Swanwick said, the House had been called on to guarantee a loan to complete the public buildings in the Federal City. It was proper, therefore, that they should examine what had been done and what remains to be done. This subject has been before the House several days. New facts have been developed, and it was necessary to make inquiry in order to mature the business. A gentleman had said the subject was already in very high and respectable hands; notwithstanding this, he had himself been upon the spot, and could say he had found plans had been frequently changed. Seeing, therefore, that the plan was not at first perfect, he saw no impropriety in vesting the inquiry in a committee. How can this House go into a guarantee without knowing the necessary facts relative to these buildings? The House will not be bound by the committee's report, but will act as they please. Many alterations may be made in what is not finished. This House, before now, has not interfered in the subject; but now the state of the case is altered—Government is called upon for a guarantee, and information is necessary.

Mr. Giles said, if the object of the resolution had been information, he should not have objected to it. He would ask the gentleman from Pennsylvania what effect the opinion of the select committee would have on him? He wished the gentleman who proposed the resolution would consent to have the one he had read substituted in its place, and suffer the opinion to be the result of facts.

Mr. Gallatin said, it did not appear to him that the resolution proposed to be substituted in place of the one moved, included all the ideas of the mover. He supposed the committee would not only report their opinion, but the facts on which it was grounded. He saw no impropriety in incorporating both resolutions into one. The objections against the motion are not well-founded. It is stated that we have no control over the buildings, because the land was given by certain States, and because they have been erected under the direction of the President. But, though grants have been made by individuals, the whole of the value results from the Government being

fixed there. The discretionary power was exclusively vested in the President. It was subject to one check; it not only gave him the power, but made it his duty to attend to it. The grants not proving sufficient, a demand is made either to give money or guarantee a loan. Money being asked, another check must be introduced, to say how far these buildings shall go. This House has a right to inquire not only the past expense, but what shall be expended in future. This resolution is, therefore, proper. He was a friend to the principle of the bill itself; he did not think any great change could be effected in the plans of the buildings; but it was necessary they should have all the information possible.

Mr. Coit hoped the motion would prevail; many of the objections to the bill guaranteeing the loan having arisen from a dislike to the extravagance of the buildings.

Mr. Murray said, it evidently appeared to him that, in consequence of an application to that House for a guarantee, which had been greatly perplexed, under shelter of objections and inquiries, labors were making rather to destroy than to finish the buildings. Gentlemen seemed inclined to destroy the power intrusted to the Commissioners, and with it the property of the city; and, after having taken down the present buildings, and fixed upon a different situation for them, they may proceed to new model the city, narrow the streets, &c., and, by doing this, violate the rights of private property. No man, if this intermeddling system prevails, can be safe; and, as soon as this principle is understood, it will shake the property of the place. It is a city in speculation, and one false step may prostrate it.

Mr. Crabb again strenuously opposed the resolution.

Mr. Cooper was opposed to the resolution. He said all they had to do in the business was to guarantee the loan, and get the security of the lots for the money.

Mr. Sedgwick said, he had all along viewed the subject in one point of view. Accommodations were to be made for Government without any expense to the public. The Commissioners come forward and say they have property to do this, but that they cannot immediately procure money so as to complete the buildings in time, and ask for a guarantee to a loan. It was extraordinary, he said, for them to say the buildings were too magnificent, too commodious, too expensive. The better the buildings are the more honor it will be to those who erected them, and to those who occupy them. If they were too small and incommodious, there would be real ground of complaint. If that House undertook to say what should be the size of the buildings, they should do what they had no right to do. And, even if they were more splendid than European palaces, they should be grateful for them. The resolution was put and carried, 49 against 38.

Mr. Giles's resolution being called for, it was put and carried, to the following effect:

"That the said committee shall be instructed to inquire into the state of the Public Buildings at the permanent Seat of Government of the United States, int° the expense already incurred in erecting, and the probable expense of completing the same."

And then the House adjourned.

Friday, February 26.

Mr. W. Smith wished to call up a resolution laid on the table some days ago, to appoint a committee to bring in a bill for repealing the last section of the act for building and equipping a Naval Armament. He wished the sense of the House to be taken, whether, since a peace had been concluded with the Dey of Algiers, the frigates which were now building should or should not be completed. The resolution was read and ordered to be committed to a Committee of the Whole to whom was referred the subject of the frigates.

The order of the day being called for on the bill for relief in certain cases, for a limited time, of invalid registers of ships, a division took place; 32 members for the taking up the subject, and 31 against it. The House accordingly resolved itself into a Committee of the Whole on the said bill, and having gone through it, without any other amendment than allowing it a duration of ninety instead of sixty days, the Committee rose, and the bill having gone through the House, it was ordered to be engrossed for a third reading on Monday.

INDIAN TRADING HOUSES.

The order of the day being taken up on the report of the select committee to whom was referred the act, with the amendments made by the Senate, for establishing trading houses with the Indian tribes, and the amendments being read,

Mr. Jeremiah Smith thought the amendments very essential, as they changed the principle of the bill. He believed, they had not been printed, and as it was very improper to discuss their merits until opportunity was given to examine them, he should move that the subject be postponed until Wednesday. The Committee had recommended all the amendments to be rejected, except one; but as the House might have full information on the subject, he should wish the bill to be printed with the amendments and the report of the Committee. Agreed to.

COMPENSATION TO MEMBERS.

Mr. Giles moved that the bill for allowing compensation to the members of the Senate and House of Representatives, and certain officers of both Houses, be taken up, which being agreed to, the House resolved itself into a Committee of the Whole; and the bill being read,

Mr. Sedgwick moved to strike out one of the clauses of the bill as unnecessary, which brought some observations from Mr. W. Lyman and Mr. Goodhue, against the propriety of striking out, and Mr. Sedgwick withdrew his motion.

Mr. Swift wished to strike out the words making the Speaker a greater allowance than other members.

Mr. Giles thought a larger allowance ought to be made to the Speaker than to other members, as his duty was double that of any other member; but, if gentlemen wished to do away the incidental expenses of the office, he had no objection.

Mr. Swift consented to vary his motion according to the ideas of the member from Virginia. If the Speaker had more duty to perform than other members, he should be willing to make him a greater allowance; but he doubted it.

Mr. W. Smith hoped no alteration would be made in the allowance heretofore made; he saw no reason for it.

Mr. Goodhue said, he voted against the additional pay allowed the Speaker when the act first passed, as he saw no necessity for the Speaker to give dinners to the members of that House; but though he objected to this, he was willing to allow him recompense for his additional services. He hoped, however, the gentleman who now so ably filled the office, would not consider any thing said on this subject as alluding personally to him.

Mr. Sedgwick was willing to give the money to the Speaker which had heretofore been paid him, and for the same purpose, although he and his colleague were both against the measure when it originally passed.

Mr. Dayton wished the business might be discussed without reference to him personally. Indeed he believed he should not be materially affected by any regulations which might be agreed to, as, if he might judge by his present feelings, his health would not permit him to remain in the Chair after this session.

Mr. Giles was confident that no one meant to hurt the feelings of the gentleman who now filled the Chair. The member from Massachusetts had said, when the measure passed, he was against it, but now he was in favor of it. He could see no ground for this change of sentiment. Mr. G. said, he was against the money being paid for incidental expenses, but not against making the Speaker ample allowance for his services.

Mr. Kitchell was also for striking out the words, but for making ample compensation to the Speaker.

Mr. Bourne did not suppose that the incidental expenses of the Speaker were confined to the dinners which he gave them; he was put to more expense in receiving company than other members. He did not think six dollars a day too much for this.

Mr. Madison said, it was customary in all the State Governments to make the Speaker a greater allowance than other members: his services were far greater; they were uninterrupted. Besides, it was necessary to do so to invite men of talents to accept of the office; and every one knew the advantages arising from having a man of talents as Speaker. Without inquiring whether the compensation was too large or too small, he doubted whether it was Constitutional to make any alteration in it which might affect the present Speaker. To support his opinions he read a clause of the Constitution.

Mr. Hillhouse was of opinion that nothing in the Constitution extended to the present question. He hoped they should agree to strike out the words alluded to, as the sooner the practice of feasting was abolished the better. If members wished to form social acquaintance, it was far preferable to visit each other at their lodgings. He said, this was the first time the law had come under review since it had passed, and it was proper to have the matter settled. He wished to allow a reasonable sum for the services of the Speaker but no more. He did not think there was any weight in the observation, that a large compensation was necessary to induce men of talents to accept of the Chair—he thought the honor was a sufficient inducement.

Mr. Williams said there was no office appertaining to the Speaker which included expense; the words ought therefore to be struck out.

Mr. Page was in favor of striking out the words, as he did not understand their meaning, but in favor of keeping the allowance of the Speaker the same as usual. The Speaker, he said, ought to be placed in an independent situation, by a handsome salary. His duties were fourfold to those of any other member. Indeed, said he, nothing but a sense of duty could induce a man to undertake such an office.

Mr. Giles said, if it was agreed to strike out the words *for the incidental expenses of his office*, he should move to introduce in their place, "*on account of extra services annexed to his office.*"

Mr. Jeremiah Smith liked the words proposed better than those in the bill, but did not think it of the importance it was made.

The motion for striking out was put and carried.

Mr. Giles then proposed his motion.

Mr. Hillhouse was against the introduction of these words.

Mr. Varnum hoped the motion would prevail. The services of the Speaker are extraordinary and laborious. The State Legislatures, he said, always allowed their Speaker double the pay of other members.

Mr. Murray hoped the words would not obtain. He considered the Speakership of that House as a very elevated situation. In certain contingencies, he believed he was the Chief Executive of the United States. He thought the calculation of pay too mechanical. The dignity of the office was sufficient without extraordinary compensation; the duties of it were well known.

The question was put, and negatived.

Mr. Giles moved to fill up the blank for the daily allowance of members of the Senate with six dollars.

Mr. Page proposed seven; which, after a few observations from Mr. Williams in favor of six, the sense of the House was taken, which was in favor of six dollars—only twenty-one members rising in favor of seven.

The allowance of the Speaker again coming into consideration, Mr. Swift wished an inquiry might be made into the duties of the office. It was his opinion that many members upon committees performed greater services than he; and if the Speaker had an extra allowance, they ought to have an extra allowance also. Some gentlemen thought, on the score of dignity, a high

salary ought to be paid. He thought differently. Can it be supposed it would be necessary, said he, to give any member of this House double pay to accept of the office? No such thing. Being now discharged from any obligation to treat members, he could not agree to allow him the usual sum. He should not object to two or three dollars a day extra, but no more.

Mr. Giles thought the duty of the Speaker three times as arduous as that of any other member of the House.

Mr. Craig voted for striking out the words, but he was not for diminishing the salary of the Speaker.

The motion for the usual allowance was put and carried, and the other blanks of the bill were filled up with the same sums as heretofore allowed to the different officers. The Committee rose; the bill then went through the House, and was ordered to be engrossed and read a third time on Monday.

INTERNAL REVENUE.

Mr. W. Smith moved the order of the day on the report of the Committee of Ways and Means on the Internal Revenue.

Mr. Giles objected to taking up this business until they received the information which had been asked for from the Secretary of the Treasury.

The sense of the House being taken, there appeared for consideration 36, against it 33. The House having resolved itself into a Committee of the Whole—

Mr. S. Smith moved that the Committee rise, as it was not in possession of the necessary information to go into the proposed inquiry. Near twelve months had elapsed, he said, since the Secretary of the Treasury was applied to for the accounts now wanted. The resolutions which the Committee of Ways and Means report, go to new-modify the revenue laws. They may have had some information to enable them to form a judgment upon the subject which the House had not. The House cannot agree to the proposed change until they have information on the subject. If the officer of the Treasury had obeyed the order of that House given last session, they might have proceeded in the business, but at present they could not.

Mr. W. Smith had no objection to the Committee's rising. The Committee of Ways and Means, he said, had obtained information from the Commissioner of the Revenue on the subject, but that they did not think it proper to lay that information before the House, as they understood this Commissioner was preparing a more perfect account for the House. The report, he said, did not go to change the method of collecting the revenue, it went only to certain changes which they thought would materially improve the present plan. If the Committee was of the same opinion, the report might be referred back; but if the Committee wished to wait for further information, he should not object to its doing so.

Mr. Gallatin said, the gentleman from Maryland was right in the principle he had laid down. No doubt the Committee of Ways and Means ought not only to give their opinion, but all the facts on which it rests. On this subject there would have been no hesitation, but for one thing. The Commissioner of the Revenue seems to be the proper officer to make the report to this House. A conference took place on the subject betwixt him and the Committee of Ways and Means. He said he had taken all the steps in his power to get the information wanted, but that it was not yet complete; and that, as he was inclined to make the report as perfect as possible, he wished that it might be postponed until he could complete it; but it was desired he would, in the mean time, give the best information he could to the Committee of Ways and Means. He did so. Upon these documents the committee have acted. The House may, therefore, either wait till the report comes from the Commissioner, or they may direct the committee to give an extract from the information before them. He wished the Committee to rise, until the necessary information was obtained.

Mr. Giles gave some account of the progress of this inquiry into the state of the revenue, and complained of the length of time taken to give the information required on the subject. Until this was before the House, he doubted whether any gentleman was even prepared to speak as to the proportion that the expense of collecting bore to the revenue. He hoped that the Committee would therefore rise.

Mr. Hillhouse hoped the proper officer would be called upon for the necessary information, and not the Committee of Ways and Means.

The Committee having rose, Mr. Giles proposed to the House a resolution to the following effect, which, after a number of observations from different members on its propriety, was agreed to.

Resolved, That the Secretary of the Treasury be directed to furnish this House with such a statement of the internal revenue of the United States as can be prepared in pursuance of a resolution of the 2d March, 1795.

REFUNDING DUTIES.

The order of the day being called for on a bill for affording relief to Jose Roiz Silva, in returning him an excess of duty paid on a cargo of wine, also on a bill for the relief of Israel Loring, allowing him a certain drawback on certain indigo; they went through the Committee of the Whole, and through the House without amendment, and were ordered to be engrossed and read a third time on Monday.

A communication was received from the Secretary of the Treasury, enclosing an account of the expenditures for the quarter closing the 31st December.

BENJAMIN TITCOMB.

The report of the Committee of Claims on the petition of Benjamin Titcomb, a Colonel in the late war, was read; they lament that no general relief can be granted to him, and that to grant special

relief might be attended with bad consequences; and therefore recommend that he have leave to withdraw his petition.

Mr. Rutherford spoke in favor of the report of the petitioner.

Mr. W. Lyman hoped a provision would be made for this gentleman, and some others in a similar situation. There ought to be a distinction made, he said, between wounded officers and those who were fortunate enough to escape without wounds. He hoped the report would not be agreed to.

Mr. Sherburne thought this petitioner might be provided for without infringement on the laws which militate against his claim. Indeed, he said, it would be most disgraceful to the country to turn a deaf ear to such a sufferer. He wished the Committee to rise, as he would, on a future day, bring forward the discussion whether this petitioner is not, as a wounded officer, entitled to a pension, and, as serving to the end of the war, to half-pay.

The Committee now rose, and the House adjourned.

Monday, February 29.

Mr. Swanwick presented a petition from the manufacturers of hats in Philadelphia, together with several others from manufacturers of hats in different parts of the Union, praying that an additional duty may be laid on hats imported from Europe, in order to encourage the American manufacture; which were severally referred to the Committee of Commerce and Manufactures.

The bill for allowing compensation to members of the Senate and members of the House of Representatives, and certain officers of both Houses; also the bill for relief for a limited time, in certain cases, of invalid registers of ships, were read a third time and passed without a division.

The bill for the relief of Jose Roiz Silva, and the bill for the relief of Israel Loring, were read a third time and passed; but a division of the House being called for on each, for the former there stood up 54 members in favor of it—the negatives were not taken; for the latter, there were 43 in favor of its passing, and 27 against it.

IMPRESSMENT OF AMERICAN SEAMEN.

Mr. Livingston wished the order of the day to be postponed, in order to take up the report of the committee to whom was referred the resolution he had laid on the table respecting the impressment of American seamen; which being agreed to, the House went into a Committee of the Whole.

Mr. Harper had hoped when this resolution was committed to a select committee, some statements would have been brought forward, some facts produced, upon which to found the proposed inquiry. The committee have reported that they do not think it necessary to adduce any particular instances in which American seamen have been impressed by foreign nations—the facts, they alleged, are too notorious to require particularizing. He could not suppose these gentlemen would believe that that House could proceed to legislate on uncertain newspaper reports. He trusted they would afford some proof who, what number, when, and where American seamen have been impressed. Until this was done, he should doubt the fact. He was heard, he believed, by Representatives from every port in the United States, and if the fact was so notorious as to need no further evidence, he doubted not some of these gentlemen would be able to give some account of the business.

If the facts were established, Mr. Harper believed there would be but one opinion on the propriety of granting relief; but before they proceeded farther, some information was necessary respecting the existence of this abuse. He had applied to the office of the Secretary of State, and to other offices likely to afford information on the subject, but he found no instance of impressment complained of in which redress had not been given. But, if any such instances did exist, in which relief has been applied for and not obtained, some of the gentlemen from some of the seaports will be able to mention them. If not, he hoped the Committee would rise, and recommit the report.

Mr. Livingston said, the present measure was intended to afford relief to such of their distressed fellow-citizens as had been illegally seized on the high seas. The gentleman, he said, who brings forward objections to the proposed inquiry was in his place when the resolution upon which the report of the committee is founded passed unanimously. Why did he not then come forward? [Mr. Harper said he was not in the House at the time.] The resolution does not direct the committee to inquire into facts; they were considered as notorious, and nothing seemed necessary but to fix upon the best mode of furnishing relief. The Legislature of the United States have formerly had evidence, and they have acted upon it. If the gentleman will look into the proceedings of the last session of Congress, he will find a considerable sum granted to Mr. Cutting, for the relief of this distressed body of men. Some he relieved, others he did not. When the dignity of the nation, said he, is insulted, in the persons of our fellow-citizens, it is necessary at least to make inquiry into their sufferings.

A remark had fallen, Mr. L. said, from the member from South Carolina, which he wished to notice. He said he had applied to the office of the Secretary of State, and found there no complaint which had not been redressed. Now, he had waited upon the Secretary of State, as Chairman of the committee, in vain for information on this subject. He informed him that he could not give him the evidence which it appears he has given to the member from South Carolina. How, he wished to know, happened it that a member who opposes the inquiry in question should be furnished with that information which is denied to a member who supports it?

It is said, added Mr. L., that we are attempting to legislate without evidence. Though no facts are at present before the House, it is notorious that numerous instances have been made known to

Government, and the present measure is meant to inquire into the cases of sufferers, and remedy them as far as possible. It is admitted by the member from South Carolina that facts have existed, but that they have been removed. If these grievances, then, said he, have existed, let us prevent them in future. Let us not wait till it is too late to grant relief. The men, said he, who suffer by the depredations complained of, are at a great distance from their homes and friends in foreign ports, dragged on board tenders, and made to experience every hardship which can be conceived; and now, when a mode is proposed for the relief of these distressed citizens, evidence is called for! If one of these men is confined in the East Indies, can evidence of his bondage be expected to be given here? Such hardships have existed, and it was their business to prevent them from again occurring. He hoped, therefore, the Committee would not rise, as he trusted there was sufficient evidence on which to ground the inquiry.

Mr. Harper wished to remark, on what had fallen from the member from New York, on the Secretary of State's refusing information to certain members and giving it to others. He applied to the office of the Secretary of State, to learn whether there were any documents there to support the proposed inquiry, and was informed there were only two cases; in one of which application was made to the British Government. Four persons were said to have been impressed; but, on inquiry it appeared that two of them were British subjects, and the other two had enlisted into the service. The other complaint came to the office when the Secretary of State was much engaged in other concerns, but he believed relief was granted. This, he said, was verbal information. He had applied for written documents on the subject, and doubted not he should receive them as soon as other business would permit.

Mr. Livingston said, some observations had been made by him which implicated the Secretary of State. Those observations, he said, arose from the manner in which the member from South Carolina had mentioned his having received information from the Secretary of State's office. He had said that he had learnt from the office certain particulars which he himself had not been able to learn. If the gentleman had explained the manner in which he had gained the information at first, it would have prevented him from making a charge which appeared to him, at the time, but too well founded.

Mr. Bourne said, the member from New York must know that the Secretary of State had said that he would prepare the information wanted as soon as other business would give him time.

Mr. Livingston explained, and said that he had not complained that the information he applied for was refused, but delayed.

Mr. Swanwick said, the member from South Carolina had called for information: he conceived no particular information necessary. He could mention an instance in which he had immediate concern. A vessel of his, going to the West Indies, had all her hands taken out of her, and obliged to work the guns of the English frigate; and on their expostulating, that though they were prisoners, they did not wish to work the guns, they were threatened with whipping; and the Captain was told, if he interfered, he should be whipped and sent home to England in irons. If he had thought facts were wanting, by a single advertisement in one of the Philadelphia papers they would have been overpowered with facts. But, if he had done so, he supposed he should have been charged with raising dissatisfaction in the minds of the people, or with encouraging Jacobinical principles: he therefore did not do it. But, without going out of the walls of the House, he said, he found evidence sufficient. He read an extract from the communication of the Secretary of State, dated March 2, 1794, in which were mentioned the representations made by sundry merchants of Philadelphia (of whom he was one) respecting the impressments of American seamen. This document was thought sufficiently strong to make an article of instruction to Mr. Jay in his late negotiation; but, owing to certain difficulties, no specific agreement was entered into by him for their relief.

The plan now before the House, said Mr. S., is intended to remedy the difficulties which have been urged as obstacles in this business, by opening registers in which to enter every American seaman, by which may be known, at any time, the number of seamen belonging to the United States, and by means of which every such seaman would be possessed of a certificate of his citizenship.

The object of the Committee, said Mr. S., is that the President of the United States shall send agents to England and the West Indies, in order to afford relief to any American citizens who may have been illegally seized. Every one knows, said he, what has been felt on account of American seamen carried into Algiers. No evidence was required with respect to their numbers, or how they were employed. The united exertions of the whole American people seemed to cry out for their releasement, and the business at length has been effected. And let us not, said he, attend to our distressed citizens in one part, but in all parts of the world. Let us not, he said, be too nice about evidence. These men are generally ignorant, and cannot give the necessary information: he thought, however, they had information sufficient for legislating upon in the present case. He hoped, therefore, the report would not be recommitted, until the committee had discussed the subject.

Mr. Tracy believed that every member in that House felt the propriety of extending the benefit of the laws to every class of citizens, and to none more than to American seamen. Some members seemed to suppose that the distresses of American seamen have been looked upon with apathy; but if due attention had been paid to the efforts of Government, it would have been seen that they had always been duly attended to. It was well known that great difficulties arose when it was attempted to distinguish between English and American seamen. This has been the reason why ample regulations have not always taken place. He hoped

the Government would be popular, and that the new members in the House would assist the old ones to render it more and more so; but thought the Government ought not to be charged with apathy without giving due attention to what Government had done.

Mr. T. proceeded to take notice of the resolutions proposed in the report. He inquired what good the agent to be sent to Great Britain would do? Are their seamen, said he, employed at but one place? Had not the United States Consuls at every port, and can they not do the business? He wished for information on the subject. A great part of the seamen were foreigners, he said, and it would be very difficult to separate them. If the plan proposed, however, can be made to appear to be beneficial, he would heartily join in effecting the desired relief to the class of citizens alluded to.

Mr. Goodhue said, the member from New York, on bringing forward this subject, had charged Government with looking upon the distresses of American seamen with apathy, and blushed on account of its conduct towards them. He represented, he believed, twenty times the number of American seamen that that gentleman represented. He was himself, indeed, formerly a seaman; yet he did not believe the evil complained of existed to any alarming degree. Mr. Cutting, it had been said, had relieved many seamen; that was in the year 1790. Last Summer, the British took many vessels bound to France, but they did not take the crews. There were some instances, he said, in which seamen had been impressed, and he should be in favor of every necessary step to afford them relief. But no obloquy should be thrown on the Government. Neither does the evil exist to the extent it might have been supposed when the subject was brought forward. A member from Pennsylvania had mentioned a particular instance: he could mention a particular instance of a French officer who had so ill-treated some American seamen as to be cashiered, on a representation being made to the French Government.

Mr. Dayton (the Speaker) said, that he had not expected an opposition to the resolution under consideration on the ground of fact; that he could not have supposed any member would have questioned the existence of the evils which the propositions were calculated to remedy. He entertained a belief that the impressments of American seamen, particularly on board of British ships of war, was a matter of too great notoriety to need any evidence at this time. But the member from South Carolina, who manifested the most zealous opposition to these measures, had admitted that there had existed instances of this sort: and as it must follow that what had once existed might again exist, it behooved Congress to make provisions tending to prevent, or at least most speedily and efficaciously to remedy, them.

Mr. D. declared, that he heartily approved the object of the resolution as originally proposed by the member from New York, and the general principles of the report founded thereon, as a question of humanity, and of great national policy. It was, however, with pain that he heard the worthy mover draw into unfavorable question the conduct of the Secretary of State, and indulge himself in some severe reflections and imputations upon that officer. Mr. D. ascribed it to an irritability—and perhaps an honest irritability—upon this subject, so affecting and interesting to Americans. He ascribed it to a warmth of temper in which, in this particular case, the cooler judgment of that gentleman, and the knowledge of the real character and conduct of the Secretary of State, had no agency or influence. The expressions which had been uttered by some gentlemen, in the course of the discussion, tending to charge our Government with a criminal apathy and indifference towards this description of citizens, did by no means, Mr. D. said, meet with his approbation. He believed them to be unfounded; for he was persuaded that whenever it was informed, it did whatever it could to relieve the seamen of the United States, and to obtain for those who unfortunately needed it, complete redress. Having said thus much in vindication of the conduct of the Government, he returned to the resolution itself, and declared himself its advocate. It contained, neither in its words nor spirit, any imputation upon the Executive, of the sort hinted at. The question was, simply, whether the seamen of America should, when impressed by foreigners, wait the slow process of a representation of their situation to the Government in the American metropolis, or be furnished with a protector in every country, and almost in every port.

In the former case, every one must perceive it more than possible, that owing to distance and the time which must consequently be expended in the communication to and remonstrance from our Government, an American citizen might be impressed and compelled to serve months—perhaps years—in a service which he detested, and possibly forced to apply the match to cannon charged with balls, aimed for the destruction of his friends.

Mr. D. said, he rose principally to inquire whether the plan proposed by the committee was the most effectual one. He wished to hear from the Chairman, or some other member, whether they had attended to the circumstance of our having Consuls in many ports, and had weighed the propriety of investing them with the powers in question. These officers appeared, at first view, the most fit and convenient for the purpose, on account of their number, their situation, and the saving of expense.

Mr. Bourne said it appeared, on inquiry, that the United States had no Consul in the West Indies, and that as Consuls received no salary for their services, it was thought best to appoint a person specially to undertake the business in question. He believed, however, that the duty ought to devolve on Consuls in Great Britain, as it is the duty of Consuls to relieve distressed seamen wherever they may be found. This may be done with much less expense and with more efficacy.

With regard to the information on the subject, Mr. B. said, it did not appear that any considerable number of seamen had been impressed lately, or since the negotiation of Mr. Jay. In that no-

gotiation, it appears some difficulties were suggested, and no general regulation on the subject took place; but the English Minister assured Mr. Jay that fresh instructions should be given to the commanders of their vessels, and, in consequence, many complaints have not since arisen. There are not, he believed, at present, many American seamen in the British service—most of them being discharged; yet it is possible, from the many impressed some years ago, relief might be afforded by sending an agent to the West Indies. It was possible, he said, that American seamen on board vessels taken by Bermudians may still be detained, who might be relieved by this agent.

Mr. B. proposed to amend the resolution, by striking out that part of it which appoints an agent for Great Britain, and confine the sending of an agent to that part of the English possessions in the West Indies to which the greatest number of American vessels sail.

Mr. Livingston was pleased to see gentlemen concur in endeavoring to form a plan for the relief of American seamen. It has been asked why the Consuls were not intrusted with this business. The committee considered, that as the Consuls of the United States received no other recompense for their services than the dignity and consequence which their office gives them, they would not be likely to pay sufficient attention to a business of this kind. They considered the immense labor of Mr. Cutting to deliver the impressed American seamen. They supposed, therefore, if the duty were laid upon the Consuls, a salary should be annexed to their office; but as there is no Consul in the West Indies, a special agent should be appointed. In order to bring a view of the subject before the House, he would inquire how relief is to be afforded to a seaman who has been impressed? Suppose he is seized in London; he is sent down to Portsmouth. The agent must attend immediately—get certificates—pay fees of office—employ counsel, &c., to release a single seaman;—a trouble he believed no Consul would take. The committee supposed that the solemnity of commissioning an agent especially on the business would convince foreign Powers that they would no longer suffer the British, or others, to exercise that power over American seamen which they themselves could not exercise. It is to be hoped, also, that when the Government of Great Britain sees a step of this sort taken, she will give up the practice of seizing American seamen, and let them pass in quietness. If not, the agents employed could transmit to this country an account of what seamen were seized by them, and every particular respecting the same. This consideration influenced the committee, and he trusted it would influence the House.

Mr. Livingston next remarked on what had been said on the introduction of this business into the House. It was said that a young member had thrown obloquy on the Government. He had uttered nothing but facts; he had said that the distressed American seamen had for five years looked in vain for relief. The Government might have had prudential reasons for its conduct. He thought it time, however, the subject was attended to. It was true he was young, but he was not inattentive to public business, and he should always hold it his duty to persevere in such measures as appeared to him calculated to promote the public good; nor should he be deterred from engaging in a business because it had not been attempted before, for that principle would shut out all improvement. Mr. L. said his friend from New Jersey had made an apology for his heat on opening the business; he was sure he was actuated by the best motives in doing so, but he did not think his conduct needed an apology. And what he had said with respect to the Secretary of State, he thought justified, from his conduct towards him, and from hearing a member say he had recourse to his office, he supposed that gentleman had received information which he could not receive. It arose from error, and the method of communication adopted by that member; he was, therefore, justified in his remarks; as, though it was a mistake, it was caused by that member, and no fault of his.

Mr. Goodhue agreed with the member from Rhode Island [Mr. Bourne.] He supposed it the duty of Consuls to attend to the cases of impressed seamen. There was no need, therefore, to send an agent to England.

Mr. S. Smith said, that as the member from South Carolina had called upon gentlemen from seaports for evidence, if they were silent, it would be supposed no information could be given on the subject under discussion. He supposed he should be prevented from giving this information now, because the amendment of the first resolution was under consideration. [The House called for information.] He said he represented a port where the fact of American seamen being impressed by the British was so notorious that every man knew it. But how, said he, is this information to be got and transmitted to the Secretary of State? No complaint is likely to reach his office, except brought there by merchants. In his own trade, he had frequent instances of this sort almost in every voyage. He could not say the men impressed were always Americans, but they were men sailing under the authority of the United States. We have a flag, under that flag men are seized, and they have a right to expect, when seized, redress from Government. There is no difference between British and Algerines, for, by the former, they are compelled to fight against those whom they wish well, which is equal to any slavery that can be imposed. He said, that from one of his ships there were two New England men impressed; one of whom being a stout, courageous man, wished to have defended himself against his assailants; but the supercargo said, no, this will risk the cargo of the owner. This advice he gave, supposing Government would afford these men relief.

If the member from South Carolina wished for such information as would be received before a Court of Judicature, it could not be got. Mr. S. thought sufficient attention had not been paid by Government to the merchants and seamen. Mr.

Jay, in his communication to Lord Grenville says, an impressment of American seamen had taken place, who had been forced to fight, &c. If this had not been so, it had not been written by Mr. Jay, nor would Lord Grenville have promised relief. He hoped this information would be thought sufficient.

With respect to the business being transacted by Consuls, he believed America had only two in England, who are merchants, and who, having no salary, could not be expected to go from one part of the kingdom to the other. It was said by the member from Massachusetts [Mr. Goodhue] that few American citizens sailed from the part of the country he came from; but would he not have citizens sailing from every part of the Union equally protected? It had been said that there were not many instances of American seamen impressed; but, suppose there were but one man, and he a negro, suffering under the galling yoke of impressment, it is the duty of Government to provide relief for that man. The same member has said that the Quiberon vessels did not impress the crews of the ships; he said it was sufficient to take their flour and pay them nine dollars for what might have been sold the next day for twenty or upwards. Mr. S. concluded by observing, that if we were a feeble nation, we had a right to expect justice; but he hoped we were not so feeble as some gentlemen imagined. He was pleased that a majority of the House was inclined to improve the resolution, rather than to destroy it.

Mr. Goodhue said, he thought as ill of the British on account of their conduct in taking American vessels as any member; he mentioned only that the crews were not taken. He believ[illegible] presentations were made by Government re[illegible]ing the conduct of the British. He was wi[illegible] to join in any necessary measures for the protection of seamen. He did not think it would be necessary to send special agents to England.

Mr. Madison observed, that the gentleman from Rhode Island who made the motion now in question, thought it unnecessary to send agents to Great Britain, because America had Consuls there. The member lately up from Maryland had anticipated what he intended to have remarked on that subject. He did not think the Consuls could do all that agents might. The Consuls are but two in number in the Kingdom, who receive no recompense, except an increase of business from their public character. Under these circumstances, if they do their ordinary functions, it is as much as can be expected; the business now wanted to be done is extraordinary. Besides, Consuls are unequal to the task. Men are seized, put on board vessels allotted for the purpose, until ships of war be ready to receive them. It is a heavy business, therefore, for a person to follow up the inquiry and go in pursuit of persons thus seized. If an agent or agents should be sent to Great Britain, no other business will require his or their attendance. After the present motion is decided, he should wish to have the words struck out, "fixing the place of residence for agents," and leave it in the power of the President to appoint that particular.

Mr. Harper always believed it necessary to have information on any subject on which that House legislated; but in this particular case, it seems it may be dispensed with; it is unnecessary to know whether any seamen have been impressed, or whether there be any at present impressed; and when a gentleman asks for information, he is represented as zealously opposing a measure in which he wished every necessary relief to be given. He should not inquire into the reason for this conduct, nor suffer it to deter him from doing his duty. He did not wish to make public professions of love to his country, but to leave his conduct to speak for him. He had understood that zeal, unless founded on knowledge, was not a very [illegible]cial thing, and that the public good might be [illegible]ined without vehement speeches. Under this conception he should continue to act, and he would leave other gentlemen to act a contrary part if they chose. He again called for the information he asked for before. He had called upon the Representatives of every seaport in the Union for information; he had received none. He then took notice of the different kinds of evidence which had been adduced, and would not allow it any weight. He said he was disposed, as far as prudence, necessity, and justice, required, to afford relief to his suffering fellow-citizens, but he should never agree to proceed in a business until he understood the nature of the grievances complained of. He said the Executive had a right to interfere when representations were made to him; the authority lodged in him is sufficient, and Legislative means are unnecessary. If his [illegible] did not enable him to do this, he should be disposed to arm him with the necessary power. He did not believe the cases of prisoners made by the Algerines, and men impressed by the British, materially different, except in the evidence of the fact. He had, indeed, seen certificates in the newspapers asserting that sixty men had been taken from American vessels, by one English frigate, but he did not believe it, because there was no other evidence of the fact. Mr. H. concluded by observing, that if the Committee thought differently from him, he should heartily give his consent to what the majority may approve. He thought a sufficient number of agents should be appointed, and that they should be placed in situations, not in which their own private interests might be best served, but where the public business required them. He would also have these agents paid a salary equal to their services. He was opposed to the amendment of the member from Rhode Island.

Mr. Bourne rose to enlarge his amendment, leaving a greater power in the hands of the President, with respect to the appointment of agents.

Mr. Baldwin wished the resolution to be so modelled as to enable the President to take the most effectual means to inquire into the situation of American seamen who may have been impressed by foreign Powers. He believed, though different members held different opinions on the

subject, they were equally inclined to effect the object in view. The Consuls were not sufficient, he said, but he would have it left to the President to appoint what persons he thought proper to do the business, and they must provide the necessary means.

Mr. Giles could not agree to striking out the duty of the agents; he thought it as necessary to say what the duty of the agents should be as to appoint them. He did not wish their place of residence to be designated—they might be employed in going to different countries. He was for getting redress from France as well as from England. He said it was somewhat singular to hear particular evidence called for, on the present question, after the general form of the resolution had been unanimously agreed to. It has been granted that American citizens have been impressed, but it is not known but they may be now at liberty. If coolness and deliberation, said Mr. G., do not give more information than the gentleman from South Carolina seems to possess, it would be well if he had a little more of the zeal he blames in others. They had endeavored heretofore to furnish a remedial redress to the evil complained of, but without effect; they wished now to take preventive means. If there are persons in bondage, they will be relieved; if not, future impressments will be prevented. He thought there could be no doubt of the fact. But he said the probability of danger was sufficient. At the breaking out of every war, neutral Powers are liable to have their rights invaded, and persons might be placed with propriety to prevent depredations on them. A circumstance had been mentioned that the British colonial regulations are such as to prevent a Consul residing there; it is doubtful, therefore, whether an agent commissioned by the present bill would be permitted to remain. It requires consideration. We have heard, said he, remarks on different kinds of citizens; it is the duty of Government to defend alike the native and the naturalized citizen.

The certificates of citizenship proposed to be given by this measure would accomplish this end. The similarity of language of British and Americans requires this step. If Britain discovers, said he, that we are determined to defend our seamen, she will forbear to injure them.

Mr. Goodhue accorded with the member of Georgia not to designate the place of residence of agents. He thought there were not many impressed American seamen in Great Britain; he believed there were more in Hispaniola. Gentlemen had doubted whether agents would be allowed to reside in the British West India Colonies; he believed they would; the reason America had no agents there, was, they had no trade there.

Mr. Hillhouse said, if the gentleman who brought forward the present question, had been in the House when the subject was formerly discussed, he would have seen that the feelings of members were sufficiently alive towards their fellow-citizens—the American seamen. He believed there had been instances of impressment, and that they ought to be inquired into. What had been done for their relief, he knew not, but did not doubt that the Executive had taken proper measures.

Mr. Gallatin hoped the amendment would be adopted, as it had a tendency to unite the different opinions of members. As to a degree of sensibility taking place in any gentleman, it was not surprising. The first degree of heat displayed on the occasion appeared in a member opposing the business. The report before the House, said he, stated, merely, that the sufferings of our fellow-citizens are too notorious to need proof, and the feelings of every man would establish the truth. He would even ask the member from South Carolina himself, if he did not believe the fact? the only question was, whether this public notoriety was sufficient to ground their proceedings upon? In many cases it would not; but in a case where they might do good and no harm, they might safely act upon it. But, he said, there was an official report before the House in which the fact is mentioned. They had not had the Treaty between this country and Great Britain laid before them, but they had been officially informed of it, and there is no provision in that Treaty for the grievances here complained of. A gentleman has told the House, that Mr. Jay had made a representation on the subject, and that his representation was unsuccessful, so far as that it did not procure an article in the Treaty; but if they have confidence enough in the assurance of a British Minister, that Great Britain will protect American seamen in future, no farther steps are necessary; but if not, they should let the Governments of different nations know that proper means were taken for their protection. Mr. G. did not mean to tax any branch of Government with not having done its duty; he hoped it would not be made the business of the select committee to go into a detail of facts; he wished the bill to be general, and thought the facts sufficient for the purpose.

Mr. Gilbert was in favor of the business under contemplation, and of the amendment proposed; but wished for information, as, upon the extent of the evil, the number of agents to be employed would depend. He wondered there should be any objection to this; he wanted it not only for himself, but that the country might know the whole extent of the mischief.

Mr. Livingston said the proposed measures would give gentlemen the information wanted of unfortunate individuals at three thousand miles distance, as it was proposed to send them a friend to inquire into their sufferings. He would state for the information of the gentleman from South Carolina, evidence which came within his own knowledge. The ship Somerset, from New York to Bordeaux, was taken on her passage home, by an English man-of-war, five of the crew were impressed; three of whom were American citizens. He hoped, therefore, after this fact, he might depend on his vote. He had no great objection to the amendment, though he wished the business to have continued as at first stated.

Mr. Hillhouse said, that in order to know how far the appropriation of money is necessary to enable the President to go into the subject, the extent of the evil should be ascertained.

Mr. W. Lyman liked the original form of the resolution better than the present. He said there were very few causes of complaint except against Great Britain, and he thought it a kind of false charge to charge other nations. It had the appearance of timidity. Gentlemen had said there was nothing but newspaper information to act upon; if there were no more, this, he thought, would be sufficient ground to inquire into the fact. There would be an expense indeed of five or ten thousand dollars, but he thought it better to pay this sum than that a single citizen should lie in chains. He was of opinion that there had not been too much but too little sensibility discovered on this occasion.

Mr. Bourne said, that the gentleman who spoke last had objected to the resolution because it included other nations with the British, though a member, in the course of the present debate, had mentioned an instance of a French privateer having so notoriously abused some American seamen, that the commander of the vessel was cashiered on a representation being made to that Government. With respect to the information wanted by the gentleman from South Carolina, he wished him to recollect what had happened at Rhode Island at a time when Government was sitting there. Nine citizens, he said, were discovered bound in fetters on board a British vessel, and taken out of it; and it is possible, added he, that this may be the situation of numbers of citizens of the United States. He approved of the resolution, because it made it the President's duty to appoint the agents, and the duty of the House to appropriate the money.

Mr. Reed said, it seemed to be a doubt whether any American citizen was at present in the power of the British. Bishop White had mentioned to him, he said, that he had lately received a letter from an American sailor on board a British ship now lying at Halifax, whose mother lives in this city, entreating that some interference might be made on his behalf.

Mr. Giles did not wish to encroach on the duty of the President, nor did he think it would be any, to say agents should be appointed, and leave it to him to appoint them. He was of opinion with the member from Rhode Island, that American citizens should be attended to in other countries as well as in Great Britain. He had not heard of any impressments but by the British, but he had heard of captivities; and that House had heard of a French officer being cashiered for ill-treating American citizens; but it had heard no instance of Great Britain punishing officers for ill-treating American citizens. No; this marked the different character of the two nations towards the Americans.

A rising of the Committee being called for, it rose, reported progress, and asked leave to sit again.

Mr. W. Smith presented a report from the Committee of Ways and Means, respecting an appropriation for the Military Department, who recommended a resolution to the following effect:

"*Resolved*, That the sum of five hundred thousand dollars be appropriated towards the defraying of the Military Establishment for the year 1796."

Read a second time, and ordered to be recommitted to a Committee of the Whole to-morrow.

Adjourned.

Tuesday, March 1.

A memorial was presented from Richard Taburn, praying for a law to be enacted to encourage the introduction of the Useful Arts into this country, by allowing citizens who prevail with foreigners to bring over their discoveries to this country, to participate with them in the advantages to be derived therefrom. After some conversation on the propriety of admitting this memorial to be referred to the committee, to whom was referred the bill for the encouragement of the Useful Arts, it was ordered for the present to lie on the table.

MILITARY APPROPRIATIONS.

The House having agreed to postpone the unfinished business of yesterday, to take up the report of the Committee of Ways and Means for an appropriation for the Military Establishment for 1796, presented yesterday—the House accordingly resolved itself into a Committee of the Whole, and went through the report without amendment. It was suggested by Mr. Nicholas whether a less sum than $500,000 would not be sufficient for the present provisional supply. Mr. W. Smith and Mr. Sedgwick said that a less sum might answer the present purpose, but that it would make no real difference whether two hundred or five hundred thousand dollars were granted, being only on account of the expenditure, which would require, it was supposed, near a million and a half of dollars. As the bill passed through the House, Mr. Gallatin observed, that if any member wished a less sum to be granted for the present, a less sum might be agreed to. No amendment being proposed, the report was agreed to, and referred to the Committee of Ways and Means to bring in a bill.

TREATY WITH GREAT BRITAIN.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

The Treaty of Amity, Commerce, and Navigation, concluded between the United States of America and His Britannic Majesty, having been duly ratified, and the ratifications having been exchanged at London on the 28th day of October, 1795, I have directed the same to be promulgated; and herewith transmit a copy thereof for the information of Congress.

G. WASHINGTON.

United States, *March* 1, 1796.

The note from the President accompanying the Treaty, and the additional article being read, the Treaty and papers accompanying it were referred to the Committee of the Whole on the state of the Union.

AMERICAN SEAMEN.

The order of the day on the report for providing relief to American seamen, being taken up,

Mr. Swanwick rose to inform the House, that since he was in his place yesterday, he had been called upon with evidence on the subject now before the Committee, in consequence of the call made for it in the course of the debate. The instances he had given to him were, the case of Robert Norris, a native of Princeton, in New Jersey, and five others, who sailed on board the American brig Matilda, Captain Burke, from Philadelphia, which sailed from this port in May last, for Bordeaux, and were, on the 9th of July, brought to by four British frigates, forcibly taken out of the vessel, impressed, and compelled to go and serve on board one of the said frigates called the Stag, where they served four months, when the said Robert Norris made his escape from the frigate at Sheerness, at the risk of his life, and returned in January last to the United States. His companions he believes are yet in bondage. The other instance was the brig Sally, Captain Wilkins, which sailed from this port in May last, bound to Madeira, and five days after leaving the Capes was brought to by the Rattlesnake sloop-of-war, Captain York, and the mate (a native of Scotland, but who had sailed for many years out of the United States) and one of the best seamen, (an American,) taken out. They were carried to Halifax, from whence the foremast man made his escape, and arrived here the beginning of July. Before they arrived at Halifax, he informs, that fifteen men were taken out of American vessels. Mr. S. read also an account from an owner of several other impressments.

Mr. Madison said, if the motion under discussion was meant to supersede the appointing of agents, he should object to it. Perhaps, he said, a question might arise whether an agent of this kind might be an officer of the United States. But, however this might be, the Constitution said that no office could be created and filled by the same power; this being the case, that House ought to establish the office, and leave the President to fill it. Besides, if it be the intention of the House to furnish relief to the objects contemplated, they should designate the mode; and no doubt could be entertained but that agents specially appointed would be preferable to Consuls. But if the present motion was agreed to, it would be dismissing the plan of appointing agents, and leaving it to the President to appoint them or not. He hoped therefore the original resolution, and not the amendment, would be agreed to.

Mr. W. Lyman opposed the motion on the same ground as yesterday.

Mr. S. Smith said that it was true the President had already the power to appoint agents, and the annual vote of forty thousand dollars for foreign intercourse would give him the means, but that he could not pursue the liberating of our seamen so well without as he would with such a law as the resolution contemplated. In addition to the instances given of American seamen being impressed, he read some accounts of impressments from a Baltimore paper, made recently at Cape Nichola Mole, one of which stated that one hundred and fifty Americans were on board one frigate on that station. Mr. S. concluded by saying that if a law passed agreeably to the resolution, it would show the nations of Europe that we would no longer submit to the injuries done our seamen.

Mr. Harper said, he should give his concurrence to the amendment, as most likely to obtain information of, and furnish relief to, American seamen; for, though he differed from certain gentlemen, he was not less a friend to that useful body of men than they. He supported, as before, the reasonableness of grounding every proceeding of that House upon due evidence.

Mr. Baldwin said, if the amendment was considered as his, he should not think it of sufficient importance to delay the matter. Of the two means, he thought it the best, and gave his reasons for that opinion. The Constitution, he said, supposed that the Executive would always create as many officers as were necessary, and the Legislature had the power of checking too great a multiplication of them.

Mr. Livingston was more and more convinced of the propriety of the original resolution, and of appointing agents specially for the purpose. He mentioned an affecting instance of the impressment of an American seaman, and touched upon some of the arguments which he yesterday used in suppott of the measure.

Mr. Bourne wished the resolution to be as general as possible. The President, he said, had sent an agent to the West Indies, and he doubted not that he had authority to relieve American seamen: if so, there was no necessity for providing by law for a special agent. If this should appear necessary when they received information from the Secretary of State on the subject, they might provide accordingly. It may appear, perhaps, that the Consuls in different ports have already received instructions to inquire into the state of impressed seamen. He defended the conduct of the member from South Carolina, and thought much had been said against him, unnecessarily, on account of his difference of opinion on the present question. Mr. B. concluded, by observing that he doubted not that the evil complained of existed, and that when official statements were received, they would fully establish the fact. He hoped the amendment would be adopted.

Mr. Gallatin wished yesterday that the resolution might be made as general as possible, and that nothing might be included in it that could give offence to any branch of Government. On due consideration of the subject, he had, however, found that, without appointing an agent, the desired effect would not be produced. The President, he said, has the power to appoint Ministers, Consuls, or Ambassadors. It was necessary they should designate the kind of agent they meant to appoint. The President has the power to appoint agents of inquiry, but he has no power to appoint an agent in an official capacity. The resolution, he said, went to two objects: the first, that of inquiry into the state of American seamen, might be attained by an agent appointed by the President; but so far as relates to obtaining relief, it is necessary for the Legislature to appoint an agent. To show that this distinction was a good one, he said, there was now a proposition made either to the House, or to the Committee of Ways and Means, for the appointment of an official agent to go to Holland. This shows the opinion of the Executive on the subject. Unless, therefore, it was meant to prosecute the proposed inquiry by means of the Consuls, the amendment must be rejected. It was not necessary to designate the residence of agents; indeed, it appeared matter of doubt whether they had power to appoint an agent to reside in the British Colonies in the West Indies. He should wish the terms to be general, leaving the particular places of residence to be fixed upon afterwards. He wished, therefore, the words for appointing agents to be retained.

Mr. Sedgwick said, he was yesterday prevented from attending the House by indisposition. The subject struck his mind, he said, in several points of view which had not been noticed. He was surprised why the business was undertaken in the way it was. No description of men, he said, were more entitled to regard than seamen; but this did not reconcile the adoption of the subject in the manner proposed. The Executive, he was of opinion, would consider itself as charged with this business. An agent who is neither Consul nor Minister, is an instrument unknown, an undefined character—a character that would not be recognised. It was impossible, he said, for any two agents, one in Great Britain and the other in the West Indies, to gain information of the sufferings of seamen in different parts of the two countries, particularly in Great Britain. He called upon gentlemen to say whether they had ever heard of such a character as they were proposing to create? He said America had Consuls in every part of the world; and if they have not, they ought to have salaries for the business. Why appoint agents, and what authority will they have? Were there, Mr. S. asked, any information before the House of remissness of duty in the Executive? He was of opinion all due care had been taken for the protection and security of citizens of the description alluded to. Had no inquiry been made of the Secretary of State on the subject? It was well known that neutral nations will always be exposed to injury whilst war existed. Insolence of office, he said, would serve to widen breaches of this sort, and American citizens speaking the same language with the English, were more than others liable to injuries. Mr. S. noticed the different kinds of American citizens, and of the difficulties arising from the doctrine of inalienable right, supported by the English; and observed that when two countries each claim a right to a man, no means but force was left to decide between them. He concluded, by observing that whilst this country had Consuls whose business it was to attend to the distresses of sailors, he could see no reason for appointing agents. Nor was he prepared to go into the question, until he was conscious there had been remissness in the Executive.

Mr. Williams observed, that he was opposed to the amendment, because it would not, in his opinion, extend to the relief intended. But he did not suppose the Executive had been remiss in duty, or any officer in the Government; or that the Minister in a late negotiation did not exert himself to prevent the abuses complained of; but finding every measure heretofore adopted ineffectual, ought they not to point out some other mode? Whilst the evil exists, let not, said he, our fellow-citizens languish under British cruelty and oppression. The resolution, as reported in its present state, contemplates the appointment of agents to reside in the most proper places, to receive information, and pursue such measures as prudence shall dictate. This method, said he, will be a guide to the President; and the will of the Legislature will be carried into execution; but if the amendment prevails, it will then leave the resolution upon such general principles as to afford no specific direction; will add nothing to the authorities which the President now possesses, nor give any new direction, and will therefore leave the business exactly where it was found.

Mr. S. Smith should not have risen again, had it not been for what had fallen from a member from Massachusetts. That gentleman said we had Consuls everywhere; but he believed they had Consuls scarcely anywhere. He answered what had fallen from a member from Massachusetts respecting the inquiry at the office of the Secretary of State; members in that House, he said, too frequently bottomed their arguments on the credit of the President; he believed no man had a higher value for him than he had; but it was enough for him that the unfortunate men whose cases they were considering needed relief, to join in bringing forward the present subject; nor, in doing this, did he mean to reflect on the Executive. He touched upon several arguments which he used yesterday, and concluded, by citing a number of hardships experienced by American seamen from the cruelty of the British.

Mr. Gilbert wished not to precipitate this matter until the necessary information could be got from the Secretary of State. He wished the Committee to rise.

Mr. Sedgwick explained, and mentioned five Consuls in England.

Mr. Swanwick explained the nature of the Consular character, and said, though there were five in England, there were none at the seaports where the British ships of war principally lay, viz: Portsmouth, Chatham, Sheerness, &c., nor any in Scotland or Ireland. In the West Indies there was no Consul; and it was necessary to have attention paid to Halifax and Bermuda, where many American seamen lie. The expense in effecting this business, he said, would be considerable; but this was no objection; it was a measure necessary to preserve to the country the

lives and usefulness of a valuable body of men. Mr. S. next alluded to what had been said about the proposed agents being of a nondescript character, and believed the British would treat them with as much respect as any other officer of the American Government. No reflection was meant by this view of it to be thrown upon any body: they sat there, he said, as legislators, and when they talked about hurting the feelings of such and such officers, he thought they were misspending their time. The present measures, Mr. S. said, were not only calculated to produce relief for present sufferers, but prevention from future evils, by giving certificates to every citizen seaman: and he hoped this would induce merchants to take apprentices to the sea-faring business; and by that means build up a valuable body of seamen, which will be of greater wealth to the country than the mines of Mexico or Peru. He concluded, by supporting the original resolution, and against the amendment.

Mr. Gilbert explained.

Mr. Hillhouse believed the great diversity of opinion on the subject before the House, arose from a wish to determine upon the best possible way of serving the class of men who were the object of their present inquiry. It has been said that America had only five Consuls in England, but surely these five Consuls would be better able to do the business in question than one solitary agent. He thought a Consul General might be appointed, who should have the power to call upon all other Consuls for assistance to carry into effect the business upon which he was commissioned.

Mr. Jeremiah Smith proposed to combine the two places of agents and Consuls together, by leaving it optional with the President, which plan he thought best in each particular case.

Mr. Madison again urged the propriety of adopting the plan of agents, in preference to Consuls, and showed that in adopting this plan, they could not be considered as wanting in respect to the Executive, since they would be doing no more than their duty.

The question being called for, the amendment was lost—being 33 for it, and 52 against it.

The original resolution was then carried, after striking out the words "such part of."

The second clause being read, Mr. Goodhue and Mr. Jeremiah Smith remarked upon the difficulties which would attend the registering of seamen. They were replied to by Mr. Livingston, who was of opinion it was perfectly practicable. In speaking of the different kinds of American citizens, Mr. L. spoke of those who were natives of other countries, but who had sought an asylum under the American Government, and quoted a great number of ancient and modern authors, and even some English acts of Parliament, to prove that "man has an inherent right to go into whatever country he pleases, and by residing there, and conforming to its laws, become a citizen thereof."

After which, the report was agreed to, and the Committee rose. It then underwent a consideration in the House, and after a number of observations with respect to the propriety of two or three different amendments, it was agreed to, with an amendment, proposed by Mr. Swanwick, to strike out the words "West Indies," in order that Halifax and Bermuda might not be excluded.

The report, thus amended, is in the following words:

"*Resolved*, That provision ought to be made for the support of two or more agents, to be appointed by the President of the United States, by and with the advice and consent of the Senate; the one of which agents shall reside in the Kingdom of Great Britain, and the others at such places as the President shall direct; whose duty it shall be to inquire into the situation of such American citizens as shall have been, or hereafter may be, impressed or detained on board of any foreign vessel; to endeavor, by all legal means, to obtain their release, and to render an account of all foreign impressments of American citizens to the Government of the United States.

"*Resolved*, That proper offices ought to be provided, where every seaman, being a citizen of the United States (on producing evidence, duly authenticated, of his birth, naturalization, or residence within the United States, and under their protection, on the third day of September, one thousand seven hundred and eighty-three) may have such evidence registered, and may receive a certificate of his citizenship."

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. Livingston, Mr. Bourne, Mr. Swanwick, Mr. S. Smith, and Mr. W. Smith, do prepare and bring in the same.

Wednesday, March 2.

A bill for making a partial appropriation for the Military Establishment for the year 1798, was read a first and second time, and committed to a Committee of the Whole to-morrow.

It was moved that the consideration of the Land Office bill, which was the order of the day, should be laid aside, to take up the consideration of the subject of the Naval Equipment; but after some observations for and against the postponement, the sense of the House was taken, when there appeared for it 27, against it 41.

Mr. Bourne wished a Letter that had been mentioned to have been received from the War Office might be read. It was produced and read accordingly. It contained an account of the materials wanted, the money expended, and what would yet be required to complete the building of the frigates. Referred to the Committee on the Naval Equipment.

Mr. Livingston said, that it was generally understood that some important Constitutional questions would be discussed when the Treaty lately concluded between this country and Great Britain should come under consideration; it was very desirable, therefore, that every document which might tend to throw light on the subject should be before the House. For this purpose, he would move the following resolution:

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions given to the Minister of the United States who negotiated the Treaty with Great Britain, communicated by his Message on the first instant, together with the correspondence and other documents relative to the said Treaty."

Ordered to lie on the table.

INDIAN TRADING HOUSES.

Mr. Parker moved that the unfinished business might be postponed, to take up the consideration of the report of the select committee to whom was referred the amendments of the Senate to the bill for establishing trading houses with the Indian tribes. The House agreeing to this question, the report and amendments were read, when

Mr. Parker, one of the committee, gave the reasons which induced them to recommend to the House to disagree to the amendments of the Senate. He said they went to alter the principle of the bill. The bill took precautions to prevent Government from suffering loss, but one of the proposed amendments puts it in the power of the President to alter the price of merchandise, as he may think proper. The bill fixed the sum of six thousand dollars for the payment of six agents, which was thought both by the late and present Secretary at War to be sufficient; but the Senate has struck out the clause, and left it to the President to appoint as many agents and to pay them what sum he pleases. The bill has directed that offenders against the act shall be tried and punished in the vicinity where they live; but the Senate propose that offenders shall be taken and tried anywhere. It may be said that offences against this act would be of the same nature as a debt; but, he said, to be so tried, would take away the great privilege of the Habeas Corpus act; that it was one of the grievances complained of when this country was under British Government, that they were removed into that country to be tried. The principle of these amendments, he said, amounted to this, that the President should sell goods at what price he pleased, give what salary he chose to agents, and try offenders against the act where he thought proper.

Mr. Sedgwick hoped the amendments would be considered separately.

The first amendment being read, respecting the appointment of agents—

Mr. Hillhouse hoped the House would agree to the amendment. He saw no inconvenience in leaving it to the President to appoint agents and fix their salaries, as they might be employed in other business, which, at present, persons are specially employed to transact, under a former act.

Mr. Parker said, this act was meant to introduce a friendly intercourse with the Indians, and ought to have no connexion with any other business.

Some observations took place between Mr. J. Smith, Mr. Parker, Mr. Sedgwick, and another member, on the propriety of the wording of one of the clauses of the bill, which was at length allowed to be right.

Mr. Giles said the question was, whether one hundred and fifty thousand dollars, the sum proposed to carry into effect the bill in question should be given up to the sole direction of the President, or whether that House would direct how it was to be disposed of. It was the first time, he said, that a proposition had been made that the President should be allowed to give salaries *ad libitum*. The bill provided that six thousand dollars should be paid for salaries, but it would be very improper that the whole sum for carrying the act into effect should be put in the power of the Executive. He said he had never any sanguine expectations from this bill, but had no objection to the experiment being tried.

Mr. Jeremiah Smith believed it was right to limit the power of carrying into effect this bill, but thought six thousand dollars too small a sum to be allowed for agency. He said it was contemplated to have six trading houses, and it would be necessary that each should have a clerk, who would expect five hundred dollars, so that there would remain only three thousand dollars for the six agents. He supposed an alteration would therefore be necessary in the sum. As a conference would most likely take place between the two Houses, he thought it best to disagree to the amendment, in order that the clause might be differently modified.

Mr. Hillhouse again spoke in favor of the President's appointing the agents, in order that he might employ them in other business, and by that means save an expense to the public.

Mr. Milledge was of opinion that the agents, appointed under this act, should be confined to the business of it alone.

Mr. Dearborn said it would require a very different person to be employed in a trading house from those employed in distributing articles to the Indians, the act for authorizing which he believed expired this session. He thought the sum would be fixed for salaries; but he thought six thousand dollars far too little, and he believed it should be twelve thousand.

The motion being put, on agreeing to the report of the committee to reject the first amendment, it was carried. The other amendments were severally put, and, after a few remarks, four of them were agreed to, and four rejected; and the Clerk was directed to acquaint the Senate therewith.

LAND OFFICES N. W. OF THE OHIO.

The House resolved itself into a Committee of the Whole, on the bill for establishing Land Offices for the sale of the North Western Territory. The amendment proposed for selling the land by auction being under consideration—

Mr. Baldwin said he was in favor of the amendment. He was not disposed to encourage, in his own mind, too great suspicions of the integrity of individuals; but it is not to be forgotten, said he, in making the provisions of this land law, that it is to be carried into operation in times singularly exposing it to a mercenary and unfaithful execution. We must temper our laws to what we see to be the state of the country. Philosophers and politicians, in some ages, have made such success-

ful addresses to human nature, on the subject of honor, virtue, patriotism, and regard to the public interest, that reputable men despised appearing to be governed in their actions by pecuniary considerations; but philosophers and politicians with us have of late made their most importunate and successful addresses to other passions, and have excited the insatiable sordid passion of avarice to an unusual degree. Speculation and making money are rarely found in a more raging extreme, and persons whom we have supposed worthy of our confidence and esteem, publicly practising the meanest and most disgraceful arts and tricks of swindling; and instead of being exhibited to public infamy in the pillory, they show an unblushing front in a very different situation. When such men, said he, are publicly patronized and treated with respect, it is necessary to take care how we suffer the execution of our land law to depend on the disinterestedness of an individual.

Mr. Cooper was in favor of selling by auction. No man, he said, would be at the trouble and expense of exploring the country without some certainty of purchasing. But if the bill remained in its present form, a farmer might travel and explore these lands, and when he goes to the sacred Land Office, with his money in his hand, the agent might easily inform some favorite speculator what was the highest sum offered, so that he might advance some trifle upon it. Why, said he, adopt a secret plan, when an open one can be adopted with greater advantage? He referred to the State of New York, as a proof of the preference due to the public mode of selling.

Mr. Kitchell said he was one of the committee who brought in the bill, and at that time he thought the plan proposed the best; but from what he had heard advanced on the subject, and from seriously considering the matter, he was now of opinion that a sale by auction would be best. He knew there were objections to be urged against that mode of selling, but he trusted they would be mostly obviated.

Mr. Hillhouse also said, from observation and reflection, he was now in favor of selling the land by auction. He hoped that salt springs and other valuable lots would be reserved for the use of Government. He had no idea of bringing the whole of the land into the market at once, and would therefore preserve that clause of the bill which makes two dollars the lowest price at which any part of the land shall be sold. He would have offices opened to which applications should be made for any lot of land that might be chosen, which should be advertised and publicly sold; and he would have no parcel of land offered for sale, which was not fixed upon by some person, and then there would always be a certainty of one bidder at least. By this means, he doubted not, a good price would be got for all the best tracts of land.

Mr. Isaac Smith was in favor of selling by vendue, as he hoped it would preclude the possibility of deception or fraud.

Mr. Havens spoke in favor of public sales, but, he said, if the minimum price was set too high, it would prevent competition in bidding. The bill was objectionable, as it contemplated only one plan; if the whole of the land is not sold by the present plan, there is no provision for selling the rest. If the map was looked at, he said, it would appear to be most convenient not to dispose of the whole at once, but only particular parts. He thought the bill should describe such parts of the land as should be sold.

Mr. Moore thought that if a mode was adopted for persons inclined to purchase to offer their proposals in writing, unsealed, and open to inspection, for the small lots, it would afford the best opportunity of suiting persons who might wish to become settlers.

Mr. Coit wished to make a motion to strike out the whole of the section. It was his opinion they ought to proceed no further in the business, until they had caused a survey of the land to be taken. It was unfortunate for the House that they were legislating on a subject upon which they had very little information. In the course of the next season, he said, the land might be surveyed, and important advantages would arise from it, in the sale of the land, by the quality of soil, situation, &c., being distinctly marked on the map. The sale might then be regularly entered upon. At present he thought the House had too little knowledge of the land to fix upon such a plan of sale as shall produce the greatest advantage.

Mr. Nicholas thought that the present was the time to dispose of the land, when speculation was at so high a pitch. The fixing upon a plan of surveying would take up as much time as the selling of the land. They would be perfectly safe, he said, in selling by auction, and fixing a minimum price; and no error, he was of opinion, could take place in the sales.

Mr. W. Lyman hoped the section would not be struck out. The advantage of selling at present was great, owing to emigration, and if the land be not sold, it will be taken possession of without sale; and if settlements begin on that principle, it will deprive the United States of great advantages.

Mr. Dayton (the Speaker) said, it was well known to gentlemen that there was plenty of land to be purchased, whether Government agreed to open a Land Office or not, and except in providing for a survey, a sale is also provided for, the consequence will be, that persons will buy land of others, who have it to sell in the neighborhood of these lands. Another thing: as the sale of this land respected revenue, so far from providing a revenue by the plan of surveying proposed, a certain great expense will be incurred. The present emigrations, he said, were great, and likely to increase, from the opening of the Mississippi and other causes. The object should be, he said, to hold out inducements to these people to wait for these lands. He was in favor of the mode of selling by auction; but, as that was not at present the subject before the Committee, he should wish the section to remain, in order to consider the amendment.

Mr. Kitchell said, that the speediest manner

of bringing forward land into the market, would be of the greatest advantage in all respects.

Mr. Coit supported his motion. It was said, he observed, that if the land was not sold, it would be settled upon. He said it would take up nearly as much time to make a survey for sale, as to carry into effect the plan he proposed.

The motion was put and negatived.

The motion for selling by auction being put, was agreed to.

Mr. Nicholas moved to strike out a part of a section, and insert the words, "*Provided*, That no part of the said land be sold for less than two dollars per acre."

Mr. Cooper wished the House might not determine to fix the lowest price of the land at two dollars per acre. Many millions of acres were now selling, he said, on the Ohio, for three shillings on long credit. He thought if the minimum price was fixed at ten shillings, it would not affect the price of good land.

Mr. Dayton (the Speaker) said it was not meant to sell the whole of the land at present, but only a certain proportion. For this purpose, two dollars per acre is the price fixed upon as the lowest; and if this price were not sufficiently high to prevent more than from five to 800,000 acres of the best land being sold the first year, he should advise it to be higher. The following year a like quantity might be brought forward. By this means, the land will progress in value as it becomes settled, and the land of second or third quality, in the course of a short time, will come to be worth as much as the best land at the opening of the sale.

Mr. Williams thought the plan proposed would prevent more land from being sold at first than would be purchased by settlers, and cause a competition in the sale. He thought there were many tracts of the land worth double the price mentioned, but a sale by auction would find its real value.

Mr. Heath thought the minimum price of the land too high.

Mr. Dearborn believed a very great proportion of the land first sold would command a considerably higher price than that fixed upon.

Mr. Gallatin said the more he reflected on the subject, the more he was convinced there was no safe plan to be adopted in the sale of this land without limiting the price. And if a low price was fixed, in order to accommodate persons of small property, they should fall into error. He said there were two kinds of purchasers of lands, settlers and speculators. The demand of the first class is always limited, and the remainder falls into the hands of speculators, and they will be induced to purchase only by a prospect of profit. In the year 1792 all the land west of the Ohio was disposed of to speculators at 1s. 6d per acre, and in a week afterwards sold for a dollar and a half; so that the money which ought to have gone into the funds, went into the pocket of the moneyed men who purchased. In order to govern the price of the land in contemplation, it is necessary to inquire at what price land in the neighborhood sells for. This inquiry has been made, and it is found, that land as good in quality sells for double and treble the price put upon this. Speculators cannot afford to give this price; the consequence will be, that those only who mean to settle will give the price. This will prevent too large a quantity from coming into the market at once, and give Government that money which speculators would get were a lower price fixed upon the land.

The motion was put and carried.

Mr. Gallatin said that it had now been agreed that the land should be sold by auction, and that no lot should be sold for a less price than two dollars per acre. If in order, he would move a provision that the large tracts should be sold at the Seat of Government, and the small ones in the Western Territory. He proposed this provision, as he believed it would meet the wishes of the House, though he was of opinion it would be best to sell the whole in the Territory, as he conceived, that no person would give two dollars per acre, except such as were acquainted with the quality and situation of the land; the conclusion is, that a man who wishes to purchase must send an agent to examine the land before he purchases, and when he is upon the spot, he can purchase without further trouble. This would be the most equitable and equal way. Whereas, if sold at the Seat of Government, an advantage is given to such as live in the neighborhood; but, as he did not expect it to pass, he did not wish to move this proposition. He moved first, "that the small lots be sold upon the Western Territory."

Mr. Williams wished some specific place to be mentioned.

Mr. Gallatin thought that different parts of the land would sell better at one place, and other parts at other places.

Mr. Havens thought the proposed plan of sale would yet favor speculators too much; for, when agents were sent to explore the lands, they would become acquainted with the value of small tracts as well as large, and enter into competition with the settlers for them.

Mr. Dearborn said it appeared that the member who spoke last was afraid of too great a competition for the lands; he thought there was no great danger of getting too high a price for them.

The motion was put and agreed to.

Mr. Nicholas moved that it be added, "And that the large tracts of land shall be sold at the Seat of Government."

Mr. Maclay was in favor of selling all the lands upon the Territory.

Mr. Nicholas said there would be a great advantage lost by selling the large lots on the Territory; for when agents are commissioned to buy, they are limited to price, but when principals attend a sale (which would most probably be the case if sold at the Seat of Government) they are frequently induced by competition to give more for an estate than they at first intended.

Mr. Dayton said, if the member who objected to the present motion, would apply to his former remarks on the subject, he could not support his

objection. He said, the sending of agents might be of considerable advantage to the sale of the lots, as, on their return, their report would be heard by many, and probably influence persons to attend the sale at the Seat of Government; but, if the sale were on the land, no such advantage would arise from the mission of agents.

Mr. Rutherford was in favor of the whole of the lands being sold on the Territory.

Mr. Venable said, if the large tracts of land were to be sold only at the Seat of Government, it would be a great disadvantage to the sale; for if a person goes from a very distant part of the country to view the land, he will perhaps have a still longer journey to the Seat of Government to make a purchase, as it is not to be presumed that all persons who mean to purchase will employ agents. This was a very serious inconvenience, and he hoped it would not be agreed to.

The motion was put and carried.

Mr. Hillhouse thought it necessary to add a clause, in order to reserve all the salt springs for the use of Government. Agreed to.

Mr. Isaac Smith moved that a suitable reservation of land should be made for colleges and schools. Agreed to.

Mr. Williams moved a clause to the following effect:

"Provided one actual settler be not on every —— acres of land within —— years from the sale thereof, it shall return to the Government of the United States, the same as if no such sale had taken place."

Mr. Claiborne hoped the lands themselves would be sufficient inducement for settlers, and that purchasers would be left at full liberty in respect to settlement. He could never agree to any regulation that should go to the taking away of land from a purchaser who had fairly paid for it.

Mr. Nicholas and Mr. Cooper were both against the motion.

Mr. Rutherford was in favor of the motion.

Mr. Williams said, if the clause which was recommended was made a condition in the purchase, there was nothing unreasonable in it. It was as necessary that the country should be settled as that the land should be sold. Or shall it be said that the honest, industrious settlers, shall make roads, bridges, and other improvements, whilst the rich holders keep their lands in hand until these improvements are made, in order to increase the value of them? The member from New York who opposed this motion, knows that the poor inhabitants on the new settled lands in that State are obliged to do this. He thought this clause very essential in the act.

Mr. Cooper replied, and the Committee rose, and asked leave to sit again.

Wednesday, March 3.

A message was received from the Senate announcing that they insist on their amendments, disagreed to by this House, to the bill, entitled "An act for establishing trading houses with the Indian tribes."

NORTHWESTERN LAND OFFICES.

The House having resolved itself into a Committee of the Whole, on the bill for opening Land Offices for the sale of the Western lands, and the amendment proposing that there should be one actual settler upon every —— acres of land, being read—

Mr. Havens wished to give some reasons why he thought the amendment unnecessary. He said it had been introduced in the State of New York without effect; there was not rigor sufficient in Government to carry such a clause into effect. Besides, in order to avoid the forfeiture, a purchaser might build a hut, put in a person for a time, and then go off again. Another reason for objecting to it was, when a certain number of inhabitants shall have taken up their residence in the country, it would be organized into a State, and form itself into a Government, which could tax the property of non-residents. This would be an effectual measure to prevent the engrossing of land. A like regulation had taken place in the State of Vermont, which had answered the purpose, and he conceived always would have the effect. He should, therefore, vote against the amendment.

Mr. Williams said the regulation he proposed had not been carried into effect in the State of New York, but it was owing to the influence of the Legislative body preventing it. It was introduced four years ago; but it was now put into other hands, where the interest of great landholders will not prevent its operation. Were land sold in small tracts, it might be taxed in the way proposed; but when sold in large tracts, the holders of such tracts have generally too great an interest in the Legislature of the State to prevent a law passing to this salutary end. In the State of New York, a tax of this sort was every year proposed, but always rejected by those whose private interest would be affected thereby.

Mr. Gallatin was in favor of the amendment. He conceived that the happiness and prosperity of the country would be promoted by preventing the lands, the sale of which they were contemplating, from being engrossed in few hands, and he believed the provision now under consideration, together with the price fixed, would have that effect. The only material objection to it is, that it may diminish the revenue by reducing the price that would otherwise be paid for the land. He thought this a specious objection, not a solid one. He believed the regulation would prevent some speculators from purchasing, but he thought it a beneficial thing that they should be driven from the market. Lands which produced nothing were of no real value. The high price expected must be got from real settlers alone. The consequence will be, that a less quantity of land will be sold, but a sufficient quantity to satisfy actual settlers will be disposed of, notwithstanding this clause, and Government will pocket the profit which speculators otherwise would have had. And, in the following year, the land which would have been engrossed by speculators, but for a provision of this kind, will be brought

into market to meet the demand of fresh settlers at perhaps an advanced price.

It had been said, Mr. G. observed, that this regulation would hold out too great encouragement to emigration. Whether this law passed or not, the same number of men would go to this land. It was not from a distance that emigrants were to be expected, but from tracts adjacent; this clause would inflict a penalty on men who purchased lands with speculative views alone. With respect to what had been said about an evasion of the act, it would be easy to define what constituted an actual settler.

It has been said, that taxing non-residents would produce the effect intended by this clause. Mr. G. thought differently. In the State of Pennsylvania that practice had been adopted; the taxes laid upon persons of this description have never been sufficient to induce settlement. They have found their land increase more in value by means of settlements taking place, than any amount of taxes laid upon it. It has been said, that larger taxes might be imposed; but they will not be paid. In the country where he lived, the occupiers had been called upon to pay their quota of taxes which could not be got from non-residents. He would ask gentlemen whether they wished the land to be engrossed or not? and if they do not, he would be glad if they could produce a better plan for preventing it than this. Before the Revolution, a plan of this sort was adopted from one end of the country to the other, and he believed it was owing to this regulation, that they owed a great deal of the happiness and prosperity which they had since enjoyed. He wished, therefore, the example to be followed.

Mr. Cooper said few men could afford to pay two dollars an acre, and none would pay it, except those who meant to settle upon the land. It was not well to make severe settling clauses. Security would operate against them. In the State of New York the regulation could never be put in force.

Mr. Dayton (the Speaker) said, if the sole object of the amendment had been to prevent the land being engrossed, it would have had his support: but he did not think it would have that effect. He thought that fixing the price of the land, which should not be less than two dollars per acre, would produce this effect; but the proposed regulation, he thought, would have a different effect; it would reduce the price of the land. He was of opinion that land, which, without this clause, would sell for four dollars an acre, with it, would not sell for more than three and a half. Besides, no Government ever did, or ever would, enforce such a regulation. It would be holding out, also, a premium to emigration, which, he trusted, was not the intention of the Legislature; for persons who purchased land at three dollars and a half an acre, to obtain settlers, might be obliged almost to give it away. Indeed, he thought it unnecessary to multiply arguments against a regulation calculated to produce so many injurious consequences.

Mr. S. Smith said it did not appear to him that the amendment could have any good effect. No law which countenanced injustice could be carried into execution; and to take away land from a purchaser, after he had justly paid for it, could not be accounted anything less, as perhaps it might not be possible to get men to settle upon the land within the limited time. For instance, suppose a war was to take place with the Indians, it would be impossible to fulfil the contract. In such case, it will be said, petitions would be heard for relief. The regulation, in his opinion, might produce many evils. The large tracts of land, he said, must be purchased by moneyed men; and there ought to be no objection thrown in their way.

Mr. Rutherford thought the amendment ought to be agreed to. He spoke highly of the people living on the frontier. He heard fishermen say that the best fish always rise highest, and so it was with the people, who were the best on the frontiers; they are not too polite to be religious; they are hospitable and neighborly, and do not employ their nights in nocturnal revellings. These honest men suffer immense inconveniences by the incursions of their savage neighbors, the Indians; they cast their eyes about them for assistance, and see nothing but large unoccupied tracts of lands, whose owners, perhaps, are living secure in some large city. This, he said, was distressing to them. Without this amendment, he thought the bill would have no good effect.

Mr. Claiborne was sorry to differ in opinion from his colleague on this subject. He thought the land would not be settled in half a century, and that the amendment would be a clog on the sale, by deterring men from purchasing. They ought, he said, rather to throw out encouragements to induce men to become purchasers. Excessive laws, he said, were never executed, and to adopt this measure would destroy the bill.

Mr. Williams was confident his amendment would have the best effects. He believed no country was ever more speedily settled than the Genesee country, in the State of New York, in the law for effecting which, there was a clause of this sort. It is said that the price of two dollars will cause a settlement; then, said he, where is the harm of this clause? There is no forfeiture incurred in case of settlement. With respect to the regulation being a check to the sale, he believed it would be a salutary check. Large lots may be sold somewhat cheaper, but it would not affect the price of small lots. There might be a provision in case of an Indian war; the land, in that case, should not be forfeited for want of settlers. He referred to the practice in the State of New York, and was certain that this plan would eventually produce the most money, at the same time that it would insure a settlement. The lands should be paid for by instalments, and by being gradually brought in the market they would constantly rise in value.

Mr. Dayton rose to explain, and again expressed his disapprobation of the amendment. He said non-residents might be taxed as high for their unoccupied lands as were the occupiers of improved lands, by which means they would be made to

contribute their full proportion towards the expense of making roads, bridges, &c.

Mr. Cooper wished to get a good price for the land, in order to pay the Public Debt; and, on this account, he hoped no discouragement would be thrown in the way of purchasers.

Mr. Gallatin remarked that the member from New Jersey had said, the present amendment would reduce the price of the land. He thought differently. None would purchase but real settlers. Of course, a less quantity will be sold in any one year; but what is sold will command a good price. Instead of selling three millions of acres at two dollars the first year, perhaps one million might be sold at four dollars; and the remaining two millions, instead of selling for two, will bring four dollars, which will be the effect of driving those purchasers from the market who meant to purchase on speculation. The quantity of land to be disposed of, Mr. G. said, was about ten millions of acres, which, divided by 4,000, would make 2,500. But there would be no hope of getting 2,500 families on the lands in one year; but to sell one million of acres a year, it would be disposed of in ten years, by which means 1,000 families might be accommodated with 1,000 acres each, and the highest price be got for it that the land was really worth. With respect to the revenue, this plan will give to the Government all the profits of the speculator. Government would be, in effect, its own speculator. If the land, said he, was the property of a private individual, he would never agree to sell the whole in one year, when he knew that a large number of families would every year be in want of a portion of this land. Another objection is, that this regulation would amount to a bounty on emigration. An observation made by gentlemen who opposed the amendment, struck him with much force in favor of it. Say they, if you oblige purchasers to settle the land within a limited time, they may be obliged to give their land for nothing. He wished that might take place. If the cause of the happiness of this country was examined into, he said it would be found to arise as much from the great plenty of land in proportion to the inhabitants, which their citizens enjoyed, as from the wisdom of their political institutions. It is, in fact, said he, because the poor man has been able always to attain his portion of land. And it was perfectly immaterial to them whether a man was happy in New Jersey or upon the Western Territory, it was their duty to do all in their power to promote the general happiness of the whole country.

To resume, said Mr. G., the experience of a century might be called to prove that the happiness of this country had been promoted by regulations similar to that now under consideration. In New England no tract had ever been granted without an obligation to settlement. He thought therefore they ought not to part with such a provision on mere theory. The consequence would perhaps be, the price of labor would be kept up. He wished it to be so. It was not only a sure mark of prosperity, but afforded comfort to the poor man; it was his wish to increase, rather than diminish that comfort. He concluded by hoping the amendment would obtain.

Mr. N. Smith said the proposed amendment, in his opinion, would have no effect but to diminish the price of the land, and offer a premium to emigration. The advantage proposed by the measure is to drive all speculators from the market. He thought the argument ill founded. He said this clause would introduce considerable embarrassment into the business, and where there was any degree of embarrassment, the broader was the field for speculation. Speculators will still purchase, but at a price that will indemnify them against any contingency. For, suppose the land worth four dollars an acre, under these circumstances, not more than two or three will be given. Gentlemen suppose that, if this amendment takes place, every purchaser will go upon the land. No such thing will happen; a servant or tenant would answer the purpose. Advert to the bill, said Mr. S., and it will be seen that tracts are to be sold in lots of three miles square, by vendue, at the Seat of Government. The speculator comes forward, and every man who purchases will bear it in mind, that settlers must be upon the land in a certain time. This will not prevent the land from being sold, but it will diminish the price, and operate as an encouragement to emigration. He was surprised to hear that the gentleman who, a few days ago, had said he did not wish to encourage emigration, now support a measure which seemed to have that for its principal object. He would have men emigrate to what place, and when they pleased, but would not offer them a premium for doing so.

Mr. Nicholas thought the clause proposed would be extremely discouraging to purchasers. The uncertainty of procuring settlers will deter moneyed men from adventuring their property in this land. He was of opinion it would have a tendency to put the land into the hands of speculators at a low price. The condition was an unreasonable one. Suppose, said he, a merchant was told by Government, you may import as many goods as you please, but if you have any left at the end of the year, they must be burnt; would he not think it a tyrannical decree? The object, if he understood it rightly, was to sell the land to emigrants going into that country, at as good a price as could be got, without throwing any discouragements in the way.

Mr. Havens understood the operation of the bill in this way: Government does not expect much above the minimum price. He that will first bid two dollars per acre will get the land. So that, when the land shall be thought to be worth this price, it will be sold to any person who bids it. He said the effect of a clause of the same kind with that under consideration had been tried in the States of Massachusetts, New Hampshire, and Vermont, and was found ineffectual. If he thought it would answer the purpose intended, he would vote for it; but he believed it would be a clog upon the sale, without any advantage. He was of opinion, the wished-for effect might be obtained in a different way, and therefore this clause was unnecessary.

Mr. Hillhouse thought the gentleman from Pennsylvania was mistaken with respect to what he had asserted of the practice of the New England States. He believed the amendment would have a bad effect. The way in which the part of the country which he came from was peopled, was one part at once. If this amendment was adopted, what would be the consequence? Instead of the people who go upon the land being settled compactly, and in the neighborhood of each other, they will spread themselves over the face of the whole country, without the power of assisting or defending each other. He did not think this regulation would prevent the sale of a single acre, but lower the price, and the forfeiture never had, and never would be enforced. Indeed, it might create a war to attempt to dispossess persons of property they had paid for. He should have no objection to any clause which would confine settlers on small tracts to a particular part of the Territory.

Mr. Findley observed, there were many different opinions on the subject before them. Some members thought to obtain money was the grand object; others had different views. He did not think the raising of money ought to be the leading object. He did not wish a single acre to be sold more than could be settled. He did not think the United States could have a greater advantage than to have a reserve of good land to offer persons who wish to emigrate. He thought the price fixed upon the land would be a check on the sale, and discourage emigration. Had gentlemen considered what they were about? Whether they were merchants, only to get money? Surely not; they had men, and the happiness of men in their view. On the frontier parts of the country, there is no greater unhappiness, said he, than that occasioned by the settling too widely, the settlers can neither make the necessary improvements, nor defend themselves; but by settling compactly, the inhabitants experience all the advantage of society, good schools, and everything desirable. He did not think the present amendment calculated to lower the price of the land; the price would advance by degrees. Why sell more lands than can be settled? To have them engrossed? This would be a great evil, and might have an effect on the happiness of the country, which could not be at present foreseen. The comparison betwixt a merchant selling goods, and a Government selling lands, would not hold. It is a sort of transaction which should always be kept in the hands of Government, and not in those of speculators; for, if speculators had the sale of the land, the price they would fix upon it would drive emigrants upon the territory of other countries, who hold out encouragements to receive them. The prospect of peace and security will have a considerable influence on the price of the land; he himself was fearful that the Indians would commit depredations on the frontiers.

He did not think the practice of the Eastern States practicable in this new country, but he would have it approached to. He wished the land to be settled gradually, and that an effectual check might be put on the rage of speculators, which seemed to have no bounds. The most barren mountains were embraced by them. He thought it would be prudent to adopt the amendment as an experiment which would be perfectly safe; for, if the land was once engrossed, there would be no remedy. He said there were facts and experience in support of the proposition, and theory only against it. He should therefore vote for it, and trusted other checks would be provided before the bill passed into a law.

Mr. Rutherford spoke again in favor of the amendment, and of the frontier inhabitants. Experience, he said, was vastly preferable to a fine-spun theory. He hoped the mind of every member in that House was as pure as that of the great Franklin, and he paid great attention to their sentiments, but experience taught him to differ from them on the present question. He had been acquainted with the frontiers, he said, fifty years, and had seen the country progress from woods to towns—(he was reminded by the Chairman that there was a specific question before the Committee.) He wished, he said, to introduce his experience. He said the country would be settled, should be settled, and must be settled. The most untaught Indians were to receive information; it should be compactly settled by honest, respectable yeomanry; but will a man who has his land, his orchards, his gardens, in good order, pack up his all, and go to this new country? No; but he will send one or two of his sons. Gentlemen thought the country would not be sold. There was no doubt of it. He said the people of this country were doubled since the horrid, detestable war with England. The people were eight millions, at least; they increased like a beehive. He was not, he said, for shutting out members of Congress from getting lots for their children, but he wished to discourage speculators.

Mr. Madison was not surprised to hear different opinions on this question, according as members felt from the usages of the States to which they belonged. It was difficult to judge precisely betwixt different opinions, from the blanks of the bill not being filled up. Perhaps a good deal depended on the quantity of land to be offered for sale. Purchases made, he said, under a consideration that the land would be speedily settled, would be made at a higher price, and those made under an idea of a considerably distant settlement, would command a price in proportion. The principal object was to fill the Treasury as soon as possible. He believed the obliging of purchasers to settle land within a limited time would be an obstruction in the sale; but there were several considerations which ought to be weighed. If, by requiring actual settlers, they should repel a part of those who did not intend to settle themselves on the land, they might not repel others. Persons would be more ready to go into a wilderness, if they were assured of company. The amendment would have less effect in repelling large purchasers, than at first imagined. If persons knew when they

purchased that they must provide settlers, they will see that a great advantage may arise from their enterprise, and will give a greater price. With respect to the policy of increasing emigration there seemed to be a middle course. It would not be right, he said, to encourage emigrations, nor to throw obstacles in the way of them. He believed, with the gentleman from Pennsylvania, that if they were ever so desirous that emigrations should not take place to that country, it would not hinder them. He was opposed to a greater quantity of land being brought to market than could be settled. The consideration of settlement, he said, would be found to operate much less on the price than was supposed; he knew not whether it would increase the price. But as the subject was important, and greater light might be thrown upon the subject hereafter, he would wish the forfeiture of the land to be struck out, and left to be modified by the select committee.

Mr. Harper said, when the amendment was first proposed, he thought it a good one; but, on more mature consideration, he found it would not only fail in producing the effect intended, but be pregnant with evil. The good effects proposed by the amendment were to restrict the quantity of land sold, and to accommodate that class of settlers who may be in want of land at a low price. The first object was of great importance. But does it not appear that, by limiting the quantity of land sold, it would have an effect to decrease the competition? Decreasing the competition will not decrease the quantity sold, but the price; for when the competition is greatest, the price will be highest. But if you substract a certain number of purchasers, you leave the market open to a few bidders, you will get the land at a less price. The amendment must, therefore, produce a disadvantageous effect, as the same quantity of land will be sold, and less money produced. The next beneficial consideration was, to accommodate those persons who want lands, but cannot afford a high price. A certain proportion of citizens every year emigrate: some of them will be able to purchase, others must either obtain land at a low price or on long credit. If the sale be left unfettered, the competition will be increased by persons purchasing, who will be willing to accommodate this latter class of persons. As to that class, who purchase with a view of settlement, they can accommodate themselves. Persons, he said, who purchase at a high price, without this amendment, will be induced to settle the land as soon as possible. The amendment will tend to scatter settlers over the whole country; for if purchasers get land in quite opposite parts of the Territory, they will be obliged to settle it, whereas a person who might purchase lands at two dollars an acre in distant parts of the country, might not be very desirous of having it immediately settled. He believed these restrictions had been tried in different States, and it was found impossible to carry them into effect. If this was so, all the inconveniences of them would be experienced, and the proposed benefits lost. But he believed it was not the object of Government to settle the whole of that country at present, as there remains yet much unappropriated land in the Atlantic States, which is in want of settlers. He believed when land could be purchased, for the purpose of actual cultivation, at two dollars an acre, it was a proof there was no want of land. And there was a certain proportion of population, he said, which was necessary to the happiness of society. While lands, therefore, could be purchased at this price in the neighborhood, he should not be for sending people into the back country. He was, on these accounts, against the amendment.

Mr. Kittera thought the best price might be obtained by competition, and that driving out of the market many purchasers, would not increase the price of the land. Gentlemen have said that money is not the object, but settlement. Perhaps it was not correct to say that universal experience was in support of the present amendment. With respect to the State of Pennsylvania, the proprietors had never fettered land with conditions of this sort. It was true, they did at one particular time give improvers a pre-emption right, which was done to encourage emigrants from neighboring States, but, being found an injurious policy, it was given up. Since the Revolution, there was only one instance in which restrictions were made. He saw many evils that would arise from persons purchasing lands on the other side of the Alleghany mountains, as there were many persons at present settled on lands there. This kind of bounty, to encourage emigration, was not good policy. He said there were millions of acres in this State yet to be disposed of. He thought it necessary to mention these facts.

Mr. Findley went over the history of the settlement of Pennsylvania, in order to support the propriety of the proposed amendment, and to controvert some of the statements of the last speaker.

Mr. Kittera said, it was agreed that a provision should be made that, in case of an Indian war, land should not be liable to forfeiture for want of settlement. This, it might be seen, would be a motive for purchasers to excite an Indian war.

The motion being put, it was lost, only twenty-two members appearing in favor of it.

Mr. Nicholas proposed to strike out the fourth section, and insert a clause for extending the time of payment to one quarter of the amount in hand, and one quarter each of the three succeeding years; which, after a few observations, was agreed to, with the amendment of a blank instead of the word *quarter*.

Mr. Harper proposed the following resolution:

"*Resolved*, That payment shall be received for lands purchased in pursuance of this act, in certificates of such parts of the Public Debt as bear a present interest of six per cent."

Which, after a number of observations from different members, was negatived.

The sixth and seventh sections of the bill, on motion, were agreed to be struck out.

Mr. Williams moved to strike out the eighth

section, which gave an opportunity to persons holding military warrants to pay them for one-seventh part of any purchase they might make of these lands, as giving too great an advantage to persons holding those warrants.

Mr. Dayton said, it had been agreed by a former Congress, to set apart certain lands for satisfying military claims. Two millions and a half acres of that land had been taken away from the United States by the late Indian treaty, so that there was now an insufficiency to answer the claims. The committee appointed to bring in this bill, thought some attention due to these claims. His opinion had been asked on the subject, and he had given it in favor of the plan proposed; and as there remains now only one million of acres, one half of which is good for little, to satisfy the military claims which was not more than half the necessary quantity, if all good, but being half of it bad, not more than one-fourth of what is necessary, he was persuaded that the committee would agree to do the claimants justice, by giving them a share in the present land. He owned he was, in some degree, interested in this subject.

Mr. Kitchell spoke in favor of retaining this section.

Mr. Williams had no objection to grant the bounties mentioned, but it was never intended, he said, that these warrants should have the very best parts of this land. Suppose land sold for seven dollars an acre, (which he believed it would,) in every 700 acres, 100 would be paid for in warrants, which the soldiers had sold for a mere trifle. The honorable gentleman had said he felt himself interested. He, also, felt interested, but he wished to legislate for the whole. If there be not land enough set out, let more be appropriated; but to take one-seventh part of the price of this land in warrants, was giving a greater advantage to holders of warrants than ought to be given. He wished Government to be perfectly faithful, but he did not wish speculators to have an unreasonable advantage.

Mr. Dayton said, the plan proposed by the gentleman who spoke last would be more expensive than that proposed by the present bill, as two millions of good land must be set apart for the purpose. What does the argument, of military warrants covering land worth seven dollars an acre, amount to? If the purchaser, who had obtained military warrants from soldiers at a low price, comes into the market to buy these lands, will he not give more for them, knowing that his warrants will be taken in part payment, and thereby increase the price of the land? The fact was, he said, that whenever there were any alterations proposed, with respect to the late Army, they have always been injured. He referred to several instances as proof of his assertion.

Mr. Harper said, that he was in favor of the section remaining in the bill, and upon the same ground as the mover alleged for striking it out, viz: for the advantage of persons holding military warrants. He thought the soldiers in the late Army had received too little recompense, and he was glad when an opportunity presented itself of doing them justice: That these warrants should be received as part of purchases, would be advantageous to the sale of land, render the warrants valuable, and be a small reward for past services. Instead of voting to strike out, he should be for enlarging the provision, so as to give the holders, particularly original holders, the greatest advantage.

Mr. Findley said, if he thought it would do service to soldiers, he should not object to the clause in the bill, but he did not know a single soldier who had one of them. He said there was already land appropriated for the purpose, and if not enough, he was willing to appropriate more. This is not the first time, he said, that they had heard the claims of soldiers, when the money was intended to go into the pockets of speculators.

Mr. Dearborn said, that these lands were promised many years ago, and if soldiers have sold their warrants, it has been because their patience has been exhausted in waiting the fulfilment of the engagements of Government; but there are many who have not sold their warrants. Yet, said he, if we go on to put off the satisfying of these claims, it will induce those who still have warrants, to sell them for what they can get. In laying off two millions of acres more, in addition to the one million which remains, much time and expense would be thrown away. It might be said that his situation should prevent him saying much on that question. He thought it necessary, however, to deliver his sentiments on the subject.

Mr. Dayton said that, as it had been doubted whether any warrants were now in the hands of the original holders, he rose to inform the Committee that he had forty-seven of these warrants belonging to officers and soldiers who had earned them with their blood and wounds. They were sent to him to have them laid upon the tract of land ceded to the Indians; but, said he, if confined to the single million of acres now only appropriated, the value of the warrants are gone. Is this the way, exclaimed Mr. D., in which gentlemen, under cover of preventing the advantage of speculators, would reward their brave soldiers! He had said he was interested, so he was; for he had a warrant in his own name, but not in the way in which the gentleman from New York was interested, for he knew not that he had served in the Army. He should speak his mind on the subject, he said, but would not vote.

Mr. Cooper spoke in favor of the clause of the bill.

Mr. Findley said, no one intended to injure the Army. It was time enough to complain when injury was done. Members could not be supposed to injure the Army, because they did not choose to enter upon new plans, in their opinions calculated to favor speculators.

Mr. Williams said, in a debate of this kind, where all were interested, the less said the better. He should not have risen again, had it not been doubted whether he had served in the Army. He would inform the honorable gentleman that he had so served; that, for many years, when he lay

down on his bed, he seemed yet to have arms in his hands. He said, in the State of New York, warrants were bought for a mere trifle; he had bought some of them. All that can be demanded, was a faithful discharge of the obligation of Government. It had been said that the admission of these warrants would increase the price of the land, but he did not think so; it would increase the price of the warrants only. If, said he, a discrimination could be made between real holders and purchasers, he would go any length in satisfying the claims of the soldier.

Mr. Kitchell spoke in favor of the clause of the bill.

The Committee now rose, reported progress, and the House adjourned.

Thursday, March 4.

It was moved and carried that the unfinished business should be postponed to take up the bill providing for a partial appropriation towards the Military Establishment for 1796, when the House resolved itself into a Committee of the Whole, and reported the bill without amendment. It afterwards went through the House, and was ordered to be engrossed for a third reading on Monday.

Mr. Livingston moved that the unfinished business might again give way, to take up the consideration of the resolution laid upon the table on Wednesday, requesting the President of the United States to lay before the House certain documents relative to the Treaty lately concluded between this country and Great Britain; but, on being informed by members near him, that the going through the Land Office bill would take up but little time, he consented to withdraw his motion.

NORTHWESTERN LAND OFFICES.

The House then resolved itself into a Committee of the Whole, on the bill for establishing Land Offices for the sale of the Northwestern Territory, when the motion for striking out the section allowing military warrants to be received as one-seventh part of a purchase, being put, was lost by a considerable majority.

Mr. Dayton (the Speaker) wished to introduce an amendment in the section respecting the allowing of a certain portion of military claims to be received, viz: to strike out the words 'one-seventh,' and introduce 'one-sixth.' His reason for making this amendment was, that he had found, on inquiry, that a great part of the million of acres mentioned yesterday, as remaining towards satisfying military claims, was also ceded.

Mr. Williams said he should oppose that amendment when the bill came before the House; for the present he should waive his objections.

Mr. Dayton wished the gentleman, who seemed to be principally opposed to this clause, would state his objections now, that he might have an opportunity of replying to them, as, when the bill came before the House, he should be in a situation which would deprive him of the opportunity of doing so.

Mr. Nicholas observed that the bill would again come into a Committee of the Whole.

Mr. Kitchell proposed to amend the motion by striking out the word "seventh" and leaving it blank; which was agreed to.

Mr. Nicholas moved a clause to this effect: "that the Attorney General shall superintend the Land Office at the Seat of Government of the United States, and that the President be authorized, by and with the advice and consent of the Senate, to appoint an agent for the sale of the lands in the Northwestern Territory."

Mr. W. Smith wished the motion to be divided. He had no objection to the latter part of it, but a very material one to the former. It would require consideration how far they could with propriety lay this duty upon the Attorney General, as it was not contemplated in his appointment. It would also involve personal considerations as to the fitness of the officer alluded to for the business. Besides, he said, it would be interfering with the duties of the Executive to appoint a superintendent under this bill—a power which, he conceived, was vested in the President to nominate and the Senate to appoint. The Attorney General, he said, had special duties to perform, and he did not think he would have leisure sufficient to attend to this subject. Besides, not being sufficiently compensated by the United States, he was obliged to follow his own practice, with which an appointment of this kind would interfere. He thought the business of the Land Office would require all the attention of a special agent, and that it would be impossible to be transacted by any existing officer. It was true, for the first year, there might not be much to occupy an agent, but afterwards the business would be very considerable. He moved, therefore, to strike out the first part of the proposition.

Mr. Nicholas thought the objections urged against his motion of little weight. They went to this, that whenever Government wanted any new service performed, a new officer was to be employed, though it were not calculated to employ one-tenth part of a person's time. If they went on multiplying officers, he said, the United States would scarcely hold them. Congress had already acted upon a similar plan to that which he proposed with respect to the Sinking Fund. The office, he said, would be a mere superintendence. But they were told that, though there was not business at present, there would be sufficient to employ an agent wholly a year or two hence. He would say that the officer he mentioned was competent to the duties. It had been said that he had not sufficient emolument. Suppose, then, they were to add to it $1,000 or $1,100 for doing this new business. To this, he said, he would pledge himself, that he would do the business well, or say he could not do it.

Mr. Van Allen observed that it had been said, that though the business will not at present fully employ an agent, it will do so hereafter. He thought it never would be sufficient to employ a

special agent. If the present motion did not prevail, (which he wished might not,) he read one which he intended to move in its place. He was of opinion that all money paid for land should be paid into the Treasury of the United States, and that the Secretary of State, by keeping an additional clerk, might superintend the business. He did not think there was either occasion for two officers, or for one; but that the business would be much cheaper and more regularly transacted in the way he proposed.

Mr. Nicholas said his only view was to prevent a special officer from being appointed. He had no objection to leave the officer a blank, so that any existing officer might be employed.

Mr. W. Smith said his objections were stronger than before to the motion; for, if any officer was employed, he would prefer the Attorney General, but objected to the House filling the office at all—it was not their business. He would much rather agree to the proposition of the gentleman from New York. The gentleman from Virginia had referred to the Commissioners of the Sinking Fund as a proof of the interference of that House in the appointment of officers. There was a material difference between the two cases, though he did not approve of the practice in that instance. He understood they were to give a salary, declare who should be superintendent, and, by saving a few hundred dollars, perhaps have the business ill done. If the salary of the Attorney General was not sufficient, he would consent to give him more. But, said he, does not the present proposition lead to a species of favoritism, of selecting particular officers for duties, to increase their salaries? He wished to have the business done either in the Department of State, or appoint a special officer to do it.

Mr. Findley thought the business of the Land Office ought not to be connected with that of the Attorney General; for, said he, it might happen that the Attorney General would be wanted to prosecute the agent, which, if they were united in one person, it would be seen could not be done. It would be best, he was of opinion, to lay the duty on the Treasury or Secretary of State.

Mr. W. Lyman saw nothing inconsistent in laying the duty upon some existing officer, as there could not be sufficient business for a special agent. He mentioned several instances in which this practice had been followed. Indeed, he said, it was the first time he had ever heard of the principle being controverted. He did not know whether the business might be referred to the Commissioner of the Revenue, if the Attorney General declined it.

Mr. Gallatin apprehended that the objection of the gentleman from South Carolina to the motion went more to the manner than the substance. His objection is, that it is an assumption of power in this House to appoint an officer. No motion, he said, had been made to strike out the first section of the bill. That section goes to the establishment of two offices. [The Chairman said that the first section of the bill had been passed over by consent, but he understood it was to undergo amendment.] Notwithstanding that, Mr. G. said, it was at present a part of the bill. It appoints officers. He believed that House had no right to create new officers, but they might lay new duties upon old officers. The President had not only the power to appoint, but to remove officers; and, therefore, if he thinks the officer incompetent to fulfil an office he may remove him. The motion of the gentleman from Virginia was not so much to appoint a new officer as to lay new duties upon some existing officer. He wished an alteration to take place in the motion so as to conform to that idea.

Mr. Nicholas acknowledged the justness of the last member's observations, and said, the first section remaining in the bill was the cause of his putting his motion in the form in which he brought it forward.

The motion for striking out a part of Mr. Nicholas's motion was put and negatived; and, on the original motion being put, it was lost—there being for it 35, against it 38.

Mr. Kittera moved the following clause to the second section: "Provided that the real, and not the magnetical points shall govern the survey."

Mr. Van Allen thought that this amendment would make the survey liable to many difficulties.

Mr. Kittera said he was not a practical surveyor. He had however conferred with men very able to give him information on the subject, and was informed that this method of surveying would be of essential service. The lines run in this way would be certain and permanent, and as easily run as magnetical ones, which were subject to the variation of particular compasses, and that other variation which takes place at different times and in different places, which has not yet been satisfactorily accounted for.

Mr. Gallatin thought there could be no objection to the amendment. He supposed that the Surveyor General would have had this power, if it had not been provided for. He said it was impossible to survey exactly by the magnet, as they varied from each other, and from year to year.

Mr. Findley hoped no one would be prevented from voting for this clause from an idea of difficulty. He said the art was so easy as to be taught to any surveyors of moderate capacity in one evening. He was, therefore, for the motion.

Mr. Page said, that except this plan of surveying was adopted, great confusion might be introduced into the business. He believed the plan was perfectly practicable, and would be attended with the greatest advantage. The motion was carried.

Mr. Van Allen proposed a section in place of the first, which, after some discussion and alteration, finally took the following form:

"*Be it enacted, &c.*, That a Surveyor General shall be appointed, whose duty it shall be to engage a sufficient number of skilful and expert surveyors, to enable him on or before the —— day of —— to ascertain the outline of all that part of the land lying Northwest of the river Ohio, in which the title of the Indian tribes is extinct, and which have not already been disposed of by the United States, and to lay out the same in manner hereafter directed."

The Committee, having gone through the bill, rose and reported the bill with its amendments. The House then took it up, and went through the bill and amendments, which were all agreed to, without debate, except that appointing the method of surveying, which met with considerable opposition, but which was finally agreed to.

The bill was then recommitted, and four members added to the select committee to whom it was referred.

COMPENSATION TO MEMBERS, &c.

A communication was received from the Senate, with a bill, which originated there, for the relief of persons imprisoned for debt; which was read a first time. Also, the bill for allowing compensation to members of both Houses, &c., which they had agreed to with one amendment, viz: the striking out the word *next*, and inserting in its place *in the present year*.

REGULARITY OF MAILS.

Mr. W. Smith said frequent complaints had been made of the miscarriage of letters to and from the Southern States, and it was of considerable consequence that these miscarriages should be remedied. He believed the Eastern mails were very regular, and it was a desirable thing to have the Southern equally so. In order to inquire into these complaints, he proposed a resolution to the following effect, which he wished to be referred to the proper committee:

"*Resolved*, That the committee to whom is referred the business relative to Post Offices and Post Roads be directed to institute an inquiry whether any, and what, impediments exist in the conveyance of the Southern Mail, and, if any, the cause thereof."

This resolution was agreed to.

THE SON OF LAFAYETTE.

Mr. Livingston laid a resolution to the following effect on the table:

"*Resolved*, That a committee be appointed to inquire whether the son of Major General Lafayette be within the United States, and also whether any, and what, provision may be necessary for his support."

A resolution was also laid on the table respecting a tract of land purchased by John Cleves Symmes, in the Northwestern Territory.

Monday, March 7.

A petition of the proprietors of a glass manufactory of Boston, praying for a bounty, or such other assistance as Congress might please, for the encouragement of their manufacture, and an additional duty on all window glass imported above a certain size, was read and referred to the Committee of Manufactures and Commerce.

A communication from the Secretary of the Treasury, enclosing certain statements, in pursuance of resolutions of the House, prepared by the Commissioners of the Revenue, respecting the Internal Revenues of the United States, with his report explanatory thereof, was read and ordered to be printed.

The bill for making a partial appropriation for the Military Establishment of 1796, was read a third time and passed.

The bill for the relief of persons imprisoned for debt, was read a second time, and ordered to be committed to a Committee of the Whole.

Mr. Tracy moved that several reports of the Committee of Claims on the cases of invalids, might be taken up, in preference to the unfinished business before the House.

AMERICAN SEAMEN.

Mr. Harper thought it necessary to make a correction of what he had said on the debate respecting the subject of American sailors. He had said that Mr. Cutting had never released one seaman, whereas he has since found by a report on the subject, that he obtained the release of many. He had also seen a copy of a letter from Major Pinckney, in which it is said that considerable services were done by him to American seamen. He mentioned these circumstances in order to do away any impressions that might have been made by his assertion in the late debate.

THE TREATY WITH GREAT BRITAIN.

Mr. Livingston wished, before that business was gone into, to take up the consideration of the resolution which he laid upon the table some days ago respecting the gaining of information from the President on the subject of the Treaty; but if the House did not wish immediately to take up the subject, he hoped he might be permitted to make an amendment to the resolution, which had been suggested to him as proper, by gentlemen for whose opinion he had a high respect, in order to prevent any embarrassment in the Executive on account of any papers which he might not think proper to give up as relating to some existing negotiation; he therefore proposed the following exception to follow the resolution:

"——— excepting such of said papers as any existing negotiation may render improper to be disclosed."

After a few observations from different members on the propriety of taking up the consideration of the resolution, it was determined first to go into the business proposed by Mr. Tracy, and the amended resolution was laid on the table.

CLAIMS OF INVALIDS.

The House having formed itself into a Committee of the Whole, the report of the Committee of Claims on the cases of invalids, which allows them such a proportion of relief as their different cases appeared to merit, was read and agreed to.

Mr. Tracy said that the committee had allowed a number of claims, though claimants had not in every instance complied with the necessary regulations in every particular, being of opinion that the failures had not arisen from any intention of evading the law, but from a want of knowledge. Considering that the testimony which they had provided must have been attended with much difficulty and some expense, and that as the law soon ceased to exist no further claims could be made, they thought it best to place them on the list.

There was, however, one class of claimants which they could not place on the list, as the examining physician had omitted to make a return of the ratio of their disability. The committee had provided a resolution to give them an opportunity of making good their claims, and that they may not suffer by an omission of the physician, they recommend that their allowance should take place from the time they had completed the testimony on their part.

The House went through the consideration of the report, which was agreed to, as follows:

Resolved, That the Secretary of War be directed to place on the list of invalid pensioners of the United States, at the several rates annexed to their names, respectively, the following persons, viz: [Here follows the names.]

And that the Secretary of War be guided by the following rules, viz:

A full pension to a commissioned officer shall be considered the one-half of his pay. And the proportions less than a full pension are to be the proportions of half-pay.

A full pension to non-commissioned officers, musicians, and privates, is to be five dollars per month; and the proportions less than a full pension are the proportions of five dollars per month. The pensions shall be paid in the same manner as invalid pensioners are paid, who have been heretofore placed on the list, and under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

2. *Resolved*, That the Secretary of the Department of War do also cause to be placed on the pension list of the United States the following persons, at the rates annexed to their names, respectively: [Here follow the names.]

And that a full pension to a commissioned officer shall be considered the one-half of his pay at the time of being wounded, and the proportions less than a full pension are those of such half-pay. And that a full pension to a non-commissioned officer and private is five dollars per month, and the proportions less than a full pension are the proportions of five dollars per month. The pensions to be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the list, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

3. *Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary for the Department of War return to the respective District Judges the names of all such persons as have been transmitted to him by the several District Judges, pursuant to the act for the regulation of claims to invalid pensions, and in whose cases the examining physicians have neglected to specify the ratio of disability, together with such defective returns of physicians.

And the said District Judges, respectively, shall forthwith cause the examining physicians to specify the several rates of disability which have been so neglected; or, in case of sickness, death, or removal of one or both such physicians, to make new appointments, and cause the several rates of disability to be specified, and by the same physicians returned to them as soon as may be; of which they shall make return to the Secretary of War, who shall, at the session of Congress holden next after, or at the time of such receipt, make return thereof, with such observations as he may think proper to subjoin, that the proper order may be taken thereon by Congress.

Ordered, That a bill or bills be brought in pursuant to the first and second resolutions, and that the Committee of Claims do prepare and bring in the same.

THE TREATY WITH GREAT BRITAIN.

[The debate on the subject of the Treaty with Great Britain, and of the Constitutional powers of the House with respect to Treaties, having occupied the time of the House nearly every day for a month, (commencing the 7th of March and ending on the 7th of April,) it is deemed preferable, and as being more acceptable to the reader, to present the whole in one body consecutively, rather than to spread it in detached parts intermixed with other subjects, through the general proceedings of each day. This debate, as here given, possesses a character for authenticity and correctness which does not belong to the Newspaper reports of the day, it having undergone the careful revision of the Speakers themselves. The debate which took place on making provision for carrying the Treaty into effect, will be found subsequently, in the proceedings of each day as the subject came up before the House.]

On the second of March, Mr. Livingston, after stating that the late British Treaty must give rise in the House to some very important and Constitutional questions, to throw light upon which every information would be required, laid the following resolution upon the table.

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty."

March 7.—Mr. Livingston said he wished to modify the resolution he had laid on the table, requesting the President to lay before the House sundry documents respecting the Treaty. It was calculated to meet the suggestions of gentlemen to whose opinions he paid the highest respect, and was founded in the reflection that the negotiations on the twelfth article were probably unfinished; and therefore, he said, a disclosure of papers relative to that or any other pending negotiation, might embarrass the Executive. He wished, therefore, to add, at the end of his former motion, the following words: "Excepting such of said papers as any existing negotiation may render improper to be disclosed."

The motion of Mr. Livingston was then taken up.

Mr. Tracy requested gentlemen in favor of the resolution to give their reasons why the application for papers was to be made. The member from New York, he said, when he laid the resolution on the table, had intimated, that probably the constitutionality of the Treaty might be questioned, and predicated his resolution upon that

supposition. It was well understood, he remarked, that the Treaty had excited great sensibility; the people had formed various opinions on the subject; he conceived it, therefore, a subject of great delicacy and magnitude, and was of opinion, that members should explain fully their meanings and intentions with respect to it at an early stage of the business, to prevent any bitterness from taking place in the course of the investigation, and to preserve the harmony and dignity of the House. He asked the motives that influenced the friends of the resolution, because, if the constitutionality of the instrument was to be questioned, and the papers were called for on that ground, he thought it a bad one. This question, he conceived, should be decided by comparing the instrument with the Constitution, and that a reference to any thing else in deciding the question could not be proper.

If the papers are called for to ground an impeachment against any officer, he wished the intention declared; he wished to know whether the negotiator was to be impeached, or the President, who had certainly had a principal agency in the business. He wished to be possessed of the reasons which urged the motion, that he might be enabled to determine on its propriety. This was a delicate subject he said: the calling for papers appeared to bear evidence of some retrospective intention; he desired to be apprised what that was. He conceded the right of the House to pass the resolution, but they could not do it without good cause. He did not accuse the gentleman who made the motion, of making it without good cause, but was anxious to know what he would do with them. Was it intended to ascertain, he asked, whether a better Treaty might be made? He concluded by observing, that the question was of consequence; and by reminding the House, that they acted for a great people, and for posterity.

Mr. Livingston said, he had no wish to conceal his intentions. The motives that impelled him to make the motion, were not such as to make him wish to conceal them, or such as he ought to blush at when discovered. The gentleman from Connecticut wished to know why he had brought this resolution before the House? He did it for the sake of information. That gentleman wished to know to what point this information was to apply? Possibly to all the points he had enumerated. It was impossible, however, to say to which or how many of these points without a recurrence to those very papers. He could not determine now, he said, that an impeachment would be deemed advisable; yet, when the papers are obtained, they may make such a step advisable. It was impossible to declare an impeachment advisable, without having the necessary lights as to the conduct of officers. The House were, on every occasion, the guardians of their country's rights. They are, by the Constitution, the accusing organ of the officers employed. The information called for they ought to possess, as it would tend to elucidate the conduct of the officers. His principal reason, however, for proposing the measure, was a firm conviction that the House were vested with a discretionary power of carrying the Treaty into effect, or refusing it their sanction. To guide them in an enlightened determination as to that point, the papers are necessary; they would certainly throw light upon the subject, and enable the House to determine whether the Treaty was such as that it ought to be carried into effect. This had been called a delicate question. He did not view it in that light. The House had a right to call for the information: if the President had any reasons of State that would make the information improper, he would say so.

Mr. W. Lyman observed, that the mode of argument adopted by the gentleman of Connecticut, of inquiring into motives which influenced others, might easily be retorted. The gentleman might now be called upon to state his motives, with the objections, if he had any, to the resolution. The gentleman had done neither: he had not offered even one objection why the resolution ought not to pass. If no objections could be offered, Mr. L. said it was conclusive proof in its favor, and that those were weighty considerations why it should pass. However, he said, he was very willing to mention some which had occurred to his mind. It was a matter of great notoriety that the Treaty referred to in the resolution had excited very strong emotions of sensibility, and that the public mind had been greatly agitated; that petitions had been presented, from all parts of the Union, praying for the interposition of the House upon that subject. Perhaps if the information contained in the papers called for, was made public, the anxiety which had manifested itself would be allayed. Possibly they might throw such light as to produce a very great degree of unanimity relative to that instrument. Such circumstances might possibly be disclosed as to reconcile those now opposed to it, and who might otherwise remain irreconcilable. If the resolution tended only to this object, it was effecting a valuable purpose; but there was, he said, another consideration of vast importance, which was, whether the Treaty had not encroached upon the Legislative powers of the Constitution. As to that point, he would admit the papers could not be expected to give much light. But if the House should conceive their Constitutional powers extended to a consideration of the subject, undoubtedly they ought to be in possession of the papers in question, and all the information relative thereto. Unless some very formidable objections should be brought forward against the resolution, which, hitherto, Mr. L. said, had not been suggested to him, he should vote for it, and hoped that the House would be of the same opinion; for he contemplated that it would be productive of great utility, and, as yet, foresaw not the smallest disadvantage that could in any way accrue.

Mr. Giles acknowledged that it was a subject that had excited much sensibility, and for this very reason conceived it claimed every light that could be thrown upon it. He believed that that sensibility would be increased if information was denied, and, possibly allayed if obtained. If the resolution passed, the grounds of the proceeding

would then become known; and, if they were such as comported with the interests of the United States, the dislike to the Treaty might subside. On this ground he should give the resolution his vote, unless weighter objections than those already adduced could be brought forward. If the Treaty is to be judged of by adverting to the instrument alone, there was great cause for dislike. If it is possible to throw light on it, that shall be its apology, why refuse the information? He did not wish to pass judgment on it without knowing the circumstances under which it was made. Impeachment had been mentioned: such an event was not a necessary consequence of the inquiry, though a possible one. He did not contemplate it as the probable issue, but the information might tend, perhaps, to reconcile those now averse to the instrument. On this ground he hoped gentlemen would not object to the information being called for. A member conceived the friends of the resolution ought to declare what they intended to do in the business. He believed this would be a candid course of procedure. For his own part, if he was to make up his judgment definitively upon the face of the instrument alone, he was prepared to give his opinion; but he wished further information, which he hoped would not be refused by negativing the present resolution. He observed, that with him information was the object of the call, and a sense of responsibility the inducement.

Mr. Murray said, that he was against the resolution for two reasons, which then struck his mind forcibly: The first was the want of a declared object within the acknowledged cognizance of the House; the other was because he believed it was designed as the ground-work of a very dangerous doctrine, that the House had a right to adjudge, to adopt, or to reject treaties generally. Had the gentlemen stated the object for which they called for the papers to be an impeachment, or any inquiry into fraud, as a circumstance attending the making of the Treaty, the subject would be presented under an aspect very different from that which it has assumed. He considered a Treaty, constitutionally made, to be the supreme law of the land. The Treaty in view has been negotiated and ratified, he thought, agreeably to the Constitution. It has been issued, by the President's proclamation, as an act obligatory upon the United States. If the House mean to go into the merits of that instrument, and the information be called for with that view, he should feel himself bound by the Constitution to give it every opposition. If the President, by the Constitution, has the power, with the consent of two-thirds of the Senate, to ratify a Treaty, the House has no right to investigate the merits of the Treaty, unless they have the right to reject it. Treaties are the supreme laws of the land. Powers are delegated to these two branches of the Government distinct from those lodged in this House. As long as they exercise these powers agreeably to the Constitution, their acts cannot be controlled by this House; for it would a solecism to say that full powers are given two branches upon a given subject, and yet a power is elsewhere lodged to annul the acts which proceed from those powers. He considered the resolution as unconstitutional, as it is predicated upon the right of this branch to intermeddle with the proceedings of the other branches on this point, not alleged to be unconstitutional.

If there is to be investigation on the Treaty, the inquiry must stand upon the allegation that the Treaty is contrary to the Constitution; and then, if that could be proved, it would not be the law of the land. Of the inexpediency of the resolution he was well convinced, as it affected the secrets which ought to be kept from foreign Powers. It might lead to a disclosure, to foreign nations, through this House, of certain points in our foreign relations, and in the estimate of our own domestic interests, that might do us mischief. There might be, in negotiations, transactions, which, to expose, would be a violation of good faith. He did not imagine that there were such in the negotiation of this Treaty, but the right is claimed then over all similar cases.

Mr. M. was proceeding in some remarks respecting the powers of the Senate, when the Speaker interrupted him, and reminded Mr. M. that no observations respecting the independent rights of the Senate could be in order.

Mr. Buck said: I am opposed to the resolution now under consideration, not from an apprehension that the papers referred to will not bear the public scrutiny, or from a belief that there would be the least reluctance on the part of the Executive to deliver them on account of any such apprehensions of his; but I am opposed to the resolution in point of principle, because I conceive those papers can be of no use to us, unless to gratify feelings of resentment or a vain curiosity. As I would never sacrifice principle to these motives, and thereby fix a precedent pernicious in its consequences, I hope for the indulgence of the House while I offer my sentiments upon the subject.

In order to determine the propriety of the present measure, I think it necessary to take into view the present existing state of the Treaty, and to consider what binding force, if any, it now has; what benefits can be derived from those papers to effect an alteration, and what powers we possess to call for them.

The Treaty is negotiated, assented to by the Senate, ratified by the President, the ratifications exchanged. It is now promulgated, communicated to us, and the President has made solemn proclamation, enjoining it upon all persons bearing office, civil or military, within the United States, and all other citizens or inhabitants thereof, to execute and observe the same. Was this the proclamation of George Washington, considered as a man, detached from the powers vested in him by the people, it would excite ridicule. Was it the proclamation of a King or Despot, who arrogated to himself the right of dictating laws to men without their consent, it would excite contempt; and if it is in fact the proclamation of the President of the Unit-

the States, who, under color of his office, has assumed powers not delegated to him, it must excite indignation. But, if it be neither of these, but is, indeed, the voice of United America, sounding through the President, as the only organ of the nation in this particular case, this gives it a different stamp, and in this sense, to me the sound is as heavy as thunder, majestic as Heaven, and the height of treason to disobey it.

But suffer me to solicit the attention of this House while I premise a few things, before I immediately apply my observations to the point in question. For what did America contend; for what did she endure the toils of war, and sacrifice thousands of her citizens; for what did many members within these walls endure the same fatigues of war, stem the rage of battle, and shed their own precious blood? I believe every mind will accord with me when I say, that it was to cast off the oppressive power of a nation which, being detached from us, usurped and arrogated to herself the right of dictating to us laws, contrary to our will, while we had no voice in passing those laws through the medium of our Representatives; and to gain to ourselves the important right of self-government. Our success was equal to the magnitude of the object; we gained the glorious prize; liberty and peace succeeded war; the ferocious and turbulent passions were lulled to rest; and, in 1787, free and united America, undisturbed by factions within, unawed by foes without, was seen exercising her cool, dispassionate reason, that divine gift of God to man, in concerting and framing a system to perpetuate to herself and posterity the glorious prize she had won, the invaluable blessing of self-government, founded on the dispassionate will of the great body of the sovereign people. Three great objects met her attention; first, rules to check the licentious wickedness of individuals, and mark out their separate rights; second, intermediate Judges to apply those rules; and, thirdly, negotiations, compacts, and Treaties, with foreign nations. It being impossible for the great body of the people to collect individually to perform those necessary functions, they frame a Constitution in which they express their will in respect to each; they constitute the Legislative, Executive, and Judiciary departments; mark out and assign to each their separate and distinct powers, and place them as the three great organs through which the future will of the people is to be known in respect to those great functions. The Constitution is then, emphatically, the expression of the will of the great body of the sovereign people, and while Government moves on conformably to it, we may with the utmost propriety say, that the laws dictated by the will of the people reign, and not men or kings, and this is in the strictest sense of the word self-government, so far as it can apply to a nation; but if we depart from this basis, then may it be said that men reign, and not the laws; the will of the people is then abandoned, and the glorious rights for which we have contended, sacrificed and lost. Let us then take the Constitution as our only guide, and see with what authority this Treaty has been made.

In the first section of the second article of the Constitution, it is declared, that the Executive power shall be vested in a President of the United States of America. In another clause of the same section it is declared, that before he enters upon the execution of his office he shall take an oath, that he will faithfully execute the office of President of the United States, and will, to the best of his ability, preserve, protect, and defend the Constitution of the United States; and in the second section of the same article it is declared, that he shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur, and that he shall nominate, and, by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers, and Consuls; and in the sixth article it is declared, that all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land. By these passages I conceive that the will of the sovereign people is clearly expressed; that the President and Senate should stand as their Representatives, fully authorized by them to make Treaties, and are vested with every necessary, requisite power for that purpose; that they are placed as the organ of the nation, through whom the will of the people is to be known in relation to all those compacts, and it is equally clear, that if they have kept within the bounds prescribed by the Constitution, the Treaty now in question has become a supreme law of the land, and that agreeably to the express and dispassionate will of the great body of the sovereign people.

I will admit, that if the President has assumed powers not delegated to him by the people in making and proclaiming this Treaty, it is void in itself; but of what use can those papers be to us in determining that question? Are we to explain the Treaty by private and confidential papers, or by any thing extraneous to the instrument itself? I conclude not. The instrument is then before us; let us compare it with the Constitution, and see if there is one article, sentence, word, or syllable in the Treaty, which clashes with, or is contradictory to, the Constitution. This is an inquiry I will pledge myself not to oppose; but for this, these papers can be of no use.

But if we are to take upon ourselves the right of judging whether it was expedient to make the Treaty or not; whether it is as good a one as might have been obtained or not; and if we are to assume the power of judging upon the merits as well as the constitutionality of it, then those papers may be necessary, and if we possess the power of thus judging, then we equally possess the right to call for those papers. But from whence do we derive this right and power? Have the people, when coolly deliberating upon and forming the Constitution, which is the expression of their dispassionate will, in that Constitution given us this right? No, not a syllable in the Constitution that even intimates the idea. Do we possess the right merely because we are the Representatives of the people? No, that cannot be,

for we are their Representatives only for particular purposes, and the Constitution has prescribed to us our bounds, and assigned to us the limits of our powers as well as to the Executive. Are we to derive this right from popular opposition to the Treaty, and from thence say, that it is the will of the nation that we should exercise this right of inquiry? Is then popular clamor, which originates in discontent, is fostered in violence and passion, and stimulated by the intrigues of interested and ambitious individuals, to be taken as the dispassionate will of the nation? If so, how are we to designate and mark out the numbers of the discontented? Are we to learn it from inflammatory newspaper publications, teeming with invectives against Government and its measures, and not carrying even the appearance of reason with them? These can furnish no data by which to determine whether it is one-tenth or even one-thousandth part of the nation that are dissatisfied. Are we to learn it from the petitions now before us? If so, the petitioners do not constitute one-thousandth part of the nation; and I presume, as those petitions have all one stamp, the petitioners are all in unison of sentiment; if so, I have a specimen of their ideas: the resolution of Bennington County Convention, transmitted to me, goes no farther than to request the Representatives of that State to use their best endeavors to bring on a discussion of the constitutionality of the Treaty; it does not even suggest the idea that we have or should exercise the power to call for those papers, or judge upon the expediency or merits of the Treaty. Shall we then assume the power, and go even beyond the wishes of the discontented? If so, where shall we stop? If we, by an assumption of power, may invade the prerogatives of the people, vested in the President, as their representative in making Treaties, and may rifle the sacred deposite of their confidential correspondence with foreign nations, and judge upon the merits of a Treaty, then may we reverse the judgment of the President and Senate, and annul the Treaty. Who is, then, to make the next? Is it supposable that the President will again attempt it, when the principle is fixed, that he and the Senate are not the ultimate judges of its merits? No; to me this is absurd. We must, then, take the whole business to ourselves, and become the negotiators as well as the ratifiers of a Treaty; and if we may do this, upon the same principle, whenever there shall be a popular clamor raised against the persons appointed to the Judiciary department, we may interpose, call on the President for the reasons of his making the appointment, declare it injudicious, withhold appropriations for the salaries, and engross all the Judiciary powers to ourselves. Upon the same principle we may ultimately determine upon our own adjournments, declare our sittings perpetual, constitute ourselves the judges and executioners of the law, and become the accusers, judges, and executioners of our fellow citizens. This would be forming an aristocracy with a witness; and where, then, would be the boasted rights of America, for which she fought and bled? These are the consequences to which the principle involved in this resolution would lead.

But suffer me to reverse the tables, and consider this subject in another point of light. Let us suppose every word in the Constitution which now applies to the President making Treaties applied to us, and that all the powers which now apply to us, as a Legislature, applied to the President. This, I think, is a fair way of examining the subject; for when, in imagination only, we consider ourselves as clothed with those powers, it cannot be supposed we shall instantly attach to the idea those prejudices which, after a long exercise of those powers, we might possess. Then, considering ourselves as having those Constitutional powers, let us suppose that we had made and ratified the present Treaty, and made the same Proclamation the President has done, and which had been signed by the Speaker of this House; and had called on the President to pass the necessary laws to fulfil the stipulations, and then suppose he had done as we are now about to do—called on us for the instructions we gave our agent, and the correspondence held while the Treaty was negotiating. Let every member now present reflect and determine for himself what our feelings would then be upon the subject. Would not our keen sensibility be as much raised as when our virtue was assailed by the contaminating breath of Randall? Should not we consider it as an insult to the majesty of the people, which so conspicuously shone through us as their Representatives? Should not we then say he was assuming powers not delegated to him; that he was invading the prerogatives of the people vested in us, and rifling the deposites of their national correspondences? Should not not we embrace every idea which I have suggested upon this subject as now applying to the President? Would it not be said, he was aiming to engross all the powers of Government, and to set himself up as a despot? Would not his insolence, resound from every side of these walls, be bandied about from one end of the Continent to the other, and wafted even into distant climes? Nay, should we not go further, and say, that as the Constitution had vested in us the power to make Treaties, it had also necessarily given us the sole right of judging, not only of the merits, but also of the constitutionality of them? Should we not say, the people, by giving us the power, had thereby decided the point, and determined us as being the best and ultimate judges; and that it was not for the President to impeach our judgment, nor implicate us as having violated the oath we had taken? By what rule of reason do we now calculate, then, to suppose the President does not possess the same feelings, and embrace the same ideas, as now apply to him, standing as the representative of the people in making Treaties? And how can we suppose it would not be a violation of the Constitution, and an assumption of power in us, to adopt this measure? Is it not clear, that if the will of the people is not expressed in the Constitution, nor the will of the nation in the opposition to the Treaty, that we should exercise this power; that our exercising it would be a depart-

are from the will of the people, and that our Government would then no longer rest on that basis? And would it not then be equally clear, that we had abandoned the inestimable rights for which we had contended? This would be to overturn our Constitution, and demonstrate to the world that a free people were not capable of self-government, and hold out but poor encouragement to those nations now struggling for freedom. In this point of view, I consider the question all-important; on this step, and the present crisis, depend the great and important question whether we are to enjoy the reign of laws dictated by the dispassionate will of the people, or whether men must content themselves to be subject to the reign of popular frenzy, anarchy, and confusion, on the one hand, or the insolent reign of despotism on the other.

And consider the passing of this resolution a direct step towards the abolition of those sacred rights for which we have fought and bled, should I give my consent to it, the blood which I have shed, and my own mutilated frame, would reproach me.

Mr. Baldwin thought the resolution so unexceptionable that he had expected it would have been agreed to without debate. The President has sent the House the Treaty; petitions have come forward on the subject; the House must act in the business. It is yet unaccompanied with any documents to throw light upon it. No person concerned in the negotiation has a seat on the floor of the House; so that no oral information can be expected. Implicit faith was not to be reposed, he imagined, in public officers. It would be unfair to take up the subject naked and unexplained.

He believed the resolution far from looking like hostility towards the Executive—was a measure which the Executive must wish for, as it affords him an opportunity of submitting to the House his grounds of proceeding in the business, which he could not do without it, except by rendering himself liable to the charge of officiousness. As to the objection that these papers were secrets of the Executive Department, he thought it more plausible than solid. The Executive might communicate them confidentially to the House, as was often done, or might keep back such as there was any temporary impropriety in communicating, on account of other transactions now depending. He thought the importance of having many Governmental secrets was diminishing. The doctrine of publicity, he said, had been daily gaining ground in public transactions in general, and he confessed his opinions had every day more and more a greater tendency that way. The passion for mystery was exploded, and what experience he had had in public matters confirmed him in the opinion that the greater the publicity of measures the greater the success. He had seen the doors of the House frequently shut, and had rarely known any good to arise from it. In a free Government, he wished the arguments for and against measures to be known to the people: this would reconcile them to those founded on sound reason and policy. This he had ever found the case in the part of the country he represented. Whenever he had had an opportunity of stating the reasons that had influenced his vote on any particular question, he found those reasons had weight, and reconciled his constituents to the measure.

He again dwelt on the importance of accompanying the law with the motives of it. Upon this principle the House publish their Journals, and he had always found publicity produced a good effect. He should vote for the resolution, unless more valid objections to it than those hitherto brought forward against it could be adduced.

Mr. Gallatin said, no member had a higher opinion than himself of the talents and patriotism of the member from Vermont, but he could not help expressing his astonishment at what had dropped from that gentleman. From what he had said, no one could have imagined that the motion before the House was merely a call for papers, but would have supposed that it was in contemplation to disorganize the Government, and to erect the House into a National Convention. It was too much to be feared that on a discussion of the Treaty the alarm would be sounded. We are scarcely on the threshold, and the cry of confusion and anarchy is already raised. He little expected to hear this in a debate on the present motion, which did not necessarily involve a Constitutional question. If he thought it did, he would have advised the mover to withdraw it, as he wished every Constitutional question to be discussed in a direct way.

What, he asked, is the state of the present question? The President tells the House that he has made a Treaty, and lays it before them: it is referred to a Committee of the Whole on the state of the Union for some purpose. What shape the discussion may take in that Committee cannot now be decided; but whether, when we take up the question of the Treaty, it be agreed that we have an agency and a discretion in carrying it into effect, or whether it be intended only to express our opinion, by means of a declaratory resolution, of that instrument, the information called for will be useful, by showing the reasons which induced the adoption of the Treaty. It had been allowed that the Treaty had excited much discontent, but it was supposed that the President and the Senate were the best judges, because they possessed the best information: to render this information public, must then answer a valuable purpose. The exception annexed to the resolution rendered it, in his mind, totally unexceptionable. The motion does not lay claim to the secrets of the Executive, but only asks. If the President thinks proper not to give the information, he will tell the House so; then a question may arise whether they shall get at those secrets whether he will or no: but that is not the question now.

In another view information would be of use: it would enable the House to form a just opinion of the meaning of any doubtful article of the Treaty. A member had expressed the opinion that the House had no discretionary power relative to the Treaty. This was taking for granted what remained to be proved; this would be a point to be discussed.

Mr. Murray explained, that what he asserted was, that if the Treaty was the supreme law of

the land, then there was no discretionary power in the House, except on the question of its constitutionality.

Mr. Gallatin said, he should not now enter into the merits of the question, but merely state that certain powers are delegated by the Constitution to Congress. They possess the authority of regulating trade. The Treaty-making power delegated to the Executive may be considered as clashing with that. The question may arise, whether a Treaty made by the President and Senate, containing regulations touching objects delegated to Congress, can be considered binding, without Congress passing laws to carry it into effect. A difference of opinion may exist as to the proper construction of the several articles of the Constitution, so as to reconcile those apparently contradictory provisions. But all those questions would occur in future discussions. What is now wanted is information on the subject, to elucidate the different views which may be taken of the Treaty. It must do good to obtain it, and could do no harm to ask for it. If it would be improper to communicate any part of the information on the subject, the President will say so. He had hoped, he said, that the resolution would have passed without objection. He concluded by observing, that the House were the grand inquest of the nation, and that they had the right to call for papers on which to ground an impeachment; but he believed, that if this was intended, it would be proper that the resolution should be predicated upon a declaration of that intention. At present, he did not contemplate the exercise of that right.

Mr. Gilbert was opposed to the resolution. He had heard no satisfactory reason given why the information should be asked for. He considered it as an attempt to encroach on the powers of the Executive Department. He insisted on the necessity of secrecy as long as there are despotic Governments to be negotiated with. If the President was to refuse the information, in which he conceived he would be justified, it might create discontents and heart-burnings. He was against the resolution as unconstitutional, unprecedented, inexpedient, improper, and dangerous to the peace and prosperity of the Government.

Mr. Madison admitted that every proposition, however distantly related to a question on the Treaty drew from the importance of that subject considerable importance to itself. In a discussion of this subject, he felt strongly the obligation of proceeding with the utmost respect to the decorum and dignity of the House, with a proper delicacy to the other departments of Government, and, at the same time, with fidelity and responsibility, for our constituents. The proposition now before the House, he conceived, might be considered as closely connected with this important question. It was to be decided whether the general power of making Treaties supersedes the powers of the House of Representatives, particularly specified in the Constitution, so as to take to the Executive all deliberative will, and leave the House only an executive and ministerial instrumental agency? He was not satisfied whether it was expedient at this time to go into a consideration of this very important question. If gentlemen were not disposed to press it, he would attempt to throw the resolution into such form as not to bear even the appearance of encroaching on the Constitutional rights of the Executive. The resolution, in the form in which it was first presented, was liable to objection; the mover had removed that objection in great measure, by adding an exception to the papers requested. He wished to submit, whether the resolution would not be further improved by introducing the following words in lieu of the amendment proposed by the member from New York: "Except so much of said papers as, in his judgment, it may not be consistent with the interest of the United States, at this time, to disclose." He moved these words as an amendment, after striking out those brought forward by the gentleman from New York.

Mr. Crabb, though against the measure, expressed his intention of ameliorating the resolution as much as possible: he should therefore vote for the amendment.

Mr. Sedgwick conceived the business assumed a new aspect. The subject was important; he wished to deliberate on it attentively, and hoped time would be given him to make up his mind. He moved to adjourn, and the House did adjourn.

March 8.—The House took up Mr. Livingston's resolution; the amendment proposed yesterday by Mr. Madison being immediately before the Committee.

A question was immediately taken upon that amendment, and lost—37 to 47.

The original resolution then came into consideration.

Mr. Smith (of South Carolina) said, that he had listened attentively to the reasons advanced in favor of this resolution, and that he had heard nothing to convince him of its propriety. The President and Senate have, by the Constitution, the power of making Treaties, and the House have no agency in them, except to make laws necessary to carry them into operation; he considered the House as bound, in common with their fellow-citizens, to do everything in their power to carry them into full execution. He recognised but one exception to this rule, and that was, when the instrument was clearly unconstitutional. In this case, he remarked, it had not been said that the Treaty was unconstitutional. When the resolution was first brought forward, it had indeed been observed, that the discussion might involve certain Constitutional points, and therefore, the papers called for by the resolution were necessary: but it was obvious, the question of constitutionality should be determined from the face of the instrument, and that a knowledge of the preparatory steps which led to its adoption, could throw no light upon it; that ground was therefore abandoned even by the friends of the resolution, and others were resorted to.

A member from New York had said, the information called for was wanted, as it might ap-

ply to all the possible views of the Treaty question; that he could not declare the particular point now, but that when the papers were before the House, they would then be enabled to judge. He differed in opinion from that member; when the House were about to call for papers, he conceived they should state for what purpose they wanted them; whether they wished to examine the question of constitutionality, or whether they intended an impeachment. In the latter case, a member from Pennsylvania, in favor of the resolution, had conceded, that the resolution should be expressly predicated on a declaration of the intention. All the gentlemen who had expressed their sentiments on the subject had renounced the ground of impeachment; the question of constitutionality was renounced, and the papers are finally to be called for in order to give general information. The member from New York wished for information as to the whole transaction to be before the House, that they might be enabled to judge of the propriety of carrying the Treaty into effect. This ground, he conceived not tenable under the Constitution; the House were bound to carry it into effect, unless unconstitutional. They have no right to investigate the merits of the Treaty; it is the law of the land, and they are bound to carry it into effect, unless they intended to resist the constituted authorities.

A member from Massachusetts had, yesterday, intimated that it was possible a knowledge of these papers might allay the sensibility which had been evinced on the subject of the Treaty. For his own part, he would not pretend to say what effect it might produce; but this argument was a severe reflection on the proceedings of the various associations, who had given their opinions of the Treaty, without thinking a sight of these papers necessary: it was also a censure on those Legislative bodies who had formed their opinions of it, without this necessary light. They thought themselves able to form an opinion of the instrument without the aid of these papers. If the public meetings which denounced the Treaty had thought them necessary to forming their opinion, they would have suspended it till these papers came to light. The gentleman from Massachusetts had also said, that the papers might develope circumstances which would show the impropriety of carrying the instrument into effect. He, for his part, knew of no such circumstances; if there were any, they must go to the characters of the persons concerned in the transaction; and if the gentleman knew of any such, it was his duty to state them as a ground of impeachment; but from all quarters the intention of impeachment was disavowed. If the gentleman meant merely to allude to the circumstances which had been necessarily incidental to the negotiation, they were not, in his opinion, the proper subjects for the consideration of the House. With as much propriety might the President, when about to execute a law, wish to examine the Journals of the House, the instructions to committees, to determine whether it was improper or not. The President, in executing a law, examined its constitutionality on the face of it only. If the President and Senate have alone the Legislative power with respect to a Treaty, the House had no right to inquire into the subject of negotiation that led to it. The House are surely not to enter into the merits of the proceeding, and determine whether the instrument should be negotiated over again. This was not a right given by the Constitution, and if attempted to be exercised, it could be done only by arrogating it. By the Constitution the powers of Government are distributed; to Congress the Legislative power is given, the Executive to the President, and under the head of the Executive, the power of making treaties is comprised; but they must be, for greater security, approved by two-thirds of the Senate. All Treaties are the supreme law of the land, and the House cannot meddle with the Treaty-making power, without being guilty of usurpation.

A member from Virginia had said, that the information called for by the resolution might allay the ferment in the public mind, that it might form an apology for the Treaty. If the President, he replied, had thought so, he would have been glad to have laid it before the House; but he believed, he thought it did not need an apology, and that when tested with proper information by due consideration, that it required none.

When compared with the Constitution, and with other instruments of the same nature; when recourse was had to the books calculated to throw light upon it, it would be found that it required no justification from the correspondence and instructions.

He was surprised that gentlemen who displayed such zeal for the Constitution should support a proposition, the tendency of which went indirectly to break down the Constitutional limits between the Executive and Legislative Departments. The Constitution had assigned to the Executive the business of negotiation with foreign Powers; this House can claim no right by the Constitution to interfere in such negotiations; every movement of the kind must be considered as an attempt to usurp powers not delegated, and will be resisted by the Executive; for a concession would be a surrender of the powers specially delegated to him, and a violation of his trust. The proposition calls upon the President to lay before the House the instructions given to Mr. Jay, and the correspondence between him and Lord Grenville; and for what purpose? Is this House to negotiate the Treaty over again? Has the Constitution made this House a diplomatic body, invested with the powers of negotiation? Is not this House excluded? for, if the maxim that "the expression of one is the exclusion of another," applies to this case, the assignment of the Treaty-making power to the President and Senate, is a manifest exclusion of this House. This call then on the President is an attempt to obtain indirectly what the Constitution has expressly assigned to others. Are these papers necessary to enable us to judge whether the Treaty is Constitutional or not? If the Treaty be unconstitutional, it must sufficiently appear so on the

face of it; if the articles of the instrument be Constitutional, can the preparatory steps make them not so? Gentlemen complain of want of information. Admitting their complaint to be well founded, let them resort to the proper sources of information. What are those sources? If information be wanted to enable them to judge of the constitutionality of the instrument, let them take the Constitution in one hand and the Treaty in the other, compare them, and then decide; if from such comparison, they find no grounds for declaring the Treaty unconstitutional, their decision must be in favor of its constitutionality. Mr. S. referred to the proceedings of the Supreme Court in the case lately argued of the carriage tax and just decided; how did the Court proceed? Did they call for the Journals of the two Houses, or the report of the Committee of Ways and Means, in which the law originated, or the debates of the House on passing the law? What impression would such call have made on the public mind? Would it have enhanced in the public opinion either the dignity or wisdom of that tribunal? They took the Constitution in their hand, and tested the act by that standard, and by that alone has their decision been governed.

Is the object in calling for this information to discover whether the negotiator has conformed to his instructions? If so Mr. S. was at a loss to discern how that would affect the question. Such a circumstance might be important as it related to the President, and might prevent his laying a Treaty, not conformable to his instructions, before the Senate; but, being ratified by the President and Senate, all was done which the Constitution required. The Constitution does not require the intervention of a negotiator; it only requires the advice and consent of two-thirds of the Senate, and the sanction of the President; the President is not bound to employ an agent, he may in person conclude the Treaty with the foreign Minister or he may employ the Secretary of State; the instructions are private directions from him to his agent; and whether those instructions be pursued, or departed from, is a question only between the President and his agent. By adopting the Treaty, he sanctions the conduct of his agent; by laying it before the Senate, he manifests his approbation of a departure from his instructions, if any such there were; which, however, in the present case, is not admitted. To return to the case already referred to, of the carriage tax; would it be a material ingredient in the inquiry respecting the constitutionality of that tax, whether or not, the Committee of Ways and Means had conformed to the instructions of the House, in recommending such a tax? Undoubtedly not; the ultimate act, as passed by the different branches, would alone be looked into.

Mr. S. next adverted to the consequences of such a measure. Diplomatic transactions are in all countries of a secret nature; in the progress of negotiation, many things are necessarily suggested, the publication of which may involve serious inconvenience and disadvantage to the parties negotiating. Our Constitution has, therefore, wisely assigned this duty to the Executive. The precedent attempted to be established is, then, a dangerous one; for it not only tends to alter the nature of the Government, but to endanger the interests of the country. This is the first instance of the kind since the establishment of the Constitution. The Executive has, indeed, of his own accord, communicated to us such papers relative to negotiations, as appeared to him proper to lay before us, and as might show the public he was pursuing the requisite steps for obtaining redress. But there is not one solitary instance on the Journals, of a movement on our side, to obtain such papers, where he has not deemed it proper, on his part, to transmit them. In this case, the President has communicated the Treaty, without any papers accompanying it. This is an evidence of his sentiments. Had he thought it his duty to have communicated the instructions and correspondence, he would unquestionably have done it. It has been said that he would refuse a compliance with such call, if he thought it improper; but this was no reason for making a wanton call; his having withheld these papers is an evidence that he thought it improper to send them; if, after this, they are requested, and he sends them, it will be an avowal, on his part, that he committed an error in not sending them at first, or that they have been extorted from him. This call is then calculated to place him in a painful dilemma; he must either resist the application of this House, or surrender essential Executive rights. Is it expedient, is it generous or candid, to place him in this situation, without a more urgent necessity than has been stated? Mr. S. deprecated that clashing of authorities, which he was convinced this call would produce. This House, said he, is the representative of the people, for Legislative purposes; but the President is likewise their representative, for Executive purposes. It was not necessary, on this occasion, to pre-judge the extent of the right of interference, in a case of impeachment of the President by the House; because that case is, at this time, avowed to be out of the question. On any other ground, this House, in its Legislative capacity, ought to be extremely cautious of encroaching on the rights which the President has derived from the people, as their representative, and which he exercises for their benefit. In the business of Treaties, the Constitution has provided no other check than the requisite concurrence of the Senate, and the right of impeachment by this House; unless, therefore, this call is predicated on an intention to impeach, and so stated and understood, it is an encroachment on the Executive, and will be attended with serious consequences.

A gentleman from Virginia had said that, when the papers are laid before the House, they would see upon what principle the Treaty had been made. He answered, that the President and Senate had a right to make Treaties; that they were the law of the land; that, in the present case, the British Treaty had been proclaimed as such. If it was not the law of the land, an im-

peachment should be brought forward against the President for declaring it so. But there was no motion for impeachment. If it is the law of the land, what could the House do to prevent its being in force? why call for papers to see whether it was properly made? Can the House set it aside? They may resist it, and so may individuals resist the law, at the risk of consequences. The House have taken an oath to maintain the Constitution, and carry the laws into effect. It was a doctrine he had heard before now, on the floor of the House, and a sound one, that a law must be repealed or obeyed: if it is not repealed, it must be obeyed, or the Government dissolved. Can the House repeal the Treaty? No; then they must obey it.

The gentleman from Georgia had reprobated all secrets in Republican Governments, though he admitted there might evils arise by divulging papers whilst a negotiation was yet pending. With respect to secrets, Mr. S. thought them unavoidable in all Governments; it was a standing rule in that House, when confidential communications were made from the President, to clear the galleries, and even to exclude some of the officers of the House. He referred to the practice of the Old Congress on the subject of secrecy; and alluded to the case of a member who had been censured for divulging secret correspondence. It had been said by the member from Georgia, also, that the Treaty carried no explanation with it, and if the House acted upon it, they must take it up unexplained. He thought nothing more was necessary than to see that it was a law. What explanation did that gentleman want? What necessity for information with respect to the negotiation? It was a matter with which they had no concern. It belonged to another authority. That gentleman had also said, that he did not suppose the request would be painful to the President, but that it would give him pleasure. Was not the President himself the best judge of this? He had not given the papers to the House, and on former occasions, when he wished papers to be made known, he had done so.

A member from Pennsylvania had said, why refer the Treaty to a Committee of the Whole, if they did not mean to do something with it? It was sent there, Mr. S. observed, in order to make the proper appropriations for carrying it into effect. Now, this reference was made the ground of calling for the papers; and when the papers are produced, he supposed they would say, why have these papers, except we go into an examination of the merits of the Treaty? It was also said by the same gentleman, that these papers would enable them to understand the articles of the Treaty. He believed they were to understand the Treaty from the face of it, as judges expound the law, by examining the law itself. That gentleman further observed, that, as the Treaty contained commercial regulations, the information asked for, would enable them to decide with respect to legislating on the subject; but, said Mr. S., the Constitution will decide that better than instructions or correspondence.

Mr. S. said, he believed he had examined all the reasons assigned for calling for this information. He thought, before the House made such calls, it should have good grounds for them, especially, when the President had shown his opinion by not sending the papers with the Treaty. Mr. S. took a brief review of his arguments, paid a compliment to the member from Vermont, on account of his speech of yesterday, and concluded by saying, that that House had no more right to send to the President for the papers in question, than the printer of a newspaper had; he might communicate them to either voluntarily, but neither had a right to demand them. He apologized for having trespassed so long on the time of the House, and expressed his hope that the resolution would not pass.

After Mr. S. had sat down, it was moved by Mr. Giles, to take the resolution up in Committee of the Whole for the purpose of more ample discussion.

This motion was agreed to; sixty-one members rising in the affirmative.

The House immediately resolved itself into a Committee of the Whole, on the resolution.

Mr. Nicholas remarked, that the member from Connecticut, first up, when inquiring for the reason of a call for papers, had suggested two. The one, relating to the merits of the instrument; the other, an inquiry into the conduct of officers concerned. On the latter ground, gentlemen conceded that the House had a right to require the papers, and yet seemed willing to adhere to that, on which they conceive a call could not be, with propriety, grounded, as the one that influenced the conduct of the friends to the resolution. All gentlemen admitted, that the House had the superintendence over the officers of Government, as the grand inquest of the nation; but persisted that the resolution calling for papers, if intended for the purpose of exercising that authority, must be predicated on an expression of the intention. How, he asked, could this intention be properly made up, without a previous sight of those very papers; would the House risk their own credit in the business, without seeing clearly the ground they went upon, by having before them the information now called for? The right, he contended, of superintendence over the officers of Government, gave a right to demand a sight of those papers, that should throw light upon their conduct.

He took a view of the prominent features of the arguments of the members up before him. It had been said that, if the power of the President and Senate, as to Treaties, was complete, then the House had no right to claim a participation; this could not be denied; but the question was, whether the Executive had that right, unqualifiedly, in all cases. In the present case, he contended, the House had a voice. To elucidate: Suppose that, in the Constitution of the United States, which has been so guarded about the expenditure of money, a clause had been inserted, positively declaring that the House have a control over the money matters stipulated in a Treaty; would not this constitute a qualification of the powers of the

President and Senate with respect to Treaties? The Constitution, on this head, he contended, though less explicit than his supposed case would make it, was not the less positive, if tested by all the fair rules of construction; and if compared with the practice of the Government, from which we had borrowed, with many other matters, this part of our Constitution. In England, the country alluded to, their House of Parliament had exercised a control over the moneyed articles of Treaties; and he contended, the House of Representatives had an equal authority here, as chief guardians of the purse-strings. It was unnecessary, at this time, he said, to touch on the other parts of the Treaty which clashed with the Constitutional powers of the House.

The member had said that the Treaty being concluded, and being a law, the House were, as subject to the law, obliged to pass the necessary provisions to carry it into effect. He did not suppose for his own part, he said, that he was sent here to pay implicit obedience to any department of Government, and receive a decision on what was to come before the House at their hands; but to use his discretion to the best of his knowledge and abilities.

He again adverted to the power of control that the House of Commons have over Treaties; and contended, that that provision of the British Constitution had been accurately copied in our own with this deviation only, that the Senate have the power of making amendments to money bills here, which the House of Lords there have not. He could show from the best authority, the acknowledgment of the British Crown officers themselves, that the Parliament has a right to discuss and decide on Treaties which involved moneyed stipulations.

The same power, he argued, resided in the House here; for shall it be said, that we have borrowed only the form from Great Britain, and not touched the substance? Shall it be said, that the House have a discretion as to appropriations, and yet they must make them as directed by a Treaty? If the House have no discretion to use in the business, they are the most unfit body to regulate money-matters; for complete regularity in so large a body must be one of the least of their valuable properties. But, with the power of appropriating money, the House have certainly the right to judge of the propriety of the appropriation. The Constitution explains itself fully on this head. He instanced the specific power in the Constitution, with respect to appropriations for the Army, to explain from that instrument its meaning in other parts.

The Constitution says, that no appropriations for the support of armies shall be for more than two years; this is, no doubt, that the House may periodically have before them the question of the propriety of supporting an armed force, with all its consequences, and that they may, by refusing or granting an appropriation, determine on its existence. The power thus cautiously lodged must have been for some purpose, and that he had suggested could alone explain this clause of the Constitution. This will show what was expected of this House in appropriating money; that they should judge of the usefulness of the expenditure. In the case of the Army, the Constitution does not say that we may disband an Army by withholding money; but for the purpose of investing us with the same power, only requires that the appropriation should recur every two years; taking it for granted, that in this as well as in every other Legislative act, we will duly weigh every consequence.

Having thus explained from the Constitution itself the true meaning of this power of appropriation, he proceeded to elucidate it by a reference to the practice of the Government. He found an instance in the permanent appropriations made for the payment of the Public Debt. If the House in this and analogous cases, could exercise no discretion as to appropriations, why this permanent provision, in preference to an annual appropriation? The permanency of the provision took its rise from the idea, that the House possessed a discretionary power as to appropriations. Thus, he had shown, that the practice of the Government, the provisions of the Constitution, and the example of the British, from whom we had exactly copied the control over money transactions, all proved a discretion in the House as to appropriations. This must be considered as a sufficient answer to the gentleman from South Carolina, when he said, that the President and Senate possessed the Treaty-making power; for they possessed it with qualifications, in matters of money; and unless the House chose to grant that money, it was so far no Treaty.

The member from South Carolina said, that the idea of impeachment was renounced. He was mistaken; no member in the House could now with propriety declare that when the papers are produced there may not be found ground for impeachment.

Another ground stated as a motive with the friends of the resolution for the call for papers, was to throw light in a discussion of the merits of the Treaty. The right of the House to view the instrument in this light was contested, and doubts had been raised; but if the House had a discretion as to appropriations, must they not take a view of the merits of the Treaty? But even if these doubts were not removed, even if the House had not a right, or did not want the papers to discuss the merits of the Treaty, still another motive existed acknowledged sufficient, which would cover the requisition, viz: the power of impeachment. It was said, that the precise use these papers are meant to be put to, should be stated; he repeated that they must be seen before it could be known what proceeding might be most properly grounded on them. It was said, that the President may refuse the papers asked for if he thinks proper, and that if he has a right to refuse, the House cannot have the right to ask. The House ask for particular papers, assert their right to them, under a broad qualifying reservation, dictated by their own discretion, which prevents any embarrassment arising in pending negotiations from it.

It had been said that the President would have seat the papers if it had been proper they should be communicated. In one point of view the President must have supposed they could not have been wanted. Acting from pure intentions it could not occur to him, that the conduct of the negotiators of the Treaty deserved a criminal investigation. In the other view it was no argument; for the House should not deviate from the road of their duty, by the belief, opinion, or conception, of any man.

It was said, that by supposing papers necessary to elucidate the subject of the Treaty, it was virtually accusing those who had passed their judgment on that instrument with hastiness. If the House, who can claim a right to a sight of the papers, should decide without them, they, with justice, might be reflected on for precipitation; but the people could only act on the information given them, and on the general impressions the instrument made: Besides, their judgment on it was not final, it was not to annul, it was only an expression of their sentiments; a Treaty also may be so bad, as to impress a strong belief, that no circumstances leading to it can exist to prove it tolerable.

The President's power over the laws had been mentioned by the member from South Carolina, as analogous to that which the House had a right to exercise on the present occasion. But that gentleman had insisted, that he had only their constitutionality to consult. Mr. N. differed in opinion; he conceived his right extended to the examination of their policy in all its relations, before he gave them his sanction. He may hitherto from his confidence in the Houses, never have questioned the policy of their laws, but his not having used the power did not deprive him of exercising it in future.

It had been said that the Minister who negotiated a Treaty was a private agent of the Executive, and not answerable to the House. This was a strange doctrine indeed: Surely a Minister is a Constitutional officer, and as such impeachable. It has been said, that even if a Minister had deviated from his instructions, if his principal approved and sanctioned the deviation, the agent was no longer responsible. The doctrine he considered as very dangerous. A Minister might violate his instructions in a point not justified by existing circumstances; the change produced by the negotiation might justify the principal in accepting the Treaty; but though the latter might be justifiable, the first could not. The conduct of the agent might improperly bring the principal, without good cause, into such a dilemma as to oblige him in a manner to accept the Treaty he had made; but its ratification could not be a cloak to the conduct of the Minister.

It was said, that if the Treaty was not the law of the land, the President should be impeached for declaring it as such. Parts of the Treaty the President and Senate had, no doubt, a right to make without any control of the House—those parts he might be considered as proclaiming; he proclaims it, limited as his authority, and under the qualifications provided by the Constitution. It was said, that no instance of such a call as that now contemplated could be produced. No; nor of such a Treaty, he answered.

He concluded by a short recapitulation.

Mr. Heath spoke as follows: I always feel a peculiar diffidence whenever I deliver my sentiments on any important occasion in this House, for fear they may not be sufficiently matured by deliberation. But it appears to me the resolution under consideration, is essentially important for two considerations: first, that the request or call for those papers contained in the resolution, is a Constitutional right of this House to exercise now, and at all times, founded upon a principle of publicity essentially necessary in this, our Republic, which has never been opposed, that I have either heard or read of, since the first organization or operation of this Government; and, secondly, because, at this particular conjuncture of our affairs, more especially since the Treaty lately negotiated with Great Britain has created so much uneasiness and solicitude in the public mind, we therefore ought to pursue every method in our power to allay their sensibility. It is more than probable, when those papers are exhibited to public view, it may have so agreeable an effect as to reconcile fully the feelings of the people to the propriety of the negotiation as well as the instrument itself. I am sorry, Mr. Speaker, while we are only on the threshold of the Treaty, in point of discussion, that some gentlemen (alluding to one or more of their colleagues) should express so much prejudice against the Treaty itself, before a full and mature investigation of the subject. Mr. H. called the attention of the House to the President's Speech at the opening of the session. The President, he observed, in that Speech, on the subject of the British Treaty, says, that when the resolution of the King of Great Britain should be known, he would lay the subject before Congress. When he spoke of the Indian, he only intimates that he will lay the articles of the Treaty before them. He deduced from this striking difference in the language of the President, when speaking of the different Treaties, this conclusion, that the President wished, himself, to lay the whole business before them for the satisfaction of the House, and of the people, which could not be done without a surrender of those papers of correspondences and documents had and used in the late negotiation. Mr. H. cited the article of the Constitution, showing all money-bills and appropriations to belong to this House; and that the money of the people should not be voted out of their pockets without giving them the utmost satisfaction, for passing the laws to this effect. So that, upon the whole, I have no doubt in my mind of the right, policy, and propriety, of this House in calling for the papers; and therefore, I trust, the resolution will obtain.

Mr. Swanwick expressed his sense of the importance of the subject before the House, and the pleasure which he experienced at observing the calmness and temper with which the discussion had been carried on. He did not conceive, however, that the decision of the present question involved the sense of the House as to the merits of the Treaty; the object of the resolution was only to obtain that knowledge necessary for an enlightened decision; it had been observed, that the Treaty had been censured by assemblages of people with precipitancy, and without proper information. They did this on the best information that could by them be obtained. But if the House should go into a Committee of the Whole, to take into consideration the Treaty, without obtaining all the information in their power, they would be justly to blame.

In the course of the debate, it was generally urged against calling for the information, that the House had nothing to do with the subject; that the Treaty being the law of the land, the House had nothing to do but to acquiesce. Even if that were the case, he saw no impropriety in calling for the information, which the President might withhold if not proper to be given. The Houses were daily in the habit of calling for information in this way. On the subject of the Naval Equipment the other day, information was called for. The present is an important subject, involving all the great commercial interests of the country, grants of money, regulations concerning our Territory. If information is called for on matters of lesser moment, should it be denied on objects of the utmost importance? Some gentlemen had contended that Treaties were laws, with which the House had nothing to do. He believed, that all the members of the House felt an equal zeal for the public welfare, and to act under the Constitution, according to its true import; but it was unfortunate, that a Constitution, however carefully framed, would contain parts liable to different constructions; even the Bible was not free from this: different deductions were made from the same texts by different theologists.

He adverted to the Constitution; according to that instrument, the Legislative power is completely vested in Congress. By the 8th section of the 1st article, not only a certain specification of powers are granted to Congress, to lay and collect taxes, regulate commerce, &c., but the very extensive further power, not only to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, but, also, all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. If, then, Congress have the power to pass laws to carry into execution all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof, how is it possible that there can be any authority out of the purview of this general and extensive Legislative control? Is the Treaty-making power not a power vested by the Constitution in the Government of the United States, or in a department or officer thereof? If it is, is the conclusion not obvious, that Congress have power to pass laws for carrying these powers into effect? But in the power to pass laws, discretion is necessarily implied; of course, this House must judge when it is to act; whether it will, or will not, carry into effect the object in question. It is a power, it is true, of great delicacy and responsibility, but it is not less a power constitutionally given.

The member from South Carolina construed this part of the Constitution in a different way, and insisted that, as the President and Senate had the power of making Treaties, the House were divested of the right of exercising their judgment upon the subject. If this doctrine prevails, to what a situation would the Representatives of a free people be reduced? The Constitution especially gives them the power of originating money bills; but to what purpose would this power be granted, if another authority may make a contract, compelling the House to raise money? Suppose that authority were in this way to grant millions upon millions, must the House, at all events, be compelled to provide for their payment? In this case the House become mere automatons, or Mandarine members, like those who nod on a chimney-piece, as directed by a power foreign to themselves.

Great stress is laid upon the Constitution declaring Treaties laws of the land. This article has often been quoted partially, but not at large. It is in these words: "This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." Had the clause stopped here, there might have been some plea for the gentlemen's doctrine; but, unfortunately for them, the article goes on to say: "And the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State, to the contrary notwithstanding." Hence, it is obvious, that the supremacy of the law is over the Constitution and laws of the separate States, which was necessary to prevent these interfering with those. But it does not affect the powers of this House, as a component part of the General Legislature, and authority of the United States. It is also worth while to notice the gradation in the article.

First. This Constitution.

Secondly. The laws which shall be made in pursuance thereof, clothed with the highest sanction of the nation, the consent of the three branches.

Thirdly. Treaties. How absurd the doctrine, then, that these last, third in order, can repeal the second: at that rate, all power whatever would remain vested in two branches only of the Government; the third, with all its powers of originating bills for raising revenue, would be dwindled into a mere board of assessors.

The gentleman from Vermont said, yesterday, that if the President and Senate were to make a Treaty, and that House were to refuse to make due appropriations for carrying it into effect, it would become a nullity, and no foreign nation would in future treat with such an uncertain Government. Mr. S. observed, that that gentleman would probably be surprised, when he was told, that the British House of Commons possesses the

same power which he reprobates in the Legislative Assembly of the United States. This, Mr. S. proved, by reading the King's speech to both Houses of Parliament, in which he informs them of this Treaty, and promises to lay it before them when ratified, in order that they might judge of the propriety of making provision to carry it into effect. What, judge of the propriety of passing laws to carry into effect a Treaty ratified! And shall it be said, exclaimed he, that the Representative Assembly of the United States does not possess a privilege enjoyed by an English House of Commons! He hoped not. As this power of deliberation, with respect to appropriations, might be considered a new doctrine, Mr. S. proposed to read two extracts from a work, entitled "The Federalist," from pages 101 and 103.

Mr. Williams objected to the extracts being read, but the House overruled the objection.

The extracts are these:

"A branch of knowledge which belongs to the acquirements of a Federal Representative, and which has not been mentioned, is that of foreign affairs. In regulating our own commerce, he ought to be not only acquainted with the Treaties between the United States and other nations, but also with the commercial policy and laws of other nations. He ought not to be altogether ignorant of the law of nations, for that, so far it is a proper object of Municipal Legislation, is submitted to the Federal Government. And, although the House of Representatives is not immediately to participate in foreign negotiations and arrangements, yet from the necessary connexion between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation, and will sometimes demand particular Legislative sanction and co-operation."—*Page* 103.

Here the doctrine of Legislative sanction and co-operation is plainly admitted.

"It is agreed on all hands, that the powers properly belonging to one of the departments, ought not to be directly and completely administered by either of the other departments. It is equally evident, that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers."—*Page* 101.

If neither of the powers ought to possess, directly or indirectly, an overruling influence over the others, whence is the power to be deduced of the President and Senate, by Treaty, to make laws possessing this very overruling influence over this House?

In the course of this debate, Mr. S. remarked, he had heard some observations which he was sorry to hear, and which he thought irrelevant. It was said that encroachments on the Constitution were more likely to be made by that House, than by any other branch of the Government. Whence, said he, arises this charge? How long since this House hath become such a bug-bear—such a scare-crow? What motives, can it be supposed, this House possesses, thus to encroach; of all the branches of the Government, the most transient and short-lived, elected but for two years, then returning to the mass of citizens, what interest have they in encroachments? Besides, ought we to be the first to find this fault with ourselves? Are the other branches unable to defend themselves, that we must suggest this to them? All this is truly surprising. But, said he, is there no danger from encroachments in other quarters? When gentlemen talk of that House being bound to make appropriations without inquiry, it was time for them, at least, to beware of encroachments. What the House now wanted was information; they wanted to know for what purpose they were about to grant money, before they granted. He trusted that House would always be cautious how they parted with the money of the public. In no instance, he said, had they been charged with being too scrupulous in that respect.

One gentleman from Vermont called upon the House to beware of encroachments, lest they overturned their Republican Government; he said we were now to show how far we possessed the power of self-government; why, what other Government would the gentleman have? Are the thrones of despots more secure than Republics? Alas! all Governments have been tried, and have succeeded each other; but still the imperfection of man himself must be shared by his Government, be it what it may. But was not this Government, he said, as likely to be administered wisely, as any other existing Government? There may, and will be, differences of opinion on this and almost every other subject; but he trusted there was sufficient information and uprightness of heart in the country, to prevent any danger to their Government. He wished every subject which came before the House, to be freely and fully discussed; and whilst the same good temper was observed which had been so conspicuous in the present debate, he trusted that no evil, but the greatest good, would arise from such discussion.

March 9.—In Committee of the Whole, on Mr. Livingston's resolution, Mr. Muhlenberg in the Chair—

Mr. N. Smith said, he agreed with gentlemen who asserted that there was no Constitutional question included in the resolution on the table. He believed it perfectly accorded with the Constitution to ask the President for papers, when they could be of any use to them, and that the President had the same privilege to ask for information from the House. Indeed, he believed, whenever any one of the departments of Government wanted information from any other department, to enable them to perform their Constitutional functions, it was highly proper to call for it. But he did not believe they ought to pass the resolution, unless some specific object was pointed out, to which the papers could be applied, and for which they might be of use to them. That they could do no harm, in his opinion, was a very poor reason for the interposition of the House. He wished never to pass a resolution on idle and ridiculous grounds, but because it was founded in solid reason and propriety. Such reasons, in his opinion, had not been offered in favor of calling for the papers. When he admitted, that in calling for papers, distinctly considered, there was no unconstitutionality, he did not mean to be understood

to say that there was not a Constitutional question involved in the discussion. He thought there was one, of the highest magnitude; no less than whether the House of Representatives have a right to judge over the heads of the President and Senate on the subject of Treaties. But this was not a necessary consequence of the resolution, and if gentlemen would show any other sufficient cause for calling for the papers, he would agree it ought to pass; and although he could see no other sufficient cause for passing the resolution, yet if gentlemen would declare, they did not want them to judge of the Treaty, they would at least save him the trouble of opposing it. But while the advocates of the resolution assign it as a reason for the call, that we want them to enable us to make up our minds on the merits of the Treaty, can they blame gentlemen for attempting to prove that the House of Representatives have no right to judge on a Treaty? The advocates of the resolution had, since the introduction of it, several times changed their grounds; assigning, at different times, very different reasons in favor of calling for the papers in question. What were their reasons for thus changing and shifting was to him a matter of no consequence, since all the reasons which had been offered in its favor, were, in his opinion, capable of conclusive answers. He should endeavor, he said, in answering what had fallen from different members in favor of the measure, not to travel over the ground which had been taken by gentlemen who had gone before him, on the same side of the question. It had been said, that information would tend to allay the sensibility of the public mind, and that nothing was more desirable than publicity in all Governmental proceedings. But, he presumed, it would be admitted that there was a great difference in that respect between the business of an Executive and the Legislative. He believed it must also be admitted, that each department of Government ought to be the sole judge when to make any part of its proceedings public. Besides, if the object is to publish them, in that case there ought to be an act passed regularly, directing them to be published. What, said he, is the language of this resolution? If it went to the President, would he not suppose the papers asked for were wanted to assist the House in legislation? He would never conjecture they were wanted to be published, and it would be wrong to publish them. It was said, by a gentleman from Pennsylvania, that the papers were wanted to explain doubtful parts of the Treaty. He had wondered the gentleman could say this, when on a former occasion, on discussing the subject of the Federal City, the same gentleman had declared, that a law must be construed from the face of it, and that nothing extraneous to it could be admitted. The sentiments of the gentleman, delivered on that occasion, exactly accorded with his. Indeed, he said, it would be absurd to oblige people to obey an instrument according to the face of it, and yet suffer that instrument to be essentially altered and changed from extraneous circumstances; and to say it is not to be obeyed, according to the manifest construction from the face of the law itself, is saying that it amounts to nothing at all.

It has been said, that these papers are wanted for the purpose of impeaching the negotiator, or President of the United States. This, the gentleman from Pennsylvania had acknowledged could not be considered as an object of the call, unless it had been mentioned in the resolution itself. He was quite willing, however, that any gentleman who wished for an impeachment should vote for the resolution. He believed the number would be very small. But he hoped gentlemen would not pretend they wanted them for an impeachment, when in fact they had no such idea. He hoped they would not make that the ground of their vote, when in fact they wanted them for a different purpose. He extremely regretted, that the friends to the resolution had not pointed out the specific object to which they meant to apply the information, when it was obtained. Had this been done in the resolution, it would have prevented much confusion and embarrassment. He believed, however, that the great object was to obtain the information, for the purpose of enabling the House to judge on the merits of the Treaty. He should, therefore, take the liberty to answer gentlemen on that ground. It has been said, the President and Senate have not the power to make commercial Treaties. If this is the case the Treaty is absolutely void. Then why want papers? Whether the President and Senate have the power to make commercial Treaties or not, it must be extremely clear, by recurring to the Constitution, that the House of Representatives have no right to make Treaties of any kind. But it is said the Treaty contains commercial regulations, and therefore is subject of their inquiry. He said they had a right to legislate with respect to commerce, but not to make Treaties on that head. If they had, he asked, from whence do they derive the power? Let the Constitution be searched from beginning to end, and not a syllable will be found which bears an appearance of design to give the House of Representatives a participation in the power of forming contracts with foreign nations. Besides, if they had a right to judge of it, they ought to have had a hand in making it. It has been said, that in England the House of Commons claim a right to judge of the merits of Treaties, and withhold their aid whenever they think proper; this is not peculiar to the House of Commons, it is in Parliament at large. But why introduce this by way of precedent to guide us in construing our own Constitution? They have no such written Constitution as we have; their Constitution is entirely made up of usages and laws. Whenever you prove, therefore, that they have an usage like the one that is mentioned, of judging on Treaties, you have then proved that such is their Constitution, and if our Constitution expressed in terms what theirs expresses by their usages, there could be no doubt but that the House should have the right. In construing a written Constitution, to introduce the practice in a country who have no written Constitution, can have no effect but to mislead. If gentlemen could show us a written

Constitution in England wherein the Treaty-making power is exclusively vested in the King, with the advice of the House of Lords, and under such Constituuion the House of Commons claiming a right to interfere in the subject, their precedent would then apply; unless, indeed, it were too absurd to be considered as a precedent. He said the two Governments were perfectly dissimilar; why, then, introduce the practice of that Government as a guide for this? He was well suited with the Constitution of America, and wished not to assimilate it to any foreign Constitution, and he hoped it would not be warped and twisted to become like them. Were they about to form a Constitution, it might be desirable to take whatever was found good in any other; but when the Constitution was already formed and marked out by direct boundaries, in a manner too plain to be mistaken, could it be of any use to inquire what was the Constitution of other countries? He said the Convention who formed our Constitution had avoided that part of the British Constitution; as absurd. In England, the King has the sole power of making Treaties; but, after the Treaty is made, Parliament claim a right, in certain cases, to judge of their merits. In this country, the Convention, in framing their Constitution, had seen fit to add the Senate to the President, in the business of making Treaties; and, still further to guard the matter, required that two-thirds of the Senate should concur; and then, as if to completely shut the door against all further investigation of their merits, or any cavilling on the subject, declared that a Treaty thus made should become the law of the land. The Convention must be supposed to be thoroughly acquainted with the usages in England at the time of framing our Constitution, and appear to have studiously avoided that part of their Constitution. He said the time this usage found its way into the English Government could not be important, nor could the cause of it; this much, however, appeared very clear, that Parliament had no limits to their power; they could even change the Constitution of the Kingdom; a power which no man will pretend is in the Legislature of this country. But it is said, Congress have power to make the necessary appropriations or withhold them, and that for the purpose of guiding their discretion in this business, they must have a right to judge of the Treaty. The whole fallacy of this argument, he said, consisted in supposing they had a right to judge of the merits of a Treaty. Let gentlemen look at the Constitution, they will find no such power given; and if that instrument does not give it, how do we come by the power? The Constitution, he said, had assigned the business of making Treaties to the President, with the advice of the Senate; whenever, therefore, a Treaty came incidentally before them, they were bound to consider it as well done, having been done by a department constitutionally authorized for the purpose. As a citizen, he had an opinion on the Treaty; and, in determining whether the President and Senate had deserved well of their country, he was ready on all occasions to call it into exercise; but as a member of the Legislature he had no opinion; he would form none; because the Constitution, which his constituents had given him as a guide to his conduct had given him no right to form an opinion on the merits of a Treaty. It was obvious, therefore, the papers could be of no service to him. But, say, gentlemen, are we to sit down here and vote for a law which we believe a bad one? And one gentleman had inquired what he should inform his constituents, when they made inquiries of him on the subject? He would answer both the inquiries: He thought the gentleman might justly inform his constituents, that they, by their Constitution, had given the President, with the advice of the Senate, the power of making Treaties; and, having had no hand in making it, he was entitled to no share of credit or blame on account of its merits. As to the former inquiry, he would first see how far the gentleman's doctrine would lead them, and would then give his own ideas on the subject. The principle, if pursued, would carry its advocates too far; for, on the same principles, they had a right to judge whether a President was a proper person to fill that office, every time the question arose whether they should appropriate for his salary. Again, suppose the House were about to appropriate for the salary of a Judge, it might with equal propriety be asked, are we to pass a law which we believe a bad one?—and thence inquire into the merits of the Judge, and see whether the President and Senate had appointed a proper person or not. But pursue this doctrine and it will be found to affect some of the dearest rights of the people themselves; for suppose the House should conclude the electors had elected a very improper person as a Representative; on inquiry, into the merits of the member, they might, on finding this in their opinion to be the fact, withhold an appropriation for his salary. But the true answer, he conceived, to all these cases was, that these were subjects on which the Constitution had given them no right to judge; they were, therefore, to consider all as well done, being done by the proper persons for the purpose. The President, the Judge, and the Member, so far as it respects us, in our appropriations, are to be considered as the most proper persons, however our private sentiments may be. Just so respecting a Treaty: the Constitution has made it the duty of the President and Senate to make Treaties, in as full a manner as it has to appoint Judges, and we are equally bound to consider all as well done, and have no more right to judge of its merits, than in that case to form an opinion of the merits of a Judge.

He observed, that as to the question, whether they had a right to withhold appropriations to carry into effect a law of the Legislature, he wished at that time not to controvert, as that would place him on ground much weaker than the true ground of discussion. But, he asked, is a Treaty a law, simply considered, and have the Legislature a right to repeal it, as they may their own laws? No; it is a contract, binding them to a foreign nation, and when once it is formed they have no longer any power over it. He would state the true ground

of the business as it appeared to him. The discretion of that House was limited by the Constitution, by Treaties, and ultimately by the law of right and of justice, and when he had said this, he thought he had completely defined it; for although the House had a discretionary power, yet that by no means implied that they could exercise such discretion on subjects placed by the Constitution in other hands. He considered Treaties, as they respected that House, the same in point of principle as laws were respecting Judges of a Court. If it should be asked whether a Judge had not a perfect discretion on all the judgments he rendered, no man would hesitate to say he had, and yet no man in his senses would say that because he had such discretion he must therefore have a right to judge whether a law was a good one or not. But having no hand in making the law, he is bound to consider it a good one, being made by the proper Constitutional department of Government for that purpose. He said the House in all their appropriations ought to exercise a sound discretion in as ample a manner as any gentleman pleased, provided they did not leap the bounds of the Constitution, and undertake to judge on subjects which they had no right to judge upon by the Constitution. He said, he considered the President and Senate as agents for the people of the United States in forming contracts for them with foreign nations; and when contracts were thus formed, they were binding on the nation who were to be considered as the principal. That the Legislature were to be considered as another set of agents bound to carry the contract so made into effect; and when they found a contract already formed by the people in a manner pointed out by them in their Constitution, shall the Legislature be quibbling and cavilling about carrying it into effect? Shall they be calling for papers, and questioning whether the people have made a good bargain or a bad one, when the people have not seen fit to intrust the subject to their discretion? Such a piece of conduct, he conceived, would be usurping powers which they did not possess, and highly disgraceful to the nation. Lest he should tire the patience of the Committee too much, he would proceed no farther, except just to remark, that it had been said, the President might be pleased with an opportunity to send the papers. But could not the President have sent them if he had wished, without the interposition of the House? If the call was made, the President must either send them or refuse, and to do either would be embarrassing to him. It would be placing him in a situation which it was to be hoped the Executive would not be placed in; for if he sent them it was explicitly saying, he had been negligent of his duty in not communicating them before; if he refused, it was setting up department against department, a situation of all others to be regretted. He hoped the resolution would not pass.

Mr. Harper said, that it had not been his intention to trouble the Committee, in this stage of the debate at least; nor should he now depart from his resolution on that head, had he not observed that the discussion was turning more and more on points, which it appeared to him unnecessary to decide. He did not conceive that the powers of the House respecting Treaties were necessary to be considered; the question appeared capable of a satisfactory decision on different grounds.

When the motion was first proposed, he thought it innocent at least, and was in doubt whether it might not be proper, because he was in doubt how far these papers might be necessary for enabling the House to exercise that discretion on the subject of Treaties, which he admitted it to possess; but on a more accurate and extensive view of the subject, and after carefully attending to the discussion which had already taken place, he was thoroughly persuaded that these papers were no way necessary, and, that being unnecessary, to call for them was an improper and unconstitutional interference with the Executive department. Could it be made to appear that these papers are necessary for directing or informing the House on any of those Legislative questions respecting the Treaty which came within its powers, he should propose to change the milk-and-water style of the present resolution. The House, in that case, would have a right to the papers; and he had no idea of requesting as a favor what should be demanded as a right. He would demand them, and insist on the demand. But, being persuaded that no discretion hitherto contended for, even by the supporters of the resolution themselves, made these papers necessary to the House, to call for them would be an unconstitutional intermeddling with the proper business of the Executive.

This, it would be remembered, was no new doctrine to him. It would be remembered, that, in the last session, very soon after he took a seat in that House, he had opposed a motion, the object of which was to request the Executive not to suffer a Treaty with the Indians to be held for a particular purpose, and had opposed it, because making Treaties being the proper business of the Executive department, for that House to interfere on the subject, to request the Executive to treat or not to treat, was an interference with his duties, unwarranted by the Constitution, and tending to embarrass his operations, and lessen his responsibility. On the same ground he should oppose the present resolution.

It had been said, that this motion was of little consequence; that it was only a request which might be refused, and that the privileges of that House were narrow indeed, if it could not request information from the Executive department. But it would be observed, he said, that requests from bodies like that, carry the force of demands, and imply a right to receive. Legislative bodies often make the most formidable expressions of their will in the shape of requests. It would be further observed, that an honorable member from Pennsylvania, [Mr. Gallatin] after declaring that this indeed was only a request which might be refused, had added, that in case it were refused, it would then be proper to consider how far we ought to make the demand, and insist on receiving these papers as a matter of right. After this avowal of the system, after this notice that the

present request is no more than a preliminary measure, a preparatory step, and in case of a refusal, is to be followed up by a demand, could it be wondered that they who think the measure improper, should oppose it in the threshold?

Much astonishment, he said, had been expressed by an honorable member from Virginia, [Mr. Giles] that the amendment proposed the day before yesterday, had not been agreed to. His astonishment would have been lessened had that honorable member adverted to what fell from another honorable member from Virginia, [Mr. Nicholas] who yesterday supported this motion with great ability and eloquence. He had avowed, and the avowal did honor to his candor and spirit, that the amendment in question did not alter the principle of the resolution. For that reason, he declared, he had voted for the amendment, because the resolution, under any possible modification, would carry with it the same meaning. I am also of this opinion, said Mr. H., and for that reason I voted against the amendment; I voted against it, because I thought the principle of the resolution wrong, and that after the amendment the principle still remained. My high respect for the mover of the amendment, my confidence in his candor, forbid me to doubt that the amendment was intended to produce the effect pointed out by him, to take away from the resolution all those properties which he regarded as objectionable. But he will pardon me for saying, that the resolution, as amended, appeared to me a masked battery, a sap instead of a storm, an ambuscade instead of an open attack, a pill, whose gilding renders it fairer to the eye, and more pleasant to the taste, but leaves all its poison lurking within. With this view of the subject, and because he liked those measures best which were the least disguised, which carry their tendency most plainly on the face of them, Mr. H. had voted against the amendment, that those who disliked the principle of the resolution might meet it in all its strength.

When this motion for calling on the President for the instructions and papers relative to the British Treaty was first brought forward, an honorable member from Connecticut [Mr. Tracy] had risen in his place, and with great propriety requested the mover and supporters of the resolution to state the precise use intended to be made of these papers. Did they comply with this request? No, they could not. Mr. H's. reliance on their candor forbid him to suppose that they could, but would not. The fact was, that they did not; and he therefore supposed that it was not in their power. They had talked much of the necessity of understanding fully the course of the negotiation; of the benefits of information on all Legislative subjects; of the propriety of publicity in all the acts of Government.

A gentleman from Georgia [Mr. Baldwin] had observed, that publicity was always desirable in Governmental proceedings; more especially in the proceedings of Republican Governments. He had informed the House, that his mind had for a long time inclined more and more to this opinion, and he had at length become completely convinced that nothing was more important, nothing more desirable, than publicity in all our public transactions. Mr. H. thought it much to be regretted that the honorable member from Georgia had not arrived at this state of complete conviction previously to the last motion in that House for clearing the galleries. He would then, no doubt, have opposed the motion. He would have argued with his usual ingenuity on the advantages of publicity, and would probably have succeeded in convincing the House that its galleries ought always to be kept open, that none of its proceedings ought to be hidden from the public eye. But still it would have remained for him to prove, that because we chose to adopt publicity in our proceedings, we have a right to direct the Executive on the subject, and require him to publish his proceedings also. Information about the Executive proceedings would no doubt be agreeable to the people, from whom the President derives his authority, and not from the House. To the people he is accountable; and if he should think fit to withhold from them information, by receiving which they would be gratified, he was the proper judge of the propriety of doing so, and must answer for his conduct. The House had no right to direct him. If the House had such a right over the Executive, he being also a representative of the people, equally bound to consult their interests, their rights, and their wishes, must have the same right over the House, and might in his turn direct them how far they ought to make their proceedings public for general information. A motion had for some time been laid on the table, by an honorable member from Virginia, tending to exclude printers from the House. There could be no doubt about the power of adopting such a measure, though its expediency would probably have been found liable to very strong objections. Suppose it had been adopted, and that the President had sent a Message informing the House, that publicity in the proceedings of Government was a very desirable and necessary thing, that he wished to know the grounds and reasons of measures that might be adopted, and that the resolution ought to be rescinded. How would such a Message be received? Yet it would be perfectly justifiable on all the reasons of general publicity which had been urged in favor of the present resolution. If the House had a right to direct the Executive on this subject, it must, by the same principles, have a right also to direct the Senate. The deliberations which led to the ratification of a Treaty in the Senate are as important to be publicly known, as the negotiation which led to its being signed by the Minister. We ought, therefore, if we act consistently, to request the Senate to let their gallery remain open for general information, while they discuss Executive subjects. The Senate must have the same right to make this request of the House. Suppose the Senate should send us a resolution, requesting us not to shut our gallaries, or not to exclude printers from the Hall? How would it be received? Certainly with great indignation;

and yet on the principles contended for, it would be perfectly right.

These being the objections to the principle of calling for papers for general information, Mr. H. presumed, that it was not on this ground these papers were to be requested, but for some precise specific purpose, to enable the House to exercise some Legislative function. What were these functions? First—To institute an inquiry into the conduct of those who had been concerned in making the Treaty. Second—To take up the Treaty itself, and judge how far, and in what manner, it should be carried into effect. These were the only possible functions which the House could exercise on the subject of a Treaty; and they were functions entirely distinct. It had been rightly observed by a gentleman from Pennsylvania [Mr. Gallatin] that if an inquiry into the conduct of those who made the Treaty were the object, it ought to have been stated in the preamble of the resolution. But this is so far from being done, that its advocates declare the President to be far removed above suspicion, and intimate no intention of calling any other person to account. But it was asked, how could members know what use would be made of evidence till it was produced? He asked, in his turn, whether this evidence had been kept secret? Far otherwise. The mover of this resolution, as Chairman of the Committee on American Seamen, together with the whole committee, had been allowed access to these papers, and had inspected them. The same privilege, he doubted not, would be given to any member of that House who would request it. As the papers, then, had been seen, as their contents were known, gentlemen might state the precise use intended to be made of them, and ought to do so. Should a motion be made for the production of these papers, for the purpose of instituting an inquiry into the conduct of the negotiator, or any of those concerned in making the Treaty, he would second and support the motion. If this object was intended, it might and ought to be stated, and till that was done, the motion ought not to be agreed to on that ground.

It had been alleged that publicity in this business was avoided—that the light was shunned. Far otherwise. He wished the papers in question were laid on the table; it would be gratifying to him, and he believed much to the credit of all concerned; but he could not consent to call for them, because that implied a right to possess them, which he could never admit.

The second use, he observed, that might be made of these papers, was to give the House information on some of those Legislative questions which it might be called to decide respecting the Treaty. Much difference of opinion had arisen about the Legislative powers and discretion of the House on the subject of Treaties. Some gentlemen extended this discretion very far; others confined it within very narrow limits. This question had been very ably discussed; but if it had not, he should not now enter into it, because he thought it unnecessary to the present decision. The question was, Are these papers necessary for enabling the House to exercise such discretion as it possesses on the subject? He believed, that taking this discretion in the utmost latitude that had been contended for, the papers were not necessary for its full exercise. What was the discretion contended for? It was threefold. 1. To judge about the constitutionality of the Treaty; 2. To discuss the meaning of doubtful passages; and, 3. To consider of the propriety of making appropriations, or passing laws for carrying it into effect. As to its constitutionality, it must be decided by the instrument itself; it must be compared with the Constitution, and judged by the result. If Constitutional, on the face of it, none of the previous negotiations by which it was brought about, none of the instructions under which it was framed, could make it otherwise. So, on the other hand, if unconstitutional in itself, the defect cannot be cured by the instructions or previous correspondence. So, as to doubtful passages, it was a constant and invariable maxim that every deed, every law, every written instrument of any sort, was to be judged of and explained by itself, and not by recurrence to other matter. This was the universal practice of the Courts of Law, who, when called on to expound an act of the Legislature, never resorted to the debates which preceded it—to the opinions of members about its signification—but inspected the act itself, and decided by its own evidence. Should this rule be departed from, the basis of law and of right would be removed; all the advantages of written records would be lost, and we should wander into the wide fields of uncertainty and opinion.

It had been remarked by the honorable member from Pennsylvania, that, in the dispute between our Government and Britain about the meaning of the sixth article of the Treaty of Peace, the correspondence, and even the journals of the negotiators, had been recurred to. This was highly proper, Mr. H. said, when the parties themselves to a contract enter into a discussion about its meaning, because they may explain it as they can mutually agree. But the Treaty presented itself to that House as a law, and it must of course be expounded according to the rule for expounding laws. Besides, one party to a contract had no power to alter it, and consequently must take it up and act upon it, not as it might have been intended to be, but as it is on the face of it. Two Ministers, moreover, engaged in a diplomatic contest, like lawyers defending a cause, would resort to every topic by which they hoped to strengthen their argument; but the House acted judicially, and, instead of following them in these excursions, must confine its view to the instrument itself, and explain its provisions by its strict letter. If they departed from the instrument itself, they might go not only into correspondences, but into the deliberations of the Senate, and the consultations of the President; nor would there be any further limit by which they could be stopped.

As to appropriations, Mr. H. had no doubt that the House might withhold them in the same manner that they might withhold appropriations for any other law, or that the President might refuse

to appoint officers under a law which he should deem totally subversive of the public good. Every branch of the Government, in extreme cases, has a right to oppose itself to the other branches, and arrest the progress of destructive measures. The Judicial power might make a stand, and refuse to execute a law. This discretion, he trusted, would never be used. It must, indeed, be a desperate case which would justify its use. This discretion of the House to refuse appropriations being admitted, how were the papers in question necessary to its exercise? A Treaty is made, and we are called upon to carry it into effect. What, then, is the question which this discretion enables us to ask? Not whether the Treaty be good or bad; not whether it was proper to make a Treaty at all, or whether a better one might have been made: all these considerations belong to the Treaty-making power, which is vested in the President and Senate. But the question was, whether the Treaty be so bad that the public welfare requires it to be broken; whether it is a less evil to abandon our national faith—to destroy the respectability of our Government in the eyes of foreign nations—to hazard disunion and contest between the different departments of the Government—or to execute the Treaty as it stands. This was the question, and the only one; and how were these papers necessary in deciding this question? If the Treaty were so bad that it ought to be broken, that would sufficiently appear on the face of it. Its provisions would speak for themselves, and nothing in the correspondence or instructions could be necessary to show their deformity. They might show that the Treaty was unskilfully negotiated; that it was unwisely agreed to; that better terms might then, or might now, be obtained—but all this, if fully established, would not authorize us to break it: otherwise it would follow, that either party to a contract might violate it whenever he should happen to think it disadvantageous.

Mr. Harper illustrated his position by the following simile: If a man attempt my life, I have a right to kill him for my own preservation. I could not inquire whether he were a good or a bad man; whether his disposition towards me was hostile or friendly; but solely whether self-preservation required his death. If my life were not in immediate danger from his attempts, however criminal his intentions or his conduct might have been, it would be murder to kill him.

The House, he said, passed an annual appropriation for the Military Establishment. Could they refuse this appropriation merely because they disliked the establishment, and wished it to be reduced? Surely no one would say so. But if they should be convinced that the Military Establishment was about to become highly mischievous and dangerous, they could destroy it by withholding the appropriation. This would be an extreme case. And in like manner an appropriation for carrying a Treaty into effect might in extreme cases be refused. The question in all such cases would be, which is the greatest evil, to break the Treaty, at the risk of public faith, of national honor, or to carry it into effect? And this question, he would once more repeat, must be decided by the provisions themselves as they appear on the face of the instrument. The papers could be in no wise necessary to the decision. To call for them, implied a right to rejudge the wisdom, the expediency of the Treaty, after those points had been decided by the proper authorities—a right destructive of the principles of the Constitution. The harmony of the Government, he said, depended on keeping the business of each department separate from the other. If one branch encroached on the rest, destruction to the whole must be the consequence. The Constitution had defined the powers, had limited the sphere, of each department. The Constitution is the will of the people, in whom the sovereign power resides, and we are bound to obey it. We are as much bound to preserve it from our own encroachments as from those of the other branches. It was his love of the Constitution, his love of the people, his respect for their rights, and his belief in their sovereignty, which induced him to propose this motion. If the Constitution was infringed, whether by the House or the other departments, the rights, the sovereignty of the people were equally trampled on, and it would be no consolation to them that it was done by one hundred and five men, rather than by thirty, or rather than by one.

Mr. Gallatin conceived that, whether the House had a discretionary power with respect to Treaties, or whether they were absolutely bound by those instruments, and were obliged to pass laws to carry them fully into effect, still there was no impropriety in calling for the papers. Under the first view of the subject, if the House has a discretionary power, then no doubt could exist that the information called for is proper; and, under the second, if bound to pass laws, they must have a complete knowledge of the subject, to learn what laws ought to be passed. This latter view of the subject, even, must introduce a discussion of the Treaty, to know whether any law ought to be repealed, or to see what laws ought to be passed. If any article in the instrument should be found of doubtful import, the House would most naturally search for an explanation, in the documents which related to the steps which led to the Treaty. If one article of the Treaty only be doubtful, the House would not know how to legislate without the doubt being removed, and its explanation could certainly be found no where with so much propriety as in the correspondence between the negotiating parties. He incidentally answered a reference made in a former part of the debate, to something that had dropped from him on the Federal City Loan Bill. He on that occasion insisted that the law for the permanent establishment of the Seat of Government should not be looked on as a bargain; that whatever might have been the views of the members who framed it, that could not derogate from the nature of the law; and because the law was no bargain he was of the opinion he then expressed; whereas a Treaty is a bargain. But even, he insisted, if the House was not to legislate upon the Treaty, they still have a right to express an opinion on any important subject, and

this they could not do understandingly without information, and in this case without an examination of the instructions and correspondence that led to the Treaty, and of the other documents that related to the subject.

Gentlemen had gone into an examination of an important Constitutional question upon this motion. He hoped this would have been avoided in the present stage of the business; but as they had come forward on that ground he had no objection to follow them in it, *and to rest the decision of the Constitutional powers of Congress on the fate of the present question.* He would, therefore, state his opinion, that the House had a *right* to ask for the papers proposed to be called for, because their co-operation and sanction was necessary to carry the Treaty into full effect, to render it a binding instrument, and to make it, properly speaking, a law of the land; because they had a full discretion either to give or to refuse that co-operation; because they must be guided, in the exercise of that discretion, by the merits and expediency of the Treaty itself, and therefore had a *right* to ask for every information which could assist them in deciding that question.

One argument repeatedly used by every gentleman opposed to the present motion was, "That the Treaty was unconstitutional or not; if not the House had no agency in the business, but must carry it into full effect; and if unconstitutional, the question could only be decided from the face of the instrument, and no papers could throw light upon the question." He wished gentlemen had defined what they understood by a Constitutional Treaty; for, if the scope of their arguments was referred to, it would not be found possible to make an unconstitutional Treaty. He would say what he conceived constituted the unconstitutionality of a Treaty. A Treaty is unconstitutional if it provides for doing such things, the doing of which is forbidden by the Constitution; but if a Treaty embraces objects within the sphere of the general powers delegated to the Federal Government, but which have been exclusively and specially granted to a particular branch of Government, say to the Legislative department, such a Treaty, though not unconstitutional, does not become the law of the land until it has obtained the sanction of that branch. In this case, and to this end, the Legislature have a right to demand the documents relative to the negotiation of the Treaty, because that Treaty operates on objects specially delegated to the Legislature. He turned to the Constitution. It says, that the President shall have the power to make Treaties, by and with the advice and consent of two-thirds of the Senate. It does not say what Treaties. If the clause be taken by itself, then it grants an authority altogether undefined. But the gentlemen quote another clause of the Constitution, where it is said that the Constitution, and the laws made in pursuance thereof, and all Treaties, are the supreme law of the land; and thence, they insist that Treaties made by the President and Senate are the supreme law of the land, and that the power of making Treaties is undefined and unlimited. He proceeded to controvert this opinion, and contended that it was limited by other parts of the Constitution.

That general power of making Treaties, *undefined* as it is by the clause which grants it, may either be expressly *limited* by some other positive clauses of the Constitution, or it may be *checked* by some powers vested in other branches of the Government, which, although not diminishing, may control the Treaty-making power. Mr. G. was of opinion that both positions would be supported by the Constitution; that the specific Legislative powers delegated to Congress were limitations of the undefined power of making Treaties vested in the President and Senate, and that the general power of granting money, also vested in Congress, would at all events be used, if necessary, as a check upon, and as controling the exercise of the powers claimed by the President and Senate.

The Treaty-making power is limited by the Constitution, when in the first section it is said that all Legislative power is granted to Congress. To construe the Constitution consistently, we must attend to all the sections of it. If it is attempted to be construed by referring to particular portions, and not attending to the whole, absurdities must arise. So in the present case, by the mode of construction advanced by the gentlemen opposed to the motion. By one section it is declared that a Treaty is the supreme law of the land, that it operates as a law; yet it is to be made by the President and Senate only. Here will be an apparent contradiction; for the Constitution declares that the Legislative power shall be vested in the three branches. By this construction there would appear to be two distinct Legislatures. How shall this apparent contradiction be reconciled? Some gentlemen, to solve the difficulty, had declared the Treaty-making power to be an Executive power; but a power of making laws cannot be termed Executive without involving an absurdity; the power of making Treaties, although called an Executive power, is transformed into a Legislative one by those gentlemen.

The power of making Treaties is contended to be undefined, then it might extend to all subjects which may properly become the subjects of national compacts. But, he contended, if any other specific powers were given to a different branch of the Government, they must limit the general powers; and, to make the compact valid, it was necessary that, as far as those powers clashed with the general, that the branch holding the specific should concur and give its sanction. If still it is insisted that Treaties are the supreme law of the land, the Constitution and laws are also; and, it may be asked, which shall have the preference? Shall a Treaty repeal a law or a law a Treaty? Neither can a law repeal a Treaty, because a Treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law; nor can a Treaty made by the President and Senate repeal a law, for the same reason, because the House of Representatives have a participation in making the law. It is a sound maxim in Government, that it requires the same

power to repeal a law that enacted it. If so, then it follows that laws and Treaties are not of the same nature; that both operate as the law of the land, but under certain limitations; both are subject to the control of the Constitution; they are made not only by different powers, but those powers are distributed, under different modifications, among the several branches of the Government. Thus no law could be made by the Legislature giving themselves power to execute it; and no Treaty by the Executive, embracing objects specifically assigned to the Legislature without their assent.

To what, he asked, would a contrary doctrine lead? If the power of making Treaties is to reside in the PRESIDENT and Senate unlimitedly: in other words, if, in the exercise of this power, the PRESIDENT and Senate are to be restrained by no other branch of the Government, the PRESIDENT and Senate may absorb all Legislative power—the Executive has, then, nothing to do but to substitute a foreign nation for the House of Representatives, and they may legislate to any extent. If the Treaty-making power is unlimited and undefined, it may extend to every object of legislation. Under it money may be borrowed, as well as commerce regulated; and why not money appropriated? For, arguing as the gentlemen do, they might say the Constitution says that no money shall be drawn from the Treasury but in consequence of appropriations made by law. But Treaties, whatever provision they may contain, are law; appropriations, therefore, may be made by Treaties. Then it would have been the shortest way to have carried the late Treaty into effect by the instrument itself, by adding to it another article, appropriating the necessary sums. By what provision of the Constitution is the Treaty-making power, agreeably to the construction of the gentlemen, limited? Is it limited by the provisions with respect to appropriations? Not more so than by the other specific powers granted to the Legislature. Is it limited by any law past? If not, it must embrace every thing, and all the objects of legislation. If not limited by existing laws, or if it repeals the laws that clash with it, or if the Legislature is obliged to repeal the laws so clashing, then the Legislative power in fact resides in the PRESIDENT and Senate, and they can, by employing an Indian tribe, pass any law under the color of Treaty. Unless it is allowed that either the power of the House over the purse-strings is a check, or the existing laws cannot be repealed by a Treaty, or that the special powers granted to Congress limit the general power of Treaty-making, there are no bounds to it, it must absorb all others, repeal all laws in contravention to it, and act without control.

To the construction he had given to this part of the Constitution, no such formidable objections could be raised. He did not claim for the House a power of making Treaties, but a check upon the Treaty-making power—a mere negative power; whilst those who are in favor of a different construction advocate a positive and unlimited power.

Since this is the striking difference between the doctrine held by the friends and by the opposers of the present motion, why, added Mr. G., with some warmth, are the first endeavored to be stigmatized as rebellious, disorganizers, as traitors against the Constitution? Do they claim a dangerous active power? No, they only claim the right of checking the exercise of a general power when clashing with the special powers expressly vested in Congress by the Constitution.

He should not say that the Treaty is unconstitutional, but he would say that it was not the supreme law of the land until it received the sanction of the Legislature. He turned to the Constitution. That instrument declares, that the Constitution, and laws made in pursuance thereof, and Treaties made under the authority of the United States, shall be the supreme law of the land. The words are, "under the authority of the United States," not signed and ratified by the PRESIDENT: so that a Treaty, clashing in any of its provisions with the express powers of Congress, until it has so far obtained the sanction of Congress, is not a Treaty made under the authority of the United States.

Gentlemen had dwelt much on that part of the Constitution which had declared the Constitution, Laws, and Treaties, laws of the land; but they had avoided reading the whole of the clause, and had not given to it its obvious meaning. Why should the Constitution barely declare the Constitution the law of the land, the laws the law of the land, or Treaties the law of the land? All know that they are so. In all countries they are so, because made by the supreme authority: but, by adverting to the latter part of the clause, the meaning of the former must immediately become obvious. It runs as follows: "And the Judges in every State shall be bound thereby; any thing in the Constitution or laws of the individual States to the contrary notwithstanding." It would have been childish if the Constitution had confined itself to expressing the first part of the clause; because no doubt could arise whether the Constitution, laws, and Treaties, were the supreme law of the land. But, as the General Government sprung out of a confederation of States, it was necessary to give that Government sufficient authority to provide for the general welfare, that the laws of the Union should supersede those of the particular States. There was thus a valuable purpose to be obtained by the latter part of the clause, viz: a positive provision declaring which authority should be supreme in case of clashing powers.

But the clause does not compare a Treaty with the law of the United States, or either of them with the Constitution: it only compares all the acts of the Federal Government with the acts of the individual States, and declares that either of the first, whether under the name of Constitution, law, or Treaty, shall be paramount to and supersede the Constitution and laws of the individual States. In that point of view are Treaties said to be the supreme law, to wit: when standing in competition against acts of the several States;

but the clause by no means expresses that Treaties are equal or superior to the laws of the Union, or that they shall be supreme law when clashing with any of them.

To illustrate: He supposed that the Pennsylvania Legislature were to pass an act incorporating the city of Philadelphia, granting to certain bodies the power to make regulations which should be the supreme law of the land: this would mean only that they were so within their proper sphere, and not that they were paramount to the laws of the State or of the Union. The same of Treaties: they are declared to be the supreme law of the land, within the provisions of the Constitution, and agreeably to the modifications therein provided; but they are not declared to be supreme when compared, or paramount to the laws of the United States. The Constitution is paramount to both laws and Treaties; and, when gentlemen ground their arguments on the position that Treaties are superior or equal to the laws of the Union, they take for granted the very thing which is to be proved. The natural construction of the Treaty-making power was this, he contended, that, as far as a Treaty negotiated by the Executive embraced Legislative objects, so far it required the sanction of the Legislature.

To give some additional weight to this construction of the Constitution, the practice of the British Government had been quoted. It was certainly proper, when about to construe our own Constitution, to compare it with the operation of the Constitutions of other countries that resemble ours in those parts to the construction of which doubts are raised. Whether there is a similarity in general between the British Constitution and ours, is not the question: he hoped they would not be assimilated more than they really were. But, he contended, as to the Treaty-making power, they were, in fact, perfectly similar. Both nations give the power of negotiating Treaties to their Executives: there the King exercises it; here the Senate, being a branch of the Executive, exercises it in conjunction with the PRESIDENT. The only difference here is, that two-thirds of the Senate are necessary to their formation. In other respects the power is the same in the two countries. There the Executive authority has enjoyed this power from time immemorial; and here the PRESIDENT and Senate possess it by the letter of the Constitution. It may be said, that Great Britain has no written Constitution: true, but the force of immemorial custom forms their Constitution.

He read a quotation from *Blackstone*, page 257, vol. i., to show that the power of Treaty-making in England is as extensively vested in the King, as it can possibly be said to be here in our Executive.

The following is the passage alluded to:

"II. It is also the King's prerogative to make Treaties, leagues, and alliances with foreign States and Princes. For it is, by the Law of Nations, essential to the goodness of a league, that it be made by the sovereign power, and then it is binding upon the whole community: and, in England, the sovereign power, *quo ad hoc*, is vested in the person of the King. Whatever contracts, therefore, he engages in, no other power in the Kingdom can legally delay, resist, or annul."

After such a latitude as this clause gives, it would be supposed that there could be no check reserved upon this power; yet it will be found that Parliament have a participation in it. And the apparent inconsistency is easily reconciled, by observing that the power given generally to the Executive of making contracts with other nations, does not imply that of making Legislative regulations, but that when the contract happens to embrace Legislative objects, the assistance of the Legislature becomes necessary to give it effect.

He proceeded to show the operation of this limitation of the Treaty-making power in England by the practice of Parliament. It was always considered as discretionary with Parliament to grant money to carry Treaties into effect or not, and to repeal or not to repeal laws that interfere with them. In citing instances of the exercise of this power, he should not go further back than their Revolution.

He then read several extracts from *Anderson's* History of Commere, vol. iii., pages 269, '70, '71, '72. They are so much in point that we transcribe the most material passages:

"But we could not omit our animadversions on the eighth and ninth articles, as they were so extraordinary in themselves, and as they occasioned so great a stir and uneasiness at that time, as to have brought the whole Treaty of Commerce to miscarry then and ever since.

"ART. IX. That within the space of two months after a law shall be made in Great Britain, whereby it shall be sufficiently provided that not more customs or duties be paid for goods and merchandise brought from France into Great Britain than what are payable for goods and merchandise of the like nature, imported into Great Britain from any other country in Europe; and that all laws made in Great Britain since the year 1664 for prohibiting the importation of any goods or merchandise coming from France, which were not prohibited before that time, be repealed, the general tariff in France, on the 18th of September, in the said year 1664, shall take place there again, and the duties payable in France by the subjects of Great Britain for goods imported and exported, shall be paid according to the tenor of the tariff above mentioned.

"When the said two articles came to be known by the merchants of Great Britain, they were received with the utmost surprise and indignation, and the clamor was loud and universal.

"That the complying with those two articles would effectually ruin the commerce we carried on to Portugal—the very best branch of all our European commerce. That the said eight articles did, in general terms, put France on an equal footing with Portugal or any other of our best allies, in point of commerce."

"This is, in brief, the sum of this mercantile controversy, which, when brought into Parliament, it was so apparent that our trade to France had ever been a ruinous one, and that if, in consequence of accepting the said eighth and ninth articles, the British Parliament should consent to reduce the high duties and take off the prohibitions so prudently laid on French commodities, it would effectually ruin the very best

branches of our commerce, and would thereby deprive many hundred thousand manufacturers of their subsistence; which was also supported by petitions from many parts of the Kingdom: That, although a great majority of that House of Commons was in other respects closely attached to the ministry, *the bill for agreeing to the purport of the said two articles was rejected by a majority of nine voices*, after the most eminent merchants had been heard at the bar of that House, to the great joy of the whole trading part of the nation, and of all other impartial people."

Thus it must be clearly seen, that the consent of Parliament was not only deemed necessary to the completion of the Treaty, but that that consent was refused, and that in consequence the Treaty fell to the ground, and was not revived for a period of near eighty years, and all notwithstanding the plentitude of the Treaty-making power, said by the best English authority, *Blackstone*, to be vested in the King; which was, however, he repeated, necessarily checked by the special powers vested in Parliament; for none but they could grant money, or repeal the laws clashing with the provisions of Treaties.

He cited another instance of the exercise of this controling power in Parliament of even a later date, viz: in the year 1739, in the case of a Treaty between Spain and Great Britain, which was sanctioned by a very small majority indeed in Parliament. He cited a third example from *Anderson*, Vol. VI., page 828, in the case of the Treaty of Commerce between France and Great Britain, to show, that the practice of the Parliament's interfering in Treaties is not obsolete.

The following is an article of the said Treaty, which Mr. Gallatin read:

"XIV. The advantages granted by the present Treaty to the subjects of His Britannic Majesty shall take effect, as far as relates to the Kingdom of Great Britain, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty the reciprocal enjoyment of the advantages which are granted to them by the Treaty.

"And the advantages by all these articles, except the tariff, shall take effect with regard to the Kingdom of Ireland, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty, the reciprocal enjoyment of the advantages which are granted to them by this Treaty: And, in like manner, the advantages granted by the tariff shall take effect in what relates to the said Kingdom, as soon as laws shall be passed there for giving effect to the said tariff."

Upon this principle, founded on almost immemorial practise in Great Britain, did the Minister of that Kingdom, when introducing the late Treaty with Prussia into Parliament, tell the House, that they will have to consider the Treaty and make provision for carrying it into effect. On the same principle, when the debate took place on that instrument, it was moved to strike out the sum proposed to be voted, which would have defeated it, and afterwards to strike out the appropriation clause, which would have rendered the bill a mere vote of credit, and would also have caused the Treaty to fall to the ground. On the same principle, the King of Great Britain, when he mentioned the American Treaty, promised to lay it before them in proper season, that they might *judge of the propriety* of enacting the necessary provisions to carry it into effect.

It remains to be examined, said Mr. G., whether we are to be in a worse situation than Great Britain; whether the House of Representatives of the United States, the substantial and immediate representatives of the American people, shall be ranked below the British House of Commons; whether the Legislative power shall be swallowed up by the Treaty-making authority, as contended for here, though never claimed even in Great Britain?

In Great Britain, he remarked, the Treaty-making power is as undefined as in America. The Constitution here, declares that the President and Senate shall make Treaties; there, custom says as loudly, that the King shall make them. In Great Britain, however, the power is limited, by immemorial custom, by the exercise of the Legislative authority by a branch distinct from the regal; in the same manner is it limited here, not however merely by custom and tradition, but by the words of the Constitution, which gives specifically the Legislative power to Congress; and he hoped this authority would be exercised by the House with as much spirit and independence as anywhere.

He had at first imagined, that the doctrine contended for by the gentlemen, viz: that the House had no discretion in the business; but that, like machines, they were bound to pass the necessary provisions to carry into effect the Treaty, was quite new. He had, however, after much search, found a precedent to keep this strange doctrine in countenance here; at least as far as the right of granting money was concerned. Under the old Government of France, the Courts of Justice, nicknamed Parliaments, had a nominal control over the purse-strings, such as that here contended for. If the King laid a tax, they were to register it; but if they refused, they were either forced to comply, or the King raised the money without them. Thus here, though the House have by the Constitution, a particular and express control over the purse, yet they are told they must register; or that, if they do not, it is treason against the Government.

A gentleman from Connecticut up to-day, had asked, whether the advocates for the doctrine of free agency would refuse appropriating money for a salary fixed by law, in obedience to the Constitution, urging, that if they did, they would commit a breach of the Constitution, and if they did not think themselves authorized to refuse, they must abandon their doctrine.

Mr. G. observed, that the power of raising revenue and appropriating money is vested in Congress, and they are to exercise their discretion in the business; yet as a special clause of the Constitution says, that the salaries of certain officers shall not be increased or diminished during their term of service, so far this operates as a restricting exception upon the general powers; but was this the case as to the Treaty-making power?

Does any clause of the Constitution direct that money *shall* be appropriated to carry into execution any Treaty made by the President and Senate, however clashing with the special powers of the House? Before the two cases can be considered parallel, it must be proved that Treaties are paramount to the Constitution; for on that supposition alone rests the argument that they, like the Constitutional clauses relative to the salaries of the President and Judges, are special exceptions to that general discretion which the House has a right to exercise on all Legislative subjects, and especially on all money matters.

But if, as it was said, the powers specifically delegated to the House, are not to operate as a limitation of the general powers granted to the President and Senate; if these powers are contended to be as unlimited as they are undefined, then the necessity of a check must strike as doubly necessary. The power of granting money should be exercised as a check on the Treaty-making power. The more unlimited the Treaty-making power is contended to be, the more dangerous it is, and the more should the House consider the power of originating grants of money exclusively vested in them as a precious deposite.

He maintained, that the Treaty with Great Britain, or any other in similar circumstances, was not, until the necessary appropriations were made, and until the existing laws that stood in its way were repealed, and the requisite laws enacted, the supreme law of the land. Existing laws declare, that goods shall not be imported by land into the United States, except in certain districts; the third article of the Treaty allows a general importation; the laws declare that foreign vessels trading with us shall pay an additional ten per cent. upon the duties paid by our own vessels, the same article again interferes here; in other particulars, also, but these are sufficient to illustrate. Now, if the doctrine of gentlemen be sanctioned, and the House have no discretion left to use on the Treaty, but are bound thereby, specific and explicit clauses in the Constitution notwithstanding, the power of granting money becomes nugatory, and a Treaty, made by the Executive, may repeal a law. If a Treaty can repeal a law, then the act of the President and Senate can repeal the act of the three branches; and although all Legislative powers be vested in Congress by the Constitution, yet Congress are controled by two of its branches; those clauses of the Constitution vesting the Legislative powers in Congress are annihilated, and the President and Senate, by substituting a foreign nation for the House of Representatives, assume, in fact, an unlimited Legislative power; since, under color of making Treaties, they may repeal laws, and may enact laws.

If this doctrine is sanctioned, if it is allowed, that Treaties may regulate appropriations and repeal existing laws, and the House, by rejecting the present resolution declare, that they give up all control, all right to the exercise of discretion, it is tantamount to saying, that they abandon their share in legislation, and that they consent the whole power should be concentered in the other branches. He did not believe such a doctrine could be countenanced by the House. If gentlemen should insist upon maintaining this doctrine, should deny the free agency of the House, and their right to judge of the expediency of carrying the Treaty into effect, the friends to the independence of the House will be driven to the necessity to reject the Treaty, whether good or bad, to assert the contested right. If the gentlemen abandoned this ground, then the policy of the measure could be weighed on fair ground, and the Treaty carried into effect, if reconcilable to the interests of the United States. He concluded by observing, that even if the right did not exist in the House to judge of the expediency of carrying the Treaty into effect, yet as they were to be made agents in the business, at least in form, they could not be denied the papers, to see the reasons which led to the formation of the Treaty; and even on that ground it had been said, that we had nothing to do either with the merits of the Treaty, or with the motives of those who made it. He recollected but one late instance of a precedent for sentiments he had lately heard, with so much surprise, on the floor of the House, and that was the sentiment expressed by a Reverend Bishop in England lately, who contended, that the people had nothing to do with the laws but obey them. The gentlemen here, however, carry the doctrine still farther; for they insist, that even the Representatives of the People have not a right to consult their discretion when about exercising powers positively delegated to them by the Constitution.

He hoped this dangerous doctrine would receive a death-blow, and that the Committee would adopt the resolution.

The Committee rose, and obtained leave to sit again.

The House then adjourned.

March 10.—In Committee of the Whole, on Mr. Livingston's resolution, Mr. Hartley delivered his sentiments as follows:

As I was not present when this subject was first introduced, it cannot be expected that I should take any great share in the debate; but some observations I have heard, chiefly from the gentleman last up yesterday from Pennsylvania, have induced me to show a few grounds for my vote.

That gentleman has strongly combined this resolution with the Treaty, and wishes that every one who holds that there should be a co-operation of this House respecting that instrument, should vote for the resolution. I think differently.

The gentlemen who contend for the mighty power of the Executive and Senate, as well as those who argue for the great authority of this House, perhaps are on extremes; but the Treaty ought not now to be so largely under consideration. I am willing, if it is thought proper, to take it up at an early day, and, after a full hearing, will vote as I hold right.

The gentleman I referred to, from Pennsylvania, argued most strenuously that the laws and customs of Great Britain and the Constitution of

the United States were analogous—nay, that the powers were precisely the same.

The gentlemen who hold this doctrine have made researches, and have quoted several authorities; but why have not those ingenious gentlemen discovered a single instance where the British House of Commons have had the instructions given by the Executive to the negotiating Minister laid before them. If there was such a power, no doubt that body would at some period have exercised it; for no men on earth have extended the power of privileges which they had further than the members of the House of Commons of Britain.

As those gentlemen who contend for the likeness—indeed, sameness of the Treaty-making powers of both countries—can show no precedent, it may be fairly contended, that no such right exists as is contemplated by the resolution.

Treaties are made under the Executive in almost all countries, and when the Ministers have gone through their part of the business, the Treaty is commonly laid before the nation. If any national act is further necessary, it would pass in conformity to the principles of good faith; if anything is necessary (consistent with the Constitution) on the part of the House, it will be the discussion of another day.

Instructions to Ministers to treat are most frequently of two kinds—public and private; the former are sometimes shown to the opposite party, the latter not.

In Executive acts there may be, in some cases, a necessity for secrecy.

There was a misunderstanding between this country and Great Britain; there were charges of infraction and misconstruction of a former Treaty: then, is it not to be supposed there were secret instructions given to our Plenipotentiary in the late Treaty? Our negotiations with Britain, it seems, are not yet at an end: any new articles agreed to, and ratified, are to be added to the Treaty.

Besides, I believe we have other negotiations going on elsewhere. The disclosure of any of the instructions, being connected with others, might put us in the power of other nations without producing any good to us.

The constitutionality of the resolution may be denied; at any rate, I consider it as highly impolitic and improper.

I hope that those gentlemen who do not think that the resolution must be combined with the Treaty, whatever their ideas may be with regard to the Treaty, will vote against the motion.

Mr. Griswold said, that the resolution on the table appeared at first view to be perfectly innocent, and, he might add, of very little importance. It amounted to no more than a request to the President to furnish the House with papers relating to the negotiation with Great Britain, which he might either satisfy or reject. But the discussion which had taken place in the Committee had given the subject a very serious aspect, and involved a question of the first importance; and although some gentlemen had thought that the Committee had prematurely involved itself in the examination of the question, he could not see how the discussion could have been avoided. For gentlemen would not say that any resolution—more particularly a resolution calling on the President for documents belonging to the Executive Department—was to pass the House without a conclusive reason, much less without any reason for its passing. On this principle gentlemen had been called on at an early period for the reasons on which they grounded the resolution. They had attempted to assign reasons, but those reasons had been generally abandoned; and it could not at that time be seriously contended that the objects of general information or publicity, which had been first mentioned, could justify the House in calling on the President for papers relating to the British Treaty, or that those papers were necessary to enable the House to judge of the constitutionality of the Treaty. The friends of the resolution, aware of this, had at last come forward and assigned a new and a very important reason. It had been now said, that the House of Representatives have a right to judge over the heads of the President and Senate on the subject of Treaties; that no Treaty can become a law until sanctioned by the House; and, in fine, that the House of Representatives is a Constitutional part of the Treaty-making power.

If these facts and the principles which grow out of them are true, he could not say that the resolution was improper; and although he did not know to what part of the Treaty the papers would particularly apply, yet, if the House were to take this extensive view of the Treaty, and ultimately to sanction or reject it, it would seem that the papers relating to the negotiation ought to be laid before them. But if these facts are not true, and the House is not a Constitutional part of the Treaty-making power, and the Treaty is already a law without its sanction, then the reason falls to the ground, and the resolution ought to be rejected.

This inquiry into the powers of the House of Representatives must be confined, and the question arising out of it must be decided by a fair construction of the Constitution. The powers of each branch of the Government are there limited and defined, and an accurate understanding of that instrument would enable gentlemen to decide the question?

In comparing these questions with the Constitution, gentlemen were not, however, to inquire whether that Constitution was a good or a bad one; whether too much power had been given to this or to that branch of the Government. The question will only be, what powers has the Constitution given, and to what departments have the same been distributed?

To render the subject as clear and distinct as possible, he thought it would not be improper to take an abstract view of those two powers in all Governments having foreign relations which are immediately connected with the inquiry, viz: the Legislative and the Treaty-making power. And if gentlemen can clearly fix in their minds the limits of each, they will become better enabled to

see their operation, and to decide on the powers of the House in the exercise of them.

The Legislative power in all Governments is extremely broad; it occupies the most extensive ground; it extends to every object which relates to the internal concerns of the nation; it regulates the life, the liberty, and the property of every individual living within its jurisdiction; it can control commerce within its jurisdiction; govern the conduct of the nation towards aliens, in whatever capacity they may appear; and, in short, as certain English writers have said of the British Government, its power is almost omnipotent. Thus broad and extensive are the general powers of legislation, subject, however, to such particular restrictions as are prescribed by forms of Government, or which occasionally arise from the nature of Government itself, and limit the objects of its operation.

It is easy to see, that in the exercise of these Legislative powers it will frequently happen that laws are enacted, which, in their operation, will embarrass the intercourse of two nations. Such are always the effect of retaliating laws, and aliens within the limits of a foreign jurisdiction are frequently, by those regulations, subjected to great and unreasonable embarrassments.

The Treaty-making power operates in a very different manner: its power is limited and confined to the forming of Treaties with foreign nations; its objects are to facilitate the intercourse between nations; to remove by contract, those impediments which embarrass that intercourse, and to place the same on a fair and just foundation. In the exercise of this power, it will unavoidably happen that the laws of the Legislature are sometimes infracted. The Legislature, for certain causes—perhaps to compel a foreign nation to form a Treaty on terms of reciprocity—may prohibit all intercourse, or embarrass that intercourse with regulations so burdensome as to produce the same effect: the foreign nation finally, becomes willing to treat, and to establish an intercourse on equitable terms. If, in this case, the Treaty power cannot touch the laws of the Legislature, the object which gave rise to those very laws can never be attained; no Treaty can be formed, because it will oppose existing laws; those laws cannot be repealed, because the object for which they were enacted has not been attained. Such a construction of the Treaty power would defeat every object for which that power was established; and instead of possessing an authority to remove embarrassments in a foreign intercourse, it cannot touch them; and, although expressly created for the attainment of a single object, it can never attain it.

The principle might be elucidated by the following case: Two nations who have no existing Treaties with each other are induced by their respective Legislatures to enact countervailing and retaliating laws, and ultimately to carry these laws to such an extent as to render all intercourse impracticable: what is to be done? It will not do for either nation to repeal her laws, because neither can begin the measure. The Treaty power can alone interfere, and the two nations must do that by compact which never could have been done by legislation. Mutual concessions must be made, and the embarrassing restrictions of countervailing laws must be taken away by Treaty.

Another case may be put down from a principle in the Constitution of the United States. The Legislative power of this Government declares war against a foreign nation; the war proceeds until every object is accomplished. How is this war to be terminated? It will not do for the Legislature to repeal the law which gave existence to the war: such a measure would disarm the nation, and leave the frontier unprotected; and if the Treaty power should interfere, and obtain a peace by negotiation, such a measure would be directly opposed to the law which created the war; and if peace was established by Treaty, the law which declared war would thereby be repealed. He asked, again, what is to be done? Is the war to be perpetual? Every gentleman in the Committee would say that the war is not to be perpetual, but that the Treaty power is alone competent to put an end to the war, by negotiation and by Treaty. And yet it is apparent, that in the exercise of this power, a Legislative act is directly repealed.

From these considerations, he contended that, in the exercise of that power which related to the intercourse with foreign nations, the Treaty-making was paramount to the Legislative power; and that the positive institutions of the Legislature must give place to compact.

On this construction a perfect harmony is introduced into the departments of Government. Both the Legislative and the Treaty power are necessary, on many occasions, to accomplish the same objects. The Legislative power to establish regulations, or declare war, for the purpose of compelling a nation to agree to a reasonable compact; and the Treaty power, when that nation is compelled to agree to such reasonable compact, to remove by Treaty those very regulations, and the war itself, on fair and equitable terms.

A different construction would be productive of endless confusion and disorder. As these powers operate on the same objects, if the one is not subordinate to the other, they are thrown into the same field, to combat for power; and placed in a state of perpetual war with each other.

And why is not this construction right? What evil or violation of principle is to arise from it? All laws originate from the people. The laws enacted by the Legislature are nothing more than the expression of their will. And shall not the people have the power to annul, by one agent, those laws, which they have established by other agents? The hands of the people are not tied; the same right which gave them the power to make statutes by a Legislature, gives them the power of repealing those statutes by Treaty, whenever they find it useful so to repeal them.

These general remarks are not made to prove any particular distribution of the powers of this Government. They are made to evince that, from the nature of things in all Governments, the Treaty power must, on certain subjects, be paramount to the Legislative. It cannot be doubted, but that

the people have a right to deposite their power wherever they please; but wherever the power is placed, it must possess all that authority which is necessary to answer the objects for which it exists.

The next inquiry will be, where have the people of the United States, by their Constitution, placed these two powers? And where they are placed, there let them remain.

By recurring to the Constitution, this question is easily answered: The first article in the Constitution declares, that the Legislative power therein granted, shall be vested in a Congress. In other parts of the Constitution, the particular objects of the Legislative power are detailed: Congress shall have power to regulate commerce with foreign nations; to lay taxes; to declare war, &c. But it is to be remarked, that this power of regulating commerce, &c., is a Legislative power, and, of course, subject to all those checks and restrictions, which a Legislative power must experience in all Governments, and which arise from the nature of things. The same Constitution declares, in words equally explicit, that the President shall have power, with the consent of the Senate, two-thirds agreeing, to make Treaties; and to leave no doubt as to the effect of a Treaty then made, the Constitution likewise declares that all Treaties, made under the authority of the United States, shall be the law of the land. He said that this part of the subject did not admit of much elucidation; it gave rise to one of those self-evident propositions, which can only be obscured by reasoning. It was sufficient to say, that the people had, by their Constitution, in express words, deposited the Treaty power with the President and Senate, and as the House did not sit to make a Constitution, but to execute one, it was of no consequence whether the deposite was judicious, or otherwise.

Viewing the question in these points of light, he could not see any difficulty in their solution. The power of making Treaties has been given to the President and Senate. The Treaty in question has been completed by those constituted authorities; the faith of the nation is pledged. It has become a law, and the House of Representatives have nothing to do with it, but provide for its execution.

It had been, however, said, that if this extensive power is given to the President and Senate, they may repeal half of the existing laws. Allowing this to be the case, what follows? This consequence only results, that the people have clothed the President and Senate with a very important power. But this power must be placed somewhere; no Treaty can be made without it; the people have thought proper to place it there, and the House must submit; and it could be no objection to a distribution of necessary powers, that it might be altered. All power might be abused. The President is intrusted with the execution of the laws; he may abuse that power. The Legislature have the power to lay unlimited taxes, and to create unnumbered offices; this power may be abused. The people knew this when they gave the power; but they likewise knew that the measure was necessary, and that if no power was to be given, because power might be abused, all Government was at an end.

In opposition to these opinions, a gentleman from Pennsylvania [Mr. Gallatin] had said, that a law could not repeal a Treaty, nor a Treaty repeal a law, and had assigned this reason for it: that no law could be repealed, but by consent of the parties to the law. The reason is perfectly just, and applies conclusively to the case of a Treaty. But how does the reason apply to a statute? Is the House of Representatives a party to a statute? He believed not. The laws were the laws of the people, and not the laws of the House of Representatives. And shall not the people who made the laws by one set of agents, repeal them, if they please, by another?

But it was said, that there is a power given the Legislature by the Constitution to check the Treaty power; he could not find that check in the Constitution. The power of making Treaties was complete, in the President and Senate; and a Treaty once made, is not only binding on the nation, but becomes a law; and although the Legislature may defeat the execution of a Treaty, as it may every other law, yet it can never release the nation from its obligation.

It had been likewise said, that the power of appropriating money, given to the Legislature, created a check on the Treaty power, wherever money was wanted to carry a Treaty into effect; he could not admit this doctrine. It had been already shown, that the discretion of the Legislature was in certain cases limited in the business of appropriation. The compensation to the President, and the salary to the Judges, had been mentioned; and it could not be said that the Legislature possessed a broad discretion in these cases. The Constitution declares, that these compensations shall be paid; and yet they cannot be paid without Legislative appropriation. It therefore becomes the duty of the Legislature to make the necessary appropriations for those objects; they are bound to do it. The obligation of the Legislature to appropriate money is equally strong in every case, where a debt becomes due, a contract is made, or a law is to be executed; whether that debt, contract, or law, arises from the Constitution itself, the law made in pursuance of it, or Treaties made under its authority. It was the duty of the Legislature to do in all those cases, what the same gentleman from Pennsylvania had said, on a former occasion, on the subject of the Federal City: They must execute the law, or repeal it; for they could not refuse an appropriation, because they may think the law a bad one.

The Legislature, with respect to appropriation, might be considered as Treasurers of the United States; they command the Treasury of the Union; no money could issue from its coffers without an appropriation. But this power was not given, to enable the Legislature to defeat the contracts of the people, made by their authorized agents; but to fulfill them. It was true, that they must examine the claim, inquire whether the debt was due, the contract regularly made, or the law required Legislative aid. When these facts were ascertained, it became their duty and their business, to make the necessary appropriations, provided money could be obtained for the purpose. This was a trust committed to the Legislature by the people; and if they did not execute it, they violated the trust reposed in them.

But it had been asserted, that the British House of Commons exercise the right of examining Treaties. But does it follow from thence, that the House of Representatives of the United States have the same power? Has Great Britain a similar Constitution? It was not pretended that she had; her Constitution had been justly said to have been made up of usages. Of course, proving that the British Commons exercise this power, proves nothing more than that such is the custom in that Government. But if the Parliament of Great Britain was to pass a law, vesting this power exclusively in the King and House of Lords, would the Commons then claim the right of ratifying Treaties?

But still gentlemen ask, have not the House as much power as the British House of Commons? He would answer this question by saying, that the House had as much, and no more power, than the Constitution had given it. And if gentlemen required a further answer, he would say, that the Legislature of the United States did not possess as extensive power as the Parliament of Britain. That body can change the Constitution, alter the religion of the country, and, in short, its power is really omnipotent; such unbounded powers are not claimed here. But whether the British House of Commons have the power or not, is a question of no consequence; the inquiry was not into the powers of British Parliaments, or Houses of Commons, but into the powers of that House, and those powers were found only in the Constitution.

The same gentleman from Pennsylvania said, that, if the Treaty is a law, it must be carried into effect. He asked, why was not this Treaty a law? It is certainly a Treaty; it had been made; it had been made under the authority of the United States; having been ratified by the President, with the consent of two-thirds of the Senate. What other requisite was wanting to make it a law? The Constitution points out no other: it therefore must be a law, and as a law, must be carried into effect. The gentleman had said, that a law could not repeal a Treaty; and if the House could not repeal it, why discuss it? It would be doing what the people had not employed them to do.

In the course of the debate, the gentleman from Pennsylvania [Mr. Gallatin] had compared the opinions of those who opposed the resolution, to the saying of an English Bishop, who had said, "that the people had nothing to do with the law, but to obey it;" and their conduct, to the servile obedience of a Parliament of Paris, under the old order of things. Such remarks deserved no answer; he only wished to impress the recollection of them on the minds of gentlemen, that they might remain a perpetual monument of that gentleman's candor.

If he had been right in the doctrines he had advanced, that the business of ratifying the Treaty did not belong to the House, and that the Treaty was in fact a law without Legislative sanction, then the resolve on the table was improper and inexpedient, and ought not to pass.

Mr. Havens observed, that it appeared rather unfortunate, that a great Constitutional question should be discussed on a proposition that expressed no opinion relative to that subject; but as the right of the House to request the President to lay papers before them that related to the subject of the Treaty, had been denied, on the Constitutional ground, it appeared necessary to debate the Constitutional question; which, when stated in as concise terms as possible, and yet so as to express it with clearness and precision, appeared to be this: Is there not such an apparent interference between the Treaty-making power, vested by the Constitution in the President and Senate, and the Legislative power vested in Congress, that it becomes necessary to adopt such a principle of construction as will give both these powers full operation and effect, and that therefore it ought to be concluded, that whenever any Treaty shall contain any stipulation that may be comprehended under the Legislative powers of Congress, it ought not to be considered as the supreme law of the land, until it shall have received the assent of the House of Representatives to carry it into effect? In discussing this question it would be necessary to make some preliminary observations on the nature of power generally, without reference to any particular Constitution, that a better judgment might be formed of the nature and extent of the respective distributions of power contemplated in the Constitution of the United States. Power, as it relates to Government, has been considered to be of three kinds: Legislative, Executive, and Judicial. It would, in the course of this discussion, be admitted, as he presumed, that it would be a good definition of the Legislative power to say, that it was a power to prescribe rules that shall be binding on the community; and that it would likewise be admitted that it was a precise definition of the Executive power to say, that it was confined merely to the execution of the laws; and that the judicial power was nothing more than the power of determining what the law is; but, notwithstanding these respective definitions were sufficient to give a precise idea of the nature of each of these respective species of power, yet it must be acknowledged as an undoubted principle, that they do so shade into each other, that it is impossible in many cases to draw any line of distinction between them. The Executive will, for instance, in many cases exercise a Legislative power in the form of discretion, or in acting in cases where in fact the law is silent; and in like manner the judicial is rather in its nature Executive, as having united with it a power to execute the laws, and at the same time exercises in a great measure Legislative powers under the form of adjudications; but of these three kinds of power, the Legislative must be the most extensive and indefinite, for being in its nature capable

it cannot be limited in going into details. But if the boundaries between these respective powers are somewhat undefinable, when considered without reference to any particular form of Government, they are much more so when viewed as they are intended to be distributed in the several forms of Government or Constitutions now existing in the world. He knew of no Government or Constitution in which those three powers were perfectly separated, unless it had been effected in the present Constitution of France, but he doubted whether it had been effected there in the sense that he understood it; but if recourse were to be had to the Constitutions in the United States, we should not find one in which these powers were not in some measure blended among the several departments of the Government; this was the case, at least so far as his knowledge on that subject extended. He had not seen one in which it appeared to him that this was not the case. They were certainly blended in the Constitution of the United States: The first article of it determines what branches of the Government shall exercise the Legislative powers; and the second creates the Executive power; but, at the same time, the Chief Executive is vested by the first article with a right to examine bills and object to them before they are passed into laws; this power could not be pretended to be Executive in its nature; and by the second article he is vested with the power of making Treaties, with the consent of two-thirds of the Senate; but this does not make this power in its nature Executive, because that when we take into consideration the nature of this power, we shall find that it is in fact Legislative; for it comes precisely within the definition of Legislative power, as being a rule or law, binding on two or more independent nations by their mutual consent; the idea of a contract is no further connected with it than as it is necessary that two or more independent nations should ask each other's consent that this law should be binding on each of them. When, therefore, this is said to be a power founded on conventions, compacts, or agreements, it does not follow that the power is not in its nature Legislative; such words and phrases as these cannot alter the nature of the power; and when considered without reference to any particular Constitution, it must be considered as unlimited in its extent; because any conceivable stipulation, whether of a Legislative, Executive, or Judicial nature, may be comprehended under the form of a Treaty or contract with a foreign nation, and therefore it must follow as a necessary consequence evidently deducible from the indefinite extent of this power, that there never can be any precise boundary line marked out between what has been usually called internal and external relations. If the power of making Treaties as vested by the Constitution in the President and Senate, is in any sense limited, it must be by other parts of the Constitution than that in which it is expressly delegated; for it is there expressed without any limitation; and the only question seems to be, by what other parts or clauses is it limited? The first clause in the Constitution declares that all Legislative power therein granted shall be vested in Congress, which shall consist of a Senate and House of Representatives; there is no reason can be assigned why these words, *all Legislative power*, in this clause, should not be considered in as unlimited a sense with respect to all the objects of legislation specified in the Constitution, as the words to make Treaties, in another clause; there must, therefore, be a manifest inconsistency between these two powers, according to the doctrine of those who contend, that a Treaty ought to be considered as supreme law without the assent of the House of Representatives, because it would be the same thing as to say, that no Legislative power granted by the Constitution could be exercised without the assent of the House of Representatives, and yet the President and Senate might exercise whatever Legislative power they thought proper, without their assent, under the form of a Treaty. The universal principle of construction, that all parts of any written law ought to be so construed as to be consistent with itself, so far as the same may be practicable, ought therefore to be applied in this case; which can easily be done by supposing that it must be a principle necessarily resulting from the two clauses in the Constitution, that whenever any Treaty shall contain any stipulations that may be comprehended under the Legislative power granted to Congress, it ought not to be considered as law until it has received in some form or other the assent of the House of Representatives. He observed that it had been admitted by those who were opposed to what he conceived to be the Constitutional right of the House, that it was necessary that the House should have some agency in passing an appropriation law to carry it into effect; this, he conceived, could only be necessary on their ground, because that the Treaty was unprovisional in that respect; if it had contained a clause stipulating that the necessary appropriations should be made, it would, according to their principles, have been unnecessary to have laid it before the House; but at the same time that they admitted this, they insisted that the House had no discretion in the business, but that they were bound by the Constitution to carry it into effect, because that the Constitution had said, that Treaties made under the authority of the United States, should be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding; and in confirmation of their doctrine, they had compared it to a case in which they suppose that the Legislature can, by the Constitution, exercise no discretion in determining whether it will make the appropriations—that is, in the case for the support of Government generally, or of some of its particular branches, as for instance the Judiciary. But he could even suppose a case in which it might be necessary to exercise some discretion about the appropriation of moneys in the strongest case that had been stated; as, for instance, it might be necessary in some time of extraordinary danger or difficulty, to apply the very moneys that would, in an ordinary way, be applied to the support of

Government, to such a purpose as would prevent the impending danger; but even admitting that Congress could exercise no discretion about legislating in many cases that might be pointed out in the Constitution, it does not follow that they would have no discretionary power about legislating in this particular case. Congress must be supposed generally to have a discretionary power to determine whether they will continue any existing law in force, and consequently may exercise a discretion in appropriating any moneys, if any should be necessary, to carry it into effect; and, besides, the question would still remain to be determined, whether a Treaty containing Legislative regulations ought not to receive the sanction of the House before it became the supreme law of the land, in the sense in which that expression in the Constitution ought to be understood. He observed, that gentlemen had not been sufficiently explicit in determining in what sense Treaties ought to be considered as the supreme law of the land; some appeared to consider Treaty law of so transcendant a nature as almost to form a part of the Constitution itself; they appeared, however, at the same time, to admit, that if a Treaty was contrary to the Constitution, it would, in that respect be null; they appeared, however, very generally to place it in a grade or sphere a little below the Constitution, but far above any Congressional law, so that no act of Congress could touch or affect it—notwithstanding that the Constitution has declared the Congressionel law shall be the supreme law of the land as well as Treaty law.

It appeared of great importance to him in discussing the question, to determine whether there did not necessarily exist in the Government of the United States, power to break a Treaty as well as to make it; this was a power necessarily inherent in all independent Governments, and it was frequently necessary to exercise it, because that a Treaty being in its nature nothing more than a law, mutually binding on two or more independent Sovereignties by their mutual consent, it must follow as a consequence, that whenever either of the parties do not, in the opinion of the other, observe this law, then the parties entertaining this opinion will consider themselves as discharged from the obligation of observing it on their part; and it was frequently the case, that there was no other practicable method of compelling an observance of a Treaty on one part, but by a refusal to observe it on the other. It did not appear to him, that in such a case, there was vested in the President and Senate alone any power to break a Treaty; the Constitution was wholly silent on that point; it must therefore be supposed to be vested in Congress as exercising supreme Legislative power; and, therefore, it must be concluded, that an act of Congress contravening any existing Treaty, would in effect repeal it; and this must be more evident when it is recollected, that acts of Congress are, by the Constitution, declared to be the supreme law of the land as well as Treaties.

Mr. H. said, he had not paid very great attention to precedents in considering the question under consideration, because that he laid it down as an incontrovertible maxim, that neither of the branches of the Government could, rightfully or constitutionally, divest itself of any powers by precedent, or by a neglect to exercise those powers that were granted to it by the Constitution; the great danger that was generally to be apprehended from precedents was this; that they might make the Government different in practice from what it was in theory or on paper. He observed, that it was a very remarkable circumstance, that those who had been stigmatized by gentlemen as disorganizers of the Government, or as rebels against the constituted authorities, should be very strenuously contending for such a construction of the Constitution of the United States as would render all its parts harmonious, and give them full operation and effect; and that those who assumed to themselves the peculiar style of being defenders of the Constitution, and supporters of the Government, should be contending for such a construction of the Constitution as must render it inconsistent, and which must have a tendency to transfer the powers of the House of Representatives over into the hands of the President and Senate, by giving them an indefinite right to make laws without the consent of the House, under the form of Treaties. In order to avoid this inconsistency it had been said, that so was the Constitution; the will of the people had been expressed in that way, and that therefore we ought to submit to it; but such an assertion did not remove the difficulty, or clear up the inconsistency on the side of those who brought it forward; because it would still remain to be determined what the people had said when they expressed their will in the Constitution, and whether they did not intend that a Treaty containing Legislative regulations should receive the assent of the House of Representatives before it was carried into effect. It had been attempted to represent these powers as operating co-ordinately; but co-ordinate supreme powers could not operate in any Government so as to be consistent with themselves, and therefore this would not remove the difficulty, or clear up the inconsistency that arose from their construction. It had likewise been said, that we were not necessarily to presume that these powers would be abused; but, in examining the principles of a Constitution we ought not to reason from what will be done in the exercise of power, but from what may be done. It had likewise been asserted that the popular branches of a Government were apt to assume powers; this did not appear to him to be generally the case; if recourse were had to history or to the experience of mankind, it would be found that popular assemblies had been more frequently disposed to render themselves subservient to the views and interests of those who were in power, and who did not form a part of the body, but might notwithstanding have a great influence over them as individuals, than to assume unnecessary powers to themselves. This had been the case for many years in England; the popular branch of the Government in that country, had been subservient to

the views of the Administration, and this was the principal cause of all the miseries that the nation now endured. It had not been the case in the Government of the United States, since it had been established; it rather appeared from the laws of Congress, that they had been at all times sufficiently disposed to place large and indefinite powers in the hands of the Administration under the form of discretion. He said, that this was no new question; it had been agitated when the Constitution of the United States was under consideration; it was then said, that the power of making Treaties vested in the President and Senate, would be inconsistent with the Legislative powers of Congress, unless the House of Representatives were to give their assent to Treaties as well as to other laws, before they were carried into effect; but the people had rather chosen to adopt the Constitution, and to trust to time and experience to procure amendments, than to reject it on account of this or other objections; but he did not recollect that he had ever heard the difficulty cleared up in any other manner than by supposing, that the House of Representatives ought, in some mode or other, to give their assent to Treaties, as well as to other laws. He concluded with observing, that he thought he had clearly shown that, on one ground, there would be an inconsistency between the Legislative power vested in Congress, and the power of making Treaties vested in the President and Senate; and that, on the other ground, they would be perfectly reconcilable, and all parts of the Constitution would have full operation and effect; and he therefore thought it was his duty to adopt this principle of construction; he therefore supposed there could be no good objection to the proposition under the consideration of the House, on the ground of the Constitutional right of the House to determine whether they would, or would not, carry a Treaty into effect.

Mr. Madison said, that the direct proposition before the House, had been so absorbed by the incidental question which had grown out of it, concerning the Constitutional authority of Congress in the case of Treaties, that he should confine his present observations to the latter.

On some points, there could be no difference of opinion; and these need not, consequently, any discussion. All are agreed that the sovereignty resides in the people. That the Constitution, as the expression of their will, is the guide and the rule to the Government; that the distribution of the powers made by the Constitution ought to be sacredly observed by the respective departments. That the House of Representatives ought to be equally careful to avoid encroachments on the authority given to the other departments, and to guard their own authority against encroachments from the other departments. These principles are as evident as they are vital and essential to our political system.

The true question, therefore, before the Committee, was, not whether the will of the people expressed in the Constitution was to be obeyed, but how that will was to be understood; in what manner it had actually divided the powers delegated to the Government; and what construction would best reconcile the several parts of the instrument with each other, and be most consistent with its general spirit and object.

On comparing the several passages in the Constitution, which had been already cited to the Committee, it appeared, that if taken literally, and without limit, they must necessarily clash with each other. Certain powers to regulate commerce, to declare war, to raise armies, to borrow money, &c., are first specially vested in Congress. The power of making Treaties, which may relate to the same subjects, is afterwards vested in the President and two-thirds of the Senate; and it is declared in another place, that the Constitution and the Laws of the United States, made in pursuance thereof, and Treaties made, or to be made under the authority of the United States, shall be the supreme law of the land. And the Judges, in every State, shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

The term *supreme*, as applied to Treaties, evidently meant a supremacy over the State Constitutions and laws, and not over the Constitution and Laws of the United States. And it was observable, that the judicial authority, and the existing laws, alone of the States, fell within the supremacy expressly enjoined. The injunction was not extended to the Legislative authority of the States, or to laws requisite to be passed by the States for giving effect to Treaties; and it might be a problem worthy of the consideration, though not needing the decision of the Committee, in what manner the requisite provisions were to be obtained from the States.

It was to be regretted, he observed, that on a question of such magnitude as the present, there should be any apparent inconsistency or inexplicitness in the Constitution, that could leave room for different constructions. As the case, however, had happened, all that could be done was to examine the different constructions with accuracy and fairness, according to the rules established therefor, and to adhere to that which should be found most rational, consistent, and satisfactory.

He stated the five following, as all the constructions, worthy of notice, that had either been contended for, or were likely to occur:

I. The Treaty power, and the Congressional power, might be regarded as moving in such separate orbits, and operating on such separate objects, as to be incapable of interfering with, or touching each other.

II. As concurrent powers relating to the same objects; and operating like the power of Congress, and the power of the State Legislatures, in relation to taxes, on the same articles.

III. As each of them supreme over the other, as it may be the last exercised; like the different assemblies of the people, under the Roman Government, in the form of centuries, and in the form of tribes.

IV. The Treaty power may be viewed, according to the doctrine maintained by the opponents of the proposition before the Committee, as both

unlimited in its objects, and completely paramount in its authority.

V. The Congressional power may be viewed as co-operative with the Treaty power, on the Legislative subjects submitted to Congress by the Constitution, in the manner explained by the member from Pennsylvania [Mr. Gallatin] and exemplified in the British Government.

The objection to the first construction is, that it would narrow too much the Treaty power, to exclude from Treaties altogether the enumerated subjects submitted to the power of Congress; some or other of this class of regulations being generally comprised in the important compacts which take place between nations.

The objection to the second is, that a concurrent exercise of the Treaty and Legislative powers, on the same objects, would be evidently impracticable. In the case of taxes laid both by Congress and by the State Legislatures on the same articles, the Constitution presumed, that the concurrent authorities might be exercised with such prudence and moderation as would avoid an interference between their respective regulations. But it was manifest that such an interference would be unavoidable between the Treaty power and the power of Congress. A Treaty of Commerce, for example, would rarely be made, that would not trench on existing legal regulations, as well as be a bar to future ones.

To the third, the objection was equally fatal. That it involved the absurdity of an *imperium in imperio*, of two powers, both of them supreme, yet each of them liable to be superseded by the other. There was, indeed, an instance of this kind found in the Government of ancient Rome, where the two authorities of the *comitia curiata*, or meetings by centuries, and the *comitia tributa*, or meetings by tribes, were each possessed of the supreme Legislative power, and could each annul the proceedings of the other. For, although the people composed the body of the meetings in both cases, yet, as they voted in one, according to wealth, and in the other, according to numbers, the organizations were so distinct as to create, in fact, two distinct authorities. But it was not necessary to dwell on this political phenomenon, which had been celebrated as a subject of curious speculation only, and not as a model for the institutions of any other country.

The fourth construction, is that which is contended for by the opponents of the proposition depending; and which gives to the Treaty power all the latitude which is not necessarily prohibited by a regard to the general form and fundamental principles of the Constitution.

In order to smooth the way for this doctrine, it had been said, that the power to make Treaties was laid down in the most indefinite terms; and that the power to make laws, was no limitation to it, because the two powers were essentially different in their nature. If there was ingenuity in this distinction, it was all the merit it could have; for it must be obvious that it could neither be reduced to practice, nor be reconciled to principles. Treaties and laws, whatever the nature of them may be, must, in their operation, be often the same. Regulations by Treaty, if carried into effect, are laws. If Congress pass acts relating to provisions in a Treaty, so as to become incorporated with the Treaty, they are not the less laws on that account. A Legislative act is the same whether performed by this or that body, or whether it be grounded on the consideration, that a foreign nation agrees to pass a like act, or on any other consideration.

It must be objected to this construction, therefore, that it extends the power of the President and Senate too far, and cramps the powers of Congress too much.

He did not admit that the term "Treaty" had the extensive and unlimited meaning which some seemed to claim for it. It was to be considered as a technical term, and its meaning was to be sought for in the use of it, particularly in Governments which bore most analogy to our own. In absolute Governments, where the whole power of the nation is usurped by the Government, and all the departments of power are united in the same person, the Treaty power has no bounds; because the power of the sovereign to execute it has none. In limited Governments, the case is different; the Treaty power, if undefined, is not understood to be unlimited. In Great Britain, it is positively restrained on the subjects of money and dismembering the empire. Nor could the Executive there, if his recollection was right, make an alien a subject by means of a Treaty.

But the question immediately under consideration, and which the context and spirit of the Constitution must decide, turned on the extent of the Treaty power in relation to the objects specifically and expressly submitted to the Legislative power of Congress.

It was an important, and appeared to him to be a decisive, view of the subject, that if the Treaty power alone could perform any one act for which the authority of Congress is required by the Constitution, it may perform every act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, to borrow, and appropriate money, &c. If, by Treaty, therefore, as paramount to the Legislative power, the President and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies. These powers, however different in their nature or importance, are on the same footing in the Constitution, and must share the same fate. A member from Connecticut [Mr. Griswold] had admitted that the power of war was exclusively vested in Congress; but he had not attempted, nor did it seem possible, to draw any line between that and the other enumerated powers. If any line could be drawn, it ought to be presented to the Committee; and he should, for one, be ready to give it the most impartial consideration. He had not, however, any expectation that such an attempt could succeed; and, therefore, should submit to the serious consideration of the Committee, that, although the Consti-

tution had carefully and jealously lodged the power of war, of armies, of the purse, &c., in Congress, of which the immediate Representatives of the people formed an integral part, yet, according to the construction maintained on the other side, the President and Senate, by means of a Treaty of Alliance with a nation at war, might make the United States parties in the war. They might stipulate subsidies, and even borrow money to pay them; they might furnish troops to be carried to Europe, Asia, or Africa; they might even attempt to keep up a Standing Army in time of peace, for the purpose of co-operating, on given contingencies, with an ally, for mutual safety, or other common objects. Under this aspect, the Treaty power would be tremendous indeed.

The force of this reasoning is not obviated by saying, that the President and Senate would only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation. For, what difference does this make, if the obligation imposed be, as is alleged, a Constitutional one; if Congress have no will but to obey, and if to disobey be treason and rebellion against the constituted authorities? Under a Constitutional obligation with such sanctions to it, Congress, in case the President and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it. In fact, it had been said, that they must obey the injunctions of a Treaty, as implicitly as a subordinate officer, in the Executive line, was bound to obey the Chief Magistrate; or as the Judges are bound to decide according to the laws.

As a further objection to the doctrine contended for, he called the attention of the Committee to another very serious consequence from it. The specific powers, as vested in Congress by the Constitution, are qualified by sundry exceptions, deemed of great importance to the safe exercise of them. These restrictions are contained in section 9 of the Constitution, and in the articles of amendment which have been added to it. Thus, "the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by Congress." He referred to several of the other restrictive paragraphs which followed, particularly the 5th, which says, that no tax shall be laid on exports, no preference given to ports of one State over those of another, &c. It was Congress, also, he observed, which was to make no law respecting an establishment of Religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, &c. Now, if the Legislative powers, specifically vested in Congress, are to be no limitation or check to the Treaty power, it was evident that the exceptions to those powers, could be no limitation or check to the Treaty power.

Returning to the powers particularly lodged in Congress, he took notice of those relating to war, and money, or the sword and the purse, as requiring a few additional observations, in order to show that the Treaty power could not be paramount over them.

It was well known that, with respect to the regulation of commerce, it had long remained under the jurisdiction of the States; and that in the establishment of the present Government the question was, whether, and how far, it should be transferred to the general jurisdiction. But with respect to the power of making war, it had, from the commencement of the Revolution, been judged and exercised as a branch of the general authority, essential to the public safety. The only question, therefore, that could arise, was whether the power should be lodged in this or that department of the Federal Government. And we find it expressly vested in the Legislative, and not in the Executive department; with a view, no doubt, to guard it against the abuses, which might be apprehended, from placing the power of declaring war in those hands which would conduct it when declared; and which, therefore, in the ordinary course of things, would be most tempted to go into war. But, according to the doctrine now maintained, the United States, by means of an alliance with a foreign Power, might be driven into a state of war by the President and Senate, contrary both to a sense of the Legislature, and to the letter and spirit of the Constitution.

On the subject, also, of appropriating money, particularly to a military establishment, the provision of the Constitution demanded the most severe attention. To prevent the continuance of a military force for a longer term than might be indispensable, it is expressly declared, that no appropriation for the support of armies shall be made for more than two years. So that, at the end of every two years, the question, whether a military force ought to be continued or not, must be open for consideration; and can be decided in the negative, by either the House of Representatives or the Senate's refusing to concur in the requisite appropriations. This is a most important check and security against the danger of standing armies, and against the prosecution of a war beyond its rational objects; and the efficacy of the precaution is the greater, as, at the end of every two years a re-election of the House of Representatives gives the people an opportunity of judging on the occasion for themselves. But if, as is contended, the House of Representatives have no right to deliberate on appropriations pledged by the President and Senate, and cannot refuse them, without a breach of the Constitution and of their oaths, the case is precisely the same, and the same effects would follow, as if the appropriation were not limited to two years, but made for the whole period contemplated, at once. Where would be the check of a biennial appropriation for a military establishment raised for four years, if, at the end of two years, the appropriation was to be continued by a Constitutional necessity for two years more? It is evident that no real difference can exist between an appropriation for four years at once, and two appropriations for two years each, the second of which, the two Houses would be constitutionally obliged to make.

It had been said that, in all cases, a law must either be repealed, or its execution provided for.

Whatever respect might be due to this principle in general, he denied that it could be applicable to the case in question. By the provision of the Constitution, limiting appropriations to two years, it was clearly intended to enable either branch of the Legislature to discontinue a military force at the end of every two years. If the law establishing it must be necessarily repealed before an appropriation could be withheld, it would be in the power of either branch to keep up an establishment by refusing to concur in repeal. The construction and reasoning, therefore, opposed to the rights of the House, would evidently defeat an essential provision of the Constitution.

The Constitution of the United States is a Constitution of limitations and checks. The powers given up by the people for the purposes of Government, had been divided into two great classes. One of these formed the State Governments; the other, the Federal Government. The powers of the Government had been further divided into three great departments; and the Legislative department again subdivided into two independent branches. Around each of these portions of power were seen also exceptions and qualifications, as additional guards against the abuses to which power is liable. With a view to this policy of the Constitution, it could not be unreasonable, if the clauses under discussion were thought doubtful, to lean towards a construction that would limit and control the Treaty-making power, rather than towards one that would make it omnipotent.

He came next to the fifth construction, which left with the President and Senate the power of making Treaties, but required at the same time the Legislative sanction and co-operation, in those cases where the Constitution had given express and specific powers to the Legislature. It was to be presumed, that in all such cases the Legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the Treaty, and to the circumstances of the existence of the Treaty. Still, however, this House, in its Legislative capacity, must exercise its reason; it must deliberate; for deliberation is implied in legislation. If it must carry all Treaties into effect, it would no longer exercise a Legislative power; it would be the mere instrument of the will of another department, and would have no will of its own. Where the Constitution contains a specific and peremptory injunction on Congress to do a particular act, Congress must, of course, do the act, because the Constitution, which is paramount over all the departments, has expressly taken away the Legislative discretion of Congress. The case is essentially different where the act of one department of Government interferes with a power expressly vested in another, and no where expressly taken away: here the latter power must be exercised according to its nature; and if it be a Legislative power, it must be exercised with that deliberation and discretion which is essential to the nature of Legislative power.

It was said, yesterday, that a Treaty was paramount to all other acts of Government, because all power resided in the people; and the President and Senate, in making a Treaty, being the Constitutional organs of the people for that purpose, a Treaty, when made, was the act of the people. The argument was as strong the other way. Congress are as much the organs of the people, in making laws, as the President and Senate can be in making Treaties; and laws, when made, are as much the acts of the people, as any acts whatever can be.

It had been objected, that the Treaty power would be in fact frustrated, if Treaties were to depend, in any degree, on the Legislature. He thought there was no such danger. The several powers vested in the several departments, form but one Government; and the will of the nation may be expressed through one Government, operating under certain checks on the subject of Treaties, as well as under other checks on other subjects. The objection would have weight, if the voluntary co-operation of the different States was to be obtained.

Another objection was, that no Treaty could be made at all, if the agency of Congress were to concur; because Congress could not treat, and their agency would not be of a Treaty nature. He would not stop to inquire how far a loan of money from a foreign Government, under a law of Congress, was or was not of the nature of a public contract or Treaty. It was more proper to observe, that the practice in Great Britain was an evidence that a Legislative agency did not vitiate a Treaty. Nay, if the objection were solid, it was evident that the Treaty lately entered into with that nation, could never be binding on this; because it had been laid before the Parliament for its Legislative agency, as necessary to effectuate the Treaty: and if that agency was to vitiate and destroy the nature of the Treaty on that side, the obligation, on the principle of all contracts, would be dissolved on both sides.

He did not see the utility in this case of urging, as had been done, a particular distrust of the House of Representatives. He thought the President and Senate would be as likely to make a bad Treaty, as this branch of the Government would be to throw obstructions in the way of a good one, after it was made.

No construction might be perfectly free from difficulties; that which he had espoused was subject to the least, as it gave signification to every part of the Constitution; was most consistent with its general spirit, and was most likely, in practice, to promote the great object of it, the public good. The construction which made the Treaty power in a manner omnipotent, he thought utterly inadmissible in a Constitution marked throughout with limitations and checks.

He should not enter any further into the subject. It had been brought before the House rather earlier than he had expected, or than was perhaps necessary; and his observations, therefore, might not have been as full, or as well digested, as they ought to have been. Such as they were, he sub-

mitted them to the candid attention of the Committee.

Mr. W. Smith (of South Carolina) said, he would not at that time go into an extensive review of the arguments of the gentleman from Virginia, [Mr. Madison,] but would only notice some points which he had dwelt on. Before he went into a consideration of the subject, he would call the attention of the Committee to the true question now before them; for though it was originally only a call for papers, it had now assumed a very important shape, and was nothing less than this, Whether that House had a concurrent power with the President and Senate in making Treaties? The gentleman last up had followed others in referring to the practice under the British Constitution; but had concluded his remarks on that argument with allowing, that, after all, our own Constitution must be our sole guide. He heartily joined in that sentiment, and was satisfied that the merits of the question should be tested by that alone. In order to show that the Treaty power was solely delegated to the President and Senate by the Constitution, Mr. S. said, he should not confine himself to a mere recital of the words, but he should appeal to the general sense of the whole nation at the time the Constitution was formed, before any Treaty was made under it, which could, by exciting passion and discontent, warp the mind from a just and natural construction of the Constitution. By referring to the contemporaneous expositions of that instrument, when the subject was viewed only in relation to the abstract power, and not to a particular Treaty, we should come at the truth. He would then confidently appeal to the opinions of those who, when the Constitution was promulgated, were alarmed at the Treaty power, because it was by the Constitution vested in the President and Senate, and to its advocates, who vindicated it by proving that the power was safely deposited with these branches of the Government. The discussions which took place at the time of its adoption by the Convention of the several States, proved, beyond a doubt, that the full extent of the power was then well understood, and thought by those who approved of the Constitution to be sufficiently guarded. He would further appeal to the amendments which had been proposed by the discontented. The Convention of Virginia had proposed an amendment, which of itself overturned all the reasonings of the gentleman. It was, "that no commercial Treaty should be valid, unless ratified by two-thirds of all the Senators." This was the only check which that State required, and was a conclusive evidence of their opinions: had that State conceived that the check which is now contended for existed in the Constitution, they could not have been guilty of such an absurdity as the amendment would involve. All the possible dangers which might ensue from the unlimited nature of the Treaty power were well considered before the Constitution was adopted, and Virginia required no further check than the one above recited. All, therefore, that they required had, in the present case, been done, for the Treaty was ratified by two-thirds of all the Senators.

Mr. S. said, he could refer to many further proofs derived from a similar source. He would not, however, fatigue the Committee at this time with reading them. He would only recal the recollection of some gentlemen present to the protest of the Pennsylvania minority, where the same ideas and amendments were contained, and to the proceedings of a meeting at Harrisburg, which the gentleman from Pennsylvania [Mr. Gallatin] must well remember (having been one of the meeting) where, after stating objections to the extensive powers delegated by the Constitution, the following amendment was proposed, as necessary to limit and restrain the powers: "Provided always, that no Treaty which shall hereafter be made, shall be deemed or construed to alter or affect any law of the United States, or of any particular State, until such Treaty shall have been laid before and assented to by the House of Representatives in Congress." This amendment was the most satisfactory evidence that the proposers of it did then believe that, without that amendment, such Treaty would be valid and binding, although not assented to by this House, and that they had, at that day, no idea that there existed in the Constitution the check which is now discovered by this *ex post facto* construction.

Having stated the general opinion of the public, as manifested by the friends as well as the enemies of the Constitution, Mr. S. said he would proceed to show that the practice of Congress had, from the commencement of its existence, been conformable to that opinion. Several Treaties had been concluded with Indian tribes under the present Constitution. These Treaties embraced all the points which were now made a subject of contest—settlement of boundaries, grants of money, &c.; when ratified by the President and Senate, they had been proclaimed by the Executive as the law of the land; they had not even been communicated to the House; but the House, considering them as laws, had made the appropriations as matters of course, and as they did in respect to other laws. The Treaties were never discussed, but the requisite sums, as reported in the annual estimates, were included, as matters of course, in the general mass of moneys voted for the War Establishment in the item of Indian department. It was not pretended that the Constitution made any distinction between Treaties with foreign nations and Indian tribes; and the clause of the Constitution which gives to Congress the power of regulating commerce with foreign nations, and on which the modern doctrine is founded, includes as well Indian tribes as foreign nations.

That this House considered a Treaty, when ratified by the President and Senate, as the law of the land, was further evident from a resolve of the House, of the 4th of June, 1790, in these words:

"*Resolved*, That all Treaties made, or which shall be

made and promulged under the authority of the United States, shall from time to time be published and annexed to their code of laws, by the Secretary of State."

In consequence of this resolution, the several Secretaries of State had annexed the Treaties which had been made, to the code of laws, as soon as they were ratified by the President and Senate, and promulged by the President.

Mr. S. then drew the attention of the Committee to the various applications to the President last Summer, requesting him to withhold his signature from the Treaty, all of which proceeded on the idea (and the generally received idea throughout the Union) that the Treaty would be the law of the land, as soon as sanctioned by the President. Was the language, then, that this House might interfere and defeat the Treaty? No, the language then was, "We look up to the President alone for preservation from the fatal instrument; if he signs it, nothing can save us from it but war—we are left without resource." The idea of applying to this House was never dreamt of; it was an after-thought, devised by the ingenious subtlety of the few, and considered almost universally as a desperate attempt. In the language of the New York meeting, the proceedings of which were drawn up by men supposed to understand the Constitution, the Treaty-making power is called altogether an Executive power; they did not then suppose that this House could at all interfere. To come still nearer to the present period, Mr. S. referred to the late act of Virginia, proposing an alteration to the Constitution on this subject. This amendment was a conclusive proof that the Legislature of that State did not conceive that this House possessed any power in relation to Treaties, for it expressly proposes to change the existing Constitution, by vesting such a power in this House. The fate of that amendment was demonstration no less conclusive, that the public sentiment was opposed to such a change; for in every Legislature in which that amendment had been discussed, notwithstanding the prejudices excited against the Treaty, it had been rejected; and the arguments which had appeared on those occasions, show the ideas of the several Legislatures to have been, that the President and Senate now possess exclusively the Treaty power; those in favor of the amendment having advocated it, on the ground that it was dangerous to leave such power with those two branches alone; and those against it having opposed it on the ground that the power was properly and safely lodged, and that this House was illy qualified to participate in a power of that nature.

Mr. S. repeated his former assertion, that there were cases where that House had not the right of withholding appropriations; if they had the power, indeed they might stop the proceedings of Government altogether; and so, individuals had the power of resisting the laws. Gentlemen had said, that if this doctrine prevailed, the House would lose its capacity of judging. He denied it; they would still retain, in such cases, a discretion, guided by morality, good faith, and the Constitution; the members were as much bound by the laws in their Legislative, as in their individual capacity; if an existing law (or Treaty, which was a law of the highest nature) prescribed a certain duty, they were bound to perform it, and their discretion could only be called in to regulate the mode and circumstances of discharging that duty; it could not be a matter of discretion whether or not they should perform that duty. Thus, unless they intended to arrest the operations of Government, their discretion could not be requisite to determine whether they should appropriate the moneys necessary for its support; but out of what fund, and when the moneys shall be paid, and other matters of detail. So, when a Treaty was concluded, and became a compact binding the nation, the discretion of the House (unless it was intended to violate our faith) could not determine whether the moneys contracted for should be paid, but the mode, the fund, and such questions of detail, would alone be considered. The distinction, which was an obvious one, between power and right, had not been attended to. The House had certainly the power to do many things which they had not the right to do; they had the power to do wrong, but they certainly had not the right to do wrong; and whether the wrong was committed by acting where they ought not to act, or refusing to act where they ought, was immaterial; both were equally reprehensible. It had been boldly said, that there was no case which could possibly come before them, where they would not be at liberty to answer aye or no: he would produce a case—by the Constitution, on the application of a certain number of States, wishing for amendments, Congress must call a Convention; where is this boasted discretion, of which so much has been said? Could the House, in this case, exercise its discretion, whether or no a Convention should be called? Why not? Because the Constitution says it must call a Convention: and does not the Constitution say, "Treaties made by the President and Senate are laws, and that laws must be obeyed?" The same injunctions of the Constitution are imposed in both cases; and as in the first, all this House could do, would be to regulate the time and place of holding the Convention, so, in the latter, their discretion would be limited to the mode, and fund, and other details. The gentleman had mentioned the article in the Constitution respecting appropriations for military services—they were to be limited to two years; this article proved itself that appropriations might be unlimited in every other case. When a Military Establishment was instituted, it was known that an appropriation law for that purpose could not be in force more than two years; no inconveniences, then, could result. But there was no such limitation in respect to any other branch of expenditure; from custom, appropriations for the support of Government were annual; appropriations even for pensions were annual, and yet no one doubted that, as the pension was a contract, the appropriation for it was always a thing of course; no discretion could be exercised, in respect to the payment, without a breach of faith.

The gentleman from Virginia had said, that this House might repeal a law by withholding the necessary appropriation. But this was a new doctrine; he had always understood it to be a fundamental principle in legislation, that it requires the same power to repeal a law, as to make one; to say that one branch could, by refusing to act, repeal a law which had received the sanction of the three, was a solecism in Government; as well might it be said, that the refusal of an officer to execute, or of a citizen to obey, a law, would be a repeal of such law. Much had been said of the power of this House, in originating money bills; this House alone, it was true, could, by the Constitution, originate bills for raising revenue, but the Senate could originate bills for appropriating money; the necessary appropriations for carrying the Treaty into effect may originate in the Senate as well as in this House; the Senate may alter or reject any appropriation bill which does not contain such appropriations as they may deem necessary for the public service. From the observations of some gentlemen, it would be supposed that this House had a general censorship over all the other parts of the Government, and an exclusive control over all their proceedings; but this control was reciprocal; this House was only a part of the Legislative power, and possessed none of the Executive. In Great Britain, the House of Lords could not alter in the least any bill, even for appropriating moneys; he could not see with what view the practice of that country had been resorted to, for there was not the smallest analogy between the two countries in this respect. A gentleman had said, that we might repeal a Treaty by law; but other gentlemen on that side of the question had been of a contrary opinion; the fact was, that a Treaty could only be annulled by the consent of the contracting parties, by a breach of faith, or by war. It had been admitted, that the President was justifiable in issuing his proclamation respecting the Treaty, because a part of the Treaty was binding; but what that part was, gentlemen had not been pleased to designate; the citizens were, therefore, left to disobey it at their peril; the President had made no such distinction; he had proclaimed the whole instrument as a binding compact; the public are now, however, told, that a part of it remained to be sanctioned by Congress. This novel doctrine was, that certain parts had no binding force till acts of Congress were passed, giving them efficacy; but even here gentlemen were not agreed among themselves what those parts were. Their idea of making parts of the Treaty over again by act of Congress was a very extraordinary one indeed; it involved a curious inconsistency, he had almost said, an absurdity. By the Constitution the President negotiates a Treaty, and lays it before the Senate, two-thirds of which approve. By the Constitution, a law is made by a majority of both Houses, and the approbation of the President, but two-thirds of both Houses may make a law, without the President. Thus, according to this new doctrine, a law, giving a binding force to a compact with a foreign Power, might be made without the intervention of the President, and yet, by the Constitution, the Treaty-making power is classed with the Executive powers, and is expressly delegated to the President and Senate. Again, two-thirds of the Senate must sanction a Treaty, but a majority may pass a law; hence, it would follow, that, after it had been necessary that two-thirds should, in the first instance, ratify a Treaty, a majority would be sufficient in the second instance to give validity to the instrument. Further, the President concludes the Treaty, submits it to the Senate, who approves, and then it is laid before the House for information; but, according to the new doctrine, the act giving validity to the Treaty must pursue an inverted course; it must be commenced in the House, go to the Senate, and from thence to the President. By adhering to the Constitutional distinction, all these inconveniences are avoided; the President and Senate made the compact; Congress are to execute it.

Mr. S. said, he would conclude his observations on this important subject, by recalling the recollection of the House to a law, which fully confirmed the doctrine he had contended for.

It must be remembered, that, in March, 1794, a law passed, laying a general embargo on all vessels. After the law had taken effect, and all vessels had been detained in pursuance of it, our Treaty with Sweden was construed by the Executive to exempt the vessels of that nation from the embargo; orders were accordingly issued to the Collectors to suffer them to depart; and they did depart, notwithstanding the act of Congress, which laid a general embargo, and under which those vessels had been detained. In that case, no law was deemed requisite to repeal the existing act, in respect to Swedish ships; the Executive alone construed the Treaty, and finding that, by Treaty, such vessels were not liable to embargo, ordered their release, although the act of Congress expressly included all foreign vessels; this circumstance was known at the time to Congress, and the conduct of the President considered as consistent with his duty. He saw no material distinction between this case and the question now in discussion; here was an act of the Executive, without the intervention of Congress, in relation to a commercial regulation, in which a Treaty was deemed paramount to an existing law; the only difference between the cases was, that the Treaty with Sweden was made under the Old Confederation: but that could not weaken the principle, for it would not be denied, that the present Constitution meant to give the President and Senate at least as much power in relation to Treaties, as had been possessed by Congress under the Old Government.

March 11.—In Committee of the Whole, on Mr. Livingston's resolution.

Mr. Giles said, he expected, when the present motion was made, that it would not be opposed. The expected agency of the House respecting the Treaty, or some subjects relating to it, made him imagine that the propriety of having the papers called for could not be denied. The Treaty has

been referred to a Committee of the Whole, surely in order to act on it in some shape or other. Indeed, the President, in his Speech, at the opening of the session, expressly says, that he will lay the subject before them. This he considered as full evidence, that the President conceived it must come under the notice of the House. If the papers could serve to explain any point relative to that instrument, surely the possession of them was desirable. He declared that he felt unfavorably towards the Treaty from the face of it; and that he believed the House had a right, and, if it was a right, it must also be their duty to oppose its execution by all the Constitutional means in their power as legislators, if they found it, upon mature deliberation, contrary to the interest of the people and the honor of the nation. He was sensible of the great responsibility which rested upon the House, and himself as a member of it, at the present important crisis. Under the weight of that responsibility, he felt it necessary to shape his conduct under the fullest information that could be obtained. But, while he acknowledged the importance of the final issue of the present question, he should not be induced by the weight of responsibility to swerve from his opinion; but he wished to form that opinion on the best information, and on the most mature consideration. This was the general motive that weighed on his mind in favor of the proposed call.

The right of the House to the papers called for had not been denied by most of the gentlemen who opposed the present motion. They admit that the proposition, on the face of it, is not unconstitutional, if the House were about to exercise the powers in a Judicial capacity, to deliberate respecting an impeachment. The powers of the House, he insisted, did not vary with the different shapes they might constitutionally assume, whether they were exercising their functions as a Legislature or in a Judicial capacity. If the right to call for the papers was conceded to the House in one capacity, how could it be denied to them in another?

The right of the House to consider of the expediency of Treaties, so far as the provisions of them clash with their specific powers, had been indirectly brought in in considering the present motion. He regretted that this important Constitutional question should be about to be decided indirectly; but, this being the situation of the debate, he should state his reasons why he conceived the argument on this ground ought not to be considered as of sufficient strength to cause a negative of the motion before the Committee.

The question is, whether there be any provisions in the Constitution by which this House can in any case check the Treaty-making power; and, of consequence, whether it can question the merits of Treaties under any circumstances?

Various considerations had been advanced to show that the House cannot question the merits of a Treaty. Some of these considerations had grown out of the subject extrinsically, others from the provisions of the Constitution. Though at first he had intended to have stated simply his own opinion of the Constitution on the important question now in view, yet, as gentlemen had gone fully into the question in that shape, and others had stated a variety of objections to the construction the friends of the motion contended for, he should proceed to answer them, and suffer his opinion of the meaning of the Constitution to be incidental.

The gentleman from South Carolina had referred to the opinions of the Conventions of the States at the time of adopting the Constitution. As to Virginia, the gentleman had stated that that State had considered the checks as provided by the Constitution as inadequate, and proposed an amendment, purporting to require two-thirds of the whole number of Senators, instead of two-thirds of the number present. This was true, he believed; but how would it apply in the sense the gentleman wished? The objection of that State was, that the check in the Senate, provided in the Treaty-making power, was not sufficient, and they proposed a greater: from which he would argue that they conceived the Treaty-making power to be a subject of extreme delicacy, and that they wished additional checks consequently added. How this was to prove that the Convention of Virginia did not construe the present clauses of the Constitution under debate as the friends of the present motion did, he was at a loss to determine. The gentleman who cited this instance had not quoted any part of the proceeding on the subject, or of the reasons that led to the amendment. He had merely mentioned the result to the House. That gentleman had next professed to take a view of the opinions of the citizens of the United States antecedent to the present discussion, and posterior to the adoption of the Constitution. He had mentioned one case, viz: the meeting of the people of New York, who assembled to petition the President not to give his sanction to the pending Treaty, and exhorting him to refuse it, as, if it obtained his sanction, it could not be got rid of except by a war. Mr. G. remarked, he did not expect to hear that member quote the proceedings of town-meetings as a rule for the conduct of the House. Such assemblages of the people had often been the theme of merriment, and always objects of contempt with that gentleman, so that he did not conceive how their proceedings could have any weight on the opinions of the members.

Mr. Smith, of South Carolina, observed, that on the present question he had said nothing against the propriety of town-meetings.

Mr. Giles allowed that on the present occasion the gentleman had not repeated his sentiments respecting those meetings. For his own part, he was always ready to acknowledge that the result of those assemblies of the people, for the expression of their opinions, had a weight on his mind; but he might be permitted to ask that gentleman why, since he placed no faith on that source of information, he brought any thing said at such meetings into the view of the House? If the gentleman admitted the sense of those meetings as the orthodox explanation of the doubtful

parts of the Constitution, and as the expression of the public will, he would not, he hoped, consider it as out of order when any question should arise, to hear the proceedings of those meetings cited as an exposition of the public will.

But, in the present instance, he conceived the member unfortunate in his quotation. The meeting wished to persuade the President not to sign, and they used the strongest expressions they could think of to convince him of the impropriety of putting his hand to the fatal instrument. The meeting was not assembled for the purpose of expounding the Constitution; they met to give weight to an application made to the proper authority to beg that the Treaty might be crushed in that state of the business. But, to take the gentleman's own rule of construction, it will be found that when their petitions to the President were of no effect, they then addressed this House as their dernier resort. If these popular proceedings were to be considered as an expression of public opinion, he would say that the petitions on the table of the House were more numerous than he had ever known them on any question whatever. From these petitions it will be found that the people had recognised the power of the House to interfere, and begged them not to abandon their rights.

The next subject the member from South Carolina touched upon was, the late amendments proposed to the Constitution by the State of Virginia. He deduced, from one of these amendments, that the Legislature of that State did not conceive the power of the House to extend to matters of Treaty. This he did not believe a fair deduction. It is not contended that there are words in the Constitution expressly giving this participation in controlling Treaties to the House, it is only contended for as growing out of the specific powers vested in Congress. The object of the State of Virginia was then to exchange a construction that might be disputed for an expression not to be doubted. It was unnecessary for the gentleman from South Carolina to remind the State of Virginia of the fate of their propositions in the Legislatures of the several States. Virginia, he hoped, would pursue uniformly the line of conduct that had marked her political character, under whatever circumstances she might happen to be placed. Her conduct had been uniform from the Declaration of Independence to the present day; uniform and exemplary in their obedience to the laws, and in their activity against encroachments; and, notwithstanding the fate of her proposed amendments, he prided himself in representing a State that never offered the slightest mark of disrespect to a sister State for differing with her in opinion. If Virginia had been the cause of some indelicacies on the part of other States, she is the innocent cause. They had exercised a Constitutional right which they conceived it their duty to exercise, and they could not be responsible for any indelicacies to which that conduct might have given rise.

The practice of the House had been referred to yesterday by the member last up, [Mr. Smith, of South Carolina.] He had remarked that the House had passed a general resolution directing the Clerk to place in the code of laws of the United States Treaties made under the authority of the United States. Was this, he asked, an exposition of the meaning of the Constitution? He believed the resolution a very proper one, and would vote now for its adoption if it was yet to be passed. It is certainly proper, when a Treaty is concluded under the authority of the United States, that it should be annexed to their code of laws; but this could not weigh against the exercise of discretion in the House on important Legislative subjects.

The practice of the House, with respect to appropriation laws, in the cases of Indian Treaties, had been mentioned by the member from South Carolina. In the first place, in observing upon this, he would remark, that he always conceived there was a distinction between an Indian Treaty and a Treaty with a foreign nation. The English had always made a distinction when we were Colonies. The Constitution establishes an express difference. He should not, however, found his objections to the inference of the gentleman upon this, but would examine it unconnected with this distinction. Provisions had been made by this House to carry Indian Treaties into effect; but why? No doubt because the House conceived it wise so to do, not because they had not a right to use their discretion in the business. Suppose, on any of those occasions, a motion had been made to strike out the sum proposed to be appropriated, would it have been said that the motion was out of order? A similar motion was made lately with respect to the Mint, and it was not considered as out of order. If, on that occasion, it had been the opinion of the House that the Mint was an improper establishment, by refusing the appropriation they could have defeated the law. It was certainly the opinion of the House that they could exercise their discretion in the business, for it was not even hinted that the motion for striking out was out of order.

On another head the gentleman appeared to plume himself much. He had asked, why, since the President had proclaimed a Treaty as the law of the land, which was not the law of the land, why he was not impeached? This question, the member exultingly remarked, had not been answered, because, he imagined, it could not be answered.

Suppose I should tell the gentleman, said Mr. G., that I could not now give him an answer, would it show that the House had not the authority contended for by the friends of the present motion? Why was the subject mentioned? Not with a view, I believe, to the discovery of the truth. I fear it is calculated to produce an opposite effect—to check investigation. It is too often the case that the names of persons are brought into view, not to promote the development of principles, but as having a tendency to destroy freedom of inquiry. I will go further with the gentleman, and admit for a moment (a position, however, I shall by and by controvert) that the President conceived that he had a right, after

the exchange of ratifications, to promulgate the Treaty as the supreme law of the land; what would this amount to? Why, only that this was his opinion; but is that authority here? In any other case rather than the present, I should be inclined to pay a greater respect to opinions from that source; but now, when the question is about the division of powers between two departments, are we to be told of the opinions of one of those departments, to show that the other has no right to the exercise of power in the case. Such appeals are not calculated to convince, but to alarm.

He acknowledged that the President's Proclamation differed from what he expected it would have been; because the President had expressly said in his Speech, at the opening of the session, that he would lay the subject of the Treaty before the House; and not, he supposed, for their opinions only, but for their agency. He believed, however, the Proclamation was issued in its present form with the best intentions; but the authority for the opinions on which it was founded would not, he said, prevent him from exercising his own. Opinion, said Mr. G., is sometimes repulsive. When it is pressed too closely, resistance and reaction, not favorable to the investigation of truth, are the consequence. The whole argument of the gentleman on this ground, then, proves nothing, and is attended with this ill effect—to check the discovery of truth. But he hoped the House would seek within themselves for opinions, and not travel for them to other departments of the Government. He had said, however, that it was his belief that it was not probable the President viewed the Treaty as the supreme law of the land before it had been submitted for Legislative decision; and this belief was grounded on the intentions which the President expressed in his Speech of laying the *subject* before the House.

Having examined the objections to the construction contended for by the friends of the motion, drawn from collateral sources, he should turn his attention next, he said, to the intrinsic meaning of the Constitution. He would attempt to interpret the Constitution from the words of it. It was a misfortune the clauses were not more clear and explicit, so far as to force the same meaning upon every mind, however they might differ in opinion in other respects. However, from the imperfection of language, it was no wonder, he observed, that on an instrument providing for so many different objects, and providing such a variety of checks, various opinions as to construction should arise; but he considered the present clauses of as plain import as any part of the instrument. The construction contended for by the opposers of the motion is, beyond denial, the most dangerous in its effects, and the least probable, as he thought, in its meaning. It is contended by them that the Treaty-making power is undefined in its nature, unlimited as to its objects, and supreme in its operation; that the Treaty-making power embraces all the Legislative powers; operates by controlling all other authorities, and that it is unchecked. When he had asserted this power, as contended by the gentlemen to be unlimited in its objects, he meant, however, that they had confined it only within the limits of the Constitution; but even admitting it in that extent, is certainly a doctrine sufficiently alarming. When the gentlemen contend for its supremacy, they also admit in this point some qualifications; according to their doctrine, it is not to be supreme over the head of the Constitution, but in every other respect they contend that it shall be unlimited, supreme, undefined. Gentlemen who insist that Treaties are supreme, next to the Constitution, must also grant that there is no necessity for the House to trouble themselves with making laws.

It will be remarked, said Mr. G., by examining the history of man, that the people have always been desirous to check the exercise of power in the administrators, and as uniformly have administrators endeavored to evade those checks. The same among us. The American people, sensible of this, when they, after a fortunate struggle for their liberties, were about to exercise their discretion in the establishment of a Constitution that should secure their rights and liberties, formed a Government of checks. The Americans have the reputation of a sagacious people, and have showed their sagacity in framing this Constitution; but even if they had proved themselves more sagacious in devising checks, a correspondent sagacity would still have been found in the Government to evade them. Never, I will venture to say, was there an instance of a more complete rout of so complete a system of checks, within the term of six years, in any Government on earth; and if the doctrine now contended for be agreed to, then I do declare that the triumph of evasion of checks is complete, indeed, and little will be left hereafter to be evaded.

The construction contended for by the friends of the resolution is derived from two sources—from the Constitution, and the nature of things. The Constitution says, the President, with the advice and consent of two-thirds of the Senators present, shall make Treaties. Perhaps, if there was no other clause, the Treaty-making power might be considered as unlimited. Another clause declares that the Constitution, the laws made under it, and Treaties, shall be the supreme law of the land. Here the gentlemen, when they quote this clause, stop, as if there were no other words in it; and from all this it would appear that the people had, in fact, delegated an unchecked power. But, if we go on, it will be found that the last-mentioned clause adds that the Judges in the respective States shall cause them to be executed, any thing in the Constitution or laws of the individual States to the contrary notwithstanding. From the jealousy which individual States showed under the Old Confederation for the preservation of their powers, and the inconveniences which were experienced in consequence, it was found necessary, when organizing a new Government, to declare, explicitly, that their Constitutions and laws must yield to the *Constitution*, *laws*, and *Treaties* of the United States, and for this purpose this clause was introduced.

Gentlemen, after granting that the Constitution

is supreme when in opposition to Treaties, contend that Treaties are supreme over laws. They also admit that this is not warranted by the Constitution, but they contend that it is so from the nature of things. From the nature of things, he said, he should infer the reverse, though he disagreed in this from the gentleman from Pennsylvania, [Mr. Gallatin.] He contended that the Constitution and the acts of the Legislature annul Treaties, and that Treaties do not annul laws. This he should infer from the nature of Treaties and the nature of laws. Gentlemen said that Treaties could not be repealed, because they were made by two contracting parties. This sounds very well, but was ever such a thing heard of as a Convention to repeal a Treaty? If this had never been done by Convention, it is at least presumable that the omission to have done so heretofore renders this theory doubtful. The truth is, that the right of annulling Treaties is essential to national sovereignty; and nations have at all times taken their own measures respecting Treaties, under the common responsibility for the breach; but if such is the practice, as is contended for, it would be advisable in the present case. Perhaps, said Mr. G., if his gracious Majesty is once more saluted with an expression of our reliance on his magnanimity, and well known justice, &c., he may relieve us from the burden. If the epithets are reverberated on him, they might rid us of that dilemma, which they had such an agency in producing.

Mr. G. contended, that this mode of repealing Treaties by Conventions was merely theory, and that no instance of the exercise of such a power could be met with in the history of nations, neither is the doctrine consonant to reason. The reason why a law should repeal a Treaty, is because the law is an expression of the will of the nation, through their Constitutional organ. He did not mean to say, that a Treaty is not binding as long as it is a law: But, if it is admitted that the House, in concurrence with the other branches, have the power of declaring war, then he would not say, that the Legislature were to repeal Treaties article by article, but certainly they may annul them. He would go farther, and suppose, by the instrument submitted to the House, an equalization of duties on foreign and domestic bottoms be provided for, to the injury of our carrying trade; suppose a law should then pass annulling the Treaty; gentlemen say this would lead to war; perhaps it might have the effect, but that is not now the question; the question of right is now in debate; suppose a law should pass repealing, by the concurrence of the proper authorities, the particular article, the existence of which he had supposed, the Treaty would be rendered *pro tanto* void. Suppose, he said, in the case of the present Treaty, that the Parliament of Great Britain refuse to carry it into complete effect, were we to enforce on Great Britain a compliance of its stipulations? Great Britain had at all events the right so to act, taking the consequences of her conduct upon herself. But gentlemen contend that a Treaty is irrepealable; and because a foreign Power is a party in the contract, not because it is the interest of the United States that it should be so.

Mr. G. then contended that, in proportion as an authority is undefined, in that proportion every check should be exercised. It is the height of folly to contend that the American people ever intended to give any authority an unlimited operation. If the Constitution be examined, it will be found grounded on a jealousy against all rulers; this is evident from the face of the instrument.

In the first place, it contains limitations to the aggregate powers of the Government. In the next place, it provides checks for the powers given up. These checks are at least of three kinds; the first is, that of a distribution of different species of authorities into distinct hands; as in the case of the Legislative, Executive, and Judiciary; secondly, it requires a concurrence of different branches of the Government for the exercise of the same species of authority, as in the case of all Legislative subjects, the concurrence of the Senate and this House, to which is subjoined the qualified veto of the President; the third species consists of prohibitions upon the whole of the departments in the exercise of particular authorities intrusted to them, as in the case of a prohibition of an appropriation for the support of an Army for more than two years; the prohibition respecting exports under the power to regulate commerce, &c. So jealous has the Constitution been with respect to armies, that it also requires biennial elections for the purpose of enabling every new House to prevent the execution of a law for raising an Army by withholding the appropriations for its support. Whilst the Constitution was formed under this spirit of jealousy, it would have been wonderful that that power which is described to be unlimited in its objects, undefined in its nature, and paramount in its operation, should have been left unchecked; it would have been an evidence of the most egregious folly. The American people were incapable of it; accordingly, checks are found in the Constitution, if it be fairly interpreted; and it is not very material whether these checks are in express words, or whether they result virtually from the distribution of the several powers. It is sufficient that they are efficacious.

The checks on the Treaty-making power he considered as divisible into two classes; the first, consists in the necessary concurrence of the House to give efficacy to Treaties; which concurrent power they derive from the enumeration of the Legislative powers of the House. Where the Treaty-making power is exercised, it must be under the reservation, that its provisions, so far as they interfere with the specified powers delegated to Congress, must be so far submitted to the discretion of that department of the Government. The President and Senate, by the Constitution, have the power of making Treaties, Congress the power of regulating commerce, raising armies, &c.; and these, he contended, must form so many exceptions to the general power. Gentlemen had said that the Constitution was the exposition of the will of the people, and, as such, that they would

obey its injunctions. There could be no difference of opinion on this ground; for his own part, he confessed, if he adored anything on earth, it is that will. But the question is, what is that will, as expressed in the Constitution? That instrument, to his mind, explained this question very clearly. It enumerates certain powers which it declares specifically vested in Congress; and where is the danger to be apprehended from the doctrine laid down by the friends of the resolution? the contrary construction must produce the most pernicious consequences; agreeably to that, there would remain no check over the most unlimited power in the Government. The gentlemen contend, that the House must remain silent spectators in the business of a Treaty, and that they have no right to the exercise of an opinion in the matter; they must then abandon their Constitutional right of legislation; they must abandon the Constitution and cling to Treaties as supreme.

The other check over the Treaty-making power, he noticed, was the power of making appropriations, the exercise of which is specifically vested in Congress. He begged leave to call the particular attention of the Committee to this part of the subject. The Constitution says, that no money shall be drawn from the Treasury, but in consequence of appropriations made by law. This is no doubt intended as a check in addition to those possessed by the House. It is meant to enable the House, without the concurrence of the other branches, to check, by refusing money, any mischief in the operations carrying on in any department of the Government. But what is a law? It is a rule prescribed by competent authority. The word law in the clause of the Constitution he had last noticed, was not meant in reference to the Treaty-making power; but in reference to Congress. A law prescribes a rule of conduct; it is the expression of the will of the proper authority; it is the result of discretion. Legislation implies deliberation. If a law is the expression of the will, must not an appropriation law be equally so? But gentlemen had found out a new-fashioned exposition of the word discretion, and, according to their definition in fact, it was no discretion at all. They had mentioned a part of the Constitution which provides that the salaries of the Judicial department shall be fixed; and asked, whether the House should conceive itself at liberty to use a discretion in appropriations for that department? Before he could consider this case and that before the House, now parallel, he must beg gentlemen would point out any part of the Constitution that declared the House should not exercise their discretion when called upon to make appropriations to carry into effect a Treaty. He could find nowhere, that, in this case, the right of opinion of the House is constrained.

A member from South Carolina had given to discretion a negative meaning; and chose to conceive that the discretion contended for by the friends of the motion, was a discretion of whim and caprice; this was not the case. He had then attempted to combat the doctrine of discretion by a trite remark, indeed, that it never could be right to do wrong. He would answer him in a manner as trite, and say, that it never could be wrong to do right. But this proved nothing; still it is necessary to inquire and judge what was right and what wrong, and to do this, discretion must be exercised. So, in the present case, if it is right to carry the Treaty into effect, it would be wrong not to do it; and so, if it would be wrong to sanction it, it could not be right to agree to it. But this is to be determined by the exercise of a sound discretion. He owned he felt attached to the old-fashioned discretion, which consists in the faculty of choosing or refusing; he could not admit of the docile complying discretion, that gentleman contends for; he would call it a predestinated discretion. The effect of this new-fangled discretion would be, not to vote according to the conviction of one's own mind, but by that of another. A clause of the Constitution had been cited to support the definition of discretion advanced by the gentleman; that part which directs that Congress shall call a convention when a certain number of States require it. This surely could not apply to the doctrine advanced; there was, in that case, no room for the exercise of discretion; discretion is out of the question, and there is a positive obligation, under the binding force of an oath, to do a thing when required in a certain manner; in this matter, Congress are only to execute the injunction of the Constitution. Gentlemen had attempted to set up a new doctrine as to the operation of the moral sense; their moral sense was to be exercised by the President and Senate, and they were willing to abide by its operation in the breasts of those branches of the Government. He had always understood, for his own part, that an agent who had the right to be directed by his moral sense, must be a free agent.

There could be, he contended, no Legislative act without deliberation; the opinions which were to guide their decisions must be matured by deliberation; they were not to decide upon predestinated impressions; but their conduct must rest on the operations of their own minds.

A gentleman from Connecticut had discarded all pretence to the exercise of discretion; he might have an opinion as a citizen, but would not have one on the present question as a legislator. This was a nice distinction, indeed; he could not, for his own part, abstract in this way the citizen from the legislator. He declared, he would not form an opinion; Mr. G. conceived it the duty of a legislator to exercise an opinion, and not shut his eyes against conviction, and not to receive them from extrinsic quarters. When the Constitution says, the Legislature shall enact laws, it implies that they must be the fruits of deliberation, and not in the nature of an Executive act.

The uniform practice of the British Government had been cited to have been, in the case of Treaties, the same as that contended for by the friends of the present motion. The greatest security for the liberties of the people established in that Government, depends on the control which their Parliament has over the purse-strings. In England, this power rests merely on custom; here, the

House are expressly intrusted with it; what is custom in England, is reduced to writing in our Constitution. Then, if this power is in England a ground for Parliament to judge of Treaties, it is a fair inference that it ought to be exercised here. The practice of the British Government, he observed, had often been quoted here, in support of doctrines very different from those in aid of which it is now cited; it has been deemed orthodox when it favored Executive prerogative. He confessed, he never did expect that, as early as 1796, a reference would be made to practices, under the British Government, in support of the rights of the popular branch of our Government. It was painful to be obliged to have resort to that Government on such an occasion; but the authority of that Government should not be rejected for once, because its practice could be quoted in favor of the popular branch. The ground of the practice in England, and of the right claimed here, rests upon the sound maxim, that all public money is from the pockets of the people, and that it should be expended by none but their Representatives. No maxim had been more instrumental than this, in preserving the remnants of British freedom; and thus early is the House called upon to abandon it here.

Since checks were so wholesome and efficacious, and the want of them so dangerous to the rights of the people, there could arise no evil consequence, and but little inconvenience, from a multiplicity. What would the doctrine lead to, which goes to the suppression of the check now contended for? That the PRESIDENT and Senate may, if they please, reduce the House to a formal and not an efficient branch of the Government.

Treaties are contended to be paramount to the laws; the PRESIDENT and Senate make these Treaties, and when made and proclaimed as the supreme law, there is a predestinated necessity in the House to make the requisite provisions for carrying them into effect. The danger of this doctrine, he said, could not be better exemplified, than by a reference to the circumstances that attended the late Treaty in its progress. Three years ago, a difference took place between the different branches of Government, as to the policy that should obtain in reference to the conduct of one foreign nation. The House were unwilling to trust solely to the magnanimity of the King, and wished to make some exertions themselves for self-protection. With this view several measures were proposed, viz: commercial restrictions, non-importation, embargo, sequestration, or rather arrestation upon the ground of the *status quo*. One of the measures passed the House by a respectable majority, but was rejected in the Senate by the casting vote of the VICE PRESIDENT. The PRESIDENT appointed an Envoy Extraordinary, who entered into certain stipulations, which, being sanctioned by two-thirds of the Senate, it is now contended, are to operate to the destruction of the powers specifically vested in the House.

If the above was a true statement, he said, and he did not see in what particular it could be contradicted, then the Executive had been exerted as a check upon the Legislative power, for the negotiation necessarily foreclosed any further Legislative proceedings. It did more than this; the Executive legislated against legislation, and overruled them on the subject in contest. He should not advert at this time, he said, to the collateral circumstances which attended this business, nor go further in detail; he wished only to remark generally on the dangerous operation of the doctrines contended for. Now, it is said, the House have nothing to do but to obey, to appropriate the necessary money, leaving all deliberation aside.

Three years ago there was a further difference of opinion between the branches of Government on another interesting question. One branch was disposed to have an increase of the Military Establishment; a proposition to this effect was brought into the House, and negatived. The Senate, notwithstanding, successively sent down two or three bills for an increase of the Military Establishment—they were as repeatedly negatived by the House. Here different views existed, but the doctrine of checks was liberally exercised, and he thought to a good purpose.

If the PRESIDENT, said Mr. GILES, can, by the assistance of a foreign Power, legislate against the rights of the House to legislate, and his proceedings are to be binding on the House, it necessarily destroys their right to the exercise of discretion. If he can by Treaty declare, that commerce shall not be regulated, that property shall not be sequestrated, and that piracies shall be judged and punished as he thinks fit; if he is to exercise the unlimited Treaty-making power contended for, what security have we that he may not go further when the negotiations are renewed with Great Britain, agreeably to the stipulations of the present Treaty? What security have we that he will not agree with Great Britain, that if she will keep up an Army of ten thousand men in Canada, he will do the same here? How could such a stipulation be got over by the House, when they are told that in matters of Treaty they must not pretend to exercise their will, but must obey? How will this doctrine operate upon the power of appropriation? A Military Establishment may be instituted for twenty years, and as their moral sense is to prevent their withholding appropriations, they can have no power over its existence.

Gentlemen should pause, he said, and consider what would be the situation of the United States, under this doctrine, before they give it their sanction. What he had mentioned as a possible result of it, he observed, would bear more evidence of probability if the doctrine was established. Establish the doctrine, said Mr. G., and under its influence he thought there was a greater probability, at this day, of a stipulation for such an armament, than there was on the day the late Envoy was appointed, that such a Treaty as the present would have been the result of the negotiation. He took a retrospect of the circumstances attendant on that negotiation. When the Envoy was named, what were the expectations? Not that he was going to throw himself upon the magnanimity of the Monarch; but that he would

obtain a redress of grievances, and provide for the future security of our neutral rights; but what redress or security does the issue of the embassy promise?

Gentlemen had gone so far as to declare, that an attempt to examine the merits of the Treaty was rebellion, was treason against the Constitution. What justifies these harsh epithets? Such assertions could only create ill-will, and could not tend to the investigation of truth. Another argument of the same nature had been used. It was said, that the attempt at exercising a control over the Treaty-making power was disorganizing the Government. He believed the contrary would be found to be the case: The doctrine advocated by the friends to the motion, only goes to claim a negative voice in the business of Treaty-making; whereas the doctrine of its opposers claims the exercise of a power, that would supersede the specific authority delegated to the Legislature in all cases whatever. How would even a rejection of the Treaty disorganize the Government? Suppose the House should vote the Treaty null, and the next day quietly pass a land bill; would not the bill go calmly through its different stages? There is no foundation for the imputation; it is mere clamor and noise, *vox et præterea nihil*. Checks have been exercised before, and have not produced these dreadful consequences. When the House attempted to suspend the intercourse between this country and Great Britain, they were checked by the Senate, the Treaty was the only evil consequence of this. The use of checks is destroyed when the doctrine of coalition among the different branches prevails. Such coalescing does not render the Government strong; the strength of such a Government as ours is in the confidence of the people. Then let each branch make a manly use of its delegated authority; they will retain that confidence and secure that strength.

He did not believe, however, that the American people could be enslaved by their Government; they were too well convinced of the efficacy of the system of checks to suffer their liberties to be filched from them for want of the exercise of them. He remarked, the House had not been told yet how the exercise of discretion in the business of the Treaty was to destroy the Government. Possibly the Treaty with Britain is to give it energy, and if it be defeated, then disorganization was to ensue. But is the Government of the United States so low as to require foreign aid for its support? If it is tottering thus early, it may want, ere long, new negotiations and new concessions to prop it.

This would be a dreadful dilemma, that the Government should not possess efficacy enough in itself, but must lean on Great Britain for support. This would be a great reflection on the Government, and the conclusion to be drawn would be, that the confidence of the people had been misplaced. He believed the Government a Government of checks; that it was not intended the energy of the Executive was to be increased by a coalition or subordination of departments, and propped by a foreign Power.

He concluded by observing, that the interpretation of the Treaty clauses of the Constitution, as expounded by the gentlemen, would lead to a despotism of the worst kind. And if they were to plunge the nation headlong into the evils that must result from the establishment of the doctrines contended for by the empty sounds of war and disorganization, he should then lament the weakness—he should then, and not till then, distrust the discretion of the House.

Mr. G. said, that before he concluded he could not help remarking, that the terms of war and disorganization had been often applied to himself, and others, who generally associated with him in political opinions; that he had at all times beheld those groundless calumnies with contempt; that he disdained them, and had never condescended to any explanation. He remarked, that he was not in the habit of making professions; he knew that his conduct was the criterion by which he ultimately would, and ought to be, judged; and to that, with pleasure, he made his appeal for his justification.

Mr. SEDGWICK said, that, after the length of time which had been consumed, and the talents which had been so ably exerted in the discussion of this subject, he should not think himself authorized to call the attention of the Committee to any observations of his; but, that he considered it in principle, and in its consequences, as the most important question which had ever been debated in this House. It was no less than whether this House should, by construction and implication, extend its controlling influence to subjects which were expressly, and he thought exclusively, delegated by the people to another department of the Government. We had heretofore been warned emphatically against seizing on power by construction and implication. He had known no instance in which the caution that warning enforced, deserved more attention than on the present occasion.

It must, he said, have been foreseen by the author of the motion, that it would ultimately be contested on the present ground. No sufficient reason had been given as an object for the call. The various reasons which had been hinted at had hardly been suggested before they were respectively abandoned. It would be remembered, and indeed had been avowed, that a request, such as the present, was in nature of a demand. It was true, if we had authority on the subject of forming Treaties, we had a right to all the means of exercising an intelligent discretion; and the demand, of course, was well founded. But, if we had no such authority, and we had none, unless it could be discovered in the Constitution, then the demand had no good foundation on which it could rest, and was, in his opinion, an attempt at seizing on power by usurpation.

He was perfectly sensible in how disagreeable an attitude a man would stand, who should attempt to limit the extent of power claimed by an assembly to which he should address himself. He had some of the most powerful inclinations of human nature to contend with. He felt the full force

of the influence of this principle, as it would afford the cause of repulsion and resistance to the arguments which he might submit: But having formed an opinion, perfectly satisfactory to his own mind, from the best light which honest investigation could procure, he thought it a duty he owed his country and posterity—a duty rendered more indispensable from the obligations which were upon him—to obey the will of the people expressed in the Constitution of their Government, which he had sworn to support, solemnly to declare that opinion, and the reasons on which it was founded.

He, in his conscience, believed, that if the Constitution could operate the benefits its original institution intended—that if the Government should be rendered adequate to the protection of liberty, and the security of the people, it must be by keeping the several departments distinct, and within their prescribed limits. Hence, that man would give as good evidence of Republicanism, of virtue, of sincere love of country, who should defend the Executive in the exercise of his Constitutional rights, as the man who should contend for any other department of Government. If either should usurp the appropriate powers of another, anarchy, confusion, or despotism, must ensue: the functions of the usurping power would not be legitimate, but their exercise despotism. If the power of controlling Treaties was not in the House, the same spirit which might usurp it might also declare the existence of the House perpetual, and fill the vacancies as they should occur. The merits of the present question, it seemed to be agreed, depended on this right; it was of infinite importance, therefore, to decide it justly.

It would be taken for granted, and it would be conceded on all hands, that we were to resort to the Constitution, to know the extent and limits of our power, and if we found not there a clear evidence of its existence, we ought to abandon the exercise. It was certain we had not any express delegation to make or to control the public will in any of our relations with foreign nations. On the other hand, we found it declared, that the President should have power to make Treaties by and with the advice and consent of the Senate, provided two-thirds of the Senators present concurred. Treaties, to attain the ends for which they were designed, were, from their nature, supreme laws; but the Constitution had, in another place, declared, Treaties made under the authority of the United States should be supreme laws. Gentlemen had said, that it was not declared that Treaties made by the President and Senate should have this effect; but those made under the authority of the United States. The question then recurred, what Treaties were made under the authority of the United States? The true answer undoubtedly was, Treaties made by those to whom the people, by their Constitution, had delegated the power. The President, qualified as had been mentioned, had expressly, and none else had such power. If we were to rest the subject here, it would seem to follow irresistibly, and to be incapable almost of higher proof, that whenever a compact was formed by the President with a foreign nation, and had received the advice and consent of the Senate, if it was of such a nature as to be properly denominated a Treaty, all its stipulations would thereby, and from that moment, become "supreme laws."

That such had been the construction from the commencement of the Government to the promulgation of the British Treaty, he believed would be universally admitted; and but for that Treaty, probably never would have been denied. Did this afford no evidence that the construction was a just one? Was the subject a less important one, its decision might be safely trusted on this ground. But all-important, as it was, for the purpose of further investigation it might be useful to consider the nature, extent, objects, and effects of this power.

What authority was then delegated under a grant of power to form Treaties? Did not the term Treaties include all stipulations between independent nations relative to subjects in which the contracting parties have a mutual or common interest? If it had a more confined or limited sense, it became those who contended for it, to mark the limits and designate the boundaries. Without a power so extensive, much of the benefit resulting from amicable intercourse between independent nations would be lost; and disputes and differences, which are inevitable, would have no means of amicable termination. From the obvious utility, and indeed the absolute necessity, that such a power should be exercised, we know of no civilized nation, either ancient or modern, which had not provided the organs of negotiation to the extent, substantially, which he had mentioned. The power indispensable had always been delegated, though guards had been provided against its abuse by different means.

It was not now to be inquired, whether the power of treating was wisely deposited, although he was inclined to believe it could not be intrusted to safer hands. It was sufficient, that those who had the right, the citizens of America, had declared their will, which we were bound to respect, because we had sworn to support it, and because we were their deputies.

The power of treating between independent nations might be classed under the following heads: 1. To compose and adjust differences, whether to terminate or to prevent war. 2. To form contracts for mutual security or defence; or to make Treaties, offensive or defensive. 3. To regulate an intercourse for mutual benefit, or to form Treaties of commerce. Without the first, war and contention could only be terminated by the destruction of one of the parties; without the second, there could be no defence, by means of union and concert, against superior force; and without the last, a profitable and beneficial intercourse could not be arranged on terms of reciprocity. Hence, then, it must be evident to every unprejudiced mind, that by a grant of power to make Treaties, authority was given to bind the nation by stipulations; to preserve peace or terminate war; to enter into alliances, offensive and defensive, and to form commercial Treaties.

This power, he held, unlimited by the Constitution, and he held, too, that in its nature, to the extent he had mentioned, it was illimitable. Did a serious difference exist with a foreign nation, in determining on the nature and extent of the stipulations which might be necessary to adjust it, the cause of injury, national rights and honor, the evils of war, and all circumstances of relation between the two countries, must be taken into account. In forming alliances, the threatened pressure, your own and your enemy's relative strength, the objects of acquisition or defence, must be considered. And, in adjusting an equitable intercourse for commercial purposes, a thousand circumstances present themselves for nice calculations. A thousand circumstances of foreign relations would occur in the history of every country, under which nothing short of unlimited powers of negotiation would be adequate to a prevention of enormous, perhaps ruinous evils.

But it might be objected, that a power so enormous, and comprehending such essential interests, might be abused, and thence asked, where is the remedy? To this he answered, that a national association required, for the great purpose of preservation, an unlimited confidence on many subjects. Hence, not only this, but perhaps every other national Government, had delegated to it an unlimited control over the persons and property of the nation.

It might, by the express power given to it of raising armies, convert every citizen into a soldier, and, by a single assessment of a tax, it might command the use of all the property in the country.

The power to raise armies and taxes was limited in its exercise by nothing but the discretion of the Legislature, under the direction of its prudence, wisdom, and virtue. Was there no security against a wanton abuse of these enormous powers? Yes, it was to be hoped that the people, in electing the members of this House, and the States in choosing those of the other, would not select characters, who, regardless of the public good, would wantonly impose on their constituents unnecessary burdens. It would be an additional security, that the interests of the rulers were inseparably connected with those of the people; that they could impose no burdens in which themselves did not equally participate. But, should all these guards be insufficient, was there no dependance to be placed in the President?—the man elected by a refined process, pre-eminent in fame and virtue, as in rank! Was there no security in the watchful guardianship of such a character? Responsible by everything dear and valuable to man—his reputation, his own and his fellow-citizens' happiness—was there no well-founded reliance on all these considerations, for security against oppression? If not, we had not the requisite materials by which to administer a Republican Government, and the project might be abandoned. After all, however, should the unlimited powers he had mentioned (and such powers must always be unlimited) be wantonly abused, was there no remedy? Yes, in the good sense and manly independent spirit of the people. If intolerable burdens were wantonly imposed; if necessary to defeat the oppression, opposition and insurrection would not only be authorized, but become a duty. And if any man could honestly lay his hand on his heart, and in sincerity declare, that a compliance with any existing Treaty was worth more than our Government, our Constitution, our Union, and the liberty protected by them; to that man he was ready to declare, that opposition had become a duty. But, in every instance of opposition, whether in defeat of a Legislative act, or of a Treaty, the right of resistance resulted not from the Constitution itself, for it had declared no such right; no Constitution could declare it. It existed in original principles, and never could be exercised but by resorting to them.

Gentlemen had spoken of the subject as if the members of this House were the only Representatives of the people, as their only protectors against the usurpations and oppressions of the other departments of the Government. Who then, he asked, were the Senators? Were they unfeeling tyrants, whose interests were separated from and opposed to those of the people? No. Did they possess hereditary powers and honors? No. Who, as contemplated by the Constitution, were they? The most enlightened and the most virtuous of our citizens. What was the source from whence they derived their elevation? From the confidence of the people, and the free choice of their electors. Who were those electors? Not an ignorant herd, who could be cajoled, flattered, and deceived—not even the body of enlightened American citizens; but their legislators, men to whom the real characters of the candidates would be known. They did not possess their seats in consequence of influence obtained by cajoling and deceit, practised in obscure corners, where the means of detection were difficult if not impracticable; but they were selected from the most conspicuous theatres, where their characters could be viewed under every aspect, and by those most capable of distinguishing the true from the false. For what purposes were they elected? To represent the most essential interests of their country; as the guardians of the sovereignty of the States, the happiness of the people, and their liberties. Who, as contemplated by the Constitution, was the President? The man elected, by means intended to exclude the operation of faction and ambition, as the one best entitled to public confidence and esteem. And was no confidence to be reposed in such characters, thus elected? Might it not, to say no more, be at least doubtful, whether the treating power might not be as safely intrusted in such hands exclusively, as with the participation and under the control of the more numerous branch of the Legislature, elected in small districts, assailed by party and faction, and exposed to foreign influence and intrigue? Whatever merits this, as an original question, might possess, the people had decided their will. To the President and Senate they had given powers to make Treaties; they had given no such powers to the House.

It was not, in his opinion, proper, when investigating the Constitutional question of the extent of a particular power, and in what hands it was deposited, to divert the attention to a possible abuse of that power. Should it become a question whether Congress was by the Constitution authorized to raise armies, and the extent to which the power might be exercised, it would be unfair and improper to divert the attention from the inquiry of what was the truth, to the abuses which might result from the exercise of the power. To state that if such power existed, every citizen might, by the wanton abuse of it, be degraded from his rank, and subjected to the despotism of military discipline: To show that armies might be employed as the instruments of destroying liberty: To picture your country as strewed with human carcases, and stained with human blood by their means. What would this be but to substitute prejudices instead of arguments? Still, however, it would remain true, that there should be some means of calling forth the whole force of the community for its security and defence. It would still remain true, that the power of Congress to raise armies was only limited by its discretion, under the direction of wisdom and patriotism. The same observations, changing their relations, might with equal justness be applied to the Treaty-making power. To be, and to continue a nation, required, on these subjects, unlimited confidence in the delegation of the necessary powers. The people had granted them, and provided against their abuse such guards as their wisdom dictated.

The gentleman from Virginia [Mr. Madison] had stated five different constructions which possibly might be given to the Constitution on this subject. Three of which, and for none of them to Mr. S.'s knowledge had any man ever contended, the gentleman had proved to be unfounded. The fourth, that which he had given to the Constitution, if admitted, and it should be abused, might produce mischievous effects. Was not this true of all the great and essential powers of Government? If the controlling influence of this House was added, would the power be less? And if, under these circumstances, abused, would the injury be more tolerable? In short, was not this a kind of argument infinitely more tending to the production of prejudice, than to the discovery of truth?

The gentleman has really given no decisive opinion what was the true construction. He had, however, seemed to incline to a belief that to the stipulations of a Treaty relative to any subject committed to the control of the Legislature, to give them validity, Legislative co-operation was necessary. Of consequence, if this was withheld, the operation of the Treaty would be defeated. That it was at the will, and within the discretion, of the Legislature, to withhold such co-operation, and of course the House might control and defeat the solemn engagements of the President and Senate.

The gentleman who had suggested this opinion was well known to the Committee, and throughout America. Mr. S. could not but observe that it was perfectly unaccountable to his mind, that that gentleman had yet to form an opinion to whom was delegated that power, the nature, extent, and effects of which he had so strongly and perspicuously detailed. The capacity of that gentleman's mind, long exercised on political subjects; his known caution and prudence, would authorize a request that he or his friends would explain how it was possible, if such as he states should have been the intention of those who framed the Constitution, that the true meaning should not have been expressed in the instrument? That when the gentleman went from the Assembly which framed the Constitution, immediately afterwards, to one of those which ratified it, he should have admitted an opposite construction? As Mr. S. would undertake, by and by, to prove that, in the Convention of Virginia, he did admit the very construction for which we now contended. He would take the liberty further to inquire, how it happened, that, if such was really the intention of the instrument, that such was the meaning of the people, no man had heard of it until the discovery was produced by the British Treaty? Strange national intention, unknown for years to every individual!

As the gentleman had been pleased to dwell on the idea of a co-operation between the powers of the Government, he would take the liberty to state, what had been ably explained by other gentlemen, that the power of making Treaties was wholly different from that of making ordinary laws; originating from different motives; producing different effects, and operating to a different extent. In all those particulars, the difference had been perfectly understood. For instance, the ordinary legal protection of property, and the punishment of its violation, could never be extended beyond your own jurisdiction; but, by Treaty, the same protection could be extended within the jurisdiction of a foreign Government. You could not legislate an adjustment of disputes, nor a peace with another country; but, by Treaty, both might be effected. Your laws, in no instance, could operate except in your own jurisdiction, and on your own citizens. By Treaty, an operation was given to stipulations within the jurisdiction of both the contracting parties.

It had been said that Treaties could not operate on those subjects which were consigned to Legislative control. If this be true, said he, how impotent in this respect is the power of the Government! What, then, permit me to inquire, can the power of treating effect? I will tell you what it cannot do; it can make no alliances, because any stipulations for offensive or defensive operations, will infringe on the Legislative power of declaring war, laying taxes, or raising armies, or all of them. No Treaty of Peace can probably be made, which will not either ascertain boundaries, stipulate privileges to aliens, the payment of money, or a cession of a territory, and certainly no Treaty of Commerce can be made.

Was it not strange, that, to this late hour, it should have been delayed, and that now, all at

once, it should have been discovered, that no power was delegated to any person to regulate our foreign relations? That, although a power was granted to the President and Senate to form Treaties, that yet there were such reservations and restrictions, that there remained nothing on which this power could operate? Or was it true, that this power was competent to treat with every Government on earth but that of Great Britain? Might he not be permitted further to inquire, if this Treaty had been formed with any other Power, with the precise stipulations it now contained, whether there ever would have existed this doubt of constitutionality?

We had, he said, entered into Treaties of Commerce with many nations; we had formed an alliance, and entered into a guarantee with France; we had given Consular power, including judicial authority to the citizens of that country, within our own jurisdiction; we had defined piracies, and provided for their punishment; we had removed the disabilities of alienage; we had granted subsidies, and ceded territory. All this, and much more, we had done, while the powers of the Government remained unquestioned, and none even thought that they required Legislative co-operation. Treaties, such as those, could, without opposition, and by unanimous consent, be ratified, and considered by force of such ratification, as supreme laws; but similar stipulations with Great Britain were clearly perceived to be unconstitutional, and President, Envoy, and Senate, were denounced for their respective agency, as infractors of the Constitution.

The objection, which he had just answered, had been brought forward by a gentleman from Pennsylvania, [Mr. Gallatin,] with another nearly allied to it, if not resting on precisely the same foundation; that whatever stipulation in a Treaty required Legislative provision, or repealed a law, did not become a supreme law until it had received Legislative sanction. There was no limitation expressed in the Constitution on which to found either of those objections. If we claimed the power which the objections imported, the claim must rest on construction and implication alone. Indeed, the whole reasoning of all the gentlemen seemed to him to be capable of being expressed in a few words: The President and Senate, in the sole and uncontrolled exercise of the Treaty-making power, may sacrifice the most important interests of the people. The House of Representatives is more worthy the public confidence; and, therefore, by our influence, we will prevent the abuse of power.

The gentleman, to prove his position, stated, that the power of treating in Great Britain and the United States is precisely the same. He then read a passage from Judge *Blackstone*, "that the sovereign power of treating with foreign nations was vested in the person of the King, and that any contract he engaged in, no power in the Kingdom could delay, resist, or annul." At the same time, he said, that certain Treaties, such as those of subsidy and commerce, were not binding until ratified by Parliament. Now, both these could not be true; for it was no less than a direct contradiction in terms, to say, that there was no power in the nation which could delay, resist, or annul the contracts of the King, and at the same time to say, there was a power in the nation, the Parliament, which could delay, resist, and annul those contracts. Both the assertions could not be true. He was willing, however, to allow that the Treaties which the gentleman had mentioned, were not the supreme laws of that country, until approved by the Legislature. He had already said, that different countries had provided different guards against the abuse of this power. But why attempt to divert our attention from a construction of our own Constitution, to the vague, uncertain customs and practices of other countries? Why compare the President and Senate to the King of Great Britain? In what was there a resemblance? In nothing. Why, then, perplex the subject by the introduction of irrelative matter? Was there perceived an interest in a diversion from the only legitimate source of information, the declared will of the people? If we found not there the power we claimed, we could exercise it only by usurpation.

Why did not gentleman extend their reasoning further? Where, in point of principle, was the difference between restraining and controlling the Legislative power? The injury may be as great in the one instance as in the other; nor is there any more foundation for denying to the President and Senate the power in the one case than in the other, from any words or expressions in the Constitution.

If the gentlemen are right in their construction, if this was the understanding of the people at the time they deliberated on and ratified the Constitution, the power of the President and Senate of making Treaties, which then created the most serious deliberation and alarming apprehensions, was the most innocent thing in nature. It could bind the essential interests of the nation in nothing. Could any man really believe that the agitation which a discussion of this subject occasioned, more, perhaps, than any other in the Constitution, could have for its object only the power of the President and Senate, in which two-thirds of the latter must concur, to digest schemes of Treaties to be laid before the Legislature for its approbation?

The gentleman from New York [Mr. Havens] and the gentleman from Virginia [Mr. Giles] had asserted the power of the Legislature to repeal Treaties; whenever the wisdom of Congress should concur in opinion with those gentlemen, we should then cease to contend respecting the construction of the Constitution on this subject. For whenever our nation should, in defiance of every principle of morality and common honesty, by its practice, establish its right to prostrate national honor, by sporting with the public faith, no nation would submit to be contaminated by a connexion with one which avowed the right of violating its faith by the infraction of solemn Treaties.

On all subjects of this sort, the real inquiry was

and ought to be, what was the intention of the parties to this instrument? Hence a brief view of some interesting occurrences, which took place at the adoption of the Government, would not be impertinent, but might be useful.

A cotemporaneous exposition of any instrument, and especially by those who were agents in its fabrication, had been allowed, and was, in fact, among the best guides to finding its true meaning. Gentlemen who had been members of the Convention, and unfriendly to the Constitution, with an intention of preventing its adoption, had stated to their constituents that the power of making Treaties, as confided to the President and Senate, was as extensive as was now contended for. Their intention could have been no other than to alarm the people with the dangerous extent, and what would be the pernicious exercise of this power. If this charge was unjust and groundless, what would have been the conduct of the friends of that instrument? They would have proved the charge to have been malicious and ill-founded. They would have shown that the Constitution was not liable to such an objection; that it could bear no such construction. They would, in the language of novel discovery, have said, that every subject of legislation was an exception from the power of making Treaties; and thus they would have proved to the world, that the sages of our country had devised and offered to their enlightened countrymen a scheme of Government, destitute, by an express delegation, of the essential attribute of adjusting differences with other nations, and of agreeing with them on the terms of amicable intercourse. But they did no such thing; they admitted the power, proved the necessity of it, and contended that it would be safe in practice. Let me here, said he, appeal to any unprejudiced man, if he can possibly believe that the enemies of the Constitution could have made the charge against it, and that its friends would have admitted the truth of it, on the hypothesis that it was unfounded and false? They certainly knew what they had so recently intended, and having opposite objects in view, which excited their strongest wishes, it was impossible they should agree in imposing on the people a false and unwarrantable construction. So far he had extended his reflections as resulting from the conduct of those who formed the Constitution; a conduct from which, he flattered himself, there flowed demonstration that the power of making Treaties was as extensive as was that which was now contended for. This being the concurrence of men who could not have united to deceive, with regard to which it was impossible they should be mistaken, formed a guide for our opinion, which could not mislead, which no degree of stupidity could mistake, nor the most ingenious sophistry successfully misrepresent.

So much he had thought proper to say, as respected the construction given to this part of the instrument by those who formed, who could not mistake, and who were under no temptation to misrepresent it. It might be necessary, in the next place, to inquire under what opinions it was adopted; and if we perceived a correspondence of construction between those who formed and those who received and approved, we might then surely derive all reasonable satisfaction that we had discovered the truth. Here he believed that it might be asserted, without any danger of contradiction, that in the State Conventions it was, on one hand, affirmed that the President and Senate would, by the Constitution, have power to form Treaties on any subject in which the United States and a foreign nation had a common interest; and that Treaties so formed, without any other aid or circumstance whatever, would thereby become the supreme law of the land; and that the exercise of this power was not so guarded as to render it safe to the public interests. On the other hand, it was admitted that such was the extent of the power, and it was attempted, at least, to be proved that it was so guarded that danger could not reasonably be apprehended from its exercise. It would be too tedious, and well might be thought unnecessary, to consult all the materials which might be within our reach on this subject; but he dared to appeal to the recollection of every gentleman who was in a situation to know the facts, for the correctness of the statement which he had made; and he would read some few extracts from the debates of the Convention of Virginia, which would probably be, on this occasion, for many reasons, admitted as the best authority; and particularly, because the subject there was examined by eminent talents, and by minute and scrupulous investigation.

Mr. Sedgwick read the following passages from the third volume of the "Debates and Proceedings of the Convention of Virginia." From the speech of Mr. George Mason, who was as well a member of the Federal Convention, as of that of Virginia:

"That he thought this a most dangerous clause. By the Confederation, nine States were necessary to concur in a Treaty: this secured justice and moderation. His principal fear, however, was not that five, but seven States, a bare majority, would make Treaties to bind the Union."

He then read the reply of Mr. George Nicholas to Mr. Mason:

"That the approbation of the President, who had no local views, being elected by no particular State, but the people at large, was an additional security."

Mr. S. said, that if it was true, as now contended for, that this House was intended to have a check on the principles which had been mentioned, and which, he had already shown, would extend to some of the stipulations of every Treaty which could be formed, it was utterly impossible it should not have been mentioned and relied on.

From a speech of Mr. Madison he read:

"That he thought it astonishing that gentlemen should think that a Treaty could be got with surprise, or that foreign nations should be solicitous to get a Treaty ratified by the Senators of a few States; that should the President summon only a few States, he would, for so atrocious a thing, be impeached."

From the speech of another member, Mr. Henry:

"That if two-thirds of a quorum would be empowered to make a Treaty, they might relinquish and alienate territorial rights, and our most valuable commercial advantages. In short, should anything be left it would be because the President and Senators were pleased to admit it."

[How, Mr. S. asked, could this be true, if the doctrine now laid down, in support of this motion, was well founded?]

"The power of making Treaties, ill guarded as it is, extended further than it did in any country in the world. Treaties were to have more force here than in any part of Christendom."

From Mr. Madison's speech he read:

"Are not Treaties the law of the land in England? I will refer you to a book which is in every man's hand, 'Blackstone's Commentaries;' it will inform you, that Treaties made by the King are to be the supreme law of the land; if they are to have *any* efficacy they must be the law of the land. They are so in every country."

From Governor Randolph:

"It is said, there is no limitation of Treaties. I defy the wisdom of that gentleman to show how they ought to be limited."

From Mr. George Nicholas:

"Have we not seen, in America, how Treaties are violated, though they are in all countries considered as the supreme law of the land?"

That Mr. Mason, speaking of this power, had said:

"It is true it is one of the greatest acts of sovereignty, and therefore ought to be most strongly guarded. The cession of such power, without such checks and guards, cannot be justified; yet I acknowledge such a power must rest somewhere: It is so in all Governments. If, in the course of an unsuccessful war, we should be compelled to give up part of our territories or undergo subjugation, if the General Government could not make a Treaty to give up such a part, for the preservation of the residue, the Government itself, and consequently the rights of the people must fall. Such a power must, therefore, rest somewhere. For my own part, I never heard it denied that such a power must be vested in the Government. Our complaint is, that it is not sufficiently guarded, and that it requires much more solemnity and caution than are delineated in that system."

[Strange, Mr. S. said, that this gentleman did not discover, or was not told, that Treaties before they should become laws, must receive Legislative sanction.]

"There are other things which the King [meaning the King of Great Britain] cannot do, which may be done by the President and Senate in this case. Could the King, by his prerogative, enable foreign subjects to purchase lands, and have an hereditary, indefeasible title? Will any gentleman say that they [the President and Senate] may not make a Treaty, whereby the subjects of France, England, and other Powers, may buy what lands they please in this country?" "The President and Senate can make any Treaty whatsoever. We wish not to refuse, but to guard this power, as it is done in England." "We wish an explicit declaration in that paper, that the power which can make other Treaties, cannot, without the consent of the national Parliament, the national Legislature, dismember the empire. The Senate alone ought not to have this power."

From the speech of Mr. Corbin, who was in favor of the Constitution:

"If there be any sound part in the Constitution it is this clause. The Representatives are excluded from interposing in making Treaties, because large popular assemblies are very improper to transact such business, from the impossibility of their acting with sufficient secrecy, despatch, and decision, which can only be found in small bodies; and because such numerous bodies are always subject to faction and party animosities. That it would be dangerous to give this power to the President alone, as the concession of such a power to one individual is repugnant to Republican principles. It is therefore given to the President and Senate (who represent the States in their individual capacities) conjointly. In this it differs from every Government we know. It steers with admirable dexterity between the two extremes, neither leaving it to the Executive, as in most other Governments, nor to the Legislative, which would too much retard such negotiations."

That another member of the Convention, (Mr. Henry,) after contending that the Constitution ought to be amended, so as to guard against the abuse of the Treaty-making power, by requiring the consent of the House, concluded his observations by saying:

"That when *their* consent is necessary, there will be a certainty of attending to the public interests."

That the debate on this interesting subject was, in that Convention, concluded by a gentleman of this House, [Mr. Madison,] not by insisting on that security, which gentlemen had now discovered the Constitution provided against the abuse of this power. He had stated:

"That the power was precisely in the new Constitution as it was in the Confederation."

He had stated the checks which the Constitution had in fact provided, but it had not then occurred to him that the consent of this House was among them.

He also read the amendment which the Convention of Virginia proposed to the Constitution:

"That no commercial Treaty shall be ratified without the concurrence of two-thirds of the whole number of the Senate; and no Treaty ceding, controlling, restraining, or suspending the territorial rights or claims of the United States or any of them, or their or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made but in cases of the most urgent necessity; nor shall any such Treaty be ratified, without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

Mr. Sedgwick said, that it was manifest, beyond all doubt, from that amendment, that the Convention of that State supposed, that the Constitution as it then stood unamended, delegated to the President and Senate, and to the exclusion of the House, the whole power of making and ratifying Treaties, with all its consequences and effects.

He had stated, that the real inquiry was, what opinion was entertained on this subject by those

who ratified the Constitution. If that opinion could be discovered, with honest minds it must be conclusive on the present debate. He had shown what opinion was entertained by Virginia; what power she meant to delegate, and to whom. That this opinion remained from that time until she proposed her late amendments, unaltered, appeared from the amendments themselves. That State then, and her Representatives here, who had expressed themselves, differed in opinion. He did not mention Virginia with intention of producing any unpleasant sensation. He was willing to allow that she was great, wise, intelligent, enlightened, and, if gentlemen pleased, moral. Her opinion derived additional authority from her respectability. It was not Virginia alone, but he was persuaded every other State had given precisely the same construction. *That the Treaty-making power, with all its effects and consequences, was solely and exclusively in the* President *and Senate.* And he would dare to challenge gentlemen to produce a solitary instance of its being adopted under any other idea. Indeed the agitation which was at that time produced, would of all things be the most ridiculous, if any of the other constructions were true. If the power was checked as was now contended, it was impossible danger should be apprehended from its exercise; it could indeed do neither good nor evil.

Here then, he said, we had the evidence of those who framed, and of those who received and approved the Constitution. There was another source of inquiry, which would confirm, if it wanted confirmation, that construction for which he had contended. It was the construction which had been practically given by those who had administered our Government, from the commencement of our foreign relations, to the present session; a construction which had been assumed, admitted, or acquiesced in, by our National and State Governments, and by every individual citizen, until they received new light, by our having accommodated our causes of contention with Great Britain, and escaped the evils with which we had been threatened from that source.

The association which preceded any express contract between the States, was supposed to imply an authority to form national compacts, imposing national obligations, and pledging the public faith. Hence our Treaty with France, which preceded two years our national association, the Confederation, had been supposed binding on us, and not only obliging us to the faithful performance of our express engagements, but as drawing after it undefined, unlimited, and perpetual obligations of gratitude. This seemed, so far as respected defined obligations, to be a rational deduction, from what is an inseparable attendant on national associations, and without which a nation would be destitute of one of the best means of securing its happiness, and even existence.

To pursue, he said, the history of our country on this subject, in the order of time, it would not be pretended that, under the Confederation, the powers of Congress to form "Treaties and Alliances" were more extensive than those of the President and Senate under the Constitution to form "Treaties." The Legislative powers of the nation, then residing with the several States, were as obstructive to the operation of Treaties (and extended to all the objects which the National and State Legislatures now comprehend) as the Congressional Legislative can now be. Yet under the Confederation Treaties of Alliance, of Peace, of Commerce, were made; nor until the present moment has their obligations been denied, though they contained stipulations, perhaps, on all the subjects to which the treating power could extend. No Legislative provision had been thought necessary to give them validity; and he dared appeal to every member of the Committee, that every enlightened citizen had admitted their binding obligation as supreme laws. That the Treaty of Peace in particular, which controlled the most important rights of sovereignty, arrested the hand of justice in inflicting punishment for the highest crime which a citizen could commit, treason, and stayed proceedings in cases of confiscation, for forfeitures which had been incurred, had always received this construction. He would add, that it was well understood to be the opinion of that tribunal which the Constitution had authorized to pronounce the law, the Supreme Court, that the Treaty from its own powers, repealed all antecedent laws which stood in the way of its execution.

To proceed further on: Since the adoption of the Constitution, the powers now denied, had been constantly exercised with all the consequences and effects now contended for, and, until the present moment, unquestioned. Peace had been concluded, subsidies granted, payment of money stipulated, territorial rights discussed and decided on. Treaties for those purposes had been ratified, not by venal and corrupt majorities, but by virtuous unanimity. Hence, from the moment we had become a nation, under every form of our implied or expressed association, the powers now denied had been exercised, not only without question, but with unqualified approbation.

There was one more point of light in which this subject ought to be viewed. In the year 1789, it was proposed to discriminate in the imposition of our duties, between the nations with whom we had, and those with whom we had not, Treaties of Commerce. The author of this proposition renewed the same in the year 1794. This was virtually acknowledging the validity of the Treaties which did exist and inviting those nations who had not already, to form Commercial Treaties. Something more than this was done by the motions which some gentlemen of the minority of the Senate are said to have made when this very Treaty was in discussion. Their motions recommended an accommodation by Treaty of all subsisting differences between the two countries. It could not escape remark that these several propositions and motions were supported, by all that description of persons who now opposed the Treaty.

It would not then be deemed impertinent to inquire, it was worthy attention, what was imported and admitted by this conduct and those propositions? They undoubtedly implied a concession that the subsisting Treaties were of validity; why else should they be considered as a meritorious cause of favorable discrimination? They implied, too, that there existed in this country a power to treat on commercial relations, and to adjust subsisting differences.

If without Legislative aid (and they had received none) those Treaties would authorize the Legislature to derange the commercial pursuits of the nation, and enter into Legislative hostility with that nation with which we had the most extensive relations, it must be from the competency of the Treaty-making power on the principles on which we contended. Strange again, he would say, it must appear that the true construction of the Constitution, on this very important subject, should have escaped the penetration and sagacity of the author of those propositions, during the time of forming and ratifying the instrument, and his whole active public life, from those periods until that of the publication of the British Treaty.

If, then, it was true, as he had endeavored to prove, that by the power given by the Constitution to the President and Senate to make Treaties, they had an authority to the extent he had supposed with all its consequences and effects; if Treaties so formed did in fact become supreme law, then being compacts they bound the public faith and could not be violated without national disgrace and personal dishonor. They might require Legislative provision to carry them into effect; but this neither implied nor authorized the exercise of discretion, as to refusal. The Constitution he had had frequent occasions of saying prescribed a Government of departments. Each was intended to be furnished with the means of self-preservation and defence. For this purpose it was declared, that the President should receive a compensation to be ascertained by law. Laws were to be made by the Legislature, of which this House was one branch. To support the Constitution each department must be enabled to perform the functions assigned to it. To enable the Executive to do its duties, the compensation must be provided. It was then necessary to the support of the Constitution, that the compensation should be made. We have sworn to support the Constitution. The people by their Constitution had solemnly engaged that whoever was the President should receive a compensation. We had been deputed to discharge the duties and engagements which our constituents had assumed. Under these circumstances no man of common honesty could declare that we were at liberty to refuse all provision.

The gentleman from Virginia [Mr. Madison] had attempted to make a distinction between the duties we had imposed on us by the Constitution and such as were enjoined by law. He could perceive no foundation for any such distinction. After the salary of the President was ascertained by law, it could not be paid without an appropriation; would any one say he was at liberty to withhold it? No man, he presumed, would wish to risk his reputation by such an assertion. For such conduct instead of supporting would tend to subvert, and would, if persisted in, annihilate the Constitution. This was undoubtedly one of the most important of the public contracts; but the truth was, in fact, that we were bound to perform all the public engagements. The truth was that our national association was a compact of virtue. To support the Constitution it was necessary to preserve public faith. To promote the public happiness it was essential to hold sacred, and to perform, the public engagements. In this were included all engagements, whether expressed in the form of Constitution, of laws, or of Treaties; in any way, indeed, in which the people had agreed that their will and their duties might be expressed.

Mr. S. concluded by observing, that he had intended to have presented the subject in several other important aspects, but he had already trespassed on the patience of the Committee. He would, as the time of adjournment was passed, suspend for the present any further observations; and he hoped that all the grounds which he had left unoccupied would be taken by other gentlemen, so as to supersede the necessity of troubling the Committee with any further observations on this subject.

March 14.—In Committee of the Whole on Mr. Livingston's resolution:

Mr. Samuel Lyman said he rose only to make a few observations. He was against the resolution now on the table, as involving a doctrine, in his opinion, not only inconsistent with the principles of the Constitution, but also inconsistent with the laws of nations. In debating the merits of this resolution, an exceedingly important abstract Constitutional question had arisen, viz: How far that House had a right to exercise their Legislative discretion and judgment relative to carrying a Treaty into effect. In order to answer this question, he would raise two premises. And, first, by the Constitution, the Legislative powers of that House, in co-operation with the other branches of the Legislature, extend to all objects within the reach of their sovereignty, excepting the reservations to the distinct sovereignties of the several States which compose the Union; but beyond those boundaries their powers could not extend. Secondly, there is, by the Constitution, attached to the Legislature a subordinate kind of power, of a limited and ministerial, or Executive nature. At present, it did not occur to him that this subordinate power was to be exercised in its simplicity, excepting in two instances, viz: 1st, for calling a Convention under certain circumstances to amend the Constitution; and, 2dly, for carrying into effect Treaties which are constitutionally made; for these two purposes, the people, who are the source of power, had stripped that House of all Legislative authority, and made them only the executors of their will; therefore, upon these premises he answered, if a Treaty was unconstitutional, they had an undoubted right to exercise a Legislative discretion and judgment relative to carrying it into operation, for they were sent there as the guardians of the rights of their fellow-citizens, and, for that purpose, are sworn to support

the Constitution; but if the Treaty was Constitutional, they had not a right to exercise that discretion; for, without their intervention, it becomes the supreme law of the land, and virtually repeals all laws which are repugnant to it; and in that case that House is bound to obey it, and to carry it into complete execution; for, by the Constitution, the power of making Treaties is vested solely and exclusively in the Executive department. In the former case, they have a right to exercise a deliberative or Legislative power, but not in the latter case; they could there only exercise a ministerial or Executive power. So that herein, said he, lies the true distinction, and it arises from the nature and principles of the Constitution. Gentlemen would do well to recollect *Miller* and *Delolme* upon the British Constitution, when they form a comparison of their Constitution with the Constitution of England, and to advert to one important circumstance, which is the source of a considerable dissimilarity, especially as to the power of making Treaties: The Constitution of this country is written, and the powers of the several departments of Government are clearly and accurately defined; but the Constitution of England is made up of customs and precedents, the influence of which has been alternately augmenting or decreasing from time immemorial, owing to a perpetual conflict between the Sovereign and the House of Commons, the Government being in its origin an absolute monarchy, and founded upon conquest; but the spirit of that great nation, by the subtlety and adroitness of their House of Commons, who have been watchful of favorable junctures, has, as it were, surreptitiously deprived their Sovereign of many of his royal prerogatives. This check upon his Treaty-making power was, among others, an important achievement.

In this country they had only a right to exercise a deliberative or Legislative power relative to Treaties which are unconstitutional; but they could only exercise a ministerial or Executive power relative to Treaties which are Constitutional; and in forming an opinion relative to the constitutionality or unconstitutionality of a Treaty, all they want were the Treaty and the Constitution, and then, by comparing the two instruments together, and upon that comparison alone, form their judgment. From these premises it conclusively follows, that, as they have no occasion, so they have no right, to call upon the Supreme Executive for the papers in question. This doctrine, he thought, necessarily resulted not only from the principles of their Constitution, but also from an important principle of the Law of Nations. For all nations between whom there are existing Treaties have a kind of property lodged in the secret cabinet of each other, and no nation can, consistently with good faith, publish to the world the secret negotiations which led to forming either of those Treaties. To prove this principle, a recurrence may be had to *Paley's* Philosophy and *Vattel's* Law of Nations. This principle of the Law of Nations is predicated upon an important principle of the law of nature. Here, then, is no necessity of recurring to written authorities, for every sentiment of their nature enforced conviction, and, of consequence, is clothed with all the solemnity of moral obligation.

This principle of the law of nature is no less than the law of self-preservation, as relative to themselves, their nation, and all other nations; for, what would be the consequence if the reverse of this doctrine was established as the Law of Nations? The consequence would be pernicious and destructive among the nations; it would be the source of jealousies, of Carthagenian faith, of war and bloodshed.

He had not the least doubt of the constitutionality of a Treaty, when the stipulations in it were of such a nature as not to respect objects of legislation, but only objects which lay beyond the bounds of their sovereignty; for beyond those limits their laws could not extend as rules to regulate the conduct of subjects of foreign Powers; and although some stipulations in a Treaty may respect objects which were within the reach of their sovereignty, yet it may be in such manner as to be strictly Constitutional; for such stipulations may be not only pertinent, but absolutely necessary in forming the Treaty. This conclusion, he thought, was the natural and necessary result of a fair and liberal construction of the principles of the Constitution, and especially of that paragraph which vests the power of making Treaties in the Supreme Executive, with the advice of the Senate.

Mr. L. said he was sensible he had been delivering an unpopular doctrine, but that he was deeply impressed with its truth, its reality, and its importance; and that the obligations of an oath had prevented his silence on the occasion.

Mr. BALDWIN said he had before expressed his opinion, in general terms, in favor of this question. It must have been observed that he had been for several days noting the debates, and preparing to take part in them. He had intended to have introduced the debate on Friday morning last, but a singular incident prevented him, which he felt it to be his duty to take this earliest opportunity to state to the House. Mr. B. then said: About five minutes before I expected to rise on the question, I was called out of the House by a person then unknown to me, who said his name was FRELINGHUYSEN, and whom I found to be a Senator of the United States. After a number of interviews, he observed, with great expressions of pain and regret, that he was at last obliged to the unwelcome office of delivering me that letter, which I opened and found to be a challenge directed to me from JAMES GUNN, who is also a Senator of the United States. The pretext for this transaction was, to extort from me some private letters which I had received early in the session from a number of my constituents, expressing their wish that I would endeavor to prevent any thing being done in Congress to validate the Mississippi Yazoo Land Speculation before the meeting of the State Legislature. There was no complaint of any personal indecorum or disrespect at all; whether they were actuated in their conduct solely by interest in Yazoo speculations, I will not pretend to judge.

The revival of a transaction of so old a date at that particular moment, was to me surprising. Not knowing their degree of relation to this question between the two Houses, and not knowing the cast of character but of one of them, I am left only to conjecture. It was so peculiarly timed, and the professed object also of so peculiar a nature, to interrupt the channels of confidence for free communication between me and my constituents, that I have thought it my duty not to let the treatment of it depend on my own individual discretion. I consider it as in the discretion of the House. Mr. B. also observed that he felt himself under the necessity of using this as an apology for the apparent neglects of Friday, after the particular attention he had before appeared to pay to the discussion; and for his not being able to notice any of the proceedings in the debate of Friday, he had supposed he had lost the opportunity of offering his opinion, but was glad to find the question had not been taken, as he was unwilling to suffer this, or even a greater interruption, to prevent him from declaring his opinion, as he had before intended.

Mr. B. then began his remarks on the question, and observed that, from the course which the business had taken, the subject seemed to be one thing and the discussion another. He begged leave first to consider the question, partly with a view to rescue some remarks which he had made when the question first presented itself, from a singular envelope which one or two members have thought proper to attempt to throw about them. He did not then say that it was advisable to request these papers of the PRESIDENT, for the sake of publishing them; that published they ought to be; that there were no secrets in Government now-a-days; and that the doctrine of mysteries was exploded.

The mistake, if it was merely a mistake, must have arisen from not attending to his first observation, which was nearly as follows: that they were obliged, at any rate, to go into the subject; the House had ordered the Committee of the Whole to proceed to consider the Treaty, and the petitions from their fellow-citizens complaining of different parts of it; the committee must be formed, the subject taken up, propositions upon it must be received, and some result concluded on. The only question, then, was, whether to take up the subject unexplained as it was, merely from the instrument and petitions, or to request any information that might be thought useful to the discussion, and not improper to be communicated, which might guard them from error, and lead them to a proper result. To this it was objected, that these papers were secrets of the Executive department, &c. In this connexion it was he made the observation alluded to; that he hoped, on reflection, that objection would not appear to have so much weight; that, since they had been a free people, the different Governments in this country, and the different departments of Government, appeared to be under an increasing conviction (which, he thought, had been much strengthened by experience) that a rigid adherence to the old mysterious doctrines of Governmental secrecy was not necessary; that, in place of it, it seemed now to be believed that it was desirable, as far as possible, to have Governmental regulations accompanied with light and information, and as full an exhibition of the reasons on which they are founded as the nature of them will permit. He had almost brought his own mind to believe that there was but one limitation to the extent of this principle, and that was, that, while measures were in the transaction, and in an unfinished state, it might, at many times, be improper to disclose them. Proofs could not be wanting that these impressions had such weight on the mind of the PRESIDENT that he persuaded himself there was no danger of their making an unfavorable impression on his sentiments, qualified as the motion had been by the last amendment. It was said, the PRESIDENT would have published these papers unasked, if there had not been an impropriety in it. There might be a diplomatic impropriety in disclosing the particulars of a negotiation unless some kind of occasion led to it—like an individual too freely disclosing private letters; but when it was known that there was occasion, it is a perfect justification.

A gentleman from South Carolina [Mr. SMITH] had undertaken to controvert these assertions. His proofs are too remarkable not to be noticed: his first was, that the old Congress had animadverted on the conduct of a member from Rhode Island, for improperly communicating some matters which had been intrusted to his confidence; the second was, that they now had a rule for clearing their galleries. Let that gentleman look at the secret Journal of the old Congress, and see how it continually diminished till it was become almost nothing; let him look over the United States, and see how many public bodies which used to deliberate in secret have now their doors open; let him look over the communications, of mere Executive business, from the PRESIDENT OF THE UNITED STATES, for these two or three years past; let him read the rule of their own House, as it now stands, on the subject of clearing the gallery, and see how much it is narrowed from the rule which was in force for the first two or three years—and then let him declare whether there is not some foundation for the assertions which he had attempted to combat. He hoped he should be excused for having detained the Committee by some repetition of what he had before said—it was the strict debate of the question, and had been held up undefended in two unfavorable attitudes. He could not patiently see observations that appeared to him so important, so well grounded, and so strictly applicable to the question in debate, hunted from the House, because the attention of gentlemen, who at other times would not have suffered it in silence, had been absorbed by a still more important direction which the discussion had taken. He should conclude this part of his observations, which he considered as properly the debate of the question, by an expression of his wish that gentlemen would reflect in what light they exhibited themselves, and what must be the tendency of their opinions, if they avowed themselves the adverse-

rise of his observations, as he had now explained them. He had hoped, when he first made the observations, they had not been useless; they still had great weight on his own mind—he believed they had on the minds of some other members.

Mr. B. then proceeded to consider the question in the form in which it is presented by the discussion. He was sensible of the disadvantage any person must labor under, and particularly himself, in attempting to speak upon it, after it had been so long and so very ably discussed. It would be impossible for any person to propose to himself a strict and regular plan of viewing the subject without going over a great deal of the ground that had been before taken by other gentlemen. This, in the present stage of the business, would be so tedious—and any attempt to improve upon their statements would be to him so hopeless—that he should decline the task, with barely making the observation as an apology for a less formal, though he hoped not useless, submission of some thoughts which had occurred to him on the subject.

He said, it was remarkable that several gentlemen rose with very different expressions which had been said to contain the subject in discussion. It was certainly important to agree exactly on that point. The least variation in the point of departure would soon diverge till they were out of sight of each other, and yet each one keep a straight direction. One gentleman had stated that the question was, whether this House should feel itself at liberty to judge over the heads of President and Senate on the subject of Treaties without restraint: his reasoning seemed to be built on that proposition. Another gentleman had said that the question was, whether the power of making Treaties was given by the Constitution to the President and two-thirds of the Senate, or to the President and both branches of the Legislature. He might mention several others, but he called the attention of the House to the fact, to settle the point, that they might at least agree what they were talking about. The question, said he, on the table is, to request of the President papers respecting the Treaty: the objection is, you ought not to ask for the papers, because you have no right to touch the subject. He begged leave then to ask, with the utmost candor and respect, whether the real question now depending and brought into dispute by this motion, is not whether all questions relating to this subject are not so definitely and perfectly settled by the Constitution that there was nothing for that House to deliberate upon on the occasion, but only punctually to provide the funds to carry the Treaty into effect. If it were allowed that there might be any possible or extraordinary cases on the subject of Treaty-making in which it might ever be proper for that House to deliberate—as, for instance, offensive Treaties which might bring the country into a war—subsidies and support of foreign armies—introduction of an established religion from a foreign country, or any other of those acts which are by the Constitution prohibited to Congress, but not prohibited to the makers of Treaties; if it were allowed that there might possibly exist any such case, in which it might ever be proper for Congress to deliberate, it would seem to be giving up the ground on which the discussion of the present question has been placed; what agency the House should take, and when, would be other questions. Whether a case would probably occur once in a hundred years that would warrant the House in touching the subject, is of no consequence to the debate. The right is denied in the largest sense. The assertion is, that the House has no right to deliberate or to look into any papers on the subject; that the people have, by the Constitution, reposed the whole of their confidence on this subject elsewhere; that, to attempt to deliberate upon it, or to ask for any papers respecting it, is treason and anarchy.

If this ground were once given up, he should be infinitely less anxious what the House might do in any particular case: these would rest on their individual merits. For his own part, he was by no means disposed to carry the interference of the House to any extreme; but he could not express his abhorrence of the doctrine in the extent to which some gentlemen have carried it in this discussion. He begged leave to entreat gentlemen again candidly to review the few words in the Constitution on which they rested so much, and to ask whether they appeared to be such labored expressions as they supposed—so apt and definite as to mean exactly what they contend for, and nothing else, and whether all the words may not well be satisfied without, and stand more harmoniously connected with the other parts of the Constitution.

How much they intended to incorporate with this power of Treaty-making, under cover of contract with foreign nations, he had not heard any one attempt to explain; it seemed designed to stand distinguished as an indefinite, uncontrolled branch of the Government, the extent of whose powers was to be known only by its own acts. Its definition was to be, that it was indefinite—like what is said of some branches of the powers of Parliament; that no one has pretended or ought to pretend to know their extent; that they are not to be submitted to the judgment of any one but themselves; and that they never develope them but by the particular exercise of them; that they were to be left in this state, because, if they were defined, they might be eluded. However this might be found, respecting a foreign Constitution, it is making a monster of our own. There was not another part or lineament in it which appeared to be in the same mould or proportion.

He then proceeded to observe, that though upon these principles a definition of this power was not to be asked or expected, yet without doubt it might be permitted to contemplate it in its display. From the late exhibition which had been made of it in the instrument which had been laid before the House, it appeared to assume the right of repealing laws. He supposed it not to be denied, that in not less than four instances it had repealed laws of the United States. He had not heard any reason assigned why it might not have been extended to the whole book, and repealed all the laws passed

before that time. It appeared also to have narrowed the former ground of legislation, and taken away the powers of the Legislature, if he mistook not, on five subjects on which proceedings had been begun, but not finished, at the preceding session. If the Committee on Unfinished Business were to make a full report, he supposed they must say, that with respect to the bill for the regulation of the sale of prizes; the bill for the suspension of commercial intercourse; a resolution for sequestration of Public Debts; also, for some commercial discriminations, and concerning naturalization, which they found among the unfinished business—they forbore to bring them to the view of the House, inasmuch as Congress had now no Legislative powers on those subjects. Such a report would at first strike with a degree of surprise. Has there been a Federal Convention? it would be asked. Have amendments to the Constitution been recommended by two-thirds of each branch of Congress, and adopted by three-fourths of the Legislatures of the respective States? He believed he might say with safety that it was at least a mode of taking away the Legislative powers of the Federal Government that had not before been much contemplated, and ought to be well weighed before it was recognised in the extent in which it now presented itself.

Mr. B. then proceeded to take another view of the subject, in which, he said, it would be necessary for him to request the Committee to go back with him again to the question, and take the other alternative, to see whether it would not carry them on to safer and better ground. He would begin it by the assertion, that those few words in the Constitution on this subject, were not those apt, precise, definite expressions, which irresistibly brought upon them the meaning which he had been above considering. He said it was not to disparage the instrument, to say that it had not definitely, and with precision, absolutely settled everything on which it had spoke. He had sufficient evidence to satisfy his own mind that it was not supposed by the makers of it at the time, but that some subjects were left a little ambiguous and uncertain. It was a great thing to get so many difficult subjects definitely settled at once. If they could all be agreed in, it would compact the Government. The few that were left a little unsettled might, without any great risk, be settled by practice or by amendments in the progress of the Government. He believed this subject of the rival powers of legislation and Treaty was one of them; the subject of the Militia was another, and some question respecting the Judiciary another. When he reflected on the immense difficulties and dangers of that trying occasion—the old Government prostrated, and a chance whether a new one could be agreed in—the recollection recalled to him nothing but the most joyful sensations that so many things had been so well settled, and that experience had shown there was very little difficulty or danger in settling the rest. In this part of the subject, he said, had he been earlier in the debate, he should have gone over some of the ground on which others had now gone before him. He would not detain the House a minute by the repetition of the luminous and able discussion with which the House had been for several days instructed. Can any man, said he, after the views which have been presented to us, doubt that there is room—that there is a call for deliberation to reconcile some parts of the Constitution on this subject—to give the greatest effect to them all?

For example, it is said:

Art. I. "All Legislative power herein granted shall be vested in a Congress, consisting of a Senate and House of Representatives," i. e. every particle of law-making power in the Constitution granted shall be vested in a Congress, consisting of a Senate and House of Representatives.

Art. VI. Treaties are laws.

The power of making Treaties is a particle of law-making power, granted by the Constitution; but it is granted by article 2d to the President and two-thirds of the Senate.

And yet there is no doubt in these expressions. They are so perfectly clear and definite, that there is no call or even room to deliberate in commencing practice upon them.

And how, he asked, are such questions between the different constituent parts of the Government to be settled, but for each branch to deliberate with calmness and moderation in their own sphere, and come to a mutual result? It must indeed be a fearful, trembling loyalty, that should prevent so important a branch of the Government as that House from even presuming to deliberate on the very important considerations which have been addressed to them. It was not a new case, or peculiar to that House; there can be no doubt but it will be well received by the other branches of the Government, with the exception of but few individuals. The President had not hesitated to send back to them their laws when he thought them against the Constitution, and they had given way to his reasons. The Judges had refused to execute a law intruding upon their department; it was repealed, and they passed another on the subject.

In this place, he begged leave to take notice of some things which had been adduced in opposition to the opinions which he had expressed. A gentleman from South Carolina had produced a number of publications, and had alluded to a number of transactions by which he would make it appear that it had been allowed, that the Treaty-making power was as extensive as it is now contended for. He quoted a number of meeting and party writings, and among the rest of his authorities he was constantly expecting to hear him quote another, very common in the present times, the toasts. The gentleman from Massachusetts had produced many others: the reasons of members of the Convention, the proposed amendments of several States, &c. He was willing to allow due force to that kind of reasoning, if it has, in fact, been the common view of the subject; if it is the one that most naturally presents itself on reading that part of the Constitution, it would be a good reason for calling up all their candor and diligence on the occasion, in comparing and re-

conciling it to the other parts of the Constitution; but it was not of sufficient force to be a ground of absolute certainty that the thing is definitely settled, and that they ought not to deliberate upon it. He thought more weight had been allowed to this turn of argument then was its due. It was not to be forgotten, that probably even in making the Constitution, and in all that had been said upon it since, there never had been till now so many persons and so much time employed at once in searching and settling this single point. It may be said to be the first solemn decision of the question. The suability of the States was not so much talked of or believed, till it was declared by the Judges to be the meaning of the Constitution; its being a new and unexpected construction, was not used as a weapon to excite irritation against the Judges; why ought it to be on this occasion? He might mention several other particulars to the same effect, but he wished as far as possible to avoid being tedious.

Mr. B. then undertook to state his own view of the subject, and what he thought ought to be done. Much, he said, depended on the words "make Treaties and supreme law of the land;" as to the words supreme law of the land, he had not much doubt for what purpose solely they were introduced. The words were satisfied, and he thought most naturally, by not suffering them to disturb the balance of the Federal Constitution, for that is not the subject which the section where these words are used is speaking of; but to consider them as giving to the Treaty-making power the same paramount authority over the laws and Constitutions of the several States, that they give at the same time to the Constitution and laws of the United States. The words appear to be introduced for the express purpose of making the Constitution, laws, and Treaties, of the United States, paramount to the Constitutions and laws of the several States, and for no other purpose; this is all that the section appears to be speaking of; it satisfies the words, is the most obvious and natural meaning, and leaves the other parts of the Constitution harmonious and undisturbed. As to the words "power to make Treaties," it was more difficult to ascertain precisely what the Constitution meant to give by them. It had been argued that from the nature of Governmental powers, the Treaty-making power must be paramount, and from the nature of contract it must be paramount. The truth is, the Treaty-making power must be what the Constitution has made it. He did not hesitate to say, that the most natural meaning to give these words, was to consider them as borrowed from former use, and to give them the meaning which they had always before given them. Gentlemen had said that nothing useful could be derived from English books and explanations on these terms. This seemed to him an unreasonable assertion. It might as well be said, that they could not use an English Dictionary to ascertain the meaning of words. In many sciences, said he, there are definite and appropriate phrases as well as definite and appropriate words; and, in fact, books which are Dictionaries of phrases, ascertain the meaning of phrases with as much precision as Dictionaries ascertain the meaning of words. It is exceedingly useful that it should be so. When such a precise meaning is fixed to a phrase, and publicly known, it is apt to remain a long time exact, as it is frequently employed, and is very useful as a medium of certainty. Many instances of this kind might be quoted, particularly from English books on law and Government. He would observe further, these appropriate phrases had been for their certainty in many instances transferred into our Constitution, and their meaning must be manifestly sought in those sources as in a Dictionary. One remarkable instance occurred to him, and which, from the singularity of its garb, would be very discernible in the Constitution—he meant the definition of treason in the third section of the third article of the Constitution. The phrase is, levying war, adhering to enemies, giving them aid and comfort. These are the very words of the English books, which have been so critically judged that they are not capable of the least variation in their meaning on that tremendous subject; but this meaning is to be sought from those sources; he might mention several instances, but it was unnecessary. He thought the phrase, power to make Treaties, should be ascertained in the same manner; and the English meaning, as it would naturally be understood at the time of making the Constitution, should be affixed to it; that it should be considered as giving to the President and two-thirds of the Senate the same kind of power as the King of England possesses on the subject of Treaties, which it is known is in several cases subject to the control of Parliament. Here it is qualified by the powers specifically given to Congress.

But all this, said he, is answered by most violent outcries, which sound to him very bold on so new a subject: that the nation will be undone, all confidence in its engagements destroyed, and the country, without doubt, involved in a war abroad, and anarchy at home. That was an extraordinary mode of discussing a curious and perplexed question. It may be asked, why do not those things occur in England? The King, it is seen, has laid this same Treaty before Parliament; they may probably now be discussing it. Some of their Treaties which were read the other day appeared to be carried by but a small vote; suppose this should now be lost in Parliament by a small vote, what reason to apprehend more dreadful consequences to this country than to that?

He hoped, on the whole, the House would be prevailed on to go coolly into the subject; he had no doubt but their good sense and moderation would guide them safely and prevent them from working mischief or creating confusion. He hoped they would first request the papers on the subject; he had no doubt but that it would appear that this was not now as new a question to all the branches of the Government as it was to that House. It is probable it presented itself to the Ministers who made the Treaty. The English had been so much in the habit of having an article introduced into their Treaties respecting its being submitted to

Parliament, that probably the English Minister had the caution to ask our Minister, whether an article ought not to be introduced about its being submitted to Congress, and what he considered the powers of the President and Senate on the subject. It is very probable information on this subject will be found among the papers which it is proposed to request. Our Minister was a man of so much good sense and information, that, without doubt, he had drawn some line on that subject. Perhaps on looking at the papers they might find he had drawn it very properly, and be perfectly satisfied not to disturb it; but, that there should have been so long and formal opposition to requesting the papers and looking at the subject, he confessed, was what he had not expected.

Mr. Cooper rose to refer his colleague [Mr. Havens] who spoke last week, to the mode in which the laws and Constitution of the State of New York were explained away in the year 1792, so as to deprive the citizens of that State of the right of suffrage, and to inquire whether that decision was not considered by all thoughtful people as erroneous; if so, whether the present reasoning does not originate from the same mistaken notions of power over right? I think, said Mr. C., it will not be improper for the gentleman to recal to mind those observations before he decides on this important argument.

That gentleman and several others have asserted on this floor, that a Treaty was not the law of the land until it was assented to by that House; if so, it may be fair to inquire into its merits, and have the papers before them. Let them examine the matter. Surely if that principle be admitted, could not the officers of the revenue with equal propriety say to Congress, your law is no law until our will is had—until we set it in motion; or, the collectors of the taxes, your law is of no validity until we take order to make the people pay their several quotas, or the people at large say, we are the essence of all law; it is with us all revenue, all appropriations of money, and all laws originate. Of what use, they may say, is your dry parchment? Although the House of Representatives may have passed it, although the Senate may have agreed to it, although the President may have confirmed it, and although it may have passed through each House with all the graceful forms necessary to dignify it as a law of the land; yet, unless our will is had in the premises, it has no weight. But the question is, can it be thought right for the people; can it be right for the collectors; would it be right for the officers of the revenue; or was it right for that House to hold out to their constituted authorities this sort of language? No, must be the answer. The principle is subversive of all Government. Common sense revolts at the idea. In this way the people can repeal laws by not obeying them; and, perhaps, there may be cases when they have a revolutionary right so to do; and it was in that confused state of things that Congress might repeal Treaties by not filling that middle ground they are placed in by refusing to grant appropriations; but both must be considered as in rebellion against the Constitution of the United States. Why this new mode of explaining the Constitution? It had been understood from the school-boy to the Senator according to its true meaning. Why, to gratify party rage, shall they attempt a new explanation of this criterion of their happiness? An observation, he said, fell from one of the Representatives from Virginia in his speech of last week, which he would take the liberty to make one or two remarks on. He intimated that he stood on high ground; he felt bold from the propriety of his intentions; he cared not for the cant word of disorganizer, &c. That is right; gentlemen who attempt to remove the established bound of the Constitution, ought to be bold; they ought to prepare for such cant words; it was reasonable they should expect them; for, from ancient date, the remover of land-marks was spoken harshly of. All men, said he, must now see who are willing to be bound down by the letter of the Constitution, and who are desirous to break through all shackles. There are three causes why this Treaty is so vastly disagreeable to some of the citizens in a part of the Union. One was, it compels some of them to pay their just debts, which they contemplated evading. As to the idea of its being a good or bad Treaty it is a mere pretence, for the same opposition was made before it appeared as afterwards. A second is, that they have been at war with the nation this compact is made with, and an improper influence a nation now struggling for liberty has over their passions as Americans has increased their prejudices against the British nation. But the third and most rational cause is, that as they are an old and powerful nation, and as America is young, and unable to meet them, they insult and misuse them on that account. He felt their insults, yet his wish was to support their neutrality. Twenty years hence, he said, their voice would have a more manly sound, and although they may feel now as men will feel then, yet it would be imprudent for them to act now as it would be proper for men to act then. A wise man is governed by reason, men of less understanding by experience; but it is the weak, indeed, that are governed by their passions or feelings, when the interest of their country is in question.

Much has been said about the British Constitution. He always understood that their charter was nothing more than long usage, or practice reduced to precedent; and from that uncertain source their present unpleasant situation may have arisen. But they had the book and page, and surely the good sense of the United States will frown into atoms the man who shall attempt to violate the sacred volume.

For his own part, he should oppose the resolution, because it interfered with the oath he had taken to support the Constitution of the United States.

With these observations he should sit down during the rest of the debate on this question, hoping the House would not so far forget themselves, and what they owe to posterity, as to

adopt a resolution so deeply tinged with usurpation of power.

Mr. Holland said: It is with great diffidence I rise on this important subject, to submit some considerations to this Committee. As it has now become a Constitutional question, not with respect to the merits of the Treaty, but with respect to the Constitutional right of this House to request the Executive to furnish us with papers that related to the Treaty antecedent to its ratification.

To this it is objected that this House has no discretionary power over the Treaty, and, on that account, has nothing to do with the papers.

The question is not whether the Treaty is a good or bad Treaty, but it is whether we have a right to exercise our judgments upon it. Then, without any regard to the Treaty, we must be governed by the rational construction of the fundamental principles of Government.

To illustrate which, it may be necessary to examine what has been incident to the different kinds of Government, according to the histories of those nations governed by despotism, monarchs, or republics; and, from the Constitution of the United States as the fundamental maxims of the Republic, draw that construction that is most rational and natural.

It will also be proper to examine which of those Governments preserves the most power in the people.

First, then, of monarchy. Where has that power been placed? According to the theory of the English Government it has been lodged in the Sovereign, for it is there expressly said (nor has it been denied on this floor) that the King is the source of all power; and it is also expressly declared that the King of Great Britain has sovereign and exclusive right to make Treaties. That, when they are made, they cannot be impeded or annulled by any existing power in the Kingdom. This is the theory of that Government. But what has been the practice? I answer, the contrary; for it ever has been that, when a Treaty was made, that the same has been submitted to the Parliament for concurrence; and Parliament, if they thought proper, admitted and sometimes annulled them, as in the Treaty of Utrecht, and sundry instances that the history of that nation affords us. The English Government, therefore, is in practice what it is not in theory. By the construction of the Constitution, as contended for, by giving uncontrollable power to twenty Senators and the President, our Government will be in practice what the English Government is in theory. If this doctrine had been believed that this was the true construction of the Constitution, previous and at the time of its adoption, would the people of the United States have adopted it? If they had been informed that, by this instrument, they were ceding more power to two-thirds of the Senators and President, than even could be practised by the King of England, with his lords spiritual and temporal, under that impression would they have ceded that power? Or, if they had been told that the House of Representatives, under this Constitution, had less power than was exercised by the House of Commons in England; that they would be less able to secure their liberties in this country against the approaches of prerogative, would they have, under that belief, accepted of this Constitution? I think, Mr. Chairman, I may venture to say they would not.

With respect to the more absolute Government of France, where has this power been lodged? In this, as in the monarchy of England, it was, in theory, lodged in a Prince; but the theory, even in that despotic Government, never could be carried into practice. According to *Vattel*, in the Treaty made by Francis I., in the Treaty of Madrid, on account of that Treaty encroaching on the fundamentals of their Government, it was set aside. How was this done? It was not done by Parliament, for they had none; but the principal people of the Kingdom met together at Cogniac and annulled it. I ask again, Mr. Chairman, if the people of this country possess less power than the people of that despotic Government? Or do they possess less power to withstand the usurpations of the Executive, on the subject of Treaties, in their Representatives in Congress, than has ever been maintained in the cramped situation of the people of England by the House of Commons?

Why were these rights ever maintained and so scrupulously attended to by the people of those countries? It was because they considered them as the palladium of their remaining liberty—they, therefore, would not let them go.

Then, with respect to a Republic, the sovereign power is in the people. It therefore follows that whatever can be effected by the people in those countries can be done here—they being the source of power.

Then, with regard to the Constitution, it must be construed naturally and liberally in behalf of the people. Not as giving all power that can be given, but as retaining all power and natural right that ought to be retained. It would have been extremely improper to have wantonly discarded natural privilege, or ceded more power than was essential to Government; nor was any more intended to be given.

The Constitution, upon the face of it, shows that this is the case—limits are prescribed to Governmental power. Not so in the countries spoken of, yet the people exercise it. But, it is said our Constitution has not retained this privilege, and it is the law and the testimony, sacred volume, &c. The sacredness depends upon the attention to the principles that procured its adoption; when that is contravened a violence is made upon the rights of the people. If, by any construction that can be given, these rights can be preserved, it is wise to consider it as the better opinion. But it is said to be impossible that this power has been ceded, subject to no control, to the President and two-thirds of the Senators present; that, whatever may be the practice in other countries, it will not apply to this; that those countries have no Constitution, and that we

have, and must be governed by it. Unfortunate circumstance! why adopted? Was it wantonly to throw away a privilege and natural right? Certainly not, but the contrary. It was to secure natural right, and to establish a Republican form of Government.

How, then, can it be said by a gentleman from Connecticut, [Mr. Smith,] that, as a private citizen, he might exercise his judgment; but, as a legislator, on the score of the Treaty, he would not think, although he acknowledged, that it was the duty of this Legislature to make laws to carry it into effect, but he had no discretion on the reason of the law? A gentleman from South Carolina [Mr. W. Smith] also said, that we had no discretion; and, to prove the position, quoted the prohibitory clause, third article and section in the Constitution, which prevents legislating so far as relates to the diminution of the Judges' salary. This clause was intended to prevent the destruction of a legal right; the salary being fixed, it would be improper and unjust to diminish during the time for which he was elected. But there is a difference between the repulsive and the compulsive; the latter being incompatible with the character of a legislator, and that freedom of will incident to legislation, and that the man is the more or less a legislator in proportion to the freedom of his will, and uninterrupted exercise of his judgment. But, in the case of appropriation, so far as relates to the discharge and payment of the Judges' salary, as has been previously fixed by law, in this, as in all other cases of Legislative acts, a sound discretion should be exercised. It would be proper to examine the state of the Treasury with other external relations; and, if it should be found that the sum was impracticable in the present state of things, they most certainly could refrain. Nor would this be a destruction, but only a temporary suspension of the Judges' right, which frequently happens in exigencies. It therefore clearly follows that, in this case, discretion and judgment are at liberty, and as much unrestrained as in any other act of legislation.

In the eighth section, eighteenth clause of the Constitution, full power is given to Congress to make all laws, &c.; and in the sixth clause of the ninth article it is expressly declared, that no money shall be drawn from the Treasury but by law. Why by law? Why not by a decree of the Senate? It would have been much less expensive, being done by them, and it would have prevented the phenomenon of one hundred and four Representatives of a free people, and spare them the disagreeable dilemma of being obliged to legislate where they could not exercise will nor judgment; a situation extremely disagreeable in a private capacity to every person that has a tincture of independence; then shall it be said or believed that the Representatives of the free people of the United States can be in this situation?

Natural right has power to think and act on all subjects that present themselves to our natural or moral sense, except acting on those objects that would be accompanied with an express or implied violence to the property and rights of others. Nor has the adoption of the Constitution taken from us this privilege. Then, with regard to this instrument, (the Treaty as it is laid before us,) is it a subject that we can exercise our mental powers upon, or is it the property or right of others? It belongs no more to the President and Senate than to this branch of the Government. If it is a property, it is the right of a nation, it is a property in common, and, as such, we may clearly exercise our judgment upon it, in order to discover its merits or deformity; and, if it be found valuable, perpetuate, if an incumbrance, discard it. If its merits can be known, there can be no doubt that it will obtain the support of this House and of all the people of the United States. But it is said by a gentleman from South Carolina, [Mr. Smith,] that the custom has always been to admit of the Treaties; and that no attempt had been made to prevent their operation till this solitary case, and from this infers, that this House has no power to examine its merits; that they have uniformly passed laws to carry them into effect. All this may be true; but this goes only to show that they corresponded with those Treaties. It does not show that this House had not the right or power of repulsion. There is a difference between the having the power, and the act of exercising the power to the full extent.

A gentleman from Massachusetts [Mr. Sedgwick] has said, that he is much amazed if this power is in the House, that it was never found out until this moment; that not a man, from Georgia to Massachusetts, ever knew it before. I beg leave to inform that gentleman that he is mistaken; that he has not made himself acquainted with the understanding and judgment of, I trust, a large majority of enlightened citizens of the United States. That it was this construction that procured the adoption of the Constitution. That previous to, and at the Convention of North Carolina, this clause, which gives the Treaty-making power to the President and Senate, was considered by some as an exceptionable part, on account of the indefiniteness and generality of the expression. It was said, that the President, with two-thirds of the Senate, could make Treaties and make stipulations unfavorable to commerce. But those in favor of its adoption (of which I had the honor to be a member) said, that commercial regulations had been previously and expressly given to Congress, and to them secured. Under that conception I was in its favor; but should have been opposed to it upon the other construction. I yet think that is the true construction. In the explanation of a statute, it is proper to examine the evil and the remedy, and to reconcile the seeming inconsistency, which can be done in no other way than by this construction.

I considered that the Executive had absolute power to make peace, as by the Constitution he is declared Commander-in-Chief of all the Armies, his situation enabled him to be the best judge of the forces and of the force he had to contend with, and as secrecy was necessary to

effecting a Treaty of Peace, that power was properly vested in him, guarded by two-thirds of the Senate. But a Treaty of Commerce presupposes an existing peace, and in those Treaties secrecy is not essential; but a competent knowledge of the produce of the respective States in all their remote situations was necessary; which would be best obtained by an association of the three branches of Government.

This is a Treaty of Commerce, and therefore has involved Legislative objects. It consequently requires Legislative sanction; a contrary construction would be a violation of the Constitution, and of the principles upon which it was adopted, and therefore a violation of the rights of the people.

I confess, on viewing the exception and force of the argument, that I had some doubt, that when the Government became old and corrupt, that this perversion might be attempted; but had no idea that in the course of six years it would be contended for.

A view of mutual interest excites individuals and nations to form intercourse and commercial contracts. So long as the end corresponds with the design, the firm should exist and no longer; when either or both are dissatisfied, reason would dictate a dissolution. Nor can this with individuals or nations be a just cause of quarrel or war, but often the best way to preserve peace. It is not enough for me to know that this Treaty did happen, but I wish to know the causes that produced it, which will best be known by adverting to the papers contemplated in the resolution.

A gentleman from Vermont, [Mr. Buck] in the commencement of this debate, has said that the Treaty was now the law of the land, after having been concurred in by two-thirds of the Senate, and ratified by the President. It was subverting the first principles of our Government, and to oppose was rebellion; and more particularly as it was officially laid on the table and promulgated by the President's Proclamation. To use his language, it struck like thunder—appeared like the majesty of Heaven.

I would beg leave to observe to that gentleman, that as to the majesty of Heaven, I lack a simile, not being acquainted with the gods. But with respect to thunder, I have some knowledge of its operation; when it strikes a sensible object it destroys sensibility. If it has had that effect upon that gentleman, unless he has recovered, he is yet unfit for a legislator. I would only further observe, that if the Treaty was not the law of the land, the Proclamation did not make it so. I should not have observed on the gentleman from Vermont, but for the eulogium given by the gentleman from South Carolina, [Mr. W. Smith,] who had said, that his speech was of such dignity that an attempt to repeat it would lessen the original.

I have been told it has been a custom in this House, when persons have conspicuously discharged their duty to give them the thanks of the House, I wish to indicate to the gentleman, that he was unauthorized to communicate mine.

Another gentleman from South Carolina [Mr. Harper] said, when this motion was first made, he thought it immaterial, but now he thinks it a violation of the rights of the Executive. How gentlemen can so suddenly change their opinions from one extreme to the other, I am at a loss to conceive. I, generally, have discovered that in all common occurrences, things present themselves (as to substance) right in the first instance; there may be some change with respect to form. Nor can I conceive any other cause than a recollection of the necessity of guards to prerogative.

I yet think it a modest and reasonable request, and in that point of view, I trust, will the President consider it. He will recollect that we are the Representatives of the people, and that we cannot discharge our duty by knowing that this Treaty did happen, but by being acquainted with the causes that produced it, whether by accident, design, or necessity. If by accident, we are not bound; if by design, and the motives corrupt, it is a nullity: fraud contaminates a private contract, according to *Vattel;* if by necessity, and that can be known, it will be a sufficient apology, and we will submit to it. Under these considerations, with those that have been offered, I am conclusively in favor of the resolution.

Mr. Bradbury observed, that the most plausible reason that he had heard in support of the resolution under the consideration of the Committee, resulted from a principle advanced by a member from Pennsylvania, who spoke upon the subject last week. The principle was this; that where any articles of a Treaty were repugnant to prior existing acts of Congress, those acts must first be repealed by Congress before such Treaty can become the law of the land; and it was said some of the articles of the British Treaty were of this nature. He would not stay to examine the truth of the fact, for admitting it to be true, he altogether denied the principle; but yet he acknowledged that if it could be made out, it would afford the best reason yet given for calling for the papers. If their concurrence was necessary to give existence or legality to the Treaty, he saw not why they ought not to be favored with the papers as well as the Senate. But he asserted, and would endeavor to prove, that the Treaty has already a legal existence; that it is now the law of the land; and that, therefore, no act of Congress is, or can be, necessary to make it so; and, therefore, that House could have no need of the papers, nor any right to call for them on that ground.

That the Treaty had already become the law of the land, and that no Legislative act of Congress was necessary to make it so, he argued wholly from the Constitution itself, by which alone the question must at last be determined.

That instrument expressly declares, that all Treaties made under the authority of the United States shall be the supreme law of the land. He laid no stress upon the word supreme, admitting for argument sake, that the supremacy ascribed to the Constitution and laws, and Treaties made under it, meant a supremacy over the Consti-

tution and laws of individual States:* All he asked to be granted him, and which he thought could not be denied, was that a Treaty made under the authority of the United States was the law of the land. If so, then all that needed to be proved was, that a Treaty made by the President, with the advice and consent of two-thirds of the Senate, was a Treaty made under the authority of the United States. And to prove that, he needed only to mention another clause in the Constitution, which expressly declares that the President, with such advice and consent, shall have power to make Treaties.

If then the United States, by their Constitution, have authorized the President, with such advice and consent, to make a Treaty, and if he, with such advice and consent, has in fact made one with Great Britain, then that Treaty is made under the authority of the United States, and if so, then it is the law of the land.† This reasoning appeared to him to be plain and conclusive. The consequence could not be denied or evaded. If so, the principle asserted by the gentleman from Pennsylvania must fall to the ground. The Constitution neither expresses nor countenances such a principle. If it had intended that a Legislative act in such case should be necessary to complete the contract, it would have expressed that intention by an express proviso; for it is a case that must often happen in making of Treaties, and which must have been contemplated when the Constitution was made. Instead of which the Constitution declares, that Treaties, all Treaties without exception or limitation, made under the authority of the United States, (and he had proved that Treaty to be so made,) shall be the law of the land; but this principle teaches and asserts, that they shall not be the law of the land, although so made, until sanctioned by an act of the Legislature. It was not possible to reconcile the doctrine with the Constitution; they were contradictory in fact as well as in terms. He added, that if a Treaty was the law of the land, it must necessarily, upon its becoming so, repeal and annul all previous acts and laws repugnant to it: here the maxim of law strictly applies, *leges posteriores priores contrarius abrogant.* If it did not, it could not be the law of the land; for, if former acts repugnant to it were still in force, they must still necessarily be superior to it, and prevent its operation, and a law that cannot operate is no law.

It was acknowledged by the same gentleman, that an act of Congress could not repeal a Treaty, because it was a contract made with another party. Nor, said that gentleman, can a Treaty repeal a law, because Congress made it, and their consent is necessary to repeal what they have made. But he denied the consequence. It does not follow that an act of Congress is necessary to repeal a law, because they made it. The Constitution may, without absurdity, authorize another distinct power to repeal an act of Congress; and it is still a question of fact whether they had or not. He contended that they had in the case of a Treaty.

To prove his proposition, that gentleman had observed, "That in the first section of the Constitution all Legislative power therein mentioned was given to Congress; yet in the last section but one the Constitution says, Treaties shall be the supreme law of the land, though made by the President and Senate. A Legislative power is thus given them, after all Legislative power was vested in Congress, as if there were two Legislative powers. How were these powers to be reconciled?" He answered, the latter particular power was an exception to the former general power. If a Treaty is a law, then the making it is a Legislative act, by what power soever made, call it Executive, or what you please. If a general unlimited power of legislation be given to Congress, and afterwards a particular power to legislate in a particular case, is given to the President, it must operate as an exception to the general power; this will reconcile the two powers.

But it is said, if this be the case, then the Executive may grasp all Legislative power, and repeal all acts of Congress, by making an insignificant Indian tribe a party to a Treaty. He answered, that the Supreme Executive must be very weak, as well as wicked, to make use of an Indian Treaty as an instrument to repeal all acts of Congress. What consideration could be held forth by an insignificant Indian tribe as an equivalent for so great a sacrifice. The fraud must appear on the face of the Treaty, and would defeat his intentions. This Treaty-making power given to the Supreme Executive by the Constitution, was, he acknowledged, a very large and important power; but no argument could be drawn against its existence from the possibility of its being abused. It was fully considered when the Constitution was made, that the Treaty power was a great and important power, and the giving it to the Supreme Executive, without defining or limiting it, was one great objection to the Constitution. But it was then justly observed, and more especially in the debates of the Virginia Convention, that it was a power that could not

*Though this be admitted here, for argument sake, yet it is easy to show, that the declaration in the Constitution, "This Constitution and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land," is to be considered as a declaration of the supremacy of the Constitution, and the laws made under it, while in force, and of all Treaties made or to be made under the authority of the United States, as well over the general Federal Government, as over the Constitution and laws of the individual States. The meaning is, that they shall all be supreme, not only over the General Government, of which there could be no room to doubt, though not expressed, but also over the Constitution and laws of every State in the Union, of which there might have been some pretence to doubt, had it not been expressed.

†The words, "made under the authority of the United States," were evidently chosen instead of the words "made by the President, with the advice and consent of the Senate," because they were to refer to Treaties then already made, as well as to such as should be thereafter made, the former not having been made by the President, but by Congress, but both might truly be said to be made under the authority of the United States.

There is no color for the assertion made by Mr. Gallatin, that they were used to express or imply the idea "that a Treaty clashing in any of its provisions with the express powers of Congress, would not, until it should so far have obtained the sanction of Congress, be a Treaty made under the authority of the United States.

well be placed in Congress, nor anywhere else, so well as in the Supreme Executive; and that, in its nature, it could not be limited, except perhaps that it ought not to extend to the dismemberment of the Empire. This last sentiment is ascribed to a learned and respectable character, who was now a member of that House; but, in the present debate that gentleman had declared, that he now hesitated not to say, that they ought not to admit the Treaty-making power to be unlimited. How this could be reconciled with his former sentiment, if it were rightly ascribed to him, he was unable to say. He presumed the gentleman had altered his opinion.

The fatal consequences which might flow from the abuse of this power, have been painted by the same gentleman in strong colors; but those consequences were considered as possible when the Constitution was formed; notwithstanding which, it was judged necessary to lodge this power in the Supreme Executive, without attempting to limit it as to its object. And it cannot be limited by anything but the Constitution; no laws inconsistent with that can be passed, either by the Treaty or Legislative power. And the only other checks he could find on this power of the Supreme Executive in the Constitution, were the requiring the advice and consent of two-thirds of the Senate; and impeachments against both, for abuse of power, vested in that House.

He nowhere read in the Constitution that any act of Congress, in any possible case, was necessary to make a Treaty, so as that without it such Treaty could not be the law of the land. He nowhere read that prior acts of Congress repugnant to a Treaty must first be repealed before a Treaty could be a law.

But, says the gentleman from Pennsylvania, the same Treaty power is given to the King by the Constitution and laws of England, that is given to the President by our Constitution, and yet the Parliament have the power there which he contends for in favor of Congress here; that is, they must repeal prior laws repugnant to a new Treaty, before it can be the law of the land; and why is not an act of Congress, it is asked, necessary for the same purpose in a similar case here? He would answer, because our Constitution is different from the British in this respect: it declares that a Treaty made under the authority of the United States, (and he had shown that a Treaty made by the President, as aforesaid, was made under such authority,) is the law of the land, and if it is a law, nothing further can be requisite to make it so. There was no such declaration in the Constitution and laws of England.

There was no arguing from the power of Parliament to the power of Congress. The Parliament must have controlled this Treaty power of the King, and stripped him of his prerogative, by use and custom. There had been in England a constant struggle between power and privilege; the prerogatives of the King were not founded in the grant of the people; they were founded on force, on the right of conquest; whatever, therefore, was gained from the King by the Commons, was considered as so much gained by the people from an adverse power.

If the President were an hereditary monarch, deriving his power from his predecessors by descent, a power originally founded in conquest, Congress would do well to get as much of it out of his hands as they could. It would here be, as it was there, a struggle between prerogative and privilege, it would be the people against the King. But as this was not the case, and as Congress never had in fact assumed and exercised the power of confirming by an act of theirs, Treaties made by the President, this argument from analogy wholly failed.

Suppose the Parliament of Great Britain should pass a law expressly delegating the Treaty-making power to the King, with the advice and consent of two-thirds of his Privy Council, and should declare in the act, that a Treaty made under such authority should be the supreme law of the land. They claim a right to make such a law, for Judge *Blackstone* affirms, that the denial of a power in every Government, even to alter every part of its Constitution, is the height of political absurdity; and in England, he expressly ascribes this power to Parliament.

What would be the effect of such an act of Parliament? Would not a Treaty made under it be clearly the law of England? and would not all acts of Parliament, prior and repugnant to it, be repealed by it? He was clearly of opinion they would; and this clause, he said, was inserted in the American Constitution, probably to guard against that very construction which is now endeavored to be put upon the Treaty power; on purpose to cut off all pretence of a power in Congress to control a Treaty, by refusing to repeal any prior laws that might stand in the way of it.

But, said the same gentleman, shall a British House of Commons have this right of controlling the Treaty-making power, and shall it be denied to the Representatives of a free people? He answered, the President and Senate of the United States were as much the Representatives of a free people as that House was; they were as truly, though not so immediately, chosen by the people as they were. The people distributed their powers as they pleased. The President, said he, represents the people as their executive agent, and is possessed of all executive power, and the power of making Treaties. The true question, then, was, shall one constituted representative authority usurp the power and control the acts assigned by the Constitution to another representative authority of the same free people? They certainly ought not. If they should attempt it, it would be opposing one authority of the people to another. It would be dividing a free people against itself. But he hoped he had said enough to show the unsoundness of that principle, and fully to establish what he first undertook to prove, that the Treaty was already completed; that it was already the law of the land; and that it did, by its own force, repeal all prior laws, if there were any standing in the way of it; and if so, they

could have no need of the papers to assist them in making it a law. It had also been laid by the King before his Parliament, and he supposed the necessary appropriations had been made to carry it into effect. He did not know that any other Parliamentary provision was necessary.

But it may be said, that it is fit and proper that they should call for the papers mentioned in the resolution, even if the Treaty were law, because appropriations by act of Congress would be necessary to carry it into effect, and they ought to have the papers to judge whether it be fit for them to make those appropriations.

He answered, whether that be fit or not, in his opinion, must depend wholly upon the Treaty or law itself, and upon nothing out of it. It was like all other laws requiring appropriations, in making which they must be governed by a sound and legal discretion, and that discretion must be governed by the instrument itself.

Even if a question should arise and be proper for the discussion of that House, on the constitutionality of the Treaty, yet that question must be decided by the Treaty itself, and by nothing else; and there could be no need of any papers for that purpose. If general information were the object, to allay the public sensibility, he should think the better way would be to request the President to publish the papers in all the newspapers throughout the United States. But he believed he must be considered as the best judge in that matter. He would only add, that the correspondence between their Envoy and the British Minister was, in its nature, secret and confidential. It was communicated to the Senate because they were a part of the Treaty-making power, which the House was not; but even to them it was communicated in confidence. A request to the President, said he, to communicate these papers, amounts to a requirement; but there can be no right to require where there is no obligation to obey.

The request may place the President in a disagreeable situation. He is undoubtedly disposed to gratify the House in every request as far as his duty will permit; but where there is so much doubt, respecting his duty in this case, he hoped they would never reduce him to the disagreeable alternative, either by the violation of what he might esteem his duty, to gratify the House, or, by observing it, to give offence.

The great and only question after all, he conceived, would be upon the nature and extent of their discretion in making the appropriation necessary to carry the Treaty into effect. They must, upon a view of the Treaty, determine whether they will make such appropriation or not; and, in determining that question, they must, as he had before observed, exercise sound, legal discretion. If it be a law of the land, as he had endeavored to prove it was, they should exercise the same discretion as they do in passing all other appropriation laws.

He was ready, for his own part, to admit that a Treaty, though made according to all the forms of the Constitution, might be so bad, so pernicious to the interests and rights of the people, as to justify that House in refusing to lend their aid towards carrying it into effect, so pernicious as to justify the Legislature in declaring by law that they would not fulfil nor be bound by it. If any future President and Senate should become so corrupt and wicked, as to form an alliance by Treaty with a foreign nation at war, and contract to become a party to such war, and to furnish such nation with a large body of troops, to be transported across the Atlantic, a case that had been put, he should think that such a Treaty, made against the general sense of the people, and manifestly against the public interest, would be an abuse of power, and one of those extraordinary cases that might justify the Legislature in refusing to carry it into effect. But cases of this kind are not to be supposed, and cannot be easily defined; nor is there any necessity of attempting to ascertain the extent or limits of the discretionary power of the House with respect to such cases.

It was sufficient to observe, in general, that as, by Treaty, the honor and public faith of a nation were pledged and at stake, and that, as its character and reputation depended so much upon good faith, and the due observance of public engagements with other Powers, it must be a very extraordinary case, indeed, that could justify a violation of such an engagement. Such a case, he trusted, was not the present. But he would not then trouble the Committee with any further observations on that point, because he did not conceive that it had any necessary relation to the resolution before the Committee.

He confessed he was very sorry this resolution had not been either postponed or withdrawn. It had carried them into a wide field of controversy, and led into a premature and lengthy discussion of important questions, upon an important subject, which would not be decided by the discussion, but still lie open to debate, which ever way the question upon the resolution might be decided. He hoped, however, some light would be thrown upon the main subject by the present debate, and if so, their time and labor would not be entirely lost.

Mr. Rutherford.—I beg leave to make a few observations, and I briefly declare that I am neither in the temper of picking or breaking locks, nor of blind or passive obedience. The majesty of this great people justly entitles them to all possible publicity; more they do not desire, nor do their Representatives expect or desire more. Therefore, it is with much concern I discover good patriots alarmed, and deceiving themselves into sophistries, by considering this great subject as finally decided upon, and completely finished, while they entertain fears for the Federal compact; fears, though unfounded, that originate in a very laudable sentiment. But where is the man, possessing moderate abilities and a love for his country, that will not readily allow the Union (as the jolly sailors term it) to be the sheet-anchor of these States; and that the great family cannot divide and yet stand? a circumstance, indeed, which would be pleasing to such as view us with

malignant eyes. What is intended by the resolution before you? Mere information respecting the important business of the Treaty in question, and expressed in terms so replete with due respect to that generous patriot—submitting all to his caution, his great prudence, and good sense—that I trust, when gentlemen recur to their own minds, every doubt will vanish. I am well aware of the warm patriotism of gentlemen, and it would therefore be indelicate to warn them religiously against everything that may be construed as a spirit of party. No violence or indelicacy is meant, in the least, against the President or the Senate. All consider the President with lively, grateful, and generous sensibility. No change in the Federal compact is here intended, till the sovereign people shall deem it necessary deliberately and constitutionally so to do; and, therefore, arguments on that head are fallacious, to say the least. The Treaty, when it becomes the subject of debate, is to be considered with great moderation, on Constitutional ground, and under the auspices of justice and right reason. The matter is, nevertheless, serious, weighty, and very important; involving no less than the sovereign rights of a virtuous, great, and rising people, who, under Divine favor, have triumphed for their fair and generous patriot partners, their tender children, and all posterity. None, I trust, will contend, before the people and all the observing world, that this branch of the great National Council have not complete control over the commerce, naturalization, &c., of the United States. Much stress has been laid on the patriotism of the President, which makes it necessary for me to reply, lest I am taken for one uninformed. I have had the honor of the President's acquaintance well nigh, or quite, forty-four years, and he has supported every character with merit, dignity, and unwearied attention. I have acted with him on trying occasions, sometimes equal, oftentimes in a subordinate sphere; and though senior in point of years, yet I uniformly looked up to him as a parent, my head, and my guide; yet I am independent of the President—an unchangeable friendship only excepted. My principles I shall avow without fear or shame, and I am conscious they are not unpleasing to that honest man, who will, I am well assured, come forward with his wonted purity, (though his task has been very arduous,) and will do what is prudent, right, and necessary, and no more. Why did this our common parent, the dignified servant of the people, submit his Treaty to these his fellow-servants? Surely, to obtain their aid in this great national concern. He is not governed by light rules of action. Why then hesitate or tremble? Are we not the legitimate Representatives of a magnanimous people, who desire nothing but equal justice, and therefore really have nothing to dread in contending with becoming firmness in support of their just rights? I did not intend to touch the merits of the Treaty, nor shall I now enlarge, though a case presents itself to my mind, which seems to me to be in point. We will suppose that the immortal Franklin, and other patriots, had been managed out of the American independence in the Treaty of 1783, after torrents of heroic blood had been spilled on the cold earth, so much treasure lavished, and a horrid war, with all its concomitants, had existed eight years. Had such been the case, would not the same brave people, though small in number, sore and wearied, have rushed again to arms with one voice? An answer is unnecessary. One word more, which is submitted to candor: Is not equality and mutual benefits the great basis of justice? Was this Treaty obtained on this equal ground? This also requires no reply. Then, why should the American people, who wish not to interfere with European politics, further than prudence and the warmest calls of gratitude dictate, prostrate themselves to obtain a losing commerce? And shall they dread being dragooned into this losing trade? No, never, I hope and trust. This same commerce is a pretty thing to a few individuals, indeed it is mirth and gladness to such, while it is a slow though certain political death to the common interest. Though I highly regard that people, I would not have the American people imploring, as a boon, to be the painful, adventurous collectors for that people; and after obtaining treasure from other nations, cast it into their coffers, and at the feet of their merchants. Surely the Government of that country are too wise, magnanimous, and just, to attempt forcing this losing commerce. I shall not dwell on the futility of such a project, and only observe, that it would divert the present current of commerce, and of course it would never fall again into the same channel; especially as the people of these States neither wish nor desire anything repugnant to reason, justice, and good neighborhood. Have the terms of the Treaty of 1783 been observed with good faith? I shall not reply. The field is wide, much might be said; and when the Treaty is the subject, I shall be more full, if opportunity presents.

The Committee rose, and had leave to sit again.

March 15.—In Committee of the Whole on Mr. Livingston's resolution.

Mr. Page spoke as follows: I confess, sir, that I had wished that this House, instead of asking the President for information respecting the negotiation and ratification of the Treaty, at this late day of its session, had given him, as soon as possible after its meeting, fully their opinions, and that of their constituents, respecting the Treaty itself. But, as time has been afforded for deliberation, and the House has waited most patiently and respectfully till the President could "place the subject before them," according to his promise in his Address to Congress, I think they have shown a spirit of moderation which deserves credit. The friends of the Treaty cannot complain that it has been hastily and rudely attacked, and should not object to the request which is proposed to be made to the President, to furnish a statement of facts which, from what has been said elsewhere, may be supposed sufficient to silence the most clamorous opposers of the Treaty. I have been astonished, therefore, to find that several members have most strenuously opposed the application to the President, as an insult to him; as useless and

unconstitutional, unless intended as the foundation of an impeachment of him, of his Envoy, or of the twenty Senators; and, lastly, as founded on a mistaken supposition, that the Treaty is unconstitutional. In reply, sir, to these objections, I remark, that the idea of its being an insult to the President must be founded on a mistaken opinion of the Constitutional powers of the President and of the House of Representatives, and of the relation the President and Representatives have to each other, under the Constitution of the United States; for unhappily the ideas which some members have adopted, respecting the authority of our Executive, are derived from a recollection of what was the Executive authority in the Government under which we once lived, and of what they have read in books written to support that Government. But there cannot be a greater error than to adopt these ideas; for the Executive authority of the United States, flowing from the people, the President, or person invested with that authority, elected by them, at short stated periods, allowed only a limited negative on the laws of Congress, for which negative too he is to give reasons, which, if not satisfactory to two-thirds of both Houses, are to be disregarded, and the law is to be valid without his assent; restrained from creating offices, giving salaries, or making war, and bound to give account of the state of the Union to Congress, and moreover impeachable by the House of Representatives, and triable by the Senate,—cannot be compared to one of those monarchs who hold their Kingdoms and subjects by hereditary right; to whom all property and power originally are supposed to belong; from whom all honor and authority flow; who can declare war and make peace, and to sanction whose acts of sovereignty it has been thought prudent to affirm that they can do no wrong: I say, sir, that there can be no resemblance between such an awe-commanding being, and our fellow-citizen, the President of the United States; and that it could be no insult to him, to ask him for information respecting an important transaction, in which his constituents and this House are deeply interested; for such requests are made even to the British King. If the Constitution requires that the President shall give an account of the state of the Union to Congress unasked, it should not be said that it is unconstitutional for this House to ask for information; especially as it is acknowledged, by the very objection itself, that such information may be demanded, if it be intended as the foundation of an impeachment; and if it is confessed that it may be useful in case of an impeachment, it must be a contradiction to say, that it is useless to call for it; and especially as, independent of an intention to make this use of it, we have been told that it may silence clamors against the Treaty. The application, therefore, to the President, as proposed in the resolution, is neither an insult to him, nor useless, nor unconstitutional; but, on the contrary, is sufficiently decent, may be useful, and is perfectly within the spirit, and, I may say, the letter of the Constitution, should it be found necessary to apply it to an impeachment. But we have been told that the Treaty being Constitutional, and the Treaty-making power out of the reach of this House, we have nothing to do with any information respecting the Treaty, and that the President having issued his Proclamation declaring the Treaty ratified, it is now the supreme law of the land, and it is rebellion to oppose it. As to the constitutionality of the Treaty, I did think that when that subject should be brought before the Committee of the Whole on the state of the Union, it would be the only proper time to examine it; but, as it has been forced upon the present Committee, I will take the liberty which has been used by others, and show what I think at present respecting it.

I think that the Treaty is Constitutional, as far as relates to the powers of the contracting parties to make Treaties; and is Constitutional and valid, also, as far as relates to that part of it which gives it the name of a Treaty of Amity, and which might be in a separate and distinct Treaty by itself; for the President, by and with the advice and consent of two-thirds of the Senators present, has an undoubted authority, under the express words in the first article of the Constitution, to make Treaties. And I have no doubt that the Treaties which were in the view of the framers of that article, must have been principally Treaties of Peace, of Amity, of Neutrality, or of Alliance. This is the more probable, as the first and principal Treaties in which nations were concerned, were Treaties of Peace, or Treaties to secure the blessings of peace; and it is certain that the Treaty of Peace with Great Britain was the very Treaty which gave rise to the declaration of the Constitution, that all Treaties made and to be made by the authority of the United States shall be the supreme law of the land; for the Treaty of Peace with Great Britain was said to be in a state of inexecution on account of an obstruction thrown in the way by the laws of certain States. This article, therefore, was intended to remove all obstacles, which had arisen or might arise from State Legislatures, and might, I will here remark, as easily have been extended to remove all obstructions from the General Legislature by adding to the words "any Constitution or law of the States;" these words, "or the Constitution or laws of the United States notwithstanding." The power to make Treaties of Commerce and Navigation, I humbly conceive, could scarcely be within the view and design of the Convention, at least not as a primary object, when they formed the articles respecting Treaties; because they knew, that the extent, situation, population, and productions of the United States, were such as would command them a sufficient share of the commerce of the world, without the aid of commercial Treaties. They knew that almost all Europe stood in need of their productions, and that Great Britain and her islands could scarcely exist without them; they knew more, they knew this, sir, that the almost universal belief of their constituents, that giving a power to Congress to regulate commerce, which would answer every purpose of Commercial Treaties, gave existence to the very powers under which they were act-

ing at the moment they framed that article.* This mode of regulating commerce was favored by the opinion of the people, who celebrated the adoption of the Constitution with so much exultation and expensive parade in the great commercial cities of the United States. They had no doubt that the new Congress would use the power with which it was invested, so as to oblige Great Britain to open her ports to them in the West Indies, and to put their trade with them upon a more equitable and stable footing. Indeed, sir, the people thought, as associations not to import certain articles from Great Britain, entered into by them when they were poor helpless Colonists, with halters about their necks, repealed the Stamp act,

* April 20, 1794.—Congress assembled—present eleven States. Congress took into consideration the report of a committee, consisting of Messrs. GERRY, READ, WILLIAMSON, CHASE, and JEFFERSON, to whom were referred sundry letters and papers relative to commercial matters, and the following paragraph being under debate: "That it be recommended to the Legislatures of the several States, to vest the United States in Congress assembled, for the term of fifteen years, with a power to prohibit any goods, wares, or merchandise, from being imported into any of the States, except in vessels belonging to, and navigated by citizens of the United States, or the subjects of foreign Powers with whom the United States may have Treaties of Commerce;"

A motion was made by Mr. HOWELL, seconded by Mr. ELLERY, to postpone the consideration thereof, in order to take up the following: "That it be recommended to the Legislatures of the several States, to restrain, by imposts or prohibition, any goods, wares, or merchandise, from being imported into them respectively, except in vessels belonging to, and navigated by, citizens of the United States, or the subjects of foreign Powers with whom the United States may have Treaties of Commerce, or the subjects of such foreign Powers as may admit of a reciprocity in their trade with the citizens of these States. That it be recommended to the Legislatures of the several States, to prohibit the subjects of any foreign State, Kingdom, or Empire, from importing into them respectively, any goods, wares, or merchandise, unless such as are the produce or manufacture of the State, Kingdom, or Empire, whose subjects they are." And on the question to postpone, for the purpose above mentioned, the yeas and nays being required by Mr. ELLERY, it passed in the negative. The report being amended, was agreed to, as follows:

The trust reposed in Congress, renders it their duty to be attentive to the conduct of foreign nations, and to prevent or restrain, as far as may be, all such proceedings as might prove injurious to the United States. The situation of commerce at this time claims the attention of the several States, and few objects of greater importance can present themselves to their notice. The fortune of every citizen is interested in the success thereof; for it is the constant source of wealth and incentive to industry; and the value of our produce and our land must ever rise or fall in proportion to the prosperous or adverse state of trade.

Already has Great Britain adopted regulations destructive of our commerce with her West India Islands. There was reason to expect that measures so unequal, and so little calculated to promote mercantile intercourse, would not be persevered in by an enlightened nation; but these measures are growing into a system. It would be the duty of Congress, as it is their wish, to meet the attempts of Great Britain with similar restrictions on her commerce; but their powers on this head are not explicit, and the propositions made by the several States, render it necessary to take the general sense of the Union on this subject. Unless the United States in Congress assembled shall be vested with powers competent to the protection of commerce, they can never command reciprocal advantages in trade; and without these, our foreign commerce must decline, and eventually be annihilated. Hence, it is necessary that the States should be explicit, and fix on some effectual mode by which foreign commerce, not founded on principles of equality, may be restrained. That the United States may be enabled to secure such terms, they have RESOLVED, That it be, and it hereby is, recommended to the Legislatures of the several States to vest the United States in Congress assembled, for the term of fifteen years, with power to prohibit any goods, wares, or merchandise, from being imported into, or exported from, any of the States, in vessels belonging to, or navigated by, the subjects of any Power with whom the States shall not have formed Treaties of commerce. RESOLVED, That it be, and it hereby is, recommended to the Legislatures of the several States to vest in the United States in Congress assembled, for the term of fifteen years, with the power of prohibiting the subjects of any foreign State, Kingdom, or Empire, unless authorized by Treaty, from importing into the United States any goods, wares, or merchandise, which are not the produce or manufacture of the dominions of the Sovereign whose subjects they are.

that acts of Congress regulating commerce, so as to retaliate on Great Britain, would at least prevent the enacting of the law by which the British King was authorized to regulate the commerce of the United States with Great Britain and her Islands.

I acknowledge, sir, that whenever a Treaty is to be made the PRESIDENT and Senate are the proper agents to make it. I think it an excellence in our Constitution that the PRESIDENT and Senate, though not allowed to declare war, have authority to put a stop to its horrors. This is a wise provision against the injury which the pride and ambition of the larger States might do to the smaller, by continuing a war. But I cannot conceive that when Congress is authorized to make all laws necessary and proper to carry into effect all the powers granted by the Constitution, the Treaty-making power as well as others, and are to provide for the general welfare, which is not confided to the PRESIDENT and Senate, nor can be intrusted to them alone by the people upon any principle which has ever had weight in the formation of a Republican Government, I cannot conceive, I say, that as this is the case, and the House of Representatives is composed of members proportioned to a certain ratio of the number of persons to be represented, and has the sole right to originate money bills, how it can possibly be supposed that the PRESIDENT and Senate, without their concurrence, can make regulations of commerce, which may be injurious to the general welfare, ruinous to the commerce of certain, and even the largest, States; and by a Treaty, too, which may, moreover, deprive that House, which, by the supposition of those who have defended the Treaty is at least a Committee of Ways and Means, (and, indeed, nothing more) of the resources of revenue to which, by the Constitution, they might have recourse.

Sir, the supposition that the PRESIDENT and Senate can make such a Treaty as the one before us, under the authority of the Constitution, is, to my mind, the most inconsistent and extravagant that I ever heard or read of; and, if true, the most positive proof of the absurdity of the Constitution, and of the propriety and necessity of its immediate alteration. But, sir, I think the Constitution is capable of a construction which will reconcile it, not only to reason, but to true Republican principles. The PRESIDENT and Senate can guard the smaller States against the encroachments of the larger; they can moderate the mistaken zeal of the popular branch of the Legislature; they can prevent, as they have done, or as they supposed they had done, a rash vote of this House from taking effect; they may negotiate Treaties of Amity and Neutrality, and of Commerce and Navigation, with the previous or subsequent consent of Congress; but, surely, sir, it does not follow, that they can take away from this House, and from a future Congress, a right to express their will, and the will of the United States, in a law; nor that they can, instead of securing the rights of neutrality with all the belligerent Powers, sacrifice those rights in favor of one of those Powers, and provoke another to

make war on the United States. These are powers which they cannot possess, and, indeed, which the Constitution neither gives nor can give, because it would be destructive of itself and of its original intention. But it is said the words are general. It is true they are so; but it has been well replied, that, although they are general, there are other expressions which, giving specific powers to the House of Representatives, to Congress, to the PRESIDENT, and to the Judiciary, must, upon the well-known principles of construction, be looked upon as a reservation and exception out of the general grant of power to make Treaties, given to the PRESIDENT and Senate.

No rule of construction is more universally known and established in explaining any Constitution, law, contract, or Treaty, than this: that the whole must be taken together, and whatever seeming contradiction may appear in different parts, those parts must be construed so, if possible, as to be consistent with each other, and with the whole; and by no means so as to contradict the general tenor and design of the whole instrument; for it is absurd to suppose that contradictions or even unmeaning provisions could be designedly inserted in such instruments of writing. The Constitution has defined the powers of the different branches of Government. To the Executive it has given a power to make Treaties, to pardon, in certain cases, and to execute the laws; to Congress, a right to lay and collect taxes, duties, impost, and excise; to provide for the common defence and general welfare of the United States; to regulate commerce with foreign nations; to establish one uniform rule of naturalization throughout the States; to constitute tribunals inferior to the Supreme Court; to define and punish piracies and felonies committed on the high seas, and offences against the Law of Nations; to declare war, grant letters of marque and reprisal; to establish offices and salaries of officers, and to appropriate money, &c., and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department thereof. To the Judiciary, it gives a right to judge of all cases in law or equity arising under the Constitution, the laws of the United States, and Treaties made, or which shall be made, under their authority, &c. These powers are perfectly distinct from each other, and may be all exercised without any clashing or interference. For the PRESIDENT and Senate may make Treaties of Peace, when Congress is not in session, or if in session, should Congress be inattentive to the distresses of war, they may make Treaties of Neutrality and Alliance, but not such Treaties as shall abridge the power, or interfere with the Constitutional jurisdiction of Congress or of the Judiciary.

The Judges may decide on cases arising under Treaties made according to the Constitution, and Congress may and ought to pass laws to carry into effect all such Treaties, provided they are not inconsistent with the general welfare, for which it is their Constitutional duty to provide, and which is not confided to the PRESIDENT and Senate by the Constitution, nor can be intrusted to them alone by the people upon any principle which has ever had weight in the formation of a Republican Government. If it be said that this construction of our Constitution will render it difficult to form and ratify Treaties, it may be answered, that there may be difficulties, but there will be no absurdities; and when once those difficulties are removed there will be no danger of discontent and infraction of Treaties.

But we are told, sir, that the power given to Congress by the Constitution to regulate commerce cannot extend to that regulation which depends upon the will of a foreign nation or Government, and which can only be regulated by compact, or by the Treaty-making or pactitious Powers. Granting that this assertion be true, which, however, may be denied, as the general belief which I have alluded to, and on which the existence of the present Government was founded, seemed to contradict it; for it was almost universally believed that an act of Congress regulating the commerce of the United States with Great Britain, as had been proposed to the former Congress, or Congress under the Confederation, or as proposed to this House on the 3d of January, 1794, and well known by the name of MADISON's propositions, or as proposed by Mr. CLARK, 7th April, 1794, would have brought about a more advantageous commercial intercourse with Great Britain than any direct negotiation with the British Minister. It was thought highly probable that the Parliament of Great Britain would (if any of these propositions had been adopted by Congress) have refused to have renewed their act, by which the trade with these United States (as if they were more degraded than Colonies) was regulated by the King's Proclamation. I say, granting, however, that assertion to be true, how does it prove, or what other assertion can prove, that Congress has not a right, under the express words of the Constitution, which declares that it shall have power to regulate commerce with foreign nations, to be a party to that compact, or to have some share, either previously or subsequently, in the Treaty-making business, when it regulates the commerce of the United States with foreign Powers?

I may agree that a Treaty is necessary to establish a commercial intercourse between two nations, to their mutual advantage and satisfaction, but I must affirm, that as that Treaty would be a commercial regulation, and as Congress is expressly empowered by the Constitution to regulate commerce, whenever such Treaty shall be made between the United States and any other nation, Congress must either direct that the negotiation be commenced upon conditions approved, or sanction the ratification of such Treaty by some act showing that the regulation of commerce, by the Treaty, was made by the authority of Congress, in conformity to the Constitution.

Besides, sir, if the PRESIDENT and Senate can regulate the commerce of the United States with one nation, they can with all nations, and if they can with all, what nation can there be with whom

Congress can regulate commerce? This argument, therefore, must fall to the ground. We are told, however, that the Treaty-making power, from its nature, is competent to all the objects at least of the Treaty under consideration, and is not to be controlled or checked by this House. Let me examine this assertion. If this be true, sir, we find that, although the British King, from whose tyranny we revolted, cannot force upon his subjects, against the will of their Representatives, a Treaty, which it is acknowledged, too, he has a right to make, the President of the United States can, by his Proclamation, force upon the people who are his constituents a Treaty which their direct Representatives wish to suspend, alter, or annul. Can this possibly be a true construction of the Treaty-making power? Surely it cannot. If it be true, then, can the President repeal, as he has by the Treaty, the laws of Congress, although by the Constitution he cannot negative them? He can oblige Congress to levy taxes; can withdraw impost and tonnage from their reach; prohibit the exportation of sundry articles, the produce of the United States, although the Constitution forbids, the Senate and Representatives concurring, to lay the smallest duty on the exportation of any article; he can create offices and annex salaries thereto; destroy the rights of this House; provoke war; in short, he can do any thing; but this we are sworn to deny. The absurdity of that construction, then, must be evident, and the recollection of our oaths to support the Constitution, of which we have been reminded, must force us to revolt at the thoughts of adopting such a monstrous construction of the Constitution. We are reminded also of the President's Proclamation. I will attend to it. I look upon it as a proper notification of the ratification of the Treaty of Amity with Great Britain, but it can have no effect on the Treaty of Commerce and Navigation, till sanctioned by the votes of Congress. The evacuation of the posts on our frontiers held by the British, if intended in consequence of the Treaty of Amity, ought to take place, or if in conformity to the Treaty of Peace; but, if intended as a compliance with conditions annexed to the Treaty of Commerce and Navigation, good faith requires that they ought not to be evacuated until the final adjustment of the differences which may arise in the course of the discussion of the merits of that Treaty, and this with me is one reason why I wish for information from the President respecting the Treaty. I confess too, sir, that I wish for a full and free conference with the Senate on the important subject of the Treaty.

I wish also to know what was the imperious necessity which induced a negotiation and ratification of such a Treaty as the one before us, which has in it articles which appear so pernicious, as, from the authority of writers* on the Law of Nations, and the confession of a member yesterday, might be declared null and void, and which [Treaty] is destitute of others, which our constituents hoped and expected would form an important part of the Treaty.

I will now reply to a few arguments which were thought weighty, at least they were applied so earnestly to the Representatives from Virginia, as if they were what are called *argumenta ad hominem*. We are told, sir, that Virginia had put the same construction which they now put. For the Assembly of that State had proposed certain amendments; but these amendments, it should be remembered, were intended to remove the evils which the construction those gentlemen put on the Constitution, if adopted, must produce, and would be unnecessary, if that construction for which the Virginia Representatives contended should be adopted by Congress. The arguments of certain members of the General and State Conventions were also retorted on them; but, sir, the gentleman was too much agitated to do strict justice in his recitals, for I think he did not recite enough of some passages from the debates which he read; but the opinions of those gentlemen, as stated, only prove that the Constitution has ambiguities, but can never prove that it becomes this House to explain them, so as to put it into the power of the President and Senate, as it was well remarked by the member from Pennsylvania, to legislate by assistance of any foreign Power, without the aid of the House of Representatives, and reduce the Representatives to a mere Committee of Ways and Means. We were asked, sir, with great vehemence, by a member from Massachusetts, why there had been no objection to any Treaty which had been made till now? He enumerated, I think, several nations with whom Treaties had been made, and demanded why we objected against the Treaty with Great Britain alone? I reply to this, sir, that objections were made by Congress even to the Treaty with France, on which their political salvation depended, and two articles were altered; that complaints have been made against several Indian Treaties; that, however, if no objections had ever been made to any before, it might be said to be high time for us to make a stand, to examine into and check a little the expensive business of Treaty-making; and it may be asked, in reply to the gentleman, what other Treaty, except that with Great Britain, ever repealed acts of Congress; prohibited the exportation of the valuable commodities of the States, and at the same time obliged us to abandon our claim to the rights of neutrality, and to acquiesce in an avowed attempt to destroy our friends and only safe allies?

* Vattel, book 2d, chap. xxii. p. 280.—A Treaty is valid, if there be no fault in the manner in which it was concluded; and for this purpose nothing more can be required than a sufficient power in the contracting parties, and their mutual consent sufficiently declared.

A Treaty pernicious to the State is null, and not obligatory.

No conductor of the nation having power to make such Treaties. The nation in itself cannot enter into engagements contrary to its indispensable obligations.

In the year 1506, the States General of the Kingdom of France, assembled at Tours, engaged Louis XII. to break the Treaty he had concluded with the Emperor Maximilian and the Archduke Philip, his son, because that Treaty was pernicious to the Kingdom. They found that neither the Treaty nor the oath that had accompanied it could oblige the King to alienate the dominions of the Crown. From the same reason, a want of power, a Treaty is absolutely null.

The gentleman will pardon me, when I say, he should not have asked such questions.

I will not, on a question which involves, perhaps, the fate of the United States, as well as the political existence of this House, say any thing to provoke warmth. I will refrain, therefore, from saying any thing respecting the attempts which have been made, both within and without the doors of this House, to deter members from opposing the Treaty, and will not now repeat the harsh expressions which have escaped from some members in the course of debate, but contend for, and will use the right of freedom of speech, reminding the Committee, however, that freedom of debate should always be regulated by a sense of propriety and decency, and that a difference of opinion on questions which must be decided by voting cannot require passionate debate.

From what I have said, I think I have proved that I may vote for the resolution before the Committee, not only without insulting the President, but as paying all the respect to him which can be due to the President from an independent branch of the Legislature, the direct Representatives of his constituents; that I may vote for it as a Constitutional right of this House, when it may wish for information from the President respecting the state of the Union; that I may vote for it, not only as useful, but as necessary to know the true meaning and intention of certain articles in the Treaty, whether it may be proper to direct any impeachment or not. I think I have also proved that Congress has a Constitutional right to participate in the ratification of a Treaty of Commerce, if such Treaty can be called a regulation of commerce, and I think it has been amply proved by other members, that whenever money is necessary to carry any Treaty into effect, this House has a Constitutional authority to deliberate on the propriety of granting it; to call for information respecting that propriety, and to withhold a grant of money if it should be found unnecessary or improper; and this has been demonstrated not only from express words in the Constitution, but from the nature of the case, and the practice of France and England, nations which have been supposed far less independent of their Executive than the United States; and it has also been evidently proved by stating the mischiefs and absurdities which must result from a contrary supposition. For these reasons, and others which I have not time to mention, I shall vote for the resolution before the Committee.

Mr. Bourne said he would have given a silent vote on this question, had it not have been for some strange doctrines which had been asserted, for he did not consider the question in itself as necessarily involving any Constitutional question. He regretted the debate had taken the turn it had: That before they had gone into the Committee of the Whole to whom the Treaty was referred, they were debating what Constitutional agency the House could take in relation to it. Those who opposed the passing the resolution, were charged with having given the direction to the debate, but he would ask, who had advanced the position that the Treaty was not the law of the land till sanctioned by this House? Gentlemen in favor of the motion were certainly chargeable with this, and hence originated the Constitutional points now in discussion. The doctrine, that the formal assent of the House of Representatives was essential to the legal existence of a Treaty, struck him as a perfect novelty. That the President and Senate had power under the Constitution to make Treaties, and that these Treaties were the laws of the land, he had never heard denied until this debate. It was true he had heard it said, that the House might control the President and Senate in the exercise of this power, by refusing to carry Treaties into effect by withholding appropriations of money; but he did not expect to hear the assertion, that the ratification of the House was necessary to a Treaty, before it became the law of the land. He called the attention of the Committee to the powers of forming Treaties and Alliances, as vested in Congress under the former Confederation, which was exactly similar to that vested in the President and Senate under the present Constitution. Then the power of regulating commerce, laying taxes, &c., was vested in the State Legislatures. Was it ever heard that the Treaties then made under the authority of Congress were not the laws of the land? Was it ever suggested that the Treaty with France was not a law until it had the assent of the State Legislatures? Yet, according to the assertions of gentlemen, this Treaty was not of legal efficacy without, for the States had the same power of regulating commerce, which is now vested in Congress; and, say the gentlemen, Treaties which embrace commercial regulations are not valid until Congress, who possesses the power of regulating commerce, ratify them. The fact was, the Treaty with France did embrace commercial objects, and is the law of the land without the consent of the State Legislatures.

It was under the idea that Congress had no more controlling power over Treaties, under the present Constitution, than was possessed by the State Legislatures under the Old Confederation, that the people of the State he had the honor to represent had adopted the Constitution. They conceived that the whole power as to making Treaties was vested in the President and Senate. They strongly objected against adopting it even under this construction, but he was sure those objections would have been much strengthened had they conceived the Treaty-making power, as described in the Constitution, subject to the constructions now put upon it.

As a Representative of a small State, he felt himself much interested in opposing the doctrine contended for. Under the former Confederation Rhode Island had an equal vote with any State in the making of Treaties. This right was thought to have been fully preserved under the present Constitution. But, if the sentiments he was combating prevailed, the small States would be deprived of one of their most essential rights; for the power of making Treaties is one of the principal rights of sovereignty, was vested in all the

States separately when they became independent, was afterwards, and in the Old Confederation, vested in Congress, each State having an equal vote. It was now, in his opinion, exclusively vested in the President and Senate, in which body the great and small States had the same equality of suffrage. The opinion which he advanced was not merely the opinion of Rhode Island when the Constitution was adopted. A gentleman from Massachusetts had already shown from the debates of the Virginia Convention, that that Assembly entertained the same opinion. He was sure the opinion prevailed in the Convention of Massachusetts—he had attended their debates when this part of the Constitution was the subject of discussion. Objections were raised against it, from the indefiniteness of the power vested in the President and Senate of making Treaties. No one suggested that the House of Representatives had any control over, much less a participation in, this power. It was urged, from the nature of the power, that it ought to be placed where it was—in the President and Senate. The Senate represented the sovereignty of the States; besides, from their small numbers, they were better adapted to the exercise of this power in respect to secrecy and despatch, necessary in negotiations. Objections were raised on the ground of the possible abuses to which the power of making Treaties, unlimited and undefined as it was, might be carried. No one said the President and Senate did not possess the power, nor was it pretended that Congress had any power to control it.

He then called the attention of the Committee to the debates of the Convention of North Carolina. He had been a little surprised to hear a member from that State yesterday say he was a member of the Convention, and that it was understood that Congress could control the President and Senate in making Treaties, so far as respected commerce; the power of legislating on commercial regulations being given to Congress. What created his surprise was, that he had read the debates of the first Convention, and found no such sentiment. The gentleman had explained himself by saying, there was a second Convention called in that State, of which he was member, and there the doctrine alluded to had been advanced. The debates of this Convention Mr. B. had not seen. In order to show what were the opinions which were held in the first mentioned Convention of North Carolina, he would read extracts from the debates of that Assembly, which would be applicable to the present question, and clearly discover that all agreed that the Treaty-making power was exclusively vested in the President and Senate.

Extracts from the Debates referred to by Mr. Bourne.

"Mr. Lewis.—I have a greater objection on this ground than that which has just been mentioned—I mean, sir, the Legislative power given to the President himself. It may be admitted by some, but not by me. He, sir, is to make Treaties which are to be the supreme law of the land. This is a Legislative power given to the President, and implies a contradiction to that part which says that all Legislative power is vested in the two Houses.

Mr. Spaight [a member of the Convention which formed the Constitution] answered, that it was thought better to put that power into the hands of the Senators as Representatives of the States, that thereby the interest of every State was equally attended to in the formation of Treaties, but that it was not considered as a Legislative act at all.

Mr. Maclaine.—That Treaties were the supreme law of the land, in all countries, for the most obvious reasons; that laws or Legislative acts operated upon individuals, but that Treaties acted upon States; that, unless they were the supreme law of the land, they could have no validity at all; that the President did not act in this case as a legislator, but rather in his Executive capacity.

Mr. Lewis.—He still thought the President was possessed of Legislative powers, while he could make Treaties joined with the Senate.

Mr. Iredell.—When Treaties are made they become as valid as Legislative acts. I apprehend that every act of the Government, Legislative, Executive, or Judicial, if in pursuance of a Constitutional power, is the law of the land.

Mr. Porter.—There is a power vested in the President and Senate to make Treaties, which shall be the supreme law of the land. Which among us can call them to account? I always thought there could be no proper exercise of power without the suffrage of the people: yet the House of Representatives has no power to intermeddle with Treaties. The President and seven Senators, as nearly as I can remember, can make a Treaty, which will be of great advantage to the Northern States, and equal injury to the Southern States. They might give up the rivers and territory of the Southern States; yet, in the preamble of the Constitution, they say all the people have done it. I should be glad to know what power there is of calling the President and Senate to account?

Mr. Spaight answered, that, under the Confederation, two-thirds of the States might make Treaties. That, if the Senators from all the States attended when a Treaty was about to be made, two-thirds of the States would have a voice in its formation. He added, he would be glad to ask the gentleman what mode there was of calling the present Congress to account?

Mr. Porter repeated his objection. He hoped that gentlemen would not impose on the House; that the President could make Treaties with two-thirds of the Senate; that the President, in that case, voted rather in a Legislative than an Executive capacity, which he thought impolitic.

Mr. Johnston.—In my opinion, if there be any difference between the Constitution and the Confederation with respect to Treaties, the Constitution is more safe than the Confederation. We know that two members from each State have a right, by the Confederation, to give the vote of that State, and two-thirds of the States have a right also to make Treaties. By this Constitution two-thirds of the Senators cannot make Treaties without the concurrence of the President.

Mr. Porter.—That, as Treaties were the supreme law of the land, the House of Representatives ought to have a vote in making them as well as in passing them.

Mr. J. McDowall.—Mr. Chairman: Permit me, sir, to make a few observations, to show how improper it is to place so much power in so few men, without any

responsibility whatever. Let us consider what number of them is necessary to transact the most important business. Two-thirds of the members present, with the President, can make a Treaty. Fourteen of them are a quorum, two-thirds of which are ten. These ten may make Treaties and alliances. They may involve us in any difficulties and dispose of us in any manner they please. Nay, eight is a majority of a quorum, and can do every thing but make Treaties. How unsafe are we when we have no power of bringing those to an account! It is absurd to try them before their own body. Our lives and our property are in the hands of eight or nine men. Will these gentlemen intrust their rights in this manner?

Mr. Davie. Mr. Chairman, although Treaties are mere conventional acts between the contracting parties, yet, by the law of nations they are the supreme law of the land to their respective citizens or subjects. All civilized nations have concurred in considering them as paramount to an ordinary act of legislation. This concurrence is founded on the reciprocal convenience and solid advantages arising from it. A due observance of Treaties makes nations more friendly to each other, and is the only means of rendering less frequent those mutual hostilities which tend to depopulate and ruin contending nations. It extends and facilitates that commercial intercourse which, founded on the universal protection of private property, has in a measure made the world one nation.

The power of making Treaties has, in all countries and Governments, been placed in the Executive Departments. This has not only been grounded on the necessity and reason arising from that degree of secrecy, design, and despatch, which are always necessary in negotiations between nations, but to prevent their being impeded or carried into effect by the violence, animosity, and heat of parties, which too often infect numerous bodies. Both of these reasons preponderated in the foundation of this part of the system. It is true, sir, that the late Treaty between the United States and Great Britain has not, in some of the States, been held as the supreme law of the land. Even in this State, an act of Assembly passed to declare its validity. But no doubt that Treaty was the supreme law of the land without the sanction of the Assembly; because, by the Confederation, Congress had power to make Treaties. It was one of those original rights of sovereignty which were vested in them; and it was not the deficiency of Constitutional authority in Congress to make Treaties that produced the necessity of a law to declare their validity, but it was owing to the entire imbecility of the Confederation. On the principle of the propriety of vesting this power in the Executive Department, it would seem that the whole power of making Treaties ought to be left to the President, who, being elected by the people of the United States at large, will have their general interest at heart. But that jealousy of Executive power, which has shown itself so strongly in all the American Governments, would not admit this improvement. Interest, sir, has a most powerful influence over the human mind, and is the basis on which all the transactions of mankind are built. It was mentioned before, that the extreme jealousy of the little States, and between the commercial States and the non-importing States, produced the necessity of giving an equality of suffrage to the Senate. The same causes made it indispensable to give to the Senators, as Representatives of States, the power of making, or rather ratifying, Treaties. Although it militates against every idea of just proportion, that the little State of Rhode Island should have the same suffrage with Virginia, or the great Commonwealth of Massachusetts, yet the small States would not consent to confederate, without an equal voice in the formation of Treaties. Without the equality, they apprehended that their interest would be neglected or sacrificed in negotiations. This difficulty could not be got over. It arose from the unalterable nature of things. Every man was convinced of the inflexibility of the little States on this point. It therefore became necessary to give them an absolute equality in making Treaties.

On a due consideration of this clause, it appears that this power could not have been lodged as safely anywhere else as where it is. The honorable gentleman [Mr. McDowall] has spoken of a consolidation in this Government. That is a very strange inconsistency, when he points out, at the same time, the necessity of lodging the power of making Treaties with the Representatives, where the idea of a Consolidation can alone exist, and when he objects to placing it in the Senate, where the Federal principle is completely preserved. As the Senate represents the sovereignty of the States, whatever might affect the States in their political capacity ought to be left to them. This is the certain means of preventing a Consolidation. How extremely absurd is it to call that disposition of power a Consolidation of the States which must to all eternity prevent it! I have only to add the principle upon which the General Convention went: That the power of making Treaties could nowhere be so safely lodged as in the President and Senate; and the extreme jealousy subsisting between some of the States would not admit of it elsewhere. If any man will examine the operation of that jealousy in his own breast, as a citizen of North Carolina, he will soon feel the inflexibility that results from it, and perhaps be induced to acknowledge the propriety of this arrangement.

Mr. McDowall declared, that he was of the same opinion as before, and that he believed the observations which the gentleman had made on the apparent inconsistency of his remarks would have very little weight with the Committee; that, giving such extensive powers to so few men in the Senate was extremely dangerous; and that he was not the more reconciled to it from its being brought about by the inflexibility of the small, pitiful States to the North. He supposed that eight members in the Senate from these States, with the President, might do the most important acts.

Mr. Iredell.—If this power be improperly vested, it is incumbent on gentlemen to tell us in what body it could be more safely and properly lodged. I believe, on a serious consideration, it will be found that it was necessary, for the reasons mentioned by the gentleman from Halifax, to vest the power in the Senate, or some other body equally representing the sovereignty of the States, and that the power, as given in the Constitution, is not likely to be attended with the evils which some gentlemen apprehend. The only real security of liberty in any country is the jealousy and circumspection of the people themselves. Let them be watchful over their rulers. Should they find a combination against their liberties, and all other methods appear to be insufficient to preserve them, they have (thank God) an ultimate remedy. That power which created the Government can destroy it. Should the Government, on trial, be found to want amendment, that amendment can be made in a regular method—in a mode prescribed by the Constitution itself. Massachusetts, South Carolina, New Hampshire, and Virginia, have all proposed amend-

ments, but they all concurred in the necessity of an immediate adoption. A Constitutional mode of altering the Constitution itself is perhaps what has never been known among mankind before. We have this security, in addition to the natural watchfulness of the people, which I hope will never be found wanting. The objections I have answered deserved all possible attention; and, for my part, I shall always respect that jealousy which arises from the love of public liberty.

Mr. Sprnce.—Mr. Chairman, I think that no argument can be used to show that this power is proper. If the whole Legislative body—if the House of Representatives—do not interfere in making Treaties, I think they ought at least to have the sanction of the whole Senate."

Amendment proposed to the Constitution.

"XXIII. That no Treaties which shall be directly opposed to the existing laws of the United States, in Congress assembled, shall be valid, until such laws shall be repealed, or made conformable to such Treaty; nor shall any Treaty be valid which is contradictory to the Constitution of the United States."

Mr. Bourne said, he would not tire the patience of the Committee by reading any further from the debates relative to that point; but would only turn to what was said by a member who now belongs to the Supreme Court of the United States, in answer to a question asked by a member who now belongs to the Senate, whether it was not customary, in England, to submit Treaties to the approbation of Parliament.

Extracts referred to.

"Mr. Bloodworth desired to be informed whether Treaties were not to be submitted to the Parliament, in Great Britain, before they were valid.

Mr. Iredell.—A gentleman from New Hanover had asked, whether it is not the practice, in Great Britain, to submit Treaties to Parliament, before they are esteemed valid. The King has the sole authority, by the laws of that country, to make Treaties. After Treaties are made, they are frequently discussed in the two Houses of Parliament, where, of late years, the most important measures of Government have been narrowly examined. It is usual to move for an Address of approbation; and such has been the complaisance of Parliament, for a long time, that this seldom has been withheld. Sometimes they pass an act in conformity to the Treaty made; but this, I believe, is not for the mere purpose of confirmation, but to make alterations in a particular system, which the change of circumstances requires. The Constitutional power of making Treaties is vested in the Crown; and the Power with whom a Treaty is made considers it as binding without any act of Parliament, unless an alteration by such is provided for in the Treaty itself; which, I believe, is sometimes the case. When the Treaty of Peace was made in 1763, it contained stipulations for the surrender of some islands to the French. The islands were given up, I believe, without any act of Parliament. The power of making Treaties is very important, and must be vested somewhere, in order to counteract the dangerous designs of other countries, and to be able to terminate a war when it is begun. Were it known that our Government was weak, two or more European Powers might combine against us. Would it not be politic to have some power in this country to obviate this danger by a Treaty? If this power was injudiciously limited, the nations where the power was possessed without restriction would have greatly the advantage of us in negotiations; and every one must know, according to modern policy, of what moment an advantage in negotiation is. The honorable member from Anson said, that the accumulation of all the different branches of power in the Senate would be dangerous. The experience of other countries shows that this fear is without foundation. What is the Senate of Great Britain opposed to the House of Commons, although it be composed of an hereditary nobility of vast fortunes, and entirely independent of the people? Their weight is far inferior to that of the Commons. Here is a strong instance of the accumulation of powers of the different branches of Government without producing any inconvenience. That Senate, sir, is a separate branch of the Legislature—is the great Constitutional Council of the Crown—and decides on lives and fortunes in impeachments, besides being the ultimate tribunal for trying controversies respecting private rights. Would it not appear that all these things should render them more formidable than the other House? Yet the Commons have generally been able to carry everything before them. The circumstance of their representing the great body of the people alone gives them great weight. This weight has great authority added to it, by their possessing the right (a right given to the people's Representatives in Congress) of exclusively originating money bills. The authority over money will do everything. A Government cannot be supported without money. Our Representatives may at any time compel the Senate to agree to a reasonable measure, by withholding supplies till the measure is consented to. There was a great debate in the Convention whether the Senate should have an equal power of originating money bills. It was strongly insisted by some that they should; but at length a majority thought it unadvisable, and the clause was passed as it now stands."

It appeared clearly, Mr. Bourne contended, from the debates he had read, that there was only one opinion in the Convention of North Carolina in relation to the Treaty-making power being vested in the President and Senate; and that Treaties made by them were the supreme law of the land, subject to no check or control from the House of Representatives. If such an idea had been entertained, would not those who in that Convention were in favor of adopting the Constitution, and who almost despaired of its being adopted, have said, in reply to those who objected against the investiture of this power in the President and Senate, "Your rights are safe; the House of Representatives must ratify commercial Treaties before they can be carried into effect." But this was not said; on the contrary, it was said, that the power of making Treaties was exclusively vested in the President and Senate; that it was right and proper it should be so vested; and that the small States, in the Convention which formed the Constitution, would not agree to give any part of the Treaty-making power to the House of Representatives. That the nature of the Treaty power showed the propriety of placing it where it was placed, the numbers of the Senate were small and most fit for this business—more so than a numerous body where faction and party might prevail; that the power of making Treaties was vested in the Senate, because it was a branch of the sovereign power. These observations had been made

in the Convention of North Carolina. Now, he asked, if this was the construction of the Constitution when it was adopted in the several States, would it not be a trick on the small States now to construe it differently, and say that no Treaty was the law of the land until ratified by the House of Representatives? He considered that the State which he had the honor to represent would be of that opinion. He said it would be a gross violation of the Constitution to maintain that the President and Senate could not make Treaties without the assent of the House.

But he did not consider this principle as involved in the motion before the Committee; it was a question of expediency. The President was asked by it for the instructions to his Ministers and all the documents respecting the Treaty, excepting only such as related to any existing negotiation; he thought that the alteration of the original motion which was made by introducing the exception had made it more objectionable; it was saying, "send us all the papers respecting this negotiation, excepting one particular description of them, which we think you ought not to send." Nothing was left to the discretion of the President. Did any gentleman ever before hear of an Executive being called on for the confidential instructions which he had given his Minister in relation to a foreign negotiation; for the correspondence between himself and his Minister, and for that which passed between the two Ministers representing the negotiating parties? Was it not natural for gentlemen to consider that much confidential communication takes place on these occasions, which ought not to be disclosed but to the immediate parties concerned? The agency of private individuals might have been used in effecting the Treaty, and was it proper that their names should be published? With the facts he was perfectly unacquainted. The Committee would readily suppose he knew nothing of the secrets of the negotiation if such there were; but he thought there might be many, and they ought not to be divulged. Mr. B. added, that he believed the call for such papers to be wholly unprecedented. Just before the adoption of the present Government in France, a Treaty had been negotiated through the agency of the Committee of Safety with Spain. It is well known that strong objections were raised in the Convention, who then had the power of ratifying Treaties, against giving their consent to that; and though it was the subject of much debate, the instructions and correspondence of the negotiator were not called for. Suppose the President should be disposed to communicate the papers in question, it probably would be under an injunction of secrecy. Did the House mean to debate on the Treaty with closed doors? He conceived not. But if the papers were not to be disclosed to the public, they would not conduce to allay the public sensibility in respect to the Treaty, which had been assigned as one motive for calling for them, though he did not think it real; for he thought the addresses which had been made to the passions in the debate were calculated to increase instead of allaying any sensibility which may have existed. A gentleman had said that he disapproved of the Treaty, insomuch that the Minister who negotiated it ought to be sent again as Minister Plenipotentiary to repeal it, if that was the only proper mode to get rid of it.

The same gentleman who said this also said, if he adored any thing in this world it was the voice of the people, and that their voice was against the Treaty. Mr. B. said, he respected the voice of the people; but where were they to find the voice of the people? That gentleman had referred to the petitions on the table. How many had petitioned against the Treaty? Were there as many as were necessary to choose one Representative in that House? No, not half so many. Was this then the voice of the people? He thought the voice of the people was to be collected from the diminutive appearance of the petitions themselves. The inference was strongly in favor of the voice of the people being with the Treaty, when it was considered what pains had been taken to gain petitioners; he thought, also, the voice of the people was to be collected from the proceedings of the State Legislatures, in relation to the conduct of the President and Senate in ratifying the Treaty. He stated that the several branches of the Legislature of New Hampshire had been unanimous in their expressions of approbation. In Massachusetts a similar spirit had been shown. The General Assembly of Rhode Island had been unanimous and explicit in their approbation of the conduct of the President and Senate. The unanimity of Connecticut on this subject was well known. The addresses at the meeting of the Legislature of New York had breathed a similar spirit; those of Pennsylvania, Delaware, and Maryland, also; the latter had been unanimous in their resolutions of approbation and confidence. He would not travel any further; some sentiments of a contrary complexion had been expressed to the South. The gentlemen had referred to the sensibility which had been exhibited in the town-meetings. Mr. B. acknowledged that much dissatisfaction with the Treaty had been shown in most of the populous towns; he believed, however, from recent appearances, it was much abated. The people had been deceived in their expectations in respect to the Treaty by several publications before the Treaty arrived, having exaggerated its advantages, and stated that every thing was obtained which had been asked for. Mr. B. said, he should not give his ideas of the Treaty at present, they would be reserved for a more proper time. He believed that in obeying the Constitution, they should obey the voice of the people. If a doubt existed as to what was the true construction of the Constitution, he believed it ought to be conformed to the opinion which prevailed when the Constitution was adopted, and he had shown that the most eminent men had then but one opinion in relation to it; they all agreed that the power of making Treaties was vested exclusively in the President and Senate. Mr. B. concluded by observing, that he had not intended to have carried his observations to so great a length, but as the State he represented was particularly interested

in the consequences of the principles which had been advanced, he had been the more lengthy. Indeed he did not consider these principles as necessarily involved in the question now before the Committee, but he confided that whatever might be the fate of this question, from the knowledge he had of the members of the Committee, that when they should come to decide on the question of carrying the Treaty into effect, they would duly respect the sacred obligations they were under to support the Constitution.

Mr. Brent said he should not in the present debate touch on the merits of the Treaty, which he conceived foreign to this question. On a motion to ask for papers with respect to the Treaty, he did not conceive with what propriety the fitness of the instrument could be brought into view. It would be proper, he contended, to have the papers proposed to be called for, even if it was conceded that the House had no control in matters of Treaty; for if they were bound to carry it into operation, still the papers would be necessary to a due understanding of the subject. The motion, he argued, stands upon the same ground as the calls so often made for information to the Heads of Departments. But even if the papers are not necessary to give information as to the laws which it is said must be passed, they are necessary on another ground. The Constitution gives the House a general superintendence over the conduct of officers, and the power of impeachment; no member denies this right, and how can they exercise it understandingly without information? Can the Constitution be supposed to give this right of impeachment, and at the same time deprive the House of the means of information? This would be as absurd as to refer to a blind man to judge of shades and colors. How can the House decide on the ability or fidelity of the negotiator of the Treaty, unless they have a sight of his instructions, and of his correspondence? how can they determine on the merits or demerits of the negotiation?

The turn which the debate had taken had given rise, he said, to an important Constitutional question; he did not believe its decision of consequence to the decision on the present motion; but as the debate had taken that turn, he should pursue the same road in answer to the arguments of gentlemen. He laid this down as a sound inference from the provisions of the Constitution on the subject of the Treaty power: that the President and Senate possess the right of forming Treaties, and of carrying on the necessary negotiations with foreign countries; but when these contain stipulations bearing a relation to the specific power vested in the Legislature, the House had a right to take cognizance of it, and such Treaty could not become the supreme law of the land until sanctioned by the Legislature. To show the justness of this position, he should examine this subject, he said, in a threefold light. He should examine it by a recurrence to the words of the Constitution; then to the opinions which prevailed as to its meaning at the time it was framed and adopted; and, lastly, he should examine what construction was best calculated to preserve the liberties of this country.

The Constitution contains two clauses in reference to the Treaty-making power. The first declares that the President, with two-thirds of the Senate, shall have power to make Treaties. He proceeded to inquire whether this clause gives them the right to make Treaties the supreme law of the land? To determine this it was necessary to examine the import of the word in those countries, where the Treaty power had been frequently exercised, and to consult the opinions of the best civilians. The general power of making Treaties is under the control of the Constitution. In despotic countries, where all power, Legislative, Judicial, and Executive, is in the hands of one person, there the Treaty-making power is without control, and a Treaty as soon as made becomes, *ipso facto*, the supreme law of the land; but in all limited Governments, the Treaty power is subject to the limitations in the Constitution. The practice of this principle may be found even in the British Government. There, though the King originates Treaties as the President and Senate do here, they do not become the supreme law of the land, respecting Legislative subjects, until the co-operation of Parliament is obtained. Thus the power of making Treaties does not imply the power of making those Treaties in all cases the supreme law of the land. If the Executive make a Treaty involving none but Executive powers strictly, then it becomes immediately the supreme law; but if they contain provisions, which involve the Legislative authority, the Executive can make them but conditionally, and they do not become supreme until the Legislature chose to make them so. The British Government furnishes an example where this doctrine has been practiced, and it is by a reference to the practice of despotic Governments, that the mistaken idea is taken up, that all Treaties as soon as made become the supreme law of the land. The clause in our Constitution, he concluded, does not give authority to the President and Senate to make a supreme law of the land.

When this clause of the Constitution is compared with the other parts of it, it will be found, he said, that the above interpretation is just; for the Treaty-making power is delegated as a general power, while to Congress specific powers are granted. The rational and admitted rule of construction in these cases is, that specific power restrains general powers; and here, then, the general Treaty power must be restrained by the specific powers of Congress. He admitted that the Executive had full power, under the general authority vested in them by the Constitution, to originate Treaties and to carry on negotiations with foreign Powers; but that if the provisions of a Treaty so negotiated clashed with specific powers granted, the authority exercising those specific powers must give it their sanction before it becomes the supreme law of the land.

He next turned to the second clause of the Constitution respecting Treaties, which had been noticed in the debate. It says, that the Constitution,

laws, and Treaties, shall be the supreme law of the land; and gentlemen contend, he remarked, that though the first clause does not make the Treaties entered into by the Executive the supreme law of the land, yet that this does; but its obvious and only meaning, when the whole of it is taken into view, is, that the Constitution, laws, and Treaties of the United States, are only meant to be declared supreme to Constitutions and laws of the individual States. It is admitted, as a sound rule of construction, that to discover the true meaning of any instrument, it is fair to have recourse to the existing circumstances that produced it. When the Constitution was formed, it was under a strong impression of the inconveniences experienced under the Confederation, when great obstruction was thrown in the way of the Treaty power, by the States refusing to carry into execution those agreed to by the Constitutional authority. This was the evil the framers of the Constitution had in view when they inserted this clause, and it has no relation to the powers of the General Government, which stand precisely in the same situation with or without it. It does not declare that Treaties shall abrogate laws, but that the States shall not have it in their power to throw impediments in the way of their execution. The words of the Constitution cannot be understood otherwise than that the Constitution, laws, and Treaties, shall exist together; it does not say that a Treaty shall repeal a law, or a law repeal a Treaty. Then the Constitution certainly contemplated that they never should be in opposition, for contradictory and opposing laws cannot exist at the same time; if they exist at the same time, they cannot be in opposition to each other. If it can be supposed that the President and Senate can make a Treaty in opposition to a law of the Legislature, and yet both the Treaty and the law be at the same time the supreme law of the land, an absurdity is supposed. But if it be admitted that the House shall have a participation in the business of Treaties, in cases which involve the Legislative authority, then the words of the Constitution become intelligible, and both Treaties and laws may be at the same time the supreme law of the land.

He further developed this idea: The Constitution says, that the President and Senate shall make Treaties, and that when concluded under the authority of the United States they shall be the supreme law of the land. This is intelligible, if the control of the House be admitted; for then, if the President and Senate make a commercial Treaty, in any part contrary to existing laws, the Congress repeals those laws, and the Treaty then becomes the supreme law, and when it commences its existence there is no opposing law. On this construction all existing laws will be supreme law; on the other, though all are declared supreme, yet all cannot be supreme when there is a clashing. A Treaty made by the President and Senate, as far as it relates to commercial concerns, is not a Treaty made under the authority of the United States until it has obtained the sanction of the Legislature.

Gentlemen say, that Treaties, *ipso facto*, repeal anterior laws clashing with their provisions: they say, that the Constitution, laws, and Treaties, stand upon the same footing in the Constitution, being all declared the supreme law of the land. If Treaties can repeal laws, then laws can repeal the Constitution, for the second (laws) are to the first (Constitution) what the third (Treaties) are to the second (laws); then, also, by parity of reasoning, Treaties may repeal the Constitution. If all stand on the same footing, and the precedence is according to the point of time, the last law always prevailing, then Treaties may change the fundamental principles of our Government; then the President and Senate, by entering into stipulations with a foreign Government, may give us a Monarchy, may convert our President into a King, and our Senate into a nobility; for, say the gentlemen, Treaties are the law of the land as well as the Constitution, and a subsequent law repeals those which are anterior. But these positions are false in all their parts; a law or a Treaty cannot repeal the Constitution, nor can a Treaty repeal a law. If the manner in which the three words are placed in the Constitution is to have any force, it would not favor the construction of the gentlemen; they contend for the supremacy of Treaties, whereas Treaties are last named, and the true construction from this source would be the reverse, when there was clashing. He next adverted to the lengths to which the mode of interpretation contended for by the gentlemen would carry them. It was never intended, he asserted, by the people, when they instituted this Government, that the Treaty power should possess this omnipotence. It was never intended that the President and Senate should have it in their power to effect a radical change in our Government, and stipulate with a foreign nation for a guarantee of the change. Laws contrary to the Constitution are nugatory, and Treaties contrary to existing laws, the same; because, when in that stage, they are not concluded under the authority of the United States, but are only so (and then there is no longer any clashing) when once they have received the sanction of the Legislature. From the above, he concluded that the President and Senate originate Treaties, and that the Legislature to a certain extent should exercise a check upon this power. And upon these principles the British Treaty is not the supreme law of the land until a decision on it was had in the Legislature.

It might be supposed, Mr. B. observed, that his opinion of the true construction of this part of the Constitution was a solitary one—that it was a chimera of the imagination. Upon inquiry, it would, however, be found that this opinion was advanced at the time the Constitution was under consideration, in the several conventions which ratified it, and by the most distinguished writers of the day. A member from Massachusetts had quoted parts of the proceedings in the State of Virginia in support of his construction of the Constitution. He should not himself have brought forward the authority of that State in favor of a contrary construction, had not that gentleman

cited it as authority of great weight. But since he had endeavored to make use of the proceedings in that State as an offensive weapon, he would endeavor to employ them as a defensive weapon. Whatever aspect the debates of the Convention there might bear as partially quoted by the member from Massachusetts, he was bold to declare, that, on a careful examination, it would be found that the majority in that body construed the Constitution as contended by the friends to the present motion. By reading detached parts a different impression might be made; but if the whole of the debates were adverted to, it would be found that the President and Senate were thought to have the same relations to the Treaty-making power as the King of Great Britain has to England. He first quoted the sentiments of a gentleman in that body, to whose abilities the adoption of the Constitution was much attributed:

"The President and Senate have the same power of making Treaties, and when made they are to have the same force and validity. They are to be the supreme law of the land here. This book shows us they are so in England. Have we not seen in America that Treaties were violated, though they are in all countries considered the supreme law of the land? Was it therefore not necessary to declare, in explicit terms, they should be so here? How, then, is this Constitution on a different footing with the Government of Britain? The worthy member says, they can make a Treaty relinquishing our rights and inflicting punishments, because all Treaties are declared paramount to the Constitutions and laws of the States. An attentive consideration of this will show the Committee that they can do no such thing. The provision of the sixth article is, that this Constitution, and laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land! They can by this make no Treaty which shall be repugnant to the spirit of the Constitution, or inconsistent with the delegated powers. The Treaties they make must be under the authority of the United States, to be within their province. It is sufficiently secured, because it only declares that, in pursuance of the powers given, they shall be the supreme law of the land, notwithstanding anything in the Constitution or laws of particular States."

He then cited the sentiments of another member, who was also an advocate for the adoption of the Constitution:

"The honorable gentleman on the other side tells us that this doctrine is not sound, because in England it is declared that the consent of Parliament is not necessary. Had the honorable gentleman used his usual discernment and penetration, he would see the difference between a Commercial Treaty and other Treaties. A Commercial Treaty must be submitted to the consideration of Parliament; because such Treaties will render it necessary to alter some laws, add new clauses to same, and repeal others. If this be not done, the Treaty is void, *quo ad hoc*. The Mississippi cannot be dismembered but two ways—by a common Treaty or a Commercial Treaty. If the interest of Congress will lead them to yield it by the first, the law of nations would justify the people of Kentucky to resist, and the cession would be nugatory. It cannot, then, be surrendered by a common Treaty. Can it be done by a Commercial Treaty? If it should, the consent of the House of Representatives would be requisite, because of the correspondent alterations that must be made in the laws. [Here Mr. Corbin illustrated his position, by reading the last clause of the Treaty with France, which gives certain commercial privileges to the subjects of France: to give full effect to which, certain correspondent alterations were necessary in the commercial regulations.] This, continued he, secures Legislative interference."

He mentioned a third authority from the same source:

"I think the argument of the gentleman who restrained the supremacy of these to the laws of particular States, and not to Congress, is rational. Here the supremacy of a Treaty is contrasted with the supremacy of the laws of the States. It cannot be otherwise supreme. If it does not supersede their existing laws as far as they contravene its operation, it cannot be of any effect."

It was at that day the opposers of the Constitution who insisted, that the Constitution gave the President and Senate the unqualified power of making all Treaties, and they contended that this power would work the overthrow of liberty. If the public sentiment of that day is to be recurred to for an exposition of the Constitution, he wished to know whether the sentiments of the majority or minority were to be recurred to? Unless the gentlemen would prove that the minority gave on that occasion the true exposition of the Constitution, the sense of the majority must be considered as expressing the wishes of the people, under the opinion which caused the ratification of the instrument.

The Committee had been told, however, that the deliberations of the North Carolina Convention bore a different aspect. But here the gentlemen had been equally unfortunate in their quotations, for they had cited the sentiments held out in the Convention that did not ratify the Constitution; that that Convention was dissolved before the Constitution was adopted; that another met, who received and ratified it, and a worthy Representative from North Carolina now in Congress, who was a member of the Convention, has informed, that the construction given to the Treaty power by the friends of the instrument in that body, was the one contended for by the advocates of the present motion. The first Convention who misconstrued the Treaty power broke up without sanctioning the instrument; but the second, who construed it differently, and who ratified the Constitution, must undoubtedly be considered as having really expressed the sentiments of the people.

He was surprised that gentlemen should conceive the construction now contended for as novel; that the member from Massachusetts should, in so earnest a manner, declare, that the doctrine is novel, when, by recurring to the very debates he produced, the construction was unequivocally laid down. To make the assertion he must entirely have lost sight of the various debates and writings of the day. He would quote a passage from the work of a distinguished writer of the day, who was in opposition to the adoption of the Constitution, but who, though he made various objections to the instrument, and appeared solicitous to find fault, yet construed the part of the Constitution now under consideration as the friends to the motion do. He meant the *Federal Farmer*. The following is the passage he quoted:

"On a fair construction of the Constitution, I think the Legislature has a proper control over the President and Senate, in settling Commercial Treaties. By one article, 'the Legislature shall have power to regulate commerce with foreign nations,' &c., and by another article, 'the President, with the advice and consent of two-thirds of the Senate, shall have power to make Treaties.' These clauses must be considered together; and we ought never to make one part of the same instrument contradict another, if it can be avoided by any reasonable construction. By the first recited clause, the Legislature has the power; that is, as I understand it, the sole power, to regulate commerce with foreign nations, or to make all the rules and regulations respecting trade and commerce between our citizens and foreigners. By the second recited clause, the President and Senate have power generally to make Treaties. There are several kinds of Treaties, as Treaties of Commerce, of Peace, of Alliance, &c. I think the words, 'to make Treaties,' may be consistently construed, and yet so as it shall be left to the Legislature to confirm Commercial Treaties. They are, in their nature and operation, very distinct from Treaties of Peace and of Alliance. The latter generally require secrecy: it is, but very seldom they interfere with the laws and internal police of the country. To make them, is properly the exercise of Executive powers; and the Constitution authorizes the President and Senate to make Treaties, and gives the Legislature no power directly or indirectly respecting these Treaties of Peace and Alliance. As to Treaties of Commerce, they do not generally require secrecy; they almost always involve in them Legislative powers; interfere with the laws and internal police of the country: and operate immediately on persons or property, especially in commercial towns: (they have in Great Britain usually been confirmed by Parliament.) They consist of rules and regulations respecting commerce: and to regulate commerce, or to make regulations respecting commerce, the Federal Legislature, by the Constitution, has the power. I do not see that any commercial regulations can be made in Treaties, that will not infringe upon this power in the Legislature. Therefore I infer, that the true construction is, that the President and Senate shall make Treaties: but all Commercial Treaties shall be subject to be confirmed by the Legislature. This construction will render the clauses consistent, and make the powers of the President and Senate, respecting Treaties, much less exceptionable."

He contended that the power of making Treaties and of entering into foreign negotiations, did not imply a power of making them laws of the land; and that, if the Constitution meant to place Constitution, laws, and Treaties on the same footing, and that the President and Senate could repeal laws, and change the Constitution, that instrument was monstrous indeed, and if it had been so understood, could never have received the sanction of the different Conventions. It was ratified under the impression, that the President and Senate had the power of originating Treaties; but that when they involved Legislative considerations, they did not become Treaties under the authority of the United States, until they had been submitted to the Legislature.

Gentlemen had asserted, that if the construction of the friends of the resolution prevailed, it would be difficult to regulate our foreign concerns. He could not see the justice of this remark, for the Treaty power had been exercised under these modifications in Great Britain, and it had not been found defective in this particular. Indeed, it is more likely to be expected, that this would not have been brought in as an argument, as the very Treaty now in question will stand in Great Britain precisely on the footing here contended for.

He might have recourse to the pamphlet called *The Federalist*, as another authority to prove his construction. He expressed his surprise that the gentleman from Massachusetts should never have heard of these opinions and authorities. The debates of the Pennsylvania Convention, he understood, were analogous to those in Virginia.

If the President and Senate possess this unlimited Treaty-making power, what security, he asked, have we for our rights? He was not referring to the persons now in office, who might be all virtue; but he was speaking of the consequence of the principle. Though the President and Senate of the present day might never make an improper use of power, what might occur at a future day should be adverted to, for the Constitution was not intended for the present day only, but for future times. As highly as he valued the President, as much as he felt for the great services he had rendered, yet even him he would not trust with such unbounded power. Unlimited power was apt to corrupt the purest heart, and he wished to do nothing that could cast a shade over that character which had been the admiration of the intelligent world. But liberty he considered as the best gift of Heaven to man, and he did not wish to hold it by the courtesy of any man.

The amendments proposed by the Convention of Virginia were cited as proving that Virginia saw the Constitution in the light contended for. If they are attended to, he conceived they could not ascertain the fact. The amendment in question goes to providing, that no Commercial Treaty shall be concluded without the consent of two-thirds of the lower House; but surely this does not go to prove that they conceived the House had no voice in those Treaties, directly or indirectly.

If it be admitted that the President and Senate can make Treaties, which *ipso facto* become laws of the land, without any assent of the House, without their being able even to exercise their discretion in making appropriations, then the House are a mere body for form sake. The advocates of this construction had stated, as an example, the case of the Judges' salary, which the Constitution declares shall neither be increased nor diminished while they remain in office; and they contended, that the House could no more refuse appropriations to carry a Treaty into effect, than to refuse to make provision for the salaries

of those Judges. There was, he conceived, a material distinction between the two cases. In the first the House were bound by no Constitutional tie; in the latter, they lay under an express injunction of the Constitution, from which they could not depart without perjury. When there is a Constitutional injunction to appropriate, no discretion is left to the Legislature; but when even a law is to be carried into effect by an appropriation, the House may withhold it, and thus indirectly repeal the law. The Constitution not only intended to vest in the House this discretionary power of repealing a law by refusing appropriations; but it was so attached to it, that in one case, it cannot divest itself of it, but is bound to exercise it periodically; such is the case on the subject of military force; and notwithstanding the important light in which the Constitution views this power of appropriation, and the jealousy with which it is guarded; yet some members are hardy enough to insist, that it would be a violation of the Constitution to exercise this discretion. If the House should attempt to exercise this discretion, when they are under a Constitutional injunction to appropriate, they would be departing from the Constitution; but if they use it to effect the repeal of a law, they exercise a right the Constitution has given them, and of which they cannot divest themselves, and a Treaty cannot be looked upon in any other light than a law.

He recapitulated the principal features of the preceding remarks.

He then adverted to the charge of treason which had been thrown out against the friends of the resolution; and remarked, that the Constitution may be violated by other departments of Government as well as the House, and that if this was treason in one case it must be in the other. It was not for the PRESIDENT and Senate that the Constitution was formed; but for the people to preserve their liberties, and that Constitution would be infringed, if an intended check was done away by a forced construction. To give a power, not intended when the Constitution was adopted, to the PRESIDENT and Senate, was as much overturning the established order of Government, as to encroach upon their authority. The aim of every man should be to preserve the happy mean; not to suffer any department to engross more power than it should have; to preserve the symmetry of the fabric and keep the balance; for whichever way it inclined, whether too much towards democracy, or too much towards Executive energy, in either case, the epithets of revolutionary, disorganizing, &c., might be applied.

An insinuation, he remarked, had been brought into view, both uncandid and unkind. It was suggested, that the present motion was brought forward, because the Treaty is made with Great Britain. Why should members impute to others improper motives? The insinuation he considered as unwarrantable and groundless. For his own part, he was free to declare, that if the Treaty was the best that could be made; if it poured a stream of wealth into the lap of our country, if made with his most favorite nation, and it was attempted to be carried into effect by a violation of the Constitution he would oppose it. Though a departure from the Constitution at one time may bestow some fugitive advantages, yet he was firmly of opinion, that such deviations would go finally to its destruction. If a single departure from the Constitution be once permitted, the Government will subject it to constant violation.

He did not conceive, that the decision of the present question went to decide any question with respect to the Treaty. Though the present resolution be adopted, he should still feel himself at liberty to consider freely the merits of the Treaty when that comes before the House; by voting for this resolution he should not consider himself committed. He did not wish to make up his mind on the Treaty hastily; when before the House if advantageous he should give it his assent; but the present is not a Treaty question, it is only a question involving certain Constitutional powers of the Legislature. He was not prepared to give his sanction to the Treaty; but if, upon full inquiry, he found it for the interest of the country that it should be carried into effect, he certainly would vote for it; but he must confess, that if the papers proposed to be called for were not obtained, it would make upon his mind a disagreeable impression with respect to that instrument.

The Committee rose, reported progress, and obtained leave to sit again.

MARCH 16.—In Committee of the Whole on Mr. LIVINGSTON's resolution:

Mr. FREEMAN observed, that the resolution before the Committee had unexpectedly to him involved in its discussion a question of a serious and interesting nature. It was not his intention to consider, at present, the principle advocated by the gentleman from Pennsylvania, that on all Treaties embracing Legislative objects, the ultimate sanction of that House was necessary to give them effect. Many ingenious arguments had been adduced for and against the principle, and had created such doubts and difficulties in his mind, that he could not now solve them to his own satisfaction. He regretted that any zeal had been discovered in discussing a delicate Constitutional question. He did not think much zeal had a tendency to discover the truth. Men actuated by it were generally like bodies which were consumed by their own heat, without imparting much warmth or light to others.

In the course of debate, gentlemen appeared to have shaped the question to the observations they intended to make, instead of adapting their observations to the real state of the question. A gentleman from Massachusetts had stated the real question to be, whether that House should by construction and implication invade the powers vested in the other departments of Government. He did not think this a fair view of the question. He considered the real question to be, how far the Treaty-making power could be extended without infringing the specific powers delegated to Congress. He should follow the example of other gentlemen and take such a view of the subject as appeared to him sufficient on the present resolution; and the question with him was, whether the House when called upon to make Legislative provision for carrying a Treaty into effect, had a right to discuss the expediency or inexpediency of granting it. On this question, he contended, the House had as complete and absolute a discretion, as they had on other objects of legislation. If the granting an appropriation to carry a Treaty into effect would produce greater evils to the community than the withholding it, he certainly should consider the House justifiable in refusing to make the appropriation. Gentlemen have contended that the Representatives were under a moral obligation resulting from a Treaty to carry it into effect: But many circumstances are mentioned by writers on the Laws of Nations, which render Treaties a nullity of themselves; and each individual, when called upon to give or withhold his assent to an appropriation bill for carrying a Treaty into effect, was to examine and judge for himself of the extent of that obligation, and of the propriety of giving or withholding his assent. He must be governed by his own moral sense, and not by that which resides in the breast of another. The argument founded on the moral obligation did not amount to any thing. For in all cases of legislation where the most ample discretion was admitted, if the fitness of a measure could be demonstrated, the House were under a moral obligation to adopt it. It was true, he conceded, that a Treaty with a foreign Power was a serious thing, and ought not, for light causes, to be violated. The nature and obligation of the compact would be taken into view, on the question of the expediency of giving it operation; but gentlemen ought not to confound the freedom of the will, or the right of voting, according to the judgment and discretion of the agent, with the strong motives which may be offered to influence the decision either the one way or the other. To say that a man was under a moral obligation to do a thing without examining the subject, and ascertaining the moral obligation by his own moral sense, was absurd. He conceived that even where existing laws ascertained the compensation for certain officers, still circumstances might arise to justify the Legislature in suspending the necessary appropriation for the payment. The whole resources of the public might be absorbed in time of war in providing the means of national defence. It might become indispensably necessary to delay the payment of the salaries due even to the PRESIDENT and Judicial officers, whose compensation by the Constitution is not to be increased or diminished during their continuance in office. But cases of this kind stood upon stronger ground than compensations to other officers, and appropriations for carrying laws or Treaties into effect; neither did he agree with the gentleman from South Carolina, that the PRESIDENT OF THE UNITED STATES had the same right to refuse to fill an office created by a law or the Judges of the Supreme Court to refuse to decide causes, that the House had to withhold their assent to an appropriation to carry a Treaty into effect. The only discretion in the first instance was not to determine whether he should obey the law, but to select a proper character; in the second, not to determine whether they should decide causes, but the manner in which they should be decided. And if either of the officers abovementioned were to refuse to obey the laws, they were impeachable; but that House was amenable to no tribunal on earth for refusing an appropriation whenever they thought proper to do so.

The gentleman from Massachusetts had said that he was advocating an unpopular doctrine. Mr. F. did not know why he should think so. The gentleman undoubtedly supposes that he has reasoned justly. If so, why should he conclude that a majority of the people will not reason as correctly as he had, and entertain the same sentiments. Mr. F. believed that a majority of the people generally reasoned justly upon political objects. But in debate he did not like allusions of that kind.

A gentleman from New York had said, that revenue officers might follow the example of that House and say, that their will was necessary, and refuse to execute a law until it had their approbation. But did it follow from the doctrine that the concurrence of the House of Representatives was necessary in passing a law, that the concurrence of revenue officers was also necessary? The same gentleman farther observed, that the people might say their consent was necessary to sanction a law. In the latter case the gentleman stood on better ground. The consent of the people was necessary, and by their Constitution the Legislature are the organ to express the public will. Imperious necessity might induce the people to demand a new organization of the Government, but he presumed the enlightened people of America would never seek an alteration in the form of their Government, in any other than the Constitutional mode, until all hopes of success in that way should fail.

The gentleman from Massachusetts has said, that the House had no right to call for the papers in question, because they were the joint property of Great Britain and the United States. They may contain secrets which could not be divulged without a breach of faith. In support of the doctrine, the gentleman alluded to some principles in *Paley's* Moral Philosophy and *Vattel's* Law of Nations. Mr. F. denied the application of the principle to the case before the Committee. Where two nations were in alliance and carrying on joint operations against a common enemy, there might be secrets which neither party could divulge without a breach of faith. But the United States are not in alliance with Great Britain. They are concerned in no operations against a common enemy. What secrets could possibly exist between them? Were the PRESIDENT and Senate the depository of the secrets of the British Court? He did not conceive that they were upon so intimate a footing. Indeed he should conceive it to be the vilest calumny were any man to suggest that any other connexion subsisted between them than what was publicly known. A Treaty of Amity, Commerce, and Navigation, was a mere bargain; and

the negotiators would represent the situation of their respective countries in the most favorable point of view. Would Mr. Grenville betray the secrets of his Government? Would he represent it to be exhausted with public debt, and crumbling to pieces, or exhibit its situation in the most splendid colors? On the other hand would Mr. Jay communicate any thing to the British Minister respecting the situation of this country, which it would be improper to be laid before the House of Representatives? Surely not.

A gentleman from New York made some further observations which he should notice. He said common sense revolted at the construction put upon the Constitution, which he said had been well understood from the school-boy to the Senator. Mr. F. did not know how well the gentleman understood it, but for his own part he had his doubts. The Judges of the Supreme Court and other gentlemen of abilities had held different opinions on several parts of the Constitution. Was it wonderful then that members in that House should entertain different sentiments with respect to the extent of the Treaty-making power? The same gentleman said it was no matter whether the Treaty was good or bad; it was all stuff. That many people were determined not to like it, before it was promulgated. Mr. F. observed, that he should be extremely unhappy that the people should suppose that their Representatives assembled to support a side, not to investigate truth; that they voted one way or the other, just as party spirit or prejudice led them. Though he believed that gentleman had made up his mind on the subject, his mind, and he believed the minds of many others, were open to receive such impressions as the arguments which might yet be adduced ought to produce.

The same gentleman had said that some persons were opposed to the Treaty, because it compelled them to pay their debts. Every one one knew that the remark was pointed to a particular State. But he would ask what clause in the Treaty placed an individual debtor of the United States in a worse situation, as to the payment of his debts, than he was before? He could discover none. He could not, he said, place his eye upon a single member in that House, and say, that he believed he wished to subvert the Government, or to destroy the peace and happiness of the United States. The same member had said, that the gentleman from Virginia ought to be bold, and that he might expect to be called jacobin, revolutionist, disorganizer, &c., as removers of ancient landmarks were always ill-spoken of. Mr. F. held it to be criminal, not only to remove ancient landmarks, but to suffer them to moulder away through inattention. The present question was not intended to remove landmarks, but to ascertain and establish them; not to invade the powers of any department of the Government, but to ascertain the true boundaries, and the appropriate powers of each. The gentleman had said he should vote in the negative, because he had sworn to support the Constitution. Mr. F. said, that he should contend for the right of the House, not only because he had sworn to support the Constitution, but from a more generous principle, because he was attached to it. He could not give an impressive effect to his observations, by appealing to the blood which he had shed, or to a frame mutilated in acquiring the independence of his country; but if occasion required, he was willing to mutilate the one, and to shed the other in its defence; but the man who means in these times honestly to discharge his duty, must prepare for a severe destiny; to have his reputation assailed by unfounded calumnies; to be branded with epithets which he does not deserve; to have sentiments ascribed to him which he never felt; to be charged with base, dark, malignant designs against the Government, which the human heart is hardly capable of conceiving.

With respect to the resolution before the House, when it was first laid on the table he viewed it with regret; but as the discussion had involved a different question, if the amendment, formerly moved by a gentleman from Virginia, should be renewed and obtain, he should vote for the resolution.

Gentlemen asked what benefit would result from adopting the resolution? In the first place, it would be conciliatory. Many members wished to see the papers, and he was willing they should be gratified. In the second, they might explain any doubtful parts of the Treaty. If the present resolution was considered by him an encroachment upon the Executive, he certainly should be against it. On what principle was it that the Representatives were placed at such an immense distance from the Executive, that they could not approach him with decency and respect to ask for information on a subject before them?

It had been observed that the papers might be seen in the office of the Secretary of the Senate. Why, then, should those members who wished to see them be compelled to go into the office of the Secretary of the Senate, and depend upon the courtesy of the Clerk for information which might as well be obtained in a more direct channel? Was it improper to have that information before the House, which might be obtained in a more indirect manner?

The negotiator has publicly quoted a part of the correspondence, and, perhaps, if the whole could be seen by the House, they would be convinced of the general friendly disposition of Great Britain towards this country.

Mr. F. did not conceive himself committed, as he claimed the right of changing his opinions as often as good reasons therefor presented themselves to his mind.

[The observations made by Mr. Findley were not distinctly heard on account of a high wind. He has, therefore, to prevent being misstated, favored us with the following extract of such of his notes as he spoke from. The incidental replies which fell from him in answer to observations made in the course of the debate, and the desultory enlargements which he went into in speaking from the principles he had digested previous to his taking the floor, are not included in the following sketch.]

Mr. Findley.—It seems to be agreed by both

parties, that the express words of the Constitution will not support either position without a liberty of construction. The difference of opinion is now confined to what construction is most agreeable to the general principles of the Constitution.

That the construction which gives the fullest scope to all the powers vested in the different departments of the Government, and which, by combining their operation, is the best calculated for the preservation of the Government itself, offers fairest to be the true one, cannot reasonably be doubted.

The Legislative powers, to regulate commerce with foreign nations, to levy taxes, appropriate money, &c., are specifically vested in Congress, and as deposited in the Legislature, are secured by numerous negative checks, declaring what things Congress shall not do, and guards regulating the manner in which it shall exercise its powers on the proper subjects.

The Treaty-making power is not vested in Congress; the negotiating part of making Treaties is partly of an Executive nature, and can be most conveniently exercised by that department, and is, therefore, vested in the President and Senate. The President shall have power to make Treaties, two-thirds of the Senate agreeing therewith.

Even the power of negotiating, which includes the timing of Treaties, the appointment of Envoys, and instructing them, and approving of Treaties, so far as to present them for ratification, are powers of great importance, and may put the Government in such circumstances as to render it expedient to ratify a Treaty, which, if it had not been agreed to by the negotiating agents, it would have rejected—are powers of great importance of themselves; but it is acknowledged that more than this is vested by the Constitution in the Treaty-making powers.

The power of making Treaties is admitted to be so extensive as to embrace all subjects arising under the Law of Nations, for securing amity and friendship betwixt nations, and for the mutual protection of the citizens in their correspondence with each other. Authority for this purpose is not vested in Congress among the enumerated powers, but expressly given to the President and Senate; therefore, Treaties, to this extent, ratified under their authority, are the laws of the land, according to the Constitution.

The powers specifically vested in Congress are so explicitly checked and guarded, as to form an unequivocal limitation to the Treaty-making power, when it extends to powers specifically vested in the Legislature, consisting of the Senate and House of Representatives, with the approbation of the President.

The Legislature cannot transfer its essential powers, nor evade them; the exercise of its privileges it may dispense with, but if it may dispense with or transfer any one Legislative power, it may, on the same principle, dispense with or transfer every power with which it is vested, and for the exercise of which the Legislature only are responsible.

The Executive cannot assume or exercise any power expressly vested in the Legislature. If the Executive may, by an extension of the Treaty-making power, regulate commerce, make laws to raise and appropriate money, &c., or, which is the same thing, command laws to be made for carrying Treaties, which interfere with the Legislative powers, into effect; or if, as is contended, the Legislature has no moral power of discretion, no power to refuse to make laws to carry Treaties into effect, or even to form an opinion on the goodness or badness of Treaties, when they relate to powers explicitly intrusted to its deliberation:—on the same principle all Legislative discretion may be exercised by the Treaty-making power without regard to the Constitutional guards provided to prevent the abuses of those powers. For there is no Legislative power vested in Congress but what may be either directly or indirectly exercised by the Treaty-making power.

If the Treaty-making power is admitted to the extent pleaded for, and the specific powers vested in Congress are admitted in the extent in which they are unequivocally expressed, we are reduced to a dilemma, and the Constitution is necessarily admitted to have instituted two interfering Legislative authorities, acting in direct competition with each other on the same subjects, and both making supreme laws of the land; which though they may be nominally distinct, have the same effect on the citizens, with this difference only, that we may be relieved from the oppression of laws by a repeal of them, but cannot be relieved from the hardships resulting from a Treaty, without the consent of another nation.

In advocating the resolution before the Committee, we admit a reasonable latitude to both the Legislative and Treaty-making powers. Where the Treaty-making power extends itself to express Legislative objects, and where Legislative aid is absolutely necessary to carry the Treaty into effect, we contend that the Legislature, in making such laws, exercise that moral power that is necessary for legislating in all other cases, and are not reduced to the situation of an executive officer, or mere treasurers of the United States. In this case, we say, that the powers are not intended to make war with each other; that the departments ought to concur in the exercise of them. This method preserves the exercise of both powers in their proper places; the other destroys the Legislative authority which is, by the Constitution, the most explicitly vested, and precisely guarded.

The 18th Legislative power vested in Congress, which has been generally called the sweeping clause, has been often objected to as, in a great measure, defeating the checks on the specified powers vested in Congress, and as endangering the powers reserved to the States, and enabling Congress to enact laws of a questionable nature. To these purposes it might have been improperly applied.

As a shield, however, against Executive encroachments, it has always been acknowledged as proper and necessary. It not only vests Con-

gress with authority to carry the foregoing seventeen powers into effect, but all other powers vested in any department or officer of the Government. The President and Senate, in the exercise of the Treaty-making power, are a department of the Government, and, as such, subjected to the Legislative power of Congress, of which they are a part.

This clause would go far to prove the right of Congress to exercise a formal negative over Treaties of every description, before they become the law of the land; and this was what the minority of the Convention of Pennsylvania plead for as an amendment to the Constitution. I did not then believe it was secured in the Constitution, nor do I contend for it now.

That the concurrence plead for is not impracticable, as has been alleged, is evident from the practice of all other limited and free Governments. It is an established principle, by writers on the Law of Nations, and is agreeable to reason, that Treaties are to be made in every nation by those who exercise the supreme sovereign authority, and this is agreeable to the practice of all nations.

In despotic Governments, the Monarch who makes the Treaty exercises both the Legislative and Executive authority; therefore, Treaties made by him are, of course, the law of the land. In Britain, Holland, &c., where the sovereign power is vested in different departments, the consent of all the departments to a Treaty, which embraces the powers vested in those departments, is uniformly necessary to make those Treaties the law of the land.

That there are inconveniences attending this concurrence in making Treaties, is admitted. There are inconveniences attending the operation of all the checks peculiar to a limited Government; but they have not been found detrimental in practice. Britain and Holland have arisen to as much grandeur, in proportion to their means, and have been as successful in making Treaties, as any nations under the sun; yet Treaties, at least on Legislative subjects, in Holland, must have the approbation of the different provinces, and in Britain, of the Parliament, before they are the law of the land. That the Treaty with Britain now before this House was laid before the British Parliament for its approbation, was announced by the latest accounts from that country.

The construction which gives a latitude to all the powers vested by the Constitution, is most agreeable to the division of powers, essential to free Governments, and best suited to the preservation of the Government itself. A concurrence of powers where they interfere in their exercise, is a salutary guard against abuses; but if, where the interference happens, one of the powers must yield absolute and implicit obedience to the other, without limitation, as is contended, the submitting power must, in the event, be annihilated by the paramount power, or become a mere formal and inefficient agent.

In opposition to the resolution, it is asserted, that this doctrine is new. To me, the opposite opinion is novel and surprising. The minority of the ratifying Convention of Pennsylvania has been adduced to prove, that this was not believed to be the meaning of the Constitution at that time.

Only the arguments in favor of the Constitution made in that body were preserved; but, being a member of it, and in the minority, I have a good recollection of the sentiments expressed in it.

The advocates of the Constitution, one of whom was a celebrated politician, and had an eminent hand in framing the Constitution itself, maintained that an effective, though indirect check on the Treaty-making power, would naturally grow out of the exercise of the Legislative authority; that this would be a complete check on the exercise of the Treaty-making power, so far as respected the authority of Congress. This was admitted by the minority, but they objected to the effects which Treaties might have on the State Governments; and that, in some cases, the Constitution itself might be infringed by it. The State Governments have since been secured by an amendment to the Constitution. I did not, however, expect the sentiments of a minority, acting under peculiar circumstances of irritation, and consisting of but about one-fifth of the members, to be quoted as a good authority for the true sense of the Constitution on this occasion.

There is a discernible difference between the mode of expression in the article by which the Treaty-making power is vested in the Executive, and in the article where it is declared to be the supreme law of the land; in the first, it is said generally, that the President and Senate shall make Treaties, without defining the extent of the objects to which they shall extend, nor of their obligation; this, of itself, may be reasonably construed to extend to such objects as were not previously vested in Congress. Thus, a man, in making his will, bequeaths expressly such portions of his estate as he thinks proper to his children in common; and, by a subsequent clause, bequeaths his estate, in general words, to his eldest son. By a reasonable construction, this does not entitle the eldest son to the whole estate, but to such parts of it as were not otherwise disposed of.

In the article where Treaties are declared to be the supreme law of the land, they are joined with the Constitution, the laws, and the then existing Treaties, and in connexion with them, declared to be superior to the Constitutions and laws of the States; but in this clause it is not said they are so simply, as made by the President and Senate, but as made under the authority of the United States. The different manner of expression in the two places could not have been introduced without design; it was as easy to have said by the President and Senate, as under the authority of the United States, if the latter had not been intended to mean, in some cases, a more extensive concurrence of authority than the former.

It is no more extraordinary to say, that the President and Senate make Treaties, while it is understood that, where these Treaties embrace Legislative cases, they ought, for carrying them into effect, to be submitted to the discretion of Con-

gress, consisting of the Senate, the House of Representatives, and the President, than it is to say, as in the first section of the Constitution, that the powers of making all laws shall be vested in a Congress, consisting of a Senate and House of Representatives, while a reserve is understood in favor of the approbation of the President, without which no act of Congress can be the law of the land, even though sanctioned with the unanimous consent of both Houses of Congress.

The small States can receive no injury from the discretion of the Legislature being exercised in making laws to carry Treaties into effect; as exercised by the Legislature, there is ample security that no preference shall be given to the ports, or, by analogy, to the exports of any State, large or small; and it is evident that the Treaty-making power, not being bound by the Constitutional guards, may suppress or burden the exports of any number of States. The first instance given operates against the exports of small States; witness the restrictions on the exportation of the cotton of South Carolina and Georgia, by the Treaty as negotiated.

If the papers called for contain information concerning the state of the Union, there can be no doubt but we have a right to call for them; on this the question can only be about the expediency, and not the right, of calling on the President for them. It is not because the Treaty was made with Britain, or is thought a bad one, that I insist on the right of Legislative discretion; I would insist on the same right, let the Treaty be good or bad, or if it had been made with any other European Power.

Mr. Smith, of New Hampshire, said, he had not intended to have delivered his sentiments on the question before the Committee, but as he did not fully agree in opinion with any gentleman who had spoken, it became necessary for him to express the grounds of his opinion. This he would do as briefly as possible.

The question was, shall we call on the President for his instructions given to the Minister who negotiated the Treaty lately made with Great Britain; the correspondence and other documents which relate to the formation of that instrument? He agreed in opinion with those gentlemen who saw nothing unconstitutional in calling for papers containing information upon subjects on which the House were called upon to decide. It was certainly within the powers of the House. He conceived they not only possessed the right, but that it was their duty to call for all papers and documents which could enlighten their minds or inform their judgments on all subjects within their sphere of agency. He had always been in favor of such calls. A Treaty made with Great Britain had lately been communicated to the House. It had been said, that this instrument was unconstitutional. If it were so, he admitted that it was not binding on the nation, and that the House were not bound to give their aid to fulfil it. There were other cases in which he should feel himself at liberty to refuse to provide the means for carrying a Treaty into effect. These might be denominated extreme cases—cases of an abuse of power, such as that of palpably or manifestly betraying and sacrificing the private interests of the State. Such Treaties, he conceived, had no binding influence on the nation, and this upon natural principles. But it would not be contended, that the papers in question were necessary to enable the House to decide on these questions. He conceived they were not.

If the House of Representatives have any agency in the business of making Treaties; if their sanction is necessary before the instrument acquires any binding influence on the nation; if it be not valid without such sanction, he conceived there was the same reason that all the papers which relate to the formation of the Treaty should be laid before that House, as there was that these papers should have been laid before the Senate. This had been asserted. If he believed in this doctrine, he should feel himself bound to vote for the call; but he denied that this was the case; and he said that in the course of his observations he should endeavor to prove that no such doctrine was to be found in the Constitution. As this question involved the Constitutional powers of the House, he viewed it as important; it was a delicate question. We were called upon to decide as to our own powers. For these reasons he thought that the discussion should be conducted with moderation, coolness, and candor; that such a temper was most favorable to truth. However gentlemen might differ, he observed, on other subjects, in this we are all agreed, that, in forming our judgments on all such questions, the Constitution must be our sole guide. It was this instrument, he said, which defines the powers given to the General Government, and which distributes these powers among the several departments. If the Constitution had not assigned to each its peculiar portion of power, these departments, like the original elements, would be engaged in a perpetual war for power. All would be confusion, disorder, and anarchy. He proposed, in the first place, to give what he conceived to be the true exposition of the Constitution, on the subject of Treaties in general. He should then, he said, state as correctly as possible the exposition or construction of the Constitution contended for by the gentleman opposed to him. He lamented that he could not do this with greater accuracy. The gentlemen had not agreed among themselves. He could only state what seemed to be the general current of opinion. The construction which he advocated was, that, by the Constitution of the United States, the power of making Treaties is exclusively vested in the President and two-thirds of the Senate. That this power extends to all kinds of Treaties—of Peace, of Alliance, of Amity, of Commerce and Navigation, and embraces all those subjects, and comprehends all those objects, which can with propriety be the subject of convention or compact between nations; that is, every thing in which they have a mutual or common interest. That a compact so made which does not change the Constitution, and which does not palpably and manifestly betray or sacrifice the private in-

terests of the State, (which is invalid on natural principles) is binding on the nation without any sanction on the part of the House of Representatives. That such a Treaty is by the Constitution paramount to the Constitution and laws of the several States; that the Judges in the several States are bound to obey it. That it is by the reason and nature of the thing paramount to a law of the United States, and abrogates and annuls all pre-existing laws contrary to it, and, as long as it remains in force, limits and restricts the power of the Legislature of the United States to pass any laws in contravention of it. That, when such a Treaty requires money to be provided, or other Legislative acts to be performed, it is the duty of the Legislature to provide and appropriate the money in the same manner as it is their duty to provide and appropriate money for the payment of our debts. That the nation must judge whether it be constitutionally formed or not; whether the stipulations contained in it be such as in good faith they are bound to execute, and whether any circumstances have happened which would justify a non-observance of it. That on these subjects they must exercise a sound discretion. That neither the nation, nor any departments of the Government, are at liberty to reject a Treaty merely because it is a hard bargain.

The doctrine on the other side is—

That the power to make Treaties is limited to such objects as are not comprehended and included in the specified powers given to Congress by the Constitution; or, that a Treaty which comprehends or embraces any such object is not valid; that is, not the supreme law of the land, until the House of Representatives have added their sanction to it; or, if this be not admitted, that the House of Representatives, by the theory of our Constitution, have check on the Treaty-making power, in providing and appropriating money necessary to carry a Treaty into effect; which power, it is admitted on all hands, they possess; and thus in this way control the doings of the President and Senate, and can reject a Treaty, or at least certain parts of it. That they can and ought to do this if they believe the Treaty to be a bad one, though not injurious in an extreme, such as manifestly betraying or sacrificing the private interest of the State, (which by the Law of Nations nullifies such a compact,) and which on all hands would readily be admitted as a sufficient cause for refusing to carry it into execution.

He said he had thought it proper to present to the Committee this general view of the subject, to guard against all misconception, that the real difference of opinion entertained on this part of the Constitution might be discerned, and that his subsequent remarks might be the better understood. He should now, he said, inquire what were the objects embraced by the Treaty power; how far this power might be extended? The Constitution declares that all the Legislative power therein granted shall be vested in Congress, and that the Executive power shall be vested in the President. He said it was difficult, perhaps impossible, with perfect accuracy, to draw the line between Legislative and Executive powers. Some of these powers were of such a nature that it was easy to pronounce concerning them; but there were cases in which there was much room for doubt; there was a sort of middle ground, where in practice the power over the same subject was sometimes exercised by the one and sometimes by the other. According to the theory of most Governments, the Treaty-making power is, for obvious reasons, given to the Executive; yet he conceived that this power was, in its nature, more analogous to Legislative than to Executive power. Had the Constitution been silent as to the organ which should exercise this power there might have been plausible arguments in favor of giving it to the Legislature. But the Constitution had not been silent; it was extremely clear that the Treaty-making power, to whatever objects it may extend, is vested in the President, with this limitation, that the consent of two-thirds of the Senate is necessary to give validity to the act. It is also clear, that, according to our Constitution, (however the thing may be in theory,) the Treaty power is not Legislative, for all the Legislative power is given to Congress, while this is given to the President and Senate. It seems scarce necessary to add, that these powers are exclusively given, for Congress can no more make Treaties than the President and two-thirds of the Senate can make laws. Do the Legislative powers vested in Congress interfere with the power of making Treaties vested in the President and Senate; and if they do, which shall yield to the other?

When it is said that Congress shall have the power to do certain things, for example, to regulate commerce with foreign nations, it means no more than this, that Congress shall have all Legislative power over this subject, not that the entire power over foreign commerce is given to Congress. Laws, from the nature of the thing, cannot fully accomplish this; they can have no binding force within a foreign jurisdiction. If it be said, that under the general power to make Treaties is not included the power of regulating foreign commerce by Treaty, then there is no power vested in the General Government completely to regulate foreign commerce. Shall it be said, that the Treaty power shall be restricted to the making of such regulations as laws cannot reach, and such only? This is absurd; it would annihilate the Treaty power. For what nation would treat with us, and by compact agree to give our citizens privileges, when our contracting organ had no power to promise any thing on our behalf? From the nature of the thing it must be evident, that the Treaty power must extend to objects which may, under other circumstances, be the foundation of Legislative acts. Treaties do what laws cannot do; but in order to do this, they must extend to some things which laws can regulate, with reference to ourselves. They must, in some small degree, restrict the exercise of Legislative power. Treaties, if made by Congress, would have the same effect precisely. If they are not repealable, all succeeding Legislatures are re-

strained in the exercise of the power of legislation, by the stipulations which may be in the Treaty It is not correct to say, that the Treaty power does not extend to the objects enumerated in the 8th section of the first article of the Constitution. It does to most, if not all of them; the hypothesis therefore is inadmissible, that the objects over which Congress have Legislative power are expected out of the Treaty power; though it is strictly true, that the President and Senate cannot legislate on these objects in the sense in which that term is used in our Constitution.

By way of objection, it is said, that the Treaty-making power is indefinite and unlimited, and therefore the specific powers given to Congress should be considered as exceptions to it, or limitations to the exercise of it. The answer is, that it is ridiculous to talk of excepting Legislative power from Treaty power, for they are different in their nature, in their means, and in their subjects. Legislative power can always act on all subjects proper for its exercise. But it is not strictly true that the Treaty power is indefinite and unlimited. The word Treaty is a technical word, and as certain and definite in its meaning as any word in the language.

The Treaty power is in its nature limited. The President and Senate cannot, as has been already stated, alter the Constitution or change it. Many of the cases mentioned by gentlemen, of the exercise of this power, fall under this exception. There is a natural exception to this power which respects the abuses of it, and which comprehends many of the instances alluded to by gentlemen. In all those cases, though a Treaty may have the form of a compact, yet it possesses no binding influence, and the nation must from the necessity of the case judge whether the compact be really binding, for there is no common tribunal to which both parties can resort. It has been argued against this latitude given to the Treaty power, and which is no more than the words really import, that a power so broad and extensive may be abused. It may be so, and is not this equally true of all delegated authority? By the same mode of reasoning we might narrow the powers of Congress, for they may also be abused; many of these latter powers are equally indefinite and unlimited, and equally liable to abuse. Mr. S. instanced the power to raise taxes, borrow money, declare war, &c.

It has been further urged, that this construction goes to annihilate the Legislative power altogether, and to render the House of Representatives an useless body. He denied the fact to be so. On the fullest legitimate exercise of the Treaty power there would be much ground for legislation, even on those subjects where the Treaty power was most necessary and would probably be the most employed. He instanced, the making regulations respecting foreign commerce.

As to many of the objects specified in the section containing an enumeration of the powers of Congress, the perfect power of legislation remained. He mentioned the case of a Treaty of Peace. This did not prevent Congress, when there was any sufficient cause, from declaring war, and they ought not to declare war without such cause. A Treaty may stipulate for the payment of a sum of money; the power and right of appropriation of this money is no more destroyed or lessened than in the case of any other contract made by the Government for the payment of money. Congress may by Treaty be restricted as to some objects of taxation, but as to many they cannot; and no money can be raised without a law for that purpose; it cannot be raised by Treaty.

Mr. S. then proceeded to inquire who, by the Constitution, are vested with the power of making Treaties; or, in other words, whose sanction or concurrence must they receive before they acquire any binding influence over the nation?

He said, he would not enter into the theory of the subject; this was a wide field. Gentlemen might amuse us, but it would afford very little instruction. We were not making a Constitution, but construing one already made. No words, in his opinion, could be clearer than those used in the Constitution, all construction seemed precluded. The President, by and with the advice and consent of the Senate, shall make Treaties, and Treaties when made shall be the law of the land. Not a syllable is said about the House of Representatives. If it had been the intention of the framers of that instrument, to give the House of Representatives any agency in this business, is it not reasonable to presume that intention would have been clearly expressed? Mr. S. then adverted to the argument of a gentleman from Pennsylvania [Mr. Gallatin] who had discovered this power of the House to interfere in the expressions used in that clause, which declares the effect of Treaties; that Treaties made "under the authority of the United States" shall be the supreme law of the land; and endeavored to show that this did not prove the doctrine.

But it has been said, with some show of plausibility, that the House of Representives possess this power, because it is of a Legislative nature. But it has been shown that in the sense in which the Constitution uses the words, Legislative power, Treaty power is not Legislative. It is true it bears some resemblance to Legislative power; but is this a sufficient reason for introducing the House of Representatives into the exercise of it? Mr. S. said, if the House possessed the power contended for, there must be some way in which this power was to be exercised. He inquired, what that mode was?

He could conceive of but three modes. By a vote on the Treaty generally; by passing a law declaring it valid, or by means of passing appropriation laws.

It could not be by the first of these modes, for the House could only act on those subjects where power was given to Congress; for they could act only as a constituent part of that body, and in the way pointed out, to wit, a majority of each House possessing a negative on the other, and a qualified negative in the Executive. In this case the powers as well as the mode would be different. The President proposed the act, the consent of two-thirds of the Senate was necessary. Was the House to act

by a majority or two-thirds? If the sanction of the House is to be given by a law, this absurdity seems to be involved in it, that a law is necessary to give that the force and validity of a law, which the Constitution declares already possesses it. Beside, this law is either repealable or not. If it be said that it is repealable, then it must follow, that, as its existence was necessary to give validity to a compact, its repeal must destroy it, and thus one of the parties can repeal a bargain. If irrepealable, the consequences stated before, of its narrowing Legislative ground, exists in full force as to all future Legislatures.

Mr. S. wished to inquire of the gentlemen who advocated the doctrine, that the sanction of the House was necessary to give validity to the compact, what was the state or condition of the instrument before that sanction was given? The Constitution declares that it shall, when made, bind the Judges in the several States, and the law and usages of nations consider it as made at the time of signing, and complete at the moment of the exchange of ratifications. Is Great Britain at this moment bound by the late Treaty? Will Great Britain be excused from delivering up the posts till they hear that this sanction is given? Suppose they should deliver them up, and then the House should refuse their sanction?

Respecting appropriation laws, at present he would only say, that these laws were always founded on the idea of a pre-existent law or compact already made and valid, and barely made provision for the fulfilling them. It was ridiculous to say, that providing the means of paying a debt or fulfilling a contract, created the debt or gave any validity to the contract which it did not possess before.

He then proceeded to inquire what were the effects of a Treaty when made? From the nature of the thing it must be evident that both parties were bound by it. He contended also, that it must be good for the whole or for nothing. He adverted to what fell from a gentleman from Virginia [Mr. Page] that the amity part was good and the rest void. He asked how it was with that part which respected navigation? He believed the gentleman would find it difficult to separate the parts from each other. It is not pretended but that a Treaty of Peace is within the Treaty power, and not within the specified powers given to Congress; yet it is difficult to conceive of such a Treaty, which shall not contain settlement of boundary, &c., these things may be the consideration on which the peace is granted by one of the parties; shall the consideration be void, and yet the peace good? That article which one of the parties chooses to consider as void, may have been the only reason, at least among the reasons which induced the making of the other articles, which are to be considered as good. This was strange doctrine. Mr. S. also contended, that a Treaty must abrogate all pre-existent laws contrary to it from the nature of the thing. He did not derive any argument from the words of the Constitution, that Treaties should be the supreme law of the land; but he insisted as the Constitution had given them the force of laws, they must have this among other effects, that of repealing former ones, every later law repealed all former ones inconsistent with it. He saw no difficulty in this. The nation by one organ make a law, by another organ they repeal it. Treaties, he insisted, had this effect before the adoption of the present Constitution. He referred to the correspondence between the Secretary of State and the British Minister in proof of this.

Mr. S. said, he would trouble the Committee with one further inquiry only, and that was as to the nature of the check or control which this House have over the Treaty-making power in passing appropriation laws or by any other means. He agreed in opinion with the gentleman from Virginia [Mr. Giles] that the Constitution was full of checks and balances, and therefore he thought we ought not to travel out of it for checks. That we could not add any not to be found in the instrument itself. In this way we might, and he was afraid would, give a check to the wheels of Government, which would make them stand still. He would not say that gentlemen intended this, but he was persuaded this was the effect their measures were calculated to produce. Over Treaties which required no Legislative act to carry them into execution, the House certainly had no control, if the Treaties were of such a nature as to be binding in good faith on the nation. The Legislature had indeed the power to violate them; they could declare war immediately after a Treaty of Peace was concluded. If a Treaty require any Legislative aid, such as money to carry it into execution, to fulfil any stipulation contained in it, the House of Representatives could refuse to give this aid, and the Treaty would be broke by the denial. He admitted there were cases where they could with propriety refuse to fulfil. The cases had been mentioned—unconstitutional Treaties, or abuses of power in any of the extreme cases, were instances of the kind to which he alluded. He would add another case, where the Treaty in the opinion of the nation is broken by the other party, or a disposition to break it is so manifest as not to be mistaken. In every such case the House must judge whether the Treaty be valid or not. The question will not be whether it is a good bargain or not, but whether it is a bargain honestly and fairly entered into. The Treaty, he believed, received all the validity or force it was susceptible of before the House of Representatives could act upon it. Our carrying it into execution added nothing to its validity; our refusing did not weaken the obligation, or destroy the compact, any more than the refusing to pay a debt we justly owe destroys the contract by which the debt has a legal existence. On the question whether the compact was of such a nature as to be binding on the nation, he had no doubt but the House had the fullest and most perfect discretion; instead of saying that we ought to act without discretion, he was of opinion that we had no right to act without it.

The power which he supposed existed in the House, existed in every other department of the Government; it is incorrect to say, that the House

of Representatives exclusively possess it. Because a Treaty may really be a hard bargain this no more justifies the non-observance of it than an individual can be justified in refusing to fulfil a legal contract more favorable to the other party than to himself. He hoped gentlemen would not take the advice given them, to throw away their discretion. He was of opinion they would stand in need of all they had, and advised them to keep it, and exercise it on all proper subjects. A gentleman from Virginia had insisted on it that he would not part with his moral sense. If some of the opinions which that gentleman had just delivered might be considered as a specimen of his morality, he must say, he liked that gentleman's sense much better than his moral sense.

Mr. S. concluded with observing, that he had taken that view of the subject which appeared to him to be the most proper. The arguments he had used, and the construction he had given to the Constitution, however other gentlemen might view the subject, were such as were perfectly satisfactory to his own mind.

Mr. William Lyman began with remarking, that the gentlemen opposed to the resolution had at first contended, that the House had not a Constitutional right to require papers of the Executive, relative to any subject whatever; and that if a requisition was made, it would be discretionary with the Executive, whether it should be complied with or not.

To this he replied, that the House possessed the power of impeachment solely, and that this authority certainly implied the right to inspect every paper and transaction in any department, otherwise the power of impeachment could never be exercised with any effect. But not to rely solely on this, he recollected one case, he said, perfectly in point, which was in the correspondence of the former Secretary of State [Mr. Jefferson] with the British Minister, communicated to the House. From dates and references, there appeared in that correspondence a chasm. The House, therefore, passed a resolution requesting the Executive to lay before them what had been omitted; and further, the resolution in that case was offered by the gentleman from South Carolina. [Mr. Smith,] who was now so vehemently opposed to the present. The right of calling for papers was sanctioned, he said, by the uniform and undeniable practice of the House ever since the organization of the Government; they had called for papers and information whenever it was judged expedient; and he asserted, that the House had the fullest right to the possession of any papers in the Executive department; they were constituted the especial guardians of the people for that purpose; and he would undertake to say, that this was the first time it had ever been controverted.

However, he should not longer dwell upon this point, as it had been abandoned, nor would he charge the gentlemen with inconsistency in so doing; he thought they acted very judiciously in giving up a position so untenable.

As the authority of the House was therefore admitted, the only question was, whether it should now be exercised; and this, he said, brought into consideration their Constitutional powers with those of the other branches of the Government, and what limits had been marked to each; to what objects the Legislative powers extended, and within what bounds the power of making Treaties was restrained, and in what manner they were controlled by the Legislative power.

The House would therefore contemplate themselves as sitting and acting in a judicial capacity, to determine the extent of their powers; and as, on the one hand, he trusted that no motives of an overweening partiality to themselves would in any degree influence, to give too great a scope; so, on the other, he hoped they would possess the firmness not to surrender any of those which had been delegated to them. He said, he considered appeals to fears and panics, as made for the want of solid argument; and that all addresses to the passions implied a real fear to apply to the understanding. His passions, he said, he believed, would never be so operated upon, as to overwhelm his judgment, and that all attempts of that sort would be without the least effect. Those attempts to alarm, he thought, might very well be abandoned, as wholly irrelevant; and that then the discussion would be, as it ought, the investigation of truth. If, upon a candid and temperate inquiry, the result should be, that the House had a Constitutional authority to judge of the expediency or inexpediency of carrying the Treaty into effect, it must be obvious to every one, that they ought to have the possession of the papers required in the resolution. This must be admitted even by the gentlemen opposed to it; and he did not see, in that case, how they could withhold their vote.

In order to ascertain the powers of the House, he would advert to the Constitution. In the first article and first section, it was declared, "that all Legislative powers therein granted, were vested in a Congress, to consist of a Senate and House of Representatives;" and in the eighth section of the same article, the powers granted were defined and specified, such as to lay and collect taxes, borrow money, regulate commerce, and to exercise other important powers enumerated in the several clauses of that important section. He said it was unnecessary to read them, as they had been so frequently referred to in the course of the debate; but he would request gentlemen to pause and reflect whether it could be supposed that this section was not to be efficacious and operative; was it possibly conceivable that a section so definite and so important had been introduced in the Constitution merely for the purpose of being nullified and rendered nugatory by a subsequent article or section? The very supposition, he said, appeared to him the height of absurdity, and an affront to common sense; and yet this would be the case, if the doctrines advanced were true, viz: that Treaties, when made and ratified by the President and Senate, were supereme law, and that they controlled and repealed all laws that stood in their way. Congress could neither regulate commerce, borrow money, prescribe rules of naturalization, nor legislate on any other subject, because the Presi-

dent and Senate, by Treaty, would abrogate them all. It was in vain to consult the House of Representatives in the formation of laws, if they thus were liable to be annulled at the pleasure of the President and Senate. The present question, he said, was not, whether the House should make Treaties, but whether the President and Senate should make laws; all the power contended for on the part of the House was the power of self-preservation; it was a repelling power, a power to prevent the President and Senate, under the color of making Treaties, from making all the laws. A gentleman from Connecticut [Mr. Griswold] had said, that the Legislative power occupied all ground, and was vested in Congress; and that the Treaty-making power occupied all ground, and was vested in the President and Senate; and that although Congress, who were the agents for the people, should make laws, yet, that the President and Senate, who were also their agents, might, by Treaty, repeal them. This, Mr. L. said, contradicted a sound axiom, and one he had never before heard controverted, viz: that it required the same power to repeal as to make a law. Such incongruities as the gentleman had advanced, Mr. L. said, could never be reduced to practice; two persons could not be possessed fully and completely of the same thing and at the same time. The gentleman could never reconcile his positions, the one would certainly defeat the other; upon his construction, the Treaty-making power must absorb the Legislative power, or the Legislative power would absorb the Treaty-making power. This, then, induced the necessity of a different construction. In the interpretation and construction of laws or Constitutions, the following rules had always been deemed sound: First, to regard the true spirit and meaning, and not merely the letter. It was a maxim very ancient, and at the same time very common, that *qui hæret in litera hæret in cortice;* that is, that he who adhered only to the letter stuck in the bark, and never arrived at the pith. Another rule was, to resort to the context or other parts of a law or writing for a true interpretation, and not unfrequently even to the preamble and title, which had very justly and emphatically been termed a window to let in light upon the subject. By viewing certain parts, abstracted and detached from other parts of the same writing or instrument, it might be rendered absurd and contradictory. An example he would offer from the Constitution of the United States: In the second article and third section it was declared, that in case of disagreement of the two Houses of Congress, with respect to the time of adjournment, that the President might adjourn them to such time as he should think proper; but was it supposed that he could adjourn them for two, ten, or twenty years? No, it could not be pretended; for, in another part of the Constitution, it was declared, that they should meet once every year, and that such meeting should be on the first Monday of December, unless they, by law, should appoint a different day or time. Taking both these parts of the Constitution together, it resulted, that in the case of disagreement between the two Houses with respect to the time of adjournment, that the President could adjourn them to such time only as he should think proper within the time fixed in the Constitution, or by law, for their annual meeting. Even the gospels of Heaven might, he said, by disconnecting and considering only detached parts, be rendered blasphemous. For example: "the fool hath said in his heart there is no God." If only the latter part of this verse or clause should be read, the position would be, that there is no God; whereas, when the whole verse or clause is taken together, it imputes the conception only to a *fool*.

It appeared, therefore, to him, that Constitutions, laws, and all writings, ought to receive such interpretation and construction as to render them consistent with themselves; and that it was highly presumptive a construction was erroneous when it produced an absurd conclusion. If the several parts of the Constitution were compared and critically examined, the determination must be, that, although the President and Senate could make Treaties, yet it could not be intended, those Treaties that entrenched on the specific Legislative powers of Congress, unless with their concurrence and consent; otherwise, it followed, that, although the three branches were consulted in the enacting laws, two might repeal them. But it had been asserted that this power, insisted upon on the part of the House, was a novel doctrine, introduced merely upon the spur of the present occasion; notwithstanding which, it had been proved by several gentlemen who had spoken upon the question, that this interpretation was given to the Constitution in most of the State Conventions at the time of its adoption; that the same interpretation had also been given, at that time, by the writers both for and against its adoption. It had appeared, from the extracts of publications at that period, that whatever might have been the diversity of opinion in other respects relative to the Constitution, that, in this construction, at least, both its friends and opposers perfectly agreed. This principle, then, being thus settled and understood, it remained only to show that it had been invariably admitted and recognised from the first organization of the Government until this time. The first Treaty that had been made under this Constitution, he said, was that with the Creek Indians, in the year 1789; previously to the making of which, the President communicated the subject to Congress; an extract from which communication he would read, viz: "If it should be the judgment of Congress, that it would be most expedient to terminate all differences in the Southern District, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest," &c. Here, Mr. L. said, he wished it might be particularly noticed, that this subject was expressly referred to the judgment of Congress to determine on its expediency or inexpediency, and for what purpose, he would ask, was it referred? If the Senate and President possessed the full power of making Treaties, there could be no occasion for consulting the House of Representatives; and yet, in this

case, the first that presented itself, it had been conceived necessary. In consequence of this communication, Congress had judged it expedient to hold the Treaty, and on the 20th of August, the same year, enacted a law in which the sum of twenty thousand dollars was appropriated for that purpose; and, in conformity thereto, the President appointed Commissioners and gave them instructions, which instructions had been also communicated to Congress, from which he would also read one paragraph; it was as follows: "You will observe that the whole sum that can be constitutionally expended for the proposed Treaty shall not exceed twenty thousand dollars." On this, he said, any commentary was unnecessary, as the principle that the Legislative power operated to restrain the power of making Treaties, was so fully and explicitly recognised and admitted by the President himself. By pushing inquiry further, it would be found that, in January, 1790, in consequence of communications from the Executive which were referred to a select committee, and a report made thereon, the House came to the following resolution, to wit: "That provision ought to be made by law for holding a Treaty with the Wabash, Miami, and other Indian tribes Northwest of the river Ohio." In March following, a law was made, the title of which was "An act entitled an act providing for holding a Treaty to establish peace with certain Indian tribes."

In March, 1791, the sum of twenty thousand dollars was appropriated for obtaining a recognition of the Treaty with the Emperor of Morocco. In March, 1793, one hundred thousand dollars were appropriated to defray the expense of a Treaty with the Indian tribes Northwest of the river Ohio.

Thus it was apparent that laws had always been deemed necessary to provide for holding Treaties and for defraying the expenses thereof. However, still to continue the investigation: in the Messages of the President, on the 6th December, 1794, the following paragraphs would be found, to wit:

"I lay before you a Report of the Secretary of State on the measures taken for obtaining a recognition of the Treaty with the Emperor of Morocco."

"Also, I must add, that the Spanish Representatives now perceiving that their last communications had made considerable impression, endeavored to abate this by some subsequent professions, which being among the communications to the Legislature, they will be able to form their own conclusions."

But this, he said, was not all that might be adduced, from even the Journals upon the Clerk's table, to illustrate the question. In the Report of the late Secretary of the Treasury, Mr. Hamilton, (made to the House on the 6th January, 1791, in conformity to their order of the 15th day of January, 1790,) of a plan for the establishment of a Mint, he would beg leave to notice, for the consideration of the Committee, a few clauses, as follows:

"In order to a right judgment of what ought to be done, the following particulars require to be discussed: 1st. What ought to be the nature of the money-unit of the United States? 2d. What the proportion between gold and silver, if coins of both metals are to be established? 3d. What the proportion and composition of alloy in each kind? 4th. Whether the expense of coinage shall be defrayed by Government, or out of the material itself? 5th. What shall be the number, denomination, sizes, and devises of the coins? and 6th, Whether foreign coins shall be permitted to be current or not; if the former, at what rate, and for what period?"

Another paragraph was in the following words:

"The foregoing suggestions respecting the sizes of the several coins, are made on the supposition that the Legislature may think fit to regulate this matter; perhaps, however, it may be judged not unadvisable to leave it to Executive discretion.

And another yet, as follows:

"It may, nevertheless, be advisable, in addition to the precautions here suggested, to repose a discretionary authority in the President, to continue the currency of the Spanish dollar, at a value corresponding with the quantity of fine silver contained in it, beyond the period above mentioned for the cessation of the circulation of the foreign coins."

Mr. L. said he would make but one citation more, and that was from a Report of the first Secretary of State, [Mr. Jefferson,] of the 14th of April, 1790, on the letter of John H. Mitchell, reciting certain proposals for supplying the United States with copper coinage. In that Report the Secretary observed:

"Coinage is particularly an attribute of sovereignty; to transfer its exercise into another country is to submit it to another sovereign. In fine, the carrying on a coinage in another country, as far as the Secretary knows, is without example, and general example is weighty authority."

From both these Reports, it was evident, he said, that as the regulation of the coins was among the specified powers of Congress, it was the opinion of the two Secretaries that they could not be regulated otherwise than by an act of Congress; but from the Treaty-making doctrines now advocated, the President and Senate might authorize the currency of foreign coins, or even a coinage in a foreign country. For example, could they not, in the Treaty with Spain, have agreed, that the Spanish dollar should be current in the United States? Certainly they could, if their Treaty doctrines were well founded; if the interpretation of the Constitution now insisted on in the House had depended solely on theory, and unsupported by the multiplicity of precedents on their own Journals. The charge of innovation that had been so constantly sounded by the opposers of the resolution might have created, perhaps, some real apprehensions. But now he thought the world must be convinced, that the principles by which the resolution was defended, were clothed with both Legislative and Executive sanction; that so far from being tenets but of yesterday, they had been generated by the Constitution, and matured and ripened under its operations. To whom, then, did the charges of innovation and usurpation attach? Surely to those who, in the exercise of the Treaty-making power, were endeavoring and aiming at the Legislative power. Those were

the new-fangled doctrines; they were the tenets of yesterday, and foisted into the Constitution upon the spur of the present occasion. From some researches and inquiries that he had made, he was induced to think that the right or power of making Treaties was of the nature of those rights which had obtained the name of imprescriptible rights; that is, the cases in which it was or might be necessary to treat, were so many and various, that it was impossible to prescribe certain rules antecedent to the case, and that could only be done by the whole people, or by their Legislature. Mr. *Marten*, in his Law of Nations, in speaking of the validity of Treaties, says:

"Anything that has been promised by the chief or his agent beyond the limits of the authority with which the State has intrusted him, is at most no more than a simple promise, which only obliges the person who promises to use his endeavors to procure its ratification, without binding the State, which of course may refuse such ratification. Thus the stipulations of a monarch, though he should be absolute, cannot be valid, if it militates against the fundamental laws of the State, at least unless it be ratified by the nation."

At the Treaty of Utrecht in 1713, which was made with the view of settling the succession to the French and Spanish Crowns, and to prevent their union in the same person, it was considered as an indispensable prerequisite that the letters patent of the Kings of France and Spain, also the Dukes of Berri and Orleans, renouncing and abjuring their several claims and pretensions, should have the Legislative approbation of the Parliament of Paris and the Cortes in Spain. In short, the Treaty-making power was not vested (in so absolute a degree as contended for on the part of the Executive here) in the Kings of France under the ancient Government, or the Kings of Spain and England, countries which had been continually depicted as oppressed and vexed in a manner that forced their inhabitants to seek refuge upon our shores.

Mr. L. then said he would consider a little some of the arguments and objections that had been offered on the other side of the question. The gentleman from Rhode Island, in behalf of the small States, had set up a claim to his construction of the Constitution, in order to preserve individual State sovereignty. To him, Mr. L. said, the argument appeared to stand thus: that small States must possess the means of dissolving large States, to prevent the latter from absorbing the former. That is, to secure the people in their State Governments, you must destroy their rights in the General Government. It would be the case, he observed, upon that gentleman's interpretation of the Constitution, that a small proportion of the people of the United States might make all the laws. The small States, by their representation in the Senate, could dispose of the large States by bargain or contract. It was not a little singular, indeed, that the small States, not content with an equal suffrage in the Senate, should claim the right of wresting all power from the House of Representatives, in which alone the large States had any proportionate weight and influence. It would have been unnecessary, Mr. L. observed, to have noticed this argument, had it not appeared calculated to excite local jealousies and State prejudices. Certainly the inhabitants of the small States could not possibly have any reasonable fears when they reflected that not only they were represented in the House in proportion to their numbers and population, but also in the Senate equally with the larger States. If any apprehensions were to be entertained, it must be by the latter. But the gentleman from Rhode Island, to confirm his doctrines, affirms, that at the adoption of the present Constitution, in the State of Massachusetts, it was understood in the same sense; as to that fact, Mr. L. said, he would not determine; but this he could say, that the gentleman, so far from finding any countenance for his assertion, would find the contrary in the debates of their Convention. In those debates, one member, Mr. King, said:

"That the Treaty-making power would be found as much restrained in this country as in any country in the world."

And another member, Mr. Choate:

"That as the regulation of commerce was under the control of Congress, it could not be regulated by Treaty without their consent and concurrence."

He would now pass to an objection of the gentleman from New Hampshire, [Mr. Smith,] who had just sat down, viz: that the advocates of the resolution must be wrong, because they disagreed in their own interpretation. Possibly, he said, every one might not have given the same exposition; it was not always so easy to state what we would, as what we would not have: there was, nevertheless, no diversity of sentiment; at any rate, they were agreed in one thing at least, that the construction of that gentleman was wholly wrong.

Mr. L. then said he would advert, for one moment, to the assertion of his colleague, [Mr. Sedgwick,] "that confidence in Government ought to be unlimited." This, he said, appeared to him to induce another consequence, viz: that of passive and absolute obedience. It was, in fact, the revival of the long exploded doctrine of passive obedience and non-resistance; and, although such tenets might constitute a claim or pretension to the confidence of some Governments, he hoped it was not yet the case in this, and that such sentiments would never be prevalent here; for it was his opinion that there never either had been or would be a Government perfectly pure and uncorrupt, without a little watchfulness and even distrust, and that societies oftener discovered too little than too much. There was a natural effort in all societies to confer power and wealth on a few, at the expense of the many. This tendency the most required to be counteracted; from this quarter danger was first to be apprehended, and not from another, as had been contended. Popular branches and assemblies never usurped, they never encroached on other departments, until they were challenged, and even forced to the conflict, by some inordinate attempts for power. Every department should, then, exercise great caution and moderation not to excite and provoke jealousies and discontents, that possibly would issue in resistance.

He should make but a few remarks more, as it was now considerably later than the usual time of adjournment. The remarks were relative to the late Treaty; not indeed whether it was a very bad or good Treaty, for that was not now the question before the Committee, but that the Treaty itself recognised the principle he was contending for. He then read from the 12th article these words: "that during the continuance of this article, the United States will prohibit and restrain the carrying molasses, sugar," &c. Why, said Mr. L., is this language and phraseology used? Upon the principle of the unlimited power of making Treaties, and that they repeal laws, the language and phraseology ought to have been thus: the United States *do* prohibit and restrain; or, it is hereby prohibited and restrained. It was, he said, unnecessary to reply, for the Minister who negotiated the Treaty well knew that he possessed no such authority. He knew that from the source he derived his appointment no such power could flow. Mr. L. said that he hoped, therefore, that the resolution would be agreed to by the Committee, and that it would pass in the House; for, as they would be obliged to discuss the Treaty to which the papers mentioned in the resolution related, it was necessary they should be possessed of all the information, and have the whole subject before them. And he declared, that although heretofore he had entertained sentiments very unfavorable to that instrument, yet, notwithstanding, if any papers or arguments could explain either the policy or necessity of acceding to the measure; if it could even appear that although there had been sacrifices very important on the part of the United States, yet that they were rendered inevitable by the necessities of our situation; if it should be evident that the terms and conditions on which we now stood with other nations compelled us to find a shelter in a compact of this sort, he must give his vote for carrying it into effect: but if, on the other hand, it should be found that the Treaty was neither promotive of our interests nor imposed by necessity, it never should, with his consent, have any operative effect in this country, while his exertions could prevent it.

March 17.—In Committee of the Whole, on Mr. Livingston's resolution.

Mr. Reed said, he saw no necessity for the papers referred to in the resolution. If the constitutionality of the Treaty should be questioned, or the propriety of making appropriations, these questions, he conceived, must be determined by comparing the Treaty with the Constitution, and by attending to those stipulations contained in the Treaty itself.

It was not his intention to have troubled the Committee by speaking on this occasion; but perceiving that some gentlemen, in the course of the debate, had gone further into the opposite extremes than he was prepared at present to follow them, he felt as if he ought to express his own sentiments with regard to the Constitutional rights of that House relative to the Treaty in question. The Treaty was undoubtedly negotiated, ratified, and promulgated by Constitutional authority. The President, with the advice and consent of two-thirds of the Senate, was, in his opinion, unquestionably that authority which the United States had authorized to make Treaties. But still it seemed taken for granted that some agency of that House, in its Legislative capacity, would be needed in order to carry the aforesaid Treaty into effect. A question, therefore, arose, viz: Was that House, in all such cases, bound and obliged to put so implicit and absolute a confidence in the Executive or in Treaties as would render it entirely unnecessary to have any opinion of their own about them, or the probable consequences of their operation? For his part, if he had never seen the Treaty in contemplation, and were perfectly ignorant of its contents, or, if he fully believed, as a citizen, that it was unconstitutional, or calculated to ruin, or very materially injure the country, he should not think himself justifiable in voting to appropriate money for the purpose of carrying it into effect. It had been conceded by gentlemen that if a Treaty were evidently unconstitutional, it would not be wrong to withhold appropriations; and he conceived that a Treaty might possibly be so injurious in its effects as to justify such a measure. Supposing such a possible event should ever actually happen, did not the right of refusing to legislate in support of the said Treaty involve the right of previously examining all Treaties which need the aid of the Legislature, and of judging for themselves whether it would be proper or improper to make laws for the purpose of carrying them into effect?

In making Treaties the Executive would use his own discretion, keeping within the limits prescribed for him by the Constitution. In making laws the Legislature must use their own discretion, always keeping within those limits and bounds which the Constitution had fixed for them. He said, the discretionary right here contended for was not the right of doing wrong; it was not the right of violating the Constitution: it was not the right of supporting a Treaty which ought to be defeated, nor of defeating a Treaty which ought to be supported; but, simply the right of judging for themselves, whether they ought, by their own act and deed, in the character of legislators, to appropriate by law such sums of money as would be needed in order to support an existing Treaty, all things and circumstances relating thereto being suitably examined and properly considered. Perhaps it would be objected, that the Constitution no where expressly gave the legislators that right. He answered, the right was not precluded, but implied, and, in some respects, evidently one of the original and essential rights of man; a law of nature, prior and superior to all other laws; a law never to be transgressed in any station whatsoever. Individuals, in many cases at least, had a right to exercise their own discretion with respect to the propriety of submitting to a civil law or of risking the penalty, the consequence of disobedience; and, as a branch

of the Legislature, he believed they had a right to deliberate and consult, among other things, the expediency and duty of making or of refusing to make appropriations, even in the case of a Treaty. It appeared to him that, in legislating, the Legislature should have this right of judging for themselves with respect to the propriety of making or refusing to make any law whatsoever. In most cases their duty would perhaps appear plain and obvious, particularly in the case of appropriating money where a law or Treaty actually existed. However, the obligation did not arise wholly from the circumstance of an existing law, but partly from the nature, reasonableness, and tendency of the thing itself.

A Treaty negotiated by Constitutional authority was, he contended, a solemn compact between two nations. It was an important consideration; but he thought they might, with propriety, attend to other considerations, for and against it, especially when their own aid was required, in order to carry it fully into effect. This he conceived was the right of the House, and no encroachment upon the prerogative of the other branches. An appropriation was a specific sum, appropriated by a particular law to a particular purpose.

The right of appropriating the public money was not a natural right, but a right derived from the Constitution; and the Legislature was to exercise that right according to the honest dictates of their own best discretion; excepting those instances in which they were expressly restricted by the Constitution itself, as in the cases of compensation for the services of the President of the United States, and for the services of the Judges. Congress might deliberate and act discretionally in stating at first their salaries.

With respect to the Judges: if after their salaries had been stated they should be deemed insufficient, Congress has a discretionary right to increase them; but the Constitution said they should not be diminished during their continuance in office. With respect to the President's salary, Congress had no discretionary right to make any alteration; for the Constitution said it should not be increased nor diminished during the period for which he was elected. With regard to compensations and appropriations in general, wherein there was no restriction or limitations, the whole affair seemed left to the direction of those whom the Constitution had authorized to transact such business. He said, the case of an existing establishment or law might be a very good reason why each branch of the Legislature should deliberate and decide with peculiar caution; but, as the Constitution no where expressly said that appropriations should be made in all such cases, and as mankind had a natural right to alter their opinion or differ from others, each branch of the Legislature had a Constitutional right of judging for themselves, and of making appropriations according to the dictates of their own honest judgment.

He said, it was acknowledged by all that the Constitution was their rule, but still some difficulty remained, for different persons understood and explained the Constitution, in some instances, very differently. There was often an unavoidable ambiguity and obscurity in words made use of to express certain definite ideas. New and unexpected cases would frequently occur. The best definitions would soon need defining. There was no other way, therefore, but for every one to investigate and understand the Constitution for himself, and to follow that construction which appeared to him, upon the most careful examination, to be the true and proper meaning.

He said, with respect to the Treaty in contemplation, there were many petitions on the table, some in favor and others against its being carried into effect. When the Treaty, therefore, came under the consideration of the House, gentlemen would undoubtedly be able to judge for themselves with respect to its constitutionality, and the propriety of making appropriations, by comparing it with the Constitution, and by attending suitably to those stipulations which it contained.

Mr. Tracy said, he felt a diffidence in giving his sentiments in that House, which was much increased when he considered the ability with which the question had already been discussed, and the length of time it had consumed; but the magnitude of the question would justify him, in his own opinion, for asking of the Committee to indulge him with a small portion of their time and attention.

This was the first time, since the adoption of the present Government, that a discussion of the important Constitutional question of the extent of the Treaty-making power could have taken place, as it respected a foreign nation; and, of course, would probably form a precedent for all future inquiries of a similar nature.

The call for papers contained in this resolution was new and delicate; the papers were ordinarily considered as of an Executive nature; and ordinarily it would be agreed, on all hands, the House of Representatives had no right to them. Ought not then a call of this extraordinary kind to carry on its face the special reasons which induced it? He asserted that the object of the resolution was new, although it had been said it was similar, in point of principle, to that of calling on Heads of Departments for papers and documents to assist the House in Legislative business, which he contended was not a correct idea. The House certainly had a right to call for any papers or statements from its officers, created under laws, which it had participated in making. No former practice or decision of the House could give a lead in this case; and were there no Treaty made with a foreign nation, now before the House, no gentleman would pretend there existed a right or propriety to call for the papers in question. He objected to the form of this resolution: it is a request for all papers, such as may be secret in themselves, and may affect future negotiations; the only discretion left to the President is such papers as may relate to any present negotiation. If a requisition of this kind could be ever justifiable, it certainly would be proper to accompany it with precise and specific reasons, stating the real objects.

A Treaty, said to have been made with Great

Britain, had been committed to a Committee of the Whole House on the state of the Union. If, when that matter should be taken up, all parties should be perfectly satisfied with the Treaty, and no laws should be necessary to carry it into effect, and none to be repealed, would any person pretend we wanted these papers? If, when that period should arrive, the House judged a declaration of war or impeachment of the negotiator was expedient, he would not say, a call in substance like the present, but in form specifying its exact object, might not be proper.

But, if the present call was proper, it could be so only on the ground that the House of Representatives had a right, in their official capacity, to examine a Treaty in its passage, before it became a Treaty with binding force.

To examine it as a constituent power, without whose sanction it can have no validity. This right in the House of Representatives had been claimed; and, if this was a just definition of their right, and once became established, he agreed the call contained in the resolution would be completely justifiable. It has been said, a publication of those papers was necessary to allay public ferment. If so, specify the intention in the call. But the opinion of the President might, in this view of the subject, be safely trusted. There could be neither necessity nor propriety in the House going to the President with information that a Treaty he had formed was unpopular, and advise him to take measures, by publishing papers, to allay the fermentation; or, with a kind of compromise, such as, if you will let us see your papers, we will carry your Treaty into effect. On such ground he thought him justifiable in pronouncing the call impertinent.

The Constitutional rights of the House of Representatives to interfere with Treaties, might properly be considered in two points of view:

1. Had they a right to assist in the formation of Treaties in such a manner as that a Treaty would be incomplete without their sanction officially given? And,

2. Had they a right to refuse appropriations of moneys, (if necessary to carry into effect some provisions in a Treaty,) and in that way defeat its operation?

He acknowledged, if the first position could be supported, the right to call for the papers would be conclusive; but, he contended, they could not be wanted on the latter ground.

If the Constitution was examined, it would be found the Treaty-making power was given to the President; and no interference, or right given to any other men or body of men, but to two-thirds of the Senate, and that by way of consent or advice. Could it be pretended there was a shadow of authority given to the House of Representatives?

In the Constitution it is said, "all Legislative powers herein granted shall be vested in a Congress," &c. Would it be pretended, had the Constitution gone no further, that the then thirteen independent sovereign States, by that part of it, had parted with the Treaty-making power? No! they reserved a great share of Legislative power to themselves, and delegated it to Congress only in certain cases, best calculated, in their opinions, to advance their own happiness; and unquestionably reserved every right, power, and sovereignty, which they did not expressly give away by the Constitution itself. The powers of legislation are the powers of making statutes in all cases respecting men and things within the jurisdiction of the Legislature; but it could by no means in its nature comprehend the Treaty-making power, which is the power of contracting or making bargains in the name of a nation, as a moral person, with another nation or moral person, for their mutual benefit, and to be binding and operative on them, as parties to the contract or bargain. And although this had binding force on the nation, when once formed and completed, yet it was not a Legislative act. But the Constitution went further: it had actually designated the President, with the advice of the Senate, to be a Plenipotentiary for the formation of Treaties. *Vattel*, page 179, speaking of the various customs of nations, in the deposite of this power, says:

"All conductors of States (meaning the Executives) have not the powers, of themselves, of making public Treaties: some are obliged to take the advice of a Senate, or of the Representatives of a nation. In the fundamental laws of each State we must see what is the power of contracting, with validity, in the name of a State."

He supposed, by "fundamental laws," *Vattel* must mean the Constitution of a State; if so, it will not follow that the supreme Legislative or Executive power of a State, as such, have necessarily the power of making Treaties; it might be, and in most countries was, an object of precise delegation, and probably always, or certainly more commonly, given to the Executive. This Constitution had precisely given it to the Executive, subjoining the advice and consent of the Senate; and in this particular, and in no other, had the individual sovereignties delegated all their power without limitation. It was necessary and proper this power should be lodged somewhere, and equally necessary it should be entire and unlimited, to meet every exigency that the welfare of the nation might require. It had been said, that general expressions of power would be limited by specific: this was a general truth, but he denied the application which had been attempted. It was said, the Treaty-making power is a general power; the Congress has a specific power to regulate commerce, &c. Of course, the specific power to regulate commerce will check the operation of a Treaty of a commercial nature. He said this part of the subject had been so ably and conclusively managed by a gentleman from New Hampshire, yesterday, [Mr. Smith,] that he would not exhaust the patience of the Committee by going over the same ground. He would however observe, that by the common rule of construction, all the powers given to the President which could, and in their nature would, check or operate on legislation, must be considered as a specific portion of power carved out of the general power given in the former

part of the instrument. The general powers of legislation first given to Congress, and in the next place specific powers given to the PRESIDENT, could not fail to lead the mind directly to such a construction. "All Legislative powers &c., are vested in a Congress," but the PRESIDENT has a qualified and specific check. Power to regulate commerce with foreign nations is vested in Congress, yet the specific power of contracting, bargaining, or making a Treaty, is, so far forth as it may touch Legislative points, a specific check upon it. Yet he acknowledged this was not his chief reliance. The nature of the case was such, that whatever internal regulations, or those relating to external and foreign commercial subjects, which may have become objects of Legislative attention, oppose or come in competition with a contract or bargain about the same things, must give way. It does not exclude legislation from the object of foreign commerce, but establishes certain points within which it shall operate, and which it cannot violate. The thirteen sovereignties possessing all the power, gave to Congress a certain portion of Legislative authority; but they certainly could give to the Executive, or any other body, the power to make Treaties. This he contended they had done, by the words of the Constitution, in an unlimited manner.

If we were to travel out of the Constitution to support any opinion, he urged the old Confederation in support of his construction. In that Constitution, almost all the commercial power was retained by the States. An explicit article was inserted, that all powers not expressly given, were by the individual States retained. The power to make Treaties was there directly given to Congress, with a proviso, which would show plainly that the authority to make Commercial Treaties was meant to be given.

The words of the ninth article are: "The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on war," &c.—"entering into Treaties and alliances, provided that no Treaty of Commerce shall be made," &c.—adding a restriction which acknowledges the general power to extend to Commercial Treaties. A similar construction to the one now contended for would have left the co-operative power with the State Legislatures. This, some of the Legislatures supposed they did possess, if we were to judge from their public conduct. But the sound and correct opinion, he thought, was clearly as he had stated. To enforce this idea, he quoted Mr. Jefferson's correspondence with Mr. Hammond, pages 48, 49, and 50; from which, he said, it appeared that the opinions of the best informed men in almost every State concurred in the construction of Treaties being supreme in their operations, and paramount to the laws of any or all the States. He then quoted the proceedings and resolutions of Congress on the same subject—two resolutions passed March 21, 1787; a circular letter sent to the Executives of each State, dated April 13, 1787; and a resolution passed October 13, 1787, respecting a law passed in Virginia, in contravention of the second article of the Treaty with France. He said, the following idea was universally to be found in all these proceedings in substance, and more than once in words, viz: "When a Treaty is constitutionally made, ratified, and published by us, (Congress,) it immediately becomes binding on the whole nation, and superadded to the laws of the land, without the intervention of State Legislatures." He supposed nothing could be more natural than for the framers of the Constitution which is now in operation to give at least as much force to Treaties as was, or ought to have been, given under the old Confederation; for which reasons they gave the Treaty-making power most explicitly to the PRESIDENT, with this only check of advice and consent of two-thirds of the Senate: and added in the sixth article, that when Treaties were made under this authority, they should be the supreme law of the land.

The idea suggested by a gentleman from Rhode Island, [Mr. BOURNE,] that this power of making Treaties was, by the framers of the Constitution, meant to be placed out of the House of Representatives, on account of the jealousy of the small States, was undoubtedly just. Thirteen sovereignties were about to deposite the most important of their concerns in hands which, in their opinions, would first promote their happiness. The sovereignties were equal, as each State was completely sovereign and independent, and the quantum of sovereignty brought into common stock was, notwithstanding any Territorial difference or inequality of numbers, equal; therefore, as the Treaty-making power was considered an act of sovereignty, the States were all to participate equally in it, by force of their equal representation in the Senate. He said, personally he could have no such jealousy, as the State of Connecticut, which he had the honor with others to represent, was singularly situated—holding just the same proportion in the House of Representatives as she did in the Senate—one-fifteenth part of the whole. If any proof could be necessary, he thought the almost unanimous understanding of the members of the different Conventions in the States, who were called to discuss the Constitution for adoption, was in favor of the construction he had given: that a Treaty, when made by the PRESIDENT, with the advice and consent of two-thirds of the Senate—ratified and promulged in the usual manner—was complete, without any assistance or co-operation of the House of Representatives

To this point, he quoted the Debates of the Virginia Convention, volume 3, page 89. A gentleman, active and eminent in that body, says, speaking of that part of the Constitution which defines the power of making Treaties—

"The Representatives are excluded from interposing in making Treaties, because large popular assemblies are very improper to transact such business, from the impossibility of their acting with sufficient secrecy, despatch, and decision, which can only be found in small bodies; and because such numerous bodies are ever subject to factions and party animosities. It would be repugnant to Republican principles to vest this power in the President alone; it is therefore given to the President and Senate (who represent the States in this individual capacity) conjointly. In this, it differs from every Government we know," &c.

He acknowledged, that, from such debates, the real state of men's minds or opinions may not always be collected with accuracy; but he was induced to quote the above in this part of his argument to show that whatever might have been thought by the members of that Convention to be checks on the operation of Treaties, by virtue of the power of withholding appropriations, yet no one took such extensive ground as is now contended for by some of the supporters of the resolution under consideration. The principal objection to the Treaty-making power in that Convention seemed to be grounded on a fear that Territory might be ceded by the PRESIDENT and Senate without the consent of the whole Legislature. Consonant to this idea is the amendment agreed to by the Convention: For in that they connect the House of Representatives with the PRESIDENT and Senate, in forming all Treaties which are to cede Territory. But in another sentence of the same amendment, when they mention Commercial Treaties, they only wish to add, that two-thirds of all the Senate shall consent, and not two-thirds only of those present. It had been said, that the Constitution was similar to that of Great Britain in the part respecting Treaties. This, he contended, was an incorrect statement: in his opinion they were very different. The Constitution of Great Britain was formed almost entirely of usages. It had been, for a great length of time, the usage for the King to lay before Parliament, for their approbation, Treaties—especially those of a commercial nature. If this was a usage, all that could be said of it was, that it was a part of their Constitution. He supposed this right had been given by the Crown, at some time, to obtain a grant of money; but he could not recollect that the Parliament, with all their pretensions to a right of rejecting Treaties, had ever exercised it. They generally made a pretext of dislike to a Treaty to change the Administration. This had been often done: it was on the Treaty of Peace of 1783. The Treaty of Utrecht, which was concluded in 1713, had been cited as an instance of rejection by the British Parliament. It was a fact, in that instance, that nothing was rejected but a conditional Treaty. In forming the Treaty, there were many distinct parts: one part of it was a Commercial Treaty between England and France, separately signed, and conditional—that is, "within the space of two months after a law shall pass in Great Britain, whereby it shall be sufficiently provided, &c., the general tariff made in France, &c., shall take place there again, &c." The law did not pass in Great Britain, and of course the Commercial Treaty failed. Mr. T. said he had searched all the Treaties made by Great Britain since the Treaty of Munster, which, if his memory was accurate, was concluded in 1648, and could not find an instance of the Parliament's refusing their assent to a Treaty made unconditionally; and he really believed, if they practised fully on the right they claimed, it would very soon destroy their Government. It had been said, *Blackstone* in his Commentaries had defined the powers of the King of Great Britain to be unlimited in the making of Treaties. He observed, that, let *Blackstone* or any other Crown lawyer say what he would in favor of prerogative, it was well known the usage had been to submit to Parliament the consideration of Treaties, and that usage was a part of their Constitution; and he rejoiced, that in that particular the Constitution of his country was different. Gentlemen had said, Shall this House not have as much power respecting Treaties as the House of Commons in Great Britain? This question was both improper in itself, and calculated to mislead. Were we in Convention, and forming a Constitution, it might have weight; but in a cool discussion of a Constitution already formed and adopted, and the question is, What powers are given? it could not be proper. And it ought to be remembered that Parliament, and not the Commons alone, had this right in Great Britain. In defining the relative powers given by the Constitution, there was danger of the popular branch making encroachments on the other branches, under pretence of favoring the liberties of the people. This pretence, however grateful it might sound in debate, he thought was but a pretence. It was the duty of the House to make a stand against all encroachments on their own rights, if any were attempted, but it must equally be their duty to exercise great caution not to encroach on others. He said, he considered the responsibility which was so very necessary on those in the exercise of the Treaty-making power could not exist if it was extended to the House of Representatives.

The remarks of the gentleman from Virginia, [Mr. GILES,] that he, and those who advocated the same opinions, by constant association and thinking on one side only, had become, like pulpit reasoners, inattentive to the weight and force of what might be said in opposition, might be just in application to himself; for he acknowledged he had been accustomed to hear but one opinion on this subject; and from the first appearance of the Constitution to this time, it had been a uniform opinion with him, and those with whom he generally associated; and he confessed he could not retort the observation on the gentleman, for the opinion advanced by him was a new one, and probably the gentleman had not been in habits of hearing it often declared or advocated. He thought it singular that, in a discussion of this nature, there should be a resort to the British Constitution, and still more so, that a very exceptionable part of it should be claimed. Could any man seriously wish that Treaties, generally made in some critical period of national affairs, after being settled with a view to existing circumstances, should in a length of time afterwards be subject to the consideration of any other branch of the Government who could not know many of the motives for a particular cast it may have? Those who thought with him on this subject, he said, had been accused of a design to give up the exercise of rights properly vested in them by the Constitution to the PRESIDENT and Senate, and this was called sacrificing the rights of the people. He

thought it not the first time he had heard a struggle for power, dignified by the name of a virtuous attempt to protect the liberties of mankind. Could it be supposed that he or any other man could wish to resign rights given by the Constitution? Power, it was said, was intoxicating; but it must be a singular operation of the human mind, under the fascinating influence of power, to seek every opportunity to give it up, and become a slave. He wished gentlemen to apply their own maxim of the intoxication of power to the present struggle, and discern on which side its influence will most probably carry them. He asked why a parallel was drawn between this House and the British House of Commons?

In that country, the immediate representatives of the people had been for a long time obtaining privileges from an hereditary Executive and nobles, which by them had been usurped. In this country, the Executive and Senate were the representatives of the people, possessing powers exactly marked out and defined by a written Constitution; and the attempt to give an alarm against the despotism of the President and Senate, by comparing them with King and Lords, could not, on any principle, be proper, delicate, or justifiable.

He had often heard before he came into the Government and since, that we had a Constitution, giving portions of power, exactly defined, and that if we thought it might even become beneficial to the people, to take a constructive latitude, in the exercise of power, yet to step off of the written and defined limits given us would be improper in the extreme: this doctrine, although used on occasions, which in his opinion were inapplicable, was weighty and important. He asked gentlemen to reflect in what way this power, now contended for, was to be obtained? Was it found in the Constitution, or by a construction, which, if not directly in violation of terms, was nearly so?

He said, that a writer, under the signature of *Publius*, in a series of papers called the *Federalist*, had been quoted as favoring this doctrine of associating the House of Representatives in the formation of Treaties. He said it was an unfounded assertion: what that author had said upon the subject was contained in two chapters; the first begins with page 201, and the other in page 272, both of the 2d vol. He requested gentlemen to read those two chapters, and he was much mistaken if all would not acknowledge that the opinions of the *Federalist* were not to associate the House of Representatives with the President in the making of Treaties. What was said in page 133 of the same volume he would notice in the other branch of the argument.

But gentlemen had said, if this extensive right must be abandoned, yet a Constitutional check remains with the House of Representatives, to defeat all Treaties which may require appropriations of money to carry them into effect. If this was called a right of co-operation in making Treaties, he did not understand it; to say, a payment of a debt was part of a contract, and a refusal to pay made void the contract was to him perfectly unintelligible. He considered a Treaty a bargain or contract complete, when made by the President and Senate; and if money was necessary to carry it into effect, it did not invalidate the contract to refuse an appropriation; it was only saying the nation had made a contract, and then refused to fulfil. He requested a few minutes indulgence on the subject of appropriation, which was the second and last view he had proposed to take of the subject.

Gentlemen had exclaimed, with some warmth, "Are we to be machines perfectly at command of the President and Senate; and are appropriations to be made without exercising any discretion?"

He considered this House, in all Legislative acts, to possess a full and unlimited discretion, with some few exceptions, which he would point out. A bill comes under the consideration of this House to establish trading-houses with the Indian tribes. Full and perfect discretion to accept or refuse is certainly vested in this House. Suppose they, in concurrence with the other branches, pass the bill, and employ an agent, with a promise contained in the same bill to pay him one thousand dollars for certain services, and this agent renders the services and produces his account, it is well known he cannot be paid without an appropriation by law. Can any man say, that, in considering the bill of appropriation, a complete discretion is left to pass or not? Would it be called a correct idea to assert that a man was possessed of full and complete discretion to embrace truth or falsehood, after both were distinctly held up to his view? Would not the truth force his acceptance? Suppose there was a clause in the Constitution subjecting the United States to a suit, and suppose a suit instituted and judgment rendered against them, would this House say, before we appropriate moneys to pay this judgment, we will look into the merits of the case, and if the decision is not, in our opinion, grounded on proper testimony, we will refuse an appropriation? Or would they say, the sum of the judgment has now become an obligation on us, declared to be such by the constituted authority, and we are bound in good conscience and by the rules of morality to appropriate? The salaries to the President and Judges had been acknowledged to be situated by the Constitution itself in such a manner that we are bound to appropriate. He considered all Constitutional obligations, and those arising from laws and Treaties constitutionally made, on the same footing. He said there was now a Treaty concluded with the Dey of Algiers contracting to pay him an annuity of 12,000 sequins. Suppose, ten years hence, the House of Representatives should not think proper to appropriate this sum, war would be the consequence, and in this exercise of *discretion*, as it was called, one branch of the Government would have it completely in its power to declare war. The difficulty would not rest here; for by taking this ground the Senate will have the same power of refusing appropriations, and they exclusively make war; whereas the Constitution has given that power to Congress, with a view that each House should be a check

on the other. If the House should believe at any time it was better to go to war with the Algerines than pay the annuity, their duty would be to institute a bill of the kind; if the Senate agree, a Treaty can undoubtedly thus be annulled; but if the Senate negative the bill, the duty of this House would become very strong, if not irresistible, to appropriate.

Mr. T. said he would not detain the Committee any longer than to hint at what was said of a sentence in page 133 of the *Federalist*, which is—"And although the House of Representatives is not immediately to participate in foreign negotiations and arrangements, yet, from the necessary connexion between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation, and will sometimes demand particular Legislative sanction and co-operation." He conceived that laws might become necessary in the various exigencies of a Government in consequence of Treaties being made that might be called sanctioning them, and yet not so immediately connected with them as to preclude a full or nearly a full and complete discretion whether to pass them or not; but he could not agree that in the act of appropriation which might be the only desideratum in a Treaty, that a full and complete discretion to appropriate, or not, was left to any one or all branches of the Government. He acknowledged if a Treaty was unconstitutional, it was not then a contract of binding force, and of course contained no obligation of any kind whatever; if a Treaty was so terrible in itself, and manifest consequences ruinous to the nation no argument could be drawn from such a statement to establish general rules. The moral law had said, we shall not kill, and yet a man may be placed in such a situation, as that he not only may but it becomes his duty to kill; could it be said a general right to kill is proved by this concession? But could gentlemen seriously say, we now wanted these papers, mentioned in the resolution, to assist us in determining upon the question of appropriation? He thought not. He supposed the first extensive and unlimited right of interfering in the making of a Commercial Treaty could alone justify the call, and he believed that ground must be given up. He said his colleagues [Messrs. Smith and Griswold] had asserted no other doctrines than such as he now advocated, and yet they had been accused of saying that this House had no will of their own, but must in all cases implicitly obey the President and Senate. The construction he had given to the Constitution he believed to be just, and trusted he could be under no necessity of declaring the purity of his intentions, as he did not doubt but every member of the House was guided in the investigation by the purest motives.

Mr. S. Smith said, that at the present state of the discussion, little was left but gleanings, and to bear testimony against a doctrine that appeared to him big with consequences fatal to the true interests of the country. He would not pursue he sophistry of the gentleman last up [Mr. Tracy] through all its windings and turnings; he would only observe that the gentleman had read some, and quoted much to prove that Treaties were the supreme law—a doctrine that was admitted by all, that is, when under the authority of the United States. He also had taken much pains to convince that a contract being by authority of Congress for 1,000 dollars, money ought and would be appropriated to pay the contractor. Does any one deny this to be sound doctrine? Yet he thought he had seen conduct which might be construed against it.

He said the resolution requested certain papers to be laid before the House. What had been the custom of the House heretofore? Invariably to ask for all and every paper that might lead to information. He well recollected that, in 1793, a great ferment had arisen in the public mind in consequence of the Proclamation of Neutrality, (which had always appeared to him to be a wise measure,) that on the meeting of Congress a great number of useful papers relative to our situation with respect to foreign nations were submitted, some of them of a most confidential nature, relating to Treaties then depending, particularly that with Spain. 'The President was not afraid to place his confidence in that House, and he was right; the public mind was restored to quiet, and the people of Kentucky (then restless) were satisfied that the Executive were doing every thing in their power to obtain the free navigation of the Mississippi. The President went farther; he sent a special agent to Kentucky to communicate to that Government the line of conduct then pursuing for their welfare. Had the public mind been less disturbed on the late Treaty than in 1793? He thought not; and that every paper which would tend to satisfy that the Treaty was expedient, or to give information on a subject that must be discussed before that House, might with propriety be asked for.

A gentleman from Vermont [Mr. Buck] repeated by another from South Carolina [Mr. Smith] said, to vote for this resolution would be treason against the laws and Constitution. Why this harsh language? Did it lead to a discovery of truth? Where did these gentlemen find that definition of treason? Not in the Constitution, for there it was properly defined.

A gentleman from South Carolina [Mr. Smith] had said, that none of the various town meetings, relative to the Treaty, had asked for papers; the various Legislatures who had judged of the Treaty, had they requested papers? Did the gentleman mean this as good reason why that House should not ask for them? If he did, it was certainly argument not worthy of refutation. Another gentleman from South Carolina [Mr. Harper] had said, the House might institute an inquiry into the conduct of the Envoy; and he challenged the opposers of the Treaty on that ground, it may investigate the Treaty itself. Mr. S. would ask, whether the papers were not necessary to such inquiry and to such investigation? The same gentleman said, that if these papers were necessary, he would demand them as a right, not

ask for them in the milk-and-water style proposed. Here the gentleman felt bold. But this has not been the custom. It had been usual, and he hoped always would be, to approach the Chief Magistrate of the Union with proper respect and decorum. To ask for the papers (he added) was unconstitutional, because unnecessary; he might as well have endeavored to convince by saying, it is so, because it is so. A gentleman from Connecticut [Mr. Griswold] had opposed the passing of the resolution in a masterly manner. He had never, at any time, listened to any man in that House with greater pleasure than to him; but, upon re-examining what he heard, he found the merits of the orator lay in the ingenuity, not in the strength of his reasoning.

From the papers, Mr. S. said, gentlemen had taken a ground that appeared alarming, viz:

That the President and two-thirds of the Senate may, by the aid of a Treaty, do anything, and everything, not morally impossible, (provided they do not infringe on the Constitution,) and that the immediate Representatives, forming this House, have only to be informed thereof, and to obey.

Let us pause for a moment, and ask, Was this possible? Could this be the fair construction of our so much boasted Constitution? If it should be, he would not regret the services rendered his country during the late glorious Revolution, nor the part he had taken to promote the adoption of the Constitution; nor would he, by inflammatory speeches within, nor his actions without doors, do anything that should tend to destroy the harmony then subsisting, or to disunite a people whom nature and relative wants seemed to have connected together; but he would endeavor, in a Constitutional manner, to obtain amendments to the Constitution, which would prevent the evil in future. But is there occasion for amendments to the Treaty-making power? He thought not. There were checks and balances sufficient in the Constitution to prevent the evils that might arise out of it. He said, he could offer nothing new, but would pursue the train of reasoning begun by a gentleman from Virginia [Mr. Madison.]

In the eighth section of the first article of the Constitution, Congress have power to lay duties, &c., &c., but all duties shall be uniform throughout the United States:

Can regulate trade with foreign nations:

Can establish an uniform rule of naturalization.

Congress, then, although they have the power to lay taxes and duties, and to make laws of naturalization, are bound to make them uniform; and in another article, are prevented from giving a preference by any regulation of commerce or revenue to the ports of one State over those of another. But the Treaty-making power is not so confined; it may relieve one of our ports from this uniformity of duties, or one of the States from the uniformity of naturalization: that is, it may relieve goods imported in British bottoms into New York, from the one-tenth extra duty, and let it remain on all the other ports of the Union. But say gentlemen, it is unfair to reason against the use of power by its probable abuses. He thought it advisable to guard against abuses: but has this abuse not already taken place? He thought it had. Not with respect to a port of the consequence of New York; that would have been too palpable; but on the Lakes, by the third article of the Treaty, goods imported to the territory in that quarter, in British bottoms, are subjected to no higher duty than goods imported in American vessels to the Atlantic ports. Here appeared a departure from that uniformity required by the Constitution; here appeared a preference given to the ports of one State over those of another; and yet gentlemen contend, that the House have no right to inquire into the business. Indeed, so delicate was one gentleman [Mr. Buck] on the subject, that he opposed committing the Algerine Treaty, lest it should establish a claim to investigation! It was true, the trade on the Lakes was small, but it would increase. Thus, although Congress were very wisely restricted, when laying duties, to make them uniform, yet the President and Senate would be capable, by the assistance of a foreign Power, to destroy that uniformity.

Again: he said, the Treaty-making power, as contended for, may prevent the export of rice, tobacco, fish, flour, or any other article, and that House must not interfere, must not inquire. But this would be the abuse of power. True; but it will be found, by the twelfth article, that the Envoy agreed that laws should pass to prevent the export of all West India goods. Nay, even of cotton, one of the objects of our growth. It was true, the Senate did not consent to this: but if they had, and the President had ratified it, that House, it was contended, must have passed the laws. It would have had no option.

Again: Mr. S. said, Congress passed a law (in his opinion a wise law) granting a bounty on the fishery, as a nursery for seamen, and another for promoting navigation by restrictions on foreign bottoms. Suppose a power jealous of our rapid increase of navigation, should, by a Treaty, repeal those laws. Would that House have no right to inquire the reasons why? Gentlemen say no: but that the Senate would be too wise to consent to such a Treaty. And yet it will be found, the law giving advantages to American vessels over foreign, and laying an extra duty on tonnage, will be virtually repealed by that part of the Treaty which gives a right to the British to countervail, and preclude the United States from legislating further on that subject. But the Treaty has not touched the fishery bill, if it had, submission ought (it is contended) to have followed from that House. The subject may thus be followed under the Treaty-making power, until every power granted by the people to Congress would be swallowed up, and that House reduced to a registering office.

He asked what could stop the Treaty power thus construed; he trusted that House would, and he was happy that the subject was brought forward under the Presidency of the greatest man

on earth, because a doctrine established whilst he was at the helm of the nation, would carry so much weight with it, that it would probably never be again disputed.

But, said he, are those papers secret? No, they are known to thirty Senators, their Secretary and his clerks, to all the officers of Government, and to those of the members of this House who choose to read them. Then, say gentlemen, where is the necessity for calling for them? He answered, because it was more proper and more respectful to themselves that they might form a document which the members might quote in support of their arguments, when the Treaty came under discussion; otherwise they might be called to order, or their quotation denied. For instance, suppose he should assert that the Envoy had no power to effect a commercial Treaty; that he was to try what terms relative to commerce might be obtained, but positively prohibited from signing anything until it should first be reviewed by the President. Suppose he went further, and should say, that the signature of the Envoy committed this country to a situation so delicate, as in some measure compelled the Senate to consent, and the President to ratify: What would be the consequence? Why, some member might deny it, and the one assertion would stand against the other.

A gentleman from Massachusetts [Mr. Sedgwick] had applied his arguments to three points: 1st. That the doctrine of that House having any check or control over Treaties entered into by the President and Senate, was new, never before heard of, and never mentioned in the different Conventions which adopted the Constitution. 2d. That the Senate was composed of men, the most virtuous and enlightened; men, who had always been forward in the hour of the greatest danger; chosen by the elect of the people; by the Legislatures of the different States; not by an ignorant herd who might be cajoled, flattered, and deceived; not even by the enlightened citizens of America. 3d. That the opposition arose not from the provisions in the Treaty, but because it was made with the British. From the first point he had been completely driven by a gentleman from Virginia [Mr. Brent] who had proved that the doctrine was not novel, but as old as the Constitution, and generally admitted in the Conventions.

On the second point, no person would deny the good qualities of the Senate; but without any disparagement to the Senators from Massachusetts, he should be at no loss to find two gentlemen from the same State of equal abilities and of patriotism as well tried, and he presumed the gentleman would not disagree with him, when he was informed that he would probably fix his eye on him as one. The same gentleman said, Who are we that we should attempt to judge over the heads of those wise men—we, who are collected from the remote corners of the Union? We, said Mr. S., are the immediate delegates of the people, collected from the different districts of the Union, to aid and assist the wise men above stairs in making wholesome laws, and to retain those privileges given to the House by the Constitution, which he trusted they would hand to their successors inviolate. He then took a view of the members who came from the remote parts of the Union, and declared them to be men of sound judgment and real abilities.

The third point was a very serious charge indeed, no less than that the opposition which had been made, was not to the instrument, but because it was made with Great Britain; and the gentleman asks, why a similar opposition had never been made to the Treaty with France? Why this language? Can such reflections assist in the discovery of truth? Was the gentleman aware how this might be retorted? Did he reflect that some gentleman of as little temper as himself might have said, that such a Treaty would not have been signed by the Envoy with any other nation, nor consented to by the Senate. Nay, he might, if very irritable, have said, that if it had not been British, it would not have been supported on the floor of that House, and might have quoted in proof the great delicacy of certain gentlemen on the resolution relative to American seamen impressed by the British.

But it was with pleasure he had seen, that no reflection, no insinuation, no threats, had been uttered by any gentleman on that side of the question which he had espoused. He hoped that nothing but fair arguments would be adduced. If he should be in the minority, it would be his duty, and he would (as a Republican ought to do) acquiesce in whatever might be the determination of the majority. As to the Treaty with France, it was made before the formation of their Constitution, which wisely provided that all engagements, heretofore made, should be binding on the new Government; of course, neither the President and Senate, nor that House, had any power over it.

Mr. S. then stated, that he did not mean, and he hoped he should not be understood to preclude himself from voting to carry the Treaty into effect. He held himself entirely open to conviction; and if he should find that the same was expedient, whatever might be his opinion at present on the instrument, (and in truth he did not think it good) yet he would keep himself at full liberty to act as he might think most to the interest of this country, when that subject should come before the House.

March 18.—In Committee of the Whole, on Mr. Livingston's resolution:

Mr. Isaac Smith did not pretend to prescribe limits to other men's faith, but he never could believe that men, as wise as those who composed the Convention, would have left so important a regulation, as was now contended for by some gentlemen, to mere uncertain construction. He believed, if they intended that House should have had an agency in the making of Treaties, they would have said so in express terms. Had they done so? Nothing like it. So far from it, that they had unequivocally appropriated the Treaty-making power to the President and two-thirds

of the Senate, in terms as express and positive as words could form: and the gentleman in opposition could not, did not deny it. But, say they, this power may be abused, shamefully abused, and, therefore, we will construe it out of the hands the people have placed it in. We will assume and declare ourselves the sole guardians of the people, and we will cry out liberty, liberty; and, as the people love the sound, (he hoped they would always love the substance,) perhaps they will believe us. Here rests the fallacy. The people knew, whether they knew or not, that they chose the President, and they firmly believe, as well they may, that he is their guardian. The people knew, also, that they chose the Senators, and they likewise think they are their guardians. How we, said he, became sole guardians, will require a modesty superior to that of New England to explain. The people have declared that the President and Senate shall make Treaties, without a single exception, and, lest there should be any mistake or cavilling about it, they have put it in written words, as they thought, too plain to be doubted, too positive to be contradicted. It appeared to him that it was a sufficient answer, though a short one, to all the laborious arguments had in favor of their interference, to say, that the people wills it otherwise: *sic volo, sic jubeo, stat pro ratione voluntas.* If they had under consideration alterations or amendments to the Constitution, those arguments might, perhaps, be proper; but, as matters now stand, they are mere inapplicable declamation.

A gentleman from Virginia told them that the Government of the United States was a Government of checks, but said, that, in the short time it had existed, they were completely routed. Nevertheless, he mentions several checks that still stand their ground: among, others, biennial elections were a check upon the Executive. According to his calculation, he said, they were a check upon that House, in the ratio of four to two and of six to two, and, therefore, the people trusted them less than any other branch of Government, and he most cordially adopted that gentleman's own words, "if the opinions now contended for prevail, nothing will remain to be done by checks." Construction will answer every purpose.

Several gentlemen had adduced arguments from the Government of Great Britain, and had attempted to assimilate the American Government to it, to give them the greater force. He would examine that matter. Did the people of England choose their King every four years? Was he impeachable? No, he can do no wrong. Did they elect their House of Lords or Senate? No, they are hereditary as well as their President. Must two-thirds of them approve every Treaty before it can become valid? No such thing. How a parallel, then, could be formed out of such diverging lines he left to wiser men; it was greatly beyond his poor abilities, and he was equally incapable of comprehending arguments drawn from so mysterious a source.

A gentleman from Virginia boasted much of the superabundant love of liberty that prevailed in the State he had the honor to represent. The groans of three or four hundred thousand black people held in bondage, he said, afflicted his ears, and made him hesitate, although he wished to believe the encomium he had bestowed. He did not like boasting, it provoked retort, and offence followed. He should not say one word in praise of New Jersey; it did not need it.

Mr. Livingston said, that the very able support this resolution had received, might seem to release him from any obligation of speaking in its defence; nor would he now trouble the Committee with any observations on the subject, if those he made on the introduction of the business had not been misstated, and his subsequent explanation partly suppressed. He had stated, when he had laid the resolution on the table, as a reason for requesting the papers, that important and Constitutional questions would probably arise on the discussion of the Treaty. It had been represented, (certainly from misapprehension, not design,) that he confined the use of the papers to the elucidation of a Constitutional question only; and it had been asked, with an air of great triumph, how the instructions and correspondence could throw any light on the question of constitutionality, to decide which nothing was necessary but a comparison of the Treaty with the Constitution? Mr. L. said he had not confined the utility of the papers to that point, but that, if he had, it would not be difficult to suppose a case in which they were necessary to determine the constitutionality of the Treaty. The Constitution, he said, gave to the President the power to make Treaties, "by and with the advice and consent of the Senate." Men, respectable for their talents and patriotism, had supposed that, by the true construction of this clause, the President could make no Treaty unless by the previous advice and consent of the Senate; in other words, that the Senate should advise the making of a Treaty, which they could only do before it was commenced; and should consent to it by a ratification after it was concluded. He would give no positive opinion on this subject, but supposed it a point worthy the attention of the House. The construction, he said, appeared reasonable, and had been heretofore sanctioned by practice. Two instances he could recollect; one was in the Treaty of Holston, where Governor Blount was "vested with full powers and specially empowered by and with the advice and consent of the Senate." The other instance was found in the answer of the President to the French Minister, who offered to enter into negotiations for a Treaty of Commerce, which the President declined, by referring him to the meeting of the Senate, which was not then in session. If the President supposed he could not commence a negotiation without the concurrence of the Senate, it gave force to this construction; and, if it was a true one, nothing was more demonstrable than that the papers were necessary to determine whether the Treaty in this point had been constitutionally made.

But whatever doubts, Mr. L. said, might have been occasioned by the general expressions with

which the motion had been introduced, they must certainly have been removed by the explanation which had been very properly demanded by the member from Connecticut [Mr. Thacy.] He had, on that occasion, declared that the papers were required for general information, to be applied as that information might render it proper.

1. To the superintending power which the House had over all the officers of Government; and,

2. To guide their discretion in giving or refusing their sanction to the Treaty in those points where it interferes with the Legislative power.

Gentlemen had found it convenient, because some others had disavowed any intention to impeach, to consider the first ground as wholly abandoned: but, in the nature of things, this could not be the case. It was impossible to determine that we would not impeach until the papers were seen. Facts might then appear that would render that an unavoidable measure which was not now contemplated. If, for instance, he said, instead of a Treaty with Great Britain, we were now discussing one formed with the Porte, where it is the custom for Ministers to give and to receive presents; and, on the production of the correspondence, it should appear that our Minister had received a douceur on the signature of the Treaty, he asked whether, in such case, that House would not think themselves obliged to impeach? If they would, he thought the obligation could not be denied, when cases might exist, where, without any previous intention, an impeachment was unavoidable. The integrity of the gentleman who had formed this Treaty was, he said, too well established to lead any one into a supposition that any thing of the kind could have occurred in this instance; but it might in others. The idea of impeachment, therefore, though not at present contemplated, could not be formally abandoned.

Before he considered the second and most important ground of opposition, Mr. L. said, he would take notice of an objection to the form of the resolution by a gentleman from South Carolina [Mr. Harper.] It was of a kind which he had not expected from the quarter in which it arose. He had objected to the humble style of request. If we had a right to the papers we should demand them. "I would plant my foot here," says the gentleman, "and require the papers as a right." Mr. L. said, that the resolution was couched in the respectful terms with which that House had always addressed the first Magistrate of the Union; that civility and respect were always due to him; and that he was persuaded the member would see the propriety (on this, as he had on other occasions,) of transferring into public life that urbanity and politeness for which he was so remarkable in his private intercourse. The same gentleman had observed, that there was no reason for requesting the papers, because any member might inspect them in the Clerk's office of the Senate. He could not suppose, if this were the fact, that the publicity of the papers was a good reason to prove that they ought not to be communicated. Mr. L. did not, however, think that individual members ought to owe their information to the courtesy of an officer of the Senate, which they had a right officially to receive as a body. It had been stated that he (Mr. L.) having had access to these papers, could not want any information they might contain. He would state the facts relative to that transaction: It was true, he said, that, as Chairman of the committee appointed to inquire into the case of impressed seamen, he had been indulged with a view of the instructions and correspondence; but engrossed by the important object then referred to him, he had paid little or no attention to such parts as did not relate to that subject. After an interval of some days, he went with an intention of completing the perusal of them, but was told that he could not see them without leave of the Senate. What I did see, added Mr. L., convinced me of the propriety of the whole being laid before the House. I found, in so much of the instructions as I did read, a positive direction to conclude no Treaty of Commerce unless certain important articles were agreed to which are not found in the instrument before us. Among them, if I recollect right, was a stipulation, that free bottoms should make free goods. He had been informed that these instructions were altered, and a fuller discretion given to the Minister; but this was a point which he thought it essential the House should be informed of. Leaving, however, the ground of superintendence, which would make this inquiry necessary, gentlemen had chosen to put questions at issue on the other point; and he had endeavored to show the impropriety of the demand, by denying any discretionary power in the Legislature, either to judge of the Treaty itself, or decide on the propriety of carrying it into effect. Mr. L. said, he was not unwilling to meet them on this ground, and to consider the decision of this motion as declaratory of the sense of the House on that important question, whether it is constitutionally bound to give its sanction to every Treaty that may be formed by the other branches; and to provide all the sums necessary to fulfil every stipulation they may make; for, to this extent, did all their arguments go.

Two positions had been assumed, differing not materially in the power ascribed to Treaties, but distinguished chiefly by the mode of applying this power.

By some it was contended, that the interference of the Legislature was necessary in some instances, but that the Treaty operated by way of moral obligation, to enforce the necessary steps to give it validity; and that though there is a physical power of refusal, yet it ought in no case to operate against the superior obligation.

Others had asserted, that Treaties being the supreme law, might operate directly, without the intervention of any other body. That where existing Legislative acts opposed their execution, the Treaty was paramount, and could repeal them.

These positions were in fact the same, because, if a Treaty was, at all events, to have effect, it was perfectly immaterial, whether it operated di-

rectly by its own power, or indirectly by the instrumentality of another body; both, he thought, equally subversive of the principles of the Government; but the first was most degrading to the Legislative dignity. Nor could he discover from what part of the Constitution it was inferred. Wherever, in that instrument, a duty was imposed, it was clearly and explicitly assigned, as in case of the President's compensation, that of the Judges, and many other instances. It is not, then, to be conceived, that so important an obligation as this should have been left to implication. If it had been intended so to annihilate this discretion, the same language would have been used. "Congress shall pass laws to carry every Treaty into effect," but nothing of this kind appears. Again, if it had been intended to make Treaties paramount over laws, it would seem to have been the more simple mode, to have dispensed with their interference. Why leave a phantom of discretion, an unreal mockery of power, in the hands of the Legislature? In order to get rid of this difficulty, some gentlemen seem willing to allow a species of volition, but it was a pittance that would be scarcely worth accepting. In cases of extreme necessity, and in others, where, from corruption or other good cause, the compact is void, this House, they say, may refuse to carry it into effect. In the first case, where it is impossible to give efficacy to a Treaty, the power of refusing it was surely of little value. And where the compact is void in itself, the liberty of not being bound by it, would scarcely be contended for. If the subject were less serious, Mr. L. said, one would be tempted to smile at the efforts that are made to reconcile the Constitutional predestination contended for, with the free agency of discretion. It was as difficult to be understood, as the most entangled theological controversy, and, like most disputants in that science, they concluded with anathemas against all who could not comprehend, or would not believe them. We have a discretion, whether to act or not, say they; but we are under an obligation to act, and if we do not, we are guilty of treason and rebellion. This was the same kind of discretion a man has, whether he will commit murder or let it alone; he may do it, but if he does, he will be hanged. This was a worse alternative than that generally called Hobson's choice—that was, "this or nothing;" but here we are told, "do this, or be hanged for a traitor." So that hereafter, when any one intended to express an inevitable necessity, he would call it Congressional discretion.

If, then, the Treaty does not operate by way of obligation on the Legislative power, let us, said Mr. L., examine, whether, as is contended, "a Treaty is paramount to a law, and can repeal it, though it, itself, cannot be acted on by the Legislative power;" this, he said, was the most important question that had ever been agitated within these walls. It evidently tended to the substitution of a foreign Power, in lieu of the popular branch; it was replete with the most serious evils. He could never suppose so great and pernicious an absurdity was contemplated by the Constitution; but, if such was the true construction, great as the evil was, we must submit, until it could be legally amended.

The Constitution gave all Legislative power to the Congress of the United States; vested the power of making Treaties in the President and Senate, and declared that the Constitution, the laws made in pursuance thereof, and Treaties made under the authority of the United States, should be the supreme law of the land. He had always considered the order in which this enumeration was made as descriptive of the relative authority of each. 1st. The Constitution, which no other act could operate on. 2d. The laws made in pursuance thereof. 3d. Treaties, when they contradicted neither; for, if no weight was given to this argument, Treaties would be superior, both to the Constitution and the laws, as there is no restriction with respect to them as in the case of laws, that they be made pursuant to the Constitution. He did not believe gentlemen would contend for this absurdity; they must therefore refer to the order of the enumeration to measure the relative effect of the Constitution, laws, and Treaties. If the objects of Legislation and of Treaty compact could be kept distinct, no question would arise, there would be no pretext for interference, but they could not; almost every object of legislation might also become that of compact with a foreign Power.

He then read the enumeration of powers vested in Congress, and said, that many of these had already become the objects of Treaty; many more probably would be; and the whole, directly or indirectly, were liable to be embraced by it. If, then, all, or even any one of these objects may be regulated by the Treaty, without any interference of law, the Constitution, said Mr. L., has contained the evident absurdity of submitting the same object at the same time to the control of two distinct powers. An absurdity that could not be destroyed but by supposing, that it was intended these different powers should operate under this Constitution as they do in that of England; so that every Treaty operating on objects submitted to the Legislative power should receive its sanction before it took effect. This construction would reconcile all the parts of the instrument to each other; whereas, the other would set them at variance, and, by degrees, deprive the House of Representatives of all the share in legislation. This was not reasoning, he said, from an abuse of power. If it was properly vested in the President and Senate, it was not only permitted, but it was their duty to use it, and no one could call the exercise of a Constitutional right an abuse of power. He admitted that, if the text were explicit, reasoning from consequences was a bad mode; but, as that was not pretended in the present case, it would be well to weigh the serious evils that attended the construction gentlemen contended for, and to inquire whether there is more danger in trusting the Representatives of the people with a check on all Treaties relating to those objects which are specially vested in them by the Constitution, than in making those Representatives subservient to the will of

twenty-one men, who may be leagued with a foreign Power?

In looking for the true construction of this instrument, we should consider the state of things at the time it was proposed and adopted. The opposition it met was well known, and the power given to the Senate and President was considered as one great cause of opposition. It cannot be supposed, as the sentiments of the people were known by the framers of the Constitution, that they would have proposed any plan more energetic than the Government of Great Britain.

But it was probable, Mr. L. said, that the Treaty power was intended to be placed in the President and Senate to the same extent only in which it existed in the Executive of Great Britain. The words of our Constitution on this point were the same made use of by British writers in defining the corresponding power in their Government, and it seemed evident that some of its features (and this was none of the least prominent) were drawn from that original. He was happy that the parallel was not perfect in other instances. He thought it completely so in this; and that the practice therefore of that Government would, in some measure, lead to the true construction of this. Aware of the weight of precedents drawn from English history, gentlemen endeavored to weaken them by a very ingenious argument: "The British Constitution," say they, "is not written, it is formed of usages; if you prove, therefore, that it is the usage for British Parliaments to sanction Treaties, you prove it to be their Constitution, but you do not prove it to be ours." It was true, Mr. L. observed, that the English Constitution was formed partly of immemorial usages; but it was also true, that those usages were collected in books of authority, and that the different powers of Government were generally designated, so that the leading points in their Constitution were as well known and defined as they were in that of America. It had been shown by a reference to writers of the best authority, that, by the Constitution of England, the power of making all Treaties was in the King; but as the power of making all laws was in the Parliament, this latter, as the greater power, controlled the former, whenever it affected objects of legislation. Thus, in the Constitution of the United States, he contended, the power of making Treaties, that is, all Treaties, vested in the President and Senate; but, as all Legislative power is vested in Congress, no Treaty operating upon any object of legislation can take effect until it receives the sanction of Congress. The practice, too, was the same. The King asserted his right of making and completing Treaties, by not only concluding, but ratifying them, before they were submitted to Parliament, but he believed no Commercial Treaty was proclaimed as the law of the land before it had received the sanction of Parliament. Indeed, it was impossible, in any country, and under any Constitution, where the Legislative and Treaty-making powers are lodged in different hands, that any other construction can be given without running into the absurdity he had before hinted at, of making two different powers supreme over the same object at the same time. Our ideas had been confounded by referring to the practice of Governments where the two powers were united, and where a ratification gave the consent of both.

If, then, there was a perfect analogy between the power vested in the Crown in England, and that delegated to the President and Senate in America, on the subject of Treaties; and if the Parliament, by virtue of its general Legislative authority, was in the practice of giving or withholding its sanction to Treaties concluded by the King, it was but a fair inference to say, that the same discretion existed in Congress.

Some instances of the exercise of this power by Parliament had been before quoted by others. The inexecution of the Treaty of Utrecht, in consequence of Parliamentary opposition, and the difficulties with which the Commercial Treaty with France was carried through the House of Commons, in 1787, had been already noticed. He would mention two other precedents drawn from the same source equally striking, or perhaps more so, as the course of proceeding there followed was precisely that which was proposed by the resolution in debate. The first was the proceeding on the Barrier Treaty, taken from the 5th vol. Parl. Debates, p. 43, where the House of Commons began, by a resolution to address the Queen, "that all instruction and orders given to the Plenipotentiaries that transacted the Barrier Treaty, and also all Treaties mentioned and referred to in the said Treaty, might be laid before the House, except such Treaties as they already had." We are told in the subsequent page, that on the 13th, that is, only two days after the request, "Mr. Secretary St. John presented to the House, by Her Majesty's command, a copy of the instructions to the Duke of Marlborough and Lord Townsend, about the Barrier Treaty, extracts of letters from Mr. Boyle to Lord Townsend, concerning the said Treaty; also, a copy of the Preliminary Articles, signed at the Hague; the titles of which copies and extracts of letters were referred to the Committee of the Whole House. After this, it was resolved to present an address to Her Majesty, that the letters written by Lord Townsend to Mr. Boyle, the Secretary of State, dated the 1st and 26th of November, 1709, might be laid before the House, which Mr. Secretary St. John accordingly did on the 14th of February." After having obtained the papers, Mr. L. said, the House of Commons proceeded to the consideration of the Treaty in Committee of the Whole, and voted, 1st. That the Treaty contained articles destructive to the trade and interest of Great Britain. 2. That the negotiator had acted without authority. 3d. That the advisers and negotiators were enemies to the Queen and Kingdom.

The Treaty being thus obstructed, the States General remonstrated to the Queen on the subject; but, conscious that the Parliament were only exercising a Constitutional power, they make no complaints in their memorial of any breach of faith, though the Treaty had been ratified. They enter into the merits of the Treaty, offer to nego-

tiate on the obnoxious articles, and conclude with "entreating the continuance of Her Majesty's friendship."

This instance, then, said Mr. L., is complete to show the propriety of a call for papers by the House of Commons; a ready compliance on the part of the Crown, a deliberation on a ratified Treaty, a rejection of it, and an acquiescence on the part of the foreign nation, without remonstrance.

The other instance was an address in the year 1714, requesting "the Treaties of Peace and Commerce between Her Majesty and the King of Spain, and the instructions given to Her Majesty's Ambassadors thereupon, together with the copies of the King of Spain's ratifications of the said Treaties, and the preliminaries signed by the Lord Lexington and the Marquis of Bedmar, at Madrid, and all other agreements and stipulations which had been made concerning the commerce between Great Britain and Spain. 2dly. An account of what engagements of guaranty Her Majesty had entered into by virtue of any Treaty with any foreign Prince or State, from the year 1710. And 3dly. An account of what instances had been used by Her Majesty for restoring to the Catalans their ancient privileges, and all letters relating thereunto. And then it was resolved, to take into further consideration the Message that day sent from the Lords upon Thursday next following."

Objections had been raised to this construction, drawn from three different sources.

1. From the prevalent construction at the time of establishing the Constitution.

2. From the practice of the Government since that period.

3. From the present ideas entertained by the people of the United States.

1st. As to the construction generally received when the Constitution was adopted, Mr. L. did not conceive it to be conclusive, even if admitted to be contrary to that now contended for; because he believed we were now as capable at least of determining the true meaning of that instrument as the Conventions were: they were called in haste, they were heated by party, and many adopted it from expediency, without having fully debated the different articles. But he did not believe the general construction at that time differed from the one he had adopted. A member from Virginia [Mr. BRENT] had shown, by recurring to the debates in the Convention of that State, and to other cotemporaneous productions, that the framers and friends to the Constitution construed it in the manner that we do; whilst its enemies endeavored to render it odious and unpopular, by endeavoring to fix on it the contrary construction. And as the friends to the Constitution were the most numerous, we ought rather to take the explanation under which a majority accepted the Constitution, as the true one, than to look for it in the bugbears by which anti-Federalism endeavored to prevent its adoption.

2d. The second argument that had been used to deprive the Legislature of any right of interference, in cases of this kind, was drawn from the uniform practice of the Government ever since its formation. The gentleman from South Carolina [Mr. SMITH] who made this objection, had cited one instance of this practice in the resolution directing Treaties to be published with the laws, and had adverted to the appropriations for the Indian Treaties, (under the general head of the Military Establishment,) as favoring his principle. As to the resolution, Mr. L. said, there was no doubt that Treaties, when properly sanctioned, ought to be observed, and therefore the resolution was proper, that they ought to be promulgated. On the subject of appropriation, it had been well observed by a gentleman from Virginia [Mr. GILES] that the House exercised as much discretion in granting the supply, by way of addition to the military appropriations, as if it had been given specially for the purposes of the Treaty. But the truth is, said Mr. L., that an accurate examination into the communications of the Executive in analogous cases, and the proceedings of this House, will form a strong, I think an irresistible, argument in favor of the resolution. It would appear, he said, from the view he was about to take, that from the first establishment of the Constitution until the negotiation of this Treaty was begun, the Executive had been in habits of free communication with the Legislature as to our external relations; that their authority in questions of commerce, navigation, boundary, and intercourse with the Indian tribes, had been expressly recognised, even when difficulties on these questions were to be adjusted by Treaty.

The first case related to a provision for an Indian Treaty, and was suggested by the PRESIDENT, in a Message of the 7th of August, 1789, in which he says: "If it should be the judgment of Congress that it would be most expedient to terminate all differences in the Southern District, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion." In consequence of this Message, Congress took into consideration the expediency of the measure recommended to them, and passed the act of the 26th of August, in the same year, appropriating twenty thousand dollars for defraying the expense of negotiating and treating with the Indian tribes, and authorizing the appointment of Commissioners. The PRESIDENT having appointed Commissioners to treat under the direction of the act, gave them instructions, which were communicated to the House, and from which this is an extract: "You will please to observe, that the whole sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Nothing having been effected by the Commissioners, the PRESIDENT mentioned the subject again in his Address to both Houses, on the 1st of January, 1792. In the month of March, in the same year, the House of Representatives adopted the following resolution, recommended by a select committee: "That provision ought to be made by

law for holding a Treaty to establish peace between the United States and the Wabash, Miami, and other nations of Indians, Northwest of the river Ohio; also, for regulating trade and intercourse with the Indian tribes, and the mode of extinguishing their claims to lands within the limits of the United States." On the 29th March, following, a bill passed the House of Representatives, the title of which was amended in the Senate and passed, appropriating twenty thousand dollars for purposes expressed in the preceding resolution.

Mr. L. said this case was important, as it was the first communication relative to a Treaty made under the Constitution. An attentive examination of its different parts would show that very different ideas were then entertained from those which were now enforced. He would first observe, that the discretion of the House of Representatives as to commerce with foreign nations, stood precisely on the same footing with that which they ought to exercise in regulating intercourse with the Indian tribes; that if one could be done without their concurrence, by Treaty, the other might also; and that, therefore, when the PRESIDENT recognised their right to deliberate in one case, he virtually did it in the other. Let us then attend to the language of the Message, said Mr. L., and we shall find that right of deliberation most expressly referred to. "If it should be the judgment of Congress that it would be most expedient"—what can be more explicit than this language? And again, "I think proper to suggest the consideration of the expediency of instituting a temporary commission." Here the same discretion is not only applied to, but the PRESIDENT, at that time supposing that no implicated power could deprive Congress of the right to regulate trade and intercourse with the Indian tribes, submitted to their consideration the expediency of appointing Commissioners. They passed the necessary laws, and he instructed the Commissioners, not in the language that is now held, that they might stipulate for the payment of any sum, and that Congress would be obliged to find the means; but he tells them, "the only sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Why, (if the doctrine is true that we are under an obligation to comply with the terms of every Treaty made by the PRESIDENT and Senate) why did he say no further sum could constitutionally be expended? If that doctrine were indeed true, his language would have been, Use what money may be necessary, contract for the payment of it in your Treaty, and Congress are constitutionally obliged to carry your stipulations into effect.

The resolution above quoted, Mr. L. said, was important, as it proved that Congress then supposed that they ought not only to provide by law for holding a Treaty with the Indians, but that they also had the power, and ought to exercise it, of regulating trade and intercourse with the same people, and of prescribing the mode of extinguishing their claims to lands within the United States; but all this, said he, it is now discovered may be done without their aid, by Treaty.

The second instance of the exercise of this dreaded discretion, was in the law of March 3d, 1791, appropriating twenty thousand dollars to enable the PRESIDENT to effect a negotiation of the Treaty with Morocco. This originated in the Senate, and is a decided proof that neither the PRESIDENT nor Senate had at that period any idea of the moral obligation that is now discovered, or they would, without the formality of a law, have at once stipulated with the new Emperor for the payment of the necessary sum, which must have been provided by the House.

In a third case, the PRESIDENT had thought proper to take the sense of that House in a matter that of all others demanded secrecy, and under circumstances that would have prevented his making the application, if he had conceived himself at liberty to act without their concurrence. He adverted to the Message of 30th December, 1790, where the PRESIDENT says: "I lay before you a Report of the Secretary of State, on the subject of the citizens of the United States in captivity at Algiers, that you may provide in their behalf what to you shall seem expedient."

No act having been passed by Congress in consequence of this Message, the PRESIDENT did not conceive himself authorized to bind the United States by Treaty, for the necessary ransom of their citizens; and therefore nothing was concluded until after a subsequent Message and previous appropriation, in the year 1793, when another Message was sent relative to the negotiations with Morocco and Algiers, then pending: "While it is proper [he says] that our citizens should know that subjects which so much concern their interests and their feelings, have duly engaged the attention of their Legislature and Executive, it would still be improper that some part of this communication should be made known." Part of this Message, therefore, was confidentially communicated, which shows, Mr. L. said, on some occasions, it was not deemed imprudent to trust this House with the secrets of the Cabinet; and in consequence of this Message, a law was passed, appropriating one hundred thousand dollars for the purchase of a peace with the Algerines. It was ostensibly appropriated to a more general purpose, but the intent was well understood.

The next transaction that he should quote, Mr. L. said, as favorable to his doctrine, was the Message of the PRESIDENT of the 5th December, 1793, and the measure to which it gave rise. The PRESIDENT says: "As the present situation of the several nations of Europe, and especially those with which the United States have important relations, cannot but render the state of things between them and us matter of interesting inquiry to the Legislature, and may, indeed, give rise to deliberations to which they alone are competent, I have thought it my duty to communicate to them certain correspondence which has taken place.

This Message, Mr. L. said, accompanied the papers relative to France, to Great Britain, and to Spain; and a question would immediately occur, what were the deliberations to which the PRESIDENT then thought the Legislature alone

was competent, and which he therefore thought it his duty to communicate. All our disputes with the nations referred to in the Message, were such as on the new construction of the Treaty power he could have adjusted by compact, without any reference to the House of Representatives; but it is plain, by the express words of the Message, that he did not believe that construction. It was no answer, Mr. L. said, to the argument drawn from this transaction, to say, that the PRESIDENT only submitted the question of War or Peace to the Legislature by this Message.

1. Because the Message related to the three principal nations in Europe, and he never could have imagined that Congress would have deliberated on going to war with them all.

2. This was evidently not his intention, because as soon as measures were proposed in that House, which he supposed would lead to a rupture with one of those nations, all these measures were palsied by the appointment of an Envoy, and the commencement of negotiation.

It was clear, then, that the PRESIDENT thought the matters communicated by his Message, which related to commerce and boundary, were constitutionally vested in the discretion of Congress. The idea was corroborated by the words of a Message relative to the negotiation with Spain:

"And, therefore, by and with the advice and consent of the Senate, I appointed Commissioners Plenipotentiary for negotiating and concluding a Treaty with that country, on the several subjects of boundary, navigation, and commerce, and gave them the instructions now communicated."

Why, said Mr. L., communicate the instructions to the Ministers? Because they related to commerce, to navigation, to boundary, on all which subjects the PRESIDENT must have thought the Legislature had a right of decision. He must have thought so at that period; but, unfortunately, all precedent of free communication ended here: Mr. Jay's negotiation began, and a different construction was assumed.

From this view of the acts of Government, Mr. L. said, he trusted that a far different impression would be made; than that the doctrine he contended for was a new one, originating in opposition to the English Treaty, and a desire to disorganize the Government. That, on the contrary, it had been declared by the PRESIDENT, acquiesced in by the Senate, and acted upon by the House of Representatives.

3. One other test of construction remained for examination. It had been relied on by a member from South Carolina [Mr. SMITH] he would therefore notice it; it was the present opinion of the citizens of the United States, as expressed by their town-meetings, and by their Legislatures. Mr. L. said, he did not suppose that the sense of the people on this subject could be perfectly collected, it could only be known by their applications to this House; and in those, he said, an appeal was made to that very discretion which it was contended did not exist. The petitions in favor of Treaty, and those which were presented against it, both acknowledged the right of the House to interfere. The Legislatures spoke the same language; some had approved of the conduct of those who made the Treaty; but all he believed were silent as to the power of this House. As to the town-meetings, he did not expect to hear them quoted as authority by the gentleman who had introduced them. His fellow-citizens of New York, Mr. L. said, would be surprised when they heard the name of the gentleman who had ushered them on the floor of that House; since they were there, however, said Mr. L., let us hear the language of their Address to the PRESIDENT. They need not be ashamed of it, and he would answer for its contradicting the position of the gentleman who quoted it. [He then read several extracts from the New York resolves to show that they thought the rights of the House were infringed by the Treaty.]

Thus, said Mr. L., to whatever source of argument we refer, we find the Constitutional power of this House fully established; whether we recur to the words of the Constitution, where the power is expressly given, and is to be lost only by implication; whether we have recourse to the opinions of the majorities who adopted the Constitution; to the uniform practice of the Government under it; to the opinions of our constituents, as expressed in their petitions; or, to the analogous proceedings in a Government constructed, in this particular, like our own. Yet, after all this, we are told, said he, that if we question the supremacy of the Treaty-making power, we commit treason against the constituted authorities, and were in rebellion against Government. These were serious charges, and made in improper language. He had not been so long in public life as the gentlemen who made them; but he would boldly pronounce it unparliamentary and improper. Besides, said Mr. L., this language is wrong in another view; it may frighten men of weak nerves from a worthy pursuit; for my own part, said he, when I heard the member from Vermont compare the authority of the PRESIDENT and Senate to the majesty of Heaven, and the Proclamation to the voice of thunder; when he appealed to his services for his country, and showed the wounds received in her defence; when he completed his pathetic address by a charge of treason and rebellion, I was, for a moment, astonished at my own temerity; his eloquence so overpowered me, that,

"Methought the clouds did speak and tell me of it,
The winds did sing it to me, and the thunder,
That deep and dreadful organ pipe, pronounced
The charge of treason."

I was, however, relieved from this trepidation (continued Mr. L.) by a moment's reflection, which convinced me that all the dreadful consequence arose from the gentleman's taking that for granted, which remained to be proved. He had only assumed that the measure was unconstitutional, and then the rest followed of course. From my soul, said Mr. L., I honor the veteran who has fought to establish the liberties of his country; I look with reverence on his wounds; I feel humbled in his presence, and regret that a tender age did not permit me to share his glorious deeds. I

can forgive every thing that such a man can say, when he imagines the liberty for which he has fought is about to be destroyed; but I cannot extend my charity to men who, without the same merits, coolly re-echo the charge. Another observation had escaped from the same member in the heat of debate, which another from South Carolina [Mr. SMITH] to whom he before alluded had repeated with high encomiums. It was this, that encroachment was more to be apprehended from the popular, than from any other branch of Government. This doctrine Mr. L. considered as highly pernicious to liberty; and as unfounded in fact, as it was improper. Where, he asked, will gentlemen find facts to justify their opinions?

If it were true, there would now be none but popular Governments in existence; they would have encroached on the Kingly power, until all power was centered in them alone. The sad reverse, however, was the fact. All Europe had once been free; all Europe, with the exception of France and Switzerland, were now in chains. Where, then, would historical facts be found to justify the charge? In the obsequious Parliament of Britain? In the houseless assembly of Naples? Or, the degraded Cortes of Spain? In the hundred years' sleep that had involved the States of Portugal? Would gentlemen look for them in the tyranny of Russia and Germany? In the military despotism of Prussia, or the ecclesiastical one of Rome? Why, then, if unsupported either by theory or fact, are the people told, be on your guard against the popular part of your Constitution; shut your eyes to the conduct of the Executive and Senate, they can never encroach, but beware of the ambition of your Representatives!

He would notice one other objection that had been raised, and then conclude: It was said, if the PRESIDENT supposed these papers necessary, he would have sent them; and that we might offend him by this request. Mr. L. said, this was not the first time that measures were endeavored to be carried, by appealing to the character of the PRESIDENT. He sincerely admired and respected the character of that great man; he was jealous of his reputation, and, as an American, was interested in his glory; no consideration should ever tempt him to destroy one leaf of his well-earned laurels; but, while he had the honor of a seat in that House, he would resist every attempt to cover improper measures by the splendor of any man's reputation.

He had before remarked the singular tendency of argument in this question towards the mystery of theology; it was not only predestination and free agency, we are now told that we must have full faith in the PRESIDENT, and that he and the Senate can do no wrong. What, sir, said Mr. L., has faith, banished by modern infidelity from religion, taken refuge in politics? Has this doctrine of human infallibility been transferred from the ritual into our Constitution?

Mr. L. concluded, begging the pardon of the Committee for the unavoidable length of his investigation; he felt how utterly incompetent he had been to the task, but he was consoled by reflecting on the eloquence and ability by which the motion had been supported by others.

MARCH 21.—In Committee of the Whole on Mr. LIVINGSTON's resolution:

Mr. WILLIAMS observed much had been said upon the subject of the present resolution, and so much time consumed, that he should confine his observations within a narrower compass than he at first intended.

It was contended that in a Republican Government there ought to be no secrets; but he would ask whether it was not specified in the Constitution that secrecy should be observed on particular occasions? and, had not his colleague [Mr. LIVINGSTON] quoted the secret Journals of the House? He believed if the Constitution of France were examined, it would be found that their system admitted of secrets. He had the honor, he said, to be upon a committee, before whom many papers were laid, which it would be improper to publish. With respect to the present papers, he did not think there were any secrets in them. He believed he had seen them all. For the space of ten weeks any member of that House might have seen them. It was not merely with respect to the present papers that he opposed the motion, but because it would be establishing a bad precedent; and, as they were a young Government, they ought to be cautious how they established bad precedents. It was well known that in the negotiations in time of war, confidential communications were necessary; but if no papers were allowed to be kept secret, what person would ever venture to make any such communication? Hence this country, when in the greatest danger, may be much injured by improper precedents.

He quoted authorities to prove that there never was but one precedent in Great Britain of a negotiator's papers being given up, that was in the last year of the reign of Queen Anne, when the Ministry were soon afterwards obliged to fly their country. He was sorry that a gentleman returned by the Republican interest of one of the first cities of the Union should have had recourse to a desperate Tory faction for a precedent.

Some gentlemen had observed that the papers ought to be obtained, because the PRESIDENT had intimated, in his Speech, that he would lay the papers before the House with the Treaty; but they were mistaken in their observations, because the papers had not been laid before us.

A gentleman from Pennsylvania said, because the King of England laid the papers relative to a negotiation before Parliament along with the Treaty to which they related, they had also a right to papers, the Governments being similar; but when the King did this, he informed them that he had concluded such a Treaty; and after a thing was concluded, he did not know what could remain for Parliament to do. He would refer to a recent authority, and not go back to 1714; it was to the case of the Treaty with Great Britain respecting American loyalists, when papers were refused to be given up, and it was deemed a most inconsistent thing to require them. This busines

caused great debates in Parliament, and the motion for papers was lost, there being only sixty-three for it, and one hundred and four against it. Mr. W. read the observations of different members of Parliament on the occasion, and observed, that although he was unwilling to quote precedents from a Government not similar to ours, yet this was a case in point, and this Treaty was negotiated between Mr. Jay, on the part of the United States, and Mr. Oswald on the part of Great Britain.

The resolution before them called for all papers, whether public or private, except such as related to any existing negotiation; but as the Treaty was completed the resolution included all papers. He should have had less objection to the motion, if the amendment proposed by the gentleman from Virginia had been adopted. He did not see the use the papers would be of if they were got. The House was not vested with either the power to alter or amend the Treaty. But, say gentlemen, they are wanted for information. But he believed they ought to form their judgments of the Treaty from the instrument itself. Suppose I were to employ an agent, and give him instructions to make a contract for me, on condition that it should not be binding until I had approved it; and my agent return and I approve of the contract, what light can be thrown upon it by the instructions which were given to the agent? The instrument alone was what must be had recourse to; because he had it in his power to have withheld his sanction.

If his information was right, when certain resolutions were brought forward in the year 1793, a gentleman from Virginia said that Great Britain would refuse to negotiate with this country; but immediately upon the Treaty being made known, it was everything that was bad.

He would endeavor to answer some observations which had fallen from a gentleman from Virginia [Mr. Giles.] It was asked if the Treaty power could receive any check? He conceived the will of the people ought to be obeyed. They had given power to the President and Senate to make Treaties, which if not complied with, would be to oppose their will. In speaking of the amendments proposed to the Constitution by the Legislature of Virginia, it was said they were only intended to make the check more certain than at present; but he read the resolution, viz: "That no Treaty containing any stipulations upon the subject of the powers vested in Congress by the eighth section of the first article, shall become the supreme law of the land, until it shall have been approved in those particulars by a majority in the House of Representatives; That the President, before he shall ratify any Treaty, shall submit the same to the House of Representatives;" and insisted that it might be clearly deduced from them, that they did not conceive the Treaty power to have any check in that House. That State had kept uniformly the same ground in all their actions; but the different State Legislatures, to which their amendments had been proposed, had determined the Treaty power rightly placed where it is at present. But because the people will not agree that they should have a check upon the Treaty power, gentlemen seem disposed to usurp it by their present doctrines.

The same gentleman [Mr. Giles] observed, that the checks in the Government of the United States had been completely routed for these six years. He was exceedingly sorry that the President could bind that House, but he said that was a sword that cut two ways. It was too late in the day to assert this doctrine, when the people were become so enlightened as to be better acquainted with the nature of Government, and better educated than the people of any other nation in the world. They would, therefore, take care of themselves.

He said that a gentleman from South Carolina had observed that the Treaty was put into operation by the Proclamation of the President, and made a part of the laws of the land. An honorable gentleman from Virginia [Mr. Giles] granted that; when completed, the Treaty ought to be annexed to the laws. Mr. W. asked, was this not done? It had been promulgated in the way in which Treaties are directed to be promulgated; and he would ask, if a case were to come before the Judges upon it, whether they would not be bound to consider it as the law of the land? If the member from Virginia [Mr. Giles] had been opposed to the Treaty going into operation, why did he not take the proper mode to prevent it? He knew of the resolution which directed how Treaties are to be promulgated and annexed to our code of laws, he knew the Treaty had arrived, and he might have had the subject discussed. If a majority were for preventing the Treaty from being promulgated in the ordinary way, then the resolution might have been done away, and some other mode adopted which was thought most prudent.

The same gentleman next contended that law can annul Treaties. But he believed that the Constitution decided that there was no other way of repealing Treaties but by mutual agreement of the parties, or by war. To break one article of a Treaty was to break the whole, and war, or a new Treaty, must be the consequence. The reason he gave why laws could repeal Treaties was, because laws were the will of the people. Treaties, Mr. W. said, were as much the will of the people as laws. The people had fixed barriers to the different branches of the Constitution, which could not be overleaped without endangering the whole fabric.

In speaking of power, gentlemen say it is more likely to be abused in the Executive than in that House. But, in the year 1789, when amendments were first proposed to the States, a gentleman from Virginia [Mr. Madison] asserted "that it was less necessary to guard against abuse in the Execuive department than any other, because it was not the stronger branch of the system; but the weaker; it therefore must be levelled against the Legislative, for it is the most powerful, and the most likely to be abused, because it is under the least control;" and Mr. W. quoted several

laws which had originated in that House, by which very large sums of money had been expended to little purpose, which he would explain when they were in a Committee of the Whole on the report from the Committee of Ways and Means.

But gentlemen say, "Have we not as much power as the House of Commons in Great Britain?" He answered, their powers were limited; the Constitution was their guide. He thought gentlemen proceeded as if they were about to form a Constitution rather than discuss a Constitutional question. Some gentlemen had said, Treaties of Amity ought to be vested in the President and Senate; others, that Treaties for a cessation of arms ought to be vested in the Executive; thus they wander, well knowing the ground they had taken was not tenable. It brought to his mind an observation made by an Indian chief, in a Treaty at Albany, since the late war, who, after thanking the Great Spirit for directing them back in the good old path, which made them happy, lamented, that ever since they had wandered from that path, they had been miserable. So it would be with them if they left the Constitution; they would wander from the right path, and involve themselves in difficulties. Appropriations for the army and navy in Great Britain must be made annually, without which they must be discharged. By our Constitution, we may appropriate for two years for the Army, and no mention as to what time for the Navy; so that we can make appropriations for a longer time for our Army and Navy than in Great Britain.

The gentleman [Mr. Giles] further observed, that the opinions entertained in that House three years ago, were not to influence them now; it was necessary, however, in Mr. W.'s opinion, that whenever nations changed their customs, some notice ought to be given of the change, that it might be known by nations with whom they may have any transactions. To prove this, he quoted *Marten's* Law of Nations. The Treaty had been laid before them, that they might appropriate money for carrying it into effect. On the first of June, the British were to give up the Western posts; if money was not appropriated, would they not be deceived?

Before he proceeded to remark on what had fallen from his colleague [Mr. Livingston] he would mention, that they had, for some years, in general concurred in their political opinions, and during the present session they had varied very little; in the question before the House, however, they should differ very considerably. Soon after the Constitution was framed, a Convention was held in the State of New York, in which he had the honor to be a member. He was fully of opinion at that time, as he was now, that the Treaty power was a dangerous power, and, in consequence, gave his dissent to it.

He would proceed to remark on what had fallen from his colleague. He had said, how could they determine whether the Treaty was Constitutional or not, or whether an impeachment was necessary without information? The papers, as he had said before, were open for ten weeks, during which time gentlemen might have had access to them. But that gentleman said, they had denied him of late, and so they had been to him; but he understood they were at the Secretary of State's office, and might be seen there. He mentioned a case of a Treaty with a foreign country, in which their Minister might have received presents; but declared, that he did not believe there was any corruption in the negotiation of the Treaty in question. It appeared to him, therefore, inconsistent still to talk of impeachment.

Suppose, for instance, his colleague was Attorney General of the State of New York, and a man were to charge another with being guilty of burglary, whose character, reputation, and standing in life were irreproachable, would he subpœna him to meet the charge? No, he would not. And still the case is exactly similar to the present.

If, said Mr. W., his colleague or any member of the House wanted the papers, they had only to rise in their place and declare there were grounds of suspicion for an impeachment; would any member refuse the call? But he presumed no such thing was thought of. Why, then, expend so much precious time unnecessarily? The gentleman believed that the Minister had deviated from the instructions originally given him; but that he received new instructions. Whatever instructions were given to him, it appears, by the Treaty being ratified, that he executed them to the satisfaction of his employer.

It may be, said Mr. W., that this House may determine that it has a check on the Treaty-making power; but the next Congress may say there is no such thing. Whether there is or there is not this check, it is necessary for the stability of the Government to have it determined; and he would join in sentiment with the gentleman from Maryland in a wish that it might be settled. But he would have the amendment constitutionally made; for, if we ourselves do not understand the Constitution, it is not likely that our constituents at large should understand it. If I am wrong now in the true meaning of the Constitution, I have been wrong since its adoption. The people are the sovereign; their will shall be my guide, from which I will not, knowingly, depart. I live in the midst of a body of plain but intelligent freemen, whose employment is the cultivation of the earth, and who prize nothing beyond the freedom they enjoy. They are jealous of their liberties, but they are obedient to, and willing to respect and support the laws of the land. How will they know the laws, if we do not understand the Constitution after it has been in operation for nearly eight years?

Gentlemen observed, that if the Treaty-making power was meant to be vested solely in the President and Senate, it would have been said so explicitly; but, he thought, if the Constitution had intended that House to have interfered in Treaties, that would have been expressed, as a few words would have done it.

His colleague asserted, that that House had the power of carrying into effect or not any Treaty;

but he thought the House obliged to carry into effect all Treaties constitutionally and completely made. To support his doctrine, Mr. Livingston had referred to the practice of Great Britain, and singled out the Treaty of Utrecht.

In England, said Mr. W., the Treaty-making power is in the King. A Treaty, when made by him, pledges the public faith and binds the nation; but the Courts of Law and the officers of the revenue do not consider Treaties as the supreme law (when they change the regulations of commerce or interfere with previous acts of Parliament) until Parliament has passed acts conformably to such stipulations of a Treaty. The propriety, and, indeed, necessity of this rule, results from the monarchical form of that Government, the power of the King alone to repeal existing laws being a just ground of apprehension. From a like apprehension, a Treaty, though negotiated and made in all its parts by the President, must be submitted to the Senate for their ratification. The Senate is a popular assembly, and representing the States. The concurrence of two-thirds is equal on every principle of combining the public will with the acts of the constituted authorities to the sanction of Parliament.

In England, Treaties of Peace, of Alliance, and, perhaps, many others, are perfect and binding without co-operation of Parliament. The opinion of some is understood to be, and *Blackstone* seems to be of the number, that every Treaty, when made by the King, is obligatory without the concurrence of Parliament. The practice, however, is to lay Treaties before Parliament when laws are necessary to carry them into effect, and for Parliament to pass such laws. And, although a very broad discretion has been claimed in Parliament to pass or reject such laws, the uniform practice, except in one instance, has been to pass them. The faith of the nation is considered as pledged. The case where laws to carry the Treaty into effect have been refused, is the Treaty of Utrecht, in 1714. The credit of the example is much abated by the circumstances of the times when it happened. The Duke of Marlborough had been displaced, but his friends were powerful; a Tory Minister was in power and much hated; Queen Anne was decaying, and died that year, and the succession to the Crown was doubtful. Parties were ready to draw the sword against each other, and the most distinguished Ministers were soon proscribed and fled the country. A civil war broke out in 1715, the next year. One only example in such times, and the forerunner and cause of such events, weighs little against the course of practice in numberless cases, all issuing another way. It proves that the practice of Parliament corresponds with our doctrine. If, however, their maxims are different, so is their Constitution in this particular. The act of the King should be compared with the act of the President alone; and the ratification of the Senate should be, and, by our Constitution, it must be, considered equal to the sanction of Parliament. The doctrine ascribed by Mr. Gallatin to the Parliament affords a reason for their calling for papers; because, he says, they are to act upon them. Yet such call is seldom made, and would probably be refused, if made without manifest occasion for the papers. Our Constitution has settled a different doctrine; and, as the papers cannot be needed, they cannot properly be asked for.

He doubted not that the Treaty lately concluded with Great Britain had ere now been laid before Parliament, and a sum of money granted for recompensing spoliations committed in this country. Should they then attempt to refuse appropriations for carrying the Treaty into effect, on their part, where would be their national honor, their national faith? Suppose the Treaty were a bad bargain, that would not authorize them to break it. No; if a bad bargain be made to-day, make a better to-morrow. Neither should they determine the thing before it came before them. Probably they may not find it so bad as it had been represented; for though it might, in some respects, narrow our commercial intercourse, yet, perhaps, by so doing, the agricultural interest would be proportionably benefited. He was convinced that the agricultural interest was the true interest of this country. If by the Treaty we find that it tends to the welfare of the farmer, we may conclude our negotiator had the true interest of his country in view; and it was his (Mr. W.'s) opinion that a man taken from the plough and put on board a vessel was a man lost to the true interest of this country. This country is not like that of Great Britain; they are confined to small islands, we have a country extensive and fertile; and it is our duty to encourage settlers, increase our numbers, and, by so doing, we shall soon be in a situation to bid defiance to all the world. He was willing to encourage commerce to its full proportion, but not so as to injure the agricultural interest. The third article in the Treaty had been quoted by a gentleman from Maryland [Mr. S. Smith] as having a tendency to operate unequally in our impost duties; Mr. W. observed, he did not think that was very exceptionable, so far as it had been explained. He did not think the third clause of the Treaty a bad one: it only went to this, that when Great Britain carried goods through our country they were to pay the same duty as American citizens. And would not this be a greater advantage to the United States than if they went up the rivers St. Lawrence or Mississippi, and paid no duty? All the duty received of them would be so much gain to the country.

His colleague [Mr. Livingston] went on too contemporaneous a construction, and said that the House were better able to judge of the meaning of the Constitution than the Conventions which were held to consider upon its adoption. He did not think so. He said, he had always been called an anti-Federalist, and was so considered to this day. He would willingly join to obtain an amendment to the Constitution with respect to the Treaty power; but, because he did not believe the Constitution contemplated an interference in that House in respect to Treaties, he could not agree to the proposed doctrine.

Mr. W. said, it was not necessary for him to go into the argument which induced the Convention to fix the Treaty-making power: it need only be mentioned that they knew how and where that power was exercised in Great Britain; and, in order to avert the difficulties which had arisen there, the Convention vested the power with the President and Senate; and, to guard against undue influence, directed that two-thirds of the Senators present should concur with the President. The Convention had many difficulties to surmount in this article; they had to do away the equal power the small States shared, under the Confederation, with the large States. But, to do away the discordant interests of the different States and to give the small States satisfaction, agreed that all the States should be equally represented in the Senate. In the Treaty-making power each State hath an equal voice. To extend it further, for another check, without the consent of the smaller States, would be doing away, in part, that power which the small States had retained.

He read the observations of one of the Judges of the Supreme Court of the State of New York, when debating on the merits of the Constitution in the Convention held in that State, to prove that Treaties were considered to be paramount to any law. Among the several passages from the debates of the Convention of New York, Mr. W. read the following proposed amendment by Mr. Lansing, who was a member of the Convention that formed the Constitution of the United States, whose abilities and candor were not doubted by any who knew him:

"*Resolved*, as the opinion of this committee, that no Treaty ought to operate so as to alter the Constitution of any State; nor ought any Commercial Treaty to operate so as to abrogate any law of the United States."

He believed that the amendments proposed in the Virginia Convention, arose from their considering that there was no check in that House: the contrary supposition, he said, would be like rowing a boat one way and looking another.

His colleagues read extracts from the Journals to prove that the President had laid before that House instructions which he had given his Ministers employed on the Treaty business. He believed, when much money was likely to be wanted, it was prudent and right to do so. It was as if he asked that House whether it would agree to a proposed negotiation or declare war—as if he had said, "I cannot unlock your Treasury; which way would you have me act?" It was inconsistent to say that he had diminished his power by asking advice. Books, he said, might be produced without number; but nothing could be brought to justify the breaking of a contract constitutionally made. It has become the law of the land. The House has, indeed, the physical power to refuse to appropriate to carry such a Treaty into effect; but the Constitution meant that what was done by one branch of the Legislature should be confirmed by the others, except the act was unconstitutional. If a Treaty was Constitutional, they were therefore impliedly bound to carry it into effect.

His colleague denied that any danger lay in the popular part of the Government; he thought differently. To say there was more danger to be apprehended from the Executive than the Legislative branch of Government was unsound doctrine. He should enlarge on this subject when the Treaty came before the House, and he trusted he should clearly show that the greatest danger of abuse lay in that House. Have there not bills originated in this House which have caused the expenditure of much money to very little purpose? Is there not more responsibility in one man than in large bodies? and was not the member from Virginia [Mr. Madison] of this opinion, as I have before stated?

Where have (said Mr. W.) the acts originated that have caused so much money to be expended, by reason of which the report of the Committee of Ways and Means states the necessity of borrowing such large sums to meet the necessary demands—the laying additional taxes and duties? Did these acts originate with the Executive? No. Where then? In this House. All money bills must originate in this House, being so directed by the Constitution.

Though his colleague represented Great Britain as being in chains, yet he was drawing precedents from their Government. At first, he thought he had fallen in love with the Government, but he afterwards found his mistake. In that Government, said Mr. W., one precedent creates another, and they soon accumulate and form laws; but his friend was drawing precedents from that nation to support the checks, which Mr. Giles said, had been for six years completely routed from the Government of the United States. He feared, if the gentlemen were permitted to take their course, we should soon have a curious sort of Constitution.

But, to conclude, the ruin or prosperity of the nation depended much on the present Government. He said, if the people flourish and are happy; if they are industrious and at peace, they will not complain of their Government. If this be the case, it will scarcely be admitted that the checks in the Government have been completely routed for these six years; if they were, however, he thought the nation could not be better than happy.

Mr. Milledge observed, that as the hour of adjournment was drawing near, he would not detain the Committee long. The length of the debates, on both sides of the question, had left him little room for observation; but as a Constitutional question had been involved in the resolution before the Committee, and as all Constitutional questions were important in their nature, he could not think of giving a silent vote. He perfectly agreed with the gentleman who had spoken last, from the State of Connecticut, that we ought not to put our foot from off the Constitution, and on that, he said, he would stand. Nor did he think it necessary to resort to this or that Government to know their usages, or to know what was said

in this or that State, or what was written by this or that man—but, according to the common and most obvious meaning of words contained in the Constitution, to draw our conclusion. That part of the Constitution which had been often mentioned, he begged that he might be permitted to read—that all Treaties made by the authority of the United States should be the supreme law of the land. He asked, what was the authority of the United States? Powers derived from the Constitution. What are these powers? Legislative, Executive, and Judicial. The better to understand these, let us see, said he, in what order they present themselves to us. In the Constitution we find that in the very first section all Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. This, then, is the Legislative power, the statute-making power, the ordaining power, the enacting power, or any other name by which it may be called. Now, then, said he, let us see the extent of this power. In the 8th section, Congress shall have power to make *all* laws. It would be necessary, he said, to attend to the monosyllable *all*. If the PRESIDENT and two-thirds of the Senate have a right to make a law, do Congress make all laws? Certainly not.

The Constitution being his guide, he felt supported by a just confidence in his opinion; but he would not say but he might be mistaken, and was unwilling to commit himself. It was his opinion, then, that Treaties ought to be bottomed on a law before they can have any binding influence. To elucidate this, he said, it would be necessary to read the whole of the clause: Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (which are, he said, seventeen in number, particularly expressed,) and *all* other powers vested by this Constitution in the Government of the United States, or in any *department* or officer thereof. Here, again, he observed, we find the monosyllable *all*. What does it import? Every one—the whole. Of what? Of all other powers vested by this Constitution in the Government of the United States, or in any *department* or officer thereof. What is the PRESIDENT and two-thirds of the Senate? The Treaty-making *department*. Therefore, being a *department*, whatever powers are vested in them by the Constitution cannot be carried into execution but by a law, otherwise the clause in the Constitution means nothing. What is a law? The will of the people made known. Where is that will to be found? In the Senate and House of Representatives of the United States in Congress assembled. Are the PRESIDENT and two-thirds of the Senate Congress? No; therefore they cannot make a law.

The gentleman from New Hampshire asked, what do the PRESIDENT and two-thirds of the Senate operate upon? I answer, with him, on Treaties; but in their nature they are only a department, and whatever a department does cannot, he repeated, be carried into execution but by a law. The Treaty-making power is an intermediate department, and no instrument they can make can operate the repeal of a law, the same force being required for a repeal as to enact. The gentleman from Rhode Island observed, that if the House of Representatives was to have a control over Treaties, small States might be injured in their commerce, because the representation on that floor was unequal. Mr. M. observed, that though his State was not a small State, yet it was small in representation, but he apprehended no danger. Under the Articles of Confederation, it was a Government of States; under the present Government, it was a Government of departments, of checks. He said, the local interest of one State was so blended with another that the security of the one became the security of the whole, founded on a proportion of sovereignty surrendered by each to the whole, and each drawing from the whole its proportion of security. Let us then, said he, examine the compact made by each with the whole on the score of commerce. Here he read part of the 9th section: No tax or duty shall be laid on articles exported from any State; no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another. He said, the negotiators of the Treaty, in the 12th article, had laid a prohibition on the exportation of cotton to any part of the world, except in British vessels. Cotton, the growth of our own soil, an important staple in the two Southern States, particularly in the one he had the honor to represent. But it is said, and so we find it, that this article is suspended, and open to further negotiation. He called on the Committee for any member to deny that the principle did not still exist. He said, then, if a principle still exists in that Treaty which militates with a fundamental principle, a principle in the Constitution, he left to the Committee, which ought to yield. Was this principle to prevail, it would destroy a vital part of the Constitution, and injure the agriculture of the States. He called on that gentleman to beware of admitting such a principle; for, if once allowed, it would extend not only to the cotton of Georgia, but to the flaxseed of Rhode Island, the flour of Pennsylvania, and the tobacco of Virginia.

Mr. M. concluded by observing, that, from all he had said, it was to be understood that the powers of legislation were only with Congress, and that the House of Representatives could not, on the subject before them, legislate without information. Before he sat down, he could not help observing that it was somewhat strange that the first Treaty negotiated under the present Government with an European nation, should produce such a contrariety of sentiment on the meaning of the Constitution, and that he was reminded by this circumstance of the pertinent words of a celebrated writer:

"The works of human invention are progressive, and are not completed but by degrees. At the last improvement we are apt to sit down satisfied, and vainly imagine that we have accomplished the end we have proposed, but time soon unravels the fine-spun system, and we find ourselves obliged to interweave fresh materials to repair the disordered texture."

Mr. KITCHELL observed, that he could not think of giving a silent vote on so important a question as this had become; but he should not go into an argumentative discussion on the subject, nor should he inquire into the opinions held in different Conventions at the adoption of the Constitution, or refer to Great Britain for precedents. He would look at the Constitution alone, and see what were the powers given to the different branches of Government. When it says that such and such powers are vested in Congress, and such in the Executive, he would abide by that decision. Where that instrument says Congress shall lay and collect taxes, regulate commerce with foreign nations, establish an uniform rule of naturalization, provide for the common defence, &c., and that the Executive shall have power, by and with the consent of two-thirds of the Senate, to make Treaties, appoint Ambassadors, &c., the directions of the Constitution must be abided by.

He would inquire what Treaties could be entered into by the PRESIDENT and Senate, without infringing upon the powers placed in Congress? He believed Treaties of Peace, of Amity, and Friendship, could be made by them. If this could be done, he said, those were the powers meant to be vested in the PRESIDENT and Senate, and not that Treaties should embrace objects which are expressly appointed to the management of Congress. In this view, the PRESIDENT and Senate would not have the power to influence that House in their proceedings; but commercial or other Treaties which embraced objects the regulation of which was placed in Congress, must be laid before them for the purpose of their passing or refusing to pass laws to carry them into effect, in the same way as Treaties with the Indians had been laid before them.

He did not think the question of itself before the House important, as it related to the production of papers, but only as it involved in it an important principle, viz: that when Treaties were made by the PRESIDENT and Senate, and presented to that House, they had nothing to do but appropriate money to carry them into effect. It was true gentlemen had seemed willing to allow them what they called discretion; but it was such a sort of discretion as a criminal might be said to have, who was told he might choose this or that posture of suffering, but that he must die.

It had been said that the PRESIDENT and Senate were equally the Representatives of the people with that House. He would inquire how they became so? The Constitution has appointed that Representatives shall be chosen by the people in proportion to their population. Were the Senate so chosen? No. The people have no vote at all in choosing them. Are they amenable to the people for their conduct? No. Therefore, in no shape can they be called the Representatives of the people. The Senate, he said, represented the several State Legislatures, and that House the people at large. He was sure, therefore, that every thing in which the interests of the people at large were concerned should be submitted to their consideration, before it was carried into effect.

A great deal, he observed, had been said upon this subject, some things well said, and a good deal that might have been as well unsaid, for any good effect they were likely to produce. He was sorry to hear what had fallen from a gentleman from Rhode Island with respect to the interests of small States. He said he was himself a Representative of a small State, and he believed his constituents were well satisfied with the present distribution of power, and did not wish that of the PRESIDENT or Senate to be increased.

He did not think what fell from his colleague, when he said gentlemen wished to amuse the people with the cry of liberty, liberty, and spoke of the groans of three or four hundred thousand slaves assailing his years, was meant as a reflection upon any gentleman in that House who might hold slaves; but an earnest wish that the people at large might never bend their necks to slavery.

He did not think the subject of the Treaty at all before the House. He should give his vote for the papers; not so much on account of their being of great importance in themselves, but in order to repel the doctrine, that they had no right to discuss the merits of any Treaty whatever.

MARCH 22.—In Committee of the Whole on Mr. LIVINGSTON's resolution:

Mr. COIT said, the attention of the Committee was doubtless fatigued with the subject before it; to those gentlemen who had already delivered their sentiments upon the occasion, he need not make any apology; and to those who had not done so, he would assure them that he would not occupy much of their time.

Most of the gentlemen who had gone before him, he observed, had regretted that the debate had taken the turn it had, but he was happy it had taken such a turn. It appeared to him, that the motion was intended as a stepping-stone to a violation of the rights of the other branches of the Government by that House. It became him when he made a declaration of this kind to say, that he did not impute other than pure motives to any member of that House. He believed the general wish was to discover the true sense of the Constitution; yet it was not extraordinary if in doing this men were actuated by the sentiments which they had long been in the habit of considering as well-founded, to lean to that construction which most favored their favorite opinions. He had no idea that any gentleman meant to make inroads on the Constitution; but it was his opinion that if the doctrines now insisted upon prevailed, they would have that effect.

He was happy, for two reasons, that the true ground of the present motion was made to appear. Because, if the resolution had passed without discussion, the motives which led to it would not have been seen; and because he wished the question of what were the powers of that House, with respect to Treaty-making, to be discussed, independent of the Treaty, which was likely soon to come before them. They stood now on the pure ground of an abstract Constitutional question.

Some obscurity, Mr. C. thought, had arisen from not distinguishing the application of arguments to the different principles on which the resolution had been advocated, which he should endeavor to avoid. He considered the Treaty-making power as absolutely vested in the President and Senate; still, that when Legislative acts were necessary to carry a Treaty into effect, the Legislature were not without discretion in the passing of them; if the Legislature had a hand in making Treaties, there could be no question of the propriety of calling for papers; he should then, in the first place, examine the propriety of calling for papers, taking for granted that the Legislature had no hand in making Treaties.

If they were to consider the power by which a Treaty was made, there would be found two nations concerned, whose consent would be also necessary to repeal it. But were there no other ways of cancelling a Treaty? There were certainly ways of breaking a Treaty. There were circumstances in which the breaking of a Treaty would be justifiable. For instance, if, before a Treaty was carried into effect, there was such a change of circumstances as to make it necessary to declare war; could they not discuss the subject, whether it were more advisable to carry into effect the Treaty, and keep at peace, or break it and declare war? If a question of this kind came up, there could be no impropriety in looking into it; not with an idea of having any concern in making the Treaty, but because such alterations had taken place in the state of affairs, as to make it necessary to discuss the propriety of going to war.

There was another point of view in which that House had a check on Treaties. Granting that a Treaty is completely made, the subject of appropriation must come before them. Gentlemen had been understood to say, that no discretion could be exercised in appropriating the necessary money for carrying a Treaty into effect. But he was of a different opinion; he believed, that though they had nothing to do with the making of Treaties, yet when they were called upon to appropriate, they must exercise their discretion. It was true, that in general when Treaties were made, it would be the duty of that House to carry them into effect, in the same way as they found it their duty to carry into effect existing laws; but he said, there were justifiable grounds of refusing to appropriate money to carry into effect both laws and Treaties.

Mr. C. referred to the case of appropriations for the army. Suppose, said he, an army was raised for four years; at the end of two years a fresh appropriation is requisite to support it; but the Legislature has a discretion in doing this, or where was the use of the Constitutional regulation of confining appropriations to two years? He considered. that there was some analogy between such cases of appropriation, and those requisite for Treaties. When a Treaty is made, the nation is bound by it, and its organ has an obligation upon it to carry it into effect. It might, in general, be said that there was an absolute obligation; but still there were particular cases in which that obligation did not hold. It appeared to him that a Treaty might possibly be of so ruinous a nature, as to justify the refusing to carry it into effect. Nay, he would say, that if half the lies and calumnies which had been spread throughout the Union with respect to the late Treaty with Great Britain were true; if the negotiator had been bribed; if he had given up the rights of his country; if their liberty and independence had been sacrificed; if the President and Senate had been bribed by British gold; if he had any idea of that kind, he would not agree to carry the Treaty into effect: nor should he conceive the national faith bound by such an instrument; no matter what grounds were taken to justify the refusal, whether Constitutional or Revolutionary.

If these principles were just, he said, it would be allowed that that House had a discretionary power with respect to appropriating to carry a Treaty into effect, though it had nothing to do with making it. No cause, he said, had been shown for calling for papers. Why then, call for them? Gentlemen talked about impeachment? They might impeach without papers. But, did they want to bring forward an impeachment? No such thing; it was only to cover the real drift of the motion that this was mentioned.

Did any gentleman think there was sufficient evil in the late Treaty with Great Britain to authorize them in refusing to carry it into effect? It appeared to him, that that House had a right to call for any papers which might throw light on their deliberations. But they must also consider, that there was a discretion to be used by the Executive in giving up papers in his hands. When there are papers in his hands which that House had real occasion for, it was important that they should be brought forward; but, he said, as long as a proper confidence subsisted between the two branches of the Government, if that House asked for papers which the President thought it improper to send them, he would decline doing it. But it is not contended, that the papers which are the object of the present resolution will be of any real use to the House. The gentleman who brought forward the motion had read them through, and the most that he said on the subject was, that the negotiator had not complied with some of the first instructions which were given to him. Another ground of calling for the papers, which was to him a pleasing ground, was that of publicity; for he fully agreed with the gentleman from Georgia, that the more public Governmental proceedings could with propriety be made, the better; but that House had not the right to direct the President on that head, they ought rather to leave it to him to publish the papers. or not, as he pleased; for, if they considered the President as attentive at all times to the duties of his office, it would be arroganey in that House to attempt to influence him in that particular.

But the main point in dispute was the force and effect of the Treaty-making power. What were the powers and privileges of the House on the subject? In pursuing this inquiry, he was pleased with the remark of the gentleman from Georgia,

that in examining into the meaning of the words and phrases, they must take the meaning that was generally given to them, and if they could find out the true import of the phrase *make* Treaties, it would remove all doubts on the subject. He hoped, for this purpose, that gentleman would have examined the proceedings of his own country; but, instead of doing this, they find him referring to the practices of Great Britain.

The President and Senate, Mr. C. observed, were expressly authorized to make Treaties. To what should they compare Treaties? Might they not say, that they were betwixt nations what bargains were betwixt individuals? And, after he had employed an agent to make a contract, with full discretion, and he had in pursuance of his authority made it, was it not binding? Though in public as well as in private contracts he acknowledged there might be circumstances which would justify a non-compliance with the terms of the bargain; yet, in case all the circumstances had been fair, the contract must be complied with.

It appeared to him not unimportant to consider, whether, when Treaties were made, they were not the laws of the land. A power to make carried, in his mind, a power to complete. But if this were doubtful, where should they look for information? He expected the gentleman from Georgia—knowing him to be well acquainted with the proceedings of Government for a long time—would have referred them to the old Confederation. It would certainly have been more natural to have referred them to the old Congress than to the Parliament of Great Britain. If they looked into the powers of the old Congress, they would find that they had the power to enter into Treaties and Alliances, which he apprehended to be the same power as that placed in the President and Senate in the present Government; and it was natural to conclude that a Treaty made by the present power was equally binding with those made under the old Government; for it will be recollected that the general power was delegated to the General Government; and if they had the same powers, he could not see that there should be any difference in the exercise of them. If it had been intended otherwise, the Convention, at the forming of the Constitution, would have added a proviso that no Treaty should be made by the President and Senate which included commercial regulations.

It appeared to him that a subject of such recent date as their Constitution could not receive much elucidation from the opinions held concerning it in the Conventions, at or about the time of passing it. He confessed he found little aid to assist his mind to form a judgment on the matter from any other source than the Constitution itself; indeed, he thought the light was there so clear that nothing more was wanted. There were four members, he said, in that House, who were members of the Convention who formed the Constitution. The sentiments of two of those gentlemen he was not acquainted with; but two of them had spoken on this subject. If those gentlemen had come forward and declared that such a power as the Treaty power was contended to be was not intended to be placed in the hands of the President and Senate, but that that House was meant to have certain powers with respect to Treaties, he would not say but that such a declaration would have shook his faith on the subject; for, though he should still have been guided by the instrument itself, yet authority so respectable would have had its weight on his mind. But what did the gentlemen who have delivered their sentiments say? The gentleman from Georgia [Mr. Baldwin] mentioned the necessity of inquiring into the true meaning of the phrase, "make Treaties;" and, instead of telling them what had been the practice in the old Government, he went over the water to Great Britain. What did they get from the gentleman from Virginia, [Mr. Madison?] He produced five sets of doubts and one problem upon the construction of the Constitution. This had the same effect on his mind as if they had declared that the meaning of the Constitution was well understood. in the Convention which formed it, to vest the Treaty-making power completely in the President and Senate. It was certainly matter of great importance where the different powers of Government were placed, and caused considerable debates in the Convention. Some thought the Treaty-making power should be placed in the Legislature, but that was greatly objected to; it was urged by others that he powers should be in the President and a majority of the Senate; it was again proposed that two-thirds of the whole number of the Senators should consent to a Treaty—but finally passed as it is found in the Constitution. He was far from accusing those gentlemen with impropriety of conduct on the occasion. If they think it would be better for the interests of the people that that House should have a share in the making of certain Treaties, and believe the Constitution will bear that construction, it was not for him to impeach the purity of their motives or propriety of their conduct; but it would require strong arguments to convince his mind that the Constitution placed any such power in that House, contrary to the unanimous understanding of the members of the Convention who formed it.

The arguments which had been urged for placing certain powers in that House with respect to Treaties were drawn from the practice of Great Britain, and from the danger of the Treaty power being vested wholly in the President and Senate. He did not think that the Government of Great Britain had been introduced for any other purpose than illustration, though other use had been made of it out of doors. With respect to the principles of that Government, let them inquire into its sovereign power; for it was a just position that Treaties must be made by the sovereign power of a nation. Where should they find that power in Great Britain? The King and Parliament were allowed to be omnipotent: Parliament have altered the continuation of their existence from three to seven years. Where must they look in the United States for the sovereign power? They must go to the people at large; for in them it lay alone. Their Constitution limited the powers of every branch of Government, and it was therefore im-

proper to apply foreign ideas to their Constitution. But if a Treaty was made by the agents of a sovereign power, authorized for the purpose, the end was answered: in the United States, the sovereign power can act only by its agents.

The Legislature of Great Britain, he said, it was true, consisted of three branches, and that was almost the only feature in that Government resembling that of the United States. In Great Britain, their Executive is an hereditary Monarch, whereas the President of the United States is elected every four years. Their House of Lords consisted of bishops and an hereditary nobility—the bishops appointed by the Crown, and the nobility were increased at the King's pleasure; whilst the Senate of the United States is elected every six years. Gentlemen say the Senators are not elected by the people, but they are chosen by the Legislatures of the different States, who are elected by the people. The House of Commons in Britain, which is the only representation of the people their Government contains, is elected by a very small part of the people; and the Crown has such an influence in it as to be able to carry most questions at its pleasure. How could it then bear a comparison with that House, who were chosen by the whole people every two years? The absurdity might be admitted, in that Government, that the King had the power to make Treaties, and that the sanction of the Legislature was still necessary to give them legal validity, because the influence of the Crown was so great in both Houses as to carry any measure it pleased through them. But it would not do in this country. The comparison, therefore, betwixt the two Governments fails, and no arguments can be drawn from it.

The other argument respecting the danger of the power being placed solely in the Executive arose from the comparison with Great Britain: If the powers of the President and Senate of this country could with any tolerable degree of justice be compared to those of the King and House of Lords in Great Britain, as little taste as he had for revolutions, he would not say but he should be induced to join gentlemen, either by fraud or force, to overturn the Constitution. He looked on the representation in the Senate to be as complete as in that House. Gentlemen were very fond of calling that House the popular branch of Government. He agreed that a criticism on words was in general trifling. That gentlemen from Virginia might assert this, he allowed, as they had nineteen members out of the hundred and five in that House, and in the Senate only a fifteenth part of the body; but gentlemen did not mean, when they spoke on that subject, to have reference to particular States, but to the whole. The Senators and Representatives were regularly apportioned for the whole Union; and, though on different principles, were as completely represented in the one House as in the other.

Mr. C. concluded with saying that he had no doubt the powers vested by the Constitution were well vested; and if the Constitution was fairly considered, little doubt could remain on the subject. But if the House passed the resolution now before the Committee, he should not consider the question as decided; but if the construction was still insisted upon, he was happy the Constitution was not wholly in their hands—that there were joined with them in the guardianship of it, the President, the Senate, and the people of the United States.

Mr. Hillhouse said, it was with diffidence he rose to speak on a subject which had been so copiously and ably handled by gentlemen who had preceded him. It had been his intention to have given a silent vote on the resolution on the table, but the turn which the debates had taken—involving an important Constitutional question, relative to the powers vested in the different branches of Government—seemed to create a necessity of expressing his sentiments, lest by his vote he might seem to subscribe to certain doctrines in the latitude in which they had been laid down. And as he should differ in some respects from most of the gentlemen that had spoken, he asked the indulgence of the Committee whilst he made a few remarks on a subject which he conceived to be of vast importance, as a wrong decision might give a direction to their Government which might be of serious consequence.

On the one hand, he did not think that Treaties could not, under any circumstances, be the subject of Legislative consideration or discussion, and that they were not to look into them. It appeared to him, that they not only had the right, but that it was their indispensable duty to look into every Treaty, when called upon to aid it in its operation; to see whether it had the Constitutional forms; whether it related to objects within the province of the Treaty-making power, a power which is not unlimited. The objects upon which it can operate are understood and well defined, and if the Treaty-making power were to embrace other objects, their doings would have no more binding force than if the Legislature were to assume and exercise judicial powers under the name of legislation. It might be proper, also, to examine the merits of a Treaty, so far as to see whether it be of such a ruinous nature as, according to the law of nations, it would be null,* and whether they would be justified in withholding Legislative provision to carry it into effect. He also considered Treaties as subject to Legislative control, so that their operation, so far as related to the people of the United States, might be suspended or annulled whenever, in the opinion of the Legislature, there was sufficient cause. And further, that the clause in the Constitution which provides that no money shall be drawn from the Treasury, but "in consequence of appropriations made by law," as vesting in the different branches of Government a check adequate to every purpose of security.

On the other hand he did not consider the House

* "Though the simple injury or some disadvantage in a Treaty is not sufficient to render it invalid, the case is not the same with those inconveniences that lead to the ruin of the State. Since every Treaty ought to be made with a sufficient power, a Treaty pernicious to the State is null, and not at all obligatory; no conductor of the nation having the power to enter into engagements to do such things as are capable of destroying the State, for the safety of which the empire is intrusted to him."—Vat. 180.

of Representatives as having a Constitutional right to interfere in making Treaties, or that a Treaty needed any concurrence of that House, or Legislative sanction, to make it the law of the land. He had always supposed that Treaties were exactly on the footing of laws in their operation on antecedent laws, suspending and repealing such as were repugnant. Treaties may sometimes require Legislative aid to carry them into effect; so may laws, and they were constantly in the habit of making laws to carry into effect laws heretofore made.

There was a great difference between giving that House a right to participate in making Treaties, and admitting them to have the same discretionary control (whatever that may be) which they have over laws; to be admitted to the exercise of such a discretion might be expected, but making Treaties is the highest exercise of sovereignty. Every one must reflect how very tenacious the States have been of their sovereignty ever since the Declaration of Independence, and have opposed every idea of consolidation, considering themselves in that respect as being upon a footing of perfect equality, being all equally sovereign, whatever might be their territorial limits. This principle is fully recognised in *Vattel*, who says: "A dwarf is as much a man as a giant; a small Republic is as much a sovereign State as the most powerful Kingdom." Upon this principle was the old Confederation formed; and can it be fairly presumed, then, that under this view of the subject, the States would ever have consented so to form this Constitution, as to admit that the power of making Treaties, this highest act of sovereignty, should have been lodged or submitted to the control of a body, where four States should control the sovereignty of the fifteen, and one State that of seven? This would be consolidation in good earnest.

It was of high importance to the commercial States, that the Treaty-making power should be lodged where there could be a prompt and energetic exercise of it. The United States have no maritime force to protect their trade; the principal security these States have for the immense property they have continually floating on the water, must arise from the exercise of this power, in forming compacts for commercial purposes, or alliances for mutual defence. In this way, said he, we may combine the power of other nations with our own, for mutual security and advantage; and during the sufferings which our commerce has experienced, we have found the merchants looking to the exercise of this power, as almost their only resource and hope.

After these preliminary observations, Mr. H. proceeded to inquire, not what ought to be, but what was the Constitution of the United States? We were not, he said, in Convention, but in the discharge of Legislative functions under the Constitution; and to understand the extent of the powers intended to be granted in the second article, section two, by these words, "the President shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur," we must advert to the general definition of the Treaty-making power—what objects it may embrace, and how far it can interfere with Legislative power. A Treaty is a compact entered into by two independent nations, for mutual advantage or defence. Nothing can, therefore, come within the Treaty-making power but what has a relation to both nations, and in which they have a mutual interest. The object of this power is to secure to our citizens advantages in foreign countries which are without or beyond our Legislative jurisdiction, to enable the Treaty-making power to obtain which, it must necessarily be authorized to give some consideration or equivalent therefor. If the United States authorize an agent to make a bargain or purchase, the power of binding the United States for a reasonable consideration is necessarily given. Whenever the Treaty-making power departs from these rules, it is without its jurisdiction, and such a Treaty would be of no validity. Under this view of the subject, if we look into our code of laws, we shall find few of them that can be affected, to any great degree, by the Treaty-making power. All laws regulating our own internal police, so far as the citizens of the United States alone are concerned, are wholly beyond its reach; no foreign nation having any interest or concern in that business, every attempt to interfere would be a mere nullity, as much as if two individuals were to enter into a contract to regulate the conduct or actions of a third person, who was no party to such contract. He could, he said, illustrate his idea more readily by adverting to a law, mentioned as being affected by the present Treaty, which was the revenue law; which provides that certain duties shall be paid on goods imported into the United States, and on goods coming in foreign bottoms ten per cent. advance on the amount of such duties. This is a law no Treaty can repeal, admitting the repealing power in its fullest latitude, because no foreign nation can have any interest or concern in the duties payable by our own citizens into our own Treasury. All that a Treaty could do, would be to suspend or arrest its operation, so far as the citizens or subjects of the nations with whom we treated, were or might be affected by it. The only operation which the British Treaty has upon that law is, that in consideration of our being freely admitted to the fur trade and the trade into Canada, which opens to the enterprise of our citizens a vast source of wealth and advantage, we only give in return to the subjects of the King of Great Britain the privilege of bringing, by land or inland navigation, into the United States, goods for which they pay no more duties than our citizens pay on goods imported in American bottoms. British subjects have always been permitted to reside and trade in the United States, and peltry is to be duty free in the territories of each. According to this definition of the Treaty-making power, and as far as he could judge, he said, it was correct, it cannot have that unlimited extension which has been ascribed to it. It cannot be that monster which has been described as about to swallow up all the

Legislative powers of Congress; nor can there be any danger of the President and Senate having it in their power, by forming Treaties with an Indian tribe or a foreign nation, to legislate over the United States. The Treaty-making power cannot affect the Legislative power of Congress but in a very small and limited degree. Because a Treaty or an Executive act may, in some instances, arrest the operation or progress of a law, it is no argument against the existence of the power. In article first, section eighth, of the Constitution, a specific power is granted to Congress to provide for the punishment of the counterfeiters of the securities or coins of the United States. In another article, the President is authorized, generally, to grant reprieves or pardons for offences against the United States, excepting in cases of impeachment. Can any one seriously contend that the President has not the power of granting a pardon to a counterfeiter of securities or coins, because it would suspend and defeat the operation of a law, on a subject specially delegated to Congress? If this doctrine be true, that all Legislative power may be exercised by the Treaty-making power, Congress, under the old Confederation, had unlimited Legislative power over the States. The old Confederation vested in Congress an unlimited power to make Treaties, excepting only that the States were to be at liberty to impose like duties on foreigners as on their own people, and that the exportation or importation of goods was not to be prohibited. Was it ever imagined that, by this general power, Congress had a right, by forming a Treaty with a foreign Power, to legislate over the States to any extent? Suppose Congress, instead of taking so much pains to persuade the States to consent to their laying the five per cent. impost, and in obtaining which they were finally defeated by the refusal of one State, after every possible exertion, had undertaken to have done it by Treaty? Would not the measures have been reprobated with one voice, and the Treaty considered as a nullity?

The next object of his inquiry was, what was the extent of the Treaty-making power granted by the Confederation to Congress? Under what limitations, and where, was the Legislative power to regulate trade and commerce? It had been shown, he said, that the Treaty-making power had been granted to Congress in the most general terms, with only the limitation mentioned; but the most unlimited Legislative power to regulate commerce rested with the States, with one exception only, which was, that no impost or duties should be laid that should interfere with any stipulations entered into in pursuance of any Treaty then proposed to France or Spain. Each State did also, by the second article, "reserve its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled." There was no mention made in the Confederation that Congress should have a right to make Treaties repealing laws, yet it was considered as necessarily granted by the general grant of the Treaty-making power. Under this power, Congress did make Treaties of every description, which received no other ratification or sanction than that of Congress; which Treaties were declared by Congress, considered by the States, and admitted by the ablest lawyers and adjudications of the highest courts of law in every part of the Union, as the law of the land, and as having operated as a repeal of all laws that were in opposition thereto. To evince this, he read two extracts from an Address of Congress to the several States, containing a resolution expressive of their opinion, passed April 13, 1787:

"When, therefore, a Treaty is constitutionally made, ratified, and published by us, it immediately becomes binding on the whole nation, and superadded to the laws of the land, without the intervention of State Legislatures. Treaties derive their obligation from being compacts between the sovereigns of this and of another nation; whereas laws or statutes derive their force from being the acts of a Legislature competent to the passing of them."

"*Resolved*, That the Legislatures of the several States cannot of right pass any act or acts for interpreting, explaining, or construing a National Treaty, or any part or clause of it; nor for restraining, limiting, or in any manner impeding, retarding, or counteracting the operation and execution of the same; for that, on being constitutionally made, ratified, and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such Legislature, but also binding and obligatory on them."

Notwithstanding, he said, the Courts construed the Treaty as having repealed all laws repugnant to it, and had so decided in all cases that came before them, yet to remove the smallest ground of complaint, (for there had arisen dissatisfaction on account of the non-execution of the Treaty of 1783 with Great Britain,) Congress, in that Address, recommended the passing a general repealing law, which, though it could be of no use here, might give perfect satisfaction to Great Britain, that every obstruction was removed. Secondly, he read from the letter written by Mr. Jefferson, when Secretary of State, a letter which did honor both to the author and to the United States, the following passages, viz:

"For indeed all this (speaking of repealing laws opposed to the Treaty) was supererogation. It resulted from the instrument of Confederation among the States, that Treaties made by Congress according to the Confederation, were superior to the laws of the States. The circular letter of Congress had declared and demonstrated it, and the several States, by their acts and explanations before mentioned, had shown it to be their own sense, as we may safely affirm it to have been the general sense of those at least who were of the profession of the law. Besides, the proof of this, drawn from the act of Confederation itself, the declaration of Congress, and the acts of the States before mentioned, the same principle will be found acknowledged in several of the documents hereto annexed for other purposes."

Speaking of a letter from the Governor of Rhode Island, relative to the operation of the Treaty, Mr. Jefferson says:

"Plainly implying that the absolute parts did not depend upon Legislative discretion."

"Mr. Canning, the Attorney for the United States (Rhode Island.) This act was considered by our Courts as annulled by the Treaty of Peace."

"Governor of Connecticut. The Courts adopted it as a principle of law."

"Mr. Lewis, Attorney for the United States (Pennsylvania.) The Judges have uniformly and without hesitation declared in favor of the Treaty, on the ground of its being the supreme law of the land."

"Virginia. Mr. Monroe, one of the Senators in Congress, and a lawyer of eminence, tells us, that both Court and Council there, avowed the opinion, that the Treaty would control any law of the State opposed to it."

"In New York, Mr. Harrison, Attorney for the United States, assures us, that the act of 1782, of the State, relative to debts due to persons within the enemy's lines, was immediately after the Treaty restrained by the Superior Courts of the State, from operating on British creditors, and that he did not know a single instance to the contrary. A full proof that they considered the Treaty as a law of the land, paramount to the law of the State."

"The case of Rutgers *vs.* Waddington. Waddington pleaded the Treaty, and the Court declared the Treaty a justification, in opposition to the law of the State."

"The case of John Smith Hatfield, New Jersey. Mr. Boudinot. His friends, confident in the opinion of their counsel, and the integrity of the Judges, have determined to plead the Treaty, and not give themselves the trouble of asking a release from the Legislature."

In Georgia, in a case wherein the plaintiffs were Brailsford and others, British subjects, whose debts had been sequestered (not confiscated) by an act of the State during the war, the judges declared the Treaty of Peace a repeal of the act of the State."

And that this was a well-founded and correct opinion, Mr. H. said, had since been confirmed by an opinion of the Supreme Court of the United States. It may be said, that these were State laws that were repealed. This makes no difference as to the principle; whether there be the check of thirteen independent Legislatures to pass the laws, or three branches of one Legislature; it only creates a greater difficulty in getting the law through, but does not add to, or diminish the Supreme Legislative power, which must be admitted to have been possessed by the States, in as full and ample a manner as it can now be by Congress, and when similar laws were passed by the Legislatures of the several States on any subject, they had as great an operation, and as binding a force, as any law that possibly can be made or passed by Congress.

Mr. H. further said, that in May, 1787, the Convention, composed of the best informed and most respectable of our citizens, and who were the framers of our present Constitution, met for that purpose, and being perfectly acquainted with all the above recited facts, opinions and judgments of Courts, and there being seven of their number who were members of and present in the old Congress, when the Address and resolution just now mentioned was promulgated, which was done only one month previous to the meeting of this Convention, and having before them all the Treaties which had been made under the old Congress, they proceeded to draw up this Constitution.

In the first place, in Art. I., organizing a Legislative body, and delegating to them, not all, but a part only of the Legislative power of the States, in these words: "All Legislative powers herein granted shall be vested in a Congress;" and among the specified powers, the right of regulating commerce with foreign nations. How were they to regulate commerce? Not by the exercise of the Treaty-making power. This article of the Constitution has not the least relation to that kind of power: it was Legislative power only that was meant: it vested Congress with the whole power, as far as the object could be accomplished by a Legislative act; but this power would embrace but a small part of the objects which come within the term of regulating commerce with foreign nations; it could extend no further than the bounds of our own jurisdiction. There is not a single expression that looks like authorizing them to act in any other than their Legislative character.

The Constitution then proceeds, in the second Article, to the establishment of an Executive power, to be vested in a President, and in the second section, says: "the President shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." The most general terms are used, and such as under the old Confederation had been understood to embrace every kind of Treaty, Commercial as well as others, and had been exercised in the most ample and unlimited manner, and the Treaties thus formed had been declared and adjudged to have the force and operation of a law, and that they repealed all laws that were opposed to them; and these Treaties were then in full force and operation, and were the supreme law of the land. It cannot be presumed that the framers of our Constitution were ignorant of the laws of the land, or that they had not well attended to and examined Treaties, which, by the Constitution, they were again about to declare to be the supreme law of the land under the new Government. Now, if it really was intended that the Treaty-making power should not be as broad, and have the same extension and operation as had been exercised under the old Confederation, or that there was to be a distinction between Commercial Treaties and others, or that Treaties generally should not so operate as to repeal pre-existing laws, or that the concurrence of the House of Representatives, or sanction of Congress, should, under any circumstances, be necessary to give validity or force to a Treaty, how can we account for the total silence of the Constitution on this subject, and that there should not be a single sentence in the whole instrument that even looks that way? If any limitation was intended, the Convention certainly knew that it was necessary it should be inserted. When we examine the Constitution, and see with what accuracy and care it is drawn up, how wonderfully

every part of it is guarded, that there is not a single word but appears to have been carefully examined, and when we call to mind the members of that Convention, and find them to have been the ablest and most accurate men of our country, we cannot presume that we should have been left to the sad alternative, for the purpose of explaining so important an article of our Constitution, which might have been so easily made definite, to be obliged to resort to the British House of Commons for precedents, and those too which were derived from the most turbulent periods of the Government of that nation; when, it is a possible case, that the change of a Ministry, or the rage of party, might have been more immediately the object of pursuit than the true interest of the nation; more especially as the practice of our own Government, and the legal opinion of our own country, were directly opposed to such a construction. But if all this might be supposed not to have had sufficient weight to have induced the Convention to have introduced such a limitation, or some intimation that such limitation was intended, they must have supposed it necessary when they handed out with the Constitution, which were declared by the ratification thereof to be the supreme law of the land, Treaties of every description, Commercial as well as others. To me, the language of this transaction is, we have, by one article of this Constitution, granted the Treaty-making power, in general terms, to the President and Senate, and here are samples of the Treaties we mean to authorize them to make. This was also, as far as he could learn, the understanding of the State Conventions and people generally, and appears clearly to have been the understanding of the Convention of Virginia. He would not resort to the debates of the Convention, or the observations or opinions of individuals. That would not be an infallible criterion to decide what was the opinion of the people; but he would advert to the amendments of the Constitution, which were sanctioned by the Convention which adopted this Constitution, and proposed those amendments thereto, which were sent on to Congress with the Constitution, and entered at large on the records or Journals of Congress. These amendments must have been the expression of the opinion and will of the people, otherwise the Constitution cannot be considered as an expression of their will. In those amendments are these remarkable clauses, viz:

"That no Commercial Treaty shall be ratified without the concurrence of two-thirds of the whole number of the Senate; and no Treaty, ceding, contracting, restraining, or suspending the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity, nor any such Treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

"And the Convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress to exert all their influence, and use all reasonable and legal methods to obtain a ratification of the foregoing alterations and provisions, in the manner provided in the fifth article of the said Constitution; and in all Congressional laws to be passed in the mean time, to conform to the spirit of those amendments as far as the said Constitution will admit."

Here is the voice, not of a few individuals, but of the people of Virginia, expressed, not on a sudden or trivial occasion, but when they were called for the express purpose of deliberating and deciding on an instrument the most important ever offered to the consideration of a nation; an instrument which was to bind thirteen independent sovereignties into a confederated Empire. Here are the standing instructions of the people of Virginia to their Representatives in Congress. These instructions have never been revoked or annulled, and speak in a voice too loud not to be heard by the gentleman, [Mr. Giles] if he really feels that reverence, nay adoration, for the voice of the people, as he declares; he now has an opportunity of manifesting to the world, that he did not use those strong expressions as mere words of sound, without meaning, as the words, the "voice of the people," and "love of country," are too often used by conforming to those instructions, and aiding a provision for carrying into effect a Treaty which has been made under the constituted authorities of the country, and has been ratified with the concurrence of two-thirds of the whole number of the members of the Senate, and has become of binding force even according to the true spirit of those amendments. The late Legislature of Virginia had acted a more consistent part, and though he did not approve of the object of their resolutions, yet he thought that in admitting the construction of the Constitution to be according to its obvious meaning, and to the understanding of the people, expressed by their Convention at the time of its adoption, and not attempting to rob it of what, in his opinion, is one of its brightest gems, by explaining away an express and important part of it by construction, though to obtain objects which they appeared to be seeking with great anxiety, but resorting to an amendment of the Constitution, that assembly had done honor to themselves and the State. This practice of doing away the Constitution by construction, if once admitted, would lead to the most dangerous consequences.

Upon the construction contended for by some gentlemen, it would have been improper to have used the word *make;* unless the Treaty was to be completed by the President and Senate, it undoubtedly would have said, the President and Senate shall have power to negotiate Treaties, which, when sanctioned, according to the forms prescribed by the Constitution, &c. That this House can, by their own act, sanction a Treaty, seems to be pretty much given up. The Constitution no where authorizes them to manifest their Legislative will, but by an act or resolution concurred in by the Senate, and sent to the President for approbation. If any sanction of the Legislature was intended, two-thirds of the Senate would not have been made necessary in the first instance.

Great stress has been laid on the words, *under the authority of the United States*, and in the sixth Article, which declares, "That the Constitution, and laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States," as importing something more than what could be done by the President and Senate, and as pointing to the Legislative powers of Congress; a little attention to the subject will show, that those words are not used in that place for the purpose of limitation, but as descriptive of the kind of Treaties intended. Under the Confederation the States had reserved a right, with the consent of Congress, to make Treaties; it would not have done, therefore, to have used the word *Treaties* only, for that might have included other Treaties than those made by the United States. The word *Congress* would not answer; for that would have excluded Treaties made under this Government; it would not have done to have used the words *President and Senate;* that would have excluded Treaties made by the old Congress. The words, *under the authority of the United States*, are the only words that would give a definite and concise description of the Treaties intended. It will be well to inquire where is the authority of the United States? Not in Congress, but in the people. He was happy that he was born in a country where there was no supreme power, but what rested in the people, who have manifested their will by this Constitution, which they have made and promulgated as a rule to guide all the administrators of the Government. This Constitution, which was intended, and he hoped would prove, the permanent foundation of a free and happy Government, delegates certain powers to each branch, and each is independent of the other, excepting as far as the nature of the case, or the Constitution authorizes or gives a control or check. What part of the Constitution authorizes Congress to claim the right of being considered as the authority of the United States? In the first Article, they are vested with certain Legislative power, but their power is limited, and even Congress, in the discharge of its Legislative functions, acts under the authority of the United States. In the second Article, the President, with the advice and consent of the Senate, is authorized to appoint Judges of the Supreme Court. Under what authority do they act? The President is made Commander-in-Chief of the Army. Does he not act under the authority of the United States, independent of Congress? Could not a pardon be plead in a Court of the United States, as being given under the authority of the United States? in short, every act done under the Constitution, is done under the authority of the United States.

Making laws and making Treaties are very different and distinct in their nature, one being a declaration of the will of the nation by a Legislative act, and the other being a compact entered into by two independent nations. Both are very important in their operation, and such a construction ought to be given to the Constitution (if at all doubtful) as will admit both to have the freest and fullest exercise of their power. The construction contended for by some gentlemen would very much restrain, if not annihilate the functions of the Treaty-making power, and give the Legislative power almost an absolute control over it; but the construction which he contended for, would admit the Treaty-making power to a fair and full exercise of its functions, and would operate as a very small restraint upon the Legislative power. This construction ought therefore to prevail.

For these reasons, and others that had been stated by other gentlemen in a more striking and forcible language than was within the reach of his abilities, he was, he said, decidedly of opinion that Treaties, when made and ratified by the President, by and with the advice and consent of two-thirds of the Senate, are made under the authority of the United States, have the binding force of a law, repealing all antecedent laws repugnant thereto, as a natural consequence of their having the force of a law; for it is absurd to suppose there can be two laws directly opposite to each other, and in operation and force at the same time. It is an invariable rule, that the last law repeals the former. Such a Treaty is, however, capable of being operated upon, suspended, or annulled, so far as the citizens of the United States are concerned, by a subsequent Legislative act. This has been questioned, but no satisfactory reason has been given why it should not be so; there are many which make it appear necessary, otherwise the Government could not arrest the operations of a Treaty which had once become a law, though the other party should fail to fulfil some important article, or be guilty of a direct violation of the whole, but by a declaration of war; nor, if found to be unequal, and to have been attained by the fraud and bribery of the other party. This right has generally been lodged in the same hands that had the power of declaring war. It would seem that the power of declaring war must naturally involve in it the power of doing lesser acts, which might in their consequences lead to war, there being no superior to whom resort can be had to determine when a nation has justifiable cause, according to the Laws of Nations, for departing from a Treaty, or refusing to observe it. From the nature of the case, it must rest in the judgment and discretion of each party, under this penalty, however, that a misjudging will give the other nation justifiable cause of war. By our Constitution, the power of declaring war is vested in Congress, and it would appear to be a pretty just inference to conclude, that they must also exercise Legislative discretion in all the other cases just enumerated. This power must be lodged somewhere; it will not do to permit every individual in the nation to judge for himself when a Treaty ceases to be binding. That it would be right or honorable for a nation, for slight causes, to refuse or neglect to execute a Treaty he did not hold or believe; but a nice observance of a

Treaty, and a strict regard to public faith, was of primary importance to every nation, and that a nation would ultimately find such a line of conduct highly to their honor and advantage. All he contended for was, that the Law of Nations admitted that there were causes which would justify a nation in departing from, or refusing to execute Treaties; and that Congress, in their Legislative capacity, were judges of those causes, so far as our nation might be concerned, and had power to pronounce that a Treaty was no longer the law of the land, and when they did pronounce they must be obeyed.

A gentleman from Virginia [Mr. MADISON] observed, that if no Legislative sanction was necessary to give validity to a Treaty, and there being no limitation on the Treaty-making power in the second article of the Constitution, it might admit of a doubt whether the United States might not be enabled to do those things by Treaty which are forbidden to be done by Congress in the first article; but no such consequence can follow, for it is a sound rule of construction, that what is forbidden to be done by all the branches of the Government conjointly, cannot be done by one or more of them separately, therefore, those restrictions will operate upon all the following articles of the Constitution as effectually as if they had been repeated in each. That instrument is so admirably constructed, that there is not a single superfluous word to be found throughout the whole, nor a word used that does not seem to have been most carefully examined and cautiously chosen.

It has been asked, shall this House, then, have no control over the Treaty-making power? He could answer, he said, to his own satisfaction, that there was, in the 9th section of article I, one that was sufficient to afford every reasonable security against the abuse of that power, which is in these words: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." Those who contend for the most limited construction admit that this clause vests in each branch the power of withholding an appropriation. The very circumstance of appropriation laws being necessary, which it is in the power of each branch to defeat, makes it operate in a degree as a check. If it was not intended to have that operation, but that appropriation laws were a matter of course, the clause does not appear to be of sufficient importance to be entitled to a place in the Constitution. The money might as well have been permitted to have been drawn from the Treasury by the law creating the obligations to pay, or that matter might have been left to Legislative provision. No one will pretend that an appropriation law is what creates the obligation upon the Government to pay, or that it has any relation to a revenue law. This clause being in the Constitution, ought to be admitted to have some important operations, if any such it can have upon a fair construction. A very important one, he said, readily suggested itself to his mind, which was, that it was intended as a check, not only upon the Treaty-making power, but upon the Legislative power also; for, if it operates at all, it must operate equally upon both. All Governments are sufficiently prone to be lavish of public money: it never could be necessary to adopt principles that would facilitate the issuing money out of the Treasury, but all the checks which the art of man hath ever devised, or have ever been put in practice, have not, in most of the Governments of which we have any knowledge, prevented the too lavish expenditure of public money. Whether the check here contemplated was founded in policy, or prudence, or whether it may not in its operation produce great embarrassments to the Government, is not now under consideration, or proper for us to decide. They found this clause there, and he said he felt an irresistible impression on his mind to give the Constitution such a candid and fair construction as to admit every part to have its full operation.

It was to him altogether unaccountable, that the Constitution should vest such an important power, which it is admitted is here given; a power which was so often to be called into exercise, if at the same time the right of exercising Legislative judgment and discretion was not intended. He looked upon it, however, to be a very different and more limited discretion than it would be right to exercise on the first formation of a law; in the latter case, it would be an unlimited discretion; but where a law had been passed, or a Treaty made, whereby the public faith was pledged, neither branch would hastily, or upon slight grounds, refuse the necessary appropriations. It is admitted they can do it, but, because a right or power may be abused, it is no sound argument that it does not exist. Every existing law or Treaty, he admitted, created a legal obligation; but every legal obligation did not involve in it a moral obligation to comply. In case of individuals, there may be a legal obligation upon one party to perform his contract, and a moral obligation on the other party to forbear to enforce it. Upon this ground, Courts of Conscience, or in other words, Courts of Chancery, are, in almost every country, empowered to relieve, in certain cases, against claims or demands which might be enforced in a Court of Law. In legislation, the discretion and judgment of every member must be his court of conscience; no one can measure his discretion by that of another; if the door is at all opened, and discretion is admitted in the smallest degree, there is no drawing the line. It was not an apprehension that the two branches of the Government who have negotiated this Treaty, were inclined or about to do anything injurious to the country, that influenced his mind; he believed there never was a time when they more merited the confidence of the people; but this Constitution was meant as an abiding thing, and he hoped we should do nothing that would disappoint this expectation; it was calculated for tempestuous as well as peaceable times, and he could not but believe that some little controlling power or check would be useful even upon the best of men. It might, at least, make them a little more cautious and circumspect, and sometimes prevent the hasty passage of a bad law, or adoption of a bad Treaty. He believed, however, that in practice it would be found that the Representative branch would as often need this check as either of the others. Happily for this country, each branch is Representative. Judges of our Courts are commonly from the best and most honest of our citizens; yet, it will be generally admitted, that where their judgments are liable to the revision of another Court, they are apt to exercise a little more caution, circumspection, and diligence, in examining and fixing the principles upon which their judgments are grounded, than might otherwise take place.

No great inconvenience, he said, could arise from admitting the existence of this check. In such a Government as ours, there must be a degree of harmony and good understanding between the different branches, or the Government cannot go on. The same spirit that would withhold an appropriation, where it was right and proper it should be made, would also prevent the passage of all necessary laws; and if either branch of this Government could be supposed (an idea he could hardly admit to be possible) to be wicked enough to abuse this right, and exercise it improperly, that branch would not hesitate to exercise the power, which cannot be denied to exist. On the other hand, he could perceive many advantages which might arise from the existence of this check; more, however, by way of preventing the introduction of evil into the Government, than of its being often necessary to exercise it by way of correction. It has ever been considered as a wise policy, so to calculate laws as to prevent as much as possible the introduction of evil, rather than to inflict very severe penalties on offenders.

There was nothing, Mr. H. said, in those extracts from the Journals of this House, read by the gentleman from Massachusetts, [Mr. LYMAN,] and since urged by the gentleman from New York, [Mr. LIVINGSTON,] which at all militated against the construction which admits that the PRESIDENT and Senate have the whole power of making and ratifying Treaties, without the concurrence or approbation of this House, or of Congress. All that appeared from these extracts was, that the PRESIDENT, as also the Senate and House of Representatives, have always supposed that an appropriation law was necessary to enable the PRESIDENT to draw money out of the Treasury, and that each House have an unlimited discretion as to the sums to be appropriated, or whether any thing at all, for the purpose of holding a Treaty, or for foreign intercourse; neither of these propositions can be denied. An express clause of the Constitution requires the first, and as to the second, most undoubtedly before a negotiation is commenced, or any stipulations entered into, the discretion of all the branches of the Government is unlimited. If no money is appropriated which can be applied to defray the expense, it is clear no Treaty can be held; so if the PRESIDENT has the power of sending Ambassadors or Ministers to foreign nations to negotiate Treaties, or for other purposes, it is equally clear that if no money is appropriated for that purpose, he cannot exercise the power. Congress have, therefore, always appropriated such sums of money as they judged proper for holding Treaties with the Indian tribes, and foreign intercourse. As to the extracts from the PRESIDENT's instructions to the Commissioners for holding an Indian Treaty, which have been read as a very striking case, where the PRESIDENT informs that twenty thousand dollars were appropriated to that object, and that no more could constitutionally be expended: Very true, there could not be more than that sum constitutionally expended for the expenses of the Treaty and presents to the Indians; but did the Commissioners, or the PRESIDENT, understand that they could not constitutionally stipulate in the Treaty for the payment of further sums? The fact is, that in the Treaty with this very tribe, a further and annual sum is stipulated to be paid, and appropriations have since been made for the payment, and it cannot be made without; but the consequence which those gentlemen draw from it by no means follows. He had not, he said, been able to find in the Journals or proceedings of this House any instance, and he called upon the gentleman to show one, where the PRESIDENT, in his communications, has given the least intimation, or either House have done a single act that recognises the right of this House, or of Congress, to interfere in the Treaty-making business. Their practice has uniformly been directly the reverse. The PRESIDENT and Senate have been in the habit of making Treaties ever since the formation of this Government. What one has ever been sent by the PRESIDENT for, or has received the concurrence or sanction of this House, or of Congress, except so far as to make appropriations to carry them into effect? It has been said those are Indian Treaties, and that the present is the first with a foreign nation under this Constitution. He called on the gentleman to show in what clause of the Constitution any distinction is made between Indian Treaties and any other Treaties. The words "Indian Treaties" are not to be found in the Constitution, and the PRESIDENT and Senate have no power to enter into such Treaties, excepting under the general power granted to make Treaties. It is also but in one section that power is granted to Congress to regulate commerce with foreign nations, and trade with Indian tribes. He wished the gentleman would point out the authority that would warrant the adoption of a different line of conduct in the two cases; but he should, he said, forbear any further remarks on that point, and should not attempt to answer the arguments of other gentlemen, as he had already taken up too much of the time of the Committee, and his object in rising was rather to express his own sentiments than to remark on those of others; but he asked the patience of the Committee, whilst he made a few observations more directly pointed to the resolution under consideration.

He had not been impressed with the belief, that the passing the resolution would violate the Constitution. They might, he supposed, ask for any information, or such papers as were necessary to enlighten their minds, and enable them under,

standingly to exercise their Legislative functions. The Executive also had an undoubted Constitutional right, and it would be his duty to exercise his discretion on this subject, and withhold any papers, the disclosure of which would, in his judgment, be injurious to the United States; for it is to be presumed that the House of Representatives never would intentionally ask for such papers. The discretion must be lodged somewhere, and no where can it be so well exercised, and more safely trusted, than to the Executive. Mr. H. said he had two objections to the resolution: first, that it was improperly and indelicately worded. It was true that he loved and respected the man as one who better deserved the love and respect of the people of the United States than any one that ever has or perhaps ever will live whilst we are known as a nation; but he was constrained in this case to say, he reverenced the office as the representation of the majesty of the people, and this House, as the Representatives of the people, ought never to approach that office but in the most respectful terms. In a call of this kind, which may reach papers of a very delicate and confidential nature, the resolution ought to be so worded as to leave to the President, upon the face of it, the full exercise of the discretion vested in him; but that is not the case as this resolution is now worded; for it would appear, that no discretion was left to the President, excepting to withhold papers that relate to pending negotiations; and if he should withhold any others, it might seem to thwart the call of the House. His second objection was, that no definite object was mentioned to which this information can apply; and it would be improper to call for information which could be of no use when obtained. As to impeachment, no gentleman had mentioned that in any way that had the least appearance of seriousness; as to saying we wanted information generally, without pointing to any object to which it is to apply, we might as well call upon the President to send his whole Cabinet at once. Unless some specific object is mentioned, the President cannot know how to select the information that would be pertinent or proper. In calling for information from the Heads of Departments, we have always pointed out what kind of information was wanted, and stated the reasons for calling for it, and the objects to which it was to apply, and never called upon those officers to send all the documents and papers relative to any particular subject indefinitely. This mode of doing the business would involve this House in difficulty; but, by pointing out the information wanted, and the object to which it is to apply, that only is selected which is pertinent. If this rule is observed in relation to Heads of Departments, much more ought it to be regarded in this case, where we are calling upon the President to unlock his Cabinet and send us his secret and confidential correspondence with a Minister sent to negotiate a Treaty with a foreign nation. In short, from all the circumstances and observations which attend this call, it seemed to him more to assume the appearance of too great a degree of curiosity in the House of Representatives than a serious pursuit after information, which, it is expected, can be used to any valuable purpose; he should, therefore, be against the resolution.

March 23.—In Committee of the Whole, on Mr. Livingston's resolution.

Mr. Gilbert said, he hoped he should be permitted to take some view of the subject which had been already so long in discussion, and still under consideration. He said, that, from personal indisposition, the want of health, he had not contemplated taking any particular share in the debate; that his first impression, when the resolution was at first called up in the House, had not been withheld. But, said he, considering the ardent strife and combat of principles, of fundamental points, immensely interesting, in his judgment, to the Constitution, Government, reputation, glory, and welfare of this country; and perceiving the high ground strenuously taken by some of his colleagues, in opposition to his own judgment on the occasion, he was impelled, as well from the respect he owed to himself, as from the duty he owed his constituents, to explain and vindicate the sentiments he entertained on the subject—sentiments which would influence his vote on the proposition.

When the resolution, he said, was first presented, it afforded to his mind no pleasant presage of the disposition of the mover, or of his friends, relative to the Treaty to which it refers; that when it was candidly requested of them to disclose their object, and state the particular purpose why they resolved to have those particular Cabinet papers, it was evasively replied that they wanted them for general information. Being further urged for a more explicit specification of the precise object, it was said that, as Constitutional questions respecting the validity of the Treaty would probably arise, these Cabinet papers might be necessary to clear up and determine such points; being plainly told they could be of no use or avail on such questions which could only be decided by comparing and examining the instrument with the Constitution, it was then suggested that they might be necessary in case of an impeachment, which, though not contemplated or expected, might be hereafter found expedient. But, more decisively to sound the resolution, it was openly asserted and insisted on that they wanted these confidential papers in order to judge of the merits and expediency of the Treaty, in order to approve or disapprove, adopt or reject it, as a matter of no obligation or validity, without the sanction of this House, or approving act of the Legislature. On this ground, he said, the dispute principally arose, which involved the great principles of the Constitution and Government. He had, he said, been attentive to the discussion during a long debate, and should now endeavor to examine the great points in controversy. Many gentlemen had so examined the subject that nothing really new could be expected from him. The principal question, to wit: whether the House of Representatives had or had not, by the Constitution, a coordinate right with the Senate in making Treaties,

he should first consider, together also with the distinction between one sort of Treaties and another, made by some gentlemen. He would, however, first remark, that the merits of the proposition seemed to be lost sight of, in the general debate of abstract principles, which he thought very unnecessarily connected with it, and only became so from the ground which had been chosen to support it. He would also remark, that, in general, he had been pleased with the temper of gentlemen manifested in the discussion; but was sorry to observe some instances to the contrary, and to hear some gentlemen say, that, if the resolution should not be adopted, they should vote against the Treaty, be against carrying it into execution, admitting it to be the very best Treaty that ever was negotiated. He hoped, he said, that he had misunderstood those gentlemen, and that such was not their meaning; if it was, he hoped they would reconsider it, and renounce such sentiment.

Mr. G. then adverted to the first section of the first article in the Constitution; observed upon some remarks which had been made by gentlemen opposed to his principles. On this section he observed that, if the word all, which had been so emphatically dwelt upon by them, conveyed an exclusive power of legislation to the Senate and House of Representatives, the only bodies therein named, he would wish to know how the President became invested with his Legislative power, as a constituent part of the Legislature? for, upon their construction, he could not be entitled to any share or degree of this power. He said, that it had been repeatedly remarked, that the subsequent specification of the powers granted to Congress, in the same article, section eighth, must operate so as to consign to Congress, exclusively, all the objects therein specified, and so far, at least, restrain the general power afterwards granted to the Treaty department. This he denied. He said, this specification was made, in his opinion, for another purpose entirely. He said it had been a pretty generally received principle of construction, that all powers not expressly mentioned or necessarily implied in the Constitution to be therein granted, were reserved to the people of the respective States. The words in the first section, "herein granted," were noticeable in this view, and related to the powers therein not granted. To determine precisely what powers were by the Constitution granted to Congress, as well as what were reserved, such specification was made; and not for the purpose of abridging the general grant thereafter made of the Treaty power, and therefore could not have any such effect. He said, there was no specification made in the grant of the Treaty power, because no such reason for it existed, as the whole Treaty power was granted without any reservations thereof to the States. He said, it was incorrect to decide what power any department or branch of the Government possessed, merely from the name or general denomination of such department. That, in some countries, in absolute monarchies, and despotic Governments, there was no distinction to be found, all resided in the same person. That, in Governments framed by compact, as in our own, and arranged into several distinct departments, particular powers and functions expressly assigned to each—when the question arose, what any of these departments possessed, it was to be determined, not by the name or denomination of the department, as whether Legislative, Executive, or Judicial; but from the designation of the Constitution, and precise mode or form prescribed for them to exercise such power. He said, he considered that, by our Constitution, the President and Senate were constituted a particular department for exercising solely the Treaty power. It need never be a question, or deemed at all material, whether this power partook of a Legislative or Executive nature, or of each. It was observable, however, that the framers of the Constitution well considered the nature and quality of this power, and, as if they judged it to partake of each, connected with the Executive one entire branch of the Legislature, restricting its operations, at the same time, to the necessity of acting by two-thirds of its members. Here, he said, was the check, here was the Legislative check, and, he religiously believed, the only check intended by the Constitution. This branch of the Legislature, he said, was selected for qualities which eminently rendered them the most fit for the exercise of this important power.

Had the House of Representatives, he asked, any right to complain, because it had not been selected also with the Senate, or because it had not been selected for such department instead of the Senate? In a Government like ours, said he, of departments, should one branch complain because it had not been placed in the station of another? Should the foot complain because it had not been made the hand, or the hand murmur because it has not been made the head? Should this House complain, because it had not been put in the place of the Senate? or should the President complain because he was tied down and trammelled by these two members? On this point, also, he adverted to the circumstance of equality of State sovereignty being insisted upon and retained by the respective States in the Senate of the United States. He was conclusively of opinion, he said, that, by our Constitution, the President and Senate possess the Treaty-making power, and, together, constituted a particular department for that express purpose.

He would next consider, he said, the distinction which some gentlemen had taken on this subject, between the different sorts of Treaties, as between Treaties of Peace and Amity, and those of Commerce.

He asked, where this distinction could be found? He could not find it in the Constitution. He could not find it in his imagination, as he could not conceive such distinction could consistently exist in the nature of things. It is said, in support of this distinction, that our Treaty department may make a valid Treaty, provided such Treaty does not touch anything or object lying within the sphere or jurisdiction of legislation; but, if it at all comprehends anything within such ground or jurisdic-

tion, such Treaty is of no validity without the sanction of the Legislature. This, said he, is supposing the sovereign will of the nation cannot make a rule, or law, otherwise than by its particular Legislative body, and in the particular form or mode prescribed for that particular organ to act. The nation acts by different organs; by its Legislative organ, to wit, the Legislature; it can only act upon things within the Territorial jurisdiction of the nation: but by another organ, it can act beyond this sphere, as by the organ constituted to exercise the Treaty power. This power exists, and must exist, inherently in every Government. It may be concisely defined to be the power to accomplish those objects which no other power or organ can effect. If this is the power of the nation, to be exercised for the nation, it has a right to use all the things or means belonging to the nation, reasonable and fit, and which are necessary to accomplish the great objects of the nation, beyond the jurisdiction and power of any other national power, or organ; for, otherwise, the interest and important objects of the sovereign will would not be accomplished at all.

The distinction, said he, made between Treaties, whether of one sort or of another, cannot therefore exist. He said, no such distinction could be supposed to have been entertained by the enlightened framers of the Constitution, for they had made no such discrimination. The terms they had used in granting this Treaty power could not possibly imply any such distinction, and if we were to look to the terms they had used, and to our own former Government, for the most probable source of their meaning, examine all the Treaties ever made by this country, and he said he believed we might also examine every Treaty existing between other nations, and we should find no such distinction, or possible ground for it. All will be found to comprehend objects more or less lying within the ordinary sphere of legislation, as exercised by one organ for legislating and making statutes—this construction must fail. He asked, if any Treaty with a foreign nation, negotiated in a foreign country, by Ministers despatched for the purpose, could be carried on without some expense to the nation? And if such expense would be defrayed without money? And if such money could constitutionally be advanced without appropriation made by law? If not, then the difference contended for between a valid and an invalid Treaty, could not exist. He would, he said, next proceed to consider the objection which had been made on the ground, that, upon this doctrine, there would exist two supreme Legislative powers acting without control on each other upon the same persons and things, within the nation.

Such, he observed, had been said and relied upon as the unanswerable objection. He had, he said, already remarked upon a principle, in looking at the distinction contended for, just noticed, which would discover, in his opinion, the fallacy of this supposed unanswerable objection. The sovereign will of the nation, acting by or through its constituted organs, regulates and controls everything within its power. The Legislature being but one organ, by which it acts, is destined to manage those things lying within the Territorial jurisdiction only, and can exercise or extend the sovereign will of the nation no further. The interest of the nation, arising from foreign intercourse, its objects connected with foreign nations, can be managed and accomplished by the Treaty department, by allowing them a sufficient portion of the national power to accomplish its object, and he believed it could not be supposed that this department were not intended to possess all such powers as the Treaty power required, being designed by the nation solely as an organ for the exercise of this power. Whatever, then, this organ transacted with foreign nations, which reasonably and necessarily involved such objects of the nation, lying within its Territorial sphere, as were naturally connected with the great objects of foreign intercourse, was done by the sovereign will of the nation, and must and would be respected as such, and as such was equal to any declaration of its will, by any other organ in the Constitution. The rules and regulations prescribed by the nation through this organ are, he said, of that transcendent authority that would nullify any impediment from any other source. The acts of this organ of the will of the nation become obligatory upon the nation and laws to the citizens and members of it, so as to repeal any law of the Legislature repugnant to this sovereign will of the nation. This, he said, had always been the received doctrine, even in our own country and Government under the Old Confederation. The same Treaty power there existed, and was exclusively exercised by the several States in Congress. The acts of this power, exercised by them, were always considered sovereign, controlling laws, to which the State Constitutions and laws yielded. It was, he said, the same thing now, operating upon the same principle; therefore, the objection, that two opposite independent Legislatures were constituted within the same nation, must fail; as such a thing had no existence—the supreme authority of the nation being the same, and equally to be respected, when expressed by one organ as by another.

Mr. G. then asked, whether, from this view of the subject, a Treaty could not constitutionally be made by the department constituted for the special purpose of making Treaties, without the co-operation of this House? Certainly, he said, of this he had no doubt. And he was persuaded, the distinction which had been taken between different sorts of Treaties could not exist, without operating an extinguishment of the Treaty power of the nation, which could not be admitted. This power being the authority of the nation had, he said, as he had already observed, a right to use all the reasonable and proper things or means of the nation, necessary for accomplishing its objects for the interest of the nation. In article 6th of the Constitution, Treaties made under the authority of the United States were declared to be laws of the land; yet, it was denied by the gentlemen opposed to this doctrine, and to satisfy this declaration in the Constitution, it was contended, very gravely by the gentlemen, that this particular declaration, so far as it comprehended Treaties, only related, from the succeeding words in the same article, to the individual States, so as to bind the State Judges; and one of the gentlemen from Virginia had said, there also resulted a problem how the State Legislatures were to be affected, as the Judges only are said therein to be bound by such Treaties. For his part, Mr. G. said, he could not perceive the problematical mystery which seemed so forcibly to have presented itself to the mind of that gentleman; for, even allowing this article only to relate to the individual States, any Constitution or law therein to the contrary, as expressed, and that the Judges should be bound thereby, he said he could not possibly conceive how the State Legislature, by acting, by legislating, one way or the other, could constitutionally affect the operations of a Treaty.

It was impossible, Mr. G. said, for him to admit the idea that Treaties, which had the effect of a law upon all the individual States, should have at the same time no such effect upon the United States. He said, if the absurdity of any thing were mathematically capable of demonstration, this idea was so, as opposed to the truth of a self-evident proposition, viz: that a Treaty should affect and bind all the parts, and at the same time not affect or bind the whole. He would notice another objection which had been urged as decisive against admitting Treaties to be laws, or having such effect, the declaration made in the Constitution notwithstanding. It had been said, that Treaties could not be considered as laws, if they require the aid or acts of the Legislature for their execution. Can this idea be sound? Do not many laws of our Legislature require the aid and acts of the Executive for their execution? Or do the gentlemen suppose it no law, or a very poor one, that cannot execute itself? He thought such logic could never satisfy the meaning of the Constitution. The expressions in the Constitution declaring Treaties to be laws, was comprehended in the same sentence and expressed by the same words with the Constitution itself and laws of the United States. As well, then, might it be said that, by the same construction, the Constitution and laws of the United States only related to and bound the Judges of the individual States. It had also been said by gentlemen, who seemed to wish to find some meaning for the words of the Constitution which would suit their doctrine, that the words therein mentioned, under the authority of the United States, meant only and exclusively Congress, comprehending the Legislature only; but this was too palpably absurd to be dwelt upon. The great and alarming objections which seemed constantly to be resorted to, and into which Mr. G. said, all others may be resolved, was not that the President and Senate were not fit to exercise the Treaty power, nor, indeed, that they were not the most fit for that business; but, admitting all this, it had been seriously stated what they might do were they to abuse the power and trust placed in them by the Constitution. They might, it was said, combine with some foreign nation, league themselves against our own country, introduce and establish nobility, aristocracy, despotism, abolish our own Constitution, laws, liberty, and religion.

Mr. G. said, this was a frightful picture; and suppose they should thus attempt to abuse their power, or that any other department, or all combined, should thus attempt to abuse their power, where would be the remedy? He should be very sorry, indeed, to be without a remedy. The remedy, the sovereign remedy, for all intolerable abuses of power, rests in the rights of man, and is to be found in this country, every where: but he hoped there would never be occasion to resort to this remedy. The objection certainly was no argument to prove the want of suitable power, for it only went to the abuse of legitimate authority, and was as applicable to all other cases, and to all other departments as to the one at which it was aimed. The history and practice of the British Government, of Spain, and other foreign nations, have been resorted to by the gentlemen on this occasion to support a doctrine which appeared to him not only repugnant to our own Constitution, but never before contemplated by our own Government. Gentlemen had told us of civilians, of jurists, and sages of public law, but for his part he had never, in the small course of his reading, except among our own countrymen, seen any one who ever saw or contemplated the American Constitution, nor did he believe that there was one to be found out of the whole class, up to Solon, the Grecian sage, who had ever entertained ideas of such sort or plan of Government. As to the doctrine of checks, which had been so much insisted upon by the gentlemen in favor of their positions, he said he would make a few remarks in order to show how, in his judgment, that doctrine was to be understood and applied. Checks in Government, limited and constituted as ours is, if misunderstood and misapplied, would produce more injury than, when rightly applied, they could do good. He said, he never understood, in regard to Constitutional checks in Government, that part only of a whole branch or department could check a whole department, but always supposed that nothing short of a whole department could check another. The Legislature could check the Judiciary; so the Judiciary might, in some cases, in order to guard the Constitution, check the Legislature; but no constituent part only, or part of the Legislature, could do this. It was true that, in a particular department, consisting of constituent branches, who could only act in co-operation, one of these branches might operate as a check to another, as was the case in the Legislature, where the benefit and security from checks had, to our own observation, been conspicuously eminent; but the check here contended for was to arise from one branch of the Legislative department only, and operate against another distinct separate department—the Treaty making department; which was, in his opinion, quite contrary to the principle of this doctrine of checks.

Mr. G. said, he would advert to the objection which had been greatly urged and relied upon

against the doctrine he advocated, to wit: the want of right, Constitutional power, and discretion in this House to withhold appropriations necessary for executing the Treaty, or in any manner to resist and repel this compact. Mr. G. said, if it was allowed to be a proper Constitutional Treaty, it having been completed by its ratification and exchange, it was obligatory, in point of moral and political obligation, upon the parties, and only remained to be executed; and, if so, he considered it incumbent on the nation to fulfil it, and consequently the duty of its Representatives to do whatever was proper and necessary for such purpose. They had, in such case, then, no other discretion than as free, moral, intelligent agents, in choosing and doing right or wrong. Every honest contract, made voluntarily, by intelligent agents, created a moral obligation. Every moral obligation ought to be regarded. No one will say the contrary. When we feel this obligation, can we complain of the want of freedom and right to disregard it? Surely not. But, said Mr. G., every engagement or compact may not have this quality, may not create any such obligation to regard it. It may be, in this respect, so destitute of honesty, so replete with corruption and baseness, as to be altogether void. This would depend upon circumstances. These circumstances we may, we ought to look to; and, if we found the Treaty attended with such circumstances, we were bound to resist and repel it. This was a duty incumbent upon us, which could not be dispensed with; but this right, this indisputable right, Mr. G. said, resulted from principles entirely distinct from the principles which had brought on this discussion. They did not result from any Constitutional right or power of making Treaties; they did not proceed from a ground which gentlemen had assumed of our exercising at all the Treaty power, or having a right to affirm or disaffirm such compact as a constituent branch of the Treaty department; but, from principles of self-preservation, of natural right, paramount to all Constitution and law. From confounding principles and things so entirely distinct, Mr. G. said, apparently by some gentlemen, or not leaving them sufficiently distinguished, had, he believed, occasioned great part of that diversity of opinion so visible on this subject. If a Treaty should be replete with all the terrible evils that have been frightfully described to our imagination; or, if it should contain any one of them, or any thing else which we deemed intolerable and corruptly designed for our ruin, we should repel it, at the hazard of war or any thing else; choosing, as upon all other occasions, the least evil of the two. But this right of thus resisting or repelling a void Treaty, will not apply to one which is not void, that is, not destitute of moral obligation—will not apply to a compact that may be merely considered a hard bargain. And here, Mr. G. said, as his colleague had borrowed from the poets, he would, on this point, since it occurred, refer to one poetically describing the character of the good man, saying, "though to his own hurt he swear, still he performs his word." The principles of resisting or repelling a corrupt, void Treaty, being understood, and entirely different from the principles contended for on the ground of our sharing in making a Treaty, Mr. G. said he hoped there would be some reconciliation and less diversity of opinion on the point discussed. As to the merits of the resolution, he should just make a few remarks more, and then quit the subject. It seemed to him that it had been placed upon a ground by the mover and his friends, so as to involve principles vastly important, but not necessarily connected with it. If the proposition resolving to call for the Cabinet papers had been placed on the ground of expediency and policy, which, in his opinion, was the only ground on which it ought to have been put, there could not have been great difficulty in the judgment of any one in deciding it. He made this remark in hopes that gentlemen who agreed with him in this sentiment would vote upon the motion on its merits, without reference to those Constitutional principles, if they did not suppose them necessarily involved. He could not conceive that it was at all expedient for them to have those Cabinet papers. If they were to be considered upon the ground only of official papers of our own Government, it would be very different in his judgment; but those papers related to the Cabinet concerns and transactions of a foreign nation, whose Cabinet was equally concerned with our own, and, however inclined we might be to expose all our own secret negotiations and Cabinet transactions, he said it could not be proper, contrary to the practice of all other nations, to expose wantonly the Cabinet negotiations and concerns of another nation, which had been confidentially conducted and committed to the custody of our own Cabinet.

If any particular purpose rendered them necessary, it ought to be specifically mentioned in the resolution; and, if it was such evidently as required the papers, it would evince the propriety of calling for them, otherwise it would seem not only inexpedient, but impolitic and unjustifiable; and, if they were to be called for on the ground of any co-ordinate right we had to act in making or sanctioning the Treaty, it was, in his judgment, decidedly unconstitutional. From every consideration, therefore, he hoped the resolution would not pass.

He observed, that he had occupied more time of the Committee than he ever expected on this subject; that he had little confidence of having suggested any new light, or pursuaded any one from prior sentiment; but, the most he expected was, so to have communicated himself on the occasion, as that his own honest sentiments should be well understood; sentiments, he said, which would altogether influence his mind against the resolution, and regulate his judgment in considering the subject of the Treaty.

Mr. Murray felt, in the fatigue of which he himself was sensible from attention to the debate, that whoever should attempt to engage the ear of the Committee would have much to apprehend, unless he could promise some novelty of remark. This, however, he would not promise, but he relied upon the sense of duty which animated every member there for a little indulgence, while he attempted to deliver his opinions against the resolution upon the table. It was a question of great magnitude. Its consequences affected not only the Constitution of his country, but were closely interwoven with its character in the eyes of foreign nations. It affected the Constitution by a new construction of its respective powers. It affected the character of the country in the eyes of foreign nations, by an endeavor to give a power to this House to control, to admit, or to reject, those public and hitherto sacred covenants which bind nation to nation in good faith. The importance of a question involving such considerations would be an apology to any member for engaging the Committee's attention.

The resolution proposed by the gentleman from New York, [Mr. Livingston] was but the introduction to the question. On the first day's debate, before the subject was committed, he had opposed this resolution. He had not then certainly reflected as much upon the doctrine to which it led as he had since done; but a few simple truths which had long rested in his mind, undisturbed by passion or by new lights, early showed him the necessity of opposing a measure which was predicated on a right of which he had never heard or thought, except since the late discussion of the Treaty, through the newspapers and pamphlets of the day. He insisted that the novelty of the doctrine contended for was of itself sufficient to excite an anxious investigation, considering that we act under a Government and Constitution so extremely definite and precise, both in the quantum and modification of its powers, that any doctrine highly constructive, upon any important part of the Constitution, will forever be a hazardous experiment. He had listened with candid attention to the arguments that had been most ingeniously brought forward to sustain those new doctrines, but still found in the simplicity of those opinions that had kept pace with his acquaintance with the Constitution from its origin, and which had been so congenial with its practice, a basis of conviction which nothing that he had heard had shaken.

The Government of the United States had been in operation more than seven years. Treaties had been formed and acquiesced in. These Treaties had established peace, boundaries, and the rights of persons and of social intercourse; they had been made by the President by and with the advice of the Senate; they had not, that he had heard of, been questioned as supreme laws of the land. This Treaty power is now disputed, on a question which was connected with an event upon which much sensibility had been excited. He did not know how far the minds of gentlemen might not be affected by the merits of the Treaty which had given occasion to the motion; how far the genuine maxims of construction might not have been swallowed up by the sensibility that flowed from a construction of the Treaty power when applied to this particular instance of its exercise. The minds of gentlemen could alone determine that matter, and to them he left it. But it was a little singular, that the first foreign Treaty made by the Government should shed this new light upon the minds of gentlemen.

He said, that the important question before the House, independent of the immediate object of the resolution, was, whether the printed paper upon the table, purporting to be a Treaty, was a Treaty or not? If it is a Treaty, it is the supreme law of the land; a public covenant, binding the nations who are parties to it, as fully as if every individual of each nation had personally consented to the ratification of it. If it is not a Treaty in the eye of the Constitution, nothing that we can do will make it so. If it be a Treaty in the eye of the Law of Nations, nothing that we can refuse to do, can destroy its validity, though we may break it. If it be a Treaty, nothing that we can do can add to its validity, though it may to its practical operation.

The question is not as to the mode of breaking Treaties, but of making them; not an estimate of circumstances that are to free us from all duty to fulfil an engagement, but whether the moral and public obligation of Treaties when made is to bind us; upon the adoption or rejection of a principle, which, if adopted, is to weaken the bands of nations by a denial of the Law of Nations in converting the mere power of breaking them asunder, into a right to do so in the face of the highest compact known to independent nations; this our country could never have designated to us under a Constitution breathing good faith, justice, and true freedom.

He would, he said, state some of the opinions that had been the most ably argued in support of the resolution. There were several propositions laid down: It had been said that a Treaty which contained stipulations upon any of the reserved powers granted by the 8th article of the Constitution to Congress, was unconstitutional: Another is, that a Treaty comprehending any of these specified objects as reserved to Congress, as mere Legislative objects, was not the law of the land till consented to by this House; and that no Treaty which required the agency of this House was a law of the land, if this House refused its agency, and that the House has a Constitutional right to refuse it. He said that he would state his own opinions in opposition to those, and then endeavor to show that these were fallacious, and destructive of the ends which the Constitution must be presumed to have contemplated.

From the letter and spirit of the Constitution, made up, as it certainly was, of national and State capacities; from a plain, unlettered, and self-consistent construction, going hand in hand with an undisputed course of practice for seven years, it had always appeared to him that the President, by the advice of two-thirds of the Senate, had power to make Treaties. It was, he would contend, from a plain and unsophisticated construction of the Constitution, that this opinion was drawn. The doctrine now contended for, is to uphold an assumed power that can at best only defeat, but never can be rendered instrumental in giving exercise to the Treaty power.

It totally destroys the Treaty power given by

the Constitution; but does not enlarge the Legislative power of Congress. It may do harm, but never good; establish it, and the Constitution is a nullity in that grant of power, which is designated to present an efficient organ of sovereignty, through which the foreign relations of the Union are to be preserved for our use, and recognised by others. It violates the Constitution, because it renders one of its most important grants of power void. It violates the Constitution, because it assumes a right of either sharing in the Treaty power, which, whatever may be meant by the terms "make Treaties," is exclusively given to the President and Senate. It violates the Constitution, in the assumption of a capacity in this branch of the Government, to give validity to what it prejudges to be unconstitutional. If the propositions which he had mentioned as maintained by gentlemen, be correct, there either is no Treaty-making power in the Government, or this House, to fulfil and give efficacy, in some way or other, to this power, must be obliged to violate the Constitution; one of the consequences appeared to his mind to be necessary. When he said this construction could do harm, and act by obstruction, but never do good, he would here remark, what he would afterwards a little enlarge on, that there were instances in which the House might rightfully obstruct; but these would be found to be, not where there was a Treaty binding by the Law of Nations, but where fraud or other cause justified and often enjoined upon a nation to obstruct. In those cases he would remark, the right to obstruct, or to refuse to act, resulted either from a Treaty that had ceased to be obligatory, as in case of infraction by the opposite party, or an instrument not at all obligatory, as a fraudulent one.

If the doctrine contended for, that a Treaty operating upon the reserved powers of Congress, is unconstitutional, be correct, it will be found that the Treaty power of the President and Senate is reduced to a degree of insignificance below the dignity of the Constitution, were it, instead of being what it is, the most exalted monument of good faith, justice, and liberty, the most vile and inefficient compact that was ever framed—strip the Treaty power of a right to negotiate upon commerce, upon contraband as falling under the commercial view, of free bottoms, as belonging to commercial affairs, of the rites of hospitality to ships, of offences against the Law of Nations, of Consular rights, as affecting a certain degree of the judicial power, of privateers and their conduct, of the fitting out of armed ships during the neutrality of a foreign power, when the United States are at war, and upon what can the Treaty power operate? These reserved powers, in fact, occupy almost every object that it would be Constitutional for the President to treat upon; they embrace the whole of the commercial regulations with foreign Powers; they reserve all the right of defining and of punishing offences against the Law of Nations. Could it be ascertained that the President and Senate were not at liberty to enter into the boundary of these objects of legislation, the whole of their Treaty power would be reduced to a simple acceptance of peace, a cessation of arms, without the power of availing themselves of any of the advantages of victory in war, derivable from the reserved objects of Congress, such as the rights of a more enlarged and beneficial commerce; or an acknowledgment by stipulation of the rights of nations, though these would probably, nine times out of ten, form the subject of the war. For if the President and Senate cannot make a Treaty upon these points, and they are among the objects of legislation, they could not enter into a negotiation at all upon them. If they could negotiate upon them, it must be in virtue of their power under the Constitution, and the same expressions that would justify them in negotiating, would warrant them in concluding a negotiation by a ratification of a Treaty upon them; because, under the Constitution, there cannot be found any middle ground upon which the other branch of Government could come into co-operation in the making of a Treaty. Its sole agency is under the cogency of a Constitutional duty, which is to display itself in complying with the contracts of this sort, not in making them.

It is, on all sides, admitted that the Treaty power is competent to make peace. But here, under the doctrine contended for, the fruits of war, in an advantageous peace, are to be rendered doubtful, if not totally lost. The cause of war might be upon some of the reserved powers, as upon a commercial question, or upon an offence against the Law of Nations. The President and Senate could make peace, but could come to no binding stipulation upon the very objects of the war. At most, they could but negotiate upon them, but could not make a Treaty upon them that would be unconstitutional; but could they even negotiate upon them? They could make a Treaty upon them, or they could not negotiate upon them?

By the Constitution, they are to make Treaties. No where in that explicit and luminous body of our Government is there to be found an expression that gives a right to Congress to negotiate or to make Treaties. This power is classed with the Executive power expressly, and must exclude the Legislature. There cannot be shown in the instrument a power in this House to aid or to consent to negotiation; he meant to distinguish clearly between a negotiation and a Treaty made; the one is the agency merely, the last the thing completed in the view and meaning of the Law of Nations. Now, either the President and Senate may make a Treaty, or they cannot negotiate upon these reserved points, because if it be admitted that these points would be essential in such a situation of our affairs, and that this House could not either negotiate or make a Treaty upon them, either the Treaty power under the Constitution must be adequate to the making of a Treaty upon them, or no Treaty could be made. The Constitution could never intend to preclude Treaties upon commercial subjects; it has shown that it protected those already made, and our own practice has proved, that they are superior to our own laws. Besides, had the Constitution devolved the

national capacity upon the General Government, by excluding from States a right to enter into Treaties or negotiations with foreign Powers, the right to make Treaties would, of necessity, be in the General Government, this collective capacity of a nation must always reside somewhere; it must exist, because every nation is a moral person standing in certain well-defined relations to other nations. There must exist somewhere a power, an organ to preserve these relations, to fulfil the duties, and discharge the obligations which flow from the Law of Nations. Can it be conceived, that the Constitution designed to destroy, or to render impotent, the organ by which the national character was to be presented to the nations of the world, or can a construction that nullifies the clear and forcible expressions of the instrument be a sound one? The Constitution not only recognises this collective and essential capacity of the American nation, but organizes it for action in a way that scarcely admits of even ingenious misconstructions; it has placed it in the Executive, who, by and with the advice of two-thirds of the Senate, can make Treaties.

If, as has been contended, a Treaty touching the reserved powers, as they have been assumed to be, be unconstitutional, it must be shown either that the nation can avail itself of the Legislative power in carrying into effect its national relations, its wants, its rights, and a redress of its wrongs, in those reserved objects and rights, or that the nation relinquishes them, as they afford the means of intercourse, or the medium of redress; or, that the Treaty power, agreeably to the second proposition contended for by gentlemen, was to be considered as the mere instrument of negotiation, but not of a capacity to bind the nation upon these points. This must be made out by the gentlemen, or they must yield to our construction. The second proposition which was held up to view to be exposed for its extreme fallacy, is, that a Treaty comprehending the objects within the pale of the reserved powers, was not the law of the land, agreeably to the terms of the Constitution, unless consented to or sanctioned by this House. This proposition shall be examined after a remark upon what precedes it.

Can the nation avail itself under the rigor of this construction which is imposed upon the Constitution, so as to render the Legislative power a means of obtaining the full exercise of the reserved objects considered in their relation to foreign nations? Or does it, if it cannot accomplish these great ends by Legislative means, intend to abandon them when they present objects of advantage, or disengage itself from the duties that arise under that class of them which relate to the Law of Nations?

The last is impossible to be the case, as it would be impossible to accomplish the end were it intended. The first is impracticable either in point of fact, or under the Constitution, as a doctrine that can for one moment be maintained.

These reserved powers, so perpetually recurred to, constitute the basis upon which the question asked must be considered. It is contended by gentlemen that the Treaty containing stipulations upon them must be contrary to the Constitution, and erected upon powers usurped from this body; because, by the eighth section of the Constitution, the Congress have power, among other objects, purely of a domestic nature, the following, which relate to the present question: To lay imposts, to regulate commerce, to constitute tribunals inferior in their jurisdiction, to define and punish piracies and felonies committed on the high seas, and offences against the Law of Nations—which, Mr. M. said, he would repeat, and to punish offences against the Law of Nations; because it must open to any man capable of pursuing a regular track of reflection a variety of points in contact with the remarks which he had lately presented to the Committee. These powers, he remarked, were relative to two classes of objects and persons. The first class comprehended all persons and things within the jurisdiction and dominion of the nation. The other, such as were out of the dominion but within the jurisdiction of the nation. They likewise presented to view things which were incomplete in their nature, unless considered as connected with foreign relations; of the first class were imposts, commerce with foreign nations, inferior tribunals of justice, offences against the Law of Nations committed in the United States; of the second class were offences committed against the Law of Nations by American citizens on the high seas, or out of the limits of the United States; piracies committed by our citizens. Upon all these points it was certain that Congress could legislate. It might pass laws relative to the imposts which foreigners are to pay upon goods which they may bring into the United States; but Congress could not produce reciprocity under a stipulation pledging the faith of a foreign nation that the citizens of the United States should not pay more than the subjects of that nation paid in our ports. Congress might pass a law giving a French Consular Chancery a limited jurisdiction, but never by its agency could secure to the seamen of America a similar protection in France. It might define and punish offences against the Law of Nations, piracies, contraband trade, the outfitting of armed ships during a neutrality. It might, by a generous legislation, extend the blessings of a more refined age to foreigners, by withholding the operation of its impost and tonnage laws where storms or distress drove unfortunate foreigners into our ports; it might restrain the privateers of the United States; it might declare that when the United States are at war, neutral bottoms shall afford a sanctuary from rapine to the goods of an enemy; it might declare the debt of an enemy should not be confiscated during a war. All this Congress could doubtless do, and would have honor in the doing, but this accumulation of kindness would not secure to the citizens or to the nation a reciprocity of good upon all these points. It might permit a free trade to all nations, but it could not secure that right which is an imperfect right to our enterprise by converting it through the medium of a compact into a perfect one. Thus, he observed

giving the fullest enjoyment to the reserved powers, let them operate in their fullest extent, you stop short of all the objects of the Treaty power operating upon the same objects. You thus construe the powers under the Constitution so as strictly to restrain the general grant to the President and Senate by the reserved powers agreeably to the idea of a gentleman from Virginia, and you fall short of any one object that the Constitution could have had in view in the general grant of the Treaty power. Mr. M. argued that no construction of the Constitution which defeated and rendered either null or unnatural in its enjoyment any grants of power in the Constitution, could possibly be the true one. Here was a construction that narrowed down the Treaty power to a mere cessation of hostilities—not into a capacity of promoting our own rights and advantages with validity; not of preserving the common relations of nation to nation; of converting by Treaty imperfect into perfect right; of upholding the spirit of commercial enterprise by a high obligation of reciprocity; of restraining the avarice or the injustice of nations by pacific and social relations and engagements; not of blunting the calamities of war when we are engaged in it. No. All this according to this construction that is to paralyze our power of self-preservation while it empowers and invigorates our benevolence towards others. All this Congress can do in favor of foreigners, but the Government has no organ of intercourse by which the like good can be secured to ourselves from others. Strange and unnatural construction by which the relative powers of a people may be organized for the good of others, but are disorganized when their own permanent good is to be obtained! This construction, which leads to consequences of perfect impotence, that robs the Executive and Treaty powers, but enriches not the Legislative power, cannot be a sound or a rational construction. Yet this must follow the construction, that the reserved powers operate as restraining the general grant of the Treaty power in the President and Senate.

This must be the consequence, unless it can be shown by gentlemen how and in what manner the Treaty power may be enabled to perform its offices, such as the nation may be supposed to have intended; that is, how it may be a valid and not a void grant of power. They must show how it might attain the ends, how preserve the relations and duties which the Law of Nations imposes on us as a nation, or prove that the ends may be accomplished constitutionally, through the intervention and active agency of Congress acting upon their reserved powers, which are specifically granted as Legislative powers, and which he had attempted to show could not be organized by Congress so as to attain the same end that the Treaty power is perfectly adapted to, if it can be admitted into the agency. He said he had attempted to prove from this course of reasoning that Congress were incompetent, acting legislatively, to obtain the objects he had mentioned, to wit: the reserved powers thrown into action relatively to foreign nations, and considered as affording a ground of reciprocal benefits solidly secured. He had attempted to show the necessity of some organ to answer this purpose. If he had succeeded in these two points, the consideration of the other proposition of the friends of the resolution would support his reasoning with a force that he thought not easily overcome.

Either the paper upon the table is a Treaty, and as such is obligatory upon us as being part only of the nation, because it binds the nation; or it cannot be a Treaty. It cannot be a neutral inchoate act; it is either binding, because it is a Treaty in the eye of the Law of Nations, or it is nothing. If it is not binding, it is because it is not a Treaty; if it be unconstitutional, it cannot be a Treaty; if it be fraudulent, it is no Treaty; but if it has been made and ratified without fraud, by an authority competent to make it, then it is a Treaty, and, as such, the supreme law of the land, agreeably to the strong and plain language of the Constitution.

Having endeavored to prove the necessity of the existence of a power somewhere in the Constitution, nay, bound in some instances to make Treaties upon many of the objects which are prejudgingly termed powers exclusively reserved to Congress, and that Congress is incompetent to this great, this imprescriptible right and power, Mr. M. said, he would attempt to show that the Treaty was made by the only power under the Constitution competent to make Treaties. According to the Law of Nations, five things are necessary to the validity of a public Treaty, or an express covenant between two nations: that the parties had power to consent, that they do consent, that they consent freely, that the consent be mutual, that the execution be possible. It would be an unnecessary trespass on the indulgence of the Committee to consider any of the requisites but the first; if the first can be made out by a fair construction of the Constitution, it is all that is necessary to overset the general doctrine contended for by the supporters of the resolution, to wit: that a Treaty is not the supreme law unless this House consent to it, or because it may include the commercial powers. If this can be fairly inferred, it will follow, that the instant the covenant is *ratified* it is obligatory upon the nations contracting; from that moment it is a subject taken out of the reach of municipal regulations, and is within the jurisdiction of the Law of Nations, and receives from that law a validity to which Legislative acts can add nothing; it is then among the statutes of nations, and its force and operation as a contract must be adjudged by the maxims of that law alone.

The power of the President, as the organ of the nation's sovereignty, must be considered, when we attempt to ascertain his power to consent. If he had not power to consent, nothing can make this a Treaty; we cannot give him this power. His power must be derived from such a construction of the Constitution as would attain the objects which he had attempted to prove to be inherent in every nation, and must be somewhere in the Constitution. If the Constitution gives him

the power to make Treaties, and he has made this agreeably to the mode pointed out as essential to his power of consenting, by the Senate's advice, and upon a subject-matter which does not violate the Constitution or the necessary Law of Nations, then it would follow that as a Treaty, in the eye of the Law of Nations, it would bind this nation, and being a Treaty in the meaning of the Constitution, it must be a supreme law of the land. If it is not a Treaty in the view of the Constitution, nothing that we can do can make it Constitutional.

Mr. M. said that he would, in order to support this reasoning, produce an inference, if not amounting to absolute conviction in the minds of gentlemen, at least conclusive against their doctrine, by going into an examination of the second proposition, which he mentioned soon after he rose as one upon which they relied. It was, that a Treaty which negotiated at all upon any of the specified and reserved powers of Congress was not a law of the land unless it be consented to by this House.

He remarked, that if it be proved that they failed in making out any hypothesis by which the Treaty-making power could constitutionally be brought to act, so as to fulfil the objects of the Constitution, their construction, which took the power from the President and Senate, without giving it operation through any other channel, could not be the just one. This opinion or proposition must have been intended by those who have used it for one of two conclusions: either that the President might ratify a Commercial Treaty only upon a condition that this House would, as a branch of Congress, having exclusive power over commercial regulations, consent to such Treaty, and pass laws conformably to it; or that any such Treaty, being already, in their opinion, unconstitutional, might receive validity by the consent of this House. If neither of these conclusions could be warranted by the Constitution, the gentlemen would fail in the only plan of reasoning which he had yet heard from them, in which they had approached in the smallest degree to the point of conciliating the Treaty power with their opinions of the exclusive right of Congress upon the reserved powers. If they could not maintain these conclusions, they must abandon the Treaty power as lodged at all in the Constitution, except in the case they all agreed in, its competency to treat of peace.

Here, Mr. M. said, it was proper to remark, that a Treaty, when ratified, is, by the Law of Nations, a solemn compact. It is admitted that Congress cannot make Treaties. It must be admitted there is a power somewhere in the Constitution that is to justify the making of Treaties; and the point to which the reasoning of gentlemen leads them is, that the President and Senate may make Treaties on the subjects of commerce and other specified objects, but that this Treaty would be the law of the land, unless this House consent and pass laws upon the subject. Let us see where this construction of the Constitutional powers will lead us. The President ratifies a Treaty, with the advice and consent of the Senate, touching the objects granted to the Legislative branches; but that he may not be entangled by the force which the Law of Nations attaches to a ratification of the instrument, he ratifies *sub modo*, under a proviso annexed, that the compact shall be obligatory if Congress shall pass laws to give it effect, or shall consent to it. He sends in the instrument to this House for their approbation, consent, or co-operation—call it what you will—how would this House, in such a predicament, act? what have they a right to do? The first question would be, is this a Treaty? No, it is not a Treaty unless you consent to it; it depends for its existence on you; it has no obligation without your intervention. Were it a Treaty it would be obligatory; but it is not a Treaty, nor binding, till you consent. Could this House do anything agreeably to their Constitutional powers in the making of Treaties? No; that authority, which by its agency is to give validity to a Treaty, is concerned in the *making* of it. Yet here is a case in which the instrument is to receive its validity as a Treaty, its quality by which only it can be a Treaty in the view of the Law of Nations, its force of obligation, from your act. If you give that assent, by which the proviso is accomplished, it is then to be a Treaty. In doing that, upon the execution of which the validity of the Treaty was dependant, do you not, in fact, by a subterfuge from the Constitution, take to yourselves an active agency in the making of Treaties? This, then, which is in strict pursuance of the reasoning of gentlemen as a consequence of the admission that a Treaty touching the reserved powers is not a law of the land, without the consent of this House, will follow that the House may aid in *the making Treaties*. The condition upon which the validity that makes it a Treaty, and, as such, law, depends, is a void condition, because giving an agency in the making of Treaties would be contrary to the Constitution. But we must pursue this mode, or have no Treaties; for the President and Senate cannot make such Treaties laws of the land, Congress cannot make them, nor do anything in the making of them. Where, then, is this Treaty power, so essential to every nation? Yet there is one more construction to console a nation under so ambiguous a Constitution.

A Treaty embracing commercial objects, stipulations relative to offences against the Law of Nations, agreements relative to cases during war, sequestration, free bottoms, contraband, rights of war, all acknowledged objects within the Legislative sphere, is, by the construction contended for by the supporters of the resolution, considered as unconstitutional. The Treaty power, he had attempted to show, must be deemed competent to act upon these objects conclusively, or not at all, as there is no middle ground upon which the Legislative power could co-operate in the *making* of a Treaty, by which it could produce an act incholate, till sanctioned by Congress. Now, the Treaty-power must reach those objects, or they cannot be obtained at all. Yet it is contended, that though such a Treaty cannot constitutional-

ly be made binding, that it is in the power of Congress to make it so by its agency. This reasoning amounts to this: that Congress may legitimate what is not legitimate; that Congress may make by its connivance, or its express assent, that to be Constitutional which was before unconstitutional. This is the only consolation left by the construction relied upon: If the Treaty be Constitutional, it is a law of the land; Congress, or this House, acknowledged in many cases to be necessary as the agent of its execution, may violate such a compact by refusing to comply with its obligations, or by doing what shall violate its stipulations. But he contended that no construction of the Constitution which is designed to gratify its powers can be a sound one, which is at war with the supremacy of the Constitution, as a great rule of conduct to us. If a Treaty be unconstitutional, no act of this House can make it Constitutional. Such a construction of the Constitutional powers can never be sustained against a moment's reflection; it must be abandoned, and with it the very last refuge which sophistry had taken in the wiles of interpretation, to give an operation to the capacity to make Treaties upon the Legislative objects, so as to render it dependant upon the will of this House.

Mr. M. said, he had attempted to show that the Treaty power, not being in Congress, must be somewhere in the Constitution. That the Legislative power upon commerce, and other specified objects, could not be construed into an exclusion of the Executive operating through Treaties made by the consent of the Senate upon the same objects. That none of the propositions which he had combated afforded any mode by which the Treaty power could take hold of the Legislative objects provisionally; and that if the Legislative grant were construed as an exclusion against the Treaty power, there could not be a Treaty made by the President and Senate, except a mere armistice, or at best a Treaty of Peace; and that, too, without the power of attaining the immediate and just objects of war, which are often upon the commercial points: And he had endeavored to show that, according to his first position, if the paper upon the table, which the Proclamation calls a Treaty, be not now a Treaty in the eye of the Constitution, nothing we can do will make it a Treaty.

The power to enter into Treaties is in the President and Senate, or no where. That the President has the power, to be exercised by the advice of the Senate, is to be shown to all who can read the Constitution. That this power must embrace commercial and all objects and things upon which we have a right, or might as a nation be bound to treat, appeared to be a plain consequence, both from the force of the terms giving the power, and from the impossibility of admitting a construction, that robbed the Treaty power of all right over the specified objects, but provided no mode of attaining the advantages and rights related to those objects, through any other channel. The power of the President to consent, then, to a ratification, appeared clearly to his mind to be full and complete. If he has the power to consent or to ratify, the Treaty is placed beyond the reach of municipal control. It is among the Laws of Nations of the Conventional class. We may violate and destroy its operation, but we cannot invalidate its solemn obligations. There appeared to him to be an error springing from the true idea, that Congress has an agency in carrying Treaties into effect. This is a mere agency, limited to the rights which are left free to choice, and not bound by Treaty. Those rights can be but as to the most convenient mode of executing what the nation has promised to perform. Those who have a duty to discharge, may have a choice over the means by which the duty is to be fulfilled; but, from a power of discharging a duty, no conclusion can be drawn that the party has a right not to discharge the obligation. It is impossible to suppose that a whole nation can rightfully bind itself by a compact to do or not to do a thing, and yet there can exist in the same nation a power that can rightfully obstruct the execution of the agreement. If, then, the nation is bound, we are bound, as the agents for the nation, and we are no more, having no powers but those which the Constitution, which is the nation acting by principles, has trusted us with. If the Treaty binds the nation, it does the whole of it. Its supremacy as a law must be tried by that idea. If it is a Treaty, it is the law of the land. Its relation is to the whole. If it is a law of the land, it is constitutionally placed over every other law in its way. The idea of the gentleman from Georgia, [Mr. Baldwin,] that its supremacy relates merely to State laws, is a most extraordinary and unmeasured position. If it is a supreme law, relatively to the State laws, from whence does it derive its binding force? It is because it is a Treaty. Can a Treaty, he would ask, be binding over State laws, and yet be inferior to the laws of Congress? If it does this, it is in virtue of its obligation as a Treaty. If it be a Treaty at all, it must have the full force of a Treaty in all its action. If the Treaty, supposing it to be made consistently with the Constitution, binds the nation, it is because it is the will of the nation, expressed by an organ competent to speak it. If the nation bind itself, it must have done so in good faith, and not with any mental reservation. Now, if a Treaty be a full and explicit promise, and yet the laws of the nation relative to its own concerns may rightfully obstruct it, in the denial of its supremacy over internal laws, then the nation violates its good faith, by making a promise with what amounts to a reservation not expressed nor known to the other party. If it be a supreme law of the land, in the plain but appropriate language of the Constitution, and be acknowledged to be superior to the laws of the States repugnant to it, it must be so in virtue of its obligation as a compact binding the whole nation, including, of course, all the communities and authorities within the nation. To suppose that a part of a Treaty can bind, and that a part is not binding, is contrary to every interpretation of the Law of Nations; and no construction can be found that violates the Law of Nations.

If it be a Treaty, Mr. M. observed, under the Law of Nations, nothing that we refuse to do can destroy its validity. He had attempted to show, that it was such a Treaty, because made by an authority competent to do it. We may violate it, we may destroy the good faith of our nation, but not the immutable principles upon which the Law of Nations attaches to a solemn covenant the highest sanctity. The dispute was not whether this House will execute the Treaty, but whether the House possesses the right to place itself in a situation in which it would be free to elect whether they would or would not execute a Treaty when made. The only thing that this House can constitutionally do, if it has no power in the making of Treaties, or in giving them validity, and he had attempted to prove they had not this power, is to execute them. But the duty or obligation to execute a contract implies no right over that contract. A great deal had been said upon the duties which devolve upon this House when such a compact exists. As this was a part of the subject upon which much had been very ably urged by those with whom he had the honor of thinking on the question, he would very briefly state his opinions and reasons. He agreed with those who supported opposite opinions, that there might be instances in which there would not only be a discretion of appropriating or not, or of executing or not, but also a duty to oppose, to resist the act. These instances, however, in his opinion, would only be either in the extreme case, wherein necessity overcame all other law; or where the act was not a Treaty, because contrary to the Constitution, or the necessary Law of Nations. In all other cases, the only doctrine which, in his mind, did not carry with it a deadly poison to both the Constitution, and the character of the nation for honor and good faith, was, that we were bound to execute the Treaty, and had no more choice as to the execution of the compact, than an individual has, after he enters into a fair agreement, whether he will execute it or not. We are not the nation. We are their trustees, holding their ways and means to be applied to the discharge of all their *bona fide* debts and contracts. We can only examine whether the contract is made. If we doubt whether there were fraud at the bottom, we then may inquire, and in that state of things might avail ourselves of the papers, if a well-grounded suspicion were alleged. But when we know that the compact is in force, and he had attempted to show that it was in force, we have no election but in the means of carrying it into execution. What can be the moral theory of that man who admits that a sound contract can exist, and yet that the parties to it are free to choose whether they will consider it as obligatory. It is both a contradiction and a subterfuge, to maintain which, in the eyes of the world, would bring upon the nation which shall act upon such a principle, the imputation of perfidy and bad faith. Not that he believed it to be the intention of the House to refuse to execute the Treaty; but the principle assumed went the length of placing the House on a ground upon which it might, if it chose, rightfully do wrong. But the difficulty which we have to encounter is not merely to prove, that under the construction which gentlemen have given to the Treaty power, as separated from the objects upon which Congress have a right to legislate, no Treaty advantageous to us, can be made; but also to encounter another doctrine, that sets at defiance all the Laws of Nations and the Constitution; for, by its consequences, it denies the obligation of the first, and in the reasons which support it, does violence to the Constitution of the United States; it is, that after a Treaty is acknowledged to exist in full force, this House has a right to appropriate or not, if the provisions of the Treaty should demand an appropriation. All our duties flow from the Constitution and the law of nature. If a Treaty exists, it binds the nation; of course, all the authorities in the nation. From the obligation of the Treaty arises duties which the nation must perform. If it be a debt which the nation has acknowledged to be due, it is our duty to discharge it, because we hold the money of the people in our hands for the purpose of discharging their debts. We hold nothing so much our own as to entitle us to think for ourselves in such a case. If the people make a Treaty, or any promise, through any other organ of their will, we cannot rightfully obstruct it; we cannot withhold our agency to carry it into effect, if it bind our constituents.

The contrary doctrine, the doctrine of free will, of discretion as opposed to the necessity of doing what duty demands, is taken from the analogies which have been resorted to through a kind of desperation, drawn from the practice of the British House of Commons.

From these supposed analogies, Mr. M. contended, most of the errors in the construction of the relative powers of this House flowed. Once establish these analogies, and he agreed the House acted conformably to principle. But these analogies are not warranted by our Constitution, nor forced upon us from the nature of the case. They have been hastily taken up to serve the purposes of this particular occasion. It would be a little tiresome, but not superfluous, to take a glance of the two Governments. The Constitution of the United States, and the British Government. In the first, we find certain definite portions of power accurately meted out by the people in a written instrument to the respective branches of Government. We find the people explicitly recognised as capable of distributing their powers as best suited their opinion of their duties, and interests as a nation. We find certain State capacities with certain portions of reserved sovereignty in the system. We find a Republican form to be administered upon written principles and maxims, not susceptible of being administered upon any other principles than those which are prescribed. We find the whole of the Government, but the organs of the will of the nation. A man would naturally conclude, that when powers were so very definitely measured, that one great object was, as much as possible, to exclude analogy as

the ground of assuming what was not expressly delegated and modified agreeably to the written paper; and that the same wisdom in the nation that digested such a system, would demand of its public functionaries an exercise of the respective grants of power conformably strictly to the various portions deposited in their hands.

Look, on the contrary, at the British Government. He would agree that we had inherited and borrowed from that Constitution and their laws, a thousand profound maxims and principles that led to the improvements which we now enjoy. But he insisted that we had improved upon them in the assignment of duties and grants of power; in the explicitness of those grants, by which contest among the branches was to be avoided. In looking at the British Constitution, he could see nothing of fixed right in their form of Government, but the Monarchy. He saw in the King rather than the people, the great reservoir from whence the power and privileges of the Lords and Commons, of justice and of honor, flowed in streams narrowed or enlarged at pleasure, and according to the action and reaction of the Commons and the Peerage upon the King. In him he saw the Sovereign. In America, he saw in the collective capacity of the nation the sovereign, and Government, its established mode of action. The Commons in England grant supplies to the King. Here we grant supplies to fulfil the views and obligations of the people. Here an appropriation is less a grant of money than an act of duty, to which the Constitution, that is, the will of the nation, obliges us. There, supplies and grievances have been for centuries a measure of compromise, and the mode by which the Commons have accumulated powers and checks against a throne. There, we see the powers of the Commons growing by absorption from the prerogative of the Crown. Here, we see in the powers of this House, not the spoils of contest, not the trophies of repeated victory over the other branches of the Government, but a specific quantum of trust placed in our hands, to be exercised for the people agreeably to the Constitution. We ascend for our derivation of authority and strength to the fountain of all political power; they gain theirs by cutting away that royal reservoir that has been sucking in for ages by dark and now unexplorable channels, the authorities and powers of the nation. The Commons are called by the King, and may not be called by him more than once in three years. Their very existence depends upon their instrumentality in furnishing supplies to the King. The Lords are of his creation. The Commons, if refractory, can be dissolved, and an appeal thus be made to the nation. The Senate here is created by the people, and elected for only six years. Here the President cannot dissolve Congress, even if they chose to adopt a right of stopping the wheels of Government. He said, that had not these analogies been upheld by respectable authority; had they been supported by men unfriendly to our Constitution, he should have suspected that the resemblance was attempted for the purpose of rendering our own Government less valuable in the eyes of our fellow-citizens; and if the gentleman from Pennsylvania [Mr. Gallatin] who has shown such powers upon this question, had been hostile to the Government, he scarcely could imagine a mode that he could have chosen, better adapted to make the Government unpopular than this supposed analogy; for the whole of each of the Governments must be taken into view when you attempt to derive powers from the presumed analogy of any of its branches. He denied that there was any such analogy between the powers and privileges of the Commons of Great Britain and the powers and duties of the House of Representatives, that you could for a moment maintain a right of refusing to appropriate money to make good a national compact because the Commons exercised that right. Theirs is a system in which jealousy must hold the balance between branches, some of which have at best but a precarious existence, and another branch, which is the only great substantive figure in their form of Government. In fact, the two Constitutions differ essentially. The branches here are elected for short periods by the people. The President is one organ constituted and elected by the people. The Senate are constituted and elected by the people. This House is elected by the people; not to struggle with each other, but to give action to the Constitution; and no right can be assumed by any one branch that gives a power of making the Constitution inactive or inefficient to its great ends. To overturn this Constitution is not merely to oppose it by violence. To refuse to act, to withhold an active discharge of the duties it enjoins upon the different branches, would as effectually prostrate it as open violence could do.

To say, therefore, that the discretion of this House is complete, because the House of Commons, in order to preserve their very existence, makes a compromising discretion the means of gaining their points, is to infer from our right to appropriate, and our duty to do so, a right to refuse those ways and means which must be voted, or the Constitution is a dead and inactive body.

Other gentlemen, with whom he agreed in opinion, had rendered it unnecessary for him to say any thing upon the opinions that were entertained at the adoption of the Constitution, upon the question now before the Committee. He believed that, from one end of America to the other, it was taken for granted that this House had nothing to do in the making of Treaties, and that this power was exclusively in the Senate and President. The gentleman just up, from New York, [Mr. Gilbert,] and the gentleman from Rhode Island, [Mr. Bourne,] had placed the interests of the small States, in this construction, in so forcible and correct a point of view, that he would not say a word upon that very interesting part of the subject. But, of the contemporaneous opinions, that were supported in the Convention which framed the Constitution, he would make a remark or two. He confessed himself extremely surprised that the gentleman from Virginia, who was in that Convention, [Mr. Madison,]

and the gentleman from Georgia [Mr. Baldwin] had not favored the Committee with the view which either they or others had taken of this important point in the Convention. Surely, Mr. M. said, the world would have excused a departure from common caution upon a subject so extremely interesting, one in which a great question was argued upon the Constitutional powers of each branch. Some great facts must be known to these gentlemen, which, if mentioned, would throw light upon the point. Some recollection of motions made upon this very point, pursued, argued, and decided, from which we could learn what was exclusively granted to the President and Senate, by what the House of Representatives were refused a participation in. The gentleman from Virginia had borne an exalted rank among those who framed the very instrument. To his genius and patriotism, in a great degree, he had always understood, were we indebted for the Constitution. Would it not be expected that he who had helped to speak through the Constitution would be well prepared to expound it by contemporaneous opinions? Would it not be desirable that, if there are doubts, if we wander in the dark, the gentleman should afford us light, as he has it in abundance? If the Convention spoke mysterious phrases, and the gentleman helped to utter them, will not the gentleman aid the expounding of the mystery? If the gentleman was the Pythia in the temple, ought he not to explain the ambiguous language of the oracle? To no man's exposition would he listen with more deference. If any cause could justify the intrusion of curiosity upon a deposite of secrets in a very sanctuary itself, it would be this doubt, and he should almost feel at liberty to open the Journals of the Convention, to see at least what they meant who spoke a language to others ambiguous, but to himself plain, incontrovertibly plain.

In the construction of other Constitutions, some formed by mere charters of privileges, others rising from practice, we find the historian and the commentator obliged, in the support of theory, to resort to records unintelligible, from a change of names and of manners, or to the uncertain lights of mere tradition. But, in construing our Constitution, in ascertaining the metes and bounds of its various grants of power, nothing at the present day is left for expediency or sophistry to new-model or to mistake. The explicitness of the instrument itself, the contemporaneous opinions still fresh from the recency of its adoption; the Journals of that Convention which formed it still existing, though not public, all tend to put this question in particular beyond the reach of mistake. Many who are now present were in the Convention, and, on this question, he learned that a vote was actually taken. We have all seen the Constitution from its cradle, we know it from its infancy, and have the most perfect knowledge of it, and more light than ever a body of men in any country have ever had of ascertaining any other Constitution. If, however, a refining spirit can at this day, so full of light shining upon every part of it, excite and establish doubts upon some of its plainest passages, what is the prospect of that posterity which is to be deprived of those lights which its very framers now find incompetent to lead them? One hundred years hence, should a great question arise upon the construction, what would not be the value of that man's intelligence, who, allowed to possess integrity and a profound and unimpaired mind, should appear in the awful moments of doubt, and, being known to have been in the illustrious body that framed the instrument, should clear up difficulties by his contemporaneous knowledge? Such a man would have twice proved a blessing to his country.

Mr. M. said, that he had attempted to show, with power he was conscious extremely inferior to the subject, that the paper upon the table issued by the President's Proclamation as a Treaty, was a Treaty in the eye of the Constitution, and the Law of Nations. That, as a Treaty, it is the supreme law of the land, agreeably to the Constitution. That, if it is a Treaty, nothing that we can rightfully do, or refuse to do, will add to or diminish its validity under the Constitution and the Law of Nations. That, if it be not a Treaty, nothing that we can do will make it one. That, if this be not a Treaty, because it stipulates upon some of the reserved Legislative powers, the Treaty power in our Constitution is a nullity, a void grant; and that the nation, by the construction of gentlemen, is stripped of all the means of entering into Treaties with foreign nations, except a Treaty of Peace, of a perfectly inefficient character. That, as there is a necessity of having a Treaty power competent to all the objects in this Treaty somewhere in the Government, it must be in the President and Senate; and he had attempted to prove the mode in which gentlemen contended the Treaty power might operate through this House is either incompetent or unconstitutional.

He concluded some observations upon this point by remarking that, if the Treaty power contended for by gentlemen be the true one, then, indeed, is the nation fallen from that explicitness of principles and of national character that will debase her in the world's eye; for we can only have the power of deceiving by an explicit Constitution, which affords to foreign nations the most plain and intelligible grants of power, but which admits a domestic construction which renders void the whole grant—a subterfuge from fair promises to evade performance when inconvenient. This cannot be the will of this virtuous country.

He said, in viewing this subject, sufficient attention he thought had not been paid by those who supported the resolution to the binding force of the Law of Nations; and attempts had been made by a few gentlemen to give a popular air to their arguments. For himself, he trusted to the wisdom and virtue rather than to the passions of the people of America. He did not believe that they who separated the powers of the Government so accurately, would feel gratified in a measure by which that separation of power is mingled by the assumption of this one branch.

He did not believe that enlightened freemen

would feel any addition to their liberties because the House of Representatives might absorb powers which they had delegated to the other branches. They knew that the President was as legitimate a branch of their original powers as this House are, and that in the Senate they saw but another branch from their original grant of power. The people knew the value of national reputation for good faith; they know the sanctity of the Law of Nations. They would not themselves violate it; nor could they be pleased by the adoption of a principle in this House, even though the British House of Commons may assert such a principle, that sets national faith at hazard; that produced a solecism in the eye of the Law of Nations—a Treaty ratified and fully accomplished, not obligatory, if those who are bound by it do not choose to execute it. That Law of Nations they would insist on to be inviolate as the great charter, not of one nation only, but of the human race. That law, which, were despotism to cover the face of human society like a sweeping deluge, if preserved in some sacred sanctuary, would, when made known again, be the rallying point from which genius, and patriotism, and justice, might restore to man his rights and happiness, however obscured by time and accident. Considering, then, as he did, the resolution as predicated upon a right in this House, which he deemed a violation of the Constitution, as a measure pregnant with evil when he compared it with that law, he should find an excuse in the candor of gentlemen for having so long trespassed upon their patience. He would no longer detain them than to thank them for their indulgent attention.

March 24.—In Committee of the Whole on Mr. Livingston's resolution:

Mr. Buck said, when he first rose in opposition to this resolution it was from a consideration, that as the idea of an impeachment was discarded, these papers would apply to no other object worthy the attention of the Legislature of a nation, unless to enable them to judge of the expediency and merits of the Treaty. As he had ever understood the jurisdiction of that House not to extend to that object, it was solely on that ground he founded his opposition; therefore, through the whole of his observations, he took that for granted which he soon after found denied, and which he presumed still remained in the minds of many to be proved. But here he would solemnly declare, that though he was a member of the Convention at the time the State of Vermont adopted the Federal Constitution, though he was acquainted in all parts of that State, and had had frequent opportunities to converse with those who were opposed to the Treaty, both in that and the neighboring States, yet he had no recollection of ever having heard the idea suggested, that the House, in their Legislative capacity, had a right to judge and determine upon the expediency of a Treaty, until he came upon that floor. But when this doctrine was avowed in that House, and the gentlemen from Pennsylvania and Virginia came forward to prove and support it, he was borne away with the torrent of their superior abilities, and lost in the wide maze of wonder and astonishment. Their reasoning was so forcible and impressive, that, at first blush, their arguments appeared unanswerable and conclusive. He was struck with astonishment to think that America, with all her boasted wisdom, had never understood the genuine and true meaning of her Constitution until that moment. He was astonished to think that he himself had been so totally mistaken in a matter which had ever appeared to him so extremely clear. This astonishment, however, stimulated to inquiry. He had paid the closest attention to all those arguments. He had endeavored to examine and weigh them with impartiality, and to investigate the subject with candor. If he had to come to a wrong result, he hoped he should again be set right before the debates closed.

Though the arguments had been very diffuse, and had embraced many objects, yet, he said, the whole debate turned on one single question, and that is, whether this House possess a right of check upon the Treaty-making right, or in the language we hold, whether the Legislative power of this House extends to the right of checking the Treaty-making power in any case when that power has been exercised within its Constitutional bounds. To prove this right, the British Constitution had been resorted to as analogous to their own. A partial comparison had been made, arguments drawn from thence, and the practice under it, to establish the point. It was painful to draw comparisons when a description of the thing by which they compared was so far from exciting sensations of pleasure as to create disgust; but, since he was drawn on to this ground, he hoped the importance of the question, and the necessity of the case, would be received as his apology; and that he should be allowed to draw such further comparisons as he should deem necessary, in order to determine how far these arguments ought to weigh in this decision. He should therefore proceed first to state, and then to prove, what he conceived to be the principles and Constitution of the Government of Great Britain.

The first principle of their Government is, that every man, when he enters into society, surrenders or gives up a portion of his natural liberty as a consideration for the glorious privilege of being governed; and, as to their Constitution, the great mass or body of the people have none at all; no will, no right, no freedom, but what they hold on sufferance, and dependant on the will of their imperious masters. He wished it to be understood here that he made a distinction between the great mass or body of the people on the one hand, and the King, with three estates of the realm, the Lords spiritual and temporal, and the Commons, on the other. The latter consisting, perhaps, of one fifty thousandth part of the nation have a Constitution, and that Constitution is their will; but the will of the great body and mass of the people constitutes no part of it, other than an imperfect choice in their masters. They are, therefore, as has been justly observed by a gentleman from New York, in chains, and he would add ignominious slavery and bondage. To prove this statement, he would now recur to the same authority adduced by the gentleman from Pennsylvania, who was first up in support of the doctrine now advocated, viz: *Blackstone's* Commentaries, 1st volume, page 125—

"Every man, when he enters into society, gives up a part of his natural liberty as the price of so valuable a purchase, and in consideration of receiving the advantage of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish."

This is laid down as the first principle of their Government, and he would now proceed to that part of their Constitution which relates to their King, who is said to be analogous to their President. In the same volume, page 190, it is said:

"The supreme Executive power of this Kingdom is vested by our laws in a single person, the King or Queen; for it matters not to which sex the Crown descends, but the person entitled to it, whether male or female, is immediately vested with all the ensigns, rights, and prerogatives of Sovereign power."

Then, in enumerating his Councils, he says:

"The Parliament is his Council, all the Peers of the realm are by birth his hereditary Counsellors, and that the Judges of the Courts are his Counsellors."

In page 229, he says:

"But the principal Council belonging to the King is his Privy Council. The King's will is the sole constituent of a Privy Counsellor, and this also regulates their number."

And in this chapter upon the King's prerogative, he ascribes to him the attributes of absolute sovereignty, absolute perfection, and absolute immortality; and in detailing more particularly his prerogatives, he says:

"The King has the sole power of sending and receiving Ambassadors, of making Treaties, of making war and peace, of granting letters of marque and reprisal, and of granting safe conduct. He is a constituent part of the supreme Legislative power and has an absolute negative upon all laws which may be passed. He is Commander-in-Chief of all the forces of the Kingdom. He is considered as the fountain of justice, the fountain of honor, arbiter of commerce, and, lastly, the head and supreme Governor of the National Church."

In short, there is no attribute belonging to Deity which *Blackstone* does not ascribe to the King; and no right or power whatever which God Almighty can possess, but by the British Constitution is given to the King; nay, though he may possess the heart of a vulture, the rage of a lion, and the venom of an asp, he is nevertheless born their King, and their Constitutional God. In the exercise of those powers, he creates all the nobility and Peers of the realm, whose offices are hereditary, and by virtue of which they and their posterity hold seats in Parliament. He also creates his own Privy Counsellors and Prime Minister, who also have seats in Parliament; and, as supreme head of the Church, by his license alone, can an Archbishop or Bishop be elected or consecrated; and they likewise, when so elected, hold seats in Parliament. And to all this might be added, a patrimonial revenue belonging to the Crown, called the King's Ordinary Revenue, which had been infinitely superior, and now he believed not inferior, to the whole revenue of the American nation, and which furnishes a private purse, the strings of which are held by the King's Prime Minister in Parliament, and is of more sovereign sway than all the revenue of the nation beside. But here we will leave the King for the present, with all his analogy to our President, while he took a view of that part of their Constitution which relates to the Parliament, and which it is contended is so analogous to the American Legislature.

Blackstone, in his chapter on the Parliament, page 146, in speaking of the relations by which men are connected together, says, that "the most universal public relations by which men are connected together, is that of Government, namely, as Governors and governed, or Magistrates and people." He then goes on to show that as the Governors or Magistrates must necessarily possess absolute and unlimited power the excellency of the British Constitution consists in their having divided that supreme and absolute power, and placed it in separate and distinct branches, "the one Legislative, to wit: the Parliament, consisting of King, Lords, and Commons, the other Executive, consisting of the King alone;" and in page 153, he says:

"The constituent parts of a Parliament are the King's majesty, sitting there in his royal political capacity, and the three estates of the realm, the Lords spiritual and Lords temporal, who sit together with the King in one house, and the Commons, who sit by themselves, in another. And the King and these three estates together, form the great corporation or body politic of the Kingdom, of which the King is said to be *caput, principium, et finis*: for, upon their coming together, the King meets them either in person or by representation, without which there can be no beginning of a Parliament, and he also has alone the power of dissolving them."

And then to show the reasonableness of their Constitution, and the necessity of this division of power, he says:

"It is highly necessary for preserving the balance of the Constitution, that the Executive power should be a branch, though not the whole of the Legislative: The total union of them, we have seen, would be productive of tyranny. The total disjunction of them, for the present, would in the end produce the same effects, by causing that union against which it seems to provide. The Legislature would soon become tyrannical, by making continual encroachments, and gradually assuming to itself the rights of the Executive power. Thus the long Parliament of Charles the first, while it acted in a Constitutional manner with the royal concurrence, redressed many heavy grievances, and established many salutary laws, but when the two houses assumed the power of legislation, in exclusion of the royal authority, they soon after assumed likewise the reins of the administration, and in consequence of their united powers, overturned both Church and State, and established a worse oppression than any they pretended to remedy."

Thus, in page 160, speaking of the powers of Parliament, he says:

"It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denomination, ecclesiastical or temporal, civil, military, maritime, or criminal. This being the place where that absolute despotic power, which must in all Governments reside somewhere, is intrusted, by the Constitution of these Kingdoms, all mischiefs and grievances, operations, and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal, it can regulate or new-model the succession to the Crown, as was done in the reign of Henry the eighth, and William the third; it can alter the established religion of the land, as done in a variety of instances in the reigns of King Henry the eighth and his three children; it can change and create afresh the Constitution of the Kingdom and of Parliaments themselves, as was done by the act of union and the several statutes for triennial and septennial elections; it can, in short, do every thing that is not naturally impossible, and therefore some have not scrupled to call its power by a figure rather too bold—the omnipotence of Parliament. True it is, that what the Parliament doth, no authority upon earth can undo."

From this authority he thought the statement fully proved that the great mass and body of the people of Great Britain had no Constitution, no will, no political liberty or freedom, but what they had on sufferance and solely dependant on the will of their masters; for it was found that that absolute, undefined, uncontrollable, and despotic power, which *Blackstone* says is necessary in all Governments to be lodged somewhere, is in fact lodged in, or rather assumed by the King as the Executive of the nation, and that the same absolute, undefined, uncontrollable and despotic power, is also assumed by the Parliament as the Legislature of the nation. The great body of the people, have, therefore, two absolute masters, whose powers extend, as they had seen, to the direction of all possible objects whatsoever, both civil and sacred, whose will is the very essence of the Constitution itself, which must necessarily be changed as that will shall change or vary.

It had been said, that the British Constitution was made up of immemorial usages and customs; it is true that it is known by usage and custom, but what are those usages and customs? They are neither more nor less than those things which the King and Parliament have been pleased to do, in order to balance those two supreme powers in such manner as they, in their own discretion, have thought it proper, in order to guard and protect the existence of both, that one should never totally destroy the other, and share the whole boon of power to itself alone. But *Blackstone* says, that those usages and customs can be altered and new ones introduced; but by whom? By the will of the great body of the sovereign people? No; they have no soveriegnty, no will, nothing to do in this great business; but all this must and may be done by the sovereign will and pleasure of the King, who is considered as a God, and the three estates of the realm, the Lords spiritual, the Lords temporal, and the Commons, who are considered omnipotent; they can change the succession to the Crown, they can change the established religion of the land, they can change the Constitution of the Kingdom, and of Parliament itself, says *Blackstone*, and can do every thing that is not naturally impossible.

He thought then they might rightly adopt the sentiments of the English Bishop, quoted by the gentleman from Pennsylvania, as applicable to the British Government, and he would here answer that gentleman, that the English Bishop which he quoted, spoke not only the language of a British King, of a British House of Lords, but the genuine language of a commoner of England also; for it is the true doctrine of the British Government, in all its branches and departments, from the King on the Throne even down to the corporal in the army, and from the Parliament down to the justice in the country, that the people have nothing to do but to obey; passive obedience and non-resistance is their political creed. And if that gentleman meant by his inquiry to know whether that House was worse off than a British House of Commons, because they do not possess the same omnipotent power; because they could not alter the election of their President as analogous to the succession of the Crown; because they could not alter the religion of the land, or the Constitution of their country; or, because they are public servants, and not despotic masters of the people, then his answer was, that he humbly conceived that they were worse off, and his prayer to God was, that they might forever remain so; or, if the gentleman meant, by his inquiry, to know if the people of America were worse off than the people of Great Britain, because they are sovereigns and not slaves, because they have public servants and not masters, then his answer was the same, and his prayer the same. But, that gentleman, whose abilities he admired, and whose worth he esteemed, would never have quoted the sentiments of an English Bishop as a sarcasm upon his observations had he known the sentiments of his heart, or understood the ideas he meant to communicate; nor would any of those who have followed that gentleman's example have treated him with the severity they had done had they not totally mistaken his meaning.

He would therefore proceed to a consideration of the principles and Constitution of their own Government, hoping that he should be better understood.

Blackstone, with all his historical, political, and legal knowledge, had no idea of a Government that ever had or could exist like that of the United States. He says, that it is not to be supposed that there ever was a time when men, from the impulse of their reason, and a sense of their wants and weakness, met together, entered into a compact, and chose their Governor; and it seems universally to have been the case, in regard to all Governments heretofore found in the world, that they have been established by conquest, or founded in usurpation, without any original compact or general agreement of the people, prescribing and

defining the rules by which they would be governed. But it is to be remembered, that *Blackstone* wrote before America was born into the political world; that with her birth commenced a new era, and that the principles and Constitution of the American Government are dissimilar from all others that now are, or ever have been in existence.

The first principle of the American Government, said he, is, that nothing is surrendered, but all retained by the people; that the sovereign despotic power, which *Blackstone* says, is vested in the King and Parliament by the British Constitution, is with us not vested anywhere, but is inherent in the people; and it is agreed by every one, that the Constitution of the United States is the expression of the sovereign will of the people reduced to writing, and now before us. If the will of the people is then the sovereign despotic authority, that will is the authority of the United States, and if the Constitution is the expression of that sovereign will, the several constituted authorities stand as the subordinate officers or agents of the people, to execute their will, and derive all their authority from the Constitution.

How then, said he, does the principle of our Government compare with that of Great Britain? How does our Constitution compare with their Constitution? How does our President compare with their King? Their King stands as the Constitutional god, and passive obedience and non-resistance are due from the people to his sovereign will; but our President stands as a subordinate officer or agent of the people; and passive obedience and non-resistance are due from him to the will of the sovereign people. How does the Senate compare with the House of Lords, who are hereditary, and, acting with the King, are a constituent part of that absolute despotic power, which *Blackstone* mentions as resting in Parliament, when our Senators are subordinate officers chosen by the people, accountable to them, and placed as agents to execute the despotic and absolute will of the people? And how does this House compare with the House of Commons, when the Commons are another constituent part of that absolute despotic power? How does our Legislature compare with a British Parliament, when the will of that Parliament is the only Constitution of that Kingdom, and which has competent power, and can change the succession to the Crown, the religion of the land, the Constitution itself; and, in short, can do everything, and no one can say, why do you so? When, on the other hand, our Legislature derives all its existence, and all the powers it can possess from the Constitution, which is the will of the people.

How was it possible, that things should be called analogous which were so totally different in every part and particle of them? To what purpose, then, are all those arguments drawn from the Constitution of Great Britain? To what purpose all those numerous volumes of parliamentary debates, journals, and reports, to prove the practice and prerogatives of that despotic Court? What have they to do with a Constitution, which is the express will of the great body of the people of America, prescribing rules for her own self-government? Have we so soon forgot the domination of that Government, under whose oppression we so lately groaned, and become so enamored with its excellence as to lose sight of the principles and Constitution of our own Government, and to assimilate ours to that of Great Brition? Compare our President to their King! Our Senate to their House of Lords! And we ourselves assume the prerogatives of their House of Commons!

This, he was sure, could not be obeying the will of the great body of the people of America. No, let us leave this pursuit, return to our own Constitution, take that as our guide, and considering it a supreme law to us, and the only source from whence we derive all our authority, let us consider the President, the Senate, and ourselves, as the agents of the people, to execute their will, expressed in the Constitution, and without destroying its features, abrogating any of its parts by strained construction, let us take that plain meaning, which was, and now is, put upon it by those who made it.

But before he proceeded to a construction of that instrument, which he deemed a supreme law in its nature, he would premise, that it was an universal and fixed rule in all Courts and judicial bodies, in construing all laws and all instruments whatever, never to do away an express and positive clause, or sentence, by implication from another clause or sentence, which is not express and positive to the same subject. This is a rule so plain and so well established, and so reasonable in itself, he thought the man who would deny it, must have lost his senses, and be without hope, for he presumed there was not one of his constituents, even in the lowest grade, who ever sat upon an arbitration to decide a dispute between two of his contending neighbors, but that would say, it was absurd to contradict this position, and that it was a rule as well known as that men were to judge by the faculty of their reason.

Then, said he, does not the Constitution, which is a law to us, declare, in as positive a manner as words can express it, that the President "shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur, and that he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls?"

Was it not clear that the people, when forming this Constitution, contemplated themselves as standing in relation to foreign nations, in the same situation as one individual stands in relation to another; and, therefore, that it was necessary for them to make provision for holding negotiations, making compacts and Treaties, which should, when made, be mutually binding on both nations, as contracts made between individuals are binding on each individual? Is not the power of making those national contracts expressly given to the President and Senate? Is there a word in the Constitution which says, that any other

man, or set of men, shall have any voice in this business? Not a syllable of the kind. In what light, then, must the President and Senate consider themselves, when they were making the present Treaty; must they not necessarily consider themselves as the sole agents for the nation, for this purpose, and must not the nation with whom they were contracting, consider them in the same light? How, then, were they to conduct themselves in this business? Why, every one, he thought, must say that they were to do the same, as they, in their discretion, should suppose the nation for whom they were contracting, would do for itself, were they all collected together, furnished with the same information, possessed of the same view of the subject, as the agents themselves were at the same time; supposing the nation to be exercising their dispassionate reason, and making the contract for themselves. The agents, then, must do that, which, from a full view of the subject, and all existing circumstances, they judged best for the nation.

Is there a man on this floor who will come forward and say, that the President and Senate have not done this? That they have not done what they judged was best for the nation, under all existing circumstances, and what they judged the nation would do themselves, possessing the same view of the subject? He believed no one would assert this.

Then, at what time was this contract to receive its binding force? If the agents in making of it, have kept within the limits of their agency, is it not binding on the principals the moment it is concluded by the agents? If he were to appoint an agent to contract for him, and give him his power of attorney for that purpose, and pursuant to that power he makes a contract, would it not be binding on him the moment it was completed by that agent? He believed no one would deny this. Was not, then, the Constitution a sufficient letter of attorney to the President and Senate to make Treaties?

But it is said that Treaties made under the authority of the United States shall be the supreme law of the land, and that for them to be made under the authority of the United States, they must have the sanction of that House, being a constituent part of that authority.

If he comprehended the meaning of those gentlemen who preached this doctrine, they had the same idea of the authority of the United States, as *Blackstone* had of that of Great Britain, that is, as he had already proved, that that absolute despotic power, which, he says, is necessary in all Governments to be lodged somewhere, is lodged in the President, Senate, and House of Representatives. But he had already stated, that that absolute despotic power, which *Blackstone* speaks of, is inherent in the people. Will those gentlemen deny this statement? If they will, he was willing they should go where they could enjoy despotic power; but he was not willing that the President, Senate, and House of Representatives, should be changed into King, Lords, and Commons, to gratify their feelings. He presumed, however, that this position would not be denied, but that it would be agreed, that the will of the people was the only absolute despotic power in our Government; that the Constitution was the expression of that will, and he thought it must then necessarily follow, that a Treaty made by the sole agents mentioned in the Constitution, must be a Treaty made under all the authority of the United States that exists for that purpose, and therefore that the present Treaty received all its binding force, it ever can have (if it be Constitutional) upon the two nations, from the moment of its ratification, and that it is now a law conformable to the express declaration of the Constitution; and that not only the Judges of the several Courts, but every other officer of Government, and they themselves were to regard it as such; nothing that they can do will give any additional force, or create any new obligation.

But it is said, that by another clause in the Constitution "No money shall be drawn from the Treasury but in consequence of appropriations made by law;" that Treaties may stipulate for the payment of money, and this House must, therefore, necessarily become judges when they are called upon to appropriate for that purpose. Let us contrast this clause of the Constitution with the one which says the President and Senate shall make Treaties. Was there a word in this clause about appropriations mentioned about Treaties? No, not a word. Shall we, then, by implication and construction, drawn from a clause not positive to the same subject, fix a meaning which shall do away a positive and direct clause to that subject? This is a complete violation of the rule of construction laid down, and perverting the order of reason.

But gentlemen do not pretend to carry their ideas quite so far as this, and they say they do not contend for the power of making Treaties, but for a co-operative power in carrying them into effect, or a negative power to check them when so bad as that, they ought not to be carried into effect. In his mind it amounted to neither more nor less than this, that they claim a right, not to make Treaties, but to break them, when they are not agreeable to their taste.

On this ground, it is asked with an astonishing air of assurance, can Treaties repeal laws, or laws repeal Treaties? and if they can do neither, how is it possible they should both exist at the same time, and operate upon the same objects, while they are opposed to each other? This is a knotty point; but he would attempt to answer it. He had no idea of a Treaty repealing a law, or a law repealing a Treaty, accurately speaking, but he had a very clear idea, that a Treaty, in its nature abrogates and does away all pre-existing laws of both nations making it, which stand in opposition to the Treaty; and that opposing laws executed after a Treaty made, may break and violate the Treaty, and commit the plighted faith of the nation pledged in the most solemn manner.

To simplify the idea. As an independent moral agent, his will was the sovereign power by which he was to regulate all his moral actions.

In the exercise of this power, he had a right to prescribe such rules for the regulation of his own actions as he pleased; his neighbor has the same right, but neither of them have a right to prescribe rules to control the actions of the other. The rules, then, which they prescribe, are laws regulating their actions, and applying to themselves independently of each other. If it is found, by their daily intercourse, that the rules and regulations, thus prescribed, interfere or clash with each other, this lays foundation for compromise or treaty between them. Suppose, then, they meet, and enter into mutual agreement, so to regulate their conduct by mutual concessions, as not to interfere with each other, does not this agreement, in the very nature of it, abrogate and do away those regulations which he had antecedently prescribed to himself, and which interfered with his neighbor's interest? or if he persist in the doing of those things which he had stipulated he would not do, would it not be a violation and breach of his contract or treaty with his neighbor? And does it not operate the same on his neighbor's part, if he shall persist in the doing of those things which interfered with his interest, and which he agreed he would not do?

Will it be denied that America, as an independent and sovereign nation, stands in the same relation to Great Britain as another sovereign and independent nation, as one individual stands in relation to another? He could conceive of no difference but this, that in Great Britain the King, Lords, and Commons, assume the right of being the great corporation, or body politic of the nation, in whom is lodged absolute and despotic power, and therefore, set up their will as the standard by which to prescribe all the rules for the regulation of themselves and their slaves.

But America stands a complete moral person; as the will of the moral agent is the supreme power which regulates all his moral actions, so is the conjoint and united will of the great mass and body of the people of America, the supreme power which regulates all her political actions. In the exercise of this supreme power, she prescribes by her agents (the Legislature) all those rules by which to regulate her own actions, as an independent and sovereign nation, and those rules are, in the most strict sense, laws by which each individual of the community are bound; but can those rules extend to control the actions of other independent nations, any more than the rules he prescribed for the regulation of his conduct can extend to control the actions of his neighbor?

Then, said he, let us take a view of the actual situation we were in with respect to Great Britain previous to this Treaty. Did not she claim a right to almost every port in the world to which we could carry on commerce? and could America claim any property, other than by stipulation, to a single port in the world more than twenty leagues from her own shore? Look into the definitive Treaty of Peace with Great Britain, and he thought every one must grant this. Had not Britain, then, as a nation, an undoubted right to impose such duties upon our vessels as she pleased, when trading to her ports? It cannot be denied, and she carried the exercise of this right so far as to prohibit our trade and capture our vessels when going to those ports over which she claimed the right of control.

He would now ask, if they, by legislation, could restrain those proceedings of hers? He answered, No. They might legislate to eternity, and war or Treaty must finally decide the dispute. We have chosen the latter, and in it they have stipulated that they will not capture our vessels; that they will impose no higher duties on our vessels in their ports than what they impose on all other nations; and that they will surrender up the Western posts. We, on our part, have stipulated that we will lay no higher duties on their vessels and goods in our ports than we do upon the vessels and goods of all other nations; and that we will pay the debts due to certain of their subjects, where, by the interposition of our Government, they have been and now are totally prevented from collecting them. Now, he would ask, whether, if Britain should take our vessels, lay higher duties on them than she has stipulated, or should not surrender the posts at the time, without anything further done in regard to the Treaty, if it would not be a breach and violation of it on her part? Is there a man here who would not cry out, faithless nation! If, then, we still execute those laws which now stand in opposition to the Treaty, on our part, or refuse to pass those necessary laws to fulfil the stipulation on our part, does not the charge retort on us?

But, said he, are we sent here to violate the faith of the nation, and without declaring war on our part, or putting ourselves in a state of defence, are we to give a justifiable pretext to Great Britain to sweep our whole commerce at one blow, and plunge the nation into an immediate war, without any preparation whatever? If we are, do we want those papers for that purpose? But he had a different idea of their duty; he took it they were sent there to prescribe such laws and regulations as are necessary for the community, and which do not depend on stipulations with other independent nations.

But, it has been said, shall we make appropriations of money, without acting as free agents? He would answer this by another question. Can we have an agency, unless we assume the power, where the people have not, by the Constitution, appointed us their agents? He would answer, further, that we have the same agency as in appropriating money for the President's salary, with the only difference, that should they withhold appropriations, there the consequence could not be so very important; but if they withhold appropriations when necessary to fulfil a Treaty, they strike a deadly blow, by violating the faith of the nation, plunging them into all the horrors of war, and the blood of thousands might be chargeable upon them.

Much had been said, by a gentleman from Virginia, about the supreme, unlimited and undefined powers of the President, and the co-operative and co-ordinate powers of that House. In an-

swer to those ingenious observations, he had to say, that that gentleman left our own Constitution, and theorized extremely well upon the Constitution of Great Britain. But he confessed he had no just ideas of two separate and distinct supreme powers in our Government; but if they were to adopt the principles of the British Constitution, to be consistent, they must balance the powers as they have done; make the office of our President hereditary, give him a creative power to make nobles, privy counsellors, archbishops, and bishops, and a prime minister; and let them constitute one-half of the Legislature, and add to that power a patrimonial revenue, and let him have a private purse for his prime minister to use in this House, and then he may stand some chance to maintain his power. But if this is a contest about power, suppose they pass this resolution; call for the papers, and if the President should refuse to deliver them, and say it was an infringement upon his prerogative, an encroachment upon his supreme power, which was sacred, then would I say he talked as much like a haughty British King, as they all along had been talking like an omnipotent British Parliament; and he was not at a loss to know how the contest would end; for it would be only for them to proscribe him as a despot, grasping at all power, blow up the popular resentment, and the same blind zeal and false patriotism which had led to the burning in effigy members of that House, of the Senate, and the Minister who negotiated this Treaty, would lead him to the scaffold, and not all his well-earned glory, nor all his god-like virtues, would save his life twenty-four hours. But if he had a just idea of that great and good man, he would hold a very different language. Little would he say about his supreme powers or absolute prerogatives; but he thought he might justly say, that, by the Constitution, from whence all power was derived, he, with the Senate, were placed as the sole agents of the nation for making Treaties, and he the depositc for those papers. That we were not the agents of the nation to interfere in this business; that we were therefore assuming power not delegated to us; violating the Constitution; and that he could not, consistently with the trust reposed in him, resign those papers to our lawless demands.

But it has been said, that if the President and Senate possessed this uncontrollable power to make Treaties, they might bind up the whole Legislative power; they might even annihilate it, and substitute an insignificant Indian tribe as a Legislature for the nation, and that we had not even a shadow of liberty left.

Is it possible that gentlemen who give themselves time to think and explore the ground they go over, should be thus extravagant? Is it not agreed by all, that if a Treaty violates the Constitution, it is void in itself? Does not the Constitution particularly point out how the Legislature shall be formed; what shall be the qualifications of its members, and how they shall be elected? Does it not point out, with the same precision, how each other department of Government shall be constituted and organized; and does it not mark out the powers and limits of each? Does it not guaranty to each State its republican form of Government; and is not the right of altering or creating anew the Constitution reserved to the people? Look to the Constitution, and it will be found that the President, Senate, and this House, cannot, with all their combined powers, interfere with the personal security, personal liberty, or private property of the people, unless in raising taxes, and the mode in which that is to be done is directed by the Constitution. Yet it is said we have not the shadow of liberty left, when the whole combined powers of the Federal Government cannot interfere to say what compensation I shall have for false imprisonment, defaming my character, or trespassing upon my person or property.

From the observations that have been made, he thought himself justifiable in tracing those extravagant ideas, and this extraordinary diversity of opinion, to its source.

It was not long since, said Mr. B., they were groaning under the oppressions of Great Britain, and they had to wade through fields of blood to throw off her cruel power. The indignation with which they were then justly fired, though it has been smothered, is not extinct; though they, as individuals, are noble, generous, just, and humane, yet, as a nation, consisting of King, Lords, and Commons, possessed with that absolute despotic power he had described, they are imperious, haughty, and cruel, and, riding triumphant mistress of the seas, they insult all nations of the world. They had lately felt their insults, and in many cases their influence, and even cruelty. This, said he, has raised afresh our indignation. On the other hand, we behold France, our generous ally, who has participated in the struggle, and fought by our side in the cause of liberty, now struggling in her turn for the same noble prize. We see Britain wielding the tyrannic sword to strike her dead in the struggle. While our hearts swell with sympathetic emotions for France, our indignation is carried to a degree of madness against Britain; we cry out for the Spirit of Seventy-six; are for plunging into the war to make a common cause with France, to extirpate tyrants from the earth. If our hand is stayed, the picture which we are beholding is so strong, and the impressions so forcible upon the mind, that when we turn our eyes from Britain to America, we behold a King in our President, and a House of Lords in our Senate; we imagine they are in league with despots, and are ready to fall on and wreak our vengeance on them.

These, he imagined, were the formidable rocks of Scylla, on the one hand, and Charybdis on the other, which have endangered our country. And had there been any man at the helm of our political ship who possessed a less share of firm patriotic prudence, or a less share of the unbounded love and confidence of the people than our present Executive, God only knows where we should have landed! Whether we should not, ere now, have been plunged in all the horrors of foreign and domestic war; guillotines going, blood streams

ing in all our public places, and our country exhibiting a complete counterpart to the French revolution; with this shocking difference only, that, as they have called forth the whole energy of human nature, and given a loose rein to all the vindictive and turbulent passions, to cut down and destroy real tyrants, despots, traitors, and minions, we, in our blind zeal, might have been executing the same vengeance upon our ideal ones, the mere agents and faithful servants of the people.

But, to conclude, if the will of the people is the only sovereign power in our Government; if the Constitution is the expression of that will; if that Constitution has made the President and Senate the sole agents for making Treaties, then we have nothing to do in calling for papers to judge of their expediency or merits. This resolution must, then, be a violation of the Constitution, and should he give his voice to the passing of it, America, when she shall return to that calm repose that she enjoyed when the Constitution was formed, might execrate his name, and generations, yet to rise, might join in the execration.

Mr. Goodhue said, that frequent assertions had been made in debate that no Constitutional question was involved in the present resolution. To attempt a refutation of that opinion would be time misspent. Those matters merely colorable or of little importance, which were introduced at the commencement of the discussion, have been lost in the consideration of a fundamental principle of the Government. Every speaker's example, and the uncommon exertion of talents they had witnessed, evince that to be the case. What are the Constitutional powers of the Executive, and what are those of this House, relative to Treaties, are questions which we must have met in the course of business, and probably they could not have been presented in any shape less exceptionable than under this motion. They are sufficiently pointed for our deliberations, and now are placed conspicuously before the public for temperate disquisition and determination. The people are the source of power. One of their first and essential rights is, to make and amend their systems of Government. Ours, formed by the dictates of an enlightened wisdom, and a spirit of conciliation, owes its ratification to the good sense of the people, and their inviolable attachment to the Union. It is our duty conscientiously to expound their written compact, and faithfully to administer the power it confides to us.

In support of the motion, two principles are strenuously maintained: one, that this House has a co-operative power, with the President and Senate, over Treaties embracing Legislative objects; another, that there results to the House a right to decide on the merits of the Treaty, to which the papers refer, from the power Congress have relative to appropriations of money.

The whole argument in favor of the first proposition itself, is, that this House possesses a controlling power over some Treaties, because they embrace objects upon which Congress may legislate. He admitted that these two powers, so often mentioned, the Treaty and Legislative powers, do act on some of the same objects. Probably every object embraced by the former would, on being critically analyzed, be found to be a subject of the latter. Legislative authority is the basis of all authority in Government. Both these powers are acknowledged to be essential to the interests of Government, not merely to their perfection, but also to their protection and existence. One acts by the coercion of statutes within the territorial limits of a nation; the other comes to its aid where it is incompetent to act, and by compact regulates the reciprocal concerns and relations of independent sovereignties.

It is incident to every authority in well-organized Governments to possess the whole subject over which it must necessarily operate. What the Legislative authority cannot accomplish distinctly by itself, the Treaty-making power, in all cases proper for its management, must effect. If the Legislature, by the organization of the powers of a Government, is admitted to a participation in arranging its concerns, and making Treaties with foreign nations, it does not act in its appropriate capacity as a Legislature, but assumes the distinct office of a Treaty power. It is true, indeed, the sole right of pledging the public faith may be assigned to the Legislature; the Legislature then becomes the Treaty power. If it be partially assigned, in that case the Legislature becomes partially the Treaty power. To pursue the subject one step farther: this power may be assigned wholly or partially to one branch of the Legislature. In these cases, from its nature and offices, it would be a Treaty, and not a Legislative power. The last supposed case is the actual case of the Senate under our Constitution. In short, though these powers assume some of the same objects, yet, from their different functions and modes of operation, they are to be considered as distinct. Judicial and Executive power act on the same objects as the Legislative; the former declares the will of the Legislature, as applicable to a specific case; the latter executes that will. These instances, though not exactly parallel in all particulars to the case in question, may serve to illustrate the doctrine.

The primary end of Treaties, or the chief motive for making them, are to protect and advance our national interests, and those of our citizens in foreign countries; to guard ourselves against aggressions within our jurisdiction or elsewhere. Other nations are actuated by the same views in respect to us. Hence, effectually to consult and provide for our own interests, the Treaty power must necessarily possess the right of arranging and regulating by compact some of the affairs of internal policy. The progress of civilization and of intercourse between nations, renders their interests reciprocal. They can be permanently advanced and protected only by reciprocity of terms. To secure our own rights, we must secure the rights of others. To obtain privileges we must grant privileges.

The only reason assigned why this House has a co-operative power with the President and Senate over Treaties, being because Treaties of

the description over which this co-operative power is claimed to operate do affect Legislative objects; an explanation of the distinct offices and functions, together with the incidents that belong to these respective powers, has been deemed to afford a sufficient answer to this reason. That the Legislative power merely by the force of its authority to make statutes in respect to certain objects over which the Treaty power acts by way of compact, does not draw to itself an exclusive power to make Treaties, relative to those objects, nor thereby parcel out or limit the power to make Treaties, or claim a co-operation with it, when vested in a distinct department. No such construction arises fairly out of the nature of these two powers, but they are to be distinguished by the appropriate duties assigned to them respectively, and the different modifications under which they operate. If the construction contended for can be admitted, how are the respective rights of these elementary powers in Government to be determined? Placed in a state of collision at least, if not of hostility, in the body politic, how are we to designate which has the right of spoiling or limiting the other? Where do its inroads begin; how far extend, or what are the fit occasions for its warfare; or, are both to act offensively and defensively like opposing powers? Did not the framers of the Constitution know the nature of these two authorities, their respective and relative offices? If so, must we not suppose they designed them to act separately and independently in their particular spheres, exclusively and conclusively performing their functions? Or, is it more rational to suppose that they instituted these two authorities, and left them to range at random until they could find their true destiny from the custom of some foreign country? To suppose the latter is to reflect on those wise patriots the highest disgrace, to hold up our much admired system to our citizens, and the world, as a system incorporating in itself the principles of incessant warfare between the great departments. It is to mar all its beauty and harmony.

A critical examination of the expressions in the Constitution, and a sacred regard to their plain import, will leave no room for construction or conjecture on this point.

To interpret words was not a grateful task, it afforded no scope for the powers of imagination. But observing how attentively Judges, in construing written instruments and statutes, regarded the expressions, and how little latitude they allowed to their inventive faculties, or their own fancies about policy or expediency, he hoped he should be pardoned for remarking that their example had not been sufficiently imitated in the discussion of this Constitutional question. He would venture even at this late hour of the debate to ask the attention of the Committee to the parts of the Constitution connected with the present subject, and to mark and collect the precise meaning of the terms or phrases used.

They are familiar to the Committee. "He shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senate present concur." Who is to make Treaties? The President. "By and with the advice and consent of the Senate, provided two-thirds of the Senators present concur." No Treaty can be made without the advice and consent of the Senate. There must be a quorum of Senators present to constitute a Senate, and two-thirds of the Senators present must concur in the advice and consent made essential to the ratification of a Treaty. The President is not peremptorily bound to conclude a Treaty, though the advice and consent of the Senate be given thereto. The President's positive act is necessary; and he can withhold it in case his judgment dictates that to be his duty. In what view are the Senate to be considered? As a check on the President to prevent bad Treaties and further good ones; as a controlling, negative, and constraining power, or as a co-operative power. Their power in this respect is analagous to their other powers where they act on Executive business; instance the nomination and appointment of the officers of Government. The next word to be noted is "make." In common use it denotes a full completion of the act to be done; when applied to legal instruments its signification is the same. Such is its signification here, a perfect and conclusive act. It has been often observed, that to expound the Constitution fairly we must compare its parts together. The rule is a good one. To determine the use or sense of words, we resort to clauses of the instrument where the same word is used relative to the same subject. This word twice occurs in the sixth article, where we all agree that the signification is the same as before mentioned—a perfect act. Power to make Treaties; Treaties made, and Treaties that shall be made, all import a conclusive act done or to be done.

Gentlemen who support the motion content themselves with asserting the meaning of the whole sentence without defining precisely the signification of the terms. This has aided them to make out systems not warranted by a just interpretation of the words. Often has it been reiterated in favor of the resolution, that the President and Senate are empowered conclusively to make some Treaties, but are mere organs to form others. How are the Senate organs to form Treaties? Can they originate them, or form stipulations? Are they to act jointly with the President in those respects? They possess no such authority. When a Treaty is formed and placed by the President before the Senate it is inchoate. And what is the effect of the advice and consent of two-thirds of the Senators for its ratification? Is nothing more implied than that the inchoate stipulations on which they have deliberated, shall remain inchoate till a majority of the Senate, in their Legislative capacity, deliberate again on the subject; and, by a majority only, either reject or confirm the inchoate act they had before, by the concurrence of two-thirds, consented should be formed? On the construction assumed by gentlemen in support of the co-operative power of the House, and on which their whole system rests

two different significations are given up to the word "make" in this clause of the Constitution: One denoting a perfect and conclusive act; another an inchoate act. For the purpose of illustrating this part of the subject, admit that the several specified articles of Legislative jurisdiction are excepted from the Treaty power, or that the Treaty power is thereby limited so that it cannot act on them; how is it reconcilable with the fair interpretation of words, that the term "make" should take to itself different meanings; that it denotes a thing actually complete, and a thing incomplete; that by it a limited and unlimited authority is granted? Is not the power of the President, relative to Treaties, single and uniform, whatever objects it constitutionally embraces, or under whatever limitations it acts? Can it be parcelled out, and over one set of subjects exert a perfect authority, and over others only a limited one? Such construction perverts the meaning of the terms. What are Treaties? Compacts between sovereign nations, relative to peace, war, commerce, and security, originating in their consent, and from thence deriving their binding influence or obligation. The power to make Treaties is nothing more or less than an authority to pledge the public faith relative to those objects. The sixth article has been often commented on: "This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." "Under the authority of the United States." An authority of the United States empowered to make Treaties is intended. The President, with the advice and consent of the Senate, is the only authority named in the Constitution for that purpose. Two kinds of Treaties are contemplated. Treaties made under the Confederation, and Treaties to be made by the President and Senate. The words authority of the United States are inserted as comprehensive terms, including, without circumlocution, both description of Treaties. Law of the land: A rule of conduct for citizens and subjects within our jurisdiction, and for regulating all things therein to which the rule relates. The declarative part of the sentence ends; what follows is by way of caution or express injunction. There is no occasion to dwell longer on it. A clause in the third article, section two, is explicit: "That the judicial power shall extend to all cases in law or equity arising under this Constitution—the laws of the United States, and Treaties made, or which shall be made, under their authority." A power distinct and separate from the other powers instituted in the Constitution; an authority to pledge the national faith is, in express terms, given to the President, under the control of the Senate. Its existence does not admit of doubt; and the design of its institution was, that it should be exercised on fit occasions. No exception is made, in respect to its objects, nor any limitation expressly provided; no special Treaty-making power is instituted.

Constructive reasoning in support of the co-operative power of this House cannot be allowed. 1st. Because the express terms of the Constitution decide the question in every stage of the operation of the Treaty power. The President is to do the final act; and when done the Treaty becomes a law, to be placed among the laws, pleadable as such, and the judicial power is expressly extended to all cases, in law or equity, arising under Treaties. He believed that this was peculiar to our Constitution. Treaties in other countries, by binding the public faith, impose an obligation on the body politic to provide laws; with us, so far as they are perfect, and their provisions can execute themselves, they need no auxiliary laws. If imperfect and destitute of necessary provisions, like other laws in themselves imperfect, they require further laws. Under the forms of our Government the Legislative and Executive functions cannot act in unison directly on a Treaty to confirm it. A simple vote of one branch gives no additional force to a Treaty; the President's affirmative and positive act is necessary. A concurrence of two-thirds of the Senators present is requisite. In legislation, the affirmative act of the President is not made essential; a majority of the Senate is sufficient. Laws must originate in one of the Houses of Congress. Auxiliary laws have no direct effect on the Treaty itself. 2d. Because a check, or co-operative power, viz., the concurrence of two-thirds of the Senators present, is expressly provided to restrain the Treaty power in the hands of the President. Is it not fully evident that the framers of the Constitution and the people have considered this subject, and declared their will in respect to a check? And shall we, in contradiction to that declaration, from remote and uncertain construction, multiply checks?

Grant we may amuse ourselves in researches for an extension of our powers by construction and conjecture, he apprehended that they should at last find themselves in a delusive dream.

So far as he understood the arguments in favor of a co-operative power on the part of the House, they presented themselves in these two points of view:

1. That all Legislative objects specified in the eighth section of the first article of the Constitution are excepted out of the Treaty power.

2. That Legislative jurisdiction over certain objects limits the Treaty power so far only as that it cannot conclusively make Treaties relative to those objects, and thereby a controlling power is vested in Congress.

He imagined that the first proposition was not true in point of fact. Many reasons had been offered to show that Legislative objects were not excepted from the Treaty power, merely because they were Legislative objects. He would endeavor to show that they were not excepted merely because they were enumerated. It is true that a special limits a general power, without express words of limitation; but the special must be of the same kind as the general power. Objects embraced by a general power may be withdrawn from it by being expressly vested in a special

power of like kind, though no terms of exception are used. To explain: If the Constitution had contained a special Treaty power, vested in a different organ from the President, to act on Legislative objects, then the general power would have been limited without a restrictive or exceptive cause. All that is left to implication in that case is, to presume that the special is carved out of the general power. The presumption is so obvious as to become irresistible. Implication is not to be extended further, for an obvious reason. The intent to vest a general power is expressly declared by its being expressly vested. No special power can be carved out of it, or a limitation be made on its exercise, except such intent also be expressly declared. An institution of a special power is a declaration of such intent. The evidence of a limitation upon the grant is of the same nature as the evidence by which the grant was made. Legislative power does not possess the essential capacities and attributes of the Treaty power. By the Constitution they are contemplated as distinct authorities. We shall act arbitrarily to commix them.

By recurring to the Constitution we shall find the reason why these several articles are specified. The Legislative body is organized and defined by the first article of the Constitution. The power of legislation is between the General and State Governments—all Legislative power herein granted. By these words the grant is made and the reservation expressed. The Legislative powers of the General Government are defined in the eighth section of the first article. The design of this definition was to ascertain the limits of jurisdiction between the General and State Legislatures. The ninth section of the first article contains certain limitations upon some of the powers vested by the eighth section, and a denial of other powers, which might otherwise be assumed by implication. The tenth section contains a denial of other powers, to prevent disputes which might arise respecting a supposed jurisdiction between the General and State Governments on the subjects therein mentioned. The complexity of the Government has rendered this specific definition of its power necessary. An enumeration of the particular subjects of legislation, in the eighth section of the first article, so often adverted to, is to ascertain the limits of jurisdiction between the General and State Legislatures. When the specification has been dictated by so obvious a reason, shall it be overthrown by a mere supposition that the enumeration is made for the purpose of divesting the other branches of the Government of authorities expressly granted to them? On some of these enumerated articles the State Legislatures have concurrent jurisdiction with Congress; and, will it be pretended that they possess, on that account, a co-operative power over Treaties?

To view the question in all its attitudes, let us suppose that the construction so forcibly pressed on the Committee is fully authorized; what is the result? All the objects so often alluded to are entirely withdrawn from the jurisdiction of the Executive. If we adopt the principle we cannot restrain its full operation. There is no middle ground. Nothing but our arbitrary will can assign certain rights to be left still with the Executive, and certain powers to be exercised by this House. On the construction assumed, all the Treaties made by the President and Senate are unwarrantable assumptions of power. An error has crept into the public councils on this subject. Foreign negotiations have been carried on upon the ground that the President and Senate could conclusively make Treaties. Treaties, without the sanction of this House, have been proclaimed as laws. In this situation the exigency of circumstances press with an almost irresistible weight on the authors of this doctrine, to set some limits to its inroads on the powers of the Executive. If the principle were to be admitted in its whole latitude that love of power and aggrandizement, described to us as so insinuating and invincible, could not be gratified by an alliance with the Treaty power. To determine the authority heretofore assumed by the President to be usurped, and that in future he could not exercise it, would leave no basis for our co-operative power. The middle course also not only addresses itself to our ambition, but professes to avoid the most serious evils; though it mutilates the Constitution, it does not divest it of the Treaty power, as the principle in its utmost extent would do. It admits the constitutionality of the Treaties entered into by the President, so far as to render them proper for our sanction; and thus keeps in prospect the continuance of our national happiness. Temporizing policy may dictate this line of conduct, but a regard to the principle which the favorers of the resolution have adopted, leads to conclusions far different—that the objects of legislation are entirely withdrawn from the Executive, that his acts are void, and that this House can never foster usurped authority in any of the departments of our Government.

He observed that the other point of view in which gentlemen presented the subject, viz: that the Legislative power limited the Treaty power so far only that it could not conclusively act without the co-operation of this House, was inconsistent with the former proposition; it conceded that the enumerated objects of Legislative power were not withdrawn from the jurisdiction of the Executive. He said, that on that principle the whole doctrine of the right now proffered to the House rests. If these subjects of legislation are not exceptions out of the Treaty power, whence can any authority be derived to us? From what source does it originate? The power of the President and Senate is conclusive over all the subjects it can constitutionally act upon. To support our co-operative power we are obliged to rob the Treaty power in part only at this time. We are now on Treaties already made. He would ask gentlemen where the co-operative power was to commence, how far was it to be defined, what were to be its effects? Was there any reason for limiting it merely to a simple confirmation or rejection of a Treaty when made? Why not co-

operate in negotiation? The reverse to what has been may be the case. This House in future may prefer peaceable negotiation, while the Executive shall meditate a different line of conduct. And, might they not then, with as fair pretensions as on the present occasion, insist also on the right of negotiation? Indeed, why not in all cases? He would close his remarks on this branch of the subject, by observing that, if we substitute constructive reasoning in place of the express letter of the Constitution, the form of our Government, under pretence of providing checks against power, or of enlarging the powers of Government, would undergo perpetual changes. The question that now fixes the attention and hopes of the present age is, whether men can associate under written compacts, and govern themselves? Nearly connected with that question undoubtedly is the consideration how far the agents of the people will regard these written compacts.

Mr. G. said, he had so far trespassed on the patience of the Committee, that he would only ask their attention for a moment to a few remarks in respect to the right that was supposed to result to the House of determining on the merits of the Treaty in question, from their power over appropriations of money.

Here the mind had been busy in devising extreme cases, which, from their extremity, formed their own rule and provided the remedy. He observed, that most of those cases which had been brought forward were such as to destroy the instruments or Treaties. In instances of their being obtained by bribery, fraud, or imposition, they had no obligation. Bribery, fraud, and imposition, entirely vitiate compacts. Under this class also are to be placed those Treaties which grossly sacrifice all the essential rights and interests of a nation. None of these circumstances can be candidly alleged against the British Treaty.

The question is, if a Treaty, fairly and constitutionally made, stipulates the payment of money, what obligation does it impose on this House? It imposes a perfect obligation resulting from two sources. One imposed by the Author of Being—a moral obligation; the other arising from our Constitution, which is formed by a moral and enlightened community to enforce moral obligation. If the nation, from the exigency of circumstances, is incapable of discharging its obligations, they become suspended. That is not pretended; and, if it were, the only document requisite for deliberation would be a statement of revenue and expenditure from the Treasury Department.

Gentlemen who favor the resolution say that those in opposition to it have assumed high ground, and invite us to unite with them. We conscientiously believe that we stand on Constitutional ground; and gentlemen will permit us, in return, to solicit them to resist the love of power, which they represent to be so enticing and predominant, to afford the example of a numerous public body repressing the proffer of an extension of their own powers. On these grounds we shall obtain the noblest of conquests—the conquest of ourselves.

Mr. Gallatin would not have requested once more the attention of the Committee, had not the floor been altogether occupied for the four last days by gentlemen opposed to the resolution, who had taken much new ground, and must have raised many doubts. At this period of the debate it might not be useless to try to state with precision the question, and the points on which opinions were divided, and to compare the arguments offered on both sides.

The original question (the call for papers) had now resolved itself into another, which alone had become the subject of discussion, to wit: whether a Treaty made by the President and Senate was, although it embraced objects specifically delegated to Congress by the Constitution, a compact completely binding on the nation and Congress, so as to repeal any law which stood in its way, so as to oblige Congress (without leaving them any discretion except that of breaking a binding compact) to pass any law the enacting of which was necessary to fulfil a condition of the Treaty, so as forever afterwards to restrain the Legislative discretion of Congress upon the subjects regulated by the Treaty; or, in other words, whether, when the President and Senate had, by Treaty, agreed with another nation that a certain act should be done on our part, the doing of which was vested in and depended solely on the will of Congress, Congress lost the freedom of their will, the discretion of acting or refusing to act, and were bound to do the act thus agreed on by the Treaty?

An assertion, repeatedly made by the opposers of the motion that their doctrine rested on the letter of the Constitution, whilst that of those who contended for the powers of the House was grounded only on construction and implication, had not the least foundation. The clauses which vest certain specific Legislative powers in Congress are positive, and, indeed, far better defined than that which gives the power of making Treaties to the President and Senate; nor does the clause which declares laws and Treaties the supreme law of the land decide in favor of either, and say which shall be paramount. And yet some gentlemen had argued as if they meant to attend exclusively to one part of the Constitution, without noticing the other; the consequence was, that many of their arguments applied with equal force in support of the opposite doctrine. Thus, when they said that there was no part of the Constitution which declared that the Legislature had power to make a Treaty; that, had it been intended to except Legislative objects out of the general Treaty-making power, an express proviso for that purpose should have been added to the clause which gives the power of making Treaties; and that Congress, when making laws, were bound to obey the will of the people, as expressed by their agents the President and Senate; it might, with equal strength of argument, be replied, that there was no part of the Constitution which declared that the President and Senate had power to make laws; that if it had been intended to except out of and to limit the Legislative powers of Congress

by the Treaty-making power, an express proviso for that purpose should have been added to the clause which gives the Legislative powers; and that the President and Senate, when making Treaties, were bound to obey the will of the people, as expressed by their agents, Congress.

In order to decide which doctrine was most conformable to the Constitution, it was necessary to attend to and to compare both parts of the instrument, and to adopt that construction which would give full effect to all the clauses and destroy none. But, before he entered in that examination, he found himself obliged to follow the gentlemen who had spoken before him through a train of arguments, drawn not from the letter or spirit of the Constitution, either directly or by implication, but from a variety of extraneous sources. The Law of Nations, the practice under the Articles of Confederation, the opinions of individuals and of Conventions, had been conjured up as uniting in ascribing to the power of making Treaties the most unlimited and unbounded effect.

It was, in the first place, insisted that the Treaty-making power, *by its nature*, necessarily involved all those incident powers which might be necessary to give it effect; that as it did embrace all those objects which may become subjects of compact between nations, so it must imply a power conclusively to regulate all such objects, of whatever nature they might be; and that, by the Law of Nations, the words *to make Treaties* were generally understood to have that broad meaning. The very reverse, however, of those assertions would prove to be the fact. For, firstly, in all limited Governments, where the powers of making Treaties and laws were lodged in different hands, the first never had, *by its nature*, swallowed up and absorbed the Legislative; but it would be found universally that the manner in which that power was exercised in such Governments, when the conditions of the compact with the foreign nation were of a Legislative nature, was, not by superseding, but only by calling to its aid and assistance the Legislature, without whose consent the Executive was not enabled to fulfil the conditions of the compact; and, secondly, this doctrine was perfectly well understood, as he stated it, by all nations, and therefore constituted a part of the Law of Nations. For it was agreed by all the writers on the subject, (and he quoted *Vattel*, book i, chap. 21,) that even where the Legislative and Treaty-making powers were united in the same hands, it did not follow that the conductor of the nation had a power to dismember or alienate the territory of the nation, unless he had received from them not only the power of making Treaties, not only general Legislative powers, but also either the express power of alienating, or, what is called by those writers the *full sovereignty power*, or, in other words, an absolute, complete, unlimited, and despotic authority over the nation. But it was further stated by the same writers, justified by general experience, and recognised as a principle of the Law of Nations, that in all limited Governments, the powers vested in the other branches of Government, and specially in the Legislative body, operated as limitations to the general power of making Treaties, lodged in the Executive. In support of that assertion, he quoted *Vattel*, book ii, chap. 14, and also the following passage from the same author, from book iv, chap. 2:

"The same power, &c., has naturally that likewise of making and concluding the Treaty of Peace. But this power does not necessarily include that of offering or accepting any conditions with a view of peace; though the State has intrusted to its conductor the general care of determining war and peace, yet the fundamental laws may have limited his power in many things. Accordingly, Francis 1st, King of France, had an absolute disposal of war and peace; yet in the Assembly at Cognac, he declared that, to alienate, by a Treaty of Peace, any part of the Kingdom, was out of his power. When a limited power is authorized to make peace, as he cannot of himself grant every condition, in order to treat on sure grounds with him, it must be required that the Treaty of Peace be approved by the nation or the Power which can make good the conditions. If, for instance, in treating of a peace with Sweden, a defensive alliance and a guaranty be required for the condition, this stipulation will be of no effect, unless approved and accepted by the Diet, which alone has the power of imparting validity to it. The Kings of England conclude Treaties of Peace and Alliance, but by these Treaties they cannot alienate any of the possessions of the Crown without the consent of Parliament; neither can they, without the concurrence of the same body, raise any money in the Kingdom. Therefore, when they negotiate any Treaty of subsidies, it is their constant rule to communicate the Treaty to the Parliament, that they may be certain of its concurrence to make good such engagements."

It was in support of and to exemplify that general doctrine, Mr. G. continued, that he had, in a former stage of the debate, brought the instance of Great Britain as the fullest illustration of what he had conceived to be the true operation of the Treaty-making power in those Governments, which were so far similar to our own, as to have vested the Legislative and Executive powers, the authority of making laws, and the authority of making Treaties, in different branches, in different hands; yet that illustration had been attacked from various quarters of the House, as if he had attempted to show that the Constitutions of the two countries were similar in any other respects, except those which he had pointed out; and an answer had been attempted, by showing that they were so dissimilar on many points, which did not affect and did not apply to the present question; as if the dissimilarity in some part destroyed the perfect similarity in other parts, and the consequence which flowed from it. The only objection he had heard to that similarity had fallen from a gentleman of Connecticut, who had this morning favored the Committee with a very ingenious and correct speech, and who had stated that, in England, Treaties were not considered as law by the Courts of Justice. So far as related to the Treaties which might operate on objects of a Legislative nature, the observation of the gentleman was true, and, indeed, flowed from the very doctrine Mr. G. was supporting, because in

that case it was necessary that laws should, in the first place, be passed, in order to render the Treaty operative; but when a Treaty decided on subjects relative to the general Law of Nations, and which could not be embraced by the Legislature, it was considered as law. Thus, if (England being at peace with France and at war with a third nation) an English privateer was to take a French vessel because loaded with their enemy's goods, the Courts of England would consider the Commercial Treaty between France and England as law, and would accordingly release the captured vessel.

But the same gentlemen who objected to a reference to the Government of Great Britain have brought in support of their doctrine the Articles of Confederation, and the practice under the same. They must, however, be sensible that the only reason that can be alleged why the Articles of Confederation are more similar to our present Constitution than that of Great Britain is, that the two first governed the same people. In every other respect, it must be agreed, that our Constitution was far more assimilated to that of England than to the Articles. Again: it must be allowed that the practice of Government under the Confederation had been very loose, and that many important powers had been exercised by Congress which were not delegated to them, but which were justified by common danger, and permitted by common consent. Thus, they had declared the independence of the United States long before there was any written Constitution to which they could recur for the rule of their authority. Thus, they had made war and concluded Treaties before the Confederation existed. Yet, Mr. G. said, he had no objection to investigate that argument, and to examine whether the theory and the practice under the Articles had been correctly stated by those gentlemen.

The argument was this: that by those Articles many of the Legislative powers now vested in Congress were reserved to the States, and, of course, if our doctrine was true, ought to have operated as limitations of the general power of making Treaties given to the old Congress by the same Articles; but that it was not so, as, on the contrary, that general power had been construed as superseding the Legislative authority of the States, an instance of which was given in the Treaty of Peace with Great Britain.

In answer, Mr. G. observed, firstly, that there was an essential difference between the Legislative powers reserved to the States by the Articles of Confederation and those vested in Congress by the Constitution; the first remained with the States by implication, since they were not enumerated; the last were expressly specified and enumerated; the first were only supposed not to have been granted; the last were delegated to Congress by the same instrument which gave the power of making Treaties, and therefore must necessarily be so construed as not to be destroyed, while there would be no absurdity in giving a construction to the Articles of Confederation by which the power of making Treaties should be supposed to supersede certain Legislative powers, which, before the ratification of the instrument, were vested in the individual States. It might be fairly supposed that the States, when giving by the Articles the power of making Treaties to Congress, meant also to give some Legislative powers they were then possessed of; but it would be absurd to say that, by giving that power to the President and Senate, they meant also to give to them certain Legislative powers, which they were at the same time expressly vesting in Congress.

In the next place, if recourse was had to the Articles themselves, they would be found to contain the following clause:

"The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace; of entering into Treaties and Alliances, provided that no Treaty of Commerce shall be made whereby the Legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever."

From which it might be implied, that if the proviso had not been inserted, Congress, by the general power of making Treaties, would have had that of laying lesser duties on foreigners, than the States did on their own people; and, therefore, that that general power was understood to include that of regulating, by Treaty, what duties foreigners should pay. But if another clause of the same articles, to wit:

"No State shall lay any imposts or duties which may interfere with any stipulations in Treaties entered into by the United States in Congress assembled with any King, Prince, or State, in pursuance of any Treaties already proposed by Congress to the Courts of France and Spain,"—

be recurred to, the clear inference is, that if this last clause had not been inserted, the individual States would have had the power of laying duties interfering with stipulations in Treaties; and, therefore, that the general power of making Treaties was not understood to include that of repealing, by Treaty, such laws as the respective States might have made on that subject, or even of restraining the future exercise of their Legislative authority thereon. If, for instance, Congress had made a Treaty stipulating, that a certain species of goods, whether imported by foreigners or citizens, should not pay a duty of more than ten per cent. *ad valorem*, the States, or any of them, might have laid a duty of fifteen per cent., the Treaty notwithstanding, had not that clause been inserted. The practice under the Confederation will be found to have generally conformed to the theory. In order to illustrate it, it will be sufficient to advert to the Treaty of Commerce with France, and to the Treaty of Peace with Great Britain.

There was but one clause in the Treaty with France, which, taking into consideration the general powers of Congress, and the specific restrictions upon States as abovementioned, could be supposed to interfere with Legislative powers re-

served to the individual States; it was that article which provided that French subjects could inherit real estates within the United States—an article which was repugnant to the general law of the land, by which aliens are not capable of inheriting. Was it, however, supposed, that that article of the Treaty, repealed, *ipso facto*, the laws of the States, and enabled the French subjects to inherit? No; for Congress recommended to the several States to pass laws to that effect. Mr. G. then quoted laws of two of the States made in conformity to the recommendation; the first passed by Maryland, was a complete proof that the Legislature of that State did not think themselves bound by the Treaty, but exercised their discretion thereon; for they added to the clause enabling French subjects to inherit real estates a proviso, declaring, that any such estate should revert to the Commonwealth at the end of ten years, unless the French subject had, within that time, either become a citizen of the United States, or conveyed his inheritance to a citizen; that is to say, that they agreed to carry the Treaty into effect, upon a condition which made no part of the Treaty, or, in other words, that they carried the Treaty into effect, not fully and completely, but conditionally and in part. Mr. G. said he was sensible that the recommendation of Congress and the act of Maryland were liable to an objection, to wit, that they were both passed prior to the final ratification of the articles of Confederation. He would, however, observe that the act of Maryland continued in force after that ratification, and in order to remove any objections on that head, he quoted another act of the State of New Jersey, passed in May, 1781, after the articles of Confederation had been fully ratified; which grants to French subjects the privileges promised by the Treaty, and which, as a proof of the discretion exercised by the Legislature of that State, states as a reason of passing the act, not the positive agreement entered into by Congress, as being binding upon the State, but the services rendered to the United States by France during the war.

As to the Treaty of Peace with Great Britain, there were three articles which might be supposed to interfere with the Legislative powers of the several States: 1st. What related to the payment of debts; 2d. The article providing that there should be no future confiscations or prosecutions against persons on account of the part they had taken during the war; 3d. What related to the restitution of estates which had been confiscated.

As to the first, Mr. G. observed, that by the Law of Nations, it was well understood, that whenever a Treaty of Peace took place, all acts of hostility were to cease, and all private debts were to be paid. The first position would not be denied; and, in support of the last, he read *Vattel*, book 4th, chap. 2:

"Claims founded on a debt, or an injury prior to the war, but which made no part of the reasons for undertaking it, remain entire, and are not abolished by the Treaty, unless it be formally extended to the extinction of every claim whatever. It is the same with debts contracted during the war, &c."

It followed from thence, that even if that clause had not existed in the Treaty, any law constituting an impediment to the recovery of private debts, would have been a violation of the Law of Nations, and of the peace between the two countries, unless it was justified by an infraction of the Treaty on the part of Great Britain; and of course, that that article being put in only for greater security, it was binding on the several States, not as part of a Treaty, but as part of the Law of Nations. The same reasoning would apply to the article which prevented future confiscations, if the persons concerned were considered as British subjects. It was true, however, that if they were considered as American citizens, the article was an invasion of the Legislative rights of the States. But as the war with Great Britain was, in its origin, a civil war, as every person concerned was, when it began, a British subject, and it became necessary to establish, by the Treaty, some rule on that head, that article may be considered as declaring, not that States should not confiscate in future estates belonging to American citizens, but that the persons comprehended within the provisions of the article, should be considered as British subjects; which certainly was the most liberal and the most rational construction.

But, when the confiscations which had already taken place are mentioned, then the Treaty assumes a different language; when the act to be done comes clearly within the sphere of the Legislative power of the individual States, Congress do not think, in conformity to the doctrine now held up by some gentlemen, that, by virtue of their general Treaty-making power, they have a right to embrace that object; but they only agree, that they shall recommend to the several Legislatures to pass laws on the subject. In order to prove that it was on that ground, that Congress would not agree to anything more on that head than a recommendation, and of course that the technical sense of the words to make Treaties was not as extensive as now contended for, Mr. G. read the following extract of a letter to Richard Oswald, His Britannic Majesty's Commissioner, signed John Adams, B. Franklin, and John Jay:

"Sir, in answer, to the letter, you did us the honor to write on the 4th instant, (November, 1782) we beg leave to repeat what we often said in conversation, viz: that the restoration of such of the estates of refugees as have been confiscated, is impracticable, because they were confiscated by laws of particular States, and in many instances have passed, by legal titles, through several hands. Besides, sir, as this is a matter evidently appertaining to the internal polity of the separate States, the Congress, by the nature of our Constitution, have no authority to interfere with it."

Here, said Mr. G., is not only a case in point, but a full acknowledgment of the doctrine he was supporting, that the nature of the Constitution of a country limited the Treaty-making power, although there was no express proviso to that effect;

for, under the Confederation, the power of making Treaties was given to Congress in as general terms, as it is given by the present Constitution to the President and Senate, and yet it was understood that it did not embrace a subject evidently appertaining to the internal polity of the States, a subject comprehended within the powers supposed to be reserved to the States; a subject evidently of a Legislative nature.

He then read the following extracts from Mr. Adams's journal respecting peace, still on the same subject:

"Congress are instructed against it, or rather have not Constitutional authority to do it. We can only write about it to Congress, and they to the States, who may, and probably will, deliberate upon it eighteen months before they all decide, &c."—"I replied that we had no power, and Congress had no power, and therefore we must consider how it would be reasoned upon in the several Legislatures of the separate States, if, after being sent by us to Congress, and by them to the several States, in the course of twelve or fifteen months it should be there debated."—"We could do nothing, Congress nothing, the time it would take to consult the States—"

Also, the following extracts of the official letters of Dr. Franklin, on the same subject:

"We declared at once, that, whatever confiscations had been made in America, being in virtue of the laws of particular States, the Congress had no authority to repeal those laws, and therefore could give us none to stipulate for such repeal."—"I acquainted you that nothing of that kind could be stipulated by us, the confiscations being made by virtue of laws of particular States, which the Congress had no power to contravene or dispense with, &c."—"As to the loyalists, I repeated what I had said to him when first here, that their estates had been confiscated by the laws made in the particular States, where the delinquents had resided, and not by any law of Congress, who, indeed, had no power either to make such laws, or to repeal them, or to dispense with them; and therefore could give no power to their Commissioners to treat of a restoration for those people: that it was an affair appertaining to each State."

It is unnecessary, continued Mr. G., to make any comments on those extracts. From an examination of the Law of Nations of what had been generally understood to be the sense of the words "to make Treaties," and to be the effect of that power, from the manner in which that power operated in limited Governments, and specially in Great Britain, and under the Confederation, the two Governments which had served as a basis and model to our present Constitution, which were mostly contemplated by the people who adopted it, and from whence we had borrowed the very expressions relative to that subject, it evidently appears, that the construction given by the advocates of the present motion, was as consonant to the general acceptation of the words, to the general sense of mankind, and to the opinions entertained both here and in Europe on the subject, as it was consistent with the letter and spirit of our Constitution.

Driven from that ground, the gentlemen who oppose the motion have recurred to the opinions of individuals, of State Conventions, and finally, of the general Convention which framed the Constitution. Mr. G. little expected to have heard such an appeal as was made yesterday by the gentleman from Maryland; such a doctrine advanced as, that the opinions and constructions of those persons who had framed and proposed the Constitution, opinions given in private, constructions unknown to the people when they adopted the instrument, should, after a lapse of eight years, be appealed to, in order to countenance the doctrine of some gentlemen. He hardly could have expected that the people now should be told—

"You have had a Constitution for eight years, and have adopted it under such impressions as must have resulted from the face of the instrument; but it was the design of those who framed it, that it should have a different construction from that it naturally bears, and they have taken care to record their opinions on their secret journals, journals kept under seal, and preserved for the purpose of being appealed to, on a proper occasion."

As Mr. G. did not know what had passed in that Convention, he could not make any remarks upon it. But for what purpose was the appeal made? Was it in order to create suspicions which could not be with propriety directly removed? Was it in order to throw a hint; that some gentlemen on this floor were acting inconsistently with what they had formerly professed? The object was not, he was sure, to throw light on the subject. The intentions of the parties to an instrument, of those who ratify it, who give it effect, who are bound by it, may be of use to discover its meaning; but it was the first time he had heard that the intention of those, who might be employed to draw the instrument, was to be taken as a rule of construction. The intention of a Legislature who pass a law may perhaps be, though with caution, resorted to, in order to explain or construe the law; but would any person recur to the intention, opinion, and private construction, of the clerk who might have been employed to draft the bill? In the present case, the gentlemen who formed the general Convention, however respectable, entitled as they were to the thanks and gratitude of their country for their services in general, and especially on that important occasion, were not of those who made, who passed the instrument; they only drew it and proposed it. The people and the State Conventions who ratified who adopted the instrument, are alone parties to it, and their intentions alone might, with any degree of propriety, be resorted to. And, even so far as related to the opinions expressed in those Conventions, it had been properly stated that the sentiments of those who objected to the adoption of the Constitution, could not have much weight as a rule of construction, nor could the amendments which had been proposed by some of those Conventions, be, with propriety, brought forward as a test of their opinion, or of the true construction of the Constitution; for those amendments were adopted in order to conciliate the opinions

of a majority, and they were proposed as much with a design to explain doubtful articles as with a view to obtain alterations. He would add, that not one of the amendments which had been read, or which he had seen, applied to the question now under discussion; they all tended to give a different construction to the Constitution from that he now contended for, and therefore could, with great propriety, have been proposed by Conventions, or by individuals, who understood the Constitution in the same sense he did, but who wanted some further alterations, some further security, some further check, than even the construction now contended for, by the advocates of the motion, did give. Yet, upon that ground, an argument had been attempted, specially directed to himself.

It had been stated, that after the adoption of the Constitution, he was one of a meeting composed of many citizens of Pennsylvania, who met at Harrisburg in the year 1788, and there drew a petition to the Legislature of their State, requesting them to take Constitutional measures to obtain some amendments to the Constitution, one of which applied to the subject of making Treaties. He would ask whether that meeting, and he as one of them, were not fully justifiable in their fears that that part of the Constitution might be misconstrued? Whether the doctrines now held, in favor of the unlimited effect of the Treaty-making power, did not afford a satisfactory proof that they were right in wishing for such a Constitutional explanation as would remove all doubts on that subject? But as the remark had been made with a design to throw an appearance of inconsistency on his conduct, he was obliged to relate a fact with which he would not otherwise have troubled the Committee. More than two years ago, whilst he had a seat in the Senate of the United States, before it had ever been suggested that an Envoy was to be sent to England, a Senator from Georgia had moved in that body an amendment to the Constitution, purporting that the Treaty-making power should not extend so far as to dismember a State. The amendment was debated, and its propriety supported and opposed on the supposition that that power did, by the Constitution, extend to that object. He had on that occasion opposed the amendment on the same grounds on which he now supported the present motion; he had held out the same doctrine which he now contended for, to wit; that the Treaty-making power was not boundless, that it was limited by the Constitution, that it did not embrace that object which was contemplated by the proposed amendment. What general effect his arguments then had he could not tell. All he knew was, that they were not answered, and that the gentleman who had made the motion declared himself satisfied and withdrew the amendment. He did not wish to give more weight to a trifling fact than it could bear, and he had mentioned it solely to repel the personal insinuation thrown out that he had formed his present opinion on the spur of the occasion, and in order to serve some favorite purposes.

The only cotemporaneous opinions which could have any weight in favor of the omnipotence of the Treaty-making power, were those of the gentlemen who had advocated the adoption of the Constitution; and recourse had been had to the debates of the State Conventions in order to show that such gentlemen had conceded that doctrine. The debates of Virginia had first been partially quoted for that purpose; yet, when the whole was read and examined, it had clearly appeared, that, on the contrary, the general sense of the advocates of the Constitution there, was similar to that now contended for by the supporters of the motion. The debates of the North Carolina Convention had also been partially quoted; and it was not a little remarkable, that whilst gentlemen from that State had declared on this floor, during the present debate, that they were members of the Convention which ratified and adopted the Constitution, that they had voted for it, and that their own and the general impression of that Convention was, that the Treaty-making power was limited by the other parts of the Constitution, in the manner now mentioned, it was not a little remarkable, that in opposition to those declarations, a gentleman from Rhode Island had quoted partial extracts of the debates of a Convention also in North Carolina, who rejected the Constitution. Yet in those very debates it would be found that the learned Judge, whose opinion had been mentioned in the very speech which had been quoted, had, when answering the objections made to the dangerous consequences of the Treaty-making power, explicitly declared, "that the weight of the immediate representatives of the people (both in Great Britain and under the Federal Constitution) had great authority added to it, by their possessing the right of exclusively originating money-bills. The authority over money will do every thing. A Government cannot be supported without money. Our Representatives may, at any time, compel the Senate to agree to a reasonable measure by withholding supplies till the measure is consented to." Was not this allowing a full discretion in money matters to this House—a discretion which they might use, even in the case of Treaties, as a complete check on the Senate? A gentleman from New York [Mr. Williams] had read to them an amendment proposed in the Convention of that State, by which it was required that no Treaty should abrogate a law of the United States, from whence he inferred, that that Convention understood the Treaty-making power would have that effect, unless the amendment was introduced. The gentleman, however, forgot to inform the Committee that that amendment did not obtain; and, therefore, that the inference was the reverse of what he had stated.

Leaving, however, to other gentlemen to make further remarks on the debates of the Conventions of their respective States, he would conclude what he had to say on that ground by adverting to the debates of the Pennsylvania Convention. The only part of those debates which had been printed contained the speeches of the advocates of the Constitution, and although the subject was but slightly touched, yet what was

said on the subject, by the ablest advocate of that Constitution, in Pennsylvania, by the man who had been most efficient to enforce its adoption in this State, would be found to be in point. He then read the following extract from Judge Wilson's speech (pages 110 and 111 Debates of Pennsylvania Convention:) "There is no doubt but under this Constitution Treaties will become the supreme law of the land; nor is there any doubt but the Senate and President possess the power of making them." Mr. Wilson then proceeds to show the propriety of that provision, and how unfit the Legislature were to conduct negotiations, and then expresses himself in the following words: "It well deserves to be remarked, that though the House of Representatives possess no active part in making Treaties, yet their Legislative authority will be found to have strong restraining influence upon both President and Senate. In England, if the King and his Ministers find themselves, during their negotiation, to be embarrassed, because an existing law is not repealed, or a new law is not enacted, they give notice to the Legislature of their situation, and inform them that it will be necessary, before the Treaty can operate, that some law be repealed, or some be made. And will not the same thing take place here?"

After such pointed contemporaneous expositions of the true meaning and spirit of the Constitution, would it still be asserted, that the opinions now expressed were a new-fangled doctrine; unheard of, and unthought of, till the British Treaty became a subject of discussion; inconsistent with former opinions, with the practice under the Confederation, and other Governments similar to our own, with the Law of Nations, and the general sense of mankind?

But another objection, still less connected with the subject, altogether unsupported by the letter of the Constitution, had been stated by those gentlemen who declared that their doctrine was not grounded on implication. "The sovereignty of the States, they said, was represented in Senate: the power of making Treaties was an attribute of sovereignty. In Senate the small States had an equal weight with the large ones; they would be swallowed up, and their sovereignty annihilated, if the House of Representatives, as a branch of Congress, had a restraining power, in Legislative cases, over the exercise of the Treaty-making power." Of all the arguments brought on this occasion, none was more groundless, and, indeed, unmeaning. It was, if not designed, at least calculated, solely for the purpose of exciting prejudices and reviving animosities. The power of making laws lodged in Congress, was as complete an attribute of sovereignty, as that of making Treaties. So far as the individual States had divested themselves of certain powers, and delegated them to the General Government, or to any branch of it, so far they had, in fact, parted with their sovereignty, and even more so, in cases where the Senate was concerned, as that body, from their duration, was less dependent on their constituents than this House. If the difference of representation in the two branches of the Legislature was examined, and the view, which the Constitution gave of its operation, contemplated, it would be found that its fundamental principle was this, that no law could be passed without the consent of the majority of the people, nor without the consent of the majority of the States; a principle equally liberal and just; a principle equally consonant with that of an equal representation, and that of the independence of the individual States; a principle which the construction he gave to the Constitution did not offend, since the power claimed by the House was restraining and not active, whilst the adverse doctrine tended to its annihilation; since it was grounded on the idea, that, by the operation of a Treaty, laws were repealed, and an obligation of enacting laws was imposed, without, or perhaps against, a majority of the people. But another essential principle of our Constitution, a principle as important to the people of the small States as those of the large States; a principle whose subversion would destroy the liberties of the people of the United States, in whatever part they might reside; a principle for which they had contended, and which was the basis of our Revolution, and of all our Governments, the sacred principle that the people could not be bound without the consent of their immediate Representatives, was also prostrated by that truly novel doctrine in America, that those immediate Representatives were bound by the mandates of the Executive; and that, deprived of their discretion, of the freedom of their will, they must implicitly obey and execute laws made by another set of agents of the people, and not immediately chosen by them.

Having now taken a review of the arguments and objections drawn from other sources than the Constitution itself, Mr. G. said, it was necessary finally, to recur to the instrument, the meaning of which could perhaps be explained in doubtful cases, but never could be altered or subverted by any opinions or precedents, although it must clearly appear that those opinions and precedents strongly corroborated the construction he gave to the Constitution; he wished that opinion to be tried by the letter of the instrument alone.

The different clauses of the Constitution must be so construed as to be rendered consistent, and to be reconciled one with the other; and that construction must be rejected which would destroy any of them. Two things must, therefore, be proved, in order to establish the discretion claimed by the House; first, that the doctrine of those who opposed the motion, destroyed the clauses that granted specific Legislative powers to Congress; and, secondly, that the construction given by those who supported that motion, did not annihilate the power of making Treaties vested in the President and Senate.

The first point resulted from the following considerations: 1st. The power of making Treaties being granted in an undefined manner, may, if it is understood not to be restrained by the specific Legislative powers of Congress, embrace and supersede every one of them; since, under color of making Treaties, the President and Senate may

stipulate on any object whatever, whether of a Legislative nature or not, and, therefore, those stipulations, according to that doctrine, being binding upon the nation and Congress, may legislate, repeal acts of the Legislature, and restrain the future exercise of legislation upon any subject whatever. 2d. If it is said, that the power of making Treaties is limited, by its own nature, to such objects as do commonly become subjects of compact between nations, it will be found that some of those stipulations, which are often inserted in Treaties commonly made between nations, would supersede some of the most important specific powers of Congress. Much had already been said upon Treaties of Commerce, considered as clashing with the power given to Congress to regulate commerce, that subject being most immediately connected with the one now under discussion; but it would, perhaps, better illustrate the effect of that doctrine, were we to examine the operation of Treaties of Alliance and Commerce, on the three great powers vested in Congress—to declare war; to raise and support land and sea forces; and to raise money either by loans or taxes. If any Treaty, which is not null by the Law of Nations, is binding upon the nation, provided it is not unconstitutional, if it is not unconstitutional to stipulate that an act shall be done which it is in the power of Congress to do; and if, in such a case, Congress are bound to do the act, whenever the President and Senate shall, by a Treaty of Alliance, a species of Treaty consonant to the Law of Nations; whenever they shall stipulate, in consideration of some real or supposed advantages conferred upon us in return; that if a certain nation is attacked, or if certain circumstances mentioned in the Treaty take place, the United States shall assist them as auxiliaries, either with certain stipulated sums of money, or with a certain number of troops, or ships, or shall make a common cause with them, assist them with all their forces, and become principals in the war; all which stipulations are usual between nations, all which stipulations may be carried into effect by the Constitutional powers of Congress, and, therefore, would not annul the Treaty, either as contrary to the Law of Nations, or as unconstitutional; whenever the President and Senate shall have made such stipulations, and the circumstances contemplated in the Treaty shall take place, Congress shall be bound to raise money, to raise armies, to provide a navy, or even to make war. They will have no discretion on the subject; for the expediency, the propriety of the measure are not amongst the considerations which must actuate them. The Treaty is a compact made by the agents of the people; it is the supreme law of the land; it binds Congress as it does the nation; Congress must obey it; Congress must execute it. They are not at liberty to exercise the power to borrow money and lay taxes; but they are compelled to do either. They have not the power to raise armies and to maintain a navy; but the Treaty has declared they shall do both, and they are bound to do it. They have not the power to declare war; but it is for them a duty, a moral obligation to proclaim it. The President and Senate have the power, specifically vested in Congress by the Constitution, to stipulate that moneys shall be raised, troops levied, and war waged in favor of one nation and against another. The discretion left to Congress is, to decide, perhaps, upon the organization of the troops, the pay of the officers, and the uniform of the soldiers. The discretion left to Congress is to decide, whether the moneys shall be raised by a direct tax or an impost; and even there, perhaps, their discretion has been curtailed; perhaps they have no choice left; perhaps Treaties of Commerce with those nations, whose importations supply the imposts, shall have declared that no higher duties shall be laid; nay, they may have fixed the tariff of duties, as many similar Treaties often do; they may have declared that those goods, from whence our greatest revenue is drawn, shall pay but five per cent. instead of twenty; they may have repealed all the contravening laws which stood in the way of stipulations; Congress may be forced not only to raise money, but also to raise it in a certain way. By the Constitution Congress have power, a discretionary power, to legislate on the subjects of money, armies, and, war; to declare not only how moneys shall be raised, armies supported, and war carried on, but, also, whether there shall be a war or not, whether an army shall exist or not, whether money shall be raised from the people or not; and the President is to execute the laws they pass on those important subjects. By the Treaty doctrine, the President and Senate have the Legislative power to declare that the people shall pay money; that troops shall be raised; that war shall be declared; and Congress must execute the Legislative decrees thus passed by the Executive. The discretion of the Executive is full, complete, and of a Legislative nature; the discretion left to Congress is only that which is incident to the execution of a law.

A gentleman from Connecticut [Mr. Goodrich] had said, however, that the Constitution, by specifying those powers given to Congress, did not mean to draw the line between the powers of the different branches of the General Government, of the Legislative and Executive departments, but only to define the authority which was to belong to the Government of the Union, and to distinguish it from the powers left to the individual States. To read the Constitution was sufficient to show that those powers were given solely and exclusively to the Legislative branch. But would it be declared, Mr. G. asked, would it be asserted, by those gentlemen who had appealed to the contemporaneous opinions of individuals and conventions, that the people had ever supposed that the Constitution, by delegating the powers of war and of raising moneys to the Legislature of the Union, had only designed to mark the extent of the authority given to the General Government, and not to ascertain with precision which of the departments of that Government should exercise it? Would it be insisted that it ever was the intention of the people of the United States to invest an unlimited and uncontrolled power over

the purse and the sword in the President and Senate?

Some attempts have been made, not to repel, but to obscure, in some degree, the self-evident truth of these propositions. It had been said, that the power of making Treaties was not unlimited; for an unconstitutional Treaty could not be made. If, by an unconstitutional Treaty, such one was meant as stipulated regulations on objects delegated to Congress, then the doctrine would go still further than the one contended for by the supporters of the motion; for it would follow from that position, that whenever a Treaty stipulated a condition embracing an object on which Congress had a Legislative power, such Treaty could not, even with the assent of Congress, be carried into effect, since no constituted authority could give effect to what they would admit to be an unconstitutional act, whilst it was only insisted on his side of the House, not that such a Treaty was unconstitutional, but that the consent of Congress was necessary to carry it into effect or make good such a condition. To draw a line between some powers of Congress and some others, was not warranted by any part of the Constitution; and if it was declared that a Treaty could not, consistent with that instrument, stipulate on certain objects belonging to the Legislative jurisdiction of Congress, it must be conceded that it could stipulate on none. But if it was declared that a Treaty, embracing any objects whatever, submitted to the power of Congress by the Constitution, was not unconstitutional, then the concession that an unconstitutional Treaty was void, did not change the state of the question, and all the preceding arguments applied to it with equal force; since, notwithstanding that pretended concession, it did not the less follow that the Legislative power of Congress was destroyed by the extent of jurisdiction claimed in favor of the Treaty-making power. Indeed, whilst it was said that an unconstitutional Treaty was such a one as would change the Constitution, as would, for instance, stipulate that the Executive should hereafter exercise Legislative powers; it was avowed that a Treaty made by the President and Senate, which did assume Legislative powers, which did actually legislate on objects delegated to Congress, so far from being unconstitutional, was binding on Congress, and even the stipulations embracing such objects, were the law of the land. Another argument had been used to weaken the position, that the Treaty doctrine destroyed the Legislative power of Congress, to wit: That the two powers were two distinct ones, operated in a different manner and on different objects. So far as they were really distinct, and operated on objects exclusively belonging to either, there was no difference of opinion; there could be no apprehension that they would clash; but the argument seemed to suppose that they had a kind of concurrent jurisdiction over the objects which might be embraced by both; that the one acted by law, the other by compact; that the one operated only on American citizens, whilst the other extended even to foreigners, and could reach to objects which Congress could not control.

In fact, that argument was nothing more than a position, which was taking for granted what remained to be proved. It stated, that the Treaty-making power superseded the Legislative, because it could extend farther, because it could bind another nation; that is to say, that for the sake of obtaining as a stipulation, that another nation would do a certain act, or would desist from doing a certain act, it had the power to pledge the faith of the American nation, that a certain act should be done, which, not the President and Senate, but the Legislature alone had a Constitutional power to do. This was precisely the point of discussion. It was supposing the identical position on which they differed, to wit, that the assent of a foreign nation might be substituted to that of the House of Representatives. It was supposing that a Treaty, because made in a different manner, was a distinct thing from a law, at the same time that it attempted to regulate the same subjects with the law. It was saying, that because a Treaty and a law differed, so far as related to another nation, they also differed when doing or attempting to do the same act; to wit, to legislate on the American nation. Supposing that there existed a concurrent jurisdiction, yet there is nothing in the Constitution which decides which of the two powers shall be paramount; which supersedes the other; nor does the principle, that a subsequent law abrogates and repeals all prior laws, apply to the present case, and prove that a Treaty must repeal contravening laws which are opposed to it; for that principle is grounded upon another one, that an act may be undone by those who have made it; but never was it understood that an act done by a constituted authority could be abrogated by another constituted authority, unless it was positively expressed by the instrument which constituted both.

A Constitution could be repealed only by a Constitution or by Constitutional amendments; a Treaty could be repealed only by the consent of the parties who had made it; a law could be repealed only by a law. It was as absurd to say that a Treaty could repeal a law, as to say that a law could repeal the Constitution. But if neither power was paramount, how could it be supposed that they had concurrent jurisdiction? Was it not contradictory to say, that the Constitution had vested in Congress the power of laying by law, a duty of 25 per cent. on a certain species of goods, and, in the President and Senate, that of laying, by a Treaty of Commerce, a duty of 5 per cent. on the same species of goods, and that both powers could operate together; that the last could be carried into effect whilst the first was still in force? Was it not absurd to suppose, that the Constitution had vested in Congress the power of declaring war, by law, against England, and at the same time, in the President and Senate, that of stipulating by Treaty of Alliance with England, that America should unite with that nation against France, and, that both Powers could operate together, that the war could be carried on at the same time in concert with and against both

nations? The two powers cannot operate on the same objects, unless they have a concurrent jurisdiction, unless one of the two be paramount and supersede the other, when they shall clash; or unless the consent of both be made necessary in such case. Neither can it be supposed to be paramount, unless it be expressly so declared by the Constitution; and if there be no such declaration, the Constitution must receive a construction which will destroy neither. Thus, in whatever view this argument be contemplated, it leaves the subject of discussion precisely in the same situation where it was.

But some gentlemen, apparently struck with the absurdity of the doctrine contended for, had declared, that there was a certain discretion in the House, that in extreme cases, in those cases where a Treaty was concluded by fraud, or in its effects would ruin the nation, as such Treaty was not considered as binding by the Law of Nations, the House, as a branch of Congress, had a right to refuse to carry it into effect. If those gentlemen meant that the House were judges of those extreme cases, where they might exercise their discretion, and had annexed no condition, had laid no restraint upon their judgment thereon, they would be nearly agreed with themselves; as every member of this House would, according to his own sense of propriety, decide whether the case was such one, as it was right to exercise his discretion or not; but, in fact, the discretion allowed amounted to nothing more than this, that in those cases where a Treaty was null by the Law of Nations, the House were at liberty to say, whether they would abide by it or not; but that in all other cases, although it might embrace Legislative objects, it was binding upon Congress, and that they were bound to execute it, unless they chose to break a compact, to be guilty of a breach of faith. The supposed concession conceded nothing.

Mr. G., hoped, that from the review he had taken of the consequences flowing from the Treaty doctrine, and of the arguments used to controvert those consequences, it must satisfactorily appear, that their objections to that doctrine did not rest on the ground that the power of making Treaties might be abused, but that they went to the doctrine itself, by showing, not only that it was dangerous, but that it was unconstitutional; inasmuch as its operation would supersede and annihilate those classes of the Constitution, which vested specific powers in Congress. He would now proceed to establish his second position, that the construction given to the Constitution, by the supporters of the motion, did not destroy the Treaty-making power, but left it a sufficient field of action.

Although the reverse had been repeatedly asserted, no argument that he recollected, had been advanced, on that head, by the gentlemen who opposed the motion, except what had fallen from a gentleman from Maryland, to wit, that if it was admitted, that a Treaty depended, for its validity, on a condition which the House might refuse to carry into effect; that Treaty could not be considered as made without their consent, and that of course, that doctrine implied in the House a right of co-operating in making Treaties, which was contradictory to the clause of the Constitution, that vests the power of making Treaties in the President and Senate. This was a mere criticism on the meaning of the word "make;" and supposed that the discretionary right of making good a condition of the Treaty, was a part of the act of making a Treaty.

Without entering into an elaborate discussion of the meaning of the word, Mr. G., observed, that it would be sufficient to mention, that it was expressly declared by the Constitution, 1st. That Congress consisted of a Senate and House of Representatives, which implied that the President was no part of Congress: 2dly. That Congress had power to make laws; (sect. 8th of 1st. art.) 3dly. That the President had, however, a co-operating power in enacting laws; from whence it resulted, that in the Constitution, the word "make" was sometimes used in a modified, and not in an absolute sense.

That the power claimed by the House did not destroy that of making Treaties, could be proved, in a direct way, by the following considerations:

1st. So far as related to Treaties of Peace, which contained no condition of territory, of a payment of money, or otherwise of a Legislative nature, (and by recurring to the Treaties of that species, concluded by the British nation, it would be found that the greatest number contained no such conditions,) the power of the Executive remained entire.

2dly. Whenever Treaties of Commerce, Navigation, &c., stipulated on those points on which the Law of Nations does not interfere with, or control the municipal laws of individual nations, all such stipulations were out of the sphere of action of the Legislative power, became a modification of the Law of Nations, and a law of the land, from the moment the Treaty was promulgated. The law which regulated the respective duties of civilized nations, whether grounded on their natural rights and duties, or on common consent, was, within its sphere, paramount to the municipal laws of any nation, and no nation could infringe it in those respects, without declaring itself at hostility with the whole civilized world. Treaties, which defined and modified that law, became a part of it, and must necessarily control the municipal laws of the contracting nations. Within that class, might be included all those conditions, which provided for the cases of shipwrecks, salvage, assistance to be given vessels driven in ports, and all the duties of neutral nations within their territory. But that law, and the Treaties made in pusuance thereof, extended to a number of objects, which the Legislative power of no country did embrace. Such were the use of what belonged to all, of the sea, and consequently the rights of fisheries, &c. Such again were the provisions regulating the duties and rights of neutral nations, in their intercourse, out of their own territory, with nations at war; which included all the stipulations relating to what should be deemed contraband goods, to the question whether

free bottoms should make free goods, &c., all which objects, and a variety of others, coming within the same description, did solely belong to that branch of the Government, in whom was vested the power of making Treaties.

3dly. The extensive range left to the Treaty-making power would be still more enlarged, if not from the letter, at least from the necessary operation of our Constitution. Whenever a Treaty stipulated, not that the Legislature should do certain acts, but that they should not hereafter do certain acts; for instance, that they should not increase the duties upon importations, that they should not sequester private property, &c.; although Mr. G., was not prepared to say, that such a condition was binding upon the nation and Congress, yet he would not hesitate to assert, that the House had not the power to impede its execution. To prevent the execution of such a stipulation, it would be necessary that a law, contravening the condition, should be passed. The House of Representatives, being but one of the branches of the Legislature, might prevent the passing of a law, but could not enact one, without the consent of the other branches. The negative of the Senate, of that body who had advised and consented to the stipulation, would always be sufficient to prevent such a law from passing, and therefore to carry into effect conditions of that nature.

To conclude, the power claimed by the House was not that of negotiating and proposing Treaties; it was not an active and operative power of making and repealing Treaties; it was not a power which absorbed and destroyed the Constitutional right of the President and Senate to make Treaties; it was only a negative, a restraining power on those subjects over which Congress had the right to legislate. On the contrary, the power claimed for the President and Senate, is, that under color of making Treaties, of proposing and originating laws, it is an active and operative power of making laws, and of repealing laws; it is a power which supersedes and annihilates the Constitutional powers vested in Congress.

If it was asked, in what situation a Treaty was, which had been made by the President and Senate, but which contained stipulations on Legislative objects, until Congress had carried them into effect? Whether it was the law of the land, and binding upon the two nations? Mr. G., said he might answer, that such a Treaty was precisely in the same situation with a similar one concluded by Great Britain, before Parliament had carried it into effect.

But if a direct answer was insisted on, he would say, that it was, in some respects, an inchoate act. It was the law of the land and binding upon the American nation in all its parts, except so far as related to those stipulations. Its final fate in case of refusal, on the part of Congress, to carry those stipulations into effect, would depend on the will of the other nation. If they were satisfied that the Treaty should subsist, although some of the original conditions should not be fulfilled on our part, the whole, except those stipulations embracing Legislative objects, might remain a Treaty. But if the other nation chose not to be bound they were at liberty to say so, and the Treaty would be defeated.

He would not tire any longer the patience of the Committee; and, as it was a late hour, he would drop what further observations he had to make on the subject; but he could not sit down without animadverting on what had so frequently been hinted, and even mentioned during the debate, that the effect of adopting the resolution was "war and disorganization." At no time and on no subject was the cry of the alarmists less applicable. Was the Treaty itself to be rejected war would not be the consequence; but, in that case, we would remain in the same situation in which we have been since the Treaty of 1783. But the present question was not a question on the adoption or rejection of the Treaty. Some gentlemen, from their earnestness to carry a favorite measure, might have blended their wishes on that subject with the merits of the present question; but they had no right to impute motives of a similar nature to those who differed in opinion with them. As to the Treaty itself, he might have his own feelings, his own prejudices; but he hoped they would not govern him on a final decision on that solemn occasion. Whether, under the present circumstances, it would be expedient to carry that compact into effect, was not the present question, and he was not himself ready to decide. In giving his vote in favor of the motion, he did not consider himself pledged to vote against the Treaty; and when that question came before them he would be perfectly open to every argument of expediency which might be offered in its favor.

But it had been said that the present motion, and some of the arguments advanced to support it, bore the appearance of a wish to subvert our Constitution. The assertion was justifiable, neither by the nature of the discussion, which was only an investigation of an important Constitutional point, nor by the arguments brought by those who were in favor of the motion, nor by the temperate manner in which they had conducted the debate. Those, Mr. G. said, might be branded with the epithet of disorganizers who threatened a dissolution of the Union, in case the measures they dictated were not obeyed; and he knew, although he did not ascribe it to any member of this House, that men high in office and reputation had industriously spread an alarm that the Union would be dissolved if the present motion was carried. On such a conduct he would make no comments. So far as he knew his own sentiments; so far as he knew the sentiments of those he was now acting with; so far as he knew the sentiments of the people of America, he was convinced that, to preserve the Union, and that great bond of union, the Constitution, was the primary object with all; that, in order to preserve it, they would support the constituted authorities of the nation, and submit on this and on any future occasion to the public will, as expressed by the voice of the majority.

Mr. Cooper rose after Mr. Gallatin, for the

purpose of inquiring if he had taken correctly an idea that was urged with great force by that gentleman, which was, that it was highly improper to call on the Representatives present, who assisted at framing the Constitution, to declare what the construction of that body was of the Treaty-making power; for, says he, why travel back for this information? We have the Constitution before us, and from the instrument the explanation must be drawn. Why then does the scope of the gentleman's argument go to demand those papers out of which the Treaty hath arisen? Why not explain, on the gentleman's own principles, the Treaty by the instrument itself? It seems to me, said Mr. C., that there is a manifest inconsistency in the gentleman's reasoning, unless he means to destroy his principle by his doctrine; in that case it is proper.

Mr. Harper rose and observed, he should not consider himself as having discharged his duty to the public, did he suffer the question to be taken without any observations being made on what had been advanced by the member last up from Pennsylvania; and he was the more willing to take this task on himself, as the debate had taken a turn altogether different since he first had the honor of addressing the Committee on the subject of the present resolution.

[Here there was some noise in the Committee, and a call for order; on which Mr. H. observed, that he should not ask for order; that, if he could not command it, he hoped he should have the good sense to understand the language of the Committee and be silent; and, while he could engage attention he would continue his remarks.]

Mr. H. went on to observe, that, when he had formerly been up on this question, the only discretion claimed on the part of the House, by the supporters of this resolution, was a discretion to withhold its aid, where Legislative aid was requisite, in carrying Treaties into effect. He had opposed the resolution on this ground, that the papers to be called for were not necessary for enabling the House to execute this discretion; that their decision on it was to be guided by the instrument itself, and not by the instructions or the previous negotiations, the call for which implied an opinion that the House had a right, not only to determine whether it would co-operate in carrying a Treaty into effect, but also to interfere in making Treaties. The supporters of this motion finding, as he supposed, that the discretion to refuse or give the aid of the House in carrying Treaties into effect, would not justify the call for papers, had immediately changed their ground, and asserted a right to interference in making Treaties. The honorable member from Pennsylvania, [Mr. Gallatin,] to use his own expression, had come boldly out and asserted, "that a Treaty is not valid, does not bind the nation as such, till it has received the sanction of the House of Representatives." On this point a very able and lengthy debate had arisen; and, in the close of it, the honorable member had collected all his force to support this principle, that a Treaty is incomplete, is an inchoate thing, till it receives the sanction of this House. He had drawn arguments in aid of it from all the various sources of reasoning and authority, and from thence had very ably deduced conclusions, some of which were solid, all of which were ingenious, and all deserving of serious examination.

The observations, he said, of the honorable member had been directed to two points: First, that a Treaty, though ratified by the President and Senate, with all the forms of the Constitution, does not become complete and valid as such, does not in fact become a Treaty, till passed by this House. Secondly, that a Treaty, when completely made, cannot repeal or supersede an existing law.

The first position he had supported by various arguments, drawn from the Law of Nations, from our own Constitution, and from the practice of other Governments.

The authorities cited from the Law of Nations, Mr. H. said, from *Vattel*, prove that, in limited Governments, the power of making Treaties may be limited; that, when a nation bestowed the Treaty-making power on any branch of its Government, it might bestow it under various limitations. Of this, said he, no body could doubt. Nobody could doubt that the American people might, when they were forming their Constitution, have bestowed this power on any other branch of the Government, or under any kind or number of restrictions; but the question was, had they restricted it? Not what they could do, but what they did. And this led to a consideration of the Constitution itself.

The Constitution gave the power of making Treaties to the President and Senate; the power of making laws, the whole Legislative power delegated to the Government, was given to Congress. There was no direct, express restriction to the Treaty-making power; but an indirect, implied restriction was contended for from the Legislative power.

In order to discover how far these powers could restrict each other, it was necessary to inquire how far they might interfere; and that inquiry would lead us to consider the nature of Treaties and the nature of laws, the origin from which each is derived, the objects on which they act, the manner of their operation, the purposes for which they are intended, and the effects which they are able to produce. If it should appear that in all these respects they were different, that they could neither produce the same effects, operate in the same manner, nor effect the same objects, it would follow that they moved in different spheres, in which each operated uncontrollably and supreme, could neither encroach on, interfere with, or restrict each other.

Treaties, he observed, then, derived their origin and their existence from the consent of equals; laws from the authority of a superior. The former were compacts, the latter commands. Treaties derived their sanction from good faith, from national honor, from the interest of the parties to observe them: laws derive their sanction from the authority of the community, which enforces

their observance and punishes disobedience. A Treaty stipulates that a thing shall be done, a law commands it. A Treaty of consequence may stipulate that a law shall be passed, but it cannot pass a law; that belongs to the Legislative power.

A Treaty may agree that a tax shall be laid, or a crime shall be punished; but it cannot lay the tax or inflict the punishment—that must be done by a law, and is the exclusive province of the Legislative power. Suppose a Treaty should stipulate that ten per cent. additional duty should be laid on goods imported in Swedish vessels: will any one say that the revenue officers could go on and collect the duty without a law? Surely not. The faith of the nation is bound, and the Legislature is under all that obligation to pass the law, which results from considerations of good faith, from the necessity of observing Treaties; but still the effect cannot be produced, the duty cannot be collected, till a law is passed. So, if a Treaty should stipulate that certain acts should be punished with fine, imprisonment, or death, could indictments be founded on the Treaty, and the punishment be inflicted without a law? Certainly not. Treaties, therefore, can never, in their nature, operate as laws, can never produce the effect of legislation: they are compacts and nothing more, and, in the sphere of compacts, they are supreme and unlimited. They may bind the nation, may lay the Legislature under the obligations of good faith; but they cannot encroach on the Legislative power, cannot produce a Legislative effect.

A distinction here ought to be observed between the Law of Nations and the Municipal Law. The former is the province of Treaties, the latter of the Legislative power. The Law of Nations is made of compacts, express or implied; of Treaties which are direct declarations of the consent of sovereign States, and of customs which rest upon the general consent of nations, implied from long acquiescence. In all subjects, then, relative to the Law of Nations, to matters external, to the conduct of nations towards each other, Treaties are laws, and produce immediately and indirectly the effect of laws. As such, the Maritime Courts, which are guided by the Law of Nations, are bound to take notice of them and enforce them. This was from the necessity of the case, because the matters on which the Law of Nations operates lie beyond the reach of ordinary legislation, without the jurisdiction of individual States, and consequently can only be regulated by laws derived from the general consent of nations, of which Treaties form a part. But, as to the municipal laws, he said the case was different. They affected objects within the jurisdiction of the respective sovereigns, and belonged exclusively to the Legislative power. These Treaties lost their character of laws, and became merely compacts, binding on the good faith of the nation, but depending for their execution on the acts of the Legislative authority.

Thus, he said, it appeared that the Treaty-making and Legislative powers being each supreme in their respective orbits, could not interfere with or restrict each other. Both compacts and laws are necessary to be made; both are essential to the attainment of those advantages which result from civilized society; and the power of making each must exist in every Government. In some these powers are placed in different departments, which must sometimes co-operate, in order to produce the desired effects, but neither could execute the business of the other. The Legislature could not make a compact, nor could the Treaty-making power make a law. It may stipulate, and very often must stipulate, that a thing requiring a law shall be done, but this does not render the law less necessary, and can be no more considered as an invasion of the Legislative power, than a law directing a compact to be made with a foreign nation, as an invasion of the Treaty-making power. The law would not produce the effect of a Treaty, nor render the agency of the Treaty-making power less necessary.

Whence then, he demanded, these alarms about the encroachments of the Treaty-making power? Whence these outcries about the subversion of all Legislative authority in Congress? Whence these phantoms conjured up to frighten us out of our reason and common sense? This Treaty-making power, so much the object of gentlemen's apprehensions, this devouring monster, before which the rights of this House, the powers of Congress, and the liberties of the people, are to fall and be extinguished, appears on examination to be the most harmless of powers—a power to make compacts, which must depend for their execution on the aid of the Legislature—a power, therefore, at all times, and, of necessity, under Legislative control in all its most essential and important operations. He therefore contended that the Treaty-making power was free and unrestricted in the President and Senate; so that a Treaty, when ratified by them as the Constitution requires, became complete in its own nature, perfect as a Treaty, without the concurrence of the House of Representatives; bound the faith of the nation as completely as a Treaty can bind it, and that the House of Representatives had nothing to do with it, but to consider whether and how far they they could carry it into effect. In this, and this alone, their agency was necessary; and here, from the nature of the thing, they had a free agency.

Some gentlemen had said that the House was bound to carry a Treaty into effect. But how was it bound? By a superior and external force acting upon it, and compelling it to do the thing, as an individual is bound to fulfil his contracts? No. It is bound by considerations of good faith, by considerations of duty and propriety, by the obligation to do right, by the responsibility of each member to himself, his constituents, and the public. But who is to judge what is right; what good faith, public good, and moral obligation prescribe? Each individual must judge for himself, and must act according to his own scale of the force of the motives. The motives which induce to the execution of Treaties are always of a very forcible nature, and generally altogether conclusive. When the question is, shall a thing be done, it having been agreed to be done by a Treaty, the national

faith having been pledged to do it, will always, and with all persons, be a powerful reason for it; in almost every case the reason would be conclusive, but still there are cases in which it would not be conclusive; and when a case occurs, each individual must judge for himself whether it is of that description or not.

Much of the alarm, he said, which gentlemen had felt, many of the mistakes into which they had fallen, arose from their forgetting the distinction between making a contract and executing it. The first belonged to the Treaty-making power, the second to the Legislative; but they had been confounded together, and gentlemen had imagined that, because the power of making national stipulations was asserted to belong, without restriction, to the President and Senate, the power of doing the things stipulated was also claimed; but these powers were as distinct as the act of giving a bond and the act of paying it. Suppose, said he, I give a man a power of attorney to make a contract in my name, will he have the power to take my property and deliver it in execution of the contract? Surely not. The contract must be fulfilled by me. The difference between me and a community is, that the laws will compel me to fulfil the contract; will judge for me, and take away my free agency; whereas the community has no superior by whom it can be compelled, but must judge for itself, and therefore remains a free agent, impelled only by the motives which exist for doing or withholding the act.

As to examples drawn from other Governments, Mr. H. said, he would admit it to be a fair mode of reasoning, though by no means conclusive. As far as it could be conclusive, it was perfectly fair to draw examples from Governments, which, though very different from our own, were yet in some particulars analogous. The British Government, he said, which had been recurred to for examples, was indeed widely different from ours, and he most heartily joined the honorable member from Virginia [Mr. Giles] in his hope that it might never become less so. There were, however, some points of similarity, and the examples he would allow to have weight as far as they apply.

What, then, do these examples prove? That the British House of Commons have ever exercised or ever claimed a right to interfere in making Treaties; have ever pretended that a Treaty was not valid; that it was only an inchoate thing, to use the expression of the honorable member from Pennsylvania, [Mr. Gallatin,] till they had given their sanction? That it was not a Treaty, though ratified by the King, till they had passed upon it? No such thing. They prove that the House of Commons claim the right, and that alone, of concurring in laws to carry the Treaty into effect. In deliberating upon this question, they regard it, as we contend this House ought to do, as a Treaty binding the national faith, and this consideration is always conclusive with them to pass the necessary laws. Always, said he, for no contrary instance can be produced, and he challenged gentlemen to produce one; their zeal and industry would bring it to their knowledge if such a one did exist, and he challenged them to produce one in which the British Parliament has refused to execute a Treaty, their consent to which was not made a condition in the Treaty itself. The Treaty of Utrecht is produced as an instance. But that proves nothing. The Treaty of Utrecht contained two commercial articles, and it was a condition expressed in the Treaty itself that those articles should become parts of it, should be binding, when the British Parliament should pass laws in conformity to them. The House of Commons refused to pass these laws, in which they exercised a right derived to them, not from the Constitution, but from the Treaty itself, which had made their consent to the condition on which it should become obligatory. Such conditions, indeed, he said, were not unusual in British Treaties of Commerce. There was a similar one in the Commercial Treaty with Spain, concluded at Utrecht about the same time, and in the Treaty concluded with France in 1786. But he again challenged gentlemen to produce an instance in which the British Parliament had refused to pass laws in aid of a Treaty completely and unconditionally ratified. And if they had refused, still it would prove nothing in favor of the position which gentlemen contend for. It would prove that the Parliament might refuse to execute a Treaty, which nobody denied; but not that the consent of the House of Commons was necessary in making a Treaty. We all admitted here that Congress may refuse to execute a Treaty, but we contend that it has nothing to do with making the Treaty. Thus, in the case cited from the British Parliament by a gentleman from Pennsylvania, [Mr. Swanwick.] In the case of the Treaty lately made with this country, the same distinction was manifest. The King, in his Speech, tells the Commons that, as soon as ratifications were exchanged, he would lay the Treaty before them. For what purpose? That they might ratify it? That they might consider whether it should be a Treaty or not? By no means; but that they might consider of the propriety of carrying it into effect. It was then a Treaty without their assistance; the compact was completely made, and binding on the nation, and they were called upon to execute it.

When, therefore, an honorable member from New Hampshire, [Mr. Smith,] asked if the concurrence of this House is necessary in making Treaties, what is the paper now lying on the table, and purporting to be a Treaty with Great Britain, with Algiers, with the Indian tribes? It was no answer to say they were the same things as Treaties laid before the House of Commons in Great Britain, and not confirmed by law; for Treaties laid before the House of Commons are Treaties, complete as such, before the House acts upon them. The compact is completely made; but it is the business of Parliament to carry it into execution.

Vattel, indeed, had contradicted this doctrine, with respect to Treaties of subsidy, but in this as in some other instances, he had showed himself to possess less knowledge than reputation. He had

said that the King of Great Britain could not make Treaties of subsidy without the concurrence of Parliament; and the reason he assigned for this opinion was, that the King could raise no money without the consent of Parliament. Here he forgot the distinction between raising money and stipulating to pay it—between making the contract and executing it; and because the King could not do one, he therefore inferred he could not do the other—an inference contrary to constant experience. Treaties of subsidy, Mr. H. said, were very frequent in Britain. Several had lately been made, and he instanced those with Sardinia, Prussia, and some of the German Powers. Were these Treaties laid before Parliament for their sanction? No. Parliament was indeed called on for money; it was made an item in the estimate of expences for the year, and in that shape voted by the committee of supply. Mr. Fox, indeed, and his friends, once moved to strike out this item, and there was no doubt that Parliament might have done so, and refused the money. But what would that have amounted to? A breach of the Treaty; not a proof that it did not become a Treaty till Parliament concurred in it.

The Barrier Treaty between Holland and England, in 1709, had been cited on this subject. It had been adduced to show two things: First, that Treaties were not complete in England till agreed to by the House of Commons, and that the House could destroy a Treaty. This instance, he said, was peculiarly unfortunate for those who adduced it. Had they attended a little more particularly to the history of that transaction, they would have found in it a complete refutation of both their positions. The Barrier Treaty was made in October, 1709, and it stipulated that England and Holland should continue the war in which they were engaged against France till they had attained a certain object. The war was carried on for two years under this Treaty. It had its full effect all that time. A change in the Ministry then took place. The Whig party, which acted under the Duke of Marlborough, was turned out, the Tories gained the ascendant in the House of Commons; their leaders, Lord Bolingbroke and the Earl of Oxford, got possession of the Ministry, and being resolved to stigmatize and destroy their opponents and predecessors, who had made the Treaty, they chose that as a proper engine by which to demolish them. A vote of censure was passed on the Treaty. It was resolved that Lord Townsend, in making it, had exceeded his instructions, and that it was ruinous and disgraceful to England. What happened after all this? The war went on according to the Treaty; that very Parliament granted the supplies, and it continued in full operation till two years afterwards, when it was done away by the Treaty of Utrecht, to which Holland was a party. Here, it appeared that the Treaty was in full operation two years before the resolutions for censuring it were passed, and continued in operation some years after them; and yet it had been said that these resolutions prevented the effect of the Barrier Treaty; and that Treaty had been cited to prove that, by the British Constitution, Treaties were incomplete till concurred in by the House of Commons.

A further use made of this Barrier Treaty was to prove that the House of Commons have a right to call for papers respecting the negotiation of Treaties. It was no way wonderful, he said, that this call was made, and that it was obeyed. The new Ministry, who had possession of these papers, and were desirous of making it an engine for destroying its authors, were themselves at the head of the House of Commons, and occasioned the call to be made. They very readily obeyed it, as might have been expected.

It was worthy of remark, he said, that these very ministers, who procured a vote of censure on the Barrier Treaty, banished its authors, and altered it by the Treaty of Utrecht, were themselves, the instant the breath was out of the Queen's body, by whose confidence they had been supported, not only driven from their places for making the Treaty of Utrecht, but banished, attainted, and their estates confiscated; and this by that very House of Commons which had lately assisted them in inflicting similar calamities on the opposite party. This might show us how much system and consistency were to be found in the British House of Commons, and how much respect was due to precedents drawn from their proceedings. Indeed, he said, there were many reasons why these precedents should have little weight with us. Every body knew the history of the British Constitution. It had been a constant subject of contention, a continued struggle for almost seven hundred years, between the different departments. This struggle ended in a conviction on the part of the monarch that he could not govern to his mind without possessing a complete command over the House of Commons; and for the last one hundred years a system had been pursued which had fully produced that effect. The House of Commons had now notoriously become an implement in the hands of the Crown; the instrument by which the King and his Ministers effected their purposes. The mandates of a British Minister were as irresistible in the House of Commons, as those of a Grand Vizier in the Turkish Divan; and the instant they ceased to be so, the Minister must go out, and give place to some other, who can govern the House. The commands of the King are absolute; and though he chooses to convey them in the style of politeness and urbanity so properly recommended by the honorable member from New York, they are not the less absolute. It did not seem very just reasoning to conclude, that because the British King is in the habit of directing the House of Commons to do certain things which he wants done, the House had a right to do the same thing in respect to our Government.

The second position which the honorable member from Pennsylvania [Mr. Gallatin] had attempted to establish was, that Treaties cannot repeal existing laws. He would observe, in the first place, that this question was perfectly unnecessary to the present discussion; because the British Treaty, which had given rise to the dis-

cession was repugnant to no law of the United States; this, he said, he undertook to prove when the Treaty should come under consideration, and to prove it to the satisfaction of the two honorable members themselves [Mr. Baldwin and Mr. Gallatin] who had asserted the contrary. Though they had somehow fallen into a misapprehension on this subject, he had such confidence in their candor as to believe they would readily admit their own mistake when the truth should be placed before their eyes. At present it would be improper to go into that investigation. In the second place, it ought to be remarked, that this was purely a judicial question. The business of the Legislature was to make laws; of the President and Senate to make Treaties; but it belonged to the Judicial power to decide about the effect of laws and Treaties after they should be made. He had great doubts, he said, about this question; and should always think it proper to remove any laws out of the way of a Treaty by a formal repeal; but still, if a case should occur in which a Treaty stood opposed to a law, the Courts of Justice must decide which would supersede the other. Notwithstanding, however, he did not think it necessary to decide this question here, or that such a decision, if made, could or ought to have any influence on the Judicial determination of it, yet as the honorable member had made many observations to support the negative of the question, he would not pass them by without remark.

To prove that Treaties could not repeal laws, the honorable member had adverted first to the Commercial Treaty with France, and secondly to the Treaty of Peace with Great Britain. The Commercial Treaty with France, he had said, contained one stipulation repugnant to the laws of the States; it being provided by the 11th article, that the subjects of France, though aliens, might inherit lands, or receive them by devise or donation. Two of the States, the honorable member had told us, Maryland and New Jersey, had passed laws conformably to this article; Maryland in part, and New Jersey completely. But what, said Mr. H., does this prove? It proves that those two States, and some others, for others also passed laws on the subject, thought it proper to take away all doubt on the point by express acts. But does this prove that the Treaty would not have been effectual without these laws? By no means; for many of the States passed no such laws, and yet the Treaty had its operation; it superseded and repealed the laws which stood opposed to it. The honorable gentleman had cited three instances in which the Treaty of Peace was opposed to laws of the States. One was the stipulation that there should be no impediment to the recovering of debts; another, that there should be no future confiscations. As to the first, he had asserted, that it was not in fact a repeal of the laws prohibiting the recovery of debts, because those laws were contrary to the Law of Nations, which directs that, after a war is over, debts contracted before it should be recovered: those laws, therefore, were repealed and destroyed by the Law of Nations, and not by the Treaty. But where, said Mr. H., did the honorable gentleman learn that the Law of Nations could control or repeal the municipal laws of States? I wish to know where he found this principle—a principle which I deny, and which is recognised by no writer on the subject? The Law of Nations can produce no such effect. The municipal laws within their sphere are supreme; and those laws of the States were repealed, not by the Law of Nations, but by the Treaty.

As to confiscation, the honorable member had taken much pains to show that no laws on that subject were repealed by the Treaty of Peace; and his manner of proving this was curious. Confiscation laws were in force in most of the States when the Treaty was signed, and in most of them many confiscations had actually taken place under those laws. The British were very desirous not only to prevent future confiscations, but also to obtain a restoration of property previously confiscated. To the first our Commissioners readily consented, and an article was inserted to that effect, which completely repealed the laws—completely, and that without Legislative aid, prevented future confiscations. The second they positively refused, alleging, and alleging truly, that they had no such power; that Congress had no such power. No power to do what? To repeal the confiscation laws? No; that they actually did; for a law is completely repealed when its operation and future effect is destroyed; but no power to divest rights acquired under a law; no power to alter what was already done: and here, he said, lay the fallacy of the honorable member's reasoning, in overlooking the distinction between repealing a law and divesting rights acquired under it before the repeal. These two operations were altogether distinct; and a repeal never did and never could alter what had been done before it. Suppose a law be passed imposing a penalty; that the penalty is incurred, sued for, and recovered; and then the law repealed. Can the person from whom this penalty has been exacted recover it back again in consequence of the repeal? Surely not. Suppose a land office be opened by a law, and lands granted, and then the law to be repealed; will this repeal destroy the grants? Surely not. When, therefore, the Commissioners declared that they had no power to stipulate for the restoration of confiscated property, they declared what was strictly true, that they had no power, or Congress either, to destroy rights acquired under existing laws; but did it follow from hence, he asked, that they had no power, by a Treaty, to repeal those laws? So far from it, that they actually did repeal them. The sixth article stipulated that there should be no future confiscations, and confiscations ceased.

This doctrine, he said, of the repeal of laws by Treaties, had been ably argued, and very fully established on a very interesting occasion, by a former Secretary of State, [Mr. Jefferson,] whose reputation for talents was high and universal. In his correspondence with the British Minister, respecting the inexecution of the Treaty of Peace, he had expressly declared, "that the repeal of laws contrary to the Treaty, in the different

States, was all supererogation; it resulting, from the instrument of Confederation, that Treaties made by Congress conformably to it, were superior to the laws of the States." And he cited the opinions in writing of many eminent lawyers in the various States, of an honorable gentleman from Virginia, [Mr. Monroe,] who now holds a very high post under the Government, of a gentleman equally respectable and distinguished from Pennsylvania, and of a very eminent lawyer from New York, to prove that in all the States the Treaty was considered as repealing all laws which stood opposed to it. He cited also the acts and decisions of Courts to the same point; all of which conclusively established the fact that the Treaty of Peace had actually repealed the laws of the States wherever they came into opposition.

And yet, Mr. H. said, he doubted how far this principle was a just one. The authorities in support of it were extremely strong, and certainly would not be easily set aside; but yet he doubted. The honorable member from Pennsylvania, in his enumeration of instances in which the Treaty of Peace had repealed the laws of the States, had forgotten or overlooked the most important one; that by which prosecutions were prevented for acts done in the war. The sixth article provides, "that there shall be no future confiscations made, nor any prosecution commenced against any person or persons for or by reason of the part which he or they may have taken in the present war; and that no person shall suffer on that account, any future loss or damage, either in his person, liberty, or property; and that those who may lie in confinement on such charges, at the time of the ratification of the Treaty in America, shall be immediately set at liberty, and the prosecution so commenced be discontinued." There were, he said, in all the States, laws subjecting persons to penalties of the highest nature for the part they had taken in the war. All these laws were instantly repealed by the Treaty, and all persons prosecuted under them immediately discharged. In the State to which he belonged there was an act called the Sedition Act, which made it treason to take up arms in behalf of the enemy. Under this act, above thirty persons were under prosecution in one Court, when the Treaty was promulgated, and they were all immediately discharged. Here the Treaty had repealed laws; had arrested their progress in their most essential and important operation, the punishment of offences.

This, he said, was not the last nor the strongest instance. The Consular Convention with France was more recent, and, if possible, more conclusive. The 29th article of the Treaty of Commerce with France had stipulated that a convention should be made relative to consuls. This convention was negotiated under the Confederation, but concluded and ratified under the present Government. It was promulgated by the President, in a Proclamation not only of the same tenor, but in the same words, in which the late Treaties had been announced. This convention invades the laws and the sovereignty of the country in many essential attributes. It establishes, by one article, a jurisdiction within our country, independent of our Courts; it, by another, secures the person of the consul from arrests, military duty, personal taxes, and personal service, and their papers from attachment. By a third, it gives them complete and exclusive jurisdiction over the vessels of their nation, within our ports, and in the body of our countries. By a fourth, they are enabled to arrest persons in the country, under certain circumstances, confine them, and finally send them out of the country; and the twelfth article expressly takes away the jurisdiction of our Courts in enforcing the payment of seamen's wages, and transfers it to the consuls. Yet this convention, thus contravening so many laws, thus interfering with our sovereignty in so many particulars, went into complete effect, and continues so, without any law of a State or the United States to repeal those which stood in its way. It operated a repeal without the assistance of the Legislature. And yet he had doubts, he said, about the soundness of this doctrine, that a Treaty can repeal laws. These doubts, however, would not prevail, this doctrine recognised by all our Courts of Justice, constantly and at all times acted upon by our Government, defended by our ablest statesmen and lawyers, our most distinguished patriots, would not be set aside without much more forcible reasons than those advanced against it by the honorable member from Pennsylvania.

The result, he said, of the ideas which he had submitted to the Committee, if they were just, was that the Treaty-making and Legislative powers were entirely distinct and independent. That they moved in different orbits, where each was supreme and uncontrolled, except by its own nature and the Constitution. That the President and Senate under the Treaty-making power could make all sorts of compacts. That Congress, under the Legislative power, could make all laws. That these compacts, however, could never operate as laws, could never produce a Legislative effect, any more than a law could produce the effect of a Treaty. That the Treaty-making power therefore never could invade the Legislative, never could interfere with, or be restricted by it. That Treaties when made and complete, as such, were no more than Executory compacts, depending for their execution upon the aid of the Legislature, in giving which aid it must, from the nature of things, be a free agent. Herein, he said, consisted the real security against the abuse of the Treaty-making power; that it could never act without Legislative aid. While that House hold the purse-strings of the people, while no Treaty could produce its effects without a law, and that the concurrence of that House was necessary in passing the law, there could be no real danger. Great, indeed, was the responsibility which those must take on themselves who should refuse in that House to execute a Treaty. Weighty, indeed, must be the reasons which could induce the House to risk all the consequences which must be expected to result from such a refusal. Few, he believed, would be found hardy enough

to risk them in ordinary cases. In some cases they must be risked, and to decide what those cases are, is an object of the soundest discretion. The subject, he said, was capable of being placed in many other interesting points of view, which the late hour of the day and the great length of the discussion then rendered improper. Some things had been said which he was sorry to hear; which tended not to enlighten, but to irritate. He would not now remark on them, because he wished and hoped that they might be forgotten, that they might pass into oblivion, and leave the field open for truth and good sense. All, he hoped, would inquire with care, and act for the public good, from the best of their judgment. In that case, their conclusions would not be far wrong; and if they should, he hoped and trusted, that there was strength in the Constitution to correct the error.

Mr. H. having sat down, the question was taken upon Mr. Livingston's resolution, which is in the words following:

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty; excepting such of said papers as any existing negotiation may render improper to be disclosed."

The division on this resolution, in Committee of the Whole, was—for the resolution 61, against it 38—majority 23.

The resolution was then taken up in the House, and the yeas and nays being called upon it, were taken, and stood yeas 62, nays 37, as follows:

Yeas.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, George Dent, Gabriel Duvall, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Christopher Greenup, Wm. B. Grove, Wade Hampton, George Hancock, Carter B, Harrison, JohnHathorn, Jonathan N. Havens John Heath, James Holland, George Jackson Aaron Kitchell, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robt. Rutherford, John S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, Wm. Cooper, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, James Hillhouse, Wm. Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, Wm. Vans Murray, John Reed, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, John Williams.

Recapitulation.—Yeas 62, nays 37, absent 5—104—the Speaker 1—whole number of Representatives 105.

Mr. Dayton, the Speaker, in Committee of the Whole, voted against the resolution.

March 25.—The committee (Messrs. Livingston and Gallatin) appointed to present the resolution agreed to yesterday to the President, reported, that the President answered, that he would take the resolution into consideration.

March 30.—The following Message was received from the President in answer to the resolution of the House:

Gentlemen of the House of Representatives:

With the utmost attention I have considered your resolution of the 24th instant, requesting me to lay before your House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, together with the correspondence and other documents relative to that Treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed.

In deliberating upon this subject, it was impossible for me to lose sight of the principle which some have avowed in its discussion, or to avoid extending my views to the consequences which must flow from the admission of that principle.

I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President, as a duty, to give, or which could be required of him by either House of Congress as a right; and, with truth, I affirm, that it has been, as it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes, to "preserve, protect, and defend the Constitution," will permit.

The nature of foreign negotiations requires caution; and their success must often depend on secrecy; and even, when brought to a conclusion, a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic: for this might have a pernicious influence on future negotiations; or produce immediate inconveniences, perhaps danger and mischief, in relation to other Powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making Treaties in the President with the advice and consent of the Senate; the principle on which the body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.

It does not occur that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House of Representatives, except that of an impeachment; which the resolution has not expressed. I repeat, that I have no disposition to withhold any information which the duty of my station will permit, or the public good shall require, to be disclosed;

and, in fact, all the papers affecting the negotiation with Great Britain were laid before the Senate, when the Treaty itself was communicated for their consideration and advice.

The course which the debate has taken on the resolution of the House, leads to some observations on the mode of making Treaties under the Constitution of the United States.

Having been a member of the General Convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject, and from the first establishment of the Government to this moment, my conduct has exemplified that opinion, that the power of making Treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every Treaty so made, and promulgated, thenceforward becomes the law of the land. It is thus that the Treaty-making power has been understood by foreign nations, and in all the Treaties made with them, we have declared, and *they* have believed, that when ratified by the President, with the advice and consent of the Senate, they become obligatory. In this construction of the Constitution every House of Representatives has heretofore acquiesced, and until the present time not a doubt or suspicion has appeared to my knowledge that this construction was not the true one. Nay, they have more than acquiesced; for until now, without controverting the obligation of such Treaties, they have made all the requisite provisions for carrying them into effect.

There is also reason to believe that this construction agrees with the opinions entertained by the State Conventions, when they were deliberating on the Constitution, especially by those who objected to it, because there was not required in Commercial Treaties the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present, and because, in Treaties respecting Territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively, was not made necessary.

It is a fact, declared by the General Convention, and universally understood, that the Constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that, under this influence, the smaller States were admitted to an equal representation in the Senate, with the larger States; and that this branch of the Government was invested with great powers; for, on the equal participation of those powers, the sovereignty and political safety of the smaller States were deemed essentially to depend.

If other proofs than these, and the plain letter of the Constitution itself, be necessary to ascertain the point under consideration, they may be found in the Journals of the General Convention, which I have deposited in the office of the Department of State. In those Journals it will appear, that a proposition was made, "that no Treaty should be binding on the United States which was not ratified by a law," and that the proposition was explicitly rejected.

As, therefore, it is perfectly clear to my understanding, that the assent of the House of Representatives is not necessary to the validity of a Treaty; as the Treaty with Great Britain exhibits in itself all the objects requiring Legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government, that the boundaries fixed by the Constitution between the different departments should be preserved—a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request.

G. WASHINGTON.

United States, *March* 30, 1796.

March 31.—Mr. Blount moved that the Message be referred to a Committee of the Whole on the state of the Union.

Mr. Giles was of opinion it had better be referred to a Committee of the Whole simply.

Mr. Sedgwick saw no reason for such a reference. He wished gentlemen would point out the object of the motion.

Mr. Thatcher saw no good to be obtained by referring it. The House had requested the President to lay certain papers before them; the President answers, that he has none for them. Why a reference? The House asked a question; the President answered in the negative—for what purpose refer the answer? what would be gained by it?

Mr. Blount observed, that the President's Message stands upon the Journals of the House; he wished, also, that the House should state upon their Journals the reasons which influenced them to make the request. Perhaps, also, he said, a consideration of the Message might lead to some further measure proper to be adopted. He was indifferent whether it was referred to a Committee of the Whole on the State of the Union, or a Committee of the Whole, simply.

Mr. Nicholas remarked that it was prejudging the question to say that nothing could arise out of a consideration of the Message. The present is a crisis important in the affairs of the country, independently of the Treaty. If the Message was a proper subject of discussion, it was proper to refer it to a Committee of the Whole. He did not think a reference to the Committee of the Whole on the state of the Union proper; because the Message points to a subject differing from that referred to that Committee. The investigation at any rate could produce nothing wrong.

Mr. Giles said, that the member from North Carolina [Mr. Blount] had explained the object he had in view by a reference. He preferred a reference to a Committee of the Whole independently; because the Message itself would furnish matter enough for consideration by itself. He should object to its being referred to the Committee of the Whole, who are to take into consideration the British Treaty; because he never would consent to act upon that subject till the papers deemed material to the investigation were laid upon the table. He hoped the reference to a Committee of the Whole, generally, would be agreed to. It certainly would be proper for the House to state their reasons for the call. This call had given rise to a great Constitutional question; the President had stated the reasons of his opinion; if the House were not convinced by them (and he owned that, for one, he was not) then it would be proper that they should present to the public their reasons for differing with him.

Mr. Thatcher argued, that the reasons of the

House were contained in the speeches of members in favor of the motion; the papers had been filled with them, and a pamphlet was going to be published containing them all. If this was not sufficient, the gentlemen had better direct the pamphlet to be copied on the Journals.

Mr. Williams considered this a new question, and wished for time to consider. The President's Message is only an answer to a request of the House. It does not call for anything to be done, then why a reference? Such a reference would be unprecedented. Entering the reasons of the House on the Journals could produce no good. The House could not call for the papers more than they had done. He reminded the House that three weeks had already been spent in agreeing to the call; if they agreed to the present motion, they would spend as much more in agreeing to the reasons. The President, in his Message, had mentioned the proceedings of the grand Convention; this was a new topic to him not started in debate; when the Treaty is before the House, perhaps they might wish to have the Message before them on that ground. He should vote for the reference if gentlemen could assign (what they had not yet done) a proper motive for it.

Mr. Sedgwick urged that the reasons of the majority would make a large book. Were the Committee of the Whole to turn authors and write a dissertation on part of the Constitution? The people did not send their Representatives here for any such purpose, and he hoped it would not be persisted in. If the reasons of the House were to be drafted, he ventured to predict, that they would reach the end of their political career before the discussion that must necessarily arise upon them, would be brought to a close. Such a measure would be unprecedented, and lead to a great waste of time, and continually defeat the real objects of their mission. The session had been long enough already, and it must be lengthened to accomplish the necessary business of it. If the gentlemen would write books, he was confident every body would buy them; but he could not see the propriety of the present motion.

Mr. Blount observed, that the President refers, in his Message, to the debate in the House, and insinuates that the House contend for a right not given them by the Constitution. This was the first instance of any importance of a difference between the House of Representatives and the Executive respecting a great Constitutional point; it was then proper to make such a disposal of the Message as to enable the House to state their reasons in support of their opinion, that the people may be rightly informed, that they may see the House is attempting no encroachment.

Mr. Heath hoped the Message would not be passed over in silence. The President surely is not infallible. A very important Constitutional question is involved; he hoped the reference would be agreed to.

Mr. Sitgreaves was against the motion. The House have made a demand on the President; the President refused it; this must naturally put an end to the correspondence on this subject. The difference of sentiment between the two branches is not sufficient reason for converting the Journals of the House into a volume of debates. If the majority are to place their reasons, the minority cannot be denied the same indulgence; then, for a rejoinder, rebutters, surrebutters, without end. From the practice of the House, in a case analogous, a rule of conduct for the present case may be drawn. When a bill is sent to the President, if he dislikes it, he negatives and sends it to the House with his reasons. Those reasons are put on the Journals, as directed by the Constitution; but it contains nothing to direct or authorize the majority to register their reasons, and thus to enter into a controversy. The returned bill is put to vote, and if two-thirds of each House agree to it, it passes; if not, it falls to the ground, but no reasons are entered on the part of the House.

Mr. Gallatin said he did not expect the motion for a reference would have met with any opposition. Some members are of opinion, that the Message should be passed over in silence; others had resolved to ground some act upon it. There exists a difference, then, on this first point. The natural course is, then, a reference to a Committee of the Whole, to determine whether the House would act further on the business.

In Committee of the Whole a discussion could be had concerning the propriety of acting further on the Message. When the House made the call for papers, they did not give their reasons in the resolution; it was but a bare request. The President decided he could not comply with it. If he had stopped here, perhaps there might be grounds for ending the correspondence here; but he was not satisfied with this, but has entered into his motives for refusing. Indeed, he had gone further; he had adverted to the debates had in the House. He may be mistaken as to the motives he ascribes to the House. In this delicate situation it is certainly right to notice the Message, and to explain the real motives of the House, in support of the motion. If it is a novelty to reply to an Answer of the President's, it was equally a novelty, also, in making an Answer to notice a debate in support of a resolution. It is necessary to refer the Message to a Committee of the Whole, to determine how to act. He declared his mind was not made up upon this point, and therefore he wished it referred to a Committee of the Whole. Not, however, to the Committee on the state of the Union, because there exists no connexion with the subject referred to that Committee. Referring to a Committee of the Whole is deciding nothing, but only determining to examine; it could not decide on the propriety of acting.

Mr. Cooper said, that the further the gentlemen traveled a wrong road, the further they would get out of the true course, and the more difficult it would be to return.

Mr. Harper observed, that this was not the first attempt to get the House to do something, to commit them to do something further. A motion

is now made to refer the Message to a Committee of the Whole, and the House are told, that if the motion be carried, it is nothing, it is deciding nothing, but will only lead to an inquiry whether the House ought to act. He insisted that such a reference would in fact be determining that they would act, and then, in Committee, they would determine how, and in that Committee, he said they would be asked, why did the House resolve itself into a Committee of the Whole if not to act? So, when the Indian Treaty was ratified, a motion was made to request the President to lay it before the House. When it was laid before them, it was then contended that the House had a right to interfere in the Treaty, or why ask for it? It could not be supposed, that gentlemen of any understanding could be imposed upon by such a flimsy sophistry. It was now the proper time, and the House the proper place, he contended, to settle the principle whether the House would sanction any further proceedings on the Message. What reason could be adduced for acting? It is said that the President has not only refused the papers, but given his reasons for the refusal, and that his reference to the debate, and the statement he made about the motives of the House, might be found incorrect; that the President may have attributed to the majority motives they were not willing to avow. The motives had been avowed by the gentleman who led the business from Pennsylvania.

Mr. Harper was called to order. He concluded by declaring that he would vote against the reference.

Mr. Varnum observed, that a great Constitutional question was to be decided; two branches of the Government differed, and they had joined issue. The President had given the reasons of his opinion; it was right, also, that the people should know the sense of the House. Shall the House take no further measures on the subject, and receive the Answer of the President as obligatory with regard to the question? He believed every member of the House has, as well as the President, the right to avow his principles, and to judge of the import of the different parts of the Constitution. The House he conceived under an obligation to consider the question: if they found upon consideration reason to recede from their opinions, he hoped they would. He wished the subject examined with temper and candor.

Mr. Kittera chiefly dwelt on the length of time, which, if the motion was agreed to, would be consumed in the business. He also touched on the impropriety of entering into a disquisition on the merits of this question on the Journals.

Mr. Crabb.—Mr. Speaker, I hope the Message received from the President, in answer to the resolution of this House, calling for certain papers relative to the British Treaty, will be referred to a Committee of the Whole House. My reasons for this wish are, because the President has refused the papers on Constitutional principles, and has thought proper to go into a detail of the reasons which led to a formation of his opinion, therefore I apprehend it proper to make the reference, in order, that if the reasons urged by the President are such as to convince this House that he is right as to the Constitutional question, that they may have an opportunity to acknowledge it, that it may be so known and understood abroad, inasmuch as the contrary opinion has been promulgated; and again, I wish the reference, that this House may, with respect and calm deliberation, consider the President's Message, and the reasons on which his refusal to send the papers is grounded, that if those reasons are not such as to convince or change the opinion of this House, they, in that case, may have an opportunity so to express themselves, and to introduce resolutions to that effect, that the opinion of this House, on this great Constitutional question, after the receipt and consideration of the President's Message, may be fully known, clearly understood, and stamped on your Journals. I think this a necessary measure, inasmuch as sundry Treaties lately negotiated are now before this House, and by a declaratory resolution, as before stated, this House may save the Constitutional principle, and feel themselves at perfect liberty to pass the necessary laws to carry these Treaties into complete effect, without conveying the implication, that they think they are bound so to do, and have not a Constitutional right to reject and refuse, when even they shall judge the general prosperity of the Union, and the interest of their constituents, may be promoted by that refusal.

Mr. Giles said, he had not expected the subject would have been treated with ridicule, and that members in reply should advise others to go and write pamphlets. The motives of a branch of Government must necessarily differ from the motives of individuals expressed in their speeches. A majority of the House, when their sentiments are collected, speak the sense of the House. He adverted to the practice of the House when the President returns a bill, which had been mentioned by the opposers of the motion, and observed, that in cases of that kind the Message of the President was acted upon. He observed, on the importance of the subject, and insisted on the propriety of the House expressing their reasons for their vote. They owe it to themselves, to the United States, to the whole world, to exhibit their reasons for what the President has declared to be an unconstitutional call. For this purpose, the Message should be referred to a Committee of the Whole, where a proper motion would be brought forward, and could be freely discussed. If it had been proposed to refer the Message to a select committee, to place the business into a few hands, there might have been an objection, but a reference to a Committee of the Whole he considered quite unexceptionable.

Mr. N. Smith said the present was a most singular motion; and, after noticing the several reasons which had been given for the measure, thought none of them had any weight. He said the referring of the Message could only have one effect; it would engage three weeks more of their time; and yet, gentlemen who had been very economical with respect to time, on the late great

Constitutional point, by calling for the question from day to day, now proposed to consume it in the way proposed. He should, however, now show that economy on account of time, which had been so much insisted upon on a former occasion.

Mr. Thatcher hoped the Committee would excuse his making a few remarks on the subject before them, as it seemed not to be understood. In the first place, he asked, what was the answer of the President? It was No, and nothing more. What, then, can be expected from referring this answer to a Committee of the Whole? It was not the answer which gentlemen wished to refer; but they say, the President was not contented with giving an answer, but had gone on to give the reasons on which his negative was predicated. Might they not, say they, prove the President to be wrong, and ought they not to give their reasons why they think him wrong? They, therefore, determine to enter into a forensic dispute with the President, in order that, though he had once said No, he might hereafter say Yes. Contrary to all former experience, he said, the majority, and not the minority, wished to enter a protest upon their Journals. In the English Parliament they frequently heard of a minority protesting, but he never heard of a majority doing so. But this majority want to enter their protest, in the form of a syllogism, in order to convince the world that the President had reasoned ill. But he thought the people of the United States would believe he reasoned tolerably well. Nor did he believe the gentleman from Pennsylvania would overturn in a week the reasoning of the President. But it had been said, politeness required that they should notice the President's Message. He believed he would excuse the House on that head. He believed his mind was determined on the subject. If gentlemen were dissatisfied with the reasoning of the President, let them go individually to him and say, "you have given us a major and a minor, but you have drawn a wrong conclusion." But was it right that these arguments should be brought forward on that floor? for, if the majority sent their reasons to the President, instead of having a reply of two or three pages, they might have the next time ten or twelve, and the controversy would not end. Mr. T. was therefore opposed to the motion.

Mr. Claiborne thought the motion a proper one; for, if they passed the present Message over in silence, they might as well come to a resolution, that whatever the President said should be law, and not to be examined.

Mr. W. Smith did not think the present motion could have any other effect than to involve two different branches of the Government in an unpleasant dispute on a Constitutional question. If gentlemen wished to convince the President he was wrong, it would be better a committee should be appointed for a conference with him on the occasion. Gentlemen said they wished to enter their reasons upon the Journals for calling for papers; whereas, when they laid the resolution upon the table, and were called upon for those reasons, they said they would see the papers first, and then they would say what use they meant to make of them. The President, said Mr. S., had acted in the way gentlemen said he ought to act. Did not gentlemen say the President would exercise his discretion with respect to sending the papers? and yet, now he had exercised his discretion, there seemed to be an inclination in gentlemen to enter on the Journals reasons to convince the world he was wrong. How did that House proceed when the President negatived one of their bills? His reasons were entered on the Journals, and they proceeded to reconsider the subject. But did they enter on the Journals their reasons for passing the bill? No: they merely put the question, whether the bill should still pass, and were ruled by the event. He thought this an analogous case to the present. He saw nothing improper in the President's having given his reasons for declining to send the papers requested. Had he not done so, but refused to have answered the request, without having given any reasons for it, he would have been charged with a want of respect to the House. He considered his compliance would have been a violation of the Constitution. Was that a reason why they should enter their reasons on the Journals? Surely not. Indeed, it appeared to him, that the discussion proposed would have no effect but to excite a misunderstanding between two branches of the Government, which might ultimately affect the peace of the country. He wished gentlemen to recollect the calmness with which that House received the negative of the President on a bill which respected the great principles of representation, which had passed both Houses. No attempt was made to go into a Committee of the Whole on the reasons for the negative. He hoped they should proceed with the same dignity on the present occasion.

Mr. Findley said, it was customary in the Legislature of Pennsylvania to enter reasons for adopting measures upon their Journals. He had often known the sentiments of men long dead, brought forward there. It was not for themselves, but for posterity, that their reasons for calling for the papers in question should be entered upon the Journals along with the President's refusal. It had been said, that majorities never entered their reasons on Journals, but minorities; but he said he had known both. These reasons, which would be thus entered, will be those of the House, and not of any individual.

The yeas and nays were now taken on the question of a reference of the President's Message to a Committee of the Whole; and the motion was agreed to—yeas 55, nays 37, as follows:

Yeas.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William B. Grove, Wad-Hampton, George Hancock, Carter B. Harrison, John

Hathorn, Jonathan N. Havens, John Heath, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

Nays.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The business was then made the order of the day for Wednesday next. An earlier day was proposed; but Wednesday was carried by the Speaker's casting vote.

April 1.—Mr. Kitchell said, as it appeared from the Message of the President, lately communicated to that House, that he had conceived the majority of that House, who passed the resolution to which that Message was an answer, had entertained opinions, which he himself, as one of that majority, wished to disavow, he proposed to submit two resolutions to the consideration of the House, which contained his sentiments upon the occasion, and which he should wish to be referred to the Committee of the Whole to whom was referred the said Message. They were referred, and are in substance, as follows:

Resolved, As the opinion of this House, that the Constitution has vested the power of making Treaties exclusively in the President and Senate; and that the House of Representatives do not claim an agency in making or ratifying them when made.

Resolved, As the opinion of this House, that when a Treaty is made, which requires a law or laws to be passed to carry it into effect, that, in such case, the House of Representatives have a Constitutional right to deliberate and determine the propriety or impropriety of passing such laws, and to act thereon as the public good shall require.

April 6.—Mr. Bourne called for the order of the day, on the Message of the President, in answer to the resolution of that House, calling for certain papers relative to the Treaty lately concluded with Great Britain; when, just as the Speaker was about to put the question,

Mr. N. Smith rose to oppose the motion. He said he wished the House to go into a Committee of the Whole on the state of the Union. It appeared to him very necessary to go into a Committee of the Whole on that subject, and perfectly unnecessary to take up time in discussing the Message of the President. It was well known that the first of June was the time fixed for the British to give up the Western posts. It was also well known, that many gentlemen in that House had declared that the Treaty lately concluded with Great Britain was not obligatory on the nation, was not obligatory on that House until it had received their sanction. If this opinion was just, he apprehended the British were not bound to give up the posts until that House had declared the Treaty binding. He was one of those who believed this opinion incorrect; he believed that House had no participating power in making Treaties; but there was no man who would say they had not the physical power to break the Treaty; and, after what had taken place in that House, may it not be conceived the British will refuse to give up the posts before the Treaty had been acted upon by them? If this was likely to be the case, they had no time to lose. It was then the 6th of April; it would take a month to transmit the ratification to the necessary place; and there would remain only twenty-three or twenty-four days for the business to pass through both Houses. This, it would be allowed, was a short period, and what, said he, may be the event of delaying the consideration so long, as that the British will not deliver up the posts at the time appointed? This could not be determined; but of this much he was certain, nations were judges in their own cause. As long as each nation kept exactly the line marked out, there could be no excuse for the breach in the other party; but, as soon as one or the other is guilty of a breach of contract, the consequences cannot be foreseen.

The two nations being judges in their own cause, it may be expected they will judge like parties. It was out of his power to say what might be the event; but it might involve the two nations in serious difficulties. He did not say the British would refuse to give up the posts; or, if they did, that difficulties would ensue; but it was in their power to prevent the possibility of mischief, provided they went immediately into the business. And why should they not do this? Of what importance was it to go into a Committee of the Whole on the Message of the President? Was there included in it any proposition of great national advantage? Did they expect to get the papers by it? No. They expected to enter their reasons on the Journals for calling for the papers. Let them do what they pleased, no material national advantage was connected with the question; and if there was, it was not necessary to go into the consideration now. If they wanted to enter into a negotiation with the President on the subject, or declare the sense of the Constitution, they might do it the next session as well as this.

But the discussion of the Message at all, he thought, would be attended with serious consequences. They had been told, on a former occasion, that the sensibility of the country had been excited by the Treaty: that sensibility, he feared, had in some degree made its way into that House; and it was that, in his opinion, which had caused the present motion. He said this, because he could not discover any benefit to be derived from the proposed discussion: he believed it would only serve to add fuel to a flame which it would be well to extin-

guish. He thought a business in which the public interest was concerned should first claim their attention; and, as there were very strong reasons for taking up the business relative to the state of the Union, he hoped they would negative the motion before them, and take up the other.

After a few observations from Mr. Giles, in favor of going into the consideration of the President's Message; from Mr. Sedgwick, in opposition to it, (in which he moved for the yeas and nays;) and a few conciliatory remarks from Mr. Kitchell—the yeas and nays were taken, and stood—yeas 57, nays 36, as follow:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, Aaron Kitchell, Edward Livingston, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, Israel Smith, Samuel Smith, Thomas Spriggs, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Geo. Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, John S. Sherburne, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, Geo. Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The House accordingly resolved itself into a Committee of the Whole on said Message.

Mr. Blount brought forward the following resolutions:

"*Resolved*, That, it being declared by the second section of the second article of the Constitution, 'that the President shall have power, by and with the advice of the Senate, to make Treaties, provided two-thirds of the Senate present concur,' the House of Representatives do not claim any agency in making Treaties; but, that when a Treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend, for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such Treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good.

"*Resolved*, That it is not necessary to the propriety of any application from this House to the Executive, for information desired by them, and which may relate to any Constitutional functions of the House, that the purpose for which such information may be wanted, or to which the same may be applied, should be stated in the application."

Mr. Harper, Mr. Dayton, and Mr. Kitchell, offered a few remarks with respect to the propriety of considering the resolutions now moved, or those laid upon the table, by Mr. Kitchell, a few days ago. After which—

Mr. Madison rose, and spoke as follows: When the Message was first proposed to be committed, the proposition had been treated by some gentlemen not only with levity but with ridicule. He persuaded himself that the subject would appear in a very different light to the Committee; and he hoped that it would be discussed on both sides without either levity, intemperance, or illiberality.

If there were any question which could make a serious appeal to the dispassionate judgment, it must be one which respected the meaning of the Constitution; and if any Constitutional question could make the appeal with peculiar solemnity, it must be in a case like the present, where two of the constituted authorities interpreted differently the extent of their respective powers.

It was a consolation, however, of which every member would be sensible, to reflect on the happy difference of our situation, on such occurrences, from that of Governments in which the constituent members possessed independent and hereditary prerogatives. In such Governments, the parties having a personal interest in their public stations, and not being amenable to the national will, disputes concerning the limits of their respective authorities might be productive of the most fatal consequences. With us, on the contrary, although disputes of that kind are always to be regretted, there were three most precious resources against the evil tendency of them. In the first place, the responsibility which every department feels to the public will, under the forms of the Constitution, may be expected to prevent the excesses incident to conflicts between rival and irresponsible authorities. In the next place, if the difference cannot be adjusted by friendly conference and mutual concession, the sense of the constituent body, brought into the Government through the ordinary elective channels, may supply a remedy. And if this resource should fail, there remains, in the third and last place, that provident article in the Constitution itself, by which an avenue is always open to the sovereignty of the people, for explanations or amendments, as they might be found indispensable.

If, in the present instance, it was to be particularly regretted that the existing difference of opinion had arisen, every motive to the regret was a motive to calmness, to candor, and the most respectful delicacy towards the other constituted authority. On the other hand, the duty which the House of Representatives must feel to themselves and to their constituents, required that they should examine the subject with accuracy, as well as with candor, and decide on it with firmness, as well as with moderation.

In this temper, he should proceed to make some

observations on the Message before the Committee, and on the reasons contained in it.

The Message related to two points: First. The application made for the papers. Secondly. The Constitutional rights of Congress, and of the House of Representatives, on the subject of Treaties.

On the first point, he observed, that the right of the House to apply for any information they might want, had been admitted by a number in the minority, who had opposed the exercise of the right in this particular case. He thought it clear that the House must have a right, in all cases, to ask for information which might assist their deliberations on the subjects submitted to them by the Constitution; being responsible, nevertheless, for the propriety of the measure. He was as ready to admit that the Executive had a right, under a due responsibility, also, to withhold information, when of a nature that did not permit a disclosure of it at the time. And if the refusal of the President had been founded simply on a representation, that the state of the business within his department, and the contents of the papers asked for, required it, although he might have regretted the refusal, he should have been little disposed to criticise it. But the Message had contested what appeared to him a clear and important right of the House; and stated reasons for refusing the papers, which, with all the respect he could feel for the Executive, he could not regard as satisfactory or proper.

One of the reasons was, that it did not occur to the Executive that the papers could be relative to any purpose under the cognizance, and in the contemplation of the House. The other was, that the purpose for which they were wanted was not expressed in the resolution of the House.

With respect to the first, it implied that the Executive was not only to judge of the proper objects and functions of the Executive department, but, also, of the objects and functions of the House. He was not only to decide how far the Executive trust would permit a disclosure of information, but how far the Legislative trust could derive advantage from it. It belonged, he said, to each department to judge for itself. If the Executive conceived that, in relation to his own department, papers could not be safely communicated, he might, on that ground, refuse them, because he was the competent though a responsible judge within his own department. If the papers could be communicated without injury to the objects of his department, he ought not to refuse them as irrelative to the objects of the House of Representatives; because the House was, in such cases, the only proper judge of its own objects.

The other reason of refusal was, that the use which the House meant to make of the papers was not expressed in the resolution.

As far as he could recollect, no precedent could be found in the records of the House, or elsewhere, in which the particular object in calling for information was expressed in the call. It was not only contrary to right to require this, but it would often be improper in the House to express the object. In the particular case of an impeachment referred to in the Message, it might be evidently improper to state that to be the object of information which might possibly lead to it, because it would involve the preposterous idea of first determining to impeach, and then inquiring whether an impeachment ought to take place. Even the holding out an impeachment as a contemplated or contingent result of the information called for, might be extremely disagreeable in practice, as it might inflict a temporary pain on an individual, whom an investigation of facts might prove to be innocent and perhaps meritorious.

From this view of the subject he could not forbear wishing that, if the papers were to be refused, other reasons had been assigned for it. He thought the resolutions offered by the gentleman from North Carolina, one of which related to this subject, ought to stand on the Journal along with the Message which had been entered there. Both the resolutions were penned with moderation and propriety. They went no farther than to assert the rights of the House; they courted no reply; and it ought not to be supposed they could give any offence.

The second object to which the measure related, was the Constitutional power of the House on the subject of Treaties.

Here, again, he hoped it may be allowable to wish that it had not been deemed necessary to take up, in so solemn a manner, a great Constitutional question, which was not contained in the resolution presented by the House, which had been incidental only to the discussion of that resolution, and which could only have been brought into view through the unauthentic medium of the newspapers. This, however, would well account for the misconception which had taken place in the doctrine maintained by the majority in the late question. It had been understood by the Executive, that the House asserted its assent to be necessary to the validity of Treaties. This was not the doctrine maintained by them. It was, he believed, fairly laid down in the resolution proposed, which limited the power of the House over Treaties, to cases where Treaties embraced Legislative subjects, submitted by the Constitution to the power of the House.

Mr. M. did not mean to go into the general merits of this question, as discussed when the former resolution was before the Committee. The Message did not request it, having drawn none of its reasoning from the text of the Constitution. It had merely affirmed that the power of making Treaties is exclusively vested by the Constitution in the President, by and with the advice and consent of the Senate. Nothing more was necessary on this point than to observe, that the Constitution had as expressly and exclusively vested in Congress the power of making laws, as it had vested in the President and Senate the power of making Treaties.

He proceeded to review the several topics on which the Message relied. First. The intention of the body which framed the Constitution. Secondly. The opinions of the State Conventions who adopted it. Thirdly. The peculiar rights

and interests of the smaller States. Fourthly. The manner in which the Constitution had been understood by the Executive and the foreign nations, with which Treaties had been formed. Fifthly. The acquiescence and acts of the House on former occasions.

1. When the members on the floor, who were members of the General Convention, particularly a member from Georgia and himself, were called on in a former debate for the sense of that body on the Constitutional question, it was a matter of some surprise, which was much increased by the peculiar stress laid on the information expected. He acknowledged his surprise, also, at seeing the Message of the Executive appealing to the same proceedings in the General Convention, as a clue to the meaning of the Constitution.

It had been his purpose, during the late debate, to make some observations on what had fallen from the gentlemen from Connecticut and Maryland, if the sudden termination of the debate had not cut him off from the opportunity. He should have reminded them that this was the ninth year since the Convention executed their trust, and that he had not a single note in this place to assist his memory. He should have remarked, that neither himself nor the other members who had belonged to the Federal Convention, could be under any particular obligation to rise in answer to a few gentlemen, with information, not merely of their own ideas at that period, but of the intention of the whole body; many members of which, too, had probably never entered into the discussions of the subject. He might have further remarked, that there would not be much delicacy in the undertaking, as it appeared that a sense had been put on the Constitution by some who were members of the Convention, different from that which must have been entertained by others, who had concurred in ratifying the Treaty.

After taking notice of the doctrine of Judge Wilson, who was a member of the Federal Convention, as quoted by Mr. Gallatin from the Pennsylvania debates, he proceeded to mention that three gentlemen, who had been members of the Convention, were parties to the proceedings in Charleston, South Carolina, which, among other objections to the Treaty, represented it as violating the Constitution. That the very respectable citizen, who presided at the meeting in Wilmington, whose resolutions made a similar complaint, had also been a distinguished member of the body that formed the Constitution.

It would have been proper for him, also, to have recollected what had, on a former occasion, happened to himself during a debate in the House of Representatives. When the bill for establishing a National Bank was under consideration, he had opposed it, as not warranted by the Constitution, and incidentally remarked, that his impression might be stronger, as he remembered that, in the Convention, a motion was made and negatived, for giving Congress a power to grant charters of incorporation. This slight reference to the Convention, he said, was animadverted on by several, in the course of the debate, and particularly by a gentleman from Massachusetts, who had himself been a member of the Convention, and whose remarks were not unworthy the attention of the Committee. Here Mr. M. read a paragraph from Mr. Gerry's speech, from the Gazette of the United States, page 814, protesting, in strong terms, against arguments drawn from that source.

Mr. M. said, he did not believe a single instance could be cited in which the sense of the Convention had been required or admitted as material in any Constitutional question. In the case of the Bank, the Committee had seen how a glance at that authority had been treated in this House. When the question on the suability of the States was depending in the Supreme Court, he asked, whether it had ever been understood that the members of the Bench, who had been members of the Convention, were called on for the meaning of the Convention on that very important point, although no Constitutional question would be presumed more susceptible of elucidation from that source?

He then adverted to that part of the Message which contained an extract from the Journal of the Convention, showing that a proposition "that no Treaty should be binding on the United States, which was not ratified by law," was explicitly rejected. He allowed this to be much more precise than any evidence drawn from the debates in the Convention, or resting on the memory of individuals. But, admitting the case to be as stated, of which he had no doubt, although he had no recollection of it, and admitting the record of the Convention to be the oracle that ought to decide the true meaning of the Constitution, what did this abstract vote amount to? Did it condemn the doctrine of the majority? So far from it, that, as he understood their doctrine, they must have voted as the Convention did; for they do not contend that no Treaty shall be operative without a law to sanction it; on the contrary, they admit that some Treaties will operate without this sanction; and that it is no further applicable in any case than where Legislative objects are embraced by Treaties. The term "ratify" also deserved some attention; for, although of loose signification in general, it had a technical meaning different from the agency claimed by the House on the subject of Treaties.

But, after all, whatever veneration might be entertained for the body of men who formed our Constitution, the sense of that body could never be regarded as the oracular guide in expounding the Constitution. As the instrument came from them it was nothing more than the draft of a plan, nothing but a dead letter, until life and validity were breathed into it by the voice of the people, speaking through the several State Conventions. If we were to look, therefore, for the meaning of the instrument beyond the face of the instrument, we must look for it, not in the General Convention, which proposed, but in the State Conventions, which accepted and ratified the Constitution. To these also the Message had referred, and it would be proper to follow it.

2. The debates of the Conventions in three

States (Pennsylvania, Virginia, and North Carolina) had been before introduced into the discussion of this subject, and were believed the only publications of the sort which contained any lights with respect to it. He would not fatigue the Committee with a repetition of the passages then read to them. He would only appeal to the Committee to decide whether it did not appear, from a candid and collected view of the debates in those Conventions, and particularly in that of Virginia, that the Treaty-making power was a limited power; and that the powers in our Constitution, on this subject bore an analogy to the powers on the same subject in the Government of Great Britain. He wished, as little as any member could, to extend the analogies between the two Governments; but it was clear that the constituent parts of two Governments might be perfectly heterogeneous, and yet the powers be similar.

At once to illustrate his meaning, and give a brief reply to some arguments on the other side, which had heretofore been urged with ingenuity and learning, he would mention, as an example, the power of pardoning offences. This power was vested in the President; it was a prerogative also of the British King. And, in order to ascertain the extent of the technical term "pardon," in our Constitution, it would not be irregular to search into the meaning and exercise of the power in Great Britain. Yet, where is the general analogy between an hereditary Sovereign, not accountable for his conduct, and a Magistrate like the President of the United States, elected for four years, with limited powers, and liable to impeachment for the abuse of them?

In referring to the debates of the State Conventions as published, he wished not to be understood as putting entire confidence in the accuracy of them. Even those of Virginia, which had been probably taken down by the most skilful hand, (whose merit he wished by no means to disparage,) contained internal evidence in abundance of chasms and misconceptions of what was said.

The amendments proposed by the several Conventions were better authority, and would be found, on a general view, to favor the sense of the Constitution which had prevailed in this House. But even here it would not be reasonable to expect a perfect precision and system in all their votes and proceedings. The agitations of the public mind on that occasion, with the hurry and compromise which generally prevailed in settling the amendments to be proposed, would at once explain and apologize for the several apparent inconsistencies which might be discovered.

He would not undertake to say that the particular amendment referred to in the Message, by which two States require that "no Commercial Treaty should be ratified without the consent of two-thirds of the whole number of Senators, and that no Territorial rights, &c. should be ceded without the consent of three-fourths of the members of both Houses," was digested with an accurate attention to the whole subject. On the other hand, it was no proof that those particular Conventions, in annexing these guards to the Treaty power, understood it as different from that espoused by the majority of the House. They might consider Congress as having the power contended for over Treaties stipulating on Legislative subjects, and still very consistently wish for the amendment they proposed. They might not consider the Territorial rights and other objects for which they required the concurrence of three-fourths of the members of both Houses, as coming within any of the enumerated powers of Congress, and, therefore, as not protected by that control over Treaties. And although they might be sensible that Commercial Treaties were under that control, yet, as they would always come before Congress with great weight after they had passed through the regular forms and sanctions of the Treaty department, it might be deemed of real importance that the authority should be better guarded which was to give that weight to them.

He asked, whether it might not happen, even in the progress of a Treaty through the Treaty department, that each succeeding sanction might be given, more on account of preceding sanctions than of any positive approbation? And no one could doubt, therefore, that a Treaty which had received all these sanctions would be controlled with great reluctance by the Legislature, and, consequently, that it might be desirable to strengthen the barriers against making improper Treaties, rather than trust too much to the Legislative control over carrying them into effect.

But, said Mr. M., it will be proper to attend to other amendments proposed by the ratifying Conventions, which may throw light on their opinions and intentions on the subject in question. He then read from the Declaration of Rights proposed by Virginia to be prefixed to the Constitution, the seventh article, which is as follows:

"That all power of suspending laws, or the execution of laws, by any authority, without the consent of the Representatives of the people in the Legislature, is injurious to their rights, and ought not to be exercised."

The Convention of North Carolina, as he showed, had laid down the same principle in the same words. And it was to be observed that, in both Conventions, the article was under the head of a Declaration of Rights, "asserting and securing from encroachment the essential and inalienable rights of the people," according to the language of the Virginia Convention; and "asserting and securing from encroachment the great principles of civil and religious liberty, and the inalienable rights of the people," as expressed by the Convention of North Carolina. It must follow that these two Conventions considered it as a fundamental, inviolable, and universal principle in a free Government, that no power could supersede a law without the consent of the Representatives of the people in the Legislature.

In the Maryland Convention also, it was among the amendments proposed, though he believed not decided on, "that no power of suspending laws, or the execution of laws, unless derived from the Legislature, ought to be exercised or allowed."

The Convention of North Carolina had further explained themselves on this point, by their twenty-third amendment proposed to the Constitution, in the following words: "That no Treaties which shall be directly opposed to the existing laws of the United States in Congress assembled, shall be valid until such laws shall be repealed or made conformable to such Treaty; nor shall any Treaty be valid which is contradictory to the Constitution of the United States."

The latter part of the amendment was an evidence that the amendment was intended to ascertain rather than to alter the meaning of the Constitution; as it could not be supposed to have been the real intention of the Constitution that a Treaty contrary to it should be valid.

He proceeded to read the following amendments accompanying the ratification of State Conventions:

The New York Convention had proposed "that no standing army or regular troops shall be raised or kept up in time of peace without the consent of two-thirds of the Senators and Representatives in each House."

"That no money be borrowed on the credit of the United States, without the assent of two-thirds of the Senators and Representatives in each House."

The New Hampshire Convention had proposed "that no standing army shall be kept up in time of peace, unless with the consent of three quarters of the members of each branch of Congress." In the Maryland Convention a proposition was made in the same words.

The Virginia Convention had proposed "that no navigation law, or law regulating commerce, shall be passed without the consent of two-thirds of the members present in both Houses."

"That no standing army or regular troops shall be raised or kept up in time of peace, without the consent of two-thirds of the members present in both Houses."

"That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war."

The Convention of North Carolina had proposed the same three amendments in the same words.

On a review of these proceedings, may not, said he, the question be fairly asked, whether it ought to be supposed that the several Conventions who showed so much jealousy with respect to the powers of commerce, of the sword, and of the purse, as to require, for the exercise of them, in some cases two-thirds, in others three-fourths of both branches of the Legislature, could have understood that, by the Treaty clauses in Constitution, they had given to the President and Senate, without any control whatever from the House of Representatives, an absolute and unlimited power over all those great objects?

3. It was with great reluctance, he said, that he should touch on the third topic—the alleged interest of the smaller States in the present question. He was the more unwilling to enter into this delicate part of the discussion, as he happened to be from a State which was in one of the extremes in point of size. He should limit himself, therefore, to two observations. The first was, that if the spirit of amity and mutual concession from which the Constitution resulted was to be consulted on expounding it, that construction ought to be favored which would preserve the mutual control between the Senate and House of Representatives, rather than that which gave powers to the Senate not controllable by, and paramount over those of the House of Representatives, whilst the House of Representatives could in no instance exercise their powers without the participation and control of the Senate. The second observation was, that, whatever jealousy might unhappily have prevailed between the smaller and larger States, as they had most weight in one or the other branch of Government, it was a fact, for which he appealed to the Journals of the old Congress, from its birth to its dissolution, and to those of the Congress under the present Government, that in no instance would it appear, from the yeas and nays, that a question had been decided by a division of the votes according to the size of the States. He considered this truth as affording the most pleasing and consoling reflection, and as one that ought to have the most conciliating and happy influence on the temper of all the States.

4. A fourth argument in the Message was drawn from the manner by which the Treaty power had been understood by both parties in the negotiations with foreign Powers. "In all the Treaties made, *we* have declared and *they* have believed," &c. By *we*, he remarked, was to be understood the Executive alone, who had made the declaration, and in no respect the House of Representatives. It was certainly to be regretted, as had often been expressed, that different branches of the Government should disagree in the construction of their powers; but when this could not be avoided, each branch must judge for itself; and the judgment of the Executive could in this case be no more an authority overruling the judgment of the House than the judgment of the House could be an authority overruling that of the Executive. It was also to be regretted that any foreign nation should at any time proceed under a misconception of the meaning of our Constitution. But no principle was better established in the Laws of Nations, as well as in common reason, than that one nation is not to be the interpreter of the Constitution of another. Each nation must adjust the forms and operations of its own Government, and all others are bound to understand them accordingly. It had before been remarked, and it would be proper to repeat it here, that of all nations Great Britain would be the least likely to object to this principle, because the construction given to our Government was particularly exemplified in her own.

5. In the fifth and last place, he had to take notice of the suggestion, that every House of Representatives had concurred in the construction of the Treaty power, now maintained by the Executive; from which it followed that the House could not

now consistently act under a different construction. On this point, it might be sufficient to remark, that this was the first instance in which a foreign Treaty had been made since the establishment of the Constitution; and that this was the first time the Treaty-making power had come under formal and accurate discussion. Precedents, therefore, would readily be perceived to lose much of their weight. But whether the precedents found in the proceedings preparatory to the Algerine Treaty, or in the provisions relative to the Indian Treaties, were inconsistent with the right which had been contended for in behalf of the House, he should leave to be decided by the Committee. A view of these precedents had been pretty fully presented to them by a gentleman from New York, [Mr. Livingston,] with all the observations which the subject seemed to require.

On the whole, it appeared that the rights of the House on the two great Constitutional points had been denied by a high authority in the Message before the Committee. This Message was entered on the Journals of the House. If nothing was entered in opposition thereto, it would be inferred that the reasons in the Message had changed the opinion of the House, and that their claims on those great points were relinquished. It was proper, therefore, that the questions, brought fairly before the Committee in the propositions of the gentleman [Mr. Blount] from North Carolina, should be examined and formally decided. If the reasoning of the Message should be deemed satisfactory, it would be the duty of this branch of the Government to reject the propositions, and thus accede to the doctrines asserted by the Executive. If, on the other hand, this reasoning should not be satisfactory, it would be equally the duty of the House, in some such firm, but very decent terms, as are proposed, to enter their opinions on record. In either way, the meaning of the Constitution would be established, as far as depends on the vote of the House of Representatives.

April 7.—The order of the day being called for on the consideration of the President's Message, the House resolved itself into a Committee of the Whole on that subject, and the resolutions of Mr. Blount having been read—

Mr. Swift and Mr. W. Smith rose together, but Mr. Smith giving way, Mr. Swift proceeded to remark, that he did not rise for the purpose of going into the subject, but to move that the question might be then taken. The same principles which were involved in the present question had already undergone a discussion of three weeks, and no doubt could remain on the mind of any gentleman in that House on the subject; nor did he think that if three weeks more were to be consumed in the discussion, one opinion would be changed. Therefore, as business of the utmost consequence called for their attention, as it was of the last importance that the Treaties lately formed with foreign nations should be carried into effect, he hoped they would enter upon the question of the state of the Union. If gentlemen wished to carry the Treaties into effect, he entreated them to come forward and do so; or, if they meant to defeat them, he wished them at once to say so. If they went into the present discussion at length, there would not be time sufficient to determine upon the Treaties. He was willing to let the matter rest upon the representation of the gentleman from Virginia. He himself had taken no share in the debate, though, if it were to be again gone into, he should desire to be heard as well as others. But he was fully satisfied that gentlemen who had spoken on a former occasion would unite with him in wishing the question to be then taken.

The resolutions were then severally put and carried—51 members rising for each.

The House then took them up.

The previous question was called, viz: Shall the question now be put? on which the yeas and nays were taken, and stood—yeas 54, nays 37, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, George Jackson, Edward Livingston, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, Jno. S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The yeas and nays were taken on the first resolution, and stood—yeas 57, nays 35, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, Nicholas Gilman, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert

Rutherford, John B. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatem, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The second resolution was then taken up, and the yeas and nays stood as on the first.

The following members were absent when the yeas and nays were called on the main questions:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, New, and Sitgreaves.

The following members were away upon leave of absence:

Messrs. Freeman, Kitchell, Leonard and Isaac Smith.

It was understood that the following members would have voted for the resolutions had they been present:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, and New.

RECAPITULATION.

Yeas in the House - - -	57	
Yeas absent - - - -	6	63
Nays in the House - - -	35	
Mr. Sitgreaves absent (probably against the resolution) - -	1	36
Majority for the resolutions - -		27
Absent on leave - - - -	4	
Mr. Duvall, resigned - - -	1	
The Speaker - - - -	1	
Whole number of members -	105	

TUESDAY, March 8.

A motion being made and agreed to, that the unfinished business should give way to take up a resolution laid on the table some days ago, recommending that a committee be appointed to make inquiry whether the contract entered into by Government with John Cleves Symmes, in October, 1783, for a tract of land in the Northwestern Territory, be fulfilled, or whether the nature of the contract be altered by any subsequent event, and to make report thereon—the resolution was agreed to, and a committee of three members appointed.

Petitions and representations of sundry citizens and inhabitants of the State of North Carolina, whose names are thereunto subscribed, to the same effect with others from the States of Vermont, New York, Virginia, and Georgia, on the subject of the late Treaty negotiated with Great Britain, and in opposition thereto, were presented to the House and read. They were referred to the Committee of the Whole on the state of the Union.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I send herewith, for the information of Congress, the Treaty concluded between the United States and the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, *March* 8, 1796.

The said Message and Treaty were read, and ordered to lie on the table.

TREATY WITH GREAT BRITAIN.

The order of the day was then taken up, on the resolution calling for papers from the PRESIDENT relative to the late Treaty.

[The whole debate upon this subject, commencing on the 7th of March, and continuing from day to day, till the 7th of April, is given entire in preceding pages, beginning with page 426, and concluding with page 783. The debate on carrying the Treaty into effect will be found in subsequent pages, among the proceedings of the day.]

WEDNESDAY, March 9.

TREATY WITH ALGIERS.

The Treaty lately concluded between the United States and the Dey and Regency of Algiers, which was yesterday communicated by the PRESIDENT, and laid upon the table, was taken up for the purpose of committing it to the Committee of the Whole on the state of the Union, when

Mr. COOPER observed, that if the Treaty was referred to a Committee of the Whole with any other view than that of making the necessary appropriations for carrying it into effect, he should object to it, for except the Treaty was evidently unconstitutional, it was a law of the land, and that House had no right to discuss its merits, and therefore they might as well refer the Constitution to a Committee of the Whole, as such a Treaty, which did not come under Legislative control.

Mr. GILES said he should vote for the Treaty alluded to being committed to a Committee of the Whole, not for the purpose only of providing appropriations for carrying it into effect, but in order to examine whether it was a Treaty proper to be carried into effect; if not, he should vote against giving aid for the purpose. If it was committed, therefore, he trusted it would be with that view. It appeared to him as if gentlemen seemed to be aware of the embarrassments which their arguments threw them into. When they went into a Committee of the Whole, they went officially, whether they should vote for it or not. Gentlemen say, that after the PRESIDENT and Senate have ratified a Treaty, nothing remains for them to do; but they should recollect that a very essential point is yet to be attended to, viz:

nothing less than the granting of money to carry it into execution.

Mr. SEDGWICK said, that the Treaty must be committed to a Committee of the Whole, on whatsoever ground it might be taken up. Those members who thought with him that its merits were not a subject of Legislative inquiry, and those who differed from them in sentiment, must equally agree in the propriety of committing it, in order to be acted upon. He trusted the nature of the Treaty was such as not to admit of any difference of opinion on the expediency of carrying it into effect.

The Treaty was then committed to the Committee of the Whole on the state of the Union.

CONTESTED ELECTION.

Mr. SEDGWICK, one of the members from the State of Massachusetts, presented to the House certain testimony in the case of the contested election of JOSEPH BRADLEY VARNUM, returned to serve in this House, as a member for the said State; which was read, and ordered to be referred to the Committee of Elections.

Mr. VENABLE, from the Committee of Elections, to whom were referred the credentials of DAVID BARD, returned to serve in this House as a member for the State of Pennsylvania, made a report; which was read, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the resolution calling for certain papers from the PRESIDENT relative to the Treaty with Great Britain. [For proceedings on which, see *ante*.]

THURSDAY, March 10.

This day was spent in discussing the resolution calling for papers from the PRESIDENT in relation to the late Treaty, for proceedings on which see *ante*.

FRIDAY, March 11.

Mr. JEREMIAH SMITH, from the committee to whom was recommitted the bill authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned, with instructions to inquire whether any, and what, alterations ought to be made in the plans of the buildings intended for public use at the said City: and, also, to inquire into the state of the public buildings, the expenses already incurred in erecting, and the probable expenses of completing the same, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Monday next.

Mr. J. S. also reported an amendatory bill authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned; which was received, read twice, and committed to a Committee of the Whole House for Monday next.

The House then resolved itself into a Committee of the Whole on the resolution calling for papers from the PRESIDENT relative to the Treaty with Great Britain, on which it spent the remainder of the day.

MONDAY, March 14.

Mr. TRACY presented a bill authorizing the Secretary of War to place certain persons on the pension list, which was read twice, and committed to a Committee of the Whole for Monday.

Mr. LIVINGSTON presented a bill for the relief of American seamen; which was read twice, and committed.

Mr. WILLIAM SMITH, from the Committee of Ways and Means, presented a bill in addition to an act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt;" which was received, and read the first and second times, and committed to a Committee of the Whole House for Thursday next.

Mr. PARKER said he wished to lay a resolution on the table, which had in view the relief of a very deserving class of citizens, he meant such wounded soldiers in the late war as had had their claims barred by the statute of limitation. The resolution was to the following effect:

"*Resolved*, That a Committee shall be appointed to inquire if any, and if any what, relief ought to be granted to persons wounded in the late war with Great Britain, whose claims had been superseded by the act of limitation."

CHALLENGING A MEMBER.

Mr. GILES thought a challenge which had been given to the member from Georgia was a serious breach of the privileges of that House, and he trusted the House would take up the business in a proper manner. For this purpose, he moved that the gentleman be requested to draw up a statement of the affair in writing and lay it before the House.

After a number of observations from different members upon the best method of proceeding in the business, the consideration of the subject was put off till to-morrow.

Mr. BALDWIN, one of the members from Georgia, then presented to the House certain papers marked No. 1, 2, 3, 4, 5, relative to a correspondence between JAMES GUNN, one of the Senators of the United States from the said State of Georgia, and the said BALDWIN, including a challenge addressed to him by the said GUNN; which were received, read, and ordered to lie on the table.

The papers which Mr. BALDWIN laid on the table were as follow:

No. 1.

PHILADELPHIA, March 9, 1796.

SIR: My letters apprise me of a paper signed by a number of the Senators and Representatives of the Georgia Assembly, which has been forwarded to you, to be presented to Congress in case the purchasers of Georgia Western lands should offer their territory to the Government of the United States previous to the meeting of the Legislature of that State. As a member of the Senate I have a right to a perusal of any paper from the State of Georgia intended for public

use, and sir, as an individual who may be interested in its contents, I demand the original paper, or a certified copy, with the names of all the signers.

I am, sir, your obedient servant,

J. GUNN.

Hon. Mr. Baldwin.

No. 2.

Philadelphia, March 10, 1796.

Sir: Your extraordinary note of yesterday is just put into my hands. You speak of a "paper to be presented to Congress on a certain contingency," and of your right "to a perusal of any paper from the State of Georgia intended for public use." It is very probable I may, at some times, have papers from the State of Georgia intended for public use, which may have been confided to my individual discretion. Such a paper as you describe I have not yet seen. Had you approached me in the forms of common civility, there is no letter in my possession so secret, that I should not willingly have submitted it to your perusal. I have none that I think proper to surrender to your demand.

I am, sir, your obedient servant,

ABRAHAM BALDWIN.

General Gunn.

No. 3.

March 11, 1796.

Sir: I have received your note of the 10th instant. Had you been governed by motives of common civility or decency, you would not have concealed from my view a paper more than four weeks in your possession, which was to be used whenever an occasion offered to do me an injury. I shall not repeat my call for that paper, but view the concealer of the *weapon of an assassin* an associate in the guilt. I therefore demand satisfaction, and ask you, sir, to have the goodness to inform my friend, General Frelinghuysen, when and where I may meet you.

I am, sir, your obedient servant,

J. GUNN.

Hon. Mr. Baldwin.

No. 4.

Friday, March 11, 1796.

Sir: Will you be so obliging as to communicate to me in writing your recollection of my offer to submit to your perusal all the letters of myself and colleague, how you expressed it to General Gunn, and his reply. I am unwilling to give you this trouble, but it seems to be necessary to enable me to determine what course I shall pursue on the subject of the note which you handed me this morning.

With great respect, I am, sir, your obedient servant,

ABRAHAM BALDWIN.

General Frelinghuysen.

No. 5.

Philadelphia, March 12, 1796.

Sir: I received your note too late last evening to answer it. We had three conversations yesterday on the subject of the controversy between you and General Gunn. In the first, you offered to submit to my perusal all the letters of yourself and colleague, without any condition, and I so expressed it to General Gunn, who appeared satisfied with the proposal. In the second, I requested you to appoint an hour for the purpose; you then annexed this condition, that after perusing the letters, I should not be at liberty to communicate their contents to General Gunn, unless he, in my judgment, was entitled to the letters upon demand.

I mentioned this to General Gunn, in your very words, and at the same time told him, that I did not wish to be a judge in the matter. In our third conversation, I informed you that General Gunn was dissatisfied with your last proposal; that he conceived himself justly entitled to see the letters, or to know their contents—and I handed you the *note*. I do not think it necessary to detail any other part of our conversation.

I am, sir, &c.

F. FRELINGHUYSEN.

Mr. A. Baldwin.

The House then resolved itself into a Committee of the Whole on the resolution relative to the calling for certain papers from the President relative to the British Treaty, and spent the remainder of the day therein.

Tuesday, March 15.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and of the House of Representatives:

By the ninth section of the act, entitled "An act to provide a Naval Armament," it is enacted, "That, if a peace should take place between the United States and the Regency of Algiers, that no further proceedings be had under this act."

The peace which is here contemplated having taken place, it is incumbent upon the Executive to suspend all orders respecting the building of the frigates, procuring materials for them, or preparing materials already obtained; which may be done without intrenching upon contracts or agreements made and entered into before this event.

But, inasmuch as the loss which the public would incur might be considerable from dissipation of workmen, from certain works or operations being suddenly dropped or left unfinished, and from the derangement in the whole system, consequent upon an immediate suspension of all proceedings under it, I have therefore thought advisable, before taking such a step, to submit the subject to the Senate and House of Representatives, that such measures may be adopted in the premises as may best comport with the public interest.

G. WASHINGTON.

United States, *March* 15, 1796.

The said Message was read, and ordered to be referred to the Committee of the Whole House to whom is committed the report of the committee appointed to inquire into the actual state of the naval equipment ordered by a former law of the United States.

IMPRESSMENT OF SEAMEN.

Mr. S. Smith presented the protest of John Green, captain of a brig trading from Baltimore to the West Indies, who deposes that when he was with his vessel at Cape Nichola Mole, he was on board a schooner belonging to one of the Eastern States of America, and saw two of the crew, natives of America, forcibly taken and impressed from on board the said schooner, by the officers of

the British man-of-war called the Severn, then lying there, one of whom was afterwards returned on account of his inability to do duty. The captain also deposes that the commander of the said ship of war said that he was authorized by the late Treaty to take all seamen who were not possessed of protections from the United States.

This protest, after a number of observations from different members on the propriety of referring it to the committee to whom was referred the business of American seamen, or whether it should be immediately referred to the Secretary of State, in order that the President might make suitable representations to the British Government, was at length referred to the committee above named.

The Committee of Elections reported a wish for instructions relative to the receiving of evidence with respect to the election of Mr. Varnum, of the State of Massachusetts. They further report that they had examined the petitions against the election of Mr. Swanwick, for the State of Pennsylvania, and found that the petitioners had entirely failed in supporting their allegations, and that consequently Mr. Swanwick was duly entitled to his seat. Laid on the table.

BREACH OF PRIVILEGE.

Letters from Gen. Gunn and Gen. Frelinghuysen, of the Senate, to the Speaker of the House, were read, and referred to the Committee of Privileges. They are as follows:

Philadelphia, March 15, 1796.

Sir; It is with real concern that I have learned that a correspondence between Mr. Baldwin, of the House of Representatives, and myself, has been represented as an intended breach of the privileges of that House. I feel myself required, by the respect I owe to the House and in justice to myself, to declare, without the slightest delay, that the correspondence alluded to originated in considerations strictly personal, and which had no reference to any question before Congress. I will add, sir, that nothing was more distant from my intentions than to have taken a step on this occasion which could be construed into a disrespect of the House—much less into a breach of any of their privileges.

Though this correspondence has been viewed by me as incapable of affecting the privileges of the House of Representatives, yet, as doubts may be entertained on this point, I pledge myself to respect, on this occasion, those privileges in their broadest interpretation; and I do assure you, sir, that, though the place in which Mr. Baldwin has thought proper to disclose this transaction is quite unexpected, it shall be to him an inviolable sanctuary.

With great respect, I have the honor to be, sir, your obedient servant,

J. GUNN.

Hon. Jonathan Dayton, *Speaker to the House of Representatives.*

Philadelphia, March 15, 1796.

Sir: It has been hinted to me that insinuations are made, relative to my conduct in the unpleasant controversy between Gen. Gunn and Mr. Baldwin, injurious to my character. It is said that by my frequent calls upon Mr. Baldwin, I prevented him from taking a part in the debates of last Friday. I will state, sir, to you facts which Mr. Baldwin will not deny. When I first called upon him, I expressly asked him whether he was at leisure? He said he was at leisure, and very willingly engaged in a conversation of about five minutes; at the close of which I asked him whether I should call on him again while at the House, or whether he would be engaged? He desired me to call on him again at the House. At the close of our second interview I again asked him the same questions, and he made the same reply. To the best of my memory the three conversations did not take up ten minutes, during which time Mr. Giles was speaking.

I will add, sir, that if Mr. Baldwin will have the candor to relate to the honorable House of Representatives the whole of my conduct on this occasion, I am confident he will fully convince them that I had not the most distant idea either of infringing their privileges or of hurting his feelings, but that the amicable settlement of the controversy was the sole object of my wishes.

I am, sir, with great esteem, your most obedient servant,

FREDERICK FRELINGHUYSEN.

The Hon. the Speaker *of the House of Representatives of the United States.*

Mr. Baldwin said, that when he was called out of the House on the occasion which he had before stated, his surprise to find Mr. Frelinghuysen interested in the subject, induced him immediately, on his being made acquainted with his name, to say, that though his person was not known to him, he had long had much respect for his name; that he begged him to be assured he had as much confidence in him as Mr. Gunn could have; that inasmuch as he had thought proper to interest himself on the occasion, he had without doubt made himself acquainted with the subject, and must have found some grounds to believe that he had attempted to suppress or withhold some Senatorial paper. That as he could not suffer such imputation to rest upon him for a moment, he was willing to submit to his inspection the letters and papers of his colleague, as had been before stated, that he might be at once satisfied. Mr. B. said further, that he had not intended to insinuate, in anything he had said to the House, that Mr. Frelinghuysen unnecessarily consumed time on the occasion; that what he had said was merely to give a statement of the fact; that as to the question of Mr. Frelinghuysen, whether it was not an interruption to him, and whether he should call on him again at the House, it is very probable it might have been asked and repeated, but the impression of the importance of being immediately relieved from the imputation of being guilty of suppressing official papers, so absorbed his attention, that if the questions were asked, he must say with truth, he did not recollect them. He begged leave again to assure the House that he had never intended to insinuate that Mr. Frelinghuysen had been guilty of rudeness in his manner, or unnecessarily consuming time.

NAVAL ARMAMENT.

Mr. W. Smith wished the unfinished business might give way, to take up the report of the committee on the Naval Armament, in consequence of the Message just received from the President on that subject; as it was very material that immediate attention should be given to the subject. He

thought some sort of compromise might be entered into, without taking up much time.

Mr. Gallatin said, that as the Message was only just received from the President, they could not with propriety go into the business immediately. He thought with the gentleman who proposed the measure that a compromise might be agreed upon, and for that purpose he had drawn up a resolution. But as the subject of a compromise was new, and had not before been mentioned, he thought it best not to go into it suddenly. Nor did he think it right that the question which had for many days engaged their attention, and which must be drawing towards a close, should be postponed. A day or two could not be of great consequence to the proposed business.

Mr. S. Smith wished the resolution mentioned by Mr. Gallatin might be laid on the table; which was agreed to, and Mr. W. Smith withdrew his motion. The resolution was to the following effect:

"*Resolved*, That the President be authorized to suspend the proceedings under the act passed March 27, 1794, for providing a Naval Armament, until the —— day of ——, anything to the contrary notwithstanding."

The House then went into Committee of the Whole on the resolution calling for papers, &c., and spent the day therein.

Wednesday, March 16.

The order of the day on the resolution calling for certain papers from the President, on the subject of the late Treaty with Great Britain, was taken up in Committee of the Whole; but no question being taken, the Committee had leave to sit again.

Thursday, March 17.

A report of the Committee of Privileges, to whom was referred the papers laid upon the table by Mr. Baldwin, with respect to a challenge he had received from Mr. Gunn, of the Senate, together with a letter from that gentleman and another from Mr. Frelinghuysen to the Speaker, in exculpation of their conduct; and also a letter from Mr. Frelinghuysen to the committee, were read. The report states that the privileges of the House had been infringed, but give it as their opinion that the letters which had been sent to the Speaker and to the committee should be received as sufficient apologies.

The report was ordered to lie.

ADDITIONAL REVENUE.

A report from the Committee of Ways and Means, respecting the measures necessary to be taken for raising additional revenue for public exigencies, was twice read, ordered to be printed, and committed to a Committee of the Whole on Monday se'nnight. The report is as follows:

The Committee of Ways and Means, having taken into their consideration the state of the receipts and expenditures of the United States, and the existing and approaching exigencies for which provision will be requisite, make the following report:

1st. That, in their opinion, the proceeds of the duties on imports and tonnage and of the internal revenues, which will be received in the Treasury during the year 1796, will be adequate to discharge the current expenditures of the said year, upon the scale of expense stated in the estimates transmitted with the report of the Secretary of the Treasury, dated the 14th of December, 1795, including the payment of the interest on the Public Debt, and the reimbursement of the annuity due on the domestic stock, bearing a present interest of six per cent. But that they will be insufficient to repay either the anticipations heretofore obtained on the credit of the revenue, already accrued from imports and tonnage, but remaining uncollected, amounting to three millions eight hundred thousand dollars, or the instalments of the Foreign Debt and Domestic Loans, which fall due during the present year, amounting to one million two hundred thousand dollars; and that there is, therefore, a sum of five millions of dollars to be provided for, either by continuing the present anticipations, or by obtaining loans upon other terms.

2d. That, in like manner, the probable receipts into the Treasury for the years 1797, 1798, 1799, and 1800, will, respectively, defray the current expenditures of the same years, supposing the public expenses not to be increased; but will prove insufficient to discharge the instalments of Foreign Debt or of Domestic Loans which will fall due during those years.

3d. That, from and after the year 1801, the current expenditure will be increased by a sum of $1,146,370 34, which will be required to discharge the annuity that will then become due and payable on the deferred stock.

4th. That, exclusive of the anticipations mentioned in the first paragraph of this report, the instalments of the Domestic Loans, which will fall due after the present year, amount to $1,600,000; the whole of which will fall due before and during the year 1801.

5th. That the whole of the Foreign Debt, exclusive of the instalment which will fall due in the current year, amounts to $11,400,000, the whole of which will fall due before and during the year 1809; and that there is but little expectation that the holders of said debt will convert the same into Domestic Debt upon any reasonable terms, or that, in the present circumstances of Europe, the instalments that will become due within a short period can be discharged by obtaining a re-loan of the same, upon similar terms with those on which the original loans were obtained.

6th. That no means are provided on the present scale of revenue and expenditures, either to discharge the Domestic Loans and instalments of the Foreign Debt, above mentioned, or to pay the additional expenditure of $1,146,370 34, arising from and after the year 1800.

7th. That, in order to discharge the anticipations, Domestic Loans, and instalments of Foreign Debt, it will be necessary, either to provide further revenues, or to adopt such measures as will vest in the proper officers an efficient power to obtain loans, on such terms as they can now be obtained; but that, so far as relates to the additional expenditure of $1,146,370 34, accruing after the year 1800, an adequate additional revenue must be provided after that year.

8th. That if an additional revenue of $1,200,000 be raised, from and after the present year, it will not only be sufficient to discharge the annuity which will become due and payable after the year 1800, but will also reimburse $4,800,000, in part, of the anticipations, Domestic Loans, and Foreign Debt, before mentioned, antecedent to the year 1801, and the whole amount of the said loans and anticipations before the year 1807; leaving then a redeemed annuity, which is calculated at $396,000, to be applied to the reimbursement of the Foreign Debt.

9th. That if an additional revenue of $2,000,000, instead of $1,200,000, be raised, for a term of twelve years, it will, within that period, discharge, besides the accruing annuity arising from the Deferred Debt and the Domestic Loans and anticipations aforesaid, the whole of the Foreign Debt, and the new Domestic Stock, bearing an interest of 5½ and 4½ per centum; and that, at the end of the said period of twelve years, an annuity will be redeemed, which is calculated at $1,113,930; which, with the revenues now established, will be sufficient to meet all demands against the Government, upon the principles before assumed.

The committee having contemplated the various resources of the United States, which may be resorted to in the present exigency, and having, in the first instance, turned their attention to the subject of indirect taxes, were not able to agree upon objects suitable for that kind of taxation from which an adequate revenue could be obtained, without great inconvenience and embarrassment. On recurring to objects of direct taxation, they are of opinion that those are alone competent to yield such a revenue as appears necessary; the subject being, however, of a new impression, and presenting various difficulties, which, although of a nature to be overcome, yet are such as prevent the completion of a proper system during the present session, the committee have concluded to go no further, at this time, than to report a resolution preparatory to that object.

The committee are, moreover, of opinion, that some further revenues, in addition to the improvements of the present internal revenues already and hereinafter proposed, may during this session be obtained, from an extension of the system of indirect taxation; and, therefore, submit certain resolutions to that effect.

But, inasmuch as the actual receipts into the Treasury will be inadequate to discharge the current expenses of the Government, and the loans had of the Bank of the United States, which fall due in the course of the present year, and as future loans and anticipations may become necessary, the committee are of opinion that a Loan, to the amount of five millions of dollars, ought to be opened, for the purpose of discharging the said debt due to the Bank of the United States.

As the result of their deliberations on the important subjects referred to their consideration, the committee, therefore, recommend the following resolutions:

1st. *Resolved*, That the Secretary of the Treasury be directed to prepare and report to the House of Representatives, at the next session, a plan for raising the sum of $2,000,000, by apportionment among the several States, agreeably to the rule prescribed by the Constitution; adapting the same to such objects of direct taxation and such modes of collection as may appear, by the laws and practice of the States respectively, to be most eligible in each.

2d. *Resolved*, That a duty of two per centum *ad valorem* ought to be imposed on all testamentary dispositions, descents, and successions to the estates of intestates, excepting those to parents, husbands, wives, or lineal descendants.

3d. *Resolved*, That the following duties ought to be imposed by means of stamps, viz:

On letters patent	$2 00
Exemplification thereof	$1 00
Awards	20
Bottomry and respondentia bonds	50
Indentures of apprenticeship	20
Certificates of debentures for drawbacks	20
Bills of lading coastwise, except those from one district to another, within the same State	10
Ditto for bills of lading	40
Bonds, bills, or notes, for the security of money, according to the following scale:	
Above fifty, and not exceeding one hundred dollars	10
Above one hundred, and not exceeding five hundred dollars	20
Above five hundred, and not exceeding one thousand dollars	30
Above one thousand dollars	50
Provided, That if any bonds or notes shall be payable at or within sixty days, such bonds or notes shall be subject to only one-fourth part of the duty aforesaid.	
Notarial acts	25
Letters of attorney (except for invalid pensions)	25
On policies of insurance, viz:	
From one district to another in the United States	10
To and from the United States to any foreign country, for any sum more than five hundred dollars, and less than one thousand dollars	25
For one thousand, and less than two thousand dollars	30
For every sum of two thousand dollars, and above	50
For all deeds for the conveyance of houses or lands	25
For every other deed and specialty not enumerated	10

4th. *Resolved*, That there ought to be an addition of fifty per cent. to the duties now payable by law on carriages for the conveyance of persons.

5th. *Resolved*, That the sum of five millions of dollars ought to be obtained, to discharge the debt due to Bank of the United States, by creating a stock bearing an interest of six per cent., and irredeemable for —— years; the redemption thereof to commence thereafter, and to be payable in —— yearly instalments.

NAVAL ARMAMENT.

Mr. Williams said, he found the report of the Secretary of War, on the subject of the frigates, was not so satisfactory in some particulars as he wished; and therefore, in order to obtain more ample information, he moved that a resolution to the following effect might be laid on the table—which was agreed to:

"*Resolved*, That the Secretary of the Department of War be directed to lay before this House a particular statement of the sums of money expended in compensating the workmen and laborers employed upon the frigates, and also an account of the emoluments received by agents in that employment."

The House then resolved itself into a Committee of the Whole on the resolution calling for papers from the President, in which it spent the remainder of the day.

Friday, March 18.

A bill from the Senate for the relief of certain clerks who were in the service of Government

during the time of the yellow fever, and the widows of such as died during that calamity, was read a first and second time, and referred to the Committee of Claims.

The bill for the relief of invalid pensioners was read a first and second time, and ordered to be engrossed for a third reading on Monday.

The report of the Committee of Elections on the petitions against the elections of David Bard and John Swanwick, which were in favor of the sitting members, was agreed to.

BREACH OF PRIVILEGE.

The report of the Committee of Privileges in the case of James Gunn and F. Frelinghuysen, was taken up. The report is as follows:

"The Committee of Privileges, to whom were referred two letters, one from James Gunn, a Senator of the United States for the State of Georgia, the other from Frederick Frelinghuysen, a Senator of the United States for New Jersey—together with certain papers presented to the House by Mr. Baldwin, a member for the State of Georgia—report:

"That they have, according to order, taken into consideration the subject referred to them. That, after their appointment, they received a letter from Frederick Frelinghuysen, a Senator for the State of New Jersey, which is herewith reported. That it appears to the committee, from a view of all the circumstances attending the transaction referred to them, that the same was a breach of the privileges of this House, on the part of James Gunn, a Senator from the State of Georgia, and Frederick Frelinghuysen, a Senator from the State of New Jersey. That the several letters addressed to the House by the said James Gunn and the said Frederick Frelinghuysen, together with that addressed by the latter to the committee, and herewith reported, contain apologies and acknowledgments, on the occasion, which ought to be admitted as satisfactory to the House. And, therefore, that any further proceedings thereon are unnecessary.

A letter from Frederick Frelinghuysen, a Senator for the United States from the State of New Jersey, to the Chairman of the Committee of Privileges.

Philadelphia, March 17, 1796.

Sir: Understanding that the application of Mr. Baldwin, with the papers thereto relating, has been referred to the Committee of Privileges, of which you are chairman, and being desirous that there should be no room for doubt as to the motives of my conduct in this transaction, I take the liberty of stating that the Letters No. 1 and 2 had passed between Gen. Gunn and Mr. Baldwin without my privity, and previous to my knowledge of any controversy between them; that I have no interest of any kind in this dispute; and that, on the morning of Friday last, I first took a part in this unpleasant business, from a pure desire to effect a reconciliation between the parties.

I further declare, sir, that I do highly respect the privileges of the House of Representatives; that I am incapable of intentionally violating them in the smallest degree; and that I do most sincerely regret that any part of my conduct may, in this respect, admit of an unfavorable construction. I am sir, your most obedient servant, FRED. FRELINGHYSEN.

To the Hon. Mr. Madison,
Chairman of the Committee of Privileges of the House of Representatives.

The report being read, together with Mr. Frelinghuysen's letter—

Mr. Baldwin said, that, as the direction which this subject had taken had been of his own choosing, and as he did not allow himself, in the place where he then stood, to do anything hastily, or, as he trusted, through the influence of any improper passion, his respect for the House obliged him to state to them the grounds of his conduct. The reasons of his adopting the course which he had pursued, were, that he was on this occasion, as he usually was on all occasions of his life, where he considered himself at all exposed to be misguided by his own impressions, guided by the advice of those who, from their character and their relation to him, could have no inducement to mislead him. It had been among the first maxims of his life, whenever any thing occurred, which, upon the principles of our nature might be likely to disturb the true and proper exercise of those faculties which ought always to guide us, or at all to interrupt the medium through which objects presented themselves to us, in such cases not to trust his own optics, or rely on his own views, but to repose himself entirely on the judgments of those in whom he had full confidence, and to consider himself merely executive, so far as he was master of his own advice.

He also observed, that no person could have read the letters which had been before the House, and before the public, without noticing something very peculiar and distinguishing in the present case. Does it not appear that the challenge from Mr. Gunn was to enforce a demand of private letters and papers; and that, after it had been so liberally proposed to submit them to the inspection of his friend, to take such as he thought he had a right to? In these chivalry cases, he said, there is almost always complaint of some personal indecorum or disrespect. In such a case, a person is unwilling to retire from the accusation, and take public measures on the occasion, as it would leave his own conduct undefended, and there might rest some imputation on his honor, or his veracity, or his good manners, or whatever was called in question. In the present case, there had not been even any complaint of this kind that ever came to his knowledge. It seemed to be as free from these objections as could well be conceived, and seemed to be pointed out by the occasion as peculiarly proper to be made a public use of.

The only point in this case was, whether it is ever advisable that a public use of any kind should ever be made of such transactions, or whether such things should be suffered to take entirely their own course in this country, and the provisions of our Government and the regulations of our societies so strongly enforced and repeated by all who regard the order and happiness of the country, and which have been attended with such surprising success in many parts of the country as to have almost complete effect; for where our society is mostly American, this practice has long since ceased to exist at all. Whether these regulations should all be regarded as mere forms, never to be applied to use, or whether an instance ever can present

itself, in which it would be proper to apply them to the uses for which they were intended. If it were allowed that there ever might be a possible case, he believed it would not be doubted that this was one—it is of so new and strange an extent merely to enforce the demand of confidential letters.

As to the State from which he came, he must at any rate declare, that he did not think the practice required any new extent, or to be reinforced by any aid to be derived from the little influence which might be supposed to attend his example.

He said, it is also peculiarly timed. It happens at a time when much has been said on the subject of disorganization, and the apprehensions of the country have been strongly addressed on that subject; that there is great danger of our Government's being too shackling; that it is the extreme from which we are to expect all our wo; that our Government will not be sufficient to give effect to the great principles of social order.

It is an instance also which occurs among public men, and among those from whom these things have been so often feared, and therefore will be more likely to be operative in its effects. They, from the eminence of their situation, have a better chance to descry those evils at a distance which they have been so long foreboding, and ought to be the first to control them, particularly among themselves. This treatment of them will probably be more regarded by others as an example. The control, when it operates upon Senators, it is hoped, will be effectual upon others.

He had for three reasons pretty advisedly, and he believed determinately, chosen his course to pursue on this occasion. He observed again, the case was so distinguished he should not forbear to make what he thought the best and most extensive use of it. This part of it had succeeded to his utmost wish. He thought the report of the committee was proper, and was glad to be informed that it was unanimous: it was all that could be done or expected on the subject in this place. This House is certainly not a place for punishment; and though the testimony of their disapprobation comes with great weight, yet confession of error with promise of amendment, and on some occasions a public reprimand, makes atonement for everything. He was sure, in this case, the latter would be improper: he certainly never desired or expected it. So far as it concerned the relation to this House, it has done all that he could have wished: he felt perfectly satisfied.

The other relation which it regards, (he meant its relation to society,) is not less important, and should not less claim his attention.

It had been, he said, suggested to him, and it appeared probable to himself, that the personal risks to which he exposed himself, in the manner in which he had chosen to treat the subject, were greater than he could have encountered on any alternative. He could only say, that if he knew himself, such considerations would always have as little effect upon him as upon any man. He did not believe it was possible for an address to be made to his fears which should prevent his doing what he thought to be his duty. Instructed and prompted, he said, as he was at present, nothing but the loss of his life or the interruption of his natural powers, should prevent or delay him, on this occasion, from giving full effect to all the regulations on this subject which our society has seen proper to appoint.

The report was then agreed to.

THE SON OF LAFAYETTE.

Mr. Livingston called up the resolution, laid upon the table some days ago, respecting the son of Major General Lafayette; which, after a few observations, and an alteration in the form of it, was agreed to, as follows:

"Information having been given to this House that a son of General Lafayette is now within the United States—

"*Resolved*, That a committee be appointed to inquire into the truth of the said information, and report thereon; and what measures it will be proper to take, if the same be true, to evince the grateful sense entertained by this country for the services of his father."

Ordered, That Mr. Livingston, Mr. Sherburne, and Mr. Murray, be appointed a committee, pursuant to the said resolution.

The House then resolved itself into a Committee of the Whole, on the resolution calling for certain papers from the President, which occupied it the remainder of the day, when the House adjourned till Monday.

Monday, March 21.

Thomas Sprigg, from Maryland, appeared, was qualified, and took his seat.

The petition of the Inspectors of Philadelphia, who were in the service of Government during the yellow fever, and the widows of those who fell sacrifices to that disease, praying for a compensation similar to that asked by the Clerks in the public offices during that time, was read and referred to the Committee of Claims.

Mr. Swanwick informed the House that he had a letter in his hand which had been received from an American sailor, named Andrew Donaldson, by his brother William in this city, who had been pressed on board a man of war in England. As there was a committee appointed to adopt measures for the relief of that ill-treated class of their fellow-citizens, he should move that that letter should be referred to that committee, as it would not only be an additional proof of the distresses experienced by their seamen, but also show the inadequacy of the Consuls at present in that country to the assistance necessary to secure their seamen against British cruelty. It was referred accordingly.

A bill authorizing the Secretary of War to place certain persons therein named on the pension list, was read a third time and passed.

A bill for the relief of Henry Messoniere was read a first and second time, and ordered to be engrossed for a third reading to-morrow.

A bill for continuing in force an act for ascertaining the fees in Admiralty proceedings in the

District Courts of the United States, and for other purposes, was read a second time, and ordered to be engrossed for a third reading to-morrow.

Mr. Sedgwick wished the unfinished business to be put off, to take up the report of the Committee on Elections on the election of Mr. Varnum; but, on its being objected to, it was suggested that Mr. S. would do well to inform the House of the substance of the resolution which he intended to bring forward, which he accordingly explained; and it was, that the report should be recommitted, and that the committee should ascertain a proper mode of taking evidence in the case.

The order of the day, on the resolution calling for papers from the President, was again taken up, and, after making some progress, the Committee had leave to sit again.

Mr. Livingston wished the House then to enter upon the bill for the relief of American seamen, as not likely to take up much time, and as calling for immediate attention; but the lateness of the hour was urged as an objection, and that it was probable considerable discussion would take place upon different clauses of the bill.

Tuesday, March 22.

The memorial of Jacob Broome, of Wilmington, praying that certain duties may be taken off cotton manufactured in this country, and that an additional duty may be laid on imported cotton; and the petition of the Clerks in the Treasury Department who were in the service of Government during the yellow fever, for recompense for their services, were severally read, and referred, respectively to the Committee of Claims and to the Committee on Commerce and Manufactures.

A bill for the relief of Henry Messoniere, and a bill for continuing in force a bill for ascertaining the fees in Admiralty process in the District Court, and for other purposes, were read a third time and passed.

The Committee of Revisal appointed to inquire into the number of Clerks employed in the different public offices, reported the number employed in each, their services, and the sums paid to each; and that, after due inquiry, they found an additional number wanted, in order to facilitate public business.

Mr. New, Chairman of the committee appointed to prepare a bill for laying certain duties on carriages for conveying persons, and for repealing a former act for that purpose, presented the bill; which was read twice and ordered to be committed to a Committee of the Whole on Monday next.

The House then took up the order of the day on the resolution for calling for papers from the President relative to the British Treaty, on which they spent the remainder of the day.

Wednesday, March 23.

Mr. Goodhue, from the Committee of Commerce and Manufactures, presented, according to order, a bill authorizing the erection of a lighthouse on Baker's Island, in the State of Massachusetts; which was read the first and second time, and committed to a Committee of the Whole House to-morrow.

Mr. Samuel Smith, from the Committee appointed, presented, according to order, a bill declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island, and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island, and Providence Plantations; which was read the first and second time, and ordered to be engrossed and read the third time to-morrow.

Mr. Goodhue, from the Committee of Commerce and Manufactures, presented, according to order, a bill for the relief of George Knowel Jackson; which was read the first and second times, and ordered to be engrossed, and read the third time to-morrow.

PAY OF THE ARMY.

Mr. Dearborn said, there was reason to believe that the Army had not been paid according to the act which had been passed that they should not be more than two months in arrears. There was ground to believe, he said, that they had been much longer in arrear; he wished, therefore, an inquiry might be made into the reason of the neglect, in order to remedy the evil. He therefore submitted a resolution to this effect, viz:

"*Resolved*, That a committee be appointed to inquire whether that part of the act, entitled 'An act, in addition to an act making further and more effectual provision for the protection of the frontiers of the United States,' which requires that the Army be paid, in future, in such manner that the arrears shall at no time exceed two months, has been complied with; and, if not, from what cause the failure has arisen."

The resolution was agreed to, and—

Ordered, That Mr. Dearborn, Mr. Samuel Smith, and Mr. Gilman, be appointed a committee, pursuant to the said resolution.

The House then took up the resolution calling upon the President for papers in relation to the late Treaty, and spent the day therein.

Thursday, March 24.

The engrossed bill, declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island, and Providence Plantations, was read the third time and passed; as was also the bill for the relief of George Knowel Jackson.

A message was received from the Senate, returning the bill for ascertaining fees in Admiralty proceedings, with amendments, in which it desired the concurrence of the House.

The House then took up the resolution calling upon the President for papers in relation to the Treaty with Great Britain, when the question

was taken upon the resolution and carried—yeas 62, nays 37; and a committee was accordingly appointed to wait upon the President therewith. [For the entire debate upon this subject see *ante*, from page 426 to page 783.]

Mr. Harper laid on the table a resolution to the following effect:

"*Resolved*, That provision ought to be made by this House for carrying into effect the Treaties lately concluded between the United States and the Indian tribes, with the Algerines, and with Great Britain."

Thursday, March 25.

Mr. Livingston informed the House that the committee appointed to wait upon the President, with the resolution passed yesterday, requesting certain papers relative to the Treaty lately concluded with Great Britain, had, agreeably to their appointment, waited upon the President therewith, and received for answer, "that he would take the request of the House into consideration."

A bill making certain provisions respecting the Circuit Courts of the District of North Carolina, originating in the Senate, was twice read, went though the Committee of the Whole, and the House, and was then read a third time.

The amendments made by the Senate to a bill for continuing in force an act to ascertain the fees in District Courts in Admiralty proceedings, were read and agreed to.

The report of the committee to whom it had been referred to inquire whether any, and what, alterations ought to be made in the present Military Establishment, was read, which recommended that the present Military Establishment ought not to exceed 3,000 men. The report was read a second time, and ordered to be committed to a Committee of the Whole on Monday.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and

of the House of Representatives:

I send herewith, for your information, the translation of a Letter from the Minister Plenipotentiary of the French Republic to the Secretary of State, announcing the peace made by the Republic with the Kings of Prussia and Spain, the Grand Duke of Tuscany, and the Landgrave of Hesse Cassel; and that the republican Constitution, decreed by the National Convention, had been accepted by the people of France, and was in operation. I also send you a copy of the answer given, by my direction, to this communication from the French Minister. My sentiments, therein expressed, I am persuaded will harmonize with yours, and with those of all my fellow-citizens.

G. WASHINGTON.

United States, *March* 25, 1796.

The Message and Letter were read, and ordered to lie on the table.

The House then went into a Committee of the Whole, on the report of the Committee of Elections on the petitions of certain citizens of the second district in the State of Massachusetts, against the election of Mr. Varnum. After considerable debate, the Committee rose, and had leave to sit again.

Monday, March 28.

A letter to the Speaker from Mr. Gabriel Duvall, one of the members for the State of Maryland, was read, by which he resigns his seat in the House of Representatives, in consequence of his being appointed a Judge of the Supreme Court of that State.

A bill from the Senate, entitled "An act supplementary to an act to provide a Naval Armament," was read twice, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. W. Smith, Chairman of the Committee to whom was referred the Land Office bill, reported a new bill, which was twice read, and ordered to be committed to a Committee of the Whole on Wednesday.

AMERICAN SEAMEN.

The bill for the relief and protection of American seamen was read a third time, and the blanks filled up; the one allowing the President to receive a certain sum annually, for the purpose of paying the agents, &c., was filled up with fifteen thousand dollars; that for the price which sailors are to pay for certificates with twenty-five cents; that for a penalty on sailors buying or selling certificates with fifty dollars; and that for a security to be given by masters of vessels with four hundred dollars.

When the motion was about to be put on the passing of the bill, Mr. Livingston said he hoped the bill would pass unanimously; if not, he should wish to have the yeas and nays taken upon it. But the Speaker informed Mr. Livingston that no condition could be made on the subject; he made the motion which was carried.

Mr. Coit rose and said he was against the passing of the bill. The bill, he observed, had been introduced and carried thus far with such a flame of patriotism, that he felt some reluctance at expressing an opinion against it; but being persuaded of its impropriety, he would not give a silent vote upon it, even though he should be alone in his opposition. There could be no doubt that American seamen had been impressed and very grossly abused. Every member in that House, he doubted not, was disposed to adopt measures for their relief; they differed only as to the means of accomplishing the object. It appeared to him that the first part of the bill which directed that certain agents should be appointed was extremely improper. The President was better capable of judging than the House could be of the propriety of sending agents, and he had ample powers for the purpose without any Legislative interference, unless as to the expense. If the President, indeed, was inattentive to his duty, there might possibly be a propriety in stimulating him to it, but no gentleman accused him. Conceiving, therefore, that it was an improper interference in that House to direct the President what he should do in that respect, he should oppose the measure;

he thought nothing farther was necessary to be done by them than to appropriate a sum of money for defraying the expense. So much for the first part of the bill; on the latter, he objected to the manner of obtaining evidence of who were American citizens. He thought the proposed plan too loose. Difficulties had presented in contemplating the subject in the Legislature before, but on the one hand the proof of citizenship should be rendered so strict as to make it hard to obtain, and on the other so loose that it would not be expected that it would be regarded; he did not know that the difficulty could be removed without a Convention between the two nations for the purpose. The evidence required by the present bill was of several kinds; it might be reduced to one. A sailor must go with one credible witness before any Justice of Peace on the Continent, and swear that he is a citizen; that he was born in America, or that he resided there in the year 1783, and the evidence is complete. This he thought too broad a mode, and liable to abuse; foreigners coming but yesterday into the country might take advantage of it. What is to be the effect of these certificates? The naval officer is to enter the persons who receive them in a book as citizens of the United States, of which their certificates are to be full proof. He believed these certificates would have little effect to secure against foreign impressment; yet, apprehending they would have as much respect paid to them there as at home, he thought we could have little cause to complain about it, and who would say that these certificates would be deemed complete evidence of citizenship here? if there were such evidence this bill would supersede all other regulations with respect to naturalization.

Mr. Livingston said the objections which were now urged had been made in a Committee of the Whole on this subject. They were not then thought to have sufficient weight; nor did he think they would have greater effect now than they had then. With respect to the first objection, that the business of creating offices to be filled by the President for carrying into effect this bill, was an encroachment upon the Executive department, as all relations with foreign States must be managed by the President; and that, therefore, the present bill would be a kind of reproach upon the President. A slight recurrence to the Constitution would convince gentlemen that the President had no such power. He read the clause in the Constitution, wherein it is stated that the President shall appoint Ambassadors, other public Ministers, and Consuls, &c., and insisted that the agents proposed to be employed under this act did not come within the description of officers above enumerated; and, if not, the President had no right to appoint such until authorized by law to do so. As to the proceeding being a reproach of the Executive, he did not think it necessary to go into that inquiry, it would have no tendency to harmonize the different branches of Government; but this he knew, that the most violent and oppressive abuses existed. If an investigation might raise animosities, let them avoid it. They knew it was in their power to remedy the evil, and should they not do it, because it might throw an oblique censure on the President? Mr. L. said the fact proved that the President understood the Constitution as he did, for otherwise their sailors would ere now have been relieved; but he waited for the instruction of that House in the business. With respect to the objection against the mode of taking evidence, that it is too loose, and that respect will not be paid to it by foreign nations, and to the question could they blame them if they disregarded it? He was sorry to hear such a question put in that House. Yes, exclaimed Mr. L., they could blame them; they ought to blame them, and remonstrate with them, whenever they took their men. The gentleman's reasoning seemed founded on a right in foreign nations to seize their men, and to take them on board their ships, whilst every such act was founded on the grossest violation of the rights of nations. He had, on a former occasion, shown that every man sailing under the American flag, whether he was a citizen or otherwise, was entitled to their protection; he still maintained the same opinion, and could demonstrate it to the satisfaction of every gentleman in that House; the vessels of the United States, he said, was as much the Territory of the United States, as the ground of the Territory itself. Where, then, was the right to plunder their ships? The mode of taking testimony, he thought, had been better guarded than they had a right to make it. They were not arguing whether the British had a right to take their men; but they were pointing out a method of designating American seamen. We are weary, said he, of their oppressions; and when they see us determined to defend and protect our seamen, they will beware how they offend a great nation; they possessed the means of doing this. He believed their enemies knew it, (for he could not call a nation who used them as a foreign nation had done by any milder name.) It was on this account that he wished the bill to pass unanimously—to show them that the energy of Government would be called forth to protect their injured rights.

Mr. Murray said he should vote for the bill. It had always been a favorite with him, and he gave credit to the gentleman from New York for having brought it forward. He thought the object a laudable one; not that he believed it would be completely attained, as the subject-matter of it related to laws over which they had not complete control—the Laws of Nations. The experiment will give the result. He questioned whether they should be enabled to place seamen in a situation to which they were entitled. It could only be attained by perseverance in negotiation. One principal motive of the bill was, that sailors might be in the habit of obtaining evidence of their citizenship. Not that he expected any thing which they could do would force foreign nations from practices which they had been so long used to. One part of the bill he had his objections to; he meant the amendment which rendered citizens of neutral nations as much objects of protection as their

own citizens. The arguments used for its introduction, and pursued by the gentleman from New York, are, in the latter gentleman's own words, (which he considered as somewhat too strong a figure) that their ships at sea were as much their Territory as their land. He knew that such an idea might be found in books, but it could not be carried into effect. If he supposed one of their vessels at sea a part of the Territory of the United States, one-half of the rights at present possessed by belligerent nations would be destroyed. The ships of nations at war had a right to search the ships of neutral nations, to see whether they had enemies' property on board, and if they found such to claim it. However he might wish to see the rights of nations established, he did not think they could be carried to the extent proposed. If the amendment made by the gentleman from Virginia passed with the bill, it would be cutting the United States out a great deal of business. He wished to confine their protection to their own citizens at present, and as they grew in strength they might then endeavor to protect neutrals. This part of the bill he objected to as being brought forward at a time by no means favorable to an endeavor to increase their national rights. He did not wish at present to interfere with disputable rights. He was afraid the gentleman from New York would find his third distinction of citizens (viz: those who have come to this country since 1783) attended with immense difficulties, as the British would not allow the claim—for they claimed such as their own subjects.

Mr. Livingston rose to justify the figure he had made use of in calling their ships at sea as much their Territory as their land. He restricted it, he said, to the taking neutral sailors from on board their ships, and this he yet maintained. It had been said that it was improper to extend their protection at present to the natives of other countries on board their ships. He had never before heard it questioned that neutrals on board their ships had not the same right to protection with their own citizens. What right did any two belligerent Powers possess over neutrals sailing in neutral ships? What right had the British to take a Dane or a Swede from an American ship? What nation ever pretended that they had a right to take foreigners out of neutral ships? And if never pretended to, why object to that part of the present bill which allows them protection? He was told that difficulties would arise with respect to one description of their citizens; if they did, he said, the blame would not be theirs, and it would be a subject for future discussion.

Mr. Swanwick wished to make a few observations on the bill before them. It was not expected, he said, that any measure could be so provided for the relief and protection of their seamen as that it should not meet with objections from some members in that House; but he could not help praising the candor of gentlemen who, though they did not approve of the bill in all its parts, agreed to give it their vote. He did not himself think the bill wholly perfect, but he thought it advisable, by all means, to pass it. He did not expect entire relief to be afforded to their sailors from the appointment of the agents proposed. The account which would be in future kept of their seamen would be found to be of the greatest advantage. It was necessary that every maritime State should know the number of their seamen, as upon them, in a great measure, depended their strength; and it was impossible to ascertain this in any other way than by the register of certificates proposed to be kept. The certificates which would be issued would be descriptive of the kind of citizenship of its possessor, and would show which of their citizens were respected and which were not. If the British pay a greater respect to natives than to foreigners, it will be an encouragement to American seamen. Merchants will take apprentices, and endeavor to raise native seamen, since no dependance could be placed upon foreigners. A great deal of the effect of this bill, Mr. S. said, would depend on the unanimity with which it passed. He hoped it would be seen that when a bill came before that House for the protection of their seamen that it was not carried by the voice of a majority only but by an unanimous vote.

He did not mean to throw out any insinuations against any branch of the Government in this business. He did not think that would answer any good purpose. It was their object to inquire out their own duty, and to do it. Their table was crowded with letters to prove the impressment and ill-treatment of their seamen. They were called upon to afford them relief, and it would always be an honorable business for that House to step forward to relieve the distresses of their fellow-citizens; they held the purse-strings of the nation, and they could not loosen them for a better purpose than to relieve such of their fellow-citizens as essentially needed their aid. He hoped, therefore, other gentlemen who might not think well of every part of the bill, would feel for the objects of it, and follow the example of the gentleman from Maryland in giving it their vote.

Mr. Gallatin felt, at first, a reluctance in giving his assent to the present bill, because it laid the foundation for expense in a department, in which expense had already been too great, and in the next place, because it did not put the efficient power in the Executive; but, notwithstanding these objections, he should give his assent to the bill. Their present situation was well understood. It was a fact well established, that officers under the authority of Great Britain had impressed American seamen from on board their own vessels. This, it could not be denied, was a violation of the Law of Nations, and an act of hostility; and, when an act of hostility was committed against them, it was their duty, as a nation, to take notice of it either by war or negotiation. War was the last and most dangerous resource, and justifiable only when every pacific means had been tried in vain. Negotiation had been resorted to; yet they knew that no article had been stipulated in the late Treaty with Great Britain in respect to their seamen, and they also knew what was the objection to the admission of such an article. That nation said to us, "your seamen speak the same language,

therefore there is a *prima facie* evidence that they are the same subjects." It was their duty, therefore, to set such a mark on their own citizens as to be able to make the British declare they will or will not respect American citizens. If they do respect them it will be well; if they do it, it will be asserting positively that they mean to be hostile to this country. It was necessary and proper for them to take every measure in their power to show to the world that they wish to be friends to, and at peace with, all nations, and by putting this mark upon their seamen they will have done all in their power to distinguish them from British subjects, and gain them due respect. With respect to the amendment which had been objected to, he thought it an improvement to the bill, as it left the matter to be determined by the Law of Nations whether such and such neutral sailors were entitled to their protection, and showed that they did not mean to protect any others. He should, therefore, vote for the present bill, though if a better mode could be pointed out of attaining the object in view, he would vote for it.

Mr. Tracy said he should vote against the bill, and he would give his reasons for doing so. He believed every man in that House had the same wish to afford relief to their seamen. He had long contemplated the subject. He felt disposed to get a bill formed of this sort; but there were several parts of this bill which were objectionable. He hoped such amendments would have been made in the bill as would have enabled him to vote for it. He thought the amendment of the gentleman from Virginia had improved the bill; but he thought the first clause very objectionable; he thought the proper way of doing the business would have been to have granted the President a sum of money in order to have afforded the necessary relief to their seamen. These objections, he knew, had been urged in the Committee of the Whole without effect. When they had marked their citizens, and the British still took them, it would be an act of hostility. But where should they leave those persons who were not in America before the year 1783? By exposing these men to be taken by the British, should they not do as much mischief as good by the proposed regulation? The British never pretend to take native Americans, but they will doubtless continue to take their own subjects when they find them in American ships. Our citizens, said he, have no right to go into another nation, and expatriate themselves. Nothing was more clear, from the nature of the thing, and from the Law of Nations. He considered it as one of the first laws of society for the natives of a country to be bound to defend it, and that they ought not to leave it when it needed their assistance. This was a critical situation with Great Britain, and it might be expected they would take every means in their power of strengthening their hands. That the American sailors who had been unjustly impressed should be relieved he anxiously wished; but he believed the present bill was calculated to do more mischief than good, and therefore he should oppose the passing of it.

Mr. S. Smith said the gentleman just sat down had justly said that citizens were bound to give their assistance in defending their country, in critical situations. But might not their sailors say, with good reason, when they were called upon, "Have you any right to expect our asssistance, when you have never stepped forward to protect us?" It would have been no more than candid in that gentleman and his colleague from Connecticut, when the bill was in its proper stage, to have endeavored to amend it. They could not promise themselves a perfect bill, but they wished to make it as perfect as possible. The gentleman from Connecticut had said there was no way of settling the business, but by a Convention beween the two nations. A Convention had been tried, but they looked in vain for an article in the Treaty which had been entered into in consequence of it. Perhaps for the want of a bill of this sort, their negotiator could not get an article introduced on this head. He was told that negotiations were yet pending; if so, this bill would probably be the means of obtaining some stipulation in behalf of their sailors. How were they situated at present? Merchants were at the expense of procuring protections for their sailors, which were generally respected. How much more, then, would the certificates proposed to be granted under this act be respected? These certificates were also necessary, he said, to protect their seamen with respect to the Algerines; for if they looked into the late Treaty, they would find that their sailors were liable to become slaves to the Algerines if they were possessed of no certificates of their citizenship. If gentlemen had any fears, that these passports might bring them into a disagreeable situation with respect to Great Britain, they would see the necessity of them with respect to the Algerines. He did hope the present bill would have passed unanimously; as the more unanimous they were in their determination to protect their seamen, the more would Britain respect them.

Mr. Madison wished every part of the present bill to be as free from objection as possible: nor could he discover any palpable deficiency in it. Its provisions, he believed, might be divided into three classes, viz: that which directs agents to be appointed; the next to seek redress, according to the Law of Nations, in behalf of American citizens; and also all other persons sailing under the American flag, comformably to the Law of Nations. If gentlemen recollect that the agents are only to take an account of all persons impressed, and make representations thereof from time to time to the President, it will be seen that they have nothing to do with expounding the Law of Nations in such cases. The Executive will have the opportunity, as he ought to have, of determining which are entitled to their protection and which are not entitled to it. With respect to neutral seamen, it appeared to him consistent with the Law of Nations, and of great importance to the national interest, that they should be protected equally with their own citizens. It was before observed, that when war takes place in Europe, that the seamen of that country find their advantage in seeking employment in American vessels; therefore, if

they meant to pursue their own interest, they would afford such men protection. And there was no ground to doubt, that if a neutral seaman should be impressed from on board an American vessel, that an application for redress would be as likely to meet with success, as if he had been a native American. In the first place, no nation could have the pretence of a right to serve neutral seamen more than natives; in the next place they would be easily distinguished from their own subjects, when Britain was the adverse party; and in the last place, an injury done to them would not only be an injury done to the American nation, but also to the nation to which such seamen should belong. With respect to native Americans, and citizens before the year 1783, there can be no doubt of their being respected, provided they are furnished with proper certificates. It was true that it had never been avowed by Great Britain that she would impress American citizens from American vessels. Yet it was a fact that such had been impressed, when they have been without protections, as subjects of Great Britain. He understood that it had been insisted upon as an essential proof that the captain of a vessel shall make oath to the fact, which could not be done, in many cases. If, therefore, they could give to their seamen any testimony which may secure them from violence, it was incumbent upon them to do so, and this bill did no more.

Mr. Giles said that part of the bill which was objected to with respect to neutral sailors was regulated by the Law of Nations, and therefore could not be objected to. It was asked by the gentleman from Connecticut, if protections were given to the different classes of citizens, what would become of those persons who had come to the country since the year 1783? What situation were such persons in now? They were now impressed wherever they were met with. By this act they would be entitled to certificates which he should suppose the British would respect. For, though they claimed such as their subjects, there was a difference between claiming a right and exercising that right. He believed Great Britain would forbear to take from their ships such of their countrymen as had obtained citizenship in this country since the peace. The British Navigation act enacts that if any foreigner remain in their service two years, he shall be entitled to all the privileges of a British subject. He did not know that any question had been determined on the case, but he believed that the rights of citizenship would not be denied to any such person. Suppose, then, an American seaman were voluntarily to enter into the British service, and were to remain there two years, would the United States think of claiming such a person as their citizen? He believed not. For his own part, Mr. G. said he had never been much astonished at the depredations committed upon their seamen, and the reason had been, that they had never shown a disposition to repel the injuries they had received. Britain had availed themselves of the fears of this country. He believed that if they were to show an unanimity upon the subject, that she would not extend her violations so far. He believed they might, therefore, pass the present bill, without apprehension; but whilst Britain was in want of men, she was perfectly right to get men where there was no opposition made to her practices. He trusted they should convince that nation they did not always mean to be silent under their ill-treatment.

Mr. Harper should give his vote for the bill, not because he thought it a perfect measure, or even the best that might now be adopted, but because it appeared necessary that something should be done on this subject, and he saw no probability of agreeing on any thing more unexceptionable. This he said had always been, and he believed always would be found a very delicate and difficult subject; and whatever measures were adopted would be very doubtful in their effect. This he had no doubt would be the case with respect to the present bill. Nevertheless, he was willing the experiment should be made, because whatever was first done must be merely an experiment, and these regulations might hereafter be altered and modified as time and experience should prove to be necessary.

Before he sat down, Mr. H. said he could not help adverting to what had been asserted by the honorable member from Pennsylvania, [Mr. Gallatin,] and repeated by another honorable member from Maryland, [Mr. S. Smith,] and he should not notice it now had it not been frequently asserted before in the House. Gentlemen had asserted over and over again, for reasons best known to themselves, that the Treaty with Great Britain contained no provision to prevent the impressment of American seamen. He wished to ask those gentlemen how they reconciled this assertion with the 19th article of the Treaty, which he read in the following words. "And that more abundant care may be taken for the security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the privateers and men-of-war of either party, all commanders of ships-of-war and privateers, and all others of the said subjects or citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages and the interest thereof, of whatever nature the damages may be." He also read the 2d clause, which provides that all captains of privateers, on receiving their commissions, shall give security not to act contrary to the article. Unless it could be proved, he said, that an American seaman could not be an American citizen, and that impressment was not an outrage, this article makes complete provision against the impressment of American seamen; and yet gentlemen had thought proper to declare and repeat in the most general terms, that the Treaty made no provision against the impressment of our seamen. Seamen on board of American ships, he said, consisted of three classes: American citizens, British subjects, and neutrals. Persons may be American citizens from three

causes; the two first of which were admitted by the British Government. They may first be American citizens because they were born in America. 2dly, They may be American citizens because they were resident in America, formed a part of the American people at the conclusion of the Treaty of Peace, by which Britain relinquished her claim to allegiance from all persons then belonging to the body of the American nation. 3dly, Persons may be American citizens from having come to reside in America since the peace and conformed to our laws of naturalization. These however Britain denies to be American citizens. She claims a right to their allegiance, where originally her subjects, pursuant to the maxim of her laws that no subject can divest himself by his own act of his allegiance. This claim is probably among the last that she will surrender, and her seamen the last class of her subjects as to whom she will surrender it. The present war, in which she has her all staked upon the contest, and where her success and security essentially depended on her naval superiority, is perhaps the period of all others when she would be most unwilling to make this concession; and the United States the last Power to whom she would make it; because they possess more means than any other Power of attracting her seamen and withdrawing them from her service. And yet because the Treaty did not, under all these circumstances, obtain a relinquishment of this point, which Britain never has relinquished, even to her best friends and most useful allies, which a regard to her own safety would forbid her to relinquish, especially at this time, it is charged with having made no provision against the impressment of American seamen, and that notwithstanding by the article which he had read, complete provision was made for all those whom she, without departing from her laws, can acknowledge to possess that character.

Mr. H. repeated that he was one of those who thought the experiment intended by this bill ought to be made; because it is clear that many of our citizens stand in need of some farther aid, which it was our duty to give them, and no fear of inconvenience or prospect of gain could authorize us to neglect a duty. He had no doubt that this provision would operate to the disadvantage of our commerce. A great proportion of the seamen on board of our ships were British subjects, even according to our laws. A number of those claimed by us as citizens under our naturalization laws, were by the laws of Britain to be considered as her subjects. These two classes, he believed, composed nine-tenths of the seamen from the port of Charleston, and probably from most of the ports south of the Delaware. In the northern and eastern ports the proportion was smaller, but in all very considerable. Protections given to the native seamen would render the other classes more exposed, by drawing a clear and decided line; and would probably not only occasion but authorize a greater number of impressments of seamen from on board of our ships than now take place, and in that manner render our merchant service less secure and less desirable to foreign seamen, and increase the difficulty of manning our ships. But notwithstanding this disadvantage, we owe protection to our citizens and must give it. And to secure the protection provided for them by the 19th article, certificates become necessary.

Mr. Coit thought the description of officers mentioned in the Constitution to be appointed by the President, included all those which could be appointed for doing business with foreign nations. He referred to the appointment of different agents, Mr. Higginson and Mr. Bayard, respecting the British spoliations, to confirm his opinion, and asked gentlemen if for the appointment of those agents there had been any Legislative authority? If not, the President, he said, must be deemed equally competent to appoint agents for this purpose. He was far from charging gentlemen with accusing the Executive with want of attention to their seamen; if they meant to do this, let them do it; his argument was, that if the power of making the appointments contemplated in the bill was placed in the President by the Constitution, it could not be contended that there was occasion for the provision, unless there was a want of confidence in the President. His other objections to the bill were founded upon the methods of receiving evidence of citizenship being too loose. He should have been obliged to the gentleman from New York, if he had answered his objections on that head; but he had not done so. That gentleman's assertion, that American ships were part of the territory of the United States, was no answer to those objections—if the assertion was true, however, it proved that there was no occasion for the bill; it can have no effect. His objection to the mode of receiving evidence was, that it would be in the power of any foreigner, provided he can get one witness to swear with him that he is a citizen of the United States, to obtain a certificate, equally with a real citizen. Would such certificate, he asked, be respected in this country, so as to supersede the regulations of the naturalization act? If not, it could not be expected that it would be respected abroad. Indeed, he apprehended more mischief than good from the bill. The gentleman from Maryland had acknowledged, that some respect was now paid by the British to the protections of seamen; but he apprehended when protections under this act should become general, (and he believed few sailors would go without them,) they would not be respected at all; and, therefore, instead of being of service, the bill would be injurious to the real American sailor.

Mr. Livingston said, it was not from a want of due respect to the opinion of the gentleman from Connecticut, if he had passed over his remarks in silence. That gentleman asked, if they could expect foreign nations to notice what they themselves should not notice? He answered, No. He said the proof required of citizenship in case of a failure of registers under this act, was the same as that required in Courts of Law in similar cases, and the best that the committee could hit upon.

Mr. Madison observed, that the gentleman from Connecticut seemed to think the present

measure cast a reflection upon the Executive. He could by no means think so. He said the Executive had the power, by the Constitution, of appointing Ambassadors, other public Ministers, and Consuls; but the agents proposed to be appointed in this bill were neither Ambassadors, public Ministers, nor Consuls; they would have no rank as public characters, but be mere agents to do the business mentioned in the act; that they were not Consuls was plain, because they were sent to do business which it was said the Consuls had neglected to do. Again, he would remark, that although the President had the power to appoint Ambassadors, other public Ministers, and Consuls, the Constitution required that the Senate should approve such appointments. But, with respect to agents, the case was different. The President appointed one agent, to send to the West Indies, without that consent. He supposed, therefore, that that appointment was founded on some law relative to intercourse with foreign nations; he supposed, if the power was not so derived it had been inaccurately exercised. If agents were to be employed, the offices should be created by them, money appropriated, and left to be filled by the Executive.

Mr. Murray said, the Constitution had placed the power in the President of appointing Ambassadors, other public Ministers, and Consuls; and he did not think there was a power in that House to enjoin him to appoint an agent to settle points which were involved in the Law of Nations, any more than they could enjoin him to open a negotiation, or to send a formal Ambassador. As it appeared to him that there was a doubt in the minds of gentlemen on their right to dictate to the President to transact business relative to the Law of Nations, he would ask, therefore, whether it would not be better that the bill should be recommitted, and undergo an alteration which should merely authorize the President to draw money from the Treasury for the purpose of effecting the business in question. He, therefore, moved that the bill be re-committed.

Mr. W. Lyman hoped the bill would not be recommitted, if no better reasons were urged for the measure than he had heard. If they were about to appoint Ministers it might be objected to; but they did not designate who the agents should be, but merely that agents should be appointed, and left the President to appoint them. But even if the House were to go so far as to say who the agents were to be, he was not certain that they would act unconstitutionally. They might cite the precedents of other countries where the King has a complete negative upon the Legislature, and prove frequent instances of requests of the Legislature to appoint agents or Ministers. And was it not proper that they should do this, when they had information before them which made such appointments necessary? Was it any encroachment, in the present case, on the functions of the President, to say that agents shall be appointed? They did not know that he possessed the information which had come to them to show them the necessity of appointing these agents. He thought that House had a right to say that a Minister should be sent to any foreign country. If the other branches of Government think differently, they will, of course, negative the bill. With respect to neutral citizens, he thought they were entitled to their protection; it was a reciprocal protection; for, if they did not protect neutral citizens, they could not expect their own citizens to be protected by other neutral nations. In reference to what had been said with respect to Great Britain's denying that their subjects had the power of becoming American citizens,—their own practice was in direct contradiction to this principle; for, he believed, if any of their manufacturers went abroad, in two or three years they become aliens, and were deprived of the rights of citizenship; and surely, if they denied men these rights at home, they could not object to their having them in another country.

Mr. S. Smith hoped the re-commitment would not take place, as the same objections had before been urged to the bill. The gentleman from South Carolina [Mr. Harper] had charged the gentleman from Pennsylvania and himself with saying that the Treaty concluded with Great Britain afforded no protection to American seamen. He yet said so. He had before read the 19th article of the Treaty, but he found nothing there but general words, of course, which were thrown into all Treaties. He saw the same words in their Treaty with France, which he read. And he was certain when that Treaty was made, they had no idea that the French would ever impress their seamen.

Mr. Heath spoke in favor of re-committing the bill. He said he was a friend to the principle of the bill, but did not like some parts of it.

Mr. Swanwick hoped the bill would not be recommitted. He did not think there was much possibility of making it better. As to the methods of taking evidence, a great deal of time had already been spent on that subject; and he did not think the objections to the first clause of the bill were sufficiently strong to warrant a recommitment. It would occasion delay, and every day the bill was delayed was an injury to their seamen. Their commerce in the West Indies would be totally destroyed, if immediate measures were not taken for the protection of their sailors. It was a little strange, that when the vote was about to be taken on the passing of the bill, the present objections should have been started. The gentleman from Carolina [Mr. Harper] had said there was an article in the late Treaty which went to protect their seamen; if so, he said the British had been in the habit of violating the Treaty ever since it had been made. Mr. S. doubted not this country would become rich and powerful, notwithstanding all the attempts of Great Britain to prevent it. He thought it was necessary to make a distinction between native Americans and natives of England, and that distinction would be made in the certificates granted. Why, said he, shall we re-commit this bill? Why not take it as it is, since every attention has been paid to it in its different stages to make it as perfect as they were

able? They were charged with an assumption of power. Could it be an assumption of power, he said, to prevent and relieve the sufferings of their fellow-citizens? If it was, it would be of a kind which would be readily excused. It was forced upon them by the imperious necessity of the case. To what purpose was it, said he, that we granted immense sums of money for the relief of a small number of our seamen in Algiers, if we suffer a far greater number to remain impressed in the hands of the British?

Mr. Giles thought, from the observations now made, that the gentlemen might have been absent when the subject had before been discussed. Similar objections to those now urged were made in Committee of the Whole, and if the bill were recommitted it was probable it would undergo no alteration. Gentlemen reasoned as if a majority of that House had determined wrong on a former occasion.

Mr. Sitgreaves said he would trouble the House with a few observations. He had seconded the motion for a re-commitment, and would give his reasons for having done so. He had no objection to the last five sections of the bill, nor on the score of expense; but he objected to the first clause, as an unconstitutional and very unnecessary encroachment on the powers of the Executive. He believed that the agents proposed to be appointed by this act would be public Ministers, according to the meaning of the Constitution. He believed complete power was vested in the President, and that his power could not be confined or enlarged by that House. He thought the same purposes might be attained in another way. He was not less a friend to seamen than the gentleman who brought forward the present bill, or those who supported it. The President has unequivocally the authority to name agents for effecting the business in question. Perhaps, the reason he has not done it, has been owing to the want of funds. Indeed, gentlemen had shown they were insufficient. The Consuls in England, it appeared, had no pay. Let a sum of money be appropriated for the purpose of relieving their seamen, and placed in the hands of the President for the purpose. He can employ the present Consuls to do the business, or appoint special agents for the occasion, as he judges best. He did not wish that House to do more than the Constitution empowered them to do. If unanimity was desirable in this business, he thought it might be attained by striking out the first section of the bill; but, conceiving that, as it now stood, it was an encroachment upon the prerogatives of the Executive, and conceiving also that that House had already shown too much disposition to extend their power, if the bill was not re-committed, he should vote against it.

Mr. Page thought the motion for re-commitment was made in strict conformity to the rules of the House; but that rule was intended to be applied to cases where there was some unforeseen defect in a bill, and a probability of its being removed by a re-commitment; but there was, in his opinion, no probability of the amendment taking place; it had repeatedly been shown to be improper. He confessed he had no expectation of unanimity on the proposed amendment, for these gentlemen alone could vote for it, who thought that House a cypher, and the authority of the President unlimited in making Treaties, carrying on negotiations, and appointing Ambassadors and agents. He hoped the House would think with him, that, although the President had a right to make Treaties, to appoint Ambassadors and Ministers, he had not a right, capriciously, to make Treaties, without the previous advice of the Senate; and that even in some instances he ought not to treat without the wish or consent of that House and the people. When a Treaty was to be made the President was to make it; when an Ambassador or agent was to be appointed, he was to appoint him; but the President himself, he believed, thought that he had no Constitutional authority to appoint such agents as the present bill proposed, or, he had no doubt, that he would have appointed them. As to what the President thought, however, it was totally immaterial to that House, for the Constitution gave them a right to think for themselves; it taught that House to disregard his reasons, unless more than one-third of both Houses should be convinced by them—a folio volume of his reasons would have no weight according to the Constitution. But he did believe, that, from the President's conduct, he himself did not suppose he possessed the powers which the friends of the recommitment supposed he possessed. Mr. P., therefore, said he should vote against the recommitment, and hoped the bill would pass, as it would afford the President the means, in some degree, of protecting our sailors against the piratical insults to which they were now so cruelly exposed, and would show a disposition in that House to lend its aid, and that aid, it was known, might be applied, as upon a former occasion, if necessary, more effectually than by declaring war, even if the United States had at sea a powerful fleet of ships of the line.

Mr. Corr said he had seconded the motion of recommitment, not with an idea of defeating the bill. He believed it would pass, nor did he expect to be able to have it so amended as to meet his own ideas; but he thought a principal objection might be removed. He thought there was no propriety in declaring by law that agents shall be appointed. The committee, in their report, merely declared, that agents would be necessary to be appointed, and that provision ought to be made for their support, and not that a law should pass for their appointment. The objects of the bill, he said, would be completely answered by making provision for their support, leaving the appointment to the discretion of the President.

Mr. Murray was sorry that gentlemen should have thought it so extraordinary that an amendment should be made at this late stage of the subject. He said, their minds had been much engaged for some time past on an important question, and he owned he had not, before to day, thought much upon the present subject. The first section of the bill appeared to him so complete an

inroad on the duties of the President, that though he had intended to vote for the passing of the bill, he could not agree to do so, except that section was struck out. The bill would begin equally well with the second section. How far would this alteration affect the bill? It would only affect the first principle, which directed the President to send agents into foreign countries, which, in his opinion, were clearly public Ministers. Though he could hardly think of opposing the gentleman from Virginia [Mr. Madison] who was so profoundly versed in the Laws of Nations. It appeared to him that gentleman had formed an erroneous idea that the President was an officer of Government, and not one of its branches, springing from the same root with that House, viz: the sovereignty of the people. He had sundry rights placed in him, amongst which were the appointment of Ministers, &c., but that House were about to enjoin on him a duty, as if he was merely an officer. If the bill were recommitted, and this amendment were to take place, he doubted not that unanimity would prevail in adopting the measure.

Mr. Nicholas observed that gentlemen had said that the present measure was unconstitutional, and therefore unnecessary. They were mistaken. If the President had the power he had always sufficient funds in his hands to relieve their impressed seamen; but they all know, they had not been relieved. He agreed that they could rely upon the President as much as upon any man; but he thought it would be going beyond a compliment, to make the alteration proposed in the present bill. They were told they were encroaching on the duty of the President; he believed the Constitution said the contrary. The gentleman from Maryland might have spared his censures on those who supported this bill as endeavoring to narrow the Executive power; he might, with the same propriety, say, that there were gentlemen who seemed to think that there was no occasion for any other power than that of the President. There was no ground for such charges. So far as he knew the Constitution, the present quibble upon the article giving the President certain powers with respect to the appointment of public officers had no weight. It would be a nice assertion to say that offices should not be created by the Legislature; the President, it is allowed, has the power of appointing officers; but was there a word in the Constitution relative to the creation of officers? No; he believed all that was meant by the Constitution was, that the President should have the power of appointing all officers. He did not believe the agents meant to be employed under the present act, were at all of the nature of those mentioned in the Constitution as under the appointment of the President; they were occasional and temporary agents, to act in unison with their Consuls; and it was neither contrary to the spirit nor letter of the Constitution, as no public character was meant to be given them to the British Government.

Mr. Sedgwick had no intention of taking up much time of the Committee, though he believed the question important, as it was, whether, by introducing a new name, they should totally alter the thing itself. If they referred to the Constitution, they would there find that all foreign relations were given to the Executive. He recollected that, in the first Congress, a bill was reported which received the approbation of the House, providing intercourse with foreign nations. It authorized no officer, it only authorized the President to satisfy the officers appointed by the Constitution; but it was rejected. The President, some time ago, appointed an agent to go to the West Indies, and was there a man who thought the appointment unconstitutional? What, then, was the meaning of Minister? It was another word for agent. Consuls and Ambassadors were Ministers; they had Ministers of justice, and the officers in all the departments of Government were Ministers also. Any man who executes an office must be called a Minister. For, if, by changing a name, that House could create new officers, the consequence would be, that the offices appointed by the Constitution would themselves be destroyed. The Government had been established for seven years, and till now he had never heard it contended that all foreign business was not vested in the Executive. There was no foreign business whatever, he said, but might be transacted by an Ambassador, Minister, or Consul. By an authority placed in the President and Senate by the Constitution, they were appointed to carry on all foreign relations. But, if, in this instance, said Mr. S., by the alteration of a name, you can create offices, and take from the Executive the power which the Constitution has given him, you may control the whole business of Government, as respects foreign relations, and put it in a new train. Would any man undertake to read the Constitution, and say that there was any foundation to be found there for such a doctrine as this? He declared he wished the objects of the present bill to be attained as much as any man. Indeed, he believed, most of the sailors of this country belonged to the State which he had the honor to represent. He supposed they had three times the tonnage of any other State, and their sailors were mostly native Americans. But when gentlemen begin, by declaring the existence of a power in that House to appoint Governmental agents, he must oppose the doctrine; since he was persuaded that, if there was any truth in the Constitution, it was, that the creation of Ministers of every kind was placed in the Executive. Viewing the matter in this light, it was impossible he could conform to the bill, unless that principle was conceded.

Mr. S. Smith insisted that the practice now contended for with respect to agents had been adopted in various instances, particularly with respect to Indian affairs, and could not see why gentlemen should be so tenacious of the Executive department of the Government.

Mr. Giles said, the present bill was opposed on Constitutional ground. Gentlemen had declared it to be the object of the supporters of the bill by changing a name to alter the Constitution. Minis-

ters and Consuls had been spoken of. These, he said, had always business with foreign Powers; but that contemplated in the present bill will have no such business. It was not merely the name, therefore, but the substance, which was different. They would not have the smallest relation to foreign Powers; they would be appointed to attend to their own citizens, and the only thing in which they could have any resemblance to Ministers was their residence in a foreign country. He was not surprised that there should be just now peculiar sensations in the House respecting the Executive authority; otherwise, he believed the same idea was exercised in the India bill before referred to. The objection was, therefore, merely a quibble arising from their present situation. At another time, the circumstance would not have been noticed. He thought that great ingenuity had been used to make the objections which were urged against the bill, but which he apprehended, would have little weight in opposing the passing of the bill.

Mr. Sedgwick wished to state a fact relative to the business with the Indians, which had been introduced. When that bill was under consideration, he made a motion to strike out the number of agents to be appointed, and they were struck out accordingly. That bill, he said, was managed on the ideas which he had suggested on the present occasion. Indeed, if ever there was a principle well established, it was that which he now urged.

Mr. Gilbert hoped the motion for a recommitment would prevail. Though he was as much a friend of the objects of the bill as any one, yet he was persuaded that there would be found many objections to the present bill which were not at present foreseen. But he should be willing to risk all its defects to an experiment, yet he doubted exceedingly the propriety of passing the first clause of the bill in its present form. He was not satisfied in his own mind upon the subject. But he thought it would tend to harmonize the opinions of different gentlemen if it were recommitted. He did not recollect that the objections now made, were made in the Committee of the Whole upon the resolution; he did not, therefore, consider the majority before taken as conclusive, because he thought the objection was now against the first clause of the bill.

Mr. W. Lyman insisted upon the right of that House to create the offices contemplated by the present bill. He said they were frequently told to beware of usurping power. He could not tell what this arose from; he was sure there was as little to be apprehended from them as from either of the other branches of Government. In short, he believed there existed the loudest calls for the act in question, and believing the House had the power which they were about to exercise, he should vote for the bill. And he thought the opposition which had been raised to the measure in this late stage, had more the appearance of destroying the bill than anything else.

Mr. Gallatin wished to mention a fact to show that the President was of the same opinion with him and his friends with respect to the appointment of agents. When an agent was wanted to be sent over to Holland for the purpose of negotiating a Loan there, a letter was received by the Committee of Ways and Means, from the Secretary of the Treasury, on the propriety of appointing an agent on the occasion. But if the President had thought he had such a power, he would have appointed an agent, without making application to that House. It appeared, therefore, that when a special agent was to be appointed, he was not considered as a public Minister. The agent, in the case he had referred to, was to inquire who were the proper persons to execute money transactions in the Government of Holland; the agent, under the present bill, was to make inquiries respecting the impressment of their seamen. This duty would not be diplomatic, but a mere simple agency. The fact he had stated ought to repel all further objections as to the appointment of agents in this business.

The question was then taken upon recommitting the bill, which was negatived—yeas 23, nays 68.

The question was then put on the passage of the bill, and decided in the affirmative—yeas 77, nays 13, as follows:

Yeas.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Nathaniel Freeman, Jr., Albert Gallatin, Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Benjamin Goodhue, Andrew Gregg, Christopher Greenup, Wade Hampton, George Hancock, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Hillhouse, James Holland, George Jackson, John Wilkes Kittera, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, Robert Rutherford, John S. Sherburne, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Joshua Coit, William Cooper, Henry Glen, Chauncey Goodrich, Roger Griswold, William Hindman, Samuel Lyman, William Vans Murray, Theodore Sedgwick, Samuel Sitgreaves, Nathaniel Smith, Zephaniah Swift, and Uriah Tracy.

Resolved, That the title of the said bill be, "An act for the relief and protection of American seamen;" and that the Clerk of this House do carry it to the Senate and desire their concurrence.

Tuesday, March 29.

Mr. Muhlenberg presented a memorial of sundry inhabitants of Newcastle, stating that they had

erected two piers by means of a lottery, but that, owing to the advanced price of materials and labor, they could not erect a third without public aid, and prayed, therefore, that one of the four additional piers ordered to be erected in the bay and river Delaware, might be erected opposite to Newcastle.

The memorial was referred to the Secretary of the Treasury to report his opinion thereupon.

Mr. Sedgwick presented memorials from the inhabitants of Kingston and Hancock, in the State of Vermont, against the election of Israel Smith, and in favor of the pretensions of Mathew Lyon, which were read, and referred to the Committee of Elections.

A petition was presented of sundry messengers and office-keepers in the Treasury Department, praying that they may receive additional compensation to reimburse the extraordinary expenses which they incurred in discharging their official duties, during the calamity in the city of Philadelphia, in the year one thousand seven hundred and ninety-three, where they remained at the great personal hazard of themselves and families. Referred to the Committee of Claims.

TREATY WITH SPAIN.

The following Message was received from the President of the United States:

Gentlemen of the House of Representatives:

I send, herewith, a copy of the Treaty of Friendship, Limits, and Navigation, concluded on the 27th of October last, between the United States and His Catholic Majesty. This Treaty has been ratified by me, agreeably to the Constitution; and the ratification has been despatched for Spain, where it will doubtless be immediately ratified by His Catholic Majesty.

This early communication of the Treaty with Spain has become necessary, because it is stipulated in the third article, that Commissioners for running the boundary line between the Territory of the United States and the Spanish Colonies of East and West Florida, shall meet at the Natchez, before the expiration of six months from the ratification. And as that period will undoubtedly arrive before the next meeting of Congress, the House will see the necessity of making provision, in their present session, for the object here mentioned. It will also be necessary to provide for the expense to be incurred in executing the twenty-first article of the Treaty, to enable our fellow-citizens to obtain, with as little delay as possible, compensation for the losses they have sustained by the capture of their vessels and cargoes by the subjects of His Catholic Majesty, during the late war between France and Spain.

Estimates of the moneys necessary to be provided for the purposes of this and several other Treaties with foreign nations and the Indian tribes, will be laid before you by the proper Department.

G. WASHINGTON.

United States, *March* 29, 1796.

The Message and Treaty were referred to the Committee of the Whole on the state of the Union.

CONTESTED ELECTION.

The order of the day was called for upon the report of the Committee of Elections, on the petition of sundry inhabitants of the second middle district of Massachusetts, (complaining of an undue election and return of Joseph Bradley Varnum as a member of this House,) asking instructions with respect to receiving evidence in that case; and the House having formed itself into a Committee of the Whole, entered upon a discussion of the resolution of Mr. Sedgwick for recommitting the report, and directing the committee to point out a proper mode of receiving evidence in the case, a long debate took place, which, not being concluded, the Committee had leave to sit again.

Wednesday, March 30.

A petition from Zachariah Cox and others, from the frontiers of Georgia, praying for a grant of money, as a loan, to carry on an intercourse with the Indian tribes, under certain conditions, was read and referred to the Committee of Commerce and Manufactures.

The bill authorizing a Loan for the city of Washington, and the bill for erecting a light-house on Baker's Island, went through Committees of the Whole House, and were ordered to be engrossed for a third reading to-morrow.

The House went into a Committee of the Whole House on the report of the Committee of Claims, to whom was referred the petition of Maria Butler; and, after sometime spent therein, the Committee rose and reported the following resolution:

"*Resolved*, That the provisions for widows and orphans of commissioned officers of the troops of the United States, contained in the first section of the law of the United States, passed the seventh of June, one thousand seven hundred and ninety-four, entitled 'An act in addition to the act for making further and more effectual provision for the protection of the frontiers of the United States,' be extended to the widows and orphans of commissioned officers in the troops of the United States, and of the militia who have died by reason of wounds received since the fourth day of March, one thousand seven hundred and eighty-nine, in the actual service of the United States; provided application shall be made, within —— after the end of the present session of Congress."

The resolution was agreed to, and the Committee of Claims ordered to bring in a bill.

The House resolved itself into a Committee of the Whole on a bill, in addition to an act for supporting of Public Credit, and for the redemption of the Public Debt; but not coming to any conclusion, the Committee had leave to sit again.

THE BRITISH TREATY.

A Message was received from the President of the United States, in answer to the resolution calling for papers in relation to the Treaty, which was read, and ordered to lie on the table.

[For this Message, see *ante*, page 760.]

CONTESTED ELECTION.

A great part of this day's sitting was consumed by the consideration of the report of the Committee of Elections, to whom were referred the memorials and petitions of sundry electors of the second middle district of the State of Massachu-

setts, complaining of an undue election and return of Joseph Bradley Varnum, Esq., to serve as a member in that House.

The report of the committee was in the following words:

The Committee of Elections, to whom were referred the petitions of sundry persons of the second middle district of the State of Massachusetts, complaining of an undue election and return of Joseph Bradley Varnum, as a member of this House, have, according to order, proceeded to examine the petitions, and the documents that accompany them. They have also received from Aaron Brown, a petitioner, a paper purporting to be a specification of the facts relied on to support the charge, and praying for a general power to take evidence in support thereof; which is as follows:

"A statement of facts to be proved by the petitioners.

"1st. That one hundred and eighty-five votes were returned by the Selectmen of Dracutt, and counted by the Governor and Council."

"2d. That, of those, sixty were illegal and bad—fifty-five ballots or votes being received and certified by the Selectmen or presiding officers, of whom Joseph Bradley Varnum, Esq., was one, which were given by proxy, that is, votes from persons who were not present at the meeting, but from other persons who pretended to act for them. And five votes were received and certified by the said presiding officers, which were given by persons, by law, not qualified to vote at said meeting."

"3d. If Mr. Varnum does propose to examine the proceedings at the meetings of any other towns in the district, the petitioners wish to reserve liberty of showing that votes given for Mr. Varnum in any other town in the district were illegal. "AARON BROWN,

"*For the petitioners.*"

On the 12th of March, 1796, the said Aaron Brown subjoined the following explanation on the above specification.

"The petitioners expect to prove that the above sixty illegal votes were received by the Selectmen, by showing that the whole number of legal voters were not more than two hundred and twenty-five; of which number, one hundred did not attend the meeting on the 22d day of March last, and a part of those that did attend and vote, were not legally qualified to vote.

"AARON BROWN."

Also the objections of the sitting member, and a requisition that the petitioners be held to a specification of the names of the persons objected to, and the objections to each, a notification thereof to the sitting member, before he should be compelled to take evidence concerning the matters alleged, or make any answer thereto.

Upon all which, as well from the difficulty of the case, as from a desire to have uniformity in proceedings of this kind, your committee have been induced to pray the instructions of the House, as to the kind of specification that shall be demanded of the petitioners, and the manner in which the evidence shall be taken.

Mr. Sedgwick proposed a resolution to the following effect:

"*Resolved*, That the Committee of Elections be instructed to prescribe an efficient mode whereby evidence may be taken relative to the facts set forth in said petitions and the specifications of Aaron Brown, agent for the said petitioners."

This resolution was supported by Messrs. Sedgwick, Swift, Brabury, Ames, Thatcher, Hillhouse, and Jeremiah Smith; and was opposed by Messrs. Venable, W. Lyman, Dearborn, Swanwick, Nicholas, Gallatin, and S. Smith.

The principal arguments used in support of the resolution were, that the facts stated in the petitions and documents were sufficiently explicit; that the facts, if proved, were material, for, as Mr. Varnum had only a majority of eleven votes, if twenty-three out of sixty votes charged to be illegal, were proved really so, they would invalidate the election; the possibility of proving the facts was shown in a variety of ways, and the modes of conducting the elections in the State of Massachusetts explained; that when facts were alleged sufficient to set aside an election, if proved, it was the duty of that House to prescribe modes of taking them in evidence; (several instances were mentioned in which modes of taking evidence had been prescribed;) that the names of the illegal voters could not be obtained, no list being kept of persons entitled to vote for Representatives; that the Town Clerk of Dracutt had refused to give a certified copy of the records, and none of the inhabitants of that town, from their attachment to Mr. Varnum, would give any information respecting the election; the necessity of guarding the purity of elections was insisted upon, and that petitioners against undue returns should by no means be discouraged. It was observed, it had been alleged because petitions had a tendency to make members uneasy in their seats they should not be encouraged, but this was answered to be an ill-founded doctrine, and Mr. Varnum was advised to come forward and challenge investigation, rather than appear to wish to stifle it.

The arguments against the resolution were, that the facts stated were not sufficiently specific to warrant any proceedings of that House upon them; that, if the votes stated to be bad were really so, their names might be obtained; that it was improper to harass electors or give uneasiness to a sitting member upon slight grounds, as, if that were the case, it would be in the power of any man, from pique or any other cause, to put a member to great trouble and expense, and might prevent a man of moderate fortune from holding a seat in that House, because he was not able to bear the expense of meeting vexatious attempts to displace him. The manner of bringing forward the subject was objected to; it was said that A. Brown, the agent, had signed the petition after he came to this city; that there was no evidence of his being employed as agent, nobody was seen in the matter, but that single man, (the people of Dracutt being so satisfied as not to give him any information on the subject.) and he having left the city, the business ought to have been rejected; that petitioners ought to have all due attention paid to them, but that the sitting member ought not to be forgotten, that the House should be cautious of going into a matter of this sort, as it was making themselves a party; that they ought not to volunteer in search of evidence; that to grant the power required, would be to grant

an inquisitorial power to swear every man in Dracutt, and, perhaps, eventually, every man in the district, to the amount of three or four thousand; that the failure in getting evidence of the facts stated, was a presumptive proof none could be got; that several elections had already been contested, and it would be extremely wrong to give new birth to the contest from so slight a ground; that Mr. Brown had not been able to get facts, and wished that House to enable him to hunt them up; that it was impossible to prove the facts stated, it not being in the power of the Town Clerk or any other person, to make out a list of persons entitled to vote at the last election, as their right depended on their being worth £60, or £3 a year, in any property whatever; that the Town Clerk of Dracutt opened the books to Mr. Brown, but would not himself copy anything; and that this universal respect for Mr. Varnum, in the place where he lived, contradicted the old proverb, "that a prophet has no honor in his own country."

In the course of the debate amendments were offered by Mr. Corr and Mr. Gallatin to Mr. Sedgwick's resolution; but they all gave way to the two resolutions proposed by Mr. Nicholas, which were carried, as follows:

"*Resolved*, That the allegations of Aaron Brown, agent for the petitioners, as to fifty-five votes given by proxy, is sufficiently certain."

"*Resolved*, That the allegations of the said Aaron Brown, as to persons not qualified to vote, is not sufficiently certain, and that the names of the persons objected to for want of sufficient qualifications, ought to be set forth, prior to taking of the testimony."

On Mr. Cooper's calling very pointedly upon Mr. Varnum to come forward, he rose and said:

He did not think it necessary for him to speak on this subject. It was not very pleasant to sit there and hear gentlemen from the same State, treat him with all the personalities possible, but he would patiently submit. He asked whether Mr. Brown had not said he came forward in this business from political motives, and whether a man had not declared he had been paid to swear falsely?

These charges were denied by every gentlemen who supported the resolution.

At the same time that Mr. Nicholas proposed the two resolutions which were passed, he proposed another respecting the irrelevancy of Mr. Brown's second statement, and, after considerable debate, in which Messrs. Nicholas, Gallatin, W. Lyman, and Findlay supported it, and Messrs. Harper, Kittera, Goodhue, Tracy, Thatcher, and Sedgwick, opposed it, it was negatived.

And the House adjourned.

Thursday, March 31.

The bill authorizing the erection of a light-house on Baker's Island was read a third time and passed.

LOAN FOR THE CITY OF WASHINGTON.

The bill authorizing a Loan for the City of Washington, and for other purposes, was read a third time; and the blanks being filled up as follows: the whole amount of the Loan to be filled up with 200,000 dollars, not more than 200,000 in any one year, and to bear interest of six per cent. reimbursable at any time after the year 1803.

The question being on the passage of the bill—

Mr. Corr declared himself against the bill. He considered it as taking so much money out of the Public Treasury, and that although it was considered only as a guarantee for payment of money borrowed on very ample funds, it would operate no otherwise than as an absolute grant. Indeed an absolute grant, he said, would be less exceptionable to him, as he considered that this bill was hanging out false colors to the public, as it would tend to hold up the idea that there was a value in the lots in the City of Washington, which he believed did not exist.

The value which had been annexed to those lots, he believed, was a mere speculating bubble. This bill might serve to keep it up a little while longer, but he believed it must finally burst. Upwards of four thousand lots, it was true, had been sold, and the public had more than four thousand on hand, which were said to be worth, on an average, 285 dollars each, these with some water lots, which are set at 16 dollars per foot, are estimated at more than 1,300,000 dollars—but, if carried to market now, it was agreed there were no purchasers for them. Mr. C. said, he had inquired into the situation of this city—he asked gentlemen to look at the map of the country, and they might judge of its situation; it was true, it was nearly at the head of the navigation of the Potomac, a noble river, and in a fine country; but there was nothing to give to this city exclusive possession of the commerce of that country, or of that river. Alexandria, a few miles below it, and Georgetown a few miles only above, on the same river, had equal advantages of situation, and had the preference of having merchants, as he was informed, with very considerable capitals, already established in them; Baltimore, at the head of Chesapeake Bay, on this side, and Norfolk, not far from the mouth of James river, he conceived were situations, more especially considering the strength of capitals already fixed at them, far more advantageous for extensive commerce. These lots, it must be agreed, could be of no more value than other planting ground, unless there was a demand for them as building lots. If the Federal City were likely to become a great commercial place, that demand might at some future period exist, but of this he conceived there was not the remotest probability, and he believed that for the justice of this opinion, he might safely appeal to every commercial man acquainted with the situation, and not prejudiced by local considerations. What, then, he inquired was to cause a demand for these lots? The mere residence of Congress, he conceived, must go but an inconsiderable way to the forming a great city. Two or three hundred houses, at the utmost extent, must suffice for Congress and all its connexions and appendages for many years.

Mr. C. said, he had no wish to obstruct the re-

moval of the Seat of Government to the Federal City. He believed it would be removed, and he wished it, and he believed that the buildings for the accommodation of Congress must finally be made at the public expense; but he wished it to be done in an understanding and not in a covert way. Unfortunately there had already been expended between three and four hundred thousand dollars, as he conceived, to what was worse than no purpose. He did not accuse any person of having embezzled or misspent the public money, except in the extravagance of the plans which had unfortunately been adopted—97,000 dollars had been expended on the President's house, and it is estimated that nearly as much more will be wanted to complete it, and when done, he conceived that a house which would cost only 50,000 would better answer the purpose; about 80,000 had been expended on the Capitol, and progress was scarcely made beyond the foundation. Gentlemen might talk of elegance, of splendor, and magnificence, for people who had money to expend for their pride or pleasure; these subjects deserved consideration, but in the present state of the finances of the United States, he thought more attention should be paid to use and economy.

Considerable revenues, he observed, were now at the disposal of the Commissioners of the Federal City. If left to use the means they had at command, he hoped necessity would oblige them to contract the extravagant plans for the buildings which had been commenced; but, if the Public Treasury was once opened he should expect many future applications and heavy ones on the Public Treasury for those buildings, which, he feared, would be a lasting monument of the pride and folly of his country. He observed, that possibly he was alone in these sentiments, but he could not justify himself without expressing them, and, wishing to know if any gentlemen concurred with him in opposition to the bill, closed with calling for the yeas and nays.

Mr. Sitgreaves said, he also should vote against the bill; he objected to its form and to its substance; to the form, because he thought it held out a delusive appearance of security to the money-lenders, and of indemnity to the United States, by professing to mortgage lots in the city of Washington, which, he contended, are not at the disposal of the Government. By the deed of trust, which had been read on the former debate of this bill, it appeared that all the lands in the Federal City had been conveyed by the individuals who formerly owned them, to trustees in special trust, to wit, that so much of them as might be appropriated for streets, squares, and the sites of public buildings, should, by the trustees, be conveyed to the Commissioners [appointed under the act of 1790, for establishing the temporary and permanent Seat of Government] and their successors for the use of the United States; that the residue should be laid out in lots, one-half whereof to be reconveyed to the other granters, and the other half to be sold under the directions of the President; that the produce of the sales should in the first place be applied to the payment in money of £25 per acre, to the granters, for all the reserved lands except the streets; and that the remainder of the money or securities should be paid, assigned, and delivered over to the President of the United States, for the time being, as a grant of money to be applied for the purposes and according to the act of Congress before mentioned. From hence Mr. S. inferred that the Commissioners, who by the bill are authorized to make the Loan on the pledge of the lots, hold no property in the City of Washington, except the streets, squares, and sites of the public buildings; that the residue of the lots are not held in trust for the United States, and of course cannot be mortgaged by them, and that the Government had only a right to the proceeds of the sales. This construction is authorized by the remarkable difference between the expression of the trust so far as relates to the lots directed to be conveyed to the Commissioners, and those directed to be sold.

It is also authorized by the provisions of the act of 1790, in careful conformity with which the deed appears to have been drawn; and which empower the Commissioners to receive grants of lands for the sites of the buildings, and of money for the purpose of erecting them. It was clear, therefore, that the bill assumed too much when it undertakes to mortgage the lands, and that all really in our power would be to pledge the funds arising from the sales after they shall be paid over to the President. But if these lands are at the disposal of the United States, then, for the security of the Government, the bill should go further, and direct them to be conveyed, in the first instance, to some responsible officer of the Government. The trustees who have at present the legal title to these lands, can in nowise be considered as officers of the Government, amenable to it in a public capacity. We cannot require of them to give security for the faithful performance of their trust. We cannot impeach them for a violation of it. We have no other reliance than on the respectability of their private characters—no other remedy than a suit in chancery, as in common cases of private trusts. When they sell the land, they may pay over the money, or they may not. Even the President is not responsible in his public character until after the money comes into his hands. Mr. S. was aware that the Attorney General differed from him in the construction of the deed, and he had great respect for his opinion, yet when the propriety of vesting the lands in a responsible public officer, an additional security was suggested to the Attorney General, he hesitated, and eventually declined to give the bill that shape. From these considerations Mr. S. inferred that the bill did not, in fact, give the money, or render the security it professed to offer; or, if it did, it was deficient in the provision necessary for the complete indemnity of the Government.

On these principles he objected to the form; he objected also to the substance. He did not consider the faith of the Government as pledged, by any one act it had hitherto done, to pass the present bill; if good faith imposed no obligation on them, he was sure that prudence forbade them to do it;

by a reference to the act of 1790, no such obligation would be found to be created by it; it will appear by it that the Commissioners are empowered to purchase or accept such quantity of land within the Federal territory as the President shall deem proper for the use of the United States. And to provide suitable buildings for the accommodation of Congress, of the President, and of the public offices—and for defraying the expense of such purchases and buildings, the "President is authorized to accept grants of money"—there is for this purpose no appropriation of public money nor any promise of such appropriation; no guarantee, nor any assurance of a guarantee; for the expense of the removal of the public offices an appropriation is made; and this provision shows that no other expense to the Government was contemplated; those who were members of the Congress of 1790 know the fact to be so, that the proposed grants of the States of Virginia and Maryland, and of individuals, were expected to be competent to the object, and that such an expectation and assurance was a condition on which the law passed; a condition not indeed expressed in the act, but which for that reason we are not the less bound to respect; a condition the breach of which would have all the aggravation of a violation of confidence. The Government therefore not being pledged to the object of the bill, he considered the House as restrained by every consideration of prudence from acceding to it. Any gentleman who would take the trouble, as he had done, to examine the papers on their table would discern that the extent of the city, the distribution and the plans of the public buildings, had been predicated on a scale of magnificence the eventual expense of which was not within the reach of calculation, or even of conjecture; would it be proper then for Congress by passing this bill to give ground for an opinion that the United States were to adopt and to become the foster-father of those projects? Gentlemen had affected to consider the proposed measure as one which could not involve the Government; but a guarantee implies in itself the possibility of an eventual loss; it necessarily implies a supposed deficiency in the security to be guaranteed. If the lots in the Federal City are themselves a sufficient security for the proposed Loan there could be no occasion to call in aid the faith of the Government. The bill therefore ought fairly to be considered as a grant of money on the part of the United States for the purpose of prosecuting the public buildings in the City of Washington, and if they once began to grant money for this purpose, he asked, when they were to stop? He would venture to say, never, if their grants were to keep pace with the necessities of that institution; he believed the law of 1790 never would have passed if the most solemn assurances had not been given that no such application would ever be made to the Government; and he therefore felt himself bound to oppose the bill.

Mr. Nicholas was not willing to trouble the House on this business. He would, however, make a few observations on what had fallen from the gentleman from Connecticut, with respect to the value of the property. He was authorized by the Commissioner attending Congress to say, that 4000 lots had been sold for 400 dollars each, since this question had been first agitated, and it must be evident that seventy dollars a lot would indemnify Government for the amount of their guarantee. He did not expect, after an investigation had been had and report made, that Government would be safe in the advance of 500,000 dollars, that 200,000 could have been objected to because the lots could not be sold in a moment. Many things were of great value, for which purchasers were not at all times to be found. The remarks of the gentleman from Pennsylvania, on the law of this case, might, from the obscurity of the subject, he said, have some weight. He would, therefore, notice them. He objected to the form of the bill, because it was a deception of the public and might be so on the United States. The gentleman had questioned the power of Congress to control the disposition of the lots and had given it as his opinion it could not be done. Mr. N. was of opinion that the United States being alone (after the payment of 15 or 20,000 dollars to the original owners of the lots on which the public buildings are erecting) interested in the proceeds of the sale, Congress must have a control over the sales themselves. This was agreed to be the opinion of the Attorney General, who attended the committee. The gentleman from Pennsylvania had said, if this was the case the bill was wrong, for it should have required a conveyance of the lots to some responsible officer of the Government to have made Government secure. If the management is already in the hands of an officer of Government, and the management of the property can be controlled by law, we have all the security which could be obtained by the conveyance spoken of. If gentlemen attended to the bill, they would find that this property is in the hands of a responsible officer of the United States; for the trustees cannot make a conveyance but by the consent of the President of the United States, so that he, in effect, is himself the trustee, and they could not have better security. But he would for a moment take the gentleman's doctrine as true. What then? The President must be considered as a private person in disposing of the lots. It was agreed that as soon as money was received it went to the President, in his public character, and he was answerable for the application of it to uses prescribed by law. It would follow, that he might abuse his power in the first instance, he might sell the property for less than it was worth. If the gentleman's doctrine was true, the United States would have no tie upon the President to produce a fair sale of the lots, but what arises from his regard to reputation and his regard to his private fortune, which would be answerable for his conduct. He hoped there was no danger of having any man at the head of the Government on whom these ties would not be sufficient. But Mr. N. did not consider these observations as necessary, for he considered the gentleman's real opinion as unsound.

The arguments of gentlemen themselves were sufficient ground for the present guarantee. They

any sufficient money has been given for completing the buildings, if it had been properly expended. If the property had been squandered, was it the fault of those who gave it? When gentlemen, therefore, say that enough had been given, if there were any contract, such as had been conjectured to exist, it proves it to have been fulfilled. It was said they had no claim upon the United States. But did not the United States say, "this is a proper situation for Government?" If it were to go there it was certainly because it was for the general interest, and if there were no funds, they must find them. But they were not called upon for money. They were asked to guarantee a Loan to prevent the waste of those funds which had been furnished by States and private persons. He hoped no doubt would, therefore, remain on the subject.

Mr. Hillhouse concurred in opinion with the Attorney General on this subject. He said the money-lenders could not call upon the United States for their money, until the lots shall have been sold, and there remains a deficiency, and there is little chance of the President's selling the property for less than it was worth. And though they could not control the sale of the lots, it was the money-lenders who ran the risk, and not them; nor was there any occasion for the United States to take care of the money-lenders, they would take care of themselves. The bill was now on safe ground; the sum of the guarantee having been reduced from $500,000 to $300,000. He was under no apprehension that the United States would even be called upon for a single shilling. And if they could give facility to the erection of the public buildings, they ought to do it. They ought not to throw obstructions in the way. He did not consider the House as pledged for any thing more in passing the present bill than the bill purported. He wished it now to pass, as his former objections to it were done away.

Mr. Rutherford hoped, since the bill had been amended, it would pass by a great majority; for Congress to throw cold water upon the proceeding now, it would be unjustifiable. The minds of the people were drawn towards the Federal City, and property would advance in price; but if Congress should defeat the operations of the Commissioners, it would operate to the disadvantage of the Union.

Mr. Swanwick said, if he thought with the gentleman from Connecticut, last up, that the United States were not likely to be called upon for any part of the money which they were about to guaranty, the measure would have received his approbation; but he did not view the subject in the same light with that gentleman. He thought they should have to pay the whole sum, and that 300,000 dollars would not be the whole of what that House would be called upon to provide, if the bill before them was passed. How could they say at what sum they should stop? Was the bill entitled "an act for providing money for finishing the public buildings in the Federal City?" No. It was "an act for guarantying a Loan for the use of the City of Washington." On the same principle they might guaranty loans for all the cities in the Union. Why a Loan for the City of Washington in particular? Was there any reason why the different cities in the Union should be taxed for that city? Was it meant that Government should go through with the business, and see all interior improvements properly finished in this new city? Nothing was mentioned in the bill for which this money was wanted. Instead of finishing the public buildings, it might be used for paving, lighting, or otherwise improving the city. Mr. S. observed, that it was with Government as with individuals, the facility of borrowing money frequently led to ruin. But it was said the lots were worth a great deal more than they were asked to guaranty. He was of a different opinion, and he was afraid gentlemen would find themselves disappointed in that particular. Speculation, he thought, had been at the highest pitch. No sooner was it announced that Government was to go to this new city at a certain period, than the cry was immediately raised that commerce would flow into it from all quarters; that it would become the centre of all the property in the Union; that Ambassadors would build great seats there; that it would be every thing that fancy could picture as delightful. What was London, Paris, or all the cities of the earth compared with this city! What, said he, has been the consequence? What might have been expected and what will happen in all similar cases, public opinion with respect to this city will probably fall as rapidly as it rose. But, said he, lots in this city had been objects of bargain and sale in Europe. Gentlemen go there and say, "This is to be the greatest city on earth, the lots are, it is true, somewhat high, but they will be ten times higher." It was astonishing, he said, to see and hear the exaggerations which had been circulated with respect to this city. He himself had seen in a London paper, an account stating that there was already 7,000 houses built there. Persons in Europe, believing these representations, had given high prices for these lots, in the same way as they had been induced to give high prices sometimes for very indifferent lands. Speculation now, however, being in some degree flat, it must be raised by the present bill. The public must be informed that Government will take this city upon their own shoulders, and it will be asserted that the United States will take up this city as the Czar Peter took up Petersburg. If any foreigner were to embrace this idea, would he not find himself probably miserably deceived, in the result? But, suppose the sum proposed to be borrowed were to be employed in finishing the public buildings intended for Government, how degrading would it be to go into Europe to borrow money to erect these buildings? If he had studied to find out a plan of degrading the honor of the country, he could not have hit upon one more humiliating. What would be thought at Amsterdam, when the United States were borrowing money to erect houses for the different Departments of their Government to meet in. If money was wanted for this purpose, why not raise it by taxes? The ease with which money might be borrowed had a tendency to stupify all exertion, and the end of it would be, that the whole of their revenue would go to pay the interest of their debts to foreign countries. It was the opinion of most thinking men on the subject, (and the President had wisely recommended the measure for four successive years) that their Public Debt should be extinguished with all possible speed. And what, he said, was the conduct of that House? They say they will pay every attention to the subject, but still incur fresh debt. The report of the Committee of Ways and Means was before them, by which they saw how their finances stood. He feared they should soon have nothing but bills for Loans before them, from finding it so much more easy to borrow than to raise money by taxation. They were following a practice which had brought Great Britain to the brink of ruin. If the lots, said Mr. S., ever would be of value, it was now; for, in matters of speculation, the more uncertainty there was, the greater room there would be for conjecture and calculation. He thought it very improbable the property should increase in value. For when the Government shall be removed, it may be found that from the shortness of the sessions of Congress there, the advantages which they would confer would not be very great, and consequently, that much of the speculation which had been formed of the great prosperity of that city, had been founded in error. He would not be understood to say that the City of Washington might not have a gradual increase and consequence like that of any other city in the Union, but not that it would grow as it were spontaneously in the manner some gentlemen seemed to expect it. For the reasons he had mentioned, he should vote against the passing of the bill; and though the bill should be carried by a great majority, he should not regret the vote though he should be found alone on the occasion.

Mr. Havens said, the bill carried a refutation of the argument used on its support in the face of it, viz: that the lots are worth more than the money proposed to be guarantied. If the money-lenders believe this to be true, there would be no need of a guarantee. This guarantee being asked for, convinced him that it was not believed that the lots would bring the money. He had taken some pains to find whether the price the land would command will be likely to repay the sum proposed to be borrowed, and could not discover any well-founded reasons for the belief. Every gentleman must be sensible that if they engaged for $300,000, they engaged the Government for the whole sum. But what was meant when it was said that there was some kind of obligation to go to this new city at the time mentioned? He could read no such contract. The buildings were to be completed. When he was upon a committee on another subject, he made inquiry whether, if the buildings intended for Congress were not completed, they might not be accommodated in some other way; and, if his information was right, before the year 1800 there would be parts of the city finished in which they might be accommodated; or, if not in that city, in Georgetown, which lies near it? He should vote against the bill.

Mr. Murray would remark, that the very point in dispute had been taken for granted. It had been said, the call for a guarantied loan indicated in itself a consciousness that the lots were not worth the sum to be borrowed upon their credit. This he would explicitly deny. On the contrary, there is a full and well-grounded conviction that the lots upon which the credit is asked would at this moment sell for more than the sum in view: and that, therefore, as mere money-lenders, the loan would be a safe bargain. It was likewise clear, almost to demonstration, that if the immediate pressure for money were removed, that must otherwise force the lots into the market, the operation of the loan, when properly laid out in the improvement of the city, will add value to the lots pledged, and thus increase the resources of the borrower in such a manner as that he not only will be enabled to discharge the sum borrowed, but also have a great and valuable residuary as a fund, from which the City of Washington, without internal taxes, may be embellished. As the United States will have exclusive jurisdiction within that city, it was deeply their concern to husband their resources so as to make them accomplish their present ends and their future objects. Expose all the lots to sale at present, and, though you will get the sum which may be immediately necessary, you strip the estate entirely of all resources in future but those of taxation. If the Government feels any interest in their own affairs, for the affairs of that city as a peculiar scene of their jurisdiction, are more or less their own, they will adopt; towards that city and its resources, those maxims which, in private, and, indeed, public character, constitute a sound economy.

He had never anticipated the support of the gentleman from this city, [Mr. Swanwick,] but he confessed he did not expect so warm an opposition to this bill from that gentleman. He has taken great pains to discredit the value of property in the city, and has painted the city itself as an airy fiction of speculation, a mere sort of castle-building dream, such as man oversets when he rises out of bed from the reveries of the morning. It is true, he observed, that the scheme is a speculation—the whole of life and its concerns, perhaps, are no more; but it is speculation rising from a concurrence of events and local circumstances more favorable to a profitable issue, than any other that had of late presented itself to men of genius and enterprise. It was founded on nothing airy but to the mind that could think lightly of the sanctity of public faith; nothing groundless, unless to those whose interests led them from a fair calculation of those immense advantages that unite themselves in the centre of the Union, on one of the noblest navigable rivers in the world. It was a speculation bottomed for the security of its profits in the faith of the Union. It is impossible that the gentleman, who is really so excellent a judge of good speculation, of commerce, and of city property, and whose property so adorns this city, and so largely contributes to its elegant amusements—for that circus and that hotel in view belong to the gentleman—should

seriously believe that the Federal City is an airy speculation. It must have been in the moment of poetical indulgence, and been determined in the cast of character he meant to assume in the debate, to give us "T'other side of the Gutter," which he understood was an excellent dramatic thing, as it was played in the gentleman's own circus. He lamented that that circus was not now in the Federal City. He observed, that were the question at this moment to be, in what part of the Union shall the permanent Seat of Government be? he believed that it would be placed where it is contemplated, at the Federal City. It great views pointed out the banks of the Potomac, in Maryland, to be the proper place under such a question, would it not be extremely natural for the Government, not perhaps to give, but to lend money, in aid of private enterprise, for the very rational purpose of living in houses, in preference to holding their sessions, like Druids, in the open air or under trees? If houses were deemed necessary, if a thousand accommodations were essential to the settling of the Government there, what would be the duty of Government? Certainly to promote, not to discourage the growth of a city, and to lend money to attain that end.

Mr. Page said, he would vote for the bill, because, if it were not passed, it would give the public an idea that they did not mean to go there at the time appointed. He was no friend to the having a district of ten miles square, nor to the magnificence displayed in the President's house. He believed they need not be under any apprehensions of loss from the present guarantee; but, if the bill was rejected, the palace and other public buildings erecting there would come to nothing.

Mr. Swanwick rose, and remarked upon what had fallen from gentlemen in reply to his observations. When he mentioned the removal of the Government, he did not mean to make any allusion to Philadelphia, or to the value of property there. He said, the gentleman's opinions were as erroneous with respect to the present as to the future. They seemed to ascribe the prosperity of Philadelphia to the residence of Congress there; whereas, if they would look around them, they would see more rapid advances in some other places which and not had the same advantage. A gradual rise had, for some time, been taking place in all parts of America, owing to a great influx of money and increase of commerce. Having this opinion with respect to Philadelphia, he felt perfectly indifferent about the removal of the Government—it would not take one cubit from her stature, nor from the value of the land to which the gentleman from Maryland had alluded on "T'other side of the Gutter."

It was said, that he objected to the title of the bill only. The bill, he said, contemplated a variety of objects, consequently the money proposed to be borrowed might be applied to any of them, as he did not find it was confined to the public buildings only. What was the original act for fixing the future Seat of Government, of which they had said so much and quoted so little? [He read the clause which says the President shall be authorized to receive grants of land and money.] The present bill was much at variance with the original act, for it makes the United States become speculators, and guaranty a large sum in a foreign country at six per cent. on the credit of the lots. He could not agree to this partnership of speculation, which the Government was about to enter into, because he should not himself choose to risk his private property in such an adventure, and thought it a good rule not to place the public on ground he should not like himself. But, it was said, good faith required that they should guaranty this loan, because they had said Government should go there at a certain period. But this was only said conditionally, if proper buildings were prepared for their reception. It was not expected they should, at all events, go there and sit under the canopy of Heaven.

The objections which he had made to the borrowing of money, did not seem to have the same weight with other gentlemen which they had with him. He said there would be a loan to be negotiated for the use of Government, and he was apprehensive the one might interfere with the other. This step was only the commencement of the business. He remembered when £20,000 were granted for building the house of the President, in Philadelphia, it was thought a very large sum, but nearly twice that sum had been asked for since, and the house was not yet finished. So it would probably be in this case. They were applied to at first for $500.000, but now the sum was reduced to $300.000. He expected this would not be the last call. He was against the principle of the bill. He would not make any further observations on the subject, nor would he have risen again, had it not have been to notice some rather personal remarks which had been made on the sentiments he had before expressed.

Mr. Sitgreaves said, it was to be expected that the members from Pennsylvania would, in giving opposition to this bill, have to meet the reflections which they had heard. He was, for his own part, not surprised at them, nor, indeed, was he displeased. He would submit to them, and to much more, when conveyed with so much pleasantry as had been used by his friend from Maryland, [Mr. Murray.] But the members from Pennsylvania would ill deserve the confidence reposed in them by their constituents if they should suffer such considerations to mingle with the discharge of their public duty, or if they could be prevented from declaring their opinions by that greatest of all weakness, the apprehension that improper motives might be attributed to them. He could not help considering that gentlemen greatly overrated the advantages derived to the city of Philadelphia from Congress sitting in it. He had read that when one of the Kings of England, in a fit of disgust, threatened the citizens of London to remove his Court and Parliament to Oxford, they hoped "his Majesty would not take the Thames with him." And, so long as they left the Delaware behind them the city of Philadelphia would, he imagined, feel no material loss from the removal of

Congress, except, indeed, the agreeable society of its members during their session. But he considered this humorous kind of discourse on serious subjects as calculated to keep out of view more important considerations. He had stated that the bill was an illusion; that the United States assumed and held out to the public and to money-lenders a right to pledge property, which, he ventured to say, they did not possess. He had said this, though the Attorney General and three professional gentlemen in that House maintained an opposite opinion; for all his respect for their sentiments could not induce him to abandon his own in that which he had expressed. He had not been singular, and he trusted he had shown satisfactory grounds on which he supported it. But, if the opinion of the Attorney General was just, and the land was at the disposal of the United States, he contended that would be a decisive reason why the bill should not pass, because it did not furnish for the United States the best indemnity that, conformably to that opinion, the case is susceptible of.

It had been agreed, before the recommittal, that if greater security than the bill offers could be given them, it ought to be given. If the opinion contended for is correct, the land can, and, if it can, it ought to be placed in the hands of a responsible public officer: whereas, at present it was in the hands of private trustees, persons no way amenable to the United States, but by process in the Courts, in the common forms. He was sure the President was not publicly responsible until the money came into his hands. When grants of money were paid into his hands he was responsible for them.

It has been said the trustees could not touch the money. From whence was this opinion collected? The trustees alone can convey to purchasers. The money, by the deed, is expressly appropriated, first, to pay the original price of the land, and must pass through the hands of the trustees before the residue can be paid over to the President for public purposes. He had said the present bill was liable to another objection, viz: as holding out a false view to money-lenders, and he had been astonished to hear from a gentleman from Connecticut [Mr. Hillhouse] that money-lenders would take care of themselves, and that Government need not make itself uneasy on that head. He was sure that such a sentiment did not agree with that delicate and tender regard which that gentleman always appeared to profess for the purity of public credit.

Mr. Sitgreaves said, he was willing that Government should remove to the new city as proposed, and would lay no obstruction in the way of that removal. There was, however, an essential difference between interposing obstructions and refusing aid, which we were not bound to grant. They ought to say, "We are bound to go if you are ready to receive us, but we will not become city builders." This bill, he said, was predicated on a possibility that we should one day have to pay the money, for which it pledged the United States as guarantee. He should continue to oppose it.

Mr. Brent said, the present bill seemed to be peculiarly obnoxious to the gentleman from Pennsylvania last up, because it purported to guaranty a loan for the erection of public buildings in the Federal City. He said, he was by no means tenacious about the title, so that the object of the bill was obtained. He said, the apprehensions of the gentlemen from Pennsylvania and Connecticut were the most unfounded that could be imagined, and if they had noticed the observations which had fallen from his colleague, they must have seen that they were unfounded. When they recollected what the lots had sold for, the number remaining on hand unsold, and the price they will most probably command, when it is known that Congress has agreed to guaranty the proposed loan, it must be one of the most idle apprehensions to suppose that this property will not be a sufficient guarantee for the amount of the loan. Gentlemen had said that if, when the original act passed, it had been supposed that application would have been made to Government to aid the erection of the public buildings, it would never have gone into effect. He knew not what might have been the opinion at that time. He formed his ideas from the act of Congress itself. There he found if there were certain concessions made by any State for the use of the General Government, Congress stipulated that the Seat of Government should be removed. In consequence of this declaration, two States and several individuals of the States had made considerable sacrifices. Will gentlemen, then, say that, after these circumstances had taken place, and these offers had been solemnly accepted, that the faith of the United States was not pledged? If so, they view the matter in a far different light from him. Objections had been made with respect to the security of the United States with respect to the trustees. It would be sufficient to say that these subjects were fully considered by the select committee, and they had taken the opinion of the Attorney General, which was clear and satisfactory. Those who heard the deed read would recollect that the property was to be conveyed to trustees, and sold, from time to time, under the direction of the President, the money to be appropriated by him for the erection of suitable public buildings for the use of Government. But, according to the gentleman from Pennsylvania, the public had no security but the money might be diverted by the trustees to other purposes. This opinion was so far from just, the trustees could never have touched the money, as the property is to be sold under the direction of the President of the United States. He should be glad to know, therefore, what possible risk there could be in the disposal of the property? The purchaser will see that the trustees are the sole agents, and that the money is to be under the direction of the President. Can it, then, be supposed that any purchaser will pay his money other than agreeably to the direction of the President?

With respect to engagements on the part of the

public. It had been suggested that sufficient money had been paid into the hands of the President to finish the public buildings. The fact might be so. He did not mean to determine on the misapplication of money. But, admitting the buildings were on too extensive a scale, and the money had been squandered, against whom does this accusation retort? Not against those who gave it, but on that House, who had not attended to the expenditure of it. The fault rested with them, but they were not, on that account, dissolved from their engagement. The gentleman from Connecticut said he entertained no wish to obstruct the removal of Government, but he was unwilling to grant the proposed loan. If he objects to the buildings being on too large a scale, but is still willing to transfer the Government, he should have brought forward his objections in an earlier stage of the business, and suggested a different kind of plan for the buildings. But, as he had suggested no such plan, the gentleman's making an objection to the mode now, appears like an attack upon the bill itself. And, if he were of opinion that it was desirable to remove the Government at the time appointed, it was essentially necessary to guaranty the loan, as the buildings were now at a stand for the want of the necessary aid, or they must legislate under the canopy of Heaven. He trusted, therefore, the gentleman would see the propriety of voting for the present bill.

Mr. Craik said, he should have expected objections from any part of the Union sooner than from Pennsylvania. One of the members from that State [Mr. Sitgreaves] had told them that there was no obligation on Congress from the original act—at least he knew not of any such. But he had forgotten that they were bound to sit in Philadelphia ten years; and, if they might judge from the gentleman's language on this occasion, he thought they might conclude he wished to keep them longer. His colleague [Mr. Swanwick] traveled no further than the title of the bill, and found a bill authorizing a Loan for the City of Washington. But, if he had read the first clause of the bill, he would have found that the money was wanted to complete the public buildings in that city. The same gentleman went on to say, that it was degrading to America to borrow money in a foreign country to erect their public buildings, and that, before he should do this, he would come forward and lay taxes upon his constituents. If that gentleman was willing to do this, he was not. He thought it would be a wanton abuse of their power to lay a tax unnecessarily. He had no doubt but the lots would sell for double the sum proposed to be borrowed. It had also been said that a guarantee amounted to a loan. No guarantee could be made without such words. The same gentleman proceeded, and said, if the lots were worth the money why call upon Government for a guarantee, why not borrow money upon the lots themselves? That gentleman, said Mr. C., might borrow his thousands or tens of thousands at home, where his property is known, but if he were in a foreign country, and unknown, he would have need of a guarantee if he wanted to borrow. He trusted the bill would pass by a large majority, which would serve to show to the public that they did not mean to impede but to cherish the growth of this infant city.

The sense of the House was then taken by yeas and nays, and the bill passed, 72 against 21, by the following vote:

Yeas.—Fisher Ames, Abraham Baldwin, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, William Cooper, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Dwight Foster, Jesse Franklin, Albert Gallatin, Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Christopher Greenup, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, John Heath, James Hillhouse, William Hindman, James Holland, George Jackson, Matthew Locke, Samuel Lyman, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Andrew Moore, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, George Thatcher, Uriah Tracy, John E. Van Allen, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Theodorus Bailey, Nathan Bryan, Joshua Coit, Abiel Foster, Chauncey Goodrich, Andrew Gregg, Roger Griswold, Jonathan N. Havens, Aaron Kitchell, Samuel Maclay, Frederick A. Muhlenberg, John Reed, John Richards, Samuel Sitgreaves, John Swanwick, Zephaniah Swift, Absalom Tatom, Richard Thomas, Mark Thompson, Philip Van Cortlandt, and Joseph B. Varnum.

Mr. Tracy, from the Committee of Claims, presented a bill to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States since the 4th of March, 1789; which was received and read the first and second times, and ordered to be engrossed, and read the third time to-morrow.

DUTIES ON DISTILLED SPIRITS.

Mr. Macon said, owing to a failure of their crops, a number of his constituents had distilled far less than their usual quantity of spirits, and he therefore wished they might be permitted to pay their duties in proportion to the quantity made, instead of being charged according to the capacity of their stills. He laid a resolution on the table to that effect.

THE BRITISH TREATY.

The Message from the President read yesterday in answer to the call for papers, was referred to the Committee of the Whole on Wednesday next.

Friday, April 1.

A bill extending the provisions of a bill for the relief of widows and orphans of officers who have died since March 4, 1789, was read a third time and passed.

A memorial from the Washington Company of Maryland, praying for a portion of the Western lands, on certain conditions, and against a clause in the bill before the House respecting the receiving of certificates in part of payment for the land, was read and referred to the Committee of the Whole on the bill for opening offices for the sale of land in the Northwestern Territory.

Several petitions were presented from the Western country, praying the English and Spanish Treaties to be carried into effect.

ADDITIONAL REVENUE.

The House then went into a Committee of the Whole on the report of the Committee of Ways and Means, on the state of the receipts and expenditures of the United States. The first resolution, contemplating a calculation for a direct tax, being under consideration—

Mr. Jeremiah Smith said, he should be glad to be informed of the reasons which induced this resolution. He doubted not the committee had grounds for bringing it forward; but he must own he did not feel himself prepared to agree to a system of direct taxation; his prejudices were in favor of indirect taxes. He did not like direct taxation; he thought it could only be justified by necessity. He should be glad, however, for information on the subject.

Mr. W. Smith, the Chairman of the Committee of Ways and Means, observed, that if gentlemen examined the statement of the Committee of Ways and Means, they would see the necessity of the measure proposed. When gentlemen objected to plans brought forward by Committees of Finance, it would be well if they would substitute something in their place; if not, they must leave the Government in an embarrassed situation. This subject had occupied much of the time of the Committee of Ways and Means, which it was known was composed of a member from each State in the Union. The committee had attentively examined the state of the revenues and expenditures, and found considerable sums due to the Bank of the United States, a heavy Foreign Debt, a considerable increase of expense from the Deferred Debt, which becomes payable after the year 1800. It was absolutely necessary, therefore, to provide some means of meeting these exigencies, because they could not now, as had been customary heretofore, pay the instalments as they became due, by new loans in foreign countries. They must now pay the debt by raising a revenue for the purpose, or by new loans in this country. It was supposed, from the present demand for money in this country, it would not be possible to borrow money on advantageous terms; they had, therefore, no other resource than taxation. The committee having fixed this necessity as a basis, they were next led to inquire into the best means of effecting the business. Direct or indirect taxation were to be necessarily resorted to. In investigating the first, so many difficulties presented themselves, they were obliged to confine themselves to the resolution as reported. They thought a part of the necessary revenue might be raised from subjects of indirect taxation, but by no means to an adequate amount. The subject of direct taxation being a new one, they did not think it expedient at this time to make a particular report on the subject, but barely to provide that some system should be formed for the next year, by consulting the laws and practices of the different States, so as to make the system most palatable to each.

The committee had not determined that they would ultimately support a tax of this kind, but only to acquire all the information they could upon the subject. If, when this report from the Secretary of the Treasury shall have been made, the House should not think the plan a desirable or practicable one, it may be rejected. The House will see that some revenue must be had. Taxes of every kind were disagreeable, if they could be avoided, but that was impossible. Some gentlemen had supposed that indirect taxes would be less embarrassing and more agreeable to the people of this country; but if, upon the best information which could be got, it should be found unavoidable to resort to a system of direct taxation, they must individually surrender their prejudices against that system. In making these observations, he did not feel himself in the least committed to support a plan of direct taxation; he confessed he would much rather go into indirect taxation; but it was the sense of the committee that this method should be tried. A principal motive which influenced them to make this trial was this: Almost the whole of the present revenue depends upon commerce—on a commerce liable to be deranged by wars in Europe, or at the will of any of the great naval European Powers; they therefore were of the opinion that it would be a prudent measure to have a system of direct taxation organized, which might be resorted to in cases of necessity. And although he should be against entering upon a system of direct taxation at present, yet he was in favor of a plan being systematized, which might supply any deficiency which might arise in the revenue from the causes above stated. He hoped no embarrassment would be thrown in the way of this subject in the present stage of it, by any prejudices which gentlemen might have against this system of taxation, as, hereafter, when the information required was laid before them, they could then exercise their judgments more completely upon the subjects; they would, at any rate, be in possession of a plan of raising a considerable revenue, which might be resorted to, at least in cases of necessity. For these reasons, he hoped the motion would be agreed to.

Mr. Dayton (the Speaker) said he should enter upon a system of direct taxation with great caution. It was untrodden ground, and they ought to examine it well before they entered upon it. But he thought the present resolution a proper measure to introduce them to a view of the subject, which they might act upon or not, as they might hereafter determine. The forming of such a system would also have this good effect: it would have a tendency to make individual States

improve their present imperfect system of taxation—for he could not help considering them imperfect as to the difference in value betwixt improved and unimproved land, and betwixt different kinds of improved land in the same State; as, when the different States saw the General Government digesting a plan of taxation, they would naturally compare their own systems with the one proposed, and improve them where they thought them deficient. He had no objection, therefore, to agreeing to the resolution. He had an objection to the sum mentioned; he wished it might be less. He felt disinclined at present to a system of direct taxation; but if it was eventually adopted, he trusted care would be taken to have it duly enforced.

Mr. Williams should not object to the resolution before the House, though he was persuaded the formation of the plan proposed would be attended with great difficulties. In the State which he represented, a plan for direct taxation had been attempted for some years, and they could not agree on the mode. He should, nevertheless, wish to see such a plan brought forward by the Secretary of the Treasury; though he was of opinion it ought never to be resorted to but in time of war or in cases of extreme necessity. It was a positive kind of taxation, and such as could not be avoided. A farmer may be supposed to be always prepared to pay his share of taxes; yet, in cases of bad crops, they find farmers amongst the poorest of their citizens. This being the case, it would be almost impossible to raise a direct tax from them; but if the tax be indirect, it will be optional with them whether they pay it or not, in times of scarcity; and, when their crops return, they will purchase a larger quantity, and by that means pay a double tax. If taxes were paid on goods imported, the industrious man paid but few of them. But should he be asked how they were to raise the revenue? Suppose he were to pay ten shillings for a yard of cloth, and out of that sum two shillings went for duty, two for profit, and six to the foreign merchant, so that out of £200,000 received for an article of that kind, £120,000 would go to the public stock of a foreign country? Were this saved, it would enable them to raise taxes much easier in other ways. Hence, indirect taxes are paid at the option of the consumer, and those taxes operate as a spur to industry, as well as an encouragement to their own manufactories. But suppose direct taxes of the Governments of individual States? The General Government, he said, had guarantied to each individual State a republican form of Government; but he thought direct taxes would not tend to secure them in it. Whenever the Governments of individual States had a surplus of money in hand, it ought to be employed in the encouragement of manufactures, in making roads and inland navigation, so as to be enabled to bring with all possible facility the produce of the country to market, so as to undersell every other market. This being the case, he should be against direct taxes, except in cases of emergency. Besides, indirect taxes generally went to luxuries, and left people at liberty to purchase them or not. He thought, if a little more was laid upon the luxuries of life, it would please the people better than direct taxes. He trusted, before the end of their session, they should considerably lessen the public expenditure. There had been very large sums expended for the last two years. If they discontinued their Naval Armament, sold materials collected, and reduced their Army Establishment to one-half to what it had been calculated on by the Secretary of the Treasury, it would make a reduction in the public expenditure of near two millions of dollars. Hence no necessity for direct taxes; for if they continued at peace, he believed their present revenue would meet every necessity of Government. He should not observe farther at present, but would speak to the other resolutions when they were before the Committee.

Mr. Hillhouse said, the sum mentioned in the resolution had been objected to. He argued that it did not matter what the sum was, as it was merely mentioned in order to furnish a rule for the Secretary of the Treasury to found his calculation upon. But he would move that the sum should be left blank, which would leave the Secretary of the Treasury more at liberty. For it was not his idea, though they were directing this inquiry to be made, that they were about to lay a direct tax.

Mr. Nicholas hoped the amendment would not be pressed. It was not of much consequence what was the sum proposed, but it would be better that some specific sum should be named; because, in proportioning a direct tax, the Secretary of the Treasury must assume some sum. If he directed to lay a tax for two millions, it would be easy to reduce it at once; but if only laid for five hundred thousand dollars, he might omit a number of things which he would introduce in calculating for two millions.

Mr. Bourne hoped the amendment would be agreed to. The resolution called upon the Secretary of the Treasury to make out a plan by which a direct tax might be laid. He knew there was no tax so disagreeable to the people as direct taxes. He thought it would be improper, therefore, to hold out any idea of such a tax being laid, except in a case of absolute necessity. He agreed to this proposition in the committee, because the present revenues, depending almost entirely upon commerce, were very precarious, and liable to be interrupted by war, and it was necessary they should have some resource to which they might resort in case of any interruption being put to their commerce. With respect to their ordinary course of taxation, he trusted they should not have recourse to a system so disagreeable as that of direct taxation. It would be necessary they should have an increase of revenue in the year 1801; but he trusted the prosperity of their commerce would be such as to enable them to meet the public exigencies at that period. They had found that their revenue had doubled its amount since it was first laid, and, from the growing situation of their commerce, they might reasonably expect a continuance of its increase. The gentleman from New York had suggested that some additional

tax might be laid on articles of luxury; but he was of opinion any additional tax on commerce would rather operate against the revenue than in favor of it.

These observations, Mr. B. said, did not apply immediately to the question before the Committee, which was merely to strike out certain words, so as to leave the sum blank. He thought it was not necessary to alarm the people with an idea that a direct tax of two millions of dollars was about to be laid; he did not think so great a sum would be wanted, and very probably no necessity would exist of resorting to a direct tax at all. It would be necessary for the Secretary of the Treasury to fix upon some sum when he proceeds to make his calculation, and when two millions were mentioned, it was merely as a kind of text for him to estimate from. He did not see why the apportionment might not be made on one million as well as two. It was said a calculation for two millions might include articles which a less sum would not embrace; but, he said, that, in his opinion, the plan reported by the Secretary of the Treasury would not point out all the particular objects of direct taxation to which it might be thought necessary to resort. He was in favor of adopting a plan which should be congenial to the different States, if a direct tax was resorted to at all.

This subject of direct taxation was a subject of considerable discussion in the committee. It was pretty generally opposed, and was a prevailing opinion in the committee that indirect taxation should be exhausted before they had recourse to direct taxation. A sub-committee was accordingly appointed, who reported a variety of objects as proper of indirect taxation, but when they were proposed to the committee they met with much opposition; a sub-committee was also appointed to report on the subject of direct taxes. They reported, generally, that the thing was practicable. The committee did not report a system in writing; previous to their report, they called upon the members from different States for information of the mode of assessing and collecting direct taxes in the different States. On inquiry, it appeared that some States had not for a considerable time been in the practice of laying direct taxes, and that in some there was no existing valuation of taxable property. This would cause considerable difficulties in the way of any plan that can be thought of, in the apportionment among different districts and individuals in States where there was no valuation. The committee, on the whole, were of opinion that all which could be done with propriety at the present was contained in the resolution before the Committee, calling on the Secretary of the Treasury to report a system of direct taxation, to be adopted when it shall be found indispensably necessary. For his own part, he doubted the practicability of the plan; but he believed they had fixed upon the best method of discovering whether it could be carried into effect or not, by recommending the present resolution. He therefore hoped it would be agreed to.

Mr. S. Smith did not think it material whether the amendment took place or not. The gentleman from Rhode Island seemed to be alarmed at the sum. He had made a calculation to know how much the State which he represents would be liable to pay upon the scale in the report, and found it would be no more than 40,000 dollars. He contemplated that greater difficulties would attend the forming a proper system for a scheme of direct taxation; but he thought this time of peace and plenty would be the proper time to look at the subject, so that Congress might be prepared to act in case of emergency. It was of no consequence upon what sum the calculation was made.

It would be remembered, Mr. S. said, that two years ago, when the British seized the property of their merchants on the ocean, gentlemen had turned their minds to the public revenue; they were perhaps deterred from resenting the insults which had been offered to them; they went into calculation, and found it would not be prudent to risk too much. He believed the proposed inquiry was necessary, and as the sum seemed to be objected to, he had no objection to adopt the amendment. A gentleman from New York had spoken of the propriety of laying an additional tax upon imported luxuries. He would remind gentlemen that the duties upon commerce were already high; that if they were made higher, it would become an object to evade the payment. Duties might be stretched too far; for, when duties became excessive, men would calculate the risk, and if they could escape once in three or four times, it might be worth the risk. He referred to the enormous duties which had been paid on tobacco in England, and showed that more revenue was collected on the reduced duty. The merchants of the United States were disposed to pay their duties fairly, though it was inconvenient to them, as they were obliged to bring forward their first and best payments to pay their duties. He delivered his sentiments upon the subject thus early, that gentlemen might turn their attention to it, although he did not think that it would be advisable at present to have recourse to direct taxation. The indirect taxes which had been laid had been far from successful, some of them, indeed, worse than nothing. The tax on snuff was one of the latter. Several indirect taxes had been proposed in the select committee, but had been rejected. He doubted not their commerce would continue to advance, and that, in the year 1801, the duties arising from it would be so increased as to be equal to the public necessities. He thought it necessary, however, that they should turn their eyes to the subject; he would not advise the adoption of the measure, but he should be glad to have a sight of a digested plan relative thereto.

Mr. Gallatin said the amount of the sum in the resolution was not very material; but so many observations had fallen from different quarters against the system of direct taxation, that he should think it necessary to say a few words on the subject.

He agreed in one thing with the gentleman

improve their present imperfect system of taxation—for he could not help considering them imperfect as to the difference in value betwixt improved and unimproved land, and betwixt different kinds of improved land in the same State; as, when the different States saw the General Government digesting a plan of taxation, they would naturally compare their own systems with the one proposed, and improve them where they thought them deficient. He had no objection, therefore, to agreeing to the resolution. He had an objection to the sum mentioned; he wished it might be less. He felt disinclined at present to a system of direct taxation; but if it was eventually adopted, he trusted care would be taken to have it duly enforced.

Mr. Williams should not object to the resolution before the House, though he was persuaded the formation of the plan proposed would be attended with great difficulties. In the State which he represented, a plan for direct taxation had been attempted for some years, and they could not agree on the mode. He should, nevertheless, wish to see such a plan brought forward by the Secretary of the Treasury; though he was of opinion it ought never to be resorted to but in time of war or in cases of extreme necessity. It was a positive kind of taxation, and such as could not be avoided. A farmer may be supposed to be always prepared to pay his share of taxes; yet, in cases of bad crops, they find farmers amongst the poorest of their citizens. This being the case, it would be almost impossible to raise a direct tax from them; but if the tax be indirect, it will be optional with them whether they pay it or not, in times of scarcity; and, when their crops return, they will purchase a larger quantity, and by that means pay a double tax. If taxes were paid on goods imported, the industrious man paid but few of them. But should he be asked how they were to raise the revenue? Suppose he were to pay ten shillings for a yard of cloth, and out of that sum two shillings went for duty, two for profit, and six to the foreign merchant, so that out of £200,000 received for an article of that kind, £120,000 would go to the public stock of a foreign country? Were this saved, it would enable them to raise taxes much easier in other ways. Hence, indirect taxes are paid at the option of the consumer, and those taxes operate as a spur to industry, as well as an encouragement to their own manufactories. But suppose direct taxes of the Governments of individual States? The General Government, he said, had guarantied to each individual State a republican form of Government; but he thought direct taxes would not tend to secure them in it. Whenever the Governments of individual States had a surplus of money in hand, it ought to be employed in the encouragement of manufactures, in making roads and inland navigation, so as to be enabled to bring with all possible facility the produce of the country to market, so as to undersell every other market. This being the case, he should be against direct taxes, except in cases of emergency. Besides, indirect taxes generally went to luxuries, and left people at liberty to purchase them or not. He thought, if a little more was laid upon the luxuries of life, it would please the people better than direct taxes. He trusted, before the end of their session, they should considerably lessen the public expenditure. There had been very large sums expended for the last two years. If they discontinued their Naval Armament, sold materials collected, and reduced their Army Establishment to one-half to what it had been calculated on by the Secretary of the Treasury, it would make a reduction in the public expenditure of near two millions of dollars. Hence no necessity for direct taxes; for if they continued at peace, he believed their present revenue would meet every necessity of Government. He should not observe farther at present, but would speak to the other resolutions when they were before the Committee.

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This subject of direct taxation was a subject of considerable discussion in the committee. It was pretty generally opposed, and was a prevailing opinion in the committee that indirect taxation should be exhausted before they had recourse to direct taxation. A sub-committee was accordingly appointed, who reported a variety of objects as proper of indirect taxation, but when they were proposed to the committee they met with much opposition; a sub-committee was also appointed to report on the subject of direct taxes. They reported, generally, that the thing was practicable. The committee did not report a system in writing; previous to their report, they called upon the members from different States for information of the mode of assessing and collecting direct taxes in the different States. On inquiry, it appeared that some States had not for a considerable time been in the practice of laying direct taxes, and that in some there was no existing valuation of taxable property. This would cause considerable difficulties in the way of any plan that can be thought of, in the apportionment among different districts and individuals in States where there was no valuation. The committee, on the whole, were of opinion that all which could be done with propriety at the present was contained in the resolution before the Committee, calling on the Secretary of the Treasury to report a system of direct taxation, to be adopted when it shall be found indispensably necessary. For his own part, he doubted the practicability of the plan; but he believed they had fixed upon the best method of discovering whether it could be carried into effect or not, by recommending the present resolution. He therefore hoped it would be agreed to.

Mr. S. Smith did not think it material whether the amendment took place or not. The gentleman from Rhode Island seemed to be alarmed at the sum. He had made a calculation to know how much the State which he represents would be liable to pay upon the scale in the report, and found it would be no more than 40,000 dollars. He contemplated that greater difficulties would attend the forming a proper system for a scheme of direct taxation; but he thought this time of peace and plenty would be the proper time to look at the subject, so that Congress might be prepared to act in case of emergency. It was of no consequence upon what sum the calculation was made.

It would be remembered, Mr. S. said, that two years ago, when the British seized the property of their merchants on the ocean, gentlemen had turned their minds to the public revenue; they were perhaps deterred from resenting the insults which had been offered to them; they went into calculation, and found it would not be prudent to risk too much. He believed the proposed inquiry was necessary, and as the sum seemed to be objected to, he had no objection to adopt the amendment. A gentleman from New York had spoken of the propriety of laying an additional tax upon imported luxuries. He would remind gentlemen that the duties upon commerce were already high; that if they were made higher, it would become an object to evade the payment. Duties might be stretched too far; for, when duties became excessive, men would calculate the risk, and if they could escape once in three or four times, it might be worth the risk. He referred to the enormous duties which had been paid on tobacco in England, and showed that more revenue was collected on the reduced duty. The merchants of the United States were disposed to pay their duties fairly, though it was inconvenient to them, as they were obliged to bring forward their first and best payments to pay their duties. He delivered his sentiments upon the subject thus early, that gentlemen might turn their attention to it, although he did not think that it would be advisable at present to have recourse to direct taxation. The indirect taxes which had been laid had been far from successful, some of them, indeed, worse than nothing. The tax on snuff was one of the latter. Several indirect taxes had been proposed in the select committee, but had been rejected. He doubted not their commerce would continue to advance, and that, in the year 1801, the duties arising from it would be so increased as to be equal to the public necessities. He thought it necessary, however, that they should turn their eyes to the subject; he would not advise the adoption of the measure, but he should be glad to have a sight of a digested plan relative thereto.

Mr. Gallatin said the amount of the sum in the resolution was not very material; but so many observations had fallen from different quarters against the system of direct taxation, that he should think it necessary to say a few words on the subject.

He agreed in one thing with the gentleman

from Rhode Island, that they ought not unnecessarily to alarm the people by giving them an idea that they want to raise money by direct taxes if they do not want money. The first thing to be considered was, Do they want money? If their revenue were sufficient to answer all the demands which were likely to come against them, it would be unnecessary even to direct the Secretary of the Treasury to prepare a plan on the subject; but, if it is important not to alarm the people, it is equally important not to deceive them. They should be made acquainted with their true situation, without flattery and without exaggeration. He thought their situation truly stated in the report of the Committee of Ways and Means, which was at present before them. It appeared that their present revenue was equal to their current domestic expenses; but there were several objects that claimed their attention. These objects were of three different kinds; first, the instalments of the Foreign Debt, as they became due, which cannot now be satisfied, as heretofore, by new loans. Hence arose a present embarrassment for money. Nor had any permanent provision yet been made to discharge the Debt. It was for providing the means of meeting these demands that a system of direct taxation was proposed. It was not to alarm the people, but in conformity to the wish of the people, and the recommendation of the President to lay a foundation for extinguishing the Public Debt.

The second object to be provided for was, the Debt consisting of domestic loans, which had been contracted under the new Government, and were of three kinds; 1st. The instalments of 200,000 dollars a year to the Bank, on account of stock in the Bank of the United States. No provision had been made by Congress for discharging these instalments, so that they had been paid by borrowing money abroad, or rather the Debt was turned over from one creditor to another.

2d. The million of dollars which had been borrowed to purchase a peace with the Algerines. The sums appropriated to do this, were the five new duties on snuff, sugar, &c. These had proved unproductive, and were only sufficient to discharge the interest, but not the principal.

3d. The anticipations furnished by the Bank of the United States in advance of the revenues. Of these anticipations he would not speak at present, as he should have occasion to speak of them hereafter. For those anticipations no revenue was in fact provided—for the revenues paid every year were barely sufficient to defray the expenditures of that year, and could not be applied to repaying the anticipations of the preceding year. Hence a debt of 3,800,000 dollars had accumulated on the 1st of January last, which remained to be discharged.

The third object to be attended to was the increase of expenditure of near 1,200,000 dollars a year, from the year 1801, arising from the annuity of eight per cent. payable after that year on the deferred stock, and for the payment of which no revenue was provided. It was thought necessary to make some provision for raising an additional revenue, equal to the sum, as early as possible, as the money received in the meantime might be employed in discharging some of the domestic loans or Foreign Debt. The Committee of Ways and Means had filled the blank in the resolution with a million instead of 1,200,000 dollars, and they had suggested the reason in the report. One million two hundred thousand dollars were to be raised at all events, to meet the year 1801. But if 800,000 dollars were added, then the two millions would, within a term of twelve years, not only pay the annuity of eight per cent. on the deferred stock, but discharge the whole of the Foreign Debt, of the domestic loans of every description, and of the new Domestic Debt created in order to discharge the balance of the Debt due to France. Such a prospect justified the measure, and would, he trusted, render it agreeable to the people of the United States. Yet, as it might appear during this year, that the present revenues would prove more productive than had been contemplated; as, in the course of this session, some of the expenditures, chiefly in regard to the Military Establishment, would, he hoped, be diminished; and as, under those circumstances, Congress would be better able to judge, at the ensuing session, of the actual additional revenue that might be wanted, he had no objection to the proposed amendment, and to leave the sum in blank. He had, however, no idea of such savings being possible as were contemplated by a gentleman from New York [Mr. Williams.] That gentleman had said that two millions of dollars might be saved by a reduction of the Military Establishment, and a suspension of the Naval Equipment. How he could make it appear that two millions could be saved out of 1,500,000 dollars, (which was the whole estimate for both those objects) he could not understand. But he agreed that a considerable saving would be made from those resources. The present calculations were all made upon the present expenditure, therefore, if this was increased or decreased, it would increase or decrease the deficiency.

But as to the resolution itself. If it had been proved that they wanted the money, in what way should they raise it? There were great outcries against direct taxes. He owned he did not see them in so disagreeable a light as had been represented. They knew money must be raised either by direct or indirect taxes. Whatever prejudices gentlemen may have against direct taxes, yet they must all agree, that if a large revenue was to be raised, it would be necessary to have recourse to both modes, in order that property of every kind might contribute its due proportion. Taxes, in every country, ought to apply to that kind of property which exists in the country, and it was evident that the situation of America was very different from that of Europe. We could raise large sums by impost on imported goods, but if recourse was to be had to excises or duties on our own manufactures, we should find these in an infant state when compared with those of Europe. It will be proper to mention the articles of domestic manufactures which alone appeared to be in a

sufficiently flourishing situation, and extensive enough to be productive, and which were accordingly reported by a select committee, but rejected by the Committee of Ways and Means; they were (besides an additional duty on salt) hats and leather; but it was found that a tax on these articles was not a tax on luxuries, but would be as obnoxious, and more oppressive than direct taxes could be. It was from these considerations, and not from any fondness for direct taxation, (finding that they had exhausted the subjects of imposts) that they thought of proposing the present plan. The chief resources of the English were, land tax and excise; but here it was imposts alone which supported their revenue. They raised thereby six millions of dollars, as it had the same effect as excise in other countries, being an indirect tax upon what was consumed, and the reason for laying them in this way was, because we were not manufacturers.

Again, it would be found that the chief property in this country was land, and not a capital applied to manufactures, and therefore they would be obliged to have recourse to land and not manufactures for revenue. He hoped, therefore, the present resolution would be adopted, whether amended or not; and he hoped those gentlemen who had objected to a system of direct taxation, would, previous to the next session of Congress, give the subject a candid examination.

By the present resolution, the Secretary of the Treasury was ordered to make out such a plan of direct taxation as shall be most agreeable to the laws of the different States. He said the part of the United States in which direct taxes were thought to be most obnoxious, were the Eastern States, and perhaps that circumstance arose from their system of direct taxation. The proper objects of direct taxation, in his opinion, were, visible, and especially, real property; for, he supposed, when property was invisible, the only way to tax it was in an indirect way; for it was impossible to value it, and of course to tax it by a direct mode, unless the account given by every man was taken for granted, or an arbitrary power left to an officer to guess its amount. Yet, in the Eastern States, they taxed in a direct way, real and personal, visible and invisible, known or supposed property, and it was a question with him, whether that was not the chief cause of the prejudices which existed against direct taxation in those States. He conceived a tax on houses and land might be raised without difficulty, and his own wishes were, that a system had been reported for that purpose by the committee, instead of recommending the present plan, which was to be applied to the laws of the different States, and to embrace the defects of all; but a majority of the committee approving the present plan in preference, it was of course adopted; and he trusted it would now be agreed to.

Mr. Harper said he would vote for the amendment, and even if that were lost, still he should vote for the resolution as reported by the committee, but lest, by so doing, he should be understood to concur in the opinions advanced by some gentlemen in support of the resolution, he begged leave to state, and he should do it as concisely as possible, the sentiments which he entertained on this subject. He approved the resolution, because the object and tendency of it were, not to establish a system of direct taxation, but to furnish the House with a digested plan on that subject, with the most complete information, of which it might hereafter avail itself, should the exigency of our affairs, the support of our national credit, render a resort to direct taxation necessary. He agreed with the honorable member lately up from Pennsylvania [Mr. Gallatin] that we ought not to deceive or mislead the people respecting the state of our finances, but he was far from agreeing with him as to the immediate necessity which he had alleged us to be under, of making an addition to our present system of taxation. Whence could this necessity arise? In order to answer this question, we must ask in the first place what are our present objects of expenditure, and how far is the present revenue adequate to meet them? They consist of three articles: 1st. The support of Government, including the Civil, Military, and Judicial departments; 2d. The interest of the Public Debt, foreign and domestic, and 3d. The gradual reimbursement of a particular description of the Public Debt. To these objects it appears that the present revenue is fully adequate; and from hence could arise no necessity for an increase of taxes. But there were certain additional objects of expenditure, not included in the current annual expenses, for which it was said provision must be made. What were these? They were capable of being divided into two general classes: first, the reimbursement of certain parts of the Public Debt; and 2dly, the interest on the Deferred Debt; which would commence in the year 1801, amounting to about 1,200,000 dollars. The debts to be immediately reimbursed consist of three descriptions, 1st. The instalments of the Foreign Debt which will become due in this year; 2dly. Instalments of Domestic Loans; and 3dly. The Debt due to the Bank of the United States, partly for loans, and partly for other objects. Those three classes constitute that part of the Public Debt which, it is said, must now be paid, and on the supposed necessity of paying it, rested the necessity for an immediate increase of revenue by new taxes. The necessity of paying it, however, he denied. Most of this Debt, by far the greatest part indeed, was due to the Bank, and the Bank offers to reloan it at six per cent. interest, the principal to be redeemable after a certain number of years. They will accept this Loan as a payment, and this payment will enable them to accommodate the Government with such loans in future as may be necessary for paying the instalments of the Foreign Debt as they become due; an operation by which the Foreign Debt will be gradually converted into a Domestic Debt.

There appearing, then, no necessity, at this time at least, of paying the principal of this Debt, the payment can be urged on reasons of policy only. What, then, does policy, and an enlight-

ened regard to the interest and happiness of the people dictate on this subject? A nation, in every respect stationary, stationary in its population, in its commerce, in its industry, should it find its present taxes inadequate to the support of its current expense, and the gradual extinguishment of its Public Debt, ought to lay new taxes, because every principle of good policy dictates, that effectual provision ought to be made for paying, within a reasonable and convenient time, the Public Debts. But a nation progressive in all respects, like the United States, increasing beyond all former calculation in population, commerce, wealth, and all the pursuits of industry, ought to pursue a contrary policy, because, as her revenues, being derived from her wealth, her commerce, and her consumption, must greatly increase, with them she has the most certain prospect of deriving from her present sources of revenue the ample means of paying her Debt in a short time. The United States had two sources from which they might expect to derive ample funds for this purpose; the increase of their revenue from the present taxes; and the sale of their lands. As to the first, it was well known that the revenue from imposts and tonnage had greatly increased within the last two or three years. In 1793, they were 6,000,000 only; in 1794, 6,680,000 dollars. What, then, may we expect them to be ten years hence? The internal revenue was also certain of increasing with the increase of population, capital, and industry. With respect to lands, the late Indian Treaty had given the United States the disposal of upwards of 9,000,000 of acres, which we are now passing a law to sell at two dollars per acre. The Indians must also recede before the progress of our settlements, it being in the nature of things that an agricultural people must root out a people of hunters; and as they recede, their lands fall into the disposal of Congress, and furnish an unfailing and increasing source of revenue to the Union. He requested gentlemen, who might be in doubt about the importance of this resource, to turn their eyes to the States of Pennsylvania and New York, and to the District of Maine. They would find that lands there had tripled, even quintupled in value, during the last four or five years, and that those States, though they by no means sold on a wise plan, had drawn vast sums into their treasuries from this fountain. Why, then, should it not yield immense revenue to the Union, if husbanded as it had appeared to be the disposition of the House to husband it?

Under these circumstances, would it not be the worst of policy to lay new taxes for paying debts which we are not called on to pay? Nothing but necessity could justify such a step; and that necessity could never exist while their creditors were content to receive the interest, and let us retain the principal. Ought we to take the capital out of the pockets of our constituents, when an annuity equal to the interest would satisfy the creditor?

As the interest of the Deferred Debt, which would commence in the year 1801, that, he said, must undoubtedly be paid, and provision for paying it ought to be made. We have, however, from the source above mentioned, the utmost reason to believe that our revenue would, by that time, be so far increased as to meet this additional expenditure without additional taxes. If we should be disappointed in this hope, new taxes must be resorted to, and he would agree that we must, in that case, look to direct taxes, the system of indirect taxation having already, as he now conceived the subject, been carried so far as not to admit of any considerable extension. Should direct taxes, in this or any other event, appear to be necessary, the plan contemplated by this resolution would be of essential use in directing us how to arrange the system. It would, also, be of use, should we, contrary to present appearances, be unable to continue on loan any such parts of the Public Debt as we are now liable to be called on for, till our present revenues shall have increased and afforded us the means of payment. In that case, new taxes will become necessary, and this system will probably appear the most eligible. For the purpose, therefore, of gaining such information on the subject of direct taxes, as may assist the House in any future resort to them which might appear to be necessary, he should vote for the resolution, declaring it, as his opinion at the same time, for the reasons which he had stated, that no such resort was now necessary or proper.

Mr. Swanwick was better pleased with the resolution as proposed to be amended, than as it stood in the report. He thought a plan for laying a direct tax would be of great public utility, as he thought it a proper tax to be resorted to for an increase of revenue. It was certain they had drawn most of their examples of taxation from Great Britain. She, like them, derived most of her revenue from commerce, which she watched over with the greatest possible attention; so that, though heavy burdens are laid upon her commerce and manufactures by the great attention which her Government pays to their encouragement and protection, these classes are enabled to support them. But how was the commerce of the United States at all times exposed? It was always a matter of courtesy in the European Powers whether their ships passed in peace, or they were despoiled. This being the case, it was too precarious and uncertain ground to rest all their revenues upon. The gentleman from South Carolina had gone into arguments to prove the impolicy of paying off their National Debt at present, from an idea that they shall be better enabled to pay it at some future day. This kind of picture, it was true, was very pleasing; but he should also have taken another view. This country was not, more than any other nation, secure from the misfortunes of war, pestilence, or other calamity, and if such a day of evil were to arrive, would it not reverse all the objects which he had so pleasingly painted? And was it not wise to be prepared to meet misfortune? If they went on increasing their Debt, the whole revenue of the country would be swallowed up in interest to foreign countries, and all their measures would be

forever clogged for want of having a portion of money in their Treasury. The deferring of the payment of money to a future day, was a rock upon which many had found ruin. What had been the experience of all ages, with respect to the nations acting upon such a policy? Was it not that their finances every day became more desperate, and that the evil was only cured by revolution? He need only look to the situation of Great Britain to be deterred from adopting such a system. For six years, he said, they had been neutral, whilst Europe had been in a flame of war; every thing had conspired together for their interest. This was the time to have collected taxes to have paid off their Debt. If they waited for a peace in Europe before they attempted this business, he believed, whenever that took place, they should either experience a decrease or a stagnation of trade. In the year 1801, they should be called upon to pay certain instalments of the Foreign Debt; would it, then, not be wise to anticipate the moment, at a time when they had few taxes to pay, and proceed to reduce their Debt? No one could think their credit would be lessened by such a practice; it would be greatly increased; for, as soon as it should be known that they were paying off their Public Debt, foreigners would immediately have a higher opinion of them. Every nation was getting tired of the system of funding; and it would be the greatest encouragement to foreigners to come to this country, when they learnt that they were paying off their Public Debt. He was, therefore, in favor of adopting such a mode of direct taxation as should be best suited to the several States, in order to pay off their Debt as soon as practicable.

The gentleman from Pennsylvania had said, that he expected that the loans from the Bank had been calculated to pay off a part of the Debt, but it is found no more than the interest was paid. And to supply the deficiencies of several years, they were called upon now for five millions of dollars, but if former Legislatures had been careful to have kept their accounts even, this call would not have been made. He did not like the plan of loaning and reloaning. Besides, he believed that time was passed. He believed that several nations, who had been in the habit of borrowing money, had failed to pay their interest regularly, which had given a shock to leaning which would not be easily recovered. He believed the Bank of England had been compelled to shorten their discounts. American funds had fallen in consequence, not from a want of faith in the American Government, but owing to the general scarcity of money in England.

The gentleman from South Carolina had said, that their lands would be a fruitful source of revenue. He thought with him, and, therefore, it was that he wished them to be sold as soon as possible: For he should think it as unwise for the nation as for an individual to owe money whilst he had land with which he could pay off his debts. He thought if even the land should increase in price, the price of the public funds would, at least, keep pace with the price of land, he was, therefore, for selling the land whilst a good price could be got for it, and for paying their Debt whilst the price of stocks was low.

Mr. Gilbert did not see any necessity for so long a discussion. If they were to attend to all that gentlemen knew on the subject of public debt, taxation, &c., they should increase the National Debt instead of reducing it.

Mr. Hillhouse moved an amendment of the words "as nearly as may be," to be added to the clause directing the calculation of the plan of direct taxation to be made according to the practice of the several States. He observed that it had been said, that the difficulties in systems of direct taxation had arisen from endeavoring to tax invisible property; but, he said, the objections to the system had arisen from moneyed men not being subject to it.

The first resolution was agreed to, and the Committee, by general consent, passed on to the fifth, for making an irredeemable debt for twenty years, of five millions of dollars. The resolution being read, some debate took place upon the propriety of passing this resolution: it was at length agreed to, leaving the words five millions a blank, to be filled up when the bill came before the House.

In the course of the debate, Mr. Gallatin, who opposed the measure, upon the ground of its unnecessarily increasing the Funded Debt, as he thought the Bank of the United States might still give Government credit for the sum owing; called the Public Debt a public curse, which called forth the censure of

Mr. Dayton, who said, he was glad to find that when the terms disorganizers, rebels, traitors, &c., were flying about the House, that gentleman had not joined in the cry, but he thought he was equally reprehensible with the gentleman who had used the terms alluded to, in calling the Public Debt a public curse. He disliked all such phrases, and, also, that they should cast any reflection upon the public creditors.

Mr. W. Smith introduced the following statement, viz: That it was proposed to fund five millions of dollars, being the amount due 1st January, 1796, by the United States to the Banks of the United States and of New York. The items which composed the said five millions, were,

1. For anticipation, on account of the accruing revenues for the current services	$3,800,000
2. For an instalment of the Dutch debt, due June, 1795 - - - -	400,000
3. For loans had on account of Algerine negotiations - - - -	400,000
4. For instalments due for Bank stock -	5,000,000

Mr. W. Smith said, that against the above may be placed the following sums, to the credit of the United States, viz:

Bank stock, the property of the United States, producing 8 per cent. per annum	$2,000,000
Stock standing to the credit of the Commissioners of the Sinking Fund - -	2,307,661
Debts of the late Government, paid in specie at the Treasury, prior to Jan'ry, 1794	445,860

Instalment of Dutch debt of June, 1795, included in the debt to the Bank -	400,000
Reimbursement of 6 per cent. stock on the last December, 1795 - - -	520,000
	5,673,521
To which might be added for bonds at the custom-houses uncancelled, which the course of the Treasury business exhibits, on an average - - - -	4,000,000
Total to be opposed to the temporary debt	$9,673,521

Mr. Smith further remarked, that the annual expenses since January, 1794, had been greatly increased by the following extraordinary items, viz:

The Western insurrection - -	$1,200,000
Algerine and other negotiations - -	1,000,000
Fortifications and naval armaments -	600,000
	$2,800,000

At this point the Committee rose, and had leave to sit again.

The Speaker laid before the House a Letter from the Secretary of State, enclosing sundry estimates, referred to in the Message of the President, of the 29th ultimo, relative to Treaties with Spain and other foreign nations, and with certain Indian tribes; which was read, and ordered to lie on the table.

The Speaker informed the House that he had in his hand a confidential communication from the President, and the House and galleries were accordingly cleared.

Monday, April 4.

The committee appointed to inquire whether any, and if any what, alterations were necessary to be made with respect to Post Offices and Post Roads, made their report, which recommends several routes to be discontinued, and others to be established. It contains, also, provision for the safer conveyance of newspapers in future, to different parts of the Union.

Mr. Macon, from North Carolina, moved that his resolution, laid upon the table a few days ago, to provide that certain persons should be allowed to pay a duty for the quantity of spirits distilled for the last year, instead of according to the capacity of their stills, on account of a failure of crops, should be referred to the Committee of Commerce and Manufactures. The motion was agreed to, and that the provision should be general.

ADDITIONAL REVENUE.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, on the receipts and expenditures of the Government; when an amendment to the fifth resolution, to strike out the words five millions, and replace them with the words one million two hundred thousand, being under consideration,

Mr. Gallatin said, he wished to withdraw a part of his amendment, by leaving the sum blank, hoping that the Committee would take care to inquire into the actual situation of the account betwixt the Treasury and the Bank. Whilst he was up, he would mention, that it seemed to have been supposed, from what he had said on Friday, that he was hostile to the Bank of the United States, having called the Public Debt, as it related to the interests of the United States, a public curse. He said, in saying this (which he maintained to be true) he meant not to reflect upon the Bank, or any other of their creditors: he thought, on the contrary, they were under obligations to the Bank. The resolution was then agreed to. The Committee rose, and reported the first and fifth resolutions, which were agreed to, as follows:

Resolved, That the Secretary of the Treasury be directed to prepare and report to the House of Representatives, at its next session, a plan for laying and collecting direct taxes, by apportionment among the several States, agreeably to the rule prescribed by the Constitution, adapting the same, as nearly as may be, to such objects of direct taxation, and such modes of collection, as may appear, by the laws and practice of the States, respectively, to be most eligible in each.

Resolved, That the sum of ——— dollars ought to be obtained, to discharge the debt due to the Bank of the United States, by creating a stock bearing an interest of six per cent., and irredeemable for —— years; the redemption thereof to commence thereafter, and to be payable in —— yearly instalments.

Ordered, That a bill or bills be brought in, pursuant to the last resolution, and that the Committee of Ways and Means do prepare and bring in the same.

LAND OFFICES NORTHWEST OF THE OHIO.

Mr. W. Smith moved that the House should again resolve itself into a Committee of the Whole on the remaining resolutions; but Mr. Williams and some other members, wishing that the bill for establishing Land Offices for the sale of the Northwestern Territory might have the preference, the House resolved itself into a Committee of the Whole, and the first section having been read—

Mr. Van Allen moved to strike out certain words, and to introduce others, for the purpose of limiting the quantity of land to be sold the first year, on the plea, that if too much of the land was brought into the market at once, it would either sell for a mere trifle to speculators, or it would not sell at all.

This amendment was supported by Messrs. Isaac Smith, Holland, Williams, Heister, and Havens; and opposed by Messrs. Hartley, Nicholas, Swanwick, Dayton, Kitchell, and S. Smith. It was negatived.

The second section of the bill being under consideration, Mr. Holland wished to make an amendment, in order to accommodate the poorer class of farmers, by striking out the words 640,

and to insert 160 in their place, so as to reduce all the 640-acre lots into lots of 160 acres each. The motion was negatived without debate.

The third section was amended by fixing that all the lands west of the Great Miami should be sold at Cincinnati, and the rest at Marietta.

No amendment in the fourth section; in the fifth, Mr. Sitgreaves proposed, instead of a forfeiture of land in a failure of non-payment, to take the usual security of bond and mortgage. This amendment was opposed by Messrs. W. Smith, Nicholas, Hartley, Sedgwick, Dayton, and Williams. Negatived.

An amendment, that a deposite of five per cent. on that part of the purchase-money for which credit was to be given, should be made at the time of sale, was agreed to.

The Committee then rose, and had leave to sit again.

A communication was received from the Secretary of the Treasury with a letter from the Comptroller, with an account of the salaries paid to the officers employed in receiving the duties on imports and tonnage. Referred to the Committee of Commerce and Manufactures.

Tuesday, April 5.

The House took up the amendments of the Senate to the Indian trading-house bill, and resolved to insist upon their disagreement to the Senate's amendments.

Ordered, That a Committee of Conference be appointed to confer with the Senate on the subject-matter thereof.

LAND OFFICES NORTHWEST OF THE OHIO.

The House, in Committee of the Whole, again took up the Land Office bill.

The 6th, 7th, 8th, and 9th sections of the bill were agreed to, with a few amendments of little consequence.

Mr. Williams moved that the 10th clause (which enacted that military warrants should be allowed to be paid for one-seventh part of purchase of land) should be struck out. He said he had on a former occasion given his reasons for wishing this clause to be struck out, and he believed there was no necessity for repeating them. If there were any objections to the measure, he should be glad to hear them.

Mr. Nicholas hoped the clause would be struck out. It would be best that a tract of land should be laid off by itself upon which these warrants might be laid, as, in the way proposed originally, six millions of acres must be sold before the warrants would be satisfied.

Mr. Dayton (the Speaker) said, it would be best that the clause should be struck out, not because it offered a better chance to the military warrants (which was the ground of objection with the gentleman from New York) but as worse than any other. On consulting with persons who had earned and held these warrants, he found it would be better that a tract of land should be set apart for them; as it would be likely that it would take them ten years to locate their warrants by the mode prescribed in the bill, as they could only be laid out in proportion to the quantity of land sold. He hoped the men who held these warrants would, at length, have justice done them. The tract which it was proposed to appropriate for them was land of a middle quality, lying between the land of the Ohio Company and Scioto river. This seemed to be approved, and he was, therefore, for striking out the clause.

Mr. Williams said, it mattered not to him from what motive the clause was struck out; if it was struck out, he knew it would be of considerable advantage to the sale. Agreed to.

Mr. Crabb wished to introduce an amendment in the second clause, viz: "that one half of the 640 lots should be sold in lots of 160 acres each."

Several members observed, the sense of the House had been taken upon the question yesterday.

Mr. Holland said the present amendment was not a similar question with that of yesterday, but would, in some degree, meet the wishes of gentlemen who opposed it, as this proposition only contemplated one-half of the six hundred and forty acre lots to be divided, whereas the former motion proposed that the whole should be so divided. The principal objects of the bill were to aid the revenue, and one other object ought to be to accommodate real settlers in preference to those who purchased with a view of selling again. This amendment, he trusted, would tend to both those objects. Few men who would be inclined to settle in that country would have so much money as would purchase six hundred and forty acres, and the clause directing a forfeiture of the land would prevent association, as in case of a default in any of their associates the rest would be liable to lose the land they had purchased, and the money they had paid. The amendment proposed would certainly increase competition, and, consequently, the price of the land; and that it would accommodate a large body of men, who would otherwise be obliged to purchase at second-hand, was also evident. It would have another good tendency, viz: to prevent monopoly, which ought not to be lost sight of, as it had ever been held by writers as dangerous to the existence of free Governments. And, what would be allowed to be very desirable, it would accommodate, as much as possible, the poorer class of their citizens—a class of men who were the most valuable in a community, because it was upon them that they could chiefly rely in cases of emergency, for defence, and, therefore, they ought to be accommodated and made happy; to be put into a situation in which they might exercise their own will, which they would not be at liberty to do if they were obliged to become tenants to others. To live in that dependent way had a tendency to vitiate and debase their minds, instead of making them free, enlightened, and independent. By this amendment, this class of citizens would be enabled to become possessed of real property—a situation incident to freedom, and desired by all. As the committee were tired with the business, and their

minds made up, he did not wish to trespass on their patience. He was a friend of the bill, and his only wish was that it might so pass as to give general satisfaction. If this amendment did not take place, he knew the bill would be reprobated by many. He did not wish particularly to encourage adventurers to that country, but he wished every class of citizens, who had a desire to purchase this land, to have a fair opportunity of purchasing, in proportion to their capital, of the Government, and not from private persons. He wished mankind to be as independent as possible. He did not like the idea thrown out, that these people were likely to fall off from this Government. He thought the peace, and happiness, and attachment of the people, would be more likely to be secured, when the land was occupied by real proprietors, than if possessed by persons who were subject, by being tenants, to the will of others. He thought it a curious idea that had been thrown out, that lest these settlers should become too independent, that the bill should so pass as to produce sparse settlements, lest they, being connected, would involve us in an Indian war. This presupposes, said he, our citizens always to be the aggressors, which he did not admit. But on the contrary, being extended thinly over a large extent of country, they would be an easy sacrifice to the savages, and render their circumstances more miserable. He hoped the amendment would prevail, without which he must be opposed to its passage, although with reluctance, as he was impressed by the necessity of an addition to the revenue.

Mr. Hartley thought that if this amendment was agreed to, it would change the principle of the bill. He thought the division proposed would unreasonably delay the survey and increase the expense of it; and that, as the bill now stood, persons might join together and purchase a six hundred and forty acre lot, with as much ease as they would purchase them if smaller. There was no occasion for them to go into such minutiæ in the business. He had as much a wish as any one to serve the poorer class of citizens, but thought they should not carry the division farther than they had done.

Mr. Van Allen hoped the amendment would prevail. It would little increase either the time or expense of surveying. The chief alteration it would make would be an increase of the number of sales; but a trifling sum put upon each lot, which would be cheerfully paid, would more than recompense for it.

Mr. Cooper hoped the amendment would not prevail. The intention, it was said, was to accommodate poor men; but, did practice tell them that poor men would buy these lots when divided? He referred to sales of land in the States of Pennsylvania and New York, where, though land was sold in small lots, there were not twenty instances of farmers buying it. The moneyed men had always been the purchasers at those sales, and he apprehended it would be the case in the sale of this land.

Mr. Claiborne was in favor of the amendment. He did not think there would be any considerable expense attending it. He thought the more the lands were divided the greater would be the competition; and if this were not the case, he was apprehensive that though land might be worth six dollars an acre, they would not sell for more than two. He was, therefore, for so dividing the land as that speculators might not have it in their power to play into each other's hands.

Mr. Craik said he was induced to bring forward this amendment, because he did not believe, as the bill stood, that one-half their citizens who might wish to become purchasers and actual settlers of these lands, would be accommodated by the present provisions of the bill. The poor man, he said, was more likely to go into that country than the rich, but he insisted that the bill, as it now stood, was a prohibition to all poor men acquiring these lands, and he had heard no argument to convince him the amendment would not be a good one in point of policy as well as justice. Gentlemen had said poor men may join together and so purchase; but there were difficulties attending such associations. A man must not only look to his own resources, but to his associators' resources and integrity, lest, by a failure in completing their purchase, the land should revert to the Union. This apprehension would prevent in a great degree such associations. The dividing of the land into small lots would put it into the possession of real proprietors, and have a tendency to make good Republicans instead of servile tenants dependant upon tyrannical landlords. It would not be denied, that the more land was divided and subdivided the stronger would be the settlement, and the more firmly would be the people's attachment to Government; for it was well known that the strength of a country did not so much consist in its great extent as in its compactness of settlements and the attachment of the people to the Government. By this means, he said, encouragement would be given to useful, industrious men, and it would not be in the power of a few men to engross the whole.

Mr. C. said it might even require two or more poor men to purchase one hundred and sixty acres, and this, he trusted, was not a consideration too low to occupy the attention of that House. For his part he could see no reason which could be urged against passing of the amendment he had proposed, since it would not only serve a valuable body of people, but would tend to get more money into their Treasury by opening the door and inviting a considerable class of citizens to market. He said there would remain one-half the land in large tracts to meet the demands of moneyed men; one-fourth in tracts of six hundred and forty acres to accommodate substantial farmers: and that House could not, he trusted, refuse the small portion asked for to accommodate the poorer class of their citizens. Some gentlemen had urged that people would never travel so far to a new country to acquire so small a portion as one hundred and sixty acres of land. He was of a different opinion. Lands had become so high in most of the old States, that the hope of acquiring possession of

the soil, and becoming independent, was lost; and the rents of lands had risen so high, that the tenants sorely felt the oppression of their landlords, and their last hope of releasement from this oppression was by emigration to this new country, which they looked on as common property. And will this House, he exclaimed, blast this last remaining, this flattering hope, this natural and laudable desire of independence? He hoped not. One more observation, he said, he would beg leave to make, and he would conclude and leave the amendment to its fate. This observation he meant to apply to those that thought men would not emigrate to acquire and possess so small a property as this. He replied, that the poor and the oppressed had the greatest inducement of all men to emigrate. And the man must know but little of human nature indeed, that did not believe that when a man had been in a state of dependence, and by strenuous exertions of industry, rigid economy, and frugality, had saved a small sum, which would scarcely buy him a garden in the old settled countries where land is so high—has not such a man, Mr. C. said, the most cogent reasons to move to this new country where he could, with three hundred and twenty dollars, become an independent master of soil sufficient comfortably to support his family on? And give me leave, said Mr. C., to tell those gentlemen, that the man possessing one hundred and sixty acres of land, in his own right, under those circumstances, feels the sweets of it as much, and thinks himself as independent, and perhaps more happy, than the lordly nabob that holds a million, not acquired by the sweat of his brow.

Mr. Williams was in favor of the amendment, as he thought it would be productive of the best consequences, as it would encourage freeholders, and get a good price for the land. It was certainly their interest so to parcel off the land as to meet every degree of purchasers. He was at first for dividing the whole of the land into small tracts; but he believed if they laid a part of it off in one hundred and sixty acre lots it would answer every purpose. He said the dividing of half the six hundred and forty acre lots each into four parts would be attended with little expense; and whatever expense it might be, it would be more than repaid by the advanced price it would command. Besides, it was a duty incumbent upon them to accommodate every class of their citizens; by doing which they did an essential service to their country; as the best way to make a man love and serve his country was to make him interested in it. It was, therefore, much better that they should accommodate useful industrious citizens than that they should put their land into the hands of rich speculators to exercise their will upon.

Mr. Cooper again insisted that poor men never attended at any sales which had been made for the purpose of purchasing land, but that they always got it from the large purchasers.

Mr. Gallatin hoped the amendment would pass. He did not think any solid objection had been made to it. It must be agreed, that if any number of men, however small, would be accommodated by dividing one-half of the six hundred and forty acre lots into lots of one hundred sixty acres each, the competition, and consequently the price of the land, would be increased. The gentleman from New York [Mr. Cooper] had said there were no such men who would purchase. How did he know this? Was he informed of the number of small farmers who wished to go into that country? Certainly not. He went entirely upon supposition and analogy. He informed the House, that in the States of Pennsylvania and New York, poor men never purchased any lands in the sales which were held there. With respect to Pennsylvania, he could say the gentleman was totally mistaken. He would maintain that not more than one thousand persons in the State of Pennsylvania had purchased large tracts of land; the other seventy thousand inhabitants were mostly possessors of small tracts. The cause of its being sold in large tracts at all was the quantity offered for sale at once, and the low price at which it was sold. It was evident that by selling a part of the land in these small lots they should get a greater competition in the sales; for, if a greater quantity of land be offered for sale than a certain description of men have money to pay for, though they would gladly purchase a smaller lot, they cannot become bidders for lots they are not able to pay for. The other analogy which the gentleman refers to in the State of New York, was a sale of land, at a time when the sale of land was very dull, and land was not wanted. Objections had been made to this plan of dividing, on account of the expense of surveying, and the time it would take to make the survey; both of which he thought perfectly groundless. The expense would be trifling, and would be more than repaid by a small sum put upon each farm; and the time it would consume in making the additional survey would throw no obstacle in the way of the sale. He therefore saw no objection which could be reasonably urged against this amendment.

Mr. S. Smith thought the same question had been negatived yesterday. If the mover would alter the size of the lots to three hundred and twenty, instead of one hundred and sixty acres, he would vote for the amendment.

Mr. Nicholas hoped the amendment would not prevail. He did not believe it would be of any real use. He need not say that he was as much a friend of the poor man, and of a Republican Government, as any man. But he did not believe, except it was the few persons already in that country, that the proposed division would accommodate one man. If the gentlemen would consider what was necessary to be done before a man became purchaser of this land, they must be convinced of the truth of his assertion. A man intending to purchase must first go and explore the country, in order to find out a piece of land which would suit him; and it would not be sufficient to fix on one particular spot, because others might want the same. The uncertainty of vendue would also prevent many from going into the country to make the necessary examinations.

Persons of small property would rather wait till the sale was over, and the land come to be laid out and divided into farms. The persons whom the mover and supporters of the present amendment had in view would not embrace the offer meant to be held out to them. He did not think one such person would attend the sale. The additional expense of the survey, he said, would not be less than two hundred dollars on every township. This was a certain expense which he thought they ought not to go into for the possibility of accommodating a small number of purchasers. He hoped the propositions would not be agreed to, as there would be an additional expense attending the survey of fifty thousand dollars, and he believed it would not be repaid by the advantage of the proposed sales.

Mr. Findley said, if he could believe the expense of surveying would be so great as had been stated, he would never agree to a Land Office being opened at all. If the land was offered in such parcels as that farmers could only become purchasers at second-hand, he did not think the land would be sold, as the best land in the State of Pennsylvania was now offered at that price. But if it were only the few in the neighborhood of these lands who would be accommodated by the proposed division of these lands into small lots, it was very desirable it should be done; for these few, he believed, were several thousands, who had built and made improvements upon the land, and to remove whom would be a task which he was sure the Government would not willingly undertake. Would it not, therefore, be very proper to divide the land in such a manner as that these present occupiers may become purchasers? The present rage for going into that country was great. Land and provisions had become high in the Atlantic States, and some persons were so desirous of emigrating, that, if they could not go upon this land, they might be inclined to go out of the Territory of the United States. Gentlemen say they ought to be certain there would be purchasers before they thus parcelled out the land. He thought the probability was very much on their side, and no gentleman could be certain there would not be purchasers for small lots. Persons were more generally inquiring for 100-acre tracts than others, and it behooved them to provide for such persons. The gentleman from New York [Mr. Cooper] had made frequent allusions to the State of Pennsylvania. When the land in that State was sold it was generally in the power of the Indians, and was disposed of in large tracts; but in that part of the country in which he lived, few farmers had more than 300 acres. But the law for dividing that land gave a tone to the settlement of the country. There were very few large tracts in Pennsylvania. He was desirous they should give a tone to the settlement of this country. The smaller the tracts were made, the more saleable they would be. Great numbers of persons were going to that country, and others would follow. It was improbable that rich land-holders would go there: the emigrants would be chiefly of the poorer class. The additional expense of surveying would be repaid by a small addition of fee to the 160-acre lots. Tracts of this size, he said, would command a higher price. He should wish that there might be a portion of the land in tracts of half a mile square, or 320 acres. He thought lots of both sizes might be made, and that would meet the ideas of the gentleman from Maryland.

Mr. Van Allen and Mr. Nicholas said a few words upon the expense—the former insisting that it could not be anything like that stated by the latter.

Mr. Millledge thought there was no necessity for taking up the time of the Committee any longer on the subject: he believed there was not a member who had not made up his mind.

Mr. Madison was sorry to add any observations on the subject, after what had fallen from the gentleman from New Jersey; but he thought the arguments which had been used in favor of the proposed amendment had great weight. If the lots of one mile square could be easily divided into four, (which it appeared to him they might,) he could see no reasonable objection to the measure; for, if it could accommodate any number of real occupiers, it was desirable that it should be done. The expense of exploring the country had been urged as an objection; but it occurred to him that a number of persons would go and explore the country without an intention of returning, and consequently the expense of their journey could be reckoned as nothing. Whether so large a portion of the country as gentlemen expected would be settled in this way, he should doubt; but still, he thought attention was due to them. And he found this to be the opinion of men who lived in that part of the country, and was conversant in the business of dividing and selling lands. He was not sure whether the amendment was worded in the best way possible.

Mr. Hartley again objected to the division of the land into small lots, on the ground of expense and the time it would take to lay them out. He added, that the Senate would not agree to this division, if it were to pass that House.

Mr. Havens was surprised to hear the amendment objected to on the ground of expense: he said the expense would be trifling. The surveyors would only have to mark every half mile, and to run the same line on the map.

Mr. Van Allen said, that every objection to expense might be obviated by an amendment that the land should be divided on the map without running the lines.

Mr. Cooper spoke again in opposition to the motion, and said they might as well lay out garden spots as propose these small lots.

Mr. Heister hoped the bill, thus modified, would pass; and that, when the interests of the Treasury, and those of men most likely to become settlers were united, there would be but one opinion upon the subject. The gentleman from Maryland had said that application had been made to him on the subject; and he could say that many such had been made to him by persons who wished to go into that country. The land should be laid off in tracts suitable to the pockets of these people, in

order that they may become land-owners in common with others. There were many persons without the bar of the House that could give information on the subject, if it were necessary. Some might wish to purchase a mile square, some half a mile, and a greater number 160 acres. It would be the interest of Government to accommodate them all, and he hoped no objection would be made to the present amendment.

Mr. Venable wished the lines might be so run as that no dispute might arise hereafter. He was in favor of the principle of the amendment: it would accommodate more people than any other clause in the bill. It would require from 300 to 500 dollars to purchase one of these small tracts, which was no inconsiderable sum. He doubted not a number of farmers' sons would go into that country without any intention of returning, and therefore no expense could be reckoned on their exploring the country. It was right these persons should be accommodated; nor did he think it would be found either difficult or expensive to carry the amendment into effect.

The amendment was put and carried.

Mr. Van Allen observed, that the selling one-half the land in lots of three miles square, or 5,760 acres, as contemplated by the bill, appeared to him to be a measure replete with such evident advantages to that part of the wealthy class of citizens whom they had been in the habit of styling speculators, that he conceived it his duty to state his objections to it, and, if in his power, to obtain an alteration. He moved an amendment which went to selling no larger lots than 640 acres.

He considered the land now about to be sold as the joint and common property of every citizen in the United States, and that therefore it ought to be disposed of in such manner as would best promote the general interest of the whole community: that, if this idea was a correct one, it would naturally lead to an inquiry what would be such disposition: the result of which he believed would be, first, to accommodate actual settlers; and, secondly, to bring money into the Treasury; and added, that, as he conceived the first to be the greatest object, it ought to be attended to, even if it would in some degree require a sacrifice of the other. But he hoped it would not be opposed, if it could be shown that it might be accomplished without any additional expense or loss to the public.

He observed, that the bill directed the whole tract to be laid out into townships of six miles square; to subdivide one-half of them alternately into lots of 640 acres; and by an amendment one-half of those lots were to be subdivided on the map into lots of 160 acres; that the remaining half of the townships were also to be divided on the map into four equal lots of 5,760 acres, for the purpose of selling them in the above described lots.

He stated, that, by actually running and marking the lines round every four lots that were to be sold, they could be separately granted with as much accuracy and certainty of description as if each had been fully surveyed; that, upon this plan, the whole of the land might be laid out and sold—the one-fourth part in lots of 160 acres, and all the rest in lots of 640 acres—with precisely the same surveying which was now directed to be performed; and that, therefore, no additional expense could be incurred.

He then adverted to the sales, and observed, that actual settlers might become purchasers from the Government of lots of 160 and of 640 acres; that none would be prohibited from purchasing; that of course the competition would be increased, and, he believed, the land sell best; that as the large lots would, at the minimum price, amount to 11,520 dollars, settlers were by no means likely to become purchasers, as it was presumable few could command such a sum, and therefore they were as effectually prohibited as if a clause to that effect had been inserted in the bill; that the competition would of course be lessened, and the land purchased chiefly, if not altogether, by speculators, and consequently sell for a less price. One reason which had been assigned for this measure was, that all purchasers might be accommodated. He was willing to accommodate all such as were to be settlers, but no others. No one man, he thought, wanted to purchase so large a lot for his own actual improvement.

It had been said, the price fixed upon the land would prevent speculation. He believed that might be the case if the fixed price was the full value, or so nearly so, as not to afford a profit. But these gentlemen understood figures, and considered more the per centage they could make than the high or low price they paid for an article.

It had been frequently said, and he believed, this was an excellent tract of land; that some of it would sell at from three to eight dollars per acre; and if so, would it not, he asked, afford a handsome profit?

He said, it was fair to presume no land would be purchased to sell again, which could not afford a reasonable prospect of at least 25 per cent. profit. This, at the lowest stated price, would be half a dollar per acre; that about five millions of acres were contemplated to be sold in large lots, which, at this rate, would eventually be a loss of two millions five hundred thousand dollars, besides the difference of the granting fees, (which he made no doubt would nett a profit,) and answer no other purpose than that of enriching individuals; that, to sell the land when it was not wanted for actual settlement, or in a manner which would preclude settlers from becoming purchasers, would be making a sacrifice: that, he thought, could only be justifiable under peculiar circumstances, such as did not now exist; that it was but another way of paying a high rate of interest, and establishing a bad precedent; that, to sell the land in such large lots would, he thought, operate as an indirect tax upon the cultivator—of so much at least as the small lots would sell per acre more than the large—not to say anything about the rise of the land, which would be increased in proportion to the settlements they made, without benefiting the Government. In short, he considered it as an act of favoritism towards that class of citizens, for which he could see no reason, unless it was their having

paid a considerable proportion of the Domestic Debt to the original holders. But he never heard they had been sufferers by it, and he presumed this would not be assigned as the reason.

Mr. V. A. concluded by observing that he did not, from anything he had said, wish to be considered as an advocate for an Agrarian law. He disavowed any such principle, but did not hesitate to acknowledge himself a friend to equality—at least so far as it respects the rights of individuals—and hoped, that if ever any discrimination between different classes of citizens should be thought proper, the poorer and middle class would not be considered the least deserving the care and attention of Government.

The amendment of Mr. Van Allen was negatived, and the Committee rose and reported the bill. The House then took it up, and all the amendments agreed to, without debate, except that for dividing half the 640-acre lots into lots of 160 acres each.

Mr. Dearborn hoped the amendment would not be agreed to. Persons might choose out the cream of the land in these small lots, and the rest would be left on hand. In attempting to do right in the extreme, he was apprehensive they would injure the United States more than they would benefit individuals.

Mr. W. Smith thought the amendment injured the bill, and instead of benefiting poor people, it would benefit shrewd moneyed men, who would avail themselves of this provision to lay hold of the choicest spots of land.

Mr. Rutherford hoped this clause would be agreed to, as it was the only favorable clause to the real settler in the bill.

Mr. S. Smith moved to strike out "160," and insert "320."

Mr. Crabb hoped the amendment would not take place. If 320 acres would accommodate some persons, he was certain that 160 would accommodate more. The gentleman from South Carolina [Mr. W. Smith] had said the original amendment would hurt the bill, but it was his opinion the bill would be greatly hurt to strike it out. Inasmuch as it had already been determined in the Committee, he did not believe the House would consent to strike it out.

Mr. Cooper said, that though the amendment would be the means of putting 10,000 dollars into his pocket as a land-buyer, yet, as a legislator, he should oppose it.

Mr. Claiborne observed, if the amendment did accommodate the gentleman with 10,000 dollars, he was of opinion he would have to pay a good price for the land, as it would be sold by auction. It had been said all the good land would be taken away, and the bad left. He said it was no matter, if they got as much for the good as the whole was worth. To destroy the amendment, would be to destroy the best part of the bill; to defeat this clause, would be to throw the land into the hands of speculators, and put it out of the power of the poor, but industrious farmers, to purchase at the first-hand.

The question was then taken by yeas and nays upon the amendment to the amendment, which was lost, as has been stated; and then upon the original amendment, which was carried.

An additional section was added to the bill, to preserve the navigable rivers free from obstruction; and the bill was then ordered to be engrossed.

Wednesday, April 6.

LAND OFFICES NORTHWEST OF THE OHIO.

An engrossed bill providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, was read the third time, and the blanks therein filled up.

Resolved, That the said bill do pass, and that the title be, "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

Mr. Tracy delivered in a report from the Committee of Claims, on the petition and letter of Governor St. Clair, which recommended a law to be passed to include his and similar cases.

Mr. W. Smith, from the Committee of Ways and Means, presented a bill making provision, in part, for the Debt due to the Bank of the United States; which was twice read, and referred to the Committee of the Whole on Monday.

A message was received from the Senate, informing the House that they had passed a bill regulating the compensation of Clerks, and asking the concurrence of the House. The bill was read twice and committed.

THE BRITISH TREATY.

After disposing of some petitions, the House took up the order of the day, on the Message of the President in answer to the resolution of the House calling for certain papers relative to the Treaty lately concluded with Great Britain; [the proceedings on which have been heretofore given.]

Thursday, April 7.

The House proceeded to consider the report of the Secretary of the Treasury, on the memorial of Tobias Lord and others, which lay on the table. Whereupon—

Resolved, That the consent of Congress be declared to such an act as the Legislature of the State of Massachusetts may judge proper to pass, for imposing a tonnage duty on vessels entering into Kennebunk river, in the District of Maine, sufficient to defray the expenses incurred by Tobias Lord and others, in erecting a pier near the mouth of the said river.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Commerce and Manufactures do prepare and bring in the same.

Mr. Goodhue, from the Committee of Commerce and Manufactures, made a report on the resolution referred to them, respecting allowing a duty to be paid according to the quantity of spirits distilled, instead of the capacity of stills, in cases of a failure of crops; which was read twice, and

ordered to be referred to the Committee of the Whole on Monday. It was in favor of the measure.

The committee appointed to inquire whether the Army had been regularly paid according to law, so as that no part of it had been more than two months in arrears, reported that many had been from four to six months, and some twelve months in arrears of their pay; but that, owing to some regulations having taken place in the War Department, similar failures were not likely in future to take place.

The order of the day being called for on the consideration of the President's Message, the House resolved itself into a Committee of the Whole on that subject; and after debate, the question was taken upon the resolutions. [For the proceedings on which, see *ante*, page 783.]

NAVAL ARMAMENT.

The House then resolved itself into a Committee of the Whole, on the bill which originated in the Senate, supplementary to an act, entitled "An act to provide a Naval Armament."

Mr. Nicholas called for the reading of a report of a committee of that House on the subject.

It was read accordingly: it recommends that two frigates should be finished, the perishable materials sold, and the rest laid by.

Mr. W. Smith moved to strike out the first clause of the bill, which provided for the completion of three of the frigates, in order to introduce a clause providing for the finishing of all the frigates.

Mr. Swanwick was in favor of the motion. He said it was wonderful, that notwithstanding their revenue almost wholly depended upon their commerce, no step had ever yet been taken by Government to guard it against the attacks of foreigners; on the contrary, this great source of advantage to this country constantly lay at the mercy of the European Powers. When they considered the great advantages which foreign commerce bestowed upon the nation, and the profits it afforded to individual merchants, mechanics, &c., and indirectly to the agricultural interests, ought they not to afford it every protection in their power? Surely they must conceive that this milch cow of the family, deserved more attention than had ever yet been given to her. With what horror did every description of persons throughout the Union hear of the capture of their fellow-citizens by the Algerines! How great was the effect upon the public mind! Subscriptions were everywhere raised for their relief; the sensibility entered into private families; comedians gave benefit nights to this use, and every possible exertion was made to effect their relief. Was this showing a coldness with respect to commerce, on the part of the people? No. What did the Government do? Finding that money was the only way they had of obtaining a peace with the Dey of Algiers, a peace has been purchased at an enormous price. And would it be prudent in them, immediately after this was effected, to show to the Dey of Algiers their weakness and decrepitude? that they were determined to become less energetic in proportion as they became more rich and powerful? There was no more effectual way of encouraging this corsair, than, after determining to build six frigates, to reduce them to two or three. And what, said he, would the Powers of Europe think of us? That, whilst we were laying the foundations of new cities, and flourishing in every respect beyond calculation, when we were about building a few frigates, we were alarmed at an expense of four hundred and fifty thousand dollars. Will they not say, they are building cities and leaving them defenceless? Indeed there was no security against the bombardment of the new city, or any other of their possessions, whenever an enemy chose to undertake the business, their extensive coast being wholly defenceless. But it was said, what will six frigates do for the defence of their coast and trade? He answered, it would be laying the foundation of a navy, which they could increase as the resources of the country should make it convenient. Though we were apt to speak lightly of our own strength, we were considered as formidable abroad. The question was not, now, whether they should build six frigates; but whether, having begun them, they shall go on to finish them? If the question was on building the frigates, to answer in the negative would not show such weakness, as, in the case of having voted them, now to vote in part their discontinuance. Was this of a piece with the act they passed the other day for the relief and protection of their seamen? Which ever way he considered the subject, whether upon the principles of policy or economy, he could discover no ground for discontinuing the building of any part of the frigates. For, as to economy, if their frigates had been built, he apprehended they should have saved the very large sum which had been paid to Algiers; and the property in the country, which must be looked upon as in some degree insecure at present, would be made secure from the attacks of any marauding privateer. What was a frigate? Was it not made up of materials of their own growth and manufacture? and did not the building of them employ their own citizens? They sent none of their money abroad to purchase a single article. Very contrary this to paying a million of hard dollars to a foreign Power. The farmer, the merchant, the mechanic, were all benefited by the money expended upon the building of a frigate. Nobody lost anything. But, gentlemen might say, shall we lay new taxes to raise this money? Every one had an idea that money would be wanted for this purpose, and he doubted not it would be cheerfully paid. They could surely borrow money for the purpose of protecting their trade, as well as for the erection of buildings for the Government at the Federal City. But after all, it was said, they should be weak with respect to other Powers. They knew that a certain Power had got a mastery over the sea, owing to her extensive commerce; but though she had hitherto proved an overmatch for any single Power at sea, yet France, Holland, Spain, Sweden, and Denmark, have all of them respectable fleets, which,

though they were not so powerful as the British, they were little in danger from that Power when united. How were the United States situated in this respect? Denmark and Sweden had an armed force; but by their not having any, they had been compelled perhaps to enter into terms which they otherwise might not have thought of. And on this account, he had less fault to find with their negotiators than he otherwise should have; for he did not think that the House had done all they might have done to strengthen the hands of the Executive. A few frigates on their coast might have prevented much of the mischiefs complained of. If they had such on their coast, they would not have heard the other day of a vessel being taken near the New York light-house, or of insignificant privateers sometimes plundering as almost in our own harbors. It might be said, that if their frigates had been out, they might not have prevented the capture; but it is probable, if it had been known that they had frigates on their coast, the attempt would not have been made. But when he considered their defenceless situation, he was not at all surprised at the depredations committed upon their property at sea.

Mr. S. said he was not afraid of any fault being found with the expense which would be incurred in finishing the frigates; it was a measure very generally wished to be carried into effect. He hoped, therefore, they should not march retrograde in this business. Gentlemen would recollect that the Constitution contemplated a naval armament in this country; and he did not think they should act up to the spirit of the Constitution, or according to the expectations of foreign nations, or their own citizens, if they neglected this opportunity of laying the foundation of a navy. He had had great pleasure in walking along shore, to hear the remarks of foreigners on the vessels now building, with respect to their construction, the goodness of the materials, &c., but what will they say when instead of proceeding to finish these vessels, the materials are offered at vendue, and the Government made to become auctioneers in fact of the materials of the national strength! He concluded by hoping, that whilst they were firm in asserting their rights in their internal concerns, they would not wholly neglect the protection of their exterior commerce, which would amply repay all the care bestowed upon it.

Mr. Bourne said, it was a condition of the original act authorizing a Naval Armament, that all operations in building the frigates should cease in case of a peace with Algiers. He agreed in opinion with the gentleman who had spoken on the subject, that all the frigates should be finished; but he wished it done in the way proposed by the bill from the Senate, viz: three with all convenient speed, and the remainder when the price of labor and materials shall be of less value. If gentlemen would attend to the report signed by the Purveyor of Public Supplies, the naval architects, &c., which was sent from the War Department to the committee on the subject, they will find that those officers were of opinion that two of the frigates would be finished in November. So that he did not see the use of ordering them all to be immediately equipped, when two only could be finished by November. He was in favor of agreeing to the bill from the Senate, in preference to the report of the committee of that House: nearly all the materials being provided or contracted for the whole six frigates; and also because the objection of the committee, founded on the want of means, was done away. The report of the Secretary of War stated that the finishing the two frigates, including the expenditures for materials for the six, would swallow up the whole of the money appropriated; but the bill from the Senate had appropriated the $80,000, which was meant for a provisional equipment of galleys. Those $80,000 would not be sufficient indeed to defray the expense of finishing the additional frigate, but they would go a great way towards it, and it would not be difficult to provide the rest. He hoped therefore they should agree to the bill from the Senate. The committee of the House reported that two frigates only should be at present completed, and the rest suspended; but the Senate have added a third, and that the remainder shall be finished when the price of labor and materials shall be more moderate. What induced the Senate to this alteration was, he believed, information from abroad that no reliance could be placed on a continuance of the peace with Algiers but an equipment of force adequate to meet the force of Algiers. He wished the gentleman from South Carolina would, therefore, withdraw his motion, and agree to the bill sent from the Senate.

Mr. Williams said it appeared to him that the Naval Armament was first projected on account of the depredations committed upon their ships, and their sailors taken into captivity by the Algerines. He believed the bill would not have passed, had it not been for the clause which went to suspend the operations in case of a peace with Algiers. A peace was now made with Algiers, at the price, he believed, of above a million of dollars, and an annual payment of twelve thousand sequins, which was between twenty-three and twenty-four thousand dollars. Yet, notwithstanding this, gentlemen seem inclined to go on with building the frigates, as if no such peace had taken place. If, indeed, their coffers were full of money, and they did not know what to do with it, this might be done; though, in that case, he should be opposed to the measure, because he believed that if they had a navy they should soon have a war. Two or three days ago, he said, they were discussing the most proper way of raising additional revenue. Some gentlemen proposed direct taxes, others indirect taxes; but the anticipations already become due they were obliged to fix, and they had that most odious thing before them, a stamp act. When he thought of this, he was astonished to think gentlemen should be willing to go into the expense of these frigates, as if their political salvation depended on them. How many frigates had they in the last war? Do not gentlemen remember what became of them? Did they think these the best means of defence for this country? Has not experience shown the reverse? Let them

count the number of ships of the European Powers, and say whether six frigates would be of any service against them. He thought that letters of marque, or vessels employed in commerce, were the best fighting ships for them in cases of necessity; they were no expense, and answered the purpose much better than frigates. Frigates cost vast sums of money, employed a great number of seamen, in time of peace as well as in time of war, and when they were taken by the enemy gave them a great accession of strength. Were they to have six frigates at sea, they would soon find an enemy, and perhaps be the means of involving the nation in war, when they might otherwise have been at peace. It was not, therefore, prudent to have a Naval Armament, until they could have one that might command respect.

The gentleman from Pennsylvania [Mr. Swanwick] had dwelt upon the extent of their commerce; but he would ask that gentleman whether six, or thirty-six frigates would be sufficient to protect their trade? The same gentleman had also mentioned that different Powers in Europe combined together; but why mention them? Were those Powers to be compared with the situation of America? It was necessary there to keep up the balance of power; but we were three or four thousand miles distant from them, and it was by no means in point. We were sufficient to manage our own concerns without European support. The true interests of this country, in his opinion, were the agricultural, and every thing taken from agriculture to commerce, was taken from the greater and given to the less. If they had not a single ship, he said, they should sell their produce. No doubt, foreigners, whilst eating is in fashion, would come to purchase their necessaries of life; all we had to do was to undersell other markets. And he would venture to say, that if they could not support their commerce without a Naval Armament, all the advantages derived from commerce would not pay the expense of it. All the exports of this country, between September 1792 and September 1793, in the Mediterranean, to the Italian States, and Morocco, were to the amount only of between two and three hundred thousand dollars. Were they, he asked, to tax their agriculturists, to pay for frigates to protect a trade like this? Were there no vessels that paid imposts but their own? If they went too far into commerce, it would hurt their true interest, the agriculture of the country. If gentlemen say, having gone so far with the frigates, it was necessary to finish them, he would say Government could never build ships so cheap as individuals. They must establish a Marine Department, something like a War Department. Fix but an office and there will soon be something to do at it. Happily for America, the Constitution directs the Legislature not to appropriate for her Army Establishment only for two years; but for a Naval Armament they might appropriate for any term. At this time, he said, they had no act to establish a navy: he hoped they should have none. If once their fleet began to increase, offices would increase also: and he did not expect to find virtue enough in that House to prevent such increase; and when there were many offices to give, it begot a system of favoritism, very unfavorable to a free, Republican Government. It was easier to prevent the passing of an act, than to repeal it when passed. Why, then, he asked, this unnecessary expense? There was no occasion for it; for, if they were sure of being involved in a war next year, he would oppose the building of frigates. He thought letters of marque, fortifications, and floating batteries, were the best defence of this country in our present circumstances.

Mr. S. Smith said, if the question before them was, which was the best kind of defence for this country, he should not agree with the gentleman from New York; but he believed the motion before the committee was for striking out the first clause of the bill, for the purpose of leaving it with the President to finish the whole of the frigates. The President informed them, at the opening of the session, and he cordially joined in the opinion, that the United States progressed in all the useful arts, in agriculture, in commerce, and every other valuable acquisition; should they, then, by any act of theirs, declare that they had not the ability to furnish six frigates. He hoped that House would not consent to throw away the expense already incurred in building frigates, not only for the protection of their coast, but for the protection of their property and seamen against the depredations of the Algerines and others. The gentleman from New York had said we had paid a very great price for a peace with the Dey of Algiers; but he forgot that there were two other Powers, viz: Tunis and Tripoli, with whom no accommodation had taken place. He had also forget to say that the peace entered into would not be lasting, if the frigates were not got in readiness. These facts were not to his purpose, but they were necessary to be known in that House. If they were to send three frigates into the Mediterranean, it would convince the Barbary Powers that we were not that insignificant people represented, but that we were ready to chastise them, if they attempted to annoy our vessels in future. The gentleman proposed letters of marque, because they were no expense; but, though they would be no expense to Government, they would be an expense to individuals. And was it the duty of merchants, or of the General Government, to protect the commerce of the United States? He had always understood that when people entered into society they had a right to expect protection, and that allegiance and protection went hand in hand. Did Government refuse its protection to the agricultural interest? Had it not lately cost the Union a million and a half to protect the frontier? And what revenue did the frontier yield? None. But it has been contemplated it will yield much. He believed it would, and it was the duty of Government to protect them; but was it less the duty of Government to protect its commerce? No, certainly not; and they had a right to expect it. The gentleman from New York had also asked, were they to be compared to the petty Powers of Europe? No, they were not; for they, when insulted, armed, and

determined to have redress, and they got it. The difference was, therefore, not in their favor, nor to their honor. If they had had a navy equal to those Powers, they would not have borne the insult which had been heaped upon them.

Navies, however, were not under consideration, but it was their situation with respect to the Barbary States. It was not good policy to put the country to an unreasonable expense; but it was only just that the property of citizens should be protected by sea as well as by land. The gentleman from New York had said, the true interests of the country were the agricultural, and then endeavored to excite jealousies between the two. He said their interests were one, and they equally promoted the prosperity and happiness of the country; without the other, neither could be supported. The gentleman had gone further, and said, whether they had a ship or not, foreigners would come to their country to purchase their produce. He said he was a native citizen, and he looked with pleasure on the exertions of native citizens. Were they (said Mr. S.) to depend upon foreigners alone? If they had done so, what would now have been their situation? Many gentlemen had doubted whether they would have provided ships enough to have carried their own produce; but they had not only built ships to do this, but also to carry merchandise from one part of Europe to another. Should they, then, abandon their commerce? He trusted the opinion expressed by the gentleman from New York would never be the opinion of that House.

The gentleman from New York also stated what was the amount of their trade to the Mediterranean at a certain period. It might be true, though it appeared strange to him. But did the gentleman know that few merchants would risk their vessels into that quarter for fear of the Barbary Powers? He knew the Mediterranean well; he had been there, and his mind was scarcely capable of conceiving the great advantages which would arise to this country were the navigation of that sea perfectly safe. It would be greater than all the commerce we now enjoyed. A better price could be got for most of their articles in that quarter than any where else. Would they, then, for the sake of a trifling expense, give this commerce wholly to foreigners? It might suit the gentleman from New York to employ foreigners, but he trusted it would never be agreeable to that House.

He hoped the House would agree to the motion of the gentleman from South Carolina, but if not, to the bill as sent from the Senate.

Mr. Parker was sorry he could not agree with the gentleman who made the present motion. He did not think it would be prudent to finish the whole of the frigates at present; it would be an unnecessary waste of money. For, though he should be glad to see the national flag respected, yet he did not see the necessity of proceeding to build more than three vessels at present. A small force, he said, would be equal to the protecting of their trade in the Mediterranean; for, peace having been made with Algiers and Morocco, the power of Tunis and Tripoli was inconsiderable. The three frigates to be built by this act would be more than sufficient to combat the power of Tunis and Tripoli, if we could not make peace with them, and would give respect to our flag in the Mediterranean. The Algerines would see we had a naval force, and would be convinced we could increase it if we could not continue truce with them. Hence, as they had made a peace with us on advantageous terms, they would continue it rather than break with us, as it was well known, from the experience of Portugal, that a force equal to four of our largest frigates could keep within the port of Algiers their whole naval force.

With respect to what had fallen from a gentleman from New York, in reference to letters of marque, he did not think it necessary to answer it. Indeed, the gentleman from Maryland had done it so completely it was unnecessary for him to notice his doctrine. As to the trade of the Mediterranean, he believed he knew little about it. He had been assured, from authority which he could not doubt, that if the Mediterranean could be navigated safely, not less than three hundred vessels might be employed in that trade. Indeed, from the information that had come before the committee on the subject, he was convinced that that quarter would prove a profitable market for most of their produce. The fish of New England, tobacco, rice, &c., would find ready sale. Wheat, he believed, was not in great demand. Being convinced of this, the committee were desirous of completing as many frigates as would be necessary to protect that trade. The money at present appropriated, he believed, would be sufficient to complete the frigates proposed, and it would remain for them to determine what should be done with the materials which remain after completing the frigates intended to be completed. For the present, therefore, he should wish the motion of the gentleman from South Carolina to be disagreed to, and the clause in the bill proposed by the Senate agreed to. It would give him pleasure to see some vessels on their coast to prevent the attacks made upon the property of their merchants; but he did not think the present time the most proper to engage in the business.

Mr. W. Smith did not like the idea contained in the bill, that the building of the frigates should depend altogether upon the price of materials or labor. It carried something rather of a paltry policy with it. The frigates, he said, were either wanted or they were not wanted; if they were wanted, the price of materials or labor should not be an obstruction to their completion; if not wanted, they had better be given up at once. When they were about passing the act authorizing the building of these frigates, there was a considerable difference of opinion on the subject, but no one thought six would be too many. For his part, he thought three would be of little use. He thought, if they were to have an armament, they could not have less than six frigates. He believed the passing of the law which authorized the building of the frigates had had a good effect in the Mediterranean, and if they should only complete three of

them, it would have a very unfavorable appearance in that quarter. Expense, it was true, was an object; but if they meant to have a Naval Equipment, it could not be had without expense. Gentlemen say they will protect their seamen, they will have a Naval Armament; but when the thing comes to be carried into effect, the expense alarms them, and the thing is abandoned. No expense, he was confident, would be less disagreeable to the people of the United States. They wish to see a Navy established. Six frigates were but a trifle, it was true, but they were a beginning. The only question was, whether they should pay $50,000 or $100,000 more on account of the advanced price of the materials and labor, and have them finished immediately, or put them off to some future day. If they were to examine, it would be found that countries which now possess the largest Navies had raised them by degrees; it was stated by *Chalmers* that the single port of Liverpool sent out, during the American war, a greater naval strength in privateers than formed the whole naval strength of Great Britain, against the famous Spanish Armada, in the reign of Queen Elizabeth.

The bill before them from the Senate provided for the finishing of three vessels with all convenient speed, and the remainder in such manner and at such time as, having a due regard to the existing prices of labor and materials, the President may think the public good requires; but no appropriation is proposed, and until that is done, the President could probably not proceed with them. Therefore, if the present bill passed, only three frigates would be finished. He believed it would also be some embarrassment to the President to know which of the six ought to be completed. Were the whole finished, he said, they would be very useful as a kind of Naval Academy, in teaching our youths intended for the sea service naval tactics, and have no inconsiderable effect on their negotiations with the Barbary Powers; but if it were known that one year they had determined on building six frigates, and the next were undetermined whether they should finish three, or any at all, it would give foreign Powers a very unfavorable idea of their stability and importance. Gentlemen were apt to talk a great deal about their strength; but when anything was proposed to be done, they were alarmed, and afraid of incurring expense. On this occasion, he was persuaded their constituents would cheerfully incur it for so desirable an object.

Mr. Madison said, he was one of those who set great value upon marine strength, and would not, therefore, object to any prudent and proper means of supporting it. But it did not appear to him, when the frigates were originally authorized by law to be built, that they would be sufficient to answer the purpose for which they were said to be intended. This opinion had undergone no change. It had been said that the law of Congress for building the frigates had had considerable influence in obtaining the late peace with Algiers; but, judging from the amount of money paid for it, he must be induced to believe that the pecuniary provision alone, and not the naval one, had brought about that event. At present, the subject seemed to present itself under different circumstances from those under which it was formerly placed. A new object was presented to their consideration. It was now said to be desirable to employ some of those vessels on the coast as a defence against pirates and privateers, and not send them to a distant sea to effect an object to which they would be inadequate. Under this consideration, he did not say that it would be improper to agree to the bill; nor did he wish to show a want of means to build such vessels as might be necessary for the security of our coasts. On the other hand, he did not wish to determine that the frigates should all be completed, so as to add unnecessarily to our present expenditures. The farthest he could go at present was, to agree that the three frigates most advanced should be finished, and that a final decision as to the others should at least be postponed until they had gone into the subject of the finances.

There was a modification which would be necessary in the bill. He did not think that if the building of the three remaining frigates was left to the discretion of the President, that it would be proper to give him the unlimited discretion proposed by the Senate. He might let the frigates lie over twenty years, and then build them. This was a question proper for Legislative decision; or, if they parted with it at all, it should be for a limited period of two or three years. This was a motion, however, which could not be made at present; he only remarked upon it for consideration.

Mr. Sedgwick was in favor of the motion of the gentleman from South Carolina. He thought if the arguments of gentlemen for reducing the number of frigates should prevail, it would show a versatility of conduct in them to foreign nations; for if it was thought to be the interest of the nation when the act passed that six frigates should be built, it now became its honor not to abandon the object. Enjoying the unexampled prosperity, which every one was ready to acknowledge, the expense of completing the frigates could be no object to the country. Besides, he thought it would be making more expense to discontinue a part of them, by increasing the cupidity of the Barbary Powers, than in going on with building of them. This versatility of conduct would not be honorable to the nation. One principal object in view in building the frigates, was to guard their commerce against the depredations committed on it by three Barbary Powers. A peace had been concluded with one of these States, (Algiers,) and their citizens were set at liberty. With only one of these States at peace, if they meant to extend their commerce, it would still be liable to the attacks of the other two, if no protection was afforded; and such was the disposition of these Powers, if the building of their frigates was suspended, we should have to purchase peace on their own terms. If the object was, therefore, relinquished, they should have more to pay for a peace with Tunis and Tripoli than the difference in the advanced

price of materials and labor. If they, therefore, respected the security of their citizens, the protection of their commerce, or the honor of their country, the present motion should be agreed to.

Mr. Nicholas said there was no occasion for a new act at all. If he understood the former act, the equipment of the frigates was to be discontinued whenever a peace was made with Algiers. The act was consented to only on that principle. The amendment of the gentleman from South Carolina would defeat itself. The expense of this business, he said, was too much kept out of sight. It would take 400 000 dollars to finish the frigates, and the getting of them out to sea would cost as much more. The gentlemen from Rhode Island and his colleague seemed to have been mistaken with respect to the 80,000 dollars appropriated for the galleys. That sum was not in existence. The question was, then, whether they should go into this business. Gentlemen had entered into ingenious discussion to prevail with the House to go into the subject. But if he were asked what effect six frigates would have in protecting their trade, he should answer none at all, but would be showing to foreign Powers that we did not understand the true means of defence which were in our power. It would be lessening, instead of increasing our consequence in the eyes of Europe.

With respect to the Algerines, they had paid a million of dollars, and stipulated to pay twenty-four thousand dollars yearly, for peace. Suppose they were in circumstances to excite the cupidity of the Barbary Powers, it appeared to him that the cheapest was the best way of securing their friendship. They could insure peace for a much less sum than they could build frigates. It was not the first cost that was all, for that would be scarcely equal to the annual expense, which would be at least 500,000 dollars—all which money would necessarily add to their National Debt, or very much increase their taxes. The principle upon which the law passed, he said, did not require it from them. It was passed only with a view to the Algerines. He was willing to go into the equipment of two frigates for the defence of their coast to guard against pirates. He said he was in some degree interested in the commerce of this country; but he must own, if it was necessary to have an armament to support it, he would not have commerce on such terms. But he thought peace might be got on better terms; for he believed there was not such a sink of expense as that of fleets. He, therefore, should not be for purchasing commerce at such a price. The arguments used for laying the foundation of a fleet would be a farther inducement with him to oppose the present motion.

Mr. Swanwick said, it would appear by the arguments of gentlemen, as if they should have to raise immediately from their citizens, for the purpose of completing these frigates, 400,000 dollars, though it would only be the interest of that sum at six per cent. which would be wanted. They had just agreed to pay the Dey of Algiers the sum of $24 000 annually, for what might be termed, perhaps, only a truce; but in the case of frigates for that sum annually, it would be paying the interest of money which had been laid out for their own materials. They should have the ships themselves for the money; so that in one case there was capital in hand, and in the other nothing at all. The interest of the money was all that could be considered in this case, because they went upon the plan of borrowing, and the frigates would certainly be as good security as the lots in the Federal City. He thought it would be difficult to say why they should guaranty those lots rather than their frigates. He thought gentlemen were greatly out in their calculations, and if they consulted economy, that building of the frigates would best answer that purpose; for, what would they say, if, next year, the Dey of Algiers finding that he had nothing to fear from our frigates, was again to fall upon our shipping? Besides, there were two Powers, Tunis and Tripoli, with whom they had not yet concluded peace, and these would ask terms in proportion to our weakness.

It could not be supposed, Mr. S. observed, that they were the happy few who could enjoy all the benefits of commerce and agriculture, without force to protect them. When they were told that they were situated at an immense distance from other Powers; that they had nothing to do with the balance of power; that they were unlike the small Powers of Europe, it appeared as if they were almost out of the world; yet, was anything more frequent than to hear people say, "You will be at war with Spain, with England, if you do so and so?" The truth was, that though Spain and England were at three thousand or four thousand miles distance, yet they had possessions very near us—their naval and land forces could easily approach us.

He wished to make one remark with respect to the Algerines. There were a number of gentlemen in that Committee with whom he was frequently in the habit of acting, who concluded, because the Emperor of China had no ships, and yet carried on great commerce, that they might do without ships also; he could not agree with them in sentiment. For, if they were to tell him that the ladies in China cramped their feet and wore shoes like those of children, he should not be for insisting upon the ladies of America to do the same.

Gentlemen had got a notion of carrying the produce of the country in foreign ships; yet, though there was no comparison between their situation and that of the Emperor of China, this doctrine had been industriously disseminated, and was a canker-worm, which, if not destroyed, would destroy their commerce and manufactures, and eventually their agriculture. Gentlemen who were acquainted with history need not be told that agriculture flourished in no country so much as in highly commercial ones. England and France might be quoted as instances. And, indeed, if they looked to their own country, the truth would be sufficiently clear; for, he would ask, when was their agricultural interest at the highest? Was it not at a moment when foreign ships were almost entirely excluded their shores, and when their merchants gave fifteen dollars a barrel for flour, and

when they could get three dollars a barrel for carrying it to a foreign country? The interests of commerce and agriculture would be forever found inseparable.

Let them consider agriculture in another point of view. All their waters were accessible to ships of the greatest burden, and consequently their shores were always in danger from foreign Powers. Indeed, *Montesquieu* had said, very justly, "That those who command the sea command the land also, because they can always choose the scene of operation." Indeed, whatever gentlemen may say, whenever an equal number of years has passed over this country to that which passed between the reign of Queen Elizabeth and George 3d, America will doubtless be found to possess naval strength equal to that possessed by any other Power whatever.

Mr. S. said, he founded this idea of the progress of the Naval force of the country on its territory, and whoever looked upon the face of it, must be convinced that it must become a great maritime country. When they viewed the Chesapeake, the Delaware, the extensive seacoast of New England, it must appear likely to become one of the greatest maritime countries in the world. No nation of Europe could compare with it in respect to territory and mighty waters every where intersecting it, nor even in tonnage of ships, compared with the actual population.

Gentlemen asked whether six frigates would be likely to have any effect in protecting their commerce and seamen? He believed that they would induce some respect, at least; but if it went abroad that they refused to finish them, it would give foreign Powers a contemptible notion, not of ability but disposition to defend ourselves, though by the by, a very ill-founded opinion; for, if their Government was weak, the people were strong. He believed it was the wish of the people that a Naval Armament should take place. The people on the Mississippi and Ohio were now likely to share in the necessity of their Atlantic brethren for protection; those rivers being now opened for them to the sea, he should not wonder to see the sentiments of that House in a few years materially changed on the present subject.

Let them not, with the gentleman from Virginia, calculate so nicely on this business. Gentlemen should recollect that part of their great family (as the people of America were very emphatically styled by a gentleman from Virginia) were navigators; and whilst they were granting the agricultural part of the Union a million and a half for the protection of their frontiers, let them, in their turn, grant the mercantile part something for the defence of their property. The question was, whether, having put their hand to the plough, they should now look back? Let it not be said that they talk of their power, for when it comes to be put into effect, it vanishes, because it cannot be done without expense.

The gentleman from New York had said, that when they had injuries done them, they were not to retaliate, but submit; if so, not only their coat, but their cloak, would be taken from them. He would have gentlemen recollect, that their farms were equally insecure with the property of merchants, and that after having taken ships enough, there was nothing to prevent their continuing their depredations on shore.

Mr. Williams explained. He did not wish, as the gentleman from Maryland had suggested, to excite any jealousy between the commercial and agricultural interests. He wished to encourage commerce as far as the true interest of their country would admit, but he thought agriculture required their greatest attention. The gentleman last up had said, that the whole expense of building the frigates ought not to be looked at, as it would only be the interest which they should have to pay, but he wished to ask that gentleman whether, on some future day, they should not have to pay the principal? He thought this a strange argument.

Mr. Ames did not wish to go into an argument at length in favor of keeping up a Naval force; nor did he suppose his conceptions on the subject were very material. The gentleman from Virginia [Mr. Madison] objected to the number of frigates proposed to be built. He agreed with him, that if it were necessary to keep up a Navy able to cope with European Powers, it would be better to relinquish their commerce altogether.

It was true it might, on the score of expense, be inconvenient to keep on foot the whole number of frigates, though he had objections to reducing the number of them. It had been said, that if the six frigates were completed, they would have no effect in repelling the force of European nations. There would, in his opinion, be two advantages derived from having some force. There was something in raising an opinion of force; it would have some effect on the imagination of foreign Powers. He owned he looked forward to the time, when, if good Government continued, it would be in the power of this nation to cope with any European nation, if it was their duty to do so. If they armed at all, though but a small force, it could not fail to produce respect to the nation. It is a display of some strength, and of a spirit that could command more.

Another idea with respect to any dispute with England: Every one supposes that with 500 ships of war she would be an overmatch for any vessels we could build; but if we have six frigates, they would be obliged to come out in fleets instead of single cruisers; and thus our frigates would be able, in a considerable measure, to protect our coasts. The opinion of their force would serve to protect our trade in peace, and their actual force would be of some use in time of war. With respect to the Barbary Powers, the idea of force will have some effect; for they will not be influenced by justice, and their cupidity will be whetted or repressed by a consideration of our strength or weakness. He thought it necessary to act on the fears of those Powers. Two or three frigates would not be a match for Algiers; but that was not all, two or three frigates could not always be on the station; some must be ready to relieve others. He asked, therefore, whether less

than enough would not be a waste of money? He thought, to have their trade half protected might be worse than no protection at all. This was his conception; he might be told that he was in error; but as the observation appeared of some weight with him, he made it.

But in his view, there was an object far more interesting than mere counting-house calculation. Admitting our Navy might cost more than the insurance against capture, he would ask whether they listened to the sighs of their citizens in Algiers? If they had thought of these, they would say that the protection of their citizens was worth more than it cost. The frigates proposed to be built would produce a sense of security in their seamen, and would have a very good effect; but if they had not force enough to give security, and the sense of it, it would amount to nothing.

He considered the possession of force as the only way of gaining respect, and he doubted whether the triumph of the Roman arms by the Roman legions was not as much owing to every citizen believing himself equal to a King, as to their strength. And he wished an American citizen should cherish the rights of citizenship more than cash. This national protection will cherish the sense of brotherhood; he believed this was necessary in a country where time had done so little to knit together the ligaments of our Union, which so many repulsive passions were now in full activity to sever.

Mr. Gallatin said, before the question was taken, however trifling a consideration the expense of building the frigates might be, he should wish to know from what sources they were to have the money. The gentleman from South Carolina, well acquainted with our finances, had not deigned to say from what revenue they might raise the sum wanted; his colleague from Pennsylvania had proposed to borrow it. He rose principally to give an estimate of the expense; but before he did this, he would remark, with respect to appropriations, that although it was said that the money appropriated for the frigates was not all expended, and that therefore a part of the sum now wanted would be got from this source, yet it would be well to recollect, that when an appropriation was made, no money was thereby put into the Treasury, and therefore that an unexpended balance of appropriation was not a sum of money existing in the Treasury which could be applied to any purpose. He was opposed to the principle of building the six frigates, because it created a large additional expense without any means being provided to defray it. It appeared by the official statements before them, that the six frigates would cost 1,142,160 dollars, and that 458,971 dollars thereof had already been expended; from whence it resulted, that a further sum of more than 680,000 dollars was wanted, and must be provided for in order to complete that armament. Although $230,000 were appropriated in part of this last sum (being the unexpended balance of the appropriation of last year) no funds were provided to discharge any part whatever of the expense. In all the official statements of the Secretary of the Treasury, in the report of the Committee of Ways and Means, which was grounded on these statements, the total amount of expenditures contemplated for the current year was exclusive of that sum; if that sum were added, it would increase the deficiency of this year, estimated at 1,200,000 dollars, and make it near 1,900,000 dollars. But exclusively of the expense of building the frigates, the permanent expense of supporting a Navy must be considered by the official statement the expense of pay of officers, of seamen, &c., and subsistence of two frigates (one of forty-four, and one of thirty-six) for six months, was estimated at more than 70,000 dollars; and therefore the expense of pay and subsistence of six frigates (four of forty-four, and two of thirty-six) for one year, amounts to at least 425,000 dollars. If to this are added the expense of keeping the ships in repair, and a variety of other incidental charges, it will be found that the estimate of the gentleman from Virginia [Mr. Nicholas] viz: that the permanent yearly expenditure of the six frigates would be half a million of dollars, was too low. Yet the only expense contemplated by the Committee of Ways and Means on that head, had been 74,000 dollars a year; and, therefore, provision must be made to increase the revenue, by a sum of 426,000 dollars a year in addition to the sum of 1,200,000 dollars a year wanted from the year 1801 to pay the annuity on deferred stock; in addition to the sum of 680,000 dollars immediately wanted to build the vessels; in addition to any provision that may be wanted to pay any part of the principal of our Foreign Debt, Domestic Loans, or anticipations.

Again, when he considered the advantages to be derived from this armament, he could see no good ground for going into this enormous expense. He was sensible that an opinion of our strength would operate to a certain degree on other nations; but he thought a real addition of strength would go farther in defending them than mere opinion. If the sums to be expended to build and maintain the frigates were applied to paying a part of their National Debt, the payment would make them more respectable in the eyes of foreign nations than all the frigates they could build.

He could not discover how six frigates could be considered as the foundation of a Navy. To spend money unnecessarily at present, would diminish their future resources, and instead of enabling them, would perhaps render it more difficult for them to build a Navy some years hence. If, instead of building frigates, they were to buy up timber for future use, it might be called, with some propriety, the foundation of a Navy. But their building a few weak vessels ill deserved that name. From these considerations, he should vote against building the six frigates, although he might agree to the report of the committee, who had recommended to complete two of the ships.

Mr. Goodhue said, as they had made peace with Algiers, and materials and labor were at a very high price, he should vote for finishing three frigates only at present, and for laying up the remainder of the materials for future service. Ships building at the present period were almost double the price that was paid in ordinary times.

Mr. Giles thought the present merely a money concern. Six frigates could not gain any great respect for the nation. They had no immediate occasion for frigates, and he thought this the worst possible time to build them. He believed gentlemen were much mistaken with respect to the effect they would produce. He spoke of the peace with Algiers, and asked, if building the frigates had tended to lessen the price of that peace? Was not the sum beyond any calculation that had been thought of? Gentlemen frequently supposed that voting a thing to be done, was to cause it to be done. An appropriation was one thing, and money another. When they spoke of consequences, they overrated them. If they would go into the building of a Navy, they should fix on a proper time. With respect to versatility, it could not be charged on them, for they were endeavoring to act according to law. For his own part, he was against the law altogether. He was of opinion, with the gentleman from Pennsylvania, that if they were to pay off the National Debt, it would gain them more respect than their frigates.

Mr. W. Smith said the gentleman from Pennsylvania [Mr. Gallatin] had asked where the money was to come from to complete the frigates. He believed they were not reduced to so contemptible a situation as not to be able to raise money necessary for completing their frigates. He thought it would be proper to have a Loan for the business. A Loan might be had on the new revenue. He hoped there would also be a saving in the Army Establishment. Indeed, no doubt could be entertained with respect to funds, if the measure were deemed necessary.

The act passed for the purpose said, they would build six frigates. A clause was indeed added, when the bill was about to pass, directing them to be stopped in case of peace with the Algerines; but it was never seriously thought that the building of any of them would be discontinued. It would appear so degrading to the country, that he trusted it would never take place. It had been ably shown, that those frigates, though a small force, would add respectability to their character abroad. Gentlemen said, how could a few small vessels be considered as the commencement of a Navy. He said the frigates which were building were not small, but large vessels, equal to ships-of-the-line, and he trusted they would go on from time to time to increase the number.

With respect to the large sum paid for peace to the Algerines, being a proof that this intended armament had had no effect upon that power, he believed there was another cause which advanced the price of that peace; it was owing to obstacles which came from a quarter whence they had no right to expect them. For his part, he had heard no argument which convinced him it was not proper to finish the whole of the frigates.

The question was now put and negatived.

Mr. Gallatin then moved to strike out three and insert two; that is, to have only two frigates built. The motion was negatived, 44 against 43.

A motion was proposed and carried, to strike out the clause enabling the President to finish the remainder of the three frigates when the price of materials and labor should be lowered, or the public good should require it, and to insert one in its stead, directing the President to sell such of the perishable materials as remained, and to lay up in store the rest for a future use. Agreed to.

The Committee rose, and the House proceeded, after clearing the galleries, to a consideration of a confidential communication from the President, received on Friday last.

Friday, April 8.

Mr. Harper said, he wished to replace the resolution which he laid upon the table some days ago, relative to carrying the Treaties lately concluded into effect, with one somewhat differently worded, which was accordingly read, and laid upon the table.

Mr. Harper said, he thought it was necessary that some notice should be given upon all important subjects before they were taken up; he therefore informed the House, that on Monday, he should move to bring forward the subject of appropriating the means of carrying into effect the late Treaties.

NAVAL ARMAMENT

The House again resolved itself into a Committee of the Whole on the act supplementary to an act, entitled "An act to provide a Naval Armament," and after a few observations, the Committee rose and reported the bill. The House took up the amendments.

Mr. W. Smith again moved to strike out the first clause, in order to introduce one to have all the frigates finished instead of three; but which, after a considerable debate, was negatived, by the yeas and nays being taken upon it, as follow:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, John Page, Josiah Parker, John Patton, Francis Preston, John Reed, Robert Rutherford, John S. Sherburne, Jeremiah Smith, Israel Smith, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

Nays.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Roger Griswold, George Hancock, Thomas Hartley, John Heath, Daniel Heister, Thomas Henderson, James Hillhouse,

William Hindman, John Wilkes Kittera, Edward Livingston, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, Theodore Sedgwick, Nathaniel Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, and Peleg Wadsworth.

Mr. W. Smith said, in case of a war, much of their national strength would depend on privateers. He believed merchant ships, as now constructed, were very ill suited for war. If Government could encourage merchants to build vessels in such a manner as to answer the purposes of merchandise, and at the same time to be easily converted into vessels of war, he was of opinion it would be of great service to the country. It was, he confessed, a new idea in the House, but as there were gentlemen in the House who were better acquainted with the nature of ship building than he pretended to be, he should be glad to hear their opinion on the subject, and for that purpose, he proposed a clause similar to the following, to be added to the bill

"*Be it enacted*, &c., That the sum of —— per ton shall be allowed to every owner of a ship, being a citizen of the United States, which shall be so constructed (to be determined by the Collector of the port from whence the said vessel sails) as to be readily convertible into a vessel of war; provided the owner give bond, with sufficient security, in case said vessel be disposed of to a foreign Power, or citizen of a foreign country, to refund the said bounty."

Mr. Goodhue said this was a new idea. He said vessels for war and vessels for commerce were built upon very different constructions, and he thought it almost impossible to combine the two together. Merchant ships had an upper deck, vessels of war an open deck; and he believed it would almost take as much time to convert a merchant ship into a vessel of war, as to build a new ship. Besides, Collectors being unacquainted with the business, would be liable to be imposed upon. Not one merchant vessel in a thousand sailed sufficiently fast for vessels of war.

Mr. Parker thought this subject might be discussed on a future occasion, if the gentleman would propose the measure in the form of a resolution; it would encourage ship building, as a vessel so constructed would not carry more than half the goods which merchant vessels carry. To attempt to introduce the clause into this bill would impede its progress. He hoped, therefore, it would be withdrawn for the present, and introduced hereafter in the shape he had suggested.

Mr. Swanwick said, gentlemen called the present proposition a new one; but it was by no means new. In Great Britain this principle had long since been adopted. She had given a bounty on vessels, in some degree similar to the one now proposed, on their becoming armed vessels. He did not think the plan by any means impracticable. In the last war many of their merchant vessels had been converted into privateers. The West India trade was carried on in swift sailing vessels; and Virginia pilot-boats had frequently been sold to the belligerent Powers for vessels of war, on account of their being remarkably swift sailers. He thought it would be good policy in Government to offer a bounty, as a motive to merchants to build their vessels so as to answer the double purpose which was now in view. No one can suppose that they shall always be in profound peace. The first danger to be apprehended, in case of hostilities, was along shore. The cities of immense value, and large agricultural houses, lay prostrate to a foreign country—for the House had not hinted at any water defence for them. The only alternative talked of, were privateers or letters of marque.

The British vessels to India and the Mediterranean were exposed to danger from piratical corsairs—the carrying of guns was found expensive, Government therefore formerly gave a bounty on tonnage to all vessels who carried a certain number of guns. Many a man was saved from slavery by this measure, who otherwise might have been taken by a small row-boat. The more, he said, he investigated commercial affairs, the more he saw the riches of that source; and he was not sure, if duly examined, whether navigation would not be found as productive a source of wealth to the country almost as agriculture itself. He then took a further view of commerce and agriculture and insisted that their interests must rise or fall together.

He hoped they would not reject the proposition before them, as it might have an excellent tendency to increase their strength. It was a good way to deliberate upon a thing, and not cast it away at once. They received a great revenue from tonnage, and if they were to return part of it again for this purpose, he thought it would be a good plan; and unless, gentlemen could point out some better way in which the nation could be secured, he should give it his support, as it would be purchasing security at a low rate. It was also an excellent provision that the bounty received should be returned, in case a vessel was sold to a foreign Power. At present, he said, their timber and other raw materials were carried off to support and aliment foreign navies, and no proposal was offered to prevent their being carried away, and ourselves suffering hereafter for the want of them. He could not say whether the present proposition would be best connected with the bill; but if it was not, he hoped it would be put into such a form as to come under discussion on a future day.

Mr. Madison thought there were many strong objections to the present measure. In the first place, he conceived, with the gentleman from Massachusetts, that it would not be easy to construct vessels so as to make them easily convertible into vessels of war, without sacrificing the economy of navigation. A vessel built in such a manner, at the same expense, would not carry the same cargo. The amendment itself seemed to contemplate this, by offering a bounty. A question would arise, whether the bounty given would be equal to the loss with respect to the construction to the merchant, or whether it would not be a greater expense to Government than the advantage which

could be derived from the measure would warrant? It would be going into a plan in time of peace that would constantly keep war in view. He objected to the immense discretion proposed to be vested in custom-house officers; it would be a great discretion to be placed any where. A gentleman had mentioned Virginia pilot boats as best fitted for war and trade. If so, he said they would recommend themselves. All that remained was to make the advantage evident. The subject was new, and it could hardly be supposed that such a measure could be decided upon immediately. It would be best to lay the proposal on the table.

Mr. Hillhouse hoped the clause proposed would be withdrawn. Its extent could not at present be seen, and it was improper to be brought forward in the last stage of a bill. Were all their ships to be turned into privateers? Much information was necessary to be had before such a measure was adopted. It ought to have been brought forward more early in the session, that proper inquiries might be made on the subject; at present they had important business pressing upon them, which ought not to give way to any new matter.

Mr. Williams said the proposition made by the gentleman from South Carolina deserved consideration. It was founded upon a doctrine similar to that which he himself had advanced, and he thought the best plan which could be entered into by the United States, by way of defence; but to build vessels of war, and to go into this measure also, was unnecessary. If they were to agree to this proposition, and not to that for building frigates, it would have the best effect. All their vessels would not be built in this way, as the gentleman last up had supposed; because every one would be left to adopt the plan or not. He thought this plan far preferable to building ships of war; there were no officers, no sailors, no materials to provide. It would would also encourage ship-building. He did not consider it necessary to go into the building of a navy for this country. Fortifications, floating batteries, and vessels of this kind, would be a sufficient defence for them.

Mr. Harper thought it improper to go into this question at present. Many objections might be urged against it, and it could not receive a proper decision without more discussion than they could now give it. It ought not, therefore, to be entered upon; for though the practice was known in Great Britain, it was not known here. It should be brought forward as a separate proposition, and not make part of a bill about to be passed. He did not wish the proposition to be rejected; but that his colleague would withdraw it, and lay it on the table in the form of a resolution.

Mr. Kittera said, that an Irishman proposed to make all cart-horses into running horses; and gentlemen wished to convert merchants ships into ships of war. He thought there were many objections to the proposition, and that it could not be carried into effect.

Mr. Murray would only make a single remark; The presumed novelty of the principle contended for, was one of the objections to it. It was not a new principle even in that House. Those who were present when the first bill for the building of six frigates was under consideration, will remember that he suggested this idea, which he read to the House, in a clause almost copied from an English statute, he believed in Charles the Second's time; he remembered that this idea, though not adopted, was often alluded to in debate by those who opposed the frigates, as a valuable substitute, and a gentleman from Virginia argued ingeniously that it was a mode of uniting the habits and passions of individual enterprises with the system of public defence and the cheapest mode. Now, according to this bill, we lose three of the frigates and this plan would come in as a valuable substitute for the frigates which are discontinued.

Mr. W. Smith said he made the proposition with diffidence, because the subject was important and novel: every gentleman, however, who had spoken on the subject seemed to think it presented some favorable aspects. But it was objected to as being unseasonably brought forward. He himself did not see the impropriety. They were now considering the subject of a Naval Armament. His provision contemplated vessels of war, without the expense of building them, by giving a bounty to encourage merchants to adopt a particular construction in building their vessels. This was not certainly unconnected with the present subject. Nor was this the last reading of the bill; it would have also to undergo discussion in the Senate. He, therefore, thought some remarks which had been made upon his motion unfounded. Gentlemen were also mistaken in respect to the difficulty of building vessels to answer the purposes of trade and war. It was a fact that the English Government had converted during the last year some of their East India ships into 64-gun ships, and they were said to be amongst their best vessels. Their East India vessels generally carried, it was true, guns, though they were built for trade. Probably vessels employed in the Mediterranean trade should be so constructed. Vessels employed to the West Indies, they had heard, were very fit for the purpose, and the English East India ships at present carry guns. So that there are three descriptions which might easily be converted into vessels of war. Gentlemen had spoken as if it were intended that all their vessels should be so constructed. It was calculated that they had 800,000 tons of shipping sailing from their ports, 400,000 of which were square-rigged vessels. It was supported that the number of square-rigged vessels was about 2500. If one-fifth only of these were constructed in the way he proposed, would it not be of great advantage? But if their commerce continued to increase, in the way it had done of late, they might have 1000 vessels of this description.

An objection had been made with respect to the modification of his clause. It was objected that so much power should be placed in Collectors; but it must be supposed that before a Collector returned any vessel as entitled to the bounty, he would employ proper persons to examine the construction of such vessel. Individuals who built vessels could not be injured, because it would be a mat-

ter of choice, and if the bounty was not supposed equal to any loss which might be sustained by such vessels not being able to carry so much cargo, they would not fall in with the proposal. The gentleman from Virginia [Mr. Madison,] said it was bad policy to increase their expenses in time of peace to prepare for war. On the contrary, he believed it a wise policy. And if the present proposal should cost the nation 20, 30, or 50,000 dollars a year, would it not be a great advantage to have 500 or 600 vessels of this sort ready to cripple the trade of an enemy in case of war? Would not the knowledge of this capacity in them, be a constant check upon nations disposed to be their enemies? He believed it would. But as gentlemen seemed to wish that the consideration of the proposition should be postponed for the present, he should withdraw it, and bring it forward on a future day.

Mr. Gallatin again moved to strike out three frigates, for the purpose of inserting two; which was negatived—yeas 25, nays 57, as follows:

Yeas.—Messrs. Theodorus Bailey, Abraham Baldwin, Nathan Bryan, Dempsey Burges, Gabriel Christie, John Clopton, Joshua Coit, Isaac Coles, Jeremiah Crabb, Albert Gallatin, William B. Giles, Roger Griswold, Wade Hampton, Carter B. Harrison, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Andrew Moore, Anthony New, John Nicholas, Israel Smith, and John Williams.

Nays.—Fisher Ames, David Bard, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Daniel Buck, Thomas Claiborne, William Cooper, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Hathorn, John Heath, Daniel Heister, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Nathaniel Macon, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, John Page, Josiah Parker, John Patton, John Reed, Robert Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, William Smith, John Swanwick, Zephaniah Swift, Absalom Tatom, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, and Peleg Wadsworth.

The other amendment, to add to the bill a new section, was then read, as follows:

"*And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause to be sold, such part of the perishable materials as may not be wanted for completing the three frigates, and to cause the surplus of the other materials to be safely kept for the future use of the United States."

The amendment was agreed to, and the bill ordered to a third reading.

STATE GOVERNMENT FOR TENNESSEE.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the Territory of the United States South of the river Ohio should enjoy all the privileges, benefits, and advantages, set forth in the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio; and that the government of said Territory South of the Ohio should be similar to that which was then exercised in the Territory Northwest of the Ohio; except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2d of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of Western territory."

Among the privileges, benefits, and advantages, thus secured to the inhabitants of the Territory South of the river Ohio, appear to be the right of forming a permanent Constitution and State Government, and of admission, as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: Provided the Constitution and Government so to be formed should be Republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the Territory South of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the Constitution and form of Government on which they have agreed; which, with his letters accompanying the same, are herewith laid before Congress.

G. WASHINGTON.

United States, *April* 8, 1796.

The above communication was read, and referred to a select committee of five members.

Mr. Parker, of the Committee of Conference, appointed to confer with the Senate on their disagreement respecting certain amendments proposed and insisted upon by the Senate, and disagreed to by the House of Representatives, to the bill for establishing trading-houses with the Indian tribes, reported that a conference had been held, and the Senate had consented to recede from their amendments. They proposed a farther amendment to the bill, that instead of six thousand dollars being allowed to the agents and clerks, eight thousand dollars should be allowed. The report and bill from the Senate were laid on the table.

The House took up the resolution laid upon the table some days ago by Mr. Sedgwick, for establishing a mode of taking evidence in contested elections, and referred it to the Committee of Elections to make a report thereon.

The House went into a Committee of the Whole on the bill for further providing for the Public Credit and for the reduction of the Public Debt; and, after having gone through it, the House took it up, and ordered it to be engrossed for a third reading to-morrow.

The House then went into a Committee of the Whole, on the bill for regulating trade and intercourse with the Indian tribes, and after some debate on the clause which directs the forfeiture of

lands in certain cases, the Committee rose, and asked leave to sit again.

Saturday, April 9.

The bill for making further provision for Public Credit, and for the reduction of the Public Debt, was read a third time, and passed.

A bill declaring the assent of Congress to an act to be passed by the State of Massachusetts, for laying a certain tonnage upon vessels navigating the Kennebunk river, to defray the expense of erecting a pier therein, was read twice, and referred to a Committee of the Whole on Monday week.

NAVAL ARMAMENT.

The bill supplementary to an act for providing a Naval Armament, was read a third time, and passed.

Mr. Holland opposed the passing of the bill in a speech of some length, in which he very forcibly urged the impolicy of the measure. He insisted that two or three frigates would only serve to provoke attack without being able to make resistance, and instead of gaining respect would excite contempt from foreigners. He objected to the measure also on account of the very great expense it would be attended with at a time, he said, when they were much straitened for money.

On motion of Mr. Williams, the yeas and nays were taken upon the passing of the bill, and resulted—yeas 62, nays 23, as follows:

Nays.—Abraham Baldwin, David Bard, Lemuel Benton, Theophilus Bradbury, Richard Brent, Daniel Buck, Thomas Claiborne, William Cooper, Jeremiah Crabb, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, Roger Griswold, George Hancock, Carter B. Harrison, Robert Goodloe Harper, Thomas Hartley, John Heath, Daniel Heister, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Matthew Locke, Samuel Lyman, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, John Page, Josiah Parker, John Patton, John Reed, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, Absalom Tatom, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, and Peleg Wadsworth.

Nays.—Theodorus Bailey, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Joshua Coit, Isaac Coles, Albert Gallatin, William B. Giles, Wade Hampton, Jonathan N. Havens, James Holland, George Jackson, William Lyman, Samuel Maclay, Anthony New, Francis Preston, Robert Rutherford, Israel Smith, Abraham Venable, and John Williams.

EXPORTATION OF BREADSTUFFS.

Mr. Christie said there was a great scarcity of Indian corn in the country, and when he considered that it would yet be nine months before the return of a new crop, he believed it would be necessary to take steps to prevent, for a limited time, its exportation, as many poor persons depended upon it almost wholly for food. He therefore proposed the following resolution to the consideration of the House:

"*Resolved*, That a committee be appointed to inquire into the expediency of preventing the exportation from the United States of Indian corn and corn meal for —— months."

Ordered to lie on the table.

INTERCOURSE WITH INDIANS.

The House having resolved itself into a Committee of the Whole on the bill for regulating intercourse with the Indian tribes, and the motion for striking out the clause which enacts a forfeiture of all right to the land ceded to the Indians by the late Treaty, in case any person entitled to any right in it shall go upon it for the purpose of marking it out, &c., being under consideration,

Mr. Holland said, he would make some observations on what had been advanced in opposition to the amendment, and afterwards attempt to show to the Committee why the amendment should prevail. By way of objection, it had been said by a gentleman from Maryland, [Mr. Crabb] that this question was agitated fully in the committee that prepared the bill, and that they had decided in favor of the clause. Mr. H. did not know why the discretion of the committee was mentioned, unless it was to prevent investigation; that he thought it his duty not implicitly to submit to their opinion, nor would he be governed by it on this occasion, nor in any other case, but would investigate the principles contained in the bill, and would then act according to what he conceived to be his duty. The same gentleman, in reply to his colleague from North Carolina, asked, what could induce persons to go into the Indian country and mark lands? In addition to what had been said by his colleague, he observed that he knew persons who went into the Indian country to make discoveries, having no other claim, and that brokers of this city were then in possession of those discoveries proposing for sale.

A gentleman from Connecticut said, the existing law was equal to this bill, if this clause was struck out. If that gentleman had attended to the other provisions contained in the bill, he might have saved himself the assertion; but as it was a naked assertion, he would not compare the bill with the former law, the Committee being acquainted with both. But the same gentleman [Mr. Hillhouse] had asserted that the claimants had only a pre-emptive right, and that the Indians had the fee simple of the lands. This assertion, Mr. H. said, he was authorized to deny. It had not been admitted, neither by His Majesty, antecedent to this Government, nor by this Government, in theory or in practice. By the theory of the British law, all titles to the soil were originally in the King; he was lord paramount, and all lands not immediately disposed of by the Crown, with-

in his extensive dominions, were vested in him. The savages of these Provinces, when under the British Government, were considered a conquered people, and tenants at will. And hence it was, that they were unable to convey, unless previously relinquished by the Crown, and then their title was their right of occupancy, and not the dignity of a fee simple, the King's grant being necessary to vest the fee.

In this situation were the tenure of the Indians under His Majesty, so far as his Provinces had circumscribed them within the respective charters of this country. At the Treaty of Peace in 1783, it was acknowledged that the respective States were the free sovereigns of all the lands contained within their Provincial charters, which placed them in the precise situation with respect to the fee that His Majesty had previously done in the fee simple; therefore, all the lands contained within the charter of North Carolina belonged to Government, or to the people of that State; the Indians, therefore, were tenants at will, and not tenants in possession of a fee simple estate. To prove this, also, they have ever been incapable of conveying their estate, not even for life, without leave of Government. Inheritance and alienation were incident to a fee. All persons can convey the title they possess, but they possess no title more than in villanage.

The State of North Carolina, therefore, viewing themselves as lords of the soil, opened a land office to dispose of the unappropriated lands to her citizens, previously setting apart an abundant quantity to those Indians for hunting ground, upon which they expressly prohibited any entries to be made, and sold the remainder to her citizens, to discharge the obligations she was under to them, as well as the Continent in general, for their personal services in procuring the independence of that State against the force of those savages, in conjunction with Tories and Britons: and how shall it be forfeited, in case they attempt to mark those lines which were wearing out by time? Shall those deserving citizens suffer a punishment due only by our Constitution to acts of treason?

But, in order to make this go down, it is smoothed over, and said, those citizens have only a pre-emptive title; and it is asked, if they are not volunteers, why did they go over? This might be asked as an apology for all punishments, however enormous they may be.

It was said by *Montesquieu*, and many writers, that sanguinary laws were of the worst kind; that they are ever badly executed. If ever a time should happen that they were necessary, it would now be improper to adopt the measure, when they would operate on the best citizens, and on those that had long been deprived of their right by the measures and operations of Government. He had before said, these citizens had made a fair contract with the State of North Carolina, and a full payment for those lands. He would now beg leave to attend to the contract made by the State of North Carolina with the General Government, in behalf of her citizens. Here Mr. H. read that part of the deed executed by the Senators of that State to the General Government, in which it was stipulated that no obstruction should be made to the obtaining the patents, pursuant to the entries lawfully made; and that the Government of the State, for the time being, should be enabled to execute a grant to the said lands, in the same manner as though that cession had not been made. He then read the act of acceptance of the deed, from which he said it was plain, that the faith of the General Government was explicitly pledged to enable these citizens to survey those lands, and to authorize the Governor to execute the grants. This being the case, notwithstanding the General Government, by Treaty, gave those lands to the Indians, in express contradiction to their plain and original contract, it must follow that the General Government is bound to extinguish this Indian claim, and put the injured citizens in possession of their realized property, which they had so long been kept out of, and so justly bought.

The Government had power to treat her citizens in this manner, but if they do, what will be the consequence? Will not their minds be irritated? Will they have reason to love that Government which pays no regard to their sacred rights? Fourteen years had elapsed, and they had not yet been requited for the services they had done their country, and their realized property secured to those Indians that had been the worst of enemies. Under these reflections, what might they not do, more especially when we annex a forfeiture of this realized property?

The gentleman from Connecticut said, that treason in all countries had been undefined. In this he was not correct: but, he said, it is right so to get hold of a large property; he hoped he did not mean to apply this to the intention of their penal laws. In all countries, treason had been thought the highest crime a citizen could commit; and, in this country, our Constitution prohibits a forfeiture of real property longer than life, whilst the forfeiture in this bill is unqualified. Laws working forfeiture, according to the spirit of our Government, ought to be avoided. Many of the States have adopted lenient penal codes, and have found the salutary effects. He hoped this would not have admittance in our penal code.

Mr. Nicholas said, there were many reasons for striking out this clause. If the penalty was inflicted, it was, perhaps, irrevocable. There might be circumstances in which the penalty might be inflicted, which would call for a mitigation of it; but there would be no power of mitigation under this act. It seemed as if these people were considerable sufferers, and that they had a claim, either upon the State of Carolina, or upon the United States. Would it not, then, be hard upon them, whilst their claim was scarcely heard, to make so severe a penalty against them? It would irritate them very highly, and would unite them against the Government. If they had behaved improperly, they had had strong incentives to it, and so far from its being justifiable to increase their punishment, he thought they ought to be treated with delicacy. If the property was

their, the Treaty could not do their right away. As long as it was an unsettled question, whether a Treaty could dispose of private property, and whether some compensation ought not to be made in such cases, the penalty was extremely disproportionate.

Mr. Cooper observed, that the idea advanced by the gentleman from North Carolina, that Indian nations could not hold the fee of the countries they possess, was new; but the idea that our citizens can acquire the fee of their lands without their consent, was not only new, but contrary to natural justice. The individuals who hold the pre-emption right of those lands, took them subject to the Indian claim, and they must wait until it is convenient for Congress to extinguish their title by Treaty. Neither the law now proposed, the Treaty of Holston, nor the act of North Carolina, put those individuals in a worse situation than they were when they first obtained their warrants. They took them, subject to this incumbrance, and if they cannot be restrained by law, they must be restrained by force; for the peace of the United States ought not to be broken by a few daring individuals. This bill was to preserve peace on the frontiers; and if men, who hold warrants within their lines as settled by Treaty, will, in violation of law, take possession of their land, they ought and must forfeit their claims.

Great part of the country of Ontario was now selling, he said, subject to the Indian claim; but should those purchasers, or holders of the pre-emption right, attempt to take possession of those lands before a Treaty is made with the natives, and thereby subject the frontiers to the ravages of an Indian war, a forfeit of such claim, said Mr. C., is too small a punishment for such offenders; he, therefore, hoped the clause would not be struck out.

Mr. Milledge was in favor of striking out the clause. A forfeiture, like the one proposed, was contrary, he said, to the Constitution of the United States, and he hoped it would be abandoned.

Mr. Crabb spoke in favor of the clause. It would prevent that kind of abuse which was apt to kindle war on the frontier, by a forfeiture of their title to the land. If they had any claim upon the United States, he would have them satisfied. Whenever their citizens went over the boundary lines, war was the consequence. These citizens, he said, had nothing more than an unextinguished pre-emptive right, and he believed all they were bound to do was, to guaranty to them their right whenever the Indians quitted the land. Gentlemen spoke, he said, as if Government were bound to go and drive the Indians back by force. It was said that the forfeiture contemplated by the present bill, was contrary to the Constitution. He was confident it was not. If the clause was struck out, the bill would be of no use; it would stand as before. And letters had been received from the frontiers, that except further means be taken to preserve the peace, it would not be preserved.

Mr. Hillhouse said, that the forfeiture proposed would, in many instances, be a less forfeiture than personal property. By our revenue laws, an East India ship and cargo, of $100,000 value, was liable to forfeiture for a violation of the law. Can any one say that these forfeitures are not greater than that of a pre-emption right to Indian land, which can never operate until the Indians shall relinquish, by some conveyance or cession, their title, which they are at liberty to make or not, as they shall think proper? He believed, that though the Indians were men in uncivilized life, and differed in their customs and habits from ourselves, yet they were justly entitled to the lands which they possessed. Holding out a contrary idea to the Indians, viz: that they had no right to the lands which they were upon, had caused great alarm among them, and was, in his opinion, one cause of the Indian wars. Indeed, this right and title to the lands had been expressly recognised by the United States in the Treaties they had made with them. The God of Nature had given them the land, and he was sorry to hear any gentleman on that floor call their right to it in question. He would ask, who were the proprietors of this country previous to its being known to civilized nations (as they were called?) Were not those people? And had they not always been in the peaceable enjoyment of it? Who gave us a right to call their title in question, or forcibly to thrust them out? They had, he said, suffered enough from the fraud and violence of those who, since the discovery of America, had been seeking to dispossess them of their lands, and he hoped no one in that House would wish to take from them what little of their inheritance still remained in their possession.

He had, he said, been charged with advocating the cause of the Indians; but he little regarded what was said on that head; his object was not only quiet to the Indians, but security, also, to the peaceable, well-disposed inhabitants on the frontiers, who had families, and were exposed to the resentment and retaliation of the savages: these were not the people who would incur the penalties of this law: it was intended to restrain those daring inhabitants, who declare that, in defiance of Treaties and laws, they will go into the Indian lands, a circumstance which cannot fail to excite the resentment and retaliation of the Indians, which will fall, not upon the offenders, for they will be no more to be found than the wolves, but upon the innocent frontier inhabitants, their wives and children. The charge, Mr. H. said, of being a friend to the Indians, had been made, not only upon him, but a similar charge, Governor Blount says, in his letter published a few weeks since in the newspapers, had been made upon all who advocated measures which tended to promote the true interest of the frontier inhabitants. [He here read the following extract from Governor Blount's letter:]

"You, as well as myself, are sensible that, in the days of the folly of this country, that whoever should attempt to preserve peace with the Indians, was instantly denounced as an Indian friend, and the cry ac-

cordingly raised against him; but I rejoice, as I wish the future peace and happiness of my fellow-citizens, that those days are in a degree over; I wish I could say quite, that there would be no necessity for me to pen, or you to execute this order. It is, however, not to be denied, that he who preserves peace with Indians thereby serves the Indians; but it is equally true that, by that act, he, in a much greater degree, serves his fellow-citizens. Let any frontier citizen take a retrospective view of an Indian frontier war, half peace and half war, the worst of all wars, and there has been such a war kept up in this country since the Declaration of Independence until the present peace, and must he not in truth declare that the operation has been the more dreadful and distressing to the frontier citizens? True, the Indians have had their sufferings too, but did that alleviate the sufferings of the frontier citizens?"

The letter from Governor Blount, he said, which accompanied the Message of the President on this subject, informed us that there were a number of people who were determined, any law or Treaty to the contrary notwithstanding, to take possession of the Indian lands, and that nothing but a superior military force would prevent them, a force which must subject the United States to great expense; and shall we be squeamish about forfeiting the pre-emption right of such people to Indian land, which is not a title, but a right only of becoming, in preference to all others, owners of the land, by some future grant or cession to be made by the Indians, who are the present proprietors? If the amendment took place, or the law did not pass in its present form, he should, he said, wholly despair of being able to preserve peace on the frontiers, or preventing Indian wars.

Mr. Madison said, it was not necessary to investigate the Indian mode of occupancy in opposition to that of civilized society. The natives are understood, by the nations of Europe possessing territories on this Continent, to have a qualified property only in the land. If they had an unqualified title they could not be prevented from ceding to foreigners their lands lying within the limits of the United States. In that point of view, he thought the doctrine of the gentleman last up particularly objectionable. He thought the clause of the Constitution which had been referred to, was worthy of attention. There could be no doubt, when the Constitution forbid forfeitures in case of treason, the forfeiture of that property was forbidden, of that kind of property incident to the corruption of blood. They must resort to the technical phrase, and they would find that forfeitures meant real estates. The gentleman from Maryland [Mr. Craig] said, that the prohibition of the forfeiture of property, where life was not forfeited, was just, and not against the Constitution. This remark was of more weight than any other offered, though he did not admit it to be satisfactory. On examining the bill, he believed that both life and property might be forfeited. It was true, there might be a case in which the forfeiture of private property would be greater than real estate; but this was a general rule, and they obtained the benefit of the general rule, and paid the price of the exceptions for it. This law, he said, was against the spirit of the Constitution; he would not say that it was against the letter, but it was certainly against the spirit of the Constitution; for, if they allowed the forfeiture of real estate in any case besides treason, they might do it for treason also, by calling the crime by another name.

Mr. W. Lyman said, that the Indians ought certainly to be treated with humanity; but he did not believe they had any real title to land; they did not allow them to sell land. Their property in land had been compared by an able writer to a fisherman's property upon a fishing-bank. Their land was the property of the United States, which they were suffered to enjoy, but to which they had no real title.

Mr. Sandwich hoped the motion to strike out the clause in question would not prevail, because it was best calculated to preserve peace on the frontiers. It was necessary they should do all in their power for that purpose. It was a subject of considerable importance, and more so from the principle asserted by the gentleman last up. If the vagabonds who were involving them in expense were suffered to proceed in their career, there would be no end of war; but if we were to say to them, no title shall be acquired in this way, we should do that which would have a tendency to prevent war more than any thing else which could be done. But, in order to justify their doctrine, gentlemen say the Indians have no property in the land, or that their property is of a qualified nature, and not such as was possessed by men of civilized society. Two hundred years ago, he said, at the discovery of this country, when cupidity gave a right to possession, and all the cruelties of Spain were exercised upon the innocent inhabitants, which his mind shuddered to think of, this doctrine might have been held. Gentlemen did not surely go upon this plan, because civilized men could improve land better, that they had thence a right to take from the natives, because, as his colleague [Mr. Lyman] had asserted, they had no more right to it than a fisherman had to the banks of Newfoundland. He had not believed that, at the close of the eighteenth century, and in this place, doctrines of this kind would have been held. Were they to say to the savages in their own country, you have no right to any land? where was the difference between this and saying to a man who had a million of acres of land, because you do not improve your land as well as it is capable of being improved, we will take it from you? This, he said, would be a principle of plunder which could never find advocates within those walls, hostile to, and destructive of, all security in property. He had an idea that pre-emption right was important, and rested on a national foundation. It was agreed, amongst civilized nations, that that nation which discovered a country should have the only right of treating with the natives, not because savages have no rights, but because two nations, with all the arts of civilization and the cupidity of buccaneers, if they were to go and take possession together of the country, would play off all their savage passions together, and the innocent natives would be witnesses to nothing but blood and plunder. Pre-emption right was, therefore, good and reasonable.

Shall we, said Mr. S., wherever we find savages who do not labor, send them to the mines, because we are more civilized than they? Surely not. He believed that wherever the natives of a country had possession, there they had a right, and not because they did not dress like us, were not equally religious, or did not understand the arts of civilized life, they were to be deprived of their possessions, but that their rights or their possessions were as sacred as the rights of civilized life. They had certainly this right, that they could use it as they pleased. This he conceived to be sound doctrine, and he thought it had been everywhere acknowledged; for, so long as it shall be asserted that Indians have no rights, they might expect scenes of blood on their frontier. Indians will never submit to be told they have no rights. With respect to the Constitution, where did gentlemen learn that persons were not to be dispossessed of real estate, but for treason? A man might forfeit it in every State in the Union but one, for debt, when he owes more than he can pay. All penalties of a pecuniary nature were forfeitures; and he would ask if it were more important to lose a single acre of barren land, or a cargo of India goods? This was so extensive a construction of the Constitution, that he knew not, if it were adopted, where it would stop. The only case to which the clause in the Constitution referred, was that of treason, where the passions of party were wrought up to such a degree as to attempt to overturn the Government; but what had this to do with the Indian frontier? Nothing. Because the Constitution says, that a prevalent faction, who say that the minority have committed treason, shall not inflict a forfeiture of the possessions of their adversaries but for life, it did not restrain the discretion of the Legislature in inflicting punishment for other crimes.

He saw no connexion between the two cases. The gentleman from Virginia [Mr. Madison] says, that if it be not contrary to the letter it is contrary to the spirit of the Constitution. He could not see this. It was saying no more to the people than, you shall not go upon this territory to provoke war. And it was a fact, that no provision would be so effectual to confine the cupidity of adventurers, and thereby preserve peace. He trusted the clause would be preserved in the bill.

Mr. Blount said, the greatest and most numerous offenders against the Indians were not persons who had claims upon the lands, but those who had not, and never could have. Shall they, then, he asked, pass a law which shall inflict the highest punishment on men who, if they had not a claim, had paid for it, whilst those who had no pretensions to a claim, were suffered to escape without punishment at all? It was said, no peace could be had on the frontier if this law were not passed. But he would say, neither this nor any other law they could pass would preserve peace on the frontiers without a military force to carry it into effect. At present, he said, there was a frontier of 465 miles, with only one company of troops at thirty miles distance. Other parts had been guarded in a better manner.

When he was on the frontier last Summer, he made it his business to get all the information he could respecting what was best to be done for the peace of that country. A gentleman on the frontier had given him considerable information on the subject, which he had reduced to question and answer, and placed in the hands of the committee. If the Chairman of that committee had attended to those papers, he would not have made some remarks which he had heard. He thought the law before them would have all the good effects without the clause of forfeiture, and therefore he hoped it would be struck out; but to defend and keep order on the frontier it would be necessary to have 500 men stationed there. He wished the Indians to enjoy their lands in peace, whilst they chose to remain upon them, but he did not think it right that one description of citizens should be subject to greater punishment for offences than others.

Mr. Gallatin said, there was no object more worthy of their attention than the protection of the frontier; but at the same time that they did every thing in their power, they ought not to attempt what was not in their power. They talked of preventing depredation on the territory of the Indians, and thereby prevent retaliations from them. He said there was no idea more groundless than that the mischiefs committed by the Indians upon the frontiers were in general occasioned by previous injuries done to them. Twelve years, he said, had elapsed since the Peace of 1783; ever since that time he had lived on the frontiers of Pennsylvania, and not a single year had passed, whether they were at war or in peace, but some murders or depredations had been committed by the Indians on those frontiers, though there had not been a single instance of an invasion of territory or of an unprovoked attack on them by the inhabitants of those frontiers. Not a single acre of land had been taken from them, but what had been fairly purchased. If they meant to prevent Indian depredations, they must change the nature of the Indians; for as long as there were young Indian warriors, they would go to war, either amongst themselves or against the Americans, and there would be murders on the frontiers. It was nevertheless highly their duty to prevent any provocation on the part of our citizens, and he would encourage any feasible plan for the purpose. But what was the object of the clause now moved to be struck out? it was to make a forfeiture of a real estate for a misdemeanor. It was forfeiting by Congress a title to a real estate sanctioned, though not derived from Congress, and derived from an individual State. If once they admitted that by a misdemeanor a citizen might forfeit his real estate, was it not lessening the security which every citizen enjoyed in holding property? The Constitution had said that no property should be forfeited in the case of treason beyond the life of the possessor, yet when this is insisted upon gentlemen say, that that clause of the Constitution applies to personal property; but real and not personal property must have been

contemplated when forfeiture is mentioned, which is not to extend beyond life; for real property will subsist whilst personal being of a perishable and consumable nature is not likely to last longer than the course of a life.

But they were told treason was mentioned in the Constitution, in order to guard against the effect of passions and the violence of some political prevailing factions; yet he would wish to know whether the passions of certain gentlemen were not as much inflamed whenever frontiers were mentioned as on any subject whatever? Such a penalty would not have been thought of any where but on the frontiers. It was greater than the crime would justify. A forfeiture of estate was contrary to the spirit if not the letter of the Constitution, and opposed to the letter of the act of North Carolina, whereby the territory was ceded to the Union.

The clause under consideration did not punish all citizens in the same way for the same offence. When A did a certain thing, he was to be fined and imprisoned; but when B did it, he must not only be fined and imprisoned but also lose his real estate. Penalties should doubtless apply generally. If the act said, that any man who shall commit a certain offence shall forfeit all his real property, or a certain sum of money, this would be right; but it was not so in the bill before them; the forfeiture was confined to a specific kind of property, possessed by certain individuals, and of course applied to those individuals in a distinct manner. He referred to the act of North Carolina making the cession to Congress, and which was accepted by Congress. That act declares that, "all grants made to any person, within the limits ceded shall have the same force and effect as if the cession had been made," but the effect of the law before them made a new condition: it said, "you shall lose the land if you set your foot upon it." If the United States had a right to say so, because it was their interest that the lands should not be occupied, and if next year they think it their interest that they should be settled, they would have a right to say, "you shall forfeit the land if you do not immediately go upon it."

But what end, Mr. G. asked, was to be answered by this violation of the principles of justice? Was any good to arise from it? How was it supposed they should drive these people from the land? If Government was so weak as not to prevent them from going upon it, how could they recover the forfeiture and get possession of the land after those people were upon it? Was it supposed that if these persons were not deterred by the present law, which inflicts a penalty of one thousand dollars and imprisonment one year, that they would be deterred by the present law? No such thing. They will say, "if Government are not strong enough to prevent us from going upon the land, they will not be able to drive us from it." And every one knew the difficulties attending the removal of men thus settled. Nothing but an armed force, he believed, could prevent encroachment on the Indian frontier, as the gentleman from North Carolina had justly observed, if the people were resolved to encroach. But as to any legal restraints the present provisions by law were sufficient, or, if the fines were not large enough, they might be made larger. The Treaty with the Indians stipulated, that if any inhabitant of the United States went upon those lands, they would be out of the protection of Government, the Indians might treat them as they pleased, which, he thought, offered great encouragement to the people to go upon their territory. Taking all these circumstances together, he thought the penalty of the old act was sufficient.

After a few words from Mr. Kittera and Mr. Hillhouse, the question was taken, when there appeared for striking out the clause 33, against it 28. The Committee rose and the House adjourned.

Monday, April 11.

Mr. Parker moved to take up the bill for establishing trading-houses for the Indians, with the report of the committee appointed to confer with the Senate, respecting certain amendments which were insisted upon by the House, when the report was agreed to.

EXPORTATION OF BREADSTUFFS.

Mr. Christie wished to call up the resolution he had laid upon the table respecting the scarcity of Indian corn, in order that it might be referred to a committee to make a report thereon; as, from accounts he had received, he thought it would be very desirable to give immediate attention to the subject.

Mr. Henderson moved, that "rye and rye meal," might be added to the resolution, which was agreed to, and added accordingly.

The reference to a committee was opposed by Messrs. Coit, Bourne, and Kittera, on the ground of giving unnecessary alarm, when they believed there was no foundation for it; but it was supported by Messrs. Christie, Blount, and Henderson, who each gave an account of the great scarcity which prevailed in the parts of the country from which they came, and urged the impolicy of carrying off that produce to feed foreign nations, which their own poor stood in need of.

A committee of fifteen, (a member from each State,) was agreed to be appointed to report upon the resolution.

INTERCOURSE WITH THE INDIANS.

The House then took up the bill regulating intercourse with the Indian tribes, in Committee of the Whole.

Mr. Swift objected to the clause which enacts that the losses sustained by the white people from the Indians on the frontier, shall be made good by Government. Persons who went to live on the frontier, he said, knew that their property was subject to the depredations of the Indians. Provided the sum thus paid for losses sustained by the frontier inhabitants could be deducted from the sum which Government had stipulated to pay the Indians, he should have no objection to the measure. He was afraid by this clause particularly, if not altered in

the way he proposed, that a door would be opened to fraud, as it would be impossible to ascertain with precision the amount of any damage done by the Indians.

After some observations from Mr. Hillhouse, a provision was inserted in the bill to the above effect.

Mr. Blount observed, that it was a practice very frequent on the frontier, to turn cattle upon the lands of the Indians, to graze, and when persons went to look after them, or to bring them off, disputes would sometimes happen, which occasioned serious mischiefs; he therefore moved a clause to prevent the practice in future.

Mr. Hillhouse said, that Government had received complaints on that ground, and he thought the provision a proper one.

The amendment was agreed to, the Committee rose and reported the bill, and the House took it up, and when they came to the clause making a forfeiture of land in certain cases, Mr. Blount again moved to strike it out, when the question was taken by yeas and nays, and were for striking the clause out 36, against it 47, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B. Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, Alexander D. Orr, John Page, Josiah Parker, John Patton, Absalom Tatom, and Abraham Venable.

Nays.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, John Hathorn, John Heath, Thomas Henderson, James Hillhouse, William Hindman, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Robert Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, William Smith, Thomas Spriggs, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

The bill was then ordered to be engrossed and read a third time on Wednesday next.

MILITARY ESTABLISHMENT.

The House went into Committee of the Whole on the report of the committee appointed to inquire whether any, and what, alterations ought to be made in the present Military Establishment of the United States; and the report of the committee was read, as follows:

"That, in their opinion, the events which have changed, and may be expected still further to change the relative situation of our frontiers, render a review of our Military Establishment at this time expedient. It is the opinion of the committee that the force to be provided for the defensive protection of the frontiers, need not be so great as what had been contemplated for carrying on the war against the different tribes of hostile Indians, and which is the basis of the present Military Establishment.

"By the last act on this subject, of March 3, 1795, the military force of the United States is to be composed of the corps of artillerists and engineers, to consist of 992 non-commissioned officers, privates, and musicians, and a legion to consist of 4,800 non-commissioned officers, privates, and musicians. Of these there will still be in actual service on the first of July, next, 3,004, which the committee suppose will be sufficient to be continued as the present Military Establishment: they, therefore, recommend the following resolutions:

"*Resolved*, That the present Military Establishment of the United States ought not to exceed 3,000 non-commissioned officers, privates, and musicians.

"*Resolved*, That these ought to consist of the corps of artillerists and engineers, as established by the act of the 9th of May, 1794, and of four regiments of infantry, of eight companies each.

"*Resolved*, That there be one Brigadier General, five Lieutenant Colonels Commandants, eleven Majors, one Brigade Quartermaster, and company officers according to the rules and regulations for the discipline of the troops of the United States."

Mr. Sedgwick wished for information on the subject. He conceived it would make some difference whether they had or had not to garrison the posts at present in the hands of Great Britain.

Mr. Baldwin said, they had got as good information as could be given. The accounts given in included the posts and all the frontier. Some statements made the number of men necessary somewhat more than 3,000, others somewhat less; but they took the number as that which would be in service on the first of July next. As to the question of the gentleman from Massachusetts, it would make little difference whether they followed the line of the lakes or the posts as run by the territory.

Mr. Sedgwick said, he did not perfectly understand the Chairman of the committee. He did not understand that there were any posts on this side of the British posts. He could not see, therefore, but it must make a difference between a calculation to garrison those posts, or the contrary. They were or were not to be garrisoned. If they were to be garrisoned, it would certainly require a greater number of men than if they were not to be garrisoned.

Mr. Dearborn said, that, in calculating the number of men necessary for a Peace Establishment, he had endeavored to ascertain, as near as possible, the number of posts to be garrisoned, and the number of men necessary for each garrison, in the different parts of the United States. It would make very little difference, in his opinion, as to the number of men which would be necessary, whether the posts now occupied by the British within our territory, were put into our possession or not. If we got possession of these posts we shall put proper garrisons into them; but if they are not given up we shall undoubtedly think it necessary to place larger garrisons at

these posts which will be in the vicinity of the British garrisons.

From every calculation which he had been able to make, he was convinced that 2,500 rank and file would be fully adequate to all the objects for which men under present circumstances could be wanted; but, as we should have about 3,000 men in the field on the first of July next, he had consented, in the select committee, to the number mentioned in the report. Three thousand men were nearly equal to the number which had composed our real military force through the course of the Indian war. They were not, therefore, about to reduce our army, but to consolidate it.

With respect to the organization, he believed that most gentlemen, who had any military knowledge, would be of opinion that when troops were to be detached in the manner our small army must be, in small parties to a great number of posts, where their duty would be almost altogether garrison duty, that neither cavalry, which was very expensive, grenadiers, light infantry, or riflemen, would be either necessary or proper; but that the establishment, as reported, should be composed of the regiments of artillery and engineers, as already established by law, which was to consist of very near one thousand men, and four small regiments, of about five hundred men each; each regiment to be composed of eight companies of infantry. He thought it was necessary that there should be a large proportion of officers, on account of the detached situation of the troops, and that, by having small regiments fully officered, that object would be obtained. Upon the whole, he was clearly of opinion that the report now under consideration was well calculated for the interest of the United States.

Mr. Hartley said, he did not acquiesce in the principle of this business. He did not think it prudent to go into any alteration in their Military Establishment. He did not agree with the committee that there had been a change of circumstances. There was a power in the President to make any alterations he might deem necessary. But he thought those who were friends to the Constitution and Government ought not to vote for the report. He did not agree with the gentleman from Massachusetts, [Mr. Dearborn,] that there was no necessity for infantry and grenadiers. It was changing every thing without the support of experience for the change. At this time, before the Treaty with Great Britain was carried into effect, it was not proper to make this change. He hoped there would not be a majority in that Committee to make the proposed alteration. He wished the subject might have been determined late in the session.

Mr. Giles was in favor of the report of the committee. There had been different opinions held in that House with respect to the energy of Government. It was the opinion of the gentleman from Pennsylvania [Mr. Hartley] that a large Military Establishment was necessary for the support of Government. This Government said Mr. G., was never thought to be a coercive one. He thought there was sufficient energy in the people to support their own Government without the aid of a Military Establishment. And was it to be said, because certain gentlemen were opposed to standing armies, they were also opposed to the Government? He believed that Government would be better without an army, as it was always better for Governments to rest upon the affections of the people than to be supported by terror. He had always opposed the measure, because he thought it would not strengthen its hands. It was an extraordinary thing, because he did this, he was called an enemy to Government. He could not forbear making these remarks, as he thought they were called for. He should vote in favor of a reduction of the Military Establishment.

Mr. Murray could see no analogy between the energy of Government referred to by the member last up, and that referred to by the gentleman from Pennsylvania, [Mr. Hartley.] It was meant for certain ends. It was not meant to coerce the people of the United States, but the enemies of the United States. What sort of temper must the gentleman possess to wrest the gentleman's meaning so much? What connexion was there between the energy of Government and the military? Had the army ever been called upon to coerce the people of the United States? The militia had, indeed, been called in to quell the late insurrection.

The energy of the army was employed to guard their frontier. It was an energy appropriate to that particular object. But the gentleman from Virginia spoke as if he would have the people believe that there were men in that House who wished to coerce the people of the United States. Neither he, nor any man with whom he acted, he would venture to assert, ever entertained such an idea; and it was not fitting that such a doctrine should go abroad without being exposed. For, said Mr. M., you may rail at Government, and pour out abuse against it as long as you please, but once communicate an idea that there was a party in that House who were suspected of an intention of coercing the people by an established military force or standing army, and you make it the duty of the people to overset the Government if that party prevail. At present, he said, while the United States stand on a middle ground, on which the dispute on the execution or inexecution of the Treaty placed them, it was, in his opinion, highly impolitic to give up any part of the Military Establishment. The people look forward to the first of June for the delivery of the Western posts. This public expectation may be gratified if we are wise; if we are weak enough to reject the Treaty expressly, it will be defeated. Where are we in that state of things? Policy would not dictate a reduction of force in that state of things.

But, he observed, if the army is considered in relation to the Peace Establishment, we ought not to reduce it. By the delivery of those long-contested posts the sphere of protection is to be enlarged. You come to a state of wider or close

contact with nations, who are scarcely susceptible, from their state of savageness, of the confidential relations of lasting peace; no such thing is to be anticipated. Your peace with such nations touching your borders, through an almost immeasurable frontier, is but an armed neutrality, an armed peace, a state of perpetual vigilance, and your force must be adequate in many relative points to sudden war. For his own part, residing as he did beyond the reach of Indian wars, nothing but a principle of justice to the whole Union would lead him to wish to see an armed force, at the public expense, upon the frontier. He would repeat, that the idea which the gentleman threw out, that a party in this Government wished to coerce the freemen by a standing army, was an empty dream, which he did not think that gentleman himself believed. That an army of five or six thousand men, acting in so remote a scene, and never heard of but in the victories they gain over the external enemies of the country, should prove a source of alarm to such a nation as this, so armed as they are, so free, so spirited, and enlightened, and that nation, too, of at least five millions of souls, appeared to him to be too ridiculous to be sustained against one moment's thought. That the doctrine which the gentleman talked of should have been the intention of any party, was, to him, equally extraordinary and unwarranted.

Mr. Gallatin agreed with the gentleman last up, that there was no connexion between a standing army and the support of the Constitution and Government; and, therefore, he was surprised to hear his colleague say, "that every friend to the Government and Constitution ought to vote against the reduction of the Military Establishment." He was not afraid of the army. He did not think that that army was either necessary for the support of Government or dangerous to the liberties of the people. He should not have risen had it not been for what had fallen from the gentleman from Maryland, [Mr. Murray] with respect to the frontiers. When the Military Establishment was raised to its present amount, it was on account of an Indian war. That war was now at an end. But that gentleman says the Military Establishment was necessary to guard the frontier. From 1783 to 1791 what were the troops on the frontiers? Very few; yet the frontier was as effectually protected as now. But a regular war had been determined upon, which, in his opinion, was not necessary for the protection and security of the frontier. Their defence would at all times depend more on the population and the inhabitants themselves than on a regular army. Peace, however, was now made, and, although it would not, perhaps, altogether prevent Indian depredations, a Peace Establishment was now sufficient.

With respect to the posts now in the hands of the British, it was of no consequence whether the men were placed in them, or in those of this side of them. But the number of troops now to be kept was nearly the same that they had had for some time past. There was another idea held out. It was said that it was not yet known what may be done in this House with respect to the British Treaty. What was this idea calculated to produce? That if the House of Representatives did not carry the British Treaty into effect, war was in some degree connected with the event. As to himself, he had no such fears; and, in his opinion, the present question was merely a money bill. If there was no occasion for five thousand men, it was better that they should only have three, because it would save money. The saving of expense would be near $600,000 a year, an object of first importance, in the present situation of the finances of the United States.

Mr. Hartley said, he did not expect his words would have been wrested for the purpose they had been used. His conduct would speak for him. He had fought in the cause of liberty and his country. He would not call himself a Democrat, nor an Aristocrat, but a Republican. Different members in that House held different opinions, though he hoped all meant well. He thought there was no necessity for pressing this business for a few days; he apprehended they were in a very critical situation.

Mr. Venable thought the present measure a very proper one; it took away the necessity of appropriating double the quantity of money necessary. Was it the intention of the gentlemen to set up a Military Establishment? If so, it would be well to say so. It was a consideration whether they ought to make unnecessary appropriations of money. It was said, on a late occasion, this can be spared from the Military Establishment; but when they came to consider the subject, they were told it was not proper to reduce it. It was said this was a critical moment. This was an old cry. They had heretofore made appropriations for six thousand men, though three thousand only had been kept up. The present regulation, therefore, only went to prevent improper appropriations, and not to decrease the real number of men. He did not see that the present question had any relation to Democrats or Aristocrats. It was necessary they should have an eye to the expending of the public money, and if six or eight thousand dollars could be saved in the expenditure on this head, it was desirable.

Mr. Craik hoped the resolution would be agreed to. It was not two years since six thousand men were deemed necessary under the pressure of Indian wars; and if that number was sufficient to carry on war, it was not surely necessary to have an equal number in peace. At the opening of the session the President told them they were at peace with all the world; they knew also that they had paid a certain price for peace; why, then, keep up the same number of men still? Would not gentlemen who were friendly to an increase of the Military Establishment, say, in case of any emergency or future Indian war: "We kept up such a number in time of peace, we must now increase them; and when that is closed we must continue them:" and so they might be drawn on by degrees to a large standing army. They were told that a standing army in time of peace of five

or six thousand men could be of no consequence; nothing dangerous to liberty could be apprehended from them. But, because he was not afraid of a dozen servants about his house, was he to keep them when he had no occasion for them? Was this economy? So with respect to the military. For, though that House or the country would never be afraid of a Military Establishment much more numerous than the one proposed, yet it ought to be as small as possible to answer the public objects. Both economy and policy supported this principle. They knew that most of the Powers of Europe had been led into slavery by standing armies. He hoped they should never pay men when they did not want them. They were told their situation was critical; and Treaties were improperly dragged into view. He did not think the Military Establishment had any connexion with the Treaties now before them. If they were to be involved in war, they had, he trusted, much better and more substantial resources than the present army, and that the same spirit which conducted them to honor and victory heretofore would not forsake them on any future occasion. He therefore hoped the proposed reduction in the military would take place.

Mr. Holland wished to know what necessity there was for keeping up so many men as were proposed by the report. It was necessary for gentlemen who wished to have the large establishment kept up, to show the necessity for the smaller. The gentleman from Massachusetts [Mr. Sedgwick] said, if the posts were given up they must be garrisoned. He understood that the keeping of those posts by the British occasioned a greater number of men to be kept up, as it was suspected they incited the Indians to commit depredations. The gentleman from Maryland [Mr. Murray] said the same thing. If they intended to follow the example of Great Britain, it would be proper to increase their Military Establishments; but it did not agree with the spirit of their Constitution to do so. It was an extraordinary circumstance, he said, that though the army was said to be wanted for the frontier, gentlemen from that quarter wish to reduce the Establishment, whilst gentlemen from the seaports, where no danger can be apprehended, wish to increase it. On the frontier, he believed, Military Establishments were looked upon as nuisances in time of peace.

Mr. Findley said, in every stage of the Military Establishment, he had been in favor of it. An attempt was made last session to lessen it, which he opposed; but he saw no reason now against making the proposed reduction, and he should therefore vote for it. The object, he said, was to new-model it, and keep up nearly the same force. The misfortune was, that they had heretofore had the name without the number. If the number had been sufficient for war, they would certainly be so for peace. The gentleman from North Carolina [Mr. Holland] seemed to think there was no occasion for so many men. He did not appear to be acquainted with the frontier. They would be employed in the forts. This was a service to which militia could not be called. He did not think three thousand would be too many. Their times would be expiring by degrees, and therefore a less number would not be sufficient. If the proposal had been for keeping up a skeleton of an army, he would not have voted for it.

Mr. Giles said it was well known that gentlemen had been called by unusual epithets, and insinuations had been thrown out that they had some designs upon Government. He always felt such insinuations too contemptible for his notice; but when they were reported in that House it became necessary to take some notice of them. It was with that view that he got up to deny the insinuation thrown out by a gentleman in the course of the debate. It had been remarked that it was improper to have been introduced. He thought it right to speak his sentiments in his place, in a style and manner which could not be mistaken. There was a difference of opinion in that House on Military Establishments. Various questions on that subject had been brought forward in that House, and various attempts made to increase it. At present it was the object of some gentlemen to keep up six thousand men. Their argument was, that that House might do something which would make these men necessary. Although, he said, six thousand men could not be looked upon as dangerous to the country, yet the very idea of a Military Establishment was to him a disagreeable thing. It naturally created patronage and expense, and it became them to have as little of either as possible. With respect to the gentleman's girding on his sword in the time of necessity, it was honorable to him, and he doubted not he was, as he said, a friend of liberty. He remarked that he honored the gentleman for his patriotic exertions during the late war. He himself was also a friend of liberty, but they seemed to differ somewhat in their opinions about supporting and preserving it. He did not think an army necessary to regulate that liberty. He should advocate such means as he thought best calculated to that end, but he did not believe that either standing armies or an unnecessary connexion with Great Britain would be favorable to liberty.

It had been said the chief destination of these men was the frontier. Against whom? Not the Indians; because they were at peace with them; therefore, that object did not exist. It was his opinion that there would be continual depredation; but there was no occasion for large armies to prevent them. The resolution did not go to lessen the real number. Heretofore they had, it was true, six thousand men on paper, but only three thousand in the field. It was his opinion that even this number was not necessary, but he saw it was the general opinion, and therefore he would agree to it.

Upon the whole, he believed it was advisable to have the paper establishment to correspond with the real as nearly as possible; for, although only three thousand men, there was seldom any surplus of money from the appropriation for the six thousand. He was very unwilling to go upon subjects of alarm; it was unnecessary to

say there were some motives for alarm. It was his wish, and had always been his conduct, to make peace as much as possible. He could never, however, sit still, when an army was called the energy of Government. If gentlemen examined the Journals, they would find many propositions for increasing the Army Establishment, which had always been negatived.

Mr. Hillhouse hoped the resolution would be agreed to. He thought there was no occasion for a greater number of men than it expressed. He believed that gentlemen were correct when they stated, that though six thousand men were appropriated for, that only three thousand were in service. But appropriation, as had been before stated, did not make money flow into the Treasury. He did not think, as had been insinuated, that any part of the money was improperly expended.

Mr. Harper was of opinion that three thousand men were sufficient for a Peace Establishment, and would therefore vote for the resolution.

The first resolution was agreed to, and the second and third, after some few observations on the propriety of introducing a Major General in addition, or instead, of a Brigadier General, which was proposed by Mr. Bourne, and opposed by Mr. Dearborn and Mr. Dayton, were also agreed to. The Committee reported the resolutions, and the House took up, and went through them, and ordered a bill to be brought in.

REVENUE SERVICE.

The House went into a Committee of the Whole on the report of the Secretary of the Treasury on the petition of Hopley Yeaton and others, which, having gone through, the House agreed to, as follows:

Resolved, That provision ought to be made by law for raising the wages of the officers and men employed on board the revenue cutters.

Resolved, That provision ought to be made by law for a distribution of the fines, penalties, and forfeitures, incurred under the impost laws, and recovered in consequence of information given by officers on board any of the revenue cutters, among all the officers of such cutters; and that, in such cases, the distribution shall be one-third to the United States; one-third to the officers of customs, in manner as is now provided, relative to that part of the forfeitures they are entitled to; and one-third to the officers of such cutter, to be divided among them in proportion to their pay.

Resolved, That the President of the United States be empowered to cause new revenue cutters to be built or purchased, in lieu of those which shall, from time to time, appear to be unfit for further service; and that, in lieu of the cutter lately employed in the bay and river Delaware, he be authorized to cause to be built or purchased a vessel suitable for a cutter, and to be employed occasionally in carrying despatches to foreign countries; and that the necessary expenses attending the purchase and repairs of the said cutters, be paid by the Collectors of the Customs, out of the proceeds of the duties on imports and the tonnage of vessels.

Ordered, That a bill or bills be brought in pursuant to the said resolutions, and that Mr. Sherburne, Mr. Coit, and Mr. Swanwick, do prepare and bring in the same.

DEBT DUE BANK UNITED STATES.

Mr. W. Smith called for the order of the day on the bill providing for payment, in part, of the Debt due to the Bank of the United States, which, after some objections from Mr. Gallatin, against taking the subject up at so late an hour, as the debate would probably be long, the House divided, and the question for taking it up was carried by a small majority.

Mr. Gallatin said, the substance of this bill depended upon filling up the blanks, and therefore he hoped the blanks would be filled up in a Committee of the Whole. For this purpose, he moved to fill up the blank with $1,200,000. He did not expect the subject to have been taken up to-day, and therefore he had not with him some calculations which he meant to introduce on the subject. But, as he did not expect the question would be taken, he would take occasion to speak of them to-morrow. Mr. G. then went into his reasons for wishing the blank to be filled up with $1,200,000, instead of $5,000,000.

Mr. W. Smith said, the gentleman from Pennsylvania [Mr. Gallatin] wished the blank to be filled up with $1,200,000, instead of $5,000,000. The gentleman did not deny that the United States owed the Bank that sum, nor did he propose any means of paying it. Mr. S. conceived that, whenever the public owed a sum of money, it was their duty to discharge it in money, or to give in lieu something which would enable the creditor to procure the money. The Bank had called upon Government for the money they owed to it. The Bank had made considerable advances to Government, and they could not carry on their necessary operations, except they were paid the five millions now proposed to be funded; the Government owed them more than six millions, but it was proposed to fund only five. But the gentleman says, he is for paying only $1,200,000, because, next year, they will probably be able to pay more. It was said that the Secretary of the Treasury did not expect, at the opening of the session, that this Debt was to be funded, but that it was to remain on the footing of the customary anticipations. Mr. S. referred to a late report of the Secretary of the Treasury, (which he read) wherein he states positively that it will be necessary to fund all the anticipations due to the Bank, as there were no means of discharging them, and the Bank were not in a condition to make further advances.

The difference between five millions, with which he proposed to fill up the blank, and the sum of $1,200,000 with which the gentleman from Pennsylvania proposed to fill it, consisted of the sum of $3,800,000 the Bank had advanced by way of anticipations on the annual revenues. This sum that gentleman wished to be left unprovided for. But, in that case, it was obvious that the Bank could not advance Government any money, however great the extremity, and money was so diffi-

cult to be borrowed from any other source, that the movements of Government might be effectually arrested. If this sum of $3,800,000 were not paid, they would be liable at any time to be called upon for it; whilst that Debt existed in its present shape, all the money which came into the Treasury was necessarily turned over to discharge it. Would it not, therefore, be a great advantage to Government to put this Debt out of the way for a number of years, by which means their current revenues would be liberated for their current expenses? Besides, the Treasury would then have a surplus of money in hand and find a ready resource in the Bank to answer any contingency; it was certainly convenient and right always to have such a resource. But, if this was not done, all the money which came into the Treasury would be immediately paid to the Bank; and, in a case of emergency, the Government would be entirely destitute. The objection which the gentleman from Pennsylvania had to funding this Debt for a certain number of years, was, that they put it out of their power to pay it off. Mr. S. said it was very evident, that they could not pay off this Debt from their present revenue now with any probable increase; for, besides these five millions, there would be three millions and upwards of Domestic and Foreign Loans falling due before the year 1801, which they must pay. This would make an addition of $620,000 per annum to their present expenditure, and must be paid out of new revenues, or new Loans. And in the year 1801, they had further to meet an additional expense of $1,146,370 for the Deferred Debt. He acknowledged he did not know where gentlemen would find revenues to pay off all those sums, besides the Debt due to the Bank. He therefore thought it good policy to fund the five millions in the way proposed, that they might have a resource in an Institution which would be able to advance them money whenever occasion pressed them for it. He understood that the Treasury was now in an embarrassed situation, that they had applied to the Bank for an advance for the current service, and that the Bank was incapable of advancing any. It was well known that the interest which Government paid to the Bank for their money was only five per cent., though the Bank might, by discounts, make eight or nine of it. It was also well known that the income of the Bank of the United States was less than that of any other bank, owing entirely to their having so much money locked up in the hands of Government. Was it an advantage to the United States, who owned two millions of stock in that Bank, that, from their engaging so much of its money, they only received a dividend of eight per cent., whilst other banks divided twelve per cent. and upwards. The difference in the dividend to the United States was eighty thousand dollars per annum.

From these considerations, he thought the plan proposed by the Committee of Ways and Means not only just as it related to the Bank, but expedient in relation to Government. He hoped, therefore, when the blank came to be filled up, it will be filled up with five millions. For the present, as it was past the usual hour of adjournment, he had no objection to the Committee's rising. He took, however, this opportunity of stating that he was not, as calumny had suggested, in the least interested in that institution. He had, a considerable time ago, sold all the property he had ever owned in the Bank. As the duty which devolved upon him, as Chairman of the Committee of Ways and Means, required his taking an active part in measures connected with that institution, he considered himself called upon to make this declaration.

The Committee now rose, and had leave to sit again.

Tuesday, April 12.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," with several amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects Georgia and Rhode Island and Providence Plantations," with several amendments; to which they desire the concurrence of this House.

Mr. Sherburne, from the committee to whom was referred the subject of the Revenue Cutters, brought in a bill on the subject; which was twice read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. Harrison, from the committee to whom was referred the subject of regulating the Weights and Measures of the United States, made a report; which was twice read, and referred to a Committee of the Whole on Monday.

Mr. Dearborn, from the committee to whom was referred the President's Message relative to the Territory South of the river Ohio, reported that that Territory, now bearing the name of the State of Tennessee, was entitled to all the privileges enjoyed by the other States of the Union, and that it should be one of the sixteen States of America. The report was twice read, and committed to a Committee of the Whole on Tuesday next.

DEBT DUE BANK UNITED STATES.

The order of the day being called for, the House formed itself into a Committee of the Whole, on the bill making provision, in part, for the payment of the Debt due to the Bank of the United States. The motion made by Mr. Gallatin to strike out 5,000,000 and insert 1,200,000 dollars being under consideration—

Mr. Sedgwick said, the question before the Committee was, whether the blank in the bill should be filled with 1,200,000 or with 5,000,000 dollars? in other words, whether the Loan which the bill proposed should be of the former or latter amount?

The gentleman from Pennsylvania [Mr. Gallatin] had yesterday declared, that, at the commencement of the present session, the Secretary of the Treasury did not expect that any such Loan would have been proposed; nor did the Bank then expect the payment of the Loans with which it had accommodated the Government. In support of his declaration, the gentleman read a passage from the first report made the present session by the Secretary. That passage declared, that the anticipations of the revenue which might exist at the close of the present year must be continued the next. The gentleman had from hence inferred, that those anticipations were to continue in their present form. The report imported no such idea, but only that the Secretary did not expect any measure would be adopted this session for the extinguishment of those Loans by payment. This was not only the meaning of the Secretary, but that meaning was perfectly well known to the gentleman himself at the moment he made this declaration. To prove, at the same time, the meaning of the Secretary, and that that meaning was well known to the gentleman, he would take the liberty to state some facts which he certainly would not deny.

Soon after the appointment of the Committee of Ways and Means, and, he believed, at the very first meeting of that committee, and at which meeting the gentleman was present, an interview took place between the committee and the Secretary. At that time the Secretary made the proposal, the object of which was detailed in the bill, with this only difference, that his proposal extended to the sum-total of the amount of the Debt due to the Bank. This was about the time that the report was made. The gentleman then did know, at that time, that the Secretary's report did not mean what he had declared it did.

This conclusion was irresistible. This, however, was not all. Very early in the session, a report of a committee of the Bank was put into the hands of the gentleman: he read this report, and considered its contents. This report commented on this very proposition. It was, too, in consequence of a proposition made to the Bank by the Secretary—a proposition in which the Secretary and the committee of the Bank perfectly concurred. It was not true, then, that the Secretary of the Treasury, at the commencement of the present session, expected that the Loans for anticipations were to continue in their present form, but that they were to be exchanged for the Loan which was proposed by the bill. In this idea the Bank perfectly concurred. With all these facts, the gentleman was well acquainted: it was then incumbent on him to reconcile his declarations with the state of facts which he perfectly knew.

Here Mr. S. read the following passages from the report of the Committee of the Bank:

"It is very interesting to the Bank to devise some practicable means of liquidating their obligations, which have grown to such an enormous and disproportionate size as to paralyze its operations, by depriving it of so large a portion of its capital." "It is therefore recommended that a committee be appointed to confer with the Secretary on the subject of this letter, to press on his attention the necessity of a speedy extinction of the Government Loans, and to indicate a disposition on the part of the Bank to receive a stock, to be sold on account of the United States, to be created on the terms above-mentioned.

Those terms, the gentleman from Pennsylvania well knew, were precisely the same as those detailed in the bill.

The gentleman had made a very serious charge against a number of gentlemen in this House; He said that it was "an object to perpetuate and increase the Public Debt." This charge was justified neither by the general tenor, nor by any one act of the political lives, of those gentlemen. Notwithstanding they had, in every instance, and under the weight of an embarrassing and powerful opposition, exerted, on every occasion, all their faculties to improve and enrich the public revenues. The same gentleman had, during the last session, under the weight of the same opposition, carried through an act which was intended to, and he believed would, ultimately annihilate the Debt. Yet, those who had never attempted to propose any measure to improve the revenue, or decrease the Debt—who had never proposed any system of their own—but, on the contrary, constantly opposed and embarrassed every measure, had the boldness to charge the men who were endeavoring to support the Public Credit and diminish the Public Debt, with designs which they neither avowed nor entertained. He would declare that men of pure and honorable intentions did not lightly impute impure motives to others.

If, indeed, the gentlemen against whom this foul charge was made had been known to have combined, "in every measure which might obstruct the operation of law" or Government; if they had publicly declared to the world, "that the men who would accept of the offices, to perform the necessary functions of Government, were lost to every sense of virtue;" "that, from them was to be withholden every comfort of life which depended on those duties, which, as men and fellow-citizens, we owe to each other;" if the gentleman had been guilty of such nefarious practices, there would have been a sound foundation for the charge of the gentleman. But they, it was known, had been innocent of such actions; and it was also well known that they were equally so of the intentions which the gentleman had unjustly imputed to them.

It would certainly, with every man who viewed the subject of Public Credit as he did, be of little importance whether the finances had or had not been wisely administered. It would, however, be proper, after what had been said on this occasion, to state generally what had been done by himself the other day in detail—that the extraordinary expenses which had been sustained and discharged since the commencement of this Government, had amounted to at least - - $10,000,000
That there has been paid in purchases - 2,500,000
Paid of unfunded debt - - - 5,000,000
Purchases of Bank stock - - - 2,000,000
Due in credits to the revenue - - 4,500,000

Paid in pursuance of the reduction act of last session - - - -	600,000
	24,600,000
For this there was due to the Bank (including $1,400,000, due for our stock in that institution) the sum of (excluding the Loan of 400,000, to pay the instalment due in Amsterdam) - - - -	6,200,000
Leaving a balance, beyond ordinary expenditures, of - - - -	18,400,000

He believed no man, at the commencement of the Government, would have predicted that such success, and under such circumstances, could have attended its administration.

Mr. S. then proceeded to a particular statement of the several Loans which had been made of the Bank. By which it appeared that $2,500,000 had been loaned at five, and the residue at six per cent. That one million of this was advanced for the suppression of the insurrection, and another million (including $200,000 had of the Bank of New York) for the peace with Algiers. That, in the former instance, the Government had been enabled, by the aid it received from that institution, to quell without bloodshed an insurrection raised by misrepresentation and falsehood—an insurrection which threatened the peace, liberty, and happiness of this country, and to deluge our land with the blood of contending brethren. In the latter instance, the assistance we had received had been the means of unchaining our citizens held in cruel and savage slavery.

It ought to be recollected that the whole specie stock of the Bank amounted to no more originally than $2,000,000. To this had been added $600,000, paid by the United States. From this statement, it was obvious that the Bank must, to afford the accommodation which it had to Government, have disposed of a considerable portion of that part of its capital which consisted of funded stock—a stock bearing an interest of six per cent., with ample funds mortgaged for its security. This security had been relinquished; the proceeds had again been intrusted to the Government, and for a considerable part at a lower rate of interest. For their security they had relied alone on the public faith, the result of this question would decide the value of the pledge. They now demanded a fulfilment of the public engagements. Money we had not. They were willing to receive payment of the same nature, substantially, as that which they had disposed of, to obtain the money which they had loaned, and would negotiate the sales of it without any expense to the United States. Under these offers, the most fair and reasonable which could be expected, the question was whether we would violate the public faith by rejecting the demand?

It had been agreed, and was indeed most evident, that the Bank could not, consistently with its interest or safety, make any further advances, whatever the public exigencies might be. Should any unforeseen pressure occur, where was the Government to obtain the necessary supplies?—Not from Europe, it was agreed. Not from private individuals, because the enterprising capitalists in this country could more profitably employ their capital than by Loans to the Government; not from other banks, because their capitals were inadequate to supply the demands of individuals, which was a more lucrative branch of their business. Besides, did none of these objections exist, who would intrust their property in the hands of a Government which made its own convenience, and not the stipulations of its contracts, the rule of its conduct in fulfilling, or more properly violating its promises? What, then, were to be the circumstances of this country in the event of an unforeseen demand, for which every Government ought to be prepared? If war, or insurrection, or captured citizens, should require our aid, would our Government be in the situation to grant that relief and protection for which the guardians of its security and happiness ought always to be prepared? But the gentleman had said, that this measure would protract the period of the ultimate extinguishment of the Public Debt. This was a circumstance which he thought no honest man ought to take into consideration. We ought only to inquire into the amount and terms of the public contracts, and, without hesitation or further inquiry, to perform them with good faith. But he did not believe this measure would in the least degree shackle the public faculties. It had already been stated, by his friend from South Carolina, [Mr. Smith,] that, until the year 1800, besides the $600,000 required by the reduction law, another $600,000 would be necessary to perform the public engagements. It was known that after that time another annual demand of $1,200,000 would occur. We had, besides a considerable amount of Foreign Debt, $1,200,000 of unfunded debts, (he had spoken in round numbers,) and the whole three per cents. to operate upon. Was there not here, in the opinion of the most sanguine man, sufficient subjects for the existing faculties of the community, or for any which could be created? If, then, no injury could accrue to the public, it would seem to him mere wantonness to reject the proposition.

But it had been said that the public had a right to expect accommodation from the Bank, because we were large depositors and large stockholders. How, he asked, were those accommodations to be obtained? By contracts, or without them? We had been accommodated by mutual agreement, and might be again if we honestly performed our engagements. Were we to obtain those accommodations by a violation of public faith? He hoped and believed not. Having received the property of the institution by contract, and refusing to perform our engagements, from what source was the Bank to expect reimbursement? It was answered, by taxes. Indirect taxes, however, the gentleman had constantly resisted. No taxes had been imposed the present session; none to any considerable amount probably would be. On these the gentleman did not depend; he had at all times opposed them, as a member of the

Committee of Ways and Means. These Loans, then, were to be satisfied by direct taxes. It would become proper, then, to consider whether at all, and if at all, when payment might be expected by those means? Direct taxes, he said, had forever been considered as the substitutes for every tax which had been proposed. He could not help observing that it was well known that every House previous to the present, and he did not believe this would be found an exception, had been decidedly opposed to laying direct taxes. On the Committee of Ways and Means it was found that direct taxes, in the opinion of some gentlemen, were to be resorted to. A sub-committee was appointed to consider the subject, who, after mature deliberation, reported that the laying and collecting a direct tax was practicable, but that they had not, and could not obtain, the present session, the materials necessary for that purpose. The business finally resulted in the direction to the Secretary of the Treasury to report a plan for consideration at the next session.

He did not believe that any plan which could be devised would meet the approbation of the two branches of the Legislature. Although he should always be willing to consider the subject with candor, yet he much doubted if he, even in a time of tranquility, should assent to a mode of taxation which would be so burdensome and oppressive. But should it obtain the next session, he asked, would it be productive to the amount necessary to discharge those demands which ought now to be satisfied? It would, doubtless, with every degree of success which could be supposed to attend the measure, be some years before the payment which is now demanded in the terms of contract, could be made. In the mean time the operations of the Bank are to be crippled, and the Government left without any resource in case of the most pressing emergency. He had made these observations from a sense of public duty, from a regard to the preservation of public faith, and without any personal interest, never having had the least property in the Bank.

Mr. Gallatin said that the question now before them was, whether they should fund the anticipations on the revenue, which had been advanced by the Bank, and amounted to $3,800,000, or whether they would, by refusing to fund that sum, declare their intention to provide means for discharging those anticipations? It was agreed on all hands that they were pressing hard on the Treasury; that they must render the situation of the gentleman at the head of that Department precarious and unpleasant; that they were a dear mode of procuring money, and that some means must be devised to get rid of them. Upon the $1,200,000 (which together with the $3,800,000, anticipations, made the sum of five millions contemplated by the bill) there was no difference of opinion. This last sum consisted of the following items: instalment due to Holland, $400,000; two instalments due to the Bank of the United States, for the Bank Stock Loan, $400,000; and due to the Banks of New York and the United States, for the Algiers Loan, $400,000. For the two first items no provision had been contemplated, except new loans. The taxes appropriated for the repayment of the last had proved insufficient. These several sums, of $1,200,000, had or would become due during the course of the present year, and must be provided for. Even if they were of opinion to raise new revenues, those could not be productive during the course of the present year, and no resource was left but to borrow; and if money could not be got except upon the terms contemplated by the bill, however averse he was to the funding of a debt and postponing the time of its payment to so remote a period, he saw at present no alternative, and they were forced to acquiesce in the measure. But this was not the case with the $3,800,000 anticipations. The Bank had heretofore continued their loans in anticipation of our revenues from year to year; there was no official paper before them to show that they meant to do so no longer, and that that institution had required that that sum should be paid at once during the present year. It was not contemplated by the Secretary of the Treasury, at the opening of the session; for, in his report to the House, of the 4th of December, he says: "But as a great proportion of the revenue arising from imports is subject to long credit, the customary anticipations, by means of loans, will continue to be necessary." And again, after having stated the deficiency of $1,200,000 for the same objects above mentioned, he says: "There are other loans detailed in the annexed statement which will also fall due to the Bank of the United States in the course of the ensuing year; but as they are merely anticipations of the revenue, for refunding which there exist legal provisions, they are introduced to show the course of receipt and expenditure, and the extent to which future anticipations will be requisite." And finally gives as a conclusion, "that the anticipations of the revenue which may exist at the close of the present year, must be continued for the year ensuing."

Indeed the gentlemen who press the measure of funding these anticipations, seem to do it from a belief that it will be a measure advantageous to the United States. He would therefore consider the subject at present only in regard to the interest of the public, and upon a supposition that the Bank were willing, provided the instalments of the other loans were regularly paid, to continue the loans in anticipation of the revenue, and would be satisfied provided a gradual and certain mode of repayment were adopted. It was, therefore, on this ground that he differed in opinion with the gentlemen who wished the whole of the five millions to be funded. The plan of those gentlemen, in order to get rid of these anticipations, is to fund them, that is to say, in order to pay them, to borrow money by creating a stock irredeemable for twenty-three years; in other words, to postpone their payment for twenty-three years. His plan was, to provide means for paying them in four or five years, and to raise a revenue, either by increasing the taxes or diminishing the expenditure sufficient for that purpose. His plan was to pay; the plan of those gentlemen

not to pay, but to borrow, to continue the debt for twenty-three years longer; and he would not hesitate to repeat that the effect of that plan would be to perpetuate the debt. He would not be deterred by any personal abuse, and no more by that of the gentleman from Massachusetts [Mr. Sedgwick] than by that of any other person, from expressing his sentiments on that subject as well as on any other; and conscious as he was that personal abuse would have no influence upon him, and never could prevent his doing what he thought to be his duty, he would, without remarking on what had fallen from that gentleman, proceed to that part of the subject which seemed to be the most important.

A question had naturally arisen whilst those anticipations were under consideration: How had they accumulated to that amount? Some gentlemen had been at great pains to prove to the House that they were not a proof that the Debt of the United States had increased; some, indeed, had gone so far as to attempt to prove that they were no debt at all. He would beg the Committee to recollect that neither himself nor any other member of this House had said that the Debt had increased; they had not touched that subject upon the present occasion. It might be supposed that it was not strictly in order to discuss it, but as the question was started by the gentlemen in favor of the measure now under consideration; as their intention was, by representing our financial situation in the point of view they had, to persuade this House that there was no danger in going on, anticipating and funding, spending money, and borrowing; and as the gentleman last up [Mr. Sedgwick] had given them a statement of ten millions of dollars debt actually redeemed and extinguished, not to speak of some other millions operated upon, he found himself impelled to take up the subject, and to state what appeared to him to be our present situation.

He first stated that he would compare the whole amount of actual receipts in the Treasury, as arising from the resources of the country, and excluding whatever had been received by means of Domestic or Foreign Loans, with the whole amount of actual disbursements for the current expenditures of Government and the interest on the Public Debt, excluding whatever had been applied to the payment on redemption of the principal of the Public Debt. If the expenditures had exceeded the receipts, the difference must have been supplied by borrowing money, by creating a debt. He then stated $2,759,282 56, as the excess of expenditures over the receipts, from the establishment of this Government to the 31st December, 1794, the latest period to which complete statements have been laid before the House. But from that sum must be deducted the following sums, which were applied by the Sinking Fund to the redemption of the Domestic Debt, out of the actual resources of the United States. For, he observed, he ought not to take into account what might have been redeemed by the application of moneys drawn from loans; as this was only shifting the debt, borrowing with one hand and paying with the other.

Applied to the Sinking Fund -	$957,770 65
Certain claims under the old Government, not funded and paid, he rated at - -	450,000 00
	$1,407,770 65

Total amount of debt reduced by the application of the actual resources of the United States, which sum being deducted from the above sum of $2,759,282 56, leaves an actual debt of about $1,350,000 on this score.

As far as he could judge from the official accounts of the year 1795, he was of opinion that the excess of expenditures over receipts for that year had created an increase of debt of at least $1,000,000, but which he thought would be found to amount to $1,500,000.

Those two sums made a total amount of about $2,800,000, being the excess of expenditures over the receipts, from the establishment of this Government to the 1st of January, 1796. To prove his assertion he produced the following statement, abstracted from the official yearly documents:

Summary Statement, exhibiting the receipts into the Treasury from Domestic resources, other than the proceeds of Domestic Loans; and also the expenditures of the United States charged to the said Funds other than for the repayment of Domestic Loans.

From the commencement of the present Government to the end of the year 1791.

RECEIPTS.

From duties on imports and tonnage -	$4,399,474 99
From sundries - - -	334 82
From balances due on accounts which originated under the late Government - - - -	11,001 11
	4,410,808 92

EXPENDITURES.

For the Civil List, including annuities and grants - - - -	$719,823 25
For the War Department, including pensions to invalids and Indian expenses - - - -	835,617 91
($8,962 of this sum applied to France.)	
For the intercourse with foreign nations - - - -	14,733 33
For sundries, including light-houses, enumeration of inhabitants of the United States, contingent expenses of Government, miscellaneous claims, &c. - - - -	56,401 19
For sundry claims arising from the late Government - - -	293,013 84
For interest on the Public Debt, viz:	
On account of the interest on the Dutch Debt for the year 1790 $35,087 71	
One year's interest (1791) on the French Debt - - 294,445 93	
One year's interest on Dutch Debt - - 222,272 16	
One year's interest on Spanish Debt - 8,700 55	
One year's interest on Domestic Debt - 1,140,177 20	
	1,700,683 35
For moneys advanced to Nourse and Olney, - - - -	857 83
For interest on Domestic Loans -	2,598 12
Transferred to Sinking Fund, being part of the surplus revenue of 1790 -	699,984 22
Balance in favor of the Treasury -	87,690 78
	4,410,808 92

For the year 1792.

RECEIPTS.

From duties on imports and tonnage -	$3,579,499 06½
From duties on stills and domestic distilled spirits - - -	72,514 59½
From balance of Bank dividend -	8,028 00
From sundries - - -	7,520 21
From balances due on accounts which originated under the late Government - - - -	4,702 82
Balance deficient - - -	1,517,650 70
	5,189,945 39

EXPENDITURES.

For sundry claims arising from the late Government - - -	$135,723 35
Civil List (net including annuities and grants) - - - -	368,219 66
War Department, as per above -	1,215,812 96
Sundries, including as per above, and also Mint Establishment, annuities and grants, and intercourse with foreign nations - - -	160,351 69
Interest on the Public Debt for the year 1792, viz:	
On Domestic Debt - $2,373,611 28	
On Foreign Debt - 678,382 63	
	3,052,021 91
Transferred to Sinking Fund, as per above - - - -	257,786 42
	$5,189,945 39

For the year 1793.

RECEIPTS.

From duties on imports and tonnage -	$4,344,358 26
From duties on stills and domestic distilled spirits - - -	248,654 00
Balance of Bank dividend - -	38,500 00
Sundries - - - -	12,962 30
Balances arising from the late Government - - - -	8,448 58
	$4,652,923 14

EXPENDITURES.

For sundry claims arising from the late Government - - -		7,126 29
Civil List - - -		334,263 29
War Department - - -		1,247,619 72
Sundries - - - -		131,066 96
Interest on Domestic Debt -	$2,079,105 76	
Interest on Domestic Loans - -	18,753 41	
Interest on Foreign Debt	693,141 34	
		2,791,000 51
Balance in favor of the Treasury -		151,852 37
		$4,652,923 14

For the year 1794.

RECEIPTS.

From duties on imports and tonnage -	$4,843,707 25
From duties on stills and other internal duties - - - -	231,447 65
Balance of Bank dividend - -	56,500 00
Sundries - - - -	52,564 47
Balances arising from the late Government - - - -	692 50
Balance deficient - - -	1,480,575 05
	$6,664,507 92

EXPENDITURES.

For sundry claims arising from the late Government - - -		$31,360 01
Civil List - - -		431,999 47
War Department, including $265,844 90, for militia, on the Western expedition, and $42,048 66 for fortifications - - - -		2,732,539 29
Naval Armament - - -		61,408 97
Sundries - - - -		170,930 40
Extraordinary expenses of intercourse with foreign nations - -		56,408 51
Interest on Domestic Debt -	$2,455,856 60	
On do. Loans -	48,694 44	
On Foreign Debt -	674,410 23	
		3,178,961 27
		$6,664,507 92

Sketch of the year 1795.

RECEIPTS.

From duties on imports and tonnage -	$5,588,961 26
From duties on stills, spirits, snuff, sugar, carriages, sales at auction, licenses on retailers (a) - -	327,255 26
Bank dividend (whole amount) -	160,000 00
Sundries - - - -	41,365 53
Balances arising from late Government	5,317 96
Balance deficient - - -	1,402,251 63
	$7,525,151 73

(a) From this amount should be deducted the drawbacks on spirits, sugar, and snuff; but the amount should then

be added to that of duties on imports, so as not to change the whole.

EXPENDITURES.

Civil List - - -		$366,105 44
War Department (including military pensions, fortifications, and expenses of Western expedition) - -		2,659,490 44
Naval Armament - - -		410,563 03
Sundries - - - -		109,276 91
Extraordinary expenses of intercourse with foreign nations - -		897,680 12
Interest on Domestic Debt (b) - -	$2,116,615 80	
On Domestic Loans -	243,099 99	
On Foreign Debt (c)	732,321 00	
		3,092,036 79
		$7,535,151 73

(b) This is the amount due for one year; the amount actually paid at the Treasury was $2,727,959 67. The difference arises from the payment of two per cent. made on the six per cent. stock; which is not charged here as a current expenditure; it being a redemption of principal of Debt.

(c) This sum is not accurate.

Recapitulation of Balances.

RECEIPTS.

In favor of Treasury, 31st December, 1791 - - -	$87,090 72
For the year 1793 - - -	151,852 87
Difference between balance stated in 1791 and that charged to Treasurer	10
Balance deficient on 31st December, 1794 - - -	2,759,282 56
	$2,998,225 75

EXPENDITURES.

Balance deficient in 1792 -	$1,517,650 00
Balance deficient in 1794 -	1,480,575 05
	$2,998,225 75

RECEIPTS.

Sums applied to pay the principal of debts, viz:		
To the Sinking Fund, in 1790 and 1791 -	$699,984 23	
Do. in 1792 - -	257,786 42	
		$957,770 65
To claims arising from late Government in 1789, 1790, and 1791 -		262,012 73
Do. in 1792 - -		131,020 53
Do. 1793 } Do. 1794 } - -		29,338 22
Balance deficient on the 1st of January, 1796, being the excess of current expenditures beyond receipts, to that date - - -		2,761,392 06
		$4,161,534 19

EXPENDITURES.

Balance deficient per contra - -	$2,759,282 56
Balance estimated as deficient for the year 1795 - - - -	1,402,251 63
	$4,161,534 19

This amount had been expended beyond the moneys actually received into the Treasury which arose from our own resources. It had been supplied by Domestic and Foreign Loans, and was an increase of debt. Whatever other debts might have been discharged during the same period were paid out of the proceeds of other loans; for the Committee would see that in the statement he had produced that he had accounted for the *whole* of the moneys paid into the Treasury other than what arose from loans. All other expenditures whatever, beyond that amount, must have proceeded from loans, and the deficiency in those moneys to meet the current expenditure was also supplied by loans, and was an increase of debt.

But this was not all; he had credited the account for the sums (arising from the surplus of the revenue of 1790) applied to the Sinking Fund; for a sum of near one million of dollars applied to purchase the principal of the Domestic Debt of the United States. This might have been an advantageous operation; it had certainly the good effect to contribute to the raising the Public Stocks to their real value; but it must be considered that the reason which had enabled Government to apply any moneys to the purchase of the principal of the debt, which had produced a surplus of the revenue of 1790, was, that the interest on the Continental Debt was not paid till 1791. In the year 1790, whilst they were diminishing the principal of the debt, by purchases of about one million of dollars in specie; the interest on the principal of the Domestic Continental Debt, amounting for one year to one million eight hundred thousand dollars, did accrue, remained unpaid, was funded, and made a clear addition to the debt of three per cent. stock to that amount.

The Assumed Debt afforded another item. He was not going at present to calculate the effect of that measure on the settlement of the accounts of the individual States; but merely supposing that debt to be a debt of the Union, to show its increase under the present Government. Government did not begin to pay its interest till 1792. It was difficult to determine what the interest for the two preceding years should be set down at, owing to the original principal and interest being blended in funding. He calculated the interest on two-thirds of its nominal amount at nineteen millions; he called the two-thirds twelve millions.

Interest on the assumed debt in 1790 and 1791, not paid but funded -	$1,440,000
Part 3 part 6 per cent. and part deferred stock, which, added to the $1,800,000 last mentioned, form a total of -	3,240,000
Addition to the debt from the non-payment of interest in 1790 and 1791.	

He had not, he said, before him a correct state

ment of the interest of the Foreign Debt for the year 1790, which was paid out of the proceeds of Foreign Loans, and not out of our domestic resources. He would estimate it at $500,000.

RECAPITULATION.

Excess of expenditure over receipts on the 31st December, 1794, after deducting moneys applied to redemption of Public Debt - - -	$1,350,000
Excess of expenditure for the year 1795 estimated at - - - - -	1,500,000
One years' interest on principal of Funded Domestic Debt, for the year 1790, about $1,800,000 three per cent. stock created, valued at - - -	900,000
Two years interest (1790 and 1791) on principal of Funded Assumed Debt, estimating said principal at $12,000,000, will be $1,440,000, of which 1-3 is three per cent., 4-9 six per cent., and 2-9 deferred stock, may be valued at - - - - - -	1,050,000
One year's interest (1790) on Foreign Debt, estimated at - - - -	500,000
	5,300,000

Which sum, as he meant only to give a rough sketch, and as he had neglected sundries, (such as the proceeds of the interest of the Sinking Fund,) he would call only five million of dollars.

Against this increase of debt, he remarked, that the amount of the bonds due at the custom-houses was set off; the amount was stated by Mr. Sedgwick at $4,500,000. But, he observed, this sum was not actually due, but to become due to the United States. Impost is a tax on consumption; upon that principle it is, that the merchant, when he lands his goods, only bonds the duties, which are collected from the individual consumers when they purchase the article, and repaid by the merchant after a lapse of time deemed sufficient for him to have received them from the consumer; these bonds only secure the collection of the duties when they become due. A clear proof that the amount of these bonds could not be set off against the amount of anticipations was, that it could not be applied to those anticipations. If it could be applied so, why was the proposal made to fund them instead of paying them? But the fact was, that those bonds constituted not the actual revenue of the year on which they were given, but the actual revenue of the year on which they were paid. The bonds outstanding on the 1st of January, 1796, constituted in part the revenues of the years 1796 and 1797, would be barely sufficient, and were altogether wanting to discharge the current expenditures of those years; and as they were no part of the receipt or actual revenues of the year 1795 and those preceding, as they could not be applied to discharge any part of the expenditures of those years or of the debt contracted to defray those expenditures, they could not be substracted from them or be set off against such debt.

On the other part of Mr. Sedgwick's statement, he remarked, that the gentleman had first stated ten millions of dollars, in the lump, as extraordinary expenditure, he [Mr. G.] had given the Committee an account of all the expenditures, and they might judge of what were extraordinary and what ordinary. He had not himself made any such distinction, and had thought it sufficient to distinguish the expenditure of moneys applied to pay the principal of a debt from all the others. It was, to be sure, a most extraordinary method of proving that a Public Debt was decreasing, by stating that a part of the moneys expended were spent for extraordinary purposes and ought to be credited to Government, instead of constituting an article of expenditure. The other differences between his and that gentleman's statement arose, 1st. From that gentleman having stated the nominal amount of the debt purchased, although a proportion was three per cent. and Deferred Stock; whilst he had stated the amount of moneys applied to purchase the same. 2dly. From Mr. Sedgwick having credited Government for all the purchases of Public Debt, and payment of instalments to the Bank, (for Bank stock,) which had been made with moneys borrowed in Holland, without charging them for the moneys thus borrowed. 3dly. From his stating the bonds outstanding, and which would become due during the present and ensuing year as moneys in hand. If from the total amount credited by that gentleman to Government, viz: $10,100,000, were deducted the following sums, viz:

Extraordinary expenses -	$10,000,000	
Out-standing bonds -	4,500,000	
Paid to the Bank (out of the proceeds of Foreign Loans) - -	600,000	
Purchase of public stock out of proceeds of Foreign Loans (and excess of nominal beyond real value) - -	1,550,000	
Amounting, altogether, to - -		$16,650,000
Those credits would be reduced to the sum of - - - - - -		3,450,000

which sum being subtracted from the Domestic Loans, amounting to $6,200,000, as stated by that gentleman, left, according to his own account, a deficiency of $2,750,000, which was the same amount he [Mr. G.] had stated as the excess of expenditures beyond the receipts on the 1st of January, 1796. On all the facts, therefore, they were agreed, and as to matters of opinion, the Committee might decide who were in the right. The facts agreed on were, that the excess of expenditures over the receipts amounted to about $2,800,000; that the interest had accrued unpaid during the year 1790 on the whole, and during the year 1791 on a part of the Domestic Debt, and had produced an increase of that debt; and that there were bonds outstanding to an amount of $4,500,000. Whether the debt was increased or

not; whether those bonds would be set off against the increase of that debt might be a matter of opinion; and, leaving that question aside, the fact was not less true that there was a debt to be provided for, (and it was the object of the bill to provide for it,) to the payment of which these bonds could not be applied.

He had already stated that the plan proposed, by filling the blank with five millions of dollars, was to postpone the payment of the anticipations for twenty-three years; that his plan was to pay them within a short time, at least not to put it out of the power of the United States to do it whenever they were able. But it was said there was no probability of their being in that situation for a long time, and, therefore, that no inconvenience would arise from the irredeemability which was to be annexed to the new stock; and the report of the Committee of Ways and Means had been mentioned in support of that opinion. He would call the attention of the House to that report, in order to show that his own views were perfectly consonant to that report. The Committee of Ways and Means state, "That, in order to discharge the anticipations, Domestic Loans and Foreign Debt, it will be necessary either to provide further revenues or obtain new loans; *but that, so far as relates to the additional expenditure of* $1,146,370 34, which will be required after the year 1800, to discharge the annuity on the Deferred Stock, *an adequate additional revenue must be provided after that year*. That, *if that additional revenue* (which it will be necessary at all events to provide after the year 1800) *be raised from and after the present year*, it will not only discharge the aforesaid annuity, but *will also reimburse* $4 800,000 *in part of the anticipations*, loans, and Foreign Debt, *before the year* 1801, and the whole of the Domestic Loans and anticipations before the year 1807; leaving them a redeemed annuity of $396,000, to be applied to the reimbursement of the Foreign Debt. That if an additional revenue of $2,000,000 instead of $1,200,000 be raised, for a term of twelve years, it will within that time discharge, besides the annuity on the Deferred Stock, and the Domestic Loans and anticipations, the whole of the Foreign Debt and the new Domestic Debt, bearing an interest of five and a half and four and a half per cent.; and that at the end of the said twelve years, the annuity redeemed by that operation (amounting to $1,113,930) would, together with the revenues *now* established, be sufficient to meet all the demands of Government."

It, therefore, appeared that it was practicable to discharge those anticipations without any inconvenience; for nothing more was requisite for that purpose than to raise from next year that additional revenue of $1,200,000, which they must necessarily raise in the year 1801, in order to meet the demands of that year. Whether the revenue would be increased to that amount by raising new taxes, or by diminishing the expenditures, or by uniting both means, must depend on the future decisions of Congress. From the proposed reduction of the Military Establishment, which the peace with the Indians had put within their reach, they might entertain well-grounded hopes of a proportionate reduction of expenditures; but be that as it might, his only object was, at all events, that means should be provided to meet the expenses of Government, and, by doing it in time, to prevent a future accumulation of debt, and to take effectual measures for a speedy extinguishment of the present one. It was with that view that he had entered so much at large in the history of our finances. He did not mean, in so doing, to lay any blame on the Administration. Whether they were deserving praise or otherwise was not the subject of the present discussion, and he did not mean to express at present any opinion thereon. But he wished, by stating what had taken place, and what was our present situation, to impress upon the House, so far as it was in his power to do so, the necessity of having virtue enough to discharge ourselves of the burden, and not to entail the curse of a groaning debt upon posterity. It had been asserted that we were paying off our debt very fast, in order to lull us into a belief that no harm could arise from commuting an anticipation into a Funded Debt, irredeemable for a number of years, in order to persuade us that, notwithstanding that operation, notwithstanding the accumulation of those anticipations, our situation was most brilliant and advantageous. As to himself, he could not see any benefit arising from such palpable exaggerations, from so deceptive a view of the subject; and he had brought before the Committee the result, not of his own researches, but of the official statements upon their table, in order to prove the fallacy of the ideas which had so long and so often been held out on this floor and to the people at large, in order to show the true cause of those anticipations, the excess of expenditures over the receipts.

He had no desire to examine what was the *object* of the gentleman who differed with him in opinion on this question; but, certain he was, that the *effect* of their plan, if adopted, would be to perpetuate the evils which had already taken place, and to lay the foundation for a further increase of the Public Debt. The moment the principle was adopted, first to anticipate upon the revenue, to spend more than we received; and then, when those anticipations began to press upon the Government and upon the lenders to fund them, to render them irredeemable, to provide for the payment of *interest* only, and not of the *principal*; the method would appear so easy that it would undoubtedly be continued. We would anticipate again, and two or three years hence fund the amount of anticipations, in order to be able to make new ones. The increase of taxes would be so small that the people would not be alarmed, and thus we would be enabled to lavish the public money, without being checked by the difficulty of raising it.

If such motives could influence Congress, they would have a far more powerful effect on the mind of the man who might be at the head of the finances of this country. Whoever that man was, he would be desirous of having the command of

large sums of money, and of increasing taxes as little as possible. The first would enable him to satisfy all the demands against Government, to spread abundance through every department; it would save him the irksome task of refusing money, of enforcing a strict and unpleasing economy; it would acquire him the reputation of supporting in its purity public credit and public honor; whilst a careful attention not to increase the public burdens would preserve his popularity and his power. This naturally led to the system of borrowing, of spending the principal and of paying only the interest. Such had been forever the conduct of every financial Administration, in every country where the system had once been introduced. To fund now and then a floating debt, navy bills, or any other description of anticipations, was the usual practice in England. The consequences to that country, the enormous accumulation of debt which had taken place there, required no comment. With the example of that nation, with the still more striking example of France, where accumulated anticipations, after they had so far exhausted their credit as not to be able even to fund, had first stopped, and finally overset Government itself, he thought America might well pause before they gave a sanction to the fatal principle, before they adopted the reprobated mode of exceeding their income, and of supplying the deficiency by creating an irredeemable stock.

The situation of the gentleman now at the head of the department was doubtless delicate and unpleasant; it was the more so when compared with that of his predecessor. Both indeed had had the same power to borrow money when necessary; but that power which was efficient in the hands of the late Secretary, and liberally enough used by him, was become useless at present. At home the anticipations and Domestic Loans had grown up till the Bank could lend no more, and in Europe the circumstances of the war had put a stop to Dutch Loans. He wished the present Secretary to be extricated from his present difficulty; nothing could be more painful than to be at the head of that department with an empty Treasury, a revenue inadequate to the expenses, and no means to borrow. He therefore wished to provide for the exigencies of the present year by funding the $1,200,000, and for the remainder of the demands against Government by increasing the revenue. Nor was he surprised that the Secretary, doubting whether Congress would adopt that mode, had suggested the plan now under consideration.

The object of that plan would appear still more evident from a view of the manner in which it originated. He had shown, from the first report of the Secretary to the House, that, at that time, he contemplated, or at least had presented to Congress, only a continuation of the $3 800,000 anticipations. It appears, however, that he had made an application to the Bank, in order to know whether he could obtain farther Loans. It was, in answer to that demand, that the Bank had declared that they had lent as much and more than they could conveniently, that they wished the amount of their advances to be diminished, and, at all events, they could not lend any more, unless the former Loans were discharged. The answer of the Bank he had had a few minutes, although it was not officially communicated to the Committee of Ways and Means; and as it seems it was in the possession of the gentleman of Massachusetts [Mr. Sedgwick] he might read it to the House if not properly stated. The Secretary had, in consequence of that answer, suggested the plan, now under consideration, to the Committee of Ways and Means in the latter end of December. Mr. G. said he entered into that detail in answer to some observations of Mr. Sedgwick; but he meant only to remark, that, on the part both of the Secretary and of the Bank, the principal object was to enable that institution to lend again, and Government to make new anticipations and to obtain new Loans.

He thought it, therefore, not justifiable by any official information they had to insist as much as some gentlemen had done that the necessities of the Bank had compelled them to apply for the whole of the Debt due to them, and that it was wholly for the purpose of discharging that Debt, and because we were obliged to do it that the plan of funding the $5,000,000 was insisted upon.

That the anticipations had grown up to an amount equally burdensome to Government and to the Bank he was well aware of; and he knew that it was necessary to take effectual measures to discharge them in a gradual way. But, as it was impossible to pay the whole amount during the present year without recurring to new Loans, as it was asserted that money could be obtained only by creating an irredeemable stock, and as the Bank had made no demand of the whole to the Legislature, he was against filling the blank with the five millions of dollars. Indeed he would not think it to be a friendly act in the Bank to insist upon the whole at once.

The Bank were in the habit of lending money to Government, and it had always been understood that they would continue their Loans to a certain amount, and not withdraw abruptly and unexpectedly the assistance they had heretofore given. He felt that that institution, not satisfied with lending to the United States those sums which Government naturally expected from them, on account of their relative situation, had gone much further, had laid themselves under great inconvenience; for, as their power to lend was limited, they could not lend too much to Government without being obliged to curtail the discounts of their customers; which lost to the Bank those customers and their deposites, and of course narrowed their powers of discounting and their profits; yet, to a certain amount, the United States had a right to expect the assistance of the Bank. A Bank was enabled to discount, in other words to lend money, in proportion to its capital, to the amount of deposites made there, and to the extent of its notes in circulation. The United States held one-fifth of that capital, they were depositors to an amount nearly equal to one-half of

the original cash capital of the Bank, (for, their deposits consisted of the balance in the Treasury amounting on an average to $700,000, and of the moneys paid by the Collectors before they had passed the Treasury, which probably exceeded $300,000) and it was well known that by making all duties payable in notes of the Bank of the United States, those notes had acquired a far more extensive circulation than those of any other Bank. He therefore concluded, that grateful as we might be to that institution for past service, we had a just right to expect Loans to a certain amount, and those not to be discounted at once. If, however, he was mistaken in his opinion that the Bank did not want to be repaid the whole of their advances, let the information be communicated in an official manner, and he would withdraw his opposition.

But even then he could not help lamenting that the Bank should have chosen such a time as this to make their demand. At a time when the European war prevented the possibility of borrowing there; when the effects of that war, by giving so much more profitable employment to capital, were felt in the same manner here; at a time when money could not be obtained without an extravagant premium, or a higher rate of interest, it was peculiarly disadvantageous to change our anticipations into a Funded Debt to borrow money under the existing circumstances; for we were obliged, in order to obtain money, to affix an irredeemable quality to the stock; (and it was not certain, whether, even then, money could be got on those terms) from whence two evils flowed; 1st. The perpetuating the Debt for the period of time during which we declared it irredeemable; and, 2d. The obligation to pay the present high interest during the whole of that time; for what rendered an irredeemable stock more valuable to the purchaser was the very cause which made it disadvantageous to us, to wit: that we could not avail ourselves of any event which would bring the rate of interest to its former average. Thus, although peace might take place in one year, and money could then be got much cheaper, we could not, if the present plan was adopted, draw any advantage from that event, but must continue for the whole twenty-three years to pay six per cent. on the proposed stock.

Nor was this evil the worst to be apprehended. In his opinion, to postpone the payment of a Debt for twenty-three years, was not only a declaration that we meant that posterity, and not ourselves, should pay it, but in fact it was tantamount to a postponement forever, to a perpetuating of the Debt.

In examining the causes of the anticipations and Domestic Loans which had thus accumulated, three events were looked upon as being out of the common course, and had given rise to an extraordinary expenditure, viz: the Indian war, the Western insurrection, and the Treaty with Algiers. Now he would ask, how they could answer for future events? and whether it was not within the ordinary course of things that within every period of six or eight years, circumstances should take place which would cause expenditure to an equal amount? Indeed, considering their situation, an Indian war was more or less their natural state, and the expense of treating and of trading with them must at all events be incurred, and would prove considerable. He wished the peace with Algiers might be permanent; yet they had no security that that object would not require additional expenses. The Western insurrection was the only object of expenditure which they had well-grounded hopes would never recur, and which they might consider as extraordinary. But, if they had not that object to provide for, they would have some other. Fortifications, Naval Armament, unforeseen events of every description, would, in future, require upon an average an expense equal to what was called extraordinary expenditure. It was enough for posterity to provide for their own time; it was our duty to discharge ourselves the Debt we had incurred, and if it was found that after six years of peace and unexampled prosperity we were not able to discharge those expenses which had naturally arisen from the course of events during that prosperous period; if we declared that we meant to postpone their payment, till the present generation was over, we might well expect that the principle thus adopted would be cherished, that succeeding Legislatures and Administrations would follow our steps, and that we were laying the foundation of that national curse—a growing and perpetual Debt.

Mr. Hillhouse said, the time was so far elapsed that he should only ask the attention of the committee to a few general remarks in answer to the gentleman from Pennsylvania [Mr. Gallatin.] It could not be expected he should then go into the consideration of the minute and lengthy statement of the gentleman. Two things had been taken for granted by him, which are not well-founded, and which being refuted, would overset his whole system, which are, that the United States are not bound to pay the instalments due to the Bank at this time, but might postpone them, and apply the money which shall come into the Treasury during the present year to discharge the expenses of the Government, and that the revenues of each year are only the amount of the moneys actually received into the Treasury in the course of the year. If the gentleman had examined the laws under which these anticipations were made, by way of Loan from the Bank, he would have found that all the moneys that shall come into the Treasury for duties on goods imported, in the years of 1794 and 1795, are by law absolutely appropriated to the discharge of those Loans, and until they are discharged no part of it can be made use of for any other purpose. It is the Government, therefore, that wants the accommodation and not the Bank. If these anticipations are not funded, resort must be had to temporary Loans to the same amount, and so the same operation will be necessary every year, unless a sufficient revenue can be raised in one year to discharge the current expenses of two, which, in the present state of our Foreign Debt, instalments of which are annually falling due, there is little prospect of our being able so do. The necessity of these anticipations cannot cast any imputation on the administration of the Government; it arose from the necessity of the case. There was no revenue arising to this Government at the time of its formation; laws were to be made and put in operation, which could not be done so as to bring much money into the Treasury short of one year; during that period the expenses of Government were going on, and could not be paid but by Loan in anticipation of the revenue. It was also found necessary to give a credit to the merchants who were to pay the duties; but, as the expenses of each year were nearly equal to the whole amount of the impost on the goods imported in one year, and the other revenues of the United States, this credit could not be given without the aid of these temporary Loans of the Bank. It has also been found necessary, from time to time, to extend the term of credit which is now in some cases eighteen months, which has also increased the amount of the anticipations, and although the amount is almost four millions of dollars, it by no means follows that our expenses exceed our income; for it appears by the report of the Secretary of the Treasury, that there is a much larger sum due to the United States on Custom-house Bonds. The gentleman [Mr. Gallatin] admits that over and above all the money that will come into the Treasury during the present year, which the Secretary of the Treasury reports would be sufficient to discharge the current expenses of the Government, $1,200,000 will be wanted to discharge an instalment of our Foreign Debt, and instalments at the Banks for the Algerine Loan, &c.; but it ought to be remembered, that the report of the Secretary of the Treasury is founded upon the idea of funding those anticipations, and thereby liberating all the money that shall come into the Treasury during the year; but, if that is not done, he wished to know from what quarter money was to be obtained for the current expenses of the year.

It has been said the annual revenues of the United States are only to be estimated to amount to the money actually received into the Treasury. This did not correspond with his understanding of the matter. He had always supposed the revenue of each year was to the amount of the duties secured at the Custom-house, for goods imported within the year, and it might as well be said that an individual who rents a house for $1,000, and takes a bond payable in eighteen months, has no income or rent for that year, because the payment is postponed. The same gentleman [Mr. Gallatin] had stated that since the establishment of this Government the expenditure had exceeded the revenue, so that upon the whole we had, instead of lessening our Debt, in fact increased it at $4,500,000. This was an idea, Mr. H. said, wholly different from what he had ever conceived to have been the case. He had supposed that notwithstanding the extraordinary expense of the Algerine Loan, Indian wars, insurrections, &c., we had, in fact, paid a part of our Debt, and he thought no other document need be resorted to to prove it, but the report of the Secretary of the Treasury in his hand, made the present session, which states that the nett amount of revenue from imports and tonnage, fines and forfeitures, exclusive of the expense of collection and other charges, was $1,615,574 paid for drawbacks from the 1st of January, 1794, to the 1st of January, 1795, amounted to $6,717,510, and that there was due, on hand, and in the hands of Collectors, $8,922,631; suppose a further deduction of $1,500,000 is made for drawbacks on that year, yet there will still remain a sum much more than sufficient to reimburse the $4,500,000 which that gentleman says has been added to our Debt. There is no reason to suppose the revenue of last year will fall short of that of the preceding year. It is said, if the anticipations are funded, our Debts will be increased, it will be putting off the evil day, and this country may expect to experience all the evils which have embarrassed the European nations; but the fact is far otherwise, for if these anticipations are funded, and not a shilling of the principal of our Foreign Debt shall be paid, and provision only is made for carrying into effect the act of last Congress, which he had no doubt would be done, in 1818 we shall have paid upwards of $30,000,000 of the principal of our present Debt, which does, and will bear an interest of six per cent., and in 1824, we shall have paid the whole of our present six per cent. and Deferred Debt, amounting to $43,872,790, and all the interest on the remaining Domestic and Foreign Debt, a pretty large proportion of the Debt to be paid by the present generation, who have also borne the burden of war, which has established and secured our independence, and would leave no just cause of complaint to future generations. If the money could be raised without great inconvenience, he should be very glad to pay the whole Debt; but he had no idea of resorting to direct, or any other taxes, that would be very burdensome to the people, for the sake of paying it off a few years sooner.

The gentleman [Mr. Gallatin] says, that if 2,000,000 dollars per annum, additional revenue, was to be raised, that, in a certain number of years, it would discharge the anticipation, and the whole Foreign Debt; that amounts only to saying, if we had the money to pay the Debt, we should not have to pay the interest, for the sum proposed to be raised, with the interest thereon, amounts to exactly the sum the gentleman says could be discharged. As more than 2,000,000 dollars of our present revenue will be liberated in the year 1818, by the discharge of the present six per cent. Debt, and as the instalments of our Foreign Debt are falling due every year, and it is possible we may be obliged to borrow, and have no other resort but to the Bank, he should be for filling up the blank with 5,000,000 dollars, and thereby enabling the Bank to lend, if the money should be wanted. This expedient will not be resorted to, unless necessary, and cannot be resorted to but with the consent of all branches of the Government.

The Committee now rose, and had leave to sit again.

Wednesday, April 13.

The bill for regulating intercourse with the Indian tribes was read a third time, the blanks filled up, and passed.

Mr. Tracy wished to take up the amendments of the Senate authorizing the Secretary at War to place certain persons on the pension list.

Mr. Christie wished the order of the day to be postponed, that the House might resolve itself into a Committee of the Whole on the state of the Union.

Mr. Tracy said he was as much in favor of going into the question of the state of the Union as the gentleman who proposed it could be; but he said the business he proposed to the consideration of the House, he believed would not occupy many minutes.

The business was therefore taken up, and the amendments agreed to.

CHEROKEE TREATY.

Mr. Harper said, they had this morning passed a bill containing strong, but necessary measures to prevent future infractions of the Treaty lately concluded with the Cherokee Indians. In order effectually to prevent this, he believed it would be desirable to do away all cause of complaint from those persons who had claims upon the land ceded to the Indians by Treaty. For this purpose he laid the following resolutions on the table:

Resolved, That all persons now holding lands under grants from the State of North Carolina, in the territory of the United States south of the Ohio, and beyond the boundary line between the United States and the Indians, shall be entitled to receive in exchange for an equal quantity of their lands, 320 acres each in the territory of the United States Northwest of the Ohio, on their respectively settling there, and continuing to reside for the term of ———.

Resolved, That all persons holding as aforesaid shall be permitted to subscribe their lands in the Loan for the Domestic Debt of the United States at the rate of twenty-five dollars per hundred acres, and on the same terms with the present unsubscribed Debt, provided that such subscription shall not entitle any subscriber to a certificate till the whole lands so granted as aforesaid, shall have been subscribed or exchanged.

Mr. Christie renewed his motion to go into Committee of the Whole on the state of the Union.

Mr. W. Smith was against agreeing to the motion, though he was aware of the necessity of an early attention to the subject, until the important financial business before the House was gone through. He was the more desirous of going into the business of finance from the very long representation which had been gone into by the gentleman from Pennsylvania [Mr. Gallatin] yesterday; a representation tending to mislead the public, and which he thought it his duty flatly to contradict, and to show that his calculations and conclusions were totally unfounded. If it was, however, determined to go into Committee on the state of the Union, he wished to be permitted to read a statement of their finances, by which he would prove that they were now in a better state than they were in 1791 by two millions.

Mr. Smith had not permission to read his statement; and after some observations from Messrs. Harper, Sedgwick, and Gilbert, against going into a state of the Union, and from Messrs. Giles, Swanwick, and Gallatin, in favor of it, the latter gentleman, noticing what had fallen from Mr. Smith with respect to the financial question, saying that, as he had no other object than truth in view, he challenged discussion on the subject, at the same time expressing his confidence in the truth of his statements, the question was put and carried for going into Committee on the state of the Union.

EXECUTION OF TREATIES.

The House having resolved itself into a Committee of the Whole on the state of the Union—

Mr. Sedgwick proposed the following resolution:

Resolved, That provision ought to be made by law for carrying into effect, with good faith, the Treaties lately concluded between the Dey and Regency of Algiers, the King of Great Britain, the King of Spain, and certain Indian tribes Northwest of the Ohio."

Several gentlemen rose together to object to this resolution. It was complained of both with respect to its matter and to the manner in which it was introduced. To its matter, as connecting all the Treaties together; to its manner, because introduced before the Chairman had read any papers relative to the subject.

Mr. Gallatin called for the reading of the Spanish Treaty, as he hoped that would be the first determined upon, as it would be likely to meet with no opposition. He had also other reasons for wishing it; it was a Treaty in which his constituents were particularly interested; he wished it, also, that a false idea which had been industriously spread in that country might be done away, viz: "That except all the Treaties were carried into effect, no one could be put into execution:" which idea was implied in the several petitions which then lay upon the table from the Western country.

Some conversation took place on the point of order, but the Chairman, at length, having declared the resolution in order—

Mr. Giles said he thought it was right for the Committee to take up what business it chose. He would make a motion to do away this hasty proceeding. He expected some decent respect to the feelings of gentlemen in conducting this business, and not that a gentleman would have laid a proposition on the table before the Chairman had taken his seat. The motion he should make would be to postpone the present resolution for the purpose of taking up the Spanish Treaty. He was persuaded the Committee could not be forced into the business. He thought each subject proper for a separate resolution; he had no notion of legislating by the lump.

Mr. Sedgwick observed that other gentlemen had feelings as well as the gentleman from Virginia. He hoped the members of that House would be treated, at least for some time, as if they had equal rights. A motion was made to go into Committee on the state of the Union; they resolved themselves into a Committee; any man who got first possession of the floor had a right to make any proposition with regard to any subject before the Committee. A motion was made by him that the Committee do come to a certain resolution; that resolution was then properly before the Committee. If the gentleman from Virginia had a resolution more proper or more congenial to his feeling, he might introduce it, when the Committee had disposed of the one on the table; but there it was, and he claimed the right, and this right he would exercise, of having this resolution acted upon; nor would he admit that there should be any other proposition introduced until that was disposed of.

Mr. W. Lyman asked if this was a proceeding worthy of a Legislative body? He hoped there would be no such haste as had been shown upon this occasion. Was there to be a scramble for business? If gentlemen persisted in following the course they had taken, there was a way of disposing of the resolution. The Committee had the power to rise, and he presumed it would be in order to make a motion to postpone the present question to a day certain. He said, if the British Treaty would not bear examination, it was not to be forced upon their understandings whether or not.

Mr. Williams said that it was unfortunate for them when they were about to discuss one of the most important questions which ever came before that House, a question, perhaps, upon which the fate of the country depended. On a subject of such importance, it became their duty to harmonize with one another, and, by discussing the business coolly, determine upon the best mode of disposing of it for the good of their country. How were they to proceed in business, if so much heat was discovered? Nothing could be done. He wished coolness and good temper to be their guide. Let them go into the business with calmness and moderation, and then, he trusted, they should come out of it as they ought.

Mr. Hillhouse said, it appeared to him that they were contending about nothing. He would as soon have the Spanish Treaty first brought forward as any other. No man, he believed, had any objection to that Treaty, but he had objections against taking up one and leaving others. At the same time, he was willing to take up the Spanish Treaty first, as it was altogether unimportant which way it was done. It was in their power to agree to them singly, though they were united in one resolution. There would be a degree of impropriety in separating them, or in rejecting one and not the other; indeed, if one was rejected, he should think himself justified in voting against the others. They were subjects which were connected together, and if no other gentleman connected them, he would; but there could not be a final determination upon the resolution, until all the subjects were discussed.

Mr. Gallatin said, if they were in the House, instead of a Committee of the Whole, they might get rid of the motion, either by the previous question, or by postponement; in a Committee of the Whole, other rules were in force, and if a proposition was made to them, they could not refuse to debate it. There were two ways, however, of getting rid of the thing. They might give their negative to the proposition, merely because four propositions were connected together, or they might amend it by striking out three of the Treaties. Before he sat down, he meant to give reasons for adopting either of those two modes. His objections rose merely from the four Treaties being connected together. He had been a good deal surprised to hear a gentleman from Connecticut say, that the Treaties were so connected, that if one was not carried into effect, he should be justified in withholding his vote from the rest. Had the gentleman forgotten that he was in duty bound to carry every one of them into effect? That if he did not do it, it would be a breach of good faith—nay, of the Constitution? That he had no discretion on the subject? But was impelled by moral obligation to execute any Treaty whatever? Mr. G. was not, therefore, at all alarmed at these threats, for he knew, that whatever gentlemen's opinions were, they could not, consistently with their principles, refuse to give their sanction to all and every of the Treaties before them. But leaving altogether what may be the opinion of any gentleman in the House, let them see what was the opinion of the House itself. It was that, whenever a Treaty contained Legislative provisions, its execution depended on laws to be passed by Congress, and that, in all such cases, it was the Constitutional right and duty of the House to deliberate on the expediency of carrying the Treaty into effect.

This being the solemn resolution of that House, it was contrary to that idea to say, they would blend all the Treaties together. That House would carry into effect the Treaty with Great Britain, that with Spain, or either of them, or none of them, as it should appear expedient or inexpedient. The resolution proposed by the gentleman from Massachusetts was perfectly consistent with his own opinion, for believing the House under an obligation to carry into effect all the Treaties, he had put them all in one resolution. If there were twenty instead of four, upon his principles, they might all be placed in one resolution; but the House had solemnly declared a different opinion, viz: that it was the right of this House to deliberate on Treaties; whence it follows, that each must be deliberated upon separately. But, according to the ideas of the gentleman from Connecticut, instead of making the Treaties before them matters of deliberation, they were to become matters of barter. He hoped the House would spurn at such doctrine, and that they should debate each Treaty by itself, and determine upon them as they shall judge proper. He would propose an amendment, which, if in order, he should move; if not, the Chairman would inform him. It was as follows:

"*Resolved*, That, in the opinion of this Committee, it is expedient to pass the laws necessary for carrying the Treaty with Spain into effect."

Some conversation took place with respect to order, without any determination upon it.

Mr. Macon said, there would be an awkward circumstance arise from all the Treaties being in one resolution. They would be debated upon together, and a member would always be in order when speaking to any one of them, for that they should never be able to get through the business.

Mr. Sedgwick said, he had no intention of cramping the Committee in their discussions, but he did think that all the Treaties were part of the same subject, and he did not see why provision was not necessary for the whole. He did not think there was any inconsistency in the opinion of the gentleman from Connecticut. If, said Mr. S., they were asked to provide for particular officers in the army, would they consider themselves under obligation to provide for them separately? No; they would refuse to vote for them individually, nor could they be charged with impropriety if they withheld their assent until the whole army was provided for by appropriations. The whole of the Treaties were one great complex subject, and a separation of them, so as finally to deny a provision as to the one which was concerted, would be the ruin of the country. Because he conceived the public faith pledged, would it be said that there was necessity for his voting for any bill, however in itself objectionable, which could be brought before him? No such thing. To carry one of the Treaties into effect, without the other, would be sacrificing the interests of one part of the country to those of another. He was, therefore, for keeping them together. He would never consent to consider one separately. He had expressed himself, he said, with some warmth upon the subject, because he thought gentlemen were going farther than they ought. He believed the Treaties had not been read in the Committee. He hoped they would be read.

Mr. Giles objected to any Treaty being read at present, unless it was that with Spain.

Mr. Hartley allowed that the gentleman from Pennsylvania [Mr. Gallatin] was right in wishing to take up the Spanish Treaty, as one in which his constituents were most concerned. He thought it of most consequence to take up the British Treaty. By refusing to take up this Treaty, gentlemen would be responsible for the consequences which might follow to their country. The first of June, he said, was fast approaching. It would be expected that they should do something towards completing the business. The inhabitants in the large seaports were deeply interested in the Treaty with Britain, then why should it be deferred because the people on the Ohio wished the Spanish Treaty to be attended to? It was thought they were going to consider this Treaty several days ago; but if they did not now proceed to consider it, he should think they did not mean to carry it into effect.

Mr. Isaac Smith wished they might get into some kind of order. He thought the British Treaty was most important. If they were to separate them he should, therefore, wish that to be taken up.

Some observations were made with respect to order, and a reading of papers was called for.

Mr. Jeremiah Smith said, the object before them was a general proposition of four members. The general proposition was, that laws should be provided for carrying into effect the Treaties lately concluded with the Dey and Regency of Algiers, the King of Great Britain, the King of Spain, and certain Indian tribes. Now certain papers are laid on the table; if they meant the proposition before them as general, or otherwise, the papers ought certainly to be read. He did not differ from gentlemen in opinion, that the subject ought to be divided; he believed a division would be proper. He conceived that where there were four Treaties, there might be cases in which he might vote for three of them, and not for a fourth, or for a less number. There would, therefore, certainly be a propriety in considering the subjects separately. But there was no difficulty in doing this: there was a rule of the House which provided, that any member may call for the division of a question, and when it is so called for, the question, if it will admit of it, must be divided. He should vote for carrying into effect all the Treaties; but if any gentleman was of opinion that some of the Treaties were binding and others not binding, it would be proper to call for a division of the question. He thought the Treaty with Great Britain equally binding with the rest. Those who thought differently would wish the question to be divided. If the resolution was not divided the Treaty with Algiers would be first in order, and that would first be concluded upon; then that with Great Britain, and so on. This, he believed, the most regular mode to be pursued, that the sense of the House might be taken upon each proposition, whilst the resolution itself remained undivided.

Mr. Giles said, the gentleman last up had pointed out a mode which would suit himself, but which would not suit others. For his own part, he believed it perfectly in order to negative the whole proposition, and replace it with another. They had no table in this Committee, they made no minutes; they might, therefore, negative it in point of form, and introduce another. He had no doubt of the propriety of such a proceeding, since that Committee was meant to debate on certain propositions, and these were to be carried into law. He would remark, that the amendment proposed by the gentleman from Pennsylvania, [Mr. Gallatin,] was a substitute for the present, and was worded according to the doctrine supported by the majority on a late question, whereas the present resolution is adapted to the opinions of the minority upon that occasion. He hoped, therefore, the Committee would negative this proposition, and bring forward another. The gentleman last up had called the several Treaties different members of the same body, but he believed each to be a distinct and independent body.

Mr. Sedgwick said, he would vary his motion,

and call for the reading of papers respecting the Treaty with the Dey of Algiers. But he would ask gentlemen, if they were determined to bring forward a separate resolution, if they did not see that he or any other member could move to add the other Treaties to it, and to bring it into its present form? He did not know whence arose all this violence—all this squeamishness. Gentlemen, said he, suppose they are a majority; they bring forward propositions, and endeavor to suppress any but such as are consonant to their own opinions. Whenever they brought forward a proposition for a division of a subject which he thought in its nature connected, he should move to amend it. They had the same rights in this case, and they might amend his motion in any manner which should render it conformable to the opinion of the majority.

Mr. Venable had no objection to taking up any of the Treaties. He did not know what the gentleman last up meant by violence. He exhibited as much violence as any member in that House. He saw no occasion for unnecessary warmth. The subjects before them would be determined by a majority, and he doubted not that determination would be for the good of the United States. If the House took up the Treaty with Algiers, he doubted not it would be immediately agreed to. He wondered how the gentleman could conceive they could go into all the Treaties, containing twenty or thirty articles each. Would not such a medley of matter occasion much confusion in their discussions? It certainly would. It was in vain, he said, to attempt to force the Committee upon discussions which they did not wish to enter upon. It could not be done. Why then so strenuous, why so warm, after having brought forward an improper proposition? He hoped the Committee would proceed with moderation: for his part, he trusted he should so far remain master of himself as to preserve an equanimity of temper on this and every other discussion in that House.

Mr. W. Lyman objected to the Algerine Treaty being taken up at present. He wished to see the Treaties brought forward separately, and would not consent to take them up in any other way. He should, therefore, move that the Committee rise, in order to dispose of the gentleman's resolution, and bring forward each subject distinctly.

Mr. Bourne said, the gentleman last up had suggested the propriety of the Committee's rising. He thought it was improper that the Committee should rise. They were upon a subject of the first importance of any which perhaps was ever discussed in that House. That they should commence the discussion with so much heat was unfortunate. He should wish, if it was for no other purpose than to give gentlemen time to collect themselves and lay aside their acrimony, that the papers which had been called for might be read. The papers appertaining to any of the Treaties would occupy all the time they had now left before the usual hour of adjournment.

Mr. Williams thought the observations of the gentleman who just sat down perfectly reasonable. He wished the Treaties might be read in the order in which they stood in the resolution. He saw no reason why they should take up the Spanish Treaty first. They came there to legislate for the whole and not a part of the Union. Why not, then, open the river St. Lawrence as well as the river Mississippi?

Mr. Page rose to remark upon what fell from the gentleman from Rhode Island. He recommended the reading of the Algerine Treaty, in order to cool the heat of the Committee. He would remark that gentlemen seemed warm, though he did not believe they were so. He hoped when gentlemen talked so much of candor, that they would come into those measures in which they were all agreed. When the subject of the British Treaty came up, he assured the gentleman from Massachusetts he would listen with the greatest attention for any length of time, whilst he held up to view the merits of that Treaty; though, as time was becoming very precious, he believed it would not be well to employ much of it in that way, as he feared it would be all in vain.

Mr. Murray said, that the question before the Committee was, whether the Algerine or the Spanish Treaty should be first considered. For his part, he wished to unite the whole of the four Treaties in one view, as they were collectively a system in which the whole Union were interested. But he cared little which was first considered if they are disunited. He said, that so very important was it, in his mind, that a decision of some sort should be immediately pronounced by the House upon the British Treaty, that he had determined not to occupy any time in adding to the number of debaters for the last ten days, on the other business of Congress, one instance excepted. He said, that, by the British Treaty, arrangements are to be made with the Governor General of Canada for the delivery of the Western posts before the 1st of June. This day is the 13th of April; and we are consuming that time, which is every minute of it pledged to great events, in frivolous and entangling preliminary questions.

The public expectation is, that on the 1st of June the posts are to be delivered. He implored gentlemen on all sides to take a question that is to settle our national faith, the interests of the Union, and the expectation of the public. Time is too precious, as that Treaty will be affected by it, to be thus wasted. Any decision will be better than a debate which may violate a Treaty in deciding its merits. The minds of members, he believed, had sufficiently viewed the subject. If there is a majority against the execution of the Treaty, it was in vain to dispute about the ceremonies of its condemnation. The Treaty ought in good faith to be executed; but, at all events, it will be most consistent with an explicit character to decide early what must be decided before the 1st of June. He would vote for every measure to come to a quick decision.

Mr. Craik said, he should not hesitate to declare that, from present impressions, he was disposed to pass the necessary laws to carry into ef-

fact all Treaties specified in the resolution introduced by the gentleman from Massachusetts; yet he felt it also his duty to say, that if gentlemen tenaciously insisted on the resolution as it now stood, and would not consent that the question should be divided, and if there was no rule of the House by which it could be divided, so as to take the sense of the Committee fairly on each separate and distinct Treaty, then, he said, in that case, he should be constrained to vote against the resolution, for the purpose of introducing others more proper; for he never would, on this nor any other occasion, give his sanction to so unprecedented and improper a procedure. Was it reasonable, was it decent, that the Committee of the Whole House should be called upon, and thus pressed to vote and decide on four great important national questions, couched in one short resolution, and that resolution expressed in language by no means unexceptionable? Gentlemen have said that this (heteregeneous) mode of procedure was right, as the Treaties must all be considered as one connected subject, and must stand or fall all together. He wished to know how long this discovery had been made, and from whence arose this strange opinion? Suppose, he said, the President and Senate had rejected the British Treaty, would it have followed that they must have rejected all the rest?

Again: suppose they had not approved of the Spanish Treaty after ratifying the British Treaty, would it follow they could not have rejected it because they had ratified the other? Where was this link of connexion, then? This was new doctrine, indeed, such as he trusted would never be admissible within these walls. Such an improper, irregular introduction of business of the utmost importance, he hoped would never be countenanced or admitted. Decency, order, and propriety forbid it.

Mr. Giles said, what gave rise to the present discussion was, whether the Treaty with Spain should be first taken up; yet it was extraordinary, though gentlemen were complaining of a want of time, what was said did not relate to that point.

Mr. Gallatin said, the question was, whether the Treaty with Algiers should be read. He should object to it for two reasons: First, they were not in a situation to enable them to determine upon it, the papers communicated by the President relative to it being confidential, and referred to a select committee, who had not yet made a report. They had only the amount of the gross sum of money required. When the committee had reported it would be time enough to take up that subject. But he objected to reading any papers in this stage of the business, because he did not think they could elucidate the subject of debate. The subject immediately before them was not whether the Treaty with Algiers, or any other Treaty, should be carried into effect, but whether they would consider the four Treaties together, or each of them by itself. The papers called for could throw no light on the decision of that question. He hoped, therefore, the motion for papers should be withdrawn or negatived; and he would then move to strike out the words "several Treaties," in order to replace it with the word "Treaty." When that question was decided, they could say which of the Treaties should be taken up first.

Mr. Hillhouse hoped the Committee would rise. He had no objection to taking up the Spanish Treaty first. He was willing to have the Treaties in separate resolutions; but he hoped gentlemen would consent to go through all the Treaties before the sense of the Committee was taken on the resolution. If the Spanish Treaty was first considered, he should vote for it; except he saw something different respecting the British Treaty from what he then saw, he should vote for it; but if any one of them was struck out, or refused to be carried into effect, he should vote against the others. And he hoped he should be able to make his conduct appear consistent in the course of the business. He hoped they should treat the subject with candor, and in a way in which every man might have an opportunity of exercising his opinion—as a majority in that House had never yet prevented a minority from being heard in defence of their sentiments. If it were the opinion of the majority of that House that three of the Treaties should be rejected, he would vote against the fourth. He hoped the Committee would rise, and would not object to taking up the Spanish Treaty first in order to-morrow.

The question for the Committee's rising was taken, when there appeared for it 44, against it 46.

Mr. Giles said, he should move to strike out all the words after "Resolve," that the resolution might be filled up with other words. As gentlemen had thought proper to anticipate their votes upon the British Treaty, he would say, that he should vote against it. He hoped the Committee would adopt the proposition he had made, in order to have the resolution differently worded.

Mr. Sedgwick said, he had introduced the resolution in the form it bore, because he thought it best. He had wished the Committee would have risen. He had wished it because he did not wish gentlemen to be under any kind of trammels in the business, to be under any obligations to do what they wished not to do. He had connected the subject, because he thought it proper they should be connected. If gentlemen thought it best to separate them, he was sensible he could not prevent a separation. He should be extremely sorry if a gentleman should vote contrary to his opinion with respect to the British Treaty. He should be sorry if the gentleman from Maryland [Mr. Craik] should be obliged to vote contrary to his opinion by such a connexion. He hoped he would not.

Mr. Madison wished the resolution might be transposed, by putting the Treaty which was mentioned last first, and vice versa.

Mr. Gallatin urged his motion.

Mr. Williams hoped the Committee would rise.

Mr. Harrison said he was not in a passion,

and he hoped they should not rise, and by that act declare they were so angry that they could not act at all.

Mr. Thatcher agreed that the gentleman last up was not in a passion; but he was of opinion, with other gentlemen, that there was a great deal of heat in the Committee, but he did not, like them, lament it. He was, on the contrary, glad to see it, because it was a proof that it existed, and there was now a chance of its evaporating. It seemed as if gentlemen had not the capacity of reasoning. The gentleman who rose last was perfectly cool, and he hoped he would continue so; but still he did not attempt to reason—he only told them he was not in a passion. He was apprehensive that whilst the Treaty with Great Britain was before them they should not grow much cooler; for, as it had been declared that the whole country was in a flame about it, some of the heat, it must be expected, would reach that House. The winds had long been chained in the caves of Æolus, but they had now broken loose, and, if they sat long enough, he hoped they would, in some degree, pass over them.

Mr. Swanwick hoped the Committee would not rise; it would be an unnecessary delay in the present important business. He had no idea of putting off till to-morrow what they had it in their power to do to-day. Why, then, postpone this vote? They must come to the same question to-morrow, and they must take it up then. Why, then, not determine it at that time?

Mr. Isaac Smith wished the Committee to rise, as it was the usual hour of adjournment.

Mr. Cooper hoped the Committee would rise, as he meant to offer his sentiments upon the occasion, and there was no time for it then.

Mr. Holland hoped the Committee would not.

Mr. Livingston said, it would be a disgraceful circumstance to the Committee that they should have sat so long without doing any thing, and at length, by voting the Committee to rise, declare that they were incapable of doing any thing. His colleague [Mr. Cooper] had given as a reason why the Committee should rise, that he wished to declare his sentiments on the occasion. He doubted not if that gentleman delivered his sentiments with that ability, politeness, and delicacy of manner with which he in general expresses himself, he would be duly attended to; but if he did it in the way in which he sometimes delivered himself, he might as well be silent.

Mr. Cooper observed, after Mr. Livingston, that let him deliver his sentiments in which way he would, he had no doubt that it would be as satisfactory to his constituents as the conduct of that gentleman was to his. He felt himself much obliged to his colleague for the polite request he had made for the Committee to rise; but he found that obligation removed by the close of his speech. This, said Mr. C., is like the usual consistency of that gentleman. As to the House being in great heat, he saw it with as much pain as that gentleman did, and wished he could say one of his colleagues had not been instrumental in producing the difficulty.

Mr. Bourne did not think that the Committee's rising would declare their unfitness for business, as it was the usual time of adjournment.

The vote was again taken for the Committee's rising, and negatived by 47 to 45.

Mr. Gallatin's motion was then put and carried.

A motion for the Committee's rising, was again lost by 47 to 46.

Mr. Blount moved to strike out "the King of Great Britain and the Dey of Algiers" from the resolution.

Mr. Sedgwick observed, that gentlemen wished to take up the Spanish Treaty first. He would wish to know why that Treaty should be taken up in preference to the other? Gentlemen knew that if they acted at all upon the British Treaty they must do it in six weeks; but they did not know that the Spanish Treaty was ratified. It was said that that Treaty would be favorable to persons in the Western country; but he did not know why any particular part of the Union should be attended to in preference to the other. It was not decided whether the British Treaty should be carried into effect or not, and he would remind gentlemen that there was now only just time enough for the necessary preparations before the 1st of June. He hoped gentlemen would not, therefore, unnecessarily protract the business. He wished to know what urgency required the Spanish Treaty to be taken up at a time when the country was agitated from one end to the other on account of the fate of the British Treaty? If there was no good reason for it he hoped they would not persist in it.

Mr. Venable called for the reading of the President's Message accompanying the Spanish Treaty. It was read.

Mr. Williams said, it appeared to him that they were about to legislate for a part and not the whole of the Union, by taking up the Spanish Treaty, which had neither a claim upon them in point of priority nor of necessity. He wished the British Treaty to be taken up. If the interests of particular parts of the Union were to be attended to, he thought the State which he had the honor to represent had a greater claim than any other to their attention, as, if it was not now, it would soon be, one of the first States in the Union. Let them view the city of New York, and consider the revenues which it paid to Government. That city was peculiarly interested in the British Treaty; and he called upon his colleagues to recollect the interest of their State. [Mr. W. here took notice of a smile which he observed upon the countenance of a gentleman near him, which he said he despised.] He concluded by wishing all party-spirit to be buried, and that they might proceed with business.

Mr. Craik moved an amendment, to strike out the words "Spanish Treaty," and leave the resolution blank.

Mr. Holland said, gentlemen spoke as if they supposed, because the Spanish Treaty was to be first taken up, that all the rest was to be neglected. Gentlemen had said if one Treaty was not

carried they would vote against the whole. This might operate as a reason for taking up the Spanish Treaty, as it was certainly the best. But it was from much better ground. The President had required an early attention to the Spanish Treaty, which was not the case with any of the rest. Another reason was, because he believed there would be no difference of opinion on that Treaty, except they were like children, and refused to have one good thing because they could not have all they wanted.

Mr. Gilbert seconded the motion to strike out the words "Spanish Treaty."

The Committee now rose, and the House adjourned.

Thursday, April 14.

Mr. Israel Smith called up a resolution, laid upon the table some time ago, respecting an alteration in holding the District Courts of Vermont.

Mr. Bourne wished the District Courts of Rhode Island also to be added.

They were added accordingly. The House agreed to the resolution, and it was referred to a committee of three members.

DEBT DUE BANK UNITED STATES.

Mr. Gallatin said he wished to lay a resolution and two petitions on the table. The resolution related to the Debt due to the Bank of the United States. There was one point which he wished to be clearly understood upon the subject: He wished to know whether the Bank had demanded the money for which the Government stood indebted to them. If they had, he would agree they must be paid. But, as he had seen nothing officially on the subject, he wished the matter to be inquired into. For that purpose, he proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire whether the Bank of the United States are willing to continue the Loans heretofore made by them to Government, in anticipation of the public revenue, and amounting to 3,800,000 dollars, by new Loans, similar to those which they were used to obtain."

Mr. Swanwick wished an amendment, "or any part thereof," to be added; which was agreed to, and laid upon the table.

EXECUTION OF TREATIES.

The House then formed itself into a Committee of the Whole on the state of the Union, when the resolution as proposed by Mr. Sedgwick, and as proposed to be amended by Mr. Blount, by striking out the words "Dey and Regency of Algiers and King of Great Britain," being under consideration—

Mr. Dayton (the Speaker) acquiesced in the reasons which had been given in favor of taking up and deciding upon the different Treaties separately, although there might be no impropriety in blending hereafter, in one bill, the appropriations for them all. He hoped, nevertheless, that those gentlemen who were for passing over those which were first in order in the resolution, to get at the Spanish Treaty, would assign some more satisfactory reason for taking up that, in preference to others, than had yet been offered. He called the attention of members to the British Treaty, and the state of things with respect to it. An assertion had been made yesterday, that nothing was necessary to be done on the part of this Government before the first of June—the day appointed for the surrender of the Western posts. He referred to the article itself, where it was expressly stipulated, that previously to that day, all the proper measures should be taken, by consent, between the Government of the United States and the Governor-General of Canada, for settling the previous arrangements which may be necessary respecting the delivery of the said posts. There were now only six weeks in which to settle the whole business. In a former debate, it was said that a latitude of six months after the first of June was given in the Treaty for the surrender to be made, in pursuance of the second article. This he flatly denied, and challenged gentlemen to support such an assertion by the instrument.

In addition to the arrangements contemplated in the Treaty, there were, he said, certain preparations which our particular situation rendered necessary. The troops requisite to take immediate possession of our posts could not be instantaneously transported thither, as it were, by a magical charm. Contracts must be advertised for, and made, for supplying provisions at the different new stations. The transportation of heavy cannon and military stores must also be provided for, and that too from a very great distance; for it was well known that the light artillery which is attached to such an army as ours was altogether unfit for garrisons. If it should be determined by a majority of the House of Representatives to withhold the appropriations that were necessary, in order to carry the Treaty into effect, the sooner that determination was known the better. The Message of the President which accompanied the Spanish Treaty was yesterday adverted to, Mr. D. said, to prove that it wanted an earlier attention than the other three. Upon a recurrence to those papers it would, he said, be found that the last week of the session would be as seasonable to act upon it as that day. It was not known that it was ratified in Spain; and, although he owned that it was not a sufficient reason for neglecting altogether to make provision, yet it might afford an argument for a delay, as long at least as it might be exercised without possible injury. As to the English and Indian Treaties, there was a necessity for an early attention to them, whether they were to be rejected or not; and especially if they were to be carried into effect. He hoped some better reasons for taking up the Spanish Treaty first might be given, than those he had yet heard; for the motives of the gentleman from Pennsylvania, urging that it was for the interest of his immediate constituents, could not actuate the members of that House generally, who must consult, if they do their duty, not the interests of a part only, but of the whole.

Mr. W. Lyman said, that when the gentleman from Pennsylvania [Mr. Gallatin] assigned reasons for wishing to take up the Spanish Treaty first, it was not because his constituents would be most benefited thereby, but because attempts had been made in that part of the United States to mislead and deceive the people into an opinion and belief, that unless the British Treaty should be carried into effect, the Spanish and other Treaties would also be negatived. If attempts of this sort had been made, Mr. L. said, in his opinion, it was a cogent reason for taking up the Spanish and other Treaties first, in order to undeceive them. This, however, was not the only reason that influenced his mind. The Spanish Treaty, he said, he considered entitled to a priority in point of merit. He should not attempt to go into the merits of it, particularly at this time; but thus much he would say, that he considered the Spanish Treaty, perhaps, as the most perfect ever entered into between any two nations: it reflected the greatest lustre on the two nations, and all concerned in the agency. Indeed, he had never heard even an objection against it. He therefore supposed there would be a perfect unanimity in the House relative thereto. The Algerine and Indian Treaties, although not so perfectly correspondent to our feelings and interests, would nevertheless meet, he supposed, with no objections; but, with regard to the British Treaty, it must be obvious to every one, from a former lengthy debate, that it would be thoroughly discussed and investigated; and he believed the subject would receive such an illustration as hitherto it had not met with in the United States. These considerations induced him to wish to dispose of those Treaties, about which they were entirely agreed, and they would then soon come to the question which the House seemed to be so impatient for. He did not wish any delay; he should be ready to meet the question relative to the British Treaty, and should act according to the best dictates of his understanding. If that Treaty appeared to comport with the welfare and interests of the United States, taking all circumstances into consideration, he should vote for it; but, if the reverse of this appeared, he should conceive, not only that he was at liberty, but also that it was actually binding on him, to vote against carrying it into effect.

He hoped, therefore, that the Spanish Treaty would first be taken up and acted upon, and that then they should take up the others distinctly and separately. They were subjects in their nature distinct, and could in no degree receive any light from being connected with each other; but, on the contrary, the connexion would tend to embarrass and perplex the question. It was introducing the principle of *tacking*, to which he had ever been opposed. He thought, if a question would not stand the test by its own merits, it ought to be rejected. A vicious principle, so far from being ameliorated by annexing it to a pure principle, served only to render the latter corrupt. He should therefore vote for the amendment, in order to bring the questions in a simplified state before the House. He should always be against confounding things with each other, which in their nature were so distinct and irrelevant. There could never be a compromise between good and bad—between vice and virtue.

Mr. Hillhouse wished to bring forward three out of four resolutions which he had proposed some time before, but which were not then attended to. The three were—(the fourth being for carrying into effect the Spanish Treaty was already superseded)—first,

"*Resolved*, That it is expedient to pass the laws necessary for carrying into effect the Treaty lately concluded with certain Indians Northwest of the Ohio."

The other two were in the same words, only for carrying into effect the Treaty with the Dey and Regency of Algiers, and the King of Great Britain.

Mr. Swanwick said, he should be pleased if the gentleman from Connecticut, last up, might be accommodated, by having the Treaties taken up in the way he had stated. As the gentleman from New Jersey [the Speaker] had called for reasons why the Spanish Treaty should be taken up in preference to the others, he would give what he thought good reasons for it. No doubt the Treaties with Spain, Algiers, and the Indians, would pass through the Committee with little discussion; and the resolutions being passed, so much would be done. With respect to the British Treaty, it would become a subject of serious and solemn discussion, in which he trusted the greatest moderation and candor would prevail, and which would issue in the greatest public good. It would receive that discussion which it had not had in public meetings which have already judged upon it: for these meetings have either been its decided enemies or friends, and therefore the arguments were all on one side. No doubt the President and Senate had fully and fairly discussed its merits, but that discussion was unknown to the people. He expected many ideas would be thrown out upon this subject by the collision of sentiment, when it came under consideration, which had not been thought of—which would be like so many sparks of light to illuminate its merits or demerits; and, whatever the final determination may be, it will be founded upon the most profound investigation. To go first into the British Treaty would be procrastinating instead of accelerating public business. But were there no intrinsic merits in this Treaty with Spain, which ought to give it a preference of consideration? When his colleague [Mr. Gallatin] stated as a reason for going into the Spanish Treaty, that it was a Treaty in which his constituents were particularly interested, it was good ground for him to found his wish upon. He hoped whilst gentlemen were legislating for the public good, they would never forget to cherish, with an ardent affection, the immediate interests of their constituents. Upon the same ground, the gentleman from New York [Mr. Williams] was in favor of the British Treaty. This was natural, and ought not to occasion any surprise or heat in the Committee.

But, after all, the vote of that House must be founded upon the good of the whole, which will be declared by a majority; therefore, a vote of the House would take up the Spanish Treaty, if taken

up at all. He did not at present mean to go into the merits of the Spanish Treaty: he thought it a very advantageous one to this country. In discussing the merits of the British Treaty, he trusted they should avoid all recriminations or acrimony, and that they should exhibit an enlightened House—not guided by party spirit, but by a zeal for the public good. He hoped they should avoid thinking unfavorably of each other, on account of a difference of opinion, since they could no more think alike than they could look alike. He trusted, therefore, whatever might be the final decision, that good temper and harmony would prevail in their discussions.

Mr. Madison would submit to the gentleman from Connecticut, to whose candor the Committee were indebted, whether the question was not decided against a *lumping* vote on all the Treaties, by the singular number, "the Treaty," being inserted instead of "the Treaties;" and, therefore, that his resolutions were unnecessary.

He did not understand the gentleman from Pennsylvania [Mr. Gallatin] in the same way in which the gentleman from New Jersey [the Speaker] had understood him. He mentioned the interests of his own constituents as inducements with himself for proposing, and not to the House for deciding, to take up the Spanish Treaty. But he would explain to the gentleman from New Jersey, and to the Committee, why the Spanish Treaty should first be taken up, and not the British. That Treaty had excited no opposition, and would probably pass through the House without debate, and a select committee could prepare and bring in a bill for carrying it into effect, whilst the British Treaty should be under discussion; but if they began with a Treaty which might occasion a lengthy discussion, nothing would be done with the other Treaties before that was gone through; whereas, if they took up the other Treaties before the British, little time would be spent before they came to that Treaty. If the gentleman from Connecticut concurred with this idea, he could agree to let the question before the Committee be taken, and then move his resolutions in the order he proposed.

Mr. Harper said, as he had originally, by a resolution which he had some days ago laid upon the table, brought forward this measure of connecting in one view the several Treaties which had lately been concluded with foreign countries and the Indian tribes, and as the object of the measure had been much misunderstood, he thought it incumbent on him to state some of the reasons which had induced him to propose the resolution, and which still induced him to think that the whole subject of these Treaties ought to be considered together. [Mr. H. was reminded of the question before the Committee.] He knew very well, he said, what was the question, and should go on to treat the subject in his own way, but, he trusted, in perfect reference to the point now under consideration. If his reasoning did not appear conclusive, gentlemen would of course reject it; if, on the other hand, it should appear to have weight, it would no doubt have its proper effect. He believed that the resolution, notwithstanding the amendment made yesterday, still went to connect the Treaties in one point of view. The amendment of yesterday was to strike out the words "several Treaties," and insert the word "Treaty." But still this word *Treaty* might apply, in discussion, to all the different Treaties enumerated in the resolution. The amendment now under consideration was to strike out part of those Treaties; and if that amendment should be rejected, the resolution would read perfectly well, and would include them all. This, indeed, was the precise form in which he had at first proposed this measure. Any observations which tended to show that all the Treaties ought to be considered together would be perfectly in order, to evince that this amendment ought to be refuted. [The Chairman declared that it was in order.] He should, therefore, take that point as open for discussion. It could not be supposed that he meant, by connecting the Treaties in one resolution, to compel gentlemen to pass upon them all in one vote: had this been the intention, it could not be the effect. It was well known that any member had a right to call for a division of the question when it came to be put. If a resolution should join four Treaties, and be discussed in that way, any member might call to have the question separately taken, whenever the Committee was ready to take it. No gentleman could suppose that a joint vote would be taken, but the several Treaties were placed in one resolution, not to be voted on together, but to be discussed together, because they were parts of one great system of foreign relations which have an intimate connexion with each other; and that reasons might be deduced from one to show the propriety of executing the others. The settlement of a dispute with one nation would facilitate the settlement of disputes with other nations. This was the object of the resolution, and not to oblige gentlemen to vote for all the Treaties at once, as seemed to have been supposed.

Before he went further into the consideration of this question, he would remark on the observations which had been made on a gentleman from Connecticut, on saying that there might be reasons for not executing the Spanish Treaty. He was himself of opinion that there might be such reasons. He knew of no magic in the word *Spain*, that could render a Treaty with that Power, more than with Great Britain or any other Power, perfectly agreeable to those principles which ought to dictate the execution of Treaties. On the contrary, he could easily conceive of a Treaty with Spain which ought not to be executed, which would form one of those extreme cases where the aid of the Legislature ought to be withheld. Whether the Treaty actually concluded with Spain was of that description, was another question. He did not believe it was; but the gentleman from Connecticut might, with perfect consistency, be of a different opinion. That gentleman had been told that he could not vote against the Spanish Treaty, according to his own principles; that he was absolutely bound by it, and had no discretion left. But the gentleman from Connecticut had asserted no such principles. He had, on the contrary, asserted

that there were cases in which he should think it his duty to vote against a Treaty; and this, the gentleman who made the observation on him must have known.

But, suppose the gentleman from Connecticut had declared the contrary, were there no cases in which a member declared one thing, and afterwards voted directly the contrary? Surely the gentleman from Pennsylvania [Mr. Gallatin] would not say there were no such cases. Did not that gentleman declare, in the debate on a late important question, that where papers respecting a negotiation were demanded, for the purpose of instituting an inquiry into the conduct of the negotiators, that purpose ought to be distinctly stated in the preamble of the resolution; and yet, his name appears among the yeas on a resolution which expressly says that no such statement is necessary. [Here Mr. Page called Mr. Harper to order, but the Chairman declared that he was in order, and Mr. Gallatin begged that he might go on.] After this example, Mr. H. said, surely the honorable member from Pennsylvania will not say that a member ought never to vote contrary to his previous declarations.

According to this view of the subject, the four Treaties ought to be considered in one resolution, and to be discussed together, because they formed parts of a great system of foreign relations which were closely connected, and could not be properly understood unless considered in one general and connected view.

This country, Mr. H. observed, previous to the late negotiation with foreign Powers, found itself engaged in a disagreeable dispute with Great Britain, partly arising from the late war, and partly from subsequent infractions of the Law of Nations. It found itself involved in a war with the Indian tribes, occasioned in some degree as was suspected, and he believed justly, by the possessors of the Western posts, and the manœuvres of the foreign Power by which they were held. It found itself in a dispute with Spain on points of very great national magnitude. It found itself in a contest with Algiers, extremely dangerous to our commerce and to the safety of our citizens—many of whom had been reduced to slavery by that Power.

Thus stood our foreign relations. The Power with whom we had the most complex and embarrassing dispute to settle, was a Power possessing great influence over all the others. She had great influence with the Indian tribes by means of her extensive intercourse with them, and the possession of important posts in their vicinity. She had great power over Algiers—so much as to have directed the terms of the late truce between that State and Portugal. This influence over Algiers was so great as, in a considerable degree, to direct their conduct, and had always been regarded as one primary cause of depredation committed by them upon our ships. She also had great influence over the Councils of Spain, from that union, in the present war against France, agreed on to prevent the establishment of a Republican Government in that country. How then could they possibly consider, separately, subjects which appeared to be so closely connected? Was it not evident that an accommodation with Great Britain was the foundation—the corner-stone—of our arrangements with all the other Powers on which the prosperity of our country—the security and extension of our commerce—so greatly depended? [Mr. Crabb spoke to order, but the Chairman informed him that Mr. Harper was in order.] Will it not then, continued Mr. H., result clearly that, in considering the accommodation with Great Britain, and how far the terms of it ought to meet our approbation, the advantages which it gave us in settling our other differences ought to be taken into view? And, for this purpose, will it not be necessary to consider all the Treaties, and inquire into their mutual relations and connexion? Might it not appear that, even if the terms of that Treaty were less advantageous in themselves, it was proper to accept them, on account of the embarrassing circumstances under which it was made, and the additional weight which it enabled us to give to other negotiations? Could there be any doubt that this Treaty with Great Britain had facilitated our arrangements with the other Powers? Had our dispute with her continued, who could say that we should not still have been engaged in the Indian war—that we should have had a peace with the Algerines, or been able to bring Spain to terms so advantageous? Had we failed to settle our differences with Spain, or especially with Algiers, by Treaty, we might, and probably should have been obliged, to resort to force; and, in that case, how would all our operations have been embarrassed! how would all our efforts have been divided and weakened by a dispute with a formidable and hostile nation in another quarter, which possessed the means of raising up so many enemies against us, and might so easily bring a great force to act against the weakest part of our country! But, by removing this power out of the way, we were left free to act with undivided force in other directions. Was it not, then, an object of great importance to terminate our dispute with this Power, admitting that some sacrifices of immediate interest were made in the negotiation?

What individual, he asked, engaged with four antagonists, would not wish, by any means in his power, to get the most mischievous and formidable of the four off his hands, in order to cope the more effectually with the rest? If this idea was just, the stipulations of all the Treaties ought to be viewed together, and the advantages of some ought to be balanced against any disadvantages which might appear in another. In order to do this the whole subject ought to be discussed in one resolution, though they might be separated, and no doubt would be, upon the call of any member, on taking the question. It was on this account he had brought forward the joint resolution at first. If these reasonings had not the same weight with the Committee which they had with him, they would, no doubt, amend the resolution in the manner now proposed; but he should vote for taking up the whole subject together, because he thought it ought to be jointly considered, and

should therefore be against the present amendment.

Mr. Buck said, the proposed amendment was to separate the Treaties, and to take up one at a time. The question was, which ought to have the preference? He thought the British Treaty ought to have the preference. The reasons to support this opinion were founded upon the shortness of time there was betwixt the present period and the first of June. It was stated that this was the only Treaty about which there was likely to be any dispute. This was the only reason for deferring it, as he believed the reasons offered by the gentleman from Pennsylvania for taking up the Spanish Treaty would not influence the Committee at large. If the British Treaty was likely to consume a good deal of time in the discussion, it was the more necessary it should be immediately entered upon, because it would be necessary, before the posts were given up, to make some previous arrangements with the Governor of Canada, with respect to the posts.

What was now, he said, the situation of the Treaty? After having spent four or five weeks in settling the rights of that House with respect to Treaties; after a long and solemn debate, they had agreed upon a resolution, that they had a Constitutional right to judge upon the merits of Treaties before they carried them into effect, and that they had a Constitutional right to the papers of a negotiation, which resolutions they had caused to be inserted upon their Journals. This was all they had done, after a sitting of three months, with respect to the British Treaty; he presumed that House would be consistent in their measures, and if they were, he presumed further measures would be taken to obtain those papers, and it was time to know what those measures would be. It was time that the President knew if the application was to be renewed, that he might be considering the matter. Mr. B. said, had he been with the majority, had he believed the House possessed a Constitutional right to the papers, he should, long before this, have brought forward a motion for the appointment of a committee to wait on the President with the resolutions expressive of the Constitutional rights of the House, and to renew the application for the papers; and if the President still refused, if the House acted consistent they would then adopt effectual measures to obtain them. He presumed some measure of this kind was to be brought forward, and if so, he wished it to be immediately done, for it was high time that all preliminary steps were settled.

For, if this was not now done, when should they get through the business? Not this session. Yet it is urged, that, because this Treaty will take up time in discussion, the Spanish Treaty, to which there will be no objection, ought to be taken up. He believed there would be no objection to it. He presumed every gentleman was ready to pass upon it. But this was not sufficient reason for them to proceed to it, in preference, because, if that argument was good, they ought to go through all the business before them, which was not likely to undergo much discussion, before they entered upon the British Treaty.

He could have wished that they might have gone into the consideration of that Treaty early in the session. Mr. B. said he was satisfied in his own mind that that Treaty ought to be carried into effect; but, though he had this bias on his mind at present, if gentlemen could show it to be so replete with mischief as it had been represented, he would join them in voting against it, not because he believed the House had a Constitutional right to judge of the expediency or merits of a Treaty, but he should vote against it upon revolutionary principles; for there was a possible point to which the constituted authorities might go that would make opposition a virtue. It was possible that the Legislature might pass a law which could not be said to be unconstitutional, and yet be so wickedly oppressive, as that the people might be justified in opposing it, and in preventing its execution; so it might be in respect to a Treaty; and, said Mr. B., if the British Treaty is half as bad as has been represented, and I can be convinced of it, I shall certainly vote against its execution; but, if they were to put it off until all other business was gone through that they were agreed in, they should never get to that question. As he perceived, however, that they were going into a lengthy discussion upon mere preliminary points about modes and forms, he could wish the British Treaty might be struck out of the resolution, and that they might pass upon the others, which he believed they were all ready to do, and then the British Treaty might be taken up by itself; he therefore made a motion to that effect.

Mr. Sedgwick said that, when he made the motion, yesterday, he had no intention to embarrass the Committee. That, although his motion was perfectly in order, was made relative to subjects immediately before the Committee, and was capable of any amendment or alteration which their pleasure should direct; yet, while he was laying that motion on the table, and before he was able to resume his seat, he was attacked by a succession of observations, made by different gentlemen, and with an indecency and warmth that he never before had witnessed in that House, nor in any other popular assembly of which he had been a member; nor, except in one Representative body, had he ever heard of such irregularities. The object of the motion was to unite all the Treaties, and to provide for their execution according to their respective stipulations. Believing, as he did, that good faith equally required a provision for all, and determined, as he was to give his aid for their provision, he knew no reason why this should be done separately. Believing as he did, he would not consent to a separation, nor, if such separation should take place, could he consent to the precedence of that Treaty, which should accommodate the smallest number of inhabitants, to that which was most interesting to the great body of our fellow-citizens. If the majority thought differently from him, there was nothing in the motion, he had the honor to submit, which could compel them to act contrary to their own opinion.

He did believe that no time was unnecessarily to be consumed in bringing this subject to an ultimate conclusion. But, if he concurred in opinion with those who held that the House was perfectly at liberty to make or to withhold provision, he would tell gentlemen that the Spanish Treaty contained more than merely opening the Mississippi—it contained an alliance offensive or defensive. He did not, however, believe that there existed with any gentleman an intention to obstruct a provision for any of the Treaties except the British. He wished the same good disposition respecting that, for he, in fact, thought it more interesting to the United States than all the rest.

It had been his earnest wish that the important subject of the British Treaty now before the Committee, might have received a full discussion, by the Representatives of the people; because he believed such discussion would have afforded the most complete demonstration to the people of America, and, he flattered himself, to a majority of those Representatives, that the objection to it was ill founded. That in it Great Britain had made concessions to this country, which she never had to any other. That those concessions were of great value, and that none of our grants were made, but for valuable considerations. That, if a discussion should fail to produce a conviction of these truths, he had a confident reliance, and he hoped the result of our reflections would show that it was not ill founded, that a spirit of accommodation and mutual concession would produce a consent to make the experiment which the Treaty proposed. An experiment of two years, which could not, even in the view of the warmest enthusiasm, be attended with any considerable sacrifices. But this wish must be abandoned. If, indeed, it was true, as had been holden, that the House must co-operate in the Treaty before it had validity, then, until such co-operation, it was not binding on this country, and if not on this, then not on the other contracting party. The first act to be done under the Treaty, was the delivery of the posts. Previous to that act, preliminary arrangements must be made, and the time necessary for that purpose must not be consumed in a war of words. He was, therefore, compelled, as he viewed the subject, to abandon the earnest desire he had fully to discuss the merits and demerits of the Treaty, but, under this misfortune, he had consolation in the reflection, that the whole subject was before an intelligent public, and there, under the circumstances, he was willing to leave it.

It might be proper, at this awful crisis of the affairs of our country, the most interesting to a benevolent and patriotic mind that possibly could be presented, to hint, and he would do it very concisely, at those circumstances which ought to produce union and concord.

Remove those causes which threaten our peace from without, harmonize the several branches of our Government, dispel discord from the public councils, and repose confidence where it was due, and the materials of enjoyment in this country were more and greater, and more within the reach of the great body of the people, than ever had been the case in any age or country. To perpetuate and improve such a scene of human happiness, much of the passion and of prejudice which might threaten its existence, should be subdued. He hoped we should not, at this early stage, blast those fair prospects, which were unfolding to cheer the hearts of the friends of mankind, and the lovers of rational freedom.

To deny a provision, as he feared was in the contemplation of some, he hoped not a majority of this House, was to set the branches of Government at war with each other, and in such a state as to prevent the benefits which would result from its harmonious administration, benefits which were of too great importance lightly to be destroyed. This Government had done more to advance human happiness than any which ever existed. At its commencement we had fully experienced the effects of a Government of persuasion only. The reputation we had acquired by our glorious and successful struggle for freedom was annihilated. Confidence in individuals was destroyed, because the aid of Government was not afforded to the support of private credit. States were become the rivals of each other, and Legislative hostility was not only declared but prosecuted, between them, with rigor. The people burdened with taxes, and universally complaining of their weight; yet, the interest of the Debt which was accumulated and unpaid, amounted nearly to one-half of the principal. Behold, now, said he, the glorious reverse. Credit, public and private, was restored; manufactures instituted and extended; our navigation immensely increased; our weight in the great political scale felt and acknowledged; foreign trade doubled, while domestic commerce was quadrupled. At the time that the protection of the frontiers alone, had cost more annually than the contributions to the Treasury under the Old Government, the finances had been so arranged, that the accumulation of debt had been stopped, and a foundation laid, he trusted, for its final discharge; while so judicious or fortunate had been the imposition of burdens, that there existed no just cause for clamor or complaint. But what was infinitely more soothing to the honest and honorable pride of a real American was, the re-acquisition of character; the American name was again held in respect, and as well the administration as the form of our Government were quoted by men of enlarged and enlightened minds as examples for imitation. Our citizens were happy, contented, and prosperous, and advancing, with unexampled progress in everything which rendered them respectable. The beneficent progress of such a Government, surely, ought not, for light or trivial causes, to be disturbed.

To lay a secure foundation, to perpetuate this happy scene, it had been necessary to adjust all those causes of contention which threatened our tranquility from abroad. This was done by the several Treaties which the watchful guardianship of the President, during the last year, had brought to a happy conclusion. That with the Indians

had arrested the progress of savage barbarity, and staid the effusion of the blood of our frontier brethren. That with Spain had provided the means of accommodation, and an advancement in wealth, happiness, and increased civilization to the people of the West; and was an instance of enlightened magnanimity, by which the Atlantic States, to their own prejudice, would voluntarily sacrifice benefits, to the happiness of a small part of their country. That with Algiers had unchained our citizens, held in miserable and savage slavery, and opened a prospect of immense extent of profitable commerce. That with Great Britain was intended to heal wounds, which otherwise threatened much evil. The causes of complaint between the two countries were of such a nature, of such continuance, had produced so much irritation and resentment, that there remained no alternative but war or amicable adjustment. In this situation, under the instructions of the wisest of statesmen, who had given the highest evidence that he loved his country and knew its interests; negotiated by a man who had also given decisive evidence of ability and integrity in negotiation; and approved by Senators who had, and still did, enjoy the confidence of their country, a negotiation had been made. This Treaty, he thought, had merits, and that every part of it could be vindicated. It had, indeed, been vindicated, for, although the objections to it had been a thousand times repeated, yet they had been as often satisfactorily answered, so satisfactorily, that, if there ever was a public opinion well known, it was, that this Treaty ought to be executed with good faith.

In this situation, then, did it not become the highest duty of the guardians of the public happiness to sacrifice passion and resentment, to cultivate temperate forbearance and moderation, to heal wounds which had been inflicted, and make an experiment which certainly would cost little; and would demonstrate whether the friends or enemies of the Treaty had judged most soundly of the merits or demerits? If, on the other hand, a provision was rejected, no man could foresee all the evils which would be produced—charges of wanton violation of the sacredness of Treaties—a divided and impassioned country—a Government whose essential departments were in a state of hostility, and to all this, added the desolating horrors of war.

He would not allow himself for a moment to hesitate; he never could believe that it was true as rumor had reported, and as seemed to have been declared by a gentleman in that Committee, he never would believe that a majority of the Representatives would assume the mighty weight of responsibility which such conduct would impose. They would not give countenance to the malign predictions of the enemies of Republican Government, that we should add to the number of sad examples to prove that no people have the temper, the moderation, and the virtue, necessary to self-Government. That the strong passions of man can only be controlled by artificial arrangements, independent of the mass of the people. But, on the other hand, he would confidently hope that the issue of our deliberations would be productive of the measures necessary to secure the peace, honor, and tranquility of our country.

Mr. Corr hoped gentlemen would not take up so much time in preliminary discussion. He could not see any impropriety in the present question. He saw no material difference, whether they took up one Treaty or another. He believed that, before now, they should have gone through three of them, if they had begun the business, instead of debating about what they should do. The British Treaty appeared most important, but he did not think it of much importance which was taken up.

Mr. Buck rose to know whether his amendment of the motion was in order.

Mr. Gallatin said, he did not make the motion, but seconded it. He would not consent to leave the Algiers Treaty, and to strike out the British Treaty alone, because, if this question was carried, he meant to make another motion to strike out the Indian Treaty, merely to establish the principle, that they were to take one by one—a decision which he thought had been made yesterday. He expected that the only intention of introducing the words "the Treaty," instead of "the Treaties," was to establish the principle of taking the Treaties up separately; yet, after this principle had been established, the gentleman from South Carolina [Mr. Harper] had entered into a long discussion on blending them together; and the gentleman from Massachusetts, [Mr. Sedgwick,] to show the impropriety of carrying into effect the British Treaty. He was in favor of first taking up the Spanish Treaty; but rather than have lost two days in debating on the subject, he would have taken up any other; but, as the time had been lost, he hoped the Spanish Treaty would be taken up first, because he did not think any of the reasons urged against taking it up had any weight.

It was said that it was necessary to take up the British Treaty, because immediate provision was necessary in order to take possession of the posts now occupied by the British; but he knew of no such provision which was to be made. They had already appropriated money for the Military Establishment; and it was seen, every year, that large contracts were made to deliver stores at any place where they should be required. This was an Executive matter which did not depend on them. If the Executive, who had already named the Commissioners to be appointed in conformity to the Treaty chose to take possession of the posts, (which they had a right to do under the Treaty of Peace,) he would vote for any additional appropriation for the purpose.

The discussion on the Spanish Treaty would be short, for it was a counterpart of the British, and contained no conditions but such as were both liberal and highly advantageous to all parts of the United States. It was true that the part of the country he represented was more immediately benefited by it, and it was a reason why he felt himself more interested in that than any other of the Treaties; but allowing that reason not to have any weight with the other members of the House,

yet the consideration of the Spanish Treaty being consonant with the opinion of all, would, he hoped, influence them to take it up first, as it would be attended with no debate, and no time could be lost by doing it. But there were additional reasons which weighed with him. It had been declared, that if the British Treaty was not carried into effect, gentlemen would be justified in voting against the other Treaties. He wished, therefore, to bring those gentlemen to a vote on the Spanish Treaty, before a decision was had on the other, and see whether they would refuse to vote for it. For this reason, he should move to strike out also the words "and with the Indian tribes West of the river Ohio," which would leave the Spanish Treaty alone in the resolution. He would wish to accommodate the gentleman from Vermont; but, as to himself, he could not consent that the Treaties should be taken up together. The vote of the Committee would determine which of the Treaties should be taken up first.

Mr. Giles did not intend to have said one word more in this preliminary discussion, if a waste of time had not been imputed to those who were in favor of considering the Treaties separately. Whereas, if the Treaties had been suffered to have been considered distinctly, as was proposed, three of them would have been decided in one-fifth of the time which had been spent in debating upon the manner of considering the subject. The gentleman from Massachusetts [Mr. Sedgwick] had said that he did not mean to embarrass the Committee by bringing forward his resolution in the way he had done, and that he had done no more than was done by the gentleman from North Carolina [Mr. Blount] a few days ago. Mr. G. would say nothing as to the intention of the gentleman, but it must be admitted that embarrassment was the result of his conduct. In the other respect he was also mistaken, for that gentleman permitted the Chairman to be seated, and to read the papers before the Committee, previous to the introduction of his motion, but the gentleman from Massachusetts had brought forward his motion before the Chairman had opened the subject at all.

The gentleman very gravely reminds gentlemen of their warmth. Mr. G. declared he had not been at all agitated; and he was inclined to think it was the gentleman's own irritability which led him to think others were intemperate.

Gentlemen had talked of responsibility on this subject. He looked upon himself as responsible upon every occasion; and he invited responsibility upon this and every other question. He was constituted an agent for certain purposes, which he was to execute to the best of his ability. If he did not do this, his constituents would have just cause of complaint.

He did not mean to follow the example of the gentleman from Massachusetts, in going into the merits of the Treaty at present. When it came before the Committee he should state as concisely as possible the motives which would actuate his vote on the subject. To reply to all the remarks of the gentleman, with respect to the happiness and prosperity of the nation, would be equally out of order. He trusted all the Treaties would be separately considered. For this purpose, he hoped the question on striking out would be immediately taken, that they might go to business.

Three several motions were put and carried for striking out—"with the Dey and Regency of Algiers," "with the King of Great Britain," and "with certain Indian tribes."

Mr. Gallatin then moved to strike out the words, "provision ought to be made by law," as the expression seemed to imply that they were not at liberty to pass or not to pass laws or carry the Treaties into effect. He proposed to introduce, instead of the above words, those used in the resolution declaratory of their opinion upon the Journals, viz: "it is the opinion of this Committee that it is expedient to pass the laws necessary."

Mr. Dayton (the Speaker) objected to the amendment as unnecessary. The phraseology of the resolution was the same with that used on all similar occasions. He called upon gentlemen to look into the Journals, and they would find the words were the customary words used. Why, then, carp at this form? It would be impeaching their former proceedings. Do not let it be said, added he, that by such a form of words they left to themselves no discretion.

Mr. Gilbert wished to abide by the usual form.

Mr. Giles did not think the words had any binding influence; but this was the first precedent with respect to Treaties, and it would be as well to adopt the words which they had used in their declaration entered upon their Journals.

Mr. Williams thought they ought to vote for the amendment, because it was new.

Mr. Harper opposed the amendment, and said, if it was carried, when it came into the House he should move to have the form restored, and call for the yeas and nays upon the question.

The question was put, and carried, 48 to 40.

Mr. Gallatin wished to know of the mover of the resolution what was the meaning of carrying a Treaty into effect with bad faith? For if it could not be carried into effect with bad faith, he thought it unnecessary to say it should be carried into effect with good faith, and should move to strike out the words.

Mr. Sedgwick said, he could not explain what it was to carry a Treaty into effect with bad faith; he knew what it was to carry a Treaty into effect with good faith, but left the gentleman who made the inquiry to discover the reverse.

Mr. Tracy said, if no faith was pledged, then the words ought to be struck out.

The question was put for striking out the words, and carried; and the resolution for carrying the Spanish Treaty into effect being before the Committee,

Mr. Goodhue said, he did not mean to oppose the resolution for carrying into effect the Spanish Treaty, but wished to inform the Committee, and particularly those who have held up this idea, that whenever a Treaty provides an arrangement, running counter to an existing law, it becomes ne-

cessary, in order to give such arrangement validity, that a repealing law should be made: that, in the tenth article of the Spanish Treaty, it is stipulated that any goods on board a Spanish ship which may be wrecked on our coast, shall not be subject to the payment of any greater dues or duties than they would be in a like case on board of an American vessel, which is annulling our revenue laws in this respect, which requires the payment of ten per cent. more. He mentioned this only to remind those gentlemen who had held up this idea as intended to operate relative to the British Treaty, that if it be necessary in the one case, it must be in the other, and not that he held any such opinion, for he believed a Treaty was a law of the land, without any interference of theirs to make it so.

Mr. Swanwick said, he would beg leave to detain the Committee whilst he made a few observations upon the Spanish Treaty. At the same time that that Treaty removed all cause of difference between the United State and Spain, it did not shackle their commerce with respect to Spain; it had not stipulated any particular regulation with respect to the ships of either country, but left to each country its own regulations. When the Treaty was negotiated, it was well known that all those States in the Union which grow wheat, corn, &c., would turn their eyes to the settlements of Spain, as opening a ready market for their produce. It might have been thought the policy of Spain to have yielded up her markets on unfavorable conditions, but she admitted us in her ports on the same terms as other nations.

He had always considered Spain as liberal with respect to commerce, because, although she may shut us out of the Havana, still, by a circuitous course, we supplied their West India settlements in time of peace; and it was a commerce that always brought freight with it. If Spain had been actuated by a narrow policy, she might have stipulated it to them on disadvantageous terms, or loaded our ships with restrictions to countervail those upon her. No such terms are, however, to be found in the Treaty. Trade is by it left as it ought to be, in a great measure, to regulate itself.

The great article, that neutral ships make neutral goods, was recognised in this Treaty. What greater advantage was it possible for Spain to confer? It was even an article of the Treaty that articles of sustenance should never be considered as contraband. Honorable regulations for both countries! How happy would it be for the countries in Europe, if the same regulations were everywhere made! There would then be no necessity for offering bounties on provisions; for the greatest bounty was to let commerce be perfectly free, and to shackle or restrain it, was the greatest misfortune that could befal those even who imposed such restraints. He had always considered the free circulation of the necessary provisions of life not only as a great blessing, but as essential to the welfare of the human race; and as this was attended to in the Treaty with Spain, he delighted to dwell upon it. What had she said on the subject of cordage, iron, pitch, turpentine, &c.? Had she said that these valuable articles of ours should not be carried in time of war, but be deemed contraband? No. How magnanimous was it in that nation, that they were not afraid of our supplying their enemies with these articles in time of war! They discarded that narrow policy which had been embraced by other nations. Rightly had the Secretary of State of Spain been called the Prince of Peace. He not only opened the sea to us, but, also, the noble river of the Mississippi, which a barbarous policy had long kept shut against us. But did Spain stop here? No; she knew that it would be necessary we should have a depot in the river for our produce, and she has said that depot shall be her own city of New Orleans, without laying either a tonnage on vessels or a duty upon goods. All she requires is simply payment for storage of the goods. The consequence will be, as is most frequently the case, that her liberality will itself reward her, for the town of New Orleans will probably become the emporium of the Western world.

Spain had also taken great pains with respect to fixing the boundaries, so as to preserve peace with the Indians, and to prevent those injuries to which they had been heretofore too much subject.

There was one article in the Treaty particularly favorable to the merchants of this country. It was well known that heretofore there were often heavy embargoes on their ships in Spanish ports, which sometimes detained them a considerable time, to their great inconvenience. In future no embargo was to be applied to them.

Here, said Mr. S., is a list of advantages. But what were they to give in return? Embargoes were not to apply to Spanish ships when in this country; but these seldom occurring here, were nothing in comparison to the advantages obtained. It had happened heretofore, very unfortunately for our merchants, that some of their vessels had fallen into the hands of Spanish privateers. That nation was too magnanimous to countenance such proceedings; she comes forward and says she will make good the losses without stipulating any return of advantage. She might have contrived to set off against this claim. When they considered the importance of a friendly understanding with this nation; that she was the third maritime nation in Europe, having seventy ships of the line, besides a considerable number of frigates, and that their territory on this Continent joined us, he trusted they should always cultivate her friendship. He gave a preference, in taking it up, to the Treaty with this Power, to any he had lately laid before us, because he saw on the face of it a liberal and enlightened policy, favorable to this country.

He did not intend to take up a much longer time of the Committee. There had lately, he said, a considerable change taken place in the politics of Spain. The Prince of Peace had been so fortunate as to effect a general pacification for his country, and they were, perhaps, about to become mediators in the affairs of Europe; nor

should he be surprised if she had at present the means of dictating terms to the maritime Powers, by throwing the weight of her forces in either scale. Should they, then, think for a moment on a rejection of this Treaty, because there might be difficulties as to that with England? He hoped not. Spain may be of great service to this country. Every one knows the interest which she has with the Dey and Regency of Algiers, and her neighborhood to that Power. If a time should come when they should find themselves obliged to send their frigates into the Mediterranean, where could they find so convenient a port for them to put into as Cadiz? It would be beneficial in every point of view to keep friends with that country. Considering all these circumstances, he hoped gentlemen would consider twice before they determined to reject the Spanish Treaty. He could not refrain, on this occasion, from giving the praise which he thought due to the contracting Powers.

Mr. Dayton rose to request a vote might be taken upon the question, as he doubted not gentlemen had formed their opinion upon the Treaty before them; and, if every gentleman in the Committee was to rise and speak as greatly at length as the gentleman who had just sat down, they would not have the question put for several weeks.

Mr. Harper said he did not rise to question the goodness of the Treaty, nor the pacific intentions of the Prince of Peace; but to say that the gentleman from Pennsylvania had certainly misunderstood what had been said in that Committee, when he stated that any one had proposed to reject the Spanish Treaty. Several gentlemen, it was true, had said, that if the British Treaty was rejected they might reject others. But did any one think that the members of that House were like angry children, and because they could not get all they wanted they would not have a part? He should vote for the Spanish Treaty, as he intended to vote for all the others.

The motion was put and carried.

Mr. Hillhouse wished to bring forward the resolutions which he had before proposed, excepting the Spanish Treaty, which had just been carried. They were read.

Mr. Giles wished the phraseology to be altered so as to correspond with the resolution already passed: which was agreed to.

The resolutions for carrying into effect the Treaties with the Indian tribes, and with the Dey and Regency of Algiers, were severally put and carried.

TREATY WITH GREAT BRITAIN.

The resolution for carrying into effect the Treaty with Great Britain having been read—

Mr. Maclay rose and said he meant to oppose the resolution. He would make a few observations as to the reasons which had induced him to disagree to the present proposition, and to offer another in lieu of it. When the question of the British Treaty had been indirectly brought forward, he had attended with great patience to the arguments for and against the question then agitated. And here he must confess that, previous to that discussion, he was rather inclined in favor of the Treaty; he thought there was nothing in it which would warrant the outcries made against it, but that the opposition to it might have been raised by sinister motives, and that the people had not had proper information on the subject. In the meantime he endeavored to search for himself, and to gain all the information he was able to obtain on the subject; the result left an unfavorable impression upon his mind. It appeared to him that the Treaty did not give satisfaction for past injuries; that it did not provide for the loss of negroes; it did not assure recompense for spoliations on their commerce; nor did it propose to deliver up the posts in the condition in which they were to have been delivered up by the Treaty of Peace. It appeared that they might become charged with debts which they did not owe. It appeared to afford no security for the future, and decided the question of neutral vessels making neutral goods, against them. It appeared to take away their best weapon of self-defence, by narrowing the power of that House with respect to sequestration of debts, to operate against the interests of the United States.

Under this conviction, he turned his mind to the consideration of the situation in which the House of Representatives stood, and the duties which they lay under. Their duties seemed to divide themselves into two classes: first, the complete Legislative power of the country; the other, those special duties in which they stood related to the people as their Representatives. In considering these duties he should not trespass much upon the time of the Committee by going into detail. It seemed evidently to be one of their duties to guard against the encroachments which might be made by the Executive on the rights of the people. The necessity of such a guard would be apparent whenever they looked into the Governments of Europe, where it would always be found that the Executive was inclined, by gradual steps, to encroach upon the Legislative authority. This being the special duty of the House of Representatives, it was one that could not be dispensed with. With respect to the present Treaty, a part of the people consider that the Legislative rights of that House have been encroached upon. The petitions on the table, from persons in different parts of the Union, were to this effect.

In that situation stood the House at that moment. They had, in order to ground their deliberations, and to form their judgment, called for information from the President. That information had been denied to them; they were left to take their measures in the dark; or, in other words, they were called upon to act without information. These considerations induced him to offer a resolution in place of that now under consideration.

Mr. M. then submitted the following preamble and resolution;

"The House having taken into consideration the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, communicated by

the President in his Message of the first day of March last, are of opinion that it is in many respects highly injurious to the interests of the United States; yet, were they possessed of any information which could justify the great sacrifices contained in the Treaty, their sincere desire to cherish harmony and amicable intercourse with all nations, and their earnest wish to co-operate in hastening a final adjustment of the differences subsisting between the United States and Great Britain, might have induced them to waive their objection to the Treaty; but, when they contemplate the conduct of Great Britain, in persevering, since the Treaty was signed, in the impressment of American seamen and the seizure of American vessels, (laden with provisions,) contrary to the clearest rights of neutral nations; whether this be viewed as the construction meant to be given to any articles in the Treaty, or as contrary to and an infraction of the true meaning and spirit thereof, the House cannot but regard it as incumbent on them, in fidelity to the trust reposed in them, to forbear, under such circumstances, taking at present any active measures on the subject: Therefore,

"*Resolved*, That, under the circumstances aforesaid, and with such information as the House possess, it is not expedient at this time to concur in passing the laws necessary for carrying the said Treaty into effect."

Mr. Giles wished the resolution just read might be printed for the use of the members, together with the one they were then considering. He moved that it be laid on the table.

Mr. Henderson said that the paper last read could not be laid on the table until the former resolution was disposed of.

Mr. Giles moved that the Committee rise, in order to get rid of the resolution. He meant, he said, to make some remarks upon the British Treaty, but not expecting that an opportunity would be given to-day of speaking to the subject, he was not prepared to enter upon it.

Mr. Maclay withdrew his motion, on being informed he might bring it forward in the House.

Mr. Buck said, it appeared to him time that all the preliminary questions were settled, and he hoped it would be settled, before the Committee rose, what should be done with the resolution which had been read. He thought it was consistent with the doctrine which was wished to be established. He was persuaded that every gentleman had made up his mind on the subject, and if they debated for three weeks no change of opinion could take place; he wished, therefore, they might determine whether the proposed resolution should be taken up.

Mr. Jeremiah Smith said, the paper which had been read by the member from Pennsylvania [Mr. Maclay] was certainly not in order. He had no objection, however, to its being laid upon the table and ordered to be printed; still he believed it proper that the discussion which might take place should be on the resolution before the Committee, as that was the proper question. For his own part he should be against a discussion upon the British Treaty being gone into. It was his wish to take the question then; but if gentlemen desired to go into the discussion he was willing to give them an opportunity.

Mr. Hillhouse said the resolution might be brought forward in the House and referred to the Committee, and then if members wished to have the gentleman's [Mr. Maclay's] resolution in their hands it might be printed.

Mr. Giles agreed with the gentleman from Connecticut. Those who were opposed to the Treaty wished to have the resolution which had been proposed in their hands. If gentlemen were ready to speak to the merits of the Treaty, he would have them proceed; if not, he hoped the Committee would rise.

Mr. Bourne hoped the Committee would not rise. The resolution of the gentleman from Pennsylvania was exactly the reverse of the resolution on the table. Ought a delay, he asked, to take place on a subject of such importance? Gentlemen say they wish to have an opportunity of speaking; but to what purpose? Was there a member of the Committee who was not decided? If there was one member in that Committee who would say he was not decided, he would not object to a debate taking place. But he believed that that was not the case, and that a three weeks' debate would not make the least alteration. They knew that the British Treaty had long been the subject of reflection of every member; for what purpose, then, defer a question which ought to be decided with celerity? He hoped, therefore, no further delay would take place, but that the question would be taken.

Mr. W. Lyman did not think the expediency or inexpediency of the British Treaty had been considered three weeks. The question which had been so fully discussed was on the powers of the House. How could it be said that the Treaty had had an ample discussion, or that no change of opinion would take place? Even the gentleman himself might think differently from what he then did, after a fair discussion of the question; and he believed it would be canvassed in a fairer and more ample manner than it had hitherto been considered. It was said the resolution offered by the gentleman from Pennsylvania was the reverse of the one now under consideration. The Committee, he said, could not be forced to discuss the question in any way they did not like. With respect to the preamble to the resolution, it was by no means new; it was a practice recommended by the greatest civilians: it was a kind of window to the subject. He hoped the Committee would rise, as it was near the usual time of adjournment, and that the resolution would be printed.

Mr. Murray did not mean to enter into the merits of the Treaty, nor the resolution of the gentleman from Connecticut, [Mr. Hillhouse,] more than to say that it met his hearty concurrence. The resolution for the inexecution of the Treaty brought forward by the gentleman from Pennsylvania, [Mr. Maclay,] contained a proposition directly the reverse of the first. It was an issue joined. He believed that members were prepared to vote, and he wished the question to be taken. In this state of things it was extraordinary to him to hear the gentleman from Virginia move for the Committee to rise. Yesterday he had united with that gentleman in pushing on the

other Treaty questions; he now called upon that gentleman to manifest a similar disposition; for he would again say that the subject was completely understood both by the House and the country, and the time so extremely pressing that the execution of the Treaty was more valuable than any explanation which members could give. The country requires of us, at this crisis, acts and not speeches.

Mr. Giles believed this subject required some animadversion. He was yesterday desirous of settling the order of proceeding before they rose; but when the subject came before them, he expected some time would be spent upon it. He thought the public at large had a right to expect a full discussion of the subject. He was of opinion they ought not unnecessarily to occupy time. He only wished for an opportunity for the subject to be candidly argued. It was probable there might be a strong bias on the public mind, and he hoped discussion would have a good effect. He hoped a question already producing so much agitation, would be taken up and decided upon in a manner suitable to its importance. He thought it would not be treating the public mind with a sufficient degree of respect, to take a hasty vote upon the subject. He did not think that gentlemen in favor of the Treaty would have wished to have got rid of it in this way. He owned he could not discover those merits in the Treaty which other gentlemen cried up; but he pledged himself that if they will convince him that the Treaty was a good one, he would vote for it. He was desirous of knowing in what latent corner its good features lay, as he had not been able to find them. He thought he should be able to show features in it which were not calculated for the good, but for the mischief of this country. He hoped, therefore, the Committee would rise, and suffer a proper discussion to take place.

Mr. Tracy wished the Committee to rise. The gentleman from Virginia wished to deliver his sentiments on the occasion, and he wished to hear them. He was willing to give him time; for if he had the task upon him to prove the British Treaty as bad as it had been represented to be, he ought not to be hurried.

Mr. Holland was glad to hear that there were gentlemen in favor of the Treaty; at least, in favor of discussion.

Mr. Murray would vote for the Committee to rise, as he despaired of taking a vote or of hearing a word said to-day on the merits of the resolution offered. Gentlemen will, of course, come prepared, and he trusted that, however terrible the Treaty may have struck them in the dark, a little discussion might diminish their horrors. He could not, however, suppress his surprise that none of those—and especially the gentleman from Virginia [Mr. Giles]—who had entertained opinions hostile to the Treaty so long, should be at a loss to enter on its discussion with an eagerness proportioned to their zeal and conviction of its mighty faults. But the gentleman, it seems, has left his paints and brushes at home, and cannot now attempt, though the canvass is before him, to give us those features of the Treaty which have been so caricatured out of doors. Nay, the gentleman from North Carolina was not ready; and even the gentleman from Pennsylvania's promptitude failed him, and the promptest man certainly he was he had ever known. He would agree that the Committee should rise, hoping that the delay was an aversion to do mischief, and relying on the effects of a night's reflection. The pillow is the friend of conscience.

Mr. Page would not object, if gentlemen wished it, to the question being now taken, as this was not the place for taking a final decision; and those who had arguments on the subject which they wished to deliver, might deliver them in the House. It was true there would not be so much latitude allowed there as in Committee of the Whole; but there every member would have an opportunity of speaking twice, which would be at least enough for those who did not mean to speak at all.

The Committee rose, and had leave to sit again.

Mr. Maclay wished to lay the resolution which he had read in the Committee before the House. It was accordingly read, and referred to a Committee of the Whole on the state of the Union.

Mr. Gallatin moved that the resolutions which had been agreed to in the Committee of the Whole, might be taken up.

Mr. Jackson wished the yeas and nays to be taken upon them.

Mr. Sedgwick said, that having examined the Journal and found that the form which he first gave his resolution was the form which had been always used, and that the form it now bore was perfectly novel, he should move to have the original form restored to it.

Mr. Hartley hoped this amendment would prevail, and moved that the yeas and nays should be taken upon it. They were accordingly taken, and were—for it 37, against it 55, as follows:

Yeas.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge,

Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, John Richards, Robert Rutherford, Jno. S. Sherburne, Israel Smith, Thomas Spring, John Swanwick, Abraham Tatem, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

Mr. Jackson moved that the yeas and nays should be taken upon the resolutions for carrying into effect the Treaties. They were taken upon the Spanish Treaty; but every voice being in favor of it, the yeas and nays were dispensed with on the Indian Treaty, as that resolution seemed also to pass unanimously.

Mr. Christie making some objections to the resolution for carrying into effect the Treaty with Algiers, and some papers relative to it being confidential communications, and reported to a select committee, on motion, the House adjourned.

Friday, April 15.

Mr. Ariel Foster, from the committee to whom was referred the resolution respecting the expediency of preventing, for a limited time, the exportation from the United States of Indian corn or corn meal, rye or rye meal, made the following report, which was read and agreed to by the House:

"That in some parts of the United States, owing to an unfavorable season the last year, and other causes, there exists a scarcity of the articles mentioned in the resolution; but that generally there is a plentiful supply. That, notwithstanding the price of these articles are high, yet they do not generally exceed the present enhanced prices of labor and other articles; that recent information of the state of foreign markets in Europe and other countries, does not authorize the expectation of any considerable exportation of those articles from the United States; that many of the principal seaport towns appear to be well supplied with the articles in question, not only sufficient for their own consumption; but in such abundance as to be able to supply other parts of the United States, where a scarcity exists; and, from the information received by the committee, it is probable those markets will be resorted to, as affording a prospect of better prices than can be expected from foreign markets. The committee also find that merchant mills and stores in several parts of the interior country, are well supplied with very considerable quantities of the articles mentioned in the resolution, as well as with wheat and flour; that the prices of the latter have fallen very considerably within a short time past. The committee, therefore, beg leave to submit to the House the following resolution, viz:

"*Resolved*, That it is inexpedient to prohibit the exportation of Indian corn, corn meal, rye, or rye meal."

EXECUTION OF TREATIES.

The House took up, as next in the order of the day, the resolution for carrying into effect the Treaty lately concluded between the United States and the Dey and Regency of Algiers.

Mr. Swanwick said that one of his constituents had put into his hand this morning a letter from Captain William Penrose, at Algiers, dated January 4, 1796, by which it appeared that the American prisoners were not then released, but kept at hard labor there. Mr. S. read the letter.

Mr. Gallatin made three several motions for committees to be appointed to bring in a bill or bills for carrying each of the three Treaties agreed to into effect; all which were agreed to.

Mr. G. also presented a number of petitions from the Western country, signed by 328 persons, praying for the English and Spanish Treaties to be carried into effect.

THE TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union, when, having read the resolution for carrying the British Treaty into effect—

Mr. Buck rose, and wished the question to be taken upon Mr. Maclay's resolution. This was opposed by Mr. Madison and Mr. Hillhouse, and then Mr. Madison addressed the Chair as follows:

Mr. M. said, on a subject of such extent and importance, he should not attempt to go through all the observations that might be applicable to it. A general view of the subject was all that he meant at present. His omissions would be more than supplied by others who might enter into the discussion.

The proposition immediately before the Committee was, that the Treaty with Great Britain ought to be carried into effect by such provisions as depended on the House of Representatives. This was the point immediately in question. But it would be proper in examining it to keep in view also the proposition of the gentleman from Pennsylvania [Mr. Maclay] which had been referred to the Committee, and which would be taken up of course, if the immediate question should be decided in the negative.

If the proposition for carrying the Treaty into effect be agreed to, it must be from one of three considerations: either that the Legislature is bound by a Constitutional necessity to pass the requisite laws without examining the merits of the Treaty, or that, on such examination, the Treaty is deemed in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a bad Treaty.

The first consideration being excluded by the decision of the House, that they have a right to judge of the expediency or inexpediency of passing laws relative to Treaties; the question first to be examined must relate to the merits of the Treaty. He then proceeded to consider the Treaty under three aspects: first, as it related to the execution of the Treaty of Peace in 1783; secondly, as it determines the several points in the Law of Nations; thirdly, as it respects the commerce between the two nations.

First. He would not inquire on which side the blame lay, of having first violated the Treaty of 1783, or of having most contributed to delay its execution, although he did not shrink from the task under any apprehension that the result could be disadvantageous to this country. The Treaty

itself had waived this inquiry, and professed to adjust all controversies on this subject, without regard to the mutual complaints or pretensions of the parties. It was, therefore, justly and naturally to be expected, that the arrangements for carrying that Treaty into effect would have been founded in the most exact and scrupulous reciprocity. Was this the case? He was sorry, that on the contrary, the arrangements were founded on the grossest violation of that principle.

There were two articles which had not been executed by Great Britain; that which related to the negroes and other property carried away, and that which required a surrender of the posts. The article unexecuted by the United States was, that which required payment of all *bona fide* debts, according to the Treaty now in question: this article is now to be carried into the most complete effect by the United States, and damages to the last fraction are to be paid for the delay. Is there a reciprocal stipulation by Great Britain with respect to the articles unexecuted by her? Nothing like it. She is wholly absolved from the obligation to fulfil one of the articles, viz: that relating to the negroes, &c., and she is to make no compensation whatever for delaying to fulfil the other, viz: the surrender of the posts.

It had been urged in apology for those very unequal stipulations, that the injury resulting from a forbearance to surrender the posts, was not susceptible of any precise liquidation into pecuniary damages. However plausible this might appear, it was by no means satisfactory. Commissioners, such as were appointed, with full discretion for other purposes, might have been charged with this subject, and if they could not have done exact justice, might have mitigated the injustice of doing nothing.

Apologies had been attempted also for the very extraordinary abandonment of the compensation due for the negroes, &c. It was said to be at least doubtful whether this claim was authorized by the seventh article of the Treaty of Peace, and that Great Britain had uniformly denied the meaning put by the United States on that article. In reply he made two remarks. First, that it was not true that Great Britain had uniformly denied the American construction of that article; on the contrary, he believed, it could be proved, that till of late, Great Britain had uniformly admitted this construction, and had rejected the claim on no other ground than the alleged violation of the fourth article on the part of the United States.

But had it been true that Great Britain had uniformly asserted a different construction of the article, and refused to accede to ours, what ought to have been done? Ought we to have at once acceded to hers? By no means. Each party had an equal right to interpret the compact; and if they could not agree, they ought to have done in this what they did in other cases where they could not agree; that is, have referred the settlement of the meaning of the compact to an arbitration. To give up the claim altogether, was to admit, either that Great Britain had a better right than the United States to explain the controverted point, or that the United States had done something which in justice called for a sacrifice of their equal right.

It was evident, he thought, from this view of the subject, that the arrangements with respect to the Treaty of Peace were frequently wanting both in justice and reciprocity.

It would seem, from the face of the Treaty, and the order of the articles, that the compensation for the spoliations on our trade had been combined with the execution of the Treaty of Peace; and might therefore have been viewed as a substitute for the compensation for the negroes, &c. If this was the meaning of the instrument, it could not be the less obnoxious to reasonable and fair judges. No man was more thoroughly convinced than himself of the perfect justice, on which the claims of the merchants against Great Britain were founded, nor any one more desirous to see them fully indemnified. But compensation to them could never be a just substitute for the compensation due to others. It was impossible that any claims could be better founded than those of the sufferers under the seventh article of the Treaty of Peace; because they were supported by positive and acknowledged stipulation, as well as by equity and right. Just and strong as the claim of the merchants might be, and certainly were, the United States could not be obliged to take more care of them than of the claims equally just and strong of other citizens; much less to sacrifice to them the claims for property wrongfully carried off at the close of the war, and obtaining stipulations in favor of the mercantile claims, the mercantile claims had been relinquished, and the other claims provided for; he asked whether the complaints of the merchants would not have been as universal and as loud as they would have been just?

Besides the omissions in favor of Great Britain, already pointed out with respect to the execution of the Treaty of Peace, he observed, that conditions were annexed to the partial execution of it; in the surrender of the Western posts, which increased the general inequality of this part of the Treaty, and essentially affected the value of those objects.

The value of the posts to the United States was to be estimated by their influence. 1st, on the Indian trade; 2d, on the conduct and temper of the Indians towards the United States.

Their influence on the Indian trade depended principally on the exclusive command they gave to the several carrying places connected with the posts. These places were understood to be of such importance in this respect, that those who possessed them exclusively would have a monopoly, or nearly a monopoly, of the lucrative intercourse with a great part of the savage nations. Great Britain, having hitherto possessed these places exclusively, has possessed this advantage. It was expected that the exclusive transfer of them would transfer the advantage to the United States. By the Treaty now concluded, the carrying places are to be enjoyed in common, and it

will be determined by the respective advantages under which British and American traders will engage in the trade, which of them is to share most in it. In this point of view he thought the regulation highly impolitic and injurious. He would say little of the advantage which the British would have in their superior capital: that must be encountered in all our commercial rivalships. But there was another consideration which ought to have great weight on this subject. The goods imported for the Indian trade through Canada pay no duties. Those imported through the United States for that trade, will have paid duties from seven to ten per cent., and every one must see that a drawback is impracticable, or would be attended with an expense which the business would not bear. So far, then, as the importance of the posts is to be considered in a commercial view, they are, in a very great measure, stripped of it by the condition annexed to the surrender of them. Instead of a monopoly in our favor, the carrying places are made common under circumstances which may leave a monopoly in the hands of Great Britain. And this is done, too, by an article which is to last forever.

Second. The influence of the posts on the general conduct of the Indians, is well known to depend chiefly on their influence on the Indian trade. In proportion, therefore, as the condition annexed to the surrender of posts affects the one, it must affect the other. If the British should continue to enjoy the Indian trade, they would continue to influence the Indian conduct; if not in the same degree as heretofore, at least in so great a degree as to condemn the article in question.

He mentioned the permission to aliens to hold land in perpetuity as a very extraordinary feature in this part of the Treaty. He would not inquire how far this might be authorized by Constitutional principles. But he would continue to say, that no example of such a stipulation was to be found in any Treaty that ever was made, either where territory was ceded, or where it was acknowledged by one nation to another. Although it was common and right in such cases to make regulation in favor of the property of the inhabitants, yet he believed, that in every case that had ever happened, the owners of landed property were universally required to swear allegiance to the new sovereign, or to dispose of their landed property within a reasonable time.

He took notice also of the inequality of the stipulation which opened all the ports of the United States, as the condition of having those of an unimportant province of Great Britain opened in return.

With respect to the Mississippi he could not but consider the clause relating to it as being singularly reprehensible. Happily the adjustment of our claims with Spain had been brought about before any evil operation of the clause had been experienced. But the tendency of it, he thought, could not be doubted. It was the more remarkable, that this extension of the privileges of Great Britain on the Mississippi beyond those in the Treaty of Peace, should have been admitted into the new Treaty, because it is supposed by the Treaty itself, that Great Britain may be deprived, by her real boundary, of all pretensions to a share in the banks and waters of the Mississippi.

Secondly. With respect to the great points in the Law of Nations, comprehended in the stipulations of the Treaty, the same want of real reciprocity, and the same sacrifice of the interests of the United States, were conspicuous.

It was well known to have been a great and favorite object with the United States, "that free ships make free goods." They have established this principle in all their other Treaties. They have witnessed with anxiety the general effort, and the successful advances towards incorporating this principle into the Law of Nations; a principle friendly to all neutral nations, and particularly interesting to the United States. He knew that at a former period it had been conceded on the part of the United States that the Law of Nations stood as the present Treaty regulates it. But it did not follow that more than acquiescence in that doctrine was proper. There was an evident distinction between silently acquiescing in it, and giving it the support of a formal and positive stipulation. The former was all that could have been required, and the latter was more than ought to have been unnecessarily yielded.

In the enumeration of contraband articles, the Treaty was liable to similar observations. The circumstances and interests of the United States had given way to the particular views of the other party. The example in all other Treaties has been disregarded. Hemp, tar, pitch, turpentine, &c., important staples of this country, are, without even a pretext of reciprocity, subjected to confiscation. No nation which produced these articles had, he believed, Treaties at present making the same sacrifice, except Denmark, who, in the year 1780, had been induced, he knew not by what means, into an explanation of the Treaty of 1670, by which these articles are declared to be contraband. He observed, that this supplementary and explanatory agreement between Great Britain and Denmark appeared to have been the model selected for the contraband list in the Treaty now in question. The enumeration in the latter was transcribed, word for word, from the former, with a single exception, which might be thought remarkable. The article of *horses*, which was included in the original, was dropped in the copy. In this particular the article had departed from *Vattel* also, although in general the Treaty seemed to have availed itself wherever it readily could of his authority.

But, what was far more remarkable, the copy had proceeded just as far as answered the purposes of Great Britain, and stopped at the very point where the original would have answered the just and essential purposes of the United States. After enumerating the articles to be deemed contraband, the Danish article goes on in the words following, viz: "But it is expressly declared that among contraband merchandises shall not be comprehended fish and meats, whether fresh or salted

wheat, flour, corn, or other grain, beans, oil, wine, and generally whatever serves for the nourishment and support of life, all of which may at all times be sold and transported like any other merchandises, even to places held by an enemy of the two Crowns, provided they be not besieged or blockaded."

This view of the subject naturally led him to take notice of the clause in the British Treaty relating to provisions; which, to say the least, wore an ambiguous countenance that was extremely disagreeable, or which rather seemed to carry a necessary implication that provision, though not bound to besieged or blockaded places, might, according to the existing Law of Nations, be regarded as contraband. According to the genuine Law of Nations, no articles which are not expressly and generally contraband, are so, except in the single case of their going to a besieged place; yet it is admitted in the Treaty that there are other cases when provisions may be contraband, whence the implication results, that one of the cases might be that which had been assumed and put in force by Great Britain in relation to the United States. The little cases which might be devised as appurtenant to the law which condemns what is bound to blockaded places, cannot satisfy the import of the stipulation, because such cases cannot be presumed to have been in the contemplation of the parties. And if the particular case of provisions bound to a country at war, although not to a besieged place, was not meant to be one of the cases of contraband, according to the existing Law of Nations, how necessary was it to have said so; and how easy and natural would that course have been, with the Danish example on the subject before their eyes?

On the supposition that provisions in our own vessels bound to countries at war with Great Britain, can be now seized by her for her own use, on the condition stipulated, this feature of the Treaty presents itself in a very serious light, indeed, especially if the doctrine be resorted to as laid down by the Executive, in the letter of the then Secretary of State [Mr. Jefferson] to Mr. Pinckney, on the 7th September, 1793. This letter is a comment on the British instructions of June 8, 1793, for seizing neutral provisions. After stating the measure as a flagrant breach of the Law of Nations, and as ruinous to our commerce and agriculture, it has the following paragraph: "This act, too, tends directly to draw us from that state of peace in which we are wishing to remain. It is an essential character of neutrality to furnish no aids not stipulated by Treaty," that is, said Mr. M., by a Treaty made before the war, "to one party which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which must lead to war; and between restraining it ourselves and permitting her enemies to restrain it unrightfully is no difference. She would consider this as a mere pretext, of which she would not be the dupe; and on what honorable ground could we otherwise explain it? Thus we should see ourselves plunged, by this unauthorized act of Great Britain, into a war with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties will enable us to avoid it." He entreated the Committee to bestow on this interesting Executive document all the attention which it demanded.

The articles prohibiting sequestration was next considered by Mr. M. He said he should probably be among the last who would be disposed to resort to such an expedient for redress. But he could not approve of a perpetual and irrecoverable abandonment of a defensive weapon, the existence of which might render the use of it unnecessary. The situation of this country in relation to Great Britain was a peculiar one. As we had not fleets and armies to command a respect for our rights, we ought to keep in our hands all such means as our situation gave us. This article was another instance in which no regard was paid to reciprocity. British subjects, it was well known, had and were likely to have in this country a great deal of the property of the King made sacred. American citizens, it was as well known, had little, and were likely to have little of the kind in Great Britain. If a real reciprocity had been intended, why were not other kinds of private property, as vessels and their cargoes, equally protected against violation? These, even within the jurisdiction of Great Britain, are left open to seizure and sequestration, if Great Britain finds it expedient. And why was not property on the high seas under the protection of the Law of Nations, which is said to be a part of the law of the land, made secure by a like stipulation? This would have given a face of equality and reciprocity to the bargain. But nothing of the sort makes a part of it; where Great Britain had a particular interest at stake, the Treaty watchfully provides for it; when the United States have an equal interest at stake and equally entitled to protection, it is abandoned to all the dangers which it has experienced.

After taking this brief notice of the positive evils in this part of the Treaty, he might, he said add the various omissions which were chargeable on it. But as he should not pretend to exhaust the subject, he would mention one only: the not providing for the respect due to the exhibition of sea papers. He could not but regard this omission as truly extraordinary, when he observed that in almost every modern Treaty, and particularly all our other Treaties, an article on this subject was regularly inserted. Indeed, it had become almost an article of course in the Treaties of the present century.

Thirdly. The commercial articles of the Treaty presented the third aspect under which he was to consider it. In the free intercourse stipulated between the United States and Great Britain, it could not be pretended that any advantage was gained by the former. A Treaty was surely not necessary to induce Great Britain to receive our raw materials and to sell us her manufactures. On

the other hand, consider what was given up by the United States.

When the Government came into operation, it is well known that the American tonnage employed in the British trade bore the most inconsiderable proportion to the British tonnage. There being nothing on our side to counteract the influence of capital and other circumstances on the British side, that disproportion was the natural state of things. As some balance to the British advantages, and particularly that of her capital, our laws had made several regulations in favor of our shipping, among which was the important encouragement resulting from the difference of ten per cent. in the duties paid by American and foreign vessels. Under this encouragement the American tonnage has increased in a very respectable proportion to the British tonnage. Nor has Great Britain ever deemed it prudent to attempt any countervailing measures for her shipping, well knowing that we could easily keep up the differences by further measures on our side. But by the Treaty, she has reserved to herself the right to take such countervailing measures against our existing regulations; and we have surrendered our rights to pursue further defensive measures against the influence of her capital. It is justly to be apprehended, therefore, that under such a restoration of the former state of things, the American tonnage will relapse to its former disproportion to the British tonnage.

When he turned his attention to the West India branch of the subject, there was still greater cause for wonder and dissatisfaction. As the Treaty now stood, Great Britain was left as free as she ever had been to continue the entire monopoly of the intercourse to British vessels. Recollecting, as he did, and as every member of the Committee must do, the whole history of this subject from the peace of 1783, through every subsequent stage of our Independence down to the mission of the late Envoy, it was impossible for him to express his astonishment that any Treaty of Commerce should have ever been acceded to which abandoned the very object for which such a Treaty was ever contemplated. He never could have believed that the time was so near when all the principles, claims, and calculations, which have heretofore prevailed among all classes of people, in every part of the Union, on this interesting point, were to be so completely renounced. A Treaty of Commerce with Great Britain, excluding a reciprocity for our vessels in the West India trade, is a phenomenon which had filled him with more surprise than he knew how to express.

He might be told, perhaps, 1st. That Great Britain granted to no other nation the privilege granted to the United States of trading at all with her West Indies; and, 2dly. That this was an important relaxation of the Colony system established among the nations of Europe.

To the first, it was enough to reply, that no other nation bore the same relation to the West Indies, as the United States were essential to those Islands; and the trade with them had been permitted purely on that account, and not as a beneficial privilege to the United States.

To the second, that it was not true that the Colony system required an exclusion of foreign vessels from the carrying trade between the Colonies and foreign countries. On the contrary, the principle and practice of the Colony system were to prohibit, as much as would be convenient, all trade between the Colonies and foreign countries; but when such a trade was permitted at all as necessary for the Colonies, then to allow the vessels of such foreign countries a reciprocal right of being employed in the trade. Great Britain had accordingly restrained the trade of her Islands in this country as far as her interest in them would permit. But had she allowed our vessels their reciprocal right to carry on the trade so far as it was not restrained? No. Here she forced a monopoly in her own favor, contrary to justice, and contrary to the Colony system of every European nation having Colonies; which, without a single exception, never opens a trade between their Colonies and other countries without opening it equally to vessels on both sides. This is evidently nothing more than right and fair. A Colony is a part of an Empire. If a nation choose, they may prohibit all trade between a Colony and a foreign country, as they may between any other part of their dominions and a foreign country. But if they permit such a trade at all, it must be free to vessels on both sides as well in the case of Colonies as of any other parts of their dominions. Great Britain has the same right to prohibit foreign trade between London and the United States as between Jamaica and the United States; but if no such prohibition be made with respect to either, she is equally bound to allow foreign vessels a common right with her own in both. If Great Britain were to say that no trade whatever should be carried on between London and the United States, she would exercise a right which we could not complain of. If she were to say that no American vessel should be employed in the trade, it would produce just complaint, and justify a reciprocal regulation as to her vessels. The case of the trade from a port in the West Indies is precisely similar.

To place the omission of the Treaty to provide a reciprocity for our vessels in the West India trade in its true light, it would be proper to attend to another part of the Treaty, which tied up the hands of this country against every effort for making it the interest of Great Britain to yield to our reasonable claims.

He then pointed to the clause which restrains the United States from imposing prohibitions or duties in any case on Britain which did not extend to all other nations; observing that the clause made it impossible to operate on the unreasonable policy of that nation, without suspending our commerce at the same time with all other nations whose regulations with respect to us might be ever so favorable and satisfactory.

The fifteenth article had another extraordinary feature, which must strike every observer. In other Treaties, putting the parties on the footing

of the most favored nation, it was stipulated that where new favors were granted to a particular nation in return for favors received, the party claiming the new favor should pay the price of it. This was just and proper where the footing of the most favored nation is established at all. But this article gives to Great Britain the full benefit of all privileges that may be granted to any other nation, without requiring from her the same or equivalent privileges with those granted by such nation. Hence it would happen that if Spain, Portugal, or France, should open their Colonial ports to the United States in consideration of certain privileges in our trade, the same privileges would result gratis, and *ipso facto*, to Great Britain. He considered this stipulation as peculiarly impolitic, and that it could not fail, in the view of the Committee, to form a very solid and weighty objection to the Treaty.

He was not unaware of the stress that would be laid on the article relating to the East Indies. He should leave to others better acquainted than himself with this branch of the subject to explain it. He made two observations, however: one was, that judicious and well informed gentlemen, equally judicious and well informed with any who could be consulted, considered the article as offering not a shadow of advantage to the United States. The other was, that no privilege was stipulated which had not been uniformly heretofore granted without stipulation; and as the grant could have proceeded from no motive but a pure regard to the British interest in that country, there was every reasonable security that the trade would continue open as it had been, under the influence of the same consideration.

Such being the character of the Treaty, with respect to the execution of the Treaty of Peace, the great principles of the Law of Nations, and the regulations of commerce, it never could be viewed as having any claim to be carried into effect on its own account.

Was there, then, any considerations extraneous to the Treaty that could furnish the requisite motives? On this subject, he observed that the House was wholly without information. And for himself he was ready to declare that he had neither seen, nor known, nor heard, of any circumstances in the general posture of things, or in the particular relation of this country to them, that could account for the unequal and injurious arrangements which we were now called upon for laws to execute.

But there was something farther to be taken into the account. The continuance of the spoliations on our trade, and the impressment of our seamen, whether, as stated in the motion of the gentleman from Pennsylvania, [Mr. Maclay,] to be understood as practical comments on the Treaty, or as infractions of it, could not but enforce on the minds of the Committee the most serious reflections. Here he referred again to the passage he had read in the letter from Mr. Jefferson to Mr. Pinckney, and asked, if, as there stated by the Executive, our neutrality and peace were to be exposed, by permitting practices of that kind, what might be thought of our giving effect, in the midst of such practices, to a Treaty from which a countenance might be derived by the nation for going on with them.

He was aware that the Executive, notwithstanding the doctrine and policy laid down as above, had finally concurred in the Treaty under such circumstances. But he did not consider that as invalidating the reasoning drawn from the present state of things. He might, he said, be stepping on delicate ground, but he could not think it improper to remark, that it was a known fact that the Executive actually paused for some weeks after the concurrence of the Senate, before the Treaty received his signature; that it is fairly to be presumed that a renewal of the spoliations, and a recollection of the light in which they had been represented, were a ground of the pause; that on that supposition he was probably influenced in signing the Treaty when he did, by an expectation that such a mark of confidence in the British Government would produce an abolition of the unlawful proceeding, and, consequently, if it had been foreseen that the spoliations would have been continued as we find them to be, the Treaty would not have been then signed, or if it had not then been signed, it would not be signed, under the circumstances of the moment when it falls under our consideration.

He should conclude, he said, with taking notice of two considerations which had been much used as inducements to carrying the Treaty into effect.

1. It was said that the greater part of the Treaty was to continue two years only after the present war in Europe; and that no very great evils could grow out of it within that period. To this he replied, in the first place, that ten of the articles containing many very objectionable stipulations were perpetual. In the next place, that it would be in the power of Great Britain, at the expiration of the other articles, to produce the same causes for a renewal of them, as are now urged in their favor. If we are now to enforce the Treaty, lest Great Britain should stir up the Indians, and refuse to pay the merchants for the property of which she has plundered them, can she not at the end of two or three years plunder them again to the same or a greater amount? cannot the same apprehensions also be then revived with respect to the Indians, and will not the arguments then be as strong as they are now, for renewing the same Treaty, or making any other equal sacrifice that her purposes may dictate?

2. It was asked, what would be the consequence of refusing to carry the Treaty into effect? He answered, that the only supposable consequence was, that the Executive, if governed by the prudence and patriotism, which he did not doubt would govern that department, would, of course, pursue the measures most likely to obtain a reconsideration and remodification of the offensive parts of the Treaty. The idea of war, as a consequence of refusing to give effect to the Treaty, was too visionary and incredible to be admitted into the question. No man would say that the United States, if an independent people, had not

a right to judge of their own interests, and to decline any Treaty that did not duly provide for them. A refusal, therefore, in such cases, could give no cause, nor pretext, nor provocation, for war or for any just resentment. But apart from this, was it conceivable that Great Britain, with all the dangers and embarrassments which are thickening upon her, would wantonly make war on a country which was the best market she had in the world for her manufactures, which paid her an annual balance in specie of ten or twelve millions of dollars, and whose supplies were moreover essential to an important part of her dominions? Such a degree of infatuation ought not to be ascribed to any nation. And at the present crisis, for reasons well known, an unprovoked war with Great Britain, on this country, would argue a degree of madness greater than under any other circumstances that could well be imagined.

With all the objections therefore to the Treaty which he had stated, he hoped that it would not now be carried into effect; and that an opportunity would take place for reconsidering the subject on principles more just and more favorable to the United States.

When Mr. Madison had concluded,

Mr. S. Lyman rose.—I do not rise, said Mr. L., with an intention to go into a detail upon this subject, or to exhibit a comparative view of the advantages and disadvantages which may attend the operation of this Treaty, but only to make a few remarks, which may be considered as preparatory to a more minute discussion.

I verily believe the great body of the people in Massachusetts, who have paid any attention to this Treaty, are pretty well satisfied with it. This satisfaction arises, not altogether from a thorough knowledge of the constituent parts of the Treaty, and of its probable consequences, but from a full confidence in the integrity and discernment of the supreme Executive and of the Senate, who, on those occasions, act as his advisory council. This confidence and satisfaction is daily increased and confirmed by the known opinions of the commercial part of the citizens of the United States, who are more immediately interested in the operations of this Treaty.

Although I believe a discussion of this Treaty is not strictly in order, because it does not come before us immediately as a subject of debate and legislation, but as a piece of information from the Executive, yet I have no doubt but that a thorough discussion of its principles may produce a happy effect; for I believe the more it is understood, the less various will be our sentiments, the greater the degree of unanimity among ourselves, so much the greater will be the unanimity among our constituents. This unanimity is an object of the greatest magnitude, not only as the source of national respectability and honor, but as the only true source of national happiness and prosperity; it is therefore the indispensable duty of Government to maintain internal peace and tranquility, and upon this ground alone it is I am willing the Treaty should be thoroughly discussed. I am sensible this Treaty presents itself with an unfavorable aspect, and what is the reason? Is it not because we have entertained too exalted ideas of our own national importance? A generous and noble pride we ought to entertain as a nation, and without this pride we should be guilty of ingratitude to Heaven, for Providence has placed within our reach all the resources of national strength and greatness, but we are yet among the nations in a state of minority—a minor must solicit favors, he cannot challenge them. Did we go to the Emperor of Morocco, or to the Dey of Algiers, and challenge a passage for our ships up the Mediterranean? No; but we solicited, and pay dear for that passage; or did we go to the King of Spain, and demand a free navigation of the Mississippi? No; but we negotiated, and success has attended that negotiation; or could we have gone to the King of England, and challenged a participation with his subjects in the commerce of the East and West Indies? Certainly we could not. What then should we have done? Would it have been best to have traded with them upon sufferance, and so to have maintained a precarious kind of commerce? Certainly this would not have done, for in that case we should have been constantly dependant upon the caprice of a capricious Court; this would be extremely mortifying indeed. Commerce, like all other kind of business, ought to be carried on upon generous and open principles, otherwise we establish a system of deceit that would be favorable to pirates and freebooters.

Under those circumstances what could we have done? We could not have carved for ourselves, for our strength and greatness were not sufficient; we therefore had to go with the modesty of a minor, and to solicit; and what was the natural consequences of this solicitation? Why, at the first interview with the British Minister, he determined to exact of us at least a complete fulfilment of all that a former Treaty required; and what was that? It was a payment of our *bona fide* debts; what could we do? He produced our contract, and we said nothing; moral rectitude required a fulfilment of this; it was in vain to say, you have interrupted our commerce, you have carried off our negroes, you have retained the Western posts, and thereby occasioned an expensive and bloody war with the Indians. Some of this language, perhaps, would have had weight with the British Minister, if he had been acting in his private capacity, but he felt and acted like the Minister of a great and powerful nation; interest and glory are their objects, and moral considerations are too apt to vanish before these. It is true, by the Law of Nature, commerce ought to be free and uninterrupted, but by the Law of Nations it is otherwise; and what nation shall gainsay this law? We certainly cannot, our strength and greatness are not yet fully ripe, and if they were we should, in practice, deny this Law of Nature, and should ratify and confirm this Law of Nations. Thus, Mr. Chairman, we see that interest and force govern among the nations. I have made these preliminary observations in order that we might contemplate the Treaty upon its true ground, for a want of reciprocity has been a heavy charge brought against it.

I have read this Treaty with care and attention, and I am free to own that upon the first perusal of it I had a prejudice against it; it appeared to me that some of its stipulations were too favorable for Britain, and too disadvantageous to ourselves; but we certainly had an able negotiator, and I verily believe he did his utmost to serve his country; the more I have attended to the subject the more I am reconciled to it. I find the gentlemen who are interested in commerce are almost universally satisfied with the commercial regulations; but there is a more weighty charge brought against it than of a want of reciprocity; it is even said by some to be unconstitutional. This is a heavy charge indeed, and if it is well founded we ought to prevent its operation, for we are sent here as the guardians of the rights of our fellow-citizens, and for that purpose are sworn to support their Constitution; if it is unconstitutional, it is a nullity; it is not binding upon the nation; we ought to reject it; but if it is Constitutional, and not extremely pernicious, it becomes the supreme law of the land, and we are in that case bound to obey it.

I have no doubt of its constitutionality, notwithstanding all the arguments which I have either seen or heard. Many arguments might be adduced in support of this opinion, but I will dispense with all but one, and that I consider as conclusive; and that is this, the stipulations in this Treaty are nearly all of a such a nature as not to respect objects of legislation; they respect objects which lay beyond the bounds of our sovereignty, and beyond these limits our laws cannot extend as rules to regulate the conduct of subjects of foreign Powers, and although some of these stipulations respect objects which are within the reach of our sovereignty, yet it is in such manner as to be not only pertinent, but perhaps absolutely necessary in forming the Treaty.

This conclusion I think is the natural and necessary result of a fair construction of the principles of the Constitution, and especially of that paragraph which vests the power of making Treaties in the supreme Executive with the advice of the Senate. It is true, Mr. Chairman, we have a diversity of opinions on this subject, but what ought to be our conduct on this occasion? Ought we not to manifest a spirit of candor and mutual forbearance? Party spirit and animosity are not only inconsistent with the dignity of this House, but they are dishonorable to our nation; it is true a little zeal will naturally arise where there is a serious conflict of sentiments and opinions; we all feel it; the advocates for and against the Treaty are all, in some degree, under its influence. Zeal or enthusiasm is as contagious as the small-pox, or any other cutaneous disease; it therefore behooves us that our zeal be according to knowledge, otherwise we may propagate a malignant and mortal kind, which shall become epidemic, and rage beyond the walls of the House; therefore, I say, what ought to be our conduct on this occasion? and in what does consist sound and enlightened policy? What would be the consequence if a majority of this House should manifest a disposition not to carry the Treaty into effect? The consequence would be, we should lose all the benefits secured to us by it, and there are some pretty important ones. Britain would undoubtedly retain the Western posts—she would consider them as a good collateral security; and they are, in fact, like the Temple of Janus, the power that possesses them may either open or shut the gates of war—be at peace or at war with the Indians. Does good policy consist in severe animadversion upon this Treaty? Does it consist in loud and vociferous debate, calculated to inflame public resentment, and to excite the fearful apprehensions of our fellow-citizens? or, does it consist in the reverse of all this? Certainly I think it does, for is there any substantial ground of alarm? Has the President of the United States, after twenty years of patriotism, become a traitor? or, has a majority of our Senate been corrupted with British gold?

If these are facts, then I confess our fairest hopes are extinguished; if these are facts, then sound the alarm, not only upon the seacoast, but ring the tocsin, and let it be heard from St. Mary's to Detroit, and then whole hosts of armed men will arise and avenge the cause of our country; but thank God there is no occasion for all this, only let us dissipate the storm, and restore public tranquility; this is our duty, and this duty is enforced and commanded by every sentiment of a moral, of a religious, or of a political nature.

When Mr. Lyman had taken his seat,

Mr. Swanwick addressed the Chair:—One of the most characteristic and strong points of difference that exists between republican and despotic forms of Government, said Mr. S., consists in their greater or lesser degree of haste in making or adopting laws. Where the will of a despot is the only law, his simple volition is sufficient to call for the prompt obedience of the subject; but in our happy Government, the numerous checks and balances it prescribes every where oppose themselves to haste, to error, or inadvertency, in the formation of laws. In acts of the smallest importance, we see daily that after they have undergone every possible chance of fair and impartial discussion in this House, they are transmitted to another, who equally proceed to revise, correct, and amend them; and even this not being deemed sufficient to secure, as it were, against all possibility of danger, they are sent to the President, who has ten days to consider, and who may return them with his objections. These we are bound respectfully to inscribe on our Journals; and if we disagree in opinion with the President, the majority of two thirds of both branches is requisite to give validity to the law. Do not we discover in all this infinite caution, and a wish rather not to act at all, by the difference of the branches among each other, than to act imprudently or precipitantly; and can we imagine that a Constitution thus guarded with respect to laws of little consequence, hath left without a check the immense power of making Treaties, embrac-

ing, as in the instrument before us, all our greatest interests, whether they may be of territory, of agriculture, commerce, navigation, or manufacture, and this for an indefinite length of time? No. By one of the guards of that Constitution relative to appropriations of money, this Treaty hath, in the last stage of its progress, come before us; we have resolved according to our best judgment of the Constitution, and, as we have seen above, according to the meaning and spirit of it, that we have a right to judge of the expediency or inexpediency of carrying it into effect. This will depend on its merits; and this is the discussion now before us. If, in the event we shall be found to differ in opinion with the other branches as to this subject, it will involve no more animosity or crimination against them than if we differed as to an ordinary law. To what purpose then to sound the alarm, and to ring the tocsin from Georgia to New Hampshire? Do we impeach the Executive? Do we charge bribery or corruption? No, sir.

We venerate, as much as any body else, the gallant hero who fills with so much dignity the Chair of State. We respect the Senators, as having acted according to the best of their judgments. The question is, not what they have done, but what we are to do. Our duty requires of us, before we vote $90,000 of the people's money—the sum required to carry the Treaty into effect—to pause, and inquire as to the why and wherefore? But is it merely the sum of $90,000, that is in question? If it was, we ought to proceed slowly and cautiously to vote away the money of our constituents; but it is in truth a sum indefinite, for British debts, the amount of which we know not; and we are to grant this in the moment our Treasury is empty, when we are called upon to pay five millions to the Bank, and when no gentleman hath resources to suggest but those of borrowing, at a time when borrowing is unusually difficult and expensive. But is it merely a question of money? No. It is the regulation of our commerce; the adjustment of our limits; the restraint, in many respects, of our own faculties of obtaining good, or of avoiding bad, terms with other nations. In short, it is all our greatest and most interesting concerns that are more or less involved in this question. I am aware the task is arduous, especially for those who are in the opposition to the Treaty, because they have, to place their opinions in contradiction to those of many wise and virtuous and dignified men amongst us; and this, at all times an unpleasant task, becomes doubly painful when it is to be done in a moment when great alarm is excited very industriously in the public mind. But a legislator, when he undertakes to act at all, must dare to act firmly, when he acts according to the best of his judgment for the good of his country. The President has been thus applauded for his firmness. I hope this House, where they conceive themselves right, will not display less of it than the Executive. It must receive equal applause wherever there are dispassionate and candid observers.

These preliminary remarks I have thought essential, previously to going into a consideration of the merits of the Treaty itself, which hath already been so ably considered by the gentleman last up from Virginia, [Mr. Madison,] whose mildness of manner and suavity of address were certainly calculated to inspire any thing else than the angry passions so greatly deprecated by the gentleman from Massachusetts, [Mr. S. Lyman.] These, I hope, will be carefully avoided on all sides, and the debate be concluded with the same good temper and moderation in which it is begun.

I must confess, Mr. Chairman, that the first point of view in which this Treaty struck me with surprise was, the attitude Great Britain assumes in it of dictating laws and usages of reception and conduct different towards us, in every different parcel of her empire, while the surface of our country is entirely laid open to her in one general and advantageous point of admission. In Europe, we are told we may freely enter her ports. In the West Indies, we were to sail in canoes of seventy tons burden. In the East Indies we are not to settle or reside without leave of the local Government. In the seaports of Canada and Nova Scotia, we are not to be admitted at all; while all our rivers and countries are opened without the least reserve; yet surely our all was as as dear to us as the all of any other nation, and not to have been parted with but on equivalent terms.

But let us consider the articles distinctly;—first, as to the Mississippi; Great Britain is admitted as freely to navigate on this river, and to frequent the ports on its banks, as we are to go to those on the Thames; yet, it is strange to remark, that, at the time we made the stipulation, we had not ourselves obtained the right we gave. We have since obtained it by Treaty with Spain, and on terms absolutely contradictory to those contained in the British Treaty. The articles are as follows, and the Committee are left to judge for themselves. After they had just voted for the Spanish article, how can they, in good faith and consistency, vote for the British article, so contradictory to it?

The Spanish article is this—Article 4:

"It is likewise agreed that the Western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the Northern boundary of the State to the completion of the 31st degree of latitude north of the Equator. And His Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free *only* to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention."

British Treaty—Article 3.

"The river Mississippi shall, however, according to the Treaty of Peace, be entirely open to both parties; and it is further agreed, that all the ports and places in its Eastern side, to whichsoever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain."

The next of the permanent articles I shall notice, is that which respects British debts. It is somewhat remarkable, that the Commissioners, who are to judge of these, are permitted the power of adjournment from place to place—a very favorable stipulation for the creditors, whilst the Commissioners on Spoliations, by Article 7, are to act only in London, whereby the American claimant must pass with his papers, or send them across the Atlantic, and engage lawyers in a country where law is unusually dear; a circumstance which will deter many from applying at all, and occasion great loss to the United States. I observe, too, that the awards of the Commissioners of British debts are to be paid out of the Treasury as awarded by the Commissioners. I am surprised not to find in the Report of the Secretary of State, on appropriations to carry this Treaty into effect, some calculation as to the probable amount of these debts, or some provision for lodging, for this purpose, money in the Treasury. Gentlemen would then have known the extent to which they were going; but, at present, they can form no judgment on the subject of the money wanted, or of the funds from whence that money is to come.

Much hath been said about the tenth article, relative to the sequestration of debts. To be against the adoption of this article, hath been supposed to imply an unwillingness to pay debts lawfully contracted, and very copious abuse hath been thrown on the largest and most populous State in this Union, as having for motive of its opposition, this principle. To say nothing of the degrading nature of such an admission, with respect to the honor of our own country, which ought always to induce us to think the most favorable of it, is it true? Is it true, that an unwillingness to pay debts hath been the principal cause of opposition to this Treaty? Among the names opposed to it, are to be found some as respectable for independence and fortune as any on the Continent. To instance only one of a number, I may cite the celebrated Pennsylvania farmer, John Dickenson, Esq., one of the richest men in these parts of the country, attached to no party, living in great retirement, with a name honorable for the most virtuous efforts in the American Revolution. Can it be supposed that such a character as this is influenced by such a motive? Surely not. Whence arises, then, the opposition? It arises from a conviction that the admission of this article is degrading to the national character. During a late session of Congress an honorable member from New Jersey, [Mr. Dayton, the present Speaker] fired by a laudable indignation at the robberies committed on our commerce by the British, moved for a provisional sequestration of their property. No sooner was this done, than we saw a report from the Secretary of the Treasury, dated the 16th of January, 1795, recommending the United States to pass a permanent law against sequestration of property in the funds. Congress not having acted on this part of the report, though they adopted other parts, we now see the clause attempted to be brought into a law by way of a Treaty. And it is more singular, as, at the very time the article was agreed to in England, all the European nations were actually sequestering the property of each other. What security had we, then, that in any future time Great Britain would respect, in regard to us, what she did not in regard to France or Holland? Besides, is it not observable that, as we have no fleets, we have continually an immense property afloat, subject at any time to be laid hold of by Great Britain? And are we so superfluously strong that we ought, by compact, to relinquish this safeguard, this guarantee which we hold in our own hands? I have often heard the Chinese policy, as to maritime affairs, recommended, but I have never heard much said of another part of their policy. The British East India Company, in a late discussion that took place with the British Government, as to a renewal of their charter, observe as a reason why no British subject ought to be permitted to go to China but those under sureties for their good behavior to the Company; that, in case of failure in this, the Chinese hold all their property in the country as hostage. The expressions are these:

"The fear of punishment entertained by the Mandarines upon some occasions is excessive; and, indeed, the Court of Pekin are disposed to think there can be no broil or disturbance without the fault of the Mandarine or officer, who is sometimes doomed to banishment or death for very trivial causes. Upon the slightest occasion the European commerce is stopped, as the Mandarines well know that this is the only means by which they can command obedience from Europeans.

"In the year 1784, by the accidental discharge of a gun on board of the Lady Hughes, country ship, a Chinese was killed. Every European was deemed responsible for this accident; all trade was stopped, and the foreign factories settled at Canton, uniting with the English, thought it necessary to prepare for defence. The gunner, who had concealed himself, was at last found, and delivered up, under some indirect assurances of personal safety, notwithstanding which he was immediately put to death. It is probable that the supercargoes and the gunners were deceived under the expectation of being able to commute his punishment for a sum of money, but a different conduct may prevail hereafter. The Chinese Government is not only absolute in the extreme, but inflexible. It may, therefore, be proper to take a view of the consequences to be apprehended from a stoppage of the country's trade, to which they are liable, from the supposed guilt or the misadventure of any British subject, and from which the Company have already sustained very material injury. Your committee, however, in expressing their apprehensions, do not allude to the crews of ships employed in the Company's service, whose owners are respectable and responsible, and whose officers have so much knowledge and experience, that no fears can exist with respect to their conduct.

"If any injury shall be done to the natives, the Company can easily support the expence, and command obedience from their servants, but the case is totally different with regard to individuals.

"It will be to represent the consequences of such a misfortune in a very limited degree, if the amount of property at the mercy of the Chinese, for a single season, is stated. As that is so large, it may be deemed unnecessary to extend the inquiry much further on this

head, or it is presumed the estimate might be nearly doubled.

"The balance of the Company's cash at the end of the season has exceeded £500,000	
"Suppose only - - - - -	£400,000
"The Company's investment, although it may have been much larger, may be estimated at - - - - -	1,400,000
"The Company's ships from Europe, at least - - - - -	400,000
"At the mercy of the Chinese for a single season - - - - -	2,200,000

"Exclusive of country ships, and consequences which your committee conceive it is unnecessary to detail.

"With such an immense property at stake, it may be easily imagined that the apprehensions of the Company, with regard to the China commerce, is extreme; and, indeed, they have been severely injured by private traders, who are under no effectual control."

Do we stand less in need than the Chinese of cautionary hostages? Or can it be supposed that Britain will the less trade with us than with the Chinese, under these conditions? This tenth article, it may be added, is not to be found in our Treaties with any other nation; and yet it may be asked, do we not mean to act equally honorable with all? After all, it may be well questioned, why this tenth article? As a restraint upon this Government, it was impolitic, injurious, and unnecessary. There was no reciprocity in it, as we had little or no property in Britain to reckon on as a countervailing security. It looks, indeed, like a pointed reflection on those who acted in the Congress of 1794, on the sequestration business; and, insomuch, it was unkind, and I think uncandid; and as this article takes away the right of exercising one of the powers held by all people for their own security, I cannot but think that we must conceive it as entirely inadmissible. But, it may be said it is essential to credit. I am far from thinking so. Credit depends on profit and on the necessity of employing capital. We shall be neither more nor less trusted on account of the tenth article. We do not see it affects our trade with other nations, or our credit there, that have no such articles with them. Other nations have not required it of us, why then should Great Britain, unless, indeed, she conceived it as necessary to secure her in the safe depredations intended in future to be still continued upon us?

After having thus reviewed the first ten or permanent articles, I think it must appear obvious that the result is, that we have ceded the right to navigate the Mississippi on terms different to those on which we received it from Spain; that we have consented to receive the Western posts on terms that afford too much danger of disturbances by a mixed intercourse of our people, British subjects and Indians; that we have provided, certainly, for an indefinite amount of British debts; whilst our claim for spoliations is left to be decided by Commissioners at London, who meet without power of adjournment, and under very extensive latitude of judging according to what may appear to them to be the Law of Nations, in a country where that law has been twisted so as always to serve as a pretext for spoliations against us; and we have agreed never, in future, to consent to sequestrations or confiscations, in case, by war or national difference, our property afloat should be confiscated or sequestered by Great Britain to any amount. Let any impartial mind, then, judge of the expediency, on our part, of voting efficacy to so ruinous a contract.

I come now to consider the remaining articles of a more temporary nature. The 12th article merits consideration, because, though not included in the general arrangement as ratified, being only suspended, its principles are not wholly abandoned, but left, like a cloud, still to hang over us. This 12th article was intended to regulate our intercourse with the British West Indies, and contemplated the singular provision that we should only navigate thither in vessels of seventy tons burden, whilst the British themselves might put in the employ vessels of any size. How degrading such a stipulation, it is not difficult to conceive! We supply these islands with what the inhabitants have always acknowledged they could get so well no where else, and yet our tonnage is to be thus restricted, while theirs is left open to employ vessels of any description. But this is not all: for the sake of getting admission into a few inconsiderable British ports in the West Indies, we are to give up the carriage in our own shipping of cotton, one of our own staple articles, and of sugar, coffee, and indigo, the produce of the French, Spanish, Danish, Swedish, or Dutch islands. How strange a mistake as to the geography of this Western Archipelago, in which the carriage of the produce of St. Domingo alone is worth more nearly than the entire admission to all the other islands put together! The principle contained in this 12th article, thus suspended, ought to have been utterly contradicted or annulled. While existing even in its suspended form, it will prevent my voting for this Treaty, of whose chains it is only an absent link. By its absence, indeed, the trade of the British West Indies would have remained entirely shut to us, but for the war and the need they stand in of us. So we are left between the conditions of being shut out all together, or of being admitted at a price that takes away the value of the admission. This 12th article contains two of the most fatal principles that could ever be offered to America: the first is an attempt to prohibit an article of her own growth from being shipped in her own vessels; the next is an admission that foreign ships may load in our ports what our own ships may not load. This is laying the axe at once to the root of both commerce and agriculture. What a strange stipulation is it also for Britain to make with us, since it operates a benefit even to what she calls her natural enemies, the French, at our expense; for a French ship might load here what our ships could not. Does not this show her object is to ruin our navigation altogether? This article was to last during the war, and two years afterwards; the very time when, according to all

probability, our trade in sugar, coffee, &c. to Europe would turn out the most lucrative and extensive; for, whoever is acquainted with the history of our commerce for the few last years, must know that in fact the richest part of it hath consisted in the freight and commissions earned by our merchants on the carriage of the sugar, coffee, cotton, and indigo, of the possessions of the belligerent Powers. When they are at war, which happens every ten years nearly, this must be the case; and shall we resign so important an article of advantage for admission on equal terms into the British islands? I trust not; and, inasmuch as the principle is still unsettled, and may be renewed, I the more decidedly give my opinion to this Committee against it.

But we are told whatever may be our fate in the West, all our losses are to be balanced in the East Indies; and we are carried from our own neighborhood, to be sure, to a great distance, in order to have repaid all our sacrifices. Let us examine this 13th article respecting the East India trade, and see if it does not bear a very strict analogy to the West India article that has been exploded.

We are to be admitted, it is true, in vessels of any size, but not suffered to settle or reside without leave of the local Government—that is, of the British East India Company. Of all the despotisms in the world that of a mercantile monopolizing company is the worst; yet into such hands we are to fall, and from them to solicit leave to reside or travel in the country. What security can there be for a commerce thus precariously conducted, in which your rivals are your judge? Also, as a specimen of their sentiments on this subject, take the following, extracted from reports before alluded to, of this very company, when relating to permitting their fellow-subjects of Ireland to go to this very same quarter of the globe:

"The Empire in India is held and depends altogether upon opinion, which must be shaken, if not annihilated, should the natives perceive the subjects of the same Sovereign, speaking the same language, independent to any respect whatever of the ostensible Government of the country. Such a circumstance must at the same time occasion disputes and quarrels between the English and Irish in India, which will produce a discontent at home, and may prove the cause of further ill consequences.

"Ireland cannot look to America, which enjoys some advantages superior to Europe; but even with those advantages America begins to perceive her interest will be to purchase in Europe.

"The advantages which the English company enjoy over foreigners and individuals in procuring their investments in India and China, are such as cannot be done away in consequence of any disadvantage whatsoever which they may labor under.

"It is yet too early to form a judgment of what may be the final result of the communication between America, India, and China; but it is by no means in a flourishing situation at present. In consequence of the number of their ships at Canton, in 1789, although their tonnage was comparatively small, yet they brought a large surplus stock for America. That surplus stock was sent to Ostend, Holland, &c., but the quality originally inferior, was probably further depreciated by its conveyance from China in small and improper ships, so that it would not sell for 6d. to 8d. per pound. The greater part was, therefore, returned to America, who has since imported considerably from Europe for her own consumption.

"It is, therefore, by no means clear that the article of freight will, in any point of view, facilitate the expectation of individuals in a material degree. So long as the exclusive privilege and their political resources shall remain combined and continued to the English company, competitors or interlopers may find their account for a few ships; but when all Europe and America are contending for the prize, one or two ships more than wanted must ruin the whole; and, when loss arises upon an Indian adventure, it is frequently more than private capitals can support.

"It is the singular and unprecedented good fortune of Great Britain that, in combining and realizing the territorial revenue through the medium of commerce, aided by the resources, manufactures, and immense internal traffic and consumption, she stands unrivalled amidst surrounding and contending nations, and bids defiance to all competition."

From this reasoning it is pretty plain what encouragement we may expect from the local Government, acting under the orders of the East India Company, who display such a very amiable spirit towards the Irish, because, for one reason, they, like us, speak the same language with themselves.

It appears to me that, by combination of this 13th article with the 15th, Great Britain hath stipulated for herself and for the East India Company an admission for British India goods to our country on terms equal, as to duty, in her ships and our own. The event of which will certainly be that she will have here her India warehouses, and will, by her capital and resources, before long, have this trade entirely in her own hands, and our right of admission will turn out to be only an empty name.

The consumption of India goods being in a great degree out of the question in England, the Company, who have an annual revenue of a million and a half sterling to receive from their possessions in India, have hitherto sold them at vendue in Leadenhall street; and I believe, considering the credit our merchants usually obtained in London on those goods, and the low price the Company sold them at, they could afford to supply us cheaper in England than we could get them from India in time of peace. I find the East India Company themselves state, in 1788, that seventeen-twentieths of the calicoes imported by them were exported, and twelve-twentieths of the muslins also exported, thereby realizing, as they term it, the tribute which India pays to Great Britain through the medium of its commerce. In 1793 the Company state the internal consumption of India calicoes and muslins to be reduced in Britain to almost nothing. They add, every shop offers British muslins for sale, equal in appearance, and of more elegant patterns than those of India, for one-fourth, or perhaps more than one-third less in price. They say nine-tenths of all muslins and calicoes are sold for exportation

The profits on their imports they state as follows, for a supposed year:

Suppose cost of piece goods in India,	£1,126,300
Freight	209,270
Duties	500,970
Charge of sale 6 per cent.	138,894

Total cost £2,075,434, sold for £2,314,900

Yielding about 20 per cent. profit on the first cost in India. But may it not be asked, whether we can expect to stand the competition on terms of equal tonnage, equal duties with the East India Company, who thus make their remittance, when it is considered that we must send silver out to purchase, and be often long kept out of our capital, in a country where such numerous and profitable occasions to employ capital present themselves, and must trade in India watched every step by agents of a Company who will be competitors in purchases with us? I can readily conceive at present the East India trade may resemble all others by greater profits, owing to the war in Europe; but, from one attempt that passed under my own eyes, in 1790, as to the East India trade, I had no reason to form high notions of it. When the war ends and trade is reduced to its natural level, we should perhaps find ourselves greatly mistaken as to the value of this article coupled with its restrictions, one of which leaves it very doubtful whether India goods may be re-exported from the United States. On the whole, the article to me appears to stand thus: We are admitted to their ports in India, but then the tonnage we are to pay there is to be measured by the tonnage on British vessels paid here. Our vessels are also to be restricted not to carry any of the articles exported by us out of India to any port or place except to America; and this they have a right to enforce, in any way they may think necessary. We are not to settle or reside but with the leave of a Government who are merchants, or employed by merchants, and our rivals. Can it be imagined that, under such disadvantages, this trade can be profitable to us in the sequel? What articles do we export to India? What danger may there not be of our trade with parts of India not belonging to Britain being interrupted by their men-of-war, under pretence of our carrying India goods to ports contrary to Treaty? One of the Indiamen has been already taken into Martinique, on what principle, or whether according to Treaty, we have not yet heard. Of one thing we may be sure, we shall find in the India Company rivals, jealous and suspicious, and in their men-of-war ample dispositions to enforce the 13th or any other article of the Treaty against us.

The 14th article stipulates an equally free trade between this country and the British possessions in Europe, and provides for each party hiring and possessing warehouses, &c.

The 15th article is one of the most objectionable of the whole Treaty, because it fundamentally contradicts all the provisions heretofore made by our Government for the encouragement and protection of the navigation of this country. By it it is settled that, so far as respects us, no tonnage duties shall be laid on British vessels but what shall be laid on those of all other nations; no duties on British articles but what shall be laid on those of every other nation; no embargo to affect Britain but what affects all other nations alike; American bottoms are left exposed to be charged, in the European British ports, tonnage duties equal to those laid on British bottoms here; countervailing duties may be laid in England to equalize the difference of duties on European or Asiatic goods imported here in British or American vessels; and no additional difference in tonnage or duties of this kind is to be made hereafter.

These principles deserve to be separately examined. They virtually repeal all the laws heretofore made as to navigation and impost, by indirectly equalizing the tonnage and duties on the British and American vessels; and they restrain, in future the powers of Congress on some of the most important regulations of foreign commerce that could come before them.

The difference now existing by law on goods imported in foreign or American vessels, is 10 per cent. on the amount of duties paid; the tonnage difference is 44 cents higher per ton every voyage on a foreign than on an American vessel.

These the British Government may now countervail; they may, in fact, charge on our ships coming from London here, and on their cargoes, duties that shall equal in amount the difference paid on goods imported from Europe or Asia in foreign bottoms. And here a curious circumstance occurs: Great Britain stipulates a right to countervail in Europe the differences of duties paid on importing goods from Asia. Why were duties on Asiatic goods to be countervailed in Europe? Why is a merchant, no way concerned in the East India trade, to pay a difference on duties from thence on his ships in Europe? Hath any body calculated the amount of this, or the discouraging effect it must have on the great interests of our navigation employed in Europe?

But the hands of Congress are to be tied up to lay no new or additional tonnage on British vessels, nor to increase the difference on duties on goods imported in their vessels or ours; and to make no discrimination in duties, or embargoes, or prohibitions, between British vessels and those of any other nation. May it not well be asked, why all this?

Suppose France were to offer us free admission into Hispaniola, and to carry the rich produce of that island, provided we admitted French manufactures on lower terms than British, could we accept it under the Treaty, and why should we have restrained our power of embracing such an offer?

It appears to me this article is wholly inadmissible, stipulating sacrifices on our part, without equivalent, without reciprocity.

The 17th article admits Britain to take French goods out of our vessels, while our Treaty with France forbids the French to take British goods out of our ships. Our vessels, therefore, become safe sanctuaries for the property of one nation

and unsafe to the other. We consent to take in French goods on freight, we consent to their being taken out and made prize of, so as there be no delay in our being indemnified. Can any thing be harder or more disgraceful than this article? made, too, at a time when France is at war, and we are enjoying so lucrative a trade with her possessions. How fatal must be the admission of this principle to any future state of neutrality of this country! Every American vessel, coming from French or Dutch ports, may, on this principle, be captured or detained on suspicion, in a manner that every day proves ruinous to our commerce and vexatious to our merchants, who see their vessels taken by a fleet stationed on our coast on purpose, almost in their sight.

Article 18th relates to the contraband articles, and is as exceptionable as any, because, affording the British a pretext for stopping, as they do daily, our provision cargoes, and thus intercepting the regular operations of our commerce. It is, besides, contradictory to our other Treaties; for it declares, in time of war, articles to be contraband that our other Treaties say shall not be contraband. Suppose Spain and Portugal to be at war, how could we see performed, in justice to each Power, the following contradictory articles:

British Treaty.—Article 18th. "In order to regulate what is in future to be deemed contraband of war, it is agreed, that under the said denomination shall be comprised timber for shipbuilding, tar or rosin, copper in sheets, sails, hemps and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and fir plank only excepted."

Spanish Treaty.—Article 16th. "Furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail-cloth, anchors, and any parts of anchors, also ships-masts, planks and wood of all kind, and all other things proper for either building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument prepared for war by land or sea, shall not be reputed contraband."

The 19th article stipulates for the security of our people from the men-of-war or privateers of Britain; but the numerous documents of impressments of American natives, that are on the files of the House, sufficiently prove the little regard paid to these stipulations, if they were meant, as was supposed by an honorable member from South Carolina, (Mr. Harper) to relate to them.

On a review, then, of the commercial articles, they may be summed up as follows: West India trade left blank by the suspension of the 12th article. East India trade subjected to a condition of residence, rendering it precarious, and restricted to a landing of the goods exported in the United States, not known to have ever been imposed in any way similar, on any other nation trading to Bengal, while all nations are constantly allowed an equal liberty of trading there with ourselves. European and both these trades liable to an equalization of tonnage and duties, that cannot but operate unfavorably to the American navigation. Should the countervailing duties take place in the British ports in Europe on American vessels, they will probably be shut out of them altogether. In time of foreign war, our ships deprived of the neutral rights of carrying allowed them by Treaty with France and Spain, and exposed to be captured and detained on suspicion, as now daily happens. Naval stores exposed to confiscation by England, when shipped at a time when she is at war, to the ports of her enemies.

In all these instances our navigation is materially endangered and exposed, without any equivalent advantages. May it not now well be asked, Whence it comes that this interest of navigation hath become less an object of care to us than at the time we passed the laws of duty and impost on foreign ships and goods imported into them? I stated the other day my ideas of the immense importance of navigation. Mr. Burke gave the following opinion of a branch of it in 1775:

"As to the wealth which the Colonies have drawn from the sea by their fisheries, you had all that matter fully opened at your bar. You surely thought those acquisitions of value, for they seemed even to excite your envy; and yet the spirit with which that enterprising employment has been exercised, ought rather, in my opinion, to have raised your esteem and admiration. And pray, sir, what in the world is equal to it? Pass by the other parts and look at the manner in which the people of New England have of late carried on the whale fishery. Whilst we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's Bay and Davis's Straits, whilst we are looking for them beneath the Arctic Circle, we hear that they have pierced into the opposite region of Polar cold, that they are at the antipodes, and engaged under the frozen Serpent of South Falkland Island, which, seeming too remote and romantic an object for the grasp of national ambition, is but a stage and resting place in the progress of their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winter of both the poles. We know that whilst some of them draw the line and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries, no climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dextrous and firm sagacity of English enterprise, ever carried this most perilous mode of hardy industry to the extent to which it has been pushed by this recent people—a people who are still, as it were, but in the gristle, and not yet hardened into the bone of manhood. When I contemplate those things, when I know that the Colonies in general owe little or nothing to any care of ours, and that they are not squeezed into this happy form by the constraints of watchful and suspicious Governments, but that through a wise and salutary neglect a generous nature has been suffered to take her own way to perfection—when I reflect upon these effects, when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivance melt and die away within me."

Since then our navigation has had the growth of a man arrived at full age, (twenty-one,) and become extended to an immense size; yet was it

so unprotected that, in this year, the United States wanting to remit out of some cargoes of sugar and coffee shipped on private account, money to pay the interest of their debts in Holland, they were under the necessity of asking passports for these cargoes of the French and British Ministers, to let this property pass in safety over the Atlantic; and I have seen it boasted in some of our papers, that orders were issued by the British Government to their Port Admirals to respect these passports thus given by their Minister or agent here; so the United States left their own merchants to carry their sugar and coffee as they might, but obtained passes for ships, in the proceeds of whose sales they were interested. What a strange circumstance, this! The American Government sailing secure under passes—the private merchant exposed!

But it is asked, if this Treaty be so unfavorable to commerce, why are the merchants so much in favor of it?

They explain the reason themselves. They are influenced by the present rather than future interests. Five millions of spoliations they look to the Treaty to repay; their property afloat, they fear to be taken, and war they dread; but is there really weight in these arguments? I am as largely interested as any individual among them in shipping, and have suffered the loss of one of my cargoes at Bermuda, for which my underwriters have made me only a partial allowance; but I neither dread any war on the part of England, situated as she now is, nor expect any payment of my loss from the Treaty. To a nation to whom she offers bounties to carry her provisions, and who is so excellent a customer for her manufactures, she will not be easily induced to offer hostilities that shall go to the extent of war; and the Commissioners on Spoliations are to act in London merely as arbitrators of the Law of Nations, on whom our claim of spoliations is at best but a very uncertain dependance. The merchants in sundry parts of the United States having thought it so, have claimed the interference of Congress in advancing them the money, they rather doubted getting anywhere else.

Considering, then, this Treaty as merely a bargain exhibiting little or no profit and much to lose, I separate it from all considerations foreign to itself. I judge it on its own merits, and these must lead me to vote for the proposition to suspend appropriations, especially in a moment when our seamen continue to be impressed and our ships to be taken. In this I may differ from many of my fellow-citizens, whom I greatly respect, and from whom it gives me pain to have opposite sentiments, but I rely on their candor, and full of the deepest sense of the high honor their choice has conferred upon me, I will endeavor to merit it by the exertion of my best judgment for their interests, partaking, myself, equally, at least, with any of them, in the consequences that may result, and which, I trust, will be such as will do honor to, and promote the best and most lasting interests of our country.

When Mr. S. had concluded his speech, the Committee rose, had leave to sit again, and the House adjourned.

Saturday, April 16.

DEBT DUE BANK UNITED STATES.

Mr. Gallatin called up the resolution which he laid upon the table on Thursday, for the appointment of a committee to inquire of the Bank of the United States, whether they were willing to let the sum of $3,800,000 which they had advanced to Government by way of anticipations, remain on new loans as usual.

After some observations on the nature and propriety of the inquiry from Messrs. Gallatin, Swanwick, Hillhouse, Harper, Sedgwick, and Livingston; and the sum being struck out, it was agreed to, and a committee was appointed to carry the inquiry into effect.

EXECUTION OF BRITISH TREATY.

The House then resolved itself into a Committee of the Whole on the state of the Union, and took up the resolution for carrying into effect the Treaty with Great Britain.

Mr. Nicholas said, he was sorry to find gentlemen unwilling to go into a discussion of the merits of the Treaty, as he anticipated considerable benefits to the community from a fair investigation. He did not know, as had been said, that it could have no effect on the minds of members of the House, but he thought it necessary that the people should be enabled to form a just opinion of the merits of this compact, that neither opposition nor their attachment, should go beyond just bounds; that fair investigation was the most likely means of producing that calm in the public mind which he wished to see produced whenever Government had finally decided, and he would venture to say, there was no place which could be resorted to for more sound information. He was as willing to admit that it could not be obtained from the passionate publications which were produced by the first impression of the Treaty, as he was bold to assert, that it was not to be found in the labored justifications which had appeared in the papers, and which was distinguished more by sophistry and zeal for the instrument than a wish to discover truth, or a design to enlighten the people of the United States.

Under this impression, he would offer his sentiments to the Committee, on the probable effects of the Treaty. In looking for inducements to accept it, he should confine himself to those offered by the instrument itself; for he could not appreciate those mischiefs which party men had conjured up as following the rejection of the Treaty. He could not conceive that cause of offence would be given to Great Britain, or that her interest or situation would permit her to resent it, if there was such cause; this House had decided that the Constitution had made it their duty to examine Treaties like the present, and to determine on them according to the interest of the United States. It followed that, being a constituted authority for giving operation to such a Treaty, there was no

obligation on the United States until the House concurred; and Great Britain must resist this construction of the Constitution before she can pretend that any right of her's has been violated. Nobody will contend that she can meddle, on this ground, or attempt to impose a construction of the Constitution agreeable to herself. As there is want of pretext for quarrel, so, also, must there be a disinclination to embroil herself with the United States. This is the time, of all others, when Great Britain would be most averse to war, exhausted by her present contest, completely disappointed in the events of it, and continuing it only with the hope of acquiring something on which to build a safe peace; it is not to be believed that she would embark in a new war, with the sacrifice of her best trade; more especially, as she has shown an intention of making her remaining efforts against France, in the neighborhood of the United States, where their supplies will be essentially necessary to her success. There does not appear any cause of alarm; but if there was reason to expect that Great Britain would take offence, that would be no ground for acceptance. It would fully prove the inequality of the contract, and would, in effect, be an attack on the independence of this country. The danger would increase with the benefit she promised herself, and submission would inevitably provoke demands.

In considering the merits of the Treaty itself, Mr. N. said, he would consider the subjects which pressed themselves on the negotiator, and demanded provision. These were chiefly the disputes arising under the Treaty of 1783, late depredations on our trade, and the settlement of contested principles to guard us against future misunderstandings.

The cases arising under the Treaty of 1783, as heretofore contested, were negroes and other property carried away contrary to its stipulations; the territorial claim under it, and on the part of Great Britain, an interference in the recovery of private debts.

Of the negroes, nothing is said in the present Treaty. It is to be expected in negotiations, that some concessions are to be made for the sake of accommodation, and this sacrifice of private interests becomes sometimes unavoidable. This claim was of considerable importance to a class of the citizens of the United States, but it was of still greater importance, as it justified the United States from the charge of breaking the Treaty of Peace. In this respect it was highly incumbent on the negotiator to procure satisfaction. It will not be contended that it should have been a *sine qua non* in the negotiation, and it would not now be mentioned, if it was not necessary to a fair estimate of some of the stipulations of the Treaty, and if there had not been so uniform a surrender of the interests of the United States as to compel a calculation. It is now said, indeed, that the meaning of the Treaty of 1783 was mistaken, and that the engagement was only to refrain from carrying away negroes, &c., which should be found in possession of the inhabitants at the time peace should take place. It is not necessary now to go into a construction of the words of the article, as its meaning has certainly been fixed by the interpretation of the parties in the ten years which elapsed after it. In all that time the United States have asserted the claim, and it cannot be shown that Great Britain ever contested the construction of the article. It is said, that one of the Commissioners, [Mr. Adams,] who concluded the Treaty of 1783, in behalf of the United States, informed the Senate, in their deliberations on this Treaty, that it was the unquestionable meaning of the article, to save all negroes and other property then in the hands of the British; that the article was inserted after all other points had been settled at the instance of Mr. Laurens, who just then arrived from his confinement in London, and the reason assigned by him was, that many of the people of the United States would be disabled from complying with the part of the Treaty which respects debts unless this provision was made, that the same gentleman, who was afterwards Ambassador from the United States to the Court of London, also informed the Senate that, during his embassy, this construction of the article was never denied, and that it seemed to be understood by the Ministry, that, on a settlement with the United States, compensation must be made. This subject was fully investigated by the negotiator of the Treaty, [Mr. Jay,] while he was Secretary of Foreign Affairs; all the reasons which now arm the friends of the Treaty against this claim were examined by him, and then his decision was, that we were entitled to compensation. The reputed author of the best defence of the Treaty, [Mr. Hamilton,] in the year 1783, introduced a resolution into Congress, declaring that the negroes, &c., had been carried away by the British armies, contrary to the true intent and meaning of the Treaty. Mr. N. thought it too late to extort a meaning from a contract after it had existed more than ten years; and he did not doubt every candid mind would be satisfied by the acquiescence of Britain, and the evidence which he had produced of a perfect understanding between the two countries on the subject. If the new construction of the article could not be established, the first infraction of the Treaty of 1783 remained indisputable. Before the Treaty became binding, Great Britain, by carrying away the negroes, put it out of her power to execute the contract which she had made, while, on the part of the United States, no act had been done which was inconsistent with the Treaty, provided the acts of the States did not continue to operate after the ratifications were exchanged.

Before he examined the cases provided for in this Treaty, it was necessary to remark, that the Treaty declares its intention to be to settle the disputes of the two countries without regard to former criminations, and all the writers in favor of the Treaty, declare that it was necessary to waive the first infraction of the former Treaty. This was a proper principle, and he only asked that it should have been pursued. This spirit of conciliation must have meant to put both parties on the same footing, either by agreeing that neither party had

been the cause of the Treaty not being executed, or that both had been equally guilty. He would examine whether either of these concessions had been pursued.

To obtain a surrender of the posts, and the territory withheld from us, we have sanctioned the subsequent alienations of land by the King of Great Britain. We have confirmed the claims of the inhabitants and dispensed with their allegiance, by permitting them to remain subjects of Great Britain; we have opened our frontier to all their citizens, and permitted them to retain a share of the Indian trade. Mr. N. did not pretend to judge of the commercial effect of the intercourse between the frontiers, but he apprehended that, in another respect, this concession would destroy the whole value of the acquisition. The traders would be enabled to maintain their accustomed influence over the Indians, and would have more inducements than when they had a monopoly of the trade to embroil them with the United States. Formerly, they were interested in their continuing in peace, as war prevented the acquisition of skins and furs; but when American traders shall embark in the trade, they will have an obvious interest in war as the certain means of banishing their rivals. It appears, then, that the Treaty of 1783, in this respect, is not revived—that there is a new contract with respect to the posts, and much less will be obtained than if that Treaty had been executed.

When the claims of Great Britain, under the Treaty of 1783, became the subject of the present Treaty, the stipulations discover a different principle. The United States give up the claim for negroes, and agree to receive the posts on terms which greatly diminish their value; but, when the debts due from citizens of the United States to subjects of Great Britain are to be provided for, there is not a stipulation that they may now be pursued without hindrance. but there is an engagement, on the part of the United States, to pay all losses which have arisen from the infraction of the Treaty of Peace, so far as it respects them. On what ground could this assumption have been made? Why is this penalty imposed on the United States? There can be but one justification, and that is, that they had been guilty of the first infraction of the Treaty of Peace, and must make amends; but there was to be no concession of this kind, so that if damages were to be given at all, they should be given on both sides. It seems clear, then, whatever pretences are made by the Treaty or its advocates, that the first infraction of the Treaty of Peace is fixed on the United States, and that they are to make compensation for an injury. Where does the conciliating temper of Great Britain manifest itself? Had she a claim under the Treaty of 1783, which is forgotten? Does she not receive everything which she could have demanded in relation to that Treaty? The United States are to indemnify her citizens completely for the non-execution at the time, and are to receive less than was promised them without the least compensation for the delay. But it is somewhere said, that the damages could not be demanded for withholding the posts, because they could not be computed. It will be agreed by those who press the acceptance of this Treaty in order to obtain the posts, that they are important to the United States. If of the consequence which they are represented to be, twelve years dispossession must have been a real injury, and the claim on Great Britain will be indisputable, although the amount may not be certain. This might be a good pretext for evading a payment to the United States, if this claim stood unconnected with any other; but it must be considered as a very shameless suggestion to enforce the payment of damages incurred by them. It is certainly a sufficient justification for retaining what is in their hands until Great Britain shall offer something on this account; otherwise she will be screened by her cunning in causing the subject of injury. Again, it has been said that this inequality in the Treaty was proper, because the right to recover debts returned with the peace, and did not depend merely on the Treaty. It is to be remembered, that the United States justify it as a retaliation for breach on the part of Great Britain, and that, in forming this Treaty, it was agreed to waive the right to retaliate; or, rather, the question, who first infringed the Treaty. It is only to be inquired, then, whether this was a proper subject of retaliation? and, if it was, the United States ought to escape all penalty for using it, or Great Britain must be equally subject to compensation for her infractions. (For this, see *Marten's* Law of Nations, page 268, where it is said that it matters not, in this respect, whether rights are innate, or whether they have been acquired by express or tacit covenant, or otherwise.)

Again: it has been said that the interference in the recovery of debts was not on the part of the United States, but was from the individual States. This argument admits that it would have been justifiable if Congress had directed it, but supposes it wrong for want of that direction. How Great Britain could avail herself of this, cannot be conceived; but how it can justify this demand on the United States, must take more than common ingenuity to discover. The effect of this retaliation is only to produce a fund for satisfying injuries done by Great Britain. It would be immaterial in what manner the fund was obtained, and Great Britain could never object to the use of it on account of that manner. A fair investigation of this agreement requires some estimate of the amount of those damages. This must depend upon conjecture, but showing the cases in which the United States will be liable, will sufficiently show that its amount will be seriously felt. The principle of the Treaty and its express stipulation is, that the United States will make good all losses by the operation of legal impediments to the recovery of debts. A case understood on all hands to be an object of the Treaty is, that of insolvency happening during the interference. This will be found to amount to a considerable sum. Another case is, where, from the course of things, the length of time elapsed will put it out of the power of creditors to produce that kind of proof

which the laws of the States require, and where it will be necessary, to execute the principle of the Treaty, to admit some other kind of proof. The Treaty seems to have had this case in view, for it has expressly empowered the Commissioners to receive books, copies of books, and such other proof as they may think proper. In Virginia, the business was done in such a manner that a great part of the debts remained due on open accounts without specialty, and the common law principles of evidence governed the Courts, except within two years of the date of the account, within which time a merchant was permitted to prove his account by his own oath. This privilege cannot now be claimed in any of those cases, and the other modes of proof are perhaps uniformly lost by the length of time. There seems, then, under the Treaty, to be an irresistible claim on the Commissioners to admit creditors to prove their accounts by some possible means, and these proofs being refused by the Courts will throw this whole class of debts on the United States: their amount will be enormous.

Another class of claims which may fall on the United States is still more alarming—those for war-interest. The Treaty has explicitly authorized the Commissioners to judge of all claims of British subjects lost by legal impediments, whether of principal or interest, and they are to determine according to justice, equity, and the Law of Nations. In the correspondence on this subject between the two Governments, the right has been asserted and denied; and it will depend on the Commissioners to say whether war-interest is due or not; and it being to be supposed that the Commissioners will advocate the principles of their respective Governments, the United States are to depend on the chance election of the fifth Commissioner for safety. If it shall be determined that it is due, the mischief will be insufferable. It will not merely be recovered in those cases where the principal is unpaid, nor will it be confined to those cases where it has been lost by actual judgment of a Court, but will extend to all cases of private settlement, where the decision of the Judiciary of the State had previously settled the principle.

This may be considered as a groundless apprehension; but if the right to war-interest is settled, the extent cannot be doubted. Everybody will see immediately that where it was stricken off by a Court, it must be revived; and one moment's reflection will convince, that relief must equally be extended to the case of private settlement. The difference, if any, must be created by the party's failure to institute suit, and everybody must admit that this could not be expected where, by previous decision, it was known that he had nothing to expect from the Courts; indeed, without a possibility of benefit, it might have been attended with the loss of costs or a tender of principal, and that part of interest which the Court held due, would have subjected him to costs for all further proceeding. According to the average rate of interest in the United States, the war-interest equals one half the principal, and it has been the universal practice in the State Courts, as it is said, where the debts have been recovered, to refuse interest during the war. Lest it may be doubted whether the effect of the Treaty is to put this dangerous power into the hands of the Commissioners, a reference may be had to the latter end of the —— number of "*Camillus*," where it is clearly admitted.

It appears, then, that on the subject of the disputes arising under the Treaty of 1783, there is no cause for congratulation. The claims for negroes carried off are abandoned; the posts are to be delivered up, on terms not unusual and dishonorable, but extremely dangerous to the future peace of the United States, and to obtain them in this manner we incur an obligation to pay a sum which probably will not fall short of five millions of dollars, and which may possibly amount to fifteen millions. When it is remembered that these claims commenced with our independence, and that they were the concessions to our infant struggles, what American is there who will not feel the disgrace to our manhood in abandoning them? All must blush at a comparison of the Treaty we obtained with our arms, with that which has been dictated by fear.

The next subject which claimed the attention of a negotiator was the injury recently sustained in the commerce of the United States; and on this subject it will be proper to review the circumstances in which the negotiator left this country. The losses sustained had been considered here as outrages of so serious a nature that all parties had concurred in demanding reparation; some had attempted at once to use coercion, and those who approved the mission declared that war must follow a failure. In this situation, where the sense of Government and people was decided, and where the injury was not only intolerable in itself but was likely to be repeated, it seems astonishing that a man could be found who would conclude a Treaty which gives to the United States no compensation, but more astonishing that partisans could be found here who approved his conduct. It may be asserted that no compensation is secured by the Treaty, and that under its operation it is equally probable that none will be received. See the article. It has been doubted, and is, perhaps, very doubtful, whether the Courts of Great Britain are not made the judges of irregular and illegal captures and condemnations, and whether the orders of the King are not admitted as good cause of seizure; but it never has been contended that compensation is promised in any particular case, or that any principles are established by the Treaty which are to govern the Commissioners. In the construction of their powers, insisted on by the advocates of the Treaty, their guides are justice, equity, and the Laws of Nations. Nobody can complain of these principles, if their fair operation was secured; but a moment's attention will show that this was nothing but an evasion of the subject.

The Governments themselves have been at issue about what the Law of Nations relative to this subject is, and it will not be denied that the Com-

missioners are to settle this contested law, as well as to decide on facts. What, then, is to be expected from the Commissioners? Can it be doubted, if there was danger that the political opinions of the Commissioners would not conform to those of the Government, that Great Britain will previously ascertain a concurrence in principles which she has contended for so long? In the most favorable event, all that can be expected on the part of the United States is that their own Commissioners will be equally zealous, while it is very possible that the sincerity of their Government will prevent a previous examination into the qualifications of their Commissioners. If this should be the event, and nobody will deny that it is the one which ought to be calculated on, what will be the situation of the parties? Resort must be had to a fifth Commissioner, or rather to the chance which is to decide his appointment. The United States, then, in this clear and delicate concern, is to submit to the decision of chance for reimbursement. There is not only an equal chance of losing all, but it depends on this tribunal whether the principles under which Great Britain has acted shall not be sanctioned. There being no agreement on principles, there can be no acknowledgment of injury unconnected with the event of reparation. Why is this solemn mockery of our rights? If dice or straws were to determine them, why not make the trial in secret, and let the Treaty depend on their decision? It would have been much more honorable to abandon all claim in that stage of the business on their decision, than to receive as a concession in the Treaty that they may decide, and to prepare for that decision with the solemn forms which appear in this business.

But there is evidence beyond the wording of the article, which has been before said to be doubtful, that Great Britain does not mean to submit principles at all to the decision of these Commissioners, and that she will insist on their conforming to the principles established by her Courts. It will be remembered that when the time for appeal was extended by the King of Great Britain, it was supposed to be the mode of making compensation to the citizens most agreeable to the pride of Great Britain, and that in the review of adjudged cases all principles would be abandoned which might subject them to compulsory restitution when any tribunal not dependant on that Government should be established.

If the case is resorted to in which their Courts of Appeals decided against the Messrs. Pattersons, of Baltimore, it will be found that they, so far as reasons are assigned at all, have affirmed principles which of all others would be most likely to be denied by an impartial tribunal; and it is fair to conclude, considering this Court as altogether a political one, that there is no intention to submit their decision to a review. It has been usual to connect this article with that respecting British debts, and to oppose objections to this, by saying that both are in the same words; but it will easily be seen that the fitness of the remedy depends altogether on the subject-matter. In a considerable part of the claims which will arise under that article the Commissioners will only have to inquire into facts. What constitutes a debt, being too certain to admit of doubt, men of character could nowhere be found who, when deciding on them, could be brought to take the part of either Government; but this is not the case where political opinions are to be the basis of their proceedings, as in case of spoliations; every day's experience proves that these are copied from those with whom you converse, that they are founded on views of aggrandizement, and that opposite sides may be supported with such specious reasons as to leave the partisans without a suspicion of insecurity. Commissioners are, therefore, very proper for deciding where principles are not in dispute, but where they are, chance must be called in to aid them; for it is not in any case to be expected that they will agree. It may be asked, what was to be expected in this case? It may be answered, that nothing is done, and, therefore, if we are satisfied of our right, more ought to have been insisted on; principles should have been decided by the Treaty itself, not only for guidance of the Commissioners, but for future security.

The next subject in relation to which this Treaty is to be considered, is the settlement of principles to prevent future misunderstandings. With respect to it the Treaty will be found still less satisfactory. The discussion on the article respecting actual spoliations will fully prove that little can have been done. The principles of compensation, if any had been fixed, would have been a rule for future conduct; and it is no small aggravation of the abandonment, that we are always to be subject to similar injuries. The daily outrages to our commerce and commercial agents are full proofs that their safety must have been badly provided for, or, if provided for, that the execution of the Treaty is not to be expected. It may safely be affirmed that no provision is made in questionable cases, but by a surrender of rights on the part of the United States; there is reason to fear that this has been done in some important cases. The general list of contraband has been very much enlarged to our disadvantage, while the books on the subject were divided, and practice was against the concession. It seemed to him to be the effect of the 18th article of the Treaty to concede a right under the Law of Nations to capture provision vessels going to an enemy's country; and if so, it is extremely injurious to the United States. Although apologists are found for almost everything which has happened between the United States and Great Britain, yet nobody has been hardy enough to advocate this right contended for by her. *Camillus* declares it not to be maintainable, and the claim is too extravagant to be founded on anything but force. To suppose that rapine over the whole commerce of a country is to be justified, by a declaration of the plunderers that they have hopes of reducing an enemy by famine, is to abandon every principle of law. In the third section of the 18th article, it appears that confiscation of vessel and cargo, as under the Law of Nations, continues to be the penalty of vessels going, with notice, to a place besieged, blockaded,

or invested; and it remains to be inquired for what cases the second section of the same article was provided. By it, it is agreed, "that, to provide against inconveniences and misunderstandings which might arise from the disagreement as to the cases in which provisions and other articles, not generally contraband, become so under the existing Law of Nations, when they so become contraband they shall not be confiscated, but the owners thereof be speedily and completely indemnified," &c. This article, with the other commercial articles, is to expire in two years after the termination of the present European war; and being a war article only, may be said to be made for the war.

The agreement being apparently for the benefit of the neutral nation, that is, the United States, is to be considered as made at her solicitation; and it must be agreed, that it contains a concession on her part, that a case may exist where the agreement will operate. What is this case? It may be seen in Mr. Jefferson's letter to Mr. Pinckney, remonstrating against the seizure of provision vessels under the orders of the 8th of June, that the Executive of the United States deny that the right of seizure exists in any case but that of going to a place invested, blockaded, or besieged. Great Britain, on her part, has never claimed more than one other, and that has been in the case where she had an expectation of bringing her enemy to peace by famine. Is it not greatly to be apprehended, that when this is the only case which has come into dispute between the two countries, the only one pretended to exist on one side, and denied by the other, that when there is an admission of the kind contained in this article, that it is of the contested case itself? But it is said that there is no admission contained in the article, but only a provision for the case when it does happen. It is a sufficient answer to this, to say, that compensation can only be obtained under the article when there is an admission that the capture was made agreeably to the Law of Nations; that an admission is necessary to the operation of the article. The declaration that it was to prevent inconveniences and misunderstanding, shows that there must have been some important operation with respect to contested cases in view, and that there was some adjustment of principles, so as to make way for its operation. If the reference to the Law of Nations was stricken out, it would be easy to comprehend the article.

It would then mean, that during the present war, all inquiries into the legality of captures was to be waived, and that the compensation should be general. It is easy to account for the insertion of that reference; for while the negotiator was willing to put things on that footing, he was unwilling, and was conscious it would be improper to make so unmasked a sacrifice of the rights of France in our lawful trade. These words, then, which are of themselves inconsistent with the context, to reconcile the whole clause, must produce an admission of a right to seize. It may prove very unfortunate that it should have been thought necessary to veil the article, for the words which were probably only intended for that purpose, will effect the admission of a permanent principle in the Law of Nations; which will bind forever, while the compensation will have expired. But it is said by *Camillus*, that if the article contains any admission of right, it cannot be said to admit it in the case of going to an enemy's country generally; for that there are other cases to which the compensation may apply. That writer mentions the case of a vessel leaving home for a blockaded port, with notice of the blockade; but he is certainly mistaken. The last section of the article in question would subject such vessels to confiscation as usual; and it appears impossible to distinguish such a case in reason from the one where notice was given by the besiegers. He conjectured, also, that a vessel going to an investing fleet would be subject to seizure; but brings no authority for saying so; and it is unnecessary to investigate a case which was not in view of the parties, was not likely to happen, and could not give such importance to the article as it seems to claim. In truth, there can be no doubt about the subject of the article; for while it was little understood, the case I have suggested was the avowed object of it; and it has certainly been practised on in the manner I understood it. Indeed, some zealots for the Treaty, not understanding the consequences, treat its operation in this respect as a benefit to the United States.

This construction renders the article a matter of very serious moment in our connexion with France. In the letter before referred to from Mr. Jefferson to Mr. Pinckney, it is the avowed opinion of Government, that a toleration of the capture of our provision vessels would give just cause of complaint to France, and that she might justly charge the United States with a covert assistance of her enemy. If the toleration of an act which was apparently an injury to ourselves, would bear this construction, how unquestionable will be the breach of neutrality, when we surrender the right, and stipulate compensation for the surrender. The character of the article in this respect deserves serious inquiry; for the people of the United States are not ready to transfer their alliance from France to Great Britain, and will not submit to it.

In all this investigation of the subject in relation to our long standing differences, our recent injuries, or our future connexion, there is nothing but a qualified surrender of the posts to console us for great accumulation of debt, dishonorable surrender of our just rights, and where they were of a nature not to be surrendered, for a no less dishonorable evasion.

It will not be understood that I suppose it was in Mr. Jay's power to make his own terms, but I complain of his treating at all on the terms he did. It is said that it was not in his power to extort what he wished, but I complain that he yielded to the extortion of Great Britain. What has he left her to ask, what has he not surrendered? While professing, as the Treaty does,

that there were important points of our commerce left for future negotiation, why bind us to continue to Great Britain the fullest share of our commercial privileges? If the Treaty had been the most complete and satisfactory, would it not be necessary to leave something to enforce its execution? What weapons have we which can reach her? The Treaty makes war indispensable, as the only redress of injuries, and how will war from the United States reach Great Britain? It was certainly improper to give up all power of restricting her commerce until the same instrument contained the fullest satisfaction as to our own. It was improper to give up all the power of seizing on the debts of her subjects, for this, when the power of restricting her commerce was bartered for equal privileges, would be the only means of maintaining respect. It is not necessary that weapons of any sort should be used, but it is more dangerous to surrender them. I am no friend to interference in private contracts, and I can truly say, I never was willing to resort to this remedy till all others had been tried; but if there was an impossibility of doing it, the want of the power would immediately be felt. The impolicy and immorality of sequestration have been dwelt on. Contrast it with war, for which it is a substitute, and it will be found in both respects unequal to it. All national remedies are attended with great mischiefs to those who use them, and they must be adopted only on comparison in this respect, and with regard to their effects on the enemy. In this last respect, there seems to be no choice to the United States; they have no other weapon that can reach Great Britain, and I greatly fear that, when this is lost, we are completely disarmed.

On the whole, having fully satisfied myself of the obligation to examine the operation of this Treaty, and to weigh well its effects before I give it my aid, I must determine that I see scarcely one interest of the United States promoted by it, while, on the other hand, it has established Great Britain in that dominant situation which she is too apt to make use of. All our powers are sacred trusts, and how it is possible for any gentleman who thinks the execution of this Treaty among them to give it his assent, is to me inconceivable.

When Mr. N. sat down—

Mr. Swift said, he wished to make a few remarks on this subject. The Treaty of Amity and Commerce before them, had been negotiated with Great Britain, it had been ratified by the constituted authorities of the United States, and promulgated in the legal form; and yet the House of Representatives were examining its merits, in order to determine whether they will make the necessary appropriations for carrying it into effect.

This proceeding seemed to involve a manifest absurdity and contradiction. That it should be said that the Treaty was made by the proper authority, and that it should afterwards be in the power of one branch to determine whether it be good or bad, and to agree or disagree to it, appeared to be an absurdity which could not be admitted in our Constitution. He believed, if they attended to the Constitution, a fair construction of it would not admit of such an idea. This subject had, on a former occasion, undergone considerable discussion; but, as he had not spoken upon that occasion, he would now offer a few observations upon the construction of the Constitution.

If they attended to the letter of the Constitution, there could be no doubt. But it was said there was a clashing of powers, and that the same objects of jurisdiction were delegated to the Legislature and Executive. He was sensible that, if the same powers were given to two different bodies, without deciding which was superior, the consequence must be a continual warfare; but if they attended to the subject, they would find the Constitution to be consistent, and all doubt would vanish. It must be admitted that the Treaty power would sometimes occupy the same ground with the Legislative power; one of them must, therefore, be paramount, or their clashing would be irreconcilable. It appeared to him that the Treaty power was superior. He thought the Constitution had established the principle which decided this question. There had always been a doubt of the effect of a Treaty in other Governments, and under the Confederation; but the Constitution, to remove this doubt, had declared that Treaties shall be laws. By pursuing this idea, they would find that the point in dispute was settled. The Constitution had said that the Constitution, laws, and treaties, were laws of the land. Here they had three sources whence they derived their laws. The question was, which was supreme? He knew it had been said, that the acts of Congress must be superior. Some gentlemen had argued that the first in order, and others the last, was superior. It appeared to him that the Constitution had decided which was superior; and by attending to it, there could be no doubt on the subject. The Constitution must be considered as the will of the people; it must be considered as irrepealable by an act of the Legislature. The Constitution is paramount to Treaties or laws. Acts of the Legislature were repealable in all cases, except where contracts were made. With respect to Treaties, it appeared to him that the Constitution had declared them laws, and that of course they must repeal all prior repugnant laws; and being contracts from their own nature, are incapable of being repealed. The consequence is, that a Treaty can repeal an act of Congress; it must do this, or it is not law. They must observe, also, that Treaties with foreign nations cannot be repealed by an act of the Legislature. They might, therefore, lay it down that Treaties are irrepealable, consequently that the department making such a law must be superior to that department of Government which had not the power to make an irrepealable law. It had been said, that Treaties might be repealed by a law; but he believed a little attention to the Law of Nations would convince gentlemen of the contrary. A Treaty being a contract, it would be seen it could not be repealed. This would be to

deny first principles, and to destroy the efficacy of all Treaties. It had been said that a Treaty cannot repeal prior laws, because laws were made by the Legislative Department, and Treaties by a different department, and that it was necessary for the same power which made the law to repeal it. He believed, it would not be found anywhere asserted, that no law could be repealed, except by the power which made it. He believed that a Constitution might give to a different department the power of repealing laws. Was not this, indeed, in their Constitution? Had not the Constitution placed in their hands the power of making laws, and given to Treaties the right of repealing laws? This being admitted, no difficulties remain. The Treaty power must be paramount because supreme. He knew it might be said there was some impropriety in giving both branches the same power; but if gentlemen attended to the subject, they would see the difficulties give way: because the Legislature may exercise this power until the Treaty power is in exercise; but, the moment the Treaty power comes into exercise, then the Legislature gives way, and, the Treaty power being supreme, repeals all laws contrary to it. Viewing the subject in this point of light, the Treaty before them was the supreme law of the land, and that, as such, they were bound to make all the appropriations necessary to carry it into effect.

He knew that it had been said, that this principle would deprive them of all their power; but gentlemen would find, that when the Treaty power had occupied all the ground it could, there would still be left many objects of jurisdiction, for the Legislative power. But if, on the other hand, they do not admit Treaties to be binding, until ratified by that House, the Treaty power would be at an end, the Legislature might occupy the whole ground, and the Executive would be unable to form a Treaty with a foreign nation. All Treaties, of course, would depend on the acts of Congress for their validity, and as such acts would be repealable, there could be no security in a Treaty. He would not pursue this subject farther, but would say a few words with respect to appropriations.

Notwithstanding the power given to the Legislature to make all appropriations of money; yet, in all cases where the national faith is plighted, a contract is made, or a debt contracted, it becomes an absolute duty to make the necessary appropriation to carry it into effect; for he considered no doctrine so improper, as that, after a debt or contract was entered into, that they should consider the propriety of the contract on the question of discharging the obligation. He, therefore, thought that it was agreed on all hands, that if a contract was constitutionally made, they were bound to carry it into effect, and that they had not the right to check the execution of contracts. But gentlemen had thought proper to go into an inquiry with respect to the merits of the Treaty, in order to discover whether it would be for the public good to carry it into effect. Though he would not abandon his principles, yet he was ready to meet them on that ground.

There had been much clamor and misrepresentation with respect to the Treaty before them; but he trusted, in that Committee, the subject would have a fair and ample discussion. He believed, if this were the case, we should find sufficient reasons for adopting it. He ventured to say, that the position might be supported that this Treaty had adjusted a variety of disputes between the two nations upon reasonable and honorable principles. He believed it had secured to them a variety of commercial advantages, with few sacrifices on their part; at the same time that he was convinced that there was not a single article injurious to their dignity or independence as a nation. It had been spoken of as sacrificing our liberty and prostrating every thing great and noble to the ambition of a foreign Power. He believed, on a fair discussion, the reverse would be found to be the case. In the examination he intended to go into on the subject, he would not go into the minutiæ of commerce, as he was no commercial man.

In the first place, it was natural for them to take into consideration the Treaty with respect to the adjustment of past disputes; those owing to the inexecution of the terms of the Treaty of Peace were, the taking away of negroes, payment of British debts, and the detention of the Western posts. The other dispute respected the spoliations on our commerce committed in 1793 and 1794.

With respect to the negroes, very little could be said. It had been observed, that till lately, it had always been allowed that they had a claim on Great Britain on account of those negroes. It was enough to look at the article itself in the Treaty of Peace; and he was surprised that any person could ever have entertained an opinion that they were entitled to compensation. If that article was attended to, it would be seen it was intended only to prevent their carrying away negroes and property that should be taken in future, and could have no reference to those captured during the war and before the Treaty, the property of which had vested in the captors. That point was so clear as not to admit of any doubt; on any other construction they might claim all the property plundered during the war, which no one pretended. For his own part, when he first read it, and ever since, he was of the same opinion. He should, therefore, consider the non-payment of British debts and the detention of the Western posts as the only two points in dispute arising from the inexecution of the Treaty of Peace.

They observe, that in forming the Treaty now before them, the parties went on general principles. There were two points unsettled, viz: British debts unpaid and the British posts not given up. The only mode of settlement was, that the one country should pay their debts, and the other give up the posts, without deciding who were guilty of the first breach of the Treaty. The surrender of the posts was a complete execution on the part of Great Britain; the payment of the debts equally complete on our part; but as it was

the case that the whole of the debts could not be collected, it was reasonable that the United States should pay for the deficiency; for otherwise the Treaty of Peace would not have been executed. For every one must agree that if they got the posts from the British, and they could only get one-tenth part of their debts, it was not equal on both sides. But Great Britain would have an advantage, because she was to receive interest upon her debt, and they had no allowance made for the detention of the posts. In answer to this, it might be said that there was great difficulty in making any calculation upon the subject; for, if it had been attempted, the British might have been charged with stirring up the Indians to war, which they certainly would have denied. He believed it might be further remarked, that Great Britain had determined never to deliver the posts until the debts were paid. He would ask gentlemen, therefore, whether it was not better to have an accommodation upon the terms which their negotiator had made than go to war? No doubt could be had on the subject.

But it had been said by a gentleman from Virginia [Mr. Nicholas] that the sum that must be paid for British debts would amount from five to fifteen millions. He did not think the sum would be equal to the smaller sum, though he had no calculation on the subject; but, let the sum be ever so great, if the debts were just, they ought to be paid.

Suppose the negotiator had said he must have a recompense for the posts having been kept contrary to the stipulations of the Treaty of Peace. This would have brought up the question, who violated the Treaty? And he believed if this inquiry had been gone into, it would not have issued in our favor, for he was sorry to believe we were the first aggressors. For the point being settled that they had not broken the article respecting negroes, it was certain that by laws passed in several States the Treaty was first violated on our part.

This, then, would have been the consequence: It would have appeared that we were the first infractors of the Treaty of Peace, and that we had now no other claim than the posts which the British had kept for their own security. Many gentlemen might think this representation improper in this place; but he believed it to be true, and if true, they ought to make payment of the British debts, however great the loss may be, before they could have any just claim for the surrender of the posts.

It appeared, then, to him, that with respect to the dispute respecting the fulfilment of the Treaty of Peace of 1783, the British had got what they claimed, and we had got what we claimed.

The next point of dispute repected the spoliations on our commerce in 1793 and 1794. The gentleman last up, from Virginia, [Mr. Nicholas,] had said that there was little prospect of getting any compensation for those spoliations by the provisions of the Treaty. From reading it, he had formed a different idea. In the first place, they had recourse to the British courts of law, and if satisfaction was not obtained by that means, Commissioners were to be appointed to adjust the amount of the losses which had been sustained, in order to their being paid. But it was objected against these Commissioners that they were to examine into the principles of these captures and spoliations, when we were convinced that there was no necessity for such examination. This was a very extraordinary objection. He had always supposed that most of the captures were against the Law of Nations; but he believed, notwithstanding, that there were some of them in conformity thereto. If the matter had been submitted to the determination of a British court of law alone, we might have had reason to complain; but the Treaty determined that two Commissioners should be chosen by each party, and the fifth by the other four, or if they could not agree, each party was to appoint one, and determine the choice by lot, and that these should have the power of determining over the British courts of law. Could they have expected the British nation should have said, all the captures we have made are illegal, and we will pay their full amount without examination? Surely not. He thought the provision was a just one, and that they stood a fair chance of getting recompense for the spoliations committed upon the property of their merchants. But gentlemen had said that all would depend upon the choice of the fifth Commissioner. He could not think so. For he would not have so unfavorable an opinion of his countrymen or of British subjects as to believe that they will judge only in favor of their own nation. He trusted they would decide upon the broad basis of principle, and not upon the narrow one of country. He acknowledged he could not perceive, and he thought gentlemen should not be so desirous of finding fault with the Treaty as to impute any blame on this article. He thought the adjustment proposed fair and honorable to both nations.

With respect to commerce, he should make few remarks, as, not being a commercial man, he could not be supposed to be so well acquainted with it as some other gentlemen in the Committee. But it appeared to him that Great Britain had granted us extensive commercial advantages, and that we had granted them no new privilege.

Our territory adjoins the British dominions in Canada, and both nations must have experienced great inconveniences if an intercourse could not have been established. The Treaty has settled a commercial intercourse between the United States and Canada, upon such fair and liberal principles, that it will be found highly advantageous to the United States, and it is altogether probable that we shall not only secure the fur trade, but that we shall obtain the whole trade of Canada. But a gentleman from Virginia [Mr. Madison] had objected to this article because it had secured to British subjects the privilege of portages, which he said was a condition clogging the surrendering of the posts. This has no relation to the delivery of the posts, but is a part of the system of commercial intercourse established between the two nations, and which, on inquiry, would be found to

be greatly in favor of the United States in every respect. It evidenced a singular disposition to find fault with the Treaty, to reprobate articles which were manifestly in our favor.

With respect to the East Indies, the Treaty gave them very important advantages. It may be said that they possessed the same advantages before the Treaty, in respect to India, that they now possess. But they might then have refused them admission, but now the privilege was secured to them. It had been suggested by the gentleman from Pennsylvania [Mr. Swanwick] that the East India commerce was of little consequence, upon ground which he thought fallacious. Their commerce to the East Indies was proved beyond doubt to be of great consequence, by the number of ships employed in it; and it was impossible that a commerce which was very lucrative when it was carried on upon sufferance, should cease to be so immediately on its being secured to us by Treaty. Yet the gentleman from Pennsylvania had said the stipulation would prove of no advantage to the United States.

But it is said they were restricted from laying higher duties upon British ships than upon other foreign ships. This appeared to him a matter of very little consequence. The article contained a reciprocal restriction on both nations.

He could not see any sacrifice in these restrictions on our part, though if there had been, we had ample recompense in the East India trade, for which no return is made on our part.

Great fault was found with the Treaty, because it did not provide for a free trade to the West Indies, (for he need not say anything on the twelfth article, as it ceased to exist.) What claim had they to a trade to the West Indies? He did not see that they had any right to call upon the British Government to open their ports to them. Great Britain was a sovereign nation, and had a right to keep us from her ports if she pleased. No doubt it would be extremely advantageous to the West Indies to have a free trade with this country, but it would be an injury to Great Britain; therefore, having founded Colonies, and being at a great expense in supporting those Islands, they could not expect she would suffer America to reap all the advantages which she derives from her commerce with them.

The same objections might be brought against the Spanish Treaty. It would be as advantageous for us to enter the Spanish ports in South America or the West Indies as it would be to enter the English ports. Why did not gentlemen, then, object to the Spanish Treaty? Yet this was accepted unanimously. He left gentlemen to determine, therefore, whether this objection was well founded.

Another strong objection to the British Treaty was founded upon the article doing away the power of sequestration in either country. He believed no real objection could lie against this article; because it only forbade the doing of a thing which would prove a real evil. Though he believed sequestration to be contrary to the Law of Nations, yet he would not consider it on that ground, nor in a moral point of view, but merely on the principles of policy.

Should a nation contemplate the passing an act to confiscate debts, he believed it would be found so difficult in execution, that it would produce so much mischief, and open the door to so many frauds, that it would bring so little money into the Treasury, and at the same time lay the foundation for a dispute with the other nations so difficult to be adjusted, that, on the ground of policy, they would never adopt the measure. But, at any rate, the present article was reciprocal, because Great Britain was equally restrained in the exercise of this power. But it had been said that it was unequal because they are creditors to us, and we are not to them in equal amount. It ought, however, to be considered that this article operates favorably to us in this respect. The restraint on the confiscation of debts gives them such security that they will give us credit on more favorable and liberal terms; and, in the present state of things, all agreed that credit was advantageous for this country. He therefore thought it could be no objection to the Treaty to restrain the exercise of a power which can never be exercised consistent with sound policy.

Very little could be said with respect to contraband articles. The Law of Nations had not settled what articles were contraband. Different Treaties stipulated differently on that head. He was willing to allow that there was a difference in this respect between the Treaty with Spain and that with Great Britain. But as this always must depend on the agreement of nations, it could be no well-grounded objection to this article.

It had been said that the article with respect to provisions contained a new principle with respect to the Law of Nations unfavorable to this country. If gentlemen would attend to the article, they would see that this charge was unfounded. The whole of the article, he said, went to adopt this principle: that such articles only should be contraband as the Law of Nations deemed to be so, and when provisions were carried into their ports which were contraband, they should be paid for, allowing a reasonable mercantile profit thereon, instead of being confiscated according to the Law of Nations. So far from being objectionable, therefore, he thought the article a very good one. The new principle introduced operated directly in our favor.

So with respect to the article of neutral vessels making neutral goods. Nothing more was necessary to be said upon this article than that it was the Law of Nations, and the British were not willing to alter it. And what reasonable charge could be brought against them on account of this unwillingness? Besides, it was a matter of uncertainty whether we should have any greater advantage by such a change than we should have by keeping the article in its present form.

It was made a serious objection by the gentleman from Pennsylvania, [Mr. Swanwick,] that there was a contradiction between the English and Spanish Treaties. This contradiction, he said, was in the article of contraband goods. Cer-

tain articles, he said, were made contraband in the former which were not in the latter, and which would prevent him from giving it his vote. He wished to know wherein this contradiction consisted? There was a difference, it was true, but he could not see with what propriety that difference could be termed a contradiction, because both Treaties were capable of being carried into effect without clashing with each other. To be contradictory, the two Treaties should require contradictory acts to be done by the nation. Suppose the Spanish Treaty had contracted with the United States that no British vessels should enter the Mississippi, and they had contracted in the British Treaty that they should have full liberty to navigate that river, the one Treaty could not be carried into effect without breaking the other; but whilst both could be carried into effect, they could not be deemed contradictory. Thus it would appear that the Treaty had made no alteration with respect to the Laws of Nations, but in certain cases to moderate their rigor and render them more beneficial to us.

Mr. Swift said he had made these few remarks on the subject before them as they had weight upon his mind. He did not believe there was any thing in the Treaty injurious to the interests or honor of the United States, but, on the contrary, that there were a number of regulations which would be considerably beneficial to the country. But he did not think they were to be influenced by ingenious arguments on the occasion to provide the Legislative means of carrying the Treaty into effect. It presented itself in a form to them which called for their agreement and adoption with irresistible force. They ought to consider what will be the consequence if they make the necessary appropriations for carrying the Treaty into effect, and what will be the probable result if they refuse.

He would ask what mischief would arise by their adoption of the Treaty before them? Our independence or liberty, said he, would be secure. The British posts, which are of the first consequence to this country, would be given up to us. The value of these posts was incalculable with respect to the settlement of the Western country. Our merchants would have recompense made to them for the spoliations committed upon their property in the West Indies, which, if not made good by the British, must be paid by us. An advantage interesting to commerce, by permission to trade to the East Indies, upon the same terms with their own ships, and no difference in other ports. The consequence must be, that this country will continue to flourish and be happy.

But let us consider, said he, what will be the event, if the Treaty should be rejected. We shall lose the British posts; we shall lose all compensation for spoliations in the West Indies. He would not pretend to say that the British nation would proceed to immediate hostilities against them; but he was of a different opinion from the gentleman from Virginia, [Mr. Madison] that the only consequence would be a renewal of peaceable negotiation. He was willing to appeal to all the world whether this was likely to be the case. He was of opinion that the Executive of the United States would not proceed to further negotiation. Indeed, where could be found a Minister who would cross the water upon such a business? What would be the feelings of that proud and imperious nation? Would she receive these proceedings with calmness? No; she would treat them with indignation and contempt, and for years to come, he was of opinion, no Treaty could be obtained.

But would the matter stop here? We know very well, said he, from their past conduct, that they would be committing acts which would be unjustifiable against us. We may expect, said he, spoliations upon our ships, and impressments of our seamen. The Indian war would be rekindled on our frontiers. They would be continually provoking us, and he did not think the period far distant, when, from going on from insult, they should come to a state of war.

Some gentlemen have thrown out an idea that Britain would not proceed to war against us, because contrary to her interest; but it was well known from the whole conduct of that nation that they were far from dreading a war with us. At a time when we were discussing commercial regulations, which were to operate upon their fears to engage in a war with us, it was a fact that they were meditating war against this country. Even now, at this time, the capture of vessels, and the impressment of our seamen, not only evidence that they do not fear to make war upon us; but, if the Treaty should be rejected, the continuance of these practices will provoke the retaliation and end in war.

But it had been said that the daily impressment of our seamen was sufficient reason to withhold the appropriations. He would ask gentlemen what compensation they would get for this injury by refusing to execute the Treaty? None. But, if they executed the Treaty, the door would be open to procure redress for any grievance which we had sustained in as effectual a manner as if we rejected the Treaty.

The gentleman from Virginia [Mr. Madison] had reminded the House that the President had hesitated to sign the Treaty. He should wish to know how he knew the fact? And how he could presume to say, that if the Treaty was now to be ratified, he would refuse to sign it. It seemed extraordinary that that highly respected character should be thus brought into view. He believed that they had the most unequivocal proof that the President wished the Treaty to be carried into effect; and he thought they had no ground upon which to insinuate the contrary.

Mr. S. concluded with observing that they were upon the most important and interesting question that was ever discussed in that House. He felt a solicitude and anxiety about its determination that he never felt before on any occasion; for he believed on the decision depended peace or war, and the happiness or misery of millions!

When Mr. Swift concluded his remarks, the Committee rose, and had leave to sit again.

Monday, April 18.

Mr. Baldwin presented a bill for fixing the Military Establishment of the United States, which was twice read, and referred to a Committee of the Whole on Tuesday.

Mr. Hillhouse presented bills for carrying into effect the Treaties with Spain and with certain Indian tribes, which were twice read, and committed to a Committee of the Whole to-morrow.

KIDNAPPING NEGROES.

Mr. Gallatin said the member from the State of Delaware being so much indisposed as not to be able to attend the House, had requested him to represent that the Legislature of that State had taken measures to prevent the future kidnapping of negroes and mulattoes, and that they wished Congress to make provision on the subject. He believed it would be best to bring the business before the House by way of resolution. He therefore proposed one to the following effect:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of making effectual provision for preventing the kidnapping of negroes and mulattoes, and of carrying them from their respective States contrary to the laws of the said States."

The resolution was agreed to.

BRITISH SPOLIATIONS.

Mr. W. Smith presented a petition from sundry merchants of Charleston, praying for such assistance on account of the spoliations committed upon their property by the British in the West Indies, by loan or otherwise, as Congress shall judge proper. Referred to the Committee of the Whole on the state of the Union.

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying the British Treaty into effect being under consideration—

Mr. Giles said it was much to be regretted that all the information which could throw light upon the subject of discussion should not be before the Committee. A sense of responsibility arising from the peculiarly delicate nature of the question had induced the House to take every step with more than a common degree of caution. Before they proceeded to deliberate upon the expediency or inexpediency of providing for carrying the Treaty into effect, they made a request to the President for the papers which attended the negotiation. This request has been refused; not because the call itself contained any thing unconstitutional; not because the contents of the papers called for were of such a nature as to render the disclosure thereof at this time improper. Neither of these causes being intimated in the Message, but because principles were advocated by individual gentlemen in the course of the argument inducing the call which the President thought not warranted by the Constitution. Mr. G. said, he did not propose to animadvert upon the conduct of the Executive in departing from the resolution itself, and in noticing the arguments of individual members, nor upon any other part of the proceedings of the Executive relative to the call of the House and his refusal. He only meant to remark, that being perfectly convinced of the propriety of the call itself, of the utility of the information embraced by it, and not being satisfied by the arguments of the President of the propriety of withholding the papers called for, he should have been willing to have suspended all further proceeding respecting the provision for the Treaty until the papers should be laid before the House. He would have firmly placed himself on that ground, and in that position hazarded his responsibility. The extreme sensibility excited on the public mind by the agitation of the Treaty question, he had supposed, would have furnished an irresistible argument in favor of complying with the request of the House, provided no inconvenience would have attended the disclosure; and in his opinion, under all the circumstances of the case, the House would have been completely justified in suspending all further proceeding upon the question of providing for the Treaty until they received that information which they deemed necessary to guide their deliberations. But as the House had thought proper to take a different course, and had proceeded to the consideration of the question, with such lights as they possess, he would explain the motives which would probably finally influence his vote.

Mr. G. said, he should discuss the subject in two points of view. He would first examine the contents of the Treaty itself, and then the probable consequences of refusing or of giving it efficacy.

In examining the contents of the instrument itself, he proposed to go through it article by article, unless the task prescribed to himself should exceed the bounds usually allowed to members for the delivery of their sentiments. He should do this, because he wished to treat the subject with the utmost candor, and to avoid any possible imputation of intending to exhibit the bad and avoid the good parts of the Treaty, if any such there were. He meant, however, to state merely the purport of many of the articles, without any animadversion, and to dwell only upon such as appeared to him the most material.

The first object of the negotiation respected the inexecution of the Treaty of Peace.

The preamble professes to waive the respective complaints and pretensions of the parties as to the inexecution of the former Treaty, and of course establishes a principle, as the basis of the present Treaty, that either both parties were equally culpable or equally blameless, in respect to the inexecution of the Treaty of Peace. He did not mean to remark upon the propriety or impropriety of this admission on the part of the United States. He would observe, however, and he thought with great force, that the stipulations in the present Treaty do not correspond with the principle professed as its basis.

On the part of Great Britain, two articles had been unexecuted: The restoration of certain pro-

perty in possession of the British at the close of the war, and the surrender of the Western posts. On the part of the United States, one article was suggested to remain unfulfilled; it respected the promise that no legal impediment should be thrown in the way to the recovery of debts due to British subjects.

The claim of compensation for the property carried away in contravention of the Treaty of Peace is wholly abandoned, and the value of the surrender of the posts very much lessened by the annexation of conditions which made no part of the stipulations of surrender in the Treaty of Peace. The United States are more than bound to fulfil the article heretofore unfulfilled by them; for, instead of continuing the Courts open for the recovery of debts in the usual way, as was the promise in the Treaty of Peace, they are made to assume the payment of all debts, interests, and damages, in cases of insolvencies, and a mode of adjustment is proposed for ascertaining the amount which furnishes the greatest latitude for frauds against the United States which could be devised. This will appear in the future examination of the subject. Hence it is obvious that the stipulations of the Treaty abandoned the very principle of adjustment assumed by a gentleman from Connecticut, [Mr. Swift.] In replying to a remark to this effect, made by a gentleman from Virginia, he observed, that he believed if an inquiry were made into the first breach of the Treaty of Peace, it would not issue favorable to the United States, and proceeded to argue upon the presumption that the first breach was properly imputable to the United States. Mr. G. remarked, that he thought it required very strong assurances to justify an imputation of that sort against the United States, such as he believed the present occasion did not afford. In the first place, he observed, that the Treaty itself disavowed the imputation; all claims and pretensions arising from the first breach are disclaimed, of course he thought it unnecessary, if not improper, to defend the Treaty on a ground disclaimed by itself.

But upon what ground does the gentleman place his admission of the first breach of the Treaty of Peace upon the United States? The gentleman denies the uniform construction put upon the article for the restoration of certain property which was carried away from the United States at the close of the war; and asserts that the article never was intended to bear that construction. If the gentleman could establish his assertion, and extend it to the other article unfulfilled by Great Britain, he might probably establish his position.

Mr. G. would first premise, that if the article did not intend the restoration of property mentioned in it, the insertion of it in the Treaty was not only unnecessary, but mischievous, as it would necessarily produce embarrassment to the parties to the instrument.

The British army, at the termination of the war, was at New York; the negroes, which constituted the species of property in question, were in the Southern States; so that if the article did not include that species of property taken in the course of the war, and in the possession of the British at the end of it, it was worse than nonsense. It never could have been supposed that, upon the first dawn of peace, the British would have left New York and invaded the Southern country, for the purpose of plundering the inhabitants of their negroes. The peace article itself was a sufficient security against this conduct, and of course no specific provision could have been necessary for that purpose. This was not only the uniform construction of the article by the United States, but, as he always understood and believed, Great Britain had acquiesced in the construction until the negotiation of the present Treaty. As an evidence of these facts, Mr. G. observed, that American Commissioners were permitted to make a list of the negroes in the possession of the British at the close of the war by the British commander; that the list was entered upon the files of Congress; that there were resolutions of Congress claiming compensation for the property carried away in contravention of that article in the Treaty of Peace, perhaps without even the intimation of a doubt as to the construction; that, during the administration of Lord Caermarthen, he had always understood that the claim of compensation for property carried away, was admitted, whenever British subjects were indemnified for the debts due to them from citizens of the United States. But here he had to regret the want of the papers called for by this House, as they contained all the evidence upon which this important fact depends. Hence it appears that Great Britain herself had yielded her assent to this construction, and ought not to have been permitted to have withdrawn it afterwards. These circumstances seemed to him to be conclusive, and ingenuity itself would pause for arguments against facts so stubborn and irresistible.

The gentleman from Connecticut had said, that he thought the present Treaty as good a one as the United States had any right to expect. If the United States were as flagitious with respect to the inexecution of the Treaty of Peace as the gentleman supposes, and Great Britain as blameless, he would acknowledge that the mode of adjustment had inflicted upon them a just punishment for their criminal conduct. This, however, was but a negative compliment to the Treaty, and could be gratifying only to those who concurred with the gentleman in the imputation thrown upon the United States. But it could afford no consolation to those who contend that Great Britain has been at least as culpable as the United States, and particularly when they reflect the present Treaty itself professes to disavow the imputation.

But if even the imputation is conceded, it would have been thought but reasonable to confine the punishment to the new adjustment of the articles unfulfilled, without extending it to a train of humiliating and imperious commercial concessions, which are altogether unconnected with the subject, and not warranted by necessity.

Mr. G. then proceeded to the examination of the articles of the Treaty. The first article, he said, was declaratory of peace, &c., between the two countries, which, he said, was a very desirable thing, provided it could be established upon principles compatible with the national honor and the national interests. The second and third articles contained the stipulations for the surrender of the Western posts, and the conditions accompanying the surrender.

The surrender of the Western posts, he said, would be an extremely desirable object, if conformable with the Treaty of Peace, and it were unattended with any conditions.

Here, he said, he was desirous of giving credit to every part of the instrument which would admit of it, and was not disposed to exaggerate its imperfections. He was willing to admit that the surrender of the posts, even with the conditions annexed, was of some importance; but he would assert that the surrender lost a great portion of its value to the United States, in consequence of the conditions attached to it. He observed, two objects of primary importance were to be effected by the unqualified surrender of the posts. The one was to obtain the influence over the Indians in their neighborhood, which the British now possessed. The other, the participation, at least, in the fur trade carried on with those Indians. The conditions accompanying the surrender, will, in his opinion, very much impede the one, and completely defeat the other object.

The stipulation in the second article, which authorizes British subjects who are now living within the precincts or jurisdiction of the posts, still to continue and to reside there, with the free use of their property; and to elect either to remain British subjects or to become American citizens at pleasure, will, in his opinion, very much impede, if not wholly obstruct, the salutary influence of the United States over the numerous tribes of Indians in that quarter; which is one great object hoped for from the possession of those posts. The effects of the stipulation will appear more obvious, when it is compared with the stipulations in the next article, by which the trade with the Indians is regulated. The second object, to wit, the participation in the fur trade, he believed, would be completely defeated by the regulation of that trade in the third article; that article stipulates an equality of duties between American citizens and British subjects, a free communication through that country, upon an equality of portages and ferriages. These conditions, in his opinion, would secure a complete monopoly of the fur trade to Great Britain; because the superiority of the British capital employed in that trade, and the inferiority of duties paid upon goods imported for that trade into Canada, would, in his judgment, wholly exclude American citizens from a participation in that trade, through any channel in the United States. The United States had no mode left to counteract this monopoly but by a system of drawbacks, which appeared to him, from the nature and trade of the country, to be almost impracticable; or if not absolutely impracticable, it would compel us to purchase the trade at a price greater than it was worth. It appeared to him that Great Britain had foreseen these consequences, and that these articles are as well calculated to produce them, and to obstruct the views of the United States, as sagacity itself could have devised. Hence it appears to him that the value of an unqualified surrender of the posts is very much lessened by the accompanying conditions. The gentleman from Connecticut observed, that the surrender of the posts was absolute, and that no conditions were annexed to it. It is a sufficient answer to say, that his observation is a mere criticism upon terms. If they be not conditions of the surrender, they are accompanying engagements, and are to be executed with good faith by the United States.

The fourth and fifth articles related merely to the ascertainment of the boundary line, and, therefore, he should pass over them without comment.

The sixth article was, in his judgment, highly objectionable. This article assumes the payment of all debts, interests, and damages, due from American citizens to British subjects previous to the Revolution, in all cases where insolvencies have ensued, and where legal impediments to the recovery of the debts have existed. He would remark, that this was an assumption of debt by the public, which they did not owe, and never promised to pay, and that it is bettering the condition of the British creditor under the Treaty of Peace, without any obligation on the United States, to do so. He said that, as amongst the fashionable calumnies of the day, this article had been a fertile source of misrepresentation against the State he had the honor to represent, he was anxious to place this subject in its true light; and, as he professed to be well acquainted with it, he hoped to be indulged with some minutiæ of explanation. He said, this subject presented two aspects to the public; the one, as it respected States, the other, as it respected the individuals of the United States. As to the first, he admitted that if a greater proportion of debts of this description were due from Virginia than from other States, which had not, however, been ascertained, and which he doubted, in the same proportion, as a State, Virginia would receive an advantage over the rest of the States, by a common assumption of the debts; but as it respected the individuals of that State who were not debtors, they stood precisely on the same footing with individuals in other States, because they were, in common with others, to contribute to the payment of debts which they never owed. It is of very little consolation to them that they live in the neighborhood of those whose debts they are to contribute to pay; for propinquity or distance can make no difference in the state of interest between the individuals who do not owe, but who are to contribute to pay. As a very small proportion of the inhabitants of Virginia come under this description of debtors, the phenomenon of an opposition of that State, to this particular article, is thus explained.

It is to be remarked, that this article contains no limits as to the amount of debts assumed by it, nor are there any precise data furnished for calcu-

lation. But it has been said, that if the debts be due, they ought to be paid, be the amount what it may. He said, that gentlemen should reflect, that the amount would depend very much upon the mode of adjustment, and that the mode adopted by the Treaty was the most objectionable that could be devised.

He observed, that the principle established for the adjustment of the debts, instead of preserving the conflicting interests of debtor and creditor, would produce a complete union of interests; and of course would furnish the greatest temptations to frauds against the United States from both debtor and creditor. Hence the amount of debts assumed by the United States would probably be greatly increased beyond what would be the amount, if the debtor and creditor should be left to the ordinary course of judicial proceedings to adjust their own differences, under the principle of opposing interests. To entitle the creditor to a claim upon the United States, it is necessary for him first to establish his demand against his debtor, and then to show that his debtor was solvent at the commencement of the late war, and has since become insolvent; and that some legal impediment had intervened to prevent the recovery of the debt. Hence it becomes the interest of both debtor and creditor to establish these facts, because the debtor will be relieved from his debt, by the assumption of the United States, and the claim of the creditor will be transferred from the individual to the United States, which he would, in all cases, prefer, particularly as the assistance of the debtor will often become necessary to facilitate the establishment of the debt. This, he said, was the natural operation of the union of interest produced by the assumption of the debts by the United States, and there was more danger to be apprehended from it, from the impossibility of checking it, by any vigilance on the part of the United States and from the peculiar circumstances attending those debts.

The greatest proportion of debts remaining unpaid, he believed, stood upon open accounts. In many cases, when the debts were evidenced by specialties, payments had been obtained, either by the usual course of judicial process, or by compromise between the parties. There were two circumstances attending the open accounts which would give great scope to the fraudulent combinations between the debtor and creditor. The one respected the evidence, the other the substantial causes of difference in the accounts of the creditor and debtor. In the reign of George the II. an act was passed for the more easy recovery of debts due to His Majesty's subjects from His Majesty's plantations in America. This act authorized the merchant in Great Britain to establish his debt against a colonist by affidavits taken before the commencement of the suit, and authenticated in the usual mode. This deprived the defendant of all opportunity of cross examination, so essential to the discovery of truth, and the jury of all knowledge of the character and credibility of the deponent.

In Virginia, the affidavits taken in pursuance of this act, have been deemed incompetent to the establishment of the debt, because the act itself destroys the very nature and properties of evidence. Hence, in all disputed claims founded upon this act, judgments have been rendered for the defendants. If this should be deemed a legal impediment to the recovery, this whole description of debts would probably come under the description of debts assumed. He observed, that the words used in the Treaty were calculated, in his opinion, with a view to this construction, and must have been dictated by persons better informed of the nature of this business than he presumed the Envoy Extraordinary of the United States could have been.

The words alluded to are the following:

"The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same, respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises; and, also, to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies or extracts thereof, every such deposition, book, or paper, or copy or extract, being duly authenticated, either according to the legal forms now, respectively, existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow."

The other circumstances arose from the nature of the remittances. These were generally made in tobacco. The sales of this article were intrusted solely to the merchant residing in Great Britain, and the American shipper had no check whatever upon the merchant making the sale. Upon tendering these accounts, the tobacco is often set down at a price very inferior to the average price of that article in Europe, at the time of making the sale. A great number of controversies have taken place upon this ground, which remain unsettled; but, if the United States should assume the debts of the individuals thus circumstanced, they would have no inducement to contest these accounts in a course of judicial proceedings, and the promise of exoneration from the creditor will often induce the debtor to facilitate the establishment of the claims against the United States. He said he had not overlooked the clause in this article of the Treaty, which compels an assignment of the claim from the creditor to the United States, but that would have little or no operation to check the practice invited by this article, because the debtor is presumed to be insolvent before the assignment is made, and he believed the United States would be but unsuccessful collectors from insolvent debtors.

From these circumstances, he concluded, that this assumption of debt, without any obligation for so doing, was extremely improper, particularly

when it is recollected that this article sweeps away all acts of limitation, and relates to the whole extensive scene of business carried on in the United States, from the extremes of New Hampshire to the extremes of Georgia, for an unlimited time before the Revolution. He observed, if he were to make a conjecture as to the amount, it would be a loose one; but if he were to choose between indemnification to the American merchants for recent spoliations committed upon their commerce, or the payment of these debts, he should not hesitate to prefer the first alternative; because, to that there were known limits; to the other there were not, nor any data for calculation under the mode of adjustment prescribed by the Treaty. He, therefore, cautioned gentlemen against the assumption of this unascertained debt, for he believed it would be attended with a responsibility which they could not answer to their constituents, nor would the responsibility be alleviated by the recollection of the merits of the individuals for whose benefit it is made. The increase of the debt of the United States by these artificial means, without any obligation to do so, he thought highly objectionable.

The 7th article of the Treaty promises compensation for the spoliations committed upon American commerce, in the course of the present war. This would be a very desirable object, if it could be obtained, but, when he observed that before compensation was to be obtained, a process was to be had at the Admiralty Courts of Great Britain, and that the amount would depend very much upon the temper of those Courts, he doubted very much whether this boasted article would not be dwindled down into very little importance. He should only observe further, that the merchants, for whose benefit this article was more immediately intended, and who had petitioned Congress to make provision for carrying the Treaty into effect, seemed not to rely implicitly upon the provision upon this subject; because, in every memorial, they had held up the expectation of ultimate indemnification from the United States.

The 8th article pointed out the mode of paying the Commissioner to be appointed under the Treaty, to which he had no objection.

The phraseology of the 9th article was somewhat curious, and the object he could not perfectly understand. It is in the following words:

"It is agreed that the British subjects who now hold lands in the Territories of the United States, and American citizens who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise, the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

If it be the object of this article to vary the existing laws upon the subject of landed estates, it is wholly improper. If not, it is wholly unnecessary. He did not know how far this article might affect the proprietary estates. If it be intended to give any new impulse to those estates, it might be attended with serious effects. Pennsylvania was the only State which had regularly extinguished the proprietary claim. If a latitude of construction should be given to this article, it might materially affect the States of Delaware, North Carolina, and Virginia. He would not pretend to say that it would bear the interpretation he had hinted at, but as an individual he would rather it had been omitted. He further observed, that there was a semblance of reciprocity assumed by this article; but no reciprocity in fact.

The 10th article, he said, was of a very extraordinary complexion. It was remarkable, both as to the matter it contained, and the manner in which it was expressed. It is in the following words:

"Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever in any event of war, or national differences, be sequestered or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of the national differences and discontents."

Mr. G. remarked, that this article also had assumed the resemblance of reciprocity; but no reciprocity in fact.

British subjects have great sums, both in public and private funds, in the United States. American citizens have little or no property in public or private funds in Great Britain. Hence the evident and substantial inequality of this reciprocal stipulation. On the other hand, American citizens have a great share of property on the water, with very little naval protection, and of course subject to the naval superiority of Great Britain.

If, therefore, Great Britain had stipulated, in case of war, that in consideration of a refusal on the part of the United States, to sequestrate property of British subjects upon land, she would not molest the property of American citizens upon water, there would then have been a substantial, instead of a nominal reciprocity; as the article now stands there is an important right conceded, and no compensation obtained.

This article, however, has been highly applauded by a particular description of persons interested in it, in consequence of the affectation of morality professed by it.

It has been said to be dishonest and immoral to take the property of individuals for the purpose of compensating national wrongs. He observed, that he could see no difference between the morality of taking the property of individuals upon water, and the property of individuals upon land. The difference of the element could make no difference in the morality of the act. However strongly, therefore, this moral impulse was operating upon the American Envoy whilst engaged in the construction of this article, it had entirely dissipated before he had arrived at the 25th article; for, in that article, the principle of privateering is not only admitted, but its operation facilitated; so that, unless the interest of Great Britain is to be the

criterion of the Envoy's morality, what he has gained by the morality of the 10th article must be at least balanced by the immorality of the 25th. But, Mr. G. remarked, that sequestration was always admitted as part of the Law of Nations, and hence he presumed it was not immoral under certain circumstances. He said, it appeared to be the opinion of some, that where the property of an individual was sequestered on account of the act of his nation, that the individual was to sustain the loss; but that was not the case. The sequestration itself imposes upon the Government, to which the individual belongs, an obligation of reimbursement. Hence the sequestration does not ultimately rest upon the individual, but upon the Government, for whose wrong the property was taken. This is also conformable to the Laws of Nations. It was the course pursued by Great Britain for all sequestrations made during the American war, and is the course which would be pursued by all nations.

Mr. G. said, that war itself was immoral in most cases; and justified, in his opinion, only in the case of self-defence; but if a stipulation had been inserted in this Treaty which prohibited the United States from declaring war, it would have been justly and universally reprobated. The present article prohibits the United States from resorting to the best means not only of preventing war, but the most efficacious means of supporting it. Hence, the surrender of the right was the most impolitic concession, and is infinitely aggravated by its being a voluntary concession; no equivalent being received in return. Mr. G. said, it was dishonorable to the United States because it evidenced a want of confidence in the discretion of the constituted authorities. The right of sequestration is admitted to be essential to national sovereignty; but, lest it should be indiscreetly used by the United States, its guardianship is transferred to Great Britain. Mr. G. said, he viewed sequestration as an extraordinary remedy, to be resorted to only on extraordinary occasions. And although he would admit that but few cases would justify a resort to it, yet it was one of our best instruments of defence, considering our relationship to Great Britain, and ought not therefore to have been surrendered. He said, too, that this restraint was imposed upon the United States for an unlimited time, and was the more objectionable, as it was a species of legislation against the discretion of legislation.

But, Mr. G. said, whatever might be the difference of opinion as to the matter of this article, the most partial admirer of this Treaty must be very unwilling to defend the very extraordinary Envoy of the United States for the manner of expression. This was a measure proposed in the House of Representatives, as one of the means of self-protection against British depredations. This was a circumstance known to the Envoy, yet he not only bartered away the measure, but, in doing so, branded the proposition then depending before the House of Representatives with the terms "impolitic and unjust." This was an unnecessary imputation, which no Minister could have been justifiable in applying to his Government. Suppose our Envoy had insisted, and the British Minister had agreed, that the order of the 6th of November for taking neutral vessels for adjudication, was piratical and ought not to be renewed? He would not pretend to say how far the order would justify the epithet: But, what would have been the fate of a British Minister under such circumstances? Utter disgrace would have been one inevitable consequence; but an American Minister is not only tolerated for a similar conduct, but by some who even affect to be Americans, applauded. Mr. G. remarked, in the present agitation of the public mind, truth seemed to be obscured by party irritations, and personal partialities; but he was convinced, that whenever it was so far collected as to take a calm review of this transaction, there would exist one universal voice of condemnation.

The 11th article contains a general stipulation for the liberty of navigation and commerce between the two countries.

The 12th article was the first of the commercial articles. This article is suspended; but the want of a substitute will justify a few remarks. Mr. G. remarked, that he was not practically acquainted with commercial detail, and of course should not go much into detail upon the commercial articles; there were, however, some grand principles which applied to commerce, as well as to every other business or science, which would guide him in a few remarks upon that subject. He observed, that the 12th article was intended to regulate the trade between the United States and the British West India Islands; so far, therefore, as it permitted that trade to be carried on, it was intended as a concession to the United States; the rigid restrictions accompanying the concession, however, rendered it so paltry that the Senate rejected the concession, although the Envoy had accepted it. But, in what situation has the rejection left the United States? They are now engaged in a Commercial Treaty with Great Britain, in which they have surrendered almost every commercial advantage they had to bestow, and are still wholly excluded from the West India trade. He had always understood that the West India trade was the great object of commercial negotiation with Great Britain, but now that is formally relinquished. It may be said, that further negotiations upon this subject are promised; but what inducement will Great Britain have to relax her Colonial regulations, provided this Treaty should be carried into effect? She had already without this relaxation placed the commerce between the two countries precisely upon the footing she wished; and the United States have yielded every commercial advantage which might have been exchanged for that relaxation. Of course, Great Britain will have no inducement to make, as the United States have nothing to offer, for the relaxation.

The gentleman from Connecticut [Mr. Swift] justified the conduct of Great Britain with respect to the West Indies upon the ground of her Colonial rights. He observed that Great Britain had a right to prevent the trade to the West Indies altogether. This is true, and she had a right to prevent the trade to London, and the United States have a right to interdict her trade to this country. But, he would ask, if there be no relaxation of these rights, of what advantage is the Treaty? The very object of a Commercial Treaty is a reciprocal indulgence in the exercise of these rights, and the peculiar dependence of those Islands upon the United States for their very subsistence, would command a participation in that trade, if properly used.

The resort to the United States for supplies to facilitate the present operations in the West Indies, is a striking evidence of the importance of the United States to their existence.

It has been observed, that the Spanish Treaty has not opened the Spanish Islands to the United States. This is true, and it would have been a desirable thing if it had effected this object. But it should be recollected, that the United States have made no commercial concessions to Spain, and that the Treaty does not profess to contain any material commercial regulations.

The 13th article contained regulations for the East India trade. This article has been held up as an apology for all the commercial defects of the Treaty. He did not pretend to be perfectly acquainted with the nature of this trade; but, as far as he understood the explanation of the advantages of this article, he could not concur in the result. The common remark is, that this article secures to the United States a right which before was a courtesy. This remark possesses some plausibility, but no substance; what is called courtesy, is trade founded upon the interest of the parties. He believed that a courtesy in trade, the basis of which is the interest of the party granting it, is a better security than forced regulations by Treaty, without the basis of interest for their support.

It is admitted that the trade to the East Indies, before this Treaty, was extremely lucrative, and of course could not be the effect of the Treaty. But the restrictive and monopolizing hand of Great Britain is seen to extend itself, even to this branch of commerce, in the prohibition of the exportation of East India articles to an European market in American bottoms—which is a restriction which does not now exist, and is another restriction upon the citizens of the United States trading thence, which, in his opinion, will lessen very much the boasted security of right under this article whenever the interest of the East India Company would justify the prohibition of that trade. The restrictions alluded to are in the following words:

"Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said Territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States whenever they arrive in any port or harbor in the said Territories, or if they should be permitted in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatsoever nature established in such harbor, port, or place, according as the case may be. The citizens of the United States may also touch for refreshment at the Island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there."

The 14th article relates to the commerce and navigation of the two countries generally, and will be passed over without remark.

The 15th article was, in his judgment, highly objectionable.

This article restrains the United States from imposing upon British goods higher duties, &c., than upon those of other foreign nations. It authorizes Great Britain to equalize the existing unequal duties between the American and British bottoms, and restrains the United States from reviving the existing inequality. One objection to this article is, that it abandons, without an equivalent, the advantages resulting from the peculiar nature of the trade carried on between the United States and Great Britain. This trade consists, on the part of the United States, mostly of raw materials, which employ the artisans of Britain, and on the part of Britain, of the manufacture of artisans in the most finished state; and, in addition, there is always a large specie balance against the United States and in favor of Great Britain. It is calculated that the United States furnish a market for at least one-third of the whole surplus manufactures of Great Britain, and for this the most suitable returns for the British market are made. The loss of so valuable a market could not be supplied in any part of the world. It would naturally be supposed that a trade so favorable would be entitled to some indulgence on the part of the nation receiving the favor, and would command some respect to the nation affording it, provided it had energy enough to avail itself of the advantage; but by this article it is abandoned with a nominal, but no real equivalent. This consideration is greatly strengthened by extending it to the peculiar nature of the trade between the United States and the West Indies, which has been already remarked upon.

Upon this ground, the discrimination in favor of American over British bottoms, has been built; and the growth of American shipping has very considerably increased, in consequence of this policy. Our experience, therefore, is bartered away without even the probable calculation of a countervailing advantage.

The apology made for this article, that the United States have granted no right to Britain which she did not possess before, is entirely delusive. It may be true that no new right of sovereignty is granted to Great Britain; but she is now less at liberty to exercise a right without hazard, by a restriction imposed upon the United States, and which she had failed to exercise until this restriction was imposed. It is remarkable, from the whole complexion of the Treaty, that the advantages gained by Great Britain consist in

restrictions imposed upon the United States, as if her object was to restrain the United States in the exercise of their rights of sovereignty.

The 16th article related only to the appointment of Consuls, and does not require notice.

The 17th article was, in his opinion, objectionable in many respects. It yields a formal assent to the seizure and condemnation of enemy's property on board of American vessels. He had expected to have heard this article apologized for, and not justified. But he was surprised to hear it asserted that it was problematical whether the admission of this principle would be for the advantage or disadvantage of the United States. This was throwing the article into a problem, without attempting to solve it. It was discarding the exercise of the reasoning faculty. From the peculiar situation of the United States in their relations to the rest of the world, the establishment of the principle that neutral vessels shall give freedom for their cargoes, is to them of primary importance; of course, the United States have sedulously exerted themselves in all their foreign negotiations to have that principle formally admitted as the Law of Nations. In every other Treaty entered into by the United States, this principle has been carefully inserted. A formal assent to the contrary doctrine will probably produce a retrograde effort upon all former exertions, which will require a great length of time to counteract. In the relations between the United States and Great Britain, the principle is peculiarly important. Great Britain possesses the most formidable fleet in existence, and is at least one-half her time at war. The United States have an extended commerce, without the protection of a fleet, and from her remote situation from Europe, the great scene of war, as well as from the genius of the American people, are not likely to be involved in European contests. Hence, the disadvantage of the United States from this stipulation will be in proportion to the greater probability of their remaining free from war than Great Britain, and, in proportion to their more defenceless state of commerce. There exists another forcible reason which ought to have prevented this stipulation: its necessary operation upon the present belligerent Powers.

Under this article, French goods in American bottoms are made subject to British seizure and condemnation; but British goods in American bottoms are free from French seizure and condemnation. This was an evident partiality in favor of Britain against France, which, in his opinion, could hardly be warranted by the species of neutrality proclaimed by the Executive as the existing state of the nation. It was not only a neutrality, but an impartial neutrality. If a deviation from the first line of impartial neutrality could be in one case justifiable, he thought every American feeling would have inclined to favor the cause of liberty, and not the cause of despotism.

He said, it was no apology for this article, to say that an article upon the opposite principle could not be obtained. Then let none be obtained. It is the assent to the principle which constitutes the disgrace, and this injury to the United States. If other terms could not have been procured, French property in American bottoms might have been left to the ordinary operation of the Laws of Nations, without an explicit and invidious stipulation for its seizure and condemnation.

The 18th article defines contraband goods. There was a common, but just objection, made in this article, to wit: that the contraband list was extended, and that several articles were added, which were never admitted before to be contraband. It is to be observed that all these additional articles are amongst the exports of the United States, while most, or perhaps all of them, are amongst the exports of Great Britain. This circumstance proves that the reciprocity assumed by this article, is delusive, and that the advantage is wholly in favor of Great Britain. This article contains, also, some regulations respecting the seizure of provisions in American vessels, under certain circumstances, which are extremely equivocal and suspicious. He said, he presumed this article had furnished the pretext to Great Britain for issuing the late order for seizing American vessels bound with provisions to France. He would not pretend to say that the article justified a construction which might give rise to the order; but the existence of such an order since the signing of the Treaty is universally admitted; but he would assert that, whether the order was to be considered as the practical construction of this article, or an infraction of it, or an infraction of the neutrality of the United States in any respect, it might be attended with the most serious consequences. If this invasion of the neutral rights is to be the first fruits of the Treaty, the most alarming results may be expected from its further operation. The Executive of the United States have declared that even the permission of this conduct by one of the belligerent Powers is a breach of neutrality against the other; and, of course, a just cause of war from the injured nation. This doctrine is so clearly established in a letter from Mr. Jefferson, written by order of the President to Mr. Pinckney, dated 7th September, 1793, that he would beg the indulgence of the Committee in reading two or three paragraphs from the letter. It is in the following words:

"This act, too, tends directly to draw us from that state of peace, in which we are wishing to remain. It is an essential character of neutrality, to furnish no aids (not stipulated by Treaty) to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which might lead to war with France, and between restraining it ourselves, and permitting her enemies to restrain it unrightfully, is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honorable ground could we otherwise explain it! Thus, we could see ourselves plunged, by this unauthorized act of Great Britain, into a war, with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties, will enable us to avoid it. In the case where we found ourselves obliged, by Treaty, to withhold from the enemies of France, the right of arming in our ports, we thought ourselves, in justice, bound to withhold the same right from France, also; and we did it. Were we to withhold from her supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe, where corn is in demand, or make ourselves parties in the war. This is a dilemma which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may, indeed, feel the desire of starving an enemy nation; but she can give no right of doing it at our loss, nor of making us the instrument of it."

After this unequivocal declaration made by the Executive of the United States, what plea could be made to the French Government to justify an acquiescence in this conduct of Great Britain? Whether it be the result of the construction of the Treaty, or an infraction of it, what apology could this House make for giving efficacy to the Treaty before some satisfactory explanation was made upon the subject? Suppose the Republic of France were to approach the Executive of the United States with this letter in her hand, and say, "Here is your own declaration of your own neutrality; you have unkindly departed from the principles avowed by yourself, in favor of my enemy. You seem to have concurred in a scheme for distressing a whole nation by withholding supplies of provisions, when a better office might have been expected from the United States." Suppose a similar appeal were to be made to this House, whilst deliberating upon the expediency or inexpediency of giving efficacy to the new Treaty, which is used by Great Britain to sanctify her conduct; what reply could be made in either case? Is any gentleman who is disposed to carry the Treaty into effect, prepared to give a satisfactory answer to so just and so interesting a complaint? According to the very principles avowed by the Executive, rather than give no cause of umbrage to Great Britain, we give just cause of war to France. Yet, it has been said, that it would be disgraceful to the nation not to give efficacy to an instrument containing this disgraceful concession. It is not sufficient to say, that the Republic of France will not avail herself of this breach of neutrality, and enter into hostilities against the United States. It is sufficient to show that the United States, by the execution of this Treaty under this construction, will furnish just cause for such a conduct; and, if this be not the just interpretation of the instrument, no disgrace can be greater than to execute a Treaty with a nation at the very moment she is engaged in its infraction.

The 19th article contains some regulations respecting privateers which required no comment.

The 20th article respected the punishment of pirates, which was not material.

The 21st article prohibits American citizens from entering into any foreign service against Great Britain, and defines piracies. He would remark, that there is an existing law in the United States upon this subject, which operates equally towards all the belligerent Powers. This act extends no further than to prohibit American citizens from entering into foreign service within the United States, and applies equally to all foreign Powers. But Great Britain, not contented with this fair and just regulation, has extended this provision, so far as regards herself, beyond the limits or jurisdiction of the United States, and entirely destroys the impartiality and neutrality of the existing legal provision. What is the operation of this article upon the belligerent Powers? It is this: An American citizen entering into the French service, out of the limits or jurisdiction of the United States, against Great Britain, is punishable. An American citizen entering into the British service, under the same circumstances, is not punishable. Besides, it is a prohibition upon American citizens which has never been imposed upon the subject or citizen of any nation, as far as he could recollect. But the practice of entering into foreign service has at all times been resorted to as affording the best military education. When it is recollected that this article is to continue in force for only two years after the termination of the present European war; that there is no probability of the United States being, during that period, engaged in an European war; and that this article is in no respect connected with the professed objects of negotiation; has not the stipulation too much the appearance, as well as the effect, of interfering in the present European quarrel, and evincing a partiality for the interests of Great Britain, in violation of our professions of an impartial neutrality? And can this conduct be justified, either from the nature of the cause in which France is engaged, or from the good offices rendered by that great nation to the United States?

The 22d article stipulates that notice shall be given before acts of reprisal, &c., shall be authorized by either of the contracting parties, which was proper.

The 23d article was that in which he expected to have found some provisions for the protection of American seamen against British impressments; instead of this humane and salutary provision, he found that the officers and crews of those very ships of war, &c., engaged in the unauthorized impressments, are to be hospitably received in the ports of the United States, and a proper respect to be paid to those officers according to their respective ranks. Strange substitute, this, for the protection of American seamen! This article is rendered more aggravating, by the practice of the British in impressing American seamen since the signing of this very Treaty, whilst the table of the House is almost laboring with evidence of this fact; whilst the fact is not denied by any gentleman on this floor—in the very same breath in which a bill has been passed for the protection and relief of this valuable class of citizens, is the House called upon to make provisions for effectuating a Treaty of Amity, &c., with the nation committing these wrongs!—with a nation refusing to respect any evidence of protection which could be afforded to this description of citizens by the Government of the United States, and an alarm and wonder is excited, because the House,

under these circumstances, should deliberate upon making the provision!

The 24th article prohibits the arming of ships, by other foreign nations, in the ports of the United States, and selling their prizes; and restrains the United States from selling them more provisions than would be necessary to carry them to the next port of the nation to which they belong. Although he could see no propriety in these stipulations, particularly at this time, he would pass them over without remark.

The 25th article deserved two remarks: The first was, that it accommodates Great Britain in her scheme of privateering against France, and evidenced the same temper with several other articles towards the belligerent Powers, which has been remarked upon. The other grew out of the general clause of reservation which it contained. The clause he alluded to is in the following words:

"Nothing in this Treaty contained shall, however, be construed or operate contrary to former and existing public Treaties with other sovereigns or States. But the two parties agree that while they continue in amity neither of them will in future make any Treaty that shall be inconsistent with this or the preceding article."

From this reservation it is evident that all the articles which affect the present belligerent Powers, are intended as constructive of the Treaty between the United States and France; and the construction is so made as to operate most injuriously to France, and most advantageously to Great Britain. Indeed, this construction seems to have bound so hard upon the French Treaty, in the opinion of both negotiators, that they, probably apprehending that it might in some respect be deemed a positive infraction of that Treaty, thought it necessary to insert this sovereign clause. He said that the whole of the stipulations which affect the present belligerent Powers were the most reprehensible interferences in the European quarrel, for the following reasons: First, they are wholly unnecessary, because they are totally disconnected with the objects of negotiation between the two countries, and with the usual and natural orders of commerce, and of course must be deemed voluntary on the part of the United States. Second, the interest of the United States could not be contemplated, because there is no probability of their being engaged in a naval war in two years after the termination of the present war, at which time these stipulations are to cease; of course, the accommodation was intended for the present war, in which the United States are not engaged, and not for a future war in which they may be engaged. Third, because it is a dishonorable deviation from that impartial neutrality professed by the United States in favor of a nation the least of all others entitled to the accommodations of the United States, and against a nation the most of all others entitled to them. Fourth, it voluntarily hazards the resentment and hostility of a nation, which, if exerted, might produce to the United States the most serious calamities.

The 26th article provides that, in case of war between the two countries, the merchants and others of each of the two countries residing in the other shall have time to remove with their effects, &c.; which was in every respect proper.

The 27th article provides for reciprocally giving up certain fugitives from justice; which was not objectionable.

The 28th article respects the time of the duration of the Treaty.

He said, that having examined the Treaty at large, with candor, and with the best judgment he possessed, he found in it so much to condemn, and so little to applaud, and some of the objectionable parts were so formidable in themselves, that it was wonderful to him that the Treaty should have found an advocate, upon its mere merits, in the United States. Viewing the subject as he did, and believing it his duty to exercise his discretion upon it, nothing contained in it could justify him in giving his vote for the necessary provisions to give it efficacy.

Mr. G., after apologizing for the time he had already consumed, proceeded to consider the probable consequences of refusing, or giving efficacy to the Treaty. Gentlemen in favor of making the provision had suggested two consequences resulting from a refusal, of a very serious nature. The one, what is termed by them the hostility of departments of Government, which would necessarily eventuate in a total dissolution of the Government itself. The other, a war with Great Britain. He said, that if either of these consequences would result, he would vote for the necessary provisions, although the vote would be more against his feelings than any vote he had ever before given. Whether either of these consequences would result cannot be positively ascertained but by experiment. The subject, however, like all others, was susceptible of a certain degree of reasoning and calculation.

It should be recollected that the House is now engaged in the exercise of its Constitutional rights. It is called upon to make provision for carrying into effect the British Treaty. Two things naturally present themselves to its consideration: the one, the expediency of the object of expenditure itself, for which the appropriation is required; the second, the ways and means of raising the money. It has been settled by the House, that both are within the Constitutional discretion of the House. The President would deprive the House of the right of judging of the expediency of the expenditure, and limits its discretion to the ways and means of furnishing the supplies. This point being previously settled, he should not enlarge upon it. He proposed to give the history of the rise and progress of the Treaty. He would be correct as to facts, and precise as to dates. Very shortly after Great Britain became a party to the war against France, the President proclaimed the United States to be in a state of impartial neutrality. The Proclamation was dated 22d of April, 1793. An attempt had been made, and was at that time continued, to terminate the differences which subsisted between the United States and Great Britain, growing out of the inexecution of the Treaty of Peace. This attempt proved unsuccessful. On the 16th of June, 1793, Great Britain issued an order, which affected the rights of neutral vessels. This order, and the acts committed under it, served to increase the causes of dispute between the two countries. On the meeting of Congress, in the succeeding Fall, the President communicated to them all the negotiations which had taken place between the two countries, intimated that negotiations did not promise a favorable issue, and that it was left with Congress to say what further was to be done. In this critical situation of affairs, Congress took the subject into consideration. Great Britain was, at that time at least, considered as the aggressing nation. The first measure of self-protection proposed was a restriction of the commerce of Great Britain with the United States. This measure was objected to, as being too strong as a commercial measure, and too weak as a political one. As far, however, as a vote was taken upon it, a majority of the House appeared in favor of that proceeding. On the 6th of November, 1793, an additional order was issued, the purport of which was, to take and bring to legal adjudication all neutral vessels bound to French ports. This additional evidence of hostility gave rise to three other measures: the one was an embargo for a limited time, which was effected; the second was the suspension of commercial intercourse between the United States and Great Britain; the third, a sequestration, or rather the arrestation, of debts due to British subjects. The proposition for the arrestation of debts was moved the 27th March; the proposition for the suspension of intercourse, 7th April, 1794. On the 4th of April, 1794, the President laid before the House a communication from Mr. Pinckney, Minister from the United States to Great Britain, containing a conversation between Mr. Pinckney and Lord Grenville, of a very extraordinary nature, which always appeared to him to be the ground-work of the change which shortly afterwards took place in the conduct of the Executive of the United States towards the House of Representatives. The part of the communication alluded to is in the following words:

"Extract of a letter from Mr. Pinckney to the Secretary of State, dated the 9th of January, 1794—

"Lord Grenville answered that the only reason for renewing them was, lest the present instruction, being a revocation of that of the 6th of November, might also be deemed to revoke these articles, which were connected with it. His Lordship then explained the motives which had induced his Government to issue the present instruction. The first, he said, was the sincere desire of the Administration to maintain the best understanding and harmony with the United States. The second was, what he could not mention to me officially, but what he still thought it right I should be apprised of, that no misconception of their motive might be entertained; that he was aware of the delicacy of speaking to a foreign Minister concerning the internal state of his country, neither would he expect an answer from me on the subject; but that their second reason was, by this conduct, to take away every pretext from evil persons among us, who, according to the intelligence he had received, were endeavoring to irritate our people against Great Britain, as well as to oppose the measures of our own Government; and, in short, to reduce us to the present situation of France, a misfortune which he deprecated, as well for our sakes, as for the common welfare and tranquility of mankind. He further took occasion to observe, with respect to the conduct of our Government, in maintaining our neutrality, that, although there were some matters with which this Government was not perfectly satisfied, (and to which, for the same reason, they refrained from giving that opposition they thought they would be justified in doing,) yet, from the general tenor of the conduct of our Government, they were convinced it was their desire to maintain a full neutrality, which was an additional motive for their present conduct."

It is to be remarked, that on the 8th January the revocation of the hostile order of the 6th November took place, and on the next day after an apology for the acknowledged indelicacy of interfering in the internal affairs of a foreign Government, Lord Grenville modestly undertakes to intermeddle with the affairs of the United States. It had always been a matter of surprise to him that the American Minister should have listened to such a communication, and still more surprising that it should have met with a favorable reception in the United States. But the fact is, that on the 19th of April, 1794, the Chief Justice was taken from the exercise of his Judicial duties, and nominated Envoy Extraordinary to Great Britain, during the pendency of two of the beforementioned propositions in the House of Representatives. The House of Representatives proceeded to pass the bill for the suspension of commercial intercourse, on the 25th of April, by an uncommonly large majority; and on the 27th of April the bill was negatived by the Senate, upon the casting vote of the Vice President. The effect of this vote was a discontinuance of the embargo, and an abandonment of all the other measures proposed for self-protection. In these facts will be seen the commencement of what gentlemen call the hostility of departments, but what he should term the due exercise of the checks provided by the Constitution; and if it is to be traced to this source, the House of Representatives will evidently appear not to be the aggressor. The House viewing their measures defeated by the Constitutional check, acquiesced in the decision without a murmur. Now they are told, if the House should exercise its Constitutional check, a dissolution of the Government would necessarily ensue. This conclusion seemed to him without foundation, and ought not to be brought into calculation in estimating the present question. The Treaty itself was concluded on the 28th October, 1794. It was communicated to this House the 1st of March, 1796, having on the same day been promulgated by Proclamation, declaring it obligatory.

He remarked, that the Treaty had originated from an intimation of Lord Grenville, which had always excited his apprehension; it was commenced against the known sense of the House of Representatives, and every step of its progression seemed to have been marked with peculiar coercion. When a British Minister undertakes to declare that the motive for the revocation of the

hostile order was, to take away every pretext from evil-disposed persons among us, who, according to the intelligence he had received, were endeavoring to irritate our people against Great Britain, as well as to oppose the measures of our own Government, &c., and to assign the same reason for refraining from giving that opposition to some exceptionable measures of our Government, which he might otherwise have done; and when the United States so far listened to this language as immediately to enter into negotiation upon the subject, his apprehensions of British interference and of British influence were strongly excited, particularly when the British Minister seems to make a common cause between the two Governments against what he is pleased to call evil-disposed persons. He would here incidentally remark, that as far as these "evil-disposed persons" had produced the revocation of the hostile order of November, and a relaxation of British hostility in other respects, they were certainly entitled to applause from the United States, whatever epithets had been bestowed upon them by a British Minister.

He said the contents of the Treaty had very much confirmed his original intentions. Gentlemen had often said, show us the danger of British interference—of British influence. He said, to his mind, the Treaty itself contained the evidence: the Treaty itself corresponded with what he considered the object of the British Minister in giving the invitation to it. He found it in the following particular instances: Before the Treaty, the right of laying a special as well as a general embargo existed in the United States; the right of laying a special embargo upon British vessels is surrendered. Before the Treaty, the right of sequestration existed, and the exercise of it was proposed; this right, so far as it respects Great Britain, is forever surrendered. Before the Treaty, the right of discriminating against British goods in favor of those of other nations existed, and the exercise of it was proposed; this right is surrendered. Before the Treaty, the right of suspending commercial intercourse with Great Britain existed, and was proposed to be exercised; the exercise of that right is stipulated against for a limited time, &c. All these are restrictions of the exercise of the rights of national sovereignty, and seemed to him complete evidence of British interference.

These circumstances furnished two reflections. The one was, that the British Cabinet deemed the measures proposed to be more efficacious than they have generally been represented to be in the United States, and hence the extreme caution to stipulate against the future exercise of them. The other was, that party sensations must have had great influence upon the extraordinary Envoy of the United States, to induce his consent to these great abridgements of the rights of national sovereignty. The Treaty not only contains abridgements of the national rights, but changes the municipal regulations of the United States, and how have these things been effected? By the substitution of a foreign power in the place of the House of Representatives. If the Treaty-making power be thus extensive, and if it be so absolutely obligatory as to deprive the House of Representatives of the right of judging as to the expediency of making provisions for its complete effectuation, of what use is the House of Representatives as a distinct branch of the Government? Will it not be a mere formal and not an efficient branch of the Government? An entire new system of jurisprudence may thus be introduced by Treaty, and become obligatory on the House of Representatives—obligatory upon the nation.

He said, that whenever the question which necessarily results from the unlimited scope given to the Treaty-making power, shall be presented to the people of the United States, to wit: Shall the House of Representatives become a formal, or remain an efficient branch of the Government? they would pause before they would decide upon its annihilation. He said that their love of liberty, their love of their own interests would check, for a moment, personal affections or antipathies, party sensations, State jealousies would be disarmed, and the people would be found right in their decision.

Even in the midst of the clamor of war and disunion, which has been momentarily excited for a particular object, the people could not be led to such fatal extremities as the doctrine contended for would necessarily produce. Much less would this be the case after they shall have been relieved from these causeless apprehensions.

If, therefore, the House should exercise a Constitutional right of judging of the propriety of the object of expenditure, and a refusal should be the result of their judgment, he did not believe, that it would produce that fatal hostility of departments which would eventuate in a total dissolution of the Government; but would be an exercise of one of the salutary checks provided in the Constitution; which, in his opinion, constitutes its merit, and not its reproach.

Mr. Giles then proceeded to consider, whether a war with Great Britain would be the probable consequence of a refusal to make the necessary provision for carrying the British Treaty into effect; and he observed, that to his mind, there did not appear to be the least ground for the clamor which had been excited from this suggestion. He said he believed that Great Britain would make war upon the United States whenever she deemed it her interest to do so; and that the Treaty would impose no restraint upon her, if she thought her interest would justify the conduct. He also believed, that, if there should be no Treaty with Great Britain, she would not go to war with the United States, unless her interest would dictate the measure. In short, he believed, that Great Britain, like all other nations, would make her interest the criterion of her conduct in every other question of peace or war.

If this opinion be well formed, the probability of war may be tested by this question. Is it the interest of Great Britain to make war upon the United States in the relative situation of the two countries? Great Britain is now engaged in a war in which the Government hazard everything;

She is at this moment engaged in an important enterprise against the French West Indies. She is under the necessity of resorting to the United States for sundry supplies for facilitating the enterprise. The United States are the best commercial customer she has in the world. Under these circumstances, what would be her inducement for war? What would be her inducements to avoid it? These questions furnish their own answers. He said that the argument of war was an argument of dependance. It is also an argument which will last forever. If the fear of war is now to influence our conduct against our judgments, will not the same argument apply with double force two years after the expiration of the present war, to induce a continuance of the Treaty upon its present injurious conditions?

Mr. G. said, that as the argument of war was the chief instrument by which the Treaty was pressed upon the people of the United States, he begged the indulgence of the Committee in taking a retrospective view of the subject, and in examining it with some minuteness. Whatever might have been his opinion at the time of receiving the information of the hostile order of the 6th of November, he was now of opinion that at that time Great Britain did meditate war against the United States, although he believed there was no danger of it at present.

He believed, too, that the neutrality proclaimed by the United States, did not, in the smallest degree, influence the conduct or disposition of Great Britain towards the United States in regard to war or peace, but that the true explanation of her disposition will be found in the course of events in Europe. On the first of February, 1793, France declared war against the King of England, and the Stadtholder of Holland, and on the 7th of the same month, against Spain. France was then at war with the Emperor of Germany, and the King of Prussia, &c. A combination of the most of the despots of Europe had previously been formed (it is generally believed on the 21st of July, 1791, at Pilnitz) for the purpose of crushing the revolutionary spirit which had appeared in France. The accession of Great Britain, Spain, Holland, Portugal, and some of the Italian States, to the combination already formed, made it the most formidable which had ever appeared in the history of modern times. The most desperate and bloody war, of course, ensued, and immediately succeeded the declaration of war against Great Britain, a series of successes took place, which threatened the absolute subjugation of France.

On the first of March, the French sustained a considerable loss by the surprise of the vanguard of their army on the river Roer; on the 13th, the rebellion of La Vendee commenced; on the 18th Dumourier was defeated; on the 30th, he abandoned his army; on the 3d of April his army retreated into France; on the 4th, Dumourier himself was outlawed; on the 13th, France made a declaration against all interference with foreign Governments; on the 22d of April, the President issued the Proclamation of Neutrality; on the 3d of May, the rebellion of Corsica commenced; 29th, the rebellion of the department of Loire; 30th, the rebellion of the city of Lyons; June 2d, thirty-two deputies of the Convention, generally called the Brissotines, were arrested. About the same time, a rebellion commenced in the departments of Bouches de Rhone, Calvados and Eure; June the 8th, the first order issued by Great Britain for seizure of neutral vessels bound to France with provisions was issued. It is here to be remarked, that the impartial state of neutrality proclaimed by the President of the United States on the 22d of the preceding April, was probably known to the British cabinet. But whilst flushed with these successes in her crusade against liberty, the neutrality of the United States could not protect them from the invasion of their neutral rights; on the 10th of July, Conde surrendered to the combined armies; on the 27th, Mayence, &c.; on the 28th, Valenciennes; at the end of July, the Spaniards were in possession of Bellegarde, Collioure, St. Elme, &c., and of the whole department of the Eastern Pyrenees, and part of the Lower Pyrenees; the Prussians and Austrians were possessed of the lines of Weisemburg, Fort Vauban, &c., and had blockaded Landau. The Piedmontese and Hanoverians had made successful inroads into other parts of France, the Royalists of La Vendee were in possession of four departments.

The royalists of the south were in possession of Lyons, Marseilles, Toulon, and the departments of the Vaucluse and Rhone. On the 28th August, all Frenchmen were put into requisition; on the 28th, Toulon surrendered to Lord Hood by the Royalists; on the 9th of September, the Duke of York was defeated; on the 11th, Lyons was subdued; on the 30th of October, the Brissotines were executed. This was nearly the state of the war upon the European Continent at the time of issuing the hostile order of the 6th of November. In this chronological statement of facts may be found the hostile disposition of Great Britain widened by that order against the United States. France, convulsed with intestine divisions, which extended to the very heart of the Convention, laboring under the most formidable external pressure, was supposed to be an easy prey to this terrible combination of despots. The combination having in object, as he believed, the total destruction of liberty. Great Britain, possessed of the most triumphant and formidable fleet, and guided almost implicitly the movements of this great combination, already anticipated the destruction of liberty in France, and began to turn her attention towards the same object in the United States. Hence the order of the 6th of November; hence the truce between Portugal and Algiers; hence the talk between Lord Dorchester and the Indians. These, he admitted, were all acts of hostility, and evidently produced by the state of things before described. But what events followed these acts of hostility?

A complete reverse of fortune immediately succeeded. The Duke of York had been already defeated. On the 17th of December Toulon was

retaken by the French; on the 22d, the Austrian fortified camp near Worth was attacked and carried; on the 24th and 25th, the army under the command of the Duke of Brunswick was defeated at Kelifburg, and the Austrian army at Geisburg; on the 26th, the lines of Weisemburg were forced, and the Austrian army defeated. On the 8th of January, the hostile order for seizing neutral vessels was revoked, and on the 9th, Lord Grenville informed the American Minister that the revocation of the order was to take away all pretext from evil-disposed persons amongst us for indulging their resentment against Great Britain. But, however strongly this motive may have operated on the British cabinet, it certainly was very strongly enforced by the state of things upon the European Continent, which was not only changed, but completely reversed between the 6th of November, 1793, and the 8th of January, 1794. It is remarkable, that notwithstanding the several changes in the conduct of Great Britain towards the United States, they have been uniform in their impartial neutrality towards Great Britain; of course, the uniform disposition of the United States towards Great Britain could not have produced the fluctuating disposition of Great Britain towards the United States. Great Britain, in all probability, had supposed, that, in the intoxication of the combined Powers from their early successes, her influence might unite them in a war against the United States, and perhaps, in the height of her presumption, she might even have indulged the impious hope of regaining her dominion over them: but this sudden reverse of fortune checked her ambitious enterprise; probably anticipating a speedy dissolution of the combination, and having abandoned all prospects of engaging them in her iniquitous project, being unwilling to add a new and formidable enemy to the one already encountered, and even fearing the effects of her previous hostilities, a sudden revolution is produced in her conduct towards the United States. It is then she is desirous of taking away all pretext from "evil-disposed persons," to indulge their resentment against her. It is then the order of revocation is seen. If, then, Great Britain was unwilling to encounter a new enemy in her then situation, will any change of circumstances justify, at this time, the supposition of a change of disposition in Great Britain respecting war with the United States. He believed not. Peace seems to be more important to Great Britain at this moment than at any time previously during the whole period of the war. The nation is desirous of peace, and distressed for provisions. The combination, which indulged her presumptuous hopes, crumbled into dust.

Prussia at peace with France, and almost at war with Great Britain; Spain at peace with France, and hardly at peace with Great Britain; Holland at peace, and in alliance with France, and at war with Great Britain; Austria herself almost exhausted, and desirous of peace; and a continuation of French exertions and successes, which has excited the admiration and astonishment of the world. Are these the circumstances which would justify apprehensions of war from Great Britain? And are the United States to tremble at the sound of war from a nation thus circumstanced? He trusted not. And for what cause is this war to be produced? Because the House of Representatives may deem it inexpedient to become the instrument of giving efficacy to a bad bargain?

He verily believed that the alarm of war was not serious. He verily believed it was resorted to as an artificial instrument to effect a favorite object. For his part, he believed the hazard so small as not to constitute an item in estimating the present question.

Mr. G. said, he believed that Great Britain considered the United States as a more important commercial connexion (particularly as it respects her views in the West Indies) than some gentlemen seem to admit; and he believed, also, that she viewed the United States more formidable as an enemy. He inferred these opinions from the avidity with which this Treaty seems to have been received in that country, and particularly from an expression in the speech of the King at the late meeting of Parliament. He said that two reflections were strongly impressed upon his mind from that speech. The one was, that the Treaty was deemed a very advantageous one to Great Britain; the other was, that Great Britain has no appetite for war against the United States in her present situation.

Hence, he said, that he could not believe that there was the least possible foundation for the suggestion of the fatal hostility of departments of Government, or war with Great Britain, as amongst the consequences resulting from a refusal to make the necessary provisions for giving efficacy to the Treaty.

As the present Treaty is incomplete, and as further negotiations are stipulated in the Treaty itself, and in the event of a decision either way, are expected, he thought the most important consequences of the vote would be this: If the House should refuse to make provisions for carrying the Treaty into effect, the new negotiations would commence without the concessions contained in the present Treaty. If the provisions should be made, the further negotiations will proceed under the weight of the concessions already made, and very little amelioration of the present conditions can be expected, as the United States will have very little left to induce the amelioration. And if no final adjustment of differences should ensue, the United States will at least continue to possess all the rights attached to national sovereignty.

Much has been said, and much unnecessarily said, about intemperance and heats. He said he would appeal to the recollection of the Committee, whether there ever was a more harmonious session than the present, until this Treaty was introduced into the House; and then whether its opponents had not discovered at least as much coolness and deliberation as its advocates.

He said that the Treaty itself was the torch of discord which had been unfortunately thrown

into the United States, and it was extraordinary to observe those who have been most instrumental in introducing it, impute heat to others, for a firm and decisive opposition to it. It is too much to suppose that the absolute sacrifice of opinion is an obligation due to the embarrassments into which this Treaty has thrown the United States.

Upon the whole, he conscientiously believed the Treaty to be a bad one. He believed it contained the most complete evidence of British interference in our internal affairs, and had laid the foundation for the further extension of British influence. It has restricted the exercise of some of the important rights of national sovereignty. It has voluntarily hazarded the neutrality of the United States in the present European war, and destroyed all pretensions to its character of impartiality. It has not afforded protection to our neutral rights, which was amongst its great objects; and in the adjustment of the differences resulting from the inexecution of the Treaty of Peace, it is unequal and unjust. All these important circumstances considered, and when it is also considered that the British persevere in impressing our seamen and seizing our vessels, in violation of the clearest rights of neutral nations, even since the signing of the Treaty, he could not consent to be the instrument of giving it efficacy. He believed that it was one of those extraordinary cases which justified strong and extraordinary resistance.

When Mr. Giles had concluded his speech, Mr. Goodhue addressed the Chair as follows:

Mr. Chairman: Much noise has been made, and every art has been practised to prejudice the people against the Treaty now under consideration. I mean to look at it and see if it be the horrid thing it is represented to be, and particularly to examine the commercial part, to know whether we have made a good bargain or not. I will take notice of some objections that have been made, and then touch on the great evils that may justly be apprehended if we refuse to carry it into effect. And here let me observe, the subject is the most momentous that ever came before this House, and I mean to put no false colors on it, or to paint any evils that will follow a rejection, beyond what, in such an event, I most conscientiously believe will be realized. I will now state what new sources of commerce are opened to us by the Treaty that we had not before, and then see what we have given for them. 1st. We have got by the Treaty a perfectly free trade across the land, and by means of the lakes with Canada, that we had not before, and on the same terms with British subjects, which I estimate as a great advantage to this country; for it is evident, that we can introduce into Canada—up the North river and across the Lakes—almost any kind of goods, at less expense and on better terms than the British can up the river St. Lawrence, which is very lengthy, and frozen up six or seven months in the year. Having this advantage, can it be doubted that we have not industry and enterprise to improve it? No, sir, the enterprise of our people is such, that we shall unquestionably carry on almost all the trade of Upper Canada, and that great Western country which will be opened to us; by which means we shall have at least an equal share in their fur trade also with them, which we have so long wanted. But it is said, the portages or carrying places being common to both, they will run away with the greater part of the trade. Why so? I am not afraid but the citizens of the United States, if they are put on an equal footing with others, will make their way equal with any people on earth. But it is said, by way of lessening the advantages of this trade, that goods imported into Canada pay little or no duty, and the goods that we import are by our laws subject to high duty, and that no drawback of the duty can be established upon their being sent into Canada, and therefore, we cannot supply them on equal terms. To this, I reply, that I do not know what duty they impose on goods when imported into Canada, but I believe it is considerable; and I do not believe but it is possible to devise a plan for a drawback of the duty which may have been paid on our goods when they are sent into Canada, and that at any rate the ease by which we can send them there up the North river, compared with their being introduced by the St. Lawrence, will more than compensate for any difference of duty, in case a drawback should not be admitted.

2. We have got established by the Treaty a right to trade with all their settlements in India on the same terms with their own subjects, and thus we have laid open to us a free trade with those vast possessions of theirs in that quarter of the globe, which, it is said, contains twenty or thirty millions of inhabitants. Let me inform the Committee, that our trade to India is already very great and profitable. In the town of Salem only, in which I live, we have thirty sail of Indiamen, and doubtless, in the United States, the whole amount must be nearly an hundred; and the number will increase in such a manner, as by our superior enterprise, industry and economy, that we shall not only supply our own wants, but those of the West Indies and Europe, in a great measure, with India articles; for though, by the Treaty which gives us this free trade, we are not permitted to carry India goods from their settlements directly to Europe, yet there is no doubt, in my mind, but we can export from hence thither cheaper than they can get them any other way, for this obvious reason, because their trade to India is carried on by their companies, in which despatch and economy is by no means so much attended to, as it is when managed by an individual. But it is said we had this trade before the Treaty. I answer, it is true we had, but it was only by way of indulgence, subject to be deprived of it whenever they thought fit; and let me ask, is it not vastly better to have it secured as a right, than to have it rest on the precarious tenure of indulgence? Here, Mr. Chairman, let me remark, that they have granted to us this free trade to India, which their own subjects (except the India Company) are entirely shut out from.

What must be the feelings of British subjects when they see their Government has given to strangers a perfect freedom of trade to their India settlements, and shut them out from it altogether? And what must be their astonishment when they hear that some people amongst us think that Great Britain has conferred no favor upon us by doing it? Hear what the famous Mr. Grattan, the great Irish patriot, said in the Irish Parliament, on the subject:

"This very America, which the British Minister insulted and then crouched to, had, by the late Treaty of Commerce, been admitted to all the British settlements in the East and West Indies, to the latter of which Ireland was only conditionally admitted, and from the former unconditionally excluded; yet Ireland was a loyal, attached nation, and America an alien."

These are the commercial acquisitions we have obtained by the Treaty; and, let me ask, what have we given to Britain in return for them? I answer, nothing more than they have all along enjoyed in our ports, by the laws of the United States, in common with other foreign nations. No new commercial advantages have we given them; they can come here now on no better terms than before. But, it is said, we have tied our hands by the Treaty, that we will not lay any greater duties on their commerce than we do on all other foreign nations. Pray, let me ask, if Great Britain have not equally tied their hands? And can we be so unreasonable as to suppose that they would ever consent to a Treaty that had not such terms of reciprocity?

It is again said, by way of objection, that they have reserved to themselves the right of countervailing the difference of duty, which we, by our laws, have established between our own citizens and foreigners, and that she will now exercise that right by imposing equal duties on our vessels in the ports of Great Britain. Let me answer this objection to the Treaty, by asking if she had not this same right, and even an unlimited one, of imposing what duties she saw proper on our vessels in her ports before the Treaty? She did not see fit to exercise it then, neither is it probable she will now. And, lest it should be said she will now do it, because we are restrained by the Treaty from increasing the duty on her ships beyond what it now is, and, therefore, she has not the same fear operating to prevent it that she had before, let me remark, that if she was restrained by any such considerations, this same restraint would be in force again in two years after the present war ceased, being the period of the existence of those articles of the Treaty—a time so short as to render it highly probable she will not think it worth while to make the experiment.

A great cry has been made against the commercial part of the Treaty, and I must confess I never could see on what ground, for it is a certain fact we have given Great Britain no new privileges in our Atlantic ports by the Treaty, and no other in their intercourse by the way of Canada than they have given us; and, therefore, it may fairly be said that, by the Treaty, we have given them no new commercial privileges they were not before enjoying in our ports; and they, on their part, have given us considerable; and consequently, on our side, the bargain must be a good one.

Let me ask, why there is forever so much complaint against Great Britain because she does not open all her colonies freely to us? Does Portugal open the Brazils? No; she shuts out all foreigners. Did Holland, before the present war, open to us all her rich possessions in the East Indies? No. Does Spain open her rich islands in the East and West Indies, and her immense possessions in South America? No. Does she, in the Treaty lately made, open even Florida, as Great Britain has Canada? No. Did France, before this war, give us free trade to her colonies? No. And do not all those nations, as well as every other, come into our ports on the same terms with the British? Why, then, make this rant about the British? Let them fare as well in our ports as other foreigners, inasmuch as they certainly grant as much to us as most others do, is all I contend for. I do not wish they should fare better.

Let me observe, Mr. Chairman, that ever since this Government has been established, and long before, it has been the uniform complaint against Great Britain that she would not enter into a Commercial Treaty with us; and now many of those very people who made the greatest complaint, find great fault with our negotiator for having meddled with the subject, and say they wanted no Commercial Treaty with them. Every one must know this to be true; and it is past my comprehension to reconcile such contradictory sentiments.

The 12th article, relative to the West India trade, which was rejected by the Senate, and forms no part of the Treaty, is conjured up as a scare-crow, and has been made use of by the opposers, as though it formed a part of it. They say it is only suspended. Why are they not candid, and say the subject is suspended, as is truly the case, and is now the subject of negotiation by Mr. Pinckney with the Court of London?

It has been made an objection to the Treaty, that there is no stipulation that free bottoms shall make free goods. I answer, it could not be expected that Great Britain, the most powerful nation of the ocean, would ever accede to such a principle; for it is one that was brought into view only by the weaker Powers, to form a combination against the stronger; and, if properly examined, must be found a visionary though a pleasing idea, that can never be practised upon so long as war continues among the nations of the earth. Beside, if such a thing was practicable, I am not sure that we should ever be gainers by entering into such a stipulation; for it is highly probable that, in a war with Great Britain, she would have more of her property shielded by neutral bottoms than we should. We have such a stipulation with France, and we found she did not adhere to it, neither could she, without giving her enemies a great advantage over her.

Another objection is made, that provisions are

included among the contraband articles; but the fact is quite otherwise, for provisions, even in cases where, by the Law of Nations, they would be deemed so, and subject to forfeiture, are exempted and are to be paid for. One gentleman said, that British ships could come from India on the same terms with ours. If he had examined the Treaty candidly and our revenue laws, before he had undertaken an opposition to it, he would never have had occasion to make this assertion and many others respecting that instrument.

One idea which has pretty much prevailed in the United States, and which has always been brought into view in opposition to Great Britain, to the omission of all other nations who practise upon the same principle, is, that her dominions every where ought to be as open to our ships as our ports are to hers. I wish most cordially that every nation that has colonies would give us this free entrance into them. Our commerce would then have a wide and beneficial range indeed. But it is not to be expected that nations who have been and are at an enormous expense in settling and protecting colonies, will ever let other nations come in and partake equally with them the benefits resulting from such expense and labor; and I much doubt if we had colonies if we should furnish the world with an instance of such unexampled generosity.

A great objection is made to the provision in the Treaty which requires us to pay our debts due to British subjects, which they have lost in consequence of the Courts of Law in some of the States having been shut against their recovery, contrary to the 4th article of the Treaty of Peace, which expressly provides that no such impediments should have existed. The objection does not seem to go to say that they were not bound to pay such debts, but they now endeavor to frighten us with the great amount of them. I will observe, that if it be just that we should pay them, then no matter how great they are. But let us examine into it, and we shall see that, instead of $15,000,000, which some have held up, it probably will not amount to one-thirtieth of that sum. And, in order to form an idea of the utmost extent of the sum which we may be liable to pay for British debts by the 6th article of the Treaty, which makes us answerable only for such as were contracted before the late war, and have been lost by insolvencies taking place during the continuance of lawful impediments that have existed in some of the States to their recovery, contrary to the 4th article of the Treaty of Peace with Great Britain, let us have recourse to Mr. JEFFERSON's letter to the British Minister on this subject. He says:

"Some notice is to be taken as to the great deficiencies in collection urged on behalf of the British merchants: the course of our commerce with Great Britain was ever for the merchant there to give his correspondent here a year's credit, so that we were regularly indebted from a year to a year and a half's amount of our exports. It is the opinion of judicious merchants that it never exceeded the latter term, and that it did not exceed the former at the end of the war. Let the holders, then, of this debt be classed into, 1st. Those who were insolvent at that time. 2d. Those solvent then, who became insolvent during the operations of the war—a numerous class. 3d. Those solvent at the close of the war, but insolvent now. 4th. Those solvent at the close of the war, who have since paid or settled satisfactorily with their creditors—a numerous class also. 5th. Those solvent then and now, who have neither paid nor made satisfactory arrangements with their creditors."

The Treaty under our consideration has reference to the third class only: and let us conjecture from this statement of his what the whole amount of such debts may be for which we are now liable. He says, the whole amount of debt at the commencement of the war may be considered as not exceeding the annual exports. I take it he applies this particularly to the State of Virginia, because in no other States have I heard any such debts exist for which we shall be accountable, or, if any, it is but of small amount any where else. The value of the exports of Virginia, in 1774, is not known, but it was $3,500,000 in 1792. Presuming their exports are upon the increase, as is the case with all the other States, I will set their exports, in 1774, at $2 500,000, which, by Mr. JEFFERSON's idea, must be equal to what was owed by Virginia at the commencement of the war; and, from his classing the debtors in the manner he has, with what he says of each, I think it fairly deducible that that part of the $2,500,000 Virginia owed, but a small portion of it will fall under the description of the third class, for which we can be accountable, and cannot, by the evidence resulting from this statement, be estimated at more than one-fifth of what was owed, or more than $500,000.

The impressment of our seamen by the British is made use of as an objection to our carrying the Treaty into effect. It is, to be sure, a mortifying circumstance, and must excite our utmost detestation of such conduct. But let not our passions get the better of our judgment. We have no kind of evidence that such conduct is countenanced by their Admiralty, but the evidence we have is of a contrary nature, for, upon our Minister's remonstrating to the British Ministry on this point, they assured him that orders had been issued, and should be repeated to the commanders of their ships, not to commit such violences on our rights, at the same time observing, that, speaking the same language as we do, it was difficult in all cases to distinguish their seamen from ours. In this situation, let us believe that a firm and spirited remonstrance will be made by our Executive against such outrages; and let us hope that it may have the desired effect. But, let me ask, if the Treaty should not be carried into effect, will that relieve that deserving class of our citizens? Will it not have probably a contrary effect, and be the means of increasing the evil ten-fold more than it exists at present?

One gentleman, who is violently opposed to the Treaty, has said that the Commissioners for Spoliations had no principle laid down by which they are to be governed, and, therefore, presumes

they might act without principle. But they have the best principles laid down for their government. The words are: "And shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the Law of Nations." But, it is worthy of remark, as it will serve to show the prejudices that prevail in the opposition to the Treaty, that the same gentleman voted for the Spanish Treaty without the slightest remark, although the same words are made use of in that on the same subject.

A gentleman, to whom I have before alluded, has said the reason why the merchants were in favor of the Treaty was, because it was for their interest. Let me ask, what better reason could be given? I wish we were all governed by such a principle; and the inquiry was, What is for the interest of our country? And, having found it, we might pursue it.

But, Mr. Chairman, let me ask some serious questions. How do we expect to get at the possession of the Western posts if we reject this Treaty? Do we mean to go to war for them; or do we mean the British shall retain them, and be quiet under it, and so have another Indian war in consequence of it? How and in what way are our merchants to be indemnified to the amount of $5,000,000 for the spoliations committed on their commerce if the Treaty is rejected?

Do this House ever mean to pay them?

Has there ever been any disposition manifested that can afford them the least ray of hope of ever receiving one farthing from Congress by way of such indemnification? Is it expected they will pocket these immense losses, and sit down quietly under it?

Does this House intend to be answerable for the capture of the immense property now afloat that may be the consequence of the rejection of the Treaty? Do they mean to be responsible for a war which may, and probably will be, the consequence of the rejection of the Treaty?

What resources shall we have to carry on a war, when our impost must cease, but a land tax? What do we expect from a war?

Do we expect to get a better peace at the close of it than we now have?

These and many other queries might, with propriety, Mr. Chairman, be put to the Committee. They are grave questions, and I most ardently hope they will receive the consideration they merit, because I am most indubitably convinced that war with all its horrors, together with a dissolution of the Union, may, and I believe will, be involved in the decision of the question now before us, if the decision should ultimately be against carrying the Treaty into effect.

When Mr. Goodhue had finished his remarks the Committee rose, and had leave to sit again.

Mr. W. Smith proposed that the galleries should be cleared, that the select committee to whom certain papers relative to the Treaty with Algiers was referred, might make their report. They were cleared accordingly.

The doors being again opened, the House adjourned.

Tuesday, April 19.

SPOLIATIONS ON COMMERCE.

Mr. Livingston wished to submit a resolution to the consideration of the House, relative to the situation of certain merchants of the United States, in consequence of spoliations committed upon their property by foreign Powers. It was, he believed, an established principle of a free Government, that protection was equally due to the person and property of every citizen, and that when the property of a citizen was, notwithstanding the protection which was due to it, injured by a foreign Power, relief ought to be granted to him. In applying these principles to the merchants of the United States, it was an indisputable fact that they had suffered very materially by the spoliations committed, chiefly by the British, upon their property at sea, and that hitherto they had received no redress. These merchants felt themselves at this moment peculiarly situated with respect to the Treaty lately concluded with Great Britain, now under discussion in that House, which afforded them some hope of relief; but, from the opposition which was shown thereto, it appeared doubtful whether it would eventually be carried into effect. As, however, these citizens were, in his opinion, entitled to relief from Government, he should wish to bring the subject before the House by means of the following resolutions:

"*Resolved*, That provision ought to be made by law for the purpose of ascertaining the amount of losses which may have been sustained by citizens of America, in the pursuit of their lawful commerce, either by any infraction of the Law of Nations, on the part of any foreign Power, or by the unauthorized acts of any of the subjects of such foreign Power, where, from whatever cause, relief cannot be had against such subjects in the ordinary course of justice.

"*Resolved*, That —— dollars be appropriated, to be advanced to such citizens, and divided amongst them in proportion to their respective losses."

OHIO LANDS.

Mr. Henderson said, as they had very frequently means proposed to them of taking money from the Treasury, he should wish to propose a measure which would be likely to bring some money into it. He believed there was a quantity of land, equal to 100,000 acres, which might be sold for public use, and would afford seasonable assistance to their revenue. For this purpose he proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire into and make a statement of the number of lots of land, together with the number of acres they contain, which are reserved for public use out of the sale of lands of the Ohio Company and others, that they consider thereupon, and that they make a report of the same by bill or otherwise."

EXECUTION OF BRITISH TREATY.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the motion for making provision for carrying into effect the Treaty with Great Britain; when

Mr. Heath rose and addressed the Chair as follows:

Mr. Chairman: In the discussion of this so momentous and important a subject, and so big at the same time with the dearest interests of our common country, I shall not attempt any critical analysis upon the good and bad parts of the instrument, as the gentlemen preceding me in this debate have already done, but only confine myself to a few remarks, to justify my conduct to God and my country for the vote I shall give in the ultimate decision of the question. Mr. Chairman, permit me here to remark, that during the recess of the last Congress, when the American mind was roused with so much irritation and sensibility through all parts of the Union against this paper, after its first appearance in public print, I was one of those who kept aloof from the storm, suspended my opinion, became of no party, considering myself hereafter bound to discharge the important duties of an American Representative on the occasion. And now, since the commencement of the present session, though two-thirds of my time overwhelmed with disease, and daily languishing in the bed of pain, even under such a dreadful personal calamity, my reflections were not turned aside from the awfulness of the subject before us; which before and during this discussion, I confess, as often as I have revolved in my mind, with a review of the situation of my country, I have frequently paused, not knowing the best expedient to pursue to avoid impending evils. I have at length chosen my ground—I am now fixed and determined in my course. I shall negative the proposition on your table, and will now succinctly offer my reasons to the Committee, humbly requesting their patience and attention for a few moments. And, for the sake of method and perspicuity, I shall consider my objections in two points of view—objections intrinsic and extrinsic. Intrinsic as they arise out of the Treaty itself; extrinsic causes independent and self-existing without the Treaty, manifestly apparent and glaringly conspicuous from the conduct of the British both previous and subsequent to the formation of the instrument. Under the first head, causes arising from the obnoxious features of the Treaty itself, I shall reduce to the four following points:

1st. It is unequal, because it is only a partial adjustment of differences and grievances existing before the formation of this instrument.

2d. It is unequal, because there is only a plausible appearance of reciprocity of advantages gained by the instrument, without the reality. We have given the *quid*, but do not receive the *quo*.

3d. It is impolitic and improper, because it is an unjust interference with our body politic, in clogging and fettering our Legislative functions.

4th. It is an illegitimate child, and not the truly begotten offspring of the United States.

On the first objection regarding the inequality of adjustments, it is to be remarked, that in the non-execution of the old Treaty of 1783, reasons were offered by both nations in justification. Great Britain pleaded on her part the non-payment of British debts to the British creditors previous to the war. America rebuts her plea, denying a violation on her part, but if any act of hers could be construed into a violation, she was justified by a previous violation on the part of Britain in carrying away the slaves and other property belonging to American citizens, secured by the 7th article of the said Treaty. Is there any provision in this instrument for so flagrant a violation of the Treaty; such an hostility and outrage against justice and morality? No, no such provision was ever thought of, but blotted out of the book forever by the *worthy* Minister of negotiation. He was born in a Northern clime, therefore Southern grievances were subjects of too inferior magnitude to occupy the depths of his profound imagination. The surrender of the posts was enough for everything. I have no doubt my Northern brethren contemplate mines of wealth from the fur trade, and this by anticipation from their surrender. I wish from my soul their ideas, so sanguine, may be realized, but I confess my mind has its fears.

Mr. Chairman, I have strange forebodings on this occasion. By the second and third articles of the instrument before you, in the surrender of the posts, British subjects have a right to reside with us; Indians have a right to pass and repass from post to post from our district to their portages and ferriages free, all in the vicinity within gun shot. Will not their traders continue their old acquaintanceship with them in spite of us? Are not their capitals for trade larger than ours? Where, then, are the real profits anticipated? All visionary, like the beggar's dream, grasping mountains of gold, and when the morning sun shakes off his slumber, it dissipates the delusion. But time will make more converts than reason. Further, before I quit this subject of inequality, I wish to remark, by way of reply to my much respected friend from Connecticut, who was up a few days ago, in language nearly similar, and the same sort of ingenuity of a celebrated champion, who has dedicated much labor in favor of this instrument under the signature of *Camillus*, that Great Britain had never violated the seventh article of the Treaty of Peace in not restoring the slaves and other property; that they were taken in war, and their freedom offered to them by the British commanders, and were not taken after a cessation of hostilities; and, therefore, were not proper objects of surrender. Oh, the deceit, the sophistry of this construction! I shall just answer it by reading from the Journals of the old Congress what the real *Camillus*, or, in other words, the learned Mr. Hamilton, thought of that article at that time. He read the Journals of 1783, where Mr. Hamilton moved in Congress for Commissioners to be sent to New York to the British commander to request an explanation respecting an infraction of that article. So was Mr. Hamilton's opinion at that time, so was the prevalent opinion of all America at that time. My second point, the want of reciprocity in the instrument, has been so well explained by my worthy colleague from Virginia, that I confess I am curtailed in my sentiments a little here. But, suffice it to say, that the local circumstances of

this country will make the suspension of the law of alienage more advantageous by tenfold than could be reaped by American citizens over the other side of the water. Witness the great disproportion between American citizens holding lands in Britain and British subjects in this country. I wish it may not revive old proprietary rights, with its long train of tenure, fealty, and vassalage. Perhaps my fears may ensue from residing in that of Virginia, where this tenure once prevailed. I now come to the third objection, and the most important. Other objections, though they have their weight in my mind, yet perhaps they might yield their force, were it not for this the more insurmountable. This might be said with propriety to be the foundation of the call for papers from the Executive respecting the Treaty.

By the various articles embracing this subject, the House of Representatives of the United States, in the Treaty-making power, have lived to see the day, which I am sure no human sagacity could have ever divined, that they may be considered as a perfect collective cypherical body of men in legislation, reduced to a mere Committee of Ways and Means, subservient to Executive policy, just called together, for voting the necessary supplies of money for foreign negotiation or for the current annual expenses of Government. America is here totally disarmed of every alternative to resort to in the hour of distress—to prevent the horrors of war, no sequestration, no embargo, no commercial restriction, can be the subject of future legislation against the tender and humane people of Britain.

Is this right, is this just, that all our rights should be thus bartered away under a Treaty-making power? If it is so, and it must be borne, dreadful, dreadful, indeed, must be the calamity of future generations of America under the operation of this Government; for any one of them, or all together, I would resort to an awful national crisis, sooner than sound the trumpet of war, and let the banners of blood loose upon the earth.

4thly and lastly. I hate very much to enter into a minute explanation of this objection, because I love and venerate harmony in Government. I do not like to be telling the American people of party and factions prevailing in our public councils. However, suffice it to say, that an attentive review of the session of 1794, the period when all America seemed to be roused with a just sense of indignation at British insolence and oppression, this able American negotiator received his birth, and winged his flight over the Atlantic to the British throne, to beg for mercy and reparation for our accumulated injuries. Humility is a golden virtue, but seldom succeeds when addressed to a hardened Pharaoh. However, a majority of twenty odd of the House of Representatives were for pursuing a different policy, which I then thought, and still think, would have been the only pacific and healing balm for our wounds and distempers. Therefore, this proves that the people, by their Representatives, thought one expedient best, and the Executive another; and, from my heart and conscience, I wish a union of sentiment had prevailed.

Upon the whole, Mr. Chairman, were I capable of pencilling a true picture of the instrument before you, I conceive it is a giving to Great Britain so complete a control over our commerce, that it reminds me of the old true principle long conceived by the minority of the British Parliament, under our former Colonial system, a mere amelioration of our unfortunate state of taxation without representation, by holding out a distinction of external and internal taxation. The first, the regulation of our commerce, which Britain would ever retain; but that we might be taxed by our own Provisional Assemblies for internal purposes of Government, proved by a passage read from the life of Chatham.

But, Mr. Chairman, for all these objections, policy and expediency, founded upon the truest basis of all political happiness, might have taught me to have yielded their force, and give the affirmative to the proposition. So I would, but where is the force of a Treaty? Is Great Britain bound by it, or was she ever bound by any Treaty since the history of her existence as a nation, no longer than it was her interest to break it? What has been her conduct towards America previous to the formation of this Treaty, and subsequent thereto, even to the present time? Is she not daily, with a high hand and outstretched arm, seizing our provision ships bound to foreign ports, and, what is still worse, by unwarrantable impressments, dragging our seamen, with even protections in their pockets, on board their ships of war, a life worse than captivity itself to freemen? They lord it over the ocean, take from us our property and seamen, and yet we cannot stay their hands, and say unto them, why dost thou?

These are the reasons, Mr. Chairman, I have for voting against the proposition; and however light and airy they may be viewed by some, I confess they greatly preponderate in my mind. Though my body is feeble, and I have stood longer on my legs than I could have believed, I must beg the patience of the Committee a little longer, that I may address a few words to my Northern brethren within these walls.

I lament much that a worthy friend of mine from Massachusetts, [Mr. Goodhue,] on the floor a few days ago, should conclude his speech in favor of the Treaty by giving it as his opinion, in the most solemn manner, that if the Treaty is not carried into effect by this House, the consequence would be that two of the greatest evils that ever befel a nation must follow—war and a disunion of the Government. Good God! I am lost in astonishment! Is there a man within these walls so dead to all the dearest interests of his country, an alien to the feelings of humanity, lost to all sense of his responsibility, as to plunge his country into a wanton and unnecessary war? Such an one, if any there be amongst us, I deem a traitor, and unworthy the name of freeman. I think my friend must have caught this idea from an old hackneyed tune, played frequently in this city a few years past, and now lately revived by a certain mercantile influence, who have industriously transported their ballads all over the Continent to sound the alarm of war. These delightful genii of the present day would feign make us believe that both the natural and political world will be convulsed if this Treaty is not carried into effect. These stories will do to frighten children of the cradle, but not the true, independent American, who knows and will protect the favored rights of his country.

Mr. Chairman, I fear I trespass on your patience, but I am coming to a close; and now let me beseech my worthy brethren, from all parts of the Union, that, in the decision of this question, whatever side the majority may prevail, let us, as legislators, as virtuous, free-born sons of America, acquiesce like true Republicans, and afterwards unite in one common cause with recurrence to that great and fundamental principle, which should be written in letters of gold, and from whence, after a long and perilous struggle, grew up this stupendous Republic, "United we stand—divided we fall."

I have now only to add my most fervent prayer to the Divine Author of all Good, that, if we are wrong, to pray the protection of Heaven to put us right; and, if we are right, to crown our endeavors with success, in giving harmony and stability to our public councils, and happiness to the American people.

Mr. Williams said, that various opinions had been delivered upon the various subjects involved in the Treaty. He should take the liberty of stating to the Committee his sentiments on the occasion, and then inquire into the policy or impolicy of carrying the Treaty into effect. But, in the first place, he conceived it to be necessary to take a view of its origin, the division, and party dissensions which then prevailed—the critical posture of our affairs, the depredations committed on our commerce, and the probability of a war.

Let us, said Mr. W., take a view of the debates of that House in the year 1793 and 1794, and he believed it would be discovered that if the business of negotiation had not taken place, this country must have been involved in a war. It would be remembered, that a gentleman from Virginia, [Mr. Madison,] on the 3d of January, 1794, laid on the table of this House seven resolutions. The object of which was to compel Britain to come to some terms of accommodation, and to prevent further depredations on our commerce.

After a discussion of several weeks, the first resolution, which was for imposing an additional duty on the importation of a great variety of manufactures from nations having no Commercial Treaty with the United States was agreed to by a small majority. Britain had, said he, ever since the end of the war, declined entering into any Commercial Treaty with us. In the mean time, the danger from British depredations augmented with such rapidity that those resolutions became insufficient, by reason of the seizure of an immense number of our vessels, in consequence of instructions that had been given by the British Ministry on the 6th of November, 1793; and other resolutions were then moved for the sequestration of British property, but the result was an embargo and negotiation.

Was it not then urged by members of that House that the British nation refused to negotiate with them? It was, indeed, supposed it would be attended with considerable difficulties, and that a considerable class of citizens, let the consequences be what they might, would not be satisfied with the result. However, it was thought best to adopt the measure.

But, said Mr. W., let us waive this subject, and inquire if negotiation had failed, whether war would not have been the consequence? Can it be supposed that, after the British had committed certain spoliations on our commerce; after their Order of the 6th of November, 1793; after the declaration of Lord Dorchester to the Indians, that war would not have followed? The national pride of Great Britain could not have yielded to compulsion without self-degradation; and it would be remembered, too, that from the relation in which the two countries have stood to each other, it must have cost more to the pride of Britain to have received the law from us than from any other Power. And if war had been the consequence, how were we to have recovered the amount of the spoliations committed on the property of our merchants? How were we to act? Were we to demand satisfaction? We have no protection to our commerce, and therefore the British can at any time arrest it without additional expense to themselves, having near 500 vessels of war at command.

What had been our situation ever since the negotiation? Have we not, said he, been one of the happiest nations upon earth? Yet we are about to oppose the necessary appropriations to carry into effect that Treaty which hath been the means of keeping us in a neutrality, and thereby hazard a war which may be our ruin.

We have had already new systems of finance proposed to us; but if the Treaty is not provided for, what hath been proposed will be found insufficient, and a land tax (although prejudicial to agriculture) must be resorted to. At present, their resources arose from commerce, which, whenever a war took place, would be effectually stopped.

But gentlemen said there was no probability of a war at that time, though, he must confess, all their actions seemed to say the contrary. Did they not appropriate for fortifications, magazines, &c.? The State of New York well knew the situation of the Public Treasury, and, although the Constitution of the United States declares that Congress shall provide for the common defence and general welfare, yet they, knowing the defenceless state of ther capital and frontiers, appropriated upwards of two hundred thousand dollars, which, with the small pittance of twelve thousand allowed by Congress, and the voluntary assistance of the city of New York, some considerable works were erected; previous to which, and at the time the negotiator went on his embassy, a ship of four or five guns could have laid that city under con-

tribution. This was the situation of one of the first cities in the Union, at which was collected the last year four-fifteenths of the whole revenue of the United States; and, said he, thus we were situated when measures of coercion and reprisal were proposed.

But, say the gentlemen opposed to the resolution, Great Britain would not go to war with us, they are embarrassed already. Let me ask those gentlemen, said Mr. W., if Britain, when at war with the United States, France, and Spain, did not declare war against Holland? And, also, and at a time they must have been greatly distressed, what reason have we to suppose she would not declare war against us, when it was well known she could destroy our commerce, and lay our seaport towns under contribution, or destroy the most of them?

It was said, when the British committed depredations against the Danes and Swedes, they immediately got redress; but, the gentlemen do not tell us that the British did by them as they have done by us, by paying them for all their damages. He believed they did not.

It was said, our negotiator, when he could not get stipulations agreeable to his instructions, should have returned; but what necessity was there for his return? He had received his instructions from the Executive, and when he could not get a Treaty upon the terms he first proposed, he sought fresh instructions, and acted upon them. Having returned home, and the President and two-thirds of the Senate concurring, the Treaty was ratified, and promulged; and can it be supposed, said Mr. W., that the President and twenty Senators, coming from different parts of the Union, men of property, of tried virtue, and patriotism, would ratify an instrument that would ruin the nation?

A gentleman from Pennsylvania, [Mr. Swanwick,] had observed, the Treaty was injurious to commerce, and that our commercial was equal to our agricultural interest. If so, said Mr. W., and we are involved in a war, would not one half of the interest of the United States be swept away? Gentlemen, said he, argue on the subject of commerce, as though we had a navy equal to Great Britain.

Was it not well known by the negotiator—by the President and Senate, that we had a large debt to pay off; that instalments were becoming due, and that in case of war, the expenses of Government would, of course, fall upon the agricultural interest? All things, therefore, considered, the negotiator determined upon the Treaty before us. Happy for America that he did so; for, if our commerce had been arrested, all our pursuits would have been arrested at the same time. Instead of our settlements being extended, and our commerce wafted to every shore, our frontier settlements would have been deserted, and our ships laid up.

But, if we arrest the Treaty by refusing to make the necessary appropriations, can we suppose Great Britain will carry the Treaty into effect on her part? It would be inconsistent to think so. Great Britain was certainly acquainted with what was going on within these walls, and would refuse to give up the posts at the time specified. Who had been the cause of the posts being so long kept from the United States? The State of New York had been too long kept from its just due; that State had not prevented the British from obtaining their debt, and the people now looked with anxious expectation to the time when the posts were to be given up. They were, at present, considerably alarmed, lest the British Treaty should not be carried into effect. He had received letters that morning, from some of his constituents, who were at New York, endeavoring to sell their produce (for a number of the farmers in that part of the country which he came from, did not sell their produce to the merchants, but attended the market with it themselves.) They write the price of flour had already fallen three dollars a barrel, and wheat four shillings per bushel. Who were to be the losers, under these circumstances? The farmers. Who had the most produce to sell? The farmers in the State of New York. The other day a resolution was laid upon our table, proposing to lay an embargo on the exportation of corn. This, if it had been agreed to, would have had an immediate effect on the State of New York.

What was the effect of the embargo in 1794? The farmers were obliged to sell their produce for what they could get. Whatever loss was experienced, fell upon the farmer; and so it will be with respect to their present proceedings. If merchants cannot get insurance, will they send their vessels out? No; and they will certainly give no more produce than they can sell their articles for, with a trade profit.

The State of New York was peculiarly situated with respect to Upper and Lower Canada; and, if the posts were not given up, it would prove more detrimental to them than any other part of the Union. They would be prevented from a commercial internal intercourse with the Upper and Lower Canadas. Another Indian war, by which the frontier inhabitants would be greatly distressed; in short, every difficulty would attend them. On the contrary, should we so conduct ourselves, as guardians of the people ought, by supporting our public engagements, we may continue to be happy. Let this opportunity pass away—violate our national engagements, and there is reason to believe that confusion and wretchedness will be the consequence. The commodious harbor of New York will be attended with but few vessels, the beautiful river Hudson will be prevented of its usefulness, in bearing the surplus of our agricultural productions to market; the trade and intercourse of the towns of Albany, Schenectady, Troy, Lansingburgh, and Waterford, arrested; the useful settlers not only prevented from going to the fertile lands by the Lake Champlain, the Mohawk, and Genesee, but the late settlers, who, although they be numerous, yet, by being scattered in settlements, cannot be protected from Indian depredations, and therefore must remove. In short, said Mr. W., the difficulties which would

arise by an Indian war to the frontier of New York (being at least 300 miles) at this time, would be immense. The lofty trees of the wilderness, instead of falling by means of the axe, would remain as a screen and defence for the savage, and aid him him to send the weapon of death to the defenceless settler.

The eyes of the world, said Mr. W., are upon us; and the minds of the people in the United States became more and more agitated. How, said he, are our merchants to be recompensed for their spoliations? His colleague, [Mr. Livingston,] supposed the agricultural interest must pay for all; for it could not be supposed, that if war was the consequence, that merchants or traders could be called upon for contributions. He thought the resolution he had brought forward calculated to lull the merchants into security, without procuring any relief to them; for, it was not likely that Government should lay taxes to pay money which the British would pay, in case the Treaty was carried into effect. Besides, as soon as commerce was stopped, a system of direct taxation must be resorted to. The spoliations on the property of the merchants would also daily be increased. And, according to the doctrine of the gentleman from Pennsylvania, [Mr. Swanwick,] those who are masters of the sea are masters of the land also; so that they stood but an indifferent chance in a warfare with Great Britain, if the doctrine of that gentleman be true.

He would ask gentlemen what induced them to believe that Great Britain would be willing to negotiate afresh? It had been suggested by the gentleman from Virginia, [Mr. Madison] that this would be the case, if we do not provide for the Treaty.—Would they appoint another negotiator to go to Great Britain? What fit character would go? And, if any such was found, when he arrived there what must he say? 'That the Treaty which had before been made was a bad bargain, and that he was come to make a better? Would they say to him, "return home again, and tell your nation they are a faithless people; we thought we understood their Constitution, but they do not understand it themselves; we will negotiate no farther with them."—And what security could this new negotiator give to the British Court that the Treaty which he might enter into would be agreed to on his return home? If he said he had received his instructions from the Legislature of the United States, they might justly answer, there may be such a change in that body on your return, that the Treaty which you negotiate would not be acceded to. Would not their objections be well grounded? He thought they would; besides, the President having fixed a Constitutional principle he could not vary from it, and of course no new negotiator could be appointed for that purpose.

He would not wish to undertate the powers of the United States; but if they overrated it, they only deceived themselves. If they could preserve themselves at peace, they were a happy people, and progressing quicker than any nation in existence, and in a few years they might bid defiance to any country; but, in the mean time, the whole world could not injure them, if they stood on their own ground.

It was a good position, he said, for legislators to act for the whole, and not a part; he believed every one would reprobate the idea of a contrary conduct. But what had they done? They had ratified the Treaty with Spain, because it opens the Mississippi; the citizens of the State of New York, also wish the British Treaty to be carried into effect, in order that the river St. Lawrence may be opened to the waters of the Lakes both to the north and west; and why not legislate for them? This would not only be an advantage to the State of New York, but to the whole Union. Let gentlemen consider the growing consequence of New York, in which there had been one thousand houses built the year before last. It has been calculated that a century hence that city would be equal to London. Go into the Mohawk country, which is surrounded with rivers and lakes, very advantageous to agriculture, also to Lake Champlain, by the borders of which the lands are fertile, to which Lakes rapid progress is making for the more convenient conveyance of the surplus of our agricultural productions to the city of New York, by inland lock navigation, which would be extended in a few years to the waters of Lake Erie, from thence up a river which is, without labor, navigable for boats calculated to carry a considerable burden, the navigable part of which is only two miles from a navigable part of the Muskingum to the river Ohio; or at another river boats may be conveyed up it to within nine miles of the Miami, and thence down the same through a champaine country to the Ohio river. From this situation and a country so fertile and inviting to settlers, may we not calculate on two or three millions of people in some years hence, whose interest must be to carry their produce to the city of New York, for market? Gentlemen, said Mr. W., would do well to pause for a moment, and examine if the obtaining these posts was not an object of the first magnitude. Perhaps he came there with as unfriendly an opinion of the Treaty as many others, but, on hearing it explained, and taking a view of our situation, he was now convinced it would be for the good of the Union to carry it into effect; nay, he conceived that policy as well as interest required it.

The great objection against the Treaty was, that payment for the negroes which were carried away by the British, at the close of the war, was not provided for. It appears that this, at best, was a doubtful point. General Carlton, previous to his leaving New York at the close of the war, and when the negroes were demanded of him, said, that many slaves had been declared free by his predecessors before his own arrival; over these, he said, he neither possessed nor could assume any control. He considered them as at liberty to go to any part of the world which they thought proper. He was unwilling to suppose that the British Ministry could stipulate, by any Treaty, to make themselves guilty of a notorious breach of public faith to people of any color. He con-

sidered restoration, where inseparable from a violation of that faith, as, in itself, utterly impracticable.

It was acknowledged by every gentleman that the Treaty of 1783 was broken by the United States; and, if so, what could their negotiator do? The British Government would not come into the same terms as the Treaty of 1783, in the sense and meaning of the gentlemen from Virginia, nor would they admit that that Treaty compelled them to give up or make restitution for the negroes. Their negotiator, thus situated, no doubt concluded that the amount of the negroes was not an object which ought to prevent a negotiation so desirable at that time, and agreeable to the Law of Nations. The Treaty of 1783 had been violated. Here Mr. W. quoted several authorities, among which was *Marten's* Law of Nations: "The violation of one article only of a Treaty, by one party, may, at least successively give the other a right to violate the whole Treaty, unless this right has been formally renounced."

The United States having violated that Treaty, there was no other way than commencing a negotiation. And would gentlemen say that the negotiation had not been attended with beneficial consequences to this country? Was not peace the most to be desired, especially in our present situation? Had not the managers of our Government kept a watchful eye on our affairs? Had not our neutrality been the occasion of our wealth and prosperity? And having now entered into a Treaty with Spain, Algiers, and Natives, let us carry that with Great Britain into effect, and secure to us peace with all the world.

The gentleman from Virginia [Mr. MADISON] had observed, that although the obtaining the posts was a desirable object, yet that conditions were annexed to the partial execution of it in the surrender: that the carrying places are to be enjoyed in common; that the British would have a superior capital, and that goods being brought by way of Canada paid no duties. These conditions and restrictions [said Mr. MADISON] will do away the benefit which would otherwise accrue, so that the surrender of the posts would be of little value. But, said Mr. W., let us examine these observations, with the statement the same gentleman made in 1794, when he was computing the annual loss to the United States by the retention of those posts by the British: the Indian war one million of dollars, the loss of the fur trade two hundred thousand dollars. The same gentleman, said Mr. W., at that time, went into a summary statement of the annual losses sustained by this country, by Britain, and that, he said, in the year 1793 alone amounted to three million nine hundred and forty thousand dollars. If these calculations, were right, will the gentleman say the British Treaty is not of great advantage to us? The posts, if given up, must stand of nearly the same value as in 1794, yet the gentlemen from Virginia, who had spoken on this subject, had declared they would now be of no benefit. He could not believe gentlemen were sincere in making those declarations. He believed they ought not to be made. They were the sentiments of "*Cato*," and other writers, who were strangers to that part of the country. But, said the gentleman, it was impossible any benefit could be derived from the posts, because the carrying places were not also entirely given up, no duties in Canada, &c. Mr. W. said, admitting that no duties were paid on goods coming by way of Canada, they never could go so cheap that way as through New York. It was well known that the river St. Lawrence was obstructed from six to seven months in the year, and that the river above Montreal is also of difficult navigation, from a violent current. He believed the gentleman, however, was mistaken as to there being no duties in Canada.

Mr. W. said, what he asserted respecting the Canada trade, he asserted from his own knowledge, having been engaged in it by way of Lake Champlain. To prove the propensity of the people to trade at New York, he would mention that the inhabitants on both sides of Lake Champlain, within a day's journey of Montreal, do not trade there, but come to New York, bringing with them their wheat, flour, pot ash, and other produce, and which must be transported by land upwards of sixty miles. This difficulty would soon be removed by means of inland lock navigation, which is now progressing.

Again: to put this matter beyond dispute, when New York and Canada belonged to Great Britain, the goods were landed at New York, and conveyed to the waters of the Western lakes by way of the Mohawk river. Can it be supposed, then, if goods were to be procured with less expense by way of Canada, they would have been sent by New York? No. The transportation from New York to Lake Champlain, and also by the way of the Mohawk river to the Western lakes, is becoming more easy and less expensive every day, by reason of the inland lock navigation, which is rapidly progressing. The merchants begin to find it for their convenience already to come from Canada by way of Lake Champlain to New York, and so to Europe, and so vice versa.

Again: Mr. W. called upon the merchants to reflect on the embarrassment on trade which must arise in their not being able to make returns frequently under two years by way of the river St. Lawrence.

Gentlemen who assert that this trade would be of no use to the United States, would do well to consider those facts, with respect to capital; he was surprised to hear a gentleman so noted as a legislator, mention such a thing. There was capital sufficient and could be procured, in Albany and Schenectady, in a week. What sum did the gentleman suppose was employed? Not exceeding 150,000 pounds sterling. Was this even advanced? No. Generally a great part on credit. Government had passed an act for the appropriation of 150,000 dollars towards that object.

Another objection was advanced respecting the restriction. Was it ever known, he asked, that a savage people would be restrained to trade with one class of traders? What did the people of France and Britain do at the Treaty of Utrecht

in the year 1713? They left the Indians to trade as they pleased, and he believed it the best way. He did not think the people of England were more industrious than the Americans, or that they could be outdone by them. He did not pretend to understand commerce; he was a farmer, and he gloried in it, but when gentlemen made assertions, blinded by a wrong Republican zeal, he wished to notice them.

Let them turn their eyes which way they would, the posts would prove of the greatest advantage to the United States. Numbers of people were going into that country to settle. Now was the time to settle the course of their trade, because when settled, it was not easily altered, and they ought to embrace it. It would be the means of keeping up a good understanding with the Indians and prevent a misunderstanding, if not a war.

The next objection was with respect to aliens. It at first surprised him, but upon more mature examination, he did not see that any law of the United States would prevent the settlers at the posts from remaining there. There never was any difference made in the State of Vermont. There were not more than two or three thousand people, chiefly French Canadians and their descendants at Detroit, and they would no doubt all wish to become citizens of the United States. They will either remain and become citizens, or go beyond the lines. Was it not a principle in their Constitution to naturalize foreigners? They will find it their interest to become citizens, and will not remain aliens. Has it not been the general policy and practice with us to facilitate naturalization of foreigners? Those people will soon wish to enjoy natural rights, which is so deeply impressed in the human breast.

With respect to mercantile principles, as the subject was so ably discussed yesterday by a mercantile man [Mr. GOODHUE] it would be only unnecessarily taking up time to enter upon it again. The contraband article had also been ably discussed by him.

With respect to sequestration, it was said to be giving power out of their own hands. Shall two individuals, under one jurisdiction, because the two nations disagree, be injured by means of confiscation? He hoped not. The consequences must be dreadful. And there could certainly be no doubt but it was the interest of the country to support the credit of public funds; but what would be the consequence if sequestration was ever to be resorted to? Would any foreigner choose to risk his property on such an uncertain foundation? Certainly not; and the price of stock would accordingly fall in a very serious manner. But, to put this question out of the way, he believed from a fair calculation, the United States had property floating on the sea to the amount of 30 millions, at the least, without defence or protection; whilst he was of opinion there was not British property in this country to a larger amount than six or seven millions. Where then was the security for sequestration, if whilst we could only lay hold of six or seven millions, the British might take from our merchants four times the amount? It was perfectly clear, that the British, having the command of the sea, could obstruct our commerce as they pleased, and, for the present, we must submit.

Would you wish to impose upon a man, said Mr. W., when you could not well do without him? If it was beneficial to Great Britain to carry on trade with the United States, it was also desirable to this country that such trade should be carried on. It was true Great Britain had given considerable trouble to their merchants; but what was this owing to? It was owing to their attachment to the French! He was not averse from their supplying that nation with provisions. It was right that they should do all the good they could to them, because they assisted this country in the time of their need, and they had a claim upon them in their turn. But considering the matter in this light, was it very strange that when Britain stood in need of supplies, and we were carrying provisions to her enemy, that she would interrupt them? Certainly not. How far they were to be justified he would not say.

If they did not appropriate for carrying the Treaty into effect, he wished to know what reason gentlemen had to believe they should not be involved in war? And if so, what was their situation? We have not, said he, any Navy, except three frigates we have agreed to have finished. Nor did he wish to have any. And shall we by refusing to appropriate to carry an instrument into effect, by which the country may be preserved in peace, be guarding the people's rights, or answering the purpose for which we were appointed? Great Britain may not be disposed to declare war against us, but she may augment the spoliations on our commerce, and thereby cause us to declare war.

But, say gentlemen, if Great Britain was to go to war with America, the West Indies would be starved for want of provisions. But he would ask, if that were the case when she was at war with France, Spain, Holland, and America? No such thing. It was well known, that wherever a merchant could get the highest price for his merchandise, he would find means of sending it. Were not horses sold the other day from Virginia, to the British, and sent to the West Indies to be employed against the French, because they gave a good price for them? And would not persons be found, if they were to go to war to-morrow with Great Britain, who would be ready to supply the British West Indies with provisions? They certainly would. Hence they would always be supplied. Would a gentleman tell me, said he, that he was a friend of France, when he was clothed from head to foot with English manufactures?—and who, if he were to go into a shop where English and French goods were placed before him, would invariably purchase the English, being best and cheapest. The truth was verified by the sale of horses in Virginia. Were not the Virginians much in favor of France? Did they not know the horses were to be sent to the West Indies, to operate against the French? How came

it that those people sold their horses to the English? The answer is easy and at hand, because they paid the greatest price.

The gentleman from Virginia [Mr. Madison] concluded with a fine remark, viz: "That he supposed the President had signed the instrument to prevent further spoliations upon the commerce of our merchants." This was a proof that that great and good man considered the interest of his constituents.

Before he sat down he would make a few remarks upon what had fallen from the gentleman from Pennsylvania [Mr. Swanwick] who had displayed his oratorical articles upon the checks and balances of our Constitution. He had the honor, he said, of being one of those who framed the Constitution of New York, and he had been a member of the Legislature ever since, except during one session. That Constitution was similar as to the enacting of laws, to the Constitution of the United States. Shall we not deliberate, said that gentleman, before we appropriate 80,000 or 90,000 dollars? Yet it was only the other day when the same gentleman wished to finish the whole of the frigates, which would have required more than a million of dollars; but no cautions were then given about the greatness of the sum; indeed he said it would be only the interest which would be wanted, because it was a favorite object.

The same gentleman next mentioned the property he had at sea, and that he was not afraid of it. It was well for that gentleman, that if his ships were taken, he had other resources; but this was not the case with many other merchants. Suppose, however, we were reduced to war, and the gentleman lost all his vessels? He himself could not boast of having vessels, but he had a few acres of land on the frontier which he wished to have settled; but in case of a war with the Indians, the frontiers will be deserted, and the families now living there in peace will be ruined. In the district which he represented, hundreds of industrious families, some with six or eight children a-piece, lived in log huts, and who, at the sound of war with the Indians would fly from their habitations. Gentlemen who live surrounded by luxuries in a city do not think of the situation of this class of their citizens, who were nevertheless worthy of their consideration. He wished the gentleman from Pennsylvania, whose valor he did not doubt, had been with him in the late war, when he marched seventy miles before the enemy, forty of which with his family in the greatest distress.

But, says the same gentleman, we ought to have the Thames opened to us as freely as we open the Delaware to the British. He wished it were so. The whole force of that gentleman's doctrine was, that the commercial was equal to the agricultural interest, because three dollars on a barrel was got by carrying flour to the West Indies; but, in case of war, he wished to know where he would sell his flour, if he could get it? Would he proceed as the gentlemen in Virginia had done, in the sale of horses to the British? Why hold out such an idea?

With respect to the article relative to the East Indies, the people of England and in Ireland, he said, were greatly dissatisfied with the privileges given to America, and yet it was said in that House these privileges were nothing worth, that the British might build warehouses here, and ruin the trade at present carried on to that country. The Treaty, Mr. W. said, allowed the Americans certain rights with the Company itself, who was at a great expense in carrying on their affairs. Had they any right, being at no expense, to expect an equal participation in this trade? Certainly they had not.

But, gentlemen say, one third of the manufactures of Great Britain come to this country, and therefore she will never go to war with us. He had never heard before that more than one-sixth of the manufactures of Great Britain were brought to this country. But, said Mr. W. the better the trade was to Great Britain the greater her caution not to wound our feelings; and if the Treaty does not operate well they will alter it, knowing it to be their interest so to do.

The gentleman from Pennsylvania [Mr. Swanwick] had said, he was surprised our negotiator did not know the dexterity and perseverance of our citizens in the extension of commerce, as well as a member of Parliament of Great Britain, [Mr. Burke] who some years ago, in a speech, said, that although the Americans were but in the gristle, yet they were extending commerce to all parts of the world. We are now, said that gentleman, as young men out-grown their clothes. Mr. W. observed, it was analogous as to the protection of our commerce; a young man when he hath out-grown himself, as it is termed, his bones are too spungy, out of shape, want that solid texture in the component parts: our negotiator therefore endeavored to prevent too great a pressure, until by time it became more solid.

It was true, Mr. W. said, that great spoliations had been committed upon the property of our merchants; but we had no certainty that they had been committed by the authority of the British Government. If that nation, or any other, were determined to make war upon us, he said he would go as far as any man in opposing force to force; but he should be unwilling to promote measures which were likely to bring them into that situation, because the partial encroachments on our property in time of war, are trifling compared to the extensive field of expenses, embarrasments, and interceptions, of the pursuits, on which our true interests depend, which would eventually follow our being comparatively able to act offensively instead of defensively. No; rather let every measure in their power be taken to prevent so great an evil as war. We may continue at peace with all the world, and shall we then mar the prospect? Because differences had crept in betwixt two branches of their Government, shall we suffer them to destroy our prosperity and peace? No; let us look forward to the public good, and do away all private resentment.

It was to be lamented that so much of party was observable in their proceedings. The gentleman from Pennsylvania [Mr. Maclay] had laid a resolution upon the table, calculated to defeat the execution of the Treaty. And what was this for? Because the President would not bend his will to a majority of that House. And what were they now debating upon? Had not the discussion been solicited by the majority of that House? It was, and he would venture to say, there never was before an instance of a majority wishing to convince a minority. If gentlemen were determined to destroy the Treaty, let them come forward and do it. Why waste so much precious time and money unnecessarily?

The will of the people was expressed in the Constitution, and he hoped it would be obeyed; for, if it was not, the consequence would be dreadful. When he left home, three fourths of the people were against the Treaty, but now, by letters he had received, a very large majority wished it to be carried into effect, seeing that the peace, the happiness, and the prosperity of the country depended upon it.

What were the arguments of gentlemen? Because the President has refused to send them certain papers that were asked for, they were determined to destroy the Treaty. Was this acting like the Representatives of a free people? Because if they were of opinion the President had done wrong, should they do wrong also? Did they ever know that two wrongs made a right?

The instrument should be taken up fairly, and the question should be solely met upon the ground of public advantage. If it was thought for the advantage of the United States to destroy the Treaty and take the consequences, he must surrender his opinion to the will of a majority. He gloried to join in a majority. He had never desired a man in the majority to change his opinion. Why, then, is it said the minority wanted to cram the Treaty down the majority's throats? But he would beg gentlemen to pause for a moment; for it was well known that men of sense may sometimes be so far prejudiced in their own opinions, as not to be able to see the truth. He believed every member acted as he thought was for the best, but prejudice might have laid too fast a hold upon some of them. He hoped they should act for the benefit of the Union at large; and if so, he hoped gentlemen who had voted for opening the Mississippi would take a view of the river St. Lawrence, the Lakes, and New York. He hoped, however, the business would be settled with candor, and if so, he trusted harmony and confidence would be the consequence.

When Mr. Williams had concluded—

Mr. Hillhouse rose and said, the subject now under consideration was one of the first in magnitude he had ever been called to deliberate upon, and that the circumstances under which it came up were peculiar, for, previous to the Treaty's being either promulgated or known, a hue-and-cry had been raised, and the prejudices of the people as much as possible excited against it, and he confessed it had not been without its effect upon his own mind. When the Treaty came out, therefore, he was led to examine it with attention, compare it with our Treaties with other nations, and those between Great Britain and other nations; the result of this inquiry was, that he found that no privilege or advantage given by Great Britain to other nations was withheld from us; that advantages were secured to us which were enjoyed by no other nation, nor even by her own subjects; that we gave her little that was not enjoyed by every other nation; and, on the whole, that it was as good a Treaty as we had a right to expect, and as he had ever expected to obtain. He was sensible that prejudice, which, like a sentinel at the door of the human mind to keep out truth and argument, had induced many good citizens of the United States at first to be opposed to the Treaty, who, upon being prevailed on to give it a more candid examination, had declared in favor of it; but he hoped the Representatives of the people, called to decide on a question which might affect the dearest interests of millions, would, as much as possible, divest themselves of prejudice and passion: to do it entirely, he believed, was impossible.

The first, and, if well-founded, the most important objection which he had heard made against the Treaty was, that a claim for negroes and other property carried away from New York had been wholly overlooked or given up by our Minister. Here, he said, he was sensible any argument he might adduce would be opposed by the party opinions formed at the time—when judging in our own case, and when we felt a great degree of sensibility for the losses and injuries we had recently experienced. He was not unapprised that Congress had claimed that the construction of the 7th article of the Treaty was such as to require the delivering up of the negroes, and had passed the resolution read by the gentleman from Virginia, [Mr. Heath,] and that that opinion had, without examination, been implicitly followed by many respectable characters; but he hoped, at this distance of time, he might expect a candid hearing, whilst he examined their arguments and the Law of Nations, to which alone resort can be had to decide differences between sovereign and independent nations. To his mind they were conclusive that we had not a well-founded claim; to every mind, he believed, they would render the claim at least doubtful.

His first inquiry, he said, should be, whether negroes were to be considered as property? This, he believed, must be admitted: they were thus recognised by the article itself, which says "negroes or other property." Negroes being mentioned amounts only to a specification of one kind of property; as, in the Constitution, it says "capitation or other direct taxes," which is a conclusive recognition that a capitation tax is a direct tax, within the meaning of the Constitution. Upon no other ground than that of property could the United States claim them; as men, they had a right to go where they pleased. Our Commissioners, at the time of the embarkation, had no hesitation in declaring that they considered "negroes, horses, and other property," as being precisely on the same footing, and selected a claim

for a horse as one of the strongest that could be found to enforce a compliance with this construction of the article. The claim was in these words:

"Mr. Vanderburgh had a horse stolen from him, out of his stable in Beekman's Precinct, in Dutchess county, 26th February, 1780, and the horse was conveyed by the person who stole him to a then British post, in Westchester county, where he has since been detained; so that Mr. Vanderburgh could not recover him again. The horse is now in the possession of Col. James De Lancey, of this city, from whom Mr. Vanderburgh has demanded him, and who refuses to deliver him to Mr. Vanderburgh."

In the letter of the Commissioners to General Washington, on this subject, they say:

"In the interview between the 15th and 24th, numbers applied to us for a restitution of their negroes and other property in the possession of others, but we supposed it most eligible to defer a requisition till a clear unequivocal case, similar to that of Mr. Vanderburgh's, where the proofs were at hand and not embarrassed with the circumstances of a capture in war or other pretences under which property is withheld here, should present itself; sensible that if restitution was denied in such an instance, it would inevitably be in every other."

It therefore appears clear that negroes, horses, and other property, were, by this article, placed upon the same footing, and that it was as much a violation of the Treaty to carry away a horse as a negro.

He next proceeded to inquire what was the situation of this property, and in whom, according to the Law of Nations, it was vested at the time of executing the Treaty? This point, he said, Mr. Jefferson had fully settled to his hand, and read out of his collection the following extracts:

"We now come together (says Mr. Jefferson) to consider that instrument which was to heal our wounds, and begin a new chapter in our history. The state in which they found things is to be considered as rightful; so says the Law of Nations.—*Vattel.* The state in which things are found at the moment of the Treaty, should be considered as lawful, and if it is meant to make any change in it, the Treaty must expressly mention it. Consequently, all things about which the Treaty is silent, must remain in the state in which they are found at its conclusion.—*Bynk.* Since it is a condition of war that enemies may be deprived of all their rights it is reasonable that every thing of an enemy's, found among his enemies, should change its owners, and go to the Treasury. It is moreover usually directed, in all declarations of war, that the goods of enemies, as well those found among us as those taken in war, shall be confiscated."

These authorities, he said, clearly proved that all negroes and other property which in the course of the war had been taken, or in any way had fallen into the hands of the British, had shifted their owner, and were no longer the property of the American inhabitants. In the case of negroes, the British Commander-in-Chief had exercised the highest act of ownership, by manumitting such of them as should conform to certain stipulations, pointed out in his proclamation. If any change was intended to have been made by the Treaty in the circumstances of these negroes, and it had been intended they should be again returned into bondage, there would have been some express stipulation to that effect in the Treaty. The words are, "and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c. There is nothing that indicates the least intention that this article should have a retrospective operation. It can only relate to property then belonging to the American inhabitants. Wherever any article was intended to have a retrospective operation, some expression is used that clearly shows such intention. In this same article, speaking of delivering up records, debts, &c., these words are added, "which in the course of the war may have fallen into the hands of his officers," &c. In the 4th article, "debts heretofore contracted." Any other construction would have required the restoration of vessels which had been taken from the Americans, and were then in New York, under the term "other property," as well as negroes and horses. If any negroes or other property, in the possession of the American inhabitants at or after signing the preliminary articles, were carried off, it was no doubt a violation of the Treaty, but he had not understood that they refused to deliver up property of that description, or that such property was carried off to any great amount.

But this matter does not rest only on there being no words in the Treaty which can be construed to have a retrospective operation, but it is fairly to be inferred from the papers contained in this same collection of Mr. Jefferson, that it was so understood by the negotiators; for, in the course of that negotiation, it appears to have been a primary object with the British Minister to obtain restitution of the Tory estates, or compensation for them. They almost made a *sine qua non*, and a refusal to comply had well nigh broken off the negotiation; and to induce the British Minister to relinquish that article, our Commissioners brought in a claim for negroes and other property which had been taken, and towns and villages which had been destroyed during the war. He here read the following letter from Mr. Oswald, the British Minister, to our Commissioners, viz:

"You may remember, that from the very beginning of our negotiation for settling a peace between Great Britain and America, I insisted that you should positively stipulate for the restoration of the property of all those under the denomination of Loyalists or Refugees, who have taken part with Great Britain in the present war; or if the property had been resold, and passed into such variety of hands as to render the restoration impracticable, (which you assert to be the case in many instances,) you should stipulate for a compensation or indemnification to those persons adequate to their losses. To those propositions, you said, you could not accede. Mr. Stachey, since his arrival at Paris, has most strenuously joined me in insisting upon the said restitution, compensation, or indemnification, and in laying before you every argument in favor of the demands, founded on national honor, and upon the true principles of justice. Those demands you must have understood to extend, not only to all persons of the abovementioned description, who have fled to Europe, but likewise to all

those who may now be in any part of North America, dwelling under the protection of His Majesty's arm, or otherwise. We have also insisted on a mutual stipulation for a general amnesty on both sides, comprehending thereby an enlargement of all persons who, on account of offences committed, or supposed to be committed, since the commencement of hostilities, may now be in confinement, and for an immediate repossession of their properties and peaceable enjoyment thereof, under the Government of the United States. To this you have not given a particular and direct answer. It is, however, incumbent on me, as Commissioner of the King of Great Britain, to repeat the several demands, and without going over those arguments upon paper, which we have so often urged in conversation, to press your immediate attention to these subjects, and to urge you to enter into proper stipulations for their restitution, compensation, and amnesty, before we proceed further in this negotiation."

To which our Commissioners returned the following answer:

"In answer to the letter you did us the honor to write on the 4th instant, we beg leave to repeat what we often said in conversation, viz: that the restoration of such of the estates of the refugees as have been confiscated, is impracticable, because they were confiscated by laws of particular States, and in many instances have passed by legal titles through several hands. Besides, sir, as this is a matter evidently appertaining to the internal policy of the separate States, the Congress, by the nature of our Constitution, have no authority to interfere with it. As to your demand of compensation to those persons, we forbear enumerating our reasons for thinking it ill-founded. In the moment of conciliatory overtures, it would not be proper to call certain scenes into view, over which a variety of considerations should induce both parties at present to draw a veil. Permit us, therefore, only to repeat, that we cannot stipulate for such compensation, unless on your part it be agreed to make restitution to our citizens for the heavy losses they have sustained by the unnecessary destruction of private property. We have already agreed to an amnesty more extensive than justice required, and full as extensive as humanity would demand; we can, therefore, only repeat, that it cannot be extended further. We should be sorry, if the absolute impossibility of our complying further with your propositions, should induce Great Britain to continue the war, for the sake of those who caused and prolonged it; but, if that should be the case, we hope that the utmost latitude will not be again given to its rigors. Whatever may be the issue of this negotion, be assured, sir, that we shall always acknowledge the liberal, manly, and candid manner, in which you have conducted it."

In consequence of information from our Commissioners that the claim was made and pertinaciously insisted on by the British Minister, Congress passed the following resolutions, viz:

"*Resolved*, That the Secretary for Foreign Affairs be, and he is hereby, directed to obtain, as speedily as possible, authentic returns of the slaves and other property which have been carried off or destroyed in the course of the war by the enemy, and to transmit the same to the Ministers Plenipotentiary for negotiating peace.

"*Resolved*, That, in the meantime, the Secretary for Foreign Affairs inform the said Ministers, that many thousands of slaves, and other property to a very great amount, have been carried off or destroyed by the enemy, and that, in the opinion of Congress, the great loss of property which the citizens of the United States have sustained by the enemy, will be considered by the several States as an insuperable bar to their making restitution or indemnification to the former owners of property which has been or may be forfeited to, or confiscated by, any of the States."

Dr. Franklin, in a letter to the British Minister, says:

"I must repeat my opinion, that it is best for you to drop all mention of the refugees. We have proposed, indeed, nothing but what we think best for you as well as ourselves. But if you will have them mentioned, let it be in an article which may provide that they shall exhibit accounts of their losses to Commissioners hereafter to be appointed, who shall examine the same, together with the accounts now preparing in America of the damages done by them, and state the account; and that if a balance appears in their favor, it shall be paid by us to you, and by you divided among them, as you shall think proper. And if the balance is found due to us, it shall be paid by you. Give me leave, however, to advise you to prevent so dreadful a discussion, by dropping the article, that we may write to America and stop the inquiry."

The following article was accordingly drawn up, and proposed to be inserted in the Treaty, viz:

"It is agreed that His Britannic Majesty will earnestly recommend it to his Parliament to provide for and make compensation to the merchants and shopkeepers of Boston, whose goods and merchandise were seized and taken out of the stores, warehouses, and shops, by order of General Gage, and others of his commanders or officers there; and also the inhabitants of Philadelphia, for the goods taken away by his army there; and to make compensation also for the tobacco, rice, indigo, negroes, &c., seized and carried off by his armies under Generals Arnold, Cornwallis, and others, from the States of Virginia, North and South Carolina, and Georgia: And also for all vessels and cargoes belonging to the inhabitants of the said United States, which were stopped, seized, or taken, either in the ports or on the seas, by his Governors, or by his ships of war, before the declaration of war against the said States. And it is further agreed that His Britannic Majesty will also earnestly recommend it to his Parliament to make compensation for all the towns, villages, and farms, burnt and destroyed by his troops or adherents in the said United States."

After pressing the matter to the utmost extent, we find, by Mr. Adams's Journal, that on the evening previous to signing the Treaty, the Ministers on both sides came to the following result:

"Upon this I recounted the history of Gen. Gage's agreement with the inhabitants of Boston, that they should remove their effects, upon condition that they would surrender their arms; but as soon as the arms were secured, the goods were forbid to be carried out, and were finally carried off in large quantities to Halifax. Dr. Franklin mentioned the case of Philadelphia, and the carrying off effects there, even his own library. Mr. Jay mentioned several other things; and Mr. Laurens added the plunder in Carolina, of negroes, plate, &c. After hearing all this, Mr. Fitzherbert, Mr. Oswald, and Mr. Stachey, retired for some time, and returning Mr. Fitzherbert said, that upon consulting together, and weighing everything as maturely as possi-

ble, Mr. Stachey and himself had determined to advise Mr. Oswald to strike with us according to the terms we had proposed, as to our ultimatum respecting the fishery, and the loyalists. Accordingly we all sat down, read over the whole Treaty and corrected it, and agreed to meet to-morrow at O's house, to sign and seal the Treaties."

Will any candid man say, after reviewing these circumstances, that the 7th article was meant to secure the restitution of negroes and other property taken in the course of the war? If that had been meant, would it not have been improper to have urged it as an argument against the introduction of an article which would have subjected this country to immense embarrassment and expense?

It is true that the United States did challenge negroes and other property, which had fallen into the hands of the British previous to signing the Treaty. This circumstance, for the reason he had mentioned, and others that might be suggested, ought to have very little weight, for it is well known that recriminations of a violation of the Treaty soon commenced on both sides, and each mustered up every tolerable claim; many of which have since been admitted on both sides to be groundless. A circumstance which strongly corroborated what he said was, Sir Guy Carlton's letter on that subject had also been so grossly misunderstood and misrepresented, from that time to this, and now advanced by a gentleman on this floor, [Mr. Giles,] and even by Mr. Jefferson—in this instance departing from that candor which is so conspicuous in almost every other part of this excellent performance—for, when speaking on this subject, he says, "here there was a direct, unequivocal, and avowed violation of this part of the 7th article, in the first moment of its being known." Mr. Jefferson has given us a copy of Sir Guy Carlton's letter to General Washington, which is relied on to support this assertion, which is so far from speaking such a language, that in his opinion, it was directly the reverse, and that in a very pointed manner. His words are:

"I must confess, that the mere supposition that the King's Minister could deliberately stipulate in a Treaty an engagement to be guilty of a notorious breach of the public faith towards people of any complexion, seems to denote a less friendly disposition than I could wish, and I think less friendly than we might expect. After all, I only give my own opinion. Every negro's name is registered, the master he formerly belonged to, with such other circumstances as serve to denote his value, that it may be adjusted by compensation, if that was really the intention and meaning of the Treaty. Restoration was inseparable from a breach of public faith, and is, as I think all the world must allow, utterly impracticable."

Gen. Washington, at that time, seemed disinclined to give an opinion on that subject, but intimated the propriety of leaving any doubtful clause of the Treaty to be settled by future negotiation; for in a letter from him to our Commissioners in New York, dated June, 1783, who had written to him for particular and pointed instructions on this very subject, there is this passage:

"It is exceeding difficult for me, not being a witness to the particular cases, or acquainted with the particular circumstances which must fall under your view in the course of the evacuation, to give you a precise definition of the acts which you are to represent as infractions of the Treaty; nor can I undertake to give an official construction of any particular expression or terms of the Treaty, which must, in cases of ambiguity or different interpretations, be explained by the Sovereignties of the two nations, or their Commissioners appointed for that purpose."

A letter drawn up with great caution and extremely characteristic of that great man, who has always been extremely careful never to commit himself, but upon mature deliberation and upon sure ground. Here, Sir Guy Carlton, as a public officer of Great Britain, had made an explicit declaration on the subject, and that was directly against our claims; for his directing an inventory of the negroes, was only an evidence of his being disposed to conduct candidly in the matter, and give us an opportunity to recover a compensation, if we could afterwards make out our construction of the Treaty to be right.

Both in the United States and Great Britain it is admitted, as a sound rule of construction, that where any law or instrument is doubtful, and the liberty of any one, even of a slave, to be effected by it, that construction was to be preferred which was favorable to liberty. Under this rule, ought this Treaty to be so construed as to reduce to slavery three thousand persons who had obtained their liberty, by putting themselves under the protection of the British arms, unless there was some positive unequivocal stipulation in the Treaty which could admit of no other construction, he hoped, for the honor of America, they would make no such challenge. There was another circumstance which he had never seen mentioned, which, in his opinion, greatly weakened our claims, which was the doubts he entertained of our right to demand of a foreign nation the restitution of a runaway slave. The United States are now at peace with all the world; suppose a slave should escape into the dominions of a foreign nation, and on demand they should refuse to deliver him up? he very much doubted whether we should have just ground of complaint. On the other hand, if any of our citizens may be so unfortunate as to be reduced to slavery by any of the Barbary Powers in Africa, should make their escape into the dominions of any of the European nations, and upon being claimed by such Powers, should be delivered up, he did believe we should have good ground of complaint against such nation, as being unjust and inhumane. And, so far as principle is concerned, what difference does it make whether the citizens of the United States are carried into slavery in Africa, or the inhabitants of Africa are brought into slavery in the United States? he knew of no principle that made a difference between the natural rights of a white or black man. The first principle that is laid down in the rights of man, is, that all men are born free and equal; it does not say all *white* men. He did not believe, he said, that the House would ever admit so absurd a doctrine, as that the different

shades in a man's complexion would increase or diminish his natural rights. He hoped no gentleman would take any exception to what he had said on this point; he did not mean to give offence, or to throw any reflection on any part of the Union, on account of their having a larger proportion of slaves. It was an evil which existed at the commencement of our Revolution, and he trusted every part of the Union would get rid of the evil as soon as it should be practicable and safe. What he had said, was only what he felt himself bound to do in justification of our Minister for his having given up that claim. The next objection, he said, that he should notice, was, that we suffered aliens, who were settled around the posts, to remain and enjoy their property, and have their election to become citizens or not. From the stress laid on this objection, he had been led to imagine it an evil of great magnitude, and that there were vast numbers of these aliens who might cause great alarm or danger to the United States, and being unacquainted with that country, he had made some inquiry, and found that none of the posts except Detroit and Michilimackinac, have any settlers around them; that these are principally the descendants of the old French inhabitants, who were permitted to remain and enjoy their property when the country was ceded to Great Britain by France; that a few English, Scotch, and Irish, have intermingled among them, but to a small amount; that they are attached to the soil, and that from the solicitude manifested by all foreigners to become citizens of the United States there was little doubt but that they would unite themselves to us. It must be recollected, too, that we not only did not discourage, but rather gave countenance, to the introduction into our Atlantic ports of the English, Scotch, and Irish, from this same nation, who are continually importing by ship loads—some of them, it is true, men of character and property, most of them without property, and some without character or property, and permitted them to reside as foreigners, if they choose it. He could not, therefore, account for gentlemen's alarm on this head.

The next objection he noticed was, to the 18th article, which relates to contraband goods. It is admitted by the gentleman from Virginia, [Mr. Madison,] that it does not extend to any article not contraband by the Law of Nations, yet he regrets it being introduced, as it may be considered as more than an acquiescence on our part, that the Law of Nations should have an operation to that extent, and, in a degree, as subscribing to the doctrine. If this article comprised all contraband goods, he should join with the gentleman and say, there was no reason for its introduction into the Treaty; but he could show a very good reason why it was introduced, and which was peculiarly interesting to the State he had the honor to represent; it exempted an important article of export from this country from the list of contraband, which is made so by our Treaties with Spain, France, and all other nations excepting Prussia, in which nothing is to be contraband. He meant, he said, the article of horses which are grown in the United States, in great numbers, and for which we want a foreign market. By the official return in his hand, he said, it appeared that, in the year 1792, there were exported 5,556 horses; of these, Connecticut exported 4,349. The course of this trade has generally been to other than the British West India Islands, mostly to those of France, which adds vastly to the importance of the article. He hoped none of the sister States would be so ungenerous as to object to the insertion of this article, so important to Connecticut, when it would be admitted, on all hands, that the insertion could not possibly operate to the disadvantage of any other.

In the same article, the regulations relative to provision vessels is objected to, the last in the whole Treaty he should have expected would have met with any objection, for it is altogether in our favor, and a candid reading of it will show the stipulations to be, that, if a vessel laden with provisions or other articles which are contraband is taken, (and no others are thereby authorized to be taken,) which, by the Law of Nations, would be liable to trial and condemnation in a Court of Admiralty, instead thereof, they shall be paid for with a reasonable mercantile profit, freight, &c., stipulating, also, that, when vessels are found going to a besieged or blockaded place, not knowing thereof, they shall be turned away, and not seized, as, by the Law of Nations, they would be liable to be; and that vessels or goods found in a besieged place shall not, upon the surrender of such place, be liable to confiscation. Two winters ago, he well remembered, that complaint was made on that floor against Great Britain, because she allowed such advantages to Denmark, with whom she had a Treaty to that effect, and denied them to us, and now the Treaty which contains this stipulation is complained of by the same gentlemen. What are we to think of a cause, where resort is had to such arguments and objections as these to defend it, and that, too, by gentlemen of such ingenuity and abilities, as it must be confessed they possess, and who would be able to find solid arguments and objections if there were any, and would never resort to those that were weak and inconclusive, if there were any that were better, any more than a drowning man would catch at a straw, when there was anything more substantial within his reach?

The 17th article, relative to neutral bottoms not making free goods, has been objected to, and generally considered as an impolitic stipulation. Here it may be remarked, that this article is in just conformity to the Law of Nations, and it was not possible to alter it without the consent of Great Britain, which there was not the least probability of our obtaining, she having generally refused to make such stipulation with other nations. And, he said, he had his doubts of the policy of this measure, as it related to the United States. Had Great Britain been willing, our only resort, in case of a war with that nation, would be our privateers; with these we could greatly annoy and distress her trade; they would be, as a gentleman the other day said, our militia on the ocean;

but if neutral bottoms were to make free goods, it would be in their power to defeat most of our operations in this way, by employing neutral bottoms to carry goods to such places as were most exposed to our privateers; and where a small number of vessels were necessary, and sending their other merchantmen under convoys, which they would be able to afford to the more important branches of their trade. We are differently circumstanced from the European nations, most of whom have fleets sufficient to demolish almost any convoy, and privateering would not so much be an object; they could get supplies under the convoy of their own ships, but we have nothing that could meet a single ship-of-the-line, or to convoy any trade or supplies, and must depend wholly on privateering. The more diffusely their property was spread on the ocean, therefore, and the more ways in which we could come at it the better. The only advantage we can derive from such an article could be, that, in time of war, we might become the carriers of other nations; but, when we consider the distance those nations are from us, the immense quantity and bulk of the produce of our own country, which require transportation, it cannot be a matter of vast moment. No doubt, we can find sufficient employment for our navigation. The peculiar circumstances of the West Indies has, perhaps, made that a more important object in the present war, than it ever would be again. Another circumstance which greatly lessened the importance of such an article, was the small probability of its being strictly observed. We have such an article in our Treaty with France, but it has not been much regarded by that nation, nor will any nation at war be very scrupulous in such a case.

It had been his intention, Mr. H. said, to have taken a view of the commercial advantages which the United States might expect to derive from this Treaty, which opens to us the fur trade, and the trade into Canada and the East Indies; which, in his opinion, were of vast importance to the United States, but those advantages having been so ably pointed out by the gentleman from Massachusetts [Mr. Goodhue] who, on the subject of commerce, subjoins practical knowledge with theory, who represents the most commercial part of the United States, there being more than one-third part of all the tonnage in the United States owned in the State which he represents, he should only declare that he fully subscribed to what that gentleman had said on that subject, and he doubted not it would have weight with the Committee, as many of them must have found that the information which that gentleman had, ever since the establishment of this Government, been in the habit of giving, on all commercial subjects, was candid and correct. He would, however, make one remark, arising from particular information on the subject of the fur trade, which was, that a considerable proportion of the furs which had supplied the Eastern market, had been obtained for many years past by a contraband trade, in which it was calculated to lose nearly one-fifth part. If the trade could be carried on under these disadvantages, surely, when our merchants can enter into that trade upon a certain and perfectly fair footing, there is little doubt that they can carry it on successfully.

He next proceeded to remark on article 10th, which respects sequestration. He would, he said, lay out of the question everything that related to the morality of the measure. Many things which relate to war might not, perhaps, be perfectly reconcilable to the strict principles of morality; he should take it up in a political point of view only, and could not conceive of any possible state of things which could make it either politic, or for the interest of the United States, to resort to such a measure. We are a young, growing country, and an immense field is, and for many years to come will be, opening for the improvement of capital, which can only be supplied by the substitution of credit. If we were once to resort to such a measure, it would make all foreigners afraid to trust their money in our hands. Admitting that we might lay our hands upon fifteen or twenty millions of dollars, and supposing (a supposition hardly possible for satisfaction for private debts, when national differences are settled, is generally insisted on) that no restitution was in fact to be required upon the final adjustment for what was actually recovered or lost in consequence of such an act, the loss of credit, and consequent injuries that would arise, would eventually subject us to losses to ten times the amount, and we should literally fulfil the old proverb of a "penny wise and a pound foolish." The consequences of such a measure would be ruinous to our most enterprising, promising young men, the rising hopes of our country, most of whom begin the world with little more than abilities to do business, and a fair character, credit is ready money to them, it is their stock in trade, and puts them upon an equal footing with the great capitalist. For the truth of this remark, he requested every one to take a view of the men of business and property, advanced to or beyond middle age, and see if a great proportion of them are not of that description. This measure once adopted, would throw the business almost entirely into the hands of moneyed men, who could pay down. Credit, it is true, is of no use—nay, it is an injury, to a spendthrift, because he would abuse it, so he would money or other property; but to a prudent or wise man, credit is of vast importance. He could not, he said, see the force of the objection against this article, because it thwarts a resolution that had been laid on the table by an individual member. No vote of the House sanctioning that resolution was ever passed, and how it could be considered as the act or the opinion of the House, he could not see. He did not doubt the gentleman who brought it forward was actuated by the purest motives, but it never even had the consideration of the House, and cannot, therefore, be considered as containing the final opinion of the House, or any member in it.

He intended to have made some remarks in reply to the bugbears which have been raised up relative to old debts, but the gentleman from Massachusetts had so fully answered that also, that he should add very little. No debt of that description, of any consequence, could be found North of the Potomac; the courts of law have always been open, and he could not entertain so disagreeable an opinion of the people further South as to suppose that in 1775 they had anticipated more than one, or, at most, two years crops; if not, deduct the four classes mentioned by Mr. Jackson, and part of the other class also, which will not come under this Treaty, viz: such as have been lost by the negligence of the creditors, and not by any legal impediments, and the sum cannot be large; but if the sum is large, so much the greater the evil, and so much the greater the necessity of getting rid of it; for it will be like an Achan in our camp, and will continually disturb, if not endanger our peace and tranquility. If we really mean to live together in harmony, let us settle this old score, and no longer have it as a subject of recrimination between the different parts of the Union—that part of the Union we should suppose to have the greatest cause of dissatisfaction makes no complaint.

If this Treaty is rejected, what is to become of the Western posts? We cannot expect them to be delivered up; the period appointed for that purpose is just at hand—a period to which the people of the United States have looked forward with much solicitude. It had been represented, ever since he had been in Congress, by the gentlemen who now oppose the Treaty, and seem to feel such a strange apathy on the subject, as a most important object; that to obtain the Western posts almost any sacrifice ought to be made; that without them we could not expect permanent peace with the Indians, or security to our frontier inhabitants, or the benefits of the Indian trade. And now that they are almost within our grasp, if we let them go, will not the people of the United States call us to a very severe account?

Before this step is taken, which seems to be contemplated by many, we ought to look to what may be its probable consequences. He did not himself believe that a rejection of the Treaty would bring on an immediate declaration of war, but he did believe it would lead to measures which must inevitably end in war. What he was about to say, were not mere words of a heated imagination; they were words of truth and soberness, and what, in his conscience, he believed would take place. It is a fact well known that the spoliations, especially at the Eastward, have fallen principally upon underwriters and some of our most respectable merchants, who, by a long course of honest industry, had acquired a handsome property. Many of these have claims for spoliation and property now at risk, to the amount of their whole fortunes. The only chance they have of a recovery or security for their property does, in their opinion, depend on the execution of this Treaty. What will be the situation of these people, if they are disappointed in this their only hope, and they are brought to realize the idea of seeing their families reduced to beggary, and poverty staring them in the face? Will they not be driven to a state of desperation? A situation like this would make a wise man mad. Can it reasonably be expected, that persons in this situation will sit down quietly under their losses, or that their fellow-citizens will quietly see them sacrificed, not to an important principle, but to a mere question of expediency? for the gentlemen admit, the vote of the House recognises the Treaty as far as it has proceeded to be Constitutional, and that it may constitutionally be carried into effect. He was confident, he said, it would not be the case, and that no event which had ever taken place in America, would cause a more lively sensibility, or involve more serious consequences than a rejection of this Treaty. As to compensating the spoliations out of the Treasury, the sufferers, after what has passed, can entertain little hope of that, and when they find themselves abandoned by the Government, is there not danger of their resorting to first principles, of self-preservation and retaliation? He was surprised that gentlemen should not be of that opinion, who had heretofore, on that floor, painted in such strong language the impossibility of restraining the frontier inhabitants, who may have been robbed of a horse or other property, from pursuing and obtaining satisfaction, even at the risk of the peace of the Union, and that, too, before they had been refused or had even applied to the constituted authorities for redress. It has been imagined by some, that the moderation and temper with which the sufferers have borne their losses, proceeded from their attachment to some foreign nations; but this is a very erroneous, unfounded opinion. This moderation has proceeded entirely from a love to their own country, a regard to its peace and happiness, and a full confidence in, and reliance upon the constituted authorities, that they would pursue reasonable and proper measures for obtaining redress, and for more than two years have been looking up to the completion of this Treaty, as the only source from which they could expect indemnification. This appears from their petitions on the table, forwarded in a most deliberate manner, at the commencement of the session. He wished gentlemen would seriously reflect, what would be the situation of people despoiled of their property by foreign nations, and abandoned by their own Government. He had no doubt on his mind, but that they would seek redress from those from whom they had suffered, and on whom will this retaliation fall? Not on one nation only. We have suffered more or less from all the belligerent Powers, but principally from two nations—England and France. British cruisers have made a most wanton and unprovoked attack upon our commerce. It must be admitted, also, that our citizens have suffered great losses by the French. Many sufferers can produce a list of both British and French spoliations. In support of what he had here asserted, he should refer to Mr. Randolph's official report, made when Secretary of State, on the 2d of March, 1794, in which he has given a most distressing and dark catalogue of the British spoliations and injuries, but he says, also, relative to the French:

"That their privateers harassed our trade no less than those of the British; that two of their ships of war had committed enormities on our vessels. That their Courts of Admiralty are guilty of equal oppression. That, besides these points of accusation, which are common to the French and British, the former have infringed the Treaty between the United States and them, by subjecting to seizure and condemnation our vessels trading with their enemies in merchandise, which their Treaty declares not to be contraband, and under circumstances not forbidden by the Law of Nations; that a very detrimental embargo had been laid upon large numbers of American vessels in the French ports. And that a contract with the French Government for coin, had been discharged in depreciated assignats."

This, Mr. H. said, was an occasion of such magnitude, that he felt himself obliged to speak out his sentiments with candor and firmness, in relation to all nations, as some gentlemen had undertaken to draw a comparison between different nations. We are Americans, and a neutral nation, and ought, therefore, to take American and neutral ground. The zeal, and he called it a laudable zeal, which the American people feel for the cause of liberty, had induced them to view with a partial eye the injuries we had received from France, considering her as having commenced her revolution in the cause of liberty, and to exaggerate those we had received from Britain. Some instances had fallen within his knowledge, in which the loudest clamor had been made about spoliations, where the captures were perfectly justifiable, and in perfect conformity to the Law of Nations. He hoped, he said, he should not be considered as unfriendly to France; it was far otherwise; he was her sincere friend, and wished well to that nation, and sincerely hoped that they would finally settle down in a free and happy Government. But what would be the end of their present conflict was beyond the power of human calculation to say. He did, however, he said, love his own country best, and as our liberty, peace, and happiness, was moored in a safe haven, he was not willing to embark them on board a ship still at sea, and no mortal could tell what storms or tempests might await her. He had no idea of embarking the Government and liberties of the people of the United States with those of France or any other nation. He wished them a safe passage, but he did not think it for the interest of the United States to become underwriters. He did not think there was any obligation of gratitude on the United States that required it; he did not think the French Republic had any claim of gratitude on the United States for the aid which was afforded in our Revolution, the nation, as such, had no hand or volition in that business; the Convention, and much to their honor be it spoken, have very candidly acknowledged it, and disavowed all claims on that ground. Our assistance was, in that case, derived from another quarter. Those who afforded it are now no more. And it was afforded, not out of friendship to us, or a regard to the cause of liberty, or to advance our prosperity, but to gratify national pride and antipathy, and to humble and distress a proud and haughty neighbor, with whom, for many centuries past, they have for a considerable part of the time been at war; they were, therefore, under as great obligations of gratitude to us, as we to them; for they never carried on a war more to their advantage with Great Britain, or made a more honorable peace, than that of 1783. Suppose that, instead of sending troops to our aid, France had hired them to Great Britain, as some European princes in fact did, to come over to cut our throats, would the Republic be willing, would she think it just, that she should be charged with the odium? If she makes the claim in one case, she must submit to the charge in the other. Where mutual engagements had been honestly discharged on both sides, he had never supposed there was any obligation of gratitude left.

He was greatly mortified to hear a gentleman from Virginia [Mr. Giles] declare in that House, that France had given us our independence; that we were indebted to her for our being admitted to deliberate as the Representatives of a free people. He should take the liberty to deny the assertion; we should have been no less free and independent if no nation afforded us their patronage. France never openly declared in our favor till after the capture of Burgoyne, and we had manifested to all the world that we should maintain our independence. He did not believe, he said, that the independence and freedom of America depended on the good or ill will of any nation on earth; he believed it depended solely on the will of the people of the United States. The same gentleman had said, this Treaty would give umbrage to France. He asked, why? Is there any stipulation in it contrary to the Treaty with France? It is not pretended. If there was, it could not be operative; but, out of an abundant caution, there is an express stipulation that it shall have no such operation. But, says the gentleman, it gives Great Britain the advantage in our ports, which she did not before enjoy. Are we, then, reduced to that humble situation that we may not grant indulgence to a foreign nation, for the purpose of obtaining advantage to ourselves, because such nation is at war with France, without asking the consent of France? This would be colonizing of us in good earnest. Why so scrupulous on this head? Has France been so in regard to our Treaty with them? Mr. Randolph states, that they have made very free with it indeed. Have they consulted us relative to the Treaties they have made with several of the Kings of Europe? Could they expect that we should consult them? Where does the gentleman get his information, that France will take umbrage? Have they remonstrated? He had heard of no such thing. He had heard, indeed, that some Americans in France, lighted, no doubt, with the flame which had been kindled in this country, had attempted to stir up some uneasiness in that, but the Frenchmen were perfectly easy and unconcerned on that head. They are too magnanimous a nation to take offence at our securing advantages to ourselves, by granting to other nations nothing but what we were free by our Treaties and the Law of Nations to grant; neither is such conduct improper, unless we mean to become parties in the war, which the sober, thinking part of that nation do not wish. And to us, it would be inevitable ruin. He was, he said, for a faithful observance of our Treaty with France, and for affording them all the aid we could, consistently with a fair and impartial observance of our neutrality; and, in that way, we should do them more good than by becoming parties in the war, and ourselves no injury.

Mr. Hillhouse requested gentlemen to pause a moment, and reflect what will be our situation if this Treaty is rejected. The peace of 1783 is agreed on both sides to have been infracted, since that Great Britain has committed depredations on our commerce to an immense amount. Is it supposed that all this matter can go off without any noise or combustion? As to treating again, no one can suppose that we could do it to any advantage, after such rejection. What may Great Britain expect, if we will not settle our differences by negotiation? Will she not expect that we shall resort to more violent measures—such as reprisal, sequestration, or stopping of intercourse? And to guard herself against such measures, may we not expect she will lay her hand upon all our property on the ocean? He said he looked upon such events as the natural consequences of our rejecting the Treaty. What may we expect will be the conduct of our own citizens? Will they tamely submit to be robbed of their property, when they lose all hope of aid or protection from the Government? They will not; they will defend it even to the shedding of blood; and not only so, but they will also take every opportunity they have to make reprisal for the property they have already lost upon those who did them the injury, whether they belong to one nation or another. What, he asked, could be the end of all these things but war?

It is an easy matter, he said, to start objections to any Treaty. The very nature of Treaties is such, that we must expect stipulation on both sides; and if one side only is viewed many objections will appear. There is not one Treaty in our code which may not be objected to in this way, that lately negotiated with Spain not excepted. He gave, he said, that Treaty his most cordial approbation, because it secured to our Western brethren the free navigation of the Mississippi, gave them a market for their produce, and would greatly raise the value of their lands. But the fifth article of that Treaty is vastly objectionable, for we are bound, at all events, to restrain our Indians from making war on the Spaniards. We know, from said experience, how difficult it is to restrain our frontier people, living within the reach, and under the control of our laws, from committing acts of aggression upon the Indians, which readily kindle up an Indian war. Is it not, then, a serious business to take upon ourselves the risk of an Indian war, from the indiscretion of the Spaniards, who are not under our authority or control, or within the reach of our laws? Such an alliance, provided we had no sufficient force to cope with the Indian tribes, might be important; but the evils of Indian wars do not arise so much from the force the Indians are able to bring against us, or our inability to resist it, as from the distress they bring upon our frontier inhabitants, and the expense thereby occasioned, neither of which evils will be much, if any, lessened by this article in the Treaty, whereas the chance of Indian wars will be nearly doubled. That part of the 16th article of the Spanish Treaty which authorizes the cargoes of trading vessels to be taken out at sea, by a ship-of-war or squadron which may be in want from a storm, or other accident, giving a receipt only, which is afterwards to entitle the party to payment, is more objectionable than any article in the British Treaty. In this way, a vessel may be disappointed of her return cargo, having nothing to purchase with, and be obliged to seek payment in the Spanish Court. This is subjecting trade to an embarrassment to which it is not liable by the Law of Nations, and it is surprising that this article in the Spanish Treaty should have passed unnoticed, and so much stress should have been laid on the provision article in the British Treaty, which lessens and restrains the embarrassment to which trade, by the Law of Nations, would be liable. By the Spanish Treaty, we are not admitted to any trade with their islands or colonies, not even where they border upon us. Many other articles of that Treaty are liable to the same objections that have been made to the British Treaty; but he should take up no further time in remarking upon them, but as the gentlemen from one part of the Union had cheerfully given up their objections to the Spanish Treaty, because it accommodates their Western brethren, he hoped, and had almost said, depended upon it, that they would give up their objections (which they admitted to be grounded merely on expedients) to the British Treaty, which, to another part of the Union is of immense and incalculable importance. He hoped that, on this occasion, it would be remembered that we were Americans; he hoped all would harmonize, and unite as a band of brothers. This, said Mr. H., and this only, was wanting to make America the paradise of the world; this would carry our present unexampled prosperity to a pitch of glory and happiness hitherto unknown on this globe.

At this point the Committee rose, and had leave to sit again.

The House then resolved itself into a Committee of the Whole, first, on the bill for carrying into effect the Treaty with Spain, and afterwards on that for carrying into effect the Treaty with the Indian tribes Northwest of the river Ohio, which, having gone through, the House took them into consideration, and ordered them to be engrossed and read a third time to-morrow.

Wednesday, April 20.

The bills for making appropriations for defraying the expenses which may arise in carrying into

effect the Treaties lately concluded between the United States and the King of Spain, and with certain Indian tribes Northwest of the river Ohio, were read a third time and passed. The first blank in the former, for defraying the expenses according to an estimate, was filled up with $18,663, and the allowance for Commissioners with $2,000. The cost of the transportation and payment of the stipulations to the Indians, in the latter bill, was filled up with $1,500.

Mr. Henderson moved that the resolution which he yesterday laid upon the table, respecting the disposal of lands reserved for the use of Government, be taken up. It was taken up accordingly, and referred to a committee of three members.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief and protection of American seamen," with several amendments, to which they desire the concurrence of this House.

Mr. Hillhouse, from the committee appointed, presented, according to order, a bill making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers; which was read twice and committed.

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union, and the resolution for carrying the British Treaty into effect, being under consideration,

Mr. Hillhouse finished his observations in favor of the resolution, as given in full in preceding pages; when

Mr. Cooper said, he rose with reluctance to speak on a subject that had already occupied so much of the time of the House, and he thought had been so ably managed in all points; yet, situated as he was, and representing, as he did, that country bordering on Canada, from Presqu' Isle, on Lake Erie, to Lake St. Francis, a distance of more than three hundred miles; and the very advantageous point of view in which the trade of that country is held, not only by his constituents, but by the inhabitants of Albany and Schenectady, and several other trading towns on the Hudson river, seemed to put him in such a situation that it would be criminal in him to be silent on a subject so interesting to the people of the State of New York. Nor is it necessary to say much to show the expediency of granting such supplies as are proper to set in motion the British Treaty, as far it relates to the interest of the State of New York, and to that alone he should confine his observations.

It has been stated to me, said Mr. C., by our worthy negotiator of the Indian Treaty, that a more easy and advantageous Treaty was obtained with the Indian tribes, on account of the time being ascertained with certainty in the British Treaty for the delivery of the Western posts to the American nation; and it is reasonable to calculate, that that circumstance had a powerful influence over their actions; for, if they were uncovered by those posts, being placed in the possession of the people with whom they were at war, and that they could be no longer sheltered on the margin of our country by their old friends, the British; it became their best policy to throw themselves into the arms of the United States, and they did so. But what is to follow? Why, if this House, by a cool, deliberate act, refuses or neglects to take possession of those invaluable stands at the time ascertained in the Treaty, it again forms a plausible pretence for that strong and haughty nation to withhold from us that trade, which is not only our right, but which nature, in the distribution of her waters, hath secured to the commerce of the State of New York. And can or will any of its Representatives exclude its citizens from the enjoyment of this natural advantage? They must not do this thing. For, should the British be left in possession of those posts, is it not fair to expect that they will influence the Indians to become again troublesome on our frontiers? That they have this influence, if left in possession of those posts, will not be denied; that they are not too good to do this thing, will be believed; that they are bold enough to attempt it, is well known; and they will have this solid argument to show as cause why this step ought to be taken by them, they might tell us, and tell us truly, too, that we have broken our faith both with them and the Indian tribes, and that the fault is our own; and thus, instead of the great advantages resulting from the Western trade, so long and so eagerly sought after by the citizens of our State, they will have presented to their view a prospect of war on our frontiers, and the present unexampled prosperity of the Western district frustrated. I am not unmindful, Mr. Chairman, said Mr. C., that the naming of a district has a local sound in the council of the nation; yet, when this House considers that the district I mention is more than half the State of New York, and that it is the very country that must gain by a restoration of the posts, or be destroyed by an Indian war, supported by Canada, they will see I have solid cause to be anxious about the result of this measure. It now becomes necessary that I should take up that part of the argument, as stated by a gentleman from Virginia, [Mr. Madison,] which relates to the State of New York. He intimated that the trade on those lakes would not be any advantage to our American merchants, because goods were imported through Canada duty free, and with us there was from seven to fifteen per cent. duty. This statement is not correct. There are duties and excises in Canada, which, together with the high insurance on vessels sailing up the river St. Lawrence, make it equal to ours. But this and all drawbacks on our part, we will put out of the question; for, I am told, and I think it is a certain fact, that each hundred weight of goods which arrives at Niagara, by way of Quebec, costs five pounds for the carriage only; by the way of the Mohawk, twenty-four shillings is a fair price. This difference, alone, is a handsome profit, and a consideration that will always secure that trade

to our merchants. For their British traders will get their supplies from that market, which is the cheapest and safest. This is as certain as that men will follow that which is most for their interest.

When New York and Canada were both under the British Government, the country of Upper Canada was supplied by way of the Hudson—the King's stores were all sent by that route, and was there no solid cause for this arrangement? There certainly was, and gentlemen who controvert this doctrine must produce better evidence than the fact itself. So jealous are the British of our advantage in the trade of that country, that they keep a garrison at the outlet of the Oswego river, to prevent our traders passing with merchandise on to those waters. But, if the gentleman's own doctrine is sound, that no advantage can arise to us from the trade of that country, why does he complain of want of reciprocity in the Treaty, by not having damages for detaining the posts? Surely, if the trade is of no advantage to us, the posts are of no use, and no damages are due, but I deny both the one and the other. The commerce of that country will fall to us; and the damage we have sustained by the detention of the posts are great. The British say it is our fault. Had we complied with the Treaty of 1783, they would, and here the dispute is at an issue.

How this is, said Mr. C., I shall not undertake to say; but this I am very clear in, that we had better treat with them than fight them. We have thought this the most prudent mode of conduct with the Algerines and other nations, and we ought to think so for several years to come, with all nations; for time to us is every thing. That gentleman's plan is to destroy this Treaty, and go into new negotiation; my plan is to secure this, and if necessary, negotiate farther. Should this Treaty be destroyed, what prospect have we of obtaining another? None; and what will follow? Why our commerce will be cut up, of course our revenue destroyed, our farmers impoverished, and on them we must cause to be assessed direct taxes to create supplies, or the Government must fall to pieces, and who is it that will stretch forth his arm to do this thing? Or who is it that will vouch that a non-compliance with the British Treaty will not produce all those evils?

Mr. Page said, that he had heard no arguments in favor of the resolution before the Committee, but such as might be used to influence a vote at any other time, and upon almost any occasion; for we are told that war, or popular discontent, and great inconvenience and distress to merchants, underwriters, and others, will be the consequence of its rejection. If such threats can influence this House upon the present occasion, an unhappy and mortifying comparison may be made between the Congress of 1776, and that of the present day. They despised and encountered the dangers of war actually commenced. He wished, when members were disposed to mention their fears of such dangers, they would first clear the galleries; for such communications ought to be secret. Did members really believe that Great Britain will declare war against the United States, if this House should refuse to be accessary to the violation of the Constitution, the destruction of their own rights, of the rights of neutral nations, and of the interests of their constituents? If they do believe this, is their belief founded on conjecture alone, or on the negotiator's declaration, that the British Ministers threatened him with war, declaring that war should be the consequence of a rejection of the Treaty? If the latter be the case, and nothing less can justify such repeated assertion that war will be the consequence of a refusal to carry the Treaty into effect, the Treaty ought to be deemed null and void on account of that threat; and if the former, they may be assured that they are mistaken, and that Britain is not so frantic as to engage in a war with the United States upon such slight grounds. The citizens of the United States wish not to be at war with the British nation; nor can the people of Britain desire a war with them. Both must wish for peace, and a full commercial intercourse upon liberal terms; and as the Executive authority of both countries are well disposed to each other, and have, as far as in their power, carried the Treaty into execution, what reason can be assigned why we should be involved in a war? It has been said that the United States will be obliged to declare war, on account of the British refusal (which may be expected) to deliver up the posts, and to make compensation for spoliations of our commerce; but I see no necessity for such conduct. For my part, should Britain never give up the posts, I would not vote for war, nor be at the expense of a single regiment to take them; nor would I go to war to recover losses sustained by spoliations. For, if we reject the resolution before you, sir, we may be at liberty to pass such a bill as we passed in the year 1794, by a majority of twenty-four members, and for which thirteen Senators then voted; and should the Senate concur with us in passing it, we might use it more effectually than a declaration of war for the recovery of the posts, and reparation of wrongs. As to war, as my colleague yesterday said, I have reason to deprecate it, for the sake of my constituents, and for my own sake; for I have experienced enough of its evils; but I cannot think that I ought to sacrifice their dearest interests merely from an apprehension of the dangers of war. The arguments, therefore, which I have heard, cannot induce me to vote for the resolution before you. Indeed, sir, I must vote against it; because I think that the Treaty is unconstitutional and pernicious; and even if it were Constitutional in every respect, and as advantageous to the United States as it has been represented, I should think it impolitic and dishonorable in this House to lend its aid to carry it into effect during the present war, and a continuance of the British depredations on our commerce, and impressment of our seamen. The Treaty appears to me unconstitutional, because it takes from Congress that very power with which

it was invested by the Constitution, and to invest them with which, the Constitution itself was expressly formed; a power which I think should be held as precious and unalienable. I mean the power of regulating the commerce of the United States with Great Britain; so as to induce her to fulfil all the conditions of the Treaty of Peace, and to put the trade of the United States with her upon a footing of reciprocity. It appears also unconstitutional, because it violates a solemn act of Congress passed in conformity to the express words, and I may say, in obedience to the injunction of the spirit of the Constitution: I mean the act for establishing an uniform rule of naturalization, and this violation, too, operates partially, and in favor of British subjects alone. It is moreover unconstitutional, because it interferes with the authority of the Judiciary, by establishing a Court of Commissioners, a kind of supreme court of appeals, within the United States, with powers to proceed, unknown to our laws; with temptations to defendants to make no defence; with a right to bind the United States to pay debts which they owe not, and to any extent or amount which that Court may think fit to decree; and it is unconstitutional, because it authorizes the President to create certain offices, and annex salaries thereto. In these instances, at least, I think the Treaty unconstitutional; for I think that Congress cannot authorize the President to do away the power of Congress or to establish a court of appeals superior to the Federal Supreme Court; that, whatever would be unconstitutional, if done by Congress, cannot be Constitutional if done by the President and British King. But, sir, if the Treaty were not unconstitutional, that is, if the President and Senate had a right to deprive Congress of the power it claims, and to interfere with the Judiciary, yet the exercise of that right in the present case, ought to be viewed as so pernicious to the United States as to render the Treaty null and void; or at least, it ought to be viewed as an argument of sufficient weight to induce this House to refuse their aid towards carrying this Treaty into operation. And were it even Constitutional and advantageous to the United States in every article, yet, as it acquiesces in a violation of the rights of neutral nations in favor of Great Britain, and in some instances, to such a degree as to be thought even by the President himself, to afford just ground for discontent on the part of our allies, it will be dishonorable and highly impolitic in this House to be in any manner instrumental in carrying it into effect. As it has not been in the power of the United States to assist their Republican allies, when fighting in fact their battles, the least they can do, or the least that the world and those allies can expect from them, must be, that they will not put the enemies of those allies into a better condition than they were, by making Treaties with them during the present war.

We are told, indeed, by a member from Connecticut [Mr. Hillhouse] that the French Republic is not displeased with the Treaty, or that they would have remonstrated against it; but in the same breath he told us, that such a remonstrance would have been indecent. Whether the Republic has remonstrated or not, is immaterial: we know that the French nation has been induced to believe that the Government or the Executive of the United States was unfriendly to their Government, and that the citizens at large were friendly, and warmly attached to it and to their citizens. They may, therefore, if they have not remonstrated, be supposed to be willing to wait, with a reliance on the Representatives of the people of the United States, believing that they will never consent to carry the Treaty into effect during the war. It must be impolitic and dangerous to remove the favorable opinion the French nation entertains of our friendship. Let us establish that good opinion by rejecting the resolution before us, and let us hope to undeceive them respecting our Executive. I hope they will believe, as I have endeavored to induce some of my friends to believe, that, the negotiator was led to fear that our affairs in the United States were in a critical situation; and that those of our allies, though apparently flourishing, were on the brink of destruction: he might have been let into the secret plots against the Republic, and have concluded that the Treaty alone could prevent our being involved in war with Britain, after the success of the combined Powers against our Republican allies; that the Senate, when they advised the ratification, might possibly be under a similar impression, and that their advice, and circumstances unknown, might induce the President to think himself bound to ratify the Treaty. But, sir, this House knows that these fears were groundless; that the enemies of France have been repulsed, and totally disappointed in their hopes of conquest, and that many of them have made peace with them, and we may hope that even Britain will soon follow their example. We know, too, that the Treaty is not such an one as the President instructed his Envoy to make; therefore this House may, and ought to refuse to be instrumental in carrying it into effect. This House ought not to suffer the French Republic to charge it with lending its aid to carry into effect a Treaty which so many of its constituents dislike, and of which the President himself disapproved. If war can be produced by rejecting the Treaty, I should suppose it must be by adopting it; for France had, according to the Laws of Nations, a right to declare war against the United States for violating its neutrality, and for its partiality to Great Britain. But, I hope this House will be, as the member from Connecticut [Mr. Hillhouse] said, uninfluenced by fears of war from any quarter; and consider only what the interest and honor of the United States require. They will think with me, I trust, that it is our interest to secure the good will and friendship of twenty-five millions of Republican allies; to avoid the contempt of neutral nations, and to endeavor amicably, by a new negotiation, to adjust all differences with Great Britain, and not to patch them up, so as to engender fresh disputes, and a breach of the Treaty, with which no one

has ever been perfectly satisfied. I was sorry to hear a member from New York, [Mr. Cooper] whilst he was urging the necessity of ratifying and adopting the Treaty say, in fact, that we had better put up with insults now, and be revenged hereafter; that within twenty years we might defy Britain and dictate terms to her. No, sir, let us deal honestly and candidly; let us state our objections to the Treaty, and I will venture to say, that there is not an honest, candid man in Great Britain who will not applaud us for it. The President will be able to give a full and satisfactory reason why the Treaty cannot be carried into effect, and either another which will afford mutual satisfaction will be made; or, we shall without a Treaty be left at liberty to make use of those powers with which the Constitution invested us, for the very purpose of bringing Great Britain to reasonable terms, as to commercial intercourse, and as to a fulfilment of the Treaty of Peace.

We are told, indeed, that the Treaty before us gives up the posts; but, sir, I may say it gives the United States the mere walls or works and fortifications, and retains the lands around them to an undefined extent, besides yielding to British subjects perhaps millions of acres which they may claim under old grants. I look upon this circumstance, sir, more like a capitulation on the part of our negotiator, than a fulfilment of the article in the Treaty of Peace; and that this circumstance, added to others in the present Treaty, would have rendered a capitulation upon such terms dishonorable, unless an assault and destruction could be proved inevitable. In short, sir, said Mr. P., unless it can be proved safe and honorable, and not a violation of our neutrality, for this House to be accessary to carrying the Treaty into effect, I cannot vote for the resolution before you, even should it be proved that the Treaty is Constitutional, and it affords the advantages with which some gentlemen suppose it abounds. I shall, therefore, vote against the resolution now before you; and, as far as I can see at present, shall view the one proposed by the member from Pennsylvania, [Mr. Maclay] as a substitute for this, as far preferable to it, although that does not go as far as I could wish; but that would be safe and honorable, as it puts off the question till we may be better informed of the reasons which led to the ratification of the Treaty by the President, and till possibly the conduct of Great Britain may be such as to render our approbation and support of the Treaty not inconsistent with the honor of the United States. For my part, sir, I shall vote against the resolution before you at all events, for the reasons which I have given, and because I do think it high time to let Great Britain know that she ought to comply with the Treaty of Peace before we will consent to any new Treaty with her; and that she must suffer us to enjoy the rights of neutral nations, and not attempt to force us into a violation of them with respect to our allies; and this sentiment I am sure will be applauded by the world, and by every candid man in Great Britain.

Mr. Bourne thought it would be an easy matter to convince the gentleman last up that his principal objections against the Treaty then before them were unfounded. He believed the gentleman was actuated by the best motives, but, if he were to review his objections, he was of opinion they would appear to him ill-founded.

The gentleman objected to the Treaty as unconstitutional, because it interfered with the judicial authority of the United States. The appointment of Commissioners to settle differences betwixt the citizens of the two countries was what he had alluded to. But had not the gentleman assented to carry into effect the Spanish Treaty, which provided for the appointment of Commissioners of a similar kind? Certainly he must recollect that there was a provision for such an appointment of Commissioners, with the like authority and powers; and surely the word "British" could not alter the nature of the thing so much as to render what was perfectly agreeable in a Spanish Treaty, and upon which the yeas had been unanimously given, when applied to the British Treaty altogether objectionable; or had the gentleman received some new light since he gave his vote?

But he did not wish to rest the matter there. He would inquire for what those Commissioners were appointed? Was it to decide disputes between individuals? No; it was to settle claims and differences betwixt the two nations. Did this encroach upon the Judicial authority of this country? Certainly not. For the Judicial authority is incompetent to take cognizance of controversies between independent nations. The gentleman had stated the Treaty to be unconstitutional upon another ground, viz: that it interfered with the powers of Congress with respect to naturalization. Let us examine, said he, what this interference is. The people who live in these posts are to be suffered to remain there, and in one year to declare whether they will become citizens of the United States or remain British subjects. If they became citizens it was well, and he believed the Treaty-making power to be fully competent to make them so; but if not, the Congress might accomplish it by carrying the Treaty into effect; if not, they remained as other foreigners, owing a temporary allegiance to the Government of this country.

Another object had been stated, which, he thought, had been fully answered by the gentleman from Connecticut, [Mr. Hillhouse,] viz: that the Treaty before them was calculated to excite a hostile disposition on the part of France towards this country. He himself saw no ground for this disposition. Had this country violated the Treaty with France? No; and certainly when they were treating with one nation, they were not particularly obliged to consult the interests of another. But the gentleman must know that the Treaty was particularly delicate on this subject, and contained an express exception in favor of existing Treaties between the United States and other nations.

These were the material objections which the

gentleman last up had adduced against the Treaty, and yet he had said they were sufficient to influence his vote against carrying it into effect. He did not expect that after the declaration the House had made relative to their right of deliberating on the expediency of carrying Treaties into effect, that, when this Treaty should come before them, they were to have gone into the same examination of it as if it were in the first state of negotiation, and the British Minister was before them endeavoring to settle the commerce and adjust the differences between the two countries. He expected a different line of proceeding; especially when he heard the gentleman from Virginia [Mr. Madison] say, that it would be with great reluctance that the House of Representatives would refuse to carry into effect a Treaty, after their Minister had negotiated it, two-thirds of the Senate had approved it, and the President had ratified and promulged it as the law of the land. He had said it would be an extreme case which would justify such a refusal. Yet they find the British Treaty taken up as scrupulously as though it were in the first stages of its negotiation. He did not think the conduct of gentlemen was justifiable in doing this; they should come forward at once, and show the instrument to be unconstitutional, or as necessarily sacrificing the most essential interests of the country, if they meant to destroy it.

He would not trespass on the patience of the Committee, by going into a detail relative to the various articles of the Treaty. A number of objections had been urged against the instrument, but he thought they had been completely answered. A gentleman from Virginia [Mr. Madison] had expressed his surprise that any branch of the Government should have shown a disposition to agree to a Treaty which did not admit their vessels to go to the West Indies, as that was held up as a principal object of any Treaty with Great Britain. He would acknowledge that a free intercourse with the West Indies would be a very desirable thing, and he expected that the Treaty would have contained an article of this kind. It was well known that an article permitting a restricted intercourse with the West Indies was agreed to, but it had been rejected by the Senate, as unworthy of being accepted. But as we know that further negotiations on the subject are yet on foot, we have reason to believe that a more favorable article will be obtained. If we should fail of this, when the commercial part of the present Treaty expires, that is, two years after the present war, he should be of opinion that it would not be prudent to renew the Treaty without admitting the vessels of the United States to the British West Indies on liberal terms. They had now, indeed, admission to the West Indies, and would have it during the present war, to a greater extent than any Treaty would be likely to give them.

It had been asserted that the article giving our merchants the privilege of trading to the British East Indies, would be attended with no advantages more than they before possessed; but, as far as he could learn, the merchants were generally of a different opinion; they think it an advantageous article, as it is a trade which they are every day extending, and to which they have only a precarious right without the Treaty. Previous to the present Treaty, it was in the power of the British Government, and, he believed, of the India Company, to deprive them of the trade whenever they pleased; but by the Treaty they had secured a right to it—a right not granted by Treaty to any other nation, and denied even to British subjects. It was said that our merchants were restricted from the East India coasting trade. He did not think there was anything unreasonable in this, as the British were restricted from the coasting trade of this country. It was also said that the merchants of the United States were restricted from carrying the goods which they brought from the British East Indies to any part of the world except the United States. The truth is, we are restricted by the Treaty to bring them to America. He did not think it was more than might have been expected that this restriction would have been required. Was it supposed that we would have been permitted to become competitors with the British merchants in their own market? It could not. They have already allowed to American citizens what they refuse to their own subjects. This was a concession on the part of the British, for which no equivalent was made, in a commercial point of view.

It was said that they had tied themselves from laying any additional imposts upon goods imported in British vessels. Was it in contemplation to impose any higher duties upon goods imported into this country? Was it not further believed that the duties were at their full height, and that any promised increase would rather lower than augment the revenue? What sacrifice, then, was this, and which was to remain only for two years after the war? It was said that the British had a right to impose countervailing duties on our produce and vessels: she possessed no more right in that respect than before the negotiating of the Treaty: yet this was made a formidable objection. In remarking upon the East India trade, when he mentioned that their merchants were restricted from the coasting trade, the expression was incorrect; we are not expressly restricted, but the article merely says it is not to be construed as an allowance or permission to carry on the coasting trade. We may still be indulged in it, if the Company will permit it. It had been said that the merchants of the United States would be deprived of the freights of the produce of the British East Indies for the Canton trade; but he believed there were other parts of the East Indies, adjacent to the British settlements, from which they might purchase the same articles, and obtain great freight. Indeed, it appeared to him that the East India trade was an advantageous one, and a trade which the British had never given to any other nation, and denied to her own subjects, unless belonging to the East India Company. But if some of the commercial regulations were not perfectly reciprocal or unexceptionable, their duration was short, and it was better to give them sanction than

to risk the consequences of a refusal to carry them into effect. If there were some sacrifice made, would it not be their duty to submit to these sacrifices, rather than commit the national character? For, were the Treaty not carried into effect, he should consider it as a great stain upon the national character. He viewed the Treaty as a national compact, and a refusal of it, a violation of it. He would ask, if ever there was an instance known of a Treaty being made by the proper authority in any country, and instantly violated on the ground of wanting reciprocity? Indeed, one instance of the sort had been adduced from English history, at a time of great faction and disorder. Would it not be a violation of the Treaty not to carry it into effect? Gentlemen had agreed that the Treaty was the law of the land. If so, it was binding upon the people of the United States; and if binding upon the people, it was also binding upon that House; therefore, he trusted they should not so far degrade the national character as to say that such a Treaty should not be carried into effect, because it was not so good a bargain as we ought to have made. Yet he believed there were circumstances that would justify the violation of a Treaty, when it had even progressed as far as the Treaty before them. It might be so unequal and so extremely mischievous, hazarding the safety and existence of the Republic, as to justify its infraction; but he did not think there was any such ground in the present case. It was said that the British had, since negotiating the Treaty, captured our vessels and impressed our seamen; but would this be a justifiable cause of infracting the Treaty? They did not know upon what ground the British had made those captures; he believed some of the vessels were captured agreeably to the Laws of Nations, and others merely from the predatory conduct of the commanders of British ships-of-war and privateers. But the way to redress was, to fulfil the Treaty with good faith, and then remonstrate with the British Government for these violations of our neutral rights. This would be honorable conduct, the most likely to get redress, and to prevent a repetition of such abuses. With respect to the capture of a vessel which had been frequently mentioned, as being lately taken upon our coast, within our territorial jurisdiction, he had learned that the vessel was laden with French property to a considerable amount, and captured at sea. Yet this capture was made a theme of declamation in that House, though the owner and persons concerned were perfectly satisfied of the justice of the capture. He did not mean to justify the conduct of the British; he believed they had violated the Laws of Nations towards us, and that most of their captures had no justification like the one just mentioned. He believed their conduct would have justified war, but he believed it was the interest of the United States to treat, and not go to war. He had no doubt but compensation would be made to their merchants from the British treasury, for all property taken contrary to the Law of Nations. He thought Great Britain had ceded a point in agreeing to the appointment of Commissioners, who should even judge over their Supreme Courts of Admiralty. He thought there was a better chance of getting recompense in this way, than by refusing to carry the Treaty into effect; for it was in vain to expect further negotiation. It was not likely that Great Britain would listen to another negotiation; nay, they would be apt to treat a second negotiation with contempt. He would not say that Great Britain would be disposed to make war upon us if we should reject the Treaty. She might be content with the present state of things. If she was suffered to retain the posts and the effects of the spoliations, he supposed she would be satisfied, at least for a time. But would it be either for the honor or the advantage of this country, that she should keep garrisons within our territory and in the neighborhood of the Indians, ready to excite them to make war upon us whenever it pleased her? Or would the merchants of the United States submit to have five millions of their property withheld from them? Should this country withdraw all negotiation, and say we were content under such injurious and dishonorable circumstances? He believed they would not. And if not, what was to be done? They must either submit or recur to the dernier resort. Was there a prospect of getting compensation in this way? He did not wish to speak in discouraging terms of the strength and resources of this country, but if they were to go to war, let the contest be long or short, the end must be negotiation. Would they, at the end of the war, get payment for spoliations? or would the amount of the spoliations be equal to the cost they should be put to? Was it certain that they should then be able to get so good a bargain as the one before them? By it the spoliations are to be made good, without the expense of war. With respect to the negroes, it seems to be decided that the British would not agree to pay for them, as they contended they had not agreed to restore them.

It was understood Mr. Jay had insisted on a different construction; but the British Ministry would not submit to it; and it seems the British interpretation of the Treaty of Peace in this respect is supported by some of our most enlightened citizens. And it is thought not supposable that, in a new negotiation, they would be disposed to yield ground they have uniformly contended for. He would not dwell on the sequestration and other articles in detail; they had been ably defended by others who had preceded him in the debate. On the whole, it appeared to him that the Treaty was an equal one; and if not, that they could get a better by further negotiation; its continuation, in respect to commerce, was only for two years after the present war. Besides, the constituted authorities had fully entered into and completed it. It was a national compact; they ought to obey it, and they were under every moral and political obligation to make appropriations to carry it into effect.

Mr. Findley said he should not think it necessary to resume any of the arguments relative to a principle which had already been settled in that House; yet, he observed, that every gentleman

who spoke on the subject seemed to argue what were the rights of that body upon the subject of Treaties, as if no question had already been had on the occasion.

It had been insisted upon, notwithstanding the decision which had been had, that a Treaty was a law when it came before that House, and they had no power but to appropriate to carry it into effect. He said this opinion was directly contrary to the opinion held on the Constitution at the time it was accepted in Pennsylvania. Moral discretion, he said, was necessary to be exercised in every decision of that House, except the Constitution had prescribed to them some positive rule of action. In ratifying the Constitution in the State of Pennsylvania, this was the understanding of it. The minority in the Convention did not wish so much power placed in the Executive, and he appealed to gentlemen in that Convention, if this was not the doctrine asserted by the majority in answer to the objections of the minority. Indeed, if they were not to have exercised a moral obligation upon the Treaties, the Constitution would have expressly said so, as in the case of the President's salary, the pay of the Judges, Army appropriations, &c. If they had not been limited in these articles by the Constitution, they certainly would have had the power to have changed them if they had thought proper.

But, passing over this consideration, there had been pretty large views taken of the manner in which the Treaty came before them. The gentlemen from New York and Virginia had entered into the subject. He must beg leave to differ from the gentleman from New York as to the matter of fact relative to that House in the concerns of Government two years ago. He had no apprehension at the time the Envoy was sent to Britain to negotiate a Treaty, that Britain would have commenced a war if that measure had not been adopted; so far from it, that a majority of that House thought differently. He had no doubt that war, and the destruction of liberty altogether, had been meditated by Great Britain; but before the negotiation was commenced, circumstances occurred which caused her to give up this extravagant design. Before the negotiator was appointed, it is well known that the plundering Order of the 6th November was revoked. The gentleman from Virginia [Mr. Giles] had given a very good narrative of events in Europe, which fully showed the cause of this change of conduct. That gentleman had also gone through the Treaty, article by article, in a manner so much to his satisfaction, that he should not attempt to follow him. Before the negotiation took place, we had suffered considerably by British spoliations, and that House thought of various means to make it the interest of that Power not to continue their depredations. First one plan was proposed and then another. It need not be mentioned that amongst these was the plan of sequestration, the future power of doing which this Treaty proposed to deprive them of. It was discussed in the House, but no question taken on it, to show that negotiation was not thought necessary. He mentioned a conversation which had taken place betwixt a gentleman then in the Cabinet (now no more) and himself, which confirmed his opinion of the propriety of the measures. A bill for regulating commerce in such a manner as to make it the interest of Britain to refrain from injuring us, and redress the wrongs we had suffered by spoliations, was agreed to by the House, but negatived in the Senate. So far from being then afraid of war, they were more and more convinced that it was in their power to make it the interest of Britain to refrain from their acts of violence towards us.

The gentleman from New York [Mr. Williams] spoke of the respectable character of the President and Senators who had approved of the Treaty; but he could not agree that that was proper argument for that House, merely on account of their wisdom and respectability; because, in order to give that argument fair play, it would be necessary, after displaying all the perfections of the President and Senate, to weigh the talents and virtues of all those who were opposed to, and in favor of the Treaty, and strike a balance betwixt them, which, it must be allowed, would be a somewhat tedious business. For it must be admitted that many illustrious men, who were distinguished for their understanding and early patriotism, had joined in condemning the Treaty before them. He should wish, therefore, to waive this as an argument.

There were many other arguments used which he thought unworthy of notice; amongst such was the prosperity of New York and the number of houses built there, mentioned by the gentleman from that State. He did not think the Spanish Treaty was interesting only to the people on the Mississippi, and did not like to hear such expressions as these: "You have sanctioned a Treaty for the people on the Mississippi, and will you not carry into effect one for New York?" He neither before nor since believed that one or other of the Treaties would apply specially to those places. Would the Spanish Treaty be of use only to the people living on the Mississippi? He might say it would raise the price of the lands they were about to dispose of. But would not New York enjoy advantages from the Mississippi trade? Surely it would; for it could not easily be conceived the quantity of European goods consumed in that country; and he apprehended that New York would stand the best chance of getting the trade from thence, if it possessed all the advantages which the gentleman described. It was well known, that whatever trade was carried on there, it must come through the Atlantic States, chiefly through New York or Philadelphia. He only mentioned this to show the absurdity of using such arguments. As far as he could judge, the Spanish Treaty would be of service to the United States at large.

Whilst he was speaking upon this subject, it occurred to him what had fallen from the gentleman from Rhode Island, [Mr. Bourne] in reply to the gentleman from Virginia, [Mr. Page] with respect to the Commissioners appointed by the British Treaty. That gentleman charged his

friend from Virginia with inconsistency, because he had voted for the Spanish Treaty, which has its Commissioners the same as the British. But though the Commissioners in the two Treaties for determining on the spoliations were of the same kind, those appointed in consequence of the British Treaty for deciding on the debts due to the British merchants were of another description, and it was these he supposed the gentleman from Virginia intended. The subjects referred to their decision had either already been adjudged by our own Courts, or were subject to the final decision of the Supreme Court of the United States, of which it was declared in the Constitution that even Congress itself could only erect Courts inferior to it. The Treaty vesting the Commissioners with original and final powers in cases competent exclusively to the Supreme or Inferior Courts, has erected a Court superior to the Supreme Court. The spoliations are not subject to the jurisdiction of our Courts, and are proper subjects for special Commissioners, and therefore no subject of complaint. He was not about to determine absolutely whether the office was unconstitutional or not; but if it was not, he knew not where to draw the line. But, while he would leave it to others to determine whether it was unconstitutional or not, he would give his opinion that it was certainly inexpedient. If there was security in conducting the inquiry, his objections would be less; but he knew no mode of settlement more insecure. The insecurity was also all on the side of the United States. It had been also said that there had been made bankrupts, whose cases would be attended with difficulty. The manner of taking testimony, as it had been described by the gentleman from Virginia, [Mr. Nicholas,] was certainly loose, and he had heard no one say it was not so. The bankrupt being a party in the decision, though not in the payment, might make his fortune by collusion with the British creditors.

He would take a glance at a few of the articles in the Treaty, and confine himself as much as possible to the observations which had not already been noticed, though he knew the difficulty of doing this. The Western posts, he said, were produced to balance every evil in the Treaty. The gentleman from Massachusetts, [Mr. Goodhue,] who had certainly spoken most rationally upon the subject, dwelt upon the great commercial advantages of these posts. Commerce, Mr. F. said, was not the sole object which these posts were wanted to produce—it was peace, which they wished to be secured by them. If it was merely having these spots of earth, these forts, where was the difference to them whether the British had these posts or others a mile from them. Was there any reason to believe that the British would not continue to have as much influence as ever among the Indians? Was he to make a sacrifice for anything, it would be for the posts. They knew that the British had had emissaries there ready to do their purpose, who had influenced the shedding the blood of our people. Those who had instigated the Indians to make war upon them would have the same means of influencing still. The gentleman from Massachusetts seemed to have in view, when speaking of these posts, the getting of money only. This he could not compare with the object he had in view, viz: peace on the frontier. Would not that nation, who subsidized almost all Europe, have it in her power, if she thought it her interest, to cramp or discourage our traders in that quarter, to raise up the Indians against them? Would any gentleman say they would not? It was not for any profit they reaped from it that the British held Canada; they had other views. For this reason, he did not put such value upon the Canada trade as to barter peace and security to obtain it. What he wanted was peace with the Indians; but while the McKees, the Girties, &c., continued with them, peace would be insecure. He had no idea of friendship from the British Government; he believed all such reliance would be ill-founded.

There had been a great deal said about the reimbursement of spoliations, the payment of British debts, and recompense for the negroes. He had not an opportunity of hearing the whole of the observations of the gentleman from Connecticut, [Mr. Hillhouse,] being called out of the House on business; what he heard, he had heard with pleasure. That gentleman said, the claim for recompense for negroes was not well founded. He allowed that there was plausible ground for the assertion, and he had taken that ground; but he believed there was proof within reach that would prove the justice of the claim. He believed that when Mr. Laurens was released from the Tower of London he was employed in an embassy, and instructed to receive compensation for negroes. That the subject was then taken up, and that the negroes and book debts were considered as opposed to each other. If so, the gentleman's assertion must be unfounded. He believed the claim for recompense for negroes was as strong as that for the recovery of the British debts, and as equitable.

With respect to spoliations, he presumed that they should get no greater amount than the Laws of Nations would entitle them to, though he had little faith in the British construction of that law, and did not wish to go to war for them. He did not know what the amount would be of the whole spoliations committed; and if he did, he should have more difficulty to say what part of it was likely to be reimbursed by the Treaty. Nor did he know the amount of British debts to be paid, It might not, perhaps, be so great as had been represented; but, from what information he had received, he believed it would be much greater than the gentleman from Massachusetts [Mr. Goodhue] had made it. He was informed of one house, out of the State of Virginia, which owed almost as large a sum as that gentleman had mentioned for the whole.

He had never heard before of a Legislature being laid under an obligation to pay the debts of individuals, agreeably to such a decision as is not regulated by the laws, nor adjudged by the Courts subject to which the debts had been contracted

but by a mode of liquidation, as if we had no Courts of law. This he thought highly inexpedient, especially as no estimate could be made of the amount.

This was one weighty reason against carrying the Treaty into effect, though not exclusively of other reasons, perhaps a sufficient reason for rejecting it. He knew gentlemen said that they were obliged to pay these debts, be the amount what they may, as their payment had been prevented by legal impediments. These debts, however, would be greatly increased by the war-interest, if it were to be paid, and they could not reckon upon this not being the result. This probably would depend on which of the parties would have the choice of the fifth Commissioner.

With respect to the spoliations committed upon their merchants, he had felt much for them. He could not say what would be the amount of these; but he said there would be so much of the insurance to deduct from the amount as had been paid by the consumers in the price of the goods. As the British ought to make those losses good, this could argue no abatement in favor of that nation, that might be an argument in abatement of that claim if it was made against our own citizens.

In reference to sequestration, it having already been well explained, he should say but little. It was parting with the power, not for two years, but forever. It was parting with a power which, by the terms of the Treaty, we could not recover even in the event of a war, and that with respect to a nation against whom it could only be of use. That nation might take all our vessels, before we could make any reprisals at all. It was stripping them from every effectual defence. He knew some merchants who wished the Treaty to be carried into effect, though none of them believed it good, but they wish it on account of the property which the British have taken, and which they expect to be paid for, and from an apprehension, if the Treaty be not carried into effect, war will be the consequence. These merchants do not like the plan of sequestration; they say, that private property ought to be sacred, and that no advantage could ever arise from it. He looked upon the measure himself as the last resort, either to prevent or commence war with advantage. He did not like to exercise it, neither did he like to fight; but he would not give away his arms, because they were the means of security from its being known he had them.

He did not know the amount of money owing from this country to Great Britain; but, from information from contending parties he found the estimate to vary from half a million to fifteen millions. It was also continually increasing. The power of sequestrating this money would prevent the British Government from exercising her plundering system to any alarming extent; and would be a means of preserving peace and preventing war, which he could not think gentlemen were serious in asserting, would be the consequence of not carrying the Treaty into effect. Several members are candid enough to acknowledge that this would not be the result.

Our articles of export, said Mr. F., being of the first necessity, must be had when they are wanted, and Great Britain will not purchase them, except she be in the greatest need. She took no flour but when in absolute want. Nations were obliged from necessity to take our produce when they are in want; but it was not so with respect to British exports. They have, indeed, by their industry and management, got their manufactures celebrated all over the world. They are an artful people, and it behooves us to be careful how we come into their power; for he believed no nation that ever was in their power ever escaped without injury. If the present Treaty went into effect, they should give up to Great Britain many important advantages without return. And he did not see any necessity for this, since we were the most valuable customers she had, and it would be her interest to keep on good terms with this country upon reasonable conditions, in order to have their manufactures consumed, and get our money.

He would admit that the Treaty with respect to the East Indies was not highly objectionable; but he did not agree with the gentleman from Massachusetts that it was the most advantageous commerce in which this country was engaged. He did not compare the trade to the East Indies with that to the West Indies. The latter took the produce of the country; but the former took no produce, cash only was carried there to purchase East India goods. They knew the effect of the East India trade. It was of doubtful advantage to the country, particularly when cash was scarce in the country, and every body was pressed for hard money to send out there. The articles brought from the East Indies were articles of convenience; the trade was in some degree valuable, but by no means to be compared to the West India trade. The Treaty originally gave the United States the privilege of trading to the British West Indies; but it was upon such conditions that the Senate chose rather to have nothing than trade upon such terms; but having lost this article, something was wanted in its stead. To obtain a permanent interest in the West India trade was the greatest object we could have in view in making a Commercial Treaty; this not being obtained, we have gained nothing for all the advantages we have transferred, except the posts, clogged with other conditions than our original claim.

Mr. F. said, he would not detain the Committee by general remarks with respect to the commercial part of the Treaty. It, however, increases that connexion with Great Britain which was already too great. The British merchants accommodated our citizens with credit, but this advantage drew evils along with it. The influence of debtor and creditor made it the interest of a large class of respectable citizens to be connected with Great Britain; and if anything was done to affect that interest, it agitated almost every merchant and every store-keeper throughout the United States. He did not design, by any violent exertions, to weaken the existing connexion; but he would by no means strengthen and increase it. This consideration had great weight with him, for most nations who had had any close connexion with that country had suffered by it. We, ourselves, are a striking instance of it, and so was Holland, Portugal, &c. But, with all the objections he had mentioned, if he thought the consequences of the rejection of the Treaty would be what they had been predicted by gentlemen, he would vote for carrying it into effect. But he was far from thinking so. Whilst he was debating upon this subject, he wished to have his mind free from fear, and not have a rod held over his head, the scourge of tyranny. Yet terrors were held over them. If Great Britain was that mad nation, to make new Laws of Nations, and break all the bonds of society, they might apprehend a war, and its consequent evils; but if not, they need to have no fear upon them on this head. For his part, he could not see how a refusal to carry the Treaty with Great Britain into effect, was to produce war. Was it likely that she would desert every interest of trade to go to war with her best customers? Peace with us was as necessary in the present state of things to Great Britain as to us.

Was it not seen that the advantages which were proposed to be given to the United States by the Treaty to trade to the East Indies, were given for their own interest, and not for ours? Courts might have some generosity, but monopolizing trading companies have none, and therefore no advantage could be expected to be given by the English East India Company, except they had the hope of a greater in return. The trade was allowed because advantageous to the United States. If it was the interest also of Great Britain to allow us to trade to the West Indies, she would allow it, but not else. The increasing population and wealth of this country were objects of great consequence to the trade of Great Britain. It was strange, therefore, to hear gentlemen talk of our obligation to her, when the obligation lay the other way. It was our interest not to be bound to them. It had been said, because we were weak, we ought to have connexion with Great Britain. But he believed we ought to act as freemen. Let us find our own resources; if we do justice and behave well ourselves, we shall get it. We have another security, it is the interest of Great Britain that we should do so. It would be the interest of all countries to keep themselves from being dependant on them. A new state of things had taken place in Europe. This caused him to recollect what had been mentioned in the course of the debate by the gentleman from New York, viz: that two years ago they were very desirous of treating with Great Britain. This was the first time he had heard of it, though he was then in the House. So far from it, they wished to settle their own commerce, not thinking it good policy to bind themselves to any other nation, because they were not then come to maturity; they knew not what would be best; they wished to be at liberty to regulate their own commerce according to circumstances. He knew that the people of the United States, and the members of that House, were surprised when a Commercial Treaty was first mentioned. No such thing was intended or expected by that House, or by any body. When the Envoy was sent to Great Britain, obtaining redress for the spoliations, &c., was the only object of his mission.

A number of observations might be made upon the subject, but he believed the attention of the Committee was pretty much wearied, and indeed, most of the things which he would have noticed had been touched upon by gentlemen already. The Treaty did not give security for the future; it did not give the advantages we had a right to expect. What it did give was improperly clogged; it deprived us of an important and powerful defence; and, therefore, left us, even when ratified and carried into effect, in a state of hostility; depredations continued to be committed on our trade, and our citizens impressed contrary to the Law of Nations. On these grounds, he conceived, it was inexpedient to carry the Treaty into effect.

The Committee now rose, and had leave to sit again.

Mr. Hartley presented a petition signed by upwards of 600 merchants of the city of Philadelphia, and another from 800 other citizens of Philadelphia, praying that provision might be made with all convenient despatch for carrying into effect the British Treaty.

Mr. Swanwick also presented a petition signed by 1,500 persons, inhabitants of the city and neighborhood of Philadelphia, praying that the British Treaty might not be carried into effect.

The above petitions were severally read, and referred to the Committee of the Whole upon the state of the Union.

Thursday, April 21.

Mr. Muhlenberg presented a petition from 800 inhabitants of the city of Philadelphia, of the same kind with that presented by Mr. Swanwick yesterday, against the British Treaty.

Mr. Isaac Smith also presented a petition from 163 inhabitants of Trenton in favor of the British Treaty; and

Mr. Hartley presented a petition from 109 merchants and others of the city of Philadelphia, and another, signed by 183 persons, inhabitants of the said city, in favor of the British Treaty.

The above petitions were referred to the Committee of the Whole on the state of the Union.

The amendments of the Senate to the bill for the relief and protection of American seamen, were read, and referred to a select committee.

The House resolved itself into a Committee of the Whole on the bill for making appropriations for defraying the expenses which may arise in carrying into effect the Treaty with the Dey and Regency of Algiers; and on the bill for making further provision relative to the revenue cutters; which were agreed to in the Committee, went through the House, and were ordered to be engrossed, and to be read a third time to-morrow.

DUTIES ON DOMESTIC SPIRITS.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, relative to an election being given to certain persons to pay a duty for the quantity of spirits distilled, instead of according to the capacity of their stills; and come to the following resolution, which was agreed to by the House:

"*Resolved*, That in every case of a distiller who hath entered his still or stills, in such manner as to be liable to pay the duty of fifty-four cents upon the capacity or capacities thereof, for the year, to end in June, one thousand seven hundred and ninety-six, wherein it shall be made to appear to the Supervisor of the District, that the said distiller has been really and truly prevented from employing or working his still or stills, during the term aforesaid, by the destruction or failure of fruit and grain within the district in which he resides, it shall and may be lawful for the said Supervisor, on application made to him any time before the last day of September next, to admit such distiller to the benefit of an election, to pay, in lieu of the duty on the capacity of his still or stills, the sum of seven cents on every gallon of spirits by him therein manufactured: *Provided*, That the duties to be received in consequence of such election, shall be ascertained, collected, and paid, according to the directions and requisitions of the several laws relating to domestic distilled spirits, in such manner as would have been the case, if such election had been originally made at the time of entry, in June, one thousand seven hundred and ninety-five."

Ordered, That a bill or bills be brought in pursuant to the said resolution; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

HORSES KILLED IN ACTION.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred a letter from Arthur St. Clair, respecting a claim for the loss of three horses killed in the action with the Indians, on the fourth of November, one thousand seven hundred and ninety-one; and came to a resolution, which was twice read, and agreed to by the House, as follows:

"*Resolved*, That every officer of the United States, whose duty requires him to be on horseback in time of action, and whose horse shall be killed in battle, be allowed a sum not exceeding ——— dollars, as a compensation for each horse so killed; and this provision shall have retrospective operation as far as the fourth day of March, one thousand seven hundred and eighty-nine: *Provided*, No person shall receive payment for any horse so killed, until he make satisfactory proof to the Secretary of War, that the horse for which he claims compensation, was actually killed under such circumstances as to entitle him to this provision, in all cases which have heretofore taken place, within one year after the present session of Congress; and, in all cases which may take place hereafter, within one year after such horse shall be killed. And the proof of value shall be, by the affidavit of the Quartermaster of the corps, or two other creditable witnesses."

Ordered, That the Committee of Claims bring in a bill pursuant to the said resolution.

EXECUTION OF BRITISH TREATY.

The House resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying into effect the British Treaty being under consideration, Mr. Rutherford spoke as follows:

Mr. Chairman: In a serious investigation of this matter, I shall to the utmost seek for truth, to do away as much as may be, such prejudices as have consequently been imbibed, guided by reason, justice, and the real state of things.

And to avoid, as far as possible, repeating observations of others, it may be necessary to be somewhat retrospective, which I hope will not be considered as altogether improper.

This virtuous people have an undoubted right to be heard by their Representatives, who are engaged by all the generous feelings of the human heart, to discharge the important trust reposed in them with fidelity and firmness.

All Governments, in the outset, have assumed smiling and placid features, but have been still in a greater or less degree in hostility with the equal rights of the people, and in the end, have uniformly managed them out of those sacred rights. Experience teaches this incontestibly.

Shall not this people reason then on a subject of such magnitude, after all that they have achieved? Or, shall they hesitate to scan with minute circumspection the state of their momentous concerns, when they may consider their dear interests involved in a decision?

And to tell the people that a Washington presides, and therefore all must be right, is feeble language, to say no more; for, though we all concur respecting that honest man, we know at the same time, that he, with all who breathe this vital air, must ere long yield to an immutable clause in the universal law.

And have this people any security for the upright actings and doings of his successor, perhaps a mere Nero, though he has been an Octavius—an Alfred?

Here I beg leave to review the patriot labors of this good man, conjoined with Hancock, Franklin, Sullivan, Randolph, and a list of patriots and worthies too numerous to name, and the task would be painful, as many of them are, alas, no more!

This assemblage of great men convened at this place in 1774, and after an anxious and interesting silence, they named the American Cicero to unfold the mighty business that occasioned their meeting; and while great Henry spoke, the generous patriot tear filled every eye.

They then addressed the justice, humanity, and affections of their former masters, in strong, manly, and moving terms, and language that will do

honor to that group of great men, while it remains a striking evidence of their uncommon mental powers.

Another guileless address, in still more powerful language, was prepared and sent forward in the month of June, 1775, unavailing as the first. At length it was resolved, that the people should return the blows, and the violences they had endured, and a man in whom the great characters of antiquity united, was selected to lead out our brave youth and virtuous bands.

All rushed forward in the common cause: the tender sex, with Spartan valor, gave up the sons of their warm affections to combat under their chieftain and common parent, while they stinted their younger children to comfort as far as they could the brave men in arms. I live a witness of what I advance.

And shall this great and virtuous people tremble now with superstitious horrors or unmanly fears, after astonishing the observing world, and for whom the generous Gaul crossed the wide Atlantic, to combat side by side, in many a martial field?

Shall the same people now request, as a boon, to be the servants, and adventurous painful collectors for those who could not enslave them, while few in numbers and apparently destitute?

Has the Treaty of 1783 been faithfully observed? Or is there a sentence in that Treaty that looked towards the American people that has not been violated? And has not this violation been the cause of horrid, indiscriminate carnage on our extended frontier?—not to mention the enormous expense to the Union.

But it is now urged by some, that the present Treaty must be religiously observed on our part, be the terms what they may. Much might be said on this subject, but I wish to draw a veil, and to commit injuries to silent oblivion, because I regard that people for all their virtues.

It is with much concern I discover good patriots and respectable merchants alarmed, for the frontier and our commerce; these call for reasoning, as the peace and prosperity of individuals is very near to me, who would endure much to render all perfectly happy. Fear not, generous merchants! you will still have the commerce of that nation; remember they are a great commercial people, too wise to gratify an unavailing malignity to their disadvantage, as the commerce of this country is much in their favor. But I conjure you, as friends and patriots, and by the gratitude and justice due to our common country, and to a generous people who have fostered you, not to be partisans of any nation, or to persuade such nation that they are treated rigorously, and their ruin contemplated, because such opinions are quite unfounded, and no good purpose can result from the propagation of such.

And fear not, virtuous farmers! your lands will yield their harvests, and your trees their fruits, independent of the smiles or the frowns of any nation on earth; and the surplus of your toils will at all times be received with good will, agreeably with the existing demand. Reason and good sense will teach you however that the present demand can not be of long duration, and the same train of concurring circumstances may not prevail while any of us are in being—so that to imagine a commerce with any one nation as having produced such demand is fallacious and unfounded in the extreme. No nation or people will take off this surplus to serve or oblige the American people if their interests have no share in the business.

I shall now return to the subject of our frontier, and inquire, what can induce a great nation to wreak an unavailing vengeance on men, bending under the pressure of time, and on innocent women and children? Surely the annals of a magnanimous people have too long been stained, and charity revolts at an idea that the same people will continue such scenes of horror for mere sport, if they really had the power, which could only create an aversion in the American mind, that time would not eradicate, and divert a lucrative commerce to that nation, into channels from whence it would never return. The inoffensive Americans contemplate no conquests, nor do they wish to interfere in the politics of other countries further than justice and the warm calls of gratitude demand, and their own safety as a nation shall dictate. Shall this people, then, be restrained in transporting the surplus of a painful industry to such as receive the same with gladness and mutual confidence; or shall they fear an arrest on the great liquid highway, where the inhabitants of the deep roll at pleasure, free as air? Has the Deity given a patent for that element to any description of His creatures; or will not the great law of all nations protect the American flag while they support a national character? And the people of Britain are too wise, magnanimous, and just, to increase the reproachful character of mighty sea-robbers.

If the present Treaty is defeated, as it ought to be, the matter will then be open to friendly and equal negotiation; and though the commerce of that country is much against the common interest of this country, yet the people have no fixed antipathy to treat on terms of reciprocity. Read the second article, and the first paragraph of the third article of this Treaty. The second article converts our territory, so long withheld, into mere neutral ground, and to foster our most inveterate foes—these stamp the whole. I will read only the paragraph alluded to, and that, I trust, will place the matter in a proper point of view, and induce some serious reflections on this business, as the warmest advocates for the Treaty cannot misconstrue that paragraph. It will evince a friendly disposition and a desire to establish good neighborhood, harmony, and intercourse, if the Western posts are no longer detained, by the most manifest infraction of a Treaty, solemnly concluded more than thirteen years since. For surely a Treaty, while the hatchet of death was suspended over the heads of our aged men, and our innocent women and children, can neither be cordial nor of long duration. The British nation have too much wisdom to draw a different conclusion, and they will, on a dispassionate retrospect, surely decide

with prudence and justice. The Americans demand no more than justice, and they wish to avoid all retaliation, though within their power. This being truly the state of things, shall the Temple of Justice be shut, and this people be denied the advantages resulting from this unerring guide to man, and coeval with the physical world? Treaties embrace the dearest interests of a nation. Then surely the Treaty-making power must be subject to some other power or control. Reason is stunned by an idea that a people can transfer power, beyond their own control, without an alternative, or that the present generation can bind posterity forever.

Much stress has been laid on the President's signature; so that I will inquire what could the President do but sign this Treaty, as it came to his hands? Was it not natural for a man of his humanity to shudder at the idea of being solely responsible, in a business of such moment, while he was stunned, as it were, by the surrounding cry of war, from such as dreaded that event?

Surely, the misfortune was antecedent to that signature, and originated in sending one man to negotiate with a very wise and powerful Court; practised for centuries in all her arts of negotiation, not to speak of the best skilled, and most powerful companies of merchants on earth. Was Mr. Jay on equal ground? I shall not reply. Much might be added. But shall we not reason on this great subject ere it be too late? I speak for this generous people, and for all posterity. I am intimately connected with the present race; my relatives are numerous, and every man of probity and patriotism is my friend, and let no honest man fear the level of this virtuous people.

Do good patriots reflect on the consequences resulting from their principles, and on the great difficulty that presents in recalling powers once surrendered? Arguments to prove that all is smiling prosperity, are very fallacious, and cannot operate forcibly against a prudent and timely precaution to turn aside those evils which must ensue if such precaution be neglected—one scruple of prevention being of more real worth than many pounds of remedy. Or, will a man of common sense recline in the shade on a fine summer day, without reflecting that night, and even wintry storms and pinching cold, will approach?

Much has been said without these walls about British debts, and an aversion to pay, by many who are not rightly informed in this matter, and hurried on by party clamor; but for the information even of those, I will offer a few words by way of reply. The strong Cutting Companies in Great Britain had long received the produce arising from the labor of individuals in some States, and all the specie that the people could acquire, was uniformly received by their factors, by which these companies became more powerful and wealthy. That they really engrossed the trade of some States, and worried and run down the native merchant by a general credit, which of course created some bad debts, as is the course in common life. And this evil was increased by the flight of their factors, who shut their books, and retired so soon as the great conflict commenced. And I have been told, and believe it to be a fact, that some of these companies actually fitted out privateers to cruise against those of our friends and supporters, which in reality was distressing this people. Be that as it may, every man of property who had not deposited his debt for them, hastened to pay so soon as their factors returned to inform them the amount of their several debts. But will any man contend that the United States ought to be responsible for bad debts, contracted at the desire of those companies, and with design to cut up the native merchants? What can entitle them to this great indulgence? did they send their several factors to serve the people?

But to return to the Treaty. Was the President satisfied with the Treaty? Surely not; but were not a well-informed and very respectable minority in the Senate decidedly against this Treaty; and have not the members of this more numerous body an undoubted right to judge for their constituents, who have reposed such confidence in them? They intend no reflections on the President and Senate; they consider them as acting for the best at the time they did act, and with the information they then possessed; but time and observation has supplied this House with such information as the Senate could not be in possession of.

We are not contending about the virtues of the President, or of the Senate. All regard the President as a common parent, and reverence the Senate for all their virtues and the stations which the people have assigned them. Upon the whole, I call to my Eastern patriots, fellow-laborers, and conjure them by their affections for this our common country, by the manes of the great Warren, and all our departed patriots and heroes, not to be duped by an opinion, that malignity and party spirit actuate members to bitterness against the President and the Senate for sinister purposes. Such opinions are not advanced by the friends of the Union or of the Revolution, and being entirely unfounded, ought to be viewed with horror and contempt.

Finally, I call to the British nation, warning and conjuring them, by their real interest, and national character, not to indulge a violent or captious malignity, which can only tend to sever the two nations while they exist as such.

Thus have I offered my sentiments with sincerity, and I trust, with respect to all, while I am conscious of the truth and the justice of what I have advanced, but shall yield to the opinions of a majority of the Representatives of the people as they may decide, and without a murmur.

Mr. Henderson desired to know what the gentleman who just sat down meant, when he said, "look at a firebrand cast among our councils, which appeared and dissipated?"

Mr. Rutherford said, every one must recollect that a certain agent cast a firebrand, and two days after took his canvass wings across the ocean.

Mr. Henderson expressed himself dissatisfied with the explanation.

Mr. Moore.—Mr. Chairman, I rise with diffidence to give my sentiments on so important a question as that now before you, especially as I have been preceded by gentlemen whose superior abilities have enabled them to investigate the subject with more accuracy than I am capable of. I consider the object as important of itself. It is rendered more so by the warmth with which it has been discussed—the irritation it has produced, both in this House and on the public mind. I lament that improper motives should be imputed to gentlemen on either side. I am disposed to believe, that gentlemen aim at doing what will best promote the public interest. I entertain no suspicion of designs against the Government by any member of this House, or any branch of the Government. Gentlemen have predicted a war and dissolution of the Government, if provision is not made for carrying the Treaty into effect. I have no apprehensions of either. It is highly improper to attempt to influence the votes of members by such declarations. I hope gentlemen will believe that members who differ from them in opinion, are equally zealous with themselves in discharging their duty, and have firmness enough to repel every attempt to intimidate. For myself, I have equal confidence in every part of the Union, that they have no wish to dissolve it. The suggestion is unfounded, and ought not to be made.

Mr. Chairman, the vote which I shall give on the question before us, will, in some degree, be influenced by a Constitutional principle, which I consider as involved in the decision. On the resolution calling for the instructions given to Mr. Jay, and other papers relative to the Treaty, it was insisted on by members of this House, that the Executive has a right, by Treaty, to supersede all Legislative powers vested in Congress by the Constitution. The Executive gives the same construction to the Constitution. If, under these circumstances, I vote for the resolution before you, I consider myself as admitting, as recognising the principle contended for. This I cannot do. On the admission, or rejection of this principle, I am of opinion, the future course, the future operations of Government materially depend. By this it will be decided, whether it is wholly Executive or not; whether this House depends on the courtesy of the Executive for their right to interfere in legislation.

It has been argued, that this extensive, unlimited power, was necessarily vested in the Executive, subject only to the control of the Senate. In order to support the sovereignty and independence of the small States, I do conceive that a branch of the Legislature in which the States are equally represented, was all that could be claimed. Can it be conceived to be necessary, just, or proper, that the regulation of all the important interests of the Union should be at the disposal of the Executive? Can gentlemen seriously believe that the citizens of the United States, who opposed, at so great an expense of blood and treasure, the claim of Great Britain to tax us unrepresented, would admit all their interest to be represented by so unequal a representation as that contended for? It has been asked, Is not the Senate as worthy of the confidence of the citizens of the United States as this House? I will ask, are they more? This Legislative power is restrained and checked by the Constitution; particular modes and restrictions are prescribed, but no checks are imposed on the Executive. Were the people jealous of this House, and not of the other branches? Did they suspect the Legislature of doing wrong? When this House was connected with the other branches, were they to regulate their interests; and have they reposed unlimited confidence in the other branches when acting without this? Did they consider this House as the only branch from which any danger was to be apprehended? It is impossible, yet this must have been the fact, if the construction given to the Constitution is a just one.

A gentleman from Connecticut has said, that gentlemen had prejudged the Treaty; they come forward with prejudices against it, determined to vote against it. It is not so with me. I was strongly inclined to vote for it; to make some degree of sacrifice rather than defeat it.

Gentlemen, on reflection, must be convinced that the question has not been prejudged. The Envoy was appointed at the moment when this House was deliberating on means for preventing further spoliations on our commerce. Commercial regulations were proposed, and other means from which they might have been forced to abandon their unjust and oppressive system. I remember well the arguments then used were convincing to my mind; that those were the only weapons of defence within our power; that they would be effectual. But these were arrested by the despatch of an Envoy Extraordinary. Some of the leading features of the Treaty were then predicted; the event has corresponded with those predictions. Principles were then discussed, which the Treaty contains, before the negotiator was appointed.

This shows there was no prejudging in the manner gentlemen have stated. By this Treaty all the measures then contemplated by the Legislature are arrested; an eternal veto is imposed against our ever carrying the measures then contemplated into effect. This shows that the Executive claims not only the Constitutional right of forcing this House to pass what laws they please, but also, by Treaty, to declare what they shall not do.

We have passed a resolution, which is now on your files, declarative of the sense of this House as to their Constitutional rights. The question is, however, undecided. The Executive and Senate will proceed to act on their own construction. They may, on their own construction, make a Treaty, which will imply a still more imperious and commanding necessity to provide for its execution, than even the present case. This necessity may force a relinquishment of the right contended for by this House. It may force an acquiescence in the Executive regulating all the interests of the Union. I believe it was not the sense

of the framers of the Constitution. It is not the sense of the people who adopted it. It never can be mine.

The merits of the Treaty have been ably and accurately discussed. I will make but a few remarks on it. I must disagree with the gentleman from Connecticut, who mentioned as a well known principle in judging of Treaties, that all property, (by fair construction, and by the established Law of Nations,) if not excepted particularly in a Treaty, remains in the same state in which it was found when the Treaty was made. Those in possession retain the possession. From this he has concluded, that negroes, taken during the war, had become the property of the captors, or rather, were emancipated. The words of the Treaty of Peace are, "negroes and other property."

This plainly shows, in his opinion, that, by negroes, was not meant those taken during the war; they were not American property. The property was changed. It could only be intended, such negroes as were taken after the peace. I will ask, was it ever known in a Treaty, that a stipulation was made to give up property plundered after the peace? Is it not an established principle amongst all civilized nations, that plundered property shall be given up? Is it necessary, or was it ever thought so, to make it a stipulation by Treaty? I believe, if his construction is a just one, it is a new case, the provision was at least nugatory.

But if the principle he lays down is a just one, how does it happen that debts due to British subjects, paid by the debtors into the Treasury under the sanction of a law, and appropriated to the use of the State, are now recoverable by the British creditor? An important case of this kind has been decided in the Federal Court, and judgment given for the British creditor. Was the property less changed by the law of a sovereign and independent State, than by the proclamation of a British commander? This cannot be. The fact is, however, that in two cases, found in the same instrument, there are claims founded on the same principle, the one, a British claim, is established, the other, a claim of the United States, is rejected. This involves in it an absurdity. By those opposed modes of construction, an important claim of the citizens of the United States is given up by the Treaty, a claim against them to a great amount is established.

The claim against us is admitted; our claim is rejected, in cases where the same principle fairly applies, and where, by gentlemen's own showing, there is no dissimilarity which can justify such opposite constructions. There is another provision of the Treaty, by which an important interest has been sacrificed. British subjects held lands within the United States before the war, many of those claims were barred; the claimant being an alien could not recover; his being an alien was the only bar. It was effectual—such has been the decision of the Courts. But by the Treaty, being aliens shall not bar the claim of British subjects—thus, many of the extensive claims are restored. In some of the States more than half their territory will be revested in proprietors. What could induce this grant? What equivalent do we receive for this sacrifice? Sir, I am constrained to think the Treaty a bad one, in those instances I have mentioned, more so than in any others. And when I connect with the Treaty itself the important Constitutional question which has been discussed, I cannot vote for the resolution before you.

Mr. Kittera.—Since the 4th of July, 1776, the Councils of America have not been agitated by so momentous a question, as that at present before the Committee. At the period to which I allude, the question was, whether we should tamely submit to an abject and disgraceful slavery, with all its concomitant evils, or, by a Declaration of Independence, an exertion of our internal strength, with the advantages of foreign aid, make a bold and manly effort to obtain the blessings of freedom—the solid rewards of well-earned liberty. The present question is, whether we shall supply the means of carrying into execution a Treaty of Commerce and Amity with a powerful nation, entered into by a Minister of the United States, and solemnly ratified by the authorities constituted by the people for such purposes; or, by refusing, perhaps unconstitutionally refusing those means, hazard the peace, interrupt the prosperity, and tarnish the honor of the country? In a question of such magnitude, prudence calls me to pause, duty to reflect. My country's faith is plighted, a solemn contract is made; it would therefore be unwise and impolitic, as it concerns the interest, and dishonorable, as it regards the character, of this nation, in the infancy of its existence, to violate so solemn a contract.

Two causes have contributed much to prejudice the American mind against the Treaty. 1st. An enthusiasm for France, struggling in the cause of liberty, against the combined Monarchs of Europe, in which combination, the very power with whom the Treaty was made, formed a prominent part. 2dly. Strong resentment against Britain, for injuries received during a tedious and cruel war, and those injuries renewed by a detention of our Western posts, exciting and aiding the savage Indian tribes in the commission of hostilities on our frontiers, with strong indication of a design to contract our boundaries, and their lawless depredations on our commerce. I will not add, that there are amongst us some irreconcilable enemies to this Government, who opposed its adoption, predicted its downfall, and whose pride and political consequence are suspended on the fulfilment of this prediction. For the honor of human nature, and for the character of my country, I hope there are few to answer this description; if, however, there are any, the poet's execration is to them peculiarly applicable: "Cursed be the man who owes his greatness to his country's ruin!"

There are some things in which the candid part of those who hear me will not disagree. 1st. That our Envoy was a wise and honest man; he was a tried patriot, skilled in diplomatic life, and rendered to his country important services during the late war. The tale of his receiving British gold was made for children and fools, and need only

to be told, to be disbelieved. 2dly. He made the best bargain he could. I will not mention, in proof of this, the ratification of the contract, eight months afterwards, by the President, (in whom this country has certainly an unbounded confidence,) with the advice of two-thirds of the Senate; but I have proof positive. The letter of Mr. Pinckney, our Minister resident at London, and conversant with every part of the negotiation, in strong and decided terms advises Mr. Jay to accept the contract as the best that could be procured, and as one that would promote the interests of this country. 3dly. If negotiations had been unsuccessful; if the Treaty, on the terms offered, had been rejected, war must have ensued. Our national honor would have forbidden a tame submission under so many insults and injuries; such submission would have invited new insults, and our own safety would have made resistance and retaliation necessary.

The Treaty naturally presents itself under two general heads. 1st. Such parts of it as are permanent, to wit: the first ten articles. 2dly. Such parts of it as are temporary, to continue for two years after the expiration of the war in which Great Britain is now engaged. Three great points are embraced under the first arrangement. A surrender of our Western posts, compensation for the spoliations committed on our commerce, and the payment of British debts. However lightly my colleague from the Western part of Pennsylvania [Mr. Findley] spoke yesterday of the Western posts, I consider the acquisition as an important treasure to this country. It will not only increase the value of our Western lands, and open to us a new source of commerce, but it will relieve us from the expense and horrors of an Indian war. Those were the sentiments of the gentleman himself on this floor, two years ago. The spoliation on our commerce has generally been estimated at five millions of dollars. On a rejection of the Treaty. I wish the gentlemen in the opposition to point out how the American merchants are to be reimbursed for their loss. Nothing can be expected from new negotiations. It would be a solemn mockery of justice to the claim of those citizens. Payment out of the Treasury has been talked of, and a resolution to that effect is now on your table. This can never be done. It would be without a precedent, and Congress has heretofore refused the claim. And how can you discriminate such claims from those rising from savage depredations on your frontier settlers? The protection of the Government was, at least, as much due to the peaceable farmer as the speculating merchant; and if losses have arisen for want of such protection, compensation is as justly due in the one case as in the other. But why are we to subject the Government to this payment, or our citizens to this loss, when compensation is offered by the nation that has done the wrong? As to British debts, the Committee have had various calculations of their amount.

I believe some of the estimates have been exceedingly exaggerated. If they are even half the enormous sum that has been stated on the other side, we have not much difficulty in accounting for the extraordinary opposition to the administration of this Government that has appeared in a certain quarter of the Union. Whatever may be the amount, the nation is bound by the strongest ties of justice and national honor to secure the payment.

To the 9th article it has been objected, that the confiscated claims of the ancient proprietors, traitors and exiles, are therefore revived. Were this true, it would be a serious objection to the Treaty. Indeed, the gentleman from Virginia, who first made this objection, [Mr. Giles,] did not contend for this construction, but asked the use of inserting the article unless for this purpose? The article is not without its use. It speaks in the present tense, of those "who now hold lands, that they shall continue to hold them according to the tenure and nature of their respective rights therein;" and therefore cannot embrace those who hold no lands, but whose estates were confiscated prior to the Treaty of Peace in 1783. It gives no new estate, enlarges or revives no old title, but confirms to British subjects their titles in the same manner in which they were confirmed by the 5th and 6th articles of the before-mentioned Treaty, with this difference, that they may descend to the heirs of the present holder, notwithstanding the alienage of such heirs. It has provided against escheat on the death of the present holder. This provision is reciprocal, and it was just and reasonable, considering the relative situation of this country and Great Britain, that such provision should be made. And from the immense emigration of people of fortune and family, from Great Britain, Scotland, and Ireland, to this country, on whom descents may be thrown, this is a favorable article to the United States—it is founded on justice and reciprocity.

The second division of the Treaty is of temporary duration, and if it has evils, they cannot be of long duration, nor of such magnitude as to justify the hazard of interrupting our present state of prosperity by a rejection. One novel objection to the Treaty, was the impertinent observations of Lord Grenville to Mr. Pinckney, which led to an apprehension that the British might interfere with our internal Government; but not a whisper is made against a foreign Minister who built and fitted out privateers, and enlisted men from one end of the Continent to the other; and when desired by the Executive to desist, appealed from the President to the people. If the real objection be, that it is a Treaty with Great Britain, it is true, and therefore unanswerable. Indeed, a great part of my colleague's reasoning [Mr. Findley] went to show, that any connexion with Great Britain was a political evil, as they would thereby acquire an influence in our Councils. Such arguments might be objected to with as much reason, and, indeed, with more force against a bad Treaty, than against a good one.

It has been made an objection to the Treaty, that British vessels shall pay no higher or other duties in our ports than the vessels of other foreign nations. 1st. This regulation is made reciprocal,

and our vessels pay no other or higher duties in British ports than the vessels of other foreign nations. 2dly. This is a standing regulation in all Commercial Treaties. In our Treaty with France, the Netherlands, Sweden, Prussia, &c., the same thing is covenanted, only in stronger terms; the words are, "no higher or other duties than those of the most favored nations." In our first Treaty with France, we guaranteed to that nation all their West India possessions; we are now released from this guarantee. In our late Treaty with Spain, for which appropriations have been voted, without a dissenting voice, we have guaranteed to them peace with several powerful tribes of Indians. It may be said, that this guarantee is reciprocal. It is so, without much reciprocity, as all those Indian tribes, or chiefly all, reside within our boundary. It is said, that Great Britain, by this article, has reserved the right of equalizing the tonnage of American vessels in British ports to that of British vessels in American ports. This right she had prior to the Treaty, and will have, if the Treaty is rejected. Two objections have been made to the 18th article. 1st. That provisions are made contraband in cases not warranted by the Law of Nations; and secondly, that the list of contraband articles is extended beyond that contained in any other Treaty. The first objection is totally unfounded. The article declares that provisions and other articles, not generally contraband, becoming so, "according to the existing Laws of Nations," shall not be confiscated, but the owners of such articles shall be fully paid, with a mercantile profit and demurrage. It would, therefore, be a violation of this Treaty, and a good cause of war, should Great Britain declare any article contraband which is not so by the Laws of Nations, though such declaration was attended with an offer of payment. This article has given a privilege, but has restrained no right. If the fleets and armies of France should besiege a British island, and an American merchantman, in attempting to supply the besiegers with provisions, should be captured by a British cruiser, it would not be a cause of confiscation. So far from declaring provisions contraband, when they are not so, the article provides that they shall be paid for when they are clearly contraband. As to the second objection, that the list of contraband articles are extended beyond that contained in any other Treaty it is to be observed, that war abridges the rights of commerce, as respects neutral nations. It is therefore of importance to settle by Treaty what shall be contraband. Naval stores are the articles to which this objection applies. *Vattel*, *Grotius*, *Bynkershoek*, and all the most approved writers on the Laws of Nations, have declared naval stores contraband. In a Treaty made between Great Britain and Denmark, as late as the year 1780, not only the same words are used respecting naval stores, but horses and soldiers are added; and in a Treaty with Sweden, naval stores, money, horses, and provisions, are made contraband. In almost all our other Commercial Treaties, horses are declared contraband, in this they are free. It is observable, that Congress, in 1777, in the form of their commission to commanders of privateers, directed them to make prize of all provision ships. Indeed, this article is peculiarly favorable to us in a state of neutrality. American goods going to places blockaded by France or Holland, are contraband; not so, if going to places blockaded by Great Britain.

It has been objected to the 21st article, that American citizens are prohibited from entering into foreign service against Great Britain, and that commanders of privateers are punishable as pirates. 1st. It is to be observed, that the restriction is confined to a time of war; during a state of peace, the restriction does not operate. And with respect to the commanders of privateers interfering in the war, being made punishable as pirates, the same article, in the same words, is introduced in that much favored Treaty with Spain. This article is also reciprocal, and we have at least as much to fear from the naval skill and military knowledge of British subjects, employed against this country, in case of war, as they have from the skill and knowledge of American citizens. This article appears to me to contain a wise regulation. It tends to preserve the peace of this country; there is always some danger in playing with edged tools.

It has been said that the British may defeat the advantages promised in the East India commerce; having agents in the country, they can buy goods cheaper, and can supply the United States on better terms, than the American merchants. Though my learned colleague from Pennsylvania, [Mr. Swanwick,] is well informed on all mercantile subjects, he certainly has not been correct and candid in this objection. It is a standing chartered regulation of the East India Company, that their goods must be landed in London; there is, then, a double voyage, with all the incidental expense, and foreign duties and tonnage, which will give the American merchants a decided advantage. But, again: Congress may, by law, altogether prohibit the importation of Asiatic goods, in any but American bottoms, without a violation of the Treaty. I consider the East India trade a source of great wealth, as we shall probably supply many of the markets with Asiatic goods.

It has been objected that neutral vessels do not make free goods. This is a principle of the Law of Nations, that Great Britain has never given up to any nation, and perhaps never will, particularly in time of war; the principle will remain the same if the Treaty is rejected.

Objections have also been made to the insufficiency of the sum in which commanders of privateers are to give sureties, to wit: £1,500 and £3,000 sterling.

This, I believe to be the usual sum. In our Treaty with Sweden no sum is mentioned; and in our Treaty with Holland no security at all is given, but the Captain is to forfeit his commission for misbehavior. I have thus cursorily noticed most of the objections made to the Treaty, and offered some of those reasons which have induced me to believe it for the interest and honor of the country to vote for the resolution on your table.

Mr. Holland said, he would submit some considerations to the Committee, that, together with those which had been given, would influence his vote upon the resolution on the table; a subject, as had been said by all who advocated the resolution, of the first importance—an issue on which depended peace or war. He said, he considered the question of some importance, particularly as it related to their Constitutional powers; but the conceptions of gentlemen had exaggerated the result of the present question. It was nothing more or less than, would they or would they not now appropriate moneys to carry the British Treaty into effect? He said, he had ever felt a disposition to that purpose; not because the faith of the nation, as had often been said, was pledged; not because they were under moral obligations, as had been contended for—neither of which he could admit; but because a respect was due to the negotiator, to the Senate who advised, and to the President who ratified it; for, it was to be presumed, until the contrary appeared, that they exercised their judgments for the good of the nation. But it was possible the means they have adopted may not produce the end intended; they may have been mistaken.

When he first examined the instrument, he was in hopes that there was something extrinsic existing, which, when communicated to him, would do away the exceptions on the face of the instrument, and therefore he was silent, and suspended his judgment. It was for that purpose he had voted for the papers relative to the negotiation to be laid on the table, in hopes of obtaining further information, previous to his being called upon to carry it into effect. But, unfortunately for him, no further information was to be obtained. The useful papers, an innocent and humble request, was not granted. He was not possessed of any other information than could be drawn from the instrument, from the writers on that subject, and the arguments that had been advanced by the gentlemen who had advocated the resolution; to the whole of which, he had with candor attended, and with regret informed the Committee, that nothing had been advanced, that had convinced him of the reason, propriety, necessity, or fitness, of the stipulations contained in the instrument.

Those gentlemen, instead of reasoning, have endeavored to alarm. They have said that, if we do not carry this Treaty into effect, that we shall be plunged in a war; that Britain is a proud and haughty nation; that they will lay their hands upon all our property, &c. This was an address to our fears and not our reason, and were our fears once on the wreck, there is no knowing the result, or where we should land. But, in this instance, we would not be governed by panic or dread of the power of that haughty nation, as they had been called; but, as a Representative of a free and independent nation, he felt himself perfectly at liberty to exercise his reason, in the most cool and deliberate manner. Not apprehending any danger, the time has been, and now is, that we are perfectly secure in asserting our equal and reciprocal rights with that nation. We have done it in a state of infancy and inexperience, at a time much more unfavorable, taking each side of the question into view, than the present. And shall we now hesitate and tamely suffer them to dictate to us? And are we bound to accept the Treaty, lest they should be offended and treat us with contempt, for not accepting, as it is said, a more favorable offer than they have given to other nations? Are we not the sole judges; have we not a right to determine for ourselves? And as this is a mere naked stipulation, they can receive no damage, nor, on this early notice, can they charge with deception, or have any right to complain. One thing is certain,; so long as Great Britain finds it for her interest to be pacific, she will adopt measures calculated to preserve peace; but, when interest dictates the contrary, her invention will not seek a pretext for a different conduct. The history of that nation gives abundant proof of this.

Independent of the Treaty, it has been shown, that their peculiar circumstances have produced all the commercial advantages to the United States, and more than is secured to us by this instrument. The existing causes will produce and continue the effect, without sacrifice or equivalent. I cannot but observe, that all the gentlemen in favor of the Treaty have requested our impartial and candid attention—thus, presupposing that they assume to themselves what they urge us to possess. They would do well to examine what part of their conduct, compared with ours, gives them a preference.

A gentleman from Connecticut, [Mr. Hillhouse,] who went diffusively into the subject, said he would be impartial, and would take both sides into view. His language being in the spirit and tone of all the others, he would observe upon what he had said. He set out by saying, that this Treaty opens to them a new world; that it will give a spur to enterprise, and command all the fur trade. The gentleman from New York, [Mr. Williams,] not behind him in calculation, says, the whole trade will centre at New York; that it will amazingly facilitate the progress of that city; that, at present, there is an annual increase of population from eight hundred to one thousand houses; and that, in a century, it will be equal to London; and then, with seeming surprise, asks, shall we now arrest its progress by rejecting the Treaty?

Those two gentlemen, in their impartial rhapsody, have fancied this Treaty has given them the world in a string; that it contains in itself, and secures to them all possible advantage; and that the rejection would be attended with every possible evil. But all this remains to be proved. Could he view it in this manner, he would be guilty of injustice not to promote it; or should it realize one-tenth of those advantages to Connecticut or New York, he would make a large sacrifice in their favor. But the reasons produced to prove this, or even make it probable, were foreign, and did not go to convince, or at least had no more weight upon his judgment than to prove that this Treaty could have a partial and temporary operation in favor of a few fur-traders; but failed to

remove the solid objections that had been stated; that it contained in itself stipulations that in their operation would contravene some of their invaluable privileges; as he also would attempt to show to the Committee, after he had made some further observations on what had been said. He observed there was a material difference in the nature of the property calculated upon by the gentlemen from Connecticut and New York, and the property that he calculated. That of those gentlemen was an estimation of advantages to be gained by extending their trade to the Indian country and elsewhere; that, in its nature, was subject to contingencies, and at most was but a profit in expectancy. But property on which he calculated was national and personal rights realized, and personal property now in actual possession; the rights were to be ceded and the property to be put at hazard, and probably both eventually sacrificed. So that there was no similarity, no competition in the cases.

For what purpose he was at a loss to know, but a gentleman from Connecticut [Mr. Hillhouse] had said that the United States were under no obligations to France, and that he was not bound to respect them more than any other nation; that sinister views and national honor once engaged them in our interest, and that we should have been independent without their assistance. Mr. H. said he would not assert this was impossible, but he would venture to affirm that their fidelity, prowess, and co-operation, greatly facilitated our independence, as would be demonstrated by attending to one case out of many. He alluded to the case of Yorktown, and the surrender of Cornwallis; to say nothing of the land forces, could this have been done but for the blockade occasioned by the French fleet? He hoped that no gentleman would hesitate to admit that they had been greatly useful to us, and that it would be ingratitude not to acknowledge it. For his part he would ever consider this country under peculiar obligations to that spirited and magnanimous nation, and to all others who like them fulfil their trust—it is a tribute due to fidelity. Charity forbids our saying that they acted then and now from sinister motives: they assisted in the cause of our freedom; they are now fighting alone in the cause of mankind. But the same gentleman says he will go into the merits of the Treaty, and begins by saying that the insertion of those words relative to the negroes in the Treaty of Peace, in 1783, made no difference as to the construction or operation of that Treaty. If we are to judge from the operation, he is certainly right, for they had hitherto had no effect. But to prove that they were intended to have no operation, the gentleman read extracts of correspondence which took place between the negotiators, antecedent to the Treaty, which was a reference to the Law of Nations, as abridged by *Vattel*; in which it was said, that a Treaty leaves all in *statu quo* that is not expressly stipulated for. This doctrine turns upon the gentleman, and proves the reverse of what he expected; for, if nothing had been said respecting the negroes, they would have remained with the British; but they having been mentioned and stipulated for, was to produce the contrary effect. But, he says, the words were intended to guaranty the negroes that then were in possession of the Americans, and not to restore those that were in possession of the British, in America. Mr. H. read the clause, and then asked the Committee what was the plain sense of the words, or the construction that they most naturally bore? Was it to prevent the British from taking off negroes that then were in their possession, belonging to the Americans? or to prevent the British, subsequent to the Treaty, from stealing or by violence taking from the Americans property in their actual possession? If this latter was the intent, the clause was useless; a conduct of that kind would have been an infraction of the Treaty, and of the known rules of common honesty; a violation of the rights of private property, and punishable at common law. Nor would the British negotiator have admitted the section under that conception; he would have considered it an implication upon the common honesty of the officers and citizens of his nation, and must have treated it with contempt. But the gentleman's impartiality has wound him up to believe this to be the true meaning, and to justify it; to be in love with this, and to regard every other article in the present Treaty, however it may appear to others, truly advantageous and admirable. He does not find fault with the provision order, although by the President it was thought most exceptionable; nor does he, with others that have spoken before him, dislike that article where free bottoms do not make free goods, but thinks it in our favor, because we have no fleet. He would reverse the case—that free bottoms should make free goods, because we had no fleet; that if we had a fleet, the provision would be immaterial; that if we had a fleet, we could protect our commerce.

The same gentleman has said, that the Spanish Treaty was more exceptionable than the British; but he voted for the appropriation to accommodate his brethren to the Southward, and hoped they would now accommodate him. But the reasons assigned against the Spanish Treaty were of the most curious kind. It was because in that Treaty the United States and His Catholic Majesty are jointly to guaranty against savage hostilities. This he conceives to be a most exceptionable part. Truly it carries in it something formidable, but the complaint might be expected to come from the nation, combined against her who might justly say the combination was unfair. These are the reasons adduced by gentlemen in favor of the resolution.

But a gentleman from Rhode Island, [Mr. Bourne] lately up, advanced something of a more serious nature; a doctrine that requires better investigation; and although the point was determined by a large majority on a former vote, yet as the ground was contested, he would beg leave to observe upon what fell from him. That gentleman had said, that if the Treaty had not committed some of the essential interests of the United States, or if it was not unconstitutional, that we

are under every moral obligation to carry it into effect, that the faith of the nation is pledged, that our national honor is at stake, &c. These assertions and propositions are of a high nature, demand a serious consideration, and ought to be maturely investigated. He, therefore would begin by a denial of the whole. He would not concede that the Executive had power to pledge the faith of the nation; to alienate the personalties, labor, commerce, or real estate of the nation, for the fulfilment of any contract, unless the nation had previously specified the contract; nor would he admit another construction contended for, that the Executive, by Treaty, could repeal any of our Federal statutes. These two positions would place the United States in a precarious situation indeed. In the first instance, it imposed an obligation upon us incompatible with the principles of legislation; and, in the second instance, the whole mass of our Federal statutes existed by the courtesy of the Executive, and could be abrogated by him in a manner above all other the most odious, by calling to his aid a foreign Power, and by this association destroy the whole of the Legislative acts of our United States. If this be the Constitution, where are the boasted advantages derived from legislation, when the present Executive, or one in future, less virtuous, could effectually defeat and swallow up all our Legislative powers? He said, he trusted that the benefits secured by the Constitution did not depend upon so precarious a tenure; but, on the contrary, when statutes were formed by the supreme Legislative power of the Union, that no less a power than was essential to their formation could suspend, alter, or repeal them. Upon this principle he, therefore, would rely, and from it would not recede.

Upon this construction, it must follow that the House of Representatives have it in their power to keep in their existing form the whole mass of the Federal statutes. This power being rightfully and essentially in each branch of the Legislature, it is their duty to exercise it on all occasions; for them, no less than for private persons, are the two rules, that they are to do whatever their judgment dictates should be done, and to leave undone whatever their judgment warns them not to do. If, therefore, the House of Representatives have it in their power to keep in their original existing form all our Federal statutes, they must take an active part in altering them, or they must decline to take an active part in altering them, in which case they will not be changed, according to the dictates of their judgment, corresponding with sound policy. Let us, for a moment, apply this doctrine to the present case. If this Treaty involves in it the labor, personalties, commerce, or real estate of the nation, for the fulfilment of the stipulations therein contained, or if it is contrasted with any of our existing statutes, or if any specific objects constitutionally given to the Legislative power, are to be alienated, the House of Representatives have to determine on the expediency of the measure.

The State Conventions, in adopting our Constitutions, and all nations, have considered the revenue to be the sinews of Government, and have placed the free, unincumbered, and absolute disposal in the supreme Legislative power, and our Constitution, in an explicit and peculiar manner, has committed it to the immediate Representatives of the people in Congress assembled.

This trust being rightfully, explicitly, confidentially, and constitutionally vested in the Representatives of the people in a Legislative capacity, hence, whatever a Senate may have done or recommended, in its capacity as a council to the Executive, in forming a Treaty that embraces any of the specific objects of legislation, they must concur in the grant in a Legislative capacity, or the grant will be invalid, they being a constituent branch of the Legislature. Having advised the contract, now acting in a Legislative capacity, they are truly in a delicate situation; and however wrong the advice they have given may now appear to them, they may not feel at liberty to recede.

However changes may have taken place in the constituent members, and in external circumstances, that may relieve the embarrassment, by death, resignation, or otherwise, the two-thirds of a majority may be reduced to a minority of 14 to 16. Policy and good conscience must govern those now acting as legislators, not according to the opinions of those in the council of the Executive, or of those who are dead, resigned, or now private men; but, according to the conviction of those who exercise the duty, power, and responsibility of legislators, governed by wisdom and caution.

This principle cannot impose on the present Senators an obligation, in Legislative capacity, to vote to execute a bad thing, because they, with others in a council of advisement, once thought it a good thing. In such cases, each member's conscientious opinion, maturely formed, must govern his vote.

The duty is the same in regard to the respective members of the House of Representatives, only that their situation is less delicate, not being authorized to relinquish any of their Legislative powers; such a dereliction would be a breach of public trust; nor, having been consulted relative to the grant, are at the most perfect liberty to exercise their discretion and judgment in relation to the fitness or unfitness of the stipulation or grant that is about to be made. And upon this construction is the excellence of the provision; for it relieves the Senators from the embarrassment of being altogether responsible for the consequences resulting from a bad stipulation or grant; each having a discretionary checking and corresponding power. Neither can retort on account of the distresses that may be incident to the grant or stipulation.

The contrary construction would not only impose an obligation upon the free agency of the most numerous and more immediate Representatives, but it would also lay a ground of complaint against the President and Senate, in which they must bear all the blame resulting from those miscarriages. This would soon put an end to good

understanding and harmony with the two branches of Government. The contagion would catch the citizens; the immediate Representatives of the people, very justly, to exonerate themselves, would fix all the evils arising from those stipulations, upon the Executive, with many more that had little relation to them; the consequence would be universal declamation and discontent, and a final want of confidence, resulting in a dissolution of Government. The Constitution has made the Legislature the only and sole organ to alienate the public revenue. The same principle is incident to the Legislative power of all Governments, all foreign Powers are bound to admit this, Great Britain, in a peculiar manner, is bound to respect this deposite of power, because the same thing exists in her system.

The Executive conductor of the United States has only an advisory duty upon the subject of alienations of the public revenue, or, indeed, on any other subject of Legislative operation. If he does not perform this advisory duty, the act of the Legislature is valid. If he does perform it, the only effect it can have is to increase the quorum which is requisite; two-thirds of the two Houses grant the money—that is to say, the Legislature does this or any other act of legislation, by the designated quorum, without the consent of the Executive, and even against his judgment and advice.

Nor does any evil result from this doctrine, as applied to the present case; for, if good reasons have operated to induce the Executive to make the stipulation, the same reasons, with the inconveniency of not completing it, will be more likely to induce the Legislature to make the grant either in America or in England.

The language of the Constitution, in regard to granting money, is explicit, comprehensive, and unqualified; so it is concerning war; so it is concerning commerce. It is not silent so as to justify an idea that the Executive may grant the money, make the war, or regulate the trade. The Constitution is clear and full on this point, giving the power over them to a compound body, of which the President is no part; to which he stands in the relation of an adviser to a body which is the chief organ of all free Governments—the Legislature.

The nation, however, by this organ, can effectually give the money, make the war, or regulate the commerce. It is a peculiar felicity in this delicate and interesting debate, concerning which all express a desire to preserve the honor and happiness of the country, that in all respects involved in it, Great Britain and America are similarly circumstanced. Under this view, what pretext can Great Britain have to be dissatisfied with us, if we reject this Treaty? It must be acknowledged by her, that it was contemplated for mutual advantage; and if, on a revision, the reciprocity is doubted, and this fairly made known antecedent to an exchange of property, will not the good sense and honor of that nation commend us for our attachment to our national interest? Is it not the line of conduct that she has invariably pursued, with respect to her own security? Most certainly, yes.

Then why is the alarm so loudly sounded by all the advocates of the resolution, and friends of the Treaty? If she means to be friendly, the trade will go on; she will repair the damages we have unjustly sustained; this will be done, if it corresponds with her interest, and further explanations and negotiations will be admitted. If she is disposed to be hostile, I would resent her disposition, but I never could find a greater aptitude to meet her on that ground than the present. Let her disposition be what it may, it shall not influence my judgment on the present occasion; but I shall conduct myself in that manner most likely to perpetuate independence.

But with respect to the Treaty, I shall not trespass upon the Committee by going into detail, as so many gentlemen had examined its exceptions; but would wish to be indulged in observing on one part that had been but slightly touched on by a worthy member from Virginia, [Mr. Giles,] the operation of which might be attended with more melancholy effects, particularly upon the citizens and State he had the honor to represent, than all the other exceptionable clauses contained in the instrument. He meant the 9th article; and that it might be the better understood, he would read it, as he conceived this a matter of the greatest consequence; and, although it had been previously read, he hoped the Committee would indulge him with bringing that clause once more immediately into their view. Mr. H. read the 9th article, which is a provision enabling aliens to hold lands in this country. He said this provision was contrary to the common Law of Nations, and ever thought dangerous and impolitic. Great Britain, in particular, never admitted the principle. It was there too well understood, by common consent, that it was never thought necessary to prohibit it by statute; and for what purpose shall the United States admit the principle? Is it because she should be less on her guard than other nations? Is it because her extent of country makes her more secure? Or is it because the realized property and the privileges attached in a Republic, are less worth preserving than in a Monarchy? So much on the general objection; but he had a peculiar and serious objection to the clause, as it might operate very oppressively upon the citizens of the State of North Carolina. Lord Grenville, previous to the Revolution, was legally possessed of a deed and absolute right in fee simple, held as a subject under the Crown of Great Britain, to a tract of land within the then Province of North Carolina, beginning at the sea shore, north latitude thirty-six degrees on the Virginia line, extending south one degree, and west to the farthest extent of the limits of the chartered rights of that Province, which was bounded by the Mississippi.

That the Earl Grenville had opened an office for the sale of said land, and had parcelled it out in small tracts to the citizens, and had conveyed to them by deed of conveyance, reserving a certain rent, with a clause of entry in failure of pay.

These were the regulations until the death of the Earl, which might have been eight years previous to the Revolution; at which time the office necessarily was closed, until certain regulations were made relative to the heir, who was said to be a lunatic. However, no second office was created; the Revolution succeeded, and probably prevented any further adjustment.

After the State had assumed the sovereignty, sundry proclamations were issued notifying the owners of real property to come into the State and to join in the general defence, and common cause, or they should be considered as aliens. Sundry laws of confiscation were made, none of which could affect this title. The legal heir being incapable and absent, could not come within the meaning of any of the confiscation laws. But in 1777 or 1778 the State of North Carolina considering that, upon the general principle that aliens were incapable of holding lands, and that the original owner of that estate had become so by his absence, a conduct that was considered a dereliction of his title, opened an office indiscriminately for the sale of all the unappropriated lands within the respective counties of the State, and since have extended their offices in that direction to the Mississippi. This is a short statement of the progress made to realize all that property which, by conquest, so far as related to Earl Grenville's title, they had, by the Law of Nations, justly and meritoriously acquired; and now, without any reason shown, for the instrument is exceptionable, exclusive of this clause, shall this realized and valuable property be put at hazard? He did not positively say that this section would absolutely revive this title, but it appears dubiously constructed, and from a reference to the late determinations in the Federal Courts, it will be discovered, that the decisions are in favor of Treaties and ancient claims.

He did not mean to say this was improper or unjust, or to throw an oblique censure on the Judiciary; but this being true, we ought to guard against doubtful construction; more especially where nothing is gained, and so much is at hazard. The value of that property could not be reimbursed by the ordinary revenues of the United States for fifty years to come. This being the case, it is beyond the reach of restitution; too much care cannot be taken to ward off the evil. If gentlemen would only consider the force of the words of the section—they are dubious in their nature, and made capable of attaching to them that construction, perhaps formed so in order to make them go down. Had they been explicit on that point, they could not have procured admission; but, as they are now artfully clothed, may produce the effect intended. And if this be possible, he conceived he would be unworthy of the high confidence reposed in him, if he did not, with jealous and watchful eye, guard the realized property of his fellow-citizens. Gentlemen in favor of the resolution, uniformly call upon our candid impartiality, requesting us to divest ourselves of prejudice. The many salutations, on that point, he considered as an implication on those who were opposed to the resolution. What can authorize gentlemen to ascribe to themselves more candor, impartiality, order, love of Constitution or country, than we who think differently? He believed a scrutiny into their conduct would evince that their conception was unauthorized. He, therefore, thought those implications improper, and he could not but observe that, although we had taken exceptions, which were pointedly expressed by a gentleman from Virginia, last up, [Mr. Moore,] that, immediately after, a member from Pennsylvania [Mr. Kittera] could not forbear. But that gentleman made use of these words to the considering part of this Committee. What is the implication that there is a part of this Committee not entitled by him to be thought candid? He did not think, when he saw that gentleman rise, that he could have been guilty of such indiscretion; but so it is, and uniformly has been; but, in future, he hoped this would be avoided. That each member would consider the others his brethren, equally candid, equally intending to support the Constitution, all aiming at the same thing—the independence and happiness of the country. This he would say for himself, and charity forbade him to think otherwise of others.

That whatever might be the result of his vote on this question, or on any other, he had no other object in view than to promote the happiness of his country, in which he would have only a common benefit with the rest of his fellow-citizens. It would be a lasting consolation, that could not be taken from him, that he had taken much pains to gain information on this subject, and that he had, in truth and candor, discharged his trust and duty.

Mr. Findley said he had been misunderstood, and explained what he had before asserted.

Mr. Swanwick objected that his colleague [Mr. Kittera] had charged him with a want of candor. He was liable to mistake, he said, equally with any other man; but he trusted he should not be charged with knowingly misstating anything with respect to the East India trade; he had reserved to himself a future opportunity of speaking on that subject, which, however, the length of debate seemed likely to prevent. He had said that the American vessels were permitted to trade to the East Indies as all other nations were, but that they were obliged to land their goods in the United States, whilst the Danes, Swedes, &c., could go there and carry the goods which they purchased from thence to any part of the world, except to the British dominions; and that was the situation of America antecedent to the present Treaty. A ship of his, some time ago, earned a good freight from Bengal to Ostend, and another he knew had lately made one to Hamburg; but, by the Treaty before the House, whatever advantages might be made by going to a foreign port their vessels were deprived of, and must return direct to the ports of the United States. These, he said, were stipulations which no other nation lay under; and though perhaps no nation had special leave stipulated by Treaty to go there, yet they all nevertheless did go, and never met with any

opposition. It was a courtesy which any nation might enjoy who took out hard dollars with which to make their purchases. Indeed, Mr. Dundas lately said in the British House of Commons "that he had no objection that all nations should be admitted to trade to the East Indies." In some observations made by him on the 15th of April, 1793, to the East India Company, I find this remark:

"It is not disputed that foreign nations are entitled to carry on trade with our Indian possessions. These countries never have been nor can ever be held on the footing of Colonial possessions. And provided foreign nations trade with our Indian subjects upon their own capital, which they must do, if sufficient latitude is given to bring home their fortunes through the medium of legitimate trade. It is certainly a great advantage, and not a loss to the industry and population of our Indian territories that foreigners should exercise that trade."

But it was a peculiar restriction on us alone to be obliged to land what we purchased in the East Indies within the United States. He could not be certain, therefore, whether the liberty which was proposed to be granted to them by the Treaty would prove a real advantage or not. For during the war, at any rate, the courtesy would remain, and he saw little reason to apprehend that without any Treaty it would have been ever taken away.

He would remark, that Great Britain had reserved to herself the right of countervailing the difference of duties in East India goods, in British or American vessels, in her European ports.

Great Britain imagined that it will be the interest of our merchants, in ordinary times, to purchase East India goods in London, because they can have credit upon those goods from thence; for though credit may not be given at the East India sales, merchants of whom they purchase other goods will probably sell them East India goods, in assortments, upon the same credit which is usually allowed upon other goods. When the difference betwixt eighteen months' credit and sending out hard dollars to the East Indies was considered, he believed the British market would be found as favorable as the East Indian. Now, if goods can be got equally as cheap from Great Britain, then, he thought he saw the motives for equalizing the duties in Europe, as it would enable British ships to bring these goods from thence to American ports upon terms equal with the American vessels, giving the East India Company an opportunity, if they choose it, to supply our markets themselves direct by this means. At present, ten per cent. difference was paid upon goods imported from Great Britain in American or British vessels. It was said Britain had the power before of equalizing duties; but by stipulating on our part not to increase duties on our side, we had given this power its perfect operation beyond the power of interference further on our part. He was not, for all these reasons, able to view this article in that advantageous light in which it had struck other gentlemen.

The Committee now rose, had leave to sit again, and the House adjourned.

Friday, April 22.

DEBT DUE BANK UNITED STATES.

Mr. W. Smith informed the House that the committee appointed to wait upon the Directors of the Bank of the United States, to inquire whether it would be convenient for them to continue the money which they had advanced to Government in anticipations of the revenue, on loan, as usual, had directed him to move that the Committee of the Whole might be discharged from a farther consideration of the bill before it, providing in part for the payment of the debt due to the Bank of the United States, in order that it might be recommitted to the Committee of Ways and Means, to undergo some alterations, in consequence of the result of their inquiries. The Committee of the Whole was discharged, and the bill recommitted.

Mr. Goodhue, from the Committee of Commerce and Manufactures, reported a bill for allowing compensation to officers in the Army for horses killed in battle; also, a bill for providing relief to distillers in certain cases, which were twice read, and committed to a Committee of the Whole on Monday.

The bill providing appropriations for defraying the expenses of carrying into effect the Treaty lately concluded with the Dey and Regency of Algiers, and the bill for making provision for the Revenue Cutters, were read a third time and passed. The blank in the former bill for the yearly allowance to be paid to Algiers, was filled up with 24,000 dollars.

Ordered, That the committee to whom was referred, on the eighth ultimo, the resolution relative to the contract entered into between the Government of the United States and John Cleves Symmes, be discharged from the consideration thereof; and that the said resolution be referred to the Attorney General, with instructions to examine the same, and report his opinion thereupon to the House.

EXECUTION OF BRITISH TREATY.

After the presentation of several petitions on this subject, the House resolved itself into a Committee of the Whole on the state of the Union, when the resolution for carrying into effect the British Treaty being under consideration—

Mr. Corr said, that the importance of the resolution before the Committee would preclude all necessity of analogy for any members asking their attention to his observations. He should only add to it, that he should endeavor not to repeat what had been already said.

He observed, that the discussion of the merits of the Treaty came before the Committee under peculiar disadvantages, for, besides the prejudices against it that might be supposed to have been caused by extraneous circumstances, the agitation of the important Constitutional question relative to the right of the Legislature to concur in giving validity to this Treaty, which was claimed to be valid and complete without that concurrence, and the refusal of a call for papers had very naturally a tendency to give a bias to the minds of some

gentlemen against the Treaty; for himself, he was fully satisfied the Legislature had no Constitutional connexion with the business of making Treaties. When the resolution calling for papers was before the House, he had opposed it, because he supposed the papers could have no effect on such deliberations relative to the Treaty as would come before the House; still, after the call had been made, he hoped that the President would have sent the papers. This he would acknowledge, although conscious that, in expressing the sentiment, he should not have the approbation or concurrence of most of the gentlemen who voted with him on that occasion. He hoped the President would have sent the papers, because he believed that the principal part of the objections to the Treaty were founded in prejudice, and he believed those papers would have had a more powerful operation in removing the prejudices which existed against it than any arguments which could be used. His hopes that the President would send the papers were increased by a persuasion that those who wished the Treaty to be defeated *at all events*, although they had concurred in the vote calling for the papers, wished that the President would refuse them; still, he observed, that his consciousness of the President's better information on the subject, not to speak of his superior discernment, made him perfectly acquiesce in the refusal, and perfectly free to declare that (in his opinion) the President, in his refusal, had done what was right and for the best. These circumstances, he said, it would be agreed by every honest and by every candid mind, (it would illy become him to say there were any others but such in the House,) ought to have no effect in discussing the merits of the Treaty. Still, the human mind was liable to impressions which could not always be justified—sometimes hardly accounted for.

Mr. C. said he should attempt to run through the objections which had been made to the Treaty, and consider its merits independently of the peculiar circumstances under which it was now presented to the Committee, and then give his own view of it as relative to those peculiar circumstances.

The objects of the negotiation, he said, very naturally were divided into three parts—the inexecution of the Treaty of 1783; mutual complaints between the United States and Great Britain relative to transactions independent of the Treaty; and arrangements for the intercourse between the two nations, commercial and political. But as gentlemen had made their objections generally in the order in which the several articles of the Treaty had been arranged, he should follow the same order in his observations in answer to them.

The first objection which had been made was, that no compensation had been stipulated to the United States for the supposed breach of the Treaty of 1783, in carrying off the negroes. This objection, he had supposed, was so completely answered by his colleague, [Mr. Hillhouse,] who had been up the day before, that he should not have added on that head, but that he had since found gentlemen still insisting on that objection. He was particularly surprised to hear the gentleman from Pennsylvania [Mr. Findley] stating that he conceived the negro article to have been put into the Treaty expressly as a compensation or set-off for the engagement to pay the British debts. This pretension, he thought, had been fully refuted by the extract from Mr. Adams's journal, quoted by Mr. Jefferson in his correspondence with Mr. Hamilton, and which had been read by his colleague. From that extract, it appeared that a claim for negroes and other property which had been plundered, carried off, and destroyed by the British, was made by our Commissioners, as a set-off against a claim made by the British Commissioners for restoration of confiscated estates; and that the one of those claims was abandoned with the other. Had the gentleman from Pennsylvania taken the pains to examine the journal of Mr. Adams, which might be seen by any member of the Committee at the office of the Secretary of State, he would have found how the article came to be inserted.

Before the *signing of the Treaties* with which the extract made by Mr. Jefferson is closed, stands in the original the history of this article in these words:

"Mr. Laurens said, there ought to be a stipulation that the British troops should carry off no negroes or other property, we all agreed. Mr. Oswald consented, *and then the Treaties were signed*," &c.

This, Mr. Corr said, was all the mention he could find respecting this article, except in a subsequent part of the same letter, in which Mr. Adams observes:

"I was very happy that Mr. L. came in, although it was the last day of the conferences, and wish he could have been sooner. His apprehension, notwithstanding his deplorable affliction under the recent loss of so excellent a son, is as quick, his judgment as sound, and his heart as firm as ever. He had an opportunity of examining the whole, and judging and approving; and the article which he caused to be inserted at the very last, that no property should be carried off, which would most probably, in the multiplicity and hurry of affairs, have escaped us, was worth a longer journey, if that had been all, but his name and weight is added, which is of much greater consequence."

From these extracts, it appeared, the article was not a subject of negotiation, but inserted at the close of the transaction, without discussion, as a matter of course, and which Mr. Adams supposes might, in the multiplicity and hurry of affairs, have been omitted, if Mr. Laurens had not suggested it.

Mr. C. said, he would candidly acknowledge that it was very extraordinary to him, that the construction which had been generally put on the article in America, should have so universally prevailed, if it was not the true one, that Congress should have adopted it; that such should have been the idea of the Commissioners appointed to superintend the embarkation at New York, in the year 1783. Still more extraordinary was it to him, to find Mr. Jay himself, when Se-

cretary for Foreign Affairs, in the year 1786, in a report he then made to Congress on the subject, considering the carrying off of those negroes as a violation of the Treaty, and saying further, that he understood from Mr. Adams, then at the Court of London, that the British Minister had no objections to making compensation for them. Still he believed, the true construction of the article was, that it was designed only to prevent plunder by the British troops, and carrying off of American property, according to the ordinary agreements in Treaties, which stipulate for the giving up of conquered countries. True, it might be asked, why say negroes or other property? The expression, he agreed, was not correct, unless a doubt might have been entertained whether negroes were property; but the word negroes must be qualified by other property, with which it is connected, and could operate only as if it had said, horses or other property, which no person would contend amounted to a stipulation not to carry off what had once been, but by the laws of war and nations, before the close of the war, had ceased to be property of the American inhabitants. Four gentlemen from Virginia had insisted on this objection, and not one of them had deigned to remark on the construction of the article itself. They had all relied upon the common understanding of it. That this understanding could not change the sense of the article, if it was not doubtful, could not be denied. Their leaving the article and resorting to the common understanding of it, he conceived, to be a tacit acknowledgment of the gentlemen, that the instrument itself would not bear the construction they wished to give it.

Whether the negotiator had urged this construction of the article, and found he could not obtain its admission, or even an arbitration upon it, he did not know; from his opinion of the good sense and understanding of Mr. Jay, however, he was for himself satisfied that, whatever might have been his former opinions, on attending to the subject, he had found what had been called the American construction was not the just one, and had therefore abandoned it.

Mr. C. said, he was aware that the construction he contended for had been called the British construction, and *Camillus's* construction; that he had himself, however, adopted more than two years ago, the first time he had paid any attention to the article, upon no other impulse or authority than his own judgment, on the perusal of it and even before he had ever heard of any other construction of it than that he contended against, he was aware that there was a kind of patriotism which claimed everything for one's country, whether consistently with truth, justice, and candor or not; for himself, he had no pretensions to such patriotism. He believed Mr. Jay had none, and if he was convinced that the American construction of this article was unfounded, he thought it for his honor, and the honor of this country, that he had abandoned it.

The second article of the Treaty was objected to, because of the stipulations contained in it in favor of the British subjects inhabiting the posts. Mr. C. begged gentlemen would state what they would conceive it for the honor and interest of the United States to do with those people, if the Treaty had said nothing about them; he thought it could not be contended by any person that their condition was varied by this Treaty from what it would have been on a surrender of the posts, on the terms of the Treaty of 1783, and under the present laws of the United States. Of what, then, did gentlemen complain? That they were restrained from banishing them or stripping them of their property by future laws? He had too good an opinion of the generosity and magnanimity of the gentlemen who objected to the article, to think they wished for this, and believed that they objected to the article only from a cursory view of it, and because they had not attended to the mighty little difference made in the condition of those people by the stipulations of the Treaty. They were to retain property; so they might do without the Treaty; they might remain British subjects, or become citizens of the United States; so they might without the Treaty: their property is to descend to their heirs. Here only is a variance from existing laws, if such be the unreasonable law of alienage in this country, that when a man honestly owning land dies in this country, if he is a foreigner, he cannot transmit it to his heirs. He thought, however, no person would object to this.

These were his conceptions of the subject, and until he found gentlemen stating some other difference between the condition of these people on the terms of the Treaty of 1783 and the present Treaty, he must think their objections to the stipulations in this article wholly unfounded.

The delivery of the posts had been connected with the third article, which regulates the terms of intercourse between the United States and the British Colonies adjoining. He confessed he had no particular knowledge of the country, and could judge of the merits of the article only on general principles, but on those principles the regulations respecting that intercourse appeared to him perfectly fair, just, and reciprocal, and the least that could be made for mutual benefit. No gentleman had undertaken to point out on what principles they would have the intercourse regulated. Having a bordering country of between twenty and thirty degrees of latitude in extent, he asked, if it were better to have a jealous system of mutual restriction preserved through that extent, or to let people come and go from one country to the other as they pleased? It is stipulated that the intercourse shall be free, the inland navigation common to both parties, and that all goods not prohibited to be imported absolutely into either country, may be imported from the other, on the same terms as they are imported directly from the Atlantic. It appeared to him idle to inquire, which country would derive most advantage from the intercourse; by the account given of the Canada trade by two gentlemen from New York, who had spoken on the subject, [Mr. Williams and Mr. Cooper] and who appeared to be extremely well acquainted with it, as well as from the great numbers of people, the enterprise, and their industry and capital, which the United States possessed, he believed they would derive the greatest advantage; but whether they or the British were to derive the greatest, he conceived scarcely worth inquiry, as a system of free intercourse could not fail to be beneficial to both countries. It should be remarked, that for a great part of the extent between the United States and the British Colonies, the boundary line was in the middle of navigable waters. If a jealous regard was to be had to this boundary, it must be a source of perpetual controversy between the nations. Now, that navigation being declared free and common to each to take the benefit of the whole extent of it, and all ground for jealousy and contention in its use was removed.

The Mississippi article has been objected to, but it only recognises the principle established in the Treaty of 1783, that its navigation shall be common to both parties, and agrees that the ports on the eastern side shall be free to both. This, as to our ports, if any part of our country on that river might be so denominated, was only placing them on the same footing that our Atlantic ports stand on with reference to foreigners; and he conceived there could be no reasons why the people living on those waters, so far as the nature of their situation admitted, should be placed on a worse.

The sixth article, which provides for the payment of the British debts, had been a subject of much clamor. It had been declared to be an interference with the Judiciary, if the Commissioners were to decide against the debtors. This would certainly be an insurmountable objection; but this was wholly out of their province; they are only to decide against the United States, to determine what impediment they have placed in the way of the recovery of those debts, or have suffered so to be placed, and to say what sum in damages they shall pay for their violation of the Treaty of 1783—a subject of inquiry wholly out of the province of the Judiciary. As to the amount of those debts, he had not been able to pay much attention to the consideration of it. There seemed to him, on this occasion, in the gentleman from Virginia, who might perhaps fairly claim to know as much about it as any body, a very great disposition to exaggerate it; but if the United States had stipulated by Treaty that no impediment should be placed in the way of their recovery, and, in violation of their stipulation, such impediments had been suffered to take place, justice required that they should make good what had been suffered in consequence of the violation. It had been mentioned as taking on themselves a load of debt which was not their own. This was the misfortune of the United States, and the fault of those States who had caused these legal impediments; it was not the fault of the Treaty. The Treaty did not adopt those debts; on principles of justice and good faith, they had become the debts of the United States, so soon, as by a violation of their contract, they had rendered them uncollectable from the original debtors; the Treaty only provides for the liquidation of a demand against the United States which justice had fixed on them before.

The mode of appointing the Commissioners, too, for this purpose, and for adjusting our claim for spoliations, had been objected to, and a gentleman from Virginia had denominated it a throwing up of cross and pile; but what mode would the gentleman be satisfied with? If we might have the appointment of the fifth, or of all the Commissioners, it would doubtless be more agreeable to the United States; but since that could not be expected, he could conceive of no mode fairer, in case the parties could not agree, than an appointment by lot.

When national controversies were subsisting, respecting the adjustment of which they could not agree, relinquishment of their demands on the one side or the other, arbitration or arms were the only alternatives; important controversies were subsisting between the United States and Great Britain respecting which they could not agree. Neither of them could with honor relinquish their claims; by the Treaty, the alternative of arbitration has been agreed on, and as he believed, to the honor and interest of both the nations.

Strange objections, he said, had been made to the ninth article, it having been considered as reviving claims to land, which had been extinguished. He conceived it as intended only to explain a subject which had been left undefined by the Treaty of 1783. There was no stipulation in that Treaty respecting the holding of lands, then owned by citizens of the United States in Great Britain, and by British subjects in the United States; a doctrine generally held in both countries was, that aliens could not hold lands; but the alienage effected by the separation of the two countries was of a kind not calculated for in the legal ideas of either country, as the lands, however, were well vested originally, and the alienage of the proprietors effected without their fault, it had not, he believed, on either side of the water, been contended that it worked an escheat or forfeiture of the lands; still it had been held by surveyors in both countries, that on the death of the proprietors, those lands could not descend to his heirs, being aliens, and to remedy this difficulty alone, he conceived, the article was intended, applying only to those who now hold lands, in its very terms. It would be absurd to say, that it revived or created titles which did not now exist, and its operation on the scale he contended for, had not been, and, he believed, could not be, objected to.

Much objection had been made to the tenth article; it had been considered as a censure on the House of Representatives; but this objection was certainly without foundation. A plan for sequestrating British debts, it was true, had been before the House, but no opinion of the House had been expressed upon it.

It was considered as one of the best weapons of

defence which this country could command, still gentlemen who objected to the article, agreed that it was a weapon they would resort to only in cases of the most extreme necessity. He believed if they would pursue a plan of sequestration, in all its consequences, they would be satisfied it ought never to be resorted to; and that, in declaring she would never sequestrate debts, America had made no sacrifice. It must generate infinite frauds amongst the debtors on whom the public must call to pay. It would be an inducement to fraudulent debtors, to excite hostility between the two countries, they expecting to find a more favorable creditor in the public Treasury than in their original creditors. The admission of the rectitude of sequestration must operate as a poison to the public and private credit of a nation, and a measure of this kind once adopted in the progress of a war, must prove a very difficult bar in the way of negotiations for peace.

If, however, there should ever be an occasion in which good policy would lead this country to wish itself free to resort to this measure, it was perhaps hardly conceivable, but it must be in consequence of a breach of some of the stipulations of the Treaty in question, and in this case, the Treaty being broken by Great Britain, we on our part, should be free from it, and have the same right to resort to the measure of sequestration, as if no such stipulation about it had been in the Treaty.

It was said, there was no reciprocity in the article, the quantity of debt in all probability to be within our power of confiscation or sequestration, exceeding far what would be in their hands; but besides the advantage to be calculated on by us in the articles rendering our credit better, there was another article in the Treaty which might be considered as a counter-balance for this; by the 22d article it is stipulated, that no letters-of-marque shall be issued without previous complaint of the cause for issuing, and refusal of compensation. The British having a naval force that we have not, it has been said, have the power to sweep the ocean of an immense property, which the merchants of the United States have always floating there, as a first stroke at a war, and before we have any notice to withdraw from their power. This article secures that notice. Mr. C. said, he must acknowledge, that the force of this consideration was lessened by the article being only temporary. He did not see a reason why it was not among the permanent ones. It appeared to him that it ought to have been. Indeed, he would declare that it was the only circumstance, though he should not contend that it was very important in the Treaty, notwithstanding all that had been said against it, which appeared to him fairly liable to objection.

The twelfth article did not now belong to the Treaty, yet a gentleman from Virginia [Mr. Giles] could not pass it, without an observation that it had been considered as a boon, opening the West India trade, and that, as the Treaty was no better for the United States than it ought to have been with that article, when it was out, the Treaty must, of course, be a bad bargain to them; but the gentleman did not consider, that there was a stipulation in the article which was no boon on our side, that certain articles should not be exported from the West Indies. The Senate considered the article as worse than nothing, and therefore rejected it. In their opinion, therefore, and in the opinion, he believed, of most people, the Treaty must be considered better for the United States without than with this article.

Much had been said respecting the East India article. To determine of how much value it might be to the United States, he conceived, required more skill in mercantile operations and in future events than was possessed by any gentleman of the Committee; but to determine that it was an advantageous article for them, he conceived, could require skill in neither of these respects. So long as the necessities or interest of the British will induce them to give as great or greater license to the trade of the United States in the East Indies than is secured by the article, it can be of no advantage, except that its permanency may be calculated on. It does not prevent their giving a greater license, if their interest led them to it; and, although a gentleman from Virginia [Mr. Giles] declared the article to be worse than nothing, because he had rather have the license from the necessities of the British than from their courtesy; although there might be something of point and wit in the observation, he surely could not consider it as an argument, since the courtesy did not remove the necessity, and it would not be contended that it lessened it. It is true, we stipulate that India goods taken from the British East Indies shall be brought to America; but, without this stipulation, would not the British have been free to make that a condition of our receiving them there if they pleased?

Did the Treaty contain a stipulation that the United States should send a certain number of vessels to the East Indies, or certain specific cargoes? He might want the commercial knowledge of the gentleman from Pennsylvania, [Mr. Swanwick,] who had said so much about this article, to assist him in forming his judgment about it; but as he had found no such stipulation, he could derive no information from that gentleman's observations, and must think he had better have reserved them for his counting-house.

It had been objected to the fifteenth article, which stipulates that no higher duties shall be paid by ships and merchandise by the British and the United States, reciprocally, than is paid by other nations, &c.; that it contained only an appearance of reciprocity. Gentlemen seemed to have considered all the increase of the navigation of the United States, and all the prosperity which had attended them since the establishment of the present Government, as owing to the difference which has been established between American and foreign tonnage, and these advantages were now wholly removed, because the British can countervail this difference, and we cannot extend it further. For himself, he apprehended they attributed more of this prosperity to that source

than was due to it; he believed the British were not restrained from countervailing our duties before the Treaty, because they were afraid of our going beyond them; and he much doubted if they would not think it worth while to attempt the countervail. At all events, it was but a matter of experiment; the article was to fall at the end of two years after the present war, and would not be renewed by us if, on experiment, we found it to our disadvantage.

The seventeenth article was complained of as having surrendered the point of free ships making free goods. Probably the negotiator had attempted the establishment of this point, but what pretence had he for insisting on it, if the British refused? The Law of Nations, it is acknowledged, establishes the contrary doctrine. This the United States have acknowledged in all their proceedings with the belligerent Powers relative to the subject during the present war, and Mr. Jefferson, in his correspondence relative to Mr. Genet's pretensions, has very ably and clearly evinced the doctrine that free ships does not make free goods to be the Law of Nations, and that we have no pretensions to insist on the contrary, unless with nations who have made Treaties with us to that effect. The article, then, must be considered as leaving the Law of Nations as it found it, stipulating only that the power of stopping our vessels having enemies' property on board, shall be exercised with as little inconvenience as may be.

The contraband list has been complained of; but this is not carried so far as the Law of Nations carries it, nor so far as it is carried by some Treaties; and in that part of the article which relates to provisions and other things, which, under particular circumstances, though not generally so, become contraband by the Law of Nations, there is a stipulation highly favorable to the United States, such articles not being to be confiscated, but to be taken and paid for.

The twenty-first article has been glanced at; but as similar stipulations are contained in most of the Treaties which the United States have with foreign nations, the objections against it have not been much insisted on.

The twenty-third, twenty-fourth, and twenty-fifth articles had been objected to by a gentleman from Virginia [Mr. Giles] as *grazing* on the Treaty with France. Another expression used by that gentleman was, that they were articles *constructive* of the French Treaty. Had those articles been constructive of the French Treaty, in doubtful points and to its disadvantage, he should have agreed with the gentleman that they were highly objectionable; but this was not the case. The gentleman himself had not attempted a construction of the French Treaty which would militate with them; he believed that he was conscious that it would not bear it. The French nation themselves had given it a construction which clearly shows that it is no way affected by this Treaty, for they made a Treaty with the British nation in the year 1786, long after the Treaty they made with the United States, which contains precisely the same stipulations which the gentleman had considered as grazing on the French Treaty. Had there been a doubt as to the construction of the articles referred to in the French Treaty with the United States, this Treaty of theirs with Great Britain must incontrovertibly have removed it.

Mr. C. said that he believed he had noticed most of the objections which had been insisted on against the Treaty, and he declared that it appeared to him as if it were merely a question of speculation before the Committee; or were they discussing certain propositions which were to form the basis of instructions for negotiating a Treaty with Great Britain? He should consider the Treaty a good one, and such as it would be for the honor and interest of the United States to adopt. He considered the permanent articles as important, because they settled, on terms consistent with national honor and advantage, causes of dispute which, while they existed, would always endanger the peace of the nation. They acquired the posts, which were agreed by all to be an object of consequence, as they affected our interest, our peace, and our honor, and they settled certain important points of national intercourse on terms which he conceived reciprocal and mutually advantageous. As to the commercial articles—indeed, all the articles which were not permanent—they were comparatively of little importance. Those, however, when the present ferment should have cooled down, he believed would not be considered as disadvantageous to the United States. He did not pretend to say that the Treaty was such as he could have *wished* it, nor such as our national partiality would have dictated, had we been the sole dictators of the terms; but, could some fair and impartial tribunal have been formed to hear the mutual complaints and pretensions of the two nations, and vested with the power to dictate such a Treaty as should have appeared to it reasonable for the two nations to adopt, he did not believe it would have dictated one more favorable to the United States.

General and vague objections of want of reciprocity and leading to the establishment of British influence, had been made; but he could see nothing of this in the Treaty. He saw no political ties in the Treaty, and he wished none with any nation. Peace with all the world, and as free a commerce as could be obtained, he believed ought to be the leading objects of the United States in all their foreign relations.

Thus far he had considered the Treaty only as if it were before the Committee merely on the question of its expediency, from its contents, without reference to its ratification by the President, with the advice and consent of the Senate; from this circumstance, even granting there were great force in the objections made to the merits of the instrument, very weighty considerations were to be observed, which should influence the Committee in the vote they should pass on the resolution before them.

It was true, he said, the House had determined that, although the President, with the advice and consent of the Senate, have the power to make

Treaties, the House of Representatives are to exercise their discretion in judging of the expediency of carrying them into effect; yet they had not gone so far, though the gentleman from Virginia [Mr. Giles] seemed to wish them to do it, so as to declare they would consider themselves as perfectly at liberty to refuse their aid to carry a Treaty into effect, although made by the President and Senate, as they would be to reject a bill which had been passed by the Senate; in this case, no one could pretend but the House had the same freedom to pass or reject the bill as if it were reported to them from a committee or brought in on leave of the House by a member. He asked if gentlemen could be serious in such pretensions? The President and Senate are to *make* Treaties; yet a certain mysterious power is reserved in the Constitution, behind the curtain, as it were, which is to declare them, and make them, as if they had *not been made;* and the foreign nation with whom a Treaty has been made by the President, and to whom he has declared that it shall be executed with punctuality and good faith, is to be told this is a mere Treaty in negotiation; you have no claims on us for the fulfilment of it. We will treat with you for a new Treaty if you think proper; but this, although you call it a Treaty, is not such. He would like to see the gentleman from Virginia, [Mr. Madison,] who had so ably advocated the construction of the Constitution by which Treaties are to be considered as only begun, after they are *made*, wrapt in his mantle of doubts and problems, and going on a mission to the Court of London to clear up the business; for he presumed no gentleman would question but it would merit the sending an Ambassador Extraordinary, and he could not think any person fitter than that gentleman could be found. High as was his respect for that gentleman's abilities, he feared, however, that they would prove incompetent to the task, even if aided with a collection now making of the speeches in the House of Representatives on the Treaty question. And however gentlemen might declare the construction of our Constitution must lie with ourselves, if in our negotiation with the world, we did not so contrive it as to be consistent with reason and the common sense of mankind, and by such a construction evince to them that we were not bound by this Treaty, they must consider us a faithless nation—a vote of the House of Representatives against the sense of the President, Senate, and a great proportion of the American people, and against all former practice on our Constitution, could not be expected to remove the impression.

Gentlemen had treated all considerations foreign to the merits of the Treaty as unworthy the attention of the Committee; but it certainly was proper to inquire what would be the situation of the country in case the Treaty should be rejected. He conceived it would be nearly ascertained, by a recurrence to the state of things at the time the negotiator of this Treaty was appointed. A general irritation prevailed throughout the country for injuries sustained from the British nation, and a general alarm existed that the United States were on the eve of a war. To obtain redress for those injuries, sequestration, commercial restrictions, and regulations, with a stoppage of intercourse, were agitated in the House of Representatives, and if the Treaty should be defeated, would probably be resorted to again; though not amounting directly to war, he believed when those measures were proposed, that they would infallibly lead to it; and although in the House of Representatives they were by the advocates of them declared to be the most peaceable and conciliating things in the world, yet they were universally admired by all out of doors who wished for war. It would be natural, if this Treaty is not carried into effect, to resort to the same measures again, for it is hardly to be expected that the American people are going to sit down quietly, and without compensations, under the injuries they have sustained. It would be absurd to think of further negotiation; and when the causes of irritation which before existed, and had nearly brought those two nations into a war, have added to them the dissatisfaction that must be expected to result from our failing to fulfil the stipulations of this Treaty, he thought they could not fail to produce it.

It had been said that the interest of Great Britain would not permit them to go to war with the United States, and the United States surely would not begin it. But, he asked, what wars were begun or carried on upon cool calculations of interest? It was passion, pride, and ambition, not interest, which generally brought on wars; and, under present circumstances, he believed the United States more likely to commence declared hostilities against Great Britain than Great Britain against them; at no time could it be said there was no chance of a war, when causes of national controversy, however insignificant, were subsisting. The consequences of war, in general, might be calculated at a certain loss of blood and treasure; but, in the infancy of the United States, divided as they must be on the principles of the war, if they should be forced into one in consequence of a rejection of the Treaty, he considered the probable evils of it to be incalculable, and could, for himself presage nothing less than a dissolution of their Government.

In every point of view which he could consider the subject, he must view the Committee as urged by the strongest motives to adopt the resolution. If the Treaty was to be considered merely as in proposition, it afforded to them an honorable adjustment of national controversies, which, so long as they remained unadjusted, must endanger the peace of the country; and, from this consideration alone, if there were no other advantages to be expected from it, promising important benefits to the United States.

But far more powerful considerations were derived from considering that, by the Supreme Executive of the United States, and by the Senate, the faith of the nation had been pledged, and would, in spite of all the metaphysical subtleties which had been brought forward in the House of Representatives, be considered as violated, if the Treaty were rejected, by foreign nations in general, and a great part of the people of America.

So strong was the connexion, in his mind, between the execution of the Treaty and the faith, the honor, and happiness of the United States, he had no doubt the Committee would agree to the resolution.

When Mr. Corr had concluded—

Mr. S. Smith rose and said, the subject then before the Committee appeared to him to be of an importance at least equal to the great Constitutional question which agitated the House during the present session; it has had, and he trusted would continue to have, the same calm attention paid to its discussion. He hoped and expected that it would ultimately be determined with a view to the real interest of the nation, under the existing state of things.

The question is, whether we shall confirm, by an act of this House, the Treaty made by the constituted authority with Great Britain; or whether, having the declared right so to do, we shall refuse to make the appropriations necessary to carry the same into effect? The apprehension lest the Treaty should be carried into effect, has alarmed the public mind. Some are seriously concerned on account of evils that they apprehended might result therefrom; others affect an extraordinary concern, and, like the alarmists of England, run about everywhere disseminating their ill-founded fears. He said that his constituents had taken up the subject: a small part have thought it advisable to instruct him to employ his best endeavors to obtain the necessary appropriations; another part, equally respectable and more numerous, have expressed their wish that he would exercise his own discretion on the present great occasion, and that they will cheerfully acquiesce (as good citizens ought to do) in whatever may be the decision of the national Representatives, after a free discussion of the principles of our Government and the interests of the nation. In paying respect to the latter, he should perhaps give satisfaction to the former.

When the Treaty was first published he had read it with attention, and although he had not seen all those faults with which it has since been charged, yet there was, to his view, so little good contained in it, and so much of evil to be apprehended from it, that he had felt a hope that the President would not have ratified it. He had been disappointed, yet he had not a doubt but the President, after the most mature consideration, had given his signature; being possessed, as he was, of every information relative to a subject so very important, he could better determine on the policy of its adoption than those who were less informed. Still there were many articles, particularly the commercial, which every man might judge of from the face of the instrument. On these he did not hesitate to give an opinion: which was, that they promise not one solitary advantage, and shackle our commerce in many important points. He would not trouble the Committee with going deeply into a subject that has already been so ably discussed. He, however, could not refrain from a few remarks on the right to countervail our extra duties on tonnage of goods imported in foreign bottoms. He asked, what would this countervail be? Could any man tell? It was not specified in the article; it was then discretionary with the British; discretionary with a nation whose rule of right has always been the measure of its power, whose conduct has invariably been to cramp and distress the commerce of all other nations. To such a nation was it proper to trust a latitude of that extent? Will she make her countervail oppressive and unjust? It is more than probable she will, and if she should, what remedy have we? None; for we are forbidden by the same article to legislate further on the subject.

He said he would take leave to explain the 13th article, which relates to the East India trade, and which it has been said gives such solid advantage as to counterbalance all the evils arising out of the Treaty. He had taken some pains to inform himself on this subject, and he had found that the Americans, in common with all other nations, traded to the British and other ports of India, and were everywhere received with that sort of kindness which grows out of the interest that the vender has in selling his goods for ready money, and to a great profit; that our trade is so much the interest of the India Company, and of all its officers and factors, as well as of the private traders residing there; that it was ridiculous to suppose the India Company would prevent it; and, if they should, what would be the evil? Little or none; for there were other ports, belonging either to other European Powers or to the natives, in the neighborhood of all the English ports, who would receive us with open arms, and supply us for our silver, on terms equal, or nearly so. He then stated that our ships could now carry from one port in India to another, to China, or to Europe; an employment that had been found very lucrative. Under the Treaty, they must proceed with whatever they purchase in an English port direct to America. The article says, His Majesty consents to your trade to India, and this is called a boon. It appeared to him just as ridiculous as if His Majesty had said he consented to our going to Great Britain to purchase its manufactures.

To enumerate the many faults he found with the Treaty, as well of omission as commission, would take up too much of their precious time; yet he trusted he should be excused for taking a short view of its leading features.

When the Envoy was sent to Great Britain, he was principally to demand restitution for the cruel depredations committed on our commerce. We find that object attended to so vaguely that our best-informed men seem doubtful whether much will ever be recovered under the Treaty; they find that in every instance the loser must first pursue his remedy through their tedious and expensive Courts. We find, that by fair construction, we have acknowledged ourselves to have been the infractors of the Treaty of Peace; for what was the ground on which some of the States placed legal impediments to the recovery of Bri-

tish debts? Why, that Lord Dorchester had refused to deliver up or pay for the negroes which, by that Treaty, ought to have been restored, and which slaves would have assisted their masters by their labor to pay those debts; yet we see no mention of them in the Treaty; and we find to our surprise, men, since this Treaty, defending the construction lately put on the Treaty of Peace by the British, and which had never before been heard of; thus acquiescing in the charge of our being the first aggressors. But this only relates to our honor, and of course can be of little consequence to a nation whose rule of conduct is to submit to everything, provided, that on the whole account, there appears to be a balance of profit in its favor.

After having thus formed his opinion relative to the Treaty, his next inquiry was, is the Treaty Constitutional? On that point he had held himself open to conviction, and waited its discussion. He had not heard any gentleman declare it unconstitutional, except one, [Mr. Page,] who seemed to give his opinion as if he still doubted; and having carefully considered the subject, he was now of opinion that there was nothing directly repugnant to the Constitution in the instrument. He then inquired whether, under the existing state of things the Treaty ought to be rejected? Whether it contained stipulations so extremely injurious to the United States as ought to induce the House of Representatives to reject a compact made by the other branches of the Government? In the ten first articles, which are permanent, he found some objections. The third article, which, like many others, cannot be well understood, seems to say that goods imported in British bottoms to the ports of the Lakes, shall pay extra duty. If this be a true construction, it will then be necessary to repeal our restraining duties, to make the Treaty by law consistent with the Constitution, which requires that all duties shall be equal. The tenth article ties our hands against sequestration, a power which ought not to be exercised, except on some very extraordinary occasions; yet it was a power which, considering our relative situation to Great Britain, it was imprudent to part with; still, on fair consideration, he did not find that there was sufficient cause, on the account, to reject the Treaty, in the situation we are now placed. The residue will expire in two or three years.

He would say a few words on the 18th and 24th articles. The 18th, commonly known as the provision article, he had not understood as giving the British a right to seize our vessels carrying provisions; but the King of Great Britain having, after the Treaty had been signed by Grenville and Jay, issued an order to that effect, it seemed a comment upon and as establishing his construction of the article. However, as he has withdrawn that order since the ratification, and as it was now under negotiation, he would hope that the explanation would be to our satisfaction. The 24th article altered the state of things with respect to France. Heretofore the French had (not by Treaty, but under the Laws of Nations) a right in which we acquiesced, to sell their prizes. By this article they will be prevented; and should a war take place between England and Spain, which is not improbable, then the former will, under this Treaty, have a right to bring their prizes into port, and, under the Laws of Nations and our usage, to sell them, while all her enemies are prevented from selling. What would be the consequence? Why, that your ports would swarm with British ships of war and privateers, on board of whom your seamen would embark, in spite of every opposition. Good policy will therefore dictate that a law should pass to prevent the sale of the prizes of all nations within our ports.

Mr. S. then stated that notwithstanding the many objections he had to the Treaty, yet he would give his consent to carry it into effect in a Constitutional manner: Not because he thought that war would ensue in case of its rejection; not because the underwriters have refused to write any more against the sea risk; not because the merchants pretend they are afraid to pursue their usual commerce; not because of the frivolous report that the Chargé d'Affairs of Great Britain had threatened that the posts would not be given up unless the appropriations were made—a report which he hoped and believed to be unfounded. He added that he could not believe that any gentleman could be in earnest in the opinion that a war with Great Britain would ensue in case of refusal. To what purpose would they deprive themselves of their best customers? Nobody can contemplate that they would invade our territory. It is true that they might sweep the ocean of a great part of our ships, but would that be an equivalent for the loss of our trade, or the risk they would run of losing Canada? The idea of war seemed to him to be too ridiculous to be mentioned in that House—could be intended only to alarm the public mind, and ought to be treated with contempt.

But there was good ground to fear, that if the Treaty was rejected, the British Courts of Appeals, which are generally directed by the Minister, would confirm the decrees made against our property in their Colonial Courts; and that the Bermudians and others would speculate on the possibility of a war, seize our vessels everywhere, and that their Judges would continue to condemn as heretofore, without law or justice.

Merchants again pursue their business, and they, as well as the underwriters, will be ashamed of the attempt made to influence the votes of the House of Representatives; for are not those the very men whom we have seen reprobating the conduct of the Democratic Societies? And will they, on mature reflection, who have reprobated the Democratic committees of correspondence, believe that it was proper to institute committees of correspondence to influence the merchants and traders of the Union, in opposition to the House of Representatives? He felt assured (from the knowledge he had of that House) that as they would not be influenced by such conduct to vote for the measure, neither would they be induced to vote against it because of those just subjects of irritation. Our duty to our constituents taught us that we were

the Representatives of their interests, and not of our own passions.

For none of those reasons, he repeated, did he give his consent; but, because he did believe that it would tend to restore harmony and unanimity to our public measures; a House so nearly divided against itself could never thrive: Because the most material articles will expire in two or three years; and, from the great and serious opposition to them, as well among the people, as in this House, he did not believe they would ever again be renewed: Because, he did believe that the President and Senate had conceived that they had a right to make all Treaties, without the concurrence of this House, and had, under that impression, committed the faith of the nation: and, because, that he believed it to be the opinion of the great majority of the people of Maryland, whom he had the honor to represent, that, although their dislike to the Treaty continues, yet that less evils will grow out of its adoption than may be apprehended from its rejection. A reason, to his mind, superior to all others, and which, although he had not been of a similar opinion, ought and certainly would have governed in the present great and important question.

Mr. Isaac Smith addressed the Chair as follows—

Mr. Chairman: I wish to make some observations on this occasion, and I promise the Committee they shall neither be many nor long.

There appear to be two objects in the debates that have so long engaged the attention of this House: 1st. Our right to interfere in making and sanctioning Treaties; 2d. To nullify the Treaty pretended to be made betwixt this country and Great Britain.

As to the first, this House has established the principle as far as it can establish it; we have voted it, we have resolved it, and we have placed our resolutions on our own Journals: however, it will be liable to that instability which always attends constructive opinions, and will vibrate backwards and forwards as public opinion may ebb and flow at future elections. There is only one way to fix it, and the Constitution has pointed out that way. I hope it will not be thought necessary to exemplify the force of this principle by rejecting the Treaty now under consideration.

The Treaty is said to be a bad one. I do not think, myself, that it is unexceptionable—the sun has dark spots in it: but I really think, upon the whole, it is a good one, and ought to be adopted, for the following reasons:

We shall obtain the Western posts, and secure peace with the Indians. This we know, from sorrowful experience, is worth a million and a half per annum, allowing scalping and murdering to go for nothing.

In the next place, we shall have an opportunity of settling all our extensive boundaries, in an amicable and permanent manner. I cannot even conjecture the value of this; perhaps no man can tell.

In three years we may permit it to die in peace, if we choose, and then all its sins and imperfections will be at an end; but, in the meantime, we secure the grand and invaluable objects before enumerated. How very bad indeed a Treaty must it be, that would justify the rejection of such advantages rather than adopt it!

What will be the probable consequences of the rejection? It cannot be concealed that the mere apprehension that this may be the case, has shocked, like a stroke of electricity, the commercial part of our citizens, as far as the alarm has had time to extend, and paralyzed the extensive and prosperous exertions of trade. A solemn and anxious pause, foreboding some important event, pervades the community at large. Let us also pause. The moment is big with events. The Rubicon is close before us. If, like Cæsar, in a state of doubt and desperation, we plunge in, like Cæsar, we may destroy a glorious Republic.

I am neither timid nor prophetic; yet, certainly I do apprehend injury from Britain. Her superabounding pride has always been an overmatch for her prudence, and even her interest, in all her conduct relative to America. She has not, perhaps she cannot, forgive us the mischiefs she has already occasioned us. Nevertheless, let not our hatred of her past conduct, nor our provocations at her present behaviour, nor the love of victory in debate, influence our sober judgment on this solemn occasion. We are a deliberative body; politicians should have no passions; reason should be our guide; reason is a cool thing; heat it and you destroy it.

Mr. Henderson.—Mr. Chairman: It is with diffidence that I rise to take part in the discussion of the question now before the Committee, and to offer my sentiments upon a subject of such importance as the one under consideration—a subject, to my mind, of the greatest importance that has ever been discussed since the establishment of the present Government—a subject, upon the result of which may depend whether our Constitution will be preserved inviolate, or will be infracted—a subject in which public faith, with a foreign nation, is not only implicated, but pledged, and in danger of being prostrated—and upon the determination of which may possibly be the event of war abroad and dissension at home. Sir, upon a question of this magnitude, I could not reconcile it to my sense of the duty I owe my country to give a silent vote.

When the debates first took place relative to the Constitutional Treaty-making power, and the power of this House to control that power, I was silent, from an opinion that the discussion took place before the due season, and that it was only a profusion of time, expecting, when the Treaty negotiated with great Britain was taken under consideration, that a more proper opportunity would be afforded for offering my sentiments upon the subject. That time is now before me. Sir, I am in favor of the resolution under deliberation, and hope that it will be adopted. It is to make the necessary provision for carrying into operation the Treaty that has been negotiated with Great Britain. It is, in my opinion, making provision for the support of the honor, of the faith of the

nation. I do not mean, sir, to go into a consideration and detail of the merits or demerits of that Treaty, article by article, as some gentlemen have done. I will not say that I approve or disapprove of all the parts thereof; I will only observe, in this place, that the Treaty has been made by the proper Constitutional authority constituted for that purpose, and that it has become the law of the land; that, in my opinion, there are no prominent features of such a dangerous, degrading, and destructive nature exhibited upon the face of it as would justify this House in rejecting it, and that the public peace and happiness will be much more essentially promoted by carrying it into operation, than by arresting the progress thereof.

Sir, as much has been said on a former occasion upon the Constitutional Treaty-making power, and the power of this House relative thereto; and as the subject has not passed unnoticed in the present discussion, I will beg the indulgence of the Committee while I offer a few observations that have occurred to my mind upon this subject; and, in forming my opinion, I have not taken my flight across the Atlantic to consult the constitutions and practices of different Governments; neither have I suffered my imagination to pursue those who have traveled so far out of the true way, fully believing that every attempt to bring our Constitution to the level of comparison with those of monarchical Governments, is only an attempt to throw a shade over it. Neither shall I extend my views for years back, to take into consideration what has been urged to have taken place in the original Convention which formed the Federal Constitution, nor in the different State Conventions, when the Federal Constitution was under their respective discussions.

I will only observe, that were I to have recourse to them, they would all tend more fully to confirm my mind in the opinion I have formed upon this subject. Sir, I have taken the Federal Constitution, and that portion of reason that Providence has favored me with, for my guides; and I hope to be excused if, while I am offering my sentiments upon a subject of such importance as the one under discussion, I shall not be able to express my idea with all the regularity of legal arrangement, as I have not had the advantage that most of the gentlemen who speak on this floor have had—I mean that of a legal education. One thing, however, I shall endeavor to observe, which is, to avoid art and sophistry, of which there has been so great a display by some gentlemen on the present occasion, and to express myself in language intelligible and unequivocal. As the subject has been so much exhausted, I shall be obliged, in order to avoid the repetition of other gentlemen's arguments, to take new ground in a considerable degree, or rather to chalk out a new path through the old ground.

Sir, I find upon the face of the Constitution, and in the plain express words thereof, sufficient data to govern my opinion upon this subject. This is the strong pillar of our political fabric; it is the vehicle conveying powers to all the constituted authorities, and when it stops short of conveying the necessary power they must remain with the people, who are the source of all power. And if it should appear that, in any case, a power dangerous for the liberties of the people was really conveyed by the Constitution, the people ought, they will, whenever sensible thereof, restrain or control it, by amending the instrument. Sir, let us travel abroad as far as we may; let us extend our researches after as many extraneous means of assistance to support forced and constructive opinions of the Constitution as all the rack of human invention will enable us to do, we must at last return to that, and take our direction therefrom.

Let us, then, consider what this important, this safe guide leads us to upon the present occasion; important, because it is the will, the voice, of the people collected and communicated to us in the most solemn manner; safe, because, while pursuing it strictly, we shall never be led astray.

Sir, the Constitution declares that "the President shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." Here is a power granted to two of the constituted authorities for certain purposes. It is a power essentially necessary for the good of the nation, that it should be lodged in some of the Constitutional departments of Government. Here, then, we find the sacred, the important deposite; and there is not an article, section, sentence, or word, in the Constitution, that conveys an idea of any other power being designed or made necessary to co-operate with this power. It is all comprehended in these few words, "the President shall have power." Can power, by language, be more expressly, more exclusively and completely granted? I contend not.

To admit the Constitutional Treaty-making power to be complete in the President and Senate, as I think has been done frequently, even by gentlemen in the opposition, and as it were in the same breath, to set up a controlling power, over that complete power, will, in my opinion, confound the wisdom of the wise, to reconcile with propriety and consistency. Sir, I am of opinion that, when a Treaty with a foreign nation, confined within Constitutional bounds and limits, is negotiated by an Ambassador of the United States constitutionally appointed: when the Treaty has been ratified by the President, by and with the advice and consent of the Senate, as the Constitution directs, and is promulgated by the Proclamation of the President, that it becomes the law of the land, or, as the Constitution expresses it, "the supreme law of the land;" that it requires no act of this House to give validity as to the binding influence thereof. Sir, it is declared by the same Constitution, that it shall be paramount to the Constitutions and laws of the respective States, and of course paramount (for the purposes thereof) to the laws of the General Government, in cases where there might be a clashing; and I have not a doubt on my mind, but that the judges of the Supreme Court of the

United States would so adjudge, if such a case should arise.

Sir, when the debates first took place upon this subject, much stress was laid by some gentlemen upon these words of the Constitution: "all Treaties made, or which shall be made, under the authority of the United States," raising this construction therefrom, that the authority of the United States must include the House of Representatives as well as the President and Senate. I should suppose it scarcely possible for any person to read the Constitution carefully, and seriously to give such an opinion, unless he was governed by a strong desire to participate, not only in the Treaty-making, but in all power, for the idea may, with equal propriety, be applied to every act of the Executive department of Government.

Sir, I would ask if there are no acts done under the authority of the United States but such as this House has an agency in, or influence over? Permit me to say, sir, that there are many. Let us consult the Constitution, and we shall find that there are some in which the President, and others in which the President and Senate, is and are exclusively made the authority of the United States, and in which it is impossible, from the Constitution, to admit this House to have a participation in, or influence over. I will not take up the time of the Committee to recite them particularly in this place; they are enumerated in the second section of the second article of the Constitution, which defines the Executive power of the United States, and in which section the Treaty-making power is granted.

Sir, this House claims the exercise of a controlling power over the Treaty-making power. Let us take a comparative view of the Treaty-making power with that of the Legislative power, and draw an inference therefrom. In the first article and seventh section of the Constitution, the Legislative power is defined in the following manner:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law."

Sir, here is a case wherein this House and the Senate have a co-operative power with the President, but, in case of difference of opinion, the check is increased, so as to have the subject more thoroughly investigated, and the power of the President in this case is greater than the power of a majority of both the other branches of Government. Sir, permit me to make one or two observations upon the rules observed between the two Houses in case of disagreement. The House of Representatives pass a bill and send it to the Senate for concurrence; the Senate proposes amendments, they are rejected by the House; conference is had between the two Houses by members appointed from each, to try and incorporate the sense of both Houses together, which is for the most part (though I believe not always) done. If the two Houses disagree finally, the bill is lost, does not pass into a law; all the checks and balances which have been so frequently mentioned as among the excellencies of our Constitution, are, in these cases, exercised, and have their nicest operation before the bill passes into a law, or before it is defeated. But, when passed into a law, the idea of checks and balances having had their operation, is at an end. Sir, does the Constitution provide any such check or control with regard to the Treaty-making power? Does it require the President and Senate, after approving Treaties, to send them to this House for deliberation, for concurrence, or for approbation? No, sir, not an idea of the kind.

There is no provision made in case of disapprobation of this House, that they should be returned by the President and Senate, with their reasons for disapprobation, to be reconsidered, so that, in case of disagreement, there might be some possible way to reconcile it. There is no such check, no such control, nor words that can convey such an idea. From thence, sir, this influence may naturally be drawn, that a check or controlling power to the Treaty-making power could not have been designed by the framers of the Constitution, otherwise it would certainly have been made legible upon the face of it. The idea that this House has a control over the Treaties, according to my mind, tends to the consolidation of power. It prevents the operation of checks and balances in the way the Constitution points out, and tends to the annihilation of Presidential and Senatorial powers. Sir, the nature of balances must be changed on some new principles established to suit the times, before we can admit the lesser to weigh down the greater, and a lever to be balanced with all the weight at one end.

Sir, is the idea admissible, that our Constitution has the seeds of war, the foundation of dissension between the different branches of Government planted in it, and that there should be impossible means of reconciliation provided? Sir, my mind revolts at the idea of it, and yet this is the issue, this is the certain consequence of the doctrine now supported. It is realized in our present situation. This House is at variance with one of the branches of Government, and there is danger that we may soon be in the same situation, with regard to the other branch. In this situation, (which, however, I sincerely hope we may not be reduced to,) what is to be done? Permit me to say, sir, that the Constitution points out no way of accommodation; it deserts us, and why? Because we have forsaken it. The further we travel in the wrong way the more difficult will our return be. Sir, let us stop for a moment, before we get finally lost. Let us pause, and seriously consider how we shall get back to the right way again. Sir, the way is

as yet easy. Let us give up our views of aggrandizing our own power; let us give due efficacy to the Constitutional powers of the PRESIDENT and Senate; let us study to promote harmony and unanimity between the different branches of Government, and within their walls, and I make no doubt but we shall soon surmount all our difficulties, and promote the public good more immediately and essentially than by any other line of conduct we can possibly pursue. Sir, it has frequently been asked, whether this Treaty making power shall have no check nor control? To this I answer, that, in my opinion, the Treaty-making power, when exercised upon and embracing objects usually comprehended in the meaning of the word Treaty, which the mutual and common interest of nations requires, should be settled by compact; and when it is in this as well as other respects, exercised in a Constitutional manner, that it is as complete, for the purposes thereof, as the Legislative powers of Congress are for the purposes of legislation, and has no more check or control than the Legislative power has. Permit me now to state some further embarrassments to Government, that strike my mind forcibly, as resulting from the doctrine of control over Treaties. The PRESIDENT issues his Proclamation, informing the citizens that he has, by and with the advice and consent of the Senate, made a Treaty with a certain Power, and proclaims the contents thereof; which, from thence, becomes the law of the land. This House wishes to exercise a control over it; they express their sense that it shall not be a Treaty. Does this, sir, destroy or impair the binding influence thereof? Would the Judges of the Supreme Court, the Judges of the District Courts of the United States, and the Judges of the respective State Courts, look upon that vote as binding upon them, and judge accordingly? I contend not. In this case we shall be placed in a most singular and extraordinary situation indeed; a situation that I can scarcely imagine any nation in existence was ever placed in before. A Treaty is constitutionally made, becomes the law of the land, governs the PRESIDENT and Senate, the Judges of all the Courts in the Union, and all the citizens of the United States, not even excepting the members of this House in their private capacities; but this House, not in their Legislative capacity, because they cannot legislate against a Treaty, but, in a declaratory way, express their sense that it shall not be a Treaty.

Sir, in this situation, what is to be done? Permit me to say, sir, once more, that the Constitution abandons us; it points out no mode of reconciliation between the three different branches of the Government. That, of course, confusion must be the consequence. But, sir, it is said that it is a bad Treaty, and that we ought to break it. With regard to this, permit me to observe, that there is nothing to be discovered by my mind upon the face of it, either from the want of reciprocity, or from any principle that it contains, that would be half as degrading and prejudicial to the United States, as the violation of her honor and faith. Sir, if there were no other considerations than those to influence my mind upon the occasion, I confess I should not hesitate a moment about giving my assent to it; but there are other motives which have considerable weight with me on the occasion, which I shall take notice of hereafter. I will only observe, further, on this point, that if it is a bad Treaty, the responsibility lies not with us. We have had no hand in making it, and we cannot constitutionally destroy it. The responsibility must remain with the branches of Government that, in the exercise of their Constitutional functions, have made it.

When this subject was under discussion upon a former occasion, the voice of the people was laid hold of by some gentlemen with great zeal, as a powerful engine to enforce the doctrine that they espoused. For my own part, I would ever wish, both in public and private life, to pay all due respect to the voice of the people, when properly collected and communicated; and I think I am faithfully pursuing that line of conduct, while I am endeavoring to support their Constitutional rights and liberties; and the arguments of the gentlemen in opposition appear to me to savor too much of the character of the wolf in sheep's clothing, to have much influence over the minds of those to whom they are addressed. Much, also, had been said upon the same occasion, both within these walls and without, to impress an opinion upon the public mind, that those who supported the power of this House against the power of the PRESIDENT and Senate, on the subject, were the only friends, the only meritorious supporters of the liberties of the people; and those who opposed the usurpation of power in this House, were the enemies of the liberties of the people. Sir, if this be the case, times are amazingly changed indeed. I believe it is the first time, since the creation, that the persons who, to aggrandize their own power, by endeavoring to break over this sacred barrier of liberty, as secured to a people by a Constitution, the emulation and envy of the world, for the pure principles of rational morality that it contains, and by robbing other constituted authorities of their chartered powers, were called the zealous, meritorious, virtuous supporters of the liberties of the people, and those who refused to join in the usurpation, and endeavored sincerely to maintain the Constitution, and every branch of Government, in the full exercise of their Constitutional functions, were called the enemies of the liberties of the people. Sir, it seems expedient that not only the meaning of words but of actions should be changed by construction, to suit the times. I hope we shall, in our career, stop short of changing the times and seasons.

Sir, if our Constitution is ever violated essentially, or in such manner as to endanger the liberties of the people, it must be done in some such way as the present measures lead to, by one branch of Government under false coloring and specious pretexts, usurping the powers of the others, and thereby endangering the consolidation of power. But, sir, as long as every branch of Government preserves the full exercise of the powers with which it is vested by the Constitution, there can be no danger.

Mr. Chairman, Constitutions are, to my mind, at all times delicate and dangerous things to handle; but more particularly so, when party views and high raised prejudices and passions are influencing our deliberations, and I sincerely hope that this House will not, in their jealousy of the power of the PRESIDENT and Senate, and in an attempt to display their own strength, break in upon our excellent Constitution, (under which we are enjoying the greatest share of temporal blessings now enjoyed by any nation upon the face of the earth;) by forced construction, and lay violent hands upon it, Samson like, and endanger tumbling down the pillar on which our political fabric rests, upon their own as well as the heads of others, and thereby hurry all into one general scene of confusion and ruin. Sir, when this subject was under consideration, upon the former occasion, there were several appeals made by those who were opposed to the controlling power over Treaties, to one or two gentlemen of this House, [Mr. MADISON and Mr. BALDWIN,] who were members of the Convention that framed the Federal Constitution, for the correctness of certain opinions that they advanced, and to which those gentlemen were opposed. Those appeals were not met with the candor and frankness that have usually marked the conduct of the gentlemen to whom they were addressed. At least, I have not heard any satisfactory answer given to them. As it appears to me that not only this House, but the public mind, might have received considerable information upon the subject, from the members of that Convention who are now members of this House, and, particularly, whether the idea of a controlling power in the House of Representatives over the Treaty-making power, was not abandoned by the Convention as not designed to be granted, I was induced to hope that those gentlemen would have given with candor the information upon that subject that the appeals to them naturally led to, but in this hope I was disappointed, and am of opinion that the circumstance, if duly considered, must carry conviction to the public mind, that their silence is an acknowledgment of the fact; and permit me to observe, that it was not to confirm my own mind in the opinion I have formed upon the subject, that I wish for the information, but to assist the public mind, that they might be able to judge what the Constitution was in its origin, in its pure native state, and when Government was like an infant, in a state of innocence. Sir, if this information had been obtained, the public would have been able the better to judge whether the Constitution is violated by forced constructions, and if so, who are instrumental in the violation?

Sir, I observed when I first rose, that it was not my intention to go into a particular consideration of the Treaty, article by article. I shall not relinquish this principle; I will only make a few general observations, with regard to our relative situation thereto. This Treaty has been made by the proper constituted authorities of the Government, and is promulgated as the law of the land. The faith, the honor of the nation, is pledged for the due fulfilment of the stipulations contained therein. It is generally admitted, that, upon Constitutional ground, it may be supported. And to my mind, there is nothing in the face of it that appears of a dangerous, degrading, or destructive nature to our Government. I take it, that the good or bad effects of the Treaty are chiefly to be learned from experiment, and I should by no means wish to rush precipitately into certain embarrassments, to shun imaginary ones. If it goes into operation, the most prominent disadvantages that I recollect to have been urged against it, are the payment of the debts due to British creditors and the great want of reciprocity. Upon these, sir, we may calculate, though it is said with no degree of certainty. These objections, and such others as have been raised, have been so satisfactorily answered to my mind that I think it unnecessary to make any further remarks upon them. But, sir, let us take a view of the probable injuries, losses, and damages that we may sustain if it should be violated. I will venture to say that they are incalculable. Sir, in the first place, our national honor and faith prostrated, the disadvantages that may result from this alone are not to be meted with the measure of human wisdom. Our commerce ruined or vastly impaired without prospect of reparation. Sir, the commerce of this country requires the attention and protection of Government as much, if not more than any other object; for, sir, permit me to say, that it is not only a great source of wealth to individual adventurers, but it is the source from whence Government derives almost all the supplies to her revenue, and that it is the main-spring of the agricultural interest; for, sir, obstruct our commerce, and what will be done with the surplus of agricultural productions? Sir, permit me to say, that in these respects our disadvantages will be almost incalculable; our Western posts will be kept out of our possession; but upon this subject so much has been said that there is little room left for further remark. Our Government divided, and no probable way of reconciling the difference; and, sir, give me leave to say, that we have the highest authority for the danger of a house divided against itself that it cannot stand; and, lastly, danger of laying the foundation for war.

Sir, before I proceed to offer my observations upon the last point, I would make a remark or two upon what had fallen from the gentleman who was second up, on Thursday last, from Virginia. That gentleman urged, with a good deal of zeal, that it was wrong, that it was improper for gentlemen to touch upon the subject of war, or to express such an opinion on this floor, and at the same time called upon gentlemen to come forward freely and candidly with their sentiments. As I would ever wish to avoid what is wrong, and as far as in my power to pursue a line of conduct that should be marked with propriety, I would be obliged to that gentleman if he would communicate a mode in which I can by being silent offer my sentiments freely and candidly upon the occa-

sion, for that would be the result of his observations; but, as I do not wish to put the gentleman's invention to the rack, I will proceed, and I hope I shall neither want freedom nor candor.

Sir, the idea of war appears to have no weight with some gentlemen, who urge that there will be no more reason to apprehend such an event to take place if the Treaty should be infracted, than if it should not. For my own part I am free to declare (although the consideration is the most painful to me) that in my opinion war will naturally grow out of the measures that some gentlemen appear anxious to pursue. Permit me, sir, to offer my reasons for this opinion. Every one knows the relative situation that this country stood in with Great Britain before the negotiation of this Treaty was entered upon. It was the general opinion that war was unavoidable. The aggressions committed, the hostile disposition shown by the Government, were at that time so notorious, that we seemed to be all of one mind upon the subject. But kind Providence has, in addition to the innumerable and unmerited blessings hitherto conferred upon us, so influenced and overruled our public councils, as to bring about a suspension of that awful calamity, and has placed it in our offer still to continue in the enjoyment of peace and all the blessings that naturally flow therefrom, upon terms which if not in every point of view as favorable as we could wish, or as we would have made, if the bargain had all been in our own power, yet as much so as is common between nations, and as perhaps we ever shall obtain. Sir, there has, ever since the establishment of peace with Great Britain, in 1783, existed causes of controversy between the two countries.

Those that existed before the present war in Europe, were frequently attempted to be settled by friendly negotiations between the Ministers of the two countries. Those attempts proved unsuccessful. Upon the commencement of the war in Europe new causes of complaint arose by frequent aggressions upon our commerce, and a hostile disposition shown upon our frontiers. Sir, in this situation Government was reduced to the necessity of pursuing one of the three following courses; to negotiate in an amicable, friendly manner; to endeavor to repel force by force; or tamely submit to the destruction of our commerce. Negotiation was the measure adopted, and, in my opinion, was a measure that will forever reflect lustre upon the author of it; a measure founded upon true principles of policy and humanity. Sir, the true issue of the measure is now before us. A solemn compact has been made between the two Governments, to accommodate their differences; to remove grounds of future animosity, and to lay the foundation for peace, amity, and security of commerce between the two countries. This House violates the compact. What is to be done? How are the subjects of negotiation ever again to be brought into view or negotiated upon? I confess I am at a loss to determine. The gentleman from Virginia [Mr. Madison] who was first upon this subject, informed us that there was little or no difficulty in the way. We might negotiate again, was the gentleman's observation. I acknowledge I was surprised when I heard that gentleman deliver such an opinion.

I will only observe, with regard to it, that nations are bound, and (ought indeed if possible to be more firmly bound,) by compacts, equally with individuals. I would ask that gentleman what he would say to a man, who, after having sealed a settlement of all existing differences, upon the most mature deliberation, was to call upon him and inform him that he could not tell how the bargain would turn out, he had not made trial of it, but he was of opinion that he ought to have and might have obtained a better bargain, if he had stood out a little longer, and wish him to cancel the obligation, and throw all sources of controversy afloat again, in order to give him a chance of making a better bargain? Sir, I ask the gentleman if he would not, in such a case, reply, we have made a fair settlement, and solemnly bound ourselves to fulfil it, comply with your part of the stipulations with good faith, and I will comply with mine, and if any future cause for negotiation between us should arise, I will always have confidence in you and will meet you upon rational and equitable grounds? But, sir, if you will not comply with one solemn engagement, it is not in your power to convince me that you ever will with any. I think the same will apply to nations more forcibly than to individuals. But, Mr. Chairman, what assurances have we that the Executive will ever interfere in this business again? They have done their parts as to a negotiation with Great Britain. How are they upon this ground ever to know what this House will agree to? This House cannot co-operate with the Executive in making of Treaties, cannot propose alterations or amendments, therefore, admitting that the President might, in this case, appoint an Ambassador, and procure him to accept of the appointment, which, however, I think extremely doubtful, and a new negotiation should be attempted, what greater assurances would there be that the House of Representatives would assent to the issue of the negotiation than there was before?

Permit me to say, sir, that there would be none. Upon the principle we are now going, every member in this House might agree to certain stipulations in a Treaty, and they might be ratified by the Executive, and the foreign Power joining in the compact, and laid before this House after the next election for the appropriation, and be rejected by a number of new members being returned. This being the case our present negotiation, and all prospect of future negotiation closing upon us, all the former sources of controversy revived, new causes of discontent and complaint will, beyond a doubt, arise, and we shall go on from one step of irritation to another until war will be the inevitable, the awful consequence.

It is urged by some gentlemen, that there is no danger that Great Britain will declare war against us. That it is not her interest so to do. Permit me to observe, that those remarks are as correct, in my opinion, as any I have heard made by the gentlemen in the opposition. I have no doubt but

that Great Britain would be willing to remain in peace with us, as long as we shall be disposed to let her possess the Western posts, and all the moneys arising from the capture of vessels, and to commit whatever further spoliations upon our commerce that she may incline to do. I believe she would be very willing, upon those terms, to avoid war. But, sir, I would ask, what are we to do as a nation, under such circumstances? Could we retain a pacific disposition? Should we not be driven into acts of reprisal and hostility? Permit me to say, that there would be no rational prospect of avoiding them.

Sir, let us take a cursory view of our comparative situation with Great Britain now and before the Treaty was negotiated. Then, if we had by the aggressions of Great Britain been coerced into a war, we should have been united to a man in one common cause and Great Britain would have been divided; we should have had a powerful interest in that nation in our favor. Would that be the case now? Permit me to say, that the reverse would ensue. If we break the Treaty, the Government, the nation, will look upon us as the aggressors, they will be impressed with an opinion that we are not sincere in our wishes to be in peace and amity with them, and will be united. Will that be our situation? Sir, I think we have but little reason to flatter ourselves that it will. Our General Government will be divided. Our States divided; for sure I am, that many, perhaps a majority, will be opposed to the measure. Our citizens divided, and in this situation we are compelled, we are dragged into a war, the awful consequences of which are incalculable, and on the contrary, the blessings of peace are so inestimable that they are scarcely to be preserved at too dear a price.

Sir, I would wish, before I close my observations, to make one or two remarks upon what fell from the gentleman from North Carolina, who was up on Thursday last [Mr. Holland.] If I understood that gentleman right, he observed, that he could not vote for the Treaty without the papers, that it would be establishing the doctrine that this House had no right to deliberate with regard to the papers; I owned I should not by any means think myself justifiable in withholding my assent to a measure of great importance, and in which the peace and happiness of my country were essentially concerned, because an officer of Government had not done what he judged was not his duty to do; and as to the gentleman's vote upon the occasion, or the vote of the House establishing the principle, I confess, I view it in a very different point of light; because, if the doctrine that gentleman contends for be tenable, no principle in Government, upon subjects of this nature, can ever be established, no succeeding House of Representatives or Senate is bound by acts of the preceding Legislature, and every succeeding House or Senate may thwart or control the acts of the preceding Legislature, at their pleasure. Sir, I would wish gentlemen seriously and dispassionately to consider the danger that will naturally flow from and arise out of the measures that are pursuing, and that if this House should persist in and bring about such measures, contrary to the sense of the nation, that they alone will be responsible for the consequences; and a truly solemn and awful responsibility will it be.

Mr. Chairman, as it appears from the course of the debates that nations and men have more influence upon the minds of some gentlemen than measures, I probably may be charged with undue favoritism to the nation of Great Britain, and want of friendship to the Republic of France. With regard to that sir, permit me to observe, that I believe there is not a person in existence who knows my public and private walks in life, that would subscribe to such an opinion. Sir, the principles of rational liberty I wish to see disseminated, and to prevail amongst the nations of the earth as much as any man, and sincerely hope that the French Republic may establish her Government upon such principles, and that her citizens may enjoy the blessings consequent therefrom to the latest ages. But, sir, permit me to observe further, that I have a stronger attachment to my own country than to all the nations upon the earth; and while I have the honor of a voice in this House that, as far as I am capable of judging, neither nations nor men shall influence my mind in preference to measures, and that in all my deliberations the liberties, the peace, the prosperity and happiness of my own country shall predominate.

Sir, the State that I have the honor to represent, although not for number of citizens to be ranked with larger States, yet, in proportion to her numbers, may be ranked in the scale of importance with any of her sister States. This State is chiefly agricultural, but somewhat concerned in the commercial and manufacturing lines. As commerce will be promoted and secured by this Treaty, and as agriculture must of course flourish in proportion to the increase of commerce, I am free to declare that in those respects, particularly as well as upon general principles, in my opinion, it will essentially promote the interests of the State of New Jersey, and of the United States, to carry the Treaty into operation. And, sir, I do declare, in my place, and I make the declaration under the responsibility I owe to my God and my country, that from the best information I can obtain from the citizens of that State, in my opinion, under existing circumstances, the persons representing nine-tenths of the property of this State are in favor of the measure. If in this statement, however, I should be incorrect in the opinion of any of my colleagues, I call upon them, as Representatives from that State, to set me right.

I shall now close, sir, with expressing a hope that the resolution may be adopted.

Mr. Holland said a few words in explanation. The Committee now rose, and had leave to sit again.

Monday, April 25.

The Speaker informed the House he had received a letter from the Governor of the North-

western Territory, enclosing two petitions, which he requested, as that Territory had at present no Representative in the House, the Speaker would present. They were accordingly read. One related to lots of land which the petitioners had been promised, and which they had not received; the other prayed for permission to import slaves into that country from other States, so as not to increase the number. They were referred to different committees.

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented to-day on the subject of the British Treaty, among them, one by Mr. Gallatin, from the State of Delaware, against the Treaty, signed by ninety-one persons; and Mr. S. Smith presented a petition signed by the Chairman and Clerk of a society of manufacturers and mechanics, at Baltimore, (as Mr. S. informed the House,) of about four hundred respectable persons, praying that that House would use its own discretion with respect to the Treaties before them, uninfluenced by any other consideration than the public good.

This petition caused considerable debate. Messrs. Ames, Thatcher, and Sitgreaves, opposed its being received, as it was from an unincorporated society, as it purported to be the petition of a number of men, and was only signed by two; and that even these two, as they had signed the petition in an official character, might not approve of its contents. It was supported by Messrs. S. Smith, Macon, Findley, Gallatin, Hillhouse, Madison, and Kitchell, as a practice not uncommon in that House, (the societies for the abolition of slavery, and the Society of Quakers were mentioned as instances,) that they had frequently received petitions of societies signed by their Chairman and Secretary, which, if they were incorporated, were not incorporated for that purpose; and that, raising an opposition to the practice, in this particular instance, seemed as if gentlemen were determined to introduce uneasy sensations into their debates.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying into effect the British Treaty being under consideration—

Mr. Henderson concluded his remarks, as given in full in preceding pages. When Mr. H. sat down, Mr. Harper rose, and spoke in favor of the resolution.

[No report of Mr. Harper's Speech can be found, and it is believed it was never published.]

At the conclusion of Mr. H.'s speech, there was a divided cry, of "Committee rise," and, "the question;" when, the sense of the Committee being taken, it was in favor of rising, there being fifty votes for it, which was a majority of the members in the House.

Tuesday, April 26.

EXECUTION OF BRITISH TREATY.

Numerous petitions on this subject were presented to-day, and referred to the Committee of the Whole; after which, the House resolved itself into a Committee of the Whole on the state of the Union, when the resolution being under consideration for carrying the British Treaty into effect,

Mr. Dwight Foster observed, that as the subject before the Committee had been minutely discussed, it was not to be expected any new arguments, either on the one side or the other, would be adduced. Hitherto, he had been silent—though silent, he had not been inattentive—he had listened with candor to everything which had been offered; he had formed his opinion upon serious deliberation, and was ready to give it whenever the question should be taken.

When the resolution requesting the President to lay before the House a copy of the instructions, correspondence, and other documents relative to this Treaty, was under consideration, Mr. F. observed, that he had intended to have expressed his sentiments on the subject; but the great length of time which was spent in that discussion, and the extreme impatience discovered by many members to have the question taken, induced him, as it might several others, to be content with expressing a silent vote, as he did with the minority, on that occasion. This he was the more willing to do, as it was then well known that the Treaty itself would be before the House; that some appropriations would be requisite, on their part, to carry it into effect; and, it was not to be doubted but every gentleman who wished to express his opinion would have an opportunity. The time had now arrived, and several days had been spent already, he believed not unprofitably, in deliberating on an instrument which had been the cause of great agitation in the United States.

Mr. F. further remarked, that he was prepared, and had intended, to take an extensive view of the subject; to have examined the real and supposed merits and defects of the Treaty; to have stated the advantages it secures to this country, and to have commented on the objections which had been offered against it; but so much had been said by the gentlemen who had preceded him in the debate, and the subject had been so fully and so ably discussed, he should not feel himself justified in consuming much of the time of the Committee.

He was heretofore one of those who considered the negotiation as advisable; it appeared to him the only means by which the horrors of war were to be avoided. He therefore rejoiced when the President appointed an Envoy for the purpose of negotiation; nor did he yet find any reason to apprehend the measure was injudicious. Far otherwise. He believed it was right, proper, and advisable; and that the result would prove highly advantageous and fortunate for our country. He further said that he had critically examined the various articles of the Treaty; that he had weighed the arguments for and against them, jointly and severally; that he had considered them with all the attention their importance required; and though, in some instances, we might have wished an extension of advantages on our side, he was bound, in conscience, to declare that he thought

the Treaty as beneficial to us as we had a right to expect.

What were its objects? To settle between the two nations existing differences, and to adopt such regulations as should prevent them in future. The basis of all Treaties is the mutual advantage of the contracting parties. It is not to be expected the benefits should be on one side only; they must be reciprocal, or they will not be lasting. Experience will teach us that the commercial regulations contemplated in the Treaty with Great Britain, are as favorable to us as they are to that nation. It is the opinion of many of the best informed mercantile characters, they are more so. As to the other part, which was infinitely more momentous, the settlement of existing differences, our utmost wishes will be achieved, unless prevented by imprudent measures, and the exercise of an ill-timed discretion, as gentlemen are pleased to call it, on our part.

Indemnification for the injuries done to our commerce, the surrender of the Western posts, an consequent facility of maintaining peace with the Indian tribes, the amicable adjustment of an old and tedious controversy, and an honorable escape from the dangers and horrors of a foreign war, are great and important advantages, obvious to every one who has paid any attention to the subject.

The right of the President, by and with the advice and consent of the Senate, to make Treaties, is a principle clearly defined by the Constitution. Not a single power delegated by the Constitution to any one branch of the Government is defined in terms more explicit, or less liable to be misunderstood, than those which define the Treaty-making power of the United States; and, during the whole course of the former and present debates, Mr. F. observed, he had not been able to raise a doubt in his own mind on the subject. The Treaty under consideration had been duly made and ratified by the proper authority, constituted for this purpose by the people of the United States: as such it was now before the Committee, and demanded their serious attention and respect. The subject was allowed by all to be of importance. To him it appeared more momentous than any other which, at any time since the establishment of the Government, had engrossed the attention of Congress. He viewed it not as a question of peace or war only, but as involving questions of far greater magnitude. He meant the present unexampled prosperity of this country, our political happiness, our excellent Constitution, and, probably, in its consequences, the existence of the national Government.

He concluded, by observing that, impressed as he was with these sentiments, he could not hesitate a moment to vote for the proposition on the table, and he hoped a majority of the Committee would be of the same opinion.

Mr. Kitchell said, he could throw no new light upon the subject under discussion; he wished only to express a few ideas which would lead him to support the resolution in its present form. He did not believe the Treaty to be that box of Pandora, which was to scatter evils of every kind upon the land. He believed there were stipulations in favor of the United States, as well as in favor of Great Britain; and when the Ministers of the two nations enter into contract, it must be expected that stipulations will be agreed to on each side which will not appear perfectly satisfactory to either, as certain concessions must be made on both sides.

He would mention only the probable consequences of rejecting the Treaty. The disposition of the two nations towards each other at the time of entering into negotiation was well known. The spoliations and injuries done to the American vessels had wound up American resentment to the highest pitch. Happily for America, Britain saw cause to change her system of aggression. He believed, with some other gentlemen, that Britain had not only formed the plan of crushing the rising liberties of France, but also of extending her views to America; but, from a reverse of fortune, she found it necessary to employ all her resources against France. There was another thing, the people of England were clamorous on account of the injuries done to the vessels of America; they were seen to be unjust, and were publicly reprobated. These circumstances were favorable to our negotiation, and he believed they could at no time have got a better Treaty, than at the time the present was agreed upon.

He said, they had only three alternatives. Either to give aid to the Treaty, continue to bear the insults of Great Britain, or else to determine resolutely on the dernier resort, war.

First, as to giving aid to the Treaty. Every gentleman had formed his own conclusions on the subject. Was it possible that they could submit to the continued depredations of the British? If they did so, should they be in a better situation than the Treaty would put them into. He believed not; and therefore he thought it best to give aid to the Treaty. By this Treaty they should also have peace with the Indians; but if it was rejected, war the most grievous to our frontier might be expected to continue. If the nation went to war, the gauntlet was thrown, and all was risked upon the decision. They were not now bound by that duty to go to war, which bound them in their war for independence. They were yet in infancy, and a war would increase their debts, reduce their strength, destroy their commerce, and leave too much to the chance of war, to say nothing of the horrors attendant on such a state.

He believed it would, therefore, be much the best to make provision for the Treaty. It was difficult to bring forward any argument which had not already been urged. One thing had been brought forward which he thought illusory, that, if they did not carry the Treaty into effect, recompense would be made for the losses of their merchants by Government. He should think himself criminal if he were to agree to any such thing. If they were to indemnify them, an inquiry must be instituted into the exact amount of losses, or else they must grant compensation by the gross. But

he thought merchants might as well call upon them to make good losses sustained by storms.

This idea, therefore, ought not to be held out to merchants, as he was of opinion, Government would never agree to such a proposition. He could not say anything in respect to the probability of getting the amount of the spoliations from Great Britain; she had said as much as she could, and he believed it would be best to see whether she would not perform her promises.

The gentlemen from North Carolina and Virginia, [Mr. Holland and Mr. Moore,] declined voting for carrying the Treaty into effect, because the powers of that House were involved in the vote. He said they might as well doubt the powers of speech whilst they were speaking, as the power of deliberating whilst they were in the act of deliberation. The resolution on the table was founded upon that right. The majority of that House would, in all cases, determine whether it had a deliberative voice or not. If they had not now possessed the power of deliberating, they would not have been suffered to have gone on in their deliberations, but have been called to order. This was, therefore, a complete answer to that objection; and if those gentlemen had no other objections against voting for the Treaty, they must now vote for it.

Mr. K. said, that if he supposed a principle was to be sanctioned by carrying into effect the British Treaty, that that House had not the right to deliberate upon the propriety of passing laws to carry into effect all Treaties which came before them, he would also vote against it; but he thought no such thing. He was convinced that they had the power to deliberate, and that they ought to deliberate. He felt himself under a moral obligation to vote for the Treaty, because he believed it for the good of the United States that it should go into effect. He hoped the Committee would concur in giving it aid.

This consideration, he said, ought to have some weight upon them. If they declined giving effect to the Treaty, would it not be said in Great Britain, that when a Treaty was made it was binding on a nation; and would not the people of that country be convinced we were to blame, and unite against us? And, he would ask, if the Treaty were to be rejected, whether the people of the United States would be united in their opinions against it? He believed they would not. He believed too many artful insinuations had been thrown out amongst the people to expect such an union of opinion. The situation of the United States, therefore, was infinitely worse prepared for war than it was two years ago, when every one joined in condemning the conduct of the British; but at the present, said he, if a war were to take place, our citizens would be divided against each other.

From these considerations, he had been impelled to give his vote for carrying the Treaty into effect. He hoped it would prove for the good of the Union; if not, he should acquit himself of having done what appeared to him the best at the time.

Mr. Griswold said, that in his opinion, the extensive view which the Committee were taking of the merits of the Treaty with Great Britain was unwarranted by the Constitution of the United States; that he did not believe any part of the Treaty-making power had been delegated to the House of Representatives; and that the Committee might with as much propriety examine the merits of the Constitution itself, for the purpose of deciding whether they would execute it or not, as to examine the Treaty in the manner which had been adopted in the Committee. He had, on a former occasion, delivered his opinions on that subject, and he would not attempt to repeat them; but, since the Committee had thought proper to take an extensive view of the merits of the Treaty, he would follow the example which had been set him, and submit a few observations upon that subject—more particularly as he believed that no discussion would prove injurious to that instrument. He should not, however, attempt to take a very extensive view of the subject, as gentlemen who had preceded him had exhausted almost every part of the subject, and left little to be said at that period of the debate.

Mr. G. said the Treaty embraced three great objects:

1. The execution of those parts of the Treaty of 1783, which remained unexecuted;
2. The settlement of disputes;
3. Stipulations for regulating the commercial and other intercourse between the two nations.

He said that it would be agreed on every side of the House that these objects were important; and if they had been justly and fairly secured by the stipulations of the Treaty, it would not be said that the Committee ought to feel dissatisfied with that instrument. He believed that this was really the case, and that the United States had no just cause to complain of the terms therein contained.

Several objections, however, had been made to that part of the Treaty which provided for the execution of the Treaty of 1783. It had been said that this Treaty did not provide for every part of the Treaty of Peace which remained unexecuted; and that conditions were annexed to the execution of those parts of that Treaty which had been provided for highly injurious to the interest of the United States. He said, if those objections were well founded, they formed a very serious objection to the present Treaty: but he could not find them by comparing or examining the two Treaties. The only article of the Treaty of Peace which it was said had been violated by the British Government, and was not provided for by the present Treaty, was that which respected the negroes and other property of the American inhabitants. He said he would not detain the Committee with many remarks on this part of the subject, as it had been very fully and ably explained by gentlemen who had gone before him: he only mentioned it for the purpose of reading that part of the Journal of Mr. Adams, one of the American negotiators of the peace, which immediately related to this subject. The same Journal had been already read by different gentlemen, in detached parts, but he

wished to bring the whole Journal at one view before the Committee. He said, however, that he ought to repeat what had been already said on the floor, that the article in question did not want any exterior aid to assist the Committee with an explanation. The words of the article were certain and explicit; they declared that the evacuation should be made "without carrying away any negroes or other property belonging to the American inhabitants;" and as it was universally agreed that the negroes who had been carried away consisted either of those who had fled from their masters during the war, on a promise of emancipation, or of those who had been taken as plunder in the period of hostility, no doubt could exist but that in all those cases the property in the negroes was changed; that they were no longer the property of American inhabitants, and of course that it was no violation of the Treaty to carry them away. And whatever might have since been said on that subject, he was convinced that the American Commissioners, at the close of the negotiation, had no idea of including in the Treaty of Peace a stipulation to secure a restoration of negroes then in the possession of the British army. To evince this fact, he said he would now read the Journal he had before alluded to. [He read some paragraphs from that Journal.]

Mr. G. said that it appeared, from the Journal he had read, on what ground the negotiation respecting the negroes stood. The British agent claimed a restitution of confiscated estates. To rebut this demand, the American Commissioners, among other things, claimed compensation for negroes and other property which had been taken as plunder in different periods of the war. Finding, however, that no agreement could be obtained on these contested points, they were all relinquished as impracticable; and the claim for negroes, which had been made for no other purpose than to rebut the claim for confiscated estates, was given up of course, and, at the moment of signing the Treaty, the article in question was inserted—not to secure a restitution of property which had been changed by the events of the war, but to secure, by stipulation, that the evacuations should be made without any destruction, or carrying away property really belonging to the American inhabitants. He said that it had always been a matter of surprise to him that any gentleman had put a different construction on this article; and he thought the parties had done wisely in excluding from the present Treaty a claim which did not possess even the shadow of justice.

Mr. G. said, that in respect to the injurious conditions which it had been said were annexed to the provision for executing the other articles of the Treaty of Peace, he was obliged to declare that those conditions which had been complained of, and which were annexed to the surrender of the posts, were in his opinion, if they might be called conditions, highly advantageous to the United States, and were conditions which this Government itself would have dictated, had we possessed the power. He certainly did not wish the regulations respecting the Northern frontier altered The most liberal and advantageous intercourse is opened between the United States and the Provinces of Canada; the whole fur trade (the capital part of which lies within the British territory) is thrown open to the enterprise of our merchants; the channels are opened for supplying the British settlements, through the United States, with every species of goods, not entirely prohibited, which the consumption of that country may demand, and which can be so easily furnished by means of our inland navigation.

The stipulations in favor of the British settlers living in the vicinity of the posts, Mr. G. said, were highly reasonable, and, he did not doubt, would promote the interest of this Government. Those settlers were not to be stripped of their property, and sent naked out of the country; they were not to be compelled to leave their old habitations and to seek new shelter on the other side of the Lakes; nor were they to be compelled to become citizens of a Government which they did not approve. They were left to enjoy the property which they possessed, with the liberty of choosing the Government to which they would owe allegiance. By this conduct, the United States will gain many important advantages. The liberality and justice of the stipulation will conciliate the feelings of the British traders, and convert their influence with the Indian tribes to our advantage; and, by retaining them within our own jurisdiction, we shall possess a surety for their good behaviour, in the custody of their persons, families, and estates. A different conduct might have been attended with serious evils. If this Government had forced the British settlers to the other side of the Lakes, their influence with the Indians would have been retained, and their passions stimulated with disappointment and revenge.

Objections, said Mr. G., have been made to the article which relates to the British debts. It was said that this article is opposed to the Constitution, inasmuch as it erects a tribunal for determining claims which infringes the power of the Judicial Courts; that the mode of proceeding prescribed to that tribunal exposes the United States to great and unnecessary losses, inasmuch as it enables the Commissioners to admit testimony now excluded by the Common-Law Courts, and to decide claims on the broad basis of justice without respecting statutes of limitation which may have run during the existence of legal impediments. In answer to such objections, he would only remark, that the power of the Commissioners did not interfere with any Judicial Court; it did not embrace an authority to decide controversies between individuals; its jurisdiction was limited to controversies between the two nations, with which individuals had nothing to do, and could extend only to those disputes where the events of law could afford no relief. The debtor who was protected by a statute of limitation, or by a failure of Common-Law testimony, could not be affected by the decision of the Commissioners: those decisions could not be given in evidence against him, or supply any defect in testimony, or relief against a statute of limitation.

He did not know what the amount of debts might be which had been lost by reason of those legal impediments which had existed against their legal recovery; he should regret as much as any man the misfortune of involving this country in the payment of large sums on this account; but the magnitude of the sum could form no objection in his mind to the justice of the stipulation. He said that the General Government, from the nature of its establishment, had become answerable to foreign nations for every fault of the State Governments. To the General Government alone must foreign nations look for compensation for losses or violation of Treaties; and, if the State Governments had, in any cases, suffered legal impediments to remain in the way of the recovery of just debts, and in consequence of these impediments the claims of creditors had been delayed, and the Common-Law evidence to support such claims lost by the delay, or statutes of limitation had run against them, he hoped it would never be said that the Government should avail itself of those circumstances. This would be persevering in the same line of injustice—first, to violate a compact by delaying a claim until the evidence of the claim is lost, or a statute of limitation had run against it, and then to avail ourselves of the defence which our own injustice had created. He believed that gentlemen could not seriously imagine that such conduct could be justified; and, although it might be true that this Government would, to a certain extent, be exposed to unfounded claims in consequence of this article, yet it ought to be remembered that we had brought this upon our own heads by violating the Treaty of 1783 in respect to those debts, and we ought not at this period to refuse justice, because by doing justice we should expose ourselves to partial misfortunes. He said, that the principles on which the Commissioners were to decide, were such as must meet the approbation of every honest man—such as this Government ought not to shrink from; they were the broad principles of justice, which ought to regulate the conduct of nations towards each other.

Under the head of disputes, two things were included—the settlement of boundaries, and the settlement of claims for mercantile losses. To the stipulations respecting the first of these objects, no objection had been made; and in respect to the second, he thought the terms equally unexceptionable.

It was a fact, well known, that many of the captures made in the West Indies were such as could be justified by the Law of Nations, whilst a great proportion were made in direct violation of our neutrality. It was apparent that discriminations must be made between these cases. For the first the British Government were not answerable, and for the last they had agreed to account. To ascertain the facts and make the discrimination, no mode could with justice be devised more favorable to the United States than the one stipulated by the Treaty. The British Government had gone as far as we could require; we were not concluded by the decisions of their Courts; our claims were still open to the examination of the Commissioners, who were to decide every claim on the principles of "equity, justice, and the Law of Nations." What other principles of decision gentlemen wanted, he could not imagine. For his part, he was contented with those he had named; and believing as he did that the Commissioners would be men of integrity, he could not doubt the propriety of their decisions.

Mr. G. said, that in respect to that part of the Treaty which was strictly of a commercial nature, he would make no remarks; he did not pretend to be a commercial man, and, if he had been, gentlemen thoroughly acquainted with the subject had fully explained it; but, he would ask the indulgence of the Committee, while he made a few remarks upon two of the temporary articles.

Objections, he said, had been made to the 18th article. It had been said that this article enlarges the list of contraband goods, and gives to the British nation the right of seizing our provision ships under circumstances where no seizure would be justified by the Law of Nations. He thought neither of these objections were well founded. It was true that the article in question did include a longer list of contraband goods than was included in some Treaties, but it was likewise true that it did not include so many articles as were contained in other Treaties; and it was equally true that the Law of Nations had left the subject of contraband goods without any specified definition, and that, under the general description of contraband goods, every article enumerated in this Treaty was included.

He was surprised to hear gentlemen say that any power (unauthorized by the Law of Nations) was given to the British Government over the provision-ships of the United States. If gentlemen would attend to the 18th article of the Treaty, they must be satisfied that the Law of Nations was meliorated in favor of neutrality, and that the provisions of the United States were, under no circumstances, liable to confiscation. The two last sections of that article related immediately to this point; the first of these two expressly stipulates that articles not generally contraband by the Law of Nations, but which from particular circumstances became so, and for that reason were to be seized, shall not be confiscated, but the owners thereof shall be speedily and completely indemnified. It is a principle universally understood, that provisions are not generally contraband, and can only become so from particular circumstances. Of course, in respect to provisions, it is expressly stipulated that whenever they become contraband according to the existing Law of Nations, and shall for that reason be seized, they shall not be confiscated. The last section respects a ship sailing to a blockaded port, without knowing the same to be blockaded. And here, again, the stipulation is in favor of neutrality. The ship is to be turned away, but cannot be detained, nor her cargo (if not contraband) confiscated, unless after notice she shall again attempt to enter. It may be asked, what shall be done with a provision-ship attempting to enter a blockaded port after notice, there being no express stipulation on this point? He said that a vessel under these circumstances could not be confiscated, because such a measure would be directly opposed to the preceding stipulation, as the cargo of the vessel did not consist of articles generally contraband, but of such as became so from particular circumstances. In his opinion, the vessel under such circumstances might be seized, detained, and disposed of, in the manner stipulated by the preceding section, and the owner must be speedily and completely indemnified.

The other temporary article on which he would submit a few observations, was that which restricted the subjects or citizens of the two nations from committing acts of hostility against each other, and declared, that if any subject or citizen of the parties respectively shall accept any foreign commission for arming any vessel to act as a privateer against the other party, such subject or citizen shall be treated as a pirate. To his surprise, gentlemen had objected to this stipulation—An article which was found in every other Treaty existing between the United States and foreign nations—an article founded on the principles of justice and humanity—and which ought to be included in all Treaties, and merited his warmest approbation.

Mr. G. said that he would ask the indulgence of the Committee while he made a few remarks on one other of the permanent articles in the Treaty. It was that which respected lands now held by the subjects or citizens of the one party in the territory of the other. Doubts have been suggested as to the extent of this article. It had been said that the stipulation of the article would restore confiscated estates, and revive titles which had been lost by alienage. He thought, if gentlemen would attend to the words of the article, they would be satisfied that their fears were unfounded: the expressions were, "who now hold land," not "who have held land." The import of these words had been very accurately defined by the gentleman from South Carolina [Mr. Harper] yesterday.

They could only relate to existing titles, and could have no effect on titles which had been lost by confiscation, alienage, or by other causes. He said there were, at this time, in both countries, lands which were now held by the subjects or citizens of the other. In the State from whence he came, lands were held by British subjects; they were held before the Revolution, and had never been confiscated; there were likewise instances of lands held in Great Britain by the citizens of the United States—lands which had descended before the American war, and now continued vested in the owners. These lands could be sold, but they could not descend to the heirs of the present proprietors, who would be aliens at the time when the descent should be cast, and could not take. But gentlemen will surely not object to the security given by this Treaty to the present proprietors of land. Those lands were honestly theirs, and it is certainly just and reasonable that they should be secured in their rights.

He said, he would take up no further time in remarking upon the merits of the Treaty; he was persuaded, if the Committee would candidly examine its contents, they would be satisfied of its propriety; and if the House did in reality possess that power which had been claimed, of ratifying and rejecting Treaties, they would not refuse their assent to the Treaty in question. But if gentlemen will reflect on the consequences which, under present circumstances, must await a violation of the Treaty, they cannot hesitate on this occasion.

He knew that gentlemen had said that every consideration of the consequences which must flow from a rejection of the Treaty was improper, and, in its nature, an address to the fears of the Committee, and an attempt to excite an improper alarm. He did not understand such expressions. He had never heard, on any other occasion, that a Legislature were to adopt a measure, regardless of consequences. He had always supposed that it was highly important to know what the probable consequences of measures would be, before they were adopted, and being still of the same opinion, he should take the liberty of stating to the Committee what he believed would be the effect of violating the Treaty, without fearing to be charged with the name of a terrorist.

Mr. G. said, he could hardly imagine that any gentleman would seriously support the opinion which had been delivered on that floor, "that, in case the present Treaty was rejected, a new Envoy might be sent to Great Britain, and a new Treaty immediately concluded." He wished the gentleman who had advanced this opinion would inform the Committee how this business was to be done. Were the House of Representatives to send an Envoy on this errand, he believed that no gentleman had become mad enough to propose this expedient. It must be agreed that no department in this Government can appoint an Envoy but the Executive. The appointment must be made by the President. And with what face can he do this? He has already told us, said Mr. G., that the power of making Treaties is exclusively vested in the President, with the consent and advice of the Senate, and that a Treaty thus made becomes the law of the land; and it can hardly be expected that the reasons which have been delivered in this House will convince the President of any error in his opinion, or that he would send an Envoy to the Court of London to say so. What instructions, then, can the President give to his Minister, if he should gratify the wishes of gentlemen, and send one to Europe? He must instruct him to say to the British Court, that he had taken the Constitution of the United States for his guide in the former negotiation; that he then believed, and still believed, that the power of making Treaties was exclusively vested in the President and Senate; that the Senate passed the same opinion; that, under these impressions, he had completed and ratified the Treaty, and, in the last article of that instrument, had solemnly pledged the faith of his country for the observance of the Treaty; but that the House of Representatives, for some cause or other, would not execute the Treaty with good faith, and had claimed a power of sanctioning Treaties by law,

which, in his opinion, was unwarranted by the Constitution; but, as the House of Representatives were not pleased with the Treaty already concluded, he had sent his Envoy to make another, which he hoped would please them better. Can any gentleman imagine that the President of the United States will prostrate his character by a conduct so shameful as this must be? Or can it be believed that the British nation would consent to negotiate with a Government quarrelling with itself respecting the powers of its several departments? He believed that no gentleman could be found in the Committee seriously to imagine anything of this nature could take place.

He wished gentlemen, under these circumstances, to pause, and seriously inquire what consequences must probably result from such a state of things? We have, said Mr. G., serious disputes and important claims on the British Government. The nature of the thing admits of but three modes of settlement. We must settle our disputes by negotiation, we must tamely submit to the injuries we have received, and to others which will await us, or we must satisfy our demands by war.

The possibility of the first expedient will be excluded by a violation of the present Treaty. The second, he believed, to be too disgraceful to meet the approbation of the American mind. The people of this country would not put up with the injuries they had already received; but, if they should tamely submit to past indignities, what security can they receive against the future? It is a fact well known that the freebooters in the West Indies cannot be restrained by their own Government; they speculate on peace and on war, and the moment they find the present Treaty rejected, and all hope of future negotiation at an end, they will sweep the ocean of the property of our merchants, and find no difficulty in procuring in their Colonial Courts decrees of condemnation. Mr. G. said that he had no idea that Great Britain would declare war against this Government in consequence of the rejection of the Treaty; but when those unauthorized depredations on our commerce took place, which must follow the rejection of it, he firmly believed that, whether authorized by Government or not, America would make reprisals, the certain consequence of which must be war.

Considering the subject in these points of view, he had no hesitation in saying the resolution on the table ought to be adopted.

Mr. Gallatin said he would not follow some of the gentlemen who had preceded him, by dwelling upon the discretion of the Legislature—a question which had already been the subject of their deliberation, and been decided by a solemn vote. Gentlemen who had been in the minority on that question might give any construction they pleased to the declaratory resolution of the House; they might again repeat that, to refuse to carry the Treaty into effect, was a breach of the public faith, which they conceived as being pledged by the President and Senate. This had been the ground on which a difference of opinion had existed since the beginning of the discussion. It was because the House thought the faith of the nation could not, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the Legislature, that they had resolved that, in all such cases, it was their right and duty to consider the expediency of carrying a Treaty into effect. If the House thought the faith of the nation already pledged, they could not claim any discretion; there would be no room left to deliberate upon the expediency of the thing. The resolution now under consideration was merely "that it was expedient to carry the British Treaty into effect," and not whether they were bound by national faith to do it. He would, therefore, consider the question of expediency alone; and, thinking as he did, that the House had full discretion on the subject, he conceived that there was as much responsibility in deciding in the affirmative as in rejecting the resolution; that they would be equally answerable for the consequences that might follow from either.

It was, however, true that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we were at present; and that consequences would follow the refusal to carry into effect the Treaty in its present stage, which would not have attended a refusal to negotiate, and to enter into such a Treaty. The question of expediency, therefore, assumed before them a different and more complex shape than when before the negotiator, the Senate, or the President. The Treaty, in itself, and abstractedly considered, might be injurious; it might be such an instrument as, in the opinion of the House, ought not to have been adopted by the Executive; and yet, such as it was, they might think it expedient, under the present circumstances, to carry it into effect. He would, therefore, first take a view of the provisions of the Treaty itself, and in the next place, supposing it injurious, consider, in case it was not carried into effect, what would be the natural consequences of such refusal.

The provisions of the Treaty relate either to the adjustment of past differences or to the future intercourse of the two nations. The differences now existing between Great Britain and this country arose either from the non-execution of some articles of the Treaty of Peace, or from the effects of the present European war. The complaints of Britain in relation to the Treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late Treaty had provided adequate remedy on that subject; the United States were bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain was removed.

Having thus done full justice to the other nation, America had a right to expect that equal attention should be paid to her claims arising from infractions of the Treaty of Peace, viz: compensation for the negroes carried away by the British; restoration of the Western posts, and indemnification for their detention.

On the subject of the first claim, which had been objected to as groundless, he would observe, that he was not satisfied that the construction given by the British Government to that article of the Treaty was justified even by the letter of the article. That construction rested on the supposition that slaves came under the general denomination of booty, and were alienated the moment they fell in the possession of an enemy, so that all those who were in the hands of the British when the Treaty of Peace was signed, must be considered as British, and not American property, and were not included in the article. It would however appear, by recurring to *Vattel*, when speaking of the right of *postliminium*, that slaves were not considered as part of the booty which was alienated by the act of capture, and that they were ranked rather with real property, to the profits of which only the captors were entitled. Be that as it may, there was no doubt that the construction given by America was that which had been understood by the parties at the time of making the Treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, [Mr. Corr.] proved this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London, can it be supposed that he would have laid so much stress on a clause which, according to the new construction now attempted to be given, meant only that the British would commit no new act of hostility? would not carry away slaves at that time in possession of Americans? Congress had recognised that construction by adopting the resolution which had been already quoted, and which was introduced upon the motion of Mr. Alexander Hamilton; and it had not been denied that the British Ministry, during Mr. Adams's embassy, had also agreed to it.

But when our negotiator had, for the sake of peace, waived that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debt; when he had thus given up every thing which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the Western posts should have been restored according to the terms of the Treaty of Peace. Upon what ground the British had insisted, and our negotiator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, Mr. G. was at a loss to know. British traders were all allowed, by the new Treaty, to remain within the posts without becoming citizens of the United States, and to carry on trade and commerce with the Indians living within our boundaries, without being subject to any control from our Government. In vain was it said, that if that clause had not been inserted we would have found it our interest to effect it by our own laws. Of this we were alone competent judges; if that condition was harmless at present, it was not possible to foresee whether, under future circumstances, it would not prove highly injurious; and, whether harmless or not, it was not less a permanent and new condition imposed upon us. But the fact was, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men who had been the instruments used by Great Britain to promote Indian wars on our frontiers, by obliging us to suffer those men to continue their commerce with Indians living in our territory, uncontrolled by those regulations, which we had thought necessary, in order to restrain our own citizens in their intercourse with these tribes, Great Britain had preserved her full influence with the Indian nations; by a restoration of the posts under that condition, we had lost the greatest advantage that was expected from their possession, viz: future security against the Indians. In the same manner had the British preserved the commercial advantages which resulted from the occupancy of these posts, by stipulating as a permanent condition a free passage for their goods across our portages, without paying any duty.

Another article of the new Treaty, which was connected with the provisions of the Treaty of 1783, deserved consideration—he meant what related to the Mississippi. At the time when the navigation of that river to its mouth was, by the Treaty of Peace, declared to be common to both nations, Great Britain had communicated to America a right, which she held by virtue of the Treaty of 1763, and as owner of the Floridas; but since that cession to the United States, England had ceded to Spain her claim on the Floridas, and did not own at the present time an inch of ground, either on the mouth or any part of that river. Spain now stood in the place of Great Britain, and by virtue of the Treaty of 1783, it was to Spain and America, and not to England and America, that the navigation of the Mississippi was at present to be common. Yet, notwithstanding that change of circumstances, we had repeated that article of the former Treaty in the late one, and had granted to Great Britain the additional privilege of using our ports on the eastern side of the river, without which, as they owned no land thereon, they could not have navigated it. Nor was this all. Upon a supposition that the Mississippi did not extend so far northward as to be intersected by a line drawn due west from the Lake of the Woods, or, in other words, upon a supposition that Great Britain had not a claim even to touch the Mississippi, we had agreed, not upon what would be the boundary line, but that we would hereafter negotiate to settle that line.

Thus leaving to future negotiation what should have been finally settled by the Treaty itself, in the same manner as all other differences were, was calculated for the sole purpose either of laying the foundation for future disputes, or of recognising a claim in Great Britain on the waters of the Mississippi, even if their boundary line left to the southward the sources of that river. Had not that been the intention of Great Britain, the line would have been settled at once by the Treaty,

according to either of the two only rational ways of doing it in conformity to the Treaty of 1783, that is to say, by agreeing that the line would run from the northernmost source of the Mississippi either directly to the western extremity of the Lake of the Woods, or northwardly till it intersected the line to be drawn due west from that lake. But by repeating the article of the Treaty of 1783; by conceding the free use of our ports on the river, and by the insertion of the 4th article, we had admitted that Great Britain, in all possible events, had still a right to navigate that river from its source to its mouth. What might be the future effects of those provisions, especially as they regarded our intercourse with Spain, it was at present impossible to say; but, although they could bring us no advantage, they might embroil us with that nation, and we had already felt the effect of it in our late Treaty with Spain, since we were obliged, on account of that clause of the British Treaty, to accept as a gift and favor the navigation of that river, which we had till then claimed as a right.

The seventh article of the Treaty was intended to adjust those differences which arose from the effects of the present European war. On that article, it might also be observed, that whilst it provided a full compensation for the claims of the British, it was worded in such a manner, when speaking of the indemnification for spoliations committed on the American commerce, as would render it liable to a construction very unfavorable to our just claims on that ground. The Commissioners to be appointed by virtue of that article, were to take cognizance, and to grant redress only in those cases where, by reason of irregular or illegal captures or condemnations made under color of authority or commissions from the King of Great Britain, losses had been incurred, and where adequate compensation could not now be actually obtained by the ordinary course of judicial proceedings. If Great Britain should insist that, since the signing of the Treaty, they had, by admitting appeals to their Superior Courts, afforded a redress by the ordinary course of judicial proceedings; if those Courts were to declare, that the captures complained of, were neither illegal nor made under color, but by virtue of authority or commissions from the King; and if that construction should prevail with the Commissioners, the indemnification which our plundered merchants would actually receive, in consequence of the provisions of this article, would fall very far short of their expectations and of their just claims. Yet that article, considering the relative situation of the two countries, at the time when the negotiation took place, was as much as could reasonably have been expected by America. When a weak nation had to contend with a powerful one, it was gaining a great deal if the national honor was saved even by the shadow of an indemnification, and by an apparent concession on the part of the aggressor; and however objectionable that article might appear at first view, he was on the whole satisfied with it.

The remaining provisions of the Treaty had no connexion with past differences; they made no part of the Convention which had been the avowed object of Mr. Jay's mission; they applied solely to the future intercourse of the two nations as relating to commerce and navigation; and had they been entirely omitted, our differences would have been nevertheless adjusted. It was agreed on all hands, that so far as related to our commerce with Great Britain, we wanted no Treaty. The intercourse, although useful perhaps to both parties, was more immediately necessary to England, and her own interest was a sufficient pledge of her granting us at all times a perfect liberty of commerce to her European ports. If we want to treat with her, it must be in order to obtain some intercourse with her colonies, and some general security in our navigation.

The twelfth and thirteenth articles had been obtained by our negotiator with a view to the first object. The twelfth article, however, which related to our intercourse with the West Indies, was found, upon examination, to be accompanied by a restriction of such a nature, that what had been granted by Great Britain as a favor, was rejected by the Senate as highly injurious. The thirteenth article, which related to the East Indies, and remained part of the Treaty, was, like the twelfth, conferring a favor limited by restrictions, and so far as he could depend upon the opinion of the best-informed judges on that subject, those restrictions put the trade in a more disadvantageous situation than it was before the Treaty. As the West India article had declared that we should not re-export any produce of those islands to Europe, so the East India article, at the same time it granted us the privilege, which we enjoyed before, and which we enjoyed because it was the interest of the East India Company to grant it to us, that of being admitted in the British seaports there, had forbidden our carrying any articles from thence to any place except to America; which regulation amounted to a total prohibition to export East India articles to China, or to obtain freights back to Europe; and, upon the whole, he could not help thinking, from what had fallen on that floor, and what he had heard elsewhere from gentlemen of great commercial knowledge, that if the East India Commerce had been as generally understood in America as the West India trade, that so much boasted of article would have met the same fate in the Senate with the twelfth article.

But if, leaving commercial regulations, we were to seek in the Treaty for some provision securing to us the free navigation of the ocean against any future aggressions on our trade, where were they to be found? He could add nothing to what had been said on the subject of contraband articles: it was, indeed, self-evident, that connecting our Treaty with England on that subject with those we had made with other nations, it amounted to a positive compact to supply that nation exclusively with naval stores whenever they were at war. Had the list of contraband articles been reduced, had naval stores and provisions—our two great staple commodities—been declared not to be contraband, security would have been given to the free exportation of our produce; but instead of any provision having been made on that head, an article of a most doubtful nature, and on which he would remark afterwards, had been introduced. But he meant, for the present, to confine his observations to the important question of free bottoms making free goods. It was with the utmost astonishment he had heard the doctrine advanced on this floor, that such a provision, if admitted, would prove injurious to America, inasmuch as, in case of war between this country and any other nation, the goods of that nation might be protected by the English flag. It was not to a state of war that the benefits of that provision would extend; but it was the only security which neutral nations could have against the legal plundering on the high seas, so often committed by belligerent Powers. It was not for the sake of protecting an enemy's property; it was not for the sake of securing an advantageous carrying trade; but it was in order effectually to secure ourselves against sea aggressions that that provision was necessary. Spoliations might arise from unjust orders given by the Government of a belligerent nation to their officers and cruisers, and these might be redressed by application to and negotiation with that Power. But no complaints, no negotiations, no orders of Government itself, could give redress, when those spoliations were grounded on a supposition that the vessels of a neutral nation had an enemy's property on board; as long as such property was not protected by the flag of the neutral nation, as long as it was liable to be captured, it was not sufficient, in order to avoid detention and capture, to have no such property on board. Every privateer, under pretence that he suspected an enemy's goods were part of a cargo, might search, vex, and capture a vessel; and if in any corner of the dominions of the belligerent Power, a single Judge could be found inclined if not determined to condemn, at all events, before his tribunal, all vessels so captured would be brought, and the same pretence which had caused the capture would justify a condemnation. The only nation who persisted in the support of that doctrine, as making part of the Law of Nations, was the first maritime Power in Europe, whom their interest, as they were the strongest, and as there was hardly a maritime war in which they were not involved, led to wish for a continuation of a custom, which gave additional strength to their overbearing dominion over the seas. All the other nations had different sentiments and a different interest.

During the American war, in the year 1780, so fully convinced were the neutral nations of the necessity of introducing that doctrine of free bottoms making free goods, that all of them, excepting Portugal, who was in a state of vassalage to, and a mere appendage of Great Britain, had united in order to establish the principle, and had formed for that purpose the alliance known by the name of the Armed Neutrality. All the belligerent Powers, except England, had recognised and agreed to the doctrine. England itself had been obliged, in some measure, to give for a while a tacit acquiescence. America had completely, at the time, admitted the principle, although they were then at war [Mr. G. quoted on this subject the Journals of Congress of the year 1780, page 210, and of the year 1781, page 80] and it had been introduced in every other Treaty we had concluded since our existence as a nation. Since the year 1780, every nation, so far as his knowledge went, had refused to enter into a Treaty of Commerce with England, unless that provision was inserted. Russia, for that reason, would not renew their Treaty, which had expired in 1786, although he believed that, during the present war, and in order to answer the ends of the war, they had formed a temporary Convention, which he had not seen, but which, perhaps, did not include that provision. England had consented to it in their Treaty with France in 1788, and we were the first neutral nation who abandoned the common cause, gave up the claim, and, by a positive declaration inserted in our Treaty, had recognised the contrary doctrine. It had been said, that under the present circumstances, it could not be expected that Great Britain would give up the point; perhaps so; but the objection was not, that our negotiator had not been able to obtain that doctrine, but that he had consented to enter into a Treaty of Commerce (which we did not want, and which had no connexion with an adjustment of our differences with Great Britain) without the principle contended for making part of that Treaty. Unless we could obtain security for our navigation, we wanted no Treaty; and the only provision which could give us that security, should have been the *sine qua non* of a Treaty. On the contrary, we had disgusted all the other neutral nations of Europe, without whose concert and assistance there was but little hope that we should ever obtain that point, and we had taught Great Britain that we were disposed to form the most intimate connexions with her, even at the expense of recognising the principle the most fatal to the liberty of commerce, and to the security of our navigation.

But, if we would not obtain anything which might secure us against future aggressions, should we have parted, without receiving any equivalent, with those weapons of self-defence, which although they could not repel, might, in some degree, prevent any gross attacks upon our trade, any gross violation of our rights as a neutral nation? We had no fleet to oppose or to punish the insults of Great Britain; but, from our commercial relative situation, we had it in our power to restrain her aggressions by restrictions on her trade, by a total prohibition of her manufactures, or by a sequestration of the debts due to her. By the Treaty—not satisfied with receiving nothing; not satisfied with obtaining no security for the future—we had, of our own accord, surrendered those defensive arms for fear they might be abused by ourselves. We had given up the two first for the whole time during which we might want

them most—the period of the present war—and the last, the power of sequestration, we had abandoned forever: every other article of the Treaty of Commerce was temporary, this perpetual.

Mr. G. was not going to enter into a discussion of the immorality of sequestering private property. What could be more immoral than war? or the plundering of the high seas legalized under the name of privateering? Yet self-defence justified the first, and the necessity of the case might, at least in some instances, and where it was the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner the power of sequestration might be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It was the last peace-measure that could be taken by a nation; but the Treaty, by declaring that in case of national differences it should not be resorted to, had deprived us of the power of judging of its propriety, had rendered it an act of hostility, and had effectually taken off that restraint which a fear of its exercise laid upon Great Britain.

Thus it appeared that, by the Treaty, we had promised full compensation to England for every possible claim they might have against us, that we had abandoned every claim of a doubtful nature, and that we had consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated. That, after having obtained, by those concessions, an adjustment of past differences, we had entered into a new agreement, unconnected with those objects, which had heretofore been subjects of discussion between the two nations; and that, by that Treaty of Commerce and Navigation, we had obtained no commercial advantage which we did not enjoy before; we had obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we had parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence, which was calculated to give us any security.

There was yet another article which stood by itself, unconnected either with adjustment of past disputes, or with commercial regulations; he meant the ninth article, which provides that British subjects now holding lands in the United States should continue to hold them, and might sell or devise the same, and that neither they, nor their heirs or assigns should, so far as might respect the said lands, and the legal remedies incident thereto, be regarded as aliens. Mr. G. said he was not a lawyer, and, in expressing an opinion, he meant nothing more than to communicate his doubts, and ask for an explanation. There would be no difficulty in finding the meaning of the article, did it apply only to those British subjects, who had acquired lands under the laws of the States; but the former connexion of this country with England rendered the subject difficult to be explained, even by men of legal abilities; for its explanation must depend on the consequences of a principle unknown to the laws of England.

The principle of the English law was, that no subject could shake off his allegiance; that is to say, that no man, who was once a citizen, could become an alien. Yet, by the effect of the Revolution, British subjects, who before 1776, had a right to hold lands in America as part of the British Empire, had become aliens in the United States, and the effect of that alienage upon their titles to such lands, and how far that effect was changed by the operation of the Treaty, seemed to him to be questions of a very nice nature. He would, however, beg leave to suggest, what to him appeared to be the effect of the Treaty. So far as lands had been confiscated by the laws of any State, and those laws carried into effect, and so far as, such lands having been considered as escheated, an office had been found and the escheat been completed, he conceived the Treaty would create no alteration; but where the lands had not been confiscated, either because no laws had been passed for that purpose, or because they had not been carried into effect before the Treaty of 1783, and where the legal formalities of finding an office, &c., necessary to complete an escheat had been neglected, it seemed to him the Treaty might operate in three ways. Firstly, it would prevent any State from completing an escheat by finding an office, &c., when they had neglected doing it. Secondly, it would enable the British subjects to sell or devise, and therefore to convert their life estate into a fee-simple forever. And thirdly, it would enable those subjects to institute suits in Courts for the recovery of those lands, providing them with a legal remedy they had not before, since their alienage would have been a sufficient bar against bringing real actions. If the Treaty might be supposed to have that effect, its tendency, so far as related, not to private estates, but to the former proprietary estates, might prove vexatious and injurious to several of the States. It would strengthen the proprietary claims of the Penn family, not in Pennsylvania, but in the State of Delaware. It might have some effect on the decision of the Fairfax claim in Virginia, and even on such parts of the lands of Maryland which had been sold, although formerly the property of the Baltimore family, as vacant lands, and not as confiscated lands.

In North Carolina the proprietary claim of the Grenville family, which included the best half of that State, and of the Southwestern Territory, might be revived by the Treaty; for although a law had passed in that State to confiscate the lands of all the British subjects who would be absent on a certain day; yet the proprietary lands were not meant to be comprehended within that provision; the Commissioners, who were to sell the confiscated property, never disposed of a single acre of the lands which were granted by another law of the State as vacant, and not as confiscated lands, without having been actually escheated to the State by an office being found, or any other formality whatever; and they were even expressly distinguished from land to be confiscated by the very act passed for the purpose of confiscating. [Mr. G. here read the clause of the

act he alluded to.] Supposing, however, every thing he had said on that subject as very doubtful, it was not less true that this article, which, under an appearance of reciprocity, granted a positive advantage to Great Britain, without any equivalent being given, was, if not an infraction, at least a restriction over the Legislative powers; and an exception to the laws of the different States on a subject of a delicate nature, might involve not only some of our citizens, but even several of the States, in complex law suits and serious embarrassment, and, although it might thus create much mischief, would give us no possible benefit.

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Should the Treaty be finally defeated, either new negotiations would be more successful, or Great Britain would refuse to make a new arrangement, and leave things in the situation in which they were, or war would be the consequence. Mr. G. said that he would, in the course of his observations, make some remarks on the last supposition; he did not think that the first would be very probable at present, and he was of opinion that, under the present circumstances, and until some change took place in our own or in the relative political situation of the European nations, it was to be apprehended that, in such a case, new negotiations would either be rejected or prove unsuccessful. Such an event would have perhaps followed a rejection of the Treaty even by the Senate or by the President. After the negotiator employed by the United States had once affixed his signature, it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made would not eventually defeat, at least for a time, the prospect of a new Treaty. He conceived that the hopes of obtaining better conditions, by a new negotiation, were much less in the present stage of the business than they had been when the Treaty was in its inchoate form before the Executive; and in order to have a just idea of the consequences of a rejection at present, he would contemplate them upon that supposition which appeared to him most probable, viz: that no new Treaty would take place for a certain period of time.

In mentioning his objections to the Treaty itself, he had already stated the advantages which, in his opinion, would result to the United States from the non-existence of that instrument; he would not repeat but proceed at once to examine what losses might accrue that could be set off against those advantages.

As he was not sensible that a single commercial advantage had been obtained by the Treaty, he could not mention the loss of any, as a mischief that would attend its rejection. If, however, the East India article was supposed to be beneficial, it must, on the other hand, be conceded that we had enjoyed every benefit arising from it for a number of years, without Treaty, and consequently, because it was the interest of the East India Company that we should enjoy them; and that it was not probable that circumstances would so far change there, during the short period to which that article was limited, as to induce that Company to adopt a different policy towards us.

The indemnification to be obtained from Great Britain for spoliations on our trade, if considered as a national reparation for a national aggression, was, certainly, as he had already stated it, an important object gained by the Treaty. But if it was to be viewed as a money transaction, and its loss as a national loss of money, it would be well to examine, whether in that point of view, that of money, we would not be the gainers, on the whole, by not carrying the Treaty into effect? Mr. G. said that he had made no objection to that article of the Treaty which relates to British debts. Whatever the amount might be, if it was just that we should pay them, it was just to pay that amount; but when we were examining the situation in which we should be, if we had no Treaty, when we were calculating the losses we were to experience by obtaining no compensation for our claims, it was right to consider the amount of those claims, and to compare it with the probable amount of the claims of the other party, and of the sums of money which a non-execution of the Treaty, and a refusal on the part of Great Britain to do us justice, to indemnify us for our own losses, and to enter into new negotiations, would justify us in withholding. That subject had already undergone a full discussion, and he would recall the attention of the Committee only to the demand of Great Britain for interest on the British debts. It was well known that our Courts had uniformly refused to allow the British creditors the interest which had accrued on their demands during the late war, that is to say, during eight years. Although we had contended that those decisions could not be considered as legal impediments, yet it had been insisted by Great Britain that they were. The two Governments had come to issue on that point, as might be seen, by recurring to the printed correspondence of Mr. Jefferson. It was one of the points to which the jurisdiction of the Commissioners must extend, since, on account of decisions of our Courts, it was one of the cases where compensation could not be obtained, and had been refused by the ordinary course of judicial proceedings; and for greater security the Commissioners were, by the Treaty, empowered to take into their consideration all claims, whether of principal or interest, or balances of principal or interest. Those Commissioners must be considered less as judges than as political agents, who would come with a determination to support the claims contended for by their respective nations. They would, therefore, disagree on the subject of war-interest, and it would be left solely to the fifth Commissioner—that is to say, to lot—to decide

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The indemnification to be obtained from Great Britain for spoliations on our trade, if considered as a national reparation for a national aggression, was, certainly, as he had already stated it, an important object gained by the Treaty. But if it was to be viewed as a money transaction, and its loss as a national loss of money, it would be well to examine, whether in that point of view, that of money, we would not be the gainers, on the whole, by not carrying the Treaty into effect? Mr. G. said that he had made no objection to that article of the Treaty which relates to British debts. Whatever the amount might be, if it was just that we should pay them, it was just to pay that amount; but when we were examining the situation in which we should be, if we had no Treaty, when we were calculating the losses we were to experience by obtaining no compensation for our claims, if was right to consider the amount of those claims, and to compare it with the probable amount of the claims of the other party, and of the sums of money which a non-execution of the Treaty, and a refusal on the part of Great Britain to do us justice, to indemnify us for our own losses, and to enter into new negotiations, would justify us in withholding. That subject had already undergone a full discussion, and he would recall the attention of the Committee only to the demand of Great Britain for interest on the British debts. It was well known that our Courts had uniformly refused to allow the British creditors the interest which had accrued on their demands during the late war, that is to say, during eight years. Although we had contended that those decisions could not be considered as legal impediments, yet it had been insisted by Great Britain that they were. The two Governments had come to issue on that point, as might be seen, by recurring to the printed correspondence of Mr. Jefferson. It was one of the points to which the jurisdiction of the Commissioners must extend, since, on account of decisions of our Courts, it was one of the cases where compensation could not be obtained, and had been refused by the ordinary course of judicial proceedings; and for greater security the Commissioners were, by the Treaty, empowered to take into their consideration all claims, whether of principal or interest, or balances of principal or interest. Those Commissioners must be considered less as judges than as political agents, who would come with a determination to support the claims contended for by their respective nations. They would, therefore, disagree on the subject of war-interest, and it would be left solely to the fifth Commissioner—that is to say, to lot—to decide

whether that interest should be paid by the United States or not. Eight years' interest amounted to one half of the whole amount of debts due by America to Great Britain at the beginning of the war; for it must be remarked that that claim extended to all debts, whether good or bad, because it had been refused on all, and could be recovered by the ordinary course of judicial proceedings on none. What those debts amounted to, was very uncertain, and he had seen a variety of calculations on that subject. If they were estimated, as they had been by some, at five millions sterling, one half of them would amount to more than twelve millions of dollars; and when we took into consideration the amount of principal we should have to pay, on the principles stated by a gentleman from Virginia, [Mr. Nicholas,] his calculation of near fifteen millions of dollars in the whole would not be exaggerated. But even taking the amount of those debts at the lowest estimate, the amount of war-interest, and of the principal we would have to pay, far exceeded the amount which the most sanguine amongst us expected to recover from the Government of Great Britain, by virtue of the Treaty, on account of the spoliations committed on our trade.

The only positive loss, therefore, which in his opinion would arise from our having no Treaty, was that of the Western posts. He had already stated that, surrendered in the manner settled by the Treaty, he conceived them to be of very insignificant value in a commercial point of view, and of little use, if any, as a security against the Indians; for it must be remembered that our own laws, for the purpose of preserving peace with those tribes, had enacted, under severe penalties, that our own citizens should, on no account whatever, cross over the boundary line between them and ourselves, (although within the territory ceded to us by Great Britain,) unless they had special licenses from our Government. It was, therefore, our own opinion that peace could not be preserved with the Indians, if ever our own citizens had a free and uncontrolled intercourse with them. And yet it was a positive condition of the Treaty, that the British traders settled at Detroit and the other posts—men, who from habit, were attached to Great Britain and inimical to the United States, who had given repeated proofs of that enmity, who possessed an unbounded influence amongst the Indians, and had been the chief promoters of the Indian war—that these men should remain there as British subjects; and that they and all other British subjects should have the privilege forever to pass over that line, which we had forbidden our citizens to cross, and should continue to carry on with the Indians living within our territory a free trade and commerce, uncontrolled by our laws and by those regulations which we had imposed or might impose on our citizens. In other words, we had agreed that these men should preserve their baneful influence over the Indians, and their allegiance to Great Britain; and we might, therefore, expect that influence to be exerted as would suit the interest, and in conformity to the directions of their Sovereign.

He must therefore repeat that, as he had thought that at any time since 1789, we might have had the posts without these conditions, provided we had then agreed, as we had by the late Treaty, to make a compensation for the British debts, he had much rather that we could again be placed in the situation in which we were two years ago. And he would not hesitate to declare that, in his opinion, our claim to the posts and the chance we had to claim them, by negotiation, in the year 1793, was better than their possession upon the terms of the Treaty. But as the question now was not what would be best to be done if no Treaty had been made—as the negotiator had put us in a worse situation than we were in before that Treaty; as the subject of the present examination shows the consequences that would follow, if no Treaty at all was made; and as one of those consequences would undoubtedly be a further detention of the posts, and less hope to obtain them in future—he would certainly agree that it was better to have them, even encumbered with these conditions, than not to have them at all. For although they might not be of any immediate advantage, either as a commercial object or as giving security against the Indians, their possession would enable us to prevent a further extension of the British settlements within our territory, and, by forming settlements of our own, to acquire, by degrees, sufficient strength in that quarter to have nothing to fear either from the British or from the Indians.

The further detention of the posts, the national stain that would result from receiving no reparation for the spoliations on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, were the three evils which struck him as resulting from a rejection of the Treaty; and when to these considerations he added that of the present situation of the country, of the agitation of the public mind, and of the advantages that would arise from union of sentiments, however injurious and unequal he conceived the Treaty to be, however repugnant it might be to his feelings and perhaps to his prejudices, he felt induced to vote for it, and would not give his assent to any proposition which would imply its rejection. But the conduct of Great Britain since the Treaty was signed, the impressment of our seamen, and their uninterrupted spoliations on our trade, especially by seizing our vessels laden with provisions—a proceeding which they might, perhaps, justify by one of the articles of the Treaty—were such circumstances as might induce them to pause awhile, in order to determine whether it was proper, immediately, and without having obtained any explanation thereon, to adopt the resolution on the table, and to pass at present all the laws necessary to carry the Treaty into effect.

The 18th article of the Treaty, the provision article, as it was called, had already been fully investigated by a gentleman from Virginia, [Mr. Nicholas,] and he had been astonished that those gentlemen who had spoken in favor of the Treaty, had given no direct answer to his remarks on that point.

Mr. G. proceeded then to state the second clause of that article, which declares that "whenever provisions becoming contraband according to the existing Laws of Nations, should for that reason be seized, the same should not be confiscated, but the owners indemnified;" and said that this clause of the article did not contemplate provisions, or other articles not generally contraband, when attempted to be carried to a besieged place; for the third clause of the same article provides for the last mentioned case, and declares "that a vessel thus laden, and sailing for a besieged place, shall not be detained, nor her cargo, if not contraband, confiscated, unless, after notice, she shall again attempt to enter:" which implies that, in case of notice thus given, provisions may be confiscated, whilst the provisions contemplated in the second clause are not to be confiscated. It is therefore admitted by that article, that there are cases, other than that of provisions and other articles not generally contraband, carried to a besieged place, in which those provisions and articles may be regarded as contraband. It was admitting a principle unknown to the Laws of Nations, infringing our neutrality, destructive of our trade, and liable to every misconstruction. The British had shown what they meant by provisions becoming contraband according to the existing Laws of Nations, when they had taken our vessels laden with provisions, and given us an indemnification of ten per cent. So immediately connected was that proceeding of the British and that article, that even the gentleman from Connecticut [Mr. Hillhouse] could not separate them in his own mind; and when speaking of the indemnification we were to obtain in such cases as were contemplated by the article, he had repeatedly called it "ten per cent.," thinking only of the compensation given by the British in the case before mentioned, as one contemplated in the article, since the words ten per cent. were not to be found in the clause itself. It was not, however, material at present to decide whether a fair construction of the article justified the conduct of the British or not. The fact was uncontroverted; they still continued to impress our seamen and to capture our vessels. If they pretended to justify that conduct by the Treaty, it became necessary to obtain an explanation of the doubtful articles; if there was nothing in the Treaty to justify it, their acts were acts of hostility—were an infraction of that Treaty. And, even according to the doctrine of those gentlemen who thought that, in common cases, the House had no discretion, the Treaty once broken by one party was no longer binding on the other; and it was the right as well as the duty of this House not to proceed to pass the laws necessary to carry it into effect, until satisfactory assurances were obtained that these acts should cease, and until Great Britain had evinced a friendly disposition towards us.

Whatever evils might follow a rejection of the Treaty, they would not attend a postponement. To suspend our proceedings would not throw us in a situation which would require new negotiations, new arrangements on the points already settled, and well understood by both parties. It was merely a delay until the explanation of the late conduct of the British towards us was obtained, or until that conduct was altered. If, on the contrary, we consented to carry the Treaty into effect, under the present circumstances, what would be our situation in future? It was, by committing the most wanton and the most unprovoked aggressions on our trade; it was, by seizing a large amount of our property as a pledge for our good behaviour, that Great Britain had forced the nation into the present Treaty. If, by threatening new hostilities, or rather by continuing her aggressions, even after the Treaty was made, she could force us also to carry it into effect, our acquiescence would be tantamount to a declaration that we meant to submit in proportion to the insults that were offered to us; and this disposition being once known, what security had we against new insults, new aggressions, new spoliations, which, probably, would lay the foundation of some additional demands on the part of the aggressor, and of some additional sacrifices on ours? It had been said, and said with truth, that, to put up with the indignities we had received, without obtaining any reparation, which would probably be the effect of defeating the Treaty, was highly dishonorable to the nation. In his opinion, it still was more so, not only tamely to submit to a continuation of those national insults, but whilst they thus continued uninterrupted, to carry into effect the instrument we had consented to accept as a reparation for former ones. When the general conduct of Great Britain towards us, from the beginning of the present war, was considered; when the means by which she had produced the Treaty were reflected on; a final compliance, on our part, while she still persisted in that conduct, whilst the chastening-rod of that nation was still held over us, was, in his opinion, a dereliction of national interest, of national honor, of national independence.

But it was said that war must be the consequence of our delaying to carry the Treaty into effect. Did the gentlemen mean that, if we rejected the Treaty, if we did accept the reparation there given to us, in order to obtain redress, we had no alternative left but war? If we must go to war in order to obtain reparation for insults and spoliations on our trade, we must do it, even if we carry the present Treaty into effect; for the Treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinuance of those acts of hostility, and gives us no security that they shall be discontinued. But the argument of those gentlemen, who supposed that America must go to war, applied to a final rejection of the Treaty, and not to a delay. He did not propose to refuse the reparation offered by the Treaty, and to put up with the aggressions committed; he had agreed that that reparation, such as it was, was a valuable article of the Treaty; he had agreed that, under the present circumstances, a greater evil would follow a total rejection, than an acquiescence to the Treaty. The only measure which had been mentioned in pro-

ference to the one now under discussion, was a suspension, a postponement whilst the present spoliations continued, in hopes to obtain for them a similar reparation, and assurances that they would cease.

But, was it meant to insinuate that it was the final intention of those who pretended to wish only for a postponement, to involve this country in a war? There was no period of the present European war at which it would not have been weak and wicked to adopt such measures as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think of it, would fall but little short of madness. The whole American nation would rise in opposition to the idea; and it might, at least, have been recollected that war could not be declared except by Congress, and that two of the branches of Government were sufficient to check the other in any supposed attempt of that kind.

If there was no necessity imposed upon America to go to war; if there was no apprehension she should, by her own conduct, involve herself in one, the danger must arise from Great Britain; and the threat is, that she shall make war against us, if we do not comply. Gentlemen first tell us that we have made the best possible bargain with that nation; that she has conceded everything, without receiving a single *iota* in return; and yet they would persuade us that she will make war against us, in order to force us to accept that contract, so advantageous to us, and so injurious to herself. It would not be contended that a delay, until an amicable explanation was obtained, could afford even a pretence to Great Britain for going to war; and we all knew that her own interest would prevent her. If another campaign took place, it was acknowledged that all her efforts were to be exerted against the West Indies.

She had proclaimed her own scarcity of provisions at home, and she must depend on our supplies to support her armament. It depended upon us to defeat her whole scheme, and this was a sufficient pledge against open hostility if the European war continued. If peace took place, there would not be even the appearance of danger; the moment when a nation was happy enough to emerge from one of the most expensive, bloody, and dangerous wars in which she ever had been involved, would be the last she would choose to plunge afresh in a similar calamity.

But to the cry of war, the alarmists did not fail to add that of confusion; and they had declared, even on this floor, that, if the resolution was not adopted, Government would be dissolved. Government dissolved in case a postponement took place! This idea was too absurd to deserve a direct answer. But he would ask those gentlemen, by whom the Government was to be dissolved? Certainly, not by those who would vote against the resolution; for, although they were not, perhaps, fortunate enough to have obtained the confidence of the gentleman who voted against them, still, it must be agreed, that those who succeeded in their wishes, who defeated a measure they disliked, would not wish to destroy that Government, which they held, so far, in their hands, as to be able to carry their own measures. For them to dissolve the Government would be to dissolve their own power. By whom, then, he would ask again, was the Government to be dissolved? The gentlemen must answer, by themselves, or they must declare that they meant nothing but to alarm. Was it really the language of those men, who professed to be, who distinguished themselves by the self-assumed appellation of friends to order, that if they did not succeed in all their measures, they would overset the Government? And had all their professions been only a veil to hide their love of power? a pretence to cover their ambition? Did they mean, that the first event which would put an end to their own authority, should be the last act of Government? As to himself, he did not believe that they had such an intention; he had too good an opinion of their patriotism to permit himself to admit such an idea for a single moment; but he thought himself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they thought to be an advantageous measure, meant to spread an alarm, which they did not feel; and he had no doubt that many had contracted such a habit of carrying every measure of Government as they pleased, that they really thought that everything must be thrown into confusion the moment they were thwarted in a matter of importance. He hoped that experience would, in future, cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it was not in their power to dissolve the Government. The people of the United States, from one end of the Continent to the other, were strongly attached to their Constitution; they would restrain and punish the excesses of any party, of any set of men in the Government, who would be guilty of the attempt; and on them he would rest as a full security against every endeavor to destroy our Union, our Constitution, or our Government.

But, although he was not afraid of a dissolution, he felt how highly desirable a more general union of sentiment would be; he felt the importance of an agreement of opinion between the different branches of Government, and even between the members of the same branch. He would sacrifice much to obtain that object; it had been one of the most urging motives with him to be in favor, not of a rejection, but only of a suspension, of a delay. But even as a matter of opinion, it was difficult to say which mode of proceeding, in this House, would best accord with the general sentiments of the people. So far as related to the petitions before them, the number of signatures against the Treaty exceeded, at the moment he was speaking, the number of those in favor of the Treaty. Amongst the last, some had come from one part of the Union, where it would seem, both from the expressions in the petition itself, and from the proceedings there, that a great inducement in the petitioners to sign, was a wish to carry the Treaty with Spain into effect, as they appear to have supposed that its fate depended upon that of the British Treaty. How they would have acted

upon the British Treaty alone, and unconnected with the other, he did not know, nor had he any evidence which could enable him to form an opinion thereon. All he knew was, that, until the Spanish Treaty was made, they had been perfectly silent on the subject of the other Treaty, and had never expressed an opinion upon it alone.

True it was, that an alarm which had produced a combination, had lately taken place amongst the merchants of this and some other seaports. What effect it would have, and how successful they would eventually be, in spreading this alarm amongst the people at large, he could not tell; but there were circumstances accompanying their petition, which, in his opinion, much diminished the weight they otherwise might have had. They had, undoubtedly, a right to petition upon every public measure, where they thought themselves interested, and their petitions would deserve equal regard, with those of their fellow-citizens throughout the United States. But, on this occasion, in order to create an alarm, in order to induce the people to join them, in order to force the House to pass the laws relative to the Treaty, they had formed a dangerous combination, and affected to cease insuring vessels, purchasing produce, and transacting any business. A gentleman from New York [Mr. Williams] had been so much alarmed himself, that he had predicted a fall in the price of every kind of produce, and seems, indeed, to have supposed, that the clamors of a few individuals here, would either put an end to, or satisfy the wants of those nations which depended on us for supplies of provisions. Yet, it had so happened, and it was a complete proof that the whole was only an alarm, that, whilst they were debating, the price of flour, which was of very dull sale two weeks ago, had risen in equal proportion with the supposed fears of the purchasers.

He could not help considering the cry of war, the threats of a dissolution of Government, and the present alarm, as designed for the same purpose, that of making an impression on the fears of this House. It was through the fear of being involved in a war, that the negotiation with Great Britain had originated; under the impression of fear, the Treaty had been negotiated and signed; a fear of the same danger, that of war, had promoted its ratification; and now, every imaginary mischief which could alarm our fears, was conjured up, in order to deprive us of that discretion, which this House thought they had a right to exercise, and in order to force us to carry the Treaty into effect.

If the people of the United States wished this House to carry the Treaty into effect immediately, and notwithstanding the continued aggressions of the British; if their will was fairly and fully expressed, he would immediately acquiesce; but since an appeal was made to them, it was reasonable to suspend a decision until their sentiments were known. Till then, he must follow his own judgment; and, as he could not see that any possible evils would follow a delay, he would vote against the resolution before the Committee, in order to make room, either for that proposed by his colleague, [Mr. Maclay,] or for any other, expressed in any manner whatever, provided it embraced the object he had in view, to wit: the suspension of the final vote, a postponement of the laws necessary to carry the Treaty into effect, until satisfactory assurances were obtained, that Great Britain meant, in future, to show us that friendly disposition, which it was his earnest wish might, at all times, be cultivated by America towards all other nations.

At the conclusion of Mr. Gallatin's speech, a call being heard for the question, a division took place for the Committee's rising, when there were fifty-six members in favor it; it, of course, rose, and had leave to sit again.

THE SON OF THE MARQUIS LAFAYETTE.

Mr. Livingston, Chairman of the Committee for carrying into effect a resolution respecting the son of the Marquis Lafayette, reported that he had arrived in this country; that he had received the patronage of the President of the United States; that he was in New Jersey for education, and to show that he had no occasion for pecuniary assistance, the Committee subjoined a well-written, affecting letter to the Chairman of the Committee, in answer to one from him, expressive of his gratitude for the kind attention shown to him by the Legislature of the United States, by the President, and to every person to whom he was made known; that he had no wants; that he was as happy as he could be; that, if he should in future have occasion for assistance, he would apply to Congress, who had been so kind and attentive to his welfare.*

Wednesday, April 27.

PIERS IN THE DELAWARE.

Mr. Swanwick called up a report of the Sec-

* The following is the letter received by the committee appointed to inquire into the situation of the son of General Lafayette:

[Translation.]

"Ramapaugh, (New Jersey,) March 28, 1796.

"Sir; I have just received the honorable resolution which the merits of my father have procured for me. Deign to express to the Representatives of the people of America his gratitude—my youth forbids me yet to speak of mine. Every day recalls to me what he taught me, at every period of his life, so full of vicissitudes, and what he has repeated in a letter, written from the depth of his prison. 'I am convinced (he says) that the goodness of the United States, and the tenderness of my paternal friend, will need nothing to excite them.'

"Arrived in America, some months since, I live in the country, in New Jersey, occupied in the pursuits of my education. I have no wants; if I had felt any, I should have answered to the paternal solicitude of the President of the United States, either by confiding them to him, or by accepting his offers. I shall hereafter consider it a duty, to impart them to the House of Representatives, which designs to inquire into my situation.

"I am as happy as a continual inquietude relative to the object of my first affections will permit. I have found benevolence wherever I have been known, and have often had the satisfaction of hearing those, who were ignorant of my connexions, speak of their interest in the fate of my father, express their admiration of him, and partake the gratitude I feel, for the generous Dr. Bollman, who has done so much to break his chains.

"In is mind all these motives of consolation, that I shall continue my studies. Every day more convinced of the duties which are imposed by the goodness of Congress, and the means I have the honor to bear.

"GEO. WASHINGTON MOTIER LAFAYETTE.

"The Hon. Edward Livingston, Chairman," &c.

retary of State, on the memorial of sundry merchants of the city of Philadelphia, praying that four additional piers might be erected in the river Delaware. The report was in favor of the petitioners, and recommended that a sum of 16,000 dollars should be appropriated for the purpose.

A considerable debate took place upon this report. The measure was objected to by Messrs. Livingston, S. Smith, and Nicholas, on the ground of partiality to the port of Philadelphia. It was said that two cents per ton were imposed upon vessels coming into the port of Baltimore, to defray the expenses of keeping in good order that harbor; that there were certain impediments in Hudson's river, and others, which that House might, with the same propriety, be applied to to remove; and, that if the General Government erected piers in the Delaware, it ought, also, to pay attention to the wants of other ports in the same respect. It was replied by Messrs. Swanwick, Sterrevant, Hartley, Gallatin, and Kittera, that this application was made in consequence of an act passed in Congress, in August, 1789, by which the General Government undertook to keep in repair the piers in the Delaware; that, before the General Government was adopted, these piers were under the direction of the State Government, and supported by an impost for the purpose; but, when it went into operation, the business was put in the hands of the General Government. It was asserted that the erection of these piers was asked for upon the same ground as the erection of light-houses, which was frequently agreed to.

Mr. Coit, at length, moved that the Committee rise, in order that the report might be referred to the Committee of Commerce and Manufactures; which was agreed to.

He afterwards proposed a resolution to the following effect, which was agreed to, and referred to the same Committee:

"*Resolved*, That the Committee of Commerce and Manufactures be directed to inquire, and report, whether any, and what further, measures are necessary to secure, protect, and preserve the vessels of the United States in their entrance to any of the ports of the United States."

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying into effect the British Treaty being under consideration—

Mr. Gilbert observed that he, certainly, had no good a claim to sensibility and regard for the honor, interest, welfare, and dignity of his country, as the gentleman who spoke yesterday from Pennsylvania, [Mr. Gallatin,] and who seemed so concerned for the honor of the United States. Sir, said he, birth, nurture, education, and every drop of blood on earth, to which I am related, well entitle me to this claim. He hoped, therefore, neither that gentleman, nor any other, would, from the opinion he entertained, and the decision he should give on the subject before them, suppose him insensible to those dear, those precious considerations. Upon a question so interesting to the American nation, notwithstanding everything already advanced, he said he could hardly reconcile himself to a silent vote. He very well knew that the subject had been presented in every possible point of view, and that nothing, indeed, had, upon any former occasion, so much agitated, or so much excited the American mind.

Why a Treaty containing nothing unconstitutional, (as in respect to this, is allowed on all hands,) made in the ordinary course of regular negotiation, should thus interest all the passions and feelings, thus excite the sensibility of the people of this country, infinitely more than the most important transactions of the same people at any time heretofore, infinitely more than their own social or political compacts, infinitely more than their great Declaration of Independence, and fiat which gave birth to the nation, he said, he would leave to sober reflection, and to the recording pen of history and philosophy to settle. He would, he said, however, submit some considerations and remarks on the subject, as they occurred to his mind.

The principles of the Constitution, he said, as also the merits and expediency of the Treaty, had been so eminently, so minutely considered and discussed on that floor, as well as by the most intelligent and enlightened men throughout the Union, that, in fact, nothing seemed to remain unexplored.

Mr. G. said he would, in a summary way, endeavor to touch upon some points, which, he thought, would not be considered inapplicable to the question, and notice some sentiments which had fallen from gentlemen opposed to him on the subject.

As to rectitude of intention, or purity of disposition, he would leave them to their proper tribunal. If, from any further view of the subject, or well-founded observations, any gentlemen of the committee should, he said, doubt the soundness of those feelings which might hitherto have influenced them, he hoped, he said, they would pause; that they would examine well before they decided upon the important proposition before them. Mr. G. said, from what he had seen, from what he had heard and observed in the course of the debate, he entertained little or no expectation of any change of a determination which, to him, seemed to be the result of long-settled conclusions. It was proper, however, he thought, that the principles and considerations which had induced such determination should be rendered clearly manifest; that, in looking at our transactions, the world should not be at a loss for the prevailing reasons and motives of our conduct. That there exists in this House, said Mr. G., great bitterness, extreme indisposition towards the Treaty, is remarkably evident; that this spirit and indisposition has been transfused, and more or less imbibed among the people, he said, was also true. The cause of all this, he said, he would not then stop to inquire; but, would first take a view of

the Treaty, to see if the great enemy to this country, if the great source of all evil were concealed and lurking there.

The great clamor against the Treaty had very generally been, he said, on account of its commercial arrangements. Even the extinguished parts of the 12th article, had, in that House, as well as abroad, been made as much the theme of reprobation, as if they still actually existed. He considered this, he said, an unfair and suspicious circumstance. It was obviously true, he observed, that the most experienced commercial men, in all parts of the United States, generally agreed, that however short of their wishes these commercial arrangements might be, still, they were, in fact, on the whole, really beneficial to this country. It is true, said he, the Commercial Representative here from Philadelphia seems to think otherwise, and to allow little or no regard to the opinions of other commercial characters, however, enlightened or experienced—concluding, indeed, at once, as he says, (with little compliment to others,) that they are all, all biassed, from considerations of private interest. Sir, said Mr. G., how little this Representative may be influenced from like considerations, I know not. At the same time, said he, I confess, that in respect to subjects of this sort, I consider such considerations, when general, much to be regarded; and, indeed, to furnish the very best lights on the subject. But whether, in this respect, said he, the Treaty be actually good, or actually bad, or neither, or whether it be matter of conjecture or uncertainty, when we consider that the experience of two years after the present war in Europe will most probably decide, and leave it entirely in our own power to put an end to it or not, as we then find from experience our interest to dictate, surely, he said, all reasonable men would unite in the propriety of waiving objections on that ground. So, that the great clamor so vehemently urged against the Treaty in this respect, as colonizing us again to Great Britain, may be evidently seen to be mere clamor and absurdity.

Before he could quit the commercial and temporary parts of the Treaty, Mr. G. said, he wished to take a little notice of the gentleman from Pennsylvania, [Mr. Gallatin,] who had spoken yesterday, in regard to one or two points on this part of the subject. That gentleman, with all his regard for the honor and interest of this country, had said, it was so indispensably important that free ships should make free goods, that the negotiator ought never, never to have abandoned that demand. Mr. G. said, he would not undertake to say how unquestionable, or how really important such a stipulation would have been to us, or not. Enough had been said, however, by others, at least, to lessen our opinion of its consequence, and to show the impropriety of having insisted upon it, in the present moment, as a *sine qua non*. Yet, that enlightened gentleman, although he admits that Great Britain could not, and would not have consented to it in the negotiation, tells us, that the negotiator ought never to have given it up. We should have settled no Treaty at all with that nation without such a stipulation. Sir, said Mr. G., can such reasoning be dictated by that regard for the honor and interest of our country, which that gentleman speaks of? What! should we have abandoned all ideas or endeavors for retribution and justice from that nation, and of accommodations of old broils and controversy with her, because she would not consent to yield to us a claim—a privilege which we have no right to demand? Because she would not consent, at that time, to change a principle of the Law of Nations—a Law of Nations which we had most explicitly avowed and recognised? Because, in the height of a tremendous war she would not consent to surrender to us a great and important weapon of her defence, to which she was indisputably entitled? Surely that gentleman cannot be serious, when he says the negotiator ought never to have given this up. Sir, said he, let it be observed, that this stipulation has never been yielded to us by any nation in time of war. And, let it be also observed, that Great Britain, who could not, and would not, during the war, relinquish this weapon of defence, has actually stipulated to treat and negotiate with us in respect to this very object, after the war in which she is now engaged is over. And here, I beg leave, said he, to remark, once for all, in regard to the negotiator, that, notwithstanding all the base and vile calumnies which had been insinuated, and insidiously propagated to criminate and stigmatize that worthy, that long-tried American patriot, it was, in his judgment, and would be unequivocally allowed by all but the malevolent, in respect to this claim of making free ships free goods, as well as in respect to the various other parts of this Treaty, conspicuously evident, that patriotism, skill, forecast, discerning and correct judgment, had marked his conduct, by limiting the operation in point of time to everything as short, as proper, which was not in its nature permanent, and clearly certain in its eligibility for this country; and, in so managing the most difficult negotiation as to maintain, honorably, maintain and insure the neutrality, peace, and interest of his country, and for which, he said, he did not, for his own part, hesitate to say, he felt grateful to the genius of his country, and could not, to gratify any feelings of the malevolent, withhold this declaration of his own sentiments.

As to the ten preceding articles of the Treaty, Mr. G. said, as they related to permanent objects, therefore they had been considered, as was proper, and made equally permanent.

It was well known to every citizen of America, who had at all reflected on the subject, Mr. G. said, that the inexecution of the Treaty of Peace made in 1783, had occasioned the most violent disputes and bickerings between the two nations, had for many years already embittered the two Governments with each other; that crimination and recrimination had served only to exasperate their respective dispositions; that, at length, amidst the general conflagrations, wars, and depredations of the Europeans, together with some ap-

pearances of partiality manifested, in some instances, at least, by the people of this country (how justifiable he would not pretend to say) towards some of the belligerent Powers, the British spoliations at sea on our commerce commenced, and excited in every American bosom an irresistible animosity and indignation against the British nation. In this situation, sir, negotiation or hostility, he said, seemed the only alternatives. This House, indeed, he said, not then possessing or claiming any Treaty-making power, did propose certain other means to avenge ourselves indirectly of Great Britain, and impel her from acts of injustice and violence against us. These means then proposed by this House were, restrictions on her trade, sequestration of all British debts and property in this country, and finally, a suspension of all trade and intercourse with her. One of those measures—that of suspending all intercourse—was adopted, and sanctioned by a majority of this House at that time; but the other branch of the Legislature not concurring with us in sentiment in respect to that measure, advised, adopted, and pursued immediate and direct negotiation. Such was our situation at that time, and such, he said, was the process now fresh in the feelings and recollection of every gentleman on that floor. These proceedings have often been alluded to in the course of the debate, he said, and he would soon make some remarks also upon them; but he would first observe, that the Treaty under consideration had been the result, which everybody knew, of that negotiation. The permanent articles, except as to the claim of compensation for the negroes carried off by the British army, he said, embraced and provided for the great points in controversy between the two nations, and, he believed, on fair and equitable grounds.

The objection so much urged—the want of compensation for the negroes, Mr. G. said, had been already so fully considered, so soundly discussed by one of his friends from Connecticut, and so much to his satisfaction, that he would not undertake to re-examine this question. He would observe, however, in answer to the gentleman lately up from Pennsylvania, the other day, on this point, that if the arguments of his friends, deserved any sort of weight, in respect to this objection, there could be no possible ground to support that gentleman, in saying it was originally intended, and so understood, that this claim was to be considered as the equivalent and set-off for the payment of the debts due to British creditors. Indeed, Mr. G. said, if those arguments of his friends could be considered as well founded, there would remain no ground at all to support this claim. At any rate, it was abundantly apparent to his mind, he said, that so questionable a claim was properly relinquished, it being no fit foundation for a just, serious, national prosecution. A new, and, he believed, before unthought of prop to this fallen claim had, he said, been yesterday applied by the gentleman from Pennsylvania. He had not, indeed, read any laws on that point, but referred to *Vattel*, and other writers on public law, who, he said, considered slaves as real estate; not as personal property, liable to booty by the rights of war and conquest. Mr. G. said, he had not time to examine the doctrine or the principles of the law *ex post limitium*, which he conceived did by no means apply, even as allowed and practised by the ancient law of nations. Mr. G. said, if the question could at all depend on the fact, whether those negroes were real estate, and not personal property, it could not be contended by any law or rule of property in the United States, that negro slaves were any other than personal property, which always went to the executor, and never to the heir, as such. He hoped, therefore, that gentlemen would not rely upon any opposite principle, which in this country did not exist. This objection to the Treaty, he said, he hoped would no longer be considered as insuperable.

The Treaty of 1783, as is well known, most pointedly stipulated on the part of the British, a surrender of all the posts and garrisons within the territory ceded to us by that Treaty; on the other hand, we as pointedly stipulated on our part payment of all British debts, &c.; it is a guarantee against all legal impediments to their recovery. We all know, every body knows, that these two important stipulations of that Treaty, remaining unfulfilled to this day, have been the principal source of contention between the two nations since that moment. And does not the present Treaty provide for an adjustment and termination of this contention by as perfect and entire a compliance as circumstances can admit, with the spirit and effect of the former stipulations? It really seemed so to him. He was aware of what certain gentlemen had said to the contrary, and would, in as few words as possible, consider their objection in this regard.

It is stipulated by this Treaty, on the part of the United States, that in all cases where full compensation for losses and damages cannot be had by the British creditors, by reason of legal impediments, the United States will make compensation. Nobody will pretend that this engagement is unjust, or unreasonable, or contrary to the spirit of the stipulation of the former Treaty; it is no other than the original contract between the debtor and the creditor, and to be regarded as intended by such contracts independent of the acts or quarrels of the respective nations.

Sir, said he, no sound, nor in fact, ostensible, objection could be, or had been, urged against the principle of this stipulation. Certain gentlemen had, indeed, made a most frightful, and, as he thought, exaggerated statement of the probable amount of debt, ultimately payable by the United States in pursuance of this stipulation; but the unequal bargain, the want of reciprocity in regard to these principal stipulations, has been urged. It is said, that to have made the bargain equal, the British, on the same principle, ought to have allowed us damages for the detention of the posts. Mr. G. said, that as an American, he should have readily accepted of such an allowance, though he doubted very much as to the precise similarity of principle in the two cases, and

believed the British nation felt no obligation, either from moral rectitude, or physical necessity, of making any such allowance. On the whole, he was persuaded that, in this particular, we had the best of the bargain, and in fact acquired vastly more, as he would endeavor to make apparent, than we could lose.

The gentleman from Virginia (with whom the gentleman yesterday from Pennsylvania altogether agreed) had said, that although the posts were by stipulation, now to be actually surrendered, yet they were so loaded with conditions and shackles, as to be of no value to us; but the fallacy and weakness of this opinion, had already been well exposed by some of his colleagues, as well as other gentlemen; and he would also examine the objection a little farther. What are these conditions, these degrading shackles, which so impair the value of these posts? It would be very difficult, by the description they have given, to discover them, but he would look for them.

The British settlers, by this stipulation, were to be protected, and to enjoy unmolested their property, and to have the option of becoming American citizens, or not. This agreement, on our part, Mr. G. said, had been used by those gentlemen as an impairing circumstance to the value of the posts, and as a dishonorable degrading condition. It had seemed to him, that those gentlemen entertained very extraordinary sentiments of honor and degradation, if they would deem this a debasing restriction, or consider a thing so sound in point of policy, as well as justice, an infringement of right. This was the same policy and justice which these people and their predecessors had, under similar circumstances, upon like occasions (as had been already observed) always heretofore enjoyed, nor could it possibly be considered as either reducing the value of the posts, or degrading to the United States to allow it.

The gentleman from Pennsylvania had said yesterday, that it ought to have been left to us altogether to have permitted those people to remain there and enjoy their property, or not; that that they might now still retain their influence with the natives, and excite disturbances and hostility. He would observe to that gentleman, that those people would be altogether in our own power and jurisdiction; and if they excited disturbances, insurrection, or hostility, might be apprehended, brought to trial, and if convicted, would be pardoned or punished; which that gentleman must know, and a little recollection might set him right.

Those opposite gentlemen had also urged another circumstance, which appeared to him more absurd and extraordinary still. It had been said, that the free communication, and commercial intercourse allowed by the stipulation to all the natives and inhabitants of the two adjoining and respective Territories; and by which, that immense interior world was laid open to the trade of the United States, was, in effect, impairing to us, and destroying the value of the posts: the absurdity of which, however, had been well exposed, and being so repugnant to common sense and common experience, hardly required serious consideration.

Mr. G. said, he begged leave, however, to observe, that perhaps not less than nine-tenths of all the valuable fur trade lay within British Northwestern Territory; and, by this stipulation of free trade, mutual, unrestricted intercourse, was laid open upon an infallible principle of peace and harmony to this country. On this point of view, therefore, not only as it respected the advantages of that trade, but especially as it regarded peace, harmony, and friendly communications with the natives and inhabitants of that country, Mr. G. said, he considered this stipulation, of all others, the most precious and interesting to the United States. Indeed, sir, had the posts been surrendered only, without this free reciprocal intercourse granted, he should have considered the United States in respect to the fur trade, and commercial advantages of that interior country, in respect to the quietude and security of our frontiers, in respect to peace and harmony with the Indians, and in regard to all our future prospects from such peace and security, in little or no better condition than before. All which now seemed to him to be settled and secured, upon the only proper basis of securing the blessings of peace, commerce, and prosperity, to the respective and adjoining Territories, the basis of mutual intercourse, mutual interest, and similar favor. Sir, those gentlemen who now seemed to value the acquisition of the posts and the Indian trade so very little, would do well, he thought, to recollect how very widely they differ in sentiments in this particular, from the common feeling and opinion of all America, manifested ever since the peace. From the state of things, which we had long experienced for the want of those posts and amicable intercourse with the natives, calculating the losses only, without counting the fur trade and commerce of that immense country at anything, we might pretty moderately estimate their value at more than three millions of dollars per annum. The Indian war, alone resulting from such a state of things, besides all its inseparable calamities, we may rate at one million and a half; the prodigious territory lately purchased of the Indians of more than ten millions of acres, and just determined to be exposed to sale at not less than two dollars per acre, amounted to above twenty millions of dollars. Were we only to lay out of the interest of the money, we might rate it at nearly one million and a half more. This calculation of the consequence of those posts, and harmony with the natives, would thus be to us at least three millions annually; but we may properly calculate the loss and depreciation of all our other Western lands, from one extreme point of the frontiers to the other, which would be the inevitable effect of an Indian war: of this none would doubt. When we consider that our late pacification with the Indians was retained in consequence of this Treaty with Great Britain, we ought not to hesitate in concluding, that a rejection of this Treaty would reduce us back again to the former state of things, as well in respect to the savages, as their neigh-

hest and protectors, the British. From this transient view of the mere amount of positive losses, without regard to the innumerable, inseparable calamities of an Indian war, and without regard to any prospect of commercial advantages, we could very moderately estimate the value of the posts and peace with the savages at nothing less than three millions annually. Will gentlemen seriously contend that this is of little consequence to us, not equal to the payment of British debts, which no honest debtor would wish to withhold? Surely they will not. It might not be amiss for those gentlemen to recollect the Spanish Treaty, so highly estimated, and to consider of what little consequence to us it may be, in case of the rejection of this Treaty with Great Britain; their irritation and retention of the Western posts, the general excitement again of the Indians, and a universal savage war upon our frontiers, infesting our Northern, Eastern, Western, and Southwestern Territories. That, in such case, the Western Lakes, those interior oceans, must still remain useless, and the inviting waters of the Mississippi and Ohio roll to waft our commerce in vain. Mr. G. said, he would not consider how much our Treaty with Algiers, and our prospects from that quarter, might also be affected in consequence of a rupture, or contention again with Great Britain; but, at the same time, he thought that consideration was not to be entirely disregarded.

There was one objection, which had been greatly dwelt upon, and considered as an alarming circumstance, particularly to North Carolina. It was that part stipulating that American citizens and British subjects, who now hold lands in the Territories of the United States, or in the dominion of Great Britain, shall still continue to hold them, according to the nature and tenure of their respective estates and titles therein.

Certain gentlemen say, that they really do not know, but fancy it may throw one-half of the lands of that State back again into the hands of British subjects, the former proprietors. As this objection has already been considered, and will be more particularly examined by gentlemen prepared on the same point, who will probably speak after me on this subject, I will not detain the Committee long in respect to it. He would ask, however, if gentlemen of legal information could possibly entertain any serious alarm of that sort? He thought not. The words used in this article in this respect, were words of precise meaning. They were technical terms, and perhaps, of all others, least liable to perversion. He would ask those alarming gentlemen whether those British subjects to which they allude, actually do, or do not, now hold those lands? If not, surely, they would not be alarmed. He considered the article only to extend to such lands as were now bona fide, by good and lawful title, actually held by the present owners according to existing laws. It is, indeed, a little remarkable, that these alarming gentlemen, who do not pretend to know whether their apprehensions be well founded or not, yet however erroneous it may be, however repugnant to common legal understanding, or technical sense, they rely upon the objection with as much confidence and inflexibility, as if there could exist no doubt of such construction or intent. He said he was persuaded there was no ground for such opinion, and that it was urged from incorrect knowledge of the subject, or from a design to alarm. With these remarks on some of the principal points of the Treaty, he said he would quit any further observations relative to its merits. But, sir, its expediency, especially since it has been made, ratified, and exchanged, is quite another consideration. A consideration of infinite importance to the internal peace, happiness, and prosperity of America, as well as to her external character, her faith, her honor, respectability, and glory; but as so much already had been said on that head, he would pass it over, and close his observations with some remarks touching, in his opinion, the real grounds of the very inflexible opposition now made to the Treaty.

He had already noticed, he said, the peculiar indisposition of this House towards the Treaty. It was also observable, that much of the same bitterness and indisposition had been transfused, and in some parts of the Union particularly, more or less imbibed by the people—whose zeal without any reflection intended on their sovereign respectability, may be considered as not always according to knowledge or true wisdom. But why should that House with all its information and intelligence, continue their extreme indisposition, and manifest such bitterness on the subject? Sir, had I been, from my own observations, and recollection of recent transactions within my own knowledge, entirely at a loss to account for a thing so extraordinary, I should have been clearly satisfied of the cause, from the highest evidence, resulting from what had been detailed on this floor. This was a moment in which he considered it a duty incumbent on every one to speak his sentiments and act with decision. He should freely declare his opinion. Sir, have we not repeatedly been told in the course of this debate, that the measures heretofore proposed by this House, to which he had before alluded, were means which ought to have been pursued? Have we not been told that they were calculated to have procured a quiet redress of all our complaints, to have satisfied all our claims? And have we not been told that those measures had been improperly arrested from this House by the Parliament and Senate? And have we not heard the same means again recommended as suitable for the Government of this country to adopt? Sir, have we not been told on this floor of the pusillanimity of the late measures of negotiation; and have we not heard it said that this Treaty had been conducted with pusillanimity, and was now to be carried into effect through fear? And, sir, have we not heard it insinuated that it was the effect of party spirit, combined with British influence and intrigue, to oppress and debilitate France? After all this, can there be any hesitation in the mind of any candid observer, to account for the inflexible opposition? He said he thought not, and then no critical, impartial observer of these things, would hesitate to ascribe the remarkable indisposition of this House to the Treaty, less to the merits of the Treaty itself, than to that pride of opinion, disappointment of favorite measures, and feelings of indignation in this House, from being overruled by the other branches of the Government, who differed with them in opinion upon that occasion, and who advised, adopted, and steadily pursued direct and immediate negotiation. He had no hesitation to declare that he verily believed this was the real source of the bitter and inflexible opposition now made to the Treaty; and he hoped that the genuine, sober citizens of America, as well as the surrounding world, would never be mistaken for the real cause of the conduct of the House on this occasion. For his own part, he was ready to be tried by God and his country, who, he hoped and believed, would not be deceived. Gentlemen who are averse to the Treaty, and advise its avoidance, treat with contempt and indignation all apprehensions suggested by others of national broils, contention, and war with Great Britain, or of commotions among ourselves. Admitting that there really was no ground for such apprehensions in the opinions of those who thus treat those suggestions, certainly we who entertain such apprehensions would be criminal and faithless to our country, indeed, should we not express them without reserve? He hoped that gentlemen, however brave and hardy, for themselves, would permit sober reflection to suggest and weigh all these things.

Sir, said he, if we resist and nullify this Treaty, let me ask seriously what means, and in what way we are to pursue redress for all the injuries, outrages, insults, and depredations, received from the British nation; he said they were too intolerable for any nation on earth and he thought not to be submitted to by Americans; but he said he could conceive of no other possible ways for redress, and satisfaction, than negotiation, or hostility. The effect of the former, we now have before us; and shall we refuse this, and risk the result of the latter? God forbid! He hoped our understandings were not so bewildered; our virtue, our reason, and our feelings of moral rectitude not so impaired. He should with confidence, therefore, expect the resolution before them would obtain.

When Mr. Gilbert had concluded—

Mr. Tracy said, he would, for the present, waive any observations on the impropriety of the minute discussion, which had been given by the House of Representatives to the Treaty, and take notice of some objections which had been stated against the ninth article, which follows, viz:

"It is agreed that British subjects who now hold lands in the Territories of the United States, and Americans who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise the same to whom they please, in the manner as if they were natives; and that neither they nor their heirs or designs, shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

He said, it had been urged, that the ancient proprietary claims in this country, were, by this article, reviewed and confirmed, especially in all cases where a special confiscation had not been completed antecedent to the Treaty of Peace in 1783; and that the State of North Carolina would suffer incalculable injuries by the claim of the Grenville family.

He would attempt to show, that the State of North Carolina, by the act of Independence, on the 4th day of July, 1776, succeeded to the title of all proprietary claims to lands then existing, in the same manner as they did to the title of those vacant lands, commonly known by the name of the Crown lands. He believed this would silence every objection; but he thought he could further show, that the State of North Carolina had actually confiscated the lands which were once claimed by the Earl of Grenville, as lord proprietor.

He trusted, that if he were able to evince these two points, it would be easy to show, that this ninth article of the Treaty would be harmless to the State of North Carolina, as he would be able, he thought, to prove most explicitly, that the article gives no new title, nor strengthens any existing title, but barely confirms a right to those who now hold lands, to grant, sell, or devise, and to them, their heirs, and assigns, the legal remedies incident thereto, which might otherwise have become objects of dispute and controversy.

Mr. T. supposed there would be no difference of opinion in the Committee upon the following position, viz: that the proprietors in this country held their lands under the Government of Great Britain, with many of the prerogatives of royalty. This would appear as well from the grants themselves, as from the practice under those grants: all escheats in a particular manner went to the lord proprietor, and not to the King. This idea was certainly adopted in North Carolina, as they have a statute specially recognising the principle, and regulating the practice which may be found in the 16th page of their statutes, as revised by Judge Iredell, in 1791. In this view of the subject, a lord proprietor might be considered as possessing a sovereignty as lord of the soil, so far as his proprietary interest extended.

Upon a revolution and formation of another Government, the newly-established sovereignty must certainly, from the nature of the transaction, succeed to the right of soil of all such lands as had not been granted to individuals, whether they had before been vested in the Crown or proprietors.

The proceedings of the State of North Carolina, would justify his idea on this subject. In the Bill of Rights adopted by that State on the 17th December, 1776, which was afterwards incorporated into, and made part of their Constitution, it was expressly declared, that the property of soil in a free Government was one of the essential rights of the collective body of the people; (after stating several lines and boundaries) it was declared that all the Territories, &c., lying between those lines, were the right and property of

the people of the State, to be held by them in sovereignty: Provided (among other things) that nothing contained in said Bill of Rights should affect the titles or possessions of individuals holding or claiming under the laws, before that time in force, or grants made before that time, by the late King George the 3d, or his predecessors, or the late lords proprietors, or any of them, page 276 of the book above quoted.

In November, 1797, the Legislature of North Carolina passed an act, opening a land office for entries of claims to all vacant lands not before granted by the Crown of Great Britain, or the lords proprietors of Carolina, or any of them, in fee, before the 4th day of July, 1776, (page 292) and in the same statute (page 296) reference was had to such persons who had received grants from Earl Grenville, whose right had lapsed for want of suing out a patent, and giving them a preference to others. In respect to making entries of the same lands, and in page 368, there was an explanatory act passed, more particularly regulating entries on lands formerly the property of the proprietor, Earl Grenville.

He supposed the conclusion irresistible, that the Legislature of North Carolina considered the State as succeeding, by the act of Independence, to all the title of unlocated lands, whether before that time claimed by the Crown or Earl Grenville, and he contended that the idea was correct, and to his knowledge had never been disputed in cases where the lord proprietor was not a resident. It was true, in Pennsylvania a compromise was made with the resident Penn family: but the Baltimore and Fairfax families, who were proprietors in Maryland and Virginia, were non-residents. The State of Maryland had confiscated the lands of the Baltimore family, and they had obtained satisfaction from the British Treasury. This, he believed, but would not assert was the fact relative to the Fairfax family. He said he had likewise seen a statement of a claim of Lord Grenville's heirs, and thought they had received compensation from the Parliament of Great Britain of £60,000 sterling; but of this he was not positive, yet believed he could find the fact substantiated by authentic documents. All these facts, he urged, combined in proving his idea, that the State of North Carolina, as a sovereignty, succeeded to all the titles the Earl of Grenville had to lands within the State, on the 4th day of July, 1776, and that it was, and ever had been, so considered by all parties, and by this and the British Government.

He thought this conclusive as to a complete extinguishment of the Earl of Grenville's title or that of his heirs; but facts would justify him in going further, and declaring the rights of the Earl of Grenville and his heirs to have been confiscated, and in that way vested in the State of North Carolina.

No person would doubt the right of the State to confiscate. If they had the *right*, there was nothing necessary but an exertion of that *right*. This, he urged, might be done in a great variety of modes; if the State chose to exert that *right* by opening a Land Office and selling all the lands, making a declaration by their Legislature or Constitution that they were forfeited or vacant, and that they were vested in the State, as they had done in this case; he could not say such an act fell short of all the operative powers of confiscation exercised in any other mode; but if a more formal mode of confiscation was contended for, he thought the act of confiscation, passed in 1777, page 341, of the book above quoted, would place this matter in a still clearer point of view. By this act, "all lands, tenements, &c., within the State of North Carolina, and all and every right, title, and interest therein, of which *any person* was seized or possessed, or to which *any person* had title, on the 4th day of July, 1776, who on the said day was absent from the State of North Carolina, and every part of the United States, and who still was," &c., &c. "Shall and are hereby declared to be confiscated to the use of the State, unless there should be an appearance at a future day, to do certain acts," which will not be pretended were done by any person claiming under the proprietary right.

And in page 364, there was another act, which was passed after the time mentioned in the former act had elapsed, for persons coming into the State and doing certain acts to save their rights, (viz: in 1779,) in which it was expressly declared, all the lands, &c., of any such persons who had not come into the State as aforesaid were forfeited to and for the use of the State.

Mr. T. urged that the words made use of in these several confiscating acts, were sufficiently extensive to reach all possible claims, either of the Crown or of the lord proprietor, and to evince that the State of North Carolina so understood it, he quoted another statute, page 522, in which are these words:

"All the lands, tenements, &c., within this State, heretofore confiscated, and not yet sold, except such lands which have not been granted by the Crown of Great Britain or the lords proprietors of North Carolina, or any of them, in fee, before the 4th day of July, 1776, &c., shall be sold by Commissioners in manner hereinafter directed."

Why should they say, "all lands heretofore confiscated and not sold, except such lands," &c., describing the very land claimed under the proprietary right? It could not be made plainer, he thought, that they considered all the lands within their limits, not owned by individuals on the 4th of July, 1776, as having vested in the State, without any other confiscating act than that of establishing an office for sales; and that afterwards they considered their particular confiscation acts as extending to such lands, but adopted a different mode of sale from that of lands which had on the 4th July, 1776, belonged to individuals.

Nothing, to his mind, was more clear than that these ideas were correct, and that all the claims of the family of the Earl of Grenville was completely vested in the State of North Carolina.

But if any doubt could yet remain, he begged leave to quote another authority from the same book, pages 12th and 13th. This was an act barring all right to enter or make claim to any lands, tenements, &c., but within seven years next after such right should accrue, with a proviso, giving (among other things) "eight years to persons beyond seas to enter and claim, after their *title or claim becomes due*."

Mr. T. said, he should have entertained no doubt of the conclusiveness of this statute but for some intimations given him by a gentleman from North Carolina, [Mr. Taton,] that a construction had been put upon this statute of this kind, viz: eight years after the persons returned from beyond seas, were meant to be given him to make his claims. This construction, Mr. T. observed, might be just; but it was singular that one year more should be given to a person who had been beyond seas than to the citizens at home; and he observed, further, upon looking into the index of the statute book, the words are, "Persons beyond seas may enter or sue within eight years after the title accrues." He thought that the obvious construction of the words in the statute, "*title or claim becomes due*," but upon looking into the index, which was made by that accurate gentleman, Judge Iredell, who perfectly knew the construction which had been given to that statute, as it had been in existence ever since the year 1715, excepting a suspension of eight years during the war with Great Britain, he could not bring his mind to doubt but that his construction of the statute was correct; and, if so, all title to those lands which may ever have been vested in the Earl of Grenville's family must now be destroyed by the limitation; as there is no pretence the owner of this land was, at the close of the war, a *minor, feme covert, non compos mentis, or imprisoned*, which are the only exceptions in the statute, excepting being beyond the seas, which last exception he had spoken of above.

Mr. T. said, an objection had been started by a gentleman from Pennsylvania, [Mr. Gallatin,] that if this property had been confiscated, yet as there had been no decisions of Court which he [Mr. Gallatin] *called finding an office*, the confiscation was not complete, and of course was arrested by the Treaty of Peace.

It was, in the first place, not necessary that any legal process of a Court or Jury should be had for the purpose of vesting the title to those lands in the State of North Carolina. In England, when a title escheats to the King, he cannot enter or seize upon any man's possession without office found, or in other words, without the intervention and finding of a Jury; but in case of attainder for high treason, the forfeiture is instantly incurred, and the King is vested without any inquisition of office; and in all cases where an act of Parliament confiscates, unless in the same act, as in the statute 18th Hen. 6th, chap. 6th, it is declared no title shall vest in the King until office found. It would be found the title vested immediately in the King.

Mr. T. said, he had not attended to the legal course of proceedings in England with a particular view to this subject, but, from general recollection, he thought that in England, in all cases where the common law contemplates a forfeiture of lands, &c., to the King, such as when an alien purchases, or when the King's tenant dies without heirs, and such like cases, the King could not seize on such lands without the finding of a jury; but in all cases where the finding of a jury had ascertained a crime by which a forfeiture accrues to the King, he thought that the finding of the jury was considered as an inquest of office. But, let the law of England be what it might, it was a fact that no such ceremony as an inquest of office was necessary in the matter now in question. The Legislature of North Carolina had, by solemn act, declared themselves, or the State, to be in actual possession, and to be the proprietor of this land; they have actually taken possession, made entry and sale, and put the purchasers into possession. In cases of direct and unequivocal confiscation, they have done no more; and no more, he contended, could be necessary for making a forfeiture on the part of the former owner, and an investure in the State complete and perfect. A similar act of Parliament would have been complete as to vesting a title in the King, and it never had, in this country or in England, been thought necessary to add to such proceedings an inquest of office. The gentleman [Mr. Gallatin] had further said that the lands formerly held by the Earl of Grenville in North Carolina were excluded by the act of confiscation itself from its operations; and he read a clause in the confiscation act to confirm that idea.

Mr. T. said he could not discern any such meaning in the law alluded to; the words were: "All entries already made, or which shall be made, of any lands, &c., of the persons aforesaid, (and this alluded to persons specially named in the act,) which come within the meaning of the confiscation act, passed at Newbern in November, 1777, or of this act, shall be void and of none effect." The act then proceeded to except, with a special proviso, the law for making entries on the Earl of Grenville's lands; and further declares all the proceedings which had been or should after that time be had under that act, to all intents and purposes valid. The gentleman [Mr. Gallatin] had said he was not a lawyer, and, of course, delicacy would forbid criticisms upon this part of his argument. He would only observe, that he thought he had proved himself no lawyer. But Mr. T. supposed it not important, even if it was certain that the lands of the Earl of Grenville were excluded from the confiscation act, as the other act respecting entries would amount, in its operation, to a complete forfeiture and investment of title; forfeiture on the part of the owners, the heirs of the Earl of Grenville, and an investment in the State of North Carolina.

He thought he had shown, 1st. That the Grenville's title was of a feudal nature, partaking of such insignia of royalty as that the title of the owner, he not being a resident, would, of course, on the formation of the new Government in 1776, vest in the sovereignty. 2d. That the sovereignty of North Carolina possessing the right of confiscation, had exerted that right most explicitly. It

remained now, on this head, to compare this state of things with the 6th article of the Treaty, and to form a just idea of the result.

The words are, "*British subjects who now hold lands*," *&c.* "Hold," he said, was a technical phrase well understood in England and America to mean a title complete in itself. The meaning of it in this article of the Treaty was well understood to be, "those persons who have a *title* to lands, this existing title shall continue as it now is." If his reasoning upon the claim of the Grenville family had any foundation in truth, they had not, at the time of making the Treaty, the least shadow of title; they could none of them be said to "hold" "lands in the territories of the United States." Therefore, he thought his friends belonging to North Carolina might rest easy on the subject.

One thing had been said by Mr. Gallatin which Mr. T. said he could not comprehend, and that was, if the Treaty had not provided legal remedies for aliens, that any subject of Great Britain, although he might hold lands, could not sue and recover them, because he might be defeated by a plea of *alienage*; he could not conceive of such a situation; if they "*hold*" lands, they have all the remedies incidental to their holding; if they do not "hold," no remedy was in their power, but it was because no right existed. The 9th article certainly gave no new right, as it respected title; it might add to the life estate a right to devise to aliens, which was the utmost that could be said of any right being given by this article. But the Grenville family having no right of any kind, this article would have no influence on those lands once claimed by them.

Mr. T. said, in discussing a subject which necessarily drew into it an explanation of statutes, the operation of which, as explained by legal adjudication, with which he was unacquainted, might have led him to erroneous conclusions, but he hoped the candor of his friends from North Carolina would induce them, in case of error on his part, to set him right. Mr. T. said he would now make a few observations on some other parts of the Treaty.

Mr. T. said he would take a cursory view only of some other articles of the Treaty, and certain observations which had been made against them. It had been said, the surrender of the posts was saddled with conditions, which destroyed the benefits of the surrender; and much had been said against leaving it optional with the British subjects, now living within the neighborhood of the posts, to become citizens of the United States or not.

He asked gentlemen if it would have been politic to have forced those persons to become American citizens, or to have removed to the British dominions on the other side of the line? And whether, in this latter case, we should not have enlisted every man of them on the side of our enemies, and laid a foundation for the excitement of further discontent and war with the Indians? A gentleman from Pennsylvania [Mr. Gallatin] had said, if we could have left those persons in the precise situation that the Treaty has, yet why *force* us by Treaty to do it?

If that gentleman's position was just, that we were now making the Treaty, and that not so much as the *national faith* was pledged, until we give our sanction, why was the word *force* made made use of? We were now free to act or not, and he was confident no better way could be devised to treat those persons living in the vicinity of the posts than that adopted by the Treaty.

Free intercourse by land, and inland navigation, the most desirable circumstance which could have occurred, was said to be a fault in this Treaty. He observed, that the Treaty of Utrecht, which, among many other things, established between France and England a line nearly in the same place, contained a provision nearly in the same words; and he begged gentlemen to inform him how they meant to maintain a friendly intercourse among people who probably would inhabit on each side of a line thousands of miles in length, unless it is free?

It had been said we should be saddled with a sum of very great amount in British debts, even 15,000,000 of dollars. A gentleman from Massachusetts [Mr. Goodhue] had placed this matter on the best probable footing, by stating how much annual credit it was usual to obtain from Great Britain, and then assuming one year or one-half year to be the aggregate; this, at most, would not exceed 6,000,000 of dollars for the whole debt, and allowing interest on the whole, would not make more than 9,000,000 of dollars. This sum was certainly paid in part, but a part of the remainder could possibly be embraced by the provisions of the Treaty. How great a sum, in fairness, we ought to calculate upon, he left gentlemen to decide. If 15,000,000 of dollars was the sum, he thought the aggregate debt to British creditors must have been at least 50,000,000 of dollars, if not 100,000,000. He asked the gentlemen from the South—for the greater part of the debts were there—if this amount, or any where near it, had ever been acknowledged by them, or by Mr. Jefferson, in his statement to the British Minister; and whether this enormous amount was not, in some measure swelled, upon the present occasion, to meet the Treaty, as being the most formidable weapon of condemnation; and whether, on the same ground, a decision of Court, on common law principles, had not been called a *legal impediment*? But he really thought the *sum* was not an object, if that sum was to be fairly ascertained; for if honest creditors have been defeated by the Government from a recovery of debts, why ought not that Government to indemnify such creditors?

A gentleman from Virginia [Mr. Nicholas] had said the Commissioners would probably be such men, as that we might expect from their decisions, or at least fear, partiality to creditors. He asked that gentleman, if there could be a better plan of adjustment, and if the persons who would probably be appointed Commissioners, would not have character, reputation, and every thing dear to man, at stake, to induce an upright decision?

He thought any man must have been very unfortunate indeed, in his intercourse among his fellow men, to be capable of forming an estimate so degrading to the human character. Let the gentleman ask his own heart, how he should behave on such an occasion, and let him suppose, as charity would certainly dictate, that other men possessed honesty as well as himself.

A gentleman from Pennsylvania [Mr. Gallatin] had said yesterday, that the boasted benefits of the East India trade, secured to us by the Treaty, were of little or no consequence; and if we understood as much about it, as we did of the West India trade, that part of the Treaty would be found as injurious to us as the 12th article; and that all our merchants were of that opinion. He thought this statement incorrect, in point of fact. So far as he was acquainted with the opinions of the best-informed merchants, they were all in favor of the East India regulations, and the gentleman from Massachusetts [Mr. Goodhue] whose opinion, as a well-informed merchant, had always much weight with all who knew him, had some days since in public debate, made a similar declaration.

That free bottoms should make free goods, had been reiterated, and this Treaty called a very bad one, for not containing such a regulation, in such solemn language, that he begged the indulgence of the Committee, while he took notice of that objection.

The sea, he observed, was the great highway of the world, and liberty of navigating it was the right of all nations, and without molestation to carry their own property to such places as they pleased, not thereby infringing the rights of another.

But when two nations are contending and at war, what right, in the nature of things, could exist in a third nation to interfere, and assist either of them? They had a right, if they chose to join one party in the war; but on the principle of neutrality, could a right to assist one of them be said to exist? And if the nations at war have a right to take the property of their enemies, is it not reasonable that they should exercise that right whenever they find such property, not within the dominions or territory of a neutral nation? He thought the idea of making prize of enemy's property wherever it was found, and permitting a friend's property to go free wherever it was found, had its foundation in the nature of things, and was with as much propriety called one of the Laws of Nations, as the prohibition to a neutral nation, to carry military stores to a blockaded town. He believed, if the principle of free bottoms making free goods was once established as the Law of Nations, we should find as much evil existing from overgrown maritime Powers intriguing to excite war among the nations, which could afford them the carrying trade, as from any other source. But allowing it to be ever so desirable, we ought to consider, that for the purposes of making a contract, two parties were absolutely necessary; and that both would possess rights, and have a voice in the bargains. Mr. T. observed, he had intended to notice what had been said of the article respecting contraband goods, but he had already consumed so much time that he would omit it. He requested the patience of the Committee, while he took a short but general view of the Treaty.

The Treaty with Great Britain, he said, however partiality might dictate, was in his opinion a good Treaty, much better for the United States than we had any reason to expect. He declared he thought it ought to be adopted by the United States, if they had been strong in armies and fleets, as a much better settlement of our misunderstandings and disagreement with Great Britain, than war could have been, had our strength been in almost any degree great and respectable. He was not one of those whose discernment was so acute, as to discover destruction and death in this Treaty. By this Treaty we gained the Western posts, which gave us a tolerable security for peace with the Indians, and a certainty of the commerce of the Western World. New York must become to that country what Venice and Genoa were formerly to Europe. We secured to ourselves the East India trade, compensation for the obstructions made on our commerce, a settlement of disagreeable and painful controversies; peace, and what added infinitely to the blessing even of peace itself, a confidence in our own Government.

We lost nothing by this Treaty, unless it could be called a loss to indemnify honest creditors against the operation of laws, which had been dictated by a spirit, not deserving of very flattering titles. This was, he said, a general view, and considering only the leading features of the instrument; but an accusation of a very extraordinary nature had been made up against the Treaty, that no compensation was obtained by it for the negroes carried away by the British army, after the peace of 1783. On this subject, he would make but two remarks; one was respecting a gentleman from Virginia, [Mr. Madison.] It would be remembered by many who heard him, that two years ago, when Clark's intercourse bill, (as it was called) was under consideration, and when among other things prescribed in it for the British nation to do, to prevent us from starving them by a prohibition of intercourse, a restoration of negroes was moved, Mr. Madison opposed it, and made use of this remarkable expression: "It was not proper to commit the peace of this country for an object of no greater consequence than a restoration of those negroes, or compensation for them." He asked that gentleman, if it was now an object for which the peace of this country ought to be committed? The second observation he should make, was in answer to the gentleman from Pennsylvania, [Mr. Gallatin] who had said negroes were never to be considered as "booty" of war; this was said in answer and by way of refutation, to the construction given to the words of the 7th article of the Treaty of Peace, which were "and His Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c.

Mr. T. said, the construction put upon these

words had been so ably managed by several gentlemen before him, that nothing new could be said upon the construction; but Mr. GALLATIN's attempt to obviate those arguments, deserved notice. That gentleman had said, negroes were not booty, and quoted *Vattel* in support of his assertion, hence the gentleman would have it, that at the end of a war the negroes must be returned as a matter of course, not vesting, by the capture, any right or property in the captor.

Mr. T. supposed the words "other property" would explain what was meant by negroes in the Treaty of Peace, but waiving that, he said, *Vattel* had no where said, that negroes, or slaves were not by the Law of Nations, "booty" of war. In page 584, *Vattel* in speaking of the manner in which the Romans treated slaves taken in war under the head of the rights of *postliminium*, had said they were sometimes on a settlement returned to the former owner: but *Vattel* has given no authority for the assertion made by that gentleman; even if a slave taken in battle should not be considered as, "booty," yet those who had repaired to the British standard antecedent to the peace, in consequence of a proclamation, promising them freedom, could by no possible construction of any part of *Vattel*, be said to be comprehended by that article of the Treaty of Peace, if negroes were property; with other property, the captors had a vested right, if men, no law human or Divine could or ought to coerce a return to their former slavery, and no such construction could, with a shadow of propriety, be given to the words of the Treaty.

The same gentleman [Mr. GALLATIN] had said, the admission of free bottoms making free goods, was in many Treaties of other nations with Great Britain, and in all Treaties made by that nation since 1780, excepting a late Convention with Russia.

Mr. T. said, he believed there was not a Treaty existing, to which Great Britain was a party in which that principle was recognised.

In the Treaty with the Netherlands, made by Great Britain many years ago, for a reason well known, it was admitted, that Treaty was temporary and had long since expired. It was in the Treaty made with France in 1786, that had ceased by the war; it was in a former Treaty with Russia, which was at an end in the last and existing Treaty; between Great Britain and Russia, it was not admitted. The French Treaty was the only one, within his memory, which Great Britain had made since 1780, in which such a principle was admitted. He could not but view such attempts to hold up an idea, that the Treaty now under consideration, was singular, in this respect, as not containing the principle of free bottoms making free goods, and that the omission was owing to an intentional neglect on the part of the negotiator, as unfair, in the extreme; and it must have been noticed, through the whole of that gentleman's [Mr. GALLATIN] observations yesterday, that he frequently took care to intimate that the negotiator could have obtained better terms from Great Britain if he had been so disposed.

Mr. T. said, he was impressed with the importance of the subject now before the Committee, and could not suppress his astonishment at the conduct of the gentlemen in the opposition. They had begun with calling for papers from the PRESIDENT and with declaring they had as much, and similar authority, to that vested in the Parliament of Great Britain, to sanction or refuse their assent to Treaties of a commercial nature; the next vote was a declaration that the power of making Treaties was vested in the PRESIDENT with advice and consent of the Senate, but that the House of Representatives had a kind of negativing power by withholding appropriations.

Now, the declaration was, the Treaty was entirely open, not even the national faith was pledged to carry it into execution, and one gentleman of Virginia, [Mr. MOORE] and who was generally remarkable for his candor, had said he must vote against the appropriating resolution now before the Committee, to show that the power of refusal was in the House of Representatives. To meet the gentlemen in opposition on their own ground, and allow them the authority of a British Parliament, he said the British Parliament had never in a solitary instance refused to pass laws necessary to carry a Treaty into execution, which had been negotiated by their King. The instance of the Commercial Treaty with France, made in 1713, commonly called the Treaty of Utrecht, it was conditional, and he again asserted no positive unconditional Treaty made by the King of Great Britain had ever been otherwise considered by the British Parliament than a compact which had solemnly pledged the national faith, and which they were bound to carry into effect. That with France above mentioned, although conditional, was refused support, on account of a claim made by the merchants, and a violent party at that time prevalent in the nation.

It was well known the merchants were more intimately concerned in the operations of a Commercial Treaty, than any other class of men; of this the party availed themselves, and in that way effected a negotiation of the necessary laws to carry that Treaty into effect. The merchants in this country are almost to a man in favor of this Treaty, and yet a gentleman from Pennsylvania [Mr. SWANWICK] had told us we ought not to mind them, because they were interested, and told us of national honor being preferable to interest.

Mr. T. said, the progress of opinions and conduct in that House was a remarkable instance of the assumption of power, so natural to the human heart.

At first the cry had been, the Treaty was unconstitutional, that ground was now given up, and it is now treated as a mere proposal for compromising differences, and had undergone more verbal criticisms, and the discussion managed with more subterfuges and quibbles, than any gentleman would have either disposition or face to exercise in a bargain for the purchase of a horse. And we are told this House is the great inquest of the nation, and, if not the Treaty making power, yet emphatically the Treaty-destroying power. He

would acknowledge there was a happiness in the epithet destroying which the gentleman had assumed. And now an attempt was made in the House to destroy a national compact, for the sole purpose of showing their power; and from the valuable motive of doing their utmost, as the immediate Representatives of the people, to preserve liberty and the rights of man.

He then asked for a little more indulgence, while he took a short view of the state of things which, in his opinion, must necessarily follow a refusal to appropriate.

Among the melancholy group of distressing attitudes, into which this country must be thrown, by such refusal, a breach of national faith would present itself in prominent features; and the man or men who could trifle with national faith, were not friends to liberty or the happiness of the country.

The peace of the country was at least in imminent hazard; peace might be considered as a state of things contrasted to war, and it further might be considered as a state of things contrasted to confusion and want of confidence, in the internal police of a Government, or its operations with regard to foreign nations; a refusal to appropriate would operate like a stroke of the torpedo on our commerce; evil-minded persons in Bermuda and elsewhere would sweep the seas of our vessels, under the expectation of actual war. Industry will be discouraged, and instead of finding security and protection from Government, when men find it a mere bill of expenses, and exercising itself in dissertations on liberty, and talking loudly of honor, but professedly decrying the interest, and whatever tends to advance the interest of the industrious and enterprising, they would be led to curse the Government.

But, he acknowledged he had very little expectation of escaping a war with Great Britain, in case of a refusal to appropriate money to carry into effect this Treaty.

In contemplating this subject, gentlemen had asked, with an air of triumph, will Great Britain go to war with us?

The gentleman from Pennsylvania had said we would not go to war with them; and if neither party will go to war, how can there be a war? He would thank gentlemen to give the probable state of things. It had been acknowledged by the last-named gentleman, [Mr. GALLATIN,] that a new negotiation, at present, cannot be expected. Great Britain possess the posts—the confidence of the Indians—the many millions of dollars despoiled from our commerce—the benefits of our trade—and proceed to make more invasions on our property and our rights, and yet the gentleman says we will not go to war! What should be the American conduct under such a state of things? Would they tamely see their Government strut—attempt to look big—call hard names,—and the moment they were faced, like an overgrown, lubberly boy, shrink into a corner? Is this, he asked, the American character?

He thought himself acquainted with a part of the United States too well to believe they merited such a character. The people where he was most acquainted, whatever might be the character in other parts of the Union, were not of the stamp to cry hosannah to-day, and crucify to-morrow; they will not dance around a whiskey-pole to-day, and curse their Government, and, upon hearing of a military force, sneak into a swamp. No, said Mr. T., my immediate constituents, whom I very well know, understand their rights, and will defend them; and if they find the Government either cannot or will not protect them, they will attempt at least to protect themselves. And he could not feel thankful to that gentleman [Mr. GALLATIN] for coming all the way from Geneva to give Americans a character of pusillanimity.

[Here a member from Pennsylvania [Mr. HEISTER] called Mr. TRACY to order, and said it was intolerable. Mr. HEATH of Virginia, and Mr. CHRISTIE of Maryland, called to order. Mr. TRACY requested the Chairman of the Committee of the Whole [Mr. MUHLENBERG] to decide. The Chairman declared Mr. TRACY to be in order, and directed him to proceed.]

Mr. T. said, in the heat of debate he might have been too personal: this he did not mean. If he had, he asked pardon of the gentleman and the House. But he would ask leave to explain. He said he would call upon the recollection of all who heard him, that that gentleman [Mr. GALLATIN] said yesterday the negotiation with Great Britain was begun in fear, carried on through fear, and the Treaty made by the same motive; when it arrived in this country, the Senate sanctioned it, and the PRESIDENT placed his signature to it, from fear, and now there was an attempt to obtain the sanction of the House of Representatives from fear. All these expressions, in an unqualified manner, the gentleman had applied to this country, in its most important transactions, by its most important characters; and, to crown all, we are to defeat the Treaty, and sit down quietly under injuries the most irritating, and not attempt a redress, or do anything like going to war. Under impressions made by such declarations he had said what he had; and he now said, he wished to look in the face of that gentleman, [Mr. GALLATIN,] or Mr. HEISTER, or any other who dared say that the American character was that of cowardice. He would say, again and again, it was madness, or worse, to suppose we could defeat this Treaty and avoid a war.

Mr. T. said another attempt was made to defeat this Treaty, by declaring that the British nation had impressed our seamen since the Treaty was made, and that this was either an infraction of it, or a proof that no security was obtained under it. He left gentlemen to decide on the possibility of breaking this Treaty, when even the national faith, was not yet pledged till sanctioned by the House of Representatives, and took this opportunity to ask for the proofs of such transactions as impressing our seamen by the British Government. He declared he knew of none, and had never heard of one instance of the British Government either avowing the right, or practising upon it, of impressment of an American into their sea-service.

Many instances had occurred of complaints to the Government, and all were immediately redressed. And, although it was becoming very fashionable to calumniate the British Government, he was impelled, from his own belief and conviction on the subject, to say that no such instance had ever taken place, or would ever, of the British Government justifying the impressment of natives of the United States, or one who was an acknowledged citizen. Is it not unfair, said Mr. T., to attribute to the Government the unauthorized misconduct of individuals far removed from the seat and control of the Government? It was equally unreasonable to say that we were not protected by the Treaty, and should not be, when the British Government had promised to pay for all former depredations made in that way upon our commerce. Was it not reasonable to suppose they would prevent or pay for any such depredations now made? And they certainly would prevent all such which were not from the confusion of war rendered inevitable.

An objection had been raised against the Treaty, that we should in consequence of it suffer British influence on our politics and Government. If I thought that to be a fact, said Mr. T., I should be unhappy in the extreme; for I wish to avoid the interference of any foreign politics. But, he said, he could not see any such danger. If we would be just to ourselves, we might defy any and all operation of the politics of foreigners.

Mr. T. said he had but touched upon a few of the many important points which presented themselves in considering this momentous question, any one of which would afford abundant matter for such a number of observations as would occupy a length of time equal to that which the patience of the Committee would allow to any one man. He concluded, by saying, he thought the happiness of the United States, and the stability, if not the existence of the Government, depended on passing the resolution; and he could not for a moment indulge a belief that it would be negatived.

When Mr. Tracy had concluded, a call for the question was again made; but, upon the motion being put for the Committee's rising, there appeared 51 for it, which was more than a majority of members present. The Committee accordingly rose, without coming to a decision.

Thursday, April 28.

Mr. Goodhue, Chairman of the Committee of Commerce and Manufactures, reported a bill for discontinuing the drawbacks on the exportation of snuff from the United States; which was twice read, and, after a few observations, was ordered to be committed to a Committee of the Whole.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

Herewith I lay before you a Letter from the Attorney General of the United States, relative to compensation to the Attorneys of the United States in the several Districts, which is recommended to your consideration.

G. WASHINGTON.

United States, *April* 28, 1796.

The said Message and Letter were read, and ordered to be referred to Mr. Kittera, Mr. Brent, and Mr. Bradbury, to report their opinion thereupon to the House.

A bill was received from the Senate, authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio; which was twice read and referred.

Mr. S. Smith proposed a resolution to the following effect, which was referred to the Committee of Commerce and Manufactures to report thereon:

"*Resolved*, That the President of the United States be authorized to direct such quarantine to be performed on all vessels from foreign countries, arriving at the ports of the United States, as he shall judge necessary."

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented to-day, praying that provision may be made for carrying the British Treaty into effect. They were referred as usual.

Mr. S. Smith also informed the House that he had received instructions from 97 of his constituents to exert himself in getting the British Treaty carried into effect. He said the instructions which he read to the House before, from his constituents in Baltimore county, were signed by 197 persons, and not by ——, as had been stated.

Mr. Livingston presented a representation and memorial, signed by 37 persons, in behalf of a public meeting which had been held at New York, in the fields, praying that the House of Representatives would act as they thought best with respect to the British Treaty, without being influenced by the efforts of any party. It was referred to the usual Committee.

The House then resolved itself into a Committee of the Whole on the state of the Union; when, the resolution for carrying the British Treaty into effect being under consideration—

Mr. Preston rose and spoke as follows: Mr. Chairman, I voted for the question yesterday, for the first time since this discussion began. I was then prepared to give my opinion, but, since the House has thought proper to devote another day to this important subject, I will take the liberty to offer my sentiments, and claim the indulgence of the Committee for this purpose. I make this claim for their indulgence with the more confidence, as I have heretofore occupied but little of the time of the House on any occasion, and as I mean to be short on the present—not intending to take that comprehensive view of the subject which many gentlemen have done who have preceded me. With this apology I will proceed, conceiving, however, that no apology is necessary on this or any other occasion where our duty impels us to come forward. But, I must confess it has been painful to me to hear the recriminations that have taken place on this occasion. I had hoped, on a subject so important, on which it is said the peace and happiness of this our common country rests—whose

welfare must be equally dear to all—that temperance and calmness would have marked our deliberations; that all our efforts would have been made to enlighten the minds and convince the judgments of each other, instead of lessening one another in our estimation, and that of our constituents, by dishonorable imputations, and which, I trust, every member would spurn. As to myself, Mr. Chairman, I stand here regardless of any imputations that ill-nature may cast upon me in this House, or abuse which may be conferred without doors. I shall not be deterred from pronouncing that opinion which my best reflections have enabled me to form.

Sir, in considering this subject, I had hoped every information possessed by any of the departments of Government would have been freely afforded us; and I cannot but lament that the President, by a too strict adherence to what he has supposed to be his Constitutional duty, refused the request of this House for certain papers, which request seemed to me not only proper, but innocent—proper, because they might have afforded information that would reconcile many of the objections entertained of the Treaty, and finally produce its adoption; it was innocent, because, if there was no unfair procedure respecting this business, why not publish the transaction to the world—at all events to the Representatives of the people, who, it is acknowledged by all, were not only to act on the Treaty in some way, but were intrusted with the management of some of the dearest rights of their fellow-countrymen? If, then, the people confide in us such important concerns, might not the Executive have reposed some degree of confidence, and complied with a request so decorously and respectfully made? But he has told us his duty forbids it. We are then reduced to the necessity to judge of the thing from the face of it, without the wished-for information. And I must confess it has always presented such a hideous and deformed aspect to my mind, that I have ever disliked it—which, together with the unfriendly sentiments of my constituents to it, has produced my prejudices. But I had determined, as the President and Senate had ratified it, and many approved it, to keep my mind open for every information the subject was capable of. As, then, none has been offered to operate a change of my opinion, and as the most likely source is shut against us, my prejudices, instead of being lessened, have become firmly fixed in the opposition.

I have thought proper to make these few preliminary observations. I will now offer some considerations on the Treaty, and will avoid, as much as possible, retracing the ground that has already been trodden by those who have gone before me.

By the first article, we find a firm and inviolable peace, a true and sincere friendship, is to exist between the respective countries, and the people thereof, without exception. How sincere the friendship between the countries is, I will not undertake to say; but the friendship of Great Britain to our property and our people, of certain descriptions, is unbounded indeed, inasmuch as they are daily receiving the one and embracing the other, even by force; but so familiar is this kind of friendship, that I believe our people would willingly dispense therewith; it proves, too, the old adage, that too much familiarity breeds contempt.

But, sir, the next article seems to be the great boon for all the concessions that are made by this compact. There is no one but will admit that the surrender of the posts would be an important acquisition at this time; but how infinitely more so would it have been in the year 1783, when they ought to have been delivered? We should not only have received the benefits of the fur trade, which gentlemen prize so high, from that time to the present, with all its accumulations, but we should have had peace with the Indians, and thereby saved the millions which have been expended in war, and the lives of many thousand valuable citizens. Moreover, our lands would have been purchased and settled to their limits, and our Public Debt thereby much extinguished, and we should have been less embarrassed. But what has been the course pursued in this business? We have been obliged, by vast expense, to coerce a peace with the Indians, and when ready to grasp the posts, we are told they are not ours, and the interference of another Treaty has thrown them two years further from our reach. I had understood, Mr. Chairman, that the Envoy was charged to demand, not to cede them, and surely this is a cession; for if he had a right to give them up for two years, why not for twenty-two, or any other given period? the principle certainly goes to this. So that, by this stipulation, we find, instead of receiving retribution for the detention of the posts, further delays are allowed, and no claim made. Hence we stand precisely in the same situation we did in the year 1783—no other assurance for their deliverance than we then had—British faith, of which, I had thought, gentlemen had had enough, by not having any. I will ask whether we have any stronger assurances now that Great Britain will perform, in 1796, what she ought to have performed in 1783? For my part, I know of none, unless it is that she has now a better bargain than she then had; but, indeed, this ought not to be an incitement, when, by refusing to comply with one, she is solicited to enter into another, more to her advantage. And this policy, too, is supported by a gentleman who informs us he represents the half of the State of New York, [Mr. Cooper;] he advises accepting what we have got, and negotiate for more. God forbid we should have any more negotiations of this kind! for, if we have, I fear we shall negotiate ourselves into Colonial subjects again.

But we are told the British committed no infraction of the Treaty of 1783, by withholding the posts; for we, having thrown legal impediments in the way of the recovery of their debts, became the first infractors thereof, whereby they were left free to comply or not. Let us, for a moment, inquire into this fact. By the 4th article of that Treaty, creditors on either side were to meet with no legal impediment to the recovery of their debts. By the 7th article of the same Trea-

ty, His Majesty was, with all convenient speed, to withdraw his armies and garrisons from every post and place. Now, sir, on comparing these articles, can it be presumed by any one that the latter stipulation was to remain unexecuted until the creditors recovered their debts? Was it to remain as a pledge for the performance of the other? No one can entertain the idea for a moment. Suppose the creditors had gone on in the collection of their debts without interruption, would it be said that the stipulations of the 7th article would be suspended until all the creditors were wholly satisfied? It is absurd, particularly when we reflect that the Commissioners who negotiated that Treaty must have contemplated the recovery of those debts by lawsuits; therefore, if the latter clause was intended to coerce the former, we would certainly not had the insertion of the words "with all convenient speed," which implies an early compliance. If the opposite construction was just, I would venture to say, the British Government would never have agreed to surrender the posts, but in consequence of such concessions as it now gets; for it would have the advantages of the fur trade, and the faith of this country pledged for the payment of the debts, which were accumulating by interest. This was a pleasing situation; but what was the situation of the British debtors? Deprived of their negroes, which were to be returned by the Treaty; deprived of the advantages of the trade with the Indians, whereby they might be enabling themselves to discharge those debts; harassed and worn down with taxation, to support the Indian wars excited by their creditors. In this situation of things, was it not natural for them to look around for security or indemnity against these evils; and would anything more naturally present itself, than withholding the payment of the money to the very cause of these evils? None, sir; and I cannot conceive it so dishonorable as some gentlemen pretend to view it.

But, sir, I will endeavor to show that the laws which were enacted by States for prohibiting the recovery of the British debts, was not an infraction of the Treaty of 1783. By the little book, which the gentleman from Connecticut [Mr. Hillhouse] says is so precious, and which he hopes will be preserved for some time to come, we find that Mr. Jefferson has, in consequence of complaints from the British Minister, respecting the impediments to the recovery of British debts, inquired into the facts, in those States where the complaints originated; the result of these inquiries was, that though there were State laws prohibiting, yet a number of gentlemen, of the first abilities and great integrity—generally professional characters, and who have been engaged in proceedings of this kind—certify, that wherever attempts were made to recover these debts, they have met with no more obstruction than other creditors. Besides, those gentlemen were generally of opinion that, on the final ratification of the Treaty of 1783, it repealed all laws at variance with it. If, then, it had such a powerful attribute as to repeal former laws, it follows, as a consequence, that subsequent laws opposing it were mere nullities. These opinions were cited the other day by a gentleman from Massachusetts, [Mr. Sedgwick,] and relied on. I hope they will have their due weight on the application now to be made of them. So that, on the whole, it does appear to me the British creditor had nothing more to struggle with than other creditors had, except the well-founded prejudices imbibed by our countrymen against that nation, which, though the laws might in some measure correct, they could never eradicate. That these prejudices have produced irregularities in many instances and delay of collections, I have no doubt; but from the nature of things it is well known no foresight or precaution could guard against it. Indeed, they might have been expected, for can it be supposed that men would stand calmly and see their families reduced to penury and want by an unrelenting British creditor, who had aided to impair the very means of his debtor to pay, and whose Government was by their acts daily increasing the evils, by exciting the Indians to war against us, whereby our citizens were borne down with burdens to defend themselves? I say, would not such reflections, with ruin before our eyes, produce a degree of irritation in the most calm amongst us? I owe none of these debts, I never did, and I never will, if I can help it. I spurn the idea of involving my country in a debt of an incalculable amount, when millions of them never received any benefit thereby. It is wrong, it is unjust. I again repeat, that it does appear to me, on an impartial view of this subject, that the United States are not chargeable with the first infraction of the Treaty of 1783, and that therefore, we are not bound now to enter into a compact which appears to me to be warranted neither by the principles of reciprocity nor justice.

But I undertake to say, and with some confidence too, that Great Britain committed the first infraction of that Treaty, by withholding the posts, and also carrying away the negroes, which she had expressly stipulated to give up; and, to my astonishment, it is now contended that the taking away the negroes was not a violation of the Treaty, as they came into their possession by the rights of war, and being deemed property were vested in the captors. Admit, for a moment, they were that kind of property, and they became as much the property of their captors as any they had possessed themselves of in the same way, what then? Certainly, that it followed of course, they had a right to dispose of them in any way they chose, either to emancipate them, retain them in slavery for their own use, or return them to their original owners. Which of these alternatives have they elected to do? [Here he read the following sentence from the Treaty of 1783.] "And His Britannic Majesty shall, with all convenient speed, and without causing any destruction or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c., &c. Now, sir, was not the carrying away the negroes a violation of this article? All America once thought so. No other construction ever entered the head of man till this Treaty appeared;

owners so construed it, and in virtue thereof made demands. Congress, and even "*Camillus*," once thought so, and so they declared it in the most solemn manner. And so it would be construed by all descriptions of people, from the school-boy to the Senator, to use the expression of the gentleman from New York, [Mr. Cooper,] had our minds remained in the same state they were in a dozen years ago. Sir, if there be modern constructions of the Constitution, I will venture to say there is the same of Treaties. But another clause of the same article justifies my construction, to wit: the leaving in all fortifications the American artillery that may be therein. Gentlemen will hardly say this means fortifications garrisoned by American soldiery; this would be absurd, for it is pretty well known that American artillery guarded itself better than British Treaties did. Was not this artillery, which had fallen into the hands of the enemy, a vested property, till the chances of war or the Treaty had made a disposal thereof? Unquestionably it was. Were not the archives, records, deeds, &c., which had also fallen into the hands of the enemy, their property? There can be no doubt of it. Yet we find these things stipulated to be given up.

If, then, they chose to yield one species of property, might they not another? But, it is said, the negroes were not our property at the time of signing the Treaty; so neither did the archives, records, &c., belong to the States—they were the property of the enemy; but certainly the British Minister had as much right to stipulate for the return of the one as for the other, and he has in as explicit terms. This must have been the understanding of the Commissioners who negotiated that Treaty, although one of them has been traced to his slumbers, the evening before the sealing the Treaty, for a different construction. So that, in this instance, the British have certainly committed the first infraction, by carrying off the negroes. And is it not extraordinary that, notwithstanding this, no claim is made for them, and yet we are bound to pay the British debts, when the very means of doing it are taken from the debtor by the creditor? Sir, this is a serious oppression, and though not of a very great magnitude, will nevertheless be felt in an interesting manner, and if submitted to, will be so under much disquietude.

I will now make some observations on the 9th article, which to me was extremely objectionable, and immensely important, as it breaks in on a property the rights of which above all ought to remain unshaken or hazarded by construction. By this article, British subjects who now hold lands in the United States shall continue to hold them, according to the nature and tenure of their estates and titles therein.

What is the nature and tenure of their estates and titles therein? They claim and hold them either by proclamation from the King, granting certain tracts, or by special contracts with him for so much as described therein. This is the nature and tenure of the British claims generally, in this country. And I will venture to assert, if this article be agreed to, all these old claims will be renewed, and this country thrown into a scene of litigation and confusion. Sir, it will never be submitted to, if this construction be right, and I can see no other meaning it can have. It is unknown what a face of country will be covered by these claims. I knew a man, now in this city, who holds many millions of these claims by agreement with the King of Great Britain, prior to the Revolution; whether he means to renew the claim under this article, I cannot say; but if this article only admitted of a doubt—and it certainly does, notwithstanding the labors of the gentleman from Connecticut, yesterday, [Mr. Tracy]—we ought to be extremely cautious, and weigh it well before we accept it, situated as much of this country is.

But, however objectionable this article is, no less so is the succeeding one. It is, that the debts of individuals of one nation due to the individuals of the other, shall not be subject to sequestration or confiscation. By this we give up one among the strongest holds we have on Great Britain, for her peace and respect towards us; a thing, if retained, would be of more terror to her than all the fleets we shall have for many years to come. But, it is said, it is unjust that individual confidence should be impaired by national differences. Let gentlemen refer to history, and they will find that almost all wars have been originated in the conduct of individuals to each other, who, by acts of outrage and retaliation committed on one another, gather strength from time to time, till they become a national object, and cause a national war. The interference of individuals frequently restores peace again. I mention this to show, that where there is such a familiar intercourse between nations, as between this and Great Britain, there ought to be not only the obligation of fear, but that of interest. For, if it be an individual loss to the people of that nation to commit outrages on the people of this, it will be a more certain security against those outrages than the influence of personal fear. But I have heard it said, if this Treaty be violated by war, it becomes a nullity, and this article falls with the rest. I am of a different opinion, for the negotiators, in forming this, were guarding that property against the evils of war; they express this to be their object; they could have no other, for it is hardly presumable there would be confiscations in time of peace. Sir, the fact is, if we agree to this article, there is no event of war or national differences, whatever may be the outrages of the conflicting Powers, that will justify a breach of it. I would hold myself bound at all times, or in any event, to observe this article. This is my *bona fide*, although I voted against the insertion of these words on another occasion, and although so much has been said about prostrating the honor and faith of this nation. By these observations, gentlemen will see I am a friend to sequestration and confiscation; yet I declare, if I know myself, I am a friend to justice, although our negotiator has said such a conduct was unjust. I differ, too, sir, from my friends on this point, when they say this should be the last resort in case of war. With me, it should be among the first; for I have such a horrible aversion to the effusion of human blood,

that I would strip my enemy of all his property before I would commit such an outrage on humanity; if that would not restore peace, then I would use the bayonet as my dernier resort. This closes my observations on the permanent articles of the Treaty; which to me are of such weight, however futile they may be to others, that I cannot, in my conscience, agree to be bound myself thereby, or suffer my country, so far as my negative will prevent it.

The latter part of the Treaty being of a commercial nature, and temporary, I am not disposed to hazard many observations upon it, because I am ignorant of commercial affairs, my interest never leading me to an acquirement of a knowledge of it, and my industry not being adequate to the abstruseness of the subject. However, I will offer some general observations.

The 15th article prevents a discrimination of duties, as, also, a prohibition of exports and imports, unless general, with all nations. Every one who knew the course of my political opinions two years ago, must know I am opposed to this. I did think that these two propositions, under the existing state of things, as relative to the time they were proposed, would have answered the desired purpose.

The discriminating duties would either have produced countervailing ones, or an amicable and equal adjustment of differences; in either event, I should have been pleased—the first, tending to the encouragement of our manufactures, the other, to accommodation. I was also willing—nay—anxious, to try the effects of a prohibition of all intercourse with that nation. It would have determined one important fact, in my mind, namely, whether we could better do without their manufactures, or they without our commerce? and, though this experiment might have produced a temporary inconvenience, it would ultimately be an important advantage to the encouragement of our own manufactures. Besides, it is said, that country is jealous and sore under their separation from us. If this be a fact, and I believe it is, it affords us an additional reason to pursue that policy which will finally close our intercourse with that nation, instead of drawing closer the bands of friendship, which, I am sorry to say, has already too much influence. I am here reminded of a conversation that took place between myself and a gentleman high in office, and very high in the estimation of some. Whilst the resolution prohibiting a further intercourse with Great Britain was under consideration, I met with him, and it immediately became the subject of conversation. He exclaimed against it as war, worse than war; it was underhanded and unmanly, and, therefore, unworthy of Americans. If it was the intention of gentlemen to go to war with that country, and the complaints would justify it, he would join hand in hand in an open manner; but, when there existed such differences between nations, the proper course to be pursued was the appointment of an Envoy Extraordinary, who would go the nation complained of with a perfect knowledge of the temper of his own country, and, therefore, would be more impressive than the gentleman stationary at that Court. He added, too, that he might not possess all that enmity to that nation that some of the Southern people have, and, therefore, an accommodation would more readily, and with more facility, take place. This conversation happened several days before the appointment of an Envoy, indeed, before I heard the idea suggested. But so it was, one was appointed who fitted the character precisely. Though, unfortunately for this country, so soon as he crossed the ocean he abandoned the temper of his nation, as expressed by a respectable majority of the Congress that were then in session when he was appointed, and has fixed a veto thereon. This abandonment of the temper of his country, fully proves the other requisite of his character, to wit: that he did not possess all that enmity to the British Government that the Southern people did. Indeed, I doubt whether he had any, or such is his forgiving disposition and urbanity of manners, that he could not be so impolite as to urge the temper of his country, it was too rigid. What gentlemen's feelings may be who favored this system, I cannot say; I confess mine are not a little wounded; yet not so much as to endeavor to avenge myself on the object, to the injury of my country, as has been insinuated.

The 25th article is highly objectionable, as it certainly is unfriendly to the French, inasmuch as it permits British privateers, on capturing French vessels, to enter our ports and remain for security. By this, we become the protectors and harborers of the enemies of our friends, and nothing will be more likely to produce a war with that favorite nation, than pursuing a conduct like this; for, can it be supposed, that the French will see their vessels captured by the British, just off our coasts, and immediately run into our ports, there to remain till convenient to depart, which certainly will not be as long as French vessels are waiting their departure? Is this, Mr. Chairman, consistent with strict neutrality? Is it consistent with the obligations we are under to that nation, or the gratitude we owe her for her magnanimous services rendered us during the late war? To me, it is a shameful dereliction of our friends; one that my obligations, my gratitude, and my friendship, spurns at, and will not suffer me to submit to. But, to my astonishment, it is asserted that we are under no obligations to France for the assistance she gave us. It was afforded, not for friendship to us or our cause, but from enmity to Great Britain. Sir, whatever might have been their motives, it is unbecoming us to say, for if we acknowledge the aid, we must admit the obligation. It is further said, [by Mr. Hillhouse,] that she gave us no aid until we had captured Burgoyne, whereby we had proved to the world that we were able to cope with that nation. The inference from this is, that their aid was unnecessary, and their untimely interference tarnished the laurels that America was about to pluck by conquest over Great Britain. But how does General Washington's letter, respecting

Count de Grasse, at the capture of Cornwallis, comport with this assertion? By that we are informed, as well as I recollect, (it is some time since I read it,) that the people of America had become tired of the war, ready to yield to their fatigues and distresses, whereby some effectual stroke became necessary. York presented an opportunity for the meditated scheme. Was Count de Grasse and his followers, the French, of no service there? Sir, could the thing have been completed without this assistance? It is acknowledged it could not. What were the assertions that were made when appropriations were solicited for the daughters of Count de Grasse, two years ago? That his services and magnanimity was one of the great causes of ending the American war; and shall the daughters of this hero perish on the American shores, which were so much indebted for their independence and liberty to the services of their father? Were motives then impeached? No, sir. Appropriations were made, and, I believe, that very gentleman voted for them. I did not, having previously determined not to appropriate money in that way, till our suffering brethren in Algiers were relieved from their cruel slavery. Sir, I say I am astonished at our ingratitude, that we should abandon our friends, and now, to their injury, take that nation by the hand who attempted to deprive us of our liberty. I am one who have different impressions. I believe American independence is much indebted to French valor; believing so, I shall, whenever these nations present themselves in similar views, give a decided preference to the latter. I will here conclude my observations with a few remarks on those already offered relative to the consequences that will result in the event of acceptance or rejection of the instrument on your table. It is said, if we accept it, we shall continue to enjoy all that prosperity that kind Providence has so liberally bestowed on us, since the establishment of this Government; that our farmers will reap the benefit of their industry, and our merchants will plough the ocean in security, bringing wealth to themselves and riches to their country. These are surely pleasing consequences, and I would, if they could be insured to me, seize with avidity the thing that would produce such inestimable blessings to our happy country. But, Mr. Chairman, where is the security for all this? Have we found, since the ratification of this Treaty, that our property and our seamen have been secured thereby? Are we not hearing daily of British rapacity gorging on American property, and British insolence outraging American rights, notwithstanding that nation must suppose the Treaty completely ratified and fully in force? For the President has informed us that he has told them so; and so they have believed, and that they did believe so, is further evidenced by the last clause in the Treaty, viz:

"That this Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed, and observed with punctuality, and the most sincere regard to good faith."

Sir, is the seizing our vessels and impressing our seamen British faith? Is this executing and observing the Treaty with punctuality and the most sincere regard to good faith? If it is, it is most fortunate that we yet retain those powers which that nation has supposed were ceded by the Treaty.

But the rejection of the Treaty is tremendously alarming, indeed. War, and war's alarms, are echoed on all sides. We shall be attacked on one side by savage barbarity; up the Mediterranean by Algerine cruelty; our commerce prostrated, and our cities laid under contribution by the British. In short the dogs of war let loose on us, and America, once happy America, will become the scene of bloodshed and desolation. Great God! What man is there here that can be wicked enough to involve his country in such incalculable miseries? Who has firmness enough to meet so foul a deed? Particularly when we reflect on the dreadful act we are about to do, that will produce such scenes of horror and devastation! namely, refuse to accept a bargain derogatory to our national honor! This, sir, is to produce the dreadful catastrophe. But the measure of wo is not yet filled. There will be disunion; and American citizens will become American enemies, imbruing their hands in each other's blood. Civil wars will rend our happy country. Heavens! What a shock to suffering humanity here will be! And all about some commercial regulations and political differences with a foreign nation, who, I believe, in principle, is our inveterate enemy.

Mr. Chairman, I am one who, though I have but little confidence in the British Government, yet I cannot believe that she, or any other nation on earth, is so arrogant, and lost to every principle of humanity, as to go into such dreadful excesses, because we will not enter into a contract that will suit her interest. I fear war as much as any man, when a pretext is given; but can it be seriously said a rejection of this Treaty is a cause of war? I cannot believe that such can possibly be the event.

As to disunion, it is idle to talk of it; for I do believe if, instead of a minority of this House, every man in it were to return home full of spleen and disappointment, and were to use every exertion, every artifice in their power, to bring about a disunion, they would fail in so traitorous an attempt. The people, sir, would scoff them, would turn them out of office, and place therein more deserving characters.

As then, Mr. Chairman, I cannot believe that war or disunion will be the result of a rejection of the Treaty, and as I think it is one from which we ought to withhold our assent, I must give it my negative. And if, in this, time shall prove me wrong, I shall lament the error, with the greatest sincerity, but I shall have the pleasing consolation to know it was an error of the head, and not of the heart.

When Mr. PRESTON had taken his seat—

Mr. AMES rose, and addressed the Chair as follows:

Mr. Chairman: I entertain the hope, perhaps a rash one, that my strength will hold me out to speak a few minutes.

In my judgment, a right decision will depend more on the temper and manner with which we may prevail on ourselves to contemplate the subject, than upon the development of any profound political principles, or any remarkable skill in the application of them. If we should succeed to neutralize our inclinations, we should find less difficulty than we have to apprehend in surmounting all our objections.

The suggestion, a few days ago, that the House manifested symptoms of heat and irritation, was made and retorted as if the charge ought to create surprise, and would convey reproach. Let us be more just to ourselves, and to the occasion. Let us not affect to deny the existence and the intrusion of some portion of prejudice and feeling into the debate, when, from the very structure of our nature, we ought to anticipate the circumstance as a probability, and when we are admonished by the evidence of our senses that it is a fact.

How can we make professions for ourselves, and offer exhortations to the House, that no influence should be felt but that of duty, and no guide respected but that of the understanding, while the peal to rally every passion of man is continually ringing in our ears.

Our understandings have been addressed, it is true, and with ability and effect; but, I demand, has any corner of the heart been left unexplored? it has been ransacked to find auxiliary arguments, and, when that attempt failed, to awaken the sensibilities that would require none. Every prejudice and feeling have been summoned to listen to some particular style of address; and yet we seem to believe, and to consider a doubt as an affront, that we are strangers to any influence but that of unbiassed reason.

It would be strange that a subject which has roused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and, therefore, not exempt from those passions; as citizens and Representatives, we feel the interest that must excite them. The hazard of great interests cannot fail to agitate strong passions: we are not disinterested, it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding; but the public sensibility and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be the safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men—shall we complain of our nature? Shall we say that man ought to have been made otherwise? It is right already, because He, from whom we derive our nature, ordained it so; and because thus made, and thus acting, the cause of truth and the public good is the more surely promoted.

But an attempt has been made to produce an influence of a nature more stubborn and more unfriendly to truth. It is very unfairly pretended that the Constitutional right of this House is at stake, and to be asserted and preserved only by a vote in the negative. We hear it said that this is a struggle for liberty, a manly resistance against the design to nullify this assembly, and to make it a cypher in the Government. That the PRESIDENT and Senate, the numerous meetings in the cities, and the influence of the general alarm of the country, are the agents and instruments of a scheme of coercion and terror, to force the Treaty down our throats, though we loathe it, and in spite of the clearest convictions of duty and conscience.

It is necessary to pause here and inquire, whether suggestions of this kind be not unfair in their very texture and fabric, and pernicious in all their influences? They oppose an obstacle in the path of inquiry, not simply discouraging, but absolutely insurmountable. They will not yield to argument; for, as they were not reasoned up, they cannot be reasoned down. They are higher than a Chinese wall in truth's way, and built of materials that are indestructible. While this remains, it is in vain to argue; it is in vain to say to this mountain, be thou cast into the sea. For, I ask of the men of knowledge of the world, whether they would not hold him for a blockhead that should hope to prevail in an argument whose scope and object it is to mortify the self-love of the expected proselyte? I ask, further, when such attempts have been made, have they not failed of success? The indignant heart repels a conviction that is believed to debase it.

The self-love of an individual is not warmer in its sense, or more constant in its action, than what is called in French, *l'esprit de corps*, or the self-love of an assembly; that jealous affection which a body of men is always found to bear towards its own prerogatives and power. I will not condemn this passion. Why should we urge an unmeaning censure, or yield to groundless fears that truth and duty will be abandoned, because men in a public assembly are still men, and feel that spirit of corps which is one of the laws of their nature? Still less should we despond or complain, if we reflect that this very spirit is a guardian instinct that watches over the life of this assembly. It cherishes the principle of self-preservation; and, without its existence, and its existence with all the strength we see it possess, the privileges of the Representatives of the people, and immediately the liberties of the people, would not be guarded, as they are, with a vigilance that never sleeps, and an unrelaxing constancy and courage.

If the consequences, most unfairly attributed to the vote in the affirmative, were not chimerical, and worse, for they are deceptive, I should think

it a reproach to be found even moderate in my zeal to assert the Constitutional powers of this assembly; and, whenever they shall be in real danger, the present occasion affords proof that there will be no want of advocates and champions.

Indeed, so prompt are these feelings, and when once roused, so difficult to pacify, that, if we could prove the alarm was groundless, the prejudice against the appropriations may remain on the mind, and it may even pass for an act of prudence and duty to negative a measure which was lately believed by ourselves, and may hereafter be misconceived by others, to encroach upon the powers of the House. Principles that bear a remote affinity with usurpation on those powers will be rejected, not merely as errors, but as wrongs. Our sensibilities will shrink from a post where it is possible they may be wounded, and be inflamed by the slightest suspicion of an assault.

While these prepossessions remain, all argument is useless; it may be heard with the ceremony of attention, and lavish its own resources, and the patience it wearies, to no manner of purpose. The ears may be open, but the mind will remain locked up, and every pass to the understanding guarded.

Unless, therefore, this jealous and repulsive fear for the rights of the House can be allayed, I will not ask a hearing.

I cannot press this topic too far—I cannot address myself with too much emphasis to the magnanimity and candor of those who sit here, to suspect their own feelings, and while they do, to examine the grounds of their alarm. I repeat it, we must conquer our persuasion, that this body has an interest in one side of the question more than the other, before we attempt to surmount our objections. On most subjects, and solemn ones too, perhaps in the most solemn of all, we form our creed more from inclination than evidence.

Let me expostulate with gentlemen to admit, if it be only by way of supposition and for a moment, that it is barely possible they have yielded too suddenly to their alarms for the powers of this House; that the addresses which have been made with such variety of forms, and with so great dexterity in some of them, to all that is prejudice and passion in the heart, are either the effects or the instruments of artifice and deception, and then let them see the subject once more in its singleness and simplicity.

It will be impossible, on taking a fair review of the subject, to justify the passionate appeals that have been made to us to struggle for our liberties and rights, and the solemn exhortation to reject the proposition, said to be concealed in that on your table, to surrender them forever. In spite of this mock solemnity, I demand, if the House will not concur in the measure to execute the Treaty, what other course shall we take? How many ways of proceeding lie open before us?

In the nature of things there are but three—we are either to make the Treaty—to observe it—or break it. It would be absurd to say we will do neither. If I may repeat a phrase, already so much abused, we are under coercion to do one of them, and we have no power, by the exercise of our discretion, to prevent the consequences of a choice.

By refusing to act, we choose. The Treaty will be broken, and fall to the ground. Where is the fitness, then, of replying to those who urge upon this House the topics of duty and policy, that they attempt to force the Treaty down, and to compel this assembly to renounce its discretion, and to degrade itself to the rank of a blind and passive instrument in the hands of the Treaty-making power? In case we reject the appropriation, we do not secure any greater liberty of action, we gain no safer shelter than before, from the consequences of the decision. Indeed, they are not to be evaded. It is neither just nor manly to complain that the Treaty-making power has produced this coercion to act. It is not the art or the despotism of that power, it is the nature of things that compels. Shall we, dreading to become the blind instruments of power, yield ourselves the blinder dupes of mere sounds of imposture? Yet, that word, that empty word, coercion, has given scope to an eloquence that, one would imagine, could not be tired, and did not choose to be quieted.

Let us examine still more in detail the alternatives that are before us, and we shall scarcely fail to see, in still stronger lights, the futility of our apprehensions for the power and liberty of the House.

If, as some have suggested, the thing called a Treaty is incomplete, if it has no binding force or obligation, the first question is, Will this House complete the instrument, and by concurring, impart to it that force which it wants?

The doctrine has been avowed, that the Treaty, though formally ratified by the Executive power of both nations, though published as a law for our own, by the PRESIDENT's Proclamation, is still a mere proposition submitted to this assembly, no way distinguishable in point of authority or obligation from a motion for leave to bring in a bill, or any other original act of ordinary legislation. This doctrine, so novel in our country, yet, so dear to many, precisely for the reason that, in the contention of power, victory is always dear, is obviously repugnant, to the very terms, as well as the fair interpretation of our own resolutions.—[Mr. BLOUNT's.] We declare that the Treaty-making power is exclusively vested in the PRESIDENT and Senate, and not in this House. Need I say that we fly in the face of that resolution when we pretend that the acts of that power are not valid until we have concurred in them? It would be nonsense, or worse, to use the language of the most glaring contradiction, and to claim a share in a power which we, at the same time, disclaim as exclusively vested in other departments.

What can be more strange than to say, that the compacts of the PRESIDENT and Senate with foreign nations are Treaties, without our agency, and yet those compacts want all power and obligation until they are sanctioned by our concurrence? It is not my design, in this place, if at all, to go into the discussion of this part of the subject. It will,

at least for the present take it for granted that this monstrous opinion stands in little need of remark, and, if it does, lies almost out of the reach of refutation.

But, say those who hide the absurdity under the cover of ambiguous phrases, have we no discretion? And, if we have, are we not to make use of it in judging of the expediency or inexpediency of the Treaty? Our resolution claims that privilege, and we cannot surrender it without equal inconsistency and breach of duty.

If there be any inconsistency in the case, it lies, not in making appropriations for the Treaty, but in the resolution itself—[Mr. Blount's.] Let us examine it more nearly. A Treaty is a bargain between nations binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the Treaty power is not in this House; this House has no share in contracting, and is not a party; of consequence, the President and Senate alone may make a Treaty that is binding in good faith. We claim, however, say the gentlemen, a right to judge of the expediency of Treaties—that is the Constitutional province of our discretion. Be it so—what follows? Treaties, when adjudged by us to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this—the President and Senate are to make national bargains, and this House has nothing to do in making them. But bad bargains do not bind this House, and, of inevitable consequence, do not bind the nation. When a national bargain, called a Treaty, is made, its binding force does not depend upon the making, but upon our opinion that it is good. As our opinion on the matter can be known and declared only by ourselves, when sitting in our Legislative capacity, the Treaty, though ratified, and, as we choose to term it, made, is hung up in suspense, till our sense is ascertained. We condemn the bargain, and it falls, though, as we say, our faith does not. We approve a bargain as expedient, and it stands firm, and binds the nation. Yet, even in this latter case, its force is plainly not derived from the ratification by the Treaty-making power, but from our approbation. Who will trace these inferences, and pretend that we may have no share, according to the argument, in the Treaty-making power? These opinions, nevertheless, have been advocated with infinite zeal and perseverance. Is it possible that any man can be hardy enough to avow them, and their ridiculous consequences?

Let me hasten to suppose the Treaty is considered as already made, and then the alternative is fairly presented to the mind, whether we will observe the Treaty, or break it. This, in fact, is the naked question.

If we choose to observe it with good faith, our course is obvious. Whatever is stipulated to be done by the nation, must be complied with. Our agency, if it should be requisite, cannot be properly refused. And I do not see why it is not as obligatory a rule of conduct for the Legislature as for the Courts of Law.

I cannot lose this opportunity to remark, that the coercion, so much dreaded and declaimed against, appears at length to be no more than the authority of principles, the despotism of duty. Gentlemen complain that we are forced to act in this way, we are forced to swallow the Treaty. It is very true, unless we claim the liberty of abuse, the right to act as we ought not. There is but one way open for us, the laws of morality and good faith have fenced up every other. What sort of liberty is that which we presume to exercise against the authority of those laws? It is for tyrants to complain that principles are restraints, and that they have no liberty so long as their despotism has limits. These principles will be unfolded by examining the remaining question—

Shall we break the Treaty?

The Treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places, it has not done it here. The question here is, whether the Treaty be really so very fatal as to oblige the nation to break its faith? I admit that such a Treaty ought not to be executed. I admit that self-preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a Treaty which violates such a principle. I waive, also, for the present, any inquiry what departments shall represent the nation, and annul the stipulations of a Treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect? A Treaty is the promise of a nation. Now, promises do not always bind him that makes them.

But I lay down two rules which ought to guide us in this case. The Treaty must appear to be bad, not merely in the petty details, but in its character, principle, and mass. And, in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public. I confess there seems to me something very like ridicule thrown over the debate by the discussion of the articles in detail.

The undecided point is, shall we break our faith? And while our country and enlightened Europe await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed, by trivial calculations of commercial profit and loss; this is little worthy of the subject of this body, or of the nation. If the Treaty is bad, it will appear to be so in its mass. Evil, to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves and make their own law. What, if the direct voyage of American ships to Jamaica, with horses or lumber, might nett one or two per cent. more than the present trade to Surinam, would the proof of

the fact avail anything in so grave a question as the violation of the public engagements?

It is in vain to allege that our faith, plighted to France, is violated by this new Treaty. Our prior Treaties are expressly saved from the operation of the British Treaty. And what do those mean who say that our honor was forfeited by treating at all, and especially by such a Treaty? Justice, the laws and practice of nations, a just regard for peace as a duty to mankind, and known wish of our citizens, as well as that self-respect which required it of the nation to act with dignity and moderation—all these forbid an appeal to arms before we had tried the effect of negotiation. The honor of the United States was saved, not forfeited, by treating. The Treaty itself, by its stipulations for the posts, for indemnity, and for a due observance of our neutral rights, has justly raised the character of the nation. Never did the name of America appear in Europe with more lustre than upon the event of ratifying this instrument. The fact is of a nature to overcome all contradiction.

But the independence of the country—we are colonists again. This is the cry of the very men who tell us that France will resent our exercise of the rights of an independent nation to adjust our wrongs with an aggressor, without giving her the opportunity to say those wrongs shall subsist, and shall not be adjusted. This is an admirable specimen of the spirit of independence. The Treaty with Great Britain, it cannot be denied, is unfavorable to this strange sort of independence.

Few men, of any reputation for sense, among those who say the Treaty is bad, will put that reputation so much at hazard as to pretend that it is so extremely bad as to warrant and require a violation of public faith. The proper ground of the controversy, therefore, is really unoccupied by the opposers of the Treaty; as the very hinge of the debate is on the point, not of its being good, or otherwise, but whether it is intolerably and fatally pernicious? If loose and ignorant declaimers have anywhere asserted the latter idea, it is too extravagant, and too solidly refuted, to be repeated here. Instead of any attempt to expose it still further, I will say, and I appeal with confidence to the candor of many opposers of the Treaty to acknowledge, that if it had been permitted to go into operation silently, like our other Treaties, so little alteration of any sort would be made by it in the great mass of our commercial and agricultural concerns, that it would not be generally discovered, by its effects, to be in force, during the term for which it was contracted. I place considerable reliance on the weight men of candor will give to this remark, because I believe it to be true, and little short of undeniable. When the panic-dread of the Treaty shall cease, as it certainly must, it will be seen through another medium. Those who shall make search into the articles for the cause of their alarms, will be so far from finding stipulations that will operate fatally, they will discover few of them that will have any lasting operation at all. Those which relate to the disputes between the two countries will spend their force upon the subjects in dispute, and extinguish them. The commercial articles are more of a nature to confirm the existing state of things, than to change it. The Treaty-alarm was purely an address to the imagination and prejudices of the citizens, and not on that account the less formidable. Objections that proceed upon error, in fact or calculation, may be traced and exposed. But such as are drawn from the imagination, or addressed to it, elude definition, and return to domineer over the mind, after having been banished from it by truth.

I will not so far abuse the momentary strength that is lent to me by the zeal of the occasion, as to enlarge upon the commercial operations of the Treaty.

I proceed to the second proposition, which I have stated as indispensably requisite to a refusal of the performance of the Treaty. Will the state of public opinion justify the deed?

No Government, not even a despotism, will break its faith without some pretext; and it must be plausible—it must be such as will carry the public opinion along with it. Reasons of policy, if not of morality, dissuade even Turkey and Algiers from breaches of Treaty in mere wantonness of perfidy, in open contempt of the reproaches of their subjects. Surely a popular Government will not proceed more arbitrarily as it is more free, nor with less shame or scruple in proportion as it has better morals. It will not proceed against the faith of Treaties at all, unless the strong and decided sense of the nation shall pronounce, not simply that the Treaty is not advantageous, but that it ought to be broken and annulled. Such a plain manifestation of the sense of the citizens is indispensably requisite, first, because if the popular apprehensions be not an infallible criterion of the disadvantages of the instrument, their acquiescence in the operation of it is an irrefragable proof that the extreme case does not exist which alone could justify our setting it aside.

In the next place, this approving opinion of the citizens is requisite as the best preventive of the ill consequences of a measure always so delicate, and often so hazardous. Individuals would, in that case at least, attempt to repel the opprobrium that would be thrown upon Congress by those who will charge it with perfidy. They would give weight to the testimony of facts and the authority of principles on which the Government would rest its vindication. And if war should ensue upon the violation, our citizens would not be divided from their Government, nor the ardor of their courage chilled by the consciousness of injustice, and the sense of humiliation—that sense which makes those despicable who know they are despised.

I add a third reason, and with me it has a force that no words of mine can augment, that a Government wantonly refusing to fulfil its engagements, is the corrupter of its citizens. Will the laws continue to prevail in the hearts of the people when the respect that gives them efficacy is withdrawn from the legislators? How shall we punish vice while we practise it? We have not

force, and vain will be our reliance when we have forfeited the resources of opinion. To weaken Government and to corrupt morals, are effects of a breach of faith not to be prevented—and from effects they become causes, producing, with augmenting activity, more disorder and more corruption; order will be disturbed, and the life of the public liberty shortened.

And who, I would inquire, is hardy enough to pretend that the public voice demands the violation of the Treaty? The evidence of the sense of the great mass of the nation is often equivocal. But when was it ever manifested with more energy and precision than at the present moment? The voice of the people is raised against the measure of refusing the appropriations. If gentlemen should urge, nevertheless, that all this sound of alarm is a counterfeit expression of the sense of the people, I will proceed to other proofs. Is the Treaty ruinous to our commerce? What has blinded the eyes of the merchants and traders? Surely they are not enemies to trade, or ignorant of their own interests. Their sense is not so liable to be mistaken as that of a nation, and they are almost unanimous. The articles stipulating the redress of injuries by captures on the sea are said to be delusive. By whom is this said? The very men whose fortunes are staked upon the competency of that redress say no such thing. They wait with anxious fear lest you should annul that contract, on which all their hopes are rested.

Thus we offer proof, little short of absolute demonstration, that the voice of our country is raised, not to sanction, but to deprecate the non-performance of our engagements. It is not the nation, it is one, and but one branch of the Government that proposes to reject them. With this aspect of things, to reject it is an act of desperation.

I shall be asked, why a Treaty so good in some articles, and so harmless in others, has met with such unrelenting opposition; and how the clamors against it, from New Hampshire to Georgia, can be accounted for? The apprehensions so extensively diffused on its first publication, will be vouched as proof that the Treaty is bad, and that the people hold it in abhorrence.

I am not embarrassed to find the answer to this insinuation. Certainly a foresight of its pernicious operation could not have created all the fears that were felt or affected. The alarm spread faster than the publication of the Treaty. There were more critics than readers. Besides, as the subject was examined, those fears have subsided.

The movements of passion are quicker than those of the understanding. We are to search for the causes of first impressions, not in the articles of this obnoxious and misrepresented instrument, but in the state of the public feeling.

The fervor of the Revolutionary war had not entirely cooled, nor its controversies ceased, before the sensibilities of our citizens were quickened with a tenfold vivacity by a new and extraordinary subject of irritation. One of the two great nations of Europe underwent a change, which has attracted all our wonder, and interested all our sympathies. Whatever they did, the zeal of many went with them, and often went to excess. These impressions met with much to inflame, and nothing to restrain them. In our newspapers, in our feasts, and some of our elections, enthusiasm was admitted a merit, a test of patriotism, and that made it contagious. In the opinion of party, we could not love or hate enough. I dare say, in spite of all the obloquy it may provoke, we were extravagant in both. It is my right to avow that passions so impetuous, enthusiasm so wild, could not subsist without disturbing the sober exercise of reason, without putting at risk the peace and precious interests of our country. They were hazarded. I will not exhaust the little breath I have left to say how much, nor by whom, or by what means they are rescued from the sacrifice. Shall I be called upon to offer my proofs? They are here—they are everywhere. No one has forgotten the proceedings of 1794.* No one has forgotten the captures of our vessels, and the imminent danger of war. The nation thirsted not merely for reparation, but vengeance. Suffering such wrongs, and agitated by such sentiments, was it in the power of any words of compact, or could any parchment with its seals prevail at once to tranquilize the people? It was impossible. Treaties in England are seldom popular, and least of all when the stipulations of amity succeeded to the bitterness of hatred. Even the best Treaty, though nothing be refused, will choke resentment, but not satisfy it. Every Treaty is as sure to disappoint extravagant expectations as to disarm extravagant passions. Of the latter, hatred is one that takes no bribes. They who are animated by the spirit of revenge will not be quieted by the possibility of profit.

Why do they complain that the West Indies are not laid open? Why do they lament that any restriction is stipulated on the commerce of the East Indies? Why do they pretend that if they reject this, and insist upon more, more will be accomplished? Let us be explicit—more would not satisfy. If all was granted, would not a Treaty of Amity with Great Britain still be obnoxious? Have we not this instant heard it urged against our Envoy that he was not ardent enough in his hatred to Great Britain? A Treaty of Amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman at the same instant repeats a very prevailing objection, that no Treaty should be made with the enemy of France. No Treaty, exclaim others, should be made with a Monarch or a Despot. There will be no naval security while these sea-robbers domineer on the ocean. Their den must be destroyed. That nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for Treaties. Such passions seek nothing, and will be content with nothing but the destruction of their object. If a Treaty left King George his island, it would not answer, not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men and wealth and laws and liberty, there was no more than a sand bank for the sea-monsters to fatten on—a space for the storms of the ocean to mingle in conflict.

I object nothing to the good sense or humanity of all this. I yield the point that this is a proof that the age of reason is in progress. Let it be philanthropy, let it be patriotism, if you will, but it is no indication that any Treaty would be approved. The difficulty is not to overcome the objections to the terms; it is to restrain the repugnance to any stipulations of amity with the party.

Having alluded to the rival of Great Britain, I am not unwilling to explain myself. I affect no concealment, and I practice none. While those two great nations agitate all Europe with their quarrels, they will both equally desire, and with any chance of success, equally endeavor to create an influence in America. Each will exert all its arts to range our strength on its own side. How is this to be effected? Our Government is a Democratical Republic. It will not be disposed to pursue a system of politics in subservience to either France or England, in opposition to the general wishes of the citizens; and, if Congress should adopt such measures, they would not be pursued long, nor with much success. From the nature of our Government, popularity is the instrument of foreign influence. Without it, all is labor and disappointment. With that mighty auxiliary, foreign intrigue finds agents not only volunteers, but competitors for employment, and any thing like reluctance is understood to be a crime. Has Britain this means of influence? Certainly not. If her gold could buy adherents, their becoming such would deprive them of all political power and importance. They would not wield popularity as a weapon, but would fall under it. Britain has no influence, and, for the reasons just given, can have none. She has enough, and God forbid she ever should have more. France, possessed of popular enthusiasm, of party attachments, has had, and still has, too much influence in our politics—any foreign influence is too much, and ought to be destroyed. I detest the man and disdain the spirit that can bend to a mean subserviency to the views of any nation. It is enough to be Americans. That character comprehends our duties, and ought to engross our attachments.

But I would not be misunderstood. I would not break the alliance with France. I would not have the connexion between the two countries even a cold one. It should be cordial and sincere, but I would banish that influence, which, by acting on the passions of the citizens, may acquire a power over the Government.

It is no bad proof of the merit of the Treaty that, under all these unfavorable circumstances, it should be so well approved. In spite of first impressions, in spite of misrepresentations and party clamor, inquiry has multiplied its advocates, and at last the public sentiment appears to me clearly preponderating on its side. On the most careful review of the several branches of the Treaty—those which respect political arrangements, the spoliations on our trade, and the regulation of commerce—there is little to be apprehended. The evil, aggravated as it is by party, is little in degree, and short in duration. Two years from the end of the European war, I ask, and I would ask the question significantly, what are the inducements to reject the Treaty? What great object is to be gained, and fairly gained by it? If, however, as to the merits of the Treaty, candor should suspend its approbation, what is there to hold patriotism a moment in balance as to the violation of it? Nothing; I repeat confidently, nothing. There is nothing before us in that event but confusion and dishonor. But before I attempt to develope those consequences, I must put myself at ease by some explanations.

Nothing is worse received among men than the confutation of their opinions; and of those, none are more dear or more vulnerable than their political opinions. To say that a proposition leads to shame and ruin, is almost equivalent to a charge that the supporters of it intend to produce them. I throw myself upon the magnanimity and candor of those who hear me. I cannot do justice to my subject, without exposing, as forcibly as I can, all the evils in prospect. I readily admit that in every science, and most of all in politics, error springs from other sources than the want of sense or integrity. I despise indiscriminate professions of candor and respect. There are individuals opposed to me of whom I am not bound to say anything. But of many, perhaps of a majority of the opposers of the appropriations, it gives me pleasure to declare they possess my confidence and regard. There are among them individuals for whom I entertain a cordial affection.

The consequences of refusing to make provision for the Treaty are not all to be foreseen. By rejecting, vast interests are committed to the sport of the winds, chance becomes the arbiter of events,

* Soon after France declared war against England, citizen Genet (whose civism had assisted the revolution that had just been effected at Geneva) was despatched to the United States for the purpose, as appears by his instructions, of engaging them to take part in the war, and in case the Government, from motives of prudence, and a desire to remain in peace, could not be enlisted, the people were to be stirred up, and by a revolutionary process, plunged into a contest which has done more injury to the morals and happiness of nations than all the wars of the last century.

Citizen Genet, perceiving that the success of his mission could only be effected by a revolutionary movement of the people, commenced his operations at the place of his landing, and by his own agency and that of his partisans, every popular passion was inflamed, and every convenient means employed through all the States to produce distrust and confusion among our citizens, and a disorganization of our Government. It must be in the recollection of all, that during the disgraceful contest between this foreign agent and our Executive, the public opinion for a time hung doubtful and undecided; to the honor of our country, virtue and good sense ultimately triumphed over this incendiary.

The revolutionary labors of the citizen Genet were performed in the spring and summer of 1793; his instructions were probably early known in England, and the spirit and hostility towards that country, which during this season appeared throughout the United States, together with the numerous equipments in our ports of privateers under French commissions, must naturally have produced an opinion in the British Cabinet that the United States would ultimately engage in a war on the side of France. The Orders of the 6th of November, and the speech of Lord Dorchester to the Indians, are more satisfactorily accounted for by supposing the existence of this opinion in England, than by the extravagant supposition that too so often been made, that they meditated war against the United States because our citizens were free, and our Government a Republic.

and it is forbidden to human foresight to count their number, or measure their extent. Before we resolve to leap into this abyss, so dark and so profound, it becomes us to pause and reflect upon such of the dangers as are obvious and inevitable. If this assembly should be wrought into a temper to defy these consequences, it is vain, it is deceptive, to pretend that we can escape them. It is worse than weakness to say, that as to public faith our vote has already settled the question. Another tribunal than our own is already erected. The public opinion, not merely of our own country, but of the enlightened world, will pronounce judgment that we cannot resist, that we dare not even affect to despise.

Well may I urge it to men who know the worth of character, that it is no trivial calamity to have it contested. Refusing to do what the Treaty stipulates shall be done, opens the controversy. Even if we should stand justified at last, a character that is vindicated is something worse than it stood before, unquestioned and unquestionable. Like the plaintiff in an action of slander, we recover a reputation disfigured by invective, and even tarnished by too much handling. In the combat for the honor of the nation, it may receive some wounds, which, though they should heal, will leave some scars. I need not say, for surely the feelings of every bosom have anticipated, that we cannot guard this sense of national honor, this ever-living fire, which alone keeps patriotism warm in the heart, with a sensibility too vigilant and jealous. If, by executing the Treaty, there is no possibility of dishonor, and if by rejecting there is some foundation for doubt and for reproach, it is not for me to measure, it is for your own feelings to estimate the vast distance that divides the one side of the alternative from the other. If, therefore, we should enter on the examination of the question of duty and obligation with some feelings of prepossession, I do not hesitate to say, they are such as we ought to have; it is an after inquiry to determine whether they are such as ought finally to be resisted.

The resolution [Mr. Blount's] is less explicit than the Constitution. Its patrons should have made it more so, if possible, if they had any doubts or meant the public should entertain none. Is it the sense of that vote, as some have insinuated, that we claim a right for any cause, or no cause at all, but our own sovereign will and pleasure, to refuse to execute, and thereby to annul the stipulations of a Treaty?—that we have nothing to regard but the expediency or inexpediency of the measure, being absolutely free from all obligation by compact to give it our sanction? A doctrine so monstrous, so shameless, is refuted by being avowed. There are no words you could express it in that would not convey both confutation and reproach. It would outrage the ignorance of the tenth century to believe, it would baffle the casuistry of a Papal Council to vindicate. I venture to say, it is impossible. No less impossible than that we should desire to assert the scandalous privilege of being free after we have pledged our honor.

It is doing injustice to the resolution of the House (which I dislike on many accounts) to strain the interpretation of it to this extravagance. The Treaty-making power is declared by it to be vested exclusively in the President and Senate. Will any man in his senses affirm that it can be a Treaty before it has any binding force or obligation? If it has no binding force upon us, it has none upon Great Britain. Let candor answer, is Great Britain free from any obligation to deliver the posts in June, and are we willing to signify to her that we think so? Is it with that nation a question of mere expediency or inexpediency to do it, and that, too, even after we have done all that depends upon us to give the Treaty effect? No sober man can believe this—no one who would not join in condemning the faithless proceedings of that nation, if such a doctrine should be avowed and carried into practice. And why complain, if Great Britain is not bound? There can be no breach of faith where none is plighted. I shall be told that she is bound. Surely it follows that if she is bound to performance, our nation is under a similar obligation; if both parties be not obliged, neither is obliged—it is no compact, no Treaty. This is a dictate of law and common sense, and every jury in the country has sanctioned it on oath. It cannot be a Treaty, and yet no Treaty; a bargain, and yet no promise. If it is a promise, I am not to read a lecture to show why an honest man will keep his promise.

The reason of the thing, and the words of the resolution of the House, imply, that the United States engage their good faith in a Treaty. We disclaim, say the majority, the Treaty-making power; we of course disclaim (they ought to say) every doctrine that would put a negative upon the doings of that power. It is the prerogative of folly alone to maintain both sides of a proposition.

Will any man affirm the American nation is engaged by good faith to the British nation, but that engagement is nothing to this House? Such a man is not to be reasoned with. Such a doctrine is a coat-of-mail, that would turn the edge of all the weapons of argument, if they were sharper than a sword. Will it be imagined the King of Great Britain and the President are mutually bound by the Treaty, but the two nations are free? It is one thing for this House to stand in a position that presents an opportunity to break the faith of America, and another to establish a principle that will justify the deed.

We feel less repugnance to believe that any other body is bound by obligation than our own. There is not a man here who does not say that Great Britain is bound by Treaty. Bring it nearer home. Is the Senate bound? Just as much as the House, and no more. Suppose the Senate, as part of the Treaty power, by ratifying a Treaty on Monday, pledges the public faith to do a certain act. Then, in their ordinary capacity, as a branch of the Legislature, the Senate is called upon on Tuesday to perform that act, for example, an appropriation of money; is the Senate (so lately under obligation) now free to agree or disagree to the act? If the twenty ratifying Senators should rise up and avow this principle, saying, we struggle for liberty, we will not be cyphers, mere puppets, and give their votes accordingly, would not shame blister their tongues, would not infamy tingle in their ears—would not their country, which they had insulted and dishonored, though it should be silent and forgiving, be a revolutionary tribunal, a rack on which their own reflections would stretch them?

This, sir, is a cause that would be dishonored and betrayed, if I contented myself with appealing only to the understanding. It is too cold, and its processes are too slow for the occasion. I desire to thank God, that since he has given me an intellect so fallible, he has impressed upon me an instinct that is sure. On a question of shame and honor, reasoning is sometimes useless, and worse. I feel the decision in my pulse; if it throws no light upon the brain, it kindles a fire at the heart.

It is not easy to deny, it is impossible to doubt, that a Treaty imposes an obligation on the American nation. It would be childish to consider the President and Senate obliged, and the nation and the House free. What is the obligation; perfect or imperfect? If perfect, the debate is brought to a conclusion. If imperfect, how large a part of our faith is pawned? Is half our honor put out at risk, and is that half too cheap to be redeemed? How long has this hair-splitting subdivision of good faith been discovered, and why has it escaped the researches of the writers on the Law of Nations? Shall we add a new chapter to that law, or insert this doctrine as a supplement to, or, more properly, a repeal of, the Ten Commandments?

The principles and the examples of the British Parliament have been alleged to coincide with the doctrine of those who deny the obligation of the Treaty. I have not had the health to make very laborious researches into this subject; I will, however, sketch my view of it. Several instances have been noticed, but the Treaty of Utrecht is the only one that seems to be at all applicable. It has been answered that the conduct of Parliament, in that celebrated example, affords no sanction to our refusal to carry the Treaty into effect. The obligation of the Treaty of Utrecht has been understood to depend on the concurrence of Parliament, as a condition to its becoming of force. If that opinion should, however, appear incorrect, still the precedent proves, not that the Treaty of Utrecht wanted obligation, but that Parliament disregarded it; a proof, not of the construction of the Treaty-making power, but of the violation of a national engagement. Admitting, still further, that Parliament claimed and exercised its power, not as a breach of faith, but as a matter of Constitutional right, I reply that the analogy between Parliament and Congress totally fails. The nature of the British Government may require and justify a course of proceeding in respect to Treaties that is unwarrantable here.

The British Government is a mixed one. The King, at the head of the army of the hierarchy, with an ample civil list, hereditary, irresponsible, and possessing the prerogative of peace and war, may be properly observed with some jealousy, in respect to the exercise of the Treaty-making power. It seems, and perhaps from a spirit of caution on this account, to be their doctrine, that Treaties bind the nation, but are not to be regarded by the Courts of Law, until laws have been passed conformably to them. Our Constitution has expressly regulated the matter differently. The concurrence of Parliament is necessary to Treaties becoming laws in England, gentlemen say, and here the Senate, representing the States, must concur in Treaties. The Constitution and the reason of the case make the concurrence of the Senate as effectual as the sanction of Parliament. And why not? The Senate is an elective body, and the approbation of a majority of the States affords the nation as ample security against the abuse of the Treaty-making power, as the British nation can enjoy in the control of Parliament.

Whatever doubt there may be as to the Parliamentary doctrine of the obligation of Treaties in Great Britain, (and perhaps there is some,) there is none in their books, or their modern practice. *Blackstone* represents Treaties as of the highest obligation, when ratified by the King; and for almost a century there has been no instance of opposition by Parliament to this doctrine. Their Treaties have been uniformly carried into effect, although many have been ratified of a nature most obnoxious to party, and have produced louder clamor than we have lately witnessed. The example of England, therefore, fairly examined, does not warrant, it dissuades us from a negative vote.

Gentlemen have said, with spirit, whatever the true doctrine of our Constitution may be, Great Britain has no right to complain or to dictate an interpretation: The sense of the American nation as to the Treaty-power is to be received by all foreign nations. This is very true as a maxim; but the fact is against those who vouch it. The sense of the American nation is not as the vote of the House has declared it. Our claim to some agency in giving force and obligation to Treaties, is beyond all kind of controversy novel. The sense of the nation is probably against it: the sense of the Government certainly is. The President denies it, on Constitutional grounds, and therefore cannot ever accede to our interpretation. The Senate ratified the Treaty, and cannot without dishonor adopt it, as I have attempted to show. Where then do they find the proof that this is the American sense of the Treaty-making power, which is to silence the murmurs of Great Britain? Is it because a majority of two or three, or at the most of four or five of this House, will reject the Treaty? Is it thus the sense of our nation is to be recognised? Our Government may thus be stopped in its movements: a struggle for power may thus commence, until the event of the conflict may decide who is the victor and the quiet possessor of the Treaty power. But, at present, it is beyond all credibility that our vote by a bare majority should be believed to do anything better than embitter our divisions, and to tear up the settled foundations of our departments.

If the obligation of a Treaty be complete, I am aware that cases sometimes exist which will jus-

tify a nation in refusing a compliance. Are our liberties (gentlemen demand) to be bartered away by a Treaty, and is there no remedy? There is. Extremes are not to be supposed, but when they happen they make the law for themselves. No such extreme can be pretended in this instance; and if it existed, the authority it would confer to throw off the obligation would rest, where the obligation itself resides, in the nation. This House is not the nation; it is not the whole delegated authority of the nation. Being only a part of that authority, its right to act for the whole society obviously depends on the concurrence of the other two branches. If they refuse to concur, a Treaty once made remains in full force, although a breach on the part of a foreign nation would confer upon our own a right to forbear the execution. I repeat it, even in that case, the act of this House cannot be admitted as the act of the nation, and if the President and Senate should not concur, the Treaty would be obligatory.

I put a case that will not fail to produce conviction. Our Treaty with France engages that free bottoms shall make free goods, and how has it been kept? As such engagements will ever be in time of war, France has set it aside, and pleads imperious necessity. We have no navy to enforce the observance of such articles, and paper barriers are weak against the violence of those who are on the scramble for enemy's goods on the high seas. The breach of any article of a Treaty by one nation gives an undoubted right to the other to renounce the whole Treaty. But has one branch of the Government that right, or must it reside with the whole authority of the nation? What if the Senate should resolve that the French Treaty is broken, and therefore null and of no effect? The answer is obvious, you would deny their sole authority. That branch of the Legislature has equal power in this regard with the House of Representatives. One branch alone cannot express the will of the nation. A right to annul a Treaty, because a foreign nation has broken its articles, is only like the case of a sufficient cause to repeal a law. In both cases the branches of our Government must concur in the ordinary way, or the law and the Treaty will remain.

The very cases supposed by my adversaries in this argument, conclude against themselves. They will persist in confounding ideas that should be kept distinct. They will suppose that the House of Representatives has no power unless it has all power. The House is nothing if it be not the whole Government—the nation.

On every hypothesis, therefore, the conclusion is not to be resisted, we are either to execute this Treaty or break our faith.

To expatiate on the value of public faith, may pass with some men for declamation; to such men I have nothing to say. To others I will urge, can any circumstance mark upon a people more turpitude and debasement? Can anything tend more to make men think themselves mean, or degrade to a lower point their estimation of virtue and their standard of action? It would not merely demoralize mankind, it tends to break all the ligaments of society, to dissolve that mysterious charm which attracts individuals to the nation, and to inspire in its stead a repulsive sense of shame and disgust.

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir, this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey the laws of society, because they are the laws of virtue. In their authority we see not the army of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For what rights of a citizen will be deemed inviolable when a State renounces the principles that constitute their security? Or, if his life should not be invaded, what would its enjoyments be in a country odious to the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land.

I see no exception to the respect that is paid among nations to the Law of Good Faith. If there are cases in this enlightened period when it is violated, there are none when it is decried. It is the philosophy of politics—the religion of Governments. It is observed by barbarians that a whiff of tobacco-smoke or a string of beads gives not merely binding force, but sanctity, to Treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise or too just to disown and annul its obligation. Thus, we see neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows; if the victims of justice could live again, collect together, and form a society, they would, however loth, soon find themselves obliged to make justice—that justice under which they fell—the fundamental law of their State. They would perceive it was their interest to make others respect, and they would therefore soon pay some respect themselves to the obligations of good faith.

It is painful (I hope it is superfluous) to make even the supposition that America should furnish the occasion of this opprobrium. No, let me not even imagine that a Republican Government, sprung, as our own is, from a people enlightened and uncorrupted; a Government whose origin is right and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what despots dare not avow—what our own example evinces the States of Barbary are unsuspected of! No, let me rather make the

supposition that Great Britain refuses to execute the Treaty, after we have done everything to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, "Wherever an Englishman might travel, shame would stick to him; he would disown his country?" You would exclaim, "England—proud of your wealth, and arrogant in the possession of power—blush for these distinctions which become the vehicles of your dishonor!" Such a nation might truly say to Corruption, "Thou art my father, and to the Worm, thou art my mother and sister!" We should say of such a race of men, their name is a heavier burden than their debt.

I can scarcely persuade myself to believe that the consideration I have suggested requires the aid of any auxiliary. But, unfortunately, auxiliary arguments are at hand. Five millions of dollars, and probably more, on the score of spoliations committed on our commerce, depend upon the Treaty. The Treaty offers the only prospect of indemnity. Such redress is promised as the merchants place some confidence in. Will you interpose and frustrate that hope, leaving to many families nothing but beggary and despair? It is a smooth proceeding to take a vote in this body. It takes less than half an hour to call the yeas and nays, and reject the Treaty. But what is the effect of it? What, but this: the very men, formerly so loud for redress—such fierce champions, that even to ask for justice was too mean and too slow—now turn their capricious fury upon the sufferers, and say, by their vote, to them and their families, "No longer eat bread! Petitioners, go home and starve; we cannot satisfy your wrongs and our resentments!"

Will you pay the sufferers out of the Treasury? No. The answer was given two years ago, and appears on our Journals. Will you give them letters of marque and reprisal to pay themselves by force? No; that is war. Besides, it would be an opportunity for those who had already lost much to lose more. Will you go to war to avenge their injury? If you do, the war will leave you no money to indemnify them. If it should be unsuccessful, you will aggravate existing evils; if successful, your enemy will have no treasure left to give our merchants; the first losses will be confounded with much greater, and be forgotten. At the end of the war there must be a negotiation, which is the very point we have already gained, and why relinquish it? And who will be confident that the terms of the negotiation, after a desolating war, would be more acceptable to another House of Representatives than the Treaty before us? Members and opinions may be so changed, that the Treaty would then be rejected for being what the present majority say it should be. Whether we shall go on making Treaties, and refusing to execute them, I know not;—of this I am certain, it will be very difficult to exercise the Treaty-making power, on the new principles, with much reputation or advantage to the country.

The refusal of the posts (inevitable if we reject the Treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the Western lands will fall. Settlers will not choose to fix their habitation on a field of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the Treaty—how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the National Debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance (and it deserves to wear the title of a resolution) to prevent the sale of the Western lands and the discharge of the Public Debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not however to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages. The traders will gain an influence, and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence. Their situation will oblige them to choose between this country and Great Britain, in case the Treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts will call for no other proof than the recital of their own speeches. It is remembered with what emphasis—with what acrimony—they expatiated on the burden of taxes, and the drain of blood and treasure into the Western country, in consequence of Britain's holding the posts. "Until the posts are restored," they exclaimed, "the Treasury and the frontiers must bleed."

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I will urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask whether it is not already planted there? I resort especially to the convictions of the Western gentlemen, whether, supposing no posts and no Treaty, the settlers will remain in security? Can they take it upon them to say that an Indian peace, under these circumstances, will prove firm? No, sir, it will not be peace, but a sword; it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme, my emotions are unutterable. If I could find words for them—if my powers bore any proportion to my zeal—I would swell my voice to such a note of remonstrance it should reach every log-house beyond the mountains. I would say to the inhabitants, Wake from your false secu-

rity! Your cruel dangers—your more cruel apprehensions—are soon to be renewed; the wounds, yet unhealed, are to be torn open again. In the day time, your path through the woods will be ambushed; the darkness of midnight will glitter with the blaze of your dwellings. You are a father: the blood of your sons shall fatten your corn-field! You are a mother: the war-whoop shall wake the sleep of the cradle!

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror which cannot be overdrawn. If you have nature in your hearts, it will speak a language compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the Treaty has made me a new champion for the protection of the frontiers? It is known that my voice, as well as my vote, have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontier; it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny that we are bound—and I would hope to good purpose—by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Are Republicans irresponsible? Have the principles on which you ground the reproach upon Cabinets and Kings no practical influence—no binding force? Are they merely themes of idle declamation, introduced to decorate the morality of a newspaper essay, or to furnish pretty topics of harangue from the windows of that State-house? I trust it is neither too presumptuous, nor too late to ask, can you put the dearest interest of society at risk without guilt, and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true, where they are unforeseen or inevitable. Those I have depicted are not unforeseen; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measure that we know will produce them.

By rejecting the posts, we light the savage fires—we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make; to the wretches that will be roasted at the stake; to our country; and I do not deem it too serious to say, to conscience, and to God—we are answerable; and if duty be anything more than a word of imposture, if conscience be not a bug-bear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case; there can be none. Experience has already been the prophet of events, and the cries of our future victims have already reached us. The Western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims that while one hand is held up to reject this Treaty, the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive, that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the West wind; already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will be pernicious, wisdom and duty forbid that we should underrate them. If we reject the Treaty, will our peace be as safe as if we execute it with good faith? I do honor to the intrepid spirit of those who say it will. It was formerly understood to constitute the excellence of a man's faith, to believe without evidence, and against it.

But, as opinions on this article are changed, and we are called to act for our country, it becomes us to explore the dangers that will attend its peace, and to avoid them if we can.

Few of us here, and fewer still in proportion of our constituents will doubt that, by rejecting, all those dangers will be aggravated.

The idea of a war is treated as a bugbear. This levity is, at least, unseasonable; and, most of all, unbecoming some who resort to it.

Who have forgotten the philippics of 1794? The cry then was, reparation, no Envoy, no Treaty, no tedious delays! Now, it seems, the passion subsides; or, at least, the hurry to satisfy it. Great Britain, say they, will not wage war upon us.

In 1794, it was urged by those who now say, no war, that if we built frigates, or resisted the pirates of Algiers, we could not expect peace. Now they give excellent comfort, truly! Great Britain has seized our vessels and cargoes, to the amount of millions; she holds the posts; she interrupts our trade, say they, as a neutral nation; and these gentlemen, formerly so fierce for redress, assure us, in terms of the sweetest consolation, Great Britain will bear all this patiently. But, let me ask the late champions of our rights, will our nation bear it? Let others exult because the aggressor will let our wrongs sleep forever. Will it add, it is my duty to ask, to the patience and quiet of our citizens, to see their rights abandoned? Will not the disappointment of their hopes, so long patronized by the Government, now in the crisis of their being realized, convert all their passions into fury and despair?

Are the posts to remain forever in the possession of Great Britain? Let those who reject them, when the Treaty offers them to our hands, say, if they choose, they are of no importance. If they are, will they take them by force? The argument I am urging would then come to a point. To use force, is war. To talk of Treaty again, is too absurd. Posts and redress must come from voluntary good will, Treaty, or war.

The conclusion is plain; if the state of peace shall continue, so will the British possession of the posts.

Look again at this state of things. On the sea-coast, vast losses uncompensated. On the frontier, Indian war, actual encroachment on our Territory. Everywhere discontent; resentments ten-fold more fierce, because they will be impotent and humbled; national discord and abasement.

The disputes of the old Treaty of 1783 being left to rankle, will revive the almost extinguished animosities of that period. Wars, in all countries, and, most of all, in such as are free, arise from the impetuosity of the public feelings. The despotism of Turkey is often obliged, by clamor, to unsheath the sword. War might, perhaps, be delayed, but could not be prevented. The causes of it would remain, would be aggravated, would be multiplied, and soon become intolerable. More captures, more impressments, would swell the list of our wrongs, and the current of our rage. I make no calculation of the arts of those whose employment it has been, on former occasions, to fan the fire. I say nothing of the foreign money and emissaries that might foment the spirit of hostility, because the state of things will naturally run to violence. With less than their former exertion, they would be successful.

Will our Government be able to temper and restrain the turbulence of such a crisis? The Government, alas, will be in no capacity to govern. A divided people, and divided councils! Shall we cherish the spirit of peace, or show the energies of war? Shall we make our adversary afraid of our strength, or dispose him, by the measures of resentment and broken faith, to respect our rights? Do gentlemen rely on the state of peace because both nations will be worse disposed to keep it; because injuries, and insults still harder to endure, will be mutually offered?

Such a state of things will exist, if we should long avoid war, as will be worse than war. Peace without security, accumulation of injury without redress, or the hope of it, resentment against the aggressor, contempt for ourselves, intestine discord and anarchy. Worse than this need not be apprehended, for if worse could happen, anarchy would bring it. Is this the peace gentlemen undertake, with such fearless confidence, to maintain? Is this the station of American dignity, which the high-spirited champions of our national independence and honor could endure; nay, which they are anxious and almost violent to seize for the country? What is there in the Treaty that could humble us so low? Are they the men to swallow their resentments, who so lately were choking with them? If in the case contemplated by them, it should be peace, I do not hesitate to declare it ought not to be peace.

Is there anything in the prospect of the interior state of the country, to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and shake down the feeble and then unbraced structure of our Government? Is this the chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments! Two branches have ratified a Treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists, its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary interposition of the people? And is this, in the judgment even of my opposers, to execute, to preserve the Constitution, and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our Union, our peace, our liberty, are invulnerable and immortal—as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have no doubt better nerves and better dispositions than mine. They can see the bright aspects and happy consequences of all this array of horrors. They can see intestine discords, our Government disorganized, our wrongs aggravated, multiplied and unredressed, peace with dishonor, or war without justice, union or resources, in "*the calm lights of mild philosophy.*"

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the House. After rejecting the Treaty, what is to be the next step? They must have foreseen what ought to be done, they have doubtless resolved what to propose. Why then are they silent? Dare they not avow their plan of conduct, or do they wait till our progress towards confusion shall guide them in forming it?

Let me cheer the mind, weary no doubt and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which, many will say, produced, and all will confess, have preserved it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were removed by the Treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered at that day as a happy escape from the calamity? The great interest, and the general desire of our people, was, to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation, after the end of the European war. This was gaining everything, because it confirmed our neutrality, by which our citizens are gaining everything. This alone would justify the engagements of the Government. For, when the fiery vapors of the war lowered in the skirts of

our horizon, all our wishes were concentered in this one, that we might escape the desolation of the storm. This Treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded at the same time the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will be a baleful meteor, portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good Government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry, as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity: and in this progress, what seems to be fiction, is found to fall short of experience.

I rose to speak under impressions that I would have resisted if I could. Those who see me will believe that the reduced state of my health has unfitted me, almost equally, for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent, was imposed by necessity, and would cost me no effort to maintain. With a mind thus vacant of ideas, and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet, when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led by my feelings to speak more at length than I had intended; yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will with the public disorders to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the Government and Constitution of my country.

At the conclusion of Mr. Ames's speech, there was again a divided cry of "Committee, rise," and "The question;" when—

Mr. Venable said, he hoped the question would not be taken to-day. The business was allowed on all hands to be important, and one day he trusted would not make much difference. He said there were mischievous effects staring them in the face, look which way they would; for if they refused to carry the Treaty into effect evils might be dreaded, and if they carried it into effect very serious evils would certainly arise. The question was to choose the least of the two evils. He himself was not determined at present which was the least, and wished for another day's consideration.

The Committee divided, and there appeared 70 members for rising. Adjourned.

Friday, April 29.

Mr. Goodhue, Chairman of the Committee of Commerce and Manufactures, reported an act to continue in force an act in the State of Maryland for the appointment of a Health Officer at the port of Baltimore; which was twice read and ordered to be engrossed for the third reading.

Mr. Baldwin called up a bill relative to the Military Establishment; upon which the House formed itself into a Committee of the Whole, and after agreeing upon some amendments, one of which was the introduction of a troop or two of light dragoons into the establishment, the Committee rose, and had leave to sit again.

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented and referred, in favor of carrying the Treaty into effect.

Mr. Sedgwick informed the House that he had in his hand a letter from Boston, addressed to the Representatives of Massachusetts in Congress, informing them that a public meeting had been held to consider upon the propriety of petitioning the House to request that necessary measures might be taken to carry the British Treaty into effect, at which it was supposed 2,200 persons were present, and that more than 1,800 were in favor of the measure. As it appeared the petition which was agreed on at that meeting would not come to hand until the next post-day, and as the question to which it related might in the mean time be taken, he and his colleagues thought it necessary to make this communication.

The House then resolved itself into a Committee of the Whole on the state of the Union; and the resolution for carrying into effect the British Treaty being under consideration—

Mr. N. Smith said it was with diffidence he rose to offer any of his sentiments to the Committee, after so many able arguments had been exhibited on the subject; but he should beg leave to offer a few remarks relative to some parts of the Treaty, and also to evince that the national faith must be considered as already pledged; but, even if this was not the case, that, under all the circumstances relating to the question before them, it was expedient to give effect to the Treaty. He observed that the gentleman from Pennsylvania [Mr. Findley] appeared yet to be in doubt whether the appointment of Commissioners to settle the claims on the United States did not render the Treaty unconstitutional. Mr. S. said, if the arguments already offered on that subject had not convinced the gentleman, he very much doubted whether any arguments could convince him. They appeared to him conclusive. All the Commissioners were empowered to do, was to settle claims on

the nation. The Judiciary had no power to decide on claims against the United States. It was absolutely necessary, therefore, whenever disputes arose in consequence of claims on the Government, to establish a new forum; and there was no room for a pretence of interference with the Judiciary, so long as the Commissioners were to do what the Judiciary could not do, even if they were not appointed.

A gentleman up two days since, [Mr. Gallatin,] had concluded a long speech by observing that he could even waive the whole of his objections to that Treaty, were it not for one article, which he told us contained in it a dereliction of our independence; and he confessed, before the gentleman informed them what article he referred to, he was almost induced to believe, after all his attention to the subject, he had overlooked some essential article in the Treaty which would again introduce the Colonial system, and subject us once more to British tyranny; but, to his astonishment, when the gentleman came to turn their attention to the article, it appeared to be no more than the 18th article, containing regulations relating to property which is contraband by the Law of Nations, and is in general merely declaratory of the Law of Nations. The gentleman, however, as well as several others, had contended that the second paragraph in the 18th article contained a general provision that articles not generally contraband, but became so by the Law of Nations, owing to particular circumstances, should not be confiscated, but be detained and paid for; and that the last paragraph contained a provision, that whenever a vessel was bound to a blockaded port, not knowing it to be blockaded, she should be notified and turned away; after which, if she again attempted to enter, her cargo might be confiscated, though the articles were not generally contraband. They contended further, that, by the Law of Nations, no other instance can be found where property not generally contraband may be regarded as such, from particular circumstances, except a vessel bound to a blockaded port. Of course they say, the last paragraph provides for confiscating all the property not generally contraband, but becomes so from circumstances, and therefore provides for confiscating the very articles which the second paragraph declares shall not be confiscated, but be detained and paid for. The second paragraph consequently can have no operation, unless they find another meaning than what results from an obvious construction of the words used in the paragraph itself. They accordingly suppose it must mean that the British may take our vessels in any case where they please, even where the articles would in no sense be contraband by the Law of Nations, and pay us for them.

This, he believed, was a full and a just statement of the objection. He said the gentleman from Pennsylvania [Mr. Gallatin] had taken a most singular mode in construing this article in the Treaty. That gentleman began at the last end of the article, and traveled backwards to the first. He always had supposed the way to put a just construction on an instrument was, to begin at the beginning and go through with it, in the manner it was written. If the latter mode was taken, there could not even be a question relating to this article. He did not believe it was the intention of the person who wrote that article in the Treaty to render any property liable to confiscation by the last paragraph. He believed it was designed merely to pursue the second, with some additional regulations, and the words, *nor her cargo*, before the words, *if not contraband*, as well as the words, *be confiscated*, which immediately succeeded them, appeared to him to have been rather incautiously used than with any positive design to render property liable to confiscation, which a preceding paragraph had expressly provided should not be confiscated, but only detained and paid for. But allowing the construction of the gentleman relative to the last paragraph to be just, yet it did not comprehend vessels which set out from home for the purpose of going to a blockaded port, and which had not been notified and turned away. These are, then, left for the second paragraph to operate upon; the second and last paragraphs would accordingly stand in this way. The second, by general terms, provides that vessels setting out from home, with a design to go to a blockaded port, and never having been notified and turned away, shall only be detained, and her cargo paid for. The last provides, that where she has been notified and turned away, and shall again attempt to enter, her cargo may be confiscated. There was, in his opinion, a good reason why goods should be confiscated in the last case, and not in the first. The intention, previously to having been notified and turned away, was a fact of all others the most difficult to prove, and liable to a great uncertainty, whereas the attempt to enter after having been notified, left no room for doubt or uncertainty. It was highly proper, therefore, to be much more rigorous respecting the last than the first. But suppose the last paragraph directly repugnant to the second; the universal rule of construction relative to instruments like this is, that the last must be rejected. But if he was to admit further, that the preceding paragraph is to fall before a succeeding one, still would any gentleman pretend, that after they had proved this, it can have no effect, because opposed to another paragraph? They are, then, at liberty to put what construction upon it they please, and that they may construe it to mean directly opposite to the plain meaning of the words. This would be absurd. He then read the paragraph in question. He observed, that the paragraph provided for detaining such articles, and such only, as were contraband by the Laws of Nations, and how it could be construed to mean such as were not contraband by the Law of Nations, was to him astonishing. It was said, if the construction of the gentleman was not right, that the British nation will give it such construction. This objection was more important, as it had been urged against several other articles of the Treaty. Indeed, he found it common for gentlemen to contend for a certain construction, and unwilling at last to take on them-

selves the responsibility of declaring it as their own opinion, that the construction they contended for was the true one; they conclude by saying, that perhaps the British may put such a construction upon it, as if we were not an independent nation, and were bound by whatever construction the British nation put upon it, right or wrong. He said he could not help their putting a false construction upon it, any more than we could their breaking it, and our remedy was the same in both cases. Besides, it was an objection, if well founded, which would prove that no Treaty could be made, for all Treaties were liable to misconstruction. But even on the gentleman's own construction of this article, he was surprised to hear it called a dereliction of our independence; for, suppose it is allowed them to take some of our provision vessels, and pay us for them, such a stipulation, he agreed, would be a very foolish one; but there was nothing like a dereliction of our own independence in it, and when gentlemen made use of such expressions, they must do it merely to alarm.

Another article in the Treaty was said to deprive us of important weapons of defence. This was the article relative to sequestration. He confessed, at first, that article struck him as objectionable; for, though he could not look forward to the period when it might be used, yet he did not like the idea of surrendering the right; but, on more mature consideration, as the present Treaty settles almost all our disputes with that nation, and convinced that if they broke any part of the Treaty, we should be released from this, as well as every other article of it, he thought the right was not relinquished when it could be of any possible use.

The gentleman up yesterday [Mr. Preston] said, it was contended that sequestration might yet be used in time of war; but that gentleman entirely misunderstood the argument. Nobody contended that war in itself would justify sequestration after having provided against it by Treaty: it was a breach in the Treaty by that nation, and that only, which would justify it. We might declare war with Great Britain without any pretence of a breach in the Treaty. For instance, we might do it on account of the West India trade. In this case, we should not be at liberty to sequestrate their debts; but, suppose they should refuse to deliver up the Western posts, would any body doubt our being as much at liberty from all the obligations enjoined by the Treaty, as if it had never been made. Every article in a Treaty was supposed to be made with a view to each other, and of course when one was broken, the whole must fall together. He read a passage from *Vattel* to support his doctrine. Mr. S. observed, that if his ideas were correct on that subject, he thought we had nothing to fear; for, if the British should faithfully observe all the parts of the present Treaty, it could not be possible for us ever to want to exercise the right of sequestration; and, if they did not, we still had the right as fully as if the Treaty had not been made. He should proceed no further in discussing the articles of the Treaty, they had been already very fully examined by other gentlemen; much more so than in his opinion was proper; for, if it was to be admitted that we had a right to look at the merits of a Treaty, still there could be no propriety in going into it in detail; and nothing, in his opinion, could justify the friends of the Treaty for adopting this mode of discussing the subject, except a wish to justify it against the slander of its enemies. If, indeed, we had been made by the Constitution a part of the Treaty-making power, it might have been different, but now, whatever we had to do with Treaties, it could not be this. He said that House had been a long time engaged in discussing an important Constitutional question, which arose on a motion to call on the President for certain papers. This motion was carried, the papers requested, and were refused by the President. The answer of the President was afterwards taken up by the House, and a resolution passed by them declaratory of their rights relative to Treaties. However he might think the House had done wrong in entering into those resolutions, it would be arrogance in him to undertake to convince any gentleman of his error, who had formed an opinion on that subject. He should not, therefore, attempt it; but he would venture to say, that there was not a majority of the House who had formed an opinion that the national faith had not yet been pledged.

He said, both the resolutions passed by the House were expressed in general terms, and, in the debate, two different grounds were taken, directly opposite in their nature, both leading, however, to the same conclusion, which was, that the House of Representatives had some degree of discretion on the merits of a Treaty, but to what degree, is a matter not determined by either of those resolutions. One ground of argument was, that whenever a Treaty interfered with objects of legislation, it was not binding until it received Legislative sanction. He said it was obvious, that whoever voted for those resolutions on this ground, would consider the national faith as not yet pledged; for, if the contract was not complete, the national faith, it must be admitted, was not pledged. The other ground was, allowing the contract complete, and the national faith pledged, yet the Constitution, by giving them the power of making appropriations, or refusing to make them, had necessarily given them a check upon it. This check, it was contended, the House had over the other branches of Government, not only as to Treaties, but existing laws also, and obviously presupposed the Treaty to be complete, and the national faith pledged; for it would be idle and ridiculous to talk about checking a thing by withholding appropriations that did not exist, or which was incomplete; nor could there be any use for this boasted doctrine of checks, provided that House was really a part of the Treaty-making power. He said, what evinced most clearly the ground which many gentlemen went upon was, that, in the course of the former debate, it was urged, that, in a very extraordinary case, the

House would be justified in doing almost any thing to defeat its operation, and of course, they must have a right to look into its merits, so far as to see whether the present was not one of those extraordinary cases. Whoever voted for those resolutions on this ground, must have done it with a view of the national faith being pledged. How many gentlemen voted for them on the one, and how many on the other ground, was out of his power to determine; but he had reason to believe, most of the gentlemen in favor of the resolutions, adopted the last. He believed, if gentlemen would call to mind the principal arguments in support of the first ground, they would be convinced, that it must have been the latter on which they founded their opinions. He knew it had been said, that the Treaty-making power was, in its nature, subordinate to the Legislative, and therefore a Treaty could not bind the Legislature.

But, could not the Treaty-making power bind the nation as a body politic? and, if the nation was bound, must not the Legislature be also bound? Were they to be considered so far independent of the nation, as to be free from a contract, while the nation was bound? He said the Treaty-making power could pledge the national faith, and the Legislature was bound to regard their faith so pledged in all their Legislative acts. He was aware it had also been said, that there was an interference between the two powers, and as the Treaty power was general, the specific powers given to Congress must form an exception to the Treaty power. He confessed he was at a loss to understand what gentlemen meant by calling the powers given to Congress specific; they appeared to him equally general with the others. The power of forming Treaties was given generally to the President, with the advice of the Senate. The Legislative power was as generally given to Congress; and how two powers given generally, directly different in their natures, could form one an exception to the other, was out of his power to see. Had the power of forming Treaties of a particular kind been given to Congress? For instance, had the Constitution expressly given Congress the power of forming Treaties, regulating commerce, there would be some room to say, that this specific power must form an exception to the general power, given to the President, with the advice of the Senate. No such thing, however, was found in the Constitution, or even pretended to be contained in it. He had thus far turned their attention to the arguments on that subject, that gentlemen might form distinct ideas as to the real ground of their opinions, and he believed there was not a majority of the House who had, or would form an opinion, that the contract was incomplete, and the faith of the nation not pledged.

Indeed, the last resolution, though extremely ambiguous, appeared in a great measure to relinquish the first ground. He should say, notwithstanding the resolutions passed by the House, that in all their deliberations on the Treaty, it was to be considered as a contract completed, and pledging the national faith. In this, he flattered himself, he conformed to the opinions of at least a majority of the House. He would then appeal to gentlemen, and he wished them to put the question solemnly to themselves, whether the present was one of those extreme cases which would warrant them prostrating the national faith? He did not believe there were many gentlemen in that Committee who would say it was. Even the gentleman from Pennsylvania [Mr. Gallatin] after enumerating all the bad things in the Treaty, and some of the good ones, struck a balance, and brought out the Western posts a clear saving in our favor. Suppose, after all, he was wrong as to the sense of the House, and that the national faith was not so pledged? Suppose that, in consequence of the new light shed upon our political system the present session, we have, for the first time, discovered the truth, and that this House is really a part of the Treaty-making power? In that case, what did genuine magnanimity and the honor of the nation require of them? Not, he presumed, to make use of their new discovery to ensnare the honor of the President and Senate, as well as disgrace the Government. It would rather dictate to them to say to the President and Senate, that in our opinion, you have hitherto misconstrued the Constitution in supposing you had the sole power of making Treaties; but as you have so understood the Constitution, and as the nations with whom you have contracted have been led to understand the subject in the same manner, and from the terms used in the Constitution, you are at least excusable from blame in so understanding it, we will ratify what you have hitherto done. He said this would be the language of the Journal, if they now, under all circumstances, passed the resolution on that table, having already entered on the Journals a resolution declaratory of their powers relative to Treaties.

Mr. S. said, he would suppose, for the sake of argument, that they had not only a power to participate in making Treaties, but that all sovereign power resided in them. He believed, this was as much as any gentleman would contend for; and suppose the President, with the advice of the Senate, had received their power from that House, in the room of having it from the people by their Constitution, in the same general terms in which it was now given, what, in that case, would be their duty? He conceived, even in that view of the subject, though the President and Senate acted under the House as mere ministers, yet, while their power was so general and unlimited, and as it could not be pretended that they had departed from that power, the House would be bound in honor to ratify what they had done. Mr. S. said, it was a principle in the Law of Nations, that a Sovereign could not refuse with honor to ratify a Treaty, concluded upon by a Minister with full power, unless he could show that his Minister had deviated from his instructions.

To prove this position, he read some passages from *Vattel*. It had been said, that the British had made spoliations on American property, since

the execution of the Treaty; but that this had been done by the direction of the British Court was not pretended, or that application had been made for redress without effect, was not said. It was not in the power of the British Government, perhaps, effectually to prevent injuries being done to our vessels; but, if they did not, on application, make due compensation, he would be among the first to compel them to do it. He did not believe, in the present situation of that business, however, it would form any just excuse for a refusal to carry the Treaty into effect. The same might be said with respect to their impressing American seamen, except, indeed, where they claim them to be subjects of that nation; and, with respect to this description of seamen, should there ultimately be a misunderstanding between the two nations, the subject is open to further negotiation. The gentleman from Pennsylvania [Mr. GALLATIN] had discovered much sensibility relative to national honor. He professed to feel as sensibly for the honor of his country, as that, or any other gentleman; and, as he wished not to see it tarnished, he was desirous the Treaty should be carried into effect. We are, said he, an infant nation, just rising into the view of other nations, and an unblemished character was of the first consequence to us. He hoped they never should lose sight of it, and though he thought the interest and happiness of our citizens were likewise objects of very great magnitude, yet he was so thoroughly convinced that the path he had marked out was the only sure way of supporting their honor, that he thought he might safely trust the present decision, on the single question, whether that gentleman's plan, or his, would best secure it? He had already stated his plan. It was to bury in oblivion all past differences, by adopting the Treaty, and with respect to present or future differences he would let the British nation know, that we will be firm and independent. What was the gentleman's plan?

He would, at any rate, break the Treaty. This was a singular way of preserving national honor. He thought it more like prostrating, than supporting it. What would the gentleman do afterwards? He says he would do nothing. He would not go to war, nor would he do anything which would provoke them to war. He would sit down contented, without having possession of the Western posts, or any redress for the spoliations on American vessels. This, to him, was also a very singular way of supporting national honor. Their two plans were, to be sure, totally different. The plan which he would chalk out was, to do justly and fairly as to the past, and, in future, assume a bold and manly tone, while that gentleman's plan was to be unjust and unfair, as to the past, and to be pusillanimous in future.

For himself, he would say that, if he really thought they had a Constitutional right to reject the Treaty, and could find just cause for rejecting it, and if the same was actually defeated, he would adopt a very different line of conduct. He would let the British know that America was not to be trifled with, by having, in the room of redress for the grossest injuries, the most palpable impositions upon their Minister. If that gentleman would do no more on the subject than to defeat the Treaty, he confessed he was one who would. He would never sit down contented without redress for the injuries done to our commerce, and without possession of the posts. He said, he thought that gentleman had mistaken national will for national honor, or rather, the will of one branch of the Government. Indeed, he said, it would not be said to be the will of even one branch of the Government; it was the will of about one-half of one branch only.

He said, it must at least be admitted, that the true honor of the nation, was as well supported by giving effect to the Treaty, as by rejecting of it; and, as to its comporting with their best interest, there could not be a question, if no more was gained by it than the Western posts, which were admitted to be gained over and above any losses we might sustain by the Treaty, still, it was an object of great importance to the United States. There was no one class of citizens who would be in a worse situation, after adopting the Treaty, than they were now, and many of them would be in a much better one. The merchants certainly know their own interest, and their universal voice in its favor, was a sure proof of its being favorable to them. The mechanics and farmers, if not in a better situation by the Treaty, would certainly not be in a worse. It was true, they would all have to unite in the payment of debts for some of their fellow-citizens; but it was just they should be paid, and what we shall receive from the British for the injuries done our commerce, would much more than overbalance what we should have to pay.

He thought he had fully shown, that our honor and interest both united in requiring them to effectuate the Treaty; and had done this, without in the least calling into view the fatal consequences which will follow a rejection of it; or in the least attending to the happiness of the citizens.

But, said he, were we to add to all this, the scenes of misery and distress which would be the consequences of the rejection, we should be deterred from taking so rash a step; and were such scenes the effect of a mere dreaming conjecture? No; they were consequences which must follow; among which might be comprised the horrors of a war, on the one hand, with Britain, and on the other, with the savages; while internal commotions would, probably, be more dreadful than both.

He said, he did not believe Great Britain would immediately make war on us—no; we must make war on them. Turn to your citizens, said he, and see the prejudices which exist among them against the British—nay, even in this House, you find it asserted to be a virtue to hate that people. It was a notorious fact, that there was a high dislike amongst almost all classes of Americans against the English, and when the causes of this dislike were examined, it was not to be wondered at, nor could it be blamed. It was, however, in his opinion, unfortunate that it should be so. The seeds of this hatred were sown in almost every American breast in the late war, and they had since brought forth a plentiful increase.

At the close of the war, the British engaged in a war with another nation, who had assisted us in obtaining our independence, and who have been themselves engaged in a cause of liberty. This circumstance rekindled the flames of hatred against that Government, which, owing to various irritating circumstances, was now blazing in full force throughout the United States, and even in that House. Could it, then, be expected that we should sit down contented, if the Treaty was not carried into effect? Indeed, the same spirit which had opposed the Treaty, and which would lead to its rejection, would infallibly lead us to war; nor could he believe the gentleman from Pennsylvania had told us the whole of his plan. He should expect, very soon, to hear him advocating sequestration, or suspension of intercourse, or some other measure which would lead directly to war; and could we, said Mr. S., after a contest of a year or two with the British nation, treat with her? the PRESIDENT and Senate cannot treat with them, if once the present Treaty was defeated; and he would beg leave to say, that we never could stop, until we had either humbled the nation, so abhorrent to our feelings, or until we were humbled indeed. And we should not go into the war, united heart and hand; there was one end of the Union, he knew, would drag heavily into the war. There were two branches of the Government, and a considerable proportion of that House, indeed, who had been struggling to support their neutrality and peace.

Mr. S. concluded, by saying—if we carry the Treaty into effect, we shall secure a continuation of our unexampled prosperity, peace, and happiness; but, if we reject it, the avenues to national misery will be opened innumerable.

Mr. DAYTON (the Speaker) declared that he did by no means intend to follow the gentlemen who had conceived it advisable to enter into a discussion of the merits of the Treaty, article by article.

To those, he said, who regarded this second Treaty with Great Britain with disagreeable sensations—to those who believed that it did not contain in it such terms as the United States had reason to expect, and even a right to demand—to all those whose indignation had been excited at the unwarrantable outrages committed by that nation upon the rights of our neutral Powers, who had seen their high-handed acts with astonishment, and the whole conduct of their administration towards this country with abhorrence—to those whose attachment for the French, nobly struggling for their liberties, was sincere, and who ardently wished that their revolution might terminate in the establishment of a good and stable Government:—to all of this description, he could, with propriety, address himself, and say, that he harmonized with them in opinion, and that his feelings were in perfect unison with theirs. But if, he said, there should be found in that assembly one member, whose affection for any other nation exceeded that which he entertained for this, whose Representative he was—if there could even be found a single man whose hatred to any other country was greater than his love for America—him, he should consider as his enemy, hostile to the interests of the people who sent him there, utterly unqualified to judge rightly of their concerns, and a betrayer of the trust reposed in him. But, Mr. D. said, he could not believe it possible, that there were any such amongst them, and he was convinced that every one must see and feel the necessity of divesting himself of all his hatred, all his prejudices, and even all attachments that were in the least degree inconsistent with an unbiassed deliberation and decision. The good and the prosperity of the people of the United States ought to be the primary object. It was that alone which their Representatives were delegated and commissioned more immediately to promote, and who would deny that it was intimately connected with, and involved in the vote they were about to give?

That the defects of this instrument of compact with Britain greatly exceeded its merits, was a truth which was strongly impressed upon his mind, long before he had heard the reasoning of the gentleman from Virginia, [Mr. MADISON,] who had opened the debate. Although that gentleman had sketched its deformities in strong colors, and had in some instances, perhaps, exaggerated them; yet, Mr. D. said, he should not have contested the justice of the picture he had exhibited, if he had, at the same time, presented to their view, in true and faithful coloring, the other side of it also. Yet, this was surely necessary in order to enable them to form a right judgment. That member had declared that the House were now called upon to approve the Treaty, but Mr. D. was far from believing such a declaration warranted by the language or nature of the propositions on the table, to which all might assent, without pledging themselves to be the approvers of the instrument itself.

So firmly convinced was he of this, that, if he could subscribe to the truth and force of every objection that had been urged by that gentleman, he should, nevertheless, by no means conclude with him, that the House ought to withhold the appropriations, but, on the contrary, they ought to grant them. This would be his course of conduct, because difficulties and inconveniences alone presented themselves to their view and choice, and he thought he should act unfaithfully, if he endeavored to shun those on the one side only, without regarding the wide scene of dangers into which he might plunge his country on the other. What would be thought of that man, who, because the road he was traveling proved to be an uneven and rough one, should considerately betake himself to an opposite path without exploring the precipice that awaited him there? In the individual it would be deemed an evidence of madness, and such heedless conduct in that House could not escape the imputation of blindness. Under impressions of this sort, as to the importance of the vote he was about to give, he conceived himself bound to extend his views beyond the mere in-

trinsic merits of the Treaty, and to estimate the evils which must flow from a rejection of it. What, he asked, were these? Would a foreign war, and the dissolution of the Government be the certain fruits of a rejection, as had been represented by some gentlemen whose opinions he respected? These would certainly be amongst the most dreadful calamities which could befall a country, and, especially, one made up of Confederacies like this; and although he did not think them probable, yet, they must be admitted to be possible, and as such, justify those who allow them to influence their minds. But he appealed to those gentlemen who seemed to treat such apprehensions as perfectly chimerical, whether there might not be others, which, though less alarming than a foreign war and dissolution of the Union, would yet exceed—nay, very far exceed, those which are to follow the operation of the Treaty. The first fruit of a rejection would be, Mr. D. said, a claim from the merchants who had suffered by spoliations, to be fully indemnified from the Treasury. He called upon the members who, like himself, represented agricultural States; and he called, also, upon those who represented the landed and agricultural interests in the commercial States, to declare, whether they were prepared to burden their constituents with a tax of five millions of dollars to be thus applied?

He did not fear that he should be charged, as others had been, with sounding a false alarm. A proposition to that effect had already been laid on the table, and, what was not a little singular, it was founded on a presumption that the Treaty was to be annulled by a vote of the House, and was to derive its support from that very circumstance. Mr. D. thought it his duty to remind gentlemen of the doctrine uttered by the member from New York, [Mr. Livingston,] when he moved it, as well as of the extent of the principle contained in it. It is an established principle, said the mover, that protection is equally due to the person and property of all citizens, and that where the Government fails to protect, it is bound to indemnify for all the losses that may be sustained by every individual in consequence of such failure. They were, therefore, Mr. D. said, if they rejected the Treaty, to be immediately called upon to recognise a principle which would not only pledge them to tax their fellow-citizens for the five millions, at which the British spoliations were estimated, but, also, to make compensation for every depredation that might hereafter be made upon their trade; nay, more, for every injury that any American citizen might suffer through want of protection. He was aware that he might be told that the resolution embraced only merchants who had suffered, but he contended that the principle, when established, must extend to all; for he challenged any gentleman to show what better title they who inhabited the frontier next the sea, had to claim Governmental protection and indemnification, than they who inhabited a frontier on the land side? If, therefore, they were determined to compensate from the Treasury the merchant for his plundered cargo, they were equally bound to pay the frontier settler for his stolen horse; and there would be no bounds to such claims, or means to satisfy them.

Yet, this very thing they would be called upon to do the next moment after they voted not to grant the necessary appropriations for carrying the British Treaty into effect. But the evils flowing from a rejection would not end here. All kinds of property lowered in value; ship building at a stand; commerce and navigation insecure and harassed: the fruits of the earth, the produce of the farmer's toil, reduced one-third in price, and almost without a market; public and private credit tottering; these, all these, would swell the disastrous catalogue. The effects of a rejection would operate like a subtle poison, which, though immediately applied to only one part, would quickly insinuate itself into the system, and affect the whole mass. Although, in this instance, the first shock would fall on commerce, yet it would, through the means of this powerful conductor, be communicated, with an electrical quickness, to the dearest and best interests of this country. It was possible, Mr. D. said, that there might be one exception—manufactures might not be immediately and generally injured; but if they should flourish, it would be upon the ruins of commerce, the decay of navigation and ship building, the poverty of the planter and farmer, and the wreck of public faith and private credit. Another evil certainly flowing from a rejection, would be, he said, the loss of the Indian trade, which had been stated by two gentlemen from New York, and one from South Carolina, who appeared to be well acquainted with the subject, as extremely profitable and important.

An Indian war might, also, be calculated upon as inevitable, and the consequent expenditure of fourteen hundred thousand dollars annually; but, in carrying the Treaty into effect, and possessing the posts, with the troops, they should be free from any danger of a serious rupture with the savages, and save the most of that money, together with the lives of many very valuable citizens. Those posts, he said, could alone insure a permanent peace with the savages, or, at least, would enable this country to repress hostility with little trouble or expense, if ever it should again threaten. Their importance had, it was true, been questioned by one or two gentlemen, but it had been vindicated, and they had been answered by a gentleman from Massachusetts, [Mr. Ames,] in a strain of eloquence never exceeded in that House, which affected every one who heard, and, he believed, had convinced most of those who listened to him.

It had been asked what would be the conduct of Britain, when they should learn that the House of Representatives had refused to make appropriations for the Treaty. He was disposed to think that they would not consider it a cause, or make it a pretext, for war. Having in their hands the fur trade, the Western posts, and about five millions of dollars, of which they had despoiled the people of these States, they might probably sit down contented with the spoils they had made, after this Government had, by its own act, dissolved the stipulations they had entered into to make restitution and compensation. But what, in this state of things, would restrain their piratical cruisers in the West Indies? They, whether hoping that a war would be the consequence of annulling the Treaty, or that, as the two nations were no longer under that tie, they might again rob with impunity; and would probably seize on American vessels wherever they could meet them, and carry them into those ports in which corrupt Judges stood ready to condemn them.

So far as this question respected a dissolution of the present Government, it was certainly a very delicate one. Important as the subject under debate unquestionably was, he was free to declare it to be his opinion that no decision, however unfavorable it might seem, could justify, or would produce a separation of the States. He lamented that it had been conceived or mentioned by any one, for he should, whilst he had strength, resist such an event as the most fatal that could befall his country, and would cling to the Union as the rock of their political salvation. But he would not say, nor would any one else seriously say, that there was no room to apprehend that a rejection might produce suspicions, jealousies, distrusts, and discord between the one part of the Union and the other, and such a general fermentation in the public mind as never before prevailed.

He could not here refrain from making a serious appeal to the candor and good sense of the gentleman from Virginia. Having served with him many years in public life—in the Old Congress, under the Confederation, in the Federal Convention, and for nearly six years under the present form of Government, he had, upon many and various occasions witnessed the display of his superior talents, and the efforts of his patriotism, and derived from thence a conviction that, as at no former moment, so neither at the present, could he appeal to those qualities in that gentleman in vain. Mr. D. requested him to turn his attention to the last article of the British Treaty, and particularly that part of it which is in the words following, viz:

"This Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith," &c.

He called upon the gentleman from Virginia to show in what line or word of it the President had exceeded his authority, or, if that was not pretended, and he believed it was not by any one, he wished that gentleman to reflect for a moment how it was possible to refuse appropriations, and yet preserve inviolate the faith of this country, so solemnly pledged in that article.

Could that member conceive a more embarrassing situation than that in which the measures contemplated by him would place the first magistrate of this country? He had said, in his speech, that if this Treaty was rejected the President could, and doubtless would, commence the negotiations anew with Great Britain in order to obtain alterations and modifications of the objectionable parts, but an attentive perusal of the article which had been quoted, must convince him and every other person that the President must consider the Treaty as valid and binding, even though the appropriations were refused, and consequently instead of making a new compact, must, if he preserved that character for firmness and consistency which he had ever supported, protest against the usurpation of power on the part of the House of Representatives.

But let it be supposed for a moment that the President could condescend to send out another Envoy upon such an errand; had the gentleman revolved in his mind what language must accompany the mission? The new agent must introduce himself to the Court of London by declaring that he came to frame a new Treaty instead of the one which though lately made by the two branches of Government who were then conceived to be the constituted authorities, had been more lately broken by the third branch. That the President had believed the approbation of the Senate followed by his own ratification to be fully sufficient to render the compact valid and binding, but that the House of Representatives had taken a new view and sense of his and their powers, had conceived their concurrence necessary to give it binding force, had convinced him that his construction of the Constitution had been erroneous, and had insisted upon his sending this extraordinary Envoy to practise upon the new lessons they had taught him.

Were it possible for a man acquainted as the gentleman from Virginia is, with the temper and character of Courts, to conceive that this messenger, though clothed with diplomatic sanction, could be otherwise received and treated than with contempt? Would he not be told to go back to his countrymen, and desire them to settle among themselves where they had deposited this power of Treaty making? Would he not be told that if it resided in the President with the advice and consent of the Senate, as they had been taught to believe, then there was one already formed which the British Government were ready, and the United States bound to fulfil, but that if the House of Representatives were in future to participate in this power, he must, if he returned to Great Britain, bring not only his own credentials from the President, but also authenticated copies of the powers from the House to the President himself?

The member from Pennsylvania, [Mr. Gallatin] had asserted there was as weighty a responsibility on the one side as on the other. This, Mr. D. said, he altogether denied. All must admit that the President and Senate would at least share it with those members who should vote for carrying the Treaty into effect, and they would have to justify them, in addition to the important objects of the settlement of differences, the compensation for losses, the possession of the posts, &c., the plea of plighted faith. But they who

should vote against the necessary provision in that House, would thereby take upon themselves alone all the consequences of the rejection. Could they lean for support upon even the ten dissenting Senators? No! For the instrument when under consideration of the Senate was an inchoate act. No faith was then pledged, its merits alone were the subject of consideration, and it might then have been rejected without wounding in the least degree the national honor. Could they lean upon those citizens, numerous as they were, who early expressed disapprobation? No! For this was generally done to arrest or to prevent ratification, and now since it was ratified, the opposition of far the greater part of this description was withdrawn and the names of very many of them were signed to the numerous petitions laying upon the table, praying that the Treaty might be carried into effect. They were, in short, about to take upon themselves a weightier responsibility than had ever before been encountered by any majority since the formation of the Government. Nor would they free themselves from this responsibility if they should first refuse and afterwards resolve to appropriate. To reject the appropriation by a vote, though it were to continue only for a moment, would be to inflict such a deadly wound upon the Constitution and honor of this country, as no subsequent vote or conduct could ever heal—they were considerations far too sacred thus to be sported with, and he earnestly entreated gentlemen to consider well the importance of the first step they were about to take, which if wrong could never effectually be trodden back.

Mr. D. concluded with observing that, although he was not pleased with many parts of the Treaty—although he had never felt any strong predilection for an intimate connexion with Britain—although he had never seen their encroachments on the rights, nor their depredations upon the property of American citizens with an indulgent eye, or in the temper of tame submission, and although he had long ceased to entertain any respect for the negotiator, yet he should vote for the resolution, because he loved his country, and to that love, would sacrifice every resentment, every prejudice, every personal consideration. He should vote to carry the Treaty into effect with good faith, because he sincerely believed that the interests of his fellow-citizens would be much more promoted by that, than by the opposite line of conduct.

He had said, "with good faith," and he hoped in thus repeating the expression he should not give offence to the Committee, nor to the member from Pennsylvania, at whose instance those words were stricken out of the resolution. They were however, words of solemn import, and although that member declared he did not understand them, yet they were well understood by the people of the United States. They were not ignorant of the solemn obligations thereby imposed upon them, and their Representatives. They knew that their faith when pledged could never be broken, without injuring their interests. They would judge when it was fairly pledged. They would know when it was wantonly violated, and they would determine whether they would permit a violation to be made with impunity.

Mr. Christie said, the first time he read the Treaty he believed it to be a bad bargain; he continued to think so, though he did not think it pregnant with all the evils which had been ascribed to it. He thought all that had been urged about war, and a dissolution of Government, if the Treaty was not carried into effect, something like the tale of "Rawhead and Bloodybones," to frighten children. But, though he thought the Treaty a bad one, his constituents were desirous it should be carried into effect, and he found himself bound to lay aside his own opinion, and act according to their will. He should therefore vote for carrying it into effect.

The question was then put on the resolution, which is in substance as follows:

Resolved, That it is expedient to make the necessary appropriations for carrying the Treaty with Great Britain into effect.

The House divided, forty-nine for the resolution, forty-nine against it.

It remained for the Chairman, Mr. Muhlenberg to decide.

He said, he did not feel satisfied with the resolution as it now stood; he should, however, vote for it, that it might go to the House and there be modified.

The resolution was consequently agreed to, and reported to the House.

[The following statement will show the true sense of the House as to the expediency of carrying the British Treaty into effect:

Forty-nine voted for this expediency.

Forty-nine against it.

The Chairman, Mr. Muhlenberg, to give an opportunity further to consider the resolution, voted for it.

Mr. Patton from Delaware was ill, and was necessarily absent. It is, however, well understood, that he is opposed to the Treaty.

Mr. Varnum was accidentally absent. He is no friend to the Treaty.

Messrs. Freeman, Sherburne, and Van Cortlandt are absent on leave.

Mr. Duvall has resigned, and his successor has not yet taken his seat.

From which it is evident that there is an actual majority of the House against the expediency of carrying the Treaty into execution.]

When the resolution was reported to the House, the question on it was called for, and the yeas and nays.

Mr. Giles wished some modification to be made in the resolution before them, or an additional one introduced so as to express the sense of the House upon the Treaty; he said it was observable that several gentlemen voted for the present resolution who thought the Treaty a bad one. He was not prepared at present with a proper resolution. The reason why he thought some qualification necessary was, that as a part of the Treaty was only to continue in effect for two years, and at the end of that time a fresh negotiation would probably take place, if the sense of that House upon the Treaty

was known to the President, it might, in some degree operate with him in a renewal of that part of the Treaty.

Mr. Jackson wished, as he discovered some of the members of the House were at present absent, and as the yeas and nays were to be taken upon the question, that a call of the House should be made previous to the taking of it. He said, he should vote against the Treaty, and should be able to give satisfactory reasons to his constituents for so doing; he, wished therefore, that on this important decision, the name of every member should appear on the list of yeas and nays. He hoped, therefore, the question would be postponed for the purpose.

Mr. Macon also wished the question to be postponed. He said he had doubts yet on his mind, respecting the construction of the 9th article, relative to the holding of lands, and if the construction which some gentlemen thought it would bear was the true construction, this question would be of greater importance to the State of North Carolina than the Declaration of Independence itself. He should speak within bounds if he was to say one half of the lands in that State would be affected by that construction.

Mr. Holland and Mr. Gillespie also expressed their doubts on this head.

Mr. Swanwick hoped the question would be put off till Monday; in the mean time gentlemen might have an opportunity of making up their minds on the subject so as to harmonize together.

Mr. S. Smith said, it would be imprudent and improper to force the decision of the question at present. He hoped it would not be insisted upon.

Mr. Williams said, any delay in their decision would add to the loss already sustained, by the farmers and merchants in the sale of agricultural production. For the sake of accommodation he would, however, consent to a postponement of the question till to-morrow.

Mr. Tracy hoped the question might be postponed, if gentlemen wished it, till to-morrow or Monday.

Mr. Hillhouse hoped the question would be postponed till Monday, when he hoped more unanimity would prevail in the decision.

Messrs. Bourne, Christie, and Cooper, wished the adjournment to be till to-morrow only.

The question was put and carried for to-morrow.

Mr. Gillespie then moved that a call of the House be made for to-morrow at 12 o'clock; which was agreed to.

Saturday, April 30.

A bill for continuing in force an act in the State of Maryland, appointing a Health Officer for the port of Baltimore, was read a third time and passed.

The House took up the consideration of the amendments yesterday made in the Committee of the Whole in the bill for the Military Establishment; which, being agreed to, it was ordered to be engrossed for a third reading.

EXECUTION OF BRITISH TREATY.

The House then took up the resolution yesterday passed in a Committee of the Whole, for carrying into effect the Treaty lately negotiated with Great Britain; when

Mr. Dearborn said, as it appeared that a majority of that House was in favor of carrying into effect the British Treaty, notwithstanding several of those gentlemen who had declared their intention of voting for it, had declared they thought it a bad Treaty, and as he wished to see the opinion the House entertained of the Treaty entered upon their Journals, he took the liberty of proposing an amendment to the resolution in the following words:

"*Resolved*, That, although in the opinion of this House the Treaty is highly objectionable, and may prove injurious to the United States, yet, considering all the circumstances relating thereto, and particularly, that the last eighteen articles are to continue in force only during the present war, and two years thereafter, and confiding also in the efficacy of measures that may be taken for bringing about a discontinuance of the violations committed on our neutral rights, in regard to our vessels and seamen, therefore, &c."

Mr. Corr hoped the yeas and nays would be taken upon the question; which was agreed to.

Mr. Goodhue hoped the House would not agree to the resolution; he, for one, would never agree to it.

Mr. Swanwick hoped the amendment would be agreed to; for whatever some gentlemen's opinion might be with respect to the propriety of carrying the Treaty into effect, very few thought it a good Treaty. An amendment, therefore, declaring the motives which actuated that House in passing the resolution for carrying the Treaty into effect was very desirable, it would induce some gentlemen to vote for it, who would otherwise vote against it and it ought not to excite objection. He appealed to the recollection of gentlemen, the arguments which had been used to enforce the necessity of the appropriations, which laid great stress upon the shortness of time which the most objectionable part of the Treaty was to be in force. He hoped, therefore, these arguments would not be objected to in the form of a resolution.

There might, indeed, be gentlemen who thought the Treaty perfect in every part, a very paragon; these, of course, would object to this amendment, and would vote against it. It might be said this amendment would convey an indirect censure on the other branches of Government; but he did not think so. That the Treaty was highly objectionable was shown by the decision of the Committee of the Whole yesterday, when the Chairman, with the hope of some modification taking place in the resolution, decided the vote in its favor. He hoped the proposed modification would not, therefore, be objected to. There was another important observation, which was the confidence expressed in the President's taking measures to prevent future spoliations of property and impressment of seamen. Mr. S. said, if the amend-

ment was adopted, it might lead him finally to vote for the Treaty, which he otherwise should not do.

Mr. Williams hoped that other gentlemen might be allowed to be consistent in their vote as well as the gentleman last up. He voted yesterday in the majority for the resolution in its present form, and he did not wish to vote for it in any other. Why did not gentlemen yesterday move their modification? To pass the modification to-day would be undoing what was done yesterday.

Mr. Hillhouse said, when he prepared the resolution on the table, he thought he had done it in such general terms that every gentleman might vote for it, without expressing a sentiment contrary to what he entertained respecting the Treaty. The amendment proposed, he thought very objectionable. It appeared as if it was intended to force gentlemen to vote against carrying the Treaty into effect rather than vote for the Treaty. For his own part, he could not vote for it, as it would be in direct contradiction to the sentiments which he had before expressed. He thought candor itself could not expect gentlemen who approved of the Treaty to vote for the amendment. It was also a rule to avoid expressing particular sentiments in resolutions of this kind. One part of the proposition, if it was brought forward separately, would be assented to generally, respecting the confidence placed in the President, with respect to future spoliations and impressments of seamen. In this proposition, it was said, the Treaty was injurious; he did not believe it was so. He believed it would be beneficial to the United States. It would not only be agreeing to an opinion which was contrary to the sentiments of gentlemen, but it would be passing a censure on the other branches of Government. Gentlemen were not required to say it was a good Treaty, and he hoped no one would be forced to say it was a bad one.

[The Speaker informed the House that it was then twelve o'clock, and as they had yesterday ordered that there should be a call of the House to-day at that hour, he should direct the Clerk to make the call. It was accordingly done. Messrs. Brent, Harper, and Patton were absent. The two former came to the House soon after the call, and, on making apologies, were excused. Mr. Patton was indisposed.]

Mr. Gregg said he should vote for the resolution in its present state. He did so, not because he thought the Treaty a good one, but because he believed the interest of the United States would be promoted by making the necessary appropriations, and because he was apprehensive worse consequences might arise from defeating it than from carrying it into effect.

Mr. Moore considered himself as called upon to choose between two evils. He considered the Treaty to be bad. On the other hand, he was apprehensive that evils might arise, if it was not carried into effect, out of the control of that House. He had resolved not to vote for the resolution on the table; but he felt unwilling to take upon himself the responsibility of rejecting the Treaty, which had been sanctioned by the President and Senate. In deciding upon the amendment proposed, he wished the sense of the House to be taken; and if he considered that a single individual would be influenced to vote against the resolution who would otherwise have voted for it, he should wish them to be separated. It was his opinion the Treaty was a bad one, and he believed it was the opinion of a decided majority of that House. He wished the resolution to be so amended that the Treaty might go into effect by a considerable majority, as it would tend to lessen the irritation which had been raised respecting it.

If a majority of the House thought the Treaty a bad one, they had a right to say so, and let the responsibility rest where it ought to rest.

Mr. Sitgreaves said, the gentleman who introduced this resolution said he did it with a view to accommodation. If so, the mover and supporters of it would not wish to lay gentlemen under an obligation of doing what was disagreeable to them. Those gentlemen were willing, it seemed, to vote for a resolution for carrying the Treaty into effect, but wished at the same time to divest themselves of responsibility. Mr. S. said he had no objection to their expressing their own opinions; they were not his. Therefore, if a fair representation of opinion was to be given, the two propositions should be separated. With respect to that part of the resolution expressing hopes in future negotiation, he had no objection, but to the other he could not agree. On this subject he was so decided, that he avowed he would rather lose the Treaty than that the sentiments in the amendment should go out as his act. He hoped gentlemen would consent to let them vote as they thought right. Let gentlemen throw their ideas into a distinct proposition, the responsibility would then be rightly placed; their constituents would be informed of their opinions, the honor of the nation would be saved, and the divisions which had distracted their country would be healed.

Mr. Dearborn said, in offering the amendment which he had proposed, he had no intention of taking any thing like an unfair advantage, or of producing what might be thought uncandid or unfair. His own sentiments relative to the Treaty were such as would prevent his consenting to do any thing to carry it into effect, unless with such a provision as he had brought forward. It appeared to him of such a nature, that he was not sure that he could bring his mind to vote to carry it into effect at all. He had supposed there could be nothing improper in taking the opinion of the House relative to the thing itself. If it might be presumed that there were but few gentlemen in that House who thought the Treaty a good one, he, indeed, thought there were none of that opinion, until then, though some gentlemen had praised it in their speeches, but which he had merely considered as adding weight to their arguments, he believed such an amendment was desirable.

As he, therefore, took it for granted that a considerable majority of the House were of the same opinion with himself, he saw no impropriety in having that opinion expressed. The propositions

would not interfere with any bill which might be brought in, and gentlemen would have the discretion to vote for it or not. If a majority of the House thought differently from him, and chose to negative the amendment, he should be satisfied. Until he heard something further on the business, to convince him of the impropriety of doing so, he should wish to see a decision of the House upon the proposition as he had offered it.

Mr. Harper said he was of the number who thought the measure of passing the resolution on the table a very expedient one; but whilst this was his opinion, he knew there were many, both within and without their walls, of a different opinion. He had no objection to gentlemen's expressing their opinions, but he wished also to be at liberty to express his. He should, therefore, propose that the mover should form his resolution as a preamble. This would answer the purpose of the gentleman from Virginia, [Mr. Moore.]

He said, when it was so formed, every one would have an opportunity of voting for it, and, if negatived, the resolution would stand as before. He hoped, therefore, the proposal would be agreed to.

Mr. Dearborn said he considered his motion in the nature of a preamble; and he had no objection to any alteration that would make it more properly so.

Mr. Kittera appealed to the candor of the gentleman who brought forward the amendment, with respect to the propriety of making his proposition a distinct one. He thought it would be extremely improper to pass a resolution which should say, "We pass this law, though we believe it to be a very bad one." He thought it also directly charging another branch of the Government with improper conduct.

Mr. Nicholas had no objection to the amendment being inserted by way of preamble. He urged the propriety of the opinions of members being fairly taken on this important business.

Mr. Gregg wished to offer an amendment, as a substitute to that before the Committee. It was, in substance, as follows: "*Resolved*, That under a consideration of existing circumstances, without reference to the merits or demerits of the Treaty, and in confidence that measures will be taken by the Executive to maintain our neutral rights, it is expedient," &c.

This was declared out of order until the amendment was decided on.

Mr. Venable had no objection to the propositions being taken separately, as gentlemen would be then left at liberty to vote as they pleased. He conceived there were gentlemen who would vote for the proposition with the amendment, who would not vote for it without it. He did not know that any amendment would reconcile the resolution to him; for, though he should vote for the amendment, he would not bind himself to vote for carrying into effect the Treaty.

Mr. Murray said, if this measure was pursued, the Treaty would be defeated. The amendment proposed, implied that the friends of the Treaty would vote for it in that way, rather than lose it. Were they then to vote for the resolution, loaded with odium, or lose the Treaty? These steps, he said, all led to one issue—a rejection of the Treaty. The gentleman from Virginia last up, had declared that, though he should vote for the amendment, he would not be bound to vote for carrying the Treaty into effect. He believed most of those gentlemen who would vote for the amendment, would vote against the original resolution; and that it was introduced as a barrier betwixt the Treaty and those who were friendly to it. He would agree to or reject the original resolution; for he, for one, would declare he would not vote for the resolution so loaded. If the Treaty was to be so carried into effect, it would poison its vitals. The Treaty was the law of the land; it also held up a relation between two nations. It was not merely the delivery of the posts, or compensation for spoliations, that the Treaty embraced; such a resolution would spread a general alloy of bad opinion, which would eventually bring the two nations to the sword. The Treaty, so loaded, would not have the desired effect; for, instead of allaying the spirit of enmity between the two countries, it would serve to keep it alive. It was the interest of both countries to be at peace, and to have a good understanding with each other. Were the amendment proposed to be adopted, it would keep up that animosity which had been raised against the President for having executed the Treaty. Small were his means, said Mr. M., of settling disputes with foreign nations. Without Navy, without Army—nothing but plain reason with which to meet a powerful Court—

[Mr. Macon wished to know of the Speaker whether Mr. M. was in order? The Speaker answered in the affirmative.]

Mr. Murray said he had not spoken on the subject before. He was stating that the President was armed only with reason; he was stripped of all the symbols of power, and if the Treaty before them was carried into effect, with such a clog as the amendment proposed, he would be debilitated indeed. Their Executive had, in his opinion, done great things, and what would have covered any European Minister with untarnished laurels, by means of reason and policy; for, however wickedly Courts act, they calculate upon the force of the Powers with whom they treat. When a Minister goes to negotiate, they inquire into the naval and military force of his country, their appropriations for the army and navy, &c., &c. The Envoy of the United States would be a blank upon such an occasion. What was their interest, then? It was to give energy to their Government. Should they then pass the law in such a manner as almost to warrant the people in resisting it? The only thing which remained for them to do, was, not only to carry the Treaty into effect, but to carry it into effect with good faith. The object was not merely the posts—it was a conciliation of the differences long existing between the two nations; and it was their duty to execute it so as to produce the greatest advantage; whereas, if they were to agree to the amendment proposed, so co-

vered with odium, it would weaken the power of the Executive, already too feeble.

Mr. S. Smith said he had never seen any cause of gloom. He never doubted that the members of that House would come to right conclusions. They did right yesterday, and he was not afraid of their doing wrong to-day. In their decision yesterday, the Chairman had doubts. He decided in favor of the resolution, in hopes of its undergoing some modification—that modification was now brought forward. It did not entirely please him; but he thought it might be so amended as to please every one. He moved that the words "and may prove injurious to the United States," be struck out. Consented to.

Mr. Muhlenberg said, when he gave his vote yesterday, he did it in the hope of a modification of the resolution taking place in the House. A modification was now brought forward, and he was ready to vote for some such modification. Whilst he made this declaration, he must add, that he was willing also to vote for the original resolution. He wished the sense of the House to be taken upon the two propositions separately.

Mr. Dearborn consented to the propositions being taken separately.

Mr. S. Smith moved to strike out the word "highly," so as to read *objectionable*, instead of "highly objectionable."

The sense of the House was taken, when there were 48 for the striking out, and 48 against it. The Speaker gave his vote in the affirmative.

Mr. Sedgwick said, he had not troubled the House since the resolution was first brought forward. He came prepared, on a particular day, to have taken an extensive view of the subject; to have attempted to show that the Treaty could be defended on its merits; that, on the most cool deliberation, he found the Treaty not only unobjectionable, but to contain more advantages than any, than all the Treaties ever formed by this country. He then resigned to another gentleman the right he had of addressing the Committee, and he had now altogether abandoned his intention of supporting by argument his opinions, and he did not intend (if it would be in order, which it would not) to go into the discussion at present. He wished not to consume the time of the House, because, if the Treaty was to go into effect, it was high time it should be done; it was also high time that the people of this country should know its fate. He had intended to have attempted to prove that this Treaty drew the differences subsisting between the two countries to a happy conclusion; that, besides redressing the injuries of which they had a right to complain, it was of a nature beneficial to the essential interests of the United States; but, if he had thought differently, he would not have agreed to the proposition now brought forward. What was the intention of the mover? He told them it was for harmony; it was to reconcile the opinions of gentlemen with their vote; it was for unanimity. He asked that gentlemen, and those who supported the proposition, whether they could possibly conceive, after the language held on that floor, that there could be so complete a departure from their principles as to agree to that amendment? What was the consequence? Were they to make harmony by declaring war? By declaring the other branches of the Government to have ratified an objectionable instrument? Was it possible that either harmony in the other branches of Government, or in the people, should be advanced by a declaration such as this? And where was the occasion for it? From the promulgation of this obnoxious Treaty to the present time, had not the presses teemed with publications on this subject? Since the debates had taken place, every gentleman had brought forward his objections at large. The papers of this city had published the arguments for and against the question. The whole lay before an intelligent public, and, so far as respects personal responsibility, the people will decide between the contrary opinions. He begged gentlemen to recollect that the President had done no more than he was authorized to do by the people of this country. Had he not a right to negotiate? A negotiation took place; the effects of it had been submitted to that body, to whom the people directed it should be submitted. The Senate had advised the ratification, and the President had ratified and promulged it. Had they exceeded their powers? Certainly not. What, then, was the consequence of the declaration now proposed? He asked gentlemen who were disposed to advocate the proposition before them, to consider them as doing an act which they were authorized to perform—a Constitutional act, for which they were appointed. If they passed the present resolution, what language would be strong enough to reprobate the censure which would be cast upon the other branches of Government? Had the President and Senate done more; and if no more than their duty, who had given them the authority to comment upon their acts? The proposed amendment declared that they had done the thing that was wrong. Would they bear, ought they to bear this? They ought not to bear it.

He requested that gentlemen would reverse the case. Suppose the House had, in pursuance of the authority delegated to them by the Constitution, done an act confessedly within the limits of that authority, (as it was agreed was the case in the present instance in the conduct of the President and Senate,) and any other branch of the Government, and particularly the other branch of the Legislature, should undertake to comment on such acts of the House, to declare to their constituents and to the world that our decisions were injurious or objectionable? The sentiments which such conduct, on the part of the Senate, would excite in the House, would be strong, unanimous, and every gentleman then would feel them to be just. The rights of the Senate, in this instance, were the same: they were equally independent, and neither the injury nor the resentment would be lesser. He hoped, on temperate reflection, a majority would not invade those rights in another department, which, as their own, they would and ought to defend.

In this view of the subject, when no good end

was proposed, why was the declaration to be made? Was it to keep alive the misunderstanding which had already taken place between the different branches of Government? Certainly that was not a desirable thing. To say these laws were made from circumstances of imperious necessity, as had been observed by his friend from Pennsylvania, [Mr. Kittera,] was not the best mode of procuring submission and respect to them. No instance could be produced in which such a conduct had been adopted, and he hoped it would not now be sanctioned.

Mr. Kitchell said, he should vote against the proposition now brought forward, because he thought it wrong to hold up an idea which would have a tendency to weaken the Government. He looked upon it as injurious. The people would judge upon the Treaty from the instrument itself and what had been said of it. They ought never to alarm the people unnecessarily. It was not from any fear of going to war, or any other apprehension but what he had mentioned, which caused this opposition in him.

Mr. Gallatin said, if the propositions could be divided, no gentleman could reasonably object to the sense of the House being taken upon them.

Mr. Parker said, he had not yet spoken upon this business. He would now say, he disapproved of the amendment, and should not vote for it. He thought the Treaty a bad one, and would not agree to vote for it by means of any modification.

Mr. Heister said, he should vote for the amendment, because, if the Treaty went into operation, he should wish the reasons which induced the House to agree to it to appear on the Journals. When, however, the resolution for carrying the Treaty into effect was put he should vote against it.

The motion was then put on the preamble, and decided in the negative, as follows: Yeas 49, nays 50:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, Robert Rutherford, Israel Smith, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Nathan Bryan, Daniel Buck, Thomas Claiborne, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Heath, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, William Vans Murray, Josiah Parker, John Reed, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Spring, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

From this list it appears that the question was lost by one vote. The Clerk, however, through mistake, reported the votes to be equal, viz: 49 for and 49 against the question, and the Speaker gave his vote in the negative, but the above was afterwards found to be the true statement.

Mr. W. Smith was glad the motion was negatived. He did not wish either blame or praise to be cast upon the Treaty by the resolution passed to carry it into effect. He would, therefore, move to add the following words to the original resolution: "Without reference to the merits of the Treaty."

Mr. Giles opposed this amendment. He said, it would be an indirect mode of passing a censure upon the House for having undertaken to judge of the merits of the Treaty. He did not know whether it struck the gentleman in the same way, but he would agree it was improper to pass a censure upon the House. He hoped, therefore, the motion would either be withdrawn or voted against.

The motion was withdrawn.

Mr. Swanwick said, had the amendment which had been proposed been adopted instead of being rejected, he might have waived his objections to the Treaty, and have voted for carrying it into effect: but when he was called upon to give a vote upon the unqualified resolution, however he might differ in sentiment from some of his friends, he should be under the necessity of voting against it. He knew the question was important. The gentleman from Massachusetts, [Mr. Ames,] in high wrought colors, had represented it in all its fulness. But, after reviewing his mind, he had not been able to see this instrument in that light which could induce him to give his vote for it. He hoped no impropriety of motive would be ascribed to any gentleman on that floor—he had no doubt every one acted as his feelings told him was right; and, on this eventful question, in which they must differ, he hoped they should have the candor to put the difference to a proper account. His interest would have led him to vote for the Treaty, as he had much property, in common with his fellow-citizens, on the ocean, and his ships were upon his own risk, and losses would of course be heavier to him than to most other merchants; but he could not, consistently with his judgment, which was imperious upon this occasion, vote for the Treaty, though he might have done it if the resolution had been qualified.

Mr. Holland went over the reasons that would induce him to vote against the Treaty; which are detailed at length in his speech upon the merits of the Treaty. He said, that if the construction of the 9th article were to extend to the

lands in North Carolina, late Lord Grenville's, as had been supposed by some gentlemen, the claim would certainly be resisted by force.

Mr. Winn said as it was his opinion and the opinion of the generality of his constituents that the Treaty was a bad one, he should vote against it.

The question was then taken by yeas and nays, and determined in the affirmative—yeas 51, nays 48, as follows:

Yeas.—Fisher Ames, Theodorus Bailey, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, George Hancock, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, Wm. Vans Murray, John Reed, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Zephaniah Swift, Geo. Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Nays.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Machy, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, Robert Rutherford, Israel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. Hillhouse, Mr. Sedgwick, and Mr. Gallatin, do prepare and bring in the same.

[Recapitulation.

For declaring the Treaty highly objectionable	48
Against this declaration	48
The Speaker decided in the negative.	
For declaring the Treaty objectionable	49
Against the declaration: some because they did not consider it objectionable; others because they feared making the declaration would be injurious, and others because, so opposed to the Treaty, as to object to all compromise	49
The Speaker decided in the negative.	
For carrying into effect the Treaty: some because a good one, others because best to execute it under existing circumstances	51
Against carrying it into effect, because bad in itself, and notwithstanding existing circumstances	48

Absent on this question: Messrs. Sherburne and Freeman, on leave; Mr. Duvall, resigned; Mr. Patton, by illness; Mr. Findley, accidentally.]

Monday, May 2.

The bill making further provision relative to the revenue cutters, was received from the Senate, with some amendments, which were gone through and agreed to.

The reports of the Committee of Commerce and Manufactures on sundry petitions relative to the establishment of new ports of delivery and entry, were agreed to. By this report it is proposed that Ipswich, Little Egg Harbor, Havre de Grace, Newbury, Berkley, and Taunton, be made ports of delivery; that the district of Hudson should be confined to the city of Hudson alone; and that those places heretofore annexed to it, should be re-annexed to New York; that the district of Cedar Point should be called Nanjemoy; and that of Sherburne changed to Nantucket. The resolutions were referred to the committee who made the report, to bring in bills accordingly.

The House resolved itself into a Committee of the Whole on the report upon the petition of Jonathan Hastings, deputy postmaster of Boston, praying for recompense for his extra services in receiving and despatching the English mail for two years. It was recommended that he should have two hundred dollars allowed, which was agreed to, and a bill ordered to be brought in.

Mr. Swanwick presented a petition and memorial from Richard Gernon & Co., of Philadelphia, praying that the bill proposed to be passed to repeal the act allowing a drawback on exported snuff might not go into a law, as they should suffer greatly by such a repeal, having made very considerable contracts abroad, which they should be under the necessity of completing. The memorial was referred to the Committee of the Whole, to whom the bill on that subject is recommitted.

Mr. Gregg said, as he believed gentlemen would wish their session to come to an end as soon as the public business would permit, he should submit a resolution which would bring the subject under consideration. He proposed one to the following effect; which was agreed to, and referred to a select committee:

"*Resolved*, That a committee be appointed on the part of this House, to be joined by a committee to be appointed on the part of the Senate, to consider and report what business remains necessary to be done during the present session, and at what time it will be proper to adjourn the same."

[This resolution was subsequently agreed to by the Senate, and a committee appointed on its part.]

Mr. Orr, chairman of the committee to whom was referred the bill from the Senate authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio, reported the bill without

amendment. Referred to a Committee of the Whole.

The bill to ascertain and fix the Military Establishment of the United States, was read a third time, the blanks filled up, and passed. A division took place on the question whether there should be one or two troops of Light Dragoons. Two troops were determined upon—40 to 24.

Mr. Hillhouse, chairman of the committee appointed to bring in a bill for making appropriations for defraying the expenses which may arise in carrying into effect the Treaty lately concluded betwixt the United States and Great Britain, reported a bill; which was twice read, committed to a Committee of the Whole, gone through, and ordered to be engrossed for a third reading to-morrow.

Mr. Jackson declared his intention of calling the yeas and nays upon the third reading of the bill.

The House resolved itself into a Committee of the Whole on the bill affording relief to distillers in certain cases, which was agreed to, went through the House, and was ordered to be engrossed for a third reading to-morrow.

The House resolved itself into a Committee of the Whole on a report of the Committee of Commerce and Manufactures on the petition of William Roche & Son, praying the return of an excess of duties which they had paid on vessels, which had been charged as foreign vessels, on account of their having been several years employed in the whale fishery in France. The report of the committee was in favor of the petitioners; but it was disagreed to.

REIMBURSEMENT OF DUTIES.

The report on the petition of Moses Myers, of Norfolk, for a reimbursement of duties which had been paid on twenty bales of goods which had been damaged by the oversetting of a schooner, which was conveying them from a French ship-of-war, which lay at a distance of eighteen miles from the port, on account of her drawing more water than the river contained. The report was in favor of the petitioner, and was agreed to, but not without considerable debate. It was opposed on the ground of the vessel's having completed her voyage; that, after an entry was made at the custom-house, no allowance for damage could be made; that this case was the same with claims which had hitherto been resisted for goods which had been destroyed by fire, or otherwise, after the duties were secured. On the other hand, it was contended that the vessel had not completed her voyage, and that the owners were as much entitled, in cases of insurance, for damages done in a river, as for those done at sea; that the entry having been made at the custom-house arose from the necessity of taking up the goods in lighters, owing to the large size of the vessel. It was even urged by Mr. S. Smith, that the petitioner was not only entitled in this case, but if a bale of goods were to fall overboard, in unloading at a wharf, and thereby received damage, an abatement of the duties ought to be made, as it was always understood the duties were not to lie upon the merchant, but upon the consumer.

The report on the petition of Philip Finney, owner of some fishing vessels, praying for the payment of a bounty which he had been deprived of for want of formality, was against the petitioner. Agreed to.

The report on the petition of Samuel Brown, of the same nature with the last, was in favor of the petitioner, but it was disagreed to.

The House took up the above report, and agreed to the determinations of the Committee of the Whole, except in the case of the last petition, which was disagreed to by the casting vote of the Speaker, and the report of the Committee of Commerce and Manufactures was agreed to by the same casting vote.

The resolutions were referred to the same committee to report a bill or bills accordingly.

DRAWBACK ON SNUFF.

Mr. Goodhue called up the report respecting the repeal of the drawback allowed on all exported snuff. This occasioned considerable debate. It was urged that there was a necessity for the repeal, as the Treasury were daily paying immense sums in drawbacks; and that as it was not likely they should pass any new law upon the subject this session, it was necessary to repeal the drawback. This was objected to, as by such a repeal, the staple commodity of the Southern States would be taxed on exportation; and that, instead of repealing the drawback, the law itself should be repealed.

Mr. Nicholas moved a resolution directing the Committee of Commerce and Manufactures to make a report on the several petitions which had been referred to them, praying for a repeal of the duties of snuff; but, after some little debate, a motion was made to adjourn, and the House adjourned without making any disposition of the resolution.

Tuesday, May 3.

Mr. Madison, chairman of the committee appointed to inquire into the number of lots of land, and the quantity of acres, reserved for the future disposition of Congress, in the sales made to the Ohio Company and others, made a report, which was twice read and referred to a Committee of the Whole.

The bill providing for the relief of the owners of stills in certain cases, was read a third time, and passed.

Mr. S. Smith, chairman of the committee to whom was referred the amendments of the Senate to the bill for providing relief and protection to American seamen, reported, that the committee were of opinion that the House should disagree to the amendments, and appoint a Committee of Conference with the Senate. The House took up the report, agreed to it, and a Committee of Conference was appointed.

A petition was presented and read from John Nicholson, of Philadelphia, praying that an addi-

tional duty should be placed on certain kinds of glass imported into the United States.

Mr. Trumbull moved that the Committee of the Whole, to whom was referred the report of a select committee respecting Post Offices and Post Roads might be discharged, on the ground that more time might be given to ascertain whether certain proposed alterations in the roads would be advantageous or not. This motion was negatived, and the House resolved itself into a Committee of the Whole on the consideration of the report; and, after making some progress therein, the Committee rose, and had leave to sit again.

A bill relative to the making of a road from Wiscasset, in Maine, to Savannah, in Georgia; and a bill for compensating Jonathan Hastings, were read.

Mr. W. Smith, Chairman of the Committee of Ways and Means, reported the bill as amended, in consequence of the inquiry made of the Directors of the Bank for the payment of the debt due to the Bank of the United States, together with a report respecting that inquiry; which was read a second time, and ordered to be referred to a Committee of the Whole.

The following is the answer of the Bank to the inquiry of the Committee, whether the Bank required payment of the whole five millions said to be due, or whether they would be satisfied with a part, and let a part remain as heretofore:

"The committee appointed to confer with the Committee of Ways and Means on the subject of continuing, to a remote period, the loans made to the United States, having reported:

"The Board took into consideration the most essential points that had relation to the present subject, viz: the great increase in the price of all alienable property, which requires a corresponding addition of circulating medium to represent it; the necessity of placing this institution in a more respectable situation, in point of available funds, which will enable it to promote more generally the interests of commerce and manufactures, and afford the means of facilitating the financial operations of the Government, by temporary loans, whenever the fiscal administration may require such a resource, as well as the more immediate advantages of the stockholders and customers of the Bank, intimately connected with the active employment of a large specie capital: Whereupon,

"*Resolved*, That the United States be requested to extinguish the loans that are already due to the Bank, as well as to make provision for those which may become payable in the course of the present year.

THOMAS WILLING, *President.*

Bank of the United States, April 21, 1796.

TREATY WITH GREAT BRITAIN.

The bill making appropriations towards defraying the expenses of carrying into effect the Treaty lately concluded between the United States and Great Britain, was read a third time, the blanks filled up, and passed.

The blank for the sum of money to be appropriated for carrying the act into effect, was filled up with $80,808; that for payment of each of the Commissioners in London, with $6,667 50; and that for those residing in the United States, with $4,445 each.

Mr. Findlay having been absent when the two questions on the British Treaty were taken in the Committee of the Whole and in the House, now, when the bill for carrying it into effect was about to be passed, he said, having been under an urgent necessity to be absent from the House for a short time during the sitting of Saturday, when the question was taken for making the laws necessary for carrying the Treaty with Britain into effect, and being thus prevented from having his name entered on the Journals, which, though it would have made no change in the state of the vote, he wished to have done—he desired now to express the sentiments by which he would have been governed. Urgent as was his call to leave the House, he would have dispensed with it if he had suspected the discussion would have been finished so soon.

He said, he had it much at heart to have a resolution recorded on the Journals expressive of the sense of a decided majority of that House, and he believed of the people of the United States, very generally, respecting the character of the Treaty. If that had been done, he had made up his mind to have given it no further opposition; but, from some gentlemen disapproving of the Treaty so highly that they would not vote in favor of any question that was calculated to give it efficacy; and, from others, who though they had discovered a marked disapprobation of it, yet did not choose to record that disapprobation on the Journals, this resolution was not carried by a majority of votes; therefore, that he might not be responsible for the consequences of the Treaty, he would vote against the bill before the House for carrying it into operation, and very briefly assign his reason for doing so.

He acknowledged that there were imperious circumstances which urged the House to carry the Treaty into effect. The enormous spoliations committed by the British on our trade, which were expected to be reimbursed in consequence of the operation of the Treaty, powerfully addressed our interest, and this, with an apprehension of the increase of depredations on our trade if the Treaty did not go into effect, which depredations and the outrageous impressment of our seamen, however, are still continued, and the agitation which has been excited in the public mind, had determined a number of members to vote for carrying the Treaty into effect, who have expressed a high degree of disapprobation of the instrument. He said, that he felt the fate of these imperious circumstances, and they had determined him to waive his objections arising from the want of reciprocity, security against continued hostilities, or other defects of the Treaty, if it had not been perseveringly advocated on principles abhorrent to our Government, and which, if admitted, effected a change of its principles equal to a revolution.

He said, he had examined the Treaty in connexion with the principles on which it was advocated, with the most unprejudiced deliberation of

which he was capable, and could not justify himself in sanctioning an exercise of powers founded on so dangerous a latitude of construction, as acknowledged a transfer of the powers specifically vested in Congress, without its concurrence or consent.

He said, that the power of regulating commerce with foreign nations was as explicitly vested in Congress, as the powers of appropriating money, declaring war, levying taxes, &c., and by the principles on which the Treaty is advocated, the negotiating power may exercise these or any other or all the Legislative powers of Congress, or transfer them to be held in concurrence between the negotiating power and foreign nations, without the concurrence of Congress, with which these powers are specifically vested and expressly guarded.

He added, that the construction on which the Treaty was supported, viz: that the Treaty-making power might exercise any or all of the powers vested in Congress, as far as they related to foreign nations, was not supported by the Constitution, but destructive of it; declarations of war and all things connected with them, have as necessary a relation to foreign nations as the regulating of commerce has, and the levying taxes and appropriating money for carrying such Treaties into effect have as much relation to foreign nations as the regulations of commerce, as they cannot be carried into effect without the exercise of these powers; consequently, on the principles on which the Treaty is supported, the President, with the consent of the Senate, in its Executive capacity, may declare war, levy and appropriate money, and exercise every other Legislative power vested in Congress, by only connecting the exercise of them with the Treaty form. He said, this was not sanctioned by the words of the Constitution; it is no where said that the negotiating powers should exercise any or all the powers vested in Congress by the only means of interesting foreign nations in the exercise of them by Treaty. Such a latitude of construction cannot be admitted, because it subjects all the Legislative authority to the discretion of the Executive and foreign nations.

He said, the only expressions on which this new construction rested was the declaration that the President and Senate shall make Treaties; but the declaration in the Constitution that Congress, consisting of a Senate and House of Representatives, shall make all laws; yet, notwithstanding the positiveness of the word "make," what they do make is not a law until it is approved and signed by the President. Admit the word "make" to have the same meaning in the one case as in the other, and the difficulty is removed. The construction for which he contended preserved the Constitutional powers in their proper departments, and where the negotiating power thinks it proper to treat on Legislative subjects. Let the concurrence of Congress be obtained, as is usual in all free Governments, and the Constitution is preserved; but on the construction contended for by the advocates for the Treaty, its principles were so essentially changed that he felt himself constrained to vote against the bill for carrying a Treaty into effect which embraced such powers and was supported by such principles. The power of sequestrating debts he did not at this time object to, on account of our peculiar circumstances with relation to Britain. Sequestration stood connected with war, as it was of use only as a means of preventing war or carrying it on with advantage: therefore, the formal power of declaring war may, on the same principles, be exercised by the Executive; and war is more frequently engaged in Europe by Treaties than by any other method.

Our Constitution undoubtedly intended to prevent the exercise of this power by Treaties, but it has as explicitly restrained the power of regulating commerce.

He said, he wished to give his testimony by having his nay on the Journals; but, as it was his misfortune to be out when the yeas and nays were called on the same question, and not the fault of the House, it would be improper for him to urge a repetition of the call merely on his own account, but would be glad if any other member would call them that he might have an opportunity to give his nay. Whether the names were called or not, he said he would vote against the bill.

Mr. Jackson said, he had yesterday declared his intention of calling for the yeas and nays upon the passing of the bill; but, as it had since occurred to him, that it might be thought this would be carrying opposition too far, he would decline persisting in his intention. The yeas and nays were, therefore, not taken.

Wednesday, May 4.

Mr. Goodhue, Chairman of the Committee of Commerce and Manufactures, reported a bill for the relief of Samuel Brown; another for the relief of Moses Myers; another for the erection of a light-house on Cape Cod; and one for the establishment of certain new ports of entry and delivery; which were severally twice read, and ordered to be engrossed for a third reading.

Mr. G. also made a report on the petitions of certain custom-house officers, recommending that they should lie over till the next session. Agreed to.

Mr. Nicholas, Chairman of the Committee appointed to confer with a committee from the Senate, with respect to the business which remained necessary to be finished before the session ended, and when it would be proper to adjourn the same reported it as the recommendation of that committee that the session should be adjourned on the 20th of the present month. He also reported a list of business which was entitled to a preference.

The House resolved itself into a Committee of the Whole on the report of the committee on the subject of Post Offices and Post Roads; which, having gone through, and made several amendments, the House took up the consideration of

them, and the report was referred to a select committee to bring in a bill or bills.

Mr. Sitgreaves, Chairman of the Committee appointed to consider upon the petition of certain attorneys respecting the holding of District Courts at Yorktown and Philadelphia, reported a recommendation that that part of the act which directs the sessions to be held alternately at Philadelphia and Yorktown, be repealed, &c., and some other regulations made. The report was agreed to, and a bill directed to be brought in.

The House resolved itself into a Committee of the Whole upon the report of the committee to whom was referred the Message of the President respecting the forming the Territory South of the river Ohio into a new State, by the name of Tennessee; and several documents relative thereto having been read, the Committee rose, and had leave to sit again.

A message was received from the Senate, informing the House that the Senate had agreed to the several bills for carrying into effect the four Treaties lately concluded. Two trifling amendments were made in that for carrying into effect the Treaty with Spain; which were agreed to.

The House then resolved itself into a Committee of the Whole on the bill allowing a certain compensation for horses killed in battle; which having gone through, the House took it up, and ordered it to be engrossed for a third reading.

Thursday, May 5.

The Speaker informed the House that he had received a letter from the Governor of Maryland, informing the House that an election for a member of Congress, in the place of Mr. Duvall, resigned, had taken place; which communication was read. The gentleman elected is Richard Spright, Jr.

A report of the Attorney General, relative to the contracts of John Cleves Symmes, for certain lands in the Northwestern Territory, was twice read, and ordered to be committed to a Committee of the Whole.

The following bills were read the third time and passed, viz: for compensating Jonathan Hastings for extra services; for the relief of Samuel Brown; for the relief of Moses Myers; for authorizing a light-house on Cape Cod; for allowing compensation for horses killed in battle; for establishing several new ports of entry and delivery.

Mr. Sitgreaves reported a bill for repealing so much of the act as directs that the District Courts of Pennsylvania shall be held alternately at Philadelphia and Yorktown; which was twice read, and ordered to be engrossed for a third reading.

Mr. Goodhue, Chairman of the Committee of Commerce and Manufactures, made a report on the memorial of Sylvanus Bourne, Vice Consul at Amsterdam, for the reimbursement of two hundred and six dollars, expended in the relief of the master and crew of the ship Washington, which was wrecked on the coast of Holland, in November last; and also upon the petition from the State of Delaware, praying that provision might be made to prevent the stealing of negroes and mulattoes. On the first case, the report was in favor of the memorialists; it was twice read, and a bill ordered to be brought in. Upon the latter, a law was recommended to be passed, and the report was committed to a Committee of the Whole.

The House resolved itself into a Committee of the Whole on the bill making provision for the payment of certain debts due to the Bank of the United States; which having gone through, the Committee rose, took it up, and it was ordered to be engrossed for a third reading.

ADMISSION OF TENNESSEE.

The House then resolved itself into a Committee of the Whole on the Message of the President, relative to the Tennessee country. The report of the select committee was read, as follows:

"*Resolved*, That, by the authenticated documents accompanying the Message from the President of the United States to this House, on the 8th day of the present month, and by the ordinance of Congress bearing date the 13th of July, 1787, and by the law of the United States passed on the 26th of May, 1790, it appears that the citizens of that part of the United States which has been called the Territory of the United States South of the river Ohio, and which is now formed into a State, under a Republican form of Government, by the name of Tennessee, are entitled to all the rights and privileges to which the citizens of other States in the Union are entitled under the Constitution of the United States, and that the State of Tennessee is hereby declared to be one of the sixteen United States of America."

Mr. W. Smith rose and said he was opposed to the report. He thought the select committee had not attended to some important principles which resulted from an examination of the subject. Several questions arose in his mind, on considering it: 1st. What were the rights of the people of the Territory South of the Ohio, as secured to them by compact with the United States?—2d. By what authority was the census to be taken in order to ascertain the requisite number of inhabitants to entitle them to a participation in the Federal compact? 3d. Had the census been fairly taken?

1st. The rights of the people of the Territory South of the Ohio were founded on the act of Congress of April, 1790, accepting the cession of North Carolina; the deed of cession, as recited in that act, ascertained the rights of the inhabitants of the ceded Territory. The fourth section of the cession stipulated that "the Territory so ceded shall be laid out and formed into a State or States," containing a suitable extent of territory; the inhabitants of which (that is, of which State) shall enjoy all the privileges set forth in the ordinance of Congress of July, 1787, for the government of the Territory Northwest of the Ohio. That ordinance was therefore to be considered as the charter of the Territory; in that were to be found the rights of its inhabitants, and their claim to a participation in the councils of the Union.

The ordinance of July, 1787, provided that the Territory Northwest of the Ohio should, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

The ordinance then provides that when there are five thousand free male inhabitants in that Territory, the inhabitants shall be entitled to a Legislature, still however remaining subject to the government and control of Congress. It then sets forth:

"That, in order to provide for the establishment of States and permanent government in the said Territory, and for their admission into the Federal Councils on an equal footing with the original States, at as early a period as may be consistent with the general interest, it is declared that the following articles shall be considered as articles of compact between the original States and the people and States which may be formed therein, shall forever remain a part of the Confederacy of the United States, subject to the articles of Confederation, and to such alterations as shall be constitutionally made, and to all the acts and ordinances of the United States."

"Art. 5. There shall be formed in the said Territory not less than three nor more than five States; and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent Constitution and State Government."

The act of Congress of May, 1790, establishing a Government for the ceded Territory South of the Ohio, declares that the said Territory, for the purposes of temporary government, shall be one district, the inhabitants of which shall enjoy all the privileges set forth in the ordinance of the late Congress for the government of the Territory Northwest of the Ohio; and that the government of the Territory South of the Ohio shall be similar to that which is now exercised in the Territory Northwest of the Ohio.

Mr. S. said, from a review of these acts and ordinances, the following deductions seemed clearly to result: that the inhabitants of the Territory Northwest or South of the Ohio could not claim an admission into the Federal Councils until the Territory was previously formed into one or more States. Secondly, that Congress was alone competent to form the Territory into one or more States. This conclusion, he thought, obviously flowed from the terms of the compact, "States shall be formed in the said Territory;" and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, &c. The privilege of admission into the Union, and the number of sixty thousand free inhabitants, have reference to the Territory only in its capacity as a State; they are only applicable to a State or States previously formed by Congress. The first step then to be taken was for Congress to determine whether the Territory South of the Ohio should be formed into one or more States, and to fix the boundary of such State or States.

It was clear, Mr. S. said, that Congress might subdivide that Territory into two or more States; this was evident, both from the terms of the compact in the ordinance of 1787, which declares "that States shall be formed in the said Territory," and from the act of cession of 1790, which declares that "the Territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory." It was no less clear that the number of sixty thousand free inhabitants had no reference to the Territory, in its present character as a Territory under the government of Congress, but as a State, previously formed by Congress. Allowing that there were sixty thousand inhabitants in the Southern Territory, Congress might, undoubtedly, by dividing it into two States, leave less than sixty thousand inhabitants in either, and consequently deprive them of any claim whatever to an admission into the Union at this time.

Both the ordinance and act of cession contemplated, first, a temporary, and after a certain period, a permanent Government; the temporary Government was to be adapted to its character as a Territory of the United States, the permanent Government was intended to apply to it when formed into a State.

2dly. By what authority is the census to be taken?

The Constitution of the United States vests in Congress the power to make all needful rules and regulations respecting the territory of the United States.

The Legislature of the Territory have, by the ordinance which is their charter, authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles established in the ordinance.

The taking a census, the result of which was to determine whether the Territory was to remain subject to the Government of the United States or be an independent State and admitted into the Union, could never have been considered as a common act of legislation for the government of the district; it was an extraordinary case, which peculiarly required the interposition of Congress.

Their Legislative power related only to their internal concerns, and was incompetent to this great and external object. But if his reasoning on the former point was correct, the enumeration of the inhabitants was premature and of no effect; it could have no operation until Congress had formed a State, and designated its boundaries.

3dly. Had the census been fairly taken?

Mr. S. thought there were circumstances to warrant an opinion that the census was not such a one as ought to be relied on. A comparison of the act of Congress of 1790, for taking the enumeration of the inhabitants of the United States, with the act of the Southwestern Territory, would show that although the latter was generally copied from the former, yet that it pointedly deviated from it in every circumstance which would have a tendency to swell the number of inhabitants. The act of Congress spoke of "the inhabitants within the respective districts." The act of the Territory spoke of "people within the respective counties." Where the one says, "persons resident

within," the other says, "people within;" thus carefully omitting the words "inhabitants," "resident." The act of Congress says, "that every person whose usual place of abode shall be in any family on the first Monday in August next, shall be returned as of such family." The act of the Territory says, "every person whose abode shall be in any family within the time limited by the act, shall be returned as of such family." The one says, "the name of every person who shall be an inhabitant of any district shall be inserted," &c. The other says, "every person who shall be in any county at the time of the enumeration without any settled place of residence, shall," &c. By the act of Congress, the returns are directed to be posted up, to guard against frauds. By the act of the Territory no such caution is observed.

From the peculiar period in which the census was taken, viz: from the 15th September to 15th November, the period of the greatest emigration through the territory of Kentucky and Cumberland, from the circumstance of the Sheriffs' being allowed a dollar for every 200 persons they returned, from the circumstance of the number returned being just sufficient to give them two members, and from the law being so framed as to authorize the enumeration not only of all transient persons and strangers, but also of the inhabitants and travelers, several times over; it was not an uncharitable conclusion that the enumeration was not so correct as to be admitted by Congress on so solemn an occasion.

Mr. S. said he had looked into the Constitution of this new State, and he could not help observing that it carried with it the same marks of haste and inaccuracy as the rest of the proceedings. In several parts it was repugnant to the ordinance of 1787, and to the Constitution of the United States. It vested the Legislature with all powers necessary for the Legislature of a free State, without any exception of the stipulations contained in the ordinance, which in several important points control and restrict the States to be formed in the Territories in their Legislative acts; and it is evident that no limitations were intended to the power of the Legislature, because in speaking of the Executive power, such a limitation is inserted. Art. 2, section 5, says "the Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States;" thence it followed that the Legislative power was meant to be unqualified by any exception. The articles which made all lands within the Territory equally liable to taxation, which declared that no fine shall be laid on a citizen of this State exceeding fifty dollars, unless assessed by a jury, and which declared that no article manufactured of the produce of the Territory should be subject to taxation, and that respecting the navigation of the Mississippi—all seemed to clash with some of the stipulations in the ordinance and with the Constitutional rights of Congress; and though there could be no doubt that the ordinance and the Constitution of the United States were paramount to the Constitution of Tennessee, yet the articles in the latter which had been alluded to, might give rise hereafter, if now silently acquiesced in by Congress, to disagreeable discussions.

There were several other points in this Constitution which he thought objectionable; he would only, however, notice two which occurred, namely, the right asserted to instruct their Representatives, and their declaration, "that no person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of the State," thus admitting such persons to hold military offices. In making these comments, he did not mean to call in question in the least the right of the people of the Territory to frame their own Constitution and form of Government, but to show that this Constitution might, if sanctioned by any measure on the part of Congress, involve the United States hereafter in some embarrassment, and that the people of the Territory would receive no injury by a delay of the business, and by a revision of the Constitution, which was susceptible of material improvement. Indeed, in his opinion, the whole business was premature, and he could not suppress his declaration that the United States had not been on this occasion treated with that consideration and respect to which they were entitled.

He was notwithstanding willing, if the people of the Territory were desirous of being admitted into the Union, as a separate State, to facilitate such admission, provided it were done in a Constitutional manner. It was a matter in which the whole Union were interested, as well as the people of the Territory; it was of considerable moment to the United States, that a proposition which admitted a new State to the equal rights in one important branch of Government in the affairs of the nation should be seriously considered and grounded on clear Constitutional right. In order to conform the present application to such right, he thought the following course ought to be pursued: 1st. That Congress should declare the Territory south of the Ohio a State, for the purpose of *permanent* Government, and designate its boundaries. 2dly. That Congress should then pass a law, directing the enumeration of the free inhabitants. 3dly. That on finding the Territory to contain 60,000 free inhabitants, such State shall be admitted into the Union. Mr. S. then read certain propositions to that effect, which he informed the Committee he should propose, if the report of the select committee should be rejected.

He concluded with remarking, that, in a few years, other States would be rising up in the Western wilderness, and claiming their right to admission, and therefore the precedent now to be established, was of very considerable importance.

Mr. Harper was of opinion, that this was one of those subjects on which the House should not exercise too rigid a scrutiny. The question was, whether or not the Territory Southwest of the river Ohio should be admitted into the Union as a State. The people of that country, as appeared from the papers before the Committee, now wish to relinquish their Territorial Government, and become a part of the Union. He believed, that

in all questions relative to the formation of Governments, the wish of the people ought to be gratified. He believed, that whenever it should appear to be the wish of the United States, or of any considerable portion of them, to be governed in such or such a manner, their inclination should be attended to. Upon this principle, he should always be favorably inclined towards any proposition whose object was the division of States, or to erect new States, as the people themselves, who were to be affected by such measures, might appear to desire. For, if they were not really benefited by the change, they would, at least, think they were, and their inclinations should be consulted as well as their interests, where it could be done without injury to the public.

It appeared to him doubtful whether the people of the Southwestern Territory had a right to erect themselves, by their own act, into a State: but, admitting this to be doubtful, he thought there could be no doubt that the House ought to comply with their wishes, in this particular, by supplying the defect in their powers. He was desirous, therefore, of seeing some measure adopted, which should recognise that people as a State of the Union. With respect to ascertaining the exact number of their inhabitants, for the purpose of determining how many Representatives they would become entitled to, he was of opinion a census should be taken for that purpose, under the authority of Congress. He thought their wishes ought to be our guide in the question, whether they should become a State, but when, after being erected into a State, they claim a right to a certain number of members in the national representation, this becomes a public concern, and the right ought to be ascertained under the laws of Congress, and by the rules established for apportioning representation among the other States of the Union. It was clear, that no individual State had a right to take a census by its own laws, and to ascertain the number of its own Representatives, and surely this new State could not claim greater privileges than the old ones.

It further appeared doubtful, whether, even admitting the right of a State to take its own census, a fair one could be taken under the law of Tennessee for that purpose. He was very far from charging the people of that Territory with any improper design, but their law certainly was liable to great abuse; and when the numbers under this imperfect law were barely sufficient to entitle them to two members, he should think it very doubtful, whether they ought to be allowed that number till the right was ascertained in some less exceptionable mode.

Upon the whole, their existence as a State was one branch of the question, and the number of inhabitants, and consequent number of Representatives in that House, was another. The two points were perfectly different, and to be settled on different principles. As to their existing as a State, he would, in almost all cases, adopt it as a rule, to comply with a wish of the people themselves. They, and not we, were to be affected by the regulation. Even should any small inconvenience result from this admission to the other parts of the Union, there was reason, he thought, why that inconvenience should be submitted to, rather than irritate the people of this Territory, by rejecting their application under the present circumstances; but he saw no such inconvenience; to admit them into the Union, he thought, would add to its strength and resources; would increase the public happiness and prosperity. He would, therefore, advise that the State of Tennessee should be acknowledged as a member of the Union, and that a law should be passed for taking a census of its inhabitants before the next session of Congress, so as to ascertain the number of members to which it would be entitled in that House.

Mr. Sedgwick conceived that the mode of admitting, and the principles upon which the Southwestern Territory were to be admitted into the Union, were matters to be decided upon by the Legislature of the United States. The claim of that Territory to become a State of the Union, was the first instance of the kind which had come before them, and it was of importance to decide rightly, as it was establishing a principle to be acted upon hereafter. This Territory claimed to be admitted in consequence of certain acts, of an authority over which the United States had no control. This Territory claims, without your agency and without your consent, to be admitted as a State of the Union, and a representation in one branch of your Government equal to the State of Virginia, and into this branch of the Legislature, according to the census taken by her own authority. If such a claim can be made, there must be good authority for it. Till this morning, he had not thought upon the subject; but he had formed an opinion from the facts which he had looked into.

The first article on this subject was the ordinance of the old Government respecting the Northwestern Territory; by which it appeared that as soon as there were 5,000 inhabitants, they were to have a Government of their own, and to form their own Legislature, and that Legislature was to send a Representative to that House on certain conditions. It went to state certain principles, which principles should be viewed and attended to.

The fifth article, the only one of considerable importance, stated that the Territory should be formed into not less than three, nor more than five States. It goes on to say, that the boundary shall be fixed, and that whenever any of the States shall have 60,000 free inhabitants, then they shall be admitted into the Union on an equal footing with the original States. Who, according to this, was to do the act which should furnish the evidence by which the claim should be tried, to come in and act as an independent member of the Union? If the Territory or Colony itself should do it, then it was in her power, independent of all the other States, to assert her claim to be a member of the Union.

The ordinance provided, also, that there should neither be slaves nor slavery tolerated in that

Territory; but he found there were slaves to a very considerable number there. The next proceeding relative to this business was, the act of Congress of May 6, 1796, enacting that the Territory Southwest of the river Ohio should be one, and should have a Governor and Council appointed. It seems that antecedent to their claiming a right to become a State of the Union, they should be declared a State by Congress; because without this declaration it would be difficult to say whether the Territory should be one or more States.

In the act of cession of North Carolina of this Territory, a number of conditions were made necessary before the cession was to take place. One condition was, that the Territory so ceded, should be laid out and formed into a State or States. Who was to do this? Congress.

He would observe, that this Territory might exist in one or two States without the capacity of being admitted into the United States. Because that division and cognizance by the United States must precede the time of their claiming admission to the same privileges and rank with the other States. He therefore conceived it impossible that this Territory, at any period antecedent to the United States, declaring it a State or States, should possess a right to become so. Congress was to decide, and having made this decision, they were then to become a member or members of the Union, equally with the original States. Congress would, of course, refer to the cession of North Carolina to determine whether the Territory should be divided or not; and if to be divided, into how many States? and if this had been done, then to ascertain the number of inhabitants, and thereby determine whether they were entitled or not to become a State or States of the Union. The whole proceeding was to succeed the decision of the Legislature of the United States, and if this decision did not take place, they were not entitled.

The number of the people in the Territory to entitle them to become a State or States, must be of inhabitants. But he thought the observations made by the gentleman from South Carolina [Mr. W. Smith] with respect to the census which had been taken, were worthy of notice. He did not impute bad intentions to the persons concerned; but frauds might take place, at least mistakes would, in the plan adopted for taking the census. During the time this census was taken, was the season in which there was the greatest flow of emigration into that country; and, instead of directing the inhabitants, they direct the people, within the Territory, to be taken; and instead of confining the census to be taken on a certain day, they gave it a latitude of two months, so that the same men might be taken in several different counties; indeed, a man might be taken upon every acre of land in the Union. He did not say there were any unfair means used; he hoped there were not; but the mode adopted was certainly liable to objection. It was necessary that everything in this business should be perfectly fair, as the greatest abuses might hereafter be committed on the ground of an improper precedent. Why, if the people in this Territory want to come into the Union, do they not comply with the necessary means? If they were to be admitted on their present claim, it would not be from your authority, but from their own. We are to give them the same power and character with the original States, because they say they are entitled to that rank.

Mr. S. asked whether this was right and proper, and whether the interest of the United States would be safe, if they were to adopt such a practice? There were many vast tracts of territory belonging to the Union, and many States might hereafter be erected; and as it had already been determined that a small State should have as great a representation as a large one in one branch of Government, it behooved them to be careful in admitting parts of their Territory into their Union, until they had due proof of their being in every respect entitled. Neither ought the request of a few persons to be attended to on this head before a State was admitted; it should appear evident that the people in general wished to change their state, otherwise, whilst they were attending to the wishes of a few, they might be acting contrary to those of the many.

Mr. S. concluded by saying, that he had never read the Constitution of Tennessee, nor considered the subject till that morning; but thought they ought not to depart from principle because requested to do so.

Mr. Madison said, that no answer was necessary to the arguments of the gentleman last up, nor to those of the gentleman from South Carolina who preceded him. If they proved anything, they would go against themselves. He would make a few observations on this subject, and a few would be sufficient.

The gentleman from South Carolina seemed to think that the ordinance by which this State should be admitted into the Union, required that the Territory should first be acknowledged as a State, and then have the inhabitants of it as such numbered under the authority of Congress. He thought this would be spinning a finer thread than was necessary, and would give the people reason to suppose, that the General Government was disposed to keep them in their present condition as long as possible. If the Legislature of the United States should be convinced that the Territory contained a sufficient number of inhabitants to entitle them to admission into the Union, it was matter of form only how the census had been taken, or whether the Territory had been previously acknowledged as a State by Congress, or not. The fact of population was the only necessary one. And would no evidence satisfy gentlemen but such as they themselves shall direct? He should have thought that the passing of a law for the purpose, by the Provisional Government, was safe as to the result. The Governor being appointed by Congress, and the law having his assent, and being executed under his direction, gave the measure the authority of the United States. There appeared to him no just ground

for supposing the census had not been fairly taken. He would make one observation, which it appeared to him should have some weight. If there were the stipulated number of inhabitants, that Territory could not be denied its claim of becoming a State of the Union without a violation of right; but, if the inhabitants requested it, and Congress pleased to admit them before they had their full complement, the error could not be of so serious a nature.

Another important consideration. The inhabitants of that district of country were at present in a degraded situation; they were deprived of a right essential to freemen—the right of being represented in Congress. Laws were made without their consent, or by their consent in part only. An exterior power had authority over their laws; an exterior authority appointed their Executive, which was not analogous to the other parts of the United States, and not justified by anything but an obvious and imperious necessity. He did not mean by this to censure the regulations of their Provisional Government; but he thought where there was doubt, Congress ought to lean towards a decision which should give equal rights to every part of the American people.

If there should be any inaccuracy in admitting them into the Union before they possessed the full number of inhabitants, it was only a fugitive consideration; the great emigrations which take place to that country will soon correct the error. But he did not believe there could be any doubt on the subject. He thought the evidence was sufficient and satisfactory. He would not go into detail on the subject; for if the matter appeared to the Committee as it appeared to him, they would think there was no necessity for it.

Mr. Nicholas, like the gentlemen who had spoken against the admission of Tennessee, said he would consider the rights of that country; that he did not wish them to receive a favor of Congress, nor did he think they had occasion to ask one as their rights extended to everything they wished. If those gentlemen would examine the subject with him, they would find that they had at first only skimmed it.

Three objections have been made to the claims of that country, which he would consider in order. The first was, that Congress must have determined whether it should contain one or more States before they could assume the right of self-government, or be admitted into the Union.—The second, that, after such determination, Congress must have ascertained, by a census, taken under its own authority, that the State laid off by them, contained sixty thousand free inhabitants. In the last place, it is contended, that, if the Legislature of that country had a right to order an enumeration, the one taken appeared to be unfair.

If it was considered that these people claimed by the contract to become a part of the Union, it will be thought extremely improbable that either of the two first should have been considered as the meaning of the contract. To stipulate for benefits, and at the same time to leave to the party from whom they are extorted, the liberty to do, or not to do, what is necessary to give those benefits existence, is to put the attainment in great hazard. If, for instance, the determination as to there being one or more States might be at any time made, it is competent for Congress to postpone such determination, and when they do determine, they may divide the country in such a manner as to preclude their inhabitants forever from self-government or representation here. If it depends alone on Congress to make the enumeration, they may delay this, also, at their own will, and defeat the rights of the other party.

To secure the objects the contract had in view, it appears to be necessary, then, that some limitation of time should be put to the power of Congress to divide that country into more States than one; and that, for the sake of both parties, there should be a mixed authority which should be competent to do the acts necessary for investing that country with the stipulated rights. Neither party could rely on the other doing it justice, if the power was to be in the hands of one, therefore it was extremely desirable that a power composed of both interests should have this control. Having made these observations, let us look into the contract and the Government of the country for these requisites, and there it will be found that they incontestably appear. The 11th article in the act of cession of North Carolina is in these words:

"That the territory so ceded, shall be laid out and formed into a State or States, containing a suitable extent of territory, *the inhabitants of which*, shall enjoy all the privileges, benefits, and advantages, set forth in the ordinance of the late Congress for the government of the Western Territory of the United States; that is to say, whenever the Congress of the United States shall cause to be officially transmitted to the Executive authority of this State, an authenticated copy of the act to be passed by the Congress of the United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified; the said Congress shall, at the same time, assume the government of the said Territory, which they shall execute in a manner similar to that which they support in the territory West of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges, which the people of the territory West of the Ohio enjoy," &c.

Here, then, it is clear, that the distribution into one or more States must have been made immediately after the cession. That the stipulations for the benefit of temporary Government are for the inhabitants of one or more States, thereby making the division cotemporaneous with the Territorial Government, and that unless a division was made in the commencement of the temporary Government, it never could be made. If the contract itself had not been so explicit, the reference to the condition of the Territory West of the river Ohio would require it; for the distribution of that Territory, so far as it depended on Congress, was made in their said act respecting that country. The spirit of the contract, the contract itself, in its letter and reference to the state of another country, required the division to have been immediately made, if at all; and, if it has not been done,

it is a waiver of the right, and the country must remain as it is.

As to the power which is competent to make the enumeration of the country, there can be as little doubt, on attending to the subject, according to the ordinance referred to in the act of cession. Their Government was composed of a Governor, chosen by the President of the United States, a Legislative Council, also of his appointment, and the Representatives of the people. To them, as three distinct branches of legislation, was confided the government of the Territory, and no act could be made without the concurrence of all three. The ordinance does not say who shall ascertain the fact of there being sixty thousand free inhabitants, but declares that, when that was the case, they shall be entitled to form a Government for themselves, and be admitted into the Union. The question is, by whom the fact should be ascertained? If a scheme was to be formed for an impartial execution of this contract, human ingenuity could not devise one more proper than that of their Government. The Governor and Council, under the control of the United States—the people represented by another body. If the contract was to be made anew, could any person object to leaving the power in question in their hands? With such a composition, why should this be taken out of their Legislative operations? It is to be remarked, that when they are to entitle themselves to representation in consequence of having five thousand free males, the ordinance requires that proof should be made to the Governor. In the last stage of their population, it prescribes no mode, naturally supposing that it would devolve on the Legislature of the country. It is certainly both reasonable and a safe deposite of the power.

The law for taking the census has itself been the foundation of objection; perhaps it might be questioned how far we have a revision of the law made with consent of the Government through another channel, but it will afford good ground for refusing what they demand of us. It must naturally have been productive of misrepresentation, to be liable to objection. It is not to be presumed that a fraudulent disposition would have discovered it in the law. The execution of it afforded much safer means of deceiving us. It is not to be believed that the law meant what is imputed to it, but there can be no doubt but the excess over the requisite number is sufficient allowance for the conjectured effect. At any rate, we have a discretion to admit them before they get to any certain state of population; and considering the circumstances in which they will be thrown I have no doubt, said he, but that they ought not now to be admitted.

Mr. Blount said, he did not think it necessary to reply to the arguments of the gentlemen from South Carolina or Massachusetts, except what related to the law directing the census to be taken. The word "people" was used, as a more definite term than inhabitant, because the inhabitants of that country are almost always traveling. He would allow it to be possible that persons might be taken in more than one place, but he believed that had not been the case. It frequently happened that persons waited several weeks at some place in Holston settlement, in order to get a company sufficient to pass the wilderness, and, if time had not been given, many of those persons would have been taken. If these things were taken into view, it would be seen that the design was not, as had been unfairly represented, to take persons in different parts of the Territory, but that all the people might be enumerated.

The gentleman from South Carolina said they had been very fortunate as to the number, so as just to be entitled to two Representatives; but that gentleman must know that the number of free persons was upwards of sixty-six thousand, and that for the purpose of ascertaining their quota of representation, they were entitled therefore to add thereto three-fifths of upwards of ten thousand slaves, which would make the whole number entitled to a representation of seventy-two thousand. Mr. B. said he did not think it necessary at that stage of the business to make further observations upon the subject.

Mr. Hillhouse said, he was not hostile to these people being admitted as a State of the Union. He wished they might be admitted. He should wish, however, to have their boundary so settled that there might hereafter be no dispute on that head. He had no idea of incorporating lands within this State to which we had no right. We ought not, he said, to extend this Territory any farther than the Indian line, and, when the title of the Indians became extinct, as far as the Mississippi and North Carolina boundary; but he did not wish to admit them as a State until their limits were fixed. He said they had no right to find fault with their Constitution, if it did not interfere with the Government of the United States. He did not think they should be divided; but he did not think there was any occasion for haste. He thought they would have no room to complain if they were to admit them into the Union as soon as their boundary could be settled. Some information upon the subject was necessary:—Northwestern and Southwestern Territories were too indefinite expressions for assigning boundaries.

Mr. Franklin said, the boundary was well ascertained. The State of North Carolina was one boundary, and in the act passed this session relative to trade and intercourse with the Indian tribes, the Indian boundary was settled. No one would wish to go beyond the Indian lines, if they did they would be liable to a forfeiture of their lands. The boundaries were as well ascertained as they could be, until a mathematician should go and mark them out specifically. They had not lost sight of it in the reserves in North Carolina. It was there said all the unappropriated lands should be reserved to the United States.

The Committee rose, and had leave to sit again.

Friday, May 6.

Richard Spaight, Jr., from Maryland, took his seat in the House, in the place of Mr. Duvall, resigned.

A bill for the relief of Sylvanus Bourne was twice read, and ordered to be engrossed for a third reading.

The bill making provision for certain Debts of the United States, was read a third time and passed. The blanks for the sum which the President was entitled to borrow on an irredeemable Loan for a number of years, was filled up with five millions.

The bill for repealing that part of the act relative to the District Courts of Pennsylvania being held alternately at Philadelphia and Yorktown, was read a third time and passed.

The House proceeded to consider the report of the committee to whom was committed the bill, sent from the Senate, entitled "An act to amend an act, entitled 'An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose:" Whereupon,

Ordered, That the said bill, together with the report thereupon, be recommitted to Mr. Griswold, Mr. Page, Mr. Havens, Mr. Murray, and Mr. Bradbury; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. S. Smith laid a resolution, to the following effect, upon the table:

"*Resolved*, That there be allowed and paid, for the year 1796, to the Secretaries of the Treasury and War Departments, the Treasurer, Comptroller, Auditor, Register, Purveyor, and Attorney General, —— per cent. on their respective salaries, in addition thereto."

ADMISSION OF TENNESSEE.

The House resolved itself into a Committee of the Whole, on the report of the committee to whom was referred the Message of the President, relative to the Territory of the United States South of the river Ohio.

Mr. Rutherford hoped the Committee would concur in the report. He had no idea of confining that Territory to the strict legal line. He did not wish to cavil with this brave, generous people. He would have them taken out of leading-strings, as they were now able to stand alone; it was time to take them by the hand, and to say, we are glad to see you, stand on your own feet. We should not, he said, be too nice about their turning out their toes, or other trifles; they will soon march lustily along. They had complied with every requisite for becoming a State of the Union—they wished to form an additional star in the political hemisphere of the United States—they have erected a State Government, and wish to come into the Union, and to resist their claim would be out of character. He hoped it would be agreed to.

Mr. Dayton said, he disapproved of the report of the committee, and of the terms in which the resolution they had recommended for the adoption of the House was expressed. He could never give his assent to any proposition which expressly or even impliedly admitted that the people inhabiting either of the Territories of the United States could, at their own mere will and pleasure, and without the declared consent of Congress, erect themselves into a separate and independent State. Yet this seemed to be the spirit of the report under consideration, and what was still worse, it went, as he understood, to renounce any right in Congress even to deliberate whether they should become a member of the Union. He was by no means desirous of opposing the wishes of this valuable and enterprising people who inhabit the Southwestern Territory, nor of unnecessarily impeding the efforts they were making to throw off the Territorial jurisdiction, and establish a system of Government for themselves; but being aware that the steps now about to be taken would be regarded and pursued hereafter as a precedent, he conceived it important that they should, in this first instance of the sort that had presented itself, proceed circumspectly and rightly. He was willing to pass a law in the present session which should at the same time provide for erecting and forming them into a State, and for admitting them as such into the Union. They should thereby effectually promote the views of the people of Tennessee, in a mode which, by avoiding the violation of any just political principle, would entirely reconcile and render consistent the interest of that district of country and of the several United States.

Mr. D. acknowledged that he should have been much better satisfied if he had found all the people comprehended within the Territorial line petitioning for this measure, and if he had seen ingrafted in their Constitution the conditions and restrictions contained in the ordinance upon which they found the right they were claiming; but he knew that unanimity was in no instance to be expected amongst a people so numerous and scattered; and he was convinced that they were bound by the conditions and limitations he alluded to, without an acknowledgment and repetition of them in their new charter.

Mr. Dearborn said, as to the census relative to representation, it appeared doubtful, that, because that Territory had now 66,000 inhabitants, they were entitled to two Representatives, as the other States of the Union were represented according to the number of inhabitants they contained in the year 1790. It might be doubtful whether they should be entitled to an advantage which was not allowed to other States. It had been his opinion (and he saw no reasons to change) that if this Territory was admitted into the Union, it was not entitled to more than one Representative; and therefore it was not necessary to make another census. As to passing a previous law recognising the Territory as a State before it was admitted into the Union, he did not think it necessary. They say they are now a State, and surely Congress would not say to them, You shall not be a State, or dictate to them what sort of a Constitution they shall have, provided it be Republican. The method taken for ascertaining their number of inhabitants, he thought, could not be objected to. He saw no reason to prevent them from accepting the Territory as a State of the Union: what number of Representatives they were entitled to, would turn upon another point.

As to the boundary, it was a question of some consequence how far the district of a State should

extend. He believed it would be proper to exclude all that part of the Territory within the Indian boundary, and on that account it might be necessary to pass an act for the purpose. But he did not think it necessary to scrutinize into the business so closely as some gentlemen seemed to imagine. From the census, it appeared they had from 60,000 to 70,000 inhabitants. They had taken upon themselves to form a State—had formed a Constitution, and declared they were a State; and it would not become Congress, on light ground, to say they were not a State. Besides, he could not see the propriety of adopting any measure which might tend to irritate them. They formed an extensive frontier—were very far detached from the Atlantic States. We should rather, he said, think of conciliating than irritating them; and, though they may not have precisely adhered to the exact line of propriety, in every particular, it was the duty of that House to receive them as a State of the Union.

Mr. Blount said the House should have determined upon this question long since, as the Government of Tennessee had a month ago gone into operation. The people there had chosen not only their State officers, but their Senators, and perhaps their Representatives, to come to Congress. The Governor had, from time to time, informed the President of the United States of every step taken towards the proposed change of government. In July, he sent him a copy of the law directing the census to be taken; in November, when the census was completed, he sent him a copy of it, and a copy of his Proclamation requiring the people to elect members of Convention for the purpose of forming a Constitution and State Government; and on the 19th of February he sent him a copy of the Constitution, with notice that on the 28th of March, when the General Assembly of the State of Tennessee would meet to act on the Constitution, the temporary Government would cease; and this last information was, to his knowledge, received on the 28th of February—forty days before it was communicated by the President to Congress, and eleven days after it must have been known to the Secretary of State, if not to the President, that the State Government had gone into operation.

What would be the consequence, said Mr. B., of refusing at this time, and under these circumstances, to receive this State into the Union? Did gentlemen wish to re-establish a temporary Territorial Government there? If they did, he believed their wish would not easily be accomplished; for the people there believed, that in changing their Government, they only exercised a right which had been secured to them by a sacred compact; and under that belief, they will be disposed to defend it. That right was, in his opinion, recognised by the Government of the United States, when Mr. White was permitted to take his seat in that House as the Representative of the Territory; and from that circumstance they had reason to expect that 67,000 inhabitants would have entitled them, without scruple, to be a member of the Union. If the census was not a just one, or if there had been any fraud used in taking it, an impeachment would lie against the Governor, who, upon his responsibility as an officer of the United States, sanctioned the law for taking it, and acted under it after it was taken.

However the Committee might determine as to the sufficiency of the census to ground a ratio of representation upon, he thought it could not be doubted but it was sufficient to prove a right to form a Constitution and State Government, and to claim admission as a State into the Union.

Mr. W. Lyman said the subject presented itself in two points of view—as it related to the Territory being admitted as a State into the Union, or as giving them a right to send members to Congress. In his opinion, according to the ordinance of Congress, they had a clear right to be admitted as a State into the Union; for it was there said, that when they had 60,000 inhabitants, they should be entitled. No mode is pointed out how it shall be ascertained; but the Governor being expressly mentioned in the case where 5,000 inhabitants were to entitle them to a temporary Government, he thought there could be no doubt but the same way was to be observed with respect to their qualification for becoming one of the States of the Union. This fact, he said, came fully ascertained, and being so, there could be no doubt the right was clear. It was a right, indeed, which they could not deny, and, as a matter of expediency, it was not worth while to oppose it. He saw no reason why they should call in question the proceedings or the purity of the Government of that Territory, so as to doubt their return.

As to any particular expression in the resolution, he had no objection to have it altered; but he thought the resolution before them, or something like it, should be agreed to. The new Government was put into execution, and it would produce ill effects to oppose it. No evil would arise from agreeing to it, but to disagree to it might cause great evils: he hoped it would therefore be agreed to.

Mr. Dayton said that he preferred the formation of the Southwestern Territory into one State, to a division of it into two, and he therefore did not agree with those gentlemen who had advocated the latter idea. The people had requested to be united into one State, and he was for complying with their request, and for taking them at their word, rather than by subdividing to give them a double representation in the Senate. He would not be understood as having said that he considered the census they had caused to be taken a proper one upon which to found the true ratio of representation, but only as sufficient evidences to justify Congress in passing the act which he proposed, especially as they might be formed into a State, even though their numbers did not amount to 60,000. It would be necessary to direct by a Legislative provision, and under similar restrictions and regulations to those prescribed for the States on a like occasion, the taking of a new census, which may be done in season to enable their Representative to take a seat at the next session. He held in his hand a resolution which

seemed to him most proper for the Committee to adopt, and which he read, in the following words, viz:

"*Resolved*, That provision ought to be made by law for erecting and forming into one State the district of country called 'the Territory of the United States South of the river Ohio,' and for admitting it into the Union as a member thereof."

If this should be adopted by the Committee of the Whole, and agreed to in the House, a bill could immediately be brought in and passed, without delay, through the House of Representatives, and probably through the Senate; but the report under consideration was of a barren nature, rather calculated to be entered and to sleep upon the Journals than to produce any operative act, or to require the concurrence of the Senate. Mr. D. said he could not consent to go further than he had stated, much less admit that by their own single act they had become a separate sovereignty; for if such a principle was sanctioned, it was impossible to foresee all the consequences, and extent of them. If they were, as had been represented, at this moment an independent State, they might offer or refuse at pleasure to become a party to this Confederacy, or they might, in offering to enter into the Union, annex to the offer such terms and conditions as should give them advantages over the other States, and they might even treat and ally themselves with any foreign Power. Although such an hostile or menacing measure was not to be apprehended on the part of a people so regardful of their true interests as those in question were, yet what security could there be for the prevalence of an equally good disposition through the whole extent of the other Territory in which ten new States had been contemplated, and in a part of which resided many whose attachment to another Government was well known? The rule they were now about to establish must operate in future as a guide, and it needed no effort to believe that this country would on some future occasion, and that perhaps not distant, lament the adoption of the principles contained in the report.

Mr. Sedgwick concurred in opinion with the gentleman from New Jersey, [Mr. Dayton;] and if any gentleman understood him to say that he did not wish the State of Tennessee to be admitted into the Union, it must have been an error, for he had no such desire. But he was still persuaded that it was never intended that that Territory should have the power of settling the way by which they were to become one of the independent States.

What had been said by a gentleman from Virginia, [Mr. Madison,] of their being in a degraded situation, because controlled by laws which were made by persons independent of them, would not only apply to 60,000, but to six persons. The question was whether they were in a situation in which they could claim to be a State? If they were, they ought to be admitted; if not, they ought not to be admitted. If the idea of the gentleman from New Jersey was adopted, they might be admitted at an early period. He had no idea of charging Governor Blount with improper conduct: he was entitled to his respect. If it was intended that these people should decide upon their own situation, they ought to do it in the way observed in cases directed by the Constitution. Mr. S. proposed two resolutions—one for laying out territory into a State or States, and another for directing a census of the inhabitants to be taken.

It appeared to him that this was the way in which the subject should be considered: they should determine whether the Territory should be in one or two States, and before Representatives were sent to Congress, a census would be taken by authority of Congress. Words could not, he thought, have rendered more explicit the intention of the contracting parties than the words of the compact; and all this might be done in time for Representatives to be sent to the next session of Congress.

Mr. Macon said the chief differences in the opinions of gentlemen arose upon a subject which was not before the Committee, viz: the number of Representatives to which this new State was entitled in that House. The question before the Committee was on admitting the Territory to be a State of the Union. There appeared to him only two things as necessary to be inquired into: First, Was the new Government Republican? It appeared to him to be so. And, secondly, Were there 60,000 inhabitants in the Territory? It appeared to him there were; and, if so, their admission as a State should not be considered as a gift, but as a right. Their temporary Government (by whose authority the late census was taken) had not only a Governor appointed by the Executive of the General Government, but also a Legislative Council. To admit this Territory as a member of the Union, appeared to him as a matter of course. It also seemed as if the Executive was of that opinion. The President having been duly informed from time to time with the proceedings of that Territory towards being admitted into the Union, if he had thought they had been doing wrong, he would have set them right. It was also his opinion, that if they had passed a law directing a census to be taken, it would have been done exactly in the way the present had been taken. He thought the subject of navigation was settled by the Constitution of the United States; the waters in that country would be under the same regulations with all other waters in the Union, nor did he think there was any thing in the Constitution of Tennessee which had a contrary tendency. It appeared clearly to him that everything had been fairly done, and that they had a right to claim an admission as a member of the Union.

Mr. Baldwin said, had he belonged to the Territory South of the Ohio, he should probably have been for pursuing a different mode of conducting this business, from that which it seems they have thought proper to adopt. He should have thought it desirable, a year or two ago, to have obtained from Congress an act pointing out the mode of taking the census, and ascertaining the events on which they were entitled to become a State. He said Congress ought also, of their own accord, to

have taken up that subject, and made these provisions, though not requested by the Territory; and it had always been with surprise he had observed that the first act for forming that Territory did not contain those provisions. He thought, as to the principle in this case there could be no doubt. Whenever the event happened of their having 60,000 inhabitants, as pointed out by law, their right to be a State took place. It was to depend entirely on that contingency: when that was proved to have taken place, they could not be debarred. There having been no mode previously pointed out for ascertaining this fact, only makes it more difficult for the Territory and for Congress to be satisfied of the fact of their actually having so many inhabitants, but does not affect their right. He thought it best for the House to proceed to examine their census and the evidence which they had thought proper to collect and bring forward in their own way. He was ready to allow that, for himself, he should examine it more scrupulously than he should have done, had it been taken under a law of Congress. But he had not understood many objections had yet been made to it. Perhaps, on further examination, it will be found fully satisfactory; if so, they must be admitted to be a State as a matter of right. They might have waited longer, and attempted to have formed two States: they have made their election of the other alternative. He thought it wise for Congress to avail itself of this opportunity of holding them to what they have chosen, and thus prevent future difficulties and misunderstandings.

As to the objection that there are several things in the Constitution of Tennessee inconsistent with the Constitution of the United States, and with the ordinance for establishing the Territory, it is well known that the Constitution of the United States, and the compact under which the Territory was settled, will be paramount, they can therefore have no effect.

Mr. W. Smith said he was glad to find the observations which he made yesterday in some measure sanctioned to-day. He then recapitulated his leading arguments. It was said yesterday by a gentleman from Virginia, [Mr. Madison,] that whilst the people of the Territory remained in their Colonial situation, they were in a state of degradation; but, he would ask, at whose request they became so? Look at their request in the year 1790, as expressed in the cession act. And yet, in the course of a few years, without consulting Congress, in consequence of a census taken by their own authority, they proceed to erect themselves into a State, create a new Government, and claim to be admitted into the Union as matter of right. Under their former Government their member was admitted to that House; yet, whilst he holds his seat under that Government, they have appointed other members to represent them under their new Government. The most regular way would certainly have been to have transmitted their request to Congress to be formed into a State. Congress would then have passed a law for taking a census, have fixed when the Territorial system should cease and the State Government commence.

He thought the business was of considerable consequence, and he was sorry it was taken up in so thin a House. There would certainly arise in a few years other new States in the Western country yet uninhabited, which might occasion considerable difficulties. They might make a census and say they had 60,000 inhabitants, when they had not half that number. He did not wish to keep the inhabitants of the Southwestern Territory out of the Union, but he wished them to be admitted in a Constitutional mode.

Mr. Gallatin was of opinion that the people of the Southwestern Territory became *ipso facto* a State the moment they amounted to 60,000 free inhabitants, and that it became the duty of Congress, as part of the original compact, to recognise them as such, and to admit them into the Union whenever they had satisfactory proof of the fact.

It was objected that, previous to the proof of that fact being given, it was necessary that Congress should have laid out and formed that Territory into one or more States, and that the proof of their number should have been given under direction and by order of Congress, the people not being competent to give the proof themselves.

Both those objections supposes a construction of the original compact between the people of that Territory and the United States, (of the act of cession of North Carolina, and of the ordinance of Congress of 1787,) which was inadmissible; for it rendered that compact binding upon one party and not upon the other. It is supposed that that ordinance, whose object it was to establish the principles of a free Government, and to ascertain a certainty of admission into the Union, had declared that the time when those people were to enjoy that Government, and were to be admitted as a member of the Union, depended not on the contingency of their having 60,000 free inhabitants; but on certain previous acts of Congress—in other words, on the sole will of Congress. Either you must acknowledge that their admission depends solely on the condition of the compact being fulfilled, to wit: their having the number required; or you declare that it rests upon another act, which may be done or refused by the other party; that Congress have the power, by neglecting to lay them out into one or more States, or by refusing to pass a law to take a census, to keep them forever in their Colonial state. Nor did the strictest interpretation of that contract justify the construction given by the gentleman from South Carolina; for the only meaning that could consistently be given to the words, "lay out and form into one or more States," was, that Congress had power to fix the boundaries of the Territory or Territories that were to become a State or States. They could have declared that that Territory should be one or two States; but if they had neglected to do it, their omission could not be plead against the inhabitants of Tennessee. The power given by that clause to Congress was merely to fix boundaries, and to choose whether there should be more than one State; but if they

had not made use of that power, there must be one State, and its boundaries were fixed by the act of cession, so that nothing remained now for Congress to operate upon.

There was nothing in the ordinance of 1787 which forbade the people giving proof of their number, without any previous act of Government. On the contrary, in a case of a similar nature with the present, to determine whether there were 5,000 free males, and whether, of course, the Territory was entitled to a Colonial Legislature, it was declared that as soon as proof should be given of that fact to the Governor, they should be entitled to their new form of Government; which expression left to the people a full power to give the proof themselves. He could have wished, indeed, that the census had been taken under a law of Congress; but it must be remembered that the law of the Territory of Tennessee, under which the present census had been taken, was acquiesced in by the Government of the Union; for upon that law both the Governor and Legislative Council of the Territory, both chosen by the General Government, had a negative; in other words, that law was our act as well as the act of the people of Tennessee; for it had passed by the joint consent of their and our Representatives. At all events, the neglect of Congress in not passing a law could not, in this case, nor in that of laying out boundaries, be urged as an argument against the admission of those people, unless, indeed, we meant to assume the imperious language of a Mother Country to her Colonies, instead of that of the Representatives of a free people to their fellow-citizens.

The objections made to the Constitution of Tennessee were, if possible, still more frivolous. It was said, that the omission in that instrument of certain restrictions upon themselves, which made part of the original compact of the ordinance of 1787, was a breach of that compact. With as much propriety could it be said that the omission in the Constitution of South Carolina, Pennsylvania, Delaware, or Georgia, (all of which were so formed after the adoption of the Federal Constitution,) of those clauses of the Constitution of the United States which imposed restrictions upon the several States, was a breach of that Constitution; as if, in the latter case, the Constitution of the United States, and in the first, the Constitution and the ordinance of 1787, were less binding because not inserted in the individual Constitution, in the municipal law of the State.

The only question which, in his opinion, deserved consideration was, whether the proof given to them that there were sixty thousand inhabitants, was satisfactory. It appeared to him that there was a clause in the act for taking the census, relative to transient persons, which differed from that under which the census of the States had been taken, and which was liable to abuse. As that law, however, was acquiesced in by ourselves, the question was, whether it had been actually abused; whether there had been any fraud committed in taking the census. On this they had not a shadow of proof. The census bore on its face every appearance of fairness, and the number of inhabitants therein returned so far exceeded sixty thousand, as fully to compensate for any possible error or abuse resulting from the clause he had alluded to. Another question, not then before them, would afterwards occur, relative to the number of Representatives that State should be entitled to. He would not now decide whether, in order to fix that representation, a new census, under the direction of Congress, would be necessary. This, however, was not the question before them, and on the present one he would vote in favor of the report of the committee.

Mr. Blount said, there was an absolute necessity for the clause which the gentleman last up objected to. Persons were daily coming to that Territory in great numbers. If the census had been required to be taken in one day all the people who had come into the Territory, with intention to reside permanently there, could by no means have been numbered. It was not intended to give the officers power to take persons in more places than one, nor did he believe it had been done. He undertook to explain yesterday the reason why so long a time was given, but he seemed not to have been understood, which was, the difficulties attending the passage of the wilderness.

The gentleman from South Carolina [Mr. Smith] had said, that his arguments of yesterday had been to-day admitted. If the gentleman had supposed that he had admitted them, he was mistaken. That he might not continue under the mistake, he would inform him, that what he had called arguments, were, in his opinion, mere quibbles, such as could only have been expected from a County Court lawyer, at the bar of a County Court.

Mr. Corr said, that as he had not heard it suggested from any quarter that it would be expedient to divide the Territory into two States, he did not think it important to inquire into the powers of Congress in that respect. It is declared by the ordinance for the government of the Territory, that when there should be sixty thousand inhabitants in any one of the States there they should be admitted into the Union. If, then, it is not in contemplation to divide the Territory into two States, he considered that the right to be admitted was complete as soon as there was the requisite number within the whole Territory. But it appeared to him, that on examining the census and the law under which it was taken, they could not be considered as furnishing proof that there was that number there. He did not pretend to say that any fraud had been committed in the execution of the law, but the law itself was wholly defective. The same man might have been counted in several counties, nay, in every county in the Territory, and that without any fraud, but in strict compliance with the law; two months having been allowed for taking the enumeration, and it being enjoined on the Sheriffs of the several counties to include in their enumeration all persons within their respective districts within that period.

The gentleman from North Carolina [Mr. Blount] seemed to imagine that it would have

been impracticable to have followed a mode similar to the one pointed out in the enumeration law of the United States, but he could not see the reason. [He read the law.]

That affixed a particular day to which the enumeration had relation, though a period of several months was allowed for taking it in. What had induced the people in the Southwestern Territory to adopt a different plan he could not say; but it was certainly liable to abuse, and the most faithful execution of it would furnish no proof of their numbers; he therefore conceived that the census was not to be relied on.

It appeared to him. that the only question was, whether they had such proof as it was reasonable for Congress to require, of the number of inhabitants? The ordinance said nothing about the manner in which the proof should be made out. The gentleman from Pennsylvania [Mr. Gallatin] had referred to another part of the ordinance to establish a rule for this case. The ordinance in the case alluded to, where proof was to be made to the Governor of a certain fact, had left it to him to determine what proof was sufficient, and he thought most clearly, in this case, the proof must be to the satisfaction of Congress, to whom it was to be made, and that it would be absurd to suppose them bound to accept as satisfactory such proof as the people in the Southwest Territory were pleased to give.

Mr. Sitgreaves said, he felt every disposition favorably to meet the wishes of the people of the Southwestern Territory, and for a reason which had been given, viz: that, as they were our fellow-citizens, it was desirable they should equally participate with us in all the advantages of the General Government, and suffer no longer than was necessary the comparative humiliation of a Colonial or Territorial administration; but, from obvious considerations, he thought it highly important that they should be admitted to the enjoyment of these advantages only in conformity with the promise made to them, and on the terms of the compact entered into jointly by the United States and by them. Two constructions of this compact had been contended for; one, that so soon as sixty thousand free inhabitants should be collected within the Territory, they should be entitled to a place in the Union, as an independent State; the other, that Congress should first lay off the Territory into one or more States, according to a just discretion, defining the same by bounds and limits; and that the admission of such States, thus defined. should take place as their population respectively amounted to the number of free inhabitants mentioned; that is, that the sixty thousand inhabitants could not claim admission into the Union, unless their number was comprised within a State whose Territorial limits had been previously ascertained by an act of the United States. He inclined to this latter construction, because it was conformable to the letter, and, as he understood it, to the spirit of the instrument. By the act of cession of the State of North Carolina, accepted by Congress, it is provided that the ceded Territory should be laid off into one or more States, and that the people of the Territory should be entitled to all the privileges secured to the inhabitants of the Territory Northwest of the Ohio, by the ordinance of 1787. The extent of their privileges, therefore, is to be determined by this ordinance, which may be called their charter. They have no other or greater privileges than the inhabitants of the Northwestern Territory; and it cannot be pretended that these would be entitled to admission into the Union as one State, so soon as their whole number shall amount to sixty thousand, because the ordinance itself divides that country into three separate and distinct States, each of which must contain sixty thousand free inhabitants before it can claim to be received. The actual circumstances and situation of the Southwestern Territory evinced the reasonableness and propriety of this construction; it is composed of two settlements, the Holston and the Mero districts, separated from each other by the Cumberland Mountain and a wilderness of two hundred miles in width, which has always been inhabited by the Indians, and the soil and jurisdiction of which have been actually ceded to them by the United States, by late Treaties; and by an examination of the documents on the table it would appear, that when, agreeably to the act of the Territorial Legislature, the officers who took the census put to the people of the Territory the question whether they were desirous of admission into the Union? the inhabitants of the Western or Mero district almost universally answered in the negative. He would not undertake positively to pronounce on the inexpediency of forming the whole country into one State; but, under the circumstances which he had stated, and until they should be satisfactorily explained to his mind, it did appear to him that the interest and the wishes of that people required a division of the Territory. It looked somewhat absurd to connect under one permanent Government, people separated from each other by natural barriers, by a distance of two hundred miles, and by a foreign jurisdiction. They had been told, by gentlemen who knew the fact, that during the period of Indian hostility, the people emigrating to the Mero district were obliged to stop five or six weeks at the Eastern boundary of the wilderness, until they could collect in companies or caravans of sufficient number and force to pass in safety; the time of hostility may again return, and even a state of peace with Indians is not a state of such tranquility or security as to preclude the necessity of caution and vigilance on the frontiers. The people of the Western district seem sensible of the inconvenience of an arrangement so unnatural as the one proposed, and so far as their wishes can be collected from the documents before the committee, they desire as yet to preserve their connexion with us in its present mode, and to remain under the Territorial Government.

But it had been said by his colleague, [Mr. Gallatin] that if this construction was the true one, it was in the power of Congress forever to keep this people out of the Union; that by neglecting or refusing to lay off the Territory into a State or States, they might forever preclude its

inhabitants from admission into the Government, let their numbers be ever so large. Mr. S. on his part, admitted, that if this objection was founded, it ought to have weight; but nothing, he conceived could be more fallacious. In all compacts between a nation and a part of its citizens, the physical power, it is true, resides with the nation, and there is no other security for the other contracting party but the obligations of good faith and the integrity of the Government. In this view, his colleague's objection would apply to every possible contract to which the nation should be a party; even on his own construction of the instrument, a resolution or act of Congress, of some kind, is supposed to be necessary before the people of the Southwestern Territory can be admitted to a share of the national representation; by withholding this act, be it what it may, the privilege could be defeated; and thus the objection may be retorted on the gentleman who uses it. But admitting the obligation of the Government to perform its engagements with fidelity, and its disposition to do so, no such objection can grow out of a fair construction of the compact. The ordinance of 1787, and the act of 1790, both direct that a State or States shall be laid off. This mode of expression imposes an essential obligation on the United States; it does not leave them authority to refuse; it gives a discretion only as to the time and manner of laying off the country; this discretion must necessarily be vested somewhere, and it is placed where it cannot be supposed that it will be abused.

There is, in truth, no such intention to delay, on the part of the Government, whatever shall be necessary to meet and to gratify the just wishes of the people of the Territory; the only dispute is as to the mode of doing the business and of collecting the evidence of the necessary facts. It is one question whether the Government or the United States shall ascertain the existence of the prerequisites by a process of its own, executed under its own authority, or whether it shall take upon credit the evidence furnished by the Territorial Government? It is admitted on all hands, that, to justify the claim of those people as a matter of right, 60,000 free inhabitants must inhabit the Territory; is there then satisfactory proof that there is this number of inhabitants? It had been contended by his colleague [Mr. Gallatin] that the proof ought to be satisfactory, because it had been ascertained by the same authority which, as to a purpose supposed to be analogous, had been prescribed by the ordinance itself. By the provisions of that instrument, the adminstration of the Territory was to be strictly Colonial, by the Governor and Judges, until there should be within it 5,000 free male inhabitants of full age; at which period, the people were authorized to choose a Territorial Legislature, and the proof of the necessary number was to be made to the Governor of the Territory. Hence it is inferred, that proof made to the Governor, and to his satisfaction, which is sufficient for one change in the Government, ought to be held sufficient for the other change contemplated by the same ordinance. This inference, he contended, was incorrect. The effect produced by the first change, acts only upon the people of the Territory; it regulates only the mode of enacting their internal municipal regulations; it is an affair in which the United States have no interest, and no concern; it was therefore perfectly just that the evidence of the fact should be ascertained by the people who alone were to be affected by it; but to the consequences of the second alteration in the Government, the United States are also a party, and a party essentially and importantly interested. When the inhabitants of that Territory claim an equal share in the administration of the General Government, it is certainly reasonable that the General Government should be satisfied, by means known to its Constitution, of the evidence on which this claim is founded. Accordingly, a repetition of the expression relied on is carefully avoided in that part of the ordinance which relates to the admission of the Territory into the Union; this difference was certainly not without a meaning; and the true inference is that, in the last case it was intended the census should be taken by the authority of Congress, and not as in the former case by the authority of the Territorial Government; the census in the original States is taken at the periods prescribed by the Constitution, by the authority and by the officers of the United States, and there can be no reason for distinguishing the case of the Southwestern Territory, or entitling them to a representation upon easier or more favorable terms.

But it had been contended by a gentleman from Virginia, [Mr. Nicholas] that as the act for the government of this Territory did not divide it into more States than one, as was done in the ordinance for the government of the Northwestern Territory, it resulted that Congress had made their election, had exercised the discretion given to the United States by the act of cession, and by declining to lay it off into several States had established it as one. This conclusion could not be justified, either by the words of the act, or by the example of the ordinance. The act is avowedly and expressly made for the purpose of temporary Government only; and it was a fact of which the gentleman from Virginia needed not to be told by him, that the division of the Northwestern Territory by the ordinance of 1787, was as yet incomplete, and that its operation as to this purpose depended altogether on an act to be done, but not yet done, by the State which that gentleman represented, to wit: a partial repeal of their act of cession. Mr. S. said. he could not see where the doubt resided. The cession of this Southwestern Territory, made by North Carolina and accepted by Congress, directs, as he had before observed, that the ceded country should be laid off in one or more States. He asked if this had been done? If it had not been done, did it not remain to be done? The course was extremely clear; a State must be formed; and afterwards when that State shall contain 60,000 free inhabitants, and this fact shall be properly ascertained, it shall be received into the Union, and not before.

He did not think that by contending for these

principles, he should materially delay the gratification of the wishes of these people. He certainly did not wish it. But we are treading on new ground, and it ought to be cautiously explored. In admitting this country to a share in the General Government, we are forming a precedent for many future cases, and which may be hereafter of the most important effect on the national interests and happiness; it therefore behooved them well to consider the subject. By adopting the mode suggested by the gentleman from New Jersey [Mr. Dayton] or something like it, this State might still be organized in time for a representation in the next Congress; no outrage would be done to the provisions of the ordinance, and the hazard of establishing a dangerous precedent would be avoided.

Mr. Macon said, he should be as unwilling to agree to the doctrine of the gentleman from New Jersey, [Mr. Dayton] as he was unwilling to agree to his. As to the people of this Territory attaching themselves to any other nation, he should not have thought it could have been suggested. There was no more likelihood of their going over to any other Government, than there was of any other State doing the same thing.

Mr. Gallatin said, how the resolution on the table, or the doctrine he had asserted, supported the idea that that Territory would have a right to separate from the Union, he could not see, and he should be glad to be informed. So far from it, his opinion was that if they were a State, they were at the same time a member of the Union; that they could not exist as a State without being one of the United States. The only difference of opinion was whether an act of Congress was necessary previous to their being recognised as such; and if any doctrine could lead to the conclusion of the Speaker, it was that of those gentlemen who thought that Congress must form them into a State, several months before they were admitted into the Union. In that intermediary situation, whilst declared a State and not one of the United States, they might, perhaps, claim, as an independent State, a right to reject an admission in the Union. But those consequences could only flow from the doctrine he was combatting; the principle he was supporting was that no previous act was necessary, that there could not be two acts upon the subject; but that one and the same act must recognise them as a State and admit them in the Union.

Mr. Harper said, it was for the most part wise to avoid the discussion of strict right, where considerations of expediency might furnish sufficient grounds of decision. There were doubts existing as to the right of the people of this Territory to be admitted into the Union. He had himself entertained doubts on that subject, and he had heard nothing by which they could be removed. If, then, it should be found, that on principles of expediency the House ought to gratify their wish of becoming a State, why entangle itself in the discussion of a difficult and perplexing question of strict right? He wished to avoid it, and to that end, was desirous that the resolution proposed by the gentleman from New Jersey should be adopted. That resolution would attain the object, without deciding any principle. When he had the honor of addressing the Committee before on this subject, he had given it as his opinion that the people of this Territory ought to be admitted into the Union, not because they had a right to it, for that was doubtful, but because they wished it. He was still of the same opinion. As to the evidence which they produced of their numbers, he still thought it liable to doubt; and, while it was allowed on all hands that they had taken this evidence without the least intention of giving room for abuse, yet, it being evident that abuse might exist, it ought to be guarded against.

In the law proposed to be passed, every regulation necessary for establishing the principles on which States should hereafter be admitted into the Union, might be included. By this method all difficulties might be avoided, and the reasonable wishes of the people in that part of the country might be gratified, without a violation of any principle, or the discussion of any doubtful question. He should, therefore, vote against the resolution of the select committee, in order, if it were rejected, to introduce that proposed by the gentleman from New Jersey, which he thought calculated to attain, in a less exceptionable and more effectual manner, the same desirable end.

Mr. Blount hoped the original resolution would not be rejected for the sake of the gentleman from New Jersey. He did not wish to give up the right to which these people were entitled; though perhaps the law might not pass the Senate.

Mr. Harper objected to the mention of the Senate, as to what was likely to be done there. He hoped they should adopt the resolution of the gentleman from New Jersey.

The question was then taken on the original resolution reported by the select committee, and carried by 41 to 35.

The Committee rose and the House took up the consideration, when Mr. Kitchell proposed a resolution in the place of that which had been agreed to in a Committee of the Whole, as he thought some law should be passed by Congress recognising the Territory as a State, before they were admitted into the Union. It was negatived; and the original resolution was agreed to by 43 to 30, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, John Clopton, Jeremiah Crabb, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Wade Hampton, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, John Reed, Robert Rutherford, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Absalom Tatom, Philip Van Cortlandt, and Abraham Venable.

Nays.—Benjamin Bourne, Theophilus Bradbury, Gabriel Christie, Joshua Coit, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, Thomas Henderson, James Hillhouse, Wm. Hindman, Aaron Kitchell, George Leonard, Samuel Lyman, Francis Malbone, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, George Thatcher, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

Saturday, May 7.

The Speaker presented resolutions and a petition from Huntingdon county, in favor of the Treaty. Some debate took place upon the propriety of receiving the resolutions, on account of their being said to contain a censure on the proceedings of that House; they were read, the sense of the House was taken, and they were rejected. The petition was then laid upon the table.

The bill for the relief of Sylvanus Bourne was read a third time and passed.

A bill to regulate compensation to clerks, and a bill to regulate quarantine, were twice read and referred to a Committee of the Whole.

Mr. S. Smith laid a resolution upon the table, putting all nations upon the same footing, with respect to the selling of vessels and goods within the ports of the United States, by recommending it to be enacted, that no nation shall be allowed in future to sell their prizes within the United States.

A message was received from the Senate with the bill authorizing the sale of lands Northwest of the river Ohio, with several amendments thereto. The amendments were read and referred to a select committee.

The House resolved itself into a Committee of the Whole upon the bill for laying certain duties on carriages and for repealing a former act for the same purpose, which being gone through, the House took it up, and it was ordered to be engrossed for a third reading.

Mr. Sitgreaves, from the committee to whom was referred the memorial of certain creditors of the French Republic, residing in Philadelphia, reported that they found the extent of the claims of the memorialists sufficient to entitle them to the interference of Congress; but, as the session was drawing to a close, the select committee wished to be discharged from further consideration of the memorial, and that it might be referred to the Secretary of State, to report thereon, at the next session of Congress. The report was twice read and agreed to.

The House resolved itself into a Committee of the Whole, on the bill for authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio. After some debate thereon, in order to give time for making some inquiries on the subject, the Committee rose, and had leave to sit again.

Monday, May 9.

Mr. W. Lyman, from the committee appointed to take into consideration the situation of fortifications and harbors, &c., of the United States, make a report; which was twice read and referred to a Committee of the Whole.

Mr. Murray presented a petition from Harrison and Sterrett, of Philadelphia, in behalf of James Swan, of Boston, respecting a bill of exchange for 120,000 dollars, drawn on Dellar, Swan and Co., of Paris, which had been transmitted by the Secretary of the Treasury, at Philadelphia, to Mr. Monroe, the American Minister at Paris, who was to transmit the amount when received to the banker of the United States at Amsterdam, which sum had been duly paid to Mr. Monroe, but which the Secretary of the Treasury here refused to pay, until he had information of the amount being received at Amsterdam; the memorialists pray relief of Congress. The petition was referred to the Committee of Claims.

The bill laying certain duties on carriages, and for repealing the former act for that purpose, was read a third time, the blanks filled up, and passed. [Coaches which before paid ten dollars a year, are advanced to fifteen; chariots, from eight to twelve; coaches with pannels, from six to nine; coaches without pannels, (a description not in the former law,) six dollars; curricles, chairs, &c. advanced from two to three dollars; two-wheeled carriages, of an inferior kind, advanced from one to two dollars a year.]

Mr. Bourne reported a bill for altering the Circuit Courts in Vermont and Rhode Island; which was twice read, and ordered to be engrossed for a third reading.

Mr. Goodhue made a report respecting an increase of the salary of the Accountant General; which was laid upon the table.

INCREASE OF SALARIES.

Mr. S. Smith called up the resolution laid upon the table, respecting an increase of salaries of certain public officers for the year 1796.

Mr. Macon objected to passing this resolution at the present time. If it was necessary the salaries should be advanced, it should be done in a full House. He believed the officers of the Federal Government were better paid than the officers of the State Governments. He should wish the subject to be postponed until the next session of Congress.

Mr. S. Smith thought it was necessary to attend to the subject at present. He stated what the salaries were at present. The Secretary of State and the Secretary of the Treasury had each $3,500; the Secretary of War $3,000; the Comptroller $2,650; the Auditor, Treasurer, and Commissioner of Revenue, each $2,400; the Register $2,000; the Attorney General $1,900; and the Purveyor $2,000. Gentlemen must know that the advance of house-rent and living were vastly increased since the settlement of the above salaries. Any of these officers must pay from $600 to $1,000 for rent alone; they knew pretty well what the expense of living was at present in Philadelphia, and must see that it was impossible that their officers could live upon the above sums. If they have no fortunes of their own, they must

consequently involve themselves in debt. It may be said, those who do not think the salaries sufficient may resign, and others could be got. He believed persons might be got to supply the places of any gentlemen who might resign; but, before they had been long in their situations, they would find the expense of living so much greater than they expected, that they would find it necessary to resign. None of the public officers were permitted to engage in any business except the Attorney General, and the duties of his office almost wholly employed him.

He was acquainted with the expenses of living at Baltimore. He found his expenses exceeded anything contemplated to the highest officer by this bill, and he was not an extravagant man. Gentlemen accustomed to live on their own farms, were not judges of the expense of living in a city. Was it not degrading, he said, that their officers, who were in the habit of receiving civilities from citizens and foreigners, had it not in their power to return them?

There was not an officer who could afford to keep a horse out of his salary. He felt it necessary to apologize to those gentlemen for thus speaking; but every one must see what he asserted was true. He hoped we would not expect that gentlemen, whilst doing the business of the public, should spend their private fortunes. When the price of living should be lowered, the advance which was now proposed upon their salaries would discontinue, or it would be observed that the bill was for the present year only. The gentleman from North Carolina objected to the business being taken up at the present late period of the session. He must recollect that something of the sort had been brought forward at its commencement, without success. The necessity of the advance must be so apparent, that he trusted there would be an unanimous vote upon the occasion.

Mr. Nicholas was not against advancing the salaries of their officers, if necessary; but if he thought it necessary, he would begin with those officers who received the least, with men who had equal labor, but who did not receive half the money. He had had some experience of the price of living in Philadelphia, and from what he had been able to do with six dollars a day, he thought a family might live genteelly and comfortably on ten. If these, then, were extremely expensive times, and ten dollars a day would maintain a family, why increase the salaries of those officers who had already that sum? As to a temporary or permanent advance, he looked upon it as the same thing; for, a salary once being given, was sufficient reason for continuing it. He voted against the former proposition for the same purpose, and he should vote against this.

Mr. W. Lyman said, if the resolution went no further than its proposed object, it would not have been worth taking up the time of the House to oppose it; but it must be obvious that if the resolution should pass, it held out an invitation to every officer in public employ, from the highest to the lowest grade, to come forward for additional compensation. Their application might be supported with the same reasons and argument—the enhanced price of living, or the reduced value of money. They were indiscriminately applicable to every part of the United States. Were gentlemen really to meet the question upon this extensive ground, and to say that every officer of Government, whether civil or military, should have an additional allowance? He presumed not. It was true, he said, that articles of living were much enhanced in their price, but this was only a temporary effect incidental to the war in Europe, which would probably terminate in a little time, and the effect would cease with its cause. The members of the Legislature, the present session, fixing their own compensation, had not been influenced by any temporary considerations; there had not been even a wish expressed by one member that their pay should be raised; some gentlemen, indeed, had signified desires it might be reduced from six to four dollars a day. After this disinterested example themselves, the House could, with a good grace, refuse to raise the salaries of their officers. If some of them made sacrifices to the public, the members of the Legislature did the same. If it was patriotic in one case, it was equally so in the other; but whether it was necessary to make higher compensation or not, the question ought not to be taken up partially, but generally; for no gentleman had suggested that the ratio heretofore established, was improper and inadequate; not one argument had been offered from that source. Mr. L., therefore, hoped the resolution would not be agreed to. It appeared to him to partake too much of local affection and regard, and too little of the generality of consideration with which a Legislative body should always be actuated. He was prepared for it with his negative, and trusted that, if it should pass the House, it would not be equally successful, on a further revision of the subject, in the Senate.

Mr. Goodhue said, they ought not to compare the officers of Government with themselves; because they make sacrifices of their individual interests for the public good, it was no rule their officers should do so. There was a certain degree of honor and patriotism which was dearer to them than any pecuniary pay; but their officers ought to be paid the full value of their services. They might drive them out of office, and he doubted not they might find others to fill them; but if they did not offer sufficient compensations to their officers to invite persons of ability from distant parts of the Union, their offices would all of them be filled with Philadelphians. Not one of their officers could do more than barely live, so that if any of them have families they will not be able to save anything for their children. This held out poor encouragement to men of talents to engage themselves in the service of the public.

Mr. Heath spoke in favor of the resolution.

Mr. Giles said, he should vote for the resolution, not because our Government would be destroyed if the salaries of our officers were not advanced; he believed our Government stood upon a much firmer basis than gentlemen would have

it supposed. He thought this cry of dissolution of Government was carried to a ridiculous height. He should vote for the resolution, because there had been a considerable increase in the price of living, and because he supposed when the sums were originally given, they were not more than reasonable. He should, therefore, for that simple reason, vote for it. Not because any particular gentleman intended to resign if his salary was not advanced; because, if any of their officers chose to resign, he doubted not they should be able to supply their place with men of equal value. He did not like the form of the resolution. He did not like the per centum rate. It was his opinion the proposition was not just. He thought the Attorney General, for instance, had not sufficient salary. It was true, he was allowed to practice, but his office allowed him but little leisure for other business, and his duties were continually on the increase. He wished, therefore, that a specific sum should be given to each officer.

Mr. Gallatin said, the reason alleged for the proposed increase in salaries, was the increased expense of living in this city. If this was true with respect to the officers here mentioned, it was true with respect to all. Then why was the provision made for these particular officers, and not for others? They were all equally entitled to the advance, unless it was said the others were in establishments less expensive. He moved an amendment to this effect: "and all the officers of Government whose duties require them to live in Philadelphia."

Mr. S. Smith said, when he submitted the resolution to the consideration of the House, he had the same views with the gentleman last up, and he believed he had included every one. The Accountant General was meant to be provided for specially. He did not know of any other public officer but the Postmaster General. The salaries of the clerks had been raised from time to time.

Mr. Murray said, he did not know but that the officers of Government in large cities generally, had occasion for an advance in their salaries; yet, certainly there were many considerations respecting the Heads of Departments, who were obliged to reside here, that did not apply to inferior officers in other large cities. The Heads of Departments are to be considered, as they really are, an administrative part of the Government. Much, he thought, of the respectability of Government itself depended upon the manner, mode of life, and general deportment of those who administered it. The world was not a philosopher, it regulated much of its respect by exterior appearances, and to insure that to a certain degree, it was necessary to enable the great officers of administration to appear with respectability in the world's eye, without forcing them to ruin themselves by intrenchments upon their private fortunes, at the period when, by the laborious duties imposed, as well as by legal restraints, they are prevented from engaging in other modes of industry. When you engage for labor, for talents, and integrity, at least you should pay the wages of labor without grudging. But, in fact, there is not a Head of a Department who could not, by a devotion of his talents and weight of reputation in private industry, insure to his family double the income that the scanty spirit of Government allots him. It may be asked, why do they accept? A generous ambition to do great services was a passion to which, he believed, we were indebted for the acceptance of any high office under our Government. This was a passion natural to better minds. This House should take care that this passion should not ruin those who feel it, and exert it in the public cause. To permit this, would be a sort of seduction. The United States have at present able and honest men in the administration; such, and such only, ought to be kept there; but they should find it a situation which, as fathers of families, it should not be imprudent to keep. For his part, he thought it almost impossible to attract talents and integrity into a Government like ours, at too high a pecuniary price. They ought to be invited, not repelled.

Mr. Macon considered an agreement to the proposition before them, as the beginning of an advance of salaries of Governmental officers from one end of the Continent to the other. As the House had refused to go into this business when brought before them early in the session, he hoped they would now do so. If such a regulation was proper at any time, it was then proper. Nor did he think there was any more reason to advance the salaries of their offices in Philadelphia than there was for the advancement of salaries in every large city in the Union.

Mr. Giles was inclined to favor the resolution under discussion; but if the vote was to be taken upon the principles of the gentleman last up, he should oppose it. He did not think the high wages of the officers of our Government was to make it respectable; for, if it was to be respectable in proportion as it was expensive, it was far behindhand when compared with the Governments of Europe; therefore, if expensive salaries could alone make make our Government respectable, he believed we had better forego that respectability. There was another principle which he objected to, that they were to make provision for the children of their officers. He wished to vote for the resolution upon the principle of justice, and upon no other; but if the respectability of our Government, or fortunes for the children of our officers were to be considered, he should vote against it. He was not willing to give more for the transacting of any business than it was really worth. To what extent would such a doctrine go? The argument would be just as good next year as this. No gentleman would be satisfied with a small degree of respectability. He wished, if any increase of salary were to take place, it should be on the ground of the increased price of provisions.

Mr. Kittera said, it must be allowed that there was a difference betwixt officers residing in New York, Boston, Baltimore, &c., and those residing at the seat of Government. The former were with their friends, but the latter had quitted their homes and subjected themselves to a very expen-

sive living in Philadelphia. He thought there was a wide difference between them.

Mr. Macon said, if the doctrine of the gentleman was true, it would only relate to part of the officers.

Mr. S. Smith said, even the weigh-master in Baltimore had a higher salary than any officer in the Federal Government.

The amendment was negatived.

The Postmaster General was moved to be added, and agreed to.

Mr. Giles moved to strike out the words per centum.

Mr. Christie was in favor of the motion. He did not think the salaries equally apportioned.

Mr. Findley did not know that they had now time to go into the subject of equalizing the salaries of their officers. He should, however, be for striking out the per centage. He would have their officers paid well but not extravagantly.

Mr. Swanwick was rather in favor of the resolution; yet, as this was to be only a temporary consideration, he would submit it to gentlemen whether it would not be better to preserve the plan of so much per cent. on the present salaries. He thought it would have less the appearance of permanency. They were not about to go into an inquiry how far the salary of each officer was apportioned to his services, but merely to make an allowance for the present year on account of the advanced price of living; and he thought, on that account, the per centum plan the best.

Mr. Hartley said the gentleman from North Carolina [Mr. Macon] had asserted it was indifferent to him from what part of the Union persons came who filled the offices of Government. He wished every gentleman could say so. When the salaries of the offices were settled, the men who were to fill them were not known, and therefore, they were settled according to what they were really thought to be worth; but, if they took the mode proposed by the gentleman from Virginia, it would be next to impossible to avoid favoritism, besides that, a review of all the salaries would require time. In appointing their officers, the President had been as impartial as possible; he had endeavored to select them from every part of the Union; but if the salaries were not increased, persons who reside in Philadelphia, and have their friends about them, must be chosen; and if so, he hoped gentlemen would not complain that the State of Pennsylvania was too highly favored. He hoped the resolution would be retained in its present form.

Mr. Venable said, he should be opposed to the per centum plan; for the salaries being at present out of proportion, it would increase that difference which was already too great. If it was merely an increase on account of the increased price of living, let a specific sum be added to each salary for the present year, and the salary would then stand as before. He could not vote for the per cent. advance, but would support an equitable addition.

Mr. Christie spoke to the same effect.

Mr. Sitgreaves wished the per centum to be struck out, to vote for the general principle of an advance, and afterwards determine upon the best method of doing it; it was of importance that the principle should be settled.

The motion was put and carried.

Mr. Sitgreaves continued his observations. He said, if there was any one principle upon which his mind reposed itself with more than ordinary certainty of conviction, it was, that the real interest of the country, and the truest economy consisted in the allowance of, not merely adequate compensations to their public officers. He certainly hoped, therefore, that the resolution would prevail. If the members had felt scruples about advancing their own wages—and he had no hesitation in saying, he did not think they had allowed themselves enough, nor did he wish to shrink from the responsibility attached to this opinion—he hoped they would not suffer this delicacy, which, when applied to themselves, might be amiable, to influence their decisions on the compensations of others, or operate to prevent a reasonable addition to the established salaries of the other departments.

It had been said, that the respectability of Government was not all connected with, or dependant on the allowance made for the services of its officers. He could not concur in this sentiment. He believed that no Government could be respectable which was not respectably administered; and the respectability of the administration certainly depended on the employment of men of competent talents and information; these could not be obtained but by holding out encouragement to tempt them to engage in the public service. If gentlemen can derive more income from pursuits of private occupations, they will be induced by the most powerful motive of human conduct to give such a direction to their industry and abilities; there was something in the honor of public stations, gratifying, it is true, to ambitious minds; and which will have its estimation with men of a certain disposition; but this honor may be rated too high; and care should be taken, lest, by creating too great difference between the emoluments of public, and the gain of private life, men of superior acquirements should be discouraged from devoting them to the service of their country. These observations, he thought, were peculiarly applicable to the persons requisite to fill higher departments. He did not think the pay of these officers should be measured by the mere labor of their employments; but should be proportioned to the knowledge, the skill necessary for the administration of such important trusts; and above all, to the responsibility of their official situation. All things considered, and in order to allure men of talents to the public service, he hoped these sentiments would be generally concurred in; they were his, and he desired to bear his testimony as solemnly as the occasion would permit.

Mr. W. Smith said, that as long ago as the year 1787, when the expense of living was not half as high as at present, and when the finances of Government were considerably deranged, and Congress thought it necessary to make a serious

reduction of expense wherever it could be done, yet they would find, that the salary of the Secretary of the department for Foreign Affairs was the same as now. [Mr. S. read an extract from the Journals of 1787 to corroborate his assertion.] This was of itself sufficient to show the necessity of an increase at present.

Mr. Findley said, there was a difficulty, if they did not extend the advance to all their officers, where to draw the line.

The question on the resolution was put and carried, there being fifty-five members in favor of it.

The Committee then rose, and the House took up the consideration of the resolution.

Mr. Locke thought this resolution would have a very bad tendency, and would be unfavorably received by the people. He was opposed to it, and should wish the sense of the House to be taken upon it by the yeas and nays.

The question for which being put was carried.

Mr. Gillespie observed, that it was alleged that this addition to the salaries of their officers was owing to the advance which had taken place in the price of living, since their salaries were fixed. If it were so, he thought the Purveyor of Public Supplies should be struck out, as that officer had not been long appointed. He made a motion to that effect, which was negatived.

The yeas and nays were then taken on the resolution, which passed—yeas 51, nays 34—in the following form:

"*Resolved*, That there be allowed and paid, for the year 1796, to the Secretaries of State, Treasury and War Departments, Treasurer, Comptroller, Auditor, Register, Commissioner of Revenue, Purveyor, Attorney General, and Postmaster General, ——, in addition to their respective salaries."

The yeas and nays being demanded by one-fifth of the members present, were as follow:

Yeas.—Fisher Ames, Abraham Baldwin, Benjamin Bourne, Theophilus Bradbury, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, William Findley, Abiel Foster, Dwight Foster, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, William B. Grove, Carter B. Harrison, Thomas Hartley, John Heath, James Hillhouse, William Hindman, John Wilker Kittera, George Leonard, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Andrew Moore, William Vans Murray, Alexander D. Orr, John Page, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, John Swanwick, George Thatcher, Uriah Tracy, John E. Van Allen, Abraham Venable, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Samuel Earle, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, George Hancock, John Hathorn, Jonathan N. Havens, Daniel Heister, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Anthony New, John Nicholas, Francis Preston, Israel Smith, Richard Sprigg, Jun., and Absalom Tatom.

A committee was then appointed to bring in a bill.

A communication from the Treasury Department was received, enclosing the Treasurer's accounts of receipts and expenditures in the War Department for the quarter ending in March last, which was read and ordered to be printed.

Mr. W. Smith said, as it was near the hour of adjournment, he should move that the House resolve itself into a Committee of the Whole on a secret communication from the President relative to the Treaty with Algiers; which had before been partly considered, and the galleries were accordingly cleared.

Tuesday, May 10.

Mr. S. Smith reported a bill for making an addition to the salaries of certain public officers for the year 1796; which was twice read and ordered to be committed to a Committee of the Whole tomorrow.

A communication was received from the Attorney General, enclosing a report upon the petition of sundry inhabitants of St. Clair, against the oppressive conduct of Judge Turner, which recommended a certain mode of prosecution. The report and other papers were referred to a select committee.

The bill altering the time of holding the Circuit Courts of Rhode Island and Vermont, was read a third time and passed.

Mr. Tracy from the Committee of Claims, made a report upon the petition of certain Stockbridge Indians for compensation for services during the war with Great Britain, which was against the petitioners. Agreed to.

He also made a report on the petition of John Montgomery and Thomas Smith, executors of the late General Richard Butler, who was killed in a battle with the Indians on the 4th November, 1791, and left behind him a widow and children; the report was in favor of the petitioners, and recommended the act of June 7, 1794, to be extended to this claim. Mr. T. observed, that this case had been before determined upon on a petition from the widow Butler; that a bill had passed that House, but had been negatived in the Senate. He doubted not, therefore, the report would be agreed to. It was ordered to be referred to a Committee of the Whole.

Mr. Swanwick presented a petition from sundry officers in the late war, holding military warrants, praying that land might be appropriated upon which to locate their warrants in place of that ceded to the Indians by Treaty. It was referred to the committee who had the management of that business.

The House resolved itself into a Committee of the Whole, on the bill authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio; which, after a few amendments, was agreed to, taken up in the House, and ordered to be engrossed for a third reading.

The Committee of the Whole, to whom was referred the bill relative to military lands, was discharged, and the bill was recommitted to a select committee.

SALE OF PRIZES.

Mr. S. Smith wished the House to take up the resolution, which had been laid upon the table on Saturday, relative to the sale of prizes in the ports of the United States. It was accordingly taken up. Mr. S. said, his intention in bringing forward this resolution was to put all nations upon the same footing with respect to selling of prizes in their ports. By our Treaty with Great Britain, prizes taken from that Power by the French were prohibited from being sold in our ports; and in our Treaty with France, a similar stipulation was made with respect to French vessels taken by the English; but in case a war should take place between Great Britain and Spain, there was at present no regulation to prevent Great Britain from bringing Spanish prizes into our ports. By the law which he proposed he meant to deny the privilege of selling prizes in our ports to all nations, as the best way of steering clear of offence to any, and thereby preserve our neutrality inviolate. After some little opposition, on the ground of its being a measure not at present called for, but might be entered into when such a war as was anticipated should take place; that it was giving an advantage without reciprocity; and that the French, having heretofore had the privilege of selling her prizes in our ports, the stoppage of that privilege might give offence to them—it passed by a large majority, and a committee was appointed to bring in a bill.

A bill was subsequently reported, which was read the first and second time, and committed to a Committee of the Whole.

Mr. W. Smith, from the committee to whom was referred the amendments of the Senate to the bill for the sale of lands Northwest of the river Ohio, made a report, recommending the amendments to be agreed to, and proposing some additional ones. They were ordered to be printed.

TREATY WITH ALGIERS.

The House, according to the order of the day, again resolved itself into a Committee of the Whole House on the report of the Committee of Ways and Means, of the eighteenth ultimo, relative to a further provision for foreign intercourse;" and came to the following resolutions, which were severally twice read, and agreed to by the House:

1. *Resolved*, That the sum of two hundred and sixty thousand dollars be appropriated, in order to carry into effect any Treaty already made, and enable the President to effect any Treaty or Treaties with any of the Barbary States.

2. *Resolved*, That —— dollars be appropriated for foreign intercourse, in addition to the sum of forty thousand dollars, annually appropriated for that purpose.

3. *Resolved*, That the sum of four thousand five hundred and thirty-nine dollars and six cents, be appropriated to reimburse the sums advanced by Captains Colvill and Burnham, for their ransom from captivity in Algiers.

Ordered, That a bill or bills be brought in, to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations," and, also, pursuant to the resolutions aforesaid; and that Mr. William Smith, Mr. Gallatin, and Mr. Hillhouse, do prepare and bring in the same.

Wednesday, May 11.

The bill authorizing Ebenezer Zane to locate certain lands in the Northwestern Territory, was read a third time and passed.

Mr. Tracy made a report on the petition of the widow of the late Colonel George Gibson, which, being of the same nature with that of the widow Butler, lately before the House, was reported upon in the same way, and ordered to lie until the former case was decided upon.

Mr. Nicholas moved that the bill for the sale of land Northwest of the river Ohio, with the amendments from the Senate, and the report of the select committee thereon, might be taken up; which was accordingly done; and, being gone through with one or two amendments of little consequence, the amendments of the Senate were agreed to.

[By this bill, as now amended, the small lots of 160 acres each are done away, and the least quantity now to be sold is 640 acres. An amendment was proposed to reinsert a clause for the purpose of restoring the small lots, but was lost, there being 31 for it and 33 against it.]

SALE OF PRIZES.

The House resolved itself into a Committee of the Whole upon the bill to prevent the sale of prizes in our ports.

Mr. Gallatin moved to add a clause, to limit the duration of the law for two years, and from thence to the end of the next session of Congress.

Mr. S. Smith wished to amend the motion by striking out "two" and inserting "three."

The motion for inserting "three" was put and negatived.

Mr. Sitgreaves hoped the amendment would not prevail. If he understood the intention of this bill, it was to prevent the necessity of making stipulations in time of war. At the expiration of this law it was possible the parties might be at war. The idea was to establish, during a season of peace, a law with respect to the sale of prizes, which could give offence to no Power; but, at the expiration of the proposed limit, we might be in the situation we wish to avoid.

Mr. Nicholas said, if the bill was attended to it would be seen that that objection would not stand. If the act expires, and we think proper to renew it, would it be introducing a new principle? Surely not; it will have been in operation three years, and, therefore, could not be considered as new.

Mr. Murray had no objection, in common acts

of the Legislature, to introduce a clause of limitation; but in acts where great principles are laid down, as in this, which establishes a rule of action equal to every country in a state of war, whilst we are in a state of neutrality, he thought it perfectly unnecessary to limit the bill. It would always be in our power to repeal the law; but, holding out an idea that at the end of two years the regulation might die, he thought wrong. There was no experiment necessary with respect to this law; for, being right now, it would be right forever. But to hold out an idea that the measure was merely temporary, might induce a foreign Power to make use of artifices to prevent a re-enacting of the law.

Mr. Sitgreaves said, he did not feel convinced by what had fallen from the gentleman from Virginia. If, when the law expired a fresh law was passed, it would be considered as a neutral nation changing the situation of two nations at war, so as to give one a preference to another. It would at least be considered as an unfavorable thing, if Spain should be at war with France or England, when this law expires; not to renew it would place her on a worse footing than the other Powers, and to put her on the same ground with France and England, we must make a new law. It was true it would not be a new principle, but it would change her situation, and might be cause of offence to the other nation at war.

Mr. Swanwick conceived that every argument in support of the bill was in favor of a limitation of its duration. It was founded upon the probability of war betwixt England and Spain. If these two Powers did go to war he apprehended it would be within two years, or not all. But gentlemen say the principle is a permanent one. He was of a different opinion: it might be a very wrong principle at some times, though good now. To make the law permanent was going too far. He had another and still stronger objection to the law being passed without limitation—he should make no stipulation in favor of any country without reciprocity. If this privilege was allowed to Spain, we ought to be guarantied to have a like stipulation in our favor.

Mr. S. said, he did not see any necessity for the bill at all, but he should waive his objections to it. He thought there were strong reasons, however, for limiting its duration, in order to obtain suitable returns from other foreign Powers.

Mr. Gallatin said, it was well understood that the Law of Nations was entirely silent with respect to the sale of prizes in neutral ports. It was one of those things relative to belligerent Powers, which was more the subject of a Treaty than of law. Amongst all our Treaties with foreign nations only one of them contemplated this object, viz: the Treaty with Great Britain, which forbids expressly all her vessels taken prizes from being sold in our seaports. This being established, we wish to put other nations, with whom we have not treated on the subject, on the same footing with Great Britain. We had not at present any provision with the Dutch on the subject, so that Great Britain might bring into our ports Dutch prizes, and the Executive could not with propriety refuse them the privilege of selling them. On account of the situation of other Powers, especially Spain, it was right, in this instance, to do by law what in most cases would be better done by Treaty; but the very reasons which induced him to wish for the law, induced him to make the amendment. The Treaty with Great Britain was to expire two years after the present war; and, if the present law was not made to expire about the same time, it would put it out of the power of the President to negotiate a new Treaty upon the best terms possible; for Great Britain, holding by law that advantage, would feel no inducement to grant an equivalent in order to obtain it.

Mr. Williams was in favor of the limitation; for, though a good measure to-day, it might not be so a few years hence. No difficulty could arise from the limitation; and, if it did not answer, it was much better to let the bill die of itself than to repeal it.

The motion on the amendment was put and carried. The Committee then rose, the House took up the consideration of the amendment, agreed to it, and ordered the bill to be engrossed for a third reading.

Mr. S. Smith called up, and the House went into a Committee of the Whole on the resolution which he had laid upon the table to prevent the sale of prizes in the ports of the United States. He wished, he said, to put all nations upon the same footing in this respect. The French had been in the habit of bringing their prizes into the ports of the United States. Under the Treaty with that nation (and as the Law of Nations did not forbid their sale) the President had indulged them in the practice of selling their prizes. The French, therefore, having had this privilege, the British, if no new law was passed to the contrary, would expect to be indulged in the same way; and, should a war break out between England and Spain, (which was no improbable thing from the present situation of Europe,) and the English should bring into the ports of the United States Spanish prizes, it might give offence to Spain, as that nation could not do the same, it being contrary to a stipulation in the late Treaty with Great Britain. The British bringing Spanish prizes into our ports, Mr. S. said, would have another bad effect—they would enlist our sailors on board their vessels, and by that means greatly enhance the wages of seamen, already too high.

The motion was put and carried; the Committee rose and reported the resolution; the House took it up, when Mr. Macon observed, it would be impolitic to pass the law proposed. Had they not already allowed the French to sell prizes in our ports, and would it not be a breach of our Treaty with them now to put a stop to the practice? He thought it would be better to leave the matter as it was.

Mr. W. Smith said, the Executive did not consider it as repugnant to the Law of Nations to allow the French to sell their prizes in our ports, and, therefore, he had tolerated the practice. But

it was an injurious practice; it created a tendency to war and a desire of privateering in their seamen, when they were witness to the spoils acquired by others. No nation could claim it of right; and we had a right by law to prohibit it; and very beneficial effects would, in his opinion, arise from such a restriction.

Mr. Swanwick thought the resolution very important. It was interfering with a principle gentlemen were not aware of. It was a very delicate subject. Sweden and some other countries have found an advantage in allowing prizes to be sold in their ports. It was doubtful with him whether the inconveniences would not be greater than the conveniences arising from the proposed measure. It had the appearance of withdrawing an advantage from France, which the President had heretofore allowed them to enjoy. If the late Treaty with Britain takes the power away from France, let it be left on that ground. He supposed the President did not grant the privilege without well considering the matter. What were now the reasons for withdrawing it he could not say. The gentleman from Maryland had mentioned a war with Spain. If such a war were to take place the measure now proposed might be adopted; but, in the mean time, as the President had conducted the business heretofore, he was willing it should be still left with him. The measure might be a right one, but it was taken up in a sudden manner, and he had not time to make up his mind on the subject. He thought no argument of what might possibly happen at some future time ought to influence them in the present decision.

With respect to enlisting our people to go on board privateers, if prizes were suffered to be brought in, he believed the high wages given by the merchants to seamen would prevent them from voluntarily going on board ships-of-war; besides, they would be liable to be treated as pirates. He, therefore, did not apprehend much evil from this; but he apprehended much evil and no advantage from this resolution. His great objection against it was, because it was an interference with Executive business, and that its operation would be chiefly against France. The British take few prizes. It would neither favor the interests of France nor Spain, but it would favor alone Great Britain. Upon the whole, as the President had allowed France the privilege of selling her prizes in our ports, he was not willing to do any thing on his own part to withdraw it.

Mr. S. Smith.—This subject was introduced two years ago. Things were very different from what they are now. The French were allowed to sell their prizes in our ports under the Laws of Nations. By our Treaty with France, prizes taken from that nation were forbidden to be sold in our ports; and, by our Treaty with Britain, the same thing is stipulated with respect to the British vessels. Therefore, neither of those two nations can complain; but before any new European war takes place we wish to put all nations upon the same footing in this respect.

He was surprised to have heard ideas so anti-commercial from the gentleman from Pennsylvania, [Mr. Swanwick,] who said he was under no apprehension from British privateers engaging our sailors: whereas our sailors, having early embarked in privateers, was well known to be one of the causes of the high prices of wages. British impressments was another cause. The sailors of the Danes and Swedes remain at nearly the same rates as usual; and he would say if Spanish and Portuguese prizes were to be admitted to be sold in our ports, the wages of sailors would advance to fifty dollars a month. That gentleman had studied and spoken upon the Treaty, yet he did not seem perfectly to understand it. He said, our seamen would not be likely to enter on board privateers, because, if they did, they would be considered as pirates. Mr. S. read the article, in which the words are: "If any subject or citizen, &c., shall accept any foreign commission of letters of marque for arming any vessel, &c., if taken, shall be considered as a pirate." Did sailors, he asked, come under this description? But, if they did, show them a prospect of extraordinary gain, and nothing could stop them from entering.

The peace of this country, Mr. S. said, would better be preserved if a plan of this kind was adopted. In other countries, it was true, prizes were permitted to be sold or not, as it appeared to be their interest. It was our interest to keep ourselves separate from the quarrels of European nations, which scarce ever ceased, and to be at peace with all the world.

Was it one of the causes of Admiral Murray's being on our coast that French prizes were suffered to be brought into our ports and sold, from whose ships our property had suffered more injury than all the prizes which could be sold in our ports would do us service? The measure was perfectly neutral, and could give no nation reason to complain.

Mr. Swanwick agreed with the gentleman from Connecticut, [Mr. Hillhouse,] that we ought not to act under fear of displeasing any foreign nation, when doing what appeared right and proper; and wished, also, with the gentleman from Maryland last up, to be at peace with all the world. Upon these principles there would not be a discordant sentiment in that House.

If this advantage was given up to Spain, that prizes taken from her should not be sold in our ports, we ought to have a stipulation on her part, that in case we were at war our vessels should not be sold in her ports. With regard to the existing state of things by Treaty, neither France can bring British, nor Britain French prizes into our ports, so that we need not be afraid of our sailors being tempted to enter on board privateers, few or none of these appearing here. But few prizes had been brought into our ports, and as few instances of American sailors going a privateering. He believed British impressments of our seamen and the general rise in price of almost every thing, had been the chief cause of the present high wages. He could tell the gentleman from Maryland that there was an article in the

late Treaty which more probably continued Admiral Murray on our coast than the intercepting of French prizes—he meant the article which sanctioned the taking of our vessels coming from French ports, on suspicion of their having enemy's property on board. Nearly every vessel of this kind the British cruisers met with are taken and sent into Bermuda, where the original suspicion is made proof strong as Holy Writ, and the virtuous Judge has no scruples in condemning nearly as fast as the vessels are brought in. He believed this was the whole history of Admiral Murray's cruise. He was daily in the habit of capturing our vessels and goods. If his views were to intercept French prizes, he would not be about the mouth of the Delaware and off New York, as prizes have been mostly carried into the more Southern ports, on account of their nearer situation to the West Indies.

Gentlemen seemed to think this law would favor Spain, Portugal, and Holland. If so, he said, we had no reciprocity of advantage; and we are making regulations barring ourselves from obtaining equivalent returns of benefit for what we are thus needlessly relinquishing.

Mr. Goodhue said the only question was, whether we should give to Spain the same advantages by law, which Great Britain and France had by Treaty. He had no doubt if we did this, Spain would have the magnanimity to make a similar regulation in our favor.

Mr. Madison believed that if a war were to break out between Great Britain and Spain, we should then be as free to make such a regulation as we are during the war at present; and if so, he did not see the necessity of going into such a measure at present.

He thought there was some weight in the argument of the gentleman from Pennsylvania, [Mr. Swanwick,] that if this was an advantage given to Spain, we ought to have something in return; and though she might, from a principle of magnanimity, grant us a similar regulation, it would be more certain to have it secured by Treaty. As he did not see the necessity for this measure, he did not like a Legislative interference of any sort, under present circumstances. The Executive was charged with the application of the Law of Nations, and was responsible on that subject: the Legislature were to define them. This would induce hesitation at least. He had not thought much on the subject; but he believed there was nothing in the present case that could require the interference of Congress, in a manner to assume a responsibility belonging to the Executive Department.

Mr. W. Smith said, the gentleman from Virginia [Mr. Madison] supposed that it would be full time enough to make the regulation now proposed, when a war might break out between Great Britain and Spain; but he would ask that gentleman what was to be done if such a war should break out in the recess of Congress, and British vessels of war were to bring in Spanish prizes? The President having heretofore permitted the French to bring in and sell their prizes, could not, without a violation of neutrality, refuse the same privilege to the British, as there would be no law against the practice. With respect to the Law of Nations authorizing the sale of prizes, there was a remark in *Vattel* which seemed to incline to the opinion that the sale of prizes was not inconsistent with neutral duties. He thought we ought to give no advantage to one belligerent Power over another; and therefore, to give any belligerent Power the liberty to sell their prizes in our ports, and refuse it to others, would be a breach of neutrality; and therefore it was, that two years ago, he advocated a bill which passed the Senate, but was rejected in this House by a small majority.

There was nothing in the Law of Nations which gave the British a right to sell prizes in our ports, nor was there anything in the late Treaty which either sanctioned or prohibited the privilege. The French had been allowed to do it, but it was stated by Mr. Jefferson, the Secretary of State, to be a mere indulgence; yet, having been once granted, the President was scrupulous about withholding the privilege, except required so to do by law. If a war were to take place between Great Britain and Spain, not being restricted by law, the President would feel himself required to grant the same privilege to Great Britain which he had heretofore allowed to France.

With respect to the observation that we ought to have something in return from Spain, he had little doubt but she would grant to us a reciprocal regulation; if, however, she should not, the law could at any time be repealed. He hoped, therefore, the session would not close before such a law was passed.

Mr. Kittera said the regulation would be an advantage to this country, and not to Spain. Instead of the sale of prizes being advantageous, they were a great evil; for, independent of other considerations, it was injurious to fair and regular commerce, because the goods coming in, unexpectedly, overstocked the market, and put things out of their regular course.

Mr. Gallatin was in favor of the resolution, and he conceived the present was the best time for passing such a law. If the regulation were to take place while a war subsisted between Great Britain and Spain, it might be a cause of offence to Great Britain, as operating against her; but, at present, no nation could object to the passing of such a law. With respect to the idea suggested that we should stipulate a return of favor from Spain, he must confess he was not afraid of obtaining a similar regulation from her. It must, however, be observed, that, so far as related to Great Britain, though we had stipulated by Treaty that her vessels taken prizes should not be sold in our ports, yet that Treaty was only to continue in force for two years after the present war, and the law now under consideration was not limited in its duration; he therefore wished an amendment to be introduced limiting the law to the same period with the existence of the Treaty, that when the President had again occasion to negotiate, he might obtain something in return from Great Britain.

Mr. W. Smith thought there was force in the

argument of the gentleman from Pennsylvania, and the law could be so formed.

The resolution was agreed to, and a committee appointed to bring in a bill.

INTERNAL REVENUES.

On the motion of Mr. W. Smith, the House resolved itself into a Committee of the Whole, on the report of the Committee of Ways and Means on the provision requisite for improving the internal revenues of the United States, and for more effectually securing the collection of the same; when a considerable debate took place on the first article, which is in the following words:

"*Resolved*, That it will be expedient to abolish the tax on spirits distilled from materials of the growth or produce of the United States, at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there shall be one or more stills; which singly, if only one, or together, if more than one, shall be of less capacity than four hundred gallons; and to collect this branch of the revenue from a tax on the capacity of the stills."

In the course of this debate, a motion was made to strike out all the words after "produce of the United States," and another for striking the article out altogether.

In support of the first motion, it was asserted that the tax itself was unequal and vexatious, by laying a duty upon one part of the United States which distilled spirits from grain, while others who brewed porter or beer of their grain paid no duty. And in support of the last motion, it was asserted that the present mode of collecting the tax was easier to distillers, and more profitable to the revenue, than it would be by the new plan.

At length, a motion was made for the Committee to rise, for the purpose of getting rid of the consideration. The Committee accordingly rose, reported, and asked leave to sit again. Some opposition was made, and leave was obtained by a majority of one only—being 36 for it and 35 against it.

A motion was then made and carried, 39 to 37, to discharge the Committee of the Whole from a further consideration of the first article.

On motion of Mr. Nicholas, the House took up the report of a select committee for augmenting the salary of the Accountant of the War Department; which being agreed to, a committee was appointed to bring in a bill.

ON QUARANTINE.

On motion of Mr. S. Smith, the House resolved itself into a Committee of the Whole, on the bill regulating Quarantine; when—

Mr. Heister objected to the principle of the bill. It proposed to take the power from individual States to regulate what respected the health of their citizens, and to place it in the President of the United States. He thought this measure would be attended with great inconvenience. Many of the States lay very distant from the seat of Government, and before information could be given to the President of the apprehension of any pestilence being introduced, and his answer received, the disease might be introduced into the country, and great havoc made amongst our citizens. It appeared to him that the Government of each individual State was better calculated to regulate quarantine than the General Government, because upon the spot. And if the power was to be transferred from the President to the Collectors at each port, (and that he conceived must be the case,) it would put a vast deal too much power into their hands. He hoped, therefore, the bill would not be agreed to.

Mr. S. Smith said that each individual State had or might have its own health laws, but the performing of quarantine was in the direction of the General Government: it was a commercial regulation. The President ought to be empowered to designate the place where vessels should perform quarantine—to enforce the performance—and to determine at what time of the year it should commence and end. It ought, he said, to commence at the present time.

Mr. Kittera understood that each independent State had a right to legislate on this subject for itself; and if they had no regulations on the subject it was because they had not felt the want of them. He believed that each State had understood its own concerns better than the General Government, and therefore the regulation might be safely left with them.

Mr. S. Smith denied that there was any authority in the State Governments to regulate quarantine. They could not command the officer of a fort to use force to prevent a vessel from entering their port. The authority over him was in the General Government.

Mr. Milledge spoke against the law. He said the State from which he came was in the habit of regulating quarantine, and that it would be attended with many inconveniences if the power was to be placed in the General Government. To the State which he represented, on account of its distance, it would be particularly objectionable.

The Committee rose without making any amendments in the bill, and the House took it up.

Mr. Giles said that self-preservation justified every State in taking means to prevent the introduction of diseases among its citizens. He thought the bill unnecessary.

Mr. W. Smith said the Constitution did not give to the State Governments the power of stopping vessels from coming into their ports.

Mr. Heister moved to strike out the first section. He said it appeared to him as if it would be taking the power of regulating quarantine from the State Governments, and placing it in the hands of the Collectors at different ports; and as he believed the Collectors were interested in proportion to the quantity of goods imported, the health of our citizens and the interest of the Collectors would be placed in opposition to each other. He hoped the first section would be struck out.

Mr. Kittera and Mr. Swanwick were in favor of striking out the first section.

The time of adjournment being arrived, the House adjourned without taking the question on Mr. Heister's motion.

Thursday, May 12.

The bill for preventing the sale of prizes in the ports of the United States was read a third time and passed.

The committee to whom was recommitted a bill from the Senate improving the act relative to the encouragement of Useful Arts, together with a report of the committee to whom the said bill was referred, made a report; which was ordered to lie upon the table.

A communication was received from the Treasury Department, enclosing a statement of the exports of the United States for the year 1795; which was ordered to be printed.

Mr. W. Smith reported a bill regulating grants of lands appropriated for military services, and for the society of United Brethren, for propagating the Gospel; one for satisfying the claims of the executors of the late Baron Steuben; and another for making further provision for the expenses attending the intercourse with foreign nations, and to continue in force an act providing for the expenses attending the intercourse between the United States and foreign nations. These three bills were twice read, and ordered to be committed to a Committee of the Whole; the two first on Saturday, the last on Monday.

Mr. Nicholas reported a bill for altering the compensation of the Accountant of the War Department, which was twice read, and ordered to be committed to a Committee of the Whole tomorrow.

Mr. Thatcher reported a bill in addition to the act establishing Post Offices and Post Roads within the United States; which was twice read, and referred to a Committee of the Whole on Monday.

Mr. Coit, from the Committee to whom was referred the petition of John Edgar, and others, of the North western Territory, praying to be permitted to introduce slaves into that Territory from other States, reported against the petitioners; but with respect to their claim for certain lands, they reported in their favor. The report was read and ordered to lie on the table.

ON QUARANTINE.

The House went into Committee on the bill relative to Quarantine; and the motion of Mr. Heister to strike out the first section being under consideration, viz:—

"*Be it enacted, &c.* That the President of the United States be, and is hereby, authorised to direct at what place or station in the vicinity of the respective ports of entry within the United States, and for what duration and particular periods of time, vessels arriving from foreign ports and places may be directed to perform quarantine."

Mr. Bourne hoped the motion would not be agreed to. He thought it a necessary regulation. No inconvenience, it was true, had occurred in the State he represented, but he believed they were liable to inconveniences from the want of such a law as this. By the aid of custom-house officers, who had concurred with the State, they had been able to effect every necessary regulation; but, if these officers had refused their aid, they could not have stopped vessels with infectious diseases from coming into port—it being of the nature of a commercial regulation, to which, by the Constitution, Congress alone were competent. Without the first clause, there would be a radical defect in the bill.

Mr. Swanwick said, if the section was struck out, the bill would have every desirable effect. All that was complained of, was, that the authority of any individual State could not compel vessels to perform quarantine; but if the President gave directions to the officers of the United States at every port to aid the State Governments in this respect, every effect would be obtained. The first section of the bill went only to direct the time during which quarantine should be performed, and at what particular place, which would certainly be best determined by the State Governments. Indeed, most of them having already fixed on places for the purpose, and erected suitable buildings for the sick, for purifying goods, &c., it would be attended with very great inconvenience if a different place was to be fixed upon by the United States. It was said, the right of regulating quarantine did not reside in the States Governments; he believed it did, and that the individual States had conceived so, was evident from the expense which some of them had been at in erecting buildings, &c., for the purpose. He particularly alluded to the provisions made for this purpose by the State of Pennsylvania on the Delaware.

Mr. Sitgreaves would ask his colleague [Mr. Swanwick] to point out the inconveniences which would arise from passing the law in its present state? It was true, the State of Pennsylvania had made some regulations on the subject of quarantine; but, without the aid of the United States, they could not carry them into effect. They may direct, by their Governor and Board of Health, quarantines to be performed, but they could not force any vessels to observe their directions, without the aid of the General Government. Some States had, on this subject, no institutions at all; and where it existed, it was reasonable to suppose that they would be properly respected by the President in the arrangements he should make under a law like the present. At any rate, no inconvenience need be apprehended from an exercise of concurrent jurisdictions. If a State should direct one term of quarantine to be performed, and the President another, the longest term which must comprise both, will be submitted to. But the strongest and best reason for a law, such as the one proposed, is, that it is matter of very serious doubt whether, upon this subject, the States had any authority at all, and whether all such power is not vested by the Constitution in the Congress, under their general authority to regulate commerce and navigation. He inclined to the last opinion, and believed, upon examination, it would appear to be well founded. On the whole, the provision contemplated might produce good effects, and could not be followed by any evil consequences; and, therefore, he should vote for it.

Mr. Milledge spoke in favor of striking out the first section, and of the power of regulating quarantine being in the State Governments. Savan-

nah, in Georgia, he said, was one thousand miles from the seat of Government, and from their situation with respect to the West Indies, they were very subject to the evil of vessels coming in from thence with diseases; and, if they were to wait until information could be given to the President of their wish to have quarantine performed, and an answer received, the greatest ravages might, in the mean time, take place from pestilential diseases. The State of Georgia had a long law on the subject, and had always been in the habit of regulating quarantine, without consulting the General Government.

Mr. Bourne spoke again in favor of the bill. It had been objected against the bill, that the State might order quarantine to be performed for one length of time, and the General Government another. That difficulty would be got over by observing the longest period.

Mr. Giles said, there appeared to him several inconveniences attending the bill. The gentleman last up had stated, that if a longer time was ordered for quarantine to be performed by either the State or General Government, it should be obeyed in preference to the shorter. He believed this would not prove satisfactory. But how did gentlemen propose to get over the difficulty of different places being appointed by the two Governments? If, said he, the States had already fixed upon times and places of performing quarantine, he thought it necessary for the General Government to interfere in altering them. He thought that both time and place should be fixed by the State; but if it were the business of the General Government, it was Legislative and not Executive business. It was said, some of the States had no regulations with respect to quarantine; but, if they had not, when they found a necessity for them, they would have them. It had been said, that every useful purpose would be answered by the last clause; why, then, retain the first, against which there are so many strong objections? He hoped it would be struck out.

Mr. Kittera asked if a State should think it necessary to change the place of performing quarantine, whether the President could always have notice of the change in time, so as to make his regulations accordingly? He believed not. This would be one of the inconveniences which would arise from the first clause. He thought the second would answer every desirable purpose.

Mr. S. Smith said, that gentlemen who opposed the present bill, insisted upon the authority to regulate quarantine being in the State Governments. The gentleman from Pennsylvania [Mr. Swanwick] said that each State had its buildings for the purpose. This was not a fact. Some of the States had no regulations on the subject. At Baltimore, they had built an hospital four miles from the port, but the State had no authority to stop vessels at it. He asked the gentleman from Georgia [Mr. Milledge] whether there was any power in that State which could stop a vessel of his from going into Savannah, though she had sickness on board? He denied that it had. She will sail into port in defiance of their State laws. It was a commercial regulation, and, therefore, the business of the General Government. Mr. S. said, he brought in this bill, that the regulations respecting quarantine might be authorized by the proper authority. It could not be supposed that the President would alter the places already fixed upon by the individual States, without such good reasons as would convince them of its necessity. To suppose the contrary, was an unworthy suspicion that the Executive would abuse his power. There were States which had no laws upon the subject. Maryland had a law which had been sanctioned by a law of the General Government, and had been renewed this session.

Mr. Williams observed, that the gentleman last up had said that regulations respecting quarantine were commercial regulations, and, therefore, vested in the General Government. The State of New York had never found any difficulty in causing vessels to stop at a certain place to perform quarantine. Philadelphia and New York had had occasion to make alterations with respect to the proper places of stopping; and they were certainly the best judges as to the propriety of those alterations. It appeared to him that the second clause would answer the purpose wanted. Not that he was by any means jealous of the power of the President; but he believed it would be best for the States to have the power of directing the time and place of performing quarantine, as they could more immediately carry their regulations into effect. The second clause directs that the officers of the General Government shall aid the State Governments, which is all that is necessary.

Mr. W. Lyman thought the individual States had the sole control over the regulations of quarantine. It was by no means a commercial regulation, but a regulation which respected the health of our fellow-citizens. In the town of Boston the small-pox was considered as a pestilential disease, and they certainly had a right to make their regulations accordingly. He knew the United States could prohibit the importation of goods, but he did not think it was in the power of the United States to prevent the landing of persons. He believed the bill was unnecessary, and that individual States had a right to make such regulations as were necessary for the preservation of the health of their citizens.

Mr. Hillhouse said, if gentlemen had been as near infectious disorders as he had been, they would have been convinced of the necessity of making some such regulations as were now proposed. He was not surprised that gentlemen who lived several hundred miles from the shore did not feel anxious about the matter. He thought it was an object which merited the attention of Congress. He knew there were local regulations in many of the States relative to this subject, which he did not wish to destroy. Gentlemen might as well say that the individual States had the power of prohibiting commerce as of regulating quarantine; because, if they had the power to stop a vessel for one month, they might stop it for twelve

months. This might interfere with regulations respecting our trade, and break our Treaties. At the same time, he allowed that the States were the best judges of time and place. Mr. H. proposed two amendments. One was, that the President should make regulations where individual States had not already done it; the second was, to make it the duty of officers of the United States to assist the State Governments to carry into effect their several laws, until Congress shall make regulations to the contrary.

Mr. Gallatin said, he did not agree in the least with the gentleman from Maryland, [Mr. S. Smith,] that the power of regulating quarantine was exclusively in the United States. He conceived the only clause in the Constitution which could at all countenance such an idea, was the article relative to commerce. But, he said, the regulation of quarantine had nothing to do with commerce. It was a regulation of internal police. It was to preserve the health of a certain place, by preventing the introduction of pestilential diseases, by preventing persons coming from countries where they were prevalent. Whether such persons came by land or by water, whether for commerce or for pleasure, was of no importance. They were all matters of police.

The individual States had thought themselves competent to prevent the introduction of slaves coming by sea, although that also might be called a commercial regulation, which they had no right to interfere with. And if a vessel belonging to the gentleman from Maryland was to come to the ports of Baltimore or Philadelphia with a cargo of negroes, he believed the State Government at either place would be equal to the preventing of him from landing and disposing of them, though he would say it was an article of commerce. The State Governments had also something to do with the internal regulations of their ports. That of Philadelphia was under the direction of Wardens and of State laws. He had no objection to the United States assisting the individual States in enforcing their quarantine regulations, but he had an objection to their asserting that they had the sole right of making regulations on that head, or of making health laws for the individual States. He knew that when the Legislatures of different States had legislated on the subject, they had thought it an important branch of their duty.

The words proposed to be introduced by the gentleman from Connecticut, "until Congress shall make regulations to the contrary," seemed to say that the health laws of the several States were to continue only during the pleasure of Congress; but, if the assistance of the United States was only necessary, the amendment of his colleague [Mr. Heister] would answer the purpose.

Mr. S. Smith said, the gentleman from Pennsylvania [Mr. Gallatin] differed in opinion from him with respect to the States having the power to stop vessels coming into their ports. It was true, that the laws of the States of Maryland and Pennsylvania prohibited the importation of slaves; but a vessel might bring in any quantity of negroes, provided, on landing, they were not sold. It had been said that the Governor of Pennsylvania had stopped vessels from entering this port, which were suspected of having diseases on board. That was, he said, before the fort was ceded to the Union. He had not the power now to do it. That such authority had been submitted to was true and proper, but he had no legal right to stop any vessel.

The individual States may make health laws, but they want the power to carry them into execution; they are good for nothing without such power. That the State of Pennsylvania had passed a health law, and carried it into effect, was no proof against his assertion. The law which he had now brought forward was meant to give full effect to the State laws. He had no objection to the amendment of the gentleman from Connecticut.

Mr. W. Lyman observed, that the gentleman from Maryland [Mr. Smith] did not make the proper distinction. Quarantine was not a commercial regulation, it was a regulation for the preservation of health. If commerce was incidentally affected, it ought so to be, when the object was the preservation of health and life. The United States, it was true, could prevent the importation of any goods, whether infected or not, but it did not thence follow that they could permit the landing of infectious goods contrary to the laws of any State. The several States possessed the sole power over this subject. They were the best judges of the due exercise of it. The right to preserve health and life was inalienable. The bill was not only unnecessary and improper, but it was an injudicious interference with the internal police of the States; neither would the amendment which had been offered by the gentleman from Connecticut [Mr. Hillhouse] ameliorate the bill; it would still be interfering with State policy. If that gentleman had any panics about infectious diseases, he might find relief in the laws of that State. If the laws there were not competent thereto at present, the gentleman might remonstrate to their Legislature, and no doubt could exist but he would be suitably listened to. As to the argument that States neglected to make regulations, it proved that they supposed them superfluous. Whilst they forbear to do any thing, it was proof that nothing ought to be done. The States were the best judges, and had the sole power to determine.

Mr. Kittera said, his objections to the bill would be removed by the amendments of the gentleman from Connecticut. The only point in which they seemed to differ was, whether the President of the United States, or the Government of each individual State, was best able to make the wisest regulations? If the first section passed, the President would most probably adopt the regulations of the different States; and, by the second, the officers of the United States are commanded to aid in the execution of the State laws.

Mr. Heath was for striking out the first clause, and was against the bill altogether.

Mr. Hillhouse said, the first clause might be struck out. It was only necessary where no regulation was made. It was said, that a regulation of quarantine had nothing to do with trade; but if a State, in order to prevent the introduction of certain goods from a certain country, were to order a quarantine of twelve months to be performed, would it not be destructive of commerce? It certainly would; and if a State had the power of stopping a vessel one month, she can extend it to twelve, if she pleases.

Mr. Giles said, he did not know which States had legislated on this subject, and which had not. He did not know that any of the States had not legislated upon it; but if they had not done it, they could do it. The gentleman from Maryland [Mr. Smith] had said, to regulate quarantine was a commercial regulation. They were legislating, not upon commerce, but upon preventing the introduction of pestilential disorders. Were these objects of commerce? If a State stops a ship, she does not stop it on account of the goods it contains, but because it contains an infectious disorder, which, if it were considered as an article of commerce, certainly ought, at least, to be a contraband article. He did not believe there was any necessity for interference; but, if there was any want of ability to enforce obedience to the laws of the State, he had no objection to furnish it, and that would be done by the proposition of the gentleman from Pennsylvania [Mr. Heister.]

Mr. Swanwick said, if it were to be admitted that the General Government was to take upon it the regulation of health, he would ask whether the first section of the present bill contained any regulation of this sort? The State of Pennsylvania, he said, had been at great expense in erecting necessary buildings for the reception of persons and goods infected with diseases. It was to be lamented that gentlemen had not before found out that this was the business of the General Government, for it had been a very expensive undertaking to the State of Pennsylvania to provide the necessary buildings for carrying their quarantine and health laws into execution, and they would gladly have turned it over to the United States. He thought the utility of this business remaining in the State Governments was evident. Commercial regulations were placed in the General Government to prevent one State having advantages over another with respect to commerce; but with respect to health, every State was certainly the best judge, and the claim was imperious; and, if it were under the power of the General Government, and Government was to neglect to take the necessary measures, the State would itself take them. During the late sickness at New York it was thought necessary to appoint special committees to aid the State Government in this city.

The gentleman from Maryland had asked if a State Government could stop a vessel from entering any of its ports? If not, they had been infringing on the laws for several years. The Government of New York and Pennsylvania were in the constant habit of preventing ships from entering their ports, until they had been examined with respect to their healthiness.

Gentlemen had talked about their abode being near or distant from sea-ports. He could see no use in such observations. It was certainly of first consequence to guard the health of their citizens by every possible means. He said, at this port, they had laws respecting wardens; there was also in the different States inspection laws, which in some degree affected commerce, but were not the kind of regulations prohibited by the Constitution; these did not interfere with the rights of Congress to regulate commerce.

Gentlemen had brought another subject into view, which he could not see any good reason for doing; they had charged members opposed to this law with being unreasonably jealous of the power of the Executive. Surely, to prevent the landing of diseased persons or infected goods, could not have any relation to a jealousy of that power. This subject was too often introduced, when, he believed, there was no real occasion for it; though he hoped they never should be wanting in entertaining any justifiable jealousy of the extension of any of the powers of Government, if these should be conceived to have been improperly exercised, but he knew of nothing of this kind at present.

Mr. W. Smith said, if this question was confined to a mere question of acquiescence in the State laws, there might be a propriety in the Federal Government overlooking those laws; but it was essentially connected with the powers of Congress on an important subject. He had been surprised to hear gentlemen assert, that this subject was not of a commercial nature. The gentleman from Virginia [Mr. Giles] had said, diseases were not articles of importation, or if they were, they were contraband; but the gentleman must know that importations of all kinds were under the regulation of Congress, and contrabands as much as any other. Consider how epidemical diseases, imported, affect the United States at large. They do not merely affect the city where first imported, but they obstruct the commerce of all others; they not only embarrassed the commerce, but injured the revenues of the United States. Another point of view in which it had an effect: The laws regulating the collection of the impost, were counteracted and obstructed by the laws regulating quarantine; and would any gentleman say, that a State Legislature had the power to contravene the act of the Federal Government, to obstruct all the laws by which it collects its revenues? It had been said, that this subject could be better considered in each individual State than we could possibly settle it. Who are we? (exclaimed Mr. S.) Are we a foreign Government? Gentlemen had already forgotten their arguments on former occasions, when speaking of the power of the House; they could then do anything and everything, and the people looked up to them alone for protection. If the subject was vested in the General Government, it was their business to protect the health of their fellow-citizens, as much as their property; because,

if the performance of quarantine was neglected, such neglect naturally tended to affect the lives as well as the revenue and commerce of the citizens throughout the United States. He, therefore, thought it a subject perfectly within the Federal jurisdiction; and as there were States which had no law upon the subject, and as their Legislatures had now generally risen, the passing of this law would prevent the necessity of resorting to revolutionary committees of their citizens. Their refusing to legislate upon this occasion would be inviting the people to do the business by committees. The gentleman from Pennsylvania [Mr. Swanwick] had referred to the laws of that State. He thought they had some very exceptionable laws, in particular their poll-tax on persons coming by water into their State. He thought it would be deviating from the spirit of the Constitution.

Mr. Page said, he should vote for striking out the first section. He should even wish to vote against the bill itself, as it was an attempt to extend the power of the Executive unnecessarily. We might as well undertake to form a system of police for every city in the Union. The State Legislatures could not be interested in opposing the landing of goods any more than Congress, and therefore would not be disposed to do it, except when their health would be endangered by it; but if he were to put in competition the interest of the revenue, and the right of the people to preserve their health, which was one of the first rights of Nature, he should certainly adhere to the latter at the expense of the former. The master of the vessel who refused to stop at the port of Baltimore, agreeably to the orders of the officers of the State Government, might have been prosecuted at common law. If gentlemen had no other object in view besides the preservation of the health of their citizens, they ought to be satisfied with the second clause, which went to the directing of the officers of the United States to aid the State Governments in obliging vessels to perform the necessary quarantine. The first clause had only a tendency to extend the prerogative of the President.

Mr. Bourne said, gentlemen supposed it to be the duty of the President to co-operate with the individual State Governments with respect to the performance of quarantine; but he believed the States would think it an improper interference, except he were authorized by law. It was a duty of the President, expressly enjoined by the Constitution, to execute the laws of the Union, but it was not to execute the laws of the State. The gentleman last up had observed, that self-preservation required that every State should attend to its own health; but it must be allowed without some check in the United States that the commerce and revenues of the United States were liable to be materially affected by the regulations relative to quarantines; for, if the State Governments were once allowed to have the power of stopping vessels to perform quarantine, they might prohibit the commerce of any country at pleasure; the vessels from any particular country might be stopped for so long a time, or totally prohibited, so as to ruin the commerce with such country, on pretence of the vessels containing diseased cattle, or other infection. It would be said, that this would be an abuse of the power which could not be expected; but, if the States had the power they could exercise it as they pleased. If they had the power of regulating quarantine, they could not carry it into effect, without the aid of the United States, who alone possess the power of regulating navigation and commerce. And he believed no damages could be recovered (as the gentleman from Virginia supposed) against any master of a vessel who had refused to obey the laws of any State with respect to the performance of quarantine, unless the authority of the United States should interpose, by making some legal provision for their being carried into effect, so far as they may relate to commerce and navigation.

Mr. Holland said, that in an inquiry into the subject, whether the General Government or State Legislatures were the best judges of the measures necessary to be taken for the preservation of the health of the several States, it would occur, that the extent of country being so great, it would be difficult to say what regulation would be best suited to all the ports of the Union; for, what would be salutary and proper for one, might be improper for another. From this circumstance, it would seem, that each State should have the power to pass its own laws on this head; and if so, the first clause should be struck out. To preserve one's health was an article of self-defence. Every individual should take his own measures to preserve his own health, and each State should judge of the best way of doing it for its own district. He had no objection to the calling in of the aid of the General Government to the execution of the State law, but not to regulate the time and place of performing quarantine. This was contemplated in the second resolution, and the first was therefore unnecessary. The Constitution being silent with respect to health laws, he supposed the passing of them was left to the States themselves. Those who yet have no laws on this subject, will make them when necessary. The question, in his opinion, was by no means a commercial one. The gentleman from Maryland being a commercial man, may be excused from considering it as one, as he readily converts most things into a commercial view.

Mr. Brent was in favor of striking out the first clause of the bill under consideration, not from any jealousy of the Executive, but because the Constitution did not authorize such an interference. If the doctrines of the gentlemen from Maryland and South Carolina were true, they would swallow up all the authority of the State Governments. They had suggested, that if the State Legislatures had the power, they might use it so as to injure the General Government. He would ask, whether this would prove that they did not possess the power? If they possessed the power, and exercised it so as to injure the interests of the United States, the Constitution of the Union, he believed, would point out a remedy.

The gentleman from South Carolina had said, that if the State Governments were possessed of this power, they might impair the revenue of the United States, and that, therefore, being connected with commerce, the regulating of quarantine must be in the power of the General Government. He would ask, whether the different States had not the power of regulating the inoculation for the small-pox? Yet this might be so ordered as to affect the trade and commerce of that country, and yet no one would say they had not the power of doing this. If the construction now contended for was carried to its extent, there would be no bounds to it. The States had always been considered as possessing the power of regulating quarantine. Such was the opinion at the time of adopting the Constitution, and, under this impression, the States had passed laws on the subject; nor did he believe, that necessity, expediency, or policy, required that the power should be changed. If this was the case, the question could only be brought forward for the purpose of establishing a Constitutional principle, which he should certainly oppose.

The question, for striking out the first section, was put and carried—46 to 23; and the bill was ordered to be engrossed for a third reading.

INTERNAL REVENUE.

Mr. W. Smith moved that the House should again resolve itself into a Committee of the Whole on the report of the Committee of Ways and Means, on the subject of revenue, which, after a motion being made and negatived for discharging the Committee of the Whole from a further consideration of the report, the House formed itself into a Committee of the Whole accordingly, and after some little debate, five of the remaining resolutions were agreed to, and the sixth, relative to allowing collectors a certain mileage for traveling, was disagreed to. The following are the resolutions:

"*Resolved*, That the officers of the revenue ought to be authorized by law to require of the city distillers, and the refiners of sugar, the verification on oath, of their books, once a quarter, and that it ought to be made the constant duty of such distillers and refiners, to exhibit their books, if required.

"*Resolved*, That a time ought to be limited, within which the exporter of spirits distilled within the United States shall be entitled to a drawback; *and that the drawback ought to be granted, unless where the exportation is from the district or State where the same are distilled, or the next adjoining district or State.*

"*Resolved*, That it would be expedient to modify the act imposing duties on licenses to retailers of liquors, so as the said retailers should pay in proportion to the amount of sales, so far as to divide them into four classes.

"*Resolved*, That it would be expedient, after demand made of any tax (except on goods imported) and a neglect or refusal to pay, to authorize a collection thereof by distress.

"*Resolved*, That provision ought to be made for allowing drawback upon spirits exported (via Mississippi) in vessels of less than thirty tons.

"*Resolved*, That it would be expedient, after demand made of any such tax, and a neglect or refusal to pay, to allow the officer employed to collect the same, a certain mileage for his travel out to collect such tax, over and above the commission which he may be entitled to by law." *This resolution was disagreed to.*

The House then took up the resolutions, when, on motion of Mr. Gallatin, the latter part of the second resolution (printed in italic) was agreed to be struck out—43 to 23; and they were referred to the Committee of Ways and Means to report a bill or bills accordingly.

Friday, May 13.

Mr. Livingston presented a memorial from Alexander Macomb and William Edgar, stating that they purchased, in the year 1787, 89,000 acres of land from the United States, for 80,000 dollars; that they paid the first instalment of 29,669 dollars, but that, afterwards, being unfortunate in a voyage to China, they were unable to make good the succeeding instalments; they now, therefore, pray, that their original purchase may be completed, or that they may be allowed such a proportion of land as they are entitled to from the money they have paid. Referred to the Committee of Claims.

The bill relative to quarantine was read a third time, and passed.

The bill for erecting a light-house on Cape Cod was received from the Senate with one amendment; which was agreed to.

On motion of Mr. Nicholas, the Committee of the Whole, to whom was referred the bill for taking off the drawback on snuff imported, was discharged, and the bill was recommitted to a select committee.

FORTIFICATIONS.

On motion of Mr. W. Lyman the House resolved itself into a Committee of the Whole on the report of the committee appointed to take into consideration the state of the fortifications of our harbors, the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores, and to report what further measures are necessary respecting the same. The report was in the following words:

"That it appears from the report of the Secretary of War, referred to the Committee, that measures are now pursuing by the Executive for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; but that the result thereof is not ascertained; the progress, however, is such as to warrant a belief, that the complete accomplishment of those objects will soon be effected. It is, therefore, the opinion of the Committee, that no further Legislative provision relative thereto is necessary at this time.

"From the view of the present state of the fortifications of our harbors, exhibited in the report of the Secretary of War, the Committee are induced to believe, that some further expenditures will be expedient to perfect and secure the works already constructed; otherwise, in some instances, they might be useless, and in many, would probably be exposed to very sudden decay and destruction; nevertheless, it does not appear to

the Committee to be necessary to extend the provisions for this object any further, at the present time, as by a Letter and statement from the Secretary to the Committee, there appears to be a very considerable sum, viz: $23,877 56) of the former appropriations now unexpended.

"These conclusions of the Committee are formed without reference to the fortifications in the harbor of New York. At that place, the works have been laid out upon a plan very extensive, constructed with durable materials, and principally under the direction of the Government, and at the expense of that State. Although it does not appear to have been contemplated by the United States to fortify any harbor so extensively, and in a manner so expensive, it may, notwithstanding, be deserving their attention to consider how far the undertaking is entitled to their encouragement and support. The Committee, therefore, beg leave to submit the following resolution:

"*Resolved*, That the sum of —— dollars be appropriated and paid out of any moneys in the Treasury of the United States, not otherwise appropriated, for the purpose of completing and securing the fortifications in the harbor of New York."

Mr. W. Lyman, the chairman of the select committee, said it was unnecessary to say anything of that part of the report which related to procuring sites for arsenals, and furnishing our magazines with military stores, as the House possessed the information on which the committee founded their opinion. From the report of the Secretary of War, they found that all the fortifications which had been deemed necessary by the Executive, were nearly completed, or that there was a sum already appropriated sufficient to complete them, except those in the harbor of New York, of which the Secretary of War had an imperfect knowledge, owing to the works at that place having been constructed mostly at the expense, and under the direction of the Government of that State. The committee finding, however, that the works at New York required attention, in order to prevent them from going to decay, they thought it proper some assistance should be afforded, and therefore determined upon the resolution which they had reported, and hoped it would meet with the concurrence of the House.

Mr. W. Smith did not know that they were in a situation to attend to the fortifications at present; if they were, he thought the harbor of Charleston stood in as much need of attention as any other. He should, therefore, move, that Charleston should be added to New York, in the resolution.

Mr. Williams said, that it appeared from the report of the Secretary of War, that 18,000 dollars had already been appropriated to Charleston; he trusted, therefore, there could be no immediate necessity for a further sum for that port. The city of New York was in such a situation two years ago, when a war was expected, the Legislature of that State, finding the United States were not likely to undertake to fortify their port, themselves voted 200,000 dollars for that purpose, and for the defence of the frontiers of that State. Besides this sum, the citizens of New York had given very considerable assistance towards the effecting the plan. All the United States had afforded to them for these works, were 17,522 dollars. When gentlemen remembered that in the city of New York was paid the last year four-fifteenths of the whole revenue of the United States, this must be acknowledged to be a mere trifle towards putting that port into a situation of making some defence against an enemy.

Mr. W. read the estimate of the Engineer employed upon the fortifications at New York, amounting to the sum of 101,968 dollars, which would be yet required to complete the whole of the works upon the three islands. He understood from the Secretary of War, who had been with the Committee, that after all the demands were satisfied, there would be about 12,500 dollars remaining. This sum, Mr. W. said, he believed would put their works in such a state as at least would prevent them from being injured by the ensuing winter. The Legislature of the State had risen without making any appropriation, but left the business to the United States. This being the case, he hoped the Committee would consent to vote the sum he had mentioned for the purpose of at least preventing the works from going to decay.

Mr. S. Smith said, he observed that nearly 26,000 dollars had been expended at Philadelphia; 17,520 dollars at New York; 18,000 dollars at Charleston. The gentlemen from Charleston and New York wanted further advances, and he supposed others would be wanting the same. He should move to have Baltimore noticed, and he doubted not it would pass around to all the seaports. He had, however, no objection to aid the State of New York, and would agree that they should apply 100,000 dollars of the debt they owed to the General Government for this purpose.

Mr. Dayton (the Speaker) said, he would not agree even to the proposition of the gentleman from Maryland. He could not agree to any sum being voted for the fortifications at New York, until a cession was made of the property to the Government of the United States.

Mr. Gilbert said, if gentlemen meant to show that there was a *bona fide* debt due from the State of New York to the General Government, he would meet them upon that ground; but he was sorry it was now brought forward. New York had herself done a great deal towards fortifying her harbor; she only expected from the United States what she was entitled to in common with the other States. He hoped, therefore, the resolution of the Committee would be agreed to.

A motion was made for the Committee to rise, in order to postpone the business.

Mr. Livingston said, he should be against the Committee's rising, and he could not help being surprised at the motion, and the reason assigned for it. They were assembled there, he said, to legislate for the whole United States; he felt himself not only a Representative of New York, but of the Continent in general. He looked to the interest of the whole. He hoped, therefore,

the man who advocated the cause of a particular port would not be charged with partiality.

The question before the Committee was, the propriety of voting a sum of money for the defence of a very material port in the Union. Gentlemen who recollect the situation of the city of New York in the late war, will know the importance of having that port well defended. What prolonged the late war so much as the enemy being in possession of that port? What would prolong another war, if it were unfortunately to take place, so much as the possession of that port? Is it not, then, said he, of importance to have it well defended? Certainly. It is improbable that it will ever be attacked by land forces alone, the most easy method of attacking it is by a fleet; but when once possessed, it becomes difficult to dislodge an enemy from it.

He did not agree with his colleagues that the United States should only vote a sum which should be sufficient to preserve the works from decay; he thought they ought to vote a sum to complete them. It was a duty which the United States owe to themselves, not to the State of New York, to fortify that port against the attack of an enemy. He was sorry to hear brought forward the subject of the debt owing from New York to the United States. This was an account between the State of New York and the United States; but the money wanted to finish the works in question, was not for New York only, but for the United States at large, as it was their interest to defend that city from the attack of an enemy.

Gentlemen believe that, all our foreign arrangements being settled, there is no occasion for paying attention at present to fortifying of harbors. He would observe, that our relation to foreign nations was of a very uncertain nature, and that nothing would show our prudence more than by attending to the security of our harbors in this time of peace; for, if the business was postponed, and any foreign Power should disregard the sacredness of a Treaty, New York might be taken possession of without resistance.

Since the transactions of New York had been called in question, he believed they might speak of them with honor. What State, besides it, had given $200,000, and almost the labor of the whole city, towards completing the fortifications of their harbor? This he thought no trifling exertion; and though it may be said it was for their own defence, it was likewise for the defence of the United States.

With respect to the wants of any other port, they had no estimates at present brought forward. An estimate was before the Committee from New York, and, therefore, he hoped it would be agreed to. When estimates should be brought forward for other ports, he would vote for them, if it were judged proper or necessary to fortify such ports.

Mr. Dayton (the Speaker) could not forbear to express his opinion that the importance of the fortification of the three islands, viz: Governor's, Ellis's, and Bedloe's Islands, had been very much exaggerated by the gentlemen from New York. He really believed it to be a loss of labor and expense to fortify them with a view to defend the city against the approach and attacks of an enemy's fleet in case of war. They who should rely upon that defence, would fatally deceive themselves, for nothing was to him more certain than that with a leading breeze and favorable tide, ships-of-war would pass those islands however well fortified, supplied, and garrisoned, and would laugh at their impotent efforts to sink or even check them. He was ready to admit that they would be useful in aiding the city to protect itself against contagious diseases or riots frequently produced by the crews of armed vessels lying too near the town. In enforcing regulations for performing quarantine or embargoes, or for the anchorage of vessels at convenient distances, they would undoubtedly be advantageously instrumental, but when gentlemen spoke of them as affording complete defensive protection to the city, and drew from thence an argument in favor of a further expenditure of more than one hundred thousand dollars, he conceived it his duty to state to the Committee his determination to oppose such a grant, or rather waste of money, and his reasons.

Mr. D. was of opinion that if ever New York was to be defended by land batteries against a fleet, it must be done at the Narrows, and at vast expense by fortifications on Staten and Long Islands, and upon an artificial island to be made between the two, which, although very possible, would be a very difficult and costly work. He also declared that even if it were practicable to defend the city effectually by fortifying the three islands, he nevertheless would never vote one shilling more to be applied to that purpose until a cession of jurisdiction was made to the United States as had been done by New Jersey in one instance, and by other States in frequent instances.

Mr. W. Lyman said, he had had information from men on the subject who were as well acquainted with the nature of fortifications as the gentleman from New Jersey. It was their opinion that the harbor of New York could be fortified by the means now taken. The Committee, however, did not go into the subject. They considered only the sums expended, the sums necessary to put the works into a safe state, so as not to be injured by the weather. They were convinced of the importance of the place, and that it was a vulnerable part of the Union; nor did they conceive that because the citizens of New York lived in the most vulnerable place in the Union, they were to defend themselves. It appeared to them that New York had not received its full proportion of the appropriations which had been made for the fortification of the harbors of the United States.

It was said, no assistance ought to be given to these works because a cession was not made of them to the General Government. Such cessions, he said, had been made but in few instances, none except Delaware.

In the last session of Congress, it was said that a cession was not necessary. It was said purchase was sufficient, and they had accepted of a qualified cession.

He hoped those gentlemen who did not belong to New York would see the justice of this claim and support it. With respect to the debts owing by New York to the Union, when the question should come before them, (which it certainly was not now) he should give his opinion upon it.

Mr. Swanwick was of opinion with the gentleman from New York [Mr. Livingston] that it was their duty to legislate for the whole; but, it was very evident, he thought, from the conduct of that gentleman himself, that they could not altogether divest themselves of the feelings of locality. Neither did he think it necessary that they should do so. It was perhaps an advantage to the whole, that every man had a propensity to do that which would best correspond with the interests of his constituents; for, by this means, the whole Union would have a fair chance of being equally served, since it was equally represented.

Mr. S. said, he was generally in favor of fortifying our harbors; because, whilst we discard all ideas of fleets, we ought to attend to our internal defence, without which, we should be too much exposed to the attacks of an enemy. But he must confess, he joined in opinion with those who wished to extend them on a large and competent scale. He was told Pennsylvania required some additions to her works. She had made a grant of Mud Island Fort to the Union, not doubting but its proper preservation would warmly engage the consideration of Government.

He would call to the recollection of the gentleman from New York [Mr. Livingston] what he had said on the subject of piers. He was against the Delaware being partially attended to. When I came forward with respect to piers, said Mr. S., it was because they were wanted. That gentleman now came forward to ask for attention to the fortifications of New York, because they were wanted. One of the greatest advantages which the city of New York had over Philadelphia, was the facility with which its harbor could be entered at all seasons; but the danger to which it was exposed in time of war, was a balance against the advantages it had in time of peace.

Mr. S. said, as he trusted the gentleman would not oppose the erection of piers in the Delaware when necessary, he would not oppose the required assistance to the fortifications at New York. He thought the House could not be employed better than in keeping up such means of defence as we had in our power.

Mr. Livingston said, he did not choose to dispute the military knowledge of the gentleman from New Jersey [Mr. Dayton] but he had some confidence in the knowledge of the President of the United States with respect to fortifications. It could not be with a reference to the enforcing of a performance of quarantine, which a single gun might effect, that he had approved of the plan of the fortifications which had been pursued for the defence of New York. The Legislature of New York, with the best advice they could procure on the subject, had expended $200,000, the Legislature of the United States had granted $17-522, towards their plan, and it had been approved by the President; yet the gentleman from New Jersey seemed to speak as if he were the sole judge of what was the best defence for New York. He himself was no engineer; but he had conversed with engineers on the subject, and had been told that the plan was a good one.

One word as to the cession. It was said New York had not made any cession of these fortifications to the Union, and, therefore, they were not bound to give any assistance towards their completion. In what situation, he asked, would the State of New York have been, had they made this cession? They would have made a cession to the United States of the grounds on which the fortifications stand, and then the United States would have refused to appropriate the moneys necessary to complete them. So they must have sat with their hands folded, without assistance. He thought the State of New York had done wisely, at least to keep possession of the property in their own hands. When the United States were disposed to complete the works, a cession, he doubted not, would willingly be made, but not till then.

His friend from Pennsylvania [Mr. Swanwick] had recurred to his observations with respect to the erection of piers in the Delaware. He then and now thought them a local advantage to Philadelphia, which ought to be done at their own expense, as much so as docks, or any other convenience for shipping; but what he requested was a different thing. The people of New York, at the time of forming the new Constitution, had been much opposed to adopting it on account of some principles ingrafted into it about which they had fearful apprehensions. Every consideration was urged to induce them to accept of it. Alluring prospects were held out to them to accept of great advantages that must result in consequence of the adoption of it, and, since they had accepted it, he called upon the other States to afford them that protection which they had a right to expect.

The gentleman from Pennsylvania had told him that, in expectation of his voting for the piers wanted in the Delaware, he should support the present motion; he wished for this, but he could not agree to accept it on such conditions. He did not think the erection of piers in the Delaware, within the purview of the United States; but, what he asked for was, assistance in the completion of works to defend one of the first cities in the Union.

Mr. Williams trusted, when gentlemen considered the great expense which had attended the fortification of the harbor of New York, they would at least consent to grant such a sum to their support, as would at least preserve them from decay.

The law had authorized the President to erect such fortifications in the different ports of the Union as he should judge proper. The whole sum of money which had been appropriated for the purpose was expended, within $23,877; but eight or ten thousand of these are yet due, so that there remain only from thirteen to fifteen thousand dollars undisposed of. The Committee had made an estimate with respect to the fortifications at New

York which would nearly come to that sum, by which the works would be preserved from decay. And surely, said Mr. W., the United States would not wish that all the money which had been expended and the immense labor which the inhabitants of that city had voluntarily contributed should be lost, for the want of a little timely assistance. He thought the State of New York had a Constitutional demand upon the Union for assistance. [Here Mr. W. cited that part of the Constitution which says Congress shall provide for the common defence and general welfare, &c.] He would ask, what had been done for New York in return for the vast revenues which were collected from it? Very little, indeed. Notwithstanding what had been said by the gentleman from New Jersey, he believed the fortifications, when completed, would be a good defence for New York. He was formerly of the same opinion with that gentleman; but, from the information he had received on the subject, and, from a view of the works, he believed the city would be well fortified, when they were finished. Nothing but a large fleet could affect them; and in that case, he believed the Narrows was the only place at which the city could be successfully defended.

It was not a trifling thing, he conceived, to the United States, to have the city of New York well secured; for if they recurred to the public accounts, it would be found, that since the commencement of the Government in 1788, in that city had been received one fourth of the revenue of the whole United States. Was this city, then, not worthy of some attention? It certainly was; for it must be accounted one of the first cities in the Union, and in proportion to its prosperity would the revenue of the Union increase. He hoped, therefore, there would be no objection to an appropriation of the sum he had mentioned, in order to preserve the works from destruction; by doing this, it would not only add to the securing the revenue of the United States, but also operate as an encouragement to the extension of that city; policy as well as interest justified the appropriation.

Mr. S. Smith did not expect this subject would have occupied so much time as had already been consumed in it. He agreed that they should consider themselves as members of the whole Union; but that members were concerned chiefly for the ports in their own States, was pretty evident from the present question. Three or four members had already been up to speak for improvements in the ports they represent, and he doubted not they should have others making similar applications. He did not mean to reflect upon gentlemen for thus acting. He felt the same impulse.

The Secretary of War reported that Governor's Island was complete; but, when he turned to Baltimore, he found nothing done. Though he had a great respect for the Union, yet he must respect the situation of his constituents where every thing was incomplete; if he did not, he should be unworthy of their confidence.

The gentleman from New York, [Mr. Livingston] seemed indisposed to set off a part of the debt due from that State to the Union, by expending it on the fortifications. He ought not to take offence at this. If the State of Maryland had been indebted to the Union $150,000, he should have been glad to have set off a part of it in a similar way. He would, however, much rather all the States would pay their debts. They should then have four millions in hand which they had not. The gentleman had spoken of the sacrifices made by the State of New York in coming into the Union. The blood and treasure of every State had been liberally expended in obtaining their independence, and it was for the common interest that they should unite in preserving and completing it. The State of New York was in a rich and flourishing state; she had no taxes; and yet, when he mentioned the paying of a just debt the gentleman took offence.

Mr. S. said, he agreed perfectly with the gentleman from New Jersey, [Mr. Dayton] that the defence would be futile; so much so, that he would venture to say that any fleet which would ever come to attack that port, would have no dread of these fortifications. His objection was to their taking up the thing at all at this late part of the session; but to take it up early in the next session.

Mr. Williams said, there was a mistake in the report of the Secretary of War respecting Governor's Island. It was not half finished. It would take $40,960, to complete it. He had taken pains to get the mistake explained, by procuring the estimate from the Commissioners, and Engineer employed on the fortification, which he had read.

Mr. Havens said, that when the subject of fortifying the port and harbor of New York was under the consideration of the Legislature of that State, it was supposed that the harbor could not be put in a complete state of defence against a large maritime force unless fortifications were to be erected at the Narrows, according to the plan which had been suggested by the gentleman from New Jersey, [Mr. Dayton.] and which could not be effected, unless an artificial island were to be made on a shoal on one side of the channel, on which a large fort and battery must be erected, and another fort and battery opposite to it, on the shore of Staten Island; but it was estimated that such a mode of defence could not be completed at a less expense than two millions and a half, or perhaps three millions of dollars; it was therefore out of the question, so far as it respected the resources of the State. But notwithstanding this, the Legislature conceived that it would be a patriotic exertion on their part, so far as respected the United States, as well as necessary on the principle of self-defence, for them to apply the resources of the State to the erection of fortifications in the vicinity of the city, upon such a plan as might enable the citizens to defend themselves against any sudden attacks of any considerable force by sea. And this measure appeared the more indispensably necessary, when it was found that the Government of the United States had granted so small a sum for the defence of the port, as clearly proved that they were either unable or unwilling

to contribute the sums that were necessary to put the port and harbor in a situation that might be called a state of defence. The plan which had been adopted of erecting fortifications on each of the three islands in the harbor, he believed, was the best that could have been devised, under all the existing circumstances; he therefore differed in opinion with the gentleman from New Jersey, [Mr. Dayton,] with respect to the advantage that must result from completing these fortifications, and conceived that the gentleman had expressed himself in too strong terms, when he had said that these fortifications could be of little use except to compel vessels to ride quarantine. He said that he had viewed these fortifications himself, and had conversed with engineers and persons of military skill on the subject, and believed that when they were completed they would be equal to the defence of the city against a considerable force by sea, and was inclined to think that a force of four or five ships-of-the-line would not venture to attack the city, when they must necessarily pass and repass or lie before fortifications so constructed as to fire red-hot shot in a variety of directions, from cannon placed on a new kind of carriages, which elevated them above the parapet.

With respect to what had been said by some gentlemen, that a complete cession of the jurisdiction of the grounds or islands on which the fortifications have been erected ought first to be made to the United States, before they expend any money to complete them, he should only answer as his colleague [Mr. Livingston] had already done, that it was not at all probable, nor could it reasonably be expected, that the Legislature of the State of New York would make a cession of the jurisdiction of those places to the United States, unless they could receive some certain assurance that the United States would afterwards take effectual measures to complete the fortifications in such a manner as to make it appear probable that they would prove an effectual protection to the city of New York against any sudden attack by sea.

Some gentlemen had said, that the sums which had been expended by the State in erecting those fortifications ought to be set off against the debt which was said to be due from the State to the United States; to this he should only reply, that those gentlemen had, on a former occasion, been volunteers in undertaking to pay the debts of the State of New York, when they assumed the debts of the several States. The State of New York had never requested them to undertake to pay the debts of the State; they had the means in their power of discharging those debts themselves, and would probably have done it, had not the United States interfered and voluntarily taken this burden upon themselves. The greater part of this debt said to be due to the United States had been contracted in that way, and gentlemen should recollect when they said things which implied that the conduct of the State was censurable because they had not yet manifested a disposition to pay this debt, that they had, on a former occasion, been volunteers in bringing the United States into this predicament. It had been acknowledged, in the course of this debate, that when public moneys were intended to be distributed for this or similar purposes, it was a thing that was always to be expected that local prejudices would prevail, and that gentlemen would naturally wish that a large portion of the public moneys should be expended in defending that particular port or part of the Union from which he might happen to come, and that this was therefore a thing that was to be expected from the members from the State of New York; but, if it was acknowledged that local prejudices of this kind would have an influence in the representation of the United States, there was equal reason to presume that similar prejudices would prevail in the representation of the State of New York, and that therefore it could not reasonably be expected that the Legislature of that State could be easily induced to expend further sums of money in completing these fortifications; and he believed he could say, with truth, that the members who came from parts of the State remote from the city of New York, had been with difficulty prevailed upon to vote in favor of expending the sums of money that had already been laid out on these fortifications, and therefore it could not be presumed that they would vote for the expenditure of further sums for that purpose. He believed, therefore, that the United States had now a choice before them, either to agree to the report of the committee and expend the sum of money stated by them as necessary to preserve these fortifications from decaying, or lose all the advantage which must result to the United States from the large sums of money which had been already expended by the State of New York in erecting them. The sum proposed was certainly not a large one, and he hoped that the other parts of the United States would consider the defence of the city of New York of so much importance, as to induce them to expend the moneys which had been reported by the committee as necessary for that purpose.

Mr. Henderson moved that the Committee might rise. They had not time to consider the subject at present, so as to do what was necessary in every part of the Union; and as there appeared to be little danger likely to arise from a postponement of the business, he hoped it would be postponed.

The motion for the Committee to rise was put and carried.

Mr. Kitchell moved that the Committee be discharged from a further consideration of the report.

Mr. Livingston hoped the yeas and nays would be taken upon that question. It was extraordinary, he said, that when a port was lying in the defenceless state in which New York lay, a grant of money should be refused, because there were other ports in the Union which wanted also, but from which no estimates had been received.

Mr. Hillhouse said he had no objection to the yeas and nays being taken. The subject should have been brought forward more early in the ses-

sion, and then it might have been attended to. He was willing to give his aid in protecting the city of New York. He felt interested in it; but he saw no necessity for plunging into the business at once. He should vote for discharging the Committee. There were yet seventeen thousand dollars of the appropriated money remaining unexpended, which, if the PRESIDENT pleased, he could apply to that object.

Mr. LIVINGSTON believed there was not that sum unexpended.

Mr. GILBERT hoped the Committee would have leave to sit again. A small appropriation, he said, was only wanted to secure all the money that had hitherto been expended upon the fortifications. This was not to be withheld because it was improper to grant it, but because other ports required attention also. It was the interest, and he considered it to be the duty, of the Union, to secure the money which had already been expended. It had been said, the fortifications would be of no service. He was sorry this had not been discovered sooner. He understood they were undertaken under the direction of the United States.

Mr. W. SMITH said he should vote for the Committee's having leave to sit again; not for the same reason as the gentleman from New York, but because he wished some attention to be paid to the fortifications of Charleston. He wished this, first, because he thought there was more urgent occasion to attend to the fortifications there than at New York; secondly, because the State of New York owed the United States a large debt; and thirdly, because that State was immensely rich. They owed a balance, which had been ascertained by a commission, sanctioned by their delegates, on the 1st of January, 1790, of more than two millions of dollars. The interest on this sum was upwards of one hundred thousand dollars annually, and there was now due for interest alone upwards of six hundred thousand dollars. So that the sum necessary for the completion of their fortifications might very well be set off against this interest. He found, from a statement of their finances, that this State had upwards of two millions of dollars of funded debt, besides large sums in their treasury, and that they had no taxes; and, whilst they had large treasures, and no taxes, he did not see why they should be attended to in preference to other States. He thought it had the least claim to be favored by the General Government of any State in the Union. South Carolina, he said, had already advanced twenty thousand dollars out of her treasury towards their works, and the State of South Carolina was by no means in the same flourishing condition as New York; they were obliged to pay taxes, and they owed considerable debts.

Mr. LIVINGSTON did not suppose that this question was to be tried by the merits of different States. It had been said, by the member from South Carolina, [Mr. W. SMITH,] that the State of New York came with an ill grace to ask favors. What! (exclaimed Mr. L.) after expending two hundred thousand dollars out of their own treasury, on the fortifications of their harbor, shall the State of New York be said to be asking a favor, when they ask for a small sum of the General Government to keep the works from destruction? This was a request to avoid which gentlemen found themselves under a necessity to go into a business with which it had not certainly any connexion. The gentleman from South Carolina thought himself justified in asking for support to the works at Charleston, because they owed nothing to the General Government. He did not think this a place for recrimination; if he did, he should not find himself wanting in materials. He could look upon the three millions of debt from which South Carolina had been exonerated—he could look upon the desertion of New York when it most wanted assistance in the time of the war—and he could have added that this very State had since been charged with a debt which had been accumulated by the delinquency of other States. This was not the object, or he could easily enlarge. All that the State of New York at present asked was, a few thousand dollars, to prevent their works from going to ruin. Gentlemen talked of their wants for their respective ports; let them bring forward their claims. He should be disposed to vote for the assistance wanted by the gentleman from South Carolina. He did not know what was necessary, but, when he did, he trusted he should be willing to grant such a sum as might be wanting. It had been asked, why this business had been delayed? It would be found that the subject was taken up early in the session, but that it had been retarded by various causes, which could not be avoided.

Mr. WILLIAMS said, the committee had been appointed early in the session, they had had many objects in view, and for two or three weeks their chairman was ill. The gentleman from South Carolina had said, that because New York owed a debt to the Union, they had no claim upon the Union; another gentleman, from Maryland, [Mr. S. SMITH,] had observed that they would give New York credit for what she expended; but, Mr. W. observed, these observations might be well spared, especially when they considered the great sacrifice New York had made by giving up such vast revenue—that their capital, and six counties adjacent to it, was in the hands of the enemy during the war—that one-third of the city of New York was burnt by the enemy, also the fine town of Esopus—their frontiers overrun, and the buildings destroyed—and that not one county in the whole State escaped from the ravages of the enemy. And, notwithstanding all this, it is said New York is a debtor State. Why? Because a retrospective act had passed for the settlement of the accounts between the United States and individual States, varying from the compact under the Confederation, and adopting a principle which could not be justified, to wit: estimating according to the number of inhabitants, seven years after the war, when the number was increased double, and with those from creditor States, which, if they had not removed, would have been entitled to receive, instead of paying; and also, the Commissioners making no difference for articles furnished by the State

of New York, at prices fixed by the limitation act of that State, when for the like articles and delivered at the same time with those of another State, for which other States were allowed ten times as much as the State of New York. Mr. W. would be ready to prove they owed nothing. He should be glad to meet gentlemen on that ground, when he would shew that the debt was upon a foundation which could not stand.

The gentleman from South Carolina said, the State of New York was rich, and therefore they had no claim upon the Union. If they were rich, they ought to be encouraged. If the States were not rich, it was the fault of their members. The inhabitants of the State of New York were an industrious people, who took time by the forelock; but, because they had a few coppers in their pockets, was that a reason why they should be taken from them? He gloried that their State was rich, and if other States were equally industrious, they would be equally rich.

Mr. W. LYMAN spoke in favor of the Committee's having leave to sit again.

Mr. BOURNE observed, that the gentleman from New York said it was absolutely necessary that something should be done to prevent their works from going to destruction, and that if nothing was now appropriated that must be the case. He believed there was a considerable sum of the money appropriated which remained unexpended, and the PRESIDENT, if he believed it necessary, would doubtless suffer it to be expended on the works at New York.

Mr. HILLHOUSE said, there was twenty-three thousand dollars unexpended, which would be more than enough for New York.

The Committee now rose, and on motion being made for the Committee to have leave to sit again, Mr. LIVINGSTON called for the yeas and nays, which were taken, and stood—yeas 14, nays 64—as follows:

YEAS.—Theodorus Bailey, William Cooper, Ezekiel Gilbert, Henry Glen, John Hathorn, Jonathan N. Havens, Edward Livingston, William Lyman, Francis Malbone, William Smith, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Joshua Coit, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Dwight Foster, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William B. Grove, George Hancock, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Heath, Thomas Henderson, James Hillhouse, William Hindman, James Holland, Aaron Kitchell, John Wilkes Kittera, George Leonard, Matthew Locke, Samuel Lyman, Samuel Macay, Nathaniel Macon, John Milledge, Andrew Moore, William Vans Murray, Anthony New, John Nicholas, Josiah Parker, Francis Preston, John Reed, John Richards, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Samuel Smith, Richard Spaight, jr., John Swanwick, Zephaniah Swift, Absalom Tatum, George Thatcher, Richard Thomas, Mark Thompson, Peleg Wadsworth, and Richard Winn.

The Committee of the Whole was then discharged from the further consideration of the report.

Mr. TRACY, from the Committee of Claims, made a report on the petition of the widow of General Greene, which stated that Messrs. Harrison and Blackford, merchants, of Great Britain, had obtained a final decree, in the Court of Equity, of Charleston, against the heirs of General Greene, for a sum of more than 7,000 pounds sterling, as surety for the house of Hunter, Banks, and Co.; that this surety being given for the necessary provisions of the Southern Army, when it was in the most distressed condition, at a time when he had no other alternative than to risk his private fortune or disband the Army, his widow prays for payment from Congress. The report, which was in favor of the petitioner, was twice read, and referred to a Committee of the Whole to-morrow. On a motion for postponement of the reference, on the ground of some doubts on the subject, a number of observations took place, but the motion being withdrawn, the report was referred as above.

Mr. GALLATIN called up two resolutions, to the following effect, laid upon the table by the Committee of Ways and Means some days ago:

"*Resolved*, That —— dollars be provided for the payment of various incidental demands, occasioned by trials of persons for crimes and offences during the late insurrection, not heretofore provided for.

"*Resolved*, That an additional compensation ought to be made for the services of marshals, jurors, and witnesses, in the Courts of the United States during that period:"

Which were agreed to, and a bill or bills ordered to be brought in.

Mr. S. SMITH wished the House to resolve itself into a Committee of the Whole on a bill which originated in the Senate, to regulate the compensation of clerks; which was accordingly done. The Committee rose, without making amendments. The House took it up; when Mr. W. SMITH proposed to add: "That there be allowed for the year 1796, to the principal and other clerks in the office of the Secretary of the Senate and Clerk of the House of Representatives —— dollars each, in addition to to their compensation." The amendment was agreed to, and the bill ordered to be read a third time to-morrow.

CONTESTED ELECTION.

Mr. VENABLE, from the Committee of Elections, made a further report respecting the election of ISRAEL SMITH, stating the number of votes in the towns of Hancock and Kingston, and that it was by accident that the warrants of election were not sent to those places. Ordered to lie on the table.

SATURDAY, May 14.

Mr. NICHOLAS, from the committee to whom was referred the bill from the Senate relative to the relief of persons imprisoned for debt, made a report of some amendments to the bill, which

were ordered to be referred to a Committee of the Whole on Monday.

The bill from the Senate for regulating the compensation of clerks, was read a third time; but, on motion of Mr. Kitchell, who said he wanted information on the subject, it was referred to the Committee of Ways and Means.

COMPENSATION TO PUBLIC OFFICERS.

The House resolved itself into a Committee of the Whole on the bill making an additional allowance to certain public officers for the year 1796, which it went through, with an amendment, including amongst the officers whose salaries are proposed to be advanced for the present year, the Secretary of the Senate and the Clerk of the House of Representatives. This amendment met with some little opposition, on the ground that these officers were not obliged to reside in Philadelphia the whole year, but the contrary appearing to be the case, it was agreed to. The House took up the amendment, agreed to it, and the bill was ordered to be engrossed for a third reading.

PIERS IN THE DELAWARE, &c.

The Committee of Commerce and Manufactures, to whom was referred the report of the Secretary of the Treasury on the memorial of sundry merchants of Philadelphia, praying for the erection of an additional pier in the river Delaware, and that an inquiry might be made what was necessary to be done for the security of vessels entering other ports of the United States, reported a recommendation that the business should lie over till the next session of Congress.

The Committee did the same also with respect to a resolution referred to them, to make inquiry whether any, and, if any, what, alteration was necessary in the laws regulating commerce and navigation.

SURVEY OF THE SOUTHERN COAST.

The Committee of Commerce made a report on the petition of Parker, Hopkins, and Meers, and a report heretofore made, that they find the surveys and charts of the sea-coast, made by them, extremely imperfect and incorrect; and, considering the great importance of an accurate survey of the coast, the committee have extended their views on the subject, and recommend that the President be allowed a certain sum, to enable him to get such a survey accomplished. The report was read a second time, but its further consideration was postponed to the 1st of December next.

LIGHT-HOUSES, BEACONS, &c.

A bill was reported to continue in force for a limited time the acts therein mentioned, viz; one for supporting light-houses, beacons, buoys, public piers, &c., and another respecting penalties under the revenue laws; which was twice read, and orderred to be referred to a Committee of the Whole on Monday.

Also, a bill making an appropriation to satisfy certain demands incurred in trials for crimes and offences during the late insurrection, and for allowing additional compensation to marshals, jurors, and witnesses; which was twice read, and referred as above.

LAND FOR MILITARY SERVICES.

The House resolved itself into a Committee of the Whole, on the bill regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the heathen. After having spent some time therein, and made some few amendments, the Committee rose, and the further consideration of the subject was postponed till Monday.

WEIGHTS AND MEASURES.

The House formed itself into a Committee of the Whole on the following report of the committee to whom were referred so much of the report of the Secretary of State, of the 13th of July, 1790, and the Message of the President of the United States, of January 8, 1795, as relate to Weights and Measures. The committee report—

"That they have examined into the subject referred to them, and are of opinion that the following principles ought to be assumed in regulating the standards of Weights and Measures in the United States:

"1. That all measures of surface, capacity, and weight, ought to be regulated by measures in length.

"2. That the unit of measures in length, and the unit of weights to be adopted as standards, ought not to vary in any very sensible degree from the present foot now in use, and the present pound avoirdupois.

"3. That the objections against assumed standards, on account of their being arbitrary, and always liable to be injured or lost, make it a matter worthy the attention of an enlightened Legislature to refer to some certain measure in length derived from an uniform principle in nature, more especially if it can be made to appear that reference may be had to such a measure, with sufficient certainty of uniformity, in the result of different experiments, and without much time, trouble, or expense, in making them.

"In order to carry into effect the first and second of these principles, reference need only to be had to a very remarkable correspondence which is said to exist between the avoirdupois pound and the English standard foot; it having been ascertained that one thousand ounces avoirdupois, of rain water, will fill a cubic foot of English standard measure with great exactness; and for carrying into effect the third principle, little doubt can be entertained but that recourse ought to be had to the pendulum rod, vibrating seconds of mean time in any given place and in any known temperature of the atmosphere; because this will, without doubt, furnish a standard derived from an uniform principle in nature, more certain and easy to be obtained than any that hath hitherto been discovered; by which a measure in length may be ascertained, differing very insensibly in the result of different experiments; and by which the unit in measures of length to be adopted as a standard in the United States may therefore at all times be regulated. The committee are therefore of the opinion that one or more experiments ought to be made in the city of Philadelphia, to ascertain the length of the pendulum rod, vibrating seconds of mean time; and that, after such length shall be obtained, the present foot ought to be compared with it; and if it appears not to bear any even proportion to it, then such a standard foot ought to be assumed as shall bear an even proportion to it, and which will not vary, in any sensible degree, from the length of the foot now in use; and that, after such a standard foot shall be obtained, one or more experiments ought to be made to ascertain the weight of a cube of rain water, which shall be equal to the one-thousandth part of a cube whose side shall be the aforesaid standard foot; and that sixteen times the weight of such a cube of water ought to be the unit of weights or pounds avoirdupois; and that after this unit of weights or pound shall be so ascertained, experiments ought to be made to ascertain the weights of such divisions of this unit or pound, as shall be most convenient for the purpose of weighing all substances that require exactness in the weight, such as the precious metals, and the like, and in making these, the four following methods of dividing the pound have been contemplated by the committee:

"The division of the pound, in a decimal ratio, until it shall be divided into 1,000 parts, and the division of each of these into seven parts, which will divide the pound into 7,000 parts.

"2. The division of the pound, in a decimal ratio, the smallest weight in common use to be the ten thousandth part.

"3. The division of the ounce into 18 parts, and each of these again into 24, which will divide the pound into 6,912 parts.

"4. The division of the ounce, in a decimal ratio; the least weight in common use to be the one thousandth part, which will divide the pound into 16,000 parts.

"The least weight in the first of these divisions will be the present troy grain, and the remaining will bear the following proportions to it: that is, the second will be to the present troy grain as 7 is to 10; the third as 7,000 to 6,912; the fourth as 7 to 16. Of these respective divisions, the committee are of opinion that the second and last are preferable, because they may be more easily introduced, will better accommodate themselves to decimal arithmetic, and in the least divisions, before mentioned, will produce weights less than the present troy grain, and which must, therefore, be sufficiently exact for most purposes. The committee have conceived it unnecessary to come to any particular determination about the divisions of the foots, or respecting the contents of the gallon and bushel, until it shall be determined whether experiments shall be made relative to this subject; and they would therefore submit the following resolutions:

"*Resolved*, That the President of the United States shall be authorized to employ such persons, of sufficient mathematical and philosophical skill, as he shall think most proper, for the purpose of making the following experiments, the result of which shall be reported to Congress at their next session:

"1. To ascertain the length of a pendulum rod of iron, of a cylindrical form, whose diameter shall not exceed the one hundred and twentieth part of its length, which shall perform its vibrations in one second of mean time, in an arc not exceeding four degrees, and in the latitude of the city of Philadelphia, at any place between the rivers Delaware and Schuylkill, and at a known height above the level of common high water in the river Delaware, and in a known temperature of the atmosphere, according to Fahrenheit's thermometer, both to be ascertained when the experiment shall be made; and after its length shall be ascertained, by one or more experiments for that purpose, a standard foot, to be the unit of all measures in length for the United States, shall be derived from it, which shall be equal to, or shall not sensibly vary from, the present foot now in use, and which shall bear an even proportion to the length of such pendulum rod.

"2. To ascertain the weight of a cube of rain water, of a known degree of heat, according to Fahrenheit's thermometer, to be ascertained at the time when the experiment shall be made, which shall be equal in quantity to the one-thousandth part of a cube whose side shall be equal to the standard foot ascertained by the pendulum rod, in manner as above directed; which weight of water, when so obtained, shall be the standard ounce avoirdupois; sixteen of which shall make the pound avoirdupois; and the pound, when so determined on, shall be the unit weight for the United States.

"3. To ascertain the respective weights of the following divisions of the pound and the ounce:

"1. The division of the pound, in a decimal ratio, unto 1,000 parts; and the least of these again into 7 parts.

"2. The division of the pound, in a decimal ratio, unto 10,000 parts.

"3. The division of the ounce into 18 parts, and each of these into 24 parts.

"4. The division of the ounce, in a decimal ratio, unto 1,000.

"*Resolved*, That a sum not exceeding one thousand dollars ought to be appropriated for the purpose of defraying the expenses that may arise in making the foregoing experiments."

Mr. Kitchell said, that the best way of doing this business would be to refer the whole to Mr. Rittenhouse, and let those members who wished to understand the subject go to school to him.

Mr. Havens said, he should be sorry to confess himself so altogether ignorant as the gentleman from New Jersey [Mr. Kitchell] had professed himself to be, concerning this or any other subject about which it was necessary for him to decide, as a member of a Legislative body. If he had found himself so totally uninformed as the gentleman had professed himself to be, he should certainly endeavor to inform himself as well as he could before he was called upon to vote upon the question. The subject of Weights and Measures was certainly a matter of importance to the United States, and an uniformity in them much to be desired; particularly in some of the measures of capacity, as, for instance, in the bushel, in which there was considerable variety in the different States. This want of uniformity, he said, was not confined to the United States only, but was a subject of complaint among the nations of Europe. In England, in particular, there had been various standards established at different times by different acts of Parliament, which must have produced considerable embarrassment and much uncertainty on the subject, as would appear evident to any one who would take the trouble of examining the report of the late Secretary of State on this subject. The select committee, in forming the report then under consideration, he said, had endeavored to avoid those difficulties, which they supposed had heretofore prevented the introduction of uniformity in our Weights and Measures, on the principles contain-

ed in that report. It had been proposed, in that report, that an experiment should be made in the latitude of 45 or 38 degrees, to ascertain the length of a pendulum rod, a certain given portion of which should be the standard foot of the United States. The expense attending such an experiment, the committee had conceived, was the principal reason why the proposal had not been adopted, and, to avoid this, they had proposed that such an experiment should be made in the city of Philadelphia, under circumstances that would produce the same uniformity, and would therefore answer the same purpose to the United States. The committee had conversed with a gentleman, [Mr. Rittenhouse,] whom it was probable the President would employ on such an occasion, concerning the probable amount of the expense that would attend the making such experiments as they had recommended in their report, and were informed by him that it might not exceed five hundred dollars, but that one thousand dollars might be considered as amply sufficient. The committee had, therefore, inserted that sum in their report, as the highest that would be probably wanted for the purpose. It was a thing well known to persons who had paid any attention to subjects of this nature, that a cubic vessel whose side was equal in length to the English foot, would hold one thousand ounces avoirdupois of rain water; the committee had, therefore, recommended an experiment of that kind to be made, in order to ascertain the weight of the avoirdupois pound, which they proposed to adopt as the standard, and to lay aside the use of the troy pound. This was agreeable to a report of a former committee of the Senate upon the subject, and he had never heard any person make any objection to such a regulation. In short, the committee had studiously endeavored to remove every solid objection which might be brought against directing experiments to be made that would ascertain standards derived from such principles in nature as would produce the uniformity desired. It had been their intention to deviate no farther from the present prevailing habits of the people than was absolutely necessary to produce uniformity, the great object which ought to be had in view; they had no idea of introducing any unnecessary novelties in the Weights and Measures of the United States; they only wished such experiments to be made as appeared necessary, in order to obtain a natural standard; these they proposed to be made in the summer ensuing, and, at the next session, Congress might again take the subject into consideration, and, after knowing the result of these experiments, might regulate the standards by them in such manner as should then appear most eligible.

Mr. Cooper rose and said, ludicrously, that whilst the report was reading, it put him in mind of the following lines, which he had read in the *Deserted Village:*

"While words of learned length and thundering sound,
Amaz'd the gazing rustics rang'd around;
And still they gaz'd, and still the wonder grew,
That one small head could carry all he knew."

Mr. Page wished those gentlemen who spoke upon this subject would speak as it became legislators; and those who did not understand the principles of the report would do well to be silent. He did not himself boast of any superior knowledge on this subject; but, as he had been put upon the committee, he should wish to say there was great propriety in attempting to obtain the end which the select committee had in view; and he hoped the Committee of the Whole House would have no need to go to school to Mr. Rittenhouse, as had been proposed by the gentleman from New Jersey, [Mr. Kitchell,] unless they were more disposed to ridicule what they did not comprehend than to receive information on the subject. He would not, indeed, attempt to teach gentlemen who knew nothing of the first principles of calculation; perhaps Mr. Rittenhouse himself could not do this.

The English and French nations, Mr. P. said, had for some time been engaged in the pursuit of a certain mode by which to regulate and make uniform their Weights and Measures. The French had gone on in the business, and attained a standard, which they had forwarded to the United States. The Senate, he said, had made a report on the subject. The committee had considered both.

Mr. P. said, he would first show that a standard was wanting. There were now in use the ell, the yard, the British foot, and so on, and a great variety among the several standards of the foot. The size of the bushel, likewise, varied in different parts of the country. To fix a standard by which to regulate Weights and Measures, you must have recourse to some unalterable length in nature. It was well known that the length of a pendulum rod which will perform its vibrations in a second of mean time, would always be the same in the same latitude and temperature of the air. And when that length is once known, the standard can at all times be regulated by it. The French had proceeded in another manner to obtain an invariable length, derived from a certain principle in nature; they had measured the length of an arc of the meridian, and from that they had determined the length of the ten-millionth part of one-quarter of the meridian of the earth, and had adopted this length as their standard. We have not, said Mr. P., proposed an undertaking so great and expensive as to measure any portion of the earth's meridian. All that we propose is, an experiment which will ascertain the length of a pendulum rod vibrating seconds of mean time. We request this at this time, said he, because we have in this city at present three or four gentlemen who are doubtless equal, if not superior, to any in the world for performing an experiment of this kind, and who will no doubt undertake it; and for the credit of the United States, and for the benefit of the country at large, he hoped the experiment would be made this Summer.

Gentlemen who thought the report so very mysterious, could not see how this business was to be effected by this experiment; he would therefore inform them, that, by it would be ascertained

a certain standard in length, which at present exists no where.

There would be but little difference betwixt the present foot and the standard foot to be established. It was a fortunate circumstance for science that it had been well ascertained that the English foot was equal to the side of a cubed vessel which would contain 1,000 ounces avoirdupois of rain water; and, after knowing the weight of a cubic foot of rain water, you may easily regulate by it the unit of weights, which may afterwards be subdivided decimally, or in such manner as shall be most convenient for weighing coin, or any other substance requiring less exactness in the weight; but he would not be too particular on a subject of this kind, lest some gentlemen should by and by call upon him to explain what he meant by vulgar fractions and decimal fractions.

He thought it was of importance to ascertain, whilst we have men of genius amongst us, the standard proposed, and not have to send to the 45th degree of latitude, nor undertake to measure any number of degrees of the meridian, as the French had done. These would be expensive things. All they asked for was $1,000, and he trusted the enlightened world would say $1,000 were never better expended.

He hoped the resolution would be agreed to.

Mr. S. Smith said, he did not pretend to understand anything of philosophy or mathematics; but it was so desirable that the subject should be undertaken, that he was willing to agree to the resolution authorizing the President to employ suitable persons to make the experiment in question. Nothing was more worthy of their attention than the obtaining of uniform Weights and Measures. All commercial men felt heavily the disadvantages arising from the present inequality. He hoped the report would therefore be agreed to.

Mr. Swanwick agreed with the gentleman last up. No fact was better ascertained than the great uncertainty of Weights and Measures. He had known various instances in which disputes had arisen for want of some certain standard by which to regulate Weights and Measures; and frequently the payment of a whole cargo disputed on account of a difference in the sizes of bushels. He could not say whether the plan now proposed was the best that could be adopted; but he thought the experiment ought to be tried. Every body was ready to acknowledge the evil existed, though few could say which was the best means of curing it. He thought the report a very ingenious one, and they would do wrong lightly to reject it. He was the more convinced of this from the ingenious observations which had fallen from the gentlemen from Virginia and New York on the occasion.

Mr. Havens said, that when he was last up, he had not gone into such a consideration of the subject as might make it necessary to introduce many observations of a mathematical or philosophical nature. He had endeavored to avoid such a discussion, lest it should be disagreeable, or might appear ridiculous to some gentlemen who had never attended to subjects of that nature; but, to convince gentlemen that this was a subject of importance, and required some Legislative regulation, and that it ought not to be considered in a ludicrous point of light, as some gentlemen seemed to consider it, he would take the liberty of reading a part of the report of the late Secretary of State respecting the great variety of standard bushels which had been established at various times in Great Britain. [He then read that part of the report which states a great variety in the bushels of Great Britain.] From that country, said Mr. H., we derive our measures, and this had produced different bushels in the different States, but he believed the Winchester bushel was the most prevalent; for these considerations, he trusted it would be considered as worth while to expend the sum proposed in the report of the committee, in order to make the several experiments which had been proposed, and that no gentleman would consider it in a ludicrous or trivial point of light.

Mr. Findley said, he should vote for agreeing to the report. He believed they were bound by the Constitution to regulate Weights and Measures. This being the case, why should they put off, from time to time, what the country stood so much in need of? It was not right, because every one was not a competent judge of the propriety of this report, that it should be rejected. He was obliged himself sometimes to decide on things which he did not perfectly comprehend; this would not prevent him from voting for an experiment which, though not clear to him, might be of the greatest advantage to the United States, and perhaps to the world at large. He was so far a judge of the business as to believe the experiment was necessary, and that it could be done. He hoped the report would be agreed to.

Mr. Dayton (the Speaker) said, the subject of Weights and Measures was very important, and to no country more so than to the United States, as every State had its different Weights and Measures, which caused the greatest uncertainty in all commercial transactions in which they were concerned.

Mr. D. owned his philosophical and mathematical knowledge was not sufficient to form a correct judgment of the report before them; but he conceived it to be a very ingenious report, and one which did the committee great honor, and for which the House was much indebted. He thought they ought to do what the committee recommended. It would be money well expended. He hoped there would not be found a majority of that Committee who would think differently. He hoped the business would not be treated with levity, but that they should be disposed to treat it with that attention and candor which it deserved. The subject was of consequence, and as it had been stated that there were men now in Philadelphia who would be very able to execute the proposed experiment, he trusted they should afford an opportunity of its being effected, by granting the money required.

Mr. Williams said, that as they were about regulating the coin of the country, it was very de-

sirable to have this experiment carried into effect at this time. Every one, he said, must acknowledge the great inconveniences which at present arose from the great uncertainty of Weights and Measures, and he trusted the report would be agreed to, that a fair chance may be given to effect a cure of the evil which all acknowledged to exist.

Mr. Baldwin was in favor of the report. He had no idea of going much into the subject. The experiment proposed, he said, was only one step. Whether we should deviate much from our present bushel and foot would be a question afterwards to be decided. When they met, at the next session, the result of the experiment would be laid before them, and the comparison could be made. If this step was not taken, they might go on from time to time talking on the subject, without coming any nearer to the point in question. It was an experiment which could only hazard the loss of five or six hundred dollars; because, if, when the experiment was made, it was not thought advisable to apply the principle discovered, the extent of the evil would be the loss of the money.

The question was put and agreed to. The Committee rose, and a bill was ordered to be brought in. A bill was afterwards brought in and passed with little opposition; but the Senate (probably from the lateness of the session) postponed the consideration of the subject to the next session.

Monday, May 16.

Mr. Harrison reported a bill for ascertaining the uniform principle for regulating Weights and Measures; which was twice read, and ordered to be committed to a Committee of the Whole to-morrow.

A bill to continue in force for a limited time all acts relative to light-houses, piers, &c., and another for mitigating or remitting forfeitures under the revenue law, was read a second time, and ordered to be committed to a Committee of the Whole to-morrow.

COMPENSATION TO PUBLIC OFFICERS.

The bill making additional allowances to certain public officers for the year 1796, was read a third time, when the blanks were filled up. The first, which was to contain the additional sum to be allowed to the Secretaries of State, Treasury, and War Departments, Treasurer, Comptroller, Auditor, Register, Commissioner of Revenue, Purveyor, Attorney General, and Postmaster General, was proposed to be filled with the several sums of $1,000, $800, $750, $700, $600, $500, and $400. After some discussion, a division was taken on the first sum, which was negatived, being only 19 for it. The sense of the Committee was next taken upon $900, which was negatived, 45 to 31. Then upon $750 and $700, which were lost by the same divisions. And a division was then taken on $600, and carried, 40 to 38. The next blank, which was to contain the additional allowance to be made to the Assistant Postmaster General, the Secretary of the Senate, and the Clerk of the House of Representatives, was agreed to be filled up with $500, there being, on a division, 41 in favor of it, which was declared to be a majority of the members present.

The Committee rose and reported the bill, and the House took up the consideration, and, being agreed to, Mr. Jackson moved to have the yeas and nays taken upon the passage of the bill. They were accordingly taken, and stood yeas 49, nays 30, as follows:

Yeas.—Abraham Baldwin, David Bard, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Gabriel Christie, William Cooper, George Dent, Samuel Earle, William Findley, Abiel Foster, Ezekiel Gilbert, William B. Giles, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Francis Malbone, John Milledge, John Page, Josiah Parker, Francis Preston, John Reed, Robert Rutherford, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, William Smith, Richard Sprigg, Jr., Thomas Sprigg, John Swanwick, Zephaniah Swift, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Theodorus Bailey, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, John Clopton, Joshua Coit, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, George Hancock, John Hathorn, Daniel Heister, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, John Richards, Israel Smith, Absalom Tatom, and George Thatcher.

GRANTS FOR MILITARY SERVICES.

The House then took up the consideration of the bill regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the heathen; when, after a few amendments, the principal of which were, that the tracts should be divided into townships of five, instead of six miles square; that such officers and soldiers of the late army as had located their warrants within the seven ranges, and had made improvement thereon before a certain time, should be suffered to remain undisturbed thereon; and a clause reserving the free navigation of all the rivers, the bill was ordered for a third reading to-morrow.

ACCOUNTANT WAR DEPARTMENT.

The House resolved itself into a Committee of the Whole on the bill for augmenting the salaries of the Accountant General of the War Department, when, having agreed to fill up the blank containing the amount of the salary, in the Committee, after some debate, the sense of the Committee was taken upon $2,000, $1,700, and $1,600. The first sum was negatived without a division; $1,700 was negatived, 35 to 31; and the last sum (which was an increase of $400 on the old salary) was carried, 36 to 32.

Mr. Tracy proposed an amendment which

should allow the Accountant an additional sum for the present year, on account of the dearness of living. (agreeably to the advancement of other officers.) This occasioned some debate. It was proposed to fill up this blank with $500 and $400; but at length the sense of the Committee was taken upon the amendment itself, without any sum being named; which was negatived, 40 to 24.

The Committee then rose, and the House took up the business, when Mr. N. Smith proposed to do away with the permanent salary altogether, and allow the Accountant $500 for the present year only, on account of the dearness of living. The amendment did not obtain, and the bill was ordered for a third reading to-morrow.

BRITISH SPOLIATIONS.

Mr. W. Smith moved that the House should resolve itself into a Committee of the Whole on the state of the Union on the memorial of sundry merchants of Charleston, praying for a loan or other aid from Congress on account of British spoliations.

This was objected to by Messrs. Swanwick, Venable, and others. They did not see with what propriety gentlemen who had so warmly advocated the British Treaty, and said it would furnish ample compensation for all such spoliations, could come forward and ask Congress to afford relief in such cases. It was said to be unnecessary to take up the time of the House on such business; and the Committee of the Whole was discharged from the consideration of it, and the petition ordered to lie on the table.

On motion of Mr. Williams, the House resolved itself into a Committee of the Whole on the bill for regulating Post Offices and Post Roads, which having gone through and amended, the Committee rose and the House adjourned.

Tuesday, May 17.

The bill regulating grants of land for military services, &c., was read a third time and passed. The blank mentioning the time of registering warrants was filled up with nine months; that containing the time after which no locations will be allowed, was filled up with January, 1800; and that for containing the time at which persons shall have resided on lands already located by military warrants, to entitle them to remain thereon, was filled with April 18, 1794, (the day on which the act bore date, allowing Capt. Kimberly to locate certain lands on the same principle.)

The bill altering the compensation of the Accountant of the War Department was read a third time and passed.

A bill from the Senate was read providing passports for ships and vessels of the United States.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making provision for the payment of certain debts of the United States," with several amendments, to which they desire the concurrence of the House.

Mr. Tracy, from the Committee of Claims, made a report on the bill from the Senate, providing recompense for clerks, &c., who resided in Philadelphia during the yellow fever, to which they proposed to add several names.

They also reported on the petition of Alexander Fowler, praying to locate certain warrants on unoccupied lands in the Northwestern Territory. This report was against the petitioner. Both the reports were twice read, and referred to a Committee of the Whole to-morrow.

Mr. Bourne reported a bill supplementary to an act laying duties on snuff.

Mr. W. Smith also reported a bill empowering the Secretary of the Treasury to lease the salt springs of the United States Northwest of the river Ohio. Both the above bills were twice read, and ordered to be referred to Committees of the Whole to-morrow.

POST OFFICES AND POST ROADS.

The House took up the amendments yesterday made in Committee of the Whole in the bill regulating Post Offices and Post Roads, and having gone through the same and a few other alterations in the bill, it was ordered to be engrossed for a third reading. Some debate took place on a motion made by Mr. Nicholson to strike out a clause which obliges printers to dry all their newspapers which go by post, and to put them up in strong covers. It was said by Messrs. Nicholson and Swanwick that this provision would put it in the power of post offices to stop the circulation of newspapers altogether, by refusing to accept them, on the ground of their not being sufficiently dry, or in covers sufficiently strong; but, on the other hand, it was argued by Messrs. Thatcher and Harper that the former part of the measure was at least desirable, and that it could not be supposed that the Postmaster General would unnecessarily obstruct the circulation of newspapers, and that, if he did, he would be liable to punishment.

The amendment was negatived; when

Mr. Thatcher moved to strike out the words directing papers to be enclosed in strong covers, and to add a clause, directing that all newspapers, for any particular post office, should be enclosed in a mail by themselves, and directed to said office, and should not be opened until they arrive at their place of destination. This amendment was agreed to, and the bill was ordered for a third reading.

DAY OF ADJOURNMENT.

Mr. Giles thought it was time to fix upon some early period of adjournment. Most gentlemen, he believed, felt anxious to be away. He therefore proposed a resolution to the following effect, which was ordered to lie on the table:

"*Resolved*, That the President of the Senate and the Speaker of the House of Representatives be authorised to close the present session, by adjournment of both Houses, on Saturday the 21st instant."

IMPRISONMENT FOR DEBT.

The House went into a Committee of the Whole on the report of a committee to whom was

referred the bill from the Senate for the relief of persons imprisoned for debt. The committee recommend the second section of the bill to be struck out, and a clause to be added to this bill, which should conform the laws of the United States, with respect to persons imprisoned for debt, to those of the several States in which actions should be brought.

Mr. Nicholas, Chairman of the Committee, said it was desirable, in his opinion, that the section which they had reported should be agreed to, because, when the punishment in the State, where an action might be determined, was heavier or lighter than that of the United States, it occasioned unpleasant comparisons. He thought it was of importance that they should not make the laws of the General Government, in this case, more severe than those of the States. In the State from which he came, a man was liberated by the State laws, upon giving up his property; but it was not the case with respect to the laws of the United States relating to debtors. He wished all possible humanity to be shown to unfortunate debtors, and it was desirable that an uniformity of practice should be established throughout the United States; but, as there was not now time for going fully into the subject, he believed the plan proposed would be the best they could at present adopt. At this time, he said, an arbitrary foreign creditor might confine a citizen of the United States as long as he pleased; he wished this unreasonable power to be done away.

Mr. Corr objected to this new section. There would be some difficulty in learning what the insolvent laws were in the different States. In the State from which he came, he said, they had no insolvent law. A man imprisoned in that State would, therefore, have no remedy. The measure struck him as objectionable on this ground.

Mr. N. Smith said, he was upon the committee to whom this bill had been referred. The difficulty mentioned by his colleague [Mr. Corr] had occurred to him. It struck him their laws were insolvent laws. He must own he was not so favorably impressed with the plan proposed as some other gentlemen were, though there were many considerations which would induce him to wish for some regulations of this kind. The Committee had agreed that this report should be laid before the House, where it was expected it would meet with discussion, and be adopted, or not, as should appear best. He had his doubts on the subject; to introduce the laws of the different States into this law, without knowing what their laws were, did not strike him very agreeably. He wished gentlemen from the different States would state what their laws were. If his ideas of the laws of Connecticut were incorrect, he wished them to be set right. The Committee had not much time to consider the subject; but something being necessary to be done, they had agreed to make the report they had made.

Mr. W. Lyman said, the bill was not particular enough with respect to the amount; it should specify some express sum. By the bill, as it came from the Senate, a creditor was permitted to keep a man in prison, though he had no property at all, as long as his enmity towards him would permit him. This was a principle by no means justifiable. Prosecutors in the Federal Courts were mostly foreigners, who had the power of imprisoning our citizens for life, for the *crime*, perhaps, of being *unfortunate*. In the State of Massachusetts, he said, they had formerly a law upon a similar principle, but it had been abolished, and a new law had been enacted upon more lenient principles, which had been found very acceptable. He should vote for the report of the committee.

Mr. Murray wished to know how far the provision would go. In the State of Maryland, the property of persons who took advantage of the law, was not afterwards liable. He did not much like the connexion made betwixt the laws of the several States and the United States. He thought a uniform system for the whole Union would be far preferable.

Mr. Havens said that, in the State of New York, they had various laws in force for the relief of debtors, founded on different principles; by one of them, the debtor was discharged from his debts after giving up his property for the payment of his creditors, provided that such a number of them as held three-fourths of his debts would consent to his discharge in that way. By another law, the debtor was to be liberated from imprisonment on giving up his property, but was not discharged from his debts, and would be liable to execution for the payment of them to be levied on any property that he might afterwards acquire; they had also adopted a third principle, which was, that a person having a family, and not being a freeholder, should not be imprisoned for a debt less than ten pounds in that currency. He doubted how the proposed clause would operate in all these different cases.

Mr. Nicholas observed, that, with respect to New York, it would apply to the two last instances. It was not meant to extend to bankrupts; it was meant to substitute a man's property for his body—not where a man was discharged by two-thirds of his creditors, but where he was to give up his body. The gentleman from Connecticut [Mr. N. Smith] had stated the business very fairly; but he did not think it was taking the State laws in the dark, as there were gentlemen present from every part of the Union, who might reasonably be supposed to be acquainted with their laws on this subject.

Mr. Bradbury had no objections to amending the bill from the Senate; but, he said the law ought to be uniform to all the debtors of the United States. Some of the States differed considerably in their regulations on this subject, and therefore he did not think it right to conform the laws of the United States to all their different practices.

Mr. N. Smith and Mr. Bradbury—each of them proposed an amendment, which were agreed to.

Mr. Dayton (the Speaker) approved the object of the bill, which was to render the situation and confinement of debtors less rigorous and oppressive, but he wished a uniform plan to be adopted, which should operate equally throughout all the

States. As the relief proposed for debtors has immediate reference to the State laws, the treatment of the same description of debtors held under processes from the Courts of the United States, would be very different in different States. In New Jersey, for instance, they had no existing insolvent law, and, therefore, if the amendments reported by the select committee to the bill from the Senate were adopted, a debtor confined in that State would be left without any, the most distant, hope of relief, and must perish in jail, if he could not pay the debt. He owned that it would meliorate the condition of this unfortunate class of beings, where the State laws were then in force, to which the regulations could attach and apply, but where that was not the case, as in New Jersey, and in two or three other States, their prospects would be more hopeless; for no subsequent act of the State could bring them within the benefits of the law of the United States.

Mr. D. said, it appeared as if gentlemen were inclining to adopt the Committee's amendments, not because they altogether liked them, but merely because they thought them preferable to the Senate's bill; he, however, thought it more practicable, by means of amendments, to conform the latter than the former to the opinion of a majority.

Mr. Giles would not object to the provision, because it did not apply to New Jersey; because he believed it was the best plan which could be adopted at present. In the State which he represented, there were cases of persons having been for a long time imprisoned by foreign creditors. This provision proposed to give such debtors the same privileges which they would be entitled to, if they had been prosecuted under the State laws. He had now letters which informed him of persons being imprisoned for debt, for whom no relief could be afforded. A man put into prison by a British creditor, (betwixt him and whom there might be supposed to be some degree of animosity,) might, by the bill, as sent from the Senate, be kept in close confinement without relief; whilst the citizens of the same State would not have the same power over any of their debtors. This provision went to put both upon the same footing. He hoped it would be agreed to, because, if disagreed to, no other law could be got through this session.

Mr. Nicholas would submit it to the gentleman from New Jersey, [Mr. Dayton,] and others, whether the situation of the States would be altered by this law? They certainly would not. It went to conform the law of the United States to those of the States, and not those of the States to that of the United States. He would ask, if it was not most important that there should be uniformity in the pains, in like cases, in the States and United States? Or was it right that foreigners should have greater power over our citizens than they have over one another? He believed the only way of reconciling the State and General Governments was the one proposed.

Mr. Jeremiah Smith said, it had been stated as an objection to the amendment, that it was taking the State laws in the dark—taking a variety of laws which they did not understand. He confessed he was unacquainted with the insolvent laws of any of the States, except Massachusetts and New Hampshire. There were several States whose laws he knew little or nothing of. Perhaps, some of them might favor the debtor to the injury of the creditor. Until he knew what they were, he felt a difficulty to assent to them. He had another objection to the amendment—he supposed it would not only be adopting the laws at present in existence in the States, but also such as should hereafter be made on the subject of insolvency.

With respect to the observations of the gentleman from Virginia, [Mr. Nicholas,] on the subject of debtors and creditors under the laws of the United States and individual States, he allowed they had some weight; but, notwithstanding, he declared himself unwilling to trust the States to make insolvent laws for the United States. In Vermont, he knew they made insolvent laws for every particular case, and, consequently, if this amendment passed, the United States must be ruled by their irregular proceedings. He did not wish to subject foreigners to the decision of such uncertain laws.

Mr. Venable did not know what was the practice of other States, but, in the State from which he came, it would put foreigners only upon the same footing with others. He had not understood that the amendment would apply to laws to be hereafter made; if it had that meaning at present, he should wish it to undergo an alteration, otherwise the States might make laws injurious to the interests of the United States. Gentlemen present, he said, were acquainted with all the State laws. If there was any case in which it would be wrong to adopt any State law in existence, it ought to be expressed by those who were acquainted with the circumstance. They ought, he said, either to make a general bankrupt law, or adopt some temporary measure. He thought the amendment should be adopted.

Mr. R. Sprigg, Jr., spoke in favor of the amendment. He thought it the best provision that could be made at this late period of the session.

Mr. Corr said, it was extraordinary to him, that when a law was proposed to continue in force an old law, that so very material an alteration should be proposed to be made in it. He believed inconvenience had been experienced under the old law, and this was nearly a copy of it.

He was somewhat backward, he said, in stating his ideas on the subject, because their law ideas were in some degree trammelled by the practice they had been accustomed to. The old law was agreeable to the practice which he had been accustomed to; it had been complained of as bearing too hard upon the debtors. Much was said about the hardship of imprisoning debtors. There was certainly no propriety in imprisoning a debtor, except for fraud; no one would be of a contrary opinion. If a man owed a debt, his person could be identified, but his property could not. Any duress you can perform, but attempt to lay

your hands upon property, and everything is uncertain. Were it, therefore, only a guard against fraud, it was a desirable thing that a man's person should be laid hold of. A debtor can be imprisoned at the expense of the creditor. This power, he owned, might be abused, from the violent or base disposition of a creditor, but such instances would rarely occur. He scarcely ever knew an instance of the kind. If, when a creditor threw his debtor into prison, he was extremely enraged and revengeful, after he had paid the expenses of his debtor sometime in prison, he soon cooled. From this circumstance alone, there was little chance of a creditor keeping in prison a debtor for a very long time. As this law had been practised upon for three years, without much inconvenience, he was of opinion they had better continue it.

The question on the amendment was put, and carried—42 to 26.

Mr. NICHOLAS moved an amendment, which was agreed to, to allow all prisoners for debt the free use of their prison yards.

The Committee rose, and the House took up the consideration of the amendments, which were agreed to, and some additional ones made in the House. The bill afterwards passed, but the Senate returned it with a disagreement to the amendment, and, on a conference being held, the House of Representatives gave up their amendment on account of the admission of an ameliorating provision.

WEDNESDAY, May 18.

The bill providing passports for ships and vessels of the United States was read a second time, and ordered to be read a third time to-morrow.

The amendments of the Senate to the bill entitled an act for making provision for the payment of certain debts of the United States, were read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. GILES hoped the House would consent to take up the resolution, which he yesterday laid upon the table, relative to a close of the present session. He had conferred with some gentlemen of the Senate upon the subject, and it was their opinion, if Wednesday, the 25th instant, was inserted, instead of Saturday, the 21st, all the business of importance might be got through. He proposed, therefore, to make that alteration. The resolution was agreed to.

POST OFFICES AND POST ROADS.

As the bill in addition to an act to establish Post Offices and Post Roads in the United States, was about to be read a third time, Mr. MURRAY proposed to recommit the bill, in order to strike out a clause which would considerably affect the morning papers of this city, as it required that they should be dried before they were sent by post, which (as it would be next to impossible to do it before seven o'clock in the morning, the time at which the papers were to be put into the post office) would have the effect of keeping these papers from their readers a day longer, and by this means give an advantage to the evening papers, which might copy whatever was valuable from a morning paper, and stand upon the same ground with it when they get to the places to which they were destined. This motion occasioned some debate. It was supported by Messrs. MURRAY, GILES, and MACON, and opposed by Messrs. HARPER, THATCHER, WILLIAMS, KITTERA, and JACKSON, partly on account of the expediency of the clause for the purpose of preserving the papers, and partly that no time might be lost, and by that means endanger the passage of the bill (which contains regulations for many new post roads) this session.

The motion was at length negatived, 40 to 34, and the bill was read a third time and passed. It was afterwards sent to the Senate, and, in the course of the sitting, returned from thence, with information that they had postponed the consideration of it till next session of Congress.

MILITARY APPROPRIATIONS.

Mr. W. SMITH, from the Committee of Ways and Means, made a report on a resolution to the following effect:

"*Resolved*, That there be appropriated, for the year 1796, for the Military Establishment, including the sum already appropriated, ——— dollars; for the Naval Department, ——— dollars; and for military pensions ——— dollars, pursuant to the estimate herewith reported."

The estimate alluded to was made by the Secretary of War, as a substitute for one made last December; the sum necessary for the Military Department, was estimated at 1,441,209 dollars; for military pensions, 111,259, and for the Naval Department, 113,025; making, in the whole, 1,665,193 dollars.

The report, with the papers accompanying it, was ordered to be referred to a Committee of the Whole on Friday.

WEIGHTS AND MEASURES.

On motion of Mr. HARRISON, the House went into a Committee of the Whole on the bill regulating Weights and Measures, when Mr. CORT moved to strike out the first section, and spoke against the proposed plan altogether. Mr. HAVENS and Mr. SWANWICK defended it. The motion for striking out was negatived, and the bill agreed to without amendment. It was ordered to be engrossed for a third reading to-morrow.

EXPENSES OF FOREIGN INTERCOURSE.

The House resolved itself into a Committee of the Whole on the bill making provision for paying the expenses attending intercourse with foreign nations, and for continuing in force an act providing means of intercourse between the United States and foreign nations, for a limited time.

Mr. GALLATIN said he did not know with what sum the blank should be filled. There was a variety of expenses of which they had no estimate.

Mr. W. SMITH observed that it was very uncertain what would be wanted under this head.

There was the agency of Mr. Bayard, who was now in London on public business, and much would depend upon his expenditures. There were at present 40 or 50,000 dollars unexpended of sums appropriated for foreign intercourse; but it was contemplated by this bill to appropriate that sum a different way. He would therefore move to fill the blank with a sum equal to that, viz: 40,000 dollars.

Mr. GALLATIN did not see any reason for so high a sum. The general foreign expenditure had been 40,000 dollars; but the sum with which this blank was to be filled was merely for extraordinary or contingent expenses, which could not be equal to the whole amount of ordinary foreign expenditure. Under the head of the general foreign intercourse, were included all the foreign ministers. The sum now to be added related to their particular situation. The mission of Mr. Bayard, he believed, was the principal; at least he did not know of any other. He moved to fill the blank with 10,000.

Mr. GILES wished the gentleman who moved to fill the blank with 40,000 dollars, would give the Committee some idea how that sum would be likely to be expended. If it was only wanted on account of the mission of Mr. Bayard, he hoped 10,000 would be enough.

Mr. SWANWICK thought it might be easily conceived how 40,000 dollars would be expended. Mr. Bayard was employed to prosecute the claims of the merchants of this country who had suffered by British spoliations; and every one who had the least idea of the expensiveness of English law courts and lawyers, would readily conceive that 40,000 dollars would soon be expended in that way. This was another consequence of British spoliations!

The question on forty thousand being lost—

Mr. W. SMITH moved to fill the blank with 30,000. He said it was impossible to ascertain with precision what sum would be wanted. The gentleman from Pennsylvania [Mr. SWANWICK] had stated that the expenses attending the recovery of the amount of spoliations would be very considerable. He did not think it was right to embarrass the Executive by voting too small a sum; there might be an inconvenience in this, there would be none in voting a larger sum; because, if it was not wanted, they were certain the PRESIDENT would not expend it.

Mr. VENABLE did not know upon what principle this money was asked for the payment of lawsuits which might attend the recovery of the amount of spoliations committed by the British upon the property of our merchants. He did not know whether it would be proper to pay the expense of any such suits; of those which were brought on indefensible ground, it certainly was not. If there was any law to direct them on this occasion, he should be glad to know it.

Mr. S. SMITH said, there was another expense which had not been mentioned. An agent had been sent to the West Indies to obtain evidence so as to enable Mr. Bayard to appear in the British courts with proper documents. When the subject was first proposed, he did not understand it; but he believed it was the intention of Government to pay the expenses of the law-suits for recovering the amount of the spoliations committed upon the property of American merchants. And this, he said, was no more than just; for, if every merchant was under the necessity of prosecuting his own suit, the expense would be enormous; but having an agent on the spot who would attend to the whole, the expense would be greatly lessened. Besides, as their property had been illegally taken from them, it was the duty of Government to see them redressed. It was with this view, he believed, that an agent had been sent to London, and if, said he, we cripple him by granting too little money to defray his necessary expenses, he might as well have been kept at home. He should be in favor of $30,000.

Mr. WILLIAMS said, they were treading on nice ground. Whilst he would have justice done to our merchants, by having a sufficient sum appropriated, he would not have too great a sum provided, which might be paid for asserting claims for which there was no ground. If, for instance, he said, a vessel were fitted out with contraband goods, and was taken by the British, if the owner of that vessel were to commence a suit, which he could not support, to recover his property, would it be right that the expense of such a trial should be paid out of the Treasury of the United States? Certainly not. And if they were to pay the expense of all suits, all who had the least chance of substantiating their claim, would be forward in bringing their suits; and, if the lawyers learnt a very large sum was appropriated for the purpose of paying them, he believed, however large they were to make it, it would all be swallowed up. He thought $20,000 too much, but he would agree to that sum.

Mr. SWANWICK thought the gentleman from New York [Mr. WILLIAMS] need not be under any apprehension that the United States would pay the expense of any illegal claims. The Governmental agent would doubtless refuse to prosecute any claim that was dubious. It could not be suspected that money would be expended for such a purpose; but a considerable number of vessels had undergone a kind of mock trial in Bermuda, and were condemned, for which it was necessary to seek restitution, as well as for those carried into Great Britain or elsewhere; but if citizens were obliged to prosecute their own claims at their own expense, the expense would, in some cases, come to more than the property itself. And why should Government do this, it may be asked? It was, said Mr. S., because the merchants had a claim upon the protection of the United States. They had been exposed to great losses which they had sat quietly under, reposing upon Government to obtain them redress; and, from the knowledge he had of the expense of law in England, he did not think $30,000 would be sufficient to defray the expense to be incurred; and if they should not appropriate a sufficient sum for the purpose, the merchants would not get re-

tisfaction, but would, perhaps, hereafter call upon that House for reimbursement.

Mr. Nicholas wished to use caution on this subject. If gentlemen would say how much was wanted, and for what, he could judge of the propriety of the expense; but, without some estimate, he could not say that $10,000 or any other sum was sufficient. He believed it was not the proper time to consider whether the object was a proper one, when they were about to fill up the blank. There might be some objections to the manner of expending this money, but he was not prepared to make them. He believed it was incidental to the Executive business. The subject was uncertain; but, as he wished for an agreement, he proposed to fill up the blank with $40,000.

Mr. Kittera was in favor of filling the blank with $30,000; not that he thought the United States was bound to make good the losses of our merchants. He believed that gentlemen need not be alarmed about voting too much money on this occasion, as he did not think another Envoy Extraordinary would be sent to Great Britain, and if it was not wanted it would not be expended.

Mr. Giles said, it was the worst reason that could be given for voting a large sum of money, to say, if it was not wanted it would not be expended. If this argument were to have any weight, it would go to give the Executive unlimited power over the Treasury. If it could not be said what the exact amount of the sum now asked for was necessary, he supposed some estimate might be made, so that they should not be under the necessity of giving a vote *ad libitum*. It appeared to him that the proper Legislative discretion was to come as near as possible to what was necessary. With respect to the reimbursement of the losses of our merchants, that was not the question before them. They had made an election, they had chosen to rely upon Great Britain for redress. He did not believe they would get all they expected, but he wished the experiment to be fairly tried. He did not know that the United States ought to defray the expenses of trials in legal as well as illegal condemnations. It appeared singular that the United States should be called upon to pay the expense of either. If the Treaty meant anything, it meant to make complete recompense, and, therefore, a large sum could not be necessary. He was willing to vote for a proper sum, but he would never agree to allow the Executive uncontrolled power over the Treasury. He was one who was not acquainted with the object of the mission of Mr. Bayard, and, therefore, could not say what sum was proper to be appropriated on this occasion.

Mr. W. Lyman did not understand what were the duties of Mr. Bayard in London. He did not think the United States ought to pay the expenses attending the law suits instituted to recover the property of our merchants. He conceived that our merchants would first apply to the British Courts of Admiralty for redress, and that if they failed there, they would make application to the Commissioners. If they failed in obtaining redress, it was said they would ultimately come upon the United States. This was not the time, he said, to determine that question. He could not discover the use of this agent. Individuals who had lost their property, might employ whom they pleased to recover it; but were the United States to pay the expense? He thought not. It appeared to him that the agency of this person was no longer necessary. However, if there could be any information given to show the necessity, and what expense was necessary to be incurred, he could determine; but, at present, he could not.

Mr. Venable said, that his objections to the bill did not arise from the amount of money, but because there was no provision made by law which directed such expenses to be borne by Government as are now contemplated. It was a new subject, which must be determined upon by Congress; for it would not come in under the head of foreign intercourse. Had it been determined, he asked, by the Legislature that the proposed expense of prosecutions should be paid by Government? It had not. If an individual had his vessel and cargo unjustly taken by the British, he would recover, as he supposed, both the amount of his goods and cost of prosecuting his claim. This had always been the case; but, if the United States were to pay the expenses of these law-suits, it ought to be provided for by law. If the expense of the agency alone could be brought forward, he would vote for it, but he could not consent to vote for money, the expenditure of which was not authorized by an act of the Legislature.

Mr. S. Smith believed gentlemen had forgotten the situation of the United States three years ago. The British Court had issued an order directing the property of neutral Powers to be carried into their ports. In consequence of which order a great number of our vessels were carried into their ports; the masters of which returned home without making any appeal. For each of the owners to prosecute his own appeal, would be an expense equal, perhaps, to his whole loss, as he had known a single law-suit in London cost 1,200 guineas; besides, it was a national question, and Government had properly interfered to relieve our citizens from loss. An agent had been sent to London for the purpose. He would do the business at comparatively a small expense. The United States, he said, owed their citizens protection; and if they did not grant it to them, those who suffered losses should be allowed to make reprisals. When they voted to fill the blank before them with $30,000, they did not say it was to be expended. The Executive would certainly not spend more than necessity required. He hoped, therefore, that the blank would be filled with that sum.

Mr. Giles said, he never was called upon to decide on any question where he had so little information as in the present case. They were without law, and without estimate from the proper department. Gentlemen could not say those

who were so willing to vote for $30,000 in the dark, were opposed to the measure; but they would not give $30,000, because they could not see a necessity for more than $10,000. He was of opinion the latter sum would be sufficient, as it was probable the expense of the agent, as far as it was gone, was paid. They had no account of the expenditure of $200,000 taken from the million appropriated for purchasing a peace with Algiers; and he could not conceive that more than $10,000 would be really wanted, if, as he supposed, the expenses already incurred by Mr. Bayard were paid. If the Executive should say more was wanting, he would have no objection to vote for it; but until they had documents on which to form some judgment of what was wanted, he was not willing to vote for the sum proposed. In most other cases, when agents were employed, they had some idea of the duties of his office, but in this case he was an utter stranger to them.

Mr. Swanwick wished he could join gentlemen in thinking that there was no occasion for their agent in London. They need only take up any of our morning papers, and they will see the practice of taking our ships and men is still continued. With respect to the expense which may attend this agency, the gentleman from Virginia [Mr. Giles] must know that even in this country law is expensive, but much more so in Great Britain. It is, said he, a part of their revenue, the sums raised by means of stamps being immense. $10,000, which had been mentioned, he was confident, would by no means be adequate. He was afraid $30,000 would fall short. He was afraid it would require two or three times that sum before the business was completed.

Mr. W. Smith said, gentlemen had expressed a surprise that no estimate had been received from the Executive. There was nothing surprising in it. There were, he said, $45,000 in the Treasury, which were reserved by the Executive for these extraordinary expenses; but this bill contemplated the taking of that sum away and applying it to other purposes; the House must, therefore, replace that sum with some other resources. Gentlemen knew that there would be the expense attending Mr. Bayard's agency in London, and that of an agent to the West Indies, which must be considerable; they must also know that, in time of war, neutral nations must be put to extra expenses in their foreign intercourse, which were not incurred in time of peace. Was it right to refuse the Executive $20,000 or $30,000 for this purpose? He did not think the President had done anything to warrant this unreasonable distrust.

Mr. Williams said, he was at a loss what to vote for. The gentleman from Maryland [Mr. S. Smith] had said they had commenced the business, and were bound to continue it. He thought if they had begun to do an improper thing, the sooner they got quit of it the better. He wished the expenses which were to be borne to be designated. The sum proposed might not be enough, or it might be three times too much. Whenever appropriations were made, it was always expected that the House should have some sort of estimate upon which to act. He thought the gentleman from Virginia [Mr. Giles] said rightly, when he observed no one knew in what this money was to be expended. If, said Mr. W., it is to go for law-suits, it ought to be so designated.

Mr. Giles could not help remarking upon what had fallen from the gentleman from South Carolina, [Mr. W. Smith.] His information had satisfied him that the expenses of Mr. Bayard were paid hitherto. That gentleman had said that $45,000 remained of a former appropriation, but had been taken away. It would be noticed that the sum now appropriated was not the whole sum allotted for foreign correspondence, but an additional sum. They had already appropriated $40,000 and if they now appropriated $30,000 more, it would make $70,000. He supposed, at the time the $40,000 were appropriated, that sum was to cover the whole of the foreign expenditure. But now they were called upon for $30,000 more to defray the expenses of an agency to London. He could not think one-third of the money would be wanted for this purpose, and, therefore, would confine his vote to that sum.

Mr. S. Smith was not at all surprised that gentlemen who were so much averse to the Treaty, should wish the blank to be filled with $10,000 only, because this would destroy the means of obtaining the proposed redress. It would destroy the Treaty; but, that the gentleman from New York, [Mr. Williams,] who made a speech of two hours long in favor of the Treaty, should lean to such an opinion, he was astonished. Suits, he said, must first be instituted in the British Courts, which, if they did not appropriate money to pay for, could not be carried on, and the redress proposed by the Treaty to the merchants of the United States would be defeated. If the gentleman from New York, therefore, wished to defeat the intention of the Treaty, he would vote against the sum proposed; if not, he would vote for it.

Mr. Williams trusted that every man who voted for carrying the British Treaty into effect, did so because he thought it for the interest of the United States. It did not appear to him that the present question had anything to do with the Treaty. Since the Treaty was adopted, he did not wish to hear anything more about it. He trusted he should be found a good citizen, and do all in his power to carry it into effect.

Mr. Gallatin said, the present was by no means a Treaty question. There was no connexion between Mr. Bayard's mission and the Treaty—he was appointed before the Treaty was ratified. The gentleman from Maryland [Mr. S. Smith,] did not attend to the arguments of the gentleman from Virginia, [Mr. Giles.] He did not object to Mr. Bayard's mission. He wished only to have some specification for which $30,000 were wanted. If the object of the mission was known, and some estimate was before them, they should be willing to appropriate whatever appeared to be necessary. If they appropriated so large a sum as that proposed, it might be applied to ob-

jects justifiable by, and within the general expression of, the law, and yet different from those intended by the Legislature, viz: of defraying the expense of law-suits. They had, formerly, he said, appropriated a million of dollars for foreign intercourse, which had been expended according to law, but the whole of which was not spent according to the intention of those who voted for it. So it might be in this case; and, though the PRESIDENT was justified to apply the money in any manner which appeared to him to be for the interest of the United States, provided it was for the general purpose of foreign intercourse; yet, as they were called upon to make a grant of public money, it was necessary to have some estimate by which to regulate the amount; but having no such estimate, no demand for money, it was perfectly right to fill the blank with the smaller sum proposed; if more be wanted, it will of course be asked. And here he would observe, upon what had fallen from the gentleman from South Carolina, [Mr. W. SMITH.] He said that there remained a balance of $45,000 of a former appropriation, which they proposed to transfer to another object. This sum, he said, was the balance remaining from the appropriations made two years ago. The effect of the law carried this sum to another fund; it went to the surplus fund, and, therefore, could not have been appropriated to the object now under consideration.

Mr. NICHOLAS believed nobody would be influenced to vote against the blank being filled with $30,000, because he voted against the Treaty; he should vote for it on that ground. He did not wish to take any of the faults or failures of the Treaty upon himself, and, therefore, he would appropriate whatever was asked for as necessary to enable gentlemen to make the best of it. He believed if they did not now appropriate the sum required, they could not hinder the PRESIDENT, from getting it, as they had already appropriated $40,000 for foreign correspondence. He should give his vote, therefore, for the largest sum mentioned.

Mr. TRACY would ask the gentleman from Pennsylvania [Mr. GALLATIN] why he would vote for 10,000 dollars? He did not know that it would be wanted. They had not any statement, nor could they have any of the money which would be necessary. What, said he, is our external situation? and what will it be, whilst the war in Europe continues? He wished to know where the money was to be found necessary to pay all the expenses which would necessarily be incurred in keeping up their foreign relations? Gentlemen were willing that the Executive should take a great deal upon himself, have a great deal of responsibility, and they were very ready to find fault when every thing was not done to their wishes, but when called upon for the money necessary for the occasion, it was refused because no estimate was made; because the expenses were contingent, and could not be calculated. $30,000 might be enough, or it might not. He desired gentlemen to look on the affairs of Europe; until the war there should cease, he said, the expenses of our foreign correspondence would necessarily be large. To give the PRESIDENT ample means was the best way of preventing the impressment of our seamen, and the injuries committed upon our commerce; but, if the necessary means were withheld, all the authorities would be crippled, and we should abroad be laughed at.

Mr. LIVINGSTON said, meaning, as he did, to vote against filling up the blank with $30,000, he would give the reasons which influenced his vote. If this appropriation had been asked for to pay the expense of new foreign agents, he would have given it his support; but he could not agree to give money for the purpose assigned; for, if the PRESIDENT were to pay the expenses of the suits which were to be instituted for obtaining redress for prizes illegally taken from our citizens, he should be authorized to do so by law. And if they agreed to appropriate the sum required for foreign intercourse, the PRESIDENT could not expend the money in the way mentioned; for what connexion, said he, had the expense of such law-suits with foreign intercourse? It was said the United States were to indemnify our merchants from loss; but this could not be done by a general appropriation for the expenses of foreign intercourse; it must be done, he said, by a special appropriation for the purpose; yet this might as well be done under this appropriation as to pay the law-suits under it. He should, therefore, vote against this additional appropriation, except it could be shown to be necessary for the additional salaries of agents. He was not certain that these considerations would have weight with others, but they had weight upon his mind, and, unless more information was given upon the subject, he should vote against the sum proposed.

Mr. SWANWICK was of opinion that the prosecuting of the appeals of our merchants to recover their property illegally taken from them, might very properly be paid out of the sums appropriated for foreign expenditure. His friend from New York [Mr. LIVINGSTON] had said, that if the PRESIDENT undertook to pay the expense of these law-suits, without any direct authority, he might also go on to indemnify our merchants for their losses altogether; but that gentleman must allow that this could not be done, unless a sum sufficiently large was appropriated for the purpose. Undoubtedly, if a sum large enough was granted, he might apply it for that purpose, because it would be known, at the time it was granted, that it must be appropriated to something of the kind. How was this relevant to the present case? Can the PRESIDENT satisfy the losses of our merchants out of thirty thousand dollars? Certainly not; and he thought it only reasonable that the expense of the suits instituted to recover the losses of our merchants should be paid by Government, otherwise the recovery would in many cases be too heavy for an individual to bear. And if they were to appropriate too small a sum for this purpose, would not the merchants come to that House and say, "because you did not allow sufficient money to prosecute our claims, we now call upon you for restitution?" He hoped no one would be influenced in his vote on this occasion by his dislike to the Treaty; that question had nothing to do with the present. Mr. S. concluded with observing, that he had no calculations on the subject; but, as he had before said, he knew the expensiveness of British courts of law, and he wondered that the law gentlemen in that House, who knew very well the price of law, should think the sum too large.

Mr. HAVENS said, that it appeared to him a very improper way of doing business, to include, under the general expression of "foreign intercourse," as it was expressed in the bill, such a great variety of subjects, very different in their nature, about which it might be supposed necessary to expend some portion of the public moneys. He thought that when the House was called upon to make appropriations of the public moneys, they ought at least to have before them such a specific detail of the several particulars about which it was supposed necessary that public money should be expended, as would enable them to judge of the necessity or propriety of making the expenditure. He wished to have the clause so amended as to enumerate the particular objects of expenditure which had been mentioned by those who advocated it as it then stood. He then moved that the clause should be so amended as to say, that the money should be appropriated for the purpose of defraying the expenses that would arise in prosecuting certain suits in the Courts of Great Britain, on account of the spoliations that had been committed on the American commerce, and for other contingent expenses, instead of saying generally for the purposes of "foreign intercourse."

Mr. NICHOLAS seconded the motion.

Mr. GILES hoped they should not agree to the amendment. It would support the idea that they were to make indemnification for all the spoliations which the British had committed upon the property of our merchants; a principle he should be very unwilling to sanction. He was of opinion that not one farthing of the money now appropriated would be expended in that way. The view he had of the business was, that the money was wanted to answer any contingency which might arise from the present state of Europe. He was for having the merchants go on in their own way, and to get all they could from the British. Considering the proposition as affording an additional sum for keeping up foreign intercourse, he would consent to fill up the blank with $20,000, which would make the sum already granted $60,000, but with no indirect view of interfering with the claims of our merchants.

Mr. DAYTON was decidedly against the amendment and preferred the bill, as it would read without it. The relief of American seamen was with him one of the objects as well as the affording of aid to the merchants, who were suffering, or might hereafter suffer from the depredations of English cruisers. To afford aid in prosecuting the appeals of the merchants, did not, he said, by any means sanction the principle that the United States were bound and prepared to make good their losses, if they were not satisfied by the British. To that principle he should never agree.

Mr. LIVINGSTON explained.

Mr. VENABLE said, by the amendment proposed the thing was brought to issue. Gentlemen were agreed that this money was wanted for a certain purpose, but when that purpose was brought forward and inserted in the bill, they were opposed to the meeting of it. It was said, if they made provision for the payment of the expense of law-suits, they must also make provision for the payment of the spoliations themselves. But should it be said in that House that they would not pay the expense of these law-suits, and yet expect the PRESIDENT to do this? Could it be supposed that the PRESIDENT would do an act which the Legislature would not do? If $20,000 were wanted for the usual foreign expenditure, he would vote for it, but not for an object which the House seemed unwilling to sanction.

Mr. W. SMITH objected to the motion's being in order.

Mr. HAVENS said, that he had not proposed the amendment to the clause under consideration because that he approved of the principle of paying for the spoliations that had been committed on American commerce, under all existing circumstances, but merely that gentlemen might vote for the appropriations of the public money, on the ground or for the reasons which they themselves had assigned in favor of the clause when expressed in a more general way, under the idea of foreign intercourse; and he was surprised to find any gentleman opposed to an amendment which expressed the very reasons which he himself had urged in favor of the clause when expressed in a more general way. He did not think that they ought to avoid the making specific appropriations, under color of such general expressions; he was, besides this, of opinion that it would not be treating the PRESIDENT well to put him in such a situation as to make it necessary for him to designate all the particular objects of public expenditure, when they were not detailed in the law itself. If gentlemen intended that the PRESIDENT should expend the money about the law-suits in question, they ought to say so in the law, and take the responsibility of the measure upon themselves. After the clause was amended in the way that he had proposed, they could then decide with more propriety on the clause itself.

Mr. WILLIAMS was opposed to the amendment because he did not wish to pay the expenses, at least, of all the law-suits in question. The gentleman from Maryland [Mr. S. SMITH] had mistaken him. He did not oppose the sum because he was unwilling to grant the necessary appropriations, but because the object to which the money was to be applied was not mentioned.

Mr. MACON moved to strike out the whole section. He thought they had nothing to do with the recovery of damages for the spoliations of the British, for which this money seemed to be wanted. He thought they were as much bound to pay the spoliations themselves as the law-suits; to do

this would be making all persons, on land, a kind of underwriters for adventurers at sea.

Mr. Gilbert could not see any reason for objecting to fill the blank with thirty thousand dollars. If they were to continue there ever so long, they could not say for what this money was wanted. It must go for contingencies. He hoped the section would not be struck out. It was the business of the Executive to direct the expenditure of the money, and of that House to appropriate money to enable him to do it. The object of his colleague [Mr. Havens] was to specify the object to which the money should be applied; to direct the President how he should manage foreign intercourse. Where he found this doctrine, he could not say; the Constitution knew none such. He believed they should make the appropriation. He would not say it should be for this or that purpose, but leave it to the President to expend it in the way which appeared to him most proper.

Mr. Dayton could not suffer the question to be taken before he said a few words in answer to the gentleman from North Carolina, who seemed to think that the money now to be appropriated was to be expended only in discharging the expenses of law-suits. The Executive, he said, had been subjected to indirect censure, because immediate relief had not been obtained for impressed American seamen, when the means of doing it were not afforded him by the Legislature. If agents should be appointed pursuant to the bill that had passed the House of Representatives, an appropriation would nevertheless be necessary, in order to enable and induce the Consuls to co-operate with them in so humane and important a work. Every one must know that, during the present war, extraordinary expense must necessarily be incurred in the maintenance of tranquility and neutrality, and in the preservation of foreign intercourse and good understanding.

In cases of the seizure of the property of American citizens, contrary to the Law of Nations, where a representation or remonstrance must be made from this Government to that of the offending party, it would be necessary to send abroad in order to obtain extracts from Court records, or other proofs, to establish the fact of a violation; yet this could not be done without expense, and was but one of the very many instances which might occur to require expenditures of money, and where the want of it would prove exceedingly detrimental to their general interests. If they should refuse to make the necessary appropriation they could not justly blame the Executive if the most effectual measures were not taken and persevered in, to promote the interests of this country as an independent nation.

Mr. Macon said they had passed a bill relative to seamen, which was now in the Senate. This money had nothing to do with that bill. The gentleman from New Jersey had told them of this expense before, but gentlemen in general expected the money was wanted to pay for the law-suits mentioned; and, said he, if we interfere in these suits, may not our citizens say, in any case which is unsuccessful, "if you had let us manage our own suits, we could have recovered our losses?" Both the seamen and the treaty, said Mr. M., are provided for, and if money enough was not voted for those purposes, he would vote for more, and therefore saw no necessity for mentioning them there.

Mr. Giles said, he should not have risen again had it not been for what had fallen from the gentleman from New Jersey [Mr. Dayton.] Whatever might be thought of the penury of that House, he thought they had voted very large sums for foreign intercourse. They had appropriated a million of dollars for purchasing a peace with Algiers; but two hundred thousand dollars of that sum had been taken for foreign intercourse, he believed, with great propriety. However, as they had appropriated so amply all that had been asked for, he thought there was no ground for charging them with not appropriating sufficiently. He should vote against striking out this clause; but, in doing this, he would not be understood to authorize the President to expend this money in law-suits. If he had done it at all, he hoped he had so done it as not to make the United States ultimately answerable for the losses of our merchants. He was willing to vote for twenty thousand dollars, which he thought enough; and as they had no information from the President on the subject of these law-suits, he hoped the money would not be expended upon them.

Mr. Williams said a few words against striking out the clause, and against appropriating the money for the payment of law-suits. He hoped it would not be so used.

The motion for striking out was put and negatived.

The question was about to be put for filling the blank with thirty thousand dollars; when

Mr. Gallatin said, the gentleman from New Jersey had mentioned the expense of sending an agent to the West Indies. He found, by referring to the Secretary of the Treasury's accounts, that the expense of Mr. Higginson's agency had been charged to the contingent expenses of Government, and not to the head of foreign intercourse. He found that by far the greater proportion of the yearly appropriation of $20,000, for contingent expenses of Government, had, in the year 1794, been expended for that object or for foreign intercourse; there being but a sum of one hundred and eighty dollars applied that year to contingent expenses of another nature. He read the statement of receipts and expenditures. Hence, said he, two things appear: first, that the expenses attending agency to the West Indies have usually been charged to the account of contingent expenses, and will of course be provided for when we make the usual appropriation for that purpose; and secondly, that it would be useless to appropriate $20,000 for the contingent expenses of Government, were it not for the object of foreign intercourse; that that appropriation is in fact an appropriation for foreign intercourse; and that the sum with which they were going to fill the blank would be, in fact, in addition, not to the $40,000 already appropriated, but to a sum of $60,000, which might eventually and commonly was

applied to defray the expenses of foreign intercourse.

The question being put for $30,000, it was negatived—40 to 36.

Mr. W. Smith then moved $25,000. He said there would be no more inconvenience from voting a large sum than a small one, as if it was not wanted, it would not be expended. With respect to the $40,000 already appropriated, he believed it was wholly expended in salaries, and $25,000 might be wanted for contingent expenses. The question was put and lost—38 to 37.

The question was then put and carried on $20,000, by a large majority.

Thursday, May 19.

The bill for providing relief for persons imprisoned for debt was read a third time and passed.

The bill directing certain experiments to be made to ascertain an uniform principle to regulate Weights and Measures, was read a third time and passed.

The amendments by the Senate to a bill in addition to an act supplementary to an act for providing more effectualy for the collection of duties on goods, wares, and merchandise imported into the United States, were twice read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. W. Smith, from the Committee of Ways and Means, to whom were referred the bill from the Senate regulating the compensation of clerks, reported the bill, with one amendment; which was read.

A message was received from the Senate, with their amendments to the bill for laying duties on carriages for the conveyance of persons; which were twice read, and referred to a select committee.

SHIPS' PASSPORTS.

The bill for providing passports for ships and vessels of the United States, which originated in the Senate, was about to be read the third time; when

Mr. S. Smith said, he believed there was a clause in the bill originating revenue, (as it directed sums to be paid for passports,) which was an encroachment upon the powers of that House, who only had a right to originate revenue laws. He believed the Senate had done it without intention, and he did not wish to enter into any contest with them on the subject, but to postpone the consideration of the bill.

Other gentlemen thought it would be better to reject the bill, and originate a new one; which course, after some observations, was adopted.

The bill was accordingly read a third time, and rejected unanimously.

Mr. W. Smith said, that as they had rejected the bill providing passports, as improper to have originated in the Senate, he would move, "That the Committee of Commerce and Manufactures be instructed to bring in a bill for providing passports for ships and vessels of the United States." Agreed to.

EXPENSES OF FOREIGN INTERCOURSE.

The bill making further provision for defraying the expenses of intercourse with foreign nations, and to continue in force an act providing means of intercourse between the United States and foreign nations, was read a third time; and after a few observations on the time which it should remain in force—in the course of which it was observed, by Mr. Giles, that he hoped the time was not far distant when they should have less to do with foreign nations than they had at present—its continuance was confined to one year, and from thence to the end of the next session of Congress. The blank for the sum of money appropriated was filled up, according to the estimate from the proper Department, with $394,539 06. The bill was then passed.

ROAD FROM MAINE TO GEORGIA.

Mr. Madison moved that the House should resolve itself into a Committee of the Whole on the bill enabling the President to cause to be examined, and, where necessary, surveyed, the post roads from Wiscasset in Maine, to Savannah in Georgia, and to report the expense that would attend the transmission of the mail thereon. The House resolved itself into a Committee of the Whole accordingly, when, after two amendments, viz: adding the city of Washington to the other towns mentioned, and inserting Portland instead of Wiscasset, and filling up the blank appropriating a sum of money for the purpose, with five thousand dollars, the Committee rose and reported the bill. The House took up the amendments, agreed to them, and the bill was ordered for a third reading to-morrow.

DUTY ON SNUFF.

Mr. S. Smith having made a motion to go into a Committee of the Whole on the bill supplementary to the act, entitled "An act to alter and amend the act laying certain duties upon snuff and refined sugar,"—

Mr. Swanwick presented a second petition from Richard Grenon & Co., expressive of the injury they should receive by the alteration which was proposed to be made in the drawback to be allowed on snuff exported, and praying, amongst other things, that the intended act might not have force until April 1, 1797, in order that they might fulfil their present engagements with foreign countries.

The House then went into Committee of the Whole on that subject; when

Mr. Bourne, from the Committee of Commerce and Manufactures, said that they had been favored with information from various quarters, and he trusted the present bill would meet the wishes of manufacturers, and produce considerable revenue. The first clause, he said, provided for mills being entered for a year or less, the want of such a provision having destroyed many manufactories, who, for various reasons, did not keep their mills going the whole year. They had also inserted a clause to remit the duty in the case of destruction by fire, or otherwise, at the instance of manufacturers. With respect to the drawback, it had been found

necessary either to take it away altogether, or considerably to reduce it. They had chosen the latter way of remedying the evil. Mr. B. said, it appeared from the report of manufacturers of different kinds of snuff, that, if the duty continued as at present, it would operate very unequally, and that manufacturers of wet tobacco ought not to pay more than one-third of the duty paid by those who manufactured it dry. The bill was conformed to this principle, and seemed to be agreed to, both by manufacturers of wet and dried tobacco.

Mr. GALLATIN wished, before he made any observations on the subject, the gentleman last up would give the Committee more information relative to snuff manufactured wet and dry, and whether it was not calculated, that, when it was manufactured wet, less was done in the same time, and of a better quality, than when manufactured dry, and whether that manufactured wet did not sell at a higher price than that manufactured dry.

Mr. BOURNE said, he was not very well acquainted with the manufacture of snuff. He would read the petition, which he had in his hand, on that subject; by which it would appear that three times the number of mortars was necessary for the manufacturing of wet, that were necessary in manufacturing dry tobacco.

Mr. GALLATIN believed the snuff manufactured wet, was of a better quality, and would sell for more money than that manufactured dry. It was well understood that the law, as it now stood, instead of being productive, was a bill of cost, more being paid in drawbacks than was received for duty. This arose, chiefly, from the exportations of one manufacturer, who, it seemed, manufactured a larger quantity than was supposed to be possible when the bill passed. He did not know whether this arose from the snuff manufactured by him being of an inferior quality, or whether it was from the introduction of new machinery into the manufactory. Yet, he believed, that, shape the bill as they pleased, no revenue would ever be drawn from snuff.

At present, to remedy one grievance, another was introduced, which would be as disadvantageous as the drawback, by giving leave to a manufacturer making snuff wet to pay only one-third of the duty paid by those who manufactured it dry. He knew no way of discovering whether snuff had been manufactured from wet or dry materials. This provision was meant to apply to a manufacturer who made snuff of a superior quality to any other person, but he was informed it would equally apply to one who made very large quantities of a quality which sold cheaper at market, so that he would only pay one-third of the duty paid by other manufacturers, although he made more. He believed he might depend upon the information he had received, though it was not from the person himself.

He objected to another part of the bill. It reduced the drawback from six cents to one cent. This might be even too much to be allowed to some manufacturers, but certainly was too little for others. He would beg leave to read an official paper, sent to the Committee of Ways and Means by the Secretary of the Treasury, from James Miller, collector of revenue at Newcastle, stating that a snuff-mill in that neighborhood, (of which Mr. Jones, of Philadelphia, was the owner,) made 1,100 pounds of snuff a week, worked —— months in the year, and paid $1,100 duty; which reduced the duty to three cents per pound. This, he said, was the only official paper they had respecting Scotch snuff. If a duty of three cents per pound was paid upon Scotch snuff, a drawback to that amount ought also to be given. At the same time, if they were to reduce the drawback to three cents, it would be vastly too much to be allowed to the other manufacturer above alluded to. If this last could, as was asserted, manufacture 500,000 pounds a year, and he paid for his mill $2,200, it reduced the duty of his snuff to less than one cent. Hence arose great difficulty in laying down a system for collecting this tax. It was so difficult, that the Committee of Commerce and Manufactures had reported a bill to take off the drawback altogether. That bill was recommitted, and this had been brought in. A drawback certainly ought to be allowed in proportion to the money paid. Mr. G. said he had collected some information on the quantity exported before the tax was established. He found the exports, by the custom-house books, had increased from 12,000 to 37,000 pounds a year in three years. From information, he understood that the quantity thus entered on the custom-house books was not more than one-third part of the whole exported, because a part of the snuff manufactured in this country was sent to the English West India Islands, which could not go, except smuggled. He might state the yearly exports before the tax, at 100,000 pounds a year. Any step taken to lay an excise upon this manufacture, without a drawback, was, in his opinion, unjust and impolitic. Tobacco was as much a staple of America as wheat; and to lay a duty on the exportation of tobacco manufactured into snuff, (for an excise, without allowing a drawback, was a duty on exportation,) appeared to him as improper as to lay a duty on the exportation of wheat manufactured into flour. As to the idea of snuff being a luxury, tobacco used for smoking or chewing was equally so, and, in point of justice, there could be no difference between them.

Mr. G. read a letter from the Commissioner of the Revenue to the Committee of Ways and Means, in order to prove the great difficulty which lay in the way of making this tax equal, just, and to prevent fraud. One of the instances of fraud, was the using small hand-mills which were worked without the least noise. He wished the law was repealed, since it was vexatious and unprofitable; the whole tax not producing more than $12,000 a year, if all was paid; and if no drawbacks were allowed, and costing, perhaps, $20,000, if drawbacks were continued.

As this bill was under consideration, and something seemed necessary to be done, he would only propose such amendments as he thought would improve the bill.

Mr. G.'s amendment was, that, instead of allowing a certain drawback on snuff, the drawback should vary, and should be —— per cent. on the value of the snuff, according to its quality.

Mr. G. withdrew, afterwards, this amendment, in order to make room for another which went to repealing, altogether, the law, and which was carried.

Mr. S. SMITH hoped the amendment would not prevail. It would be going more in the dark than they had yet gone. The tax had always appeared to him an insignificant one. If the gentleman from Pennsylvania had persevered in his first intention of proposing a repeal of the tax, he would have joined him in it; for, he said, it had been a sinking fund, instead of an advantage to the United States. Indeed, one manufacturer had raised a very large bounty, indeed, from it, who now came forward to pray the House not to repeal it, as it would ruin him. The deeper, he said, they went into a tax on manufactures, the more difficulties would be experienced, without having the effect to raise any revenue.

Mr. VENABLE said, the more this subject was looked into, the more evident it appeared that nothing could be done in the matter at this late period of the session. In order to try the sense of the Committee on the occasion, he should move to strike out the first section. Gentlemen appeared to be fond of this system of taxing manufactures, and seemed desirous of continuing to harass the people with further experiments which, he was confident, would not be more successful than the past. As the tax stood at present, it was a loss, instead of a gain, to the United States. Gentlemen said this tax could not be repealed, until it was replaced by another; but, he said, if nothing was received from it, there was no necessity for providing a substitute for it; but, on the contrary, to repeal it, would be to do away a constant drain upon the Treasury. He would, therefore, either repeal the law altogether, or suspend it until next session.

Mr. SWANWICK was of opinion, with the gentleman from Virginia, [Mr. VENABLE,] that the act ought to be repealed, believing that it would never produce anything but uneasiness and dissatisfaction in whatever way the tax might be collected. A proposition was now made to reduce the drawback of six cents to one. How could gentlemen reconcile this with the law imposing the duty.

Undoubtedly, said Mr. S., there was a good deal of force in the argument of a manufacturer who complained of the instability of our laws on this occasion; for, upon a supposition of a continuance of this law, he had enlarged his manufactory; but now, all at once, the drawback was proposed to be reduced from six cents to one cent per pound. He hoped the motion would be agreed to, because he believed to repeal the law would eventually be the least loss to the Union.

Mr. W. SMITH said, that gentlemen would not accomplish their object by striking out the first section. It went to modify the tax in a way which, he believed, would be generally acceptable to the manufacturers. If the first section was struck out the tax would still exist; and, he supposed, no gentleman would think it possible to repeal the snuff tax this session, without violating the public engagements. Indeed, if they were to agree to such a repeal, without a substitute, the Passenger and Senate would probably not concur. The duties arising from snuff and refined sugar were appropriated, by an existing law, to the payment of a loan which had been made, and the faith of the United States was pledged to make good any deficiency. He conceived it was not a sufficient reason for repealing the law, because it did not produce as much as was expected from it. An argument of this sort would go to the repeal of every other duty. He thought, when a tax was pledged which was not productive, it should either be so modified as to become so, or a new one substituted in its place. If the tax on snuff was not productive, and could not be made so, the gentlemen opposed to it should substitute another for it; but, until this was done, he hoped they would endeavor to modify it so as to make it productive. The same reason which was given for repealing this tax, might be applied to sugar, and to the excise on spirits; and, by this means, instead of adhering to any system for increasing the revenue, they would fritter away the existing revenues. Some members were perpetually complaining about the increasing of the debt. It was certainly desirable not to increase it; but, if they were to go on this way, an increase of debt was inevitable. But they say this tax produces nothing, because it is not properly modified—let it, then, be properly modified. The manufacturers themselves do not generally wish the tax repealed; they wish only to have it regulated in the manner proposed by the bill.

Individual manufacturers, Mr. S. said, had no claim upon the United States for any loss they may sustain on account of any necessary changes in their revenue laws; the manufacturers of snuff themselves, in a pamphlet written in their behalf, had exposed the practices made use of to deceive Government in the business of drawbacks. [Mr. S. read some extracts from the pamphlet.] He thought that, as the revenue had not been so productive as it might be, they ought to endeavor to make it so. He believed the mode proposed would have that effect. He would rather do away the drawback altogether, than repeal the law; but some gentlemen had thought this would be violating a principle of the Constitution, by laying a tax on exports; he was, therefore, willing to put it at one cent. If it were the object of gentlemen to destroy the bill, they had better let it pass to the third reading, and then negative its passing. When the tax was first laid, it was laid upon the pound; but, on the manufacturers' complaining of great inconvenience, in order to accommodate them, another law was passed, changing the mode of collecting the tax, by laying it on the mortar. This did not satisfy some of them, and he believed, however, if a tax was laid, there would be some complaint against it. It was in the nature of taxes to be inconvenient and unpleasant; but, because a clause in the bill before them was not perfectly agreeable to gentlemen, was that a reason for giving up the duty altogether. If the manufacturers pre-

ferred returning to the original mode of paying the duty by the pound, he had no objection to it.

Mr. BURRS was of opinion, there was no article a more proper subject for taxation than snuff. It was said, why not extend the tax to tobacco? He would inform them that the report of the Committee of Ways and Means originally stood so, but tobacco had been struck out. It might be remembered, that snuff imported, formerly paid a considerable duty; but to favor our own manufactures, the duty had been increased on foreign snuff so high as to amount to a prohibition, and, unless it produced a revenue in this way by excise, none would be derived from snuff; and he could not see why they should lay a duty on brown sugar and spirits, and not on snuff, which was certainly a mere luxury, and an article of caprice. He did not know a more fit article of taxation, and, if the prohibition of foreign snuff was to be continued, he thought the excise ought also to be continued. He was of opinion that, to alter the law as now proposed, would improve the revenue, and give satisfaction to the manufacturers in general. With respect to the particular manufacturer who was to be disappointed by this alteration of the law, if he suffered loss he should be sorry for him; but they were not to consider his interest alone in preference to that of the United States. That manufacturer could not have considered the law as passed merely as a bounty to him; if he did, the Legislature certainly thought otherwise; they thought of raising from forty to fifty thousand dollars a year from the tax, and this would have been raised if the duty had been fairly collected at six cents per pound. The sums laid upon the mortars, as an equivalent to the six cents, were taken from Mr. Leiper, one of the manufacturers, by himself, and now he was dissatisfied. He hoped they would pass the bill, and continue the drawback at one cent; but, if it was proper that Mr. Gernon, or any other person, should take $100,000 from the Treasury for drawbacks, it would be proper to agree to the motion.

Mr. SWANWICK said, no gentleman wished more to preserve the public faith inviolate than he; but he was sure that the gentleman who was so zealous for the public faith, as it related to the doing away of this law altogether, did not pay so much respect to it, as it related to the manufacturer who would be injured by this new law. The present law, he said, was passed in 1795, and was to continue in force till the year 1801; it allowed six cents per pound drawback on exportation. In consequence, a certain manufacturer had turned his whole attention to the exportation business, and had drawn large sums of money from the Treasury; but now, when he had enlarged his works, relying upon a continuance of the act till the time mentioned, the drawback was proposed to be reduced from six cents to one cent. There was at least instability, if not injustice, in this. In other countries, he knew, when a change in their imposts took place, there was always some time given before the new act took place. If gentlemen expected any revenue would be raised by this new bill, he believed they would be disappointed. He believed it was a tax which would never be beneficial. Whatever bill they might pass, he believed no revenue would be produced, but that the tax would continue to be vexatious.

Gentlemen had said that snuff was a fit article from which to raise a revenue; but, he believed, whatever methods were taken to tax it, they would prove ineffectual, and would only encourage fraud and vice. Since the establishment of the tax, it had been a continued vexation to the Government and to the people, and the new law had always been worse than the old one; and, if the law now proposed were to pass, he doubted not there would, next session, be occasion again to change it. But the gentleman from South Carolina said, why not substitute this tax with another, if it was to be repealed? He had always considered of a substitute. He had no doubt there was a mode of raising more money than was raised at present by excise laws, without complaint; the mode he meant was by a national lottery, which would be a tax collected with ease, and was a practice which had been adopted by all nations. He thought it would be an unexceptionable source of revenue. There were various other means of raising revenue, and why should they be hobbling along with this tax on snuff, which, in fact, proved a tax upon the Government itself.

The gentleman from South Carolina said, that if this House were to repeal this tax, the PRESIDENT and Senate would not concur. He could see no reason for such an assertion as this. He wished the tax to be repealed; but, however, if gentlemen chose to go on with another experiment, he must submit; but, in that case, he hoped some time would be allowed for the change taking place, as he did not think it should be momentarily effected.

Mr. W. LYMAN hoped the motion would prevail to strike out the first section; as he was of opinion they might lose money by a tax on snuff, but he believed they should get none. He always thought the tax an improper one; and he believed no gentleman contemplated a tax upon this article without a drawback, as this would be contrary to the Constitution. If no other consideration would influence them to do away this tax, motives of policy ought to do it. One-half, if not three-fourths of the snuff consumed throughout the known world was the produce of America. It was true wisdom, therefore, to endeavor to export it in its manufactured state, and by that means draw the money which is paid for that process in other parts into the United States. If they were to let this manufacture alone, he believed, this would soon become the case; and surely, for a few thousand dollars a year, it was not worth their while to risk the defeat of so great an object. When he contemplated the drawback to be allowed on the exportation of this article, it always appeared to him impossible so to regulate it as to prevent it from being eluded. They had had some experiment of the unproductiveness of this tax, and other countries might hold out instructions to us on the subject. He believed no article upon which the taxing hand of Great Britain was laid, eluded

its grasp more than this article of snuff. It was out of their power to collect any great revenue from the article. The State from which he came had made attempts to tax snuff and tobacco; and whilst the tax remained, there was not a session of the Legislature passed without alteration, till at length they abolished it. It was considered by their Government as an eligible article of taxation, and gentlemen were unwilling, as at present to relinquish it; but at length they saw the wisdom of doing so. He trusted that House would follow their example; for, he observed, if they were to adopt the plan proposed in the bill before them, they should be acting in the dark, by not knowing how it would operate, and they had no business to make laws at random.

With respect to repealing the law, he believed it would be more profitable to do that, than to suffer it to operate as it now did; some manufacturers, he believed, would suffer from this, but that was not a consideration for them. The tax was laid for the purpose of producing revenue; if it failed in this, and the failure did not appear to be remediable, there surely could be no good reason assigned why they should continue to harass one part of their citizens for the sole purpose of enriching others. As to what had been said about replacing this tax with another, before it was abolished, as it confessedly produced nothing, there was no necessity for a substitute for it. He thought there were many objects of taxation more fair and equal than this. Mr. L. was of opinion with the gentleman from Pennsylvania, that lotteries was a good way of raising revenue.

Mr. BOURNE did not expect a motion would have been brought forward to repeal this law; if it had been brought forward earlier in the session, some other tax might have been substituted in its place. Gentlemen say the tax ought to be repealed, because it would always be unproductive. If, indeed, they were convinced of this, it would be good ground for a repeal; but, he asked, if a fair experiment had been made with it? He said there had not. Many manufacturers ceased their business, when the tax was first laid, and it was changed. The present law had been equally injurious to small manufacturers, for want of authorizing their mills to be entered for a less time than a year. Under this sort of experiment it was that gentlemen wished the tax to be repealed. Why, asked he, cannot revenue be raised in this country, from this article, as well as in other countries? Had not this Government as much energy? Was it not equally capable of carrying a law of this sort into effect? He believed it was, and that the bill now proposed, would remedy the grievances complained of.

Few of the manufacturers, he said, had asked for a repeal of the law. None except in Pennsylvania, notwithstanding they had petitions from many of the States; all that was asked for was a modification of the law. Whatever objections there might be to different parts of the bill, they might be obviated in passing through it, if gentlemen were not determined to do away the tax altogether.

Gentlemen had said, that if the drawback was reduced or discontinued, it was a breach of faith with certain manufacturers. He thought the objections were equally strong against a repeal of the law. The chief objections were against the disproportion of the drawback, and not against the duty itself. He hoped, therefore, the first section would not be struck out; but, that the bill before the Committee would be candidly gone through. He believed with the gentleman from South Carolina, that to repeal the law, would be a violation of public faith, and they could not consistently do it without substituting another tax for the one repealed.

When a law was unproductive, the proper way was to modify it and not repeal it, until due experiment had been had of its being an improper tax. He did not think the experiment had yet been fairly tried.

Mr. VENABLE was surprised to hear from the gentleman from South Carolina that the United States were obliged to keep a tax in force, though ever so unproductive, until it was substituted by another. As nothing was produced by the tax, no reasonable objection, on the ground of revenue, could be brought against its repeal. He objected to the duty and drawback in the bill before them as out of proportion, and said if it were to pass, it would certainly be a duty on the produce of the United States, as much as if a duty of a dollar per barrel was laid upon flour, and a drawback of three quarters of a dollar was to be allowed on exportation. There would then evidently remain one quarter of a dollar duty on all flour exported.

The gentleman from South Carolina had read an extract from a book which proved that wherever such taxes were laid, they were evaded by the cunning of those whose interest it was to deceive Government. He believed this was true, and that it would always continue to be so, and therefore the sooner the law was repealed the better.

Mr. FINDLEY said, the question was rather an unusual thing. It was not whether they should make a law, but whether they would go into an experiment. He had no objection to the experiment's being made, but he believed it would prove like the rest. There were difficulties on every side. If the drawback was entirely taken off, an article in the Constitution was broken; and if any were allowed, it seemed too much for some manufacturers. His colleague had given instances in which the tax was evaded. Indeed, he thought the impediments were so great as not to induce a continuance of the tax.

Mr. GALLATIN had not intended to have troubled the Committee again on this subject, had it not been for what had fallen from the gentleman from South Carolina, on the subject of public faith. But he could not see how any faith could be violated by repealing a tax which produced nothing, as had been shown with respect to the tax on snuff. But supposing the tax to have been productive and that from its being repealed there was a deficiency in the revenue, would it affect the interest of the public debt? Certainly not.

that must be paid; and if there was any deficiency in the receipts of the revenue it would fall upon the current expenses, and not upon the interest of the public debt. But this was not all. To what purpose was the amount of this appropriated? It was to be applied, with four other taxes, to the year 1801, to pay the interest and principal of the Algerine million loan. The Secretary of the Treasury had said the interest of this loan was fully secured; but, the taxes were not productive enough to reimburse the principal. From this report, a bill had been passed to borrow five millions for the purpose of paying the bank this million, together with the anticipations which had been advanced upon the revenue.

The whole argument, therefore, of public faith, fell to the ground. It had nothing to operate upon. The gentleman from Rhode Island [Mr. Bourne] had said, that an objection to the drawback was not an objection to the bill. It was an objection to the whole plan. If, said Mr. G. you allow a drawback larger than the duty, it was better to have no law. If the only remedy was either to allow no drawback at all, or to repeal the law, an objection to the first plan was an objection to the whole system of taxing snuff.

Mr. Dayton (the Speaker) intended to have observed some time ago that, if a repeal of this tax or excise was the object of gentlemen, the proposed motion could not have the effect; because if all the five sections were struck out, the bill would be complete with the sixth section remaining; therefore, the present proceedings were wholly irregular, the sense of the Committee could not be taken with respect to a repeal of the law, but upon the bill before them, to amend it.

Mr. Nicholas believed they had the power of determining what they would do in this business. If striking out the first section would not have the wished-for effect, they might strike out all the sections one after another. By striking out the first section, he believed the sense of the Committee would be determined.

The question being put for striking out the first section, it was carried, 40 to 32.

The Committee rose, reported the bill, and asked leave to sit again, which was refused, 41 to 32.

Mr. Venable then laid a resolution on the table, to appoint a Committee to bring in a bill for repealing the act imposing a duty on snuff; but the day following it was agreed that instead of repealing the act, it should be suspended only till next session of Congress, and that the Secretary of the Treasury should in the mean time prepare a plan of collecting a tax on snuff.

The House then adjourned.

Friday, May 20.

The bill concerning the post road from Portland in Maine to Savannah in Georgia, was read a third time and passed.

A message was received from the Senate informing the House that they had resolved that the bill for the relief of Moses Myers, should not pass; and that they had passed the bill altering the compensation of the Accountant of the War Department, with amendments.

The House took up the consideration of the amendments, which were, that instead of $1,600 $1,800 should be the future salary of the Accountant, and that he should send and receive all letters by post, free of expense.

After a few observations on motion of Mr. Heath, the yeas and nays were taken upon the first amendment and stood, yeas 19, nays 50, as follows:

Yeas.—Messrs. Theodorus Bailey, Benjamin Bourne, William Cooper, Jesse Franklin, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Thomas Hartley, Nathaniel Macon, William Vans Murray, Samuel Sitgreaves, William Smith, John Swanwick, Zephaniah Swift, Absalom Tatem, George Thatcher, John E. Van Allen, and John Williams.

Nays.—Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Nathan Bryan, Dempsey Burges, Gabriel Christie, Joshua Coit, Isaac Coles, George Dent, Samuel Earle, William Findley, Abiel Foster, Dwight Foster, Albert Gallatin, James Gillespie, Chauncey Goodrich, Christopher Greenup, Andrew Gregg, Roger Griswold, Wade Hampton, George Hancock, Carter B. Harrison, Jno. Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, Thomas Henderson, William Hindman, James Holland, George Jackson, Aaron Kitchell, Samuel Lyman, William Lyman, Samuel Maclay, Francis Malbone, Andrew Moore, Frederick Augustus Muhlenberg, Anthony New, John Nicholas, Josiah Parker, John Reed, John Richards, Nathaniel Smith, Israel Smith, Richard Sprigg, Jr., Thomas Sprigg, Richard Thomas, Uriah Tracy, Abraham Venable, and Richard Winn.

This amendment being negatived, the other was put and carried.

Mr. W. Smith, from the Committee of Claims, reported a bill providing for the more effectual collection of certain internal revenues of the United States, also, a bill limiting the time allowed for a drawback on the exportation of domestic distilled spirits, and allowing a drawback on spirits exported in vessels of less burden than thirty tons by the Mississippi.

These bills were twice read; the former ordered to be committed to a Committee of the Whole on Monday, and the latter ordered to be engrossed for a third reading to-morrow.

Mr. Thatcher proposed a resolution to the following effect, intended to fix an earlier period for the meeting of the next session of Congress.

"*Resolved*, That a Committee be appointed to report a bill for altering the time of the next meeting of Congress."

This resolution was negatived, 43 to 30.

Mr. Giles called up the resolution yesterday laid upon the table, to appoint a Committee to bring in a bill to repeal the duty on snuff, which being agreed to be taken up, he proposed to strike out the words "ought to be repealed," and to insert "ought to be suspended until the end of the next session of Congress." He had no objection to the law being repealed, but he believed many other gentlemen wished it to have a further experiment, and he had no objection to have them indulged. The motion was agreed to, and referred to a committee to bring in a bill.

On motion of Mr. Tracy, a resolution to the following effect was also agreed to:

"*Resolved*, That the Secretary of the Treasury be directed to prepare and lay before Congress at their next session, a mode for collecting a tax on snuff."

Mr. Bourne, from the Committee of Commerce and Manufactures, reported a bill for providing passports for ships and vessels of the United States, which was read twice and ordered to be referred to a Committee of the Whole to-morrow.

Mr. W. Smith moved a resolution to the following effect:

"*Resolved*, That a Committee be appointed to bring in a bill authorizing the President of the United States to lay and regulate embargoes during the recess of Congress."

The resolution was agreed to, 36 to 29.

Mr. Bourne, from the Committee of Commerce and Manufactures, reported a bill for suspending the duty on snuff, which was twice read and ordered to be engrossed for a third reading to-morrow.

A message was received from the Senate informing the House that they had receded from their amendment to the bill altering the compensation of the Accountant of the War Department; and that they had passed the act for ascertaining and fixing the Military Establishment of the United States, with amendments, also an act concerning the Mint; to which they requested the concurrence of that House.

WIDOW OF GEN. GREENE.

After a number of observations upon the propriety of doing so, the House resolved itself into a Committee of the Whole, Mr. Swift in the chair, on the report of the Committee of Claims on the petition of Catharine Greene, widow of the late General Greene. Some very long documents on this subject were read, and considerable debate had on the merits of the claim; but the usual hour of adjournment being past, and the reading of other papers being called for, the Committee rose, had leave to sit again, and the House adjourned.

Saturday, May 21.

Mr. New, from the committee to whom were referred the amendments of the Senate to the bill laying a duty on carriages, made a report to agree to the amendments. These amendments do not make any material change in the bill. The report of the committee was agreed to.

Mr. Bourne, from the Committee of Commerce and Manufactures, reported a bill to authorize the President to lay, regulate, and revoke embargoes, during the recess of Congress. It was read twice and ordered to be referred to a Committee of the Whole on Monday.

The bill to suspend part of an act to alter and amend an act for laying certain duties upon snuff and refined sugar, was read a third time and passed. Also, the bill limiting the time for allowance of drawbacks on the exportation of domestic distilled spirits, and for allowing a drawback on such spirits as shall be exported in vessels of less than 30 tons burden by the Mississippi.

The bill from the Senate respecting the Mint, was read twice and referred to the Mint Committee.

The disagreement of the Senate to the amendment to the bill for the relief of persons imprisoned for debt, was read. The amendment proposed by the House was to put the laws of the United States, with reference to debtors, upon the same footing with the laws in the State, where any action might be brought. On motion for a committee of conference, to be appointed to insist on the amendments, it was carried, 36 to 24.

The Committee of the Whole, to whom was referred the amendments of the Senate to the bill in addition to an act, entitled an act supplementary to the act, entitled an act to provide more effectually for the collections of duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships or vessels, was discharged, and the bill, with the amendments, was referred to the Committee of Commerce and Manufactures.

Mr. W. Smith, from the Committee of Ways and Means, to whom was referred the amendments of the Senate to the bill regulating the compensation of clerks, made a report thereon; which was agreed to, read the third time, and passed.

Mr. Madison, from the committee to whom was referred the bill from the Senate respecting the Mint, reported the bill with an amendment limiting its duration to two years, and from thence to the end of the next session of Congress. The report was ordered to be committed to a Committee of the Whole to-day. The House, therefore, resolved itself into a Committee of the Whole, and agreed to the bill and amendment; the House then took it up, and ordered it to be read the third time on Monday.

MILITARY ESTABLISHMENT.

The amendments of the Senate to the bill fixing the Military Establishment were read. They went to the retaining the whole number of light dragoons and the Major General, and directing that men should be enlisted for five instead of three years. The amendment respecting the dragoons being under consideration—

Mr. Baldwin informed the House that the amount of the amendments of the Senate was this, to keep up 320 dragoons instead of 52, and to retain the Major General. It appeared to him that the House, having determined upon these subjects already, would be at no loss to form an opinion upon these amendments.

Mr. Williams hoped that the amendment from the Senate would not be agreed to. This House had taken great pains to mature the bill, and he was of opinion that the number of troops agreed to was sufficient for a Peace Establishment. No gentleman had observed to the contrary; any addi-

tion would not only be an augmentation to the great expense already incurred by the late war, but be a mean of retaining in the Army useful citizens, who would be otherwise employed in pursuits of much more benefit to the United States. Let us reflect on the appropriations made this session, and compare them with the situation of our Treasury. In the Letter from the Secretary of the Treasury to the Chairman of the Committee of Ways and Means, it is stated that there will be a deficiency in the course of the current year, to meet the probable necessary appropriations, the sum of one million three hundred and ten thousand six hundred and five dollars and thirty cents, which sum must be obtained from loans or new revenues. Thus situated, ought we to keep up an Army which is not wanted? He hoped they would not. Were they wanted, he would endeavor to provide means for their support; but, as he conceived they were not, he did not see the propriety of expending money, taken on loan, which must be done if his motion did not succeed.

Mr. W. Lyman hoped the amendment would be disagreed to.

Mr. S. Smith said, the Senate seemed to contemplate these light dragoons, on account of the officers, who were to do duty on horse or foot, as necessity required. From this idea, he would suggest the propriety of agreeing to the amendment.

Mr. Kittera said, the Army would be placed so widely from each other, that the horse would prove very useful.

Mr. Giles had no idea of keeping up the horse for the sake of the officers.

Mr. Gilbert was in favor of retaining the whole number of horses.

On motion of Mr. Williams, the yeas and nays were taken, and the amendment was negatived, 38 to 22, as follows:

Yeas.—Benjamin Bourne, Theophilus Bradbury, Jeshua Coit, William Cooper, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, Samuel Smith, George Thatcher, Uriah Tracy, and Peleg Wadsworth.

Nays—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, William B. Giles, Nicholas Gilman, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, George Hancock, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Josiah Parker, John Reed, John Richards, Robert Rutherford, Jeremiah Smith, Richard Sprigg, jr., Thomas Sprigg, John Swanwick, Zephaniah Swift, Absalom Tatom, Richard Thomas, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, John Williams, and Richard Winn.

The consideration of the propriety of retaining the Major General was next taken up.

Mr. Nicholas could not conceive any use for Generals. He believed if the Senate had struck out the General they sent them, the amendment would have been a good one.

Mr. Giles hoped they should not agree to the amendment. It would be a commencement of sinecures in the Military Department. There would be Generals without men to command. He believed the bill, as sent from that House, contained its full proportion of officers.

Mr. S. Smith was in favor of the amendment. He said the expense would be no great things, and the present Major General would be very necessary in taking possession of the posts. Perhaps, at this time, it was essential to keep this man in command, as if he were discharged, it might create a derangement in our Army which might be fatal. The command of three thousand men, it was true, was too trifling for a Major General. But, perhaps, as this General had been the victorious means of procuring us peace with the Indians, immediately to discharge him, would appear like ingratitude, if not injustice.

Mr. Rutherford concurred in opinion with the gentleman last up.

Mr. W. Lyman said, they were not now called upon to reward the services of Major General Wayne, but to provide proper officers for their Army. If the gentleman from Maryland [Mr. S. Smith] were to bring forward a measure of that kind, they should know how to decide upon it. Nor did he think the argument for making the office of a Major General, because the posts were to be received, had much weight. Any other officer would receive them as well as a Major General.

Mr. Giles said, he had no personal objections to the present commander of our Army; but he considered the present proposition such a breach of principle as he could not agree to. It was the making of an office for a man; as the gentleman from Maryland seemed to think the taking possession of the posts the principal business to be performed by him. If the services of this gentleman was necessary on that occasion, he would much rather pass a bill to make him a Commissioner for that purpose. All the arguments in favor of a Major General were in favor of the man, and not of the propriety of the office.

Mr. Murray said, the gentleman last up must know that the gentleman who had so successfully commanded our Western Army, was now in the service of the United States, yet he would insinuate that there was an intention of creating a new office. There was no disposition in those who wished to retain this meritorious man in service to create new officers. They were now about to make a regular Military Establishment; heretofore it had rather been a nominal one. There had been hitherto a Major General at the head of our corps, and he thought it would be proper to continue the command. There appeared to him

a great deal of danger from the instability of their proceedings, an instability often charged upon a Government like ours. He would not attribute this to any other motive than such as were too apt to enter into large deliberative bodies. Was it right that when a man had led our armies to victory, and returned, that he should be immediately stripped of his commission? He thought not. It was said that this was done, because the Army was reduced; but he believed it was now as large as when General Wayne obtained his victory by it, for it was not then more than three thousand men; and yet, because they wished to retain this man in the service of the United States, they were told that they were creating new offices for which there was no necessity.

Mr. Nicholas said, with respect to the instability of their measures, he was ready to take his own share of it as well as that of the gentleman last up, for he never found him vary from one point; he was always desirous to keep up every office which had been once established. Mr. N. thought the conduct of gentlemen extraordinary. At one time they were to make our Establishment as large as possible, and when more favorable circumstances appeared, they were not to reduce it. Where were the benefits of peace, if they were still to keep up our war establishments? Gentlemen tell you that the Army would be as large now as before the reduction, yet the same gentlemen were opposed to its being reduced to the number now contemplated. This appeared something like inconsistency. Mr. N. said, if they did not seize every favorable opportunity of lessening the expenses of Government, he believed their constituents would have good reason to complain of their want of attention to their duty.

Mr. Macon said, they ought to legislate on this subject as if there were no Army in existence. They had no permanent Establishment, as their men were discharged at the end of every three years. He believed our present commander was a very respectable officer, but he could not vote for a Major General in the Establishment, which he thought unnecessary, because he thought him a deserving man.

Mr. Bourne believed it was not necessary to have any appropriate number of men for a Major General to command. It had often been thought that a Major General was necessary. He believed they had thought so on former occasions. If any necessity should arise for the militia to be called out to aid the Army, such an officer would be highly necessary. He did not think it would be true economy to reject him.

Mr. Gallatin said it was not pleasing to give a vote which was in some degree of a personal nature like the present. He was unacquainted with the gentleman who now held the office of Major General in our Army, and, therefore, was under no personal influence, and his opinion on the subject was formed upon the information of those in whose judgment on military affairs, he must necessarily confide, as it was a subject he did not understand. It was supposed that a Major General was necessary for a War Establishment, but not for a Peace Establishment. He drew this conclusion from that grade ceasing with the war in 1783, and being again introduced in 1791, when the Indian war had commenced, and he understood it was more connected with the nature of the service than the number of men. The gentleman from Maryland [Mr. Smith] said that the nature of the service of this Summer, required the service of General Wayne; but as the act they were about to pass would not take place till the 31st of October, as it was the opinion of all gentlemen of military knowledge, that there was no necessity for retaining a Major General in our reduced Army Establishment after the posts had been taken possession of, and as the whole Summer appeared sufficient for that service, he would vote against the amendment.

Mr. Hartley thought it best to have a Major General. The expense was but small, and in case of the militia being called out (as was mentioned by the gentleman from Rhode Island) a Major General would be necessary; besides, to reject him, would have the appearance of forcing this man out of office in an ungenerous manner.

On motion of Mr. Bailey, the yeas and nays were then taken, and the Senate's amendment was lost, 49 to 34, as follows:

Yeas.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Isaac Smith, Samuel Smith, William Smith, John Swanwick, George Thatcher, Richard Thomas, Uriah Tracy, John E. Van Allen, and Peleg Wadsworth.

Nays.—Theodorus Bailey, Abraham Baldwin, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, William B. Giles, Christopher Greenup, William B. Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Josiah Parker, John Richards, Nathaniel Smith, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Zephaniah Swift, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, John Williams, and Richard Winn.

The amendment proposing that men should be enlisted for five, instead of three years, came next under consideration.

Mr. Macon hoped they should adhere to their usual practice.

Mr. S. Smith thought, if the mode of enlisting men for five years, proposed by the Senate, was superior to that of enlisting them for three, which he thought it was, there was no reason against adopting it.

Mr. Giles hoped they should not agree to the

amendment, as they had found no inconvenience from the customary practice; besides the gentleman from Maryland [Mr. Murray] would be again charging them with instability.

Mr. Harper hoped the gentleman last up would show his instability on this occasion by joining them in supporting the present amendment. He believed it would be better to enlist men for five years than for three; for when they were enlisted for three years only, very shortly after they had learnt their trade, they were discharged. He believed a man would enlist for five years as soon as for three, and therefore it would be a very advantageous alteration in our present system.

Mr. Jackson said, if it was in order, he would move to strike out *five* and insert *three*. He was confident better men would be got for three years than could be got for five. If men were to be enlisted for the latter period, he believed they should get for soldiers only the scum of the country. He said he was well acquainted with the business, and he knew that when men were enlisted for one year only, better men were got than since they had been enlisted for three years.

Mr. S. Smith said, he also had had some experience in the business of enlisting men; and he had no doubt good men would be got for five years as soon as for three. That men out of the Western country should wish to have men enlisted for a short period, he was not surprised, because, when their service was completed, the farmers got them for laborers; but if men were enlisted for five years, they would get less frequent draughts of useful hands from this part of the country. For this reason he was in favor of the measure.

Mr. Henderson said, if men could be got on the same terms for five years as for three, it would reduce two fifths of the bounty money paid at present by the United States.

The amendment, to insert three instead of five, was negatived, 40 to 31; and then the Senate's amendment was put and carried.

AMERICAN SEAMEN.

Mr. Smith, from the committee appointed to confer with a committee from the Senate, on the subject of their amendments to the bill for the relief and protection of American seamen, reported that the committee appointed on the part of that House had receded from their disagreement to the amendments of the Senate, except in one instance. The report was agreed to. Instead of having certificates issued to three descriptions of American citizens, viz: natives, foreigners who were in this country in 1783, and those who have obtained their citizenship since, they are all to be included under the head of American citizens.

WIDOW OF GEN. GREENE.

Mr. Henderson said, he was very desirous of obtaining all the information possible before he was called upon to give a vote on the claim of the widow of General Greene. He was more desirous of this, as he had received no information on the subject but what he had heard in that House, and he had considerable doubts in his mind on the subject. A letter having been mentioned yesterday to be in the office of the Secretary at War, which he understood would throw light upon the subject, he moved a resolution, calling upon the Secretary of War to furnish the letter in question.

This motion occasioned some debate, in which it was said the letter alluded to was a private letter from Mr. Burnett to General Knox, the late Secretary of War, and that it was therefore most probably not in the War Office. The motion was agreed to.

Monday, May 23.

The bill respecting the Mint was read a third time and passed.

WIDOW OF GEN. GREENE.

The House went into Committee of the Whole on the petition of Catharine Greene, widow of the late General Greene, for indemnity against the demands of Harris and Blachford, of London, merchants, on account of a certain bond which had been given to them by General Greene, as was said on account of the United States. The following was the report of the Committee of Claims:

"That this petitioner prays for indemnity against the demands of Messrs. Harris and Blachford, merchants, who have obtained a judgment against the estate of the late General Greene, for a large sum, in consequence of his being security to the said Harris and Blachford, for the debt of John Banks & Co., which debt, she states, was incurred for, and in behalf of the United States; and that General Greene gave security for no other purpose than to forward the interests of the public.

"On a strict investigation of this claim, the Committee find, that in the Fall of 1782, General Greene was authorized by the Department of War to obtain supplies of clothing for the Southern Army, then under his command; and, not long after, he contracted with John Banks, a partner in the house of Hunter, Banks & Co., for such supplies.

"In February, 1783, General Greene, under authority of the Superintendent of Finance, contracted with the same John Banks, to furnish such provisions as the same Army were in want of; both of which contracts met the approbation of his employers.

"Both these contracts required greater funds than the contractors could command, and the last, which was to supply rations for the Army, was near being defeated, because the creditors—for supplies on the former contract—were about to deprive the contractors of their means to fulfil the last. In this situation, Gen. Greene had before him the alternative of turning the Army loose upon the inhabitants, to plunder for their necessary food, or support, by his own credit, that of the contractors. He preferred the latter, and gave, in addition to the security of John Banks & Co., his own bond to Harris and Blachford, to secure an eventual payment for articles which had gone to the use of the United States in clothing the Army.

"John Banks received of the United States the whole sum of the contract, but diverted the money from

its proper channel, and left General Greene liable to pay the sum secured by the bond mentioned above, and another to Messrs. Newcomen and Collet. Banks & Co. became bankrupts, and, soon after, Banks died.

"The Committee find that General Greene, as soon as he was apprised of any possible danger which might accrue to him, took measures to procure some security; but his attempts were ineffectual as to a complete indemnity. It appears he effected some payments, and obtained partial indemnity, but was left finally exposed to a large claim of Messrs. Newcomen and Collet, and this bond about which the present petition is conversant.

"Against the claim of Newcomen and Collet, Congress have indemnified the estate of General Greene, by an act passed April 27th, 1792.

"This act has served as a precedent to the Committee, in deciding on the present petition, as there are the same reasons existing for the interference of Government now as then; to which may now be added the weight of precedent.

"For further particulars as to the merits of the claim, the Committee ask leave to refer the House to a report of the Secretary of the Treasury, made to Congress on this subject, the 28th December, 1791, and which is herewith laid before them. The bond given by Gen. Greene to Harris and Blachford for J. Banks & Co., is dated 8th April, 1783, for the sum of £18,473, 13s. 7d. South Carolina currency. This sum, by a variety of negotiations and payments, has been considerably reduced; the Committee have not been able to ascertain with precision the sum now due, but suppose it to be between eleven and twelve thousand pounds.

"The Committee are of opinion that General Greene gave this bond with the sole and honorable motive of serving, to his utmost ability, the then pressing interest of the United States: and that the salvation of the Southern Army, and success of our arms in that part of the Union, in a great measure depended upon this timely interference of his private credit.

"They think the honor and justice of Government is pledged to indemnify the estate of General Greene, and by paying the sum due to Harris and Blachford, save a deserving family from indigence and ruin. They therefore report, for the consideration of the House, the following resolution, viz:

"*Resolved*, That the United States ought to indemnify the estate of the late General Greene, for the sum due on a bond, given by the said General Greene to Harris and Blachford, bearing date April 8, 1783, for the sum of £18,473, 13s. 7d., South Carolina currency, as surety for John Banks & Co.: *Provided*, That it shall appear, upon due investigation, by the officers of the Treasury, that the said General Greene, in his life time, or his executors since his decease, have not already been indemnified, for the contents of the said bond: *And provided*, That the said executors shall make over to the Comptroller of the Treasury, and his successors, for the United States, all mortgages, bonds, covenants, or other counter securities whatsoever, if such there are, which were obtained by General Greene in his life-time, from the said Banks & Co., or either of them, on account of his being surety for them as aforesaid; to be sued for in the name of the said executors, for the use of the United States: And the officers of the Treasury are hereby authorized to liquidate and settle the sum due to the estate of the said General Greene, to indemnify the same as aforesaid, according to the true intent and meaning of this resolution; and to pay such sum as may be found due on the said bond, out of the Treasury of the United States, to the said executors, to be accounted for by them, as part of the said estate."

After some debate on this subject, in the course of which the Speaker read, in his place, a Letter he had received from the Secretary of the War Department, in consequence of a resolution passed on Saturday, calling for a letter which had been written by the late Colonel Burnett to the late Secretary of War, declaring that no such letter could be found in the War Office; and Mr. Corr spoke at considerable length against the claim—at length the question was put and carried in favor of the report, there being 51 members in the affirmative. The Committee then rose, and the House took up the consideration, when, on motion of Mr. Blount, who said he had intended to have made some observations on this subject, but finding the majority so large in favor of the report, he could not believe what he should say would have any effect, the yeas and nays were taken and stood, yeas 56, nays 26, as follows:

Yeas.—Fisher Ames, Abraham Baldwin, David Bard, Lemuel Benton, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Dempsey Burges, Thomas Claiborne, William Cooper, Jeremiah Crabb, Abiel Foster, Dwight Foster, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, William Hindman, George Jackson, John Wilkes Kittera, Samuel Lyman, William Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, and John Williams.

Nays.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Joshua Coit, Isaac Coles, George Dent, Samuel Earle, Jesse Franklin, Albert Gallatin, James Gillespie, Roger Griswold, Wm. B. Grove, Wade Hampton, George Hancock, Thomas Henderson, James Holland, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, Andrew Moore, Nathaniel Smith, Thomas Sprigg, Absalom Tatom, and Richard Winn.

The resolution was referred to the Committee of Claims, to report a bill.

[The facts, as stated in the course of debate, were as follows:

A little time before the evacuation of Charleston by the English, in the Fall of the year 1782, a number of merchants who had settled there, under British authority, were under the necessity of leaving the city. Thus situated, these merchants were willing to dispose of their goods in a way that would secure their money, and enable them to leave the country immediately. John Banks knowing of this, and being, it is said, a man of a speculative disposition, determined to avail

himself of this offer. He therefore went into Charleston, at a time when General Greene was lying not far from its walls, and there made a contract with Messrs. Harris & Blachford for goods to the amount of £50,000, which were delivered to him under the firm of Hunter, Banks, & Co. After Banks had made this purchase, he entered into contract with General Greene to supply the Army with clothes. Some time after that contract had taken place, the Army was in want of provisions, and the supplies were cut off, and about to fail, when Banks came forward and made a contract to supply the Army with provisions; but the funds which were to enable him to fulfil this contract, were in the goods he had lately bought, and an interference of his partners and creditors took place. The creditors were afraid if these goods were disposed of for that purpose, their security would be lessened, and his partners were not willing that he should convert their joint property to his own particular benefit—for they, it seems, were to have nothing to do with the provision contract. To surmount these difficulties, security was required. The creditors of Banks would be satisfied, if security was given. In this state of things, General Greene became security for Banks, in his first purchase. Banks afterwards received the whole sum of the contract, but diverted the money from its proper channel, and left General Greene liable to pay the sum secured by the bond to Harris & Blachford.

The question in the Committee was, whether General Greene entered into this security with the sole view of obtaining provisions for his Army in a time of distress, or whether he had some concern or partnership in the transaction. The following particulars were mentioned, to prove that the security was given for no other purpose than that of obtaining food for his men. The first purchase of Banks was made in September, 1782; the evacuation of Charleston took place in December following. Banks's clothing contract was made a few days previous to the evacuation; his proposal for the provision contract was made about the same time, but not actually entered into till the 18th of February, 1783, and not completed till General Greene's security was given, on the 8th of April. On the 7th of May, General Greene got a counter security. It could not be seen, as was observed, for what purpose General Greene entered into this contract, if it were not for the relief of his Army. Had General Greene been a partner, would he have required security of Banks six months after the contract, when business was going on extremely well—when Banks was in good credit, and making money, and when no doubt could be entertained of him? It was insisted he would not; but, having no connexion with him, he thought it prudent to obtain a counter security.

On the other hand, various suggestions were thrown out which had somewhat of a suspicious appearance—such as General Greene's forcing his men to buy clothing, &c., of Banks, at an exorbitant price, reports in the Army, a letter said to be written by the late Colonel Burnett, who, it appears, was a partner of John Banks, intimating that General Greene was a partner in the concern, though his name was never mentioned in it; but nothing like proof appeared to the Committee upon which to ground any reliance. Indeed, if General Greene had any concern with Banks, it seemed to be a matter which could not be proved, as, in General Greene's life-time, he brought an action against Mr. Ferry, one of the partners with Banks, which was tried at Charleston, when everything in Mr. Ferry's cause depended on proving General Greene a partner; but he failed in doing it, and, having failed, it was said to be pretty strong presumptive evidence that it could not be proved; because Mr. Ferry might have brought a cross bill against General Greene, and oblige him to declare on oath that he was in no way interested in the suit, which he did not think it proper to do.

The report of the Committee was at length agreed to, as before stated, and a bill ordered to be brought in, which subsequently passed. By this decision, between £11,000 and £12,000 sterling will be paid out of the Treasury of the United States to the executors of General Greene. The yeas and nays, on the passing of the bill, stood, 55 to 24.]

COLLECTION OF DUTIES.

The committee to whom was referred the bill in addition to an act, supplementary to an act, providing for the collection of duties on goods imported, together with the amendments of the Senate thereto, reported, that the first amendment (intended to prevent misconception,) should be agreed to, but that the three new sections, relating to the establishment of districts for the collection of duties on goods imported by the river Mississippi and the Northern boundary of the United States, should be disagreed to, and recommended that the Secretary of the Treasury should be authorized to report a plan for the establishment of districts for the collection of duties on goods so imported by way of the Mississippi, and on the Northern boundary of the United States. The report was twice read, the House took it up, and agreed to it.

MILITARY ESTABLISHMENT, &c.

A message was received from the Senate informing the House that they had disagreed to the amendments which they had made to the bill for compensation of clerks, and insisted on their own amendment.

Also, that they insisted on their amendments to the bill providing for the Military Establishment of the United States.

On motion, the reconsideration of the amendments of the latter bill were taken up.

Mr. W. SMITH moved that the House should recede. He did not think that the difference between the two Houses sufficient to risk the loss of the bill. If it were lost, the old Establishment would remain in force, and that contained the substance of the Senate's amendment.

Mr. BAILEY hoped the yeas and nays would be taken on the first amendment.

Mr. NICHOLAS did not believe with the gentleman from South Carolina, [Mr. W. SMITH,] that if the present bill was lost, they should be under the necessity of returning to the old Establishment. He knew it was in the power of either branch of the Government to bring down the Military Establishment to what they pleased. On this ground, he should be for making the Establishment special.

Mr. HARRISON was of the same opinion, and was determined to adhere to it.

The question was then taken by yeas and nays, on receding from their proposition of retaining only two troops of cavalry, and negatived, 51 to 35.

Mr. GILES then moved to insist upon their disagreement to the Senate's amendment, which was carried.

Mr. W. SMITH hoped the House would recede from their proposition of leaving out the Major General. He reminded the gentleman from Virginia [Mr. NICHOLAS] that, by withholding the appropriations for the Army, as the gentleman suggested, they would bring themselves into a disagreeable situation. To pass such a law as would not be agreed to in the Senate, and to refuse, rather than have the old Establishment, to appropriate altogether, would cause the Army to be disbanded. He hoped, therefore, they would not, by adhering, bring themselves into such a disagreeable dilemma.

Mr. W. LYMAN said, if they were driven into the situation mentioned by the gentleman last up, it would be the Senate who forced them into it. A judicial arrangement had been settled in that House, approved by every professional man, and he trusted they should adhere to it; and if the Senate did not choose to acquiesce, they might abide the consequence.

Mr. GALLATIN looked upon the question, whether they should have a Major General or a Brigadier General, as unimportant in itself; but, he thought, the ground upon which the gentleman from South Carolina supported the propriety of agreeing to the amendment of the Senate was somewhat new, and would have no weight with him on the occasion. The Constitution said that every two years the appropriations for the Army should cease. If, therefore, any disagreement between the Senate and that House were to end without a law, it would rest upon those who disagreed, because a less sum was appropriated than they wished to take the consequence of. We have a right, said he, to appropriate what we please; and if the Senate say—you must appropriate so much—we could refuse to do it. He did not think it was parliamentary to say what the Senate would do upon any occasion. To say the Senate would not do this, or that, was, in his opinion, a threat which might have been spared. [Mr. SMITH denied his having said so.] He had no doubt but the Senate would do their duty, and if they could not obtain as large an appropriation, and as large an Army as they wished, they would agree to such a lesser one as we might consent to, as they had rather have 3,000 men than none.

Mr. GILES said, he thought differently from the gentleman last up. He objected to the amendment because it created a sinecure office for a particular person. It was not contended that the troops intended to be kept up required a Major General to command them, but that a Major General might be wanted for other purposes. When this service was to be performed, he said, a person might be appointed to do it; but, because there was a particular person fitted for the business, gentlemen seemed determined to create him an office. This would be establishing a most ruinous principle, viz: that offices might be created for persons, without necessity; and he hoped that the House would not suffer any circumstances of a temporary nature to influence them to adopt such a principle.

It had been said, the other day, that there was no weight in the argument that they were making offices for men, but he believed it was so. It was contemplated by the Constitution, that every two years the Army should cease. They were now upon a Peace Establishment—the last was a War Establishment; and if a Major General was not necessary, he hoped they should not agree to have one. There was nothing in which public bodies had erred more than in departing from general principles.

With respect to appropriations, he had no doubt but they had the power to appropriate what they thought necessary for the Army, and no more. If the Senate wished to have a larger Army, they could not oblige them to appropriate for it.

Mr. COOPER spoke of the importance of having an officer at the head of their Army attached to the Constitution of our country.

Mr. WILLIAMS said, when the bill was first brought forward, this matter was fully discussed. A number of military gentlemen gave it as their opinion that a Major General was not necessary; their opinion was convincing to him, and he could not agree to have a Major General, when a Brigadier General was sufficient.

The question for receding from this proposition of the House, and agreeing to that of the Senate, was taken by yeas and nays, and negatived, 37 to 45.

It was then agreed to insist, and a committee of conference was appointed. Subsequently the Senate receded from their first amendment respecting the cavalry, and the House agreed to retain the Major General, on condition that the act continued in force only till the 4th of March next.

DEBTS OF THE UNITED STATES.

On motion of Mr. W. SMITH, the House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill providing for the payment of certain debts of the United States, which, instead of selling the whole of the five million of stock to be created at six per cent. at par, authorizes the Commissioners to sell it for

what it will bring in the market, and also to sell the two million of Bank stock belonging to the United States, if more advantageous to the Government.

Mr. S. hoped they would disagree to this amendment. It embraced two ideas. The bill, as sent from that House, he said, provided that the Commissioners of the Sinking Fund should not sell any part of the stock created under par. It was thought at the time the measures was introduced, that it would have been saleable at par, and if the business had been brought to a conclusion earlier in the session, it might have been disposed of upon those terms; but, from the lateness of the season, and other circumstances, it could not now probably be disposed of at that price. The Bank finding this to be the case, had written a letter to that effect to the Secretary of the Treasury, which had been sent to the Senate, and from the Senate to this House, and lay now on their table. The Senate, in consequence, by the amendment under consideration, authorized the Commissioners of the Sinking Fund to sell any part of the stock to be created, under par, so that the whole five millions might be so sold, and also to sell the two millions of Bank stock held by the United States, if it should be found to be more advantageous to the United States to do so.

He objected, he said, to that part of the amendment in particular, which gave the Commissioners the power of selling the Bank stock, because there were two laws in force which expressly hypothecated to the Bank and to the public creditors the dividends arising thereon; and he objected to the other part, because it gave the Commissioners power to sell the whole five millions under par, which might prove injurious to the public credit. He should have no objection, he said, to allow them to sell a part, two millions, for instance, under par, if it should be found absolutely necessary. [Mr. S. read the two acts which mortgaged the Bank stock.]

By these laws, he said, it appeared, as evident as words could make it, that the public faith was pledged that the Bank stock should remain as a security and pledge for these purposes. It might, indeed, be a question, if other funds of adequate value were to be substituted, whether this fund might not be taken away; but that point was not necessary to be settled at present, because the Senate did not propose to replace it with any other fund. So much in respect to the national faith; but even if that was not pledged, it was still an impolitic thing to give the Commissioners of the Sinking Fund the power to sell the Bank stock, which now produced eight per cent., and a yearly income of $160,000. This was a very considerable sum, and he doubted not it would hereafter increase. Bank stock at present, as well as all others, was very low; it did not sell for more than 27 per cent. premium. To sell this stock, even at this price, would be a greater loss than to sell the six per cent. stock at eighteen shillings. To bring any quantity of this stock into market would also have the certain effect of reducing the price considerably. As a mere question of interest, therefore, it was bad policy to sell the Bank stock; but he did not rest his opposition upon this, because he thought the other ground sufficiently strong, and that to pass the bill as it came from the Senate would be a direct violation of the public faith.

Mr. GALLATIN called for a division of the question. He should disagree to that part which authorized the selling of the six per cent. stock under par, as there was no worse financial regulation than that of suffering irredeemable Government stock at legal interest to be sold below par. He said they ought not to bind themselves to pay an additional interest for twenty-three years. No doubt, since the money was wanted, and must be had, it must be got on the best terms they were able to get it, but if it could not be obtained except by paying more than six per cent., the stock created ought to be redeemable at pleasure; because the present scarcity of money could not be supposed to last long, and it would be proper to have it in their power to avail themselves of any fall of interest which might in the mean time take place. He should, therefore, move for a division of the amendment, in order that the sense of the House might be taken on the parts separately.

Mr. HARPER hoped the question would be divided, and that they should disagree to that part of the Senate's amendment, directing that the six per cent. stock might be sold under par, as he had always understood that the stock, being made irredeemable for twenty-three years, would at least cause it to sell at par. If it would not do that, he thought it would do better to have the stock redeemable at pleasure.

Mr. SWANWICK said, that this was one of the most extraordinary questions which ever came before that House. Nor could it fail to astonish their constituents, when they heard and understood that the finances of the United States, which had always been represented as in the most flourishing circumstances, were in such a state as to oblige them to borrow money at a higher interest than six per cent., and that whilst they were boasting of their prosperity and the flourishing state of the Union, a motion was made to strike out a clause in a bill which prohibited the selling of six per cent. stock at a less price than par. Mr. S. said, they had been passing a number of bills this session, all empowering the borrowing of money at six per cent., yet they were now about to authorize the Commissioners of the Sinking Fund to sell Government six per cent. stock under par, and for any price they could get. We might tell our constituents, said he, that we were paying six per cent. interest, while in fact we may be paying twenty per cent. Was there ever so ruinous a system proposed to any enlightened country? Whether the stock was redeemable or irredeemable, made no difference as to the principle. He, however, should never consent that a stock irredeemable for twenty-three years, and bearing six per cent. interest, should be sold under par. What was the difference betwixt selling six per cent. stock under par, and paying a higher

interest than six per cent. for money? There was really no difference. Shall we, said he, deceive ourselves by a financial system that would ruin any country? It astonished him how it could enter into the mind of any man. He asked what would be the alarm of the creditors of the public, when they heard that six per cent. stock was to be created by the Government and sold under par? In England, whose example, he said, they seemed to be too closely following in many things, when money was wanted they did not create a stock, and authorize it to be sold under par, but resorted to a public competition for the loan, and proposals were received from any moneyed men who chose to come forward. And, even in the present year, Mr. Pitt had borrowed money at four and a half per cent., whilst the United States were about to pay nearly double, though that nation was at war, and this in a state of profound peace. If, instead of creating a stock, and authorizing it to be sold in the way proposed, a fair competition had been opened for the loan, every individual would have had an equal chance, and money would have been got on the best terms. Individuals would speculate upon the probability of a continuance of peace, and merchants would make propositions upon what terms they would take it. Though the Bank wanted money, he supposed they would not insist upon being paid down at once, and selling the stock on credit, payable by instalments, they might sell it at least at par. But what would be the operation of the bill without the provision to prevent stock being sold under par? Why, the Bank or individuals might combine to take the whole stock to themselves at any rate they could get the Commissioners of the Sinking Fund to agree to. He hoped the Committee would never agree to such a proposition.

Mr. S. wished the ensuing Congress would come together with other views than those of money-borrowing. Almost all their acts this session had ended with a clause for borrowing money. If their present embarrassment produced that effect, it would be a salutary one. He did not know how the Committee of Ways and Means had conducted their operations, but when he saw these things he was astonished. When this measure was first brought forward, the Chairman of the Committee of Ways and Means said the Bank would take the stock at par, and that if any thing more was got for it, it was to go to the credit of the United States; but now the scale was turned, and nothing but a sale even below par was contemplated.

The selling of this stock in the manner proposed, had, to him, an alarming appearance, and he believed, when known in Europe, it would be scarcely credited. He thought it would give a shock to public credit; for if they were to create stock for five millions of dollars, and sell it at any price it would fetch, they might at any time coin stock, and sell it at their pleasure, and throw such quantities into the market as to make a mere paper currency of the business, liable to depreciate to an incalculable extent.

Upon the whole, he was glad the question was divided, so as to enable gentlemen to vote separately on the merits of each part.

He would make a few observations respecting Bank stock. What a singular appearance! To own one-fifth part of the capital of the Bank of the United States without being able to pay our debts to them. [The Chairman reminded Mr. S. that he was not in order, informing him that the Bank stock was not then under consideration.] Mr. S. said, he should then reserve his observations on that head until that part of the subject came before them.

Mr. S. concluded his observations by saying that he thought the Bank ought not to require payment in a moment; they could not, in their dealings with merchants, say so to them by requiring the whole commercial body in a moment to extinguish their engagements, nor ought they to the public. This six per cent. stock could be sold at par, he was pretty sure, by giving a little time; the Bank ought to consent to give this. They had been accustomed to borrow money in Europe, but now they were to borrow it in the United States. He thought the business might yet be done in London, and it was somewhat unfortunate that it had not been determined on sooner. But as there was at present an appearance of peace in Europe, the stock would certainly increase in value, if that event should take place.

Mr. NICHOLAS said, he did not wish to take up much time of the Committee. At present, the law made the Debt redeemable till the year 1819. The amendment proposed to strike out the provision which was to prevent the stock being sold under par. It was extraordinary that they should sell this stock under par, though it bore an interest of six per cent.

Mr. N. went into a calculation to prove how much the United States would lose by the depreciation of the stock, supposing it to sell at different prices, and said they had better pay ten per cent., and have the Debt redeemable at pleasure, than dispose of it in the way proposed, as in two or three years the debts might perhaps be paid off. He was for striking out the clause which proposed to sell the six per cent. stock under par, as to sell it in that way would be procuring money in the dearest possible mode. It was their business, he said, to get money on the best terms. It was his opinion the Bank should be paid off, and at the present time; nor did he lament much the embarrassment into which they were driven to pay their debts. He thought they stood in need of some warning of this sort, in order to check their hand in borrowing; and it was only by such experiments that they should be persuaded that it was necessary to meet all their expenses by finding proper resources. Situated as they were, he should think it best to sell the Bank stock first, as likely to go at the best price. By doing this, no public engagement would be broken, as had been insinuated by the gentleman from South Carolina, [Mr. W. SMITH.] If the sale of the Bank stock was not sufficient, he should consent that the Commissioners of the Sinking Fund should sell as much of the six per cent. stock

as would satisfy the Bank, at the best price they could get.

Mr. B. Smith said, he felt for the peculiarity of their situation. He would not say that he was prepared to go into the subject at present. How was the Debt, he asked, accumulated? It was first by anticipations, on account of the credit given to merchants of four, six, nine, and twelve months, which the Treasury could not wait for. Government was then obliged to borrow from those who would lend the money. The Bank of the United States lent Government the money in anticipations of the revenue; and the revenue, but for unforeseen circumstances, would have been equal to the expenses of Government; but the Western insurrection had cost the United States 1,200,000 dollars, and there was the Peace with Algiers, of 1,000,000 dollars. This money was also borrowed by the Bank. It could not have been borrowed in Europe. Would the Bank of Pennsylvania have lent it? Would the Bank he had assisted the establishment of at Baltimore have lent it? He believed not. There was also an instalment of the Dutch Debt. These several sums were intended to be met by a new Loan; but the revolution which had taken place in Holland prevented a new Loan from being negotiated in Europe. What then was to be done? The Bank of the United States stood pledged for 6,200,000 dollars for Government. Should we, said he, keep this money from them? He hoped not. He thought the Bank had been of great utility to Government, and it ought not to be abused. He did not wish to do anything to injure the Bank; for if it was injured, others would feel the injury also.

The Bank, he said, had placed themselves in such a situation as it was unwise in them to do. Will you then not assist them, because you must pay eight per cent for money? Government owed the Bank the money, and they had desired payment. Could we then, said he, or could any merchant of credit who had a note due, say to the Bank, We cannot pay you at present, because we must pay eight or ten per cent. for money? If a merchant were to put off payment on such ground, he would immediately lose his credit, and get no more discounts at the Bank. How, said Mr. S., could it be expected to borrow money at eight per cent., when two or three per cent. per month was paid for discounting the best bonds of merchants? Yet we say we will not pay eight per cent.

Mr. S. said, he thought proper to make these observations, though he was not for the amendment of the Senate, nor could he agree with the gentleman from Pennsylvania, [Mr. Swanwick.] That gentleman thought to sell stock under par would greatly alarm our creditors. He could see no ground for alarm to them at all in this business; but he thought the gentleman's doctrine was calculated to injure the Bank. It went to this: It is true we owe you money, but we will sell nothing at a loss to pay you. You may put yourselves to what inconveniences you please, but we can suffer none. He did not think this right, though he did not approve of the amendment of the Senate.

Mr. Swanwick said, the gentleman last up had spoken as if he had felt less desire to pay the Bank of the United States—less anxious to discharge our public engagements—less anxious to do justice—than that gentleman. He wished to know how he could impute such sentiments to him from what he had said. The argument was simply whether they should strike out the clause which confined the stock from being sold under par. There was nothing like a refusal to pay: the question was, which was the best way of paying?

There were some of the gentleman's observations, for the sake of public information, he thought it necessary to notice. How could it be expected, said he, that Government could borrow money at eight per cent., when merchants paid two or three per cent. per month for discounting good bonds or notes? Did not that gentleman know the difference betwixt public stock bearing an interest of six per cent. and merchants' bonds or notes? The actual market price of the two would show that difference. There was always money in the market to buy stocks, when there was frequently little or none to discount bonds or notes. Stock was purchased to remit to Europe on speculation. The dry goods we import are often paid for in this way.

The gentleman from South Carolina [Mr. W. Smith] had said the stock would have been disposed of at par, had it been brought forward earlier in the session—that dry-good merchants would have bought in for remittances. He doubted not the Bank might now, by giving a credit of two, four, and six months, sell the stock for ten per cent. profit, above what it gave for it, if purchased under par. But if the United States were to go on borrowing from time to time, and then sell their stock at any rate to pay the Bank, individuals might make 10 or 20 per cent. profit upon such loans, which would open a fine trade for them, but a very ruinous one for the public. They would have nothing to do but to lend Government again, and at a proper time come forward and demand the money. New emissions of stock must then be made and sold in the usual way, and Government revolve in this continual circle.

When the gentleman from Maryland [Mr. S. Smith] stated the causes of the Debt, he was correct. They only differed in this: Instead of borrowing, he was in favor of laying taxes immediately after a debt was incurred to pay it. For, said he, what will be the consequence of the present practice? They were told the Bank was pledged for 6,200,000 dollars for the United States, and it might go on to 20,000,000. When you pay these 5,000,000, you do not extinguish any part of the Debt. No, you will probably increase it 1,000,000. Instead of being sold for 17*s.* 6*d.* in the pound, as had been supposed, it might sell for 20 per cent. below par. Where was this market to be made? Why, the Bank or individuals might take the whole in one line, either directly or indirectly. One of the worst charges brought against Mr. Pitt, was, that he had made a private Loan without inviting public competition. He would ask if this six per cent. was to be offered for sale

at public auction? If they were, every man who had money might become a bidder at the vendue; or, if the Bank would give a small latitude of time in the payment, it would make an immense difference in the price.

The gentleman from Maryland said, the Bank did only the same with Government that it did with merchants when their notes were due. But did not that gentleman know how one note was replaced by another? The Bank thus accommodate the merchants; but to Government they say, Pay us the debt, at whatever loss you do it, immediately. They have never said so to the whole body of merchants collectively, which alone could resemble the case in point. And while so much was said about the service which the Bank had done to the United States, had the Government done nothing for the Bank? Was the act of charter of no service to it? Were not fortunes made by it? Did they derive no advantage from the deposites made, and from the circulation given to their paper, by the Government? Did the Bank lend the money for the Algerine peace in cash, or was it not in stock, by which the public lost ten per cent. on the capital? Such repeated losses, he said, would be like the constant dropping of water upon a stone—would wear it out at last.

He was sorry to differ in opinion with the gentleman from Maryland, but they never differed more than upon the present question, when the gentleman supposed public credit would not suffer by this operation. He would ask the gentleman if he had bought stock last night at 17*s.* 6*d.* in the pound, and five millions of new stock was unexpectedly to be created to-day, and sold, whether it would not alarm him, as likely to diminish the current value?

Where, he asked, besides, were the new funds for public creditors to rely on? The Debt was increasing on all sides, but the revenue stood still. He was neither for giving a law to the Bank, nor for receiving one from it. He was for paying them, but in such a mode as was calculated to do it with sufficient promptness, and without so great loss to the public.

Mr. Kittera said they were all agreed, and therefore he could see no ground for debate.

Mr. Gallatin said, that though they seemed to be agreed in their disagreement to the amendment of the Senate, they appeared to have different ends in view. They owed the Bank of the United States a sum of money, which they had expected the stock agreed to be created would discharge; but they were now informed it would not pay the whole, as the stock would not sell at par. The Senate, therefore, proposed that the stock should be sold for the best price which could be got for it. The gentleman from Maryland [Mr. S. Smith] agreed that the Debt must be paid, yet disagreed with the Senate, and seemed to suppose that the Bank would be contented to receive two-and-a-half millions at present.

Mr. G. said, he had all along wished to pay the Bank, if they demanded payment; and, in order to know to a certainty, (for they had then no official paper before them,) he had brought forward a resolution to make an inquiry of the Bank whether they required payment of the whole five millions. In answer to which inquiry, the Directors had declared they must be paid, and had requested that the whole Debt might be extinguished. It must be observed, however, that, in fact, it was not to pay the Debt of the Bank that they wanted money, but to pay the expenses of Government; for the probable receipts of the present year were already appropriated to pay the Bank. By this bill, it was proposed that the Commissioners of the Sinking Fund should borrow money to discharge that Debt, so as to relieve the current revenues, that they might be applied to pay the current expenses of Government. And, however painful it was to give more than six per cent. for money, they must do it, if it could not be got for less, in order to satisfy the demands of their creditor.

Mr. G. then asked for the reading of the letter from the Bank. It was read.

At this point, the Committee rose, and had leave to sit again.

Mr. Tracy, from the Committee of Claims, reported a bill to indemnify the estate of the late Major General Greene for a certain bond given in the late war; which was twice read and ordered to be committed to a Committee of the Whole to-morrow. Adjourned.

Tuesday, May 24.

Mr. Nicholas, from the committee appointed to confer with a committee of the Senate on the subject of their amendments to the bill from the Senate for the relief of persons imprisoned for debt, reported that it was the opinion of the joint committee that the House of Representatives should recede from their amendments, and that the bill should pass with certain other amendments.

A message was received from the Senate informing the House that they had receded from their amendments to the bill respecting the erection of new ports of entry, &c.; that they had agreed to the bill for the relief and protection of American seamen; and that they had resolved that the bill authorizing the President to cause to be surveyed the post road from Portland in Maine, to Savannah in Georgia, do not pass. The Senate insist on their disagreement to the amendment of this House to the bill sent from the Senate, entitled "An act to regulate the compensation of clerks," and to which this House has insisted. The Senate also agree to the conference desired by this House on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," and have appointed managers at the same on their part.

DEBTS OF THE UNITED STATES.

The order of the day was then entered upon on the bill providing for certain debts of the United States, and the House formed itself into a Committee of the Whole on the business.

Mr. W. Smith proposed to strike out the Se-

nate's amendment, authorizing the Commissioners of the Sinking Fund to sell the Bank stock and to introduce the sale of six per cent. stock under par, to two millions.

This amendment was objected to as not in order, and a pretty long debate took place, chiefly on a point of order, which was at length decided by the SPEAKER, in his place, pointing out a mode of procedure, which would give an opportunity for the sense of the Committee to be fairly taken, which was by striking out certain words, so as to admit of any words being added which might be moved.

Mr. GALLATIN said, the amendment proposed by the Senate authorized the Commissioners of the Sinking Fund to sell the Bank stock belonging to the United States. He had no objection to give this power to the Commissioners of the Sinking Fund, nor did he think it would be attended with any violation of public faith. There were two laws which the gentleman from South Carolina [Mr. W. SMITH] had supposed would be violated—the first of these was the act which had appropriated the moneys received for dividend on the Bank stock, the property of the United States, to the payment of interest on certain loans obtained from the Bank. To remove any objection on that head it would be sufficient to make a new appropriation, to wit: of the funds relieved by the payment of that debt (which it was proposed to discharge with the proceeds of a sale of the Bank shares) to the payment of the interest of the loans alluded to, and he meant to move an amendment to that purpose. Indeed, it must strike every member of the Committee that, as they were creating no new debt, there could be no increase of interest. But another objection was made, viz: that, by the act establishing the Sinking Fund, they had pledged not only the amount of certain funds, but they had also pledged the funds themselves in such a manner as not to have a power to change those funds and substitute others in their place. In order to show where this doctrine would lead, he observed that not only Bank dividends, but the proceeds of the impost and excise duties were made, by that act, component parts of the Sinking Fund. If, said he, we cannot substitute another fund of equal amount to the dividends of Bank stock, neither can we substitute other funds instead of the revenue accruing from impost and excise, and, therefore, we cannot repeal, modify, or alter in the least any of the existing duties on imported merchandise or distilled spirits. It goes to say these duties are out of our power, so that we can neither diminish nor increase them; and the moment any alteration should be proposed in any of those acts, the gentleman from South Carolina would say, "This is a violation of public faith, for these duties are pledged to certain purposes." He believed no member of that House could seriously say that the Legislature who passed this law had ever any such intention as this. The creditors of the public would certainly have no reason to complain if funds to the same amount were given; and, in this case, there was in fact only a change of form, for the amount of debt was not changed.

The policy of selling Bank stock was objected to by some gentlemen, others approved of it. Whether it was sold or not, would not depend upon them, but upon the Commissioners of the Sinking Fund, who were to sell it only if they thought it more advantageous to the United States than to sell the six per cent. stock. And he thought there could be no risk in leaving this power with those gentlemen.

But whether it was desirable to keep their shares in the Bank of the United States was another question. If gentlemen thought it would be advantageous to keep them, he should be glad if they would inform the Committee in what those advantages consisted, and then they should be enabled to judge for themselves. On a former occasion, when the question was before them, he had given it as his opinion that no good could arise to Government from the connexion. He wished it might be recollected that he did not say a single syllable against the Bank, but acknowledged that they had done service to the Government by lending them money upon occasions of emergency. Until he was assured that they demanded payment of the whole five millions, it was true he was against funding that sum, because he knew it was the worst possible time to borrow money; but now they have said they must have it, he was willing and desirous it should be paid them, notwithstanding that he could not help observing at that time that he did not think it was perfectly good treatment to come forward at such a time and demand, not a part, but the whole of the money advanced from time time in anticipation of the revenues of the United States. He thought, in doing this, they showed less indulgence to Government than they did to their customers in general, who obtained from time to time what answered to our loans; and he believed the Bank was not in the habit of withdrawing at once the whole amount of the discounts they had been used to make for any of their good customers. To Government they had not shown the same kind treatment—they had demanded the whole of their debt. He was told now they had changed their mind, and would take less than the whole. The letter which had been read to them did not, however, speak of a part but the whole. He was convinced the Bank wanted money, and he was willing to pay them what they wanted: but since they were asking at once the whole amount of what was due them, for his own part he saw no advantage Government had from being a stockholder of the Bank.

As for the future, Mr. G. said, if the Bank had money to lend, they would lend it to Government when they could spare it, but, when scarce, they would ask for it back. They could not have requested payment at a worse time than now, although Government were a stockholder, and, therefore, they would lose nothing by selling their shares.

Mr. HARPER was in hopes this discussion would have been gone through without any censure being thrown upon the institution of the Bank, or philippic against its Directors; but this had been done, and, believing the charges unfounded and undeserved, he would make a few observations upon them; but first he would proceed to consider the amendment itself.

The question was in which way they should pay the Bank? There were three modes of paying the debts: 1. To sell their property in the Bank; 2. To sell the six per cent. stock under par; 3. To create a stock which would sell at par, but which would bear a higher interest than six per cent. He would not stop to consider the comparative merits of these modes, he believed they depended on nice calculation. They had to decide betwixt two principles, viz: whether they would sell their Bank stock or the six per cent. stock to be created? It had been said the conduct of the Bank had been such as to warrant their breaking the connexion between that institution and Government.

What, he asked, had been this bad conduct of the Bank? Was it because it had lent two-thirds of its capital, and now requested to be paid? Was it because the Bank refused to lend its whole funds at six per cent.? Or was it because the Bank was not able to make advances beyond two-thirds of its capital? He would ask if an individual had lent two-thirds of his capital and advances had been increased from time to time, and at length pressed upon his debtor for a part of his debt, whether this conduct would have been blameable?

Mr. GALLATIN said, he did not blame the Bank for asking for a part, but for insisting upon the whole of the debt.

Mr. HARPER observed, it was said that the Bank called upon Government for the whole amount, because they were willing to receive five millions in part of $6,200,000. In what way do they ask this? Do they say, pay us the money? No; they say they will be contented if two millions were paid immediately. This would relieve their present wants; and, for the other three millions, they will sell it at par, or, if sold for more, they will put it to the credit of the United States. Was this conduct to be blamed, or ought it to give offence? It was said, that when they had money to spare, when they had no use for it, they lent it to the United States. But he believed this was not true; he believed the Bank had never refused to lend Government money till they had lent them six-tenths of their whole capital, to its great loss and inconvenience. He thought the Bank was a very valuable connexion for Government, and they ought to retain it.

Mr. H. said, he did not know what had passed betwixt the Directors of the Bank and the Committee of Inquiry; but he believed the Directors did not express themselves in those peremptory terms which had been made use of by the gentleman from Pennsylvania, [Mr. GALLATIN.] He believed their language was, "If you do not pay us we shall suffer. We do not demand the money; we must, however, have a part or we shall be much injured; but, if you wish us to give you assistance in future you must give us a considerable part. We do not wish, however, that the Government should be embarrassed on our account." And, if this was their language, they were not certainly to blame.

Whether the debt should be paid by one kind of stock or another, he would leave to be discussed by other gentlemen. He believed his colleague's plan was best. He thought it better to sell stock under par than to pay a larger interest than six per cent.

Mr. CHRISTIE called for the reading of the answer of the Bank Directors to the inquiry made of them by a committee from that House, respecting certain moneys due to the Bank of the United States. He called for the reading of this paper, as he believed it would completely answer every thing which had been said by the gentleman last up. With respect to the amendment of the Senate, he should certainly vote against it. [The paper was read. See *ante*, page 1295.] And Mr. C. declared it was an answer to all the arguments used by the gentleman just sat down.

Mr. W. LYMAN believed that the Bank of the United States, considered either as a body politic or as individuals, had acted perfectly fair and patriotic. He believed they consulted their own interest, as all persons in business would do; but, notwithstanding this opinion of the Bank, he should be for selling the shares which Government held in it, because he thought their situation required it.

They had been told, that if they sold these shares the public faith would be violated; but he believed they were not so little informed as not to know that they had a right to pay their creditors by what means they pleased. If their creditors got their money, no inquiry would be made from whence it came. But they were told this fund was pledged solely for a particular purpose; but, he said, since that time the resources of the United States were much increased. It was, indeed, also true that the expenses of Government were increased, but the whole of our resources were pledged to our public creditors. The expenses of Government were only defrayed out of them, and the residue went to pay the interest and principal of the Public Debt; and, as the expenses of Government increased, new resources must be found. It was the spirit, and not the letter of the law, Mr. L. said, which was to be respected. Did the public creditors want more security than the resources of the United States afforded? He believed they were perfectly satisfied.

If the six per cent. stock could be sold at par, then the Bank stock would not be sold; but if that stock will not bring par price, the Commissioners of the Sinking Fund will be at liberty to sell the Bank stock to answer the present demand made by the Bank upon Government. When this floating debt shall have been paid the United States would be liberated from it. As to the idea of violating public faith, if they referred to the Report of the Secretary of the Treasury, it would be found he admitted the right of divert-

ing funds if necessity required it. He had no doubt about the principle, and was glad to see gentlemen disposed to resort to this resource.

Mr. Sedgwick said, a great deal of extraneous matter was introduced into the present debate about the Bank. The simple idea was that they had a debt to pay, and they wished to pay it in the best way. No one would doubt they ought to prefer gain to loss. It was an embarrassing circumstance that the Government appeared debtor and creditor at the same time; for, if they were borrowing money of the Bank, they might be told that it was against their interest to have much of the money of the Bank at six per cent., as more could be made of it by discounting to merchants, and, therefore, their dividends would be larger. This system of being debtor and creditor at the same time involved difficulties which could only be understood by men who paid particular attention to the subject; and, except gentlemen on the Committee of Ways and Means, he believed few men in that House were completely acquainted with the state of the public finances. For what gentleman on that floor, he asked, expected to be called upon this session to pay $5,000,000, and that under par; and, indeed, when the bill first passed that House, there was no idea of that kind entertained.

It was said to be a violation of public faith to sell the Bank stock at all, and the gentleman from South Carolina [Mr. W. Smith] complained that there was no restriction laid upon the Commissioners of the Sinking Fund. He believed it was no violation of public faith to sell the Bank stock; if it were, he believed the Senate, who might be supposed to have as nice a sense of public faith as that gentleman, would not have proposed such a measure; yet they had proposed it, and he thought it was honorable to them that they had done so.

With respect to the operation the selling of the Bank stock would have to prevent future accommodation being given to Government by the Bank, he thought they had no reason to believe there would be any difference in that respect. He was of opinion they would not object to lending the Government money as usual; but, if they should refuse to lend Government money as heretofore, he should congratulate the United States upon the occasion; because (as he had frequently observed) the too great facility in borrowing money was the ruin of all Governments, and because a Government was never so truly respectable as when its revenues were fully equal to its demands. He himself was not one of the Committee of Ways and Means; if he had been upon that committee he might have suggested some ideas that would have been of service. It was in that committee that all the resources of the country originated. Nothing had been done this session for the revenue. They had brought forward, it was true, a system of taxation on stamps, but it had been suffered to sleep in oblivion. The important business which they had before them relative to foreign Treaties, was perhaps a sufficient apology in part for this; but he hoped, during the recess, gentlemen would consider upon what was best to be done on the subject of taxation, as they found, by the Report of the Secretary of the Treasury, that our expenses this year would probably exceed a million and a half our receipts.

Mr. W. Smith said, as far as the remarks of the gentleman last up related to the advantages of selling Bank stock over six per cent. stock, he should not for the present notice them, but, as they related to public credit, they were entitled to some notice. He did not observe that any gentleman had shown that the public faith was not pledged. [He again referred to the laws which pledged it.] The gentleman from Pennsylvania [Mr. Gallatin] endeavored to get over the difficulty by saying it was the amount of the funds, and not the funds themselves, which were appropriated; but, if he referred to the words of the act, he would find that the funds themselves were specifically pledged to the payment of the Bank, and the redemption of the Public Debt. What, then, will be the consequence, said Mr. S.? You take away the mortgage of the Bank stock, and give the creditors nothing in return. He would ask that gentleman if he had a valuable specific security from another person, and that person were to take that pledge for another purpose, and say to him, though I have taken away the fund that was pledged to you, still my estate in general will be good security for your debt, whether he would be satisfied? He certainly would not. If the Bank stock were taken away the creditor would have to rely only upon the surplus of the revenue after all other prior appropriations were satisfied; and, if there should be no surplus, then there was nothing substituted. Was not this a violation of the pledged faith of the nation?

The dividends of the Bank stock, said Mr. S., were expressly and solemnly vested in the Commissioners of the Sinking Fund for the discharge of the Public Debt, and the public faith pledged that they should so remain till the whole debt was redeemed. How did the gentleman get over this? He said he would provide as much more out of the unappropriated revenues arising from imports, but there might be none. Besides, Mr. S. said, Government had pledged specifically the dividends of the Bank stock, and it was a violation of public faith to withdraw a specific pledge for an uncertain and precarious fund. He conceived, therefore, no satisfactory answer had been given to his objections, and that unless gentlemen came forward and produced a specific substitute of equal value, these dividends could not be taken away without violating the public faith.

Mr. S. had hoped the gentleman from Pennsylvania [Mr. Gallatin] would not have charged the Bank of the United States with versatility, when he himself had so frequently changed his opinion on this subject. That gentleman was opposed to paying off the five millions required by the Bank, and spoke two hours to show the propriety of paying only $1,200,000, upon the ground that the Bank ought to continue their anticipations of the $3,800,000. He immediately afterwards came forward with a motion to appoint a committee to inquire whether the Bank demanded the money, because, if they demanded it, he would have them paid the whole. He was now opposing the sale of the stock under par, if necessary, which the Bank required. Yet, though he was himself so inconsistent, he was ready to blame the Bank for the same kind of conduct.

The Bank, Mr. S. said, had always advanced money liberally to Government, whenever it was wanted. Five millions were now due. They now say to Government, "We cannot go on any further, except you pay a part of what you owe us; we wish to have the whole, but a part is indispensably necessary." To raise a part of this money immediately, it had been proposed to sell two millions of the six per cent. stock under par, if necessary; this the gentleman was opposed to, and, as a substitute, the Bank stock which Government held, was proposed to be sold at any price; among other reasons, to dissolve the connexion between the Bank and the United States. He did not expect objections to the connexion between the Government and the Bank of the United States from a gentleman who thought so well of and had patronised the connexion between the State of Pennsylvania and the Bank of that State. He could not see any difference betwixt the two cases. It was well known that the State of Pennsylvania held considerable property in the State Bank. The funds of that State were in a very flourishing condition, and it was thought, by some, to be partly owing to that circumstance. But, gentlemen say, the Bank of the United States had behaved improperly, and, therefore, they would have no further connexion with it. It had been for many years fashionable to abuse the Bank. He himself had formerly held some shares in it; he had been a Director; but he had long ago sold his shares, and resigned his seat as a Director, and would have no more to do with the institution, because it was deemed by some so heinous a crime; but, when he knew that the Bank had rendered useful and great services to the United States, at a crisis when, but for the timely assistance, the prompt aid of the Bank, the Government might have been prostrated, he could not consistently with his duty, and with his feelings of gratitude, complain, when they informed Government they could advance no more until a part at least of the debt was reimbursed.

When the gentleman from Pennsylvania said that the Bank had demanded the money in such terms as, "We will be paid, we must be paid," he put into the mouths of the Directors a disrespectful language, with which they had never insulted the Government. They had done no more than barely state their situation. He saw no use in thus perverting their language, unless it were designed to prejudice the House against them. He wished gentlemen would review the conduct of this institution towards Government. What was their conduct when an insurrection had broken out in the country, and when the Government had not the means of suppressing it? Did not the Bank enable Government to raise a force by which the insurrection was quelled without bloodshed? He knew the gentleman from Pennsylvania [Mr. Gallatin] thought differently; that gentleman had said the Army was not necessary on that occasion; but Congress had approved of the measure, and, moreover, had authorized the President to keep an Army stationed in the country. This was no proof that the President was not deemed justifiable in having marched the Army, and he could not have done it without the aid of the Bank.

What was the conduct of the Bank with respect to the Algerine negotiation? They lent $800,000 towards the million loan. Indeed, they had gone on lending to Government, until they had injured themselves by it; they had done it to their wrong. They had been obliged, by their excessive advances to Government, to abridge their discounts, which had dissatisfied their best customers, and raised them up many enemies. He, therefore, thought them perfectly justifiable in requiring payment of what was due to them, and that any animadversion upon their conduct was altogether unjustifiable.

Mr. S. concluded with observing, that no satisfactory answer had been given to his argument of the public faith being violated, and that he would much rather both the Bank and the Government should suffer greater inconvenience than that a violation of their plighted faith should ever take place. The gentleman from Pennsylvania seemed to shelter himself under the conduct of the Senate, but he must own that this proposition of theirs had somewhat diminished his confidence in that branch of the Government.

Mr. Venable hoped the amendment would be retained, as it would give the Commissioners of the Sinking Fund a greater latitude than they otherwise would have, as they had disagreed to the other amendments of the Senate. As to the conduct of the Bank, he thought the treatment they had shown to Government was not that kind of treatment which they showed to other customers, and any man being so treated would break his connexion with it; for he was told that bankers never discontinued the whole of their discounts to merchants; and he believed that a treatment like that which had been used with respect to Government, might destroy the most respectable merchant in Philadelphia.

When inquiry was made whether the Bank required the whole of the five millions, or whether a part would answer their present purpose, they answered they must have the whole; but now gentlemen say that two and a half millions will do for their immediate purpose. This seemed as if they were conscious of having done wrong in demanding the whole. He believed if they were to pay the Bank five millions to-day, they would lend Government half of it to-morrow. It was their business to lend money. Why did gentlemen tell them that the Bank was always doing Government favors? The United States lost $90,000 upon the $800,000 which they had lent them on account of the Algerine peace, and in paying them in six per cent. stock under par they

might lose as much more. He hoped the Bank stock would be sold.

Mr. S. Smith hoped the question would be taken on the amendment of the Senate. If he understood that amendment, it went to give unlimited power to the Commissioners of the Sinking Fund to sell the Bank stock, whilst they were prohibited from selling the six per cent stock under par. Some gentlemen, indeed, seemed willing to sell it at any price. Gentlemen said any other bank would lend Government money; he believed this would be found an error. He knew several banks whose constitution forbade the lending of their money to Government; and others, he believed, would refuse on other ground. It was not a very pleasant circumstance to a bank to have their names brought up in that House, as being distressed for want of money. What did the Bank of the United States ask? They asked the payment of money which was due. But gentlemen had said merchants could replace notes when due, by other notes. They did not seem to understand this business. If he, as a merchant, had a note due, he could not pay it by another note. This was an unfair calculation. If the credit of a merchant was bad indeed, a bank might perhaps lend him a part of the money, from a wish to take him out of the bank in the best manner they could. By their large advances to Government the Bank had been obliged to strike off one-third of their customers, who had been obliged to go to the brokers, and pay three per cent. for discounts.

Gentlemen had said that the Bank had demanded the whole sum of five millions. They had said, it was true, they would be glad to have it, that they might accommodate their customers. Whence, he asked, was the profit of banks derived? From their credit, from the deposites made with them, which enabled them to discount largely and to make large dividends. But he, as a merchant, finding the Bank pinched for money, and that he could not get well served with discounts, took his deposites away. And where would he then go? To the Bank of Pennsylvania. He did not mean to say that this was the wish of gentlemen from Pennsylvania, but if deposites were taken from this Bank, they would go to that Bank, or the Bank of North America. If this were not the case, the Bank of the United States would divide twelve, instead of eight per cent.

He had said so much from his knowledge of the direction of banks. He believed, if they had said to the Bank that they would pay two millions at present, and desired the rest to have remained, they would have taken it. He hoped they should not sell the Bank stock, but sell two millions of the six per cent. stock, at the best price which could be got for it.

Mr. Sitgreaves said, he had heard for the first time, to-day, that it was ill usage for a creditor to ask for his money. There was no doubt about the money's being due, and all seemed inclined to pay it; the only difficulty was in what way it should be paid. One of the methods proposed was, to sell the Bank stock. He was not satisfied that it would be for their interest to do this, if they were at liberty to do it. He believed, in that case, he should be in favor of selling the six per cent stock; but the most important objection was (as had been stated by the gentleman from South Carolina, Mr. W. Smith) that those funds were pledged by law for a particular purpose. He did not rise to reply to the observations of his colleague, as they had been completely answered by the gentleman from South Carolina, but to give it as his opinion that the dividends arising from the Bank stock were expressly appropriated, and could not be diverted on any account.

Mr. Gallatin did not intend to have troubled the Committee again, but he found it necessary to notice some observations which had been made. He meant not to run over all the arguments which had been used; he would only advert to the question whether, setting aside the policy of the measure, they had a right to sell the Bank stock or not? He would not go to the report of the Secretary of the Treasury for the construction of an act, but recur to the act itself. He read the act, and adverting to that clause which pledged the faith of the United States "that the moneys or funds therein enumerated shall inviolably remain appropriated," &c., he insisted that the meaning of the act was to pledge a certain amount of money, and not a certain fund. It was not said that the whole fund should be appropriated to such a purpose, but so much only as was necessary to discharge such and such debts. It was, therefore, the money arising from such a source and not the thing itself which was meant. He did not believe it was the intention of the Legislature to mortgage the funds; it was meant that the money arising from such a source, to such an amount, should be appropriated for such a purpose; and that if one sum was taken away, another must be provided. He therefore believed it was fully in their power to appropriate the Bank stock to whatever purpose they pleased. And when they did it, it would become their duty to appropriate a sum equal to the amount of the dividend which arose from the Bank stock, to the purpose for which it was heretofore appropriated.

It was not form, but substance, to which they were to attend. Their contract with the creditors was, that the money was to be paid; and so long as they were paid, they would have no reason to complain. In fact, there was no real want of the appropriation, except for the payment of the interest of the loan; yet, for fear of any mistake on the subject, he had no objection to include both. And if public faith was not violated by the sale of Bank stock, he saw no reason which ought to prevent them from selling of it.

One of the gentlemen from South Carolina [Mr. Smith] seemed to think there was an advantage to Government in their being stockholders, and had charged him, Mr. G., with inconsistency. As to the conduct of the Bank, it was literally as he had reported it; nor had he been inconsistent with himself. In the first place, they had a bill to fund five millions. He objected to it, because the Bank had not then demanded that sum. When he was accused of a breach of faith, in not paying that

money, he brought forward a resolution of inquiry, as he had before stated. In answer to this the Bank had passed the resolution now on their table, asking for the whole of the money, and he then had withdrawn his opposition. The bill had accordingly passed this House. To say that the Bank had required immediate payment for the whole, was not matter of conversation. It was officially communicated. He wished to know, when we asked our creditor whether he would continue a part of his loans, and the answer was that he requested the whole debt to be extinguished, whether that was not a positive answer? In giving this answer they consulted their own interest, and that alone. Mr. G. said he had already been blamed for speaking his sentiments on this occasion, and he might be blamed again. What did the gentleman from South Carolina [Mr. Smith] mean when he said he did not expect to hear the Bank blamed for loaning Government money for the purpose of suppressing the insurrection? He did not blame them for anything except for refusing to continue a part of the anticipations on loan, when they were conscious the United States had a right to their indulgence, from the advantages they drew from Government, and from the temporary embarrassments in which they were thrown by the sudden and unexpected demand of the whole. It seemed he was not mistaken, for, though not officially, it now appeared, from gentlemen who pretended to know the wishes of the Bank, that they were willing to receive a part only. He wished they had done this at first. It was, however, in conformity to the answer received from them that the bill was now framed. If they had since varied their determination, no one but themselves were to be charged with inconsistency.

Mr. G. added, that according to the ideas he had mentioned, he would move an amendment to the amendment of the Senate, in these words:

"And such of the revenues of the United States heretofore appropriated for the payment of interest on such debts (as shall be paid with the moneys proceeding from the sale of Bank stock) shall be, and the same is hereby, pledged and appropriated towards paying the interest and the instalments of the principal which shall hereafter become due on the loan of two million of dollars obtained from the Bank of the United States, for the purpose of paying the shares of Bank stock belonging to the United States, and directed by this section to be sold."

Mr. W. Smith observed, that by selling the Bank stock, they would apply money to one object which was expressly appropriated by law to another. [Mr. S. read the clause of the act.] It was taking away a fund which produced a certain and considerable income, and replacing it with something very uncertain. It was giving a claim upon the general revenues, after all the expenses of Government were paid, and if there should be no surplus there would be no substitute. For his part, he did not believe there would be any surplus.

The gentleman from Pennsylvania [Mr. Gallatin] had said he should not go to the Report of the Secretary of the Treasury to learn the construction of the law. Let him, then, look into the Journals of the House: it would be found that a question had been solemnly debated whether this fund should not be so tied up as not to be appropriated to any other purpose, and the yeas and nays taken upon it, and decided in the affirmative. With respect to what had been said about the willingness of the Bank to receive two millions for the present, he believed gentlemen had mistaken the meaning of the Directors. He believed two millions were wanted for immediate relief; but that the Bank were content that the remainder should not be sold under par. Their wish was, undoubtedly, to have the whole five millions paid, but knowing the great disadvantage to which it might put Government, they were willing to receive only that sum for the present.

Mr. Nicholas controverted the opinion of the gentleman last up with respect to the dividends being pledged in the way he mentioned, and was confident there was no good ground for objecting to the sale of the Bank stock on that pretence.

The question was put and carried on the amendment, and then the Senate's amendment was agreed to as amended.

The Committee then rose and reported the amendments, and the House adjourned.

Wednesday, May 25.

On motion, the report of the committee appointed to confer with the Senate on the subject of their disagreement with respect to the amendments proposed to the bill for the relief of persons imprisoned for debt, was taken up and agreed to. [As the bill now stands, the plan of accommodating the laws of the United States to the State in which an action should be brought is done away, and an uniform plan is adopted throughout the Union, which allows no man to be imprisoned for debt, who surrenders his property and swears or affirms he is not worth more than thirty dollars. By leaving this sum it is meant that a man should not be deprived of his tools, &c., so as to render him unable to earn his future living.]

The House resolved itself into a Committee of the Whole to indemnify the estate of the late Major General Greene, from the payment of a certain bond, for £11,297, which was said to be given on account of Government. After a few observations, it was agreed to, read a third time, and passed.

DEBTS OF THE UNITED STATES.

The House took up the amendments agreed to in a Committee of the Whole yesterday, in the bill providing for the payment of certain debts of the United States.

Mr. W. Smith said, he wished to propose an amendment. They had agreed to the provision of the bill, he said, by which the Commissioners of the Sinking Fund were prevented from selling the six per cent. stock under par; but no provision had been made to prevent Bank stock from being sold for less than its value, which was 133⅓ per

sent. But, as the bill now stood, the Commissioners might sacrifice the interests of the United States by selling the Bank stock at a much lower rate. Indeed, there appeared an inconsistency on the face of the bill by limiting the sale at par in one case, and not in the other. If they were determined the six per cent. stock should not go under par, they ought also to determine that the Bank stock should not be sold under its value. He had made some observations yesterday, he said, upon the violation of the public faith, by selling the Bank stock; but, if the House were determined not to listen to those arguments, he trusted they would attend to the pecuniary interests of the country. At present, he said, the Bank stock yielded an income of eight per cent., and he was confident, if they were to make provision for the payment of their debt to the Bank, it would produce ten or twelve per cent. Was it then proper, he asked, was it prudent, to proceed to sell this stock at the price which he feared it would sell at? For he considered that, bringing two millions of this stock into market at once, would lower the price considerably. In order, therefore, to guard the interests of the United States, and for the sake of appearing consistent, he should move an amendment to the following effect, to follow after that of the Senate:

"*Provided*, That it should not be lawful for the said Commissioners to sell any share or shares of Bank stock at a less rate or price than 33½ per cent. advance thereon."

Mr. Swanwick said, it was obvious, at first sight, what an amazing distinction was made between the stock of the United States and the Bank stock. In one case the stock was proposed to be sold under par, and in the other, to be limited at even 33 per cent. above par. If the gentleman from South Carolina had proposed that Bank stock should not be sold under par or the first cost, he should willingly have agreed to it; but, when he fixes it at 33 per cent. premium, he calculates upon the profits of the Bank which were liable to great uncertainty. What did this stock cost the United States? It cost par. What the dividends might be, depended upon various circumstances. The object was to pay our debts. Two millions of dollars must be had; but if the six per cent. be limited at par, and Bank stock be not allowed to be sold for less than 33 per cent. above par, it would be supposed, perhaps, they had no intention to pay the Bank at all. In that case, they might experience all the difficulties which the gentleman from South Carolina, yesterday, pointed out, if the stock should not sell. It must be observed that, in making payment to the Bank, the public must be a loser, because the stocks were low. The question was, in which they should be the greatest losers, whether in selling Government stock or Bank stock? He thought it would be less injury for the Bank stock to sell low, than the six per cents. should sell under par, as he conceived no principle so injurious to a nation as the selling of its own stock under par; when once such a principle obtains in the Government, there is no knowing where it will stop.

He did not think it necessary to limit the price of Bank stock. He believed the present price was 27 per cent. above par. He did not, therefore, think the price would be materially affected by the sale of the Government shares, as it was more in demand, proportionably, than any other kind of stock.

When the Bank of the United States saw the mode of payment determined upon for them, he was of opinion that, rather than lose the Government as a partner in the Bank, they would take the stock at par, which could be done without loss to them, as he was persuaded they could get that price for it, allowing time in the payment.

He had been charged, he said, with an appearance of jealousy, with respect to the Commissioners of the Sinking Fund; but he would as soon commit the Bank stock to their care as the other stock, because he was sure no sale could take place under par. The United States might buy in again Bank stock when they chose, and therefore, when he considered the whole, he could not help concluding that it would be most advisable to sell the Bank stock; and he was against limiting the Commissioners of the Sinking Fund to any particular rate of advance upon it. His arguments, he said, were founded on his zeal for public credit, and he was desirous that nothing should go out of that House which should have a tendency to injure it.

Mr. S. Smith said, the gentleman last up had a very unfortunate mode of supporting public credit. He believed he had mistaken the amendment as well as the bill. The amendment was, that the Bank stock should not be sold for less than 33 per cent. above par. He had said, that it would be injurious to the interests of the United States that six per cent. stock should sell under par, and this provision went to prevent a stock which produced eight per cent. from being sold under par. Mr. S. insisted that it would be a great disadvantage to the United States to sell the Bank stock, as, when this money shall have been paid, the stock would produce at least ten per cent.

Mr. Williams thought the price of the Bank stock should be limited as well as the six per cent. stock. He believed there would be no Bank stock sold, as the Directors would wish the connexion to remain; and if not sold, it mattered not whether the price was fixed at 33 or any other sum. If much of either kind of stock was to go into the market at once, it would lower the price; and if it went much under par it would be injurious to Government—so much as was sold under par being a clear loss to Government. If the amendment of the gentleman from South Carolina took place, the whole would work together on a fair principle; but, if the whole Bank stock was brought into the market at once, it would lower the price. If, however, the Bank could not do without their money, a question would arise whether they should do justice to the Bank, if the stock did not sell at the price fixed. It was yesterday said, that it was necessary the Bank should be paid; whether the demand arose from their really wanting the money, or from a principle of

gain, he knew not. He thought the amendment would put the bill into a preferable situation to that in which it was without it. This put the matter on a fair and honorable footing, and if the Bank wished to continue the connexion with Government, as heretofore, its Directors would see the necessity of disposing of the six per cent stock at par.

Mr. Venable said, the effect of the present amendment seemed to be intended to defeat the bill altogether. It appeared to him that, since the Bank must be paid, some sacrifice must be made, and the question was, which will be the least? If the whole five millions of six per cent. stock was brought into the market at once, he should not reckon upon its selling for more than seventeen shillings. Gentlemen did not calculate the loss which would be sustained by this; but they calculated the loss on the sale of Bank stock. He said, if Bank stock was sold at twenty per cent. above par, it would be a considerable gain; and was there not much difference betwixt doing this, and suffering the loss which must be sustained by selling the other?

Gentlemen seemed to think the Bank had done Government a great favor by admitting it as a partner for two millions—but he believed the charter was worth the whole money to the Bank, and therefore the favor lay on the other side. If this amendment took place, the Bank stock would not be sold; and some new project must be hit upon. As it stood at present, part of the Bank stock and part of the six per cent. stock might have been sold. If any price was fixed upon the Bank stock, let it be a market price; the one now proposed was known to be considerably above it. If they meant to pay the debt, he believed they must sell Bank stock under the present rate, or new stock below par.

Mr. W. Lyman said, he had no hostility against the Bank—he believed, as he said yesterday, they were not blameable for doing what they had done. They had said they could not do without the money; we must, therefore, said he, take measures to pay them; for they had a right to demand, and it was our duty to pay. But, added he, we are to consult our own interest about the way in which we will pay them. If this amendment took place, they would get nothing. Would they then be satisfied? No. This amendment, he said, was intended to defeat the amendment of yesterday. Which, he asked, was the best? He was at no loss to determine. He thought the plan which proposed the sale of the Bank stock, without limitation of price, was the best. If he was a stockholder in the Bank of the United States, a gentleman had said, he would get out of it as soon as possible; and if it was the interest of individuals to get out of it, it was not less the interest of the United States to do so. This was an additional motive for selling that stock. He believed Banks were very useful to commerce; but he feared them as dangerous engines of Government, and wished to get rid of the connexion. There was no fear of the price falling, as the present holders would purchase, in order to keep up the price, and they should sell their shares to advantage.

Mr. Bourne said, if he believed with the gentleman last up, that the Bank was a dangerous engine of Government, he should wish to sell the Bank stock; but he did not believe this. On the contrary, he was of opinion that this connexion had been very useful to Government; nor did he believe that gentleman could point out any Government which had been carried on without a similar connexion. The only question was, whether it was the interest of the United States to authorize the Commissioners of the Sinking Fund to sell this stock without limitation. He believed it would not. It was his opinion that it would be more to the interest of the United States to sell the new stock even under par, than to sell the Bank stock at the price proposed. Why, then, should they not fix some price?

Mr. Gallatin said, he knew nothing of what the Senate would do, nor was he afraid of the Bank with respect to the Government. The Bank might have an influence over individuals, but he was not afraid of its influencing Government. The amendment proposed to-day involved two questions, viz:—whether it was proper to limit the sale of Bank stock to its real value; and, if proper, to determine what is that real value?

Upon the first question, the gentleman from Virginia [Mr. Venable] had certainly put it upon true ground. The object of the mover of the present amendment might be to prevent the Bank stock from selling low; but he believed its effect would be to prevent its being sold at all; and by doing so, defeat the purpose of the bill, and the Bank would remain unpaid; for the mover himself said, that if they gave power to the Commissioners of the Sinking Fund, to bring into market their five thousand shares of Bank stock, they would be likely to fall in price. Was not this as much as to acknowledge that they would not even bring 27 per cent. advance, which was the present price at market? And if, in the opinion of that gentleman, the very act to bring them to market, was to sink them below 27, how could he expect that a single one could be sold at 33?

It had been represented to them that the six per cent. stock would not bring par; if it would have done so all would have been well, but the Bank had written a letter, declaring that it would not, and, therefore, that the mode proposed for their relief would not have the effect. When this letter was produced, what was then done? An amendment was introduced to sell two and a half millions of the six per cent. stock at any price which could be obtained; but, on receiving information from a gentleman who seemed to be acquainted with the wishes of the Bank, [Mr. S. Smith,] that two and a half millions would satisfy them for the present, the amendment had been withdrawn, as, in case the six per cent. did not bring par, the Bank stock would produce the sum mentioned; keeping the same object in view all along, viz:—the paying of the Bank whatever they demand, and in the way most beneficial to the United States. If the amendment was agreed to, it would defeat the bill, for the provision to sell the Bank stock contemplated that case where the new-created stock

could not bring par; and if it so happened, Bank stock would be low in proportion, and, by the amendment, could not be sold. On the contrary, the indefinite power to sell that stock would tend to raise the price of the six per cent.

He thought this perfectly clear, and he took only what gentlemen had themselves said. If the two millions of Bank stock was brought to market, it would have an effect to lower its price, and it would become the interest, not only of the Directors of the Bank, but of all persons holding stock to prevent such an operation. How could this be done? By purchasing six per cent. at par. Take off that inducement, said he, and you take off the inducement which all stockholders and moneyed men would have to purchase six per cent. stock.

But, if they were to fix the price below which the Bank stock should not be sold, they ought not to fix it at 33; upon the mover' own principles, it was not worth it. In fixing the price thus, he calculated upon 6 per cent. stock selling at par, and Bank stock producing eight per cent., being worth in proportion to the increase of interest; but this was not a just calculation. It was true, the additional interest made the stock more valuable, but not in that proportion. That rule of calculating value of stock by the rate of interest would apply only to a perpetual and irredeemable annuity. On the principle of the gentleman, six per cent. stock should be worth twice as much as three per cent. Bank stock might be considered as an annuity redeemable at the expiration of its charter, at the end of fifteen years.

If the six per cent. stock, irredeemable for twenty-three years, was not worth more than par, an eight per cent. stock, irredeemable for fifteen years, was not worth 133 per cent.

He should be against the amendment, because no evil could arise from the bill remaining in its present form, as he had confidence enough in the Commissioners of the Sinking Fund that they would not sacrifice the interests of the United States by selling the Bank stock on lower terms than the market price, except the Bank was in a situation that required and would justify it; whilst, on the other hand, should the amendment prevail and the Bank stock not bring 33 per cent. advance, they would have no means of affording the Bank that relief which they had demanded.

Mr. Coit hoped this discussion would not consume much more time. He thought the proposed amendment would make the bill uniformly bad, and the end of the bill would be frustrated.

Mr. Giles said, he was against this proposition, because it would prevent the sale of the Bank stock. Mr. G. said, he had always been an enemy to the institution from its commencement, and he grew more and more so. He was not actuated by motives which he was afraid to avow. He apprehended evil from the institution to the Government; and he thought gentlemen needed only to take a view of the connexion between the Bank and Government for the last six months, to be convinced of its being a dangerous political engine. He thought, also, that it was a union of moneyed interests, which tended to prevent the people from having one common interest. Indeed, he thought it unconstitutional.

Mr. Giles was of opinion, that if the present proposition was agreed to, it would defeat the object of the bill. As the bill stood at present, it would be the interest of stockholders who wished a continuance of the connexion betwixt the Government and the Bank to remain, to advance the price of the six per cent. stock, so as to do away the necessity of selling any part of the Bank stock.

He was not one of those, Mr. G. said, who thought the Bank had treated the Government rudely; he believed they had treated them politely. He believed they would continue to do so, because he looked upon the Bank as the usurer, and the United States as the spendthrift; and, whenever the Government became largely in their debt, and involved in difficulty, the Bank would come forward, and say—"You owe the money, and you must pay it."

He wished, therefore, to see the connexion betwixt the Government and the Bank dissolved; for he believed every prediction of its evil tendency had been fully verified. He would rather sell the Bank stock at a loss, than create new stock; and he saw no difference, with respect to its legality, betwixt selling the Bank stock and our back lands, or any other property belonging to the United States.

Gentlemen must have seen that they must either go on borrowing money, or determine to lay taxes. He believed some permanent fund must be laid hold of. He was glad they could no longer borrow money in Holland; and, he believed, the present embarrassment would eventually be useful to the United States. The petty excise taxes which they had been engaged in bringing forward, would never be sufficient to answer their purpose; it was necessary, therefore, to turn their attention to some object of taxation which would prove more productive, and do now what wisdom ought to have told them to have done long ago.

Mr. W. Smith said, whether or not the Bank had acted the part of a usurer, was to be determined; but, were the House to disagree to the present amendment, he believed they would be justly charged with being spendthrifts.

The gentleman last up, and some others, had said the Commissioners would doubtless sell the Bank stock for the market price. But these gentlemen had no confidence in the Commissioners on the former question. He believed the six per centum stock would sell for nineteen shillings, which would only be a loss of five per cent. But what was likely to be the loss on the Bank stock? He believed it probable that there would be a loss of 33 per cent., for he did not think, when the two millions should be brought into the market, it would sell above par; besides which, they should lose by the sale of it a probable increase of income of sixty or eighty thousand dollars a year. Was this circumstance not to be attended to? Were they to run this risk, because they had an antipathy to the Bank? He hoped not.

Gentlemen were inconsistent with themselves. They say the amendment will not have the effect, because moneyed men will come forward and prevent the Bank shares from being sold. How did gentlemen reconcile these opinions? At one moment, they wish the Bank stock to be sold; in the next, they say, it will not be sold.

But, would this be the effect? On the contrary, he believed moneyed men would be glad of the low price, for the purpose of speculation, for they would be the purchasers. If the Bank were to urge payment, there were moneyed men in the country, who would buy up the stock, and make fortunes by it. But, says the gentleman from Pennsylvania, [Mr. Swanwick,] the United States might hereafter buy them in again—so, that gentleman would have the Government turn speculators.

Another curious argument. It was said the operation of this amendment would be, there would be no provision for the Bank at all. Then, what had they been doing? If the amendment was to prevent the sale of the Bank stock, it would leave the six per cent. in the same situation in which it went from that House to the Senate, and that was thought, by those gentlemen, a very ample provision. They appeared, by this assertion, to defeat their own arguments.

He had already said that, if the six per cent. stock sold for nineteen shillings, there would be a loss of only five per cent; but if the Bank stock sold at par, there would be a loss of 33. Gentlemen say, the present price was only 27; he had no objection to the price being left blank, or to say the market price; but, to authorize the Commissioners to bring the whole to market, without limitation, was giving an authority which they ought not to give. Gentlemen said, they had confidence in the Commissioners; but, if they will not confide in them in one case, why in the other? He hoped the amendment would be agreed to, that the bill might not pass with so glaring an inconsistency on the face of it.

The question was then put and negatived, 47 to 33.

Mr. W. Smith then moved to insert, "not under the market price."

Mr. Williams said it appeared to him that, without the amendment, the Commissioners of the Sinking Fund might bring the whole into the market at once, and by that means sink the price so much as not only to occasion considerable loss to the United States, but to individuals who might be obliged to sell their shares. But gentlemen said, if the amendment took place, it would defeat the bill, though it did not alter the ground upon which it originally went from the House to the Senate. With respect to the objections which gentlemen had to the bill, he believed this was not the foundation of them. The gentleman from Virginia [Mr. Giles] had said, he was always an enemy to the connexion between the Bank and Government as unconstitutional, but he believed the Legislature had determined otherwise.

Mr. W. said, he would for a moment take a view of our affairs. A year or two ago, they were under every obligation to the Bank for money; and, while the war continued in Europe, they did not know how soon they might have occasion again to apply to the Bank for assistance. If any unforeseen circumstances should take place, which would have the effect to stop the source of our revenue, ought we, said he, to do anything which would arrest the whole power of Government in such a case? He hoped the amendment would be agreed to.

Mr. Swanwick said, the object of this bill was to pay the Bank—to give them fresh elasticity; But gentlemen say, shall the United States bring 5,000 shares of Bank stock into the market at once, though in the other case they should bring, instead of two millions, five millions of dollars six per cent. stock for sale? And was Bank stock only to be regarded? It was astonishing to see some gentlemen extremely anxious about the credit of the Bank stock, and perfectly easy about the credit of the United States.

They were in difficulty. They must pay two millions. Their own stock will not sell at par, and it would surely be better to sacrifice a little on the advanced price of the Bank stock, than to do the most alarming and awful thing imaginable, viz: injure the credit of the United States, by holding up an idea of coining new stock, and selling it under the par price.

The gentleman from South Carolina said that he had no objection to the insertion of "present market price," instead of "33 per cent." This would not be proper, because the price might possibly vary, even while the bill was passing, and it would be difficult to say what the present price was.

Mr. Macon moved to strike out the word "present." It appeared to him that they had better sell the Bank stock which they held, than create new stock and sell it; for he believed, as stocks were now low, that if five millions of six per cents. were now brought into the market, they would not sell for more than from 15*s.* to 17*s.* 6*d.*

Mr. S. Smith moved to strike out the whole of the present amendment, and insert "25 per cent."

Mr. W. Smith said, he had no great objection. He believed the present market price was about 27. The gentleman from Pennsylvania had said he had conversed with some of the Bank Directors, and that they had no objection to the Bank stock being sold. He did not know how that was, but he believed many gentlemen would be pleased if the whole of that stock should be brought into the market, that the price falling, they might have an opportunity of speculating; but, as guardians of the public interest, he trusted they should consider what was the best for the United States.

Mr. Harper hoped this amendment would not be agreed to. As they had rejected the only true criterion of the value of Bank stock, viz: 33⅓, he would leave the sale unrestrained, as they had agreed that, if the six per cent. stock could not be sold at par, this should be sold. He thought both the determinations wrong, but he believed the present amendment would not make the matter better, but worse.

Mr. H. said he had before lamented that it should have been thought necessary to make philippics against the Bank. The gentleman from Virginia [Mr. Giles] had told them that he hated the Bank. They all knew that five years ago. He called that institution "An union of moneyed interest to keep down the public opinion." He did not know what he meant by this. He did not believe that the Bank could prevent that House or the Government from doing what they thought it proper to do.

The question was taken by yeas and nays on the amendment, and negatived, 49 to 33. The Senate's amendment was then carried, 45 to 35.

NORTHWESTERN TERRITORY.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

The measures now in operation for taking possession of the posts of Detroit and Michilimackinac, render it proper that provision should be made for extending to those places, and any others alike circumstanced, the civil authority of the Northwestern Territory. To do this will require an expense, to defray which the ordinary salaries of the Governor and Secretary of that Territory appear to be incompetent.

The forming of a new county or new counties, and the appointment of the various officers, which the just exercise of Government must require, will oblige the Governor and Secretary to visit those places, and to spend considerable time in making the arrangements necessary for introducing and establishing the Government of the United States. Congress will consider what provision will in this case be proper.

G. WASHINGTON.

United States, *May* 25, 1796.

The Message was read, and ordered to be referred to Mr. Sitgreaves, Mr. Greenup, and Mr. Reed.

COMPENSATION TO MARSHALS, &c.

The House went into a Committee of the Whole on the bill making additional compensation to Marshals, Jurors, Witnesses, &c., in the trials of persons concerned in the late insurrection. After some observations on the subject—in which it was allowed the pay now given to such persons was far too low, but that there could be no good reason given for extending the provision to the late trials on account of the insurrection more than others—the principle was at length agreed to, and a sum of $30,000 (according to the estimate of the Secretary of the Treasury) appropriated.

Mr. W. Smith read a letter which he had received from the Secretary of the Treasury, stating, that for want of a District Attorney in Kentucky, no duties could be collected; that the Governor himself refused to pay, and that the people sheltered themselves under his example. He proposed, therefore, that a clause should be added to this bill—as he doubted whether the report which had just been read respecting the District Attorneys would be got through this session—allowing the Attorney for that district a compensation which should induce him to prosecute the business.

After a little debate on the subject—in which Mr. Thatcher said it was in vain to pay any Attorney to recover duties in that State, since there was not an honest man amongst them, in respect to their duties, and Mr. Greenup, from that State, had replied to him, defending the conduct of the Governor and people of that State, and blaming the revenue officers, the additional section was agreed to, 37 to 27.

The Committee rose and reported.

A message was received from the Senate informing the House that they had disagreed to the resolution to adjourn the two Houses on the 25th instant.

The amendments of the Senate to the bill altering the time of holding the District Courts of Vermont and Rhode Island were agreed to.

The committee to whom was referred the Message of the President respecting an allowance to District Attorneys, reported, and recommended sums from $150 to $350 a year to be allowed to them, in addition to their fees. The report—after some objections on the ground of putting the consideration off till next session—was read a second time, and ordered to be referred to a Committee of the Whole to-morrow.

Thursday, May 26.

Mr. Tracy reported a bill for the relief of John Sears; which was twice read, and ordered to be committed to a Committee of the Whole to-day.

A message from the Senate informed the House that the Senate insisted upon their disagreement to the bill altering the compensation of Clerks. A Committee of Conference was appointed on the subject of disagreement.

On motion of Mr. S. Smith, the House formed itself into a Committee of the Whole on the bill providing passports for the ships and vessels of the United States; which was agreed to without amendment, and ordered to be engrossed for a third reading to-morrow.

The House went into a Committee of the Whole on the bill to continue in force the acts therein mentioned, which they made one amendment in, and then rose. The House agreed to it, and ordered the bill to be engrossed for a third reading to-day; which it afterwards received, and passed.

The House also considered, in Committee, the bill authorizing the Secretary of the Treasury to lease certain salt springs in the Northwestern Territory. The blank which was to contain the term of the lease was filled with three years. The House agreed to it. It was ordered to have its third reading to-day; which it had, and passed.

A message was received from the Senate informing the House that they disagreed to their amendment in the bill providing for the payment of certain Debts of the United States, and desired a conference thereon. A Committee of Conference was accordingly appointed.

The House took up the amendments yesterday made in Committee of the Whole on the bill for satisfying certain demands occasioned by the trials during the late insurrection, for providing additional pay to Marshals, Jurors, and Witnesses, and to allow a further compensation to the District Attorney of Kentucky. They were agreed to, and the bill was ordered to be engrossed and read the third time to-day. It was afterwards read the third time and passed.

[By this bill, an additional allowance of a dollar a day is made to Marshals, who had before five dollars; of one-and-a-half dollar to Grand and Petit Jurors, who had before only fifty cents; fifty cents to witnesses, who were before paid agreeably to the practice of each State; and two hundred dollars were allowed, in addition to his fees, to the District Attorney of Kentucky.]

EXTRA ALLOWANCE TO CLERKS.

After some debate upon the propriety of postponing the subject till next session, the House went into a Committee of the Whole on the bill making an extra allowance to certain clerks of public offices, and the widows of such as are deceased, who remained in Philadelphia during the yellow fever, together with the report of the Committee of Claims thereon, to whom the bill had been referred.

The report stated that the objects of the present bill divided themselves into three classes, viz: the widows of such clerks as died in the calamity; such as remained to transact business which was necessary to be done, and could not be transacted at any other time; and such as remained to do business which, though of some importance, might have been done afterwards. With respect to the first, the committee had no doubt as to the justice of their claim: with respect to the latter two classes, they were at a loss how to discriminate between them, and therefore had reported in favor of the whole. And yet they were aware it would be introducing a principle that would extend itself to New York, Baltimore, Norfolk, and New Haven, which had been visited by a similar calamity, and consequently bring forward a considerable number of claimants. The persons included in this bill were betwixt 60 and 70; and though $100 dollars each was only proposed to be allowed, it would make a considerable sum in the whole.

Mr. Swanwick advocated, with all his force, the cause of these men who had remained, he said, at their stations when their superiors fled from the pestilence which threatened them, and which swept a number of the clerks away, whose widows and orphans were now left to lament their temerity. Mr. Rutherford also plead their cause. Mr. Heath and Mr. S. Smith opposed the bill, as establishing too broad a principle, whilst they had been obliged to turn a deaf ear to the distressed widows and orphans of soldiers, and that, as these persons had no real claim upon them, they ought to be just before they were generous. At length, on motion of Mr. Corr, the first section of the bill was agreed to be struck out, 35 to 25, and the other parts of the bill so altered as to include the widows of such persons as died during the fever. Mr. S. Smith approved of this measure, as being analogous to the relief granted to wounded soldiers or their widows; but Mr. Swanwick denied the analogy of the two cases. When a soldier enlisted into the Army he knew he had risks to run—his business was to meet with danger; but these clerks entered into the service of Government with no such views, and might have fled, as their superiors did, when the danger appeared. War and pestilence, he said, could not be compared together.

The Committee rose, and reported the bill thus amended; when Mr. Bourne made a motion to postpone the further consideration of the subject till the first Monday in December, on the ground of giving further time for considering the subject, and because he thought some relief should be given to those persons who were at present struck out of the bill. Mr. Swanwick opposed this, as he said the widows were in want of relief, and because a future bill might be brought in to afford compensation to the clerks who had been happy enough to survive the calamity. The postponement was, however, carried by a large majority.

MILITARY ESTABLISHMENT.

Mr. S. Smith, from the committee appointed to confer with the Senate on the subject of their disagreement with respect to the bill concerning the Military Establishment, made a report. The Senate have receded from their amendment in respect to having the usual complement of dragoons instead of two companies, and the House of Representatives have agreed to their amendment for retaining the Major General, with a provision that this act shall continue in force only till the 4th March next, (the day on which the next session of Congress closes.)

JOHN CLEVES SYMMES.

The House formed itself into a Committee of the Whole on the letter and report of the Attorney General on the petition of John Cleves Symmes and his associates, with respect to a contract made by them with the Government of the United States in 1792. By this contract, a mile square at or near the mouth of the Great Miami river was reserved to the use of the United States for the purpose of erecting thereon Fort Washington, (which is said now to be an improper situation,) provided a law was passed within two years from September 30, 1794, authorizing the President of the United States to locate the same.

A resolution to that effect was therefore brought forward and agreed to. Mr. Henderson proposed two resolutions, which would have led to an examination of the merits of the contract, which, being of an intricate nature, was objected to, at this late period of the session. The Committee therefore rose, reported the resolution, and a committee was appointed to bring in a bill.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the free inhabitants thereof;" to which they desire the concurrence of this House.

Friday, May 27.

The bill providing passports for ships and vessels of the United States was read a third time and passed.

On motion of Mr. Christie, the House resolved itself into a Committee of the Whole on the bill for the relief of John Sears; which was agreed to. It was ordered to be engrossed for a third reading to-day; which it afterwards received, and was passed.

The House also considered, in Committee, the bill to satisfy the claim of Baron Steuben; which, being agreed to, was ordered to be engrossed for a third reading to-morrow.

ADMISSION OF TENNESSEE.

A bill from the Senate for laying out into one State the whole territory South of the Ohio, ceded by North Carolina to the United States, was read the first time.

Mr. Macon moved to reject this bill, as being predicated on directly opposite ground from that on which that House had come to a resolution to admit the Southwestern Territory as a State into the Union. This called forth considerable debate, but several of those who were averse to the bill expressing a wish that the bill might have a second reading, in order to be disposed of, the motion of rejectment was put and lost; when, on motion of Mr. Giles, the bill, together with the Message of the President relative to this subject, and the resolution entered into by that House, were ordered to be referred to a select committee of five members.

COMPENSATION OF CLERKS.

Mr. W. Smith, from the committee appointed to confer with the Senate on the subject of their disagreement on the bill regulating the compensation of clerks, reported that the committee on the part of that House had receded from their amendment, (which was to allow one hundred dollars a year to such of the clerks in the office of the Secretary of the Senate and Clerk of the House of Representatives as were employed the whole year.) The House agreed to the report.

AGENT FOR FOREIGN EXPENDITURES.

Mr. W. Smith said, that the Committee of Ways and Means had directed him to report the following resolution for the consideration of the House:

"*Resolved*, That provision ought to be made for the appointment of an Agent or Commissioner to superintend the foreign expenditures of the United States, if the President of the United States shall find it necessary to employ such Agent or Commissioner."

This motion occasioned considerable debate. It was asserted in support of it, that the Secretary of the Treasury had stated that such an agent was necessary to transact our money concerns in Holland, which was at present done by merchants residing there, who had an interest opposite to that of the United States. It was, on the contrary, urged that if such an agent were sent to Holland, he would still have to employ merchants to transact a business with which he was utterly unacquainted; that it would be the interest of such a Power as much as it was to the interest of the Dutch merchants to keep up the foreign debt, (contrary to the wish of the Government, who were desirous of changing their foreign to domestic debt,) because, when it was done away, his office would cease; and that our Minister at the Hague might as well transact the business with the merchants at Amsterdam as any person sent for that express purpose.

The motion was negatived; and then Mr. Macon moved that the further consideration of this question should be postponed till the first of December next; which was carried, yeas 40, nays 35, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, Lemuel Benton, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, Wade Hampton, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, Aaron Kitchell, Matthew Locke, Samuel Mackay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, Francis Preston, John Richards, Israel Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, Absalom Tatom, Abraham Venable, John Williams, and Richard Winn.

Nays.—Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Joshua Coit, Wm. Cooper, George Dent, Abiel Foster, Dwight Foster, Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Chauncey Goodrich, Roger Griswold, Carter B. Harrison, Tho's Henderson, William Hindman, John Wilkes Kittera, James Madison, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, John Reed, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, and Peleg Wadsworth.

MILITARY AND NAVAL APPROPRIATIONS.

On motion of Mr. W. Smith, the House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means relative to appropriations for the Military and Naval Establishments, and for the payment of Military Pensions, and came to the following resolution:

"*Resolved*, That there ought to be appropriated for the year 1796, for the Military Establishment, including the sum already appropriated by law, during the present year, ——— dollars; for the Naval Department, ——— dollars; and for the Military Pensions, ——— dollars."

The House agreed to the resolution, and the Committee of Ways and Means were directed to bring in a bill accordingly.

CONTESTED ELECTION.

The House took up the consideration of the report of the Committee of Elections on the petition of Matthew Lyon, complaining of an undue election and return of Israel Smith; and the chairman of the committee offering a resolution

to the House declaring the election void, on motion, the decision of the House was postponed till to-morrow.

AMY DARDIN'S HORSE.

On motion of Mr. Claiborne, the House formed itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Amy Dardin, who prayed for compensation for a very valuable horse which had been impressed during the war. The report was against the petitioner, on the ground of the act of limitation barring the claim. The case appeared a hard one, as a widow and orphans were in want of the money; and several members having suggested that application had been made before the act of limitation took place, proof of which could be substantiated, the Committee rose, and the papers were re-committed to the Committee of Claims.

Saturday, May 28.

The bill for satisfying the claim of the representatives of the late Baron Steuben was read the third time and passed.

Mr. Sitgreaves reported a bill to authorize the President of the United States to cause to be located one mile square of land at or near the mouth of the Great Miami river, reserved out of the grant of John Cleves Symmes; which was twice read, and ordered to be engrossed for a third reading to-day, which it afterwards received and passed.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill making provision for the Military and Naval Establishments, and for other purposes; which was twice read, and ordered to be committed to a Committee of the Whole to-day.

A Message was received in writing from the President informing the House that a further appropriation was necessary for the support of foreign correspondence. An estimate accompanied the Message, by which it appeared that upwards of $23,000 would be wanted, in addition to what had already been appropriated. The Message was read, and referred to the Committee of Ways and Means.

A message was received from the Senate informing the House that the Senate had come to a resolution to authorize the President of the Senate and the Speaker of the House of Representatives to close the present session on Wednesday next, the first of June.

CONTESTED ELECTION.

The report of the Committee of Elections, to whom was recommitted the petition of Matthew Lyon, complaining of an undue election and return of Israel Smith, for the State of Vermont, recommending a resolution to the adoption of the House, declaring Mr. Smith not to be entitled to his seat, was taken up for consideration. The sitting member spoke at considerable length on the subject, giving his reasons why the election should not be set aside, and Mr. Swift replied, explaining the motives which had influenced the decision of the Committee of Elections.

On the conclusion of Mr. Swift's observations, Mr. Giles moved that this subject be postponed till Monday, to take up the matters in dispute betwixt the Senate and that House, which was agreed to.

DEBTS OF THE UNITED STATES.

Mr. Gallatin, from the committee appointed to confer with the Senate on their disagreement respecting the bill providing for certain Debts of the United States, reported that the committee on the part of that House had agreed that a moiety of the six per cent. stock to be created should be sold under par, if necessity required it.

Mr. Swanwick said, he was ever disposed to agree with the Senate, when he could do it with propriety; but he never would consent to sanction a principle which should authorize the selling of six per cent. Government stock at less than par. The report of the Committee allowed the Commissioners of the Sinking Fund to sell two and a-half millions of that stock under par, and, therefore, he could not vote for it. And, as he believed it was a most important question, he hoped he should be indulged by the yeas and nays being taken upon it.

Mr. Giles said, he should vote against concurring in this report. The provision, he said, for selling the Bank stock, was merely nominal, for he did not think it would be sold. It had been said that two millions would satisfy the Bank for the present; if this was so, (and it had been several times asserted on that floor) the Commissioners being empowered to sell one half of the six per cent. stock below par, there would be no necessity for having recourse to the Bank stock.

There was another reason which had been strongly urged by the gentleman from Pennsylvania, viz: that if the six per cent, was not allowed to be sold under par, it would be the interest of moneyed men to purchase it, rather than suffer the Bank stock to be sold. He thought the accommodation an unwise one, and should therefore vote against it. He was of opinion, that, rather than have sold the Bank stock, there would have been means found of disposing of the six per cent. at par.

Mr. Gallatin said, so far as his own feelings went, it was with great reluctance that he agreed to this regulation. It was proper their situation should be understood. They owed to the Bank of the United States, to the Bank at New York, and to Holland, five millions of dollars, for which no provision was made. It was necessary, therefore, there should be an effective power given to borrow this money. He had hoped the Bank would not have required the whole of the money. This he had before said; but, whilst they insisted upon their money, it was the duty of Government to pay them. It was not only their duty to pay the Bank, but that institution would, at all events, be paid; for the revenue of 1795, which came in the Treasury during the present year, was already appropriated for that purpose, and the Secretary of the Treasury would be under the necessity of paying them out of that fund, if provision be not made in a different way. It had been said the

Bank was willing to receive a part of the money only at present; but of this they had no official information. The Committee appointed to confer with the Senate, have taken some pains to inquire into this subject, and a gentleman in the Senate (who he believed, was a Director of the Bank,) had informed them, that provided the Bank stock was not sold the Bank would be satisfied with two and a-half millions at present; but, if it were to be sold, they must have the whole amount paid them. This was the condition; and, not thinking it right to agree to any condition of that sort, they had made provision for paying the whole, viz: one half by the Bank stock and the other half by the six per cent. stock, under a supposition that the Bank stock will at least sell for one hundred and twenty-five. This, he said, was the ground upon which the compromise took place. They thought it better to do this than agree to sell half of the six per cent. stock under par, and take out the clause which authorized the selling of the Bank stock, as they thought that power vested in the Commissioners might be a means of getting the full price for the six per cent. stock.

If this accommodation had not taken place, Mr. G. said, the bill would have been lost, and the Bank must have been paid with the revenues which would be wanted for paying the current expenses. Whatever difference of opinion there might be amongst them, they must agree in the necessity of having the money.

The Committee thought it best to come to this condition. It would be a lesson to them, in future, he trusted, to raise a revenue equal to their wants. Upon the whole, he did not believe they could make any better condition with the Senate. They had agreed to it, and he hoped it would be adopted.

Mr. Nicholas said, he had objections to selling the six per cent. stock under par; but, his objections were in some degree lessened by one half the quantity created being only sold at that price, and that the remainder of the debt due to this Bank was to be paid by a sale of the Bank stock; as this would have an operation to keep up the price of the other stock.

But how did they stand? The Senate and that House were parties to pay a third party. We cannot, said he, say to the Bank we will not pay you, except you will be paid in a certain manner. We must pay them in a manner to which they cannot object. They had, therefore, been obliged to agree to the present accommodation.

He should wish that the United States should smart in this instance, that they might be careful how they came into such a situation in future. He cared not how much they suffered, that they might be induced to leave their present trifling system of taxation, and have recourse to one that could be relied upon. He saw no alternative but to agree to the present report. That House was at variance with the Senate, and if they lost the bill, they might get a worse, for the Committee from the Senate wished to get rid of their own amendment. It was the opinion of the Senate that the Bank stock ought not to be sold, but that the six per cent. stock should be sold, at the best price which could be got for it; whilst it was the opinion of a majority of that House that the Bank stock should be sold, and only so much of the other as would sell at par. However, some agreement was necessary, and the present was the best they could make. He should, therefore, vote for agreeing to the report, though he disliked the mode to be adopted in paying this debt.

Mr. N. declared he had no enmity to the Bank; his whole object was to raise money on the best terms. As to their connexion with the Bank, if it was not a good one, it was not the fault of the Bank. Government, he said, was under obligations to the Bank; he thought the Legislature only to blame for having agreed to the connexion.

Mr. Coit said, since they were five millions in debt, it was necessary it should be paid. Gentlemen who were opposed to this mode should propose another, which they thought better. If they owe five millions, two millions of Bank stock will not pay it, it was necessary therefore to sell a part of the six per cent. stock. But the objection was that that stock was to be sold under par. But if it would not sell at par, and the debt must be paid, and it was our duty to pay it, what remedy was there? He saw none.

Mr. W. Smith said, he was not displeased with the present discussion, because he had no doubt that gentlemen who lamented so pathetically our being in debt, would feel themselves under an obligation to bring forward and support some effectual measures at the next session for raising more efficient revenues, and for discharging our debts.

It did not follow, he said, because the six per cent. stock was permitted to be sold below par, if necessity required it, that it would be sold under par. He hoped it would not. And he said, if they were, on this occasion, under the necessity of selling this stock under par, he saw no reason for so much squeamishness; they had frequently purchased their own stock under par.

Gentlemen had, on a former occasion, felt no apprehension of the Commissioners of the Sinking Fund selling the Bank stock for less than its value, and they need not fear that the six per cent. stock would be sacrificed.

He thought the bill a good one now, were it not for the clause about the Bank stock being in it. He wished the conferees had struck it out.

Mr. Swanwick said, if he thought as the gentleman last up appeared to do, that the establishment of the principle of selling Government stock under par, would have no injurious effect upon public credit, he should not be so firmly opposed to it; but, because he thought the question big with alarming danger to this country, he should continue his opposition to the measure. What was the system established? They passed a number of laws, authorizing money to be borrowed at six per cent. and authorizing the Bank to lend on those terms; but when the Bank is to be paid they come forward, and offer for sale stock bearing an interest of six per cent. at any price under par. What a dangerous principle this as to any chance of obtaining revenue for the Government! Members would always pass loan bills with great ease; but if they were to lay taxes they would look more sharply around them. No one seemed to think with so much dread on borrowing as on taxation.

But it was said, we were obliged to give this power to pay our debts; but, would any loss sustained at present discourage Government from again going on with the same system? The ease with which money was borrowed, he feared from the neglect of some and indolence of others, would retard taxation. It would be in vain that the gentleman from South Carolina called upon gentlemen to bring forward systems of taxation, or brought them forward himself, whilst borrowing was encouraged, and so much in vogue.

Did the Bank require five millions? He believed not. They had been told on this floor that they would have been satisfied with two millions. When he was so little squeamish about Bank stock, it was because he knew it must and would be sold above par and of course to a profit.

By the insertion of the clause for selling two-and-a-half millions of six per cent. stock under par they made the selling of Bank stock unnecessary. And what an enormous power did they propose to give the Commissioners of the Sinking Fund? He was not jealous, he had no reason to be so; but suppose this stock was sold at 16 or 17s. in the pound, what would be the consequence? The gentleman from South Carolina pretended to make a limitation with respect to Bank stock, but now nothing was said of limitation, as to the United States six per cent. stock that might be sold at any rate.

Much had been said about enmity and friendship for the Bank. He should say nothing on that head. The question was, whether they should give sanction to a new principle in finance; to this power of passing six per cent. stock through the mill? If it should be so determined, he must submit, though he should think the measure a very bad one.

Mr. Kitchell asked, if there was no way of modifying the expression "shall be sold under par?" He did not like the manner of it, though he believed he must vote in favor of it, but he wished the phraseology somewhat altered.

Mr. Havens said, that he should have considered the compromise which had been proposed by the Committee of Conference between that House and the Senate, as less exceptionable, if it had been agreed that one-half of the moneys which were to be raised for the payment of the debt due to the Bank, had been proposed to be raised by selling the stock intended to be created by the bill for what it would bring in the market, and the other half by the sale of Bank stock to be disposed of in the same manner; but the compromise which had been agreed upon by the Committee, contemplated no such thing; they had agreed that one-half of the six per cent. only should not be sold under par, and the other half was to be sold for whatever it would bring. This he considered as a total relinquishment of the object which was contemplated by the amendment of the Senate, which was to sell the Bank stock. Two millions and a half of six per cent. stock were, by this proposed modification of the business, to be brought into market and sold for what it would bring; and, if this were to be done, he doubted much whether it would sell for more than 16s. in the pound. This he considered as a very great loss to the public, which ought, if possible, to be avoided. He did not think that the irredeemability of the stock, which had been one of the proposed conditions upon which it had been created, could be considered as adding much to its present value; an irredeemable quality annexed to stock could be supposed to add much to its value only in such circumstances as where there was plenty of money to be borrowed, and, comparatively speaking, but few persons to borrow it. This was not the case at present, as must be evident, when the Government was driven to the necessity of giving an extravagant premium for money, by selling their stock under par. For these reasons, he did not believe that so great a quantity of stock offered for sale at once, would bring more than what he had mentioned. He had made a computation, by which it appeared, that if the Bank stock were to be sold for no more than £114 per cent. which was much above par, it would be equally advantageous as if the six per cent. stock were to be sold at seventeen shillings in the pound, admitting the present value of Bank stock was £133 1-3 as had been stated. He was persuaded that the Bank stock would sell for more in proportion than six per cent. stock, because individuals would be inclined to purchase it, by reason of its giving them a better credit at the Bank, and enabling them, therefore, to borrow money there with more facility. This must, therefore, keep up the price of Bank stock above the six per cent. stock, and to sell it must, therefore, be a more advantageous mode of discharging the debts of the Government. It did not appear to him, that the reasons which had been given by those who were opposed to the Bank stock, were well-founded. It had been said, that this stock was very valuable. If it was, then there would be less loss in selling it. He could not persuade himself to believe that it would be any disadvantage to the Government, if they were not to be stockholders in any Bank; he did not doubt but that the Government would be enabled at all times to obtain loans, by the way of anticipation of its revenues, or on any other condition, from the Bank of the United States, or from any other Bank with whom it might be thought proper to deposite the public moneys, on the ground of its general credit, without having recourse to the scheme of being always stockholders in a Bank to procure credit. The reasons which made it advantageous for individuals to hold stock in a Bank in order to obtain credit, did not apply to the Government, as was evident from the case then under consideration. It had been likewise urged as a reason why we should agree to the proposed compromise with the Senate, that they would not agree to any other modification of the bill; in answer to that he should only say, that the same argument might be urged in the Senate with as

much propriety to induce them to agree to the opinion of the House of Representatives, as it could be urged there to induce them to agree to the opinion of the Senate; on a question of compromise the reasoning must apply equally to both Houses. He said, he had heretofore supposed, that there existed some urgent necessity for the public to make considerable sacrifices, in order to discharge this debt; but he now adopted a different opinion, and what had operated very powerfully upon his mind to incline him to this change of sentiment was, the motion which had been made by the gentleman from South Carolina [Mr. W. Smith] when he had proposed that the Bank stock should not be sold for less than £133 1-3 per cent. He presumed that gentleman spoke the language or consulted the interests of the Bank in making that motion, and that, therefore, the Bank could not consider themselves as standing in any great need of the money, if they were unwilling that the stock of the Government should be sold, unless at so high a price, when the money thence arising was to be applied to discharge a debt due to them. It appeared evident to him, from that circumstance, that the Bank must view it as less disadvantageous to them to continue their credit to the Government for some time, than to have the Government stock sold in order to discharge the debt; he therefore concluded, that if the bill were to be lost, and the subject were to be again taken up at the next session of Congress, it would be a matter attended with no public inconvenience. For these reasons, he should therefore vote against the report of the Committee.

Mr. W. Lyman said, it appeared to him, that if this bill passed, giving power to the Commissioners of the Sinking Fund to sell one half the six per cent. stock at what they could get, the Bank, who wanted the whole five millions, would first take the one half at par, and then purchase the other at a low price, as being more than an overmatch for any competitor who might come against them, so that no part of the Bank stock would be sold. As to the observations of gentlemen who said they were bound to pay the money, since the Bank required it, he would ask whether, if they were obliged to pay the money, they were obliged also to part with their judgments, because the Senate did not choose to accede to the plan they had agreed upon? The doctrine of being obliged to do a thing, because the Senate would not do so and so, was too often asserted in that House. For his part, when he was convinced he was right, he would never recede from his opinion. He would disregard the proceedings of the Senate; and, if they would not do what was right, they must be answerable for the consequences. He was ashamed of such arguments as these. He believed the Senate would agree, if they were to adhere to their amendments. He believed that if they directed the Bank stock to be sold, and as much of the other as could be sold at par, ample provision would be made; he therefore, should not agree to the present bill. A gentleman from Virginia, [Mr. Nicholas] had said, he should vote for it as a chastisement of our folly; if it was voted for with this view, he believed the end would be attained, because he believed the United States would suffer great loss from a payment of this kind.

Mr. W. Smith would not have risen again, if he had not thought the gentleman last up had misunderstood the business. He had said, it was in the power of the Bank to take the stock at twelve shillings in the pound. On the contrary, Mr. S. said, the Bank could not take any part of the stock under par. They were restricted by their charter from buying stock, and this bill only gave them the power to lend the whole of the five millions, and to subscribe it, but it must be at par.

The gentleman's idea of adhering to his own opinion, would do very well in a Government of only one branch, but was not suited to a Government of two, whatever the other branch did, he says he would abide by his opinion. Suppose the gentleman knew for a certainty that the doctrine which he supported would not be agreed to in the Senate. One branch of the Government might insist upon its opinion, and the other upon theirs, and nothing would ever be done. The fault, in this case, would lie upon both, for want of an accommodating spirit. The gentleman said the amendment proposed would prevent the Bank stock from being sold; if it would produce that effect, he should sincerely rejoice.

It was not, Mr. S. said, as the gentleman from New York [Mr. Havens] had stated it, because he was better acquainted with the wishes of the Bank than other gentlemen, that he proposed the amendment he alluded to. It was not because he knew more of the disposition of the Directors than other gentlemen; but he must own, he would rather sell the six per cent. stock under par, than sell the Bank stock at the present price. The gentleman from Pennsylvania [Mr. Swanwick] thought it would be more advantageous to sell Bank stock under par than six per cent. but he was of a far different opinion for the reasons he had before detailed. He hoped the report would be agreed to.

The question was taken by yeas and nays, and carried—yeas 45, nays 35, as follows:

Yeas.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Albert Gallatin, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Wade Hampton, Carter B. Harrison, John Heath, Daniel Heister, Thomas Henderson, William Hindman, Aaron Kitchell, John Wilkes Kittera, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, Wm. Vans Murray, John Nicholas, John Reed, John Richards, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, Zephaniah Swift, Geo. Thatcher, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, William Findley, Jesse Franklin, William B. Giles, James Gillespie, Christopher Greenup, William Barry Grove,

George Hancock, John Hathorn, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, Robert Rutherford, Israel Smith, Richard Sprigg, jun., John Swanwick, Abraham Venable, and Richard Winn.

ADMISSION OF TENNESSEE.

Mr. Giles, from the committee to whom was referred the bill from the Senate for erecting the Territory South of the Ohio into one State, and for directing a census to be taken; also, the resolution of the House of Representatives in favor of admitting that Territory as a State into the Union, and the Message from the President on the same subject, made a report. This report went to change the principle of the bill from the Senate, and, consequently, occasioned considerable debate. The House of Representatives contend that the proceedings of these people had been so far regular, as to authorize the admission of them as a State into the Union; but, by the bill sent from the Senate, it was proposed to lay out the Territory into a State, and order a census to be taken, before they could be admitted. This report of the committee conformed the bill to the opinion heretofore expressed in the House. The report was supported by Messrs. Giles, Nicholas, Madison, Gallatin, Venable, W. Lyman, and Holland, and opposed by Messrs. W. Smith, Sitgreaves, Thatcher, Coit, and Harper.

On motion of Mr. W. Smith, the yeas and nays were taken three times upon this subject: first, upon the first amendment, which went to alter the principle of the bill, by admitting the State into the Union, instead of directing a census to be taken for the purpose. The yeas were 48, nays 30, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Francis Preston, John Richards, Robert Rutherford, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

Nays.—Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The next amendment was the introduction of a clause recognising the right of that State to send one Representative into that House, until the period of taking the next census all over the Union, and that the laws of the United States should have the same force in the State of Tennessee as in all other parts of the Union.

Mr. Macon moved to strike out one Representative and insert two Representatives, to which he thought they were entitled.

This was opposed on all sides, as giving an advantage to this State over all others, whose representation was fixed in the year 1790. The yeas and nays were taken, when all the members in the House were in the negative except Messrs. Franklin, Greenup, Holland, Macon, and Rutherford, and the motion was, therefore, lost, 62 to 5.

Mr. W. Smith called for a division of the question, and that part relative to the State being entitled to one Representative, being put, it was carried by the yeas and nays being taken, 41 to 29; the House being divided in the same way as upon the first amendment, except that Messrs. Baldwin, Brent, Coles, Gillespie, Hancock, Heath, and Winn, who voted in the affirmative on the former question, and Mr. Bourne, who voted in the negative, were, on this division, out of the House.

The other part of this amendment was carried unanimously, and the bill was ordered to be engrossed for a third reading on Monday.

Monday, May 30.

On motion of Mr. W. Lyman, the resolution of the Senate, communicated to the House on Saturday, relative to the adjournment of the two Houses on Wednesday next, was taken up, and agreed to, and a committee appointed to join a committee from the Senate to notify the President of the United States that the two Houses intended to adjourn on Wednesday next.

The bill entitled an act for the admission of the State of Tennessee into the Union, was read the third time and passed.

NEXT MEETING OF CONGRESS.

Mr. Bourne observed, that a motion had already been made, and negatived by a small majority, for appointing a committee to bring in a bill for altering the time of meeting of the next session of Congress. He believed the business which would call the attention of the House in their next session, could not be got through betwixt the first Monday in December and the third of March, particularly as they should then have to determine upon some effectual mode of taxation, in order to meet the necessary expenses of Government. He, therefore, proposed to the House the following resolution:

"*Resolved*, That a committee be appointed to report a bill for altering the time of meeting of the next session of Congress."

This resolution was opposed by Messrs. Nicholas, Madison, and Macon, and advocated by Messrs. Bourne, W. Smith, Thatcher, Williams, Claiborne, and Rutherford. It was carried, there being 15 in favor of it.

A bill was afterwards reported, twice read, and ordered to be engrossed for a third reading to-day. It afterwards received its third reading, and passed. The time of meeting for the next session was fixed on the first of November.

ADDITIONAL APPROPRIATIONS.

Mr. W. Smith, from the Committee of Ways and Means, to whom was referred the Message of the President relative to additional appropriations necessary for foreign correspondence, reported the following resolution:

"*Resolved*, That a further sum of $20,500 be appropriated for the expenses of foreign intercourse for the year 1798."

Also, a bill making further appropriations for the year 1798. The bill and resolution were read a second time, and committed to a Committee of the Whole to-day.

MILITARY AND NAVAL APPROPRIATIONS.

The House went into a Committee of the Whole on the bill providing appropriations for the Military and Naval Establishments; when,

On motion of Mr. W. Smith, the blank for the sum for the payment of the Army was filled with $273,666.

Mr. W. Smith proposed to fill up the next blank, for the subsistence of the officers of the Army with $68,480.

Mr. Gallatin said, he was not ready to vote for this object. It had been usual to appropriate the subsistence of the officers and non-commissioned officers and privates all in one sum. He did not know what were the separate calculations.

Mr. W. Smith believed that it had been usual to put the two subjects together heretofore, but the Secretary of War had suggested the propriety of placing them under different heads. It was therefore done.

Mr. Gallatin said, when he objected to this plan of putting the two objects together, it was not merely on account of the arrangement, but because he did not know the amount calculated for the different descriptions. He knew, however, the rations were calculated at 30 cents. He would move to fill the blank with 20 cents, which would be two-thirds of the amount proposed. He would give his reasons for thus filling the blank. It would be found, by a communication from the Secretary of the Treasury at the commencement of the session, that, in the estimate for the Military department, rations were charged 15 cents each, making the whole subsistence for 6,000 men $367,061; notwithstanding the nominal Army Establishment had been reduced one-half, the total amount of expense was estimated as high as before. The items upon which an increase had been made, were subsistence, hospital, ordnance, and quartermaster's departments, and protection of frontiers. It would be found that, in the second estimate of the Secretary, lately made, rations were estimated at 30 cents each, which made the whole amount of subsistence $437,762.

This difference in the estimate led the Committee of Ways and Means to an inquiry into the business, because, as the nominal establishment was decreased from 6,000 to 3,000 men, they had hoped there would have been some decrease of expense also. They received for answer, that rations could not be contracted at Detroit for less than 30 cents each; but though this, by the contract, was the price of rations at that post, they could not suppose they would cost the same at the other posts. It also appeared, from the information received from the Secretary of the Treasury, that the contract which had been made, was upon these terms—to furnish rations either at Detroit at 30 cents, or at Pittsburg at 11 cents, the place of delivery being at the option of Government. It would be seen that there was a difference betwixt those two prices of 19 cents; and he would ask whether any gentleman in that House believed that it would cost 19 cents per ration to transport them from Pittsburg to Detroit? He did not think that transportation would, on an average, cost 9 cents. The distance by land was not 200 miles; and water carriage would reduce it to 20.

It was his opinion, therefore, that they ought not to make this appropriation. It was true, there was an increase in the price of provisions in the Western country, but it was not less true that the rations must be delivered at the prices contracted for. If the gentlemen on the committee thought with him, they would agree to fill the blank with two-thirds of the sum proposed by the gentleman from South Carolina. And this was calculating the whole as delivered at Detroit, though it was well known many of them would be delivered much nearer. He believed the expense of transportation to Detroit would be less than to most of the posts now occupied by the Army between the Ohio and the Lakes. Yet, under the idea of their being delivered at the posts now occupied by the Army, the rations had been estimated at 15 cents; but now they were told they will be charged 30 cents. The information he had given was correct, and, therefore, he should move to fill the blank relative to the subsistence of the officers, with 45,606 in the place of $68,480.

Whilst he was up, he would mention another reason. It would apply, also, to the rations of non-commissioned officers and soldiers, one-third part of the estimated amount of which will be proper to be deducted, if his motion was carried. He should not have been anxious about this matter, but for one thing. He would remind the Committee of a letter which had been written by the Secretary of the Treasury to the Committee of Ways and Means, in which it will appear that although they had made specific appropriations for each head of expense relative to the Military Establishment, yet, those appropriations had been considered as a general grant for that department. [Mr. G. read the letter alluded to.] The consequence of this was, he said, that if more was granted for any particular purpose than was necessary, the surplus might be expended for any other item in the Military Establishment; therefore, when $70,000 were voted for the Indian de-

partment, if the Executive wanted to apply a larger sum for that purpose, they thought they had a right to appropriate to it any excess of appropriation beyond the expenditure for subsistence, or any other of the items for which more might have been voted than was necessary; so that there was no check to the expenditure, except the aggregate amount of all the moneys appropriated for the Military Establishment, and, for that reason, he hoped his motion would be agreed to.

Mr. W. Smith said, if agreeing to this motion would save the money, it would deserve attention; but, if they were to make the appropriation so small as to embarrass Government, it would be much worse than if they were to vote for a little too much. There would be a certain number of men who must be fed, and he thought they might rely upon the Administration's not giving more for rations than was necessary. But, if the sum voted was too small, what would be the consequence? The rations must be got, be the prices what they may; the men must be fed. Difficulties would arise if the fund appropriated should prove inadequate. He did not see that there would be any real saving by reducing the sum appropriated.

It was true, Mr. S. said, that, in the first estimate, the rations were estimated at 15 cents; but, in the report of the 18th of May, they are estimated at 30 cents. In consequence of this difference, the Committee of Ways and Means had a conference with the Secretary of War and the Secretary of the Treasury on the subject, and they stated that 30 cents per ration would be as low a price as they could be delivered for at Detroit; if the Committee think differently, or that those officers had some improper object in view in raising the sum beyond what was necessary, they will reduce it. He took this item from the Secretary of War, and as he received it, he proposed it. He was not, himself, acquainted with the price of rations either at Pittsburg or Detroit. He believed they must, to a certain degree, depend upon the officers in the departments for such matters of detail, who would not, he trusted, wantonly require too much; if they were not to appropriate enough, the money must still be expended, if wanted; he did not see the necessity of cramping the Executive in all its operations; because, if there should be any abuse of the public trust, by prodigal expenditures or otherwise, those who were guilty of mal-practices would be always liable to detection and punishment.

Mr. Bourne hoped the blank would be filled up with the sum proposed by the gentleman from South Carolina. It had been stated that rations might be purchased at Pittsburg for 11 cents, but they could not be bought for less than 30 at Detroit, and he thought they could not calculate upon any other price than that, as it was uncertain whether or not the contract would be fulfilled; and if it failed, and the Secretary of the Treasury was obliged to purchase at Detroit, if they calculated the rations at 20 cents only, he would not be able to purchase the necessary provisions for their men; but if, on the contrary, 30 cents were agreed to, there would be enough in any case, and if the ration could be bought for 20 cents, he did not fear that the money would be expended unnecessarily.

Mr. Venable said he should not feel himself justified in appropriating more than was necessary for the object before them; for, if they were not to be guided by a proper estimate, they might as well at once give an unlimited power on the Treasury. All the expenses could not be estimated to be made at Detroit. If one-third of our men were kept at Detroit, he should think it a large number. Why then fix the price as if the whole Army was to be kept there? And, even in that case, 20 cents would be a large appropriation. Why, then, embarrass themselves by making a larger appropriation than was necessary? The Army would be extended on the whole frontier, and at some places rations would be bought cheaper than at Pittsburg.

Mr. Dayton (the Speaker) observed, that the gentleman from Pensylvania [Mr. Gallatin] assumed as undeniable, and established as the foundation of his arguments and objections, what he did not only not admit, but absolutely denied, viz: that the rations of provisions would cost the United States more when delivered at Detroit, than at any other post. He believed there were two or three others at which the price would be higher than at Detroit, and mentioned Michilimacinac in particular. The gentlemen who were for reducing this item of appropriation, had referred to the contract which had been made some time since, and had, at the same time, acknowledged the extraordinary advance in the price of the necessaries of life, even in the interior of the country. The latter event, said Mr. D., was of a nature to excite much fear that the contract would be thrown back upon the United States, owing to the inability it would create in the individuals to fulfil it, and ought, therefore, to prompt Congress to guard against such an exigency, by a more ample provision than would otherwise have been requisite.

The member from Pennsylvania had expressed much wonder that the appropriations were not reduced in exact proportion to the reduction of the Military Establishment. Did not that member know that by the middle of the ensuing month the streams become so low as to render impracticable a transportation by water, and compel them to resort to that by means of pack-horses? Was he not aware of the amazing difference in point of expense between a water and a land transportation, and still more so, where, as in the latter case, horses only, and no carriages could be used?

This inconvenience and expense would have been avoided, if Congress had passed the law, and made a provision, as they might very well have done in the earlier part of the session, in time to enable them to take advantage of the swelling of the rivers, occasioned by the Spring rains; but it was now too late, and the expense of land transportation must therefore be provided for, and

increase the estimate very far beyond that of any former year. There was another unusual and extraordinary source of increase of expenditure in the Military department which seemed to him. Mr. D. said, to be not at all attended to. The transportation to the posts of that heavier kind of ordnance which was calculated for garrisons, together with suitable ammunition, implements, and stores, every one must know that the field artillery attached to a moving Army was not proper for a garrison; and that if it would even answer, the number and quantity with the Army was very far too small. Owing to the increased labor, exertions, transportation, and charges of different kinds in taking possession of the posts, and in marching the troops to their different and distant destinations, he had foreseen that the appropriations for the Department of War could not, in this year, be diminished in proportion to the diminution of the Military Establishment.

Mr. W. Smith said there was one fact which he forgot to mention. The Secretary of the Treasury informed the Committee of Ways and Means that the contractor would lose money by the contract to deliver the rations at 11 cents at Pittsburg, and it was possible, therefore, that it might not be fulfilled. Gentlemen say—why provide the money if it be not wanted? They seemed to mistake the business; the money was to be borrowed, and if not wanted, it would not be taken. No more would be expended because there was more than sufficient appropriated. There would be no money lying unemployed in the Treasury.

Mr. Gallatin believed the gentleman from South Carolina [Mr. Smith] would not deny that his information was correct. The contract was made to deliver the rations either at Pittsburg or Detroit, at the option of Government. To calculate the whole number of rations at 30 cents, was considering the whole Army at Detroit; and, though it be true, that there be one post more distant than Detroit, yet, the greater number were far nearer, and consequently, where provisions would be got cheaper. Therefore, considering the price at Detroit to be the general price, was allowing too much. This, he believed, would not be controverted.

Let us then examine, said he, what will be the price at Detroit. The prices at Pittsburg, they had seen, was 11 cents. He had fully attended to what the gentlemen from New Jersey [Mr. Dayton] had suggested, that conveyance could not always be had by water, and therefore it was that he allowed 9 cents for conveyance, for the rations would not cost more than 2 cents each by water.

Mr. G. said there could be only one objection to the allowance of 20 cents per ration, which was, the possibility that the contract which had been made might not be fulfilled. But, he said, if they were to make appropriations on contingencies of this sort, he did not know how far they might go; they might suppose other events to take place, which, at present, could not be foreseen. He thought a contract solemnly made might be depended upon. But, if anything of this sort was to be provided for, it should be done under the head of contingencies, and not under the present head.

He was not afraid, he said, of the officers of the Treasury giving 30 cents for rations which could be got for 20; and if the money they were about to appropriate was to be considered as a specific appropriation for that purpose, he should think less of it. He should have no objection to allow 25 or 30 cents per ration; but, when the Secretary of the Treasury told them that all these appropriations were general grants, and that, therefore, if there were $100,000 too much under this head, it might be appropriated to any other object mentioned in the bill.

He asked what control they had over the appropriations for the Quartermaster's department, Indian department, or protection of frontiers, but by limiting the sum, which could not be done if they were to appropriate too lavishly for other objects, because the overplus might be applied to any of these. It was on that account, principally, that he wished to confine the present appropriation to what was necessary.

Mr. Nicholas said, he should be glad to know what was the price of rations in the Atlantic States. One half of the Establishment would be upon the Eastern waters, and, therefore, the money necessary to be appropriated would depend, in some degree, upon the price of rations there. He thought 20 cents would be a full average price for the whole.

Mr. Havens said, that if they were to fix the price too high, it might produce a combination amongst the contractors to advance the price—as he believed there was a greater likelihood of combination than competition amongst them. He knew this was no reason why they should fix the price too low, but he thought it was a consideration which should lead them to vote for the proposition of the gentleman from Pennsylvania.

The original motion was put, and negatived, 34 to 31; and then Mr. Gallatin's to fill the blank, with $45,606, was put, and carried.

Mr. W. Smith moved to fill the next blank, for the subsistence of non-commissioned officers and privates, with $369,282, which was calculating the rations at 30 cents each.

The question was put, and negatived, 33 to 30.

Mr. Gallatin then moved to have the blank filled with $246,188, which was calculating the rations at 20 cents each.

Mr. Dayton hoped that the sum named would not be agreed to; if it were, he believed that the soldiers of the Army would not be subsisted. He was satisfied that gentlemen who proposed and advocated so scanty and inadequate sums had the same views as he had; but he was, nevertheless, convinced, that so far from promoting economy, they would eventually produce profusion.

He had before said, that in consequence of the late great rise of provisions, a fulfilment of the contract, made with certain individuals, could not confidently be relied upon. He knew, that in the case of failure, the Government could prosecute

and recover damages from the contractors; but, whilst the prosecution was going on, the Army must eat, and the public must supply them with food at any price. Who would say, that on the spur of the occasion, the public agents, thus suddenly sent out, could purchase rations at or near Pittsburg, at 11, 12, or even 13 cents? What member could, with his present information, calculate and state the prices which would be asked, and must be given, for horses to carry the burdens when the public call should be thus pressing, and people might know and take advantage of the necessity? Who of them could form a just judgment of the expenses for boat and batteaux building, when they should reach the Lakes, where no timber was prepared, nor hands settled and established to build them?

In short, he said, a new scene was opening to their view, in which they had not the benefit of experience and of previous experiment. Some gentlemen seemed to take it for granted that the corps of artillery, and most of the infantry, would be stationed and subsisted in the Atlantic States; but he rather supposed that four-fifths of the infantry, and two-thirds of the artillery, would be dispersed throughout the extensive frontier posts, and not long allowed to sleep and eat on the Eastern side of the mountains.

It had been hinted, in the course of the debate, that the appropriations should be more specific as to the immediate object, but, in his opinion, an alteration of that kind might operate most ruinously. Would it not be absurd to confine the appropriation so strictly to the article itself, that if the provisions or tents of the Army should be destroyed by flood or by fire, they could not be replaced, but the Army must remain without any covering, even though there should be a sufficient surplus or saving from other articles?

It was a happy circumstance, that, in all such cases, there was a liberty of discretion given to make use of the surplus arising from any other appropriations under the same general head, to supply such unexpected wants. Although the calculation made by the gentleman from Pennsylvania was manifestly incorrect, he believed that no member could draw and present an accurate estimate of the sums which would be wanted for this service, and therefore they were left to conjecture only. They ought, therefore, to make a liberal appropriation, because no more would be used than was wanted, and not one cent more would be unnecessarily expended; but, on the other hand, if it should prove inadequate, the Army must abandon their posts, and march back into the country where provisions were produced, to obtain them more certainly and cheaply. This would not only not be desirable, but would be disgraceful.

Mr. Dayton concluded with saying, that he did not wish to appropriate lavishly, but his sole aim was to avoid any of those serious consequences which would inevitably flow from an ill-judged parsimony; and he should sit down and console himself, under any event, with the reflection, that he had discharged his duty.

Mr. W. Smith moved to fill the blank with $360,000, which was carried, 34 to 31.

On motion of Mr. W. Smith, the blank for forage was filled with $16,592, and that for clothing was filled with $70,000, without debate. He proposed to fill the blank for providing horses for cavalry, with $7,500; when

Mr. Blount observed, that he thought it unnecessary to provide for the purchase of horses, when they had resolved upon reducing the number of troops.

Mr. Gallatin said he would just notice, that when the full number of horses were kept up, the appropriations for clothing were the same as now, and those for horses were less. The former estimate was $6,000 for horses; now, $7,500; so that the more they reduce the Army, the greater was the expense.

Mr. Macon believed there were as many horses now in the service as would complete two companies, and they could not, with any propriety, calculate upon one-half dying. He moved to strike out the item altogether.

The motion was put and negatived, 33 to 26.

Mr. Havens said, he did not vote for striking out the item altogether, as he supposed some money would be wanted, but could not think so much as had been mentioned was necessary.

The motion for $7,500 was put and carried, 34 to 31.

On motion of Mr. W. Smith, the blank for bounty was filled with $10,000, and that for Hospital department with $30,000, without objection. He also proposed to fill the blank for the Ordnance department with $48,907, when

Mr. Gallatin said, that this sum was $11,000 more than the former estimate; $1,000 of which was owing to an increase of rent. The other additional item of $10,000 was for contingent expenses; but, as they had a distinct head for contingent expenses, he thought that the contingencies would be best, all of them, placed under that head. He therefore moved to have the blank filled with $38,907.

Mr. Williams proposed $40,000, which was carried.

Mr. W. Smith proposed to fill the blank for the Indian department with $70,000.

Mr. Gallatin said, it would be recollected that they had already made two appropriations under this head; the one for establishing trading-houses with the Indian tribes, the other for carrying into effect several Treaties. On inquiry what reason there was for this appropriation, he could only find one, viz: that a Treaty was expected to be held in Georgia, at which 3,000 Indians were to be present. He had supposed this expense was to have been borne by Georgia, but it was alleged that a part of it would fall on the United States.

The motion was put and negatived, 33 to 26; when

Mr. W. Smith proposed $60,000. He would mention, that the Secretary of War had been called upon to give a reason why so large a sum should be appropriated; when they were

told of the Treaty which the gentleman from Pennsylvania had mentioned, and that it would be necessary to have a large store for the purpose of feeding and clothing the Indians who attended it. The motion was then put and carried, 31 to 28.

Mr. W. Smith moved to fill the blank for the Quartermaster's department with $250,000.

Mr. Gallatin said, it would be remembered, that in the estimate at the opening of the session, this item was calculated at $200,000. The reason given for this advance, was, that the expense of removing stores, ordnance, &c., to new posts, would be very considerable; but, it would be recollected, that $200,000 only were appropriated for that purpose in the time of war, when the Army was liable to be removed very often. The present estimate was for a Peace Establishment, when their men, once removed to the new posts, would be stationed; and the appropriation, instead of for 6,000 men, was now only for 3,000. He moved to insert $200,000, instead of $250,000.

Mr. Blount said, he supposed the taking possession of the posts was contemplated when the first estimate was made. It was then known the British had stipulated to surrender them on the 1st of June.

Mr. W. Smith said, it was not certain when the first estimate was made, whether that House would have ratified the Treaty; and, if not ratified, the posts would not have been got. The increased calculation was owing to the expense in transporting ordnance, stores, &c., to the posts.

Mr. Isaac Smith said, it would require more cannon for one of those posts, than were required by all the Army.

Mr. Blount said, they had had sufficient proof to lead them to believe, that the President did not think that House had the power mentioned by the gentleman from South Carolina, and, therefore, he doubted not but the first estimate was made with reference to the expense of taking possession of the posts.

The motion for $250,000 was put and negatived, 31 to 26; when $200,000 was put and carried.

Mr. W. Smith moved to fill the blank for contingencies of the War Department with $30,000; which was carried without opposition. He then proposed to fill the blank for the defence and protection of the frontiers with $150,000.

Mr. Gallatin said, he certainly wished the frontier to be protected, but he could not think so large a sum necessary for that purpose. The sum last year appropriated was $130,000; and now we had peace with the Indians, which was secured not only by a Treaty with them, but by Treaties with Great Britain and Spain, he could not account for an increased expense.

The motion for $150,000 was put and negatived; $130,000 was then proposed and carried, 34 to 33.

Mr. W. Smith proposed to fill the next blank, for the completion of the fortifications, &c., at West Point, with $20,000.

Mr. Nicholas inquired if there was any law on this head?

Mr. W. Smith said, there was an act to authorize a provision for this purpose, but that act had expired. He believed, however, it might properly come in there. This expense, he was told, was necessary to make the posts tenable, and that if no money was expended, the fortifications would be lost. He believed this item might properly be considered as a part of the Military Establishment.

Mr. Nicholas said, he did not object to the propriety of the expense, but to the manner of introducing it. It would apply to New York as well as West Point. He considered the admission of West Point as the admission of a principle to which all the surplus appropriations might be applied. All the fortifications, he said, were in the power of the Executive; but, as they had had a Committee appointed on the business, whose report they had considered, he thought they should act consistently. He therefore moved to strike out the clause.

Mr. Williams hoped this item would not be struck out, and that the President would be enabled to extend aid to the fortifications at New York; if not, the works would go to decay.

Mr. Van Cortlandt said, that fortifications ought to be attended to, and that he should vote for them.

Mr. Giles hoped the motion would prevail. There had been a Committee most of the session, to consider the subject of fortifications. If these fortifications stood in need of repair, the President should have given the information to that Committee. He thought the item improper in the present bill.

Mr. Gallatin believed the gentlemen from Virginia were mistaken. The Committee which had been appointed was to consider the fortifications of our harbors only. The works at West Point were of a different description, and the estimate included not only the completing of the fortifications, but the building and repairs of barracks and stores which had been destroyed. The present item could not extend to fortifications in general, as had been apprehended; for, though the Secretary of the Department does not confine the money appropriated to one object—to that particular purpose—yet, he cannot expend it on any object which was not contained in the act of appropriation. He moved to add, "magazines, storehouses, and barracks." Agreed to, and also the sum.

Mr. W. Smith then moved to fill the blank for the fortification of forts and harbors with $50,000.

Mr. Gallatin said, this item he should move to strike out. A committee had been appointed, and had reported on this subject, and that it was not necessary to attend to it at present, as there was a surplus of $23,000 unexpended. If they were to agree to the present sum, it would be appropriating an additional sum of $50,000 for the same object; he hoped, therefore, that it would be struck out.

Mr. W. Lyman was in favor of striking it out.

Mr. Williams hoped it would be agreed to, on the ground of the necessity of some attention being paid to the works at New York.

Mr. Dayton was in favor of striking out this item altogether, as there really was not money to spare for objects not essential. If any particular harbor had been, or could be mentioned, the Committee might better be enabled to judge whether it would be fit, at this time, pressed as they were for resources, to make an appropriation for fortifying it, and how much. But, as he knew of none, and believed there were no such, he should certainly be opposed to appropriating a single shilling for this purpose. He meant not to say, that there were not ports in the United States which might be advantageously fortified, but only, that this country was not yet in a situation to justify their encountering such an expense, especially as it did not appear to be immediately necessary.

The motion for striking out was put, and carried.

Mr. W. Smith moved to fill the blank for the pay of officers, seamen, and marines, with $113,025.

Mr. Nicholas hoped this item would be struck out. It was certainly an expense for which there was no occasion. He did not wish to see men raised when they could be of no service. The frigates, he said, could not be fit for service before the next session. He hoped, therefore, no opposition would be made to the striking out of the clause.

Mr. W. Smith said, they had authorized by law the building of three frigates, and it was wished that they should go into service the present year. If the whole sum was not appropriated, there would certainly be a necessity for a part of it.

Mr. Nicholas moved to strike out the item as it stood, and insert, "the pay of the captains of three frigates."

Mr. Macon believed these were the only officers at present appointed.

Mr. Havens wished gentlemen to say why these captains should be paid at all. He believed that building of ships was not their business, and that these places were at present mere sinecures. He should, therefore, vote against the amendment.

Mr. W. Smith said, it would be necessary to add subsistence as well as pay of three captains, and moved to fill the blank with five thousand dollars; which, after a few observations, was agreed to.

On motion of Mr. W. Smith, the blank for military pensions was filled, without opposition, with $114,259.

The Committee then rose and the House entered upon the consideration of the amendments which had been made, when all were agreed to, except that relative to the subsistence of the non-commissioned officers and privates.

Mr. Gallatin moved to strike out three hundred and sixty thousand dollars (which had been agreed to in a Committee of the Whole) and to insert two hundred and forty six thousand, one hundred and eighty eight dollars, the amount of rations at twenty cents each.

After a few observations the motion was put, when there appeared for it, 32, against it, 31, when the Speaker declared it not carried.

It was then moved to insert three hundred thousand dollars, instead of three hundred and sixty thousand dollars, and it was carried, 36 to 33.

Mr. Gallatin moved to strike out the words "empowering the President to borrow the necessary money," &c., and to insert six hundred thousand dollars. He mentioned his reason. They had provided for the payment of all the anticipations which had been obtained from the Bank and he wished to have some check on that head in future. By an official letter, it appeared, that there was a deficiency of one million, three hundred thousand dollars betwixt the receipts and expenditures of the present year, four hundred thousand dollars of which sum, to wit: the instalment due to Holland had been provided for by the late bill for paying the Bank, which reduced the deficiency to nine hundred thousand dollars; they had also given power to borrow three hundred thousand dollars for the purpose of foreign intercourse; this would bring down the sum to six hundred thousand dollars. The words which he moved to be struck out had always been used heretofore, because the anticipations had heretofore been continued from year to year; but now, having provided for them, it was not necessary to give any further power to borrow than for the deficiency above mentioned. He would observe that the Commissioners of the Sinking Fund had already power, in case the revenues came in too slowly, to borrow every year one million of dollars. He hoped the amendment would therefore take place.

Mr. W. Smith did not believe it absolutely necessary to retain the whole; he was therefore not anxious about it. As the gentleman from Pennsylvania [Mr. Gallatin] had stated there was an apparent deficiency of one million, three hundred thousand dollars; that is, the probable expenditures would fall short of the probable receipts by that sum; four hundred thousand dollars had already been provided for by the bill for the payment of certain debts of the United States; the deficiency was, therefore, reduced to nine hundred thousand dollars. They had authorized a loan in the bill for providing for foreign intercourse, for three hundred and twenty thousand dollars, which deducted from the sum last mentioned, would reduce it to five hundred and eighty thousand dollars; but there was a further sum of twenty-three thousand, five hundred dollars to be appropriated for foreign intercourse, which must either be added, or a loan singly authorized for it; he thought it best, in order to include contingencies, to make it six hundred and fifty thousand dollars.

Mr. Gallatin had no objection to six hundred and fifty thousand dollars; which was agreed to.

The bill was then ordered to be engrossed for a third reading to-day.

SUNDRY BILLS.

The Senate's amendments to the bill for providing passports for ships and vessels of the United States, were taken up and agreed to.

The amendments of the Senate to the bill for suspending the tax on snuff were taken up and disagreed to, there being only eighteen gentlemen in favor of them. They went to a revival of the tax, and, instead of allowing six cents per pound drawback, to allow one half cent per pound.

The amendments of the Senate to the bill regulating the grants of land appropriated for military services, &c., were taken up. They were, on motion, referred to a select committee, who afterwards made a report, recommending it to the House to agree to all the amendments, except the last. The amendments agreed to went to change the plot of land appropriated. The amendment disagreed to, was one which went to the striking out of the clause allowing those officers and soldiers who have already located their warrants in a certain district of country, to remain upon the land so located and improved.

Mr. Venable, from the committee appointed to confer with the Senate, on the subject of disagreement between the two Houses on the bill for suspending the tax on snuff, reported that the Senate had receded from their amendments.

The amendments of the Senate to the bill for defraying the expenses of trials during the late insurrection, for regulating the allowance to witnesses, jurors, &c., were read and agreed to. The Senate struck out the marshal, and the clause relative to the district attorney of Kentucky, and struck one dollar out for an additional allowance per day to witnesses, and inserted fifty cents.

The amendments of the Senate to the bill limiting the time for allowing a drawback on domestic spirits, &c., were agreed to.

The disagreement of the Senate to a part of bill for admitting the State of Tennessee into the Union, was read. The House insisted upon their amendment, and a committee of conference was appointed.

FOREIGN INTERCOURSE.

On motion of Mr. W. Smith, the House went into a Committee of the Whole on the bill making further appropriations for foreign intercourse for the year 1796, in consequence of a Message received from the President, with an estimate, which, amongst other things, contained the expense of replacing two Ministers Resident at Madrid and Lisbon by two Ministers Plenipotentiary, when he moved an additional section to this effect:

"That there be further appropriated towards defraying the expenses of foreign intercourse, a sum not exceeding 23,000 dollars, in addition to the sums already appropriated."

Mr. Nicholas wished to know the use of this additional expense. He did not know why we should send different ministerial characters abroad from those we have at present. He knew of no necessity for this increased expense, and he did not think it could be justified. Perhaps he was wrong in objecting to it; but it appeared to him an unnecessary expense, and therefore an improper one.

Mr. W. Smith said, he had no other information than that contained in the Message of the President, which lay on the table. This Message had been referred to the Committee of Ways and Means, and they had brought in a report in conformity to that Message. If gentlemen were satisfied that the President had not the power to advance the grade of our foreign Ministers as appeared to him necessary, they would probably withhold the appropriation. But he believed no gentleman could say what was necessary in this respect, as well as the President himself.

Mr. Gallatin had no doubt but the President had the power of appointing Ministers, Ambassadors, &c., and they had no control over that power but that of appropriation, which was a good security against the abuse of the power, as without an appropriation, such appointments could not be carried into effect; and it was proper, before they made an additional appropriation of 18,000 dollars, which would become an annual expense for an additional grade of two Ministers, that they should know that there was some reason for the advance. He thought the gentlemen who had hitherto resided at foreign Courts had done their business very well, and he saw no reason for this additional expense.

Mr. Harper believed the Minister we now had at London was a Minister Plenipotentiary; and whatever we might think of the distinctions between Ministers Plenipotentiary and Ministers Resident, however childish and unimportant it might appear to us, in the Courts of Europe it was a thing of consequence that Ministers of a proper grade were sent to them. The Courts of Madrid and Lisbon doubtless thought themselves as much entitled to respect from this country as the Court of London. Their Ministers Resident, he believed, were not treated with on any important business; when a Treaty was to be negotiated, men of higher rank must be sent to them. The President was therefore the proper judge of what was necessary on this head.

On taking the question, there was a majority against the clause moved by Mr. Smith; but on that gentleman's requiring the Committee to be counted, it was found there was not a quorum; the members without the bar being called in, and the matter being again stated, there appeared 28 for the clause, and 28 against it; the Chairman decided in the affirmative.

The Committee then rose and reported the bill; and two motions being made, the one for taking up the consideration of the amendment, and the other for adjournment, the latter prevailed.

Tuesday, May 31.

The bill for making appropriations for the support of the Military and Naval Establishments for 1796, was read the third time and passed.

The Senate informed the House, by their Secretary, that they had resolved that the bill authorizing the Secretary of State to lease certain salt springs in the Northwestern Territory do not pass; that the bill authorizing an experiment to obtain an uniform principle for the regulating of Weights and Measures be postponed till next session; and that they recede from their amendments to the bill for admitting the State of Tennessee into the Union.

A bill from the Senate providing for a more general promulgation of the laws of the United States, and the repealing a former act, was read and referred to a select committee.

On the motion of Mr. W. Smith, the House resolved itself into a Committee of the Whole on the bill authorizing the President of the United States to lay, regulate, and revoke embargoes during the recess of Congress; which was agreed to, and ordered to be engrossed for a third reading.

SALE OF PRIZES.

An amendment of the Senate to the bill for preventing the sale of prizes in the ports of the United States, was read. It was to insert words of this effect at the end of the first section, "providing that nothing in this law shall operate against any existing Treaty." The consideration of this amendment was not gone into, but a motion was made by Mr. Venable, and supported by Messrs. Madison, Gallatin, Giles, Swanwick, Nicholas, and W. Lyman, to postpone the consideration of this bill till the 1st of November next, on the ground that the measure was not necessary; that the cause assigned for it, the probability of a war between Great Britain and Spain was not likely to happen, and that, as it approached very nearly to an encroachment upon existing Treaties, it might give offence to some of the belligerant Powers with whom they desired to be on good terms. The postponement was opposed by Messrs. Bourne, Sitgreaves, W. Smith, and Gilbert, insisting that the bill was a necessary and prudent measure, in order to provide against the contingency abovementioned, and having already determined to pass the bill, the amendment from the Senate making no difference in the principle, they trusted the House would not be so versatile as now to postpone it. It was, however, agreed to be postponed; the yeas and nays being taken, on motion of Mr. W. Smith, stood yeas 40, nays 34, as follow:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, Isaac Coles, Samuel Earle, William Findley, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, William Lyman, Samuel Maclay, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, John Richards, Robert Rutherford, Israel Smith, Richard Sprigg, jr., John Swanwick, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Benjamin Bourne, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Benjamin Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Thomas Henderson, William Hindman, Samuel Lyman, Nathaniel Macon, Francis Malbone, John Reed, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, and John Williams.

LAND FOR MILITARY SERVICES.

The Senate, by message, informed the House that they insisted upon their amendment to the bill regulating grants of land for military services.

Mr. Sitgreaves moved, that the House do insist upon their disagreement, and appoint a committee of conference; but after a few observations, a motion was made to recede, and carried, 33 to 27.

The Senate's amendments to the bill for the relief of distillers in certain cases, were read and agreed to.

FOREIGN INTERCOURSE.

The House took up the bill making further provision for foreign intercourse; when the clause reported from the Committee of the Whole, founded upon the President's Message, being under consideration—

Mr. W. Smith said, that objections had been made to the advancing their Ministers Resident to the grade of Ministers Plenipotentiary at Madrid and Lisbon; the sums requisite in consequence thereof, and 20,000 dollars proposed to be appropriated for the expenses likely to be incurred in obtaining redress for the spoliations committed upon the property of our merchants, formed the objectionable items in the estimate. The objections urged yesterday, were chiefly, however, against the advanced grade of the Ministers. To obtain the Treaty with Spain, there had been a Minister Plenipotentiary sent to that country; having made a Treaty with Spain, it would appear extraordinary to send there in future only a Minister Resident. He believed it was impossible to preserve perfect harmony with that nation, after sending Ministers Plenipotentiary to London and Paris, unless a Minister of similar grade were sent there also. Indeed, he saw no reason which would apply to the former, that would not equally apply to the latter. With respect to Portugal, some of the gentlemen in opposition had been very loud in that House, two years ago, in praise of that country, on account of the friendship shown us at that period; he believed it was of importance to cultivate a good understanding with Portugal and if only a Minister Resident were sent there, whilst Ministers Plenipotentiary were sent to the other European Powers, she would probably consider herself as slighted. He was of opinion that a Commercial Treaty with Portugal would be an advantageous thing to this country; but, were it only on account of her congenial interests with us in respect to the Algerines, it was desirable to keep on the best terms

with her. He thought, therefore, this proposition ought to be adopted. The Executive was certainly the best judge of what was proper upon such occasions, and the House ought to have confidence in his discretion and judgment. He had sent an estimate to the House, it had been referred to the Committee of Ways and Means, they had reported in favor of it, and he hoped the proposition would be agreed to. He concluded with calling for the yeas and nays.

Mr. Macon observed, that the gentleman who just sat down had said, that Spain had refused to treat with this country until a Minister Plenipotentiary was sent there. He should be glad to know where he had the information, as he had not before heard of it.

Mr. W. Smith replied, that he had his information from papers on the table, which were open for the inspection of all who chose to take the trouble of examining them.

Mr. Macon said, the business had hitherto been done by Ministers Resident, and he had heard no complaints; he thought, therefore, that now when we were involved in debt for the unavoidable expenses of Government, they ought not to go into measures which would increase those expenses in every quarter. He was glad that the yeas and nays had been called for.

Mr. Findley said, he had voted against this measure in a Committee of the Whole, and he thought he was right in doing so; but he now was of opinion, that, except that House had information sufficient to convince them the appropriation was unnecessary, they ought to grant it. He wished as much as any one to save the money of the public; but he believed our Government was, in some degree, obliged to conform to European practices. If we had Ministers Plenipotentiary at one Court, he did not know where to draw the line. He believed they should do best in leaving the Executive to settle this matter.

Mr. Thatcher said, if he understood the business, the Executive had appointed two or three Ministers Plenipotentiary to reside at foreign Courts, where before we had only Ministers Resident. The reasoning of gentlemen who objected to this was, that the business had been as well done by Ministers Resident as it could be done by Ministers Plenipotentiary; and, therefore, that these Ministers of a higher grade should not be sent, because it would cost 18 or 20,000 dollars a year more. Gentlemen had said, peremptorily, that there was no occasion for this expense; and if the President had appointed them, they would not pay them. He thought this language improper, because he believed such considerations were wholly of an Executive nature.

Mr. Giles said, he should vote against the appropriation. He was willing to allow that the right was with the Executive to appoint Ambassadors, Ministers, &c. That right had been exercised, and that House must exercise its rights also, by judging of the propriety of all appropriations which they were called upon to make. He was against all intimate connexion between this country and foreign Powers. He had always voted, and should continue to vote, for every measure which would have a tendency to keep us more retired from European nations; but if this business of sending Ministers was encouraged, it would be the means of involving us in European politics. The true policy of Americans was to live to themselves. He would never, therefore, increase any taste which might seem to be advancing for sending diplomatic characters to Europe. He thought the present a singular demand. Some days ago, they had been called upon for an appropriation for foreign intercourse, without any estimate of what was necessary, and they had appropriated 20,000 dollars. The President now told them they had not gone deep enough into the public purse; that they must grant him $23,000 more. If the estimate had come forward sooner, he would have given it the consideration which it required; but, coming as it did, he should vote against it.

Mr. Bourne did not think the question before them was, whether diplomatic agents should be sent to Europe or not? the only question was, whether, or not, the House would appropriate the money necessary to enable the Executive to replace certain Resident Ministers by Ministers Plenipotentiary? The President was of opinion that this was necessary to be done; and was it necessary that he should send to that House all the papers from which he formed his opinion? He believed no one would insist upon this. The President was the Constitutional agent for this purpose; nor did he believe the framers of the Constitution ever conceived that that House should interfere in the direction of what foreign Ministers were proper to be appointed.

The gentleman last up had stated that no estimate had been made before the present; he believed there was an estimate early in the session. It was true that it was not specific. When the appropriation was made the other day for 20,000 dollars, more was refused, because there was no estimate; the Executive had now sent an estimate, and shall we refuse to accede to it? This conduct appeared to him most unprecedented and extraordinary.

Mr. Gallatin was very far from agreeing with the gentleman from Rhode Island [Mr. Bourne] that to discuss the propriety of sending a certain description of Ministers to any country, was unconstitutional. He believed, before they consented to the expenditure of money, they should know that it was necessary; but that gentleman seemed to be of opinion, that, because the President of the United States asked it, it must be right. He knew there was a clause in the Constitution which gave the President power to appoint Ambassadors, Ministers, &c., by and with the advice of the Senate; nor did he care much about the construction given to this clause, provided that House was permitted to enjoy its right of judging of the propriety of all grants of money. He hoped no gentleman wished to deprive them of that power.

He believed the House did not seek for the present question. A demand was made upon them

for money for certain purposes, and they conceived they had a right to inquire into the necessity of this additional expense. They had appropriated the usual sum of 40,000 dollars for foreign intercourse; they had done more; on account of the present situation of Europe, they had appropriated an additional 20,000 dollars. And now they were called upon for 23,000 dollars more. He knew if they did not give it, it could not be expended. The gentleman from Rhode Island was mistaken when he said an estimate had before been given in; they had received no estimate before the present; the estimate having been sent to them, they had a right to discuss it. It naturally brought the question before them, whether it was necessary to replace our Resident Ministers with Ministers Plenipotentiary, and in voting on this question, he should vote according to the information which he had on the subject, and not as his colleague [Mr. Findley] proposed, according to the information he had not.

The only argument brought forward to support this change was that of the gentleman from South Carolina, [Mr. W. Smith.] He told them that we could not have a Treaty with Spain without a Minister Plenipotentiary. But, he would ask, whether negotiations were not entered into by Ministers resident, who were clothed only with the character of Commissioners; and whether the Treaty was not concluded by a Minister Plenipotentiary to another Court, who went to Spain for that specific purpose, not with a permanent character, but as an Envoy Extraordinary?

But it seemed we were to have a Minister Plenipotentiary in Spain, because we have treated with them, and one in Portugal, because we want to treat with them. He would ask, what Minister we were to have in Holland, with whom we had a Treaty and extensive connexions? It would appear by the papers on the table that our present resident Minister at Lisbon [Mr. Humphreys] was to be Minister Plenipotentiary at Madrid, with an addition of $4,500 salary and $4,500 for outfits; that our present resident Minister at the Hague [Mr. Adams] was to be Minister Plenipotentiary at Lisbon, with also an addition of $4,500 salary and $4,500 for outfits; and that there was no provision whatever in the estimate for any Minister either resident or plenipotentiary in Holland. Of all those things, however, the President was the best judge, and he would not even have mentioned them had not the estimate sent to them brought the discussion of the details. But of one thing, however, that House had a right to judge, to wit: the expense. It may be useful to send Ministers Plenipotentiary to those two Courts; but, unless he had information which he had not, and felt what he did not feel, that it was necessary to send them, he must be governed in his vote by the knowledge the House had of the situation of our finances. Taking that into consideration, the numerous objects of useful expenditure, the many necessary calls for money, and, above all, the acknowledged deficiency of $900,000 for the current expenses of the present year, he was clearly of opinion that we ought not—nay, that we could not, appropriate more than $60,000 for our diplomatic department. A deficiency of $900,000 being officially communicated to them by the Secretary of the Treasury, they must know that every sum they voted was an addition to our debt. However useful the appointment of Ministers Plenipotentiary, he did not feel its necessity, so far as to justify his giving his vote in favor of an increase of the Public Debt.

Mr. Holland said, he could see no necessity for appropriating this money; and, not seeing the necessity, he should not vote for it.

Mr. W. Smith agreed with the gentleman from Pennsylvania, [Mr. Gallatin,] that they had power to refuse this money; yet, undoubtedly, when the President informed the Legislature that such a sum was wanted for similar purposes, it was the duty of the House to grant it, unless there were very strong reasons indeed to induce a contrary conduct. The gentleman from Pennsylvania had confessed he had no information on the subject, yet he would vote against granting the money. Mr. S. thought the conclusion of the colleague of that gentleman [Mr. Findley] more just, who said he should vote for it because he had not information sufficient to convince him it was not necessary.

The gentleman last up had not positively said that these Ministers Plenipotentiary were unnecessary, but that the Executive had sent no information to prove that they were necessary. It was true the Executive had not sent to them the correspondence which had passed upon the subject, which had induced him to form the opinion of their necessity. Was it expected he should have done so? He supposed this kind of information was not to be expected; they must, therefore, take it for granted that the President, who had all the requisite information, was the best judge of the propriety of the measure; and without very strong evidence of the contrary, he did not see how they could be justified in withholding the grant.

The gentleman from Virginia [Mr. Giles] had said it was our wisest policy to live retired from foreign nations. This might have been properly said at the time they were appropriating money for foreign intercourse generally; but that question had been determined. We had already determined to maintain our foreign connexions, and now the gentleman from Pennsylvania [Mr. Gallatin] and the President were at issue as to the proper grade of Ministers to be employed—the only question was on the best mode of carrying on our foreign relations.

With respect to the estimate, he must again observe, that there had been a sum of $45,000 at the disposal of the Executive, which was applicable to the purposes of foreign intercourse, and, therefore, might have been appropriated towards this advanced grade of Ministers. Instead of this sum of $45,000, which was diverted to another purpose, the House had only given the Executive, by the act passed, $20,000; so that it was necessary for him to require the additional sum of $23,500. A gentleman had observed that it was

not owing to our not having Ministers Plenipotentiary at the Court of Spain, but because they had not the title of Commissioners that that Court refused to treat with them. But this was a mistake. It appeared from the correspondence of the Commissioners themselves that Spain had taken umbrage because a Minister Plenipotentiary was not sent there, and in consequence of that Mr. Pinckney was sent with that rank and as Envoy Extraordinary. The gentleman had said that the Minister resident at the Hague was to be removed as Minister Plenipotentiary to Lisbon. But what was there objectionable in that? Might not the President, if he thought the residence of a Minister at the Hague not immediately necessary, and, if he wanted to send one to Lisbon, to inquire whether the Court of Portugal was disposed to make a Commercial Treaty with us, take him from thence and send him to Lisbon? Motives of economy might lead to this arrangement, which, perhaps, was only a temporary one. He believed it was not necessary that the President should lay the facts which had induced him to do this before that House. If gentlemen wished to prevent the President from sending such Ministers to foreign countries as he deemed most advisable, they would act accordingly, and refuse the present appropriation; but, for himself, he was satisfied that in order to administer this Government on its true principles, and to enable the Executive to conduct our foreign relations in the manner most beneficial to the country, it was right and proper for the House to entertain a liberal confidence in him, and not to withhold the moneys required for those objects, unless the refusal was warranted by much stronger reasons than had been advanced.

Mr. Tracy said, that this question presented itself to him in a peculiar point of view. When they granted $20,000 some days ago for foreign correspondence, great complaints were then made that there was no estimate before them, and a larger sum was refused on that ground; but now, when the President had sent them an estimate, it was objected to. Was it the business of that House, he inquired, to take up such things by pounds, shillings, and pence? He thought it was not. The gentleman from Virginia [Mr. Giles] wished to restrict our foreign correspondence, though he knew that was a power placed in the Executive. He believed if the Executive thought it was necessary to send a hundred Ministers to Europe, and called upon that House for appropriations, it was necessary and proper they should make them.

The gentleman from Pennsylvania [Mr. Findley] had very well observed that he had not sufficient information on the subject to say such Ministers were not necessary, and, therefore, he should vote for them; and he thought any man, who thought he was a competent judge of this business, must have a great degree of arrogance. If the Executive, indeed, were to show an unwarrantable extravagance in the exercise of his power, they might certainly put a check upon him; but did any one ever suppose that they could determine whether a Minister Resident or a Minister Plenipotentiary should be employed to any Court of Europe? Such a thing could not and ought not to be done.

Mr. Swanwick thought the only difficulty was where they should get the money. When the bill appropriating money for foreign intercourse was passed, money was directed to be borrowed at six per cent.; but now he supposed money could not be got at that rate, since they had agreed that six per cent. stock might be sold under par.

Mr. Thatcher believed the question was not how to get money, but the appropriation of money for a particular object, which was quite a different subject. If a sum of money were due, and they ought to appropriate for it, it was not then the time to inquire where it was to come from. Another time was proper for discussing that question. Mr. T. saw no more right that that House had to withhold the present appropriations than they had to withhold the salaries of the Judges. At least it struck him in this point of view. If he was wrong he should stand corrected.

Mr. Venable inquired if there was not $20,000 in the present estimate on account of Mr. Bayard's agency to London? [He was informed there was.] It did not appear to him that they were appropriating for Ministers, but for an object which did not come under the head of foreign intercourse, viz: for the expense of paying British law-suits on account of spoliations on the property of our merchants. He, therefore, felt himself at perfect liberty to refuse his assent to the appropriation; nor did he think it arrogance to do so. He thought there was too great a disposition in this Government to increase expense, and he felt himself justified in using his endeavors to restrain it.

Mr. Heath spoke in favor of the appropriation.

The question was taken by yeas and nays, and carried—39 to 25, as follows:

Yeas.—Fisher Ames, Benjamin Bourne, Richard Brent, Dempsey Burges, William Cooper, George Dent, William Findley, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, John Heath, Thomas Henderson, William Hindman, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, Wm. Vans Murray, Francis Preston, John Reed, John Richards, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Nays.—Lemuel Benton, Nathan Bryan, Joshua Coit, Samuel Earle, Albert Gallatin, James Gillespie, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, Samuel Maclay, Nathaniel Macon, John Milledge, Anthony New, John Nicholas, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, Absalom Tatom, Abraham Venable, and Richard Winn.

CONTESTED ELECTION.

The House again resumed the consideration of the report of the Committee of Elections, to

whom was recommitted the petition of Matthew Lyon, complaining of an undue election and return of Israel Smith to serve as a member of that House. The report (which had twice before been under consideration, but no conclusion come to upon it) was in the following words:

"That it appears by the deposition of the Town-Clerk of Hancock, that there were seventeen persons in the said town who were entitled to vote; twelve of whom are stated to have been admitted in that town, and five in other towns.

"That, by a like deposition of the Clerk of Kingston, it appears that there were in that town nineteen persons; seventeen of whom had been qualified in that town, and two in other towns.

"That, it does not appear that the warrants were withheld from the said towns by the Sheriff from any fraudulent intention, but the failure was accidental as to the town of Kingston; and the warrant was not sent to the town of Hancock, because the Sheriff believed they had not voted at the first meeting."

And when the report was first under consideration it was amended by adding a resolution to the following effect:

"That, as there appears to have been a sufficient number of qualified voters in the towns of Hancock and Kingston to have changed the state of the election, *Resolved*, That Israel Smith was not duly elected, and is not entitled to his seat in this House."

This report occasioned considerable debate. It was defended by Messrs. Harper, Sitgreaves, W. Smith, and N. Smith, principally on their being votes sufficient in the above two towns to have changed the election if they had voted for the petitioner, and on the necessity of establishing it as a principle in elections that every town should have notice of an election. It was opposed by Messrs. Venable, (the Chairman of the Committee of Elections,) Gallatin, Nicholas, Giles, W. Lyman, and Findley. They admitted the possibility but denied the probability that the 36 votes in these two towns would have changed the fate of the election. They said there was every reason to believe the contrary; that Mr. Smith had a majority of 21 votes; that 15 of the votes in Hancock and Kingston had voted for Mr. Smith at the former election; that Mr. Lyon, with all his endeavors to procure them, had only brought forward a petition from twenty of these persons, who declared they would have voted for him, which, if they had done, and none had voted for Mr. Smith, he (Mr. S.) would still have had a majority of one vote. But there were affidavits from seven of these voters, declaring they would have voted for the sitting member; seven others of them refused to take any part in the dispute; and two of the voters were absent at the time of the election, and could not have voted either way.

The vote was at length taken on motion of Mr. W. Smith, and stood, yeas 28, nays 41, as follows:

Yeas.—Benjamin Bourne, Joshua Coit, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Wm. Hindman, Aaron Kitchell, Matthew Locke, Samuel Lyman, John Reed, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, and Peleg Wadsworth.

Nays.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Gabriel Christie, Thomas Claiborne, Isaac Coles, William Findley, Albert Gallatin, William B. Giles, James Gillespie, Nicholas Gilman, Christopher Greenup, Wade Hampton, George Hancock, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, Francis Preston, John Richards, Robert Rutherford, Richard Sprigg, jun., Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, and Abraham Venable.

The question being thus decided in favor of the sitting member, Mr. W. Lyman proposed the following resolution; which was adopted:

Resolved, That Israel Smith is entitled to a seat in this House as one of the Representatives from the State of Vermont.

IMPRESSMENT OF AMERICAN SEAMEN.

The Speaker laid before the House a letter which he had received from ten American captains, now lying with their vessels at Jamaica, complaining of the illegal impressment of their seamen by British ships of war, on which they are kept like slaves, and subjected to infectious diseases, with which the vessels of war are now visited; and stating that, until their men are set at liberty, they cannot return home. They pray for the interference of Government, since it had considered the case of their brethren in Algiers, whose situation was not worse than theirs. The letter and papers accompanying it were referred to the Secretary of State.

Wednesday, June 1.

The bill authorizing the President of the United States to lay, regulate, and revoke embargoes, during the ensuing recess of Congress, was read the third time and passed.

PROMULGATION OF THE LAWS.

Mr. Tracy, from the committee to whom was referred the bill from the Senate, to amend an act for the more general promulgation of the laws of the United States, reported, that they found on inquiry that the Secretary of State had contracted for the printing of the laws, a circumstance, they supposed, with which the Senate were not acquainted; and it was their opinion that a speedy promulgation of the laws would overbalance the objection of the Senate for wishing the printing of the laws to be postponed till after the next session; the reasons which induced this were, they understood because the next session would complete four Congresses and two Presidencies.

The report was agreed to, and the bill was read the third time, and rejected.

CALL FOR INFORMATION.

Mr. Gallatin moved a resolution to the following effect, which was agreed to:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House, within the first week of the next session of Congress, a statement of the moneys expended for the Military Establishment for each calendar year, from the establishment of the present Government to the 1st of January, 1796, distinguishing the sums expended under each head for which specific appropriations were made; and also a statement of the expense attending the expedition of the militia to the Western counties of Pennsylvania, under the several heads for which specific appropriations were made."

STATE OF THE FINANCES.

Mr. W. Smith rose and said, it would be recollected that when the bill for paying the debt to the Bank was under consideration, a gentleman from Pennsylvania [Mr. Gallatin] had gone into a minute examination of the finances of the United States, from which he had endeavored to prove that there had been an increase of the Public Debt, of five millions of dollars, under the present Government. Mr. S. said, that he had come to the House the next day prepared to reply to the gentleman's statements, when to his great surprise, the House determined to postpone the consideration of the Bank bill, and take up the subject of the Treaty. A few days after, the gentleman from Pennsylvania withdrew altogether his opposition to the Bank bill, and thus Mr. S. was deprived of an opportunity of refuting the statements which had been introduced. This statement had since been published, and as it appeared to him to contain important errors, tending to mislead, he could not, consistently with his duty, suffer the session to close without pointing them out. He had for some time past watched for a suitable opportunity to effect this purpose, but had been prevented by the great pressure of public business. As this was the last day of the session, and there was now an interval unemployed, he would propose a call on the Treasury Department for information, to be laid before the House at the next session, on the points in contest, and would proceed to some observations calculated to detect the errors into which the gentleman from Pennsylvania had fallen, and at the same time to evince the propriety of agreeing to the proposition which was now submitted.

Mr. S. here read his resolution, as follows:

"*Resolved*, That the Secretary of the Treasury be directed to report to this House, the next session of Congress, a statement or statements exhibiting—

1. The amount of the Foreign and Domestic Debt of the United States, including the assumed Debt, on the 1st of January, 1790, and 1791, respectively.

2. The amount of the said Debts on the 1st of January, 1796.

3. The amount of the anticipations at the close of each year, from the year 1791 to the year 1795, inclusive.

4. The amount of the specific Debts incurred by the late Government and paid at the Treasury of the present Government, *and of the moneys arising from balances of amounts which originated under the late Government*, prior the 1st January, 1796.

5. The amount of Debts extinguished by the operation of the Sinking Fund to the close of the year 1795, *distinguishing the sums placed under each of the heads of appropriations for that purpose.*

6. An estimate of the sums expected to be received from the bonds which accrued from duties on imposts, to the close of the year 1795, after deducting the drawbacks and expenses of collection."

[The words in the above resolution printed in italic, were words introduced on motion of Mr. Gallatin.]

Mr. Smith, after proposing the above resolution, said he would first point out what appeared to him to be the errors into which the member from Pennsylvania had fallen, and then exhibit a correct statement of the financial situation of the United States.

[Here Mr. Smith was interrupted by Mr. Venable, who inquired of the Speaker, whether this view of their finances was in order at this time. The Speaker declared Mr. S. in order while he was producing reasons for introducing the resolution on the table.]

Mr. Smith continued, and observed, that even if he had been somewhat out of order, as he was endeavoring to correct an erroneous and deplorable statement of their financial situation which had gone out to the world, he presumed no friend of the prosperity of this country would have thought of interrupting and preventing him from so doing; on such an occasion he should have expected to have been heard by every person of that description not only with patience, but with pleasure.

Mr. Venable said, he had no wish to prevent the gentleman from detecting error, but he did not think a long discussion on this subject was well-timed on the last day of the session.

Mr. Smith proceeded. The gentleman from Pennsylvania, in order to make out an increase of debt of five millions, under the present Government, had assumed the following ground, viz:

1*st*. He states the excess of the expenditure at the end of 1794, beyond the revenue at - - - -		$2,700,000 00
Answer. The Loans received were as follows:		
From Foreign Loans	$607,950 78	
Domestic Loans	3,400,000 00	
		4,007,950 78
From which he deducts only the Domestic Loans, repaid in 1794 -		1,300,000 00
Leaving what he styles an excess of -		2,707,950 78
But the following sums of principal of the Public Debt were paid, of which he takes no notice, viz:		
Instalments French Debt	453,750 00	
Dutch Debt, due 1st of June, 1794 - -	400,000 00	
Domestic Debt purchased	185,832 91	
Payments to foreign officers - - -	44,752 35	
		1,084,335 26
The real excess was, therefore, (instead of $2,700,000, as stated by Mr. G.) only - - - - -		$1,723,615 52
2*dly*. He states an excess in the year 1795, of - - -		$1,500,000 00
Answer. The Loans received in 1795 were as follows, including Algerine Loan:		
Domestic Loans -	$3,300,000	
Foreign Loans, -	96,424	
		3,396,424 00
The Domestic Loans repaid in 1795 amounted to -	1,600,000	
The instalments of French Debt paid this year -	453,750	
Dutch Debt, due June, 1795	400,000	
The reimbursement of six per cent. stock - -	560,000	
		3,013,750 00
The real excess was, therefore, (instead of $1,500,000, as stated by Mr. G.) only - - - - - -		$382,674 00
3*dly*. He states as an increase of Debt, the interest which accrued on the Foreign Debt during the year 1790 -		500,000 00
And that which accrued on the Domestic Debt in the same year - -		900,000 00
		$1,400,000 00
Answer. Both these debts were incurred under the former Government: the Funding act did not pass till 4th August, 1790: the act for raising an adequate revenue did not pass till 10th August, 1790; those revenues could not come into the Treasury till the ensuing year. How, then, could the interest of 1790 be paid? It is absurd to call that interest an increase of debt under the present Government; it was a part of the debt contracted under the old Government. This item is therefore to be expunged.		
4*thly*. He lastly states, as an increase of debt, under the present Government, the interest accruing on the assumed debt, during the years 1790 and 1791, amounting to - - -		$1,050,00 00

Answer, 1. The Funding act passed 4th August, 1790. It was impossible to make the necessary arrangements in time to fund the State debts, before the end of the year 1791.

2. The act providing the requisite funds for the assumed debts did not pass till 3d of March, 1791, and those funds could not come into the Treasury before the year 1792: but,

3. This interest was charged to the States, in the settlement of accounts between the United States and the several States. Being therefore interest, which formed part of a debt contracted before the existence of the present Government, which could not possibly be discharged during the years 1790 and 1791, and which was charged to the States by the Commissioners, it cannot form an item of increase of debt under the present Government.

Recapitulation of Errors.

1*st Error*. Excess stated by Mr. G. in 1794 - - -	$2,700,000 00
Real excess, only - - -	1,723,615 52
Difference - - -	976,384 48
2*d Error*. Excess stated by Mr. G. in 1795 - - - -	1,500,000 00
Real excess only - - -	382,674 00
Difference - - -	1,117,326 00
The increase of debt by the anticipations of 1794 and 1795, was only $2,106,289 52; instead of $4,200,000, as stated by Mr. G. The two first items of his statement are therefore erroneous by the sum of - - -	2,093,710 48
3*d Error*. Improper charge of the interest on Foreign and Domestic Debt for 1790 - - - -	1,400,000 00
4*th Error*. Improper charge of the interest on the assumed Debt of 1790 and 1791 - - - -	1,050,000 00
Amount of errors in Mr. Gallatin's statement - - -	$4,543,711 48

To the above may be added, a material misstatement, in respect to the Sinking Fund. He credits the Government with only the sum of $957,770 65; because, as he says, that sum alone was applied out of the actual resources of the United States to the purchase of the debt; but he ought to have fairly stated that, by the judicious application of that sum, a very considerable amount of debt had been redeemed. The stock standing to the credit of the Commissioners of the Sinking Fund on the 18th day of December, 1795, arising from purchases, amounted to $2,307,661. Part of this being purchased with moneys drawn from loans, it is impossible to say with exact precision what portion has arisen from actual domestic resources; but it must be considerable, because it appears that only the sum of $522,925 has been purchased with moneys drawn from loans. This constituting only a small part of the amount actually purchased of the debt, it follows, that about the sum of $1,700,000 must have been redeemed by the aforesaid sum of $957,770 65, and the interest accruing thereon. It must be remembered that, as it was impossible to pay the interest of the Domestic and Foreign Debt for the year 1790, the Funding act not having passed till 4th August of that year, the late Secretary of the Treasury, Mr. Hamilton, recommended the judicious plan which Congress adopted, of constituting a Sinking Fund with the surplus revenue of that year, amounting to the before-mentioned sum. The application of that sum in purchases produced two very beneficial effects: the Government were una-

bled to buy up the debt considerably under par; and, by purchasing, gradually raised the value to par, which was an advantage to the community. It appears, from the report of the Commissioners, that a great part of the sum redeemed was obtained considerably below par, and that in the course of four or five years the sum of $957,770 65 has yielded the sum of $1,700,000, in funded stock, the greatest part of which either now bears or will shortly bear an interest of 6 per cent. Now, as the gentleman from Pennsylvania had thought proper to charge the present Government with the interest accruing on the Domestic and Foreign Debt during the year 1790, as an increase of debt, it would have been but fair in him, according to his own mode of statement, to give the Government credit for the whole sum produced by the well-timed application of the surplus revenue of that year.

The difference between the sum which that surplus may fairly be estimated to have produced and that surplus itself, may be charged to the gentleman from Pennsylvania as an omission, and another error, amounting to about	$750,000 00
Which, added to the before noticed errors, of - - - -	4,543,711 00
makes an aggregate of errors and misstatements, of - -	5,293,711 00

About equal to the sum at which he states the increase of debt.

But, even taking his statement respecting the excesses of expenditures, as just and correct in all its parts, and what does it amount to? Why, that from the year 1793 to 1796, the expenses have exceeded the income by the sum of $2,800,000; and, if we set off against that excess the sum of $1,200,000, expended in suppressing the Western insurrection, the loss of revenue for five years in the Western counties by combinations against the officers of the revenue, (which occasioned that insurrection,) and the further sums expended in stationing troops in those counties to prevent another insurrection, and we shall nearly balance the gentleman's account.

Taking, however, the authentic statement, as collected from official documents, it appeared that the excess was, instead of $2,800,000, only $706,147 39, notwithstanding the very great and extraordinary expenses the Government had incurred since the end of 1793, in suppressing the insurrection, in negotiations to preserve our neutrality, in negotiations with the Mediterranean Powers, in the fortifications of our harbors, supplying our arsenals, building frigates, and carrying on very expensive operations on the frontiers against the Indians. And against this small excess, was to be set off a considerable part of the proceeds of the Sinking Fund, and the gain which the Government had made by the acquisition of Bank stock, calculated at half a million of dollars; and the Government had, moreover, commenced the redemption of the debt, and had paid off, on the 1st of January, 1796, $560,000, on the principal of the six per cent. stock.

Mr. S. observed, that there was another item which ought to be carried to the credit of the United States, he had not stated it among their available funds, because it was uncertain how soon the United States might get possession of them. He alluded to the sums or balances due by the debtor States in consequence of the settlement of accounts between the several States and the United States.

This sum amounted, on the 31st December, 1789, to $3,517,584. Add the interest thereon to 1st January last, at 4 per cent., (the rate of interest allowed by the United States to the creditor States on their balances,) $844,218. Total on 1st January last, $4,361,802.

As the United States have assumed and funded that sum to the creditor States, in behalf of, and as guarantees of the debtor States, it may properly be considered as a just claim against the latter, and he hoped measures would be taken at the next session to place this business on some footing of adjustment, which would indemnify the United States for these advances, without being materially inconvenient to the debtor States.

Mr. S. said, that having pointed out what appeared to him to be the errors of the gentleman's statement, he should proceed to exhibit his own view of the real situation of our finances.

The question whether the Debt of the United States had increased or diminished under the administration of the present Federal Government, would, he said, be fairly answered by the following statements, which exhibited a comparative view of those Debts as they existed on the 1st day of January, 1791, and on the 1st day of January, 1796:

1st. The Public Debt on the first day of January, 1791, consisted of the following particulars:

The Debt due to France - - -	$8,091,753 52
The Debt due in Amsterdam - -	3,631,627 03
The Debt due to Spain - - -	250,382 50
The Debt due to foreign officers - -	231,975 81
The Domestic Debt contracted by the late Government, or the Debt arising from considerations prior to the present Constitution of the United States, including the Assumed Debt, and the balances due the States, amounted to	64,825,538 27
To discharge the pecuniary obligations of the United States on the 1st of January, 1791, including the Assumed Debt, there would therefore have been necessary the sum of - - -	77,231,277 13

2d. Of the Public Debt on the 1st of January, 1796

The Foreign Debt, including the instalment which fell due on the 1st of June, 1795, was - - - -	$12,200,600 00
The capital of the 6 per cent. stock on the 30th September, 1795 - -	29,310,856 86
The Deferred Debt on the 30th September, 1795 - - - -	14,561,934 41
The 3 per cent. stock - - -	19,562,969 63
[Including near $4,000,000 for balances to creditor States and now due to the United States by the debtor States.]	
The 5 1-2 per cent. stock - - -	1,548,900 00
The 4 1-2 per cent. stock - - -	176,000 00
The Unfunded Debt - - - -	1,262,837 37
The Domestic Loans had of the Banks	6,200,000 00
Add a sum sufficient fully to reimburse the Debts due to foreign officers beyond what had been applied prior to January 1, 1796 - - - -	75,984 83
Total Debt on the 1st January, 1796, including the sums placed to the credit of the Commissioners of the Sinking Fund, and certain reimbursements, which are hereafter deducted - - - - -	85,326,422 79
The sum first mentioned being deducted from $85,326,422 79, being the apparent amount of Debt due on the 1st January, 1796, exhibits an increase of Debt amounting to -	$8,095,145 66

But against this apparent increase of Debt the following sums are to be opposed, viz:

The stock actually purchased, redeemed, and vested in the Sinking Fund	$2,703,481 99
The instalment of the Foreign Debt, which fell due in June, 1795, and now paid - - - - -	400,000 00
The stock of the Bank of the United States held by the United States, valued only at par - - - -	2,000,000 00
The instalment of the 6 per cent. stock redeemed on the last day of December, 1795 - - - - -	560,000 00
Debts of the late Government paid in specie at the Treasury prior to January, 1794 - - - - -	445,860 55
There remained, at the close of 1795, bonds for duties on imports, which would be collected and paid into the Treasury, clear of all deductions, at least - - - - - -	4,000,000 00
Amounting, in the whole, to -	10,109,342 54
The sum of $8,095,445 66 being deducted from 10,109,342 54, leaves the sum of - - - - -	$2,014,196 89

Which sum is the excess of the means which have been acquired by the present Government beyond the payment of interest, and all current expenses, and is sufficient to repel every idea of an accumulation of the Debt.

It was to be remembered that the temporary Debt of the United States had been increased by unforeseen events by the following sums:

The insurrection - - - -	$1,200,000 00
Expenses of foreign negotiations -	1,000,000 00
Building of frigates and fortifications -	600,000 00
	2,800,000 00

Mr. S. thought he was therefore warranted in saying, that, instead of an increase of debt of five millions, there was, notwithstanding all the difficulties and obstructions which the Government had to encounter, an excess in favor of the Government of two millions. However, he did not wish to rest this statement upon his own authority; he was willing to confess that he might be as much biased by his attachment to the Government to represent things in too favorable a point of view as others might be to exhibit them under their most unfavorable aspect. He had, therefore, brought forward the resolution which he had read, in order that the House might, at the next session, be in possession of the fullest information on so interesting a subject.

Mr. Gallatin said, that as the subject which had given rise to his former observations on the state of our finances, had been repeatedly before the House since that time, the remarks made by the gentleman from South Carolina having, upon those debates, been omitted by him, now, on the very day of adjournment, came certainly unexpected. He had not by him a single paper or document he could apply to, and he must therefore suffer several of the observations of that gentleman to pass without an investigation of their accuracy. Yet, as he must necessarily make a reply immediately, it being the only opportunity he could have during the session, he would proceed, unprepared as he was, as he thought that he had it fully in his power, from the very statements just made by the gentleman, to show that that gentleman had not disproved a single fact that he had himself advanced on that subject, and that the real difference between them would be found to be solely on matters of opinion.

He would premise what he had to say, by observing that the gentleman from South Carolina held in his hand his [Mr. G.'s] statement, as printed in the newspapers, that he had had time enough to reflect on the subject, and had himself chosen the moment of his attack; that, therefore, prepared as he was, he must have had it in his power to detect the grounds of error of Mr. G.'s statement, if any; yet that gentleman, instead of disproving in a direct way that statement, had only attacked the results, by introducing new statements, constructed on different principles, and which it was difficult, if not impossible, to investigate upon a moment's warning.

The two first items in Mr. G.'s statement which the gentleman from South Carolina represented as erroneous, were the excess of expenditure beyond the receipts before the year 1795, and during that year. The mode which Mr. G. had adopted on that head was this: He had taken on one hand the aggregate of all the sums received in the Treasury from our own resources, rejecting all that was procured by loans, either foreign or domestic; and, on the other hand, the aggregate of all the sums paid for current expenditures and interest on the Public Debt, rejecting all that was applied to the payment of the principal of any part of the Public Debt, or loans, either foreign or domestic. It was self-evident, that if our current

expenditures, thus stated, exceeded our receipts, the deficiency must have been supplied by borrowing money, by loans, by an increase of debt; whilst any redemption, purchase, or payment of the Public Debt, which might have taken place in the mean time, must necessarily have ultimately been paid out of moneys borrowed, out of other loans, and was of course only a shifting of debt, since they could not have been paid out of the receipts in the Treasury from domestic resources, these being less than, and, therefore, altogether absorbed by, the current expenditures. The gentleman from South Carolina had not attempted to controvert the principle upon which that statement was grounded; and, in order to show that it was erroneous in its details, he should have proved, either that Mr. G. had not included the whole of the moneys received into the Treasury, or that he had inserted, under the head of expenditures, objects which related to the payment of the principal of a debt. That gentleman had done neither; but what had he attempted to show? Firstly, he had asserted that Mr. G. had made an error of $976,000 in his account of the excess of expenditures beyond revenues to the end of the year 1794. In order to prove it, he had, by subtracting the whole amount of the debt purchased or paid during the year 1794, from the whole amount of the moneys borrowed during the same year, (a mode upon which Mr. G. said he would forbear observing for the present,) stated the real excess of expenditures over receipts, for that year, to be $1,723,000, and the difference between that sum and $2,700,000, which Mr. Smith asserted had been stated by Mr. G. as the excess of expenditures to the end of 1794, (being the aforesaid sum of $976,000,) that gentleman called the first error of Mr. G.

Supposing both the statement and the assertion of the gentleman from South Carolina to be correct, the conclusion drawn by him was most extraordinary. He attempted to show that the excess of expenditures beyond the receipts, from the establishment of the present Government to the end of the year 1794, was less than $2,700,000, by proving that that excess, during the year 1794, was only $1,723,000! The only part of his own [Mr. G.'s] statement which could be invalidated by that position would be the balance which he had represented as deficient for the year 1794; but the gentleman, by recurring to the statement in his own hand, would see that Mr. G.'s result for that year alone, the sum which he had called the excess of expenditures over receipts for that year, was only $1,480,000—that is to say, less by near $250,000 than the gentleman made it himself. But in fact, the member from South Carolina had not attended to Mr. G.'s statement; if he had, he would have seen that Mr. G. had stated the excess of expenditures beyond receipts, from the establishment of the present Government to the end of 1794, after deducting the moneys applied to the redemption of the debt, at only $1,350,000, and not at $2,700,000, and that, of course, the whole of his observations upon that item fell to the ground.

The next item, the excess of expenditures over receipts for the year 1795, he had stated as more than one million, probably $1,500,000, and in the printed statement which the gentleman from South Carolina had in his hand, it was ultimately estimated at $1,400,000. That gentleman stated that excess as being only $380,000, and he had attempted to prove it by subtracting the moneys applied to the payment of the Public Debt for that year, from the moneys borrowed in the same period. Although Mr. G. could not recur at once to documents in order to controvert that statement, he would point out three material errors therein: 1st. The gentleman from South Carolina stated the two per cent. paid on the 1st January last, on the six per cent. stock, at $560,000, instead of $516,000. 2d. He stated the amount paid on the principal of the French Debt at $453,000, whilst that was the whole amount paid on account of both principal and interest; and if so much had been paid to France, part of the interest due to Holland must have been paid out moneys in Holland arising from Foreign Loans, and had so far diminished our balance in cash in the hands of our bankers there. 3dly. He had neglected to mention that the balance in cash in the Treasury on the 1st January, 1795, was about $1,150,000, and on the last day of the same year did not much exceed $500,000. The errors arising from those three items added to the deficiency stated by the gentleman from South Carolina, ($380,000,) made an aggregate of about $1,350,000, which came very near to his own estimate of the deficiency for that year.

Mr. G. added, that the comparative view of the Public Debts on the 1st days of January, 1791 and 1796, as given by the gentleman from South Carolina himself, corroborated his own estimate of the excess of expenditures over receipts on the 1st January, 1796. It was impossible for him to controvert the accuracy of that statement, which he had just heard read, and he must, for the present, take it for granted; although he might observe, 1stly, that the amount of Domestic Debt stated by that gentleman at $64,825,000 on the 1st of January, 1791, was the very sum stated by the Secretary of the Treasury as its amount on the 1st of January, 1795. 2dly. That he had stated as a set-off, $2,700,000 vested in the Sinking Fund, which was $400,000 more than the nominal amount of Public Debt stated by that gentleman to have been redeemed by purchases, and that, although he could not disprove, yet he much doubted whether that item of $400,000 was admissible. But, waiving every objection to the statement, its result was, that on the 1st January, 1796, there was an apparent increase of Debt of about $8,100,000, against which should be set off a variety of items amounting to $6,100,000, and uncollected bonds (which would make part of the receipts of the years 1796 and 1797) to the amount of $4,000,000, leaving, in the opinion of the gentleman from South Carolina, an excess, not of moneys in hand, but of means acquired by the Government, of about $2,000,000. If the bonds, which made no part of the receipts prior to 1796, and which, therefore, Mr. G. had not admitted as a set-off, were

taken from that amount, it left a deficiency of $2,000,000, on the very principles of the gentleman from South Carolina. He had himself stated that deficiency at $2,760,000, and of course the only difference between them was $760,000, which arose from his having given credit to Government, in the account of purchases of Public Debt, only for the moneys applied to that purpose, whilst that gentleman had set down the whole of the nominal amount purchased. This difference had been stated by the gentleman himself at $750,000; and having thus shown, by that gentleman's own statements, that this item constituted the whole difference between them, so far as related to the excess of expenditures beyond receipts to the end of 1795, he would now proceed to the examination of that item.

The purchases of Public Stock by the Commissioners of the Sinking Fund, were made with moneys arising from three sources, to wit: moneys received from Foreign Loans, surplus of revenue of 1790, and moneys arising from the interest accruing on the stock purchased and redeemed. The nominal amount of stock of every description, (six and three per cent. and deferred,) purchased from all three sources, was stated by the gentleman from South Carolina at $2,307,000; from which he had deducted the amount purchased with moneys arising from Foreign Loans, and had stated the balance purchased with our domestic resources at $1,700,000. The difference between that sum and $957,000, (surplus of revenue of 1790, applied to purchases,) which last sum Mr. S. had said to be the only amount credited by Mr. G. to Government, constituted the difference stated by that gentleman as an error of $750,000 in Mr. G.'s statement.

Mr. G., in answer, observed, that in the first place, the gentleman from South Carolina had not attended to the whole of his statement; for, although he had, in his account of expenditures and receipts, taken notice only of the said sum of $957,000, he had, in his recapitulation, reduced his estimate of the increase of Debt from $5,300,000 to five millions, allowing, as he had expressly stated, the $300,000 for sundries he had neglected, and especially for the proceeds of the interest of the Sinking Fund. Then he had given full credit for the moneys arising from that interest, amounting to about $225,000, which, added to the $957,000 abovementioned, made an aggregate of $1,180,000, for which he had credited Government, being the total amount of moneys arising from domestic resources applied to purchases, which aggregate subtracted from the sum of $1,700,000, stated by the gentleman from South Carolina as the nominal amount of stock purchased, left a difference of only $520,000, instead of $750,000. This difference of $520,000 was not, however, a difference as to fact, but only as to opinion; for they both agreed that only $1,180,000 had been applied to purchases, and that $1,700,000 had been purchased; and the only question was, which of the two sums should be credited. The gentleman from South Carolina insisted that the whole nominal amount should be set down, 1stly, because, as he insinuated, the reason why it was larger than the amount of moneys actually applied to purchases, was the judicious application of the money and the low price at which stock had been purchased; and, 2dly, because Mr. G. had charged Government with the whole amount of interest which had accrued on the debt during the year 1790. In answer to the first assertion, Mr. G. observed, that the true cause why the nominal amount of stock purchased was larger than the moneys expended in purchases, was, that more than two-thirds of the sum redeemed, (by domestic resources,) more than $1,200,000 consisted of three per cent. and deferred stock; and he would leave it to the candor of the House to decide whether, that being the fact, that sum should be set down at its nominal value, or whether it was not a fairer way to value it at what it had cost? It would be, to be sure, a most extraordinary argument to borrow one million of dollars at six per cent., to purchase with that million two millions of three per cent. stock, and then to boast that the debt was decreased by one million of dollars. Mr. G. added, that it was perfectly fair in him, on the principles of his own statement, (where he had charged Government with the interest which accrued during 1790,) to have credited the amount only of moneys expended in purchasing stock, instead of the nominal amount purchased; for, although he had charged the whole amount of interest accruing during 1790, he had valued the whole three per cents. and Deferred Debt created by the non-payment of said interest, at only one-half of its nominal value; and having gone on that principle in his charges, it was perfectly consistent to preserve it in his credits. Indeed, if he was to make a new statement, upon the principle of the gentleman from South Carolina, of setting down the nominal amount, instead of the real value, of every species of Debt, either created or redeemed, a larger increase of Debt would appear as the result; for the amount of three per cent. and deferred stock created by non-payment of interest, during 1790 and 1791, was much larger than the amount of the same descriptions of Debt purchased by the Commissioners of the Sinking Fund.

To the next item, estimated by Mr. G. at 1,400,000 dollars, and arising from the interest which accrued during the year 1790 on the Domestic Debt, and created an equal amount of Debt in three per cent. stock, and from the interest for the same year on the Foreign Debt, which was discharged out of new loans, there was no objection made by the gentleman from South Carolina as to fact; but he had given it as his opinion that it was not fair to set that sum as an increase of Debt, because the funding system having begun to operate only after the year 1790, the United States could not pay that interest. Such an argument might have applied, had Mr. G. blamed Government for not paying it; but as he had only stated the fact; to object the inability of the Government did not invalidate, but, on the contrary, was an admission of his own assertion. It must be remembered that it was in answer to what he conceived a falla-

cious and exaggerated statement, in which it had been asserted that we had diminished our Public Debt since the establishment of the present Government, that he had simply stated what was our situation on the 1st of January, 1790, (that is to say, ten months after the establishment of this Government,) and what it was six years after, on the 1st of January, 1796, it was clear that in doing it, he could not annihilate the year 1790, and that the interest accruing during the year, if not paid at all, or if paid out of the new loans, must have constituted an increase of Debt, which did not the less exist, because the United States had been unable to pay it. The observations of the gentleman from South Carolina, on this head, amounted only to this: that, in order to take a fair view of the operations of this Government, we should consider it as having begun only in the year 1791—that is to say, near two years after its commencement. But Mr. G., at the same time that he had left out the year 1789, which he conceived to have been employed in preparing a revenue for the following years, could not leave out also the year 1790, and that for a very palpable reason. The revenue system was in full operation during that year, and had given a surplus of revenue for that very year amounting to about 1,400,000 dollars, out of which 957,000 dollars, as before stated, had been applied to a redemption of the principal of the Debt. He had given credit for that sum in his statement, and the gentleman from South Carolina would have been very clamorous if he had not, and it would have been absurd in him, whilst he was crediting that surplus of revenue applied to a redemption of the Debt, and showing, therefore, a decrease of Debt, not to charge the increase of Debt which was taking place at the same time, by the interest accruing during that very year. The United States might have applied that surplus, either to the payment of the principal or of the interest of the Debt; they had, judiciously in his opinion, chosen the first; but the natural consequence was, that the last remained unpaid, and became as fair an item of Debt increased as the first was an item of Debt redeemed.

The same observations would apply, still more forcibly, to the last item, which he had estimated at 1,050,000 dollars, arising from non-payment of the interest accrued during the years 1790 and 1791 on the same assumed Debt; which was funded, part as six per cent., part as three per cent., and part as deferred stock; he said more forcibly, because one-half of that interest had accrued during the year 1791, which year was not objected to by the gentleman from South Carolina himself. But that gentleman had, on this head, taken most extraordinary ground, indeed. Was not that gentleman aware that he [Mr. G.] had taken that view of the subject which was most favorable to the opinion that the Debt had decreased? and that, if compelled to take a different view, his conclusions would show a far greater increase of the Public Debt during the existence of the present Government. That gentleman objected to that item, because that interest, although it had become a part of the Debt of the United States, had been charged to the individual States, respectively, by the Commissioners who settled their accounts. Upon this Mr. G. observed:

1. That the gentleman could not positively ascertain the fact; for, although the Commissioners were directed by law to charge to the individual States the Debts respectively assumed for each by the Union, and although it might be inferred from thence that they must charge also the interest to the 31st December, 1791, (which made part of the stock created by the assumption,) yet it was only an inference; and, by a subsequent law, those Commissioners were directed to charge each State with all advances which had been or might be made to it by the United States, with interest thereon only to the last day of December, 1790. All that could be said, was, that the two laws were contradictory with each other. In what manner the Commissioners had reconciled or explained them they did not know; but certain it was, that if they had charged the States with the whole assumption, including the interest to the 31st of December, 1791, as they had credited the States for their advances only with interest to the 31st December, 1789, the balances struck to each State, although in conformity to law, were all of them incorrect and erroneous.

2. That, if that interest had been actually charged to the respective States, it must certainly have changed all the balances; but how it had finally operated, and whether it had made those balances larger or less, that gentleman could not tell.

3. That, whatever effect that charge might have produced on the balances of each State, it had not, abstractedly, made any change in regard to the United States; for, be the balances what they may, the aggregate amount of those due by debtor States must necessarily have been equal to those due to creditor States: so that the observations of the gentleman were perfectly irrelevant.

But that was not all. The assumption of the State Debts might be considered under two points of view. Those Debts might, in the first place, be contemplated as Debts due by the Union.

In that light, they were only viewed as Debts due by the people of the United States—making it, therefore, immaterial whether they were paid by the Union or by the individual States. In that light, they stood unconnected with the settlement of accounts of the States; and it was as such that Mr. G. had considered them. He had chosen to do it, because he had avoided taking any ground which might have the appearance of an objection to the principles of the Funding System. In that point of view—it being a certain fact that the interest to the end of 1791 had not been paid to the creditors, either by the States or by the Union, but that it had been funded by the last—it became a proper item to be stated as an increase of Debt. But if that assumption was, upon the principle of the gentleman of South Carolina, to be considered as connected with and operating on the settlement of the accounts of the individual States; if the Debts thus assumed were to be viewed, not as a Debt of the Union, but as Debts of the States,

charged to them by the Union, then every part of that assumption which had not been repaid by the States, must be contemplated as an increase of the Public Debt of the Union; and it was not the partial effect produced by a specific charge, but the whole effect produced by the assumption itself, on the final settlement of the accounts of the several States, which must be taken into consideration. They well knew the amount of the Debt incurred by the mode which had been adopted, of assuming before the accounts were settled—about eighteen millions and a half assumed, and three millions and a half funded to the creditor States for the balances due them—made an aggregate of near twenty-two millions of dollars, against which they had nothing but three millions and a half, to be recovered from the debtor States. It remained to examine what would have been the final balances due to and by the several States, if no assumption had taken place. Although the books of the Commissioners were not opened to their inspection, yet they had sufficient data to make the calculation. Mr. G. said he had made it, and found that the aggregate amount of the balances which would have been found due to the creditor States, (and of course due by the debtor States, if no assumption had taken place,) would have been very little more than eight millions of dollars. From whence it resulted, that, supposing the balances due by the debtor States to be lost in both cases, the increase of Debt arising from the assumption was fourteen millions of dollars—it being the difference between twenty-two millions which had actually been funded, and eight millions which would have been funded for balances due to the creditor States, if no assumption had taken place; that, supposing the balances due by the debtor States to be recovered in both cases, the increase of Debt arising from the assumption was the amount assumed, exclusively of the balances, to wit, near eighteen millions and a half of dollars; that, supposing the balances due by the debtor States to be lost, and that, in case no assumption had taken place before the settlement of accounts, the United States had, after settlement, in order to equalize the loss arising to the creditor States from the debtor States not paying their balances, assumed four millions and a half in addition to the eight millions balances funded to the creditor States—the aggregate (making twelve-and-a-half millions of dollars) would still have been less, by a sum of nine millions and a half, than the twenty-two millions which had been funded according to the plan which had been adopted. Thus, a statement made on the principles upon which the objection of the gentleman from South Carolina did rest, would present, on the most favorable position, an increase of more than nine millions of dollars for the assumption alone.

Mr. G. said that not only he had forborne making his calculation on that principle, but that he had not even presented another view of the same subject, which, although not so correct, in an abstract point of view, was more simple and practically true. The amount of Debts actually assumed and funded for States who had turned out to be debtor States exceeded two millions of dollars. That sum was an increase of Debt arising solely from the operations of Government, and which would be eventually lost unless recovered from those debtor States—an event which was not contemplated by many. And here, he would observe, that the remarks made by the gentleman from South Carolina on the subject of the recovery of those balances, if he meant to convey an idea that they should constitute an item to the credit of the United States, were altogether fallacious; for they could be set off only against the balances funded to the creditor States; and these had not been charged, either by that gentleman's or by his own statement, as an increase of Debt under the present Government.

Mr. G. concluded by observing, that, having fully demonstrated that the gentleman from South Carolina, so far from having disproved any of the facts stated by him, had on the contrary supported them by his own statements; and having submitted to the House his reasons in support of those points on which they differed as matters of opinion, he would not object to the resolutions moved by that gentleman, although there was not a single document he asked for which was not already in the possession of the House, and although the sole object of the call on the Treasury Department was to procure statements in that shape and for those periods only which were best calculated to favor the gentleman's opinions, and to give some support to his systems. For the statements to be given, in conformity to those resolutions, would present a view neither of the interest accrued on the Domestic and Foreign Debt during the year 1790, nor of the interest accrued on the Assumed Debt during the years 1790 and 1791, nor of the expenditures, as compared with receipts, which were exactly the three points upon which they differed.

Mr. W. Smith admitted that there was one point, and only one, in which he and the gentleman agreed; that was, in vindicating the Administration from every blame for this supposed increase of debt. He was glad to find the gentleman so ready now to acknowledge that the Administration had done everything in their power, with the means in their hands, and that if any blame did attach, it was on Congress, for not providing more resources. As the gentleman disclaimed an intention of censuring the Administration, Mr. S. was at a loss to discover the motives for his statements. In every other respect, the gentleman and himself differed altogether. There were four items respecting which they differed essentially, the result from which was, that the gentleman's statement produced an increase of Debt of five millions, and his exhibited an increase of means of two millions.

1. The first item related to the amount of anticipations or expenditures beyond the receipts at the end of 1794. Those anticipations must have arisen from Loans; in order, therefore, to ascertain the amount, it was necessary to state the whole amount of Loans to that period, and then deduct the amount of Debts paid thereout; the balance constituted the true amount of anticipations. By

this process, it was demonstrable that the true amount at the end of 1794 was only 1,723,615, instead of 2,700,000, as stated by the gentleman.

2. The second item related to the amount of excess of anticipations during the year 1795. By pursuing the same process, this appeared to be only 382,674, instead of 1,500,000, as stated by the gentleman.

3. The third item arose from a different view taken by them as to the interest accruing on the Domestic and Foreign Debt during the year 1790. This amounted to 1,400,000. On this point, it was to be remarked, (in addition to his former observations,) that while the gentleman charged this item as an increase of Debt, under the present Government, he had omitted to credit the Treasury with the sum actually produced by the surplus revenue of that year. That surplus, instead of being applied to the discharge of the interest of the Foreign and Domestic Debt for 1790, was more profitably employed in buying up, considerably under par, the principal of the Domestic Debt. If, therefore, it was right in the gentleman to charge that interest as an increase of Debt, it was equally so to credit the Government with the whole sum produced by the fund, which was diverted from the payment of that interest. This sum was about 1,700,000, but the gentleman had only credited the Treasury for 957,000.

4. The last item was the interest of the Assumed Debt for 1790 and 1791. It was admitted that this was a charge against the States. Whether the United States would ultimately recover from the debtor States the whole of the balances due, was a question not necessary then to be discussed. It could not, however, be a question whether a part would not be recovered. These balances, and the interest due thereon, at only four per cent., amounted to upwards of four millions. Supposing that only 25 per cent should be recovered, it would be a sufficient set-off against this item of $1,050,000 in the gentleman's statement of the increase of Debt.

Mr. S. expressed his satisfaction that he had had an opportunity, before the recess, of exhibiting a more agreeable view of the finances than had been done by the member from Pennsylvania, who had taken uncommon pains to present a very melancholy one indeed. Mr. S. concluded with observing, that, when he contemplated the very heavy unforeseen expenses incurred since the year 1793, by the necessary efforts for protection, and by unavoidable negotiations, the Western insurrection, the long and persevering obstructions to the collection of the excise, and the aversion in that House to an augmentation of the revenues, he was astonished, as well as delighted, to find that the finances were in so flourishing a situation, and that the Government had got along so well.

[In Mr. SMITH's Statement of the Finances, printed at the foot of page 918, *ante*, the item, "Paid of Unfunded Debt, $5,000,000," should read $500,000; and the corresponding alterations should be made in adding up the sums, so as to make the balance beyond ordinary expenditures $13,900,000, instead of $18,400,000.]

SUNDRY BUSINESS.

Mr. SWANWICK proposed the following resolution, which was agreed to:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement of the drawback paid on the sundry dutiable articles exported from the United States in the years 1793, 1794, and 1795, compared with the amount of the duties collected on the same respectively."

Mr. SITGREAVES, from the committee to whom was referred the Message of the PRESIDENT respecting the posts of Detroit and Michilimackinac, reported that he had not been able to get the necessary information to make a report; therefore, he moved that the committee might be discharged; which was accordingly done.

The Senate, by their Secretary, informed the House that they had resolved that the bill for altering the time of holding the next session of Congress do not pass.

The amendments of the Senate to the bill for making appropriations for the Military and Naval Establishments for the year 1796 were read and agreed to. One of the amendments was to reduce the sum for the purchase of horses from $7,500 to $3,750; another was to reduce the sum for the defence and protection of the frontiers from $130,000 to $100,000; the other was to conform the whole amount to these amendments—making it, instead of $1,352,623, $1,318,773.

The Senate's amendments to the bill indemnifying the estate of Major General Greene from a certain bond, were agreed to without debate.

Sundry resolutions were proposed and agreed to, making additional allowances to the Sergeant-at-Arms, Clerks, and Doorkeepers of the House for the present session.

The House then adjourned till five o'clock this evening.

EVENING SESSION.

The Senate informed the House, by their Secretary, that they had resolved that the bill authorizing the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress, do not receive its third reading to-day.

Mr. J. SMITH, from the committee appointed to wait upon the PRESIDENT OF THE UNITED STATES, to notify him of the intention of both Houses to adjourn on this day, reported his approbation thereof.

The business before the House being finished, a message was sent to the Senate, to inform them that the House was ready to adjourn. Whereupon, after waiting some time to receive any answer that might be sent thereto, without receiving any—

The SPEAKER adjourned the House until the first Monday in December next.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FOURTH CONGRESS—SECOND SESSION.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

FOURTH CONGRESS—SECOND SESSION.

COMPRISING THE PERIOD FROM DECEMBER 5, 1796, TO MARCH 3, 1797, INCLUSIVE.

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PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FOURTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 5, 1796.

MONDAY, December 5, 1796.

PRESENT:

JOHN ADAMS, Vice President of the United States, and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

BENJAMIN GOODHUE, from Massachusetts;

WILLIAM BRADFORD, from Rhode Island;

JAMES HILLHOUSE and URIAH TRACY, from Connecticut;

ELIJAH PAINE and ISAAC TICHENOR, from Vermont;

JOHN RUTHERFURD and RICHARD STOCKTON, from New Jersey;

WILLIAM BINGHAM, from Pennsylvania;

HENRY LATIMER, from Delaware;

HUMPHREY MARSHALL, from Kentucky;

WILLIAM COCKE, from Tennessee;

JACOB READ, from South Carolina;

JAMES GUNN, from Georgia.

The number of Senators present not being sufficient to constitute a quorum, they adjourned to 11 o'clock to-morrow morning.

TUESDAY, December 6.

ALEXANDER MARTIN, from the State of North Carolina, and WILLIAM BLOUNT, from the State of Tennessee, severally attended.

The VICE PRESIDENT communicated a letter from PIERCE BUTLER, notifying the resignation of his seat in the Senate, which was read.

The credentials of the after-named Senators were severally read:—Of BENJAMIN GOODHUE, appointed a Senator by the State of Massachusetts, in place of GEORGE CABOT, resigned; of ISAAC TICHENOR, appointed a Senator by the State of Vermont, in place of MOSES ROBINSON, resigned; of JAMES HILLHOUSE, appointed a Senator by the State of Connecticut, in place of OLIVER ELLSWORTH, whose seat is become vacant; of URIAH TRACY, appointed a Senator by the State of Connecticut, in place of JONATHAN TRUMBULL, resigned; of JOHN LAURANCE, appointed a Senator by the State of New York, in place of RUFUS KING, whose seat is become vacant; of RICHARD STOCKTON, appointed a Senator by the State of New Jersey, in place of FREDERICK FRELINGHUYSEN, resigned; also, of WILLIAM BLOUNT and WILLIAM COCKE, appointed Senators by the State of Tennessee;—and, the oath required by law being respectively administered to them, they took their seats in the Senate.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and ready to proceed to business.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

A message from the House of Representatives informed the Senate that they have appointed a joint committee, on their part, together with such committee as the Senate may appoint, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Resolved, That the Senate concur in the above resolution, and that Messrs. READ and LIVERMORE be the joint committee on the part of the Senate.

Ordered, That the Secretary acquaint the House of Representatives therewith.

Mr. READ reported, from the joint committee appointed for that purpose, that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress are assembled; and that the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives' Chamber, at twelve o'clock to-morrow.

WEDNESDAY, December 7.

JOHN HENRY, from the State of Maryland, attended.

A message from the House of Representatives informed the Senate that they are now ready to

meet the Senate in the Chamber of that House, to receive such communications as the PRESIDENT OF THE UNITED STATES shall be pleased to make to them.

Whereupon, the Senate repaired to the Chamber of the House of Representatives, for the purpose above expressed.

The Senate returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES, this day addressed to both Houses of Congress, was read. [For which, see the proceedings in the House of Representatives of December 7, *post*.]

Ordered, That Messrs. READ, TRACY, and BINGHAM, be a committee to report the draught of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

It was further ordered, that the Speech of the PRESIDENT OF THE UNITED STATES, this day communicated to both Houses, be printed for the use of the Senate.

Resolved, That each Senator be supplied, during the present session, with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

THURSDAY, December 8.

JOHN LAURANCE, from the State of New York, attended, and, the oath required by law being administered to him, he took his seat in the Senate.

Ordered, That Messrs. STOCKTON, READ, and BINGHAM, be a committee to inquire whether any, and what, regulations are proper to be made, on the subject of the resignation of a Senator of the United States.

On motion to proceed to class the Senators from the State of Tennessee, as the Constitution provides, it was agreed to postpone the consideration thereof until to-morrow.

FRIDAY, December 9.

TIMOTHY BLOODWORTH, from the State of North Carolina, attended.

A message from the House of Representatives informed the Senate that they have resolved that two Chaplains be appointed to Congress for the present session—one by each House—who shall interchange weekly; in which they desire the concurrence of the Senate.

Whereupon, the Senate

Resolved, That they do concur therein, and that the Right Reverend Bishop WHITE be Chaplain on the part of the Senate.

Mr. READ, from the committee appointed for the purpose, reported the draught of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session; which was read.

On motion, that it be printed for the use of the Senate, it passed in the negative.

On motion, it was agreed to consider the report in paragraphs; and, after debate, a motion was made for recommitment, which passed in the negative; and, having agreed to amend the report, the further consideration thereof was postponed.

SATURDAY, December 10.

ADDRESS TO THE PRESIDENT.

The Senate resumed the consideration of the report of the committee in answer to the Address of the PRESIDENT OF THE UNITED STATES to both Houses of Congress; and, after further amendments, it was unanimously adopted, as follows:

We thank you, sir, for your faithful and detailed exposure of the existing situation of our country; and we sincerely join in sentiments of gratitude to an overruling Providence for the distinguished share of public prosperity and private happiness which the people of the United States so peculiarly enjoy.

We are fully sensible of the advantages that have resulted from the adoption of measures (which you have successfully carried into effect) to preserve peace, cultivate friendship, and promote civilization, amongst the Indian tribes on the Western frontiers; feelings of humanity, and the most solid political interests, equally encourage the continuance of this system.

We observe, with pleasure, that the delivery of the military posts, lately occupied by the British forces, within the territory of the United States, was made with cordiality and promptitude, as soon as circumstances would admit; and that the other provisions of our Treaties with Great Britain and Spain, that were objects of eventual arrangement, are about being carried into effect, with entire harmony and good faith.

The unfortunate but unavoidable difficulties that opposed a timely compliance with the terms of the Algerine Treaty, are much to be lamented; as they may occasion a temporary suspension of the advantages to be derived from a solid peace with that Power, and a perfect security from its predatory warfare; at the same time, the lively impressions that affected the public mind on the redemption of our captive fellow-citizens, afford the most laudable incentive to our exertions to remove the remaining obstacles.

We perfectly coincide with you in opinion, that the importance of our commerce demands a naval force for its protection against foreign insult and depredation, and our solicitude to attain that object will be always proportionate to its magnitude.

The necessity of accelerating the establishment of certain useful manufactures, by the intervention of the Legislative aid and protection, and the encouragement due to agriculture by the creation of Boards, (composed of intelligent individuals,) to patronise this primary pursuit of society, are subjects which will readily engage our most serious attention.

A National University may be converted to the most useful purposes; the science of legislation being so essentially dependant on the endowments of the mind, the public interests must receive effectual aid from the general diffusion of knowledge; and the United States will assume a more dignified station among the nations of the earth, by the successful cultivation of the higher branches of literature.

A Military Academy may be likewise rendered equally important. To aid and direct the physical force of

the nation, by cherishing a military spirit, enforcing a proper sense of discipline, and inculcating a scientific system of tactics, is consonant to the soundest maxims of public policy. Connected with, and supported by, such an establishment, a well regulated militia, constituting the natural defence of the country, would prove the most effectual, as well as economical, preservative of peace.

We cannot but consider, with serious apprehensions, the inadequate compensations of the public officers, especially of those in the more important stations. It is not only a violation of the spirit of a public contract, but is an evil so extensive in its operation, and so destructive in its consequences, that we trust it will receive the most pointed Legislative attention.

We sincerely lament that, whilst the conduct of the United States has been uniformly impressed with the character of equity, moderation, and love of peace, in the maintenance of all their foreign relationships, our trade should be so harassed by the cruisers and agents of the Republic of France, throughout the extensive departments of the West Indies.

Whilst we are confident that no cause of complaint exists that could authorize an interruption of our tranquility or disengage that Republic from the bonds of amity, cemented by the faith of Treaties, we cannot but express our deepest regrets that official communications have been made to you, indicating a more serious disturbance of our commerce. Although we cherish the expectation that a sense of justice, and a consideration of our mutual interests, will moderate their councils, we are not unmindful of the situation in which events may place us, nor unprepared to adopt that system of conduct, which, compatible with the dignity of a respectable nation, necessity may compel us to pursue.

We cordially acquiesce in the reflection, that the United States, under the operation of the Federal Government, have experienced a most rapid aggrandizement and prosperity, as well political as commercial.

Whilst contemplating the causes that produce this auspicious result, we must acknowledge the excellence of the constitutional system, and the wisdom of the Legislative provisions; but we should be deficient in gratitude and justice, did we not attribute a great portion of these advantages to the virtue, firmness, and talents, of your Administration—which have been conspicuously displayed in the most trying times, and on the most critical occasions. It is, therefore, with the sincerest regret that we now receive an official notification of your intentions to retire from the public employments of your country.

When we review the various scenes of your public life, so long and so successfully devoted to the most arduous services, civil and military, as well during the struggles of the American Revolution, as the convulsive periods of a recent date; we cannot look forward to your retirement without our warmest affections and most anxious regards accompanying you, and without mingling with our fellow-citizens at large in the sincerest wishes for your personal happiness that sensibility and attachment can express.

The most effectual consolation that can offer for the loss we are about to sustain, arises from the animating reflection that the influence of your example will extend to your successors, and the United States thus continue to enjoy an able, upright, and energetic Administration.

JOHN ADAMS,

Vice President of the United States, and President of the Senate.

Ordered, That the committee who prepared the Address, wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. READ reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would receive the Address of the Senate on Monday next at 12 o'clock, at his own house. Whereupon,

Resolved, That the Senate will, on Monday next, at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer of the United States, with his specie account for the quarters ending the 30th June and 30th of September, 1796; also, his accounts of receipts and expenditures in the War Department for the quarters ending at the same time; which were read, and ordered to lie on the table.

The Senate proceeded to class the Senators from the State of Tennessee, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

Whereupon, numbers one, two, and three, were, by the Secretary, rolled up and put into the ballot box, when Mr. BLOUNT drew number two, and is accordingly of the class whose seats will become vacated on the 3d of March, 1799. Mr. COCKE drew number one, and is accordingly of the class whose seats will become vacated on the 3d of March, 1797.

MONDAY, December 12.

THEODORE FOSTER, from the State of Rhode Island; JOHN BROWN, from the State of Kentucky; and HENRY TAZEWELL, from the State of Virginia, severally attended.

ADDRESS TO THE PRESIDENT.

Agreeably to the resolution of the 10th instant, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address then agreed to.

To which the PRESIDENT made the following reply:

GENTLEMEN: It affords me great satisfaction to find in your Address a concurrence in sentiment with me on the various topics which I presented for your information and deliberation; and that the latter will receive from you an attention proportioned to their respective importance.

For the notice you take of my public services, civil and military, and your kind wishes for my personal happiness, I beg you to accept my cordial thanks. Those services, and greater, had I possessed ability to render them, were due to the unanimous calls of my country, and its approbation is my abundant reward.

When contemplating the period of my retirement, I saw virtuous and enlightened men, among whom I relied on the discernment and patriotism of my fellow-citizens to make the proper choice of a successor; men who would require no influential example to insure to

the United States "an able, upright, and energetic Administration." To such men I shall cheerfully yield the palm of genius and talents to serve our common country; but, at the same, I hope I may be indulged in expressing the consoling reflection, (which consciousness suggests,) and to bear it with me to my grave, that none can serve it with purer intentions than I have done, or with a more disinterested zeal.

G. WASHINGTON.

The Senate returned to their own Chamber, and then adjourned.

TUESDAY, December 13.

A message from the House of Representatives informed the Senate that they have proceeded to the choice of a Chaplain to Congress, on their part, and the Reverend ASHBEL GREEN is duly elected. And that they have passed a bill, entitled "An act to amend the act, entitled 'An act for the more general promulgation of the laws of the United States;" in which they desire the concurrence of the Senate.

The last mentioned bill was read, and ordered to a second reading.

A motion was made that the sum of one hundred dollars each, be allowed to the principal and engrossing clerks in the office of the Secretary of the Senate, to be paid by the Secretary, out of the money appropriated for the contingent expenses of the Senate.

And it was agreed that the motion should be referred to Messrs. TRACY, LIVERMORE, and READ, to consider and report thereon to the Senate.

On motion, that a committee be appointed to take into consideration the compensations at present allowed to the officers of the Government, with a view (under existing circumstances) of making a more just and liberal provision for them, it was agreed that this motion should lie for consideration.

WEDNESDAY, December 14.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act for the more general promulgation of the laws of the United States;" was read the second time, and referred to Messrs. RUTHERFURD, TRACY, and BLOODWORTH, to consider and report thereon to the Senate.

THURSDAY, December 15.

The Senate assembled this day, but transacted no business.

FRIDAY, December 16.

The VICE PRESIDENT laid before the Senate the report of the Commissioners of the Sinking Fund; which was read, as follows:

"The Commissioners of the Sinking Fund respectfully report to Congress—

"That the purchases of the debt of the United States, as stated in their report of the 18th of December, 1795, amount to two millions three hundred and seven thousand six hundred and sixty-one dollars and seventy-one cents; for which there have been paid, in specie, one million six hundred and eighteen thousand nine hundred and thirty-six dollars and four cents, as will more particularly appear from the document marked A.

"That, subsequent to the said report of the 18th of December, 1795, and in pursuance of the act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt,' the Commissioners of the Sinking Fund have caused the sum of five hundred and forty-four thousand and sixty-six dollars and fifty-four cents to be applied towards the redemption of the six per cent. stock, bearing interest, as will appear from the document marked B.

"That there is at this time in the hands of the Treasurer of the United States, as their agent, the sum of sixty-seven thousand and twenty-five dollars and sixty-three cents, arising from the dividends since the first of April last, on stock heretofore purchased and redeemed, and the sum of ten thousand two hundred and seventy-four dollars and thirty-eight cents, arising from payments into the Treasury on account of debts due to the United States prior to their present Constitution; which sums, with the dividends to be made at the close of the present year, and other funds appropriated by law, will be applied on the first day of January ensuing, to a further reimbursement of the six per cent. stock, bearing a present interest, agreeably to the directions of the act in that case made and provided.

"In pursuance of the first section of the act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt,' a loan of five hundred thousand dollars was authorized by a resolution of the Board, passed on the 28th day of December, 1795, and approved by the President of the United States; which has been obtained of the Bank of the United States.

"The measures adopted in pursuance of the act, entitled 'An act making provision for the payment of certain debts of the United States,' passed in the last session of Congress, being in a train for execution, and not completed, will be communicated in a future report.

"JOHN ADAMS
"On behalf of the Board.

"DECEMBER 16, 1796."

Mr. RUTHERFURD, from the committee to whom was referred the bill, entitled "An act to amend the act, entitled 'An act for the more general promulgation of the laws of the United States," reported that the bill pass without amendment; and the report was adopted. The bill was then read the third time by unanimous consent, and passed.

The Senate resumed the consideration of the motion made on the 13th instant, respecting the compensations of the officers of the Government; which, being amended,

Ordered, That Messrs. GOODHUE, LAURANCE, and LIVERMORE, be a committee to take into consideration the compensations at present allowed to the officers of the Government and members of the Legislature, with a view (under existing circumstances) of making a more just and liberal provision for them.

Ordered, That Messrs. TRACY, HENRY, and STOCKTON, be a committee to inquire what laws will expire before the next session of Congress, and report thereon to the Senate.

MONDAY, December 19.

A message from the House of Representatives informed the Senate that they have appointed a joint committee, on their part, for enrolled bills, and request the appointment of a joint committee on the part of the Senate.

Ordered, That Mr. STOCKTON be of the joint committee for enrolled bills on the part of the Senate.

TUESDAY, December 20.

The VICE PRESIDENT communicated to the Senate a Letter from the Secretary for the Department of State, with a report from the Director of the Mint; which were read, and ordered to lie on the table.

ALLOWANCES TO CLERKS OF THE SENATE.

Mr. TRACY, from the committee appointed on the 13th instant, on the motion for an extra allowance to the principal and engrossing clerks in the office of the Secretary of the Senate, reported:

"That, on the 5th day of February, 1796, an act passed appropriating eleven thousand five hundred dollars 'for expenses of fire-wood, stationery, printing work, and all other contingent expenses of the two Houses of Congress, for the year 1796.' They find that the Senate directed the two doorkeepers of the Senate to be paid out of the contingent fund, for their services during the session of June, 1795; and that, at the close of the last session, the House of Representatives directed one hundred dollars each, to be paid out of the contingent fund, to two of the clerks in Mr. Beckley's office, for their extra services. There is no other instance, since the commencement of the Government, of clerks receiving allowances out of the contingent fund.

"The committee find several instances of both Houses having allowed their doorkeepers extra sums out of this fund.

"The principal clerk is allowed by law three dollars per diem, and the engrossing clerk two, during the session. This sum, the committee do not hesitate to say, ought to have been increased for the last session, especially as Mr. Beckley's clerks actually received one hundred dollars each, in addition, for the same period, and similar services.

"The laws of the United States have stated the sums, from time to time, which were thought proper to give the clerks and doorkeepers, and the sums are paid quarterly out of the Treasury; and the accounting officers of the Treasury have paid the extra sums of one hundred dollars each, to Mr. Beckley's clerks, supposing themselves authorized by the resolution of the House of Representatives.

"The words of the Constitution, on the subject of drawing money out of the Treasury, are as follows, viz:

"'No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.'

"The committee are of opinion that payment for all such services as can properly be specified, and of course become objects of a law, ought to be made out of the Treasury, by virtue of a direct and specific appropriation made by law, and not otherwise; and that no appropriations ought to be made out of the contingent fund, but for such services and necessary articles of expenditure as, in their own nature, are contingent, and cannot, with any propriety, become the objects of an antecedent law.

"And although they are of opinion that it might be well to appropriate by law the sum of one hundred dollars each, to the clerks mentioned in the resolution referred to their consideration; yet, they are fully of opinion it would be improper to direct the payment of that sum out of the contingent fund.

"They, therefore, report it as their opinion that it will be improper for the Senate to adopt the resolution."

The report was read, and ordered to be printed for the use of the Senate.

Mr. TRACY notified the Senate that he should, to-morrow, ask permission to introduce a bill for granting to the principal and engrossing clerks in the office of the Secretary of the Senate, each one hundred dollars, in addition to the compensation allowed by law, for extra services during the last year.

WEDNESDAY, December 21.

THEODORE SEDGWICK, appointed a Senator by the State of Massachusetts, in place of CALEB STRONG, resigned, attended, produced his credentials, and the oath required by law being administered to him, he took his seat in the Senate.

Conformably to notice given yesterday, Mr. TRACY had permission to introduce a bill for granting an extra allowance to the clerks in the office of the Secretary of the Senate; which bill was read the first time, and ordered to a second reading.

THURSDAY, December 22.

The VICE PRESIDENT communicated a Letter from the Secretary for the Department of the Treasury, accompanying statements of tonnage and imports for one year preceding the first of October, 1795; which were read, and ordered to lie on the table.

The bill for granting an extra allowance to the clerks in the office of the Secretary of the Senate, was read the second time; and, being amended, it was, by unanimous consent, read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act for granting an additional allowance to the clerks in the office of the Secretary of the Senate."

FRIDAY, December 23.

The Senate assembled, but transacted no business.

MONDAY, December 26.

Ordered, That Messrs. BLOUNT, READ, and SEDGWICK, be a committee to report a bill giving effect to the laws of the United States within the State of Tennessee.

Ordered, That Messrs. TRACY, HENRY, and BROWN, be a committee to inquire what business remained unfinished at the last session, which, in their opinion, is proper for the Senate to take into consideration at the present session.

TUESDAY, December 27.

JOHN EAGER HOWARD, appointed a Senator by the State of Maryland, in place of RICHARD POTTS, resigned, produced his credentials, and the oath required by law being administered, he took his seat in the Senate.

JOSIAH TATTNALL, from the State of Georgia, attended.

WEDNESDAY, December 28.

JAMES ROSS, from the State of Pennsylvania, attended.

Mr. TRACY reported, from the committee appointed to inquire what business remained unfinished at the last session, which, in their opinion, is proper for the Senate to take into consideration at the present session; which report was read, and ordered to lie on the table.

On motion,

"That a committee be appointed to take into consideration the report of the Attorney General, of the 28th April last, together with the documents therein referred to, relative to the territorial limits of the State of Georgia, &c.; and thereon to report what shall appear to them to have been the Southern boundary of the said State, from the sea Westward, at the time of the Confederation of American States; and, also, to report, by a description of boundary, what territory, lying to the Southward of the said State boundary, shall appear to belong to the United States."

It was agreed that this motion lie for consideration.

A message from the House of Representatives informed the Senate that they had passed the bill entitled "AN act for the relief of John Sears," in which they desire the concurrence of the Senate.

The bill was read the first time, and ordered to a second reading.

THURSDAY, December 29.

The bill sent from the House of Representatives for concurrence, entitled "AN act for the relief of John Sears," was read the second time, and referred to Messrs. TRACY, ROSS, and PAINE, to consider and report thereon to the Senate.

On motion, permission was given to withdraw the motion postponed yesterday, in order to substitute the following:

"That a committee be appointed to take into consideration the report of the Attorney General of the 28th of April last, together with the documents therein referred to, relative to the territorial limits of the State of Georgia, &c.; and to report what shall appear to them to be the Southern and Western boundaries of the said State; and, also, to report, by a description of boundaries, what territory, if any, lying to the Southward and Westward of the said State boundaries, shall appear to belong to the United States; and what, in their opinion, it will be proper for Congress to do relative to such territory.

Ordered, That the motion be referred to Messieurs ROSS, MARSHALL, LAURANCE, HENRY, and HILLHOUSE, to consider and report thereon to the Senate.

FRIDAY, December 30.

A motion was made as follows:

"*Resolved*, That provision ought to be made by law for inflicting an adequate punishment on those who shall forge, counterfeit, or alter, the securities of the Bank of the United States; or those who shall utter such securities, knowing them to be forged, counterfeited, or altered, and on those who shall be aiding in the perpetration of either of the said crimes."

Ordered, That this motion be referred to Messieurs SEDGWICK, LIVERMORE, and ROSS, to consider and report thereon to the Senate.

MONDAY, January 2, 1797.

Mr. TRACY reported, from the committee appointed to inquire what laws will expire before the next session of Congress; and the report was read, and ordered to lie for consideration.

Mr. T. also notified the Senate that he should to-morrow ask permission to introduce a bill, in addition to the act for the punishment of certain crimes against the United States.

Ordered, That Messrs. TRACY, BROWN, and ROSS, be a committee to inquire whether any alteration, and if any, what alteration, in their opinion, will be necessary, in the ordinance establishing the Government of the Territory of the United States Northwest of the river Ohio.

TUESDAY, January 3.

Ordered, That Messrs. SEDGWICK, READ, and HENRY, be a committee to inquire whether any, and if any, what further provisions are proper to be made by law respecting fugitives from justice, and persons escaping from the service of their masters.

Conformably to notice given yesterday, Mr. TRACY had permission to introduce a bill repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States, which bill was read the first time, and ordered to a second reading.

WEDNESDAY, January 4.

The bill repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States, was read the second time, and referred to Messrs. TRACY, READ, and SEDGWICK, to consider and report thereon to the Senate.

Mr. GOODHUE notified the Senate, that he should, to-morrow, ask permission to introduce a bill to prevent the sale of prizes brought into the United States, by vessels belonging to any foreign Prince or State.

THURSDAY, January 5.

Conformably to notice given yesterday, a motion was made by Mr. GOODHUE, that he might be permitted to introduce a bill to prevent the sale of prizes brought into the United States by vessels belonging to any foreign Prince or State; and, after debate—

Ordered, That this motion lie for consideration.

FRIDAY, January 6.

A message from the House of Representatives informed the Senate that they had passed "resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States," in which they desire the concurrence of the Senate.

The resolutions were read, and ordered to be printed.

MONDAY, January 9.

Mr. TRACY, from the committee to whom was referred the bill repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States, reported amendments; which were read, and ordered to lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

Herewith I lay before you, in confidence, reports from the Departments of State and the Treasury, by which you will see the present situation of our affairs with the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, *January* 9, 1797.

The Message and papers were read, and ordered to lie for consideration.

TUESDAY, January 10.

The Senate proceeded to consider the report of the committee to whom was referred the bill repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States; and the bill was amended accordingly, and ordered to a third reading.

WEDNESDAY, January 11.

JOHN VINING, from the State of Delaware, attended.

Mr. SEDGWICK, from the committee appointed the 30th of December last, on the motion relative to forging, counterfeiting, and altering securities of the Bank of the United States, knowingly uttering the same, and aiding in the perpetration of those offences, reported,

"That, in their opinion, it is proper that the said resolution should be adopted by the Senate, and that a committee should be appointed to bring in a bill accordingly."

The report was read and adopted; and the committee who made the report were instructed to bring in the bill.

The bill repealing the limitation to the act in addition to "the act for the punishment of certain crimes against the United States," and to continue in force the same, was read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "AN act repealing the limitation to the act in addition to 'the act for the punishment of certain crimes against the United States, and to continue the same.'"

Mr. BLOUNT, from the committee appointed for the purpose, reported a bill, giving effect to the laws of the United States within the State of Tennessee; which was read the first time, and ordered to a second reading.

THURSDAY, January 12.

AARON BURR, from the State of New York, and STEVENS THOMSON MASON, from the State of Virginia, attended.

A message from the House of Representatives informed the Senate that they had passed a bill, entitled "AN act making provision for the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette;" in which they desire the concurrence of the Senate.

The bill was read and ordered to a second reading.

The bill giving effect to the laws of the United States within the State of Tennessee was read the second time; and, being amended, was ordered to a third reading.

Mr. PAINE notified the Senate, that he should to-morrow ask permission to introduce a bill for allowing to the District Judge of Vermont the sum of two hundred dollars, in addition to his present compensation.

FRIDAY, January 13.

The bill giving effect to the laws of the United States within the State of Tennessee was resumed.

Ordered, That the further consideration thereof be postponed.

The bill, sent from the House of Representatives for concurrence, entitled "AN act making provision for the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette," was read the second time, and referred to Messrs. SEDGWICK, HOWARD, and LIVERMORE, to consider and report thereon to the Senate.

Mr. ROSS laid before the Senate the memorial of the Illinois and Wabash Land Company, which was read, praying that Congress would take their case into consideration.

Ordered, That the memorial lie on the table.

Conformably to notice given yesterday, a motion was made by Mr. PAINE, that he might be permitted to introduce a bill for allowing to the District Judge of Vermont the sum of two hundred dollars in addition to his present compensation.

Ordered, That the consideration of this motion be postponed until Monday next.

Mr. BINGHAM laid before the Senate the petition of I. Simonds and others, inspectors of the customs for the Pennsylvania district, praying for an increase of compensation; which was read, and ordered to lie on the table.

MONDAY, January 16.

The bill giving effect to the laws of the United States within the State of Tennessee, was read the third time.

On motion, to reduce the salary of the District Judge from one thousand to eight hundred dollars, it passed in the negative.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act giving effect to the laws of the United States within the State of Tennessee."

The Senate resumed the consideration of the motion made on the 13th instant, by Mr. PAINE, for permission to bring in a bill for allowing to the District Judge of Vermont the sum of two hundred dollars, in addition to his present compensation; and leave being granted, the bill was read, and ordered to a second reading.

Mr. READ laid before the Senate the petition of Thomas Wright Bacot, postmaster at Charleston, in the State of South Carolina, together with the statement of the present emoluments of his office, and praying additional compensation.

The petition was read, and ordered to lie on the table.

Ordered, That the memorial of the Illinois and Wabash Land Company, together with the printed statement of their claims, be referred to Messieurs ROSS, LIVERMORE, TRACY, TAZEWELL, and STOCKTON, to consider and report thereon to the Senate.

TUESDAY, January 17.

The Senate proceeded to consider the "Resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

A motion was made, that it be

"*Resolved*, That the book marked A, referred to by the Commissioners for the settlement of accounts between the United States and the individual States, in their report dated the 29th of June, 1793, be brought into the Senate for the inspection of the members."

And, after debate—

Ordered, That the consideration of the subject be postponed.

Mr. SEDGWICK, from the committee appointed for the purpose, reported a bill to punish frauds committed on the Bank of the United States; which was read, and ordered to a second reading.

The bill for allowing an additional compensation to the Judge of the District of Vermont, was read the second time, and referred to Messrs. LIVERMORE, LAURANCE, and GOODHUE, to consider and report thereon to the Senate.

WEDNESDAY, January 18.

The Senate resumed the consideration of the motion, made on the 17th instant, on the resolutions sent from the House of Representatives for concurrence, "relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

And on the question to agree to the motion, as followeth:

"*Resolved*, That the book marked A, referred to by the Commissioners for the settlement of accounts between the United States and the individual States, in their report dated the 29th of June, 1793, be brought into the Senate for the inspection of the members:"

It passed in the negative—yeas 10, nays 16, as follows:

YEAS.—Messrs. Bloodworth, Burr, Cocke, Henry, Latimer, Laurance, Livermore, Martin, Tazewell, and Vining.

NAYS.—Messrs. Bingham, Bradford, Brown, Foster, Goodhue, Hillhouse, Langdon, Marshall, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, Tichenor, and Tracy.

Ordered, That the resolutions of the House of Representatives be referred to Messrs. GOODHUE, ROSS, LAURANCE, VINING, STOCKTON, READ, and TRACY, to consider, and report to the Senate.

The VICE PRESIDENT communicated a Letter from the Secretary for the Department of War, with a list of invalid pension applicants; which were read, and ordered to lie on the table.

The bill to punish frauds committed on the Bank of the United States was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed.

THURSDAY, January 19.

The Senate resumed the second reading of the bill to punish frauds committed on the Bank of the United States; and, after debate,

Ordered, That the further consideration thereof be postponed.

FRIDAY, January 20.

Mr. SEDGWICK made report, from the committee appointed on the bill, sent from the House of Representatives for concurrence, entitled "An act making provision for the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette;" which report was read, and ordered to lie on the table.

MONDAY, January 23.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making provision for the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette;" and the report was adopted; and, on the question to agree to the third reading of the bill, it passed in the negative.

Mr. MARTIN notified the Senate that he should,

to-morrow, request permission to introduce a bill to declare the consent of Congress to an act of the State of North Carolina, passed the first day of December, one thousand seven hundred and ninety-five, entitled "An act to raise a fund for the support of an health and harbor master in the port of Wilmington, in this State." Also, to an act, entitled "An act to empower the Commissioners of Navigation of the port of Wilmington to appoint an health officer and harbor master for the said port."

Mr. LAURANCE laid before the Senate the petition of Mary Hibborn, late widow of Francis Cranberry, a soldier in Captain Johnson's company, in the third New York regiment, commanded by Colonel Peter Gansevelt, deceased, praying the interposition of Congress in relation to the bounty lands due to the said Francis. Also, the petition of Michael Van Kleeck, a matross in the second regiment of New York artillery, during the late war, praying the interposition of Congress respecting certain certificates issued from the War Office in his name to William Stevens, of said regiment, said to have absconded; which petitions were read.

Ordered, That they severally be referred to the Secretary for the Department of War, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill to punish frauds committed on the Bank of the United States; and, after debate,

Ordered, That the further consideration thereof be postponed.

TUESDAY, January 24.

Conformably to notice given yesterday, a motion was made by Mr. MARTIN, that he might be permitted to introduce a bill to declare the consent of Congress to an act of the State of North Carolina respecting an health officer and harbor master in the port of Wilmington, in that State; and, by unanimous consent, the bill was read the second time.

Ordered, That it be referred to Messrs. HOWARD, MARTIN, and GOODHUE, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill to punish frauds committed on the Bank of the United States.

Ordered, That the bill be recommitted, and that Messrs. BINGHAM and LAURANCE be added to the committee.

A message from the House of Representatives informed the Senate that they have passed the bill, sent from the Senate for concurrence, entitled "An act giving effect to the laws of the United States within the State of Tennessee," with an amendment; in which they desire the concurrence of the Senate.

The amendment to the bill was read.

Ordered, That the consideration thereof be postponed.

WEDNESDAY, January 25.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act giving effect to the laws of the United States within the State of Tennessee;" and

Resolved, That they do not concur in the said amendment.

The petition of Benjamin Walker, one of the executors, on behalf of himself and the other executor of the late Major General Baron Steuben, was presented and read, praying that an act may be passed to enable the Secretary for the Department of State to issue patents for certain lands granted by the Legislature of Virginia to the said Baron Steuben, agreeably to the original grant.

Ordered, That this petition be referred to Messrs. LAURANCE, TAZEWELL, and HENRY, to consider and report thereon to the Senate.

THURSDAY, January 26.

The VICE PRESIDENT laid before the Senate the report of the Commissioners of the Sinking Fund; which was read, as follows:

"The Commissioners of the Sinking Fund respectfully report to Congress, that, in pursuance of the powers committed to them by the act, entitled "An act making provision for the payment of certain debts of the United States," passed in the last session of Congress, they have authorized sales of a part of the capital stock of the Bank of the United States, belonging to the United States, the proceeds of which have been applied to discharge certain debts according to law.

"The particulars and amount of the said sales, and the measures authorized by the Board for the execution of their trust, so far as the same have been completed, are represented in the report of the Secretary of the Treasury, dated the 24th instant, and in the proceedings of the accounting officers therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

"On behalf of the Board:

"JOHN ADAMS.

"*January* 25, 1797."

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund, that, in pursuance of the act, entitled "An act making provision for the payment of certain debts of the United States," passed on the 31st day of May, 1796, and a resolution of the Board, passed on the 5th day of August last, he has caused two thousand one hundred and sixty shares of the Bank of the United States, belonging to the United States, to be sold, on a credit of sixty days, without interest, at the rate of five hundred dollars, or twenty-five per centum advance on the original capital.

The proceeds of the said sales, amounting to one million and eighty thousand dollars, have been received and placed in the Treasury of the United States, as appears by the proceedings of the accounting officers of the Treasury, herewith transmitted, shewing the dates and particulars of the said sales.

As the proceeds of the said sales were destined to reimburse a part of the debt due to the Bank of the United States, it was agreed with the Bank that the moneys should be applied to the credit of the United States from the dates of the respective payments.

In addition to the proceeds of the said Bank stock, the Secretary has obtained the sum of one hundred and twenty thousand dollars, on the credit of the six per

cent. stock, authorized to be constituted by the act before mentioned; and has, moreover, taken eventual measures for reimbursing the debt due to the Bank of New York.

When these measures shall have been executed and adjusted, they will be reported to the Board.

The fund of twelve hundred thousand dollars, obtained as abovementioned, has been applied to discharge the following debts due to the Bank of the United States, viz:

To the payment of the instalments due on a loan of $400,000, obtained pursuant to the act, entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes," passed on the 2d day of May, 1792 -	$300,000
To the payment of part of an instalment of a loan obtained pursuant to an act authorizing a loan of two millions, passed on the 18th of December, 1794 - -	300,000
To the payment of two instalments of the subscription loan for Bank stock, due on the last days of December, 1795 and 1796	400,000
To the payment of the first instalment of the loan of $800,000, obtained pursuant to an act passed on the 21st of February, 1795 - - - - -	200,000
Amounting, as abovementioned, to -	1,200,000

All which is respectfully submitted by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *January* 24, 1797.

Ordered, That the report, and documents accompanying it, lie on the table.

A message from the House of Representatives informed the Senate that they insist on their amendment to the bill, entitled "An act giving effect to the laws of the United States within the State of Tennessee."

Resolved, That the Senate do recede from their disagreement to the amendment above mentioned.

Mr. HOWARD reported, from the committee to whom was referred the bill respecting the appointment of an health officer and harbor master for the port of Wilmington, in the State of North Carolina; and, after debate,

Ordered, That the further consideration thereof be postponed.

FRIDAY, January 27.

JOHN HUNTER, appointed a Senator by the State of South Carolina, in place of PIERCE BUTLER, resigned, attended, produced his credentials, and the oath required by law being administered to him, he took his seat in the Senate.

The VICE PRESIDENT laid before the Senate the reports of the Secretary for the Department of War on the petitions of Mary Hobborn and Michael Van Kleeck; which were respectively read.

Ordered, That they lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the bill respecting the appointment of an health officer and harbor master for the port of Wilmington, in the State of North Carolina; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. LIVERMORE made report from the committee to whom was referred the bill allowing an additional compensation to the Judge of the District of Vermont; and the report was read, and ordered to lie for consideration.

The VICE PRESIDENT commmunicated a letter from Samuel Meredith, Treasurer of the United States, with his account of expenditures in the War Department for the quarter ending 31st December, 1796; which was read, and ordered to lie for consideration.

Ordered, That Messrs. TAZEWELL, LANGDON, and BROWN, be a committee to examine, and report to the Senate, what number of States have ratified the amendments proposed by the two Houses of Congress to the Constitution, which amendments have not as yet been announced as forming a part of the Constitution, and report thereon to the Senate.

MONDAY, January 30.

On motion,

"That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode for examining the votes for President and Vice President, and of notifying the persons elected of their election, and for regulating the time, place, and manner, of administering the oath of office to the President:"

It was agreed that the motion lie until to-morrow.

Mr. GOODHUE reported from the committee to whom was referred the consideration of the compensations at present allowed to the officers of the Government and members of the Legislature, with a view, (under existing circumstances,) of making a more just and liberal provision for them; and the report was read.

Ordered, That it lie for consideration.

Mr. SEDGWICK, from the committee to whom was recommitted the bill to punish frauds committed on the Bank of the United States, reported amendments; which were read.

Ordered, That they be printed for the use of the members.

TUESDAY, January 31.

The Senate resumed the consideration of the motion made yesterday, respecting the mode of counting the votes for PRESIDENT and VICE PRESIDENT of the United States; whereupon,

Resolved, That Messrs. SEDGWICK, LAURANCE, and READ, be a joint committee on the part of the Senate, with such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT, and of notifying the persons elected of their election, and for regulating the time, place, and manner, of administering the oath of office to the PRESIDENT.

The Senate resumed the consideration of the report of the committee to whom was referred the subject of compensations to the officers of Government; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. TAZEWELL reported, from the committee on the subject of amendments to the Constitution of the United States, which was read, as follows:

"That of the twelve amendments proposed by Congress, at their session begun and held in New York on the 4th of March, 1789, the following States ratified the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, prior to the first day of March, 1791, viz: New Jersey, Maryland, North Carolina, South Carolina, New Hampshire, Delaware, New York, Pennsylvania, and Rhode Island; which States, making three-fourths of the then thirteen United States, the said amendments have become a part of the Constitution.

"That the first amendment was ratified prior to the first day of March, 1791, by the following States, viz: New Jersey, Maryland, North Carolina, South Carolina, New Hampshire, New York, and Rhode Island, and, subsequent to that period, by Pennsylvania, Virginia, and Vermont; which number not making three-fourths of the States at the period of ratification, the said amendment has not as yet become a part of the Constitution.

"That the second amendment was ratified prior to the 1st day of March, 1791, by the following States: Maryland, North Carolina, South Carolina, Delaware, and, subsequent to that period, by Virginia and Vermont; which number not making three-fourths of the States, the said amendment has not become a part of the Constitution.

"That the amendment respecting the suability of States, which has been proposed by Congress since March, 1791, has been ratified by the following States: New York, Massachusetts, Vermont, New Hampshire, Georgia, Delaware, Rhode Island, and North Carolina, as appears by authentic documents returned to Congress. The committee have strong reasons to believe that other States have ratified this latter amendment, and that the evidences of the fact have not been as yet returned to the proper Departments of the Government; wherefore, as the number returned do not amount to three-fourths of the States, the said amendment cannot, under present circumstances, be reported as forming a part of the Constitution."

Whereupon,

Resolved, by the Senate and House of Representatives of the United States, That the PRESIDENT be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution concerning the suability of States; if they have, to obtain the proper evidences thereof.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

A motion was made, that a Journal, to be denominated the Secret Journal, shall be provided and kept by the Secretary of the Senate, in which shall be entered such parts of the proceedings of the Senate, in their Legislative capacity, as they shall deem proper to be kept secret; and it passed in the negative.

Mr. MARTIN laid before the Senate a letter from the Governor of the State of North Carolina, enclosing the petition of I. Glasgow and others, praying Congress to extinguish the Indian titles granted to the said Glasgow & Co. by the State of North Carolina.

Ordered, That the letter and enclosures be referred to Messrs. HILLHOUSE, HENRY, MARTIN, LAURANCE, and READ, to consider and report thereon to the Senate.

Mr. MASON notified the Senate that he should, to-morrow, ask permission to introduce a bill to amend the act, entitled "An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia Line, on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, and between the Little Miami and Sciota."

WEDNESDAY, February 1.

Mr. GOODHUE reported, from the committee to whom was referred the "Resolutions relative to the balances found due by the Commissioners for settling accounts between the United States and the individual States;" which was read.

Ordered, That it lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the bill to punish frauds committed on the Bank of the United States, and having amended the same, it was adopted, and the bill amended accordingly.

Ordered, That this bill pass to a third reading.

Conformably to notice given yesterday, Mr. MASON requested and obtained leave to introduce a bill to amend the act, entitled "An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia Line, on Continental Establishment, to obtain titles to certain lands lying Northwest of the river Ohio, and between the Little Miami and Sciota."

A message from the House of Representatives informed the Senate that they concur in the resolution sent from the Senate, appointing a joint committee to report the mode of examining and counting the votes for PRESIDENT and VICE PRESIDENT of the United States, and have appointed a joint committee on their part.

THURSDAY, February 2.

Mr. SEDGWICK reported, from the joint committee appointed on the part of the Senate, on the subject of the election of PRESIDENT and VICE PRESIDENT, that, in their opinion, the following resolution ought to be adopted, viz:

"That the two Houses shall assemble in the Chamber of the House of Representatives on Wednesday next, at twelve o'clock; that one person be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared: That the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall

be deemed a declaration of the persons elected President and Vice President, and, together with a list of votes, be entered on the Journals of the two Houses."

On motion, it was agreed to adopt the report, and that Mr. SEDGWICK be the teller of the votes on the part of the Senate.

The bill to punish frauds committed on the Bank of the United States was read the third time.

On motion, to substitute the punishment of death in place of fourteen years' imprisonment, it passed in the negative.

On motion, it was agreed to postpone the question on the final passing of this bill until Monday next.

The Senate resumed the consideration of the report of the committee on compensations to the officers of Government, and it was agreed to consider the report, article by article; and, the report being amended, was agreed to as follows:

Resolved, That there be allowed to the PRESIDENT OF THE UNITED STATES five thousand dollars per annum, in addition to his compensation by law established, to commence the fourth of March next, and to continue for the term of four years.

Resolved, That there be allowed to the VICE PRESIDENT OF THE UNITED STATES two thousand dollars per annum, in addition to his compensation by law established, to commence the fourth of March next, and to continue for the term of four years.

Resolved, That there be allowed to the members of the Senate,

To the members of the House of Representatives,

To the Secretary of the Department of State,

To the Secretary of the Department of the Treasury,

To the Secretary of the Department of War,

To the Attorney General,

To the Postmaster General,

To the Assistant Postmaster General,

To the Comptroller of the Treasury,

To the Auditor of the Treasury,

To the Register of the Treasury,

To the Commissioner of the Revenue,

To the Accomptant of the War Department,

To the Secretary of the Senate,

To the Clerk of the House of Representatives, and to the clerks by them severally employed, twenty-five per centum, in addition to the sums they are now respectively allowed by law; which additional compensations shall commence on the first day of January, one thousand seven hundred and ninety-seven, and continue for the term of two years.

Ordered, That the committee who made the report bring in a bill accordingly.

Resolved, That the Secretary of War be required to report to the Senate, on the different communications of the Governors of Georgia, respecting the pay of militia ordered into service for the protection of the said State.

FRIDAY, February 3.

Agreeably to the instruction, Mr. GOODHUE reported, from the committee, a bill for increasing the compensations allowed to the members of the Legislature and certain officers of the Government, for a limited time; which was read, and ordered to a second reading.

A message from the House of Representatives informed the Senate that they have agreed to the report of the joint committee upon the mode of examining the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and have appointed tellers of the votes on their part.

The Senate resumed the consideration of the report of the committee, to whom was referred the resolutions of the House of Representatives of the 5th of January, 1797, respecting certain individual States, found by the Commissioners to be indebted to the United States; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. ROSS reported, from the committee to whom was referred the memorial of the Illinois and Wabash Land Company; and the report was read, and ordered to lie on the table.

Ordered, That the bill respecting the appointment of a health officer and harbor master for the port of Wilmington, in the State of North Carolina, be recommitted.

MONDAY, February 6.

The bill for increasing the compensations allowed to the members of the Legislature, and certain officers of the Government, for a limited time, was read the second time.

On motion, to expunge the following words from the second enacting clause of the bill, "to the members of the Senate, to the members of the House of Representatives," it passed in the negative—yeas 8, nays 18, as follows:

YEAS.—Messrs. Bloodworth, Bradford, Cocke, Langdon, Martin, Mason, Ross, and Tazewell.

NAYS.—Messrs. Bingham, Blount, Brown, Foster, Goodhue, Henry, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Paine, Read, Sedgwick, Stockton, Tichenor, and Vining.

On motion, to agree to the second enacting clause of the bill, amended as follows:

"*And be it further enacted*, That there shall be allowed to the members of the Senate,

To the members of the House of Representatives,

To the Secretary of the Department of State,

To the Secretary of the Department of Treasury,

To the Secretary for the Department of War,

To the Attorney General,

To the Postmaster General,

To the Assistant Postmaster General,

To the Comptroller of the Treasury,

To the Auditor of the Treasury,

To the Register of the Treasury,

To the Commissioner of the Revenue,

To the Accomptant of the War Department,

To the Secretary of the Senate,

To the Clerk of the House of Representatives, and to the Clerks by the Secretary of the Senate and Clerk

of the House of Representatives severally employed, to the Sergeant-at-Arms of the House of Representatives, and to the Doorkeepers and the Assistant Doorkeepers of the respective Houses of Congress, twenty-five per centum in addition to the sums they are now respectively allowed by law; which additional compensations shall commence on the first day of January, one thousand seven hundred and ninety-seven, and continue for the term of two years:"

It passed in the affirmative—yeas 20, nays 7, as follows:

YEAS.—Messrs. Bingham, Bradford, Brown, Foster, Goodhue, Henry, Hillhouse, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Sedgwick, Stockton, Tazewell, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Bloodworth, Blount, Cocke, Howard, Langdon, Martin, and Mason.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the third reading of the bill to punish frauds committed on the Bank of the United States.

On motion to agree to the passing of this bill, it was determined in the negative; yeas 14, nays 14—as follows:

YEAS.—Messrs. Bingham, Foster, Goodhue, Henry, Hillhouse, Howard, Latimer, Laurance, Marshall, Ross, Rutherfurd, Sedgwick, Stockton, and Vining.

NAYS.—Messrs. Bloodworth, Blount, Bradford, Brown, Cocke, Langdon, Livermore, Martin, Mason, Paine, Read, Tattnall, Tazewell, and Tichenor.

The VICE PRESIDENT determined the question in the negative.

The Senate resumed the consideration of the report of the committee on the resolutions sent from the House of Representatives for concurrence, relative to the balances found due by Commissioners for settling accounts between the United States and the individual States.

On motion to postpone the consideration of this subject to the first Monday in December next, it passed in the negative.

On motion to recommit the report, it passed in the negative; and, after debate,

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to a second reading.

TUESDAY, February 7.

The bill for increasing the compensations allowed to the members of the Legislature and certain officers of the Government, for a limited time, was read the third time.

And, on the question to agree to the bill, as amended, it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS.—Messrs. Bingham, Bradford, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Bloodworth, Blount, Brown, Cocke, Howard, Hunter, Langdon, Martin, Mason, and Tattnall.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act for increasing the compensations allowed to the members of the Legislature and certain officers of the Government, for a limited time."

The Senate resumed the consideration of the report of the committee on the resolutions, sent from the House of Representatives for concurrence, "relative to the balances found due by Commissioners for settling accounts between the United States and the individual States;" and, having adopted the same, it was

Resolved, That they do concur therein with an amendment.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States," was read the second time, and referred to Messrs. READ, TRACY, LAURANCE, ROSS, BROWN, HOWARD, and MARTIN, to consider, and report thereon to the Senate.

The Senate proceeded to consider the report of the Secretary for the Department of War on the petition of Mary Hibborn. Whereupon,

Resolved, That the prayer of the petitioner cannot be granted.

The VICE PRESIDENT laid before the Senate the petition of Philip Wilson, praying relief and compensation for the loss of the ship Mentor, during the late war; which was read, and ordered to lie on the table.

WEDNESDAY, February 8.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary for the Department of War, accompanying a list of invalid pension applicants, belonging to the State of New Jersey; which was read, and ordered to lie on the table.

A message from the House of Representatives informed the Senate that they are ready to meet the Senate in the Chamber of that House, agreeably to the report of the joint committee, to attend the opening and examining the votes of the Electors for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, as the Constitution provides.

The two Houses of Congress accordingly assembled in the Representatives' Chamber, and the certificates of the Electors of sixteen States were, by the VICE PRESIDENT, opened and delivered to the tellers, appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the VICE PRESIDENT, which was read, as follows:

FOR JOHN ADAMS.

North Carolina	1
Virginia	1
Maryland	7
Delaware	3
Pennsylvania	1
New Jersey	7
New York	12
Connecticut	9
Rhode Island	4
Massachusetts	16
Vermont	4
New Hampshire	6
	71

FOR THOMAS JEFFERSON.

Tennessee	3
Kentucky	4
Georgia	4
South Carolina	8
North Carolina	11
Virginia	20
Maryland	4
Pennsylvania	14
	68

FOR THOMAS PINCKNEY.

South Carolina	8
North Carolina	1
Virginia	1
Maryland	4
Delaware	3
Pennsylvania	2
New Jersey	7
New York	12
Connecticut	4
Massachusetts	13
Vermont	4
	59

FOR AARON BURR.

Tennessee	3
Kentucky	4
North Carolina	6
Virginia	1
Maryland	3
Pennsylvania	13
	30

FOR SAMUEL ADAMS.

Virginia	15

FOR OLIVER ELLSWORTH.

Rhode Island	4
Massachusetts	1
New Hampshire	6
	11

FOR SAMUEL JOHNSTON.

Massachusetts	2

FOR JAMES IREDELL.

North Carolina	3

FOR JOHN JAY.

Connecticut	5

FOR GEORGE CLINTON.

Georgia	4
Virginia	3
	7

FOR GEORGE WASHINGTON.

North Carolina	1
Virginia	1
	2

FOR CHARLES COTESWORTH PINCKNEY.

North Carolina	1

FOR JOHN HENRY.

Maryland	2

Whereupon, the VICE PRESIDENT addressed the two Houses of Congress, as follows:

In obedience to the Constitution and Law of the United States, and to the commands of both Houses of Congress, expressed in their resolution passed in the present session, I now declare that

JOHN ADAMS is elected President of the United States, for four years, to commence with the fourth day of March next; and that

THOMAS JEFFERSON is elected Vice President of the United States, for four years, to commence with the fourth day of March next. And may the Sovereign of the Universe, the ordainer of civil government on earth, for the preservation of liberty, justice, and peace, among men, enable both to discharge the duties of these offices conformably to the Constitution of the United States, with conscientious diligence, punctuality, and perseverance.

The VICE PRESIDENT then delivered the votes of the Electors to the Secretary of the Senate, the two Houses of Congress separated, and the Senate returned to their own Chamber, and soon after adjourned.

THURSDAY, February 9.

The VICE PRESIDENT laid before the Senate the following communication:

Gentlemen of the Senate:

In consequence of the declaration made yesterday in the Chamber of the House of Representatives of the election of a President and Vice President of the United States, the record of which has just now been read from your Journal by your Secretary, I have judged it proper to give notice that, on the 4th of March next, at 12 o'clock, I propose to attend again in the Chamber of the House of Representatives, in order to take the oath prescribed by the Constitution of the United States to be taken by the President, to be administered by the Chief Justice or such other Judge of the Supreme Court of the United States as can most conveniently attend; and, in case none of those Judges can attend, by the Judge of the District of Pennsylvania, before such Senators and Representatives of the United States as may find it convenient to honor the transaction with their presence.

Ordered, That the Secretary carry an attested

copy of this communication to the House of Representatives.

Ordered, That Messrs. SEDGWICK, TAZEWELL, and READ, be a joint committee, with such committee as may be appointed on the part of the House of Representatives, to consider whether any, and, if any, what, measures ought to be adopted for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing on the 4th day of March next.

Ordered, That the Secretary desire the concurrence of the House of Representatives in the appointment of a joint committee on their part.

A message from the House of Representatives informed the Senate that they have agreed to the report of the joint committee appointed to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and of notifying the persons elected of their election.

They have passed a bill, entitled "An act to alter and amend an act, entitled 'An act to ascertain and fix the Military Establishment of the United States;" in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, the bill was read the second time.

Ordered, That this bill be referred to Messrs. BURR, GUNN, and HOWARD, to consider and report thereon to the Senate.

Ordered, That the memorial of Anthony Walton White, and the papers therein referred to, be committed to Messrs. BURR, TRACY, and ROSS, to consider and report thereon to the Senate.

Mr. SEDGWICK, from the joint committee to whom it was referred to join such committee as might be appointed by the House of Representatives to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and of notifying the persons elected of their election, reported that, having further concurred with the committee appointed by the House of Representatives, that, in their opinion, the following resolution ought to be adopted by the Senate:

"*Resolved*, That the Secretary of the Senate be directed to give, by letter, to the Vice President elect, a notification of his election."

On motion, it was agreed to insert the PRESIDENT of the Senate instead of the Secretary; and,

On motion, it was agreed to reconsider the resolution, and to recommit the report from the joint committee.

Mr. SEDGWICK reported, from the joint committee last mentioned, that the committee on the part of the House of Representatives considered themselves discharged from their commission.

Resolved, That the Senate disagree to the report of the joint committee on the mode of notifying the VICE PRESIDENT elect of his election; and that a committee be appointed on the part of the Senate, to confer with such committee as may be appointed on the part of the House of Representatives, on the report of the joint committee abovementioned; and that Messrs. SEDGWICK, LAURANCE, and READ, be the managers at the conference on the part of the Senate.

Ordered, That the Secretary acquaint the House of Representatives therewith.

On motion, that it be

"*Resolved*, That the Secretary of the Senate be directed, and he is hereby directed, to lay before the President of the United States a copy of the Journal of yesterday, relative to the opening and counting the votes for President and Vice President of the United States, and the declaration of the President of the Senate thereon; and, also, to present to the President of the United States a copy of the notification given by the President elect of the time, place, and manner, of qualifying to execute the duties of his office."

Ordered, That the motion lie until to-morrow for consideration.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary for the Department of the Treasury, accompanying a statement of goods, wares, and merchandise, exported from the United States during one year prior to the 30th day of September, 1796, in conformity to the resolution of the Senate, passed on the 10th day of February last.

The Letter and statement were read, and ordered to be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that they have rescinded their resolution on the report of the joint committee on the mode of notifying the VICE PRESIDENT elect of his election, and have agreed to the conference proposed by the Senate on the subject, and have appointed managers at the same on their part.

They also concur in the resolution for appointing a joint committee to consider whether any, and what, measures ought to be adopted for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing the 4th of March next; and have appointed a joint committee on their part.

FRIDAY, February 10.

The Senate resumed the consideration of the motion made yesterday, that the Secretary of the Senate wait on the PRESIDENT OF THE UNITED STATES, and notify him of the election of PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, to commence with the 4th day of March next.

On motion, to insert "a committee" in place of "the Secretary," it passed in the negative. And the motion being amended, was adopted as follows:

Ordered, That the Secretary of the Senate lay before the PRESIDENT OF THE UNITED STATES a copy of the Journal of the 8th instant, relative to the opening and counting the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and the declaration of the PRESIDENT of the Senate consequent thereon; and, also, a copy of the notification given by the PRESIDENT elect of the time, place, and manner of qualifying to execute the duties of his office.

A message from the House of Representatives informed the Senate that they agree to the report

of the joint committee appointed by the two Houses to confer on a proper mode of notifying the VICE PRESIDENT elect of his election.

The House of Representatives disagree to the bill sent from the Senate for concurrence, entitled "An act for increasing the compensations allowed to the members of the Legislature and certain officers of the Government for a limited time."

Mr. SEDGWICK, from the committee of conference abovementioned, reported that the following resolution should be adopted by the House of Representatives:

"*Resolved*, That the notification of the election of the Vice President elect be made by such person and in such manner as the Senate may direct."

On motion, that it be

"*Resolved*, That the President of the United States be requested to communicate (in such manner as he shall judge most proper) to the person elected Vice President of the United States, for the term of four years, to commence 4th day of March next, information of his said election."

It passed in the negative.

Ordered, That the resolution this day agreed to by the House of Representatives, relative to the notification of the election of the VICE PRESIDENT elect, be referred to Messrs. MASON, HILLHOUSE, and SEDGWICK, to consider and report thereon to the Senate.

Mr. MASON reported, from the committee last appointed; and. the report being read, was amended and adopted, as follows:

Resolved, That the PRESIDENT OF THE UNITED STATES be requested to cause to be transmitted to THOMAS JEFFERSON, Esq., of Virginia, VICE PRESIDENT elect of the United States notification of his election to that office; and that the PRESIDENT of the Senate do make out and sign a certificate in the words following:

"Be it known, that the Senate and House of Representatives of the United States of America, being convened in the city of Philadelphia, on the second Wednesday in February, in the year of our Lord one thousand seven hundred and ninety-seven, the underwritten Vice President of the United States and President of the Senate did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the Electors for a President and for a Vice President; by which it appears that THOMAS JEFFERSON, Esquire, was duly elected, agreeably to the Constitution, Vice President of the United States of America.

"In witness whereof, I have hereunto set my hand and seal, this 10th day of February, 1797."

Ordered, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

MONDAY, February 13.

On request, the VICE PRESIDENT was excused from further attendance in the Senate after Wednesday next.

Mr. COCKE laid before the Senate the address and remonstrance of the Legislature of the State of Tennessee, requesting the interposition of Congress for the extinguishment of the Indian title to certain lands therein mentioned; which was read.

Ordered, That it be referred to the committee appointed on the 31st of January last, on the Letter and enclosures from the Governor of North Carolina, to consider and report thereon to the Senate.

Mr. SEDGWICK notified the Senate that he should, to-morrow, request permission to introduce a bill concerning the Circuit Courts of the United States.

Mr. TRACY reported from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act for the relief of John Sears."

On the question to agree to the bill in paragraphs, it passed in the negative.

Resolved, That the Senate do not concur in this bill.

TUESDAY, February 14.

Conformably to notice given yesterday, Mr. SEDGWICK was permitted to introduce a bill concerning the Circuit Courts of the United States; which was read, and ordered to a second reading.

Mr. BLOODWORTH laid before the Senate the memorial and petition of I. Glasgow and others, for and by request of a large number of the holders of lands entered in the office of John Armstrong, Esq., late entry-taker of Western lands, and since ceded to the United States by the State of North Carolina; which was read, and

Ordered, That it be referred to the committee appointed the 31st of January last on the Letter and enclosures from the Governor of North Carolina, to consider and report thereon to the Senate.

Mr. SEDGWICK reported, from the joint committee appointed to consider whether any, and if any, what, measures ought to be adopted for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing the 4th day of March next; which was read, and ordered to lie for consideration.

WEDNESDAY, February 15.

The bill concerning the Circuit Courts of the United States was read the second time and amended.

Ordered, That it be referred to Messrs. SEDGWICK, LIVERMORE, and VINING, to consider and report thereon to the Senate.

Mr. FOSTER laid before the Senate the petition of Samuel Aborn, jun., and David Straight, of the State of Rhode Island, praying the aid of Congress in obtaining a new register for a certain schooner Polly, purchased in the West Indies, refused by the officer of the revenue on account of certain informalities in the sale of the said schooner; which petition was read.

Ordered, That it be referred to the Secretary for the Department of Treasury, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that they have passed a bill,

entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money;" a bill, entitled "An act repealing in part the 'Act concerning the duties on spirits distilled within the United States,' passed the 8th day of May, 1792, and imposing certain duties on the capacity of stills of a particular description;" and a bill, entitled "An act granting a certain sum of money to the widow and children of John de Neufville, deceased;" in which bills they desire the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
of the House of Representatives:

I lay before you an official statement of the expenditure to the end of the year 1796, from the sums heretofore granted to defray the contingent charges of the Government. G. WASHINGTON.

UNITED STATES, *February* 15, 1797.

The Message and papers were read, and ordered to lie on the table.

The bills last brought from the House of Representatives for concurrence were read.

Ordered, That they severally pass to the second reading; and it was agreed, by unanimous consent, that the bill, entitled "An act granting a certain sum of money to the widow and children of John de Neufville, deceased," be now read the second time.

Ordered, That it be referred to Messrs. TRACY, LANGDON, and TAZEWELL, to consider and report thereon to the Senate.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, entitled "An act repealing in part the 'Act concerning the duties on spirits distilled within the United States,' passed the 8th of May, 1792, and imposing certain duties on the capacity of stills of a particular description," be now read the second time.

Ordered, That it be referred to Messrs. SEDGWICK, ROSS, and MARSHALL, to consider and report thereon to the Senate.

After the consideration of the Executive business, a motion was made that the Senate now adjourn; when the VICE PRESIDENT addressed them as follows:

Gentlemen of the Senate:

If, in the general apprehension of an intention to retire in that most eminent citizen, to whom all eyes had been directed, and all hearts attracted, as the centre of our Union, for so long a period, the public opinion had exhibited any clear indication of another, in whom our fellow-citizens could have generally united, as soon as I read that excellent Address, which announced the necessity of deliberation in the choice of a President, I should have imitated the example of a character with which I have co-operated, though in less conspicuous and important stations, and maintained an uninterrupted friendship, for two and twenty years. But, as a number of characters appeared to stand in the general estimation so nearly on a level, as to render it difficult to conjecture on which the majority would fall; considering the relation in which I stood to the people of America, I thought it most respectful to them, and most conducive to the tranquility of the public mind, to resign myself, with others, a silent spectator of the general deliberation, and a passive subject of public discussions.

Deeply penetrated with gratitude to my countrymen in general, for their long continued kindness to me, and for that steady and affecting confidence, with which those who have most intimately known me, from early life, have, on so many great occasions, intrusted to me the care of their dearest interests; since a majority of their Electors, though a very small one, have declared in my favor, and since, in a Republican Government, the majority, though ever so small, must of necessity decide, I have determined, at every hazard of a high but just responsibility, though with much anxiety and diffidence, once more to engage in their service. Their confidence, which has been the chief consolation of my life, is too precious and sacred a deposite ever to be considered lightly: as it has been founded only on the qualities of the heart, it never has been, it never can be, deceived, betrayed, or forfeited by me.

It is with reluctance, and with all those emotions of gratitude and affection, which a long experience of your goodness ought to inspire, that I now retire from my seat in this House, and take my leave of the members of the Senate.

I ought not to declare, for the last time, your adjournment, before I have presented to every Senator present, and to every citizen who has ever been a Senator of the United States, my thanks, for the candor and favor invariably received from them all. It is a recollection of which nothing can ever deprive me, and it will be a source of comfort to me, through the remainder of my life, that as, on the one hand, in a Government constituted like ours, I have for eight years held the second situation under the Constitution of the United States, in perfect and uninterrupted harmony with the first, without envy in one, or jealousy in the other; so, on the other hand, I have never had the smallest misunderstanding with any member of the Senate. In all the abstruse questions, difficult conjunctures, dangerous emergencies, and animated debates, upon the great interests of our country, which have so often and so deeply impressed all our minds, and interested the strongest feelings of the heart, I have experienced a uniform politeness and respect from every quarter of the House. When questions of no less importance than difficulty have produced a difference of sentiment, (and difference of opinion will always be found in free assemblies of men, and probably the greatest diversities upon the greatest questions,) when the Senators have been equally divided, and my opinion has been demanded according to the Constitution, I have constantly found, in that moiety of the Senators from whose judgment I have been obliged to dissent, a disposition to allow me the same freedom of deliberation, and independence of judgment, which they asserted for themselves.

Within these walls, for a course of years, I have been an admiring witness of a succession of information, eloquence, patriotism, and independence, which, as they would have done honor to any Senate in any age, afford a consolatory hope, (if the Legislatures of the States are equally careful in their future selections, which there is no reason to distrust,) that no council more permanent than this, as a branch of the Legislature, will be necessary, to defend the rights, liberties, and properties of the people, and to protect the Constitution of the United States, as well as the Constitutions and rights

of the individual States, against errors of judgment, irregularities of the passions, or other encroachments of human infirmity, or more reprehensible enterprise, in the Executive on one hand, or the more immediate representatives of the people on the other.

These considerations will all conspire to animate me in my future course, with a confident reliance, that, as far as my conduct shall be uniformly measured by the Constitution of the United States, and faithfully directed to the public good, I shall be supported by the Senate, as well as by the House of Representatives, and the people at large; and on no other conditions ought any support at all to be expected or desired.

With cordial wishes for your honor, health, and happiness, and fervent prayers for a continuation of the virtues, liberties, prosperity, and peace, of our beloved country, I avail myself of your leave of absence for the remainder of the session.

THURSDAY, February 16.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a PRESIDENT *pro-tempore*, as the Constitution provides, and the honorable WILLIAM BINGHAM was duly elected.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and notify him of the election of the honorable WILLIAM BINGHAM, to be PRESIDENT of the Senate *pro tempore*.

Ordered, That the Secretary notify the House of Representatives of this election.

On motion,

Ordered, That Messrs. SEDGWICK, BURR, and TRACY, be a committee to prepare and report the draught of an answer to the Address delivered yesterday to the Senate, by the VICE PRESIDENT of the United States.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money," was read the second time.

Ordered, That it be referred to Messrs. READ, LANGDON, and ROSS, to consider and report thereon to the Senate.

Mr. BURR reported, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to alter and amend an act, entitled "An act to ascertain and fix the Military Establishment of the United States," that the bill pass without amendment.

Ordered, That it lie for consideration.

The Senate proceeded to consider the report of the committee to whom was referred the memorial of the Illinois and Wabash Land Company; which is—

That it will be expedient to adopt the report of the committee of the Senate of the United States, made upon the memorial of this Company on the 26th of March, 1792, as follows:

"That the claims of the petitioners are founded on two deeds mentioned in the said petition; one of which to William Murray and others, who are called the Illinois Company, is dated July 5th, 1773, and the other to Lord Dunmore and others, who are styled the Wabash Company, bears date October 18th, 1775.

"That the said petitioners have proposed to surrender and convey to the United States all the lands described, or meant to be described, in the above mentioned deeds from the Indians, on the proviso, that the United States reconvey to the Company one fourth part of the said lands.

"That, in the opinion of the committee, deeds obtained by private persons from the Indians, without any antecedent authority or subsequent confirmation from the Government, could not vest in the grantees mentioned in such deeds a title to the lands therein described.

"That the petitioners do not suggest any such antecedent authority or subsequent confirmation in the present case; and, therefore, in the opinion of the committee, the said petitioners have not a legal title to the said lands.

"That the proceeds of the sales of lands in the Western Territory, belonging to the United States, are appropriated towards discharging the debts, for the payment whereof the United States are holden.

"The petitioners allege, that the consideration specified in the said deeds were paid to the Indians, and were, at least, as valuable as any that were given on similar occasions, and that the Indians, named in the said deeds, were owners of the land.

"On these points, the committee give no opinion; but for the reasons above expressed, they think it would not be expedient for the Government of the United States to accede to the aforementioned proposition of the petitioners."

Whereupon, *Resolved*, That the report be adopted.

On motion, to reconsider this resolution, for the purpose of reading a petition on the subject, it passed in the negative.

The Senate proceeded to the consideration of the report of the joint committee of the 14th instant, on the measures for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing the 4th of March, 1797; which is as follows:

"That the committee have unanimously agreed to the following resolution as proper to be adopted, and that a bill be brought in accordingly, viz:

"*Resolved*, That the President of the United States be authorized to cause to be sold, such parts of the furniture and equipage belonging to his household, as may be decayed and out of repair, and that the sum of fourteen thousand dollars, together with the proceeds of such sales, be appropriated for the accommodation of the household of the President of the United States, and to be laid out at his discretion and agreeably to his direction."

On motion, it was agreed to amend the report by inserting these words after "States," in the first instance, viz: "after the third day of March."

On motion, it was further agreed to amend the report by leaving a blank for the sum to be appropriated.

Ordered, That the report be adopted as amended, and that the committee who made it be instructed to bring in a bill accordingly.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the "Resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

Ordered, That this message lie for consideration.

FRIDAY, February 17.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to alter and amend an act, entitled 'An act to ascertain and fix the Military Establishment of the United States," which was adopted; and,

Ordered, That this bill pass to a third reading.

Agreeably to the instruction given yesterday, Mr. SEDGWICK reported, from the committee, a bill to accommodate the PRESIDENT; which was read, and ordered to a second reading.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to the amendment of the Senate, and insisting on their "resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

On motion, that the Senate recede from their amendment, it was determined in the negative—yeas 13, nays 18, as follows:

YEAS.—Messrs. Bloodworth, Blount, Brown, Cocke, Gunn, Henry, Howard, Hunter, Langdon, Marshall, Mason, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Burr, Foster, Goodhue, Hillhouse, Laurance, Livermore, Martin, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

So it was *Resolved*, That the Senate insist on their said amendment, ask a conference thereon, and that Messrs. ROSS and STOCKTON be the managers at the same on the part of the Senate.

MONDAY, February 20.

A message from the House of Representatives informed the Senate that the House agree to the proposed conference on the disagreeing votes of the two Houses on the "resolutions relative to the balances found due by the Commissioners for settling accounts between the United States and the individual States;" and have appointed managers at the same on their part.

They have passed a bill, entitled "An act repealing so much of an act supplemental to an act, entitled 'An act to provide a Naval Armament," as relates to the officering and manning the frigates building in the United States; and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation;" the bill, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships or vessels;" and to an act, entitled "An act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same;" and the bill, entitled "An act allowing a drawback upon domestic distilled spirits, exported in vessels of less than thirty tons by the Mississippi; in which bills they desire the concurrence of the Senate.

The bills were severally read, and by unanimous consent these bills were now severally read the second time.

Ordered, That they be referred to Messrs. GOODHUE, LANGDON, and BRADFORD, to consider and report thereon to the Senate.

The bill to accommodate the PRESIDENT was read the second time and amended.

Ordered, That this bill pass to a third reading.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States," reported sundry amendments, which were read, and ordered to be printed for the use of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to alter and amend an act, entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the third time.

On motion to strike out the following words from the first section, viz: "and that all such parts of the said act which relate to the light dragoons, it was determined in the negative—yeas 15, nays 17, as follows:

YEAS.—Messrs. Bingham, Goodhue, Hillhouse, Latimer, Laurance, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Bloodworth, Blount, Bradford, Burr, Brown, Cocke, Foster, Gunn, Henry, Howard, Hunter, Langdon, Livermore, Martin, Mason, Tattnall, and Tazewell.

Resolved, That this bill pass.

The PRESIDENT of the Senate communicated a Letter from the Secretary for the Department of War, accompanying a list of invalid pension applicants; which were read, and ordered to lie on the table.

TUESDAY, February 21.

The bill to accommodate the PRESIDENT was read the third time; and, being further amended,

On motion that it be *Resolved*, That this bill pass, it was decided in the affirmative—yeas 28, nays 3, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Blount, Bradford, Brown, Foster, Goodhue, Gunn, Henry, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Marshall, Martin, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tattnall, Tazewell, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Cocke, Hunter, and Mason.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be, "An act to accommodate the PRESIDENT."

Mr. SEDGWICK reported, from the committee appointed for the purpose, the draught of an an-

swer to the Address of the VICE PRESIDENT of the United States, on his retiring from the Senate; which was read.

On motion, that it be printed for the use of the Senate, it was disagreed to.

Ordered, That the report lie for consideration.

WEDNESDAY, February 22.

Agreeably to notice, Mr. MASON had permission to introduce a bill to amend the act, entitled "An act to amend the act entitled 'An act to enable the officers and soldiers of the Virginia Line on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, between the Little Miami and Sciota;" which was read, and ordered to a second reading.

The Senate took into consideration the report of the committee, in answer to the Address of the VICE PRESIDENT of the United States, on his retiring from the Senate.

On motion to recommit the report, it passed in the negative: and the report being amended, was adopted, as follows:

SIR: The Senate of the United States would be unjust to their own feelings, and deficient in the performance of a duty their relation to the Government of their country imposes, should they fail to express their regard for your person, and their respect for your character, in answer to the Address you presented to them, on your leaving a station which you have so long and so honorably filled as their President.

The motives you have been pleased to disclose which induced you not to withdraw from the public service, at a time when your experience, talents, and virtues, were peculiarly desirable, are as honorable for yourself, as, from our confidence in you, sir, we trust the result will be beneficial to our beloved country.

When you retired from your dignified seat in this House, and took your leave of the members of the Senate, we felt all those emotions of gratitude and affection, which our knowledge and experience of your abilities and undeviating impartiality ought to inspire; and we should, with painful reluctance, endure the separation, but for the consoling reflection, that the same qualities which have rendered you useful, as the President of this branch of the Legislature, will enable you to be still more so, in the exalted station to which you have been called.

From you, sir, in whom your country have for a long period placed a steady confidence, which has never been betrayed or forfeited, and to whom they have on so many occasions intrusted the care of their dearest interests, which have never been abused; from you, who, holding the second situation under the Constitution of the United States, have lived in uninterrupted harmony with him who has held the first; from you we receive, with much satisfaction, the declaration which you are pleased to make of the opinion you entertain of the character of the present Senators, and of that of those citizens who have been heretofore Senators. This declaration, were other motives wanting, would afford them an incentive to a virtuous perseverance, in that line of conduct which has been honored with your approbation.

In your future course, we entertain no doubt that your official conduct will be measured by the Constitution, and directed to the public good; you have, therefore, a right to entertain a confident reliance, that you will be supported, as well by the people at large, as by their constituted authorities.

We cordially reciprocate the wishes which you express for our honor, health, and happiness; we join with yours our fervent prayers for the continuation of the virtues and liberties of our fellow-citizens, for the public prosperity and peace; and for you we implore the best reward of virtuous deeds—the grateful approbation of your constituents, and the smiles of Heaven.

WILLIAM BINGHAM,
President of the Senate pro tempore.

Ordered, That the committee who draughted the Address wait on the VICE PRESIDENT with the Answer of the Senate.

A message from the House informed the Senate that the House agree to the bill, sent from the Senate for concurrence, entitled "An act repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States, and to continue in force the same," with amendments, in which they desire the concurrence of the Senate.

Also, that they had passed a bill, entitled "An act in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of jurors and witnesses in the Courts of the United States;" the bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-seven;" the bill, entitled "An act authorizing the PRESIDENT OF THE UNITED STATES to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers;" the bill, entitled "An act to revive and continue the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled 'An act to regulate the compensation of clerks;" and the bill entitled "An act to augment the compensation of the Attorney General of the United States;" in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read.

Ordered, That they severally pass to the second reading.

Mr. GOODHUE, from the committee to whom was referred the following bills, reported, that the bill, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships or vessels;' and to an act, entitled 'An act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same," pass without amendment; that the bill, entitled "An act allowing a drawback upon domestic distilled spirits exported in vessels of less than thirty tons by the Mississippi;" and that the bill, entitled "An act repealing so much of an act, supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation;" severally pass with amendment.

On motion, the Senate adjourned for half an hour.

The Senate, having assembled, proceeded to the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act repealing so much of an act supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation;" and, after debate,

Ordered, That the further consideration thereof be postponed.

The Senate proceeded to consider the report of the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act allowing a drawback upon domestic distilled spirits exported in vessels of less than thirty tons by the Mississippi; and the report being agreed to, and the bill further amended,

Ordered, That this bill pass to a third reading.

THURSDAY, February 23.

The PRESIDENT communicated a Letter from Samuel Meredith, Treasurer of the United States, with his specie account, for the quarter ending the 31st of December last; which was read, and ordered to lie on the table.

The bill, sent from the House of Representatives for concurrence, entitled "An act to augment the compensation of the Attorney General of the United States," was read the second time, and referred to Messrs. LIVERMORE, TAZEWELL, and HOWARD, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives have passed the bill, entitled "An act in addition to the act, entitled 'An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates;" in which they desire the concurrence of the Senate.

Mr. SEDGWICK reported, from the committee, that, agreeably to order, they had waited on the VICE PRESIDENT OF THE UNITED STATES, with the answer to his Address, on retiring from the Senate—to which the VICE PRESIDENT was pleased to make the following Reply:

An Address so respectful and affectionate as this, from gentlemen of such experience and established character in public affairs, high stations in the Government of their country, and great consideration, in their several States, as Senators of the United States, will do me great honor, and afford me a firm support, wherever it shall be known, both at home and abroad. Their generous approbation of my conduct, in general, and liberal testimony to the undeviating impartiality of it, in my peculiar relation to their body, a character which, in every scene and employment of life, I should wish above all others to cultivate and merit, has a tendency to soften asperities, and conciliate animosities, wherever such may unhappily exist; an effect at all times to be desired, and, in the present situation of our country, ardently to be promoted by all good citizens.

I pray the Senate to accept my sincere thanks.

JOHN ADAMS.

The bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to regulate the compensation of clerks," was read the second time.

Ordered, That it be referred to Messrs. LIVERMORE, TAZEWELL, and HOWARD, to consider and report thereon to the Senate, with an instruction to consider the expediency of inserting a clause therein for the allowance of one hundred dollars, each, to the clerks in the office of the Secretary of the Senate, in lieu of the provision made by a bill pending between the two Houses.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of jurors and witnesses in the Courts of the United States," was read the second time, and referred to Messrs. HILLHOUSE, HENRY, and SEDGWICK, to consider and report thereon to the Senate.

Mr. TRACY reported, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act granting a certain sum of money to the widow and children of John de Neufville, deceased;" which was read; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. SEDGWICK, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act repealing, in part, the 'Act concerning the duties on spirits distilled within the United States,' passed the eighth of May, one thousand seven hundred and ninety-two, and imposing certain duties on the capacity of stills of a particular description," reported sundry amendments; which were read.

Ordered, That the bill be printed as reported to be amended.

FRIDAY, February 24.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates," was read the first time; and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. ROSS, STOCKTON, and BROWN, to consider and report thereon to the Senate.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to augment the compensation of the Attorney Ge-

neral of the United States," made a report; which was read.

Ordered, That it lie for consideration.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act granting a certain sum of money to the widow and children of John de Neufville, deceased," that the bill do not pass; and, after debate, it was agreed that this bill pass to the third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-seven," was read the second time.

Ordered, That it be referred to Messrs. Henry, Tracy, and Langdon, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the President of the United States to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers," was read the second time.

Ordered, That it be referred to Messrs. Tazewell, Marshall, and Goodhue, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage;" in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States;" which were in part adopted; and, after having further amended the bill,

Ordered, That it pass to the third reading.

The bill last brought from the House of Representatives for concurrence was read; and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. Goodhue, Langdon, and Bradford, to consider and report thereon to the Senate.

The Senate proceeded to the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act allowing a drawback upon domestic distilled spirits exported in vessels of less than thirty tons by the Mississippi;" and, after debate,

Ordered, That the further consideration thereof be postponed.

Saturday, February 25.

Ordered, That Messrs. Sedgwick, Tazewell, and Goodhue, be a committee to consider and report relative to the expediency of authorizing the President, during the recess of Congress, to lay an embargo; and that the committee be authorized to report by bill or otherwise.

The bill, sent from the House of Representatives for concurrence, entitled "An act granting a certain sum of money to the widow and children of John de Neufville, deceased," was read the third time, and passed.

The Senate resumed the third reading of the bill sent from the House of Representatives for concurrence, entitled "An act allowing a drawback upon domestic distilled spirits, exported in vessels of less than thirty tons, by the Mississippi."

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

A message from the House of Representatives informed the Senate that the House have passed "the resolution sent from the Senate for concurrence, for obtaining information relative to the amendment concerning the suability of States."

They have passed a bill, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned; and a bill, entitled "An act for raising a further sum of money, by additional duties on certain articles imported, and for other purposes; in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the report of the committee on the bill, entitled "An act repealing so much of an act supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation;" which report was adopted; and the bill being further amended, by expunging the second section,

Ordered, That it pass to the third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships or vessels,' and to an act, entitled 'An act for enrolling and licensing ships or vessels employed in the coasting trade or fisheries, and for regulating the same;" was read the third time, and passed.

The memorial and petition of George Turner and Peyton Short was presented and read, stating the peculiar hardships to which they will be liable by the passage of the bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates."

Ordered, That the memorial, and papers accompanying the same, be referred to the committee on the said bill.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States;" was read the third time.

On motion, it was agreed to add a new section, as follows:

"*Be it further enacted*, That all letters and packets to George Washington, now President of the United States, after the expiration of his term of office, and during his life, shall be received and conveyed by post, free of postage."

And the bill being further amended,

Resolved, That this bill pass with amendments.

The bills last brought from the House of Representatives for concurrence were read; and it was agreed, by unanimous consent, to dispense with the rule, and that these bills be now severally read the second time.

Ordered, That the bill, sent from the House of Representatives for concurrence, entitled "An act for raising a further sum of money by additional duties on certain articles imported, and for other purposes;" be referred to Messrs. Goodhue, Cocke, and Laurance, to consider and report thereon to the Senate.

Ordered, That the further consideration of the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and diabilities, accruing in certain cases therein mentioned;" be postponed.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, sent from the Senate for concurrence, entitled "An act repealing the limitation to the act in addition to the act for the punishment of certain crimes against the United States, and to continue in force the same;" and

Resolved, That they agree to the said amendments.

The bill, entitled "An act to amend the act, entitled 'An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia Line on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, between the Little Miami and Sciota;" was read the second time.

Ordered, That it be referred to Messrs. Rutherfurd, Ross, and Mason, to consider and report thereon to the Senate.

Monday, February 27.

Mr. Rutherfurd laid before the Senate the memorial of John Cleves Symmes, against certain provisions of a bill, passed by the House of Representatives, authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates; which memorial was read.

Ordered, That it be referred to the committee appointed to take said bill into consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act repealing so much of an act, supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation;" was read the third time.

On motion, to restore the second section of the bill, expunged in the second reading, it was determined that the motion was not in order.

The bill was then passed, as amended.

Mr. Goodhue, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled, "An act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage;" reported that the bill pass without amendment.

Ordered, That this bill pass to the third reading.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act repealing, in part, the 'Act concerning the duties on spirits distilled within the United States,' passed the eighth of May, one thousand seven hundred and ninety-two; and imposing certain duties on the capacity of stills of a particular description;" and the bill being amended accordingly,

Ordered, That it pass to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to suspend, in part, the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,' and to grant relief in certain cases, arising under the said act;" a bill, entitled "An act to authorize the receipt of evidences of the Public Debt, in payment for the lands of the United States;" and a bill, entitled "An act authorizing an expenditure, and making an appropriation for the prosecution of the claims of certain citizens of the United States, for property captured by the belligerant Powers;" in which bills they desire the concurrence of the Senate.

These bills were severally read, and ordered to a second reading.

Mr. Henry, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-seven," reported amendments; and the bill being accordingly amended,

Ordered, That it pass to the third reading.

Mr. Hillhouse, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection; and to increase the compensation of jurors and witnesses in the Courts of the United States;" reported amendments; and the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act to accommodate the President," with an amendment to the title; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amend-

ment of the House of Representatives to the last-mentioned bill, and agreed thereto.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to augment the compensation of the Attorney General of the United States."

On motion, to insert in the bill the Secretaries of State, Treasury, and War, it passed in the negative.

Ordered, That this bill pass to the third reading.

Mr. SEDGWICK, from the committee appointed on the subject, reported a bill to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes; which was read, and ordered to a second reading.

Mr. ROSS reported from the managers at the conference on the disagreeing votes of the two Houses, on the "Resolutions relative to the balances found due by commissioners for settling accounts between the United States and the individual States;" which report was read.

Ordered, That it lie until to-morrow for consideration.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money;" reported amendments; which were read.

Ordered, That the bill be printed with the amendments.

On motion, that a committee be appointed to bring in a bill to alter the time for the next annual meeting of Congress, it was agreed that the motion should lie for consideration.

TUESDAY, February 28.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for raising a further sum of money, by additional duties on certain articles imported, and for other purposes;" reported amendments; which were read, and the bill amended accordingly; and, by unanimous consent, the bill was read the third time.

Resolved, That this bill pass with amendments.

The bill, sent from the House of Representatives for concurrence, entitled "An act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage;" was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-seven;" was read the third time.

Resolved, That this bill pass with amendments.

The PRESIDENT laid before the Senate a Report from the Secretary for the Department of State, relative to losses sundry citizens of the United States, residing in Philadelphia, sustained by the capture of their property by French armed vessels on the high seas; which was read, and ordered to be printed for the use of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of jurors and witnesses in the Courts of the United States;" was read the third time.

On motion, to reconsider an amendment agreed to yesterday, it passed in the negative.

Resolved, That this bill pass with amendments.

Mr. SEDGWICK, from the committee to whom was referred the bill concerning the Circuit Courts of the United States, reported amendments; which were read, and the bill was amended accordingly; and it was agreed, by unanimous consent, to dispense with the rule, and that the bill be now read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act concerning the Circuit Courts of the United States."

The bill, sent from the House of Representatives for concurrence, entitled "An act to augment the compensation of the Attorney General of the United States," was read the third time; and, on the question to agree to the bill, it was determined in the affirmative—yeas 19, nays 9, as follows:

YEAS.—Messrs. Bingham, Bradford, Foster, Goodhue, Henry, Hillhouse, Howard, Latimer, Laurance, Marshall, Mason, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tattnall, Tichenor, and Vining.

NAYS.—Messrs. Bloodworth, Brown, Cocke, Gunn, Langdon, Livermore, Martin, Paine, and Tazewell.

So it was resolved that this bill pass.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," was read the second time, and referred to Messrs. GOODHUE, LANGDON, and READ, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the following bills: That entitled "An act making appropriations for the support of the Government for the year one thousand seven hundred and ninety-seven," and the bill entitled "An act for raising a further sum of money, by additional duties on certain articles imported, and for other purposes."

They have postponed the consideration of the amendments of the Senate to the bill entitled, "An act repealing so much of an act supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation," until the next session of Congress.

The bill to authorize the PRESIDENT OF THE

UNITED STATES to lay, regulate, and revoke embargoes, was read the second time, and ordered to a third reading.

The bill sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation, for the prosecution of the claims of certain citizens of the United States, for property captured by the belligerant Powers," was read the second time, and referred to Messrs. GOODHUE, LAURANCE, and TAZEWELL, to consider and report to the Senate.

The Senate took into consideration the motion made yesterday, respecting the time of the next meeting of Congress.

Ordered, That Messrs. MARSHALL, BLOODWORTH, and LIVERMORE, be a committee to report a bill on the subject.

Mr. MARSHALL, from the committee last mentioned, reported a bill to alter the time of the next meeting of Congress; which was read, and ordered to a second reading.

The Senate proceeded to consider the report of the conferees, on "the resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

On motion that the Senate recede from their amendment to the said resolutions, it was determined in the negative—yeas 14, nays 16, as follows:

YEAS—Messrs. Bingham, Brown, Foster, Gunn, Henry, Hillhouse, Langdon, Marshall, Mason, Rutherfurd, Stockton, Tattnall, Tazewell, and Tichenor.

NAYS—Messrs. Bloodworth, Blount, Bradford, Burr, Cocke, Goodhue, Howard, Latimer, Laurance, Livermore, Martin, Paine, Read, Ross, Sedgwick, and Vining.

Resolved, That the Senate adhere to their amendment to the said resolutions.

The bill sent from the House of Representatives for concurrence, entitled "An act to authorize the receipt of evidences of the Public Debt, in payment for the lands of the United States," was read the second time, and ordered to a third reading.

The bill sent from the House of Representatives for concurrence, entitled "An act to suspend in part the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,' and to grant relief in certain cases arising under the said act," was read the second time, and ordered to a third reading.

The bill sent from the House of Representatives for concurrence, entitled "An act repealing in part, the act concerning the duties on spirits distilled within the United States, passed the 8th of May, one thousand seven hundred and ninety-two; and imposing certain duties on the capacity of stills of a particular description," was read the third time; and sundry amendments agreed to yesterday having been reconsidered,

On motion, to add the following section to the bill:

"*And be it further enacted*, That, from and after the —— day of ——, no drawback shall be allowed on the exportation of any spirits distilled within the United States, from articles the growth thereof, any law to the contrary notwithstanding"—

it passed in the negative.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House disagree to one, and agree to the other amendment of the Senate, to the bill entitled "An act in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of jurors and witnesses in the Courts of the United States."

WEDNESDAY, March 1.

Mr. LIVERMORE, from the committee to whom was referred the bill sent from the House of Representatives, for concurrence, entitled "An act to revive and continue the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled 'An act to regulate the compensation of clerks," together with an instruction to consider the expediency of inserting a clause therein for the allowance of one hundred dollars each, to the clerks in the office of the Secretary of the Senate, in lieu of the provision made by the Senate, reported, that, in their opinion, the said bill should pass without amendment; and, that it would be inexpedient to insert a clause of the same import with the bill heretofore sent to the House of Representatives, and still depending before them; which report was read and adopted.

Ordered, That this bill pass to a third reading.

Mr. GOODHUE, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation for the prosecution of the claims of certain citizens of the United States, for property captured by the belligerant Powers," reported, that the bill pass without amendment.

Ordered, That this bill pass to a third reading.

Mr. GOODHUE reported, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to provide for mitigating, or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," that the bill pass without amendment.

Ordered, That this bill pass to a third reading.

Mr. HILLHOUSE, from the committee to whom was referred the letter and enclosures from the Governor of North Carolina, relative to the extinguishment of the Indian title to lands granted to I. Glasgow & Co., by the State of North Carolina, the address of the Legislature of Tennessee, on the same subject, and also, the petition of I. Glasgow and others, relative to the lands entered in the office of John Armstrong, Esq., and since ceded to the United States, made a report, which was read.

Ordered, That the report be printed for the use of the Senate.

Mr. ROSS, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act authorizing the grant and conveyance of certain lands to John Cleves Symmes, and his associates," made a report; which was read.

Ordered, That it lie for consideration.

Mr. TAZEWELL, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act authorizing the PRESIDENT OF THE UNITED STATES to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers," reported that the bill pass without amendment.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other amendments of the Senate to the bill, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post-Roads within the United States."

They have passed a bill, entitled "An act directing the Secretary of War to place certain persons on the pension list;" in which they desire the concurrence of the Senate.

The PRESIDENT OF THE UNITED STATES having stated his objections to the bill, entitled "An act to alter and amend an act, entitled 'An act to ascertain and fix the Military Establishment of the United States," the House of Representatives proceeded to consider the objections to the said bill, and have resolved that it do not pass.

The objections of the PRESIDENT OF THE UNITED STATES are as follows:

Gentlemen of the House of Representatives:

Having maturely considered the bill to alter and amend an act, entitled "An act to ascertain and fix the Military establishment of the United States," which was presented to me on the twenty-second day of this month, I now return it to the House of Representatives, in which it originated, with my objections.

First. If the bill passes into a law, the two companies of light dragoons will be, from that moment, legally out of service, though they will afterwards continue actually in service; and, for their services during this interval, namely, from the time of legal, to the time of actual discharge, it will not be lawful to pay them, unless some future provision be made by law. Though they may be discharged at the pleasure of Congress, in justice they ought to receive their pay, not only to the time of passing the law, but, at least, to the time of their actual discharge.

Secondly. It will be inconvenient and injurious to the public, to dismiss the light dragoons as soon as notice of the law can be conveyed to them—one of the companies having been lately destined to a necessary and important service.

Thirdly. The companies of light dragoons consist of one hundred and twenty-six non-commissioned officers and privates, who are bound to serve as dismounted dragoons, when ordered so to do. They have received in bounties, about two thousand dollars; one of them is completely equipped, and above half of the non-commissioned officers and privates have yet to serve more than one-third of the term of their enlistment; and, besides, there will, in the course of the year, be a considerable deficiency in the complement of infantry intended to be continued. Under these circumstances, to discharge the dragoons, does not seem to comport with economy.

Fourthly. It is generally agreed, that some cavalry, either militia or regular, will be necessary; and, according to the best information I have been able to obtain, it is my opinion, that the latter will be less expensive, and more useful than the former, in preserving peace between the frontier settlers and the Indians; and, therefore, a part of the Military Establishment should consist of cavalry.

G. WASHINGTON.

UNITED STATES, *February* 28, 1797.

The Senate proceeded to consider their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act, in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of jurors and witnesses in the Courts of the United States."

On motion, it was agreed to refer the further consideration of this bill to the next session of Congress.

A message from the House of Representatives informed the Senate that the House have unanimously agreed to an amendment to the enrolled bill, entitled "An act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage," by inserting "March, instant," instead of "March next," in which they desire the concurrence of the Senate.

They agree to one, and disagree to another amendment of the Senate to the bill, entitled "An act repealing in part the act concerning the duties on spirits distilled within the United States, passed the eighth of May, one thousand seven hundred and ninety-two, and imposing certain duties on the capacity of stills of a particular description."

They have pased a bill, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States."

The Senate proceeded to consider the amendment proposed by the House of Representatives to the last mentioned enrolled bill; and

Resolved, That they do concur therein.

The bill to alter the time for the next meeting of Congress was read the second time.

On the question to agree to the third reading, it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Henry, Langdon, Livermore, Marshall, Martin, Paine, Tattnall, Tazewell, Tichenor, Tracy, and Vining.

NAYS—Messrs. Bingham, Bradford, Burr, Goodhue, Gunn, Hillhouse, Howard, Latimer, Laurance, Mason, Read, Ross, Rutherfurd, Sedgwick, and Stockton.

So it was *Resolved*, That this bill pass to the third reading.

The bill to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, was read the third time.

On the question to agree to this bill, there were—yeas 15, nays 15, as follows:

YEAS—Messrs. Bingham, Foster, Goodhue, Latimer, Laurance, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS—Messrs. Bloodworth, Blount, Bradford, Brown, Burr, Cocke, Gunn, Henry, Howard, Langdon, Livermore, Martin, Mason, Tattnall, and Tazewell.

So the bill was lost.

The bill sent from the House of Representatives for concurrence, entitled "An act to suspend in part the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,' and to grant relief in certain cases, arising under the said act," was read the third time and passed.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the amendment of the Senate to the "Resolutions relative to the balances found due by Commissioners for settling accounts between the United States and the individual States."

They have passed a bill, entitled "An act providing for certain buoys to be placed in and near the harbor of Boston;" a bill, entitled "An act extending the time for receiving on loan the Domestic Debt of the United States;" and a bill, entitled "An act for the remission of the duties of tonnage on the vessels of James O'Brien and James Aylward;" in which bills they request the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to a second reading.

The Senate proceeded to consider the amendments reported by the committee to the bill, sent from the House of Representatives for concurrence, entitled "An act to provide more effectually for the settlement of accounts between the United States and the Receivers of Public Money;" and, having agreed to amend the bill,

Ordered, That it pass to the third reading.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, sent from the House of Representatives for concurrence, entitled "An act providing for certain buoys to be placed in and near the harbor of Boston," be now read the second time.

Ordered, That this bill pass to the third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing the Secretary of War to place certain persons on the pension list," was read, and it was agreed, by unanimous consent, to dispense with the rule, and that the bill be now read the second time.

Ordered, That it be referred to Messrs. TRACY, TAZEWELL, and HOWARD, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the first time, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the receipt of evidences of Public Debt in payment for the lands of the United States," was read the third time, and passed.

THURSDAY, March 2.

Mr. ROSS reported, from the committee to whom was referred the report of the Attorney-General, of the 28th of April last, relative to the territorial limits of the State of Georgia; which report was read, and ordered to be printed for the use of the Senate.

The petition of Putnam Catlin and others, in behalf of the inhabitants of Luzerne county, in the State of Pennsylvania, was read, praying the interposition of Congress to enable them to have an impartial trial of their titles to certain lands therein referred to; which petition was read.

The Senate proceeded to consider the resolutions of the House of Representatives, agreeing to some, and disagreeing to other amendments of the Senate to the bill, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States."

Resolved, That they do agree to the amendments of the House of Representatives to their fifth and seventeenth amendments; and that they insist on all their other amendments to the said bill.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act in addition to the act, entitled 'An act for the relief and protection of American seamen," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the second time.

Ordered, That it be referred to Messrs. ROSS, HOWARD, and LAURANCE, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates," which report was, that the bill do not pass; and it was adopted.

On the question to agree to the third reading of the bill, it passed in the negative, and the bill was lost.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the PRESIDENT OF THE UNITED STATES to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers," was read the third time.

On motion to expunge the first section of the bill, it passed in the negative.

So it was *Resolved*, That this bill pass.

The bill to alter the time for the next meeting of Congress was read the third time.

On the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 16, nays 14, as follows:

YEAS.—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Henry, Langdon, Livermore, Marshall, Martin, Paine, Tattnall, Tazewell, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Bingham, Bradford, Burr, Goodhue, Hillhouse, Howard, Latimer, Laurance, Mason, Read, Ross, Rutherfurd, Sedgwick, and Stockton.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title be, "An act to alter the time of the next meeting of Congress."

The Senate proceeded to consider the resolution of the House of Representatives on the amendments of the Senate to the bill, entitled "An act repealing, in part, the 'Act concerning the duties on spirits distilled within the United States,' passed the eighth of May, one thousand seven hundred and ninety-two, and imposing certain duties on the capacity of stills of a particular description."

Resolved, That they do insist on their first, and recede from their second amendment to the said bill.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation for the prosecution of the claims of certain citizens of the United States for property captured by the belligerant Powers," was read the third time.

On the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 21, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Foster, Goodhue, Gunn, Henry, Hillhouse, Howard, Latimer, Livermore, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tattnall, Tichenor, and Tracy.

NAYS.—Messrs. Bloodworth, Brown, Burr, Cocke, Langdon, Martin, Mason, and Tazewell.

So it was *Resolved*, That this bill pass.

The bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue the act, passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled 'An act to regulate the compensation of clerks,'" was read the third time; and being amended,

Resolved, That this bill pass, with an amendment.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide more effectually for the settlement of accounts between the United States and the Receivers of Public Money," was read the third time; and being further amended,

Resolved, That this bill pass, with amendments.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for certain buoys to be placed in and near the harbor of Boston," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act extending the time for receiving on loan the Domestic Debt of the United States," was read the second time.

Ordered, That this bill be referred to Messrs. TRACY, HENRY, and TAZEWELL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the remission of the duties of tonnage on the vessels of James O'Brien and James Aylward," was read the second time, and, by unanimous consent, the bill was read the third time.

Resolved, That this bill pass.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," was read the third time, and passed.

Mr. ROSS, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to amend and repeal, in part, the act, entitled "An act to ascertain and fix the Military Establishment of the United States," reported amendments, which were read; and the bill being amended accordingly, it was ordered to a third reading.

A motion was made by Mr. PAINE, that it be

"*Resolved*, That the Secretary of the Treasury be requested to report to the Senate, at the next session of Congress, all such persons as, in his opinion, are justly entitled to compensation; and, also, the sums to which they may severally be entitled, for necessary expenses and services, which may have been occasioned by the prosecution and trial of persons for crimes and offences during the late insurrection, for which adequate provision has not already been made by law.

"*Resolved*, That the Secretary of the Treasury be requested to cause the foregoing resolution to be published in such papers as he shall judge necessary, and to give notice in such manner as he shall judge proper, to all persons concerned, to exhibit their claims to him, before the first day of November next."

Ordered, That this motion lie on the table.

FRIDAY, March 3.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act making appropriations for the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven," in which they desire the concurrence of the Senate.

They adhere to their disagreement to the amendments of the Senate to the bill, entitled "An act repealing, in part, the 'Act concerning the duties on spirits distilled within the United States,' passed the eighth of May, one thousand seven hundred and ninety-two; and imposing certain duties on the capacities of stills of a particular description."

They recede from their disagreement to the

amendments of the Senate to the bill, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States."

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven," was read.

On motion, to dispense with the rule, and that this bill be now read the second time, by unanimous consent, it was objected to.

Ordered, That this bill pass to a second reading.

Mr. TRACY, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act directing the Secretary of War to place certain persons on the pension list," reported—

"That they have had the subject under consideration, and they find many applicants, whose merits appear in a favorable point of light, are not on the list now presented in the act passed by the House of Representatives, and that the papers attending the applications, both of those admitted and those rejected, are very numerous. Under these circumstances, the committee find it absolutely impossible to do justice to the applicants in the short time now left of the present session. They therefore are of opinion that the bill should be postponed till the next session of Congress, and recommend the following resolution to be adopted by the Senate, viz:

"*Resolved*, That all such persons as shall eventually be placed on the pension list, pursuant to the act passed the twenty-eighth February, one thousand seven hundred and ninety-three, shall take their pensions for the whole time which shall have elapsed from the completion of their testimony, agreeably to the act passed on the twenty-eighth February, one thousand seven hundred and ninety-five."

The report was read and adopted.

Resolved, That the further consideration of the bill therein mentioned be postponed until the next session of Congress.

The bill sent from the House of Representatives for concurrence, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the third time.

On motion to introduce a clause making provision for the establishment of a Major General, it passed in the negative.

Resolved, That this bill pass with amendments.

Mr. TRACY reported from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act extending the time for receiving on loan the Domestic Debt of the United States," and, by unanimous consent, the bill was read the third time.

Resolved, That this bill pass.

Mr. ROSS, from the committee to whom was referred the petition and memorial of Peyton Short and George Turner, reported a bill to authorize the sale of the lands between the Great and Little Miami rivers, in the Western Territory of the United States, and giving a pre-emption of the same to certain purchasers and settlers; which was read, and, by unanimous consent, the bill was read the second time.

Ordered, That this bill pass to the third reading.

The Senate proceeded to consider the motion made yesterday by Mr. PAINE, requiring the Secretary of the Department of the Treasury to report those persons entitled to compensation for services and expenses occasioned by the prosecution and trial of persons for crimes and offences during the late insurrection; which motion being amended, was adopted, as follows:

Resolved, That the Secretary of the Treasury be instructed to report to the Senate, at the next session of Congress, all such persons as in his opinion are justly entitled to compensation, and also the sums to which they may severally be entitled, for necessary services and expenses which may have been occasioned by the prosecution and trial of persons for crimes and offences during the late insurrection, for which adequate provision has not already been made by law.

The Senate proceeded to consider the resolution of the House of Representatives, adhering to their disagreement to certain amendments of the Senate to the bill, entitled "An act repealing, in part, the act concerning the duties on spirits distilled within the United States," passed the eighth of May, one thousand seven hundred and ninety-two, and imposing certain duties on the capacity of stills of a particular description. Whereupon—

Resolved, That the Senate do recede from their said amendments.

Mr. RUTHERFURD reported from the committee to whom was referred the bill to amend the act, entitled "An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia Line on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, between the Little Miami and Sciota;'" and the bill being accordingly amended, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act to amend the act, entitled 'An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia line on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, between the Little Miami and Sciota.'"

On motion to expunge the thirteenth rule for conducting business in the Senate, which is in the following words:

"Every bill shall receive three readings previous to its being passed; and the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise"—

it passed in the negative.

On motion to suspend this rule during the session, it passed in the negative.

A message from the House of Representatives informed the Senate that the House agree to the amendment of the Senate, with an amendment, to

the bill, entitled "An act to revive and continue the act passed the thirtieth day of May, one thousand seven hundred and ninety-six, entitled "An act to regulate the compensation of clerks;" in which amendment to the amendment they desire the concurrence of the Senate;

They agree to some, with amendments, and disagree to other, amendments of the Senate to the bill, entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money;"

They have passed a "Resolution for the distribution of an edition of the laws of the United States," in which they desire the concurrence of the Senate.

On motion, it was agreed by unanimous consent to dispense with the rule, and that the bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military and Naval Establishments for the year one thousand seven hundred and ninety-seven," be now read the second time."

Ordered, That this bill be referred to Messrs. TAZEWELL, TRACY, and HENRY to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States."

The bill sent from the House of Representatives for concurrence, entitled "An act in addition to the act, entitled 'An act for the relief and protection of American seamen," was read the second time.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

On motion, it was agreed by unanimous consent to dispense with the rule, and that the bill to authorize the sale of the lands between the Great and Little Miami rivers, in the Western Territory of the United States, and giving a pre-emption of the same to certain purchasers and settlers, be now read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act to authorize the sale of the lands between the Great and Little Miami rivers, in the Western Territory of the United States, and giving a pre-emption of the same to certain purchasers and settlers."

The Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill, entitled "An act to revive and continue the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled 'An act to regulate the compensation of clerks.'"

Resolved, That they do agree to the said amendment.

The Senate proceeded to consider the "Resolution for the distribution of an edition of the laws of the United States," sent from the House of Representatives for concurrence.

On motion, it was agreed to amend the resolution by inserting in the 23d line, after the word "Marshals," the words "and Attorneys;" and in the 30th line, before the word "and," to insert the words, "and to the Postmaster General."

Resolved, That this resolution pass with the amendments.

The Senate proceeded to consider the resolution of the House of Representatives, agreeing to some, with amendments, and disagreeing to other, amendments of the Senate to the bill, entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money."

Resolved, That they do recede from their amendments disagreed to, and agree to the amendments to their amendments of the House of Representatives.

Mr. TRACY, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military and Naval Establishments for the year one thousand seven hundred and ninety-seven," reported amendments.

On motion to dispense with the rule, and that this bill be now read the third time, a motion was made, as follows:

"Whereas, by the Constitution of the United States, all Legislative powers are vested in a Congress, which shall consist of a Senate and House of Representatives, with a qualified negative vested in the President of the United States:

"And whereas it is expedient, to the due exercise of their powers of legislation, that a reasonable time, and an opportunity for deliberate discussion, should be afforded to each branch of the Legislature, as also time for consideration allowed to the President of the United States:

"And whereas the bill making appropriations for the Military Establishment of the United States has been kept back till the last day on which the present Congress can sit; whereby the Senate is, in effect, deprived of the power and opportunity of a deliberate investigation of the large appropriations made by the said act, and are called upon, in violation of the known rules of their proceedings, to pass an important act almost instanter, and without the possibility of the several members of the Senate even reading over, much less for a full and deliberate investigation of, a bill of the greatest importance, or, by a rejection of the said bill, to throw the public business into great confusion: therefore—

"*Resolved*, That the withholding bills of so great importance till so late a period has in fact a tendency to infringe, if not totally to defeat, the Legislative power and check vested by the Constitution in the Senate of the United States.

"*Resolved*, That three readings in one day of the bill, entitled 'An act making appropriations for the Military and Naval Establishments for the year one thousand seven hundred and ninety-seven,' shall not be drawn into precedent hereafter.

"*Resolved*, That the Senate of the United States will not hereafter originate any bill for appropriating moneys for the support of Government, or of the Military and Naval Departments, nor any law of general importance to the public, at any time after ten days (Sundays excluded) before the day on which the second session of any Congress of the United States will expire under the Constitution; nor will the Senate receive and act upon

any such bills, if originated in the House of Representatives of the United States at a day later than is herein before prescribed; nor will the Senate receive any other bill at a later day, in any session of Congress, than will allow three days (exclusive of Sundays) for the due and deliberate reading and discussion of such bills.

On which, a motion was made that the consideration of this motion be postponed to the next session of Congress; and it was determined in the affirmative—yeas 18, nays 8, as follows:

YEAS.—Messrs. Bloodworth, Blount, Bradford, Cocke, Foster, Goodhue, Gunn, Hillhouse, Howard, Langdon, Livermore, Marshall, Martin, Mason, Paine, Tattnall, Tazewell, and Tichenor.

NAYS.—Messrs. Bingham, Latimer, Laurance, Read, Ross, Rutherfurd, Sedgwick, and Stockton.

Resolved, That the bill last mentioned pass with amendments.

A message from the House of Representatives informed the Senate that the House have postponed the consideration of the bill, entitled "An act to amend the act, entitled 'An act to amend the act, entitled 'An act to enable the officers and soldiers of the Virginia line on Continental Establishment to obtain titles to certain lands lying Northwest of the river Ohio, between the Little Miami and Sciota;'" and the bill, entitled "An act to authorize the sale of the lands between the Great and Little Miami rivers, in the Western Territory of the United States, and giving a pre-emption of the same to certain purchasers and settlers"—until the first Monday of December next.

They have passed a bill, entitled "An act for the relief of John Brown," and a bill, entitled "An act to authorize the adjustment and payment at the Treasury of the expenses of George Smith and John Robertson, for their ransom from captivity at Algiers;" in which bills they desire the concurrence of the Senate.

They have passed the bill sent from the Senate for concurrence, entitled "An act concerning the Circuit Courts of the United States," with amendments; in which they desire the concurrence of the Senate.

They concur in the bill sent from the Senate for concurrence, entitled "An act to alter the time of the next meeting of Congress."

They agree to the amendments of the Senate to the "Resolution for the distribution of an edition of the laws of the United States."

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act concerning the Circuit Courts of the United States;" and

Resolved, That they do concur therein.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Brown," was read; and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to Messrs. BRADFORD, GOODHUE, and HENRY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the adjustment and payment, at the Treasury, of the expenses of George Smith and John Robertson, for their ransom from captivity at Algiers," was read; and it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the second time.

Ordered, That it be referred to the committee last named to consider and report thereon to the Senate.

The Senate adjourned to six o'clock in the evening.

FRIDAY EVENING, March 3.

Mr. BRADFORD, from the committee to whom was referred the two bills last mentioned, reported that they severally pass without amendment; and, by unanimous consent, these bills were severally read the third time.

Resolved, That the Senate concur in these bills respectively.

The Senate proceeded to consider the report of the committee to whom was referred the letter and enclosures from the Governor of North Carolina, relative to the extinguishment of the Indian title to lands granted to I. Glasgow and Co. by the State of North Carolina; the address of the Legislature of the State of Tennessee, on the same subject; and, also, the petition of I. Glasgow and others, relative to lands entered in the office of John Armstrong, Esq., and since ceded to the United States; which report is as follows:

"That the State of North Carolina did, by a law passed on the 2d day of May, 1778, declare the Western boundary or line of said State, comprehending all the lands then claimed to have been ceded by the Indians or conquered from them, which line did not extend so far westwardly, or into the Indian country, as the present boundary line between the United States and the Indian tribes; declaring all past entries or surveys to be void, and prohibiting all future entries or surveys over and beyond said line, which was also recognised by a law passed the 12th of September, 1780. On the 17th of May, 1783, said State passed a law declaring it expedient to extend the Western boundary of said State, and that the same was, in and by said law, extended to the Mississippi, including the lands in question, and opening a land office for entering and surveying the same, for the discharge of certain debts of said State, contracted during the late war; excepting, from such entry and survey, certain tracts described in said act, and declared to be reserved for the Indians and other special purposes. The entries and surveys which have been made by the claimants on the lands in question, were under said act, and an act of the 2d of June, 1784; but it does not appear that the Indian title to said lands has ever been extinguished. The Treaty of Hopewell, between the United States and the Cherokee tribe of Indians, made on the 28th of November, 1785, established a line between the United States and said tribe, excluded a large portion of the lands which are claimed to have been entered and surveyed under said acts; at which Treaty, the agent of North Carolina attended, and entered his protest against it, as intrenching upon the rights of that State; this Treaty was, however, agreed to, and ratified by the United States and said tribe, on the 21st of November, 1789. North Carolina acceded to the present Constitution of the United States, and, on the 22d of December following, passed an act

ceding to the United States all her claim to territory lying west of a certain line, and including all the said lands; in which cession it is, among other things, made a condition "that all entries made by, or grants made to, all and every person or persons whatsoever, agreeable to law, and within the limits thereby intended to be ceded to the United States, should have the same force and effect as if such cession had not been made; and that all and every right of occupancy and pre-emption, and every other right, reserved by any act or acts to persons settled on and occupying lands within the limits of the lands hereby intended to be ceded as aforesaid, shall continue to be in full force, in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States, which cession was, by an act of Congress of the 2d of April, 1790, accepted. On the 2d of July, 1791, the Treaty of Holston was made with the said Cherokee tribe of Indians, in which the present boundary line between the United States and the said Indian tribe was established, and all the lands lying beyond the said line secured thereby to the said tribe. It appears to the committee, that whatever right the claimants have can be no other than a pre-emptive right to said land, and only such of them as by conforming to the laws of the State of North Carolina, so as to have secured to themselves a title under such laws, and cannot claim of the United States anything more than a confirmation of that title; and therefore recommend the following resolutions:

"*Resolved*, That as soon as the Indian title to the said lands shall be extinguished, under the authority of the United States, by purchase or otherwise, provision ought, by law, to be made to secure to such of the said claimants, as, by conforming to the laws of North Carolina, have secured to themselves a title to the right of pre-emption under such laws, the occupancy and possession of such lands.

"*Resolved*, That provision ought, by law, to be made for opening a land office, for the sale of lands lying within the limits of the State of Tennessee, belonging to the United States, to which the Indian title has been extinguished, providing that the occupants shall have a priority in the location of such of the said lands as now are in their actual possession and improvement, upon such reasonable terms as may be fixed by law."

Ordered, That the further consideration of this report be postponed to the next session of Congress.

A message from the House of Representatives informed the Senate that the House agree to the first, and disagree to the second, amendment of the Senate to the bill, entitled "An act making appropriations for the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven."

Resolved, That the Senate recede from their amendment, disagreed to by the House of Representatives.

Mr. HOWARD reported, from the committee to whom was recommitted the bill respecting the appointment of an health officer and harbor master for the port of Wilmington, in the State of North Carolina.

Ordered, That the further consideration of this bill be postponed to the next session of Congress.

On motion, that it be

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Attorney General of the United States be directed to institute and prosecute such suit or suits, in law or equity, as, in his judgment, may be proper, to recover and obtain of John Cleves Symmes, and his associates, payment for the surplus lands contained in the grant made to him by the United States, or to vacate the said grant for so much land as the said grant has been improperly obtained for."

Ordered, That the consideration of this motion be postponed.

Ordered, That Messrs. STOCKTON and SEDGWICK be a joint committee, on the part of the Senate, with such as the House of Representatives may appoint on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he hath any further communications to make to the two Houses of Congress, they are ready to adjourn.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him, that, unless he hath any further communications to make to the two Houses of Congress, they are ready to adjourn.

Mr. SEDGWICK reported, from the joint committee last mentioned, that the PRESIDENT OF THE UNITED STATES hath no further communication to make, except his wishes for the health and happiness of the members of the two Houses of Congress respectively. Whereupon,

The Senate adjourned without day.

SPECIAL SESSION.

SATURDAY, March 4.

To the Vice President and Senators of the United States, respectively:

SIR: It appearing to me proper that the Senate of the United States should be convened on Saturday, the fourth of March instant, you are desired to attend in the Chamber of the Senate, on that day, at ten o'clock in the forenoon, to receive any communications which the President of the United States may then lay before you, touching their interests.

G. WASHINGTON.

MARCH 1, 1797.

In conformity with the summons from the PRESIDENT OF THE UNITED STATES, above recited, the Senate accordingly assembled in their Chamber.

PRESENT:

THOMAS JEFFERSON, Vice President of the United States and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

THEODORE SEDGWICK and BENJAMIN GOODHUE, from Massachusetts;

THEODORE FOSTER, from Rhode Island;

JAMES HILLHOUSE and URIAH TRACY, from Connecticut;

ELIJAH PAINE and ISAAC TICHENOR, from Vermont;

JOHN LAURANCE, from New York;

RICHARD STOCKTON, from New Jersey;

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania;

JOHN VINING and HENRY LATIMER, from Delaware;

JOHN HENRY and JOHN E. HOWARD, from Maryland;

HENRY TAZEWELL and STEVENS T. MASON, from Virginia;

JOHN BROWN and HUMPHREY MARSHALL, from Kentucky;

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;

WILLIAM BLOUNT, from Tennessee;

JACOB READ, from South Carolina;

JAMES GUNN and JOSIAH TATTNALL, from Georgia.

Mr. BINGHAM administered the oath of office to the VICE PRESIDENT, who took the Chair, and the credentials of the following members were read:

Of Mr. FOSTER, Mr. GOODHUE, Mr. HILLHOUSE, Mr. HOWARD, Mr. LATIMER, Mr. MASON, Mr. ROSS, and Mr. TICHENOR.

And the oath of office being severally administered to them by the VICE PRESIDENT, they took their seats in the Senate.

The VICE PRESIDENT then addressed the Senate as follows:

Gentlemen of the Senate:

Entering on the duties of the office to which I am called, I feel it incumbent on me to apologize to this honorable House for the insufficient manner in which I fear they may be discharged. At an earlier period of my life, and through some considerable portion of it, I have been a member of Legislative bodies, and not altogether inattentive to the forms of their proceedings; but much time has elapsed since that; other duties have occupied my mind, and, in a great degree, it has lost its familiarity with this subject. I fear that the House will have but too frequent occasion to perceive the truth of this acknowledgment. If a diligent attention, however, will enable me to fulfil the functions now assigned me, I may promise that diligence and attention shall be sedulously employed. For one portion of my duty, I shall engage with more confidence, because it will depend on my will and not my capacity. The rules which are to govern the proceedings of this House, so far as they shall depend on me for their application, shall be applied with the most rigorous and inflexible impartiality, regarding neither persons, their views, nor principles, and seeing only the abstract proposition subject to my decision. If, in forming that decision, I concur with some and differ from others, as must of necessity happen, I shall rely on the liberality and candor of those from whom I differ, to believe, that I do it on pure motives.

I might here proceed, and with the greatest truth, to declare my zealous attachment to the Constitution of the United States, that I consider the union of these States as the first of blessings, and as the first of duties the preservation of that Constitution which secures it; but I suppose these declarations not pertinent to the occasion of entering into an office whose primary business is merely to preside over the forms of this House, and no one more sincerely prays that no accident may call me to the higher and more important functions which the Constitution eventually devolves on this office. These have been justly confided to the eminent character which has preceded me here, whose talents and integrity have been known and revered by me through a long course of years, have been the foundation of a cordial and uninterrupted friendship between us, and I devoutly pray he may be long preserved for the government, the happiness, and prosperity, of our common country.

On motion, it was agreed to repair to the Chamber of the House of Representatives to attend the administration of the oath of office to JOHN ADAMS, President of the United States; which the Senate accordingly did; and, being seated, the PRESIDENT OF THE UNITED STATES (attended by the Heads of Departments, the Marshal of the District, and his officers) came into the Chamber of the House of Representatives and took his seat in the Chair usually occupied by the SPEAKER. The VICE PRESIDENT and Secretary of the Senate were seated in advance, inclining to the right of the PRESIDENT, the late SPEAKER of the House of Representatives and Clerk on the left, and the Justices of the Supreme Court were seated round a table in front of the PRESIDENT OF THE UNITED STATES. The late PRESIDENT OF THE UNITED STATES, the great and good WASHINGTON, took a seat, as a private citizen, a little in front of the seats assigned for the Senate, which were on the South side of the House, the foreign Ministers and Members of the House of Representatives took their usual seats—a great concourse of both sexes being present. After a short pause, the PRESIDENT OF THE UNITED STATES arose, and communicated the following Address:

"When it was first perceived, in early times, that no middle course for America remained, between unlimited submission to a foreign Legislature, and a total independence of its claims, men of reflection were less apprehensive of danger, from the formidable power of fleets and armies they must determine to resist, than from those contests and dissensions, which would certainly arise concerning the forms of government to be instituted over the whole and over the parts of this extensive country. Relying, however, on the purity of their intentions, the justice of their cause, and the integrity and intelligence of the people, under an overruling Providence, which had so signally protected this country from the first, the representatives of this nation, then consisting of little more than half its present number, not only broke to pieces the chains which were forging, and the rod of iron that was lifted up, but frankly cut asunder the ties which had bound them, and launched into an ocean of uncertainty.

"The zeal and ardor of the people, during the Revolutionary war, supplying the place of government, commanded a degree of order, sufficient at least for the preservation of society. The Confederation, which was early felt to be necessary, was prepared from the models of the Batavian and Helvetic Confederacies, the only examples which remain, with any detail and precision, in history, and certainly the only ones which the people at large had ever considered. But, reflecting on the striking difference, in many particulars, between this country and those where a courier may go from the seat of Government to the frontier in a single day, it was then certainly foreseen by some who assisted in Congress at the formation of it, that it could not be durable.

"Negligence of its regulations, inattention to its recommendations, if not disobedience to its authority, not only in individuals but in States, soon appeared, with their melancholy consequences; universal languor; jealousies and rivalries of States; decline of navigation and commerce; discouragement of necessary manufactures; universal fall in the value of lands and their produce; contempt of public and private faith; loss of consideration and credit with foreign nations; and, at length, in discontents, animosities, combinations, partial conventions, and insurrection, threatening some great national calamity.

"In this dangerous crisis, the people of America were not abandoned by their usual good sense, presence of mind, resolution, or integrity. Measures were pursued to concert a plan, to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty. The public disquisitions, discussions, and deliberations, issued in the present happy Constitution of Government.

"Employed in the service of my country abroad, during the whole course of these transactions, I first saw the Constitution of the United States in a foreign country. Irritated by no literary altercation, animated by no public debate, heated by no party animosity, I read it with great satisfaction, as a result of good heads, prompted by good hearts; as an experiment, better adapted to the genius, character, situation, and relations, of this nation and country, than any which had ever been proposed or suggested. In its general principles and great outlines, it was conformable to such a system of government as I had ever most esteemed, and in some States, my own native State in particular, had contributed to establish. Claiming a right of suffrage, in common with my fellow-citizens, in the adoption or rejection of a Constitution which was to rule me and my posterity, as well as them and theirs, I did not hesitate to express my approbation of it, on all occasions, in public and in private. It was not then, nor has been since, any objection to it, in my mind, that the Executive and Senate were not more permanent. Nor have I ever entertained a thought of promoting any alteration in it, but such as the people themselves, in the course of their experience, should see and feel to be necessary or expedient, and by their Representatives in Congress and the State Legislatures, according to the Constitution itself, adopt and ordain.

"Returning to the bosom of my country, after a painful separation from it, for ten years, I had the honor to be elected to a station under the new order of things, and I have repeatedly laid myself under the most serious obligations to support the Constitution. The operation of it has equalled the most sanguine expectations of its friends, and from an habitual attention to it, satisfaction in its administration and delight in its effects upon the peace, order, prosperity, and happiness of the nation, I have acquired an habitual attachment to it, and veneration for it.

"What other form of Government, indeed, can so well deserve our esteem and love?

"There may be little solidity in an ancient idea, that congregations of men into cities and nations are the most pleasing objects in the sight of superior intelligences: but this is very certain, that, to a benevolent human mind, there can be no spectacle presented by any nation more pleasing, more noble, majestic, or august, than an assembly like that which has so often been seen in this and the other chamber of Congress, of a Government, in which the Executive authority, as well as that of all the branches of the Legislature, are exercised by citizens selected, at regular periods, by their neighbors, to make and execute laws for the general good. Can anything essential, anything more than mere ornament and decoration, be added to this by robes and diamonds? Can authority be more amiable and respectable, when it descends from accidents, or institutions established in remote antiquity, than when it springs fresh from the hearts and judgments of an honest and enlightened people? For, it is the people only that are represented: it is their power and majesty that are reflected, and only for their good, in every legitimate Government, under whatever form it may appear. The existence of such a Government as ours, for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people. And what object or consideration more pleasing than this can be presented to the human mind? If national pride is ever justifiable or excusable, it is when it springs, not from power or riches, grandeur or glory, but from conviction of national innocence, information, and benevolence.

"In the midst of these pleasing ideas, we should be unfaithful to ourselves, if we should ever lose sight of the danger to our liberties, if anything partial or extraneous should infect the purity of our free, fair, virtuous, and independent elections. If an election is to be determined by a majority of a single vote, and that can be procured by a party, through artifice or corruption, the Government may be the choice of a party, for its own ends, not of the nation for the national good. If that solitary suffrage can be obtained by foreign nations, by flattery or menaces, by fraud or violence, by terror, intrigue, or venality, the Government may not be the choice of the American people, but of foreign nations. It may be foreign nations who govern us, and not we the people who govern ourselves. And candid men will acknowledge, that, in such cases, choice would have little advantage to boast of, over lot or chance.

"Such is the amiable and interesting system of Government (and such are some of the abuses to which it may be exposed) which the people of America have exhibited to the admiration and anxiety of the wise and virtuous of all nations, for eight years, under the administration of a citizen, who, by a long course of great actions, regulated by prudence, justice, temperance, and fortitude, conducting a people, inspired with the same virtues, and animated with the same ardent patriotism and love of liberty, to independence and peace, to increasing wealth and unexampled prosperity, has merited the gratitude of his fellow-citizens, commanded the highest praises of foreign nations, and secured immortal glory with posterity.

"In that retirement which is his voluntary choice, may he long live to enjoy the delicious recollection of his services, the gratitude of mankind, the happy fruits of them to himself and the world, which are daily increasing, and that splendid prospect of the future fortunes of this country, which is opening from year to year. His name may be still a rampart, and the knowledge that he lives a bulwark, against all open or secret enemies of his country's peace. This example has been recommended to the imitation of his successors, by both Houses of Congress, and by the voice of the Legislatures and the people throughout the nation.

"On this subject it might become me better to be silent, or to speak with diffidence; but, as something may be expected, the occasion, I hope, will be admitted as an apology, if I venture to say, that, if a preference, upon principle, of a free Republican Government, formed upon long and serious reflection, after a diligent and impartial inquiry after truth; if an attachment to the Constitution of the United States, and a conscientious determination to support it, until it shall be altered by the judgments and wishes of the people, expressed in the mode prescribed in it; if a respectful attention to the Constitutions of the individual States, and a constant caution and delicacy towards the State Governments; if an equal and impartial regard to the rights, interest, honor, and happiness, of all the States in the Union, without preference or regard to a Northern or Southern, an Eastern or Western position, their various political opinions, on unessential points, or their personal attachments; if a love of virtuous men of all parties and denominations; if a love of science and letters, and a wish to patronize every rational effort to encourage schools, colleges, universities, academies, and every institution for propagating knowledge, virtue, and religion, among all classes of the people, not only for their benign influence on the happiness of life in all its stages and classes, and of society in all its forms, but as the only means of preserving our Constitution from its natural enemies, the spirit of sophistry, the spirit of party, the spirit of intrigue, the profligacy of corruption, and the pestilence of foreign influence, which is the angel of destruction to elective Governments; if a love of equal laws, of justice, and humanity, in the interior administration; if an inclination to improve agriculture, commerce, and manufactures, for necessity, convenience, and defence; if a spirit of equity and humanity towards the aboriginal nations of America, and a disposition to meliorate their condition, by inclining them to be more friendly to us, and our citizens to be more friendly to them; if an inflexible determination to maintain peace and inviolable faith with all nations, and that system of neutrality and impartiality among the belligerant Powers of Europe, which has been adopted by this Government, and so solemnly sanctioned by both Houses of Congress, and applauded by the Legislatures of the States and the public opinion, until it shall be otherwise ordained by Congress; if a personal esteem for the French nation, formed in a residence of seven years, chiefly among them, and a sincere desire to preserve the friendship which has been so much for the honor and interest of both nations; if, while the conscious honor and integrity of the people of America, and the internal sentiment of their own power and energies must be preserved, an earnest endeavor to investigate every just cause, and remove every colorable pretence of complaint; if an intention to pursue, by amicable negotiation, a reparation for the injuries that have been committed on the commerce of our fellow-citizens, by whatever nation, and, if success cannot be obtained, to lay the facts before the Legislature, that they may consider what further measures the honor and interest of the Government and its constituents demand; if a resolution to do justice, as far as may depend upon me, at all times and to all nations, and maintain peace, friendship, and benevolence, with all the world; if an unshaken confidence in the honor, spirit, and resources of the American people, on which I have so often hazarded my all, and never been deceived; if elevated ideas of the high destinies of this country, and of my own duties towards it, founded on a knowledge of the moral principles and intellectual improvements of the people, deeply engraven on my mind in early life, and not obscured, but exalted by experience and age; and, with humble reverence, I feel it to be my duty to add, if a veneration for the religion of a people who profess and call themselves Christians, and a fixed resolution to consider a decent respect for Christianity among the best recommendations for the public service, can enable me, in any degree, to comply with your wishes, it shall be my strenuous endeavor, that this sagacious injunction of the two Houses shall not be without effect.

"With this great example before me, with the sense and spirit, the faith and honor, the duty and interest, of the same American people, pledged to support the Constitution of the United States, I entertain no doubt of its continuance in all its energy, and my mind is prepared, without hesitation, to lay myself under the most solemn obligations to support it to the utmost of my power.

"And may that Being, who is supreme over all, the Patron of order, the Fountain of justice, and the Protector, in all ages of the world, of virtuous liberty, continue his blessing upon this nation and its Government, and give it all possible success and duration, consistent with the ends of His Providence."

The oath of office was then administered to him by the Chief Justice of the Supreme Court of the United States, the Associate Justices attending. After which, the PRESIDENT OF THE UNITED STATES retired, and the Senate repaired to their own Chamber.

On motion,

Ordered, That Messrs. LANGDON and SEDGWICK be a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him that the Senate is assembled, and ready to adjourn, unless he may have any communications to make to them.

Mr. LANGDON reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, who replied, that he had no communication to make to the Senate, except his good wishes for their health and prosperity, and a happy meeting with their families and friends.

The Senate then adjourned without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

AT THE SECOND SESSION OF THE FOURTH CONGRESS, BEGUN AND HELD AT THE CITY OF PHILADELPHIA, DECEMBER 5, 1796.

MONDAY, December 5, 1796.

This being the day appointed by the Constitution for the annual meeting of Congress, in the House of Representatives the following named members appeared and took their seats, viz:

From New Hampshire.—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHERBURNE, and JEREMIAH SMITH.

From Massachusetts.—FISHER AMES, THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, Jr., SAMUEL LYMAN, WILLIAM LYMAN, JOHN REED, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

From Rhode Island.—FRANCIS MALBONE.

From Connecticut.—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, NATHANIEL SMITH, and ZEPHANIAH SWIFT.

From New York.—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLEN, JONATHAN N. HAVENS, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

From New Jersey.—JONATHAN DAYTON, AARON KITCHELL, and ISAAC SMITH.

From Pennsylvania.—ALBERT GALLATIN, SAMUEL MACLAY, FREDERICK AUGUSTUS MUHLENBERG, JOHN RICHARDS, SAMUEL SITGREAVES, and JOHN SWANWICK.

From Delaware.—JOHN PATTON.

From Maryland.—GEORGE DENT, WILLIAM HINDMAN, and RICHARD SPRIGG, Jun.

From Virginia.—JOHN CLOPTON, ISAAC COLES, GEORGE JACKSON, JAMES MADISON, ANTHONY NEW, and ROBERT RUTHERFORD.

From Kentucky.—CHRISTOPHER GREENUP.

From North Carolina.—THOMAS BLOUNT and MATTHEW LOCKE.

From South Carolina.—WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN.

The following new members appeared, produced, their credentials, were qualified, and took their seats, viz:

From Tennessee.—ANDREW JACKSON.

From Maryland.—WILLIAM CRAIK, in place of JEREMIAH CRABB, resigned.

From Connecticut.—JAMES DAVENPORT, in place of JAMES HILLHOUSE, appointed a Senator of the United States.

The SPEAKER laid before the House a Letter from the Governor of Pennsylvania, with the return of the election of GEORGE EGE, to serve as a member of the House in place of DANIEL HEISTER, resigned.

A quorum, consisting of a majority of the whole number being present, it was ordered that the Clerk wait on the Senate, to inform them that this House was ready to proceed to business; but it appeared that the Senate had not been able to form a quorum by one member, and had adjourned.

Mr. WILLIAM SMITH presented a petition from Thomas Lloyd, proposing to take, in short-hand, and publish the Debates of Congress at $1,000 per session salary. The expense of printing, &c. he estimated at $540, for which he would furnish the House with five hundred copies of that work; engaging to use every possible precaution, and pay prompt attention.

Mr. S. referred to the unfavorable reception of a proposal of this nature at the last session, and supposed this would not be more successful; however, he moved that it be referred to a committee.

The motion was agreed to, and Mr. W. SMITH, Mr. GALLATIN, and Mr. SWIFT, were appointed to examine the petition, and report thereon to the House.

TUESDAY, December 6.

Several other members, to wit: from Vermont, ISRAEL SMITH; from New Jersey, MARK THOMPSON; from Pennsylvania, RICHARD THOMAS; from Virginia, CARTER B. HARRISON, JOHN HEATH, and ABRAHAM VENABLE; and from North Carolina, JESSE FRANKLIN, WILLIAM BARRY GROVE, JAMES HOLLAND, and NATHANIEL MACON, appeared and took their seats in the House.

The SPEAKER observed, that, as there were several returns of new elections of members to serve in this session, it was proper that, pursuant to a rule of the House, a Committee of Elections be appointed.

A committee was accordingly appointed, of Mr. VENABLE, Mr. SWIFT, Mr. DENT, Mr. DEARBORN, Mr. BLOUNT, Mr. MUHLENBERG, and Mr. A. FOSTER.

Mr. Macon moved that a Committee of Revisal and Unfinished Business of last session be appointed, pursuant to the Standing Rules and Orders of the House, observing that, as the session would be but short, it would be necessary to be early in the appointment of committees.

Whereon Mr. Gilman, Mr. R. Sprigg, Jun., and Mr. Macon were appointed.

Notice was received that a quorum of the Senate was formed.

On motion, it was, therefore, resolved, that a committee of three members be appointed to wait on the President of the United States, in conjunction with a committee from the Senate, to inform him that a quorum of both Houses was assembled, and ready to receive any communications that he may please to make. Mr. Ames, Mr. Madison, and Mr. Sitgreaves, were accordingly appointed.

A message was received from the Senate informing the House that they had formed a quorum: whereupon the Clerk went to the Senate with the resolution of this House. The Secretary soon after returned, informing the House that the Senate had concurred in the resolution, and formed a committee for that purpose.

PROMULGATION OF THE LAWS.

Mr. W. Smith said, that agreeably to an act passed the last session, the laws of the United States were publishing; but he observed that it would be of much more utility if the laws of the present session could be included; thus the whole of the present Congress would be inserted, together with the completion of the administration of the present President. He observed, that such a motion passed at the last session in the Senate, but was negatived by this House, on account of its affecting the contract made for printing; but he believed, from the knowledge he had gathered on the subject, no great difficulty could be in the way of its accomplishment. He therefore moved that a committee be appointed to prepare and bring in a bill to amend an act for the more general promulgation of the laws of the United States.

A committee was appointed of Mr. Griswold, Mr. Williams, and Mr. Coles.

FURNISHING NEWSPAPERS.

On motion of Mr. Bradbury, it was

Resolved, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers printed in this city, such as the members, respectively, shall choose, to be delivered at their lodgings, provided, they do not exceed the price at which subscribers in Philadelphia are served.

Mr. Ames, from the committee appointed for that purpose, reported that the committee had waited on the President, who was pleased to signify to them that he would make a communication to both Houses of Congress to-morrow, at 12 o'clock, in the Representatives' Chamber.

Wednesday, December 7.

Another member, to wit: Samuel Sewall, from Massachusetts, in place of Benjamin Goodhue, appointed a Senator of the United States, appeared, produced his credentials, was qualified, and took his seat.

A message was sent to the Senate, informing them that this House was ready, agreeably to appointment, to receive communications from the President; whereon the Senate attended and took their seats. At 12 o'clock the President attended, and, after taking his seat, rose and delivered the following Address:

Gentlemen of the Senate, and
of the House of Representatives:

In recurring to the internal situation of our country, since I had last the pleasure to address you, I find ample reason for a renewed expression of that gratitude to the Ruler of the Universe, which a continued series of prosperity has so often and so justly called forth.

The acts of the last session, which required special arrangements, have been, as far as circumstances would admit, carried into operation.

Measures calculated to insure a continuance of the friendship of the Indians, and to preserve peace along the extent of our interior frontier, have been digested and adopted. In the framing of these, care has been taken to guard on the one hand our advanced settlements from the predatory incursions of those unruly individuals who cannot be restrained by their tribes; and on the other hand, to protect the rights secured to the Indians by Treaty; to draw them nearer to the civilized state; and inspire them with correct conceptions of the power, as well as justice of the Government.

The meeting of the deputies from the Creek nation at Colraine, in the State of Georgia, which had for a principal object the purchase of a parcel of their land by that State, broke up without its being accomplished; the nation having, previous to their departure, instructed them against making any sale; the occasion, however, has been improved, to confirm by a new Treaty with the Creeks, their pre-existing engagements with the United States; and to obtain their consent to the establishment of trading houses and military posts within their boundary; by means of which their friendship and the general peace may be more effectually secured.

The period during the late session, at which the appropriation was passed, for carrying in effect to the Treaty of Amity, Commerce, and Navigation, between the United States and his Britannic Majesty, necessarily procrastinated the reception of the posts stipulated to be delivered, beyond the date assigned for that event. As soon, however as the Governor General of Canada could be addressed with propriety on the subject, arrangements were cordially and promptly concluded for their evacuation; and the United States took possession of the principal of them, comprehending Oswego, Niagara, Detroit, Michilimakinac and Fort Miami, where such repairs and additions have been ordered to be made as appeared indispensable.

The Commissioners appointed on the part of the United States and of Great Britain, to determine which is the river St. Croix, mentioned in the Treaty of Peace of 1783, agreed in the choice of Egbert Benson, Esq., of New York for the third Commissioner. The whole met at St. Andrew's, in Passamaquoddy bay, in the beginning of October, and directed surveys to be made of the rivers in dispute; but deeming it impracticable to have these surveys completed before the next year, they adjourned to meet at Boston in August, 1797, for the final decision of the question.

Other Commissioners appointed on the part of the United States, agreeably to the seventh article of the Treaty with Great Britain, relative to captures and condemnation of vessels and other property, met the Commissioners of His Britannic Majesty in London, in August last, when John Trumbull, Esquire, was chosen by lot for the fifth Commissioner. In October following the Board were to proceed to business. As yet there has been no communication of Commissioners on the part of Great Britain, to unite with those who have been appointed on the part of the United States, for carrying into effect the sixth article of the Treaty.

The Treaty with Spain required that the Commissioners for running the boundary line, between the territory of the United States and His Catholic Majesty's Provinces of East and West Florida, should meet at the Natchez, before the expiration of six months after the exchange of the ratifications, which was effected at Aranjuez on the twenty-fifth day of April; and the troops of His Catholic Majesty occupying any posts within the limits of the United States, were within the same period to be withdrawn. The Commissioner of the United States, therefore, commenced his journey for the Natchez in September, and troops were ordered to occupy the posts from which the Spanish garrison should be withdrawn. Information has been recently received of the appointment of a Commissioner on the part of His Catholic Majesty for running the boundary line, but none of any appointment for the adjustment of the claims of our citizens whose vessels were captured by the armed vessels of Spain.

In pursuance of the act of Congress, passed in the last session, for the protection and relief of American seamen, agents were appointed, one to reside in Great Britain and the other in the West Indies. The effects of the agency in the West Indies are not yet fully ascertained; but those which have been communicated afford grounds to believe the measure will be beneficial. The agent destined to reside in Great Britain declining to accept the appointment, the business has consequently devolved on the Minister of the United States in London, and will command his attention until a new agent shall be appointed.

After many delays and disappointments, arising out of the European war, the final arrangements for fulfilling the engagements made to the Dey and Regency of Algiers, will, in all present appearance, be crowned with success, but under great, though inevitable disadvantages in the pecuniary transactions, occasioned by that war, which will render a further provision necessary. The actual liberation of all our citizens who were prisoners in Algiers, while it gratifies every feeling heart, is itself an earnest of a satisfactory termination of the whole negotiation.

Measures are in operation for effecting Treaties with the Regencies of Tunis and Tripoli.

To an active external commerce, the protection of a Naval force is indispensable: this is manifest with regard to wars in which a State is itself a party. But besides this, it is in our own experience, that the most sincere neutrality is not a sufficient guard against the depredations of nations at war. To secure respect to neutral flag, requires a Naval force, organized and ready to vindicate it from insult or aggression. This may even prevent the necessity of going to war, by discouraging belligerant Powers from committing such violations of the rights of the neutral party as may, first or last, leave no other option. From the best information I have been able to obtain, it would seem as if our trade to the Mediterranean, without a protecting force, will always be insecure, and our citizens exposed to the calamities from which numbers of them have but just been relieved.

These considerations invite the United States to look to the means, and to set about the gradual creation of a Navy. The increasing progress of their navigation promises them, at no distant period, the requisite supply of seamen; and their means in other respects favor the undertaking. It is an encouragement likewise that their particular situation will give weight and influence to a moderate Naval force in their hands. Will it not, then, be advisable to begin, without delay, to provide and lay up the materials for the building and equipping of ships of war, and to proceed in the work by degrees, in proportion as our resources shall render it practicable without inconvenience; so that a future war of Europe may not find our commerce in the same unprotected state in which it was found by the present?

Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible. As a general rule, manufactures on public account are inexpedient. But where the state of things in a country leaves but little hope that certain branches of manufacture will for a great length of time obtain, when these are of a nature essential to the furnishing and equipping of the public force in time of war; are not establishments for procuring them on public account, *to the extent of the ordinary demand for the public service*, recommended by strong considerations of national policy, as an exception to the general rule? Ought our country to remain in such cases dependant on foreign supply, precarious, because liable to be interrupted? If the necessary articles should in this mode cost more in time of peace, will not the security and independence thence arising form an ample compensation? Establishments of this sort, commensurate only with the calls of the public service in time of peace, will, in time of war, easily be extended in proportion to the exigencies of the Government, and may even, perhaps, be made to yield a surplus for the supply of our citizens at large, so as to mitigate the privations from the interruption of their trade. If adopted, the plan ought to exclude all those branches which are already, or likely soon to be established in the country, in order that there may be no danger of interference with pursuits of individual industry.

It will not be doubted that with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population, and other circumstances of maturity, this truth becomes more apparent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse; and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end, none have been attended with greater success than the establishment of Boards, composed of proper characters, charged with collecting and diffusing information, and enabled by premiums,

and small pecuniary aids, to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvement, by stimulating to enterprise and experiment, and by drawing to a common centre the results everywhere of individual skill and observation, and spreading them thence over the whole nation. Experience accordingly has shown that they are very cheap instruments of immense national benefits.

I have heretofore proposed to the consideration of Congress the expediency of establishing a National University, and also a Military Academy. The desirableness of both these institutions has so constantly increased with every new view I have taken of the subject, that I cannot omit the opportunity of once for all recalling your attention to them.

The Assembly to which I address myself is too enlightened not to be fully sensible how much a flourishing state of the arts and sciences contributes to national prosperity and reputation. True it is that our country, much to its honor, contains many seminaries of learning highly respectable and useful; but the funds upon which they rest are too narrow to command the ablest professors in the different departments of liberal knowledge for the institution contemplated, though they would be excellent auxiliaries.

Amongst the motives to such an institution the assimilation of the principles, opinions, and manners of our countrymen, by the common education of a portion of our youth from every quarter, well deserves attention. The more homogeneous our citizens can be made in these particulars, the greater will be our prospect of permanent union; and a primary object of such a national institution should be the education of our youth in the science of Government. In a Republic, what species of knowledge can be equally important? and what duty more pressing on its Legislature, than to patronize a plan for communicating it to those who are to be the future guardians of the liberties of the country?

The institution of a Military Academy is also recommended by cogent reasons. However pacific the general policy of a nation may be, it ought never to be without an adequate stock of military knowledge for emergencies. The first would impair the energy of its character, and both would hazard its safety, or expose it to greater evils when war could not be avoided: besides, that war might often not depend upon its own choice. In proportion as the observance of pacific maxims might exempt a nation from the necessity of practising the rules of the military art, ought to be its care in preserving and transmitting by proper establishments the knowledge of that art. Whatever argument may be drawn from particular examples, superficially viewed, a thorough examination of the subject will evince that the art of war is at once comprehensive and complicated; that it demands much previous study; and that the possession of it, in its most improved and perfect state, is always of great moment to the security of a nation. This, therefore, ought to be a serious care of every Government; and for this purpose an Academy, where a regular course of instruction is given, is an obvious expedient, which different nations have successfully employed.

The compensations to the officers of the United States in various instances, and in none more than in respect to the most important stations, appear to call for Legislative revision. The consequences of a defective provision are of serious import to the Government.

If private wealth is to supply the defect of public retribution, it will greatly contract the sphere within which the selection of character for office is to be made, and will proportionally diminish the probability of a choice of men, able, as well as upright. Besides, that it would be repugnant to the vital principles of our Government virtually to exclude from public trusts, talents and virtue, unless accompanied by wealth.

While in our external relations some serious inconveniences and embarrassments have been overcome, and others lessened, it is with much pain and deep regret I mention that circumstances of a very unwelcome nature have lately occurred. Our trade has suffered, and is suffering, extensive injuries in the West Indies, from the cruisers and agents of the French Republic; and communications have been received from its Minister here which indicate the danger of a further disturbance of our commerce, by its authority, and which are, in other respects, far from agreeable.

It has been my constant, sincere, and ardent wish, in conformity with that of our nation, to maintain cordial harmony and a perfectly friendly understanding with that Republic. This wish remains unabated; and I shall persevere in the endeavor to fulfil it to the utmost extent of what shall be consistent with a just and indispensable regard to the rights and honor of our country; nor will I easily cease to cherish the expectation that a spirit of justice, candor, and friendship on the part of the Republic will eventually insure success.

In pursuing this course, however, I cannot forget what is due to the character of our Government and nation, or to a full and entire confidence in the good sense, patriotism, self-respect, and fortitude of my countrymen.

I reserve for a special Message a more particular communication on this interesting subject.

Gentlemen of the House of Representatives:

I have directed an estimate of the appropriations necessary for the service of the ensuing year, to be submitted from the proper Department, with a view of the public receipts and expenditures to the latest period to which an account can be prepared.

It is with satisfaction I am able to inform you that the revenues of the United States continue in a state of progressive improvement.

A reinforcement of the existing provisions for discharging our Public Debt was mentioned in my Address at the opening of the last session. Some preliminary steps were taken towards it, the maturing of which will, no doubt, engage your zealous attention during the present. I will only add, that it will afford me a heartfelt satisfaction to concur in such further measures as will ascertain to our country the prospect of a speedy extinguishment of the Debt. Posterity may have cause to regret, if from any motive, intervals of tranquility are left unimproved for accelerating this valuable end.

Gentlemen of the Senate, and of the House of Representatives:

My solicitude to see the Militia of the United States placed on an efficient establishment has been so often and so ardently expressed that I shall but barely recall the subject to your view on the present occasion; at the same time that I shall submit to your inquiry, whether our harbors are yet sufficiently secured.

The situation in which I now stand, for the last time, in the midst of the Representatives of the People of the United States, naturally recalls the period when the administration of the present form of Government commenced; and I cannot omit the occasion to congratulate you and my country on the success of the experiment; nor to repeat my fervent supplications to the Supreme Ruler of the Universe and Sovereign Arbiter of Nations that His providential care may still be extended to the United States; that the virtue and happiness of the people may be preserved; and that the Government which they have instituted for the protection of their liberties may be perpetual.

G. WASHINGTON.

United States, *December* 7, 1796.

When the President had concluded his Address, he presented copies of it to the President of the Senate and the Speaker of the House of Representatives. The President and the Senate then withdrew, and the Speaker took the Chair. The Address was again read by the Clerk, and on motion, committed to a Committee of the Whole House to-morrow.

Thursday, December 8.

James Gillespie, from North Carolina, appeared and took his seat in the House.

A new member, to wit: George Ege, from Pennsylvania, in place of Daniel Heister, resigned, appeared, produced his credentials, was qualified, and took his seat.

Mr. Griswold, from the committee appointed to bring in a bill to amend the act for the more general promulgation of the laws of the United States, reported a bill, which was twice read, and committed to a Committee of the Whole House, and made the order of the day for to-morrow.

Mr. W. Smith presented a petition from Thomas Carpenter, praying encouragement to a publication of the debates of Congress from a shorthand manuscript, to be taken in the House, of which he had issued proposals; which was referred to the committee appointed to examine the petition of Thomas Lloyd on the same subject.

Mr. Heath said, that by the standing order of the House, a Committee of Claims ought to be appointed, as the claims were numeous, and become very pressing on the House; he would therefore move, that a Committee of Claims be now appointed; which was accordingly done, and Mr. D. Foster, Mr. Malbone, Mr. Maclay, Mr. Heath, Mr. Macon, Mr. Thompson, and Mr. Williams, were appointed on the said committee.

Mr. Williams moved, "That two Chaplains of different denominations be chosen, one by each House, to exchange weekly;" which was agreed to.

ADDRESS TO THE PRESIDENT.

On the motion of Mr. W. Smith, the House went into a Committee of the Whole on the President's Address, according to the order of the day. The Speech was read by the Clerk.

Mr. D. Foster moved the following resolution:

"*Resolved*, That it is the opinion of this Committee, that a respectful Address ought to be presented from the House of Representatives, to the President of the United States, in answer to his Speech to both Houses of Congress, at the commencement of the session, containing assurances, that this House will take into consideration the many important matters recommended to their attention."

Which was unanimously agreed to, and Mr. Ames, Mr. Baldwin, Mr. Madison, Mr. Sitgreaves, and Mr. W. Smith were appointed a committee to draw up the Address. The Committee rose, and the resolution was adopted by the House.

Mr. W. Smith presented a petition from Thomas W. Baker, postmaster at Charlestown, praying an increase of salary, as articles of necessity had become dearer, and his business is become more weighty, which was ordered to lie on the table until a committee be appointed on Post Offices and Post Roads.

Mr. Thatcher then moved

"That a committee be appointed to inquire if any, and what alterations are necessary to be made in the act for establishing Post Offices and Post Roads within the United States, and to report by bill or otherwise:"

Mr. Thatcher, Mr. Bayley, Mr. Coles, Mr. Coit, Mr. Groves, Mr. Williams, Mr. Baldwin, Mr. Ege, and Mr. Andrew Jackson, were accordingly appointed on that committee.

Mr. W. Smith made mention of the petition of Henry Hill, which had been last session referred to the Committee of Claims, but too late to be taken up by the House. He therefore moved that it be now committed to a Committee of the Whole House.

Mr. Macon thought it would be more in order for the Committee of Revisal and Unfinished Business, which was yesterday appointed to report first, as this business would of course be included; however, his only objection was to preserve order.

Mr. W. Smith said, he saw no necessity of waiting the report of that committee; he thought the business of that committee lay in reporting such business to the House as would otherwise escape the notice of gentlemen, not to prevent members making motion on any case; he thought this had been the practice of the House.

Mr. Macon said, the gentleman was right in part; it had been usual, in time past, to bring motions of this kind immediately before the House, but the last session was the first time a committee of this kind had been appointed, in order to remove some ill consequences attending such a practice.

Mr. Speaker said, that this, with all other business remaining from the last session, would be sent to the committee. He thought if the House took up this report separately, it would not be altogether so orderly as to leave it for a committee to report thereon.

Mr. W. Smith said, that this would be putting too much power into the hands of the committee, whereby they may protract business, which required haste in its decision.

Mr. Baldwin thought, that as the committee would soon meet, their object would be to discharge the most urgent business earliest. He

thought if there was not anything very pressing in it, the most regular way would be to let it come before the House through the committee. However, if there was anything pressing in the case, he would not stand in its way.

Mr. Williams said, that as this committee usually reported early, no great inconvenience could arise from awaiting it.

Mr. W. Smith said, he knew not anything extraordinary pressing in this case, and therefore had no objection to withdraw his motion and wait the report of the committee.

Friday, December 9.

David Bard, from Pennsylvania, Josiah Parker, from Virginia, and Nathan Bryan, from North Carolina, appeared and took their seats in the House.

Mr. Hindman presented a petition from Samuel Chester, who had been a recruiting sergeant in the Army, and spent twenty years in the service in training recruits, and is now near sixty years of age, and though not wounded, yet his constitution is so debilitated that he is incapable of supporting himself; he therefore prays relief from the House. Referred to the Committee of Claims.

Mr. Macon, from the Committee of Revisal and Unfinished Business, reported a number of bills and petitions left undecided on at the last session.

Mr. W. Smith moved, that the usual number of copies of the report on the said bills, &c., be printed for the use of the members; which was agreed to.

Mr. W. Smith moved, that the report of the committee on the petition of Henry Hill should be referred to a Committee of the Whole House, and made the order of the day for Monday next; which was agreed to.

Mr. Heath observed, that as this case was of a very complicated nature, he would move that the usual number of copies of the report of the Committee of Claims on it should be printed for the use of the members; which passed.

ADDRESS TO THE PRESIDENT.

The Speaker said, that it had been usual for the House to come to some order on the President's Address, which was to refer it to a Committee of the Whole on the state of the Union. On which Mr. Williams moved, that it be committed to a Committee of the Whole on the state of the Union, which was done accordingly.

Mr. Bayley moved, that a Committee of Commerce and Manufactures be appointed, when Mr. William Smith, Mr. Sewall, Mr. Coit, Mr. Parker, Mr. Blount, and Mr. Dent, were named for that committee.

Mr. Bayley then moved, that when this House adjourn, it adjourn till Monday at eleven o'clock.

[The reason stated during the last session for the House not meeting to do business on Saturdays was, that the standing committees were numerous, besides many special committees for different purposes, whose business was frequently very important and troublesome, it was therefore necessary that Saturday be allowed for the committees to sit, else business would be much protracted, and become too burdensome on gentlemen in committees.]

Monday, December 12.

Several other members, to wit: from New York, Edward Livingston; from Pennsylvania, Andrew Gregg; from Maryland, Gabriel Christie; from Virginia, William B. Giles, Andrew Moore, and John Nicholas; and from South Carolina, Robert Goodloe Harper, appeared, and took their seats in the House.

Mr. Ames, from the committee appointed for that purpose, reported an answer to the Address delivered by the President to both Houses of Congress, which was read by the Clerk. Mr. Ames then moved, that it be referred to a Committee of the Whole House, and made the order of the day for to-morrow; which was agreed to; and also, that the usual number of copies be printed for the use of the members.

A message was received from the Senate informing the House that the Senate concurred in the resolution for the appointment of Chaplains, and that they have chosen the Rev. Bishop White.

Mr. D. Foster, from the Committee of Claims, reported that they had found many memorials which had not been acted on at the last session, on account of the lateness of its continuance, and not through any negligence on the part of the committee. He then moved a resolution in effect as follows:

"*Resolved*, That all claims, referred to the Committee of Claims of the last session, and not by them reported on, be now referred to the Committee of Claims of the present session, pursuant to the rules of this House;" which was agreed to.

NATIONAL UNIVERSITY.

Mr. Madison presented a memorial from the Commissioners of the Federal City, stating the many advantages that would result from the building of a National University at the said city—being the place appointed for the permanent Seat of Government of the United States; observing, that it had been the subject of much conversation, but no effectual measures had been adopted towards its accomplishment; that a portion of land sufficient for the building, together with fifty shares on the Potomac river, which was becoming very valuable, had been appropriated by the President of the United States; that there would doubtless be many liberal donations and subscriptions both in this country and in Europe towards its support; it would also introduce youth from other countries, and tend to the general wealth and prosperity of this, by the more general dissemination of useful knowledge. They pray that Congress would take such measures as that they may be able to receive any donations which may be made to the institution.

Mr. M. moved that it be referred to a select committee, and he conceived that it would be proper for the same committee to take up that part of the President's Speech which relates to the same subject.

Mr. W. Smith wished to inquire of the gentleman from Virginia, whether it would not be more orderly for the memorial to lie on the table until that part of the President's Speech came under discussion in the House? he suggested this idea from the consideration that it would look more respectful to the Chief Magistrate, to let it come from him, as he had recommended it to the attention of the House in his Address.

Mr. Madison replied, that it would be more consistent with order for the memorial to go through a select committee.

Mr. Smith said he would not object. The motion passed, and a committee of three members were appointed.

Mr. Jackson presented a petition for cutting a new road from Virginia and Maryland to the Northwestern Territory, by which the post would be much facilitated, and the adjacent country advantaged; which memorial was referred to the Committee on Post Offices and Post Roads.

Mr. Williams moved that that part of the report of the Committee of Revisal and Unfinished Business, respecting certain refugees from Nova Scotia and Canada, be referred to a Committee of the Whole House; which was accordingly agreed to, and made the order of the day for Thursday next.

Mr. W. also moved that the House now go into the ballot for a Chaplain. Dr. Green and Dr. Priestley were nominated. Mr. Williams and Mr. Greenup were appointed tellers, who, on counting the votes, declared for Dr. Ashbel Green 35, for Dr. Joseph Priestley 27, and for the Rev. Mr. Blair 6. Dr. Green was declared duly elected.

PROMULGATION OF THE LAWS.

Mr. Griswold moved the order of the day, for the bill to amend the act for the more general promulgation of the laws of the United States; which being agreed to, the House resolved itself into a Committee of the Whole thereon; and, after reading the bill, rose and reported it without amendment. The House then took it up, agreed to it, and ordered it to be engrossed for a third reading to-morrow.

CLAIM OF HENRY HILL.

Mr. Coit moved the order of the day on the report of the Committee of Claims on the petition of Henry Hill. The House formed itself into a Committee of the Whole, and read the report of the Committee thereon; which, on account of the complexity of the case, it will be necessary to give at length:

"That, on the 15th of February, 1783, a contract was made under the authority of the Superintendent of Finance, with John Banks, for supplying the Southern Army; and it was stipulated, among other things, that payment should be made in gold or silver, at Philadelphia. Banks's accounts were settled in 1783 or 1784, to the mutual satisfaction of him and the public officers, excepting so much as was contained in a charge of $9,768 81, including principal and interest, against Banks. This charge was made, and the sum retained, on the ground that $8,612 24 principal, and $1,156 57 interest, was in Mr. Charles Pettit's hands, which he claimed on account of a claim he, as quartermaster, had against the United States, and the Treasury officers claimed as moneys deposited for John Banks, on account of the above contract, and that Mr. Pettit held the said sum for Banks. Mr. Pettit claims a balance due him, in the quartermaster's department, and is willing to allow that sum on his claim, or if there is not a balance in his favor, is willing to pay it. Hence it results that the sum of $9,768 81 is credited to the United States by Mr. Pettit, and has been charged against John Banks, and reserved out of the balance of the sum.

"This account having been once settled, the Treasury officers refuse to resettle it, as it is an established rule at the Treasury not to open accounts for a new settlement which has once undergone a liquidation and settlement by the proper officers.

"The committee suppose, in a case like this, where it is manifest a double charge, in favor of the public, has been made, and that charge, consisting of one item only, about which mistakes cannot possibly occur, that propriety and justice would dictate an allowance of the sum. The petitioner had an assignment of this claim from Mr. Miller, who claimed the right of Mr. Banks.

"The committee are of opinion that it would be improper for them to determine who are the actual and equitable representatives of John Banks, so far as respects this balance, as the right of the claimants may receive a Judicial determination.

"It is sufficient that the balance be placed to the credit of the person to whom it belonged on the 31st day of December 1783, the time the sum was retained out of Banks's payment. They, therefore, submit, for the consideration of the House, the following resolution, viz:

"*Resolved*, That the accounting officers of the Treasury cause the sum of $9,768 81, charged to the contract account of John Banks, on the 31st of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to the account of such other person as, in their opinion, shall be justly chargeable therewith."

Mr. Heath moved an amendment to the report, that the words in the latter part, after John Banks, &c., be struck out, as he thought it would otherwise be interfering with the Judicial authority and making a disagreement between the latter part of the resolution and the former part.

Mr. D. Foster said, it appeared that when Mr. Banks's account was settled, the sum in question was charged to his account, and it appeared that the United States had been credited in Mr. Pettit's account for that sum. He thought there could be no doubt on this, and, therefore, hoped the amendment would be negatived. Mr. D. Foster, Mr. Heath, and Mr. Coit, severally spoke on the subject. The motion was then put and negatived.

Mr. Coit next moved the following resolution, to be added to the report:

"And that they charge the said John Banks with the several sums paid by the United States, to indemni-

by the estate of the late General Greene, for certain engagements entered into by him on account of the said Banks."

Mr. Heath opposed this amendment, because it interfered with the Judicial power. Besides, as there were claims prior to the engagement between General Greene and Mr. Banks for this money, he thought it would be unjust to seize this money, because it was in their power. He thought the Executive power should not interfere with the Legislative, nor the Legislative with the Executive; and he hoped gentlemen in this House would never become accusers and judges too; such conduct he should judge extremely improper.

Mr. D. Foster hoped, also, that the last motion would not pass.

Mr. D. Foster at length moved that the Committee rise and report progress. The Committee accordingly rose, and obtained leave to sit again.

Tuesday, December 13.

Two other members, to wit: Thomas Claiborne and John Page, from Virginia, appeared and took their seats in the House.

A new member, viz: William Strudwick, from North Carolina, in place of Absalom Tatom resigned, appeared, produced his credentials, was qualified, and took his seat.

The bill providing for the more effectual promulgation of the laws of the United States, was read a third time and passed.

REPORTING THE DEBATES.

Mr. W. Smith, from the committee appointed to examine into the petitions of Thomas Lloyd and Thomas Carpenter, reported the following resolution:

"That the Clerk of this House cause the members to be furnished, during the present session, with ——— copies of the Debates of Congress, printed in this city, such as the members respectively shall choose, to be delivered at their lodgings; provided that they do not exceed the price at which other subscribers are served therewith:"

On motion, it was resolved that it be read a second time and referred to a Committee of the Whole House to-morrow.

ADDRESS TO THE PRESIDENT.

Mr. W. Smith then moved for the order of the day on the report of the Committee in answer to the President's Address.

Mr. Giles said, that as the printed copy of the answer was but just laid before the House, he hoped the gentleman would not insist on his motion, as he declared he had not had time to read it; he would therefore move that it be deferred till to-morrow.

Mr. Parker seconded the motion. He said he was not able to judge whether the answer would meet his approbation or not; he wished time to be given for the consideration of it.

Mr. W. Smith said he knew no instance in which the answer to the President's Address had been laid over, and he thought it ought to be despatched with all possible speed.

Mr. Heath said, he hoped his colleague would not insist on his motion for letting it lie over till to-morrow; he thought it could as well be acted on to-day.

Mr. Ames observed, that it would look very awkward to let it lie over till to-morrow, as it was very unusual, if not unprecedented, so to do; he thought gentlemen might make up their minds about it if laid on the table about an hour; they could, in the meantime, despatch other business, which would come before them.

Mr. Giles said, he had experienced extreme inconvenience from gentlemen pressing for a subject before it had been matured in the minds of members; he thought it would be extremely improper and unusual, and in its consequences disagreeable, to go into the subject before gentlemen had time to reflect on it.

Mr. Sitgreaves said, that the more expeditious the House were on the answer to the President's Address the greater the effect of it would be. He hoped, therefore, that there would be no delay. He had in recollection a Message which was received from the President respecting the Colors of the French Republic, at the last session. Those very gentlemen who now wished a delay, then thought that, to let the subject lie over, would lose its principal effect, although several of the members wished it to lie over, and but for one day. Surely we have as much respect for the President as we have for the French Republic. He really hoped the business would not lie over.

Mr. W. Lyman hoped gentlemen did not look upon this answer to the President's Address as merely complimentary. He declared he took it up in a very different light; he viewed it as of the most extensive consequence; it related to the subjects recommended to the notice of the House by the President, which might relate to the alteration of the laws, and, perhaps, to the forming new laws; and could gentlemen have time to form their minds on such an important part of their business? He had only seen the report this morning, and hoped he should have time to consider it before it passed through the House.

The Speaker said, that the subject before the House now was, whether the unfinished business should be postponed in order to make room for a Committee of the Whole to sit on the report of the committee on the answer?

Mr. Parker observed, that he could not say whether he approved or disapproved of the answer before the House. He had not read the report; he therefore hoped that the unfinished business would be taken up and this postponed: he thought it was too important to be hastened. He wished gentlemen to be very careful how they committed themselves at a juncture so critical, and on business so momentous. We had just been told by the President that we did not stand well with the French nation; and the Senate, in their answer, had accorded with his observations on that subject. [Mr. P. was here informed that the business of the Senate ought not to be introduced here.] He therefore hoped a day might be allowed to take the subject into consideration.

Mr. Williams said, he had searched and could find no precedent in the Journal to encourage a delay of this business. He found that when a report was made by the committee on such an occasion, it was usual to be taken up by a Committee of the Whole House; and if gentlemen disagreed on the subject, it should be recommitted to the same committee who formed it, to make such alterations whereby it may meet more general approbation, or be amended by the House and passed. He hoped no new precedent would be made.

The Speaker again observed, that the question was on postponing the unfinished business to take up this report.

Mr. W. Smith said, that if this business was delayed it ought to be for substantial reasons. The principal reason gentlemen had urged was, that they had not had time to acquaint themselves with the answer. How, then, he asked, could they make their observations on it as they had done? The committee had, he thought, draughted it in such general terms that it could not be generally disapproved. There are but two parts in which he thought there would be differences of opinion, viz: that which related to the French Republic, and that which complimented the President for his services. As to the first, he thought it so expressed as to need no delay in the answer. With respect to the latter, he hoped no gentleman would refuse to pay a due regard to the President's services.

The Speaker again informed the House what was the question.

Mr. W. Smith said, we ought not now to reflect on any thing we may judge has not been done as we could wish. Could we refuse a tribute of respect to a man who had served his country so much? He thought a delay at present would have a very unpleasant appearance. He hoped we should go into this business immediately, agreeably to the former practice of the House on similar occasions. The unfinished business was yesterday postponed for want of proper information, and he thought the same reason was yet in force with respect to it. He hoped nothing would impede this business, lest it should appear like a want of respect in us. He hoped to see an unanimous vote in favor of a respectful answer to the Chief Magistrate, whose services we ought zealously to acknowledge.

Mr. Gilbert saw no reason to depart from a practice which had been usual; he therefore hoped the report might come under consideration to-day. He thought if it laid on the table an hour or an hour and a half, gentlemen could then be prepared to consider it.

The Speaker again put the House in mind of the question.

Mr. Nicholas said, if the business was pressed too precipitately, gentlemen may be sensible of their error when it was too late. Many bad consequences might attend hastening the subject before it was well matured. He could see no reason why the business should be precipitated upon the House—a proper delay would not show any want of respect to the President, as some gentlemen think. Would it be more respectful that an answer should be sent by this House, which, for want of time, had not been sufficiently considered? Certainly not. Far more so will it appear that after mature deliberation the members are unanimous in their answer. I therefore think the object of respect which the gentleman from North Carolina has in view will be completely answered by the delay.

Gentlemen talk about precedent. I am ashamed to hear them. There may be no precedent on the subject. But are we always to act by precedent? There is scarcely a circumstance occurs in this House but what is different from any that was before it. The President's Addresses to this House are always different. They relate to the circumstances of things that are, have been, and may be. Then, to talk of precedents where things cannot be alike, is to trammel men down by rules which would be injurious in the issue.

The Message of the President respecting the French Colors had been referred to. If gentlemen were then wrong, is that a reason why they should continue to act wrong? But this circumstance materially differs from that. That was merely an expression of sentiment, which could at once be determined, but this of sentiment, accompanied with deep and solemn reflection—it is so interwoven with the politics of the country as to require great circumspection. I hope gentlemen will not go into it until they are properly prepared. I wish to pay all possible respect to the Chief Magistrate, and cannot prove it better than by a sincere desire for an unanimous vote to the answer, which is only to be obtained by proper deliberation; and thus let him depart from his office with credit, and the enjoyment of our best wishes in his retirement.

The question for postponing the unfinished business to take up this report was then put and negatived—43 to 31.

The motion was then made for the order of the day on the petition of Henry Hill.

Mr. D. Foster hoped the business would be further postponed, as the necessary information on the subject had not been obtained. It was accordingly postponed.

Mr. W. Smith again moved for the House to take up the answer to the President's Speech.

Mr. Macon said, this was taking two different measures to accomplish the same object. He thought it was not in order, therefore should oppose it.

The Speaker said, the motion was perfectly in order. The other motion was, whether the unfinished business was to be delayed to make room for the answer; which unfinished business had now been dispensed with. A motion may now be made to fix this subject to a day certain, which would supersede the other motion.

Mr. Nicholas then moved that this business be postponed till to-morrow.

Mr. Coit hoped it would be postponed. This

committee was appointed last Thursday, but had not made their report till yesterday. He found the answer on the desk this morning, but had not read it; and, though he had such confidence in the gentlemen who drew it up, as that he was now ready to vote for it, yet, as many gentlemen wished to consider it, he thought they ought not to be pressed to vote too hastily. He hoped the motion would be carried.

The motion was put and carried for a postponement.

Wednesday, December 14.

Thomas Henderson, from New Jersey, and Thomas Hartley, from Pennsylvania, appeared and took their seats in the House.

A Letter was received from the Secretary of the Treasury, with proposals for laying on direct taxes; which, with all the papers accompanying the same, were, on motion of Mr. Macon, ordered to be printed.

HENRY HILL.

The Speaker informed the House that the report of the Committee of Claims on the petition of Henry Hill, was the order of this day, and, having a priority to other business, should now be taken up.

Mr. D. Foster observed, that, on account of not being able to obtain the papers necessary to throw a proper light on the subject, he hoped the consideration of it would be postponed or recommitted. There are several of the members of the committee not sufficiently acquainted with the business; it therefore required time before it could be acted on.

Mr. Heath hoped that it would be recommitted to the Committee of Claims.

The Committee of the Whole was then discharged, from a further consideration of the case, and the report was recommitted.

REPORTING OF THE DEBATES.

Mr. W. Smith moved for the order of the day on the petitions of Thomas Lloyd and Thomas Carpenter, whereupon the House resolved itself into a Committee of the Whole, when, having read the report of the committee to whom it was referred,

Mr. Macon wished some gentleman who was in that committee, would be so good as to inform the House what would be the probable expense, and for what reason the House should go into the business. He thought the expense altogether unnecessary, whatever it may be.

If the debates of this House were to be printed, and four or five copies given to each member, they would employ all the mails of the United States. He also adverted to the attempt at the last session to introduce a stenographer into the House, which failed.

Mr. Smith informed the gentleman that Mr. Lloyd's estimate of the expenses is, that he will supply the House with his reports at the rate of three cents per half sheet. His calculation is that he can supply the members at the expense of about $1,600 for the session. With respect to the gentleman's reference to last session, this was materially different from that: that motion was to make the person an officer of this House, and at an expense much greater. He thought this attempt would be of great use to the House. Regular and accurate information of the debates in the House would be a very desirable thing; he therefore hoped the resolution would prove agreeable to the House.

Mr. Williams said, that the House need not go into unnecessary expense: the members were now furnished, morning and evening, with newspapers which contained the debates; then why should the House wish for more? If one person in particular has the sale of his debates to this House, will it not destroy the advantages any other can derive from it? We ought not to encourage an undertaking of this kind, but let us encourage any gentlemen to come here and take down the debates. Last year they were taken down very accurately and dispersed throughout the Union.

By passing this resolution you will destroy the use of the privilege to any other than the person favored by this House. Why give one a privilege more than another? He observed, it had been common to give gentlemen the privilege to come into the House and take down the debates, which had been, last year, delivered time enough to give satisfaction to the members.

Mr. Thatcher said, he should wish for information from the committee how many persons there were to publish debates, as he understood there were several, and the members were to supply themselves from whom they pleased. He should likewise wish for information, how many each member was to have to amount to the value of $1,600?

Mr. W. Smith said, there had been petitions received from only two persons—Thomas Lloyd and Thomas Carpenter. They intended, each of them, to publish the debates. There might be others; he knew not. There was no intention of giving any one a preference—gentlemen could subscribe for that they approved of most. At the calculation of Mr. Lloyd the members would have five copies each for the $1,600.

Mr. W. Lyman said, the question was, whether the House would incur the expense of $1,600 to supply the members with copies or not? He thought there was no need of the expense. If the House do not think proper to furnish the members, they can supply themselves. A publication of them is going on at present, and many gentlemen had subscribed to it already.

Mr. Dearborn did not think that $1,600 thus laid out would be expended to the best possible advantage. From the number of persons which we see here daily taking down debates, he thought we might expect to see a good report of the occurrences in the House. There was a book going about for subscriptions, which appeared to be well encouraged; he saw many of the members names in it. He thought that, by a plan like that, the reports may be as accurately taken as

we may have any reason to expect if the House incurs this expense.

Mr. Nicholas observed, that members were now served with three newspapers. He thought to vote for this resolution on account of obtaining a more full and complete report than was to be had in the newspapers; thus it would supersede the necessity of taking so many papers. He thought this plan more useful to the member, and generally of more advantage to their constituents, as they could disperse those debates where otherwise they would not be seen.

Mr. Thatcher said, if the object of the motion was to supersede the receiving of newspapers, he certainly should vote against it. He did not consider the main reason why members were served with the newspapers was, that they may obtain the debates. No. He thought it more important, in their stations, that they should know the occurrences of the day from the various parts of the United States as well as from foreign nations. Though he might favor an undertaking of this kind, yet he would give preference to a newspaper, if they were to have the one without the other.

Mr. Heath did not wish that the members, being furnished with debates agreeably to the motion, should supersede the receiving of newspapers, yet he should vote for it. Gentlemen had said the debates were taken more correctly last session than before, yet he had heard a whisper which was going from North to South, that our debates are not represented impartially. He wished the House and the people to be furnished with a true report; such a thing would be very useful: however, he did not wish to encourage a monopoly to those two persons. No. He would wish to give an equal chance to all who choose to come and take them. Shall we repress truth? I hope not; but disseminate it as much as possible. Last session, when I was, under the act of God's providence, prevented from attending the House, a member sent for a gentleman from Virginia, who was to act as stenographer, with whom the House and a printer in this city were to combine. Warm debates ensued on the propriety of the measure, and the gentleman returned home after the motion was negatived. I hope gentlemen will not grudge 1,600 dollars towards the support of truth. What we see now in the newspapers is taken from the memory, and not by a stenographer. The people will thank you that you have taken means to investigate truth. If any gentleman can point out a better mode to obtain this object, I hope he will do it that it may be adopted; till then I shall support the resolution.

Mr. Sherburne did not think, with the gentleman last up, that the interest of the country was concerned; the only thing they were concerned in was the payment of the money. The printing of this work did not depend on the motion of this House. Whether the House adopt it or not, the book will be published. It is a matter of private interest; a speculation in the adventurer, like other publications. The question, he conceived, meant only this: Should the members be supplied with these pamphlets at the expense of the public, or should they put their hands in their own pockets and pay for them individually? He thought the House had no greater reasons to supply the members with this work than other publications; they might as well be furnished with the works of *Peter Porcupine*, or the *Rights of Man*, at the public expense.

Mr. W. Smith said, the gentleman was mistaken with respect to the work going on, whether supported by the House or not. It was true as it respected the work proposed by Mr. Carpenter; but, with respect to Mr. Lloyd, he declared he could not undertake it, except the House would subscribe for five copies for each member.

Mr. Swanwick considered the question to be to this effect: whether the debates be under the sanction of the House or not? A gentleman had said, it will be a great service to the public to have a correct statement of the debates. I think the most likely way to obtain it correctly is to let it rest on the footing of private industry. We have a work, entitled *The Senator*, in circulation. I have no doubt but the publisher will find good account in the undertaking. Why should the House trouble itself to sanction any particular work? Gentlemen would then have enough to do every morning in putting the debates to rights before they were published, as they would be pledged to the accuracy of the reports. I never heard that, in the British House of Commons or Lords, such a motion was ever made, nor have I ever heard of such in any other country; then why should we give our sanction and incur a responsibility for the accuracy of it. He said he should vote against the motion, but would encourage such a work while it rested on the footing of private adventure.

Mr. Thatcher said, he differed much from the gentleman last up, as it respected the responsibility of the House on such a publication. He thought it might as well be said, that because there had been a resolution for the Clerk to furnish the members of this House with three newspapers, the House was responsible for the truth of what those newspapers contained; if it was so, he should erase his name from his supply of them, as he thought, in general, they contained more lies than truth. Two considerations might recommend the resolution. It would encourage the undertaking, and also add to the stock of public information: on either of these, he would give it his assent. Soon after he came into the city, a paper was handed him with proposals for a publication of this kind (*The Senator*.) He, with pleasure, subscribed to its support; as to general information, that was given already by newspapers, and though each member was to be supplied with five copies, yet very few would fall into hands where the newspapers did not reach. The work would go forward at any rate. If he thought the work depended on the motion, he should rejoice to give his vote toward its aid. On the question being put, only nineteen gentlemen voted in favor of the resolution; it was therefore negatived.

The Committee then rose, and the House took up the resolution.

Mr. Thatcher observed, the question was put while he was inattentive: he wished it to lie over till to-morrow.

Mr. Giles wished to indulge the gentleman in his desire.

Mr. Thatcher then moved for the vote of the House, whether the report of the Committee of the Whole be postponed. Twenty-four members only appearing for the postponement, it was negatived.

The question was then put, whether the House agreed to the report of the Committee of the Whole and disagreed with the report of the select committee; which appeared in the affirmative. The motion was therefore lost.

ADDRESS TO THE PRESIDENT.

The House again resolved itself into a Committee of the Whole on the Answer to the President's Address; when the Answer reported by the select committee was read by the Clerk, and then in paragraphs by the Chairman, which is as follows:

Sir: The House of Representatives have attended to your communication respecting the state of our country, with all the sensibility that the contemplation of the subject and a sense of duty can inspire.

We are gratified by the information that measures calculated to insure a continuance of the friendship of the Indians, and to maintain the tranquility of the *interior* frontier, have been adopted; and we indulge the hope that these, by impressing the Indian tribes with more correct conceptions of the justice, as well as power of the United States, will be attended with success.

While we notice, with satisfaction, the steps that you have taken in pursuance of the late Treaties with several foreign nations, the liberation of our citizens who were prisoners at Algiers is a subject of peculiar felicitation. We shall cheerfully co-operate in any further measures that shall appear, on consideration, to be requisite.

We have ever concurred with you in the most sincere and uniform disposition to preserve our neutral relations inviolate; and it is, of course, with anxiety and deep regret we hear that any interruption of our harmony with the French Republic has occurred; for we feel with you and with our constituents the cordial and unabated wish to maintain a perfectly friendly understanding with that nation. Your endeavors to fulfil that wish, [*and by all honorable means to preserve peace, and to restore that harmony and affection which have heretofore so happily subsisted between the French Republic and the United States,*] cannot fail, therefore, to interest our attention. And while we participate in the full reliance you have expressed on the patriotism, self-respect, and fortitude of our countrymen, we cherish the pleasing hope that a *mutual* spirit of justice and moderation on *the part of the Republic* will insure the success of your perseverance.

The various subjects of your communication will, respectively, meet with the attention that is due to their importance.

When we advert to the internal situation of the United States, we deem it equally natural and becoming to compare the tranquil prosperity of the citizens with the period immediately antecedent to the operation of the Government, and to contrast it with the calamities in which the state of war still involves several of the European nations, as the reflections deduced from both tend to justify, as well as to excite, a warmer admiration of our free Constitution, and to exalt our minds to a more fervent and grateful sense of piety towards Almighty God for the beneficence of His providence, by which its administration has been hitherto so remarkably distinguished.

And while we entertain a grateful conviction that your wise, firm, and patriotic Administration has been signally conducive to the success of the present form of Government, we cannot forbear to express the deep sensations of regret with which we contemplate your intended retirement from office.

As no other suitable occasion may occur, we cannot suffer the present to pass without attempting to disclose some of the emotions which it cannot fail to awaken.

The gratitude and admiration of your countrymen are still drawn to the recollection of those resplendent virtues and talents which were so eminently instrumental to the achievement of the Revolution, and of which that glorious event will ever be the memorial. Your obedience to the voice of duty and your country, when you quitted reluctantly a second time the retreat you had chosen, and first accepted the Presidency, afforded a new proof of the devotedness of your zeal in its service, and an earnest of the patriotism and success which have characterized your Administration. As the grateful confidence of the citizens in the virtues of their Chief Magistrate has essentially contributed to that success, we persuade ourselves that the millions whom we represent participate with us in the anxious solicitude of the present occasion.

Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind than valuable to a Republic.

Although we are sensible that this event, of itself, completes the lustre of a character already conspicuously unrivalled by the coincidence of virtue, talents, success, and public estimation, yet we conceive that we owe it to you, sir, and still more emphatically to ourselves and to our nation (of the language of whose hearts we presume to think ourselves at this moment the faithful interpreters) to express the sentiments with which it is contemplated.

The spectacle of a whole nation, the freest and most enlightened in the world, offering by its Representatives the tribute of unfeigned approbation to its first citizen, however novel and interesting it may be, derives all its lustre—a lustre which accident or enthusiasm could not bestow, and which adulation would tarnish—from the transcendent merit of which it is the voluntary testimony.

May you long enjoy that liberty which is so dear to you, and to which your name will ever be so dear. May your own virtues and a nation's prayers obtain the happiest sunshine for the decline of your days and the choicest of future blessings. For your country's sake—for the sake of Republican liberty—it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants.

Mr. Venable observed, on a paragraph wherein it speaks of the "tranquility of the interior frontier," he did not know what was the meaning of the expression: he moved to insert "Western frontier" in its stead.

Mr. Ames observed that the words of the report are in the President's Speech; however, he thought the amendment a good one. It then passed.

In the fourth paragraph are these words: "Your endeavors to fulfil that wish cannot fail, therefore, to interest our attention." At the word "wish," Mr. Giles proposed to insert these words: "and by all honorable means to preserve peace, and restore that harmony and affection which have heretofore so happily subsisted between the French Republic and this country;" and strike out the words that follow "wish" in that paragraph. He said, his reasons for moving this amendment were to avoid its consequences. He really wished the report entirely recommitted, as there were many objectionable parts in it. He had been very seriously impressed with the consequences that would result from a war with the French Republic. When I reflect, said Mr. G., on the calamities of war in general, I shudder at the thought; but, to conceive of the danger of a French war in particular, it cuts me still closer. When I think what many gentlemen in mercantile situations now feel, and the dreadful stop put to commerce, I feel the most sincere desire to cultivate harmony and good understanding. I see redoubled motives to show the world that we are in favor of a preservation of peace and harmony.

Mr. W. Smith said, he should not object to the amendment; but he thought it only an amplification of a sentiment just before expressed. He did not see any advantage in the sentiment as dilated, nor could he see any injury which could accrue from it. He hoped every gentleman in the House wished as sincerely for the preservation of peace as that gentleman did.

Mr. Ames wished to know of the gentleman from Virginia, whether he meant to strike out the latter part of this paragraph; if he did, he would object to it.

Mr. Giles said, he did not mean to strike out any more of this paragraph.

Mr. Ames wished it not to be struck out. By the amendment to strike out, we show the dependance we place on the power and protection of the French. While we declare ourselves weak by the act, we lose the recourse to our own patriotism, and fly, acknowledging an offence never committed, to the French for peace. He hoped the gentleman would be candid upon this occasion.

Mr. Giles said, he only wished this House to express their most sincere and unequivocal desire in favor of peace, and not merely to leave it to the President. He said, he had spoken upon this occasion as he always had done on this floor. He always had, and he hoped always should, state his opinions upon every subject with plainness and candor.

The amendment passed unanimously.

Mr. Giles then proposed an amendment to the latter part of the same paragraph, which would make it read thus: "We cherish the pleasing hope that a spirit of mutual justice and moderation will insure the success of your perseverance." The amendment was to insert the word "mutual." He thought we ought to display a spirit of justice and moderation as well as the French. This amendment, he thought, would soften the expression, and, acting with that spirit of justice and moderation, accomplish a reconciliation. The amendment was adopted.

On the Chairman's reading the last paragraph except one in the report, which reads thus: "The spectacle of a whole nation, the *freest and most enlightened in the world*," Mr. Parker moved to strike out the words in italic. Although, said he, I wish to believe that we are the freest people, and the most enlightened people in the world, it is enough that we think ourselves so; it is not becoming in us to make the declaration to the world; and if we are not so, it is still worse for us to suppose ourselves what we are not.

Mr. Harper said, he had a motion of amendment in his hand which would supersede the necessity of the last made, which, if in order, he would propose: it was to insert words more simple. He thought the more simple, the more agreeable to the public ear. His amendment, he thought, would add to the elegance and conciseness of the expression. He did not disapprove of the Address as it now stood, but he thought it might be amended. This, he said, would add to the dignity, as well as to the simplicity of the expression. He thought it would be improper to give too much scope to feeling: amplitude of expression frequently weakens an idea.

Mr. Giles said he saw many objectionable parts in the amendments proposed by the gentleman just sat down. He wished to strike out two paragraphs more than Mr. Harper had proposed; indeed, he wished the whole to be recommitted, that it might be formed more congenial to the wishes of the House in general, and not less agreeable to the person to be addressed.

Mr. Smith observed, that, as the Answer had been read by paragraphs nearly to the close, he thought it very much out of order to return to parts so distant.

The Chairman said that no paragraph on which an amendment had been made could be returned to; but where no amendment had been made, it was quite consistent with order to propose any one gentleman may think proper.

Mr. Harper thought the maxim recommended in private life might be very applicable to us at this time, which is, Never to leave till to-morrow what can be as well done to-day. He was quite opposed to a recommitment, and his reason was, that the House at this time is quite competent to adopt all the necessary amendments. In cases of law, when evidences are to be collected in order to prove facts, it may sometimes be proper to delay; but here is no such thing. The Committee of the Whole can as well amend it as a select committee. Surely it may be made more complete by a large number than by a small. We have every means of information, and full power to do it now, and a delay is quite unnecessary. There are no points now unknown to the House; we are in possession of a complete knowledge of the whole, and can now form our minds on it; it is simple matter, on which we can soon decide. He hoped we should speedily conclude, on a subject

of this nature, an Answer to the President, which can as well be done now as a month hence.

Mr. W. Smith opposed striking out any paragraph. It was, he said, the last occasion we should have to address that great man, who had done so much service to his country. The warmth of expression in the Answer was only an evidence of the gratitude of this House for his character. When we reflect on the glowing language used at the time when he accepted of the office of President, and at his re-election to that office, why, asked he, ought not the language of this House to be as full of respect and gratitude now as then? particularly when we consider the addresses now flowing in from all parts of the country. I object to the manner of gentlemen's amendments as proposed, to strike out all in a mass. If the sentiments were agreeable to the minds of the House, why waste our time to alter mere expressions while the sentiment is preserved? No doubt every gentleman's manner of expression differed, while their general ideas might be the same. He hoped mere form of expression would not cause its recommitment.

Mr. Giles did not object to a respectful and complimentary Address being sent to the President, yet he thought we ought not to carry our expressions out of the bounds of moderation; he hoped we should adhere to truth. He objected to some of the expressions in those paragraphs, for which reason he moved to have the paragraphs struck out, in order to be amended by the committee. He wished to act as respectful to the President as any gentleman, but he observed many parts of the Address which were objectionable. It is unnatural and unbecoming in us to exult in our superior happiness, light, or wisdom. It is not at all necessary that we should exult in our advantages, and thus reflect on the unhappy situation of nations in their troubles; it is insulting to them. If we are thus happy it is well for us; it is necessary that we should enjoy our happiness, but not boast of it to all the world, and insult their unhappy situations.

As to those parts of the Address which speak of the wisdom and firmness of the President, he must object to them. On reflection, he could see a want of wisdom and firmness in the Administration for the last six years. I may be singular in my ideas, said he, but I believe our Administration has been neither wise nor firm. I believe, sir, a want of wisdom and firmness has brought this country into the present alarming situation. If after such a view of the Administration, I was to come into this House and show the contrary by a quiet acquiescence, gentlemen would think me a very inconsistent character. If we take a view of our foreign relations, we shall see no reason to exult in the wisdom or firmness of our Administration. He thought nothing so much as a want of that wisdom and firmness had brought us to the critical situation in which we now stand.

If it had been the will of gentlemen to have been satisfied with placing the President in the highest possible point of respect amongst men, the vote of the House would have been unanimous; but the proposal of such adulation could never expect success. If we take a view into our internal situation, and behold the ruined state of public and private credit, less now than perhaps at any former period however, he never could recollect it so deranged. If we survey this city, what a shameful scene it alone exhibits, owing, as he supposed, to the immense quantity of paper issued. Surely this could afford no ground for admiration of the Administration that caused it.

I must acknowledge, said Mr. Giles, that I am one of those who do not think so much of the President as some others do. When the President retires from his present station, I wish him to enjoy all possible happiness. I wish him to retire, and that this was the moment of his retirement. He thought the Government of the United States could go on very well without him; and he thought he would enjoy more happiness in his retirement than he possibly could in his present situation. What calamities would attend the United States, and how short the duration of its Independence, if one man alone can be found to fill that capacity! He thought there were thousands of citizens in the United States able to fill that high office, and he doubted not that many may be found whose talents would enable them to fill it with credit and advantage. Although much had been said, and that by many people, about his intended retirement, yet he must acknowledge he felt no uncomfortable sensations about it; he must express his own feelings. he was perfectly easy in prospect of the event. He wished the President as much happiness as any man. He declared he did not regret his retreat; he wished him quietly at his seat at Mount Vernon; he thought he would enjoy more happiness there than in public life. It will be very extraordinary if gentlemen, whose names in the yeas and nays are found in opposition to certain prominent measures of the Administration, should come forward and approve those measures: this we could not expect. He retained an opinion he had always seen reason to support, and no influence under Heaven should prevent him expressing his established sentiments; and he thought the same opinions would soon meet general concurrence. He hoped gentlemen would compliment the President privately, as individuals; at the same time, he hoped such adulation would never pervade that House.

I must make some observation, said Mr. G., on the last paragraph but one, where we call ourselves "the freest and most enlightened nation in the world:" indeed, the whole of that paragraph is objectionable; I disapprove the whole of it. If I am free, if I am happy, if I am enlightened more than others, I wish not to proclaim it on the house top; if we are free, it is not prudent to declare it; if enlightened, it is not our duty in this House to trumpet it to the world: it is no Legislative concern. If gentlemen will examine the paragraph, (referring to that contained in the parenthesis,) it seems to prove that the gentleman who drew it up was going into the field of adulation; which would tarnish a private character. I do think this

kind of affection the President gains nothing from. The many long Addresses we hear of, add nothing to the lustre of his character. In the honor we may attempt to give to others we may hurt ourselves. This may prove a self-destroyer; by relying too much on administration, we may rely too little on our own strength.

Another expression I would notice is in the last paragraph, wherein it says, "that your example may be the guide of your successors." I think it time enough to speak of the successor of the President when he arrives; whoever he may be, there is no doubt but he will do his duty to the best of his ability.

These sentiments seemed to be so mixed, that I could not separate them. I submit them to the Committee, and declare my desire that the whole of the report may be recommitted.

Mr. Harper thought it would be strictly in order to move a division of the question on this motion. The paragraph which he had the honor of moving to this House, instead of the seventh paragraph, was wholly personal to the President; the other, immediately preceding this, which the gentleman last up included, related wholly to the country; it contained objects of great importance, and as the two so materially differ from each other, many gentlemen might wish to retain one, and strike the other out. The first question would naturally be on the first of the two. "When we advert," &c. He hoped this paragraph would not be struck out; this related altogether to the situation, to the happiness of the country, and its prosperity, and relates to the influence our happy Constitution has had towards producing and preserving that state of enjoyment. Could this be denied? Is there any man here, he would ask, who can deny that we are in a prosperous state, and that it is heightened by our present Constitution? I must assert that our prosperity is produced through the instrumentality of the wise system adopted. There may be degrees of prosperity, and different opinions on the subject. Some might think that the trifling derangements which have of late taken place in the commercial world are evidences of our want of prosperity. I think not. Some think such things are no proofs of a country's decline. Though the gentleman from Virginia has attributed the late failures in this city to the too great emission of paper money by Government, he must beg leave to differ from him; he thought it no proof of the want of prosperity. Will any man pretend to say that we are not free? That we are not happy? That our trade is less flourishing than formerly? That our agriculture was not increasing, or that our laws were less obeyed than usual? No; he thought none could deny this. And will any, can any say, that our present form of Government has not had an influence in producing this flourishing state of our affairs? Will any say, that had not such a form of Government been established, or a similar one, we should have been so free, so happy? He thought not. When we take a view of our situation before the existence of the present form of Government with respect to agriculture, trade, and commerce, and brought the comparison up to the present time, then he was persuaded gentlemen would acknowledge that we enjoyed a state of prosperity, and if we enjoyed it, wherein was the harm to declare it? We are in a very great degree prosperous, and that is in a very great degree owing to the present established Government.

The measures which this gentleman would wish to adopt might produce a system more happy: however, he did not think it would. That already adopted has been productive of great national happiness. We feel freedom exists; whence do we suppose it proceeds, but from the measures of Government? If this be the case, gentlemen must allow that in the words of the paragraph proposed to be struck out, there is not that impropriety imagined. If they concur with me in all those sentiments, (and which of them will say he does not concur in them,) where is the propriety to refuse the clause in the Address? I hope, said Mr. H., they will say with me, that the clause should stand, as containing an acknowledment of our superior situation to the Government where it is due. He hoped the question would be divided.

Mr. Nicholas said it could not be divided. The gentleman last up must be mistaken to suppose so. The member may vote against the proposition of Mr. Giles, but either all must go, or none, according to the motion.

Some conversation here ensued between Mr. W. Smith, Mr. Giles, and the Chairman, about a point of order in striking it out.

Mr. Giles then said, gentlemen might refuse to strike out the whole, and then move to strike out a part; and so attain their object. But, said he, admitting the paragraph to be founded on truth, were they, as legislators, to speak it in the face of the world? It is a matter of doubt; but suppose it true, what have we to do with it here? Suppose an individual were to go into his neighbor's house, and say to him, I am very rich, and you are poor; I am very happy, and you are miserable, would not his neighbor think it meant to insult him? Would it not degrade the poor man's misery? This conduct would surely be indelicate; and if indelicate and inconsistent in an individual, let us take every means to avoid this conduct as a nation.

Mr. Sitgreaves said, that whatever division of the question gentlemen would propose, was indifferent to him; the words of the answer were perfectly congenial with his wishes, and he was prepared to give his opposition to any of the amendments proposed. On mature deliberation, there was not a sentiment in the report but he highly approved. He could not see any thing unnatural or unbecoming in drawing just comparisons of our situation with that of our neighbors; this is the only way we can form a just view of our own happiness. It is a very necessary way to come to a right knowledge of our own situation by comparing it with that of other nations. He would not reproach another people because they are not so happy as we are; but he thought drawing simple comparisons in the way of the report was no reproach. He was not against bringing the com-

person down to private life, as the gentleman from Virginia had done; he should think it wrong in a man to exult over his neighbor who was distressed or ignorant, because himself was wealthy or wise. Yet he saw no impropriety in his own family of speaking of their happiness and advantages, compared with that of others; it would awaken in them a grateful sense of their superior enjoyments, while it pointed out the faults and follies of others, only in order that those he had the care of may learn to avoid them: thus while our happiness is pointed out, the miseries of nations involved in distress are delineated to serve as beacons for the United States to steer clear of. He did not, with the gentleman from Virginia, in any degree, doubt of the wisdom or firmness of the Administration of America. In the language of the Address, he entertained a very high opinion of it, "a grateful conviction that the wise, firm, and patriotic Administration of the PRESIDENT had been signally conducive to the success of the present form of Government." Such language as this is the only reward which can be given by a grateful people for labors so eminently useful as those of the PRESIDENT had been. This was not his sentiment merely, it was the sentiment of the people of America. Every public body were conveying their sentiments of gratitude throughout the whole extent of the Union. Why then should this House affect a singularity, when our silence on these points would only convey reproach instead of respect. If these sentiments were true, why not express them? But if, on the contrary, what the gentleman asserted, that the Administration of the PRESIDENT had been neither wise, firm, nor patriotic, then he would concur with the motion for striking out; but he was not convinced of the truth of this assertion; and while this is not proved, he should vote against the motion.

It has been said, sir, that the disagreeable circumstances which have lately occurred between this country and France is owing to a want of judgment in our Administration; his opinion, he said, was directly the contrary. He had occasion on a recent circumstance, at the last session, to express his opinion, it was the opinion of the House, and he thought it had not changed since that time. He saw no reason why the state of private credit should influence the deliberations of that House. He thought it not at all imputable to the Administration, nor should it be mentioned to tarnish the lustre of our state of prosperity; it is no more than a speck in the sun. It should not be mentioned to prevent our expressions of the obligations which we owe to the PRESIDENT for his services. As well might the late dreadful fires at Savannah and New York be imputable to a want of wisdom in the Administration. Why are we not told of them as well as the derangements among a few merchants? Such trivial matters were not to be spoken of in a national view. If that gentleman [Mr. GILES] does not regret the PRESIDENT's retreat from office, I do; and I believe America does: and this regret is not improper nor undignified.

That gentleman has said there are many others in America capable of filling the office. It may be so; there doubtless are; I do not wish to draw a comparison between the PRESIDENT and others. But does it follow thence that we should not regret losing a faithful public servant? We should regret him on account of his attachment to our Constitution—on account of the tried confidence universally placed in him. Confidence in the officers of Government under every form is necessary, and most particularly so in a Republican form: it is the vital principle whereby it is kept in existence—the chief source of its energy. We could not expect that so great a portion of public confidence would be laid on his successor, although he may be a man of equal integrity.

Mr. STRUDWICK said, he could not agree with the motion of the gentleman from South Carolina, [Mr. HARPER,] because his motion was for substituting other words in the place of those in the report, without any reason whatever. If the gentleman, by altering the phraseology, can make the sentiment any better, by all means let it be done: but if the sentiment is not to be changed, why alter it merely to substitute other words? On the whole, Mr. S. observed, that he did not see the answer could in any degree be reproached. There are no sentiments in it but what are justifiable on the ground of truth: they are free from adulation. It is such an expression of national regret and gratitude as the circumstance calls for; a regret at the retirement of a faithful and patriotic Chief Magistrate from office. A regret and gratitude which he believed to be the sentiment of Americans.

Mr. SWANWICK began by observing that there were points in the Address in which all gentlemen seemed to agree, while on other parts they cannot agree. We all agree in our desire to pay the PRESIDENT every possible mark of respect; but we very materially disagree wherein a comparison is drawn between this and foreign nations. If we are happy and other nations are not so, it is but well for us; but he thought it would be much more prudent in us to let other nations discover it, and not make a boast of it ourselves. It is very likely that those nations whom we commiserate may think themselves as happy as we are: they may feel offended to hear of our comparisons. If we refer to the British Chancellor of the Exchequer in his speeches, he would tell us that is the happiest and most prosperous nation upon earth. How then can we commiserate with it as an unfortunate country? If, again, we look to France, that country which we have pointed out as full of wretchedness and distress, yet we hear them boast of their superiority of light and freedom, and we have reason to believe not without foundation. A gentleman had talked about the flourishing state of our agriculture, and asserted that our late commercial calamities were not proofs of our want of prosperity, which the gentleman compared to specks in the sun. That gentleman speaks as though he lived at a distance. Has he heard of no commercial distresses, when violations so unprecedented have of late occurred?

One merchant has to look for his property at Halifax, another at Bermuda, another at Cape Francoise, another at Gonaives, &c., all agree that they have suffered, and that by the war. These are distresses gentlemen would not like to feel themselves. Mr. S. said he had felt for these occurrences. We are not exempt from troubles; probably we may have suffered as much as other nations who are involved in the war. It is a question whether France has been distressed at all by the war. She has collected gold and silver in immense quantities by her conquests, together with the most valuable stores of the productions of the arts; as statues, paintings, and manuscripts of inestimable worth; and at sea has taken far more in value than she has lost: besides, her armies are subsisting on the requisitions her victories obtain. And has England gained nothing by the war? If we hearken to Mr. Pitt, we may believe they are very great gainers. Surely the islands in the West and East Indies, Ceylon, and the Cape of Good Hope, the key to the East Indies, are advantages gained; besides the quantity of shipping taken from our merchants. Mr. S. thought if we were to compare, we should find those nations had gained by the war, while we had lost; and of course there was no reason for us to boast of our advantages.

When we send a ship to sea we cannot possibly know at what port she will arrive; so uncertain is our trade; in consequence of which the rates of insurance are doubled. Our funds are rather on the decline. Agriculture, it is true, is in a prosperous state. However, he thought the present, of all others, was not the time to draw comparisons. What is the probable effect of this kind of conduct? If we are happy, and make a boast of it, it will be sure to beget envy. Nobody is envious of the fortune of the poor, while every one envies the rich. Shall we invite new depredations upon our commerce by such representations of our prosperity? It is a kind of indirect hostility to vaunt of our happiness, comparing it to nations in adversity: such language ill-becomes this Address. There is great indication of hostility; let us not add to the danger. We might express pleasure at our own situation of affairs without depreciating the prosperity of other nations. The gentleman from Virginia has said, we are the freest and most enlightened nation in the world. Surely this will only have an effect to create rivals and enemies: it will do us no good. I sincerely wish it to be recommitted, that it might be made more agreeable to the will of the House. He said he was sensible that all the House wished to express might be put in the Address, without drawing a comparison between this country and foreign nations: we had enough to do with them already, without taking more. Happy for us, said Mr. S., if we can keep up peace with them. We are every day suffering in our commerce, and in the impressing of our seamen. [He here referred particularly to the cruel treatment of Captain Jessup, who suffered most severely from the discipline of an English man-of-war, although Captain of an American vessel.] If we have suffered those calamities, it is through a want of power to repress it. The unprotected state of our seamen and shipping, he said, demanded attention. The providing a Navy to support our rights was recommended by the PRESIDENT in his Speech. Many parts of that Address indicated the state of our affairs were not in that prosperous situation which had been represented. Let us then, said Mr. S., improve our own situation as much as possible, but avoid reflecting on other nations.

Mr. W. SMITH next rose, and observed that gentlemen wished to compliment the PRESIDENT, but took away every point on which encomium could be grounded. One denies the prosperity of the country, another the free and enlightened state of the country, and another refuses the PRESIDENT the epithet of wise and patriotic.

Mr. GILES here rose to explain; if he was meant, he must think the gentleman was wrong in his application. He said he had never harbored a suspicion of the good intentions of the PRESIDENT, nor did he deny his patriotism; but the wisdom and firmness of his Administration he had doubted. He thought him a good meaning man, but often misled.

Mr. SMITH again rose, and said, he must confess himself at a loss for that refinement to discover between the wisdom and patriotism of the PRESIDENT, and that of his Administration. It was moved to strike out this acknowledgment of wisdom and firmness. What were we to substitute as complimentary to him in its place? The first paragraph proposed to be struck out related to our speaking of the tranquility of this country, compared to nations involved in war. Could this give offence, because we feel pleasure in being at peace? It was only congratulating our own constituents on the happiness we enjoy. To appreciate the value of peace it was necessary to compare it with a state of war. It was the wisdom of this country to keep from war, and other nations hold it up as exemplary in us. The gentleman himself has declared his wish for the preservation of peace; and though he admires it, and nations admire it in us, yet we are not to compare our state with nations involved in the calamities of war, in order to estimate our enjoyments. The words of this Address are not a communication to a foreign Minister; it is a congratulation to our own Chief Magistrate of the blessings he, in common with us, enjoys. Mr. S. hoped the words would not be struck out.

The gentleman has said that the PRESIDENT had not been either wise or firm, as it respected our foreign relations. Will the gentleman point out one of the acts wherein the PRESIDENT has failed in this respect; let him put his finger on one place and say, here is an instance where he has failed in wisdom, in firmness.

With respect to what the gentleman refers to, when he says the want of wisdom and firmness in the PRESIDENT has brought us into this situation with France, Mr. S. would observe, that the note of the French Minister does not relate to the Executive, but to the Legislative part of our

Government; there is no act of the President on the subject of a complaint of the French Minister, but what has been also the action of the Congress. How, then, can gentlemen cast the whole blame on him when every act was sanctioned by Congress? If there was any blame, it fell on the Congress. Mr. S. made mention of the act respecting prizes, which act he said passed with very little opposition in this House. Another was the Proclamation of Neutrality, of which we had at that time a general approbation from North to South by the addresses sent. This is what Mr. Adet called "the insidious act." It was as much the act of Congress as of the President. He hoped the influence of foreign Ministers would never separate the President from the other branches of Government, or the Government from the people.

If we are to please some gentlemen, we must not say we are in prosperity; we must not draw a comparison with other nations. The gentleman from Pennsylvania [Mr. Swanwick] says, France and England say they are happy and prosperous. If those nations say they are prosperous, they surely cannot be offended at our calling ourselves so, as that gentleman supposes; at most they will only laugh at our folly for our comparison.

He said, he was very much surprised, and at a loss to know how the gentleman had changed his opinion so much since the last session; when the British Treaty was before them, he spoke much on the happiness of this country; he mentioned the great increase of commerce and manufactures which had taken place; he said they had outgrown themselves as a boy outgrows his clothes; but that gentleman will not now allow the prosperity of the country to be mentioned. With respect to that part of the Address which mentions our being a free and enlightened people, that had been objected to. He wished to inquire of gentlemen, what nation was so free or enlightened as ours; he wished them to specify one.

In my review of all that I have read, said he, I know of none that enjoy so much civil and religious freedom as America, or is so enlightened, especially in the affairs of Government. Is there any nation on the earth, all things considered, that any gentleman would be willing to exchange for this? He presumed not.

The gentleman from Virginia [Mr. Giles] says he shall not regret the President's retirement from public life; observing that there are many who would fill his place with equal merit. But he would ask, where is the man who enjoys so great a portion of public confidence? Where is the man who could pilot this vessel of State through, amidst the storms and quicksands which this ship has experienced, without a wreck? We may here take a view of the insidious attempts of a foreign Minister (Genet) to involve this country in a war; and of the Western insurrection. Was it not to be regretted that such an useful man should retire from his public station? It has been said there is too much adulation in the report. Truth, sir, cannot be adulation. Let any one point to a place in the Address, and say there is no truth in this? No, sir, it is not adulation; it is justice; it is gratitude; it is only a recital of facts. We never can enough express our grateful obligations to a man who has done so much for us. Let us advert to the time of the President's coming into office, and to his re-election; study the Address that was then presented to him. Had he deserved a forfeiture of the respect then shown to him? Were we to strike out the words in the motion, it would be said that we were not only withholding our praise, but it must be construed into a reproach. If we were to strike out these expressions of gratitude, and some cold, dry compliments be substituted in their place, it would with good reason be judged by some, that he truly did want wisdom; that he had not been conducive to the prosperity of this country, and that he had destroyed public and private credit, and caused other mischiefs which were represented to exist.

When this great man was going to retire forever from public to private life, it would be expected that in the answer we send to his Address, we should express the strongest sentiments of love and gratitude to him for his eminent services to his country. Every State Legislature which has met since he signified his intention to retire, have sent their expressions of approbation and gratitude to him. Why should we alone be silent? Why send him into the shades of retirement with daggers in his heart? Such a mutilated answer as the one proposed, would disgrace him in his retirement.

Gentlemen are opposed to the wish that he might be a guide to his successors; but said Mr. S., I pray God, whoever he may be, he may follow the example, and tread in the steps of the man whose Administration I admire. I think there is nothing in the Address but what is consistent with a due respect to his character, and taking the whole no way liable to the objections made. He, therefore, hoped no alteration whatever would be made.

Mr. Dayton (the Speaker) said, that he did not rise to accept the challenge given by the gentleman who spoke last from South Carolina, and to point out a nation more free and enlightened than ours; nor did he mean to contest the fact of ours being the freest and most enlightened in the world as declared in the reported Address, but he was nevertheless of opinion that it did not become them to make that declaration, and thus to extol themselves by a comparison with, and at the expense of all others. Although those words were in his view objectionable, he was far from assenting to the motion for striking out the seven or eight last clauses of the Address. The question of order having been decided, Mr. D. said he would remind the Committee, that, if they wished to retain, or even to amend any section or sentence of all that was proposed to be struck out, they ought to give their negative to this motion, as the only means of accomplishing their purpose. It was sufficient, therefore, for those who were opposed to the question for striking out the whole,

to show that any part included within it ought to be preserved. Not unnecessarily to waste time by lengthening the debate he would take the clause first in order, and confine his remarks to that alone. This part of the Address had certainly not been read or had been misunderstood and misrepresented by the member for Pennsylvania.

Did it draw a comparison, as had been suggested by that gentleman, between the relatively happy state of the country in the present, and the year immediately preceding? Did it go further than to say, that the situation of the United States was more prosperous at this period than at that which immediately preceded the operation of the present Government? Certainly it did not; and were proofs necessary to substantiate this fact, or arguments wanted to enforce it? The state of this country under this Government was that of order and union; their situation at the period alluded to was a melancholy scene of disunion and dissolution. This happy change was ascribed and justly ascribed, in the report, to our free and excellent form of Government, and the interposition of an overruling Providence in our national affairs, neither of which he trusted a majority of that House would be prepared to deny or dispute. He could not discern the least possibility of giving offence to other nations in contrasting the blessings derived to this country from a state of peace with the calamity in which a state of war involves those who are so unhappy as to be engaged in it. The expressions were such as could not be construed either to impeach, or indeed to have any allusion to, the forms of Government under which they lived. If those forms were such as best suited the disposition and circumstances of those who had adopted them, and were best calculated to render them happy, surely it must be admitted that war was not less a calamity even to those the most favorably circumstanced in that respect, and it could not therefore be considered a reflection upon them to call it so, nor to deprecate such a state of things, or to contrast it with that of peace, which this country was so happy as to enjoy. He had hoped that the mover, upon reviewing this clause, would have excluded it from his motion; but, as he did not think proper to do so, Mr. D. could say, with great confidence, that a majority of the House could not be found to rise for striking out a proposition which embraced the acknowledgment of a state of good Government as preferable to disunion and anarchy; and a state of war as preferable to that of peace, and contained expressions of gratitude to Providence for an overruling care, signally manifested in our affairs.

Mr. Ames said, if gentlemen meant to agree to strike out the whole as proposed, in order to adopt those words substituted by the gentleman from South Carolina [Mr. Harper,] he must observe, that he thought this would be as far from giving satisfaction to others, who it appeared wanted no substitute. He, therefore, hoped that kind of influence would not prevail on this occasion. The gentleman who made the motion did it to accommodate matters, and not because he himself objected to the answer reported.

It is well known that a committee of five members, opposite in sentiment, was appointed to prepare a respectful Address in answer to the President's Speech. [Here the original instructions were read.] As it was the duty of the committee to prepare a respectful Address, it cannot be matter of surprise, although it may of disapprobation with some, that the committee did their duty, and have taken notice of the several matters recommended to the House in that Speech. Respecting the particular notice they have taken, it might have been thought that some difficulty would occur. He said he need not observe that the committee had reason to imagine that the form of the report would be agreeable to the House, as they were unanimous; although there had been in the wording some little difference of opinion, yet all agreed substantially in the Address, from a conviction of the delicacy of the subject. For that reason, if that only, unless the sentiments in the report of the Address should be found inconsistent with truth, he hoped no substitute of a form of words merely would prevail, as it would no longer be that agreed to in the committee, nor could come under their consideration equal to the printed report. He therefore trusted that when the committee came to the question, whether to strike out or not, gentlemen would be guided by no other motive to vote for striking out, than an impropriety in the sentiments through an evident want of truth in them; and if such cannot be discovered, why strike out the expressions?

He said he had no disposition to go into the discussion, nor indeed was he prepared so to do, for, from the unanimity of sentiment which prevailed in the committee, he did not expect it would meet such opposition. When he heard gentlemen come here and doubt the truth of the sentiment contained in the first paragraph in question, he chose to make application to facts; to facts which appeared obvious. If there was one voice in America on any subject, it is a declaration of confidence in our Constitution; it was a well-founded sentiment that the happiness of our present state, and the peace we enjoyed, was owing in a great measure to the wisdom and patriotism of the President. These were facts which could be proved, and which were established, without vouching documents; if it is necessary to produce instances to prove this, I seek it in every man's heart, except the gentleman from Virginia. He appealed to every gentleman; who did not regret the retirement of the President? He thought there was a propriety in making a declaration of this kind, though he meant not to indulge himself in exhibiting by detail. It had been said that we should not compare the flourishing state of this country with the distressed state of European nations; or the state of this country with its situation prior to the existence of the present Constitution. If he mistook not, this was the case. He appealed to good sense, whether a doctrine of this kind was not extravagant? Was it not natural for a man to dwell with delight on

his own enjoyments? For a man in prosperous circumstances to increase his own happiness, by drawing comparison with a man not so? The man who did not this, left one-half of his harvest unreaped. But here we are not merely making the declaration of our preference of situation to other nations, but we are making our acknowledgement to the beneficent hand of God, who has thus distinguished us; he wished not to control the consciences of gentlemen, but he thought it both natural and becoming. A just sense of our obligations to this power, and a grateful acknowledgment, is the most proper employment of the mind. And how can a proper estimation of those favors be known, but by drawing comparisons with others in dissimilar situations. Suppose a ship experiences a wreck, and some of the crew are lost; ought not the man who has escaped with his life be thankful that while his companions perished, he was saved? If, in the dreadful catastrophe of fire, its raging flames are stopped at my next neighbor's house, have I not reason to thank God for stopping it short of my house? What man can be thankful enough at having escaped? He thought it not more unbecoming to introduce such expressions of gratitude in this way, than for a clergyman to introduce them in his daily prayers.

It has been said, that to contrast our state with that of nations at war, would give them offence; but I think it very becoming in us to exult and be thankful too for our state of peace.

If that objection be real, it might be easily obviated by adding "*unhappily*" after the word "war." It would be improper to exult over the misfortunes of others. By introducing this word, it will show that we deplore their troubles; he thought when calamities did exist in the world, it cannot be wrong that we rejoice because they are not our own.

It had been observed by some gentleman, that the cry of foreign influence is in the country. He did not see such a thing exist. He would not be rudely explicit as to the foundation there was for such a cry; but when it was once raised, the people would judge whether it was fact or not. He could not tell how this influence was produced, but the world would draw a view how far we were under foreign influence. Mr. A. here alluded to the influence which foreign agents wished to have over the minds of the people of this country in order to support a factious spirit, probably to the appeal lately made to the people. He also alluded to a circumstance when the Imperial Envoy, M. Palm, in 1727, at London, published a rescript, complaining of the conduct of that Court; the spirit of the nation rose, and discord was sown. In consequence of which the Parliament petitioned the King to send the Envoy out of the country for meddling with the concerns of their nation. That is the nation which we call corrupted. Yet a similar affair has occurred here, and it is not to be reprobated; we are not to complain of it, nor even hear it, according to this doctrine. Independence is afraid of injuries, and almost of insults. We must forbear to exult in our peace, our light, our freedom, lest we should give offence to other nations who are not so. This may be the high tone of independence in the views of some people; but I must confess it is not so in mine; but it is probable those people may be wiser than I am, and their views extend farther. Foreign influence exists, and is disgraceful indeed, when we dare not admire our own Constitution, nor adore God for giving us to feel its happy effects. He thought, respecting the recent complaints of the French Minister, that there was not even a pretext for the accusation.

Mr. A. next referred to that part of the President's Address, wherein he says, "standing for the last time," &c., congratulating us that the experiment of this form of Government had so well succeeded. The committee was charged to draw up a respectful Address to the President. It is an appeal to our constituents whether our labor has failed or not. The paragraph objected to was an appeal to facts. If he had entertained the ideas of some gentlemen in that House, who denied the prosperity of the country, reprobated our neutrality, thought our measures tending to despotism, and viewed the Executive as wanting in wisdom and firmness, that our present measures originated in corruption, and that our recent failure sprung from too great emissions of paper money; if this was true, he should think a Republican Constitution a chimera in its nature, and a curse in practice. But I entertain no such ideas; I think this Constitution has succeeded remarkably well; this is also the language of our constituents; and if true, whatever foreign nations may think or say (for he did not much care what they did) it was very right in us to make the declaration. And if the moment was come when the strength of our Government was to be tried; if we are on the eve of a war with France, as the gentleman from Virginia [Mr. Giles] alleges; never was a time when it was more proper to adhere to our duty, and cling to our Government, asserting our rights, supporting ourselves against foreign power and influence; and let their agents, who vilify our Government, find that we are not afraid to support our dignity or moderation. I would not wish to say to any foreign nation, we defy you; but I would say to any, we will hold fast our rights, our liberty, and independence. I would say to our Executive in this time of danger, rely on us; we are neither Frenchmen nor Englishmen, but we are Americans. If the doctrine stated by that gentleman be true, it is right, and now is the very time we should make these declarations, and show our unanimity, and not our imbecility or discord.

It had been observed by a gentleman, that the President, no doubt, is a very honest man and a patriot, but he did not think him a wise man.

Mr. Giles here rose to explain. He said that, in his assertions, he meant not to reflect on his private character. He referred to his Administration. No doubt but the gentleman possessed both.

Mr. Ames said, he considered well what the

gentleman had said. As a private man, his integrity and goodness cannot be doubted; but in his Administration—here we are to stop short; not a word about that; it wont bear looking into: it has been neither firm nor wise. If the House, in their Address to him, were to say, we think you a very honest, well-designing man, but you have been led astray, sometimes to act treacherously, and even dishonest, in your Administration—we think you a peaceful man, and though much iniquity may have been practised in your Government, yet we think you are not in fault; on the whole, sir, we wish you snugly in Virginia. Such sentiments as these I do not like. Is this an Address or an insult? Is this the mark of respect we ought to show to the first man in the nation? Mr. A. observed that he did not agree with the gentleman from South Carolina [Mr. Smith] who said that the President would carry daggers in his heart with him into his retreat from public life, if we refuse him our testimony of gratitude. No, he bears in his breast a testimony of his purity of motive; a conscious rectitude, while in public life, which daggers could not pierce. He would retire with a good conscience. Perhaps it would be said this was adulation, but let it be remembered this was truth; this was not flattery; let gentlemen deny this; let them prove that this is not the will of their constituents. The country would judge our opinions when we come to give our yeas or nays; then the real friends of that man will be known.

The gentleman wishes him back to Virginia, was glad he designed to go; he did not regret his resignation. His name will appear in that opinion. The whole of the President's life would stamp his character. His country, and the admiring world knew it; and history keeps his fame and will continue to keep it. We may be singular in our opinions of him, but that will not make his character with the world the less illustrious. We now are to accept of his resignation without a tribute of respect. We are not to speak of him as either wise or firm. We can only say he is an honest man: this would scarcely be singular; many a man is honest without any other good qualifications. What circle would gentlemen fix the committee in to amend this Address, if they are not to give scope to these sentiments? Better appoint no committee at all. If we address the President at all, I hope, it will be respectfully, for loth respect is insult in disguise. I hope we shall not alter the original draught of the Address, but agree according to our former intentions to present a respectful and cordial Address.

Mr. Swanwick rose to explain to those parts of the observations of some gentlemen who had lately spoken [Mr. Dayton and Mr. Ames] on that part of the paragraph, which speaks of our gratitude to Providence. He should be sorry if such an idea was entertained from anything he had observed. It was not that part of the paragraph, but the part where we are contrasted with other nations, that he objected to principally. Although, he must observe, it was not spoken in a style common to devotion, to tell Providence how wise and enlightened we were. It does not boast of our philanthropy, to say how much wiser and better we are than other nations. He thought the gentleman's reference to a clergyman very curious. It would not be right in us to say to God, we thank thee, we are wiser or more enlightened than others! If we are so, let us rejoice in it, and not offend others by our boasting. Gentlemen say, we are happier than though we were at war; are we at peace? No: we are involved in the worst of wars. Witness our spoliations from Algerine, English, and French cruisers, from some of which he himself had suffered materially. The President does not think we are at peace: he recommends a Navy as the only efficient security to our commerce. How could that little island (England) command such influence in foreign dominions? It is by her navy. We cannot boast of such power. While we think ourselves much happier and stronger than others, others think us more diminutive; let us not boast. He feared that the revenues of this country would suffer materially through the great stagnation of commerce. He did not think they would be as productive as formerly. He feared it was too generally known, that this was not a time of very great prosperity. As he did not, for one, feel the prosperous situation of the country, he could not consent to violate his feelings by speaking contrary to them. The gentleman from Massachusetts [Mr. Ames] last session, spoke with great eloquence and at great length of the horror of war; which he considered as inevitable if the British Treaty (then the subject of debate) was not carried into effect.

The President now tells us we are in danger of new evils. Is this the prosperity on which so many prayers are to be offered up, and so much boasting is about? He did not see occasion for it. That gentleman, Mr. S. said, would always find him as willing as himself to support the dignity of the nation, and to prevent other nations interfering with our advantages. He observed, now there was danger to be expected, Mr. Ames had forgotten the horrors of war; now, on the contrary, he can bid defiance, when it is the French we expect danger from. How this gentleman could reconcile these inconsistencies he knew not. The gentleman had drawn a comparison of a shipwreck to illustrate his remarks, but surely it was not a good figure. Are the nations of Europe shipwrecked? If we read their own publications of themselves, they will tell you they are the most free and enlightened people upon earth, and yet we call these an unhappy people; they may be so, and we may be happy, but do not let us draw comparisons. Mr. S. wished neither to undervalue our prosperity, nor discard a just sense of the dealings of Providence; he only wished that we may not think and speak too much of ourselves. On the whole, he said, the better we manage our own concerns, the more advantage to us, and he wished we were happier than we were, but not to risk offending other nations by our boasting.

Mr. Christie moved for the Committee to rise. The House divided on the motion; 43 members

appeared against it, 31 only in favor of it. It was lost.

Mr. Giles rose and observed that he should not have troubled the Committee with any further observations, but his ideas had been misrepresented; although he endeavored to prevent a possibility of misconstruction, yet it seems he had not been able to accomplish his wish. It was not wonderful, he said, that the President's popularity should be introduced into the debate when it had been so long in question. It had been too commonly done, he thought, but he hoped the influence of it would not be very great. As to the unanimity of the committee who drew up the Address, he cared very little about it; he should be extremely sorry to see it have any influence on the members of that House.

Gentlemen have said, that if we take out the expressions of our sense of the wisdom and firmness of the administration of the President, they cannot find any ground on which to compliment him; if so, he for one would not be willing to present an Address at all. But his views were quite different; he thought it could be effectually done without adulation. He could not consent to acknowledge the wisdom and firmness of his administration. Gentlemen had inquired for instances in evidence of this assertion. He said, that without seeking for more instances, that of the British Treaty was a standing proof in support of the assertion. Though many gentlemen believe nothing has been done injurious to the United States through that Treaty, yet I acknowledge I see very great danger; we are not now in that state of security which could be wished. It is well known that the operation of the British Treaty is the ground-work of all the recent complaints of the French Government. It may be said that many of the complaints of the French Minister originated from actions previous to the British Treaty. It may be so, but that was the means of calling forth complaints which, perhaps, would otherwise never have been made; else why did not this calamity befall us before? It certainly may be ascribed to that instrument. Gentlemen may talk as they please about the Law of Nations; but the Law of Nations is, that a neutral nation shall not do anything to benefit one belligerant Power to the injury of another. Mr. G. said, he thought matters carried a serious aspect, and he very much disapproved of the declaration of a gentleman [Mr. Ames] who says, now is the time of danger; we are on the eve of a war with France, now let us boldly assert our rights. At the time the British Treaty was debating on, that gentleman was overcome with the prospect of a war; he then depicted it in horrible forms; but now how different his language! He now seems not afraid to embrace all its horrors, and was zealously calling out for the nation to support the Administration. Why did we not hear this when the British spoliated on our commerce! If we are upon the eve of a war with France, as the gentleman supposes, it will be disastrous to this country; we have reason to deplore it; it will be calamitous indeed. France has more power to injure this country than any nation besides, and none we can injure less. What an influence can she command over our commerce? She can exclude us from our own ports; spoil our trade with Great Britain, and from her own extensive country; she can shut us out from the East Indies as well as the West Indies; ruin our trade in the Mediterranean, which, owing to the late conquests of the French, may be rendered very flourishing and important to us; and by her alliance, offensive and defensive, with Spain, we not only have another enemy, but lose our late advantages in the navigation of the Mississippi. Suppose, by the influence of her politics, the doctrine of liberty and equality was to be preached on the other side of the Alleghany mountains, what numerous enemies may they breed in our own country? France can wound us most, and we have the least reason to provoke her. It would be policy in her to go to war with us; by ruining our trade with England, she could give a violent wound to her enemy; yet that gentleman says, now is the time to assert our rights, now we are in danger. The war-whoop and the hatchet, of which the gentleman spoke so feelingly last session, is no longer in his thoughts. If this was the only reason he had, it would be enough to influence his vote against an acknowledgment of the wisdom and firmness that has dictated our Administration.

The gentleman from South Carolina [Mr. Smith] had said that attempts were made to separate the President from the other branches of the Government. Mr. G. observed, that the Senate were his only advisers on the business of the Treaty. It was thought, and he believed with good reason, that if that Treaty had been laid on the table in this House for discussion, before it had received its sanction from the Executive, it never would have been carried into effect. He thought, and his constituents thought, that it was a ruinous measure. All America began to think, and will soon see, that it was a very unwise and injurious action.

The gentleman from Pennsylvania [Mr. Sitgreaves] had, he thought, very improperly drawn a comparison of a man, felicitating himself in the midst of his family, and comparing with his neighbor. He compared it to the deliberations of this House in our enjoyments. Adverting to the simile before mentioned, Mr. G. said, that neighbor may be here attending to the comparisons drawn in the House, [alluding to the Minister of a foreign nation present at the time.] An attempt had been made to oppose the striking out the paragraph in question, but he really hoped it would not obtain, as he wished it to be recommitted. He thought it might have the advantage, by adding some new members to the committee, of being altered to a more general satisfaction. But no influence under Heaven could ever induce him to vote for the present Address. He hoped it would not be thought he was wanting in respect for the President. No, said he, truly I do not love his measures, but have a cordial affection for the man. I wish, sir, to speak of him with respect and esteem. The reason I wish him from his present

office is from a knowledge that he will be more happy at Mount Vernon than he can be amidst the turbulence of State affairs. I know the people can do without him. This is a Government of the people, and the people can choose another for themselves. I believe, sir, there is national gratitude due to him; but as respects the Treaty with Great Britain, I believe therein was a failing. I think, sir, there is such a sentiment as national gratitude from the people to him, but it is not incurred through that instrument. If gentlemen can form an answer without such expressions as those I have taken the liberty to object to, I wish they would. Certain I am it can be done, and that with very good satisfaction by those gentlemen, without hurting their own feelings.

Those who vote for striking out have been charged with a want of gratitude to God for national blessings. He could assert for himself that the view was to remove that sentiment, but he supposed something would be introduced by the committee with less exception and equal force. He thought there was scope enough to compliment the President without writing "scoundrel" on their own foreheads, by expressing approbation of measures which they always opposed.

Mr. Williams rose and said, he was sorry to trouble the Committee at such a late hour, but he could not be satisfied with giving a silent vote on an occasion when the President's popularity was doubted. He thought members ought to speak the will of the people they represent. He could assert that it was not merely his own opinion he spoke, but that of his constituents, when he voted for the Address as reported. He was sorry to hear the gentleman last up speak in the style he had done, although he owned it was not altogether new to him. The gentleman wished the first clause to be struck out. Mr. W. thought it was the duty of every pious man to thank God for the benefits he enjoys. And shall not we, as a nation, thank him for keeping us from a state of war? Gentlemen's ideas were to strike the whole out in a mass; but he hoped they would not be gratified. Mr. W. said, he was very sorry to hear the gentleman speak against the wisdom and firmness of the President, which assertion seemed to have its foundation in the Treaty concluded with Great Britain. He would ask the gentleman whether that act of ours should have any influence on our situation with France? Wherein have we differed from the compact made with France by our Treaty made with that country? We surely had a right to treat with Great Britain, else we could not be an independent nation; and France will not deny this. In 1778, the Ambassador of France informed the British Court that his nation had entered into a Treaty with the United States, and at the same time informed them that great attention had been paid by the contracting parties not to stipulate any exclusive advantage in favor of the French nation, and that there was reserved, on the part of the United States, the liberty of treating with any nation whatsoever upon the same footing of equality and reciprocity. But the gentleman [Mr. Giles] says, we ought not to give an advantage to an enemy. Mr. W. said, that no advantage was given to Britain, but, on the contrary, the article complained of must be of advantage to France; it is an encouragement for American vessels to go to their ports; it insures them against loss, if they are interrupted in their voyage. It had been said that it would be to the interest of France to go to war with us; if they consider it so, all that gentleman can say will not prevent it. When we reflect on a Treaty entered into on this principle with Great Britain, should France complain? Mr. W. observed, on an expression of Mr. Giles, where he had mentioned the side his name would be in the Journals of the House, that as his opposition was against the President for his perseverance to prevent being drawn into a war; to imbrue our hands in blood to gratify the hatred or serve the interest of another, we ought to agree to the report; this being the last time we shall address him, the people wish and expect us to address him with respect and gratitude. Have not the State Legislatures addressed him in this manner? Even the State where the gentleman whom I have answered comes from? How, then, he would ask, will it appear hereafter, when the transaction of our proceedings comes to be read, how will it then appear that every part of the Government, except the General Federal Legislature, have acknowledged their obligations to that useful man? Surely we represent the same people as the Legislatures of the States do, and we should coincide in our measures to do their will. He was sorry, he said, the gentleman had said a single syllable degrading to that man's public character, and he hoped they should go no farther into the business. Let us endeavor to eradicate from our minds those opinions which we may have suffered to have acquired a growth which overshadows the dictates of truth and justice. Let us each individually consider whether we have not suffered our private interests to bias our public conduct, and, with a view to temporary advantage to ourselves, sanction measures which, unless timely checked, may put in hazard those blessings which a Constitution founded like that of the United States, not on the vision of a heated or distempered imagination, but on principles which, unchecked in their operation by the arm of violence or misrepresentation of calumny, must necessarily produce, and when we shall have traced in the wisdom which shall have directed, and the firmness which effected the Revolution, let us then consider the man who hath been the instrument.

At this point the Committee rose, and had leave to sit again, and the House adjourned.

Thursday, December 15.

ADDRESS TO THE PRESIDENT.

The House, according to the order of the day, resolved itself into a Committee of the Whole on the answer to the President's Address, Mr. Muhlenberg in the chair.

The question before the committee was Mr. Giles's motion for striking out.

Mr. Nicholas said, he sincerely wished that such an answer might be agreed to, as would give a general satisfaction. He hoped some mode would be adopted to unite the wishes of every gentleman; his disposition, he said, led him to vote for the paragraph; he thought himself at liberty so to do, as he was satisfied the Administration had been, in many instances, wise and firm. He thought it improper that such debate should take place at the present time. He could see no inconvenience that could arise from voting for the Address. The words on which most stress had been laid, were those expressive of the wisdom and firmness of the President's administration. He declared he thought it had much contributed to the success of this country; and if success had attended his measures, there could be nothing inconsistent in their acknowledging it; which was all the compliment necessary to give satisfaction. He thought he could vote for the Address without involving himself in all the sentiments advanced on the subject. Mr. N. observed, that some of the expressions in the Address were much stronger than he wished them. He knew his constituents regretted the President's resignation, and that whatever little interruption there might have been to weaken their esteem of him, he yet retained their confidence. With this explanation for my conduct, said Mr. N. I think myself at liberty to vote for the Address.

Mr. Rutherford. My colleague, has in a great measure anticipated my sentiments on this occasion. I am sorry for the mistaken zeal the gentlemen of the committee should have shown for the President, by introducing expressions into the Address so exceptionable, and which should be subject to such an uncomfortable exposure of that character.

I was able yesterday only to attend a part of the debate, through indisposition, but what I did stay to hear, hurt me very much. I heard gentlemen speak ill of the common parent of our country, whom we all revere; and was a slip, but one criminal slip to rob the President of his good name? We have seen the goodness of the heart of that man, and with satisfaction. We have seen him wrestling with his own feelings to continue in the important and weighty business of Government; we have seen him contending with two great rival nations, and yet preserved peace. When he had made a slip, the people of America have stepped forward to assist him, and dropped the generous tear, sensible that to err is human, and that we are all liable to do wrong. I am sure that my colleagues and every one in the House hold the character and virtue of that man in high esteem. I am sorry to see that division of sentiment which has taken place; it would make the world believe that we wish to rob him of those qualifications. It is the justice and duty of this House to do that man, that patriot, all the honor they can, whilst it is the interest of this nation to hold in view those great points with generous satisfaction, and good wishes to the man who has stepped forward, and not in vain, to the support of our Republic in the war, and under Divine assistance was made our deliverer. And now for gentlemen to come here and speak of the troubles of the country, ascribing all our adversity to him, it is like applying cold water where the strongest energy is necessary. Again I would repeat, that if that man, our common parent, has committed errors, it is no more than we all may do: it is the general lot of all. If there have been faults in the Administration, I do not think they lie at his door, but at his counsellors; he has had bad counsellors; his advisers are to blame, and not him. I never saw how he could have done otherwise than he did. And now, sir, said Mr. R., it is our duty to bear those great actions and generous sentiments in our view, that, on his retirement from his public station, we may render him all the respect due to his character. Nor would I less remember our situation with France, that great and generous Republic, under whom we owe our liberty. Let us not give offence to her, but by every mark of gratitude and respect, act a part consistent with a just sense of our peaceable intention. Let us act with the greatest circumspection and deliberation.

I hope the present Address may be formed not to diminish our sense of respect for the great man to whom presented, while it gives unanimous satisfaction to all the members of this House.

Mr. Livingston was sorry the answer was not draughted so as to avoid this debate. He said, it was his sincere desire and hope that the candor of gentlemen who advocated the Address in its present form, and those who wished it amended, would so combine as to make it agreeable to all. He said he intended to oppose the amendments which had been proposed, although he did not see the Address every way right; with a view to reconcile parties, when the present motion was disposed of he should move to strike out some words, in order to insert others. He could not, like some gentlemen, draw consolation from the misfortunes of other nations; their distresses were rather matter of regret; nor did he see a propriety, as another gentleman had done, of likening our affairs with those of the members of a family; but, even if it would bear, he could not see that tranquility in this family as was expressed. His only objection, he said, to the paragraph in question, was the words "tranquil prosperity." He believed the United States did not enjoy that tranquil prosperity; on the contrary, he thought this was a time of great calamity in the country, and he thought that it was owing, principally, to the measures of the Government. There were other clauses in the Address, he said, he should, when they came to be considered, make objections to, and he thought they could be all easily removed by motions suitable; however, he said there were many sentiments in the Address in which he heartily concurred. He should vote against the striking out the eight clauses in question, as he thought such amendments could be proposed as would make the Address meet his hearty concurrence, and he believed give general satisfaction.

Mr. Giles's motion was then put, to strike out those clauses and negatived.

Mr. Parker renewed the motion he made yesterday, to strike out the words "freest and most enlightened in the world."

Mr. Harper said, that he believed the motion he yesterday offered had the advantage of superseding the necessity of that motion, as it would strike out a much greater portion of the Address in order to substitute words more simple and expressive than the several parts now contained. He would not again go over the ground he yesterday trod; but would barely submit the resolution to the committee. He did not propose to amend the Address because he felt any reluctance at expressing the sentiments contained in them, but because he thought the words proposed would more effectually bring about a reconciliation, and have the advantage of more simplicity and force of expression. His amendment was, to strike out that part of the answer, from the words "retirement from office," at the end of the seventh paragraph, to the words "may you long," &c., at the beginning of the last paragraph; and insert, "and to avail ourselves of this occasion, since no suitable one may hereafter occur, of disclosing those warm emotions of respect, gratitude, and affection, with which we, no less than our constituents, have been inspired by a life equally illustrious for the wisdom, integrity, and patriotism whereby its public conduct has been guided, and fortunate in the happy influence which the exercise of those virtues has produced on the prosperity of our country."

Mr. Freeman said, he could not vote for the motion the gentleman had made for striking out, nor the substitute proposed; because it left out a sentiment contained in the original which he very much approved, and which he would wish by all means to be included in the Address, viz: "Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind than valuable to the Republic."

Mr. Harper said, those words could be easily admitted into the motion, which he had no objection to.

Mr. Ames hoped that the motion to strike out would not prevail; for, without being over tenacious on the subject, he must give a preference to the copy of the report which was printed; the members had the advantage of weighing it in their minds, which they would lose by adopting the substitute; besides, he thought the ideas were so crowded in that proposed, as to render it heavy; he hoped the reported Address would be agreed to.

Mr. Harper's motion was then put and negatived. Twenty-five members only voting for the motion.

Mr. Parker again moved to strike out "freest and most enlightened," &c.

Mr. W. Smith said yesterday, in the discussion on the subject, gentlemen had assigned for their reason to strike out those words that other nations would be offended at us. It was usual, he said, for nations to applaud themselves, and he thought it could give no offence to any. He did not hear gentlemen mention what nation was meant. He presumed the only nation that could be alluded to was the French Republic. If, however, it can be proved that they have used similar language, he supposed it would give gentlemen some ease as to this particular. In looking over some papers, he had seen several bombastical expressions in a note of Barthelemy, a report to the Convention of Laviere, and of Cambaceres, in the name of the three committees. In one are these words "a Government so powerful as the French." In another he calls it "the most enlightened in the civilized world." In another, "the first in the universe." He hoped that while that nation could use expressions like these, the gentlemen of this House would not think the expressions referred to would give offence to that or any other nation.

Mr. Parker said, when he made the motion he did not refer to any particular nation; he had neither France nor England in view; he did not wish to see us contrast our political situation with that of any other country. His objections to the words, he said, arose from our making the declaration ourselves. Our Government, he acknowledged, was free; it was the best in his opinion anywhere. He wished to believe the people as enlightened as any other; he believed they were, and if they were not they had only themselves to blame; but however enlightened or free we were, in his opinion we were not the proper organs to declare it; however enlightened we might be, he thought the last four years administration had convinced many, as well as himself, that the Administration was not the most enlightened; if they had they would not have suffered such shameful spoliations on our commerce and shameful acts of cruelty to our seamen. He said the two little monarchies of Denmark and Sweden, neither of which in point of extent can be compared with the United States, more (to use the comparison of the gentleman from Pennsylvania yesterday) than a speck is to the sun; nor are they either of them in population nearly equal to the United States; and although they are surrounded by the greatest warlike Powers in a belligerant state, yet they have preserved their neutrality inviolate; their ships have not been wantonly seized, nor have their seamen been torn from their ships, or whipped at the gangway of British ships-of-war, or been shot by their press-gangs. To mention the instances of British cruelty towards our seamen in every instance that could be adduced, would take up time unnecessarily; one alone, that recently happened, I shall relate:

The brother of a member of this House [Mr. Franklin of N. C.] was impressed on board a British ship-of-war in the West Indies; he was unacquainted with seamanship, having only made a passage from North Carolina to the Islands; being awkward and not being a seaman he was discharged. The same evening a press-gang of the same ship fell in with him and made him a prisoner; in attempting to make his escape he was shot at. The ball was aimed at his body; it was not winged with death, but the young man was wounded in the hand.

Mr. P. observed, that the Helvetic Confederacy, the Swiss cantons, have been better treated than us;

although their inhabitants were few and they had no shipping, yet in the midst of powerful contending armies that even surrounded them, they preserved their dignity. Whilst they have preserved their dignity ours has very much diminished.

Mr. P. said, when the baneful Orders of the 6th of November, 1793, were issued by the British Government, by which our vessels were seized, and our citizens torn from their country, it was proposed by this House to lay an embargo, which was to be followed, and was followed by a bill to break off all commerce with Great Britain, after a certain day, and also to sequester the British ships and other property in this country to make good for the losses illegally sustained; the first bill fell through in the Senate; the sequestration was given up in consequence of the Senate's rejecting the non-intercourse bill.

At this time, it was said by the gentleman from Massachusetts, [Mr. Ames] we must be sober-minded and discreet; we must not provoke this powerful nation. She is armed at all points like a porcupine, her quills are sharply pointed, and she, is in confederacy with the most powerful nations in Europe; therefore, it will be wise to shut ourselves up like the terrapin, and wait until events change the affairs of Europe; but on no terms whatever go to war. A breach of intercourse would be war, and sequestration was actual war. His language prevailed, and the Executive sent an Envoy Extraordinary to the Court of St. James's. It must have been expected by the most free and enlightened Americans, that this extra Envoy was sent to represent and demand redress of our grievances. But too soon were they disappointed; for, on his arrival, the first note from his pen addressed to Lord Grenville, says, "he relies only on the justice and magnanimity of His Majesty." The baneful Treaty since verifies the act. Was this language for us to hold out to that nation from whom we had received such insults and injuries? Do we rely only on the justice and magnanimity of that country for support? The most petty State in the world would scorn to debase itself so much. Where then is our enlightened state? This, he said, was an act of an Administration, they were called upon to applaud, and say we were the most enlightened in the world. He believed the President never would have put his name to the Treaty that has brought us to the eve of a war with France, if he had not been advised by the counsel of others, who, he feared, were friendly to Great Britain, hostile to France, and enemies to their country. As to the President himself, he believed him to be a just, wise, and good man; he knew he was brave.

The gentleman from Massachusetts [Mr. Ames] tells us we are on the eve of a war with France, and in this case it is necessary we should unite and meet her. Where are we to meet her, says Mr. P.? Have we a Navy to transport troops to Europe? No; and if we had, could we expect to foil that great nation, who are fighting for their freedom, and who had obtained more victories, and conquered more men in a few months, than ever was done by the Romans in their most successful days? In case of a war with France, should we not be compelled to shut up ourselves like the terrapin in his shell [looking at Mr. Ames] could we carry on our trade abroad? Should we not be deprived of the islands of France in the West Indies, from whence we not only draw necessaries for home consumption, but valuable cargoes for exportation? When the Treaty question was before us last session, the gentleman from Massachusetts, [Mr. Ames,] in order to frighten the House into the appropriation for the British Treaty, told us the tomahawk was lifted up to strike the son, whose blood was to enrich the cornfield. The slumbers of the cradle were to be disturbed by the savage yell, and a variety of other high-toned, alarming metaphors, which I am not able to follow him in, as, in point of eloquence, the palm is yielded to him; but, after this, let me ask for his consistency; then we were to shut ourselves up in our shell, now we are to meet France; why has his tone so changed? When Britain insults us, we are to crawl into our shell; when France does, we must meet her: did that gentleman meet the British last war? Where was that gentleman when we were struggling for our liberty? I presume he shut himself up in his shell.

Mr. P. said he had seen such acts of rapine and cruelty committed by the British armies in America, that he could not think them great or magnanimous, but the most cruel of any other nation. He had seen a flourishing town destroyed, houses and vessels burned, and families ruined; and when he took Portsmouth, in Virginia, in 1781, not an hour after General O'Hara left it, he found, in a house nearly as large as the one we sit in, a great number of melancholy victims of British barbarity, (some of whom were among the most respectable,) the rooms crowded with people, dead and dying of the small-pox, not a single nurse to attend them, nor a drop of water to wet their mouths; this is among the evidences of British humanity.

These are the people we are to be allied to, to fight France. If we must go to war with France, and we are invaded by her, I must and will fight for my country; but, were I to have a choice, I would prefer a close connexion with France rather than Britain. Our Governments are more alike; we alike have fought for freedom; we have, in some measure, loosened the chains which ignorance and superstition had made, and which were supported by king-craft and priest-craft. I wish to see Republican liberty spread itself over the world; this is among the reasons why I should deprecate a war with France. Hence I hope that every measure will be used consistent with the honor of our country, to cement closely the bands of union between the United States and the French Republic.

Having said, perhaps, too much on this subject, I shall conclude with the words of a celebrated French author, (*Voltaire*,) "I have graved on my heart a love of freedom, and a hate of Kings."

Mr. Harper said, he had had not a disposition to follow the gentleman in his invectives against the Administration of this country, or in his reference to the conduct of another nation. Nor could he see what it had to do with the matter in hand. The question was, whether they should make the declaration or not; it did not appear to him important whether they made it or not. If it was true, other nations would see it. But why should gentlemen travel into this long field of invective? Suppose all these assertions were true, he should then vote against his own motion. Admit all was a mistake; that we are not what we think ourselves to be, and that it had its foundation in a base, wicked design, does it then follow that all the rest of America are equally wicked? We have been talking much about war, pacification, &c. It would seem to strangers who entered the House since the debate commenced, that the subject before the Committee was a declaration of war, whereas it is only whether we call ourselves a free and an enlightened people or not. The gentleman from Virginia [Mr. Parker] said, he felt himself pacifically inclined to all nations. Mr. H. supposed the truth was, that the gentleman was pacifically inclined towards the nation who seemed to be hostile at present against this country. [Mr. Parker here rose to make some explanation.] Mr. H., however, hoped they should not travel into fields of discussion, nor give scope to their imaginations, to call forth from their recollection all the circumstances which could be detailed, but which would only serve to irritate and prolong business which required immediate discussion; he hoped, therefore, that they should confine themselves to the simple question, whether to strike out or not? What, he would ask, have peaceful or hostile dispositions to do with the question in hand? He had said, when compared with Sweden and Denmark, our Government had been very unwise, and had suffered depredations on our commerce. He did not wish to enter far into the discussion, but this he could say, that Sweden and Denmark, although they had 36 ships of war always ready to protect them, yet they had submitted to as great insults as we have; with less force we have obtained greater advantages than they. As to the Swiss Cantons, although they have no ships on the ocean, they were in alliance with the only nation that could annoy them; besides, their situation is such that their mountainous country will protect them against all invaders; they can sustain an independent character with more ease than most nations. He did not see any superior wisdom in their conduct; he must consider our conduct marked with more wisdom than either of them. Involved in a labyrinth with three or four of the strongest nations in the world, although we have not received those advantages we could wish, yet he thought we had come out quite as well as we had any reason to hope. Contrasted with Sweden, Denmark, and Switzerland, we have obtained those advantages which would afford us ample reason to admire the wisdom of our Administration; and those advantages were obtained while we staid at home and managed our own business.

Mr. Ames said, if any man were to call himself more free and enlightened than his fellows, it would be considered as arrogant self-praise. His very declaration would prove that he wanted sense as well as modesty, but a nation might be called so, by a citizen of that nation, without impropriety; because, in doing so, he bestows no praise of superiority on himself; he may be in fact, and may be sensible that he is less enlightened than the wise of other nations. This sort of national eulogium may, no doubt, be fostered by vanity and grounded in mistake; it is sometimes just, it is certainly common, and not always either ridiculous or offensive. It did not say that France or England had not been remarkable for enlightened men; their literati are more numerous and distinguished than our own. The character, with respect to this country, he said, was strictly true. Our countrymen, almost universally, possess some property and some pretensions of learning—two distinctions so remarkably in their favor as to vindicate the expression objected to. But go through France, Germany, and most countries of Europe, and it will be found that, out of fifty millions of people, not more than two or three had any pretensions to knowledge, the rest being, comparatively with Americans, ignorant. In France, which contains twenty-five millions of people, only one was calculated to be in any respect enlightened, and, perhaps, under the old system, there was not a greater proportion possessed property; whilst in America, out of four millions of people, scarcely any part of them could be classed upon the same ground with the rabble of Europe. That class called vulgar, canaille, rabble, so numerous there, does not exist here as a class, though our towns have many individuals of it. Look at the lazaroni of Naples; there are twenty thousand or more houseless people, wretched, and in want! He asked whether, where men wanted everything, and were in proportion of 29 to 1, it was possible they could be trusted with power? Wanting wisdom and morals, how would they use it? It was, therefore, that the iron hand of despotism was called in by the few who had anything, to preserve any kind of control over the many. This evil, as it truly was, and which he did not propose to commend, rendered true liberty hopeless. In America, out of four millions of people, the proportion which cannot read and write, and who, having nothing, are interested in plunder and confusion, and disposed for both, is small. In the Southern States, he knew there were people well-informed; he disclaimed all design of invidious comparison; the members from the South would be more capable of doing justice to their constituents, but in the Eastern States he was more particularly conversant, and knew the people in them could generally read and write, and were well-informed as to public affairs. In such a country, liberty is likely to be permanent. They are enlightened enough to be free. It is possible to plant it in such a soil, and reasonable to hope that it will take root and flourish long, as we see it does. But can liberty, such as we understand and enjoy, exist in societies where the few only have property, and the many are both ignorant and licentious?

Was there any impropriety, then, in saying what was a fact? As it respects Government, the declaration is useful. It is respectful to the people to speak of them with the justice due to them, as eminently formed for liberty, and worthy of it. The gentleman from Virginia, [Mr. Giles,] on a former occasion, had said he adored the people; but now, when there was a wish to pronounce the attributes of his divinity, he was not found more fervent in his adoration than many who had made no such profession. If they are free and enlightened, let us say so; if they are not, he should no longer adore them; they would not certainly be worthy of honors quite divine. Mr. A. said they ought not only to say this, because it was true, but because their saying so would have the effect to produce that self-respect which was the best guard of liberty, and most conducive to the happiness of society. It was useful to show where our hopes and the true safety of our freedom are reposed. It cherished in return from the citizens a just confidence, a spirit of patriotism unmixed with foreign alloy, and the courage to defend a Constitution that a people really enlightened knows to be worthy of its efforts.

If the words were objectionable, it would be easy to alter them to avoid the objection without impairing essentially their force. A gentleman near him had suggested the propriety of saying we were "among the freest and most enlightened." He had no objection to the alteration, though he saw no reason for altering the phraseology, but he was willing to compromise with gentlemen, it not being essential. The citizens of a free Government ought, he said, to believe they were the most free and enlightened, because, having the power of making the Government what they please, if it was not the best, it would be their own fault for not making it so.

He believed the House would not be be surprised if he took notice of what had been said in allusion to him in the course of the debate—allusions with which he could not be offended, because they were urged with so many expressions of the most flattering civility. But every gentleman would believe those things were not applicable to him, as their recollections would not fail to prove. What had been his language with respect to Britain? Did he say we were to submit? Did he say we were to defend our country? Was he then afraid as they were now, that soft words would not be soft enough? No; such language came not from him. Do nothing to irritate; wage no war; no hostility. Such, he called sequestration, and other acts of that nature. We were, he said, about to make war on British property, and such would have been considered a kind of minor war. He, therefore, wished to shut up ourselves in our shell like a tortoise. But, at the same time, he recommended troops to be raised, ships to be built, taxes to be laid, and a spirited claim of justice to be urged. The gentleman who wished at that time particularly to preserve peace, did not wish to hold out the olive-branch alone, by leaving the country defenceless. This many of their opposers absolutely did. These, he said, were their reasons, and they had been effectual. He would not go into an examination of the subject now. It was their wish to urge every exertion of the country, to have strained its faculties till they were ready to crack, and to have called forth the last dollar and the last man in defence of the country in case of necessity. Did this look as if they wished to truckle to Great Britain? Many of their opposers, so zealous then for retaliation and reprisal, were not for anything else—neither troops, ships, taxes, nor Treaty. This the yeas and nays on the Journals will establish. Will the opposers show half the spirit now that we felt and expressed at that day?

How happened it, he asked, that gentlemen were so angry because they had then heard the language of peace; and now, because the same language was heard? Not one of us desire hostility. Was it because Great Britain was then the object and France now? Wrongs from the former cannot be resented enough; and wrongs and insult, too, from the latter, require words of more ardor than a lover's. No man felt more for the wrongs of America than he did. He felt for the loss of ships and property; and more, that our seamen had so suffered. On no occasion had a drop of blood pressed through his heart more quickly than at their painful misfortunes. But, was it not the part of dignity and prudence to endeavor to obtain restitution for those wrongs rather than take up arms? Was it suited to national dignity to make use of the language that had been used on that occasion by many of his opposers? He thought both national and personal dignity forbade it; he had thought it equally intemperate and unbecoming.

Did not gentlemen seem to feel more for one individual than for an insult on the whole nation and its Government? The Administration might suffer contumely and abuse, and the country, too, without producing any emotions in the breasts of gentlemen; their feelings seem to take quite another direction. If the British Minister should outrage our Government, as the Minister of France had done, every one would be for avenging the wrong. He thought it right that they should now declare their determination of supporting the Executive in supporting our national honor and dignity, or let him see in season that he was to be abandoned.

The gentleman from South Carolina [Mr. Harper] had justly said, that though we had no Navy to support our pretensions, we had come off better than Sweden or Denmark—countries which had been produced as patterns of wisdom. Though he did not suppose the British Treaty would be carried into effect, so as to satisfy every person who had suffered in his property by the British, yet he trusted the event would prove, in a considerable degree, satisfactory. He wished all other depredations on our commerce might be in the end as nearly compensated.

At the time when Government was pursuing her negotiation, we were embarrassed with Spain, with the Indians, and with the Western people. On the sea, our people were suffering in their

property. The British Treaty was, therefore, made under disadvantageous circumstances. Too great an eulogium could not be bestowed on the Government, and truth would sometimes procure its universal assent, that we had recovered our territory, and made provision for the spoliation of our commerce; that we had settled our peace with Great Britain, Spain, Algiers, and the Indians; and that our ships were not taken so much as before. What Treaty will not do, (as the gentleman said some time back,) war must: but Treaty has proved effectual.

It seemed that as if gentlemen never could say enough on the subject of the British Treaty and of Great Britain. The Bank, Treasury, and other topics of declamation, which were formerly always in order, seem to be almost forgotten. Was this the way, he asked, in which they meant to recommend to the citizens the due respect for the acts of a majority of that House and of Congress? If they think this the best way of answering the ends of Government, and of producing confidence and harmony amongst the people, they did well. The means appeared disproportioned, or rather strangely opposite to that end. He was of a different opinion. He thought, and it was with due seriousness of deliberation he declared, the people were called upon to choose between them; between those who wished to support Government and those who avowed so unseasonable and so excessive a sensibility to a foreign interest and foreign nation; between those who condemned the insults offered to the Government, and those who seemed to approve them; those who thought the experiment of our Government had succeeded, and those who were bound in consistency with their own assertions, to say it was to be abandoned with disgust and in despair. He was of opinion they could not go on as they were, some pulling down, while others were building up; but the people could remove the evil by choosing a House who would be better agreed—the people being free and enlightened, would have no difficulty in choosing between them. Both sorts of men ought not to be there; either those who, like the Government, are in the right, or those who dispute, revile, and despise it. The people would, he doubted not, judge right. He wished the appeal to be made without delay, and so solemnly as to make it effectual.

Mr. Christie wished to make an amendment to the paragraph, which he thought would answer the end equally as well as striking it out: if agreeable to the gentleman from Virginia [Mr. Parker] he would move to put the word "among" after the word "freest," which would read "the freest and *among* the most enlightened. He could not say we were the most enlightened, but he did think us the most free; not that he was afraid of offending any nation, but he thought this a more consistent declaration.

Mr. Swanwick said, nobody doubted but we were free and enlightened, but he thought their declaration was no evidence of the truth of it. He thought the last amendment very good, but it would be still better if the gentleman would put the word "among" a little further back, so as to read "among the freest and most enlightened." A pacific disposition could not be proved by anything so well as treating others with respect as well as ourselves; we may not be exclusively free or enlightened. He hoped it would be thus altered.

Mr. Christie thought we were the freest people in the world; he, therefore, could not agree to the amendment last proposed.

Mr. Coit could not say with the gentleman last up, that we were the freest, but he was very willing to agree with the amendment of a gentleman, that we are among the freest and most enlightened; he thought the first amendment much improved by this; he said it removed great part of the difficulty from the minds of many gentlemen; however, he hoped no unnecessary time would be taken up with such trifles.

Mr. Giles next rose to speak to some observations which were made by the gentleman from South Carolina, [Mr. Smith,] on the mode of expression used in the words proposed to be struck out. That gentleman brings some examples from France of this boasting spirit, but he thought their example in those things should not have influence here. Mr. G. said, he believed he was one among those on whom that gentleman supposed such would have influence; but he could assure him, if he thought so, he was mistaken. He did not like that disposition in any one; it was to him extremely disagreeable; and he did not approve it any the better because the French nation had set the example. That vaunting style of the French nation was, to him, the most irksome of all their conduct.

The gentleman from Massachusetts [Mr. Ames] supposes, said Mr. G., that I no longer adore the people, because I will not allow them to be called, in this Address, the freest and most enlightened in the world. Perhaps I think as highly of the people as that gentleman does, but if so, it is not becoming in me to express it in that manner. If we are the most free and enlightened, it does not become us to make our boast of it, neither did Mr. G. think it right to tell the people so. The gentleman endeavored to do away the objection, by drawing a picture between a nation and an individual using that language. The Representatives of the people were the same as the nation. Mr. G. thought we were a free and enlightened people, yet it was very indelicate in that House to use the expressions. In an individual the case was quite different. He did not think the comparison just; however, if the House were determined to use the expressions he should not object, it was very immaterial to him.

The gentleman from Massachusetts [Mr. Ames] said some individuals were opposed to the Government. Mr. G. wished to understand the meaning of the term Government. If the gentleman meant the Government of the United States in all its branches, as organized by the Constitution, he did not think it would at all apply. Not one on that floor, he said, could love the Government in this sense more than he did; he never

suspected what the law adopted; he had all his life embraced it with pleasure; but if the Executive acted not meant as the Government, Mr. G. thought that was sometimes censurable; however, he could not call that the Government, although it was a part of it, and a very essential part. He was sorry to find that this part of the Government had placed us in a very disagreeable situation. He said he was one of those who extremely disliked the Treaty with Great Britain. This was one of those acts which to his view was unwise in the Administration. He did not like any close connexion with that country; although some pecuniary advantages might arise from it, yet there was enough in his view by forming such a connexion as to overbalance all partial advantages.

What, said Mr. G., is our existing situation with respect to France? He thought the state of our affairs with respect to that country far from agreeable. The President announces something very uncomfortable, and accounts that have been received from France corroborate the testimony, and even adds to the danger; and where can we put the blame, but on our accommodation with Great Britain by the Treaty, by which we are liable to be interrupted by a nation infinitely more powerful? By the acquisitions of Spain and Holland to France we not only lose those who were our friends, but they become enemies in common with their ally; our commerce with all the world, and even with our own ports, is ruined by her privateers, which originates in that calamitous Treaty. He said he would appeal, if this is the case, whether the declaration of the gentleman from Massachusetts [Mr. Ames] was well timed, to come forward and tell them what we will do; we were ready to meet them. If this is the happy prospect arising from what the gentleman calls a wise and firm Administration, he lamented it as fraught with evil. He thought that in the contract with Great Britain we had made a dangerous poison, which would soon be felt.

With respect to one allusion of the gentleman, he would say, that he felt the same adoration for the will of the people now as he ever had done, and he hoped he always should; he thought no gentleman could charge him with contrary conduct; the sentiments he had always supported arose from a feeling and conviction of their propriety. He said he made these remarks because some gentlemen had indulged themselves in such personalities. He forebore to make any further observations, as he might, some time, take an opportunity to remark on some particulars in an expected communication, when it offered. With respect to the Address, he should vote against it.

Mr. Dayton (the Speaker) said, that some of the observations which had been brought into the present debate were of too delicate a nature to be commented upon or even repeated; he should not, therefore, follow the gentleman who spoke last, in his inquiry, how far this country was exposed to be annoyed by France in the possible, though happily not probable, event of a rupture with France?

As to the words "freest and most enlightened," which were more immediately the subject of discussion, he did not object against them on the ground of fact, but he considered the expression as resolving itself into a question of decorum and delicacy, the rules of which appeared to him to be violated, in their ascribing to themselves such a superlative preference, however true, in a comparison with every other people. The amendment of the gentleman from Maryland [Mr. Christie] very much softened the terms and rendered them more palatable.

Some remarks had fallen from the gentleman from Massachusetts [Mr. Ames] which were irrelative to the subject, and Mr. D. could have wished had been therefore omitted. Had he contented himself with challenging any member to point out a single instance of inconsistency in him, and pursued the subject no further, Mr. D. said, that his respect and friendship for the member from Massachusetts would have induced him to be silent; but, when that gentleman had wantonly gone out of his way to bring into view and arraign the policy of certain energetic measures which were at a former session contemplated to counteract the encroachments of Great Britain, he felt himself called upon to take some notice of them. Those measures, and sequestration in particular, had been on a former occasion asserted, and now again unnecessarily repeated, to have been intended as acts of hostility. Is it then, inquired Mr. D., an act of hostility simply to sequester, or in other words, to attach, and to arrest and detain in this country the property of the British nation, as a pledge or security for the indemnification of the citizens of the United States against the depredations of that nation; and is it no act of hostility against this country to have their property not merely sequestered, but condemned, confiscated, and wasted by the cruisers, subjects, Government, and Courts of that nation? Such, he was sorry to say, had formerly been the reasoning and assertion of the gentleman from Massachusetts. The United States must not sequester, for it was war; but the plunder and confiscation of the property of our citizens was not to be termed hostility, but was only ground for negotiation. If it were possible for that gentleman to reconcile that striking inconsistency he might then free himself from the imputation. That he himself had advocated all the energetic measures which were proposed on a former critical occasion in that House was, Mr. D. said, his pride and his boast. He then thought, and he still thought, that if they had been carried into effect, the situation of this country, both as it respected the indemnification of our fellow-citizens who had been plundered and our commercial and political connexion with Great Britain, would be far more favorable than it could be said to be at that moment.

Mr. Ames said, that the gentleman from Virginia [Mr. Giles] had represented him as saying that he took it for granted that we were on the eve of a war with France. So far was this from being correct, he had grounded his expression carefully upon what fell from the gentleman himself.

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He said if we were on the eve of a war, as Mr. Giles insinuated, it was above all things necessary that we should cling around the Government, and not let an idea go forth to the world that there was a division of sentiment on the subject of the respective duties we owe to France and our own country. He knew not what more he could say with respect France. He had advocated words strong enough for anything but a love-letter, and such were reported by the committee. It was possible, indeed, he might not feel all the ardor in her favor which was expressed by other gentlemen; for their's, he was free to say, he thought excessive and pernicious. It was not sweet enough to go down his throat, but much sweeter than he thought proper to make use of. He wished most cordially for peace with all nations, but if that could not be had he wished for an union of sentiment in support of our national character and dignity. He did not approve of anything like menaces, nor would he give the least encouragement to any hostile disposition; this, he said, had been the language used by other gentlemen in that House.

So much for that subject. With respect to what had fallen from the Speaker, it was possible on so many points, and with so many aspects of the same point, in the business of several years, he might not have acted consistently, though as to the matter in question, he neither admitted nor believed any such thing. He always acted as he thought best at the time; but at different periods he might, and this he said merely for the argument's sake, have acted differently. Sincerely, he was sure, he had acted, and the House would believe he had ever avowed his sentiments as he really felt them; but he could not see anything of this inconsistent kind in his conduct. Admitting that the capturing of our vessels by the British were acts of hostility—and there was great difference between such acts and the just causes of war—were we, he said, even then without reflection, investigation, or demand of justice, to return hostility for hostility? The French had also captured our vessels, and yet no one spoke of this as an act of hostility, or of sequestration, prohibition, or embargo, or blamed those who were silent. If one nation committed an act of hostility against another, was it not advisable, rather than immediately to retaliate, to endeavor to adjust the matter by negotiation? He thought so; the citizens of the United States unquestionably thought so, and that our Administration had great merit in so settling the late differences with Great Britain as to avoid war. It was true that the British had taken our vessels under a claim of right which they had to do so; and as contraband goods were liable to be seized, part of their conduct was clearly right by the Law of Nations, and a great part clearly wrong—so that it was difficult to determine which were acts of hostility. This of course required examination of facts, and adjustment of principles. The Treaty wisely provided for both. For this purpose a negotiation was opened, and was in a train that he sincerely hoped would be finally successful.

Gentlemen had been greatly offended by the terms "justice and magnanimity" addressed by Mr. Jay in his memorial to the British Government; but now our own country was thr[illegible]ed, and insulted, in a very extraordinary manner, no language was soft enough to be used [illegible] their favorite Republic. This distinction was remarkable. The remarkers on inconsistency would no doubt labor for a solution of this enigma. Our real patriots would labor with them to be satisfied why the language of custom and common decency should be so shocked in one case, and why even humility and supplication should seem too harsh for offended France in the other.

With respect to the present situation of our country with the French Republic, it was no reproach upon our Government that the French had issued complaints against us.

It was said the British Treaty was the ground of offence; if so, he hoped there was not a drop of American blood that was not carried with rather more heat and rather more hurry through the heart by such a declaration. No nation, he hoped, would ever have such influence over the people as to dictate to us what form of Treaty we should make with another nation. It was an insult that marked the utmost insolence of spirit on one side, and its lowest abasement on the other.

No cause of offence, Mr. A. said, could justly be taken on account of that Treaty, since the French Treaty was in common with our other Treaties declared to be of prior force by an article of Mr. Jay's, and were the articles of the two Treaties to clash, those of the French Treaty would destroy any opposing article in that made with Great Britain, so that that Treaty would continue the law of the land, the same as if no British Treaty existed. Our juries and courts could be relied on to carry the law of the land into effect.

Information had been received, Mr. A. said, and stated to the public in all the newspapers, that continual efforts were making in Paris to excite a spirit of animosity against this country, and this by persons who were, though unworthily such, American citizens. Whether the language held by gentlemen in this House on the present occasion would not have a tendency to increase, to encourage, and to assist that spirit, he left those gentlemen to determine: Whether to say we were wholly in their power, that they were the only Power which could annoy our territory, that they were invulnerable and irresistible and we defenceless, that they were in the right and we in the wrong, was becoming any character but that of Frenchmen. If we are on the eve of a war, said Mr. A., I blush for gentlemen who can use such language, at a moment when the Power with whom the war was contemplated is offering injuries and menaces to our country. If the event were to be war, he acquitted the Administration of blame. It had not provoked it; but it was, if we may credit such various and concurring information as we had, owing to the intrigues carried on at Paris. What auxiliaries they may have here, he would not pretend to say. It had been there represented that there was a division of sentiment betwixt

the Government and the people of this country, and that they (the French) had only to speak the word, and the Government would fall like other despotisms, which they affected every where to overturn. If this was the fact, and so it had been represented, this House and this whole country ought to show it no countenance; he thought it the duty of the place where he stood to make it manifest to the French nation that it would not be borne; that in case of extremities he did not balance for a moment which country he should declare for, that of strangers or his own.

Mr. A. said, he himself did not believe there was any chance of war. The French could have no pretext for it, and as little interest or desire to drive us to that alternative. As this kind of threat, he doubted not, was to answer a certain purpose, and was timed at the very moment when it was expected to fix it, when that business had passed over, he supposed we should hear no more of war. We may suffer many wrongs and depredations on our trade, said Mr. A., but this country will seek redress, not by war in the first instance, but by negotiation as before. These were ideas which appeared to him very necessary to express, and which he considered it his duty to advance. Whatever be our Government, said he, whether perfect or not, we are bound to support it; and not, at such a period, to speak of injuries and evils which are not derived from the neglect or improvidence of our Government, and therefore ought not to chill the ardor of our zeal for its support. They are not true; but if they were, they should now be kept out of sight. Mr. A. concluded with an apology for having said so much, as it was well known he did not propose to speak often; he intended to have said but little, and hoped the Committee would see that he had been personally called upon, and therefore would excuse him.

Mr. Giles said, the gentleman from Massachusetts [Mr. Ames] had charged him with improperly exposing the weakness of our country. The French Directory, said Mr. G., knows the situation of this country, as it respects our commerce, better than I do. There are circumstances in the United States as well known to them as to any gentleman in this House. He deprecated war, and he spoke of the disadvantages we should labor under, that gentlemen may be cautioned against it. He begged the gentleman to look back upon the very brilliant remarks he made the last session, on the power of Great Britain, and how unable the country was to meet them. Mr. G. then thought war much less probable than now; he then begged us not to provoke a war. With respect to the probability of a rupture with France, he wished gentlemen seriously to consider. It was a well known fact that the powers of their Minister were suspended: this, it was insinuated, was to have an influence on a certain election. This, he thought, was too improbable to be imagined. No man can be at a loss to conjecture at present, and we can with safety venture on the remark, that things begin in earnest to take a serious aspect. When, he would ask gentlemen, did they see this country placed in so critical a situation as at present with the French Republic? The time when that gentleman saw danger of a war, had not so serious an appearance as the present: the British Minister was not then recalled, nor his functions stopped. From the revocation of the British edict of the 6th November, he never thought there was danger of a war with that nation. But, he said, he felt serious danger with respect to France at this time.

The gentleman from Massachusetts [Mr. Ames] had alluded to information from Paris. If he supposed there was any other than communications between individuals, he was mistaken. Mr. G. said he had lately seen a friend from that country, a man well informed, who had given him information of affairs there, and who assured him that they were much offended at the British Treaty. Much had been said about improper correspondence with France, but he did not know of anything treasonable in this connexion. He believed some gentlemen had had idle dreams a great while; they are the wild phantoms of those gentlemen's imagination; ideas, merely the fabrication of visionary and prejudiced minds.

Mr. Kitchell thought we had given a very good proof that we are not the most enlightened people in the world, by this discussion; and if we declare to the world that we are, that declaration will be a still more glaring proof. It appeared to him quite unnecessary; he thought it spending a great deal of time to no purpose; it was not important enough for that waste of time, when the session was to be so short; he therefore wished the question to be put.

Mr. Sitgreaves agreed that a very useless and improper latitude had been assumed in the discussion, and he thought that a few moments would not be misspent in recalling the attention of the Committee to the real question before them. The assertion that we are the freest and most enlightened nation in the world was found fault with, and while some gentlemen moved to strike it out altogether, others proposed to qualify it in different ways. Mr. S. believed that, in any modification of the expression, the criticism was in itself extremely unimportant; and if, as some gentlemen had treated it, it was a mere question of decorum, he should feel perfectly indifferent whether it was rejected or retained. But when he heard one member deny that we are the most free, and another that we are enlightened; and most especially when he heard that the expression was contended to be improper in relation to the acts and the administration of the Government, he confessed it did appear to him to be of some consequence not to part with the expression, lest, by doing so, the House should give countenance to these objections. For his own part, he believed the proposition to be true; he conceived the word "enlightened" as applicable to political illumination, and not to our rank in arts, sciences, or literature; and he considered the sentence as equivalent to an assertion that we enjoy the most enlightened system of political freedom extant. In this view of it, he thought it literally true; and, if true, he could not discern the indecorum of declaring so on the

present occasion. He was strongly impressed with the propriety of the idea which he had suggested yesterday, that this should be considered as an act of intercourse purely domestic, an expression of self-gratulation on our superior happiness, which, by the forms of society, ought not to be noticed by any other nation. We may be deemed, without too bold a figure, to be speaking in soliloquy; and to listen to what we say would be no better than eaves-dropping: the indecorum would rest with those who overhear us, and not with ourselves. It could not be denied that such a belief of the superiority of our political situation ought to be cherished among us. If we did not believe it, we should take shame to ourselves, because our Government is the work of our own hands. If the belief that we are free and enlightened is valuable, the expression of it is also valuable, because it tends to preserve us so; it is a sentiment which we cannot dwell upon too much.

But, he contended, the propriety of this or any other expression could not be justly estimated by considering it in the abstract—it ought to be viewed in its application and use. We are about to lose the services of the President, who is admitted on all hands to have been an useful and patriotic officer. The House of Representatives are desirous that he should take with him to his honorable retirement the only reward which the nature and spirit of our political institutions admit of—the approbation of his country. It will surely be admitted that we ought to give to the expression of this approbation all the value of which it is susceptible; and it is obvious, from the slightest perusal of this paragraph in the Address, that the words in question give to it all its force and energy, and that without them, it would be an unmeaning compliment. The spectacle of a nation, neither free nor enlightened, offering to its first Magistrate the tribute of approbation and applause, would neither be "novel nor interesting." Since the days of history are stained with numberless instances of prostituted praise and courtly adulation; but when it is the voluntary homage of a free and enlightened people, offered with sincerity to an illustrious fellow-citizen, it is truly a precious reward for patriotic labors. Those who object to this expression, therefore, ought to move to strike out the whole paragraph. To reject the words would totally defeat the intended compliment; to quality them would spoil it. Mr. S., therefore, wished to retain them as they were reported.

Mr. Thatcher said, he did not think the object of the present question of much consequence, nor did he care much about it; however, he would wish to see the members more unanimous on the subject; he would, therefore, propose an amendment, which he thought would have some tendency towards it, which was to leave out the superlative, and let the passage read, "The spectacle of a free and enlightened nation."

Mr. Henderson commended the ingenuity of the last motion, as he thought it would more concentrate the ideas of the members. He would vote for it.

Mr. Christie's motion was then put, and negatived.

Mr. Thatcher's motion was put, and passed in the affirmative.

Mr. Livingston asked, if it would be in order to make a motion on any part of the Address on which no question has been taken?

The Chairman answered yes.

Mr. Livingston then moved to strike out the words, "Tranquil prosperity with the period," and insert, "Present period with that." He said he had two reasons for wishing this motion might prevail: 1. He objected to it because the sentiment was not just; and, 2. Because the form of wording it did not please him. He could not say this was a time of tranquil prosperity. Were he to do so he should mock the misery of his constituents, whose distresses were so evident. Could he so speak when he saw trade on the decline, and commerce ruined; embarrassments which conspire against the assertion; and, while he saw an impropriety in that declaration of our tranquility and prosperity, he could not compare our misery and wretchedness to the nations in Europe, involved in war, with which the comparison is drawn. He thought, therefore, that the language of the Address might be retained while it drew consolation from that view, although it is not perfect tranquility and prosperity. The other objection he had to the passage was the wording of it, which he should not have thought of so much consequence as to have grounded a motion on it alone, but it appeared in so close connexion with the amendment proposed that he included it. He thought there was an inaccuracy to compare "tranquil prosperity" to "period." How tranquility could be compared with a speck of time, to a period, he knew not. He doubted not the impropriety of the present expression would appear evident. He hoped, notwithstanding that tenacity on mere wording, which had been so adhered to by some gentlemen in the course of the debate, that all would agree in the Address. He should be extremely hurt could he conceive that we differed in an expression of gratitude and admiration to that great man. While he was desirous to express this, he could not do it at the expense of his feelings or principles. The former he might sacrifice, but the latter he could not to any man. He hoped, in all his proceedings, to attend strictly to principle. He said, he made these observations to make room for another motion tending to this subject, when this was dispensed with.

The amendment was put and carried—42 affirmative, 37 negative.

Mr. Livingston then moved to strike out the words from the next paragraph, "Wise, firm, and patriotic Administration," and insert, in their place, "Your wisdom, firmness, and patriotism has been." He could not say that all the acts of the Administration had been wise and firm; but he would say, that he believed the wisdom, firmness, and patriotism of the President had been signally conducive to the success of the present form of Government. He was willing to give him every mark of respect possible, but he be-

lieved some of his public acts of late rendered the present motion necessary.

Mr. W. Smith opposed the amendment, as he thought the gentleman who proposed it conceived the words to imply more than was meant by them—they are not meant to include every act of the Executive. He thought that the Administration in general had been wise, firm, and patriotic; that the wisdom and firmness of the President had been conducive to the success of the present form of Government. Had not the words been put in the reported Address, he thought it would not have been of consequence whether they were ever inserted; but the difference is very great. Now they are inserted they are made public, and, to erase them now, and substitute words in any manner deficient in sentiment to them, would be to carry censure and not respect. That the Administration of that valuable man had been wise and conducive to the good of this country, will not admit of a doubt; and for us to rob him of that honor which is his due, would be insult. And any thing short of the words in the Address he thought would not carry a proper mark of respect.

Mr. Giles observed, that he thought the Administration had been very deficient in wisdom. Many gentlemen, he said, were very particularly opposed to the British Treaty and to the great emission of transferable paper. Could it then be supposed these gentlemen could, in this instance, so change their opinion? The gentleman last up had said, that because the words were in the reported Address they ought not to be struck out. He thought that the House had now as much power to act as though the committee had made no report. He thought they ought not in any way to be influenced by the report of the select committee, but act as though they had to form the Address themselves. He believed that the President possessed both wisdom and firmness. He was willing to compliment the President as much as possible in his personal character, but he could not think it applicable to his Administration. He thought the amendment proposed would meet his concurrence, and he hoped it would be agreed to.

Mr. Gilbert hoped and presumed that the motion of his colleague would not obtain. He understood that the House addressed the President in answer to his Speech, always as a public man, and not in his private capacity. How extraordinary, then, will it appear in this House to refer only to his private conduct! It is, in substance, complimenting him as a private man, while the very words reprobate him in his public station. We are now to address him as President of the United States. We may tell him of his wisdom and his firmness, but what of all that unless we connect it with his Administration?

Mr. Craik said, the gentleman from Virginia [Mr. Giles] seemed to think the matter very immaterial whether the discussion on this Address took place in a Committee of the Whole or in a select committee. In his view it was an object of the first magnitude, however gentlemen may think proper to declare on it in point of form. It was now made public, and it would have considerable effect on the people at large. This report, and all the discussion on it, will be published in the papers. Much has been said in this debate against the Chief Magistrate. The principal reason urged for striking out the expressions in question, was grounded on the opinion that some of the President's administration had not been wise or firm. Some object to them on the ground of the British Treaty, some on account of the emissions of transferable paper. If the amendments proposed are adopted, it will readily be taken that the President's conduct has not been wise, firm, nor patriotic; for if we take it from his public character, it will be to very little purpose to give it him in his private, as we address him as a public man. He thought he had displayed in his public as well as private character wisdom, firmness, and patriotism. And were there, he asked, a majority in that House who would agree to a tacit reflection on the President's Administration, while they were willing to compliment him as a private character? It was justly observed, by the gentleman last up, that the form of the motion would rob him of his good name as a public officer. Mr. C. said, he sincerely felt, as he hoped a great majority in that House felt, a sincere sense of gratitude due to that character, and a desire to express his unequivocal opinion of approbation and respect for the President's wise, firm, and patriotic Administration.

Mr. Isaac Smith.—The sin of ingratitude is worse than the sin of witchcraft; and we shall damn ourselves to everlasting fame if we withhold the mighty tribute due to the excellent man whom we pretend to address. Posterity, throughout all future generations, will cry out shame on us. Our sons will blush that their fathers were his foes. If excess were possible on this occasion, it would be a glorious fault, and worth a dozen of little, sneaking, frigid virtues. I abhor a grudging bankrupt payment, where the debtor is much more benefited than the creditor. The gentleman from Virginia misrepresents his own constituents—I am sure he does all the rest of the Union. On the present occasion we ought not to consult our own little feelings and sensibilities. We should speak with the heart and in the voice of millions, and then we should speak warm and loud. What! "Damn with faint praise;" and suppress or freeze the warm, energetic, grateful sensations of almost every honest heart from Maine to Tennessee! I will not do it! Every line shall burn! This is a left-handed way of adoring the people.

Mr. Dayton (the Speaker) said, the motion then before them was of great importance, and every man who thought favorably of the President's Administration should there make a stand. For, if the words were struck out, it would convey an idea to the world that it was the opinion of that House that the Administration of the President had neither been wise nor patriotic. Gentlemen might very well concur in the Address in its present form, who did not think that every single act of the President had been wise and firm, since it was his Administration in general which was referred to, and not each individual act. He hoped, therefore, the amendment offered would be decidedly opposed, and that the words proposed to be struck out would be retained.

Mr. Page thought that Mr. Livingston's amendment properly confined the compliment to the President. Without it that compliment would be extended to all those that had any share in the administration of the Government of the United States. Senators, Representatives, and Heads of Departments must share it with him. Mr. P. was willing to give credit to the President for his wisdom, firmness, and patriotism, of which he had seen sufficient proofs in the course of his Administration; but he conceived that, after what had been said, with too much warmth on both sides, that there was no propriety in using expressions in the Address which can possibly convey an idea that the House meant to compliment the wisdom, firmness, and patriotism of any other man. Mr. P. looked upon the amendment as conciliatory, and as conveying the true meaning of the Committee of the Whole. He was not willing to censure the President for following advice which he had thought constitutionally binding on him. He was as much unwilling to give others credit for his virtues.

Mr. Heath said, gentlemen seemed to have various opinions and to entertain very different ideas about the manner this Address would apply to the President. It appeared to him that the manner in which the Address now stood could not possibly involve any difficulty. He did not see the amendment of the gentleman from New York [Mr. Livingston] would any way answer the purpose of the Address; it would not be attended with sufficient force to convey the respect necessary on the present occasion—applying only to the private character. The wording, he said, would not appear well according to the amendment. After the words, "present form of Government," the words would be altered to refer entirely to the public character of the President. He liked the phraseology of the Address as reported much better than the amendments, and he hoped they would remain without alteration.

Mr. W. Lyman did not think it so unimportant as some gentlemen who had spoken on the subject, whether the words be introduced or not. As the words related to an applause of the Government, he should vote for the amendment. It was desirable, he said, to keep out of view, as far as possible, any difference of opinion on such subjects; but, since it was brought into view and discussed, he should, with other members, speak his opinion. He never should abandon his sentiments till he was convinced they were wrong. If we insert the original words in the Address it will be giving our general approbation to the public conduct of the President, while it makes impression on the minds of the people that the opinions of many of us who have disapproved of adopted measures are changed. If this clause goes into the Address, and we do not speak our opposition to it, it will be telling the world that we were wrong in our former ideas of those measures. He must think, in many instances, the President had done wrong. He did not pretend to arraign his motives; they were probably pure. He thought he had misjudged. When called upon by this House to deliver up the papers, at the last session, relative to the negotiation of the Treaty with Great Britain, and he refused, he believed, in withholding them, he did wrong. He thought he misjudged in sending an Envoy to England to negotiate, and through the whole business of the Treaty.

This was his opinion at that time, and he never had changed it, nor should he ever change it until he saw reason so to do. Now, sir, said Mr. L., am I to tell the world that I approve the measures of that man while I declare these opinions? Such an assent would prove my instability and weakness. I am willing to acknowledge that I believe the President possessed of as much wisdom, firmness, and patriotism as any man, but cannot believe he has been very serviceable to the formation and support of the present form of Government. If the adulation were to be stretched further than this acknowledgment it would become bombast.

How gentlemen who had disapproved of many of the former measures of the Executive could now vote for their general approbation he was at a loss to account. He did not, like many members, think it immaterial whether the words were used or not. He thought if the original passed it would prove many of their former acts were wrong. Is any gentleman convinced he was wrong in opposing these measures? If so, let him say so, let him manifest it; but, if he was then right, he must now be wrong if found approving the conduct of the Government. Every day proves that these measures were unwise; and, with this evidence, he should vote for the amendment.

Mr. Gallatin thought the words objected to were conceived to mean more than they really did mean by gentlemen who supported the present motion; nor could he conceive how the words "firmness and patriotism," proposed to be inserted, could apply to any thing but the public character of the President. On the first view of the Address, Mr. G. said, he thought with the gentlemen from New York and Virginia, and it was not without considerable hesitation that he brought himself to agree to this part of the Address. He found, however, on further examination, that they did not go so far as he at first thought they did. Had they approved of every measure of the President of the United States, he should have voted against them. But, in the first place, he would observe, that his Administration did not include Legislative acts; so that whatever evils had arisen from the funding or banking systems were not to be charged to the President. They did not mean to pay compliments to themselves but to the President: there-

fore, the words in question related only to the Administration of the President alone, and not to those officers of State which had been supposed by some gentlemen. The first question was, then, whether that Administration had been marked with wisdom, firmness, and patriotism? And, he would briefly say, so far as related to the internal situation of the country, it had borne these marks. He did not recollect any instance where he could say here was any want of wisdom, or there of firmness or patriotism. If they proceeded to foreign affairs, a great number of members were found (he for one) who wished that certain acts had not taken place; and, if he thought, in giving approbation to this Address, he was approving of these measures, he would certainly vote against it. But, as the gentlemen from South Carolina and New Jersey [Mr. Smith and the Speaker] had observed, as the approbation went to the Administration in toto, it had respect to no particular act. Nor did he believe the literal sense of the words would apply to the business of the late Treaty. [He read the words.] The most clear meaning of these words related to the present Government and Constitution; and the word "success" could apply to those parts of Administration only which had had time to be matured. He did not believe that at the present period it could be said that the Treaty with Great Britain had been successful, and, therefore, could not be included within the meaning of the expression. Not meaning to pledge an approbation of that act, and not conceiving that the sentence could have such a meaning, he would vote against the proposed amendment, and for the original.

The question was put on the amendment and negatived. The Committee then rose, reported the Address with the amendments, when the House took them up, and having gone through them—

Mr. Sitgreaves wished to know at what time it would be in order to move an amendment in the fourth paragraph of the Address. On being informed by the Speaker that he might do it as soon as the report of the Committee of the Whole should be gone through with, Mr. Sitgreaves then observed that some gentlemen had thought that the Address as reported by the select committee had not sufficiently expressed our earnest desire to preserve peace and restore the harmony which had heretofore subsisted between America and France; and an amendment had accordingly been proposed yesterday to give additional emphasis to this sentiment. As no gentleman on the floor could estimate more highly than he did the blessings of peace, or more sincerely wish for its preservation, he felt no disposition to object to an expression of this sentiment in language the strongest that could be devised; and therefore he had acquiesced in the amendment which had been proposed, although he thought the Address was well enough before. But, he said, there was another sentiment of at least equal importance, which ought on all occasions to be the inseparable companion of the other, and which ought always to be as unequivocally and as emphatically expressed, to wit: the determination to respect our own rights, and to maintain our own character, in case the restoration of harmony between the two countries should, from any untoward circumstances, be rendered impracticable, without a sacrifice of the one or a violation of the other. These two sentiments, he contended, should, on no possible occasion of difference among nations, be disunited; they should always appear side by side, and have equal height and equal breadth. And since an amendment had prevailed to give additional size to one of them, he made the present motion with a view to restore the equilibrium. He presumed it would not meet with any opposition, because the sentiment was right and just in the abstract, and because the expression of it was proper to give aid and countenance to the Executive in any existing negotiations. But, if gentlemen would recur to what had been advanced by the gentleman from Virginia, [Mr. Giles,] who had moved the other amendment, the propriety of the present one would strike them with irresistible conviction. That member, who professed to speak with a competent knowledge of the subject, and from sources on which he could place perfect reliance, had declared that whatever ignorance might be affected by us, or whatever ostensible grounds might be assigned, the whole dissatisfaction of the French Republic might be resolved into a resentment at the Treaty lately concluded with Great Britain; and that for this reason they have violated the positive stipulations of our Treaty with them—have ordered their cruisers to make depredations on our commerce, and have suspended the amicable functions of their Minister here. Mr. S. next adverted to what is said by Mr. Adet, who, in his note to the Secretary of State, declares that these evidences of a well-founded dissatisfaction "are to last until the Executive of the United States returns to sentiments and measures more conformable to the interests and friendship of the two nations." On this combined view of the subject, if the statement made by the gentleman from Virginia was correct as to their discontents, and if the menaces of the Minister were to be relied on as to their continuance, Mr. S. said he was apprehensive the negotiations could not end amicably. On such terms, he was very free to confess that he did not wish they should end amicably. If peace and friendship with the nation of France was only to be preserved by an abandonment of a compact recently made with another nation, by a sacrifice of our independency and free agency, he did not wish on such terms to preserve peace with them. He could never consent to deliver up our honor and our rights to any nation on earth; and on such a condition he did not think the friendship of any country was worth the purchase. He thought it of importance to discountenance any expectation that such an abandonment of our national rights and dignity could be at all suffered, and that we should speak on the occasion a language equally distant from defiance and submission, but which could not be misconceived or misunderstood.

He observed, further, that the French Minister had affected to draw a line between our Government and our people, and to insinuate that the acts

of the one were not in unison with the feelings and wishes of the other. Such a mistake ought, by all possible means, to be corrected; and it behooved us to declare, beyond the hazard of misconstruction, that whatever differences of opinion might have prevailed among ourselves with respect to any measures of the Administration, we should nevertheless all unite in one sentiment of self-respect, and of inviolable determination to resist aggressions and insults from abroad. We owed it to ourselves and our country to accompany our sincere desire for peace and harmony with the unequivocal assertion of regard to our national dignity and independence.

He moved, therefore, to strike out the words from "while" to "countrymen," and to insert at the end of the paragraph the following: "At the same time we assure ourselves that your just confidence in the fortitude, self-respect, and patriotism of our citizens will not in any event be disappointed, and that they will on no occasion forget what is due to the character and dignity of our Government and country."

Mr. S. said, before he laid the amendment on the table, he would just observe that the Address as reported by the select committee had been, as was stated by the Chairman, [Mr. Ames,] the result of accommodation and compromise in the committee; and if the draught had been acquiesced in by others, he would not have desired to disturb it. It would have been more agreeable to him, however, if something like the amendment had been adopted there; and now, that additional force had been infused into the expression of one sentiment, he conceived he was every way justifiable in attempting to express the alternative with equal emphasis.

Mr. Nicholas said, he took it for granted the gentleman just sat down understood the meaning of his own motion better than he did. He had stated that we would aid the Executive in any negotiations he may undertake. He was not willing to do this. He had avoided saying anything in the course of the debate on the present dispute between this country and France. He was even silent when he heard insinuated that the misunderstanding between the two countries was fomented by American citizens in Paris. He had meant, indeed, at some future time, to have asked the gentleman who made the assertion, for the ground of his information, as he doubtless knew the circumstance of which he spoke so confidently to be on a good foundation. He had avoided speaking on that subject, because it was not right to enter into things in that state concerning a nation with whom we were about to be involved. He thought the expression singular and imprudent. He considered the dispute with France as not yet ripe for discussion. The President has told us he reserved this subject for a future communication. He said he had very little information on the subject himself; he had not yet even read the French Minister's note, having been but few days in the city. He said he was charged by his constituents to do what was right; and was he to pledge himself to support what the Executive should do? He had no doubt but the President would conduct himself so as to settle matters amicably with that Republic; but he should think himself unpardonable to pledge himself to anything he did not know. He thought their proceeding very extraordinary. He however thought a rule of this House would afford a remedy, which was, by calling for the previous question. He therefore moved the previous question.

Mr. Hartley said he feared the House was exposing these things too much, as it would find its way into every newspaper. He thought the House not called upon to enter into it so far as the motion of his colleague went. Great care, he said, should be taken in entering into business of this kind, in its unripe state. Probably the President was now adjusting the matter amicably; and particularly at this time we ought not to take any steps that have the least appearance to invite contention with that nation, or any one upon earth. This subject is not before the House now. He wished as much as that gentleman for information on the subject; but as information was not sufficiently before the House, he should think it more wise to be satisfied till it came in its proper course. He therefore hoped the gentleman would not force his motion upon the House, but withdraw it. When there seemed to be a disposition in this House to be unanimous, he hoped it would not be disturbed by such a motion. They had a delicate part to act, and he hoped they should not do any action for which they would have reason to blame themselves hereafter.

This nation, he said, had difficulty enough to keep out of broils. The world were now armed at all points, and we are not. If war was declared against France, he hoped it would be done unanimously.

On the motion of a member, the clause was read as amended.

Mr. Bailey called for the yeas and nays, and, on division, 25 members appeared in the affirmative.

Mr. Sitgreaves was very sorry that his motion should cause anything like alarm in the mind of his colleague, and was still more at a loss to conceive on what it could be founded. The amendment which he had proposed did not convey the most distant implication of hostility; yet his colleague seemed to think so, when he talked of a declaration of war. Mr. S. had taken pains to express, very unequivocally, his earnest desire that peace and harmony should be preserved, if possible, consistently with our national honor—and could not help wondering at his having been so much misconceived. His colleague had said they should wait for information. Mr. S. did not know what information was wanted, or could be necessary, before the adoption of his amendment: it was not of a nature to require any. The President had stated that circumstances of a disagreeable complexion had occurred in our relations with the French Republic. He had expressed his regret at these differences, and his desire to cultivate peace and a good understanding; but he states further, that in doing this, he shall not forget what is due

to the character of our Government and nation. These sentiments, which ought eternally to be combined, the President had not separated: why then should they be separated by the House? The amendment proposed to go no further than the President had done; it repeated his language, and contained nothing more than an assurance of that support which the Executive was entitled to receive from the Representatives of the people. It contained not a single expression that could justly be deemed irritating or offensive to the French or any other nation; and any idea of that kind must arise out of the gentleman's own feelings, and not from anything in Mr. S.'s proposition. He was so perfectly satisfied with the expediency of holding a language at once moderate and firm on this occasion, that he could not consent to withdraw the amendment; and was glad that the yeas and nays were called, which he should have done himself, if it had not been done by others. He was solemnly impressed that the sentiment could not be disavowed without a sacrifice of national honor, and that the circumstances of the times demanded the declaration of it.

In reply to the gentleman from Virginia, [Mr. Nicholas,] he said that the amendment could not be considered, but by a most distorted construction, to pledge the House to the support of any specific measures, or of all the measures which might eventually be adopted by the Executive; it pledged them only to such a conduct as circumstances might render proper for a preservation of our character and independence as a nation; and this pledge, he hoped, would never be abandoned or forgotten.

Mr. Claiborne hoped the question on the amendment would not be taken at all. Will this, he asked, be a paper fit to put into the hands of our negotiator, in this time of danger, to authorize him to say to the French nation, If you will not be satisfied with our conduct, we are not disposed to accede to any other terms? That gentleman's motion, he said, surely carried an extremely hostile aspect: he thought such language would have a bad effect. We ought not to pretend to negotiate with a sword in our hand. Men did not like to negotiate with a dagger at their breast. He hoped no question would be taken on words that must tend to hostility, but that we should take every means towards the preservation of peace with the French Republic.

Mr. Gilbert could see nothing in the question that had the least hostile appearance—nothing that alluded to a declaration of war. He was surprised how gentlemen could so interpret the motion. He thought it would be very unbecoming in a nation to talk of negotiation without that patriotism which tends to prevent incroachments. He thought these ideas were as closely connected with a just national dignity as body and soul. He should support the motion.

The Speaker said gentlemen went too far: the previous question was the point to which they must confine themselves.

Mr. W. Smith wished to know what debate could take place if the members' mouths were to be muzzled, and prevented from speaking their sentiments: he certainly should speak his, while in order.

The Speaker insisted upon the member confining himself to the point of order.

Mr. Smith said he now rose to express himself on the propriety of adopting the amendment, and against the previous question. Some gentlemen say that the resolution had better not be entered into now. He differed from them in that; he thought if any declaration at all was made, it ought to be now. His reasons were, because we are now answering the President's Speech; and the circumstances which have lately occurred seem to call for such a declaration; and because, in withholding it, we run great risks, inasmuch as we hold out a new idea to the French Government that we are so alarmed by the note of their Minister as to throw ourselves on the justice and moderation of the Republic. He thought there was much need to assert our national dignity, and prove that we do not throw ourselves on the mercy of that nation. Gentlemen have said they have no information on the subject: they surely could not be unacquainted with the appeal of the French Minister to the people of the United States. He thought it was just for the members of that House to speak on the subject. In that Minister's representation to the people, he has said that his nation is offended with ours, and that they will continue so until our Government returns to itself by a change of its conduct. This is the very time, Mr. S. said, for those gentlemen who were convinced that our Government has acted in its proper character—that we have not been changed by any act or threat of the French—this is the proper time for them to come forward and express the full reliance the Executive may have in the co-operation and support of this House. Surely there was no threat in this: the threat does not come from us, it comes from that Republic. The President informs us that he has done all he could towards an amicable settlement of the business, but that, notwithstanding all, they persisted in their complaints. However, he says he shall go on to pursue those measures which may tend to produce harmony; at the same time he shall not forget what is due to our nation. He closes the subject of the communication with the French with that sentiment. And can we avoid expressing our wish that he would do so: at the same time, declaring that he may place a firm reliance in our willingness to support his endeavors? The French Minister is offended on account of the Treaty we have made with Great Britain: he considers that we have violated our neutrality. If he pursues this idea, we must be involved with one or the other of those nations; and while we are in this dilemma, at such a serious period as this, will gentlemen say that it will be improper for us to declare to the President that we will pursue and support the measures of Government? We could do no less. Mr. S. said he thought it necessary to make these observations, in which he had kept himself as much in order (about which we are so hampered) as possible. This, said he, is the proper time to make

such a declaration, as we may not have another: and he could not see how it was to be avoided at this time. He hoped the amendment would be agreed to.

Mr. Hartley wished that part of the Address to be read with the clause proposed for amendment; which was done, and the Speaker at the same time read the rule of the House on the subject of order, and begged gentlemen to regard it. Mr. H. then said that he had mentioned to the House some time since that it would be prudent in this House to wait till the expected communication was made before the subject underwent any discussion; that having not been attended to, he should so far deviate from his own ideas as to offer a word on the subject. He was surprised, he said, that the British Treaty had offended the French Minister. Certainly we have a right to form such a Treaty as a majority of the Legislature approves. He was still sorry that the subject had undergone so much discussion at this time, as he thought our present situation so critical that we ought to act with the greatest caution. But, from the new views he had taken of the subject, he should support the motion of his colleague, as their support to the Government was become so necessary.

Mr. Harper conceived it to be strictly in order to show that the proposed declaration was proper to be passed at this time. If he had a right idea of the previous question, it could not have an effect to smother debate. He should, therefore, go on to state one or two things which he thought important, and he would begin by declaring, that if he believed the resolution went to the pledging of the House to any particular measures they hereafter might see reason to disapprove, he would not only vote for the previous question, but against the motion altogether. If he understood the motion, it went no further than to say, "We join you in wishing to preserve the most sincere amity with the French Republic; but if all means to attain it fail; if it should happen that, notwithstanding all the exertions used, peace cannot be preserved, we shall hold ourselves bound to support you." If gentlemen examined the amendment, they would find it contained no more than this. If this was the declaration, he would ask——

[A member desired to know of the Speaker whether Mr. H. was in order? The Speaker replied, it was impossible to say how the gentleman meant to apply what he had said. He desired him to go on.]

Mr. Harper said, it was his intention to show that the main question ought to be taken, and appealed to the feelings of every heart—to those honorable feelings of patriotism which distinguished American citizens—whether this was an improper declaration? If it were improper, he had widely misconceived their duty. He should think it the deepest disgrace to be at any moment free from the operation of these feelings. And, if this sentiment was honorable, he said, there could not be any occasion in which it would be improper to express it to other nations, declaring that we will guard the rights of our nation, preserving peace if possible; but that in the other alternative we fear not to support our Government. He knew of no situation in which it would be improper to express these sentiments. Are we, according to the sentiments of some gentlemen, to say to the American people, that we will use all honorable means, and if that will not do, that we will act dishonorably? Mr. H. said, if he believed all that had been said of our inability, of that submissive spirit which had been spoken of, he would join with gentlemen in their opinion. So weak, so out-cast a set of men should not disgrace such sentiments by uttering them. But he believed they should do right to uttter them——

[Mr. W. Lyman called Mr. Harper to order.]

The Speaker said the gentleman was out of order. Mr. H. was about to go on, but the Speaker informed him he could rise only to explain. The question was here put, whether the member might rise to explain? Fifty-four members appeared in the affirmative—it was carried. [The Speaker read the rule on this subject, observing that it was with pain he was forced to declare the member out of order.] Mr. Harper rose, and the Speaker wished to know whether he appealed from the decision of the Chair to the House? He answered in the affirmative; and, on leave being given, he explained to the House, that he meant to show that the main question ought to be put, as a proper declaration to be made at this time. He complained of this strictness against him, which was closing his mouth on an important question; he however submitted to the House. The sense of the House being taken, he was declared out of order—50 votes being against him; he then sat down.

Mr. Venable expressed his surprise that any member should have so persisted in forcing himself in this way upon the House in contradiction to the will of the members, the injunctions of the Speaker, and the express rules of the House.

Mr. W. Smith wished to know who had made this gentleman [Mr. V.] a censor on the business.

The previous question was then called for by five members, viz: "Shall the main question to agree to the said amendment be now put?"

It passed in the negative—yeas 30, nays 49, as follows:

Yeas.—Fisher Ames, Theophilus Bradbury, Joshua Coit, William Craik, James Davenport, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Samuel Lyman, Francis Malbone, John Reed, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, George Dent, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Nicholas Gilman, Christopher Greenup, Andrew Gregg, William B. Grove, Carter B. Harrison, Jonathan N. Havens, John Heath, Thomas Hen-

derson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, John Page, Josiah Parker, John Patton, John Richards, John S. Sherburne, Israel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Philip Van Cortlandt, John B. Varnum, and Abraham Venable.

The amendment of Mr. Sitgreaves was therefore laid aside.

Mr. Blount then moved to strike out the following clause in the last paragraph: "For our country's sake, for the sake of Republican liberty, it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of your descendants."

And on the question thereon, it passed in the negative—yeas 24, nays 54, as follows:

Yeas.—Theodorus Bailey, David Bard, Thomas Blount, Gabriel Christie, John Clopton, Isaac Coles, Albert Gallatin, William B. Giles, Christopher Greenup, John Heath, James Holland, Andrew Jackson, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Josiah Parker, John Patton, John Swanwick, Joseph B. Varnum, and Abraham Venable.

Nays.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Nathan Bryan, Thomas Claiborne, Joshua Coit, William Craik, James Davenport, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William B. Grove, Robert Goodloe Harper, Jonathan N. Havens, Thomas Henderson, William Hindman, Aaron Kitchell, Samuel Lyman, James Madison, Francis Malbone, F. A. Muhlenberg, John Nicholas, John Page, John Reed, John Richards, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Isaac Smith, William Smith, Richard Sprigg, jr., William Strudwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

On the question being about to be put on the answer as amended, Mr. Blount wished the yeas and nays might be taken, that posterity might see that he did not consent to the Address.

The main question being put, it was resolved in the affirmative—yeas 67, nays 12, as follows:

Yeas.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, David Bard, Theophilus Bradbury, Nathan Bryan, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, William Cooper, William Craik, James Davenport, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, Thomas Henderson, William Hindman, George Jackson, Aaron Kitchell, Samuel Lyman, James Madison, Francis Malbone, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, John Page, Josiah Parker, John Patton, John Reed, John Richards, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Isaac Smith, William Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, George Thatcher, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Nays.—Thomas Blount, Isaac Coles, William B. Giles, Christopher Greenup, James Holland, Andrew Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, and Abraham Venable.

Resolved, That the Speaker, attended by the House, do present the said Address; and that Mr. Ames, Mr. Madison, and Mr. Sitgreaves, be a committee to wait on the President to know when and where it will be convenient for him to receive the same.

Friday, December 16.

Mr. Ames, from the committee appointed to wait on the President to know when and where he would receive the answer of this House to his Address, reported that he had appointed to receive it at his house this day at two o'clock.

A petition was presented from William Crowley Jordan, of Philadelphia, stating the advantages that may be derived from the culture of silkworms, and the establishment of a manufactory of that kind in this country, which he supposes peculiarly calculated to their improvement. He prays the aid and patronage of Congress. Referred to the Committee of Commerce and Manufactures.

The Speaker laid before the House a letter and report of the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year 1797; also, a statement of the receipts and expenditures of the Treasury of the United States for one year preceding the 1st of October, 1796; which were read, and ordered to lie on the table, and, on motion, to be printed.

On motion of Mr. Gallatin, it was resolved that a standing Committee of Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the Public Debt; of the revenue and of the expenditure; and to report, from time to time, their opinion thereon. Mr. W. Smith, Mr. Gilman, Mr. Malbone, Mr. Bradbury, Mr. N. Smith, Mr. Israel Smith, Mr. Greenup, Mr. Gilbert, Mr. Isaac Smith, Mr. Gallatin, Mr. Patton, Mr. Hindman, Mr. Madison, Mr. Blount, Mr. Baldwin, and Mr. A. Jackson, were appointed to that committee.

J. B. DUMON.

Mr. Sherburne presented a memorial of Jean Baptiste Dumon, son and heir of J. B. Dumon, late of Beauport, in Canada, praying to be reimbursed certain advances made by the deceased for the support of the Army of the United States, and

also for losses and injuries sustained in his person and property, by adhering to the American cause during the war.

Mr. Gilbert said, this memorial had been before the House last session, and decided against; he thought if there were not some new circumstances displayed in the case, it could not again be recommitted to the same committee.

Mr. Livingston hoped it would again come under the consideration of the House, although it was the last session rejected, yet the very peculiar hardship attending this man would apologize for the return of the memorial; besides, he said, it was acted on at the last session in a very thin House, and opposed by a very small majority.

Mr. Sherburne said, there had been instances before of petitions which were rejected at one Congress being brought forward at another. He said, last session, when this memorial was called up from the table, he was not present, which was necessary in order to speak on his knowledge of the case; the circumstances attending its rejection at that time, he thought, would allow it again to be presented.

Mr. Gilbert could not place it on the footing of right. He said, it being before that House last session, and not a different Congress, conspired against its appearance now; how far it was right to suffer the same business perpetually to come before the House, he should leave gentlemen to judge.

Mr. Heath.—I hope, sir, no gentleman within the walls of this House will ever limit the rights of petitions. I hope the doors of this House will never be shut against petitioners. It is probable this case may be somewhat varied, circumstances may appear more clear; I therefore hope it will be acted on. We frequently have the very same case come forward after being rejected, and in the same session, only it has been presented with another face. I hope we shall not be strictly confined within the forms of a petty court of justice. We may act upon a more general, and I hope, more generous scale.

Mr. Swift said, he wished the right to be as extensive to petitioners as any person; he believed they should not have the same petition in exactly the same words: when a petition states new facts, it would be well to suffer it to come forward; but to have the same petition come forward time after time, year after year, and be as often rejected, he thought it improper to encourage. It is not to be presumed that the House would change opinions. If it was stated differently, and yet only the same facts remaining as before, he thought it did not change its nature; he did not see any new evidences in this memorial.

Mr. Heath said no person could charge his memory whether the memorial was the same or not; he wished it to be referred to the committee to examine it; their report would speak to that.

Mr. Swift thought they might be compared, and if found the same, reject it; if not, commit it.

Mr. Thatcher did not think the gentleman's reasoning last up was sound. "If the same, reject, if not, refer it." He thought there was no reason in this, why it should not be referred to the committee. It might be the same petition, and might have been rejected, because it had not proper evidence, but it may now have new evidence in its favor, and there may be good reason to support the claim now, though there was not before.

It was then referred to the Committee of Claims.

Mr. Swanwick moved the following resolution; which was agreed to:

"*Resolved*, That all petitions which, during the last session of Congress, were referred to the Committee of Commerce and Manufactures, and not by them reported on, be referred to the present committee on that subject."

CANADIAN REFUGEES

Mr. Williams moved, that, according to the order of the day, the House resolve itself into a committee on the petition of the Canadian and Nova Scotia refugees.

Mr. Parker opposed it, on account of going into a Committee on the President's Speech; he said, there were many important points in it which required a speedy discussion.

Mr. Williams said these petitions had waited two or three years for the decision of Congress; it would take but a few minutes; he therefore hoped it would be acted on. The motion was lost.

THE PRESIDENT'S SPEECH.

Mr. Parker moved for the House to go into Committee on the President's Speech.

Mr. Thatcher said, it had been usual for the answer to be presented first: if that had been the practice, it ought to be preserved; however, he thought it not right to take it into consideration until an answer was presented.

Mr. Parker said, the answer was agreed to, which he thought the same. If, said he, we wait on the President at two o'clock, it will then be too late to take it up, and he thought there was now time enough before that to go through it, as when we adjourn, it will most likely be till Monday; he said some progress would be made before Monday, without loss of time. The session would be so short there was need to improve it all.

The House then resolved itself into a Committee of the Whole.

The Chairman read the President's Speech by paragraphs.

Mr. Parker moved the following:

"*Resolved, as the opinion of this Committee*, That provision ought to be made for carrying into full effect the Treaty with the Dey and Regency of Algiers."

Mr. Heath would be thankful to the mover for information what provision had been made last session, and what deficiency there might be, as he supposed the gentleman had sufficiently acquainted himself with the circumstance.

Mr. Parker said he could not inform the gentleman; he was no way acquainted with the arcana of the War Office; what had been done, he had no knowledge of. He supposed it would be best to refer it to a committee, and when their report came forward, it would inform the House. He said it was the business of the House to for-

ward an inquiry into a circumstance, which, to his view, was necessary.

Mr. Giles hoped the resolution would not take effect; he thought we ought not to decide on the merit of the case until the business came before the House; he thought it quite premature. It ought at least to be suspended till we have a knowledge of the proper sum necessary to carry it into full effect. He was not prepared to vote for it.

Mr. Baldwin said, such a subject ought to be referred to a committee: the Committee of Ways and Means he thought the most proper to examine into it, and report thereon.

Mr. Parker had no objection to any modification the subject might take, so that it comes before the House.

Mr. Swift could not see what the Committee of Ways and Means could do with it; but he thought it the duty of the House to inquire what was necessary to answer that purpose. He meant to vote for the motion.

Mr. Page objected to it in point of form. He said a Committee of the Whole could not refer to any other committee. The Chairman informed the members that in the form the question was put, there appeared nothing inconsistent with order.

Mr. Sitgreaves said they ought to wait the arrival of the statement of accounts from the proper Department before any resolution was passed on the subject.

Mr. Thatcher hoped at present the resolution would not be agreed to, as he thought it quite premature; no doubt as the President had made mention of it in his Speech he would make a communication on that subject. It had been unusual to expect a communication till we had answered his Speech: he thought we ought to wait that communication; he will inform the House the sum necessary for that purpose.

On a division, the motion was negatived.

The several resolutions hereafter mentioned, were also agreed to by the Committee; which, having been severally taken up by the House, were twice read, and adopted, viz:

1. *Resolved*, That it is the opinion of this Committee, that an inquiry ought to be made into the state of the Naval equipment, ordered by former acts of Congress; and whether any, and what, other Naval force shall be necessary for the protection of the commerce of the United States, and the support of their flag.

Mr. Parker, Mr. Livingston, Mr. Harper, and Mr. Sherburne, were appointed a committee pursuant to the same.

2. *Resolved*, That so much of the President's Speech as relates to the encouragement of manufactures, be referred to the Committee of Commerce and Manufactures.

3. *Resolved*, That so much of the President's Speech as relates to the promotion of agriculture, be referred to a select committee; and

Mr. Swift, Mr. Greene, and Mr. Brent, were accordingly appointed.

4. *Resolved*, That inquiry ought to be made, whether any, and what, alterations are necessary to be made in the compensations allowed by law to the officers of the United States.

A committee was accordingly appointed, of nine members, viz: Mr. Dearborn, Mr. Davenport, Mr. Williams, Mr. Hartley, Mr. Murray, Mr. Page, Mr. Franklin, Mr. Baldwin, and Mr. A. Jackson.

5. *Resolved*, That inquiry ought to be made whether any, and what, further measures are necessary to reinforce the existing provisions for the discharge of the Public Debt.

On motion, it was referred to the Committee of Ways and Means.

6. *Resolved*, That inquiry ought to be made into the actual state of the fortifications of the ports and harbors of the United States, and whether any, and what, further provision is necessary on that subject.

A committee of seven members was accordingly appointed for that purpose, consisting of Mr. W. Lyman, Mr. Coles, Mr. Gilman, Mr. Baldwin, Mr. Thompson, Mr. Patton, and Mr. Van Cortlandt.

On motion, it was

Resolved, That the Committee of the Whole on the state of the Union be discharged from the consideration of so much of the President's Speech as relates to the establishment of a National University, and that the same be committed to the committee on the memorial of the Commissioners at the Federal City.

Mr. Sitgreaves moved that the bill to provide for organizing, arming, and disciplining the Militia, presented the 25th of January last, be committed to a Committee of the Whole House; which was carried, and made the order of the day for Monday next.

TREASURY REPORTS.

On motion, it was

Resolved, That the several Reports and statements from the Secretary of the Treasury relative to the annual expenditures of the War Department from the commencement of the present Government to the 31st of December, 1795, to laying and collecting direct taxes among the several States, agreeably to the rule prescribed by the Constitution; and to estimates of the sums necessary to be appropriated for the service of the year 1797; and receipts and expenditures at the Treasury of the United States, for the year preceding the 1st of October, 1796, which were laid before the House this session, be referred to the Committee of Ways and Means.

PETITIONS OF LOAN OFFICERS.

Mr. Livingston moved that the petition from the Loan Offices be now considered. It appeared by a conversation among the members that this business had been last session referred to the Committee of Claims, but whether reported on or not, the House never took it up, nor was it inserted among the unfinished business. It was then resolved, that the several memorials and petitions of Nathaniel Appleton, Commissioner of Loans

for Massachusetts; of James Ewing for New Jersey; of William Skinner for North Carolina; of Joshua Green, Richard Duryee, and others, clerks in Loan Offices, presented to the House at the last session, be referred to the committee on the subject of compensation.

ADDRESS TO THE PRESIDENT.

The Speaker informed the House that the hour was nearly at hand, which the President had appointed for receiving the Address of the House, in answer to his Speech. The members, in a body, accordingly waited upon the President, at his house; and the Speaker pronounced the following Address:

"Sir: The House of Representatives have attended to your communication respecting the state of our country, with all the sensibility that the contemplation of the subject and a sense of duty can inspire.

"We are gratified by the information, that measures calculated to insure a continuance of the friendship of the Indians, and to maintain the tranquility of the Western frontier, have been adopted; and we indulge the hope that these, by impressing the Indian tribes with more correct conceptions of the justice, as well as power of the United States, will be attended with success.

"While we notice, with satisfaction, the steps that you have taken, in pursuance of the late Treaties with several foreign nations, the liberation of our citizens, who were prisoners at Algiers, is a subject of peculiar felicitation. We shall cheerfully co-operate in any further measures that shall appear, on consideration, to be requisite.

"We have ever concurred with you in the most sincere and uniform disposition to preserve our neutral relations inviolate; and it is, of course, with anxiety and deep regret we hear that any interruption of our harmony with the French Republic has occurred; for we feel with you, and with our constituents, the cordial and unabated wish to maintain a perfectly friendly understanding with that nation. Your endeavors to fulfil that wish, and by all honorable means to preserve peace and to restore that harmony and affection, which have heretofore so happily subsisted between the French Republic and the United States, cannot fail, therefore, to interest our attention. And while we participate in the full reliance you have expressed on the patriotism, self-respect, and fortitude of our countrymen, we cherish the pleasing hope that a mutual spirit of justice and moderation will insure the success of your perseverance.

"The various subjects of your communication will, respectively, meet with the attention that is due to their importance.

"When we advert to the internal situation of the United States, we deem it equally natural and becoming to compare the present period with that immediately antecedent to the operation of the Government, and to contrast it with the calamities in which the state of war still involves several of the European nations, as the reflections deduced from both tend to justify as well as to excite a warmer admiration of our free Constitution, and to exalt our minds to a more fervent and grateful sense of piety towards Almighty God for the beneficence of His providence, by which its Administration has been hitherto so remarkably distinguished.

"And while we entertain a grateful conviction that your wise, firm, and patriotic Administration has been signally conducive to the success of the present form of Government, we cannot forbear to express the deep sensations of regret with which we contemplate your intended retirement from office.

"As no other suitable occasion may occur, we cannot suffer the present to pass without attempting to disclose some of the emotions which it cannot fail to awaken.

"The gratitude and admiration of your countrymen are still drawn to the recollection of those resplendent virtues and talents which were so eminently instrumental to the achievement of the Revolution, and of which that glorious event will ever be the memorial. Your obedience to the voice of duty and your country, when you quitted reluctantly, a second time, the retreat you had chosen, and first accepted the Presidency, afforded a new proof of the devotedness of your zeal in its service, and an earnest of the patriotism and success which have characterized your Administration. As the grateful confidence of the citizens in the virtues of their Chief Magistrate has essentially contributed to that success, we persuade ourselves that the millions whom we represent, participate with us in the anxious solicitude of the present occasion.

"Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind, than valuable to a Republic.

"Although we are sensible that this event, of itself, completes the lustre of a character already conspicuously unrivalled by the coincidence of virtue, talents, success, and public estimation; yet we conceive we owe it to you, sir, and still more emphatically to ourselves and to our nation; (of the language of whose hearts we presume to think ourselves at this moment the faithful interpreters,) to express the sentiments with which it is contemplated.

"The spectacle of a free and enlightened nation offering, by its Representatives, the tribute of unfeigned approbation to its first citizen, however novel and interesting it may be, derives all its lustre (a lustre which accident or enthusiasm could not bestow, and which adulation would tarnish,) from the transcendent merit of which it is the voluntary testimony.

"May you long enjoy that liberty which is so dear to you, and to which your name will ever be so dear: may your own virtues and a nation's prayers obtain the happiest sunshine for the decline of your days and the choicest of future blessings. For our country's sake, for the sake of Republican liberty, it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants."

To which the President made the following Reply:

"Gentlemen: To a citizen whose views were unambitious, who preferred the shade and tranquility of private life, to the splendor and solicitude of elevated stations, and whom the voice of duty and his country could alone have drawn from his chosen retreat, no reward for his public services can be so grateful as public approbation, accompanied by a consciousness that to render those services useful to that country has been his single aim: and when this approbation is expressed by the Representatives of a free and enlightened nation, the reward will admit of no addition. Receive, gentlemen, my sincere and affectionate thanks for this

signal testimony that my services have been acceptable and useful to my country. The strong confidence of my fellow citizens, while it animated all my actions, insured their zealous co-operation, which rendered those services successful. The virtue and wisdom of my successors, joined with the patriotism and intelligence of the citizens who compose the other branches of Government, I firmly trust, will lead them to the adoption of measures which, by the beneficence of Providence, will give stability to our system of Government, add to its success, and secure to ourselves and to posterity that liberty which is to all of us so dear.

"While I acknowledge, with pleasure, the sincere and uniform disposition of the House of Representatives to preserve our neutral relations inviolate, and, with them, deeply regret any degree of interruption of our good understanding with the French Republic, I beg you, gentlemen, to rest assured that my endeavors will be earnest and unceasing, by all honorable means, to preserve peace, and to restore that harmony and affection which have heretofore so happily subsisted between our two nations; and with you, I cherish the pleasing hope that a mutual spirit of justice and moderation will crown those endeavors with success.

"I shall cheerfully concur in the beneficial measures which your deliberations shall mature on the various subjects demanding your attention. And while directing your labors to advance the real interests of our country, you receive its blessings; with perfect sincerity my individual wishes will be offered for your present and future felicity.

"G. WASHINGTON."

The members then returned to the House, and having resumed their places, the Speaker presented a copy of the President's Answer to the Clerk; which he read.

A communication was received from the Secretary of the Treasury, with a statement of the drawbacks paid upon dutiable articles in the years 1793, 1794, and 1795, in pursuance of a resolve of the House on the first of June last. It was ordered to be printed.

Monday, December 19.

John Hathorn from New York, and John Milledge from Georgia, appeared and took their seats.

A new member to wit: Elisha R. Potter from Rhode Island, in the place of Benjamin Bourne resigned, appeared, produced his credentials, was qualified, and took his seat in the House.

ORGANIZING THE MILITIA.

Mr. W. Smith said, that the bill to provide for organizing, arming, and disciplining the Militia of the United States, was among the orders of the day. As that business had been a considerable time in hand, he wished it now to be taken up, in order to determine the principle, whether the Militia should be continued upon its present footing, or whether it should be divided into two classes, viz: a select corps and a reserved corps, as contemplated by the present bill. It could undergo any alterations for its improvement that may be necessary without new modifying it. Until this question was decided nothing could be done. For his own part, he said, he was no military man, but he had made it his business to inquire into the subject, and he found it to be the opinion of those well versed in military matters, that the plan proposed by this bill could not be carried into effect with success. He wished, however, the House to come to the decision. If it was their wish to continue the Militia upon the present plan, and not adopt the plan proposed by the bill, the first clause could be struck out—if this motion should be agreed to, he should then move for the Committee to rise, and a select committee to be appointed to prepare such alterations as may be proper for its general acceptance; this would considerably shorten the business; and as the session would be a short one, the sooner the House went into the subject the better; he therefore hoped the House would resolve itself into a Committee of the Whole on that subject.

The House accordingly resolved itself into a Committee of the Whole, when the first section of the bill was read, which is in the following words:

"Sec. 1. *Be it enacted, &c.*, That, from and after the passing of this act, the Militia of the United States shall be composed of all able-bodied white male citizens of the respective States, resident therein, who shall, respectively, be of the age of twenty years, and under forty years. That the said Militia shall be divided into classes; the first class to be denominated the select corps of the Militia of the United States; the second class to be denominated the reserved corps of the Militia of the United States. The select corps of the Militia of the United States shall be composed of all able-bodied white male citizens, respectively, who shall be of the age of twenty years, and under the age of twenty-five years. The reserved corps shall be composed of all able-bodied white male citizens, respectively, who shall be of the age of twenty-five years, and under the age of forty years: *Provided*, That, in the choice of officers, either of the select corps, or reserved corps, no respect shall be had to the limitations of age aforesaid; the foregoing regulations to be subject, however, to the exemptions hereafter specified."

Mr. Smith then said that, in order to come at the right method, he should move to strike out the first section of this bill, as above. At the time this bill was under discussion at a former period, there was much opposition to this clause: the great expense it would incur; the great inconveniency and the general embarrassment that would attend it, in drawing a number of industrious people from their business to form companies, were mentioned as great difficulties. He hoped that a select committee would be appointed, who may devise a better scheme than the present system appeared to be. In many States, he said, the Militia was upon a very good regulation; in others, it was upon a very bad one. He hoped, therefore, his motion would be agreed to.

Mr. Dearborn said, he should second the motion, and with the same view as was expressed by the mover—that the business may be shortened by preventing a long discussion of the several parts, which would waste much time, and take up the whole at once. It appeared to him that the bill would not pass the House, as there were

many parts of it he thought inadmissible into a Militia system; and, he said, the same objections would be made to them as had been before. The first clause, including the select corps, he said was repugnant to the will of the people, however, to that part of the country with which he was acquainted. He hoped that the clause would be struck out, in order to a recomitment of the bill.

Mr. Harper believed considerable difficulty and embarrassment may attend the mode of organizing the Militia specified in the first clause of the bill; but he thought it an essential method toward forming a complete military system, which he thought the old way not efficient in; he, therefore, hoped this alternative would be adopted. Which of the two, Mr. H. asked, would the Committee prefer, a complete system, or one which had been found to fail so materially of its object, as the one now used? It is said that this plan will be attended with very considerable expense. He believed any effectual military system would be attended with considerable expense, whether the military necessary for the defence of the country is to consist of several select corps or a standing national establishment, (which was not wished by any,) or whether of the whole body of the people capable of bearing arms, each will be attended with a heavy expense. It has been said, that to draw our youth from their homes and labor to be instructed in military duty, would not only lessen the stock of labor, and, consequently, of national wealth, but be an injury to their morals. The time they were to remain in encampment to learn discipline, would be so short, that he thought the objections of gentlemen on that ground would vanish, if they would consider. It is said that two or three weeks will be enough for this purpose; and that the most convenient time would be in the Fall season; and the same length of time, some other season of the year, would be sufficient. Persons in agricultural lives, it is well known, can, at some seasons, be well spared from their labor, without any particular inconvenience for that short time; and, if that is too long a time, one week will be better than no time; they will be able, even in that little time, to acquire some knowledge of military exercise; thus, Mr. H. supposed, that difficulty was avoided. With respect to the morals of the youth being injured, as had been suggested, he would observe, that it was not contemplated to bring them into large encampments, nor to keep them long at a time, nor to be quartered in towns, either of which may possibly have a bad tendency; besides, the military discipline they would be kept under, and the military duty to be attended to, would preclude them from running into excess or disorder, as they will, while there, have enough to do during the whole week; the design is, to let their encampments be in small numbers, to prevent contamination. He acknowledged those objections may have some foundation, and were, in a small degree, in existence, but the importance of the advantages to be derived from such a plan as this, he believed, considerably overweighed them. As a proof that the present system is very defective, we may appeal to the many communications from the President on the subject; also, the very raw and undisciplined nature of those now termed Militia, when they are called out, and the evidence of military officers in general; witness a recent instance, when the Militia were called out; the chief support of that expedition depended upon voluntary public spirit, and entirely, or nearly, independent of any Militia laws; it was more from individual patriotism for the public service, than by an existing compulsory laws.

If, then, the present measures will not prove efficacious to accomplish so advantageous an end, it must be altered. And how must we alter it? While we keep in view the formation of a National Army of the whole United States, must we follow the old system? If you will not arm the people, and subject them to military duty, where is your force? You must either give up the idea of an efficient military force, or you must adopt a mode similar to that now proposed, and abandon the existing system.

This brings us to the plan proposed in the present bill. Whether the precise manner of modifying the principle of this bill be a right one; whether disciplining all persons between 18 and 25 years of age be right or not, he would not say, that he would leave to the committee to decide; there possibly might be a preferable regulation proposed, if so, he should be very willing to vote for its adoption; but something was necessary to be done, or the idea of our national defence must cease. Gentlemen from some parts of the country were not so strikingly impressed, nor so well informed of the necessity of this measure as he was. Mr. H. professed to be pretty well acquainted with the Eastern States. The whole body of the Militia could there be collected in a small circumference, as they were thickly settled; but when you come to a part of the country where, to assemble a company of Militia, you must travel 20, or in some places 40, miles square, this plan becomes impracticable. Admitting that the present system is wholly incompetent or improper, where the settlement is thin, the question then is, whether the system proposed in its stead would be injurious to the more thickly settled parts of the country? In the Eastern States, some additional burden may be laid on the people, and some inconveniences may there be felt; but would they be more than are now felt in some other parts? He believed the present system had greater inconveniences attending it in some places, and to greater extent, than could possibly attend this new system. In short, he believed that it would be everywhere practicable, even in the Eastern States; although, possibly not so necessary, yet he thought it would be of great service; while he was so sensibly impressed with these ideas, he could not agree to strike out the paragraph. He hoped it would have all the amendment it was susceptible of; but he hoped the form of the clause would be retained, and that the bill would be discussed throughout; but he believed no other system would be so serviceable as this, in half of the United States.

Mr. Sitgreaves confessed he felt a difficulty to decide on the subject now before the Committee. He had not the honor of a seat in that House when the subject underwent a discussion. He must confess the ideas of the gentleman from South Carolina appeared to be just. With respect to the State of Pennsylvania, from all the knowledge he had of it, and the conversations with a number of military officers, who had universally concurred, he sincerely thought, that there was an absolute necessity of new arrangements to give force and efficacy to the military system. None can doubt of the bravery and patriotism of our citizens; but bravery alone will not effect our security, without a military system to call forth that bravery into proper use. If bravery alone would do, our military arrangements would be ineffectual. True discipline, he said, was the life and soul of an Army. An Army well disciplined, with bravery, could encounter every difficulty. If it is true, that discipline is the only effectual way to obtain that desirable end, we had better use our utmost exertions to carry it into force; if it can only be acquired by a mode like that specified in the present bill, neither trouble nor expense should stand in the way of its accomplishment; trouble or expense is not of that consequence, as that we should avoid the main means to our national security. Mr. S. could not conceive that a day or two in a year was sufficient to acquire a sufficient stock of military knowledge. It was well known that that day or two, very great imperfections attended the arrangement, and no advantage was derived. He should, therefore, wish to hear stronger objections to the plan before he could vote for striking out the clause in question.

The bill before them, Mr. S. said, was the system of Baron Steuben. He knew this was a favorite system with the citizens of this State, and that it would prove very acceptable to them. It was said, there were some States in which the Militia is on a good footing, and requires no amendment. He wished some of the gentlemen from those parts would inform the Committee of the means which were there taken to make their military system so useful, that we may make use of similar measures in the Middle and some of the Eastern States; if not, he should not consent to part with the plan now proposed.

Mr. Henderson said, there was not a person in the Committee more disposed to amend the present military system than he was; but he must confess no person could object to the measures now proposed more than himself. Two or three grounds of objection operated in his mind against the Government going into this amendment, and he had not heard an argument that could remove them. What he had to observe on the subject came into his mind only since the discussion began. As to the principle of the bill, he thought it a bad one. In a Republican Government, military service ought to be as equally divided among its citizens as possible: this would not be the case if the present system was carried into effect. It is but a small proportion of our citizens who are included between the ages of 20 and 25 years; he, therefore, supposed that the burden would fall entirely upon one-fifth of the people; of these, a considerable part would pay their equivalent to be excused from serving; thus, the poorer and most indigent class of citizens will have the defence of the nation entirely thrown on them.

Mr. H. also thought the measure unconstitutional. It appeared to him that the General Government had no power to call out people to train them for military service; he rather thought it ought to be left with the different States to call out their own citizens for military discipline.

With respect to the policy of the measure, Mr. H. thought the plan of this bill would be subjecting the United States to a very heavy expense: more than Congress would like, or at present could spare. Suppose the select corps consist of 100,000 men, which could not be rating too high, this he should suppose to cost between three and four millions of dollars; he thought this a very great sum, the saving of which would be an important measure.

The plan he thought objectionable on another ground—it was but a few years since the General Government newly organized the Militia; since which the States scarce had time to regulate their systems, to make them agreeable to the General Government. This new system would cause a new derangement. were they called upon again to change their system. Should we, then, encourage the agitation of the public mind, already too much agitated, by adopting measures which would prove unpopular and disagreeable? Mr. H. believed the State of New Jersey, which he had the honor to represent, had a very respectable Militia, and the law they had established had been very effectual to promote that purpose; that State had very good troops, both horse and foot, which were supported at individual expense; they prided themselves in a respectable corps: he liked a Militia *will* better than a Militia law. And shall we discourage this spirit by an act which shall blast its endeavors? He hoped not. It appeared to him this would at once damp that spirit which tends to security. He hoped we should never adopt any compulsive laws. If Government only retains the confidence of the people, the Militia of, at least, that State, (of which Mr. H. knew most) would be ready at any demand the Government should make of them.

The gentleman from South Carolina [Mr. Harper] had said, that the present system was effectual in most parts of the Union. Then, Mr. H. would ask, why change it? Why relinquish that system which was effectual in the most populous part of the Union, to accommodate a widely dispersed part, inhabited by comparatively a few? If, in the Eastern States, where are the majority of inhabitants, this system is found agreeable, why introduce a change? The gentleman's argument turned against his conclusion. Till he heard far more weighty arguments, he should vote for striking out the clause.

Mr. Baldwin said, his mind was made up in favor of striking out the section. It may appear

rather hasty on a subject of so much importance to take it up so soon; he had no objection to indulge gentlemen who may think so, by letting it lie over for some time. It is, as the gentleman first said, trying the principle. It might be recollected that this was one of the first objects that engaged the attention of the General Government. It was then put to its proper trial; it then underwent a very considerable discussion, and a very long and intelligent report was made on the subject from the Military department. After going sufficiently through it at that time, it was thought not practicable to decide upon it within our own walls, until we had laid the plan before the people, that the public opinion might be ascertained. Time enough had elapsed since then, and he thought they might determine, that it appeared against the measure; they thought the plan too laborious and expensive to be worth pursuing. The principle somewhat differs now from what it did at that time; it then not only contemplated a select and reserved corps, but a third corps was proposed. He supposed the subject was now brought up to see whether the House is now ready to determine upon the principle. Mr. B. said he was; he was ready to vote against it; but there may be some gentlemen not so well acquainted with it, who may wish time to consider; he wished to give them that opportunity. This plan, he thought not worth pursuing: whatever we do, we must go on some other. This is not the basis on which we can, with the least prospect of safety, build our military system. Mr. B. thought the old system, in use before the year 1789, might receive such improvement as to equal any yet proposed. The sooner we can decide on any efficient plan the better. He understood the mover meant the House only to determine upon the principle. However, he should vote for striking out the first section for the reasons given.

Mr. Rutherford.—The gentleman who just sat down has so much narrowed the ground that he meant to have gone over, that he could not say much more on the subject than had been. He believed the Government of the United States had nothing to do with the Militia in the several sovereign States; this was his opinion, and it was the opinion of the people at large; however of nine-tenths of them. The Constitution is express upon this subject; it says, when the Militia is called into actual service, it shall be under the direction of the General Government; but until that takes place, the several States shall have command over their own children—their own families. If the United States take it up, they will defeat the end in view—they grasp too much. When a State has the idea that it is competent to its own business, it does not like the Union to interfere with its concerns. When the farmer begins to obtrude his direction upon his son, just commencing for himself, all spirit is lost with the son, and perhaps he never acts in the same forward manner afterwards. So it is with the Union and her children the States. If they are deprived of the spirit which they have cherished on this occasion, all is at an end, their spirit of valor is dashed: for the Government to enact Militia laws, is against the express decision of the Union. With respect to its unconstitutionality, Mr. R. concurred in opinion with the gentleman from New Jersey [Mr. Henderson] that this law would tend to alienate the minds of the people of the Eastern States whose Militia were already well-disciplined. Mr. R. could say, that as far as relates to the State he represents, they have done what he thought right; they have entered into military array; they wanted no new regulations in the Militia laws. The law proposed, he thought, would cross-cut all the exertions of the individual States. So soon as the United States come to obtrude their laws into the Eastern States where they have brought the Militia into a very respectable situation, he feared it would blast their further endeavors. He hoped nothing more would be done in that House than to advise those States who had neglected their Militia to revise and amend their laws, and make them more effectual: this is all this House can do—all they have a right to do.

Mr. Sitgreaves hoped the business would not be delayed; in which he differed with the gentleman from Georgia [Mr. Baldwin.] He thought there would inconvenience arise from postponing it. He said, it was proper that haste in this decision should be attended to; that the States might know how to proceed; they waited to know what Congress did on the subject, to direct them what to do themselves; their different Legislatures would then act accordingly. He knew this to be the case with the State of Pennsylvania. Mr. S. was not tenacious of his own opinion upon the principle of the bill; but he wished a hasty decision; it having undergone much discussion, he should not beat over the old ground.

Mr. Harper was far from being of opinion that the bill should be disregarded; after so much pains had been taken, he did not think it lightly to be dispensed with. It ought to be recollected that this bill has been the result of the deliberation of two committees of two different sessions, which consisted of men of good talents, and well versed in military concerns, who had seen the defects of the present system. He thought, therefore, that when a system had been brought forward with so much care, and from such authority, it ought not to be turned out of the House with so little ceremony. He wished to know what gentlemen would give in the stead of this bill. He would observe that, to make objections was very easy: it was very easy for a gentleman to get up and say he did not like the bill, but he ought also to show us the remedy; he ought to present us with a system more excellent, else his opposition is of no force. Did gentlemen pretend to say the present system is good? it could not be presumed; we had the evidence of the President of the United States, who has in three several communications made to this House, told us, it wanted Legislative attention. He called for the evidence of every military man in this House, and in the United States to prove the truth; let gentlemen

tell us where is the man that complains of the principle of this system, that will improve it; where is the man that will give us something better? The gentleman from Georgia [Mr. Baldwin] says the system has been published, and the public voice is against it: he could not conceive how far this could be the case. Mr. H. said he had not met with such opposition to this measure, although he had traveled pretty extensively almost from one end of the United States to the other, and had taken much pains to inquire the views of the people on this point; and as far as he had opportunity to hear, the present system was admitted as bad; and that something like the system now offered would be far more acceptable and useful; not that it might be as necessary in some parts as others. He could not see, as had been suggested, that the morals of the people would sustain any great injury; the Militia could be sent out in small parties to learn discipline. He thought that, without suffering any peculiar inconvenience in some of the States, they might give to the nation in general a system of great national advantage. Their labor would not be entirely lost, for an afternoon could then be devoted to business, and not prevent the learning of military discipline. When you go fifteen or twenty miles to assemble some parts of the company, how can they collect in a day? Longer time must be devoted, or great imperfection will be the result: it is necessary that, where people live so distant, a week or two be allowed, for which reason it will be inferred, that this part of the existing system will be altogether impracticable.

The gentleman from Jersey [Mr. Henderson] has said, that this plan would throw an unequal burden on some descriptions of citizens. Mr. H. thought the contrary; he thought the burden would fall equally on every description of people; every man in the course of his life would be obliged to perform his share in the service. That gentleman further says, that many will pay the fine, and thus be excused serving; but the bill contemplated no such exemption; no man ought to be excused but from utter inability; the plan of the bill meant, that all should, at some time of life, pass through this military discipline. The age fixed upon for the select corps was a time before men in general enter into business, and thus every one passing through this military discipline would diffuse such a habit as to be ready to defend their country whenever called to it. A man, because he was rich, should not be exempt; thus every citizen became a soldier, which was essentially necessary in a free Government. He hoped that, before gentlemen persisted in kicking this bill out of the House, in what he called an unceremonious kind of a manner, they would inform the Committee what they were to do, as it was certain the Militia in three-fourths of the Union wanted great regulations. In some parts he allowed they were on a very respectable footing. Charleston could produce two thousand regular, well-disciplined troops. But this was not the case in general to the Southward. And are we to let our Militia remain in its present situation, and throw our whole dependence on the Standing Army? If gentlemen will not tell us how to remedy the existing evil, why not put this principle before us into effect? [Mr. H. here again enforced his agument from the report of the committee, and the President's recommending it.] As to the expense, it was quite overbalanced by the great advantages that would be derived towards the support of our freedom. What efficient system could be devised without a great expense to the nation? Gentlemen's calculations run very high when they represent the expense of this select corps.

It has been said, that if this bill were to pass, it would derange all the present military exertions. It would not; this select corps would draw out of that: it would not prevent the citizens forming themselves into military corps as they may think fit. They were told that these volunteer corps have equipped themselves at a very great expense, this he knew; but he rather thought that all who composed the safeguard of our nation, should be equipped at the national expense; at present, the defence of the nation fell upon a few who were more rich, or more patriotic than others. He hoped the motion to strike out would not pass.

Mr. W. Lyman said, that the gentleman who condemned the present system in toto, allowed that it was effectual in some parts of the Union: then it could not be so extremely deficient. Mr. L. allowed that the Militia in some parts were defective; but in other parts they are in a very respectable force. He believed the present plan might be improved; but an attempt to put in practice this plan of a select corps, where a country lies so thinly inhabited, would be impracticable, and almost impossible. With respect to the present system, the gentleman last up has made some very unfounded objections, to say that it is generally disapproved. The most objectionable part of the present system to him was, in its tending to distinguish those citizens who could not pay, while it excused those who could. If this could be removed, he thought a great improvement would be introduced. The present Militia, he thought, would be very ready to defend the country whenever occasion should offer, either from foreign or domestic assault.

If the principle of a select corps was introduced into the country, he thought disaffection would be introduced with it, which would be found to war against the interest of the country. As soon as you carry this select corps into operation, you have no other corps to depend upon; the other is lost. And can it be supposed it will be acceptable to those who have been volunteers in the service in a fine genteel corps? Will they condescend to be brought into this poor, compulsive situation, in common with others who never have acted in the service? They will revolt at the idea. He differed with the gentleman from South Carolina [Mr. Harper] as he believed the people would be generally dissatisfied with the bill. He should, therefore, vote for the motion for striking out, and before the bill went into the

hands of a select committee, should observe respecting another principle in the bill on exemption, which he should waive until they came to it.

Mr. Hartley wished a little time might be given for the consideration of this subject, as there were several new members here who had not been present at former discussions of the subject. If they now agreed to strike out the first section, it would end the proposed plan. This was not an entire new plan. He believed, that in Switzerland, there was a corps of a similar kind, who were always called out before others; such a thing had been under contemplation in Pennsylvania. He granted it must be attended to, but hoped it would not be thought in that House that every man must bear arms; there were many conscientious people who would not on any account bear arms. This subject had been under consideration of a committee; he, at that time, furnished them with the Swiss code: they were armed and disciplined after this manner before this Government was formed. This select corps was to be armed at the expense of the United States. This appears the most considerable objection. It is contemplated to include all from 20 to 25 years of age; this could not take any very considerable portion of the citizens from their labor. The system at present used in Pennsylvania is very defective, and though ever so much so, if he understood the gentleman last up, nothing was to be done upon this subject; but it was to rest where it is. He hoped the Committee would rise, to give many gentlemen, who had but little knowledge of the business, time to inquire and consider on the bill.

Mr. Gilbert said he hoped the Committee would rise, and urged the same reasons as the last gentleman; it not having been discussed during the present Congress.

The motion was then put for the Committee to rise, when there appeared—ayes 37, noes 31.

The Committee accordingly rose, reported progress, and had leave to sit again.

PENAL LAWS.

Mr. Livingston said, that there had been a committee appointed, last session, on the subject of improving the penal code; but, for want of some necessary information, no report had been made. That information being now arrived, and doubting not the House was still desirous of ameliorating that code, he should beg leave to lay the following resolution on the table:

Resolved, That a committee be appointed to inquire whether any, and what alterations are necessary in the Penal Laws of the United States, and that they report by bill or otherwise.

Mr. Livingston, Mr. Bradbury, and Mr. Isaac Smith, were appointed a committee for that purpose.

THE MILITIA BILL.

Mr. Harper wished to know if it would be in order to move that the Committee of the Whole be discharged from the further consideration of the Militia bill, in order to move that it be recommitted to a select committee, which he did to free it from some of the objections which had been made to it in the House. Being informed it was in order, he thereupon moved it. Impressed as he was with the importance of the principle, he could not neglect any means that may tend to forward so necessary a measure, and to get it done as well as possible.

Mr. W. Smith said, it having been determined in the Committee of the Whole to defer it until to-morrow, it was not possible again to reconsider it this day. If it was to be again brought up at this time, he hoped the House would determine whether any, and what alterations should be made in the bill, else how should the select committee know what to do with it, not being acquainted with the will of the House? He hoped that the motion would not now be agreed to, but recommitted to-morrow to the Committee of the Whole.

Mr. Hartley was sorry the motion had been made; he hoped the gentleman would agree to put it off until to-morrow, as there were some military men, who were not now in the House, who would be very useful in the discussion.

Mr. Harper could not think but the select committee, from this day's discussion, would have sufficient ground to amend the bill agreeably to the ideas of the House; he said it had better be referred now, as when the House had altogether rejected it, it then would be too late: they can form an idea of the temper of the House on the subject. I hope it will be referred, and if the committee are not able to do anything with it, at least they can bring it back again in the same state they took it. He, therefore, must press the motion on the House.

Mr. W. Lyman thought it not right in the gentleman to send it to a select committee for amendment at this time. If he wished to modify it, he could propose an amendment, the result would then be known; but if sent to a select committee, and their report is unfavorable, it would be all labor in vain; he therefore hoped the motion would be lost.

Mr. Craik said, the business was so new to him, and he supposed to many gentlemen besides, that he wished it to be referred according to the motion. He thought that one day was not enough to consider it in. When it was new modified by a committee, it might have a very different appearance, and give general satisfaction. He had not received any information on the general state of the Militia, and he wished to have some little time to collect a proper view on the subject; great advantages may be derived from recommitting it. In many parts of the United States, the Militia was very much complained of; whether this be just or not, he could not say, but he should support the motion.

Mr. Kitchell could not see what good was to be derived from what the gentleman had in view. The House never came to a decision, and if a select committee be now formed, what are they to do? very little is to be gathered from what has been said: we ought to consider the principle before we recommit it; on which account he should oppose the motion.

Mr. Heath thought with the gentleman last up

that it could answer no kind of purpose to discharge the committee for the purpose of recommitting the bill: by its being properly discussed in Committee of the Whole, gentlemen could receive information, and form the best possible opinion on the subject to guide their future operations. He hoped the motion would not obtain.

The motion was negatived without a division.

DEFALCATIONS OF REVENUE OFFICERS.

Mr. Heath said, owing to the want of sufficient energy in the Revenue Laws of the United States, considerable sums of money had been lost by the revenue officers, as was seen by the reports from the Treasury Department. He thought a mode might be devised, that a more sovereign remedy might be applied to prevent similar defalcations in future. He should therefore move the following resolution, which he wished to lie on the table:

"*Resolved*, That a committee be appointed to inquire whether any, and what alterations are necessary to enforce the payment of money due from the various revenue officers of the United States."

Tuesday, December 20.

Samuel Jordan Cabell, from Virginia, appeared and took his seat.

THE MINT.

A Letter was received from the Secretary of State, enclosing the annual report of the Director of the Mint. This report was very long, and proposed means of rendering the establishment less expensive and more productive; one of the principal of which was, that the depositors of bullion should not have the same advantages as heretofore, but be charged with deficiencies on account of the inferior quality of their bullion, and other expenses attending the coining of it. As a necessity for this regulation, the Director mentions an instance, in which out of 96,000 ounces of silver deposited, nearly 24,000 ounces were under standard, the coining of which cost Government £500, and yet the depositor received back the same weight in coin without expense. This report was referred to a select committee of three members and ordered to be printed.

ACT OF LIMITATION.

The order of the day being called for—

Mr. Dearborn said, before the order of the day was called, he would wish to observe, that there were a number of claims called liquidated claims, which ought not to be affected by the act of limitation. He, therefore, moved the following resolution:

Resolved, That a committee be appointed to inquire into, and report the expediency or inexpediency of designating certain claims against the United States, to be excepted from the operation of the act of limitation.

Mr. W. Smith said, there were objections to this last session. As business of this kind went through the Committee of Claims, he thought it would be more regular for this to do so, as that committee was already appointed; he should therefore move an amendment to strike out the words "a committee be appointed," and insert, "the Committee of Claims be instructed."

Mr. Dearborn did not object. His end was answered if the business was put in any forwardness. The motion, as amended, was then put and carried.

MILITIA BILL.

The House then, according to the order of the day, resolved itself into a Committee of the Whole, on the Militia bill.

The question being to strike out the first section—

Mr. Williams said, a well-regulated Militia must be acknowledged as the best support in a free Republic; and as every man must be interested in carrying into effect such a system, it became us to pay every possible attention to this very important subject. He thought the present system very exceptionable; and the one proposed and now under consideration, appeared to him compulsive, arbitrary, and not agreeable to the spirit of a Republican Government. The annual encampments would be very expensive and injurious to morals and industry. The regiments thus composed would extend over a great surface, and would want that compact solidity which military corps should possess. In the bill, all (except those exempted) between twenty and twenty-five years of age, are to do duty. This was a period that the purest morals ought to be inculcated in youth, instead of which we might reasonably expect that a greater part of them would, in consequence of their being encamped, imbibe immoral principles, which would be exceedingly difficult to remove. Besides, this is a period when young men take upon themselves an active part in life, and begin the world for themselves.

As the clause now stood, the public must be at a very great expense; such as, in our present circumstances, we are unable to bear. To agree to the first clause, would be legislating in the dark; as it was impossible to know what number of citizens there were within that age, of course we cannot form an estimate of the expenses. If such a system were to take place, we ought to have been furnished with the number as nearly as circumstances would admit. But as a gentleman observed the other day, that, before gentlemen negatived the present mode, they would do well to propose a better. Mr. W. said, he was of opinion that a legionary system would not only be far preferable to the one under consideration, but be more agreeable to the minds of the people; fully as efficient, and would call for but little aid from the public.

A legion, he said, was the most efficient corps in every point of view. A select legion might easily be formed from every brigade of Militia, agreeably to a certain rule of apportionment, which should be fixed by law. Most brigades could form one troop of horse, one company of artillery, and a battalion of infantry. The regiments which compose this brigade of reserved

Militia, should be divided into infantry, cavalry, and artillery classes. These classes should be determined by lot, or by the arrangement of the commandant of the brigade. Every regiment should furnish a certain proportion of infantry, matrosses, and cavalry. The classes should be obliged to furnish the men for these corps completely equipped with arms and accoutrements, with a military hat or cap, with a coattee, and a pair of overalls. The classes which furnished these legionary soldiers to be exempted from the present military regulations. They shall be denominated the Reserved Corps, and shall only meet on the regimental parade once in three years, to be inspected and to recruit the legion. The classes, in case of desertion or expulsion, should be obliged, by pecuniary penalties, to replace the man who deserts or is expelled. If the classes refuse to raise the men directed by law, or the by-orders of a superior officer, every individual of such class should be fined with severity.

The term of the legionary enlistment to be for —— years. During their service in the legion they might be exempted from all works on the road; from all civil duties as jurors, and from personal tax. Every three years of service to be distinguished by some honorary badge, and that period of service to exempt the legionary soldier from all military duties, except when the country was in danger.

The legionary soldier, when his time expires, to receive a military diploma, expressive of his patriotism and attachment to law and order. The legionary cavalry and infantry to be inspected and exercised in squads, convenient to their residence, —— times in the year, by the Legionary Adjutant, who should be liberally rewarded by Government for his military services. The artillery should be encamped —— days, and should be exercised and inspected by some able artillery officer in each division. This service to consist in practical experiments, and Government should provide for this expense. This corps to be entitled to a superiority in point of pay and military honor.

The legions of each State to be inspected yearly by the Adjutant General of each State, whose rank and emoluments should be respectable. He should make yearly reports of the legionary corps, of the Legionary Adjutants, and of the defects of the law, to the Commander-in-Chief of the State, and to the Secretary of War. He should be responsible for the good appearance and discipline of the legion, and therefore every Legionary Adjutant should be recommended or appointed by him. The first day the artillery should be inspected; the second day, the cavalry; the third day, the infantry; and the fourth day the legion should be exercised in mock engagements. The officers and soldiers of the legion to receive compensation for loss of time.

In order to accomplish an uniformity in arms, Government might furnish them and charge them to the classes at first cost. He believed most of the States could furnish the legion with arms.

The legion should bear the name of the county or brigade district, and should be officered in the first instance from the present officers of the Militia; the Brigadier General of the reserved corps should always command the legion, and superior encouragement should be given to the non-commissioned officers. The Brigadier General to be responsible for the raising of the legion, to apportion the requisition to each regiment, and the commandant of each regiment to apportion the regimental requisition to each company. Any neglect or disobedience of orders to be punished with severity.

The penalties of non-attendance and other offences would deserve consideration. He believed no system would be efficient, if the fines were not given to the officers commanding the companies, for their use and equipment; and no system will be so just as to determine every species of guilt by a court martial.

The court members should receive the same pay as if on any other duty.

When the legion was collected, to be subject to the articles of war, except as to corporeal punishment. It would be best to arrange a system for the legion from the annual reports of the Adjutant General to the Secretary of War, who should report annually the defects of the law.

Mr. W. said, it appeared to him that there was a certain proportion of our citizens better calculated and more disposed for military duty than others. The principle here laid down would give them an opportunity to distinguish themselves according to their genius; but in the clause in the bill before them, all were to be considered as forming the Militia, let their genius or abilities be ever so much at variance with the service. Of what use would it be, said Mr. W., to discipline men who disliked the service? In his opinion, it was only a loss of time.

Mr. W. concluded by saying, that he had thrown these ideas together, and submitted them to the consideration of the House. They appear to him to obviate many objections which had been urged against the bill before them, and to remedy existing evils. The House would perhaps think differently; if so, they would of course reject them. He should, at all events, vote for striking out the first section of the bill before them.

The question was then put for striking out the first clause, and forty-nine rising in the affirmative, it was carried.

Mr. W. Smith then moved for the Committee to rise, report progress, and ask leave to sit again; he hoped it would be refused, in order that the bill might be recommitted to a select committee.

Mr. W. Lyman hoped, before the Committee rose, what related to explanations might be tried. It appeared to him they should decide whether the people called Quakers, and others who conscienciously refuse to serve in the Militia, should be indulged. He hoped the principle would be tried.

Mr. Hartley agreed in the same desire with the gentleman last up.

Mr. Dearborn agreed in a desire with his colleague [Mr. W. Lyman] that the principle of the

bill might be tried, but he did not think it should now be done. The general principle of exemptions goes a great way, and he thought there should be a curtail of the present laws of exemption; he thought but few gentlemen would differ on that head. But it may as well be discussed when the report of the select committee was made. A general complaint of the present system was, that the burden fell on a few individuals. He was not tenacious of his opinion, but he would rather have it re-committed before much was said about it.

Mr. Kitchell said, if the whole body of the people were formed, exemption might be allowed; but if not, he should form a contrary idea. However, he thought it would be time enough to talk about it when the committee reported. He hoped the Committee would rise, and that it be referred to a select committee. He therefore moved that the Committee of the Whole be discharged till it be re-committed to a select committee.

The Committee rose and reported progress, but on asking leave to sit again, the House divided—ayes 34, noes 35. Leave was accordingly refused.

Mr. W. Smith then moved that the bill be re-committed to a select committee; which was carried. Sixteen, nine, and five, were proposed for that committee. The question was taken on the greatest number, and lost. Nine was then carried, and Mr. Dearborn, Mr. Sherburne, Mr. Williams Mr. Thompson, Mr. Hartley, Mr. Patton, Mr. Cabell, Mr. Locke, and Mr. Greenup, were appointed to that committee.

BALANCES DUE FROM STATES.

Mr. Coit wished to call the attention of the House to a subject which he thought of some importance—it was the balances due from certain States to the United States. Three years, he said, had elapsed since the report was made by the Commissioners on that subject. He did not know what order was proper to be taken, but something ought to be done; he thought the first step would be to ask the debtor States for payment. He would therefore submit the following resolution, to lie on the table till to-morrow:

"*Resolved*, That the Committee of Ways and Means be directed to report whether any, and what, further measures ought to be taken relative to the balances which, by the report of the Commissioners for settling the accounts between the United States and the individual States were found due from certain States to the United States."

PROTECTION OF SEAMEN.

Mr. Livingston said, that by some inadvertency, two clauses had been omitted in the bill for the protection and relief of American seamen. They were the clauses respecting certificates, on which the two Houses had differed in opinion. What has hitherto been done to supply the want of them has been by the President, and yet a great number of our citizens have been impressed. With a view of removing this difficulty, and again bringing the subject before the House, he moved the following resolution:

"*Resolved*, That a committee be appointed to inquire into the operation of the act for the relief and protection of American seamen, and to report what amendments are necessary to be made thereto."

Mr. Livingston, Mr. Swanwick, and Mr. Grove, were appointed the committee.

BOUNTIES TO OFFICERS AND SOLDIERS.

Mr. Blount said, that Congress passed a resolution in 1776, granting certain bounties and grants of lands to the representatives of officers and soldiers who were slain in battle, which he thought equally applied to those who died in the service. He said, both cases had formerly been considered as included, but latterly the Secretary of War had made a distinction. He should propose a resolution to the House, in order to have a declaration of their sense upon it. The resolution was to the following effect:

"*Resolved*, That a committee be appointed to inquire into and report their opinion on the equity and expediency of extending to the representatives of the officers and soldiers who died in the service the advantages allowed by the resolution of Congress, September 16th, 1776, to the representatives of those officers and soldiers slain by the enemy."

The resolution was ordered to lie on the table.

Wednesday, December 21.

Mr. Heath called up the resolution he yesterday laid on the table, respecting obtaining moneys from revenue officers. After some conversation on the subject between Mr. D. Foster, Mr. Heath, and Mr. Coit, as to its commitment, it was referred to the Committee of Ways and Means.

Mr. Blount called up the resolution he yesterday laid on the table, on the grants to the survivors of soldiers who died in the service. On division, there appeared, ayes 37, noes 18.

A committee was appointed for that purpose of Mr. Blount, Mr. Coit, and Mr. Hathorn.

Mr. Patton moved that the report of the Committee of Commerce and Manufactures made last session, respecting the kidnapping of negroes and mulattoes from different States, contrary to the laws of the said States, should be committed to a Committee of the Whole House. Agreed to, and made the order for Monday.

BALANCES DUE FROM STATES.

Mr. Coit moved the House to take up the resolution which he yesterday laid upon the table respecting the balances due from individual States to the United States. He observed, that those balances amounted, at the time of the settlement, to three and a half millions, and that, with the interest paid upon them, they were now four and a half, and it was therefore desirable that something should be done in the business.

Mr. Williams said, it was to be lamented that they could not come at the principle upon which the Commissioners had settled these balances. He thought, if this matter was duly examined, that those States which were made creditor States would not be found to be so. He thought the business of importance, and such as might not be hurried through the House. He did not expect

the resolution would have been called up to-day, and therefore wished a few days might be allowed before it was decided upon.

Mr. W. Smith said, the resolution went no farther than to inquire into the subject; he therefore thought more time was not necessary to it. If anything was meant to be done in it this session, it ought to be expedited. It must come under consideration some day, he said, and the sooner the better, both for the debtor States and the United States.

Mr. W. Lyman wished it to go into a Committee of the Whole House, else how could it be executed? He wished to know what inquiry could be made. If gentlemen wished to inquire, no time more suitable than in Committee of the Whole. The principle upon which the accounts were settled was objected to. A select committee could do nothing with this. He wished never to refer to a select committee to have an opinion expressed. They can meet, they can inquire, they can report, but the use of it in this business would be nothing; he therefore hoped it would at once be referred to a Committee of the Whole.

Mr. Gilbert said it had once been before the House. He thought no objection could now be made to its going into the hands of the Committee of the Whole. Various considerations may then be made on the subject. He trusted a due investigation would take place, and that the matter would be rightly adjusted.

The Speaker reminded the House the motion was to refer it to the Committee of Ways and Means.

Mr. Coit said, he had hoped this resolution was so framed as that no objection could have been made to it. Every one acknowledged something was necessary to be done. The most natural way, in his opinion, would be to make an application (which had not yet been made) to the debtor States for payment; but, since they had a committee specially appointed to adjust all money matters, notwithstanding what had fallen from the gentleman from Massachusetts [Mr. Lyman] to the contrary, he thought it best to direct the inquiry to be made by them.

Mr. Baldwin said, it struck him yesterday that this was the most proper means to bring about this end that could be pursued. Some objections had been made to the principle. He said, the principle upon which the balance was struck was generally approved of. The whole of the settlement ought to be brought and sent to the several States from whom a balance is due. He took it for granted the Committee of Ways and Means would consider a proper method to propose for that purpose, and he thought very little difficulty would attend its settlement.

The resolution was agreed to.

CANADIAN REFUGEES.

Mr. Williams thought some progress may now be made in the business respecting Canadian refugees; he therefore called for the order of the day on that subject. The House then resolved itself into Committee of the Whole, Mr. Muhlenberg in the Chair.

A considerable number of papers having been read relative thereto, together with the last report of a select committee, which was against the petitioners.

Mr. Greenup hoped the report would be agreed to. He was upon the committee who made it. He said, in their examinations, he could find no resolution under the old Government to allow these refugees the bounty lands prayed for, and therefore he thought they ought not to be allowed.

Mr. Livingston spoke in favor of the allowance, and called for the reading of a former report in their favor, which he hoped would be agreed to.

Mr. Sitgreaves said, upon inquiry of the Clerk, he found none of the reports upon this subject had been printed. He himself stood in the predicament of others who were unacquainted with the business. As it was a subject of complexity, he should therefore move that the Committee rise, in order to have the papers printed.

Mr. Livingston said they had been printed last session; he hoped the House would not long delay this business, as the petitioners had been waiting many years. He did not mind its being deferred a few days.

The Committee rose and had leave to sit again, and the papers were ordered to be printed.

CASE OF JOHN SEARS.

Mr. Christie presented a petition from John Sears. He should assign his reasons for again troubling the House with this petition. It may be recollected it was referred last session to the Committee of Claims, who had reported favorably on it. The case was so plain that there was not a man in the House that doubted the justice of allowing it. The report was agreed to, and went up to the Senate, who had no time to inquire into the facts, and therefore they never acted on it. He was encouraged to hope the same facts would again influence this House to do justice to the petitioner.

Mr. Macon thought, admitting a second petition would introduce a bad precedent; but as this case was somewhat extraordinary, as it had passed the House, it might alter the case; but he wished, as it had gone to the Senate, it had originated there now, and a bill had been brought from thence; he felt unwilling to deviate from order.

After some conversation about order, the following resolution was moved and agreed to:

Resolved, That the memorial of John Sears, presented January 30th, 1795, be referred to the Committee of Claims, with instructions to report by bill or otherwise.

NATIONAL UNIVERSITY.

Mr. Madison, from the committee to whom was referred the memorial of the Commissioners of the Federal City, and that part of the President's Speech relative to a National University, reported a resolution to the following effect, which was referred to a Committee of the Whole, and made the order for Monday:

"*Resolved*, That it is at present expedient that authority should be given to enrol proper persons to receive in trust, pecuniary donations, in aid of the donations already given towards the establishment of a University within the District of Columbia."

REUBEN COLBORN.

Mr. DEARBORN called for the order of the day on the report of the Committee of Claims on the petition of Reuben Colborn, for compensation for building of batteaux, and for other service during the war; the report was against the petitioner.

The House accordingly resolved itself into a Committee of the Whole on the subject; when

Mr. DEARBORN said this claim had engaged the attention of the House last session, and that no doubt seemed to remain with the House on the propriety of disagreeing to the report, and allowing the claim, but whether the papers had been lodged at the proper office in Boston in due time—[Several letters and papers were read, to prove that the petitioner had done all in his power to get the account settled.] Mr. D. hoped, therefore, that this would be one of the peculiar cases against which the statute of limitation would not be permitted to operate.

After a few words from Mr. D. FOSTER, Chairman of the Committee of Claims, in which he acknowledged the justice of the claim, but that it was barred by the act of limitation—

Mr. COIT said, as some new facts had been mentioned, he wished the report to be recommitted.

The Committee accordingly rose, and the report was recommitted.

THURSDAY, December 22.

FRANCIS PRESTON, from Virginia, appeared and took his seat.

JOHN CLEVES SYMMES.

Mr. HENDERSON moved that the report of the Attorney General relative to a contract between the United States and John Cleves Symmes, be committed to a Committee of the Whole. It was made the order for Tuesday.

Mr. W. SMITH moved, that when the House adjourned it should adjourn till Monday.

Mr. COIT wished the gentleman to give his reasons why the House should not meet to-morrow, as usual.

Mr. W. SMITH said, his reason for making the motion was, that the different committees might have time to sit and prepare business to come before the House.

Mr. MACON was in favor of adjourning to Monday, as it would tend more to the despatch of business if the committees had time to prepare their reports, than the House meeting when there was no business to proceed with.

The House adjourned to Monday.

MONDAY, December 26.

JOHN WILKES KITTERA, from Pennsylvania, appeared and took his seat.

A bill was received from the Senate for adding $100 per annum, each, to the salary of two of their principal clerks; which bill was read the first time.

The committee to whom was referred the petition of John Sears, reported a bill for his relief. It was read a first and second time, and made the order of the day for to-morrow.

A letter was received from the Secretary at War, enclosing a report on the petition of Hugh Lawson White, which was against the petitioner. It was read a second time, committed to a Committee of the Whole, and made the order for Wednesday.

BALANCES DUE BY STATES.

Mr. W. SMITH, from the Committee of Ways and Means, to whom was referred to report whether any, and what measures ought to be taken relative to the balances found by the Commissioners for settling the accounts between the United States and the individual States, to be due from certain States to the United States, reported a resolution to the following purport:

"*Resolved by the Senate and House of Representatives*, That the President of the United States be requested to give information to the several States which were by the Commissioners found indebted to the United States, of the sums in which they stand indebted, together with the interest due thereon to the present time, with a request that provision may be made for paying the same as soon as possible, which may be made in any of the six per cents., three per cents., or deferred stock of the United States, in the same manner as the United States had paid those States to whom they were reported to be indebted by the said Commissioners."

This resolution was read a second time, and referred to a Committee of the Whole House, and made the order of the day for Thursday next.

RELIEF TO SAVANNAH.

Mr. W. SMITH said he wished to lay a resolution on the table. It was well known that the city of Savannah, in Georgia, had suffered in the most alarming manner, by that greatest of all calamities, fire, so that four-fifths of the whole town was reduced to ashes. He was desirous that some relief should be afforded to the unhappy sufferers from the Treasury of the United States. He believed there was no precedent wherein similar relief had been granted: they had, indeed, afforded relief to sufferers from the West Indies. He did not mean that a large sum should be granted; but he thought such a sum might be given, as, in conjunction with the support which they might receive from other quarters, might relieve the distress which must be the consequence of such a calamity. The resolution was in the following words:

"*Resolved*, That the sum of ——— ought to be granted towards the relief of the sufferers by the late fire at Savannah, in Georgia."

It was read a second time, and ordered to be committed to a Committee of the Whole tomorrow.

EXCISE ON DISTILLED SPIRITS.

Mr. SMITH called up a report, made last session, to amend the excise laws on distilled spirits. The present mode of collecting that part of the revenue was very defective. The principle of this report was, to prohibit the distilling of spirits in all places except towns and villages; and that no stills should be licensed of less size than four hundred gallons.

Mr. HARTLEY objected to it, because it would tend to ruin the small stills; he therefore thought, as it must be considered of great consequence, that the House should not hurry the business

It was then referred to the Committee of Ways and Means.

NATIONAL UNIVERSITY.

Mr. HARPER moved the order of the day, for the House to go into a Committee on the establishment of a National University. The House accordingly formed itself into a Committee—Mr. COIT in the Chair.

When the report was read, Mr. MACON said there was the word "appropriation" in the report. He did not recollect any having been made for that purpose. He wished to know what was meant?

Mr. CRAIK said, authority was given from the PRESIDENT to appropriate about twenty acres of land for the erection of this building; this he supposed to be what was meant.

Mr. NICHOLAS said, that some time or other the institution of a Seminary in this District may be of use, but at present, and in the manner contemplated in this report, it would not do. If carried into effect thus, it will some time need an appropriation. We are now, said Mr. N., going into the subject, but we know not to what lengths it may carry us; we do not know where it will end. He did not think the time had arrived to incorporate a company for building a National University. It would be taking money from those districts of country which can do for themselves, and would receive no benefit from this institution. It would be inconvenient and inconsistent for people living at a considerable distance to send their children to this University; besides, he thought, the further children are from home, by being less under the eye of their parents, the more their morals would be injured. If it be a National University, it must be for the use of the nation. It will then be necessary to open funds for the purpose of its support. It is recommended by the PRESIDENT, it is true; but this is no argument why we should precipitate the business: it is the last time he will have an opportunity to address this House, and it being an object he should like to see encouraged when it was practicable, he took that opportunity to express it. We are not now in a situation to forward its establishment. It may be done at some time, but Mr. N. thought it would be many years first. That district of country would be many years before it could encourage the hope of such a plan prospering. He thought gentlemen from other parts of the Union would not say they wanted it for their youth. He thought if the House once entered into the subject the responsibility would fall on it to keep up the institution.

Mr. HARPER said, it did not appear to him that the gentleman last up had attended sufficiently to this report, for he seemed to be much mistaken as to its principle. There was nothing in it that contemplated pledging the United States to find funds for its support; nor was it the object of the report to establish a National University. He agreed with the gentleman, that we were not arrived at a period for such an institution. But gentlemen would see that the object of the Commissioners was not to establish a National University or obtain money from the United States, but their direct object was, to be incorporated, so as to be enabled to receive such legacies and donations as may be presented to the institution, and hold it in trust for that purpose. The PRESIDENT had already given nineteen acres of land, and signified his intention to give fifty shares in the Potomac canal whenever there was proper authority to receive endowments. It appears that there is no authority at present. The memorial goes no further than to authorize them to receive such benefactions as may be made, and hold them in trust. How far, then, this went towards involving this House in its support, he should leave the good sense of gentlemen to judge. Mr. H. thought the amount of this memorial could not have any evil tendency, but it may have a good one; for which reason he hoped it would be agreed to.

Mr. BALDWIN did not know anything according to his present views, which could be injurious in the report. At present it seemed favorable to him. He had two principal ideas in his mind, which made it appear so; if neither of which was cleared up otherwise, he should vote for it. The first thing he should ask was, Is such a thing desirable? And then, Is there a Seminary so near the spot contemplated, as to make it hostile in this House to encourage this University? He believed there was none that this will injure, but that an establishment like this would be very agreeable in that District. If it was desirable, who could undertake it, who encourage it, like this House? They could not do it themselves. If, then, the step is a proper one, it can never be too soon to commence it, although it may be many years before it may be wanted. The objection may be, that it would be wrong to incorporate a Literary Society; but we have frequent instances of incorporation, and nothing can prove it improper, since no pecuniary aid is required, no grant of money is asked. If it was, I should, like the gentleman before me, [Mr. NICHOLAS] disapprove of it, but not now seeing reason to object, I shall vote for the report.

Mr. CRAIK.—After the caution the committee had observed in forming their report, to prevent objections, I am sorry they should be charged with things they do not in the least merit. If the report contemplated the raising a fund for the support of this institution from the United States, there might have been some ground for gentlemen's objections; but, as there is not the most distant view of such a thing, I am surprised to hear

it objected to. I did not expect it from that gentleman, [Mr. Nicholas.] I did not expect to hear him say, that institutions of this kind were not wanted there; it might have come better from gentlemen residing in more distant parts of the United States.

If this subject was now before the House, sir, I should not be against proving, at this time, that it is the duty of the United States to establish an University, and that the sooner it was done the better. But, as this is not the case, as we are only asked to permit its encouragement, by allowing these people to receive benefactions, how can we refuse? Shall we shut the door against individual benevolence? There are appropriations already made to this institution. There is a fund now of fifty shares in the canal, which is now valuable and increasing in value daily. I think the situation for this purpose very good; and the probable increase of the city of Washington will induce many persons to benevolence for this purpose. I know of no situation more central, and believe there is no place of the kind in its neighborhood; and from an established knowledge it would be a very useful and desirable institution, shall vote for it.

Mr. W. Lyman.—As far as I can understand, the land which is now to be appropriated for this University, is the property of the United States. Does not this look as though the United States are to patronize and support the establishment? If we take this step, I shall very much wonder if our next is not to be called upon to produce money. I do not expect much from the liberality of individuals; and can it be expected that people from the remote parts of the United States will send their children to this Seminary? Surely not; and consequently their money will be lost. It will be a natural source of discontent to them, to pay their money merely for others to obtain the advantage. It may be very good for people thereabout, but remote parts cannot derive the least advantage from the institution. We are going quite too fast into this business, without attending to probable consequence.

I think it would have been more proper, if these people had only wanted this power, for them to have applied to the State Legislature of Maryland; it would be more to their interest and duty to encourage a Seminary if one is wanted in that place. They have sufficient power vested in them to encourage all such laudable undertakings. For us to encourage this would be to do injury, instead of having a number of schools planted in various parts, they are now all to centre in one; and the people are to neglect all to support this one; as others would become very weak.

I flatter myself to have as liberal sentiments on such institutions as other gentlemen, but I do sincerely think small Academies are as useful as this institution for an University. The large institutions are generally out of the reach of people in general, and of the middling class in particular. These small Academies have produced many eminent literary characters in the country. If it should be necessary at any time to form a Seminary for the use of that District, Congress would not refuse its encouragement: but to draw money for a National University I hope they never will agree. But gentlemen say this is not asked; true it is not at this time, but there is that in the principle that will most certainly lead to it.

Mr. Dayton (the Speaker) said, if it should ever be the policy of the United States to establish a National University, he was of opinion this was an improper time for making the decision. He did not believe the committee who made the report meant to do more than had been stated; but the effect, he said, would be what he predicted; this measure would be looked upon as an entering wedge, and they should hereafter be told they must go through with it. If gentlemen were prepared to sanction an institution of this kind, they would of course do it; he was not prepared to vote for the measure, but should give it his negative.

Mr. Nicholas said he had not been convinced by the observations of gentlemen who had spoken in favor of this report that all the mischiefs would not follow this measure which he before predicted. He inquired into the purpose of establishing a National University. The President had said (and the Commissioners after him) it was to establish an uniformity of principles and manners throughout the Union. This, he believed, could not be effected by any institution. If, said he, you incorporate men to build an University, are you not pledging yourselves to make up any deficiency? and, as the building must be commensurate with the object, they would have an enormous empty house continually calling upon them for contributions to its support. Whatever moderation had been observed in framing this report, Mr. N. said it was like many others which came before them: it was so covered as not to show half the mischiefs which would attend it. If a plan of education was wanted for that District, let members from that part of the country say so, and he would be ready to afford them every necessary assistance; but he would not think of going into the scheme of a National University.

The district of country from whence he came might stand in great need of Seminaries of Learning, as had been hinted by the gentleman from Maryland, [Mr. Craik,] but their ignorance must continue until they were sensible of their want of instruction. He believed there was no Federal quality in knowledge, and no Federal aid was necessary to the spreading of it. Every district of country was competent to provide for the education of its own citizens, and he should not give his countenance to the national plan proposed because the expense would be enormous, and because he did not think it would be attended with any good effect, but with much evil.

If an University is wanted for the use of that District, or any other part, Mr. N. said he would give it all the encouragement possible, but he could not agree to go to such great lengths—lengths which were not yet explored.

Mr. R. Sprigg considered the report before them as of a very harmless nature. The President, he said, had appropriated land upon which to erect the University in question. They were not called upon to sanction that appropriation. His power to give it was full and ample. The thing was done, and he had promised a future donation. The apprehensions of the gentleman from Virginia [Mr. Nicholas] seemed to arise from his conceiving they were about to sanction a National University, such as had been recommended by the President. If this were the case, although the Representative of that District, he should not give his vote in support of the measure. On the contrary, he said, they were called upon merely to authorize proper persons to receive donations for an University. What sort of institution this should be, would be for the future consideration of Congress. Mr. S. said he should always be ready to give his support to every measure which had a tendency to spread knowledge throughout the United States, as he believed the progress of knowledge and liberty would accompany each other. The gentleman from Virginia seemed to think this institution would only benefit a small circle. He did not think the State of Maryland would be much benefited by it, as they had already two good universities; but he thought it doing no more than justice to the owners of property in the Federal City that this institution should be encouraged. What was asked of them would not commit them at all for anything further, and it would be a mean of turning the attention of the people to the support of an institution of this kind. For these reasons, he hoped the House would agree to the report.

Mr. Livingston said he had thought, like the gentleman last up, that there was nothing in it but what was perfectly harmless, until recurring to the law for establishing the permanent Seat of Government, that something more might be intended than the eye could at first discover. Mr. L. said he turned the thing a variety of ways in his mind, and could not account for some of its obscurities. If nothing was intended but a mere incorporation, why not apply to the State that could incorporate such a body? Something further seemed to be intended: public patronage was wanted to support this institution. They were called upon, at a moment's notice, to give their encouragement to this National Institution. It is true, they were called upon from very respectable authority. They were not called upon to appropriate the public funds to this purpose; but how far the Commissioners are justifiable in laying out public lands for that purpose, he knew not. He had not the law itself at hand, but he was doubtful about the just disposal of it, if in this manner. This land was for public use. The use of this land was to erect buildings on for the benefit of Congress; and if these Commissioners had power to appropriate it for building a National University on, they had the same power to give it or make use of it for any other purpose. Such institutions are not public, but private concerns.

This, said Mr. L., I view as the effects of the resolution, was it to be adopted; but I would not be thought as in the least reflecting on the motives of the gentleman who brought it forward. I believe it will operate (as a gentleman has justly said) as an "entering wedge;" and at some future time we shall be told, we must go on—now we have encouraged its institution, we must support it. We shall hear more about it at a future day. Gentlemen tell you, sir, that nothing is intended, but merely to permit its institution. Why cannot they obtain this power which is asked of us of the State where it is wanted? The laws there will permit it, and, most likely, it could be obtained. If this report is agreed to, the time will arrive when this institution will pretend to a just claim on this House for its support; and the reasons they will then urge will have a force which will not be easily repelled.

Mr. Madison said he was very far from considering, with some gentlemen, that this is a question of right or policy. These ideas are not comprehended in the present question. It is not whether Congress ought to interpose in behalf of this institution or not; it is whether Congress will encourage an establishment which is to be supported entirely independent of them. He did not consider it would ask a single farthing from us, nor that it would pledge Congress to endow the establishment with any support. The State of Virginia thought proper, during the war, to present the President with fifty shares in the Potomac canal, in consideration of his services, which he refused accepting for his own use. He has now offered to give it to this Seminary. Some other individuals have likewise destined part of their land for its support, and other benefactions may be expected. The amount of this motion before the Committee is, whether we will grant power and security to persons to receive such donations in trust for the institution? He conceived it only in this simple point of view, and he thought if it was worthy of patronage, it ought to be from the United States.

The gentleman from New York [Mr. Livingston] seems to say it is not necessary for Congress to interpose, as the laws of Maryland allow that Legislature power to do it, and they are the most proper. Congress has the sole jurisdiction over that District: it is not with the power of that Legislature. Their power in that District could only operate by virtue of a grant from the United States; although it is necessary, until that District becomes the permanent Seat of Government, the laws of Maryland should be in force there. This being the situation, the Commissioners applied to Congress to give them the power to receive benefactions.

Another thing which gentlemen had objected to, is its being called a National University. The report does not call it so; it calls it "An University in the District of Columbia;" which, he thought, was materially different. Congress may form regulations for institutions which may be very good, and yet, not be viewed as national institutions. It was in this qualified light (for he wished not to consider it a burden on the nation) he meant to vote for the report.

Mr. Sprigg said it had been inquired why the Legislature of Maryland could not have granted the Commissioners what they now pray for? He

answered that they could make no law for that District which should extend beyond the time at which the Seat of Government was to be removed there. He mentioned some instances that had taken place while he was a member of that Legislature. This, he said, accounted for the application of the Commissioners to Congress.

On motion, the Committee rose, and had leave to sit again.

CAPTAIN DAVID HARRIS.

Mr. Christie said that he wished to know from the War Office whether any, and what number of, officers of the late Consinental Army were in the same situation with Captain David Harris. He read a resolution for getting a statement of this nature from the Accountant of the War Office.

Mr. Foster wished rather that the gentleman would call at the War Office, where he would get the information which he wanted, if it was to be had.

Mr. Christie said that formerly, when a member of the Committee of Claims, he had attempted to be satisfied on this point, and did not succeed.

A motion was here made to adjourn—yeas 32, nays 33. Not carried.

Mr. Christie then moved his resolution.

Mr. Macon was against going back into these old accounts.

Mr. Kitchell thought that it would interfere with the statute of limitation.

Mr. Christie said that the gentleman from New Jersey perfectly misunderstood the case. It had no concern with the statute of limitation. If it had gone to that extent, Mr. C. would have been as cautious as any man. The matter was this: Captain Harris had eighteen months' pay due to him as an officer in the late Continental Army. The claim was allowed, but because he had been late in calling for his money, the officers of the Treasury would give him only sixteen dollars. Any man in private life acting thus to his creditor would be looked upon as a rascal. Mr. C. believed that every gentleman in the House would agree with him in thinking such payment too small. He doubted much if one single officer was in the same situation with Captain Harris. He wished for information immediately, because the case of Captain Harris was made the order of the day for to-morrow.

The resolution was negatived.

Mr. Parker laid a resolution to the following effect, upon the table:

"*Resolved*, That the President of the United States be requested to cause to be laid before the House, what measures have been taken for carrying into effect the Treaty between the United States and the Dey and Regency of Algiers, and also whether any, and what, further Legislative aid may be necessary for that purpose."

Tuesday, December 27.

Dempsey Burges from North Carolina, appeared and took his seat.

The bill was read a second time for granting additional allowance to the clerks in the offices of the Secretary of the Senate, and referred to the Committee on Compensations.

A memorial of Joseph Ball and others was presented by Mr. Livingston; the petitioners are holders of bills of credit, emitted in pursuance of a resolution of Congress in 1780. They pray that such provision may be made for the payment of the amount of principal and interest on those bills, as the nature of the public engagement and justice may suggest.

A memorial of John Cleves Symmes was presented by Mr. Kitchell, praying a fulfilment, on the part of the Government, of a contract entered into with him, for certain lands in the Territory Northwest of the Ohio. Referred to the Committee of the Whole to whom was committed the report of the Attorney General on that subject.

NATIONAL UNIVERSITY.

The order of the day was called for on the report of the committee to whom was referred the memorial of the Commissioners of the Federal City, and that part of the President's Speech, which referred to the establishment of a National University. The House accordingly resolved itself into a Committee of the Whole on that subject, when the resolution, reported by the select committee, having been read, no gentleman rising on the subject, the Chairman inquired if the committee were ready for the question, and on being answered in the affirmative, the question was put and negatived by a great majority.

The Committee rose and the Chairman reported their disagreement with the select committee.

The House then took up the subject.

Mr. Murray rose, expressing his great surprise at the unexpected decision on the question in the Committee. He was very much surprised to see the Committee so changed, no opposition, and yet the report so quickly negatived; surely gentlemen must have mistaken the question. It is matter of regret such an important subject should have so little consideration. The language of the report is perfectly moderate and just. The gentleman from Virginia, yesterday, gave us to understand that this institution was to draw its support from the National Treasury; but on examining the report I can find no such idea held out or intended; and also he told us this was a National University. The gentleman's observations are grounded in mistake, or it was effected by an imagination of evils, of which there could not be the most distant apprehension. If we refer to the memorial of the Commissioners we shall see they ask no money from Congress; they only ask you to erect a number of gentlemen into a corporate capacity to enable them to receive donations from those who are well disposed towards instituting an useful Seminary in that District; this is no more than they have a right to expect from Congress, and is the duty of Congress to grant. Yet the determination of the Committee of the Whole House has been carried against this very desirable and reasonable request. I would again repeat that the language of the memorial is only to enable them to support a Seminary of Learning in that place,

and not a single shilling is asked from the nation. They only want a medium to act upon—an act of incorporation.

My colleague [Mr. Craik] has shown that it cannot be done by the Legislature of Maryland; that Legislature has restrained itself from any act respecting the District of Columbia that will extend beyond the year 1800, when it will become the Seat of the Government of the United States. Congress alone have the power to erect a corporate capacity in that place, and if they now withhold, they will smother in the bud the efforts of individuals who would wish to be generous towards the support of learning in this new city. On the contrary, how ungenerous will it appear in this House to prevent this valuable design! How peculiarly humiliating will it appear in the view of foreign nations, and how undignified with the character of liberal and enlightened in this! If Congress had passed an act agreeable to the report of the committee, where would have been the evil? The President has generously signified his intention to make a valuable benefaction, not less than £5000 sterling, and the wise and good in all parts of the United States would probably follow his example, particularly in that neighborhood, if Congress would put them in a way to receive it; a building would then be begun and some advances made towards the execution of the institution, in proportion to the fund. Instead of allowing this to be the case, every possible view has been given unfavorable to the plan, and every possible supposition formed, though without grounds, which could tend to blast it. The ideas of gentlemen have been inferred that a large empty house would arise;—that it would draw from the United States funds for its support. It may be possible, but it is no way probable. Is it not more probable that these gentlemen, knowing they cannot expect national support, will keep themselves within the bounds of their funds, if they mean to carry on the institution? Certainly this seems most consistent with the wisdom and prudence of men in that capacity. Nothing is asked of the public in the report of the select committee:—nothing they have a right to ask; I therefore hope, as the request is perfectly reasonable, gentlemen will not be too hasty to oppose such a measure without due consideration. I therefore wish the further consideration of the business may be delayed; I could scarcely believe such a decision would have taken place in the Committee, and must believe, for the honor of the nation, that when gentlemen take time to reflect, they will not act so illiberal a part as to refuse so reasonable and harmless a request, when these people only ask the power to receive the voluntary support of individual benevolence.

Mr. Madison said, the word "pecuniary" in the report of the committee did not correspond with his wishes; he wished the expression of the report might extend to all sorts of donations; if in order, he should move to strike it out. [The Speaker informed the member it was not in order to move an amendment after the Committee of the Whole had reported their disagreement. If the House choose to concur with the Committee of the Whole, that report cannot be amended;—if they disagree, it may then be proposed, and recommitted for the amendment.]

Mr. Craik.—I must confess, I feel as much surprised as my colleague on the decision which has just been given in the Committee of the Whole. Some gentlemen who opposed the report yesterday conceived there was some secret poison lurking within it—some dangerous principle not to be discovered on its face, which would some time produce baneful influences—this has been insinuated though not directly said. If so it must come there by accident, or of itself, which those gentlemen must allow if they will give themselves the trouble to examine the true principle of it, and give it a just decision. When we examine the materials of which this report has been formed, viz: the President's communication on this subject in his Speech, and the memorial of the Commissioners;—we should be led by those gentlemen to believe, that this, which is the ground-work of the report, is connected to convey something which may extend further than it seems to carry its object; this perhaps is the secret poison hinted at. Were I in the situation of the President, I am free to confess, had I studied my own feelings and the great use of the institution, I should have recommended it. It has been justly said, that the President, from the impulsive importance of it, has taken this opportunity—this last opportunity to recommend it. He has recommended it with earnestness; which gives an additional proof of his sincere regard for the welfare of his country. I hope this will not be conceived in favor of the idea suggested. The Commissioners seemed to have anticipated the objections which have been made to a National University, and have purposely avoided inserting it in their memorial. They have cherished similar ideas which I have, of the eligibility of such an institution, but foreseeing that plan would not be approved they have relinquished that, and only requested incorporation to enable them to act in trust for the institution. They do not call upon this House to put their hand into the Public Treasury; they seem to have possessed somewhat of the prophetic, to see the necessity of forming their memorial so little objectionable; and yet there is supposed to be danger in this simple request. If, then, there is nothing in this report to be collected from the President's Speech, nor from the memorial of the Commissioners to favor this idea, what then is there? Gentlemen who own property in that District have come forward, and, to their own disadvantage, offered ground to the support of it: why then, can it be supposed that some lurking evil awaits within? Although some observations have been made to show that the State Legislature had power to grant this authority, yet it is plain, as has already been proved, they have no such power. It has been said by some, that if they were satisfied the State had not that power, they would vote for the House to agree to the report. I do not see reason to go into the question how far the Legislature has a right to grant it, nor to inquire how far the

laws of the several States should operate on us; these are questions which are not at all involved. That district of country will not be at all under the power of the Legislature of Maryland after the year 1800, and were they to grant this charter, it would not be wise, just, nor equitable. They have determined in no instance to grant any charter or incorporate any society in that District, if it will interfere with the time at which it comes into the hands of the United States. It would be wrong in them to extend by any instrument their pretended authority beyond that time. And can the United States refuse its guardianship to an institution which is refused patronage from elsewhere on such an account as that stated? Surely not. This, then, I think must go completely to satisfy those gentlemen who have doubts that this House could not do that which the several States have power and authority to do.

It is clearly proveable from other causes that this State had no authority at all. Few objections have any validity now, that will not remain in force when the General Government removes there. Since, then, they would have had no difficulty to have obtained this of the State Legislature before the cession of this Territory to the United States, it will be an unfortunate change for them to be under the United States, peculiarly so, if refused this small request. It has a truly lamentable prospect.

Gentlemen have supposed a responsibility, a peculiar obligation to support it, would be attached to the United States, were they to give this privilege. As well as might it be said that Congress, by allowing a bridge to be built, or a road to be cut, would incur the expense, or if it could not otherwise be done for want of money in the applicants, would be engaged to do it for them at the national expense. If there are objections of force in one instance they will apply to the other. If this is denied it proves that District to be wretched outcasts, being denied a request the most reasonable, natural, and just that can be contemplated. Many of the objections urged, indeed most of them, against the admission of this report do not go so much to the exclusion of the measure, as to the danger of Legislative interference. Gentlemen say, if we move in it—if we put our hands at all to it, we pledge ourselves to effect it. If this is the situation with the people of Columbia, the year 1800 will be a woful year to them; this is an unhappy presage of the jurisdiction to be exercised on that country. If it is inexpedient for that District to have a Seminary of Learning, let gentlemen who could state it with truth, come forward and say so. If the objections of gentlemen are not grounded on the danger of this House pledging itself to support the institution nor on the inexpediency of such a thing in that District, I am at a loss, for my soul, to conceive on what ground their objections are formed. I was surprised yesterday to hear the opposition come from the quarter it did; and am equally surprised to find such an opposition now. In my view there is a very great want of Seminaries of Learning in that District.

If we take a view on the south side of the Potomac, for a considerable extent of country, there is no institution to answer any desirable purpose. There is the greatest probability of a rapid increase in the population. Is it not reasonable, then, that an institution of this kind should be established in that place? And if reasonable at all, are we to wait till the period arrives when the country is thickly inhabited before we commence a building and project the plan? I have long thought that in this young country such a thing was necessary. It should be now begun, to grow up with its growth and strengthen with its strength. We should now lay the corner-stone—the foundation to build upon. Though such a Seminary cannot be established now, it may fifty years hence; and it can never be too soon to commence a good institution. We are not called upon to travel into the fields of speculation for the purpose of finding funds to support this plan; there are funds which present themselves to view. We only want a grant to secure the benefactions in prospect. The President has employed a handsome benefaction for this purpose; and I much wonder that gentlemen from that part of the Union should oppose measures that would only encourage its reception. When I take a view of the extent of country which lies much in want of a Seminary, I feel surprised that such measures towards its growth should be denied.

If there are any gentlemen here who oppose the advancement and growth of that District which they have taken under their wing, they should come forward and declare it; we then should have ground to account for their conduct. If we are determined to deny these people common justice, we dispirit them. There is no circumstance which can occur that will tend so much to discourage the growth of that State; if we forbear to do them this justice, we exclude them looking up for those common rights which could be enjoyed in any other Territory of the United States. I hope this House will never deny to that people, rising into existence, this small privilege. Is it a strange thing, I would ask gentlemen, for a State to grant charters? I answer, no. And for this State to be denied this privilege only to secure a fund for such an excellent institution, I believe is quite a novel idea. I hope, if there are any doubts on this subject, they will lie over for future consideration; and I hope we shall be careful not to damp the attempts of that people by a conduct which could not be refused by any State in the Union; and that Congress should refuse it without assigning a sufficient reason, is unprecedented. I hope it will lie over for future consideration, and not be refused so quickly.

It was moved that the subject should lie over until the second Monday in January.

Mr. Coit was against a postponement. The subject, he said, had undergone considerable discussion, and he doubted not the House was as ripe for a decision then as they would be hereafter. To postpone was to protract the despatch of business, and consumed double and treble the

time that would otherwise be occupied on any subject.

Mr. Harper hoped the postponement would take place, because it would give gentleman an opportunity of putting the subject into such a form as to be more acceptable to the House, since the principal objection made to the report was founded on an apprehension that the House would be implicated in future expense, by agreeing to it. If some method of introducing the subject could be hit upon, which could obviate that objection, it was desirable it should be done. He therefore wished gentlemen to have time to do this.

Mr. Nicholas said, he did not rise to advance any thing new on the subject, but to remove something said by the gentleman from Maryland, [Mr. Craik.] He would not wish to be understood to say, that we, by refusing this, promise to support the institution, but that it would naturally be expected that we, having given sanction to it, dignity of Government, consistency of conduct, and many other considerations, will oblige us to support it. Any modification now made will avail nothing. By this act you invite donations to the object. If the matter is entered upon at all, it will end as has been supposed—in pecuniary support.

I beg leave to deny any intention of disregarding the wishes or wants of the people of that District. I think that disregard is not felt by any person here; and if such an opinion has gone forth, that gentleman must attribute it to himself. When up yesterday, I said, that if the people wanted any assistance towards erecting a seminary, I would render them all possible aid. But our officers, and they alone, are the projectors of this subject; it is not from the people that we are asked for this aid, it is from men who are sent there to manage business; but they are not the people.

Again: the President has recommended the measure. I would not be supposed to want a due respect either for those Commissioners or for the President; but, merely because recommended by them, we are not warrantable in adopting it. I never mentioned words tending to that idea, nor had any idea of refusing the request of that people, if coming from them; but this is not the case. I still contend that if this building goes on upon its present principle, it will be a National University. If you adopt the plan, if you begin the building, and it is left unfinished, it will remain a monument of reproach. I ask gentlemen, if they subscribed to the use of this institution, what would be their views? What the views of subscribers in general? Would they think of erecting a Seminary for a district of country ten miles square? Certainly not: it will be expected to be given to the use of the United States—to the support of a National University. It is deceiving the public to suppose or assert differently. I trust we shall negative the proposition of the committee; and when that people shall come forward to ask our aid to the establishment of a Seminary, then let us prove that it is not the request of the people we reject, although the views of a few individuals may not obtain encouragement.

Mr. Brent said, he was at a loss to know how gentlemen could raise the objections which they had made to the report in question; he was sure they could not arise from the report itself: this did not recognise the University as a National University. The matter appeared to him to be simply this: that several individuals in the Federal city, who were greatly interested in its prosperity, were of opinion that an institution of this kind would not only advance the interests of the city, but be a mean of disseminating learning—they had therefore prayed an incorporation for the purpose. Why his colleague should call this a National University, and that, by a mere act of incorporation, they should pledge themselves to support it, was to him astonishing and incomprehensible. If any particular body of men should apply for an act of incorporation, by granting it should they pledge themselves to carry their scheme into effect? The thing was too unreasonable to be supposed.

Mr. B. said, if he was opinion that the incorporating of persons to receive donations for this University would oblige them to foster this establishment, he should be one of the first to object to it. He should object to it on Constitutional principles; because, whatever had been the practice of that House, he was of opinion that imposing a revenue for such a purpose would be unconstitutional, and arrogating a right which they did not possess.

Under the aspect which the subject before them bore, he trusted all objections to it would be withdrawn. A free Government, he said, had its foundations in wisdom; and the Legislature of such a Government ought to encourage every institution which tended to inform and enlighten the people: a contrary procedure was to stifle knowledge, and to introduce barbarism.

The Speaker reminded the House that the question of postponement was before them.

Mr. Swanwick was against a postponement, because he thought the question could as well be decided then as at any future day. As the application now stood, he was ready to give it his negative, because he did not think it was proper to allow any charter to the Commissioners. If a charter was to be granted, it should be to the people themselves, and not to the Commissioners. He should therefore vote against agreeing to the report. He should have wished to have made some other observations on the subject, but in this stage of the matter he was doubtful whether they would be in order, and therefore he should withhold them.

Mr. Giles was in a favor of a postponement, not that he wanted time to consider the subject—he was ready to vote against it—but because the advocates of the measure wished it. He himself was opposed to all kinds of corporations; but he did not think the present subject had been fully discussed, and wished more time to be allowed for gentlemen to bring forward the question in

any other way which they might think would be more acceptable to the House.

Mr. Venable said he was opposed to a postponement. It had been repeatedly said that there was nothing alarming or under cover in this report. For his part, he believed it to be connected with a National University, and that it was introduced in this shape because it was apprehended it would not pass if brought into the House without disguise.

Mr. V. wished the subject not to be postponed, because the Maryland Legislature was then sitting, and the Commissioners might apply to it, and get their business done; for, whatever might have been said to the contrary, he believed they could as well incorporate them, as foreigners to hold lands; a Navigation Company, Columbia Bank Company, &c; and if they could do this, he believed it would not be said, that when the Federal Government took possession of that District that corporation would not be valid. If a local Seminary was only intended, he thought this the best way of proceeding.

Mr. Craik believed that most of the acts which have granted charters to that District by the State of Maryland would expire before the year eighteen hundred; they consider that it is in the power of Congress, and it only, to extend beyond that term. Gentlemen, he said, had pretended much friendship for the people of the City of Washington, and differed much about the way to show it. The Commissioners are the proper organs of the people, through which to speak their will, and address themselves to this House; they act for the proprietors as well as for the public; and he knew no distinction that should prevent this report from approbation.

Mr. Murray said the arguments which had been used on the interference of the Legislature of Maryland could not now be decided, for which he thought it would be proper to postpone the matter. He believed they were not now in session, as they usually broke up about Christmas. Were gentlemen now to divide, they could not avail themselves of information from that Legislature, which would tend to throw light on the subject. He thought the nature of the subject such, that it would permit a delay of a few weeks, at which time most probably that Legislature would sit again.

The question for postponement was put and carried—ayes 37, noes 36.

RELIEF TO SAVANNAH.

Mr. W. Smith moved to call up the resolution he yesterday laid on the table, respecting an allowance to the sufferers by the late fire at Savannah; when, on the sense of the House being taken whether it should then be considered or not, there appeared only sixteen votes in favor of it.

Mr. W. Smith gave notice he should to-morrow again move to have it taken into consideration.

The House went into a Committee of the Whole on the bill for the relief of John Sears; which was agreed to without amendment, taken up in the House, read a second time, and ordered to be engrossed for a third reading to-morrow.

Wednesday, December 28.

An engrossed bill, entitled "An act for the relief of John Sears" was read a third time, and passed.

RELIEF TO SAVANNAH.

Mr. W. Smith wished the House to resolve itself into a Committee of the Whole on the resolution, which he had the other day laid upon the table, proposing to afford some relief to the sufferers by the late fire at Savannah. For his part, he said, he could see no reasonable objection which could be made to so benevolent a proposition. A gentleman in the House had got a plan of the ruins of the city; it was, indeed, a most distressful scene. There had never occurred so calamitous an event of the kind in the United States, or which had so strong a claim upon the General Government for relief. He said they had granted assistance to the sufferers by fire at St. Domingo; and surely if it were justifiable to grant relief to foreigners in distress, it was at least equally so when the objects were our own citizens. If gentlemen had objections to the measure, he wished they would state them. The sum with which he should think of filling up the blank would not be such as to materially affect our finances.

Mr. Milledge said, if the unfortunate had any claim upon the Government for relief, none could have greater than the citizens of Savannah. Few houses, he said, were remaining of that city, and those few were the least valuable. Not a public building, not a place of public worship, or of public justice—all was a wide waste of ruin and desolation, such as scarcely could be conceived, and as it were impossible to describe. He hoped some relief would be afforded to distress so unexampled.

Mr. Cooper said, it was a very unpleasant thing to come forward to oppose a measure of this sort; but, when they looked into different parts of the Union, and saw the losses which had been sustained at New York, Charleston, &c., it would appear only reasonable that, if relief was afforded in one case, it ought to be extended to another; and, if this resolution were agreed to, he should certainly move to have some relief afforded to New York. He hoped, however, the business would not be proceeded with. If the principle were a good one, it would bear going through with; but it would be seen this would, on the contrary, prove a dangerous one. What they did to-day, he said, should bear repeating to-morrow. If they were to make good losses by fire, there would be no occasion for insurance companies, nor any inducement to build with brick in preference to wood. He felt as much as others for the distresses of the people of Savannah, but was of opinion it was not a proper business for the interference of that House.

Mr. W. Smith agreed with the gentleman last

up that this would be considered as a precedent; he agreed that they ought not to do that to-day which ought not to be done to-morrow. It might be brought forward as a principle upon which we should be bound to relieve New York or Charleston; but the question is, whether this is not a distinct case? This is a case awfully distinguishable from all others; and, if a case like the present will not be often found, this House are certainly not bound to grant relief in others, though in this. He trusted such a case would not be again found to solicit relief. Charleston, he said, had experienced a great calamity by fire, but had not asked relief of that House; and it was probable if it had it would not have been granted, because its distresses are not so great. In a distressing situation like that now before us aid can be afforded by the many towards alleviating the distresses of the few. Hence arises the advantages from public contributions; and would that House, he asked, refuse their assistance? It would not be felt by the public purse. It has been said, to adopt this resolution would have a dangerous tendency, inasmuch as it would encourage a neglect of insurance. But the evil has come; the unfortunate circumstance has occurred; four-fifths of that unfortunate city has been destroyed, and their distress is great. Such a circumstance may not again happen for a century. The amazing value of £500,000 sterling damages is done; and shall we refuse to give a trifle to assist, with others, towards removing the present distressed situation of some of the unfortunate inhabitants? I trust not. It is not asked of this House to indemnify the loss of these sufferers. No, sir; it is only asked that the General Government should give the trifling sum of fifteen or twenty thousand dollars to afford these people some relief.

We have heard of New York and Charleston; but in which of those cases is this calamity to be compared to Savannah? The distress of Savannah is more than twenty to one. It is like a grain of sand struck off from the mountain. I wish gentlemen to give themselves the trouble to draw the comparison.

The citizens of New York are rich. That is a flourishing town; it is rich enough to afford itself relief when applied to. Though a sad calamity, it will scarcely be felt—the flourishing state of its commerce will soon repair the damage. But Savannah wants means to alleviate its own distress. Not only the property is destroyed, but the means to obtain more. What are they to do? Where obtain its former opulence or enjoyment? They can look no where but to their neighbors and to the Government for assistance.

We are told of Charleston. But the calamity there is not more than in the proportion of ten to one with that of Savannah. In Charleston there was immediately $30,000 subscribed to alleviate the distresses of those people whose property was destroyed. But this cannot be the case in Savannah. Where is $30,000 to come from there? Who are to subscribe it? All the means are destroyed, and they have nothing left but suffering. The calamity there is infinitely greater, and the means infinitely smaller to repair it.

Then, sir, if this be the case, where is the harm to ask a benefaction from the public Treasury, when it would not be felt? Suppose we were to grant $30,000, what is it to the people of this country? Nothing at all; but it is sufficient to draw down on this House the blessings of that people.

This, therefore, cannot come under the same principle. It is an unprecedented calamity; and, if a similar circumstance should ever occur, which is improbable, I think they should obtain relief.

The question was then put for the House to resolve itself into a Committee of the Whole on the subject, and lost—yeas 38, nays 39.

It was then moved that the Committee be discharged from the further consideration of the subject.

Mr. W. Lyman hoped the business would not be disposed of without going into a Committee of the Whole. He thought more respect was due to the feelings of the sufferers than to dispose of the subject without discussion. He hoped the committee would not, therefore, be discharged.

Mr. Hartley trusted the committee would not be discharged. He believed the destruction of Lisbon by an earthquake did not occasion greater mischiefs than the late fire had done to Savannah. The Legislature of Pennsylvania, which had no greater power than the General Government to afford relief to these sufferers, had given $15,000. Indeed, he thought it more the province of the General Government than of State Governments to afford relief in such cases.

Shall we, said he, treat the citizens of Savannah with more disrespect than the people of St. Domingo? This House then gave $10,000 or more for the relief of those people, and shall we not now have liberty to discuss the subject, whether to give or not to our own citizens? Although, he said, he would not wish to draw a precedent from English transactions, yet he would observe that their generous benevolence to the unfortunate sufferers by the earthquake at Lisbon, though only commercially acquainted, was worth imitation, to whom they gave £100,000. Mr. H. was sorry gentlemen should endeavor to prevent this by bringing in the calamities in New York and Charleston. Those were only personal losses; this was a general conflagration, a catastrophe unprecedented; and he hoped, for the sake of humanity and national honor, this House would never withhold relief.

Mr. Kitchell thought there would be propriety in determining at present whether it should be granted or not. There was application going about to the different State Legislatures for relief, and, if it was suffered to lie on the table in this House, he thought it would much injure the applicants, by leaving the different Legislatures in uncertainty what to do, and perhaps preventing their giving a donation towards this purpose. He said, he felt as much as any man for the deplorable state of this people, and, if it was consistent with the Constitution, would wish them to have

relief. But, said he, let us now decide. If it is unconstitutional, I would not wish to grant it; and, if we are not now to grant relief, let the committee be discharged, to open the way for other benefactions.

Mr. Sprigg hoped the committee would not be discharged, but that they would go into the business at an early day. He said, he had not made up his mind how far they had power to afford relief in a case like the present. There was an instance in the relief afforded to the daughters of the Count de Grasse, as well as that given to the sufferers at St. Domingo. He wished for further time to make inquiry on the subject. If there were not insuperable objections to the measure, he hoped relief would be afforded.

Mr. Harper acknowledged that it was sound policy in Government to keep a strict eye over its Treasury; but this watchfulness ought not to go to the rejection of all claims, however just and proper. He thought the tenaciousness of approaching the Treasury was carried too far in the present instance. He would ask, what was the use of society if it were not to lessen the evils of such calamities as the present, by spreading them over the whole community, instead of suffering them to fall upon the heads of a few individuals? He thought it the duty of Government to alleviate such peculiar distress as the present. It was said this would prove a dangerous precedent, and prevent necessary provisions against fire. If they were about to make good the whole of the £500,000 destroyed, there might be some ground for the alarm; but when fifteen or twenty thousand dollars only were contemplated to be given, no great danger could surely be apprehended. The fires at New York, Baltimore, and Charleston, had been mentioned; but what were the means of Savannah when compared with New York? Not as one to twenty. New York was rich enough to bear her loss, but this could not be said of Savannah, all the inhabitants of which were reduced to poverty and distress. They could not, therefore, get relief from their fellow-citizens; and to whom could they look for protection and relief with so much propriety as to the General Government? When compared to Charleston, the loss of Savannah was of ten times the magnitude as that experienced by it. The loss of Charleston was alleviated by a subscription of $30,000 from its own citizens, besides the handsome contributions which were made in other parts of the Union; but there was no property left in Georgia to afford relief to the sufferers. Suppose, said Mr. H., we were to give thirty thousand dollars towards this loss, what would it be when divided among the whole Union? And yet it would be enough to draw down countless blessings upon us from these objects of distress. He hoped, therefore, the committee would not be discharged. It was a case of peculiar and almost unprecedented affliction, such as he hoped would not again occur; and a decision in their favor would be applauded by every man, woman, and child in the Union.

He believed it a case not merely supported by justice and right, but nearly attached to the finest and most noble feelings of the heart; he believed it would meet the feelings of every man of wisdom to afford relief. He hoped, therefore, that the merit and importance of the resolution would induce the House to let it lie over for future consideration.

Mr. Smith said, if gentlemen's feelings were not to be applied to, policy ought to influence the House to grant relief to that town. Savannah, it was well known, was a considerable commercial city, and by that fire a very material part of our revenue was sunk, and if it could not obtain necessary assistance, it would be felt more than the grant of this sum to its support. It would be the general interest of the Union to restore that trade as soon as possible. He hoped, therefore, as the motion for commitment was only lost by one vote, the House would reconsider it.

Mr. Sitgreaves wished to know whether it was in order to move to reconsider the vote which had just been taken?

The Speaker said the present question must first be disposed of.

The motion was then put for discharging the Committee of the Whole, and lost, there being only twenty in favor of it.

Mr. Sitgreaves observed, that he voted with the majority in the decision on the first question, which had been taken; of which he wished to move a reconsideration. Very few questions had occurred since he had been a member of that House on which he could not determine within himself how to act. On the present occasion, he had however suffered a conflict between opposite feelings. He had doubts whether they had the right of appropriating money except for the public service of the country; at the same time, he was convinced, that if ever there was a claim on the humanity of the public, Savannah at present exhibited that claim; and he must own that his feelings had, at length, vanquished his doubts; and, though he originally voted against taking up the measure, he should now vote for it. He was not sure whether he should not commit an error in doing this; but if it was an error, he hoped it was an amiable one, and one which would be forgiven.

The question was then taken for going into a Committee of the Whole on the subject, and carried by a considerable majority, there being 45 votes for it.

The House accordingly resolved itself into a Committee of the Whole, when

Mr. W. Smith said, he did not propose to fill up the blank at that time. If the resolution was agreed to, the sum could be put in when the bill came into the House. He himself should not think of proposing to fill the blank with more than 15,000 dollars. This, it was true, was but a small sum, but it would afford relief to the poorer class of sufferers, and others could not expect to receive the amount of their losses. He should move that the Committee might rise and report the resolution.

Mr. Hartley called for the reading of the act

allowing relief to the sufferers by fire at St. Domingo. [It was read. It allowed 15,000 dollars for their relief, which sum was to be charged to the French Republic, and if not allowed in six months, the relief was to be stopped after that time.]

Mr. Macon wished the act allowing a sum of money to the daughters of Count de Grasse to be read also. He did not think either of them in point. The sufferings of the people of Savannah were doubtless very great; no one could help feeling for them. But he wished gentlemen to put their finger upon that part of the Constitution which gave that House power to afford them relief. Many other towns had suffered very considerably by fire. He believed he knew one that had suffered more than Savannah in proportion to its size; he alluded to Lexington in Virginia, as every house in the place was burnt. If the United States were to become underwriters to the whole Union, where must the line be drawn when their assistance might be claimed? Was it when three-fourths or four-fifths of a town was destroyed, or what other proportion? Insurance offices were the proper securities against fire. If the Government were to come forward in one instance, it must come forward in all, since every sufferer's claim stood upon the same footing. The sum which had been given to the sufferers at St. Domingo was to be charged to the French Republic, and that given to Count de Grasse's daughters was in consideration of their father's services. But New York had as great right to come forward and expect relief as Savannah. He felt for the sufferers in all these cases, but he felt as tenderly for the Constitution; he had examined it, and it did not authorize any such grant. He should, therefore, be very unwilling to act contrary to it.

Mr. Rutherford said, he felt a great deal of force on what gentlemen had said. There were two circumstances which were perfectly conclusive in his mind. He saw it our duty to grant relief from humanity and from policy. Savannah was a city of a minor, helpless State; it was a very young State, yet it was a part of the Union, and as such, was as much entitled to protection as any State under such a dire misfortune; and it became Congress to alleviate their great distress. They have lost much; they have, many of them, lost their all. To say we will not assist to relieve, when almost every State in the Union is putting their shoulders to support these people's burden, is wrong. The State of Pennsylvania has done itself immortal honor in the relief it has afforded, and shall we not help to support this part of the family in their distress? This State is a branch of the great family of the Union; it would be, in my idea, extremely inconsistent to neglect them. He hoped the motion would be adopted, and he hoped it would never be said that the General Government refused to provide help in such a poignant distress occurring in one of its principal towns.

Mr. Hartley said, that the gentleman from North Carolina [Mr. Macon] had voted against both of the bills which had been referred to. He knew no difference between the Constitution of the United States and that of Pennsylvania, yet a vote in their House had been carried unanimously. He thought the law for the relief of the sufferers of St. Domingo perfectly in point; for, notwithstanding what was said about negotiation, the distress of those people had consumed all the money before the six months were expired. If ever there was a case in which they could grant relief, this was one. The losses at New York and Charleston would bear no comparison with that of Savannah; they were rich and flourishing places, whilst Savannah was a small city of a new State, and the sufferers generally poor. He hoped, therefore, the resolution would be agreed to.

Mr. Moore said, the laws which had been adduced as precedents were not in point; for the one sum we were to have credit with the French Republic, and the other was in consideration of past services. The distress of the people of Savannah was not an object of legislation; every individual citizen could, if he pleased, show his individual humanity by subscribing to their relief; but it was not Constitutional for them to afford relief from the Treasury. If, however, the principle was adopted, it should be general. Every sufferer had an equal claim. Lexington, in Virginia, contained only one hundred houses, and all except two had been destroyed by fire. He should therefore move to add Lexington to Savannah in the resolution before them; though he would observe, as he did not approve of the principle, he should vote against them both.

Mr. W. Smith wished gentlemen not to endeavor to defeat the proposition before them by an amendment. He did not think there could be a comparison made between the distress occasioned by a fire in a small town and one in a populous city. The destruction of Savannah was a great loss in a national view, as it would cause a considerable defalcation in the revenue, and probably any money they might advance for the relief of the citizens would be amply compensated, by enabling the city the sooner to resume its former importance in the commercial scale.

Mr. Venable did not see the difference between the two cases which was so distinguishable to the gentleman last up. Because Savannah was a commercial city, its distress, according to that gentleman, was indescribable, but when a like scene was exhibited in a small town, it was no longer an object which touched his feelings. His humanity went no where but where commerce was to be found. He asked whether the United States might not as well lose revenue in the first instance, as put money into the people's pockets to pay it with? Humanity was the same every where. A person who lost his all in a village, felt the misfortune as heavily as he who had a like loss in a city, and perhaps more so, since the citizen would have a better opportunity by means of commerce of retrieving his loss. He was against the general principle, as he believed, if acted upon, it would bring such claims upon the Treasury as it would not be able to answer.

Mr. Murray thought the gentleman from Virginia [Mr. Venable] carried his idea of relief too far. He had no idea that that House, or any Legislature, could undertake to make good individual misfortunes. He was of opinion that the lines which separated individual from national cases, were very observable; the one was happening every day, the other seldom occurred. When a large town is burnt down, and that town is an important Southern frontier town, it is surely a national calamity, and has a claim upon the humanity of the country. It was true, the claim was not of such a nature as to be brought into a Court of Justice, but it was a calamity in which the whole nation sympathized. It was not only a claim upon the humanity of the nation, but also upon its policy, as, by restoring it to its former situation, it would be able to bear its wonted part in contributing to the revenue of the country, and would continue to carry population, arts, and wealth to that distant part of the Union. In case of war, Savannah was a most important place. It was necessary the Union should have a town in that situation, and he could not consider any money which might now be advanced as given away, but as lent to that town, which might enable it, in a few years, to resume its former situation, whilst the withholding of it might prevent its ever rising from its present ruins.

Mr. Kitchell was opposed to the amendment and to the resolution itself. He had doubts if even they were to give the citizens 15,000 dollars, as was proposed by the gentleman from South Carolina, whether they should not, instead of service, be doing them an injury; because, if the General Government were only to give this sum, the State Legislatures would proportion their donations accordingly, and probably give much less than they would otherwise have done, if they had not had this example before them. He had doubts as to the constitutionality of the measure; he thought the Constitution did not authorize them to make such a use of public money; however he thought it might be a very flexible instrument; it would bend to every situation, and every situation to that. He thought, in this instance, if we grant money, while we attempt to serve, we shall eventually injure. As to what the gentleman from Virginia says of Lexington, Mr. K. thought it had been fully relieved; however he should vote against both propositions.

Mr. Page said, that he was sorry that his colleague had made this amendment, as he had done it with a view to defeat the original resolution. If humanity alone were to direct his vote upon this question, and if the amendment had been proposed more early and singly, he might have voted for it. But that not being the case, it, as well as motives of general policy, influenced him in favor of the original motion. He had reasons which could not apply to the amendment. He should vote against it. He was bound by order to confine himself to the single question before the committee. This is, Shall the amendment be received or not? He declared it as his opinion that the case of Lexington ought not to be connected with that of Savannah, which had been, as stated by the member from South Carolina, materially different. He was restrained by order from entering into the merits of the original resolution, but he thought that he had a right to hint at the motive of policy which would apply to the resolution, and not to the amendment. This was, that Savannah being an important place, it would be wise and politic to prevent its revival from being owing to any other aid than that of the General Government of the United States. It ought not to be under obligations to individuals, or single States, and much less to a foreign Power.

Mr. Hartley hoped the amendment would not prevail. If the loss of the people at Lexington had been greater than they could support, they would doubtless have applied to the Legislature of Virginia, but he had not heard of any such application having been made. He agreed with the gentleman last up, that the General Government ought to relieve distresses of this kind.

Mr. Murray inquired when the fire happened at Lexington?

Mr. Moore answered, about nine months ago. He thought it was the duty of the United States first to pay the claims which were made upon them by distressed soldiers and others for past services, who were denied justice because they had passed an act of limitation. If they were to act from generosity, he said that generosity ought to be extended universally. It was a new doctrine that because a sufferer by fire did not live in a commercial city he was not equally entitled to relief with the inhabitants of a city, and that though such persons were called upon to contribute to the losses of others, they could have no redress for their own. This seemed as if favorite spots were to be selected upon which special favor was to be shown. He was opposed to all such humanity.

Mr. Claiborne was against the amendment, but he hoped the resolution would be agreed to. He was sorry any gentleman should propose an amendment like this, purposely to defeat a motion which would tend to relieve such sufferers as those of Georgia must be. He was not certain whether he could vote upon Constitutional grounds or not. It was a sharp conflict between humanity to that suffering country and the Constitution. If any case could be admissible, he thought this could; it ought to be remembered, that that part of the Union has suffered much. Georgia was a slaughter-pen during the war, besides being continually harassed by the hostile Indians. He thought 15,000 dollars would not be ill-spent, as from motives of policy it would be of more advantage to the United States from the quick return the revenue would gain. Indeed, if Constitutional, he hoped the sum would be made more than proposed. These are your fellow-citizens who are suffering, and if not speedily relieved, the whole interest will be involved. If in order, he would vote that the Committee rise, to enable him and, perhaps, many others, to consult whether relief could be constitutionally granted? He said he felt a great propensity to do it.

The motion was put and negatived.

Mr. Harper hoped the amendment would be rejected, for the same reason that he hoped all amendments which were brought forward with the same view with which it was produced, viz: to defeat the original motion, might be rejected. He thought every proposition should stand or fall upon its own ground. He wished that of his colleague to do so. Mr. H. insisted upon the dissimilarity of the two cases, and that the distinction of great and small calamity was sufficient to distinguish the two cases. With respect to the constitutionality of affording the relief in question, that had already been determined by the several instances which had been quoted, which were also founded upon humanity. The present case might justly be included under the head of promoting the general welfare of the country. Gentlemen who doubted the constitutionality of the present proceeding, had done the same in the instances alluded to. But, since their doubts had been so frequently overruled, he hoped they should hear no more of them. With respect to the policy of the measure, Savannah, he said, was the only considerable port except Charleston, which the United States had in that quarter. It was situated at the mouth of a river which watered a space of country containing a thousand square miles. The average revenue of this city was $76,000. Was not this an object of importance? Was it not an object to foster, to relieve the distresses of such a place? Many great statesmen had employed themselves in founding cities, and should they not hold out a helping hand to one in distress? Peter the Great founded a city upon a morass, and Louis XIV. attempted to build one in the English channel. He trusted the American Government would have more wisdom than to see one of her's sink for want of a little timely assistance.

The question was put on the amendment and negatived—there being only 26 in favor of it.

Mr. Baldwin said, he had doubted whether to make any observations on this motion; not that he was insensible to the calamitous situation which had been the cause of it, but from an apprehension that it might be thought he was too strongly affected by it. Though it might be disagreeable to one to give his judgment and urge his opinions, when his own relation to the question was different from that of others, yet some of the reflections might not be useless to those who were to determine it. He was sure it was not a want of disposition to relieve the unhappy sufferers that had or would draw forth an observation on this occasion, but merely doubts as to the powers of the Federal Government in money matters. The use of a written Constitution, and of that provision in it which declared that no money should be drawn from the Treasury but under appropriations made by law, was very manifest from the caution which it gave in the expenditure of public money and in laying burdens on the people; yet he believed it impossible to obtain absolute directions from it in every case. The objection is, that Congress is empowered to raise money only to pay the debts and to provide for the common defence, and the other purposes, exactly as specified in the 8th section. The objection has often been made, but many laws have passed not exactly specified in that section. He mentioned the private acts before alluded to, the law for establishing light-houses, to aid navigation in the improvement of harbors, beacons, buoys, and public piers, establishing trading-houses with the Indians, and some others, to show that though the Constitution was very useful in giving general directions, yet it was not capable of being administered under so rigorous and mechanical a construction as had been sometimes contended for. He begged leave to ask and to urge the question, whether there was no possible accumulation of calamity and distress that might be brought upon some part of the country which would justify the Federal Government in granting some relief? No doubt the usual pressure of private misfortune is relieved by the poor-laws and other acts of the State Governments; but, suppose a State belonging to this Union, the greater part, or, perhaps, the whole, was situated on an island, and that at once, by some of the great causes which we know operate in Nature, by tremendous convulsions and earthquakes, it was to be thrown into such a situation as some parts of the world have been, not only the whole property of the wretched survivors destroyed, but their place no longer habitable, would the Federal Government think they had no powers even to grant them some of their new land as a place of refuge? He was sensible that he had put a case so strong that the bare mention almost seemed improper, and that the mind of no gentleman could follow him to that extent. He only wished to establish the principle that there were possible instances in which it would be the duty of the Federal Government to interpose relief. Whether the present calamity was so great and the distress so pressing, that proper relief was scarcely to be expected from the State where it happened, was a question which he must leave to their determination. He was sure they could not want for inducements from the nature of the scene, or from their own dispositions. He could not wish to heighten the coloring in which it stood before them.

Mr. Rutherford again rose in support of the motion. Is it not clear, he said, that it is the duty of the people at large to come forward at this time and hold up the helping hand to those poor distressed people? He presumed the rising dignity of this great Confederation demanded mutual assistance in distress. If the people are left to recover of themselves from this terrible dilemma, the nation will suffer. It is the duty and the interest of this rising nation to help the people of Georgia; it is a part of this great family, and demands assistance from every member. This idea should be conclusive. But for gentlemen to say the law is to have its full operation at this time, is saying nothing at all; it is pouring cold water upon their distresses; it is as though you were to say to a man that is drowning, stay awhile and

we will come and assist you. This would be poor comfort. Policy, humanity, and justice, should prompt the House to the noble action. If one part of a system is injured the whole suffers by it. All this generous feelings of the human heart call aloud for help, and I hope we shall grant it.

Mr. NICHOLAS said, he meant to have given a silent vote upon this subject, and have left other gentlemen to follow their own inclinations in the business; but an attempt had been made to ridicule the opinion which he and others held of the sacredness of the Constitution. In reference to what had fallen from the gentleman from Georgia, he said he had never heard it said that no individual instance could occur which might be an exception to a Constitutional rule. He had never heard that our laws should be so general as to admit of no latitude, or that money should never be expended but for payment of debts or for defence.

Mr. N. said, he was not satisfied with the distinction made on this occasion, viz: that if a few inhabitants of a small town experienced loss by fire they were not entitled to consideration; but, if the same calamity happened in a large city, it had a claim upon them for relief. He wished to know whether they were about to do what ought not to be left undone? There was no case in which they were at liberty to act or not. If they were bound to afford relief then, were they not equally bound at any future period to afford relief in similar cases? If the thing was right and proper, relief ought to be commensurate with the distress, otherwise they did not do their duty. If it was otherwise, the thing was arbitrary and a whim. If he voted for relieving this case he should feel bound to relieve every future distress by fire. When an amendment was lately under consideration, it was said to be improper, because the evil was of less magnitude than the present. It was not so; it was an explanation of the subject. The gentleman from South Carolina said he had not heard of that fire. That gentleman lived near Savannah, and other considerations besides those of humanity might influence his conduct on the present occasion. Gentlemen had said they stood in the same situation as individual States. That opinion, he said, had gone too far. The General Government had no power but what was given to it, but the State Governments had all power for the good of their several States. If the general welfare was to be extended (as it had been insinuated it ought) to objects of charity, it was undefined indeed. Charity was not a proper subject for them to legislate upon; and, if this resolution were to pass, all the power of which they were possessed would not be adequate to raise funds to answer the demands which would be brought against the Treasury.

Mr. GILES said, if the present resolution passed it would make them answerable for all future losses by fire. The small sum of $15,000 was not of any consequence when compared with the establishment of a principle of that House acting upon generosity. He believed that neither the money nor humanity, but the establishment of the principle, was the thing aimed at. The unanimity with which a resolution had passed the Pennsylvania Legislature, was a proof that they believed they had the power to pass such a law. It was said the General Government possessed the authority. The gentleman from Georgia had said that "affairs of men" made it necessary to depart from the strict Constitutional power. For his part, he did not think they ought to attend to what "the affairs of men" or what generosity and humanity required, but what the Constitution and their duty required.

The authority of that House, he said, was specified, beyond which they ought not to go. This was a principle not within the Constitution, but opposed to it.

There had, he said, been several cases introduced. That of the sufferers of St. Domingo was not a case in point. They looked for a reimbursement of the money. He believed it had been repaid. And when the daughters of the Count de Grasse had $4,000 given them, it was thought to be necessary to introduce their father's services as a consideration. His feelings, he said, were not less alive to the calls of humanity than those of other gentlemen; but, by granting the money required, they should go beyond their powers, and do more real injury than good.

Mr. W. SMITH said, that gentlemen had spoken of a sum in contemplation; but the question was not on the sum to be granted; that would be for future consideration, and if gentlemen wished to make it commensurate with the object, they could do so. The present question was, whether any relief should be granted? He wished gentlemen would say whether no case of calamity could exist in which the United States ought to grant relief? He believed every one admitted such a case might occur. The question was, whether this was the case? He trusted it was, since it was an unexampled calamity.

The precedents which had been adduced appeared to be no more strongly warranted than this. First, with respect to the relief granted the sufferers at St. Domingo. In order to make the thing more palatable, it was said that sum should be charged to the French Republic. It was provisional, and the fact was they had not admitted it, and the United States paid it. In reference to the relief granted to the daughters of Count de Grasse: it was said to be for services. Did the daughters perform any services? No, but the father did. But did the Constitution of the United States acknowledge any hereditary claim of this sort? He believed not. This was a mere pretence. It was an act of generosity. Another case occurred to him, which had not been mentioned, viz: the recompense allowed to persons who suffered from the Western insurrection. Was this authorized by the Constitution any more than the present? He believed not.

Gentlemen had said, that the Legislature of Pennsylvania had a right to grant relief. Mr. S. asked, what right they had to grant relief to the people of Georgia more than the Representatives of the United States? These are their own citi-

zens, the people whom they represent, and as such ought to feel for and alleviate their distresses.

A gentleman from Virginia [Mr. MOORE] had said we should not grant the relief to those people because we have not paid our debts. Is this a reason? Will a man say he cannot give to the unfortunate because he is in debt? Were that the case perhaps people of the greatest opulence would be as entitled to excuse as any other. Men in great business are seldom out of debt; but they may with safety be generous and charitable. The claims of those soldiers and other petitioners referred to by that gentleman, ought not to be considered as a debt. No claim, he said, which was justly due, was refused payment. A certain time was set at which all claims were to be brought in, and would have been discharged. Such as were not, except in very particular cases, were rejected. This was a necessary measure, and generally approved of. Then surely those claims which were barred by this act of limitation could not be considered a debt.

This argument, Mr. S. said, would not do: because a man owed a little money, or another chose to say he did, he was not to be charitable. He thought the House fully authorized to grant relief in this case.

In examining different cases, Mr. S. said, he found that of the widow of Major Forsyth, and also that of the orphan children of Major Trueman. Gentlemen would perhaps say that these were cases where the husband and ancestor had rendered services to the United States; and he had no doubt that the ancestors of those sufferers at Savannah, and perhaps the sufferers themselves, had rendered services to the United States. If gentlemen pleased, therefore, the words, "in consideration of services performed," &c. might be inserted.

It has been said, that if the proposed donation was made by Congress, it would lessen the claim of the sufferers upon individual States. He thought differently. He thought it would show that Congress believed their case a hard one, and deserving of attention. But another thing: it was not probable that any of the Legislatures would be in session for some time, except one or two. How, then, were the sufferers to be relieved? The few thousand dollars they had yet got would be a mere bagatelle towards their immense loss. He hoped, therefore, the resolution would be agreed to.

Mr. CORR said he should vote against this resolution, though he felt as much for the distresses of the people of Savannah as any gentleman in that House. Nor would his objections be on Constitutional grounds. He thought where there were calls of generosity and humanity on the National Treasury sufficiently strong, he should vote for paying attention to them. The present, he said, was a call of humanity from the people of Savannah; the call was loud, and ought to be satisfied by somebody. The question was, whether it was made with propriety to them? He thought not; and that to agree to the resolution would be laying a dangerous precedent. He conceived the instances which had been adduced as precedents for the present case were not in point. The application was from foreigners to the feelings of this Government, which he thought had been attended to with propriety. But, he said, there was an obvious distinction between the two cases. There was no probability that a foreigner would be listened to by a State Legislature. This was a reason which did not apply to this case. Major Forsyth and Major Trueman had died in the service of the United States; their families, therefore, seemed to have a just claim for protection. The Western insurrection was a very different thing: the grant was in consequence of exertions in favor of Government.

Mr. C. said it appeared to him, from a variety of reasons, that this subject would be best left in the hands of the individual States. The greatest difficulty attending this Government was, the providing of money to support its necessary expenses. Considering this, therefore, as a precedent likely to draw great sums from the Treasury, he wished to avoid giving it place.

Mr. W. SMITH said that this sum could not be a serious inconvenience to the Treasury, as gentlemen knew there must be additional revenue provided. Indeed, it might be an advantage to the Treasury, as it might put the people of Savannah in a state of paying revenue, which otherwise would not be the case.

Mr. CLAIBORNE said, the more he heard, the more he found himself in favor of the resolution. By the discussion it had undergone, he was inclined to think it was, perhaps, reconcilable with the Constitution; perhaps it was, he said, for he was not certain. The annual revenue, he said, of that place, was seventy thousand dollars to the United States, besides the great consideration of it as a frontier town. He had compared the advantages and disadvantages with respect to its relief in his own mind, and thought it would be highly consistent with policy to grant relief. It was a place which had been in great distress, and had great struggles with enemies in times past. Can it be possible to suppose that we have not power to assist in erecting that place again, and putting it upon a footing to do good to the United States by a return of her revenue? Certainly not. Would the Committee be willing that Savannah should be erased from the revenue? Are they willing to let it rest, and lose it? This is impossible. Then, surely, it becomes policy to give aid towards its re-erection. Unless the people do receive some aid, it will be a long time before seventy thousand dollars will be again produced from the revenue of that place.

For what purpose was it, Mr. C. asked, that money was spent to erect trading-houses in the back countries? He answered, for the general welfare; for the support of trade, and the increase of the revenue. So will a small sum given towards the relief of this suffering town. If there could be reason to grant money to the widows of Major Forsyth and Major Trueman, there surely must be as much to do this. That he supposed was done for the public good, and this he thought

would equally apply. He was forcibly impressed with a sense of its being proper and right to grant this relief; he thought his constituents would be willing to do it, and with pleasure. Except something more consistent with reason and the general good was advanced, more than he had heard, he should vote for the resolution.

On a division on the question for concurring with the report of the select committee, twenty-six members only rose in the affirmative; it was therefore not carried.

The Committee then rose and reported their disagreement, when the House took it up.

The question was then taken, and the yeas and nays demanded, "that the House do agree with the Committee of the Whole House in their disagreement to the motion," and resolved in the affirmative—yeas 55, nays 24, as follows:

Yeas.—Theodorus Bailey, David Bard, Thomas Blount, Theophilus Bradbury, Richard Brent, Samuel J. Cabell, Gabriel Christie, John Clopton, Joshua Coit, Isaac Coles, James Davenport, George Dent, Abiel Foster, Jesse Franklin, Nathaniel Freeman, jr., Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Chauncey Goodrich, Christopher Greenup, Roger Griswold, William B. Grove, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, John Wilkes Kittera, Edward Livingston, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Josiah Parker, Francis Preston, John Reed, Samuel Sewall, Nathaniel Smith, Israel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, Richard Thomas, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, Dempsey Burges, Thomas Claiborne, William Craik, George Ege, Dwight Foster, Henry Glen, Andrew Gregg, Robert Goodloe Harper, Thomas Hartley, William Hindman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Page, Elisha R. Potter, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Jeremiah Smith, Isaac Smith and William Smith.

Thursday, December 29.

George Hancock, from Virginia, appeared and took his seat.

The Speaker laid before the House a Letter from the Secretary of the Treasury, accompanying an account of the receipts and expenditures for the year 1795; which was read.

Also, another Letter, transmitting a report and sundry statements, exhibiting a view of the Debts of the United States on the first day of January, 1790, 1791, and 1796, pursuant to a resolution of the House of last session; which, with the above Letter, was referred to the Committee of Ways and Means.

CANADIAN REFUGEES.

Mr. Williams moved for the order of the day, that the House resolve itself into a Committee on the reports of committees to whom were referred the petitions of sundry refugees from Canada and Nova Scotia.

The first resolution read from the last report of the select committee on this subject, was in these words.

"*Resolved*, That the prayer of the petitioners, Joseph Green and others, from Canada, praying a bounty in lands and other pay, for services rendered in the late war with Great Britain, ought not to be granted."

This resolution was agreed to. The second was thus:

"*Resolved*, That a tract of land, not exceeding —— acres, be laid off Northwest of the Ohio river, beginning at the mouth of the Great Miami, and extending down the Ohio, not exceeding three times the breadth in length, be immediately appropriated to compensate the refugees from the British provinces of Canada and Nova Scotia, pursuant to the resolves of Congress of the 23d April, 1783, and the 13th April, 1785."

Mr. Williams hoped the situation of the land would not be mentioned in the resolution; there were many circumstances that would render it unnecessary and improper.

Mr. Hartley wished to know where the land was to be, because the value of the land in different places was various; he thought they ought to have land: he would not be thought to object to the resolution.

Mr. Venable did not think it necessary to mention at this time what land should be appropriated for this purpose. A bill would be introduced in a few days, it could then be determined. If there were objections to appropriate the land mentioned, he hoped gentlemen would then propose a spot that would suit every conveniency better. These people, he said, ought to be satisfied: it was time they were.

Mr. Dayton said, that the chairman of the committee said there was no land near Lake Erie of that description belonging to the United States; he wished to know what foundation the assertion had?

Mr. Greenup said, the committee had made what inquiry they could on the subject, of persons well-informed, who told them there was no land belonging to the United States of that description.

Mr. Sitgreaves would vote for striking out the clause as it stood, not from any knowledge he had on the justice of the claims, but, if just, satisfaction should be given. The committee had not reported as to the value of land necessary to be given; the value of land was proportioned to its different qualities and location; he thought it would be as well for these people, to give them military land warrants, and let them locate by lot: this had heretofore been the method, and he thought it would be as advantageous to them as any, and avoid many difficulties with respect to the grant.

Mr. Macon hoped the question would be divided; he liked the proposition of the gentleman last up, to strike out, and insert the words proposed; he therefore would wish the Committee to rise, and report progress; or, if the House do

not adopt the substitute, he hoped it would be recommitted.

M. Dayton moved to strike out the words relative to location, and substitute the following resolution:

"*Resolved*, That provision ought to be made by law for granting donations of land to Canadian and Nova Scotia refugees, in conformity to the resolves of Congress of the 23d of April, 1783, and the 13th of April, 1785."

This resolution was adopted.

The third was—

"*Resolved*, That five hundred acres of land be granted to each refugee from Canada and Nova Scotia."

This resolution was attended with three explanatory restrictions. It passed, and the Chairman read the first of these rules, which was, "that the applicant shall make proof, before some Court of record, of his actual residence in one of the provinces aforesaid, previous to the —— day of ——."

Mr. Greenup supposed this was meant merely as the outlines of a plan to be completed when the bill was brought in; at this time it was necessary that instruction should be given to the committee that they may bring in a bill consistent with the will of the House.

Mr. Dayton objected to this, and the two following clauses. He objected also to the resolution for an indiscriminate grant of five hundred acres of land to each refugee. Some of these people would be found to deserve more and some less, in proportion to their exertion and sufferings. Some might have lost large property, or have had large families. If Mr. Dayton had observed what the Committee were doing, he would have objected to the passing of that clause. He likewise opposed the present one. This clause and the remaining two were negatived.

The Committee of the Whole then rose. The Chairman reported progress. The House took up the report. The first resolution and the second, as altered in the Committee, were agreed to.

The question on the third resolution was then put.

Mr. Macon thought that it would be exceedingly improper to grant an equal quantity to each; it ought to be entirely circumstantial.

Mr. Greenup was of the same opinion; he said some of these people had suffered more than others. The circumstances of some were such that they were in irons, in close confinement twelve or fourteen months, many of them had the warrant signed for their execution, and a variety of cruelties were exercised; these distresses required consideration.

Mr. Baldwin hoped it would be struck out; the House should not go into particulars of the quantity to be given, or the circumstances of the persons; he had seen great difficulty attending these specifications. He did not like this loose way of doing business; they need not open land offices for that purpose; some way would be found out to give the people satisfaction.

Mr. Williams hoped the committee would not be restricted.

The question on the third resolution was then put, and lost.

A committee was then appointed of Messrs. Gilman, Williams, and Greenup, with instructions to bring in a bill pursuant to the resolutions as amended.

KIDNAPPING NEGROES.

Mr. Swanwick called the order of the day on a report of the Committee of Commerce and Manufactures, made the last session, on a memorial from the State of Delaware, respecting the kidnapping of negroes and mulattoes. The House accordingly resolved itself into a Committee of the Whole on the subject.

Mr. Swanwick said, that there was a mischievous practice in use of carrying these people away from the place of their residence, by masters of vessels, and selling them in other parts. The plan of the committee was to get instructions from the House to bring in a bill making it necessary for every master of a vessel to have a certificate of the number and situation of any negroes or mulattoes he may have on board. He hoped the measure would not at all be opposed, as it only prevented thefts in this case.

Mr. Coit wished to know whether it was necessary for the United States to intermeddle with this? He wished the report had been more satisfactory, and stated the principles upon which it was formed with more precision. The evil, he doubted not, existed, but the law might create a greater evil than that it was intended to cure. It appeared to him that the laws in the several States were fully adequate to the subject without further provision; he was not ready to give a vote on it either way at present.

Mr. Swanwick said, the report was grounded on an application from the Legislature of Delaware. [Mr. S. here read the memorial from that State to Congress.] The practice, he said, was very injurious and dangerous to that State, and he hoped a remedy would be attempted, as it was in the power of Congress to provide one by this method; some of the States had made an attempt to remedy this evil, but their laws were broken with impunity. If the resolution of the Committee passed, he should move that the Committee bring in a bill in pursuance thereto.

Mr. Livingston said, he did not object to the principle of the motion. The Committee have showed what the States could not do, but have not told us what the United States could do, to remedy the evil; there could be no question of the evil of the action, but the question was, What was to remedy this evil?

The resolution was to give aid to the different States; it appeared to be too broad: the report says that negroes and mulattoes are carried off, contrary to law. If contrary to the laws of the States, they certainly ought to carry their laws into effect: it cannot be done till they show us how Congress are to aid them. The Committee certainly had not gone far enough in their report. There was a difference betwixt reporting on an established principle, and one which was yet to

settle. He thought the report ought to go back to the Committee to be amended. He could not see how the laws of the General Government could operate over those of the several States. The case of stolen goods would apply the same as negroes; they were looked upon, in the States where slavery was permitted, as individual property; therefore he thought stealing in one case would apply to the other. He hoped it would go back for the Committee to point out a remedy.

Mr. Macon moved that the Committee rise, to make room for the gentleman's motion.

Mr. Swanwick said, the laws of the different States forbade the stealing of negroes; but they had no remedy that would take effect out of their own State: and although each had effect in their own State, yet they had no power on the water. The intention of the present measure was to oblige masters of vessels, when they cleared out of any ports in the Delaware, when they took any negro or mulatto on board, to have a certificate of their being free. The situation of the State of Delaware, communicating with both the Delaware and Chesapeake, was, in this respect, particularly exposed to insult and injury; but this remedy, he thought, would be effectual. The gentleman last up wished the Committee to rise, in order to recommit it: he should vote for it if the gentleman was willing to add, "to bring in a bill." The gentleman was in the Committee, if he had stated his objections there, it might have saved time.

Mr. Coit imagined that the report was a very lame one. The object of the bill should have been stated more fully.

Mr. Murray wished to know what was fully meant by the idea of preventing kidnapping. He confessed he did not rightly understand the meaning of the word. Was the intention of the Committee to have reference to the taking of free negroes and selling them as slaves, or the taking slaves to make them free?

Mr. Swanwick said it was intended to prevent both evils. It was intended to prevent their being stolen from their masters; and, also, to prevent the power of the master taking them to the other States to sell them. This measure, he thought, would prevent both. The State of Maryland had taken measures to prevent it themselves; they had made it a heavy penalty to take a negro out of the State; but that is not effectual to prevent the evil now complained of. This was meant to prevent the practice of examining ships before they sailed and when they arrived.

Mr. W. Smith wished the Committee to rise; not with a view of recommitting the report, but to get rid of the business altogether. The subject, he said, involved many serious questions; it required very serious consideration, and he wished it had never come up. It was a question with him how far Congress had a right to meddle with it at all. He felt alarmed on the subject as brought from that State. He considered it as a kind of catering-wedge, as a gentleman had lately said, on another occasion. It was altogether a municipal regulation, and not at all connected with trade or commerce, and therefore ought to be left to the State Legislatures to settle. He did not think the Constitution allowed that House to act in it.

Gentlemen had said, that the laws of the States took no effect on the waters. This, he thought, was founded on a mistake. The laws of the States could prevent robbery on water as well as on land, if within the jurisdiction of the United States. He hoped the Committee would rise, and dismiss the subject.

Mr. Isaac Smith thought the gentleman knew not the proper meaning of the report. It was not to make a law against stealing merely, but against its being done successfully; many instances, he said, had occurred, where they had been hid many days on board the ships and taken away in the night to the West Indies, and other parts of the world to sell them. It was impossible that the existing laws of the States should prevent this fraudulent practice: the intent of this law was to prevent this practice; by being examined, and forced to take certificates along with them, it could not be easily done. The particulars of the remedy would be more readily seen when the bill was brought in; it would explain itself; it then might be modified, altered, or rejected altogether. He thought it could give no offence or cause of alarm to any gentleman; and he was sure it was no way contrary to the Constitution.

Mr. Macon wished the Committee to rise, and not have leave to sit again. He began to see more of the impropriety of the measure than before, and for the same reasons as the gentleman from South Carolina, [Mr. Smith.]

Mr. Sitgreaves hoped the subject would not be got rid of in this way; he hoped gentlemen would be inclined to treat this question of humanity with as much candor as they usually show to other subjects. He owned he had been very much surprised at the gentleman from Maryland [Mr. Murray] in attacking the subject in that side-way. The gentleman asked, what was the intention when speaking of kidnapping? he seemed not to know the meaning of the phrase. Surely this is not the gentleman's wonted candor; he has not commonly satirized in this manner: but no one could be at a loss to understand the gentleman's insinuation at this time.

This, Mr. S. said, was introduced to prevent free men from being kidnapped: it is honorable in the Legislature to take it up. If it was otherwise, that slaves were kidnapped and made free men of, he was willing to join with the gentleman to correct it. Let us not, said he, because two evils exist, correct neither: this is not a mode of agreement; it ought not to prevail in this or any other public body.

The gentleman from South Carolina wished the Committee to rise, in order to get rid of the matter, because it was crude and undigested. If this is the case, let it be put into a proper form, by instructing the Committee to bring in a bill; this would obviate all such objections, or give a fair scope to argument. The report was objected to, because the principle upon which it was founded did not appear: then let gentlemen agree for it to go back to the Committee, it would then come forward in an explicit form. The gentleman would then be convinced that it had no interference with State regulations, but, in conformity to them all, would render them Legislative aid, to which their power did not extend.

Mr. Swanwick said, this House had ascertained a certain proof, by which our seamen are known, by giving them a certificate of their citizenship, specifying their person and freedom, which had operated against impressment: and was it not equally necessary, and would it not be equally competent, to protect a man from injuries to which his color has exposed him? Our unfortunate negroes and mulattoes are exposed by their color to much insult. In some places, he said, they were so exposed, that color alone was evidence of slavery. He would not enter into the question, whether all ought to be free, because it was not immediately before the House; but if these people were black or white, if free, they ought to be protected in the enjoyment of their freedom, not only by State Legislatures but by the General Government. When gentlemen came into such a subject as this, they should wait till it came before them in a proper form; not reject it before known. Gentlemen seemed to be going on in the dark. If it was not consistent with the Constitution, it would then be proved, as no doubt gentlemen would search for themselves. If this method be adopted, it is possible to bring the masters of your coasting vessels, and others, to apply for a certificate, and thus prevent that fraudulent practice.

If such an evil does exist, this is the most efficient remedy; it will answer the purpose of the gentleman from Maryland, by preventing slaves being made free men also. There are laws in some of the States, Pennsylvania for one, that will not suffer slaves to be taken out of one State into another. So far as this can operate, so far it will be successful; but when out of our power—when there is possibility of evading wholesome laws, is it not right to secure a power to aid the institution, by adding to them the force of your jurisdiction to prevent imposition? And if it can be done, does not humanity and justice require your utmost effort? Mr. S. hoped it would be treated with respect, and obtain all the aid that it required from the General Government.

Mr. Murray did not expect to have raised the sensibility of the gentleman last up. It really arose from his ignorance, he said. He wished to know the origin of the matter; he did not know whether it had originated in a memorial, or whether it came from the humanity of some patriotic member, unsolicited. Great and manifold evils did exist in this point: he meant to make a motion on the subject, as Maryland felt heavily from the practice. He confessed he was not sufficiently acquainted with the English language to know the proper meaning of the word *kidnapping*; he therefore wished to know if it extended to the object he had in view. He declared he did not wish to encourage the harboring of negroes; far from it; he wished to prevent it. He did not think the law extended far enough on that point: at present, negroes, through the influence of their own minds, or the insinuations of others, or both, frequently leave their masters, and are harbored by other persons. The law takes no notice of this, except it can be proved that the negro is some person's property, and has absconded: this is very difficult to prove; therefore great evils attend its lenity. 'Tis true, if it can be proved that the negro has absconded and was harbored, there was a very heavy penalty inflicted; but, he said, this was difficult to prove. This, he owned, was his *insinuation*, as the gentleman termed it; and upon this subject he meant to claim the attention of the House. This evil, he said, might arise from the false philosophy and misplaced philanthropy of the advocates of emancipation. He was ever willing to give the question a fair trial, and thought himself bound to thank the gentleman for his extreme benevolence in advocating it.

Mr. Sitgreaves rose merely to acknowledge his pleasure to hear the gentleman was willing for the subject to undergo a full and fair investigation; how that investigation was to go on, he did not say. Mr. S. hoped the subject would not be got rid of, as a gentleman had wished. If further information was wished on the subject, he had no objection to the Committee's rising and recommitting it. If, by any thing he had said, it should be thought that he approved of all the operations of emancipation, he would answer, this was not the case. He believed that too great zeal in a cause may carry it too far, and produce bad effects. But this was no part of the present question; it was not to make those persons free that were slaves, but to preserve those free who are so now.

Mr. Swanwick, to satisfy the gentleman from Maryland, told him, that the subject came before the House from the State of Delaware.

Mr. W. Smith said, he did not know how far the Committee should go, he should not vote for the matter to go into the Committee. He said, it was that kind of business which, by the Constitution, was to be left to the different States, he could not agree to the subject going any further. The observations of the gentleman from Pennsylvania had convinced him that that House ought not to interfere with the individual States on the subject, the interests and policy of the different States were so various, that it would be a dangerous thing to meddle with. He thought it an improper question for discussion; he conceived it would be sound policy not to touch it in that House. The gentleman had gone too far to make use of the word *emancipation*. He feared lest the use of it should spread an alarm through some of the States. It might imperceptibly lead from step to step till it ends in mischief.

The gentleman spoke of the waters. The States have jurisdiction over all the navigable waters within their bounds; and where two States are separated by a river or bay, it would then be easy for a negotiation between those two States to provide security to their citizens from injury on such

waters. Let not the General Government intermeddle with the States' policy; it might cause very considerable contests and injury. He hoped it would drop altogether.

Mr. Nicholas hoped the business would not be dismissed. We, said Mr. N., who reside in the Southern States, are unfortunately possessed of such a kind of property as has a considerable odium attached to it; but, if we unfortunately hold slaves, we ought not to contribute to the making slaves of free men, but I would wish to establish them in their freedom. If we can give relief as the thing exists, let it be; by all means do it, whether it incur the pleasure or displeasure of some of the slaveholders. He hoped the subject would have full investigation.

The question was then put for the Committee to rise. Fifty-four members rising in the affirmative, it was carried.

Mr. Sitgreaves then moved for the Committee of the Whole to be discharged from the further consideration of the report; this, he said, was in order to make way for another motion to refer it back to the Committee, to report by bill or otherwise.

The question was put, and the Committee discharged.

Mr. Swanwick moved that the business be recommitted to the Committee of Commerce and Manufactures, to report by bill or otherwise.

Mr. Sitgreaves hoped no opposition would be made to this motion; for if the committee brought in a bill, it could then be objected to, the same as though the subject had never been introduced.

Mr. W. Smith hoped the last part of the motion, "by bill or otherwise," would be omitted. Suppose, he said, the committee should find it inexpedient to bring in a bill; were they obliged to do it? This would be tying them to a certain mode which, perhaps, they may not approve, and they have not the power left them to negative. He thought the House ought to follow the usual course and instruct the committee what to do.

Mr. Nicholas supposed the committee would not be offended, for he did not consider their power so circumscribed as the gentleman last up; whether they may find it expedient, was to be tried.

Mr. Swanwick said. the minds of the committee were already made up; they had reported; and to tie them up not to do more than they had already done, to send them back without some new instructions, would be doing nothing at all.

Mr. Coit wished the subject to be postponed for further consideration before it was sent to the committee. He had doubts as to the propriety of sending it at all. He thought it had not had that discussion a subject so important required.

Mr. Swanwick said, gentlemen in general allow it ought to go to the Committee of Commerce and Manufactures. The gentleman from Connecticut [Mr. Coit] is a member of that committee; the gentleman from South Carolina [Mr. Smith] is also a member; it is somewhat surprising they want information. They surely cannot object to its being referred, as then they may have an opportunity to accommodate measures more to their own desires.

Mr. W. Smith said, he believed this was the first time it was considered in the House. It had been tried in a committee but never taken up by the House, and now gentlemen wish to send it back to the committee, with instructions to bring in a bill. The Committee of Commerce and Manufactures was considerably deranged since last session, when this business came before them; many new members were added, and it required more information before it could come to the conclusion prescribed.

Mr. Sitgreaves said, if any one good purpose could be derived to the House or to the gentlemen, he would not oppose it; but he was at a loss to know what good object could be attained by a delay. With respect to what had been said by the gentleman, [Mr. Smith,] that the committee were forced to bring in a bill, he was surprised that such an idea should be formed. If that committee report a bill, this House is not even pledged to pass it. When the subject is sent to the committee with that instruction. can it be conceived that committee is forced to report a bill? There is no such thing intended nor included in the words, as either this House should be pledged to pass a bill, or that the committee should report one. The object is, that the House, through the medium of the committee, should have a plan prepared for their consideration, and the word "otherwise" leaves the committee to exercise its own discretion as to the report.

The gentleman from Connecticut, with a prudence and consistency highly becoming, wishes time to think on the subject. But how is that gentleman to have foundation for his reflections until a bill is drawn? Mr. S. did not know what were the resources of that gentleman's mind, but for himself, he must own that in all the attitudes in which this subject had presented itself, he could not distinctly see the plan. One gentleman had said there was no remedy the United States could apply but what was incompatible with the laws of the individual States Mr. S. presumed that until he saw the mode to be adopted, he could not say whether it was easy or difficult. On the whole, he thought to postpone the subject could answer no good end, while it might delay the object, and do injury.

Mr. Coit said, very probably the resources of his mind may not be equal to that gentleman's, he therefore wished the subject to be delayed that he might have time to get into the knowledge of the business.

Mr. Smith thought it had best be referred to the Committee of Ways and Means, if it must be committed, as it was a matter entirely of a Legislative nature. The gentleman from Pennsylvania [Mr. Sitgreaves] said, that the only way to get right was to refer it to a committee to bring in a bill. He would ask, what were they to give the House? We must depart, said Mr. S., from our usual custom; we must pledge ourselves, and bind the committee to report, by bill or otherwise. He thought the House ought at least to have one day's notice to consider the subject. He said he

was not now satisfied whether it was consistent with the Constitution.

Mr. Corr's motion for postponement was then put and carried—yeas 46, nays 30.

HUGH LAWSON WHITE.

Mr. Blount then called for the order of the day on the report of the Secretary of War on the petition of Hugh Lawson White, a soldier under General Sevier, against the Indians. The House accordingly resolved itself into a Committee of the Whole.

The following report from the Committee of Claims was then read:

That the claim set forth in the said petition, is intended to establish a principle that will apply to the whole of the militia which were called out under Brigadier General Sevier, in 1793, to act offensively against certain Indians Southwest of the Ohio.

That the expedition against these Indians, as appears from the muster-rolls, comprehended a period of above five months, or from the 22d July to 31st December, 1793.

That it was undertaken without authority derived from the President, under the laws of the United States, and for the avowed purpose of carrying the war into the Cherokee country.

That the tenor of the instructions from the Department of War to the Governor of the Southwestern Territory forbade offensive operations.

Having given these facts, it may be proper to add, that it appears, by a recurrence to official papers, that the Indians had greatly perplexed and harassed by thefts and murders, the frontier inhabitants of Tennessee; and previous to the service, for which compensation is demanded, had shown themselves in considerable force, and killed at two stations (one of them within seven miles of Knoxville) fifteen persons, including women and children, as stated in the annexed letter:*

that it must rest with Congress to judge how far these aggressions of Indians, and such other circumstances as can be adduced to the parties, constitute a case of imminent danger, or the expedition a just and necessary measure.

Mr. A. Jackson said, by a recurrence to the papers just read, he doubted not it would appear evident, that the measures pursued on the occasion alluded to were both just and necessary. When it was seen that war was waged upon the State, that the knife and the tomahawk were held over the heads of women and children, that peaceable citizens were murdered, it was time to make resistance. Some of the assertions of the Secretary at War, he said, were not founded in fact; particularly with respect to the expedition being undertaken for the avowed purpose of carrying the war into the Cherokee country; indeed they were contradicted by a reference to Gen. Smith's letter to the Secretary of War. He trusted it would not be presuming too much, when he said, from being an inhabitant of the country, he had some knowledge of this business. From June to the end of October, he said, the militia acted entirely on the defensive, when twelve hundred Indians came upon them and carried their station, and threatened to carry the Seat of Government. In such a state, said Mr. J., would the Secretary (upon whom the Executive power rested, in the absence of the Governor) have been justified, had he not adopted the measures he did of pursuing the enemy? He believed he would not; that the expedition was just and necessary, and that, therefore, the claim of Mr. White ought to be granted.

He therefore proposed a resolution to the following effect:

"*Resolved*, That General Sevier's expedition into the Cherokee Nation, in the year 1793, was a just and necessary measure, and that provision ought to be made by law for paying the expenses thereof."

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* Copy of a letter from Daniel Smith to the Secretary at War, dated,

Knoxville, October 1, 1795.

Sir: By adverting to the correspondence of Governor Blount in the year 1793 (previous to his going to Philadelphia) with Mr. Secretary Knox, it will appear that very frequent acts of hostility were perpetrated on the citizens of this Territory, by the Cherokee and Creek Indians. Their repeated murders, which his vigilance could not prevent, I cannot say were in all cases borne with as much patience as they ought to have been, considering the hopes that were held out to them that the General Government would, in due time, interpose with difficulty.

Shortly after the Governor's departure for Philadelphia, the enormities committed by these Indians, far from abating, grew more flagrant. A Captain John Beaird (availing himself of the general temper of the frontier citizens, heated by repeated murders being committed on them) being ordered on duty by Governor Blount, about two days before his departure to punish the murderers of one Gilham and Sam, but restricted in his order from crossing the Tennessee, violated these orders, crossed the Tennessee, and killed several Indians at the Hanging Maws. Beaird said, on his return, he had pursued the trace of the murderers. I own I did not believe him. But the fact stands now so well attested by the testimony of several men of credibility, even of some connected with Indians, who, if they had any bias, it might be presumed would lean in favor of the Indians, that I cannot refrain from believing he did follow the trace of the murderers across the Tennessee.

A while after this, a party of about two hundred Indians made an attack on Henry's station; they not only killed one of our privates, but talked of taking the garrison.

On that quarter being so vigorously invaded, I ordered General Sevier to march to the defence of the frontiers, with one-third of the militia who had been ordered, previous to the Governor's departure, to hold themselves in readiness for such a service. But the General, under this order, had not collected more than about three hundred infantry and two troops of horse, when a large body of Creeks and Cherokees attacked and carried Cavet's station, seven miles below this place, and killed every man, woman, and child, belonging to it, being thirteen in number.

From the information I then received, I was convinced there would not be less than twelve hundred Indians in arms against us, and later information proves that number stated too low.

My situation was distressing. I could look on this act of the Creeks and Cherokees in no other light, than as positive a declaration of war as ever was or can be denounced by one nation against another, because it was the act of so great a proportion of these tribes; not the act of what the chiefs are apt to call a few bad young men, but headed also by the most distinguished of their warriors. Should I forbear to yield protection to the inhabitants, such conduct would be charged both with want of duty and humanity, and criminal in a great degree. Notwithstanding Beaird's act cannot be justified, it may be palliated in a great degree from his having actually followed the trace of Gilham's murderers, as now appears; and had it not this palliation, could I look on and see the whole of the inhabitants sacrificed? innocent men, women, and children? Ought I not to have made use of the power understood to be lodged with me by the Constitution, in the latter part of the 10th section, 1st article, where each individual State is restricted from engaging in war, unless actually invaded, or in such imminent danger as will not admit of delay?

I hesitated not, but ordered General Sevier, with what troops could be hastily assembled, to repel and pursue these invaders; and, in so doing, I then believed I consulted the true interest of the United States. The consequences have confirmed the fact that my opinion was well founded.

The service which those troops performed was of that importance, that it laid the ground work of our present tranquility, which otherwise could not have been effected. Yet I learn the General and his men have not been paid. This, to my mind, carries a tack censure of my conduct.

If no act of Congress exists, embracing the case, permit me to suggest the propriety of laying the matter before that body, to obtain their sense thereof. I am, sir, &c.

DANIEL SMITH.

Timothy Pickering, Esq., Secretary at War.

Mr. Harper said, this appeared to be a subject of considerable importance; he hoped the resolution would, for the present, lie on the table. He therefore moved that the Committee rise and ask leave to sit again.

Mr. Coit said, the report wanted some more preparation before it should have come before the House; he would therefore move that it be referred to the Committee of Claims; he knew of no reason against this reference, as many reports from Heads of Departments had been so referred.

Mr. Blount hoped the motion would not prevail. The expedient of referring it to the Secretary at War was resorted to, when it first came before the House. He hoped now it would not be deferred, but decided on. He thought the Committee of Claims, from having once had it before the House, knew as much of the case as they could know, and perhaps all was included in this report.

Mr. D. Foster made the same observations in effect as Mr. Blount.

Mr. Coit said, gentlemen had not given a shadow of a reason why it should not be referred to that committee.

Mr. Jackson owned he was not very well acquainted with the rules of the House, but from the best idea he could form, it was a very circuitous way of doing business. Why now refer it to the Committee of Claims, when all the facts are stated in this report, he knew not. If this was the usual mode of doing business, he hoped it would not be referred.

Mr. W. Lyman thought, the time it was under consideration before, when referred to the Secretary at War, was the time to have thought of referring it to that Committee; but now it was too late; now the House had a report before it. It appeared to him a mere formality. It looks like throwing the business out. He had not made up his mind which way he should vote, but he thought one report was sufficient; he, therefore, hoped it would come under consideration.

Mr. Blount said, when he first presented the petition, he moved it to be referred to the Committee of Claims; it was then rejected, and sent to the Secretary at War.

The Committee rose, and obtained leave to sit again.

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. Harper said that, in the report of the unfinished business of last session, there was a bill to establish an uniform system of bankruptcy throughout the United States. The subject, he said, had been often thought on, but never had been taken into serious consideration; the state of the country called for it, and it became more and more necessary. In order to take some steps to bring the business forward, he would move that it be now committed to a Committee of the Whole House.

Mr. Macon thought it very improbable that a business which could not be done in a session of seven or eight months, should stand any chance in so short a period as that remaining of this session; he should, therefore, oppose committing it this session.

Mr. Sitgreaves said, it was true the present session was short, but he thought the House should not be prevented from entering into such an important and necessary business as this: if there was business of much importance that was not yet before the House, it was in the hands of committees, he thought there was now an opening for it. The bankrupt system deserves immediate discussion. It was looked upon as important at the framing of the Constitution. He had heard the gentleman from South Carolina say, that it was taken up at the first Congress. He wished it to come before the House that he might judge of its merits. There appears to be an injunction for us to take it up. The States would then know how to frame their systems consistent with the general laws; he knew the State of Pennsylvania had a desire to adopt some uniform system on this subject, but seeing, on the Journals of this House, that it was in contemplation of the General Government, they impatiently waited the discussion of it, to frame theirs accordingly. It had been mentioned to that Assembly by the Governor in his last Speech, as an object much wanted. They only declined the business to wait for this House to do it. He hoped the House would at once say whether they meant to do anything or not, and thus relieve the States of that solicitude they had on the subject. With respect to its delay last session, he would observe, that business of perhaps greater importance almost constantly occupied the House to a late period.

Mr. W. Smith could see no reason why this business should now come before the House; he thought there may not be time to settle it; he saw a great propriety of getting done with the business with all possible expedition, but other important business now presented itself. So long ago as the year 1789, he said, a committee was instructed to bring in a bill, which they reported in 1790. The very printing of reports of committees on this subject, from year to year, had cost a great deal of money, and now gentlemen wish it to cost another hundred dollars without any advantage. He was persuaded gentleman would find immense difficulty attending the subject to make it suit all capacities, perhaps much more than they might expect. If gentlemen can have any reasonable prospect of going through with the business, he wished it to be taken up, but he feared other concerns would intrude and render its postponement necessary.

The question was put, and lost—ayes 30, noes 40.

FUGITIVES FROM JUSTICE.

Mr. Murray said, as the subject of kidnapping negroes had been brought up, he had a motion to make on the subject, with respect to fugitives from justice. He had mentioned the subject before. He thought if a sum of five hundred dollars was to be recoverable from persons employing such as had absconded from their masters, it would have a very good tendency.

The evil complained of is, that the person employing a negro in this situation cannot be sufficiently proved to have done it designedly or not; the present law obliges the master to prove that the one who employs him had known that he was another person's property, and had runaway, before any damages can be recovered; this is extremely difficult to do. He should, therefore, propose the following resolution, in hopes by it a remedy would be provided, viz:

"*Resolved*, That a committee be appointed to inquire if any, and what, alterations are necessary in the act, entitled "An act respecting fugitives from justice, and persons escaping from their masters."

The resolution was ordered to lie on the table.

The Speaker laid before the House a Letter from the Secretary of the Treasury, transmitting a letter, with sundry documents, from the Commissioners at the Federal city, exhibiting a view of the receipts and expenditures of all the moneys intrusted to them; and, also, of the progress and state of the business, and of the funds under their administration, from May 17 to November 18, 1796; which was ordered to lie on the table.

On motion of Mr. D. Foster, the Letter of the Secretary of the Treasury, transmitting copies of the proceedings of the accounting officers of the Treasury, upon certain claims which have not been admitted to be valid, laid before the House December 24, 1795, be committed to a Committee of the Whole House, and made the order for to-morrow.

Friday, December 30.

THE CHICKASAW CLAIMS.

Alexander D. Orr, from Kentucky, appeared and took his seat.

Mr. Andrew Jackson presented a petition of George Colbert, one of the chiefs and warriors of the Chickasaw nation of Indians, complaining of a non-performance of stipulations entered into in certain *talks* held with Governor Blount and other agents of the United States, in which they agreed in defensive support of each other's rights; that their nation was invaded by the red people, (the Creeks,) when they applied, according to Treaty, for aid; that their brother, James Robertson, said he had no orders to send them any assistance; and that he must first have orders from their father the President of the United States. However, a detachment of volunteers under the command of Colonel Mansker, came to their aid. He asked compensation for supplies furnished to that detachment during sixty days. He said he had applied to his beloved friend the Secretary at War, who told him that Congress had set apart no money out of which it could be paid; he, therefore, applied to Congress for relief.

This petition was referred to the Committee of Claims.

HUGH LAWSON WHITE.

The House again resolved itself into a Committee of the Whole on the petition of Hugh Lawson White.

The resolution of Mr. Andrew Jackson having been read,

Mr. Coit called for the reading of the petition upon which the report was founded. It was read.

Mr. A. Jackson said, the rations found for the troops on this expedition had already been paid for by the Secretary of War, and he could see no reasonable objection to the payment of the whole expense attending the expedition. As the troops were called out by a superior officer, they had no right to doubt his authority. Were a contrary doctrine admitted, it would strike at the very root of subordination. It would be saying to soldiers, "Before you obey the command of your superior officer, you have a right to inquire into the legality of the service upon which you are about to be employed, and, until you are satisfied, you may refuse to take the field." This, he believed, was a principle which could not be acted upon. General Sevier, Mr. J. said, was bound to obey the orders he received to undertake the expedition. The officers under him were also obliged to obey him. They went with full confidence that the United States would pay them, believing that they had appointed such officers as would not call them into the field without proper authority. If even the expedition had been unconstitutional (which he was far from believing) it ought not to affect the soldier, since he had no choice in the business, being obliged to obey his superior. Indeed, as the provisions had been paid for, and as the ration and pay-rolls were always considered a check upon each other, he hoped no objection would be made to the resolution which he had moved.

Mr. Coit said, he had called for the reading of the petition, because he could not see the connexion between it and the resolution under consideration. The petition prayed for recompense for the services of the petitioner, and the men under his command, and the proper resolution would be that the prayer of it ought or might not be granted; but, instead of this, the resolution before them went to the whole troops employed in General Sevier's expedition.

Mr. A. Jackson said, by referring to the report it would be seen that the Secretary of War had stated, that to allow the prayer of this petition, would be to establish a principle that would apply to the whole of the militia in that expedition. If this petitioner's claim was a just one, therefore, the present decision ought to go to the whole, as it was unnecessary for every soldier employed in that expedition, to apply personally to that House for compensation.

Mr. Rutherford observed, that the gentleman from Tennessee had set the matter in so fair a light that it was not necessary to say much more on the subject; but, as he had been acquainted with the frontier from his infancy, he would just give it as his opinion, that the expedition was a necessary one, and that the expense ought immediately to be paid. He hoped, therefore, the resolution would be agreed to unanimously.

Mr. Harper was not prepared to say, without more information than he had on the subject, that

the measure was just and necessary, or the contrary. He felt disposed to think favorably of the expedition; but he thought the House should have further information before it came to any resolution on the subject. They had, it was true, a letter from General Smith, the then Secretary, but he thought this was not sufficient. He thought it would be better to refer the report and other papers to a select committee, with instructions to inquire into the necessity and propriety of the expedition, and report thereon. He hoped, therefore, the present resolution would be disagreed to, and the Committee would rise. He would then bring forward a resolution to that effect. The Secretary of War, he said, had not gone fully into the subject; he had given them copies of two letters, but not his opinion. He did not think that an expedition of so important a nature, and which must involve in it a very heavy expense, should be decided upon without further information.

Mr. Craik agreed in sentiment with the gentleman from South Carolina, [Mr. Harper.] He said there was great difficulty in forming an opinion from the report itself; though the Secretary of War seemed to think the calling out the Militia necessary, there were other expressions in the report which appeared to convey a contrary sentiment. He referred to the letter of General Smith, but mentioned that there were other papers. He could not say the expedition was not necessary; but he thought further information was desirable, and the report should be committed to a select committee, for the purpose of gaining that information.

Mr. W. Smith agreed with the two gentlemen last up, that further information was necessary. The question, he said, involved a number of important points. In the first place, a question was involved, whether, if the expedition was necessary, as it was not authorized by law, the expense ought to be defrayed by the United States? By the report of the Secretary of War, it appeared that Congress were well apprised of all the circumstances which rendered the expedition necessary, yet they did not think proper to authorize it. In the letter of the Secretary of War to Governor Blount, on the subject, was this passage:

"If those difficulties existed while the Congress were in session, and which, it was conceived, they alone were competent to remove, they recur, in the present case, with still greater force; for all the information received at the time Congress were in session, was laid before both Houses, but no order was taken thereon, nor any authority given to the President of the United States; of consequence his authority remains in the same situation it did on the commencement of the last session. It is, indeed, a serious question to plunge the nation into a war with the Southern tribes of Indians, supported as it is said they would be."

Mr. S. also read from the report "that the expedition was undertaken without authority," &c. The Secretary afterwards, indeed, stated, in his report, the disagreeable situation of the country at the time, by way of palliative; but, as Congress were possessed of these facts, and did not authorize offensive operations, it became a nice point to determine whether the expedition in question was justifiable. He would not say that such a situation of things might not occur, as would justify a measure of the kind, but it was of consequence to determine whether this was such a case, which could not be done hastily. Neither had the House any information of the magnitude of the expense, whether it would be two or three hundred thousand or half a million of dollars. He should, therefore, hope the Committee of the Whole would be discharged, and that the subject would be committed to a select committee.

Mr. Madison saw no necessity for referring this subject to a select committee. If it was suggested that the official information which was before them was inaccurate, and that a more full explanation of the situation of things was necessary, there would be some ground of reference; but he did not find that this was the case. The Secretary of War stated facts, and referred to documents to prove "that the Indians had greatly perplexed and harassed, by thefts and murders, the frontier inhabitants of Tennessee, had shown themselves in considerable force, and killed at two stations fifteen persons." If this was a state of facts, and it could not be doubted, the words of the Constitution on this subject were clear: "No State shall, without the consent of Congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay." There could be no doubt, therefore, Mr. M. said, but this expedition came within the meaning of the Constitution. In many cases, he said, it was difficult to determine betwixt offensive and defensive operations, as it was sometimes necessary, when acting on the defensive, to use an offensive measure. He had no doubt on the subject, and thought the expense of the expedition should, by all means, be paid.

Mr. Dayton (the Speaker) said, that he was not prepared to adopt the resolution which was moved by the member from Tennessee, nor even to decide finally upon it, unless he could be persuaded that the gentleman from Virginia [Mr. Madison] was correct in saying that the report before them contained all the information which it was possible for them to obtain. He was convinced that there were other official papers and documents which would throw additional light upon the subject, and, therefore, ought to be in possession of the Committee of the Whole before they took any decisive step. He alluded to the confidential communications from the President, in December, 1792, which gave rise to lengthy discussion, with closed galleries, upon the measures that ought to be adopted in consequence of the hostile acts and threats of those very South-western Indians, who were the objects of the expedition for which they were called upon to pay. The House of Representatives then decided that they would neither declare war against those nations of Indians, nor authorize the President to carry an offensive expedition into their country, if, in the recess of Congress, he should deem it proper, in consequence of their continuance in hostility. As the acts of Congress upon this very application would operate in future as a precedent and a kind of commentary on that part of the Constitution which limited the instances in which a State might levy troops and act offensively, without the previous assent of the General Government, they could not, Mr. D. said, be too particular in their investigation, nor too strict in their reference to dates and facts. He hoped that the Committee of the Whole would be discharged, and the report of the Secretary of War referred to a select committee, whose duty it would be to report those facts, with their dates, which gave rise to the claim in question, and which justified, under the provision in the Constitution, the raising of troops and carrying on an offensive war, without the previous consent of Congress or approbation of the President.

Mr. Nicholas believed, on a reference to dates, it would be seen that these attacks of the Indians were subsequent to those which were in the knowledge of Congress at the time mentioned, as they took place while Governor Blount was at Philadelphia; and he thought no further information was necessary on the subject than the letter from General Smith to the Secretary of War, printed with the report, to prove that the expedition was both just and necessary. General Sevier's going into the Cherokee country was no proof that his operations were offensive. If other information could be obtained by referring the business to a select committee, he should have no objection; but he believed this would not be the case. He wished the letter of General Smith to be read. It was read accordingly.

Mr. Baldwin was not able to recollect how great a portion of the members present were in the House when this business was brought before Congress in the year 1792. His own recollection was fresh upon the subject. It was a period when they were much alarmed for our Indian frontier, North and South. The North was fortified, and it was recommended to have a legion on the South. The gentleman from South Carolina, he recollected, was opposed to the measure, and thought the Executive had determined too soon upon hostility. Mr. B. said he had at that time frequent conversations with the then Secretary of War, who informed him that he had written to the Governor of Tennessee that, in case the pressure of the Indians was so great as to require it, he must call out the militia. The Governor was well known, and sufficient confidence was placed in him that this power would not be abused. He believed the troops on the Northern frontier had not proved sufficient, and that they had already paid the expense of troops which were called in to their assistance. At this period, Mr. B. said, the danger which threatened the country was great, and it was happy for us it had been so well got over. He believed it was well that the legion for the Southern frontier was not equipped, though he at that time thought it necessary. The expense of the expedition in question, he said, would be nothing compared with that which would have taken place had the legion contemplated been equipped. Mr. B. said, he had no doubt with respect to the propriety of paying the expense of this expedition. He did not think the number of men was great, or that the charge would be very heavy.

Mr. Dayton (the Speaker) said, he was inclined to believe the attacks of the Indians, which provoked the expedition of General Sevier, were subsequent to those in the knowledge of Congress at the time the subject was under discussion.

He was one of those, he said, who thought that the hostile dispositions shown by those Indians at that time called for force, and he had introduced a resolution, by means of his colleague, to that effect. It was not, therefore, that he did not think the expedition authorized, but because he had a desire to have the facts relative to the subject clearly stated, that he wished the business to be committed to a select committee.

Mr. Rutherford said, they were not particular about the manner of doing the business, provided it was done. He was confident the expense of the expedition ought to be paid. When the Indians were upon them, what could the Governor do? Was he to send forward to the Seat of Government to be instructed what to do? No; resistance was necessary, and it was not becoming in them now to say, "You did not act perfectly regular—the thing was not exactly as it should have been." It was a critical period, he said, and if the expenses were not paid, it might have a bad effect in future.

Mr. Kitchell was in favor of the Committee rising. He remembered the transactions which took place on this business, as mentioned by his colleague, [Mr. Dayton.] He said, he was one of those who voted against the proposition of using hostile means, because he thought it possible to ward off the evil. It had been warded off; but he believed there was sufficient ground for calling out General Sevier, and he doubted not, if the business was referred to a select committee, the result would be satisfactory to those gentlemen who brought forward the business.

The Committee rose, and leave not being granted to sit again, on motion, the report and papers accompanying it were referred to a select committee of Messrs. A. Jackson, J. Smith, Blount, Dent, and Harper.

SALARY OF REVENUE OFFICERS.

Mr. Coit said, that there had been several petitions from revenue officers for an increase of salary, part of which had been committed to the Committee of Commerce and Manufactures, and others to the Committee on Compensation; in order that the whole might go into the same hands, he proposed the following resolution:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire and report whether any, and if any, what, alterations ought to be made in the compensations allowed by law to the officers concerned in the collection of the revenue; and that the committee on the subject of compensation be discharg-

ed from the consideration of memorials from the revenue officers."

The resolution was agreed to.

DEBTS DUE FROM STATES.

Mr. W. Smith then called for the order of the day relative to the report of the Committee of Ways and Means on the debts due from certain States to the United States, as reported by the Commissioners appointed to settle the accounts.

The House then went into a Committee of the Whole on the subject.

Mr. Williams rose and observed, that he did not imagine the resolution would have been called up so soon. It had been put on their desks but a few days, and he had been employed on committees every evening and morning since. However, he would make a few observations on the subject.

The resolution under consideration, said Mr. W., was a call on the debtor States for the payment of certain sums of money said to be due to the United States. The State which he had the honor to represent was one of this class. Did he believe it to be a debtor State, the last thing he would ask for would be a relinquishment of that debt; but being fully persuaded that, had a just and equitable settlement been made, or that the nature of the case would have admitted of it at the time it was made, the State of New York would have been a creditor State; and he trusted that he could clearly demonstrate, from arguments drawn from facts, that neither the mode adopted by which the Commissioners were to determine on the claims produced by the respective States, nor the rule of apportionment which they were directed to pursue, could in any manner operate to do that justice which the nature of the case required.

With respect to the mode adopted, it is enacted in the third section of the act, entitled "An act to provide more effectually for the settlement of all accounts between the United States and individual States." "That the Commissioners are to determine on all such claims as shall have accrued for the general or particular defence during the war, and on the evidence thereof, according to the principles of general equity, (although such claims may not be sanctioned by the resolves of Congress or supported by regular vouchers,) shall determine thereon." Had the words within the parenthesis been omitted, he asked, would the Penobscot expedition, or the frigate built in South Carolina, or a number of such like charges authorized by Congress, been admitted in the settlement? But, by being allowed, the States of Massachusetts and South Carolina are made creditor States. The creditor States have had their credits funded according to the act, but, not satisfied, they are now calling upon the debtor States to make payment—a payment which never could have been contemplated, especially in the manner now called for.

In the seventh section of the before-recited act, the creditor States should have their balances funded. This hath been done, but nothing is mentioned in this act, or any other, to authorize the call on the debtor States in the manner proposed. It is probable, said Mr. W., if it had been contemplated at that time, the act would not have passed.

With respect to the rule of apportionment which the Commissioners were directed by law to pursue, Mr. W. contended that it was impossible that any thing like public justice would be done, particularly in the State of New York; besides, said he, it was a departure from the rule laid down and established when the Articles of Confederation were agreed to, the eighth article of which is, "That all charges of war, and all other expenses that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, should be defrayed out of the common Treasury, which should be supplied by the several States, in proportion to the value of lands within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon should be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint. The taxes for paying that proportion should be laid and levied by the authority and direction of the Legislature of the several States within the time agreed upon by the United States in Congress assembled." And, therefore, said Mr. W., the act pointing out a different mode was a retrospective act, operating to the disadvantage of some of the States to the advantage of others; had this act been passed immediately at the close of the war, instead of being omitted until six years after the war, it would have operated equally; but no rule of apportionment could then be adopted without a manifest injury to some States, to whom thousands had emigrated from others. This was the case in the State of New York. One-third of the number of inhabitants of that State, when the enumeration was made, had moved into it after the close of the war from the New England States and the State of New Jersey, so that the numbers in those States were diminished, while that of New York was augmented. The mode of apportionment must, in consequence, operate unequally. Even since the settlement had taken place some thousands of families had come into the State of New York from creditor States, and how could a determination be made? Or would it be just to compel those who had emigrated from creditor States into debtor States, to pay the proportion of the money said to be due from debtor States, whereas, by the settlement, had they remained in the creditor States, they would have been entitled to a proportion of the money due to them? Or, said he, is this resolution calculated to prevent emigration from one State to another?

Mr. W. observed, that attempts had been made to have the privilege of examining the principles of the settlement by the Commissioners, and the charges exhibited and allowed from the respective States, but it had been refused. If, said he, the creditor States were conscious of the settlement being proper, why this refusal? But, until this

was done, could it be expected that the debtor States would submit to a settlement which they had every reason to believe was founded on erroneous charges exhibited to the Commissioners?

With respect to New York, their advances had been such that the first calculators in the Union, who had been engaged in public business during the war, said that the State of New York must, on an equitable settlement, be a creditor State to the amount of two millions of dollars. Mr. W. said, he had been, from the commencement of the Revolution to the close of the war, either in a legislative or military capacity, excepting about one year, and he was confident that no more could be done than was done by the State of New York; and a State having done all they could do, it was not possible it could be a debtor State. And, said he, shall that State now suffer because it had exhibited fair and honorable accounts, such as the Commissioners observed were like merchant's accounts, and would stand the scruples of law, omitting many accounts which could not be exhibited in proper form, as the nature of the case would not admit of it unless by mere calculation? Adding to this the difficulties that State had to encounter, which ought also to be taken into view on a final settlement.

At the commencement of the war, said Mr. W., unfortunately for the State of New York, the one-half of its inhabitants were disaffected to the then measures, and a number actually took arms against those who were friendly to the Revolution, the suppression of whom, with a constant watch over them, were never brought into the general account. In the beginning of the year 1776, the enemy took New York, and with it nearly one-half of the valuable part of that State. In the year following, Burgoyne's army penetrated its frontiers, and laid waste the greater part of the country north and west of Albany. By the memorable battle of Orisko, upwards of three hundred widows and children were left to be supported by the State, as well as some hundreds at the north part of the State. These, together with the poor from the city of New York, were supported during the war, and no charges made thereof. The endeavors of the enemy to form a junction of their armies near the Hudson river was the cause of that State being so overrun that not one county escaped their ravages. Add to this, one-third of New York, the fine town of Esopus, and several hundred of houses in the frontiers were burnt, and immense property destroyed. For calamities so great, very few thought of obtaining vouchers, and for the destruction of armies no allowance would be made, which occasioned numbers to be reduced from affluence to want.

Large sums of money, said Mr. W., had been paid by the State of New York since the time limited for accounts to be exhibited for a settlement with the United States. The just debts exhibited by the calamities and the reasonableness of the excuse for their not having presented them sooner, operated with them so forcibly that they could not be withstood. Many accounts exhibited and not paid, will amount to upwards of one million of dollars, and probably as reasonable as some of these allowed to the other States by the Commissioners.

But, it will be said, had not other States suffered? Mr. W. said he would ask, what State? Was it any of the New England States? Where, said he, had they their capitals kept from them during the war? Where had they their frontiers overrun and destroyed? Where had they their country laid waste and destroyed? Was it not a fact, said he, that during the war the inhabitants of New York had to procure their salt from the New England States, New Jersey, and Pennsylvania, which cost them, on an average, ten bushels of wheat for one of salt, and every other article in proportion? Add to this, they had from time to time taken from them all their grain, excepting what was scarcely sufficient to support their families, by acts of impress, and at a certain limited price, which was delivered for the use of the Army, and at a time when other States furnished supplies of a like kind, and were allowed more than double the price. I have known, said he, working oxen taken by the point of the bayonet from the farmer, and to this day not paid for; and will gentlemen say New York is a debtor State? He hoped not.

Mr. Williams hoped, when the sufferings of the citizens of the State of New York were only considered, when the vast destruction of their capital, and of their frontiers was taken into consideration, together with their situation during the war, he was pursuaded that no more would be said respecting that State being a debtor State, and that such an odious stigma would be done away.

Did not, he said, the Commander-in-Chief observe in the most trying times, viz: in the year 1781, that if it were not for the exertions of the State of New York, and the supplies by them at that time furnished, he must have disbanded the Army? Did not one of the Commissioners, who settled the accounts, declare in this House (being a member at that time) that the debts of the debtor States ought to be done away? Was this not tacitly acknowledging that the accounts exhibited to them varied so much, that it was impossible for them, agreeably to the mode prescribed, to do equal justice? Add to this the charge made by some States for bounties, when that of New York could not exhibit the relative amount of a part of theirs, and others no bounty, when at the same time the classes as directed by law, raised the men by paying large sums for each unknown to the State.

Mr. W. concluded by saying, that since the war, the State of New York had always paid their specie requisitions, which, together with the like paid by Pennsylvania, was the chief support of Congress, until the Constitution or present system of Government took place, while some of the creditor States paid nothing; that, as the State of New York had done as much as their situation would permit them; had paid large sums of money since the war, which was borrowed to support, pay, and clothe their quota of troops; and many other matters of the kind, he hoped that the reso-

lution would be negatived, and no more said on the subject.

Mr. Nicholas thought there was inquiry which was necessary to precede the present question. Some of the States which were brought in debtors by the Commissioners, might hold debts of the United States, and it would appear somewhat odd that they should be called upon for money, when, perhaps, they were really creditors. In such cases all that could be expected would be, that a balance should be struck. He therefore proposed a resolution, directing the Committee of Commerce and Manufactures to inquire whether any of the States brought in debtor States by the Commissioners, were holders of debts of the United States? If they were, he said, the United States had the means of payment in their own hands. He should move that the Committee might rise, in order to bring forward this proposition.

Mr. W. Smith said, he could not agree to the proposition of the gentleman from Virginia [Mr. Nicholas] nor was it necessary to say what measures would eventually be proper, in case of a refusal of payment, as that was not now the question.

The subject before them, he said, was a very delicate one, and ought to be treated with every degree of candor. He was glad that the gentleman from New York, had spoken upon the subject with a degree of temper and candor, which did him credit. The discussion was an unpleasant one, and could scarcely fail to excite a degree of irritation in the House, which, however, it would be desirable to avoid as much as possible. For many years, Mr. S. said, this subject had been under consideration, and it was much to be desired, that it could now be brought to a close. He knew no better mode of doing this than the one proposed, viz: that the debtor States should be informed of the sums with which they stood charged, and that payment should be requested in such a way as should prove most agreeable to them.

Mr. S. said, he should not follow the gentleman from New York [Mr. Williams] through the whole of his observations, because he did not think them relative to the subject before them. Some of them might have been properly enough suggested when the subject of balancing the accounts was before the House; he believed, indeed, they were brought forward at that time. He would mention some facts, relative to the business, with which perhaps some gentlemen might not be acquainted. In the year 1790, it seemed to be the general wish that an adjustment of debts and credits betwixt the General Government and individual States, with respect to the late war, should take place; that balances should be struck, and those States which were brought in debtors should pay, and those who were found to be creditors should receive what was reported to be just; and, in order to facilitate the business, a great deal of compromise took place, so that it was at length agreed upon with a good deal of unanimity. In order to give the States an opportunity of bringing forward all their claims, the Commissioners were invested with Chancery powers. After the business had gone through the Committee of the Whole, there was only one question which occasioned any discussion, and upon this the yeas and nays were taken; this was the ratio by which the States should be charged. On a motion to strike out this ratio, it was lost, 45 to 10, and, what was remarkable, one-half of the Representatives from the State of New York voted for the existing mode, and the other half for striking it out. [Mr. S. here read an extract from the Journals.] It did not at that time strike the members from that State, that the ratio adopted would injure them. Whether subsequent events had made it unfavorable to them or not, was not now the question, but whether those States which had been reported debtors should be called upon to pay what was due from them.

Mr. S. said, this business might be compared to an arbitration betwixt individuals, where full powers were given to the arbitrators; for after all that could be said about the exertions of individual States was brought forward, it was agreed to put the matter into the hands of three Commissioners to make an award. These Commissioners were bound, on oath, to do their duty faithfully. The award was made and accepted by Congress. Whatever objections were held against it, should have been made at that time before the award had been carried into effect. Any complaints now brought against the principles and mode of settlement, were overruled by that award, as all parties were bound to abide by the arbitration; they could not now come forward and say the principle was bad, and therefore object to pay.

The only question now was, which was the best way of completing the business? He thought the mode proposed was the best. It appeared, by the report of the committee, that the following were the debtor States, viz: New York, Pennsylvania, Delaware, Maryland, Virginia and North Carolina. The whole debt was $3,517,684, of which $2,740,000 was owing by New York. The interest of the debt, at 4 per cent. is, $844,211, which being added, made the whole $4,361,802.

In our present embarrassed situation, said Mr. S., this money would be very acceptable. In order to meet the demands of the public creditors, it was well known that recourse must necessarily be had to additional revenue. It would, therefore, be very desirable if these debts could be collected, as it would serve to lessen that sum which must otherwise be collected from the people. Or this money, he said, might be usefully employed in providing for the defence of the country, either by means of a Navy, increase of Arsenals, or otherwise. Indeed, there were many beneficial objects to which the money might be applied; and he doubted not, when the debtor States knew the situation of the United States, those who were able to pay, at least, would come forward like patriots and cheerfully pay the sums due from them, in such a way as should be most agreeable to themselves.

Mr. S. said, he should suppose that even the debtor States themselves would wish to have these accounts settled, as it must be unpleasant to them,

when claims were made from them upon the United States, to be told, they were in debt to the Union. He remembered an instance in the last session, where this was the case with respect to New York.

The people of New York then applied to Congress to put their fortifications into a respectable state of defence; they were then told in this House that they owed money to the United States. This is a very unpleasant reflection. The settlement now desired would do away such disagreeable insinuations in future, and such reflections should stimulate them to take measures to forward the payment of that money. As to the State of New York, he should be the last person who would say any thing that would be disagreeable to that State, as it was a State of consequence in the Union, and entitled to every degree of respect; but gentlemen must know that the finances of that State were in the most flourishing condition—that they had abundance of wealth. [Mr. S. here enumerated an account of their riches.] When, he said, they contemplated the situation of other States, with debts upon their shoulders, to pay the interest of which, and for the support of their civil establishment, they were obliged to tax their citizens, he did not think New York would suffer much by paying the debt in question. The State of South Carolina, he said, was at present considerably in debt, both domestic and foreign, for the payment of the interest of which and their civil list, they were obliged to have recourse to direct taxation on their land, whilst the State of New York had no taxes at all, though he understood the Legislature had recommended a tax to be laid, in order to accustom the people to the payment of a tax.

The only question, Mr. S. said, was whether any material injury could arise from the application proposed to be made to the debtor States for payment. If they had any well-founded objections to the payment of the respective balances, they would of course make them; if not, they would doubtless propose some mode of payment. But, Mr. S. said, if it was the opinion of the House that these debts ought at once to be cancelled, let it be done. Something ought to be concluded upon in order to put an end to so unpleasant a business.

Mr. Harper said, it was very easy to see, by the turn of the present debate, that no very amicable or fortunate issue would result from the demand they were about to make upon New York. He did not believe that State would be prevailed with to pay the demand in question, and he did not know of any means of coercing them to pay. He was always opposed to threats, when he was not able to strike, or to making a demand which he could not enforce. He had no doubt that the settlement was just and proper, and that this State was really indebted in the sum specified; but, if they disputed the debt and the mode of settlement, they could not force them to pay it. From these considerations, it was his opinion they ought not to make the demand at present. He would not cancel the debt, as, at some future period, they might go into negotiation on the subject. He wished to get rid of the business without a decision. He should therefore move that the Committee rise, and he would afterwards move that it be discharged from a further consideration of the subject.

Mr. Coit hoped the Committee would not rise. The gentleman from South Carolina seemed to think that a period might arrive when it would be proper to negotiate on the subject, but not at present. If the gentleman had stated any reason why he thought any future period would be more proper than the present for a settlement of the business, perhaps he might have concurred with him in opinion; but not having stated any, he was opposed to having the business postponed. The proposition, Mr. C. said, went no further than to ask the several debtor States, whether they would pay? and, until this question was put, they did not know but they were ready and willing to pay. He did not think this was the time to consider what measures should be taken provided the States did not pay. It ought not to be supposed they would refuse to do what was just. A number of the debtor States, indeed, might be considered as creditor States, since the money they owed, did not amount to so much as their share of the whole debt would be, provided it was not paid. [Mr. C. here compared the specific amount of the debts of different States with their share of the debt, to show that it would be their interest that the balances should be paid.] The gentleman from New York [Mr. Williams] as was common with persons over-zealous, had leaped before he came to the stile. The question was not now how the balances should be settled; that settlement had been made, and the payment of them was now the question. He hoped the Committee would not rise.

Mr. Williams said, he did not expect to have heard the observations which had fallen from the gentleman last up; for his part, he was persuaded the Representatives of the debtor States could make calculations for themselves; but he hoped calculations with them was not the object; the justice and equity of the measure would, he trusted, be their guide. Mr. W. wished the gentleman from Connecticut to inquire whether some States had not paid their specie requisitions at about one-third of their value, whilst New York furnished them at the full value.

In answer to the gentleman from South Carolina, Mr. W. observed, that he was sensible aid was wanting to the revenue; but he hoped that because New York had funds, they were not to be taken from them, right or wrong. The gentleman was however mistaken in saying there were no taxes in that State. If he would examine the laws of New York, he would find the county and town expenses were raised by tax, and $45,000 annually besides. Mr. W. said, he had flattered himself that the gentleman from Carolina would not have brought forward this subject, as that State had been paid for the frigate built there unauthorized by Congress, which had been of no use to the United States, and the allowing that charge

made them a creditor State. With respect to the funds of New York, he hoped they would remain with them as the fruit of industry and frugality. The gentleman had observed that one-half of the delegation from New York had voted for the rule of apportionment, that the Commissioners acted as arbitrators, and that the award was accepted. Mr. W. was of opinion the act and proceeding had thereon, was unauthorized by the Constitution of the United States, as it was a departure from the original contract, and that the State of New York had never accepted of the award, and was not bound thereby; and notwithstanding the gentleman asserted that the State ought not to come forward now and say we will not abide by the settlement, Mr. W. believed many awards had been set aside, and that this ought to be entirely done away.

Mr. CRAIK said, he should not have risen on the occasion, but from an observation which had fallen from the gentleman from Connecticut; he should also be for the Committee rising, and for the same reason as the gentleman from South Carolina [Mr. HARPER] and not wish them to sit again on the subject; as this is the wrong time to stir up an alarm in the country, which, he feared, debating on this subject would have a tendency to do. He professed to be well acquainted with the disposition of the people of Maryland, and he knew it would create many disagreeable sensations. Nothing could possibly be gained by the measure, and it certainly would tend to expose our own weakness and inability to carry the demand into effect. They could not at this time promise themselves any good from opening this subject, but much alarm and disaffection may be fostered. He therefore hoped nothing more would be said on the subject.

Mr. DEARBORN said, he had no great objection to the Committee's rising, but a very strong objection to its being refused leave to sit again. The subject before them, he said, required full investigation. He did not doubt but the State of New York and other States would act like individuals in similar situations, viz: honestly and fairly. What had been said about the mode of settlement had nothing to do with the present question. The referees had settled the business according to mutual agreement; they had heard the parties, made the award, and execution was about to be issued. But, at this time, one of the parties came forward and objected to the mode of settlement. What, he asked, would be thought of an individual who should so act? He believed but very indifferently. Taking it for granted that the State of New York would act like an upright individual in the same circumstances, he had great hopes from the proposed application. Nor could he ever consent to tax his constituents until some mode was taken to collect these debts, as he thought them just. Indeed he conceived it to be a reflection on the debtor States to doubt on this subject; and to suppose the application would occasion uneasiness and discontent, was to impute an unworthy conduct to those States. He believed they would act as they ought, and if the money was not immediately paid, some compromise would take place. But, he said, it was not reasonable to suppose, that the people of Massachusetts, whilst $1,200,000 were due to them on this settlement, would consent to be taxed to pay their share of the debt, whilst other States were debtors, and were not called upon to pay the money which they had received out of the Treasury. If the Committee rose, therefore, he hoped it would have leave to sit again.

Mr. GILBERT was not disposed to vote for the Committee's rising at present and to be refused leave to sit again; he was surprised to hear gentlemen object to the principle being examined upon which the balances were settled. He thought no man could conscientiously say the settlement was a fair one; not a man on this floor would like to abide by such a result. When we see New York two or three millions of dollars in debt—more than all the other States put together, can it be supposed they will pay it? The report of the Commissioners say it is a just and *bona fide* debt; and gentlemen now say it is not how the settlement was made, it must be paid. What, said Mr. G., was there never a judgment reversed? Was there never an arbitration set aside? Certainly there had been. What evidence have we that there was not an egregiously mistaken principle in the parties who settled the accounts? Where is the subscription of the parties to the award? He hoped the Committee would rise, as it is too late to go into a view of the subject with the adequate degree of examination due to it; and that it would again be brought up for further discussion.

Mr. LIVINGSTON hoped the Committee would rise, and have leave to sit again. He was glad the subject was spoken of as being of a delicate nature, and hoped this idea would still be observed. In this view of the subject it ought to have a full and dispassionate discussion. He said he had much to say on the subject—more than the lateness of the hour would admit. He would throw out an idea or two for the gentlemen's consideration, that they may prepare an answer, and which may serve for discussion to-morrow. He would observe that he objected to the nature of the law, and the mode of its execution. The Government of the United States had no right to impose any demand upon the State of New York, except it had given its full consent to the settlement of the Commissioners. The Representatives from that State have no power given them to agree to that arbitration, nor can they without the approbation of their constituents. The Legislature have the sole power to allow it. He did not know of any authority the Representatives had to bind their State to pay debts. His next ground would be that, if the business was considered as an arbitration, they have the right, in cases of controversy, to set aside the award. Were they to be told that it was the interest of some of the debtor States that these balances should be paid? and with the same breath gentlemen say, it is no matter whether the settlement was made fairly or not. He did not expect to have heard such sentiments expressed. He would ask gentlemen, was

the award given between individuals in all cases final? Were not the aggrieved party permitted to come into every Court of Justice under the sun to make an appeal? Yet they were told in that House, that the State of New York was bound to pay, whether the accounts were fairly settled or not! One gentleman had taken much pains to endeavor to prove it would be to the advantage of all the debtor States, except New York, that the debts should be paid, and another gentleman had detailed those advantages. No doubt it would be of much advantage if fifteen States were to throw all their debts upon the other one; but, would there be any justice or credit attending such conduct? The answer was natural. He did not wish to throw any reflections on the gentlemen who executed the trust of Commissioners to this settlement; they might have done the best they could; but certain it was that improper charges, to an immense amount, such as would not have been suffered in any Court of Justice, were brought in by the creditor States, which had turned the balance in their favor, and made them creditor instead of debtor States. He therefore hoped that, as these matters required further discussion, the Committee would rise and have leave to sit again.

Mr. DAYTON (the Speaker) said, that he should have listened in silence to the gentlemen from New York, if they had contented themselves with declaring that they were unwilling to pay to the United States the debt which, upon a settlement of the accounts of the States had been awarded to be due from them. He should likewise, he said, have observed the same line of conduct, if those gentlemen had gone no further than to tell the House and the world that they were rich, and to boast that they were more prosperous than their neighbors; but when this their vaunting was accompanied with a manner, and expressed in a style calculated to cast a reproach upon all other States whose situation was not equally prosperous, he owned, that for his own part he could not passively permit the imputation to pass unnoticed. That the State which those gentlemen so happily represented was wealthier, far wealthier than his own, he meant not to contest or deny; but he would never admit, that it was ascribable, as had been said, to their superior industry. The Treasury of New Jersey was not, Mr. D. said, an overflowing one—their citizens were annually taxed to support their Government and to pay the interest and part of the principal of their debts. If they were comparatively poor, they were proportionably honest. They had never tarnished their reputation of good faith by refusing to acknowledge their just debts, nor avowed an unwillingness to discharge them as fast as their resources should enable them; they had never hastened to enrich the Treasury of the State by withholding from its creditors their just demands, nor sacrificed to the false pride of wealth the interests and claims of those who had trusted to their ability and confided in their justice.

Had the State, Mr. D. said, which he had the honor to represent, done otherwise, they too might probably have boasted of their ill-gotten wealth, more especially if to such an act they had added another not more meritorious, that of appropriating to their own exclusive use a mass of valuable property, the back or Crown lands, seized in the course of the late war from the common enemy, at the common expense, and with the joint forces of the Union.

Mr. D. said, he wished the Committee of the Whole to rise, but not for the purpose of discharging them from the further consideration of the subject. He hoped they would have leave to sit again and decide upon the resolutions that had been offered to them; for he seriously believed, that if ever they were to call upon the debtor States to pay what they owed to the Union, this was the proper season for doing it. Every week's delay, whilst it seemed to give new strength to the unwillingness of those States to discharge their balances, weakened the ability of the General Government to enforce them. If ever it was in the power of the United States to obtain those debts, it was now; Mr. D. therefore hoped that measures would now be taken to enforce a payment of them.

Mr. GILBERT thought the gentleman last up had rather misstated. He did not recollect that any imputation had been cast on New Jersey. He had not boasted on the opulence of New York, nor charged other States with being poor. Gentlemen, he said, took it for granted that the debt charged to the State of New York was a *bona fide* debt; they think it is bound in duty and conscience to pay what is settled upon it, but he thought this wrong. If gentlemen look to the war, no State had done more or suffered more than New York, and none could stand higher on the score of merit. It was said that some States had not the same advantages as others. But why should that gentleman look at that particular circumstance? Had not other States confiscated land, and got the preemption right to land, as well as New York? Had not Massachusetts shared a full part of all the right which New York claimed and obtained from the Indians? And had not New Jersey done the same? He thought such allusions foreign to the subject. Whether the debt was just or not, would require more time than the present lateness of the hour would allow to prove.

Mr. HOLLAND hoped, when this subject came forward to be investigated, it would have been conducted with temper and decorum—particularly from the moderation with which the two gentlemen [Mr. WILLIAMS and Mr. SMITH] began it; but the gentleman from New Jersey, [Mr. DAYTON,] remarkable for his attention to order, had implicated all the States reported to be debtor States, hoping that measures would be taken now to enforce payment. He hoped there was justice among those States, and that they would come forward and pay what was due. If they were certain the debt was just, Mr. H. said, they would without doubt come forward and pay—however, he knew North Carolina would. But, when it was generally believed that improper and fraudulent charges had been admitted by the Commissioners, was it not to be expected that there would be a desire in them to have a review of the settle-

ment? He was confident whenever the debtor States should be convinced that the demands were just, they would open their funds and pay them, but not before.

Mr. Dayton (the Speaker) rose to give a short answer to the members from North Carolina and New York, who had commented upon his observations. The former gentleman had insinuated that those who advocated the motion had done it with intemperance, bordering on indecorum; but Mr. D. was happy to find that no expression of his had been pointed out which might be construed into a violation of the strictest rules of decorum and good order, unless, indeed, for him to say that certain States were debtors of the United States, and that they ought to be required to pay what they owed, could be liable to that construction. The member from New York had affected to misunderstand him, when he spoke of their having withheld from the other States and appropriated to their own use that immense mass of property which had been acquired in the course of the war with Great Britain and their allies from the savages, at the common expense, and by the common exertions of the forces of the United States. He supposed that every member who heard him must have known that he did not allude to petty confiscations, but to those vast tracts of land called vacant or Crown lands, in the conquest of which every regiment belonging to New Jersey, as well as to the other States, were employed. New York had been willing that the Union should participate with them in the expense and danger of the conquest; but, after it was effected, they had refused any share of the benefits; and thus, by means of this and other spoils, had acquired an overflowing Treasury.

Mr. Gilbert said it would seem, by the observations of the gentleman from New Jersey, that the conduct of the State of New York was singular with respect to their having sold their vacant lands. He would ask if there was a State in the Union which had vacant land which had not done the same thing? Had any such State shared its land with the Union? Certainly not; and he could see no propriety in the charge against New York.

Mr. W. Smith wished to observe, in reference to what had fallen from the gentleman from New York, [Mr. Livingston,] respecting that State not being bound by the decision of Commissioners, because the State had not consented to the settlement. He would remark that, besides the co-operation of the Representatives of that State, they appointed an agent to bring forward their claims, which certainly showed their acquiescence to the proceeding. Mr. S. said he was surprised to hear gentlemen dwell so much upon the injustice of the proceedings of the Commissioners, and upon the improper claims admitted, since he did not know how they could have come at their knowledge on the subject, since those proceedings had never been made public. With respect to the unfortunate frigate which had been alluded to by the gentleman from New York, he could say that the State of South Carolina was then paying for that frigate, and that it was not charged to the United States as had been insinuated.

The Committee rose, and, on leave being asked to sit again—

Mr. Harper hoped leave would not be given to sit again. He could not possibly contemplate a time when it would be expedient to renew this demand; at the same time he would declare himself opposed to anything like a relinquishment of these claims. However, he would not again go over his reasons for the Committee's being discharged from the further consideration of this subject.

Mr. Baldwin replied upon it, that leave would be given for the Committee to sit again. It would be in fact to pursue the idea which the gentleman himself had lately expressed. The resolution under consideration is commencing the negotiation with the States which he had recommended. Mr. B. expressed great confidence that nothing would be necessary but to commence this negotiation, and that the States would at least discover a satisfactory disposition. If it was true, as had been contended by some members, that the general Board of Commissioners had conducted the business badly, or that they were wicked or corrupted: or if it should be thought by the States that they had proved themselves unequal to the work, as some seemed to suppose, which would set aside their award, the sooner it is known the better, that measures may be taken to form a new Board, and begin the matter anew. He persuaded himself, when they communicated with the States, it would be found there was not one which would desire such a measure. When he recalled the recollection of the manner in which the whole war had been carried on, without any rule of apportionment or any settlement of accounts between the States, and the ill-humor which had grown out of it, constantly aggravated by the yearly calls on the States for moneys to support the old Union, he was sure that no person who was a witness to the transactions of those times would have a wish to see them repeated. The amount was so great, and the whole so perplexed, as well as irritating, that the friends to the peace and union of the country have perhaps never experienced so critical and anxious a period. The Delegates used to bring forward their own State's claims, warmed by local zeal and private interest, and the Councils of the Union were for years agitated by the violence and passions of parties settling their old disputed accounts. Experience seemed to have convinced everybody that no settlement could ever be made in that way; that some persons must be clothed with the character of Judges, and the whole put over into their hands.

In October, 1786, the ordinance for this purpose first passed. He believed it would be found by the Journal that it passed unanimously. He had never himself been witness to any public measure which seemed to take off such a pressure from the mind of every one, or which was received with such enthusiasm. The measure was so popular and satisfactory that it was thought expedient the next year to extend the provisions, and give larger

powers of Chancery to the General Board. The final ordinance on this subject was then passed. He believed it would be found in the Journal about May 6, 1787, and that this was also unanimous. After the formation of the Government, under the present Constitution, the same disposition continued, and the act just read by the gentleman from South Carolina [Mr. Smith] was passed. If he mistook not, this was also without opposition.

These things, said he, are not unknown in the several States; the men who were concerned in these times and events are not all dead. He believed, when they should communicate with the different State Legislatures, these men would not be backward to show themselves, and to show that they were still of the same mind, and faithful to their engagements. Though some individuals in this House appear to be quite fresh on the subject, as if they had made new discoveries, and seem disposed to begin anew, and say all they know about South Carolina frigate, Penobscot expedition, sea-coast guards, military bounties, rule of quoting, &c., which had been for months, and almost for years, the subjects of general scramble—he had no apprehension there would be found in the States any disposition to revive those disgraceful scenes. However, if the States choose to go over the business again, the sooner it is known the better. This can only be done by writing to them as the present resolution proposes. If they mean to abide by the present settlement, and yet state inconveniences in complying with it, they who had served most with him knew he had not often been an advocate for intemperance in public measures. He should not forbear to mention that there was one part of the subject which gave to him the most unpleasant sensations, and that was, where a State had, in a manner which he thought was not to be justified, obtained an advantage from our Treasury of certificates to the amount of one million two hundred thousand dollars, in the assumption, before the settlement of the accounts, upon a false presumption that we were indebted to them, when at the same time they were indebted to us a million of dollars. He should never believe, till he had seen the attempt made, that they could be reluctant in returning to our Treasury one million two hundred thousand dollars, in certificates, which had in fact been advanced to them by mistake; or that they could expect, in such circumstances, the other States to submit to a direct tax to raise money to pay them a quarterly interest on those certificates.

Mr. Livingston could not permit it to go out to the world, in the account of this day's debates, that he, or any of his colleagues, had made use of such expressions as charging the Commissioners with being wicked or corrupt, or with being bribed. Such expressions had neither fallen from him nor his colleagues. He had the highest respect for one of them, who was since dead; but still, he believed, men with the best intentions might have admitted improper charges to an immense amount. Indeed, it was impossible that three men, in their closets in Philadelphia, should be able to form a just estimate of the debts of the different States. However, if the Committee have leave to sit again, and, if it were determined that the States should be called upon for the balances, he should bring forward a resolution to this effect, and show the grounds upon which his suspicions were founded.

The Committee had leave to sit again, and the House adjourned.

Monday, January 2, 1797.

JOHN MARE DE BORD.

Mr. Swanwick presented a petition of John Mare de Bord. This was a French gentleman, who had served during the late war in the American Army. Being possessed of immense property in Hispaniola, he did not, at the end of the war, ask for his pay. Being, in the late insurrection in that Island, burned out of his whole property, he came here and applied for the money due to him, in a petition to the House of Representatives. This was during the last session. The Committee of Claims, on his producing a proper attestation of his service, were going to pay his demand. At least, he understood that they designed to do so; yet, it is possible, that he may have mistaken their intention. While matters were in this train, Mr. de Bord told the Committee of Claims that he had, at one time, received, in part of his pay, one hundred dollars from Major Haversham, then in the Continental Army, and now in Georgia. This partial payment he meant as a matter of fair dealing, but Mr. Tracy, chairman of the committee, saw the circumstance in an opposite light. He conceived that if part had been paid, it was likely that the whole might have been so. He, on that account, refused to let the petitioner get the money till an attested account should be obtained from Major Haversham. The petitioner has been at the expense and trouble of obtaining this account properly certified, and he now came forward in a second petition to Congress for the balance proved to be due to him.

Mr. Parker made an objection to this petition on account of its being indecorously worded, in having made use of the name of the Chairman of the late Committee of Claims [Mr. Tracy] instead of the committee, when speaking of the fate of his former petition. Mr. P. said it might appear to convey some reflection on the conduct of Mr. Tracy, which ought, by all means, to be avoided; he hoped, therefore, however just, it would be better worded before it was received.

Mr. Swanwick spoke highly of the merits of this petitioner, who, he said, from a pure patriotism and a love of liberty, had fought in the American cause during the late war—for which service he never intended to have made a charge—but having afterwards gone to the West Indies, and being one of the sufferers at St. Domingo, by which he was reduced to distress and beggary, he had made a claim upon the United States for his services. Mr. S. believed he was now kept by a farmer somewhere in the country, in consideration of his past services; and, as to any informal-

ity of his petition, he believed it arose from ignorance of the forms required, (being a Frenchman,) and not from any intention to offend the Legislature of a country, which he termed in the conclusion of his petition, the freest and happiest in the world.

Mr. Parker said, he should be extremely loth to withhold justice from any petitioner, but he hoped the gentleman would withdraw the petition, and *only* for the reason he had before assigned.

Mr. W. Lyman was very sorry the wording of it, from so trifling a deviation, should make the petition objectionable. He did not see it at all offensive, as there was good testimony no harm or insult was meant, and it was owing entirely to the gentleman's ignorance of the rules.

Mr. Macon said, it had been determined against at a former session, and that, in addition to the other objection, he thought ought to operate against receiving it. Although this proposed to produce an account current which had not been produced before, yet, he wondered that it had not come before the Committee last session, when the gentleman himself was before the committee. This petition was also barred by the statute of limitation, and therefore it ought not to be received. There was scarcely a case, Mr. M. said, but was continually coming before the House, time after time, although reported against as barred by that act. It was impossible to get through business, if this practice was allowed. He said the claims of their own citizens were rejected for that reason, and except some new evidence can be produced, it ought to operate against their admission.

Mr. Swanwick said, the case ought not to be prejudged, but some feeling ought to be exercised towards a man who had hazarded his life in our service, and is now under such reduced circumstances.

Mr. Thatcher said, it appeared to him, that this trifling objection, of its not being exactly worded according to the will of the House, especially when the circumstances of the gentleman are considered, should not obtain to prevent its being heard. It appeared to him, the objections which had been raised bore a disrespectful appearance. But it did not seem there was any such intent in the petitioner. He was of the opinion of the gentleman from Pennsylvania, that neither that nor its having been before the Committee of Claims should prevent its being received. It appears there are new proofs to offer which he did not, or could not offer before. He wished the gentleman would withdraw his opposition.

The question was then put, "Shall it be referred to the Committee of Claims?" Twenty members only rising in the affirmative, it was not carried.

TREATY WITH ALGIERS.

Mr. Parker called up the resolution which, some days ago, was laid on the table, relative to a call upon the President for information with respect to the Treaty with the Dey and Regency of Algiers. Mr. P. said, he found in the President's Address, at the opening of the session, this paragraph:

"After many delays and disappointments, arising out of the European war, the final arrangements for the fulfilling of the engagements made to the Dey and Regency of Algiers, will, in all present appearance, be crowned with success, but under great, though inevitable disadvantages in the pecuniary transactions, occasioned by that war, which will render a further provision necessary."

Under these circumstances, it was not only proper to know what further Legislative measures were necessary, but also to learn what steps had been taken for carrying into effect the Treaty with the Dey and Regency of Algiers. It was last year, he said, ratified by the President and Senate, and that House had passed the necessary appropriations, and he was sorry that any delay had taken place in carrying it into effect, as he understood some of the prisoners had died between the period of ratification and that of the releasement of the citizens held in slavery. Some difficulties had arisen, it seemed, with which they were not acquainted, and therefore he had brought forward the present resolution, not doubting that the President would readily give the information required.

Mr. Sitgreaves suggested whether it would not be proper to wait until they received from the President the communications which they had reason to expect from his Speech. It was certain they should receive information from the proper department in due time. The President had said, that further appropriations would be necessary, and, of course, information would be given them on the subject. When this information should be communicated, if it should not be so complete as to satisfy the curiosity of the mover of this resolution, he might lay a resolution upon the table, calling for further particulars. But, in the mean time, he thought it most proper to receive the communication which they every day expected. He had no objection to the resolution itself; he only thought it would be more respectful to the President to wait a few days for the information desired, than to ask for it.

Mr. Parker wished not to fail in respect to the Chief Magistrate; but as large sums of money had been appropriated to carry the Treaty into effect, and yet, for some cause or other with which they were not acquainted, the business had not been completed, it became important to have some information on the subject. There was great anxiety, he said, in the minds of merchants trading to the Mediterranean, to know the state of this affair. He thought, therefore, they ought to obtain it as soon as possible. It was from respect to the President that he had not called up the resolution before that time. If the inquiry was longer delayed, he thought the House would be wanting in duty to their constituents. After the resolution was passed, he should not be for pressing the subject more than other gentlemen.

Mr. Craik said, he did not know that there was such a resolution on the table till then; but even from the mover's own confession, he did not

see any use in the measure, as he had said he did not mean to press the matter after the resolution should have passed. The President had told them at the opening of the session that more money would be wanted, owing to some embarrassment having taken place; it was therefore to be expected that he would give them every necessary information on the subject; but, if they entered into the present resolution, it would be tacitly charging the President with neglect. The subject, Mr. C. said, was not particularly pressing, and, as they had much other business on hand, and as he doubted not, they should have the information in due time, he should be opposed to the resolution.

Mr. Gallatin wished a clause in the law passed March 20, 1794, on intercourse with foreign nations, to be read—he believed it was expressed in general terms. [It was read, and proved to be so.] The President in his Speech, when he alludes to this subject, said Mr. G., only says that "final arrangements for fulfilling the engagements made to the Dey and Regency of Algiers," &c., and concludes with, "measures are in operation for effecting Treaties with the Regencies of Tunis and Tripoli." And it was perfectly clear that, if measures had not succeeded with the latter Powers, there was a sufficient sum appropriated to carry into effect the Treaty with Algiers; because there was not only appropriated the money for carrying that Treaty into effect, but also an additional sum of two hundred thousand dollars for both objects. He did not know, therefore, whether they should receive any information on this subject, except it was called for. Mr. G. said, they had already received an estimate of the expenses for the year 1797, and, although there were several items relative to foreign intercourse, there was not a single thing about an appropriation for the Algerine business. He thought, therefore, though sums might be wanted for effecting Treaties with Tunis and Tripoli, the appropriation would be wanted next year, and not this, and therefore there would be money enough now for Algiers. The only question was, whether it was their duty to ask for the information contained in the resolution? he believed it was, especially when they were told there had been great pecuniary losses, they certainly had a right to know what they were. The proposition, he said, did not ask for information how the Treaty had been completed, but how the money had been disposed of. This was information they had a right to have, in order to form a judgment whether these losses might have been avoided or not; and, as he believed they should not have the information except it was asked for, he should vote for the resolution.

Mr. Gilbert did not doubt but the House would get the information upon this subject as soon as possible; and he doubted whether it would come one moment the sooner for the resolution; for the President had promised it in his Speech. He therefore supposed it was now hastening as fast as it could; and he did not know why the House should precipitate the President on the subject. He wished the House to wait a few days, until, in the ordinary course of time, there was reason to expect it; if it did not then come, he should vote for it, not but he thought it was that very moment preparing with all speed to be laid before the House; but, at present, he should vote against it.

Mr. Livingston said, gentlemen seemed to take it for granted, that the President meant to communicate to them information on the subject of the Treaty with the Dey and Regency of Algiers. He did not find this in the President's Address; he found only a kind of excuse that the Treaty had not been carried into effect. He did not say he would communicate what was the immediate occasion of the delay. It was the duty of the House, in a two-fold point of view, to call for this information; first, that they might provide the necessary fund, and secondly, to know what had been the cause of the great delay. The appropriations for carrying the Treaty into effect had been long since made, and unless circumstances unavoidable, and urgency very cogent, had taken place, he could not help thinking there must have been a fault in some department or other. From the usual promptness of the President, it was not to be presumed the delay was with him; but he believed it might be presumed there was a delinquency somewhere. It was not enough for them to be told that the delay arose from unavoidable circumstances; it was their duty to look into the business, and therefore he thought the present call a very proper one.

Mr. Swanwick said, the gentleman from New York [Mr. Gilbert] seemed to think they might wait a few days for the information wanted. Mr. S. said, they had already waited for a month, and nothing was yet brought forward. Their session was limited, and it was important that the business to which the resolution before them related, should be speedily taken into consideration. It was very important as it respected commerce, which was never in a more critical situation than at present. It was high time to go into an inquiry on this subject, in order to know the train in which the business was placed, and to what the delays had been owing. He believed they had been owing to the derangements of money transactions in Europe; but of this they ought to be informed; and, if there was any charge to be made against that House on the occasion, it was for having delayed the inquiry so long.

Mr. Gilbert said, the gentleman last up seemed to speak as if the House had nothing to do, and were waiting for business from the President. He said there were various objects of great importance to the United States, which called for their attention; and as he had before said, a short time would probably bring the information without application; and as they did not know that it was unnecessarily retarded, there was no use in passing the present resolution.

Mr. Sitgreaves said, gentlemen who supported this motion, spoke as if the right of the House had been disputed to make the inquiry. He had not heard this doubted. The only reason for opposing it was, that it was unnecessary, and less

respectful than it would be to wait for the communication. The President had said, that a further appropriation was necessary this session, and he thought this was a sufficient answer to his colleague [Mr. Gallatin] and not next session, and therefore, he presumed, he would take care, at a convenient season, the necessary information was laid before them. He would not call upon them to make appropriations without showing both the necessity and the quantity required. He had already said there could be no question about their right of calling for the information in question; but he would not be understood to presume, with the gentleman from New York [Mr. Livingston] that there was a delinquency somewhere; if this were presumed, it would be directly in opposition to the assertion of the President, who had told them the circumstances of delay, &c., had been inevitable. Upon what principle, therefore, gentlemen should conceive there had been a delinquency somewhere, he could not see. He was therefore opposed to the resolution.

The question was put and carried—ayes 44, noes 31.

Mr. Parker and Mr. Grove were appointed to wait on the President with the resolution.

KIDNAPPING NEGROES.

Mr. Swanwick moved, that the report of the Committee of Commerce and Manufactures, on the subject of kidnapping negroes and mulattoes, should be recommitted to that committee, with instructions to report by bill or otherwise.

On motion, the question was divided, "Shall the report be recommitted to the Committee of Commerce and Manufactures?" Carried.

"And that they report by bill or otherwise." Ayes 44. Carried.

FUGITIVES FROM JUSTICE.

Mr. Murray said, he had laid a resolution upon the table on a subject somewhat connected with the one just disposed of, which he wished to call up. It was for the appointment of a committee to inquire into the propriety of amending the act respecting fugitives from justice, and persons escaping from the service of their masters.

The resolution was agreed to, and a committee was appointed of Messrs. Murray, Cooper, and Kittera.

BALANCES DUE BY STATES.

The order of the day was next called for on the report of the Committee of Ways and Means, on the balances due from individual States to the United States. The House accordingly went into Committee of the Whole on that subject, when

Mr. Cooper said he had no expectation when this business was first brought forward, that he should have taken any part in the debate that might arise on the mode of dunning the State of New York for a balance of about two millions of dollars said to be due the United States. Yet, when he heard a gentleman from Connecticut, [Mr. Coit] seem to pride himself that a settlement had been made and our State found in debt, and treating our complaints of errors in that settlement as laughable or childish: when he heard a gentleman from New Jersey [Mr. Dayton] declare, in a serious tone of voice, that no consideration would ever induce him to relinquish that claim; although errors may have existed, although frauds may have been introduced, although we may have many large and just demands not brought forward at the time of settlement; notwithstanding all this, it seems the gentleman's ears are shut to our complaints. When he heard a gentleman from Virginia [Mr. Nicholas] bring forward a resolution to sequestrate, or in milder words, withhold the stock which the State of New York has in the funds of the United States; when he heard a gentleman from Georgia [Mr. Baldwin] who had been on the floor of Congress almost from the beginning; when he had heard that gentleman, with all his experience in the money concerns of the nation, declare, that the United States was always considered indebted to the State of New York until the settlement was made, and by this declaration bringing into view high-toned evidence that errors did exist against us in that settlement; for I contend, said Mr. C., that men and Governments always have a pretty correct idea of their general concerns—to hear all this and be silent, would be criminal: yet to argue on the subject, seemed to be of little use; for, when we look the United States in the face, and demand of them neither more nor less than substantial justice; when we complain that egregious errors exist in the general settlement; when we state that many just charges of large amount were not brought forward; when we state that large quantities of wheat were delivered by our State to the Armies of the United States at the depressed price of one dollar per bushel, according to a price-limiting statute of our State, existing at that time, and certificates issued by the officers for this less than quarter price; when we state that some other States received certificates at five dollars per bushel for their quotas of wheat, and that those certificates counted on their face at the time of liquidation and settlement with ours; when we state that powder-houses were erected at the expense of our State, and the proceeds turned into the magazines of the United States, and the charges never brought in at the general settlement; when we complain of these hardships, what answer do we receive? Why, from Connecticut, the sentiment is bad; we do not understand you; from Massachusetts, a still more disagreeable tone, even a sort of intimation that we are quibblers; from New Jersey, a solid declaration that no consideration ought to diminish or dismiss this demand—giving our complaints to the wind without a hearing; from Virginia, a still more tough pill, even an attempt to *sequestrate our stock*. And why, or for what cause are we thus roughly handled? Is it because our Government, in order to keep up the Armies of the United States, gave a bounty of six hundred acres of land to such as would serve three years? Is it because our seaports were in the hands of the enemy during the whole war, our towns consumed

with fire, and our merchants driven to the mountains? Is it because our frontiers were overrun with white men from Canada and savages from the wilderness? our flourishing villages laid waste and the inhabitants carried into savage captivity? is it because our middle counties bore the burden of being the seat of our own armies for several years? or, is it because the revenue which our State produces to the Union, is not more than a quarter of the whole revenue of the United States, that several States whose revenue to the Union is next to nothing, are so deaf to our complaints of errors and hardships on our part in that settlement?

What opinion, said Mr. C., should we have of a merchant, who should refuse to correct an error of great amount in a settlement made with his fellow-merchant, but should plead the settlement, and thus hold what he had got by a mistake or by a trick? Why, this would be his true character—that the man who is only bound by the law, would do any unjust thing were it not for the law: yea, he would, if you please, pick pockets, were it not for the penalty that follows.

An honest man is never afraid to have his charges examined again and again, knowing that the more the truth is rubbed, the brighter it shines. If the charge of the United States against our State is a just one, it will not be the less so for a new hearing. I again repeat it, what individual would refuse a re-examination of his accounts, if stared in the face by a fellow-trader, stating that he had obtained the greater part of his wealth by an error in settlement? No man would, no man dare. The frowns of society would prostrate him forever were he to attempt it, and more especially if the person of whom he had taken this advantage, was a man of good fame and of equal standing with himself. And, in this point of view, I contend that the State of New York is of sufficient responsibility in the Union; and of such reputation as to her accounts, as to have a fair claim on the United States, that an order may be had for a new hearing.

We further complain bitterly of the rule under which this settlement took place.

In short, said he, if it is honorable, if it is dignified, for the United States to refuse us a rehearing, or attempt to sequestrate our stock, it is not less honorable, it is not less dignified for our State to sell and transfer their stock in the public fund, and withhold payment of the same until the errors which exist against us can be corrected.

I shall be asked, said he, how this can be done? On which subject I beg leave to advance a thought that hath struck my mind as a thing that would be satisfactory to our State, and no more than substantially honorable and just on the part of the United States; which idea I shall cast before the Committee, to the end that if the measure now before the Committee should prove insufficient, something on its basis may be adopted; that is, that three Commissioners be vested with full power from the United States, to join three Commissioners from our State, with like power. Let them hear and determine whether any, and if any, how much we are in debt to the Union? I have no doubt such a measure would be satisfactory to our Legislature, and I believe, if found in debt, they would make arrangements for payment. Should Congress refuse a rehearing of the just complaints of that settlement, as it relates to our State, which is entitled to this sort of tender dealing, I shall be for no provision being made to pay the demand. On the other hand, should Congress offer this reasonable and fair thing of a rehearing, and our State refuse or neglect to set, I shall be greatly disappointed in their attachment to the General Government, which I am sure is firm and of a durable nature.

Mr. Havens said, when these resolutions were first proposed, he did not think them very exceptionable, being brought forward on the plausible ground of giving information to the different States of the sums in which they stood indebted; but, if his information was right, notification had already been made to the different States of the amount of the balances found against them; and, therefore, these resolutions, could only be looked upon as leading to something further, even to compulsory means being used to obtain a settlement. In this point of view, though the resolutions contained nothing directly objectionable, they became so, and it behooved the Representatives of New York to oppose them.

Though, Mr. H. said, he was not authorized to say what was the opinion of the Legislature of New York of the settlement in question, amongst the most enlightened citizens of that State, he knew it was considered not only as unjust as to principle, but very greatly erroneous, and highly injurious to that State. He thought it probable that this was the opinion of the Legislature also; and substantial justice required that any error in any account should be rectified; at least, that the party who thought there was an error, should be satisfied. If the State of New York was satisfied with respect to the debt in question, he had no doubt it would be paid.

With a view of putting the business into a less objectionable form, he would propose an amendment, viz: after "earnest request," "that if they (the said States) or any of them, object to the principle upon which the balances have been made, they will make known their objections to the Government of the United States; but if no objection, that they will cause provision to be made," &c. Mr. H. said, he could see no objection which could be reasonably made to this amendment. If the State of New York had any objections to the settlement, they would of course appoint an agent to inquire into the mode in which the accounts had been settled; this inquiry would produce satisfaction, and whatever was found to be the balance, it would be cheerfully paid; but if this amendment were not agreed to, he said there might be embarrassments thrown in the way—embarrassments which might prove insurmountable.

It had been remarked, Mr. H. said, that this was a kind of arbitration, and that the award was final. He never understood it in that point of

light. If the business had assumed the face of an arbitration, it would have been settled in a public manner. An agent would not only have been appointed to bring in their own claims, but also to have examined those of others. But the business had been settled rather in a private manner than otherwise. The books had been kept from view. If there had been no irregularity in the settlement, he could see no objection to its being laid before the United States at large. He had always understood there was some reason for keeping the accounts from public inspection, and it appeared somewhat strange. It looked as if there had been some errors committed which it were improper to show to the people of the United States. At any rate such ideas had prevailed; they had at least prevailed in the State of New York. For these reasons, he trusted, the amendment would not be objected to.

Mr. Henderson hoped the amendment would not prevail. It looked like inviting objections, at a time when there was no proof that any objections existed to the payment of the balances in question. It was allowed by the opposers of the report before them, that, at some period, it would be proper to enter into a negotiation with the debtor States. He thought there could be no better time than the present, nor any better mode than that prescribed by the resolutions before them.

Mr. Kitchell said, it seemed to him as if the amendment was introduced for the purpose of giving the State of New York an opportunity to make apologies for not doing what justice and honor required of them; and supposed that the balance was to be drawn, and then kicked out of doors. It was very extraordinary that New York, having been notified upwards of two years of this debt, they would now require them to give some plea in justification of their conduct.

The gentleman up some time ago [Mr. Cooper] had painted the situation of that State during the war in very strong colors. Mr. K. said, they had most of them been acquainted with New York and other States during that period, and he thought it might be well known that other States did as much, and suffered as much. New Jersey had equal reason to complain of suffering, and, perhaps boast of doing, with that State. But while that gentleman boasted of what New York had done, Mr. K. would speak of what New Jersey had not done. New Jersey had not spent her time during the war in arranging her accounts, instead of being active in the cause of the country. She did not sit down supine and easy at the end of the war, and not care about her debt; but she taxed her own citizens heavily to settle those accounts. She did not take her accounts and put them into the hands of A, B, and C, meanwhile neglecting to pay her just debts, by which she happened not to be a debtor State. She did not, at the close of the war, obtain any money unjustly from the Treasury of the United States; nor did she come forward and seize on lands won by freemen from tyrants; she did not impose taxes on neighboring States to the amount of fifty or an hundred thousand dollars per annum. No. But she had everything to fear, and everything to suffer, as much as New York. The House only called them to come forward to do what was just and right. We only ask them, said Mr. K., to come forward to pay what was awarded as justly due from them. As to the method of the payment, that is not specified; if they think this or that is the best manner to do it, let them come forward and state it; but if they refuse to settle it, they must be made. Let them state their objections themselves; he presumed they had not delegated their Representatives to come to that House and object to the payment of their debts. No. They were sent there for the good of the Union, to attend to Legislative business, and he thought they ought not to have interfered in this business without a delegated power. He should object to the amendment; but as to the resolution, he hoped it would pass in its first form; and when passed, New York could come forward and state any objection they may have, and then proper justice would doubtless be done.

Mr. Havens said, the gentleman from Jersey had been telling the House of what that State had not done, but he may with propriety be reminded of what it had done. Did not the gentleman recollect when that State laid a very heavy tax on the light-house at Sandyhook; he would ask him what principle that was from? Mr. H. would not have mentioned this, but as the gentleman had been boasting about the good conduct of the State he represented, he could not refrain. He said, he despised anything like advocation on State merits or degradation on State evils; he thought such things had an unfavorable aspect to other parts of the Union. He therefore wished it had been avoided, but since it had been brought up, it could not well be left. That gentleman said the State of Jersey had not engrossed the back lands: he would ask him whether it was not because they never had it in their power? They could not get at them, but wherever it lay in their jurisdiction, Mr. H. was persuaded, they would have done it. However the tax on the light-house could well be remembered, if nothing else.

Mr. Kitchell said, he did not mean to reflect on the State of New York. He intended only to refer to what had been said about the industry and wealth of that State at the expense of all the other States. With respect to the tax laid upon the light-house, he would ask whether the State of New York had not laid taxes upon every shallop and boat which passed from New Jersey to that State?

Mr. Swanwick said, it was of little importance to the House what taxes had been laid by the State of New York or New Jersey. He hoped the amendment would not pass, because it would seem as if they themselves doubted the justice of the debt. If they had objections to the demand, they would state them, without any provision for the purpose.

Mr. Livingston said, he should confine his observations to the amendment, as that was under

consideration. When the general resolution was under debate, it was objected by the Representatives from the State of New York, that she could not be bound to pay the balance in question, because she had not given her consent as a State to the law for apportioning the mode of settlement; but now they were told they must wait till that State make objections; that the Delegates in that House had no right to object to it, yet the State was to be bound by this settlement, which was made according to a law passed by the Delegates of that State in common with others. But if the Delegates had not a right (which was his own opinion) to object to the justness of the debt, they had certainly no right to frame the law originally, and then the resolution was wholly out of the question.

Mr. L. said, he did not think the amendment of his colleague invited objection. The friends of the resolution told them, that the application was made to know, whether it was agreeable to the States to pay the money or not? Now the amendment made the explanation what they said it was, but what appeared to the Delegates from New York doubtful. He hoped, therefore, the amendment would prevail. If it should not, it would cause what gentlemen seemed to wish to avoid, delay; because, if it was negatived, he should think it his duty to call for some delay, before the House agreed to pass the resolution before them. He therefore hoped, if gentlemen wished for celerity, or consistency with their own arguments, they would not oppose the amendment.

The motion was put and negatived, there being only 21 members for it.

Mr. Livingston then moved, that the Committee rise for the purpose of a postponement. He thought they had a risk to ask this from the candor of the House. It was a subject which required mature consideration, and more time than gentlemen had yet been able to give it. He hoped therefore this delay would be granted. He wished before he decided on the business to obtain the sense of his constituents on the subject. For his own part he did not wish the decision to be put off altogether. He knew the disadvantages under which the Representatives of what were called the debtor States labored, and he wished to have it determined whether the State of New York was a debtor or a creditor, whether the whole transaction was to be binding, or whether the whole should be buried in oblivion? The result might be this. The Delegates from the State of New York do not represent her as a separate State, but as a State of the whole. It was possible that that State might come to such measures, as might induce her Representatives in that House to withdraw further opposition to the resolution before them.

Mr. W. Smith hoped, as the gentleman seemed so earnestly to wish it, the Committee would rise.

The Committee accordingly rose and obtained leave to sit again, when

Mr. Livingston asked, if it was in order to move to postpone the business to a day certain? If so, he wished it postponed till that day three weeks.

The Speaker informed Mr. L. that the business was not then before them, and Mr. W. Smith moved that the House adjourn. It adjourned accordingly.

Tuesday, January 3.

Samuel Smith, of Maryland, appeared and took his seat.

A new member, to wit: Samuel Whittlesey Dana, from Connecticut, in place of Uriah Tracy, appointed a Senator of the United States, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion of Mr. Swanwick, so much of the report of the Committee of Commerce and Manufactures as related to the petition of Aaron Sheffield, on the ground of new evidence being received, was recommitted to that committee.

BOUNTY TO OFFICERS, &c. OF LATE WAR.

Mr. Coit, from the committee appointed to inquire into and report their opinion of the equity and expediency of extending to the representatives of officers and soldiers of the late Army, who died in the service, the benefits given by the resolution of Congress, of September 16, 1776, to the representatives of officers and soldiers slain by the enemy, made the following report; which was twice read, and agreed to by the House, as follows:

"That, by the said resolution, in addition to the pay and bounty in money and clothing, to officers and soldiers who should serve in the Army during the war, certain quantities of land were promised to those who should so serve, and to the representatives of those who should be *slain* by the enemy; and that, by a resolution of Congress, on the 18th of the same month, the same encouragement was extended to those who had engaged before that time as well as after it. For a variety of reasons, which your committee suppose it of no consequence for them to detail to the House, they can well conceive that it might have been a question of expediency, at the time of passing the said resolutions, whether the benefits secured to those who were *slain*, should not have extended to those who died in the service; but those reasons appear to have no application to the present question; and it is now more than twenty years since that resolution passed, and more than thirteen since the close of the service to which it applied: your committee are therefore of opinion that there are no considerations, either of equity or of expediency, which would either justify or require the extension contemplated in the reference."

BALANCES DUE BY STATES.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, on the subject of the balances due from individual States to the United States.

Mr. Williams moved that the further consideration of the subject should be postponed to that day three weeks, for the reasons which had been urged by his colleague yesterday.

Mr. Coit hoped, except some stronger reasons than had yet been given for the postponement, it would not take place. The conduct of gentlemen

from the State of New York, he thought extraordinary on this occasion. It appeared as if they wished to give the business the go-by in silence, by means of delay. There had already been time enough for bringing objections forward, if there had been any, for the last three years; but now, when they were about to be called upon to pay, time was demanded in which to bring forward objections. For his part, he thought the resolution ought to pass at present.

Mr. LIVINGSTON was sorry the deputation from New York should be suspected of disingenuous conduct. They had explained their reasons for wishing the postponement, which were that they might have an opportunity to consult the State which they represented, and not to give the subject the "go-by" in silence, as the gentleman from Connecticut had supposed. Some of those members did not consider themselves as Representatives of New York, in a separate, independent capacity, but in general, as a State of the Union; and that it was necessary to have particular instructions on this point. The report, he said, had only been laid a few days on the table; and if his motion had yesterday been in order, for a postonement, he had not a doubt, from the disposition of the House, it would have passed. The gentleman from Connecticut had said that three years had passed since the settlement of these accounts, and no objection had been made to it on the part of New York. He acknowledged that three years had elapsed, and no steps had been taken to enforce the demand. He believed, indeed, that there was a kind of understanding at the time, that these debts were to be buried in oblivion. The creditor States had had their credits secured, but no order had been taken with respect to the debts. He mentioned this as a reason for no steps having been taken. He spoke of it, however, only from information. He hoped the delay of three years in the business, would not be brought as an objection against the short postponement now asked for. It had never been their custom, he said, to press subjects which were important, when delay was required by any member, on reasonable ground. The time asked was only a few weeks, that the members may consult their constituents, after which they were willing to give the discussion all the weight it would admit. He therefore relied upon it that the postponement would be granted.

Mr. N. SMITH said, it was never the custom of the House to press a subject when there was any reasonable ground for delay. The gentlemen from New York said it was necessary to hear from their State on the present subject, as they were not authorized to act for that State in its individual capacity. He agreed that they had no right to appear in behalf of that State individually, but he could see no reason for waiting to hear from thence before the resolution in question was passed. Could they not resolve to ask a debtor for payment, without asking leave of their debtor?—Were they about to adopt coercive measures, it would be reasonable to give them notice; but they were merely asking for the money. This, he said, was the proper mode of doing it, and would draw forth their objections, if they had any, to the payment. These objections would be given by the State, and this was the regular way of receiving them; and therefore he could see no possible reason to postpone the present question.

Mr. GILBERT said, it would be recollected when the subject of these balances was under consideration, three years ago, that there was really an understanding in many of the debtor States, that, though it was necessary that provision should be made for funding what was due to the creditor States, there the business would stop; and, when the motion for relinquishing the debts was agitated, it was said there was no occasion to pass such a resolution, as there was no disposition in Government to enforce the payment. A member then in the House, and who was also one of the Commissioners, made the motion for relinquishing the claim, as improper. It was observed by the gentleman last up, from Connecticut, [Mr. N. SMITH,] that the members from New York had no business to represent the State individually. He did not understand the meaning of this assertion. Though he considered himself as a Representative of the Union, he thought himself particularly so of New York. In making this claim, Mr. G. said, the House should be assured it was well-founded. Whether it was so or not, this was the proper time to show, and it was therefore necessary that the Representatives of New York should have time to collect facts to show that the debt was not a fair one. There was no disposition, he said, in those members to give the motion the *go-by;* but the subject was of a serious nature, and required the delay which had been solicited. Another member from Connecticut [Mr. COTT] had endeavored, on a preceding day, to make it appear that it would be the interest of the other States to make New York pay the debt in question. Upon the same plan, he said, it might be the interest of all the States in the Union to combine and throw a tax on an individual State. He hoped the motion would prevail.

Mr. CHRISTIE wished the postponement not to take place. The gentleman who made the motion had already had an opportunity of making a long speech on the occasion, and, if the subject was put off for three weeks, he supposed they should have the story over again. He did not possess the fear which his colleague had expressed, of imitating the debtor States, by asking for payment. He thought when they wanted money they ought to call upon those who owed it for payment. If they gave the matter the go-by now, they should never receive anything. He was for bringing it to an immediate termination.

Mr. MACON said he should vote for the postponement. His reason was, that whatever was determined upon, the debtor States might not have it to say they had been unfairly used. North Carolina could not be interested in the delay, but gentlemen from New York had stated that they could, by means of the proposed delay, obtain certain facts which would throw light upon the subject. He did not know that this would be the case; but he thought they ought to be indulged,

as very frequently delays were granted in business of much less importance. This very day, he said, a postponement had taken place in a decision upon a report respecting some land in the back country, on a plea of gaining information; and surely, when this liberty was allowed in matters of comparatively small moment, it ought to be allowed on a subject which, perhaps, was the most delicate that ever came before that House. He knew it was the general sentiment of his State that, if the settlement had been a fair one, they should not have been debtors but creditors; the postponement was, however, for too short a time to benefit them, but, as it had been desired by the gentlemen from New York, he wished it to take place.

Mr. MURRAY said, as a postponement for three weeks would not answer any purpose to the gentlemen of North Carolina, he wished it had been moved to extend it to six. He would, for his part, vote for any amendment to a measure which he conceived to be so radically wrong. He could wish the measure delayed to another session. Possibly delay might be of great value, not considering it on the scale of pounds, shillings, and pence, but on the score of public peace and tranquility. What, from the present temper of that House, and from the account given by the gentlemen from New York of the sentiments of that State, could be expected to be gained by the proposed inquiry? Nothing, he feared, but discontent and disunion, compared with which, four millions of dollars sunk into nothing. If a delay for three weeks were to take place, the justice of the claim would not be lessened, and gentlemen who desired it would be satisfied. And besides, he hoped, if a delay of one week only took place, the advocates of this measure, when they came to look coolly into the business, would be so satisfied of the mischiefs which would attend the pursuing of it, that they would be ready to relinquish it altogether.

It was hinted, Mr. M. said, that some of the States would refuse to pay; but if the gentleman's motion succeeded, and the demand was made, if it were refused, it must be enforced, or the dignity of the Government must be sunk. Had the gentleman from Connecticut imagined this? But, said he, suppose the resolution takes effect, and the Governments of the debtor States do not choose to comply, and you do not choose to enforce the demand, the law would sleep on your desk, and the impotence of the Government of the United States would be seen by all the world; and, if you did determine to force the States into a payment, you might, in some measure, throw them out of the Union in their individual capacity. Mr. M. said, he was not one of those who denied the justice of the demand; but he considered the matter more as a great political question, than as to what related to the four millions of dollars.

While he was up, Mr. M. said, he would just add, that he did not believe the State which he represented would be one of those which would refuse to comply with the demand; but, as he never could contemplate the payment of the whole debt by the State, he supposed the State of Maryland would make payment only upon the same conditions with other debtor States.

Mr. MACON said, that one reason for his voting for the postponement was, that the Legislature of New York was now in session, and might be immediately applied to. For his own part, he could wish the business postponed another year; as, never having been mentioned in Congress since the settlement, it had laid so long asleep that few members had thought upon the subject, and the different Legislatures had never taken any order upon the matter. Being from a debtor State, he was placed in rather a delicate situation, and therefore he had not chosen to say much upon the business; and believing, from the temper of the House, that a motion for a postponement of the subject till the next year would not have been carried, he had forborne making it; but these gentlemen in three weeks may be able to learn the will of their Legislature upon the subject.

Mr. THATCHER said, that when the motion was first brought forward, he was inclined to wish it might not be acted upon this session, but from a different motive than that which actuated other gentlemen. He thought the session short, and that they had business of greater weight which demanded their attention; but he thought the reasons which had been offered for a postponement were such as would convince every man that the resolution ought to be passed without the delay of a day or an hour. What was the reason, he asked, why some gentlemen wished for a postponement for three, others for six weeks, and others for a year? On the idea that there was a tacit understanding between the United States and individual States, that these balances would never be called for—what had been the consequence? The State of New York, finding the United States had slept over the subject, believed that they should not be called upon, and now, when the call was about to be made, it was said they were unprepared. But if the call was not persisted in, it would give countenance to the idea of its being abandoned, and because it appeared that one of the Commissioners had said it would never be called for, he therefore thought it now necessary to counteract that idea, and let it go no further.

This notification, Mr. T. said, was no more than a bare notification to the individual States that they had certain demands upon them. When this was done, if they had any objections to make to them, then was the proper time to choose agents to come forward and declare these objections; for, said he, if the different Representatives were to inform their States what was doing, the information would be irregular; therefore, the same reasons offered by the gentlemen for a postponement convinced him of the propriety of passing the resolution. Why, he said, were suggestions made that these States were unwilling to pay their debts? He thought it extremely wrong to form such a conjecture. The gentlemen who represent that State had said, they had no right to say that the State did not mean to pay the money; that they are the Representatives from New York to the United States, and of course they

cannot speak the language of that State on this particular.

The gentleman from Maryland [Mr. Murray] had offered a reason for not passing this resolution, which would have some weight in it if it was well-founded. These debts were not to be called for, he said, because it would cause confusion, and throw the debtor States out of the Union. If he thought so, he would not vote for a postponement of the subject, but that the Secretary of the Treasury be directed to blot it entirely out of the books. But he had no such idea. They did not know at present that the State of New York, or any other State, was disinclined to pay, as the Representatives had acknowledged they had no authority to make a declaration on the subject. As far as he understood the subject, the settlement was fair, just, and honorable; and every motive which would induce an individual to pay his debts, ought to operate on the debtor States to pay theirs.

Mr. Gilbert would just make one observation on what had fallen from the gentleman from Massachusetts. He, as well as several others, had taken it for granted that this balance was a conclusive settlement, and from thence there was no appeal. If so, it was fit time it should be known. As to the idea of the gentleman that the Representatives from New York ought not particularly to espouse that State, Mr. G. had no such idea. It was true he was a Representative of the Union, and as such he thought he had a right to give his ideas as fully as he pleased on that subject; he believed if no appeal was allowed the citizens of New York would be very much dissatisfied. The motion made by his colleague was only for a short postponement; but gentlemen said there was no ground for it at all; their ideas are, that the settlement was so conclusive as not to be suspected of injustice; but he thought this ought to be decided before a positive demand was made. He thought it was now the time to have that inquiry made; and he was sure, if upon a fair investigation there was good ground for the demand, that State would not refuse payment.

Mr. Williams did not mean to postpone the question over the session, but merely for three weeks; but if gentlemen who represented debtor States at a distant part of the Union would wish it, he hoped they would observe it; he should not object. He again mentioned the prevailing opinion, that the debtor States would not be called upon. He was sorry to hear gentlemen term this settlement a fair one. If it was what they described it to be, he would ask, why were they afraid of having it brought into a second examination? If they thought it what they called it, they would not refuse a discussion. The gentleman from Massachusetts [Mr. Thatcher] had said that not a day nor an hour ought to be spared in passing this resolution. He was sure that New York would not, on comparison with the State from which that gentleman came, lose any thing, either as to her expenditures or actual losses. He would ask for two weeks, if the other request could not be granted. He only desired three weeks.

Mr. Claiborne was at a loss to know what end could be answered by delay. Gentlemen had better at once propose a resolution that the settlement was an unjust one, and that therefore another should take place; but no one would attempt to prove that idea—no one had ventured to prove that assertion. It was in vain, he said, to dispute a point without its errors could be pointed out. The resolution required no coercive measures; it only asked the debtor States to come forward and fairly settle what the Commissioners justly reported to be due. The many observations made upon the subject in opposition to the question could only tend to put off the discussion. However, he believed the settlement to be binding; and to adopt the resolution would be the only way to bring the matter to a decision, and it could not fairly be objected to. He hoped, therefore, there would be no delay.

Mr. Potter was averse to the postponement, because no sufficient reason had been given for it. It had been said, that when the Commissioners' report was received, the creditor States had had their credits funded, yet it had been tacitly understood the debtor States were never to be called upon for their balances. This, he said, was not a sufficient reason for the delay. It had been said that it was improper at this time to call upon these States for their balances. Was there any better time, he asked, for calling for a debt than when the debtor was able to pay, or than when the creditor wanted the money? He thought not. If there existed any objections to the payment of these debts, this was the best mode of bringing them forward.

It was said by the gentleman from Maryland [Mr. Murray] that this was a bad time to make the application, and that it might throw the United States into great confusion. If this were likely to be the case, it was best to know it soon. He had no idea of relinquishing the claim; and if they were not to be upon friendly terms with the State of New York, or any other State, but by the same means which gained them the friendship of the Dey and Regency of Algiers, he should not wish for it.

Mr. P. said he did not see upon what terms gentlemen objected to this resolution. It was a reflection upon the people of New York to do so. He himself had no doubt but they would pay the money when the demand was regularly made upon them, as it was their share of the price of the Revolution and of their freedom; and that gentlemen should suppose that making these demands was calculated to create confusion in the United States was extraordinary. By the report of the Secretary of the Treasury, they had a calculation on the subject of direct taxation. How were these taxes, he asked, to be collected? Were they not to be demanded from States which were taxing their own inhabitants? And would not those people, if the State of New York and others were excused from the payment of their debts, have good reason to complain at thus being called

upon to make good other deficiencies? And would not they also be as likely to show a spirit of resistance when such demands were made upon them, as the State of New York when she was called upon to discharge her just debts? He believed the one case was fully as probable as the other.

Had the resolution on the table alone been attended to, the present business would have been simple, as it was a mere request for payment, and must have been answered with the money, or reasons why it was not paid? But the subject had been greatly wandered from. As gentlemen were, however, extremely anxious for a delay of three weeks, he had no great objection to its being granted, though no sufficient reason had been given for it. Mr. P. concluded by saying, he doubted not the honor of New York would force them to pay the money.

Mr. Gilbert rose, when the Speaker informed the House that the gentleman had already spoken twice, and that, according to the rules, without leave, he could not be permitted to speak a third time. Leave was granted; when Mr. Gilbert again objected to the justice of the claim against New York, and re-urged the propriety of a postponement.

Mr. Thatcher said, if he had the most distant suspicion that the application in question had any tendency to produce disunion amongst the States, he should be as strongly opposed to it as any man, because he considered the union of the States as the rock of their salvation.

The gentlemen from New York, who were the principal advocates for the postponement, did not agree sufficiently amongst themselves to warrant the measure. One or more of them said they were not authorized to act in the business, others said they were. If authorized, they could not want a postponement for instructions; and if not authorized, the resolution ought to pass, that their State might authorize somebody. Another gentleman had said a postponement was wanted because the settlement was not just. He believed it was just, for three reasons, viz: first, because though the settlement had been made three years, no objection had been made to it; because the settlement had been partly executed, so far as to pay the interest to the creditor States; and because the law making provision for the settlement and final adoption of it, made no provision for an appeal from that settlement.

For these three reasons, which Mr. T. said he had merely mentioned, but which would not suffer from being dilated upon, he should be opposed to every idea of breaking up the settlement which had been made.

The gentleman before him [Mr. Williams] said the House would not give them time to make the necessary inquiries. Mr. T. asked, what inquiries were necessary? The gentleman seemed to misunderstand the resolution. It was merely to give notice to the State to pay the debt, and did not preclude any reason which they might have to give why it should not be paid. He hoped, therefore, no postponement would take place, but that the resolution would be agreed to.

Mr. Murray said, the gentleman from Massachusetts [Mr. Thatcher] had misunderstood him, if he thought he had asserted that certain States would be thrown out of the Union if the resolution was entered into. He thought he had accompanied what he had said with such expressions as that he could not have been mistaken. His meaning was, that if the State of Delaware, for instance, was obliged to pay the debt due from her, added to her present burdens, it would have the effect to bear her down so much as to deprive her of her political consequence in the Union. Other States who were debtor States might be mentioned, with whom these debts, in addition to the direct taxes, would have been burdensome. He did not mean that the Union would be dissolved by it.

Mr. Craik rose to make a motion, if in order, that he thought would meet the ideas of many gentlemen, and many of the objections urged by others; and, for reasons which operated in his own mind, he hoped would prevail, which was, to postpone the further consideration of this subject till the next Congress. It appeared to him that the reasons given by the gentleman from New York for a postponement of the business only three weeks, would not operate on him to vote for it; the object did not at all extend to his ideas, that urged for a reason that the settlement was not equitable. Mr. C. said, he did not mean to object upon that ground. He wished there may be time allowed for cool deliberation. The States would have it in their power to re-examine the settlement which had been made. He would wish the door at once to be shut to the business at the present session. He was surprised to hear gentlemen deny that the carrying of this measure into effect was not likely to produce warmth in the country. He thought the conduct of gentlemen in that House proved the contrary; for he thought they could not expect that the people whom they represented would be more cool on the subject than they were. The consideration of this warmth, he said, operated in his mind against taking up the business at all.

Did not that House pledge itself, when it once took up a subject, that it would go as far as it could in it? Gentlemen said that they did not mean to take any coercive measures, but only to make the demand. If the House determine they will call on the debtor States, they call it a just debt by that determination, and must go through to enforce the payment; but if after that declaration they do not enforce it, it will only expose their weakness, and without answering the least purpose. When he considered himself in the capacity of a Representative of the United States this was his opinion; and when he again considered himself more particularly a Representative for Maryland, one of the debtor States, he could see no reason to alter his opinion. He was bound to oppose the resolution.

Mr. C. thought the State of Delaware, though it had scarcely been mentioned, would be more particularly affected by a payment of the be-

lances in question than any other. The State of New York, he said, was fully able to pay; but the same could not be said of Delaware. Indeed, when he saw New York unwilling and Delaware unable to pay these balances, as a Representative of Maryland, who was a small debtor, he could not consent to the payment of that debt, when there seemed to be no probability of enforcing payment from other States.

He hoped, therefore, the House would agree that this was not the proper time to make the application in question, and vote for a postponement till next session.

Mr. Isaac Smith said, if he understood the measure, it was to inform the States that there was such a sum of money stood charged against them. There was no threat in the resolution; and if they had any objections to make to the demand, they would then make them. He had no objection to the notice being expressed in as mild terms as possible. The opposition to the resolution was as warm, he said, as if it carried an execution along with it. He thought this warmth might be withheld, at least for the present.

He supposed there would be delay long enough before the money would be paid.

Mr. Livingston said, that this was not merely a notification, but a requisition. A tacit agreement had been urged. Why, then, all this unexampled hurry in pushing it on now? This had an aspect as if the matter was to be hurried on because the Commissioners who had recommended an abolition of the debtor balances were not in the House. The hurry now exhibited was not consistent with the candor always expected from the House. The question was immensely interesting and important. The celerity in pushing this thing through the House might have a bad effect on the debtor States. Gentlemen say that this call cannot produce warmth. At the same time they do themselves betray the utmost warmth.

A member inquired what was the question?

The Speaker said, the question was for a postponement for three weeks. The gentleman from Maryland had moved to postpone till next session, which was not in order. A day certain must be mentioned, and even that would not be in order, except seconded, which was not the case with the gentleman's former motion.

Mr. Craik then moved, and the motion was seconded, to postpone the question until the first Monday in December next.

Mr. Gallatin said, there seemed to be three different grounds upon which a postponement was urged. The first was, on an insinuation that some sort of agreement had taken place, when the sums due to the creditor States were funded, that the balances due from the debtor States were to be relinquished. So far from this taking place, Mr. G. said, a motion to this effect had been made and negatived at that time, by the yeas and nays being taken upon it, 53 to 28. He was hurt, therefore, to hear of this insinuation. The next ground for a postponement was founded on a suspicion that the settlement made by the Commissioners was not just. He said he was not going to express any opinion whether the settlement was a just one or not; whether the rules adopted by the Commissioners were good or not; whether the mode of stating the accounts had been the best. It was desirable that a private settlement should take place, and though it fell hard on some, it was not the less desirable; but supposing, however, that any of the debtor States, or any State, had a right to object to the settlement, to the jurisdiction of the Commissioners, and of Congress, and were not to be bound except by the Judges of the Supreme Court, the proper time to have made the objections was when the bill for funding the balances to the creditor States passed, for that was the time for carrying the settlement into execution.

Why, therefore, Mr. G. said, there should be a postponement of three weeks to enable the New York members to send to their State he did not know. They had had time enough, and he thought the business would have been better done three years ago than now.

The arguments adduced by the gentleman from Maryland [Mr. Murray] seemed to have weight; that to carry the measure into effect might create confusion; and that we had not power over the States to enforce payment. As to the danger of confusion, there was as much on the one side as the other; because those States which were to receive benefit from the payment by the debtor States would have as much cause to complain if those debts were not paid as those debtors being obliged to pay what they owe could have.

The only ground, then, was the want of power to coerce the States; and this, he owned, appeared to be strong. Yet, this ground was rather against the resolution itself. It was better, he said, to quit the whole business at once, than to postpone—than to leave the subject to irritate the minds of the people to no purpose. If it were postponed till next session, the people would be operated upon by a fear of having the money to pay; and the States who owed it would also remain dissatisfied.

Mr. G. thought, therefore, it would be best to put the question, and to see whether they had the power in doubt, or not. Rather than adopt any resolution to postpone, he would cancel the subject altogether.

He would say a word as to coercion. He did not see any power they had over the States, except by attaching any of their property. He saw no other way in which they could lay hands on a State: nor was this owing to the weakness of Government, as had been insinuated. This settlement of accounts was a remnant of the old Government, and had nothing to do with the present; for now, their power was to be exercised over individuals, and not over States.

As to the resolution itself, if they went into a Committee of the Whole, he might perhaps make some observations upon it. He had been at a loss to know why this subject had not been entered into before, and why it should be brought forward now. With respect to the notification, he believed the States had already been notified. As it would not be in order, however, to go into the subject

generally, he had confined himself to the question for postponement.

Mr. Craik's motion was then put for postponing till the first Monday in December next, and lost—yeas 27.

Mr. Williams's motion was put for postponing three weeks, and lost—yeas 29, nays 51.

Mr. Cooper then moved the question for a delay of one week, which was lost by the same number.

The question was then put for the House going into a Committee on the subject, and carried—yeas 50.

And the House went into Committee of the Whole.

Mr. Van Allen said he wished to simplify the subject as much as possible. He believed it was very important to convince the State of New York that the settlement had been made upon fair and honorable principles; because, if they were convinced of this, they would have no objection to pay the debt; but, knowing the general sentiments which prevailed in that State of the unfairness of the transaction, he was desirous that some step should be taken which would serve to adjust the business. He thought he held in his hand an amendment which was calculated to have that effect. It was as follows: To insert after the word "indeed," "and that the proceedings of the said Commissioners shall be open for the inspection of such agent or agents as the said debtor States, or either of them, shall appoint to inspect the same."

Mr. Harper believed that the gentleman who brought forward this amendment would have been the last to have done so, if he had seen all the mischiefs which would be consequent upon carrying it into effect. It would be to undo all that had been done with the greatest labor, and with the greatest difficulty, for three years; and what, he asked, would be the consequence? Were they to resettle the subject, and consume two or three more years in the affair, there would be no security that New York, or some other State, would not be dissatisfied; so that there would be no end of such a business. He was of the number of those who wished to have passed by this settlement, at present, altogether; but the majority had said, We will have a decision. Let them make one. If he was called upon to vote upon the resolution, he believed he should vote against it; but at all events he should deprecate, more than any other possible course, the ripping up of this long dispute.

Mr. Williams hoped there would be no objection to the amendment of his colleague. If he understood it, it meant this: that they wish to know upon what principle the Commissioners settled those accounts, and whether the statements were accurate. It was conceived, he said, that some States had brought a number of articles into the charge which others had not, and that thereby they became creditor States, whereas they would otherwise have been debtor States. Some States, it was suspected, had been allowed four times as much for the same articles as other States, and only because they charged it. If this is the case, it must be certainly cause of discontent to those States denominated debtor States; if not, where will be the injury of exposing the accounts to give satisfaction to those States? It may be, Mr. W. said, that New York would be disappointed in her judgment on this; if so, he believed there would be no difficulty to the payment. Was it not right, then, he asked, that they should have all the information possible on this subject—that the principle should be known—not that they wished to overturn anything that had been done; the motion extended only to a necessary inquiry, for what they were to pay the money? The settlement was altogether in the dark. The Commissioners had full power. No person was allowed to come before the Board with or for information, and no specific account rendered of the debt, but merely the sum-total. Perhaps that was the first time that ever accounts were so settled. Surely, then, New York could not be blamed for doubting the fairness of that settlement, especially when they knew somewhat of the proportion they furnished to many other States that were returned creditor States. There must have been wrong charges and calculations made. He hoped, therefore, if they were to be called upon for payment of the demand, they would be allowed to see upon what principle the settlement took place.

Mr. W. Smith observed, with respect to the gentleman from New York opposing the motion, that the members of that State had generally allowed (and nothing could prove the contrary) that they were not instructed by their Legislature to oppose this settlement. The House, he observed, did not know that New York opposed it; they did not know that they would scruple to pay the money. He thought it had been sufficiently discussed, and, until the House were possessed of information on the unwillingness of that State to settle these accounts, it was in vain for so much debate to take place, when time was so much wanted.

Mr. Van Allen said, the settlement was either made up on just and equitable principles or not. If upon principles that were fair, the people of New York would be satisfied with them, and pay the demand; if not, they surely would object. But, he said, would not that obscure way of doing business tend to make them think that there was something which the Government would wish not to be shown to day-light? The effects of the resolution would be this: that New York would be satisfied that the debt was owing, and therefore proceed to take means to pay it, or would be able to satisfy the General Government that it was not owing—either of which would have far superior advantages to the mode hitherto adopted. This was his reason for making the motion, and it was but just that it should pass.

The question was then put on the amendment, and lost, as only twenty members rose in the affirmative.

Mr. Macon said the original question was now before the Committee, on which he should make a few observations. It had been observed that the present was the proper time to call for the debts, but he thought it, of all times, the worst. It was well known what a scarcity of money there was

now. How came these States in debt to the United States? Who made them debtors? He, answered, The United States. The United States, he said, had assumed the State debts—some of which were not half, others not a quarter, of the sum assumed. Thus, many States which were now debtors would have been creditors. If North Carolina had supposed she would not have become a creditor State, he did not believe she would have been willing to have given up the Western Territory.

Mr. LOCKE said he believed his observations would answer no purpose, but, as he could not comply with the settlement, he must give his reasons, which were, the unfairness and privacy of the settlement. North Carolina had every reason to believe she was a large creditor State, particularly as she struck off a million of dollars, at her own expense and credit, for the general cause. She exerted herself as much, or perhaps more, than any other State, and three times more than some of her neighbors who were creditors. However, he would waive any further observations at present, but should vote against the resolution.

Mr. GILBERT thought the subject ought to have more consideration, and therefore moved the Committee may rise, and have leave to sit again.

Mr. COOPER supposed the House would next send and form a Treaty with New York, as he supposed they were as bad as the Algerines. He meant to make a motion to that effect to-morrow.

The Committee then rose, and obtained leave to sit again.

TREATY WITH ALGIERS.

Mr. PARKER, from the Committee appointed to wait on the PRESIDENT with the resolution of the House requesting information on the situation of affairs between the United States and the Algerines, reported that the PRESIDENT informed them that, before he had heard of the resolution, he had directed the necessary papers to be made out, and, as soon as they were ready, they should be laid before the House.

INTERNAL REVENUE.

Mr. HARPER said, that a Report had been made by the Secretary of the Treasury, during the last session, of a statement of the internal revenue of the United States, with an account of the expense of collection, &c. He said it was a mere temporary order; but, as it was desirable information, he thought it would be well for the House to be furnished with a similar statement every session; he proposed a resolution, to this effect:

"*Resolved*, That the Secretary of the Treasury be directed to lay before the next, and every succeeding session of Congress, within ten days after their meeting, a statement of the internal revenue and the expense of the collection, and produce thereof."

The resolution was agreed to.

ADDITIONAL REVENUE.

Mr. W. SMITH, from the Committee of Ways and Means, to whom it was referred to consider the subject of further revenues, and the provisions for more effectually securing the internal revenues, reported thereon; which was ordered to be committed to a Committee of the Whole House.

Mr. SMITH wished to make it the order of the day for Monday next.

Mr. CRAIK wished a delay for a fortnight. The subject was new to him, and he wished to consult his constituents.

Mr. GALLATIN said that the Committee of Ways and Means had thought it needless to enter into details on this subject, till they saw whether the House would agree to the general principle of the resolution. The subject had been known since last session: the sooner it was entered into, so much the better. Either these or some other funds must be found out.

Mr. MURRAY wished his colleague [Mr. CRAIK] to withdraw his motion. This was done. The report was made the order of the day for Monday next, and ordered to be printed.

RELIEF OF IMPORTERS OF GOODS.

Mr. BLOUNT moved that the Committee of Commerce and Manufactures be instructed to inquire whether any, and if any what, alterations are necessary in the existing laws respecting the entry of goods, for the relief of importers of goods into the ports of North Carolina, lying upon the waters of Pamlico Sound, and the better securing the duties payable thereon. Mr. B. urged, as his reason for introducing this motion, the great disadvantages attending the entries in those parts, in proof of which he read a letter from a respectable correspondent, making complaints on that score. It was accordingly committed.

LICENSES TO PILOTS.

On motion,

Resolved, That a law ought to be passed, authorizing the Boards of Commissioners of Pilotage, in Virginia and Maryland, to grant licenses to persons qualified to pilot vessels to any of the bays or rivers of the Chesapeake.

Whereupon, it was ordered that a bill be prepared and brought in by the Committee of Commerce and Manufactures.

WEDNESDAY, January 4.

DANIEL BUCK, from Vermont, appeared and took his seat.

REMISSION OF PENALTIES.

Mr. SWANWICK presented two petitions, one from William Patten, the other from David Miller, formerly grocers in this city, praying for a remission of penalties incurred in having sold wine and spirits by retail, without license. The former stated that he had declined business in August last, and had only reserved the remainder of a hogshead of spirits for the use of workmen employed in a building, and that if any part of it had been sold, it was without his knowledge. The latter stated, that he had only reserved a cask of damaged wine for the purpose of making vinegar, and that none of it had been sold, except on

great solicitation, one quart by his wife to a strange man. Mr. S. moved that these petitions be referred to the Committee of Commerce and Manufactures.

Objections were made to a reference of them at all, as an improper subject for Legislative interference. If the petitioners, it was said, had offended against the law, they ought to pay the penalty; and if that House were to employ themselves in such petitions, they might sit the whole year round about subjects worse than nothing.

Mr. SWANWICK observed, on the other hand, that he understood the cases of these petitioners were hard ones, having had some conversation with the District Attorney on the subject, and that, at least, the petitioners ought to have a reference, since, if the Committee of Commerce and Manufactures (or a select committee, if such a reference should be thought more proper) saw no reason to make an exception against the law in favor of these petitioners; and he believed it would not be said they were very apt to do so; their report would be very summary, and consume but little of the time of the House.

A reference was denied, by a great majority.

UNITED STATES TITLES TO LANDS.

Mr. LIVINGSTON said, as they had lately shown much anxiety about the ideal property of the United States, he thought it was necessary to show some respect to its real property; for this purpose he moved a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire into the title of the United States to lands lying west of Pennsylvania, between the forty-first and forty-second degrees of north latitude, lately claimed and sold by the State of Connecticut."

Ordered to lie upon the table.

BALANCES DUE BY STATES.

A motion was made for the House going in a Committee on the balances due from certain States to the United States; when

Mr. NICHOLAS rose and said, though the proposition he had made the other day was at that time thought improper, he was more and more convinced of its propriety. He thought the course proposed to be taken by the report which had been made was not the best; he thought they were courting opposition, and giving the State of New York an opportunity of imbodying its opposition, so as to make it dangerous to attempt, if it should hereafter be thought necessary, to enforce the payment of the balance in question. He believed the United States had it in their power at present to do themselves justice; but were the United States to lay their hands on the funds of the State of New York as a security for their debt, there would be nothing left to operate upon the minds of the people of that State but the justice of the measure, as they would no longer foster any idea of evading the debt. He could see no objection to this proceeding.

If there was danger of a serious conflict with that State, in order to recover this debt, he, for one, would choose to relinquish it altogether; but if they were to pay themselves by laying hold of their stock, he believed that State would acquiesce in the measure, and there would no more be heard of it, which might not be the case if they made a demand, and were to wait for objections or a refusal of payment. From the zeal which had been shown by the gentlemen from New York on this occasion, he asked if it would be extraordinary if that State should put it out of their power to do themselves justice; and whether, when the opposition to the demand should be drawn into a focus, it would not be increased in its force? He thought there could be no doubt it.

There was one objection to a proceeding of this kind that might have some weight. It might be said, for instance, that the State from whence he came, or others, might refuse to pay, after they had distrained upon the funds of New York for their debt. It might be so. He believed that one of the debtor States could never pay. This was no reason why they should not receive the debt from New York. They might nevertheless allow so much from the amount as should be equal to the deficiency in the payments of the other States. He thought to adopt this plan would be to avoid any disagreeable conflict which might otherwise take place, and be a means of preserving harmony between that State and the United States; he therefore proposed a resolution to the following effect, which he wished to be committed to the same Committee of the Whole to which was referred the report of the Committee of Ways and Means on the subject:

"*Resolved*, That the balances due from certain States in the settlement of accounts between individual States and the United States, shall be discharged out of the funds which such States may hold in the Public Debt of the United States, and that the Secretary of the Treasury have directions accordingly."

Mr. GILBERT said this conduct was unexampled even between nations at war. It was at once making power right. It was true, no such remedy could be taken with the State which the mover represented, as it did not possess any part of the stock of the United States. How far this conduct was right, would need, he thought, to be reflected upon a little. Even European nations had abandoned the practice of violating public faith. The gentleman had given it as a reason for his conduct, that the State of New York might withdraw their money from the funds, and thereby prevent them from paying themselves. He believed they might do that in three days' time, and therefore the gentleman's project could not be carried into effect. But he trusted the United States would never show themselves so lost to every principle of honor as to attempt such a measure.

Mr. HARTLEY hoped this measure would not be referred. He thought the measure a very improper one. It differed exceedingly from the resolution reported by the Committee; that contemplated a friendly request to the debtor States to make payment; but the resolution now offered

went to coercion immediately. By our Treaty with Great Britain, the public securities were guarantied, and not to be attached or seized upon any pretence whatever. Shall we, then, said Mr. H., treat a sister State worse than a strange nation? He hoped so ungenerous a policy would not prevail. He had no doubt but the State of New York would be inclined to do what was just and right; and if they objected to pay, they would doubtless give their reasons for it. As to the State of Delaware, Mr. Hartley was of opinion that she was unable to pay the balance found against her. He presumed she would state her inability, and that relief would be granted her. Though that State perhaps did not advance much money during the war, yet she furnished more than in proportion to the number of citizens; he was therefore decidedly against the resolution.

Mr. Livingston had no objection to the reference, because he was curious to hear arguments in support of this new mode of keeping up harmony between the States and the United States. It would doubtless require great ingenuity, and introduce a new kind of morality and of logic, to prove that to seize upon the property of a State was to cultivate harmony with it; for, in his opinion, the proposition was contrary to all principle and fair conduct.

Mr. Corr was at a loss to know the intention of the mover of the present resolution, whether it was to forward or defeat the object in view. If he intended to serve the cause, he would make use of the same homely adage in respect to him that he had done with respect to another gentleman, that "he leaped before he came to the stile." The original resolution, he said, was merely to call upon the States for payment; but to talk about seizing their property, was to suppose they would not pay. The gentlemen of New York, it was true, had said much against the justice of the debt; but they were not authorized to act in the matter. Had they asked for money? No. Was it proper, therefore, in this stage of the subject to take such a step as was then proposed? It was even a very serious question to determine whether, in any case, they should be authorized to seize their funds.

Mr. W. Smith hoped that the House had more confidence in the honor of that State than to take it for granted they would refuse to pay their just debts; he hoped they would not. Such a step at any time would require much serious consideration before it was adopted. Besides, he said, it was singling out the State of New York, as though there were no other States in that situation; but even in any situation, he should doubt as to the justice of adopting this measure; it was, as the gentleman last up observed, quite prejudging a refusal before it was asked of them. And even were they to refuse payment, he was as doubtful of the propriety of laying hands on their property. He hoped the House would never embark in a measure so unjust as that proposed. The resolution first read was in itself moderate, and gave equal liberty to all the debtor States, whereas this was very severe and levelled only at that State.

Mr. Gallatin said the arguments of the gentleman from South Carolina were rather against the resolution itself, than against the propriety of committing it. One of the gentleman's arguments was not founded in fact: he had said that the measure would affect New York only. But of the six debtor States, four of them had property in the funds of the United States; two of them had more than they owed. Pennsylvania had six times as much in the funds as she was reported to owe; therefore the measure could not be singular towards New York.

But, Mr. G. said, he considered that when a resolution was laid upon the table, the only argument against committing it must be, that it was evidently glaringly imprudent and improper. As to this resolution being proper or improper, prudent or imprudent, he could not say, because not under consideration; but he thought there was nothing so glaringly improper in it, as to prevent discussion.

He said he had only heard one thing which was an objection to the motion being committed, which was from the gentleman from New York. He said the measure was disgraceful, and such as would not be adopted by one hostile nation towards another. That gentleman, Mr. G. said, should recollect one thing: supposing that it would be disgraceful to seize the property of individuals in the public funds, on account of any misconduct of that nation, yet there was nothing disgraceful in the measure now proposed. That gentleman had said that no nation at war would seize the property of their enemy. Did he not know that England had seized all French property which they could lay their hands upon? Here was a State, he said, which owed them a sum of money, and the measure proposed was, to take their property in the funds to pay it. He thought there was no difficulty in the case, if they supposed the transaction to happen between individuals. If a person had laid money in his hands, and at the same time owed him money, he should at least discuss the matter in his mind, whether he would let him have the money before he paid him what he owed. All that was asked, he said, was that the matter should be discussed; if it was found improper, it would, of course, be rejected.

Mr. Coit thought there was some difference betwixt the resolution before them being referred to a Committee of the Whole and the committee upon the subject of the balances.

Mr. S. Smith said, before the question was put, he wished to say a few words on the subject. Gentlemen might say they would lay hands on the property of the State of New York. The gentlemen from thence had said, that State would not pay the debt. But Maryland, he said, would pay; and she depended on the interest of her stock in the funds of the United States to pay her civil list. If they chose to seize the funds of New York, why should they seize those of Maryland? Maryland, he said, was every year purchasing fresh stock. At this time, he believed, Maryland had money to lay out in these stocks. A resolution of this kind, he said, would make it possible for

the United States to seize the property of individual States without right. He thought payment should first be asked. Until this was done, they should not take a step of this kind, which would have a tendency to destroy the public faith. He hoped, therefore, that the resolution would not be committed, as he would not have it supposed possible that the United States would, at any time, seize property which had been lodged for security in their funds.

Mr. Nicholas said, if it was possible his motion would produce the effect the gentleman last up supposed, he would withdraw it; he thought it might be so modified as that such an effect could not even be supposed. He thought its tendency would not extend further than he meant in making the motion, viz: to prevent a transfer of their money in the United States stocks for a certain time; it would be putting into the power of the nation an eventual security.

He said, he had not been shaken by the raillery of the gentleman from New York, nor had he heard any objection which had any weight on him. He should not, as had been insinuated by that gentleman, pretend to use any new logic or fine words. He thought the motion would act as a preventive to keep the passions of the people from being raised, when they find this House exercises their power; now, he said, was the very time they had the power, it were foolish for men to use force when it can have no effect. If the motion had all the force which the gentleman from Maryland conceived, he would be willing to withdraw his motion; however, when the House went in Committee on it, he should hear the ideas of gentlemen more fully. He intended it merely as a security, which, he thought, from the declarations of gentlemen of that State, to be necessary.

The question was put, on Mr. Nicholas's amendment, and negatived—ayes 35, noes 42.

The House then went into a Committee of the Whole on the original report.

Mr. Read hoped the resolution would be agreed to. He said he had attended to all the objections which had been made to the measure, and they did not appear to him to have any real weight. They were principally these: It was said by some the debt was not justly due; that the rule of apportionment was not what it ought to have been; and that it was not in the power of the United States to enforce payment of the debts. The resolution was also objected to on the ground of policy.

With respect to the justice of the settlement, he did not believe that the debtor States would pretend that the debts were not justly due, and, therefore, the arguments on this head were of no weight, as they ought not to anticipate such a conduct. With respect to the power to coerce, it was frivolous in the extreme to talk of this. It was supposing the debtor States to object to the demand, whereas they presumed no such thing. He believed the debtor States would pay. With respect to the policy of the measure, it was his opinion that there was no better policy in either States or individuals than to pay their debts. If our Government, he said, was founded upon erroneous principles, vicious measures might be necessary; but so long as it was founded on equal rights and privileges, there could be no sounder policy than to make justice and equity our guide.

It had been supposed that the State of New York would not pay her debts; that she would prove herself less friendly to the Union, less Federal, than others. He did not believe this; he believed that State perfectly Federal. Would not the same arguments fall upon the creditor States? Were they to omit calling upon the debtor States, would not the creditor States be disappointed by these debts not being paid? Would it not have a tendency to make them less friendly, less Federal, were they to be called upon for money which the debtor States ought to have paid?

Mr. R. said, it was clear, upon the principles of policy and justice, the application ought to be made at this time. The longer persons neglected to pay any just debt, the more unwilling they were to pay; and the difficulty of recovering it increased in proportion to the delay.

In respect to the State of Massachusetts, which he had the honor to represent, it was one of the creditor States. It was at present burdened with very large debts, contracted in support of the war. Many persons expected, and perhaps the State in general, that their account would be allowed. The amount was $1,200,000. They supposed this sum would be paid by the debtor States, and if it were not paid, it would make a direct tax very unpopular with them.

There had been an objection urged by the gentleman from New York [Mr. Williams] which he thought had not been noticed. He said there had been large emigrations from other States into that State since the settlement of the accounts, which had so increased their population as to greatly increase their debt, that being estimated on the scale of population. If it was true that such an emigration had taken place, and he expected it was, it enriched the State of New York, and enabled her to pay the debt. The people knew when they went into that State that they would have to bear a part of the debt. They had left creditor States, and by these emigrations of young and enterprising men, those States were impaired, the aged and infirm being left behind.

Mr. R. concluded by saying, that it was proper requisition should be made for the payment, and he doubted not it would be complied with.

Mr. Freeman thought the resolution a proper one. It was agreed, he said, on all hands, that revenue was much wanted, to meet the present exigencies of the country; the people in the creditor States were extremely dissatisfied at the delay of payment in the debtor States. He should be unwilling to vote for taxes to supply national wants, while this settlement was left unpaid; upon this ground he should vote for the resolution, and he hoped it would now pass. The gentleman from New York had objected to it, on the ground of the inhabitants being changed in that State since the time the debt was incurred. Mr. F.

said, if people thought worth while to emigrate from other States to that, and reside there, the accumulation of their profits and wealth would render them regardless of the pretended burden which the State debts would put on them; and, on the ground of apportionment, he thought no rule could be more equal and just than that which was made at the time of the settlement.

Mr. Williams rose and recapitulated his observations before made on the subject of apportionment, insisting that the great emigration to that State, which he stated at two-thirds of the present number since the year 1789, would render it very unjust in them to lay a tax to pay this debt, whereas it should now have been a creditor State, if that emigration had not taken place. He asked whether it would be honest or just to call on persons who came from creditor States, where they would have received advantage, now to be taxed to pay the debts incurred before they left their own State? If this mode was to be adopted, he contended it would be but poor encouragement for emigration, and it would be impossible for such a State to discriminate.

Mr. Gilbert wished, before the question was put, to observe on what fell from some gentlemen on the want of revenue. He well knew the United States did want revenue; but he would ask gentlemen, whether that is a reason why New York should pay an unjust debt? He said it was proper, before the debt was paid, that the State should be satisfied the claim was just. He was sensible and sorry that nothing which could now be urged would have a tendency to prevent the resolution passing; but he thought gentlemen should consider the subject well before they voted for it. These debts, he said, were incurred by the United States, and not by the individual States, and, under the Old Confederation, it was supposed that ample provision would be made for the discharge of them; he knew of no right there was to saddle these debts on any individual State. Mr. G. again enlarged upon the mode of settlement, and the declaration of the Commissioner [said to be General Irwin, late a member of Congress from Pennsylvania,] that the balances would never be called for. He did not think one man in the House could conscientiously say the demand was just. He then adverted to the services of New York during the war; he said, he did not like to draw comparisons, but he must declare, while no State did more than New York, after all it was brought in arrears. His constituents thought it an unjust demand, and could it be supposed they would like to pay it? New York, he said, in imposts and tonnage, furnishes four-fifteenths of that branch of the revenue collected by the United States. As to the policy of the measure, he should leave gentlemen to judge of it. There was no basis on which the demand could be constitutionally founded.

Mr. Sitgreaves said, from the nature of the objections which had been made, he should have been as well satisfied if the present subject had not at all been stirred; but having been moved, it ought not to be abandoned. And this flowed from the nature of the objections offered; because, if they had a right, they had the moral or physical power of enforcing that right. There could be no doubt, if the money was due, it ought to be paid, and every consideration of expediency pointed out this as the proper time. He knew he had heard the gentlemen from New York, over and over, and over again, deny that the debt was due; but, supposing this to be the case, why not make the application? If, when that application was made, any State did not choose to pay the money, they would, of course, state their objections. But he was well satisfied they ought not to stop at making the demand. They had been told, though not in direct terms, in such as were well understood, that we might demand, if we pleased, but, under the present impressions of New York, they would not pay the debt said to be due from them. They had been told by other gentlemen that they had not the means to coerce the payment. If this were the case, it was proper they should lay hands upon the only thing in their power, which was their share of the Public Debt of the Union.

By this, Mr. S. said, it would be seen, that he meant to revive the question of the gentleman from Virginia, [Mr. Nicholas.] He was very indifferent about the fate of the former motion, because he knew there was no rule of order that could prevent an amendment being introduced in the Committee of the Whole for discussion. He said, if they could get at this money without violating any principle of right, they ought to lay hands on at least a debt of $1,200,000, for which they were receiving interest; more especially as this was a part of the balance found against them in the settlement of the accounts.

Mr. S. said, he could draw no analogy between the present business and the British Treaty, and wondered any gentleman should think of introducing that subject. It might be perfectly true, he said, that it would be improper for one nation to lay hands on the property of another; but, was there any law to prevent him from laying hold of his antagonist? And if, said he, the property of the State of New York is in my hand, and she owed me money, where was the propriety of paying with my right hand, when there was an uncertainty of receiving with the other? He thought there could be no objection on this ground; but there was an objection on account of the negotiability of Government paper. He owned he had scruples on that subject. The gentleman from Virginia, having doubtless considered the subject, could perhaps remove them. In order, therefore, to bring the motion before the Committee, he moved to add the following amendment:

"*Resolved*, That any transfer of the debt of the United States in the books of the Treasury, held by any of the debtor States, by the settlement of accounts between the several States and the United States, or by any person holding evidences of the said debt, shall be withheld, until the balances of the said States shall be discharged."

Mr. Nicholas said, he did not understand what scruples the gentleman from Pennsylvania could have about the transferable property of these debts.

He was satisfied with respect to New York, and it was impossible any other corporate body or person could be affected by the motion. The transfer, he said, was a sale of the property, therefore, a denial of transfer would completely prevent any person from being involved in this measure, besides the State in question.

Mr. Gilbert asked the gentleman last up, if there was no difficulty of a Constitutional kind in the way of this measure? If he understood the Constitution, they could not pass an *ex post facto* law. Had they not already said this paper should be transferable? If so, had they a right to say it should not be transferable? Was this the regard which the Legislature intended to show to its own faith? He trusted it was not.

Mr. Potter objected to the present motion. He said the State of New York was a debtor, or not. She would either show herself not to be a debtor, or pay. But to pass this resolution, would be to consider them as swindlers. If it was a debt, he was confident they would pay it.

Mr. P. said, he could not account for the manner in which the gentlemen from New York had managed this subject. In one place, they say they have no authority to act, and yet, in the next moment, they proceed to oppose the resolution to call upon their State for the debt, as if they supposed that, unless they opposed the matter, their State would be so simple and honest as to pay, without objection. But, for his part, until he knew whether the State would pay this debt, or not, he should believe they would pay it honorably.

Mr. Williams rose to vindicate the conduct of the New York members in speaking on the subject—he also wished to know why the resolution should be levelled at New York only; he considered it as very unfair dealing. He said, they only contended, if the settlement was fair, the demand would be complied with; until they were convinced of that, it could not be expected. He would ask, respecting the motion under consideration—was it fair for them to lay their hands on all they could, because it was in their power? The gentleman who brought forward this second resolution, perhaps, knew that the State he represented had no money in the United States' fund, else he would not have moved it. He asked again, why they should aim at New York alone, when Delaware and other States were in a like situation?

Mr. Gallatin wished the mover to modify the resolution, so that it should not affect any State to a greater amount than the debt they owed. For instance, the balance against Pennsylvania was about eighty thousand dollars, but she had upwards of four hundred thousand in the funds, and he should wish that the provision should not reach to a higher sum than the eighty thousand. He said, he had, however, no sort of view to Pennsylvania, because he believed she would make no objection to fulfil her engagements.

An amendment to this effect was introduced, when the question was put and negatived—45 to 30.

The original resolution being under consideration—

Mr. Henderson said, he should not have risen, but for an observation of the gentleman from New York, [Mr. Gilbert.] That gentleman had said, "that he did not believe there was a member of that Committee who really believed the balance found against the State of New York to be just." Mr. H. said, if he were of this opinion, he should vote against the resolution; but, believing, as he did, that the balances were just, being settled by men of abilities and integrity, who had no interest to do other than right, and as no objection had ever been made by any of the States against the balances, he should think himself unfaithful to his constituents, if he did not vote for it. He begged, therefore, the gentleman would except him from the number who did not believe the debt just.

Mr. Gilbert allowed the gentleman might be an exception; he again adverted to the services and sufferings of New York during the war, observing, with respect to the settlement, that, while other States brought everything, and circumstance, and more than all in their account, New York brought nothing but what was fair and upright; and that they cast nearly a million of dollars more, for the support of the whole, than all the delinquent States put together.

Mr. Thatcher would tell the gentleman that he believed from his heart, that the debt was just.

Mr. Potter said, one gentleman from New York talked of the great exertions of that State in the war, another came forward and said, he did not believe there was a member in the House who believed in his heart the debt was just. Every State in the Union, he said, might come forward and boast of what they had done; but it would serve little purpose; for his part, he believed New York had done the least, and been benefited more than any two States. He wished, also, to be excepted from the gentleman's account. He thought the debt just.

Mr. Burges.—Mr. Chairman, the State of North Carolina is among those called debtor States—her Representatives feel some of the observations which have been made, forcibly—that North Carolina is unwilling to pay just demands they cannot concede; that she is not willing to pay this demand, they do believe; and yet, I am not prepared to assert this an unjust one. The amendment lately negatived might have given means to have quieted, or have justified her—gentlemen, however, thought it a dangerous one—perhaps it was. That amendment might have precluded them from the means of satisfying her how the exertions, expenses, or sufferings of sister States, so far exceeded hers, as to leave her, justly, so great a debtor; and believing as she does, that she did all she could—are her Representatives to blame for opposing the present resolution on your table? I beg gentlemen to consider the extent of this demand, and the small resources of revenue North Carolina possesses, and ever has possessed—I believe, sir, I am correct in saying, it nearly equals the one-half of the aggregate amount

of her nett revenues from her charter from Charles the Second, until the commencement of the war. This, sir, is no trifling aggravation. Will gentlemen stop, then, one moment? will they reflect? Will the dignity of the United States be promoted by receding from a demand, earnestly, solemnly made? How? where? where is it to be made? If just, sir, I would ask, is it prudent? But will the State of North Carolina, with the information it possesses, think it just? Permit me, sir, gentlemen have spoken of what other States have done, and of what they have not done; with leave, I will state a little of what North Carolina has done and suffered—of what she has not done—of what she cannot do—and of what, I fear, she will both do and suffer. But just let me say what she was, is, and may be. I have not been in the habit of troubling the House with long harangues, nor do I now intend to do it. As my voice is weak, and I am no orator, I must beg a patient indulgence.

Sir, North Carolina was, before the war, a wide extended territory of eighty or ninety thousand square miles, with less than two hundred thousand inhabitants, consisting of farmers, planters, laborers, and hunters—in spacious settlements—without great cities—with little money, and not much capital—with numerous flocks and herds—no rich men, and but few paupers. Perhaps, in no known country of the world was property more equally divided, the inhabitants less dependent on or united with each other, with a revenue short of fifty thousand dollars, and with little public debt.

North Carolina, sir, now has less than half her former extent of territory; and, according to the last census, nearly double the number of inhabitants. Ruined cities, desolated villages, deserted farms, a few rich and many poor, little increase of revenue, and a public debt glaring her in the face—increased to the amount of twenty years of her revenue. She has no claim to the character of a commercial country: she possesses small resources, and she has nearly lost, by at least, the ill-timed, however well-intended interposition of sister States, all value in a species of property, once of considerable estimation; a species of property which the Almighty, in wrath to our forefathers, suffered to be entailed on us, and which it is hardly possible she can be happy with, and most certain, for a time at least, with her present habits, be so without.

North Carolina has some resources which time may mature, to an independent, happy mediocrity. If she cannot figure with her commercial sister States, and aid you with extensive revenues of her own collection, she will be a great consumer—her sons love good cheer and fine clothes—they are numerous, and return your merchants their imposts with handsome profits. Witness the Newbern principalities, so conspicuous in all the great commercial States. She may not, if you check her, give you numerous, independent, and faithful citizens, and armies of hardy soldiers.

Of what North Carolina has done in the common cause, she will not boast, to lessen the comparative merit of sister States. She did all she could—so did others—mighty was the struggle—rich the prize—contested and glorious the result. But, sir, North Carolina was the first theatre of war—the blockade of Boston excepted. Unfortunately her citizens were of divided politics; this the English Government knew, and made there the first efforts—thousands joined them—internal war raged with violence: to which your Journals bear ample testimony, by the well-earned laurels so liberally then bestowed to the success of the advocates of liberty. But, alas! the fire was kindled—for seventeen years and upwards, her villages, fields, and forests, were never free from the inroads of the enemy, aided by her misguided sons. From the Virginia line to the Southern boundary—from the shores of the Atlantic to the Indian settlements, was this devoted country exposed to domestic, foreign, and savage cruelty; a scene of desolation, fire, and sword; while, far removed from the seat of preparation and power, she was constrained to exceed her own resources. Twenty millions of dollars were emitted; several millions of which exchanged for service and supplies, and sunk in possession of the holders, to the ruin of her citizens; nor is she able to indemnify them. This falling discount was incurable; and with this, the over-rigid economy of her agents rendered doubly oppressive. I appeal to her records for the truth of this, and ask, was this the case in all the States? No, sir. From these two sources is her present disastrous state and mighty debt. The detail is better conceived than expressed—to justify ourselves, rather than accuse others, is my object.

Again, sir, North Carolina independently gained and gave up as common stock, for liquidation of public expense, more than half her territory. Although some of her ablest statesmen wept at the surrender, she was deaf to their remonstrances. I ask gentlemen if she would have done thus, had she expected the present demand? Besides, sir, North Carolina, conscious that her convulsed state, and other circumstances above adduced, would prevent an arrangement of accounts that would secure her equal justice, was opposed to the assumption by which this debt is created. I do not make this matter of merit, but state it as a natural cause that may increase her discontent.

Again, sir, North Carolina, far removed from the seat of public information, and with little advantages of frequent commercial intercourse, had not the opportunity of equal benefit from the pittance of the rigid economy which her agents had left her citizens. With honest indignation, she now reflects that her public securities are swept away by foreigners and citizens who, with more prompt information, perverted her every village and almost every farm, as the enemy, in time of war, and with little less fatality, and almost without money and without price.

Again, sir, I would observe, of what North Carolina cannot do. I beg her pardon, if I underrate her; but I do believe she cannot pay the demand, with the accruing interest, and provide for her own Government; the more especially so, if

the apportionment of direct taxes contemplated should obtain, without unreasonably and unequally burdening that part of your citizens.

North Carolina, I fear, sir. I greatly fear, contemplating what she was, what she now is, what she may be, if only equally burdened, relative circumstances considered, and what she has done and suffered—what she has not done, and what she cannot do—will really complain, and be convulsed to the very centre.

North Carolina, sir, claims, her Representatives conceive she may, with modest decency demand, that the claims contained in the resolution on your table, if not relinquished, should be suspended. I appeal, sir, with confidence—I appeal to the candor, the feeling of every gentleman on this floor, can it be doubted but that her exertions, her sufferings during the war, and her apparent willingness since, to contribute to the common fund, by her so liberal and extensive cession, entitle her to at least the last, if not the first, of these requests?

Mr. S. Smith said, he was one of those who could have wished the present subject had not been brought before the House; but, being before it, he was ready to give his vote for the measure, as it was incumbent upon them to endeavor to get the balances paid. The gentlemen from New York and North Carolina, had complained of the injustice of the debt. The State which he represented, he said, was a debtor State, and they were willing and able to pay. The gentlemen from New York, it appeared, were anxious to have the whole subject opened again. One of those gentlemen gave as a reason for this, that stores in the account were charged more in one State than in another. He saw no injury in this, as flour might be purchased in Virginia at seven dollars a barrel, when, in Pennsylvania, it might be eleven. This single objection showed what cavilling would be the consequence of an opening anew the accounts.

Mr. S. said, it appeared to him that the State of North Carolina had less reason to complain than any other State in the Union. He did not mean to say that they exerted themselves less; and, he believed, the exertions of New York were not exceeded, according to her means, by any other State.

An observation, he said, had been made, on the subject of assumptions, by a gentleman from North Carolina. He meant not to have ripped up this subject afresh; but, since it had been mentioned, he would say that their debt had been occasioned by too high an assumption; if that had not been the case, they would have had to receive a very considerable sum. New York, he said, assumed her debt at two millions, of which she received one million two hundred thousand. Let her, said he, disgorge that sum. How, he asked, did New York get possession of her treasure? By the blood and treasure of the whole, in her vacant territory. This was the way in which she became rich; and it was extraordinary that a State which had gained so much by the Revolution, should be averse from disgorging her just debt. How they were to get at this debt he knew not, but they must pay. It was doubted it would not be paid; but he trusted that a State, famed for her order and good government, would not refuse to pay a debt so justly due. It was a large State, and, he thought, able to pay, and it was but just.

When the mode of settlement was agreed to, Mr. S. said, none knew who would be debtors and who creditors. All acquiesced in it. Why, then, talk about going anew into the subject, which might take them a year to settle the principles upon which it should be opened.

He trusted these balances would be paid, as the Representatives of creditor States would be very unwilling to lay a direct tax upon their constituents until they were discharged.

Mr. Gilbert rose to explain to gentlemen who thought the New York members had said, that their State would not pay—they said it would not be willing to pay, unless it knew for what, and that accounts were fairly settled. The assumption, he said, was made out then by the corresponding census; why, then, should they disgorge what the United States assumed to them more than any other State?

Mr. Blount observed, that he had said so much on a former occasion upon this subject, and knowing that whatever he might say would have no effect upon the decision, he meant to have satisfied himself with showing by the yeas and nays, that he had not been consenting to the measure. But when he heard the gentleman from Maryland [Mr. Smith] say, "North Carolina had less reason than any other State to complain," it would have been criminal in him to have been silent. He had made the assertion without a single fact—it could not be true. He believed the United States would not believe it. Were not Georgia and South Carolina, Mr. B. asked, defended by North Carolina? Could it have been believed that Georgia was a creditor State, when charged on the ratio of two Representatives, when entitled to less than one? Some part of the war, he said, Georgia had not more than five hundred inhabitants. Had not South Carolina militia from North Carolina in almost every month of the war? Such an assertion was one, that, on reflection, the gentleman would be ashamed of having made; he should call for the yeas and nays on the question.

Mr. S. Smith defended his assertion, which he grounded on her debt having been very considerably over-assumed.

Mr. Blount said, if they had no other grounds of complaint, they should have complained of this. If North Carolina had had no debt assumed, he said, she would have been a creditor for more than two millions. She would have sunk the debt, instead of having a debt of more than four hundred and thirty thousand at home, and under a charge of owing to the United States more than five hundred thousand dollars.

Mr. Livingston said that it was extraordinary, that gentlemen should be continually insisting upon the impropriety of going into an inquiry, whether the claims in question were just or unjust, yet they themselves went into comparisons betwixt the services of different States. He would not make any comparison on the subject; but he

would do what he thought necessary, viz: testify to the world his objections to the present proceedings. He had already taken up so much time of the Committee, which, however, had been mostly employed in fruitless attemps to get the subject postponed, that he should be unwilling then to trespass long upon their patience.

This business, he said, originated under the Old Confederation. The States agreed upon an order for the settlement of their debts, but in the new Constitution, they entered into no new Governmental compact for the settlement of these debts, so that it was found to be necessary to take up the subject. They, therefore, found two laws passed. Here, he said, was the great evil which New York had to complain of. Here, every State who wished to set aside the settlement should point. The United States, who was a party concerned, passed a law appointing Commissioners and prescribing rules to govern the two parties, without any delegation from the States. All the States, he said, would always have an interest in throwing a burden upon one State; and the injustice complained of would appear, if it was shown that this was done. It was not only their interest, he said, to do this, but rules had actually been prescribed which were unjust to some of the States. This law, he said, was passed. New York had no Representatives in the matter who had power to bind her to this new settlement. The amount of that State was kept clear and regular, with vouchers to every charge; but in this law, it was allowed to the Commissioners to receive accounts unsupported by vouchers, if they should see proper. He asked if this were just to those who had been scrupulously correct? If it were just, he thanked God he had never learnt or practised upon such principles of justice. Another rule established was, how the debt should be divided amongst the different States. The States had prescribed rules, under the Old Confederation, but these were changed by this law. It was now settled that the rule of apportionment should be made upon a scale of population. How this affected New York had been shown by one of his colleagues, [Mr. Williams.] From forty or fifty thousand inhabitants, which was about their number at the conclusion of the war, from emigration, they had then one hundred and thirty, or one hundred and forty thousand. He asked, therefore, whether this rule was just? If it was not, how could gentlemen be charged with advocating unfounded positions, and even have a week's delay refused to gain information on the subject. It was his opinion these arguments had weight; but, perhaps, his opinion might not have much weight with the Committee.

But, setting aside the principle of apportioning the debt, taking it for granted that New York consented to the whole, still, he said, there were principles even in common law, under an award, which this business had been likened to, that would enable them to attain relief under their complaints. It was impossible; time had not been allowed them to do it, to bring forward vouchers; otherwise they should have proved that such overcharges had been made by other States as would have convinced that House of the propriety of setting aside this settlement; but, not having these vouchers, he would say no more on this head.

The rules of settlement being changed without their consent, being, in their opinion, unjust, if it was in vain that he appealed to the justice and equity of the House, he would appeal to the expediency of the present measure. The debt, he said, might be just. He would not be understood as saying that the State of New York considered the debt as unjust, but he thought she did. Thinking it unjust, the probability was she would refuse to pay it, and produce her vouchers to the world, to show that she ought not to pay it. In what situation would the United States then be?

The State of New York was not to be looked upon as an individual—it was a sovereign, independent State of the Union; persuaded of the injustice of the present claim, she would refuse to pay it. Already, said he, you would have taken one step; you have said you would be paid. They had been told, he said, by the gentleman from South Carolina [Mr. W. Smith] of the advantages which would arise to the Union by the payment of this debt by the State of New York. He told them of the Navy, the Forts, &c., it would build. Indeed, he put him in mind of the exploits of Don Quixotte; for, though he had not built himself wind-mills, he had erected himself many beautiful castles in the air, which, he fancied, would have their proper effect upon the House.

He hoped the reasons he adduced, if they had not the effect to reject the proposition, would at least show that the State of New York had ground to be dissatisfied with the proceeding.

Mr. Baldwin said, if the observations of the gentleman last up were well founded, there would be something to justify the House to cancel the debts; but he thought it could be plainly proved they were not. If the gentleman would give himself the trouble to look at the old ordinance, he would find the whole of the settlement accompanied by vouchers of incontestable authority; the Commissioners admitted of nothing but real parole evidence; they heard the story, examined the evidence, and then reported what was their best judgment of the true settlement. Mr. B. also answered to the observation of the member on the obscurity of the settlement. He observed that it would be inconsistent, improper, and almost impossible, to go back again into the settlement. He said that the settlement was authorized by three several unanimous acts of the Government, which he thought sufficiently good auspices to warrant a procedure; and as good as could be expected, were the settlement to begin again. Mr. B. said, such a scene as was exhibited at the commencement of the sitting of the Commissioners perhaps never before occurred; it appeared as though all the individual States were in severe conflict with the United States to obtain their settlements; it was done with closed doors. Such a scene he hoped never again to witness.

As for the State he lived in, they had been paying and paying, and yet found themselves unable to settle their accounts. She would not have been a creditor State in this balance had not her debt been assumed at three hundred thousand dollars instead of seven hundred thousand dollars. There was a bill brought in to assume her at the other four hundred thousand, but it fell through, either in this House or the Senate, by which she became a creditor to a small amount.

Mr. Potter said, the gentleman from New York ought not to complain that the demand was unconstitutional, when, if there was any grievance, it ought to have been made at the time when the census was taken. They appointed agents to go before the Commissioners; they then agreed to the measure, and if it had turned to their advantage, most likely they would not have now objected. If they had any vouchers, then would have been the time to have produced them, and not have stopped three years before a complaint was to be heard. New York, he said, was fond of funding and assumption systems, but not of refunding. Their objections to the settlement were improper at present. He wished the question to be taken.

The question was then put and carried—ayes 53.

The Committee then rose, and on motion being made for the House to take up the business,

Mr. Christie hoped the House would adjourn. He had no doubt the gentleman from New York meant to give them a few more long speeches on the occasion, and he did not wish to stay then to hear them.

On the motion for adjournment, there were—ayes 39, noes 38.

So the House adjourned.

Thursday, January 5.

Mr. Dent requested to be excused from serving on the Committee of Commerce and Manufactures, which was granted, and Mr. S. Smith appointed in his place.

BALANCES DUE BY STATES.

The House then, according to the order of the day, took up the report of the Committee of the Whole, to whom was referred the report of the Committee of Ways and Means on the State debts.

The first resolution was read as follows:

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be requested to give information to the several States who were, by the Commissioners appointed to settle accounts between the United States and the individual States, found indebted to the United States of the several sums in which they were so found indebted, accompanying such information with a statement of interest from the last day of December, 1789, to the first day of January, 1797, calculated on the same principles on which interest has been allowed and *either funded or* paid on the correspondent sums for which the United States were found, by the said Commissioners, indebted to certain States; and with an earnest request that they will cause provision to be made, as speedily as may be, for paying the said sums, respectively, for which they stand found indebted by the said Commissioners, with interest, into the Treasury of the United States."

Mr. Gallatin moved to amend the resolution by adding the words, "either funded or," printed in italic; which was agreed to.

Mr. Blount called for the yeas and nays on the decision.

Mr. Holland said, before the question was taken, he would beg the indulgence of the House for a few minutes, whilst he showed his objections to the resolutions before them. In doing this, he said, he felt himself under considerable embarrassment, from a knowledge that the House was pretty much tired of the debate.

He said, they had no other evidence of the debts in question but the report of the Commissioners. If he was convinced the debts were just, he should be the last person to object to them; but when he considered the circumstances attending the report, and the way in which it was brought about, he very much doubted the justice of it. It might be remarked, that the Commissioners were from States which would be gainers by the settlement, all of them being creditors.

[The Speaker reminded the gentleman that the report was not to be considered as the report of the select committee, but as resolutions agreed to by the Committee of the Whole.]

Mr. H. said, he was speaking of the report of the Commissioners. Constant attempts, he said, had been made to keep the principles upon which the Commissioners acted out of sight. This seemed to wrap the matter still more in mystery. For what purpose, he asked, were these kept out of sight? If they were proper, they could not suffer by being brought into view. But this, it seemed, could not be done. Even one of the Commissioners, he said, was the person who brought forward a resolution to strike out the balances due from the several States. What could this arise from but from a conviction that the settlement operated unequally?

The circumstances carried something in them very suspicious; but when he heard gentlemen say that the creditor States were permitted to reckon State paper depreciated three and four for one, whilst other States were not so admitted, he was still more inclined to doubt the truth and justice of the settlement.

The peculiar situation of North Carolina was such, he said, as must make their debt, at first view, appear unjust. At that time the State had an existing Board of Army Accounts; but, in consequence of the suspicion of some fraud, its proceedings were arrested, and before a second Board was formed this settlement was made. In consequence of which, North Carolina was prevented from bringing forward accounts which she otherwise would have brought forward. This was enough to show the hardship of the settlement on that State, and to justify his vote against the present question.

It had been said that it was too late to bring forward these objections at this time, and that they should have been brought forward earlier to have

had any weight. Had they not been brought forward before, this objection might have some weight. But, he asked, if there had not been objections made to the assumption and funding systems, against the admission of the Commissioners' report on the books of the Treasury? And whether an attempt was not made to have struck out the balances said to be due from the debtor States?

The business had always been taken up in a Legislative capacity, and gentlemen made a point of supporting what they conceived to be the interest of their several States. Not a single member from the creditor States had supported the injustice of the settlement. It might be in consequence of this disposition that the minority had always been borne down, and, he feared, would then be borne down. Pecuniary considerations seemed to have a strong influence on gentlemen in that House. Every thing last session, he said, gave way to pecuniary considerations. Nothing was heard at that time but the promotion of commerce. In consequence, they had entered into the British Treaty. They were still actuated by the same desire of pecuniary interest. They were now determined to raise money; and, because it could not be raised from any other source, it must be levied upon sister States. It put him in mind, he said, of a bark wrecked at sea, when all its stores were lost, and some desperate measures were to be taken to save themselves; but, though the United States might be in considerable pecuniary distress, he trusted they should not adopt the measure now proposed.

Mr. PAGE.—The question before you, sir, appeared to me, when first offered to this House, to be of so delicate a nature that I wished to get rid of it; and therefore I voted to put off the further consideration of it until the next session of Congress. I foresaw the loss of time it would occasion now, and dreaded the altercation and warmth it was calculated to produce at a time when all possible occasion for altercation and warmth should be avoided. I confess I thought, too, that a postponement of the question till next session would be conciliatory to the debtor States; prevent unnecessary and ill-timed warmth in them, and be a sufficient notification of the claims of the creditor States. I confess also, sir, that I thought the debtor States would then come forward and pay their balances; or, with temper and respect, state their difficulties as to their ability to pay; or their objections to the settlement of their respective accounts. And I am free to declare that I think it would well become the wisdom and justice of Congress to receive and consider such statements, and to relinquish all claim to a balance due from a sister State, when inability to pay is its apology for non-compliance with the requisition of the law, (which I look upon as in fact made upon the passing of the act,) and to revise the settlement of the Commissioners by a committee of a member from every State in the Union, rather than to require of some what is impracticable, and of other States what they firmly believe it is unjust to demand. The settlement of accounts between the States by the Commissioners has been compared to an arbitration between individuals; but, granting the comparison holds good in every respect, which I doubt, an honest creditor would surely not object to a re-hearing, or to a new reference, if his debtor declared that he could produce new vouchers for credits which had not been produced at the first arbitration, and could prove that there were errors in both the debits and credits to the prejudice of the debtor. But even if an honest creditor could refuse a new hearing, or a second reference to arbitrators, it does not follow that the Representatives of sovereign States, confederated for their mutual strength and support, and which, by the co-operation of all of them, have been rescued from oppression, and have been enabled to establish their independence, and an happy form of Government, under which those Representatives are voting, and whose chief duty it is to promote the general welfare—I say, it does not follow that the Representatives of such States, so circumstanced, should act like individual merchants, and be bound by the same rules of rigid justice (if it may be so called) as a merchant, whose credit may be destroyed, or his capital in trade injured, were he to abandon the advantage gained by an arbitration in his favor. God forbid, sir! that this House should ever treat a sister State as one merchant is frequently induced to treat another. I would rather this moment agree to give the debtor States credit on the books of the Treasury, as was proposed by the honest and candid member who had been one of the Commissioners, to whom the member from New York [Mr. GILBERT] alluded yesterday, than to have agreed to sequester the property of those States in our funds, as has been proposed.

I look upon the business before us, sir, as part of that unfinished, impracticable business of the Old Confederation; and although I believe a requisition for quotas of any sum which may be required of the States for the support of our Government and for payment of the principal and interest of the National Debt, would be duly respected by the States, yet I fear the one now proposed would be as ineffectual as under the Confederation. I wish therefore to avoid the risk of national authority—the whole balances are not worth the risk of loss of authority over the States; or of exciting discontent in a single State. Members who make light of the ill-will of sister States, were not present when the endearing arguments were used in favor of the assumption of the State debts—pure paternal affection and Federal principles led to the vote for paying the debts of the sister States, contracted (as it was said) "in their joint and glorious struggle for their liberties." I fear, sir, if the same argument will not induce this House to consent to make the expenses of all the States in that struggle, a joint expense, it will be said that either Federalism and fraternal affection have declined amongst us, and avarice has taken their place; or, that the assumption of the State debts was intended more to increase the National Debt and the funded stock than to diminish the State debts; and to gain an influence

over the States, than to show them the fraternal regard of Congress. I agree with the member from Maryland [Mr. S. SMITH] that had the accounts between the States been first settled, the assumption of the balances due would have appeared more intelligible; but to States which know that their vouchers for large contributions and payments were destroyed by the enemy, for which they could receive no credits, and that the lands they gave to the United States were more than sufficient to pay all their debts and those of the debtor States together—I say, to States who know this, and are in this situation, it is not enough to make the statement intelligible to them. As the case stands, it is not very intelligible; but I can see how it may be made a part of the funding system and assumption, and so become intelligible: that is, by emitting stock to the amount of the balances due, and paying it to the creditor States; making its interest and time of redemption such as Congress may think proper; and this I had rather do than have a contest between the debtor and creditor States, as much as I dislike the assumption and funding system. Thinking thus, I shall vote againt agreeing to the report of the Committee of the Whole.

Mr. KITCHELL said, he should not have troubled the House with a single observation, had gentlemen not given an idea of their wish to strike out this balance, whether just or unjust. Some States had done more, and some less, during the war, but he thought it extremely unjust for the creditor States to suffer on account of the delinquency of others: he thought the idea of striking off, could be only supported by members from the debtor States. Taking it in any form, he contended, it would be very unjust to tax the creditor States while these debts remained unpaid. He thought no fair, just, and honorable person could conceive it proper.

Mr. GALLATIN said, he would make a single observation, which was rather of a personal nature. It had been said, that one of the Commissioners, who was a member of that House, had been in favor of striking out the balances due from the debtor States. He believed the gentleman alluded to was a member from Pennsylvania. Mr. G. said he was not a member of the House at that time, but he had looked into the proceedings of that period, and he found he did not vote on any question on the bill itself. There was one question, however, on which he did vote. It was for an inquiry into the principles upon which the accounts had been settled, and he voted in favor of it. He hoped, therefore, they should hear no more objections of this kind.

Mr. GILBERT rose to answer to the observations of the two gentlemen last up, and still supported his assertion, that one of the Commissioners had moved to strike out the balances; he did not know whether his name appeared on the Journal of the House or not. In answer to the gentleman of Jersey, he would only say, that there not being an application for appeal against this measure before now, did not prove the justness of the debt: they were never asked for it till now.

Mr. KITCHELL again rose and said, he thought the silence of the States heretofore seemed a good proof of the justice of the settlement. However, he thought as the Legislatures had not made application, no attention ought to be paid to individuals.

Mr. WILLIAMS said, if gentlemen would recur to the Journals of the House, they would find that the Representatives of the debtor States had uniformly opposed this mode of settlement; but as it had never gone to the State Legislature, he thought that a good reason why they had never complained; they never had been applied to.

The question on the first resolution was then taken, and determined in the affirmative—yeas 57, nays 27, as follows:

YEAS.—Abraham Baldwin, Theophilus Bradbury, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, James Davenport, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Nathaniel Freeman, jun., Albert Gallatin, Nicholas Gilman, Chauncey Goodrich, Christopher Greenup, Andrew Gregg, Roger Griswold, George Hancock, Carter B. Harrison, Thomas Hartley, Thomas Henderson, Aaron Kitchell, John Wilkes Kittera, Samuel Lyman, Samuel Maclay, James Madison, Francis Malbone, John Milledge, Andrew Moore, F. A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, Elisha R. Potter, Francis Preston, John Reed, John Richards, Samuel Sewall, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Joseph B. Varnum, Abraham Venable, and Peleg Wadsworth.

NAYS.—Fisher Ames, Theodorus Bailey, David Bard, Thomas Blount, Dempsey Burges, William Cooper, William Craik, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Henry Glen, William B. Grove, John Hathorn, Jonathan N. Havens, William Hindman, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Nathaniel Macon, Wm. Vans Murray, John Page, William Strudwick, John E. Van Allen, Philip Van Cortlandt, and John Williams.

The second resolution then came under consideration, which reads thus:

"*Resolved*, That payment of the said sums respectively found due from the said States, [by the said Commissioners, with interest thereon at 4 per cent. per annum, from the last day of December, 1789, to the first day of January, 1795,] may be received in any of the six, three per cent. stock, or deferred stock of the United States, in the same proportions as the United States have paid and allowed for the correspondent sums in which they were found indebted to certain States, by the report of the said Commissioners."

Mr. COIT moved to add to this resolution the words printed in brackets. The resolution, as amended, was then agreed to.

It was ordered that the Clerk do carry these resolutions, as amended, to the Senate, and desire their concurrence.

Mr. KITCHELL wished to move an additional resolution, to the same effect with one which had already been negatived, and upon the decision of which he should call for the yeas and nays. It

appeared to him just that the balances should be paid, and he should think himself inexcusable were he to omit any opportunity of endeavoring to get the money. He himself had entertained no doubt but the State of New York, as well as the other States, would have paid their debt, until the members from that State had said she would not pay. If this was their opinion, he thought the House would act an unwise part, and it would be said they were spending their time in vain if they did not use means to get the money. He therefore moved a resolution to the following effect:

"*Resolved by the Senate and House of Representatives*, That all transfers of debt of the United States in the books of the Treasury, by any of the States indebted to the United States, on a settlement made by the Commissioners appointed for that purpose, or any person holding the debts of the said States, to the amount of their respective balances, be prohibited until the payment of the balances of the said States respectively."

Mr. COOPER hoped the question would be taken, without debate. He thought it too disgraceful to be discussed.

Mr. HENDERSON wished to amend the motion, by striking out the word "prohibited," and inserting, "suspended till further order of Congress."

Mr. KITCHELL had no objection to the amendment.

Mr. VENABLE suggested whether it would not be proper to pass a law on the occasion? As there was a law making the stock transferable, he believed it was necessary to have a law to repeal it. He believed a resolution would not repeal a law.

Mr. NICHOLAS never heard before that a resolution was incompetent to its object; it went through all the forms of a law, as the PRESIDENT must approve of it. However, if gentlemen thought it ought to be postponed and carried through a more formal process, he should not object, but he thought this quite competent. All that was requisite to make it perfectly effectual, he thought was included in the resolution, without spending the time the other procedure would take.

Mr. WILLIAMS said, in some things it may not be necessary to proceed by that form; but he thought in a thing of so much importance as this, it ought to go through the House in the form of a bill, first brought in and received its second and third reading. And if it was not so done, he thought it would not have the same operation as a law.

Mr. HARTLEY hoped a question would be taken upon the resolution as offered; another resolution may then be added, directing a committee to bring in a bill conformable to it. He hoped it would not go on in this extraordinary way, so much opposed to the moderate measures which had marked their proceeding, but take the question as it is at present.

Mr. PAGE said, that he thought such a motion highly improper, not only as it had been rejected by the House, as improper to be submitted to the consideration of the Committee of the Whole, on account of its mischievous tendency; and also, as it had been rejected by a large majority of that Committee to which it was proposed, notwithstanding the refusal of the House to refer it; but because it certainly was, as it had been represented in the debates on those occasions, an indelicate and irritating measure, an insult to the debtor States, and at the same time injurious to public faith, and the credit of the funds. He thought the motion out of order, or, if not contrary to the written orders of the House, it appeared to him to be contrary to a rule which ought to be immutable, and written on every member's heart. I mean, said Mr. P., a regard for propriety and decency; a regard to which, in my opinion, should lead members to acquiesce in the rejection of their motions, under such circumstances as have occurred on the present occasion. Independent of this consideration, he thought that the amendment proposed so materially altered the original resolution, and was so calculated to produce warm and tedious debates in the House, and to excite resentment in the debtor States, and was also so absolutely unnecessary to be agreed to at this time, that he hoped the question would not now be put, and to prevent it he moved for the previous question.

Mr. KITCHELL said, he took it for granted, that he went no further than perfectly accorded with the rules of the House, for which he appealed to the Chair. The SPEAKER informed the member, that it was consistent with order.

The previous question was then called for, to wit: "Shall the main question to agree to the said resolution now be put?"

And on the previous question, "Shall the main question be now put?" it passed in the negative—yeas 23, nays 62, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Dempsey Burges, Gabriel Christie, Thomas Claiborne, John Clopton, Henry Dearborn, Nathaniel Freeman, jr., Albert Gallatin, George Hancock, Thomas Hartley, Jonathan N. Havens, Thomas Henderson, Aaron Kitchell, John Wilkes Kittera, Andrew Moore, John Nicholas, Alexander D. Orr, John Richards, John Swanwick, Joseph B. Varnum, and Abraham Venable.

NAYS.—Fisher Ames, Theophilus Bradbury, Daniel Buck, Samuel J. Cabell, Joshua Coit, Isaac Coles, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Roger Griswold, Wm. B. Grove, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, William Hindman, James Holland, Andrew Jackson, George Jackson, Edward Livingston, Matthew Locke, Samuel Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Page, Josiah Parker, Elisha R. Potter, Francis Preston, John Reed, Samuel Sewall, John S. Sherburne, Nathaniel Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., William Strudwick, Zephaniah Swift, George Thatcher, Richard Thomas, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

[In order to obtain a better acquaintance with the subject of the foregoing debate, the reader is referred to the following statement from the pen of Mr. GALLATIN.]

Statement relative to the Assumption of the State Debts.

STATES.	Federal number of inhabitants of the several States.	Sums assumed by the Union in State Debts of the respective States.	Balances found for and against the several States, by the Commissioners appointed to settle the accounts.		Proportion of each State of the aggregate of balances due to certain States, and funded in their favor by the Union.	Balances now due to and from the several States, by reason of the balances found due to certain States by the Commissioners, having been funded.		Proportion of each State of the aggregate sum assumed by the Union in State debts.	Balances which would have been found due to and from the several States, by the Commissioners, had no assumption of State debts taken place before the settlement of accounts.	
	Nos.—10ths.		In favor of States.	Against States.		Due to.	Due by.		In favor of.	Against.
New Hampshire.	141,821.8	$282,595 51	$75,055	.....	$141,307 24	$141,307 34	.....	$134,008 65	.....	$376,359 34
Massachusetts...	475,327.0	3,981,783 05	1,245,601	.....	473,603 76	473,602 76	.....	3,460,068 81	52,770,445 24	.....
Rhode Island...	68,445.8	200,000 00	299,611	.....	68,197 51	68,197 51	.....	354,246 13	146,354 88	.....
Connecticut	236,840.4	1,600,000 00	619,121	.....	235,981 27	235,981 27	.....	1,385,784 39	962,336 61	.....
New York.....	331,590.4	1,183,716 69	.....	2,074,846	330,387 56	.....	81,744,458 44	1,716,189 78	.....	2,607,299 09
New Jersey	179,569.8	695,202 70	49,030	.....	178,918 42	178,918 42	.....	929,376 22	.....	185,143 63
Pennsylvania...	432,878.2	777,953 48	.....	76,709	431,307 95	354,598 95	.....	2,240,892 02	.....	1,539,117 64
Delaware	55,539.2	59,161 65	.....	612,428	55,337 73	.....	557,090 27	287,417 09	.....	360,712 44
Maryland	278,513.6	517,491 08	.....	151,640	277,503 30	125,863 30	.....	1,441,167 01	.....	1,075,616 93
Virginia and Ky.	699,264.2	2,934,416 00	.....	100,879	696,737 64	595,845 64	.....	3,619,091 77	.....	785,554 77
North Carolina..	353,523.2	1,793,603 65	.....	501,052	352,289 81	.....	142,842 19	1,929,679 36	.....	536,957 53
South Carolina..	206,236.4	3,999,651 73	1,205,976	.....	205,487 29	205,487 29	.....	1,067,386 03	4,138,243 70	.....
Georgia.....	70,842.4	246,030 73	19,988	.....	70,285 43	70,285 43	.....	336,649 90	.....	100,631 17
Total....	3,530,390.4	18,271,787 47	3,517,584	3,517,584	$141,307 24	2,160,390 90	2,460,390 90	18,271,787 47	8,047,390 43	8,047,390 43

STATEMENT—Continued.

States.	Sums in State debts, which, had no assumption taken place before the settlement of accounts, it would have been necessary to assume in order to render the aggregate of the ultimate balance due to and from the several States equal to the aggregate of the balances now due to and from the several States.	Proportion of each State to the aggregate sum which it would have been necessary to assume per the preceding column.	Due to.	Due by.	Sums to be deducted from sums originally assumed for each State, supposing the interest accrued during 1790, '91, upon State debts, assumed for said States, had not been charged to said States in the settlement of their accounts.	Proportion of each State in the aggregate of the sums to be deducted from the original assumption, according to the supposition of the preceding column.	Balances which would have been found for and against the several States, supposing the interest accrued during 1790 and 1791, upon the State debts originally assumed for the said States, had not been charged to the said States in the settlement of accounts.
New Hampshire	.....	$466,303 73	$90,005 41	.....	$28,259 55	$73,400 89	$29,913 66
Massachusetts	$3,843,573 74	1,563,055 06	489,926 56	.....	398,173 31	346,008 88	1,400,965 43
Rhode Island	299,893 47	225,075 69	70,548 10	.....	20,000 00	35,424 61	284,186 39
Connecticut	1,528,042 58	778,820 87	244,114 90	.....	160,000 00	122,578 44	656,543 56
New York	.....	1,090,394 72	.....	$1,516,904 37	118,371 67	171,616 98	.....
New Jersey	220,264 60	590,493 46	185,085 24	.....	69,520 27	92,937 63	35,613 64
Pennsylvania	.....	1,423,467 35	.....	115,650 19	77,798 35	224,039 20	.....
Delaware	.....	182,633 91	.....	658,078 53	5,916 26	28,744 71	.....
Maryland	.....	915,858 12	.....	159,757 81	51,749 11	144,146 70	.....
Virginia and Kentucky	793,146 61	2,299,445 32	720,741 94	.....	293,441 60	361,909 18	.....
North Carolina	261,176 69	1,162,514 78	364,380 56	.....	179,380 39	182,967 94	.....
South Carolina	4,603,853 86	678,180 04	212,569 88	.....	399,965 17	106,738 60	1,499,304 57
Georgia	59,307 14	233,956 62	73,018 31	.....	24,603 07	36,664 99	7,926 08
Total	11,609,259 59	11,609,259 69	3,450,390 90	1,450,390 90	1,827,178 75	1,827,178 75	3,904,351 33

RULES OF THE HOUSE.

Mr. Henderson said, that every day's experience convinced him of the propriety of adopting some rule to close upon petitions which had already been decided upon by the House; for, if petitioners were permitted to bring forward their claims session after session, when they had already been rejected, they might be wholly employed in the business. In order to bring the question before the House, he proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire whether any, and if any, what, further rules are necessary to be adopted by this House, and added to the Standing Rules of the House."

The resolution was agreed to—ayes 31, noes 24.

Messrs. Muhlenberg, Baldwin, and Henderson, were appointed a committee pursuant thereto.

MONSIEUR POIREY.

Mr. Madison called up the report of the Secretary of War, on the petition of Monsieur Poirey, formerly Secretary and Aid-de-camp to the Marquis Lafayette.

The report is dated the 5th of April, 1796. It states that the petitioner may have performed the duties of Aid-de-camp to the Marquis, but it is not certain whether he was only a supernumerary aid. His exact services cannot be precisely defined, without access could be had to the general orders issued by the Commander-in-Chief, and Major-General Lafayette. It appears that M. Poirey never received pay, as Secretary or Aid-de-camp. As to his pay in the former capacity, two resolutions of Congress, dated June 17, 1777, stipulate the one, that the pay of a secretary to a Brigadier General in a separate command, is to be fifty dollars per month; and the other, that the pay of the secretary of the Commander-in-Chief in the Northern department, be sixty dollars per month.

Supposing M. Poirey to come under this description, the objections are a tacit waiver of it, as stated in his petition, and the act of limitations. Both exclude the petitioner. But the Secretary of War hints, that perhaps he may be more favorably looked upon, as he waived claiming his pay when it might have been had. He only recurred to it, when misfortune and distress made the application a duty. He was beyond sea when the act of limitation passed, and probably knew nothing about it.

Mr. Madison moved that a bill should be brought in. It was objected by Mr. Macon, that this gentleman, by a refusal of his claim, would be in no worse situation than hundreds of old soldiers who had petitioned the House without having known any thing about the statute of limitations. They had been refused, and on the same ground so should this petition be.

The report was referred to a Committee of the Whole House, and made the order of the day for to-morrow.

MILITARY ESTABLISHMENT.

Mr. S. Smith proposed the following resolution to the House:

"*Resolved*, That a committee be appointed to inquire whether any, and what, amendments may be necessary to the act to ascertain and fix the Military Establishment of the United States?"

Messrs. S. Smith, Hartley, Parker, Van Cortlandt, and Dearborn, were appointed a committee pursuant to the same.

SALES OF PUBLIC LANDS IN OHIO.

Mr. Gallatin proposed the following resolution to the House:

"*Resolved*, That a committee be appointed to inquire into the progress made in carrying into effect the act providing for the sale of lands in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, and also whether any, and if any, what, alterations are necessary in the same?"

Mr. Madison submitted it to the mover whether it might not be more proper immediately to make the inquiry of the proper Department, without a committee? In general he did not see the necessity of a committee when the application would be immediately made to the Department.

Mr. Gallatin said, he was not very well informed as to the propriety of his motion. His reason for bringing forward the resolution was, that in our present great want of revenue, he wished to know whether we had any prospect of receiving anything from the sale of our lands? He feared we had not much to expect from it at present. He believed a committee would be proper. A committee of five was appointed.

JOHN CLEVES SYMMES.

Mr. Henderson called up the order of the day on the claim of John Cleves Symmes.

Mr. Gallatin wished, if in order, it might be referred to a select committee. He observed there were a number of papers relative to it which were necessary to be examined, that the Attorney General did not give all the information that was necessary on the subject, he would therefore move that the Committee of the Whole be discharged from the consideration of it, in order to recommit it, as he wished it to be brought to a proper issue.

Mr. Kitchell did not know that he should object to this proposition, but observed that last session it was referred to a select committee; after sitting on it some time, it was referred to the Attorney General; now referred to a Committee of the Whole, and proposed to be recommitted. He thought this might be saved if gentlemen would give themselves the trouble to examine the papers.

After some observations from Messrs. Henderson and Gilbert, it was referred to Messrs. Gallatin, Venable, Havens, Ames, and Sherburne, to examine and report thereon.

ENCOURAGEMENT TO MINING.

Mr. Henderson called for the order of the day on the report of the committee of February 12th, 1796, to whom was referred the memorial of Nicholas J. Roosevelt, and Jacob Mark.

The following report of the select committee was read, viz:

"That the said memorialists having procured from the mining countries in Europe, a number of men, well

skilled in the arts of mineralogy and metallurgy, have them now in the United States, either connected with, or employed by them.

"That, by their means, they offer to explore the Territory of the United States, for mines of metals, semi-metals, and all other minerals; provided a reasonable time be allowed them to make the search, and the right of working the mines, when discovered, be exclusively vested in them, for a sufficient period; they rendering a proper proportion of the gross product to the United States.

"The Committee are of opinion, that their offers merit the attention and encouragement of Congress; the general use of all metals, and of most minerals, rendering it a very desirable object to possess them within our own limits. Appearances, too, as your committee are informed, justify the opinion, that many valuable mines do exist within the Territory of the United States, which can only be rendered useful, by that skill and knowledge of the subject, which the peculiar circumstances of Europe enable the memorialists to offer.

"Your committee, therefore, recommend the following resolutions:

"*Resolved*, That a right be granted to Nicholas Roosevelt and Jacob Mark, and their associates, during the term of—— years, to enter upon any of the waste lands in the Territory of the United States, the Indian title whereof is extinguished, to search and explore the same, for mines of metals, semi-metals, and all other minerals.

"*Resolved*, That the right of working all such mines as shall be discovered by the said Nicholas Roosevelt and Jacob Mark, and their associates, shall be vested in them, for the term of—— years; they rendering an equitable proportion of the gross product of such mines to the United States."

Mr. Swift objected to the report, as making a grant without a valuable consideration. To make a grant of this kind, he said, would embarrass the property of the United States. To allow such persons to search for mines and erect machines for working them, would greatly lessen the value of our lands. He hoped, therefore, that the report would be disagreed to.

Mr. Henderson believed the gentleman from Connecticut had not attended sufficiently to the resolution before the Committee, when he asserted that it proposed to make a grant without consideration, as it was there said that they were to render a certain portion of the proceeds to the United States; so that if the business was profitable to them, it would be so to the United States. The consideration, he said, embraced two objects of public improvement, worthy the attention of Government. It would make us independent of foreign nations for the more precious and useful metals. If these metals, said he, lie entombed in the bowels of the earth, they are of no use to any one. This provision, he said, would encourage individuals to search and explore for these metals, and might eventually be productive to the revenue of the United States. In several parts of Europe, he believed, mines were of great value to the revenue. He was of opinion there were valuable mines in the United States, and an opportunity now offered of exploring them without expense to the Union. He saw no inconvenience that would arise from this, and several advantages. To go into a detail of the business was not necessary at present. The principle alone was what they had to determine upon. There might be exceptions made. He believed there ought to be some of the more common articles reserved; but he believed the more precious metals should be left to be explored by adventurous individuals. Instead of embarrassing our Territory, he believed it would be a means of promoting settlement, as wherever metals were found, population would take place, and the land would be increased in value. And it need not embarrass the sale, because the property of the metals might be sold with the land, if desired. Government, he said, would run no risk, would be at no expense, and the revenues would probably be increased.

Mr. Gallatin thought such a principle would not have been supported. He hoped they should have allowed our own citizens to have found out our metals. To give a privilege to persons to work mines, and to enter upon any of our land, on such terms, would be a most extraordinary policy. The natural consequence would be the enhancement of the price of metal. He trusted the report would be disagreed to.

Mr. Macon said, that such a measure would give a monopoly of all the mines of the United States. The best policy, he believed, in all such cases, was to leave the business to the industry of our citizens. He believed they would work the mines, if it was their interest to do so; if it was not, he did not wish to offer them an inducement to do it.

Mr. Henderson did not wish the business to be confined to one set of adventurers. He would rather wish to encourage adventurers. It was meant only that when these persons found the mines, they should have the exclusive privilege of working them for a certain term.

The report was disagreed to, the Committee rose, and the House confirmed the disagreement.

Friday, January 6.

William Findley, from Pennsylvania, appeared and took his seat.

INVALID CLAIMS.

On motion of Mr. D. Foster, the House went into a Committee of the Whole on the report of the Committee of Claims, on the 24th of December, 1795, on a return from the Accountant of the Treasury, on certain claims not admitted to be valid. This report classed the claims under different heads; and the Committee of Claims recommended an agreement to the whole, except the eleventh class, which included the petition of John T. Gilman, who prayed for compensation as a Commissioner for endorsing new-emission money, issued by Congress in March, 1780; which they recommended to be disagreed to, believing him to be entitled to his claim.

After some observations, chiefly urging the impropriety of deciding upon these claims in a mass, instead of individually; in order to obtain papers which were called for, and which were in the

Auditor's Office, the Committee rose, and obtained leave to sit again.

STATEMENTS OF REVENUE.

Mr. Harper called up the resolution which he laid upon the table the other day, calling for certain statements from the Treasury Department, relative to the revenues of the United States, within ten days after the meeting of each session.

Mr. Gallatin wished the gentleman from South Carolina would amend his resolution, by adding a request for like statements for this session. As it might be alleged the notice was short, and complete statements could not be made out, it might be said, "such statements as could be conveniently furnished."

Mr. Harper said, he thought of making a separate resolution for the purpose the gentleman had mentioned; but, on inquiry at the Treasury Office, and finding that such information had not been received there as would enable the Secretary to furnish a return, he declined it. This arose from the former order on this subject having been only temporary, and the officers in different parts of the Union not having instructions to forward the statements required. The resolution was agreed to.

ROBERT HARRIS.

Mr. Christie called for the order of the day on the report of the Committee of Claims on the petition of Robert Harris.

The petitioner, it appears, was a Captain of what was called the Flying Camp, in Maryland, during the late war. He raised his own company in 1776. In December, 1777, owing to the fatigues of the service, his health was impaired, and he left the service, and went over to the West Indies, for the benefit of his health. Before he went, it was said, (though it did not appear in evidence,) he applied to the Paymaster of the Army for his pay, but was only able to get two months' pay out of eleven, which was due. When he returned from the West Indies, in the year 1780, he applied to the Treasury for payment for the remaining nine months; when, instead of three hundred and sixty dollars, he was offered sixteen only, which was the amount due—reckoning upon the scale of depreciation which had taken place in his absence. This he refused to receive, and appeals to the justice of Congress for relief.

The following is part of the report of the Committee of Claims:

"As very many, indeed nearly all the officers and privates, under similar circumstances, have received their wages, by the rule established, as aforesaid; and as Captain Harris shows no reason why he did not receive his money from the Paymaster, the committee think it would be inexpedient to establish a new rule at this time; and are therefore of opinion his memorial ought not to be granted, and that he have leave to withdraw the same."

Mr. Christie said, that as the House were so much in the habit of agreeing to reports from the Committee of Claims, he despaired of making them disagree to this report. It was, however, a gross trick. The money was received back at its full worth at the Treasury.

Mr. Foster contended that after the money was given to the Paymaster, currency was in a constant state of depreciation. Whose was the money after it went into the hand of the Paymaster? It was that of Captain Harris, and he might at any time have received it. Captain H. did not call for it until it was sunk very low; and were the United States to suffer for his negligence in not calling? He presumed not. It was returned to the Treasury, and sunk in value before he came for it.

Mr. Dearborn said, that it was common for officers to receive money at a depreciated rate; and the Paymaster not having money in hand, they had often been obliged to wait six or twelve months, and he could see no reason for making this depreciation more than others. It would be endless to go into all cases. Mr. Harris might have received his money at any time for two years. Mr. D. could not see why he should get the money at any higher rate than was current at the time when he called for it.

Mr. Craik wished to know, if Captain Harris had applied to the Paymaster for his money, and at what time?

Mr. D. Foster answered, it was impossible to know whether he did apply or not: he only knew, which he thought sufficient, that he might have received the money.

Mr. Christie said, that Captain Harris informed him that he did apply to the Paymaster when he left the service, and could only get two months pay out of eleven months. He said, Mr. Dearborn knew well enough of its being possible to call on a Paymaster without getting money. When he left the service he could get no more than the pay for two months.

Mr. S. Smith said, that Captain Harris resigned on the 9th of November, 1777; he soon after went to the West Indies; on coming back to the United States, he found that the money had been returned whole and sound to the Treasury, it had suffered no loss. The petitioner was not barred by the act of limitations, and as no possible injury could be sustained by the United States paying it; as they had received it in full, it was just that it should be paid. There was no other case like this.

Mr. Macon said that this would be like many other stories. There would never be any thing like it till the petition was granted. Last year there was a petition about the Northwestern Territory; the prayer was granted; and, soon after, the table was covered with petitions. Captain Harris went out of the country, and it was his own fault he did not make application in time. The consequences would be very great if the depreciation was to be made up to this man.

Mr. Lyman said, that there was a harder case than this in Massachusetts. Two Paymasters ran away with $40,000. They were elected by the officers of the troops. The Paymasters are elected entirely by the officers, and it was doubtful if privates were bound by this election. Yet Con-

gress refused to indemnify them; and Captain Harris's situation, whether he applied or not, could not be so hard as these men, who were never paid. If the House attended to this he hoped, in justice, they would take up all others on their application to that effect.

Mr. Dearborn replied. He said that, when Captain Harris applied, the Paymaster had no more than the two months pay in his hands. He might probably have received the money in full in two or three months, but did not apply. Then the question was, whether, after staying some years, and the money was very much depreciated, he or the United States was to lose by that depreciation?

Mr. S. Smith said that, if the money had remained in the hands of the Paymaster, the petitioner must have been responsible for the depreciation; but, while the money was gold and silver, the Paymaster, like an honest man, returned it to the Treasury. The United States had committed themselves by reaccepting it. They had no right to take advantage of the depreciation; they received the identical money, and ought to have paid it. He knew not whether this was law, but he knew it was equity and justice.

Mr. Christie said, that Mr. Lyman had called that a much harder case in Massachusetts than Captain Harris's. The Paymasters ran away. What odds did it make to the petitioner, when the United States ran away with the money, whether it was by a Paymaster or otherwise, that he lost the money? The money was paid back while it was good money. It was a *bona fide* debt. He did not know if the petition was agreeably to law, but he knew it to consist with equity. Every man knew that Captain Harris had not received justice.

Mr. Swanwick spoke a few words in favor of the petition. He thought it exceedingly improper to charge a depreciation to this man when they received back into their Treasury the full money; this he thought an unfair advantage. Had motives of policy prevailed, great advantages of this kind, he presumed, might have been obtained. The Government, and not Captain Harris, ought to have had the depreciation. It was a very hard case.

Mr. Kittera objected against it. If this were the only solitary case where valuable officers had not received their rights, he should vote for it, but he knew very many accounts had been settled upon the same principle. That he had been present last Winter when a petition came in, that was said to be on a singular case. Presently, on its success, many others followed it; and he thought the same dangerous tendency would naturally occur, were they to grant this.

Mr. Christie said, that he had made every inquiry at the War Office that could be made. Major Howell had made repeated inquiries, and could not find a single case in the same situation.

The Committee agreed to the report. They rose; the House agreed to the report of the Committee of the Whole; and the prayer of the petitioner was refused.

AMENDMENT OF THE CONSTITUTION.

Mr. W. Smith said, he wished to lay a resolution on the table respecting an alteration in the Constitution; it was in that part of it which directed the Electors of a President and Vice President to vote for two persons, one of whom should be President and the other Vice President. It had been discovered that great inconveniences might arise from this mode of election. Gentlemen must be satisfied that it could not answer the end intended, viz: to carry into effect the real intention of the Electors. He believed there could be no objection, therefore, to the alteration which he was about to propose, as it went only to authorize Electors to designate whom they meant to be President and whom Vice President. Mr. S. thought this a proper time for bringing forward this amendment, for two reasons—because the matter was fresh in people's minds, and because it was right to do it at a period the most remote from an election, in order that the States might have time to ratify the amendment before an election might be near at hand; because, if postponed till near the time of an election, the uncertainty of its being ratified would have a disagreeable effect. He would, for this purpose, propose a resolution to the following effect:

"*Resolved*, That the third clause of the first section of the second article of the Constitution of the United States ought to be amended in such manner as that the Electors of a President and Vice President be directed to designate whom they vote for as President, and for whom as Vice President; and that the said amendment be proposed to the different State Legislatures for their concurrence, in order that it may become part of the Constitution of the United States."

The resolution was ordered to be printed.

Monday, January 9.

The motion of yesterday, on the alteration of the Constitution respecting the election of President, was committed to a Committee of the Whole House on the state of the Union.

Mr. Dearborn, from the committee to whom it was referred to inquire whether any and what alterations ought to be made by law in the compensation of the officers of the United States, reported it as their opinion that the salaries of the Secretary of War and Attorney General should be augmented $500; and that the salaries of the Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, Postmaster General, Treasurer, Comptroller of the Treasury, Commissioner of the Revenue, Auditor, Register, Assistant Postmaster, and Keeper of Military Stores, should be increased 25 per cent. They also recommend that the act for regulating the compensations allowed to clerks in public offices, passed last session, should be continued for the year 1797, and no longer; and also that an additional compensation should be allowed to the Loan officers of Massachusetts and New York of $375, and $300 to be distributed among the clerks in each office; and that the sum of $120 be allowed among the

clerks in the Loan office of Pennsylvania for the present year. This report was twice read, ordered to be committed to a Committee of the Whole, and made the order of the day for Thursday.

Mr. D. also, from the committee to whom was recommitted the bill for establishing an uniform Militia system throughout the United States, reported a new bill, which was twice read, committed to a Committee of the Whole, and made the order for Friday.

Mr. Swanwick, from the Committee of Commerce and Manufactures, reported a bill for licensing pilots in the States of Virginia and Maryland, within the waters of those States. It was read a second time, committed to a Committee of the Whole, and made the order for Friday.

A Message in writing was received from the President of the United States, which the Speaker having opened, he declared to be of a confidential nature, and that therefore the House and galleries must be cleared of all but the members and the Clerk. They were cleared accordingly.

After the doors had been closed little more than half an hour, they were again thrown open.

ENCOURAGEMENT TO MANUFACTURERS.

Mr. Swanwick, from the Committee of Commerce and Manufactures, made a report on the petitions of Richard R. Saltonstall, Jacob Broom, Robert Dawson, William Crowley Jordan, John Nicholson, and the proprietors of the glass manufactory of Boston, and of sundry hat manufacturers in the United States.

Mr. Saltonstall had formerly obtained a patent for securing to him an improved use of sumach, and complained that he had been disturbed in his right by others who pretended his discovery had been made in other countries before he obtained his patent. He prayed for security in the enjoyment of his patent, or compensation for his expenses. The committee reported that a Court of Law was the proper tribunal for an appeal, and resolved that the prayer of the petitioner could not be granted.

Jacob Broom is the proprietor of a cotton mill on Brandywine creek. He prays that the duty on raw cotton may be repealed, and that an additional duty may be laid on cotton goods imported. The committee report that to repeal the duty on raw cotton imported would be to damp the growth of cotton in our own country, and that imported cotton goods already paying a duty of 12½ per cent., the tax was sufficiently high to allow ample room for competition. The petition was therefore not granted.

Robert Dawson is a manufacturer of bolting cloths at Wilmington. He prays for a repeal of the duty on raw silk, in order to aid his manufactory, the produce of which, he says, is superior to any imported. The committee report that the superior quality of these bolting cloths was sufficient to recommend them, without embarrassing the revenue by a repeal of the present duty. The petitioner had leave to withdraw his petition.

William Crowley Jordan is a silk manufacturer, who is desirous of establishing a silk manufactory in this country, and prays Congress to assist him with some addition to his capital. The committee reported, that if our finances were in a state to encourage a scheme of this sort, they should very much doubt of its success from the high price of labor. This petition was also disagreed to.

John Nicholson, of this city, and the proprietors of the glass manufactory at Boston, pray their manufactories may be encouraged by an additional duty on glass imported. The committee report it as their opinion that the high price of labor, which time only could cure, was a greater obstacle to their manufactory than the duty, and that therefore the prayer of the petition ought not to be granted.

Sundry manufacturers of hats in the United States pray for an increase of duty on hats, for the encouragement of their manufactory. The committee's opinion upon this petition was the same as upon the last, and it was of course disagreed to.

The reports were twice read, and the House concurred in them.

INTERNAL REVENUES.

Mr. W. Smith called for the order of the day on the report of the Committee of Ways and Means, to whom it was referred, to take into consideration the subject of further revenues, and the provisions requisite for improving and more effectually securing the internal revenues; which being agreed to, the House resolved itself into a Committee of the Whole, and the following resolution was brought under consideration:

"*Resolved*, That it will be expedient to abolish the tax laid on spirits distilled from materials of the growth or produce of the United States, at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there shall be one or more stills, which singly, if only one, or together, if more than one, shall be of less capacity than four hundred gallons; and to collect this branch of the revenue from a tax on the capacity of the stills."

Mr. Macon said it appeared to him that this provision would have the effect to destroy all the small stills in the country, and to establish large distilleries. In the country, where fruit was generally distilled, this would be a great inconvenience, as it was necessary to be done immediately. He believed the system was going on pretty well at present, and he thought it unnecessary to make any change in it.

Mr. Henderson hoped the resolution before them would not be agreed to. He believed it would operate against many of the small stills. Perhaps, indeed, this was the meaning of it; for, if he remembered rightly, a gentleman from South Carolina, [Mr. Harper,] on a former occasion, had expressed a wish that small stills might be annihilated, and large distilleries erected. With respect to New Jersey, Mr. H. said, the article of cider was mostly distilled. It was difficult to carry this to a distance, and therefore the number of small stills was very considerable; but, should this resolution be carried, it would subject them to great difficulties, and, in many instances, amount to a

prohibition from distilling at all. He believed the system at present was pretty generally satisfactory.

Mr. GALLATIN said, both the gentlemen from North Carolina and from New Jersey seemed to be certain that the plan proposed would have the effect to destroy small stills, and from thence derived their objections to it. He wished they would show how this would be done. He believed the law might be so carried into effect, but he also believed that it might be so arranged as to avoid it.

Gentlemen had said that the present system was very well. He would say it was not so. It was unproductive. The expense of collection upon that part of the revenue which was drawn from spirits distilled in the country, on domestic materials, cost from 32 to 33 per cent. collecting. What the nett amount of the duty was he did not recollect; he believed it was from $150,000 to $200,000 per annum. It was clear, he said, that the moment a direct tax was laid upon the still, instead of the spirits, two-thirds of the expense of collection would be got rid of; all that was necessary being to measure the still, instead of having an officer to watch the operations of the distiller. Here, he said, frauds could not be easily committed. Nothing was necessary to be known, but whether a man distilled or not; if he distilled without a license, he would be liable to a penalty, and this was all the fraud which could be practised.

Another great objection to the present system, Mr. G. said, was, that it gave great advantages to the unfair trader over him who traded fairly. Some were advantaged through ignorance, and some through design; an oath, he said, would bind some men, but not all. This would be altogether prevented by the plan proposed. Every man would stand upon the same ground.

It was true, and it was the only objection which could be made to it, that if an equal tax was laid upon the capacities of all stills, there would be an advantage in favor of large stills; because, upon large stills, large capitals would be employed, and they would be worked throughout the whole year; but, in order to remove this objection, he thought a certain scale should be formed, in order to proportion the duty according to the size of the still. He was of opinion that this single provision would remove all objections. If the resolution was agreed to, it would of course be referred back to bring in a bill, and then it would be seen whether this evil could not be remedied in the way mentioned. All the revenue officers, Mr. G. said, were agreed as to the propriety of this measure.

Mr. PARKER said, if the mode proposed could be so modified as not to injure the small stills, he should have no objections to it; but if it were to have that effect, he trusted he should be able to show that it was a very improper measure.

Mr. DAYTON (the Speaker) said, at first the report appeared to him in an unfavorable light. He feared it would have the effect—nor was the fear an unreasonable one—to injure small stills; but he now saw it possible to prevent their injury, and even to protect them. He thought there was a regulation of greater importance than the one mentioned by the gentleman from Pennsylvania, [Mr. GALLATIN.] He thought small stills should have the privilege of taking out licenses for a shorter time than a year. Foreseeing that the House would have an entire control over the subject when it came before them in the form of a bill, he did not mean to oppose it in this stage.

The resolution was agreed to, the Committee rose, the House concurred in it, and it was referred to the Committee of Ways and Means to bring in a bill.

CASE OF M. POIREY.

On motion of Mr. MADISON, the House went into a Committee of the Whole on the report of the Secretary of War, on the petition of M. Poirey, Secretary and Aid-de-camp to Major General Lafayette.

It appears that M. Poirey followed the example of General Lafayette, in declining to receive any pay for his services in the course of the late war; but, like his master, having been overtaken by misfortune, he calls upon the equity and generosity of the American nation to afford him relief, in the same manner as they had, unasked, requited the service of General Lafayette.

The report being read, Mr. MADISON, in order to take the sense of the House, moved the following resolution:

"That provision ought to be made by law for settling the claim of M. Poirey."

Mr. M. said that the plea of the petitioner seemed to be this, that, since the House had behaved with generosity to the General himself, they would be equally favorable to him.

Mr. COIT said that there was an infinite number of cases of the same kind. He wished, on this account, that it had been at once sent to the Committee of Claims. It would then have been compared with other cases of the same nature. He moved that the Committee of the Whole should rise for that purpose.

Mr. LYMAN hoped that they would not rise. The House was as competent to decide at present as they ever could be. The whole facts were before them. Mr. L. was for rejecting the petition. He did not understand this way of first giving up a claim and then coming back a second time.

Mr. COIT thought that it was of importance to decide uniformly. As other cases of the same kind had been before the Committee of Claims, he wished this to be referred in order to have a similar decision with others.

Mr. SWANWICK did not wish the Committee to rise, nor the petition to be referred to the Committee of Claims. He thought that it would be an uncommonly hard and disagreeable case, after a man had served this country, that he should not be paid for it. He considered it even as bad policy, setting gratitude out of the question. The American Revolution had indirectly conduced to that of France, by which the petitioner had been reduced to ruin. Mr. S. urged the propriety of granting the prayer of the petitioner. It was a case analogous to that of Lafayette himself. Having paid the General, we ought of course to pay

the Secretary. The latter had, like the former, waived his claim till compelled by necessity. He hoped that the Committee would not take advantage of this generosity to deprive him of the money.

Mr. THATCHER doubted whether the two cases were analogous. It had been said that Lafayette generously made a waiver of his claim, and that the Aid-de-camp did the like. As to the latter, Mr. T. had doubts. If this had really been the case, he should be willing to let him be paid now.

Mr. S. SMITH insisted that the case of this officer and Lafayette bore a close resemblance. This gentleman had not been paid. He was not in the list of officers who had been so. He had cast himself on the liberality and equity of the House. Mr. S. hoped that the request of the petitioner would be granted.

Mr. SWANWICK asked what kind of appearance this country would make in Europe, if it should be told that the General had been paid, but not his Aid-de-camp? When a native American was cut off by the statute of limitations, there was still this to be said, that he had gained and shared in the advantages of the American Revolution. But the French officer had no consolation of that kind. It had tended to precipitate this gentleman and others into ruin.

Mr. KITCHELL was against the petition, and he did not see in what way the petitioner could be said to have waived his claim. As for the grant to Lafayette, he had been of much use to this country in many other respects, as well as by his military services; he had been the means of America's obtaining pecuniary aid.

Mr. DAYTON understood his colleague last up as being rather against the quantum than the principle of the compensation. He saw no use for rising in order to refer. The facts were all before the Committee. No new information could be got. It was known that Lafayette and his family were in a particular situation. Not one of them took any money. Mr. D. would consider it as extremely hard to hold up the statute of limitations against any person, either an American or a foreigner, who was beyond seas when it passed.

Mr. MACON thought the case of Debord equally hard, as well as many others. Thus a man petitioned the House who had gone to Kentucky, thinking that he could do better beyond the mountains; he came back, and applied for what was due, declaring that he never once heard of the statute: he was refused redress, as well as many others. Mr. M. said that we are as bound to take care of our own citizens as of Frenchmen. As for the French Revolution, we have nothing to do with it in this question.

Mr. MURRAY said, there is not a farmer in the United States who would not approve the affording of relief in this case; for, said he, who among them, if a young man, fond of agriculture, should serve him faithfully for a year, and at the end of that period, wishing to pursue his inquiries into distant lands, should leave him, but decline to be paid for his services because he did not want the money, would, if that same young man should return in the course of a few years in distress, and ask of his equity and generosity what, before, he could have claimed of his justice, turn a deaf ear to him, and say, "I owe you nothing; since you did not receive your due when you might have had it, I cannot now listen to your distress." He believed no one would be found to do this.

Mr. COIT endeavored to show that the rules of morality which suited domestic concerns could not, in this case, be applicable or practicable in regard to the statute of limitations.

Mr. MURRAY repeated his hopes that the prayer would be granted.

The Committee agreed to the resolution; they rose, and the Chairman reported.

Messrs. MADISON, SWANWICK, and MURRAY, were appointed a committee to bring in a bill pursuant thereto.

TUESDAY, January 10.

WADE HAMPTON, from South Carolina, appeared and took his seat.

Mr. THATCHER, from the committee appointed to inquire if any or what alterations were necessary in the establishment of Post Offices and Post Roads, reported a bill, which was twice read, and ordered to be committed to a Committee of the Whole on Monday next.

ADDITIONAL TAXES.

Mr. HENDERSON proposed a resolution to the House, in the following words:

"*Resolved*, That the Committee of Ways and Means be instructed to inquire into the propriety and expediency of laying a tax upon all theatrical exhibitions; and also to inquire whether any, and if any, what, articles of foreign growth or manufacture imported into the United States, or of articles manufactured or used within the United States, will allow of an additional duty to be laid upon them; and to report thereon!"

Mr. H. said his reason for offering this resolution to the House was, because the subject of revenue was likely soon to come before them. It was, he said, in contemplation to lay a tax upon land, which appeared to him an object of the greatest importance, and that every means of indirect taxation should be resorted to before direct taxation was adopted. He did not wish to be understood to be opposed to direct taxation, when all other means failed; but he was of opinion there were objects upon which indirect taxes might be laid, which had not yet been attended to. It was on this account he offered the above resolution.

JOHN GIBBONS.

On motion of Mr. MILLEDGE, the House resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of John Gibbons, Treasurer of Georgia. The report, which was as follows, was read:

The Committee of Claims, to whom was referred the petition of John Gibbons, Treasurer of the State of Georgia, report—

That the petitioner, in his official capacity, prays that final settlement certificates may be issued in favor of

the said State, for the sum of $123,283 70, contained in a certificate, dated the 18th May, 1785, and signed by John Pierce, Commissioner, which is not considered by the officers of Government as a final settlement certificate, and payment of interest thereon is refused; or that some other relief may be granted.

On the investigation of this claim, the committee find the following facts, viz:

The State of Georgia paid the officers of their line up to the close of the war, and the five years' pay, commonly called commutation.

On the 1st day of June, 1784, Congress passed a resolution which provides "that the several States shall be credited, in their accounts with the United States, for the specie value of all sums by them paid to their officers and soldiers in the Continental Army, due from the United States; provided such payments shall have been notified to the Paymaster General, and by him charged to such officers and soldiers, in settling their accounts with the United States; and interest shall be allowed the said States from the time of payment so made.

On the 7th of May, 1787, Congress ordained that a Board of three Commissioners should be appointed, whose duty it should be to receive from the Comptroller of the Treasury, and from the Commissioner of Army Accounts, all the accounts and claims of the several States, &c., that a final adjustment of such claims, on uniform and equitable principles, might be had.

On the 5th day of August, 1790, a law was passed by Congress, similar to the ordinance above mentioned, authorizing and directing the said three Commissioners to receive and examine all claims of the individual States against the United States, which should be exhibited to them before the 1st day of July, 1791; the powers of which Commissioners were, on the 23d day of January, 1792, extended to the 1st day of July, 1793; since which, they have settled the said claims, and their settlement has received the approbation and sanction of Congress—in which the State of Georgia is found to be a creditor State, to the amount of —— dollars.

On the 18th day of May, 1785, John Pierce, Commissioner of Army Accounts, gave a certificate that, in the final settlement made by him of the accounts of pay and commutation of the officers of the Georgia line, he found the State had paid their officers for sums due prior to August 1st, 1780, and from that time up to, and including the year 1783, and including commutation, the sum of $123,283 70; for which payments the said State was to have credit in the account with the United States, agreeably to the resolution of Congress of June 1st, 1784.

The State of Georgia has attempted to obtain interest on this certificate, both before and since the act passed the 4th August, 1790, and have been refused.

On the 9th day of April, 1791, an explicit refusal, in writing, was given by the then Secretary of the Treasury, alleging that the sum of this certificate was already passed to the credit of the State of Georgia, in the books of the Pay Office, and that it would be included in the statement of the General Board of Commissioners, and could not be funded by the aforesaid act of the 4th of August, 1790.

This decision was not satisfactory to the State of Georgia, and on the 12th day of April, 1792, they presented a memorial to the House of Representatives, praying that separate final settlement certificates might issue for the certificate mentioned above; which was referred to the Secretary of War, but no report was ever made upon it, and the memorial is said to have been lost or mislaid.

On the 9th of April, 1794, the memorial now under consideration was presented, and referred to the Secretary of the Treasury; and on the 5th of January, 1795, returned without any report; and on the 10th December, 1795, referred to the Committee of Claims.

The committee are of opinion that this certificate of $123,283 70 was not presented to the Commissioners who settled the accounts of the individual States with the United States, nor by them allowed. This opinion they derive from the circumstance of the original certificate being now in the hands of the agent of the State, which, if allowed, must have been reserved by the Commissioners; and by a certificate of Patrick Ferrall, who was principal clerk to the said Board of Commissioners.

It seems, by this last certificate, that Mr. John Wereat, Agent for the State of Georgia, had in his possession the certificate of Mr. Pierce, aforesaid, but claimed that it was a final settlement with the United States, and just claim against them by the State of Georgia, as assignee to the officers; and would not lay it before the Commissioners.

The committee are clearly of opinion, this certificate ought not to be considered as a final settlement certificate, for the purpose of being funded on the act of August 4th, 1790, but that the claim was regularly to have been laid before the aforesaid Board of Commissioners, and a good claim against the United States in the general settlement. Had Mr. Pierce not interfered in this business, and had he not given a certificate, the claim would have indisputably come under the resolution of Congress of June 1st, 1784; and his interference does not alter the nature of the claim, as he expressly grounds it on the same resolution; which circumstance must remove all doubt on the subject.

The Secretary of the Treasury decided upon the request for interest, or to loan this certificate, seasonably for the exhibition of the claim to the Board of Commissioners; but the State of Georgia suffered the limitation to bar them, and did not even petition Congress until long after they were barred.

A strict adherence to the limitation in this case, appears to the committee of the utmost importance, as allowance of this claim would now, in effect, destroy the equality and defeat the propriety of the settlement made by the said Board of Commissioners: they are therefore of opinion that the prayer of the petitioner ought not to be granted.

Mr. Milledge said that, although the Committee of Claims had supposed this claim was barred by that committee, yet he thought it clearly was not. It was a Continental debt, properly founded on a certificate which it could not be doubted was good. Five years they were in possession of that certificate. In May, 1787, hesaid, Congress passed a law to establish three Commissioners to examine into the claims and debts of the States. Georgia had claims against the Union, but she kept back $1,230,000, lest she should be considered a creditor State. He said Georgia had suffered more than any other State during the war, being the Southern outpost or picket. The most numerous tribes of savages were continually on her frontiers, and she was obliged to be perpetually in arms; therefore the hand of the United States ought to deal tenderly towards her; they ought to strengthen

her, instead of oppressing her, by withholding from her a just claim. A general adjustment took place in 1785, on uniform and equitable principles; then, how this came to be barred, he could no way account.

On the 9th of April, 1791, the late Secretary of the Treasury (Mr. Hamilton) wrote to them that this account was passed to the account of Georgia, and would be included in the settlement of the General Board of Commissioners. This was three months previous to the settlement at that Board. In six months after this, or three months after the final settlement, we get information that we are deprived of that settlement which we expected to receive as unquestionably our just due. This certificate, which specified our claim, was not admitted into the account. Now, from this representation, which is incontrovertibly just, could it be conceived, said Mr M., that such a report against the claim should be returned? He must conceive that there was much justice in the claim.

Mr. Baldwin enlarged, in explanation, somewhat on the observations of his colleague. After repeating the advice given by Mr. Hamilton on the subject, he went on to explain that a Mr. Pierce, Commissioner of Army Accounts, was despatched from the General Government to settle the arrears of the troops in the Southern States; that, owing to a number of circumstances, and none so much as the great distance of Georgia, three years had elapsed before he reached them. The Army became very impatient and solicitous for their pay. After repeated applications and apprehensions, the State ordered the Treasurer to advance money to quiet their murmurs. It was done, not doubting but that the Commissioner would soon arrive, and repay the State. At the time before-mentioned, Mr. Pierce arrived. Every one knows the scarcity of money at that time; and it was also as well known that this John Pierce's certificates were as good as cash: it was only necessary to believe them genuine, and they freely passed for cash. Mr. Pierce did not know what to do, as the money had been paid. However, at length, to prevent a number of items, and making out settlements to a number of names, he gave a general certificate of the whole sum on one piece of paper. There was no doubt of that paper. It was only necessary to prove it was the real liquidated certificate of John Pierce, and it became current, if real. Mr. B. did believe that it could have been funded. There could be no objection, the paper of Mr. Pierce was then so unobjectionable. The funding law admitted those certificates to be paid in, and this was in no respect different from other certificates issued by John Pierce.

We wrote to the Secretary of the Treasury. He considered the notes of the same value we took them to be, and wrote us everything was well.—the sum was already passed to the credit of the State—and that it would be included in the statement of the Board of Commissioners. In July, when their agent came to Georgia, it was found that this was not the case; and it was then past hopes, the Board having risen. It was therefore alleged to this misinformation that the claim was not given in at the Board. We placed every possible dependence on the advice of that Department, whose direction we considered as certain. If the Secretary of the Treasury had said that the claim could not be considered as liquidated, but must be given in to the Commissioners, or it could not be allowed if it had not then been delivered, we should have had no excuse; but from this source of direction it must have been thought sufficient. It was therefore but just, in this situation of things, that the claim should be allowed.

Mr. W. Smith, from attending to the facts stated by the members from Georgia, and the statement and report of the committee, was convinced of this important fact: that this was not a certificate given by Mr. Pierce to an individual, but to a State. As such, it ought to have been brought forward at the general settlement of the States' accounts. Mr. Gibbons did not stand himself as a creditor, but the State; and now Mr. Gibbons comes forward with this claim under another appearance—an individual. No, Mr. S. said, he must consider it still as the State: in this view it must be considered. The State thus chose to assume the debt, and become the creditor of the United States; and, from that consideration, she ought to have come in with the others to have had the settlement. Why, then, did she not come forward at that time? Mr. S. supposed it was because it would be more to her advantage to have the certificate funded. They had either to bring it forward to the Board, and lose the chance of funding it, or run the risk: they chose the latter. And can they now blame the United States, after it was declared that no State claims should be granted after the limitation by the Board of Settlement? Can they now, said Mr. S., expect this claim, because they chose to run a hazard of losing that opportunity with a view of more profit? No. Were this allowed, claims would soon pour in from other States for accounts pretended to be unsettled. Mr. S. then proceeded to justify the Secretary of the Treasury from the charge of misjudgment in the case. All other States, he said, would have been in the same situation, had they not fairly brought forward their claims to the general settlement. South Carolina had some millions of dollars to put into the general account, which she fairly did, and never pretended to fund it. He thought other States had equal claim, if this was allowed.

Mr. Coit spoke at some length against allowing the claim, as he had every reason to believe, from a strict examination of the papers and circumstances attending them, that the State had been allowed the amount of their claim; to which, Mr. Baldwin returned an explanatory answer.

Mr. D. Foster said, if gentlemen would examine the papers, there was no ground for supposing the Secretary of the Treasury in an error.

Mr. J. Smith made some remarks similar to those of Mr. Coit, to whom Mr. Gallatin answered, in favor of the claim. He thought the case appeared clearly a claim founded on substantial justice, and ought to be granted.

Mr. J. Smith again spoke, to whom Mr. Nicholas made reply.

Mr. W. SMITH did not think the evidence in favor of the claim sufficient to admit it.

The Committee rose, reported progress, and obtained leave to sit again.

M. POIREY.

Mr. MADISON, from the committee to whom it was referred to bring in a bill for making provision for the satisfaction of the claim of M. Poirey, Secretary and Aid-de-camp of General Lafayette, reported a bill; which was twice read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. LIVINGSTON said he had a proposition to make relative to the communication yesterday received from the PRESIDENT OF THE UNITED STATES, and therefore moved that the House and galleries might be cleared.

They were cleared accordingly; and, soon after, the House adjourned.

WEDNESDAY, January 11.

RICHARD WINN, from South Carolina, appeared and took his seat.

BOARD OF AGRICULTURE.

Mr. SWIFT, from the committee to whom was referred that part of the PRESIDENT'S Speech relative to the promotion of agriculture, made a report, recommending the institution of a society for that purpose, under the patronage of Government, which might act as a common centre to all other societies of a similar kind throughout the United States. No public provision is contemplated except for the salary of a Secretary and for stationery; but if the state of the Treasury should make even this unadvisable, it is stated it might be carried into effect without pecuniary aid. The report is accompanied by a plan, the principal articles of which are, that a society shall be established at the Seat of Government; that it shall comprehend the Legislature of the United States, the Judges, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney General, and such other persons as should choose to become members agreeably to the rules prescribed; that an annual meeting should be held at the Seat of Government, at which is to be chosen the President, Secretary, &c., and a Board, to consist of not more than thirty persons, which shall be called "A Board of Agriculture;" that the society shall be a body corporate; that a report shall be made annually, &c. The report concluded with a resolution in these words:

"*Resolved*, That a society for the promotion of Agriculture ought to be established at the Seat of Government of the United States."

The report was twice read, and ordered to be committed to a Committee of the Whole on Monday next.

GILBERT DENCH.

On motion of Mr. W. LYMAN, the unfinished business of yesterday was postponed, in order to take up the report of the Committee of Claims on the petition of Gilbert Dench. The House accordingly went into a Committee of the Whole on that subject, when the report, which was as follows, was read:

"That, it appears by the statement of the petitioner, and is proved by the documents which accompany his petition, that in the year 1781 he contracted with Jabez Hatch, then Deputy Quartermaster General, to transport clothing, &c. for the United States; and, in 1782, he made another contract with the same officer, to transport military stores for the United States, which two contracts were both faithfully performed by him. The first contract was made for certificates, and paid according to the terms of it; the second contract, to the amount of more than $20,000, was made for specie, and, when it became due to the petitioner, the said Hatch had not cash to fulfil the contract on the part of the United States. Application was made to the Commonwealth of Massachusetts, and a loan obtained in certificates or orders, in anticipation of the Continental taxes, then in collection. Having obtained these orders or certificates, the said Jabez Hatch paid the same to the petitioner in satisfaction of the contract, and he gave a receipt in full, as having received specie nominally. This loan was soon after reimbursed in the Treasury of Massachusetts, by an order from the Superintendent of Finance for the United States.

"The committee find that those certificates, issued in anticipation of the taxes, like other public paper at that time, passed at a discount, and that the petitioner suffered by their depreciation. They are, however, of opinion that at this time to undertake to redress the injuries sustained by individuals in the depreciation of public paper during the late war, would be productive of greater evils than any possible advantages resulting from the attempt could compensate.

"The petitioner has heretofore brought this subject under the view of Congress, who, after a full investigation, resolved that the prayer of this petition ought not to be granted. Though the committee are sorry for the misfortunes of Mr. Dench, they cannot find sufficient reasons to justify an opinion that the House should now make a different decision; and, therefore, report, that he have leave to withdraw his petition."

Mr. THATCHER said, that he hoped the Committee would not approve such a report. They had been afraid that an agreement to it would make the door open for many others. He had contracted for specie; he had been paid in depreciated paper; he ought to have the difference made good. Mr. T. desired that the account given in by Mr. Dench might be read. This was done.

Mr. MACON differed entirely from Mr. THATCHER. Mr. Dench had granted a receipt as for so much specie. The committee had only to look at the facts. The matter was closed; Mr. Dench could have no claim. If there was any reference it should be to the State of Massachusetts, whose paper had depreciated.

Mr. VARNUM vindicated the claim of Mr. Dench. The individual State had no concern in repairing the depreciation. It was the United States, with whom the petitioner contracted, that ought to make good his loss.

Mr. SPRIGG thought that, by consenting to the request, there would be a derangement of precedents. He looked on the case of Captain Harris, decided but a few days ago, as much stronger than that of Mr. Dench. Mr. Harris was to have been paid in specie, but he did not receive it. The Treasury said to him, "You shall receive nothing but depreciated paper." There were many such cases. The present petitioner says that he was compelled to sell his certificates. Wherein does this differ from the case of Mr. Harris? Mr. S. could see nothing in the two cases to warrant a different decision.

Mr. MADISON said, that if any gain or saving had been made in this transaction it was by the State of Massachusetts. The United States had once paid the money. If a method could be pointed out of sharing the loss equally between them, he confessed that, for his part, he would approve of it.

Mr. DEARBORN thought that this case was materially different from Harris's. Dench contracted for specie, and was paid with paper. He was under a necessity of getting paper in order to pay the people whom he had engaged, and who were calling on him by hundreds. As for Mr. Harris, every officer in the Army was forced to accept of depreciated paper. He was no worse than others. This bargain was made expressly and exclusively for specie, at a time when paper would not be taken.

Mr. J. SMITH said, that Dench had been badly used, but innumerable other cases were much worse. Mr. Dench suffered no more than others who took depreciated paper instead of specie. He was obliged to sell his certificates before they were due; but the citizens of Massachusetts actually paid in real specie the tax of which these certificates were partly in anticipation. Mr. S. said that the House were every day rejecting claims more equitable than this one. He was almost going to have said that, in point of equity, it was much less strong than any other claim which they had met with.

Mr. WILLIAMS was against the prayer of the petition. The United States had paid the money. The complying with this demand would open the door to numbers with this principle in their view.

Mr LIVINGSTON thought this case in a peculiar situation. The payment was made in depreciated paper. By this the United States gained nothing. One-half or so had been lost to the petitioner, and it must have been gained by somebody. To whom, then, was the creditor to look for reimbursement? Massachusetts stood in the situation of a person receiving money without authority to do so. Members from that State did well to advocate the payment of the balance to Mr. Dench. The transaction was disgraceful; it ought not to come abroad to the world. He thought that Dench should be satisfied by Massachusetts.

Messrs. VARNUM, THATCHER, and SEWALL, rose successively in reply to Mr. LIVINGSTON. They insisted that he had mistaken and misstated the case, as Massachusetts had gained nothing by the depreciation.

Mr. SEWALL said that urgency of the service of the United States was the cause of the anticipation. This produced the depreciation; it is well known what a man suffers by anticipating his revenue. The necessity was originated, and the consequences ought to be supported by the United States.

Mr. HARPER said, that Mr. LIVINGSTON had represented the case as branching into two points: Ought the petitioner to be paid, and, if so, who ought to pay him? The first point the gentleman had passed over. This Mr. H. would take up. Mr. Dench was under no compulsion to sell his certificates until they became due, when he would have got full payment. He chose to go on, as the lesser of two evils. Perhaps there was not a single man, having any dealings with the United States, who had not been in the very same situation. Mr. H. was sorry that the petitioner should have been so treated, but he could not, for his life, conceive what gentlemen meant by calling his case a peculiar one. Mr. H. could quote cases by thousands which had been refused, and which were more entitled to the compassion, to the attention, he would not say to the justice, of the House. We had nothing to do in this case in particular, after finding it necessary to establish some great principle which would comprehend the whole.

Mr. W. LYMAN would not agree to the report of the Committee of Claims. The petitioner never could be paid by Massachusetts, which had already borne her full share. It was well known what very great dependence was placed upon that State. At one time more than one-half of the troops in the Continental Army belonged to it. The daily food of the inhabitants, and almost every thing else, was often in a state of requisition.

Mr. PRESTON was against the report of the committee. Who was bound to bear the loss? He did not think that it would be Massachusetts. It would be very unjust to make the petitioner a loser. It could, therefore, fall only on the United States. This might be deemed inexpedient, as opening a wide door. Mr. P. could not help this, nor bring himself to vote for the report on the table.

Mr. VENABLE said, that hundreds of cases, admitted to be just, and which had been laid on the table, were refused rather than the statute of limitations should be broken. He wondered why this thing had been brought forward.

Mr. THATCHER denied again that Massachusetts gained any thing by this depreciation. Mr. Dench was obliged to anticipate when three hundred people were daily calling on him for money on account of his contract. The case of Captain Harris was quite different. He did not call for the money when he might have had it, and every officer was in the habit of accepting money at the depreciation as well as he.

Mr. POTTER denied that there was any peculiarity in the case. Mr. Dench was exactly in the same situation with many others.

Mr. CHRISTIE thought that the introduction of this claim, just after that of Harris's had been rejected, was the most extraordinary thing in the world. He said that cases in that House were

apt to have merit according to the coldness of the climate from which they came. In the affair of Captain Harris, not one farthing was to be got. To say that they would pay Dench to the full, when officers had been selling their certificates at a shilling per pound, was the merest farce in nature. Why, in the name of common sense, was this petitioner singled out? He never could see the merit which this petition had, unless that sort which he had named already. There was not in the case of Dench one-tenth part of the merit which many others had that the House rejected.

Mr. DAYTON concurred in the report of the select committee. There was nothing more in this instance than in many others. It would be letting in a flood of claims.

After a long debate the question on agreeing to the report of the Committee of Claims was put and carried. The Committee rose and the House confirmed the agreement.

A bill was received from the Senate for repealing the limitation of the act in addition to an act for the punishment of certain crimes against the United States, and to continue in force the same. It was twice read, and ordered to be committed to a Committee of the Whole on Monday.

M. POIREY

Mr. MADISON called for the order of the day on the bill for making provision for the claim of Monsieur Poirey, as Secretary and Aid-de-camp to Major General Lafayette.

The House accordingly went into a Committee of the Whole on the subject, and rose and reported the bill without amendment. The House then took it up; when

Mr. DEARBORN said, he was not present when this business had before been under discussion. He hoped that all claims intended to have been taken out of the statute of limitation would have been referred to the Committee of Claims, and proceeded with regularly. He did not admire the taking of them out in this way. There were many cases of soldiers and sailors, who, from certain circumstances, had been prevented from making their claims in time; and, as long as there were many cases of this kind unattended to, he should be against taking up cases like the present separately.

Mr. WILLIAMS wished to know whether this officer acted in two capacities or one? He thought no officer ought to be considered in two.

Mr. SWANWICK said; the House had considered this officer's case as totally different from that of any other, as he never intended to have made any claim, but to have followed the example of his General. Having, like him, however, been overtaken by misfortune, he claimed also the bounty of the United States. It was on this account that the bill was brought in. As to whether he should be considered in one or two capacities, was not now the question. He doubted not the Accountant of the War Department would take care of that.

Mr. MADISON observed, that if he saw any danger from the precedent of making this provision, he should not be for it; but he believed the precedent could not be extended to any other case. This officer, he had learned, would have been put on the foreign list had it not been that he was so wrapped up in the conduct of his General, as to consider it indelicate to receive any payment. He relied upon the prosperous fortune of General Lafayette for recompense. This had failed him. If, said Mr. M., anything could afford comfort to the General in his present unfortunate confinement, it would doubtless be to find that the United States had extended their liberality to the relief of his faithful servant.

Mr. DEARBORN said, he had no objection to their doing something for this gentleman; but he did not see why they should allow him, from generosity, what they refused to others on the ground of justice. It was a common saying, "we should be just before we are generous," and he thought it would be dishonorable and unjust to allow relief in this case, and refuse it to our own deserving citizens, whose claims were at least equally strong.

Mr. HARTLEY spoke in favor of the claim.

Mr. SWANWICK said, justice and generosity were both combined in this case. This gentleman being a foreigner, he did not stand on the same ground with our own citizens, who, though they might have suffered equally in the service, were now, in common with their fellow-citizens, reaping the fruits of their labors. To grant relief in this case, as had been observed by the gentleman from Virginia, would afford a degree of consolation to the mind of the unfortunate General in the gloom of his dungeon; but, on the contrary, if it were refused, it would doubtless give him a painful wound.

Mr. MADISON said, when he was up before, he had omitted to answer the question of the gentleman from New York. It did not appear clear, he said, what part of the time M. Poirey was Secretary, and what part Aid-de-camp; they had chosen, therefore, to insert both characters. He would, of course, be allowed according to his services.

Mr. WILLIAMS doubted the propriety of expressing it; nor did he approve of this way of requiting this officer. He thought they were going contrary to the limitation act; he thought it would have been better to have allowed him a certain sum as a gratuity.

Mr. COOPER was in favor of the bill, because he thought the services of General Lafayette ought never to be eradicated from the minds of Americans.

The question was put and carried, and the bill was ordered to be engrossed for a third reading to-morrow.

THURSDAY, January 12.

MITIGATION OF PENALTIES.

Mr. COIT said, it was necessary that some alterations should be made in the act providing for the mitigation of penalties in certain cases under the revenue laws, different constructions having been put upon it by the officers of the Treasury.

He, therefore, proposed a resolution to the following effect; which was agreed to.

"*Resolved*, That the Committee of Commerce and Manufactures be directed to inquire whether any, and if any, what alterations ought to be made in the act providing for the mitigation of penalties incurred under the revenue laws, in certain cases therein mentioned, and to report by bill or otherwise."

JOHN GIBBONS.

The House then went into a Committee of the Whole on the report of the Committee of Claims, as to the petition of John Gibbons.

Mr. MILLEDGE said, that a member from Connecticut had asked what was become of the account mentioned in the certificate? It was said that it had been carried into the general account. Mr. M. had now got the original account, with the original certificate, as given by Mr. Pierce, at the bottom of it. The Committee had only this report from the Committee of Claims to look to. The diligence of their late chairman (Mr. TRACY, now of the Senate,) was well known. They had hence, on this account, no further information to look for. It was now clearly proved, by the production of this paper, that Georgia had not been paid; that the debt was due by the United States. He regarded the certificate as obviating every objection.

Mr. BALDWIN attacked the report of the Committee of Claims. If it had not been entirely against probability he would have been one of the last men in the world to oppose it. The task was extremely painful. None of the gentlemen of the committee had even said that it was probable that Georgia had received payment. The report was superficial. Could they not have taken pains to determine whether the fact was that Georgia had been paid or otherwise? Their report does not say that such payment has been made. The defence of the report occupied a different ground from the report itself.

Mr. POTTER said, that every State in the Union could show such things that had never been presented. It would lead to an endless perplexity if the precedent was adopted. He gave an instance in the State from whence he came, (Rhode Island.) There were two or three brigades of which neither officers nor men were paid. In the hurry and confusion of public business this was not brought forward at the proper time, and they had now dropped all thought of doing so.

Mr. W. LYMAN said that the subject resolved itself into two points: Whether Georgia had been paid, and whether she ought to be paid? As for the first, he thought that better evidence might be had from the Commissioners themselves than any yet given. As to the second, if it was proper that Georgia should be paid, he did not think this a proper time. Not being prepared on the subject, he should, if seconded, move that the Committee do rise. He wished the report not to be negatived but postponed. The motion was not seconded.

Mr. DAYTON was against the Committee rising. He denied that this certificate was of any consequence in establishing the claim. He would be for the Committee rising, if he did not think that Georgia had been already accounted with for it: this not being produced to the Board of Commissioners as was to be expected, it was not a final settlement certificate. If it was so, the fact ought to be proved, and it should have been funded. This was only a temporary certificate, like some which Mr. D. himself still had, since 1776, when he was a Paymaster. At a final settlement between a general and regimental Paymaster, they were not thought necessary to be delivered up. This was a paper of that kind.

Mr. BALDWIN said, by the report of the Committee of Claims, it had been confirmed, in his opinion, that the State of Georgia never had been satisfied.

Mr. SWIFT looked upon the conduct of Georgia unfavorably. He hinted that he thought the whole merely a scheme to get one hundred and twenty-three thousand dollars from the United States. Georgia never could consider Pierce's certificate as a final settlement certificate, but merely as a paper proper to be produced to the Commissioners. This the State did not choose to do. It was their duty to have done so. They had no reason to have called upon the Secretary for any purpose, about getting it funded. The very face of the paper showed that it was not of that kind. They chose to keep it back, when it really ought to have come forward, viz: to the Commissioners of Public Accounts. He was firmly of opinion that it had already been paid, and why the State had chosen formerly to keep it back, and now to bring it up, they best knew. If the act of limitation, by which the claim was debarred, should be opened, there would be an endless matter. That act was the palladium of our freedom.

Mr. NICHOLAS was as unwilling as any man to lay unnecessary burdens on the United States. He was, however, disposed to think favorably of this claim. He advanced a variety of reasons in defence of his opinion. He wished, at any rate, that the point might be more fully examined, to satisfy the State of Georgia that due attention had been paid to their demand.

Mr. BALDWIN wished to refer it back to the Committee of Claims. For this purpose he should move that the Committee of the Whole do rise.

If the Committee would be willing to take it back again, they would doubtless find it in a different form from what they had conceived. If he could conceive that there was good ground for the report, he should be the last to oppose it. He would not wish even the State he came from to receive money unjustly, to the injury of the General Government, but he really thought the Committee, in their investigation, had gone the wrong road. He wished the House to have better information on the subject, and not to be led to a wrong determination without due attention.

Mr. D. FOSTER said, all the facts that were in the power of the Committee of Claims to state, were now before the Committee of the Whole

in the report; he saw no advantage whatever from recommitting it, and, therefore, should oppose it.

Mr. Williams would be willing it should be recommitted, if it was probable the Committee could form a fresh report. If Georgia had not been paid this amount, he thought it but just they should. But whether they were justly freed from the power of the act of limitation, he could not say.

Mr. Dayton said, it appeared, from observations made, that there was a credit passed on the books of the State of Georgia to the United States for this sum. Now, he observed, it was usual amongst merchants and tradesmen when payment was made of a debt on book, that a bond was delivered up or receipt given, as an evidence, which was always conclusive of the settlement of such account. Mr. D. said, there did not appear any such evidence to support the present claim. It had been said that the Clerk of the Board knew the settlement was never made; but, he said, neither the Clerk nor the Commissioners themselves, could give him satisfaction on the subject, particularly as he found it depended on the memory of that evidence: he might be a good man, and yet his memory fail of that accuracy which was right in such a case as this. He thought it very proper that good testimonials should be presented, or the claim was to all intents invalidated.

Mr. Nicholas thought that every objection he had heard to this claim, was upon a different ground than that which the Committee took. What had been said was, that Georgia got credit upon the original receipt of this certificate. Mr. N. thought this not improper, and he hoped gentlemen would not be against application to all the facts in evidence which could be procured. For his own part, he must think the claim fair.

After a considerable dicussion, the Committee rose, and asked leave to sit again.

Mr. Baldwin hoped the Committee would not have leave to sit again, because the subject ought to go back to the Committee of Claims; which was also advocated by Mr. Cort.

It was observed by a member, that it would be improper to give trouble to the Committee of Claims, when they could obtain no new information; and the facts having been clearly stated, the House could judge on the subject.

The question was then put, "Shall the Committee of the Whole have leave to sit again?" and carried—ayes 44, noes 35.

ADDITIONAL REVENUE.

Mr. W. Smith then called for the order of the day on the report of the Committee of Ways and Means, on the subject of further revenues, when the following resolutions were read, as reported:

"*Resolved*, That there ought to be apportioned, according to the last census, on the several States, the sum of ——, to be raised by the following direct taxes, viz:

"A tax ad valorem, under proper regulations and exceptions, on all lands, with their improvements, including town lots, with the buildings thereon.

"A tax on slaves, with certain exceptions."

Agreeably to this plan of a direct tax of one million four hundred and eighty-four thousand dollars, to be laid upon the United States, the apportionment of the several States is as follows:

To the State of Vermont - - -	$28,000
New Hampshire - -	56,000
Massachusetts - -	196,000
Rhode Island - - -	28,000
Connecticut - - -	98,000
New York - - -	140,000
New Jersey - - -	70,000
Pennsylvania - -	182,000
Delaware - - -	14,000
Maryland - - -	112,000
Virginia - - -	266,000
Kentucky - - -	28,000
North Carolina - -	140,000
Tennessee - - -	14,000
South Carolina - -	84,000
Georgia - - -	28,000
Amounting to -	1,484,000
From which there being deducted for abatements, erroneous assessments, and charges of collections, fifteen per cent., or - -	222,000
There will remain the estimated nett proceeds of the proposed tax, being - -	1,262,000

Mr. W. Smith said, two questions presented themselves on this occasion; the first, whether any, and what further revenue was wanted? and secondly, what means shall be used for raising it? With respect to the first, any gentleman who had taken a view of our engagements and revenue, would not hesitate to say, a further provision was necessary. In order to evince this, however, it might not be improper to take a view of our public contracts and revenue. They had before them, he said, the report of the Secretary of the Treasury on the subject, which not only contained a state of our finances, but of the different revenue laws of the different States and other materials necessary to be known in order to form a system of direct taxation for the whole Union. Mr. S. proposed, therefore, to give as brief an abstract as possible of the state of our revenue, on the first of July last. He then entered upon the following statement:

1st. The Foreign Debt; consisting of loans obtained by the late and present Government, in Amsterdam and Antwerp, amounting to twenty-nine millions five hundred thousand guilders; equal, at forty cents per guilder, to - -	$11,800,000	00
2d. The six per cent. Domestic stock now in a course of reimbursement,	29,344,752	98
3d. The six per cent. Domestic stock upon which reimbursements are to commence in the year 1801 -	14,578,882	39
4th. The three per cent. Domestic stock,	19,597,545	93
5th. The five and a-half per cent. Domestic stock - - -	1,848,900	00
6th. The four and a-half per cent. Domestic stock - - -	176,000	00
7th. The unfunded registered debt, exclusive of arrearages of interest prior to the year 1791 - -	179,953	16

8th. The debts due to the Bank of the United States, and the Bank of New York - - - -	6,200,000	00
The sums before enumerated are precisely ascertained by the records of the Treasury, and amounting to	83,736,034	46
There are however in circulation various descriptions of certificates, the amount and value of which are not exactly ascertained, which, with the balances of certain unliquidated accounts and arrearages of interest, may possibly rise to - - -	1,124,404	24
The entire amount of all those capitals upon which no expenditure is incurred, and for which provision is necessary, may therefore be estimated at	84,850,438	70
To reconcile this representation with reports heretofore made from the real amount of the Public Debt, it appears proper to represent that the following sums are indisputable offsets against the capitals before enumerated:		
1st. Six per cent. stock bearing a present interest, already purchased or redeemed, and vested in the Commissioners of the Sinking Fund -	1,170,232,	13
2d. Six per cent. stock on which interest will accrue after the year 1800,	930,753	91
3d. Three per cent. stock also purchased or redeemed - - -	610,757	94
4th. Stock of the Bank of the United States, sold by the United States, estimated at par - - -	2,000,000	00
5th. The sum reimbursed at the close of the year 1795, on the six per cent. stock, - - - - -	544,066	54
Amounting in the whole to	$5,255,810	52

Payments annually required by Contracts.

1st. Foreign Debt.—The contracts respecting the Foreign Debt require annual reimbursements by unequal payments until 1809, when the last payment is to be made.

The whole sum, including principal and interest - - -	$16,772,444	00
The average sum, annually requisite for the Foreign Debt, during the fourteen years, which is to continue, is -	1,197,888	81

This calculation, however, supposes the practicability of such a punctual provision for the payment of interest, and principal, as will entirely supersede the use of temporary credits in Europe; and it moreover supposes that remittances can be uniformly made at the par of exchange. As neither of these suppositions will be in fact realized, there is to be added to the foregoing sum the estimated expense of remittances above par, and for interest on temporary advance to the United States, to insure punctuality; this expense will not probably be less than five per centum on the annual payments, and being calculated on the average annual demand above stated, will at this rate amount to 59,537 20

$1,257,426 11

Upon the principles herein assumed, the average sum to be provided until the year 1809, inclusive, for the extinguishment of the Dutch Debt, will be one million two hundred and fifty-seven thousand four hundred and twenty-six dollars and fourteen cents.

It is proper, however, to state, that the foregoing estimate is founded on a presumption that some systematical plan will be adopted for satisfying the existing contracts, by direct payments from the Treasury. In every degree in which recourse may be had to new loans, the expense of reimbursement will be finally increased by at least the charges of negotiation; these, upon such loans as may be hereafter obtained in Holland, cannot be estimated at less than six or seven per centum, upon the capitals which may be borrowed.

2d. The six per cent. stock now in a course of reimbursement, exclusive of the sum passed to the credit of the Sinking Fund, is twenty-eight millions one hundred and seventy-four thousand five hundred and twenty dollars, eighty-five cents, upon which the annuity of eight per centum amounts to - - - - - $2,253,961 66

The capital passed to the credit of the Sinking Fund, is one million one hundred and seventy thousand two hundred and thirty-two dollars, thirteen cents, upon which the accruing interest of six per centum per annum, is - -	70,213 92
Amounting to	$2,324,175 58

This sum, last mentioned, will be annually required until the close of the year 1817. During the year 1818, the demand for the object will decline to about one million eight hundred and sixty-five thousand dollars, and will then cease by the extinguishment of the debt.

3d. The six per cent. stock on which reimbursements will commence in the year 1801, amounted, on the first of July, 1796, to thirteen millions six hundred and forty-eight thousand one hundred and twenty-eight dollars, forty-eight cents, exclusive of nine hundred and thirty thousand seven hundred and fifty-three dollars, ninety-one cents, passed to the credit of the Sinking Fund. The annuity on the first sum, at eight per centum, amounts to - - - $1,091,850 28

And on the latter sum, at six per centum, to - - -	55,845 13
Being together - -	$1,147,695 51

Which last sum will be required from the year 1801, to the year 1823, inclusive. During the year 1824, the charge will be reduced to about nine hundred and twenty-five thousand dollars;

and after that period will wholly cease with the reimbursement of the debt.

4th. The funded three per cent. stock, exclusive of the credit to the Sinking Fund, amounts to eighteen millions nine hundred and eighty-six thousand seven hundred and eighty-seven dollars, ninety-nine cents; on which the annual interest is - - - - $569,603 63

The stock of the Sinking Fund is six hundred and ten thousand seven hundred and fifty-seven dollars, ninety-four cents: and the interest thereon - - - 18,322 73

Amounting to - $587,916 36

The duration of this annuity may be considered as indefinite, for though funds for the redemption of the capital stock are eventually appropriated by the act, entitled "An act making further provision for the support of the Public Credit, and for the redemption of the Public Debt"—yet, by a proviso to the twelfth section of the said act, the power of diverting the appropriation to other objects, is reserved to the Government.

5th. The interest on the stock bearing interest at five and a-half per centum per annum (being one million eight hundred and forty-eight thousand nine hundred dollars) will require one hundred and one thousand six hundred and eighty-nine dollars, fifty cents.

6th. The interest on the stock bearing interest at four and a-half per centum, being one hundred and seventy-six thousand dollars, will be annually seven thousand nine hundred and twenty dollars.

7th. The unfunded debt is of two descriptions, viz:

That which is registered, being $179,953 16
And that not registered, estimated at - - - - 1,124,404 24

Amounting to - - $1,304,347 40

For this debt no provision has been made by law, except a partial grant from year to year, on account of interest. So far as the debt has been liquidated, the public are bound by contract, to pay an interest of six per centum per annum. Similar engagements will be expressed in the certificates hereafter to be issued; to discharge which interest, there will be annually required the sum of seventy-eight thousand two hundred and sixty-one dollars, forty-one cents.

8th. The debts due to the Bank of the United States, and Bank of New York, amount to six millions two hundred thousand dollars; though a part of this sum was borrowed at five per centum per annum, yet as the existing contracts are expected to be satisfied from the proceeds of new loans at six per centum, the annuity chargeable upon the revenue, is calculated at this last rate, being three hundred and seventy-two thousand dollars.

The annuities before-recited comprise all the demands which will be made upon the Treasury in consequence of the present debt of the United States; and being reduced to aggregate sums and classed according to the epochas for which the said annuities are to continue, they will require a provision of revenue as follows:

1st. From the year 1796 to the end of 1800:

For Foreign Debt -	-	$1,257,426 00
six per cent. stock -	-	2,324,178 00
three per cent. stock	-	587,926 00
five and a-half per cent. stock	-	101,689 00
four and a-half per cent. stock	-	7,920 00
Unfunded debt -	-	78,261 00
Bank debts -	-	372,000 00
		$4,729,397 00

2d. From 1801 to 1809 inclusive, when the Foreign Debt will be extinguished:

For above - -	-	4,729,398 00
And annuity on deferred debt	-	1,147,695 00
		5,877,093 00

3d. From 1810 to 1818 inclusive, when the six per cent. stock will be extinguished:

For above - -	-	5,877,094 00
Deduct Foreign Debt -	-	1,257,426 00
		4,619,668 00

4th. From 1819 to 1824 inclusive, when the deferred stock will be extinguished:

For above - -	-	4,619,668 00
Deduct six per cent. stock	-	2,324,175 00
		2,295,493 00

5th. After 1824 supposing the above mentioned debts extinguished, and no increase of debt:

For above - -	-	2,295,493 00
Deduct deferred stock -	-	1,147,695 00
		1,197,798 00

Interest on three per cents.	$587,926 00	
five and a-half do.	101,689 00	
four and a-half do.	7,920 00	
Unfunded Debt -	78,261 00	
Bank Debts -	372,000 00	
	1,147,796 00	

By establishing revenue adequate to current expenses of Government, in addition to the foregoing estimate, during the periods above recited, the following reductions of Debt would be effected:

1. At the close of 1809, the Foreign Debt - - - -	$11,800,000 00
2. At the close of the year 1818, the 6 per cent. stock, bearing a present interest - - -	29,344,752 98
3. At the close of the year 1824, the deferred 6 per cent. stock -	14,578,882 39
Amounting together, to -	$55,723,635 37

After the reimbursement of the foregoing sums, there would still remain of the present debt—

1. The 3 per cent. stock, being -	$19,527,545 93
2. The 5½ per cent. stock - -	1,841,900 00
3. The 4½ per cent. stock - -	176,000 00
4. The unfunded and unliquidated Debts - - - -	1,304,356 97
5. The Debts due to Banks, or the stocks which may be substituted thereof - - - -	6,200,000 00
Amounting in the whole, to -	$29,126,802 90

If, however, the United States can establish a revenue equal to the scale of expenditure which will be necessary in the year 1801, the whole Debt may be extinguished by payment or purchase, on or before the end of the year 1824; as, also, a considerable additional Debt, if such should accrue from future contingencies.

The foregoing calculations being founded on existing contracts, are liable to but little uncertainty; it is necessary, however, to form an estimate of the probable expenses of those establishments which the United States must at all times maintain. On this subject there exists no data from past experience, which afforded a satisfactory ground for an opinion; it is believed, however, that it will be unsafe and deceptive to calculate the current expenses of Government, at less than the following estimate:

For the support of the Civil List -	$486,000 00
For expenses of intercourse with foreign nations - - - -	100,000 00
For the Mint Establishment - -	40,000 00
For light-houses - - -	25,000 00
For expenses of the Loan Offices -	22,000 00
For miscellaneous objects and contingent expenses of Government -	37,000 00
For the Military and Naval departments, including pensions - -	2,000,000 00
Amounting in the whole, annually, to	$2,700,000 00

If it shall be found that the expenses of the Military and Naval departments cannot be reduced below the above estimate, which, though much to be desired, is far from certain, the foregoing calculation will fall short of the real expenses; it being morally certain that the expenses of Civil Government will hereafter considerably increase.

Assuming it, however, as a principle, that the expenses of the public establishments will amount to two millions seven hundred thousand dollars, and no more, it follows that, to preserve the United States from the necessity of recurring to future Loans, it is requisite to establish a revenue to continue until the close of the year 1800, of seven millions four hundred and twenty-nine thousand three hundred and ninety-eight dollars and ninety-nine cents. And, from the year 1801 to the year 1809, inclusive, a revenue of eight millions five hundred and seventy-seven thousand and ninety-four dollars and fifty cents.

It is a further consequence of the foregoing data, that though a revenue upon this last scale would be more than sufficient to discharge the whole Public Debt, on or before the year 1824, yet, that the absolute engagements of the United States will not require, after the year 1809, more than seven millions three hundred and nineteen thousand six hundred and sixty-eight dollars and thirty-six cents; which last sum is less than the annual expenditure required by existing contracts and arrangements.

Having thus presented a view of the probable expenditures of the United States, it remains to show how far the revenues, already established, afford an adequate resource; the particulars and amount of these revenues, are as follows:

Duties arising on imports and tonnage calculated upon the actual receipts during the year 1795 - -	$5,588,961 26
Duties on domestic distilled spirits and on stills, on refined sugar, sales at auction, licenses to retail spirits and wines, and on carriages for the conveyance of persons, calculated upon the receipts of 1795 - -	337,255 36
Revenue from the Post Office - -	35,000 00
Dividends on Bank stock, calculated with reference to certain sales, the proceeds of which will be applied to the payment of part of the Debt due the Bank of the United States -	150,000 00
Interest on stock purchased and redeemed, and vested in the Sinking Fund - - - -	886,636 65
Duties on patents and contingent receipts, (uncertain) - - -	746 73
Estimated annual current revenue -	$6,200,600 00

It results that the following sums must be provided, in addition to existing revenue, viz:

1. From the present time to the end of 1800 - - - -	$1,228,798 00
2. From 1801 to the end of 1809 -	2,376,494 00
3. From 1810 to the end of 1823 -	1,119,068 00
	$4,724,360 00

To provide sums annually required till 1801, may be done without imposing inconvenient burdens.

To reimburse the whole Foreign Debt, by direct payments before 1824, may be practicable. It is, however probable, that occasional Loans will be advisable, with a view of postponing the final reimbursement of part until after 1818, when the present six per cent. debt will be discharged.

Mr. Smith said, since Loans could not now be had upon any reasonable terms, there was no way of raising the money wanted, but by taxes upon the people. The question was, what sort of taxes should be resorted to? Members, he said, were divided between direct and indirect taxes; but all were agreed that an additional revenue of one million two hundred thousand dollars being wanted, some effectual steps were necessary to be taken. If indirect taxes had proved insufficient, it was necessary to have recourse to some other;

he knew of no other that would be so effectual as a direct tax on land.

With respect to raising further revenue from commerce, he believed it was not possible to do it to any considerable extent; and this source, he said, was, at best, but a precarious one. If, then, they had tried all other sources without effect, they should be obliged to have recourse to a land tax. And he would submit it to gentlemen whether it was not best to meet the difficulty at once. If, said he, the necessities of Government, the public safety, the credit of the country, require it, it is necessary and proper we should look the evil in the face.

Notwithstanding he delivered this opinion, Mr. S. said, he should be glad to hear the sentiments of gentlemen on the subject, who were in favor of other plans, though he was apprehensive they should be obliged to have recourse to the source he had mentioned.

Indeed, there was one view of the subject which would make such a system desirable, though our necessities did not immediately require it. At present, he said, almost the whole of our revenue arose from commerce, and was liable to be very much deranged by any European war, and to be wholly destroyed, if this country should engage in a war. It were to be wished, therefore, that there should be a plan created, which might, at any time, by a short notice, be carried into effect to an extent which should be equal to the necessities of Government. Nothing would answer this purpose so well as a tax on land. Suppose, he said, the plan was originated with two hundred thousand dollars, having the system open, they could at any time raise it to one or two millions; as, if certain descriptions of land were charged a quarter per cent., they might easily be advanced to one-half, three-quarters, or one per cent., without embarrassment.

Mr. S. said, this subject had been frequently under the consideration of the Committee of Ways and Means, and had always been considered as a subject of great importance, and as attended with considerable difficulties. There had always been a division in that committee on this subject, certain of them wishing to raise the money by indirect, and others by direct taxation, but it had always been found that, when they turned from direct to indirect taxation, so many objections were brought against any plan which was proposed, that there was no possibility of proceeding. In the last session, several objects were proposed, but they were objected to, and abandoned; at length they had determined to resort to a system of direct taxation, and had accordingly given directions to the Secretary of the Treasury to prepare a plan for the purpose. This plan had been reported, and referred to the Committee of Ways and Means; and before that committee chose to go further into the matter, they wished the House to determine upon the principle; afterwards, if a majority should be in favor of direct taxation, the committee would bring in such a bill as should appear to them to be least burdensome to the people. But, if gentlemen were of opinion the money wanted could be better raised in any other way, they would, of course, propose their plans; but he hoped they should not shift from one thing to another, without fixing on any thing, since the wants of Government must be supplied.

Mr. Coit hoped the resolution would be adopted; not that he wished to pledge himself to agree to any system of direct taxation which might be proposed. He looked upon the agreeing to the resolution as only one step. Whether, eventually, such a plan could be devised as the House should approve, was uncertain; but he should wish to look at the plan which gentlemen had in contemplation.

Mr. Harper said, if they could look at the plan, as the gentleman from Connecticut [Mr. Coit] had supposed, without pledging themselves to adopt a system of direct taxation, he should also be glad to see it; but, he believed, to adopt the resolution before them, would be to decide upon the principle of direct taxation. Afterwards, all the question would be as to the modification of the system, and the manner in which it should be carried into effect. But, he believed, a majority of that House neither was nor would be prepared to say, this was the most eligible and convenient mode of raising revenue.

It was true that they all knew, they knew it last session, that the money wanted ($1,200,000 additional revenue) must be raised from the people by means of taxation. The question was only about the mode. The Committee of Ways and Means had given them a resolution of four lines, that direct taxation ought to be laid; but how, or under what modification, or how the difficulties which were acknowledged to exist, were to be got over, they were not told; but they were called upon to determine upon the principle, without any information on the subject. He wished the Committee of Ways and Means might be instructed to give them the data upon which they meant to found their plan; that they might be instructed to show them the means by which this plan was to be effected—how this direct tax was to be collected. They, doubtless, had considered this; but the Committee of the Whole had not considered it; nor had they the materials for going into the investigation. It was his desire that, before they committed themselves, they might know more about the matter than they then knew; that they should have the system before them, and that they might not decide upon the abstract principle, without having that system. He should, therefore, be against the resolution, and move for the Committee to rise, that the report might be recommitted, for the purpose of obtaining a skeleton, in which way they please, of the plan which had been contemplated. He hoped the Committee would be discharged.

Mr. Swanwick hoped the Committee would not rise, until they had determined upon a question which was of the first importance to this country; a question which it had been well for us if it had been introduced long ago, but which, he trusted, was not now too late to be of essential service. At present produce was falling,

and, of course, any tax upon the farmer would not be so well received as if their produce was upon the rise; but, he trusted, the wealth of the country must have become so considerable, from the high price which every agricultural production had long been at, as to enable them very well to support the necessary expenses of Government. These expenses, they knew, must be supplied from one of three sources: either from loans which have heretofore been made in Europe, at great expense of agency, brokerage, commission, &c., or from impost, or by internal revenue, or excise.

Into what situation, he asked, had this loan-making business brought this country? They had created, what seemed to be wished on all hands to be avoided, a foreign influence over this country. It had made us dependent upon what it was not in our power to control—upon every accident which might happen at Amsterdam or Antwerp, and every part of the globe. So far as related to imposts, this source of revenue was exposed to the influence of war, and absolutely dependent upon any foreign Government which might please to annoy us. Was this, he asked, an enviable situation? He thought not. This dependence upon foreign nations was a great disadvantage in all negotiations. With respect to excise, he need not say how unproductive it had been. The article of snuff, instead of producing anything, had brought the revenue in debt; and the excise on another article, had called forth the military to enforce it. For his part he saw no way of avoiding these difficulties, but to come to that cardinal point, which they had now in view, of direct taxation. He should, therefore, be in favor of the resolution before them, because it fixed the principle.

It was necessary, Mr. S. said, to the importance and firmness of Government, to determine whether the land of the country be not equal to bear its share in the expenses of Government. This had hitherto been evaded; but, he trusted, this mass of property would no longer escape from paying its due proportion towards the public burdens. For, when it was known in foreign countries, that all our revenue was bottomed upon our commerce, it was holding out an invitation to them to play off hostilities upon us. Great Britain had taken the lead in annoying our trade, which had brought us to the British Treaty. This had produced great disadvantage to some, though some few might have had a trifling benefit. We were now brought into another situation by that instrument; the French were now laying hold of our commerce.

It was said that Great Britain drew very little support from her land, in comparison to what she drew from her commerce; but she had a fleet to defend her commerce, and therefore, if she drew a great deal from it, she was also at some expense in supporting it. Our trade was unprotected. It was true, we obtained seven million of dollars from it, without being at any expense in return. But there was no certainty of this; it was a mere phantom, it was gone, and without some plan like the present, there would be no security for supporting the expenses of our Government; nor could any negotiation ever be properly supported, until the yeomanry of our country should join in the support of our common interest. It was absolutely necessary to decide upon one of two principles, either to support commerce by a Navy, and thereby secure the revenue arising from it, or else call upon agriculture to bear its full share of the public burdens. He therefore wished the principle to be settled without regard to modification, because the more simple the light in which the object was placed the better. The modification would properly be an after-business; and, when members had agreed upon the necessity of adopting the principle of a direct tax, their opposition to any particular plans which might be offered would be moderated, so that the best system which could be devised would probably be adopted.

It had been recommended by the President of the United States, in half a dozen successive communications, that the National Debt should be reduced. This could not be done without the assistance of agriculture; for, whenever the duty on commerce was made extravagant, smuggling was introduced, and the duty, instead of being increased, was lessened. In Britain this had been notoriously the case.

They put a tax on tea, by which smuggling was brought to such an enormous height that they were, after every endeavor, obliged to abandon it.

This, Mr. S. said, was the most important question which was ever brought before that House. He trembled every day when he considered upon what a shadow the revenues of this Government rested—upon what every nation seemed to rob us of: for, added he, all are agreed in one point, however they may disagree in others, viz: to rob and ill-treat us. They were, indeed, invited to do this; for we have no barriers but Treaties, and they are worse than nothing.

Mr. S. said, we had no dependence upon our revenue; at any rate, it has not more than supported our present expenses. Suppose, added he, all the present nations at war, make peace, would there then be no danger of a defalcation of revenue? There could be no doubt of it. So that whether war or peace, no certain dependence could be placed upon our revenue.

Did it not, then, become Government to look to something more substantial than commerce for support? It certainly did. Let us fix upon the principle of a direct tax, and not be deterred at the threshold of the business. To say it was impossible to fix upon such a plan, so as to be generally satisfactory, would be to say we could not do what many other nations had done. It were to make an acknowledgment in the face of the world of our own imbecility.

He would again repeat that it would have been better for this country if the present plan had been adopted sooner. However, as we had lately declared ourselves the most prosperous, the most free and enlightened country in the world, this could not be an improper time for introducing it.

He was rather glad, however, that a degree of necessity had brought the present measure before them. Misfortunes sometimes prove the greatest of blessings. He trusted the present event would teach Government economy; for, since they found the difficulty which attended the raising of money, they would be careful how they lavished it away. He trusted this measure of taxing the farmer would also have the effect upon him to awaken a watchful attention to the operations of Government; it would also give us the means of paying our debt, which is a most honorable employment, and of showing to foreign countries that our revenues rest upon a foundation which they cannot shake. Viewing the matter thus, however unwilling he was in general to call upon the people for money, he hoped the principle before them would be adopted.

Mr. Gilbert said, the question was, whether they should raise the revenue wanted by direct or indirect taxes? Though he was opposed to direct taxes, he had no objection to the Committee's rising, that the report might be recommitted, in order that the Committee of Ways and Means might be instructed to report to the House a plan of direct taxation for the decision of the House. He acknowledged the necessity of something being done, but he was not ready to vote for direct taxation, until he saw something more of the business.

Mr. Christie was against the Committee's rising, because he thought it was necessary to determine upon the principle. He did not know whether he should agree to this principle or not. It was proposed that each State should be apportioned according to its last census. By this Maryland would be considerably aggrieved. Several other States were in the same situation. If the gentleman would therefore withdraw his motion for the Committee's rising, he would move to strike out the words "according to the last census." [The former motion of Mr. Harper was withdrawn.]

Mr. S. Smith hoped the words would not be struck out; for if they were struck out, the whole resolution would fall to the ground, as, if they were not to make a calculation upon the last census, they must either postpone the business until a new census was made, or go into the expense of making a new census for the occasion.

The gentleman from Pennsylvania [Mr. Swanwick] had gone fully into the business, and shown to the satisfaction, he doubted not, of many in that House, the necessity of going into some effectual mode for securing a permanent revenue. He believed it would be found a subject of difficulty to carry into effect a direct tax throughout the Union, but as the Committee of Ways and Means had brought forward the proposition, he doubted not they had attended to these difficulties.

He was not afraid of the State of Maryland being overrated by taking the last census. It was not necessary to go into that subject, for he believed Maryland ought to have had another Representative on that floor. He thought they should not object to the plan before them on trifling ground, as they need never be able to apportion any system to farthings. Whether he should vote for the system proposed he knew not, but he wished to have the subject taken up, that we might have it in our power to say we are an independent nation, and that it may not be in the power of any other to cut off our supplies. Such a step was necessary, and he doubted not the people would be found willing to give their Government a proper support.

Mr. Christie said, if he thought his motion went to destroy the principle, he would withdraw it; but he believed the principle would be as well tried without them as with them. He thought it would be proper to have a new census taken. He wondered his colleague [Mr. S. Smith] should think Maryland would not be overrated by the present census. He was confident they would. If those words were out of the resolution, he would vote for it, but not otherwise.

Mr. Nicholas had no objection to the words being struck out, because if they were not, they must be guided by the last census, except a new one was taken; and if the gentleman could not take the sense of the House upon the propriety of taking a new census, without striking out these words, he hoped they would be struck out, in order to give him an opportunity of trying that question.

The question for striking out was put and negatived.

Mr. Dayton (the Speaker) said, the subject was an important one, and from his prepossessions (gentlemen perhaps might be inclined to call it prejudice) against a system of direct taxation, he could not think the House would be readily brought to agree to such a system. He only rose, however, then, to notice what had fallen from the gentlemen from New York and South Carolina [Mr. Gilbert and Mr. Harper] who had wished to have the detail upon which the principle before them was to be carried into effect. He thought they should first decide upon the principle, whether they would resort to a power, which had never yet been resorted to, of raising revenue; in fact, whether a plan of direct or indirect taxes should be pursued. The decision upon this question should have no allusion to the manner of effecting it; because, if the Committee of the Whole did not think it necessary at this time to go into a system of direct taxation at all, they would so determine, and a plan of indirect taxation ought immediately to be considered. He was therefore far from wishing the resolution to be sent back to the Committee of Ways and Means to have the business detailed: he would have the abstract principle first decided upon. Mr. D. hoped the sentiments of gentlemen would be fully given upon this subject; for his own part, if he heard no stronger arguments in favor of the plan than had been offered, he should certainly be opposed to it.

Mr. W. Smith thought the gentleman last up had placed the subject on its proper ground. The principle ought certainly to be first decided upon. It was acknowledged on all hands that there was

a deficiency of revenue; gentlemen who were opposed to this plan, should therefore substitute some other in its place, since revenue must be had. It was a good parliamentary rule, that when a member opposed an object proposed for revenue, he should propose a substitute. It was easy to object to a thing. He disliked direct taxation himself, but since there appeared no other way of raising sufficiently ample funds, he saw the necessity of fixing upon this. If gentlemen would propose any other mode of raising the money wanted, he should be glad to consider it. He thought, at any rate, they should then determine upon the principle, before any further steps were taken in preparing any plan; and, if it should appear to be the opinion of a majority of the House that, under no consideration whatever, a system of direct taxation should be adopted, there would be an end of the business, and they must immediately turn their attention to some other way of raising the money required; for his part, he was afraid if they passed over from direct to indirect taxes, they should not come to anything effectual.

Mr. Williams was of opinion with the gentleman from New Jersey [the Speaker] that the principle should then be determined upon; because to send the resolution back, in order to have a plan digested, if it should eventually be rejected, would be an unnecessary waste of time. He wished gentlemen from every State would make their observations upon the subject, in order that they might determine whether some better plan could not be adopted. He thought every means of indirect taxation should be exhausted, before direct taxes should be resorted to.

Mr. W. said he did not think with the gentleman from Pennsylvania [Mr. Swanwick] that the landed interest did not pay their proportion of the present taxes. The consumers, it was allowed, were the payers of taxes; and until that gentleman proved that farmers did not consume taxable articles, he must not say they did not bear their proportion of the public burdens.

It was well observed, that our present revenue system was liable to be deranged by other nations; but perhaps it might be possible to adopt some other system, which should be more certain, without having reference to direct taxes. He could wish mercantile gentlemen would forbear throwing out insinuations that the landed interest did not pay their quota of the public expense. He believed they were unfounded, and he was certain they could have no good effect.

For the present, he should wish the Committee to rise, and hoped gentlemen would come forward another day, with their observations on this subject, that they might see if they could not hit upon some plan of raising the necessary supplies, without going into the plan of direct taxation.

The Committee rose and had leave to sit again.

DIRECT TAXATION.

Mr. Coit said, he wished to lay a resolution upon the table, somewhat connected with the subject which had just been discussed. It was a resolution requiring the Committee of Commerce and Manufactures to prepare and report a bill on the subject of direct taxation on land and slaves, the abstract principle of which had only been under discussion.

The resolution was laid on the table.

Mr. W. Smith hoped that gentlemen who objected to the mode of taxation proposed would tomorrow come forward with a substitute.

Friday, January 13.

DIRECT TAXES.

A motion being about to be put for going into a Committee of the Whole, on the subject of further revenue—

Mr. Coit wished the House to take up the resolution he had yesterday laid upon the table. The difference between this resolution and the one reported by the Committee of Ways and Means, was, that this called for the particulars of the plan, whilst that called for an agreement to the principle of direct taxation without any reference to a plan. This difficulty occurred. Many gentlemen objected to a direct tax, because they could not see their way through any plan of carrying it into effect. He himself did not feel this difficulty. He should vote for the resolution; because, if a plan was brought forward which he did not approve, he should vote against it. It appeared to him, however, that the House would have a more distinct view of the subject, if they had a plan before them.

Mr. Swanwick said, the objection which he had to the motion was, that it would embarrass the question whether or not the House would agree to any system of direct taxation? Some gentlemen thought it impossible to devise a plan for this purpose. It could not be expected, therefore, that the Committee of Ways and Means should produce such an one as would be wholly unobjectionable. Indeed, when he heard it asserted to be impossible, he trembled for the existence of our Government; for it could not exist without revenue, and he could not see how that revenue could be raised but by a land tax. The propriety of laying additional burdens on commerce had been suggested, but (as he had already stated) this would not probably increase the revenue, as it would most probably promote a spirit of smuggling. Let us go into a Committee of the Whole on the subject, said Mr. S., and let gentlemen bring forward their different plans, and then the Committee will be able to determine which will be most likely to be effectual, and attended with the least inconvenience. There was but one sentiment as to the necessity of provision being made; and he was of opinion, if it was once determined to have a direct tax, such a plan might be produced as would prove acceptable, when gentlemen should be convinced that some plan of direct taxation must be adopted.

The Speaker said, the only motion in order would be, that the Committee of the Whole on the subject of finance be discharged, in order to refer the present resolution to the Committee of Ways

and Means, to instruct them to report a plan, or to commit the resolution to the Committee of the Whole on the subject of finance.

Mr. Harper asked whether it would not be in order, when the House should be in a Committee of the Whole, to move the present resolution by way of amendment to that reported?

The Speaker said, the Chairman of the Committee of the Whole would determine that question.

Mr. Coit moved that the Committee of the Whole on the subject of finance might be discharged from the further consideration of the subject, for the purpose of referring his resolution.

Mr. Williams hoped the Committee would be discharged. He wished to have the plan in question before them, because, if it was not necessary to lay a land tax at present, it might be necessary at some future day. As to what had been said, that Government could not be supported without a land tax, he believed other means might be hit upon to raise the money required without a land tax—not that he would commit himself so far as to say he might not eventually vote for a land tax; but he believed if a small additional duty were to be laid upon salt and rum, and some other articles, there would be no difficulty in the business.

The Speaker reminded Mr. Williams of the question.

Mr. Williams said, he was stating his reasons why the system of direct taxation should not now be determined upon, because he thought there were certain articles upon which a heavier duty might be laid; though he wished, at the same time, to have the plan of a direct tax brought into view, to act upon when necessity should require it.

Mr. Craik was in favor of the Committee of the Whole being discharged, in order that the Committee of Ways and Means might be instructed to report a plan. He said he was in favor of this proposition, not so much from any objection he had to vote for the resolution as reported, but because if they were to have a plan reported, they should be more likely to bring the subject to an early conclusion. He did not think, with some other gentlemen, that, by voting for that resolution, he should be bound to vote for any plan which might be reported. He had no fears of this sort; he believed himself always at liberty to vote as he pleased, and to change his opinion on any subject when he saw proper. But as some gentlemen had expressed their objections on this ground, he thought it would be well to refer this resolution.

Mr. C. said, he believed when they considered their real situation, that they were not called upon to determine whether additional revenue should be raised or not, but that revenue must by some means be raised. He trusted gentlemen would turn their minds in earnest to the subject. He believed this to be the important business of the session; and when he looked at the report of the Secretary of the Treasury, he could not hesitate a moment in concluding that there was a necessity for acting with energy. Seeing, therefore, that they had no alternative, it became their business to have the subject thoroughly discussed, and to take a view of both sources, viz: direct and indirect taxation, in order to determine upon which system they would act. A resolution, he said, had been referred to the Committee of Ways and Means some days ago, calling upon them to report what further revenue could be raised by indirect taxes. It would be well if that committee would bring into view all the subjects upon which indirect taxes might be raised or increased, in order to enable them to determine betwixt the two systems. It might, perhaps, be advisable to have recourse both to direct and indirect taxation; for though indirect means might supply our present wants, after the year 1800 they would certainly fall short, and he was not for putting off till tomorrow what might be done to day. It was necessary the attention of the people should be driven to the subject, and that Government should not be drawn to anticipations and loans, and to give extravagant prices for our own money.

He believed gentlemen opposed to direct taxation were not so much so from principle as from an idea that it was impossible to adopt a system which would fall equally upon all parts of the Union. It was to be wished, therefore, that the plans could be seen and agreed upon, since some gentlemen were apprehensive that by giving their assent to the abstract proposition, they should pledge themselves to support a plan, however objectionable, when it should be reported. He hoped, therefore, the resolution would be referred, and a plan reported, upon principles which may be unobjectionable; gentlemen may then come forward and add to the list, or make such alterations as may be deemed expedient; they might tell the House whether or not they considered it proper to resort to both systems. Mr. C. thought, that from the present want of revenue to answer current expenses, and the view of these wants increasing, both systems of taxation ought to be resorted to, to answer those demands.

Mr. W. Smith said, it was to be regretted that the gentleman from Connecticut had brought forward this proposition, as it caused them to debate about form rather than substance. The proposition of the Committee of Ways and Means went to say direct taxes should be laid; this directed the committee to report a bill. He thought it best to decide, in the first instance, whether direct taxes were necessary or not. By bringing the subject before the Committee of the Whole, gentlemen would have an opportunity of proposing their substitutes in place of the plan proposed; and, by contrasting one with the other, they should be able to judge which would prove the best mode. But gentlemen say no, we wish to see what kind of a bill the committee will bring forward; if we do not like it, we will reject it. What would gentlemen do? After three or four days' debate it will be sent back to the committee; by the time they report, it will be about the end of February, and on the 3d of March the House will break up. Gentlemen ought to be open, and state the particular views of their constituents on this subject; they

surely must know. He thought the best way would be to go fairly into the business, and determine whether they would adopt any system of direct taxation which could be planned, and so far pledge themselves as to determine they will agree to any practicable plan which may be produced, as revenue must be had.

Mr. S. said, there could only be two objections to a system of direct taxation: either that by the Constitution there is not a sufficient power in the Government to raise such a tax, or that it is inexpedient. If gentlemen thought there was not sufficient power in the Constitution to raise such a tax, it should be so determined; or, if it were thought that money could be raised in a more convenient mode, it was proper to discuss the principle, and come to a determination upon the subject. This, he said, was the rational way of proceeding; for if once the principle was determined upon that a direct tax was necessary, a number of objections would be softened down by the necessity which was seen to exist for adopting a plan of this kind.

It had been observed, that a resolution had been referred to the Committee of Ways and Means, instructing them to report on the subject of indirect taxation. He did not object to the reference at the time, but he had yesterday declared that that committee had repeatedly attempted in vain to hit upon subjects of indirect taxation for further revenue, and that they had therefore recommended a system of direct taxation.

The committee had done their duty. Gentlemen may now propose what they think a necessary substitute; there could be no advantage in recommitting it, but it ought to undergo a full discussion in Committee of the Whole.

He hoped the resolution of the gentleman from Connecticut would not be adopted, and that they should go into a Committee of the Whole on the business.

Mr. Nicholas said, the question was now whether they should determine upon something, or put it off till another time? We want revenue, said Mr. N., and we must have it; and was it not better, he asked, to determine upon what principle they should act, than to call upon the Committee of Ways and Means to report a plan? It was well known, he said, nothing but necessity could have obliged any member to have proposed direct taxes. Unless they first determined upon the principle, they should never be able to proceed; because, however perfect the system might be, objections would doubtless be made to it, and these would be made a pretence for doing away the bill altogether. He would have them now go into an investigation of the subject; when the gentleman from New York will, of course, propose his tax on salt and rum, and other gentlemen will bring forward their substitutes, so that they should be able to see whether any other effectual mode could be determined upon in preference to the one proposed; if not, they would be obliged to unite in agreeing to a direct tax. But if they were called upon to decide upon a detailed plan before they had decided upon the principle, it would never pass.

Mr. Buck said, he hoped the Committee would not be discharged. It seemed to be agreed, on all hands, when the Constitution was adopted, that direct taxes should not be gone into, except in cases of urgency and necessity. It seemed now to be agreed that additional revenue was essential. The subject had been before the Committee of Ways and Means, whose peculiar province it was to attend to all money transactions, and they had reported that the period had arrived when it became necessary to resort to direct taxation. Why, then, should they shrink from the inquiry? Since they had said this was the time, unless it were to be presumed they had erred, or members were ready to propose some other means which they think preferable to direct taxes, they ought to pursue the report made, and take up the business. Taxes, he said, were always disagreeable, and it was with reluctance the people consented to pay any. except they saw advantage arising from the payment of them greater than to counterbalance the evil of paying. He knew, also, that a direct tax would be received with reluctance. He himself would never vote for it, but upon the principle of necessity. He wished, therefore, the subject to be discussed, because, if there was any better way of raising the money required, he should vote for it; but if not, and there was an absolute necessity for revenue, then necessity would force him to vote for a direct tax. The reasons assigned by the gentleman from New York [Mr. Williams] for wishing the Committee to be discharged, viz: because he thought indirect taxes might be found to answer the purpose, induced him to wish the inquiry to be thoroughly gone into, and that they should not amuse themselves by referring the report back to the Committee of Ways and Means, until they had decided that the time had arrived for laying a direct tax.

Mr. Gallatin said, that although, in appearance, the difference between the proposition of the gentleman from Connecticut [Mr. Coit] and that reported by the Committee of Ways and Means, was only in form, and not in substance, yet he saw great danger in adopting this proposition. This danger would arise, provided there should be a majority in that House determined to vote against a system of direct taxation at all events. If there were such a majority, he said, it would be well to know it as soon as possible, that they might either determine upon some other plan of raising revenue, or determine to retrench the present expenses of Government.

Many gentlemen might vote for the proposition of the gentleman from Connecticut, who would eventually be against a system of direct taxes; whereas he wished at present to know whether there was a majority in favor or against that system; if the majority was against it, it would be well to have it rejected at once.

Mr. G. said, he did not think any gentleman would be pledged by voting for the report of the Committee of Ways and Means, to support any bill which might be brought in in consequence of

it, if contrary to his ideas of right. To vote for the resolution was no more than to say they were willing to adopt the system, provided it could be satisfactorily carried into effect. He hoped, therefore, there would be no more objections on that ground. He also hoped that those who intended to vote against direct taxes would vote against the proposition of the gentleman from Connecticut, and go into a Committee of the Whole; when, if they have a majority with them, they will vote out the proposition altogether.

He would not then, he said, say anything on the subject of direct taxation, as it would not be in order. He hoped the Committee of the Whole would not be discharged.

Mr. Craik said, the gentleman from South Carolina [Mr. W. Smith] called this a question of principle. He agreed it was so; but he thought the measure proposed by the gentleman from Connecticut would produce the effect so much wished for. He believed he should be found to go as far as any gentleman in adopting efficient measures for raising revenue; but he thought the mode of proceeding chalked out by the resolution now proposed the best. He did not consider it as improper to have recourse to direct taxes, whilst there were any sources of indirect taxation existing. There might be subjects of indirect taxation which it would be improper at present to resort to; but his objection to deciding upon the abstract principle was this, that many members had greater objections to the business on account of the difficulty which they supposed would attend the carrying of it into effect, than to the principle itself. And it was in vain to tell gentlemen they might vote against the bill, if they did not like it, because they knew it was in the power of a majority to carry the bill, however objectionable, into effect.

The question for discharging the Committee of the Whole was put and negatived. The question was about to be taken on going into a Committee of the Whole; when

Mr. Harper said, he was not more disposed than other members of that House to throw any obstacles in the way of providing revenue; nor of unnecessarily postponing a business with a view of defeating it by indirect methods. But he believed there was always more danger to be apprehended from hasty than from slow legislation. Large bodies like theirs, he said, suffered more from precipitation than from delay. If this observation was true, as it respected ordinary Legislative business, it was much more so as it respected finance, and new objects of finance—measures which were to have an extensive operation on the prosperity and happiness of the country. He was one of those who thought that a certain portion of time devoted to this subject would have been well spent; as the House, however, had not been of the same sentiment, but had determined to come to a decision upon the abstract principle, he should do what gentlemen had been several times called upon to do, viz: submit to the view of the House a proposition by which all the revenue which Government stands in need of, without having recourse to the tax on land and slaves, proposed by the Committee of Ways and Means, might with ease be raised.

Mr. H. then proposed the following resolutions to the House:

"*Resolved*, That the duty now paid on salt be increased to —— cents per bushel;

That the duty on that class of wares and merchandise imported from foreign countries, which now pays 10 per cent. ad valorem, be augmented to —— per cent.;

That the duty on such merchandise as pays 12 1-2 per cent. be augmented to —— per cent.;

That the duty on such merchandise as pays 15 per cent. be augmented to —— per cent.;

That the duty on Madeira wine be augmented —— per cent. on the present duty;

That the duty on Sherry, Lisbon, and certain unenumerated wines be augmented —— per cent on the present duty;

That the duty on foreign spirits not distilled from grain be augmented —— per cent, on the present duty;

That the duty on Bohea tea be augmented —— per cent. on the present duty;

That the duty on brown sugar be augmented —— per pound;

That the sum of —— be raised by a duty on stamps;

That the sum of —— be raised by a tax on windows, by apportionment, according to Constitutional rules, among the different States."

Mr. H. said, he should not at present pretend to enter into a discussion of the principles, as that would do when the Committee of the Whole took it up; he therefore moved that the resolutions be referred to the Committee of the Whole House to whom was referred the report of the Committee of Ways and Means.

The Speaker said, no discussion of the merits could take place in the House.

Mr. Gallatin inquired whether there was not a resolution referred to the Committee of Ways and Means to the same effect by a gentleman from New Jersey [Mr. Henderson?]

Mr. W. Smith read the resolution.

Mr. Venable suggested the propriety of referring this resolution to the Committee of Ways and Means.

Mr. W. Smith wished rather that the resolution should be committed to the Committee of the Whole. The Committee of Ways and Means, he said, had already determined that sufficient revenue could not be raised from indirect sources. He wished the sense of the Committee of the Whole to be taken on that subject.

The resolution was referred to the Committee of the Whole.

DIRECT TAXES.

The House then resolved itself into a Committee of the Whole on the subject.

Mr. Cooper said, the resolution for direct taxes was of such a nature as to justify each member speaking his sentiments freely and fully on a subject so interesting to their common country.

Direct taxes, he said, had always been considered as only to be justified as a resort in times of necessity. This was his opinion: this he thought the opinion of the framers of the Constitution. This being the construction, it became a question whether we were now in that situation; whether we can support the expenses of Government; whether we can pay the interest and principal of our Debt; whether we can meet the Algerine contract; whether we can keep up our foreign intercourse; whether we can, in short, support the honor and character of the United States, without having recourse to this method of taxation? If we could do this, then this mode should be left unexplored till the worst of times.

This, he said, was the principle upon which the Committee ought to go, to which every obstacle should fall: he should therefore offer a few sentiments on the subject.

Mr. C. said, he had no expectation that a direct tax on land would meet with the general approbation of the citizens of the United States. It did not meet with his; but, perhaps interest, he said, might influence him, since it would bring the whole of his property under the law; it would bear heavy on him; he should, however, vote for the resolution. He should do so because he thought our commerce already sufficiently shackled, and because our citizens had had no experience in window taxes and stamp duties, and therefore would not relish them; and more especially, because, in times like the present, when all Europe was at war, it was more difficult to support our neutrality and honor as a nation, than in times of peace. They had a number of things which put them in mind in difficult times, and he thought they were sufficiently warranted to make resort to suitable provision.

This being the case, Mr. C. said, he was desirous to do all in his power to secure an ample substantial revenue, in order to enable us to meet our engagements with punctuality; because it was with Governments as with families, when want approached, they were apt to censure each other as a cause of the evil. This had always been the case. The only remedy, was to make provision beforehand; to keep oil in our lamp, in order to see our way on every side.

Mr. Harper said they had been informed, further revenue was wanted. Every gentleman who had advocated a system of direct taxation had taken means to prove this, which was unnecessary. He admitted the fact in the amplest extent. But there was another position of gentlemen in which he by no means agreed, viz: that the source of indirect taxation would, if resorted to, be unproductive, and that it had long since been exhausted, consequently, that we must have recourse to a land tax to procure the necessary supplies. This statement he entirely dissented from. He was persuaded this country possessed ample sources of revenue, through established channels, to raise all the money they wanted. The question, then, was one of expediency, whether this or that mode of raising revenue shall be adopted? And here he would observe, that however the tax was laid, it must be paid by the people—the possessor of the soil and consumer must pay. The whole question was, Which way will be the most convenient to draw the sum wanted from them? Whether by a circuitous and indirect mode, or by a direct and positive method? In comparing these different modes of taxation, it would be necessary to take a view of the difference of circumstances which distinguished this country from others, of whose practice in this respect we had some knowledge.

He confessed there were great difficulties attending this subject. He was not ashamed to confess himself very unequal, not only to the task of indicating to the House what measures would be proper to be taken, but even of judging for himself on the subject. It was a subject which had engaged for a long time the best talents of this country, and there still existed a division of opinion about which was the best mode of raising revenue; but, when an individual was called upon to form a judgment, however difficult the task may be, he must take some course or other, and in his choice he could only be directed by his own understanding, improved and informed by the experience of others.

Since the subject was full of difficulties on all sides, they had only to choose between evils. He was of opinion that whatever objections might be brought against the system of indirect taxation, that the inconveniences of that system were far less than those which would be found in a system of direct taxation. With respect to a land tax, or tax on real property, there were circumstances in which he believed it the very best mode of raising revenue which could be adopted, viz: in a country where wealth and population were equally diffused throughout the whole Territory; where markets were, of course, every where convenient; where a farmer could easily exchange his labor for another man's labor, or where produce sold every where at nearly the same price. In such a country, he believed a land tax was a very good tax; there the ratio upon which such a tax might be equally laid, was readily attainable; but, in our country, he said, the situation of things was totally different.

It was well known that the great population and wealth of this country lay near the seacoast, and that, in proportion as it was receded from, the population became thin and the country comparatively poor by being far removed from a market for the produce of the soil. The exchange against a man removed three hundred miles from the coast was so great that much of what he sent to market was wasted by the expense of conveyance. Hence results, said he, the scarcity of money which exists in the interior of a country like ours, which renders the payment of a small sum inconvenient; and this difficulty cannot be removed by any regulation which can be introduced. A man on the Monongahela, called upon for twenty shillings, would find it lie heavier upon him than a farmer on the Delaware would find twenty pounds lie upon him, as he would experience more than twenty times the difficulty in

procuring the money; for, from the scarcity of a circulating medium, in remote situations, it was almost impossible to convert the most valuable articles of produce into money, whilst persons living near a good market were able to sell the most trifling articles for a good price.

These observations were so well verified in that part of the country with which he was best acquainted, that though the most equitable valuation had taken place, yet a tax which had been laid in consequence of that valuation had been collected with the greatest difficulty.

It would be found, therefore, from these statements (for the truth of which he appealed to every gentleman who had thought upon the subject) that let direct taxes be laid in whatever manner they might, they would bear extremely hard in some cases, though they might be perfectly light in others. This he considered as one of the greatest objections to a land tax—an objection which did not exist in European countries, as they are full of inhabitants, and the farmer had everywhere a market for his produce.

Indirect taxes, on the contrary, Mr. H. said, were collected with facility, and were voluntarily paid. If a man found himself pinched for money, he might refrain from purchasing, at least for a time, of such articles as were taxed, and not immediately necessaries of life, or he would make a less quantity serve him; but a direct tax could not be avoided, however unable a man might be to pay it. Hence, he said, would arise executions and a variety of distress amongst that class of citizens who were unable to meet the demands of Government.

Another objection, not less strong to direct taxation, was the impossibility of apportioning such a tax equally. He said impossibility, and he was warranted in the expression. He was desirous of hearing how the Committee of Ways and Means meant to apportion and collect this tax; but this information was withheld, and they were called upon to agree to the principle without any plan of carrying it into effect. He said it was impossible, from two causes: first from markets being remote in some parts and convenient in others, and consequently land being of much less value in some parts than in others, and from the vast inequality which took place in proportion to population and to the improved or unimproved state of agriculture. So that some parts of the same district were of much more value than others, and even some farms more than others, from the superior skill and industry of their present possessors, or of those who heretofore possessed them. There was no part of the country, he said, where this remark would not be verified. Combine with this circumstance the contiguity and distance from markets, and the impossibility of an equal apportionment would appear evident. Nor was the distance from a market alone to be considered, but roads were an insurmountable objection in some parts of the country. How these difficulties were to be overcome, he was at a loss to see. He believed such a tax could not be laid with any degree of justice. It had been attempted in some States; in some it had been found impracticable, and in others attended with very great inconvenience. In the State which he represented, it had been attempted upon a principle which seemed to be generally approved; but it had been found that a man who possessed land of four times the value of his neighbor, paid no higher tax than he who possessed the poor land.

What, said Mr. H., must then be done? Would you resort to an assessment? If so, you embrace an immense expense. For an assessor to go through the United States, and class every farm according to its value, would not only be very expensive, but it would require a very long time to accomplish such a business; and the expense could not be stated at less than from twenty to forty per cent. the first year upon the sum raised. And to preserve any thing like a just valuation, it must frequently be repeated, as from emigration, population, fertility, and a variety of other causes, the value of property was continually changing, and thereby the expense would become very heavy. Besides, from the attachments and interests of the persons employed on such an occasion, there would be no certainty of obtaining a just valuation, it would appear incalculable.

After all, it would be impossible to come at the real value of land; the carelessness of your collectors will be found a great obstacle, their indolence will prompt them to hasten over their business without that attention necessary to such a material object. Will your assessors go through the woods, justly estimate the value of every farm, consider the relative worth as it respects situation, soil, and culture? No, sir, said Mr. H., they will care about nothing so much as pocketing the salary you allow them: hence, many would be assessed four times more, and others not half the value of their land. In small and thickly inhabited districts it may be more equalized; but when the assessor has to explore those parts, where, to assess five or six individuals, it would require four or five weeks, is an idea which would deter reasonable men from attempting such a scene. In other countries, where land tax was obtained, it was not so: there they are mostly under yearly rent; the rent will there estimate the value of the property, and afford the means to collect the tax. No difficulty could there arise in the apportionment, but in this country almost every man in the country lives on his own land.

Viewing all these objections, therefore, he believed it would be allowed—if it was not impossible, it was at least impracticable to any good effect to lay an equal land tax.

These objections, he remarked, could not be urged against indirect taxation; but there were other objections. They were told that the source of indirect taxation was so far exhausted, that to increase these taxes would risk the introduction of smuggling, by which the morals of individuals would be destroyed, and the revenue diminished. These, he allowed, if true, were serious objections; but he denied their truth. How did it appear that this source had been so much exhausted that no addition could be made without introducing smuggling? There was no statement to prove this; but he believed he should produce a statement which would prove the contrary. He believed the duties on several articles were rapidly increasing. This proved that the duty was paid with ease and convenience, and that it might be augmented without danger. But they were told, that whilst the revenue depended upon commerce, it was in the power of foreign nations greatly to embarrass it, and utterly to destroy it by a war with this country. The propriety was therefore urged of transferring the taxes from sources which might be so affected to internal sources.

These objections, Mr. H. said, deserved to be very seriously weighed. He believed them to be infinitely the most solid which could be urged against this mode of taxation; and, if true in their whole extent, would afford real ground of objection. But, in the first place, it may be remarked, we are already in this predicament, as our resources depend upon duties arising from foreign articles imported; and we should be no more so by increasing those duties, since we were as effectually under that influence, while five millions were drawn from that sou ce, as if double the sum was drawn from it. He would ask, if the danger was increased by increasing the duty? He believed not; but that the benefits would be increased, without increasing the danger or evil.

He believed, however, that this objection was so solid as to command attention, and to require us to shape our course accordingly. He believed it was advisable for them to turn their eyes from foreign to domestic sources of revenue, and commence a system, which may be increased as necessity may require, and upon which may be transferred a part at least of that duty which is at present drawn from foreign sources. This, he thought, was sound policy, and this would be found to be his intention.

There was another point of view in which the plan he should propose recommended itself. They all knew money was immediately wanted. They were not to project a revenue which would be wanted by and by—one million two hundred thousand dollars were wanted directly. This sum, he said, might immediately be drawn from established channels; but, how long a time, he asked, would it take to raise it by a direct tax? Those who were best acquainted with the subject would be able to say there was always great uncertainty in new sources of revenue, particularly when the object of taxation was entirely untried. Circumstances might hereafter justify a transfer of a part of this tax, but, at present, the system of taxes already organized should be resorted to, as in that there could be no deception; they would only have to ask for the money and it would be there.

He believed it would be unnecessary to extend any further his general observations on the introduction of this subject. He should now submit to the Committee a sketch of objects which he meant to propose in place of a direct tax on land. He did not mean this as a complete system; some of the articles might, perhaps, be properly enough struck out and others introduced. He intended more to recommend the plan than any particular object. He would, however, point out the sources which had struck him as proper to be resorted to, and leave the Committee to determine upon the propriety of adopting or rejecting them.

1st. Salt, at present, paid twelve cents per bushel, and the clear increase of duty from 1793 to 1795 had been from $247,000 to $345,000. This increase, he said, proved that the present duty was no way burdensome, as the consumption had greatly increased. He therefore proposed an addition of twelve cents per bushel, which would make an increase of duty of at least $300,000. If it was thought this was too great an increase, a less might be adopted. It might be said this was taxing a necessary of life; but, he said, if salt was taxed he could use what he pleased of it; but the same remark would not hold good with respect to a tax on land. Three bushels of salt would serve a laboring man, his wife, and three or four children a year, or admitting it to be four bushels, this additional duty would only amount to half a dollar; and what portion of a land-tax would fall lighter than this? It would be said, salt was used for cattle also. The quantity used for this purpose, he believed, was small. A bushel of salt would be enough for thirty cattle in a year, but if it were two bushels, the additional duty would only be a quarter of a dollar, which would not be felt by a man who kept this number of cattle; and if his number was larger, and he was a dealer, those to whom he sold them would pay the duty. The same observation would hold good with respect to salt used in salting up provisions for sale.

2d. His next object was an augmentation of the tax on foreign merchandise, which at present paid ten per cent. ad valorem. This duty, he said, increased from 1793 to 1795, from $455,000 to $1,781,000. There had, indeed, been a small increase of duty between 1793 and 1794, which operated in 1794, but the increase of duty had not been by any means equal to this increased produce; and this being the case, it might be concluded the duty had been paid with convenience, and that it would bear an augmentation, and more particularly if it was recollected that the articles included in this class were mostly articles of luxury and expense, and consequently fair objects of taxation, since the tax would fall upon the rich consumers. Perhaps, he said, there might be some articles of necessity in the list, which might be deducted, without making a material difference in his calculation. He would propose to augment this class of articles to fifteen per cent., which would produce $500,000.

Almost the whole of this class were articles of expense and luxury, few are articles of necessity. It is composed of bottles, wire, anchors, locks, blank-books, brushes, sticks, cottons, muslins, calicoes, satin, silks, corduroys, velveretts, &c. Will not these call on the rich, that are able to pay? If you only add 27½ per cent. it will produce twenty thousand dollars.

3d. The twelve-and-a-half per cent. duties ad valorem. They had, within the period above-mentioned, risen thus:

In 1793 - - - -	$83,000
1794 - - - -	241.000
1795 - - - -	645,000
	$969,000

This duty having increased five-fold, (allowing for a small increase of duty, as in the former case,) it might very well be augmented, especially as the articles in this class were also articles of luxury and expense. Suppose two-and-a-half per cent. be added to this class, it would produce $100,000. The articles in this class are printed cottons, muslins, manufactured wood, &c.

4th. His next object was that class of foreign merchandise which at present paid fifteen per cent. The nett revenue of this class in 1793 was $81.000; in 1794, $362,000; in 1795, $885,000. This class of articles, he said, was exceedingly numerous, and comprised many articles of general consumption by all classes of the community, but also some of expense. Perhaps it would not be advisable to increase the duty very much on this class, particularly as many of the articles were such as were manufactured in this country, and to increase the duty too much, might encourage a monopoly amongst our manufacturers at home, which he would wish to avoid. He should think, however, twenty-five per cent. upon the present amount might very well be laid, which would produce $100,000.

In this class are comprised watches, clocks, plated wares, hard-ware, &c.

Madeira wine was an article, the duty upon which might be increased, though it was already pretty high. In 1793 this duty had produced $117,000; in 1794, $152,000; in 1795, $190,000. The consumption, it appeared, had increased very considerably, and he thought it would at least bear ten per cent. upon the present duty, which would produce $15,000. He believed this might be done; but, if it should be doubtful, it might be dropped without inconvenience.

Sherry, Lisbon, and certain other enumerated wines, the duties upon which he believed had increased more than upon Madeira, he proposed an augmentation which should be equal to $15,000.

Foreign spirits, not distilled from grain was amongst the objects on which an augmentation might take place. This article produced, in 1793, $898,000; in 1794, $1,492,000; in 1795, $1,400,000. The drawback in 1795 had been greater than in the preceding year. He would augment this duty ten per cent. on the present amount, which would produce $100,000.

Bohea tea was an article of great consumption, which at present paid ten cents per pound.—In 1793 this article had produced $163,000; in 1794, $226,000; and in 1795, $222,000. He said he was not so certain with respect to the propriety of increasing the duty upon this article, as upon others. The smallness of its bulk made it a convenient article for smuggling, and it would not, therefore, be prudent to advance the duty too high upon it. He thought, however, 10 per cent. might be added to it, which would produce twenty thousand dollars.

Brown sugar, he said, now paid 1½ cent per lb. It had produced in 1793, $646,000; in 1794, $510,000; in 1795, $710,000. This duty of 1½ cent. having been found a very light duty, being more so than the duty upon most foreign articles, he would propose to augment it one cent per lb., which would produce $400,000, or half a cent would produce $200,000.

These augmentations, added together, he said, would amount to $1,450,000.

This sum, he believed, might be very well raised by additional imposts, which was a greater sum than was wanted; $1,200,000 being the estimated sum required. The augmentations which he had proposed might therefore be greatly reduced. This additional revenue, he said, would be raised without an increase of expense of one cent in the pound, by a system of collection already established and understood, and might be produced without delay, uncertainty, or extra trouble.

He proposed also that $100,000 should be raised by a tax on stamps; and 150 or 200,000 dollars by a tax on windows.

He proposed these, he said, not so much with a view to immediate revenue, but as a means of transferring by degrees the revenue from foreign to a domestic source. He had no doubt that a tax on stamps might be made to produce $500,000, and a tax on windows $400,000, if wanted. This might also be done with great facility, and would be infinitely preferable to a land-tax, as it would fall equally upon all parts of the Union. He was not sure but a tax upon hearths might not be still better; and by these measures they would see how far they could go in drawing revenue from internal instead of foreign sources.

This, he said, must be gradual. The first thing necessary was to organize a tax, which might take several years to bring to perfection. In the mean time, they should get what was immediately wanted from the sources he had already pointed out; and, in case of future wants, they could have recourse to the stamp and window, or hearth-tax.

Mr. H concluded with saying, he was sensible the plan he had proposed was an imperfect one; but as gentlemen had been cautioned against objecting to the system of direct taxation, except they produced a substitute, he had produced this, which might be added to, or diminished from, as the Committee should see proper. He was convinced of the necessity of further revenue, and he believed that the patriotism of the people of this country would induce them to pay whatever tax they might be convinced was necessary.

The Committee now rose, and had leave to sit again.

MILITARY ESTABLISHMENT.

Mr. S. Smith, from the committee to whom it was referred to inquire whether any and what amendments were necessary in the act relative to the Military Establishment, made a report, recommending sundry alterations, the principal of which was the repeal of that part of the act which relates to light dragoons, and to a Major General and his staff.

The report was ordered to be committed to a Committee of the Whole.

CONFIDENTIAL COMMUNICATION.

Mr. Madison, from the committee to whom was referred the confidential communication received from the President of the United States a few days ago, gave notice that he had a report to make on the subject. The House and galleries were accordingly cleared.

This business finished, the House adjourned till Monday.

Monday, January 16.

A bill was received from the Senate, for giving force and effect to the laws of the United States in the State of Tennessee; which was twice read, and ordered to be committed to a Committee of the Whole.

Mr. W. Smith, from the Committee of Ways and Means, made a report on the subject of appropriations; which was twice read, and committed to a Committee of the Whole.

Mr. Harper laid a resolution on the table, directing the Secretary of the Treasury to lay, at stated periods, certain statements of duties and drawbacks before the House.

Mr. Ames moved a resolution to the following effect, viz:

"That the Committee of Commerce and Manufactures be directed to inquire whether it would not be expedient, for the better security of navigation, to place a number of buoys within and near the harbor of Boston, and report by bill or otherwise."

The resolution was agreed to.

Mr. Foster, from the Committee of Claims, made a report on the petition of Frederic Hebner. It stated that the claim had been cleared off in 1784, and complained of the impropriety of applying to the House without proper examination beforehand.

Mr. Muhlenberg said that the petition had been presented by him. The fact had proved to be, that the executors of the person to whom the balance was due never received one farthing. There was much reason to think that the money had been obtained by a third person, in virtue of a forged power of attorney; this, as he believed, would be proved in a Court of Justice. He did not mean to object to the report; he only stated this excuse for the petitioner.

The report, negativing the petition, was agreed to.

RULES OF THE HOUSE,

Mr. Muhlenberg, from the committee to whom it was referred to report whether any and what additional Standing Rules were necessary to be added to those already adopted, reported the following:

"That every member presenting a petition or memorial, shall state its contents, and if it appear in substance the same as has been already decided upon by the House, it shall not be received except new matter of fact appear therein."

Ordered to lie on the table.

CLAIMS OF GEORGIA.

Mr. W. Smith said the Attorney General had been directed to make a report to Congress, in March, 1795, relative to a claim of the State of Georgia to certain lands, which had never been made to that House, but to the Senate only. He said the land in question was of great extent and value, and some measure ought to be taken on the subject. He therefore proposed that a message should be sent to the Attorney General for a copy of that report; which was agreed to.

ADDITIONAL REVENUE.

The House then went into a Committee of the Whole, on the report of the Committee of Ways and Means on the subject of further revenue; when

Mr. Henderson addressed the Chair as follows: Mr. Chairman: I am very sensible that our present revenue system is not sufficiently productive to answer the exigencies of Government, and that it is necessary, during the present session, to adopt some measures to improve it. This, I believe, will be admitted by all, and the only question is, as to the mode by which it shall be accomplished.

Two modes of obtaining an increase of revenue are contemplated. The one, by extending the present system of indirect taxation as far as prudence will admit: the other, by having recourse to direct taxation.

Upon taking a comparative view of the two different modes, the advantages that appear to my mind to arise out of and flow from the first, have so much the preponderance, that I cannot give my assent to the adoption of the other, until the improvement of the system of individual taxation has been fairly tried, and shall prove insufficient to meet the necessary expenditures of Government.

Sir, I will take the liberty to enumerate a few of the advantages that the present system possesses, which cannot be attached to the new one. This system has been organized, for a considerable length of time, and the citizens have got accustomed to, and are generally well satisfied with it. It can be extended without any change in the system, or perhaps the appointment of one new officer. It will occasion the least possible expense in the collection. It is the most easy and agreeable mode of raising revenue from our citizens in the power of Government to adopt. They pay the tax voluntarily and imperceptibly; they have an option to consume much or little; and in proportion to their consumption will be their contribution to the revenue.

Sir, the revenue arising from this system has been in a state of progression ever since the system was got into operation, and I trust may be preserved in that state. It has, I believe, answered the most sanguine expectations of its promoters; and I have very little doubt on my mind but that

it would have met all the common exigencies of Government, if there had not of late arisen some very extraordinary and heavy expenses, which greatly augmented our Public Debt.

Sir, with regard to the system of direct taxation, almost every member who has advocated the measure, acknowledges that it will be attended with considerable embarrassment, and I believe the opinion to be well-founded. Great innovations upon systems of taxation are generally embarrassing. It is to us unexplored ground. The drawing of revenue by coercion from our citizens, appears to me one of the most delicate and difficult subjects that Government can engage in. Besides the danger of increasing the excitement of the public mind, and of alienating the affections of our citizens from the present Government, I think that the difficulty of laying a land tax, upon principles of equal justice, (a principle that ought always to be kept in view,) will be almost insuperable. This sentiment was so fully and ably discussed by the member from South Carolina, who was last up on the subject, that there is little room for any further remarks upon it. I will proceed to observe that this system will require an entire new organization, which cannot be carried into operation short of a very heavy expense, and the earliest probable time that it will afford aid to our revenue will be considerably remote. With regard to the expenses of the system, the Secretary of the Treasury appears to have been sensible that the collection of taxes in this way would be very expensive, as will appear by a statement in his report upon the system. In that report he apportions the sum of $1.484,000 to the several States; from which he deducts, for abatements, erroneous assessments, and charges of collection, fifteen per cent., amounting to $222 600, leaving the nett proceeds of the tax, $1.262 400; an expense vastly exceeding the expenses of collection under the present system—a view of which I will attempt to exhibit, as contained in the last statement of the Secretary of the Treasury, showing the duties upon imports tonnage, &c. The nett proceeds are stated at $7,959,409 70, and the expenses of collection are stated at $260.359 21, making between three-and-a-half and four per centum. The difference will be as 15 to 3, 3¼, or at most, to 4.

Sir, with regard to the expenses of collection, I would ask, if any member would want a moment's time to determine which is the preferable system? I apprehend not.

Sir, the gentleman from Pennsylvania, who was first up on this subject, regretted exceedingly that a system of direct taxation had not been adopted long since by Government. For my part, I differ very much in opinion from that gentleman upon this point, and I can say, that instead of regretting, I rejoice that such a system has not yet been adopted, and have full confidence that the measures of Government will not be paralyzed, as that gentleman seems to think, if it should be postponed. That gentleman is engaged in the commercial line; I am in the agricultural line; which, perhaps, may account for our great difference in opinion upon this point. However consonant it may be to the feelings and interests of the commercial part of our citizens to have the revenue raised in this way, sure I am that the gentleman, with all the force of eloquence and reasoning that he is possessed of, will never be able to convince the great body of the yeomanry of this country that it will be more for their interest to collect the revenue at the expense of 15 per cent. than at the expense of 3 or 4 per cent.

Sir, it appears that the gentleman from Pennsylvania has it in contemplation to throw the whole burden of Government upon the farmer. If I recollect right, his words were these: "The wealth of the country must have become so considerable, from the high price which every agricultural production had long been at, as to enable them very well to support the expenses of Government." With regard to which, I would observe that, under the present system, in my opinion, the farmer generally bears an equitable proportion of the expenses of Government. There may be some few exceptions, as it is impossible that any revenue system can be established that will operate equally in proportion to wealth upon every citizen, and it would be highly impolitic to lay the whole burden of the revenue upon any one particular class or description of citizens; but the surest policy is, to let both agricultural and commercial bear their parts, as they now do.

The gentleman further observed, "that, if peace was made between the nations at war, he had no doubt but there would be a defalcation of the revenue." He offered no reason to support his opinion; and, as I am of a different opinion, I will in a few words offer the reasons why I think our revenue, instead of meeting with any considerable shock from that event, (so ardently to be wished for by every humane mind—by every true American,) will be improved. Commerce depends chiefly upon wealth and population. If peace should take place, our wealth and population will progress very fast. I think we may reasonably calculate upon a larger ratio of wealth and population emigrating from all parts of Europe to America. In proportion to the increase thereof will be the demand for, and consumption of, imported articles. Our commerce will not only be continued with the old, but be extended to new, markets, which will of course increase the quantity of imposts and tonnage; and, in proportion as they are increased, will our revenues be augmented.

The gentleman observed that, with respect to the excise, he need not say how unproductive it had been. The article of snuff, instead of producing anything, had brought the revenue in debt; and that the excise on another article had called forth the military to enforce it. Sir, if the gentleman had attended to the report of the Secretary of the Treasury, speaking on this subject of internal revenue, he would not have made so unqualified an expression as to the produce of the excise. The Secretary of the Treasury informs that the product of the internal revenues for the present year will be considerably more than the year past; for the year past, they were stated at between $300,000

and $400,000. With regard to the article of snuff, it is obvious to every one that this arose from the advantage that was taken of the law; but the law being suspended, there can be no further loss; and I think that when it shall be amended, we may count upon a nett product hereafter from that article. With regard to the article that the gentleman alludes to, that the excise upon it had called forth the military to enforce it, I would only remark, that it is now becoming certainly productive and generally satisfactory: and as to the unhappy circumstance of the military being called forth, I believe that it was not owing to any inherent principle of the law, but much more to extraneous causes, which I shall not attempt to explain. The gentleman went on to observe that the augmentation of the duties would not prove an augmentation of our revenues. I believe that opinion to be incorrect; and I think if the gentleman had attended to the fiscal operations of our Government, he would not have advanced it. Sir, our duties have been repeatedly raised, and daily experience convinces us that our revenue has uniformly been in a state of progression. Sir, the gentleman endeavored to enforce his argument by referring to the recommendation of the President of the United States upon the subject. For my part, I would ever wish to pay all due respect to the recommendations of the President, as I sincerely believe that they are founded in wisdom and patriotism. But, until the gentleman can change the phraseology of the President's recommendations upon the occasion, he cannot make the argument apply. The President has never, in any communication that I have met with, conveyed the idea of a land tax being necessary; and I contend that we are as much complying with his recommendation by raising the revenue wanted in the one mode as we would be in the other.

Sir, as members are called upon for a substitute, and to specify such items of indirect taxation as they judge proper for that purpose, I will take the liberty to mention a few, in addition to the many that were enumerated by the gentleman from South Carolina, that appear to me as proper objects to embrace or to extend the duty on. And, first, with regard to such as have not yet been noticed by Government. Of this description, are all theatrical exhibitions, porter manufactured within the United States, clocks, and watches. It will be obvious, at first view, that these are articles of convenience or luxury, that are generally used by those who are the most able to bear the burden of Government, and may be used or omitted at pleasure. Sir, with regard to theatrical exhibitions, we need only to turn our eyes to the large and expensive buildings occupied for those purposes, to convince us that the sources of private revenue derived from their exhibitions must be very extensive; and, if so, that they will be a proper object to raise some public revenues from. With regard to porter, manufactured within the United States, I think there may some revenue be derived therefrom with as much propriety as from spirits distilled, and the manufacturer might be protected by an additional duty upon imported porter. With regard to clocks and watches, they are articles of convenience, chiefly used by those who would not be distressed by a small tax; and I am inclined to think, from the great number in use, that a considerable sum might be raised from them. With regard to articles that will bear an extension of duty, I agree in opinion with the gentleman from South Carolina, who gave us so full a detail upon the subject, as to the greater part of the imported articles, and should have been glad if he had included all kinds of teas, instead of confining his calculations to bohea only, and also beer, ale, and porter, among the class of liquors. With regard to the finer teas, I am of opinion that they will all bear an addition of duty, from this one consideration: that we use them upon better terms at present, under the duty they pay, than we formerly used the inferior kind. With regard to beer, ale, and porter, I would propose an additional tax, not only to aid the revenue, but to protect the manufacturer among ourselves. Of the duty paid upon these articles, I expect that foreigners would pay the greater part, as they generally give imported the preference. I am inclined to think, that, if the duty may be raised upon imported, it may also be raised upon spirits manufactured in the United States.

Sir, I would wish to make one or two observations upon the statement made by the gentleman from South Carolina, who gave us a detail of the expenses and the probable revenue of Government. I find in his statement of the probable revenues from existing laws, under the items of duties on imposts and tonnage, the amount of $5.588,961, computed as the annual nett proceeds. I find in the statement made by the Secretary of the Treasury, wherein he exhibits a general view of the amount of revenue upon imposts and tonnage for the year 1795, the nett proceeds to be calculated at $7,959.409 70—making a difference of $2,370,448 70. I find, also, in the report of the Secretary of the Treasury, upon the system of direct taxes, the following observations, viz: "What the product of the present year will be, cannot be yet known; although it is certain that it will exceed considerably that of the year 1795." The nett proceeds of the year 1795 being, as I have before mentioned, $7,959,409 70, and being informed by the Secretary of the Treasury that the amount of duties upon imposts and tonnage this year will with certainty considerably exceed that sum, I am at a loss to determine upon what principle the gentleman has founded his calculation of $5.588,961 for the true amount of revenue, unless he should have taken it only from the actual receipts, which I should not suppose would be correct; because the difference between the receipts of cash in the Treasury and the amount of duties must create a debt due the Treasury in the hands of somebody that must be paid, and will prove in aid of the revenue. I make no doubt but that the gentleman who gave us the statement, from his knowledge of the subject, and usual correctness, can explain the reasons of the difference. I would further observe that, under the same head, the items relating to internal revenues are stated at sums considerably

below the amount of the present year. The Secretary of the Treasury informs us that the product of the internal revenues for the present year will be considerably more than the year past. I think the gentleman has omitted in his statement one or two items that appear to me deserving of some notice—I mean the probable amount of sales of land under the act of May last, and the debt due from J. C. Symmes and his associates. I think we have a right, with some degree of certainty, to calculate upon some productive aid to our revenue from the sale of public lands. I am informed that there have already been sold above 100,000 acres, at from two to five dollars per acre; which, at an average of three-and-a-half dollars, will make $350,000; which I should suppose a considerable item in the revenue account. And as the law has been but a short time in operation, I think we have reason to expect considerable aid to our revenue from this source. With regard to the debt of Mr. Symmes, (if the contract is fulfilled on the part of Government, agreeably to the report of the Attorney General.) it will make a considerable item in the revenue account. According to my calculations, there will be better than $400,000 immediately to be paid, or placed upon interest, and paid in six half-yearly instalments.

Sir, the gentleman, in the course of his remarks, proposed the small sum of $200,000 to be raised by direct taxes. This sum, it is true, does not at first appear at all alarming; but I have heard, upon former occasions, the idea of an entering-wedge to a system suggested. This would operate as a complete one. Although small, yet the more dangerous; for (to pursue the comparison) persons with wedges, having great force to overcome, make use of slim or small ones first, as they are more easily introduced, and soon make way for larger ones. This, I expect, would be the effect of the proposed system, and probably, in time, would make way for the full accomplishment of the measure suggested by the member from Pennsylvania, which I before stated, to throw the whole burden upon the farmer.

Sir, these being my sentiments, I must vote against the resolution now offered.

Mr. Varnum said, he considered it the indispensable duty of this House, and of each and every member of it, as much as it was in our power, to preserve inviolate the public faith, and to make all necessary provision for the payment of the just debts of the United States. But in doing this, we ought to have recourse to such objects of taxation, and such methods of collection, as we have reason to believe will be most agreeable to the people.

The Government, no doubt, said Mr. V., under an impression that they were doing right, have resorted to imposts and excises, as the proper mode of raising a revenue; and experience has evinced that this mode of taxation is a feasible one in the United States; it places very large sums of money in your Treasury annually; and it is paid by the people with a greater degree of cheerfulness in this way than it probably would be through the channel of taxation. Many of the objects from which our revenue is raised, by duties on imposts and excise, are articles of luxury and superfluity, and as they are generally considered to be such, those who make use of them do willingly pay the tax laid on them by the Government, and I presume will continue so to do, so long as the money shall be appropriated to purposes which are promotive of the good of the Union. Duties on those articles which may be more properly classed among the necessaries of life, are paid by the consumer when he purchases the article, and are less felt by him than they would be if the whole duties of a year were to be paid in a gross sum.

By this mode of taxation, it is true, the poor and the industrious people, whose income and labor barely supplying them with the common necessaries of life, do not pay any part of the tax or duty on wines, teas, silks, carriages, and a great variety of other matters; and why should they when their necessity entirely prevents their ever making use of them? Yet the duty is paid, and it comes from the proper source; the man in possession of the money remits it to the public, and the poor man is thereby enabled to supply his children with bread, to assuage their hunger, and buy clothing to guard them against the inclemency of the weather. Thousands of such people are within the United States. It is a maxim that will always hold good, that "money must be looked for where it is, and not where it is not."

Hence I conceive the present mode of collecting a revenue, under the Government of the United States, to be far preferable to a land tax. It is paid by the people with more facility, and realized by the Government with more certainty. Besides, the system is arranged and in a regular operation: all the officers are appointed who would be necessary if a much larger sum were to be raised in the same way; so that the expense of collecting any additional duties on imposts and excise, would be comparatively very small.

I am, therefore, clearly of the opinion that any additional sums which may at present be needed for defraying the expenses of the Government, or for the payment of their just debts, ought to be raised by duties on imposts and excises. That is a method of taxation with which we are acquainted, and which experience has taught us the operation of under this Government.

But such is the variegated interest of the United States, and such their diversified method of levying and collecting direct taxes, that no uniform system of direct taxation can be devised, which will apply to the custom of any two of the States; and unless you adopt the rules of some one of the States, your system will be diverse from any one which has ever been practised upon in any part of this Union. But if you adopt the method which has been prescribed by any one of the State Governments, and which may probably be very properly adopted, to suit the circumstances and conciliate the feelings of the people of such State; even in that case, you will have the prevailing opinion of the people in fifteen States out of sixteen directly opposed to your system. And

this opinion having been acquired from long experience of the operation of direct taxes, (which most of the States have of necessity constant resort to for the support of their State Governments, and for discharging the debts contracted in the late war with Great Britain,) and which, being founded on social circumstances, habits, and attachments, are very hard to be eradicated, will very much retard the operaton of the system, if not render it entirely impracticable.

The Secretary's report on this subject brings into view three modes of levying direct taxes, with which the House are acquainted.

The first of these modes has for its object an apportionment on each State, on Constitutional principles, assigning a time for the money to be paid into the Treasury, on failure of any State to be assessed and collected by the authority of the United States, upon the same objects of taxation, and pursuant to the same rules by which the last taxes were assessed and collected in such State:

"1. That an act of Congress should be passed declaring the quotas of the different States, assigning a time for payment into the Treasury, and prescribing, in cases of delinquency, that the said quotas should be assessed and collected by authority of the United States, upon the same objects of taxation, and pursuant to the same rules by which the last taxes were assessed and collected by the respective States.

"2. That the act of Congress should direct that the proposed tax should be assessed and collected under authority of the United States, upon the same objects of taxation, and pursuant to the rules of the collection by which taxes are collected in States, respectively.

"3. That the act of Congress should define certain objects of taxation and principles of assessment, according to which the proposed tax should be assessed in all the States, to be collected pursuant to uniform regulations."

The report treats the first mode as entirely unworthy of confidence. It gives some countenance to the second mode; but finally concludes that it is ineligible. The third mode is recognised as the preferable one, and has been agreed to by the Committee of Ways and Means. But, sir, I must take the liberty of differing from them in opinion on the subject; the mode which they have agreed to is, in my mind, by far the most exceptionable of the three.

It destroys that equality of taxation, which ought to characterize every nation, and which by strict attention and industry, founded on the true principles of equal liberty, from many years experience, most of the States in the Union have, in a good measure, acquired the knowledge of and adopted.

It is calculated to saddle the industrious farmers of our country with an undue burden. From the industry, toil, and fatigue, of those whose lot it is to till the earth, all orders, faculties, and professions of men derive their support. How many thousands of people in the United States live from year to year without once feeling the fatigue of hard labor, and many of them swimming in luxury, from the effects of capitals artfully acquired, from the hard earnings of the unwary laborer? And shall a system of direct taxation be adopted under the Government, which the people have formed upon the principle of equal liberty, which will oblige the industrious farmer to pay a land tax, and a tax on his building, which, in most instances, includes nineteen-twentieths of his property; and all the money holders, holders of all other kinds of property, and those who, from profession or emolument derived from the operation of our Government, are living in affluence, be exonerated from any part of the burden, except a small pittance for the houses they live in? No, sir; it appears to me, that a system like this never can be agreed to in this House. Again; setting aside the dependence of the community on the industry of the farmer and mechanic for food and raiment, are not these the men on whom the Government must principally rely for personal service in defence of the country in case of an invasion from a foreign enemy? If so, which I presume will not be controverted, are they not entitled to equal privileges with their fellow-citizens, according to the property they possess? Most assuredly they are; but very widely otherwise will be the case, if the system before you should be adopted. The time that must be spent in forming an estimate on the new principles through the United States, and the great number of new officers (at least 3,500 would be necessary) in assessing and collecting the tax, would add very essentially to the burden. If a direct tax should ever become necessary under this Government, I hope it will embrace all the objects of taxation which have been designated by the particular State Governments; and, notwithstanding the ingenious reasonings in the Secretary's report against the practicability of the second mode therein stated, I am unable to figure to myself any possible inconvenience which would arise from it on the ground of the objections. And why that system was not adhered to in the report I am at a loss to know, for the resolve directing the report to be made contemplated no other.

But I am, from my present opinion, induced to give the system first mentioned in the report the preference. The several States being convinced that the authority of the General Government would be exercised if the money was not furnished by the time prefixed, they would in all probability make the remittance; but if any State should fail of doing it, this Government would make the assessment on the inhabitants of the delinquent States, and would be under as good advantages for collecting it, as it would have been to have made the assessment on the inhabitants in the first instance; and the reasoning in the report does not apply to the case, for under the former Government the Congress had no power to assess money on individuals in any case, and therefore were under the necessity of depending on the will of the State Governments alone for a compliance with the requisitions; but under the present Government, the power of Congress to assess and collect such deficiency, is commensurate with their power to make the requisition.

This mode of laying direct taxes would require

no new officers, the money would be collected by the State officers with the State taxes, and would be attended with much less expense to the people than either of the other modes presented.

But there are almost insuperable objections to a direct tax under this Government, view it in what light you please; and I presume that the Government never will adopt one, until all the objects of indirect taxation are exhausted, and the demands on the Treasury make it indispensably necessary. Is that the case at this time? No, sir, I think it is not, but that very large additional sums may be drawn from that source if it were necessary.

Before we go fully into an investigation of the principles of a land tax, perhaps it would be expedient to inquire into the annual receipts and expenditures at the Treasury, and to satisfy ourselves whether there is, or is not a necessity of laying additional taxes of any kind: and, if on rational calculation, it should be found that the proceeds of existing taxes will be commensurate with the demands on the Treasury for the four succeeding years, your land tax will certainly be unnecessary. Being myself convinced of the fact, I will take the liberty of stating the principles on which my opinion is founded.

The annual expense of the Government, including all demands, is estimated by the Secretary of the Treasury up to the year 1801 at - - - $7,463,000 00

The report estimates the duties on imports and tonnage, by the actual receipts into the Treasury in 1795, at - - -	5,588,961 26
From excises on the same principle, at - - -	337,255 36
The revenue from the Post Office, at - - - -	35,000 00
Bank dividend, at - -	150,000 00
Interest on the redeemed stock	88,636 65
On patents, &c. - - -	746 73
Amounting to -	6,200,600 00
Which leaves an annual balance against the Treasury of	1,262,400 00

But, it is to be observed, that this statement is made from the money received into the Treasury in 1795, and is the product of the revenue in 1794. And by recurring to the revenue returns for 1795, we find the nett amount of duties on imposts and tonnage in that year, is $7,959,409 70.

Which gives a balance in favor of the Treasury, besides supplying the sum calculated to be raised by direct tax, of $496,409 70.

The amount of the revenue to be derived from excise, is also estimated from the actual receipts in the Treasury in 1795, and is indisputably much too low, for, in many parts of the United States, the excise law had just began to operate in 1794, in which year a great part of the receipts of the Treasury in 1795 actually accrued. It is, I think, most proper to take this estimate from the most recent date of receipts, and from the 30th of September, 1795, to 1st October, 1796, the receipts on account of excise were - - $469,579 31

Since that sum was collected from the people, an additional tax has been laid by way of excise, which will considerably increase that branch of revenue.	
Post Office revenue - -	$35,000 00
Dividend of Bank products -	150,000 00
Interest on redeemed stock -	88,636 65
On patents - - -	74 75
Whole amount of nett revenue	$8,492,700 41

From the great increase of the revenue from 1795 to 1796, I think that this statement can be relied on, with a great degree of certainty, as a proper estimate of our annual revenue from existing taxes, which give an annual balance in favor of the Treasury of $1,029,700 41.

The Secretary of the Treasury, in his report on the subject of direct taxes, estimates the annual expense of the Military and Naval Departments and military pensioners, at $2,000,000.

The estimate, in detail, for those departments, for 1797, $1,508,890.

And I am of the opinion that the real annual expense of those departments will fall considerably short of this estimate taking it for four years, if proper economy is used, which will further increase the surplus money in your Treasury. The general staff of the Army are by the laws of the United States, to be continued no longer than the fourth day of March next, and therefore the items which apply to them in the estimate cannot be considered as an annual expense.

The pay of the general staff estimated up to the 4th of March next - - -	$874 31
As the United States are in a state of peace, and their army have only garrison duty to do, the keeping up a corps of dragoons can be of no use whatever, and a considerable saving will be made by reducing the corps.	
The dragoons' annual pay amounts to - - - -	9,480 00
General staff subsistence to the 4th March next, 2,190 rations at 20 cents per ration, is - -	578 00
Forage for the general staff -	217 13
Cavalry forage - - -	9,696 00
The equipments for the cavalry -	2,135 66
Horses for the cavalry - -	13,950 00
The Secretary has estimated the expense of the Quartermaster's department at 250,000 dollars. I am led to believe that the state of the Army will admit of a reduction of that expense -	100,000 00
A reduction of 50,000 Indian rations, it being half the number stated in the estimate - -	10,000 00
Expense of running the line of the Indian Territory - - -	10,000 00
For building mills, &c., at Oneida	5,000 00
These items amount to -	$161,931 10

Deduct this last sum from the estimate for 1797, leaves - -	$1,346,958 00
And this last sum from the estimate for 1797, leaves - -	1,346,958 00
And this last sum deducted from the $2,000,000 stated in the report on the subject of direct taxes, as an estimate of the annual expense of the Army and Navy and military pensions, gives another balance in favor of the Treasury, of - - -	653,041 10
This sum, together with the surplus revenue in favor of the Treasury, make - - -	1,682,741 51

This sum is the nett product of our annual revenues over the sums necessary to discharge all demands on the Treasury for the four succeeding years.

From this statement, which is taken from authentic documents, does it not clearly appear that it is entirely unnecessary, and even inexpedient to impose additional taxes of any denomination in the present session? While the existing taxes give you a nett income of more than a million and a half of dollars annually, over and above the annual demand which can, in the common course of occurrences, be made on the Treasury for the four succeeding years, can you with propriety lay additional burdens on the people? It has often been observed in the course of the debate on this subject, that all would agree in the necessity of additional taxes; but so far from an unanimous concurrence in this opinion, on a candid examination of the subject, with an usual reliance on the common course of events, will not every member of this House consider any additional taxes to be unnecessary?

Mr. Swanwick said, that if the gentleman last up could make good his calculations, he should agree with him there would be no immediate necessity for new taxes; but even if this were the case (which he was far from being convinced of) he should wish a system of direct taxation to be commenced in order to have a certain source of revenue; any surplus arising from which would be well employed in discharging a part of our Public Debt.

The gentleman from New Jersey [Mr. Henderson] had said the President had never recommended direct taxes. He believed the President knew too well the privileges and duties of that House to interfere in anything which related to the origin of revenue; but he had, with great propriety, in his opinion, frequently urged the necessity of discharging the Public Debt, a Debt, which, if not got rid of, threatened the extinction of the Government itself. The Funding System had been the ruin of every country which had adopted it; because one generation put off to another what was its duty to have done for itself, viz: to pay its debts. A Debt of eighty millions called loudly for extinction.

If it was admitted, in order to reduce our Debt, and make provision for the future, fresh revenues were necessary, it became necessary for them to compare the merits of the two systems proposed to their view for raising this money. They must examine the objections against one, and against the other. The great objection urged against a direct tax, was the difficulty of obtaining money from farmers in remote parts, and of obtaining a just valuation of property, and the expense of collecting the tax. As far as these objections had any weight, Government should make efforts to surmount the difficulties. But, it was said, it would be a long time before this tax could be brought into operation; if so, it was necessary to make a beginning, since, without a beginning, they could never expect to come to the end.

But, was it not, he asked, acknowledging a principle dangerous to the existence of Government, to say it was impossible to collect a tax on land? [Mr. Harper said he had never said or thought so.] Mr. S. said he believed some such thing had been said; the difficulties had been stated by different gentlemen as insurmountable, and it became necessary to remove these difficulties. Suppose a war was to take place, was that the time to commence a system of this kind? He believed not. Such a season would be the very worst for collecting taxes. And was this country so situated, that there was no possibility of being involved in war? No matter from what quarter, whether it was with France or with England, it was necessary to guard against such an event by making our revenues sure.

How could we meet any foreign nation upon equal terms in Treaty, when they could say to us, if you do so or so, we will destroy your commerce, and paralyze your revenue? In time of peace, this business should be attended to; if it were not, how would gentlemen accuse themselves if war should overtake them! They would certainly have much reason to do it.

With respect to a land tax, Mr. S. said it was certain, equal, and might be collected with little expense. For, notwithstanding what gentlemen had said, the expense incurred was only at the commencement, as when an assessment was once made, it would last for many years.

We know, said Mr. S., that a window tax, a hearth tax, a stamp tax, and an excise, cause murmurings and discontents wherever they are established; but in no country has a land tax been grievous, except, indeed, in France, where the extensive property of the clergy and nobles under the old Government was exempted from the tax. In England, there were also some objections to the tax, from its being made from what is called the *Doomsday Book*, a (very ancient record) by which means the tax falls unequally, as, since that time, lands have so greatly changed in value, that a new assessment is become necessary to make taxes equitable and unobjectionable.

But, he said, were there not some circumstances at present which marked the time as proper for laying a tax on land? Did not every one know that the very high price of produce must have put the farmer in a situation to contribute some portion of the expenses of the State? Would they be better able to pay when their produce

should become lower? They certainly would not. He was not more desirous than others to call upon country gentlemen; he did it only from necessity. When he considered the danger of being left without revenue, he could not refrain from making the call, and he believed there would be found virtue enough among the farmers to bring them forward cheerfully to pay what the wants of Government required.

He saw no objection to a land tax that might not be removed. Whether the mode recommended by the gentleman from Massachusetts [Mr. VARNUM] or any other, would be best, was not then the question, but would be decided at a proper time. It had been said that farmers paid their proportion of indirect taxes; if so, he said, they could not complain of a land tax, as that would not fall heavier upon them than any other tax would do. But gentlemen said an indirect tax could be evaded; he thought there was no excellence in that quality of a tax, but the contrary, since the greatest recommendation of a tax was, that it fell equal. All taxes on consumable articles bore very unequally. A large poor family consumed much more of them than a rich small one.

It had frequently been said that all duties upon goods imported, were paid by the consumers. He believed this was not so, and he fancied any one who looked into the vendue stores, and saw merchandise selling for the amount in currency, of what it cost in sterling, would run no risk in saying that the duty was not paid by the purchaser, whoever else might pay it.

Indirect taxes, he said, fell very heavy upon persons who lived upon the interest of money, or upon salaries; because, though they were continually taxed by advances of duties, their incomes remained the same. On that ground they had lately had many applications from their officers for advances of salary.

Such a system, Mr. S. said, was a proper part, but not a complete revenue system. In all Governments land tax and imposts were introduced as proper companions; but here all depended upon impost, which was liable at all times to be cut off. No gentleman had said anything in answer to that objection. Nothing could be said against the truth of that position. How very possible was it, that they might hear in the Spring, of the William Penn, the Adriana, and other ships, being taken, instead of coming into our port? And, if such a thing should happen, it would be hundreds of thousands of dollars lost to our revenue. Was it not necessary, then, to be provided against any misfortune which might happen? Or, would gentlemen have the Treasury to stop payment in case of such an event? And he would ask gentlemen at what rate they would insure the arrival of these vessels? He believed the price would be high.

The plan, therefore, of the gentleman from South Carolina, [Mr. HARPER] held out a vain dependance, when he rested it upon an advance of imposts. And what could be thought of a window tax? The most odious tax in Great Britain, and a tax that would be highly deprecated in this country. Indeed, he could remember the time, when it would not have been very safe for a person to have proposed a stamp tax, a hearth tax, or a window tax! An hearth tax and a window tax were the most slavish of taxes. What! said he, shall one man enter our houses and count and tax our hearths, and another come and peep and examine into our windows? God forbid. The injustice of such taxes was not greater than their hateful nature, since a rich man by no means paid his proportion of them. When such objects were brought forward as substitutes for a tax on land, it was a pretty strong presumption in its favor.

How did the gentleman intend to convey his stamps to all parts of the Union? How would such a tax affect the farmer who might have many miles to ride for a stamp before he could give a note or take a receipt? The objection formerly made to a stamp tax, it had been said, was because it was about to be enforced by a foreign Government; he did not think that was the whole objection. He believed the thing was objectionable on account of its inequality. In Britain, it was productive; in Philadelphia, and other large towns, it would also be productive; but could not be extended with convenience over the States of Kentucky and Tennessee. It would either be evaded or oppressive.

By an additional duty on salt, would not the poor man be affected in a much greater proportion than the rich? He certainly would, since some poor families used as much salt as a rich one; and would not such a tax tempt the farmer to give a less quantity to his cattle than was necessary for them? And were landed gentlemen certain that such a tax would be more acceptable to farmers than a land tax? He did not know whether the additional duty might not also encourage smuggling.

Gentlemen had said, that whenever peace should take place in Europe, great emigrations would take place to this country, and great wealth would be brought in. He believed, if anything would draw persons from foreign countries to this, it would be a prospect of enjoying liberty, under wise and equal laws. He believed it would not be the most effectual way of inviting Irishmen to this country, to tell them we had a hearth tax, or Englishmen, by speaking to them of a window tax, or the people of France by a salt tax! It was the greatest recommendation of a tax that it fell equally on property, and whatever tax did so, was a good tax.

He still asserted that if a land tax had been laid long ago, it would have been of infinite service to the country, as it would probably have prevented some ruinous financial systems from taking place. It was with public bodies as with individuals, the more easy they get money, the more liberally they spend it. It was, therefore, a happy circumstance for this country that they could no longer borrow money. When they were called upon for a loan of 300,000 dollars for the Federal city, if it had been to be raised from the

land, it would not have been so easily granted. This land tax would operate as a new spring in favor of Government; it would awaken the attention of the farmer to its operations, to inquire of the why and the wherefore; in business of Treaties, when money was to be granted, the farmer would be in favor of the Treaties only in proportion as he chose to pay the tax on his land. It was easy to grant money, but when it came to be paid, then every gentleman wished to put it off from his own shoulders; one wished it to be raised from land; another from wine; another from hearths or windows; or anything so that it did not affect him or his constituents in any sensible degree. This was the reason he was glad they were brought to the necessity of providing money before they could dispose of it. They had this session had some noble plans on foot; they had heard something of a National University, of relieving the sufferers at Savannah, &c., but now there was a call for money, every one wished to put off the demand from himself upon his neighbor.

Mr. S. said he regretted the necessity of calling upon the farmer; but he believed it necessary. When gentlemen stated the poverty and industry of that class of citizens, he felt as much for them, and had as much zeal for their interest, as any man; nor did he wish invidious distinctions to be drawn between the merchant and farmer. The merchant was an agent of the farmer; but the agent was in the worst situation, because his property was the first to be destroyed. He read, in his newspaper at home, that the French, the English, and the Algerines, take our ships; but his corn and grass grow, and his dollars are safe. He could come down to Congress and talk very coolly about laying additional duties on commerce; but if his land was mentioned as a fit object of taxation, he immediately took the alarm. He thought landed gentlemen should be inclined rather to sympathize with the merchants in their embarrassments; and if they were not led by more generous motives to do this, even interest should lead them to it since they would be the last to be devoured.

Let all ranks, then, said Mr. S., in conclusion, unite in putting their shoulders to the wheel of Government; and, since commerce pays her five millions, let agriculture pay its something; this would show a real attachment to our country. He had heard much said about Federalism and friends of Government; he thought those would show themselves the truest Federalists and friends of Government, who stepped forward in aid of its necessities. He trusted gentlemen would suffer their immediate interest to give way, in order to have the finances of the country fixed upon a foundation which could not be moved. He concluded in these words: We shall never make our Government respected either in Paris or London, till we are able to say to them that our revenue, like our wealth, lies in our farms.

Mr. HARPER said, he should not have risen a second time, if he had not been prevented by the lateness of the hour, when he before addressed the Committee, from mentioning a few things which he thought necessary to be noticed. He should not, he said, trouble the Committee with a recapitulation of any thing he had before said; nor should he answer any objections which had been made to his plan. That would be more proper at another time, if any should be made, which he might think it necessary to attend to.

He had stated a variety of objects which would produce larger sums, more than was now called for. He had also shown that the duty had greatly increased; and that, notwithstanding the additional duty which had in the interim been laid, the increase of duty proved the augmentation of the consumption to have been very considerable. He said that the principal duties laid on foreign, are collected from the 7½, 10, and 15 per cent. imposts. An augmentation, he said, had taken place in 1792 and 1794, by which most of the articles in the 7½ per cent. class were transferred to the 10 per cent., that of the 10 to 12½ and 15, and much of the 15 to 20. Yet the 10, 12½, and 15 per cent. classes were very much augmented in their use between the years 1792 and 1795. The 7½ were productive of large revenue. Mr. H. here went considerably into a statement before made, observing, that from the great increase of the quantity imported, it might fairly be presumed that it did not fall heavy, and, of course, would allow an additional augmentation, without injury to the people, or encouragement of smuggling; it was a proof, he said, that they had not arrived at the point to which they could safely go. He did not mean to present a perfect system, he knew it was liable to objections; but it was merely to bring into view a system of indirect taxes. If, in the article of salt, they choose not to put 12 cents per bushel, which he stated would produce three hundred and seventeen thousand dollars, they were to put only four cents, it would produce one hundred thousand dollars. Brown sugar, he said, was a superfluity and luxury in life, and, on what could a tax more properly be put? especially as it would insure a good revenue; if the tax on salt was to remain as at present, and a quarter cent a pound on brown sugar, a good revenue would remain. Strike out wine and bohea tea, stamps, and windows, or hearths, and nine hundred thousand dollars would remain as an augmentation.

Mr. H. said, the objections which had been urged against indirect taxes, proved too much; they proved that they should be taken off altogether from commerce, and laid wholly on land; for if the proposed tax was to be laid on land, there would still remain five millions dependent on commerce, which would not be less liable to destruction.

The duties which he proposed to lay, Mr. H. said, would be very easily hereafter transferred. A system of direct taxation might be organized, but in the nature of experiment; and, as it was uncertain, a great part of the revenue should not rest upon it; but, if at any time commerce was operated upon, a part of the duty might be transferred. They had been told, he said, that our revenue might be in danger from the French or Eng-

lish; but, he would ask if we had not been pillaged by the English, by the French, and by the Algerines? Yet, under all these circumstances, the revenue had increased. He believed a direct war could not have a worse effect; for, then, probably, their property would only be destroyed by one Power. Why, then, he said, were they told of the uncertainty of our revenue? Besides, they were in the situation, and how could they be got out of it?

It did not require the learning and ingenuity of the gentleman from Pennsylvania to tell them the merchant did not pay the revenue. The people were the payers. The merchant got an advantage by the tax, on account of which he enhanced the price of his goods. Commerce received new vigor and spirit from this tax. He hoped, therefore, they should not resort to a tax so inconvenient and impracticable as a land tax, until they had examined the subject a little more, because he saw sources from which the money might be drawn in a manner more equally.

As to the necessity of additional revenue, no statements were necessary to prove that. The gentleman from Massachusetts had shown how they might deduct about one hundred thousand dollars; but what was this if it could be saved? The necessity was admitted on all hands, except by that gentleman.

Mr. H. said, if the plan which he had in view, should not have the effect, he would join hand and heart with those who wished direct taxes. He wished to see them large; he wished to pay the Debt, because it was a continual subject of anathema. He would go to two millions of dollars, if necessary, and some share of it might go towards the Public Debt; not that he thought it more heavy upon them, but because a subject of discontent, cavil, and invective.

Mr. GALLATIN said, the gentleman from Massachusetts [Mr. VARNUM] had stated to them that there was no necessity for laying a revenue equal to what had been contemplated. The gentleman from South Carolina, just sat down, on the contrary, had told them there was a necessity to the greatest extent. Yet, he said, if they were to draw any deductions from his calculations, they would be that there was no want of further revenue—as the document upon which he had grounded his arguments, was a statement exhibiting the amounts of drawbacks paid upon the dutiable articles exported from the United States in 1793, 1794, and 1795, in which was stated, in one column, the amount of duties received, and in the next, the amount of the drawbacks paid; for instance, take the addition of 1795, viz: the amount received in 1794, and it will be found $8,588,382; if this were really so, instead of being about six millions, as estimated by the Secretary of the Treasury, it was clear they needed not go into a calculation about raising fresh revenue.

The fact was, Mr. G. said, he believed the gentleman from South Carolina [Mr. HARPER] had not sufficiently attended to the statement in question. The amount of duties there stated, though duties receivable, were duties accredited, and not duties actually received upon goods imported. We know, also, said Mr. G., that the amount of revenue, as stated by the gentleman from New Jersey [Mr. HENDERSON] was eight millions, but liable to great drawbacks, both on West India and English goods.

Mr. G. said, he did not mean to follow the gentleman from South Carolina [Mr. HARPER] into any of the details which he had stated respecting the revenue arising from imposts; for, though he believed him altogether mistaken in them, yet the principles were the same. The question was, whether the revenue wanted should be raised by advancing the duty on imposts, or by a direct tax?

It was necessary, however, before he proceeded any further, to notice what had fallen from the gentleman from Massachusetts [Mr. VARNUM] as far as related to the actual revenue and expenditure. He agreed with that gentleman that the revenue was stated too low, and the expenditure too high, by the Secretary of the Treasury, on two articles, viz: upon goods imported, and the Military Establishment. In his report on the subject of direct taxation, he had calculated the receipts of the revenue to the 31st December, 1795. The ground upon which the gentleman from Massachusetts went, was to calculate the revenue for 1796; and it was true that the receipts for that year had considerably increased the former; but the only question was, which was the best ground for a permanent calculation? It was difficult to determine; but, he believed, in general, there was no reason to believe that the highest calculation would be the real revenue when a peace took place in Europe.

The gentleman from South Carolina had even supposed a war could not affect our imposts: he would leave him in the happy idea: but, Mr. G. said, he was not afraid of war, he hoped most ardently for a state of peace, which he doubted not would take place, and when it did take place, the consequence would be a reduction of our revenue. The slightest inspection of the document he had mentioned would show that the high price of our exports, the quantity of European importations, and the great amount of West India productions, were the causes of the high receipts at the custom-house. And the moment a peace took place there would be a failure in the exports, we should be deprived of the West India carrying trade, and if our exports were less, our imposts must also be less. In consequence of the wealth brought into this country by the European war we had been enabled to consume an extraordinary quantity of these productions; but, the moment a peace took place, a certain defalcation in our revenue would be the consequence. To what amount this might be, no one could tell.

On this ground, Mr. G. said, it was more prudent to take the lowest than the highest calculation; and he thought the Secretary of the Treasury had done his duty as a public officer by so acting. He was right in taking 1795 instead of 1796; because taking the amount as a permanent revenue, it was the best ground. It was true, there was another item which the Secretary had

stated, which he did not take for granted. He had put down the Military and Naval Establishment at two millions. He thought that sum might be reduced $600,000; for his own share, he had no objection to make it much lower still; when making a calculation of that kind, it must be made upon the then establishment, which was $1,500,000. He thought, therefore, that the Secretary of the Treasury might have calculated about $500,000 less, which would have reduced the sum wanted in additional revenue from $1,288,798 to $728,796.

Mr. G. said, he would go further and say that, calculate the revenue as they pleased, it would be equal to our present current expenses, and it would be so until the year 1800; but, in 1801, additional revenue must be had. It was not for current expenses, but to pay the principal of a Debt loaned in Holland, and anticipations which had been obtained from the Banks. Experience had told them there were now no more Loans to be got. It was therefore necessary to provide for the instalments of the Foreign Debt which would then fall due, for which no provision was made.

If it were proper to increase the revenue at the present time, $800,000 were sufficient; still, if an increase was necessary, it was right to have an eye to what would hereafter be wanted. This brought them back to the question. How shall the money be raised—by indirect or direct taxes?

It would be well to observe, that gentlemen opposed to direct taxation, in recommending a system of indirect taxes, had confused their plans by direct taxes also. The stamp duty, he allowed, was an indirect tax; but a window tax was certainly not so. He would confine, however, his observations to indirect, as contrasted with direct, taxes.

If he had information before him that there would be no danger of embarrassing trade or increasing smuggling by doing so, he should have no objection to a moderate increase of the duty on goods imported. He believed the impost duty the best adapted to this country, but he must confess he had not information which would enable him to draw this conclusion. The gentleman from South Carolina had, however, not only determined upon the propriety of the addition, but also the sum it would raise. He himself had no documents for coming to these conclusions.

The most powerful objection which had been urged against direct taxes was the difficulty of collecting the money. He believed this difficulty existed at present also in sea-ports. This difficulty of collecting money in the country was not applicable to a direct tax only, but to all others; but, he said, in the present situation of our cities, he believed there was not more difficulty in collecting money in the country than in cities.

As to the manner in which such a tax could fall, it would, like others, fall upon the people. He did not mean to take notice of what had been said about the mode of assessment; that was a matter of detail not at present before them. This, he said, he knew, from the experience of his State, that the difficulties attending such a system would be infinitely less than had been stated by the gentleman from South Carolina. The expense of collecting a tax thus drawn from the people, was simply that of assessing and collecting; but, to an indirect tax, were to be added the profits which the merchant never failed to lay upon the tax, and this profit operated as an additional tax upon the people.

In Pennsylvania, he said, where yearly assessments were made, (and not once in three years, as was said by the Secretary of the Treasury in his report,) the expense was not more than 7½ per cent. If, upon a full examination of the subject, it was found impossible to raise the imposts, and if they rejected a tax upon land, he did not see what object they could apply to, except a tax on salt. This, he allowed, would be easily collected, and easily resorted to. Nearly 3,000,000 of bushels were imported annually, 500,000 of which, he supposed were employed in salting provisions. Lay what duty they would upon this article, it must be paid. There could be no doubt as to the productiveness of such a tax, but was there not some as to the propriety of it? And when they were told a tax upon land would fall upon farmers, he would ask, Upon whom a tax on salt would fall? It was consumed by men or by cattle. When it was consumed by men, it would fall upon them, in proportion to their numbers. If there was any difference, it would fall heaviest on the poorer classes—particularly upon the farmer, as much the largest quantity was consumed by him. So far as salt was consumed by men, the tax would operate as a poll-tax, according to numbers, and not to wealth. But, was a tax that would fall upon cattle to be encouraged in this country? Indeed, there was not much difference between the salt's being consumed by the farmer or by his stock; and the gentleman from South Carolina was not less mistaken about the quantity of salt given to cattle than about some other things. What would be the effect? It would either raise the price of cattle, or the quantity of salt now used would be diminished. If a reduction in quantity was to be the consequence, no effect could be more pernicious; and if it were not to have that effect, but to increase the price of cattle, would there be much justice or policy in adopting any measure which should have the effect to advance the price of butcher's meat, or to decrease the export of cattle? which was the only export from this country which was at present upon the increase—an export which had, within the last six years, been doubled.

Again: that tax, he said, would not only fall equally upon the people, but also upon different districts of country. He would say that if he were to choose between a tax on salt and one on land, he should certainly prefer the latter, since the inhabitants of his district would be four times more affected by one than the other; because, being very remote from market, their land is, of course, of comparatively small value; but they use more salt than persons living nearer the shore, and would consequently pay twice as much, according to their numbers, as persons nearer to the market, while, in a land tax, they would only pay one-half, in proportion to their number; because their land

was of less value, in proportion to that of an equal number of persons living near the sea ports.

Nor was this all: he looked upon a tax on salt of so unequal a nature, that there was scarcely any tax which he would not sooner agree to. You may, said he, lay burdens upon people to a certain amount, and they will be borne; but the moment you add to them, you overset the whole. In parts very remote from the sea, salt was at an enormous price. It might be said, the increase of a few cents could not be much; but it would—and if it were increased ever so little, it would—be impossible to pay it.

Having made these observations on salt, he would readily agree with gentlemen that a direct tax was not a very agreeable thing. He felt himself, and he knew his constituents would feel, that it was worse than no tax at all; but, he believed, except the impost on some articles could be advanced, they had no resource but in direct taxes.

If they find a tax on salt, or upon stamps (a most odious thing) cannot be laid, they must have recourse to a direct tax; and if it could be done with propriety, it should be done.

He would notice only one remark which fell from the gentleman from N. Jersey. [Mr. HENDERSON.] He mentioned three articles upon which additional impost might be laid, viz: clocks, watches, and tea. He said he ought to have credit for his ingenuity, since those were three articles which were more smuggled into the United States than any other; and the duty upon which, on that account, it had been contemplated to lower. He had also mentioned the sale of public land. He believed no great expectations could be had from that quarter, as no townships were expected at present to be sold. Besides, if money should arise from the sale of land, it could not go to pay the eight per cents.: they must be paid out of the revenue. On reference to the act, this would be seen.

Mr. G. concluded, by saying, he did not mean at present to enter more into the subject of direct taxation, as what he had heard against the system was of so trifling a nature as not to deserve particular notice.

At this point the Committee rose, and had leave to sit again.

TUESDAY, January 17.

After disposing of some petitions—

Mr. MADISON moved that the House should resolve itself into a Committee of the Whole on the Algerine subject, for which purpose he supposed, it would be necessary to clear the House and galleries. They were accordingly cleared, and this subject occupied the House for the remainder of the sitting.

WEDNESDAY, January 18.

KIDNAPPING NEGROES.

Mr. SWANWICK, from the Committee of Commerce and Manufactures, to whom was recommitted a report on the subject of kidnapping negroes and mulattoes, made another report on that subject, recommending a resolution to the following effect, viz:

Resolved, That it is not expedient for this House to interfere with any existing law of the States on this subject."

Mr. SWANWICK observed, that this report was contrary to his opinion on the business, but as the committee had been pretty unanimous in their opinion of the propriety of thus reporting, he should not object to its being concurred in.

Mr. HARTLEY thought the subject important, and such as ought to be decided upon immediately.

Mr. GALLATIN moved that the report should be committed to a Committee of the Whole, and Mr. SITGREAVES seconded the motion. It was accordingly committed to a Committee of the Whole on Wednesday next.

ADDITIONAL REVENUE.

The House then went into a Committee of the Whole on the subject of further revenue.

Mr. WILLIAMS said, he could have wished that the motion for postponing this business had succeeded, in order that the House might have gone into a Committee of the Whole on the report respecting the Military Establishment, in order that it might have been ascertained whether certain deductions which were contemplated would not take place. He trusted they would, which together with certain deductions from the Naval Establishment, would considerably reduce the sum proposed to be raised by a direct tax. He thought, therefore, it had been better to have gone into the subject of appropriations before they came to a conclusion on the present business. For his own part, he said, whatever sum might be wanted, it was his opinion that it would be best to raise it by indirect taxes, since he could not consent to go into a system of direct taxation until indirect taxes should be exhausted. But he believed if the present revenue was not diminished by unforeseen difficulties, it would prove equal to all the demands which might come against it. This being the case, it was only necessary for them to organize a direct tax in order to have it ready to be resorted to in case of necessity; and, in that case, our citizens would meet it with cheerfulness. He was confident that our Government could be supported by direct taxes, and he wished to convince other Powers that this was the case. He despised cringing to any nation. Let them interrupt our commerce, yet, on our own ground, we can defend ourselves.

It appeared to him that a deduction might be made from the Naval Department of $218,120, which was the estimate for seamen, since the vessels were not built, nor would be for this year. In the report of the committee to whom it was referred to inquire whether any, and what, amendments were necessary in the act for the Military Establishment, it was to be recommended to strike out the dragoons and to add eight privates to the infantry; but he thought these would not be wanted in the Peace Establishment; there would, therefore, be a deduction of the dragoons. There might, also, be great deduction in the Commissary's Department, so that in the Military and Naval Departments there might be a deduction of from six to eight hundred thousand dollars, probably more; and, if so, a small sum would only be wanting. But, if it should be supposed otherwise, then it would be necessary to cast about for the best means of raising the money. He believed the mode proposed by the gentleman from South Carolina [Mr. HARPER] for an increase to certain of the impost duties would be the best. A considerable augmentation might be made to the present revenue from foreign spirits imported. It would not, he supposed, be proper to augment the impost duty, because it might lead to smuggling, but an additional duty might be raised from it by way of excise.

The present system of excise on wine and spirits was unequal, and only one-fourth part so productive as it might be. And, indeed, if by an increase of duty only one-third of the quantity should be used the health and morals of the people would be less injured. At present it was notorious that many of the Europeans, coming into this country, and finding spirits at so low a price, fell into the immoderate use of them, and thereby rendered themselves incapable of being useful as artisans or farmers. Any tax, therefore, which would have a tendency to prevent this excess, would not only benefit the revenue, but preserve the morals of the people. Mr. W. had it from the best authority that, in the last war, one of the best British regiments, lying at Albany, though when they came there they were a sober and discreet set of men, by reason of their being able to get spirits at a very low price, they could not refrain from the use of them, and became mere sots.

The present mode of collecting the duty on foreign spirits was unequal; because five dollars were paid for a license to authorize a person to sell spirits, and the like sum for wine, and one who sold only thirty gallons in a year paid as much as he who sold fifty times as much. This license laid hard upon the lower class of people in the country; because, in the interior of the country, a retailer may not sell more than thirty gallons a year, which would mostly be used by sick persons, and consequently the tax fell very unequally; but if persons were to pay in proportion to the quantity sold, the produce, which at present was $58,000, might be increased to three or four times as much.

It has been supposed that an additional duty might be raised on salt; but, as it had been justly stated by the gentleman from Pennsylvania, [Mr. GALLATIN,] it was necessary to act with caution in taxing that article, because it would fall very unequally. As far as it was used by man it would operate as a poll-tax; but, with respect to cattle, the further they were removed from the seacoast the more salt was necessary to be given to them. The farmer near the seacoast used no salt for his cattle, but those in the remote parts of the Union were obliged to use considerable quantities at a very high price. An additional duty on salt would, therefore, be more burdensome to farmers in general than would be a land tax. The only recommendation which a duty on this article would have is, that it would be certain; but, as it operated so unequally, this tax ought not to be gone into, or at least no great augmentation should be made. If a land tax was not agreed to, however, a small addition might be made to the present duty.

Admitting that the plan proposed by the gentleman from South Carolina, of additional imposts be the best, the Committee of Ways and Means might be left to judge upon what articles an increase of duty would be most proper. He should wish it to be made chiefly upon articles of luxury and expense, but would leave any calculation upon the subject to the Committee of Ways and Means.

He understood $60,000 had been received for lands, sold agreeably to the act of last session; if that act had allowed the apportionment of the land in small lots, as was then suggested, much more of it would have been sold. As the opinion of the majority had, however, been found to be wrong, he trusted it would be remedied this session, that the sales might go on again, and that some very considerable support might be had from that quarter.

In levying taxes we ought to have two objects in view, viz: the strength and wealth of our nation; as to the strength of our nation, it was derived from the number of its inhabitants; its wealth from the surplus produced by agriculture. They should, therefore, be especially careful how they made infringements on agriculture.

History, Mr. W. said, informed them of the annihilation of nations by means of direct taxation. He referred gentlemen to the situation of the Roman Empire in its innocence, and asked them whether they had any direct taxes? No. Indirect taxes and taxes upon luxuries and spices from the Indies were their sources of revenue; but, as soon as they changed their system to direct taxation, it operated to their ruin; their children were sold as slaves, and the Empire fell from its splendor. Shall we then follow this system? He trusted not.

Mr. W. said, notwithstanding his objections to direct taxes being adopted at the present time, he had no objection to the organization of a plan which might be resorted to in case of any unforeseen embarrassments befalling our commerce.

They ought to consider, he said, that the Constitution of the United States guarantied to each individual State a Republican form of Government. Some of those Governments were supported by direct taxes, and the reason was obvious, they had no other means of raising the money.

This being the case, and the Constitution of the United States having guarantied that right, how, he asked, were those States who supported their Governments by direct taxes at present, to answer the demands of both claims upon their lands?

A tax on land, Mr. W. said, must be very unequal, because there was no way of reaching the moneyed men, who lived in great cities; and, though large holders of land, their land was in

the hands of their tenants, who must pay the tax. There would not be less than fifty millions of property which would escape a tax of this kind. The tax would, therefore, be unequal; and he knew of no way of coming at moneyed men, unless, as in some of the States, men should be obliged to come forward and swear to the sums of money they had on interest. But this was multiplying oaths to no effect.

Besides, Mr. W. said, our country was so situated that there was great difficulty in getting a land tax with any certainty in the State of Delaware; Rhode Island, Connecticut, and great parts of New Jersey, it might be got at valuation; but in other parts it operated very unequally. Nor did he agree with the gentleman from Pennsylvania [Mr. SWANWICK] that the land tax in England did not operate equally. The land tax there was laid by valuation. It was true that it was estimated in the *Doomsday Book*; but, though it was unequal at first, it had been remedied by time, because, when land was transferred from one hand to another, it was bought according to the high or low price at which it was taxed. If it was valued high, it sold proportionably low; and, if low, high in proportion; but, in a new country like ours, it was impossible to lay a land tax with any degree of accuracy. In European countries the commonalty did not hold land—it was in a few hands; but was this the case here, or was it wished to be so? Here the community at large held land. Every man, comparatively speaking, held his farm; or, if they found a difficulty in getting it, they went back into the country and assisted in clearing fresh land. Nor ought this desire of possessing land to be checked.

Another thing, he said, they ought not to lay a tax that one citizen should live upon another. Although the gentleman from Pennsylvania [Mr. GALLATIN] supposed it would not cost more than seven and a half per cent., he believed it would cost more than 30 per cent.; and, if so, the public officers live upon those people who pay the tax.

Mr. W. said, it was notorious that we had already too many officers. Let any gentleman take up "Neckar on the Finances of France," and it would be found that there were more officers in this Government than in France, in proportion to the number of its inhabitants, before the Revolution. He hoped, therefore, they would not be increased. Besides, in thus creating officers, the frugality and economy of a Republican Government was in a great degree destroyed.

But, it was said, by mercantile gentlemen, that the farmer did not pay his proportion of taxes. Very few observations, he thought, would prove this. The common farmer paid a tax according to his crop. If he had but an indifferent crop he bought but little merchandise; but if he had a good crop, he parted with his money freely. Sometimes, indeed, they got credit from the merchant, upon the prospect of a good crop, and, if they were disappointed, distress and ruin were sometimes the consequence.

It was well observed by the gentleman from Pennsylvania [Mr. GALLATIN] that the only difficulty there was in collecting taxes from farmers was owing to the want of circulating medium. The common farmer, he observed, had little to do with money—he lived mostly by bartering one thing for another. A common mechanic in town had more money through his hands than a farmer in the country.

But, said the gentleman from Pennsylvania, [Mr. SWANWICK,] the farmers are becoming rich. Suppose they are, were not persons in cities also growing rich? Did lands in the country, he asked, rise equally with lots in the city? Did the rents of farmers increase with the houses in the city? He believed not; but the advantage was in favor of cities. He would ask, how many farms in the country let for a sum equal to that gentleman's hotel and circus over the way, viz: £500 a year? That gentleman had charged gentlemen with voting away money for the Federal city and other purposes with unconcern, because the money was raised from commerce. But, he would ask, whether the farmers voted for building frigates, and what his observations were when voting for a Naval Armament, a Treaty with Algiers, &c.? These were not for the interest of the farmer, and still there was no difficulty in raising money for these purposes. The next view that gentleman took was on the banks of the Hudson, to see the farmers there sit at their ease, while the poor merchant could not sleep for fear of his property at sea. If that gentleman was fond of a rural life, he should be glad if he would come and live beside him—it might add value to their country. He had no objection to his enjoying his pleasure in the way he liked best, and he hoped he would permit them to enjoy theirs, which he believed equal to any thing which could be found in all the luxuries of a city.

It had been said, that it could not be supposed that a farmer paid any part of the duty of goods sold by auction. If the merchant, he said, made bad calculations, and ordered more goods than he could dispose of, was the farmer to be injured because of this folly? The farmer sometimes miscalculated as well as the merchant, and was sometimes obliged to sell the whole of his produce and his farm too to pay his debt. But would gentlemen say that merchants had not gone on wrong principles, and, instead of making their remittances in proper time, had gone into land speculations, and some of them having gone into the carrying of contraband articles, had, from step to step, augmented our difficulties.

Merchants, he said, should follow their true interests, and then they would not be embarrassed and obliged to send their goods to vendue to make good their payments at the banks; but, if they would not attend to their business, could the farmer help it? For his own part, he viewed all these matters as tending to one point; things would, by-and-by, find their level. The merchant would find his true interest; the country was growing rich; luxury and dissipation, he believed, had outrun population; but he expected things would soon remedy themselves.

He was willing that the system of direct taxation should be brought forward and organized, that, at a proper time, it might be carried into effect.

He thought differently from the gentleman from Pennsylvania with respect to the effect of a land tax on emigration. The fertility and salubrity of the climate were such as to tempt people to come to this country, but a land tax would rather deter, than encourage emigration. Mr. W. wished to encourage commerce as far as was consistent; but not so as to injure agriculture. The wealth of this country, he said, arose from agriculture; it was from the surplusage of agriculture that all our importations, and, consequently, the imposts were paid for. Should they, then, check it? It was from agriculture and rural life that population was increased; from agriculture, the Militia, the bulwark of our nation, was supported; and whilst it furnished freight for our own vessels and those of foreign countries, (the fisheries excepted,) should they check it? He thought not. He hoped, therefore, they should do nothing more at present than organize the system. This being done, we can have recourse thereto, in case our commerce should be interrupted, or indirect taxation be found insufficient.

Mr. CRAIK said, he should not follow gentlemen through all the arguments used on this occasion, because he thought a greater part of them inapplicable. He believed the question before them was one of the most important which had been agitated in that House since the adoption of the present Government. And, however gentlemen had attempted, by the course of their arguments, to divert the attention of the Committee from it, he hoped they would not succeed. He trusted the ingenious calculations of the gentleman from Massachusetts [Mr. VARNUM] intended to lead the Committee to believe that, instead of improving the revenue, they might look out for objects of expense, as the revenue was more than sufficient to defray the current expenses, would have little effect. And when told by the gentleman from New Jersey [Mr. HENDERSON] that it would be a subject of great irritation; that it was an unpopular question; that the public was not ready for it; it was enough to alarm the House; but he trusted such insinuations would have no influence upon the decision of the question.

He thought the good sense and understanding of the House, exercised upon the materials before them, would point out the necessity of entering fully into the present business. There could be little doubt, he said, that revenue was really wanted. He believed, that the incorrect statement of the gentleman from Massachusetts [Mr. VARNUM] had been sufficiently exposed by the gentleman from Pennsylvania, [Mr. GALLATIN.] The only organized system, grounded upon an opinion that revenue was wanting, was that which had been introduced by the gentleman from South Carolina [Mr. HARPER] and he thought, from the principles contained in that plan, the question before them had a strong claim to attention. He believed that resolution went to establish the principle of necessity to go into the plan proposed by the present report.

The observations which had been made on the present question, went no more to the quantum of revenue, than to the principle itself. When they were told they were not to meet the present proposition, because it would be unpopular; because viewed as an engine of Government—an unwieldy machine in the hands of Government, not to be brought into operation—such expressions might create alarm; but it was necessary to see how they were founded.

Mr. CRAIK said, when he looked at the situation of the revenue, and saw the reliance which was placed on foreign resources, he was convinced of the necessity of adopting the present measure; and when he reflected on the motion for putting off the present question by means of extending the indirect taxes, he was disposed to apologize for the present system of revenue laws. He believed they owed their origin to existing circumstances. When the present Federal Government was erected, it was considered in the nature of an experiment; it went into operation with fear and hope; many were opposed to it; and it might be considered wise and politic at the time, that the people should have an opportunity afforded to examine the system, and that nothing should be proposed to them of an irritating nature, but that everything should be carried on in as easy a manner as possible. It was probably on this account that a system of direct taxes was not proposed to the people at an earlier period.

He believed that it was a measure of policy, which could not be questioned, that every Government ought to arrange its taxes, so that every man of property should pay his equal proportion of them. He believed that it was necessary for that purpose to have both a plan of direct and indirect taxation in operation at the same time, as when every man bore his proportion of the public expense, it drew tighter the bands of connexion between the people and the Government. Was there, he asked, a gentleman in that House, whose observations did not furnish him with instances, under the present system, of wealthy, independent farmers, selling, perhaps, from a thousand to fifteen hundred bushels of wheat a year, who were so insulated by their situation, their economy and frugality, as to make their own clothes, to eat their own produce, and to drink the juice of their own fruit, and who, therefore, pay nothing towards the expenses of Government, except a few cents duty upon the salt used? Was it, he asked, right and proper, that such a description of persons should be excused from bearing a portion of the public burdens? He thought it was not. This afforded one reason, amongst many, in favor of originating direct taxes. But there were others more weighty. Was there a man who looked at the situation of our country, and saw the precarious foundation on which its finances stood, who did not tremble for the consequences? It was not necessary, he said, to draw an imaginary picture, nor to excite alarm; it was not necessary to go into calculations of what was proba-

ble; to be respected abroad, it was necessary revenue should be firmly established. He believed it was the sinew of Government, the oil which was to keep the wheels of it in motion.

He was afraid this view of the subject had not sufficiently engaged the attention of gentlemen. When he read the accounts in the public prints of flagrant attacks made upon our commerce; when he not only saw depredations and spoliations committed, but actual hostilities threatened, he thought there was serious ground for alarm.

One of the strong objections to a direct tax was, that we could not expect immediate revenue from that source; but the force of this objection applied with equal strength to the adoption of any energetic measure. If it required time to mature this plan, it was necessary to begin it immediately, that it might be gradually prepared, and ready whenever necessity should impel them to have recourse to it; for it would be presumption, and the height of folly, to suppose we should always be exempt from what was the common lot of other nations. The propriety of the measure of increasing our revenue, had been agreed on all hands, however gentlemen differed about the mode of effecting it. It appeared to him essentially necessary to originate some plan of direct taxation to which they might resort. If it be admitted that such a plan is necessary, though not to be carried into immediate effect, the present question ought to be agreed to.

If he understood the gentlemen from New York, New Jersey, and South Carolina, [Mr. Williams, Mr. Henderson, and Mr. Harper,] all agreed, that further revenue was necessary, and two of the gentlemen were in favor of originating a plan of direct taxes. The question then resulted, to what object of direct taxation should they apply? They were an agricultural people, and the great capital of the country was in land. If a direct tax, then, must be laid, land was the proper object for it. He considered that the farmers, notwithstanding their want of ready money, when compared with the inhabitants of cities, as possessed of a great part of the wealth of the country, and that they ought, therefore, to pay their quota of the public taxes.

It might be necessary, Mr. C. said, to examine some of the objections which had been made to this system. And here, he would observe, that gentlemen ought not to expect anything like perfection in any scheme of taxation. Taxes were only a choice of evils; they were unpleasant, but they were necessary. It had been objected against a direct tax, that it was unequal, on account of a variety of population, wealth, and situation. Gentlemen had not been satisfied with supposing that a bad plan might be adopted; they had supposed the very worst to be entered into; that the assessors to be appointed would be the basest of men; but he trusted the committee, who was charged with this matter, would have the good sense to prepare such a plan as should be freed from many of the objections which had been brought against it.

Mr. C. differed in opinion from the gentleman from South Carolina [Mr. Harper] that this tax would bear hardest upon the farmers far removed from the sea-coast. He believed they would rather have the advantage than otherwise, from the low value put upon their lands. The expense of collection had been urged as an objection. He had been much surprised to hear gentlemen calculate that expense, one at fifteen and one at thirty per cent. He wondered that the general accuracy of those gentlemen should have suffered them to have wandered so much from the point on this occasion. He believed the estimate of the gentleman from Pennsylvania [Mr. Gallatin] was a high one at 7½ per cent. An objection of this kind was less applicable to land, than to taxes on any other species of property.

A tax on windows, or a hearth tax, had been proposed as a substitute, which would, in fact, be nothing more than a house tax. He thought that such a tax was liable to every objection that could be made against a tax on land, and to a great many others peculiar to themselves. Houses were an equivocal representation of property, and a tax on them would fall on some parts of the country much heavier than on others. Indeed, it was susceptible of so many obvious objections, that they were not necessary to be detailed.

Mr. C. said, he did not conceive it important to go into an inquiry how far it was prudent or politic to go into an extension of the imposts, as he had no authority on which to found his opinion; and he would caution gentlemen from being diverted from the question by an expectation of an increased revenue from thence. It had been proved very satisfactorily by the gentleman from Pennsylvania [Mr. Gallatin] that there was no certainty of an advance in the imposts. Upon a calculation of the duties paid upon goods from the East Indies, West Indies, and Europe, they amounted, at least, to sixteen per cent., and were gentlemen prepared to say that even this duty might not prove a temptation to merchants to become smugglers?

Many would turn their speculations on this subject, if they had such prospect of success as any considerable duty would give them; it had been the case. He said, merchants were not to be considered a distinct order of beings: they were, at present, the treasurers of our taxes; if the revenue became too heavy, they would be induced to rob the nation of it. However, he meant not to cast any reflections on gentlemen of that calling; he thought they were honest men, and deserving acknowledgments from the House; he wished to avoid throwing out a temptation.

The question was an abstract principle, and did not pledge gentlemen to this source of taxation only; if others could be found more eligible, they might be applied to.

It would be proper, in the first place, to draw upon that source for considerable revenue. But that Government may never want a resource, he would wish a system of direct taxation may be prepared, to which recourse may be had. He would be willing not to apply to it, if an increase of indirect tax would not be too burdensome, and

he believed the gentleman who first introduced it would be of the same mind. He wished the House to decide whether the power was vested in them. The situation of our affairs, in his view, imperiously demanded an increase of revenue; and our prospects were, of still greater demands.

He hoped, therefore, the Committee would find no difficulty in agreeing to the proposition before them.

Mr. W. Lyman said, a land tax had always been considered as an impolitic tax. It would be well to inquire why this tax should have been so considered; whether the whole world had erred in this case, or there was some natural cause for the opinion? He thought there was good ground for the opinion. A tax on land was calling forth property before it was produced; for, until land was cultivated, it produced nothing. To call for a tax in this way had also a tendency to discourage the cultivation of land.

Mr. L. said, he admitted that the consumer paid indirect taxes; that they did not come from the merchant, but from the person who purchased the goods for consumption. Nor was it the persons who cultivated the ground who paid a direct tax on land, but those who bought the produce of the land from the market. The consumer paid the duty in this case as well as the other.

The question, then, he said, was merely as to the best mode. There was another consideration. If, said he, you call for a direct tax on land, you call upon a class of people, who, perhaps, have not money to discharge it. A man who possesses land, or who is the cultivator of it, may not have money, until he has sold his produce. To collect the tax in this way, was therefore tedious, circuitous, and uncertain. What was the case with respect to indirect taxes? In indirect taxes, or excise, the process, he said, was unerring and certain. They were so much so, that an eminent writer on the subject had said, it was "pay the debt to Government, or pay the debt to Nature." The tax must be paid, or the person must cease to exist.

When he contemplated the subject in this point of view, and if he were right, that direct taxes were paid by the consumer as well as indirect taxes, he could not be at a loss what vote to give on the present occasion.

In whatever point of view he considered direct taxes, they could not, in his opinion, be compared with indirect taxes. It was true, that some indirect taxes, and all taxes in a greater or less degree, were unpopular; but this never happened but when they were pushed too far. An impost or an excise may be so excessive as to be incommodious; but this, he said, was not the nature of the tax.

This, he said, was not the case with a direct, or land tax. This, though ever so small, was paid unwillingly; a poll-tax was the same. And a man called upon to pay a poll-tax did not ultimately pay the tax; for a poor man who earned only just sufficient for his existence, would cease to exist, if he were not to make a proportionable advance on his labor.

In what situation was Government? It calls upon a man to pay a direct tax, who is perhaps unable to pay it. This mode, he said, was circuitous, unsafe, and not to be relied upon.

This reflection convinced him that this country had chosen indirect taxes as the best possible mode. He thought it had made a wise choice. He knew very well that a case might be stated in which a direct tax would be necessary. A case might be supposed in which every thing might be put in requisition. But that was not the present question. In case of an invasion, or a war, it might be necessary both to put property and persons in a state of requisition. He would not pretend to say, that, in such a situation, direct taxes, or any other, would not be proper; but, in no other situation, could he think such a tax should be called for.

Some gentlemen, opposed to the adoption of a direct tax at present, were of opinion that they should at least agree upon a plan of direct taxation which might be ready in case of emergency. But he did not think such a proceeding necessary, or that it would answer any good purpose. He believed it would never be necessary to go into the business, except in an extreme case. He therefore did not think it worth while; for, however well a plan might now be laid, it might be unfit to be acted upon when it was wanted. Whoever might compose the Legislature at such a time, they would doubtless be able to determine what was necessary. He was not for anticipating legislation in that way.

Besides these general observations, which were applicable to all countries, there was one which applied particularly to the United States. If a direct tax was laid, it must be according to the last census. In this way the tax would fall very unequally; for it would be found that the population in some parts of the United States exceeded that of other parts in proportion to the extent of the territory, and wealth, and productiveness of soil. Wherever commerce had extended to a considerable degree, the landed interest would be taxed on account of the population which those improvements may have produced. Population, was, perhaps, as sure a mean of judging as any other, of the ability to pay, of any district; but from the situation of the United States, it was not a good criterion at present.

Coming from the State he did, he should be obliged, if he did not generally object to the system of direct taxation, to object to it on that account. He did not think a direct tax would comport with the interest of a populous State. If gentlemen thought such a tax would fall heavy or unequal in thinly inhabited States, he must give up his argument; but he did not believe this could be the case.

He might have said that direct taxes were individually unequal, unless upon the principle that consumers pay the duty. It was not in human wisdom to lay a direct tax equal. But it was said, that money must be paid, that there was a deficiency in the revenue, and therefore this tax must be laid. Several gentlemen had proved that

there might be considerable retrenchments made in the public expenditure; perhaps enough to make the receipts equal to the expenditures. They had not yet determined how far the Military and Naval Establishment might be curtailed, and several other articles of expense would admit of retrenchment. Besides, if that were not the case, and the sum in question must be raised, he thought there were certain articles of importation which would admit of a higher duty, and which would not only produce revenue, but operate as an encouragement of the manufactures of our own country.

It will be recollected that petitions had been received from hat and glass manufacturers, and various others, praying for an augmentation of duty on those articles, as they found the present duty not a sufficient protection to their manufactures. Indeed, the manufactures of the United States were almost wholly abandoned. Those of glass and woollens were abandoned; those of cotton, which had progressed to some extent, had, in a considerable degree, been abandoned, and some thought others were likely to be so. For his part, he thought if they had no other object in view than merely the protection of the manufactures of the United States, they should impose a higher duty on a number of articles. He had been informed from pretty good authority, that the importation of hats into this city alone had, last year, exceeded thirty thousand pounds sterling, and that porter had for the last two years exceeded any former importations. The importation of coal was also increasing. When it was considered that our own country furnished materials for these articles, policy and interest required that there should be a high duty upon them. These articles were so bulky as to run no risk of being smuggled. If this were not the case, he knew that a revenue calculation might prove the reverse of a mathematical calculation; for, in a mathematical calculation, two and two make four, but in this revenue four and four would not make two. But, when articles were sufficiently bulky, the duty might be increased to any height without danger of smuggling. Let the duty be what it would on porter, on coal, and almost on hats, there need be no fear of smuggling.

There was another article. He believed the duty on rum imported might be increased. It would have one of two good effects; it would either produce more revenue, or less would be consumed.

Mr. L. said, he should, therefore, vote against the principle, as it was not possible so to detail it as to comport with the interests of the country: besides, that it was not necessary to resort to this article of taxation, as the imposts and excise might be so regulated as to produce a revenue sufficient.

The article of salt had been mentioned as a proper article for an additional duty. He knew it was productive; but it could never be the interest of any country to tax salt; he thought it the most oppressive that could be laid: this was truly a Ministerial tax. He would not, therefore, be understood to say, that, in voting against a direct tax, he meant to vote for a tax on salt. He thought, indeed, that there were so many other articles which would admit of a higher duty, that there was no necessity for resorting to that. It would really be an extraordinary thing, if, after declaring this country free and prosperous beyond all calculation, it should be brought into such a situation, as that nothing could save it but direct taxation. He fondly hoped, said Mr. L., we were a free, enlightened, and flourishing country. He wished he could say that the Government had used our peculiar advantages to the best purpose; but every one viewing the proposition before them must be of a different opinion. We must either believe the United States are not prosperous, or that the natural causes of our prosperity had been defeated.

Mr. L. said, he did not mean to take up longer time of the Committee, the subject having already undergone a very copious discussion.

Mr. Findley hoped as the tax, which was the subject of their discussion, had been so long in contemplation, that members would have been more ready to have met it. It was admitted the last session to be necessary, and the Secretary of the Treasury had been directed to report a plan. At that time they were convinced more revenue was wanted; that by anticipations, and other causes, we were in a situation to require a direct tax; but now they heard that the tax was impracticable, unwise, impolitic, and unjust.

He objected to its being impracticable; indeed, this had rather been suggested than proved, and he had been surprised to hear such a charge. To say that so important a thing as the laying of a tax on land was impracticable, was a most extraordinary assertion; but he trusted, as it had been found perfectly practicable in most of the States, it would be found perfectly practicable with us. It had been perfectly practicable, and most effectual, he said, in the State of Pennsylvania; and if so there, why not practicable in the present way?

The gentleman from Massachusetts (Mr. W. Lyman) had said that in some parts of the country the people were more numerous than in others; and that a direct tax would call upon them to pay according to their numbers. Were not the manufacturers, he said, who might pay this, exempted from the impost duty, which would be equal to the direct tax which they were called upon to pay? And, indeed, if they were called upon for a direct tax they would pay no tax at all. But, with respect to individual injury, it would be as just as any other tax: the principle was more just, because land would be taxed only in proportion to its value. No indirect tax would operate equally, but would be more unequal than this.

But it was said, this tax would fall upon the consumer only. He differed in opinion from the gentleman from Massachusetts in this respect. Wealth and industry, Mr. F. said, must pay taxes. Industry was the cause of wealth. A tax may

be levied upon the poll, but it must be paid out of wealth.

But it was said, wealth could not be found: it could not be found, it was true, in all its avenues; but in those in which it was visible and exposed. Was there a greater mass of wealth than land? Certainly not. It was said that it discouraged cultivation; but it did no such thing.

Mr. F. said, Pennsylvania had always been in the habit of collecting direct taxes, while a Colony and since. This tax had the effect to prevent the land from being engrossed, and kept it in small tracts. Direct taxes were not imposed until indirect taxes had been tried to the greatest extent.

Mr. F. said, there were greater landed estates than any other; and why should they escape a tax? It could not be supposed that he could advocate this tax from any other motive than principle, since the whole of his property and that of his constituents was land; but, said he, we consider it as a just and equal tax. It is not unpopular; we think it preferable to an indirect tax. People in towns, he said, paid for every thing they eat, drink, or wear, and therefore paid most of the impost duty; they did not pay much of it, and therefore would not object to a small tax on their land.

Mr. F. said, he had observed a contest in that House between the agricultural and trading interests. He had thought it was too early a day to have introduced that kind of spirit. If they took a view of the country, or of the members in that House, they found one and the other almost altogether agricultural. It was certainly the most productive property in the Union, and why should it not pay its share of the public expense?

The prosperity of the commercial interests depended principally on agriculture, and a direct tax was necessary to equalize the taxes.

Salt had been mentioned for an additional duty. This was a most necessary article for the poor; sugar also, though it had been called a luxury; but he believed it was become from habit a necessary of life. Bohea tea was an article used by the poorer classes also. If this principle of taxing the poor prevailed in our taxes; if they were to take taxes where they could get them, he did not know where they should stop.

Was it not a little surprising, said Mr. F., to see the members of that House, whose estates were mostly in land, so desirous of avoiding a land tax? How would this look to the people? Would it not appear as if they were determined to put off the burden from their own shoulders?

For his part, he was so convinced, from moral and political ground, of the necessity and policy of the measure, that he should vote for the resolution.

A call for the question and for the Committee to rise was made.

Mr. W. Smith wished to say a few words before the question was taken. He said the discussion had turned upon points not before the Committee, viz: the quantity of revenue wanted, which would be determined, if the principle was agreed upon, when the bill should be brought in, in filling up the blanks, as would also the modification of the business. The only questions before them, were, was revenue wanted? And whether, if wanted, direct or indirect sources should be applied to for the money?

All, except one gentleman, who had spoken upon the subject, acknowledged revenue to be wanted. With respect to the mode by which it should be raised, gentlemen opposed to direct taxes, had laid before them a number of suggestions; but the resolution of his colleague [Mr. Harper] was the only plan which was regularly before them; he should therefore not notice any other; as gentlemen who were serious in any of their suggestions ought to bring them regularly before the Committee.

With respect to the proposition of his colleague, it might perhaps be possible to raise some little from an advance of duty on the articles he had mentioned; but the only thing of consequence in his list was salt, against taxing which the opposition seemed to be pretty general. With respect to a duty on stamps, he did not believe that would be a measure which would meet with the approbation of the Committee; and the window tax was only a land tax in another form, vastly more objectionable than the proposition before them. With respect to imposts, they were on an average 16 per cent. He believed that would be thought sufficiently high. Indeed, he had been informed that the duty on some articles was already so high, that it would be necessary to reduce it, in order to prevent their being smuggled; so that what might be raised by impost on one article, would only go to balance what might be taken off from another, and therefore no additional revenue could be expected from that source.

Mr. S. said he should mention a circumstance, which he had from good authority, which would prove that the present duty was not paid with that facility which they had heard of, viz: that in one city only of the United States three hundred writs had been issued against merchants, for the recovery of their bonded duties!

If this was a fact, (and he could not doubt it,) he did not think this was a proper time to increase the duty on imposts. With respect to direct taxes, he was a little surprised to hear the opposition which had been raised to them, since, in every State except two, a plan of this kind was adopted. How the idea of a direct tax being an impracticable measure came to be thrown out, he could not imagine. He was sorry it had been mentioned, since it might have an effect to weaken the confidence in Government. With respect to what had been said on the subject of modification, that would be matter for future consideration. The only questions were, (what he had already stated,) Was revenue wanted? If it was, whether they were ready to adopt the plan proposed by his colleague, or agree to a direct tax? He hoped, therefore, they should then come to a decision upon the question.

The calls for the question, and the Committee to rise, were again repeated.

Mr. Harper said he felt an apology necessary for again troubling the Committee with a few remarks, but he promised they should be as few as possible. He thought it necessary to make a few in reply to certain things which had been advanced against the proposition which he had laid upon the table.

It was said that they were not able at present to make an accurate judgment upon the subject. He thought they were. Some parts of his plan, he said, had been placed in a light by no means consonant with the truth of the case. It was necessary, therefore, to correct some false views which had been given of the subject, and place them in their true light.

A member from Pennsylvania [Mr. Gallatin] yesterday stated that all the calculations which he had made on the subject of imposts were wholly imperfect and vain, because they were made on duties receivable instead of received at the custom-house, and that the amount of duties received was very far below his estimate. But the gentleman ought to have recollected that those estimates were not calculated upon any one year, but upon the average produce of several years; consequently, though the amount in one year might be less, the average would be the same, and the truth of his position that the duties were increasing would remain unaffected. Whether the amount of the receipts was eight or five millions, it made no difference as to his position.

If the drawback, he said, was taken for any one year, it would be erroneous, as the deductions for 1795 went to the year 1796, and so on; but when the average on several years was taken, it would be found right.

He had asserted that his statements would not be greatly affected either by war or peace; nor did he believe they would, to any considerable extent. But the gentleman from Pennsylvania had predicted a very great defalcation of the revenue in case of peace. He did not think it would be equal to the increase of population which would be likely to take place in consequence of such an event. It was said that, when a peace should take place, a great part of our carrying trade would be withdrawn, and less capital would be employed. But, he asked, if that capital would be unemployed? No. Agriculture, perhaps manufactures, roads, internal improvements, might employ that capital. And he did not know but this would be a more profitable employment of it than in foreign commerce. He believed that commerce had been overdone, and wealth employed in that way might be more profitably employed on other objects. Instead of being spread upon the ocean, if it were spread upon land, he believed it would turn to better account.

In case of war, (an event which they ought always to look upon as possible,) it was said the defalcation would be great: this, he did not believe. He deprecated war as the greatest of evils, and he hoped and trusted it would be very long before this country was involved in such a calamity. He hoped the events predicted by the gentleman from Pennsylvania [Mr. Gallatin] would soon bles, our sight; but though he believed war to be so great an evil, yet he did not think our revenues would be greatly injured by it. In order to see this, it might be observed, if our trade was a foreign trade, like that carried on by the Dutch or English, it would depend upon a state of peace. Those nations, in order to defend their commerce, were obliged to keep up large Navy Establishments, (perhaps at a greater expense than all the benefits derived from such a commerce would warrant;) but our commerce, said he, depends upon an exchange of the necessaries of life, with which we abound, for the superfluous labor of other countries. It was therefore the interest of those countries to keep up this commerce; they depended upon it for bread to eat. Therefore, even in a state of war, they were under the necessity of winking at a commerce upon which their very existence almost depended. In the last war, perhaps there was as great an amount of duty paid as at present, in proportion to the population of the country. Therefore, however great the evil of a war might be, it would not, he said, destroy our commerce. And with respect to the plunder of our property by ships of war of different countries, it could not be greater than it had been.

It had been said that the objections to a land tax were equally strong against a window tax, a tax on stills, or other taxes of that kind; but this was a mistake. The difference was, that, in one case, they were apportioned by Government upon the people, and in the other, the people chose themselves what part of them they would pay. And even admitting (which he did not believe) that money was as plentiful in the country as in cities, still this objection would lie against direct taxes.

It had been said that the impost duties could not be raised, but no proof had been brought of this. His colleague had indeed adduced a fact which he meant as proof, that in one town three hundred writs had been issued for duty; but this did not prove that the duty was too high, but that the merchants had all of them overtraded their capitals—of which they had had proofs enough already. If the duty had only been one-half the present amount, the same thing might have happened.

Mr. H. then adverted to his plan, and defended it against the objections which had been urged against it. He observed that much had been said on the subject of smuggling. They should advert, he said, to the difference of situation betwixt this and foreign countries. What was the situation of Holland, Spain, and Great Britain, in this respect? They were divided from each other by rivers, or by narrow seas, which might be crossed in an open boat, which would carry over £30,000 worth of dutiable goods in a few hours. On this account, smuggling was carried to a great extent. But in this country, he said, the Atlantic must be crossed, or a great part of it, before an article could be smuggled.

He concluded with saying, that if there were no other source but a land tax to supply the deficient revenue, he would vote for it; but he believed a tax on windows or hearths, with the additions he had proposed to the imposts, would be far pre-

ferable. He should therefore be opposed to the present question.

The question was then taken for the Committee to rise, and carried—yeas 44, nays 35.

And the House adjourned.

Thursday, January 19.

A Letter was received from the Secretary of the Treasury, enclosing the Report of the Secretary of War, on the subject of the Naval Establishment, and an estimate respecting the ports and harbors of the United States. What related to the Naval Establishment was referred to a committee on that subject, and what respected the ports and harbors was referred to a committee appointed to take their state into consideration.

CONTESTED ELECTION.

Mr. Venable, from the Committee of Elections, made a report, viz: that they had proceeded to examine the complaints made against the undue election of Mr. Varnum, from the second middle district of Massachusetts; that no one of the petitioners, or their agents, had appeared this session to prosecute their complaints, nor transmitted any evidence on the subject; that the sitting member had produced evidence that the election in the town of Dracutt (the unfairness of which had been complained of) was conducted with fairness and propriety; and though there had been some irregularities committed in other places, they were mostly owing to the misconduct of the petitioners. The committee therefore report it as their opinion that Joseph Bradley Varnum is duly elected, and that any attempt to deprive him of his seat appeared to be more the effect of malice than of any real ground of complaint against the unfairness of his election.

The report was ordered to lie on the table.

PENSIONS.

Mr. D. Foster, from the Committee of Claims, made adverse reports on the petitions of William Clark, Peter Lee, Cutlip Nestler, and John Stevenson—who prayed to be placed on the pension list.

Mr. Livingston moved that the report should be printed. He said that, by the rules adopted, many miserable objects had been reduced to great distress. He wished it possible that some assistance could be given to them. To his certain knowledge, many poor people on the frontiers, who never had an opportunity of hearing about the statute of limitations, were thrown out.

The motion for printing was seconded.

The Speaker explained that the regular way would be to move for a Committee of the Whole House to take up the report.

Mr. Macon said that the best way for the gentleman to get at his object would be to move a simple resolution for rescinding the act of limitations.

After some further conversation, the reference to a Committee of the Whole was agreed to.

The motion for printing was rejected—yeas 38, nays 39.

The Speaker laid before the House a Letter from the Attorney General, accompanying his report respecting the title to the land situated in the Southwestern part of the United States, claimed by certain companies under a law of the State of Georgia, passed in 1794, made in pursuance of a resolution of Congress in 1795; which was ordered to lie on the table.

SALES OF LANDS IN OHIO.

Mr. Sprigg, jr., laid on the table a resolution, to the following effect:

"*Resolved*, That the committee appointed to inquire into the progress made in carrying into effect an act for the sale of land Northwest of the Ohio river, and above the mouth of Kentucky river, and also what alterations are necessary in the same, be further instructed to inquire what progress has been made in carrying into effect an act for regulating grants of land for military services, &c., and also if any and what alterations may be necessary in the same."

RELATIONS WITH FRANCE.

The Speaker laid before the House the following communication from the President of the United States, together with very luminous documents therein referred to; which, after some debate on the propriety of the measure, were ordered to be printed, without being read:

Gentlemen of the Senate, and of the House of Representatives:

At the opening of the present session of Congress, I mentioned that some circumstances of an unwelcome nature had lately occurred in relation to France; that our trade had suffered and was suffering extensive injuries in the West Indies, from the cruisers and agents of the French Republic; and that communications had been received from its Minister here which indicated danger of a further disturbance of our commerce by its authority, and that were, in other respects, far from agreeable: but that I reserved for a more special message a more particular communication on this interesting subject. This communication I now make.

The complaints of the French Minister embraced most of the transactions of our Government in relation to France, from an early period of the present war; which, therefore, it was necessary carefully to review. A collection has been formed of letters and papers relating to those transactions, which I now lay before you, with a letter to Mr. Pinckney, our Minister at Paris, containing an examination of the notes of the French Minister, and such information as I thought might be useful to Mr. Pinckney, in any further representations he might find necessary to be made to the French Government. The immediate object of his mission was to make to that Government such explanations of the principles and conduct of our own, as, by manifesting our good faith, might remove all jealousy and discontent, and maintain that harmony and good understanding with the French Republic which it has been my constant solicitude to preserve. A Government which required only a knowledge of the truth to justify its measures, could not but be anxious to have this fully and frankly displayed.

G. WASHINGTON.

United States, *January* 19, 1797.

[The documents accompanying the above Message will be found in the Appendix.]

ADDITIONAL REVENUE.

The House then resolved itself into a Committee of the Whole on the subject of further revenues.

Mr. Swift said, he had all along been opposed to a system of direct taxation, believing it possible to raise the revenue wanted from indirect sources, and being determined never to have recourse to direct taxes, unless the situation of the country was such as to make it necessary to apply to that source.

He should still have continued his opposition to direct taxes, had it not been for information which he had received that the posture of foreign affairs was such as to threaten the cutting off of our sources of revenue arising from foreign commerce. It was necessary to go into a consideration of this matter. It was enough to say, that there was a probability of a part—a very considerable part, of our revenues arising from commerce being cut off. Under these circumstances, it appears necessary to have recourse to such taxes as were not within the power of foreign nations to annoy; for this purpose, he believed it would be proper to enter upon a system of direct taxes. It was necessary, at least, to begin to make the arrangements; and, if not ultimately requisite to be adopted, it might be laid aside; but he believed the situation of the country was such as to make it proper for them to settle a plan for laying a direct tax. Upon this principle only had he changed his opinion, and intended to vote for the resolution; but he thought, before the resolution was agreed to, it should be amended. The resolution as it then stood, he said, went to the apportioning, "according to the last census, the following direct taxes." He did not believe it would be right to apportion a direct tax according to the last census; for when they attended to the increase of population in some States, and to the stationary situation of others, no one would say that such an apportionment would be right. In the States of Rhode Island, Connecticut, Delaware, and New Jersey, there had been but little increase; in all the other States the increase had been greater. They ought, therefore, to have recourse to a different mode. If they were to attend to the situation of two States in particular, the injustice would appear clear. In the last census, Connecticut was estimated to contain 240,000 inhabitants and New York 340,000. Since that time, he said, the State of Connecticut had increased very little, but the State of New York was increased at least 500,000; so that Connecticut had not more than 250,000, whilst New York had double the number. In the report of the Secretary of the Treasury, Connecticut was apportioned $98,000 of the estimated tax, and New York $140,000; the latter being only about $40,000 more than the former, though it contained double the number of inhabitants. He would, therefore, move to strike out the words, "last census," and to insert "according to their numbers."

He believed that no gentleman would deny the justice of the amendment. Some objection, perhaps, might be made against it on the ground of expense; but he believed he should be able to remove these objections. Before the tax could be laid, he said, there must be a valuation of property, and when regulations were made for that purpose, they might also be made for taking an enumeration of the inhabitants, in which case the expense would only be trifling, and therefore no objection could be urged on that ground; and the justice of the measure was evident, since no gentleman could approve of any plan which should charge two States in the ratio of 140 to 100, when their true ratio was as two to one. He hoped, therefore, the amendment would be adopted; and, if so, he should have no objection to vote for the resolution.

Mr. Page wished the gentleman had refrained from moving any amendment in the present state of the business, because it went to circumscribe discussion on a subject which cannot be too well understood. There was this objection to the amendment, also, that it assumed, by implication, what was not the fact, for the measure of a direct tax was not yet agreed upon. A proposition had been submitted to the House upon the subject, but the decision had not yet taken place; and it was, in his mind, an evidence of its not having been sufficiently discussed, that the gentleman from Connecticut was opposed to the principle of a direct tax. He had considered the subject with much attention, and he presumed it would not be sufficient to convince any gentleman that it was, of all others, that species most consistent and congenial with the spirit of a free Republic. The amendment did not appear to promise any advantage in the way of accelerating the business; and, in point of utility, it was calculated rather for a future and remote time than the present; believing, therefore, that we must have recourse to some efficient and permanent means of revenue, and that we should do so in a manly way, he was for proceeding by sober investigation, and he had no doubts that the House would decide that the species of taxes which were calculated to inspirit industry and economy—to place the agriculturist and farmer above dependence on the merchant—to excite that spirit of vigilance and jealousy which is so essential to the Republican character, and to the preservation of his freedom, would be preferred. When the cultivator knows that he has a certain sum to pay at a given time to the support of the State, his industry and his mind feel a new stimulus; he may pay as much in an indirect way, by the purchase of goods subject to the taxation of the State, as the merchant; but he neither sees this, nor does he obtain the credit due him for this indirect contribution; when he pays it directly, he learns his own consequence in society, and he finds it a part of his duty to inquire how the public money is disposed of by the Government. He said so much to show the preference of one mode of taxation to another. The amendment, he hoped, would be withdrawn.

Mr. Madison said, he thought the amendment a proper one; it went to generalize the proposition, by striking out the words proposed, and would render it appropriate to the time of the law going into effect. If the tax were to be apportioned according to the numbers, it must be according to the numbers as last legally ascertained by census. If no new census were taken before the act took place, then the last must be the guide; but if a new census, then that must be the guide. For these reasons, he was in favor of the amendment.

Mr. W. Smith inquired if this question had not already been decided by a motion made by the gentleman from Maryland, [Mr. Christie?]

The Chairman said, it was in the House and not in Committee of the Whole that the former question had been brought forward.

Mr. W. Smith said, he hoped the proposition would not be agreed to, because it would defeat the whole business; and he would choose, if it were to be defeated, that it should be defeated directly and not indirectly. If it were the object of gentlemen to take a new census, it would effectually defeat the intention of the bill. He hoped, therefore, they should not waste their time in the present discussion, but determine the question whether or not the principle would be agreed to.

Mr. Madison said, he did not know to whom the gentleman referred when he said there seemed to be an intention of defeating the bill; he could assure him it was not his intention. He wished to give the proposition the fullest discussion, that the real disposition of the House might be known. The amendment, he said, could not have the effect that the gentleman supposed. If it was the intention of the Legislature to have a new census, it might be taken in time; but he did not believe a new census would be taken; and, if not, the apportionment must be according to the last census, because there would be no other rule. But, if there should be another, who would say it ought not to be conformed to? If it could be really supposed that there was any intention to defeat the original proposition by this amendment, it certainly would not have his patronage.

Mr. Swift said, he did not mean to embarrass the measure, but to facilitate it. He believed the objection he wished to remove would make the resolution more agreeable to a great many members who would object to vote for it in its present form. When the Committee of Ways and Means brought in a bill, they would make such regulations as they thought proper; but if the resolution were to be agreed to in its present form, it would preclude all possibility of having a new census, if it should be found expedient.

Mr. Havens doubted whether the motion of the gentleman from Connecticut was strictly Constitutional. He read an extract from the 3d section of the 1st article of the Constitution, in these words: "The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct;" and the 4th clause of the 9th section of the same article, "No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." By these words, he said, he understood that direct taxes could not be levied, except according to a census to regulate the representation, which must be taken once in ten years. Direct taxes and representation ought always to go together. Direct taxes should always be represented by the last census.

Mr. S. Smith said, this question had been decided in the House, and he trusted it would again be rejected. He recollected, when the last census was taken, it was attended with considerable difficulty. Many of the inhabitants in the country were Germans, and they were suspicious that some bad purpose was intended by the measure. In taking a new census, for the purpose of a tax, they would hold out to the people a temptation to return their numbers less than they really were; whereas, when a census was taken for the purpose of ascertaining the number of Representatives to which they were entitled, the people were interested to make their number as large as possible. Nor would it be possible to get at the full numbers of the people, when they were interested in withholding them. Indeed, he should not be surprised, if a census should be taken for the purpose proposed, if it proved less than the former one. He gave his dissent to this proposition when it was before them in the House, and he saw no reason for changing his opinion. He thought it neither profitable nor proper.

Mr. Christie was glad the gentleman made the motion now, that it may undergo a discussion, and be brought into the House. He wished it to be adopted. He never could, nor ever would agree to the resolution for direct taxes, except a census be taken to regulate it on. He believed that when this was done the total estimate would return 148 members to that House. He knew the State he came from was not justly rated. He hoped the tax, if put into effect, would operate equally on all the States.

Mr. Holland could hardly suppose the gentleman from New York [Mr. Havens] serious, when he doubted the constitutionality of taking a new census. Great alterations must certainly have taken place in seven years; and if a direct tax was to be laid, according to the last census, it must operate very unequally amongst the citizens. He thought the resolution indispensably connected with the subject. Many, he said, would vote for direct taxes if they could be made to bear equally, or nearly so, on all. If that could not be done, Mr. H. said, he should not vote for that system, and he believed the same of many other members.

Mr. Sewall hoped the amendment would not prevail. He thought the words *last census* included the word *number*. If a direct tax be levied this session, it must be according to the last census. The amendment was merely a verbal one; for, if a new census were to be taken before the act went into execution, the apportionment must be regulated by it, whether the words were to be struck out or not; and if a new one were not taken, the apportionment must be made by the old census. If a census were to be taken, he said, it must be returned and approved by Congress, before any tax could be apportioned by it. If representation and taxation were connected together, he should have no objection to a new census being taken;

but the term of the census not having expired, if it was now necessary to apportion a tax, it must be according to the last census. The amendment, however, being only verbal, it could have no effect on the resolution.

Mr. Nicholas said, if he could put the same construction on this amendment with his colleague, [Mr. Madison,] he should consider it of a very harmless nature, but from the very different views which the gentleman who proposed it had, he saw reason to believe it would have a very contrary tendency; it would cause delay, which would be injurious; protracting it would ruin the original proposition. No tax could be apportioned upon a census before it had gone into operation with respect to fixing the number of Representatives. He believed they had the power of taking a census, but he thought it must be taken for the double purpose of taxation and representation, and not for taxation alone.

Mr. Gilbert said, there could be no question more express, and which would admit of less doubt, than that representation and taxation must go together. The Constitution directed the census to be taken once in ten years, and when once taken it must remain to govern until another was taken; but whenever another census should be taken, the tax must be apportioned by that. A new census, he said, could not operate upon a tax now agreed upon. Whether a new census should be taken before the appointed time, was a different question, and was not at that time before them.

Mr. Sitgreaves said, if the gentleman from Connecticut [Mr. Swift] was sincere in his professions of not wishing to embarrass the proposition before them, he would withdraw his amendment; because, if it meant anything at all, it went at least to delay the business. It could not be denied that every direct tax must be apportioned according to the last census taken according to law, and if the gentleman's motion meant that the proposed tax should not be laid until a new census was taken, it would necessarily put off the business for several years. The gentleman seemed to think that a census could be taken for this purpose only; but, Mr. S. said, if he understood the Constitution on this subject, no direct tax could be apportioned but according to the census taken for the purpose of apportioning the representation. If a new census was taken, therefore, it must operate upon both. If this opinion was just, and he had no doubt of it, the motion went to the putting off a direct tax until a new census should be taken. If this was not embarrassing the business, he did not understand the meaning of the term. He believed the last census which was taken was not carried into effect till two years afterwards, and if a new one were taken, it would probably take as long a time to bring it into action, so that to carry the motion would be in effect to put off the business for four years.

The gentleman from Virginia [Mr. Madison] thought a new census would not be taken before the direct tax was laid; if so, the motion was useless. If a new census should be made before a direct tax could be carried into operation, it still would be apportioned according to the last census, or that which had previously taken place.

If there was anything in the motion of the gentleman from Connecticut, it was mischief, because it would operate to put off the question. He hoped, therefore, that gentleman would withdraw his motion, and suffer them to meet this important question fully in the face.

Mr. Coit said, if direct taxes were to be laid, he was not prepared to say whether the old or a new census should be made use of; but if the carrying of the present motion would remove one of the objections which were against the measure, he could see no reason why it ought not to pass. The resolution expressly said the apportionment should be according to the last census; the present motion went to leave that undecided, to be determined upon hereafter, whether the old or a new census should regulate the apportionment; he hoped, therefore, it would be adopted.

Mr. Madison said, if he had foreseen that the amendment proposed could have been supposed to embarrass the measure, he should not have seconded it; but he thought it could not have that effect. He would ask, if there was a gentleman in favor of the proposition, who would not have agreed to it, if the words proposed to be struck out had not been in it? And if not, why object to the amendment? He did not think it likely that a new census would be taken; but he did not think it was necessary to prejudge that question. It was an object of detail, and might properly be determined upon hereafter. Without it the proposition would be more general. It would have the same operation in one form as in the other, and no gentleman could complain of having his intention of moving for a new census prevented by a prejudgment of the question. He hoped no further debate would take place on it; he was fully prepared to give his vote.

Mr. Gilbert thought there was nothing in the motion that could change any member's mind on the subject of the main resolution; whether the term "last census" be expressed or not, it would apply the same. At whatever time the tax was put into effect, it must be according to the census last taken. The resolution would not pledge the House to take a new census. It was a debate more about words than anything else.

Mr. Murray thought the debate on the present question a very trifling one, as the abstract principle was necessarily kept out of sight. If the amendment was agreed to, the apportionment must be made according to the last census, as a new census could not be taken for two years to come, many States having already elected their Representatives; if the gentleman from Connecticut saw that the amendment would be useless, he trusted he would not insist upon its being decided upon.

Mr. Isaac Smith said, he thought they might get rid of all this debate very easily. He wished the question, whether they would lay direct taxes or not, to be simply taken. If a direct tax was determined upon, the details of the business could be

settled afterwards. He would therefore propose, if in order, that the question should be put simply, "Shall we lay a direct tax?"

Mr. Hartley said, he had attended much to the progress of the business; he hoped the amendment of the gentleman from Connecticut would not prevail. It was allowed on all sides that additional revenue was wanted; they must now meet the question, whether it should come from direct taxes or not, and whether that should be levied according to the last enumeration, or that a new one be taken for that purpose; it was only a simple proposition, and it was fit it should be decided, and he hoped without much debate. It was proper some determinate principle should be fixed as a guide to the committee, who should prepare a bill on the subject. He thought there was much necessity for a land tax, and he hoped it would prevail; and he thought it could most properly be done upon the last census. He declared he had no objection to pay his portion towards it. He hoped they would hasten the decision, but he should be opposed to the motion, and therefore hoped the gentleman would withdraw it.

Mr. Dayton (the Speaker) said that the words "according to the last census," which were proposed to be stricken out, appeared to him objectionable in every point of view. If they implied that the enumeration, made several years ago, should be the rule of apportionment, even though a new one should be taken before the direct taxes were apportioned—or, what seemed more probable, if it was intended in this indirect and covert way, to decide that no new census should be ordered with a view to a more equal apportionment of the burdens, there was in either case a glaring impropriety in retaining, and thus connecting them with the principle itself. The important question of direct taxes ought to have been presented to the deliberation of the Committee of the Whole, in terms the most general and abstract, stripped of every modification not necessarily connected with it; instead of which, there was blended in the same sentence, and they were to decide in the same breath, another question equally, nay, to some States, more important than the first. Whether they were to take the relative numbers in 1790 or those in 1797, as their guide in laying the tax upon each State, ought to undergo a full and separate consideration, and not by being wrapped up as it was in the other proposition, pass as the sense of the House, without any discussion.

Mr. D. said he should be satisfied with striking out those words, and inserting no other, but if any were to be introduced he should prefer those in the Constitution, viz: "according to their respective numbers." He was free to acknowledge that he should not vote for the proposition, even if the amendment which he advocated was carried, for he could never consent to resort to direct taxes upon lands and houses, until the less exceptionable, less unequal, and less oppressive means of raising revenue by indirect taxes were exhausted. If, however, a majority should think differently from him, and carry the resolution for the adoption of a system of direct taxation, he should then think it his duty to move for a new census to be taken previously to the apportionment. This ought not to be refused, if to equalize the public burdens was an object just and desirable. For if the last enumeration of inhabitants was to be adopted as the rule, every member upon that floor must be sensible that New Jersey would be rated and taxed very far above her just proportion, and that a farmer in his State must contribute at least fifty per cent. more than a farmer of the same possessions and property in either of the adjoining States.

Such, Mr. D. said, had been the course of emigration and such the shifting of population from one State to another, that a census taken seven years ago would furnish a very false estimate of the present state of wealth and population.—Whilst emigrations had been going on for years past from New Jersey in all directions, many of the other States had received vast accessions of numbers, which ought to be ascertained by a new enumeration, before they commenced their, as yet, unexercised power of direct taxation which professes to found its apportionment upon numbers only. He did not at all concur with the member from Virginia, who had said that the apportionment of Representatives must necessarily precede the apportionment of taxes under every new census; for they might say, with as much propriety, that the representation under the new, should not appropriate moneys raised under the old apportionment.

Mr. Swift said he did not think the present a debate about words, and not of substance, as had been asserted. His intention was to introduce the words "according to their numbers," instead of "according to the last census." He did not wish the House to decide that the apportionment should be made agreeably to the last census. He wished to leave the resolution open in that respect. If his amendment took place, it would not preclude the use of the last census; but if the resolution passed in its present form it excluded all idea of a new census. He, therefore, thought the amendment important, and he was sorry to hear gentlemen charge him with improper motives in bringing it forward.

Mr. S. referred to the words of the Constitution relative to the taking of a census, and laying direct taxes. From these words, he said, representation and taxation must go together; and that a census could not be taken for the purpose of the latter, without having effect upon the former also. Admitting that a census could not be taken for the purpose of a direct tax, it could be taken for both purposes; and he would much rather it should be so taken, than that the tax should be laid according to the last census. Nor did he think this would occasion much delay. It would appear, he said, as if some gentlemen thought that a direct tax could be collected as soon as determined upon. This could not be. They must pass a general law, directing the principle of valuation to be adopted. The business could not be accomplished before the next session, however great the

want of money might be; and the mode he proposed would effect the business as soon as if the apportionment was at this time made. He thought this a sufficient reason for wishing his amendment to pass. No gentleman had said that it would be either fair or honest to make an apportionment according to the present census. The State which he represented, when compared with the State of New York, would be greatly injured; and ought they not, he asked, to have recourse to some means by which to prevent this injury? He thought they ought. If this amendment was adopted, and a new census agreed upon, he had before said, it would be in their power to collect a tax as soon as if the present census was made use of. Why, then, be affrighted with difficulties? Some gentlemen thought it impossible to obtain a correct census; others supposed, that if it were taken for the purpose of assessing a tax, it would not be more numerous than the last; but he believed it was in the power of Government to make laws equal to the equitable apportionment of the tax. But, if a new census was not taken, Connecticut would have to pay forty thousand dollars more than she ought to do, and this sum would be paid to the State of New York, since that State would pay so much less than its just proportion. Would the people of Connecticut, who were now paying large sums for the interest of a debt which that State refused or neglected to pay, be satisfied with this? He believed they would not. If, indeed, they meant to satisfy the people of the United States in this business, they must apportion the tax fairly and equally, which could not be done by the present census.

Mr. N. SMITH said, he should vote against the amendment proposed by his colleague; not because he approved of the apportionment being made according to the present census, but because the amendment would have no effect. The resolution, he said, after it was so amended, would stand upon the same ground as at present. To say, "that the tax should be apportioned according to numbers," was the same thing as saying, "it should be apportioned according to the last census," as the only way of determining the numbers was by the last census. The thing would, therefore, be the same, and they certainly ought not to vote to amend without some meaning.

The resolution before them, he said, contemplated the apportionment of a tax the present session; and if it passed, the tax must be apportioned this session, or not at all, and it must be according to the last census.

He agreed with his colleague, that it would be just that an enumeration should take place before the tax was assessed; but he believed this could not be effected by the amendment proposed. He thought there was no other way of effecting this, than by disposing of the present resolution, and by bringing in another. He agreed with that gentleman, that a valuation and census might be provided for at the same time, and he believed it would occasion no delay in the collection; but if this was the gentleman's idea, the present resolution could not answer the purpose, under any new modification.

Mr. W. SMITH was glad to find the gentleman from Connecticut had been explicit in declaring it to be his intention to have a new census taken. He was rather surprised to hear that declaration after what he had said at the time he introduced his motion; as he then told them that he was opposed to the tax, but that our necessities had convinced him of the propriety of going into it; yet he now proposed to delay the business till next year; and, further to relieve our necessities, he proposed an expense of $50,000 in taking a new census.

Mr. S. thought this was the time for trying this question, whether the tax should be apportioned according to the old or a new census; because, if gentlemen were determined to vote against a direct tax, except a new census was taken, it would be well to have that known. Nor could the Committee of Ways and Means proceed with the business, until they knew whether the apportionment was to be made upon the present census, or a new one must be taken. To bring in a bill upon such uncertainty would be doing nothing. It would be better that the question should now be decided. He wished it might be understood that, if a decision took place on the resolution as reported, the old census would be acted upon; but if the proposed amendment was agreed to, that a new one must be taken. If the latter should be the case, he should consider the business as totally defeated, and think it necessary immediately to go upon a system of indirect taxation. He hoped, therefore, a decision would be taken.

It would be remembered, Mr. S. said, that the law for taking the last census passed in 1790; that in 1791 an amendment was found necessary, and the census was not received till 1792. If so long a time was now to be taken before the tax proposed could be carried into effect, (which it is probable would be the case if a new census was determined upon,) every gentleman must be convinced it would not answer the purpose intended.

Mr. BALDWIN hoped it would be recollected that this question would occur every year. If a land tax is adopted as one of the permanent sources of revenue to supply the Treasury, it might be stated every year that there had been large removals from one State into another, extending, in some cases, to ten or twenty thousand inhabitants, and that therefore a census must be taken every year to make the tax equal. He thought the only question now properly before them was, whether the demands on the Government were not so great that the country must be publicly disgraced and their credit prostrated by not fulfilling its engagements, unless further revenues are provided, and that adequate revenues cannot be provided without resorting to a land tax. If the present state of our affairs force us to such a tax, the Constitution requires it should be according to the last census. In laying the tax, it may be a good reason to urge that the land tax should be as small as possible till another census can be taken, and, also, to urge taking

measures to obtain a new census. As soon as a new census is taken, the tax, no doubt, in some instances, will be more equal; but these inequalities must take place between the different periods of taking the census; he thought it not a sufficient reason for putting off the question for two or three years, which must be its effect.

Mr. NICHOLAS hoped, since the question had been stirred up, it would be decided. It was not a principle in which they were at liberty to act or not. It appeared to him that the gentleman from New Jersey [Mr. DAYTON] was perfectly mistaken. If they were now to apportion a direct tax, they must determine it according to numbers; it was a decision they could not avoid. And notwithstanding that gentleman had flattered himself that he had discovered an intention of doing wrong to other parts of the Union, he believed it would be found that it had arisen more from that gentleman's willingness to have found him in that situation than any ground he had for the charge. It was his opinion that a census must be taken for the double purpose of representation and taxation, and that it could not be taken for the purpose of a tax without extending to the representation also. Therefore, if a new census was made, it would be five years before a direct tax could be laid; for the different States having elected their members upon the old census, a new one could not be acted upon until a new election took place; it would be three years before the new Legislature would meet, and it would be two years afterwards before the act for a direct tax would be completely in effect, unless, indeed, the gentleman from Connecticut thought a census could be taken for taxation only, which must have been the opinion of the gentleman from New Jersey also. Mr. N. said he knew it was impossible to do equal justice in every part of the Union in a business of this kind. All they could do was to come as near it as possible.

Mr. WILLIAMS said, this was one of the difficulties which must have been foreseen to attend a system of direct taxation. He hoped the amendment would not prevail. It was true, he said, there had been great emigrations into the State of New York; but the emigrants were mostly gone into the wilderness, and could not be expected to bear a part in any tax which might be laid on that State. For his own part, he believed, if the amendment was agreed to, it would defeat the whole business; and though he did not wish immediately to go into a system of direct taxation, (except, indeed, the plan should be such as he wholly approved,) he had a desire to see it organized. He still wished they had first gone into the business of appropriation, before they had been called upon to vote on this question.

A call for the question was made.

Mr. GALLATIN said, before the question was taken, he would state, that the amendment proposed would be a total defeat of the resolution for laying a direct tax. The gentlemen from Connecticut, he said, had been accustomed, in laying their State taxes, to have valuations of property made betwixt different towns, and they supposed no delay would be occasioned by the proposition before them. But it must be recollected that, in apportioning the tax amongst the different States, there was no occasion for such a valuation as they contemplated. It was proposed by the Secretary of the Treasury to be done by means of Commissioners instead of the Legislature, and he believed that would be the best way. If the resolution was, therefore, agreed to, the tax might be proceeded with; but if the amendment was passed, and a new census was to be taken, they must wait at least two years, as no valuation could take place until a Congress was elected according to the new census, which could not be done till the time of the Congress just chosen expired. They might, indeed, have an enumeration taken, and a tax assessed, on the 4th of March, 1799, which would be the day on which the powers of the new Congress would commence; but no tax could take place in the mean time.

There was not the least doubt, therefore, that if the amendment passed it would amount to a defeat of a direct tax for two years. The question was, then, whether they would agree so to put off the business or not?

Mr. G. said, he should have no objection to the taking of a new census before the expiration of ten years, if it was thought to be necessary; but he could not think of doing it before the proposed tax went into effect.

Mr. DAYTON did not agree with the gentleman from Connecticut [Mr. SMITH] who had asserted that the words in the original resolution, and in the amendment, would have precisely the same operation, and really meant nothing. He believed they would operate, and were intended, to decide the question against the new census, which the members from Connecticut as well as from New Jersey must be equally desirous of providing for. The chairman of the committee who reported the resolution under debate had candidly acknowleged it to be his object and meaning, and other members had given a like construction to the words. Some notice was due to the remarks of the gentlemen from Virginia and Pennsylvania, who, though not entirely agreeing in their construction of the Constitution, had broached doctrines that were new, and not at all warranted by that instrument. The former had said that if a new census should be taken and returned at the first meeting of the next Congress, and a direct tax for the current year should be apportioned by them the same session, they must take for the rule of apportionment the *old* and not the *new* census, until the Representatives had been regulated, and taken seats under the last enumeration. Could it be possible, Mr. D. asked, that any man who had read these words—"direct taxes shall be apportioned among the several States according to their respective numbers," could believe that injunction obeyed, if the enumeration last taken, and immediately before their eyes, should be rejected or disregarded, and one taken eight or ten years previously adopted in preference as the rule of numbers and wealth? The gentleman from Pennsylvania had not carried his doctrine quite so far, but had given

it as his opinion that the return of a new enumeration to the next session would prohibit an apportionment of any direct tax in less than two years, when a new representation would take effect. The tendency of such a doctrine would be highly dangerous, as it would lock up for two years the only resources of Government, and it might be in time of war, when they would most need them, and have no other to resort to. Both those gentlemen seemed to have conceived and assumed for fact that direct taxes were to be apportioned according to representation, in which they were not justified by the Constitution. Representation and direct taxation were both, it is true, to be adjusted by one common standard, but not by each other; and, although in theory, or at first view, the distinction was not striking, yet in practice it would be found to be material and important.

The question was put and negatived, there being only 19 in favor of it.

The question was about to be put upon the original resolution, when

Mr. HAVENS wished the question divided.

Mr. POTTER said, he was against the resolution, because the tax would fall very unequally. Since the last census was taken, the situation of many of the States was very much altered as to population. In the State of Rhode Island, which was already oppressed by the direct taxes of the State, many of the inhabitants had removed into the State of New York, where they had less taxes to pay. The State of New York, and others, he said, had increased in population, and therefore a direct tax would operate very unequally on different States.

By the report of the Secretary of the Treasury, it appeared that the State of Rhode Island was to pay $28,000 a year, which would operate as a tax of double the sum on the land-holders, from the manner in which it would be collected, and from other property being excused from supporting its share of it. It would, therefore, fall particularly heavy on that State, when compared with others.

It had been said by the gentleman from Pennsylvania [Mr. SWANWICK] in two long speeches on the subject, that a direct tax was the most certain, equal, and easy in collection; the first convinced him that he knew nothing of the oppression of a direct tax. That gentleman was against having the system detailed, because it would be the means of raising objections to it; but, after gentlemen had voted for the abstract principle, they must vote for the bill.

Mr. P. believed sufficient revenue might be raised from indirect taxes. An additional tax had been proposed on salt and brown sugar. It was said these were articles consumed by the poorer classes; but if a man purchased salt or sugar, he was pleased with the purchase, and would pay double the tax in this way that he would pay by a direct tax. Nay, he believed a man felt five dollars paid in a direct way more than fifteen or twenty paid indirectly.

If, he said, they were to try to raise by indirect means, on the plan recommended by the gentleman from South Carolina [Mr. HARPER] a part of the sum wanted till next session, it would be seen whether that method would not be successful. If it was then found that the revenues arising from thence were insufficient, there was not a person in the House who would not enter into direct taxes with more readiness. But until all indirect means were tried he should be unwilling to go to direct taxes.

Mr. SWANWICK said, he was sorry that the gentleman from Rhode Island [Mr. POTTER] should have supposed he did not understand the principle of direct taxation, from not having felt it. He believed it had been mentioned by his colleagues that a direct tax had long been collected in his State, so that he had been constantly in the habit of feeling the weight of direct taxes, as he believed there were few places which paid more in this way than Philadelphia. If the gentleman had been in possession of landed property here, he would have felt the truth of this.

Much, Mr. S. observed, had been said on the subject of indirect taxes, and of the poor being in a great degree exempt from them. He believed this was not true. The duties arising from the luxuries of life were small in comparison to what was raised from articles of general consumption. If you want productive taxes, said Mr. S., you must come to salt, tea, and sugar, and articles of common use. The gentleman from South Carolina knew this, and had, therefore, introduced them into his list of articles which he supposed would bear additional duty. No one would doubt, therefore, that the poor paid a very heavy portion of those duties.

But, the gentleman said, let us go on a little longer and try the experiment. Mr. S. asked if it was not the moment, of all others, for them to look out for some other object of revenue besides commerce, when their imposts were wholly in jeopardy? For, whether they added to the duty on salt, sugar, or any other article recommended, what certainty could they have upon their calculations being realized, when they heard of their vessels being taken almost by hundreds?

Whenever commerce was mentioned, they always heard of merchants having over-traded themselves. And did not this very circumstance tell them that the revenue must hereafter experience a diminution, since, if they had over-traded themselves, they would in future do less?

Another gentleman had said that three hundred writs had been issued in one city to recover duties. But this, it was said, was no proof at all that a reduction of the revenue would ensue. It would at least be allowed that it proved an inability to pay, and bad debts would doubtless be the consequence, and that no certainty could be placed upon this species of revenue.

In what situation, then, said he, is this country placed? If the French continued to take our ships in the way they had lately heard of, we should not, he said, get revenue sufficient to pay the interest of our debt. So that gentlemen who opposed the present motion, if they were successful,

would reduce the country to an alarming situation, indeed.

A curious way had been proposed of retrenching our expenses. Now we were threatened with foreign attacks, it was recommended that our Naval and Military Establishments should be reduced. This was extraordinary doctrine. He believed the gentleman who recommended this saving, might as well have gone on, and proposed an annihilation of the Government itself, and then there would be no need of revenue at all.

Our exigencies, said Mr. S., are such that those gentlemen who refuse to support the present proposition must take upon themselves the responsibility. With them, said he, be it; he did not choose to take it.

They had had some observations with respect to the constitutionality of certain points in reference to direct taxation; from reflecting upon which, he was of opinion that indirect taxes had not originally been contemplated by the Constitution. It contemplated a system of direct taxation, supported on the foundation of representation, by which States should pay according to their population. This sort of tax, he said, was well calculated to inspire caution in the expenditure of the public money.

Mr. S. said, he had been much gratified by the observation of his colleague from the interior of the country, that a land tax would be more gratifying to him and his constituents than an extension of indirect taxes. He hoped the resolution would be agreed to. Whatever might be its fate, however, he should feel satisfied in having done his duty in exerting himself in its behalf.

The call being loud for the Committee to rise, the question was put and negatived, there being only 13 for it.

Mr. HOLLAND had no doubt with respect to the Constitutional power to lay direct taxes. He would go further, and say, that it might have been better if Government had begun with them at its first institution; but he was doubtful whether the present was a proper time to commence the business. He was of opinion that indirect taxes might yet be extended so as to produce the revenue wanted.

Without examining into the principles of imposts and excise, it might be supposed that they fell upon the merchants; but, on examination, it would be found that they paid no more of them than in proportion to their consumption. The question was, whether the merchant or farmer consumed most; for it had been insinuated that the farmer scarcely paid any part of these duties.

The gentleman from Maryland [Mr. CRAIK] seemed to think there were farmers who paid little or nothing towards the expense of Government. He did not know any such. Farmers, he said, had mostly numerous families, and therefore consumed larger quantities of imported articles. The families of merchants were seldom so large; they consequently consumed less. Farmers, he said, were also saddled with an excise on their stills, from which merchants were exempt.

Merchants, he said, were in the habit of complaining, but Government had not been inattentive to their interests. He mentioned the allowance to them in favor of tonnage. He said he was convinced revenue was wanted, but he thought there was no necessity for going into direct taxes to raise it. As to paying off the debt, he doubted not, if they raised ever so much revenue, Government would find ways and means of spending it.

He justified the reduction of the Military and Naval Establishments. The Military Establishment, he said, was calculated for peace, and was of no other use than to garrison our forts; and, as the frigates were not built, there was no necessity for an establishment to man them; and, indeed, he thought it better that they were not finished, as, if they were out at sea, they would probably soon be added to the strength of an enemy. He wished we had less to do with foreign intercourse. He did not know what good foreign connexions were of to us, though Government had long been hunting them up. He thought the more we lived by ourselves the better.

He believed it would be best to pursue indirect taxes, if it were only with a view to keep the Public Debt out of sight, as a part of this debt has originally been the property of individuals, who would murmur very much if they were called upon to pay either towards reducing the principal, or discharging the interest of it.

The farmers already paid a tax on their stills, and if they were to pay a direct tax also, it would be like taxing both principal and interest. If a direct tax was laid, he hoped, therefore, the duty on stills would be repealed.

Mr. BUCK wished the decision on the question might be postponed, for the purpose of reading the communications just received from the PRESIDENT, as they might throw a light upon the situation of this country with respect to foreign countries, which might influence their decision, as the state of our commerce should be known before this business was proceeded far in; on this account, he hoped the Committee would rise, that every possible information of the state of our affairs may be known before a decision on the article of taxation took place.

Mr. J. SMITH hoped the Committee would not rise. He had made up his mind on the question, and he thought the arguments used on both sides must have operated as a decision to every gentleman; but if the gentleman had anything to offer on the question, Mr. S. would patiently hear him a little while; but he thought a speedy decision should be made. March was very near, and it ought to be remembered that, after the decision of the House there must be time allowed to the Committee of Ways and Means to bring in a bill. From the debate which had taken place, spectators would suppose it a struggle between merchants and farmers on the question, "whence should the revenue come?" He hoped, in the main decision of the question, gentlemen would drop selfish motives, and vote for the public good, and that alone.

Mr. HARPER said, if the gentleman from Ver-

most [Mr. Buck] had voted for the Committee to rise on any other than the reason offered, he should agree with him, but he thought that ground altogether insufficient. The communication only related to a chain of correspondence, the matter of which would no more tend to inform the House on this subject than it was at present. It was well known that revenue was wanted, and he hoped the manner of obtaining it would soon be decided, except gentlemen should want more time to think on it, which he was not willing to allow.

The question was now again put for the Committe's rising, and not carried.

Mr. Christie moved a division of the question. After a variety of observations from several members, the question was at length taken on the former part of the resolution, viz: that proposing a direct tax to be laid on land with improvements thereon, and carried by a considerable majority, there being 56 in its favor.

On the question upon the latter part of the resolution. viz: that a tax shall be laid upon slaves, with certain exceptions, being about to be put, Mr. Christie moved to add, "on all real and personal property within the United States." On suggestion of Mr. Giles, the words "and other property" were substituted in place of the above, and on the question being put upon it, it was negatived, there being only 18 in favor of it.

The latter part of the resolution was then put as it stood, and carried, 54 members voting for it. The Committee rose, and the question was at length put whether the House should take up the resolutions as amended, this day, and lost—ayes 37, noes 47.

The House then adjourned.

Friday, January 20.

Mr. W. Smith said, that he wished to make a motion on the subject of the communication yesterday received from the President. It had been agreed that 300 copies should be printed; he believed this number would be too small, and would wish it extended to 500, and also that it should be printed under the direction of the Secretary of State, as he understood he meant to add some notes to different parts of it by way of elucidation.

This motion, which as far as it related to the number to be printed, was tried yesterday, occasioned a number of observations on the propriety of making the proposed addition, or of having it printed differently from the ordinary course of business. The Clerk informing the House that the communication was divided amongst several printers; that the printing paper would be ready by Monday se'night, and the others by Monday fortnight; that he had received a note from the Secretary of the Treasury, informing him that there were some mistakes in the transcribing of the papers, and requesting that the proof-sheets might be sent to his office, especially as he intended to add the original French of the French Minister's communication, Mr. W. Smith withdrew the latter part of his motion, and the House agreed to 500 copies being printed, after many remarks.

ADDITIONAL REVENUE.

The House then took up the consideration of the resolution reported yesterday by the Committee of the Whole, on the subject of further revenue.

Mr. Coit wished for a division of the question, viz: that the proposition for a tax on land and that for slaves, should be put separately.

Mr. Swanwick called for the yeas and nays. They were agreed to be taken.

Mr. Nicholas thought the resolution should not be divided, but that the propositions for a tax on land and a tax on slaves should go together, as he should object to vote for the tax on land except that on slaves accompanied it. He thought the gentleman had better try the question, by moving to strike out what respected slaves.

Mr. Madison thought it would be best for the two propositions to go together; but if they did not, he did not think the embarrassments insuperable. If the question was divided, those who thought a tax on slaves necessary, must vote for the first part; and if the second was rejected, there would not be wanting an opportunity of voting against the tax on land. It was necessary to observe, that it had been found expedient to associate these two taxes together, in order to do justice, and to conform to the established usage of a very large tract of country, who were entitled to some degree of attention. and to whom a tax on land, without a tax on slaves, would be very objectionable.

Mr. Coit said, he could not gratify the gentleman from Virginia by varying his motion, as it would not answer the purpose he had in view.

Mr. Nicholas supposed, if the motion was persisted in, he was at liberty to move to insert *slaves* in the first part of the resolution. The gentleman certainly knew his own views best; or he thought it was possible to have settled the business he proposed.

Mr. W. Smith saw no difficulty on the subject. Gentlemen would vote for the first part of the resolution, in hopes that the second would pass; but if it did not pass, they would have an opportunity of voting on the main question, and thereby defeat the whole.

Mr. Van Cortlandt would vote for both together, but not separately.

Mr. Gallatin inquired as to a point of order, whether, if the first part of the resolution was carried, and the second negatived, the question would not then be taken upon the resolution as amended?

The Speaker answered in the affirmative.

Mr. Williams said, it would save time if the question was taken upon the whole resolution together; for if several gentlemen voted against the first proposition, lest the last should not pass, the whole might in this way be defeated. He thought a vote might be safely taken upon the whole together, as no one would be bound by the vote in favor of the bill, if he should not approve of it.

For his own part, he wished to see the plan, though he did not know that he should vote for it.

Mr. Nicholas supposed there was not the difficulty mentioned by the gentleman from New York. Gentlemen would not risk the whole by voting against the first part of the resolution; since, if the second was not carried, they could afterwards reject the whole.

The question was then put, that the House agree to the first resolution, viz:

"*Resolved*, That there ought to be appropriated, according to the last census, on the several States, the sum of ——, to be raised by the following direct taxes, viz:

"A tax ad valorem, under proper regulations and exceptions, on all lands, with their improvements, including town lots, with the buildings thereon:"

It was resolved in the affirmative—yeas 48, nays 39, as follows:

Yeas.—Abraham Baldwin, Thomas Blount, Richard Brent, Daniel Buck, Samuel J. Cabell, Joshua Coit, Isaac Coles, William Cooper, William Craik, George Dent, George Ege, William Findley, Albert Gallatin, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, William B. Grove, George Hancock, Carter B. Harrison, Thomas Hartley, John Hathorn, Jonathan N. Havens, William Hindman, John Wilkes Kittera, Edward Livingston, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, John Patton, Francis Preston, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Isaac Smith, William Smith, Richard Sprigg, jr., John Swanwick, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, and John Williams.

Nays.—Fisher Ames, Theodorus Bailey, Theophilus Bradbury, Nathan Bryan, Dempsey Burges, Gabriel Christie, Samuel W. Dana, James Davenport, Henry Dearborn, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., James Gillespie, Roger Griswold, Robert Goodloe Harper, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Francis Malbone, Elisha R. Potter, John Reed, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, William Strudwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Joseph B. Varnum, Peleg Wadsworth, and Richard Winn.

The second part of the resolution, relative to slaves, was about to be put, when

Mr. Gallatin said, before the question was taken on this division, he would just mention why this species of personal property was brought under view, whilst all other personal property was unnoticed.

It was very true, that stock upon a farm in the Northern and Eastern States paid nearly as great a proportion of the taxes of those States as the negroes did those of the Southern States, and therefore it might seem somewhat wrong to introduce negroes in the one case and not cattle in the other. The reason which induced the Committee of Ways and Means to adopt this mode was, that negroes are confined to certain spots of land in the Southern States, while horses and cattle extend nearly over a whole country. And a land tax, unaccompanied with a tax on slaves, would be very unpopular in those States, as it would throw too great a burden upon farmers who did not hold slaves, and fall too lightly upon those whose property chiefly consisted of slaves. There was this difference betwixt the two species of property: A farmer in the Northern or Eastern States would not think himself aggrieved by not paying a tax upon his farming stock; but a farmer in the Southern States would think himself aggrieved if his land was taxed, whilst the slaves of the slaveholder were not taxed. It was on this account that this species of property was introduced.

Mr. Murray was not struck with the observations of the gentleman last up, so as to say he would ultimately vote for this species of tax; at present, he should vote for a bill to be brought in; but unless he found the bill could reconcile the principle more, and do greater justice in the case than he at present conceived, he should then oppose it.

He said, he considered slaves in the Southern States as laborers, and unless gentlemen could show him where laborers were taxed, he should not think it right to vote for that part of the bill. He was decidedly in favor of a land tax, but against the other part of the question. Mr. M. said, he merely mentioned this that he might not hereafter be charged with inconsistency, in case he should vote against the bill. He repeated, unless provision be made for taxing labor in other parts of the United States, he must vote against this part of the bill if brought in, because the tax would operate very unequally.

Mr. Harper said, though he was entirely opposed to the tax proposed by the resolution, and should vote against the whole, yet he thought it right that a tax on slaves should be introduced with a tax on land; for, as this direct tax was to be raised by apportionment through the States, whether the Southern States paid on slaves, or the Northern States on land, made no difference in effect; each paid in its own way; one mode was more convenient for the Northern, another for the Southern, and another for the Eastern—no injury was done by this to any other State.

Mr. G. Jackson said, he was against all species of direct taxation, but particularly on this species; and, if a tax on land was carried, he should bring forward a resolution to lay a tax upon all property vested in public securities. He wished for the yeas and nays on this question.

The yeas and nays were agreed to be taken.

Mr. Nicholas wondered to hear the observation of his colleague. He should vote for the question, though he and his constituents would be affected by it; but, in the district which that gentleman represented, there were no slaves; and it was therefore his constituents' interest to have a tax on slaves, in order to lighten that on land.

Mr. G Jackson said, it was not so much on account of the interest of himself or constituents that he opposed this tax, but he objected to it as a capitation tax.

Mr. Moore said, the situation of the Southern

States had been truly stated. In the Western parts, there were few slaves. He said, in the representation to that House, the labor of the negroes had been considered as five to three, with respect to white persons; therefore, the ability of the State to pay was considered in the same proportion. His colleague from the mountains [Mr. G. Jackson] should consider that, if the holders of slaves were not to pay a portion of the tax imposed on the State of Virginia, it would fall very heavy upon his constituents, and those of his colleague, where few blacks were kept.

He hoped, therefore, it would pass.

Mr. Jeremiah Smith was aware that a tax on slaves would lighten the tax on land in the Southern States, and therefore he did not wonder at the Representatives from those States wishing it to take place; but, by so apportioning the tax, would not the land-holders in the Southern States pay less than the land-holders in parts of the Union where no slaves were kept? He believed they would. A person, for instance, in New Hampshire, holding the value of £1,000 in land, would pay a larger portion of the tax than a holder of land to the same extent in Virginia. He believed this would be unjust, and an objection to this mode of taxing the Southern States, as, though the tax would fall more equally on them, it would not be so with respect to other States.

Mr. Goodrich said, this tax was introduced into the system for the accommodation of that part of the Union where slaves were numerous.

A disposition to render the plan as acceptable, in every part of the country, as it could be made, consistently with the interests of the whole, ought to prevail. But, before a tax on slaves was adopted, its operation on the Union, and its effects, as it respected different districts, should be considered.

A direct tax ought to fall as equally as possible everywhere; that on land and houses, with their improvements, which had been agreed to, would be laid by a valuation seldom repeated—perhaps, once in ten or fifteen years. The expense of its assessment and collection would be nearly equal throughout the United States; but, with respect to a tax on slaves, there would be required frequent enumerations—at least, an annual enumeration. This would be attended with considerable expense, to be defrayed, not by the particular districts, for whose benefit this species of tax was introduced, but by the United States.

There was another objection. A land tax was certain—it might, and undoubtedly would, be made a lien on the real estate on which it was laid. It would be liable to little, if any, loss. Not so with a tax on slaves. Such a tax, he apprehended, would be uncertain, exposing the revenue to considerable defalcations. If a provision could not be made to place the loss on the districts where it happened, by retaxing them it would operate unequally. He imagined a retaxation for defalcation, if it could be made, would be considered as unjust, and create discontent among the individuals who were subjected to it; and if that could not be done, the deficiency must fall on the Union, and would produce uneasiness from its partial effects. He did not know how the detail would be arranged. He had been of the number who were desirous to see the collection-law, before they decided on the resolution before them, so as to have possessed the whole subject. At present, he saw so many difficulties from incorporating this species of tax into the plan, he could not assent to it.

Mr. Nicholas said, he did not understand the objections of the gentleman from New Hampshire, [Mr. J. Smith.] He did not see how he could produce an equal value in land in every part of the Union. The tax, he said, would be apportioned according to the number of persons, and not according to the number of acres in any State.

If the gentleman from Connecticut [Mr. Goodrich] would rely upon his information, he might be assured, that an annual enumeration of slaves would not cost so much as an assessment of land made once in ten years. With respect to the tax being uncertain, he was totally mistaken. It was the most productive tax in the Southern States. If the tax was laid wholly upon land, it would be laid on a great part which would be unsaleable, and when a report came to be made of the collection, there would be found great deficiencies; but, with respect to slaves, there would be no failure, because they were a species of property which would always find a ready sale in the Southern market.

Mr. S. Smith said, he had heard much on that floor with respect to equality of taxation. It was impossible, he said, to make taxes fall exactly equal; they will fall, in some cases, heavier than in others. He would state a case. When a tax on carriages was under consideration, they found the gentlemen from Connecticut voting without scruple, because that State paid only two or three hundred dollars annually, when Maryland paid five thousand dollars a year to that duty. There was no equality in this; yet those gentlemen winked at the disproportion. He hoped they would do so in the present case.

Mr. Potter said, if this part of the resolution was agreed to, it was to apportion a tax on the personal property of the Southern States, which, no, doubt, they would be glad of; and if gentlemen from those States could point out any way by which the personal property of other States could be come at, he would agree to the present proposition; but he believed this could not be done; and, if not, he saw no reason why the personal property of those States should be made to bear a part of the proposed burden, whilst personal property in other States was suffered to go free. It was a hard case, he said, that a man who possessed three or four hundred dollars in land, should be made to pay a portion of the direct tax, whilst men of affluence, who possessed many thousands in public securities, or loaned on interest, should pay nothing.

The Speaker reminded the House, that the question was very much lost sight of; it was not whether a tax should be laid on carriages or personal property, but whether they would agree to

the report of the Committee of the Whole, viz: "that a tax should be laid on slaves, with certain exceptions."

Mr. Henderson said, he should vote against this proposition, because it was a direct tax, as he should vote against every question of that kind, until every source of indirect taxation was exhausted; and he thought this was not the case at present.

Mr. Claiborne said, he thought, also, that direct taxes should not be resorted to until indirect sources were exhausted; but, he believed, they were now exhausted, and that direct taxes were the only means left to them of raising money. As he lived in a country which was unfortunately *cursed* with negroes, he wished the present motion to pass, for the sake of making the tax bear, in some degree, equally in the Southern States; but, if he thought with his colleague [Mr. Jackson] that a tax on slaves bore any affinity to a capitation tax, he should also oppose it; but he had no such idea.

Mr. Gallatin said, he would just notice what had fallen from the gentleman from Connecticut [Mr. Goodrich] which was the only thing like argument which had been used against the present proposition. As to what had been said about the quantum of tax falling on different States, or what had been said by the gentleman from Rhode Island [Mr. Potter] with respect to the personal property of the Eastern States, he did not see how it applied to the present question. If the proposed tax was certain, and the expense of collection would not be greater than would attend the collection of the tax in other States, he did not see any objection to it.

The gentleman from Connecticut had said, that the expense of an annual enumeration of slaves would be great, and that it would fall upon the United States. He would inform that gentleman and the House, that when no assessment took place, but merely an enumeration, it would be attended with no expense on the collection of the tax. The distinction which he made was, when a valuation and an enumeration were both necessary, and when an enumeration alone was necessary. In the first instance, the value of the property was to be ascertained, and the tax laid accordingly; but where an enumeration was only wanted, (the tax per head, according to age, &c., having been settled,) no expense would be incurred.

Mr. G. said, he spoke from experience. In Pennsylvania there was a certain tax on personal property, the taking an account of which did not increase the expense. Every three years there was an assessment of personal property, amongst which was slaves; but the enumeration was managed in this way: the collector called twice upon persons—the first time he gave them notice to pay, and took an account of their property, which, consisting of few articles, and the value being already fixed, he could tell them at the time, the amount to be paid at his next call.

As to any degree of uncertainty apprehended from this tax, that might be removed by throwing the deficiency, if there should be any, upon the land. He thought, therefore, the objections which had been urged against this tax, would be completely obviated.

Mr. Coit allowed, that nothing was more clear than that the manner in which the Southern States paid their apportionment of the proposed burden, could make no difference to the Northern and Eastern States; but the gentleman from Pennsylvania [Mr. Gallatin] allowed there was some weight in the objections, with respect to the assessment and collection of the tax.

If he understood that gentleman, he said that the making an enumeration of slaves would make no difference in the expense. He did not know how this could be. If two objects were to do, viz: to value and assess the land, and to enumerate and value the slave, it was new doctrine to him, if these two things would not cost more than if only one had been done; or, if this business would be done for nothing, it would be one of the first things the United States had had done upon those terms.

Upon the collection, there would also be an additional expense and a probability of loss; the more detail there was in the business, the greater liability to error and loss to the United States; and in proportion to this loss would these States pay less than others.

Mr. Hartley said, he should at present vote for the proposition; but should feel himself at liberty to vote differently on the bill, if he did not approve it. Difficulties arose in his mind as to the propriety of taxing personal property in one State and not in another, by which means a bounty seemed to be given on land in the Southern States to the amount of the difference of the taxes between the land in those States, and that, in other States, upon which purchasers would naturally calculate. This difficulty might probably be removed from his mind; and, therefore, in order to give the whole of the business a fair chance, he should wish the resolutions to go back to the Committee of Ways and Means, to bring in a bill.

Mr. Page did suppose that gentlemen coming from States which were in the habit of collecting direct taxes, would have endeavored to accommodate the business to the situation and circumstances of different States, so as to make the system the most convenient to each. He did suppose that, whenever it should have been determined to enter upon direct taxation, that sums would have been apportioned to each State, and that they would have been left to themselves to have raised the money in the way which they thought most convenient. Insuperable objections, however, it seemed, had been found against this system, as appeared from the report of the Secretary of the Treasury; but it was unreasonable that the Northern States should complain that the Southern States would pay the tax with greater facility than them. They might, he said, as well complain against the richness of their soil, or the warmness of their climate.

With respect to the tax falling lighter on them than on other States, those who held slaves would

find it lighter, but those who had none, would not. But he thought it extraordinary that, whilst they were upbraided with holding a species of property peculiar to their country, they should also be upbraided with wishing to pay a duty upon that property.

Mr. P. said, he did not see what difference it could make to other States, that they raised a part of the tax required of them from slaves. The Secretary of the Treasury had recommended this mode, the Committee of Ways and Means had reported accordingly; and they were ready to pay a tax for their slaves, in addition to the expense they were at for them already; for, it should be recollected, persons holding slaves, contribute largely to the duties collected from imposts, by the purchase of flannels and cloth, rum, molasses, &c., necessary for their food and clothing.

If a person living in a State where slavery did not exist, paid something more for his land, the difference was certainly not equal to the satisfaction he must enjoy in reflecting, that his State was free from that evil. His land, on that account, would be worth three times as much as land of the same quality in the Southern States. Why, then, do gentlemen complain? The Southern States themselves might have objected to this tax; they might have doubted the constitutionality of it; indeed, he did doubt it, but he had agreed to it; and he believed there was no better way of making the tax go down in those States, than by the present measure.

For his own part, Mr. P. said, he wished he lived where there was no slavery; and if he could find a climate he liked as well, he would change his situation on that account.

Mr. Brent said, it was a very extraordinary thing that gentlemen who represented States where there were no slaves, should oppose a tax on that species of property, and that the Southern States where slavery existed, should be advocating that tax.

By the report of the Secretary of the Treasury, there appeared a deficiency of revenue, and in order to supply that deficiency, they had determined to have recourse to direct taxation; and, after the amount which each State ought to furnish, had been ascertained, he thought it should have been left to the different States to have raised the money from such funds as they judged best, provided they had been secure. This, he thought, would only have been liberal and proper. It had, however, been determined otherwise; but, from a knowledge that, by introducing land and slaves together, as objects of taxation, the tax would be more equally levied in the Southern States, if that plan had been adopted. And, surely, he said, it could have given no satisfaction to any other State, that, by laying a tax on land only, it should have operated in a very oppressive manner in some parts of the Southern States, and scarcely have been felt at all in other parts of those States; and yet, this would appear to be the opinion of the gentleman from New Hampshire; for, he said, if this law passed, a person possessing landed property in New Hampshire, of the value of £1,000, would pay more than a land-holder to that amount in the Southern States. And was this, he asked, a subject of regret? If the State of Virginia paid the amount required of her in a manner which bore most equally upon the whole of her citizens, ought that to displease the citizens of other States? He thought not. He was of opinion, that it would be a desirable thing that the tax should be found to fall equally on the citizens of every State.

Another objection, produced by the gentleman from Connecticut [Mr. Goodrich] was, that a tax on this species of property would not be so secure as a tax on land. If that gentleman had been acquainted with the situation of the Southern States, he would have known that slaves formed the most certain fund of those States; for, whilst their wide and extensive waste lands would not command any price, slaves were always ready sale. Hence it arose, that the States were not able to raise a tax on land, whilst a tax on slaves had never failed to be productive.

With respect to the inconvenience or expense attending a tax on slaves, in Virginia, he said, no expense would be necessary; because it was the custom of that State to take, annually, a list of their slaves, which was regularly recorded in the archives of the State. If gentlemen were, therefore, so economical that they would not expend a few of the public pence to get a list of this property, let them recur to the document he had mentioned, which might be done without expense.

To those who know the situation of the Southern States, the remarks made by the gentleman from Pennsylvania [Mr. Gallatin] must have been irresistibly impressive. Almost the whole of the lower part of the country possessed property of this kind, whilst the upper parts had scarcely any. If a tax was, therefore, imposed upon land only, the upper part of the country would be extremely aggravated, and would murmur, and they would murmur with justice.

Gentlemen from the Eastern States called upon the Representatives of the Southern States to point out a mode by which they might come at the personal property of their States. But, he would ask them, if, independent of land with its improvements, they possessed any other species of property which could not be eluded? He believed they could not point it out; why, then, call upon gentlemen from the Southern States to do, what they, who certainly knew best their own resources, were unable to do?

The gentlemen from the Southern States, he said, had discovered those objects which they thought best able to bear the burden; and if the Representatives of the other States were not satisfied with the tax on land, let them come forward and say what other property they have equally secure, upon which a tax may be laid.

It was a phenomenon, he would again say, that, the Representatives of States where slavery existed, should be contending for a tax upon slaves, and that members from States where slavery was not tolerated, were opposing it. He could not help believing that the real object of gentlemen

had not been avowed. It was something hidden and unseen.

Mr. Kittera said, that the opposers of this part of the resolution were the opposers of a direct tax altogether. It was observable that those upon whom the tax would fall, did not complain. It was extraordinary that the complaints should come from another quarter. As to the objections of his colleague [Mr. Hartley] that part of the tax being laid on slaves in the Southern States, would affect the value of land, it would make no difference whether the tax was on land or slaves, as it affected land, its operation would be the same. It was therefore no solid objection against the resolution.

On the question, that the House do agree to the last part of the said resolution, in the words following, to wit: "A tax on slaves, with certain exceptions;" it was resolved in the affirmative—yeas 68, nays 23, as follows:

Yeas.—Fisher Ames, Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Richard Brent, Daniel Buck, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, William Cooper, William Craik, James Davenport, George Dent, George Ege, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, James Gillespie, Nicholas Gilman, Henry Glen, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Hathorn, Jonathan N. Havens, William Hindman, James Holland, Andrew Jackson, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jun., William Strudwick, John Swanwick, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Nathan Bryan, Dempsey Burges, Joshua Coit, Samuel W. Dana, Henry Dearborn, Dwight Foster, Nathaniel Freeman, jun., Chauncey Goodrich, Roger Griswold, Thomas Henderson, George Jackson, William Lyman, Francis Malbone, Elisha R. Potter, John Reed, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, and Joseph B. Varnum.

And then the main question being taken, that the House do agree to the resolution, as reported by the Committee of the Whole House? it was resolved in the affirmative—yeas 49, nays 39, as follows:

Yeas.—Thomas Blount, Richard Brent, Daniel Buck, Samuel J. Cabell, Thomas Claiborne, Joshua Coit, Isaac Coles, William Craik, George Dent, George Ege, William Findley, Albert Gallatin, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Andrew Gregg, William B. Grove, George Hancock, Carter B. Harrison, Thomas Hartley, John Hathorn, Jonathan N. Havens, William Hindman, John Wilkes Kittera, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., John Swanwick, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, and John Williams.

Nays.—Fisher Ames, Theodorus Bailey, Theophilus Bradbury, Nathan Bryan, Dempsey Burges, Gabriel Christie, Samuel W. Dana, James Davenport, Henry Dearborn, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jun., James Gillespie, Roger Griswold, Wade Hampton, Robert Goodloe Harper, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Francis Malbone, Elisha R. Potter, John Reed, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Joseph B. Varnum, Peleg Wadsworth, and Richard Winn.

Ordered, That the Committee of Ways and Means do prepare and bring in a bill or bills, pursuant to the said resolution.

UNITED STATES LAWS IN TENNESSEE.

The House then went into a Committee of the Whole on the bill for giving effect to the laws of the United States in the State of Tennessee.

A considerable debate took place on the subject of the salary of the District Judge to be appointed under the act. The bill provides that he shall be paid 1,000 dollars a year. Mr. Swift moved to amend the bill by striking out $1,000, to insert in its place $800. This motion was supported by Messrs. Williams, Henderson, W. Smith, W. Lyman, and Kittera, on the ground of 800 dollars being sufficient to afford a handsome maintenance in that country; that it was equal to the pay of any Judge in the Union, considering the duties he would have, and the cheapness of living; that if compared to the salaries allowed by that State to its officers, it was a high salary, as their District Judges were allowed only 68 dollars a circuit, and their Governor only 650 dollars a year; that if more was allowed, it would be doing an injury to the State, as it would tend to make their officers dissatisfied with their pay: that to pay a larger sum would bring a charge of extravagance upon the Government: that the District Judge of Vermont had only $800; and that if $1,000 were given to the Judge of Tennessee, it would not only lead him to expect an augmentation of salary, (which he had already applied for) but every Judge in the Union would expect to be advanced. This, it was said, was a serious consideration, since a Judge's salary could not be lowered, and to hold out an idea that they might be increased on application, would have the effect to make the Judges in some degree dependent on that House. The present want of money also cautioned them against extravagance.

On the other hand, Messrs. A. Jackson, Holland, Blount, Macon, Buck, Thatcher, and S. Smith, were in favor of the salary being 1,000 dollars. In order to induce men of abilities to accept of such offices, they wished them to be liberally paid; that no Judge in the Union had a

less sum, except the Judge of Vermont, whose salary they hoped would be increased; that though most of the necessaries of life were tolerably low, yet every article imported was very high in that country, owing to their distance from the sea; that he would have four times a year to travel through the wilderness, which was always attended with danger, and which, if a war should at any time take place with the Indians, would be at the risk of his life: that the salaries of the State officers ought to be no rule in this case, since the State was poor, and they had generally been accepted from patriotic motives; it was added that they had not been in the habit of being guided by the practice of States, who were mostly too penurious in the pay of their officers; the members of Congress received double the pay of the members of any of the State Legislatures, and they heard of no complaint on that ground.

The question on the amendment was put and carried—39 to 35. The Committee then rose and obtained leave to sit again. Adjourned to Monday.

Monday, January 23.

Thompson J. Skinner, from Massachusetts, in place of Theodore Sedgwick, appointed a Senator of the United States, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. Swanwick, from the Committee of Commerce and Manufactures, reported a bill in addition to an act for mitigating and remitting certain penalties incurred under the revenue laws, making it to extend to the acts relative to the registering of ships, and to vessels employed in the fishing and coasting trade. The bill was twice read and ordered to be committed to a Committee of the Whole on Wednesday next.

Mr. S. also reported a bill relative to the compensation of certain officers employed in collecting duties on imposts and tonnage, proposing to allow the Collectors of the several ports, instead of their present salaries, a certain per centum on the amount of duties collected, with sundry other regulations. It was read a second time, and ordered to be committed to a Committee of the Whole on Thursday next.

Mr. Gilman, from the Committee to whom was referred the business relative to the refugees from the British provinces of Canada and Nova Scotia, reported a bill, which was read twice, and committed to a Committee of the Whole on Thursday next.

UNITED STATES LAWS IN TENNESSEE.

The House resolved itself into a Committee of the Whole on the bill for extending the laws of the United States into the State of Tennessee, which having gone through without further amendment, the Committee rose, and reported the bill. The House then took it up, and having agreed to the amendment, ordered the bill to be engrossed for a third reading to-morrow.

MILITARY ESTABLISHMENT.

The House then went into Committee of the Whole on the subject of the Military Establishment. The following report from the Committee was read:

"*Resolved*, That, in their opinion, all such parts of the act which relate to the light dragoons, ought to be repealed. That a Major General, and his staff, are not longer necessary; they therefore recommend a repeal of the third section of the said act, together with all other parts thereof, which relate to the Major General and his staff; and they recommend the following resolutions, viz:

Resolved, That there shall be one Brigadier General, who may choose his Brigade Major and Inspector from the captains and subalterns in the line; to each of whom there shall be allowed the monthly pay of —— dollars, in addition to his pay in the lines, and two rations extraordinary per day; and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof. That there shall be one Brigade Quartermaster, one Brigade Paymaster, and one Judge Advocate, who shall be taken from the commissioned officers of the line, and each of whom shall be entitled to receive two rations extra, per day, and —— dollars per month, in addition to his pay in the line—and whenever forage shall not be furnished by the public, there shall be allowed to the Brigade Quartermaster, —— dollars per month, and to the Brigade Paymaster and Judge Advocate, each —— dollars per month, in lieu thereof.

"*Resolved*, That so much of the 23d section of the said act, as may be construed to affect the Brigadier General and his staff, be, and is hereby repealed.

"*Resolved*, That eight privates be added to each company of infantry.

"*Resolved*, That from and after the —— day of —— next, the pay of the Lieutenants shall be thirty dollars, and that of the Ensigns, twenty-five dollars per month. That to the Brigadier, while Commander-in-Chief, there shall be allowed —— rations per day extraordinary; and each officer commanding a separate post, shall be entitled to receive twice the number of rations to which he otherwise would be entitled.

"*Resolved*, That the Majors be entitled to receive four rations per day, for their subsistence."

Mr. Baldwin said, that the question ought to be taken, first, on the dismission of the dragoons in the first part of the report.

Mr. Dayton (the Speaker) said, that he wished the select committee would inform the Committee of the Whole whether this part of their report was the result of a conviction that cavalry would be unnecessary for the defence of the frontiers, or whether they meant to substitute two companies of militia horse in the place of the regular corps proposed to be dismissed. If the latter was the object, Mr. D. hesitated not to say that it ought not to be adopted. It was well ascertained that the militia cavalry were more expensive than the regulars; that the former were far more harassing to our citizens than the latter, and that, on account of their attention being necessarily divided between their families and their military duty, less real service could be expected or required from them. If, therefore, any horse were necessary, he was persuaded that those now in service should

be retained as affording more effectual and more economical protection. The expenses of enlisting the dragoons and of purchasing the horses, had already been incurred. But if the select committee were satisfied that the employment of any horsemen was unnecessary, and a majority should concur with them, then Mr. D. said he should rejoice at the prospect of a saving of expense in this particular instance.

Mr. S. Smith said, he did not know that the question relative to repealing of so much of the act as related to dragoons, was under consideration, or he should have thought it necessary, without being called upon, to have given the information inquired for; but he thought the question had been upon adding the word "Resolved" to the first article of the report. The select committee, in taking the subject of light dragoons into consideration, was of opinion, that there was no immediate necessity for horse on the Northwestern frontier; for, as all the supplies would now be transported by water, there would be no necessity for light dragoons to conduct them. They also took into consideration the Southern frontier, and were of opinion that no horse were necessary there, and therefore, that the two troops of horse might be dispensed with.

This, he said, was the ground of the report: but, since the report was made, he had had some conversation with the Secretary of War, who had politely shown him the correspondence which had taken place between him and the Governor of Georgia, by which it appeared that it had been necessary to keep up one or two troops of militia horse on that frontier: and he found that the Secretary of War, discovering that two companies of horse were not necessary on the Northwestern frontier, had sent one company, and intended sending the other, to the frontiers of Georgia, believing that Continental troops would be more useful than Militia, and also prevent the harassing too much the yeomanry of that country by that service.

He thought it necessary thus far to state the opinion of the Secretary of War. The estimate of the expense of the two companies of Militia, he found to be 26,505 dollars, whilst that of the regulars was only 22,212, making an equal number of militia horse more expensive than the Continental cavalry, by nearly 4,300 dollars. The Secretary of War seemed to think it was necessary either to keep up the military horse, or send cavalry to that frontier. The gentleman from Georgia would, perhaps, be able to say which would be the most pleasing or necessary.

These two companies of horse, it was true, Mr. S. said, cost as much as a regiment of infantry; and if the frontier was to be protected, it became a question whether a regiment of infantry would not be more effectual than two troops of horse.

Mr. Dearborn said, if it should appear to the satisfaction of the Committee that two companies of horse were necessary on the frontiers of Georgia, no member would hesitate about retaining the two companies already in the establishment; but he was not convinced that any horse was necessary. He acknowledged he was not very well acquainted with that frontier, but he could see no good and substantial reason why, in time of peace, garrisons would not answer the purpose there as well as on the Northwestern frontier. If it were said the garrisons were so far apart as not to be a sufficient defence, he believed more infantry might be spared for that quarter, which would be vastly cheaper, and quite as useful as horse. He supposed these troops were wanted to prevent the people of Georgia from going into the Indian Territory, and the Indians from coming within the boundary of Georgia, and that horse were considered more effectual for this purpose; but he could not see what effect a small body of horse could have, more than infantry. If the white people, or Indians, could not be kept in obedience, without being watched from hour to hour, they might as well make a chain of defence from one end of the frontier to the other; but he saw no reason to induce him to keep up such a patrol on that frontier, any more than upon others. If any gentleman could show the necessity of these troops in time of peace, he should be for negativing the report; but, until that was shown, he should remain of the opinion that it would be of no use to retain the cavalry.

Mr. Venable wished to know whether the purchase of horses was stated in the estimate? for he had remarked that there had been almost continually an annual purchase of horses.

The Clerk read from the estimate that nine thousand four hundred and fifty dollars were charged for the purchase of sixty-two horses, from which a deduction of five thousand seven hundred and ninety-two dollars was made for the value of the horses at the end of the year.

Mr. S. Smith said the whole charges of two companies of dragoons was fifty-two thousand dollars a year.

Mr. Baldwin said, it had been suggested the last session, when the subject was under discussion, (and, he was of that opinion,) that the cavalry was unnecessary; and it would be recollected that the House first determined upon having only one company, but afterwards they resolved upon two. From the intercourse which had taken place between the Secretary of War and the Governor of Georgia, it appeared that horse were preferred to infantry for guarding that frontier; and as only a few months had elapsed since the law was passed, he did not think it necessary now to make any alteration in it; for if they went again into the subject, they should probably come to the same thing again. In one part of the frontier, it appeared that cavalry was the best for defence; in another, infantry. He had therefore reconciled his mind to the measure, and saw no reason for the proposed repeal.

Mr. Dayton rose to make reply to the member from Massachusetts. That gentleman had undertaken to instruct him in his duty, and seemed to have forgotten or neglected his own. Without advocating absolutely the retention in service of the two companies of cavalry, he had exercised a privilege which he enjoyed, in common with

other members, to ask from the select committee whose peculiar duty it had been, and who had a better opportunity to procure it, some information as to the usefulness of the cavalry, and some explanation as to the effect of adopting this part of their report. He was desirous of having it understood before the vote was taken whether the cavalry were to be disbanded as too expensive, unprofitable, and unnecessary, or whether they were to be discharged in order to make way for the employment of an equal or greater number of militia horse? Which ever of those two objects had been the favorite one of the Committee, did not appear from the question under consideration, nor from any part of the report. Yet it was certainly important that there should be a perfect understanding as to the tendency of the measure before it was adopted. This inquiry would not be deemed fruitless or improper by those who recollected the arguments which were urged and actually prevailed in a former session in favor of a reduction of that corps from four to two troops. They were then told, and Mr. Dayton owned that he himself believed it, that by that reduction they would save to the United States the expense of paying, subsisting, and equipping two troops of horse. Could it be said that the event had corresponded with their expectations, and that they had realized the saving which had been contemplated? On the contrary, he asked, if it was not true that the two troops of militia horse had been kept up to supply the deficiency, at an expense to the public of about eight thousand dollars more than would have been incurred if the reduction had not taken place. He had certain information that two militia troops had been continued in the pay and service of the United States from that time to this, and that even a third had been called out and employed a part of the time. It had been proved to the conviction of every member, by an estimate founded on actual expenditures, that a troop of militia would exceed in expense that of regular cavalry about four thousand three hundred dollars per year. Another source of extraordinary expense ought also to be taken into the calculation. The militia generally are called into service under circumstances that rendered it inconvenient to absent themselves long from their families, and therefore the real claims and pretexts they could set up for furloughs, and the facility with which they could procure them from officers who were not in habits of severe discipline, made it necessary to have three companies upon the musters, and of course in pay, in order to insure the actual service of two only. These inconveniences had already been experienced to their cost, and ought to operate as a lesson of caution in future. Congress had reduced on a former occasion their squadron of horse from four troops to two, yet two troops of militia had been kept up to supply their place at a greater expense. They had, it was true, in consequence of the reduction, reduced the appropriation for the Military Establishment about forty-four thousand dollars; but it was equally true that the militia that were substituted had swelled the expenditures under the general head of the defensive protection of the frontiers about fifty-two thousand dollars.

It was of little consequence to the people of the United States, under which head of expenditure the expenses were incurred, whether that of "Military Establishment," or "defensive protection of the frontiers" if no saving was produced by the transposition. That there had been no economy in the former instance of reduction, but, on the contrary, additional expenses, was clear, and they ought now to consider the question as deciding whether horse of any description were necessary; and if the reform and disbandment of those in service should be determined upon, they ought to carry the same determination into the appropriation bill, and reduce the charges under the head of the defensive protection of the frontiers in the same proportion. If they acted otherwise, they would be deceiving themselves, or rather they would be deceiving their constituents, by holding up to them an appearance of saving under one head of expenditure, and as certainly, though somewhat more disguisingly, squandering away the same or a greater sum, and for the same purpose, under another head, and that more general, and less capable of being checked.

Mr. Nicholas did not think the information before them was complete. He thought it extraordinary that the gentleman from Georgia should have thought the cavalry unnecessary six months ago, when it was said they were wanted on the Northwestern frontier, and now, when they were found to be unnecessary there, that he should think them necessary in another place. It was true that a regulation had been made at that time in the Military Establishment, but it was not less true that they had been deceived with respect to what was necessary. He wanted to know, not only whether cavalry was less expensive than militia horse, but whether either were necessary, and what they were to do? He had no information on the subject. They had been told that two or three Governors of Georgia had recommended cavalry to be sent there; but in the course of that time, they had been at war with the Creek Indians, and were now at peace.

It appeared to him as if they were never to reduce their expenses: whether we were at peace or war, no alteration was made in our establishments; for, if men were not wanted in one situation, they were sent to another, though no real necessity existed for them. He hoped they should receive further information on the subject, if there was any need of retaining the cavalry proposed to be dispensed with.

Mr. Dearborn said, that he expected the gentleman from New Jersey [Mr. Dayton] instead of showing that cavalry would be cheaper than militia horse, would have shown that either one or the other was necessary; because, if any were necessary, he had allowed that regulars were preferable to militia; but instead of that, he had told them that two or three Governors had said that two or three companies of horse were necessary. He had no doubt the Governor of Georgia might

say they were necessary now; he could not say how disinterested he was. He had no doubt but the people of the district of Maine, and in other situations, would have no objections to have two companies of horse kept up there at the public expense. How far this kind of evidence ought to have weight, the House would determine. For his part, except these horse could be shown to be necessary, from the situation of the country, independent of the opinion of any Governor, he should be for agreeing to the report before them; for, if these troops were to be sent there without necessity, in two or three years they would be told they had no occasion for them; but, so long as they agree to pay these horse, to do he did not know what, he did not expect to hear any objection from that quarter. Being at perfect peace on the Northwestern frontier, a large number of infantry may be spared from that quarter for the defence of the Georgia frontier, if necessary; but, except he heard stronger reasons for the measure than he had yet heard, he should oppose the retaining of horse in our establishment.

Mr. Milledge said, it was well known that they had an extensive frontier of betwixt two hundred and three hundred miles, and that the Governors of Georgia had always been of opinion that horse were the best defence for that frontier; that they bordered on a numerous savage tribe of ten thousand or twelve thousand men; and who, in a state of peace, were always committing depredations upon them, so that it required troops to be constantly passing backward and forward to keep them in order. Dragoons, he said, had been constantly employed for that purpose, and it had been allowed that the expense of militia horse was greater than that of regulars; he hoped, therefore, the law would remain as at present, and that horse would be sent to defend that frontier.

Mr. Williams observed that, when the bill passed last session, it was said that these horse would be wanted to convey information from one garrison to another on the Northwestern frontier. This necessity no longer existed; and, of course, these troops may be dispensed with: but, it was said, they were wanted on the frontiers of Georgia, because the frontier was betwixt two hundred and three hundred miles in extent. But was this frontier more exposed to danger than the Northwestern frontier? He believed not. It was time, he said, that they endeavored to reduce the expenses of Government, wherever they would admit of it, and he believed this object of expense might well be spared.

During the last session, Mr. W. said, that they had laid before them the number of troops in service, and he expected to have had a similar account this session, not only of the troops in actual pay, but where stationed; for, though he had the highest opinion of the officers of their departments, he wished to form his own opinion on every subject upon which he was called upon to vote.

When this subject should have been fully discussed, he should wish the Committee to rise, for the purpose of obtaining further information on the subject.

Mr. S. Smith said, the information which the gentleman last up wished for, had not been unattended to by the select committee; but the new organization of the Army from legions to regiments, which had lately taken place, and the death of General Wayne, had prevented regular information on the subject from being obtained from the Secretary of War. Neither the number of men, nor their station could be accurately ascertained; nor was this essential, because where the troops are now, is not where they will shortly be. After the necessary garrisons were furnished, he believed there would remain out of the four regiments, six or eight companies.

If the Committee rose, Mr. Smith believed no more information could be had on the subject.

It was asked, whether cavalry was necessary for the defence of the Southern frontier? The Secretary of War had said they were; and if the present cavalry were not retained, he supposed militia horse would be employed, the expense of which it had been seen would be greater than that of regulars.

Mr. Hartley said, he was upon the select committee, and very reluctantly agreed to this part of the report. The expense of the horse, it was true, was a very important consideration. Upon inquiry, it was found that dragoons were not necessary on the Northwestern frontier; but that might not be the case in the Southern. The people of Georgia, it seemed, considered dragoons as the most proper defence, and he thought they might be indulged with so small a number as two troops of horse, since it would be less expensive than employing the militia.

Mr. H. said, from a consideration of doing away the cavalry, it had been recommended to add eight men to each company of infantry; but, from the present state of things, he should think it his duty to oppose the repeal of that part of the act.

Mr. Holland said, when this subject was formerly before them, a part of the House wished to have dispensed with the dragoons; but it was said they would be necessary for conveying information, &c. It now appeared, however, that they were not necessary, and that the minority on that occasion were right. But now, it was said, they were necessary for the protection of the frontiers of Georgia. He saw no reason for this, nor did he think that country was in greater danger from the Indians than the frontiers in other parts of the Union; indeed, it had somewhat the advantage of other parts, by the openness of the country.

It was the opinion of the Governor of Georgia, it seemed, that horse were necessary, and that cavalry would be cheaper and better than militia horse; but the necessity did not appear, and until it did, that House was not to be governed by the opinion of one or two gentlemen. It was necessary they should judge for themselves.

Mr. Rutherford said this was a matter of moment. Dragoons were expensive, and they had no business with them. To keep up a battle array, in time of peace, was inconvenient. When they were desirous of decreasing their expenses, this

was an object of importance. With respect to the frontier, he said, he looked to the frontier of every part of the Union with as much feeling as any man. He knew the difficulties experienced on all frontiers, he had long been acquainted with them; but when he considered that two companies of dragoons were called for to protect a frontier of three hundred miles, they were not competent to the business. If an emergency should take place, and those savages—those uninformed creatures—should make war upon the frontier inhabitants, the Governor would, of course, call forth a certain number of the people—the militia—according to the emergency; and this appeared to him a more rational defence than sending of two companies of dragoons to watch their motions. Reason, he said, was outraged by the idea. It would please him to keep up a large force, as we had many martial men of merit; but it would be deceiving of them, to give them a momentary employment, when they could engage their time better; as, when the situation of the country wanted them, they would be ready to come forward; but, in the mean time, they would do well to find some useful occupation.

Mr. GALLATIN said, whether they considered the increase of expense which had taken place in every branch of the Military Establishment, or whether they compared our present situation with the danger which threatened us when this establishment was fixed, or the present situation of our finances, they must approve of the report before them, as it related to a reduction of the Military Establishment. It must be remembered, he said, that this establishment was fixed in March, 1792, immediately after the defeat of General St. Clair. At that time the dragoons were added, and three additional troops of infantry; and, in order to show that the addition was made only for the emergency, there was a provision in the act to this effect: "Provided, that the same three troops shall be disbanded as soon as peace shall take place with the Indian tribes."

Last year, he said, it was thought that circumstances being changed, peace being established, it was necessary and proper to reduce the infantry and abolish the cavalry, but it was said they were wanted to take possession of the posts, &c. And now, when all those purposes were completed, the cavalry were wanted for the frontiers of Georgia; and, if that frontier were completely secured, he supposed some other reason would be found for retaining these troops in service.

If they were to indulge every State, Mr. G. said, which chose to make a requisition for troops, without inquiry, there might be no end of the expense. They might be called upon by Tennessee, Kentucky, and the Northwestern frontier, for regular troops, or for the support of militia, to an extent not to be calculated.

Mr. G. thought it was their duty to reduce the Army to the footing upon which it stood in 1792. He thought nothing had taken place to make it necessary to extend the establishment beyond that time; the possession of new posts, and our Treaty with Spain, having also given us security with respect to the Creeks. As to the protection of the frontiers, no person desired more than him, to afford them protection, but he had no idea that they should spend for that purpose whatever they were called upon for.

The frontiers of the United States, he said, had always been exposed to depredations from the Indians; but he considered those depredations as arising from the peculiar situation of the frontier inhabitants, and it was only when there was danger of an open war, that it was necessary for Government to interfere; till then, the exertions of the inhabitants themselves were sufficient. If they recurred to the year 1792, it would be found that the protection of the frontiers cost ninety-four thousand dollars; in 1791, fifty-two thousand dollars, when the danger was the greatest. He, therefore, thought there was nothing more necessary than the will of the United States to reduce the present establishment; but if the Legislature did not make the proper reductions, by agreeing to the present report, the expense would be incurred. He hoped the report would be agreed to, and that they should go still further in lowering the establishment.

Mr. S. SMITH said, the select committee were directed to report what alterations were necessary in the act; not to inquire with respect to regulations in the Military Department; not to report what was cheapest. From the report this conclusion would be drawn, that no cavalry was necessary, as that part of the act was recommended to be repealed. He imagined the gentleman from New Jersey would have drawn that conclusion, and spared his censure of the committee.

The question was put and carried—there being 64 in favor of it.

Mr. WILLIAMS said, we were either in a state of peace or of war; if we were in a state of peace, he did not see any reason why the establishment should be larger than in 1792. He therefore moved to add, after the word "repealed": "and that the four regiments of infantry be reduced to two." If at any time we should be disturbed on our frontiers, he considered that there was virtue enough in the yeomanry of the country to take care of the frontiers. Where our troops were, he said, he could not tell. It was supposed we had three thousand men, but they had no return to know what number they had. To keep up four regiments, when only two were necessary, was an expense thrown away. He should have wished to have seen an estimate; but, as none had been made, he wished the four regiments to be reduced to two.

Mr. S. SMITH hoped the motion would not prevail. He had not before him the number of troops or a calculation of what were necessary, but it appeared to him that the number of troops was not greater than would be necessary for the different posts. It would be recollected that there was a considerable scope of country from Tennessee to the Mississippi, not before in the possession of the United States. At this moment, he believed, it would be unsafe to lessen the number of troops. Indeed, he was surprised to hear the motion, as

it was the first time he had heard such a thing intimated as a reduction of the infantry, and he was unprepared to meet the attack.

Mr. WILLIAMS said, if the gentleman was not prepared, he would move that the Committee rise. If there was occasion, he said, he should always be willing to keep up a sufficient number of troops; but if the present number was unnecessary, he wished to reduce them, as he was unwilling to do anything which would lead one part of society to live upon the industry of another.

Mr. MURRAY said he was but little acquainted with military affairs, but it appeared to him natural and proper that a communication should have been had from the proper department, before a motion like the present had been made. It was true, they had the power of raising armies; but the PRESIDENT OF THE UNITED STATES had the direction of them when raised; and he thought it was very natural for them to have some reference to the Executive or War Department, and to have received such an official statement from thence as would have saved much inquiry and loose information.

There was another point of view in which the gentleman from New York [Mr. WILLIAMS] had placed the subject. He had said, we were either in a state of war or of peace. In making this assertion, the gentleman seemed to have an eye to European countries. There the language might be properly used; but, said he, we live in a country in which we cannot say it is either war or peace. There was a sort of intermediate state; and until that unhappy race of men who live in an uncivilized state, in our country, be extinguished, that will always be the case: a state which requires vigilance, even an armed vigilance, to guard against depredations. The frontiers, he said, must have stations adapted to their situations. He regretted, therefore, that the two troops of horse were ordered to be struck out. It was strange, he said, that at a moment that our number of forts was increased, our Military Establishment should be reduced.

If the motives of gentlemen were to be judged of, those who came from parts of the Union where there was no danger from Indians, were opposing measures intended to secure their fellow-citizens who were exposed to danger. In the Atlantic States, he said, we had no cause for alarm; but it was from the principle of wishing to defend every part of the Union that he should rather vote for an increase than a decrease of the Military Establishment.

He hoped gentlemen would turn their attention to that state which was neither a state of peace nor of war; for such must be the situation of frontier inhabitants, since the Indian tribes are not capable of preserving a lasting peace. He hoped the gentleman would retract his motion.

Mr. WILLIAMS said, if the gentlemen last up had known from whence he came, and was at all acquainted with the geography of the country, he must have known that he lived in the very neighborhood of the Indians. The State of New York concluded a peace with those Indians only last Fall which had cost them a great deal of money. His house, he said, was within thirty miles of the place where the Treaty with the Indians was made, and no post was kept up between them, so that they were always open to incursions from them; but they trusted in the virtue of their militia, the bulwark of the nation. It was necessary to keep the posts occupied with military, but, in time of peace, there was no necessity for anything further.

With respect to any calculation of the Executive, or the Secretary of War, however highly he thought of them, he should wish to depend on his own opinion. The safety of the nation, he said, was committed to him in part, as well as to them; and he was accountable to his constituents for every farthing of public money which he consented should be spent.

The gentleman's observation, that we were neither in a state of peace nor war, was true, but it was also true that whenever any nation was disposed to break peace with us, we are ready to meet them with the yeomanry of the nation. It was our duty, he said, in time of peace, to retrench our expenses as much as possible, so that we may be the better prepared if an emergency should at any time arise.

The Chairman informed the House that the question was for the Committee to rise.

Mr. S. SMITH asked for what purpose the Committee should rise? No more information could be got than they had at present. He was inclined to hope, that when the gentleman from New York considered the subject, he would vote against his own motion. This, he said, was not unfrequently the case. Long speeches were often made in favor of a measure by a member, who afterwards voted against the doctrine which he advocated. The gentleman talked of the yeomanry of the country, but he believed the troops would be wanted for the posts, which were to be taken possession of, and they must take possession of them for the security of the country; and would the gentleman's two regiments, the nominal number of which was one thousand men, but which was seldom more than eight hundred and fifty, be sufficient for all the posts? He believed not. Let us, said he, proceed with the business; let us determine what the Military Establishment shall be, and not postpone the business from day to day.

Mr. HARTLEY wished the gentleman from Massachusetts, [Mr. DEARBORN,] who was possessed of information on the subject, would state it to the Committee. Upon the best information he could get, he was certain the present establishment would not be too large. How the gentleman from New York came to make the present motion, without further information, he was at a loss to know. They had heretofore charged another House with sacrificing the interests of the country, but he thought they should not fail to do so, if they did not vote a sufficient number of troops to occupy the posts we had lately got possession of. Instead of four regiments being too much, the select committee had recommended

eight men to be added to each company. He hoped the motion would therefore be disagreed to.

Mr. Varnum did not think it necessary for the Committee to rise, but it appeared necessary that they should be in possession of the calculations of the select committee, of the number of garrisons and of the men necessary for each. Except they had some information of this kind, they could not form a just opinion on the subject. It must be the desire, he said, of every gentleman, that the Military Establishment should be reduced as low as possible; but without the information he had mentioned, it would not be possible to have a correct idea on the subject.

Mr. Read observed, that gentlemen said we were at peace with the Indian tribes. Be it so, said he, and let the most effectual measures be taken to preserve the peace. The Indians, he said, had a very favorable opinion of Continental troops; they considered them as their safeguard. Perhaps they were a little jealous of the militia. It was a measure of policy to keep up the Continental troops. They might prevent the Indians from injuring the frontier inhabitants, or they them. He did not think it would be prudent to reduce the Military Establishment.

Mr. Gallatin said, he saw by the report of the committee, that they proposed to add eight men to a company; the motion of the gentleman from New York brought the discussion fairly before them, and they could determine whether eight men should be added to each company, or whether the four regiments should be reduced to two.

The select committee, he said, had brought forward no estimates. The chairman of that committee [Mr. S. Smith] had said, that it was not possible to obtain information of the number of men to pay, or where they were at this time; but, if this information could not be obtained, he was sure that it was possible that the number of posts might be told, and the number of troops required for each. When they had such information before them, they would be able, he said, to determine whether the Military Establishment ought to be reduced or increased.

In order to obtain this information, he wished the Committee to rise; but if the select committee thought none could be obtained—that the Secretary of War cannot, or will not, for some reason not to be communicated, give any particulars on the subject, if he had no further information, he should vote for the motion of the gentleman from New York. And if the gentlemen of the committee have no more, and can get no more information, it would be best to go on to a conclusion of the business.

The motion for the Committee to rise was put and negatived—55 to 29.

Mr. Dearborn said, it was not in the power, he believed, of the Secretary of War, to give just information as to the number of posts to be garrisoned, or the number of men to be placed in each. It appeared that a very general discretion had been given to the Commander-in-Chief. He had made such arrangements as he thought proper; but having died on his way, there had not been the information transmitted to the War Office which otherwise would have been there.

The select committee, for their own satisfaction, with such assistance as they could get, had made a calculation of the number of posts, and the men which would be requisite for each. The posts in their contemplation were Oswego, Niagara, Presqu' Isle, Detroit, Miami, Michilimackinac, a post near Lake Erie, a post not far from the mouth of the Illinois, at the Natchez, a post a little below the river Ohio, frontier of Tennessee, frontier of Georgia; Fort Washington, on the river Ohio; a small post near Fort Pitt, at Pittsburg; and the fortifications and harbors of the seacoast.

The estimate of the garrisons necessary for these posts was mere matter of opinion, and every gentleman could form his own. It was his opinion that the number requisite for all these places would be about the number of the present establishment, the cavalry excepted. At the Natchez he believed there would be occasion for a very considerable garrison, as there were a number of citizens there, lately subjects of Spain, who could, at a short notice, raise a militia of eight hundred men.

Mr. D. said, although he had been in favor of a small number of men and for a small number of garrisons, yet he was inclined to believe that the number of troops remaining, after the cavalry was deducted, would not be greater than our present circumstances required. He was of opinion, however, that if the established corps be kept full and the posts established, and more opportunity was had of knowing what was necessary, perhaps there might be a possibility of reducing the number with propriety; but he could not say at present there would be too great a number, and should, therefore, be against reducing them.

It would be important for gentlemen to agree what number of men was necessary for each garrison, and consequently what number for the Military Establishment at large. He supposed, from the calculation of last year, the present number was considerably under three thousand. On the 1st of July last there were a few over three thousand; but, after the terms of men whose terms expired a few months afterwards, and from desertions and other circumstances, they did not, he supposed, exceed two thousand. But since the new organization took place a number of men and officers had not joined their corps, and until that took place no accurate accounts could be had. The saving of the expense of two regiments he acknowledged would be a considerable object, if it could be done with propriety; but he did not think it would be proper at this time to reduce them.

Mr. Gallatin said, from what had fallen from the gentleman from Massachusetts, there could be no doubt but the present number of troops would be useful, and that it would be inconvenient to reduce them; but, upon the same ground, the number of troops might even be increased beyond the present establishment, when it was considered the number of posts which had come into our

hands, and consequently the number of men required for them. Nor would he wish to reduce the Military Establishment, but for other reasons. He did not think, in the present situation of our foreign affairs, it would be at all prudent to reduce the artillery.

There was another consideration, however, that would induce him to vote for the present motion, or something like it: it was the reluctance which was shown in that House to raise the necessary revenue for the expenses of Government. Notwithstanding our situation had been fully stated, it was with immense difficulty any measure could be got through the House which was intended to raise revenue; they had even a right to conclude that the measure which was lately carried through the House for direct taxes, would not be agreed to when the detail of the bill should be brought in. He thought, therefore, they should confine themselves, not to what was useful, but to what was absolutely necessary.

No resolution had hitherto been brought forward to diminish the expense of any department. He would ask, in what department the expense could be diminished? The public engagements must be kept. The Civil List might, perhaps, give a saving of $20,000. They were called upon to increase instead of diminishing the expenses. There were other demands this year. There were only two objects, he believed, in which retrenchments could be made, which were the Military and Naval Establishments.

Mr. G. said, he had no doubt two thousand men would garrison our posts, &c., better than one thousand, but he thought one thousand might serve in our present circumstances. Amongst others, he did not think it necessary to have a post at Illinois or Michilimackinac, or to have a large one at the Natchez. As to the number of men necessary at the different posts, it was, as it had been stated, mere matter of opinion. They knew of no force required against the Indians, and a small body was, therefore, only necessary to be kept in garrison. With respect to other nations, he did not believe the British had any force on the frontiers. He, therefore, thought there was no occasion for a greater number than in 1792, which was 2,250 men; the number now was 3,160, which made a difference of 910, the number now moved to be struck out. However, he did believe that if they were to make the reduction it would be best done by degrees; and perhaps the best way would be not to make further enlistments when the time of men expired. But, if there was any doubt on the propriety of reducing the number of men, there could be no impolicy in striking out a number of officers.

From these considerations he believed it would be most prudent to make the proposed reduction, though, had it not been for the depressed state of our revenues, he should rather have been for increasing than for diminishing the present establishment.

Mr. Dayton was much surprised that the gentleman from Pennsylvana, after acknowledging that it would be useful to keep up the present establishment, and after admitting that a reduction of two regiments would be inconvenient to the service, should avow his support of the motion. That astonishment was not lessened upon hearing the reason that had been assigned for it, viz: a manifest reluctance on the part of the House to increase the revenues. If that member had represented accurately the disposition of the House as to revenue, he would have said, not that there was a reluctance to increase it, but more truly that there was a reluctance to increase it in the mode proposed and advocated by that gentleman, a tax on lands. Mr. D. said, that he himself, for one, had admitted the necessity of a further augmentation, but in common with many other members, he had expressed his unwillingness to resort to direct taxation, until the less exceptionable means of raising money by indirect taxes had been tried and exhausted. As to the motion which went to reduce the infantry from 2,000 to 1,000 men, he could not believe there was any probability of its succeeding, as both the public service and the general economy forbade it. The member from Massachusetts had enumerated many posts, and some very considerable, where it would be requisite to support garrisons, and others might be added to the list. The frontier of Georgia, Oswego, Fort Schuyler, West Point, the fortifications along the seacoast, and the different arsenals and magazines of arms, ammunition, &c., would equally require garrisons of soldiers.

Their present number of two thousand infantry and nine hundred artillerists and engineers, would not be found more than sufficient for the service, especially when it was considered that the casualties of desertion and sickness which prevailed to a certain extent in every army, must also be guarded against, by increasing the establishment beyond the numbers which upon strict calculation might be adjudged to be necessary. Escorts also were indispensable in all cases of transportation from one part of their wilderness to another, and more especially when owing to want of water-communication, or an unexpected lowness of the streams, or to the obstructions from ice, they were compelled to transport their supplies by land. The reasoning which he adduced when the reduction of the cavalry was in question, would here apply with greater strength, because the necessity of keeping up some regiments of infantry was admitted by all. To discharge the regular troops, and to be obliged, as heretofore, to supply their place with militia, would be found to be profusion rather than economy.

Mr. S. Smith said, the gentleman from Pennsylvania [Mr. Gallatin] had used the only solid argument for reducing the Military Establishment, viz: the unwillingness of the House to provide revenue. It was a solid argument. But, he said, it was necessary for them to provide for all the wants of the country; it was necessary to afford protection to our frontier, and, after they had provided that protection, he trusted that House would not be so lost to its duty as to fail in providing revenue.

From the Civil List, the gentleman from Pennsyl-

vania had observed there could be little reduction; no saving but from the Military Establishment; but this might be made without any reduction. The Major and his Staff, which were proposed to be struck out, would be a saving of upwards of $11,600; the light dragoons were $51,000 or $52,000; the rations, calculated at 20 cents, might now be obtained at 17 cents, which would lessen the charge $42,000; the Quartermaster's department was now $250,000, but now it might be reduced to $100,000; but, if estimated at $150,000, there would be a saving of $100,000; the carting, at $50,000, would not now be one-half. The Naval Department for the present year was calculated upon twelve months, when it was scarcely possible, from the state of the frigates, that they would be fit for more than four months' service.

The whole of these items made a sum of $403,000; to which he believed might be added a saving in the Civil List of $62,000. The Mint Establishment he did not think necessary, though it might flatter our vanity, and $25,000 might be saved from that source. The savings he had mentioned in the Military Establishment might be much more, because any loss on account of the contract would fall upon the contractors and not upon Government. But he trusted they should not make deductions in the establishment which might put the Government itself into jeopardy. With respect to the suggestion of striking out officers, he would rather have skeletons of regiments, which might be at any time filled up; for he believed more men were lost for want of proper officers than by the sword.

Mr. Nicholas said, that the opinion of the gentleman from Pennsylvania [Mr. Gallatin] that though a greater number of men might be necessary, yet it was necessary they should be lessened on account of the unwillingness of that House to provide revenue, had not been invalidated by what had fallen from the gentleman from New Jersey, [Mr. Dayton;] for, though that gentleman had strongly opposed direct taxes, he had offered no substitute for them. Indeed, none had been offered except that proposed by the gentleman from South Carolina [Mr. Harper] and he seemed to have grown lukewarm in its support. And was it to be expected, he said, that when permission to bring in a bill on the subject had only been obtained by a majority of ten votes, when the passage of the plan for a direct tax had been so difficult in that stage of it, was it not to be supposed that there was great hazard of its passing? And, if so, was it not incumbent upon the House, lest additional revenue should not be provided, to make every saving in their power? He believed it was. He did not wish to put Government in jeopardy, but he thought they were called upon to save every shilling in their power. He hoped they should go further with respect to the Navy, than had been proposed by the gentleman from Maryland. He had contemplated four months' service of the frigates; but he hoped they should have none at all, since it would be found that more money was now wanted to complete the frigates than was proposed at first, as necessary for the building of them. He hoped, therefore, they would not at present be proceeded with.

Mr. Craik said, he had not intended to have spoken on the present occasion; but when he heard arguments against fixing a Military Establishment necessary for our security, founded on a supposed unwillingness in the House to grant revenue, he could not be silent. He believed the opinion entertained of that House with respect to revenue could not be extended to the people. He was confident they were willing to afford a sufficient revenue for every necessary purpose of Government, and he trusted that House would also be found to be so too. Indeed, he did not think there was ground for the disgraceful opinion which the gentleman from Pennsylvania [Mr. Gallatin] had formed with respect to the reluctance of the House to grant revenue.

They had discussed the means of raising revenue, and seemed only to differ in opinion about the mode of doing it. The people who sent them there were able and willing to pay whatever should be found to be necessary, and he hoped the want of revenue would not be urged as a reason for not doing what they were convinced it was necessary to do.

If this principle was adopted, he said, it might be extended to every measure brought forward this session. He hoped, therefore, it would not be countenanced. If the Military Establishment was necessary our interest required it should be made sufficient, and it would be an injury to the Union not to make it so. He trusted they should do it, and he was not afraid that the money would not be found. He did not believe this country to be in a state of bankruptcy, but that it was equal and willing to pay every necessary expense of its Government.

Mr. Dayton said, that if there was a single trait of candor in the remarks made by the gentleman from Virginia and applied to him, then he was ignorant of the real meaning of the word, and he knew not what language and what conduct merited a different appellation. It was more than uncandid, it was cruel to upbraid him with not having done what he had no opportunity, consistently with the rules of the House, to have done. Every member, Mr. D. said, who had held a seat there only for a few hours, must know that being in the chair he had it not in his power to offer any propositions to the House to be referred to the Committee of the Whole on the subject of further revenues, as had been their regular course of proceeding. In Committee of the Whole, where alone he could make any motion, it would be recollected that no opening had been afforded him; for the first resolution reported by the Committee of Ways and Means in favor of a land tax was under discussion, and it would have been a violation of their rules of order to have offered any other as a substitute. It would be remembered, also, that the moment that proposition was decided, the Committee of the Whole rose and reported, thus postponing to a future day the consideration

of any other resources. It was also possible, Mr. D. said, that if there had been an opportunity to present any system of his own, it might have been useless and unnecessary until that offered by the gentleman from South Carolina had been discussed and decided. Why, he asked, should he be charged with silence or forbearance in such pointed terms by the gentleman from Virginia, when it was well known to every member, that they were enjoined upon him by the duties of his station, and the rules of decorum?

Mr. Rutherford said, he paid great respect to the opinions of every gentleman in that House; but he must think for himself on the present occasion. Was this people, he asked, to be supported by a few regular troops? No: whilst the yeomanry, and the people in general, delighted in the Government, they would always be ready to rise as one man in support of it. Let the people have peace, and acquire property, said he, and they will defend themselves. The late insurrection, beyond the mountains, had proved this; and this would continue to be the case whilst they were well governed. What need was there then to rely upon regular troops?

At a time when they were about to tax the people, it was necessary to reduce this article of expense.

Mr. Nicholas said, if he had been convinced the gentleman from New Jersey [Mr. Dayton] had not had an opportunity of bringing forward any proposition as a substitute for the direct tax, which he had opposed, he certainly should not have charged him with having failed to do it. But he thought it was possible for him to have done it; if he was mistaken in point of form, he must stand corrected. He did not mean any thing uncandid with respect to that gentleman.

Mr. Swanwick did not conceive that the question of revenue had any thing to do in the present business. The question was, whether they should have four or two regiments of infantry? Not being a military man, he did not feel himself very competent to decide on the present question. Whatever disposition, however, might have been shown on a former occasion, of an unwillingness to raise revenue, he trusted they should grant liberally and cheerfully what was necessary for the defence of our frontiers; and when they came to be upon the subject of raising revenue, he trusted they should be impelled by the same necessity—the necessity of doing what they were convinced was right—to grant what appeared to be necessary. He thought there was no way of raising this revenue but by direct taxes; other gentlemen thought differently; but raised, additional revenue must be; for, if they made these grants, and there was not money in the Treasury to pay the expense, they could only be carried into effect so far as the funds would go; and gentlemen would therefore take this consequence upon themselves when revenue came under consideration. The question now was, whether they should have four regiments or two? He thought the latter number was too small. He had heard of the power of the militia; but he did not know whether it was prudent to make frequent calls upon the militia, and by that means put the country to unnecessary expense. If it were not, it was proper there should be a permanent force to prevent the necessity of such calls.

Whenever the subject of taxation came up, Mr. S. said, he trusted they should determine upon some permanent source of revenue; for if gentlemen adopted such as were not so, they would have to be responsible for the consequences.

Mr. Gallatin said, his colleague [Mr. Swanwick] had, in one respect, put the question on its true ground, though in another point he was mistaken, viz: where he said, that if the House voted for a certain number of men, and their funds should fall short, the money could be applied no further than it would go, and their object would be defeated. On the contrary, Mr. G. said, if they voted a greater number of men than the revenue was found equal to pay, the same thing would be done which had been done heretofore—anticipations would be obtained. But the question was upon its true ground when he said, that if they voted a number of men, they stood pledged to increase the revenue in order to meet the expense. He did not think the gentleman from New Jersey was correct in his remarks upon what he had said.

Mr. G. said, when he was up before he had observed, that there was a reluctance to raise additional revenue, there having been a bare majority in favor of direct taxes, and he believed there was as great a reluctance with respect to indirect taxes. They differed so much about the mode of raising revenue, that it would be difficult to raise revenue at all. The plan which that gentleman chose to call his plan, was founded upon a report of the Secretary of the Treasury, which had been made in pursuance of an order of that House, on the subject of direct taxation. It was true he was in favor of the plan, but it was not his.

Finally, if they voted for continuing the present military force, they pledge themselves to furnish additional revenue, and except they agree to assist them in carrying into effect the plan which had been adopted, he believed no other would prove effectual.

Mr. Williams said, when he made the present motion, there was no information before the House. He wished, therefore, to have reduced the establishment to what it was in the year 1792, except he could hear some reason for making it greater, Previous to his motion, the gentleman from Massachusetts had not informed them what posts the committee had in contemplation to garrison. He confessed, the account he had since given seemed to show that more than one regiment was necessary; but, notwithstanding the observations of that gentleman, he was of opinion that the four regiments might be reduced to two, and the same number of men now employed might be put into those regiments, by which means all the force would be retained, and the expense lessened. He asked, if the posts to be kept up required all the officers in the present establishment, and whether 2,500 men required so many officers to command them? He believed not; and that a considerable

saving would be made by putting all the men into two regiments.

When he made the motion, he said, it was principally with a view of getting information what number of troops was necessary, and where they were to be stationed. If, he said, there was supposed to be danger from our situation with respect to Europe, it was not necessary to increase troops which were intended to be employed only on the frontier. Surely not. If danger was apprehended from that quarter, they ought to turn their eyes to the sea-coast, and increase our artillery and engineers. Those gentlemen who thought a Navy necessary, might put to that object what was saved in the present. This, he said, would be much more prudent; since, standing on our own ground, we could defend ourselves against the whole world.

The question for reducing the four regiments of infantry to two was put and negatived, there being only 25 in favor of it.

The Committee then rose, and had leave to sit again.

ADDITIONAL DUTIES.

Mr. W. Smith, Chairman of the Committee of Ways and Means, to whom was referred a resolution of the 10th instant on dutiable articles imported, made the following report:

"The Committee of Ways and Means having taken into consideration the resolution of the House of the tenth instant, and a Letter of the Secretary of the Treasury on the subject therein contained, are of opinion:

"That the only articles, on which it will be expedient to impose an additional impost duty, are the following, viz: brown sugar, bohea tea, and cotton goods, not printed, stained, or colored: They accordingly submit the following resolutions:

"*Resolved*, That there be paid an additional duty of one half cent per pound on brown sugar, imported into the United States.

"*Resolved*, That there be laid an additional duty of two cents per pound on all bohea teas imported into the United States.

"*Resolved*, That there be laid an additional duty of two and a half per cent., ad valorem, on all cotton goods not printed, stained, or colored, imported into the United States."

Treasury Department, Jan. 19, 1797.

Sir: I have now the honor to communicate my opinion on the subject referred to the Committee of Ways and Means by the resolution of the House of Representatives of the 10th of January, 1797.

If it shall be determined to increase the duties on importations, the following appear to be most safe and productive objects of revenue:

1st. Salt.—The existing duty is twelve cents upon each bushel of fifty-six pounds, and is much lower than what is imposed in many countries. There is no article of which the consumption is more uniform, nor of which an evasion of the duties would be more difficult: the natural value being inconsiderable, the importation requires and employs but little capital. Owing to the bulky nature of most of our articles of export, compared with those imported, and to the use of salt in lieu of ballast, it is introduced with a moderate charge for freight. All these circumstances render salt a fit object of revenue—as illicit importations are not to be apprehended—the extent to which the duty is to be carried, can be best determined by the committee. One cent on each fifty-six pounds of salt, will produce nearly thirty thousand dollars.

It will, however, be proper to readjust the bounties on the exportation of salted fish and provisions, and the allowances to vessels employed in the cod fisheries, to any augmentation of the duties on this article.

2d. Brown Sugar.—The duties on sugars will hereafter require revision; the rates, now imposed, are as follow: on brown sugar one and one half cent per pound; clayed sugar, three and one-half cents; lump sugar and refined, other than loaf sugar, six and one half cents; loaf refined sugar, nine cents. The duties are already so high, that most of the sugars, other than brown, which are imported, are also exported; the revenue is not therefore benefited by the importations. On the contrary, the public are exposed to the risk of collection, and responsible for the drawback. Illicit importations cannot be easily practised in respect to so bulky an article as sugar, and it is not likely that they have been practised, except in a small degree with respect to loaf refined sugar, the duty on which appears to be more than necessary to protect the business of domestic refiners.

To induce the consumption of any considerable quantities of clayed sugars, a reduction of the duty is necessary: and it is probable that some reduction would be favorable to the interest of the refiners; on this point, my information is however too imperfect to justify a positive opinion.

The present duty on brown sugar is less in proportion to the value of the article than that on most other West India productions. The average importations of brown sugar into the United States, during the years 1790, 1791, and 1792, were about twenty-two millions of pounds weight, which, therefore, may be considered as the quantity usually consumed in this country in each year. Since 1792, the quantities imported have been increasing. In the term of a year, prior to October 1st, 1795, the quantity imported exceeded sixty millions of pounds weight. During the greater part of the year 1796, sugar and coffee were the most beneficial, and in point of value, equal to any articles exported from the United States; considering the great quantities of these articles which have been imported, exceeding what were required for domestic consumption, their prices must have been determined by the state of foreign demand. These prices cannot therefore be stationary, and their vibrations have a tendency to embarrass commerce. These circumstances, and the risk to which the revenue is exposed on the importation, and also on the exportation of these articles, strongly admonish against excessive duties, and even dissuade from the imposition of such a duty, as under other circumstances might be safe and proper; nevertheless, an additional duty of one half cent per pound, on brown sugar, appears to be as eligible as any which can be suggested.

3d. Teas.—The duties are at present as follow: on bohea tea, ten cents per pound; on souchong and other black teas, eighteen cents; on hyson, imperial, gunpowder, or Gomee tea, forty cents; and on other green teas, twenty-four cents. It has been stated, as the opinion of the Treasury, that the revenue would be probably benefited by a reduction of the higher and an increase of the lower rates of duty. An addition of two cents per pound to the duty on bohea tea, may be

expected to produce twenty-five, or thirty thousand dollars.

4th. Cotton manufactures not printed, stained or colored.—These are in very general use, and are commonly imported in valuable vessels, and by established merchants; they are for the most part bulky in proportion to their value, and with velvets and velverets, are subject only to the duty of ten per centum ad valorem. It may possibly be safe to place these articles in the class of merchandise, subject to the duty of twelve and a-half per centum ad valorem; but in this case, it is conceived, that adequate provision ought to be made for the protection of the business of printing cotton goods, which has been commenced in this country.

A variety of modifications of the existing duties might be proposed, but as their principal object would be the improvement of the system of collection, by means of a new classification of the articles, without intending thereby to produce any considerable augmentation of the revenue, they are at this time omitted. Materials for a report on this subject are preparing, but it cannot be completed during the present session.

With respect to a general augmentation of the duties on imports, I conceive it to be my duty to observe, that the average rate already imposed, exceeds sixteen per centum ad valorem; that the last advance of the duties was made at a time when the commerce of the United States was far from being in a natural state; that the temptations to illicit trade will increase in proportion to any reduction of the general rate of mercantile profit; and that a considerable reduction of this general rate, is to be expected whenever the present war in Europe shall terminate. On these grounds, I conclude, that present experience affords no certain data for an opinion respecting the permanent operation of the existing duties.

The domestic manufactures best established, are those of leather, iron, flax, potters' wares, including bricks, ardent spirits, malt liquors, cider, paper of all kinds, hats, stuff and silk shoes, refined sugars, spermaceti and tallow candles, copper, brass, and tin wares, carriages, cabinet wares, snuff, gunpowder, and salt.

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, Jun.,
Secretary of the Treasury.

Hon. William Smith,
Chairman of the Committee of Ways and Means.

The report was ordered to be committed to a Committee of the Whole House on Monday next.

Tuesday, January 24.

The bill for enforcing the laws of the United States in the State of Tennessee, was read the third time and passed.

Mr. R. Sprigg, jun., moved that the resolution which he laid on the table some days ago, relative to the act for regulating grants of lands for military services, &c., be referred to the committee to whom was referred a former resolution relative to the sale of lands Northwest of the river Ohio. It was so referred.

SALARIES OF LOAN OFFICERS.

Mr. Henderson offered a resolution to the following purpose, viz:

"That the Secretary of the Treasury be directed to lay before the House, a list of the number of subscribing creditors to the United States, upon the books of the Loan officers, in each respective State in the Union where Loan offices have been established."

Mr. H. observed, that the reasons why he offered this resolution, were, that applications had of late been made, by several of the Commissioners of Loans of the United States, for an increase of salary, and he thought it was proper before a decision took place upon those applications, that the House should be possessed of the best information relative to the duties of the officers that could be obtained. He was of opinion, that when the salaries of the Commissioners of Loans were first established, Congress could have had no other rule by which to apportion them than the size and population of the States, or the sums expected to be loaned therein. He thought it could easily be made appear, that neither of these principles would produce an equitable apportionment of the salaries; the Commissioners in the larger States would have much the highest salaries, when, it is very probable, they might have the least share of business to transact, and on the other hand, the Commissioners of the smaller States would have the least salary, with perhaps the greatest proportion of duty. The resolution was ordered to lie on the table.

MILITARY ESTABLISHMENT.

The House again resolved itself into a Committee of the Whole on the report of the committee appointed to inquire whether any and what amendments may be necessary to the act to ascertain and fix the Military Establishment of the United States.

Mr. S. Smith proposed an alteration in the introduction of the report, merely as to form, so as to make it have the proper phraseology of a resolution; which was agreed to. And being read—

Mr. Cott said, he rose only for the purpose of inquiry. He was satisfied there was no occasion for a Major General; nor did he know that there was any necessity for a Brigadier General. He wished to be informed on that subject.

Mr. Varnum did not see the necessity of a Brigadier General. As the Army would be dispersed along the frontier in small detachments, he did not see the use of an officer of that grade.

Mr. Dearborn said, this subject had undergone discussion last Winter. It was then urged, not only that a Brigadier General was necessary, but also a Major General, and was ultimately so carried. It appeared to him, indeed, that at least one general officer was necessary; and he should suppose, for the same reason which his colleague had urged against the measure, viz: the dispersedness of the situation of the troops; for, when their divided situation was considered, and that, in time of peace, there was less reason to expect a strict attention to discipline and economy, there would scarcely be a possibility of keeping them in order, without an officer of respectable rank, who would have it in his power to overlook the whole, to know the state of each garrison, and to make strict returns with respect to military regulations;

and, without such a provision, everything relative to the Army would get into disorder. Instead of this officer being an expense to the United States, he believed he would, in the end, prove a great saving to them by taking care that no abuses existed in the service. It was said that the Majors could do the duty as well as a general officer; but was it not reasonable and natural to expect bickerings amongst officers of the same grade; and that there would not be the same promptness in obeying the orders of one of this rank, as there would be in obeying the commands of a superior officer? Persons acquainted with military affairs knew the necessity there was for subordination in an army. He thought it not necessary to say much on the subject; but he thought the well-being of the troops required that a Brigadier General should be retained in the service.

Mr. Hartley said, he was one of those who were in favor of retaining the Major General last session; but, from a principle of economy, the select committee had recommended a repeal of that part of the act which related to the Major General and his staff, by which means several thousand dollars would be saved; but, after they had dismissed the Major General, he was surprised to hear it proposed that the Brigadier should be struck out also. He had wished the Major General to have been retained; since, if there should be occasion to call out the Militia at any time, a Major General of Militia would not be subject to the command of a Brigadier General of the Army; and except some provision was made in the Militia bill, this circumstance would occasion disorder, if ever such a situation should happen. He hoped, therefore, for the reasons given by the gentleman from Massachusetts, [Mr. Dearborn,] a Brigadier's staff would be retained.

Mr. Dayton.—That as they had dispensed with the office of a Major General, as no longer necessary, it appeared to him advisable to agree to this part of the report of the committee which recommended the retaining of a Brigadier General in service. In addition to the reasons which had been urged by the members of that committee, and by other gentlemen who had preceded him, there were two which had not, he believed, been mentioned, and which might be thought to deserve consideration. If a Brigadier General should not be provided for, the command of the Army would of course devolve upon one of the Lieutenant Colonels commanding regiments. Such an event would rather tend to excite jealousy than to promote harmony throughout the different corps. The attachment of an officer for his own regiment was natural, and could not be suppressed or concealed, even when his seniority of rank entitled him to exercise a more enlarged command. If in such a situation he should be more prudent and cautious than men so circumstanced usually are, he could not, however, escape the suspicion and charge of his favoring his own to the disadvantage and injury of the other regiments. Those who might think themselves thus aggrieved, would make a common cause of their complaints against their temporary commander, and thus the Army would be embroiled. A commander, it was known, must necessarily have considerable latitude of discretion allowed to him, and no little share of patronage. He would generally direct what officers should be stationed at particular posts in higher or inferior commands. He could give preference to one corps over another, by ordering the distribution of clothing or pay, especially where a difference in quality or deficiency in quantity and sum, made it impossible for all to be equally served. In an officer attached to no corps exclusively, such things could be seen, and borne, with much less dissatisfaction and murmuring than in one who had a more intimate connexion and interest with a particular part. But that was not all; for, in the paying of the Army, the agency of a Brigadier General attached to no corps was essentially necessary. The regimental pay-abstracts were founded upon the company pay-rolls, and were required to be signed by the commanding officers of the regiments. The Commander-in-Chief, after having compared and checked those abstracts with the muster-rolls and official returns, was to issue an order for the payment of the money.

It would be truly absurd to have the same officer, in quality of Commander-in-Chief, checking and passing upon his own returns for pay as Colonel of a regiment. There would neither be economy nor security in the expenditures of public moneys under such arrangements.

Mr. Baldwin said, he recollected when this subject was under consideration, some member said it was indisputably necessary that the Army should have a Brigadier General; it did not then appear so to him. Since the war was over, and even suppose it continued, he thought it being entirely an interior one, they might do away the form which had been of regiments, and convert the whole force into a legionary form, and by degrees an army form also; and let the form be a detachment of companies strung along the frontier. He thought there could be no advantage by even an army form; for the vast extent of two thousand miles frontier to guard with few men as possible, would render this distribution necessary. The force, he said, was twenty-six companies, and he supposed there were no more than twenty-six posts to occupy them; these would be distributed from the Southern frontier to the lakes, and some on the sea-coasts; then, while they remained so extensive, what use could there be of a Brigadier General? Where could he so well correspond from, and conduct affairs, as the Seat of Government? And here Mr. B. thought he would be almost useless. Here we have the War Department, the Commissary of Stores, and the Accountant General, each of which, if clothed with military commissions, could effect any business that officer would have to do, and he did not see the necessity of a Brigadier General having the settlement of the business mentioned by the gentleman from Massachusetts [Mr. Dearborn] as his being clothed with a military commission would not make him more fit to take cognizance

of what related to the troops, than the above stationed officers; nor did he see how he could visit the different posts in the manner proposed by that gentleman. If a part of these troops were distributed on the lakes, and another part on the Southern frontier, he could not tell where the Brigadier General could have his office. It could not be at any of the posts, and therefore he supposed it must be at the Seat of Government.

Mr. S. Smith said, he was on the committee of conference last session with the Senate, on the subject of the Major General. It was the opinion of the House of Representatives, that there should be a Brigadier only, because the number of troops, being four regiments of infantry, was a Brigadier's command. It was urged, on the part of the Senate, that the Major General was necessary for the purpose of taking possession of the posts, and it was therefore finally agreed that he should be retained until March next. At that time it was undetermined whether the Brigadier or Major General should go out of the service at that time. The gentleman from Pennsylvania [Mr. Hartley] thought it necessary to keep up the Major General, because, if called out with the Militia, he would have the superior command of a Major General of Militia; but to strike out both the Major General and Brigadier General, would be to leave the Army without a head; and so far from such a measure being a measure of economy, it would prove destructive of economy. There was a great saving, Mr. S. said, by an officer commanding the whole; if it were otherwise, the Army would be disjointed.

If the gentleman from Connecticut, who made the motion, had been a military man, this motion, he thought, would not have been made; as a military man, Mr. S. declared, that such a measure would be attended with the most ruinous consequences.

Mr. Coit said he made no motion, but merely inquired for information.

Mr. Hartley said, the gentleman did not know the consequence of such a regulation; he did not know who would have the command. The present Brigadier General, he said, was a man of abilities and respectability, and it would be economy to keep him in the service.

The question for repealing that part of the act which relates to the Major General and his staff was put and carried—ayes 43, noes 32.

The two next resolutions were put and agreed to; and that for adding eight privates to each company being under consideration,

Mr. Williams thought this would be improper at the present time, as there was a proposition for lessening the number. This, he said, would augment it two hundred and fifty-six men. Each company now was composed of fifty-two privates, four corporals, four sergeants, and two officers; which made sixty-two: as he saw no need to make a larger augmentation, he thought this proposal wrong, and therefore hoped it would not be agreed to.

Mr. S. Smith said, this was a question discussed in the select committee. It was argued, that if these men were added to the fifty-two, the complement of which each company is composed, they would be enough to answer all casualties by death, desertion, &c., so as always to keep up the full number. The expense of pay, clothing, &c., he had estimated at thirty-eight thousand dollars. The saving by striking off the cavalry was fifty-two thousand dollars, certain expenses of wagons, &c., not included in this estimate, tents and camp equipage, would be sixty thousand dollars. The addition of these eight men to a company would give two hundred and fifty-six men, in place of one hundred and four, at much less price. These would give an additional strength, at less expense than horse. Yesterday, Mr. S. said, he stated that the expense of two companies of horse was equal to a regiment of infantry, by which he meant the privates of a regiment, viz: four hundred and sixteen men. If he was understood differently, he wished this to be taken as a correction.

Mr. Hartley said, there was some difficulty with respect to this clause of the report. Some gentlemen thought the number of men sufficient already. He was of a different opinion; and as the horse were struck out, he thought the additional men necessary. He believed, without this addition, there would not be a sufficiency of troops to garrison the posts; and he had founded his opinion upon information from good authority. He should therefore vote in favor of the report.

Mr. Dearborn said, the committee was not unanimous upon this clause of the report. He believed it unnecessary that these men should be added, and that the four regiments of artillery were fully equal to all the objects for which they were wanted: he would sooner vote for the reduction of a regiment than for this addition. He had endeavored to satisfy himself of the number of garrisons necessary to be kept up, and the men required for each. As to the casualties which it was said always happened amongst men, they could not be avoided; nor was it necessary to calculate within four or five men for a post; as, for instance, if fifty men were thought to be necessary for a post, if four or five died out of that number, it could not be supposed that those who remained would not be able to defend it. He should therefore be opposed to the resolution.

The question was put on the resolution, for adding eight men to a company, and negatived without a division.

The next resolution, advancing the pay of the officers, was agreed to without any opposition.

On the last resolution, for allowing Majors four rations per day,

Mr. S. Smith said, that the subsistence of the Majors had, by mistake, been omitted in the act passed last session, and they had therefore introduced it here.

This was agreed to.

It was moved that the Committee rise; when

Mr. Holland said, before the Committee rose, he wished to add an amendment to the first section, after the word "repealed," "and that the four regiments of infantry be reduced to three."

It was desirable, he said, to reduce the establishment as much as possible. The Committee had determined not to reduce the infantry from four to two regiments; but though they did not think it right to make so great a deduction, he trusted they would agree to reduce them from four to three.

The question was put and negatived—ayes 37, noes 38.

The Committee then rose, and reported the resolutions, and the House took them up; when

Mr. Gallatin proposed to amend the report, by introducing the amendment just negatived in the Committee of the Whole, viz: for reducing the infantry from four to three regiments, and desired the yeas and nays to be taken upon it. The yeas and nays were agreed to be taken.

Mr. Hartley said, they were some how or other in the habit of *disorganizing*. Last year the whole complexion of our Military Establishment was changed, and now it was to undergo another change. Last year the men and officers were appointed to each other; he hoped they should not become habitual disorganizers by adopting the present motion.

Mr. Buck hoped it could not be said that he was a favorer of *disorganization*; but he did not see at present any necessity for keeping up the whole of the Military Establishment. Could the number of garrisons and of troops necessary for them be ascertained, he would cheerfully vote for the number wanted; but until that information was before them, being in time of peace, and not wishing to keep up more troops than were necessary, he should vote for the proposed reduction.

Mr. Claiborne was of the opinion, with the gentleman from Pennsylvania, [Mr. Hartley] that they were about to reduce *disorganization* to a system; and, unless they economized a little better, the whole Government would be *disorganized*. He was for economizing, in order to prevent that *disorganization*. He hoped, therefore, the amendment would prevail.

Mr. W. Lyman said, if this were a time of profound peace, perhaps this question would carry a different aspect; but this country could not be said to be in a state of profound peace; for, though we were not in hostility, there were several nations in hostility to us. Was this, then, a time for reducing the Military Establishment? He thought not. It was very uncertain whether we should continue in a state of peace or not. Under this impression, and aided by the information which the select committee had given, he believed it was necessary to retain the whole of the establishment. The committee had stated the posts and the number of men required, and gave it as their opinion that the whole four regiments would be required. He was satisfied, and he believed the committee had retrenched the expense of the establishment as much as possible.

If it were profound peace, (as he had already said,) and there were no distant expectations of hostility from any quarter, he would agree to the amendment proposed. But, in the present state of things, he should vote for retaining the four regiments, as he believed it would prove a misfortune to the country, if the regiment proposed was done away.

Mr. Williams said, if they were for a moment to suppose, for the sake of argument, that there was danger of a war from European nations, he would inquire how they should guard against it? Would it be by garrisoning the frontier? No, he believed not; and, therefore, from the arguments of the gentleman himself, he ought to reduce the number of infantry and increase that of the artillery. This, Mr. W. said, was his intention when he proposed to reduce the four regiments to two; for, if there was any danger it was on the sea-coast; therefore, to reduce the infantry and increase the artillery would be real economy.

Mr. Page said, if he had thought the amendment really economical, he might have voted for it; but as he believed it was quite the reverse, as the reduction of troops at the time that the number of posts were increased, and some posts were to be advanced far beyond any hitherto occupied, and out of the reach of reinforcements or succor, must necessarily endanger the loss of some posts, which would, without counting the loss of men, be found, in loss of stores, ammunition, and arms, an expensive circumstance. It had been said that the Indians could not take a fortified post, however weakly garrisoned; but this was a great mistake, for they took from the British in one day, under their leader, *Pontiach*, immediately after the war between Great Britain and France, every post they held, except Detroit and Fort Pitt. As to the state of peace we were in, said Mr. P., although he believed the Indians might at present recollect the circumstances which induced them to make peace with the United States, he said he did not rely on its continuance, so as to think it politic or economical to reduce the number of our troops, and to expose the remainder in distant posts, out of the reach of relief. Indeed, said he, I think it cruel to expose a small garrison in some of the intended posts, as the savages would attack them whenever caprice or avarice should prompt them. From motives of economy, said he, I opposed the first motions for raising an Army and holding posts on our frontiers, and then observed, that if we raised one regiment, we should soon be called on for another, and that if we began to establish posts, there would be no end to establishments; but having now established certain posts, he said he believed it would be politic and economical to take care of them and their garrisons.

Mr. Isaac Smith said, it did not appear that any garrison held last year had been abandoned this, and it was well known they had now a number of fresh garrisons on the Southern frontier; he therefore could see no propriety in reducing the four regiments to three.

Mr. Rutherford said, no one respected military characters more than him; but he thought, nevertheless, it would be a valuable thing to reduce the infantry from four to three regiments, which would make them more complete. It was his sincere wish that every private should be well

accommodated and well paid. He surely wished that, and he could say that he wept after the hearse of any brave man who fell in the defence of his country, and would mingle tears with his relatives and friends. He knew we had many brave military characters. This he rejoiced in. And it would be remembered that it would be an easy matter to increase the troops, if it were at any time necessary, perhaps more easily than to reduce them; he was, therefore, for making the proposed reduction. In this case, he said, the best troops would be retained; and if any emergency should at any time arise, the brave yeomanry would come forward in aid of the military corps; and therefore, at this time, when our revenue was embarrassed, if the four regiments could be reduced to three, it would be a valuable purpose done for the people whom they served—it would but be their duty.

Mr. Swanwick said, some gentlemen had, on this occasion, spoken of the danger of war; but if there was any danger of this kind, our infantry would not serve us. And yet, whilst gentlemen were ready to increase this department of our force, they were willing to do away the frigates. The gentleman from New York, [Mr. Williams,] indeed, very different from his usual conduct, had said that he would carry the amount of the retrenchments in the Army to the Navy. On this occasion, he said, he joined in opinion with that gentleman; he thought they had already spent too much on land and too little at sea; and, therefore, in hopes that that gentleman and others would vote with him for the frigates when they should come under view, and because he thought it would answer them a much better purpose to have a number of sailors than so many troops, he should vote for the amendment.

Mr. S. Smith hoped this motion would not obtain. The question had already been tried in Committee of the Whole, to reduce the infantry to two or three regiments, and both had failed; he trusted they would again fail. When the select committee had estimated that the four regiments would be necessary, and that the surplus would only be four companies, which it would be right to place in a proper situation to serve as a *corps de reserve*, which might be applied to in case of attack, he thought these attempts to reduce the number was extraordinary. He did not know whether it was the intention of gentlemen to strike out the officers of a regiment only; if this was their meaning, the saving would be very trifling indeed. He was apprehensive this idea of economy would carry them too far; for his part, he was not for the name of economy, when he was convinced it would not produce the effect. He found men, heretofore liberal in granting money, since direct taxes had been under discussion, were become very sparing. He was afraid, however, their fear of direct taxes would carry them too far.

Mr. Sitgreaves said, if he had discovered any difference of opinion among military gentlemen on this subject; if he had heard that any of the posts which had been proposed to be garrisoned were unnecessary, or that the contemplated number of men for each was too great, he should have been at a loss how to have voted; but when he had only heard, in support of the amendment, that our finances needed economy, he felt no embarrassment in giving it his direct negative. If the principle upon which the amendment was supported was true, it should be carried farther; if we were in profound peace, and economy were to be pursued, why not disband the whole establishment? For, if they admitted an Army of any kind to be necessary, they would certainly admit that it ought to be sufficiently large for the purposes for which it was wanted. They had, he said, appointed a committee on the subject, who had informed them of the garrisons necessary, and of the troops proper to be placed in them, by which it appeared that the whole four regiments would be wanted; and therefore he believed there would be no propriety in reducing the number on the ground of economy.

For his own part, Mr. S. said, he did not pretend to be a judge of military affairs; but he thought, when our posts were increased, the military for garrisoning them ought not to be decreased. A state of peace with the Indians, he believed, did not do away the necessity of a Military Establishment, because he believed that peace was only to be continued by the terror inspired by the garrisons.

He would take this opportunity of remarking upon what had fallen from his colleague, [Mr. Gallatin,] who had said that he thought the four regiments necessary, but that on account of the unwillingness of the House to grant revenue, he would wish to reduce them. Mr. S. said, he believed the circumstances of this country to be such as were fully equal to all the expenses of Government; he believed the people were both able and willing to pay those expenses. Indeed, if there could be any reliance upon the decision of that House, there would be no doubt of revenue being found. If there was any unwillingness there, however, to find revenue, he believed there was none out of doors. There might, indeed, be objections to the mode of raising revenue, but he believed the people were ready to give what was necessary.

Mr. S. said, that when gentlemen agreed that the four regiments were necessary, it was their duty to vote for them, and to provide the means for paying them. It was not right to say, "We agree the men are wanted, but there will be found a difficulty in paying them, and therefore we will withhold our vote;" they ought to vote for the men, and afterwards provide the money. Such was his opinion, and he believed it to be the opinion of the people in general; he should, therefore, vote for retaining the present number of infantry.

Mr. Preston hoped this motion would not prevail. He voted yesterday for doing away the cavalry, but he had no idea of reducing the infantry, as he believed the present establishment necessary for the protection of the frontiers. It was true we were at peace, but it was also true that it was with a faithless people, who, when their disposi-

tions or wants urged them to it, would violate the peace, and destroy the frontier inhabitants.

He said, he had not been a little surprised that the gentlemen from New York and Pennsylvania, [Mr. WILLIAMS and Mr. GALLATIN,] who lived on the frontiers, and were consequently subject to the incursions of the Indians, should have advocated the reduction of the present establishment. The gentleman from New York had said he lived within thirty miles of them, but that he depended upon the yeomanry for support, and was not afraid. There was magnanimity in this declaration; but suppose these Indians were to come out upon him with hostile intentions, he perhaps might call for assistance when it was too late, and when the defenceless inhabitants of the frontier had met destruction.

Mr. P. said, he could not help being surprised at the reason given for the proposed reduction of the present number of infantry, viz: to retrench the public expenses. He should be glad to meet gentlemen on the ground of a retrenchment of the public expenses; he loved economy, but he hated that little, contracted economy, which saved *pence* at the expense of *pounds*.

He hoped they should not be afraid of doing their duty, because there was a degree of unpopularity attached to all taxes; but if they would fix a permanent source of revenue, they must not go to *cents* and *half-cents* on sugar or *five-penny bits* on salt, but to a land tax, the only object upon which they could look with certainty for supplies.

He should not, however, do as the gentleman from Pennsylvania and one of his colleagues [Mr. GALLATIN and Mr. NICHOLAS] had done, because there was a reluctance in the House to vote for revenue, decline from voting for the present establishment. He would do what he conceived to be his duty, and let others do what they pleased. He would therefore vote for the present establishment, trusting that no gentleman, convinced of the necessity of the Military Establishment, and that further revenue was necessary to support that and the other expenses of Government, would withhold his assent to some effectual system for raising it; and that if it were found indirect taxes would not answer the purpose, direct taxes would be resorted to. Take what mode of taxation they might, difficulties would present themselves. These were unavoidable; but because difficulties occurred, he trusted they would not shrink from the business; to do that would be to show an imbecility of conduct which he trusted that House would never show.

Our constituents, said he, know as well as we do that Government is necessary, or we should not be here; they know expense must be incurred; that that expense must be raised by taxes, and be collected from themselves. Shall we, then, exclaimed he, be afraid to meet them, from having done our duty? All we shall have to do, added he, will be to show the justice of the demand, and he ventured to say their constituents would have patriotism enough cheerfully to pay it.

It was a fact—he acknowledged it was a melancholy one—that there was necessity, from the present uncertain state of our commerce, of fixing upon some permanent revenue, which should be equal to the purposes of peace or of war. It was proper to guard against all possible circumstances, since we could not always expect to be free from the calamities to which all other nations are subject. Indeed, a day did not pass but they heard from the newspapers of depredations being committed upon our commerce, not only by the British, but by the French and Spaniards; and it was not to be supposed that our merchants would continue their commerce, notwithstanding their mad thirst of gain, under such risks. It was necessary, therefore, to find a substitute for at least a part of the revenue which had heretofore been drawn from that source, or they should not be able even to pay the four regiments of infantry they were then about to agree to keep up. He should, however, consent to do this, and trust in the House to provide revenue when that subject should come before them.

Mr. THATCHER did not see what the present question had to do with revenue. The question was not how many troops the United States could support in time of war, but how many were necessary in the present state of things. As far as this subject was connected with fighting, he knew but little about it, nor did he ever wish to know more than he did. But it was a singular circumstace, he said, that ever since 1791 till the late peace, there had been war on a frontier of five hundred miles extent, during which time the English had had possession of the posts on that frontier, and this war had been supported, and the Indians brought to a peace, by nearly the same number of troops which were now in pay. The reduction since that time had been very small. It was now a time of peace, not even the least suggestion had been offered that any rupture with the Indians was likely to take place, yet gentlemen seemed unwilling to reduce the establishment. During the war, the English had possession of forts within our territory, which they had now given up, and we had taken possession of them, and it could not be considered other than extraordinary that we should have occasion for nearly the same troops now as during that war. Some of the posts which we had obtained being garrisoned, would do away the necessity of garrisoning others. He therefore supposed there would not be occasion to have troops in all the posts which had been mentioned.

But gentlemen had hinted there was danger of war from another quarter. But if they supposed France or England intended to wage hostilities against us, it was idle to talk of one regiment of infantry; they should have twenty regiments. This was, therefore, not the ground of the present question. All that was necessary to be considered was, what number of troops was necessary to garrison the frontier posts? believing, as he did, that three regiments would be sufficient, he should vote for the amendment.

Mr. S. SMITH said, if it were really a fact that as many men were in pay now as were in service during the Indian war, he would agree with the

gentleman from Massachusetts that the number was too large. [Mr. THATCHER denied having said the number was equal, but that there had been little reduction.] Mr. SMITH said, the number of men then in the service was 5,000, but at present the number contemplated was 3,000. The regulations made last year contemplated the taking in all those who were in service on the first of July last; and gentlemen would recollect that the artillery had been raised in consequence of an apprehension of war with Great Britain, and were meant for the service of the sea-coast; there were, therefore, only two thousand for the service of the frontier.

The gentleman had said some of the posts would be unnecessary, but had not said which. He had been told that a cordon of posts had been so formed as to prevent supplies being conveyed to the Indians—from which cordon the inner posts were excluded. In doing this, they had contemplated the security of the trade to be carried on by the United States on the frontier. If the United States were not able to keep up 1,500 men, they were in a bad situation, indeed. That such an opinion should be entertained in that House, their constituents would not believe, nor did he believe they would thank them for such economy: it was no economy. The last year they had declared what the establishment should be, and now they were proposing to undo what they had then done; by which means they should throw a number of deserving men upon the world, without perhaps the means of subsistence. Was this the way, he asked, in which meritorious soldiers were served in other countries? No; they had half-pay given them, and this, he said, ought to be the case everywhere, and not that, after fighting our battles, and perhaps receiving wounds in the service which incapacitated them from labor, they should be thrown upon the country, desolate. Mr. S. hoped that they should show that there was some degree of fixedness in their conduct. The business was well settled last session. They had only four small regiments to support, and he trusted they should support them, as he believed them necessary.

Mr. HARRISON said, that if the Chairman of the committee had informed them of the number of posts to be occupied, and the men required for garrisoning them, and had shown that the whole four regiments were wanted, he would have voted for them; but not having done this, he should vote for the proposed reduction. That gentleman himself, Mr. H. said, had shown that three regiments would be sufficient; for he had said a certain portion of these men should be kept as a *corps de reserve*. Where, he asked, would he keep them in reserve? He believed the cordon of posts would be too distant for any supplies to reach them in time, in case of an attack from the Indians.

Gentlemen blamed the present economy, and condemned the proposed system of direct taxes; but who, he asked, had created the necessity for one or the other? Not those who advocated either, but those who opposed them. And now, when they were called upon to provide revenue for defraying the increased expenses of Government, and to discharge a part of the Public Debt, they shrink from the task.

Where, said Mr. H., is this regiment to be placed? It was not to be in garrison, and he did not know where else it could be to any purpose; so that they were about to fix a taxation to grind their constituents for no purpose. Who were the best judges of the wants of the frontiers? Those who lived on them, surely; and they had said there was no necessity for so large a body of men. To keep them, would, therefore, be a lavish use of public money; but if the money, instead of being so applied, were appropriated towards the reduction of the Public Debt, every citizen in the Union would be satisfied. This consideration, and the gentleman's own showing, induced him to vote for the proposed reduction.

Mr. HOLLAND said, if the committee had stated to them the number of posts, and the men necessary to be placed in them, they might have formed a judgment whether the four regiments would be wanted or not; but without that information, they were under the necessity of acting in the dark. The gentleman from Maryland asked if the United States were not able to keep up the troops in question? One thing he knew: that the United States had been able to keep up their expenses, equal to all the revenue which could be collected. But that gentleman seemed to be much affected with the situation of the officers, who would be thrown out of service, if the amendment should prevail. He did not know that they were under any tie to keep them longer than wanted, and he doubted not that officers would always be found when wanted. The compensation, he believed, was fully equal to the service, and that it was a matter of favor to obtain such situations.

A gentleman from Pennsylvania [Mr. SHUGREAVES] had said, the military gentlemen were all in favor of retaining the four regiments. He was at a loss to know how that gentleman came at his knowledge on that subject. It was his opinion, the Army system was a bad one, and that it should be reduced as much as possible.

He believed they were likely to have peace on the frontiers. The Indians, he said, would not commit depredations near a post, but at a distance; because they knew, if they attempted a post, they would bring the force of the United States upon them, which would involve them in war. It was well known, the Indians were more afraid of the militia than of regulars, and that therefore the former was the best defence against them. Not having any information, he should vote in favor of the amendment.

Mr. COOPER said it might be of use to gentlemen to be informed of the number of men which the British had kept in their several posts on the frontiers. He said he had obtained the number. He then mentioned what were in the different posts. The total number was 1,245 men.

Mr. WILLIAMS said, our troops were reduced last year to 3,000 men. Now, it appeared, from what had fallen from a gentleman on the committee, their number was 2,500 men. These would be sufficient for three regiments; therefore, the

same number of men would be kept up, as if the four regiments were retained. With respect to the number of officers, we had, he said, 32 companies of infantry, and 16 companies of artillery and engineers. If the reduction proposed were agreed to, there would be left 130 officers. If these were not sufficient for the garrisons, he did not know anything of the business. But the gentleman from Maryland said, the saving would not be so much as had been said. How he estimated he could not tell; but, he believed, that, by putting the same number of men in three regiments which were now in four, would be a considerable saving.

With respect to the frontier, he said, we had no defence in New Hampshire, Massachusetts, or Vermont, nor at New York, except at Oswego, Niagara, and Detroit. This, he said, was a distance of between five and six hundred miles. Nor did he think they were necessary, though there were several tribes of Indians in that quarter. Nor did he think a small post any defence against Indians; if they were to prove troublesome, the militia was the best defence.

He did not see the use of keeping officers when we had no occasion for them. Let us, said he, do equal justice. If they were not wanted, he had no objection to giving them a gratuity, but he had an objection to keeping them in pay when the service did not require them. He hoped the amendment would be agreed to.

Mr. Gallatin said he would not have brought the question once more before the House had he thought the reduction of expense a trifling one; if he had not thought that the Military Establishment was the most expensive—he had almost said the most extravagant—establishment in the Government. Yet, he said, they were told they had no right to think upon the subject, because military men told us they were wanted.

Mr. G. said, if he understood the gentlemen of the committee, it was a mere matter of opinion as to the number of men to be kept up; and if it was matter of opinion, it was not strictly necessary, because if necessary it was no longer a matter of opinion.

As to the reduction which had heretofore taken place, notwithstanding what had fallen from the gentleman from Maryland [Mr. S. Smith] the gentleman from Massachusetts [Mr. Thatcher] was pretty nearly right. If his memory was right, when the subject was last under discussion, the number of men in actual service was 3,500, though the nominal establishment was 6,000. It was then concluded that all the men which remained on the 1st of July should be retained in the new establishment; which, as the time of about 400 would then expire, left 3,100 effective men, or thereabout. So that the reduction was more nominal than real.

Mr. G. wished to know, if any reason could be given why we should have more troops now than before the Indian war? He meant exclusively of the artillery and engineers, which was meant for the sea-coast.

He then mentioned some posts where he thought there would be no necessity for garrisons: It was well understood, he said, that the possession of the posts lately held by the British would curb the Indians. He hoped they should have some benefit from the British Treaty, and if there was any one, it was to be secure, so far as related to the posts occupied by the British, without being obliged to keep up so large a number of troops as before.

As to the idea suggested by the gentleman from Virginia [Mr. Preston] that the present was a saving of pence, to prove it was something more, he would call the attention of the House to the expense of the different years, from 1791 to 1795. The years 1790 and 1791, he said, we were in much the same situation as now. There was actual hostility at the time, but it was not so serious as afterward. In 1790, he found the expense was $291,000; in 1791, $520,000; in 1792, which was the year in which General St. Clair was defeated, $974,000; in 1793, $1,120,000; and in 1794 and 1795, after deducting the expense of the Western insurrection, and harbors, from 1,700,000 dollars to 1,800,000 dollars; in 1796, 1,300,000; and that estimated for 1797, 1,200,000 dollars.

If this expense, he said, was compared with the general expenses of the Government, it would be found to be five-sixths of the whole; and, therefore, if they meant to make any retrenchments, this was the object in which they should attempt them.

If the average expense of 1790 and 1791 was compared with that of 1796 and 1797, the former would be found about 400,000 dollars, while the latter was from 1,200,000 to 1,300,000. Surely, then, there was room for retrenchment.

It was true, as had been suggested by the gentleman from Maryland, [Mr. S. Smith,] that many retrenchments might take place in the Quartermaster's and some other departments. He should certainly support him in those deductions, when they should come under consideration; but an intention of saving in detail ought not to prevent them, he said, from saving in the principal.

That gentleman was, however, mistaken with respect to his saving in the Naval Establishment; for, supposing the frigates would not have more than four months' pay, he had omitted to take notice that there was yet required to finish the frigates about 200,000 dollars.

Considering, therefore, that under the head of the Military Establishment the principal deductions must be made, he hoped the amendment would prevail.

Mr. Hartley again requested gentlemen to consider that honesty was the best policy, as the old adage says; and while we pay proper respect in our conduct to our officers, they will not forget us when calling for their service. He would candidly ask gentlemen whether, the last session, the Army was not put on a Peace Establishment? The Executive had now ordered the Army to be organized upon that order, and now for a counter order to take place almost before the old one was established, were they free from alarm, he would ask? After the posts are all occupied, and there should appear a surplus, then would be the time to disband.

The question was then taken by yeas and nays for the reduction of the four regiments to three, and carried—yeas 44, nays 39, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, Thos. Blount, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Christopher Greenup, William B. Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Matthew Locke, Samuel Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, George Thatcher, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, Gabriel Christie, Joshua Coit, William Cooper, William Craik, James Davenport, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, John Hancock, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, John Wilkes Kittera, William Lyman, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, John Page, Josiah Parker, John Patton, Elisha R. Potter, Francis Preston, John Reed, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, William Smith, Richard Thomas, Mark Thompson, John E. Van Allen, and Peleg Wadsworth.

Mr. Murray made a motion to restore the two companies of light dragoons. When the motion to strike out was agreed to, it was contemplated, he said, to retain the four regiments of infantry. Now one regiment had been struck out, there might be gentlemen who would wish to have the dragoons kept up. He owned he was of that opinion.

Mr. Sitgreaves called for the yeas and nays.

Mr. Holland thought there was no necessity for these troops. Georgia was secure, and had soldiers in garrison, as well as the other frontiers. He supposed the member from Georgia voted for the reduction, for the purpose of having those horse kept.

Mr. Milledge said he was still of the same opinion as before, of the great necessity of the dragoons being kept up on that frontier. If posts were necessary there, he said, dragoons were also necessary. He knew it would be a great expense, and he was as much as possible for retrenching expense, but not at the hazard which a want of proper security in that quarter would run. If any disturbance with, or inroads from, the Indians in that quarter should occur, what would give that expeditious check which dragoons could, when our posts are 25 miles asunder, and our frontier extends 300 miles? It was well known that we might be one day upon the best terms, and perhaps the next at war. From these ideas, he would leave gentlemen to judge whether they did not require expeditious movements.

Mr. Gallatin said he knew not how a motion of this kind could be made, when the question was put on the words as amended.

The Speaker explained.

The question was then put to restore the dragoons, and lost—yeas 18, nays 64, as follows:

Yeas.—Abraham Baldwin, William Cooper, William Craik, James Davenport, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Robert Goodloe Harper, Thomas Hartley, John Wilkes Kittera, Francis Malbone, John Milledge, F. A. Muhlenberg, William Vans Murray, John Page, Samuel Sitgreaves, and William Smith.

Nays.—Theodorus Bailey, Thomas Blount, Theophilus Bradbury, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, George Dent, William Findley, Abiel Foster, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, Christopher Greenup, Roger Griswold, William B. Grove, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, John Patton, Elisha R. Potter, Francis Preston, John Reed, Robert Rutherford, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Samuel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

And then, the main question being taken, that the House do agree to the said first resolution, amended to read as follows:

"*Resolved*, That all such parts of the act, entitled 'An act to ascertain and fix the Military Establishment of the United States,' which relate to the light dragoons, ought to be repealed, and that the four regiments of infantry be reduced to three:"

It was resolved in the affirmative.

The second, third, fourth, fifth, and sixth resolutions being read, were, on the question severally put thereupon, agreed to by the House.

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. Samuel Smith, Mr. Hartley, Mr. Parker, Mr. Van Cortlandt, and Mr. Dearborn, do prepare and bring in the same.

REGULATION OF PILOTS.

The House, on motion of Mr. Dent, resolved itself into a Committee of the Whole on the bill for the regulation of pilots within the bay and river of the Chesapeake; when

Mr. Swanwick briefly stated the intention and operation of this bill, which was to give equal privileges to Virginia and Maryland pilots, with respect to bringing in vessels into the Chesapeake. This application was founded on this circumstance, viz: that Maryland pilots went out further to sea than Virginia pilots to meet vessels, and were frequently called on to pilot vessels belonging to Virginia, but not being allowed anything for this pilotage, the Virginia pilots taking possession of any vessel brought in by such a Maryland pilot into the Chesapeake, and receiving all the advantages of the pilotage. This practice had consequently had this effect: Maryland pi-

lots, though vessels were in the greatest distress, would not come on board, so that many had been lost for want of pilots, as the Virginia pilots scarcely ever went out to sea. The bill went to direct the Board of Pilots to grant licenses on equal terms to Maryland and Virginia pilots.

Mr. PARKER confirmed this statement.

Mr. COIT objected to the principle, from doubts whether they had a right to direct the affairs of a State Government to do certain acts.

Mr. S. SMITH thought these officers might be directed to grant licenses to these pilots on the same ground that the Judges and Justices of States are directed to do the business of the United States.

Mr. SITGREAVES did not allow the analogy of the two cases. In 1789, he said, there was a similar case. When it was necessary to provide for the safe-keeping of the prisoners of the United States in the several States, when Congress did not pass a law on the subject, but passed a resolution requesting the several States to pass laws to provide for the case.

Mr. NICHOLAS thought the duty might as well be done, not by directing the officers to perform the duty, but by permitting them to do it. He thought this mode would steer clear of the objection.

The Committee rose, and had leave to sit again.

WEDNESDAY, January 25.

A message from the Senate informed the House that the Senate have disagreed to the amendment proposed by this House to the bill sent from the Senate, entitled "An act giving effect to the laws of the United States within the State of Tennessee."

NAVAL EQUIPMENTS.

Mr. PARKER, from the committee appointed to inquire into the business of the Naval Equipments ordered by former acts of Congress, and to report whether any and what further regulations were necessary, made a report. The whole amount of expense of the frigates was estimated at $745,437, exclusive of manning and provisions. The expense of the galleys was estimated at $80,000. The annual expenditure, it was supposed, would be $223,174. The money wanted for completing the frigates was—for that building at Philadelphia, named the United States, of 44 guns, $55,950; for that at Boston, named the Constitution, of 44 guns, $96,671; for that at Baltimore, named the Constellation, of 36 guns, $47,275. The United States, it was estimated by the Secretary at War, would be completed in April, the Constitution in July, and the Constellation in May. But the committee were of opinion, owing to the frost, they would not be ready so soon. The committee recommend that the vessels should be finished as soon as possible, and that —— dollars should be appropriated for the purpose; that there also be a sum appropriated for purchasing a proper site for a naval-yard; and, also, that provision should be made for obtaining a sufficiency of live-oak and red cedar for naval purposes.

The report was twice read, and ordered to be committed to a Committee of the Whole on Monday next.

CONTESTED ELECTION.

On motion of Mr. VENABLE, the unfinished business of yesterday was postponed, in order to take up the report of the Committee of Elections on the election of JOSEPH BRADLEY VARNUM, which was in favor of the sitting member. It is also stated that his conduct has not only been fair and regular throughout the whole business, but that the object of the petitioners was "*rather the effect of malevolence than from a wish of promoting the public good.*"

Mr. COIT moved to strike out the words printed in italics. He doubted the propriety of the House passing a censure of the kind proposed upon the petitioners and those who supported them.

The motion to strike out the words in question was supported by the mover, and Messrs. THATCHER, BRADBURY, SITGREAVES, CRAIK, N. SMITH, COOPER, MURRAY, SEWALL, HARPER, D. FOSTER, and WILLIAMS; and opposed by Messrs. VENABLE, SWANWICK, W. LYMAN, NICHOLAS, DEARBORN, RUTHERFORD, BALDWIN, CHRISTIE, HOLLAND, MADISON, and BRENT.

The principal ground upon which the motion was supported was, that the Committee of Elections had no business to scrutinize the motives of petitioners; that their motives had nothing to do with the legality or illegality of elections; that they ought to report that a petition had foundation, or it had not; that the House had no right to take upon them to judge upon motives and characters. It was said, on the other hand, that the charges in the petition were so notoriously false and malicious as to call for some other notice than barely to say they were unfounded, and that it was necessary to put a check upon such outrageous attacks upon members of that House, by some such notice as was reported, in order to prevent them in future.

The yeas and nays were called for upon this question, and all the papers relative to the business were read. This took place towards the conclusion of the business, and so exhausted was the patience of the House, that four different motions were made and negatived for adjournment.

At length Mr. COIT offered a substitute for his former motion, viz: to strike out the words in italic, in order to insert these words: "that the conduct of the sitting member has been fair and honorable throughout the whole transaction."

This motion was put and resolved in the affirmative—yeas 44, nays 28, as follows:

YEAS.—Theophilus Bradbury, Dempsey Burges, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Henry Glen, Chauncey Goodrich, Christopher Greenup, Roger Griswold, William B. Grove, George Hancock, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Thomas Henderson, William Hindman, George Jackson, Samuel Lyman, William Vans Murray, Anthony New, Elisha

R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, William Strudwick, George Thatcher, Richard Thomas, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Richard Winn.

NAYS.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, George Dent, Albert Gallatin, Andrew Gregg, Jonathan N. Havens, James Holland, Andrew Jackson, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, and John Swanwick.

THURSDAY, January 26.

UNITED STATES LAWS IN TENNESSEE.

The message from the Senate, of Wednesday, was read, signifying their dissent from the amendment made in altering the salary of the Judge of the State of Tennessee from $1,000 to $800 per annum, being part of the act for giving force to the laws of the United States in that State.

It was moved that the consideration of the same be now taken up—ayes 22, noes 22; the SPEAKER decided in the affirmative.

Mr. SITGREAVES was originally a supporter of the larger salary, from a conviction that $800 would be inadequate to the expenses of the office, or the respectability of talent and character required to fill it. He should expect that the expenses of traveling across the wilderness and opening the several terms at the seasons required by law, were such as entitled a magistrate of so necessary and respectable a description to adequate compensation.

Mr. WILLIAMS had originally opposed the salary of $1,000, because he considered $800 as sufficient for the duties that were to be performed; as to the price of the necessaries of life, he believed that the argument went for nothing, since it was very well known that they were much cheaper in the Tennessee country than in most other States, where the salaries were not higher than the greater sum; and there were some of the States, the Judges of which had no more than $800.

Mr. THATCHER had supported the salary of $1,000 before, and he did not see the justice of arguing that the duties of the office were such, because the same qualifications are necessary for the office, and the same expenses are incurred, whether the Judge has to decide on three causes or three hundred.

Mr. GILBERT said, that it appeared to him that there could be no reason for giving the Judge of Tennessee a larger salary than that of Vermont.

Mr. S. SMITH said, that Vermont was the only State in the Union where the Judge had less than $1.000; and it did not appear to him as fair to argue for the present time upon an establishment that had taken place at a period when the necessaries of life were cheaper.

Mr. NICHOLAS was desirous of practising economy as much as any one in the distribution of the public property, but he did not see that it would be money misspent in allowing a competent salary on the present occasion.

Mr. COIT said, that gentlemen had formed their notions of the salaries that should be given to magistrates of importance, upon incorrect views of the nature of the case; the class of persons from which they are taken, it must be considered, derive a large income by professional duties, and a profession, too, whose members are generally desirous, after a few years' practice, of retiring from its fatigues; the office of Judge, therefore, must be considered as a kind of sinecure.

Mr. SITGREAVES noticed the observations of the previous speakers, and said that it was entirely immaterial whether, in point of justice to the magistrate, he tried many or no causes, if he was taken from a profession whereby he derived a competent support for himself and his family. As to persons of the legal profession wishing to retire from business, he believed it was their wish in common with every other profession; the expense of living had been said to be cheaper, and the duties few; but, he would ask, if the sessions must not be opened by the Judge at the places appointed by law at the stated periods? When these points are remote, he did not see, then, but labor was greater on a professional man to make those journeys than the local duties themselves, and it would not be said that the expense was less.

On motion for resuming the bill with the larger sum, as decided upon by the Senate, the House divided—ayes 33, noes 39.

The House, therefore, insisted upon their amendment, and returned the bill to the Senate; it afterwards came from thence, with notice that they had receded from their amendment.

PUBLIC DEBT.

A report was received from the Commissioners of the Sinking Fund, enclosing a report from the Secretary of the Treasury to them, giving an account of the sales of public property in consequence of the act passed last session for making provision for the payment of certain debts of the United States. By which it appears that 2,160 shares of the stock of the Bank of the United States belonging to the United States, have been sold on a credit of sixty days, without interest, at the rate of $2,500 per share, or 25 per cent. above the original cost. That the money received had been placed to the credit of the United States with the Bank; that there had been sold of the 6 per cent. stock to the amount of $1,200,000, which had been applied to discharge sundry obligations of the United States therein specified.

The report was referred to the Committee of Ways and Means.

CONTESTED ELECTION.

The House resumed the consideration of the last clause contained in the report of the Committee of Elections of the 19th instant, in the case of the contested election of JOSEPH BRADLEY VARNUM, one of the members returned to serve in this House for the State of Massachusetts: Whereupon,

The question being taken, that the House do agree to the same, amended to read as followeth:

"Your committee are, therefore, of opinion that Joseph Bradley Varnum was duly elected; and that the charges in the said petitions against the sitting member are wholly unfounded; and that the conduct of the sitting member appears to have been fair and unexceptionable throughout the whole transaction:"

It was resolved in the affirmative.

COMPENSATION TO PUBLIC OFFICERS.

The House then resolved itself into a Committee of the Whole, on the report of the committee appointed to inquire, whether any and what alterations ought to be made in the compensations allowed by law to the officers of the United States? The following report being read, viz:

"That, in the opinion of the committee, the compensations, allowed by law, to the Secretary of War and Attorney General, ought to be augmented by an additional compensation of five hundred dollars per annum, to each of the said officers; and to commence on the first day of January, 1797.

"That, in the opinion of the committee, an addition of salary for the year 1797, ought to be allowed to each of the following officers, viz:

"The Secretary of State, the Secretary of the Treasury, the Secretary of the Department of War, the Attorney General, the Postmaster General, the Treasurer, the Comptroller of the Treasury, the Commissioner of the Revenue, the Auditor, the Register, the Assistant Postmaster General, and the keeper of military stores; and that such addition of salary ought to be at the rate of 25 per cent. on the amount of the present compensation allowed by law, to each of the said officers, respectively.

"That, in the opinion of the committee, the act entitled 'an act to regulate the compensation of clerks,' passed the 13th of May, 1796, ought to be continued during the year 1797, and no longer.

"That, in the opinion of the committee, an additional compensation ought to be made, for the year 1797, to each of the Loan Officers of the States of Massachusetts and New York; and that each of the said officers ought to be allowed the further sum of three hundred and seventy-five dollars, for the present year, and likewise three hundred dollars to be distributed, at their discretion, among the clerks in their respective offices, in addition to the compensations heretofore allowed by law, to the said clerks; and that the sum of one hundred and twenty dollars, ought to be allowed to the Loan Officer of the State of Pennsylvania, to be, in like manner, distributed among the clerks in his office, for the present year."

The first clause being under consideration—

Mr. DEARBORN said, the reasons which had induced the committee to recommend an advance in the salaries of the Secretary of War and Attorney General were, that they appeared too low when compared with those of other officers. They could see no reason why the Secretary of War should not have three thousand five hundred dollars, as well as the Secretary of State and the Secretary of the Treasury, since they believed the business was, in all respects, equal to either of the other Secretaries. They thought, also, that one thousand nine hundred dollars was not a sum equal to the services of the Attorney General, since the abilities and character required for that office were of the first kind, nor in proportion to the pay of other officers of Government. These were the reasons, Mr. D. said, which had operated with the committee to propose these permanent additions to the salaries of these two officers in question. They were afterwards included with the other officers, upon whose salaries an advance of 25 per cent. was proposed on account of the present high price of living.

Mr. RUTHERFORD hoped they should not concur with the report of the committee. He thought it an improper time to go into the proposed advances of salary. He believed gentlemen drew their opinions of the necessity of doing this, from the present immense circulation of money; but this, he said, would not continue to be the case; they might expect money would appreciate. These advances would prove very disagreeable to the people at large; they were inconsistent, and an outrage on common sense, right reason, and justice. If they had it in their power to raise the salaries of every person in their employ, it would give him pleasure; but how would it look to the people to do it at this time, when our finances required economy? They would not like it, and he should, therefore, give the measure his decided negative.

Mr. THATCHER was opposed to the proposed advances. When salaries were fixed, he doubted not, they were fixed according to their relative importance, and according to the business each would have to transact. As it was probable the expenses of living would not always be so high as at present, he thought any allowance made these officers should be for a limited time. Until he heard some reasons for these advances, (for he had not distinctly heard his colleague,) he should vote against them.

Mr. MURRAY believed little could be added to what had been offered by the gentleman from Massachusetts, [Mr. DEARBORN,] as the reasons for the advance in question. He believed the committee were unanimous in their opinion of the propriety of making the salary of the Secretary of the War Department equal to that of the other two Secretaries. He did not, therefore, anticipate any objections to this proposition. It would be invidious, he said, to go into a comparison of the business of the several departments; but he thought he might, with propriety, say, that the business of the War Department was as important and laborious as that of any of the other departments. It was, therefore, always strange to him that the salary of the Secretary of that department should be less than the other Secretaries. He never heard any reason for it; and he could not doubt, when gentlemen considered the importance of the office, and the labor which he had to go through, particularly, since the system of civilization with respect to the Indians had been adopted, they would not hesitate in voting for the report.

With respect to the Attorney General, he supposed, when his salary was fixed, that it had been made low, from a consideration that he would be able to make up the deficiency from his practice

at the bar; it was true, this might have been the case; but, being generally drawn from a distance, and of course a stranger at the Seat of Government, he would always have many difficulties to overcome before it could be supposed he would have much business in his profession. He might now and then meet with cases in the Supreme Court, but could not expect to meet with business to afford him any considerable profit. And, surely, said Mr. M., a man, whose opinion was the guide of Government in many of its important movements, should have a sum allowed for his services that should at least be equal to maintenance. Ambition, it was true, might induce men to accept of such an office; but, he asked, if it was proper or reputable to Government, that an officer of such importance in the Government, should be obliged to have recourse to his own private fortune to supply the deficiency of his salary? for everyone knew how far one thousand dollars would go in maintaining a family in Philadelphia.

The additional salary proposed for these two officers, were the only permanent additions contemplated in the report, and he trusted they would be deemed reasonable and proper.

Mr. S. SMITH said, he believed it would be easy to give a reason why the salary of the Secretary of War was not made equal to that of other Secretaries. At the time these salaries were fixed, the business of that office was not what it is now; he believed they had only one regiment at that time. That officer had now an infinity of business, which he had not then, which was good reason for the proposed advance. The Naval Establishment, he said, would also add to the duties of that office. With respect to the Attorney General, his colleague, he thought, had given good reason why his salary should be advanced. One thousand nine hundred dollars, he said, would not be more than a fourth part of the expense which such an officer would be put to in living at the Seat of Government. So that, if his salary were advanced, as proposed, he would still have to encroach upon his private fortune for a maintenance.

Mr. HOLLAND doubted not that, when the salaries of their respective officers were fixed, they were apportioned according to their several duties. He was not well enough acquainted with the duties of the different offices to form a correct judgment on the subject; but, if they were fixed right, he saw no occasion for altering them. The Attorney General had received considerable additions to his salary since it was first established. It had been said, the private business of an Attorney General was injured by undertaking that office. He did not know how this might be in the General Government, but in the State Governments it was very different, such an office gave a man consequence in the public opinion. He believed this would be the case with respect to the Attorney General, if he had time to spare. With respect to the Secretary of War, he thought it a little odd that now, in a time of peace, an increase of salary should be asked. Something had been said of the Naval Establishment adding to his duty; he hoped that establishment would not afford him much business. He should certainly be opposed to troubling him much on that account. He hoped the report would not be agreed to.

Mr. NICHOLAS said the advance now proposed, was different from raising of salaries in general. He believed the salary of the Attorney General was fixed at so low a sum from an idea of his getting business; but it must be known that a stranger would have little chance of entering into practice on his arrival at the Seat of Government. If the office was necessary (and he believed no one would dispute that) it was necessary to raise his salary.

Mr. N. said, he was doubtful whether the business of the Secretary of War was equal to that of the other Secretaries; but he thought the public service and interest would be promoted by making this salary equal to the others, as it would do away that desire of change which at present existed, on account of the difference of salary. He should, therefore, vote for this part of the report, but should be opposed to the other parts of it.

Mr. HARTLEY said, the committee could not see any solid reason why the salary of the Secretary of War should be less than the other two Secretaries. The Attorney General, he said, was cut off, by the duties of his office, from the taking circuits in the country. Indeed, he believed, he had not much time to attend to any other business than that of Government. Fees, he got none. He therefore depended on his salary. He was a stranger, and as Government was likely shortly to be removed, he would be looked upon merely as a temporary resident, and would not, on that account, be likely to obtain much steady business.

Mr. THATCHER wished the present subject had been put off till next session. At a time when they were embarrassed for want of money, he thought they ought not to be advancing salaries. He saw no reason, if they agreed to this report, why they should not extend the advance to themselves. No officers suffered more from the depreciation of money than that House and the Senate.

The arguments of the gentleman from Maryland, for advancing the salary of the Secretary of War, went to the docking that of other Secretaries. He saw no justice in augmenting one and not the other. He saw no objection to the salary of the Attorney General being raised, if he had not business. Justice seemed to require this; but still he was sorry the subject was now brought forward. The fears which they at present entertained of a defalcation of revenue on account of the hostile dispositions of foreign Powers, might not be realized; and, in that case, they should feel more disposed to be liberal. He therefore moved the Committee might rise.

The question for the Committee rising was put and negatived, there being only 28 votes in favor of it.

Mr. BRENT said, the sense of the Committee would, perhaps, be more fairly taken, if the question was divided; for, though he thought it no more than right that the salary of the Secretary of War should be advanced, yet he did not think

it so necessary as that of the Attorney General. It had been justly observed that, when the salary of this officer was fixed, it was, probably, from an idea that he would get business in his profession; but, notwithstanding some of the highest law characters in the country had filled that office, he believed they had never had much business besides that of their office. He said there was no office under Government of greater importance than this, and its duties ought, in some degree, to be requited. The income of the present Attorney General, from his profession, he well knew, before he entered upon his office, was more than double his present salary. He hoped, therefore, whatever might be done with respect to the Secretary of War, the pay of the Attorney General would be increased.

Mr. HARPER believed, without entering into a comparison between the duties of the different officers of Government, other views of the subject might show the justice of the proposed advance. He trusted, no objection would be made to the advance of the Secretary of War equal to the other Secretaries. It was certain none of the duties of the officers of Government could be discharged without a constant residence at the Seat of Government; and, when a man left his home, it was of little importance whether he was employed a half or a whole day, or whether his duty was great or small, he made the same sacrifice in one case as the other.

With respect to the Attorney General, the present salary held out a fallacious expectation of business, independent of his office; whereas, no man entering upon this office could obtain a practice of any consequence, till he had held it at least for three or four years; because, when business of this kind had got into a channel, it required time to divert it. The Attorney General, Mr. H. said, was an officer of Government frequently called upon in public business, not only by the Executive, but by Congress, and this being of a paramount nature, all other business must yield to it. Therefore, a gentleman filling this office would not have time to attend to regular practice, since. to do that to any purpose, he should always be found at his office or at court. An officer of this kind, Mr. H. said, ought to be so paid, as not to depend upon private business for a living. His office was very important, and would require his mind to be wholly free from other concerns; as, except this were the case, public business would never be done in a proper manner. He hoped, therefore, the report would be agreed to.

Mr. RUTHERFORD repeated his objection to agreeing to the report. He said, to advance the salaries as proposed would be, to remedy a temporary evil, at the expense of a permanent one, and would be contrary to Republican economy.

Mr. HARPER proposed, by way of amendment, to make an additional allowance of $1,600, instead of $500, to the Attorney General, in order to make his salary $3,500, so as to be equal to the Secretaries of State and of the Treasury.

This proposition did not meet with a second, and therefore fell to the ground.

Mr. GALLATIN said, there was much weight in many of the observations of gentlemen in favor of the first clause of the report. Strong reasons had been urged why the Secretary of War should be put on a level with the Secretaries of the other Departments, and, also for advancing the salary of the Attorney General. Though he did not think all the reasons which had been offered were of equal weight. One of the arguments used by the gentleman from South Carolina [Mr. HARPER] was, that all the officers of Government were obliged to leave their homes to reside at the Seat of Government, and that it was not important to inquire what were their duties. He did not think this a good reason why the salaries in question should be advanced. It would apply to all the officers of Government resident at the Seat of Government,—to the Postmaster, Comptroller of the Treasury, and others.

But, taking it for granted, that it was necessary to make some distinction between the Heads of Departments and others, there was a fact stronger than any arguments used on the occasion. Our business, said Mr. G., has been done, and been well done, under the present establishment. If this were a fact, until they found it neglected for want of a sufficiency of salary, he thought they should not increase it. At any rate, he thought they ought not to vote for this increase, when revenue was so much wanted as at present.

Without wishing to give it as general sentiment, we ought, said he, to consider, on the present occasion, the feelings of the people. Upon the subjects of granting salaries and laying taxes, these feelings should be considered, because the security of revenue depended upon public opinion; and if once that was unattended to with respect to raising of money, our situation would be worse than at present. Evasions would be made and smuggling would be introduced.

He believed the present prevailing opinion was, that the salaries of our officers were sufficiently high. If this was so, he thought, at the moment they about to resort to direct taxes, which would go to the pockets of every one, they ought not to tell the people their opinion was ill-founded. For this reason, and believing that no mischief could arise from withholding this advance, he should vote against this part of the report.

Mr. WILLIAMS said, when the salaries of these officers were estimated, Congress doubtless took into view the duties of each, and apportioned them accordingly. Since that time the business of the War Department was much increased; and it was found that the Attorney General's dependence upon business, besides what was connected with his office, was very uncertain. When the subject was before the committee, he was of opinion that the salaries of these two officers were too low; and it was well known that he was not in the habit of voting for the increase of salaries. And, he would ask, where there was a man who lived in Philadelphia, in the same style in which it was expected that our Attorney should live, that could maintain his family for $1,900 a year? And if this could not be done, was it right that they

should expect their officer to encroach upon his own private fortune, whilst in the service of Government? He trusted not. Their officers, he said, ought not only to have a sufficiency for a handsome maintenance, but something more. He trusted, therefore, the report would be agreed to.

Mr. S. SMITH said, the gentleman from Pennsylvania [Mr. GALLATIN] might wish. by keeping down salaries, to shut out persons from distant parts of the Union, from the offices of Government, and confine them to inhabitants of Pennsylvania, who would not labor under the disadvantages of strangers; he, therefore, might not feel the subject so much as others. He believed the PRESIDENT had found a difficulty in filling the offices of Government, from the lowness of the salaries affixed to them. Persons, who could not afford to spend their private fortunes in the public service, had declined the acceptance of them. The present Secretary of War was a man of fortune, and could afford to spend a part of it, and therefore he accepted it; but it might have been offered to persons who could not have afforded to have made the sacrifice.

No man, Mr. S. said, could come into Philadelphia, and live for $3,500 a year. Suppose him at the head of a Department, he could not keep a riding horse for that sum. He agreed with the gentleman from Pennsylvania [Mr. GALLATIN] that they ought to attend to public opinion. The opinion of that gentleman's constituents, he doubted not, was, that $3,500 was a monstrous thing. But, he would ask, what the opinion of the people of Philadelphia was? In his district, he was confident, the opinion of the people was not that the salaries of our officers were too high.

But, what was the consequence of thus keeping down salaries? It excluded from the offices of Government all but men of fortune. Many gentlemen would not complain of this, but he wished to bring forward men of talents and industry, who could not be put into offices, except the salary were sufficient to support them in the style in which they must live.

Mr. A. JACKSON said, the reason which had weighed with the committee principally, was, that these salaries ought to be advanced, in order to make them in proportion to the other salaries of Government officers. No gentleman, he believed, had given any reason why the present difference should exist.

But, whilst he was up, he would notice what had fallen from the gentleman from New York [Mr. WILLIAMS.] He had asked what Attorney General could maintain his family for $1,900 a year? But, when the salary of the Judge of Tennessee was under consideration, $800 were thought enough by that gentleman, for him and his family, though he were a man of abilities equal to the filling of the office of Attorney General. If the Judge of Tennessee was to leave his profession to live upon $800, he thought $3,000 might support the Secretary of War. For this reason, though he saw no other ground for changing his former opinion, he should vote against the report.

Mr. WILLIAMS said, he wished to set the gentleman right. He thought $800 in Tennessee more than equal to $3,000 in Philadelphia; but the Attorney General, if the proposed advance was made, should have only two thousand four hundred dollars.

Mr. MURRAY hoped the gentleman from Tennessee would not depart from the opinion which he acknowledged he had been of. The question was not whether $3,000 in Philadelphia were equal to $800 in Tennessee, but whether they should not advance the salary of one Secretary to that of two others, and add $500 to that of the Attorney General. He trusted, therefore, five minutes' reflection would restore the gentleman to his former opinion, since the Judge of Tennessee had nothing to do with the present business.

Mr. HENDERSON said, amongst the duties of the Secretary of War had been mentioned the great business which would be occasioned by the plan adopted for civilizing the Indians. He did not know what part of that business he would have to perform; but he knew there had been appointed an agent of the Indian department, and a Purveyor of Public Supplies, who, he imagined, would reduce the business of the Secretary of War in that respect. Peace, also, being concluded with the Indians, they might rationally conclude that there would be a diminution of duty.

Mr. H. asked, whether the Secretary of War or the Attorney General had presented any memorial for an increase of their salaries? He believed not. He had heard, on former occasions, of gentlemen volunteering themselves in the service of petitioners; he thought this would be truly a volunteering business, and at a time when our revenues called for the strictest economy. He wished the subject had been suspended (as had been proposed) for the present session. For his part, he did not expect much diminution in the price of living.

Mr. COIT hoped the question would be divided, so that the sense of the committee might be taken separately on the advance proposed to each officer. An argument of considerable weight with him in favor of the advance of the Secretary of War, was, that his salary being $500 less than the other two, however his abilities may be peculiarly adapted for that office, whenever there was a vacancy in either of the other two, he was always ready to make a change, and by these changes, it might happen that a valuable man would be lost to the War Department, whose abilities were peculiarly fit for the office, and which, therefore, were sacrificed. He hoped the report would be agreed to.

Mr. MURRAY said, he meant only to make one remark in reply to the gentleman from New Jersey. He would inform him that this was not a volunteering of business, as he had been pleased to call it; but in consequence of (what seemed to have slipped the gentleman's memory) a recommendation from the PRESIDENT at the opening of the session. [Mr. M. read the passage of the PRESIDENT's Speech, which recommends the compensations of the officers of Government to the attention of both Houses.] This was a recommendation, which he trusted the gentleman from New

Jersey would not feel a disposition to slight. As to there having been no petitions, he said, it would be a miserable justice, which waited to be petitioned to redress a grievance which was so glaring as the present.

Mr. Hartley read the resolution of the House which appointed the committee to take this subject into consideration. In consequence of that resolution, Mr. H. said, the committee had looked into all the salaries, from the highest to the lowest, and the report before them was the result of their inquiries. The committee, he said, were unanimous as to the propriety of raising these two salaries.

Mr. Henderson said, it struck him that there had been no application to the House in the usual way for an advance of these salaries, and this was the foundation of his remarks. Though he trusted he should always pay due respect to what came from the President, yet he did not wish to pay implicit confidence to any communication. He wished to have an opinion of his own. It was on account of economy that he objected to the proposed advances. Notwithstanding the recommendation of the President, the present embarrassment of our revenue was such as would warrant, at least, the postponement of the subject to a future day.

Mr. Sitgreaves said, it was a strange thing that so much should be said about the embarrassment of our revenue upon every question which came before them, as if they could not do an act of justice, because of that embarrassment. If this argument was to be used so often it became necessary to question wherein it consisted. Would any gentleman say that the state of the country was such as not to be equal to the support of Government? Was the country, then, poor? No; the people were able and willing to do justice. The embarrassment, of which they heard so much, was nothing more than a conflict of opinion in that House, and a difficulty of forming a majority on any one plan,—and no real embarrassment. This consideration, therefore, ought not to be pressed upon the House on every occasion. It was not a want of means, but a difference of opinion on the choice of means, which embarrassed them.

While he was up, he would make a few remarks on what had fallen from his colleague, [Mr. Gallatin.] Though he differed with him with respect to his conclusions, yet he was pleased with the avowal of his opinion, "that the business of Government had not only been done, but well done." He felt satisfaction at hearing the approbation of so good a judge; but he differed from him in the inferences which he drew from his assertion. Mr. S. said, he acknowledged "it had been well done," but it did not follow that it would continue to be well done. If these gentlemen had been enabled to discharge their duty while things were low, without an outrage of their duty to their family, did not a change of time and circumstances call for a change of conditions? Most certainly they did. Besides, though they were told "that the business was done, and well done," yet he believed there had been some difficulty in obtaining persons to do the business. Was it not true that embarrasments had arisen, and were likely to arise, from a want of sufficient salary being allowed? The President, he said, was a character not wantonly to lay things before the House; and, when he had suggested what was important, was it not to be supposed that, from his experience, he had found them to be so? Was it not a fair inference that serious inconveniencies had arisen? Was it not matter of notoriety, that offices had been offered and refused, and that valuable officers had given up their situations, on account of the incompetency of salaries? He believed it was.

Nor did Mr. S. agree with his colleague as to what was the public opinion with respect to salaries. In his mind, the prevailing opinion was, that the salaries of officers ought to be competent; such as would command men of abilities throughout the United States.

There might be some difference of opinion betwixt people in one part of the country and those in another, with respect to what was sufficient; but amongst the people in his walk, very opposite sentiments were held to those which the gentleman had given as the prevailing public opinion—they thought the salaries of officers incompetent to their situations.

He hoped, therefore, the House would do what they conceived to be right in the abstract. If there was a propriety in making the salary of the Secretary of War equal to the other Secretaries, and of advancing the Attorney General's, he trusted they would do so. He doubted not they would afterwards provide the means. He hoped, therefore, they should hear no more about embarrassments.

Mr. Gallatin said, when we feel, and have felt for some time, embarrassments with respect to our revenue, it was but just, but right, to bring those embarrassments forward against our increasing expenses; the thing was so evident as not to need an argument to support it. Had they not last session and this session, he asked, statements from the Department of the Treasury, which showed clearly this embarrassment? Did they not know that they had been obliged to sell their shares of the Bank of the United States? That, though that Bank had asked for payment of the debt due to them, they had not been able to pay it? Last year, when they asked for payment of part of the debt, Government opened a new loan upon the most advantageous conditions; they had also offered for sale their shares of the Bank stock, but all had not been sufficient to pay the debt.

If this was not a real embarrassment, if it was not felt by all of them, he did not know what was become of their feelings with respect to public credit. When they knew (what did not depend upon the opinions of any man, who was liable to be mistaken, but from official reports) that the present revenue was not equal to our expenses; that, from not being able to borrow money, they had found it necessary to increase the revenue; when we know the situation of our present revenue, that it depended on a commerce every where

subject to attack and depredation, and that, consequently, it must experience great defalcations; was there not some ground, he asked, for saying their revenue was embarrassed, and for refusing, on that account, to go into an increase of salaries?

Mr. G. said, his colleague seemed to have laid peculiar stress upon his having said that the business of the officers, whose salaries were proposed to be advanced, "had been done, and well done," for their present pay, and that, therefore, there was no occasion to increase them. Mr. G. did not mean to retract anything which he had said; he thought it "had been done, and well done." But, as a different meaning might be put upon this assertion from that which he intended by it, he would just declare in what sense he used the words. He solely applied the remark to the business of office; he meant that all the details of business which fell under these Departments, had "been done, and well done;" and had no allusion to the Ministerial measures of any of those gentlemen. He did not know, upon examination, whether he would approve or disapprove of them; but he had applied his remark merely to the business of office, which he considered "as done, and well done," and that, therefore, there was no need of any increase of salary.

As to what his colleague had asserted respecting "prevailing opinions," he knew not the line of his walk; but when he mentioned the prevailing opinion, he meant the opinion of the great mass of the people out of large cities. He believed that opinion was what he had said it was, and he thought it necessary to pay some respect to it. And when he said, that our revenue depended in a great degree upon public opinion, it was not a wild assertion, but founded on fact He knew if public opinion did not look upon the practice of smuggling as dishonorable, it would not be long prevented. If it were looked upon here as no higher crime than in England, where it was thought very lightly of from the oppressive weight of duties imposed, smuggling would soon become very common in this country; but, at present, infamy was attached to the character of a smuggler, and while public money continued to be properly expended, this sentiment would continue; but no longer would public opinion support Government than while Government respected public opinion.

When he made these observations, he said, he did not mean them to apply particularly to the five hundred dollars proposed to be advanced to these gentlemen, but to increases of salary in general. This was not a moment, Mr. G. said, in which to increase these salaries; for if they increased these, they must increase many others.

One of his colleagues [Mr. Hartley] had said, they had begun at the head, and examined all the offices downwards, in order to discover what alterations were necessary in the salaries of the different officers of Government. He would have begun differently. He would have set out at the lowest officer, and proceeded upward. The reason why he thought this should have been done, was not immediately connected with this report. It was, that the increase of price in the necessaries of life bore harder on the lower than the higher ranks of society. But the present increase, he believed, was to be a permanent one; and, as he had heard nothing to alter his opinion on the subject, he should vote against the measure.

Mr. Isaac Smith said it was from a respect to economy, he should vote for this report. If, by having their salaries too low, none but the wealthy could accept of them, he believed economy would not eventually be promoted by such a practice. Wealth, he said, did not give wisdom. Crœsus was a rich man, but he never heard it said that he was a wise one. He did not look upon the proposed advance as a rising of salaries, but as an equalization of them. Instead of five hundred, he thought the advance should be one thousand dollars; nor would this addition make them equal in value to what they were when granted.

The question being divided, the sense of the Committee was first taken on that part which relates to an advance of five hundred dollars to the Secretary of War, and negatived—47 to 42. It was then taken on making a like allowance to the Attorney General, and carried, there being 48 votes in favor of the amendment.

The next resolution, recommending a continuance of the act for regulating the compensation of clerks, passed last year, was taken up. There appeared to have been a mistake in the report of a date. This act was said to have passed on the 13th, instead of the 30th of May last, on which account the reading of the act was called for. It was read.

Mr. Dearborn said, upon examination, it appeared that the same reasons operated now for keeping the act in force, as operated last year in passing the law, when the business was thoroughly investigated. With an exception of two or three instances, this act, it was thought, would provide sufficient compensation for the several officers and clerks therein mentioned. These exceptions were the Loan Offices of New York, Massachusetts, and Pennsylvania, for whom a provision was made in the next resolution.

Mr. Madison said, if he was not mistaken, the act which had been read not only provided for the increase of salaries of the clerks in the several public offices, but left it to the Heads of Departments to apportion this increase as they thought proper. This, he supposed, was the effect of necessity, and not meant as a permanent principle. He wished, therefore, the allowance should be apportioned by law. This, he said, was conformable to the true spirit of the Constitution. It was proper that these salaries should depend on law, and not upon the will of a superior. He wished, therefore, the allowance should be apportioned by law. This, he said, was conformable to the true spirit of the Constitution. It was proper that these salaries should depend on law, and not upon the will of a superior. He wished, therefore, that that part of the report might be recommitted.

Mr. Williams said, if the law in question was proposed to be a permanent one, the alteration proposed by the gentleman from Virginia would be very proper; but as the law was only passed

for one year, and it was now only proposed to continue it for the year 1797, at the expiration of which he trusted the price of living would be moderated, he did not think it necessary to recommit the report for the purpose mentioned.

Mr. Henderson said, that during the last session, there was a report made to the House, that the number of clerks in certain public offices might be reduced, from one hundred to eighty. By this diminution, he said, there was an immediate addition of 25 per cent. to the remaining clerks. This, he said, was not taken into consideration in the law which had been read. He thought the addition proposed by this law, with that of the 25 per cent. which he had mentioned, would make a very extravagant addition to the salary in question. He thought, therefore, that there was no necessity for a continuance of the law before them. He was of opinion, also, that a further reduction of clerks might be made.

Mr. Dearborn said, he was not acquainted with the circumstance which had been mentioned by the gentleman from New Jersey; and that the only thing which had come before the committee on this subject, was the act in question. If any act existed of the kind which had been alluded to by that gentleman, it did not come before them.

The question for continuing the act was put and carried—42 to 40.

Mr. Henderson moved that the Committee rise, as, before the next resolution, relative to the Loan Officers, came under consideration, he wished the resolution, which he had lately laid on the table, relative to this subject, to be disposed of, in order to obtain the information there contemplated. Mr. H. briefly related the reasons which had urged him to bring forward that resolution.

Mr. Williams said, if it was possible to get any information on the subject, he should not object to the Committee's rising. They might obtain information as to the past, but no one could say what would be the business of future years. The resolution before them proposed to advance the salaries of the Loan Officers of New York, Massachusetts, and Pennsylvania. If the gentleman would cast his eye upon the report of the Secretary of the Treasury, he would see that there had been paid at Boston, last year, three hundred thousand dollars; at New York, about the same sum; and in Philadelphia, about eighty thousand dollars. And, except the system were to be entirely changed, after waiting two or three weeks for information, he did not know that it would afford any satisfaction.

If the proposed addition was made, Mr. W. said it would only amount to six or seven hundred dollars; but if the gentleman thought they had time this session to go into a different arrangement, he would not object to it. He believed an alteration in the system was very desirable, for the Loan Officer of North Carolina was paid a salary of one thousand seven hundred dollars for himself and clerks, and had only received three thousand five hundred dollars, and yet he was praying for an increase of salary!

The Committee rose, and had leave to sit again.

Friday, January 27.

COMPENSATION TO PUBLIC OFFICERS.

The House took up the report of the Committee of the Whole of yesterday, on the report of a select committee on the subject of compensations, and the last paragraph relative to the Loan Offices being under consideration—

Mr. Gallatin said, he was unwilling to agree to an augmentation of the salaries of the Loan Officers in the manner proposed by the report. He found these officers in the State of Massachusetts and New York, had each 1,500 dollars, and it was proposed to add $375 to each. The present salary was equal to the District Judge of New York, and 300 dollars more than the District Judge of Massachusetts. It was true the business was greater in those two States than in any other in the Union, but he thought this ought to be provided for by additional clerks, though there were already five clerks in each of those offices, which called for a sum of 4,000 dollars to each office. He would, therefore, move to strike out what related to the increase of the salary of the Loan Officers, and confine the allowance to the clerks only.

Mr. S. Smith had no objection to the proposed amendment, or to vote against the whole clause; for, if they declined to compensate offices of the first trust, he did not see any reason for adding to the compensation of the offices in question, particularly as he perceived one cent was already paid upon all the money received. He had observed, that men who were the most expert with their pen before they got into office, when they were placed there, laid it aside. He could not see how five clerks could be employed in those offices.

Mr. Swanwick was of opinion that this business was capable of considerable reformation. He thought there was very considerable embarrassment in this department, which might be dispensed with. He did not see why this business in Philadelphia might not be transferred to the office of the Treasury Department. But as it would not be proper to make a proposition of this kind at present, he should satisfy himself with voting against the amendment.

Mr. Sewall said, gentlemen were mistaken when they spoke of the business of the Loan Offices (particularly of Massachusetts) as not having much to do. He believed the Loan Officer and Clerks at Boston were fully employed every day, and sometimes on Sunday, so numerous and minute were their entries. The present motion, he believed, was in conformity to the proceedings of yesterday, but he thought the salaries in question ought to be advanced. The proposed addition was not, as he understood, on account of additional business, but upon the same principle which had influenced advances in other cases, viz: a decrease in the value of money.

Mr. S. Smith said, that if it had been on the ground of a depreciation of money, that these salaries were proposed to be advanced, it would have applied to every officer in the Union equally with the Loan Officers proposed to be raised. He

therefore moved to strike out the whole of the paragraph.

Mr. Varnum seconded the motion.

Mr. Ames said the gentleman from Maryland [Mr. S. Smith] had suggested that persons who were very active with their pen before they came into office, when they found themselves fixed there, were apt to put the whole of their business into the hands of clerks. The suggestion might have weight; and, therefore, he should take the liberty of saying, the remark did not apply as it respected the officer of Massachusetts. [Mr. S. Smith said he did not allude to any particular officer.] Mr. Ames said he knew he did not; but his observations might be supposed to be applicable to the officer of Massachusetts. If, indeed, the remark was applicable, it might afford good reason for withholding the proposed advance; but the Loan Officer of Massachusetts was a man of great industry and application, and the business of his office required the unremitted attention of himself and clerks.

As to the State officers, he would not say whether they had, or had not, sufficient salaries; nor did he believe they always attended to the rewards given to State officers as a scale upon which to reward the officers of the United States. They had set out upon a scale of their own at the commencement of the Government; but what was an adequate salary then, was not so now; and the business of the Loan Offices was so far from being diminished, it was continually increasing. In Massachusetts in particular, since the assumption of the State, of debts, the business was vastly augmented. He was informed that there were upwards of two thousand accounts open in that office. Of course the adjustment of interest upon all these accounts, would require great accuracy and labor.

Observations, Mr. A. said, which went to keep down the salaries of office, he knew were popular among certain descriptions of people; but he did not think this squeezing of public officers was prudent, just, or honorable. He did not think the least possible sum for which an office could be executed was the wiset or best to be adopted. The true rule was, that such a sum should be paid for service as was sufficient to command men of talents to perform it. Anything below this was parsimonious and unwise.

Mr. Swanwick said, many of the difficulties which they experienced from the applications of their officers for advances of salary, arose from the source of indirect taxation. For instance, if you lay an additional duty on sugar, your officers will have to pay a portion of that duty out of their salary; so, likewise, if a duty was laid upon any other article which they were in the habit of consuming. Every tax on articles of consumption necessarily increased the price of living, and the United States must pay their officers accordingly.

Mr. S. said, they were apt to deceive themselves, when they charged the high price of every article of subsistence to the depreciation of money; it was chargeable, principally, to indirect taxation. Laborers who had to pay indirect taxes upon almost everything which they consumed, were obliged to charge these taxes upon their labor; the farmer had, therefore, to pay higher wages, and he in return, charged his produce accordingly. He thought, therefore, we should find economy consulted, in resorting to a different plan of taxation.

Mr. S. saw no particular occasion for advancing the salaries of the Loan Officers, while other officers remained at their former rate. It was true, that the salaries of our officers slid imperceptibly from under their feet; for though a salary was a just compensation when granted, they were continually taking from it by taxes, since every additional tax was a deduction from the salary of every officer of the United States, and they had a just demand against Government, at least, for the amount of taxes paid in this direct way upon almost everything they purchased. He should, however, be against granting any partial relief. Indeed, he was of opinion, this business of Loans might be done upon a much more economical plan. He thought the business might very well be done at the branch banks.

Mr. Nicholas said, he frequently heard that a depreciation of money was the cause of the salaries of their officers proving incompetent; this, he allowed, might have some weight, but not all that was given to it. It was notorious, at the time these salaries were fixed, Government was attempting a dazzling splendor of office; but he trusted better principles were now gaining ground; he trusted they should have more satisfaction in paying their debts than in wasting the public money in splendid salaries, and by that means giving a fictitious splendor to office, which was unfit for a Government like ours. He should not say that a depreciation of money might not have had some effect, but attention should also be paid to the change in opinion which he had mentioned.

The present salaries were not perhaps sufficiently high; yet, in our present situation, when our commerce lay prostrate, and when we knew not whether greater difficulties might not ensue, it was not a time to think of advancing salaries. Public officers must submit to bear a share of the evils in common with others. The time was coming, and, he thought, would soon arrive, when money would be as valuable as ever. He, therefore, would not consent to the proposed advance.

Mr. Rutherford said, he concurred with the gentleman from Massachusetts [Mr. Ames] that an ill-timed parsimony was not to be defended; but he said there was as great a difference between economy and parsimony as between luxury and economy, and it was the great duty of this democratic Republic, to conduct itself with economy, decency, and simplicity of manners, and to part with everything loose and fantastical. He would refer to the gentleman's own feelings—for he acknowledged he was a man of feeling—and ask whether there were not twenty characters in Massachusetts in every way equal to the filling of their Loan Office, who would be ready to offer themselves for the office at the present salary, if

it were vacant? Money was a precious article; the people viewed their money with a great deal of respect, and parted with it with great regret; and it was this people, and not a Commissioner of Loans, who were to support this Government, and it was their feelings which ought to be consulted.

Mr. Gallatin said his motion was to strike out what related to the Loan Officers, and to confine the proposed advance to the clerks only; but the motion of the gentleman from Maryland went to strike out the whole paragraph. He wished the committee would give them the information which they had on the subject. If there was a want of clerks in the offices mentioned, he would vote against the present motion; but if there was no need of any addition, he would vote for it.

Mr. Dearborn did not know that he could give satisfactory information on the subject, though the committee took every means in their power to obtain it. It appeared to him that the business of the two offices of New York and Massachusetts had become so burdensome that it was next to impossible, without laboring day and night, and on Sundays, to do the business; and the complaints of the clerks were so general that the committee were induced to believe it was necessary to give them additional compensation. As he passed through Boston, he saw one of the clerks of that Loan Office, who assured him that it was impossible to live upon the salary which he received, and that he was constantly obliged to his friends for assistance. Mr. D. said, he was no friend to exorbitant salaries, but he did not think it right that they should pinch persons in their employment so much as to oblige them to trouble their friends to make up a maintenance for themselves and families.

Mr. D. said, it was the opinion of the House last session that the salaries of certain officers of Government should be advanced; a bill passed that House for that purpose, but, from the lateness of the session, or some other cause, it did not pass the Senate. If it was necessary then to make the increase, the necessity did not exist less at present. The Committee of the Whole, it was true, had decided against augmenting certain other salaries, but he considered this as a subject which would come again before the House; and he thought they must either agree to the present proposition for advancing the Loan Officers and their clerks, or acknowledge they did wrong last session.

Mr. S. Smith said, the observations of the gentleman from Massachusetts went to show the propriety of an increase of the salaries of all other officers, as well as those in question. He was against singling out particular officers for an advance; if the whole were advanced together, he should not object to it. As to the $120 proposed for the Loan Office of Pennsylvania, he thought the office itself might be dispensed with, and the business be as well done at the Treasury Office. The only reason given for the advance was, the depreciation of money, and that consideration would apply equally to all the officers of the Government. He should, therefore, be opposed to granting the allowance to the officers in question.

Mr. Ames said, from the turn which the debate had taken, the object became of greater importance than the mere advance of the salary of the officers in question. It became of importance to determine upon what principle the officers of Government should be paid.

He did not intend to investigate the motives of gentlemen who were so desirous of keeping down the salaries of the officers of Government; he could not suppose they acted from unworthy principles. It was a well-known fact, that in all popular assemblies, the disposition to withhold grants of money was notorious. Perhaps it was proper; it was doubtless a fence against wasteful expenditure, nor did he wish to break it down; but when the gentleman from Virginia called upon them to attend to the feelings of the people, he thought it was necessary to remind the Committee that they ought also to attend to the interests of the people, and he believed it was for the common interest of the people that persons selected for office should be fit and proper to fill their respective offices. And it was a fact, that from the dispersedness of the population of the country, and from other circumstances, there was great difficulty in finding suitable persons to fill the offices of Government. In other countries, Mr. A. said, where their Governments had been of long standing, persons were trained up with a view to public employments; but in this country this had not been the case, and, therefore, the President found the circle from which to select proper characters for office was very confined. It was, therefore, the more necessary that such an allowance should be made to officers of Government as should induce fit persons to accept of them; such as (to use a vulgar but strong expression) would *command the market*. Five hundred dollars, more or less, was nothing when compared with fitness for office. He said he had already laid it down as a principle, that the rate of salary should be such as to command men of talents and of character, for these the interest of the country required.

Mr. A. said, he knew the feelings of the people were soon roused when money was the object; but he was surprised the gentleman from Virginia should have attributed to gentlemen from the Eastward a desire to introduce a splendor of office into the Government. This spirit, he thought, was full as likely to come from the Southward as from the Eastward. He thought they were as economical and as just in the Eastern as in the Southern States; and he thought the remark could have been made with as little sincerity as propriety.

Had it been understood, was it believed, said Mr. A., that a splendor of office had been introduced into our Government? How did facts corroborate the assertion? Had their officers even stood upon an equality with others in the line of life in which they moved? Had any officer of theirs been able to lay up an estate for his family? Or were they not rather obliged to walk on foot, while those with whom they associated rode in their coaches? They were even, comparatively speaking, without a dollar, whilst gentlemen, living upon their professions, were rich. On this account, he said, there had always been an unwillingness to accept of offices of Government by persons best calculated to fill them. These were facts, and he spoke them with audible voice; yet it was wonderful that, at a moment when their officers might be said to be in want, they were reproached with living in luxury and extravagance.

Having disposed of this subject, and given the observations upon it all the credit they deserved, he would inquire why they should expect gentlemen to undertake the offices of Government which would not allow them to live in an equally comfortable manner to that in which they had been accustomed to live? He despised the idea of endeavoring to make the people believe that their public officers lived in splendor, and on that account to hold them up to the hatred of our citizens; but could it be supposed that a person who undertook a public office should descend from that style or living to which he had been used, because some gentlemen chose to call it splendid? Or, was there any reason that such a man should immediately begin to eat brown bread, though heretofore he had always eaten white?

Another suggestion had been made, that the present high price of living had been increased, and depended upon the duties on imposts, and therefore it was an evil arising from indirect taxation. Though there might be some ground for this observation, it by no means went to the extent to which it had been pushed. He would ask, for instance, whether the broadcloth upon which a coat was made cost materially more now than before the impost of 15 or 16 per cent. was laid upon it? He believed not; but every one knew that the produce of the farmer was double in price to what it was when these salaries were fixed, and they ought, therefore, to be advanced in proportion. And were the people unprepared for an advance in the salaries of the officers of Government? He believed not. He believed most of the States, on account of the increased price of living, had increased the pay of their officers. Why, then, said he, should the officers of the United States be unattended to? And were they to suppose that the advance now proposed would be a thing improper for the House to agree to, when they had last session judged a like advance a proper one? As to the observation of the gentleman from Maryland, [Mr. Smith,] that he did not wish to raise one officer and not another, he should take a different course from that which that gentleman proposed to adopt. He would vote for an advance of those which came before him, and do the same to others when he should have an opportunity.

Mr. Williams hoped the proposed advance would take place, as these two Loan Offices did three-fourths of the business of all the Loan Offices in the Union.

Mr. Hartley said, however willing he might be to strike out what related to an additional allowance to Loan Officers, he should be against striking out what related to the clerks. There was great difficulty, he believed, to retain clerks. Bankers and merchants giving larger salaries, they were naturally drawn from these offices. He did not wish to give large salaries, but he wished to make them reasonable and competent.

Mr. Rutherford said, he should not follow the gentleman from Massachusetts [Mr. Ames] through his field of declamation. But he seemed to have set him up in very disagreeable colors to the people, to this great Confederation, and it was necessary he should say a few words in reply. He said he revered the people; he never found reason to do otherwise. He was for keeping things in their due simplicity, and by no means to add to salaries. He could not think of giving the honey from the hive, the marrow from the bones of the people. He was for holding tight the purse-strings of six or seven millions of respectable people; he could not think of lavishing the precious article of money, however his caution might displease the gentleman from Massachusetts.

Mr. Nicholas said, he should be sorry to dispute the point with his colleague for the honor of being noticed by the gentleman from Massachusetts; but he believed there could be but little doubt that the gentleman had pointed the chief of his observations at him.

It was no unusual thing, Mr. N. said, for that gentleman to make the fact, from which he chose to draw his conclusions. And he was astonished to hear that the oratorical powers for which that gentleman was famed, should have been employed upon a basis not true. For he neither had said that the Eastern States had fixed the salaries of Government with a view to splendor, nor that their officers were rioting in wealth, in order to insult their poverty. With respect to the original establishment of salaries, he did not know that there had been a struggle in the business. If the gentleman had a consciousness of the fact, he knew nothing of it. With respect to the present salaries, he had not said they were too high, but he had doubted their being sufficient. He said, indeed, that when the offices were established, they were established with too great a view to splendor; but, that from the change which had taken place in the value of money, instead of riding in coaches, their officers had learnt to be satisfied without them. This difference (as he had before observed) was not, he believed, more owing to the change which had taken place in the value of money than to a change of public opinion in favor of that plainness of manners which was so well suited to the Republican character.

Mr. N. asked, where they were to get the money now wanted, viz: an annual sum of $1,400,000? He knew pretty well the taxation which the people of this country would be inclined to bear, and he knew that the raising of that sum would be very sensibly felt. Did gentlemen rely, he asked, upon the small majority of ten votes, on the passing of a system of direct taxation? He believed there was great danger, when the bill came in, that the manner of collecting the tax could not be made agreeable to at least that number of members who voted for a bill to be brought in. Had not the gentleman from Massachusetts

resisted taxation? He had; and though the opposers of the system of direct taxes had been frequently called upon to produce their substitutes for a direct tax, no substitute had been brought forward, except that produced by the gentleman from South Carolina; and he believed the Secretary of the Treasury had given it as his opinion that a very small sum only could be raised from a further extension of indirect taxes, if prudence did not forbid the attempt. As he wished, therefore, for expenses to follow, and not precede the funds which were to pay them, he should be opposed to all increase of expense which could be avoided.

Mr. N. said, he was not sensible of the difference which existed between the country which the gentleman from Massachusetts came from and his own. He defied that gentleman to show any part of the country in which greater economy was practised, or where the revenue and expenditure were better attended to. It was so much so, that the debt, which had given the gentleman ground to make his antiquated charge, had been extinguished. No part of the United States paid more respect to its engagements, nor had better ability to pay their debts. He did not, therefore, feel the gentleman's insinuation, though he had condescended to answer it. He denied the truth of it.

Mr. Swanwick said, he should not have risen again on this subject, had he not wished to have made a single remark on what had fallen from the gentleman from Massachusetts [Mr. Ames] on the subject of indirect taxes. That gentleman had said, suppose broadcloth paid 15 or 16 per cent. impost, would it materially affect the price of a coat? If it did not, Mr. S. said, there must be something very wrong in the commercial system; for certainly a duty of 15 or 16 per cent., with the profits upon it, would not make a difference of much less than 25 per cent. The gentleman seemed to think that indirect taxes had not much effect upon salaries, but that the price of living was what principally called for an advance of salaries. But if he had traced indirect taxation to its source, he would have found that it operated more than he was aware of upon every necessary of life. The house in which we live, said Mr. S., is an object of labor, and the person who built it did not fail to charge the taxes which he paid, upon his labor, and the owner of the house would of course be obliged to lay a rent accordingly. So with respect to the produce from the country. The farmer pays 25 per cent. more than he used to do for every article he purchases and for his labor, and he must therefore increase the price of his produce. Whilst the farmer finds a ready market for his articles, he does not feel this; but whenever markets fall, (and he did not think they would always remain so high as at present,) then the farmer will feel the evil of indirect taxes. He thought it necessary to make this remark upon the sentiment to which he had alluded.

Mr. Dayton said, that the question before them seemed to him to be a fitter subject for cool, dispassionate calculation, than for animated declamation, which rather unfitted than prepared the mind for a right decision. The arguments of those gentlemen who advocated the increase of salaries of the two Loan Officers in question, were of two kinds, viz: the greatly enhanced price of every article of consumption, and the increased duties in the offices respectively. As to the former, if it was to have any influence, it should operate more generally, and, instead of producing this partial provision, should lead to an augmentation of the compensations of all the Commissioners of Loans whose salaries were determined at the same time. In respect to the other reason which had been assigned, viz: the accumulation of duties, he viewed it as rather calling upon Congress to adjust the whole scale of compensations anew, than to take up the subject in the partial manner that it appeared before them. If it were true that the duties in some offices were increased, it would certainly follow that those of other offices were diminished in like proportion; and if, as some of the advocates for the proposed augmentation argued, the sum of labor, duty, and risk were to be the measure of compensation, then the salaries must be diminished in the one case, while they were augmented in the other. More than half of the interest of the Public Debt was paid at the Treasury of the United States, and it was well known that the general current transfers, instead of setting from the Treasury to the different Loan Offices and thus adding to their business, had taken an opposite direction, and thus considerably lessened it. He would not be understood to say, that the salaries were in every instance adequate, but, on the contrary, he believed that they were in some cases too low, and in others (particularly where perquisites were annexed) that they were exorbitantly high, and of course that a strict examination should be had, and a new scale adjusted, which would render compensations more adequate and equal, without any additional expense to the public. Whilst he was upon the floor, Mr. D. said that he should take the liberty of correcting the error into which several gentlemen had fallen, who had adduced the sums paid at each office, as the evidence of the relative quantum of business and of risk. The payment of ten cents was, he said, as troublesome, and required as many receipts and as much writing as ten dollars, and therefore not the sums paid, but the number of payments, would afford the only just criterion for ascertaining the relative extent of business. As to the risk of cash-keeping, to which it was said they who paid most were most subjected, it would be remembered, that the Loan Officers residing in the great cities were entirely freed from it by the agency of the banks, which were always for them sure places of deposite, and the cashiers were their paymasters. They therefore, who were thus situated, incurred less risk and trouble in the payment of two hundred thousand dollars, than other Loan Officers who resided in country towns not possessing the same advantages, incurred by the charge of safe-keeping and payment of twenty thousand dollars. In short, every argument which had been used, tended, in his opinion, to prove the impolicy and

inequality which would be the inevitable consequence of the adoption of this part of the report, which he hoped would not be agreed to.

The question for striking out the clause was put and carried, 61 being in favor of it.

The Committee rose and reported the amendments, when the House took them up. The first being under consideration,

Mr. W. Lyman moved to strike out the whole clause. He should not repeat his reasons for this motion, as he had before stated his objections to this clause to the Committee. He would mention one observation which had not been noticed by any one, which was, that the Attorney General was not precluded from any other business, which was not the case with the other officers of Government. So far from the appointment being an injury to him as a professional man, he believed it was the greatest recommendation which he could have, particularly to strangers who would conclude they might safely trust one whom Government had thus distinguished. He thought, therefore, that there was no argument in favor of advancing his salary which would not equally apply to every other officer of Government. This was an unfortunate time to propose an advance of salaries, when the revenues were so much embarrassed; but if this was not the case, he believed things would soon run to their former situation, and the rate of living become as reasonable as heretofore.

Mr. Nicholas said, he had no connexion with this gentleman which would induce him to wish for an advance of his salary, if he were not convinced it was just and reasonable. He knew, from certain information, that when the receipts of his private business were added to his salary, they did not make his income equal to the other Heads of Departments.

Mr. Murray said, the remarks of the gentleman from Massachusetts had truly thrown great light upon the subject. It had been made, he believed, fifty times; it was neither any thing new or striking. The experience of two gentlemen, who had filled the office of Attorney General, Mr. M. said, was a very important one; the Attorney General had not only to decide upon questions put to him by the President of the United States, but also by Congress. The report which he made last session, a copy of which had been called for this session, was alone worth one-half of his salary to any bookseller; yet this was extra business, and they were frequently calling upon him for reports.

The Attorney General, he said, ought not only to have an increase of salary, but also an office, and a clerk, if not a door-keeper; for he was obliged to keep a servant to return answers to messages sent to him. He hoped the motion would not prevail. They were not to expect petitions from these officers for advances to their salaries; such a thing might, perhaps, be gratifying to some gentlemen, but, he thought, it would not be very honorable to the Government.

Mr. S. Smith thought his colleague had not sufficiently attended to the arguments of the gentleman from Massachusetts. He had said he might do other business; by which he supposed he meant he might keep a shop, or turn broker!

Mr. Sitgreaves called for the yeas and nays on the question to strike out the following words, viz: "That, in the opinion of the Committee, the compensations allowed by law to the Secretary of War and the Attorney General ought to be augmented, by an additional compensation of five hundred dollars per annum, to each of the said officers; and to commence on the first day of January, one thousand seven hundred and ninety-seven:" it passed in the negative—yeas 39, nays 49, as follows:

Yeas.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, George Hancock, John Hathron, Jonathan N. Havens, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Anthony New, Alexander D. Orr, Josiah Parker, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, William Strudwick, John Swanwick, Mark Thompson, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Gabriel Christie, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, Abiel Foster, Dwight Foster, Nathaniel Freeman, junior, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Carter B. Harrison, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, John Page, John Patton, Elisha R. Potter, John Reed, John Richards, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, junior, Zephaniah Swift, George Thatcher, Richard Thomas, John E. Van Allen, Peleg Wadsworth, and John Williams.

And then the question being taken, that the House do agree with the Committee of the Whole House in their amendment, to the said first clause, for striking out the words "Secretary of War and:" it was resolved in the affirmative—yeas 51, nays 39, as follows:

Yeas.—Thodorus Bailey, Abraham Baldwin, Thomas Blount, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, William Findley, Jesse Franklin, Nathaniel Freeman, junior, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B Grove, Wade Hampton, George Hancock, Carter B Harrison, John Hathorn, Jonathan N. Havens, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Mackay, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, Alexander D. Orr, Josiah Parker, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Israel Smith, William Strudwick, John Swanwick, George Thatcher, Richard Thomas, Mark Thomp-

son, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, Gabriel Christie, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, William Vans Murray, John Nicholas, John Page, John Patton, Elisha R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, junior, Zephaniah Swift, John E. Van Allen, Peleg Wadsworth, and John Williams.

The next amendment reported by the Committee of the Whole House, for striking out the second clause of the said report, in the words following, to wit:

"That, in the opinion of the Committee, an addition of salary, for the year one thousand seven hundred and ninety-seven, ought to be allowed to each of the following officers, viz: The Secretary of State, the Secretary of the Treasury, the Secretary of the Department of War, the Attorney General, the Postmaster General, the Treasurer, the Comptroller of the Treasury, the Commissioner of the Revenue, the Auditor, the Register, the Assistant Postmaster General, and the Keeper of Military Stores; and that such addition of salary ought to be at the rate of twenty-five cent. on the amount of the present compensation allowed by law, to each of the said officers, respectively,"

being about to be put—

Mr. Murray said, though he wished not implicit confidence to be placed in the opinion of the President, yet he thought his having recommended this subject to their consideration ought to have some weight. No gentleman, he believed, would say that three thousand five hundred dollars was too high a salary for Heads of Departments in 1789, when they were settled. The Secretary of War, indeed, had only three thousand dollars. He believed if gentlemen compared the value of money now to the value of it then, it would be found that a sum would not purchase more than one-half now of what it would then have purchased. It was a dull thing, from having been so often repeated, to say that every necessary of life was advanced from fifty per cent. to one hundred per cent., and house rent in the same ratio: so that, in fact, a salary of three thousand five hundred dollars now, is only half what it was when it was fixed. And gentlemen from distant parts of the country, who think three thousand five hundred dollars a handsome sum for an annual income with them, when they recollect the price of living in Philadelphia, will at once see its inadequacy for a decent living for the officers of the Heads of Departments of our Government.

The consequence of this lowness of salary, is, Mr. M. said, either the officers leave their situations, or encroach upon their private fortunes. This was discouraging to the pride of character. You, by this means, put men in a dangerous situation. You do more, you set a precedent for a future Congress. At present, you have men of honor; but, by this means, you may retrograde from the character of office; you may drive first one corps of gentlemen from office and then another, until you force the President into the situation of filling the public offices with such persons as shall be willing to accept them, and not with such as shall be most fit to fill them. And what, said Mr. M., would you get in exchange for men of real pride of character? You would get men who would re-echo the sentiment which was frequently seen in the papers, and which was sometimes heard in that House, that there was a Republican mode of life! that it became a Republican Government, that their public officers should live with great economy, and with great austerity of life. You would meet with men also who would re-echo this sentiment, and who would live in the greatest style of simplicity; but you would mostly find lurking under this character designs of the basest kind; and, as a reward for this kind of penance, they would probably take care of themselves. He believed this would be the result; hypocrites would take the place of men of talents, and the public officers of Government would become contemptible. The President of the United States would, of course, be chosen from amongst the highest characters in the nation, because chosen by the people at large, and because the salary is not contemptible; but the Executive would become low in estimation; and by degrees, such a conduct would go near to oversetting the Government itself. Mr. M. therefore cautioned the House against a refusal to advance the salaries before them.

The question was then put and agreed to—yeas 57, nays 32, as follows:

Yeas.—Theodorus Baily, Abraham Baldwin, Thomas Blount, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Samuel W. Dana, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, John Patton, Elisha R. Potter, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Israel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, George Thatcher, Richard Thomas, Mark Thompson, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, Joshua Coit, William Cooper, William Craik, Henry Dearborn, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Page, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Isaac Smith, Samuel Smith, William Smith, Zephaniah Swift, John A. Van Allen, Peleg Wadsworth, and John Williams.

The last amendment, reported by the Committee of the Whole House, for striking out the last clause of the said report, in the words following, to wit:

"That, in the opinion of the Committee, an additional compensation ought to be made for the year one thousand seven hundred and ninety-seven, to each of the Loan Officers of the States of Massachusetts and New York; and that each of the said officers ought to be allowed the further sum of three hundred and seventy-five dollars, for the present year; and, likewise, three hundred dollars, to be distributed, at their discretion, among the clerks in their respective offices, in addition to the compensations heretofore allowed by law, to the said clerks; and that the sum of one hundred and twenty dollars, ought to be allowed to the Loan Officer of the State of Pennsylvania, to be in like manner distributed among the clerks in his office, for the present year"—

was, on the question put thereupon, agreed to by the House—yeas 60, nays 27, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, Samuel W. Dana, George Dent, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, John Reed, John Richards, Robert Rutherford, Jeremiah Smith, Israel Smith, Isaac Smith, Samuel Smith, Richard Sprigg, jun., William Strudwick, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, William Craik, Denry Dearborn, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Page, John Patton, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, William Smith, John E. Van Allen, Peleg Wadsworth, and John Williams.

And then, the main question being taken that the House do agree with the Committee of the Whole in the said report, amended to read as follows:

"That, in the opinion of the Committee, the compensation allowed by law to the Attorney General, ought to be augmented, by an additional compensation of five hundred dollars per annum, and to commence on the first day of January, one thousand seven hundred and ninety-seven."

"That, in the opinion of the Committee, the act entitled 'An act to regulate the compensation of clerks,' passed the thirtieth of May, one thousand seven hundred and ninety-six, ought to be continued during the year one thousand seven hundred and ninety-seven, and no longer."

On a division of the House, it was resolved in the affirmative—ayes 45, noes 34.

Ordered, That a bill or bills be brought in, pursuant to the said report, as amended, and that Mr. Dearborn, Mr. Page, and Mr. Davenport, do prepare and bring in the same.

APPROPRIATIONS FOR 1797.

The House then resolved itself into a Committee of the Whole, on the subject of appropriations for the year 1797, when the article which relates to the contingent expenses of the two branches of the Legislature, amounting to twelve thousand dollars, being read,

Mr. Baldwin said, he had often before made the remark, (and he thought it not unseasonable now to repeat it,) that the House was too apt to be merely formal and superficial in passing on the general estimate for the year. He was sorry to observe that this item had within this year or two been considerably increased; he believed the price of wood, stationery, and other articles purchased for the session, was now much the same as in 1795, though the Printer's bills might be higher, yet, as the session would be but three months, he thought the sum allowed for 1795 would be sufficient. He had always thought this charge for the contingencies of the two Houses, one of the strongest instances of that kind of loose economy which it has been complained, and perhaps with too much justice, pervades all the operations of the Federal Government—we have often been reminded that, to make an expedition into the woods to an Indian town, or to build a frigate, or to coin one hundred tons of copper, costs us a great deal more than it ever did any other Government in this country. If this is a strong instance of that style of economy, let us begin the reformation with ourselves, and not be so prodigal this year in our contingent expense; our circumstances calls on us for greater attention to economy. He was sensible the place for correcting these evils was ordinarily on passing the law authorizing the expense, and not on the appropriation for the payment of it; but this item, and many others, depended on no law—changing the sum in the estimate will control the expense. If any one will take the trouble of looking over the vouchers on which these accounts have been settled for past years, he will see that there is room for more economy. One branch of the Legislature consists of about thirty members—four thousand dollars is a great sum for the purchase of their wood, quills, and paper, and for furnishing them with copies of business under consideration. Is it possible that twelve thousand dollars can be necessary for the two Houses? The whole yearly expenses of some of the State Governments do not amount to a much greater sum—he hoped this would be struck out, and the sum which was allowed for 1795, and some preceding years, be inserted.

Mr. Smith presumed the estimate was founded upon information received from the Secretary of the Senate and the Clerk of that House. He did not conceive it would make any difference in the expenditure, whether a larger or smaller sum be appropriated; as he did not suppose the Senate or that House would print the less because a less sum was appropriated. The gentleman, he said, might,

by his speech, give an idea to the public, that this would be a saving of so much money; but it would, in reality, make no difference.

After a few observations from other members, the question was put and negatived—37 to 30.

The Committee then rose, and had leave to sit again. And the House adjourned till Monday.

Monday, January 30.

George Leonard, from Massachusetts, appeared and took his seat.

Mr. S. Smith, from the committee appointed to bring in a bill to alter and amend the act for ascertaining and fixing the Military Establishment, reported a bill, which was twice read, and ordered to be committed to a Committee of the Whole on Wednesday next.

A report was made by Mr. Nicholas and read from the committee appointed to inquire into the progress made in the sale of lands Northwest of the river Ohio and above the mouth of Kentucky river. The report was twice read, and referred to a Committee of the Whole.

Mr. Swanwick moved, that the Committee of the Whole should be discharged from the further consideration of the bill relative to certain officers, collectors of duties and tonnage, as to additional compensation. This was, that it might be referred back to the Committee of Commerce and Manufactures. This was done accordingly.

Mr. Swanwick, from the Committee of Commerce and Manufactures, made a report on the memorial of Richard D'Cantillon and Daniel Lefferts, owners of a ship which had been sold under execution, through the want of a register, which had been lost, and a new one could not be obtained, without delivering the old one up; on account of this, they reported the following resolution:

"*Resolved*, That provision be made by law for granting certificates of registry, enrollment, and licenses, without surrendry of the old ones, in certain cases on sales, by proof of law, of any ship or vessel."

Ordered, That a bill or bills be brought in accordingly by the Committee of Commerce and Manufactures.

MANUMITTED SLAVES.

Mr. Swanwick presented the following petition:

To the President, Senate, and House of Representatives.

The Petition and Representation of the under-named Freemen, respectfully showeth:—

That, being of African descent, late inhabitants and natives of North Carolina, to you only, under God, can we apply with any hope of effect, for redress of our grievances, having been compelled to leave the State wherein we had a right of residence, as freemen liberated under the hand and seal of humane and conscientious masters, the validity of which act of justice, in restoring us to our native right of freedom, was confirmed by judgment of the Superior Court of North Carolina, wherein it was brought to trial; yet, not long after this decision, a law of that State was enacted, under which men of cruel disposition, and void of just principle, received countenance and authority in violently seizing, imprisoning, and selling into slavery, such as had been so emancipated; whereby we were reduced to the necessity of separating from some of our nearest and most tender connexions, and of seeking refuge in such parts of the Union where more regard is paid to the public declaration in favor of liberty and the common right of men, several hundreds, under our circumstances, having, in consequence of the said law, been hunted day and night, like beasts of the forest, by armed men with dogs, and made a prey of as free and lawful plunder. Among others thus exposed, I, Jupiter Nicholson, of Perquimans county, North Carolina, after being set free by my master, Thomas Nicholson, and having been about two years employed as a seaman in the service of Zachary Nickson, on coming on shore, was pursued by men with dog and arms; but was favored to escape by night to Virginia, with my wife, who was manumitted by Gabriel Cosand, where I resided about four years in the town of Portsmouth, chiefly employed in sawing boards and scantling; from thence I removed with my wife to Philadelphia, where I have been employed, at times, by water, working along shore, or sawing wood. I left behind me a father and mother, who were manumitted by Thomas Nicholson and Zachary Dickson; they have been since taken up, with a beloved brother, and sold into cruel bondage.

I, Jacob Nicholson, also of North Carolina, being set free by my master, Joseph Nicholson, but continuing to live with him till, being pursued day and night, I was obliged to leave my abode, sleep in the woods, and stacks in the fields, &c., to escape the hands of violent men who, induced by the profit afforded them by law, followed this course as a business; at length, by night, I made my escape, leaving a mother, one child, and two brothers, to see whom I dare not return.

I, Job Albert, manumitted by Benjamin Albertson, who was my careful guardian to protect me from being afterwards taken and sold, providing me with a house to accommodate me and my wife, who was liberated by William Robertson; but we were night and day hunted by men armed with guns, swords, and pistols, accompanied with mastiff dogs; from whose violence, being one night apprehensive of immediate danger, I left my dwelling, locked and barred, and fastened with a chain, being at some distance from it, while my wife was by my kind master locked up under his roof. I heard them break into my house, where, not finding their prey, they got but a small booty, a handkerchief of about a dollar value, and some provisions; but, not long after, I was discovered and seized by Alexander Stafford, William Stafford, and Thomas Creesy, who were armed with guns and clubs. After binding me with my hands behind me, and a rope round my arms and body, they took me about four miles to Hartford prison, where I lay four weeks, suffering much for want of provision; from thence, with the assistance of a fellow-prisoner, (a white man,) I made my escape, and for three dollars was conveyed, with my wife, by a humane person, in a covered wagon by night, to Virginia, where, in the neighborhood of Portsmouth, I continued unmolested about four years, being chiefly engaged in sawing boards and plank. On being advised to move Northward, I came with my wife to Philadelphia, where I have labored for a livelihood upwards of two years, in Summer mostly, along shore in vessels and stores, and sawing wood in the Winter. My mother was set free by Phineas Nickson, my sister by John Treeblood, and

both taken up and sold into slavery, myself deprived of the consolation of seeing them, without being exposed to the like grievous oppression.

I, Thomas Pritchet, was set free by my master Thomas Pritchet, who furnished me with land to raise provisions for my use, where I built myself a house, cleared a sufficient spot of woodland to produce ten bushels of corn; the second year about fifteen, and the third, had as much planted as I suppose would have produced thirty bushels; this I was obliged to leave about one month before it was fit for gathering, being threatened by Holland Lockwood, who married my said master's widow, that if I would not come and serve him, he would apprehend me, and send me to the West Indies; Enoch Ralph also threatening to send me to jail, and sell me for the good of the country: being thus in jeopardy, I left my little farm, with my small stock and utensils, and my corn standing, and escaped by night into Virginia, where shipping myself for Boston, I was, through stress of weather landed in New York, where I served as a waiter for seventeen months; but my mind being distressed on account of the situation of my wife and children, I returned to Norfolk in Virginia, with a hope of at least seeing them, if I could not obtain their freedom; but finding I was advertised in the newspaper, twenty dollars the reward for apprehending me, my dangerous situation obliged me to leave Virginia, disappointed of seeing my wife and children, coming to Philadelphia, where I resided in the employment of a waiter upward of two years.

In addition to the hardship of our own case, as above set forth, we believe ourselves warranted, on the present occasion, in offering to your consideration the singular case of a fellow-black now confined in the jail of this city, under sanction of the act of General Government, called the Fugitive Law, as it appears to us a flagrant proof how far human beings, merely on account of color and complexion, are, through prevailing prejudice, outlawed and excluded from common justice and common humanity, by the operation of such partial laws in support of habits and customs cruelly oppressive. This man, having been many years past manumitted by his master in North Carolina, was under the authority of the aforementioned law of that State, sold again into slavery, and, after having served his purchaser upwards of six years, made his escape to Philadelphia, where he has resided eleven years, having a wife and our children; and, by an agent of the Carolina claimer, has been lately apprehended and committed to prison, his said claimer, soon after the man's escaping from him, having advertised him, offering a reward of ten silver dollars to any person that would bring him back, or five times that sum to any person that would make due proof of his being killed, and no questions asked by whom.

We beseech your impartial attention to our hard condition, not only with respect to our personal sufferings, as freemen, but as a class of that people who, distinguished by color, are therefore with a degrading partiality, considered by many, even of those in eminent stations, as unentitled to that public justice and protection which is the great object of Government. We indulge not a hope, or presume to ask for the interposition of your honorable body, beyond the extent of your Constitutional power or influence, yet are willing to believe your serious, disinterested, and candid consideration of the premises, under the benign impressions of equity and mercy, producing upright exertion of what is in your power, may not be without some salutary effect, both for our relief as a people, and towards the removal of obstructions to public order and well-being.

If, notwithstanding all that has been publicly avowed as essential principles respecting the extent of human right to freedom; notwithstanding we have had that right restored to us, so far as was in the power of those by whom we were held as slaves, we cannot claim the privilege of representation in your councils, yet we trust we may address you as fellow-men, who, under God, the sovereign Ruler of the Universe, are intrusted with the distribution of justice, for the terror of evil-doers, the encouragement and protection of the innocent, not doubting that you are men of liberal minds, susceptible of benevolent feelings and clear conception of rectitude to a catholic extent, who can admit that black people (servile as their condition generally is throughout this Continent) have natural affections, social and domestic attachments and sensibilities; and that, therefore, we may hope for a share in your sympathetic attention while we represent that the unconstitutional bondage in which multitudes of our fellows in complexion are held, is to us a subject sorrowfully affecting; for we cannot conceive their condition (more especially those who have been emancipated and tasted the sweets of liberty, and again reduced to slavery by kidnappers and man-stealers) to be less afflicting or deplorable than the situation of citizens of the United States, captured and enslaved through the unrighteous policy prevalent in Algiers. We are far from considering all those who retain slaves as wilful oppressors, being well assured that numbers in the State from whence we are exiles, hold their slaves in bondage, not of choice, but possessing them by inheritance, feel their minds burdened under the slavish restraint of legal impediments to doing that justice which they are convinced is due to fellow-rationals. May we not be allowed to consider this stretch of power, morally and politically, a Governmental defect, if not a direct violation of the declared fundamental principles of the Constitution; and finally, is not some remedy for an evil of such magnitude highly worthy of the deep inquiry and unfeigned zeal of the supreme Legislative body of a free and enlightened people? Submitting our cause to God, and humbly craving your best aid and influence, as you may be favored and directed by that wisdom which is from above, wherewith that you may be eminently dignified and rendered conspicuously, in the view of nations, a blessing to the people you represent, is the sincere prayer of your petitioners.

JACOB NICHOLSON,
JUPITER NICHOLSON, his mark,
JOB ALBERT, his mark,
THOMAS PRITCHET, his mark.

Philadelphia, *January* 23, 1797.

The petition being read—

Mr. Swanwick said, he hoped it would be referred to a select committee.

Mr. Blount hoped it would not even be received by the House. Agreeably to a law of the State of North Carolina, he said they were slaves, and could, of course, be seized as such.

Mr. Thatcher thought the petition ought to be referred to the Committee on the Fugitive Law. He conceived the gentleman much mistaken in asserting these petitioners to be absolute slaves. They state that they *were* slaves, but that their masters manumitted them, and that their manumissions were sanctioned by a law of that State,

but that a subsequent law of the same State, subjected them to slavery; and if even there was a law that allowed them to be taken and sold into slavery again, he could not see any propriety in refusing their petition in that House—they certainly (said Mr. T.) are free people. It appeared they were taken under the fugitive act, which he thought ought not to affect them; they now came and prayed the House so to model that fugitive act, as to prevent its affecting persons of their description. He therefore saw great propriety in referring their petition to the committee appointed to amend that act in another part; they could as well consider its relation to the present case. He could not see how there would be a propriety in rejecting their petition; they had an undoubted right to petition the House, and to be heard.

Mr. Swanwick was surprised at the gentleman from North Carolina [Mr. Blount] desiring to reject this petition; he could not have thought, nor could he indulge the suspicion now, that the gentleman was so far from acknowledging the rights of man, as to prevent any class of men from petitioning. If men were aggrieved, and conceive they have claim to attention, petitioning was their sacred right, and that right should never suffer innovation; whether the House ought to grant, was another question. The subject of their petition had a claim to the attention of the House. They state they were freed from slavery, but that they were much injured under a law of the United States. If a law was ever made that bore hard on any class of people, Mr. S. hoped that the door would never be shut to their complaints. If the circumstance respecting these people was as they stated, their case was very hard. He animadverted on the atrocity of that reward of ten dollars offered for one of them if taken alive, but that fifty should be given if found dead, and no questions asked. Was not this, he said, encouragement to put a period to that man's existence? Horrid reward! Could gentlemen hear it and not shudder?

Mr. Blount said, the gentleman last up was mistaken in calling the petitioners free men; the laws of North Carolina, as he observed before, did not suffer individuals to emancipate their slaves, and he should wish to know what evidence there was to prove these men free, and except that was proved, the House had no right to attend to the petition.

Mr. Sitgreaves, in answer to the gentleman last up, said he would reverse his question, and ask what evidence he had to prove that these men are not freemen; can he prove they are slaves? They have stated that a law has been made in North Carolina with a view to affect their case, and bring them again into a worse slavery than before; they want to know whether they cannot obtain relief by their application to the Government of the United States. Under these circumstances, Mr. S. wished to know why their petitions should not be taken into consideration? Was there anything in these men, he asked, that should prevent every kind of assistance being bestowed on them? Had they not an equal right to be heard with other petitioners? He hoped the House would not only give them a hearing, but afford them all the consolation of which their unfortunate case was susceptible. If the House were obliged, through a want of power to extend to the case, to object compliance with the prayers, yet, he hoped it would be done with all due tenderness; before hearing them, he thought it would be exceedingly unjust to decide. These people may produce documents sufficient to obtain favorable attention; therefore, it was impossible before they were heard to conceive whether the House could constitutionally grant relief or not. He could see no impropriety in referring it; the object of referring a case, was to inquire into facts; thus, the committee prepared the way for discussion in the House; and why the House should refuse to deliberate and discuss this case, he knew not.

Mr. Heath was clearly convinced these people were slaves, and therefore hoped their petition would lie on the table. He would remind the gentleman that, if they undertook this business, they would soon have petitions enough of the same kind, and public business would be thereby prevented. It appeared to him to be more within the jurisdiction of the Legislature of that State; indeed, the United States had nothing to do with it.

Mr. Madison said, he should be sorry to reject any petition whatever, in which it became the business of the House to attend; but he thought this case had no claim on their attention. Yet, if it did not come within the purview of the Legislative body, he thought, it might be suffered to lie on the table. He thought it a Judicial case, and could obtain its due in a Court of Appeal in that State. If they are free by the laws of North Carolina, they ought to apply to those laws, and have their privilege established. If they are slaves, the Constitution gives them no hopes of being heard here. A law has been passed to prevent the owners of those slaves emancipating them; it is therefore impossible that any relief can be granted. The petitioners are under the laws of North Carolina, and those laws cannot be the interpreters of the laws of the United States.

Mr. Sitgreaves said, he was not prepared to deny that this petition is in the situation the gentleman from Virginia [Mr. Madison] states; nor was he prepared to prove that it came under the power of the General Government, but he could see no kind of reason why it should not be sent to a committee who should examine the case and report whether it required Legislative interference, or whether it was a subject of Judicial authority in the country whence the petitioners came. Many petitions, he said, were sent to the House, who referred them for investigation to a committee, and many had been reported as being under Judicial power only, and as such been rejected here. If this underwent the same order, and should be found to be of a Judicial nature, the committee would report so, and the House would honorably refuse it. This he thought the only just method.

Mr. Rutherford concurred with the gentleman

from Pennsylvania, that this memorial ought to be referred to a committee who would report whether these people had been emancipated, according to a law of the State of North Carolina, or not. The circumstances attending this case, he said, demanded a just and full investigation, and if a law did exist either to emancipate, or send these poor people into slavery, the House would then know. He doubted not, every thing just and proper would be done, but he hoped every due respect would be paid to the petition. In short, he was assured every member in the House would wish to act consistently. This case, from the great hardships represented in the petition, applied closely to the nicest feelings of the heart, and he hoped humanity would dictate a just decision.

Mr. Gilbert hoped the petition would be referred to the committee proposed; he thought it laid claim to the humanity of the House. He thought every just satisfaction should be given, and attention paid, to every class of persons who appeal for decision to the House.

Mr. W. Smith said, the practice of a former time, in a similar case, was, that the petition was sealed up and sent back to the petitioners, not being allowed even to remain on the files of the office. This method, he said, ought to be pursued with respect to the present petition. It was not a matter that claimed the attention of the Legislature of the United States. He thought it of such an improper nature, as to be surprised any gentleman would present a petition of the kind. These men are slaves, and, he thought, not entitled to attention from that body; to encourage slaves to petition the House would have a tendency to invite continual applications. Indeed it would tend to spread an alarm throughout the Southern States; it would act as an "entering-wedge," whose consequences could not be foreseen. This is a kind of property on which the House has no power to legislate. He hoped it would not be committed at all; it was not a proper subject for Legislative attention. He was not of the opinion of some gentlemen, that the House were bound to sit on every question recommended to their notice. He thought particular attention ought to be paid to the lateness of the session; if this subject were to be considered, too much time of the House would be devoured which was much wanted on important business.

Mr. Thatcher said, he was in favor of referring this petition. He could see no reason which had been adduced to prove the impropriety of receiving a petition from these people. The gentleman from North Carolina [Mr. Blount] is of the opinion that these people being slaves, the House ought not to pay attention to their prayer. This, he said, was quite new language—a system of conduct which he never saw the House practise, and hoped he never should. That the House should not receive a petition without an evidence to prove it was from a free man. This was a language which opposed the Constitutional freedom of every State where the Declaration of Rights had been made; they all declare that every man is born equally free, and that each have an equal right to petition if aggrieved—this doctrine he never heard objected to.

The gentlemen from Virginia [Mr. Madison and Mr. Heath] had said, it was a Judicial and not a Legislative question; they say the petition proves it, and that it ought not to be attended to. Mr. T. said, he saw no proof whatever of the impropriety of the House receiving it. There might be some Judicial question growing out of the case; but that was no reason, because it might possibly undergo a Judicial course, that the General Government were not to be petitioned. The gentleman from South Carolina [Mr. Smith] had said, "that this was a kind of property on which the House could not legislate;" but he would answer, this was a kind of property on which they were bound to legislate. The fugitive act could prove this authority; if petitions were not to be received they would have to legislate in the dark. It appeared plainly that these men were manumitted by their masters; and because a number of men who called themselves legislators should, after they had the actual enjoyment of their liberty, come forward and say that these men should not remain at liberty, and actually authorize their recaptivity, he thought it exceedingly unjust to deprive them of the right of petitioning to have their injuries redressed. These were a set of men on whom the fugitive law had no power, and he thought they claimed protection under the power of that House, which always ought to lean towards freedom. Though they could not give freedom to slaves, yet he hoped gentlemen would never refuse to lend their aid to secure freemen in their rights against tyrannical imposition.

Mr. Christie thought no part of the fugitive act operated against freedom. He thought no good could be derived from sending the petition to a committee; they could not prove whether they were slaves or not. He was much surprised any gentleman in the House should present such a petition. Mr. C. said, he was of the same opinion with the gentleman from South Carolina [Mr. Smith] that the petition ought to be sent back again. He hoped the gentleman from Pennsylvania [Mr. Swanwick] would never hand such another petition into the House.

Mr. Holland said, the gentleman from Massachusetts [Mr. Thatcher] said, "the House ought to lean towards freedom." Did he mean to set all slaves at liberty, or receive petitions from all? Sure he was, that if this was received, it would not be long before the table would be filled with similar complaints, and the House might sit for no other purpose than to hear them. It was a Judicial question, and the House ought not to pretend to determine the point; why, then, should they take up time upon it? To put an end to it he hoped, it would be ordered to lie on the table.

Mr. Macon said, he had hearkened very closely to the observations of gentlemen on the subject, and could see no reason to alter his desire that it would not be committed. No man, he said, wished to encourage petitions more than himself and no man had considered this subject more. These men could not receive any aid from the General

Government; but by application to the State, justice would be done them. Trials of this kind had very frequently been brought on in all the different Courts of that State, and had very often ended in the freedom of slaves; the appeal was fair, and justice was done. Mr. M. thought it a very delicate subject for the General Government to act on; he hoped it would not be committed; but he should not be sorry if the proposition of a gentleman [Mr. Smith] was to take place, that it was to be sent back again.

Mr. W. Smith observed, that a gentleman [Mr. Thatcher] had uttered a wish to draw these people from their state of slavery to liberty. Mr. S. did not think they were sent there to take up the subject of emancipation. When subjects of this kind are brought up in the House they ought to be deprecated as dangerous. They tended to produce very uncomfortable circumstances.

Mr. Varnum said, the petitioners had received injury under a law of the United States, (the fugitive act) and not merely a law of North Carolina, and therefore, he thought, they had an undoubted right to the attention of the General Government if that act bore hard on them. They stated themselves to be freemen, and he did not see any opposition of force to convince the House they were not; surely it could not be said that color alone should designate them as slaves. If these people had been free, and yet were taken up under a law of the United States, and put into prison, then it appeared plainly the duty of the House to inquire whether that act had such an unjust tendency, and if it had, proper amendments should be made to it to prevent the like consequences in future. It required nothing more under that act than that the person suspected should be brought before a single magistrate, and evidence given that he is a slave, which evidence the magistrate could not know if distant from the State; the person may be a freeman, for it would not be easy to know whether the evidence was good, at a distance from the State; the poor man is then sent to his State in slavery. Mr. V. hoped the House would take all possible care that freemen should not be made slaves; to be deprived of liberty was more important than to be deprived of property. He could not think why gentlemen should be against having the fact examined; if it appears that they are slaves, the petition will of course be dismissed, but if it should appear they are free, and receive injury under the fugitive act, the United States ought to amend it, so that justice should be done.

Mr. Blount said, admitting those persons who had been taken up were sent back to North Carolina, they would then have permission to apply to any of the Courts in the State for a fair trial of their plea; there are very few Courts in which some negroes have not tried this cause, and obtained their liberty. He agreed with the gentleman from Massachusetts, on the freedom of these men to procure their rights; it did not appear to him that they were free; true they had been set free, but that manumission was from their masters, who had not a right to set them free without permission of the Legislature.

Mr. Kitchell could not see what objection could obtain to prevent these people being heard. The question was not now, whether they are or are not slaves, but it is on a law of the United States. They assert that this law does act injuriously to them; the question is, therefore, whether a committee shall be appointed to inquire on the improper force of this law on the case of these men; if they are freemen, he said, they ought not to be sent back from the most distant part of the United States to North Carolina, to have justice done them, but they ought to receive it from the General Government who made the law they complain of.

Mr. K. said, he had not examined the force of the law on the subject, and was not prepared to decide; there could be no evil in referring it for examination, when the committee would report their opinion of the subject and gentlemen be prepared to act on it.

On the question for receiving the petition being put, it was negatived—ayes 33, noes 50.

STATEMENTS OF REVENUE.

Mr. Harper laid upon the table an alteration to the resolution which he had brought forward some days ago, relative to certain annual statements of revenue being laid before the House, viz: to omit what related to a list of all the officers employed, and the compensations allowed to each, as he found it would be inconvenient to obtain such a list.

APPROPRIATIONS FOR 1797.

The House then resolved itself into a Committee of the Whole, on the subject of appropriations for the year 1797. The sum estimated for the expense of the Legislature being under consideration,

Mr. S. Smith moved that, instead of six months, three should be inserted; as the time which Congress would sit this year would not be longer than that period.

Mr. Gallatin wished the gentleman would agree to insert four, instead of three months, as he believed, the whole of the money appropriated last year was expended; and there would, consequently be December, in last year, and January, February, and December, in this year, to be provided for.

Mr. Sitgreaves wished to know whether the present session only was included, or whether December in the next was calculated? If the estimate extended to the next session, he thought the amendment should not take place, because there might be cause for fixing their meeting at an earlier day before they separated; or the President might convene them at an earlier day than usual, if he saw occasion. If this should be the case and the appropriation was made only for four months, embarrassment might be the consequence; but no inconvenience could arise from granting more than was wanted, as the expense was of such a nature as could readily be checked.

Mr. Nicholas concurred in opinion with the gentleman last up.

Mr. Varnum thought differently. He was not for voting for any one object more than appeared to be necessary. If, as had been supposed, the session would be longer than was at present expected, an additional appropriation might be made; but he was against locking up sums of money in too large appropriations, which might be wanted for other purposes. He thought three months would be a sufficient estimate, viz: two in this session, and one in the next.

Mr. Williams said, it would be well for the Committee to consider, that the Senate might sit after the House of Representatives adjourned, or be called together again. He would, therefore, wish the motion to be confined to that House only.

The motion for striking out "six" and inserting "four" was carried.

The sums of money appropriated were altered of course.

Mr. Gallatin moved that $30,000 should be inserted in place of $34,000, for defraying the expenses of clerks of Courts, jurors, and witnesses, in aid of the funds arising from fines, forfeitures, and penalties; and likewise for defraying the expenses of prosecutions for offences against the United States, and for safe-keeping of prisoners. $30,000 was thought sufficient last year, and it had been found so, or the Secretary of the Treasury would have reported a deficiency.

Mr. Greenup said this sum had vastly increased, and he wished it to be reduced lower than proposed. It was formerly $12,000, and he knew not why it should now be more.

Mr. Thatcher said it was impossible to say, to $3,000 or $4,000, what would be necessary under this head. He had no objection to reduce the sum, though he could see no inconvenience which could arise from the sum remaining as it stood.

Mr. S. Smith moved that the sum might be left blank, that they might ascertain the sum necessary. Agreed to.

On motion of Mr. Coit, the compensation for messengers and office-keepers to the Treasurer of the United States, the Purveyor of the Treasury, and an assistant office-keeper to the Secretary of State, were struck out, on the ground of their being new items.

Mr. Gallatin said, in the Purveyor of the Treasury's office was a clerk, said to be there in pursuance of the act of May 30, 1796. That act, he remarked, did not make provision for any new clerk; it only gave a power to apportion a sum of money among the clerks then employed. He therefore moved to strike out that item of $500. Agreed to.

Mr. Baldwin believed the item of $800 for printing an edition of the laws had been copied from an old estimate, without considering that a new edition of the laws was now printing. It had been customary heretofore, he said, to print an edition of the laws at the close of every session—two copies of which were sent to every member; but as there had been a law passed for printing 5,000 copies of the whole laws, he conceived there was no necessity for the item alluded to, as one edition of the laws would be sufficient.

Mr. W. Smith did not think, with the gentleman from Georgia, that the item alluded to was unnecessary. He believed it was necessary there should be a small edition of the laws at the end of the session. The edition of the laws to which the gentleman had alluded, would not be out for some time, and it had been usual for members to have the laws of the session sent to them soon after adjournment. It was also necessary that the officers of the revenue, Judges, &c., should have copies of the laws as soon as possible after they were passed.

Mr. Coit said there was a copy of every law printed on a sheet as soon as passed, a copy of which was laid upon the desk of each member, which he supposed was meant by this item.

Mr. Swift observed, that by a law of the 3d of March, 1795, 5,000 copies of the laws were ordered to be printed; 4,500 of which were to be distributed among the different States, and the other 500 to be disposed of as may be hereafter by law directed. This edition will make four volumes; but he thought it would be convenient to have a number of the laws printed off, as heretofore, to make complete sets of those already in the hands of members. This, he said, would not be attended with much additional expense, as the types would be set for the other edition, and there would, therefore, only be the press-work and paper to pay for. He thought the $800 might be reduced to $300.

Mr. Baldwin conceived that, as there were $1,600 in the next line for an edition of the laws of this session, the $800 in question need not be retained. $2,400 appeared too much for printing the laws of one session.

Mr. Swanwick said he believed $1,600 would pay for printing all the laws they should pass this session.

Mr. Harper thought both editions necessary.

The question for striking out was put and negatived—sixteen only being for it.

Mr. Greenup said he found two items, $1,500 each, for striking Mediterranean passports. He thought one was sufficient, and moved to strike out the other. Besides, he thought the expense enormous.

Mr. S. Smith said it would be necessary to preserve this item, as a very considerable revenue arose from thence. Our Captains, he said, were obliged to carry one of these, and if they were not appropriated for, they could not be had.

Mr. W. Smith said it would be seen that one of the items was for last year, which was not then appropriated for; but, the expense having been incurred, it must be paid.

The question was put and negatived.

Mr. Holland thought the Mint Establishment was of no use to the United States; he therefore proposed to strike out the whole estimate of $10,600 for that department.

This motion not being seconded, fell to the ground of course.

Mr. Coit moved to strike out $350, appropriated for stationery, office-rent, &c., for the Governor of the Territory Northwest of the river Ohio.

Mr. Dayton (the Speaker) thought it deserved

to be considered whether this item had been before allowed.

Mr. Coit said, if it had been allowed, he doubted the propriety of it. The salaries allowed he thought sufficiently ample without this contingent.

Mr. Gallatin said there had always been this charge allowed heretofore, and he should therefore be against striking it out.

The question was put and negatived.

Mr. Swift believed the youngest children of the late Major General Warren were now of age, and therefore the $450 dollars heretofore allowed them might be struck out. Agreed to.

Mr. S. made a similar motion with respect to the son of the late Major General Mercer; but, on its appearing that there was at least a probability he wanted yet a few months of being 21 years of age, the motion was withdrawn.

Mr. Gallatin moved that the $7,000 appropriated for the wages of persons employed in the Mint should be left a blank, as there was a committee on that subject, who had not yet reported. Agreed to.

Mr. G. said, the next head was the Diplomatic department, which had always been considered as a separate subject. Indeed, some inquiries would be necessary with respect to one of the items at least. He should move therefore for the Committee to rise, and report that part of the estimate which had been agreed to.

Mr. W. Smith did not see any reason why the Committee should rise. Any inquiry might as well be made now as at any future day. They had no law this session before them. An extra expense of the Diplomatic department would probably come in, in the current expenses of the year. He did not expect any other information on the subject. There remained, to be provided for, $67,900. The items were before them, and could be determined upon. It would be better to pass the whole together than to have a separate act. This estimate, he said, would be referred to the committee to bring in a bill, and undergo further discussion. He did not see why they should have a separate bill. He saw no reason for detaching this any more than any other subject.

Mr. Greenup said information was necessary on some of the items, and he hoped the Committee would rise.

Mr. Gallatin said there was a charge of $50,000 for continuing the prosecution of the claims of our citizens, whose property had been captured by the belligerant Powers. He wished some check to be put upon this expenditure. He wished an inquiry as to the quantum of expense required in this business. He did not think they were justified in appropriating money to a large extent, upon which there was no check but the will of the President. It would, perhaps, appear extraordinary that he, who was a member of the Committee of Ways and Means, should want information on this subject; but this item had never come into discussion in that committee when he was present, and, he believed, had been introduced into the estimate as a matter of course. He therefore wished the Committee to rise, and he thought it would be best to have the appropriations for this department in an act by itself.

Mr. W. Smith said it would be recollected that, in the estimate of the Secretary of State last session, there was an estimate of $50,000 for this object, and that, after a full discussion, a majority of that House had agreed to it. This, therefore, had sanctioned the principle of continuing this charge. The only question was as to the quantity. If $50,000 were thought too much, the sum might be struck out, and left a blank, to be filled up hereafter.

Mr. Nicholas said he believed the House meant last session (at least he could speak for himself) to vote for a sum of money for the purpose in question, and not that they would go to any length in the business. Indeed, he should be disposed to ask for an account of the expenditure of the money they had voted last session, before he thought of voting for more. The question would now come up in a very different manner from what it did then.

Mr. Swanwick said it would be very desirable to know the success which our agents had had in Europe, in the recovery of the property of which our citizens had been despoiled, before fresh sums of money were voted on that account; because, if the speculations were to be continued, that House was concurring with the British and French in their attacks upon the property of our citizens, by thus voting away their money. If the whole of this money, he said, were to be expended upon the English lawyers, it would be a harvest for them, and it would be their interest to foment disputes betwixt the two countries. He was therefore in favor of the Committee's rising.

Mr. Nicholas moved to strike out this item altogether.

Mr. Sewall hoped it would not be struck out: he trusted the item would be preserved. If the sum should be thought too large, it might be left a blank. It was well known, agents had been employed in the business, and what the extent of the expense would be, could not now be told. At any rate the sum should be appropriated.

Mr. Nicholas did not think they had information enough before them to know whether any further sum was necessary. What had been appropriated might prove sufficient; but if they were to go on appropriating, there could be no doubt but the expense would keep pace with their liberality in granting money.

Mr. Swanwick wished the Committee to rise. They were told that the Diplomatic department was to cost $107,000, from which was to be deducted the regular annual appropriation of $40,000, which left a sum of $67,900 to be provided. They had, last session, been called upon for $50,000 to prosecute our claims against the British for their spoliations. Those spoliations were continued, and they were now called upon for a further sum of $50,000. He supposed, another year, since the French were now following the example of the British, in committing spoliations on our property, $150,000 would be wanted to prosecute our claims against both nations. He hoped, when this money

was granted last session for adjusting the claims of our merchants, that those spoliations would not have been continued; but they heard every day of our vessels being seized and carried into Martinique. Indeed, it would be the interest of Great Britain to prevent these claims being settled, while they can receive from us an annual income of $50,000.

Mr. Thatcher said he knew of no good answered by traveling to Great Britain, France, Martinique, &c., when speaking on the present subject. It was well known, that, in consequence of depredations committed on the commerce of this country, agents had been appointed, in order to obtain redress: the business was in train. These facts were enough to justify the item. If it was necessary to gain information as to the sum necessary, the $50,000 might be struck out until due inquiry was made; but he would by all means preserve the item.

Mr. Sewall said, the gentleman from Pennsylvania [Mr. Swanwick] seemed to think the Diplomatic department ought to be swallowed up by the War department. Means, Mr. S. said, had been provided by the British Treaty for the settlement of the spoliations committed upon our commerce by that nation. Perhaps the same means might hereafter be agreed upon with France; but he trusted they should never suffer our citizens to be kept in bondage in any country, for the sake of a few thousand dollars employed under the head of the Diplomatic department. In his opinion, money spent in a diplomatic and peaceable way was much better expended than in building navies and preparing for war. It was necessary Government should undertake the settlement of this business, since merchants could not do it for themselves. They might, indeed, if Government permitted and sanctioned them, fit out letters-of-marque and make reprisals: but as Government had chosen a peaceable course in preference, it was desirable that they should pursue it.

Mr. Swanwick gave the gentleman from Massachusetts credit for his remark on the War and Diplomatic departments. Mr. S. said he thought the Diplomatic department nearly allied to the Military, and that the latter naturally grew out of the former; because, if disputes were not continually engendered, these gentlemen would have nothing to do; and while they could receive $20,000 annually for an employment of this kind, they would so contrive the business as not to want employment. And while one country received $50,000 a year, to be expended in law-suits to adjust spoliations committed upon our commerce, it would hold out inducements to other nations to use us in a similar manner, since they saw that they may do it with impunity. For his own part, he wished for peace as much as any man, but he would wish to preserve that peace with honor.

Mr. Dayton (the Speaker) conceived it to be their duty, before they agreed to the item under consideration, amounting to 50,000 dollars, to consider well whether the United States were in any degree obligated to defray from the general Treasury, the expenses of prosecuting the claims in question. Without determining how far the grant of a sum, to the extent and in the words here mentioned, might be justly construed into an assumption, on the part of the Government, of the charges to arise in future, there was reason to apprehend that it would be so considered. He still thought, as he had thought and declared last year, that no money ought to be granted upon that principle, and that the amount contemplated was far too great upon any other principle whatever. He would therefore be in favor of striking out 50,000 dollars, and leaving a blank to be filled in the bill after the object of this expenditure had been more fully explained and understood. Mr. D. avowed his unwillingness to appropriate more than a tenth part of that sum for the purpose expressed. He was aware that our Government might be called upon to procure, through the public agents in the West Indies and other channels, various documents and extracts from the registry or records in the Courts of Vice Admiralty of Great Britain, which might aid the appeals prosecuting in the higher Courts. Such useful and necessary papers might probably be best procured through the interference and influence of the Executive of this country with its agents resident in the islands, and could not be effected for nothing. Some expense might also attend the transmission of writs of inhibition or other processes, from the High Court of Admiralty to this country, and from hence to the West Indies. Those charges, he would not deny, might necessarily be incurred, and as they could not be assessed upon individuals, ought under this head to be provided for; but they would need a provision very inconsiderable indeed when compared with the extravagant appropriation of 50,000 dollars, which he hoped would be struck out for the purpose of their introducing, in another stage of the business, a much less sum.

Mr. W. Smith hoped the question would be divided, so as to retain the item if the sum was struck out.

The Chairman declared the question not capable of a division.

The question being put for striking out the item, the votes were for it 40, against it 39, when the Chairman voting in the negative, declared the question not carried.

The question was then put for striking out the sum and carried.

Mr. Gallatin moved to strike out the words "continuing the prosecution," and insert in their place "expense relative to," in order to avoid an appearance of sanctioning a continuance in the prosecution of these claims. This amendment would also meet the ideas of the gentleman from New Jersey.

Mr. Swanwick seconded the motion, for he did not believe we should ever get so much from Britain on account of the spoliations, as would be spent in the pursuit of them.

The question was put and carried.

The Committee then rose and had leave to sit again.

Tuesday, January 31.

A message was received from the Senate, informing the House that they had appointed a joint committee, viz: Messrs. Sedgwick, Laurance, and Read, to act in conjunction with a committee to be appointed by the House of Representatives, to ascertain and fix the mode of examining the votes of the Electors for President and Vice President of the United States, &c., and to regulate the time and manner of administering the oaths of office to the President and Vice President of the United States.

INDIRECT TAXES.

Mr. Henderson proposed the following resolutions to the House. He observed that his reason for offering them was to bring the whole subject of indirect taxation forward at one time. The gentleman of South Carolina [Mr. Harper] had offered many articles to their attention, but not having specified these now proposed, he would move that they be referred to the Committee of the Whole on the subject of indirect taxation, viz:

Resolved, That there ought to be laid an additional duty of —— cents per gallon, on all beer, ale, and porter, imported in casks into the United States.

Resolved, That there ought to be laid an additional duty of —— cents per dozen bottles, on all beer, ale, and porter, imported in bottles.

Resolved, That there ought to be laid an additional duty of —— cents, per pair, on every pair of boots, imported.

Resolved, That there ought to be laid an additional duty of —— cents per pair on all imported shoes and slippers of silk; and on all other shoes, slippers, clogs, and gold-shoes, for men and women, per pair, —— cents; and on all shoes and slippers for children, —— cents per pair.

Resolved, That there ought to be laid an additional duty of —— cents per pound, on all souchong and black teas.

Resolved, That there ought to be laid an additional duty of —— cents, per pound, on all hyson, imperial, and gunpowder teas, imported; and on all other green teas, —— cents per pound.

Resolved, That there ought to be laid an additional duty of —— cents, per hundred weight, on all unmanufactured steel.

Resolved, That there ought to be laid an additional duty of —— cents per hundred weight, on all bar iron imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all nails imported.

Resolved, That there ought to be laid an additional duty of —— cents per hundred weight on all Glauber salts imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all manufactured tobacco imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all snuff imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all cocoa imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all chocolate imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all pepper imported.

Resolved, That there ought to be laid an additional duty of —— cents per pound on all pimento imported.

Resolved, That there ought to be laid a duty of —— cents per pound on all chocolate manufactured within the United States.

Resolved, That there ought to be laid a duty of —— cents per pound on all snuff manufactured within the United States.

Mr. W. Smith said, if he thought any good could be derived from the propositions, he should be glad to indulge the gentleman, but not perceiving any advantages whatever, he must oppose the reference. He had not time at present to go into the merits or demerits of these several articles. He thought they would have the injurious tendency to lead the House from the view of direct taxes, and thus lose the substance while they grasped at a shadow: it would argue that the House were to resort to imposts for revenue, when it ought to be observed that this was the most improper time that could be pointed out for an extension of that system. We have, Mr. S. said, the Secretary of the Treasury's ideas on the system; he considers, that, if entered into, it will not be productive, and of those he had offered, the Committee of Ways and Means had only proposed three. We may go into it, but the time of the session now remaining being so short, we should be led into a track which would be quite impracticable and injurious, because to no purpose whatever. If they were to be referred to a Committee of the Whole, they could not be considered till after those proposed by his colleague, [Mr. Harper] which had a priority.

Mr. Henderson said, it was from the invitations of the gentlemen who had just sat down, who is Chairman of the Committee of Ways and Means, that he had proposed these articles for consideration. It may well be recollected, that gentleman gave a general invitation for every gentleman who opposed direct taxation, to propose his substitute, that they might come all under view at the same time, and how could he now say those of his colleague had a priority: not one of the articles now proposed were before included. As for the idea of an abiding system, Mr. H. thought the other could not be preferred to this, while these articles would bear an extension of duty every way adequate to the wants of the Government, without being burdensome to the people.

Mr. S. Smith thought these articles were only proposed for the purpose of defeating the report of the Committee of Ways and Means. They had proposed three articles of the indirect kind, which, in the view of the Secretary of the Treasury, were all that would bear an extension of duty. What is the object of the gentlemen? Is it to increase our own manufactories? It appeared to him the gentleman had proposed these articles at random, without considering their merits. He presumed the revenue would be very little helped by it. He thought it a wrong time to go as far into this system as it would bear. It was the intention of gentlemen to propose a resolution, directing the Secretary of the Treasury to digest a plan of indirect taxation, to be brought forward at the next session, and therefore he hoped this would not be referred.

Mr. Kitchell said, he could not think that his colleague would propose these resolutions to defeat the propositions before made. He had acted consistently with his former declarations; he had been called upon, in the general invitation, to produce a substitute for direct taxation, and he had proposed those just read. Though the gentleman from Maryland says it is to destroy the other system, yet the gentleman could not say that system would be effected. Could he say that would be put in force? Mr. K. thought not; he thought there were insuperable difficulties attending it, more by far than any gentleman could be aware of. Certainly, then, if there is a prospect of that system not prevailing, there is wisdom in proposing a substitute—a resort to which to apply. He thought it ungenerous to say that this was brought forward to evade a direct tax, and he hoped that opinion would not prevail so far as to prevent committing the resolutions.

Mr. Claiborne was against the reference, not only for the reasons so ably stated by the gentleman from South Carolina, [Mr. Smith] but because, if admitted, they would bear very heavy on the people of the Southern States, already too much burdened. At Massachusetts, New York, Philadelphia, and other places, where goods were landed, he said the burden may not be so great, but it was to be remembered, that they were to be reshipped, and after landed in the Southern States, perhaps have much inland carriage, thus 100 per cent. was added by which they became very expensive. He hoped the House would so systemize as to make men pay in proportion to their property. These were his honest sentiments, founded on what he knew to be the interest of his constituents.

The question being here asked, the Speaker answered, the question was not on the adoption of the resolutions, but their reference.

Mr. Claiborne said, he had only given his reasons to support the impropriety of them, and the natural references growing out of them, to show they ought not to be referred.

Mr. Nicholas, upon this, said, that he hoped gentlemen would vote in silence, since it was disorderly to enter into the merits.

At the desire of Mr. Swanwick, the resolutions were read a second time.

Mr. Gallatin said, the nature of the business was such as to exclude the House the privilege of entering into the resolutions in detail, though it was exceedingly difficult to speak on the principle of the question without. Though he might be imperceptibly drawn out of the line he would wish to keep, he should speak a few words on the principle, in which he would give his reasons against the admission. It may be recollected, that the gentleman from New Jersey, some time ago, laid a resolution on the table, in general terms, to institute an inquiry as to what articles of foreign growth imported, and articles manufactured within the United States, would bear an additional duty. This resolution was referred to the Committee of Ways and Means, who had reported on it; not in a complete system, as the gentleman seems to wish, but in a manner which they considered best. Their report was referred to a Committee of the Whole on the subject of indirect taxation. Was it not now prejudging that system, to say it was bad; that it was not complete, but required amendment? When that system comes forward, it is in the power of gentlemen to change, retrench, or modify it, with whatever alterations shall be most acceptable to the House; this was to say, it was not worth notice, and if so would naturally lead to a discussion of it, although the Speaker says it is out of order. Mr. G. thought it was not proper to refer these resolutions to the Committee of Ways and Means until they had the report of that committee on the subject already referred to them, under discussion. He should vote against the reference. He thought these resolutions ought not to be called a system, they were merely a set of resolutions transcribed from the Treasury book as articles of impost, without any previous consideration of the propriety or impropriety of advancing the duties on them. Mr. G. said, he would venture to assert the whole of them would not produce twenty thousand dollars to the Treasury. However, he did not wish to enter into a detail in addition to the observations from the gentlemen from Maryland and South Carolina, with both of whom he agreed.

Mr. Thatcher said, if the majority of the House were already decided in favor of a direct tax, and determined to carry it into effect this session, then they were right not to refer these propositions to a committee; but he did not, like the gentleman last up, think that a majority would favor that mode of taxation. He thought it impossible to draw the necessary supplies from a direct source, from which view he was determined in his mind to oppose that system, and apply to indirect means. The gentleman from Maryland [Mr. S. Smith] had said that we ought not to refer them, because of several which had been brought forward and not entered upon; another gentleman had said, if these were referred, it would be bringing in a system, for which there was no time this session. With respect to that, he would say, if there was not time to digest an indirect system, *a fortiori*, it surely could not be supposed there would be for a direct, which must certainly take much more time; the amendment of an old, which requires no new organization, could not take up that time, which was not indispensably necessary in the formation of a new one. Those gentlemen who thought otherwise must be very much mistaken. Mr. T. thought that, with the savings which may be made, a sum considerably less than twelve or thirteen hundred thousand dollars, would answer the demands of the present year. The gentleman from Virginia says he is against the system of indirect taxation, because it would bear harder among the Southern than the Northern States. He thought it of more im-

portance to obtain supplies the present year, than to be weighed down by these considerations. He should forbear going into the merits of the articles at this time, it having been said by the Chair that it was out of order; he would only say, he should vote in favor of the references.

Mr. Swanwick said the gentleman last up, and others who spoke on the same side of the question, took it for granted that there was no intention to carry a direct tax. Why, then, he would ask, was the resolution entered into the other day? What may be going on in some corners of the House he knew not, but he should not at present take it for granted, though the assertion may prove to be just. And though those gentlemen may take it for granted that the taxes on imposts will produce additional revenue, yet he did not entertain the idea; he was far from thinking there was any certainty in it.

Mr. S. said he thought it might appear pretty plain to any gentleman who would give himself the trouble to think, that there was a great prospect of defalcation in the revenue in the present year. We had last year a great surplusage of goods imported into the United States, by reason of which the price was brought below, or at most even, with the sterling price. Is it not then a natural deduction that the great revenue by these importations in 1796, will considerably lessen the want of the article in 1797? He had lately had some conversation with a collector on the subject, who gave it as his fixed opinion that the surplusage would have that effect. He thought, then, it might be fairly taken for granted that there would be less revenue to be received if less goods were imported. He thought it very wrong to get at the subject by this kind of a *side-wind*. Believing, therefore, that this was not the way to get a direct tax established, to bring forward a list of indirect taxes to oppose it, he should object to the reference. Gentlemen, before they opposed this system of direct taxation by introducing indirect, ought to have their minds made up first that there would be none of this defalcation from a surplusage of goods, and also that there was no danger of our ships being taken by those Powers who seem hostile to our commerce. These considerations must, at least, lead gentlemen to hesitate before they press further on the subject. It is said there is no time to forward this plan, but whatever time we have, however short, said Mr. S., let us forward this plan, and make some progress, rather than merely go on copying plans already too much depended on. The gentleman from New Jersey had proposed some plan before, on theatrical exhibitions, &c., which the Committee of Ways and Means had had under consideration, but had, after deliberation, thought proper not yet to report; and should the House forestall that report, by proposing fresh articles? He hoped not. They have digested a plan, and have reported, which was also recommended by the Secretary of the Treasury, that two or three enumerated articles are all that will with propriety bear additional duty. Mr. S. said there was, some time past, a kind of apostolic faith given to the Secretary of the Treasury; whatever he recommended was considered proper to be adopted. He tells you now that you cannot depend upon imposts for your revenue; you must apply to direct taxes, or your revenue will be endangered. It must be recollected that, last session, a resolution passed the House, instructing that officer to examine the subject and report, and now it is to be laid up in the drawer as useless—we are to think no more about it. He hoped gentlemen would pursue what they had in hand, and not refer it.

Mr. Jeremiah Smith said, gentlemen seemed to be wandering very far from the question before the House. It was not upon the principle of adopting the resolutions, but simply whether there was a propriety at some future period to consider the subject of them. He thought there was. They were told that no gentleman should oppose a direct tax without producing another; thus no person must oppose this, without devising another system. His opinion was, that what had been produced by the gentlemen from South Carolina and New Jersey [Mr. Harper and Mr. Henderson] were very complete substitutes for the other mode; not that he should pledge himself to vote for them, and them only; he should think himself at liberty to exercise his opinion on the subject when before the House, to have the liberty of which he should now vote for committing those proposed for future consideration.

Mr. Henderson little expected any opposition to the resolutions when he offered them. He considered, by the mode first pursued, that the two systems of direct and indirect taxation were to go hand in hand, from the invitation to offer plans; and when he considered that his first proposition was in the hands of the Committee of Ways and Means, before the gentleman's from South Carolina [Mr. Harper] were brought forward, he thought they ought to have been both upon equal footing. He thought if this was refused a reference, the House would not pursue an uniform line of conduct on the subject. Mr. H. thought the gentleman from Maryland [Mr. S. Smith] had deviated from that line of conduct which ought to mark every member in that public body, when he charged him with a desire to defeat the object. Had he, said Mr. H., considered his conduct, he would see, at least in this business, it had been uniform; he had always declared his opposition to direct taxation, until he could be perfectly convinced that every other source was deficient. He wished some revenue to be obtained this session, which could not come from a direct system. But he should refrain from going into the system. He did not know why his resolutions might not as well go to a committee as those proposed before, as they are of the same nature. He thought the difference very extraordinary; the merit of the case, he hoped, would obtain a just decision.

Mr. S. Smith said, the gentleman last up had charged him with something which he did not say. It came from the member from Pennsylvania. [Mr. Gallatin.] But Mr. S. perfectly agreed with the latter gentleman, that there was no face of system on these resolutions. Mr. Gallatin

had guessed that twenty thousand dollars were the utmost which could be raised from these resources. He thought that for the first six months there might be at the rate of fifty thousand dollars, but as soon as the system is understood smuggling will begin, and put an end to it. Mr. S. knew the imputation cast on every thing which came from merchants with regard to impost. They were said to hate it. But, in spite of this, he would tell the gentleman that on twelve-and-a-half per cent. duties, for every ninety-five pounds paid into the Treasury, one hundred and thirty-three pounds were paid by the public. And in the two-and-a-half per cents., where the consumer paid six pounds, not four pounds of it went into the Treasury, and these were on articles on which it was proposed to increase, but to no effect. This surely was not a commendable system of raising money. You have in many instances no means of coercing merchants to pay imposts; you have nothing to depend upon but their honor. The extent of the coast, and the immense number of creeks with which it was intersected, made it impossible to hinder smuggling. But in America that practice was held to be dishonorable. Britain, while this country was under her government, had tried, but in vain, to hinder smuggling. All her ships-of-war could not prevent it. How, then, will the United States be able to do so? Under that Government it was an object to smuggle: an augmentation of the impost would again produce the same effects. When he saw gentlemen rise in support of the reference, who had not risen on the subject of direct taxation, he was led to draw the conclusion that these resolutions could have no other effect than to defeat those brought in by the Committee of Ways and Means, and to create needless delay. There can be no other end. These trifling things can raise nothing but discussion in this House, which will produce a very inconvenient stop to business.

Mr. S. insisted that the resolutions could be brought forward for no good purpose; he still thought so. Only four weeks of the session now remained, and no time was to be lost. The gentleman might judge of the length of discussion which the resolutions would require to go through them, by what had happened on this day. Six weeks would be requisite for them. The third article proposed by the committee he thought quite adequate, until a more perfect system could be brought to perfection. The revenue of 1795 would be sufficient for 1797. The gentleman might indulge himself with the phantom of a revenue from that source, but let the commerce be destroyed and where would the revenue then be? He hoped a system like that would not be depended on, which was so liable to be ruined.

Mr. Holland said, it may not be too late to take a necessary view of the subject. Gentlemen said that the Committee of Ways and Means had the subject fully before them, but he would ask would it be any harm for the House also to possess it? He, as an individual, wished to know the merits of it. It was generally allowed that revenue was wanted, and two systems had been tried for that purpose; was it not desirable to see whether the one had been sufficiently extended before the other was to be adopted? They should, at least, each undergo a full and ample discussion. What gentlemen had said about it seemed to be prejudging the opinion of the Committee of Ways and Means; he thought there could be no impropriety to commit it; nothing could be lost by bringing it before the House, but much might possibly be gained.

Mr. Harper said he should vote against the reference, and should give his reasons in a few words: first, because it was unnecessary; it could be brought into the view of the House at the same time those he proposed came forward, to which they had a very great affinity; there is not one of the items but would come up very properly at that time, and any member may move them, but he thought them improper. Though the extension of this system may be necessary, yet it was so only to a certain degree; this was going too much into detail. If it could be extended at all, he thought those items before proposed would be enough, which was his second reason for opposing them. Thirdly, to go so far into minutia would lead the debate to too great a length for anything to be done during the session, while the House were pressed on all sides with business of various kinds. He should even think time so precious, that fifty thousand dollars would not be worth five or six days' discussion for; but, on the contrary, a very small revenue indeed could be drawn from this plan. He hoped the gentleman would let it lie for the present, and bring it forward at the time the House took up the subject.

Mr. Henderson again rose; but on the Speaker informing him he had spoken twice on the subject, and if he wanted to speak again he must ask leave of the House, he did so, and obtained leave; but he only rose to ask Mr. Harper what difference there could be between the resolutions he proposed and those now proposed?

Mr. Harper answered, that at the time his were proposed there was no report of the committee made, but now the subject was more forward.

Upon a division the reference was carried—ayes 51.

APPROPRIATIONS FOR 1797.

The House then took up the amendments of the Committee of the Whole on the report of the Committee of Ways and Means, on the subject of appropriations for the year 1797.

Mr. Baldwin doubted the propriety of agreeing to the amendment reducing the estimate of contingencies for the Senate from $4,000 to $3,000, since they had not agreed to reduce the $8,000 estimated for the contingencies of that House, to $6,000, upon the same ratio, viz: for four months instead of six—though he was of the same opinion as to the impropriety of appropriating too largely for these objects of expense that he had before expressed.

Mr. Henderson hoped this amendment would be agreed to, and that the $8,000 appropriated for that House would be reduced to $6,000.

The question was put and negatived—yeas 31, nays 51.

On the question being about to be put for agreeing to the amendment for striking out the messenger and office-keeper to the Treasurer of the United States, Mr. W. Smith hoped it would not be agreed to. He did not think it would be using their officers well to deprive them of a person of this kind, to do their menial business.

The amendment was carried—41 to 30; and the two other amendments of a similar kind, agreed to in a Committee of the Whole, were carried without a division.

On the question being about to be put for striking out the clerk to the Purveyor of the Treasury, Mr. W. Smith called for the reading of the act of last session, under which this clerk was said to be appointed. He said it appeared that the Heads of Departments were authorized to make such provisions with respect to the compensations of the clerks as they thought proper. They had allowed, it seemed, a clerk to the Purveyor of the Treasury, on account of his increase of business. He believed if this had not been necessary, the Secretary of the Treasury would not have allowed it, as he was not remarkable for increasing assistants where there was not necessity for them. Except they knew for a certainty that the clerk was unnecessary, he thought the item ought not to be struck out.

Mr. Gallatin said, it must be remembered that the act appointing the Purveyor of the Treasury gave him no clerk; and, if a clerk was necessary, provision should be made by law for the purpose. By the act of last session, four thousand dollars were allowed to be distributed among the clerks, and three new clerks were allowed to be appointed, one of which it appeared had been given to the Purveyor of the Treasury. He did believe there was no occasion for this clerk, since there was three times the business when the office was first established that there was at this time. His particular reason for objecting to this was, because a variety of similar items appeared under the estimate for the Military department, which he meant to object to when that subject came under consideration. He found there the Purveyor of Supplies, the Superintendent of Military Stores, Storekeeper, Assistant Storekeeper, four clerks, &c., all of whom were appointed for nearly the same object. He thought it improper, in this indirect way, to appoint officers unauthorized by law. If the Purveyor were to be allowed a clerk, he should wish it to be done openly by law, and not in the way now proposed.

Mr. W. Smith did not think it a sufficient reason why this officer should not have a clerk, because he was not allowed one when the office was established, for additional business might have since made it necessary, nor because too many clerks were put down on the Military Establishment estimate. They had not yet passed that estimate, and if gentlemen thought any item there unnecessary, they would of course move to strike it out. They ought not to strike out the clerk under this head, because those under another were unnecessary.

The amendment was put and carried; there being 51 in favor of it.

Mr. Varnum said, he found the office-keepers and messengers allowed $300. They were heretofore $250; he moved to have all of them altered to that sum. Carried—36 to 31.

Mr. Williams moved that the several items of contingent expenses in the Mint, making together $7,400, should be left blank. Agreed to.

The report being gone through, Mr. Gallatin wished the resolution reported by the Committee of Ways and Means to be read. This resolution is to the following effect: "*Resolved*, That a sum not exceeding ——— be appropriated, viz: for the Civil List," &c.; enumerating all the different heads of expense.

Mr. Gallatin said he should move an amendment to this resolution, which, though at first view might appear trifling, yet, on an investigation of the subject, would be found of considerable importance. The way in which the resolution now read was, that for certain purposes, "there be appropriated a sum not exceeding ———, viz." The amendment he meant to propose was to strike out those words, and insert in their place, "the following sums be respectively appropriated, viz."

Mr. G. said his object in this amendment was, that each appropriation should be specific; that it might not be supposed to be in the power of the Treasury Department to appropriate to one object money which had been specifically appropriated for any other object. He did not know, he had never investigated the subject, whether, as to the Civil List, appropriations had ever been mixed, or whether it was understood they might be so mixed; but they knew it had been officially declared that so far as related to the Military Department, the items had been totally mixed: for instance, if the estimate for clothing or any other item fell short, the officers of the Treasury did not think themselves bound by that particular appropriation, but had recourse to other items, for which larger sums were granted than there was occasion for. Such construction of the law, Mr. G. said, totally defeated the object of appropriation, and it was necessary, therefore, so to express the law that no color for such a construction should be given. The amendment he proposed would have this effect.

Mr. W. Smith said, the amendment proposed was not of importance at present, as the particulars were entered only upon the Journals. These did not go into the law to be passed, for though all the items were entered upon the Journals, in the bill they were lumped in the aggregate. But as one gentleman had brought up the subject, it was necessary that the House should consider it, and say whether it was not proper, when appropriations were insufficient under the head of expense. In cases of emergency it would be proper that the Treasury should be so limited as not to take money from another head of expense, where there was a surplusage. This was a thing done heretofore, and the House knew it had been done in the Military Establishment. In the Quartermaster's department, in particular, the expenses might exceed the sum appropriated, and, as the services must be performed, or the military service cease, therefore, the Treasury judged they might make use of the surplus of any other head of expense to make good this deficiency. He knew not how the business could be otherwise done with convenience. With respect to the Civil List Establishment, it was of a more certain nature; most of the salaries were established by law, and therefore they could be ascertained to a certainty.

Mr. S. said he did not mean, however, to oppose the motion at present; but when the bill was brought in, it would be necessary to determine this principle, and say whether, if an appropriation fell short Government must stop rather than touch the surplus of any other appropriation.

The said report, as amended, was then read at the Clerk's table, and on the question put thereupon, agreed to by the House, as follows:

Resolved, That for the expenditure of the Civil List; for the extra expenses of foreign intercourse; for the support of the Mint Establishment, light houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-seven; and to satisfy certain miscellaneous claims, stated in the Report of the Secretary of the Treasury, of the fifteenth of December, one thousand seven hundred and ninety-six, together with the incidental and contingent expenses of the several Departments, and the offices thereof, the following sums be respectively appropriated; that is to say:

THE EXECUTIVE.

For compensation to the President of the United States -	$25,000 00	
For compensation of the Vice President - -	5,000 00	
		$30,000 00

THE LEGISLATURE.

For compensation to the Senators and members of the House of Representatives, their officers and clerks, and for the contingent expenses of both Houses, estimating the attendance of the whole number, for four months:		
Thirty two members of the Senate, at six dollars per day	23,360 00	
Speaker of the House of Representatives, at twelve dollars per day - - - - -	1,460 00	
One hundred and five members, at six dollars per day -	76,650 00	
Traveling expenses to and from the Seat of Government	26,000 00	
Secretary of the Senate, one year's salary - - -	1,500 00	
Additional allowance, estimated for four months, at two dollars per diem - - - -	243 33	
Principal clerk to the Secretary of the Senate, for three hundred and sixty-five days, at three dollars per diem - - -	1,095 00	
Two engrossing clerks to the Secretary of the Senate, at two dollars per day, each, for three hundred and sixty-five days -	1,460 00	
Chaplain to the Senate, estimated for four months, at five hundred dollars per annum - - -	166 67	
Doorkeeper to the Senate, one year's salary - - -	500 00	
Assistant Doorkeeper to the Senate, one year's salary - - -	450 00	
Clerk to the House of Representatives, one year's salary -	1,500 00	
Additional allowance, estimated for four months' at two dollars per day - - - -	242 33	
Principal clerk in the office of the House of Representatives, for three hundred and sixty-five days, at three dollars per day -	1,095 00	
Two engrossing clerks, at two dollars per day, each, for three hundred and sixty-five days -	1,460 00	
Chaplain to the House of Representatives, estimated for four months, at five hundred dollars per annum - - -	166 67	
Sergeant-at-Arms, for same time, at four dollars per day - -	486 67	
Doorkeeper to the House of Representatives, one year's salary -	500 00	
Assistant Doorkeeper to the House Representatives	450 00	
Expenses of fire-wood, stationery, printing work, and other contingent expenses of both Houses of Congress:		
For the Senate estimate - -	4,000 00	
For the House of Representatives estimate - - -	7,500 00	
To make good the deficiency in the appropriation for the year one thousand seven hundred and ninety-six, occasioned by the several grants of the House on the last day of the session -	500 00	
		150,755 67

THE JUDICIARY.

Compensation to the Chief Justice	4,000 00	
Compensation to five Associate Justices, at three thousand five hundred dollars, each - -	17,500 00	
Compensation to the Dist. Judge—		
of Maine - - -	1,000 00	
of New Hampshire -	1,000 00	
of Vermont - -	800 00	
of Massachusetts - - -	1,200 00	
of Rhode Island - - -	1,000 00	
of Connecticut - - -	1,000 00	
of New York - - -	1,500 00	
of New Jersey - - -	1,000 00	
of Pennsylvania - - -	1,500 00	
of Delaware - - -	1,000 00	
of Maryland - - -	1,500 00	
of Virginia - - -	1,800 00	
of Kentucky - - -	1,000 00	

Compensation to the Dist. Judge—		
of North Carolina - -	1,500 00	
of Tennessee - -	800 00	
of South Carolina - -	1,800 00	
of Georgia - - -	1,500 00	
Compensation to the Attorney General - - - -		
For defraying the expenses of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and, likewise, for defraying the expenses of prosecutions for offences against the United States, and for safe-keeping of prisoners - -		
		38,500 00

TREASURY DEPARTMENT.

Compensation to the Secretary of the Treasury - - -	3,500 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	4,000 00	
Compensation of messenger and office keeper - - -	250 00	
		8,750 00
Compensation to the Comptroller of the Treasury - -	2,650 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	8,850 00	
Compensation of messenger and office-keeper - - - -	250 00	
		11,750 00
Compensation to the Auditor of the Treasury - - -	2,400 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 -	9,175 00	
Compensation of messenger and office-keeper - - -	250 00	
		11,825 00
Compensation to the Treasurer of the United States - -	2,400 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	2,150 00	
Contingent expenses of the office: For bills of exchange, fuel, stationery, office rent, &c. -	600 00	
		5,150 00
Compensation to the Commissioner of the Revenue - -	2,400 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	2,775 00	
Compensation of messenger and office-keeper - - -	250 00	
		5,425 00
Compensation to the Register of the Treasury - - -	2,000 00	
Compensation of clerks, agreeably to an arrangement made for the year 1796, in pursuance of the act of 30th May, 1796 -	12,925 00	
Compensation of messengers and office-keepers - - -	500 00	
		15,425 00
Compensation to the Purveyor of the Treasury - - -	2,000 00	
Compensation to the Secretary to the Commissioners of the Sinking Fund, from the 2d April, 1796, to the 31st December, 1797, at two hundred and fifty dollars per annum - -	419 17	
		2,419 17
Expense of stationery, printing, and all other contingent expenses of the several offices of the Treasury:		
Secretary of the Treasury -	500 00	
Comptroller of the Treasury -	800 00	
Auditor of the Treasury - -	750 00	
Commissioner of the Revenue -	400 00	
Register of the Treasury, including books for the public stocks, printing work, and books for the arrangement of the marine papers - - - - -	2,800 00	
Rent of the Treasury - -	1,200 00	
Rent of a house for part of the Register's Office - - -	360 00	
Rent of a House for the Auditor -	600 00	
Rent of a small store for public papers for the Register's Office -	133 33	
Rent of a house for the Office of the Commissioner of the Revenue, and for part of the Offices of the Comptroller, Auditor, and Register - - -	400 00	
Wood for the Department, (Treasurer's excepted,) and other contingencies - - -	3,500 00	
For the expense incident to the stating and printing the public accounts for 1797 - -	1,000 00	
And for the payment of certain incidental and contingent expenses of the Treasury Department in the year 1796, beyond the sum which was appropriated	1,500 00	
		13,943 33
Compensation to the several Loan Officers, viz:		
For the State of New Hampshire -	650 00	
Massachusetts -	1,500 00	
Rhode Island -	600 00	
Connecticut -	1,000 00	
New York -	1,500 00	
New Jersey -	700 00	
Pennsylvania -	1,500 00	
Delaware -	600 00	
Maryland -	1,000 00	
Virginia - -	1,500 00	
North Carolina -	1,000 00	
South Carolina -	1,000 00	
Georgia - -	700 00	
		13,250 00

DEPARTMENT OF STATE.

Compensation to the Secretary of State - - -	$3,500 00	
Do. of Clerks, agreeably to an arrangement for the year 1796, in pursuance of the act passed 30th May, 1796 - - -	4,042 64	
Do. to office-keeper and messenger - - - -	250 00	
		7,792 64

Incidental and Contingent Expenses.

Stationery - - -	$300 00	
Firewood - - -	200 00	
Office rent - - -	500 00	
Newspapers from different States, about 20, at $4 each - -	80 00	
Gazettes from and Gazettes sent to American Ministers abroad -	100 00	
Laws of second session of the 4th Congress, to be published in five newspapers, at $100 each -	500 00	
For printing an edition of the same, agreeably to an act of 15th September, 1789, say -	800 00	
For printing 5,000 copies of the same, agreeably to an act of 3d March, 1795, say - -	1,600 00	
For printing sea-letters and safe-conducts - - -	200 00	
For printing patents for useful arts, including parchment - -	50 00	
For printing patents for lands to the Virginia line, including do.	300 00	
For printing patents in the present year, not provided for in the appropriation - - -	435 00	
For striking Mediterranean passports, being done by a copper-plate, including parchment and retracing the plate, say -	1,500 00	
For do., struck off the present year, not provided for in the appropriation - - -	1,500 00	
For translating foreign languages	350 00	
For binding books for the office -	100 00	
For the purchase of books for do.	200 00	
		8,705 00

MINT OF THE UNITED STATES.

Compensation to the—		
Director - -	$2,000 00	
Treasurer - -	1,200 00	
Assayer - -	1,500 00	
Chief Coiner - -	1,500 00	
Melter and Refiner - -	1,500 00	
Engraver - - -	1,200 00	
One clerk - - -	700 00	
Two clerks, at $500 each -	1,000 00	
		10,600 00

WAR DEPARTMENT.

Compensation to the Secretary of War - - - -	3,000 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	4,750 00	
Compensation to office-keeper and messenger - - -	250 00	
		8,000 00

Contingencies of the War Office.

For stationery, wood, &c. -	1,000 00	
For office rent - - -	1,000 00	
		2,000 00

The Accountant's Office.

Compensation to the Accountant -	1,600 00	
Compensation of clerks, agreeably to an arrangement for the year 1796, in pursuance of the act of 30th May, 1796 - -	5,600 00	
Compensation to messenger and office keeper - - -	250 00	
Contingencies - - -	600 00	
		8,250 00
		18,250 00

SURVEYOR GENERAL'S DEPARTMENT.

Compensation to the Surveyor General - -	$2,000 00	
Towards carrying into effect the surveys to be made by the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," in which it is prescribed by the 10th section that the President of the United States may fix the compensation of the assistant surveyors, chain carriers, and axe-men, &c. -	25,000 00	
		27,000 00

GOVERNMENT OF THE TERRITORY NORTHWEST OF THE RIVER OHIO.

Governor, for his salary as such, and for discharging the duties of Superintendent of Indian Affairs, Northern department -	2,000 00	
Secretary of said district -	750 00	
Three Judges, at $800 each -	2,400 00	
Stationery, office rent, &c. -	250 00	
		5,800 00
For the discharge of such demands against the United States on account of the Civil department, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie		3,000 00

PAYMENT OF ANNUITIES AND GRANTS.

Isaac Van Vort, John Paulding, and David Williams, each a pension of $200 per annum, pursuant to an act of Congress of the 25th November, 1787 -	600 00	
Dominique L'Eglise, per act of Congress of 8th August, 1782	120 00	
John Traverse, per act of Congress of 8th August, 1782 - -	120 00	
Samuel McKenzie, Joseph Brussels, and John Jordan, per act of 10th September, 1783, entitled to a pension of $40 each -	120 00	

Elizabeth Bergen, per act of 21st August, 1781	53 33	
Joseph de Beauleau, per act of 5th August, 1782	100 00	
		1,113 33
Annual allowance to the widow and orphan children of Colonel John Harding, per act of 27th February, 1793	450 00	
Do. to the orphan children of Major Alexander Trueman, per act of 27th February, 1793	300 00	
Do. for the education of Hugh Mercer, son of the late Major General Mercer, per act of Congress of 2d March, 1793	400 00	
		1,150 00

MINT ESTABLISHMENT.

For the wages of persons employed in the Mint, at the different branches of refining, melting, carpenter's, mill-wright's, and smith's work, including the sum of $800 per annum allowed to an assistant coiner and die forger, who also oversees the execution of the iron work.

Incidental and contingent expenses and repairs.

Repairs of furnaces, cost of rollers and screws, timber, bar iron, &c. for blacksmith, mill-wright, and machinery work.
Wood and coals used in the works.
Lead, steel, potash, vitriol, aqua fortis, oil, candles, tallow, and a variety of other articles necessary for the establishment.
Melting pots, crucibles, and muffles.
Ironmongery.
Hay and corn for five horses, and the probable expenses of one.
Stationery, firewood, &c. for the different offices of the Mint.

DIPLOMATIC DEPARTMENT.

The Secretary of State estimates the following sums necessary for defraying the expenses of foreign intercourse for the year 1797:

For 4 Ministers Plenipotentiary, at $9,000	$36,000 00	
For 4 Secretaries to do., at $1,350	5,400 00	
For 1 Minister Resident	4,500 00	
For outfit of a Minister Plenipotentiary to the French Republic in 1796	9,000 00	
Contingent expenses of the Ministers, others than those which are personal	3,000 00	
Expenses relative to the claims of our citizens, whose property has been captured by the belligerent Powers.		
Deduct the annual appropriation, agreeably to the act of Congress, passed the 1st of July, 1790, entitled "An act providing the means of intercourse between the United States and foreign nations		46,000 00
Remaining to be provided for		

For the support of Light-houses, &c.

For the maintenance and support of light houses, beacons, buoys, and public piers, and stakeage, of channels, bars, and shoals, and for occasional improvement in the construction of lanterns, and of the lamps and materials used in them	24,000 00	
For the repairs requisite at Reedy Island, and the oil vault, &c. at Cape Henlopen	4,500 00	
To complete the payments for building a light house on Baldhead, in North Carolina	1,359 14	
To make good a deficiency from the balance of $13,000, granted for building a light-house on Montauk Point, being carried to the credit of the Surplus Fund, as per page 80 of the public printed accounts for the year 1795, in pursuance of the 16th section of the act passed March 3, 1795	13,000 00	
And for this sum in addition, being to enable a full payment of the claims for building the said light-house	2,740 67	
		45,599 81

MISCELLANEOUS CLAIMS.

To satisfy Miscellaneous Claims:

For the payment of the representatives of Samuel Patterson, late Commissioner of the Loan Office for the State of Delaware, balance due to the deceased on the final adjustment of his Loan Office accounts under the late Government, by the Accounting Officers of the Treasury	272 69	
For this sum, being a balance found due to James O'Hara, late agent for the Quartermaster's department, according to a settlement of his account at Treasury	235 81	
For this sum, being a balance found due to Timothy Pickering, as Commissioner appointed to hold the Indian Treaties at Canondaigua and Oneida	3,463 12	
For compensation to persons employed in bearing votes to the Seat of Government for Electors of President and Vice President of the United States	1,600 00	
To make good certain deficiencies arising from the balances of moneys of various appropriations being carried to the credit of the Surplus Fund, in pursuance of the 16th section of the act passed 3d March, 1795—		
To the following items, being part of the sum of $4,560 97, as per page 77 of the printed public accounts for the present year, viz:		

For the payment of the clerks employed by the Commissioner of Loans, Massachusetts, for the quarter ending March 30, 1795	164 70	
For do. do., Commissioner of Loans, New York, do.	125 00	
For do. do., Commissioner of Loans, North Carolina	500 00	
On the appropriation for defraying the expense of a Treaty with the Indians Northwest of the Ohio, of 2d March, 1793—		
For the payment of a balance stated by the Accounting Officers of the Treasury, to be due to T. Pickering, Beverley Randolph, and Benjamin Lincoln, Commissioners appointed to negotiate and treat with the said Indians	3,247 56	
For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie	2,000 00	
		11,609 08

Ordered, That a bill or bills be brought in pursuant to the said report as amended; and that the Committee of Ways and Means do prepare and bring in the same.

MILITARY AND NAVAL APPROPRIATIONS.

Mr. W. Smith wished the House to resolve itself into a Committee of the Whole on the resolution he had laid on the table with respect to a temporary appropriation for the Military and Naval Establishments. To show the necessity for which he read a letter he had received from the Secretary of the Treasury on the subject.

Mr. Varnum thought there was no necessity for going into a consideration of the resolution in question. He should prefer going into a Committee of the Whole on the appropriations for the Military and Naval Establishments, which might be got through in time to answer the purpose in view.

Mr. W. Smith said, if he thought with the gentleman last up, that the business of the Military and Naval Establishments would be soon gone through, he would certainly be for going into the consideration; but the Military Establishment was not finally fixed upon, and there were some gentlemen who had objections with respect to the Naval Establishment. The law after passing in that House, would have to go to the Senate. There might also be amendments, upon which it would be necessary to hold conferences. In the mean time the public service might suffer for want of money to pay its workmen. The resolution which he proposed to be taken up might be got through in a few minutes; the sum might be left blank, and it might be referred back, and a bill brought in.

The House accordingly resolved itself into a Committee of the Whole on the following resolution, viz:

"*Resolved*, That the sum of —— be appropriated on account of the Military and Naval Establishments for the year 1797."

Mr. Gallatin moved to strike out the word "naval." It might become a serious question whether they should appropriate any more money to that object or not; and, in the mean time, if the word was struck out, that establishment would not suffer, as they were told in the late report on the subject that $24,000 remained unexpended of the last appropriation. The subject would probably be determined upon before the present business was finally passed; and, if it was concluded to go on with the Naval Establishment, he should vote for restoring the word.

Mr. Parker said, it was nearly a month since the report on this subject had been made; $24,000 were then in hand; but by this time he supposed it was expended, and, if no more was appropriated, the workmen would be discharged and great injury be sustained.

He trusted that House would never think of relinquishing the building of the frigates. If they meant to support any degree of consistency of character, he trusted they should go on to complete them. If not the whole, at least two of them. And if this were to be done, it was necessary now to appropriate some money. He hoped, therefore, the gentleman would withdraw his amendment.

The committee who had reported on the subject were ready at any time to go into it, and he trusted it would be taken up in the course of a day or two, when he hoped the House would determine upon having the frigates completed as soon as possible; for if they determined to give them up altogether, they would remain monuments of their own folly, and would discover a versatility of conduct never equalled, perhaps, by any deliberative body in the world.

Mr. Swanwick hoped the amendment would not prevail. Even if they determined to have no more to do with the frigates, still it would be the truest economy to finish them. But it would come very ill, Mr. S. said, from the fifty-one gentlemen who had lately voted in favor of indirect taxes, to vote against finishing the frigates, without which no dependence could be placed on any of their plans of taxation. He trusted, therefore, that the word *naval* would not be struck out, but that a supply of money would be granted, and that the work would go on without interruption.

Mr. Venable said, if he understood the object of the gentleman's motion, it was not to prevent an appropriation being made for the completion of the frigates, but to have it made in the proper way. It was well known that there had been an extraordinary waste of public money on these frigates; and, whenever an appropriation came under consideration, he should wish to see the esti-

mate, and prevent a lumping appropriation. When these items were seen, he should be ready to make such appropriations as should seem necessary.

Mr. Gallatin said, the great reason for objecting to the Naval Establishment being included with the Military, was this; an appropriation on account of the Military Establishment was made early in every session, before any estimate could be settled; but this was a sum on account of an establishment going on under authority of law, the appropriation for which was looked upon almost as a matter of form; but the Naval Establishment was altogether a doubtful thing. Before more money could be appropriated there was a previous question to be settled. They knew it must cease if the House refused to grant about $200,000 more to complete the frigates now building. Until that question was decided, he should not be inclined to vote any money for that purpose; for, if they were now to appropriate a sum of money on that account, they should pledge themselves to make good the whole appropriation. And, although there might be a large majority in favor of completing the frigates, it was not according to order to vote for an object not appropriated for by law. The building of the frigates, it was true, was authorized by law, but the business was confined by an appropriation. In order to complete them, 25 per cent. more than was last year contemplated was now wanted, and until it was decided that that sum should be appropriated, no appropriation on that account would be warranted. It was on this account he made his motion.

Mr. Swanwick said, they had not yet passed the law with respect to the Military Establishment. He thought the Military and Naval Establishments were connected together, and that it would be as wise to strike out one as the other. To strike out the word in question, Mr. S. said, would be like prejudging the question. Because more money was wanted his colleague thought the subject new; but, on the contrary, he believed, the moment they concluded to build the frigates, they determined to complete them. If they cost more than was expected, what was it different from a house costing more than was first estimated by the builder? Yet what man would stop at the second story of his house because he had been deceived as to the expense of completing it? He thought the question was decided last session, when it was said that three frigates should be built, and it would be a little extraordinary were they now to doubt on the subject.

If the gentleman had moved to postpone the consideration of this resolution wholly, in order to wait for the subject coming before them, he should have had no particular objection to it; but he had an objection to vote for one and not the other. He thought the Military Establishment a constant waste of money; but he had a more favorable opinion with respect to the Naval Establishment. He trusted all gentlemen who supported indirect taxation would now vote for supporting a Navy, since there would be no security of any revenue from that source without a Navy; but he hoped these frigates would be the means of preserving millions to our revenue; for, although it was true, these two or three frigates would not enable us to fight the whole world, yet there were multitudes of piccaroons which took our vessels at pleasure, and which these frigates would keep off our coast. But, if they were to agree to strike out the word *naval*, what, he asked, would the world think of us? He believed such a measure would encourage injuries to be played off upon us from all quarters. To attend to the Military Establishment, and neglect the Naval, would be to add strength to strength, and leave weakness unprotected. He hoped they should not let an idea go forth to the world that their frigates were likely at last to be abandoned. If the question was now, whether they would go into a Naval Establishment at all, it would be a different thing from having done so much, and refusing to complete the work already in such forwardness. He trusted they should not make themselves the ridicule of the world by withholding the necessary appropriations for completing the building of these vessels.

Mr. Coit hoped the amendment would not prevail. He had himself doubts about the propriety of this Navy going on; but he thought the motion should be carried as proposed.

Mr. Nicholas hoped the amendment would prevail; for though they had a law on the Naval Establishment, doubts were entertained whether the plan would be carried forward. He asked, if it would not be more proper and more decent to pursue the course chalked out by the gentleman from Pennsylvania, than to vote for money for an object that was yet undecided upon? He said, they had a report on the subject, and a day or two would determine what they should do with respect to it. And would it not be more orderly to take up the subject from the report than to do it in this manner? He believed it would, and that an appropriation might be made at the same time with this. Though the Legislature had determined to finish these frigates, gentlemen were still in doubt whether they ought to be finished. He was himself in doubt. He had, last session, been induced to vote for finishing the frigates, because so much money had already been expended; but he was now of opinion, from a further examination into the subject, that if they were to abandon them, though the loss would be great, they should gain what would warn them from future similar folly.

Mr. Murray said, it was unnecessary for them to decide to-day or to-morrow whether this country should have a Naval Establishment or not. If it were determined to-morrow that there should be no establishment of this kind, it would become a question of economy whether it would not be better to finish the frigates, whatever might be the event, than to give them up to rot on the stocks. So that the question was not now, nor could it become so, whether there should be a Navy, but whether the frigates should be finished? He hoped they would be finished. If they were

not, they would become (as it had been already hinted) a monument of disgrace to the country. He trusted, however, that the frigates would not only be built, but that a dock-yard, which would prove a cradle of the Navy, would also be agreed to be established.

Mr. Madison said, it was unusual and improper to make appropriations for any object before it was legalized; and if the object now in question was not legalized, he agreed with the gentleman from Pennsylvania [Mr. Gallatin] that, however certain it might be that the law would pass, before it did pass, it was not right to appropriate for that object. The law should first be before them. As he saw no evil which could arise from letting the business lie over for a few days, until the subject of the frigates had been determined upon, he should be in favor of the motion for striking out, not meaning by this vote to declare his unwillingness to vote for the sum necessary for completing the frigates when that question should come before them.

Mr. Parker said, as his colleague seemed to have some doubt with respect to the legality of voting for the present resolution, he would read him an extract from the law of last session, which was as decided for building the frigates, and which bound the expense upon them, as certain as was that of the Military Establishment. [He read the extract alluded to.] In consequence of this law, he said, the President had pursued the business, and had expended, a month ago, all the money appropriated, except $24 000.

If it was apprehended (as he had heard it suggested that it was) that any part of the money appropriated for this object was to go towards building a frigate at Portsmouth, in New Hampshire, he would declare the friends of this measure had no such intention. He should be as much opposed to that as any gentleman. This money would go to the building of no other vessels than to three, which had been authorized to be finished last session, which he considered themselves as much bound to complete as they were bound to appropriate for the Military Establishment. And, if money was not now appropriated, the workmen employed would have to be discharged, and a considerable loss occasioned. Indeed, he believed the delay and the expenses, with respect to these vessels, had been, in a considerable degree, occasioned by the versatility of that House.

Mr. P. said, he thought now, and had always thought, that if we were determined to have no armed vessels, we had no business with commerce, since a row-boat, with a gun or two, and a few men in it, was capable of taking our largest and most valuable ships. Mr. P. said, he was for supporting the dignity of our country. He hoped we were not in a situation to be afraid of any nation. He wished to be in readiness to meet any enemy, either with frigate or bayonet, who should choose to attack us. At present, he said, our merchants were losing their property daily, to an immense amount; indeed, many of them were almost ruined by their losses: and if we suffered them to be thus ruined, he believed the farmers, and every other class of citizens, would find themselves affected by their misfortunes.

It was time, Mr. P. said, we should put ourselves on rising ground, and provide means for supporting our dignity; for unless we put on this countenance, we should be degraded and insulted by all nations. He cared not who was their Executive Magistrate, he would support him in doing what he conceived to be right. He would, therefore, vote for every measure which went to put us into a situation of meeting any nation who might choose to insult and attack us; he would, for this purpose, vote for direct taxes, nor should he be afraid that the people, seeing the necessity, would not cheerfully pay them.

Mr. Isaac Smith was against the amendment. He trusted they should not, by withholding the necessary appropriations, suffer the workmen now employed upon the frigates to be discharged, but that they would be proceeded with to their completion. Economy should always be the order of the day, and if they were at last suffered to rot, after so much forwardness, it would argue a great want of economy. It was said the business was begun in folly, but, if they were now to be abandoned, it would end in greater.

Mr. W. Smith was surprised that the gentleman from Virginia [Mr. Madison] should have said an appropriation on this supject would not be authorized by law. [Mr. Madison denied having said so.] Last session, Mr. S. said, that House consented to the passing of a law to authorize the President to construct three frigates. In consequence of which law the President had proceeded with the business, and the officers of Government now told them they wanted money to pay the workmen; but these gentlemen say they will refuse, until it be determined whether the frigates should be finished or not. He thought this very extraordinary conduct. If gentlemen were disposed at any rate to destroy the Naval Establishment, why not bring in a bill at once to repeal the law? This, he said, would be the direct way of getting rid of the business; but, after employing the President to build these frigates, he thought it strange that, when they were told money was wanting to carry on the work, that they should withhold it, from a doubt of the legality of such an appropriation.

It was said by the gentleman from Pennsylvania [Mr. Gallatin] that there was money in hand, and therefore no necessity for an appropriation on this head; but the chairman of the committee, who had made the report on that subject, [Mr. Parker,] had informed them, and it was some time since that report was made, that the money was therefore expended, and more was now wanted. Mr. S. said, he should not then go into arguments to show the propriety of keeping up the Naval Establishment; but, as there was an existing law for the expense, the expense having been incurred, and the officers of Government calling upon them for money, he thought they could not avoid paying it.

The gentleman from Pennsylvania wished this appropriation to be delayed until they determined

upon the question of finishing the frigates; but did he not know, that in doing this, considerable loss would be incurred by the discharge of the workmen and the perishing of materials? He said they had passed a law declaring they would build three frigates; the law did not say they should cost only so much, but that they should be built. So far from limiting the sum, they had, from time to time, granted additional sums for this purpose. Indeed, he did not think they were at liberty to refuse this appropriation.

Mr. Giles said, if he understood this question, it was, whether they should appropriate first, and then discuss the propriety of doing so, or discuss the propriety and then appropriate? It was not a question whether the frigates should be completed, but merely a question as to the proper time of making the appropriation.

For his part, Mr. G. said, he was against the building of them at all, and always had been. He believed that candor would not permit the business to be called by a milder term than folly, and the farther they proceed in the project the worse it would be.

Mr. G. said, the House should doubtless first take up the report on the subject, and determine whether or not they were willing to furnish the $200,000 wanted. As to what the gentleman from South Carolina had said with respect to their not being at liberty to refuse this appropriation, he did not understand it. If they had not this liberty, why make any appropriation at all? Why was the business brought before them if they had no choice to act or not to act? He was one of those, he said, who thought that House was always at liberty to say whether they would appropriate money or refuse to appropriate it. He hoped, therefore, the motion would prevail.

Mr. Venable said, the objection to the proposed grant of money did not go against the appropriation itself so much as against the principle, as being an anticipation of law; for he did not suppose that the present appropriation was meant to include the whole of the money wanted; but before he agreed to vote any more money to this object, he wished to see the items of expense. He did not see any necessity for making an appropriation now, when it was probable they should next week be called upon to make another. He did not think the merits of the question was at all before them, but merely whether they would consent to appropriate a further sum of money before they had come to a decision upon a previous question, viz: whether the House would agree to furnish the necessary money for the completion of the frigates?

Mr. W. Smith said, the objection of the gentleman last up went to the Military Establishment as well as to the Naval. With respect to their not being at liberty to refuse the appropriation, he meant only to say, that having authorized the President to lay out money, they were not at liberty to refuse to pay it.

Mr. Varnum said, if the fact existed, the conclusion of the gentleman from South Carolina would be just. If expense had been incurred, and it was not provided for, it certainly ought to be; but it was not so. The committee who had reported on the subject, had told them that a month ago there were $24,000 in hand unexpended; but it had been said that it was probably now expended. He did not believe it was probable; he did not believe a thousand dollars a day had been laid out upon the frigates since that time. Indeed, he did not think that, northward of this place, the work had gone on at all, owing to the severity of the frost. Besides, if the fact had existed, would it not have been in evidence before them? If the President had incurred an expense for which no provision had been made, would he not have stated it to the House? He certainly would, and this statement not having been made, there was every reason to believe there was yet money in hand, and why this anticipation should be so strenuously urged he was at a loss to know. The Military Establishment, he said, was quite a different thing. They knew there had been expense incurred under that head, and could have no objection to appropriate money on account of it.

Mr. Swanwick referred to the letter of the Secretary of the Treasury to show that the money was really wanted to carry on the work.

The question on the amendment was put and carried—ayes 42, noes 34.

The resolution, as amended, was then agreed to. The Committee rose; the House took it up and agreed to the amendment, and referred the resolution to the Committee of Ways and Means to bring in a bill.

The House then adjourned.

Wednesday, February 1.

LOST CERTIFICATES.

Mr. Foster, from the Committee of Claims, reported on the petitions of Barnt De Klyn, Jacob Hollingsworth, Archibald Johnson, James Powell, Elizabeth Stewart, and Peter Winter, who all prayed a renewal of lost certificates; the report was against the petitioners, and the House concurred therewith.

Mr. Christie observed, that he expected a general report would have been made on this subject, and not that the petitions would have been reported upon particularly. He trusted some redress would be afforded to persons who held certificates which had been lost, and wished the decision upon these petitions to be postponed until the subject had been determined upon by the House.

Mr. D. Foster suggested whether it would not be best to bring the business before the House, independently of any particular case.

Mr. Christie consented to do so, and afterwards proposed the following resolution to the House:

"*Resolved*, That provision ought to be made by law for a renewal, under specific restrictions, of certificates which have been destroyed, of certain descriptions."

This resolution was agreed to, and referred to a select committee. Messrs. Coit, R. Sprigg, Patton, Varnum, and Blount, were accordingly appointed to examine and report thereon.

SUABILITY OF STATES.

The following resolution was received from the Senate, viz:

"*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President be requested to adopt some speedy and effectual means of obtaining from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution of the United States, concerning the suability of States; if they have, to obtain evidences thereof."

It was read a second time; when

Mr. W. Smith said, he thought this resolution would be best referred to a Committee of the Whole, as perhaps it might be amended, by proposing some other alterations to the Constitution.

Mr. Dent thought this purpose would be best answered by a reference to a select committee in the first instance.

Mr. Smith withdrew his motion, and the resolution was referred to a select committee.

Messrs. Harper, Freeman, Goodrich, Isaac Smith, and Harrison, were appointed.

COUNTING VOTES FOR PRESIDENT.

The resolution received from the Senate yesterday relative to the appointment of a committee to ascertain the election of President and Vice President, and to appoint a time and place for administering the oath of office to the President, was taken up, read a second time, and a committee of three members, viz: Mr. Sitgreaves, Mr. Jeremiah Smith, and Mr. Parker, were appointed accordingly, to act in conjunction with the committee appointed by the Senate.

POST OFFICES AND POST ROADS.

Mr. Thatcher moved that the House should resolve itself into a Committee of the Whole upon the bill for regulating Post Offices and Post Roads.

Mr. S. Smith wished that the subject on the Military Establishment should be entered upon in preference.

Mr. W. Smith hoped neither of these subjects would be taken up, but business which was of a more pressing nature than either. He meant the business of the revenue. A string of resolutions were yesterday referred to a Committee of the Whole on the subject of indirect taxes. The House having directed the Committee of Ways and Means to report a bill with a plan for collecting direct taxes, it was necessary they should determine which of the two plans should be pursued; as, until that determination was made, the Committee of Ways and Means were in a state of suspense, and he knew not but by the time they had completed the bill for laying the direct tax, the House might have determined not to resort to direct, but to push indirect taxes still further. He would, therefore, move that the House resolve itself into a Committee of the Whole on the resolutions alluded to, together with that formerly proposed by the gentleman from South Carolina. If it were found that sufficient revenue could be drawn from indirect sources, and the House chose to adopt that plan, it would be unnecessary for the system of direct taxes to be further pursued; if not, the Committee of Ways and Means could not report a bill on the subject. As the session was drawing to a close, it was necessary some conclusion should speedily be come to, otherwise they should rise without providing any additional revenue at all.

Mr. Thatcher said, if they attended to one thing at once, he doubted not they should get through the whole of their business. He thought the subject he had proposed was deserving of attention; and if members recollected the many petitions which had been received on the subject, he thought they would agree with him in opinion.

Mr. Craik hoped they would not take up the resolutions referred to the Committee of the Whole yesterday, on the subject of indirect taxes. He had not had time to consider them. That House, had adopted the principle of direct taxes, and had directed the Committee of Ways and Means to bring in a bill on the subject. Before they entered upon the discussion of indirect taxes, he should wish to see that bill, in order to ascertain whether any practicable plan could be formed for collecting a direct tax. If it could, it would probably influence the decision of the House upon the resolutions respecting indirect taxes.

The Speaker reminded the gentleman from Massachusetts that the question before the House was not whether they should go into a Committee of the Whole on the subject of indirect taxes, but whether they should go into the business of Post Offices and Post Roads.

The question was put and carried—ayes 46, noes 40.

The House accordingly resolved itself into a Committee of the Whole on the bill for regulating Post Offices and Post Roads.

The debate continued the remainder of the sitting—many new roads were proposed. It was observed, on the one side, that to propose new ones or continue the old, it was necessary they should in their products bear a tolerable proportion of the expenses attending postage, &c., as it appeared some of the present roads did not produce more than one-hundredth part of their expenses. On the other hand, it was argued that no estimate could be formed of the produce and advantage of roads in some situations. Any part in the middle of a principal road from one capital to another, might be pointed out as unproductive, and therefore changed, because those post offices did not receive much money, but being a thoroughfare, the extremities of which were productive, the expenses were more than paid. It was also urged, that the reason of many roads being established and continued, was to convey information. It was said to be much to the credit of the United States that information was sent by newspapers into many obscure parts, and, therefore, that while the general receipts of the Post Office Establishment throughout the United States bore the general expenses, every present post-road should be continued, and as many new ones established as the receipts would support, as it was not proper that any money, on such a laudable establishment,

should be put into the Treasury. At length, after much uninteresting discussion, Mr. Gallatin moved the Committee to rise; which was carried—ayes 42, noes 41.

He then moved that the Committee of the Whole should be discharged, and the subject be referred to a select committee.

On the question for the Committee of the Whole to have leave to sit again, it was carried—ayes 48, noes 38.

It was then observed, that if they were to sit again, they might as well have sat until the usual hour. The question was then put for the House again to resolve itself into a Committee on the same subject; which was carried—ayes 47.

The House accordingly went into Committee, and, after more discussion, the House adjourned.

Thursday, February 2.

LAWS OF IMPOST AND TONNAGE.

Mr. Coit proposed to the House the following resolution:

"*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to prepare and report to the House of Representatives, at the next session of Congress, such a system *as will enable the House to comprise into one* the various laws which have been made, and are now in force, for laying and collecting duties of impost and tonnage, reducing therein to a specific rate of duty those articles which are now rated according to value, and which, in his opinion, may more advantageously be rated specifically, and conforming, as nearly as may conveniently be done, to the existing rates, agreeably to the tariff directed to be by him reported by a resolution of the House of Representatives of the 3d of March, 1795."

Mr. Coit said, his reason for proposing this resolution was, to bring the whole of the laws on this subject, which were at present very complex, into one view; and he believed this could be better done by the Secretary of the Treasury than in any other way.

The Speaker said this resolution was not in order, as there was a rule of the House which directed that no bill could be introduced in a way different from that prescribed by that rule, viz: by appointing a committee, &c.

Mr. Page said, if it were not out of order, he should have opposed the reference of such a resolution, as such a measure would be calling upon the Heads of Departments to do their business. He trusted they should not agree to any thing which would carry the appearance of such inattention and laziness.

Mr. Coit said, he did not wish to violate any rule of the House, and he believed the objection might be got over by introducing the word *system* in place of bill. He did not mean to charge the House with laziness and inattention. He knew he was himself, in some degree, lazy and inattentive, and he thought he saw others so, but he did not mean to charge the House with being so.

Mr Heath said, though he generally found reason to approve of the accuracy of the gentleman from Connecticut, yet he could not do so in the present case. In his opinion, it would be infinitely more proper to appoint a committee to do the business, and bring in a bill. To do otherwise would be to transfer the business of the House to Heads of Departments.

Mr. W. Smith thought gentlemen were making difficulties where there were none. Last session, the Secretary of the Treasury had been directed to report a system of direct taxation; and whilst the House could with propriety require him to do that, they might certainly direct him to report a system for regulating the laws on imposts and tonnage. There were difficulties as to directing him to report a bill, but there could be none in directing him to report a system. The idea of appointing a committee on the subject was a little extraordinary. They could only sit till the 3d of March, and it could not be supposed they could report a system before that time.

Mr. Henderson was in favor of the resolution.

Mr. Coit said, he had no other object in view than to get this thing brought into shape; and, if no better plan could be adopted, he hoped his motion would prevail.

Mr. W. Smith proposed an amendment, viz: instead of the words, "for comprising into one the various laws," &c., to say, "such a system as shall enable the House to comprise into one."

The resolution, with the amendment, was then agreed to.

A message was received from the Senate informing the House that, conformable to rule, they had appointed Mr. Sedgwick on their part, teller of the votes for President and Vice President.

LOST CERTIFICATES.

Mr. Dent said if there were any more petitions on the subject of lost certificates before the Committee of Claims, he should wish them to be discharged from a further consideration of them, since a committee had been appointed to make a report as to the propriety of affording relief in certain cases.

Mr. D. Foster said there were a number of cases before them of a similar kind, part of which the committee had decided upon, but not drawn out the reports. If the House chose to discharge them from the subject, they certainly could have no objection to it.

Mr. Dent moved that the Committee of Claims be discharged from a further consideration of any petitions on the subject of lost or destroyed certificates.

Mr. Macon saw no necessity for this motion, as, if it were determined to make provision for sufferers in certain cases, the cases of those persons whose petitions had been reported upon would stand in the same situation with others.

Mr. R. Sprigg hoped the motion would prevail. It would come with a bad grace to propose a law for the relief of these persons another session (for he did not expect anything to be done in the business this session) when their cases had been decided upon in a former session, and the more cases which had been decided upon, the greater weight they would have. He thought, therefore, it would

be best for these petitions to lie until the committee appointed should make their report: for, if it should be determined that, in certain cases, allowances should be made for lost or destroyed certificates, it would prove to have been a waste of time to make the decisions they were now daily making upon them.

Mr. Coit hoped the motion would not prevail, as it was taken for granted that some provision would be made in these cases. The objections urged might afford good reason for not acting upon the reports, but not for discharging the Committee of Claims from a consideration of them.

The motion was put and negatived.

POST OFFICES AND POST ROADS.

The House then resolved itself into a Committee of the Whole on the bill in addition to the act to establish the Post Office and Post Roads within the United States.

After the business of the roads was gone through, and that part of the bill which relates to newspapers came under consideration, an amendment was proposed by Mr. Nicholas, which occasioned some debate. The bill directed "that no newspapers should be received by the Deputy Postmasters, to be conveyed by post, unless they were *sufficiently dried and* enclosed in proper wrappers. The amendment proposed to strike out the words printed in italic.

Messrs. Thatcher, Harper, and Jeremiah Smith, supported the clause as it stood. They said that it was owing to the papers being put into the Post Office wet, that the directions became defaced, and persons at a distance were disappointed in the receipt of their papers. This was said to be particularly the case with respect to papers sent from this city to the Southern States, and not that newspapers only were spoiled by this means, but that letters also were liable to be defaced and injured. All this inconvenience and injury, it was alleged, would be remedied by the papers being dried (which would be attended with very little trouble to the printers) and would secure their being safely conveyed to the most distant parts of the Union.

The amendment was supported by the mover, Messrs. Swanwick, Murray, Page, S. Smith, and W. Lyman. There was no necessity, they said, for this regulation. Printers would find it to their interest to pack up their papers so as to get safely to their customers; but were it to pass, it would oblige the printers of daily papers to keep a person wholly employed in drying papers; and, beside the expense, from the extra fire necessary, it would subject them to great danger from that calamity which had lately been experienced by one of the printers of this city: and so far from this being attended with little trouble (as had been intimated) it would be so great as to increase the price of a daily paper at least two dollars a year. The regulation would also operate more unfavorable on some printers than on others; for instance, morning papers printed in this city must be in the Post Office before seven o'clock, of course, persons must be employed the whole of the night in drying and packing them, or they must be delayed a day for the purpose of drying, whilst those printed in an afternoon (though at considerable trouble and expense) could be dried and packed in the course of the evening, so as to be sent by the same post as heretofore. Such a provision, it was observed, would also give the Postmaster a power of showing an undue partiality to favorite printers, by refusing papers from their competitors on the ground of their not being sufficiently dry. With respect to the wetness of the papers defacing their directions, it was believed there were causes of that defacement besides their being packed up wet. Mr. Page, in particular, said, they were frequently suffered to be wet with rain, thrown carelessly about, and trodden under foot! This he had seen. And, as to their injuring letters, Mr. S. Smith said, this was impossible, as the papers and letters were packed up in separate bags.

The motion for striking out the words was carried—41 to 23.

The last clause of the bill occasioned considerable debate. It was in these words:

"That the Postmaster General be authorised to discontinue carrying a mail on any post road which shall not produce more than one-fifth part of the expense of carrying the mail on the same during the third year after the passing of this act."

Mr. Sitgreaves moved to strike out this clause. Messrs. Thatcher, Dayton, Williams, and Varnum, were for retaining it. They said that it was necessary to have some check of this sort, as when new roads were proposed, they were voted for in the dark, as probably not one-fifth part of the House were acquainted with the country in which they were to pass; if these roads, therefore, after a certain time, did not produce some certain portion of the expense of conveying the mail, it was proper they should be discontinued, as every unproductive and unnecessary road prevented the establishment of more useful and productive ones; and, though it was a settled principle that the profits arising from one part of the Union should go to the establishment of post roads in other parts, yet it was an injury and injustice to the whole to continue roads which would not pay one-fifth of the expense of conveying the mail. Mr. Thatcher, in particular, said that it was necessary there should be some check upon the House with respect to this subject; for when a road was once established, however unprofitable it might be, there was no getting it discontinued; as, while a member of that House had a letter to send to his constituents, he wished to have a post established for the purpose of conveying it.

The amendment was supported by Messrs. Sitgreaves, Murray, W. Lyman, Swanwick, Madison, Craik, and Gallatin. It was said, the power proposed to be given to the Postmaster General was a discretionary Legislative power, which belonged to that House, and could not be imparted to any other body or person; that though it was possible unprofitable roads might be established—from the partiality of members to their

own district of country—yet to remedy this evil in the way proposed, would be to introduce a greater; besides, it was said, it would be next to impracticable to ascertain exactly when a road produced less than one-fifth of the expense attending it. It was also found necessary to keep up some roads, though they did not pay one-fifth, viz: such as roads to Kentucky, Tennessee, to Niagara, &c., and therefore the Postmaster General was *authorized*, instead of being *directed*, to discontinue such roads as did not produce such a sum, which was, in effect, giving him the power to establish post roads. The Postmaster General, they remarked, might give the necessary information to the House, as to what roads were unprofitable, and they could, if they thought proper, discontinue them; but this power ought not to rest with any one man. The act might also be limited in its duration, and when it was renewed a review of the roads might take place.

The question for striking out was put and carried.

Mr. Madison then proposed the following section in its stead, which was agreed to:

"That it shall be the duty of the Postmaster General to make a report annually, to Congress, of every post road which shall not have produced one-fifth part of the expense of carrying the mail on the same."

The Committee then rose, and reported the bill with the amendments.

Friday, February 3.

Mr. Dearborn, from the committee appointed, presented, according to order, a bill to augment the compensation of the Attorney General of the United States, which was received and read. He also presented a bill to continue in force the act "to regulate the compensation of clerks." These bills were read a second time, and committed to a Committee of the Whole on Monday next.

COUNTING VOTES FOR PRESIDENT, &c.

Mr. Sitgreaves, from the committee appointed on the part of this House, jointly with a committee appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and to regulate the time, place, and manner of administering the oath of office to the President, made a report, in part, which he delivered in at the Clerk's table, where the same was twice read, and agreed to by the House, as follows:

"That the two Houses shall assemble in the Chamber of the House of Representatives on Wednesday next at twelve o'clock: That two persons be appointed tellers, on the part of this House, to make a list of the votes as they shall be declared: That the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President; and, together with a list of votes, be entered on the Journals of the two Houses."

Resolved, That Mr. Sitgreaves and Mr. Parker be appointed tellers on the part of this House, pursuant to the said report.

ILLINOIS AND WABASH LANDS.

Mr. Jeremiah Smith, from the committee to whom was referred the petition of the Illinois and Wabash Land Companies, made a report, to this effect: That the committee had met the committee of the Senate on the subject, and that they had determined it to be expedient to adopt the report made by the Senate on this subject in March, 1792. The claims of the petitioners were said to be founded on two deeds, viz: one of July, 1773, the other of October 18, 1775, and they proposed to surrender the whole of their claim to the United States, on condition that the United States would guaranty to them one-fourth part thereof. It was the opinion of the committee, however, that these companies had no legal title to the said lands, and they proposed a resolution to the House that the prayer of the petition could not be granted. Mr. S. gave notice that he should call up this report for decision on Monday morning.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill for the support of Government, and a partial appropriation for the Military Establishment for the year 1797. It was read a second time, and ordered to be committed to a Committee of the Whole on Monday.

The committee to whom it was referred to inquire what progress had been made in carrying into effect the law relative to grants of lands for military services, and whether any alterations were necessary therein, reported, that owing to the difficulty attending the appointment of a Surveyor General, no progress had been made therein, and that no alterations were necessary in the present law. Laid on the table.

GEORGE CALVERT.

Mr. Dwight Foster, from the Committee of Claims, made a report on the petition of George Calvert, one of the chiefs and warriors of the Chickasaw nation. The petitioner prayed for compensation for provisions furnished to a party of the inhabitants of the State of Tennessee, who went into the Chickasaw nation to assist them in a war against the Creeks. The committee report, that though the motives of the said inhabitants might be good, as the expedition was unauthorized by Government, and might prove a bad example in future, that as they were not bound by Treaty to support the Chickasaws in their wars, it would not be right to establish any precedent which might countenance that principle; they were, therefore, of opinion, that any claim on this subject would be best left to the President, who was competent to determine on the subject; they, therefore, reported that the prayer of the petition could not be granted.

Mr. A. Jackson moved that this report be referred to a Committee of the Whole, to whom were referred the reports on the petitions of James

Orr and the widow of the Hanging Maw. Agreed to.

POST OFFICES AND POST ROADS.

The House then entered upon the order of the day, which was the report of the Committee of the Whole on the bill regulating Post Offices and Post Roads. The amendments were considered and agreed to, and several additional ones made.

Some debate took place on a motion made by Mr. Christie to add a new section to the bill, directing a new post office to be established at the Little Falls of Gunpowder, betwixt Harford and Baltimore. His reason for moving this section was, he had applied very often to the Postmaster General in vain to get an office established there, though it was much wanted on account of several manufactories in the neighborhood. The Postmaster General had always told him that he could not fix a post office there, on account of the danger there would be of the mail being robbed. [It seems the mail was once robbed on that road.]

This principle of directing where a post office should be established was opposed by Messrs. Thatcher and Hartley as unprecedented.

Mr. Sitgreaves proposed a way of avoiding that objection. He said that it had been invariably the practice of the Postmaster to make every place mentioned by name in the act a place of deposite for the post; he therefore suggested the propriety of introducing the place proposed by name into the bill.

Mr. Christie accordingly moved these words as an amendment: "From Harford to Baltimore, shall be by the Little Falls of Gunpowder;" which was agreed to.

In debating on this amendment, some notice was taken of what fell from Mr. Thatcher yesterday, with respect to a "check being put upon that House."

Mr. W. Lyman said he thought the expression used, viz: "That the Postmaster General would be a proper check to that House," was an indignity committed against the House, since they had no other check than the good sense of the community.

Mr. Kittera observed, in reply, that that House had certainly other checks besides the good sense of the community: there was one check upon them up-stairs and another in the President.

Mr. S. Smith thought, if they gave power to an Executive officer, and he did not exercise it, that House ought to check him, and not he them. The Postmaster General refused to establish a post-road at the request of the inhabitants of a certain district, and those persons now apply through their Representatives to Congress for redress. He trusted they would have an office established. In answer to Mr. Thatcher, who had doubted whether there was any person living at the place proposed who could be intrusted with the office, he said there was an inhabitant of Little Falls who was able to purchase half the Province of Maine, of which Mr. Thatcher is the Representative.

The bill was ordered to be engrossed for a third reading on Monday.

MILITARY ESTABLISHMENT.

On motion of Mr. S. Smith, the House resolved itself into a Committee of the Whole, upon the bill regulating the Military Establishment.

Mr. S. said there was some variation in the bill from the report referred to the Committee: they had struck out the whole of the 11th section of the old act which related to an allowance of extra provisions to the troops employed to the Westward. [The clause was read.] The cause of this extra provision, he said, no longer existed, and therefore they had thought proper to omit the clause, that the troops employed in every quarter might have the same allowance. As chairman of the committee, he thought it necessary to give this information.

Mr. Coit moved to strike out the section which directs that the four regiments of infantry shall be reduced to three. He did not know that the affairs of this country were so much changed for the better, since the last year, as to justify this reduction. He said he was no military man, but he believed great inconveniences would arise from a derangement in the officers by the proposed reduction.

Mr. Williams said this subject had been already fully discussed, and it had been determined that three regiments would be adequate to all our wants, as those three would contain all the troops now in actual service. The additional expense of keeping up what were called skeletons of regiments of officers, without men, might very well be avoided. When our finances were in so low a state as at present, it was necessary to retrench every unnecessary expense. Indeed, he had heard nothing which could induce him to change his former opinion on the subject. There were only, he said, about 2,500 men in the service, and three regiments with sixteen companies of artillery would afford officers sufficient for the men. To raise men in time of peace, when we wanted the sinews of war, he could not consent to.

Mr. S. Smith said, since the business was last before the House, he had obtained a list of the posts at which men were placed, and the number of men in each. It was not a perfectly accurate return, but it was as nearly so as he had been able to procure. By this estimate, it appeared that 2,628 men were stationed on the Northwestern and Southern frontiers. Some of the posts, it was true, would be relinquished as unnecessary, but others would be necessary. [Mr. S. delivered in the list at the Clerk's table, and it was read.]

Mr. Rutherford saw no necessity for the present motion, as the business had already been determined upon. Many of the garrisons which had not been mentioned, he said, were perfectly unnecessary. An extensive Military Establishment was an evil in any country; and shall the American people, said he, lean on this support? No; the yeomanry of this country would always be ready to defend it.

Mr. Gallatin said they had no information before them which led him to suppose that more than three regiments would be wanted. As to the list which had been produced, no kind of conclu-

sion could be drawn from it, because one-half of the posts there mentioned were to be evacuated, viz: all that chain from Fort Washington to the Lakes, in which, according to the list before them, were upwards of 1,000 men.

He would just mention what the expense of the rations, pay, and clothing of a regiment, was: it was $94,628. He would add, that it was important, not only as it respected the rations, pay, and clothing, of a regiment, that the nominal estimate of our Army should be reduced, because the saving would not only apply to those articles, but to the contingencies, as the Quartermaster's department and every other contingent expense was proportioned in proportion to the establishment; and the greater the appropriation, the greater would be the expense, as there was always as much money expended as was appropriated, and always would be, when left to the discretion of the Heads of Departments, as no Department, except the Treasury, had any check upon their expenses, but the amount of the appropriation. Indeed, the expense of the Military Establishment had kept continually swelling; for, though the real amount of men was not more than one-half of the nominal number, the expenses were always equal to the nominal number. The real saving, by striking off the regiment proposed, would be at least $100,000, exclusive of all contingencies. He hoped, therefore, the motion would not prevail.

Mr. S. Smith did not think it was a good reason for reducing the Military Establishment, because it would be a saving of money to do so, for the same reasoning would go to the destruction of the whole. Mr. S. believed that the pay, rations, clothing, the Hospital department, and Quartermaster's department, for a regiment of men, would be $150,000. It was but fair that the House should know this; but he did not think the cost only ought to be their guide in this matter.

There was one thing which he had frequently urged, but which did not seem to be sufficiently attended to: The forming of officers to their duty took a number of years; and when they were so formed, it was prudent to keep them in the service. It would be said, officers could at all times be got. He denied that experienced officers could at all times be got, and the fighting part was the least essential: for he believed (as he had before said) there were more men killed for want of care than by an enemy. The skeleton of a regiment ought to be kept up. It was good policy to keep such men in the service, as they would preserve the men in health and proper order. This doctrine, he supposed, would be laughed at by any but military men; but he was confident the trifling expense to Government of keeping up these officers was nothing when compared to their usefulness. But, when it should be known that our meritorious officers had been discharged from service, without notice, seven or eight hundred miles from their homes, which they had to travel at their own expense; that when we had done with them they were thrown upon the wide world without provision, men of respectability would refuse to go into the service, and none but the refuse of the people, who could not be provided for any other way, would enter our lists; and those who were best capable of commanding our soldiers, would retire dissatisfied and disgusted.

Mr. Hartley said he had delivered his opinion on a former occasion on this subject. He still thought they had no solid ground for making the reduction. It was said there were many posts unnecessary, but he believed all that had been mentioned as useless would not be found so. Mr. H. spoke of the route which would be necessary to be taken between Pittsburg and Fort Franklin, up the Alleghany, and said it would be policy to employ soldiers in working the batteaux, rather than have to hire men for the purpose. More posts, he said, would certainly be wanted on the waters of the Mississippi, and he did not think less than the four regiments would be sufficient. Mr. H. followed Mr. Smith in speaking of the injustice which would be done to officers by the proposed reduction.

Mr. Williams said, when they called upon their constituents for revenue, it was necessary they should give some reason for the call. If in 1792 the country was defended by two regiments, they might certainly now be defended by three; but, if the present motion prevailed, they should have double the number. What use, then, will it have been to the United States to have had the Western posts given up? Whilst the British possessed them, they were said to be the cause of disorders on the frontiers, by exciting the Indians against us; yet, now they were given up, we were to keep up additional troops. This seemed to say they must be at a greater expense in peace than in war. Mr. W. then went over the different sums allowed as the price of peace with the Indians, which amounted to ninety thousand dollars per annum, besides which, the last session, one hundred and fifty thousand dollars had been expended in order to get goods amongst them. Taking these sums together, they made a very serious amount; and he thought they ought, at all events, to retrench the expenses of Government wherever they could.

Whatever gentlemen might say about the distressing of officers by discharging them, no officer, when he entered into the service, could consider himself as engaged for a longer term than that for which the service should want him. With respect to making officers an allowance on their being discharged, he had no objection to that, at least for the time which it required to travel to their own homes; and, in all probability, were they to frame a proper Militia law, a number of them might be employed in that service to advantage, since it would be very desirable to keep up a regular discipline in the Militia. These officers being dispersed throughout the Union, they would be of great service in this respect.

Upon the whole, the expense of four regiments, in our present circumstances, was too great. If he thought them necessary, he would give his vote for them; but, in time of peace, he saw no necessity for more than the three regiments.

Mr. Murray hoped the motion would succeed, because all he had heard from gentlemen who

opposed the retaining the four regiments convinced him they were necessary. He should be glad if the gentleman from Pennsylvania, (Mr. Gallatin,) would show him any reason why less troops should be kept up this year than were kept up last. That gentleman had not reasoned with his usual logic on this occasion. He argued, as if it were taken for granted, that the only object was to save money, but had not attempted to show that four regiments were unnecessary.

That gentleman had said, that the interior posts might be abandoned, and the troops now in them might be sent upon the frontier; but, for that reason, he would rather augment than diminish the Military Establishment. Few men might serve to guard an inner post; but when these men were sent one hundred miles further back, that moment it became necessary to increase their numbers, because no aid could be given them in case they should want it.

The gentleman from New York (Mr. Williams) had said, that he was surprised that it should be thought the Military Establishment should be larger now than in 1792. But, Mr. M. said, a moment's reflection would have told that gentleman that the extreme poverty of the Military Establishment at that time was the source of a most melancholy event; for, in November, in the preceding year, a regiment was almost wholly cut off. Congress afterwards became more liberal, and the Military Establishment was enlarged. This was certainly, then, an unfortunate period to refer to, as an example for the present day, when such destruction took place for want of sufficient military force. There was great impolicy both as to the numbers of our military and as to the duration of their term of service. The necessity of enlarging the establishment had, however, at the time alluded to, been forced upon the Government.

Mr. M. said, the Militia were inadequate to the service of defending the country, and much more expensive than troops. He had supposed for three years past, that the Militia system would have been abandoned in favor of regular troops, as they had been found the best and cheapest. The events of the last three or four years have fully evinced this.

But, said Mr. M., if the Military Establishment is to be cut down, I would advise gentlemen to go through with the matter, and move a repeal of the law which empowers the President to call out the Militia at a great expense; because, if they did not mean still to use the most expensive sort of defence; if they were sincere in their assertions that less military force was necessary, let them show that they were willing to give up military defence, and repeal the law which may call out a frontier defence, particularly the mountain militia, who were paid, he believed, a dollar a day while in service. This would convince him that their hearts were at ease with respect to the necessity of a Military Establishment.

We have the most extensive frontier, said Mr. M., except Russia, of any nation in the world; and Russia had not only a large frontier, but had also a similar sort of natives in their back country that we have. What, then, did Russia do? They were obliged to do as the Romans did—to keep up extensive military posts. Nothing so grand as that idea had ever entered this country; but, on the contrary, a parsimonious spirit on all occasions seemed to pervade that House. They tell the people they mean to economize; but, in fact, they were neglecting an establishment which all nations had found necessary—an establishment that was worth infinitely more than any paltry saving which might be made by its curtailment, and the breaking down of which might subject the country to the most serious misfortunes.

Mr. Rutherford said, since this matter came into debate, it was necessary to reason upon it. It was necessary, he said, for the Representatives of a free people to pay constant attention to the disposition of the people at large; and this disposition, he was confident, was in opposition to a large Military Establishment. Among the powers delegated to them, he said, was the raising of armies; but if this power was overstrained, the people had a right to complain. To say to them, We cannot trust you, without a large military force to guard us, was an insult to the people at large. He could not, therefore, at a time when money was becoming every hour more precious, consent to the proposed amendment.

Mr. Gallatin said, the gentleman from Maryland [Mr. Murray] seemed to suppose that after having said it was proper to economize, he [Mr. G.] had not gone far enough; and that there was no ground for making the Military Establishment lower this year than last year. He thought there was considerable difference between this year and last. Last year he voted for making the establishment what it was. Indeed, no actual reduction of the troops then took place; it was merely a nominal reduction and a new organization. At that time the posts on the Lakes, the possession of which would naturally draw after them a reduction of military force, were not secured. It was on this ground that no reduction took place; but, when peace was secured with the Indians from North to South, and the posts were in our hands, it was proper to think of reducing our military, and to compare our present force with what it was before the Indian war.

The gentleman from Maryland had said, that from the very reason that the chain of interior posts was unnecessary, a greater number of men would be wanted for the exterior posts, and that the possession of the posts on the Lakes required a large number of men to guard them. So that, according to that gentleman, the acquirement of those posts from the British would have no other effect than to increase our expense, for they could not be considered as giving any security against the Indians, if a greater number of troops were necessary to defend them than were formerly employed on the frontier.

Mr. G. said he differed in opinion from that gentleman; for he believed fewer troops would be necessary at the posts on the Lakes than were heretofore employed in the posts from the Ohio

to the Lakes. If, indeed, it were necessary to have a line of posts beyond those which had been surrendered by the British, it would be requisite that the number of troops should be increased; but he did not believe any such necessity existed. He did not see either the necessity of having posts upon Lake Michilimackinac, the Illinois river, or the Mississippi. They might, in some respects, prove convenient, but that convenience would by no means be equal to the expense which would be incurred.

Mr. G. said, he should return to his position, viz; that the three regiments proposed to be kept up would afford a sufficiency of men for all the posts, and this he would show from the paper which had been laid upon the table by the gentleman from Maryland. He then enumerated a number of posts which might be given up, in which it was reported there were upwards of one thousand men. These, Mr. G. said, would all be useless. At Detroit there were five hundred and twenty-four men, and he believed two or three hundred would be quite sufficient, or perhaps a smaller number. So that men enough might be spared to garrison one or two posts on the Mississippi; because, it ought to be observed, that there would not be a less effective number of men, when the four regiments were reduced to three, than at present.

The number of men being nearly the same, the only argument used for retaining the four regiments was, to keep up the officers so as to form a skeleton of a regiment. He wished when officers were discharged, that some compensation should be made to them; but, however averse he was to the exposing of these men to disappointment, yet this was not to influence him to keep men in pay who could be of no service. If officers were not wanted, they ought to be discharged; and this remark not only applied to the military but the civil department.

The gentleman from Maryland had said, that if those who were in favor of a reduction of the military force were really sincere in their wish to reduce the expense under this head, they would move a repeal of the law which gives to the President the power of calling out the Militia. But, he would ask the gentleman, what that law cost the Union whilst it lay unexecuted? It was a provision against danger; calculated to save money, and not to expend it. It was proper an authority of this kind should be lodged somewhere, to be ready for exercise in case of emergency; as, without such a provision, not only the present establishment, but any establishment which it was in our power to raise, would prove inadequate to a proper defence: to such a defence as it was capable to make by means of our Militia. Instead of three thousand, fifteen thousand men would not be sufficient. But suppose he were to propose the repeal which the gentlemen had mentioned, should he not be charged with wishing to abridge the power of the President, and with a want of confidence in his wisdom? He was confident, however, that such a charge would never be brought against him on this ground. If the gentleman from Maryland thought such a thing desirable, he might himself make the motion; if he did, he should vote against it, because he thought the power a necessary power.

It was true, as the gentleman had said, that we had the most extensive frontier of any other country; but what was the conclusion to be drawn from this? Was it that we should have a large Military Establishment to defend that frontier? Where would this opinion lead them? If it were necessary to defend the frontier by military force, it must be such an one as would be equal to the purpose, and this would require more men than they should be either willing or able to support. No man, Mr. G. said, could be more interested than he and his constituents in preserving peace on the frontier; but he knew that an army was not adequate to this purpose. In time of war, indeed, a military force might prevent certain depredations on particular spots, but with respect to those predatory incursions which the Indians made upon the frontiers in time of peace, an army never had, nor ever would prevent them.

What that gentleman called a necessary establishment, or a large standing army, his ideas of which he seemed to have drawn from foreign countries, was wholly premature when applied to this country. We were not, he said, if such an institution was desirable, (which was by no means the case,) in a situation to support the expense of a Military Establishment. Our finances were low, and the price of labor was higher than in any other part of the world. These two reasons would be an effectual bar to so extensive a system. It was enough that we were a happy people; but if gentlemen wished to anticipate what it was only in the power of time to effect, to make us a powerful nation also, they would find their vanity disappointed. He called it vanity, because such an attempt could only issue in an increase of our Public Debt.

Mr. G. concluded with saying it was necessary to retrench expense wherever it could be done; and, as the Military Establishment was a source in which the most material savings could be expected to be made, he trusted the present motion would not prevail.

Mr. S. Smith said, if a stranger had heard what had fallen from the gentleman last up, he would have supposed that they were about to establish a large standing army. And yet what was the establishment they were about to make? Truly, it was an establishment of sixteen hundred and sixty men! And yet this had called forth all this declamation. He had wondered to hear that gentleman so incorrect in his statement, and he had been the more surprised, because he was generally more correct than any other man in that House. He had told them of certain posts, which might be given up, (amongst which were Forts Washington and Franklin, which Mr. S. thought necessary to be retained,) in which one thousand men were employed. He agreed with him in this; but he should have gone a little further, and showed that after these one thousand men were deducted from the number said to be

in the different posts, there would still be a larger number of men wanted than there would be to supply them, if a regiment was struck off. Besides which, he said, it would be necessary to have posts on the Mississippi, at the Natchez, and at Michilimackinac.

The gentleman from New York [Mr. Williams] wished our present force to be upon the same footing as in 1792. He would look into that matter, and if he could show to him that the four regiments would not be equal to what we had then, he should expect he would vote for their continuance. In April, 1790, he said, we had twelve hundred and sixteen officers, non-commissioned officers, and privates; in March, 1791, a regiment of nine hundred and twelve was added—making a force of two thousand one hundred and twenty-eight men. This, it would be seen, was considerably more than our present force, and yet we had now to protect the out-posts formerly in possession of the British, besides all other parts of the United States. In 1791, he said, the force had not been found sufficient, and the President raised another regiment for six months, and, like the flying camps, they were lost. It was time for us, he said, to grow wiser from experience; but experience seemed to be lost upon us. Yet this we called economy; but he called it dissipation.

Mr. S. said we had a number of posts on the Atlantic shore. It was true, there had been a new corps of artillery raised, which might be equal to the protection of them. In consequence of the misfortune of 1791, they determined in 1792, that three additional regiments of infantry should be raised. Three regiments were raised, and they were to go out of service at the end of the war. These were three regiments of upwards of nine hundred men each. At no time had we less than two regiments containing 1,920 men, though gentlemen now wished them to be reduced to somewhat more than 1,200.

Did gentlemen reflect, he asked, in what situation they would leave the new President, by such a measure, who had to succeed a man whose popularity, perhaps, would never be equalled? Was it right to put him in a situation in which he might be disgraced? For, if any misfortune were to befal the country hereafter, it would immediately be said by the people, if George Washington had been at the helm, this would not have happened. Notwithstanding he was free to acknowledge the wisdom and patriotism of the successor to the Presidential Chair, he did not expect him to have all the confidence which was placed in his predecessor. Would it, then, be prudent or just, to put him in a worse situation with respect to military force, than he was in? He thought not. Let us not, said he, deprive him of that small force which is at present in being, and, by that means, take from him, perhaps, the means of preserving peace on our frontier.

Mr Gallatin said that, in comparing the present establishment with that of 1792, the gentleman from Maryland had omitted to notice the corps of artillery which had been raised since that time. He said he had made the comparison, and he was confident that, when the four regiments were reduced to three, there would not be more than one hundred men of difference betwixt them. He did not recollect on which side the difference lay.

Mr. S. Smith said, he did not forget the artillery.

Mr. Baldwin observed, he felt at a loss how to vote for want of information on the subject. From the calculation given them when the question was before under discussion by the gentleman from Massachusetts, [Mr. Dearborn,] it appeared that two-thirds of the force retained was to be employed on the Northern frontier. The paper on the table agreed pretty much with the statement they then received as to numbers, which might be considered rather as the old plan than the new. If they knew exactly where the new posts were to be established, and the number of men wanted for them, they would be able to form a more correct judgment on the occasion. He saw only one regiment contemplated for the Southern frontier; and he could not conceive it possible that it could be supposed that if one regiment was sufficient to protect that frontier which bordered upon Florida, and on Indians more troublesome than on any other part of our frontier, that two regiments were necessary on the Northwestern frontier. If they had twelve companies for the Northern and twelve for the Southern frontier, and kept the artillery and engineers on the Atlantic coast, he thought they would be quite sufficient; since he could not believe that more troops were necessary on the Northern than on the Southern frontier.

The Committee rose, and had leave to sit again.

It was moved that the House adjourn to Monday. This motion was opposed; but was consented to, from a representation that weighty business before the Committee of Ways and Means required more time than could be given to it on days of meeting.

Monday, February 6.

The bill in addition to the act, entitled "An act to establish the Post Office and Post Roads within the United States," was read the third time, and passed.

Mr. Swanwick presented a memorial of Stephen Addington, of Germantown, in the State of Pennsylvania, calico printer, which was read, praying the aid and patronage of Congress, in the establishment of a manufactory for printing and staining of muslins and linens, within the United States.

Mr. Malbone presented a petition of Francis Brinley and others, manufacturers of cordage in Newport, in the State of Rhode Island, praying that an additional duty may be imposed on foreign cordage, imported into the United States; or that such other encouragement may be given to the manufacture of cordage within the United States, as to the wisdom of Congress shall seem fit.

Ordered, That the said memorial and petition

be referred to the Committee of Commerce and Manufactures.

PENSION CLAIMS.

Mr. Dwight Foster, from the Committee of Claims, to whom was referred a letter from the Secretary of War, of the 20th ultimo, accompanying a list of the names of certain claimants to be placed on the pension list, who have been examined by physicians, and also the returns of the examining physicians thereon, made pursuant to a resolution of the two Houses of Congress, of the 18th of April last, made a report, which he delivered in at the Clerk's table, where the same was twice read, and, on the question put thereupon, agreed to by the House, as follows:

"That, on a full investigation of the documents referred to them, they find the persons hereafter named have complied with the requisitions of the law respecting pensions for invalids, and are entitled to the several rates of pension annexed to their names, respectively—that is to say—

"*Of the District of New Hampshire:*

"Joseph Goodridge, a private, half a pension; Joseph Patterson, a private, half a pension.

"*Of the District of Vermont:*

"Joseph Tyler, a private, half a pension; Isaac Webster, a sergeant, half a pension.

"*Of the District of New York:*

"Stephen Kellogg, a private, a full pension; Garret Oblenis, a private, half a pension; William Scot, a major, a full pension; Finley Stewart, a batteau-man, three-fourths of a pension; Thomas Ward, a corporal, a full pension.

"*Of the District of Maryland:*

"Philip Casson, a lieutenant, a full pension.

"*Of the District of Virginia:*

"Joshua Davidson, a dragoon, three-fourths of a pension; Jonathan Dyer, a private, a full pension.

"*Of the District of North Carolina:*

"David McKissick, a captain, half a pension, Joseph Singletary, jr., a private, three-fourths of a pension; Ithamar Singletary, a private, one-fourth of a pension; William Simson, a private, half a pension; Joseph Wason, a private, a full pension.

"*Resolved*, That the Secretary for the Department of War be, and he is hereby, directed to place on the pension list of the United States, the several persons before named, who have been returned as pension claimants, by the Judges of several districts, pursuant to an act of Congress, passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled 'An act to regulate claims to invalid pensions;' at the rates and proportions annexed to the names of the said persons, respectively.

"*Resolved*, That the pensions allowed by this act shall be estimated at the same rates, receivable on the same conditions, and payable in the same manner, as directed in like cases, by the act of the twentieth day of April, one thousand seven hundred and ninety-six, entitled 'An act authorizing and directing the Secretary of War to place the persons therein named on the pension list.'"

Ordered, That a bill or bills be brought in, pursuant to the said report, and that the Committee of Claims do prepare and bring in the same.

BUOYS IN BOSTON HARBOR.

Mr. Swanwick, from the Committee of Commerce and Manufactures, made a report on the petition of the Chamber of Commerce of Boston, praying for the placing of certain buoys in the harbor of Boston. The committee recommended that this business should be postponed till the next session.

Mr. Ames was not satisfied with the reasons of postponement. He need not say how important the commerce of Boston was. Many ships, and what was yet worse, many lives had been lost. The buoys would probably save in one season more than the whole would cost. No port in America was of more difficult access.

Mr. Swanwick did not think that there was time in the present session for entering upon the business. Besides, he was at a loss to know where the money should come from. He wished that to be known before the appropriations were made.

Mr. Dearborn said, that the whole expense would not be more than fifteen hundred dollars. There were a great variety of islands and shoals, and only a light-house for the direction of shipping.

Mr. Ames observed, that more time would be spent in debating about the report than would have been requisite for passing a bill. As to the fact that buoys were greatly wanted, it had received dreadful confirmation. No harbor in the United States had seen such tragedies of shipwreck in approaching to it. He did not believe that the House would refuse the buoys. By a delay, thirty times the value of so trifling an expense might be lost. So large a part of the public revenue was collected from that harbor as justly entitled it to public attention. The memorial was signed not only by the Marine Society of Boston, but by so many other respectable names, and which were known to so many members in that House to be respectable, that he could not persuade himself of the House suffering the matter to go by in this way.

Mr. Coit moved that the report should be recommitted. He could not help thinking it a slovenly way of doing business to report that there was not time. The committee would not have required longer to say what was their opinion.

The report was recommitted.

SHIPS' REGISTERS.

Mr. Swanwick, from the Committee of Commerce and Manufactures, presented a bill in addition to an act, entitled "An act concerning the registering and recording of ships or vessels;" and to an act, entitled "An act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same;" which was received and read the first and second time, and ordered to be committed to a Committee of the Whole House to-morrow.

LOST CERTIFICATES.

Mr. Coit, from the committee to whom was referred a motion of the 1st instant, relative to

provision by law, under specific restrictions, for the renewal of destroyed certificates of certain descriptions, made a report, which he delivered at the Clerk's table, where the same was read, as follows:

"That no provision appears to be made by the United States for the renewal of destroyed certificates of any kind, except those of the description called Loan Office certificates and those called final settlements.

"That, by resolutions of Congress of the 10th of May and 18th of July, 1780, provision was made for the renewal of Loan Office certificates destroyed, on proper proof made of the destruction of such certificates to the officers of the Treasury.

"That, by act of Congress of the 24th of April, 1794, the provisions of the said act were extended to certificates of the description called final settlements; other regulations were made respecting the renewal of Loan Office certificates and those called final settlements; and it was declared that all claims for renewal of Loan Office certificates and final settlements not presented at the Treasury on or before the 1st day of June, 1795, should be barred.

"That, by the act of Congress of the 3d of March, 1795, all certificates commonly called Loan Office certificates, final settlements, and indents of interest, outstanding at the time of passing the said act, and which should not be presented at the office of the Auditor of the Treasury on or before the 1st day of January, 1797, were declared to be forever after barred or precluded from settlement or allowance.

"That most of the cases where certificates of the Public Debt are said to have been destroyed took place long before the passing of the said act of the 24th of April, 1794, and probably a great proportion of them before the passing of the said resolution of the 10th of May, 1780; from which circumstance, as well as from the nature of the subject, it would be extremely difficult, if not impossible, at this time, to guard against fraud and imposition, should further provision be made for renewing them; and the committee cannot find stronger reasons in favor of keeping in force the statute of limitations in relation to any class of claims than that contemplated in the resolution referred to them. The committee are, therefore, of the opinion that the House ought not to agree to the same."

Mr. C. said, the old Congress had been very liberal relative to the renewal of certificates by the two acts above mentioned; but as the persons holding original certificates were now effectually barred, it was their opinion that such as had been destroyed ought not to stand on higher ground than such as had not been destroyed. And, unless there was an intention of doing away the statute of limitation altogether, they could not see why it should give way, in this particular case, especially since it was one in which so much imposition might be practised.

Mr. Greenup said he should vote against this report. No species of public securities was better guarded than this. Distant parts of the country, he said, had never heard of the law for admitting these claims until it was expired. He thought it should be extended for a year or two more. He knew there were many just claims in the part of the country from which he came.

Mr. Sitgreaves declared his intention of voting against this report. He came to Congress, he said, with strong convictions that great injustice was done in rejecting claims upon Government, and his experience since he came here had not removed that sentiment. He was convinced that justice was refused to many claimants; and he thought that class of claimants who had possessed evidences of Public Debt, but had lost them, was entitled to relief. He did not agree with the gentleman from Connecticut, that because it was possible frauds might take place, no relief should be granted. He thought frauds might easily be prevented. It struck him as a strange kind of reasoning to say, that if the holders of the original tickets were not admitted, neither ought those who had lost their certificates, since their having lost them might be the reason why they were not presented in time. He hoped the report would be disagreed to.

Mr. Harper coincided in opinion with the last speaker.

Mr. Heath hoped the report would be concurred in. To grant relief in this particular case would be a partial administration of justice, and an injustice to a crowd of other claimants whose claims were equally well founded. If the act of limitation were to be taken off in any case, he said, no set of men had a greater claim to regard than the poor soldier who had fought our battles, and who, by misfortune or accident, had been prevented from applying in time for the satisfaction of his equitable claim. He hoped, therefore, this report would be agreed to.

Mr. S. Smith spoke against the report.

Mr. Macon said, this subject had nothing to do with the statute of limitation. An act had been passed to allow time for those certificates to be brought in, and as they had not been brought in, he did not think any further provision ought to be made.

The question was then taken by yeas and nays, and the report was agreed to—yeas 49, nays 37, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Richard Brent, Nathan Bryan, Daniel Buck, Thomas Claiborne, Joshua Coit, Isaac Coles, William Cooper, James Davenport, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, Andrew Jackson, John Wilkes Kittera, George Leonard, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Francis Malbone, John Milledge, Josiah Parker, John Patton, Francis Preston, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Isaac Smith, William Smith, William Strudwick, Zephaniah Swift, Mark Thompson, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and John Williams.

Nays.—David Bard, Dempsey Burges, Gabriel Christie, John Clopton, William Craik, Samuel W. Dana, Henry Dearborn, George Dent, George Ege, William Findley, Nathaniel Freeman, jr., Albert Gallatin, Nicholas Gilman, Henry Glen, Christopher Greenup, Andrew Gregg, Robert Goodloe Harper, John Hathorn, William Hindman, James Holland, Andrew Moore,

Frederick A. Muhlenberg, Anthony New, Alexander D. Orr, John Page, Elisha R. Potter, John Reed, John Richards, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Samuel Smith, Richard Sprigg, jr., George Thatcher, Richard Thomas, John E. Van Allen, and Richard Winn.

COMPENSATION TO COLLECTORS, &c.

Mr. Swanwick, from the Committee of Commerce and Manufactures, to whom was recommitted, on the 30th ultimo, the bill relative to the compensations of certain officers employed in the collection of the duties of imposts and tonnage, reported an amendatory bill relative to the compensations of certain officers employed in the collection of impost and tonnage; which was received, and read the first time.

The said bill was read the second time, and ordered to be committed to a Committee of the Whole House on Wednesday next.

MONEYS DUE FROM REVENUE OFFICERS.

On motion by Mr. W. Smith, it was

"*Resolved*, That the Committee of Ways and Means, to whom it was referred on the 21st of December last, to inquire and report whether any, or what, alterations are necessary in the laws to enforce the payment of moneys due from the various revenue officers of the United States, be instructed to report thereon by bill or otherwise."

RECEIVERS' ACCOUNTS.

Mr. W. Smith, from the Committee of Ways and Means, presented, according to order, a bill to provide more effectually for the settlement of accounts between the United States and Receivers of Public Money; which was received, and read the first and second time, and ordered to be committed to a Committee of the Whole House on Friday next.

DUTY ON SPIRITS.

On motion by Mr. Gallatin, it was

"*Resolved*, That a committee be appointed to inquire into the expediency of repealing the restriction in the fifty-sixth section of the act, entitled 'An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead; and also upon spirits distilled in the United States, and for appropriating the same,' so far as the said restriction respects any domestic distilled spirits which may be exported from the district of Louisville, in the State of Kentucky, or from any district which may be hereafter established on the rivers Mississippi and Ohio, or the branches thereof, and to report by bill or otherwise."

Ordered, That Mr. Gallatin, Mr. Coit, and Mr. Skinner, be appointed a committee pursuant to the said resolution.

MILITARY ESTABLISHMENT.

The House then went into a Committee of the Whole on the bill regulating the Military Establishment; and the motion for striking out the clause relative to the three regiments of infantry, for the purpose of inserting four, being under consideration—

Mr. Williams said, he did not intend to have spoken again on this subject, had it not been for some observations which had fallen from a gentleman [Mr. S. Smith] from Maryland. That gentleman had observed that the retaining the four regiments would not produce as many troops as the establishment of 1792, which had been contended for by him. Let us, said Mr. W., compare the pay of the troops in 1792 with the estimate for the present year. The pay of the troops in 1792 was $147,771 11. The estimate for the present year for the pay of the troops is $246,970 31, if the clause is struck out. In this calculation, however, is the allowance of the Major General and his aids to the time they were to be continued; but when we add the pay of the Brigadier General and others, in the bill before us, we may calculate at least on $250,000. If then, said Mr. W., we have not as many troops now as we had in 1792, how comes this vast augmentation of pay? But the gentleman had omitted to mention the twelve companies of artillery, which, with the great addition of officers in consequence of the changing the establishment, was the cause. And, said Mr. W., the system which he had proposed the other day to reduce the four regiments of infantry to two, on the same principle as the establishment in the year 1792, would have lessened the expense and had an equal force; but this was overruled. The changing the establishment of 1792, if the motion is agreed to, will be an addition of one Brigadier General and the officers annexed thereto, two Lieutenant Colonels Commandant, two Majors, two Paymasters, two Surgeons, four Surgeon's Mates, eight Captains, eight Lieutenants, and eight Ensigns. Yet, says that gentleman, we shall not have as many troops as in 1792. Where, then, is the propriety in asking us to agree to the motion? If the clause stands in the bill, have we now more troops than will complete the sixteen companies of artillery, which, is 992, exclusive of officers and three regiments of infantry, agreeably to the establishment of the 28th of May, 1796, which amounts to 1,506, non-commissioned officers, musicians, and privates; which, being added together, makes 2,498, exclusive of officers? If these are nearly the number now in service, as was supposed to be the case by the gentleman from Massachusetts, [Mr. Dearborn,] which, by the by, is all the information we have, why augment that number? We find in the estimates $16,000 for bounties, premium to officers, &c. Should the reduction take place, the greater part of this sum would not be wanted. The expenses of the Hospital department in the year 1792 was $4,835 67; in the estimate for the present year it is $30,000. In short, said Mr. W., let gentlemen turn over the estimates, and pause for a moment, and he was confident the motion would not obtain.

If the bill is passed, as reported, we shall then have one Brigadier General, one Quartermaster General, one Inspector General, one Paymaster General, four Lieutenant Colonels Commandant, ten Majors, four Surgeons, eighteen Surgeon's Mates, one principal Artificer, one second Artificer, four Paymasters, five Adjutants, forty-two Captains, sixty-eight Lieutenants, twenty-four Ensigns—total 186 officers and 2,493 non-commissioned officers, musicians, and privates. These, he contended, were sufficient for a Peace Establishment, and to be stationed as follows: On the sea-coast, six companies; in Georgia, five companies; in Tennessee, three companies; at the Natchez, three companies; near the mouth of the Ohio, one company; near the mouth of the Illinois, one company; on Lake Michigan, two companies; Michilimackinac, two companies; Detroit, four companies; Fort on the Miami, one company; Fort Wayne, &c., two companies; Presqu'Isle, one company; Niagara, four companies; Oswego, one company; Fort Franklin, &c., on the Alleghany, one company; Fort Hamilton, &c., three companies—total forty companies, which is according to the establishment by the bill.

Mr. W. said, that the number of troops estimated by the Secretary of War to be kept at Detroit, was about a regiment. This, he supposed, was in consequence of its being said that a number of inhabitants adjacent thereto were unfriendly. If this was the case, which he did not believe, they must, in June or July next, by the Treaty, either remove or be considered American citizens; so that, in either case, the number contemplated would not be wanted.

Mr. W. said, he was persuaded that the number of officers and men, contained in the bill before them, was adequate to a peace establishment. Had the gentleman's motion been for an additional battalion of artillerists, it would, in our present situation, have had weight with him; because the duty of the artillery is not merely mechanical, but requires to be studied. If this is omitted, and any difficulty were to arise, the want of experience would be detrimental; for, if we are inexperienced, the business must be put in the hands of foreign adventurers, soldiers of fortune. If, then, we can make a saving in the infantry, and augment our defence on the sea-coast, by improving our fortifications, and in the protection of our commerce, ought we not to embrace it? Have not that class of our citizens who have laid out vast sums in buildings, &c., in our capitals, a demand on us for protection; and, in doing this, are we not securing our revenue? What is the situation of our fortifications, harbors, &c.? Are they not in a situation truly discouraging to the citizens? It is a duty incumbent on us to pursue every necessary and prudent measure to encourage their industry and usefulness.

The motion before us, said Mr. W., is for a defence where it is declared, by those who are most likely to be in danger if any difficulty should arise with the Indians, no danger is to be apprehended. Who, then, is this force to benefit? The gentleman from Connecticut [Mr. Coit?] He would insure him from the depredation of the Indians; for, when they were aided by Burgoyne's army, they did not get within one hundred miles of that gentleman; and if the gentleman from Maryland is under any apprehension, those on the frontiers of Pennsylvania will check any invasion towards them. He was sorry to hear the gentleman from Connecticut make the motion, because he had generally found him an economist. It was but a few days since he moved to strike out a few dollars for a doorkeeper, whilst this item would save at least $100,000. Mr. W. observed, that the gentlemen in favor of the motion had two objections to the clause. The one was, they were afraid of the Indians, and the other, that it would be imprudent to discharge the officers. With respect to the first, said Mr. W., unless that gentleman can make it appear that it is for the interest of the Indians to go to war, he could not entertain an idea that it would be the case; and if it were so, what would that establishment be towards the defence of this country? If a war was to be apprehended, are the troops that we now have properly stationed? Not even a sergeant's guard is contemplated in the paper from the Secretary of War, on Lake Champlain. They had no troops, nor were there any on the frontier from the sea, in the Province of Maine, to Oswego. The Militia, he conceived, were the best troops on the frontiers, and the disciplined troops on the sea-coast. The latter ought to be chiefly artillery.

With respect to the reduction of the officers, it is only to examine the different laws by which they were created officers, in which we find there is an uniformity of sentiment, that they are only to serve a given time; but any part, or the whole, to be discharged when not wanted. The second and third sections of the act of the 9th of May, 1794, prohibit any enlistment after three years from the time of passing the act; and in the sixteenth section of the same act it is declared that the President may order the forbearance to raise or to discharge any part, &c. From these observations it appears the officers knew, when they were appointed, upon what principle the appointment took place, and it was optional with them to accept or not. It is a poor compliment paid to an officer to be told, "Sir, your service is no longer wanted, but, fearing you cannot support yourself, we will support you." Let us, said Mr. W., pay them well for a reasonable time, and give them a chance to enter into a business more serviceable to the community; and, even in this case, we shall save the subsistence, &c. Mr. W. observed, that he was apprehensive we should do the officers much greater injury to keep them in service and not pay them; for, said he, in taking the yeas and nays, he had observed that gentleman had voted to retain the payment, and had opposed the direct tax. If gentlemen's observations are to be relied on, that the laying on more duties on imposts will not augment the revenue, and no other tax is agreed on, where is the money to come from to pay these troops? For his part, he saw the difficulty. The session is so near the close, that little can be expected to be raised this year by a direct tax. The difficulty of arranging such a law, and the passing of it this session, was doubtful. If, Mr. W. said, the bill was according to his wish, he should vote against it, if the produce thereof was to be appropriated to troops which he conceived were not wanted. Direct taxes never ought to be imposed unless our commerce is in-

terrupted, or for the express purpose of discharging the National Debt.

Mr. Cooper said, he highly approved of saving money, and was no friend to standing armies; but, when it was proposed to disband a part of our little army for the purpose of saving money, and that at the expense of a reproach upon the nation, he could not content himself by giving a silent vote upon the occasion. When they were about to starve their public officers, by refusing to advance their salaries; when they talked of stopping the building of our frigates, and suffering them to rot upon the stocks; when they were proposing to discharge one regiment of our infantry out of four—he thought such measures were dishonorable to the United States as an independent nation, who had friends and allies with great and respectable nations, who might read that the Legislature of this country was engaged in discussing the propriety of making a saving in its expenses, by striking off 400 men from its Army. Wonderful calculation! to say that three regiments are necessary, but that four are not.

Notwithstanding this calculation, he should make a different one, which he thought would justify him in voting for the present motion. If it was true, what his colleague [Mr. Williams] had stated last session, that great advantages were to arise from a trade with Canada, (and he believed it were,) it followed that we required as many troops to keep possession of the posts formerly occupied by the British as were employed in and by them, or more, because, he said, we must make ports of entry and delivery on the margin of our country. He hoped, therefore, his colleague would be convinced of the impolicy of striking out one regiment from our present establishment. Besides, if we are thus to strike off our officers, we should not find men ambitious to serve us in future, when our necessities might need them.

Mr. S. Smith said, the committee had frequently been called upon to give an account of the posts in which the men were to be stationed, and the number which would be required. They had found it difficult to obtain information on this subject. The Secretary of War had given them only the posts heretofore occupied, with a number of men employed. He had, however, obtained other information, which he believed pretty correct, with respect to the posts necessary to be garrisoned in future, and the number of men required for each. He said they were as follows:

Otsego	62
Niagara	124
Presqu'Isle	124
Detroit	248
Michilimackinac	124
Chicago	124
Opie	62
Caschatca	124
Massac	62
Fort Knox	62
Fort Washington	62
Pittsburg and Franklin	124
Fort Wayne	186
Walnut Hills	62
Natchez	248
Southwestern Territory	124
Georgia	372
Total	2,294

In 1792, Mr. S. said, the estimate was 1,920 infantry and 300 artillery, making 2,220; and, according to the present establishment, he said, they were—

Four regiments of infantry, which, when full, are	1,984
One regiment of artillery	764
	2,748

This was under a supposition that the regiments were always complete, and, therefore, if 15 per cent. were deducted it would give the real number. The list he had given contemplated nearly an equal number of men for the Southern and Northern frontier.

The gentleman from New York [Mr. Williams] had made some observations, which it might be necessary to notice. He had stated the pay of the establishment in 1792 to be $147,000; but he would recollect that the pay of the men then was only three dollars a month, whilst at present it was four. He should also recollect that there were now six companies of artillery more than in 1792; and if he took this variation in price with that of a dollar a month, it would be found to come to much the same thing. There was a great difference also in the price of rations. Flour at Pittsburg was then at three dollars, now it was eight or ten. Beef and all other supplies were in the same proportion, and, therefore, no wonder need be made at the difference of price, as it arose out of the natural course of things. There was a great difference also in the price of clothing, for, since 1791, the duty upon articles imported had been nearly doubled.

When the gentleman from New York spoke of the Militia as a proper defence for the frontier, he contemplated his own situation only. The distance between the frontier and parts where any Militia could be had, was too great to think of wholly relying upon them—in some cases upwards of three hundred miles. It was in a few parts only where Militia could be called upon. He had heard with pleasure, some days ago, what the gentleman from Virginia [Mr. Page] had said on the subject of the post which was cut off by the Indians in 1791, owing to its being too weakly garrisoned. The Spaniards had also suffered a similar loss from the same cause. This was the way, he said, in which experience was purchased; and if the people murmured at such events, they could tell them they had acted from economy.

The gentleman had spoken of the six regiments being reduced to four last session. They were not really reduced, but newly organized and fixed as a permanent establishment. How could officers, therefore, contemplate a discharge at the end of six months? They could not, possibly; and

he trusted they would have more steadiness than now to change what they had then fixed.

Mr. Gallatin wished to make a remark or two upon what had fallen from the gentleman from Maryland, [Mr. Smith.] He thought, by his statement, he had brought the matter to issue. If, from the statement of the posts which that gentleman had produced, he could show several of them to be unnecessary, and which never had been thought of till lately, it would be a conclusive proof that as many men as were estimated to be necessary for them, might be deducted from the number which that gentleman supposed to be necessary, and leave a sufficient number behind. Chicago, at the South end of Lake Michigan, near the head of the Illinois river; Opie, on the river Illinois, and Caschatca, near the mouth of the Illinois river, would not be necessary. Whilst we had a chain of posts from Fort Wayne to Detroit, there was no occasion for any on the outside of these. If it were said they were for the sake of trade, he would answer, that if they were not there the Indians would come forward to the nearest post. These were new establishments, and the troops might well be saved that were intended for these posts.

Again, on the Mississippi: He agreed it would be proper to have a post at the Natchez, but why at Walnut Hills? There was not a single inhabitant within five hundred miles of that place.

These deductions would make a saving of six companies. In the next place, the four companies proposed for Otsego, Franklin, Pittsburg, and Washington, were unnecessary. These, he said, were settlements, and stood in need of no military to defend them. The only plea for some of these posts was to keep up a communication between the Ohio and the Lakes; but this might be done by a storekeeper, as he hoped it would not be thought necessary to have a post with troops wherever they fixed a store.

Mr. G. said, he should not enter into detail with respect to any of the posts already in possession of the United States. He would take it for granted that the statement was right. It was enough to say that those which he had mentioned might be done without.

The gentleman from Maryland had made a small misstatement with respect to the artillery. He had stated the present artillery at 764 men, whereas they consisted of 992 non-commissioned officers and privates. It was from thence it resulted (to which he alluded the other day) that our establishment, if reduced to three regiments would be greater than it was in 1792. It was then two regiments of 960 men each, and one battalion of artillery, whereas at present we should have had three regiments of infantry of 480 men each, and four battalions of artillery.

He should not make any further observations at present, as his only intention was to remark upon the statement which had been laid upon the table.

Mr. Cooper said there seemed to be a mistake in confounding Oswego with Otsego; the former was a settled place, but not the latter.

Mr. Rutherford was sorry to hear the gentlemen persevere on this occasion to keep up a military force. As for his part, he said he was a rough son of nature, and should not pretend to dictate to gentlemen of information; but he must be permitted to deliver his sentiments in his own plain way. Where, said he, are the great characters of 1776? How are we changed in the space of fourteen years! Then, every man was ready to defend his country; but now we were calling out in the tone of women, "Save this great Confederation, by the skeleton of a fourth regiment of infantry and two troops of horse!" When we can raise 200,000 generous Republicans, and 100,000 on horseback! when the people are double and treble to what they were during the revolution, and yet shall we cry out, "O, save us, with a few hired troops!"

How would Warren and Mercer, with a long train of heroes, now no more, blush for their degraded sons, were they now to behold them in their cry for a Standing Army! The people loathe the idea of such a thing; and when it is considered what a scene of idleness and its consequent vices such an establishment furnishes, all good citizens ought to loathe it.

Mr. Holland said, four reasons had been urged for the present motion; the first was, as being necessary to defend our frontiers against the savages; the second, for the purpose of keeping up military discipline; the third, in order to keep up an experienced set of officers; the fourth, as it respected our Chief Magistrate elect. As he had been anticipated in some of his observations, he should be as concise as possible in what he offered to the consideration of the Committee.

With respect to defending the frontier, it was altogether matter of opinion as to what number of troops were necessary for that purpose. No two gentlemen seemed to agree on this point. The gentleman from Maryland had presented them with a list of the posts necessary to be garrisoned, and the number of men requisite for each; but the gentleman from Pennsylvania had shown several of them to be unnecessary; and he must own that he coincided in opinion with that gentleman, because, knowing him to live upon the frontier, he believed him to be a much better judge of what was necessary for its defence than any gentleman who lived at a distance. Arguments, for increasing military strength on our frontier, did not come with a good grace from gentlemen who lived far removed from danger. If gentlemen who were inhabitants of the frontier were satisfied, he thought those who lived at a distance might make themselves easy on the subject.

When the question was before the House the other day, the gentleman from Georgia voted for the reduction of the four regiments to three. Georgia had an extensive frontier; yet, it seemed, they did not think this additional regiment necessary. South Carolina had no frontier. The State of Tennessee had a large frontier, and he believed the member from that State had voted for the reduction. Kentucky was also surrounded by sava-

ges. That State was also interested in the keeping up of a standing force, as it afforded a market for their produce—yet one of the gentlemen from that State voted against the fourth regiment. The States of Pennsylvania and New York had frontiers, yet the gentlemen living upon them had voted for decreasing the military force. This evidence was so strong to his mind that the three regiments would be sufficient, that he should certainly vote against the present motion.

With respect to discipline, troops placed at such a distance from each other as these would be, could answer but little purpose in this way.

In reference to the officers, which a reduction would displace, it was true some derangement would be occasioned; and he supposed they might not altogether be satisfied with it; but the question was, are they necessary? If not, they ought to be dismissed, and they should rather rejoice than otherwise that the country is in a state to do without them. He should think no man of spirit would choose to receive his country's money, when he was sensible his services were not wanted.

With respect to what had fallen from the gentleman from Maryland, as to the effect a reduction of the military force might have upon our new President, viz: that if any disaster were to happen to this country, it would be said, if George Washington had been at the helm, such a misfortune would not have happened—who would say this? Only such as took a superficial view of the matter. This was a strange kind of reasoning. He did not think it necessary to keep up a fourth regiment on this ground.

Taking these four reasons together, they amounted to nothing but that a large Military Establishment was wished to be kept up in time of peace; and he believed any military they might conclude to have, might as well remain in the seaports as go upon the frontiers, as they were of little use in protecting the frontiers. Men placed in such posts seldom went further from their station than the length of their gun-shot, whereas the Militia pursued an Indian when he had done injury to himself or neighbor. But some gentlemen, perhaps, think the Militia should not pursue the Indians in this way when they commit murders on the frontiers; but, for his own part, if an Indian were to come into his neighborhood, and do him a material injury, he should pursue him.

Mr. H. said they ought, at this time, to be very careful how they expended the public money. On this account, he thought it was unnecessary to occupy several of the posts which had been mentioned; those at Detroit and the Natchez might be necessary.

The gentleman from New York [Mr. Cooper] had said all the posts should be garrisoned as strongly as they were garrisoned by the British; and the gentleman from Maryland [Mr. Murray] had compared our situation with Russia. He did not think it necessary to compare this country with either of those nations, nor draw our necessities for military force from them. Our citizens were always ready to defend themselves, and wanted not the examples of other nations to urge them to their duty.

Mr. Heath said, he was not in the House when this subject was formerly under discussion. He should wish, therefore, to give a few reasons why he should vote for striking out this clause. The only reasons given for retaining it were two—one on account of public economy, and the other because it was not necessary to occupy all the posts which had been mentioned.

Economy, he said, was of great consequence; he was an advocate for it. He knew the distressed situation of the United States for money, and he would grant that it was a good argument against unnecessarily spending money; but he was afraid, lest while they were talking about peace on the frontier, that peace should be broken. For, he would ask any gentleman who had ever attended at all to Indian affairs, whether ever a permanent peace could be had with savages? Nay, it could not be expected, since even European nations kept peace no longer than whilst it suited their interest.

On account of the accession of territory which we had gained by Treaty, it was necessary it should be defended. Perhaps it would be better for us if we confined our dominion; but, having unfortunately extended it, it was necessary to take care of it. Since 1792 we had gone down the Mississippi more than five hundred miles, and, in consequence, posts were necessary to be kept up there. Let us advert to this circumstance, and say whether, when four regiments were necessary before this accession of territory, they were not necessary now; if they were necessary, whether, merely from a squeamish economy, they would reject one of them? If they were to do so, it might prove an ill-timed parsimony, which they might have cause to repent of.

He detested a large Military Establishment as much as his colleague when in peace, and would watch over it with as much jealousy; but he would not on that account refuse to keep what was absolutely necessary. If four regiments were agreed to be kept up, they would never be full; and, if they were reduced to three, not more than two-thirds could be expected to be always in readiness. And were these sufficient for the defence of the United States? He denied it, and thought the time an extremely improper one to think of reducing the Military Establishment. If it were, indeed, to increase it, he might object to the measure; but when it was merely to leave it in *statu quo*, he had no doubt on the subject. Indeed, were they to make the proposed reduction, it was probable the Indians might hear of it, and it might have the effect to encourage them to make war upon the frontier—as no peace could be said to be held with them; at best, it could only be called a *truce*.

Mr. Hartley said, as he was one of the committee, he thought it necessary to say a few words more on this subject. The gentleman who had been up had said, it was very strange that the Militia was not relied upon. This subject had frequently been brought forward; but it had been

thought necessary to have regular troops on the frontiers, and that the posts should be extended into the Indian country, for the purpose of cultivating harmony with the Indians. He spoke of the advantages which would be derived from the fur and skin trade, and of the necessity of keeping up posts to protect that trade. It had been said, that the posts at Pittsburg and Washington were unnecessary; but, as he had before observed, the men could be employed in working the batteaux.

The establishment last session, he said, was considered as a Peace Establishment. The President, since that time, had organized the troops; the officers and men had been ordered to their stations, and some of them had already reached their destination in the frozen regions of the North, not apprehending that as soon as they were fairly arrived there, they would hazard being discharged from their service, and left to get home as they could.

He was for economy, but he was also for supporting the Government of our country; such a number of troops as were convenient, and which prevented our citizens from being too often called upon, he was for supporting; and it was a little extraordinary that gentlemen from the frontiers should be so much in favor of calling out their fellow-citizens to the frontiers for the purpose of defending them against the savages.

If the reduction took place, the deficiency would be made by Militia at three times the expense. As to the expense of the regiment in question, he doubted not our citizens would be ready to pay it, and if a land tax was found to be necessary, he would rather pay it than have an Indian war.

The question for striking out was taken, and carried 42 to 41. The Committee rose and had leave to sit again.

Tuesday, February 7.

Thomas Sprigg, from Maryland, appeared and took his seat.

Mr. Madison, from the committee to whom was referred the petition of Hannah de Neufville, reported that the services and sacrifices of the deceased John de Neufville, during our Revolutionary war, as stated in the memorial, constituted a reasonable claim in behalf of his distressed widow and children, on the justice of the United States, but it would be impossible to ascertain and liquidate the same in a precise sum; but the committee proposed as equal and right that 3,000 dollars should be allowed to be equally divided amongst them. This report was read a second time, and committed to a Committee of the Whole on Friday.

Mr. Harper laid on the table a set of resolutions as to the method of taking evidence in contested elections.

Mr. Harper called up a short resolution relative to striking out of a resolution, which he laid on the table the 6th of January last, that part which directs the salaries of officers to be stated: on a division—ayes 27, noes 40.

A message was received from the Senate informing the House that they had agreed to the resolutions for calling upon the debtor States, with amendments, to which they requested the concurrence of the House of Representatives; it was twice read, and referred to a Committee of the Whole to-morrow.

INCREASE OF SALARIES.

A bill was also received from the Senate for increasing the compensation of the members of the Legislature and certain officers of Government; which was read, and, on motion that it be read a second time, it was carried, 33 to 30. It was accordingly read a second time.

The bill contemplates an advance of $5,000 to the present salary of the President of the United States, and $2,000 to the Vice President, to commence on the 4th of March next, and continue for four years; and that the members of the Senate and House of Representatives, the Secretary of State, the Secretary of the Treasury, the Secretary of War, Attorney General, Postmaster General, Assistant Postmaster General, Comptroller of the Treasury, Auditor, Register, Commissioner of the Revenue, Accountant of the War Department, the Secretary of the Senate, the Clerk of the House of Representatives, and the principal clerks employed by them, the Sergeant-at-arms of the House of Representatives, the Door-keepers and Assistant Door-keepers of both Houses, have an advance of 25 per cent. upon their present compensation.

Mr. Parker moved that the further consideration of this bill be postponed till the first Monday in December next. He said they had lately had the subject of augmenting the salaries of all the officers here mentioned, except the President and Vice President and themselves, under consideration; and as they had resolved to refuse an advance to others, he trusted they should also refuse it to themselves. He thought the present an improper time to go into the subject.

Mr. Hartley wished the gentleman would consent to some day next week. He could not say he was ready to agree to the whole of the advances proposed, but he wished the subject to be taken into consideration, and perhaps by the time he had mentioned they might have some further information on the subject of our finances.

Mr. Macon said, the most regular way for the gentleman from Virginia to obtain his object, would be to move to have the bill committed to a Committee of the Whole, and made the order of the day for the 4th of March.

Mr. Parker made that motion.

Mr. Hartley hoped this motion would not be agreed to, as it was a sort of manœuvre to get rid of the subject, which he did not approve. He would either have the bill negatived at once, made the order of some day in the present session, or postponed till the next.

Mr. Ames said gentlemen had no doubt a right to govern their own votes according to their own notions of propriety. No man had a right to prescribe to another. His conscience was no rule to

any other man. But he thought he was authorized to say, they neither had nor claimed a right to do a right thing in a wrong way. To agree to the motion proposed, would be an insincere way of putting a negative upon the bill. He trusted gentlemen who wished this would do it in a more direct way. The compensation of the PRESIDENT and VICE PRESIDENT could not be augmented, he said, after they had entered upon their office; and to say they would take up the subject for consideration at a time when their powers would not exist, was an evasive manner, which he appproved not. It was an easy thing for gentlemen to say so on the question, without taking this circuitous way of putting an end to the subject.

Mr. VENABLE thought the view of his colleague would be answered as well by a postponement to the 3d of March as to the 4th, and it would be more orderly. Nor did he think this way of disposing of the business called for the censure which the gentleman from Massachusetts had thrown upon it. It was a question upon which that House had already decided by a considerable majority. No new light had been thrown upon the subject, and he thought it by no means disrespectful to postpone it. It was well known that the effect of this motion would be a postponement for the present session. This was what he wished; and if his colleague would consent to alter his motion to the 3d of March, he should not hesitate to vote for it.

Mr. PARKER had no objection to the motion standing for the 3d of March, though he did not consider the motions for the first Monday in December or the 4th of March as unparliamentary. He thought the salaries of the PRESIDENT and VICE PRESIDENT high enough. The salaries of some of their public officers might at present be somewhat too low, but the time would soon come when the price of living would become lower, and then they would be fully adequate; and therefore he did not wish to see them advanced at present.

Mr. BUCK was opposed to putting off the question till the time contemplated by the present motion. To get rid of the subject in such a way, would be descending from that state of independence which they ought to preserve, and would have the appearance of a slight cast upon another branch of Government. If they were prepared to meet the question, they might as well meet it now as then. To agree to the motion proposed, would show a degree of cowardice, and effectually put it out of their power to consider and determine upon the subject. The Senate, he said, had found sufficient reason to originate this bill, and he thought, if it were only out of complaisance to them, the subject should not be treated in the way proposed. It was said that this subject had already been decided, but he did not think so. There had been no general proposition for augmenting compensation. They had had the subject under view partially, but he knew there were some members (he knew of one at least) who voted against any partial advance, because they thought it should be general. This was his motive. He thought all the officers of Government were upon an equal footing, and therefore he voted against advancing the salary of one and not of another—not because he thought they were already sufficiently compensated; he did not think they were. He wished, therefore, the subject for a general augmentation to come under discussion. If he should be convinced an advance was improper, he should give it up, and should be against putting the subject off to a time when it could not be considered.

Mr. HARTLEY again urged the propriety of postponing for a shorter period: he mentioned the 17th instant.

Mr. MACON said he was opposed to the bill *in toto*, and he considered the motion of the gentleman from Virginia as meant to try the question. He wished it to stand for the 4th of March, as at first proposed, because, if it stood for the 3d, the subject might be called up and acted upon on the last day of the session. He should therefore renew the 4th of March, because, if there were a majority who wished the bill to be rejected, it was desirable that as little time as possible should be lost upon the subject.

The question for postponing till the 4th March was put and negatived, 46 to 45.

Mr. PARKER then moved to have it postponed till the 3d of March.

Mr. HENDERSON thought it more proper to postpone till the 3d than till the 4th. He was ready, he said, to meet the question, either in a direct or indirect way. He had made a calculation, and found that the advances proposed would amount from $100,000 to $110,000. Mr. H. believed our finances were not in a state to admit of this addition to our expenses; besides, he trusted every necessary of life would soon be reduced in price, so as to render any advance of salary to our officers unnecessary.

The question was put and negatived, 57 to 32.

On motion of Mr. HARTLEY, Friday week was proposed and negatived, there being only 35 votes for it.

Mr. GALLATIN moved that the subject should be made the order for this day. He said he had voted for postponing it till the 4th of March, with a view of getting rid of it; but since it must be considered, he wished it to be disposed of as soon as possible.

Mr. SITGREAVES proposed that it be made the order of the day for Monday.

The sense of the House was first taken for Monday and negatived, there being only 41 votes for it. It was then put for this day and carried, there being 58 votes for it.

MILITARY ESTABLISHMENT.

The House then again resolved itself into a Committee of the Whole on the act regulating the Military Establishment, and went through it, without further amendment or debate. The Committee accordingly rose, and reported the bill with the amendment. The House took it up, and the amendment being under consideration—

Mr. HOLLAND called for the yeas and nays upon it.

Mr. FINDLEY said, it would be recollected by a number of members in that House, that he had

always heretofore been in favor of increasing the Army, as well as the rations and pay of our troops. It might be thought, therefore, when he now voted for reducing it, he should not act consistently; but he believed himself perfectly consistent. His object in increasing our military strength was, by increasing our force, to put a more speedy end to war. Heretofore, he said, they had generally had estimates from the proper departments, which shared a part of the responsibility with them; but, on this occasion, they were groping in the dark. Every information which had been given, had rather been matter of opinion of individual members, and of the Secretary of War, than official; therefore, every one was at liberty to exercise his own opinion.

As far as he was acquainted with the subject, he believed there was no necessity for all the posts which had been mentioned. There was no occasion for any troops at Pittsburg, and very few at Franklin or Presqu'Isle. It had been said, the men might be employed in the batteaux. If this were to be the case, it should be so said in the law, as it had not been usual, nor did he believe the men would be willing to be so employed. Besides, he believed it would be much better to hire men for this purpose when they were wanted. And if the supplies were to be transported by land, persons could always be hired for the purpose. There was no need of guards, he said, in that country, as it was settling very rapidly, and no danger was apprehended from Indians. He believed half the number which had been mentioned would be sufficient for Fort Franklin. If, indeed, it was made a depot, a larger guard would be required. The only danger from the Indians there, was, when they came across the Lake; when they did this, they did it very suddenly.

But gentlemen seemed to have mistaken the object of these troops. They were spoken of as if they were necessary to defend the country. They were not wanted to defend anything but the posts: they were of little use in defending the frontier. They sometimes, indeed, gave information of an attack, and sometimes not. But the defence of the frontier must always rest upon the people themselves, either in the form of militia or of rangers. This was the way in which settlements must be protected in case of war. Where there were settlements, there was, therefore, no need of posts. And a small force was only necessary at the posts, as the Indians would seldom attack a post, knowing the force which was in them. The greatest danger of posts was from the Indians surrounding and starving them out. He remembered an instance of this kind at Fort Lawrence.

It had been said that the number of men in service would always be one-third less than the nominal number, from a variety of causes. He should wish to provide against this by raising the wages of the men, or by any other way. He did not want skeletons of regiments; but if this evil existed, he should wish to cure it. He should vote for the reduction, because he thought three regiments would provide men enough for all the purposes for which they were wanted.

Mr. RUTHERFORD again entertained the House on this subject, and in the course of his remarks he said, "he loved a soldier—he had been a soldier himself, and had long marched and fought in his country's cause for nothing a day and found himself."

The motion was, to strike out the following words, viz:

"*And be it further enacted*, That the President of the United States cause to be arranged the officers, non-commissioned officers, privates, and musicians, of the four regiments of infantry, and two companies of light dragoons, now in service, in such manner as to form and complete, out of the same, three regiments of infantry; and the supernumerary officers shall be considered, from and after the last day of June next, discharged from the service of the United States."

The question was taken, that the House do agree with the Committee of the Whole House in the said amendment, and resolved in the affirmative—yeas 50, nays 44, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Gabriel Christie, Joshua Coit, Wm. Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Heath, Thomas Henderson, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, John Page, Josiah Parker, John Patten, Elisha R. Potter, Francis Preston, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, Richard Thomas, Mark Thompson, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Theodorus Bailey, David Bard, Thomas Blount, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Nicholas Gilman, Christopher Greenup, William B. Grove, Wade Hampton, Carter B. Harrison, John Hathorn, James Holland, Andrew Jackson, George Jackson, Matthew Locke, Samuel Maclay, Nath'l Macon, Andrew Moore, Anthony New, John Nicholas, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, George Thatcher, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

Mr. S. SMITH said several members who had wished to reduce the number of troops had said they should have no objection to make an allowance to officers, when they were discharged, to pay their expenses home. He would propose a new section, therefore, to this effect, viz:

"That every commissioned officer who may have been deranged under the act for ascertaining and fixing the Military Establishment of the United States, or under the present act, shall be allowed —— dollars."

The motion was agreed to, and the bill was then ordered to be engrossed for a third reading tomorrow.

DIRECT TAXES.

Mr. W. SMITH, from the Committee of Ways and Means, reported a bill to provide for the assessment and collection of direct taxes; also a bill for laying a direct tax upon the United States. They were twice read, and ordered to be committed to the Committee of the Whole on Monday.

REVENUE STATEMENT.

Mr. PARKER moved that the House should go into a Committee of the Whole on the bill from the Senate, respecting an augmentation of compensations; but he gave way (after giving notice that he should call up the subject to-morrow morning) to the taking up of Mr. HARPER's resolution, laid upon the table some days ago, proposing to rescind that part of a former resolution, which had passed the House, calling for certain annual statements from the Secretary of the Treasury, respecting the duties laid on each separate article, which related to a list of revenue officers, with the allowance paid to each. He alleged that the furnishing of these lists would prove troublesome to the office, and could be of no real use, as the sum total would be furnished, and as they might at any time get the particulars by an application to the office.

Mr. GALLATIN differed in opinion, and thought it very necessary to have these statements; and he said there could be no difficulty in furnishing the individual sums paid to each officer, since they must be known to make up the total.

The motion was put, and negatived—40 to 27.

WEDNESDAY, February 8.

Mr. SWANWICK, from the Committee of Commerce and Manufactures, made a report on the petition of sundry manufacturers of chocolate, who complain of the heavy duty upon cocoa, as being an injury to the business, and recommended a resolution to the following effect:

"*Resolved*, That the additional duty of two cents per pound imposed on cocoa, by an act of the 7th of June, 1794, ought to be repealed after the —— day of —— next."

The report was read the second time, and referred to the Committee of the Whole to whom was referred the resolutions on the subject of indirect taxation.

The bill in addition to the act for fixing and establishing the Military Establishment of the United States, was read the third time, the blanks filled up, and passed.

ELECTION OF PRESIDENT.

The SPEAKER informed the House that the hour was come at which they had appointed to meet the Senate, for the purpose of counting the votes for, and declaring the election of a PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and that the Clerk would inform the Senate they were ready to receive them.

The Clerk accordingly waited upon the Senate, and the PRESIDENT and members of the Senate, soon after entered and took their seats, the PRESIDENT on the right hand of the Speaker of the House of Representatives, and the members of the Senate on the same side of the Chamber; when the President of the Senate [Mr. ADAMS] thus addressed the two Houses:

Gentlemen of the Senate and of the House of Representatives:

The purpose for which we are assembled is expressed in the following resolutions. [Mr. ADAMS here read the resolutions which had been adopted by the two Houses relative to the subject.] I have received packets containing the certificates of the votes of the Electors for a President and Vice President of the United States from all the sixteen States of the Union: I have also received duplicates of the returns by post from fifteen of the States. No duplicate from the State of Kentucky is yet come to hand.

It has been the practice heretofore, on similar occasions, to begin with the returns from the State at one end of the United States, and to proceed to the other; I shall therefore do the same at this time.

Mr. ADAMS then took up the packet from the State of Tennessee, and after having read the superscription, broke the seal, and read the certificate of the election of the Electors. He then gave it to the Clerk of the Senate, requesting him to read the report of the Electors, which he accordingly did. All the papers were then handed to the tellers, viz: Mr. SEDGWICK, on the part of the Senate, and Messrs. SITGREAVES and PARKER on the part of the House of Representatives; and when they had noted the contents, the PRESIDENT of the Senate proceeded with the other States, in the following order:

FOR JOHN ADAMS.

North Carolina	1
Virginia	1
Maryland	7
Delaware	3
Pennsylvania	1
New Jersey	7
New York	12
Connecticut	9
Rhode Island	4
Massachusetts	16
Vermont	4
New Hampshire	6
	71

FOR THOMAS JEFFERSON.

Tennessee	3
Kentucky	4
Georgia	4
South Carolina	8
North Carolina	11
Virginia	20
Maryland	4
Pennsylvania	14
	68

FOR GEORGE WASHINGTON.

North Carolina	1
Virginia	1
	2

FOR THOMAS PINCKNEY.

South Carolina	8
North Carolina	1
Virginia	1
Maryland	4
Delaware	3
Pennsylvania	2
New Jersey	7
New York	12
Connecticut	4
Massachusetts	13
Vermont	4
	59

FOR AARON BURR.

Tennessee	3
Kentucky	4
North Carolina	6
Virginia	1
Maryland	3
Pennsylvania	13
	30

FOR SAMUEL ADAMS.

Virginia	15

FOR OLIVER ELLSWORTH.

Rhode Island	4
Massachusetts	1
New Hampshire	6
	11

FOR SAMUEL JOHNSTON.

Massachusetts	2

FOR JAMES IREDELL.

North Carolina	3

FOR JOHN JAY.

Connecticut	5

FOR GEORGE CLINTON.

Georgia	4
Virginia	3
	7

FOR CHARLES COTESWORTH PINCKNEY.

North Carolina	1

FOR JOHN HENRY.

Maryland	2

All the returns having been gone through, Mr. SEDGWICK reported that, according to order, the tellers appointed by the two Houses had performed the business assigned them, and reported the result to be as above stated.

The PRESIDENT of the Senate then thus addressed the two Houses:

Gentlemen of the Senate, and of the House of Representatives:

By the report which has been made to me by the tellers appointed by the two Houses to examine the votes, there are 71 votes for John Adams, 68 for Thomas Jefferson, 59 for Thomas Pinckney, 30 for Aaron Burr, 15 for Samuel Adams, 11 for Oliver Ellsworth, 7 for George Clinton, 5 for John Jay, 3 for James Iredell, 2 for George Washington, 2 for John Henry, 2 for Samuel Johnston, and 1 for Charles C. Pinckney. The whole number of votes are 138; 70 votes, therefore, make a majority; so that the person who has 71 votes, which is the highest number, is elected President, and the person who has 68 votes, which is the next highest number, is elected Vice President.

The PRESIDENT of the Senate then sat down for a moment, and rising again, thus addressed the two Houses:

In obedience to the Constitution and Law of the United States, and to the commands of both Houses of Congress, expressed in their resolution passed in the present session, I declare that

JOHN ADAMS is elected President of the United States, for four years, to commence with the fourth day of March next; and that

THOMAS JEFFERSON is elected Vice President of the United States, for four years, to commence with the fourth day of March next. And may the Sovereign of the Universe, the ordainer of civil government on earth, for the preservation of liberty, justice, and peace, among men, enable both to discharge the duties of these offices conformably to the Constitution of the United States, with conscientious diligence, punctuality, and perseverance.

The PRESIDENT and members of the Senate then retired, and the House came to order; when Mr. SITGREAVES made a report on the business, which was read and ordered to be entered on the Journals.

THURSDAY, February 9.

ELECTION OF PRESIDENT.

Mr. SITGREAVES, from the joint committee appointed to confer with a committee of the Senate on the subject of the election of a PRESIDENT and VICE PRESIDENT, made a further report, viz: that they had agreed with the committee of the Senate to recommend to the House of Representatives the following resolution:

"*Resolved*, That the Clerk of this House be directed to give, by letter, to the Vice President elect, a notification of his election."

This resolution was agreed to; but some time afterwards, Mr. PARKER (one of the committee) wished it to be rescinded, as he understood, though the committee from the Senate had concurred in this mode of notifying the VICE PRESIDENT of his election, the Senate would not agree to it, but wished to follow the mode adopted on a former occasion, viz: a message was sent from the House of Representatives to the Senate, directing that the persons elected should be notified in such a manner as they should direct. He wished, therefore, to prevent delay, the resolution might be rescinded and a different one agreed to. This motion occasioned a good deal of conversation. It was observed by the SPEAKER that the resolution was already before the Senate, (where it seemed it was not intended to be sent, as it was a distinct resolution of that House, a similar one to

which was proposed for the adoption of the Senate by the joint committee.) It was at length, however, agreed to be rescinded. Immediately after which a message was received from the Senate, informing the House that they had disagreed to the resolution, and appointed a committee of conference. The House accordingly took up the message, and also agreed to appoint a committee of conference.

UNITED STATES TITLE TO LANDS.

Mr. Livingston said, that he had, some time since, laid a resolution on the table for an inquiry into the title of the United States to lands west of Pennsylvania; that a minute investigation of the business had convinced him, that however the title might ultimately be found to stand, yet it was of a nature that would require more time than could properly be given to its determination during the session. In the mean time, he said, it had been suggested to him, that the interest of individuals might suffer while the business was before the House, and, therefore, under these circumstances, candor required that he should withdraw the resolution; which he accordingly did.

MILITIA BILL.

Mr. Dearborn wished the House to go into a Committee of the Whole on the Militia bill.

Mr. Parker was apprehensive that subject would require more time than they should have to give it this session. He hoped, therefore, the gentleman would waive his motion, and suffer the bill from the Senate for augmenting the compensations of the members of the Legislature and certain officers of Government, for a limited time, to be taken up.

Mr Swift spoke against taking up the Militia bill, and Mr. Hartley in favor of it; when the question was put for going into a Committee of the Whole on the Militia Bill, and negatived—42 to 26.

COMPENSATION TO PUBLIC OFFICERS.

Mr. Parker then renewed his motion, and the House resolved itself into a Committee of the Whole on the bill respecting compensations, Mr. Muhlenberg in the Chair; when

Mr. Parker moved to strike out the first clause. He thought it necessary to make some additional allowance to the President, but he would do it in a different way from that proposed. When the present President came into office, he said, he had a quantity of furniture presented him, which might now be nearly worn out, and be of little value. It might be proper, therefore, to purchase new furniture for the gentleman just elected. It would be also during the period of the present Presidency that Government would remove to the Federal City, which would be attended with a good deal of expense to the President. He should wish, therefore, that a provision should be made for defraying that expense, and also for the purchasing of new furniture, but he should be opposed to the making of any addition to the salary at present.

Mr. Hartley spoke in favor of retaining the clause.

Mr. R. Spright said he should vote against the proposed advance of salary, and could not consent to any other mode of augmenting the present compensation allowed to the President. He could by no means agree to the plan proposed by the gentleman from Virginia; for, if they were to renew the furniture of the President every four or eight years, it would be found a pretty expensive business. That gentleman had also mentioned the removal of the Government, as taking place during the next Presidency; but, he said, the new election would happen about the time of removing the Government, and provision for paying that expense might be made at that time. He thought the salaries were already sufficiently high, and that it would be with difficulty that money was found to pay the present expenses of Government.

Mr. Williams was of opinion, on the score of economy, that it would be better to advance the compensation of the President in the way proposed by the present bill, and let him purchase his own furniture, than to purchase new furniture, which, perhaps, when the Government was removed, would not be suitable for his house in the Federal City. Mr. W. said he was one of the committee on the subject of compensation, and they endeavored to ascertain whether the twenty-five thousand dollars allowed to the President were an adequate compensation. It was generally believed it was not. They ought, he said, to enable their First Magistrate to live in a style becoming his situation. All their Executive officers should receive such salaries as would enable them to see company agreeably to their rank, otherwise the respectability attached to those offices would suffer greatly in the public opinion. He hoped, therefore, the section would not be struck out.

Mr. Buck said, as the motion now made was to try the principle, it would be well to go into an examination of the subject. He said he had never been a champion for raising salaries, or a stickler for lowering them; but, as the subject was brought before them, he should cheerfully declare his sentiments upon it. He conceived the true question to be, whether it was right and just that they should augment the salaries of the officers of Government and the members of the Legislature, or whether the present compensations were just and adequate to the sacrifices which they made in undertaking the business of Government. Because he did not believe, with some other gentlemen, that they were to estimate the compensations of their officers in proportion as money was scarce or plentiful in the Treasury, nor did he believe there was a real distress in Government for want of money; but their difficulties arose from a difference of opinion in that House on the mode of raising money. He believed there were persons who thought Government squandered away the public money; that its officers divided the loaves and fishes amongst them; and that the only way in which this profusion of expense could be checked was by pursuing a system of direct taxation, which would make the people feel the amount which they contributed to the support of Government. He should not undertake to examine this principle, nor deny that such facts might exist. It would be enough to look at existing circumstances in our country, and see how far they would apply. Our Government, he said, rested on public sentiment for support, and must always be regulated by it. He was willing, he said, to go all lengths with gentlemen in adopting a system of taxation calculated to raise a permanent revenue. Nor was he apprehensive for the result, when dictated by reason and justice.

Contemptible must be that state of government, said Mr. B., where its public officers are starved for want of a proper spirit in the people to support them. Is America, said he, arrived at this melancholy state? If she were, God forbid she should ever experience another revolution! Is this all our boasted acquisition, in return for the struggles we have made for our country? No; he denied the fact. America was not reduced to that state which will not allow her to pay the expenses of her Government, nor is she unwilling to pay them; neither is public sentiment so debased as not to approve of any measure which shall be taken to secure a handsome maintenance for our officers. There was no occasion for hypocrisy in the business; he was willing to state the whole truth plainly to his constituents. He should not think of telling them they were giving too high salaries for their officers, when he knew, that, owing to their insufficiency, they were diminishing their own private fortunes. Nor did he wish to intrench on his own property in serving the public; he believed there was no occasion for this. He should, therefore, speak plainly to them.

Mr. B. said, he would inquire whether the present salaries were a reasonable and just compensation for the services performed? In respect to the President of the United States, it was said that he had already a large salary. He knew that twenty-five thousand dollars had a great sound in the ears of many, but he trusted the people of the United States not only possessed just views of Government, but that they also possessed virtue to support the just measures of Government, and would not consent that their Executive officers should be placed on such a footing as to be looked down by officers from foreign countries who moved in a lower sphere. Therefore, when they looked into the reason of the thing, and found their present salaries were unequal to their support, not in the style of splendor observed in foreign courts, but according to the manner of living in Philadelphia, would they not be willing to increase them? He believed they would.

The present President, he said, was a man of fortune, and never took from the Government more than would support his table, either during the war or during his Presidency. And what, he asked, did these expenses amount to? To the whole sum allowed him by law. But were they always to expect to have a President who would give his services to his country? Or had the President set a bad example, by living in a style of extravagance and splendor? He believed this was not the opinion of Americans, or that of foreign countries. If, then, the present President had lived upon his own fortune, and the whole of his compensation had gone to defray the expenses of his table, if this compensation was not advanced, how were future Presidents to come forward, to support the same style? They could not do it without infringing on their own fortunes. And do the citizens of the United States, he asked, wish their First Magistrate to be placed in this situation? He could not think so. He believed they meant to make ample provision for his support; and if the present provision was found inadequate they would condemn their Representatives; they would say they did not support the dignity of their country, if they neglected to advance it.

The same observations, Mr. B. said, would apply to the Vice President, and to other officers of Government. He did not wish the salaries of their officers to be such as should enable them to make fortunes out of them, but he would have them sufficient to afford a handsome living. Were they so at present? He believed not. It had been said, the other day, that they could not afford to live in the same style with persons who stood on the same footing with them before they went into office. He could not say whether they were obliged to intrench on their own private fortunes; if it was so, he asked if it were reasonable or just that they should be so placed? It certainly was not; and, therefore, convinced as he was that the people of the United States were willing and able to support the expenses of their Government, and that they wished their officers to have a just and reasonable compensation, which should not only enable them to make a respectable appearance in the eyes of their own citizens, but in those of foreigners, he should have no scruples in giving his consent to the advances proposed.

As to the compensation allowed to the members of that House, here he had knowledge; he could speak from experience. He could say that he had diminished his income one thousand dollars a year since he had a seat in that House. Did his constituents, he asked, wish this? He believed not. They did not wish him to intrench on his private fortune while he was serving them. They did not expect him to squander away their money in profusion, nor did he; he lived in the most economical style; but they wished his reasonable expenses to be paid. Besides, said Mr. B., were the rates of compensation, when first established, established upon this principle? He thought not. They were then thought to be a just and reasonable compensation; and, if it was not then unreasonable, it could not now be reasonable. Was it right, he asked, when every kind of labor was higher by one-third or one-half than at that time, that the compensations allowed to persons employed by Government should remain stationary? He could not conceive that this was either just or proper, or that the citizens of the United States wished it.

If any conclusion might be drawn from the practice of individual States, they would be warranted in making the proposed advance, since many of their Legislatures had advanced the pay

of their members. Indeed, he believed the people were generally convinced of the necessity of advancing the compensations allowed to the officers of Government and members of the Legislature, under the present circumstances.

Mr. B. said he was not for making a permanent increase of salaries, except to the President and Vice President. He did not conceive that the members of the Legislature ought to have more than was sufficient to support them, without obliging them to infringe upon their own fortunes. He wished the advance thereof to operate no longer than until the present existing circumstances were removed; he should move, therefore, to have the duration of this regulation for one year, instead of two, as it was possible in the mean time the price of living might be so reduced as to make the additional allowance no longer necessary.

Mr. Rutherford said, if gentlemen reasoned together for a moment, they would be convinced this measure was altogether improper and unjust. Our present President, said he, is looked up to with reverence, as to Cincinnatus, as a good republican. When the Commissioners from the Republic of Holland went to treat with Spain, they went in a style of such simplicity as to command the greatest respect. They afterwards appointed a Stadtholder, a man of great reputation and patriotism doubtless, like our President; but, as soon as they suffered themselves to lose sight of their simplicity and plainness of manners, and got into the policy and splendor of Courts, they were enslaved by their Stadtholder; for within these few years, the office of Stadtholder has been declared hereditary. What an extravagance is this; that a man should be born a Stadtholder or a King! While the Roman people maintained their simplicity of manners, while Cincinnatus was amongst them, they were a happy people; but when they lost sight of their plainness of manners, they lost sight of their happiness. Let us look at our sister rising Republic, and observe how they are doing away all pomp and pageantry in their Government and country, and aiming at a simplicity of manners; but, said he, I fear we have not lost sight sufficiently of kings, priests, and courts. This was his dread. It was necessary to bound these ideas. Patriotism could not be purchased, and should they despair of getting a man to fill the office of President without they increased the salary? Must they hire a man for this purpose? No, they should not be obliged to do this; there would always be found men of abilities and patriotism to fill that office, without any view to pecuniary advantage.

Mr. Dent said the question was to make an amendment by striking out the first section. Being in favor of that part which contemplated the addition of five thousand dollars to the salary of the President, and opposed to any addition to that of the Vice President, he wished the question divided, in order to accommodate his vote.

The Chairman said the motion was to strike out the whole section, and it could not be divided.

The motion for striking out was then put and carried—56 members being in favor of it.

Mr. Parker then moved to strike out the second section, which, if agreed to, would destroy the whole.

The motion was put and carried—ayes 53.

The committee then rose, and the House took up the business.

Mr. Harper hoped the report would not be agreed to. He said he had voted to strike out the additional allowances to the President and Vice President, because whatever necessity there might be to advance the salaries allowed to them, yet the 7,000 dollars proposed would be more properly divided among numerous officers who require bounty. He thought the same as to compensations to members of the House and Senate. Many of your officers have but just means to exist. If anything could be spared he hoped it would be applied where it was most wanted. He hoped and trusted the House, before they increased the salaries of that description of people (Executive officers, &c.) would first be well satisfied they wanted it. He thought upon examination it would be found some of those officers did need an advance. He mentioned the Comptroller of the Treasury, and some others who were inadequately paid. He would wish it to be divided so that a just distinction might be made, as some part he should support and some reject. If the question could not be divided, he should vote against the whole rather than agree to the addition proposed. Mr. H. thought it very necessary that some parts of the bill should pass. He could give his reasons, but he did not wish to recapitulate all the arguments that could be adduced to show the propriety of his ideas, that men of talents be employed in offices of trust, some of which were not sufficiently paid to invite such characters. He hoped, before the decision, gentlemen would look over the list of officers included, and think whether, from recurring to their present allowance, there was not some danger of losing them without additional compensation. If, on going over them one by one, there should be but one valuable officer in this situation, he hoped that one would be attended to. He should have mentioned some of these ideas before, but for the rapidity with which the vote passed the Chair. He hoped they should disagree to the report of the Committee of the Whole, so as to go over the whole of the items.

Mr. Page said, from a view of our revenue and expenses, this was not the time to increase salaries. He thought, in proportion to the hardness of the times, every officer in the Government should conduct his mode of living; every person feels in proportion. If the salaries of the officers of Government were to be increased because living was more expensive, it was proportionable as to those people who would have to pay the proposed addition. He would rather lose a good officer than agree to this bill in any form. He thought it would have a very mischievous tendency. The household expenses of those officers had better be retrenched than that additional taxes should be laid to increase their salaries.

The question was agreed, by one-fifth of the members, to be taken by yeas and nays, "That

the House do agree with the report of the Committee of the Whole, in their disagreement to the bill," and resolved in the affirmative—yeas 58, nays 38, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, William Strudwick, Mark Thompson, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, Edward Livingston, Samuel Lyman, Francis Malbone, William Vans Murray, Elisha R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, John E. Van Allen, Peleg Wadsworth, and John Williams.

And so the said bill was rejected.

ELECTION OF PRESIDENT.

A message was received from the Senate informing the House that the Vice President had laid before them the following communication:

Gentlemen of the Senate:

In consequence of the declaration made yesterday in the Chamber of the House of Representatives of the election of a President and Vice President of the United States, the record of which has just now been read from your Journal by your Secretary, I have judged it proper to give notice that, on the 4th of March next, at 12 o'clock, I propose to attend again in the Chamber of the House of Representatives, in order to take the oath prescribed by the Constitution of the United States to be taken by the President, to be administered by the Chief Justice or such other Judge of the Supreme Court of the United States as can most conveniently attend; and, in case none of those Judges can attend, by the Judge of the District of Pennsylvania, before such Senators and Representatives of the United States as may find it convenient to honor the transaction with their presence.

The Clerk of the Senate also communicated the following resolution:

"*Resolved*, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to consider whether any, and if any, what measures shall be adopted for the further accommodation of the President after the 4th of March next; and that Mr. Sedgwick, Mr. Tazewell, and Mr. Reed, be a joint committee on the part of the Senate."

Mr. Gallatin, from the committee to whom was recommitted, for the 5th ult., the report of the Attorney General on the memorial of John C. Symmes, made a report, which was committed to a Committee of the Whole House on Monday next.

CONTESTED ELECTIONS.

Mr. Harper moved the following resolutions:

"*Resolved*, That the method of taking evidence to be adduced in the trial of contested elections for this House shall, hereafter, be as follows:

First.—The party intending to contest an election, shall give notice of such intention to the person returned. If it be an election in the usual course, this notice shall be given at least ——— weeks before the time when the said person is to take his seat; if not in the usual course, but to fill a vacancy, then the notice shall be given within ——— days after the persons appointed to hold the election shall have made known publicly the state of the poll. The notice shall be delivered in writing, at the usual residence of the person returned; and if he be absent, shall be left there open.

Secondly.—Either party intending to take examinations shall then apply to some Justice, or Judge of the Courts of the United States, or some Chancellor, Justice, or Judge of a Supreme, Superior, or County Court, or Court of Common Pleas of any State, or some mayor or chief magistrate of a town or city, and shall obtain a notification, under his hand and seal, directed to the opposite party, and requiring him to attend, by himself, or his attorney, duly authorized, and cross-examine the witnesses. This notification shall state the time and place of examination, and the names of the witnesses; and it shall be served on the opposite party, or his attorney, duly authorized, as either may be nearest to such place, provided either is within one hundred miles of it. For attendance, after serving the notification, one day, exclusive of Sundays, shall be allowed for every twenty miles.

Thirdly.—In all cases where either party shall give notice to the other of his having appointed an attorney for the purposes aforesaid, it shall be necessary to serve the above mentioned notification on the attorney.

Fourthly.—Every person deposing shall make oath or affirmation to testify the whole truth, and shall subscribe the testimony by him or her given, which shall be reduced to writing only by the magistrate taking the deposition, or by the deponent in his presence. The deposition so taken, together with a certificate of the notices, and proof of the service of them, shall be sealed up by the magistrate who took it, and transmitted to the Speaker of this House.

Resolved, That the examinations of witnesses, taken in this manner, and no other, shall hereafter be admitted on the trials of contested elections.

Resolved, That copies of any papers recorded in any office of record, provided those copies be attested under the hand and seal of the recording officer, shall be admitted at all such trials in the same manner as the originals would be, if produced. In like manner copies of any other papers of a public nature, and remaining in the possession of a public officer, shall be admitted when attested under the hand and seal of that officer.

Resolved, That ——— copies of those resolutions shall be forwarded, forthwith, to the Executive of every State, with a request that they will cause the mana-

gens of every election, in their respective States, to be furnished with at least one copy."

Mr. Heath moved that the consideration of these resolutions should be postponed till the 3d of March next, as they would take up too much time. It would be better for the next Congress to discuss them.

Mr. Harper said that it would be of no use to meddle with them unless it were done immediately. They were designed to operate previous to the next session. Any mode of taking evidence was better than to have none at all. In the present state of matters, people came here from Maine or Virginia to ask the House what were the rules of taking evidence. A late instance occurred from Georgia. The people waited here for a considerable time, and then went back with instructions how to proceed.

Mr. Sitgreaves argued that this remedy would not answer the defect. The resolutions, if passed, would not bind the next Congress. This could only be done by a law passing through both Houses. Hence it was needless to vote for them, as our successors may disagree to them.

Mr. Murray differed from Mr. Sitgreaves. If rules are not made now, they will be too late. In a case so distant as Georgia, a year would at any rate be spent before there could be a decision.

Mr. Sitgreaves said that a position had been assumed that the rules made in this House would regulate the next. This he denied. They were not binding on the succeeding House, unless they saw fit. He said that contested elections were a growing evil. There was very little encouragement for people coming from the country to contest them.

On a division, whether the resolution should be deferred till the 3d of March, there were, ayes 34, noes 40.

The resolutions were then referred to a Committee of the Whole House on Monday next.

STATEMENT OF EXPORTS.

The Speaker laid before the House the following Letter from the Secretary of the Treasury:

Treasury Department, *Feb.* 9, 1797.

Sir: I have the honor to transmit herewith a statement of goods, wares, and merchandise, exported from the United States during one year prior to the 30th of September, 1796.

Of the whole value of said exports, (being $67,064,097,) it is estimated that about $26,300,000 has arisen from the exportation of foreign goods and merchandise.

I have the honor to be, very respectfully, sir, your obedient servant,

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

The Hon. *the* Speaker *of the House of Representatives.*

A General Statement of the Exports of the United States, commencing October 1, 1795, *and ending September* 30, 1796.

Species of merchandise.		Quantity or value.
Ashes: pot	tons	3,661
pearl	do.	1,423
Apples	barrels	5,503
Beer, ale, porter, and cider, in casks	gallons	328,883
Do. in bottles	dozens	14,002
Beef	barrels	32,521
Biscuit or ship-bread	do.	181,065
Do. do.	kegs	26,102
Buckwheat	bushels	33
Barley	do.	345
Bran and shorts	do.	80
Beans and peas	do.	155,267
Butter	pounds	2,554,885
Boots	pairs	7,950
Bricks	number	602,700
Corn, Indian	bushels	1,173,552
Cheese	pounds	1,794,536
Chocolate	do.	39,698
Cotton	do.	6,106,729
Coffee	do.	62,385,117
Cocoa	do.	928,107
Coal	bushels	9,536
Candles, wax	pounds	9,978
spermaceti	do.	221,993
tallow	do.	1,997,398
Canvass or sail-cloth	pieces	4,683
Cables and cordage	cwt.	8,707
Cards, wool and cotton	dozens	85
playing	packs	200
Copper, or brass and copper, manufactured	value	$3,373
Coaches and other carriages	do.	$13,999
Flour	barrels	725,194
Fish, dried or smoked	quintals	377,713
pickled	barrels	84,558
pickled	kegs	5,256
Furniture, house	value	$9,483
Flaxseed	bushels	256,200
Flax	pounds	16,594
Gunpowder	do.	2,519
Gineseng	do.	10,713
Hats	value	$57,416
Hams and bacon	pounds	2,096,177
Hair-powder	do.	30,561
Hemp	cwt.	2,090
Hops	pounds	76,634
Hides, raw	number	49,363
Horned cattle	do.	4,625
Horses	do.	4,285
Hogs	do.	6,752
Iron, pig	tons	503
bar	do.	843
castings	value	$453
all other manufactured	do.	$160,094
Indigo	pounds	915,635
Lard	do.	1,124,971
Leather	do.	127,044
Lead	do.	1,199,439
Meal, rye	bushels	152,784
Indian	do.	540,286
buckwheat	do.	1,076
Mustard	pounds	5,240
Molasses	gallons	112,257
Mules	number	1,718
Medicinal drugs	value	$53,949
Merchandise and all articles not enumerated	do.	$6,794,346
Oil, linseed	gallons	34,721
spermaceti	do.	164,045

Species of merchandise.		Quantity or value.
Oil, whale and other fish	gallons	1,176,650
Oats	bushels	59,797
Pork	barrels	73,881
Pitch	do.	18,083
Potatoes	bushels	48,767
Poultry	dozens	5,084
Rice	tierces	121,029
Rye	bushels	4,319
Rosin	barrels	14,183
Spices: pepper	pounds	491,380
pimento	do.	498,028
all other	value	$6,235
Spirits, foreign distilled	gallons	667,606
domestic	do.	963,325
Shoes and slippers	pairs	212,774
Skins and furs	value	$373,201
Saddlery	do.	$4,823
Starch	pounds	51,816
Soap	do.	2,713,729
Sugar, brown and other clayed	do.	34,848,646
refined	do.	984,144
Sheep	number	6,140
Ship-stuff	cwt.	8,706
Salt	bushels	52,163
Snuff	pounds	267,046
Tobacco, manufactured	do.	39,181
unmanufactured	hhds.	69,018
Tallow	pounds	187,403
Tar	barrels	64,600
Turpentine	do.	41,490
Do. spirits of	gallons	28,628
Tea, bohea	pounds	74,547
souchong and other black	do.	9,327
hyson	do.	30,531
other green	do.	20,923
Wheat	bushels	31,226
Whalebone	pounds	308,314
Wax	do.	317,831
Wines: Madeira	gallons	198,645
all other	do.	1,505,427
bottled	dozens	30,108
Wood: staves and heading	number	34,588,904
shingles	do.	47,307,112
hoops and poles	do.	3,711,062
boards, plank, scantling, and timber	feet	53,871,476
timber	tons	8,585
all other, and lumber	value	$120,197
oak-bark and all other dye	do.	$188,453
all other manufactures of	do.	$111,848

A Summary of the Value and Destination of the Exports of the United States, agreeably to the above statement.

To Russia and dominions	$47,381
To Sweden and dominions	1,096,407
To Denmark and dominions	2,675,589
To United Netherlands and dominions	7,875,364
To Great Britain and dominions	23,164,545
To Imperial ports of the Austrian Netherlands and Germany	35,959
To Hamburg, Bremen, and other Hanse Towns	9,471,498
To France and dominions	11,623,314
To Spain and dominions	3,650,678
To Portugal and dominions	559,448
To Italy and dominions	1,100,822
To China and East Indies generally	1,352,860
To West Indies generally	3,267,942
To Africa generally	537,355
To Northwest coast of America	23,510
To Europe for a market, and uncertain ports	481,725
Total	$67,064,097

A Summary of the Value of the Exports from each State.

From New Hampshire	$378,161
From Massachusetts	9,949,245
From Rhode Island	1,589,872
From Connecticut	1,452,793
From New York	12,208,027
From New Jersey	59,237
From Pennsylvania	17,512,866
From Delaware	201,142
From Maryland	9,201,315
From Virginia	5,268,655
From North Carolina	671,487
From South Carolina	7,620,049
From Georgia	950,158
Total	$67,064,097

JOSEPH NOURSE, *Register.*

Treasury Department,
Register's Office, February 7, 1797.

Mr. Gallatin reported a bill for allowing a drawback on domestic distilled spirits exported in vessels of less burden than thirty tons by the Mississippi. The bill was twice read, and referred to a Committee of the Whole on Saturday.

The House took up the consideration of the disagreement of the Senate on the mode of notifying the Vice President of his election; and Messrs. Sitgreaves, Parker, and J. Smith, were appointed a Committee of Conference.

APPROPRIATIONS FOR 1797.

Mr. W. Smith called for the order of the day on the bill granting appropriations for the year 1797; and the House accordingly resolved itself into a Committee of the Whole on that subject, which was proceeded with until they came to the item for foreign intercourse, without any amendment, except allowing the Purveyor a clerk, which had before been struck out.

Mr. S. Smith said, that he was a careful man. He had saved to the public, within the last year, twenty thousand dollars, by going about to vendues and buying articles cheaper than they otherwise could be had. Mr. S. learned this from the Secretary of the Treasury. He had not himself seen the person. If deprived of a clerk, he might not think it worth while to take so much trouble, and the public would be losers.

On a division, the clerk was kept in—ayes 30, noes 28.

Mr. Gallatin moved that the Committee might rise, as the subject would create considerable discussion, and it was then too late an hour to enter upon it. The Committe accordingly rose, and had leave to sit again.

EXPENSES OF FOREIGN INTERCOURSE.

Mr. Gallatin moved a resolution to the following effect:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House a detailed Statement of the expenditure of any sums which have been appropriated for defraying the expenses attending our intercourse with foreign nations, excepting such statements as have been laid before the House in any confidential communication by the President of the United States."

The resolution was agreed to.

Friday February 10.

Mr. Sitgreaves, from the joint committee appointed on the subject of the election of a President and Vice President, reported a resolution to the House, in conformity to that passed eight years ago, on a similar occasion, viz: requesting the Senate to notify the Vice President of his election in such a way as they shall think proper, which was agreed to.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill for repealing, in part, the act laying a duty on spirits distilled in the United States, passed in May, 1792, and for imposing a duty on the capacity of stills of certain descriptions; which was read a second time, and committed to a Committee of the Whole on Tuesday next.

NAVAL EQUIPMENTS.

Mr. Parker wished the unfinished business relative to appropriations to be postponed, for the purpose of taking up the report on the Naval Establishment; as it was necessary to determine, before the appropriations were gone through, whether the House would complete the frigates, or take the means recommended with respect to the establishment of a navy-yard, and for the security of a future supply of timber. The following is the report of the committee:

The committee appointed to inquire into the state of the Naval Equipments, ordered by former acts of Congress, and whether any, and what other Naval force is necessary for the protection of the commerce of the United States and the support of their flag, report:

That in consequence of the act of the 20th of April, 1796, the President of the United States directed that the frigates building at Philadelphia, Boston, and Baltimore, should be completed; that the building of the frigates at New York, Portsmouth, in Virginia, and Portsmouth, in New Hampshire, of course were discontinued. Upon inquiry, the committee find that the frigate building at Philadelphia, of 44 guns, and called the United States, is in such forwardness that she may possibly be launched in April, and that in two months after she may be made ready for sea; that it will require to finish this frigate, so as to receive her crew and stores, $55,950.

The frigate building at Boston, called the Constitution, of 44 guns, is not in such forwardness as the United States; and by the accounts from the proper office, it is not supposed she can be launched till July, and that it will be two months after before she can be put in a condition for sea. To complete her, exclusive of men and provisions, will require $96,671 71.

The frigate Constellation, building at Baltimore, of 36 guns, it is supposed by the officers of the Department, may be launched in May next, and that in two months after she may be so far finished as to be ready to receive her crew and stores. For this ship the sum of $47,375 is required.

The committee beg leave to observe that the foregoing report is made from statements in their possession from the Department of War; but the committee do not believe that either of the ships can be ready to launch by the time mentioned, on account of the severity of the weather; but, admit they should, a further sum of money will be necessary and must be speedily supplied, as it appears by the report of the Secretary of War that all the money hitherto appropriated has been expended, except $24,133 71. In order that the House may have the necessary information on this subject, the committee give the following statement:

Appropriated 9th of June, 1794, for the purpose of building six frigates - -		$688,888 82
For the purpose of building galleys or other vessels, by the same act, and applied to this object - - - -		80,000 00
Appropriated by act of June 1st, 1796, to pay Captains - - - - - -		5,000 00
Total of appropriations -		773,888 82
Required to finish the United States -		55,950 00
Required to finish the Constitution -		96,571 71
Required to finish the Constellation -		47,375 00
		973,385 53
Out of which deduct so much unexpended - - -	$24,133 71	
Materials sold, per report -	4,214 05	
		28,347 76
		945,437 77

Thus it appears, by official statements, to your committee, that to build the three frigates ordered by the act of Congress of April 20th, 1796, it will cost the United States, with the materials now on hand, the value of which they have no estimate, the sum of $945,437 77, exclusive of fitting, manning, and providing them with provisions and stores. That the House may have all the information as to the probable cost and yearly expenditure the committee have on this subject, they state it as given by the Secretary of War, which will accompany this report.

That each frigate of 44 guns will cost for wages, per month, $4,096. Estimate twelve months' pay—

For two frigates of 44 guns - - - -	$98,304
For one frigate of 36 guns, $3,518 per month	42,516
Twelve months' subsistence for three frigates, 400,770 rations, at 20 cents, is - -	80,154
Annual expense of two frigates of 44 guns, and one of 36 guns - - - -	220,974
In addition to this, for the salary of two persons to take care of the naval yards at Portsmouth and New York - - - - -	1,000
Rent of the naval yards at Portsmouth, in New Hampshire, and New York - -	1,200
	223,174

The committee refer to the report from the War Department, to show the timber on hand in the different yards, as well as what has been sold, the value of which they have no estimate, except as to what has been sold, nor have they been furnished with an estimate of the naval stores which are on hand; but if the House should require those documents, they may be had at the proper office.

The committee beg leave to report, as their opinion, that the sum contemplated by the War Department as necessary to man the ships will be insufficient, under existing circumstances, as the rate of seamen's wages are estimated much lower than has been given by merchants for their ships within the last two years, and but little more than the usual wages in the most tranquil times; but from all circumstances, especially from the forwardness of three of the ships, and most of the materials being ready, they think it would be proper to finish them as speedily as possible, as an aid to our commerce and a support to our flag: therefore,

"*Resolved*, That —— dollars be appropriated to finish and equip for sea the frigates United States, Constitution, and Constellation."

Your committee further report, as their opinion, that a sum of money should be appropriated for the purpose of purchasing and fitting up a naval yard; and also, that it would be expedient for the United States to secure some of the lands in South Carolina and Georgia, well clothed with live oak and red cedar timber, for the purpose of building ships of war: therefore,

"*Resolved*, That —— dollars ought to be appropriated for the purpose of buying and fitting up for the United States a proper site for a naval yard.

"*Resolved*, That —— dollars ought to be appropriated for the purpose of purchasing live oak and red cedar timber, or lands stored with it, for naval purposes."

The first resolution having been read—

Mr. Parker said, it would be seen that the report of the committee did not contemplate the manning of the frigates; and though it was their wish to have them manned and equipped for sea, yet, on account of the present embarrassed state of the finances, it was judged most proper only to ask $172,050 to finish them; that sum would put them in a state to be ready to man and equip when necessary, which would come better under a future appropriation, as it was probable Congress would again meet before this necessity occurred. He supposed no objection could be made to that; because, if it was proper to begin them, it was as proper to finish them, else the whole sum already expended would be to no purpose, upwards of $700,000 having been sunk in them; he had no doubt, therefore, that the House would order them to be finished, and not let them rot on the stocks, and remain monuments of the versatility and folly of the Government. As this subject had been frequently under discussion, it was not necessary to say anything upon the utility of these vessels; the Committee were already well acquainted with the business. He said, the sum wanted for this purpose would be $171,000.

Mr. Coit did not know but he might agree to complete the frigates in the way proposed by the Chairman of the Committee; but he did not think the resolution conformable to the wish expressed by that gentleman. He thought the frigate-building business an unfortunate one; but, having gone so far with them, he believed it would be best to have them finished. He should, however, be unwilling to go further. He would not equip and man them, but lay them up in port; but if the resolution remained in its present form, the President would doubtless go on to officer and man the vessels. He thought, therefore, they should repeal that part of the act which authorized the President to man the vessels. Some gentlemen might think it would be sufficient to withhold the appropriations for this purpose; but he did not wish to rely wholly upon this check. He would, therefore, move the following addition to the resolution as reported:

"And that all such parts of the act for providing a Naval Armament as relates to the appointing and commissioning officers and manning the said ships ought to be repealed."

Mr. W. Smith doubted whether this motion was in order, it seemed to be a substitute for that under consideration, and unconnected with it. The question under consideration, he said, was a grant of money for finishing the building of the frigates; whether they were to be equipped and manned was another consideration altogether. It was contrary, he said, to the proceedings of that House to bring forward one question as a substitute for another. After a decision on the original resolution had been had, the gentleman might bring forward his proposition.

Mr. S. Smith said the gentleman might try his question in a shorter manner, by moving to strike out the words "and equipped for sea."

Mr. Coit said, if his amendment was agreed to, the words just mentioned might be struck out. He did not think, with the gentleman from South Carolina, that his motion was a substitute for the original. It was merely a qualification of it. He was willing to vote for the finishing of the building of the frigates, but not for their manning and equipment. The gentleman from South Carolina wished the question first to be taken on the original, and then on this amendment; but that would not answer his purpose.

Mr. Parker said, he had already observed that the frigates were not intended to be equipped for sea at present, and he had no objection to the words relative to the equipping for sea being struck out.

The Chairman gave it as his opinion that the motion was not in order; but if the words "and equipped for sea" were agreed to be struck out, it might then be introduced.

Mr. Nicholas moved to strike out those words.

Mr. Gallatin said, the equipping and manning were two distinct things. In the act, provision was first made for the construction and equipment, and then followed the clause respecting manning. He considered the amendment of the gentleman from Connecticut as applicable to the latter. Indeed, it was uncertain whether that part of the act was yet in force. The act declared, that when a peace took place between the United States and Algiers, that part of the act should cease. The act passed last session directed three frigates to be

equipped, anything to the contrary notwithstanding. The amendment proposed went to settle the business.

Mr. Sewall said he had no great objection to striking out the words in question; but as to the addition proposed by the gentleman from Connecticut, it was an independent resolution altogether. The finishing of the frigates was a distinct thing from the manning and equipping; and if the gentleman's motion was to obtain, when the resolution came before the House it would be in the power of the House to divide it.

He said they ought not to vote for finishing the frigates, and at the same time repeal the act respecting the manning of them. There were existing laws authorizing the President to build, equip, and man them; and they must have the approbation of the other branches of the Legislature before they could do away any part of that law. If it was necessary to finish the frigates, he thought it was the express duty of the Legislature to provide the means of manning and equipping them. But he thought it was not fair to connect them together, so as to make the agreement to one a condition for an agreement to the other. No gentleman wishing to build the frigates could decline voting for the original resolution, when the words "and equipped for sea" are struck out. They might afterwards refuse to appropriate for the manning.

The motion for striking out was put and carried.

Mr. Coit then renewed his motion, with this addition, "except so far as appertains to any officers already appointed under the said act."

Mr. Nicholas wished the gentleman from Connecticut to inform the House what officers were appointed.

Mr. Coit said he had no accurate information; but he believed a few Captains only were appointed, who would be necessary to attend to the building of the frigates.

Mr. Parker said, if his colleague would look into the report, he would see there were only three Captains appointed.

Mr. W. Smith hoped this motion would not be agreed to. He thought it very improperly introduced here. It looked like a design to constrain the Senate to agree to this proposition, or give up the frigates. The gentleman's own opinion, viz: that it was improper to defeat a measure in an indirect way, was against him. They had passed an act that the President should build and equip these vessels; but this motion proposed to annex a condition to the grant, viz: that that part relative to manning should be repealed. He thought the question should be kept distinct. It was in the power of the House to withhold the appropriations for manning them; under such circumstances the Executive could not effect it; but this would be repealing a law of the land. We send the bill up to the Senate with a grant of a certain sum to finish the frigates, and in the same bill we say they shall not be manned. Mr. S. thought they would be of no use lying up in our dock yards. He was of opinion the vessels should not only be built but manned. He thought they would be of great service in protecting our coasts, in keeping off the piccaroons which at present infest them; and would also prove as an academy for instructing young officers in naval tactics. He should be sorry to pass a resolution to lay them up as hulks, after being at the expense of building them.

Mr. Nicholas said, the gentleman from South Carolina had made an extraordinary discovery, viz: that if the present motion passed, it would be a restriction on the Senate. If he understood the gentleman from Connecticut, [Mr. Coit,] he declined voting for completing the vessels, except this provision was annexed to the resolution. This was his opinion; and it was extraordinary that the gentleman from South Carolina should think this improper, when he himself had done the same thing. Did he not vote for the striking out of the words "and equipped for sea?" And if they were obliged by law to appropriate for the manning, they were equally bound to provide for the equipping, and yet that gentleman had dispensed with the one, and blamed him for dispensing with the other. Indeed, if they had not full liberty to grant or to refuse an appropriation, he could see no reason for annual appropriations; they might as well be made perpetual. If they could not check the improper expending of money by appropriation, that boasted power was a mere deception; but he was convinced there could no doubt on the subject.

Though the resolution was passed together, two separate bills might be brought in, which might be sent up to the Senate separately.

The building of these frigates, he said, had been an unfortunate business. The law had been passed by surprise, at a time when members could scarcely think for themselves, and was carried by a small majority. He did not think a Naval Establishment could be of any service to this country. How could it operate? Unless it was such a force as to intimidate an enemy, it could have little effect. And could we man a Navy of this kind if we were possessed of it? He believed not. The time at which such a force could be of any use would be when other Powers were about going to war, and he believed at such a period it would be impossible to find men for the purpose of manning a Navy of any considerable size. There was no time, he said, since the commencement of the present European war, at which they could have manned a fleet. With respect to the Navy at present contemplated, he could see no real use it could be of; for, if they were in sight of an enemy's privateer examining one of our ships, they could not resent it for fear of a war. Indeed, going into a Navy at this time, was in effect going to war with one of the contending Powers; for one of the effects of such an establishment would be to give them such an high idea of their own strength as would be certain to lead to war sooner or later. And the misfortunes of one war, he said, would infinitely exceed all the advantages which could be derived from a Navy.

Mr. Nicholas said, he did not know whether

it would not be the best policy to stop where they were with the frigates; but, with the provision proposed by the gentleman from Connecticut, he would agree to finish the building of them, because he did not know but the vessels when finished, might be disposed of, so as to bring back a part of the money which had been expended.

Mr. S. Smith said, the gentleman last up was mistaken when he said the gentleman from South Carolina [Mr. W. Smith] when he voted for striking out the words "and equipped for sea," had done the same as he had blamed the gentleman from Connecticut with doing. He thought the words an unnecessary tautology: what he meant by "equipped for sea," was having the sails bent, water on board, &c.

Mr. Nicholas said, it would save time to set the gentleman right. He meant to say that the equipment was provided for by law equally with the manning.

Mr. S. Smith said it only amounted to this, that gentleman explained the same thing differently from him. He had said this law was passed by surprise. It was no such thing; it underwent a very full discussion. That gentleman had asked, of what use a Navy would be to them? If they had had a Navy during the present war, he would have told the European nations, we will throw our weight into the opposite scale, if you continue to insult and injure us. But that gentleman was afraid of this; he had no fear, he only wished they had the power.

One nation, he said, had committed spoliations on our property to the amount of three millions, and another had done the same from five to six millions. This would have supported a Navy, which would have kept us from a situation in which we are subject to indignities and insults from every Power who chooses to commit them against us.

The same gentleman had always said, that at no period since the passing of this law could they have manned these frigates. He was of a different opinion. The present high wages arose in part from so many of our seamen having been taken from us by the British, on board whose ships as many have been pressed as would nearly have manned the frigates. That gentleman talked of finishing the vessels and selling them, to defray a part of the expense incurred in building them; but he could assure him they would not all three sell for so much as one of them cost in building, as they were too large for even the East India trade. The only question was, whether they could be got ready in time to send them to sea during the present year? If the select committee convinced him they could, he should vote for money to man and equip them; but if not, there was no necessity for doing so.

Mr. Parker wished the report to be read. He had no doubt but the three frigates would be finished by October. If they had been completed at the time originally proposed, they might have been very well manned, as he believed we had more men in the British Navy than would man six ships. If these vessels were ready, they might be used so as greatly to annoy the vessels of those nations who might think proper to injure us, going to and from the West Indies, as they were obliged to come within seven days' sail of our coast, and the season of the year at which they made their voyages being well known, there would be no difficulty in falling in with them. We might be to them in these parts what the Algerines were to us in the Mediterranean. These ships, though few in number, would have a very considerable effect in protecting our commerce; but at present, said Mr. P., we are the sport of all nations, because they can insult and plunder us with impunity. If, indeed, we were to adopt the Chinese policy, and give up commerce altogether, there would be no necessity for ships of war; but if we were to have commerce, it must be protected. We are in a better situation now, in a commercial view, than Spain or England were a century ago, as neither of these kingdoms had at that time seven hundred thousand tons of shipping; and this quantity of shipping, he said, was employed in carrying out our own produce. If our commerce were not protected our merchants would be ruined, and we must depend altogether upon foreigners to carry away our produce. There was only this alternative, either wholly to give up commerce, or else determine to protect it. He thought it would be disgraceful to abandon the finishing and equipping of the vessels, and nothing would have led him to have given up the equipping but our present embarrassed finances. Indeed, if they were to act thus, their constituents would consider them as no better than fickle boys, having first agreed to build the ships and then to talk of burning them.

This country, Mr. P. said, was able to build and man six ships and six frigates. It was farcical to suppose the contrary; but they had acted as if they were afraid of calling out their resources; they gaped at gnats, and, on some occasions, swallowed camels. Mr. P. said, he was not afraid of calling upon the people for direct taxes; they were able and willing to pay much heavier taxes than were contemplated to be raised for the purpose of national defence, or for paying our National Debt.

Mr. Sewall said, he had a strong objection to the proposition, as it would embarrass members in their votes on this occasion; but, when considered in another point of view, it was very exceptionable, unless gentlemen had adopted the opinion of the gentleman from Virginia, [Mr. Nicholas,] that the House had a right to refuse an appropriation for a purpose established by law. This doctrine, he believed, would not be agreed to by the mover of this question.

The effect of the amendment would be to apply to the Senate to repeal an act; which, if they did not think proper to do, this House would prevent any appropriation to carry it into effect. The Senate might agree to, or differ from, the proposition; but it would not appear well to attempt to force them.

Much had been said on the uselessness of a Navy, which he should desist from repeating;

he wished the resolution so to stand as that every gentleman might have an opportunity to avow his sentiments on the subject without any obstruction; he therefore hoped the gentleman would vary it accordingly. Mr. S. said he thought it absolutely necessary the frigates should be manned: if they were to be finished it was proper they should be used in some form or other.

The gentleman had agreed that the captains were to be retained in pay; but what use were they if there were to be no men when the ships are finished? At least, it was necessary that some men should be employed, if only to take care of the vessels. He hoped the motion would be withdrawn, that fair opportunity may be left to vote, and the Senate not be subjected to that disagreeable situation which must necessarily attend this way of doing business.

Mr. Corr had no doubt in his own mind that when there existed a law, it was, in general, the duty of the different branches of Government to carry it into effect; but he was not prepared to say there could be no instance in which he might withhold appropriations. He believed there might be such instances, and he deemed the present one of those cases; because he thought the evils which would attend the manning these vessels so great as to require him so to act. He did not say he would not vote for completing the vessels if his motion did not pass, though he felt inclined to do so; but he trusted his difficulties would be removed by this amendment being agreed to. Gentlemen had said, that many advantages would arise from this fleet. This was uncertain. It was his opinion they should not want officers at least for the ships, but he much doubted whether men could be got. The gentleman from Maryland [Mr. S. Smith] was more likely to be acquainted with the subject than he was, being a mercantile man, and his opinion would of course have more weight with that committee, but it was his own opinion they could not be manned; for, besides the present high price of labor, men were not so ready to go on board ships of war as merchantmen. He, therefore, supposed the frigates would be fully officered, would just have sufficient men to wait upon the officers, and that they would never leave our ports. But if manned and ready for sea, though he believed his views were as patriotic, and his wishes as earnest for the welfare of his country as those of any other member, he could see no real service on which they could be employed. If he could see all the advantages which some gentlemen had dwelt upon, as likely to arise from their going to sea, he should wish it as much as they; but he did not; he saw the expense was certain, and the advantages doubtful. He therefore hoped his amendment would pass.

Mr. Dearborn could see no reason why the present motion ought not to pass. In other instances they had thought it right to curtail their appropriations to what was really necessary for the object. There had already been very liberal appropriations towards the building of these vessels. They were originally to have cost one hundred thousand dollars each, but three hundred thousand had been expended, and more was now called for.

Mr. D. said, he was so far from wishing to see large sums given for this purpose, that he could wish the appropriations to be confined to completing the hulls of the vessels only. He believed it would have been a happy thing if they had never been begun. What the expense of the rigging and sails of the frigates might be, he did not know; if a considerable part of the expense had already been incurred, he should not object to completing them, otherwise he thought, if they judged in respect to the future by the past, and that the vessels which should have been built in four months were now going on for four years, the hulls would be as much as would be completed before the meeting of the next session of Congress; he therefore wished to furnish only as much money as would effect that purpose. These vessels, he said, would cost double the price that vessels of the same kind would have cost in England, and he believed there must have been great want of attention to economy in the business. It was not possible that men well acquainted with ship-building should have been so far mistaken in their calculations. He thought, therefore, they should begin to confine their appropriations and grant money only as it was wanted. As to manning, equipping, &c., it would be time enough to provide for these a year or two hence; for he believed if the vessels were now ready, it would be found very difficult to man them; and if manned, he did not see any use they would be of, except to join in war with some foreign Power.

The question was then put upon the amendment, and carried—there being 58 in favor of it.

The question was about to be taken upon the resolution as amended; when

Mr. Dearborn said, before the question was put, he wished to amend the resolution by inserting the words "to finish the hulls," instead of "to finish the vessels."

Mr. Parker said, if this amendment was agreed to, it would be necessary to say what was to become of the masts, spars, sails, canvass, rigging, &c. By this proposition, it would appear as if the gentleman did not mean to finish the vessels at all. If this was his intention, the question had better be tried in that way.

Mr. Dearborn said his object was not to prevent the ultimate finishing of the vessels; he only meant to confine the appropriation to what was likely to be wanted this year. He did not contemplate any loss therefore by sails, masts, &c.

Mr. Coit hoped the motion would not prevail. He believed the contracts were made for most of the articles necessary for the completing of the vessels.

Mr. Gallatin said, that it appeared to him that the law passed last year had provided against the inconvenience mentioned by the gentleman from Virginia [Mr. Parker.] The law provides that the materials shall be safely kept for the use of the United States; therefore, such materials as

would not be wanted for the use of the hulls would be safely kept under the provision of the law. No objection could be had to the motion on that ground.

Mr. Parker said the materials for completing the vessels were mostly on hand, and only 171,000 dollars were wanted to complete them. It was true that these vessels would cost more than any other he had heard of. The common price in the British Navy, he believed, was £1,000 sterling a gun. These ships cost more on account of the very high price of labor; but they were also larger than ships carrying the same number of guns in other countries; another deck would have made them as large as seventy-fours, and if they had been built as seventy-fours, they would not have cost more than £74,000 sterling, but they had been built in their present form because they were best suited for service. When finished, he believed these vessels would be an ornament to the country. He had seen ships of almost every nation, but he had never seen vessels equal to these.

Mr. Sitgreaves said, if he understood the question, the argument of his colleague was sufficient to prove that the amendment ought to be adopted. The question was not what was to become of the materials when procured, but whether they were to be procured. It appeared that contracts were made for every part, so as to complete the ships, but this motion went only to have the hulls finished. If the House wished the Department to fulfil their contracts, they should appropriate for that purpose, else it would leave the Executive in an awkward situation. After every thing necessary to fulfil that contract to the completion of the ships had been purchased, it could be stored, or placed on board ship. He hoped the question would be decided, whether an appropriation should be made for finishing them according to former acts.

Mr. Dearborn did not know whether he understood the extent of the report of the committee. He would by no means wish to embarrass the Executive, or prevent his fulfiling every contract. He understood that, after every contract which had been made, there would be 24,000 dollars remaining on hand; he supposed every contract was included in the report as money expended. His design was only to confine the appropriation merely to the sum absolutely necessary for the present year. If he understood it wrong, and the committee would inform him, he had no objection to withdraw his motion. As to the putting up the masts, rigging, &c., he had not heard mentioned whether it was contracted for or not. He supposed, however, that it would not be done in the course of the present year. As he observed before, he would not object to the appropriation, if existing contracts absolutely required it.

Mr. S. Smith said, that the expression in the resolution was "that ——— dollars should be appropriated for finishing the vessels." The gentleman from Massachusetts was afraid of unnecessary expense, and proposed to insert "hulls," instead of vessels. He believed this alteration would operate a very considerable injury to the United States; for, by the time the hulls were finished, all over head would be ready. If these ships were got ready for service, they might be used or not. When he left Baltimore, the coopers were at work on the water casks; but, if this motion passed, they could not be completed, and the same with respect to cables, and other materials which were in hand. Instead of this kind of proceeding being economy, it was downright waste. If they were his vessels, and he were building them for purposes of commerce (dead as all trade was at present) he would finish them, to be ready against a more favorable change. Indeed, if these vessels were not soon finished, more money would soon be wanted for Algiers.

He acknowledged that these ships had cost much more than was expected. But if any one had made a calculation four years ago of the expense of building a house, he would find that it would now cost double. He believed that they had cost too much, but he believed this was no rule why they ought not to be finished. Until they were finished, he believed we should never have any certain peace with Algiers. They would make new demands, and if they were not answered, would again seize our vessels, and carry our citizens into bondage. No treaty would bind them while we were without armed ships.

The question was put for striking out "vessels," and inserting "hulls," and negatived, 51 to 22.

The next resolution which came under consideration, was that proposing the purchase of a site for a navy yard.

Mr. Parker doubted, from the spirit which seemed to be shown on this occasion, that this resolution would not pass.

Mr. W. Smith hoped this would be agreed to. Whatever gentlemen may now think or determine on. it was probable we should at some time become a naval Power; and even with the most distant prospect of that, it would show economy to prepare for it. He said it never could be too soon to begin the business, and the most effectual method of procuring live oak, and preserving it, was to take the earliest means to obtain, and secure it, when obtained, for seasonable use. He read an extract from the Secretary of War's report in support of the plan.

Mr. Coit said he was alarmed at the expense of this business. He saw in the report the salaries of two persons already at Norfolk and Portsmouth, for taking care of the timber, at 500 dollars each, 1,000 dollars. If they were to pay at this rate for overlooking the timber for one ship, what might they expect would be the expense of a navy yard?

Mr. Parker said, the persons to whom these salaries were paid, took care of the timber at Norfolk and Portsmouth. It was necessary that some person should look after it, or it should be disposed of; but, in case the present resolution was agreed to, there would be no occasion in future to pay these persons, as all the timber and other materials would be stored in the navy yard. He said he had received an estimate from the War Office of the expense which would be likely to

attend the establishment of a navy yard. The expense of 100 acres of land, and all the necessary buildings, was estimated at 37,210 dollars.

Mr. Nicholas said, after having squandered so much money in getting timber for these vessels, he thought some change of habit should take place before they embarked largely in this matter. They had given twice or thrice as much as the timber was worth, yet they were now called upon to go on in the same course. It was not a time for going into this business. If such a thing was even proper, two or three years could make but little difference, and there could be little doubt but everything could then be bought at half price. This, however, was not his principal objection. It was this: he did not want to see any such establishment; a Navy would never do any real good to this country, but would increase the unhappiness of it. It would require large sums of money to support it; its benefits were doubtful, and it might be of very mischievous consequence to the nation.

Mr. Swanwick said he entirely agreed with the gentleman from Virginia [Mr. Nicholas] that there was a necessity for some change of habit; they appeared to be getting that change at present, and whatever their habits were at present, he supposed they would come right at last. Whatever might be their opinion of the necessity of a naval force, the European nations, he believed, would convince them of the necessity of it, if they only gave them time enough.

It was an extraordinary thing to look at the progress of economy in that House with respect to these frigates. In the first place, six frigates were necessary; they were afterwards reduced to three, and because an officer was appointed to take care of the timber left on hand, a gentleman from Connecticut wondered that $500 should be so employed. A motion had been made to confine the Executive to finish the hulls of the ships only. This would have been a strange economy. Indeed, such attempts were made at economy on this business as were never introduced upon any other. The gentleman from Virginia [Mr. Nicholas] had observed, there was no use for ships at all. If the House were of that opinion, such a resolution had better at once be come to; but the strange sort of hesitating conduct which was adopted, exceeded all that he had heard of in legislation.

Had gentlemen who declared these vessels to be of no use, contemplated the situation of this country; that it depended wholly upon commerce for revenue; that that commerce was now put in jeopardy, and that no substitute had been found for the revenue thence arising? And would not all this hesitation, whenever the subject of a Navy came under consideration, tempt European nations to continue their unjust depredations upon our property at sea? It certainly would.

But even gentlemen who wished to confine themselves merely to the finishing of the vessels at present, would not surely think it improper for them to establish a navy yard, and to secure timber for future use. Did those gentlemen consider what it was to deprive the country of a rich mine of ship timber? If they hesitated on this subject, they surely did not.

Mr. S. said, when gentlemen voted for an additional regiment to defend our frontiers, when it was acknowledged by those who lived upon them that they were unnecessary, they did not show such caution. He thought gentlemen should preserve a consistency in their votes; but whilst they were very liberal on some subjects, they were wonderfully economical upon others. And on what object, could they bestow expense, that would make them so good a return as commerce? Upon none; for, after every deduction of expense which may be gone into for its protection, a large surplus will remain.

What had been said by the gentleman from Maryland on the subject of Algiers, was very just; and the want of a navy power would have a similar effect upon all our negotiations, as foreign nations would rise or fall in their demands, according to our power at sea. The money thrown away upon Algiers to purchase peace, would have been much better employed in building ships; for if we had a few ships, that Power would not have committed the depredations upon us which she had done. And whether the money was paid to Algiers or expended in building ships, it was in both cases for the same purpose, viz: the protection of commerce. But there was this great difference between the two expenditures. In the one case, the dollars were shipped off to a foreign country, and in the other, they were paid to our own citizens. The iron used was from our own mines; the guns from our own manufactories; the hemp, and every other material, were of our own growth and manufacture, so that the money went into the hands of our artisans, manufacturers, and farmers. And, therefore, though the frigates had cost a great deal of money, it was some modification of the expense to consider that the money was gone into the pockets of our own citizens. But, he asked if the loss we sustained for the want of a naval power could be estimated? He said it could not. We not only lost our property, but our seamen, and they were not only lost to us, but were probably in the service of those countries which were committing depredations upon us. The loss of property might be recovered; but a hardy race of seamen once lost, could not be recovered.

What an affecting spectacle had we the other day of sixty of these unfortunate men returning from Algerine slavery! They were received into the arms of their country with all the sympathy which the occasion called for; but could gentlemen help feeling, at the same time, for the impotence of our Government, when they recollected that the liberty of these men had been purchased at a very high price from a petty despot? And shall we continue to go on thus, and encourage the Barbary Powers to enslave our seamen by showing so great a reluctance to enter upon any measure which might afford a defence against their depredations?

He wished gentlemen to pause a little before

they determined to reject the present proposition; except, indeed, they were determined to turn a deaf ear to the distresses of commerce, by saying we will shut ourselves up in our cells, and if our citizens will go to sea, let them abide the risk: we will have nothing to do with ships of war; we will lay a direct tax, from which we will be able to raise a revenue independent of commerce, and live in peace. If this were their determination, experience would show whether it was wise or otherwise.

Mr. Murray believed it would be a very prudent measure to secure the ship-timber in question; for if we did not, it was probable some foreign nation would get possession of it. He did not know whether the laws of Georgia would permit foreigners to purchase the land upon which this timber grew; but if they would not, it would be no difficult thing to get possession of it through the medium of an individual. If this country were to become a maritime Power, and no one who considered the subject for a moment could doubt it, this was too rich a mine to be neglected. What had been said about adopting the Chinese policy, might serve to amuse them; but when they looked at the commerce of the country, it was impossible they should not see the necessity of a naval force to protect that commerce against the depredations of any nation who chose to attack it. Indeed, it was come to this, they must either provide for the protection of commerce, or deny the utility of it, and give it up altogether.

But the gentleman from Virginia [Mr. Nicholas] was afraid if these frigates were sent out to sea, they would involve us in a war. What! said he, can it be supposed that three frigates would give us that ridiculous kind of spirit which would induce us at any rate to go to war? This would be a species of insanity which he did not think it was probable we should fall into. No: these vessels would serve to protect our coasts, and preserve our commerce from attacks, at least, within a small distance from our own ports. How far they might serve to render us of some importance in the eyes of foreign nations, he could not tell; but he believed that three frigates would have a greater effect in this respect with us, than ten to Sweden, Denmark, or Holland. We lie, said he, near the high road of commerce to the West Indies, and these three frigates, backed by national wealth, would show a disposition to become a maritime Power, and would have their effect upon European nations.

Besides Mr. M. said, these vessels would be the foundation of a future Navy. He was for shaping our means of defence to the means of offence employed against us by other nations; for until the European nations became wise enough to cease from war, it was necessary to provide means of defence, against their attacks. He should, therefore, always give his support to every means of national defence. He wished our nation to stand upon a respectable footing as a nation, since the most magnanimous conduct was no security against the attacks of foreign Powers. He should, therefore, be in favor of a naval yard, and of providing ship-timber for future use.

Mr. Harper said, the two resolutions respecting a naval yard and a provision for timber should come under consideration together; because, if no provision was made for purchasing timber, a naval yard would be of no use.

This question, he said, was capable of being considered under two points of view; the one whether the measure was proper; the other, if the measure was proper, whether it would not be better postponed for the present. Both of these points required a considerable degree of attention. There was a variety of considerations on both sides of the question, and it remained for them to determine for the best.

Was it proper for this country, he asked, to turn its attention towards marine strength? Did not our situation, and the circumstances in which we stand; compel us to turn our attention to this object? He thought they did, and for one or two reasons which he would submit to the consideration of the committee.

It appeared to him out of the question that any kind of commerce should be continued without some ships-of-war to protect it. This was the dilemma in which we were placed. It was said by some gentlemen that this dilemma might be avoided, by suffering commerce to go on unprotected, and subject it to all risks; and that even then, there would be sufficient benefit arising from it, to induce its continuance. This he did not believe. If persons engaged in commerce could have no dependance upon the protection of Government, a very few years, perhaps a few months more, might convince them that the business could not, and ought not to be continued.

The present Government, he said, had only been in existence eight years, and for nearly four of them commerce had been subject to every kind of depredation. The usual calculation with respect to Europe was, that, during every ten years, it would be subject to war, and that these wars would have a duration of from six to eight years, in the course of which our property and citizens would be subject to the same violations and injuries which they had for the last four years experienced, if no provision was made, by a naval power, to prevent it.

Besides, he said, persons finding the inefficacy of Government to protect them in their persons and property (for which purpose Governments were alone instituted) would, in time, lose all respect for it. And this disposition would extend to all classes of citizens; for, though at first the merchants in seaports were the persons who experienced this want of protection, it would, by degrees, spread over the whole Union; and, he said, after a Government shall once become contemptible in the eyes of its own citizens, from its being unable to protect them, it was but another step for them to wish to drop it, and to hope for some new system under which they might receive that protection which they could not receive under it. He believed, therefore, commerce could not exist without a naval establishment.

Brought to this dilemma, said he, which side will you take? Will you give up commerce, or build a Navy to protect it? Besides, he said, a great part of our citizens who had been trained up in commerce from their infancy, could not be driven from that kind of employment to which they had always been accustomed. They could not be induced, like the Chinese, to stay at home; they would be engaged in commerce, their favorite pursuit. If they, then, were compelled to protect commerce, he asked if there was any other way of doing it, than by a Navy? He believed not. Treaties afford a feeble and very inadequate protection; they were broken whenever it suited the interest of a nation to break them. Letters of marque might afford some protection; but this would operate as a heavier tax upon the people than even the support of a Navy. The money which a merchant expended in this way would eventually come upon the people in the price which they would be obliged to pay for their merchandise, and the means would be very inadequate to protection.

In China and the East Indies, Mr. H. said, the inhabitants could shut themselves up within their own territory, and avoid any intercourse with foreign nations. In countries so far removed from Europe, as to prevent any one nation from making a monopoly of its trade, this policy might exist. But could America lay up her ships, and say she would open her ports to all nations? No; that very instant you give up your trade to that nation which has the greatest power at sea; for she will immediately block up your ports, and oblige you to trade with them only. In order, therefore, to trade with all nations, we must be the carriers of our own produce, for other nations would not leave us at liberty to do so. The strongest Power would say to the others, you shall not trade with these people, you shall do so and so, or we will go to war with you. You must, therefore, said he, protect your own trade.

Will these resolutions, then, said he, if adopted, tend to this point? He believed they would. To provide a dock-yard, and to take care of a supply of timber suitable for the purpose of ship-building, were very essential steps. Much expense, he said, would be saved in carrying on the building of several ships together in one yard, instead of having them scattered in different parts of the Union. Timber might also be laid up to season in this yard, so as always to be ready for use; for, he believed, that much of the delay which had attended the building of the ships now on the stocks, had been owing to the difficulty which had attended the procuring of proper timber. Besides, Mr. H. said, its being known to foreign nations, that you had provided a dock-yard, would have some weight; it would at least have the appearance of an intention of building a Navy.

With respect to the purchasing of land clothed with live oak timber, he thought it a very desirable measure. It was well known that this timber was confined to a few spots—a few sea islands on the coast of South Carolina and Georgia, and some small strips along the sea shore; and in each of these places there were only a few trees of a sufficient size for building large ships. The land upon which these trees grew, since the cultivation of cotton had been introduced into those parts, was become valuable land for that purpose. This induced the people to cut down the timber and burn it, for the sake of getting the land, and there was no way of arresting this practice, but by securing the land; and, being of so good a quality, when the trees were cut down, it would probably sell for a greater price than was originally given for it.

But, it might be asked, was this a proper time for going into the business? He believed it was. It was his opinion, if they did not speedily lay hold of this timber, it might get into the hands of a foreign country. And, if the timber was secured, it was necessary to have a dock-yard. He believed it important to go into the business at this time, when our commerce was in a very embarrassed situation; for, if this subject was not now entered into, our citizens would despair of any thing being done for them. It was time, he said, they should show a disposition to repel the injuries which were loaded upon them by foreign nations; for, if we did not show this disposition, we might expect continual repetitions of these injuries.

He was, therefore, convinced that this was the proper time to begin a business of this kind. He believed it would have been a fortunate thing for this country, if it had been begun five years ago. If this had been the case, he believed the frigates would long since have been finished. The sooner, however, they now begin the business, the sooner it would be completed. And when a dock-yard was once established, a small expense would keep it up.

These considerations had appeared to him of sufficient importance to induce him to vote for the measure, and he trusted they would form some apology for his having taken up so much of the time of the Committee.

Mr. Gallatin saw no connexion between the two resolutions, which the gentleman who had just sat down thought it necessary to connect together. The last resolution proposed the purchase of land clothed with live oak; the present proposed the appropriation of a sum of money for purchasing the site of a naval yard, &c., as a foundation for a Navy. The last went only to the securing of timber for the building of a Navy, if at any day it should be thought necessary; he believed he should vote for the last, but certainly against the first.

They had been told that no commerce could exist without protection, and that that protection must be a Navy; from whence it would follow, that if a Navy was necessary to protect commerce it must be a Navy competent to vie with the navies of other nations. He would here ask, how gentlemen drew their conclusion, that commerce could not exist without the protection of a Navy. He wished they would show from the example of any nation in Europe, or from our own example, that commerce and navies had gone hand in hand.

There was no nation, except Great Britain, said he, whose Navy had any connexion with commerce. No nation, except England and Holland, had more to do with commerce than this country, and yet we had no Navy; and though for the four last years this commerce had been subject to continual depredations, it was not exceeded by any nation, except the two he had named. And if they looked to Europe, they would find there was no connexion between navies and commerce. Russia and Sweden had considerable navies, but little commerce; whilst Holland, whose Navy was by no means large, ranked next to England with respect to commerce. Hamburg, he said, was one of the first commercial States in Europe, yet she had no Navy. Navies, he said, were the instruments of power, more calculated to annoy the trade of other nations, than to protect that of the nation to which they belong.

The gentleman last up told them commerce could not exist without a Navy, yet, he said, it was impossible to prevent persons who had been brought up in this way from pursuing it. The gentleman seemed here to admit of a contradiction. If it were impossible to prevent the people from following their commercial pursuits, notwithstanding all the injuries their commerce sustained, he did not see how the position could be established, that it could not exist without a Navy. As to what had been said about Chinese policy, he did not understand it. If they meant the Chinese had nothing to do with commerce, they were certainly wrong, for they had much commerce. It was true, from their ignorance, they did not undertake long voyages, either to Europe or America; they confined themselves nearer home, but they had, notwithstanding, very considerable commerce.

But there was another position which he should take in opposition to gentlemen who supported the creation of a Navy, viz: that however useful or desirable a Navy might be, this country was not equal to the support of one. We might have two or three frigates indeed, but, when he said we could not support a Navy, he meant to say we could not support such a Navy as should claim respect, in the sense which those gentlemen spoke of it; such as being an object of terror to foreign nations. If they calculated what the three frigates had cost, considered the scanty manner in which this country was peopled, our inability to raise any very large revenue, and the high price of labor, the truth of this assertion would appear evident.

Again, if such a Navy were created, how was it to be manned? He wished gentlemen to point out any mode in which a Navy could be manned in this country without having recourse to the abominable practice of impressment. If the nations of Europe found it impossible to man their fleets without having recourse to these violent means, he believed it would be impossible, without breaking down those barriers which secured the liberty of every citizen, to man a Navy in this country.

Perhaps he might be asked, if we were, then, to be left without protection? He thought there were means of protection which arose from our peculiar situation, and that we ought not to borrow institutions from other nations for which we were not fit. If our commerce had increased, notwithstanding its want of protection; if we had a greater number of seamen than any other nation, except England, this, he thought, pointed out the way in which commerce ought to be protected. The fact was, that our only mode of warfare against European nations at sea, was by putting our seamen on board privateers, and covering the sea with them; these would annoy their trade, and distress them more than any other mode of defence we could adopt.

In his opinion, there was a much more effectual way of securing the respect of foreign nations than by building a Navy; this was by applying all our resources to the payment of our Public Debt. Two thirds of our present revenue, he said, went to the payment of the interest of this debt. If we were therefore, first to exert ourselves to pay off that debt, a few years hence, he said, we should be infinitely better prepared to attempt a Navy.

He judged for himself on this occasion, and he wished every member to do the same. He thought it impossible for this country at present to support a Navy, and as a naval yard would be of no use, except it could be employed, he should be against granting any money for that purpose. He wished, however, if they possessed any advantages for ship-building, which might be desirable twelve or fifteen years hence, when our means were increased, to transmit those advantages to the next generation unimpaired. He was, therefore, willing to appropriate a small sum for the purchase of live oak; not because we wanted it now, but to secure resources for a future day, if it should be wanted.

The Committe rose, and had leave to sit again.

PROSECUTION OF CLAIMS.

Mr. W. Smith said, yesterday, when the subject of appropriations was under consideration, some objections were made to the 50,000 dollars estimated as necessary for the purposes of foreign intercouse, and information was called for upon this subject. He had received some information on this head; but as he had it not officially, he would propose a resolution to the House for obtaining it. The following was proposed and agreed to:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House such information as he may possess, or be able to obtain, relative to the expense of prosecuting the claims of our citizens whose property may have been captured by the belligerant Powers, for which the sum of $50,000 is estimated as necessary for the present year."

Mr. W. Lyman, from the committee appointed on the 16th of December last, to inquire into the actual state of the fortifications of the ports and harbors of the United States, and whether any, and what further provision is necessary to be made on that subject, made a report; which was read, and ordered to lie on the table.

Saturday, February 11.

Ordered, That the report of the committee appointed on the 16th of December last, to inquire into the actual state of the fortifications of the ports and harbors of the United States; and whether any, and what further provision is necessary to be made on that subject, which lay on the table, be committed to a Committee of the Whole House on Wednesday next.

Mr. D. Foster, from the Committee of Claims, to whom were referred the petition of the Corporation of Rhode Island College, and a report of the Secretary of the Treasury thereon, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Wednesday next.

On motion, it was

Resolved, That a committee be appointed to inquire into the propriety of authorizing the accounting officers of the Treasury to adjust and settle all such necessary expenses and reasonable demands as have been occasioned by the prosecution and trial of persons for offences, during the late insurrection, to be paid out of the fund appropriated by the act of last session; and that the said committee report thereon by bill or otherwise.

Ordered, That Mr. Gallatin, Mr. Swift, and Mr. Nicholas, be appointed a committee, pursuant to the said resolution.

NAVAL EQUIPMENTS.

On motion, the House again resolved itself into a Committee of the Whole, on the report of the committee on the state of the Naval Equipments, when the question was put upon the following resolution, and negatived, there being only 23 votes in favor of it:

"*Resolved*, That —— dollars ought to be appropriated for the purpose of buying and fitting up for the United States, a proper site for a Naval Yard."

The last resolution, in the following words, then came under consideration, viz:

"*Resolved*, That —— dollars ought to be appropriated for the purpose of purchasing live-oak and red cedar timber, or lands stored therewith, for naval purposes."

Mr. W. Smith hoped this resolution would be agreed to, as, although that House was now disinclined to go into the building of a Navy, it might be the wish of a future Congress to protect our commerce by an adequate naval force; it would be prudent, therefore, to secure any advantages which we at present possessed for building ships of war. On this account it was proposed to secure certain lands covered with valuable ship-timber. This, he said, was a subject of considerable magnitude. It was to be regretted that measures had not been adopted sooner to get possession of this land, as it would have been got cheaper than at present, but it would be got cheaper now than if it were longer delayed. He thought it a desirable measure, and trusted it would be agreed to.

Mr. W. Lyman said, he wanted some information on the subject before he could vote for the present measure. He wished to know how much land was necessary, and whether all the land proposed to be purchased was covered with large timber. He supposed if this land was purchased they must appoint foresters to take care the timber was not carried off. But, perhaps, on inquiry, it might be found to be of more benefit to the country to have the land for cultivation than to have it covered with timber. He wished these things to be made clear before he appropriated money for this purpose.

Mr. Venable thought this measure premature. It was necessary to have information on the subject; for, if he was ever so much disposed to purchase the land in question, he did not know what money would be necessary for the purpose. He neither knew the quantity of land, of timber, or the price of land in that country, and they had no kind of estimate before them. He had no objection to an inquiry being made on the subject, as to the quantity of land and of timber, and the probable price of it. This might be useful to the House, and enable them to form some estimate on the subject; but, without such information, he did not know how gentlemen, who were strangers to the country, could vote. Doubtless, as soon as any law passed to purchase this land, it would be made a matter of speculation, and land which might be purchased low now, would then be charged a very high price.

Mr. Parker said, he had made some inquiry on the subject, and found that there were large tracts of land in the State of Georgia covered with this timber, and he had no doubt but a sufficient quantity might be got at from three to four dollars an acre. He had received an estimate from the War Office, of a tract of land on the island of St. Mary's, in Georgia, which might be purchased for $64,000, and would be sufficient, by successive growth, to serve the United States for centuries to come; but if advantage was not taken of this land now, some European Government might get possession of it. In Great Britain they had not sufficient timber for their Navy, without having recourse to foreign countries; they were also similarly situated in France, and if their resources in the north of Europe failed, they would doubtless have recourse to America, and they would find no difficulty in getting possession of it. If, therefore, it was the object of this Government at any time to have a Navy, it was of consequence to secure this timber; it would be one of the wisest measures which could be adopted. As to this land being wanted for cultivation, that was scarcely probable, as there was land enough in that State to sustain four millions of inhabitants, and they had not at present more than 100,000 white people in the whole State.

Mr. Rutherford was in favor of the measure, as proper and prudent; for, though he trusted we should never have a large Navy, yet it was proper to have a reserve of this sort, as it might be sold for at least as much as it cost, if it was not wanted.

Mr. Milledge said, the gentleman from South Carolina [Mr. Harper] had made a correct statement with respect to the ship-timber growing in Georgia; there was a considerable quantity of it along the coast, extending three or four miles from the shore. In collecting the timber for the frigates, there had been considerable difficulty, he said, in procuring timber large enough; almost the whole of their sea-islands were examined for the purpose. Previous to the Revolution, he said, the King of Great Britain directed a survey to be made of their coast on the subject of ship-timber, and there was one island in particular which was reported to contain the finest timber on the coast; this was the island of Isepaw. Since the introduction of the growth of cotton the soil had become very valuable, and every year great quantities of this timber were cut down for the purpose of clearing the ground for the cultivation of this article. This land, he said, sold for two or three guineas an acre. He thought, if the United States were possessed of this island, it would be sufficient for building any number of ships for which they might have occasion.

Mr. Holland said, the gentleman from Georgia had informed them that there had been great difficulty to procure timber sufficiently large for the frigates; the price of the frigates was a sufficient evidence of that difficulty. He had made a calculation, and found that five ninety-gun ships, built of Mediterranean timber, would not cost so much as our three frigates. It was not necessary therefore, to take any means to secure our timber, because, if it should fail, it might be procured from the Mediterranean upon better terms, it seemed, than from our own forests.

The gentlemen from Georgia, South Carolina, and Virginia, differed considerably with respect to the value of the land on which this timber grew. Besides, he said, it was not yet determined that a Navy would ever be desirable in this country, and, therefore, it was not necessary to go into a speculation of this sort. He thought they had much better pay their debts than go into speculations of purchases of islands for the sake of timber which might never be wanted. We should first be just and pay our debts, and then, if anything remained, it might be appropriated to purchase timber islands.

Mr. Williams said, he was at a loss how to vote on this occasion. He did not know whether the land was good or bad, or whether the timber growing upon it was in large quantities or small. The gentleman from South Carolina had said the land was of the best kind, and that the timber would be cut down for the sake of cultivation; the gentleman from Virginia believed it very indifferent, and the gentleman from Georgia thought it worth three guineas an acre. In order to get some more accurate knowledge on the subject, he wished the President to be authorized to make inquiry on the subject, and proposed a resolution to that effect; but the Chairman informing him it was not then in order, it was withdrawn.

Mr. Heath said, it would first be proper to know whether there was a desire for increasing the Navy, before they went into any scheme like the present. He believed there was timber enough on hand for the three frigates, and he saw no necessity for providing more. The gentleman from South Carolina was apprehensive that if we did not purchase this land the timber would get into the hands of foreign agents. He wished they would purchase it; he would rather have their money than the timber; he thought it would be of greater service to the country. He should be glad if they would purchase all our forests. He was sorry to see an appetite in that House for a large Navy; to increase our ships of war, he said, would be to increase our folly, and disgrace our councils to posterity. Were this law to be passed, they might expect to have forty or fifty persons employed for one purpose or another; and they should have a quantity of timber lying in their naval yards rotting, for he hoped it would never be used for ships of war.

He said he was sorry to see such a desire to imitate the practice of monarchal Governments; he wished to stand aloof from European politics and European broils; and could almost wish, with an eminent philosopher [Mr. Rittenhouse] now no more, that "Nature would raise her everlasting bars between the new and the old world, and make a voyage to Europe as impracticable as one to the moon."

Mr. S. Smith said, he was not in favor of the bars which the gentleman last up wished to be placed betwixt us and European nations. The resolution before them, he said, proposed to secure timber for the purpose of building ships of war at a future day.

It had been said by the gentleman from Virginia [Mr. Nicholas] that all the advantages which were derived from commerce would not counterbalance the evils which a Navy would introduce. It would be proper, therefore, to inquire into this matter. Our commerce he said, had grown up and surprised the world, and ourselves, without protection; but would this commerce continue to prosper unprotected? He supposed not. Our commerce, he said, had produced, from the establishment of the present Government, a revenue of seventy-five millions of dollars. And how, he asked, had this been expended? It might be supposed, from the arguments of gentlemen, that it had been lavished on commerce. Had this been the case? If it had, commercial men had no right to complain; but if it had not they had a just right to complain that no protection was held out to them. Of this sum, there had been expended, he said, on the Western frontier, and to quell the Western insurrection, between twelve and fifteen millions; and the rest, how had it been applied? It had been applied to pay the interest and part of the Public Debt, to pay the Civil List, and other expenses of Government. Except about seven hundred thousand dollars, which had been appropriated for the frigates, all these seventy-five millions had been expended on objects foreign from commerce. But gentlemen said these seven hundred thousand dollars had been thrown away! Grant this; he trusted they should learn wisdom from it in future. Was, then, one-eightieth part of what had been produced by commerce too

much to have been expended upon it? Some gentlemen seemed to be of that opinion, and wished the vessels sold. None of those gentlemen whose property of every kind had been increased by the plenty which commerce had introduced, were willing to hold out a hand to protect it at a time when it was oppressed.

But, it might be said, commercial men did not pay this money. He knew they did not; he was well aware the people at large paid it; but it was derived from commerce, and without which it would not have been paid.

He had said that only one-eightieth part of the revenue produced by commerce had been expended upon it; but, was this revenue alone the only benefit derived from commerce? No: there were advantages everywhere to be seen in the prosperity and independence of the country. Whether, said he, we look in the large cities, in the villages, or upon the plantation of the farmer, all carry the cheerful appearance of plenty, as a consequence of commercial enterprise. Go where you will, said he, throughout the whole continent of America, and you see wealth, independence, and happiness, arising from the prosperity introduced by commerce.

The nations of Europe, Mr. S. said, had long looked with envy on the American commerce, and if it were to be left unprotected they might seize upon it at pleasure. Had not this been the case? Had not Great Britain taken three millions of our unprotected property? And what did we say to them? We stood aghast, looking at one another. One man proposed one thing, and one man another; we rested satisfied with sending an Envoy to treat; a Treaty had been made, but a single shilling had not been received, and the other day, when fifty thousand dollars were proposed to be appropriated to pay the expense of prosecuting these claims, many objections were urged against it. Indeed, it seemed as if some gentlemen would have no objection to see the commerce of the country wholly destroyed.

Another nation, seeing the spoliations committed upon our property with impunity by the British, had followed her example, and had seized to the amount of from five to six millions. They had no commerce, and therefore it was out of our power even to retaliate upon them. They say, "you suffered the British to take your property to our disadvantage, therefore, we will take it to theirs." And so, said he, we are buffeted and abused on all sides.

He supposed, however, it was to no purpose going into arguments on this subject, as he doubted not the minds of members were determined upon it. In the course of twenty or thirty years, when it shall have been lost, we shall have learnt to know the value of commerce, upon which the happiness of the United States, in a great measure, at present depends.

They had been asked by the gentleman from Pennsylvania [Mr. GALLATIN] in what nation, besides Great Britain, their Navy went hand in hand with commerce. He would ask that gentleman in what nation commerce had flourished, to any extent, without a Navy? He knew of none; and the commerce of this country could not be brought as an instance, as unexampled depredations had been committed upon it for the last four years. It would be needless to show to that gentleman, that the commerce of all nations, from the earliest period of time, which was not protected by a Navy, had been constantly kept in a state of depression. His own reading had, doubtless, furnished him with the information.

In the dark ages of European history, Mr. S said, the Hanseatic League (of which Hamburg was a port) rose up in the commercial line; they protected their commerce; they forced respect to their ships; though single cities, they stood against all the Empires which surrounded them, until navies were raised against them. The Dutch afterwards rose into consequence, and extended their commerce to distant parts of the globe. At that period the commerce of England had scarcely a name. But, during the Long Parliament in England, the famous Navigation Act passed, after which the commerce of that country began to extend itself to every part of the globe. The waters of Holland, he said, would not admit of large ships, and, in consequence, their trade was depressed, and America, at this time, possessed more shipping than Holland.

The gentleman from Pennsylvania had said Hamburg was without protection; but did not that gentleman know that she owed her safety to the constant jealousy of Denmark and Prussia. And what was this trade, he asked? It was not carried on by their own ships. America did much to the support of that trade. When did you see, said he, a Hamburg vessel? Scarcely ever. Their trade was principally carried on by the vessels of other nations. It was true that, at present, it was a city of great commerce; but its liberty depended upon the jealousy of two great Potentates, and the moment they agreed, it would fall to that Power which possessed the strongest naval force.

It was ridiculous, he said, to think of supporting any considerable commerce without a naval force; but gentlemen say, if we had armed ships, they would lead us into war; so, we could not have power, but we must abuse it. This was paying us no compliment; but he differed widely in opinion from gentlemen on this subject; he was of opinion that, if we had twelve ships of war, no European Power would commit the depredations upon us which they did at present.

Great Britain seized upon the ships of Denmark; what did she do in return? She armed, and said she would not submit to be so treated, and restitution was made. But what, he asked, was done to us? We were put off by a trial; and, after gaining our causes, we were sent to the West Indies, to seek redress from the Captain who committed the injustice against us; and, if he were not able to pay, then we had to return again to Great Britain for satisfaction. If, said he, we had twelve ships of war, they would not treat us thus.

To him, he said, the conduct of gentlemen was very extraordinary. There were five large seaports,

from which came most of the revenue of the United States; these ports, for the good of the whole, joined heartily in the Federal Government; before that time they were in the habit of raising revenue from other States, but they joined the General Government, in hope of meeting with protection from it. They now saw how they were to be protected. Fifteen millions of property had been expended in the defence of one part of the Union, and yet the Representatives from that quarter seemed to rise, as in a mass, to vote against any protection being given to commerce. He was astonished to see such conduct from men so well informed on other subjects.

They had been told by the gentleman from Virginia, [Mr. NICHOLAS,] that it was necessary they should correct their habits. They were frequently told so from the pulpit; but prejudices, he said, grew up with them, which it was difficult to shake off. In some parts of the Union, commerce was carried on by means of foreign agents and factors, who took their produce at an under value; and being so brought up, persons were prejudiced in favor of that way of doing business. Perhaps the mind of the gentleman from Virginia might have a prejudice of this kind; if so, he could have no just idea of an independent commerce. He hoped gentlemen would endeavor to get clear of these kind of prejudices and join heartily in supporting and protecting an honorable and independent commerce.

Mr. COTT said, if the gentleman last up was possessed of a spirit of prophecy, he might, doubtless, foretell the events he had mentioned; and if eloquence was to effect his point, he might, perhaps, be successful; but eloquence was not argument; and he thought the gentleman had wandered greatly from the question, which was, whether a quantity of timber land should be purchased for the future purposes of Government.

It was not surprising, that gentlemen who wished a Naval Establishment should lay hold of everything with avidity which led that way. For his part, he hoped the United States would not, at present, go into a Navy. He believed the United States would be more prosperous without a Navy than with one. They, therefore, differed in opinion, and, except he should be convinced he was wrong, he should certainly vote against the present question.

But it was said, this timber might be wanted at some future period, when it could not be had. He thought the arguments on this point totally inadequate. No business could be undertaken by the public upon such good terms as by individuals. So soon as you open the door of the Treasury, you cannot tell the amount which will be wanted out of it. When the land was purchased, it must be taken care of; what further expense would be necessary, he could not say. Perhaps it would be said, when they were in possession of timber, that, since they had the timber, they ought to proceed with building ships.

Besides, he said, there was no business so uncertain and ruinous as that of speculation to an individual, and if ruinous to individuals how much more so would it be to the public? The expense being certain, and the advantage very contingent, he should, therefore, be opposed to the resolution.

Mr. GALLATIN said, he would not have troubled the Committee again on this subject, had not the gentleman from Maryland [Mr. S. SMITH] attacked gentlemen from the frontiers, with being less inclined than others to give protection to commerce.

On this ground, he had before stated, that the commercial interests of this country were so connected with those of agriculture, that any protection which it was in the power of the United States to give them, he would always be ready to give. He conceived that the protection given to commerce would tend to increase the price of produce; and though the farmers were not so immediately injured by any mischief which befel commerce, yet, in the end, the loss was pretty equally felt.

It was unnecessary, Mr. G. said, to examine into the truth of the statements which the gentleman from Maryland had produced with respect to the amount of revenue produced by commerce, or the expense of defending the frontier; because it would not be denied, that the whole of our revenue was produced from commerce, and that the expense on the frontier had been very considerable; yet, he was mistaken in his assertion: the amount of our resources, including loans, did not amount to seventy-five millions. He had no papers by him, and he could not trust his memory in respect to figures; yet, he would assert that, instead of seventy-five, the duties arising from commerce since the establishment of the Government, would fall short of thirty-five millions. He believed they would not exceed thirty. Again, when the gentleman spoke of the expense on the frontier being from twelve to fifteen millions, he was mistaken. He could speak with certainty on this subject. The expense of the Military and Militia was eight millions, and the last year the amount of expense was one million two hundred thousand dollars; therefore, this expense was only nine, instead of twelve or fifteen millions.

He would observe, that this money was not expended solely for the protection of the frontier, nor at the request of the inhabitants, but for other purposes; and that gentleman must do him the justice to say, that when the question was before them for providing a defence for the frontier, he was as much for saving expense as upon this occasion. He had no particular view; his wish was to save expense, and thereby promote the general interests of the Union.

Mr. G. said, he was still of opinion that a Navy was not essentially necessary to the protection of commerce. Nothing he had heard on that subject had at all tended to change his opinion. It might, to a certain degree, be convenient; but he thought the expense greater than the advantages to be derived from such an establishment. In this assertion, he would say, he was warranted by the example of all other nations. No nation, except Great Britain, had any Navy in proportion to its

commerce; and that Navy was erected more for the purpose of extending her power, than for the protection of her commerce. He would assert, from an investigation of the most authentic official documents, that the amount of tonnage employed in foreign trade in this country was equal to that employed in any other, except Great Britain. The object of a Navy, he said, was not so much to protect commerce as to augment the power of a nation. But, if we were to be dazzled by the conduct of Great Britain in this respect, so as to desire to imitate her example, because she is a powerful nation and has an extensive trade, it would be well to consider the consequences of this policy. It was true, they had three hundred ships of war. And what, said he, is the price they have paid for them? Their Public Debt is upwards of three hundred millions sterling, and this debt had been chiefly produced by this Navy. This was not merely his opinion, he would refer to Sir John Sinclair, the author of a treatise on the revenues of Great Britain, who proves that it had been owing to the Navy that their debt was at the enormous amount he had mentioned, and that extensive navies had been the ruin of every nation which had possessed them.

But, Mr. G. said, he might be told that this was a mere theoretic opinion of his own, and that a Navy was essential to this country. He said, he did not presume to judge for generations to come; but he would repeat that we were not at present capable of supporting a Navy; our situation would not admit of it; our revenues were not sufficient; and men could not be got, without recourse to arbitrary and unwarrantable measures to raise them.

He had said, when he was up yesterday on this subject, that if we were in possession of any resources for ship-building, he should wish them to go unimpaired to posterity, and that he was therefore willing to do something towards the purchase of land; but, from the information which he had received that day, on that floor, he thought the resolution premature.

They had been told by the Chairman of the Committee that sixty-four thousand dollars would be sufficient to purchase sufficient timber land for the purpose in view; a gentleman from Georgia had told them that a certain island must be the object, which was worth from two to three guineas an acre; but he had also told them that it was with great difficulty that timber was found sufficiently large for the frigates now building. It followed, that those islands did not produce timber sufficiently large for ships of war, though it might be large enough for merchantmen. Though this timber might be very good, yet, if its size did not answer, the business was premature. He thought they ought not to go further, therefore, at present, than to empower the President to make inquiries on the subject.

Mr. Christie said, he was far from thinking commerce was not worthy of protection. He would give it all the protection he could; but he thought it might be more economically protected than by a Navy. Four years ago, an effectual protection was proposed, but it was then called a paper, chimerical protection; but it would have been found a better protection than frigates. He trusted he should never see a single armed vessel belong to the United States; he hoped, also, that his posterity might not. He did not wish to see so much of the property of the people of the United States engaged in this business; it would be the saving of *pence*, at the expense of *pounds*.

It was an extraordinary thing, he said, that, at a time when they had not money to pay for a house for Congress to sit in, gentlemen should wish them to go into a speculation like the present. It was said this land might be purchased for sixty thousand dollars, but he was certain they should not purchase it for £30 an acre. He knew it had got into the hands of those who would make money by it. He thought, if the object was to keep it from foreigners, it would be much better to pass a law to prevent the exportation of the timber, than to purchase the land. But, said he, if by sowing an acorn, it would grow up into a first-rate ship of war every year, I would not give a dollar for that acorn, if it must be employed in the service of the United States. When the vessels were finished, he should vote for selling them. Indeed, he would much rather they were burnt, than that they should be manned; for, so far from their being a protection to commerce, they would certainly involve us in a war. The moment they went out, they would be treated with indignity by the British or French; and then, said he, we should have another Envoy to send to Great Britain or France, to *beg* of them to accommodate the business. He had voted against the frigates from the beginning, and would continue to do so.

Mr. Parker thought it necessary to remark upon what had been said with respect to the different estimates which had been made of the value of the timber-land in Georgia. It was true, that the island mentioned by the gentleman from Georgia was worth three guineas an acre, but there were others which might be purchased for four dollars. In searching for timber for the frigates, the whole of that coast was ransacked; but he believed, on every part of that shore, plenty of timber was to be got for the sum which he had mentioned.

Mr. Milledge said, the timber in the southern part of the State of Georgia was not so good as in the northern. Land in the South might be got at three dollars an acre, but he thought it would not be found to answer the purpose so well as the timber in the more northerly parts.

Mr. W. Smith said he did not expect that the consideration whether this country was likely to become a Naval Power would have come into consideration on this question; but as it had been introduced, it would be necessary to say a few words on that subject.

It had been said by the gentleman from Maryland [Mr. Christie] that he was opposed to the purchasing of land, but that the timber might be secured by prohibiting the exportation of live-oak; but he immediately said, he should not wish to see this timber in ships-of-war; and if he did not wish

to see it made use of in this way, there was no occasion to prevent its exportation.

Mr. S. said, as it had been made a subject of inquiry whether this country should become a Naval Power or not, they should consider how much our revenue depended on commerce—how much the habits of our citizens were commercial—and learn, from the histories of other countries, that commerce cannot be protected but by a Navy. He said he was not singular in his opinion. He could produce the opinion of a man from the State, whence much of the opposition to this measure proceeded—an opinion which would doubtless have considerable weight in that House: he alluded to Mr. Jefferson's Notes on Virginia. [Mr. S. here read a pretty long extract from Mr. Jefferson's book, in favor of a Navy for the protection of commerce in this country.]

If the resources of the United States were such, (and Mr. Jefferson said they were, or might be in a few years—that a moderate assessment from the different States would enable them to build eighteen ships in one year,) gentlemen should not be so alarmed at the measure of a naval force. It was true, there were many objections to going into a subject of this kind at present, the greatest of which was the present high price of labor. The price which the frigates now building would cost was very great, but the expense of every undertaking was at first large. The exploring for timber, &c., produced an expense which would not again occur. Mr. Jefferson seemed fully of opinion that this country was equal to the building and the supporting of a Navy. This opinion was further confirmed by his report made to that House some years ago. [Mr. S. read an extract from this report, and also an extract from a speech of some member in a former Congress on this subject.]

Mr. S. said he could not conceive why the United States were not as competent to a Navy as European Powers whose resources were not equal to ours. He could name three Powers who were in this situation, viz: Sweden, Denmark, and Holland. He enumerated their resources to be as follows:

In Sweden, the population in 1772 was 3,000,000, revenue 11,000,000, national debt 60,000,000; she had 30 ships of the line, 12 or 14 frigates, 50 galleys, and from 15,000 to 17,000 seamen.

In Denmark, the population at the same time was 2,200,000, revenue 7,000,000, and but little debt; she had 31 ships of the line, 9 fifties, and 21 frigates.

In Holland, the population in 1772 was 2,000,000, in 1785 2,700,000; but in 1796, it had been so reduced by the revolution as only to be 1,880,000. The revenue of the seven United Provinces was 4,500,000, debts 2,000,000,000 of florins, or £200,000,000 sterling; owing by other counties to Holland, 585,000,000 of florins. The Navy in 1782 was 42 ships of the line, 43 frigates, and 10 cutters.

Mr. S. said, these resources were inferior to those of the United States, and therefore insured that we were equal to the maintaining of a fleet, particularly, said he, when a much smaller one would serve us (according to the opinion of Mr. Jefferson) than served them, since European Powers could never send out more than a detachment against us, which, from so long a voyage, would always be liable to accident or injury.

The gentleman from Pennsylvania had made some observations with respect to the Navy of Great Britain, in which he could not concur. That gentleman did not take into consideration, that it was to her Navy that that nation owed its independence. Admitting that her debt had been greatly increased by her Navy, did not every gentleman see, that if it had not been for her Navy, she would have been subject to other Powers? A great part of her debt was, however, incurred by land-wars on the continent of Europe.

It was observed yesterday by a gentleman from Virginia [Mr. Nicholas] that the law for building the frigates was passed by surprise, and very properly answered by the gentleman from Maryland [Mr. S. Smith] that it underwent a very full discussion. But, said he, what occasioned this law to be passed? They found their commerce injured by foreign Powers, and wished to prevent those injuries in future. The majority was then in favor of a Navy, and what could have occasioned a change of opinion in that House he could not tell.

Gentlemen had exclaimed, What will three frigates do? Every Power, he said, must begin with a small force at first. He mentioned a remarkable fact on this subject last session, which he would repeat, viz: that the privateers fitted out in Liverpool alone, in the course of the late war, carried as many guns as the whole naval power of England consisted of in the reign of Queen Elizabeth, and it was at that time thought very considerable. Besides, he said, those gentlemen who advocated the building of the frigates, were not to blame for their number being so small.

Six were originally proposed to be built, but they had been reduced, contrary to their wish, to three. If there was any instability in this, it was not chargeable upon them. Another thing should be considered, when gentlemen spoke of the power of these three frigates so lightly. It should be recollected that these frigates were nearly as large as ships of the line, and might easily be converted into 74-gun ships. We might, therefore, in a few years, have a Navy sufficient to protect our commerce. Mr. S. said they should not then have to spend their time in a waste of words in abusing foreign countries; whereas, at present, they were one day declaiming against Algiers,* because our peace with that country had cost a great deal of money. At another time it was said we must not have frigates, because the expense was great. Some gentlemen would not have a land tax, because the expense of laying the tax would be considerable. But, for his part, he was for having revenue as fast as he could raise it, and he was for having a Navy as fast as he could get it. He believed the country would cheerfully bear the expense of it. At any rate, said he, let us secure timber for a future day. It was known that foreign agents had taken surveys of the land upon which

* This declamation has taken place with closed doors.

this timber grew, and it was no more than prudent to take means to secure it. The observations he had read from Mr. Jefferson proved this. As to making the inquiry which had been mentioned, that would defeat the object, according to gentlemen's own arguments, as it would doubtless promote speculation; and therefore he thought it would be much more prudent to give the President power to purchase, whenever he could do it to advantage. Admitting (as had been hinted) that speculators had already bought this land, they must sell it. There were times when speculators wanted money, and when they would sell anything they had.

Another difficulty had been mentioned, that if the land was purchased, persons must be employed to take care of it. Suppose that were the case, what then? If $500 or $600 were paid for this purpose, it would be no great object; but he believed there would be no necessity for this expense, as the officers of Government in that quarter might be charged with the care of it.

Upon the whole, Mr. S. said, he thought it was their duty to authorize the President to purchase this land, as he was convinced the timber would be wanted at a future day.

Mr. Heath wished to cite a passage from Mr. Jefferson's book, which the gentleman from South Carolina had thought proper to omit. [He read the extract, which recommends above all things the cultivation of peace, and that it would be better to abandon the ocean altogether than be perpetually in war.] He charged the gentleman from South Carolina with perverting the author's sentiments by reading a part only of his sentiments; but, said he, it is a little lawyer-like—the case was *in point*.

He noticed what had fallen from the gentleman from Maryland, [Mr. S. Smith,] with respect to their doing business by means of foreign agents. He said that time was past; they were now indebted to their brethren in the Northern and Eastern States for doing their commercial business, and they did not envy them of it.

Mr. Murray justified the fairness of the quotation made by his friend from South Carolina from Mr. Jefferson, and said the two quotations were perfectly consistent with each other.

Mr. Page said, he would not have troubled the Committee of the Whole with what occurred to him on the subject before them, had not the member from South Carolina [Mr. W. Smith] quoted authorities in favor of his opinion, from Mr. Jefferson's Notes on Virginia, and used expressions which, whether intended or not, might appear to those who heard them like insinuations that those who differed from him on the present question were inconsistent with themselves upon a former occasion, and that, too, from motives of partiality to those who were now making depredations on our commerce. As to Mr. Jefferson's opinions, they were the opinions of a friend whom he highly respected; but he confessed he could not agree with him in the points alluded to. Mr. P. always differed from him respecting the equipment of a Navy, and the giving bounties to the fisheries, as an encouragement to a nursery of seamen. He always thought that his friend's ideas of the necessity of having a Navy were borrowed from British writers and the example of Britain; but the cases of America and Britain were totally different. America had done well hitherto without a Navy: she never could want one more than now, and it was evident to him, if she had at the time we were promised them the six frigates originally intended, they could not have protected her vessels against British depredations, but would most probably have involved her in a war with Britain; and much less could three frigates protect them now against the two nations harassing her commerce. It was the interest of the United States to avoid wars, and the jealousy of maritime Powers—to encourage agriculture and domestic manufactures—and to leave commerce to itself. That commercial spirit of enterprise which it has been said is peculiar to our fellow-citizens will make its way into the commercial world without a Navy—ay, better without it than with it; for one frigate would deprive thirty ships of their sailors, and, by its expenses, oppress commerce. But Britain could not have existed as an independent nation without a Navy: it is necessary to the protection of her commerce, situated and circumstanced as she is; but it has been well observed, that it cost commerce more than its protection was worth. As to the inconsistency with which those with whom he should vote were charged, he was not sensible of it; for he, in particular, had from the beginning opposed the building of the frigates; he had objected to them as improper and useless as a defence against the Algerines. And as to preparations for defence against the nation alluded to, he had declared that he thought none necessary, and that if we had a fleet, when at sea, it would be such an object of our anxious attention, that it would be to certain Powers a pledge for our good behaviour, and the United States would be liable to be wounded in a tender part. If destroyed by an enemy, or by storm, we should scarcely prevail on Congress to vote appropriations for another fleet; and that, in our rivers and bays, proper galleys with large guns in their bows, and heavy guns and howitzers on traveling carriages on our shores to support them, with a well-armed militia, whether well trained or not, would be a sufficient protection for the United States; that he had said it would be better for the United States that an enemy's army should get into the centre of our country (because we could get rid of it as we had done) than that the country should be perpetually taxed to guard against a possible invasion; and that he and those now charged with inconsistency, he thought, had relied on commercial retaliation, and not on naval equipments in the case alluded to, and therefore were not inconsistent in voting now against preparations for a Navy; that, being deprived by Treaties of the right to make use of commercial retaliations, he was willing to rely on a pacific disposition and negotiations to adjust differences now existing; that the wished-for Navy, small as it was, if it could possibly have any good effect, could not be equipped before the present war would probably be ended, and possibly all wars be abolished; for, without looking for the Millenium, we may well suppose that the nations now engaged in war have had enough of war, and will long, and if possible forever, avoid wars hereafter.

The United States, in his opinion, by cherishing peace, might render themselves amiable in the eyes of the world; and, by a proper use of peace, they might become great and powerful. They might, even now, without a Navy, hope to teach the world that they must, if they will go to war, in future suffer her vessels to pass free from the depredations of which they now complain. That, for these reasons, he saw no occasion for putting the United States to the expense of purchasing the timber on lands proposed; that he thought with his colleague [Mr. Heath] that they had better be left to their present proprietors to make the most of them out of the foreigners who, we are told, wish to purchase them; that, if every tree would spring up into a full-rigged ship-of-the line, (as the member from Maryland had said,) he would not wish to purchase the land on which they grew, unless it was to sell the ships. We are told, indeed, that we cannot sell the three frigates; but, said he, I make no doubt but that some of the maritime Powers will be willing to buy them. Indeed, if I were permitted, said he, I could name a certain person who will be willing to purchase them as fast as we can build them. Indeed, I do not think this a proper time to make preparations for a Navy. The United States seem already too much an object of the jealous attention of the great maritime Powers of Europe; let us not make it their interest to pursue these measures, now so ruinous to our commerce. If France believes what we are told in this book she does, of our partiality for Great Britain, (holding up the President's late communications,) it will be the interest of that Republic to cut off all our hopes of becoming a maritime Power; and, even if it were true, it must be the interest of Britain to diminish the number of your merchant vessels and sailors, and to furnish you with arguments for the equipment of a Navy. Let us, therefore, not attempt at present to lay even for posterity the foundation of a Navy; let us show the world that we can be happy without one, and let us show to the Powers who now insult us that if they desist not from their insults we can make them repent it, without having recourse to war.

Mr. Nicholas complained of the unfairness of the quotation made by the gentleman from South Carolina, and said, that that book having been written during our struggle with Great Britain, what was there said could scarcely be applicable to our present circumstances. In speaking of the capabilities of the United States to support a fleet, Mr. Jefferson says that Virginia was able to furnish a million of dollars. But, said Mr. N., has not this been raised, and is it not all gone, and more wanted, in a different way? Mr. Jefferson was also of opinion, Mr. N. said, that one million of dollars would build vessels to the amount of 300 guns; but they found, from experience, that that sum would not build 120 guns. These estimates, he said, were vastly dissimilar.

The gentleman from South Carolina seemed to think there would be no difficulty in finding money for all the objects he contemplated. Mr. N. said, he believed that gentlemen knew less of the disposition of the people with respect to paying taxes than he did. He thought the $1,200,000 which must be raised would be heavily felt by the people. He relied that it would be paid; but his reliance was founded more upon the virtue and attachment of the people to their Government than of the lightness of the burden. In the part of the country from whence he came, he knew this additional tax would be very sensibly felt.

Mr. N. said he did not understand the quotation which the gentleman from South Carolina had given them from a speech. If he had known whence it came, and heard it distinctly, it might have had its proper weight; but as he did not, he could not be influenced by it.

They had been told by that gentleman that Denmark, with a revenue of seven millions, had 31 ships of the line; from whence he argued that we might also have that number. But, said Mr. N., that gentleman should have recollected that, to support 31 ships of the line, according to the estimates which had been made to them, would, in this country, consume the whole seven millions annually.

Would not this fact alone show the gentleman the great difference of our situation from that of the European Powers which he had named? If it would not, he thought he must have turned a deaf ear to conviction.

That gentleman supposed he had lessened the weight of the argument of the gentleman from Pennsylvania [Mr. Gallatin] with respect to the British Navy, when he said their independence had been secured by it. He did not see it in that light. He had said no nation went into a Naval Establishment for the purpose of protecting commerce; but the gentleman from South Carolina said their independence required it. This, he said, was the understanding of every one, and acquitted Great Britain of doing a thing for less than it was worth; but the gentleman could not have supported the argument of his friend from Pennsylvania more effectually than by this assertion.

Much had been said, Mr. N. observed, upon what fell from him yesterday respecting the law having been passed by surprise for building the frigates. He still was of the same opinion, and what had fallen from the gentleman from South Carolina, he thought, corroborated that opinion; for he had said it passed under an impression of danger. Was it begun, he asked, for any of the purposes which had been named in the course of this debate? He believed not; for Algiers had not been mentioned in the course of it. Indeed, this convinced him of what he always thought, that protection from the Algerines was a mere pretence to set the building of a fleet on foot.

As an apology for the enormous price which these frigates had cost, they were told they were much larger than 44-gun frigates were generally

built. Mr. N. said, that time after time they made strange discoveries. It was somewhat extraordinary that, after they had ordered 44-gun frigates to be built, the Executive should have caused vessels to be built almost equal in size to 74's. This was effectually defeating all their precautions—it was legislating without their consent, and accounted, in some degree, for the excessive expenditure. Indeed, he confessed that he had seen the expenses of Government, in all cases, go so greatly beyond what was at first calculated, that he was not willing to go into any scheme of which he could make no tolerably correct estimate. He should, therefore, be opposed to the present. He had always found that the expense doubled, at least, the estimate, and in future he should reckon upon this as certain; and since they could not check the execution of the laws, it became them to be careful how they made them.

Mr. N. concluded by observing, that the protection and happiness of this country depended more upon economy and a discharge of the Public Debt than upon Navies or Armies; he should, therefore, be opposed to the latter, and promote the former all in his power.

Mr. W. Smith wished to defend himself from the charge of having drawn unjust inferences from the quotations which he had made from Mr. Jefferson's book. It appeared clearly that it was the opinion of that gentleman that it was necessary this country should have a Navy, and that our resources were equal to the support of one. Indeed, a gentleman from Virginia, on his right, [Mr. Page,] had confirmed this by saying that, on that subject they had always disagreed. But it was objected against this extract that it was written during the war, and that it was not now applicable; but gentlemen forgot the extract which he had read from a report made by that gentleman some years afterwards. [He again read the extract.]

The gentleman from Virginia [Mr. Nicholas] had cast censure upon the Executive for having exceeded their authority in making the vessels larger than were intended. The reason they were made of their present size was, because they were intended against Algiers, and if they had been smaller they would not have been equal to the business. If the expense was greater than estimated, it arose from circumstances out of their power, viz: the high price of labor, &c.

But the gentleman complained that Algiers had never been mentioned in the course of the debate. The gentleman must know that there was prudence in that, since it was a subject that could not properly be introduced there. When this subject was formerly under discussion, though many gentlemen mentioned the Algerines as the immediate cause of the frigates, he always looked upon them as the foundation of a Navy.

Mr. Findley did not expect that in the discussion of this question so wide a field would have been taken. With respect to the building of a Navy at present, he should certainly be opposed to it; but he was not so determined against a fleet as to put it out of the power of posterity to build one, if they should judge it right to do so; but he thought they had not sufficient information on that head. Expenses were generally so much more than were estimated, that he wished to know more upon the subject before he appropriated money on the occasion, that he might calculate whether it would be better for us and for posterity to purchase the timber now, reckoning the interest of the money and the expense of taking care of it when purchased, or leave it to be purchased by posterity. He would, therefore, vote for any resolution which should direct an inquiry to be made on the subject, but not for the present question.

The motion was then put and negatived—55 to 31.

The Committee then rose and reported the first resolution, with the amendments, and a disagreement to the other two. The House then took them up. A considerable debate took place on the propriety of coupling the provision respecting a repeal of the law relative to equipping and manning the vessels with the resolution providing an appropriation for the finishing of them. It was urged that gentlemen who wished to vote for completing the vessels, but not for the repeal of that part of the law which respects the manning of the vessels, could not vote agreeably to their wish, and so as to convey their sentiments to their constituents. It was also objected to as an improper *tack* to be sent to the other branches of Government, as it would oblige them either to agree to two things, or neither. It was answered, that gentlemen might show their opinion on the occasion by voting for or against the amendment to repeal the law. The impropriety of the *tack* was denied, as it was only upon that condition they would allow money for the frigates to be built, as some gentlemen said they would rather see them burnt than manned.

The first resolution being again read, the first amendment thereto, reported by the Committee of the Whole House, for striking out the words "and equip for sea," was, on the question put thereupon, agreed to by the House.

The other amendment to the said first resolution, reported by the Committee of the Whole House, for adding thereto the following words, "and that all such parts of the act, entitled 'An act to provide a Naval Armament,' as relate to the appointing and commissioning of the officers and manning the ships, in and by the said act directed to be provided, ought to be repealed, except so far as may relate to any officers already appointed under said act," was, on the question put thereupon, agreed to by the House—yeas 63, nays 28, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, Henry Dearborn, William Findley, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Roger Griswold, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, George Jackson,

George Leonard, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, John Patton, Elisha R. Potter, Francis Preston, John Reed, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, William Strudwick, Zephaniah Swift, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Theophilus Bradbury, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Robert Goodloe Harper, Thomas Hartley, William Hindman, Samuel Lyman, Francis Malbone, William Vans Murray, Josiah Parker, Samuel Sewall, Samuel Sitgreaves, Isaac Smith, Samuel Smith, William Smith, George Thatcher, Richard Thomas, Mark Thompson, and John E. Van Allen.

And then the main question being taken, that the House do agree to the said first resolution, amended to read as follows:

"*Resolved*, That —— dollars be appropriated to finish the frigates United States, Constitution, and Constellation; and that all such parts of the act, entitled 'An act to provide a Naval Armament,' as relate to the appointing and commissioning of the officers and manning the ships, in and by the said act directed and provided, ought to be repealed, except so far as may relate to any officers already appointed under the said act:"

It was resolved in the affirmative.

The second resolution, to which the Committee of the Whole House reported their disagreement, being again read,

The question was taken that the House do agree with the Committee of the Whole House, in their disagreement to the same, and resolved in the affirmative—yeas 69, nays 21, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Theophilus Bradbury, Richard Brent, Nathan Bryan, Daniel Buck, S. J. Cabell, Gabriel Christie, Thos. Claiborne, John Clopton, Joshua Coit, Isaac Coles, Wm. Cooper, James Davenport, Henry Dearborn, George Ege, Wm. Findley, Abiel Foster, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Nicholas Gilman, Christopher Greenup, Andrew Gregg, Roger Griswold, Carter B. Harrison, Thomas Hartley, John Hathorn, Jonathan N. Havens, John Heath, William Hindman, James Holland, Andrew Jackson, George Jackson, George Leonard, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, John Page, John Patton, Elisha R. Potter, Francis Preston, John Reed, John Richards, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Richard Sprigg, jr., Thomas Sprigg, Zephaniah Swift, Philip Van Cortlandt, William Strudwick, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Dempsey Burges, William Craik, Samuel W. Dana, George Dent, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Robert Goodloe Harper, Edward Livingston, Francis Malbone, William Vans Murray, Josiah Parker, Samuel Sewall, Samuel Sitgreaves, Samuel Smith, William Smith, George Thatcher, Richard Thomas, Mark Thompson, and John E. Van Allen.

The sense of the House was then taken on agreeing to the report of the Committee of the Whole to reject the last proposition relative to purchasing of timber, or lands stored with it; which was agreed to—yeas 62, nays 29, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Daniel Buck, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, Samuel W. Dana, Henry Dearborn, William Findley, Abiel Foster, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Nicholas Gilman, Christopher Greenup, Andrew Gregg, Roger Griswold, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, George Jackson, George Leonard, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Elisha R. Potter, Francis Preston, John Reed, John Richards, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, William Strudwick, Zephaniah Swift, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Theophilus Bradbury, Dempsey Burges, William Cooper, William Craik, James Davenport, George Dent, George Ege, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Robert Goodloe Harper, Thomas Hartley, William Hindman, Edward Livingston, Francis Malbone, John Milledge, William Vans Murray, Josiah Parker, John Patton, Samuel Sewall, Samuel Sitgreaves, Isaac Smith, Samuel Smith, William Smith, George Thatcher, Richard Thomas, Mark Thompson, and John E. Van Allen.

On the question, that a committee be appointed to prepare and bring in a bill or bills pursuant to the said first resolution, as amended, it was moved and seconded to amend the said question, by striking out the words "or bills," and the question being taken that the House do agree to the said amendment, it passed in the negative—yeas 38, nays 47.

The yeas and nays being demanded by one-fifth of the members present, those who voted in the affirmative are—

Yeas.—Theodorus Bailey, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, William Findley, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, George Hancock, Carter B. Harrison, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, John Patton, Francis Preston, John Richards, Thompson J. Skinner, Richard Sprigg, jun., Thomas Sprigg, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Nays.—Abraham Baldwin, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Hen-

ry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, John Hathorn, William Hindman, George Leonard, Edward Livingston, Samuel Lyman, Francis Malbone, William Vans Murray, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Elisha R. Potter, John Reed, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Israel Smith, Samuel Smith, William Smith, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Ordered, That Mr. Parker, Mr. Livingston, and Mr. Harper, do prepare and bring in a bill or bills pursuant to the said first resolution, as amended.

Monday, February 13.

Mr. Parker reported a bill appropriating money for finishing the frigates United States, Constitution, and Constellation.

Also, a bill to repeal so much of a former act as relates to the officering and manning the fleet of the United States.

Both which bills were twice read, and committed to a Committee of the Whole to-morrow.

Mr. Havens, from the committee to whom was referred the report of the Directory of the Mint, made a report thereon, directing a sum to be appropriated for the purchase of gold bullion and coin, and a sum to make good deficiencies occasioned by coining bullion put into the Mint of an inferior quality. Referred to a Committee of the Whole on Monday next.

Mr. Brent proposed a resolution to the following effect, which was also ordered to lie on the table:

"*Resolved*, That a committee be appointed to inquire into the expediency of incorporating the Commissioners of the City of Washington, and to report by bill or otherwise."

Messrs. Brent, Greenup, and Coit, were appointed.

PURCHASE OF LIVE OAK LANDS.

Mr. Harper said, that though the House had declined coming to a resolution to authorize the President to purchase certain lands in Georgia, clothed with live oak and red cedar timber, as a reserve for future naval purposes, yet there seemed to be a disposition to cause an inquiry to be made on the subject. He therefore proposed a resolution to the House to the following effect:

"*Resolved*, That the President of the United States be authorized and requested to cause to be made and reported to this House as early as may be after the meeting of the next session of Congress, an inspection of lands furnished with live oak and red cedar timber, with the relative advantages of different situations with respect to their fitness for naval purposes, and the rates at which purchases may be made."

Ordered to lie on the table.

JOHN DE NEUFVILLE.

On motion of Mr. Madison, the House resolved itself into a Committee of the Whole on the following report of the committee, to whom was referred the memorial of Anna de Neufville, widow of John de Neufville, deceased. They report—

"That the services and sacrifices of the said John de Neufville to the United States, during the war of their Revolution, as stated in the said memorial, and vouched by the testimonies herewith reported, constitute a reasonable claim, in behalf of his, at present, very distressed widow and children, on the justice of the United States. That it being impossible, from various and peculiar circumstances incident to the services rendered, to ascertain and liquidate the compensation due into a precise sum, it is necessary for Congress to decide on and provide for such allowance as may be deemed equitable and right. That, in the opinion of the committee, the sum of three thousand dollars may be a proper allowance. They therefore propose the following resolution:

"*Resolved*, That provision ought to be made, by law, for granting to the widow and two children of John de Neufville, the sum of three thousand dollars, to be equally divided among them."

This report was advocated by Messrs. Harper, W. Smith, Swanwick, Havens, Heath, Thatcher, Varnum, and Rutherford. They stated that the husband of the petitioner, John de Neufville, was an eminent merchant at Amsterdam; that he was an influential character there, and, at an early period of our Revolutionary war, entered with great zeal into the interests of America; that, meeting with Mr. William Lee, the Commissioner of the United States, he endeavored to bring about a treaty between the United Netherlands and the United States, which being discovered by the British, that Court used its influence with the Government of that country to harass and drive him out of the country; that during his residence at Amsterdam, his house was a constant asylum for American citizens; that he had made large advances in money for the service of the United States, which obliged him to extend his credit beyond what was warranted by the regular course of trade, and a failure in the payment of which (owing to the embarrassed circumstances of the United States at that time) had greatly injured him, and left him to the mercy of his creditors. The consequence was, he was reduced from affluence to poverty at an advanced period of life. Some years ago he arrived at Boston with his wife and two children, where he subsisted in a very humble manner upon the bounty of his friends in Holland; those friends having, by the reverses occasioned by the Revolution, been much injured in their property, could afford him but a scanty pittance; but Mr. de Neufville being dead, the petitioner was deprived of this assistance; and, to add to her repeated misfortunes, the son of her late husband, from their multiplied sufferings, had been deprived of his reason. Under this pressure of grievances, the petitioner was come from Boston to lay her case before Congress, and pray relief. This peculiarly distressing case was supported with great zeal and feeling by its advocates, particularly by Mr. Harper.

The claim was opposed by Messrs. Coit, Swift, and Nicholas. An application, it seems, was

made by Mr. de Neufville, during his lifetime, for redress; upon which the then Secretary of State [Mr. Jefferson] reported. This report, after stating all the facts upon which the claim was founded, gave it as his opinion, that the petitioner had no real claim on the United States. This report, it seems, had never been acted upon. The reading of it, as well as of all the documents relative to this claim, was called for, and were accordingly read. The opposers of this claim acknowledged the distressed situation of the petitioner, but denied the justice of her claim upon the United States; the treaty which Mr. de Neufville proposed to enter into with Mr. Lee, they supposed, was a treaty which he believed would prove beneficial to his country, and not to the United States: that there were many claims in our own country from persons who had been injured by the war, the justice of which was less equivocal, and the distress at least equal. Mr. Nicholas said, a few days ago only, a poor man, whose health had been so much impaired in the war, that he was unable to earn his living, had applied to him to bring his case before Congress, yet, as the pension law affords no relief to any person, except he had been wounded, he was obliged to inform him that he could do nothing for him. There were multitudes of such instances, equally distressing with the present, to which no relief could be afforded.

Mr. Thatcher moved to have the three thousand dollars struck out, and five inserted. This was negatived—45 to 37; but the resolution was agreed to as reported—yeas 63, nays 25, as follows:

Yeas.—Fisher Ames, Abraham Baldwin, David Bard, Theophilus Bradbury, Daniel Buck, John Clopton, Isaac Coles, William Cooper, William Craik, Henry Dearborn, George Ege, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Christopher Greenup, Andrew Gregg, William B. Grove, Robert Goodloe Harper, Thomas Hartley, Jonathan N. Havens, John Heath, Thomas Henderson, William Hindman, Andrew Jackson, George Jackson, George Leonard, Edward Livingston, Samuel Lyman, William Lyman, James Madison, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Anthony New, Alexander D. Orr, Josiah Parker, John Patton, John Reed, John Richards, Robert Rutherford, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jun., Thomas Sprigg, John Swanwick, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Joseph B. Varnum, Peleg Wadsworth, and Richard Winn.

Nays.—Theodorus Bailey, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Joshua Coit, James Davenport, George Dent, Chauncey Goodrich, Roger Griswold, Wade Hampton, George Hancock, John Hathorn, James Holland, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, John Milledge, John Nicholas, Elisha R. Potter, Nathaniel Smith, William Strudwick, Zephaniah Swift, and John Williams.

Ordered, That a bill, or bills, be brought in pursuant to the said resolution; and that Mr. Madison, Mr. Parker, Mr. Cooper, Mr. Ege, and Mr. Wadsworth, do prepare and bring in the same.

Tuesday, February 14.

JOHN DE NEUFVILLE.

Mr. Madison reported a bill granting certain sums of money to the widow and children of the late John de Neufville, which was twice read, referred to a Committee of the Whole, and made the order for this day. The House, on motion of Mr. Harper, resolved itself into a Committee of the Whole on the subject; when

Mr. Thatcher said, as the widow had been at very considerable expense in the journey to this city to make her claim, and as this expense would wholly fall upon her, it would put her in a worse situation than her children (for the bill proposed 1,000 dollars to each.) He moved, therefore, that 1,000 should be struck out, and two inserted, for the widow.

This amendment was negatived, there being only 23 votes in favor of it. An attempt was made to add 200 to the 1,000 for the widow, but it was also unsuccessful.

The Committee rose, and the bill was ordered to be engrossed for a third reading to-morrow.

DIRECT TAXES.

Mr. Harper proposed a resolution to the House directing that the Committee of the Whole, to whom was referred the bills on the subject of direct taxes, should be discharged, in order that they might go to the same Committee of the Whole to whom was referred the proposition respecting indirect taxes, that both subjects might come under consideration at the same time. The motion was objected to, as it was said the two things were in different stages, the one being in a bill, and the other merely a proposition, and that it would not be proper to embarrass the discussion of the bill, by the proposition alluded to, since the advantages of one or the other mode could be shown without such a connexion. The motion was negatived.

EXPORTATION OF SHIP-TIMBER.

Mr. W. Smith said, it must be acknowledged of great importance that the large ship-timber growing in this country should be kept out of the hands of foreigners, as, at some future day, we might have occasion for it for our own use. He wished, therefore, to lay a resolution on the table relative to this subject. He proposed one to the following effect:

"*Resolved*, That provision ought to be made by law for prohibiting, for a limited time, the exportation of ship-timber of certain dimensions."

Ordered to lie on the table.

HUGH LAWSON WHITE.

Mr. A. Jackson moved that the unfinished business be postponed, for the purpose of going into a Committee of the Whole on the report of the select committee on the petition of Hugh Lawson White and the report of the Secretary of War thereon.

Mr. Corr wished to know what was to become of the appropriation bill. He thought it was proper they should go into that.

Mr. W. Smith said he consented to a postponement of that subject until the information which had been called for from the Secretary of State, relative to a certain item, had been obtained, which, without that information, might occasion considerable debate, and which, with it, he trusted, would pass without opposition. He alluded to the fifty thousand dollars for the prosecution of the claims for spoliations committed on American vessels by the British.

The House accordingly resolved itself into a Committee of the Whole on the petition of Hugh Lawson White, Mr. Dent in the Chair. The report, which was a very long one, was read. The subject was in relation to the expedition of Gen'l Sevier into the Cherokee nation in the year 1793. The report, which proposed that provision should made by law for paying the expense, was agreed to without debate, and was referred to the Committee of Ways and Means, to be introduced in the appropriations for the expenditure of 1797.

DUTIES ON DISTILLED SPIRITS.

Mr. W. Smith moved that the House go into a Committee of the Whole on the bill repealing in part the act concerning the duties on spirits distilled within the United States, passed May 8, 1792, and imposing certain duties on the capacity of stills of a particular description. The House resolved itself into a Committee of the Whole accordingly; Mr. Dent in the Chair.

This bill proposes to repeal so much of the present act as allowed stills at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there are one or more stills, which singly, if only one, or together, if more than one, were of less capacity than four hundred gallons, the option of paying a duty of seven cents a gallon, and to direct, in lieu thereof, certain sums to be paid according to the capacity of stills, and according to the time taken out, from one month to six months.

Mr. Kitchell wished to know the precise meaning of the word *village;* he did not know whether two or three houses lying together were to be considered as a village, or what number of houses were necessary to form one. He objected to the whole of the bill, as, instead of being of service to the revenue, he believed it would be an injury to it. He thought if the duty was laid upon the gallon in every instance, a much larger revenue would be raised than at present; for he believed that many who paid a duty according to the capacity of their stills, did not pay one-half of what they would otherwise pay. To lay the tax upon the capacity of the stills might diminish the trouble of collection; but he believed it reduced the revenue. In order to try the principle, he would therefore move to strike out the first section of the bill.

Mr. W. Smith said, the gentleman's objection to the word "village" came rather late, as the expression "city, town, or village," had been used in all the laws passed upon this subject. He believed the expression was well understood both by the revenue officers and the public, and it was not therefore necessary to go into a definition of it. The Secretary of the Treasury had given it as his opinion, that, so far from reducing the revenue, it would considerably augment it. The objections against this regulation arose, he believed, from an idea that it would be injurious to small stills; but, he had received information from the supervisor of his district, that, instead of being injurious, it would be beneficial to them. Mr. S. said, he thought the principle of this bill had been agreed to, and was surprised, therefore, that a motion was made to strike out the first section. He hoped the gentleman would consent to let the bill be proceeded with, as it was probable that such amendments might take place as would render it more acceptable than it might at present appear.

Mr. Dayton hoped that his colleague would withdraw his motion for striking out the first section, that opportunity might be given to amend the bill in such a manner as to afford not only protection, but encouragement to the numerous small distilleries throughout the country. This valuable purpose, Mr. D. said, might be attained by the amendments and alterations which he should propose to be made in the second section, as soon as it could be done consistently with their rules of order. If his propositions should not meet the approbation of a majority, it would still be in the power of all those members who united in the wish to preserve the small distilleries, to reject the bill, and in that case he should join them readily in doing so.

Mr. Kitchell withdrew his motion for striking out the first section; and the Chairman of the Committee of the Whole having read the second section,

Mr. Dayton said that he should offer an amendment in that place, which would ascertain with certainty whether the destruction or preservation of the country distilleries was the object, and would be the effect, of the bill. As it stood at that moment, their discouragement and ruin was inevitable; for it deprived them of the option they had heretofore enjoyed, of paying either upon the capacity or by the gallon, and held out to them no equivalent advantage. So far was it from compensating them for the privation of that privilege, that, on the other hand, he found in the latter part of the same section a provision which compelled them to commence every license with the beginning of some calendar month; and thus rendered their situation far more discouraging than it was at that moment. He should therefore, when they came to that part, move to strike out the words following, viz: "And all licenses as aforesaid shall commence and bear date from the beginning of some calendar month." But, as preparatory thereto, and as a compensation to small distilleries for being deprived of the option, he should first move to insert the words "for and during the term of two weeks," for the purpose of admitting the possessors of such stills

to take out a license for that short term, if they thought proper. It was well known that the existing laws did not admit of any license to be taken out for a shorter term than one month. Distillers, therefore, who had materials to employ them for two weeks only, were compelled to pay for four weeks, or to pay, at their option, seven cents for each gallon distilled. If deprived of this choice, they would have reason for complaint, unless permitted to enter for less time than a month. He was sensible that many advantages would be derived from the abolition of the duty upon the gallon distilled, and not the least, would be the greater facility and certainty in the collection of revenue from this source, the diminution of the number of oaths already too much multiplied, and the exoneration of the people from the most odious part of the provisions, viz: the frequent visits and inspections of the officers of Government. Although these benefits were acknowledged, they could fortunately be secured to the public, without injury to the distilleries of fruit, or any other materials. They might even be protected and encouraged, and the revenue from them improved, and he trusted that the amendments he had proposed would establish the fact, that those two objects were perfectly consistent and attainable.

Mr. W. Smith wished a Letter, which had been received from the Secretary of the Treasury, on the subject, to be read. It was read accordingly.

Mr. Gallatin was in favor of the amendment proposed. The Letter, which had been read, was written to him, in answer to some inquiries which he had made on this subject of the Secretary of the Treasury. The object of this bill, he said, was, in the first place, to secure a due collection of the revenue at less expense than it at present costs; in the second, to prevent an evasion of the duty; and, in the third, to remove one of the most important objections to the tax.

It tended to secure a due collection of the revenue at less expense, by taking away those provisions which furnished an apology to collectors for not settling their accounts, or placing them in such a state as to prevent their being settled. Gentlemen might say the duty was well collected at present, and that the accounts were well settled; they gave this as their opinion; but, when they had proof of the contrary from official facts, those assertions could have little weight. In order to show the magnitude of the evil, he would refer to the last official statement made to them in December last, which contained the last accounts made by the supervisors. By this statement it would be seen how far the supervisors were able to bring these collectors to account. It would be noticed that the States of Vermont and New York were the only States whose accounts were settled up to December, 1795; the States of Connecticut and Georgia were settled up to September 30, 1795; the States of New Hampshire, Massachusetts, Rhode Island, Delaware, North and South Carolina, were settled to the 30th of June, 1795; the State of Virginia to the 30th June, 1794; the State of New Jersey was only brought up to the 31st of March, 1793; and the State of Pennsylvania had not settled at all. In addition to which, in Kentucky, Tennessee, and the Northwestern Territory, the tax had not been even mentioned.

This, he said, was the situation of the revenue at present. The supervisors found it impossible to bring the collectors to account. The fault was in the law itself. Distillers in the country took advantage of the option which was allowed them of paying by the gallon. This was always the pretence, and sometimes the true reason, why the collectors did not make their returns. In a scattered country like America, collectors could not come at the quantity of gallons distilled by every individual; but if the duty was laid by means of a license on the still, according to its capacity, it would be easy to collect the duty, to have the accounts settled, and for the Treasury to check those accounts. No pretence could then be made for not settling the accounts regularly.

The next consideration was, the evasion of the duty. This arose from some individuals, and many, not returning their accounts as they should do; some could not do it; and not a few gave in false accounts. In respect to large distilleries in the country having the option of taking out a license, and of paying fifty-four cents per gallon on the capacity of their stills, no one, except they wished to defraud the revenue, would desire to pay by the gallon; and if the amendment was agreed to, the same remark would apply to small distillers; for, it would be found so much easier and advantageous to pay by license, than by the gallon, that no one, except he intended to defraud the revenue, would choose to pay by the gallon. The present rate of ten cents per month per gallon would in some cases be more than the duty would amount to, if paid by the gallon, as some stills were not employed more than half the time; but the proposed amendment would remove that objection; and though less duty would be paid by some individuals than they heretofore paid, as all evasion would be prevented, the revenue would be increased. It was true, that when they took off one advantage, they must give another; if they gave small distillers the option of taking out a license for a fortnight, they should give the larger distillers the option of taking out a license for two, three, or four months. It was the opinion of the Secretary of the Treasury that the licenses for a month should be increased from ten to twenty cents; but he thought differently. He hoped the amendment of the gentleman from New Jersey would prevail, and then he should afterwards propose to fill up the blanks of licenses for a month with ten cents; for two months with eighteen; for three months with twenty-four; for four months with thirty; for five months with thirty-six; and for six months with forty-two cents per gallon. This scale, he said, was on the same ground with that which was proposed by the Secretary of the Treasury; except that he had changed the two estimates for a month and for a year. They might now be thought too low, and to give too great advantage to small stills. In the opinion of the Treasury they did; but if, upon an experiment, it

was found to be so, the rates might be augmented hereafter.

Finally, he believed these regulations would remove some of the strongest objections to the law itself. These objections were well known to be the reluctance which men felt to have their houses searched and conduct watched, when they were in the pursuit of their honest occupations. These objections would be wholly removed. A person would take a license for any term he chose, and there would be an end of the business. He would neither be obliged to keep an account nor to make a return; neither would there be any visiting of officers to inspect his conduct in carrying on his business.

Mr. G. said, it was of importance to remove these objections; particularly as the law had not extended to the parts he had mentioned, and as it was desirable the laws should operate equally and satisfactorily throughout the Union. He hoped, therefore, the amendment of the gentleman from New Jersey would be agreed to, and that the bill would pass.

Mr. Nicholas was satisfied an alteration was necessary in the present law to make it tolerable and equal. He had heard, from an intelligent collector, that there were distillers who made their spirits double proof, and then turned them over to another person to retail them out, who brought them down to the common standard, by this means paying only one-half the tax. And yet, though this practice was known, it could not be remedied, according to the present law, because the spirits were out of the hands of the distiller.

He was satisfied that no tax should be so laid as to injure the manufactory upon which it fell; and it appeared to him that the very existence of this law would depend on the acceptance of this amendment. He had, indeed, thought of a different way of regulating the business, but perhaps the one proposed might be as well. He thought that if a license should be taken out for a term, and it was not wanted for the whole time, a deduction should be made for the difference. He said he was perfectly satisfied with the general modification; but, if the amendment should not prevail, it would operate injuriously upon small distilleries. He therefore trusted it would be agreed to.

Mr. Harrison hoped the amendment would obtain. After rainy months, the fruit washed from the trees could not be distilled within a month from which a license was taken. The bill would go to diminish the revenue; besides, it would be extremely unpopular, which would produce an evasion of the law, and the duties would be less. Indeed, without the addition, it could not be agreed to.

The question was put, and carried unanimously.

The blanks were afterwards filled up with the rates Mr. Gallatin had mentioned, and with six cents for licenses for two weeks.

Mr. Dayton then moved to strike out the words "and all licenses, as aforesaid, shall commence and bear date from the beginning of some calendar month."

The fourth section of the bill having been read,

Mr. Harper thought it would be proper to amend the latter part of the clause, which was as follows:

"And every owner or possessor of any still, who shall not have taken out a license for at least —— months during the six months preceding the first days of January and July, in each year, shall be chargeable with, and shall pay a duty equal to, that demandable for a license for six months, unless such owner or possessor shall make oath or affirmation that no spirits have been distilled in his still during any time for which a license has not been previously obtained:"—

by adding betwixt the words "any still" and "who shall" the words "in a state of preparation for distilling." This alteration, he said, would make the oath proposed unnecessary, and he was very much against multiplying oaths, as they held out strong temptations to dishonesty and perjury.

Mr. Dayton (the Speaker) rose to state an objection which presented itself to his mind against the latter part of this section. He might possibly misunderstand the duty therein enjoined, and he hoped, if he did, that the committee who reported the bill would explain and set him right. It appeared to him, Mr. D. said, to intend and require that the owner or possessor of every still which had been unemployed for six months should make oath or affirmation that no spirits had been distilled in his still during any time for which a license had not been previously obtained, or be subject to a considerable penalty. Cases might and would frequently arise in which it would be highly improper and unjust to impose such an oath. He instanced those in particular where stills should be sold and transferred from one person to another, and perhaps through many hands, whilst they were unemployed, and of course unlicensed. How was it possible, Mr. D. asked, for the man who has possessed it for a few weeks or a few days to take such an oath, especially if, as might happen, the former owners were not even known to him? If no explanation should be given from the committee nor any amendment made that should be satisfactory, he should think it his duty to move to strike out the whole of the last sentence or clause.

Mr. Kitchell said, he had great objection to the clause as it stood, but he had a greater to the alteration proposed. He also was against multiplying oaths, if any better mode could be pointed out of preventing frauds; but, if the present amendment took place, it would only be necessary to strike off the cap from a still and carry it into the cellar, and then it would not be in a state of preparation for distilling. He wished gentlemen who brought in the bill would consider the matter, and propose some amendment to this clause.

Mr. Isaac Smith thought the matter might be rectified, by obliging the person who sold a still to give notice thereof to the Inspector, with the person to whom he sold it.

Mr. Gallatin said, he understood that part of the section which related to an oath to apply to

the time during which a man was owner and possessor of a still. If a still was transferred, a person would be answerable for the duty only whilst in his possession; but if it was thought the expression was not sufficiently clear, it might be made more so by adding, between the words "in his still" "and during," "whilst he has been owner of the same."

Mr. Nicholas said it was necessary that some alteration should take place in the clause.

Mr. Dayton said, that being by no means satisfied with any of the explanations or amendments that had been offered, and believing that it would be very improper to retain such a clause, he should, as he had before given notice, move to strike out the following, viz: "and every owner or possessor of any still who shall not have taken out a license for at least —— months during the six months preceding the first days of January and July, in each year, shall be chargeable with, and shall pay a duty equal to, that demandable on a license for six months, unless such owner or possessor shall make oath or affirmation that no spirits have been distilled in his still during any time for which a license had not been previously obtained."

The Committee then rose, the amendments were agreed to in the House, and the bill ordered to be engrossed for a third reading to-morrow.

ACCOUNTS OF RECEIVERS.

Mr. W. Smith moved for the order of the day on the bill to provide more effectually for the settlement of accounts between the United States and the Receivers of Public Money, and the House accordingly resolved itself into a Committee of the Whole on that subject, and having gone through the same, the Committee rose and reported the bill, which was ordered to be engrossed for a third reading to-morrow.

ACCOMMODATION OF THE PRESIDENT.

Mr. Sitgreaves, from the joint committee appointed to consider if any, and what, measures should be adopted for the further accommodation of the President of the United States, for the term commencing on the 4th of March next, reported a resolution authorizing the President to cause to be sold such part of the furniture presented to him on his coming into office as may be decayed and out of repair, and that $14,000, together with the proceeds of such sale, be presented to him. The report was twice read, and committed to a Committee of the Whole.

Wednesday, February 15.

The following Communication was received from the President of the United States:

Gentlemen of the Senate, and
of the House of Representatives:

I lay before you an official statement of the expenditure to the end of the year 1796, from the sums heretofore granted to defray the contingent charges of the Government.

G. WASHINGTON.

United States, *February* 15, 1797.

The Message and statement were read, and ordered to lie on the table.

A bill for granting a sum of money to the widow of John De Neufville, was read a third time and passed.

The bill for providing more effectually for the settlement of accounts between the United States and the Receivers of Public Moneys, was read the third time and passed.

A letter was received from the Secretary of the Treasury, enclosing a report from the Secretary of War, requesting that an appropriation may be passed to make good the appropriations in the Military Department for the year 1796, of $201,312. Laid on the table.

DUTY ON DISTILLED SPIRITS.

The bill for repealing in part the act for laying a duty on spirits distilled within the United States, and for imposing in its stead certain duties on the capacity of stills, was read the third time, when—

Mr. New called for the yeas and nays on the passing of the bill.

Mr. Locke hoped the bill would not pass. He thought it bad policy to change laws, except considerable advantage could be derived from it. No consequence could arise from the proposed change, he said, except it were to irritate the minds of the people against Government. It was said it would increase the revenue; but he believed it would reduce it, as it would render useless many stills. Farmers who had stills for the purpose of distilling their surplus grain wished to do it at their leisure, as their cattle required it. Some of those who paid seven cents per gallon, he said, paid double what was paid by those who paid according to the capacity of their stills, but it was more convenient for them to do so. He was surprised to hear the gentleman from Pennsylvania [Mr. Gallatin] offer it as a reason for altering the method for laying the duty, that the excise officers had delayed to make due returns; that, he said, was owing to the roguery of the officers, and not to any fault in the distillers. He also observed that many parts of the United States were so thinly inhabited as to make it inconvenient for officers to collect the duty. Admitting that this were the case, (though it would only happen in few instances,) was it not, he asked, as reasonable that officers who were well paid for their service should rather be put to that trouble than the distillers themselves, which would be the case if they were obliged to take out a license? That gentleman had also observed that no man, as the law now stood, would have chosen to pay by the gallon, but such as designed to defraud the revenue. He knew that his assertion was not true. He himself kept a still for his own family, and had always paid by the gallon; but if this bill passed, he would not distil at all, and he believed many others would come to the same resolution. He should, therefore, vote against the passing of the bill.

The yeas and nays were taken, and stood—yeas 57, noes 19, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Theophilus Bradbury, Gabriel Christie, Joshua

Colt, William Cooper, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Andrew Gregg, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Hathorn, Jonathan N. Havens, John Heath, William Hindman, Andrew Jackson, George Leonard, Samuel Lyman, William Lyman, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, John Patton, Elisha R. Potter, John Reed, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Spriggs, jun., Thomas Sprigg, John Swanwick, Zephaniah Swift, Richard Thomas, John E. Van Allen, Joseph B. Varnum, Peleg Wadsworth, John Williams, and Richard Winn.

Nays.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, William Craik, Carter B. Harrison, Thomas Henderson, James Holland, George Jackson, Matthew Locke, Andrew Moore, Anthony New, John Page, Josiah Parker, William Strudwick, Mark Thompson, and Abraham Venable.

It was then

"*Resolved*, That the title of the said bill be, 'An act repealing, in part, the 'Act concerning the duties on spirits distilled within the United States,' passed the eighth of May one thousand seven hundred and ninety-two; and imposing certain duties on the capacity of stills of a particular description."

AMENDMENTS TO THE CONSTITUTION.

Mr. Harper, from the committee to whom was referred the resolution from the Senate, proposing to authorize the President to make inquiry of certain States, whether they concurred in the amendment to the Constitution which had been submitted to them, with respect to the suability of States, reported that on 4th March, 1789, the United States, being then thirteen in number, twelve amendments were submitted by Congress to the different States, ten of which were ratified in 1789 and 1790 by nine States out of thirteen, which number not being three-fourths of the then existing States, those ten amendments did not then become part of the Constitution, one State being still wanted. The report went on to state further particulars, and concluded with proposing that as some of the States might have since ratified the whole or a part of those amendments, though such ratification had not been received, to reject the resolution from the Senate, and to adopt one to the following effect:

"*Resolved*, That the President of the United States be requested to make application, as speedily as may be, to all those States, who, as far as can be known by official documents, have not ratified the said twelve amendments to the Constitution which were submitted to them, to learn whether any of them have been ratified, or what proceedings have been had thereon."

Ordered to be printed.

MILITARY APPROPRIATIONS.

Mr. Gallatin said, they had had an estimate presented to them this morning, requesting a deficiency to be made good in the Military Department, to the amount of $201,312. This estimate, he said, was made to them under three items, a fortnight only before the dissolution of Congress. He thought it should have been sent to them sooner, and more in detail. In order to obtain some further information on the subject, he proposed a resolution to the following effect:

"*Resolved*, That the Secretary of War be directed to lay before this House a statement in detail of the item respecting the military service, which, in his estimate of the tenth instant, he states at one hundred and twenty-five thousand dollars; and also a statement in detail of the expenditure and application of money appropriated by law for the Military Establishment of the year 1796, from whence have resulted the deficiencies by him stated in his estimate, of forty four thousand one hundred twenty-two and thirty-two thousand dollars."

Mr. W. Smith wished to know whether he meant to decline appropriating money for the Military Establishment, until he received this information.

Mr. Gallatin said he had no objection against voting for the appropriations for the Military Establishment for the year 1797; whether he received the details called for, or not; but he would not vote for the deficiency stated, until the details were received. He did not think he should be justified in voting for this estimated deficiency, until he knew how it had been expended—until he knew how far he was bound to do it. It had no connexion whatever with the appropriation for the year 1797.

The Speaker said, he received this communication on Saturday whilst in a Committee of the Whole, and thought he had given it to the Clerk to be read, but found it upon his table this morning, so that the delay since Saturday was owing to him.

The resolution was agreed to.

SALARIES OF COLLECTORS.

The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill relative to the compensations and duties of certain officers employed in the collection of impost and tonnage. The bill having been read, and the first section being under consideration, which allows to the collectors of the district of Pennsylvania and New York one quarter per cent.; to those of Boston, Charleston, and Baltimore, one half per cent., and to other ports in proportion—

Mr. Dearborn said, the compensations arising to the Collectors in some of the principal ports, was beyond measure exorbitant; he believed, after all deductions were made, they amounted from 8 to 10,000 dollars. He could see no good reason why the salaries of these officers should not be fixed by law. At present, though their duties were certainly not so important, they received two or three times as much as Heads of Departments, considerably more than even the Vice President of the United States. When they had determined not to increase the salaries of the principal officers of the Government, even during the present high price of living, he thought they

ought not to allow such extravagant compensations to their collectors.

Mr. Thatcher thought they were legislating in the dark. Before they entered upon the business, he wished to have seen a return of the real amount of duties collected during the last year. In order to give time for the obtaining of this information, he wished the committee to rise.

Mr. Varnum was of the same opinion. He said accounts had been received from all the ports except New York, and that they might be soon expected.

Mr. Swanwick said, there had been a return for 1795, which the committee had judged as proper a guide as that for 1796 would be. It was the intention of the committee to reduce the compensation of the officers in the large ports, who, they believed, received too much, and to increase those in the small ports, who they were convinced received too little.

Mr. S. Smith also said, 1795 would be a better foundation for them to estimate upon than 1796, as it might be supposed that the importations in 1797, owing to the obstructions which commerce was likely to meet with, would be much less than in 1796. If the committee were to rise, he believed the law would not get passed, and the old law would continue, which would be a loss to Government of 15 or 20,000 dollars.

Mr. Williams wished to wait for the return of 1796.

Mr. Coit said, it would be necessary to regulate these salaries every two or three years, as trade was continually fluctuating.

Mr. Craik was against the committee's rising, as it would probably put an end to the business for this session, and he thought it was very desirable that the large salaries should be reduced, and the small ones advanced.

Mr. Parker was for proceeding with the business. It was well known some of the compensations were too high, and others too low. He mentioned amongst the latter the small port of Tappahannoc, the Collector of which by the return in 1795, was sixty-eight dollars in debt.

Mr. Dearborn said, as it was only two years since this business was arranged, he did not think there was much necessity for going into it now; and though some of the compensations were low, he did not believe any of those who held the offices could be induced to give them up; and if they were, there would be twenty persons ready for them. If it were not, therefore, for taking off something from what he considered as enormous sums from the officers in the large ports, he should be willing to let the business lie over this session. He could wish a resolution to the following effect to be agreed to for this purpose, in preference to the mode proposed by the bill:

"*Resolved*, That from and after the present year, the Collectors of Philadelphia, New York, Baltimore, Boston, and Charleston, be allowed ——— dollars, per annum, in place of their present compensation."

Mr. New hoped the committee would not rise. His colleague [Mr. Parker] had mentioned the case of an officer in Virginia, at Tappahannoc, with which he was somewhat acquainted. In the year 1795, he was brought in upwards of sixty dollars in debt. The return from that officer for the last year was for disbursements five hundred sixty-nine dollars and ninety cents, and receipts three hundred and fifty-five dollars. He doubted therefore whether, when this gentleman gave up his situation, if there would be twenty persons ready for it.

The question for the committee's rising was put, and negatived.

The consideration of the first section was then taken up, and upon an inquiry what was the compensation of the large ports under the present law,

Mr. Coit said, that New York and Philadelphia had before three-eighths of one per cent., and Boston, Baltimore, and Charleston, five-eighths of one per cent.

After a number of observations from different members, this, and the other clauses of the bill, were agreed to, with some small amendments.

After which, Mr. Dayton (the Speaker) moved an additional section, appointing a Surveyor for New Brunswick, in Jersey, to reside there; which was agreed to.

Mr. Sewall moved also an additional section, providing that Marblehead should be a port at which vessels arriving from beyond the Cape of Good Hope may enter and unlade; which was agreed to.

The Committee then rose and reported the bill.

Thursday, February 16.

EXPENSES OF FOREIGN INTERCOURSE.

A report was received from the Secretary of the Treasury, in conformity to the resolution of the 9th and 10th instant, with statements of the expenditure of money appropriated for defraying the expenses attending our Foreign Intercourse, and of the money applied for the purpose of prosecuting the claims of our merchants for redress for the spoliations committed upon their property by belligerant Powers, in which report it was stated that there was a deficiency in the accounts of Mr. Randolph, the late Secretary. Referred to the Committee of the Whole to whom was referred the appropriation bill.

Mr. Gallatin also moved that the statement of deficiencies in the contingent expenses received yesterday should be referred to the same committee. Agreed to.

JUDGE TURNER.

The Speaker presented a petition from Judge Turner, of the Northwestern Territory, wishing that the charges which had been exhibited against him should be brought to a hearing, as he had come up to the Seat of Government with a view of defending himself. Ordered to lie upon the table.

BALANCES DUE FROM STATES.

The House then took up the amendment of the Senate to the resolution respecting the balances due from certain States to the United States, and

having read the resolution, which proposes, instead of calling upon the several debtor States for the whole amount reported by the Commissioners to be due, to call upon them only for the sum which they had assumed over and above what proved to be their real demand against the United States; which, of course went wholly to excuse some of the debtor States—

Mr. Williams observed, that when this subject was before the House it was fully discussed, and it would only be taking up time unnecessarily to enter on the subject again. As he heard nothing to change his former opinion, he continued to think the debt, so far as it respected the State of New York, was unfounded; it therefore mattered not to him whether the amendment proposed by the Senate was agreed to or not. Although by the amendment, only a part (said to be due) was called for, yet the debtor States were not by that amendment exonerated from paying the whole; and, therefore, were the debtor States to make provision agreeably to the amendment proposed by the Senate, they might be afterwards called on for the remainder, as, by paying a part, they would tacitly acknowledge the whole to be just.

The motion was negatived, and the House resolved to insist upon the resolution as it stood originally.

JOHN C. SYMMES.

Mr. Gallatin said, a report had been made upon the contract between John C. Symmes and his associates, and the United States, which it was of importance to pass into a law this session, as the object was four hundred thousand acres of land, which was worth about eight hundred thousand dollars.

The House accordingly resolved itself into a Committee of the Whole on the subject, when the report, which was very long, having been read, the Committee agreed to the resolution reported, which was in the following words:

"*Resolved*, That a committee be appointed to bring in a bill to authorize the President of the United States to grant, in fee simple, to John C. Symmes and his associates, that part of a tract of land, the boundaries whereof are ascertained by a survey executed in conformity to the act of Congress, entitled 'An act for ascertaining the bounds of a tract of land purchased by J. C. Symmes,' and returned to the Treasury Department the 10th of January, 1794, which is not included within the bounds of a grant already made, on September 8, 1794, to the said J. C. Symmes and his associates; excepting and reserving out of the same the lots reserved by the original contract, entered into between the United States and the said Symmes and his associates; provided that the said Symmes and his associates shall previously, in conformity to the terms of the original contract, make the requisite payment for the tract to be granted to them, and for the 47,625 acres, part of the grant already made to them on the 30th September, 1794, for which they have not yet paid any consideration; and provided, also, that the township reserved for an Academy shall have been previously laid off and secured, according to the terms of the contract, and of the resolutions and law of Congress relative thereto."

A committee of five was appointed, viz: Messrs. Gallatin, Venable, Havens, Ames, and Sherburne.

INDIRECT TAXES.

The House then resolved itself into a Committee of the Whole on the subject of indirect taxes, when the report of the Committee of Ways and Means, the letter of the Secretary of the Treasury, and the resolutions of the gentleman from New Jersey, [Mr. Henderson,] and those of the gentleman from South Carolina, [Mr. Harper,] having been read—

Mr. Harper said, that having on a former occasion gone pretty much at length into observations to prove the superiority of indirect taxes to a land tax for this country, he should not now repeat them, but confine himself to the other branch of the subject.

On the occasion alluded to, he had gone into a calculation of the present amount of the duties arising from the several articles upon which he had proposed an advance, and compared that amount with preceding years, in order to show that the revenue upon them was in an increasing state, and that they would of course bear a small advance. As these observations depended on a statement of figures, which might not be well remembered, he would take the liberty of recapitulating them, and then proceed with some observations in favor of indirect taxes. [Mr. H. here went over his estimates with respect to the present amount of duties on the several articles, the duty upon which he meant to advance, and the probable addition which would be likely to arise from the proposed additions, in the course of which he was reminded of the question by Mr. S. Smith and Mr. Holland, but desired to proceed by the Chairman.]

Mr. H. having gone through his statement, said, in order to put our revenue in some degree beyond the reach of foreign Powers to disturb it, it was necessary to connect the two systems of indirect and direct taxes together; and the more he saw, the more he was impressed with the propriety of this—so much so, that if the House should not think proper to adopt a window or stamp tax, if no member proposed an effectual substitute for them, he should think it necessary to adopt a land tax, even if all the indirect taxes were agreed to which he had offered. He thought the money would be better raised by a stamp and window tax; but, should the House not be of this opinion, he should vote for a land tax, because he thought it of unspeakable importance to have some effectual revenue which should be out of the reach of any foreign Power.

With respect to the window tax, it had been objected to as a very odious and a very impolitic tax; that it had been very unpopular wherever it had been introduced, and that, in all probability, it would be alike objectionable in this country. He thought differently. In England it might have been so, because any new tax, where the people were so heavily burdened as in England, would prove unpopular. He was of opinion that the ta

might be so laid as to become a very equal and acceptable tax.

The objects to be aimed at in taxation, he said, were, that a tax should fall equally, and be easy of collection. Where these two properties were combined, the tax must be a good one. He believed that a tax on windows would answer this description, as there was generally a proportion between a man's expenses and the number of windows in his house; and by graduating the tax, it would fall equally on the community at large. A tax, he said, should not fall upon a man in proportion to his capital, but according to his expenses. A man might possess a great capital, and yet not possess equal means with the man of a small capital. A man, for instance, might possess a great capital in land, but it might be in such a situation as not to be saleable, or too far removed from market to be profitable. This kind of property, he said, did not enable a man to pay taxes; but, if a man's expenses were considered, his ability to pay taxes would be discovered. There might be some exceptions: indeed, some men would spend more from vanity, and some less from avarice, than they ought, but he believed the rule would hold good in general. But, if a tax was laid ad valorem, there was great difficulty in ascertaining the just value of property; whereas, to enumerate the windows of a house, would be done with little trouble and expense, and without any intrusion into a man's house, which was an objection to a hearth tax, as it required such visits as would be disagreeable to the citizens of a free country. A window tax would have this further advantage: if laid at first for $250,000, it might afterwards be made to produce as much as the people were able to pay, without additional expense. He therefore preferred a window tax to a land tax, because more easily laid, and to a hearth tax, because it might be imposed without domiciliary visits.

Various objections, he said, had been made to a stamp tax. In the first place, it was said to be a very odious tax; but our dislike to a stamp tax arose, not because the tax was really objectionable, but because it had been attempted to be laid upon us by a foreign Power, which had not the right to lay it. Any other tax which that Power might have attempted to impose upon us would have proved equally odious; but, he said, the American people had sense enough to distinguish between a tax laid by their own Government, and the same tax forced upon them by a foreign Power. Another objection to this tax was, that it would require certain regulations to be made in the Courts of the different States in the Union, as it would be necessary to enact that no paper should be admitted as evidence which was not duly stamped. It might be asked, what power they had to do this? He said there could be no doubt that they had the power, as the State Courts and Judges were equally bound, by the laws of Congress, with the Courts and Judges of the United States, and there could be no doubt that the law would be cheerfully complied with. With respect to another objection, it required a good deal of consideration; but he doubted not it might be provided against by certain modifications in a bill, if the tax should be agreed to. It was this: that persons in remote parts of the country, unused to make their contracts in a formal way, but who applied to their neighbors to do it, and who did it in a clumsy and imperfect manner—to say that all these papers should be subject to a stamp duty, would lay such persons under the necessity of applying to an attorney to furnish them with stamps, and to do the business for them. This, he acknowledged, would be embarrassing persons so situated, without greatly benefitting the revenue: but it would be possible to make provisions to exclude contracts of a certain description, so as to prevent this inconvenience.

Mr. H. hoped, therefore, that these two modes of revenue would be agreed to, which, together with the augmentations he had proposed to the imposts, would furnish a sufficiency of revenue for every purpose of Government. If the House, however, should think a land tax preferable, he should submit.

In conclusion of these remarks, he would add what induced him to be less decided in favor of indirect sources than heretofore. At the end of four years, another augmentation of revenue will be necessary, either by indirect or direct taxes. He doubted, therefore, whether it would not be better at present to have recourse to direct taxes, and leave the imposts for our future support. At that time, he said, after four years' further experience, they should be better able to judge of what our commerce would afford, than at present; and he trusted we should be relieved at that time from any anxiety with respect to our foreign relations.

Another consideration was, that, though imposts were eventually paid by the people, yet merchants were obliged to pay the duties in the first instance. He knew the credit given to them in some cases was so liberal as to give them time to receive the duties before they were called upon to pay them. In such instances, the merchant was only a security to Government. But, though this was the case in some degree, it was not wholly so; and where it was not so, the merchant was the lender of the money to Government. Now, there might be situations, he said, in which merchants would not be able to do this. If, for instance, any part of the capital of our merchants be kept from them in foreign countries; or if, by any sudden fall in the price of produce, they have experienced heavy losses, and were otherwise pressed in their concerns, it might not be prudent to call upon them for an addition to the present duties. It was for them to determine how far our merchants were at present in this situation. He believed the amount of their property, at this time, in the hands of foreign Powers, was not less than twelve millions of dollars.

These considerations, he said, had had great weight with him in making him less confident in resources from indirect means. He supposed they would also have some weight with the House. He finished, by saying, that he trusted the Committee would pardon him for the time he had occupied, though he perceived the patience of some individuals had long been exhausted.

Mr. Swanwick said, considerable embarrass-

ment arose from the manner in which this subject had been introduced. They had directed the Committee of Ways and Means to report such articles of import as would bear an additional duty. They had made a report of three, viz: brown sugar, bohea tea, and unstained cotton goods. Besides these, gentlemen had introduced a long string of other articles. The consequence, he said, had been, that the gentleman who had just sat down had not confined himself to any one article, but had extended his view to the whole, and had afterwards taken in his proposition for a tax on windows and stamps, and finished with a sort of preference for direct taxes.

Mr. S. said, he thought he saw an unwillingness in the Committee that so wide a field should be taken; he should, therefore, confine his observations to the first resolution before them, viz: brown sugar, any advance of the duty upon which, he should certainly oppose, for the following reasons:

In the first place, he considered all taxes upon articles of consumption as operating unequally; for, in spite of all that had been said about the duties falling upon the consumer, they fell very unequally upon different classes; since a poor man, in many instances, paid as much as a rich man; whereas, it was his opinion, that all taxes should fall upon men according to their ability to pay them—according to their real possessions; but, he said, in this case, a niggardly man pays too little, and a liberal man too much. But, Mr. S. said, there was another objection to the proposed additional duty on brown sugar; it was a necessary of life very generally used by the poor, the duty would, therefore, fall chiefly upon a class of the community least able to bear it. Tea, sweetened with brown sugar, he believed, was as general and as economical a breakfast as could be taken by the poor in large cities, since milk could only be had at a high price, whilst the farmer could do very well with a much smaller portion of sugar. Would it, then, be fair, or consonant with the principles of a Republican Government, he asked, thus to burden the poor of the community? He thought not.

But, it might be said, the poor man might add this additional duty paid on sugar to his labor; but this would be increasing an evil already too great, and from which cause the manufactures and agriculture of this country, at present, languished, and which would effectually destroy all the former, if further increased.

Nor was it by any means certain, Mr. S. said, that this increase of duty would produce an increase of revenue. Much less, he said, from the difficulties which were thrown in the way of our commerce, was at present imported, than heretofore; therefore, it would not follow, that because this article now produced three hundred thousand dollars, that, by laying fifty per cent. upon it, it would produce half as much more; for, as Dean Swift had justly said, two and two does not always make four in custom-house calculations. If it were so, nothing would be more easy than for a financier to calculate the certainty of revenue. The mines of Potosi, nor any other, would be equal to such means of raising money; but he believed the duties on imports had gone as far as they could reasonably be carried.

He was not convinced that an additional duty upon brown sugar would not do an essential injury to the manufacture of refined sugar. They had seen, by a report which had been made the other day on the petition of a manufacturer of chocolate, that the article of cocoa produced more duty when it only paid two cents than now it paid four. The reason was obvious, when at two cents, the manufacture of chocolate was considerable; but since it was four, that manufacture had been considerably injured. And how, he asked, would an additional duty on brown sugar operate in this respect? Would it not cause a greater export of the raw sugar, and consequently a greater drawback to be paid, and discourage the manufacture of fine sugar? It certainly would have that effect. Whoever would look into the last report on this subject, would find that thirty-four millions pounds weight of raw sugar had been exported in the course of one year. An additional duty would have a tendency also to diminish the consumption by making the laborious poor substitute molasses in its stead.

As he had before stated, he should confine his observations at present to brown sugar; but when the other articles came under consideration, he should have some remarks to offer upon them.

Mr. Gallatin, conceived the whole subject of indirect taxes to be before them, though the first resolution, respecting brown sugar, might be first in order.

Mr. G. said, he did not mean to follow the gentleman from South Carolina through the whole of his observations, with respect to the present or past produce of the duty upon this or that article, and infer from thence what an additional sum laid upon it would produce. That gentleman had twice already given them, in substance, the same account; it was unnecessary, therefore, to go over that ground again; yet, as he had given them a caution, which he ought himself rather to have observed, he would make an observation or two upon his statement.

Mr. G. here took some notice of what he conceived to be errors; at the same time that he acknowledged the gentleman deserved credit for the efforts he had made to become acquainted with the subject; that it was an extremely difficult one to come at with accuracy, and that the only conclusion he could draw was, that there were some articles the duty upon which might be increased, but to what amount could not be said.

Mr. G. said, he would fully agree with the gentleman that two of the articles which he had enumerated, might produce additional revenue from an increase of duty, viz: salt and sugar; but not in the proportion of the duty laid—to ascertain the amount, would require a different calculation from any which had been made.

When he rose, he said, he meant only to make a few observations, and to follow them with a motion for the Committee to rise, with a view of

having it discharged from a further consideration of the subject. He meant to show that it was not necessary to increase the revenue by means of indirect taxes; at the same time, he would say that he had no expectation that the bill for laying a direct tax would pass this year. And he would go further, and say that he would not vote at all for the present bill, as it now stood.

He said, he would show that it was not necessary to raise any additional revenue for the present year. He had always said that the increase was wanted for 1801. The reason which seemed to induce the gentleman from South Carolina to be in favor of direct taxes, was, that, if revenue was now raised, there would be wanted a further advance in the year 1801. The truth was, that the revenue now wanted was for that year. If the fact was denied, he could call upon any gentleman to prove that the revenue of the present year will not be sufficient to meet the expenditure. They had received no estimate to this effect; nor had any hint been given from the Treasury of this kind.

Mr. G. said, he would mention the data upon which he grounded his opinion. If he should be mistaken in any particular, he hoped he should be put right.

He found that, during the present year, we had to pay an annuity on the foreign Dutch Debt, which, with the interest, would amount, he believed, though he could not state precisely, as he had not papers before him, to about three millions nine hundred thousand dollars. Now, said he, we have to add to this, the current expenses of the year, the total amount of which would be found, by the estimate, to be $2,130,852, to which must be placed the $40,000 annually appropriated for foreign intercourse not included in this estimate. These three items made about $6,100,000. Deduct from this sum a saving in the Naval and Military Establishments of at least $200,000; but, having yesterday received an estimate in the deficiency of contingent expenses of $200,000, he supposed, that one of these items would balance the other. If there were added to this sum $300,000, as an extraordinary sum for defraying the expense of intercourse with foreign nations, this would make a total of expense of about $6,400,000. In this estimate, it was true, that no provision was made for paying any instalment of debt. It went upon the supposition that money now due would continue to be due. The debts owing were the foreign debt due to Holland, and the debt due to the Banks; for the payment of the last of which they had last year provided, by empowering the Commissioners of the Sinking Fund to borrow money at six per cent., and to sell our shares in Bank stock. The Bank stock had not been wholly sold, and therefore, if it were necessary to make any additional payment to the Bank, it might be made from that source; for, however great the wants of the Bank might have been, they had not thought proper to have more of the Bank shares sold, than to the amount of one million two hundred thousand dollars.

There was no other provision to be made but for the payment of the instalments of Foreign Debt, as they became due; and until the year 1801, these were from $160,000 to $400,000 a year. Supposing it to be the latter sum for this year, this would make the whole expense $6,800,000.

With respect to the revenue, whatever doubts might be entertained as to future imposts, there could be none as to what would become due this year, as these arose from the year 1796. The amount of revenue for 1796, commencing with October 1795, to the same month in 1796, was upwards of $6,800,000, viz:

For duties on imposts and tonnage - -	$6,135,000
For internal revenue - - - - -	469,000
Postage - - - - - - - -	50,000
Interest on Bank stock, (deducting $10,000 on account of what had been sold) -	550,000
	$6,802,000

This, Mr. G. said, was the amount of the revenue for the year 1796, and receivable in 1797, from which it appeared that the revenue of 1797 would be at least equal to the expenses of that year. The only question was, would the revenue of 1797 be equal to that of 1796. They all knew there had been a great increase of importations. Besides, he said, some parts of the internal revenues would be more productive than heretofore, from regulations which had taken place in them. He mentioned wine licenses, auctions, and carriages. More than $150,000 additional would be received from these sources; so that, if the imposts fell short so much, the revenue would remain the same as at present.

If this statement were true, this conclusion arose, viz: that no additional revenue was wanted for the present expenses of Government this session. Whatever additional revenue was wanted, was wanted with a view to the demands of 1801, and the payment of the Public Debt. If, then, there was no immediate necessity for additional revenue, he thought it would be best not to do anything more this session than to endeavor to mature a permanent plan to be carried into effect at the next; and, therefore, that it would not be desirable to increase the duty upon any article of impost that any gentleman might, from, perhaps, whim or caprice, suggest, since this would afford no effectual source; for, said he, though we have sufficient evidence before us, that the revenue of 1797 will be equal to the expenditure, we have not sufficient information to convince us that any additional duty laid upon the articles proposed, will produce additional revenue. And, indeed, there was not time, during the present session, to determine upon any tax (if there should be a disposition to do it) such as had been proposed, on windows or stamps.

If, he said, there was an immediate want of money, and Government must stop if it was not procured, as a direct tax could not be laid this session so as to produce immediate revenue, he would have consented to an increase of duty on some articles of impost; but this was not the case.

For these reasons, and in order to give time to prepare the bill for laying a direct tax at the next session, when the subjects of direct and indirect taxes could be fully discussed, and that adopted which appeared best calculated to answer the wished-for end, that they might now go on and amend the bill for laying a direct tax, without passing it, he would move that the Committee rise, in order to be discharged from a further consideration of the subject.

Mr. Buck said, it appeared now to be discovered that we had no occasion for additional revenue. It was unaccountable to him that this discovery was not made sooner. It would be recollected that, last session, the gentleman from Pennsylvania [Mr. Gallatin] undertook to show that there had been an augmentation of the debt to the amount of two millions, and uniformly pressed the necessity of going into a direct tax, from an apprehension that no dependence could be placed on indirect sources; but now, upon a sudden, it was discovered that no augmentation of revenue was wanted. He could not reconcile this conduct; nor was he convinced that no augmentation of revenue was necessary. On the contrary, he believed it would be necessary to augment indirect taxes as far as they would bear, and when that was done, that resort should be had to a direct tax.

It had been referred to the Secretary of the Treasury, Mr. B. said, to report upon what articles of indirect taxation an additional impost could be laid, and he had reported his opinion upon the subject. That report had been referred to the Committee of Ways and Means, and they had reported upon it, recommending three different articles upon which an additional revenue might be raised; but, when they were about to go into a discussion of the subject, they were told there was no necessity for additional revenue. This, he said, was very extraordinary. He hoped, however, the Committee would not rise, but proceed with the business.

Mr. Gallatin said, if the gentleman who had just sat down would advert to what had fallen from him on former occasions, it would be found that it was no new discovery that the revenue of the present year would be equal to its expenditure. The gentleman himself was on the Committee of Ways and Means last year, and must have known his sentiments on that subject. [Mr. G. read an extract from the report of that committee, on the subject of further revenue, which confirmed his opinion that the present revenue would prove sufficient till the year 1801.] Mr. G. said, it was upon that report that a direct tax originated, and he had never, from the time that he first was upon the Committee of Ways and Means, held any other opinion than that the present revenue would be equal to the present expense.

As to what he had said with respect to the increase of the Public Debt, that had nothing to do with the subject; because the revenue of 1792, 1793, and 1794, was not equal to the expenditure of those years, this could not have any effect upon the present time.

Mr. Williams believed the revenue might be sufficient to meet the expenditure; but he asked whether it would be provident to have only just enough, especially when there was an apprehension that our commerce might meet with considerable obstruction. Although he was for reducing the Military Establishment, which measure had been defeated by a majority of that House, he did not wish to prevent the collection of sufficiency of revenue. Whatever was more than the expenditure, would be well applied in discharging a part of our debt. An additional sum might be very easily raised from sugar, and from several other articles, without much trouble, and the next session there would be more time for maturing a direct tax. He hoped the Committee, therefore, would not rise.

Mr. Henderson hoped the Committee would not rise. The gentleman from Pennsylvania had given two reasons for the rising of the Committee; one, because no revenue was at present wanted, and that, therefore, it was not necessary to go into the subject this session. His other reason was, that they had not information sufficient upon which to ground any calculation with respect to the productiveness of any tax which might be proposed. With respect to the present revenue being sufficient, he had much doubt, as the loss from spoliations committed by foreigners upon our commerce would doubtless be great, and consequently reduce our resources. It was on this account that the propositions for augmenting the revenue had been brought forward. Every gentleman who had spoken on the subject had touched upon the necessity of meeting the defalcation, and it appeared to him that the easiest way of doing this would be by means of an addition of duty to some of the articles of import. Considerable time had been spent upon the subject, and he hoped they should go through with it. A contrary conduct, he thought, would appear inconsistent.

With respect to documents upon which to found an additional impost, he believed they had the best that could be got, though that gentleman had said particular items had not been brought forward, according to the whim or caprice of members. They had the statement of the Secretary of the Treasury, giving an account of the amount of duty produced by every taxable article since the commencement of the present Government. This document not only presented a view of the amount produced by each separate article, but the comparative amount of one year with another; from which a judgment might be formed, whether the duty had checked the importations, or the contrary. This being the case, and having got the business matured, he hoped they should fully consider the subject, and not abandon it without examination.

Mr. S. Smith said, he should be excused from the censure of the gentleman from Vermont, because he had before stated the revenue of the United States to be equal to the expenditure. He had examined the estimate which had been laid before that House by the Secretary of the Treasury, and found that, until the year 1801, the revenue would be sufficient. He was, however, for

going into the system of direct taxation, to see whether the plan could be carried into execution; if it could, it would be a desirable thing. He should, therefore, be for the Committee's rising; because, if they did not go soon into the subject, there would not be time for them and the Senate to discuss the subject of direct taxes. He formed his opinion from different documents from those which the gentleman from Pennsylvania had had recourse to; he had had recourse to the report of the Secretary of the Treasury, on the subject of direct taxes, but he believed, in effect, they would amount to much the same thing.

DEBT.

From 1796 to 1801, inclusive, the payment required as well for interest as the average principal to be discharged, will be - - - -	£4,729,398
Annual expenditures, on the payment of October, 1795 to 1796 - - -	2,000,000
	£6,729,398
From 1801 to 1809 inclusive, the same payments required, will be - -	5,877,094
Annual expenditures - - -	2,000,000
	£7,877,094
From 1810 to 1818, inclusive, the same payments will require - - -	4,619,668
Annual expenditures - - -	2,000,000
	£6,619,668

RECEIPTS.

From the 1st of October, 1795, till the 30th of September, 1796, were actually:

On duties of imports and tonnage -	£6,135,196
Internal revenue - - - -	409,579
Postage - - - - -	58,909
Dividend on Bank stock - - -	160,000
	6,823,684
Interest on stock purchased and redeemed	88,636
	£6,912,320

From this statement, it will appear, that if the revenue of 1796 can be relied on, that it will be found equal to all expenditures until the year 1800. From that period we shall require an additional revenue of £964,774; say one million, until the year 1809 inclusive; at which time the Dutch debt being paid off, the demand lessens, so as to fall within the amount of the present revenues of the United States. It will be fair to suppose that the revenues will increase equal to any ordinary rise in expense.

Mr. Williams said, with respect to the sum said to arise from the postage of letters, if the bill which had passed the House went into a law, he did not think there would be a single dollar saved from that source. In their calculations of expenditure, gentlemen had not taken in any estimate for fortifications. They had a report on that subject, and he believed it would be necessary that some money should be expended in that way. He thought there were other expenses not included in the estimate made.

Mr. Dayton (the Speaker) said, that if the motion for the Committee to rise and be discharged from the further consideration of the plans for improving the system of indirect taxation, was the result of a conviction that it would be unnecessary to increase the revenue at this time, he should cheerfully give it his assent. Thinking, however, that the object of discharging the Committee was to smooth and better prepare the way for a land tax, he should be decidedly opposed to it. He had expressed a belief that by laying additional duties upon four or five articles of importation, which were too bulky to be smuggled, and easy, certain, and cheap in their collection, the revenues from that source would be so far improved and enlarged as to render the income equal to the exigencies of Government. It was consistent and politic in those gentlemen, however, who had composed the majority in favor of the abstract proposition for direct taxes, to advocate this motion for abandoning the attempt to improve the impost duties, which stood much in the way of their favorite system. Their arguments in favor of that system would be strengthened in the proportion that they could increase the necessities of the Government, and check the investigation and adoption of other new sources of revenue. The majority had it undoubtedly in their power to forbid by their vote the discussion and consideration of any plan which tended to counteract theirs. If they did so, and if they afterwards forced upon the minority the discussion of their own, he, for one, Mr. D. said, should think himself warranted to decline entering into its merits, and to oppose the bill upon a more general principle, of its being unnecessary and unadvisable so soon to resort to a land tax, under any modification whatever.

Mr. Gallatin said, when he was up before, he had declared that he did not wish the system for laying a direct tax to be carried this year. He did not know, therefore, what the gentleman meant by saying it was a politic measure to get rid of the business in order to smooth the way for a direct tax. If this had not been his view, he would not have made the declaration he had made, because he considered himself as bound by it. He wished to have the bill amended, and go out to the people as a proposition; but further he did not wish to go at present. He therefore thought, after this explicit declaration, the remark of the gentleman last up was uncandid.

Mr. Nicholas said, the warmest friends of a direct tax did not expect it would be in the power of the House to modify the bill so as to pass it this session. He was not himself willing to vote for the bill as reported; but he doubted not it might be so amended as that he should be induced to vote for it, because he was convinced the necessary revenue could not be raised from the articles proposed. The three articles which the Secretary of the Treasury had reported as most likely to produce additional revenue, might produce a small

sum; but could not be reckoned as a substitute for a direct tax, and there was, therefore, no alternative by which to supply the wants of Government.

With respect to the arguments used in favor of indirect taxes, viz: that they were certain and easy of collection, he thought they were against their adoption. The great argument of the gentleman from South Carolina, for an increase of duties upon certain articles, was, because their consumption had increased. It was strange that any gentleman should lay stress upon this, since within these few years the price of labor had nearly doubled; and if the increase of consumption were compared with the increased price of labor, it would not be found to have kept pace with it.

Another object had been mentioned for producing revenue, viz: a window tax. It was the greatest absurdity, he said, to think of making an article of caprice a mean of furnishing revenue. From what circumstance had a man a house of this or that size, but from his taste or caprice? Such a tax would fall very unequally. For instance, if one man had two thousand acres of land, and another had one thousand acres of land and the value of another thousand in money, though their fortunes were equal, they would not equally contribute to this tax. The man who had the money would immediately build himself a commodious house, but he whose property was wholly in land, might spend half his life before he got a comfortable house erected. This object was, therefore, a matter of mere whim and accident, and a very improper one of taxation.

An objection to indirect taxes altogether, was, that the expense of collection greatly counterbalanced the facility with which they were raised; for, before the money came into the Treasury, there were three collections and two insurances paid for, which would not amount to less than 50 per cent.; as, there was not only the immediate collector of these duties to pay, but also two merchants, and they must all be indemnified for the risk they run of losing the revenue, which would not be done without an adequate charge. It would, therefore, become a matter well worth consideration, whether, because this money could be drawn with facility from the people, it would warrant so much more being drawn from them than would be necessary, if the expense of collection were moderate. He believed it would not; and that the people had understanding sufficient to know that it was best to support Government in the least expensive way, since all money for its support came from them, and that 50 per cent. was too much to be paid for the accommodation of having their money insensibly drawn from them.

With respect to our revenue being sufficient to meet our present expenses, he believed gentlemen were correct in their statements; but if a tax must be laid he should be in favor of a direct tax, as the fairest and cheapest way of collecting money for the expenses of Government.

Mr. Kittredge said, he had attended to the statements which had been given to them by the gentlemen from Pennsylvania and Maryland [Mr. Gallatin and Mr. S. Smith.] It was their opinion that our present resources would be sufficient till the year 1801, and, therefore, that it was not necessary to go into a consideration with respect to additional revenue till next year. But, Mr. K. believed, if they considered the probable deficiency which was likely to take place in the imposts of this year, they could not reckon with any certainty upon the revenues to be derived therefrom in the year 1798. He was ready to acknowledge the revenues of 1796 would pay the expenses of this year, but he doubted much whether those of this year would be equal to the expenses of the next. He thought it therefore, necessary to provide additional revenue at this time, or the deficiency might overtake them before they were prepared to meet it.

But gentlemen said, at the next session of Congress they would bring forward a system for collecting a direct tax. Mr. K. said he was opposed to this mode of raising money, if it could be avoided; and, as long as other means of raising money were passed over, he could not agree to go into this measure; for, he conceived that a direct tax would fall unequally both upon States and individuals; for, as the tax was to be laid upon the States according to the last census, and since that time many States had greatly increased, whilst others had remained nearly stationary, it would be unequal in that respect; and, when they went into the bill, it would be found it could not be so laid as to fall in any degree equally upon different classes of citizens; for, though the commissioners to be appointed were to be vested with Legislative and Judicial powers, it could not be made to bear so equally as an indirect tax. It had been said that the collection of an indirect tax was expensive. He admitted it; but what should they get in this respect by adopting a direct tax. Another horde of officers must be appointed, and as great an expense would attend the raising of $1,200,000 from this source as was paid for $6,000,000 or $7,000,000 from indirect means. He could never, therefore, consent to abandon indirect taxes for the purpose of adopting a direct tax. He should, of course, be against the Committee's rising, in order that the propositions for raising additional revenue from existing taxes might be considered.

Mr. W. Smith had no objection to the Committee's rising, as the hour of adjournment was at hand; but he hoped it would be permitted to sit again, because he thought it was right to give gentlemen, who were opposed to direct taxes, an opportunity of bringing forward every object of an indirect kind upon which they thought an additional duty ought to be laid, that if hereafter it should be necessary to lay a direct tax, they might vindicate themselves by saying they had done all in their power to raise the necessary revenue without effect, by means of indirect taxes.

Mr. S. said, there was considerable embarrassment on this subject. Gentlemen in favor of indirect taxes, from the present high duties and the embarrassments upon commerce, could have no certainty of any addition which might be made

to the present duties being productive; and gentlemen who thought with him, that, however successful our commerce might be, a sufficiency of revenue to meet our wants could not be drawn from indirect sources, were unwilling to increase the duty upon the two or three articles reported as most likely to produce additional revenue, thinking the duty already sufficiently high.

There was another source of revenue which had been proposed, which would be free from the embarrassment to which a duty on imposts was liable, viz: that of stamps. This species of tax was equally freed from the objections brought against direct and indirect taxes, and had, therefore, the advantage of neither being classed with the one or the other. It would be seen whether such a kind of tax on stamps could be devised as would prove acceptable to that House.

In the course of this discussion gentlemen had doubted whether any revenue at all was at present necessary. He said he had paid a good deal of attention to this subject, but he differed from those gentlemen in opinion. There were but few things upon which to ground a certain decision; a great deal, he said, must depend upon conjecture. They had not yet passed the appropriations for the Civil List, Military or Naval Establishments; therefore no deductions could with certainty be made from these items. So with respect to our revenue; the uncertainty of what the amount of this might be, not only from the spoliations which were committed upon our commerce by foreign Powers, but from the present embarrassments of our merchants, was great. There was no fact from which to draw a conclusion. Gentlemen made their own inferences; but, from the best information he could get, he believed the revenue would fall short of what it had been calculated. The gentleman from Pennsylvania [Mr. Gallatin] had stated the amount of the interest, and of our foreign debt, to be $3,000,000. He had estimated another object (foreign intercourse) at $300,000. These might be nearly right; but the same gentleman had calculated upon a reduction of the Military Establishment of $250,000. Now he had inquired of the Secretary of War, what saving could be made under this head, and he did not consider that there would be any saving at all from last year. He said, they had last year deducted from the estimate about $100,000, but they now found they had to make up a deficiency; and probably if any deduction was now made, they should have to make it good the next year. This deduction was, therefore, founded upon conjecture.

The same gentleman had estimated the instalment of the foreign debt due to Holland at about $400,000. This might be the sum we shall have to pay this year; but the Secretary of the Treasury had estimated what was necessary to be paid in each year, in order to discharge the whole till the year 1801, and he made it $1,200,000; and if only $400,000 were paid this year, the deficiency would have to be made up another.

Mr. S. said, he understood it was also the wish of the House to make provision for the payment of a part of the Public Debt as soon as possible, because it was a continual embarrassment; he, therefore, hoped some effectual means of revenue would be adopted for discharging the debt; but if only $160,000 or $400,000 of foreign instalment were calculated for this year, it would fall the heavier in future. So with with respect to the Bank, the debt due amounted to six millions. The gentleman had said provision had been made for the payment of this, but, he asked, in what way? They had authorized the Commissioners of the Sinking Fund to sell their shares of Bank stock, and to create a six per cent. stock, which was to be sold upon certain conditions. With respect to the Bank stock, to the amount of only $1,200,000 had been sold, and that at an advance of 25 per ct. at sixty days credit, without interest, which had since fallen ten or eleven per cent., so that if they were obliged to sell more of it, it would be at a great loss. With respect to the six per cent. stock, if they were obliged to sell it, the loss would be enormous. He, therefore, thought they should not determine on this mode of discharging the debt, but raise taxes to pay it.

He said, it was true, that the amount of imports for the year ending October, 1796, was upwards of six millions; but it would also be acknowledged that this was an extraordinary year, and that (as it had been urged on a different subject) 1795 would be a more just calculation for the future than 1796. With respect to the internal revenues, they were uncertain; he did not suppose there would be any considerable increase upon last year; and he doubted whether there would be any surplus from the Post Office, if the law now before the Senate passed. Therefore, allowing the gentleman's statement to be nearly accurate, additional revenue would be necessary, and it would not be right for the House to adjourn without furnishing it. He, therefore, wished the Committee might rise, and have leave to sit again.

Mr. Dayton said, that the member from Pennsylvania seemed to claim an apology for an expression that he had uttered when last upon the floor, but he owed him none. He had said that a majority had been found to vote for a direct tax, and that it was very consistent and politic in them to discharge the Committee of the Whole from the consideration of indirect taxes, and thereby remove the principal obstacle to their views. That gentleman seemed displeased that his declaration had not been believed to be, not merely his own sense and intention, but that of the majority also. With what propriety, Mr. D. asked, could he put himself in their place; under what authority could he thus answer for them? Admitting that the gentleman had given assurances that he would not call for passing the land-tax bill in the session, and that he would adhere to his promise, might not other members call for and carry it through without him, and might it not be probable that they would carry the present motion with that design? Besides, Mr. D. said, he was not satisfied with any assurances confined to that session alone, and should not thereby be allured to abandon the plan which he thought far

better. He wished to adopt such measures as would put a land tax at a greater distance than this year, the next year, or the year following, or until a war left them no other choice. This he was persuaded could only be done by an immediate addition to the duties on four or five articles of importation, which would well bear it, and produce about $600,000 or $700,000 annually. It might commence as early as June or July, and the impression which it would make upon the debt in three years, would be such as to liberate a portion of revenue sufficient to face the increased demands of 1801, without imposing any new tax whatever.

The Committee, on repeated calls, rose, and the House, after granting leave to sit again, adjourned.

Friday, February 17.

A message was received from the Senate informing the House that they insist upon their amendment to the resolution respecting a call upon the debtor States for the balances due to the United States, and desire a conference, for which they have appointed Mr. Ross and Mr. Stockton. Whereupon Messrs. Gallatin, Cort, and Baldwin were appointed on the part of the House.

Mr. D. Foster, from the Committee of Claims, reported a bill for placing certain persons on the pension list; which was twice read, and committed to a Committee of the Whole. The House went into Committee upon it, but, in order to gain information on the case of a man claiming to be placed on the pension list, and not inserted, the Committee rose, and had leave to sit again.

DRAWBACK ON SPIRITS.

On motion of Mr. Gallatin, the House went into a Committee of the Whole on the bill, allowing a drawback on spirits exported by vessels of less than 30 tons burden by way of the Mississippi; it rose and reported the bill without amendment. The House took it up, when Mr. Cort moved to strike out the word "repeal," with a view to insert the words "to suspend for one year," the effect of which would have been to suspend the act which prevented the drawback being allowed, instead of repealing it. Mr. W. Smith moved to have it recommitted to the Committee of Commerce and Manufactures, which being negatived, 40 to 35, the amendment was then negatived, and the bill was ordered to be engrossed for a third reading to-morrow.

INDIRECT TAXES.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday, viz: that of indirect taxes; and the resolution for laying an additional duty on brown sugar being under consideration—

Mr. W. Smith hoped they should agree to this resolution. He thought there was no danger of its being felt much, it could be easily collected, and would raise a considerable sum.

Mr. Nicholas said, because a tax was imperceptibly felt and certain in collection, was a bad rule to judge of its propriety. If they had no choice of means, indeed, such a tax might be desirable; but they should consider whether this additional duty might not lessen the consumption. It might be said that half a cent would be scarcely felt; and it was true, that the higher the duty was raised, the less considerable would any future addition appear, and this would introduce a principle of laying taxes upon those articles upon which they could be most certainly collected, without regard to propriety or justice. And if revenue was again wanted next year, he should not be surprised to hear it said, that another half cent on sugar would scarcely be felt. But it was a serious consideration thus to tax articles of necessity, which were used by persons who could ill afford to pay any additional price for them, in a much greater proportion than persons of property. It was an article of necessity; old and infirm and sick persons would feel it very heavy. The tax would thus lie heavy on persons who could not afford it; this he thought should bear weight with the Committee, and he thought it should not be hazarded.

Mr. W. Smith said, the proposed increase, it was calculated, would raise 110,000 dollars, and as the article was not liable to be smuggled, nor its consumption to be decreased, it would be a certain, and he thought, an eligible tax.

Mr. Holland had no doubt but this tax would augment the revenue; but he knew also that it would fall more upon the poor than upon the rich, and he thought they ought not to add to their burdens. He thought there were other articles which would bear some addition, but either brown sugar or salt would be much felt. If they studied that which would be burdensome, here they might fix, but he hoped this was not the principle. By advancing an article so universally used, a rise of labor (already too high) must naturally follow.

Mr. Swanwick said he could only repeat his observations of yesterday (which he mostly did.) They had lately been called upon, he said, for advance of salaries to many officers; instead of advancing, they were lessening them by taxing articles of necessity.

The situation of the West Indies had lately raised that article very much. He thought great inequality would be produced by it and much injury felt.

Mr. Kitchell believed the rich and opulent would bear their portion of this tax as well as the poor, as it would fall upon fine sugar as well as upon brown. It would therefore be paid in proportion to the sugar used, and would fall as equally as any other tax which could be laid.

In this instance, Mr. K. said, gentlemen seemed apprehensive of the poor bearing too great a part of the burden; but, if the direct tax on land were to take place, would it not, he asked, fall much heavier upon the poor than a tax on sugar? He believed it would; since the poor who held lands would be called upon to pay their portion of it,

whilst the rich who held no lands, would escape it. He, therefore, thought this a far preferable tax.

Mr. Dearborn said, if further revenue was necessary, he could not conceive any article which would bear an advance of duty better than the one proposed. The present duty, he said, was one and a half cent a pound, and could it be supposed, that to lay an additional half cent upon it, could make much difference to the consumer, or that it would ever be felt, or that, at the end of a year, it would be discovered whether one and a half or two cents duty had been paid upon a pound of sugar? He should have no objection, instead of half a cent, to lay an additional cent upon this article. In various parts of the country, brown sugar was retailed at from 12 to 20 cents a pound, the price being much increased from the present distressed situation of the West Indies. But they would find sugar of the same quality selling in one place for 12, in another for 14 or 16 cents; therefore, whether the duty was one or two cents, he did not think it would be felt by anybody. It was true, that it was an article used by the middling and lower classes of the people; but the tax falling upon fine as well as brown sugar, all parts of the community would bear an equal share in the burden.

Mr. D. said, he was not certain whether any additional revenue was at present wanted; but, at all events, he could see no objection to an additional half cent or cent upon sugar; when even this small advance would raise more money than the whole of some taxes which were very expensive in the collection. Whenever peace and tranquility took place in the West Indies, and the trade to that quarter could be carried on as usual, the price of sugar would fall to nearly the price at which it was formerly sold.

Mr. Williams moved to strike out the half cent, and insert a cent. It appeared to him that such an advance could not materially affect the consumer. The people, it was true, might use less; but, if they did so, as it was an article of luxury, every pound of sugar which was less consumed, would be of benefit to the country, by keeping the money which it cost in a foreign market at home. But he did not believe that this would be the case; or that the proposed additional duty would increase the price of labor, as had been suggested. He believed the price of labor would be regulated by the price which the farmer was enabled to get for his produce. Whatever the farmer could afford to give his laborer (especially in this country where agriculture is the true interest) would fix the price of all other labor.

An additional cent on sugar, he believed, would produce at least 220,000 dollars; and, as he had before observed, if it caused some persons to use less, it would be an advantage to the country. During the war, in the part of the country where he lived, very little sugar was used, except what the people made themselves, and they, at that time, in some degree got out of the use of it.

Mr. Holland said, perhaps the constituents of the gentleman last up might manufacture their own sugar, and therefore would not be affected by this tax; but the greater part of his constituents were obliged to use and purchase their sugar; and if it were a luxury, it was one he did not wish to deprive them of, but that they might have it upon the same terms as usual. He looked upon it as a necessary of life, already at too high a price, and he should, therefore, oppose any advance of duty upon it.

Mr. Gallatin said, he and his constituents were in the same situation with the gentleman from New York [Mr. Williams] and his constituents. They manufactured almost the whole of their own sugar; very little imported sugar was used; indeed, they sometimes exported sugar; but though this reason seemed to act pretty powerfully upon the gentleman from New York, it would not have the same effect upon him. Whenever a measure operated partially upon other parts of the Union, though it might operate in favor of his constituents, he should feel himself in duty bound to oppose it. On the ground of their being Representatives of the whole Union, as well as on the ground of policy, he did not believe it was right to endeavor to throw a burden upon one part of the Union, because the part in which they were most particularly interested, would escape it. He hoped the amendment would be rejected, and after the sense of the Committee should have been taken upon it, he also would move an amendment. At present, brown sugar paid one and a half cent a pound duty, and molasses three cents per gallon. He should, therefore, move to have an additional cent laid upon molasses, in order that the two articles might be increased in the same proportion. He was against any increase at present; but if the duty on one article was increased, the other ought also to be increased.

With respect to the opinion of the Secretary of the Treasury, which had been said to be in favor of this tax, he believed it was rather against it. [Mr. Gallatin here read an extract from the letter of the Secretary of the Treasury, on the subject of indirect taxes, which seemed to say, "that this tax would be as eligible as any other, though there might be danger in increasing any."] Mr. G. added, that if half a cent advance might in some degree be eligible, a whole cent would be considerably less so. He hoped, therefore, it would be rejected.

Mr. Williams observed, that he had said the people in the part of the country from whence he came, made their own sugar during the war; if they were to make it now it would cost them more than double the price at which they might purchase it. He said, when the gentleman from Pennsylvania [Mr. Gallatin] found the land tax was not likely to pass, he wished to defeat every proposition for an indirect tax. He had attempted, therefore, to defeat an additional tax on sugar, by proposing to add molasses to the resolution. He did not think this fair; he wished every proposition to stand upon its own ground. A few days ago, that gentleman had insisted upon the necessity of laying a direct tax; but now he

came forward, and said no additional revenue was wanting. He wished not to have a compulsory tax, but a tax which persons might pay or not. If they did not like to pay the tax on sugar, they might do without it.

Mr. Cooper said he was against any additional duty on salt or sugar, though he and his constituents (as well as his colleague and his constituents) should bear no part of the burden, as they made not only sufficient for themselves, but for sale. Indeed, he said, a duty on salt exported out of the United States, would produce revenue, as a considerable quantity was sent into Upper Canada.

Mr. Williams denied that his constituents made any salt; they had no salt but what paid duty; nor did his constituents make one-fourth of the sugar they used; nor did he believe his colleague [Mr. Cooper's] constituents make one-half of the sugar they used, as he well knew that a large quantity of sugar was sent to that district by way of Albany.

Mr. Reed hoped the amendment would obtain. Although such persons as lived at a distance from market manufactured their own sugar, and consequently would be excused from this duty, yet they labored under many disadvantages in other respects, on account of their remoteness from market, and therefore he had no objection to their being excused from the operation of this tax. He did not believe this tax on sugar would fall upon poor persons. Farmers, indeed, used a little brown sugar, but they would rather pay a little more for this article than have their land taxed.

Mr. Claiborne was against the amendment. If an additional duty of one cent was laid upon brown sugar, the different dealers would make it three or four, so that it would be materially felt.

The amendment was put and negatived, there being only 29 votes in favor of it.

Mr. Gallatin then moved to amend the resolution, by adding an additional cent per gallon upon molasses. At present the duty on brown sugar was one and a half cent per pound, and on molasses three cents per gallon. The advance of 33 per cent. on the present duty would be the same that had been agreed to be laid upon sugar.

Mr. Swanwick seconded the motion. The only way in which the tax on brown sugar could be secured, was by advancing the duty on molasses in the same proportion, otherwise molasses would be used in the place of sugar, and the duty would be evaded. But he would have gentlemen consider in what situation they placed the revenue in respect to drawbacks. The person who paid the duty was probably not the same who drew the drawback on exportation; the United States run the risk, therefore, of paying the drawback, without receiving the duty. Though he thought the tax on sugar highly objectionable, yet if it were adopted, he thought it right that it should be accompanied by a proportionate tax on molasses as security to the duty being paid. One cent a pound on sugar, it was said, was a trifle; but it was well known that the price of that article was at present very exorbitant from the disorders which had taken place in the West Indies.

Mr. W. Smith did not think this amendment was in order. The first proposition should be agreed to or disagreed to, before any other proposition was produced. It was improper when an additional duty on sugar was under consideration to introduce any other article; for they might as well add millinery to the proposition as molasses.

The Chairman determined the amendment to be in order.

Mr. Nicholas hoped the amendment would be agreed to. His principal objection to a tax on sugar was, because, having been successful in making one addition, it would be an argument for making future ones; but if molasses was added to it, the tax would then fall more equally on the poor of different parts of the Union, and be a means of keeping down the tax.

Mr. Buck said, if he thought the advocates of this amendment would vote for the resolution when amended, he might be induced to vote for it; but he believed they did not mean to do so. If an increase of the duty on brown sugar would fall upon the poorer class of the people, an additional duty on molasses would fall much heavier upon them. But he thought gentlemen were mistaken with respect to the operation of the tax on brown sugar; in the country it would not fall upon the poor, though in the cities it might do so; though in increasing the duty on brown sugar, that on fine was also increased. In the country it was the rich who used brown sugar; they had not got to that pitch of refinement which called for the use of fine sugar, they used brown sugar, and the poor used none, they sweetened with molasses. Notwithstanding this, if he thought gentlemen meant to vote for the resolution when amended, he would not object to the addition on molasses, as he did not think so small an advance would be materially felt.

Mr. Rutherford hoped they should not agree to lay an additional duty on either of these necessaries of life. He hoped there was sufficient good sense in the House to oppose such a measure. They were used by all classes, from the infant to the stoutest man; particularly by many poor, infirm, aged persons, who looked upon them as nutricious and balmy nourishments. He hoped, therefore, they would not increase the price of these articles; for, if an additional cent was added, the dealers would add two, three, or four cents, which would be more than the poor could afford to pay for them.

Mr. Christie believed the gentleman from Pennsylvania meant, by the introduction of this amendment, to defeat the tax on sugar altogether; he should, therefore, vote against this amendment; but if the additional tax on sugar should be carried, and the additional tax on molasses should be introduced alone, he would vote for it, but he would not vote for them together. He did not think the tax on sugar would fall upon the poor particularly, as fine sugar would be taxed equally with the brown. He thought it was a fair object of taxation. He believed they should want revenue, and he did not know an article from which it could be better raised.

Mr. Findley was at a loss to know how a tax on molasses would operate; but his doubts had been removed by the gentleman from Vermont [Mr. Buck] who had informed them it was used by the poor in place of brown sugar. In many parts of Pennsylvania molasses was scarcely known, and brown sugar was generally used by the poor; if, therefore, the same class of persons in one part of the country used molasses for the same purpose for which brown sugar was used in other parts, it was only reasonable that both should be taxed in the same proportion.

His colleague [Mr. Gallatin] had mentioned that his constituents would not pay any of this tax, as they made their own sugar. It was so with a part of his constituents, but not with the whole. As it would be unjust to pass one tax without the other, he should be in favor of the amendment.

Mr. Gallatin said, it had been charged against him, that he had introduced his amendment with a view to defeat the tax on sugar. He had already said that he did not wish for any indirect tax during the present session; but, at the same time, he considered it his duty, if a majority should choose to pass the resolution, to make it as good as possible before he voted against it, for this purpose he had introduced his amendment. Whenever the duty on sugar was increased, that on molasses should also be increased. With respect to what had been said about the duty on brown sugar not falling upon the poor, it was contradicted by the quantity every year imported into the United States. When they knew that this amounted to twenty-two millions of pounds weight, they must conclude that it was used by the poor as well as the rich; for though the Eastern States used a great deal of molasses, it was not the case in the Middle, Southern, and Western States; all classes of citizens in those States used sugar. The voting for the amendment now was the same as voting for it in any other shape. It was doing now what would be done hereafter, if now omitted. There was nothing informal in it. He saw no reason which could be urged for one taking place, which would not equally hold with respect to the other.

Mr. W. Smith did not think it was the same thing to vote on the proposition in its present state as voting upon it in a bill. He thought, in the beginning of a business, members should have it in their power to vote upon the resolutions separately; otherwise the sense of members could not be known upon both parts of the resolution, as the question would first be taken on the amendment, and then upon the whole together. He was sorry the Chairman had thought proper to tolerate so unfair a practice. He hoped, however, gentlemen would vote against this proposition at present; though, if it were brought forward separately, he should not object to vote for it.

Mr. Swanwick thought that those gentlemen who separated the articles of sugar and molasses, would wish to defeat the object; thus it was with the gentleman last up. This was introduced with a view of securing the collection. Mr. S. said he had before stated the injury the United States might sustain in case of a failure of pay from the imported, and need not repeat that he objected in *toto* to the tax.

Mr. Buck asked if, when on the question on the resolution, (if adopted,) a separate vote could be given? He was answered no. Then he would observe to the gentleman that, if it could not be separated, he hoped it would not be introduced, it having been said the duty on sugar would operate on the poor; now, he said, here was an article introduced with it that would operate worse than the other; therefore, he should oppose both, if put together, when, if separated, he should have voted for the tax on molasses alone, as sugar was a great means of sustenance and use.

Mr. Reed said, he was not pleased with the amendment, or the manner in which it had been introduced; but he had no particular objection to an advance of the duty on molasses. He did not think it would much increase the price of that article, as it would operate more upon rum than upon molasses; he should not, therefore, oppose it.

The Chairman again remarked (in reference to what had fallen from Mr. W. Smith) that the amendment was in order, though he did not think it the most fair way of introducing the subject.

Mr. Gallatin conceived that he was the best judge of the fairness of his proceedings; and as the Chairman had declared the amendment to be in order, he expected a question would be taken upon it.

Mr. Nicholas begged leave to differ in opinion from the Chair in this instance, though he must own much deference was due to it: he thought the proceedings perfectly fair. Mr. N. would vote for this, in order to have the two connected; that gentleman could now vote against the addition of molasses, then he would have an opportunity to vote on sugar alone. He should wish it extended to both alike. The gentleman [Mr. Buck] was mistaken in his application on this subject; it was not taxing the sustenance of the poor in one article more than another, for the sugar would most affect one part, yet molasses would as much affect another; he, therefore, hoped, if gentlemen wished fair and equal taxation, that this association would take place; this equalization would go to prevent any opposition to the tax, which would otherwise be hazarded.

Mr. Buck was satisfied with this explanation; therefore, supposing gentlemen who supported the amendment would vote for both, according to this modification, he should go with them, if not he should oppose the amendment.

Mr. Dayton (the Speaker) said, he did not rise to speak to the point of order; he considered that as already settled by the Chairman. Every member, he said, against laying any additional tax upon molasses, would, of course, vote against the amendment; and all those who had no objection to the tax, but who did not wish it to be thus introduced, of whom he found there was not a few, might join them, as, after the additional tax on

sugar was agreed to, that on molasses might be again introduced.

Mr. S. Smith said, he had some doubt before the last gentleman was up, of the propriety of taxing these two articles together, but now he had none. One part of the Union, he supposed, would be for voting out molasses; but his constituents would not like the tax on sugar, except it was accompanied with that on molasses; as a subject of sweetening, he thought they should both go together. Mr. S. said, he had another article of sweetening, which he wished also to add to the resolution: Great quantities of sugar-candy were manufactured in Holland and was sent all over Germany, which was used with tea and coffee, in the place of sugar. This article, he said, was finding its way among the Germans in this country. At present it only paid a duty of 10 per cent. ad valorem, which was a very inadequate duty, when compared with that paid on sugar. Mr. S. said, he was against going into the subject of indirect taxes, but he thought with the gentleman from Pennsylvania [Mr. Gallatin] that it was his duty to make the resolution as good as he could. Nothing had been said to prove that we had not revenue enough for the present; but he would, however, move to add nine cents a pound upon sugar candy imported.

Mr. S. said, he agreed with the Secretary of the Treasury, that sugar was amongst the most proper articles upon which to lay an additional impost; but he wished for some permanent source of revenue, and not adopt the trifling modes proposed. Gentlemen talked of deceiving the people; he said they could not be deceived; they would know there were two parties in that House, the one for direct the other for indirect taxes. Those gentlemen who were opposed to direct taxes brought forward these articles in place of it. The people need not be told this; they saw it evidently enough.

Mr. Holland said, though he was opposed to direct taxes, he was also on sugar and molasses; he saw all the disadvantages of some other gentlemen on taxing West India produce at this critical juncture; but if it must pass, he should think it his duty to endeavor to make it pass as unexceptionably as possible; however, he should oppose both, and though it affected his constituents differently from those of Vermont, yet he should not include them as necessarily connected. Mr. H. thought if these were opposed, there might be many articles more proper to lay a tax on; but he thought there was no necessity for any this session.

The question for adding one cent per gallon on molasses was then put and carried.

Mr. S. Smith then moved that nine cents per pound be laid on sugar candy imported, observing that it was much used by the Dutch, and there being much sweetening in it, it should bear a proportionate duty.

Mr. W. Smith wished the gentleman to be candid on the motive of his proposition.

Mr. S. Smith answered, that his conduct with respect to the subject had always been fair and unequivocal; he wished the whole propositions to be defeated, which he had before declared, but, to make it equal and consistent, he proposed the addition.

It was then put and carried.

The question was put on the whole resolution, as amended, and carried—yeas 52.

The resolution to add two cents per pound upon Bohea tea then came under consideration.

Mr. Harper thought there was so much danger and so little profit from a duty on this article, that it had better be objected to. The duty on tea, he said, was already high; the consumption had not increased, but decreased, and, being light of carriage, it would endanger smuggling. Besides, the proposed duty would not put more than $15,000 into the revenue, which was not worth hazarding a practice so injurious to other articles for.

Mr. Gallatin said, he also was against agreeing to this proposition; but he could inform the Committee that this increase of duty was intended to prevent smuggling, and not to increase it. It was believed that the highest priced teas were sometimes entered as Bohea, on account of the lowness of the duty, and this increase was intended to prevent the practice in future.

Mr. Harper said, he was not likely to know that it was not the intention of the Committee to raise the revenue, but to prevent smuggling, by this proposed advance.

Mr. W. Smith said, it was thought the proposed advance on Bohea tea would raise $30,000. His colleague was mistaken when he said the consumption of this article was decreased; it was increased. The objection to this proposition was, that it would be too great an advance upon this sort of tea. The Committee would judge of the propriety of the tax. He thought the addition would not be much felt.

Mr. Harper acknowledged his mistake with respect to the decrease of the consumption of Bohea tea. The motion was put and carried.

The next resolution which came under consideration was that for laying an additional duty of two and a half per cent. upon unstained and unprinted cotton goods.

Mr. Harper moved to strike out that part of the resolution which related to cotton goods, and to introduce all the articles included under the 10 per cent. class of goods imported into the United States. He had heard no reason, he said, why this particular article should have been singled out from the rest of the 10 per cent. class; the articles contained in this class were very numerous, and of general consumption, and would bear an addition as well as this. If the whole class were advanced to 12 1-2 per cent., they would produce $250,000. If there was any particular reason for selecting the article of unstained cotton goods, in particular, he wished to be informed of it.

Mr. Henderson said, the Secretary of the Treasury had reported velvets and velveteens along with unstained cotton goods, as fit articles for additional tax, and he wished to know why the Committee of Ways and Means had omitted them in their report.

Mr. Harper said there were many other articles more bulky, and consequently less liable to be smuggled, and upon which it would be equally proper to lay an advance of duty, viz: woollens of all kinds. They were included in the unenumerated articles; and though the coarser kind of the woollens were worn by the poorer classes of the community, yet the fine woollens were worn by the rich, and those who would not scruple to pay the additional duty.

[Mr. H. read over the articles contained in the 10 per cent. class.] Respecting gauzes and lawns, and many other articles of the kind, he could see no reason why they should not be raised; they were light in proportion to their value, and therefore not easily smuggled. Satins were as necessary to be selected as cottons. Indeed, he saw not why the whole class could not be raised at least one and a half per cent.

Mr. W. Smith thought the motion to strike out all the words except "all," and by that means displacing one article, with an intention to insert fifty or sixty, was out of order. He wished the question on cotton goods first to be decided, and then the rest might be introduced.

Mr. Dayton (the Speaker) declared the motion to be in order.

Mr. Nicholas was of opinion the motion was in order; but he did not wish to see such a measure adopted. Upon one ground he thought it unsafe. The gentleman from South Carolina, he believed, had no practical knowledge on the subject. The Secretary of the Treasury, who doubtless had the best information, was against the measure. Was it not, he asked, a serious thing to put our trade in such a situation as to encourage smuggling? He believed it was; for the thing could not be undone by taking off the duty which occasioned it; as, when the habit of smuggling was once introduced, the business would be continued for a much less temptation than it took to produce it.

Mr. N. said, he voted with the Committee on the additional duty agreed to be laid on sugar and molasses; because he thought the gentleman who had gone into inquiries on that subject had rather reckoned too high, when they declared no further revenue would be wanted till the year 1801; but he thought they had now provided means to supply any deficiency which might take place. Having done this, any new measure which was proposed must be looked upon as a provision for wants of the Government after the year 1801. He thought it, therefore, improper to extend indirect taxes, on a supposition that they would be wanted on the ground of supporting the expenses of Government.

The gentleman from New Jersey [Mr. Dayton] seemed to doubt whether he was in earnest when he had stated the expense of collecting an indirect tax as far greater than that which would attend the collecting of a direct tax. He was serious, and that gentleman would find his assertion to be well founded. There was this particular quality in indirect taxes: every addition made to them cost as much as the original tax, the per centage was the same; but the expensiveness of this species of tax to the people arose from paying the merchants for twice collecting and twice insuring the duties. And it would be found, if these sort of taxes were laid for fifty years, the yearly expense would be the same. On the other hand, they were told by the Secretary of the Treasury that 15 per cent. would be the whole of the first expense in laying and collecting a direct tax. Another thing: the revenue coming from foreign quarters was insecure. It was acknowledged on all hands there was the greatest probability of very considerable defalcations in the revenue. Many gentlemen, indeed, seemed willing to originate the plan of a direct tax; but the valuation of property, and settling the necessary regulations respecting the business, would be incurred equally for collecting a small sum with that of a large one. And to expend two or three thousand dollars in commencing the business, and still go on increasing the system of indirect taxes, which cost the people at least 30 per cent., would be bad policy. If there was propriety in originating a plan for direct taxes for the security of the revenues of the United States, they ought not to stop where they were. Was it not right, he asked, to stop the progress of indirect taxes, in order to make the expense of laying a direct tax lighter? If all the expense lay in the originating of a plan, it would be right to draw as much from that source as was wanted. The difference of expense betwixt the two plans would not be less, he said, than 25 per cent.

Mr. N. added, that he had no hesitation in his own mind to say that the best mode of supporting the revenue of the United States was by a direct tax; and, from the uncertainty of collecting the present revenue, they could have no doubt about originating the system, and if they went into the organization of the business, the expense would be incurred, and, after having incurred it, it would be well to raise some considerable sum from that source.

Mr. Swanwick said, the gentleman from South Carolina had calculated that, by advancing this 10 per cent. class of goods to 12 1-2 per cent., $250,000 would be raised. In this calculation, he took for granted that our importations in future would be equal to what they had been in time past; whilst it must be known that the importations of last year were uncommonly large, and that the embarrassments of commerce must decrease the future importations; and, if so, instead of affording additional revenue, it would probably decrease our present considerably.

Mr. S. Smith said he saw no good cause why the whole class of 10 per cent. goods should not be advanced as well as unstained and unprinted cotton goods. Indeed, if he had excepted any, it would have been those very articles, as he understood there was a very considerable manufactory for printing of cotton goods in this country, the proprietors of which made use of this cotton in their business. In order that our manufacturers might enter into competition with the manufacturers of

foreign countries, it would be more proper to reduce the present duty than to advance it.

Mr. Williams was of the same opinion, as it was proper to encourage our manufacturers as much as possible. How the gentleman from Virginia could say the expense would be less in laying and collecting a direct tax than adding to the indirect taxes, he was at a loss to learn, since the same officers who collected the present tax would collect the additional duty, and all the expense would be merely the per centage to the collectors; besides, it was an optional tax, and therefore judicious. The poorer classes in this country, before the war, made themselves a coarse woollen cloth; and if they were to do so again, he believed it would be a considerable saving to the country, as out of every twenty shillings sent out of the country to purchase manufactures, twelve shillings of it were wholly lost to the United States.

Mr. W. Smith hoped this amendment would not be agreed to, as he trusted it was not the intention of the House at present to go into an extensive increase of the impost duties. They had directed the Secretary of the Treasury to report a system for newly arranging those duties at the next session. It might be well, therefore, to raise from two to three hundred thousand dollars to supply any deficiencies which may take place for the current year, but not to go any farther. [Mr. S. here read the instructions which have been given to the Secretary of the Treasury on the subject, together with his letter.] He said they had better disagree to the increase on the cotton goods than to adopt the amendment, as they had not sufficient information before them to warrant such a law.

Mr. Gallatin said, it had been repeatedly asked, and no answer had been given to the question, why this species of cotton goods had been selected for an additional duty? The reason was, the cheapness of the article—it was lower than linen; there were great importations of it from the East Indies, and it was supposed that an additional duty on that article would be better borne than upon any other. It might be said there should be a protecting duty with respect to calico printers in this country; how far this would be proper he could not say at present. He was against the amendment, because it extended to too great a variety of articles; but at the same time he should not agree to tax these cotton goods alone. If the gentleman from South Carolina had taken velvets, velverets, satins, silks, and a few other articles, he would have voted with him; not because he thought either was at present necessary, but because, if it was right to increase the duty upon one, it was right to increase it also upon the other. At present, he should vote against the amendment.

The question on the amendment was put and negatived—48 to 27.

Mr. W. Smith said, before the question was taken, he wished to lay before the House a printed letter which he had received on the subject of laying an additional duty on cotton.

It was declared to be unnecessary to read it, as it had been sent to every member of the House.

Mr. Henderson moved that velvets and velveteens might be added to cotton goods, as was reported by the Secretary of the Treasury.

Mr. S. Smith said, gentlemen were mistaken if they thought of securing a duty upon articles of this name, as there were a hundred different names for them, which would be used in order to evade the duty.

The question was put and negatived, there being only 25 votes in favor of it.

Mr. Harper moved to add satins and other wrought silks, which was negatived—35 to 30.

The question on the original resolution was then put and carried—42 to 38.

Mr. Harper then proposed that an additional duty of five cents per bushel should be laid upon all salt imported in the United States. [Mr. H. read the letter of the Secretary, wherein he mentions salt as being at a much lower rate of duty than in other countries, and that no tax laid upon it could be evaded, from its necessity and bulk.] Mr. H. added, as, in his opinion, satisfactory answers had been given to the objections which had been urged against this tax, it was not necessary to say more on the subject.

Mr. Gallatin said the arguments of the Secretary of the Treasury were excellent fiscal arguments, and went to say, "provided we can get money, no matter how." He says salt cannot be smuggled; that we know: whether the duty was increased, or remain as it was, the people must consume the same. This was true, and the same arguments might be used for taxing the light or the water. Of all the necessaries of life, a duty was most easily collected upon salt; and this was the reason which had induced other countries to tax it so heavily; and yet this was used as an argument for increasing the duty here; but he was not one of those who felt any consolation, upon such an increase of duty, that there were other countries where the duty was yet higher.

Mr. G. said, as to any satisfactory answers which had been given to the objections to this tax, he had not heard them; he believed they had not been answered at all; except, indeed, sullen silence might be deemed satisfactory answers; if it were, they had indeed been answered satisfactorily.

Mr. G. here repeated the objections to the tax which he had made on a former occasion, viz: that it would operate as a poll-tax; that it would fall partially on some districts of country, and upon some classes of citizens more than others. He said salt in that part of the country from which he came was already upwards of four dollars a bushel, and that it would be therefore oppressive to increase the evil, by adding fresh duties upon it.

Mr. Nicholas said a tax on salt was equally objectionable, whether it was considered as a poll-tax, or as a tax upon agriculture. As a poll-tax, every one would see the injustice of charging all men alike with a tax, without respect to their ability to pay it; as a tax upon agriculture, he was able to say something from experience. He was willing to give all the authority to the opinion of the Secretary of the Treasury which he could wish, but he could not yield his opinion to him. He knew that agriculture was at present very much depressed by the high price of salt; he had himself refrained from the use of it, by its dearness, though he believed his cattle had been the worse for it. The poorer class of citizens in the part of the country from which he came were generally owners of cattle, and employed themselves in taking care of them. These men found it at present as much they could do to make a comfortable living, and any additional tax on salt would be very ill received by them. He was satisfied that it was a tax which would operate with great inequality; it was a tax upon one kind of employment—upon an employment which was generally pursued by the poorer classes, and consequently least able to pay it. It might be said, five cents a bushel was a trifle; but he said he objected to it from the principle of taking money where it could be got, as, if five cents were now to be added, the same argument would hold for adding another and another five on a future day.

Mr. Holland was opposed to the amendment; he said no article which could be mentioned would bear a greater augmentation than salt; indeed the whole revenue of the United States might be raised from it, because it must be used by every person; but that was no reason why the whole burden should be laid on it. In North Carolina, Mr. H. said, it was four dollars per bushel, which was sufficiently high without adding to the price, and was always a cash article, and difficult to be had for that. It being an article of absolute necessity, the rich would not pay more, if so much, as the poor.

Mr. Rutherford said, he was against this tax for two reasons; the first was on account of its inequality, and the next on account of its odiousness. A tax on salt, he said, was almost like taxing the common air. Farmers were obliged to use large quantities of it for their stock; it rendered them docile and easy to be managed. Indeed it could not be done without; a person was nothing without salt. The price at present was enormous on the frontier, and this duty would add prodigiously to it; for this reason he should give it his flat opposition.

Mr. Findley said, because salt was necessary, and because it could be smuggled, would not surely be sufficient arguments for increasing the duty upon it. The law of reason, he said, was the law of justice. Mr. F. gave an account of the progress of this tax. His colleague [Mr. Gallatin] must have been mistaken as so the price which this article bore in the Western country. He had himself lately paid six guineas for six bushels of salt. Indeed this was considered as the greatest inconvenience in that part of the country, and they could not at present be relieved from it. Providence, who generally bestowed the necessaries of life in a very general manner, had not provided them with salt. And shall we, for this reason, monopolize a revenue upon it? For the same reason would hold good for paying the whole upon it as a part. He trusted they would not be be so unjust to the people of that country.

Mr. Harper said, after all the time which had been taken up in discussing this subject, he would not occupy the attention of the Committee longer than while he made one or two remarks.

The gentleman from Pennsylvania [Mr. Gallatin] had said that no answer had been given to his objections against an additional tax on salt. He should not enter into a dispute with that gentleman upon what might be deemed an answer; but he believed many members of that House would remember that an answer was given, and probably they might also think it a satisfactory one; at least it was so to one person. The objections brought against this tax would be well-founded, if the whole revenue was proposed to be raised from it; or if it were intended as a substitute for a land tax, or any other great object; if two or three millions were wanted from it, then it might be objected to upon good ground; but when one hundred thousand dollars only were proposed to be drawn from this source, he did not think the objections would hold. Admitting, said Mr. H., that there was some inequality in the operation of this tax, those persons upon whom it fell heaviest were exonerated from many other taxes which other parts of the country had to pay. They had, for instance, just agreed to increase the duty upon a certain species of cotton goods, of which they would not purchase a single yard. The present revenue was six millions four hundred thousand dollars, of which salt pays near three hundred thousand dollars. The people on the frontier, who pay for salt, are in a great measure exempt from other articles taxed; they purchased neither foreign wines nor spirits, high priced dresses nor furniture; all they wanted was corduroys, &c., which was very unfrequent. If five cents per bushel was laid on salt, those persons would have about a dollar a year more to pay, and nine-tenths not half a dollar. What could be more easy? Indeed, except the people were told of the duty they would not know it, as its effects would be so trifling.

With respect to the price of salt at Fort Pitt, as a gentleman had observed, it might be high, but was this occasioned by a duty? No, but by the situation of the country. Ought they not, then, he asked, to devise some species of tax by which to draw some part of the revenue from the inhabitants of the back country? He thought so far from this being wrong, that justice required it. This subject did not address the understanding, but the sensibility of the House, or perhaps the sensibility of those out of the House.

The objections against the tax which had been urged, he thought, ought not to have any weight, since it would operate with the greatest equality upon the whole, and there would be safety, propriety, and justice, in making the augmentation in question. Suppose two cents were put, instead of five; this would raise a good sum, and be very easy.

Mr. S. Smith moved that the Committee rise; which was negatived—there being only twenty-five in favor of it.

Mr. W. Smith said the question had best be taken on blank cents, then five, four, or any number of cents could afterwards be added.

The question was then put, and lost—yeas 41, nays 48.

A motion was then made for the Committee to rise and report the resolutions.

Mr. Harper wished the Committee to have leave to sit again, as he wished to call up one other of the resolutions which had been referred to this Committee; he meant that respecting an additional duty on stamps.

Mr. Henderson also said he wished to take the sense of the Committee upon several other articles which had been referred to them, but promised he would not occupy much time in doing it.

Mr. Nicholas said he hoped the Committee would not sit again, as the session was so near its close.

Mr. Buck said much time had been spent on the subject, and he hoped no further delay would be made, as it might go to defeat the bill altogether.

On the question for the Committee sitting again, there were yeas 33, nays 48.

Saturday, February 18.

An engrossed bill allowing a drawback on distilled spirits exported in vessels less than thirty tons, by the Mississippi, was read the third time, and passed.

On motion of Mr. Nicholas, it was

Resolved, That, during the remainder of the session, it be a standing order of the day, that a call of the House shall be had, as soon as the Speaker takes the Chair, at the hour to which the House stands adjourned: provided, that when a quorum appears, the Speaker be authorized to suspend the call.

Mr. Sitgreaves called up the order of the day on the bill in addition to the act to provide for mitigating or remitting forfeitures or penalties, in certain cases, under the revenue laws. His object was to move its recommitment, in order to amend the report; which was accordingly done, and the bill was recommitted to Messrs. Sitgreaves, S. Smith, and Griswold.

Mr. Gallatin reported a bill for the grant of certain lands to John C. Symmes and his associates. Referred to a Committee of the Whole on Monday.

ADDITIONAL REVENUE.

The House then took up the unfinished business of yesterday, viz: the report of the Committee of the Whole on further revenue.

The amendments were read, and that for laying an additional half cent on brown sugar being the first taken up,

Mr. Harper moved to strike out the word "half," and insert "one" cent. His reason for not proposing it at an earlier period, was, that he had supposed the duty on more articles would have been augmented: that not being the case, it was important that the duty on brown sugar and molasses should be further increased, to provide for the service of the present and the deficiency of the last year; the addition proposed might be estimated at two hundred thousand dollars. Admitting that the revenue of 1796 would be more than that of 1795, with all the savings which could be made, there would still be a deficiency; they ought not, however, to depend on savings, and be satisfied with just enough. Some gentlemen had said that a revenue from commerce was a very precarious foundation to build on; at that time they agreed in the necessity for great increase to our revenue, to meet our demands, now they said little or no addition, with all the savings which might be made, was equivalent to our wants. How their opinion came so changed, Mr. H. could not conceive. The truth was, their former opinion was just, as it respected our wants, and that being the case, and not being willing to resort to any other, a larger sum than two hundred thousand dollars ought to be raised from this, which, with all the savings, he presumed, would be but sufficient. Gentlemen now tell us there is not the least prospect of a land tax: before, when they had hope, a tax on commerce could not be at all relied on. Those gentlemen's former arguments, and a knowledge of the great want of revenue, had almost prevailed on him to adopt the idea of a land tax; but now, after two or three weeks, seeing the impracticability of that mode, they had abandoned it, and say, We have revenue enough, with the requisite savings! Remaining under a forcible knowledge of our wants, and the precarious state of our affairs, Mr. H. hoped they would not rest with a bare sufficiency, but guard against unforeseen dangers and accidents, by adopting the resolution.

Mr. Dent said, that as the House had agreed to the report of the Committee of the Whole, no alteration could be made without a recommitment. [On Mr. Harper's application to the Chair, the Speaker read the rule, that no addition could take place in the House, and observed, that the gentleman might move it when the bill was brought in.] He therefore withdrew his motion.

The resolution, as reported, then passed; also, that for laying one cent per gallon on molasses, and nine cents per pound on sugar candy.

There was a division on the question for laying an additional duty of two-and-a-half per cent. on cotton goods—yeas 46, nays 28.

The duty of two cents per pound on bohea tea passed without a division.

Messrs. Harper, Davenport, and Henderson, were appointed a committee to prepare a bill pursuant to the resolutions.

NAVAL APPROPRIATION.

The House then resolved itself into a Committee of the Whole on the bill granting an appropriation for the finishing the three frigates, and also upon the bill repealing that part of the act which provided for the officering and manning the frigates, both having been committed to the same Committee of the Whole. That for repealing a part of the former law came first under consideration.

Mr. Harrison wished the Committee to rise, and that the bill may be sent to the Senate.

Mr. Gallatin moved to add the words "or any other acts," so as to read "so much of an act entitled an act to provide a Naval Armament, or any other acts which relate to the officering," &c., which was carried.

Mr. W. Smith said he could not abandon the idea of our sometime becoming a Naval Power; he very much disliked the repealing this act; in order, however, to make the bill more palatable, and to remove some of the embarrassments which the Senate would otherwise have to encounter, he would move to substitute, instead of the word "repeal," the words "suspend for —— years."

Mr. Coit thought the very beginning of the frigates a wild notion, and hoped the most distant idea of manning them would not enter gentlemen's minds; he should therefore oppose the motion.

Mr. Swanwick thought, if the last gentleman's ideas were just, that it was so wild, whimsical, and visionary a speculation, there could be no danger from its suspension, because another Legislature would doubtless see the folly of the project; there was no danger of their being struck with the notion. To restrain the object of these vessels would be only holding up this country to ridicule. Let us not, said he, dictate to future Legislatures, but give them power, if their finances should allow it, and they are willing, to use the ships as they please. Why should we hamper them with our forced restrictions? In private life men do not like to be under the forced restrictions of others, and it could not be pleasant for us to assume a power to direct our successors. He hoped it would so be left as not to intrude on their privilege.

Mr. Nicholas said it was not the duty of members in that House to consider what other men in future times may do, but to do themselves what was right. He could not conceive how a gentleman who saw it wrong now, could believe he could think it right two or three years hence. This was a contradiction to gentlemen's own actions. If it was to be left to the test of experience, it would be best to leave it to a future Legislature. The three branches were always competent to any object, and, if they saw right, could revise it. But it seemed as if the gentleman wished to leave it to the power of one or two branches only: this, he thought, ought never to be done. What we now do, said he, is no more binding on our successors than acts of our predecessors on us. He hoped it would rest as in the bill.

Mr. Venable said, it seemed the gentleman who moved the amendment did not think it necessary the ships should now be manned. The operation of the amendment appeared to put it in the power of one branch of the Legislature, at a future day, to man the ships, and send them to sea. He was surprised at the changeableness of the gentleman who moved and favored the equipment. When a Naval Armament was first proposed, it was objected to, as looking like forming a Naval Establishment. They then told us it was expressly to repel the encroachments of the Algerines; and that, as soon as peace was obtained with that Power, the building of them was to stop. Now they come forward, and avow a desire to have a Naval Establishment. Thus originate evils which if not stopped early, would spread and become dangerous. The only fair argument they have on the subject is, that a Navy is now become necessary. Certain it is, that, if they intend to have a Naval Establishment, to protect our commerce and repel our injuries, three frigates will be very incompetent to the object. He should not object to finishing them, and only because so much had been expended on them already, but should ever oppose fitting them for sea.

Mr. Swanwick asked the gentleman what security there was in a peace with Algiers? Could he say we were at peace with them now? Certainly we are in a worse situation with that Power now than then; we are parting with our cash, (which makes it such a scarce article,) and yet we have no benefit. Now it is said it is altogether a vision—a fancy or a dream. Then gentlemen get up and ask what we are to do with three frigates? He would answer, that so far as they went, they gave stability and protection to our commerce. True, they were not thirty frigates, but he believed, few as they were, they would save more than five times what they cost in only one year. The richest ships we have are now taken and robbed by every picaroon and pirate infesting the seas, because we have no security; and he was surprised it was not worse. He had no doubt but it would be an emolument; it would be a protection to the great revenue we enjoy. That very trade, he said, which was subject to spoliation from such petty robbers, paid into the revenue five or six millions of duty annually. If this was still permitted to be encroached on, it was an error, and it would soon be seen; and this was by a people called "free and enlightened!" He had no doubt they would soon be enlightened enough to see they had done wrong. If gentlemen are against finishing these frigates, why do they not come forward and declare it? Let us sell them, said he, at public auction. What will be the effect if we have it told at our wharves that we object to man them, because we have peace with Algiers? He hoped they would be manned, or else have tacked to the bill, that, when finished, they were to be sold for East Indiamen or something. If that were gentlemen's wish, this was the time to come forward and say so, and let it be put in the bill. He would ask, Was there anything in the name of Government, if it operated in this manner? It was extraordinary conduct, indeed.

Gentlemen say they will not vote to finish these frigates, except the repeal for manning is included. When it goes up to the Senate, may they not say they will not vote to finish, except it be to man them? But, Mr. S. said, he supposed gentlemen depended upon negotiation, if anything was wrong. What were the consequences of our late negotiation? We have two things before us—Treaty

or ships. As for Treaty, we have seen our money sent across the Atlantic, and scattered a thousand ways: this was throwing it into the ocean. He had heard of a Doge of Venice throwing a ring into the sea to marry it: it seemed this money was gone for the same purpose, and its use would be no better than the Doge's ring. He thought the most complete Treaty was, power to resist aggression. This business of negotiation is very unprofitable. You may obtain fair promises from foreign Ministers, but very poor redress if any. The merchant may then go home and say he has been robbed, but can obtain no redress from any nation. Part of his property is in the West Indies, in the hands of a people without of control of law. This, indeed, is the situation of the whole French Republic, at present, in that country. Yesterday, said Mr. S., I heard you voting a tax on sugar: Where does that article come from? From the French West India Colonies mostly. You go on laying a duty on that article, which even one frigate would protect from spoliation, and yet refuse to appropriate that very duty towards its protection. He did not think any French or English ship of war would attack our frigates while at peace, but his wish was to protect the commerce from those drawbacks. As he read in the Constitution that Congress had the power to protect commerce, and as he found gentlemen voting millions for the Military Establishment, he should hope the object of Naval protection would obtain. He agreed with the amendment, as it was better to suspend than repeal, as the power of manning them would then remain with a future Congress.

The question on the amendment was put and lost—ayes 30, noes 51.

Mr. Harrison moved for the Committee to rise and report the bill without amendments.

Mr. Hartley hoped it would not. As the frigates would not be finished before next session, if it was proper to man them or suspend it, that House would be best able to judge.

Mr. Parker hoped the Committee would not rise, but that the other bill may be taken up, that they may go hand in hand.

Mr. Nicholas said, it seemed that gentlemen were making a new business of this. At the time it was brought forward, gentlemen voted in favor of it, because the law was to be repealed. He voted to separate the bills, because he conceived it would not be right to say to the Senate, You shall do two things together, or neither. He hoped the Committee would rise, that the House may not have such power over the business as to keep it back. If the other bill pass the Senate, said he, we can take up this, and pass it in a short time.

Mr. Parker thought this a most extraordinary procedure, to say we will not pass the appropriation bill till we know the Senate have agreed to that for repealing. He thought the Senate had as great a right to exercise their discretion as that House. He never expected to have heard such expressions. This was holding out a *dictum* for their conduct: this he thought neither fair nor proper.

Mr. Venable thought the bills were connected. He wished to vote merely for finishing the frigates. He hoped the Committee would not rise, but that it might be so amended as to add the other bill to it. When he voted for the appropriation, he said, he voted for it only in such a manner as should be reconcilable with his judgment. If the gentleman would waive his motion, and the House would so connect it, he should be gratified.

Mr. Harrison said, as the last gentleman's ideas were fully to his purpose, he should withdraw his motion.

On motion being made for connecting the bills—

Mr. Buck hoped it would not prevail. The only reason he saw to object, (and he thought that very forcible,) was, that it discovered a jealousy in that House of another branch of the Government, which he thought very unjustifiable. He had voted for the repeal, but should not vote for the appropriation. He thought they ought to act for themselves, without reference to the other branch. Any member may vote which way he pleased, but to say he would not vote for one without they go to the other, was unfair. He could see no justice in such a mistrust from this branch of the Legislature. Suppose, he said, the bills go to the Senate separately, they may concur in the appropriation, and reject the repeal. Even in that situation, were it to be left, the Executive could not man the frigates, unless they could obtain further appropriations—to obstruct which would be preferable, and would put it out of the power of the Senate to embarrass the House.

Mr. Venable said his vote was given without any relation whatever to the Senate. He thought any act passed by this House could not, when sent up to the Senate, be termed disrespectful, for each branch had a right to act for themselves. He was surprised to hear the gentleman last up say he should not vote this appropriation; for he had heard him say, on a former occasion, that he would vote an appropriation for any Treaty, law, or whatever should exist to call for it. Mr. V. confessed himself to be of a very different opinion; for he always thought the House had a discretionary power to grant it or not, but that gentleman had long said it had none.

Mr. Buck said, as his doctrines had been called in question, he must beg indulgence to explain. He never said that the House had not a right to judge on the propriety of appropriation in an existing law. He conceived a Treaty quite another thing. The President and Senate have a Constitutional power to make a Treaty; in that, he said, he did advocate that that House had no right to withhold appropriations; but in laws, where the power of making appropriations rests partly in that House, they had a right to grant or withhold. This, he said, he had always held.

Mr. Nicholas said, this appeared to him a very unreasonable clamor in behalf of the Senate. The gentleman last up seemed very careful not to awaken the jealousy of the Senate. How could he know what part would awaken that idea of disrespect? He had formed his mind to vote on the subject, and surely every member might do so, without a fear of showing disrespect to another

branch. The gentleman had said that this House may refuse to appropriate for a law. Now, suppose the Senate refuse to repeal without we appropriate, we are then forced to choose one of two evils. Very often, Mr. N. said, the House were obliged to appropriate for a law, it may be, so far executed that they could not refuse. Suppose the President should, after this, appoint officers to enlist men for the frigates, how could the House refuse to pay them? While a law existed to man these ships, it would be difficult to prevent it: it would enable those who were friendly to the measure to carry it into effect. He hoped, therefore, the House would not run the risk by leaving it open to such possible intrusion.

Mr. S. Smith thought this was a very unfair way of doing business, but he had been used to such things. He thought this form of *tacking* was very improper and unfair. It had been observed that we were the most free and enlightened people, but he thought those who advocated these measures proved the very contrary.

Mr. Swanwick said, it appeared to him a kind of Legislative stratagem. The whole intention of the business could be easily discovered. If there was nothing improper, why should they fear to trust the Senate with it? Having the yeas and nays on both bills, gentlemen could not easily excuse them for voting for the repeal, as it would go out into the country that many had voted contrary to their arguments. Thus we are forced to vote against our own opinion, or not have the frigates finished. He could plainly see that gentlemen meant to defeat the object, and, he thought, in a very unfair way.

Mr. W. Lyman spoke much of the impolicy and impropriety of the measures of those gentlemen who supported naval preparations. Some time back, he said, those very gentlemen were advising us to cultivate our land, and not regard commerce—it was a broken reed to depend on; but now, they want to put the nation to an enormous expense to protect that commerce they thought so lightly of! The frigates would cost more than double the money which was at first estimated: this would be a disgrace to any nation. The whole process of the business had been bad, and he had no doubt but the estimate now before the House would be found deficient. Though he thought a small Navy would be useful, yet, until he saw its process conducted more fairly, and with more discretion, he should not vote a shilling to it: for the waste of money which had been discovered in this, had given him a distaste to it.

A remark having fallen from Mr. L., on the constitutionality of this appropriation—

Mr. W. Smith said, that, what the gentleman observed, only respected an Army. The Constitution says, an appropriation for the Army shall not be made for more than two years, but it said not a word about restricting a Navy; and it is certain that the framers of the Constitution had a view to a Navy, as in three different parts it makes mention of it. [Here Mr. S. read those parts from the Constitution.] The question was not whether to repeal the law or not, but whether the appropriation bill was to be *tacked* to the repeal. When before taken up, a majority voted for two bills, and they are accordingly reported, and now the two are to be united. This, said he, is directing the Senate to vote a certain way, because this House saw it right. This was a kind of coercion which would oblige them (if they support their independence, which they certainly will) to reject the repeal. This, he said, was a spirit which every gentleman in the House felt. He therefore hoped there would be two bills.

Mr. Gallatin did not conceive this a question on the Constitution; it was not on the power of the House as to the subject of appropriation, but merely on connecting the two bills. He conceived it perfectly right and proper to connect them, because the subject of them was the same. It was not novel: appropriation and repeal had before been connected. Indeed, he thought it improper to hold the Senate in any consideration at all. He should not be guided by any apprehensions of what they would do. The gentleman last up had said, it was unfair to connect them, as it would oblige members who opposed one, to vote for both. Now, a majority will always decide, and those in the minority will always be affected. That gentleman would rather take a question on each; but Mr. G. said he would rather on both together. But both will not be material, more than in a certain degree. He further observed that a decision had been come to to keep the subjects apart. This, Mr. G. said, was only in order to give leave to the Committee to report one or two bills. But that could not now affect the decision. The House might now do as they pleased. He looked upon the first act of the law as rather explanatory of the other. A law passed last year for the equipment of the frigates. The first law expired as to the manning them. It is therefore only for fear the word "equipment" should be so construed as to mean "manning," that we wish a connexion of these bills.

He thought it more candid and fair, to have both the objects before the Senate at one time, than to separate them. If they think it an attack upon their privileges they would act consistently therewith.

Mr. Williams could not see where the difference was, whether the bills were apart or not. He was sorry any jealousy should be discovered towards another branch; if the amendment were to go to the Senate they had power to reject any part. The next Congress would take a view of the subject, and do what they thought right, as the frigates would not be fit to be manned till then.

Mr. Buck again repeated his objections to uniting the bills.

Mr. N. Smith thought there could be no good reasons for uniting the bills. There had not yet been any appropriation made, and the money was nearly expended; he thought the appropriation should be passed immediately, as he had no doubt but both Houses would ultimately unite in this object. If, therefore any money was to be appropriated, let it be done, and then if the House thought proper to agree to the repeal, it could be done, as no delay ought to be made.

The gentleman from Pennsylvania [Mr. Gallatin] said the other day, that he would not, under any situation, vote the supply until he knew whether there was any intention to fit them for sea or not. This, Mr. S. thought the principal point; but except that gentleman, with others, thought the ships were to remain in the same situation as at present, it certainly was necessary to agree to the appropriations; this was voted on all hands, though some could not agree to go all lengths. He did not believe many could be found in the House who would wish them to remain and rot on the stocks; but for gentlemen to say they would not agree to grant the supply except the other part was repealed, he thought wrong. It was true, they had the power to withhold even appropriations for the President's salary, Senate, &c., but if such opposition was supported, Government could not long exist. That House had power over the Senate, and, *vice versa*, the Senate over that House—each had a right to think and do as they pleased, but it would be wrong in one to curtail the privilege of the other by an ill-timed opposition; this was merely to show a spleen which could not but be to the detriment and delay of business.

Mr. W. Smith rose to answer some observations made by Mr. Gallatin and Mr. Venable, and proceeded to show the impropriety of tacking the bills; he said it would produce insurmountable difficulties. He never could agree to this *tortus discordans* being sent up to the Senate.

Mr. Venable answered. The question was then put for tacking the two bills, and carried, ayes 41, noes 36.

The Committee then rose, and the House took up the amendments reported by the Committee of the Whole. Whereupon, the first amendment reported by the Committee of the Whole House, for adding a new section, to be the second section of the said bill, being read, in the words following, to wit:

"*And be it further enacted*, That the sum of —— dollars be, and the same is hereby appropriated for the purpose of finishing the frigates now building, called the United States, Constitution, and Constellation; and that the same be paid out of the surplus of revenue and income, which may accrue to the end of the year one thousand seven hundred and ninety-seven, after satisfying the objects for which appropriations have been heretofore made:"

Mr. W. Smith said, as the question would first be taken on the amendment and then upon the resolution as amended, a member who wished to vote for the finishing of the frigates, but not for the repeal, would not have an opportunity of showing his sentiments by the yeas and nays. In order that members who thought with him might have an opportunity of showing their vote, he called for the previous question upon the proposition.

The Speaker declaring that this motion was not in order, Mr. W. Smith called for the yeas and nays upon the amendment.

Mr. Sprigg said, rather than not obtain an appropriation for finishing the frigates, he should vote in favor of the amendment, though he was of the same opinion with the gentleman from South Carolina [Mr. W. Smith] as to the unfairness of the proceeding.

Mr. Dent was of the same opinion.

Mr. Muhlenberg said as the amendment stood annexed to the other bill, he should vote against it; though if the subject had continued in a separate bill, he should have voted in favor of it.

The question was then taken on the amendment, and decided in the affirmative, 59 to 25, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Dempsey Burges, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, William Cooper, Henry Dearborn, George Dent, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Ezekiel Gilbert, James Gillespie, Henry Glen, Christopher Greenup, Andrew Gregg, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, John Wilkes Kittera, George Leonard, Edward Livingston, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, John Patton, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Isaac Smith, Richard Sprigg, jun., Thomas Sprigg, Zephaniah Swift, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

Nays.—Theophilus Bradbury, Daniel Buck, Samuel W. Dana, James Davenport, George Ege, Abiel Foster, Dwight Foster, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, John Heath, William Hindman, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Josiah Parker, John Reed, Samuel Sewall, Nathaniel Smith, Samuel Smith, William Smith, John Swanwick, George Thatcher, and Peleg Wadsworth.

The bill was then recommitted to a Committee of the Whole in order to have the blank for the sum to be appropriated for finishing the vessels, inserted, and was filled with $172,000.

Mr. Gallatin reported a bill in addition to an act for making appropriations to satisfy certain demands on account of the late insurrection, and to increase the compensation to jurors and witnesses. Referred to a Committee of the Whole on Monday.

Mr. W. Smith, from the Committee of Ways and Means, presented, according to order, a bill making appropriations to defray the expense of negotiations with Mediterranean Powers; which was read twice and committed.

The House went into a Committee of the Whole on the bill in addition to an act for recording and registering vessels, and to an act for enrolling vessels employed in fisheries, which bill was agreed to, and ordered to be read a third time on Monday.

Monday, February 20.

The bill for regulating the registering of ships and vessels, &c., was read the third time and passed.

As was also the bill for completing the frigates,

and for repealing that part of the former act which related to the officering and manning the vessels.

LANDS NORTHWEST OF THE OHIO.

The House then resolved itself into a Committee of the Whole, on the report of a select committee on the propriety of making certain alterations in the law providing for the sale of certain lands Northwest of the river Ohio. The Committee recommended the adoption of a resolution to the following effect:

"*Resolved*, That the act entitled an act providing for the sale of lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, be so amended, as that only one-fifth of the purchase money for the same shall be required within thirty days, and that the rest be paid by four equal annual instalments."

A motion was made to strike out one-fifth and to leave it a blank, which was negatived.

Mr. Van Allen next moved a provision for dividing the quarter township lots into lots of a mile square. This motion was supported by the mover, Messrs. Williams, Henderson, and Findley, on the ground of accommodating real settlers, because it appeared that the large lots would not sell, and because the land would be likely to be disposed of for a higher price if sold in lots purchasable by farmers and persons who bought with an intention of cultivating. It was opposed by Messrs. Cooper, Nicholas, and Kittera, on the idea that the land would never be purchased or settled, except through the medium of moneyed men; that they would first purchase the land in large lots, and then parcel it out to real settlers, and that though farmers gave a greater price for the land in this way, it would eventually be better for them, since the moneyed man would find himself interested in getting the whole of his tract settled as soon as possible, and thereby greatly enhance the value of the property; that except this plan was adopted settlers would choose here and there a lot of the best land, and the remainder would lie on hand.

The motion was put and negatived.

The original resolution then came under consideration. It was supported by Messrs. Cooper, Nicholas, and Gallatin. It was urged that the additional time given for the payment would induce moneyed men to embark capital in the purchase of this land; that if it were not soon disposed of, persons who had no authority to do so would get possession of it, and there would be great difficulty in removing them; and that it was necessary to make the proposed amendment, in order that the terms might be as eligible as those held out by any of the States which had waste land to dispose of. It was opposed by Messrs. S. Smith, Coit, Harper, and Venable. It was said by them, that it was probable that nothing more would be received of the purchasers than the first deposit, if so long a credit was given; that it would create an host of enemies to Government; that when the time of payment came, instead of money, they should have petitions sent in for a prolonging of the time of payment; they would, therefore, rather prefer a lowering of the price than an extension of credit.

The resolution was put and negatived, there being only 24 votes in favor of it.

Mr. Gallatin then proposed that the public stock should be received in payment for the land at its full value. The scarcity of money at present, he said, had reduced the value of the public stock, and it would therefore afford an advantage to purchasers, and no disadvantage to the United States, since they could never expect to pay off their debt at less than the full value. If any foreigners who were in possession of the public stock of this country chose to convert it into land, it would be an easy way of paying off our debt. In this case the land would pay the debt immediately, and the money could not otherwise be appropriated. He, therefore, proposed a resolution as follows:

"*Resolved*, That the evidences of the Public Debt of the United States, shall be receivable in payment for all the lands that may be sold after the —— day of —— next; the six per cent. stock and Foreign Debt to be received at their nominal value; and the rate at which the other species of stock shall be received, to bear the same proportion to their respective market prices, as the nominal value of the six per cent. stock shall, at the time of payment, bear to its market price."

Mr. Coit was against this measure as reducing the land twenty per cent. in the price.

Mr. S. Smith was in favor of the resolution, but wished it to extend to all money due for purchases already made, otherwise those persons would have reason to complain of being more hardly dealt with than others. This motion was seconded by Mr. Heath. It was objected to by Messrs. Nicholas, W. Smith, and G. Jackson, as unreasonable, and what could not be expected; they had agreed to give the price for the land which had been bargained for, and having had a choice of the best of it, it was probable that they had made very advantageous purchases; and that it was probable, from the Public Debt being taken in payment at its full value, the land which might be sold in future would command a proportionably higher price.

The amendment was put and negatived, and then the resolution was put and carried.

The Committee then rose, and the House agreed to the amendment.

Ordered, That a bill or bills be brought in pursuant to the said resolution; and that Messrs. Nicholas, N. Smith, and Bard, do prepare and bring in the same.

MILITARY APPROPRIATIONS.

Mr. W. Smith said, from the delay which had taken place with respect to the Military Establishment, they had been prevented from making the necessary appropriations for that object; as the session was drawing to a close, it would be necessary to follow the plan adopted last session. He therefore proposed a resolution to the following effect:

"*Resolved*, That a sum not exceeding —— dol-

have be appropriated for the expenses of the Military Establishment for the year 1797."

This resolution was twice read, and the House immediately went into a Committee of the Whole upon it; reported it without amendment, and it was referred to the Committee of Ways and Means to report a bill.

FORTIFICATIONS.

On motion of Mr. W. Lyman, the House resolved itself into a Committee of the Whole on the report of the committee appointed to inquire into the actual state of the fortifications of the ports and harbors of the United States, and to report whether any, and what, provision was necessary to be made on the subject.

The report having been read—

Mr. W. Lyman, the chairman of the committee, said the committee had not reported a resolution, as they were uncertain whether it would be the wish of the House to do anything towards the completion of the works at New York. Perhaps it would be well to have read the account which accompanied the report of the works at New York, which they had received from the Board of Commissioners and the Engineer. [The Clerk here read the accounts, by which it appeared that the fortifications on Governor's Island would require $30,968 to complete them; those on Bedloe's Island, $60000, and those on Oyster Island $1,000; making a total of $91,968.] Unless regard was had to New York, the $23,394, reported as necessary, would be sufficient to finish some necessary buildings and complete certain works, indispensable to their defence and preservation.

Mr. W. Smith said as no resolution had been produced, he would move one; he moved the following:

"*Resolved*, That the sum of ——— be appropriated for the purpose of fortifying the ports and harbors of the United States."

Mr. Smith said, the representation of the State from whence he came had received a communication from the Legislature of the State, which they conceived it their duty to lay before the House, and which showed the necessity of fortifying the harbor of Charleston, more than anything which had been heretofore done. [He here read the communication which they had received.] The Governor wrote that the only fort they had was nearly carried away by the undermining of the sea, and, unless some repairs were soon made, would be entirely swept away. Another fort had been projected, to be placed on Sullivan's Island, but the situation was not found to be a proper one, and the foundation only was laid. Shooter's Mark was the place contemplated as the proper situation for a fort to protect that harbor.

As they were upon the subject, he would observe that if it was their object to preserve the peace and neutrality of this country, it was necessary to have our seaports well fortified; whereas, at present, vessels of war which come into the port of Charleston, might violate our neutrality with impunity. And if, at any time, Government should think it necessary to lay an embargo, they could not do it, except our harbors were better fortified than at present. Mr. S. thought, therefore, a liberal sum should be granted for this object. He should move that fifty thousand dollars be appropriated for this purpose.

Mr. Dearborn wished to know, whether, in conformity to the act for that purpose, the island at Charleston, or the islands of Governor, Bedloe, and Oyster, at New York, had been ceded to the United States? He believed they were not. Money had been refused for fortifying the harbor of Boston, because she declined to cede the soil to the United States. He should suppose, therefore before much more money was advanced to either of these places, it should be seen whether there were not other places equally entitled to assistance, and which had not yet received any. He saw no good reason why New York and Charleston should have large sums expended upon them, any more than Boston. He had no objection to fortifying our ports in the way proposed by law, though he did not understand that it was the wish of that House to fortify them in the same way as if we were at war. The State of New York could not have contemplated more extensive works, if we had been actually engaged in war. At Charleston, it seemed as if it were the intention to erect works, not only to keep off single vessels, but to defend themselves against any naval force. How far the committee might judge this necessary, he could not say; but, before they went on to expend any more money, he wished to know whether or not the cession had been made.

Mr. Livingston said, it appeared to be the opinion of the gentleman from Massachusetts last up, that nothing more should be done for the harbors of New York or Charleston, until cessions of the soil upon which the fortifications stand were made to the United States; but, to his mind, there appeared strong reasons why these cessions should not be made. The different States held them until they saw whether Congress would do anything for them. The State of New York held three islands, which they thought capable of defending the city. They were asked why they were not ceded? He would answer because Congress seemed inclined to do so little towards the erection of these works, not having contributed more than would place one-tenth part of the cannons necessary to defend them; and, if it were not for the exertions of that State itself, that city would be left defenceless. What, he asked, would be the situation of this place, if the islands had been ceded to the Continent, and the Continent should refuse or neglect to defend it? The State having given up the power, they could not provide a defence for themselves, but they and their posterity would be left perfectly defenceless. He therefore not only thought the State of New York had acted wisely, but that it would have been madness to have done otherwise; nor did he think it a sufficient reason for Congress to withhold its support, because that cession had not been made. The State of New York had done more, he said, than any other State in erecting fortifications;

the State had expended a great deal more money than the Continent on this object. The business had been carried on by commissioners appointed by Congress, in conjunction with those appointed by the State, with the greatest harmony, and therefore no objection could now fairly be brought against the plan of the works. He therefore hoped that a city from whence so much of the revenue of the United States was drawn, would not be refused a sum towards the completion of her works, and that even a larger sum would be appropriated than had been mentioned.

Mr. Dayton (the Speaker) said he was opposed to filling the blank with fifty thousand dollars. He believed that too much money had already been thrown away for the purpose of fortifying ports and harbors, and to very little advantage. As to the harbor of New York, which seemed to be one principal object of this expenditure, he should take the liberty of repeating what he had declared on the same occasion last session, that the city could not be protected from hostile invasions from the sea, by the works on the three islands in the bay. A single ship of war, taking advantage of a fair wind and tide, could pass them in proud defiance and lay the city under contribution. The Narrows were, he owned, well calculated for the erection of works to afford complete protection, but the expense would be great. He was not in favor of granting a shilling more than would be absolutely necessary to prevent their going to decay, until some judicious and skilful persons had been named to visit and inspect all the harbors of the United States, and report as well the proper places for forts, as the plan or scale, and expense of building. Congress should have before them the whole estimate in one view, and then decide to what extent they would go, and whether it would not be better to complete one fortification at a time, beginning with the most important, rather than to divide a sum amongst ten or fifteen, all of which would be in an unfinished state, and require annual appropriations to preserve them from falling into ruin, to which many were much exposed. As to West Point, the importance of which, to preserve a communication between the Eastern and Middle States in case of war, could not be questioned, it was provided for out of another fund under its appropriate head. No fortifications, therefore, but those of exposed posts, were contemplated, and from some representations which had been made it appeared that it would have been better to have thrown the money into the sea, than to have expended it in bringing together and piling up materials, which had in some instances served rather to choke up the channel than protect the places.

Mr. D. concluded with declaring, that he had also an objection arising from a neglect in some States to make a cession to the Union of the islands upon which they were called upon to erect fortifications at the general expense. This ought certainly to be done before the United States made any further appropriation, or at least it would be proper to except from the benefits of it such States as had not passed acts of cession. He should, at any rate, vote against the motion for fifty thousand dollars.

Mr. Williams was sorry the gentleman should be against the resolution altogether. If the Committee would not consent to appropriate money to finish the works at New York, he trusted they would grant such a sum as should prevent them from going to ruin. All that had hitherto been appropriated, he said, would not build barracks sufficient for the soldiers lying in New York. That State, seeing Congress were not disposed to appropriate money for defending the city of New York, appropriated two hundred thousand dollars for building the fortifications in question and protecting their frontier. They had expended a great deal of money on these fortifications, which had been laid out by an engineer appointed by the United States, in conjunction with commissioners appointed by that State. It might be supposed, therefore, that they were not wholly useless.

But, said Mr. W., admitting the gentleman to be right, and that the Narrows was the only place for erecting a fortification for that port, ought they not to appropriate money for that purpose? Which was the proper time for doing this? Should it be done in a time of peace or war? He believed in peace; peace was the season to prepare for war. Besides, when they reflected that all the money which had been expended would be lost, if a sum was not appropriated either to finish or keep the works in repair, they certainly could not hesitate a moment.

Mr. W. said he was himself formerly of opinion that it would be ineffectual to fortify the islands in question; but he was now convinced that those fortifications would be a great protection to that city, which was of so great importance to the Union as to pay four-fifteenths of the whole revenue of the United States. He hoped, therefore, that $50,000, at least, would be appropriated. The Secretary of the Treasury had reported $23,394 as wanted, to put the forts already begun in such a situation as not to go to decay; it became them, therefore, to be careful that money was voted for the purpose.

Mr. Sherburne never conceived it was the intention of the United States to spend money in fortifying places which were not ceded to them. It would be the height of imprudence to do so; but it was quite otherwise with respect to those places which had ceded the spots upon which fortifications were erected, since they had given the power from themselves of doing the business, and therefore the United States were bound to do it for them, otherwise such individual States put themselves in a worse situation than they were in before the cession. It was understood, at the time the law was passed, that the United States should completely fortify those places which made cessions to them; therefore, though he should be against doing anything for those ports which had not made the necessary cession, he should be for supporting those who had.

Mr. Havens said, the observations of the gentleman from New Jersey [Mr. Dayton] last year, which he had now repeated, went to show that

the fortifications now erecting on the New York islands would be of no kind of use, or very little. The propriety of the observation would depend upon the force brought against that city. They might not be sufficient to defend the city against a large fleet, but he believed they would be useful in defending it against three, four, five, or six vessels of war; for he did not believe the largest force of these could easily lay the city under contribution, when these fortifications were connected and manned, and in a proper state of defence. When they took into consideration the business of fortification, they must calculate the expense and the force likely to come against the forts to be erected. The gentleman from New Jersey had said, the only place for security was the Narrows; but to build a suitable fortification there, would cost from two to three millions of dollars, which was a sum of money he believed which would not be granted, either by the General Government or by the State of New York. A fortification upon this large scale was, therefore, out of the question; as to make it would require an island to be raised in the channel and a fort on Staten Island, and even then it would be in the power of a force sufficiently large for the purpose to take the city. He thought, therefore, that the objections to the fortifications now partly erected, had not all the force which the gentleman who made them seemed to think they had. He believed they were in the best possible situation for defending the place against two, three, or more ships-of-the-line.

With respect to the cession of the jurisdiction of this place, he believed the State of New York, though it would in some degree be inconvenient, would gladly make the cession, provided the General Government would do anything towards completing the works, which were so far advanced; but it was generally believed that all which had been said about the cession of these islands, was more a pretence than anything else; and if this were granted, then objections would be brought against the situation, and no money would be granted to complete works which, they would say, would be of no use when completed. Not having confidence, therefore, that Government would do anything effectual, they were not disposed to make any cession; nor did he believe, if the cession was made, they would do anything for them.

Mr. H. was of opinion that the Government of the United States should be candid with them. If they could not spare the money they should say so, and make this the ground for not coming forward in the business, and not plead the want of a cession of the land as the cause. Whenever Congress were disposed to grant them money for completing their fortifications, there would be no scruple to make a cession of the soil. For his part he should vote for the sum proposed, in order that Government might do something more than they had done for the security of the ports and harbors of the United States.

Mr. Nicholas said, the report gave some account of what $23,394 were wanted for, but he did not know what the $50,000 were to be expended in. They ought to know, he said, how far discretion was to go in the expenditure of it, and also what might be likely to be the extent of the demand. They went on giving by little and little, in a manner, he thought, scarcely consistent with their duty. They knew there were many claims upon them. New York had a claim; they were told that city might be completely defended for two millions of dollars. But he believed they were not in a situation to encounter such an expense, and, therefore, it was not their duty to undertake it. If they were to agree to appropriate the $50,000, they knew not what sum they should be pledging themselves hereafter to find; before they entered into the expense, he wished to know something more about it. He believed it might be proper to prevent any works going to decay which had been erected; but before he entered upon any business he wished to have some estimate before him. He should be for voting for the sum reported, but should not wish to go any further until he had more information on the subject.

Mr. W. Lyman said, with respect to the cession of the soil upon which different fortifications were erected, he believed the United States had a right to make fortifications where they pleased, whether a cession was made or not, in the same way as they had a right to make a public road through private property. All the advantages of cession arose from its giving to the United States exclusive jurisdiction; but, in a variety of instances, the United States had taken cessions qualified.

With respect to the sums already expended, he was far from thinking with the gentleman from New Jersey, [Mr. Dayton.] He thought the works at New York very well calculated for the defence of that city, as it would be out of the power of any small number of vessels to annoy it. He would not say the defence was complete; he believed it was not so complete as if the fortification had been made at the Narrows; but, as far as it went, the works were executed in a manner which did credit to those concerned in the execution, and was an honor to the State.

With respect to the fortifications of other places, he believed there were only one or two instances in which a cession had been made of the property. Mud Island, in the Delaware, and he believed Baltimore, had been ceded; but these were all that he knew of. He should, however be against voting for any larger sum than that reported by the Secretary of War as necessary, viz: $23,394; except they were to determine upon completing the fortifications at New York; in that case he should be for a larger sum. He believed completely to fortify New York, would cost three millions of dollars, and perhaps not less than ten millions for all the other parts of the United States. He supposed they should not think of engaging in so extensive a business at present.

Mr. W. Smith said, he had moved to fill up the blank with $50,000, because it was necessary to keep the present fortifications in repair. A great part of that sum, he said, would be wanted for

Charleston alone, and the committee had reported upwards of $23,000 as necessary for other purposes. He believed their information had not been so complete as it should have been; if it had, they would have found $50,000 at least necessary. Great sums of money, Mr. S. said, had been expended in gaining experience; but having learnt wisdom therefrom, in this respect, he trusted it would be of future service. He believed it would be found necessary to fortify all the ports of the United States; Charleston was very deficient. The Summer before last, he said, a French sloop of war came in there and committed some depredations, and, though they attempted to stop her, she bid them defiance, and sailed away. Indeed, any vessel of war might come in there and commit depredations with impunity, they had no means of preventing them. He believed they ought to go much further, but he knew the temper of the House was against voting large sums for this subject; this sum, he conceived, however, to be absolutely necessary to preserve the little fortifications which they had from going to ruin. Indeed, if $20,000 or $30,000 were not appropriated for the purpose of repairing Fort Johnson, it must be entirely destroyed. And though this fort was a sufficient defence against small vessels, yet it was not calculated for a permanent defence. Shooter's Mark was the proper place for making an effectual fort against the power of large vessels. He hoped, therefore, that when they agreed to this sum, they should go on to authorize the President to appoint commissioners to inquire into the proper sites for forts throughout the United States, in order to effect a complete defence of the Union.

With respect to the fortifications at New York, he thought them upon a noble scale, and that it would be disgraceful to the United States to suffer them to go to ruin. But the port of New York was in a better state than that of Charleston. It was true, the State of New York had done much, but they were able to do it. Charleston had also done something; they had expended twenty thousand dollars, yet their harbor was in a very defenceless state.

Mr. Coit wished to know what was become of the $20,000 which were last year reported as unexpended. It was then understood that that money was to go to the protection of New York and other fortifications. He was doubtful whether more was wanting. He believed they undertook too much. He believed the subject of fortification was begun radically wrong. It was not in our power, he said, to provide for so many forts at present; besides, the works were made vastly too extensive, and required forty times the money that Congress had an idea of appropriating to them. He believed they had better let the works go to ruin than appropriate more money to the object.

Mr. W. Smith said, it was to be regretted that the gentleman from Connecticut had not been in Congress when this subject of fortification was agreed upon. Everything would doubtless then have been right. But it would always be the case, that young members would think their predecessors had done wrong. It was thought, at the time, the best plan that could be adopted.

Mr. Corr could inform the gentleman from South Carolina that he had the honor of being a member of that House when the subject of fortifications passed. He believed himself as liable to mistake as he believed others; he was now satisfied he was mistaken on that subject, and he believed a majority of the House was also mistaken.

Mr. Gilbert said, if it was a good reason now for refusing an appropriation to the works at New York, because the islands were not ceded to the United States, the same reason would have held good heretofore. He did not believe it was then considered an insuperable objection, nor did he believe there would be any difficulty in gaining a cession of the territory, provided the United States were inclined to give the assistance wanted to finish those works.

Mr. Baldwin said, the matter was plainly before them in the report of the committee. The balance wanted appeared in the statement of the Secretary of War. The whole sum necessary was divided between the forts which were garrisoned and those which were without troops, and amounted to $23,394. He said he was upon the committee on a former occasion, and he believed there was sufficient information before them upon which to form an opinion. He was on the first committee on the subject of fortifications, and was at that time against going into it, thinking their then difficulties might pass over without taking these measures, and that it would have been better to have appropriated the money for the payment of the Public Debt. It was, however, carried.

He was of opinion with gentlemen who thought care had not been taken in the expenditure of the money appropriated for this object. He believed it was a misfortune that we had not had a better Engineer. There might have been some bad judgment, and if the business were now to be done, it might doubtless be improved; and whether there were too many undertaken, must be determined by that House. In the fortifications at New York, he believed there would be found no defect in the plan: they were going on with a complete plan, and the work was executed in a very durable manner. It was a business, he said, which it might take fifty years to complete.

Mr. B. said he should vote for the sum of $23,394, which was intended only to keep the works from getting worse: if more was given, it would go to a new object. The Engineer and Commissioners wished much for $30,000 in addition, for making a parapet to Governor's Island: they thought not to have this parapet was a burlesque upon fortification. The committee, however, recommended nothing but what was intended to prevent the works going to ruin. There was no provision for Charleston in this estimate. Indeed, if they could have brought themselves to have agreed to recommend anything further, it would have been the $30,000 above-mentioned, for the parapet.

Mr. S. Smith agreed with the gentleman from Connecticut, [Mr. Corr,] that the subject of fortifications was begun radically wrong. Too many

forts had been undertaken, and they were undertaken on too large a scale; but this was no reason why they should be suffered to go to decay. Some good had been done. He thought he had taken care that the fortifications at Baltimore had not been too large. However, the Engineer engaged in that business seemed not to know that no larger vessel than one of 36 guns could come into Baltimore. He had made it too large, and in the place where it ought not to have been erected. Where the fortification ought to have been made, little had been done. Barracks had been erected, but there was no place for preserving powder; and when the commander of the fort arrived there, he found 27 barrels lying above his barrack. The cattle had also free intercourse with the barracks, nor was there any defence against them. The Secretary of War, he believed, contemplated the erection of a proper fence and powder-house. He should, therefore, be for voting a sum for keeping the present works in repair, and for making them as useful as possible. He did not think they should refuse a small sum to keep them in repair.

Mr. Dayton believed that the unpleasant history of the progress of the fortifications near Baltimore, with which they had just been entertained by the member from Maryland, would be found to be that of many others which had been commenced in other places. Injudicious positions had been taken, and plans that were so extensive as to require more money to finish, and more troops to garrison them than could be spared, had been adopted by many of the agents and engineers. He thought it proper to review the present system before they proceeded further.

He rose principally to correct a misstatement made by the gentleman from New York, [Mr. Williams,] who had said that only $12,000 of the money of the United States had been expended upon fortifications in the harbor of their city. If that gentleman had attended to the official reports of the last year, he would have seen that $17,500 had been expended upon those fortifications out of the appropriations for the two years only of 1794 and 1795. Nearly $170,000 had been appropriated in those two years for the general purpose of fortifying ports and harbors; and it appeared that about $8,000 only remained unexpended. To grant $50,000 additional at this time would, Mr. D. said, be, in his opinion, an unwarrantable waste of money upon objects from which few advantages would arise to the public. He hoped, however, that if any grant should be made, the cession of jurisdiction would be insisted upon, as an indispensable preliminary to its expenditure.

The question for filling the blank with $50,000 was put and negatived, without a division.

Mr. Livingston wished to know whether the Committee had the information before them respecting the state of the fortifications at Charleston, which had been laid before the Committee of the Whole; if not, he thought a sum of money should be allowed for that port; and he did not see how gentlemen who wished to preserve the present works from ruin could decline voting for it.

Mr. W. Smith believed this information was not before the Committee. He moved that the blank should be filled with $40,000; which being also negatived, without a division, the question was put upon $24,000, and carried, 42 to 36.

Mr. Gallatin wished to move an amendment, to confine the expenditure of the money which they had just voted, to those spots which had been ceded to the Union. His reason for making this motion, was, that those places which had ceded their fortifications to the United States were prevented from doing anything for themselves. Pennsylvania, for instance, was at the mercy of the General Government: if it refused to fortify Mud island, Philadelphia would be left exposed to the attacks of any armed force which chose to come against it. As only a small sum had, therefore, been appropriated, it should be applied to those States which had made cessions of their works. If they adopted this principle, such States as chose to intrust the United States with their fortifications would do so, and those which chose rather to take care of themselves would act accordingly. His amendment was, to follow the resolution, in these words: "Provided, that no part of the abovementioned sum shall be appropriated on any spot which has not already been ceded to the United States."

Mr. Potter said, the State of Rhode Island had laid out considerable sums upon their fortifications; but, with a view of their being better protected by the General Government than by themselves, they had been ceded to it, and since that time they had been going to destruction. Before they were ceded, they had their works mounted with guns and men, but now they had neither; and, if the United States did not mean to keep these works in repair, it would be much better for them to return them again into the hands from which they got them.

Mr. Livingston said, if an amendment could be added to the provision, he should have no objection to vote for it. They were told the public money should only be expended upon such fortifications as were ceded to the United States. He would wish to add, "if the United States shall pledge themselves to make such places a complete defence." The information of the gentleman from Rhode Island had weighed much with him. What was it? They had ceded the only place proper for defence; they had laid out a small sum, and left it deficient, and prevented them from doing anything for themselves. Mr. L. then proposed an amendment to the above effect.

Mr. Williams was opposed to both motions. He would only ask the gentleman from Pennsylvania what would be the situation of New York, supposing they were upon the eve of a war, if these islands were ceded, and the General Government refused to do anything towards their defence? Would he wish to tie up the hands of the individual States from defending themselves? When he was up before, he had stated that the General Government had only appropriated twelve thousand five hundred dollars towards the fortifications at New York in the first instance;

the Legislature of that State finding that sum only appropriated for that object, and knowing the exposed situation of the city of New York, agreed to advance near two hundred thousand dollars for that object and the defence of the frontiers. He believed that, in the whole, seventeen thousand five hundred dollars had been appropriated by the United States to these works; but if they will not complete them, the State ought not to tie up its own hands from doing so. The Constitution placed the power of the defence of the nation in the General Government; but if they would not defend it, individual States must defend themselves.

Mr. Sherburne supposed that other States, seeing the manner in which the United States neglected to protect those places which had ceded their fortifications, were prevented from making cessions of theirs.

Mr. W. Lyman said, he should vote for the latter amendment, because it would render the former less exceptionable; for, without it, he should expect to see the whole of the money expended on Mud Island and Presqu'Isle; because he believed no cession had been made of any other. He was not certain with respect to Baltimore.

Mr. Havens was against the amendment of his colleague [Mr. Livingston] as altogether nugatory. The Government of the United States would always judge of their own situation, and what was necessary to be done. He did not see how it was possible to prevent the Government from judging and acting in such cases as they thought proper. Nor did he think the amendment of the gentleman from Pennsylvania was at all proper. He believed when the gentleman from Connecticut said the business was begun radically wrong, he meant that the United States were not equal to the expense of the undertaking. If this were the case, they should select those places which were of the greatest importance, and give assistance to them; but if this amendment were to prevail, their assistance would be confined to those of least importance. If a State had not made a cession, if it were ever so much in need of support, it could not receive any. He hoped, therefore, the proposition would not be agreed to.

Gentlemen seemed to make it a matter of great importance that a cession should be made; but did gentlemen seriously believe that this was the only objection to affording support to the ports which asked it? If they were not unwilling to do it, had not Government the power to give assistance, though a cession was not made? Or was it right that they should place the defence of the Union upon so slender a foundation as that the refusal or neglect of a single State Legislature to cede a proper site for fortifications should expose it to the utmost danger? It was obvious that it was not.

Mr. Swanwick said, much difficulty arose from two bodies having the same power in this business; but it did not follow that, because one power did not do what was necessary, that the other ought not. He thought the motion of the gentleman from New York well calculated to bring the matter to a point. In Pennsylvania, he said, they had ceded the important fort of Mud island, and they had a strong claim on Government for protection; and if they did not do their duty, it would evince the imbecility of Government. Indeed, he was very sorry to hear so much of the imbecility of Government as he had that day heard. What a strange idea would it give to foreign countries, that we were not able even to preserve our fortifications from ruin; that in one place they were undermined by the sea, and in another were subject to abuse from cattle? What a strange idea it was to think of a fort which should be impregnable being torn to pieces by cattle! These were the most extraordinary specimens of good government he had ever heard. Whether they were upon the subject of a Navy or upon fortifications, their finances were wholly unequal to the business. Where should they stop at last? Could such a system as this prevail? He thought it could not. He believed such representations of our weakness were well calculated to provoke aggression.

Mr. S. could not help being surprised that, whilst they were taking great care of their posts at the Natchez, Detroit, &c., where nobody came, they were leaving their seacoast, where danger could only be apprehended, exposed to every danger; for he did not expect an enemy would attack them where nothing was to be got; they would strike at our large cities, where lay the great capital of the nation.

Mr. Nicholas spoke against both amendments.

Mr. Dearborn thought it was proper the question should be brought to issue, whether places which did not cede the spots upon which their fortifications were erected, should be supported or not. He thought this amendment was calculated to determine this point.

The question on the amendment to the amendment was put and negatived without a division.

The question then recurred upon the amendment offered by Mr. Gallatin; and, after a few observations from Mr. Gilbert in opposition thereto, it was put and negatived—38 to 36.

Mr. W. Smith then proposed a resolution to the following effect:

"*Resolved*, That a further sum of $15,737 19 be appriated, to reimburse to the State of South Carolina the expenses incurred in fortifying the city of Charleston."

The question was put and negatived without a division.

The Committee then rose, and the resolution was referred to the Committee of Ways and Means to bring in a bill.

A report was received from the Secretary of War, inclosing an account of the deficiencies reported to the House on the 10th instant, intimating at the same time that there would be a further deficiency for militia service on the frontiers of Georgia of $112,413, which would be laid before them as soon as made out. Referred to the same Committee of the Whole to whom was referred the former communication on this subject.

Mr. Sitgreaves, from the committee to whom

was recommitted the bill for mitigating and remitting fines and penalties under the revenue laws, reported a bill; which was committed to a Committee of the Whole to-morrow.

Tuesday, February 21.

Mr. Harper, from the committee appointed to report what States had agreed to the amendments proposed to the Constitution respecting the suability of States, made a report. It recommended that the President be requested to inquire what States had agreed to the said amendment. It was referred to a Committee of the Whole to-morrow.

Mr. Harper reported a bill laying additional duties on certain articles of impost. It was referred to a Committee of the Whole to-morrow.

Mr. Swanwick reported a bill to suspend, in part, the act laying duties on snuff and refined sugar. Committed to the Whole House to-morrow.

A bill was received from the Senate, entitled "A bill to accommodate the President." This bill enacts, "that, after the 3d of March next, the President of the United States be authorized to cause to be sold such articles of furniture presented to him by the United States, as may be decayed, out of repair, or not fit for use; the proceeds of the said sale, and a sum not exceeding fourteen thousand dollars, to be appropriated to the accommodation of the President, to be laid out for such articles of furniture as he may direct." Referred to the same Committee of the Whole to whom was referred a report on this subject.

Mr. W. Smith reported a bill for making an appropriation for the Military and Naval Establishments for the year 1797. Referred to a Committee of the Whole to-morrow.

Mr. Gallatin called for the order of the day on the bill providing certain expenses incurred in the late insurrection. They went into a Committee, and reported the same without amendment—the House passed it for a third reading to-morrow.

MILITIA BILL.

Mr. Dearborn moved to go into Committee of the Whole on the Militia bill.

He observed it was not a new system, but an alteration of the old one. He supposed it could not take a long time, its principles having already been discussed.

Mr. Sherburne supported the motion, as it had been several sessions under consideration.

Mr. Williams hoped, as the present session was so near a close, the House would not think of it.

Mr. Rutherford thought it better not only to be put aside at present, but never revived, as it was taking a power out of the hands of the several sovereign States, which they could best suit their own location in; besides, he thought the United States had nothing to do with the Militia until in actual service.

Mr. Varnum said it was well known the United States had passed laws for the regulation of the Militia, and it was as well known that those laws did not do any service in the Eastern States. The benefits of a new regulation would be considerable. During the Western insurrection, assistance was obliged to be obtained from several States; this was not compulsory. He hoped the United States would not expose themselves to danger and expense, when a short bill would prevent it. He therefore thought it a very necessary subject.

Mr. Sitgreaves lamented the time which was every day taken up to know what business should be entered upon. He hoped every private business would bend to public, of which he thought sufficient presented itself. He hoped the present would be postponed.

Mr. Harper was surprised that gentlemen could press a business which there was no probability of doing; he would, therefore, to gratify Mr. Sitgreaves, move a postponement until the 4th of March.

Mr. Parker thought it more proper to discharge the Committee from the consideration of that subject, which he moved; and after an observation against it by Mr. Freeman, it passed—ayes 42, noes 32.

COMPENSATION OF CLERKS, &c.

On motion of Mr. Dearborn, the House resolved itself into a Committee of the Whole on the bill for reviving and continuing in force the act of the 30th of May, 1796, to regulate the compensation of clerks, which was agreed to; the Committee then rose, and the bill was ordered to be engrossed for a third reading to-morrow.

On motion of the same gentleman, the bill for augmenting the salary of the Attorney General went through the same form, and was disposed of in the same way. Before the question was taken in the House,

Mr. S. Smith moved to add a clause to it to increase the salaries of all the Heads of Departments.

The Speaker said the bill must be recommitted to admit of his amendment.

Mr. Kittera moved to have it recommitted. The motion was negatived, there being only 15 votes in favor of it.

GENERAL APPROPRIATION BILL.

Mr. S. Smith called for the order of the day on the appropriation bill. The House accordingly went into a Committee of the Whole on that subject; and the item of $50,000 for foreign intercourse being under consideration—

Mr. Nicholas said, he felt himself very much at a loss on this subject. They were told this session that the object of this appropriation might cost $300,000. When he voted on this subject last session, he thought there was no need to go beyond the sum then appropriated; and, from the smallness of that sum, he did not make the necessary inquiries, but as the Secretary of State had said the faith of the country was pledged to pay the debts for which persons had stepped forward as securities, he felt himself much embarrassed. The country would, by this means, be much involved, and how they could be excused from paying it, without disgrace, he was at a loss to know, though he did not think they were bound to pay it. It went to establish a principle that whatever property was thus lost they would be bound to make good, however great the sum, or bear the expense of suits to recover it, which was a dangerous principle.

Mr. W. Smith could not agree with the gentleman who had just sat down, that by this act we pledge the United States to make good any deficiencies of our citizens; on the contrary, he thought there would be a reimbursement of this, as he thought considerable sums would be recovered, and when recovered, would be placed to the credit of the United States, and if not recovered, he could not see how the United States stood pledged for its payment. He thought the appropriation should be made. It was passed, and he could not see how it could be prevented. The President had, he thought, good reason for advancing these sums, or he would not have done it, and having done it, it could not be recalled. All they had now to do was to prevent the like again, by raising a sufficient armament to protect our flag and deter foreign Powers from insulting or injuring our commerce in future; he trusted it would be a warning to us to make ourselves so respectable as to guard against the necessity of indemnification in future.

Mr. Nicholas said, that the appropriations should be kept separate, that those for the service of Government, and those which were of a disputable nature, might not be introduced, as it could not be essentially different whether the item now under consideration be introduced in this, or in a separate bill. He did not think with the gentleman last up, that because much money was to be spent, that more should be spent to prevent it in future. He was not at all satisfied with the business; it seemed a matter of surprise on the House, and, he believed, done without authority. He did not believe there was power in the Executive to use money in this manner. At any rate, he thought the appropriation might remain until the last of the session, and therefore he would move to strike out the item.

Mr. Gallatin said, that upon examining the documents sent the other day by the Secretary of State, and the Secretary of the Treasury, he found that, having been under the necessity of giving security for the costs of the suits of our citizens in Great Britain, and being authorized to do so, Mr. Bayard, our agent, had pledged the faith of the United States for the payment of them. On this account, several merchants in London came forward and were security for him, and, though the sum of 50,000 dollars was small, it could not be obtained without pledging the faith of the United States. By recurring to the law, it would be found that there had been a general appropriation of one million to defray an extra expense of intercourse with foreign Powers; and though it was the intention of the Legislature that this sum should have been exclusively appropriated to obtain a peace with Algiers, yet it could not be denied, that the loose manner in which the act was worded, might be so construed as to cover the purpose for which 200,000 dollars of that appropriation was expended, viz: to prosecute the claims of our citizens whose property had suffered spoliation, as it was an extra expense of intercourse with foreign nations; yet he did not think the construction which had been put upon it was perfectly natural, but he would not now dispute that question; he would allow it was a legal appropriation. But it could not be denied, that whenever appropriations were made in such a loose manner, they could not cover the expense further than the money would go. If the Legislature, indeed, had authorized an expense, and appropriated a sum of money for that purpose, and this money had fallen short of the expense, it might have been said the expense was authorized, and therefore the money must be procured. In such a case the President would have been authorized by law to pledge the faith of the United States, in the same manner as he would be authorized to call out the Militia; for, though no appropriation was made for the purpose, they should feel themselves bound, in a certain degree, to pay the expense: they might, indeed, say he had expended too much money, yet they would, in some degree, be bound to pay it. But the case now under consideration was altogether different: the object of expense was not authorized, and the only reason why the money had been legally expended, was, because a kind of general appropriation had been made, of which advantage had been taken. He conceived, that the President might have gone on to have expended the money as far as it went; he had not the power to pledge the faith of the United States further. Upon this ground he had prepared a resolution, which he intended to have offered to the House this morning, viz:

"*Resolved*, That a Committee be appointed to inquire into the propriety of the United States either advancing or defraying the whole, or part of the expenses of prosecuting the claims of their citizens, whose property has been captured by the belligerant Powers, and of authorizing the President of the United States to pledge the faith of the United States for the purpose; and that the said committee be authorized to report by bill or otherwise."

Being an entire new subject, Mr. G. said, it was proper they begin the business afresh. They ought not, by appropriating in this bill, to countenance the expenditure of money for an object not authorized by the House; they ought first to authorize the expense, and then appropriate the money. He, therefore, was for striking out the item in question. He would not wish to be understood to say, that, though the President had not the power to incur the expense alluded to, that the necessity of the case might not warrant it, and that they might not be induced to legalize it; but if they made an appropriation without any inquiry on the subject, it would be taken for granted that the expense was perfectly regular and warranted; but if, on the contrary, they brought in a bill by itself, it would show that they

alone were the only branch of Government which had the power of creating expense.

Mr. W. Smith said, it was not very material whether this appropriation was in this bill, or in any other, since the gentleman last up admitted it was necessary to appropriate for it; this gave him considerable pleasure. Gentlemen admitted there might be cases wherein to justify the Executive in incurring expenses unknown to the House. Mr. S. thought this may be a case of that kind, and that he was justified from the urgency of it: however, every gentleman would judge for himself. There would have been more propriety in bringing forward this measure last session than now, as then a certain sum was voted for this purpose in the appropriation bill; they, therefore, then did what gentlemen now said ought not to be done. Last session, said Mr. S., we received a communication from the Executive, informing us that some money was wanted for the purpose; we, then, without legalizing the expense, considering the necessity of the sum to be granted extraordinary to the diplomatic department, it was done, and considered as a proper measure. Mr. S. had no objection to the mode proposed, provided it had been done last session.

The question for striking out the item was then put and carried.

The other articles of appropriation were then gone through, the Committee rose, and the House took it up, and the bill was ordered to be engrossed for a third reading to-morrow.

PUNISHMENT OF CRIMES.

Mr. W. Smith called for the order of the day on the bill from the Senate repealing the limitation of the act for the punishment of certain crimes against the United States, and to continue in force the same.

Mr. Gallatin said, in looking over this act, he saw little in it which might not with propriety be made a permanent law; though he thought there were some few things in the two first sections, which were not so fit for a permanent law. He, therefore, thought it would be best to extend the act for two years longer, by which time the situation of this country, and of the public mind, might be such as to allow the repeal of those particular parts. He made a motion to this effect.

Mr. Murray hoped the amendment of the gentleman from Pennsylvania would not succeed. From what he knew of the law, he was impressed very favorably towards it; he thought it well explained the duty of the citizens of this country, as a neutral nation, towards this Government and towards other countries; these were permanent duties, which no time could change; they were duties inherent in the law of nature, and agreeable to the Law of Nations. The object was to create such a disposition in the people as should be friendly to our neutral situation. The clause which forbade the fitting out of privateers was sanctioned by the laws of morality and justice. Mr. M. hoped, therefore, this law would be considered as a permanent law, especially when great evils had arisen from the want of the knowledge of the duties herein contained, and had nearly forfeited our neutral character. If the duties laid down in this act were such as should be generally known and practised, it was necessary the law should be considered as permanent: indeed, he had heard no argument against its permanency, either now, or at the time of its passing. It saw necessary the duties of neutrality should be well impressed upon the mind of every citizen. It had, indeed, been the pride of this country to keep hitherto that neutrality inviolate. And in truth, if the law should not now be made permanent, it would exhibit a fluctuation in our councils, that would not fail to produce a bad effect upon the people.

Mr. Gallatin said, there was the same reason for continuing the limitation now, that there was for originating it when the law passed. The law was suitable for our present situation, and whilst the European war continued, it might be well to continue this law in all its parts. Indeed, if it contained nothing but an exposition of the law of nature and of nations, as the gentleman from Maryland had said it was, he would fully agree with him that it should be permanent; but he believed it, in a few instances, contrary to both.

When he was up before, he said, he did not see anything, except in the two first sections of the bill, that appeared to him improper for a permanent law, but those sections he did not think were proper. He should be justified in saying, that they were in flat contradiction to the Laws of Nations, which was the reason he did not wish it inserted as a part of a permanent law of the land, without further investigation than they had now time to give it. One of the passages in the law was to the following effect:

"That if any citizen shall, within the territory of the United States, accept of any commission in the service of any foreign Power or State, he shall be guilty of a high misdemeanor," &c.

In no other nation, he said, was it considered as a high misdemeanor to enter into the service of a foreign Power. The United States themselves had a number of foreign officers during the last war. No nation ever yet forbade the practice; yet he would fully agree that, owing to the temper of the public mind at the time, the regulation was a proper one; it might be so now; but he was not prepared to say it would always be so, because there might be considerations which, whilst we were at full peace, would induce us to wish our citizens to learn the art of war; yet, he would not say that this consideration might not be overbalanced by other considerations. He would rather leave this subject, which was not conformable to the Law of Nations, but a kind of novelty, until the expiration of the present European war. With respect to fitting out privateers, the observations of the gentleman from Maryland [Mr. Murray] were perfectly right. He agreed that the law on this subject ought to be permanent; but the reflections which that gentleman had made were mostly derived from the objectionable clauses.

Mr. W. Smith wished the gentleman from Pennsylvania [Mr. Gallatin] had confined his motion to the two clauses which he had mentioned as objectionable, as he seemed not to carry his objections to any other part. The two sections might be enacted for two years, and the remainder be permanent. The law, he said, was a valuable one; and, by making its duration for two years only, they would run the risk of bringing the law under consideration every two years; at a time when, perhaps, the minds of the people might be in a situation which would render the discussion improper. They knew now what was the duty of citizens; and as it could not possibly be known what our situation might be at the end of two years, it was proper to have a permanent law. The gentleman said, it might be, that our situation at that time would be such as not to require a continuance of that law. But this they knew, that the system was valuable; one of the effects of it, he believed, was our peace, whilst other nations were embroiled in war, by preserving our neutrality. He hoped, therefore, the gentleman would at least let all the other clauses of the act be permanent, if he should choose to have the period of duration of the two first confined to two years. He would do well to confine his motion to them.

Mr. Coit did not think it material whether the law was made permanent, or extended for two years more. If he had had the same opinion with the gentleman from Pennsylvania, he should have come to the same conclusion that it would be best to make the law temporary. But he thought the expression, "if any citizen within the territory or jurisdiction of the United States," did not mean what he made it. There was no prohibition of any citizen of the United States from going out of the country to serve, "by taking and accepting of employment within the United States."

Mr. Murray said, he had not read the law lately; since he was up before he had looked it over, and he owned he was not convinced of the impropriety of making it a permanent law, by anything which had been offered by the gentleman from Pennsylvania: That gentleman would, doubtless, admit that from a neutral situation certain duties immediately arose; but that, when we declared our neutrality, they became much stronger, and that it would be a breach of neutrality if these duties were to be neglected. The offence which was forbidden by the first section of the law, was an offence against the Law of Nations, since it would be to allow a part of the nation to assume a military character, which the Law of Nations was averse to; what was prohibited in the second section, viz: "that no person shall himself enlist, or enlist any other into the service of a foreign Power," was equally improper, as a nation which allowed itself to be a place of recruiting could not retain its character of neutrality; indeed, if one Power had the liberty of beating up for recruits amongst us, another must have the same, so that we should lose altogether our neutral character. If we, therefore, considered ourselves as a free nation, and did not choose to open our doors to the recruiting parties of any other, it became us to make provision by law against the practice; and were they to repeal a law of this kind which had been already made, or give a limitation to it, they would say this was a duty which might cease; for the law, said he, does not create duties, but enforces them. The Law of Nations enjoined upon neutral nations peaceable manners towards all other nations. This flowed from principles of honor when applied to nations. If the provision was made only a temporary one, the Law of Nations was put in the power of a mere majority of that House to do it away, which was certainly improper, as the sanction should be as perpetual as it was obligatory.

Mr. Swanwick said, there seemed to be observations introduced into this subject which were foreign to it; the question was, whether they would agree to limit the law before them to two years, or make it a permanent one. From anything he had heard, he was in favor of the limitation; as he was not less inclined to think favorably of the wisdom of our successors, than of their own; nor did he fear that House would at any time do what it ought not to do. He doubted not their successors would do the business of the nation as well as they did it—perhaps better. What did experience say in this respect? Were they not in the habit of frequently altering their laws? Did they not often hear of "an act supplementary to an act," &c., which did not look as if their laws were made like the laws of the Medes and Persians, which changed not; on the contrary, every opportunity was given to revise and make our laws as perfect as possible. It was no evidence of the wisdom of a law, that its advocates wished it to be made permanent; it would appear more consistent in them to leave it to the consideration of a future Legislature, because it was really a wise and excellent law, there could be little doubt that a majority of that House should insist upon a repeal of it. For his part, he was much in favor of limitations, and wished they were more frequently introduced.

Much, Mr. S. said, had been said about nations and the Law of Nations. He believed the great variety of business which lay before them would not allow them to discuss the extensive folio of the Law of Nations; and therefore, he believed, it would be much better to pass the law before them for a limited term, and leave it to those who came after them, who probably would have more time to do it, to discuss this Law of Nations. So far as passion might be supposed to be engaged on one side or the other, with respect to the belligerant Powers of Europe, he did not think they were so competent to the passing of a permanent law as they might be supposed to be some years hence, when the present contest shall have come to a close. But this Law of Nations, of which they heard so much, was so flexible a thing, that it was become difficult to know what it was. It seemed to be a law of force, which a strong Power always interpreted for a weak one. We, he said, had complained to other nations, that the Law of Nations had been violated in their conduct towards

us; but, knowing us to be weak, they told us we were mistaken—it was no such thing; whereas, if we had been strong enough for it, we should have shown that we understood that law as well as them—so laughable a matter was become this Law of Nations. If a gentleman could not find his opinions supported by *Vattel*, he turned to *Martens*, and if not by him, it would not be difficult to find some other author agree with him in sentiment; indeed, he thought this famous Law of Nations was become little more than the law of strength.

But the gentleman from Maryland [Mr. Murray] said, if this law was made permanent, it would have a good appearance to foreign nations; it would show them that our neutrality was fixed; that they had nothing to apprehend from us; we should be as peaceable as lambs. For his part, he did not think this so very desirable a thing; and, if the limitation clause would produce a contrary effect, he should think it a considerable recommendation for adopting it. But, it was said, these limitation clauses kept the people's minds in continual fluctuation; on the contrary, he believed, no law they could pass would fluctuate their opinion. He was convinced they would think for themselves. Indeed, their opinion might be found to fluctuate concerning their Representatives, and they might tell them they had no further need of their services. There was no certainty that the people's opinions would approve the conduct of their Representatives.

Mr. S. said, he remembered the time when a permanent President was talked of; and something of permanency was heard about another branch of the Legislature, which, if it were examined, it would be found, meant no more than that two branches of Government should have power over the third. It was said, that though the law before them was a good law, and now approved, yet a future House might repeal it if it were passed under a limitation. Mr. S. said, he had often heard apprehensions about what other branches of the Government might do, but that they should become apprehensive of what they themselves might do was extraordinary; for, though the wisdom of the other branches was often reiterated, yet he would rather trust their own body than them, especially as they were returned by the people every two years; therefore, if the opinion of that House fluctuated, it would be a fluctuation favorable to the interests of the country, since it would receive its bias from the people, which might not be altogether so in the other branches, as they were not so frequently brought to the test of public opinion. And though he did not wish to make discriminations betwixt the merits of the different branches of Government, if he did make them, it would be in favor of that House. Why, then, should they wish to abridge their own powers? This was a singular conduct. He should be for cautiously upholding that power, because he believed the other branches would take care of themselves, and that there was no occasion for that House to take care of them; yet he was sometimes afraid that, in the abundant zeal of the House of Representatives for the powers of the President and Senate, they should lose sight of their own. As he had no doubt of the virtue and wisdom of a future Legislature, he wished the limitation to be agreed to.

Mr. Gilbert said, there were certain things which were immutable in their principle; and this was the case, he thought, with respect to the provisions of this bill; and therefore they ought not to put upon an uncertain footing what was eternal and true. He therefore was of opinion that what had been remarked with respect to laws in general, had no weight with respect to this law.

Mr. Gallatin said, if he were of opinion with the gentlemen from New York and Maryland, that the whole of this law was founded upon permanent principles, he should agree with them that its existence should not be limited; but he still insisted that the first and second sections of this law were not so grounded; for, notwithstanding the word *exercise*, which moderated the word *accept*, still he would say that it was not contrary to the Law of Nations that citizens of the United States should enter into foreign service. As he did not mean to recur to *Vattel* on this occasion, he would refer to a fact. A few years ago, it would be remembered that, whilst the Russians and Turks were engaged in war, the British authorized officers to go into the Russian service; they went to Russia, and when the fleet of that Empire went round to the Mediterranean, they anchored within the jurisdiction of Great Britain. This was never looked upon as an infraction of the Law of Nations. He therefore insisted that, however proper in itself the first section of this law might be, as it respected the situation of our own country, it was not the Law of Nations, nor did it flow from it. If they turned to the second section, he agreed that that part which forbade the enlisting of persons into foreign service was perfectly well founded, as such a practice was not only contrary to the Laws of Nations, but also an encroachment upon the jurisdiction of a sovereign country. He, therefore, did not object to that provision being made a permanent law of the land. But to inflict a punishment upon a person for enlisting himself, was not consonant to the Law of Nations, though they certainly had the power of making it an offence against the law of the land. In order to prevent an invasion of our neutrality, it would be sufficient to prevent foreigners from recruiting, and there was little danger of our own citizens enlisting, though they had a right to do so, according to the Law of Nations, except forbidden by a positive law. He concluded, therefore, it would be best to enact the law for another limited time. This legislating by the lump was not convenient. This was a long act, and as the session was near a close, there would not be time for discussing it section by section; the law must therefore be re-enacted without undergoing much discussion. If it were to continue in force two years longer, it might then be taken up section by section, and they would see whether it could not be amended.

Mr. Nicholas said, besides the objections which had been made to the act, there was a principle in it dangerous and new. It was the execution of law by military force; not only with respect to ships or vessels, but with respect to persons who came under this law. He thought this alone would be sufficient to lead them to choose rather to enact the law for a limited term, than as a permanent law. It would be recollected that this particular occasioned much discussion when the law passed, and that it was carried only by a small majority.

Mr. Holland was in favor of the limitation. It had been observed, he remarked, that experience had shown the law to be a good one; if so, it would continue to be so. The gentleman from Maryland was certain that it was agreeable to the fixed Law of Nations; it might be so, but he ought not to wish to pass it without giving gentlemen time and opportunity to examine it for themselves.

Mr. Murray believed, if the gentleman from Pennsylvania [Mr. Gallatin] would recollect in the case of the British officers, they obtained some authority from their Government before they entered into the service of Russia; so completely were that people bound up by allegiance to their Government (and such a conduct was very patriotic and exemplary) that no step of that kind would be taken without authority.

Mr. M. said, we had the authority of France for this provision by a famous author of that country, written one hundred and fourteen years ago, viz: *Colbert*. In speaking on the maintenance of Ordinances, he says, that no subject of France can, during a foreign war, take or accept a commission from any foreign country whatever, without permission being first obtained from Government; but the ordinance, as commented on by *Valleine*, declares, that no citizen of France could take a commission from a foreign Power, though in alliance with that country. They had, therefore, the examples of both Great Britain and France in favor of the regulations in this bill.

With respect to the charge brought against him by the gentleman from Pennsylvania, [Mr. Swanwick.] he had entertained him so agreeably in passing, as it were, in a circle from pole to pole, that he was obliged to lose sight of him in the dust that he himself had kicked up. He had wandered abroad so widely that he supposed he was mistaken as to the subject; he, doubtless, fancied he was upon some commercial business. He scarcely knew what to think of him; because he was generally as close to the pole as a well-bred race-horse; he never knew him so completely out of the way. The gentleman must have been thinking upon the frigates, or some commercial scheme, as there was no other way of accounting for his wanderings upon this occasion. He should not attempt to follow him.

Mr. Swanwick said, it was no wonder the gentleman should have lost sight of him after describing him as turning the pole. He could assure him he should not follow him in his notice of *Colbert* and *Valleine*, nor into his inquiries of what France did during her despotic Government. And he thought it would be acknowledged, however foreign he might have been from the subject, he was not further out of the way than he was, in going back to the musty records he had resorted to. To tell them what was the practice of France one hundred and fourteen years ago, was indeed idle; they all knew what a wonderful revolution of sentiment had taken place since that time; they also knew that they had also lately treated *Vattel*, and other writers upon the Law of Nations, somewhat roughly. For his own part, when he read some of these works, he thought the authors of them had spent their time to very little purpose. He believed we should understand the Law of Nations very well, if we had twenty ships-of-the-line to back our interpretation of it; but whilst we remained without ships, we should have to receive the Law of Nations from others. Our citizens had been buoyed up with the idea of the liberty and independence of their country; but we had seen them plundered and enslaved. We had also seen our peaceable conduct everlastingly repaid by injury. He believed the people would, however, begin to think for themselves. In two years, he was of opinion, the people would not ask what was the opinion of *Colbert*, *Valleine*, *Vattel*, but would think for themselves.

Mr. S. Smith said, there was a law on the subject wherein it was admitted that our citizens may go into other countries to fight if they chose; the prohibiting clause only went to prevent them entering into the service of other nations within the United States. His colleague [Mr. Murray] was right as it respected Russia, some British officers did this who had commissions, but some he knew had not. How far he was right in his reference to *Colbert*, he knew not, but he thought it had no force, for he believed the Marquis Lafayette, and other French officers who assisted us during the war, had no authority from their Government to do it.

Mr. Buck said, it could not be a matter of much consequence whether the amendment took place or not; no one could say there was anything inapplicable to our present situation; but it has been said, that there is provision in the law which may hereafter be continued in force, and therefore there was no need to restrict it to two years; it could then be reconsidered, for he could not see that, according to the ideas of some gentlemen, it was in the power of the House to make what they called a permanent law to bind any future Legislature; if he considered that, he said, he should be against passing any acts, and for repealing this, and leaving its extension to a future House; as he thought it almost, if not quite, impossible to look forward and see what would take place. He supposed it always in the power of a Legislature to make, alter, or repeal, as they pleased; it might be left to their discussion and judgment, and if they saw it not necessary to extend or limit, it might be left to go on as it now is. He could not see any inconvenience in the law, nor had the gentleman from Pennsylvania convinced him of any, he only

said it was consistent with the Law of Nations, and under the existing circumstances of our Government. Then, if he cannot show why injurious now, why should he anticipate its alteration at the end of two years? Seeing no use in the amendment, but the contrary, he should vote against it.

The question was put for continuing the act in force two years, instead of making it permanent, and carried—ayes 52.

The Committee rose, and the House agreed to the reported resolution, and the bill was ordered for a third reading to-morrow.

NEGOTIATION WITH THE MEDITERRANEAN POWERS.

Mr. W. Smith moved that the House should go into a Committee on the business, which would require the galleries to be closed; the Speaker accordingly put the question for going into a Committee of the Whole on the bill to authorize a negotiation with the Mediterranean Powers, which, being carried, the galleries were cleared accordingly.

After the galleries were cleared, the bill was agreed to with amendments, and ordered for a third reading to-morrow.

On motion that the House come to the following resolution:

"*Resolved*, That the injunction of secrecy upon the members of this House, so far as it relates to that part of the communication made by the President, by his Message of January 9, which has been printed, be taken off, and that all future debates and proceedings thereon be had with open doors."

A motion was made to insert, after the words "be taken off," "together with the letter of Messrs. Barlow and Donaldson, of April 5, 1796." The question on the amendment was taken by yeas and nays, and lost—yeas 19, nays 65.

The main question was then taken by yeas and nays, and resulted—yeas 53, nays 36.

Reports of the Secretary of State and the Secretary of the Treasury, relative to the present situation of affairs with the Dey and Regency of Algiers, accompanying the following confidential Message from the President of the United States, received the 9th of January, 1797:

Gentlemen of the Senate, and of the House of Representatives:

Herewith I lay before you, in confidence, reports from the Departments of State and the Treasury, by which you will see the present situation of our affairs with the Dey and Regency of Algiers.

G. WASHINGTON.

United States, January 9, 1797.

To the President of the United States, the Secretary of State respectfully makes the following brief representation of the affairs of the United States, in relation to Algiers:

When Colonel Humphreys left America, in April, 1795, he was accompanied by Joseph Donaldson, Esq., who had been appointed Consul for Tunis and Tripoli; and him Colonel Humphreys was authorized to employ in negotiating a Treaty with Algiers, while he should proceed himself to France, for the purpose of obtaining the co-operation of that Government in this negotiation.

They arrived at Gibraltar on the 17th of May. Colonel Humphreys concluded that it was expedient for Mr. Donaldson to go first to Alicant, rather than Algiers, in order to be near at hand, to ascertain facts and profit of occasions. He gave him instructions accordingly; and having also instructed Mr. Simpson, our Consul at Gibraltar, to renew our peace with the Emperor of Morocco, Colonel Humphreys sailed from Gibraltar the 24th of May, and arrived at Havre de Grace on the 26th of June; from whence he set off immediately for Paris. The object of his mission was communicated by our Minister, Colonel Monroe, to the Committee of Public Safety. On the 1st of July he had received only a verbal answer, that the French Government was disposed to interest itself, and to do every thing in its power, to promote the accomplishment of our wishes on the subject in question. On the 28th, assurances were received that immediate measures should be taken for giving particular instructions to the agents of the Republic, to use its influence in co-operating with us. The multiplicity of affairs with which the officers of Government were occupied, and the getting from London a sum of money necessary to purchase the usual peace presents, prevented a conclusion of this arrangement at Paris until September. It had been judged expedient, by Colonel Humphreys and Colonel Monroe, that Joel Barlow should be employed in the negotiation with the Barbary States, and his consent had been obtained. By the 11th of September, all the writings on the part of Colonel Humphreys were prepared for Mr. Barlow, to proceed with the instructions and powers from the Government of the French Republic to its agents in Barbary, in favor of our negotiation.

Colonel Humphreys left Paris the 12th of September, and reached Havre the 14th, where he found the master and mate of the United States brig Sophia, both sick with fevers. While waiting there impatiently for their recovery, he received intelligence from our Consul at Marseilles, that Mr. Donaldson had concluded a Treaty of Peace with the Dey of Algiers; nevertheless, Colonel Humphreys thought it expedient that Mr. Barlow should proceed with the presents prepared and preparing at Paris; for, if not needed at Algiers, they would be wanted in the negotiation with Tunis and Tripoli.

About the 5th of October, Colonel Humphreys sailed from Havre, and after a stormy passage of more than forty days, arrived at Lisbon on the 17th of November. There he found Captain O'Brien, who had arrived about the 1st of October, with the Treaty with Algiers.

On the 3d of September Mr. Donaldson arrived at Algiers, and on the 5th the Treaty was concluded, and the peace presents immediately given, by a loan. Mr. Donaldson, knowing that funds had been lodged in London to answer his stipulations, engaged to make the payments in three or four months.

Colonel Humphreys had received advice, under date of the 30th July, from the Messrs. Barings, in London, to whom the funds had been remitted, that, having made progress in the sales of the United States' stock, they should hold, at his disposal, the whole of the value of $800,000, meaning to furnish, by anticipation, the value of that part which remained unsold, if the service of the United States required it. Colonel Humphreys, counting on the money as always ready after this period, sent Captain O'Brien from Lisbon to

London, in the brig Sophia, to receive it. Owing to contrary winds, she did not leave Lisbon till the 24th of December. The other details, relative to the pecuniary transactions, appear in the report of the Secretary of the Treasury.

The disappointments in the pecuniary negotiations, put the Treaty in jeopardy; the Dey threatened to abandon it, and it was with extreme difficulty that it was prevented. Mr. Barlow did not arrive at Alicant until February, 1796, where he proposed to wait the arrival of the funds; but, after a little time, his intelligence from Algiers showing that our affairs were in a critical situation, he determined to go thither immediately, with the hope of soothing the Dey. He arrived there the 4th of March; they had before prolonged the time to the 8th of April for the payment of the stipulated sums. On the 3d of this month the Dey declared what should be his final determination—that in eight days Mr. Barlow and Mr. Donaldson should leave Algiers; and if, in thirty days after, the money was not paid, the Treaty should be at an end, and his cruisers should bring in American vessels. Under these circumstances, and as the last hope of saving the Treaty, they were induced to offer the present of a frigate—this fortunately succeeded. For the particulars of this transaction, the Secretary begs leave to refer to the enclosed letter from Messrs. Barlow and Donaldson.

Colonel Humphreys not deeming himself authorized to confirm this promise of a frigate, referred the matter to the Executive of the United States; and for this end dispatched Captain O'Brien, in the brig Sophia, to America. There was evidently no alternative; and the promise was confirmed.

The frigate is now building in Portsmouth, New Hampshire, and is expected to be finished in the spring. Captain O'Brien returned to Lisbon, where he arrived on the —— of July: Colonel Humphreys had advantageously negotiated bills on London for $225,000. This sum was embarked on board the Sophia, and, on the 3d of August, Captain O'Brien set sail for Algiers. He has not since been heard of, and there is room to fear that some misfortune has befallen him. The money was insured at a small premium, against the danger of the seas; against all risks they demanded so high a premium as Colonel Humphreys judged it inexpedient to give, seeing the Sophia was a vessel of the United States, having a special passport from the President, as well as a passport in the Turkish language, under the seal of the Dey of Algiers.

Such arrangements have been made by Mr. Barlow and Mr. Donaldson, at Algiers and Leghorn, as will doubtless insure the payment of the $400,000 originally expected from the latter place; and the same house have become engaged to the Dey and Regency for the residue of the money due as the price of peace, without which he would not agree to the redemption of the captives.

The Secretary of the Treasury estimates these further sums to be provided to fulfil the terms of the Treaty - - - - -	$255,759
For two years' annuities to the Dey - -	99,246
To which are to be added the 10,000 sequins promised by Mr. Barlow and Mr. Donaldson, mentioned in their letter - - -	18,000
And the expenses of the captives performing quarantine at Marseilles, and transporting them to America, estimated by the Consul at Marseilles, at about - - - -	6,500
	379,505

On the 31st ultimo I received a letter from Mr. Barlow, dated the 13th of July, informing that the agent, Mr. Famin, at Tunis, who had been recommended to him by the French Consul Herculias, had concluded, with the Bey of that Regency, a truce for six months, from the 15th day of June last, and that without any presents

TIMOTHY PICKERING,
Secretary of State.

Department of State, January 6, 1797.

The Secretary of the Treasury, in obedience to directions from the President of the United States, respectfully makes the following representation respecting the application of the funds destined for the execution of the Treaty with Algiers:

In pursuance of an act passed on the 21st day of February, 1795, the sum of $800,000 was borrowed of the Bank of the United States, which was paid in six per cent. stock. A conviction of the case, and a disposition to accommodate the Government alone induced the Bank to consent to the loan, as the stock was then saleable in large quantities at par, including interest. Bills of exchange were not readily obtainable, and the sudden exportation of so considerable a sum in specie would have been attended with inconvenient effects. Indeed, no alternative offered but to renounce the negotiation, or to remit stock as a fund.

Various causes operated to produce a depression of all kinds of public stock, soon after the remittances had been made. The rates at which sales have been effected are as follows:

$560,000	sold for sterling -	£111,053	13	0
230,000	remained unsold at the date of the latest advices, which may be estimated at 80 per cent. - -	43,200	0	0
$800,000	in stock will, therefore, produce in sterling money - -	£154,253	15	0
		or $685,572	22	

Of the sum of $396,911 37 appropriated for Treaties with Mediterranean Powers, by the act of May 31, 1796, there was an estimate for a deficiency on account of the Treaty with Algiers, the sum of - - - - - - -	51,132 00
The whole of the grants for the Algerine Treaty may therefore be considered as equal to an effective fund in London, of	$736,704 22
The expenses of carrying the Treaty into effect, are estimated at - - - -	525,500 00
To which are to be added, agreeable to Mr. Donaldson's calculation, for per centage on the captives - - - - - -	27,000 00
Other expenses - - - - - -	90,000 00
Amount of money to be paid in Algiers -	$642,500 00

The expense of remitting the sum last mentioned, from London to Algiers, according to the best estimate which can be formed, will be as follows:

One hundred and forty thousand dollars procured at Leghorn by bills on London, cost 4*s.* 10*d.* 55-100 sterling, per dollar, or sterling £34,110 00 0

Two hundred and sixty thousand dollars, expected to be obtained at Leghorn will be - -	65,000 00 0		
	£292,110 00 0	or	$440,488 88
Forty thousand dollars remitted to Hamburg, cost sterling - -	9,002 18 8		40,613 04
Two hundred and twenty-five thousand dollars procured at Lisbon, for which drafts have been passed for sterling -	50,007 16 0		227,256 89
Six hundred and sixty-five thousand dollars placed in Leghorn, Hamburg and Lisbon, and supposed to be sufficient to discharge the pecuniary obligations of the Treaty, will probably cost - - -			702,858 81
Payments made to Col. Humphreys, sterling	2,571 00 0		
Payment to Capt. O'Brien	31 00 0		
	£2,602 00 0		15,564 44
The naval stores stipulated by Mr. Donaldson, were estimated at fifty-seven thousand dollars, but which, agreeable to his enumeration of the articles, will cost, agreeable to the estimate of the purveyor, marked (A) - - -			124,413 00
The freight of said stores is computed at -			50,000 00
The expenses of the frigate lately promised, agreeable to the estimate of the Secretary of War, herewith transmitted, marked (B) will be - - -			99,727 00
The whole expense of fulfilling the Treaty according to the estimate, therefore, is			992,463 25
From which sum the effective value of the provisions already made being deducted, as before estimated - - - -			736,704 22
There will remain to be provided - -			$255,759 03

The annexed paper marked (C) is a copy of a representation from Messrs. Barings and Company, to the Minister of the United States in London, dated August 29th, 1796; the accuracy of which is confirmed by the correspondence therein referred to; there is therefore no room to doubt but that the delays and consequent accumulation of expenses, are to be attributed solely to the extraordinary events of the war in Europe, and to other causes over which the Government of the United States have had no control.

By the last article of the Treaty, the United States are bound to pay an annuity of twelve thousand Algerine sequins in naval stores; the cost and freight of the articles required by the Dey for the first two years annuity, will, agreeably to the purveyor's estimate, marked (D) be - - - - - - - $144,246 62
From which the appropriation made by the act of May 6, 1796, for two years, being deducted - - - - - 48,000 00
There will remain to be provided on this account the sum of - - - - - $96,246 62

All which is respectfully submitted by
OLIVER WOLCOTT, Jr.
Secretary of the Treasury.

Treasury Department,
January 4, 1797.

(A.)

An estimate of the probable cost of the articles for the Algerine Treaty

500 barrels powder, at 15*l.* - - -	£7,500
66 tons of lead, at 40*l.* - - - -	2,640
20,000 cannon ball, at 276*l.* - - -	2,760
5,000 double headed shot - - - -	590
200 pieces of canvass - - - -	1,100
2,000 gun barrels - - - - -	2,000
50 masts, at 100*l.* - - - -	5,000
100 spars, at 40*l.* - - - -	4,000
10 cables and cordage, 45 tons - -	10,575
3,000 pine and oak plank, 6 inch thick and 50 feet long - - - - -	9,000
200 barrels of tar - - - - -	200
200 pieces of scantling - - - -	540
100 barrels of pitch - - - -	160
10 cannon, &c. - - - - -	500
	£46,655
Equal to - - - - -	$124,413

TENCH FRANCIS,
December 29, 1796. *Purveyor.*

(B.)

Estimate of the sum necessary to build and equip a frigate, to carry 36 guns, for the Dey of Algiers. To which is added an estimate of navigating the same to Algiers.

Carpenter's bill for building the hull, launching the same, together with a complete set of masts and yards, per ton - - - - - -	$45 00	
Joiners, smith, plumbers, boat-builders, carvers, coopers, blockmakers, sailmakers, riggers, and rigging, with shipchandler's bill - - -	$55 00	
Ship complete, of 533 tons, at per ton 100 dollars, is - - - - - -		$53,300 00
Copper sheathing - - - - - -		4,118 40
Cannon - - - - - - -		8,428 60
Copper pintles and braces - - -		1,240 00
Powder, shot, and other military stores -		13,551 00
Forty men, including officers, their pay and subsistence for five months - - -		8,589 00
Contingencies - - - - - -		10,000 00
		$99,727 00

JAMES M'HENRY.
War Office, 26th December, 1796.

(C.)

Statement of Messrs. Baring & Co., Aug. 29, 1796.

In the execution of the business with which Baring and Company have been entrusted, they have communicated to Mr. Pinckney, from time to time, every material circumstance which has occurred; but, as the present position is extremely critical and important, they will endeavor to state as concise a narrative as possible, from the commencement of the business, for the consideration and determination of Mr. King.

[The 7th March, 1795.] The President of the Bank remits to Baring and Company $800,000 in certificates of six per cent. stock, with orders to sell the same without causing a depression in the prices and thus injuring the credit of American funds. The net proceeds, after deducting the usual commissions, are to be held at the disposal of Colonel David Humphreys; and we are directed to inform Colonel Humphreys of the progress we may make, from time to time, in the sales of the stock, and also of the terms upon which remittances can be made to Cadiz and Leghorn. This contains nearly the whole of our orders, or at least the whole of what we conceive to be necessary for the information of Mr. King, in the present moment; the further letters from America being almost wholly answers to our numerous letters, and do not contain a syllable of disapprobation with regard to our conduct, but the reverse.

[31st March, 1795.] Col. Humphreys writes from Philadelphia, that we would furnish him with information, assistance, &c., directed to him at Lisbon.

[28th April, 1795.] We wrote very fully to Colonel Humphreys; the letter contained every information relative to the probable sale of the stock, and the various means by which he could execute his commission through London, Lisbon, Cadiz, and Italy in general.

[19th May, 1795.] We wrote still more fully, in answer to his letter of the 31st of March, wherein we offered to anticipate a considerable sum, on the value of the effects in our hands, for which there was no demand at the moment. We explained to him the value of the Italian coins, those of Spain being well known; mentioning that it was easier to procure money at Leghorn, where there was no restraint, than at Cadiz, where dollars were more plentiful; but the exportation was exclusively in the Bank of St. Charles, from whom it was difficult to obtain permission. That we could procure any quantity in London, to which we added the names of our correspondents at the different places, offering every service in our power, direct or indirect,

[18th May, 1795.] Col. Humphreys advises of his arrival at Gibraltar.

[21st of July, 1795.] We advise Colonel Humphreys that we had sold $300,000; that we were ready to pay £100,000 to his order; and if he wanted a further sum, we desired to be informed.

[27th July, 1795.] Colonel Humphreys directs us to pay $40,000 to Mr. Deas, for Mr. Andrews, which was immediately complied with, by a credit on Hamburg for that value.

[30th July, 1795.] We informed Colonel Humphreys that having made further progress in our sales, we should hold the whole of the value of the $800,000 at his disposal, meaning to furnish, by anticipation, the value of that part which remained at that time unsold, if the service of the United States required it.

[28th Nov. 1795.] In the next letter from Colonel Humphreys, and the commencement of our difficulties. He informs us that he should send the Sophia for the purpose of receiving Portugal gold and Spanish dollars in London, to the amount of 650,000 Spanish dollars. He further opens credit in favor of Messrs. Dohrmann of Lisbon, which were punctually paid, and he desires remittances on Lisbon, which, from the scarcity of paper at the time, was effected to a very trifling amount.

This letter was followed and confirmed by others from Colonel Humphreys, dated the 16th, 22d, and 24th December, of similar tenor, or very nearly so, and the arrival of the brig Sophia from Lisbon.

Although Colonel Humphreys has not mentioned to us the reasons for this proceeding, we may impute it to the advice contained in our letter of the 19th of May, and indeed to the well known facility with which a sum of that description could be procured in London, of Spanish dollars, having ourselves never experienced the least difficulty in disappointment, for large sums.

[22d Dec. 1795.] We answered these letters, advising Colonel Humphreys of the impossibility to procure Portugal gold, none having been received for many years. Of the extraordinary turn which had appeared with regard to bullion, in consequence of the immense drains upon this country, for carrying on the war, and which has finally compelled the Minister to abandon his favorite project of a second loan to the Emperor; but as the difficulty had only began to appear, we hoped that with some delay, we should be able to collect the dollars for the purpose of executing the orders of Col. Humphreys.

[17th Jan. 1796.] Finding it impossible to procure gold, and no silver arriving, we submitted the whole of the orders and correspondence to Mr. Pinckney, when it was determined to purchase such silver as might arrive; but, at all events, to detain the Sophia, which could not be wrong, as the westerly winds would have prevented her sailing.

In the meanwhile we wrote to Messrs. Parish and Company of Hamburg, to know whether Portugal gold or Spanish dollars could be obtained in that place.

[Jan. 19, 26,—Feb. 2, 12, 1796.] Are letters we wrote to Colonel Humphreys, wherein we acquaint him with our prospects, from time to time, that Parish and Company gave us reason to hope for the execution of a part of the order, but that no silver had arrived in London.

[16th Feb. 1796.] Having determined, with the approbation of Mr. Pinckney, to send the Sophia to Hamburg, in consequence of the encouragement of Messrs. Parish and Company, on applying to Capt. Crandon he observed that it was contrary to his instructions, which were to return to Lisbon, and as considerable doubts existed about proceeding to Hamburg, Mr. Pinckney declined giving a positive order to Captain Crandon, which proved fortunate, as immediately after advice was received from Messrs. Parish and Company, that the dollars they had in view had been purchased, most probably for account of the British Government.

On this occasion, and under this date, we wrote to Colonel Humphreys, by the brig Sophia, and by the packet, acquainting him with our disappointment in *toto*; which we accompanied, at the intimation of Mr. O'Brien, with letters of credit on Madrid and Cadiz; and in order to finish this part of the subject, as a justification for permitting the Sophia to return, we should observe, that if she had been detained for six months, we could not have procured one half of the quantity of Spanish dollars required.

[March 1st, 1796.] We advise Colonel Humphreys, that we had received a large sum in bills, drawn from

Leghorn, on the British Government, being for money sent to Algiers, and which appeared afterwards to be for the release of the Corsican prisoners.

[March 22, 29, 1796.] Are answers to letters from Col. Humphreys, relative to our accounts, chiefly dated 27th February, and 9th March, which we do not notice, concluding that he was satisfied, as nothing appears in reply to us; but as there was reason to fear the business could not be executed in Spain, the Government there refusing a license, notwithstanding the endeavors of Messrs. Joyes and Sons, aided by the American Minister or resident.

[April 1st, 1796.] We wrote to Messrs. Fonnereau, of Leghorn, not only to open the necessary credit, but to explain to them, in a full and confidential manner, the nature and extent of our preceding disappointments; requesting (with the approbation of Mr. Pinckney and Colonel Humphreys) that they would convey to Algiers such information as should satisfy the Dey, that the delay in paying the money did not arise from the want of funds, credit, or endeavors on the part of the United States, but must be solely attributed to the political convulsions in Europe, which had annihilated the usual channels or modes of procuring the coin for the purpose.

It is unnecessary to quote dates of letters, as there appears but one opinion on the subject, namely, "that the business must finally be done at Leghorn," and both Mr. Pinckney and Colonel Humphreys recommend most earnestly, that the information alluded to should be conveyed to Algiers.

[29th April, 1796.] Messrs. Fonnereau answer our letter of the 1st, promising to follow the orders of Colonel Humphreys, and that ——— would communicate to Algiers every thing we had desired.

[17th June, 1796.] Fonnereau advise the delivery to them, on that day, of the orders from Colonel Humphreys, to pay to the order of Mr. Donaldson, 400,000 Spanish milled dollars, which they acquaint him shall be immediately complied with.

[17th June, 1796.] Mr. Donaldson acquaints Messieurs Fonnereau that he should accept the sum; and on a meeting between them and ———, the price of the dollars, with that of the agio, was settled to the satisfaction of ———.

[June 20th, 24th, 1796.] Fonnereau drew for what money they could procure, and on the 24th, wrote, "enclosed you have Mr. Donaldson's receipt for 140,000 dollars, paid to him by order of Colonel Humphreys: this business might have been completely finished by our giving to Mr. Donaldson bills on you, or on Hamburg, for the remaining 260,000 dollars, which ——— offered to negotiate for him, and to give him a receipt for the whole 400,000 dollars, which he engaged to ship to Algiers; but a certain diffidence on his side would not permit him to sign receipts to us for more than he had absolutely received in cash."

[June 27th, 1796.] The French entered Leghorn, and Fonnereau embarked on board an English frigate.

[July 15th, 1796.] Mr. Donaldson draws on us for the sum of 10,000 dollars; ——— under the same date, inquires about Mr. Donaldson's credit on us, and whether we have orders for more than 400,000 dollars.

This question leads to a state of the account, with an estimate of the effects in our hands. Of the original sum sent to us, we have only sold 560,000 dollars, the price having fallen at one time so low as 82, and believing that Government would feel reluctant to sell under 90, we had determined to anticipate on the value of the remainder, waiting for our reimbursement in the due time.

The 560,000 dollars above, have produced Some part was sold above 90 per cent. and none below that price, which leaves about 3s. 11½d per dollar.	£111,053
The present price is 86, with little demand; suppose the remaining 340,000 dollars produce 3s. 9d. per dollar, the amount will be	45,000
Total amount of sales and effects - -	£156,053

The great defalcation in the nominal dollars arises from the remittances being made in funds which fell at 10 per cent. under par, and the payments being made in foreign money at a rate very much above par, that of Leghorn in particular has advanced 16 and 18 per cent. above what it was not a long while since.

Our payments are as follow:

Credit on Hamburg, 40,000 dollars - -	£ 9,002
Drafts on Dohrman - - - -	50,007
Remittances to Col. Humphreys - - -	3,036
His draft 12th of December - - -	435
Paid O'Brien - - - - - - -	31
Paid sundry persons for the dividends on stock sold - - - - - - - -	2,497
Dollars, 140,000, paid Mr. Donaldson, we calculate about 4s. 10d. 55.100 each -	34,110
	99,118
Suppose the remaining dollars, 260,000, which includes Mr. Donaldson's drafts, calculated at the same rate, the amount will be, at 5s.	65,000
Total amount of payments - - - -	164,118
Ditto of sales and effects - - - -	156,053

The sum of £2,497 paid for us by dividends, will be received again by us from America, and, of course, appear ultimately to the credit of the United States.

Under all the circumstances which have been stated, it is submitted to Mr. King, What ought to be done in the present moment!

Mr. Fonnereau says, that reliance may be had on ——— having conveyed to Algiers the information requested; and moreover, that it will be thoroughly satisfactory at that place.

In the present situation of Leghorn, there is in fact no exchange; and the drafts of Mr. Donaldson must be negotiated elsewhere. The Italians, moreover, know that bills drawn from Leghorn, subsequent to the entry of the French, cannot be paid in London without a license, &c.

Baring & Co. can have no difficulty with regard to themselves; they are directed to hold the proceeds or value (which they conceive to be equally the intention of the United States) at the disposal of Colonel Humphreys, who directs them to pay 400,000 dollars to the order of Mr. Donaldson, which will be punctually complied with, to the extent of sales, and value of what remains, under a proper license; but that zeal which has induced them to follow this business into foreign parts, without any other motive for their so doing, induces them to submit the difficulties which occur with regard to the actual position of Leghorn. I doubt whether the business can be executed from thence at present—and still more, the defalcation which must arise respecting the funds, to the consideration of Mr. King, for his better judgment, and which they trust will serve as an apology for the detail with which they now trouble him.

£156,053	Sales and supposed value.
2,497	Dividends.
158,550	
5,568	Deficient, supposing Mr. Donaldson can negotiate the remaining dollars, 266,000, at 5s., those of Mr. Fonnereau having cost 4s. 10d. 55.100.
164,118	

August 29, 1796.

(D.)

An estimate of the probable cost and freight of the maritime stores necessary for paying the first and second years annuities to the Dey and Regency of Algiers:

1,000 barrels of powder - - -	£15,000	
2,000 pine and oak plank - - -	6,000	
3,000 pine boards - - - -	4,500	
2,000 pipe staves - - - - -	50	
100 dozen long tar brushes - -	100	
34 cables, 80 tons - - - -	10,800	
10 coils white rope, 11,200 lbs. -	500	
5 tons yarn - - - - - -	975	
100 bolts of canvass - - - -	550	
3 tons lead - - - - -	120	
35 tons spikes - - - - -	3,597	10
2,000 bomb shells - - - -	650	
	42,842	10
Equal to $114,246	63	
To transport the above to Algiers, suppose	30,000	
	$144,246	63

TENCH FRANCIS, *Purveyor.*

December 29th, 1796.

Wednesday, February 22.

The bill for the regulation of the compensation of Clerks; the bill for advancing the salary of the Attorney General; the Appropriation bill; the bill for defraying expenses incurred on account of the Western insurrection, and for allowing compensation to jurors, witnesses, &c.; and a bill to continue in force an act for the punishment of certain crimes against the United States, were severally read the third time and passed.

MEDITERRANEAN POWERS.

The bill for making appropriations to defray the expense of negotiations with Mediterranean Powers, was also read the third time. The provisions of this act, (which has been the subject of the various discussions which have lately taken place with closed galleries) are to the following effect:

"That the President of the United States be, and he is hereby authorized to apply a sum not exceeding 255,759 dollars and three cents, to the expenses which may have been incurred in any negotiations with Mediterranean Powers, beyond the sums heretofore appropriated; and that the said sum of 255,759 dollars and three cents, be, and the same is hereby appropriated for that purpose; and that a further sum not exceeding 96,246 dollars and 63 cents, be, and the same is hereby appropriated for discharging the two first years annuity to the Dey and Regency of Algiers, pursuant to treaty, in addition to the sum appropriated for that purpose by the act of the sixth of May, 1796."

On the question being put that the bill do pass, Mr. Greenup said he never liked the bill in any shape whatever; he would therefore express it now. He then called for the yeas and nays, which were taken, and stood ayes 63, noes 19, as follow:

Yeas.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Nathan Bryan, Daniel Buck, Dempsey Burges, Thomas Claiborne, Joshua Coit, Isaac Coles, William Cooper, James Davenport, Henry Dearborn, George Dent, George Ege, William Findley, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Thomas Henderson, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Matthew Locke, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Elisha R. Potter, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Richard Sprigg, jun., Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Nays.—David Bard, Thomas Blount, Samuel J. Cabell, Gabriel Christie, John Clopton, James Gillespie, Christopher Greenup, John Hathorn, John Heath, James Holland, Andrew Jackson, George Jackson, William Lyman, Samuel Maclay, Nathaniel Macon, William Strudwick, John Swanwick, Abraham Venable, and Richard Winn.

On motion of Mr. Gallatin, the title was changed to "a bill to authorize the President of the United States to apply further sums to defray the expenses of the negotiation with the Dey and Regency of Algiers."

TREASURY STATEMENTS.

Mr. Harper moved the following resolutions:

"*Resolved*, That the Secretary of the Treasury be directed to lay before Congress, annually, until the year one thousand seven hundred and ninety-eight, a statement of the amount of duties and drawbacks for each year, from 1792, inclusive; and after the year one thousand seven hundred and ninety-eight, similar annual statements, each to include, respectively, the six years immediately preceding the year in which it is made.

"*Resolved*, That the statements required by the foregoing resolution, the amount of duties and drawbacks, after the present year, on each of the enumerated articles, paying a rate of duty ad valorem; and also, on woollens, shall be separately stated; that woollens shall be distinguished into three classes; and that the said amount on all unenumerated articles paying such a rate

of duty, (woollens excepted,) shall be comprised in one item, containing, however, an enumeration of the articles of which that item may be composed."

Ordered, That the said motion be committed to Messrs. Harper, Corr, and Venable; that they do examine the matter thereof, and report the same.

JOHN CLEVES SYMMES.

On motion of Mr. Gallatin, the House took up the bill in addition to an act for granting certain lands to John Cleves Symmes and his associates; when

Mr. Corr moved to strike out the first section. His object, he said, was to gain information, particularly with respect to the survey.

Mr. Gallatin (who was Chairman of the Committee which made the report) gave a concise history of the business; which satisfied Mr. Corr, who withdrew his motion; and the bill was ordered to be read a third time to-morrow.

The particulars of this case are as follows:

John Cleves Symmes and his associates entered into a contract with the United States in the year 1787, for a million acres of land in the North-western Territory, at a time when the geography of that country was not well understood. The tract was to extend twenty miles up the Great Miami to the Little Miami; but when this line came to be measured, it was found that it cut the Little Miami in several places on land which had been reserved by Virginia at the cession of this Territory to the United States. Mr. Symmes was down in the country before he knew the line thus drawn would thus cut into the lands of Virginia. The first thing he did was to take possession of the country which is between Fort Washington and the Little Miami, and to sell as much as he could of it. General St. Clair, the Governor of that Territory, threatened to drive Mr. Symmes and the settlers off this territory to which he had no right. The innocent settlers, who had purchased the land of Mr. Symmes, sent forward representations of their case to the President, which, together with the representations of the Governor, produced an act to change the boundary line of the purchase, which was passed April 12, 1792. This act describes the boundary line of the tract of land to be between the two Miamis and the Ohio. Mr. Ludlow was sent to survey it in 1793, when it was found, that instead of there being one million of acres, there were only five hundred and forty-three thousand nine hundred and fifty, which was duly surveyed, and the survey lodged in the Treasury Office on the 10th of January, 1794. Here arose the first difficulty. The act passed to change the boundary line could not take place without the consent of Mr. Symmes. In consequence, the law was said to be enacted at the request of Mr. Symmes. In 1794, Mr. S. had not made any request, consequently the law was a nullity. He might at that time have said, he would not have the land upon any other than the original contract, and that it was the business of the United States to make up the deficiency; and, if he had so acted, it is probable Congress would have been obliged to have found him one million of acres of land, agreeably to his contract; but, at that time, lands were not raised to so high a price as they were now, and Mr. S. did not think it necessary to avail himself of his contract. On the 11th April, 1792, a petition was presented in his name, stating, that from an advance in the price of certificates, resulted the impossibility of fulfilling his contract, and prayed that an abatement might be made in the price of the land. On the 27th September, 1794, instead of saying he would not abide by the new boundary, he requests an alteration may be made in the boundary. Notwithstanding this request, Mr. S. now says, he did not know anything of the survey, though more than nine months since it was made. At first sight, it would be supposed the contract was void for want of fulfilment; but as he says he never received from the public a counterpart of the contract, (though it is generally supposed he had in some way got possession of a copy, but no proof existing of it,) the claim was not forfeited. A circumstance was mentioned which seemed to convey a strong supposition that Mr. S. was acquainted with the survey. The day following the request he had made for the new boundary, was issued to him a patent for three hundred thousand acres, referring to that survey. Mr. S. now objects to the releasement which was given of his first purchase as not being complete. It was stated that he had taken possession of land to which he was no way entitled. The necessity of the act being immediately passed appeared from an advertisement (which Mr. Gallatin read from a newspaper of that country) inviting persons to come and purchase, under an assurance that his original purchase would be completed. Mr. G. said that he had been offered some part of the land at a dollar an acre, he was informed that it would sell for two to settlers. Mr. G. said he knew it to be very capital land; and if the four hundred and fifty thousand acres which remained would sell for nine hundred thousand dollars, while he only gave three hundred thousand for the whole, he would have made a good bargain.

AMENDMENTS TO THE CONSTITUTION.

On motion of Mr. Harper, the House resolved itself into a Committee of the Whole on the report of a select committee on the resolution from the Senate respecting certain amendments to the Constitution, which having been read, a motion was made for the Committee to rise, stating that the report was important—that, from the noise without, and the indisposition which there seemed to be in members to attend to business [the noise alluded to was the firing of cannon, drums beating, and fifes playing, in commemoration of the President's birth day] it was doubtful whether it would meet with proper attention. The Committee rose accordingly.

Mr. Livingston reported a bill in addition to an act for the relief and protection of American seamen; which was referred to a Committee of the Whole.

On motion of Mr. S. Smith, the House took up

the bill for regulating the compensation of collectors, &c., at the ports and harbors of the United States; when, after having partly gone through the same, a motion was made, and carried, to adjourn.

Thursday, February 23.

A Report was received from the Secretary of State on the memorial of Antonia Carmichael, widow of the late William Carmichael, praying for compensation for her late husband's services as Chargé d'Affaires to the Court of Spain. The Secretary reported it as his opinion, that Mr. Carmichael ought to be considered as Chargé d'Affaires from May, 1782, to April 1790, and that his widow should have been paid for that service one thousand pounds sterling a year, and eighty-one thousand dollars for his extraordinary services. The Report was referred to a Committee of the Whole to-morrow.

Mr. Swanwick, from the Committee of Commerce and Manufactures, reported a bill making an appropriation for the prosecution of the claims of our citizens for property captured by the belligerant Powers. Referred to a Committee of the Whole to-morrow.

Also, a report upon the petitions of sundry manufacturers of soap and candles, of manufacturers of cordage, and of Stephen Addington, calico printer, who severally prayed for regulations in their favor with respect to duties and drawbacks. The manufacturers of soap and candles labor under disadvantages from no drawback being allowed upon soap and candles manufactured from foreign tallow, though there be a drawback allowed on foreign candles when re-exported. The committee mentioned three modes of remedying the grievance: the first, by taking off the duty on tallow imported; the second, by refusing a drawback to foreign soap and candles re-exported; the third, allowing a drawback on soap and candles manufactured from foreign tallow. The first mode was preferred; but, from various considerations, they thought it best to defer making any regulations with respect to the business this session. Similar reasons influenced the same conclusion with respect to the other petitions. The report was referred to a Committee of the Whole to-morrow.

The bill in addition to an act for granting certain lands to J. C. Symmes was read a third time and passed.

INDIRECT TAXES.

On motion of Mr. Harper, the House then went into Committee on the bill laying additional taxes on articles imported.

Mr. Harper said, he had moved, in a former stage of this subject, that one cent should be substituted on brown sugar, instead of half a cent; that motion had been rejected; but he supposed many gentlemen had voted against it, because they thought another, and, in their view, a preferable mode would be adopted this session; that not being to be brought forward, he had now thought to renew the proposition. There had been great difference of opinion on the subject of additional revenue: some gentlemen had said it could be done without, while others thought an increase absolutely necessary to supply the current wants. It was, indeed, a predominant opinion at one time that it was wanted; but many of those gentlemen now thought a very little might fully answer the demand. The last idea, he presumed, was founded on the supposition that the revenue of the present year would be as productive as the last. They were informed that the duties of the year 1796 exceeded those of 1795, four hundred thousand dollars, and it was presumed the present would be adequate to the last; but it was to be observed that the expenses of 1798 were to be paid out of the duties collected in 1797, which revenue is quite uncertain, and from two causes: the great fall of American produce in the European markets, which, in almost all articles, our merchants have felt to amount to from thirty to forty per cent. Such a loss must be severely felt. Secondly, the great depredations committed on our trade by the French Republic during the present year more than the year 1796, was another serious injury to our revenue. The revenues received in 1796, which arose from the importations of 1795, were very little injured by British spoliations, these having taken place in 1793 and 1794. The receipts of 1795, from the importations of 1794, were affected, but those of 1796 were not, as in 1795 our produce bore a very high price in Europe, and found a ready market, either of which would prevent the small depredations committed from affecting the revenue that year, and that not having been so much applicable to 1796, the revenue of 1797 would not be so productive, at least it might be fairly conceived so. In addition to this, great part of the capital of our merchants has been detained in foreign countries. By this capture we know that it has been the case to take the cargo of our vessels, and draw bills for this cargo; some few of those drawn at the commencement of this practice have been paid, but a great part not. The amount of property so captured was computed at four or five million dollars, and this, though it did not much affect 1796, will materially affect 1797. For these reasons it would plainly be seen, that the revenue of the present year, which was for the service of the year 1798, could not nearly equal that of 1796 for the service of the current year.

If this be so, said Mr. Harper, the whole foundation on which gentlemen build their opinion, without additional aid, will be taken away, and their schemes fall to the ground. He meant only to show gentlemen the precarious nature of commerce at present; this those very gentlemen had anticipated him in, and their arguments were then so forcible as almost to incline him to relinquish his support to a revenue from external taxation at present; but those gentlemen since tell us, notwithstanding their former arguments, that we are not to calculate upon the revenue of 1795 but 1796, and then we shall have enough: that, Mr. Harper said, was the most prosperous year

that ever was known to American commerce; then the depredations of the British had, in a great measure, ceased, and those of the French were scarcely known; this was a propitious period. They could not therefore count upon future revenue equal to that. He had no doubt but the revenue from our commerce could be made very great; but there might be room to doubt whether, at present, it might be prudent to go to those lengths which may hereafter be requisite; all the investigation of the subject he had heard, tended to confirm him in that opinion: but were they to reckon upon the revenue to be received in any one year, the estimate should not be at the rate of that only, but make the calculation upon a more regular foundation; the great fluctuation of commerce would render it injudicious. Suppose, for instance, we were to calculate the revenue of 1797 at six millions two hundred thousand dollars, the amount of the revenue of 1796, and by the reflux of our commerce three or four hundred thousand dollars short of that sum were to come into our Treasury, this deficiency would leave the finances of the country in a situation of the most serious embarrassment: it was well known that foreign loans could not be obtained, as Great Britain gave extraordinary sums of money to carry on the war; and Holland is so drained from the same cause that no hopes can be built there; nor can loans be obtained in this country; they had tried to sell the six per centum stock, on very advantageous terms, but could not dispose of it: even Bank shares, which would usually bear a good market had been obliged, by the large advances it had made, to be sacrificed: indeed it was well known that existing circumstances called for it, and therefore no very effectual assistance was to be expected thence. No doubt but the Bank would strain all its power to assist the Government, but it would be improper to depend on its will alone; and if there should be a deficiency of four hundred thousand dollars, it would be too late when Congress again meet to pass a law for raising further revenue. No, we must do it now, or we shall leave our finances in this state of uncertainty to which it is constantly liable, except a more certain provision is established.

Mr. Harper said, that by the proposed taxes, 300,000 dollars might be estimated; the Secretary of the Treasury only estimated 120,000 or 200,000 dollars; this, he thought, would not meet the probable expenses of Government. No. As he said before, there would be a reflux, and therefore to provide a secure sufficiency they must have four or 500,000 dollars, for which reason he should renew his motion to raise the article of sugar from a half cent, as proposed, to one cent. In addition to what he had remarked, he would say, that they had failed in the proposition of a tax on salt; it was thought a tax might as well be put on that article as on sugar; that having failed, he therefore hoped that persons who voted against this, to introduce that, would now support the amendment. He hoped it would be agreed to. Should it take place, it would be necessary to make some alterations in the bill accordingly.

Mr. Gallatin hoped the motion would not prevail; indeed, he thought it so inexpedient to advance the duty on brown sugar in so large a proportion, that that reason alone, he hoped, exclusive of any other, would be sufficient to induce the Committee to reject the motion; nor would he have again troubled the Committee on this subject, but have left the proposition unnoticed, had not the gentleman from South Carolina made some observations, which, he supposed, were meant to be applied to him; he had reference to those relating to a dereliction of opinion respecting a direct tax. He believed he was the only person who had said, that he was not desirous that the bill laying a direct tax should pass this session. For it was true, that, although he was a strong advocate for a direct tax—although he thought a sufficient permanent revenue could not be drawn from any other source, yet he did not wish the law to pass during the present session; and the reason was, because he had not a sufficient reliance upon his own opinion, to wish a subject of this sort to come into being against the opinion of so many members of this House as appeared to be opposed to it. When the United States shall think it necessary to go into the measure, he trusted it would pass with great unanimity. At present, he doubted whether a majority of the country was not against the measure, especially when he not only saw so great a division in that House, but apparently a local division, as he believed only four members East of Hudson's river, and but five South of Virginia had voted for the measure, by which it appeared to be a mode desired only by the middle States. Until, therefore, gentlemen from those parts had returned home and consulted their constituents upon the subject; until he knew that the law could be carried into effect with more unanimity than at this time appeared, he did not wish to press it. He was willing, therefore, to take all the blame which was imputable to this circumstance upon himself. He never wished the powers of Congress to be exercised in a way which should not meet with pretty general concurrence. Yet, had he thought the situation of the United States had been such, that additional revenue was absolutely necessary to support the public credit, and it could not have been conveniently raised from any other source, every other consideration would have given way to that necessity. But he did not think that anything which had been said by the gentleman from South Carolina showed that there would be any deficiency in the revenue for the present, which would require additional taxes to supply it.

He would just observe, that the great argument in favor of direct taxes—an argument which had almost wrought conviction upon the mind of the gentleman from South Carolina himself—was the uncertainty of a revenue derived from commerce; and yet, from this circumstance, the friends of indirect taxes wish to extend that plan to the utmost, and raise everything from it. He should have drawn different conclusions; and from that uncertainty, he should have wished never to have

gone beyond those bounds which they know were safe.

As to the receipts of 1797, Mr. G. said, we had well ascertained them, because they arose from the importations of 1796, which they knew amounted to 6,200,000 dollars, and which sum, with the internal duties, would be fully adequate to the expenses of Government for this year. Yet some gentlemen thought the calculation too close, and therefore the additional duties before them had been consented to, which he believed every one must acknowledge would be fully equal to any deficiency that could possibly arise. The arguments of the gentleman from South Carolina applied to the year 1798. He said we did not know what might be the amount of the importations of the present year; that it might be less than last year, and therefore, that revenue ought to be provided to supply the deficiency, if there should be any. The arguments would be good, if the gentleman's data were true; but he had forgotten that the expenses of 1798 would be less than those of the present year by 700,000 dollars, including not only the current expenses, but the instalment of the Dutch debt, which in that year would only be 100,000 dollars. The instalment this year is 400,000, so that in this item there will be a difference of 240,000 dollars; in the next place, the 280,000 dollars which this year has been agreed to be paid to the Dey and Regency of Algiers, will not occur again; and also, the 180,000 dollars appropriated for finishing the frigates, would not be to provide another year. These three items made the 700,000 dollars which he had mentioned. In addition he would add, that this year there had been a charge of 200,000 dollars for the defence of the frontier in 1795; but perhaps something might be wanted in that quarter another year, and therefore he would pass over that sum. But he thought there could be no danger of a want of revenue in the year 1798.

Mr. G. said, he would not pretend to say that it would not be desirable to increase the revenue, in order that they might pay a part of such instalments of the foreign debt as would become due after the year 1801. Certainly the sooner our debt could be paid, the better; but he meant only to show that there was no necessity for increasing the revenue for 1798. If it were necessary to raise additional revenue, it would be for two principal objects, the payment of the Dutch debt and the eight per cent. deferred stock; but as these did not become due till the year 1801, they were not under the necessity of providing the means for it at present.

During the next session, Mr. G. said, they should have time to compare the two systems of taxes together, and to discover which offered the best and most permanent sources of revenue. For the reasons he had given, he should be opposed to the motion.

Mr. W. Smith said, he should not adduce many arguments to show the propriety of advancing the duty upon this article any more than that upon any other; but he wished to bring before the Committee a true statement of the receipts and expenditures of the United States, in order to show what sum of money would probably be wanted to answer the demands of the United States. As he differed considerably from the gentleman from Pennsylvania as to our real wants, he considered it as his duty to lay this statement before the Committee. He had investigated the subject with as much accuracy as possible. He had attended to the documents which had been laid before them, to the laws which would probably pass this session, and to the probable increase of revenue. The result of this examination was, that there would be a deficiency of about a million of dollars. To what the additional imposts already agreed to would amount, he could not say, but he believed they would make 200,000 dollars, which would leave a deficiency of 800,000 dollars. He made the following statement:

Expenses of 1797.

Civil list	$634,222
Military and Naval Establishment and pensions	1,234,522
Deficiency of 1796	201,000
Algerine appropriation	376,500
Interest of Domestic Debt	3,471,972
Interest on Dutch debt	614,241
Instalments do. do. 1797	400,000
Premium remit. &c.	50,000
Appropriations for frigate	171,000
	7,212,567

Revenues of 1797.

Impost	$5,588,961
Internal revenues	337,255
Post Office	35,000
Bank stock	150,000
Stock redeemed	88,826
Sundries	746
	6,200,598
Additional imposts in 1797	200,000
	6,400,598
Probable deficiency of revenue	812,969
	7,212,567

It would be observed, Mr. S. said, that the gentlemen from Pennsylvania and Maryland, had calculated the impost at 6,200,000 dollars, whilst he made it only at 5,588,961, which he took from the Secretary of the Treasury's statement, and he believed this was the safest calculation. He would not go into any very long argument on this subject, because it had frequently been under discussion.

Mr. Gallatin inquired from what document Mr. Smith took his calculations?

Mr. W. Smith answered, from the report of the Secretary of the Treasury, which was calculated upon a permanent plan. In calculations on the subject of revenue, the largest amounts should not be taken. It was not policy in gentlemen to adopt that plan; they should make allowances for deficiencies and accidents. The situation of this

country at present required it, and it would be safe, prudent, and discreet, to do so. The Secretary of the Treasury had estimated the internal revenue at 337,255 dollars, while those gentlemen made it 469,579. This they stated from the revenue of last year, which it was probable would be considerably more than this. He thought there was as much reason for taking one as the other statement; and the Government would be exposed to hazard and danger, unless allowances were made for deficiencies.

The deficiency, according to his calculation, was 1,012,969 dollars, and after deducting from that sum 200,000 for the additional duties in the bill before them, there would remain a balance of 812,969 dollars. Admitting the gentleman's own statement to be true, there would still be a deficiency of 100,000 dollars, and this without making any allowance whatever for accidents and occurrences which will always happen, without making any provision for the purchase of the public debt, which might at this time be purchased to great advantage. If there had been money in the Treasury for the purpose, instead of paying the debt at par, it might have been bought up at 16 or 17s. in the pound. And he was of opinion, from the present situation of things, the Public Debt would remain low, and that a surplus in the Treasury might be well employed in purchasing it.

So much for the revenue and expenses of the present year. With respect to 1798, there was no necessity to go much into that subject. The gentleman from Pennsylvania had estimated the instalment of the Dutch debt, payable in this year, at 160,000 dollars only; but he asked whether it would be wise to pay only that sum? And whether it had not been in the contemplation of that gentleman, as well as others, to pay as much as they could yearly? He knew they should not be obliged to pay more; but he believed it would be a wise policy to pay an equal sum every year. That gentleman made another deduction of 280,000 dollars, which had been granted to the Dey and Regency of Algiers this year; but might they not expect items which they did not contemplate, to this amount? Contingencies, he said, occurred, which always swelled the expenses greater than were contemplated. There was always something of an extraordinary nature occurring to call for money; either an Indian war, or insurrection, depredations of foreign Powers, or attacks by the Algerines. There was no guarding with certainty against them. The next deduction was 100,000 dollars for the frigates. Whether this would be saved or not, was uncertain. The next House might agree to go on with the frigates.

Upon the whole, Mr. S. said, it would be prudent to provide a sufficiency of revenue, and there was no prospect of getting it from any other than the objects contained in the bill before them. A land tax was agreed to be laid aside for the present, as gentlemen from the Eastward seemed wholly against it, and those of the middle States seemed to have grown lukewarm upon the subject. The duty on stamps, which would have provided considerable revenue, was also laid aside. They had agreed to lay low duties upon distilled domestic spirits; no increase could therefore be expected from that quarter. They could, then, only resort to such articles of impost as would be likely, from their general demand and other circumstances, to produce additional revenue. As, therefore, no prospect appeared of getting other revenue than by the articles before them, he should be compelled to agree, though with reluctance, to the advance of the duty on sugar.

With respect to their lands, they had authorized public stock to be received in payment; and, though he thought this a very valuable regulation, both for facilitating the sale of the land, and for paying off the debt, the lands, on this account, would not produce much cash into the Treasury.

Mr. S. Smith said, very early in the present session, he read, with some attention, the report of the Secretary of the Treasury on the subject of direct taxes. He cast his eye upon certain articles which he thought proper subjects upon which to raise further sums from indirect sources, among which were salt, sugar, tea, and the whole of the 10 per cent. class of goods; he communicated his sentiments to other gentlemen, and they had been brought forward.

He supposed the House would have gone into a system of direct taxes. This he had always considered as a difficult subject, and he never could, himself, form a plan adequate to effect it; but he was desirous that the subject should have been taken up, that in case of extremity it might be called into operation. He did not think any immediate wants of the revenue required this tax to be put into execution, but he wished to take it into consideration, to see what could be done with it. He had still his doubts whether it could be carried into execution; if it could it would doubtless form a valuable source of revenue, which could not be injured. He had no doubt, however, of the present revenue being equal to our present wants. The gentleman from South Carolina [Mr. W. Smith] had taken his calculations from the report of the Secretary of the Treasury; but the Secretary went into a permanent calculation for a period of 18 years, in the course of which he calculated the sinking of the whole debt.

The trade of 1796, Mr. S. said, would give nearly a million of dollars; of course there could be no apprehensions upon the minds of gentlemen that the receipts of 1797 would not be equal to the wants of Government. The tax upon sugar would produce 300,000 dollars. The gentleman from Pennsylvania [Mr. Gallatin] was correct on this subject.

The gentleman from South Carolina [Mr. W. Smith] had said, it was not wise to calculate upon the highest returns; but Mr. S. Smith said it was right to calculate upon a preceding year, and when they knew that there would be received in this year from 700,000 dollars to one million, there could be no doubt of the year 1798 falling far short of that sum. For he was not one of those who thought the revenue arising from this year would be much inferior to that arising from the last.

The gentleman from South Carolina [Mr. Harper] had supposed that the British spoliations had not affected our revenue, but that those of the French would be severely felt. He saw no difference between them, and believed they would be felt alike in proportion to their extent. [Mr. Harper explained.] He believed the United States would only consume a certain portion of the goods imported; the rest would be re-exported, and the drawback received upon them; and, as he did not believe the consumption of the United States had been lessened, it would follow that it had been the re-exportation which had been diminished, and, of course, that it would not be the duties which would be decreased, but the drawbacks. This being the case, little was to be apprehended from a defalcation of the revenue this year.

Indeed, he was of opinion, that the revenue arising from the present year, would be equal to any preceding year. The expenses of 1797 would be as follow:

Estimate for the year 1797.

Instalment due on part of the Dutch debt, with interest on the whole debt, together about -	$ 992,000
Annual 8 per cent. and 6 per cent. stock -	2,324,175
Annual interest on 3 per cent. do. - -	587,926
Ditto on 5½ per cent. do. - - -	101,689
Ditto on 4½ per cent. do. - - -	7,920
Ditto on supposed unfunded debt -	78,261
Ditto on Bank loans - - -	372,200
	4,463,971
Internal expenditures (as below) - -	2,255,255
	$6,719,226
Civil List, Mint, and Diplomatic, (agreeably to the Secretary's report, estimated on the session of six months) - - - - - - -	564,753
Deduct savings arising on the session of four months only - - - - - -	52,800
	511,953
Bill for foreign intercourse - - -	40,000
Light-houses - - - - - - -	45,647
Miscellaneous claims - - - -	12,000
	$ 609,600

Military Department.

Pay of four regiments and artillery corps -	$256,450
Subsistence - - - - - - -	236,900
Clothing - - - - - - -	75,000
Bounties - - - - - - -	16,000
Hospital Department - - - -	25,000
Ordnance - - - - - - -	40,000
Two instructers - - - - -	1,450
Quartermaster's Department - - -	150,000
Defensive protection - - - -	60,000
Indian Department - - - - -	90,000
Contingencies of War Department - -	15,000
Repairing fortifications - - - -	20,000
Military Pensions - - - - -	93,350
	$1,079,150
Naval Department - - - -	$ 190,000
Balance due on Algerine business - -	376,505
Internal expenses of 1797 - - -	2,255,255

The expenses of the Quartermaster's Department would in future be considerably lessened; for, said Mr. S., heretofore great expense had been incurred by land carriage, which in future would be avoided, as the forage would all be conveyed by water. Indeed it had not been an unusual thing for the horses employed in conveying forage from one post to another, to eat the whole of it in their journey to and from their destination, and some horses had been known to die from want on the road. The conveyance being now by water, a great destruction of horses would be prevented, and he doubted not that one hundred thousand dollars would be saved under this head.

Mr. S. said, with respect to the internal revenue, he would call back the recollection of the gentleman from South Carolina [Mr. W. Smith] to the time when the excise system was under consideration: $400,000, at that time, was the sum estimated to be raised from that source. Besides this, there had been a new duty on carriages; yet they were now told that $337,255 only could be expected from this quarter. Did not the gentleman know that till lately some parts of the State of Pennsylvania had scarcely paid any duty at all, but that now the duty was generally collected? and, so far from its being lessened by the law lately passed, he trusted it would be very considerably increased.

It might be a pleasant thing, Mr. S. said, for gentlemen unconnected with commerce to talk about the embarrassments of commerce, but he did not believe commercial men would feel themselves much obliged by such lamentable views of their situation as were taken in that House. It would not have been a very agreeable sound in a foreign country, to hear that three or four of our merchants had been arrested for their debts; this was not a very pleasant thing to become everywhere the subject of conversation. Such assertions, he said, went to destroy the credit of our merchants abroad. Although it might happen, from some temporary embarrassments, that the bond of a merchant at the custom-house might be put in suit, because if not paid the moment it became due, the collector was obliged to put it in suit; but he believed the American merchants had always honorably paid their duties—they had done it, and they would continue to do it. It was true, merchants had suffered much from commercial embarrassments, but they had now nearly got clear of them; they were doubtless inconvenient to the merchant, but he did not believe they would at all injure the revenue. The law said, a merchant who once failed in the payment of his duties would have no credit in future; therefore, whatever else went unpaid, a merchant would take care that his duties were paid.

Much of the embarrassments which had arisen had been owing to derangements of a temporary nature, and mostly from what had happened in

this city; but it was now found that the Banks could again discount as much as they ought to discount. Bank Stock had risen 3 per cent., 6 per cents were at 16s. 4d., and this day had sold for 17s., which did not bear an appearance so very distressing as had been too frequently painted; and he thought gentlemen should be better informed before they dwelt so largely on the embarrassments of the merchants.

The gentleman from South Carolina [Mr. W. Smith] had stated an expense of $50,000 as an expense for premiums, remittances, &c., in the payment of the Dutch Debt. This was estimated by the Secretary of the Treasury when he was taking into account his eighteen years' plan, in the course of which various losses, &c., might be expected. He knew the Secretary of the Treasury could not remit at par, and he would not be charged 5 per cent. for doing business which he or any other merchant could have done for one-half per cent.

Nothing which had been said upon this subject had convinced him they stood in need of additional revenue for this year; but he would consent to the taxes in the bill before the House, but to go farther he believed would be impolitic and improper.

Mr. Williams observed, that were we calculating for our revenue to amount to a certain sum, and that any overplus would be lost to Government, it would be worth while to enter upon the subject with all the accuracy the nature of the case would admit of; but should the revenue amount to more than was necessary for our present exigencies, it was by law to be applied towards the reduction of our debt—a thing so desirable.

He had read a book published by the gentleman from Pennsylvania, [Mr. Gallatin,] who was opposed to the motion, in which that gentleman endeavored to show that our debt had been constantly increasing under the present Government; the same gentleman had also said that, in case of any defalcation in our revenue, the Commissioners could sell more Bank Stock. Mr. W. said, he would ask if this was a proper mode of finance—if it corresponded with that gentleman's observations heretofore on the National Debt? Were we to bring our Bank Stock into market for sale, especially when stock is so low, we should not only injure the public, but individuals? The gentleman from Maryland [Mr. S. Smith] had said that 6 per cent. stock was at 17s. The papers say 16s. 4d.; some had been sold at 16s. 6d. The low price of stock must operate much to the disadvantage of this country, and if difficulties did not exist in Europe, by which money was in great demand there, our stock would be purchased by foreigners, and a loss of whatever is sold below par Government would have to pay for it at par. By the act of the 3d March, 1795, the public faith was pledged for the reimbursment of the debt, we ought, therefore, not only to prevent stock being sent to market, but use our endeavors to keep up its price. Indeed, had Congress two years ago laid on more duties, and purchased up a part of the Deferred Stock, they would have acted wisely. He wished the gentlemen's calculations who opposed the raising of more revenue to come out right, but he doubted it. It was well known that our expenditures overran calculation. A few days since they were called on for $201,312 for the defence of the frontiers; it was also said that upwards of $100,000 more would be called for to complete the payments for services of the like nature; $24,000 was appropriated for fortifications, and other necessary claims were before them, which were not taken notice of in the gentleman's calculations. If the Post Office bill was passed as it went from that House, there would be a great diminution of the sum from that quarter—perhaps not a dollar would be raised by it. But, said Mr. W., the objection to raising money by indirect taxation was in consequence of the wishes of gentlemen for direct taxes. He wished that system to be kept out of sight, until indirect taxes were found insufficient. He hoped, therefore, the motion would be adopted, which would bring in $110,000, and not be felt by the consumer.

Mr. Thatcher wished to say a word in answer to what had fallen from the gentleman last up, with respect to the revenue arising from the Post Office. That gentleman believed a single dollar would not arise from that source if the present bill passed; on the contrary, he was of opinion that $40,000, if not $50,000, would be received from thence if the bill passed.

Mr. Swanwick said it was a most extraordinary thing, in the present scarcity of that article, that sugar should have been fixed upon as the fittest object from which to increase our revenue. It was well known that most of the sugar brought into the United States came from British islands in the West Indies, and that the French were now constantly intercepting our vessels employed in that trade. The communication with the Havanna was at present almost destroyed, and no vessels were going there. But the gentleman from Maryland [Mr. S. Smith] seemed to be of opinion that there would always be sugar enough imported for home consumption; but, in forming this opinion, gentlemen referred to the situation of last year, which had nothing to do with the present. It had also been estimated, that because $600,000 were produced by the present revenue, the duty being increased one-third, it would produce $200,000 more. This was by no means certain. In the first place, from the great augmentation of price, owing to the distressed situation of the West Indies, he apprehended so much would not be consumed; since, when the incomes of persons were diminished, they would endeavor to limit their expenses. And that the frequent losses of merchants of $30,000 here and $20,000 there, would not affect their own circumstances and others, could not be believed.

It had been observed, that, by speaking of the embarrassments of our merchants, their credit might be hurt in England. He did not think it would have that effect. The English were in great want of a market for their manufactures, so much so that if a dealer in dry goods gave an order to the value of one thousand pounds, the English merchant would send him to the amount of two, on his own risk; not so much from a wish to credit the American merchant as from a desire to find a market for his goods. No embarrassments in the commerce of this country, therefore, would make the British merchant ship less, except another market should open to him. But was not there some danger, he asked, even in this trade being intercepted? There certainly was; since the greater interest the British had in sending their manufactures to America, the greater inducement there would be for the French to prevent this trade, and this might not arise from any desire to injure us, but to affect their enemy.

Whether a peace should take place in Europe or the war should continue, our revenue, Mr. S. said, would be likely to suffer. If a peace were to take place, England would find other markets for her goods, and the price of produce and all kinds of property falling in value, people would be able to consume less of foreign productions. He therefore thought those gentlemen right who calculated upon the necessity of an increase of revenue.

Much, Mr. S. observed, had been said about the embarrassments of commerce. They had been called temporary, that they were now mostly passed over, and were said to have chiefly arisen from derangements in this city. He did not believe this was wholly the case, or that they were at an end; and he thought when money was loaned at 2 1-2 and 3 per cent. per month on good security, it could not be said that the banks were able to give sufficient discounts.

Mr. S. Smith said, the money for which 2 and 3 per cent. per month had been paid had nothing to do with fair commerce; that kind of business would always go on, though the banks discounted ever so liberally.

Mr. Swanwick was certain that the exorbitant price of money was a strong proof of the embarrassments of commerce; it showed that things were not sound, and that they must undergo a revolution. The banks, it was true, would discount to a certain amount; but they sometimes used very curious arguments about the claims which different persons had upon them, and were by no means certain sources for cash.

It was necessary, therefore, sometimes to have recourse to brokers, and when that was the case, however good might be your security, the price was paid which he had above stated.

Much stress had been laid upon the expenses of Government being less in the next year than in this. He did not believe this would be the case; he believed the expense of Government would increase every year, notwithstanding all the economy of that House; for, though some gentlemen might be inclined to be economical in one article, they seemed to have no objection to be lavish on another; for every expense introduced failed not to find its advocates. He did not believe anything would tend so much to introduce economy into our Government as a direct tax; because a man would then know what he paid for the expenses of Government; but whilst the revenue was wholly paid from indirect taxes, persons never knew what they paid towards the public expenses, and therefore they felt easy about public expenditures.

With respect to the proposed additional half cent on sugar, it was very immaterial. He did not think it would produce anything into the Treasury. If the quantity of revenue raised upon sugar last year could be continued, it would be as much as could be raised. He doubted whether, if the advance were made, so much duty would be raised as heretofore.

It was said, if there was any deficiency of revenue, the remainder of the Bank Stock might be sold. It was to be regretted, he observed, that it had not been sold some years ago, or at the time when the last was sold at 25 per cent. above par. Gentlemen had mentioned a considerable rise in our stocks; if that were the case, he supposed it arose from a prospect of peace in Europe. Such an event might have that effect, and he was inclined to think the probability had produced the change which they had been told had taken place.

Mr. Harper said, he desired no better arguments than those of gentlemen themselves to prove the propriety of his observations, and of adopting the amendment. The propriety of this measure rested upon the uncertainty of the present revenue. Some gentlemen, who would justly lay claim to accuracy in their statements, tell us that the revenue arising from importations, &c., of the present year, would be sufficient to the necessities of the next; while some, equally well informed, tell us there will be a deficiency of $800,000. While such a great difference exhibited itself, he would ask, was the House to depend upon mere opinion for the support of the American Government? If so, said he, and we should come short of enough, to whom are we to resort? Shall we apply to the gentleman from Pennsylvania? It is his opinion that others are quite wrong and he is quite right, but this is not a foundation on which to build the financial credit of the country. According to some, we shall have money enough, but this, he said, was a mere conjecture—quite an uncertainty. Mr. H. could not think any gentleman would wish to let the finances and credit of the country remain exposed to a deficiency, and not have any funds provided to replace it. When the question was on the different mode of raising taxes, he said, then it must be left to rest on every man's opinion; but when on the quantity to be obtained, then gentlemen ought to doubt, every one his own opinion, and respect the report of the Secretary of the Treasury, who, from his examination of the subject, can best judge. Suppose, he said, gentlemen should not be right; no foreign or domestic loans; the Bank already strained enough, we should then be reduced to great embarrassments; but if we are wrong in our idea, and the money is not wanted, it might go to reduce the Public Debt, and no injury be sustained; otherwise, the public faith might be violated, which he hoped would never be the misfortune of this country.

He would observe, that the gentleman from

Pennsylvania was not, as he supposed, exclusively alluded to; he did not know that gentleman was the only person who, after having preached a long time in favor of a direct tax and the deficiency of the revenue, should quietly give it up at last, and say, we now want no money! As to the abandonment of the system of direct taxation, Mr. H. thought it was impossible to carry it into effect; he thought the difficulties insuperable, and therefore it would always remain so. Some gentlemen said, that before they went to decide upon the abstract principle, they ought to know upon what principles it should be founded; but no, it was thought proper to decide upon it without looking into the detail. The very moment the bill made its appearance in the House, after having been examined by the Secretary of the Treasury, and the Committee of Ways and Means had spent a fortnight, those who before were its warmest friends abandoned it as radically bad; they saw the impracticability of it. What, then, he would ask, does this teach us? Why, that we cannot look to this, because it cannot be effected; consequently, we must apply to other means.

Mr. H. hoped that what the gentleman from Maryland [Mr. S. SMITH] said was truth, viz: that our merchants are not much embarrassed; he could sincerely wish no embarrassments did exist, but when he was so informed by at least a dozen of the greatest merchants in this city, he must beg leave to differ from him. Mr. H. thought there was much embarrassment attending commerce, but he also thought the country would soon get over it, although much revenue must be lost by it.

With respect to spoliation, and detention in foreign ports, he should not enter into a detail, as that gentleman was a mercantile man, and doubtless understood it best; but this he knew, that, if merchandise which ought to arrive in our ports were carried into a foreign capital, it must produce a bad effect on our revenue; and though you may raise a revenue from domestic sources, yet the ruin of commerce will have a serious effect on that internal source.

As he did not believe this deficiency of revenue would be permanent, Mr. H. said he only wanted aid to it until a return of more prosperous days. He would even, notwithstanding very great objections to the system, agree to a land tax, rather than fall short of the present wants from the impost system, as it was so very precarious. As to the article of brown sugar, the Committee had fixed on it as a proper object for extension, and, by a proper advance, he thought there would be no necessity to attempt to encounter the difficulties attending a direct system.

The question was then put and negatived—there being only 25 in favor of it.

Mr. CORT said, there had been a report from the Committee of Commerce and Manufactures which was referred to this Committee, recommending the duty on cocoa to be lowered from four cents to two cents per pound. He wished the report to be read. [It was read accordingly.] This report was grounded upon the petition of some chocolate manufacturers who complained of the hardships they lay under from this heavy duty. The Committee of Commerce and Manufactures were of opinion that this additional duty, by depressing the manufacture of chocolate, and encouraging the re-exportation of cocoa, upon which a drawback was consequently received, raised very little more duty than when at two cents.

After some few remarks by Messrs. COIT, S. SMITH, and SWANWICK, in its favor, and Mr. GALLATIN against it, the question was carried without a division.

Mr. GALLATIN moved an additional section, to the following effect:

"*And be it further enacted*, That the money arising from these duties shall be solely appropriated for the following purposes, viz: for the payment of the principal of the Foreign Debt of the United States, and for the principal of the Debt now due to the Bank of the United States."

The section was agreed to.

Mr. HENDERSON moved to strike out the words relative to white cotton goods, and to insert, "all that class of goods which pays 10 per cent. ad valorem." He thought that the whole of this class of goods would bear an addition of 2½ per cent. equally with the white cotton goods, and would, at the same time, bring a very considerable sum into the Treasury.

Mr. S. SMITH agreed with the gentleman from New Jersey, that if they increased the duty upon all the 10 per cent. class of goods, it would be more productive to the revenue, and be no more objectionable than the duty on white cotton goods. He would, however, rather not go into these duties at all, as nothing was more deceptious than the idea of these duties being cheaply collected. It was generally thought that the duty on imposts was collected for 2½ per cent.; but, was this the fact? If it were, he would acknowledge it was the best mode of collecting revenue. Before the formation of the present Government, he said, individual States were in the habit of collecting direct and indirect taxes; but there was not a solitary instance where, when indirect taxes amounted to 5 per cent., they had not resort to direct taxes. He called gentlemen's recollection to the fact, that the original plan of the General Government was caused by a five per cent. duty being laid, which different States were averse to, and which caused gentlemen to turn their attention to the origin of this Government. If individual States did not think it right to pay 5 per cent. upon their imposts, it ought to caution us against attempting to raise all our revenue from that source.

Mr. S. said he had already observed that persons generally believed that an impost duty only cost 2½ per cent. in the collecting. He had made a calculation upon the subject, and found it to be the most expensive of all other taxes in the collection. It would be found, from the various hands through which it went, that every £133 collected from an impost of 12½ per cent. duty, only £95 found its way into the Treasury. This would show the impolicy of raising all our revenue from this source; for though, said he, the people do not know that they pay the tax at so dear a rate, we know it,

and ought not to proceed with it. The people were of opinion the merchants paid this tax; but we know, added he, that they are merely the insurers and collectors of the duty. They pay no more of this duty than any other class of men who consume a like quantity of imported goods. The people, he believed, had been deceived in this respect, and he thought some members of that House had also been deceived. The following statement would show the matter in a clear light:

A View of the operation of Direct and Indirect Taxes.

£100 sterling cost of goods, usually sold (before duties were known) to the retailer for currency - - - -	£200	0	0
The usual profit required by the retailer is 25 per cent. on what goods costs him -	50	0	0
Cost of £100 sterling to the consumer -	250	0	0
Suppose a duty of 12½ per cent to be laid on the same goods, the importer will expect to get for the £100 sterling, £225 at the least - - - - - -	222	10	0
Retailer's profit thereon, 25 per cent. -	55	12	6
Cost to the consumer will then be - -	278	2	6
Deduct the amount the consumer would pay, if free of duty - - - - -	250	0	0
Actual difference to the consumer - -	£27	2	6

Thus, then, on every £100 sterling cost of goods which pays a duty of £12 10*s.* sterling, or £20 16*s.* 8*d.* currency, the consumer pays, on the most moderate calculation, £27 2*s.* 6*d.*, or for £100 currency, paid to the Collector of the Customs, the people actually pay above £133. Deduct the expenses of collecting from the £100 paid to the Collector, (say 5 per cent.,) and you then have but £95 currency paid to the Treasury, for what costs the people £133.

The direct tax will be - - - -	£100	0	0
Cost of assessment, averaged on ten years, and the annual charges of collecting, cannot exceed 7½ per cent. - - -	7	10	0
Total - - - - -	107	10	0
Then, every £400 paid by the people, brings into the Treasury - - -	92	10	0
£100 paid by the people, indirectly, pays, agreeably to the above, into the Treasury	71	8	6
Difference - - - - -	£21	1	6

Besides the vast difference in the expensiveness of collection of an indirect tax and that of a direct tax, there was another serious objection to increasing the former. It could not be said precisely to what extent these duties might be carried before smuggling should be invited, but this might be certain, that the moment the duties were so high as to offer a sufficient temptation, smuggling would be entered into, upon trade calculations, with respect to the advantages to be derived from it. This might be looked upon as certain; for, though there were many of our citizens who had too much honor to enter into a business of this kind, there were others who would not scruple to do it; and, as it had before been observed, when the practice had once been begun, it could scarcely ever be got clear of. Of what vast importance, said he, is it then, to keep off this great evil from intruding itself betwixt the fair trader and the Government!

Mr. SKINNER said, if the statement of the gentleman from Maryland was just, the merchants would have no reason to complain on account of an advance of duty; though he could scarcely believe that they received a profit of 30 per cent. upon the duties paid on goods imported. It was well known, that merchants sometimes got good profits upon their risks, but at other times they only received a very low profit, and sometimes they were obliged to sit down with a loss. He believed the gentleman was mistaken with respect to what he had said concerning the individual States being dissatisfied on account of the imposts being advanced to 5 per cent. It was not from the amount, but from other causes. He did not think anything could be drawn from the doings of the States. Mr. S. said he was not alarmed at the profits of the merchants. If they could always sell goods as they pleased, they should all be for going into the trade; but he believed, from the number who were already engaged in this business, no more than a reasonable profit could be got.

Mr. S. SMITH said it was a reasonable profit only which he had spoken of.

Mr. KITCHELL doubted not the statement of the gentleman from Maryland might be true; but he believed that 25 per cent. would be better paid in this way, in addition to the duty, than the duty without the 25 per cent. would be paid in any other way. Farmers, however, were in the habit of bartering their produce for goods; and he believed the merchant would not give them so much, by 25 per cent., in cash, as if he paid him in goods.

Mr. HOLLAND said that the gentleman's arguments went to show that merchants were not more affected by indirect taxes than others; they therefore stood secure, either from imposts or direct taxes. If any mode could be adopted by which they might be called upon to contribute an equal proportion of the public burdens, he should be glad to adopt it; but as he knew of none which would do it more equally than an indirect tax, he should be for that mode of doing it.

Mr. S. SMITH was glad the gentleman last up had been induced to vote for any tax; but for the satisfaction which he seemed to enjoy, of exercising his talent a little against merchants, he would not, he believed, have voted for this tax.

Mr. HARPER said an inconvenience would attend the adopting of one article out of a class, and not the others, in the custom-house books. He had also conversed with men well able to give him information on the subject, who had informed him, that, if it was thought to be expedient to raise the duty on the article of white cotton goods, it might as well be done upon the whole class. He had conversed with the Secretary of the Treasury on this subject, and endeavored to learn from him why

he had selected white cotton goods from the other articles of the same class; but he could not discover that he had any particular reason for the choice. He seemed to have apprehensions of augmenting the imposts at present; but he did not see why they should have apprehensions for this class of goods more than any other. He had also inquired in the House, and commercial gentlemen had said that it would be as proper to advance the whole as white cotton goods. If it were extended to the whole class, he believed it would raise $250,000. This was a large sum, and it would be raised free from the embarrassments to which direct taxes would be subject. For Dean Swift did not say that two and two did not make four at the custom-house, but that they did not always do so. He trusted this was one of the cases in which two and two would make four.

The question was put and carried—46 to 29.

Mr. Madison thought it was worthy of consideration, whether it would not be expedient to make an exception in favor of white cotton goods. He understood there was a manufactory of some consequence established in this country, whose business it was to print these white cottons; and if this exception was not made, this additional duty might go to the destruction of it. Indeed, as the printing of this article added, as he was informed, two-thirds to its value, it might be considered as a raw material. He believed this manufactory was carried on by persons who came from foreign countries. If their manufactory succeeded, it might induce others to follow them, to exercise their several professions amongst us, which could not fail to be of advantage to the country; but if the present manufactory should be destroyed, by one of our laws bearing hard upon its proprietors, it would have quite a contrary effect. He owned he was not much acquainted with the manufactory in question, nor had he made much calculation upon the subject; but, from the face of it, it seemed to require an exception. He therefore made the motion.

Mr. W. Lyman voted for the amendment of the gentleman from New Jersey, [Mr. Henderson,] because he believed printed goods were included: he should, therefore, be in favor of the amendment. If this exception did not take place the duty would be more oppressive than before. He thought it should be considered as a raw material.

Mr. Buck said, the advanced duty would leave these goods upon the same ground as before, as the duty upon printed cotton goods was also increased.

Mr. Swanwick said, there was a great quantity of this raw material imported, and if the manufactory in question was properly protected, we might have cotton goods sufficient printed in our own country to satisfy the demand, without being indebted to foreign countries. If a drawback could be allowed on exportation, perhaps it might answer a good purpose. He trusted the exception would be made; for he was sorry to see last night, the sale of one of these manufactories advertised by the Sheriff. Ingenious, industrious men, he said, deserved better of this country.

Mr. Skinner would be glad if any mode could be hit upon, by which the manufactory mentioned might be excused from the duty, without letting that part escape free from duty which was not printed; and he believed one-tenth nor one-twentieth part of the white cotton goods imported were printed; and this part, he believed, would bear an additional duty as well as any articles imported into the United States. He thought some regulation might be fixed upon, by the manufacturers making entry of all that was printed by them.

Mr. Harper believed that discriminations in favor of manufactures were in general bad policy. It was offering a bounty to one species of industry, at the expense of another. If the people of this country found it profitable to employ themselves in printing cotton goods, they would do so. He thought it best to leave these things to themselves. He did not believe one-hundredth or one-thousandth part of the cotton goods imported were printed; great part of these goods being of a fine and valuable kind, and such as were worn by persons of the first fashion. If any regulation were made at all, therefore, it should be done on those actually printed.

Mr. Swanwick believed the gentleman from South Carolina had no accurate ground upon which to make the assertion which he had made, that only one-hundredth or one-thousandth part of the cotton goods imported were printed in this country. With respect to the East India commerce, (the benefits arising from which they had heard so much last session,) if it were to be of any considerable value to us, large quantities of these goods would be imported, and if they were not printed here, they would be re-exported to be printed in foreign countries, and the drawback, of course, received from them; but, whilst there were ingenious and industrious people here who carried on this branch of industry, would it not be a wise policy to give them every encouragement, in order that these goods might be printed at home? He thought it would. A moderate duty might still be paid by the manufacturer, as it was agreed that 12½ per cent. should be paid on printed goods imported; whereas, if the duty was continued as high upon white cotton goods as those printed, the manufacturer here would not be enabled to stand upon an equal footing with the foreign manufacturer, from the high price of labor which he must necessarily pay. This business stood upon the same ground as refined sugar manufactories, which were allowed a drawback on fine sugar exported; and if a drawback could not be conveniently allowed in this case, he thought there should be an excepting clause in its favor.

Mr. W. Lyman said, gentlemen seemed to think it was the wish of the friends of this measure to give manufactories an advantage from the duty. This was not the case; they wished only that it should not be so high as to crush them. Would any gentleman say it was not better to have our cotton goods printed at home, than in foreign countries? Certainly not. And if an advantage was given to our own manufactures, in this respect, there would doubtless be less imported. When regulations were made in other Governments to favor their manufactories, it was our business to counteract them. These applications had been made to the Legislature for two or three years past; they asked not for a bounty, but only that they might stand upon an equal footing, their difference of situation considered, with the manufacturers of other countries. He hoped the amendment would prevail.

Mr. N. Smith said, it would be evident if there were no duty at all upon either white or printed goods imported, that they stood upon an equal footing; and he could not see how it could be supposed to be otherwise, when each paid the same duty.

Mr. Harper again spoke at some length against the amendment; when

Mr. Cooper rose, and said he should vote against the amendment. He was so tired of hearing about manufacturing, and gentlemen had manufactured so many long speeches, that he should never like the word *manufactory* again. He thought it ungenerous and insulting to the common sense of the House: ungenerous, because it takes up so much of our time; and insulting, because it imposes upon our sense, and is only telling us we are a parcel of blockheads.

Mr. Madison explained to Mr. Harper, and then the question was put and negatived, ayes 23.

The Committee rose and reported, and the House adjourned.

Friday, February 24.

The bill for regulating the compensation of Collectors, &c., was read the third time and passed.

AMY DARDIN.

The House proceeded to consider the report of the Committee of Claims, of the sixth ultimo, to whom was referred the petition of Amy Dardin, which lay on the table; whereupon, the said report was read at the Clerk's table, in the words following, to wit:

"That the most important, and all the material facts respecting this claim, are stated in the former report of the committee appointed to consider the said petition. To that report the committee now ask leave to refer. Whatever justice there might originally have been in this claim against the United States, it is now, and for many years past has been, as clearly within the statutes of limitation, as a multitude of others, which have been rejected. The committee regret that no relief can, with propriety, be granted to the petitioner, upon her application. So many evils would result from a suspension of the limitation acts, for the admission of claims similar to the one under consideration, the committee cannot recommend that measure to be adopted. They are of opinion the prayer of the petition ought not to be granted."

The question was taken that the House do agree to the said report, and passed in the negative—34 to 27; when Mr. Gallatin moved that a committee be appointed to bring in a bill in favor of the petitioner. This motion occasioned some debate.

Mr. Gallatin said, he rejoiced in the vote which had passed in respect to the report before them, as it was a precedent against the act of limitation. When a claim was clear, it was a denial of justice not to pay the debt. He did not think it was more justifiable in a Government to refuse to pay its debts, than it was in individuals to do so. Though an act of limitation had been passed, they ought only to consider it, in a modified sense, as a guard against fraud; but, in cases where they were convinced a debt was justly due, he did not see upon good principles they could refuse to pay it. He was sure there was not a member on that floor that would do so in his individual capacity. Nor did he believe they needed to be operated on by the fear of a number of these claims being brought: he believed their number was small. But, said he, shall we fear that we shall be called upon to pay a few more just debts? He trusted so unworthy an apprehension would not prevent them from doing what was right. The act of limitation was produced, he said, by an incapacity to pay the claims which were made upon Government, and now they took advantage of that capacity, by refusing to pay the just demands which were made upon them. The certificates which had been given, not worth more than one-eighth of their nominal value, had been scattered all over the United States, and the distance from the Seat of Government had been the reason application had not been made for payment. He spoke from his own knowledge. He had some of them put into his hands. Some of them he was fortunate enough to get paid before the act of limitation passed; others were yet unsettled. It was only since the erection of this Government, which had given them the ability to pay, that these claims were brought forward; for six or seven years every kind of claim was mustered, and the Public Debt was considerably swelled by them, but now a contrary extreme was observed, and no claim, however just, had a chance of being satisfied. He had never troubled the House on a subject of this kind before, but he had taken advantage of the fortunate decision of this morning to say a few words on the subject.

Messrs. Heath, Macon, Williams, and D. Foster, were against a committee being appointed to bring in a bill; they hoped no partial regulation would take place, but that if any exception was made, from the operation of the act of limitation, it would be done in a general way, as there was a great number of claims equally well entitled, with Mrs. Dardin's, to payment. Indeed, Mr. D. Foster, Chairman of the Committee of Claims, (who was not present when the question was taken upon the report,) said, if this claim was granted, it would bring forward a thousand others.

The report, petition, and papers, were committed to the Whole House on Monday.

ADDITIONAL REVENUE.

The House took up for consideration the amendments of the Committee of the Whole to the bill for laying certain additional indirect taxes; when the amendment enacting an additional duty of 2½

per cent. on the 10 per cent. class of goods being under view—

Mr. Harper wished to make an amendment with respect to goods imported in other than American bottoms; to make the duty fall in due proportion, he said, goods imported in foreign vessels should pay 2½.

Mr. Gallatin said no additional duty could be proposed in the House; it must be done in a Committee of the Whole.

The Speaker so determined.

Mr. Nicholas wished so to amend the resolution as to leave out white cotton goods.

Mr. Gallatin thought, if the goods were specified, it would be better than saying such a class should be advanced, and then not only white cotton goods but a few articles of brass, iron, and steel, which were included in that class, would be well to be omitted.

The Speaker declared this amendment out of order.

The question was put for recommitting the bill, but negatived.

Mr. Nicholas moved to strike out the words "all other goods, not printed, stained or colored, 2½ per cent. ad valorem;" the division upon which was 36 and 36. The Speaker declared himself in the negative.

Mr. Gallatin again moved to recommit the bill; which was negatived, 39 to 31.

The question on the amendment of the Committee of the Whole to strike out the words "white cotton goods," and to insert all the ten per cent. class of goods, was about to be taken, when

Mr. W. Smith said, the subject was important; and the varying votes of the House showed how doubtful was the propriety of going to any extent into an advance of the impost duties. The first intention was to advance white cotton goods alone, this was passed by a considerable majority; a motion to include all the 10 per cent. class was negatived; yesterday the same motion was introduced and carried by a large majority; to-day they seemed again to be nearly divided. At this period of the session, he believed it would be dangerous to go extensively into an advance of the impost duties; for though it was probable there would be a deficiency of revenue, yet, in order to get it, he should not choose to run the risk of putting the whole in jeopardy by raising the duties so as to hazard the introduction of smuggling. The 10 per cent. class of goods, he said, consisted of a great variety of articles, some of which were valuable and of small bulk, and might easily be smuggled, such as silks, satins, velvets, fine linen, cambric, &c. No reason, it was said, had been given for selecting white cotton goods for an additional duty. He believed there was good reason for doing so. They were sold at a low price, viz: from 15d. to 3s. a yard; and it was not fitting to put them upon the same footing with respect to duty as kerseymeres, fine linen, &c., a large amount of which might be contained in a very small compass. He would illustrate the matter: Suppose one article of a certain size paid only half a dollar duty, whilst another of the same bulk paid one hundred dollars; was it right, he asked, in regulating the duties, to put those two articles upon the same ground? He believed not, because the article which paid one hundred dollars held out a temptation to smuggling, whilst that which only paid half a dollar did not. He would, therefore, rather disagree to advance the duty on white cotton goods, than run the risk of introducing smuggling by agreeing to this amendment. Another objection to it was, it went upon the idea of raising all our revenue from commerce, though they had directed a bill to be brought in for laying a direct tax on land. He thought there was great danger in doing this; for, if in the next session additional revenue was wanted, finding the means of resorting to commerce so easy, recourse would not be had to any other source, and whenever a war should break out the whole of the revenue would be put in danger. He was of opinion either a direct tax on land, stamps, or excise, would be preferable to an increase of the impost duties.

Mr. Harper said, with respect to the varying votes of the House, the reason was palpable. The additional duty on the 10 per cent. class of goods was at first rejected, from an expectation of other duties being imposed; but this expectation being disappointed, they had recourse to this class of articles. As to the vote this morning, in the Committee of the Whole, he believed several members, who were without the bar, and who had come in to vote, had misunderstood the question, and if it had not been decided as it was by the Speaker, he should have wished it to have been put over again. When the vote should be taken in the House this would be seen.

Mr. H. said, he knew why gentlemen were so strongly opposed to this advance of duty; it was because it would do away the necessity of a land tax; and he believed a decision upon this question would decide whether they were to have a land tax or not; for, by the proposed advance, with a small addition from stamps or excise, sufficient revenue would be raised for every purpose of Government. If no other way of raising money could be devised, he would agree to a land tax, but not else. As to the danger apprehended from smuggling, he would ask his colleague why those goods which now paid 12½ per cent. were not smuggled, since they were much the same in bulk and quality with the 10 per cent. class? He had no fears on this head.

Mr. Nicholas did not think it was a proper subject of discussion to notice how they voted yesterday, or might vote to-day; but it seemed to be the object of the gentleman last up to show, contrary to fact, that he was always in a majority. The gentleman had, however, mistaken the state of the business, as the first decision upon this article was after the other taxes had been agreed upon. He did not know where the gentleman got his information, that the friends of a direct tax were less in favor of that species of tax than heretofore. The reason why that subject had not been proceeded with was, that the committee had reported a bill so late in the session as not to allow sufficient time to discuss and mature the measure.

He thought the subject had been very improperly introduced. The gentleman himself had said he would vote for it if it were found necessary, and if it were not, he did not suppose any future Congress would be found to vote for it.

The gentleman last up seemed to think he had answered his colleague with respect to the probability of the proposed advance introducing smuggling; but he thought what he had said fell far short of an answer. The goods which at present paid 12½ per cent. were of small extent when compared with the 10 per cent. class, which included three-fourths of all the cargoes brought into this country from Great Britain. This accounted for smuggling not being entered upon at present. He did not know whether an additional two and a half per cent. upon this most numerous class might not prove a sufficient inducement. On this subject, he stood upon much the same ground with the gentleman from South Carolina [Mr. Harper.] He had no practical knowledge upon it.

Mr. Gallatin said, there appeared to be a variety, and a fluctuation of opinion on this subject. As to himself, he had all along been opposed to additional imposts at present; for, though he agreed that this species of tax was well adapted to the situation of our country, yet he did not think it would be safe to extend it further at present. But, if the gentleman from South Carolina [Mr. Harper] could assure them that no danger would ensue from smuggling, he would be ready to agree to the amendment before them. Friend as he was to a direct tax, it would be to him an additional reason for voting for this amendment, if that gentleman could prove to the House that its adoption would prevent the necessity of a land tax; but he conceived, for both these positions, they had nothing more than the bare assertion of that gentleman, and he must own that his confidence was not so blind (however high his opinion might be with respect to the talents of that gentleman) as to rely with perfect confidence upon this assertion.

That gentleman had yesterday said, when speaking of the insufficiency of the present revenue to defray the expenses of Government, no matter what gentlemen calculated on the subject, if there was any danger of a deficiency in the revenue, if there were a single doubt on the subject, they ought to vote for an increase of duties. It would be well to return his own argument upon himself, and say, that if any gentleman had a single doubt on his mind that this increase of duty might introduce smuggling (which, if once introduced, could never be done away) he ought to vote against the measure.

But it was said, if this amendment were agreed to, it would prevent the necessity of a land tax. How could this be? No gentleman on that floor would think of recurring to a land tax, except about a million of dollars were wanted. No one would think of incurring an expense of two or three thousand dollars, unless he meant to have a tax to the amount he had mentioned; it would not even be proposed except this were the case. He wished to know, therefore, how a duty which was calculated to give from two to three thousand dollars, would prove a substitute for a tax which was to raise upwards of a million of dollars. It would, indeed, prevent the necessity, as far as it went, but no farther. This was another of the gentleman's assertions; and as he had accused him with being against the present amendment because it would do away the necessity of a land tax, he might say, that he used this land tax as a weapon, knowing many gentlemen to be averse to it, to induce a vote in favor of his impost duty. But, as to the danger of smuggling, which he considered as the main objection to an increase of these duties, nothing had been observed which, in his view, lessened the danger. It might be said, that the two and a half per cent. proposed would not induce smuggling. But this was uncertain. There was a line beyond which they could not go without encouraging smuggling, and if they proceeded in advancing the duties from time to time, that line would most certainly be passed. Mr. G. said, he would oppose the opinion of the Secretary of the Treasury on this subject to that of the gentleman from South Carolina; and though he was not one of those who placed implicit confidence in the opinion of any of our Executive officers, yet he thought that which the Secretary of the Treasury gave on this occasion was entitled to very considerable weight. Every member in that House certainly wished that our revenue should be equal to our expenditure; they were in some degree responsible for its being so; but what was the responsibility of any member in that House when compared to that of the Secretary of the Treasury? It would not bear a comparison; therefore, though it was not proper to place a blind confidence in him when he requested an increase of duty, because his situation would naturally lead him to wish for ample funds, yet, when he gave an opinion on the contrary side of the question, he thought it ought to have considerable weight. If the Secretary of the Treasury thought it safe to increase the 10 per cent. class of goods to 12½, there was no doubt but he would have recommended it, since to have done this would have required no pains or calculation; he would only have had to say, as the gentleman from South Carolina had frequently said, the duty now produces so much, and if such or such advance be laid so much will be produced. The Committee of Ways and Means, not finding themselves able to come to a conclusion on the subject, proposed that an inquiry should be made of him. It was done, and he made a report, which was submitted to the Committee of Ways and Means, and they had reported thereon, recommending certain articles upon which an additional duty might be laid. They had omitted to recommend salt and another article or two, from an idea that the Secretary's wish would rather lean towards increasing the duties too high for the sake of revenue than otherwise. [Mr. G. here read the Secretary's letter.] He thought there was a sentiment in this letter which was of considerable importance; it related

to the degree to which a duty might be advanced without hazarding illicit trade, which was, that the duty ought to bear some proportion to the mercantile profits of the country where it was laid. There was no doubt, that in a country where the mercantile profits were high, a higher duty might be laid without risk of smuggling than where the profits of trade were low; because smuggling was carried on as a trade, and would flourish in proportion as it was more profitable than other trades.

Let us, said Mr. G., take the ground of the gentleman from South Carolina, who had represented the situation of our trade to be worse than he could admit. It must be allowed, that whether the war continued, or a peace took place, the rates of merchants' profits would, in some degree, be lessened; and when this should be the case, a less duty would induce smuggling, than when our produce bore a high price, and everything was prosperous; for, if a peace took place, the natural consequence would be, that we should lose our carrying trade to the West Indies, and the price of our produce would immediately fall in Europe. Having nothing but the assertion of the gentleman from South Carolina that this danger would not take place, he could not run the risk which appeared from these considerations.

Permit me to ask, said Mr. G., whether the gentleman from South Carolina has given us complete proof that he understands the whole of the subject? He had produced proof, indeed, that he had consulted several documents; but had he not shown, at the same time, that he had been rather hasty in making his conclusions; that he had attended only partially to the subject? As a proof of his information, he had told the House that a great proportion of the whole cotton goods imported was of a fine quality. They all knew this was not so. They all knew that these cotton goods consisted chiefly of a cheap kind, which was used instead of linen for sheeting, shirts, &c., and it was on account of the cheapness of these goods, that they had been selected as a proper article on which to lay an additional duty. He was, therefore, totally mistaken on this head.

That gentleman had also asserted, when the duty on salt was under consideration, that, admitting a duty on that article would fall heavily upon the frontier inhabitants, yet, as they paid but a trifling part of the impost duties, they had no reason to complain. Among other things, he said, they would pay no part of the duty which was contemplated to be laid on white cotton goods, and if they paid any duty at all, it was upon a coarse linen. As he had not at that time an opportunity of noticing this assertion, and as he did not wish it to go unnoticed, he would inform the House, that the inhabitants on the frontiers paid more of the impost duties according to their wealth, he was sorry to say it, than were paid by the middle parts of Pennsylvania. As to their paying no part of the duty on white cotton goods, he could assure them, that one-fourth part of the stock of a storekeeper in that country must be white cotton goods, if he meant to get any profits by his trade. But that gentleman acknowledged they might pay some duty on coarse linen. It was somewhat curious, Mr. G. said, that the gentleman should have fixed upon almost the only thing which they do not purchase, for this was nearly the only article which they made for themselves.

When, said Mr. G., we see such assertions as these made, have we not a right to suppose that this gentleman may have been mistaken in his supposition that no danger will arise from the increase of the duties in question? Was it not better to hesitate, before they gave a vote which might endanger the whole revenue? He thought it was.

One word more with respect to revenue. Whatever difference of opinion there might be with respect to the sufficiency of the revenue of 1797, to defray the expenses of 1798, the present amendment did not apply to this; because no part of this revenue would go to that year. He mentioned this, lest the deficiency of 800,000 dollars, which had been said to exist, (but which he did not believe,) might influence the vote to be given on this occasion.

Mr. Holland hoped, notwithstanding all that had been urged against it by the gentleman from Pennsylvania, that the amendment from the Committee of the Whole would be agreed to. If it were not, he should be opposed to the whole bill. No other objection had been urged against it but that it might be the means of introducing smuggling, which, if once gone into, could never be done away. He did not believe it would have this effect; but, if it had, he believed it might be done away. He looked upon it as an equitable tax, and hoped it would be agreed to.

Mr. Cooper said, it was unwise to think of raising the duties upon silks, satins, printed calicoes, &c., as they were articles out of fashion; nothing now was worn but muslins. He hoped the motion would not prevail.

Mr. Baldwin said, he had no particular objection to the small advances which had been laid upon sugar, tea, &c., but he was wholly against advancing the duty on the whole class of 10 per cent. goods. This he said was a part of the impost system, which had been considered more in the rough than any other part of our laws. In laying the duties, they had not designated the articles, but said such and such class should pay so much per cent. They soon found that this was a rough mode, which would not answer the purpose. They, therefore, begun to think of enumerating the articles; but this amendment, instead of defining the articles, went upon the old rough plan, and proposed to advance the whole class. Mr. B. said they had directed the Secretary of the Treasury to lay before them, at the next session, a newly digested plan for the regulation of these duties, in which all the articles would be enumerated. He hoped, therefore, they should not anticipate the business, but wait until that plan came before them, when it would probably be found that the duty upon some of the articles might be advanced with propriety.

The duty on sugar and tea, and perhaps that on white cotton goods, they might, without inconvenience, agree to; but he could not consent to the introduction of the general mass of 10 per cent. goods; nor did he believe our necessities required it. And when he said this, he would not have it understood that he wished to pave the way for a land tax; nothing but danger to the existence of the country would ever bring him to consent to a land tax. But the reason why he opposed this amendment was, he thought it was going too far; for he supposed if it were agreed to, it might produce an additional half million to our revenue. He could have no objection to this measure, provided it could be done safely; but it appeared to him that the objections which had been urged against it, had great weight. He could, therefore, consent to its going only to white cotton goods. He thought they should place some confidence in the officer who had made a report explicitly on the subject. The Committee of Ways and Means had also done the same; and he believed, if any mischief should arise from their augmenting the duty upon all that class of goods, gentlemen would not be able to acquit themselves of blame in having opposed these opinions.

Mr. Harper said, if the gentleman from Pennsylvania [Mr. Gallatin] had contented himself with giving his reasons for his own opinions, and with using arguments to refute those of others, he should have been silent, because he believed the subject had been sufficiently discussed; but as he had connected with his observations a personal attack upon himself, in order to lessen the credibility to which the observations which he had submitted to the House on the occasion might seem to be entitled, he could not refrain from giving a few words in reply. He would not go into a contest with that gentleman to show which of their assertions were most entitled to credit.

He never wished his to be attended to farther than reason went with them. Whether this was the case with that gentleman, and whether he arrogated to himself the right to be believed above all others, he left the House to determine. If the gentleman had confined himself to fact, his remarks would have had more of liberality in them; but he had ascribed to him what he had never said. Whether this had been done intentionally, or from misapprehension, he could not say; it was not usual for men of attention like that gentleman to misapprehend the meaning of members. That gentleman had assured the House that he, Mr. H., had discovered an ignorance of documents, only having given them partial statements, and that therefore he must have misunderstood them. The gentleman had not instanced anything of this sort; the House had, therefore, only his assurance, which would have its proper weight with them and with the public. If he had shown him wherein he had been mistaken, he would have endeavored to have profited by his admonition. In other instances he had been more explicit. He had charged him with stating that there were more high-priced than low priced cottons imported. This the gentleman asserted was not so; but he had brought no proof that it was not so. He had no objection to the House believing that it was not so; he believed it was, from his inquiries and the documents he had seen on the subject. Perhaps mercantile men in the House, who were better acquainted with this business than either of them, would decide.

He had mentioned another instance in which he said he was mistaken. He charged him with saying that the people on the frontier paid no impost duty. Mr. H. denied having said so. He said that the poorer classes of people, more especially those on the frontier, paid but a small share of the duties on imposts, as the rich paid the duties on all high-priced goods. He did say that the poorer class of citizens on the frontier, on whom the duty on salt would fall, were exempt from that on those kind of goods. There might be persons of wealth on the frontier who purchase these articles; if there were, they doubtless paid a part of the duty. This was not generally the case. So that the gentleman had misunderstood or misstated him in this particular.

Mr. Gallatin said, no person wished more to avoid personal disputes than he. As to his misapprehending or misstating the arguments of gentlemen, he left the members upon that floor to determine whether he was in the habit of doing either. He might not perhaps always feel the weight which gentlemen might think their arguments contained; but he thought he could not be justly charged with a want of candor in stating them.

As to the two points of misapprehension and misstatement alluded to: The first was in relation to the frontier. He believed the gentleman's expressions were as he had stated them; he might, however, have meant them to convey the idea he had mentioned; he might have intended his observation to have applied to poor people in general, and that as they paid no part of the impost duty, they had no right to complain of a tax on salt. All he could say was, if this was his meaning, he had given him credit for a better argument than he had used. He gave him the credit of applying his remark to a certain district of country generally, and not to poor persons in particular. He understood him as answering what had fallen from him with respect to the peculiar situation of his constituents in reference to a duty on salt; and what made this appear more clear, was some expressions which accompanied the assertion, viz: that the people on the frontier would never know of the additional duty if some person should not think it necessary to tell them of it. If he had mistaken the gentleman, he should be sorry for it; but he believed he had not.

As to what he had said, that the gentleman did not always draw the best conclusions from the documents which he adduced; that they were sometimes partial, and at other times incorrect; he did not rest this upon an assertion or opinion of his own, but upon the opinion of the gentleman himself. If his memory served him right, that gentleman had at three (but he was sure at two) different times gone over his calculation on the pro-

liable increase of revenue which would arise from the proposed increase of duty on several articles; and what was this for, but because he had given so hasty and incorrect a statement at first, that he thought it necessary to give a second or a third to correct his former errors and misstatements? This was what he alluded to when he charged him with having drawn hasty and imperfect conclusions from the documents which he consulted. As to wishing more credit to be given to his assertions than to that gentleman's, he did not suppose the judgment of that House could be influenced by either. It was true, he had answered an assertion of his by one of his own, but he might say that he spoke from experience, which that gentleman could not do; he knew the fact to be as he had stated it, and that gentleman could not know the contrary.

Mr. Williams said he would only make a few observations on what had fallen from the gentleman from Georgia [Mr. Baldwin] and the gentleman who had just sat down. The former had said, that if the report of the Committee of the Whole was agreed to it would make an addition of $500,000 to our present revenue, but yet was himself opposed to it. He would ask that gentleman if a more favorable period could be expected than the present to call forth our resources to discharge our debt? The surplus of our agricultural productions, said Mr. W., was at a high price, and this being the case, the duties will be borne without difficulty, and the $500,000 might be applied towards the purchase of the Deferred Stock. The gentleman who had last sat down [Mr. Gallatin] had asked to be answered in two propositions. The one was, if an additional duty was laid, would the merchants not smuggle? And the other, if we must not eventually have a direct tax? In answer to the first, Mr. W. did not apprehend danger from the small augmentation of the impost; and from the gentleman from Georgia [Mr. Baldwin's] own observation, that the augmentation would nett $500,000, this, with the other additions which would be derived from the bill, might be estimated at $650,000. Add to this a stamp tax, which would be preferred to a direct tax, would bring in a sum to make up the $1,000,000 per annum, which would be the sum wanted in the year 1801 to meet the payment of the Deferred Stock. Let us now, said he, begin to draw forth the revenue and purchase in this stock. The sum expected to arise from the sale of our lands will greatly diminish the debt; but, by holding out the idea of a land tax, they would injure the sale of the lands, as the moneyed men would not invest their capitals in lands, fearing the land tax; they would vest their money in the public funds, and live on the interest thereof. We cannot, therefore, said he, come at their money otherwise than by taxes on consumption—by excises, customs, stamps, and the like. A land tax, said Mr. W., would not operate well in this country, and will cost too much in its collection. In England, when at four shillings, it netted only £2,000,000 annually. The stamps, £1,329,905 annually, at an expense of £51,691; so that the nett revenue on stamps was £1,278,214. The average of the national revenue of Great Britain for five years, commencing with the year 1786 and ending in 1790, inclusive, was £17,353,465. Hence the stamp duty amounts to about one-fourteenth part of the revenue. Were we, he said, to raise the like proportion to our present revenue, it would amount to $500,000; but suppose we raised half that sum, and corrected our excise, with the additional duties now contemplated, we could meet the exigencies of Government without a direct tax.

Although a stamp tax would sound unpopular, yet it would be met with less difficulty than a land tax. In the first place, it would reach the moneyed man, and the litigious, as all law proceedings, and the like, would be taxed. Taxes in England, he observed, were very various, much more so than in any other country, especially in the articles of excise and stamps; taxes in England were, according to their population, much greater than in any other country, yet borne by the people with much more ease, because the taxes were laid on so many different objects. The mere circumstance of taxes being numerous in order to raise a given sum, is a considerable step towards equality in the burden falling on the people. A good system of taxation was that which bore lightly on an infinite number of points, heavily on none.

On motion of Mr. Henderson, the yeas and nays were then taken, and stood—yeas 30, nays 60, as follows:

Yeas.—Theodorus Bailey, Daniel Buck, Dempsey Burges, Joshua Coit, James Davenport, Abiel Foster, James Gillespie, Roger Griswold, William B. Grove, Robert Goodloe Harper, John Hathorn, Thomas Henderson, James Holland, Andrew Jackson, Aaron Kitchell, Samuel Lyman, Elisha R. Potter, John Reed, John S. Sherburne, Thompson J. Skinner, Nathaniel Smith, Israel Smith, Isaac Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Abraham Baldwin, David Bard, Thomas Blount, Theophilus Bradbury, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, William Cooper, William Craik, Samuel W. Dana, Henry Dearborn, George Dent, George Ege, William Findley, Dwight Foster, Jesse Franklin, Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Andrew Gregg, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, William Hindman, George Jackson, John Wilkes Kittera, George Leonard, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, John Richards, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Samuel Smith, William Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

The proposed advance of the 10 per cent. class of goods is accordingly done away, and the advance is made only upon the white cotton goods. The bill was then ordered to a third reading tomorrow.

SUABILITY OF STATES.

On motion of Mr. Harper, the House then resolved itself into a Committee of the Whole, on the report of the select committee on the resolution sent from the Senate, authorizing the President to make inquiry of certain States whether they had adopted the proposed amendment to the Constitution with respect to the suability of States.

The select committee did not confine themselves to this single amendment, as reported from the Senate, but went back to the year 1789, when twelve amendments were proposed by Congress; for though they state eleven States out of fourteen had ratified ten of these amendments in the year 1791, yet they were of opinion that a doubt might arise whether eleven States ought to be considered as the three-fourths of fourteen; they therefore wished the President to be requested to make inquiry also from the non-ratifying States on the subject of these ten amendments.

Mr. Nicholas said, the resolution of itself was only exceptionable as it had connexion with the statement which went before it, in which it was made a question whether the ten last amendments of the twelve proposed by Congress to the States in March, 1789, were ever made part of the Constitution. He did not wish a doubt to be expressed on this subject. This doubt, in the opinion of the committee, it seemed, rested on a supposition that eleven were not three-fourths of fourteen. He could not conceive how any doubt could arise on this subject, since it must be acknowledged by every one that eleven was more than three-fourths of fourteen. If the objection arose from fourteen not being divisible in equal fourth parts, it was an objection to the Constitution as originally made. It was formed by thirteen States, which was no more divisible into fourths than fourteen. On this ground, an amendment could never have been made to the Constitution. He hoped the Chairman of the committee would give them some information on the subject.

Mr. Harper said, it was not of much importance whether the committee had doubts, or whether those doubts were well founded. The committee stated they had these doubts. He had them; not whether eleven was three-fourths of fourteen, according to arithmetical calculation—every school boy knew, that, in that view, eleven was more than three-fourths of fourteen; but it was, whether you could make a division of States. He believed it could not be done; he believed there must be twelve ratifying States to be three-fourths, as intended by the Constitution, because that number would be three-fourths of sixteen, which was the nearest number to fourteen capable of four equal divisions. Whether this doubt was well founded or not, there could be no harm in directing the inquiry to be made; it would be made as soon for thirteen amendments as for one, and if any other State should have ratified the ten amendments in question, all doubt would be removed. Mr. H. noticed an error or two which had escaped the committee in their report.

Mr. Gallatin said, the resolution under consideration went to direct the President to apply to all those States, by whom, as far as can be known from the official documents heretofore transmitted, all or any of the amendments at any time proposed by Congress still remained to be ratified. There could be no occasion to make the inquiry with respect to all these amendments, unless it were taken for granted that none of them had yet been ratified. He was, therefore, of opinion, with the gentleman from Virginia, that such an application would be very improper, as bringing the ten last amendments into doubt, which he believed to be as much a part of the Constitution as any other article in it; he also thought them a very valuable part, and not to be trifled with.

But, upon what ground, said Mr. G., do the advocates of this report prove that 11 is not three-fourths of 14? The idea was so novel that he could scarcely understand what principle they adopted in order to create a doubt on their minds on this subject. To him the position that 11 was more than three-fourths of fourteen appeared to be one of those self-evident axioms which hardly admit of a proof. The principle on which the doubt arose must be so very nice, so abstract, that he did not know whether he was capable of comprehending it. Anxious as he was to avoid saying anything which might be construed as misstatement, he would, however, attempt to analyze what he conceived to be the ground of the gentleman from South Carolina, [Mr. Harper.]

It appeared to him that that gentleman thought three-fourths in itself was not a fraction of the unit, was not a number conveying to the mind the simple idea of a fraction; but that it was a compound of fractions, and that the only way by which the idea of three-fourths could be conceived was by a decomposition. Because the idea of three-fourths was by our numerical arithmetic expressed by the two figures $\frac{3}{4}$, that gentleman was unable to conceive what it meant except by decomposition, by dividing the unit into four equal parts and multiplying the result by 3. And if that idea of three-fourths had happened to be expressed by the fraction nine-twelfths, (which was the same thing as three-fourths,) that gentleman could not have conceived it except by dividing in the first place the unit into twelve parts and then multiplying the result by nine. In fact he denied the existence of any number, part of a unit, except as it consisted of an aggregate of such parts as the unit could exactly be divided into.

Thus, when speaking of fourteen States, although he [Mr. Gallatin] could at once understand that three-fourths of fourteen was ten-and-a-half, and, therefore, (admitting, as he did togegether with that gentleman, that the vote of a State was indivisible) that eleven States were more than three-fourths of fourteen, the gentleman from South Carolina proceeded in a different way. The fourth part of fourteen being three-and-a-half, he says that, as a State cannot be divided, you must take four States instead of three-and-a-half for the fourth part of fourteen, and then multiplying these four States by three, in order to get the three-fourths, he concludes that twelve States are three-quarters of fourteen—that the

twelve States out of fourteen are necessary to ratify the amendments. He believed the gentleman would allow that he had not misstated his opinion.

Let us now see, said Mr. G., how this doctrine will operate. It would go to prove, in some instances, that three-fourths of a number is greater than the whole. Suppose, for instance, the case of five States. One-fourth of five is 1¼; but as the vote of a State cannot be divided, you must call it two; or, as the gentleman expressed it, five not being divisible into four equal parts, you must take the nearest number to five capable of such division, that is to say 8, the fourth part of which is two; two, therefore, must be considered as the fourth part of five States, and as three multiplied by two is six, it follows, according to that gentleman's doctrine, that the three-fourths of five is six! Suppose that, in the Constitution, instead of the expression three-fourths, it had been said that nine twelfths were necessary. The number of States when the Constitution was framed was thirteen. In that case one-twelfth of thirteen being one and one-twelfth, you must, the vote of a State being indivisible, call it two; so that in that way of reckoning, nine-twelfths (which is the same thing as three-fourths) of 13 is 18! Consequently, the consent of eighteen States would have been necessary in order to ratify any amendment to the Constitution of a nation consisting only of 13 States.

Let us, said he, examine a little farther. The same part of the Constitution which provides for amendments of the Constitution, says, that an amendment shall be proposed by two-thirds of both Houses of Congress; but he supposed the vote of a man was no more divisible than that of a State. He wished to know, therefore, how the gentleman would, on his principle, calculate what were two-thirds of the members present when their whole number was not divisible by three?

In making Treaties he wished to know what was meant by two-thirds of the members of the Senate present? If the number present happened not to be divisible by three, would that gentleman say, that, in that case, the next number above the number present must be taken, which would be divisible by three, and that if two-thirds of that number did not concur in the vote for the Treaty, no Treaty should be ratified? On that principle, in some instances, a greater proportion of the Senate would be necessary to ratify a Treaty than had been usually understood, according to the generally received opinion of the sense of the Constitution in this respect.

Upon the whole, he believed it would be best to reject the report, as, besides the objections alluded to, it was confessedly inaccurate in some of its parts, and adopt the resolution sent from the Senate, which applied only to the amendment respecting the suability of States. If the House meant to go any further, they might introduce the first and second amendments proposed at the same time with the other ten, but which had not yet been ratified.

Mr. Harper said, he would add a word or two to what he had already offered on this subject. He did not know whether the House thought with him on this subject, that it was a doubtful point whether the ten amendments in question had been ratified according to the sense of the Constitution. If they did, they would, of course, vote for the report. The gentleman from Pennsylvania, he acknowledged, had not only shown his knowledge in arithmetic, but also his wit, which had not until now been brought before them. In the enjoyment of the last he had participated in common with the House.

Mr. Dayton (the Speaker) was in favor of rejecting the resolution reported by the select committee, as it embraced too many objects, and held out a kind of invitation for States to come forward and propose amendments to the Constitution. He trusted the first of the amendments, proposed in 1789, relative to the proportion of representation, never would be agreed to, as it would have extremely mischievous effects. Indeed, if anything were done with respect to that amendment, he should think it ought to be to request those States which have not adopted it, not to do it, and those who have agreed to it, to revoke their vote in favor of it.

The question was then taken on the resolution reported, and negatived, without division.

The resolution was as follows:

"*Resolved*, That the President of the United States be requested to apply, as speedily as may be, to all those States, by which, as far as can be known from the official documents heretofore transmitted, all or any of the amendments, at any time proposed by Congress, still remains to be ratified; and to obtain from them authentic information of the proceedings had by them, respectively, on the subject of those amendments, or any of them."

The question was then taken on the resolution of the Senate, and agreed to. It was as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution, concerning the suability of States: If they have, to obtain the proper evidences thereof."

REMISSION OF PENALTIES.

The House resolved itself into a Committee of the Whole on the bill to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned.

Mr. Livingston said, he had doubts whether they were not, by this bill, about to place in the hands of the Secretary of the Treasury Legislative business. He had other doubts upon the subject, and, in order to gain information, and bring on a discussion, he would move to strike out the first section of the bill.

Mr. Sitgreaves did not know what information the gentleman from New York could expect from a discussion of this bill. He would give

him all the committee had in their possession. A power similar to that proposed now to be lodged in the hands of the Secretary of the Treasury he had had from the commencement of the present Government. It was a power co-existent with the revenue laws, and the bill before them was copied from an act of the first Congress. The law was limited to two years. It had been renewed three or four different times; but as, in process of time, Congress found themselves obliged to have recourse to different objects of taxation, it was found necessary to extend the power of the Secretary of the Treasury to other cases, and wherever taxes were laid he had the power given him of remitting penalties. In some cases this power was supposed to have been omitted to be given, and a committee was appointed to examine into the subject. They found provisions on this subject in different laws, and some of them in the body of laws, where no such thing could have been expected. Some of them had been entirely overlooked by committees, and by the Judiciary department; for it was extraordinary that, upon a petition lately presented, the District Judge had put an endorsement upon it, that though he thought the case a hard one, he had no power to give relief, notwithstanding there was an act passed in 1794 which gave this power. The intention of this bill, Mr. S. said, was not to create any new principle; it was not to give any power to the Secretary of the Treasury which he did not before possess, but to collect together all the different laws on the subject, and to extend it to one or two instances which were not at present comprehended in existing laws, viz: to the registering and licensing vessels, &c., on the subject of which the time of the House had been considerably occupied by petitions for remissions of forfeitures.

Mr. S. did not know that there was anything dangerous in the principle; he did not expect to have had it called in question. It had been well asserted by his colleague, [Mr. Gallatin,] on another subject, that there was naturally a bias in the mind of the Secretary of the Treasury, in favor of keeping up the revenue, and that he would, therefore, add to and preserve it by all Constitutional means in his power. There would, therefore, be no danger in placing the power of remitting fines in his hands.

Mr. Livingston said, he knew there was a law similar to this in existence; but what he wanted was a discussion upon the principle of the law. He believed the power they were about to give to the Secretary of the Treasury was lodged in them, and that they had no right to delegate it to another. The gentleman from Pennsylvania had said, that the placing of this power in the hands proposed, would keep from that House a number of petitions on the subject of penalties and disabilities, which would otherwise engage their attention every session. But was this, he asked, what their constituents sent them there for? Were they to get rid of business, by throwing it upon their officers? He believed not. He thought this was a business which they ought themselves to do. At any rate, he did not think it should be placed in the hands of any one man. "Any forfeiture, penalty, or disability," were very extensive words, and it was not easy to see all the cases to which they would go. Mr. L. said he recollected a particular case where an owner of a ship had not duly registered her: He was himself upon the committee, and the person came before them on the subject. Relief was granted; but it was strongly impressed on his mind that the House was not inclined to give it in future. If, on any future occasion, a similar case should come before them, the House would determine according to the circumstances of the case; but, if they delegated this power to an officer, what an influence it gave him! Suppose a number of rich, influential merchants had been guilty of a breach of law, what an influence would it give to an officer to put it in his power to remit the penalty attached to the offence! He thought it too extensive a power to be placed in the hands of any individual, and he hoped, therefore, the law would not pass so hastily as seemed to be the wish of its advocates to pass it.

Mr. Ames said, it appeared to him that gentlemen would be reduced to the necessity of considering the alternative which should be presented to the House with respect to the revenue laws, viz: either to make them loosely, and give considerable discretion to the officers in the execution of them, or make the rules so strict as to be in some degree rigid. If this latter plan were adopted, it would be necessary for them to provide some relaxation in cases which might bear hard upon individuals. He thought the latter the best mode. The British Government had adopted this mode; they made their law very strict; but they gave a board of excise power to relax in cases of hardship. This was a delicate power; but it was necessary to reside somewhere. And he believed it would be better placed in one of our Executive officers, from several considerations, than that House should exercise it, if it were only to prevent that sort of local sympathy which could not be prevented from entering, if persons were to come forward with their cases before them. For, when one of their constituents presented a distressed case, he relied upon it, as a matter of course, that he would have the support of his own Representative. He believed that this was a safe reliance, and how were the House to guard against the influence which would be thus raised in behalf of every petitioner who might come forward? for, having once granted relief, it would be pleaded as a precedent, and any one who came before them must be attended to.

But an objection to placing this power in the hands of the Secretary of the Treasury had been brought forward, and much relied on. It was said to be Legislative, and not Executive business. He differed entirely from this opinion. They made rules under which to collect the revenue; but to judge whether a man came under them or not, was Executive business. To apply the law which they themselves made, would be to confound the Legislative with the Executive power.

It was, therefore, proper, from every consideration, that this remission of forfeitures should be left in Executive hands, who would be responsible for its due execution.

Mr. Swanwick said, though he was one of the committee who brought in the bill, he doubted whether the powers proposed to be placed in the Secretary of the Treasury were not too large to be put in the hands of any one person; he should be rather in favor of fixing upon a Board for this purpose. He did not know that they were under the necessity of passing the law this session; if not, a plan of this kind might be devised at the next.

Mr. Coit thought it would be best to pass the law as it was, but with limitation. He thought, if the gentleman from New York had attended to the business, he needed not to have been quite so much alarmed on the occasion. On the adoption of the present Government, it was found impossible to get along without having a power placed somewhere to remit penalties. He believed the experience of other nations had shown the necessity of this. The first mitigation law was passed in the year 1790. No better mode could then be thought of than placing the power in the hands of the Secretary of the Treasury; but the Legislature seemed to have had some doubts with respect to the propriety of the law, as they only gave it a temporary existence. It had, however, been renewed from time to time. Perhaps it might be better, he said, to fix a Board for the purpose; but there was no time for doing that at present. The only question for the present was to pass the act, leaving the system open for improvement at any future day, whenever it could be done.

A motion was made for the Committee to rise, and negatived—37 to 20.

Mr. W. Lyman thought this power too great to be left to any one man. He thought it would be much better to have no law on the subject than to pass it in this way; and a bad law, he said, would be worse than any evil which could arise from the want of a law.

Mr. Livingston inquired whether the word "disability" was in the old law.

Mr. Sitgreaves said it was not; it was introduced to cover cases respecting the registering of vessels, &c., which were now added to the act.

Mr. Livingston said, that word considerably extended the power proposed to be given to the Secretary of the Treasury, which was not, as has been supposed, of a judicial nature. It was not to inquire whether a person was subject to the penalty of our law, it was a question whether a penalty incurred ought to be remitted, as far as it respected a particular individual; it was not, therefore, a Judicial, but a Legislative question. If it were a Judicial power, it could not be vested in the Secretary of the Treasury; and if Legislative, it should not be transferred from their hands. He said it was a sort of Legislative business which they themselves should execute; but if the number of claims was too great to be attended to by the Legislature, it should not be put into the hands proposed, but a Board should be organized for the purpose, from whose judgment there should be an appeal. But, as the bill stood, it was leaving all to the judgment of one man—it was a power of a magnitude which the House, he thought, were not aware of. The gentleman from Massachusetts [Mr. Ames] had asked how they were to guard against the local sympathies which would arise in that House, if the business was left to them; but, said he, if this be difficult in such a body as ours, how much more difficult would it be for an individual to do justice in all cases, from whose judgment there was to be no appeal? When he first rose, he did not see all the length which this power would go; but the more he investigated it, the more objectionable it appeared.

Mr. Ames thought himself bound to say the subject was not without difficulties; but they did not get rid of these difficulties by doing the business themselves; for he did believe that the operation of local prejudices and favôritism would be greater in that House than in an individual. But, waiving this argument, he asked, whether the gentleman last up could suppose that anything like system could be expected in a popular body, whose proper business was to make laws, on a subject of this kind? If it was their business to make laws, why not make them perfect at first? This was found to be impossible, since cases arose which it was not in their power to foresee, and which could not be provided for, except they were to provide as many laws as there were passions in the human frame. It was somewhat difficult to say of what description the power proposed to be lodged in the Secretary of the Treasury was; it was neither Judicial nor Legislative; it seemed to be more properly of the nature of a chancery power. It was a power, however, which must somewhere exist, if their laws were made strictly. The question was, where shall it be placed? As he had before said, he did not think it would be well placed in that House; it would be to dirty their fingers. He did not suppose, indeed, that gentlemen would be bribed; yet, though they were not influenced by money, still there would be a sort of influence which could not be prevented; for if one of his constituents were to come to him and request relief, he should find himself necessarily interested in his behalf; but if this power were placed in one of their officers, or in a Board, there would be a responsibility which would be some sort of security for proper conduct. He therefore preferred that mode.

Mr. Coit moved an amendment, limiting the continuation of the bill for two years.

Mr. Sitgreaves was opposed to the limitation.

Mr. Swanwick was in favor of it, as he thought the shortness of the time for which the bill was enacted was the only thing which would make it in any degree palatable.

The Committee rose; and when the question was about to be put on the bill's going to a third reading—

Mr. Livingston moved that, instead of the power being lodged in the hands of the Secretary of the Treasury, it should be placed in the Vice President of the United States, the Secretary of

the Treasury, the Secretary of State, and the Attorney General. No gentleman, he said, had shown the propriety of placing all this power in the hands of one person; he thought, therefore, it would be safer in those of four or five, as there would be a better guard against local affection or favor; for, notwithstanding what had been said to the contrary, it was certainly more difficult to influence several men than one man.

The question was put, and this amendment was negatived, there being only 19 votes in its favor. The bill was then ordered to be engrossed for a third reading to-morrow.

Saturday, February 25.

Mr. Nicholas reported a bill authorizing the receipt of evidences of the Public Debt for lands of the United States; which was twice read and committed to a Committee of the Whole.

The House went into a Committee upon the bill, made a report, and ordered it to be read a third time on Monday.

Mr. Swanwick reported a bill for the relief of John Brown, and another providing for the erection of certain buoys in and near the harbor of Boston; which were committed to a Committee of the Whole on Monday.

Mr. Brent reported a bill for incorporating the Commissioners of the city of Washington, in the District of Columbia; which was committed to a Committee of the Whole on Monday next.

Mr. Williams laid a resolution upon the table calling upon the Secretary of the Treasury for information respecting the expenditure of certain sums of money mentioned in his late report to have been drawn from the Treasury for defraying the expenses attending the intercourse with foreign nations. The reason of the motion, he said, was on account of the intricacy of the account of Mr. Randolph.

The bill for laying additional duties on certain articles of impost, was read the third time, and, upon the question being put on its passage, it was carried by yeas and nays, 67 to 21, as follows:

Yeas.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, William Findley, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., James Gillespie, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Roger Griswold, Wade Hampton, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Thomas Henderson, William Hindman, Andrew Jackson, Aaron Kitchell, John Wilkes Kittera, George Leonard, Edward Livingston, Samuel Lyman, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Elisha R. Potter, John Reed, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Isaac Smith, William Smith, Thomas Sprigg, William Strudwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Nays.—David Bard, Nathan Bryan, Isaac Coles, George Ege, Andrew Gregg, John Hathorn, John Heath, James Holland, George Jackson, William Lyman, Samuel Maclay, Francis Malbone, Frederick A. Muhlenberg, Josiah Parker, John Patton, Samuel Sitgreaves, Samuel Smith, Richard Sprigg, jr., John Swanwick, Abraham Venable, and Richard Winn.

REMISSION OF PENALTIES.

The order of the day on the bill for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned, was taken up, and, the bill having been read—

Mr. Livingston said, the precipitancy with which this bill was passed through the House had given little opportunity to discuss its merits. There was a new expression in it, which was not to be found in any of the other bills, viz: "disability," which would have a very extensive effect. It could scarcely be the intention of gentlemen to give to the Secretary of the Treasury the power to pardon crimes against the United States. Yet, if this bill passed, the crime of perjury might be pardoned by the Secretary of the Treasury. It would also be in his power to pardon crimes of considerable magnitude, which disqualified persons from holding any office under Government. A recurrence to the revenue laws would show this to be the case. Time had not permitted him to go through the whole of the revenue laws, but he would enumerate a few instances upon which this power would operate. In the 14th section of the act for securing the duties upon foreign and domestic distilled spirits, it was enacted that no supervisor or collector should carry on any trade in any of the articles upon which a duty was laid; and if any such officer should be convicted of so trading, he was to be disqualified for seventeen years, and fined $100 for every month he shall have been so concerned. By the 67th section of the act for providing more effectually for the security of duties on goods imported, it was enacted, that in all cases where an oath was required, if the person so swearing shall swear falsely, he shall pay a sum not exceeding $1,000, or be imprisoned twelve months. He mentioned another instance or two of a similar kind.

By the bill before them, Mr. L. said, whenever any person incurred any penalty, fine, or disability, the Secretary of the Treasury would have the power to remit them; he would not only have the power to do this, but also to pardon crimes, and perjury, after a person had been convicted by a jury of his country. Such was the power which they were about to put into the hands of one of their officers.

Mr. Coit said, it was extraordinary that the gentleman from New York should be so alarmed at this bill. He seemed to have attended to the subject, but not fully. This bill was, in all respects, the same as the old one, except that the word "disability" was added. Let us, he said, examine the cases where the Secretary of the Treasury shall have power to remit: "Wherever any person shall have incurred any fine, &c., he shall proffer his petition to the District Judge, praying the same to be mitigated or remitted, the

said Judge shall inquire, in a summary manner, into the circumstances of the case, first causing notice to the person claiming the fine, and to the Attorney of the United States for such district, that each may have an opportunity of showing cause against the mitigation or remission thereof, and shall cause the facts to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury, who shall have power to mitigate or remit," &c. If there should be any appearance of an intention to defraud, the penalties would not be remitted, but only where they shall have been incurred through ignorance or mistake. It was made the duty of officers to prosecute in all cases, and it was necessary, therefore, in some to remit the fines. However extraordinary the gentleman might think this power, it had been exercised eight years, and no material inconvenience had arisen from it.

Mr. Sitgreaves apologised for occupying the time of the House, when it was so precious as at present; but he thought it necessary to say a few words in answer to the gentleman from New York. With respect to the power given to remit fines, &c., under the law laying a duty on spirits, and on goods imported, that power existed at this time. The bill before them would have no new operation on those cases. Nor would this bill by any means extend so far as to pardon perjury or crimes of any description. Indeed, it was worthy of observation to see with what care the power was guarded. There was no reasonable ground of apprehension that favoritism could at all operate in this business; because the Secretary would only have power to pardon or mitigate after a petition had been presented to a Judicial Court, and the facts had been stated to him from a Judicial inquiry; so that there could be no danger of his exercising the power improperly, as, in cases where there was any intention of fraud, penalties would not come to him for remission. If the gentleman could point out how crimes or perjury could be committed, without intention, there would be some weight in his argument, but not otherwise.

Mr. Livingston said, the answer which the gentleman from Pennsylvania had given to his objections to this bill, might appear to his own mind very complete and conclusive, but they did not appear so to him. He told them the law now in force was in effect the same with the present bill, and yet he allowed that the word "disability" was introduced here, though not in former bills. He had shown to what an extent this would lead, in pardoning crimes, perjury, &c.; but, say gentlemen the Secretary of the Treasury will have power to do this only in certain cases, where the penalties, &c., have been incurred without intention of fraud. But who, he asked, was to judge of this—the Secretary of the Treasury? Who was to call him to account, in case of improper conduct? Nobody. But it was said the matter must first undergo an examination of the District Judge; but, said Mr. L., in this case he only acts as an instrument, and not as a judicial officer, since he only collected the facts, and transmitted them to the Secretary of the Treasury.

Mr. Nicholas said, there was more in the objections of the gentleman from New York than gentlemen seemed to answer. It was not answering those objections, to say that the Secretary of the Treasury would only remit fines when offences were wilfully committed. The objection was, that he was set over the Judicial power. There seemed to be another objection. The Constitution, he said, had given power to the President to pardon crimes. If remitting disabilities were tantamount to pardoning crimes, it was giving to another person a power which belonged only to the President. But he doubted whether the mere removal of disability could be considered as pardoning crimes. He thought they should be careful of introducing new words into laws, since, by doing so, too great powers might be given. He supposed there could be no objection to recommit the bill, in order to alter it according to the old law.

The question on passing the bill was then taken, and stood—yeas 50, nays 34, as follows:

Yeas.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, George Dent, Geo. Ege, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, James Gillespie, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, John Hathorn, Thomas Henderson, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, Nathaniel Macon, Francis Malbone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, Josiah Parker, Elisha R. Potter, John Reed, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, David Bard, Thos. Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jesse Franklin, Albert Gallatin, Christopher Greenup, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Anthony New, John Nicholas, John Page, John Patton, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Israel Smith, Richard Sprigg, jun., William Strudwick, John Swanwick, Philip Van Cortlandt, and Richard Winn.

PROSECUTION OF CLAIMS.

On motion of Mr. W. Smith, the House resolved itself into a Committee of the Whole on the bill making an appropriation for the prosecution of the claims of certain citizens of the United States, for the property captured by the belligerant Powers.

Mr. Gallatin called for the reading of the resolution which directed the bill to be brought in. It directed an inquiry to be made into the subject, and if it were found expedient to pay the expense incurred, to bring in a bill to authorize the expense; but the bill reported was merely an appropriation bill.

[The resolution not being found, after a few minutes' search]—

Mr. Sewall said he was upon the committee who made this report. The committee did not think

it necessary to go into the inquiry with respect to the propriety of the expense. From the report of the Secretary of the Treasury, it seemed absolutely necessary to appropriate the sum of $50,000. With respect to the expense to be incurred in this business, it was not likely to be very great, as our agent had orders to deduct the expense of every suit from the sum recovered. The committee had therefore reported a bill which, in the first paragraph, recognised the propriety of this business, legalized what had been done, and appropriated the money wanted for this year. This the committee thought fulfilling the business which was referred to them. The other question relative to the Constitutional power of the President, might have led to considerable debate, without effecting any valuable purpose.

Mr. Gallatin called for the reading of Mr. Pickering's Letter of February 14, 1797. It was read. It stated that about £20 sterling had been advanced to the proctors on each cause; that the whole number of causes under Mr. Bayard's care, in September last, was about 300; that the cost of each cause was estimated at about £250; that it had been proposed to class the causes, and select one from each for trial. What the eventual cost to the United States would be, was uncertain, as the expense was to be deducted from every cause which was successful. The expense of those which were not successful, would of course fall on the United States; and that provision should be made for this expense was indispensable, since Mr. Bayard had pledged the faith of the United States to discharge it.

The resolution which had been before called for was produced and read.

Mr. Gallatin said, it would be recollected that the appropriation contained in this bill was first brought in in the general appropriation bill. It was struck out of that bill, and the resolution just read was entered into, in order, if the money was to be appropriated, that the expense should at the same time be authorized.

The first section of this bill was in the same form as a common appropriation, and the item might as well have remained in the general appropriation bill as to have come in this form. The second section of the bill established the principle, and decided that the money which may be advanced by the United States, for paying the expense of the suits, should be refunded in a certain manner; but they have not decided upon the principle whether only a part or the whole of the expense should be paid. They have only authorized the President to appropriate the money, in the usual form of appropriations. They have said, so much money shall be appropriated: the manner in which it should be applied was not determined. This was what was done in relation to the Algerine business, and what should be done in this case. He thought they should take the subject under consideration, and say how far they meant to go in the business. If they authorized the President to expend $50,000 as part of the expenses, they should say whether they meant to appropriate for the whole expense to be incurred. The letter which had been read, informed them that our agent (Mr. Bayard) had pledged the faith of the United States to defray the whole expense; and if they appropriated the money without authorizing the expense, they would recognise the power of the President, or of our agent to do this. He therefore conceived that the only way in which the business could be done, was, to say how far they would authorize the President of the United States to pledge the faith of the nation. If they meant to defray the whole, to say so; if only a part, to say so, and not appropriate $50,000, which would not be one-fourth of the expense, but which would acknowledge the thing itself. He wished the business to be done in a direct way.

Mr. G. said he had mentioned the other day that he conceived that, under the general clause of appropriation for foreign intercourse, the President was authorized to apply the money, thus generally appropriated, to that specific object; and therefore he agreed with the committee in saying, "in addition to the sums heretofore appropriated," &c. But let us, said he, inquire into the expense. They had been told, that in September last the whole number of cases was about 300—the cost of which would be (reckoning them at £250 sterling each) £75,000 sterling. At present, only £20 sterling had been advanced on each—making a sum of £6,000; there would therefore be wanting, to complete the whole, £69,000 sterling. We might, said he, either declare or assent to it, merely because Mr. Bayard, or our Executive, has pledged the faith of the United States, and therefore put us under the necessity of doing this act; or, we might authorize the President of the United States, not only in this case, but in all others under his direction. We might even go further. It was well known that depredations had been committed upon the property of our merchants by another Power. It was to be hoped some amicable means of settlement would also be agreed upon with that Power, for the purpose of gaining restitution to our citizens; and as the President had pledged the faith of the nation in the case of Great Britain, he might also do it with France. We might therefore, said Mr. G., adopt the principle, that, not having a naval power to defend our commerce, we meant to assist our merchants in getting restitution for the property which is from time to time taken from them by the belligerant Powers; or else we might say that we are not under the necessity of doing this; but that, in this instance, the faith of the United States being pledged, (though without authority, yet, being done,) we found ourselves, in some degree, under a restraint to pay the money. One or the other of these opinions should be expressed. He had endeavored to amend the bill, but he found it difficult to introduce the ideas he wished by an amendment on the floor. He suggested the amendment he had thought of, but which did not altogether meet his ideas. He would rather introduce a new section than amend this. He therefore moved to strike out the first section of the bill.

Mr. Nicholas said it appeared to him a very important business, independent of the two princi-

ples mentioned by the gentleman from Pennsylvania. They were called upon for an expense of $200,000 or $300,000, which was never before heard of, and for which they were told the faith of the nation was pledged. This he thought very extraordinary, and he had no doubt on his mind that the President had no right to make this pledge.

He recollected, when Mr. Bayard went from this country, it was at the beginning of a session of Congress; and if it was known during the sitting of Congress that this expense was to be incurred, it was remissness in the President not to have informed them of it. If, indeed, this expense was contemplated, or the pledging of the faith of the United States, at that time, he did not think the Legislature had been properly treated, or that the conduct of the Executive was justifiable. He was not prepared to say that the United States should be bound to pay the expense of prosecuting the claims of our citizens; but, as the faith of the nation was pledged to pay the money, (whether justly or not,) he must say they were obliged to pay it—they had no choice—they must pay the money.

He thought the Committee of Commerce and Manufactures had not reported such a bill as they ought to have done. He thought it should be recommitted. The report might be made by Monday. It was an important subject; and, if the session had been in an earlier stage, he should have wished to have made some inquiries from the Executive on the subject; because he thought the Legislature had great reason to complain of not being consulted on the occasion.

Mr. Sewall said, the two gentlemen last up had suggested several important questions as necessary to be decided; for his own part, however, whatever those gentlemen might think upon the business, he thought the President was justified in everything he had done, under the power which was placed in him for regulating intercourse with foreign nations. The gentleman from Pennsylvania seemed to think that under this power he had no right to increase an expense beyond the appropriation; but if that power gave him authority to expend the money appropriated, it also gave him the power of expending whatever was necessary for that object. It was true, the House might refuse to appropriate for the expense after it was incurred; but if the President had any authority at all to enter into any pecuniary engagements, he must enter into such as appeared to him proper. In this case, he thought the President had acted with peculiar propriety; for he knew nothing which was of greater importance with respect to foreign intercourse than what related to the navigation of the high seas, the right of protecting which was certainly vested in the General Government. They were obliged either to authorize reprisals, or enter into such negotiation and settlement with foreign Powers who committed depredations upon our citizens, as would be likely to obtain redress for the injuries sustained. The President had chosen the latter way. He had called upon citizens to bring forward their claims; they were brought forward, and an agreement to a settlement of them had been made a part of a Treaty between Great Britain and this country.

But say gentlemen, the expense should have been authorized by the Legislature, and the Committee, who brought in this bill, should have introduced a clause to authorize the expense, before they had appropriated the money. If this were the opinion of the House, they would act accordingly; they could approve or disapprove of the bill reported. If they were to attempt to limit the power of the President of the United States in this respect, he believed it would interfere with a Constitutional question, for the discussion of which he believed they had not time; however, if the House chose to instruct them to bring in such a bill, they could do it. If the Committee had not done all that they were directed, they were not discharged, and could proceed in the business; they did what they thought was sufficient, in appropriating the 50,000 dollars wanted. If more should be wanted, a further appropriation would of course take place; if not, there was no occasion to settle any further question upon the subject. And if the propriety of this expense involved a Constitutional question, it might become a question whether the Constitution should be altered in that particular.

But gentlemen said, this act might imply that the United States were bound to pay whatever the President of the United States, or his agents, might pledge the faith of the nation to pay. This act, he said, would not give the power to the President to bind the nation, if the power did not already exist in the President according to the Constitution.

Gentlemen magnified exceedingly, Mr. S. said, the expense of this object. One gentleman had calculated it at £75,000 sterling; another at 300,000 dollars. In order to make up this calculation, they reckoned 300 causes at £250 each. The fact, as reported by the Secretary of State, was altogether different. He stated that as the full number of causes; but some of them had been tried, and the expense of trial repaid, which would be the case in all, where the captures proved illegal; so that, in his opinion, the matter, as a money question, diminished to a small sum indeed.

Upon the whole, he did not see that the Committee had pledged the House to do anything which was objectionable; and if they had not done enough, the bill could be amended.

Mr. Venable said, this business came before them last year, though not in the same form. They were then called upon for 20,000 dollars. It was not stated in the estimate what the money was wanted for. Some gentlemen undertook to state what was the object; they stated it as wanted to defray the expense of prosecuting the claims of our citizens. At that time the House refused to grant the money upon that ground. It was, therefore, brought in afterwards in a different form. It was always understood, Mr. V. said, that no money should be appropriated for

any object, except the expense was previously authorized by law; and though the gentleman from Massachusetts had said this expense was authorized under the general power given to the President to regulate foreign intercourse, he did not believe it. He had never been able to lay his finger upon that part of the Constitution which could give color to such a construction. Foreign intercourse, meant merely diplomatic intercourse, and it was wresting the words to extend them to anything else. Should it be said, exclaimed Mr. V., that the President of the United States had the power, whenever a vessel should be seized with contraband goods, to apply the public money in bringing the cause to trial? And could it be ascertained that three-fourths of the vessels which had been captured by the British were not legally captured, on account of their having contraband goods on board? Was there any principle upon which this could be ascertained? If not, he would ask upon what principles Government were to step in and pay the expense of prosecuting the claims of private individuals? The business did not come under the description of foreign intercourse, but was merely a question of commerce. This being his opinion, he never could agree to provide money for this purpose, unless a law was passed to authorize the expense, and he thought that all money heretofore expended on this business was expended contrary to law.

Mr. Williams said, from the statement in the report of the Secretary of the Treasury, they found a letter to him from the Secretary of State, advising, that the public faith was pledged to pay the amount of the costs of the suits commenced, because it was necessary that our agent in England should procure securities for the costs in each case before the Courts of Admiralty and Court of Appeals; that the whole number of causes in September last under his care was about 300; that £20 sterling had been advanced by Mr. Bayard, our agent, to each; that £80 sterling would soon be called for by the proctors for each cause, and that the amount of each cause was calculated at £250 sterling; that measures had been taken to class the causes, and in cases where costs only were in question, it had been agreed to be left to an arbitration. From this statement, he conceived, they must appropriate a sum equal to that for which the nation was pledged. He had only one objection to the clause, which was that of its being general, and which would include those who had carried on illicit trade, which ought not to be provided for. There was one thing, however, in our favor respecting this subject, since Mr. King has been in London, our agent has been instructed to consult him in all cases; and the application of money in carrying on the suits, is wholly under Mr. King's control. Hence from the ability of that gentleman, we may rest satisfied that causes arising from carrying contraband goods will not be admitted by him; and we ought also to consider, in all cases of recovery, the agent has been directed to deduct the costs of prosecution; so that the amount will not be eventually so great as is by some imagined. Besides, the want of money to commence and carry on the causes, may be the cause of losing much to our citizens; and, as we have no protection to our commerce, we ought to appropriate for the trial of all causes, where it should appear to have happened by the fair trader. We cannot expect to maintain our neutrality without some expenditure of this nature. He was opposed to the Committee's rising. Whatever amendment was thought to be necessary, it could now be done, or a new clause substituted. With respect to the power of the Executive, he would only refer the Committee to the act passed last session on this subject, and he believed that would convince them that the President had been fully authorized for what he had done.

Mr. W. Smith said, he was much surprised to hear the gentleman from Virginia [Mr. Venable] declare that there had never been a determination of that House to grant money for prosecuting the claims of our citizens on account of the spoliations committed upon their property by foreign Powers; he was the more surprised, because that gentleman had himself opposed the grant of money for this purpose at the last session, when, notwithstanding the opposition, money was granted to the Executive for this express purpose.

Mr. Venable denied having said there was no law for the expending of 20,000 dollars.

Mr. W. Smith said he had clearly understood the gentleman. The fact was, the President had sent them a Message at the last session, stating a deficiency with respect to the outfits of Ministers, &c., but he added, in the Message also, that the extraordinary expenses of foreign intercourse would require a further sum; and in the estimate, after stating various sums which would be necessary for outfits, and the probable expense of obtaining papers, and prosecuting the claims of our citizens, he stated a deficiency of 23,000 dollars, which sum, after a long debate, in which there was considerable opposition to the measure, the House voted the sum, thereby sanctioning the expense, and pledging themselves to furnish whatever further sum might be wanted for that object. It was extraordinary, then, that it should now be said, that this was never understood, and that the expense ought now to be legalized, before any further grant was made. Such a difficulty might, indeed, have been brought forward at the last session with some propriety; but having then authorized the expense, by passing a law, predicated on the estimate before their eyes, it was very extraordinary that gentlemen should now call the principle in question. At this late period of the session, to go into the subject in the way proposed by the gentleman from Pennsylvania [Mr. Gallatin] would defeat the business entirely, and totally prevent our citizens from obtaining the advantages secured to them by the Treaty, of obtaining restitution for the property which had been captured from them. It would certainly be best to appropriate the 50,000 dollars now asked for, and leave it to be hereafter determined what further sums should be appropriated for this purpose.

It had been stated by the gentleman from Virginia [Mr. Nicholas] that the Executive was to blame for not having informed the House, when Mr. Bayard was sent to London, that it was intended to defray the expense of these suits. If there were any blame in this, it would certainly not fall upon the present Secretary of State, but upon his predecessor. They found, by the report of the Secretary of the Treasury, that Mr. Randolph had drawn from the Treasury as long ago as February, 1795, 10,000 dollars, for prosecuting appeals in England, and, in the same month, a further sum of 10,000 dollars, and in the April following, a further sum of 10,000, making in the whole 30,000 dollars. But, says the gentleman, Mr. Bayard was appointed at the beginning of a session of Congress, and therefore Congress should have been consulted on the occasion; but it would be recollected, that in 1795, they adjourned on the 3d of March, and 20,000 dollars had been drawn from the Treasury for this purpose in February, a short time before Congress adjourned, and 10,000 in April, after they were adjourned. The gentleman was therefore mistaken in saying Mr. Bayard received his instructions to pledge the United States at the commencement of the session, for the moneys were not drawn from the Treasury till about the close of the session.

With respect to the objection, that by voting for this grant, they sanctioned the principle of paying the expense of prosecutions where the captures had been legally made, by reason of the captured vessels having had contraband goods on board, he did not think there was any weight in it. He was, indeed, not a little surprised to hear those gentlemen now state, that there was a probability that a great part of the captures were legally made. On a former occasion, it was strongly contended by them that all these captures were violations of our neutral rights. It was possible, however, that some of the vessels captured might have contraband goods on board; but he believed it would be the best way to leave the settlement of this business to our agent and Minister in London. The object of sending Mr. Bayard to London, was, that he might superintend this business, and he doubted not that no cases of this kind would be brought to trial. Mr. S. then mentioned an instance wherein the President had exercised a similar power with the approbation of Congress, though less in extent, which proved this was not a new business. He trusted the section would not be struck out; but if it could be amended satisfactorily he had no objection to amend it.

Mr. Venable said, the House refused to appropriate the money asked for; the estimate which the gentleman had read, came in afterwards. It was true that the House passed upon it; but that did not convince him of the propriety of the expense. But the gentleman had gone further, and shown that 30,000 dollars had been drawn from the Treasury. He did not know by what authority this had been done. It was true they had appropriated a sum for the negotiation with Algiers, under the general head of foreign intercourse. Under this head, he believed, the sums in question had been drawn from the Treasury, though it was his opinion, and always had been, they were drawn from thence contrary to law, as the law appropriated a million of dollars for the Treaty with Algiers, and did not contemplate any other expense. Besides, if we had heretofore appropriated money for this object, it made no difference as to the propriety of making the present appropriation, which he could not consent to do until the expense was authorized by law. He thought the subject had never been so fixed as to warrant this appropriation. No Government ever undertook to make good captures of the property of their citizens at sea. There might be instances, indeed, in which such captures were legal; and therefore, though he felt as much for these violations as any man, until this matter was settled by law, and some greater check was put upon the expenditure of the money, he should never consent to an appropriation on this subject.

Mr. W. Lyman saw no difference between the loss of individual property of real estate and individual property lost at sea; and if the United States were bound to make up the losses of one, he did not see what was to prevent them from being called upon to make good the other. Instead of there being three hundred cases, he should not wonder to hear of three thousand, if the United States undertook to defray the expenses of every trial brought forward. There was no doubt that in many of these causes the prizes would be condemned as legal, in which case the United States would have to bear the whole of the expense. Besides, to adopt a principle of this kind was holding out an inducement for persons to come forward, as, if nothing was gained, there was no risk of loss, since the United States were pledged for the whole expense; and they might suppose, from a failure of evidence that their goods were contraband, they might stand a chance of recovering their property.

When the Message of the President came before them relative to this business, Mr. L. said, the object of the expense was mentioned, but by the law the money was appropriated under the general head of foreign intercourse; he supposed it was wanted to defray the expense of protecting our seamen. The House never sanctioned the payment of the expense of the law-suits in question.

There might be difference of opinion with respect to the propriety of protecting the property of our citizens at sea; but the situation of the business, as settled by Treaty between Great Britain and this country, put the question upon a different footing. Great Britain had authorized the persons who had sustained losses by the capture of their property to come into their courts, and, if the property was captured contrary to law, they engage to restore it. Citizens had made their election; they had petitioned for this treaty to be carried into effect, that they might receive back their property; but were the United States, he asked, to bear the expense of their suits in doing this? He could not agree to it.

So far as the United States might be pledged, (though he did not think they were pledged,) he would agree to appropriate, as far as the expense incurred; but no further. These persons, he said, had relied upon the Treaty to give them every thing, and hoped they would get all they expected from it, but he did not wish the United States to be at the expense of their suits.

Mr. S. Smith said, the money which had been appropriated had been appropriated under the general head of foreign intercourse, and the President had disposed of it as he judged proper. But, he said, an estimate was laid before them last session, in which it was said that a sum was wanted for the purpose of prosecuting the claims of our citizens in the British courts. The gentleman from South Carolina [Mr. W. Smith] first proposed forty thousand dollars should be appropriated for that purpose; afterwards twenty thousand were agreed to, therefore it was as well understood by the House to be appropriated for that object, as if the purpose had been mentioned in the bill. So he understood it, and so he voted for it.

The gentleman last up, he said, had changed his ground since the year 1794. He was then of opinion, with himself and many others, that the captures were illegal, and unjustifiable; nothing was then heard of their being justly condemned, that they might have had contraband goods on board.

Gentlemen said no other nation ever came forward to pay the expense of the law-suits of their citizens in such a case. He believed not. Other nations had power to defend themselves; they had ships to enforce proper respect to their neutrality; but gentlemen object to our having this force, and therefore it was no more than reasonable that our citizens should have redress in another way. Nor did he know how they could get rid of the expense, since they had committed themselves. Not only their agent had pledged the faith of the nation, but they had pledged themselves in the business at three different sessions. They had given merchants to believe that they had taken the business into their own hands. If the President had done wrong in taking up the subject, it should have been corrected in its first stage; but, instead of that, appropriations had been gone into, and the business had been going on. Pains were taken to expend as little money as possible on the occasion; and if individuals had been obliged to prosecute their own claims, it would have cost them double the sum which had been estimated. The three hundred causes which had been mentioned, included claims of every description, those determined by arbitration would lessen the number. He had received a letter from the merchants at Baltimore, who had heard from Mr. Bayard, and it appeared that many of the causes were referred for settlement to proctor Nicholas and Mr. Scott, men of great integrity and ability. This would greatly lessen the expense, and would never have happened had not Government taken up the matter. Citizens must either have gone through all the expense of the British courts, or have sat down with their losses. He should have chosen the latter, as the least of two evils.

Mr. S. said he was one of the sufferers from British captures. It had been generally supposed that he had lost a great deal of property by them; but he had not. He had recovered in every instance, having always been able to prove himself a native citizen of the United States. He had no claims now but for costs, which amounted to sixteen thousand dollars.

If Government had not taken up the business, it would have cost the United States ten times as much as it would now do. Under these impressions, he had no doubt the House would agree to appropriate the money required. If any other words were liked better than those at present in the bill, he should not be nice about any alteration, provided the money was given.

As to contraband trade, he did not think there would be many cases of that kind; for he did not believe that any man who had been engaged in that trade would expose himself by making his claim; but there were many things which the British called contraband, which we did not allow to be so; but he thought this business might be safely left in the hands of Mr. Bayard and Mr. King.

Mr. Gallatin said, there were two distinct questions; the one as to the propriety of incurring certain expenses; the other relative to the power of authorizing the expense. He was in hopes no other question than that of the propriety of paying the expense would have become a subject of discussion in this stage of the business. He thought the resolution which had passed that House, directing an inquiry into the propriety of bringing in a bill authorizing the expense, had shown that the power was solely vested in the Legislature to authorize it.

Two different grounds had been taken by gentlemen to support the opinion, that the United States stand pledged to pay the expense, and that therefore only an appropriation was necessary. The gentleman from Massachusetts [Mr. Sewall] seemed to think there was an inherent power in the President, from his Constitutional right of managing intercourse with foreign nations, to enter a business of this kind, and that having power, the necessary means must be furnished for carrying that power into effect. He seemed to think it involved a Constitutional question to limit the power of the President in this respect; but he called upon that gentleman to point out to him that part of the Constitution which gave to the President the power which he was inclined to give him. He knew that the Constitution had given power to the President and Senate to make Treaties, and that it had been contended they in that way could pledge the faith of the nation; he had never heard it asserted before that the President, or his agent, had any power to do it. He knew, also, that the President had the power to appoint Ministers, Ambassadors, &c., but he saw no general power given to him by the Constitution to carry on an intercourse with fo-

reign nations, either directly or indirectly, which could warrant him in pledging the faith of the nation. Indeed he conceived the power of granting money to be vested solely in the Legislature; and though, according to the opinion of some gentlemen, (though not in his,) the President and Senate could so bind the nation as to oblige the Legislature to appropriate money to carry a Treaty into effect, yet, in all other cases, he did not suppose there had been any doubt with respect to the powers of the Legislature in this respect.

The next ground was, that they had pledged themselves already to pay this expense; and, in support of this assertion, various arguments were produced. In the first place, it was said, having once passed a law to defray certain expenses of foreign intercourse, and the President having the power of applying the money thus appropriated towards prosecuting the claims of our citizens under that general power, the object of expense had already been authorized. He could not believe this assertion was well founded; he would look at the law which had been passed on this subject. He believed, indeed, that by the general manner in which the grants for foreign intercourse had been made, that the President had the power to appropriate it to that object as far as the money would go; but he did not believe he had the power to go further. [Mr. G. here read an extract from the law.] He said this million of dollars was not only granted generally to defray the extraordinary expenses of intercourse with foreign nations, but the law directed that the money should be drawn from the Treasury on a bare certificate that it was wanted for foreign intercourse. This being the case, though probably it was not the intention of the Legislature that the money should go to any other purpose than for settling a Treaty with Algiers, yet, under the two circumstances he had mentioned, he believed the money might be legally applied to the object upon which a part of it had been expended.

But, although he believed that by the appropriations made in this loose way, such an expenditure might be justified, yet he could not see any thing which could authorize the Executive to expend money beyond the appropriation, without a specific power given for the purpose.

But the gentleman from South Carolina supposed this expense had been sanctioned last year, and, in order to prove his assertion, he had taken the estimate which had been laid before them. That estimate, he said, was conveyed to them in a Message from the President, dated May 28, and the law was passed on the first of June. Of course, no certain inference could be drawn from an estimate laid before them only three days previous to their adjournment, and which had been inserted as an additional clause in a bill, without having been printed. But what did that Message say? It said twenty thousand dollars were wanted for the purpose of prosecuting the claims of our citizens. No other information was given on the subject. They knew money had been expended in the West Indies for getting certain papers relative to the captures; but, except this, they had no information. They had not, at that time, been informed that the faith of the United States was pledged by the President for the payment of the expenses attending the suits instituted for the recovery of our citizens' property, and this act was now justified upon their having last session voted twenty thousand dollars for this object, and thereby, it was said, pledged themselves to pay the whole expense. This argument showed the necessity of being well acquainted with the extent of the object for which they were appropriated, before they voted away the public money; for he supposed, if the money now asked, were granted, fifteen or twenty months hence, they should be further informed that Mr. Bayard had again pledged the faith of the United States for a further sum, which must of course be paid. Therefore, he believed he was authorized in saying, that if the sum now asked for was granted without annexing a clause specifying the authority they meant to give, it would afterwards be said that the whole expense to be incurred in the business had been legalized; as a proof of this, gentlemen said that because twenty thousand dollars were last year appropriated, the whole expense was sanctioned. This showed with what caution it was necessary to act in a business of this kind.

Concluding as he did, that the United States were not pledged to pay this money; that whenever the President of the United States should undertake to pledge the faith of the United States, he thought he did it upon his own responsibility, and threw himself upon the mercy of the Legislature, who could approve or disapprove his act. If they meant to appropriate the money, it was necessary first to confirm what he had done; for, if they appropriated the money without this confirmation, they would act contrary to the Constitution, they would suppose a power of so doing pre-existing in the Executive.

As to the proposition for paying the expense of the suits in question, he was not well enough acquainted with the cases to come to a conclusion upon the subject; he could not say whether the President acted right or wrong in authorizing Mr. Bayard to pledge the faith of the United States to pay the expense; but he fully agreed with the gentleman from Virginia, [Mr. Nicholas,] that the Legislature should have been informed of the transaction as soon as it had been done; and the remarks of the gentleman from South Carolina, [Mr. W. Smith,] with respect to the money being drawn from the Treasury by a former Secretary, did not amount to any thing; they did not know the Secretary in the business; they did not authorize the thing to be done; it was the President who gave the instructions. He conceived, therefore, that the President was chargeable with neglect for not having informed the Legislature when the business was done; but, at present, the thing being done, although he saw many difficulties in the way; though illegal claims would be favored, and where they were so, the expense would fall wholly upon the United

States, yet, he must confess, he agreed in a great degree in opinion with the gentleman from Massachusetts, [Mr. Sewall,] that they ought to assist, in a certain degree, citizens whose property had been captured by the belligerant Powers in their endeavors to recover it. He believed, in the situation they were in, the President of the United States having of his own accord pledged the faith of the nation, though the Legislature was not thereby pledged to find the money, yet he felt the propriety of doing it.

The motion which he made to strike out the first section, as going against the principle of the bill, might be effected in a more direct way, by the Committee's rising and being discharged from a further consideration of the subject, and the bill being recommitted, in order to have a clause inserted authorizing the expense.

Mr. Harper believed, that if the object which the gentleman had in view was a proper one, it might be effected, without striking out the first clause, or the Committee rising. Mr. H., after going at some length into the business to prove the propriety of the President's having acted as he had done, concluded with agreeing that it would be well to pass a law authorizing the expense, but that it might be very well done by way of amendment.

The question for the Committee's rising was put and negatived—44 to 42.

Mr. W. Smith said, he would make one or two observations in answer to the gentleman from Pennsylvania, [Mr. Gallatin.] He did not think it was necessary, at this late period of the session, to go into a discussion of the Constitutional powers of the President, as such a discussion might occupy the remainder of the session. He should not, therefore, take this ground, because he had ground sufficiently strong without it. The President had certainly a right to do what he had done, if he conceived it indispensably necessary for the public good; but submitting it afterwards to Congress to sanction the proceeding. They had already sanctioned what he had done, for the law of last session fully authorized the President to act in the manner in which he had acted. Indeed, upon the gentleman's own doctrine, he must vote for this appropriation, because he said, if they now voted for this money, they should stand pledged for the whole expense; now they had, at the last session, appropriated money on the same account, and therefore according to the gentleman's reasoning, stood pledged to furnish the remainder. But how did the gentleman get over this difficulty? He said, as the papers alluded to came into the House, only three days before the close of the session, they were not entitled to much consideration. According to this argument, all the laws which they might now pass, would be entitled to little weight, because there was not sufficient time to consider them fully. His next objection was, that the Message had not been printed. He did not think that was necessary, since the whole item consisted but of three or four lines. The money was said to be wanted to defray the expense of getting papers, and prosecuting the claims of our citizens. When this estimate was before them, they voted the money in question, they could not therefore be ignorant of the purpose for which it was wanted.

It was well known, Mr. S. said, that when the appropriation for foreign intercourse was under consideration, he moved an additional sum of 40,000 dollars for contingent expenses. He was called upon to explain for what this sum was wanted, when he informed the House it was necessary for defraying sundry contingent expenses of foreign intercourse, but particularly for prosecuting the claims of our citizens, whose property had been captured by the belligerant Powers. It was then objected, that the expense was not authorized; others thought the sum too much for the purpose; but the gentleman from Maryland [Mr. S. Smith] and the gentleman from Pennsylvania, [Mr. Swanwick] who were well acquainted with the expensiveness of English Courts of Justice, said it was a small sum for that object. The House, however, refused to appropriate 40,000, and even 30,000, and agreed upon 20,000 dollars. The President, two or three days afterwards, sent them a Message, saying, that it would be necessary that there should be appropriated a further sum for defraying the expenses of foreign intercourse, and particularly for prosecuting the claims aforesaid. On which estimate they passed a law granting the money, by which vote they sanctioned the expense, and it was too late now to say it was a new subject. He therefore took it for granted, from the arguments of gentlemen themselves, that the House stood pledged to pay the expense.

Mr. Nicholas thought, what the gentleman last up had said about one part of the House thinking the sum which he had proposed to appropriate last session too large, and others too small, was a proof that they supposed the sum then asked for was the whole of what would be required. And was there no difference, he asked, between voting for 20,000 dollars, when it was supposed to be all that was wanted, and voting for 50,000, when they were told that 300,000 dollars would be necessary? besides, it was establishing a principle to guide all future Congresses. The first thing to be done was to sanction the expense; but if there were a majority of that House inclined to vote against the business, they ought to do it without fear of offending any man. If the expense should be authorized, he would vote for the money, but not otherwise.

Mr. Buck hoped they should not take up their time at present in discussing what were the powers of the different branches of Government. It was not necessary for them now to inquire whether the President had a right to pledge the faith of the nation, or whether they had pledged themselves to pay the expense, or not. All that was required by gentlemen opposed to the question in its present form, seemed to be that the expense should be authorized. He thought there could be no objection to the doing of this, since, if the President had the power, it would not be diminished by such a measure. The question was,

whether it was expedient and proper to authorize this expense, and make the appropriation. If it were, and it would suit gentlemen to do the business better in this way, he hoped it would not be objected to, but that the bill would be amended, and the appropriation made.

Mr. Sitgreaves said, he did not feel any of the scruples which many gentlemen had expressed respecting the form of the section in question; nor did he feel the least doubt of the legality of the President exercising a discretionary power to do what he had done. He thought the discussion of such great Constitutional questions ought to be avoided as much as possible, particularly at a time like this, when we have so much to do, and so little time to do it in. It appeared to be the opinion of the House that an appropriation should be made; he thought, therefore, that it could be easily done, as the mode, only, was the present subject; he therefore moved a resolution authorizing the President to prosecute the claims of citizens whose property had been captured.

Mr. Gallatin said, he had prepared a motion to that effect, but it did not please him; he had therefore now so amended it as he thought would answer every purpose. It was as follows:

"*Resolved*, That the President of the United States be, and he is hereby authorized to advance on account of the several prize causes, before the Court of Admiralty and Courts of Appeal in England, a sum sufficient to defray the cost thereof, so far as the agent of the United States may have become surety for the same; and that for defraying the expenses during the year 1797, and that which may be incurred in procuring from the Admiralty Courts of any of the belligerant Powers, copies of papers relative to the property of American citizens captured by any of the said Powers, a sum not exceeding $50,000 shall be, and is hereby, appropriated."

Mr. W. Smith rose to reply to Mr. Nicholas, who, he said, had not rightly stated his observations; he had only noticed part of what Mr. S. said. He said that, last session, a certain sum was objected to as large, and a smaller agreed to by the House; but he also said, that two gentlemen, who had opposed the larger sum, after the Message from the President informing the House it was too small, then voted for the larger. Mr. S. did not object to the amendment.

The question was then put on Mr. Sitgreaves motion and lost. That on Mr. Gallatin's amendment was agreed to. The House then took it up, and the amendment being agreed to, the bill was ordered for a third reading on Monday.

ACCOMMODATION OF THE PRESIDENT.

On motion of Mr. Gallatin, the House resolved itself into a Committee of the Whole on the bill to accommodate the President of the United States; when

Mr. Henderson said, he wished for information on this subject, as he had not sufficient to convince him of the propriety of granting 14,000 dollars, in addition to the furniture now in possession of the President; he therefore moved to strike out the 14,000, for the purpose of inserting 5,000. The bill informed them that this sum, in addition to what might arise from the sale of such of the present furniture as may be decayed, out of repair, or unfit for use, was to be laid out in furnishing the household for the President. It was very lately that they had received a proposition from the Senate to advance the salary of the President 5,000 dollars; the bill was rejected by that House. It appeared to him that this bill went to effect the same thing in a different way. If the object was merely to furnish the household of the President, he thought a much less sum would be adequate to that purpose. He thought 5,000, with the proceeds of the sale of such of the present furniture as was unfit for service, might be sufficient. He had no doubt that the sum would make the furniture of the President for four years to come equal to what it had been for four years past.

Mr. Nicholas wished the gentleman would leave the sum blank, instead of inserting 5,000.

Mr. Henderson consented.

The question was taken, and negatived—42 to 39.

The Committee then rose, and the House having taken up the subject—

Mr. Nicholas said, as a majority of the House was against striking out this sum, he wished to have some information why this sum was fixed upon, and for what purpose it was to be applied. No one wished more than he did to place the President in a situation conformable to his station; but, according to his information, this sum was more than was given to the present President on his entering upon the office, though there remained the whole of the furniture, most of which was worth as much at this time as it was when first purchased.

Mr. Sitgreaves said, he would give to the gentleman all the information which he had on the subject. In the year 1778 or 1779, by a resolution of the old Congress, an household was established for the President of Congress. This remained until the present Government went into operation in the year 1789. It was then resolved, that Mr. Osgood should be requested to fit up the House in a proper manner for the reception of the President of the United States. In that year the law passed for compensating the President of the United States, which enacted that a salary of 25,000 dollars should be allowed him, together with the use of the furniture then in his possession belonging to the United States. This furniture cost the United States 13,657 dollars, 83 cents. During the period from 1779, when the household was first established, until 1789, when the President of the United States entered upon his office, the furniture which had been purchased for the President of Congress, was so much decayed, that it required nearly 14,000 dollars to replenish it. It was the opinion of the joint committee, therefore, that in a lapse of eight years, viz: from 1789 to the present time, the furniture then purchased must have experienced equal dilapidation and decay, and that a sum at least as large as was then allowed (particularly when it was considered that the price of goods was very much advanced since that time) should now be allowed for putting the present household upon the same footing of respectability and convenience with that at New York in 1789. Mr. S. did not know that he could give any further information on the subject. It was a matter of notoriety that a great part of the goods then purchased were worn out and destroyed; such as the household linen, crockery ware, &c., and that the President had renewed them at his own expense; insomuch that if he were to take out of the House the furniture which he had supplied, there would little remain in it besides tables, chairs, bedsteads, and a few such articles; since all the carpets and ornamental furniture of the House had been purchased by himself.

Whilst he was up, he would wish to obviate the only objection which had been adduced to this bill. The gentleman from New Jersey [Mr. Henderson] had supposed that this allowance was meant to carry into effect what had been rejected in another way, alluding to the proposed advance of salary. That gentleman might see a very obvious distinction between the two things. If $5,000 had been added to the salary of the President, he could have disposed of it as he pleased; but the money now proposed to be granted, was to be employed in the purchase of furniture, &c., which would remain the property of the United States, and would devolve upon the next President. Mr. S. said, he would add, that in the joint committee there was not a dissenting voice to the proposition, and he hoped there would not be one in the House.

The question was put for engrossing the bill for a third reading, and carried, there being fifty votes in favor of it. This day and Monday were mentioned for the third reading; the question was carried for the most distant day, 40 to 35.

A message was received from the Senate, informing the House, that they had resolved that the bill allowing a drawback on domestic spirits exported by the Mississippi in vessels of less than thirty tons burden, should be postponed till next session; that they had passed the bill for the benefit of the widow de Neufville; the bill for allowing the Secretary of the Treasury to remit fines in certain cases; the bill for continuing in force the laws against certain crimes committed against the United States; and the Post Office bill with amendments.

The House went into Committee of the Whole on the bill to suspend in part the duties on snuff and refined sugar, and reported the same without amendment, when the House took it up, agreed to it, and ordered it for a third reading on Monday.

Monday, February 27.

The bill authorizing evidences of the Public Debt to be received in payment for lands; and the bill for suspending the act for laying a duty upon snuff and refined sugar, were read the third time and passed.

PROSECUTION OF CLAIMS.

The bill making an appropriation for prosecuting the claims of certain citizens of the United States, for property captured by the belligerant Powers, was read the third time, and after a motion made by Mr. Kitchell to recommit it in order to have introduced into it a provision against paying the expense of the trials in cases where the property was legally condemned, from the vessels having had contraband goods on board, which was negatived, 54 to 27, it passed by yeas and nays, 54 to 27, as follow:

Yeas.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Dempsey Burges, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Nathaniel Freeman, jun., Albert Gallatin, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, Alexander D. Orr, Josiah Parker, John Patton, Elisha R. Potter, John Reed, John Richards, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Richard Sprigg, jr., Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Thomas Blount, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, William Findley, Jesse Franklin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, Carter B. Harrison, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Mackay, Nathaniel Macon, John Milledge, Anthony New, Robert Rutherford, William Strudwick, Abraham Venable, and Richard Winn.

Mr. A. Foster came in from the Committee of Enrolment, just as the Clerk was about to state the votes, and wished to be placed in the affirmative; but as he was not in the House to answer to his name when called, it was not allowed.

ACCOMMODATION OF THE PRESIDENT.

The bill to accommodate the President was read the third time; when Mr. Heath moved to have the bill recommitted, for the purpose of striking out $14,000 to insert $8,000. He thought $14,000 too large a sum to be given to purchase new furniture; $8,000 he thought would be a sufficiently handsome sum for the purpose. They were apt to be too lavish with the public money on some occasions, and too sparing on others. He had not been satisfied with the reasons which had been given by the Chairman of the Committee for giving the sum now in the bill. At a time when our Treasury was so much in want of money, he did not wish so large a sum to be given for this purpose; nor did he think it necessary, except it were to put our President in the style of a potentate or Prince. And this he was sure the President of the United States would not wish, as he believed he was a gentleman of great

economy, and would spurn at anything like tinsel or expense. Five thousand dollars had been thought a sufficient sum for this purpose, but he was willing to give $8,000. He hoped the bill would therefore be recommitted, and this sum be inserted.

Mr. Macon seconded the motion for recommitting the bill. He was against it altogether. He did not see why they should furnish the house of the President any more than that of any other of their officers. He thought the thing improper at first, and that it was wrong to continue the practice. If the salary was not large enough, it should be made larger, though he thought it sufficiently large.

Mr. Rutherford concurred with his colleague, Mr. Heath. It was necessary, he said, that Republicans should be consistent. If we thus give away the people's money, said he, shall we not be charged with rapaciously putting our hands into their pockets? Have we not, he added, refused to redress grievances and injuries, and to do justice to many deserving and distressed citizens, because our Treasury is low? And shall we now, when there is no right reason for it, lay hold of the public Treasury, and lavish away $14,000? For what? For adding new furniture to the house of the President. No; he was willing to render him all possible respect; he remembered well his letter to our sister Republic of Holland. He had a pretty good memory. He remembered well his patriotism; but he saw no reason to give him $14,000. He would give him $8,000, which he thought would be a very pretty compliment; but to give $14,000 would outrage every idea of that economy and Republican simplicity which ought to characterise the American nation. Why, said he, shall we, who are a Confederacy of the Democratic Republicans, everlastingly keep our eyes upon the pageantry of Eastern Courts? Let us rather attend to our own character than that of any despotic nation upon earth. He hoped the bill would be recommitted.

The question for recommitting was carried—45 to 40.

The House accordingly resolved itself into a Committee of the Whole on the bill, when—

Mr. Heath moved to strike out $14,000 and insert $8,000.

Mr. Gillespie called for the estimate, which he understood was in possession of the committee.

Mr. Sitgreaves said there was no estimate before the House or committee. All that he had seen was a list of the furniture which had been purchased for the President in 1789. He himself had not had patience to go through it; but if the gentleman wished it, it might be read to the House.

Mr. Hartley hoped there would have been no objection to this appropriation. He thought the chairman of the committee had fully shown the propriety of granting the $14,000 to the President, who was not merely an officer of the Government, but a branch of it. It was not giving the money away, but merely advancing it on account of the United States. He was not in favor of high salaries, but he wished the situation of the President to be made comfortable and respectable.

Mr. Heath said, he believed a great part of the furniture which was purchased in 1789, was at present as good as when laid in; this was particularly the case with respect to the mahogany furniture; and he thought the $8,000 would be a sufficient sum to replace all articles of a perishable nature, such as carpets, linens, &c.

Mr. Holland was in favor of striking out, because if was only necessary to appropriate as much as might be necessary whilst Government remained here, as, when it should be removed, the furniture now used might not be suitable for the house at Washington. At that time, he supposed a further sum would be called for, and therefore he thought a less sum than $14,000 would be sufficient for the present purpose.

Mr. Williams was in favor of the bill as it stood. He had been told that it was the intention of the State of Pennsylvania to make an offer to the President of the house which had lately been erected in this city; if so, perhaps the furniture which might be purchased for it would be suitable for the house in the Federal City. He had before said that he thought it would have been better to have augmented the salary of the President, and let him purchase his own furniture. But as that had not been agreed to, he wished the Committee now to rise and report progress, that information might be gained on the subject; because he thought if he was to have that house, that sum would not be too large.

Mr. Sitgreaves said, he did not know whether the Legislature of this State would conclude to make the President the offer which the gentleman last up had mentioned; but of this he was sure, that if they did, he could not afford to accept of it. For, if this bill passed, he was certain that, under such circumstances, he could not remove into that house, because he would not be able to furnish it.

Mr. S. said, he was surprised the House should so suddenly change their opinion. He thought he had given sufficient information on the subject to have shown the necessity of the grant. [Mr. S. here repeated what he had before noticed respecting what had been allowed on a former occasion.] When gentlemen entered minutely into the subject, they seemed to have information which was not very correct. He believed the sum mentioned in the bill not more than sufficient. The decay which had taken place in the President's household would require that sum to make it good. The gentleman from Virginia supposed there were many articles, not perishable in their nature, which could not have been injured by their use. He was mistaken. There was nothing but about $800 worth of plated ware and the mahogany furniture which could at all come under this description. Indeed, any gentleman who was in the habit of paying his respects to the President of the United States must have seen with regret that the appearance of his furniture was so far inferior to that which was to be found

in the houses of any of our wealthy citizens, or even of those in moderate circumstances. When this was a notorious fact, what ground, he asked, could gentlemen have for comparing the household of the President to the pomp and splendor of Eastern Courts? On the contrary, he thought there was a humility of appearance in the house of the President, which he would not say was a disgrace to the country, but which at least proved its rigid economy.

The gentleman from North Carolina [Mr. Macon] had said, he knew no reason why the house of the President should be furnished any more than that of any other officer of the Government. Perhaps it was not quite correct to call the President of the United States an officer of the Government; he believed he was an independent branch of the Government. He supposed the same reason existed now for furnishing the house of the President which existed for furnishing that of the President of Congress, and afterwards that of the gentleman now going out of office. And he thought, at a time when money was of much less value than it was eight years ago, at least an equal sum should be allowed for this purpose to what was then allowed. If they took into consideration the private fortunes of the two gentlemen, the reason for doing so would appear stronger.

Mr. S. said he was sorry to find gentlemen inclined to go more particularly into this business than the committee had already gone. It would be found that the greater part of the furniture of the house was wholly destroyed; the fact with respect to carpeting was indisputable, as it was well known the whole of that had been renewed by the present officer. Under these circumstances, he trusted the House would not hesitate to give for this purpose the sum mentioned in the bill.

It was an unfortunate circumstance, Mr. S. said, that the moment they were called upon to make an appropriation, gentlemen came forward and spoke of the embarrassments of our Treasury; but when propositions were laid before them for raising revenue, they were told we did not want the money. He trusted the United States would never be in such a situation as not to be able to make comfortable provision for their Chief Magistrate; if so, they would be in a more degraded state than their worst enemies had ever represented them.

Mr. Nicholas said he voted for going into Committee of the Whole on this subject from an idea that the sum proposed to be given to the President was larger than was necessary, though he confessed he could not say what that sum ought exactly to be; he was for giving enough, and rather too much than too little. Indeed, when he considered that the whole sum was not to be expended, except it should be found necessary, and that a certain style was expected to be observed in this station, he was not for stinting the sum to what he thought just enough for purchasing furniture. If the whole of the money granted must of necessity be expended in furniture, he should have had more hesitation on the subject; but as the expenditure would be left to the discretion of the President, he could not suppose, from the well-known habits of economy of that gentleman, it would be improperly disposed of. He therefore felt no difficulty in agreeing to the sum in the bill; for though he thought the sum too large, yet he would not so confine the appropriation as to oblige their officer to go about the streets to look out for cheap purchases of furniture.

Mr. W. Smith thought the gentleman last up had put the matter upon a proper footing, in saying the sum ought not to be confined to what was absolutely necessary. The habits of economy of the gentleman elected to the office were too well known to suppose he would go to any extravagant lengths in the purchase of furniture for his house. He thought, moreover, that as the joint committee of the two Houses, to whom the details of this matter had been referred, after the best inquiry they could make upon the subject, had unanimously reported this sum to be necessary, the House ought not to hesitate to give it, without better reasons than he had heard. With respect to the articles heretofore provided, he had no doubt a great part had been destroyed, especially when it was recollected that, in addition to a service of eight years, they had been removed from New York to this city. He inferred this from his own experience; for at the time the Government removed from New York to Philadelphia, he also had been obliged to remove his household effects, and his furniture had received very considerable injury by the removal. Indeed, as $14,000 had been allowed in 1789 for furnishing the President's house, he could not think that a less sum ought now to be granted, when every article which he would have to purchase was at least 50 per cent. dearer than at that time. He did not suppose the House wished to compel the gentleman about to enter upon the office to live in an inferior style to that of his predecessor.

He trusted, therefore, they would agree to the sum as it stood in the bill, especially when they considered that the private means of the two gentlemen were not the same. If they erred at all in this matter, he would rather that it should be on the liberal side. He hoped, therefore, the Committee would rise and report the bill.

Mr. Buck said, previous to these measures being brought forward, they had decided against any advance to the salary of the President. At that time a committee was appointed to inquire into the state of the President's household, and to report whether any, and what, farther accommodation was necessary to be afforded. He conceived that it was the wish of that House that the gentleman who was coming into office should have accommodations equal to those which had been given to the gentleman who was leaving it. The committee had examined into facts, made a report, and a bill had been brought in accordingly. The committee had informed them upon what principles they had acted; and it did not appear that they either intended to increase the splendor

of the household of the President, nor to add to his salary. If any member could come forward and show that the report of the committee was erroneous, they should have some ground upon which to reject it. He had heard no man say this, and therefore all that had been offered on the subject ought not to weigh against that report. When the bill was before them on Saturday, there was a considerable majority in favor of it, and as they had no new information on the matter, he saw no reason for a change of opinion.

Some members, Mr. B. said, had held out an idea that they were about to give this money away, to enable the new President to live in the style of foreign Courts. If the inhabitants of this city had adopted this style, then it would be chargeable against the President, but not otherwise, since it was acknowledged he had not kept pace with them in this respect. The appropriating this money would only be converting it into so much public property; for, when his term of office should expire, he could not carry away a single article. It was not, therefore, giving away a farthing, but merely providing for our own convenience to enable the President to fill the office with comfort and reputation; and as they had nothing before them to show the sum too large, he saw no propriety in rejecting it, for the purpose of inserting any other.

Mr. Rutherford said, if the House had committed an error one day, it would be well for them to correct it another. If they were to give $14,000 away on the present occasion, he thought they would commit a very serious error. The gentleman from Pennsylvania [Mr. Sitgreaves] had said many of the citizens of Philadelphia lived in a superior style to the President. If so, he would say they were very bad citizens, since it was proper that the citizens of this rising Republic should cultivate a simplicity of living and of manners.

Mr. Macon thought some of the arguments introduced on this occasion were very improper; such as the habits of economy or private fortune of the gentleman who was to succeed to the Presidential Chair. They were about to settle a permanent principle, which it was proper to do at this time, before a new Presidency commenced. He knew nothing of the private property of the person who was to fill the office, nor had it anything to do with the matter. The question was, whether they were to go over the same ground every four or eight years of furnishing the house of a new President? He did not wish that it should be so; he wished the salary to be the only consideration which the President should receive for his services. If it had not been settling a permanent principle, he should not perhaps have opposed it.

It had been said that the old President of Congress had a household furnished him, but he received no salary from the United States, except his household. He considered this sum as an advance upon the salary paid to the President by the different States, and before any salary was fixed by the United States; but now, as an ample salary was paid to the President, he did not think such a provision should be continued. It was sometimes said that it was no matter what sum was appropriated, as, if it was not wanted, it would not be expended; but, he believed, whatever sum was appropriated would be expended; for he was not one of those who thought that revenue could not be found. He believed if the money was granted, it would be both found and spent.

Mr. Sitgreaves wished to correct the gentleman last up with respect to one fact. He had said the President of the old Congress had no salary. It was true that he did not receive anything under that name, but there was a provision, not merely for the furniture of his house, but for the constant provision of it; and this was so considerable that from 1778 to 1779, in one year, eighty-three thousand dollars were paid for that purpose.

Mr. Macon wished to know what sort of money this was; he supposed it was in depreciated paper.

Mr. Sitgreaves was not certain what kind of money was meant.

Mr. Jeremiah Smith said, in settling an affair of this kind, it was proper to have respect to the office, and not to the man who was to fill it. He could himself consider the establishment of the President's household in no other light than in the nature of a compensation for his services, in the same way that he considered the privilege of franking, stationery, and newspapers, allowed the members of both Houses, to be such; because, if they were not allowed to them, they would have to purchase those articles themselves; and if furniture was not provided by Government for the house of the President, he must himself furnish it out of his salary, or from his private purse. To refuse to provide the necessary furniture would therefore be to reduce his salary; for it was true that this plan of presenting furniture to the President was adopted before the salary was fixed, so that it must have been considered as being additional to the salary. And was that salary, he asked, near so valuable now as it was when fixed? Certainly not. He trusted, therefore, they should not reduce it. It was impossible to say exactly what sum would put the furniture in the same state as when it was presented to the President in 1789; for, though he was upon the joint committee, he was incapable of making a calculation on the subject, as it related to dollars and cents. It was thought that fourteen thousand dollars would not be more than sufficient to put it in complete order.

This sum, Mr. S. said, was mentioned, from a consideration that four years hence the Seat of Government would be removed, and that then the furniture would be in a great degree useless. They, therefore, only recommended such a sum as they thought would be sufficient to put the furniture in a proper state for that term. He believed the fourteen thousand dollars would not do more than that.

Mr. Macon said he was always opposed to the privileges allowed to members of franking, &c.

Gentlemen talked about a statement; he did not know what that might contain, he had not seen it; but he did not know how it could require fourteen thousand dollars to repair furniture which at first cost only thirteen thousand.

Mr. Jeremiah Smith said, the gentleman last up was inaccurate in his statement. The thirteen thousand dollars which were allowed for furniture for the late President, was in addition to the furniture which had already been in possession of the President of Congress.

Mr. Sherburne said, the question was with respect to the quantum of money to be granted, as every one seemed to allow that a certain sum was necessary. By having recourse to what was done for other officers of Government, they might, perhaps, form an estimate of what would be reasonable on the present occasion. A practice had been established of allowing our Ministers to foreign countries a sum as an outfit equal to one year's salary; so that nine thousand dollars were allowed a Minister for this purpose, though it might happen that he would not be employed more than a few months in the service. He thought, therefore, that fourteen thousand dollars could not be thought too large a sum for the President of the United States, whose term of service was for four years, and which would go to his successor in office; whereas, the nine thousand dollars allowed to a foreign Minister were entirely at his disposal, though he might not be in the service more than a month.

Mr. Ames said, it appeared to him that it would be desirable to proceed according to precedent, as nearly as they could. It was not desirable to innovate or change the established order of things, except strong reasons existed for the change. On inquiring what had been the practice heretofore, they found the President of the old Congress, as well as the President now going out of office, had establishments made for their household similar to that now proposed. If they looked forward to that period when the Seat of Government was to be removed, and considered the furniture which would be necessary for the house in the Federal city, it would be seen that there would be a necessity for a new establishment at that time, as it was evident that the present furniture or what might be purchased with the sum now contemplated, would be wholly inadequate to the furnishing of that house. He supposed an additional grant of twelve or fifteen thousand pounds would be necessary for that purpose.

This having been the practice established, it appeared to him somewhat strange that the gentleman from North Carolina [Mr. Macon] should have opposed the measure as an innovation and as a dangerous principle, whereas they were going to do now only what they had done in former instances, and not to do which would lay them under the charge of versatility. It would be said that nothing was certain under our Government, but that everything was subject to change. If this uncertainty was objectionable in general, it was particularly so when it related to an independent branch of Government. What was established ought to be respected. If they were to consider what would be a just principle in an establishment de novo, they might say it should be settled in this way or that; but in considering what was already established, they must have respect to the rules upon which it was founded. And shall the first citizen in the United States, and perhaps the first in the world, said he, be placed in a situation considerably below our private citizens in point of furniture and style of living? He trusted he would not, though he had hitherto scarcely been placed upon a level with them. Notwithstanding this, the proposed establishment had been compared, with what view he could not say, to the splendor of European Courts; if this comparison was made with an intention to deceive the people, such an assertion, with so little foundation, was unworthy of the Representative of a free people, and betrayed a mean opinion of his constituents to believe they could be so easily deceived.

We have chosen an elective Government, said Mr. A., and if it were meant to be kept pure, they must encourage the people to make choice of such men, without respect to fortune, as they think will serve them best, but if, instead of providing a suitable household for the President, they left him to provide for himself in this respect, men of large fortune only could engage in this part of the public service. And would this, he asked, be doing honor to the Republican Government? He thought not.

Some gentlemen who were opposed to the giving of fourteen thousand dollars were yet inclined to give a smaller sum. They seemed to have two reasons for this; one arising from economy, the other from a kind of distrust of misspending of the money. Economy, he allowed, was necessary; but the extreme of virtue was said to be nearly allied to vice, and the extreme of economy was doubtless parsimony. Extremes generally touched each other. He could place this idea in a ridiculous light, but he would forbear to do it. Gentlemen had no objection to grant eight thousand dollars, and the bill only proposed that it should not exceed fourteen thousand. Now, were gentlemen really apprehensive in their consciences that this additional power over six thousand dollars would be abused, by its being laid out in gewgaws and knicknacks, or did they wish, by diminishing the sum, to prevent the President from having his furniture all of a piece, and thereby placing their discretion in the purchase of it in the place of his? The furniture, when purchased, added Mr. A., will belong to the office, and not to the man. He thought, therefore, they had spent time to little purpose in endeavoring to remove an established principle, and therefore hoped they should have the question.

The question for striking out was put and negatived—55 to 36. The Committee then rose, and when the question was about to be put in the House—

Mr. Gallatin said, the provision of the bill left it to the discretion of the President whether he would expend the whole of the money, or not.

His opinion was, that the sum was too large; but the question for striking it out having been negatived, the expenditure must be left to the discretion of the President. He did not mean to go into any detail. He did not wish to place the gentleman coming into office in a worse situation than that of him who was going out; and as he felt no objection to leave it to the President to make use of the whole or a part of this money, as his discretion should direct, he should vote for the bill.

Mr. Claiborne said, as provision had been made for furniture for the gentleman now in office, he was inclined to vote for the fourteen thousand dollars proposed now to be granted for the same purpose to the gentleman who was to succeed him.

Mr. Henderson wished to give his reasons for voting against this bill. He wished to place the President coming into office in as comfortable circumstances as he who was going out; but it appeared to him that the sum proposed was larger than necessary for this purpose. Indeed, said Mr. H., when he read an article of the Constitution touching this subject, he had his doubts with respect to the constitutionality of the proceeding. That article said, "that the President should receive a compensation which should neither be increased nor diminished during the period for which he should have been elected; and that he should not receive within that period any other emoluments from the United States, or any of them."

Mr. Sitgreaves believed there could be no doubt as to the constitutionality of the proposed grant of money, as the clause ran, "during the period for which he should have been elected," which would not prevent them passing any number of acts before he went into office.

The question on the passing of the bill was then taken by yeas and nays, and stood 63 to 27, as follows:

Yeas.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Thomas Claiborne, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Nathaniel Freeman, junior, Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, John Wilkes Kittera, George Leonard, Edward Livingston, Samuel Lyman, William Lyman, James Madison, Francis Malbone, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, John Page, Josiah Parker, John Patton, Elisha R. Potter, John Reed, John Richards, Samuel Sewell, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Israel Smith, William Smith, Richard Sprigg, junior, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

Nays.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jesse Franklin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, Nathaniel Macon, John Milledge, Anthony New, Alexander D. Orr, Robert Rutherford, William Strudwick, and Richard Winn.

JUDGE TURNER.

Mr. Bradbury, from the committee to whom was referred the petition of Judge Turner; also that of some inhabitants of the Northwestern Territory, with the report made last session thereon, reported. The committee recommended that the case should come to a hearing before the Court of that Territory, where the Judge would have an opportunity of defending himself against the charges brought against him. Laid on the table.

SPOLIATIONS.

The Secretary of State made a report on the memorial of sundry citizens of the United States, relative to losses sustained by captures, spoliations, &c., committed upon their property by vessels of the French Republic, referred to him on the 8th of May last. The report took an extensive view of the grievances our merchants had sustained, from the year 1793 to the present time, and stated what measures had been taken towards obtaining redress.

Mr. W. Smith moved to have the report printed.

Mr. Nicholas wished to know what was to be done with it. He thought it very extraordinary that this memorial should have been referred to the Secretary of State so long ago as the 8th of May, and that a report should not have been made till within four days of their adjournment. He thought it unnecessary to swell their printer's bill, which he supposed would be sufficiently large, by having it printed, since it would not be acted upon this session.

Mr. W. Smith said his reason for wishing it to be printed was, because he wished to read it.

Mr. Nicholas said that was not a sufficient reason for incurring the expense; since, though the gentleman might read it, he would not have the power of acting upon it. He hoped it would not be printed.

The question for printing was put and carried; and the report laid on the table.

PENSION CLAIMS.

Mr. Dwight Foster reported a bill which had been recommitted to the Committee of Claims for placing certain persons on the pension list. It was referred to a Committee of the Whole to-morrow.

DOMESTIC DEBT.

Mr. W. Smith offered the following resolution to the House:

"*Resolved*, That a committee be appointed to bring in a bill for extending the time for receiving on loan the Domestic Debt of the United States."

It was agreed to, and Messrs. W. Smith, Nicholas, and Coit, were appointed, who, afterwards brought in a bill, which was committed to a Committee of the Whole to-morrow.

MILITARY AND NAVAL APPROPRIATIONS.

The House went into a Committee of the Whole on this subject, when, after some discussion respecting the price of rations, Mr. Gallatin insisting upon seventeen cents being a sufficiently high calculation, and Mr. W. Smith abiding by the estimate of the War Department at twenty cents; the latter was agreed upon thirty-six to thirty-four, and the pay and subsistence of the Army was settled, but which has since undergone an alteration, owing to the two companies of cavalry being added by a new bill. The sum for forage and clothing was also agreed upon, but which afterwards, of course, from the above alteration, underwent an augmentation. The hospital department being under consideration,

Mr. W. Smith moved to fill the blank with thirty thousand dollars.

Mr. Gallatin moved to fill it with ten thousand. He said, they had this year had a statement of the expense of the Military Establishment, by which they found that the hospital department had cost six thousand nine hundred and five dollars. It had been the uniform practice of the House to appropriate from thirty to forty thousand dollars under this head, though the expense had never exceeded seven thousand; and to apply the surplus to other purposes. He thought it wrong to appropriate four times the sum necessary, and had therefore proposed to fill the blank with ten thousand dollars, which was fifty per cent. more than had ever been expended for the purpose.

Mr. Parker believed that ten thousand dollars would be enough to pay for physic for the Army. Indeed he believed it was generally expended in wine and luxuries by the officers, and that little of it went to the use of the subordinates.

The question for ten thousand dollars was put and carried.

The blank for the Ordnance department was filled with forty thousand dollars; and that for the fortifications of the ports and harbors of the United States with twenty-four thousand dollars.

Mr. Gallatin moved to fill the blank for the Quartermaster's department, the Indian department, the defensive protection of the frontiers, bounties, and all the contingent expenses of the War Department, with three hundred thousand dollars.

Mr. Venable said, if the sum necessary for each of the above items could be specified, he would rather have it so expressed than have the whole in one sum.

Mr. W. Smith said it would come to the same thing, if the several items were voted in an aggregate sum, as they were all contingent expenses. He should move to have the blank filled with four hundred and forty-six thousand dollars.

Mr. Gallatin observed there were two motions before the Committee: one to fill the blank with four hundred and forty-six thousand dollars, the other with three hundred thousand. He would observe that one of the items in this estimate, viz., that for the fortifications of West Point, ought not to be included under this head; but, as to the other items, he would mention, in answer to what had fallen from the gentleman from Virginia [Mr. Venable] what was the reason which had induced the Committee to put them in one sum, which was to obtain the very object he had in view in wishing to have all the items stated separately.

It would be recollected that they had had a letter from the Secretary of the Treasury, in which he said, "that the appropriations for the Military and Naval Establishments were considered as general grants of money; and, though they were to be accounted for according to law, yet it was the practice of the officers of the Treasury not to consider each appropriation as specific, but the whole as a general grant of money. This practice was making the law a mere farce, since the officers of the Treasury did not consider themselves as at all bound by the specific sums. He therefore concluded it to be proper to pass the law in such a manner as to confine the expense to the appropriation for the different items. It was said to be impossible to carry the law into execution on this principle. It was said there were a number of contingent expenses which could not be exactly ascertained, and that therefore it was necessary the officers of the Treasury should have a certain discretion given them to make use of the surplus of any item for which more than was necessary had been appropriated. He believed the uncertainty here mentioned existed, and therefore it had been concluded to be best to put the contingent articles together in one sum, in order to give bounds to the discretion of the Department.

Having given the reasons which caused the bill to be brought in in this shape, Mr. G. said he would mention the items upon which the sum he had proposed to fill up the blank was composed. For defensive protection, sixty thousand dollars; for the Quartermaster's department, one hundred and fifty thousand dollars. This latter sum has been estimated at two hundred and fifty thousand dollars, but upon what ground he was at a loss to know. The Army would now be fixed in garrison, and would not have to march from post to post. None of the reasons given last year for this expense would now apply; and he thought it unreasonable that the same sum should be allowed for this item which was allowed at the time when they were engaged in an Indian war.

In 1789, when we had eight hundred men in garrison, the expense of this department was - - - -	$11,076
In 1790, he did not recollect the number of troops, but not more, he believed -	45,763
In 1791 - - - - -	92,223
In 1792, (in the height of the Indian war)	206,510
In 1793 - - - - -	178,602
In 1794 - - - - -	263,000
In 1795 - - - - -	317,647

What would be the expense of 1796, could not be exactly ascertained. It appeared by the state-

ment which they had received that upwards of two hundred and four thousand dollars had been expended. Whether there were any further demands unsettled, he could not tell. It appeared, therefore, that the expense of that Department had increased from eleven thousand to three hundred thousand dollars. This had been owing to two causes—the increase of the Army, and by the Indian war. There had also been a great loss of horses from having forage to fetch great distances.

There had last year also been a considerable expense incurred in taking possession of the posts; but those being now in possession, and the Army at rest there, he believed one hundred and fifty thousand dollars would be sufficient for the present year. This would account for a difference of one hundred thousand dollars betwixt the two estimates. The gentleman from South Carolina had estimated the Indian department at ninety thousand dollars, which he reckoned at seventy thousand. Mr. G. noticed several articles under this head as charged too high. The running of the lines of the Territory was estimated at ten thousand dollars. It was absurd to suppose that it could require this sum to run these lines, when the running of the lines in the Northwestern Territory had only been estimated at twenty-five thousand dollars. The article of contingencies was estimated at thirty thousand dollars, which was an extravagant sum, and much too large; he thought ten thousand would be sufficient. These different items constituted the difference between the three hundred and the four hundred and forty-six thousand dollars, with which the blanks had been proposed to be filled.

Mr. W. Smith said, the sum with which he had moved to fill the blank, was conformable to the estimate which he had received from the War Department. He was not prepared to say what would be exactly sufficient, but he could not suppose that the War Department could be one hundred and forty-six thousand dollars wide of the mark in their estimate. It would be recollected that last year, the estimate received from the War Office was departed from in several instances, and consequently this year they had been called upon to make up deficiency to an amount beyond even the estimate of last year. With respect to the ten thousand dollars for running the lines of the Indian boundary, he could not say that that sum would not be necessary. The gentleman from Pennsylvania had compared this item with the twenty-five thousand dollars appropriated for running all the boundary lines in the Northwestern Territory; but if he had examined that item, he would have found that this sum had been appropriated towards carrying the business into effect; it was not for the whole expense, for it might cost double the sum. With respect to the contingencies of the War Department, he did not know upon what ground the gentleman proposed reducing the sum from thirty to ten thousand dollars, when in one year they had cost thirty-four thousand. He thought, with this information from the proper Department before them, they ought to make so considerable a deduction.

Mr. Dearborn could see no reason for making the appropriation so large as had been proposed by the gentleman from South Carolina. It must be recollected that the Army was in garrison, where there were barrack-houses convenient for the officers and men, and contracts had been entered into for delivering provisions at the different forts, and there would therefore be a great deduction on account of the transportation, in which seven or eight hundred horses had been used up, and the horses on hand might also be sold. Camp equipage was a heavy article of expense, but which would not be wanted whilst the troops were in garrison. These two articles would of themselves make a very considerable part of the whole item. There would also be a saving in the purchase of horses, as the cavalry made more than half the expense. He did not think more than one hundred thousand dollars could be wanted under this head, except it were wanted for making new forts or fortifications. There would be now no necessity for building officers' houses, and huts for the soldiers for winter quarters. All these circumstances considered, he thought the sum he had mentioned would be sufficient.

The question for filling the blank with four hundred and forty-six thousand was put and negatived, there being only thirteen votes in favor of it. The sense of the Committee was then taken upon three hundred thousand, and carried—there being 51 votes in favor of it.

Mr. W. Smith then moved to add to the bill, "For the repairs of the fortifications of West Point, twenty thousand dollars."

Mr. Coit inquired if there was any estimate of this item.

Mr. Gallatin said there was no estimate respecting West Point.

Mr. W. Smith said there was an estimate for Niagara, Oswego, Detroit, &c., which might include West Point, he proposed therefore to change the motion, and insert "Niagara, Oswego, Detroit, &c.," which would include West Point, if necessary.

Mr. Gallatin wished the gentleman from South Carolina to say whether he had any information with respect to West Point.

Mr. W. Smith said, he had no particular information on the subject, but as it was of importance the works there should be very complete, he thought it prudent to grant something for that object.

Mr. Gallatin hoped the proposition would be rejected. There was no necessity for repairing the fortifications of the posts mentioned more than any other of the forts upon the Lakes. They knew nothing of them, but that they were too large for the garrisons in them; but he believed if they once begun to appropriate money for this purpose, it would become a yearly expense. And whilst they had been parsimonious with respect to the ports and harbors of the United States, having only appropriated twenty-four thousand

dollars to that purpose, he could see no reason for granting twenty thousand dollars for repairing the forts of Niagara, Oswego, and Detroit, against a few Indians; as it was well known that a block-house was as good a fortification against the Indians as any other. When the regiment was raised to go and take possession of that country, they built all their forts as they went along, without any expense, except the price of a few tools. He hoped, therefore, they should not, by voting for this sum, introduce a new item of expense into their annual appropriations.

Mr. W. Smith agreed with the gentleman last up, that enough had not been appropriated for the defence of the ports and harbors of the United States; but if they had done wrong in one instance, it was no rule why they should continue to do so. He thought it very important that the forts he had mentioned should be so secured at least as that they should not go to ruin. Under this item was included West Point, which was a fort of great consequence; and he would rather forty thousand dollars were appropriated than twenty thousand for this purpose.

Mr. Dearborn said, as far as the proposition related to Niagara, Oswego, and Detroit, he thought it improper to appropriate money for their defence. He believed it would require a year or two to know what was necessary to be done there. At Niagara, the works were large enough for six or seven thousand men, and it would become a question whether they should be reduced, or kept up as they were; at Oswego, nothing more could be necessary than a block-house. It was true, there were considerable works there, but until it was decided what they should do with them, it would be improper to appropriate money for their repair. The same thing might be said of Detroit. He had no idea that the President could have information from those places of what was necessary. Whatever temporary repair that might be required, the troops themselves would be able to effect. As to West Point, he did not know anything about it, except that it was a place of consequence; he also knew that a great deal of money had been laid out upon it. He hoped they should get into a new system with respect to the defence of our ports and harbors; and until that was done, he should be against granting any considerable sum for this purpose. If gentlemen were in possession of any information on the subject, he perhaps might be induced to vote for a small sum; but not until he knew more of the matter.

Mr. Livingston spoke of the importance of the fort at West Point, and of the necessity of keeping it in proper repair.

Mr. Coit said, the question seemed to have taken a new turn. He presumed that West Point was not in the idea of the Secretary of War when he made the estimate upon which this bill was founded. If it had been, it would have been very improper to have begun with Oswego, and include West Point in the *et cetera*. In June, 1796, 20,000 dollars, he said, were appropriated for the repairs of this fort, and they had not been informed that it had been expended.

Mr. Gallatin said, there had been 7,000 dollars expended at West Point; the other 13,000 dollars were not intended for that fort. The present appropriation was doubtless intended for the forts mentioned, and those in the same quarter. If anything was wanted for West Point, a distinct proposition should come before them for that purpose.

Mr. W. Smith observed, that the gentleman last up had stated that only 7,000 dollars had been expended at West Point; that was only the amount which had been expended at the time the estimate was made; but the whole might have been since laid out, as then only 520,000 dollars of the appropriation of the Military Establishment had been expended.

Mr. Gallatin said, that the total expenditure of the estimate alluded to was 1,280,479 dollars.

The question was put and negatived, there being only 19 votes in favor of it.

The Committee then rose and had leave to sit again.

A message from the Senate informed the House that the Senate had passed the bill, entitled "An act repealing so much of an act, supplementary to an act, entitled 'An act to provide a Naval Armament,' as relates to the officering and manning of the frigates building in the United States, and appropriating money for the purpose of finishing the frigates United States, Constitution, and Constellation," with several amendments; to which they desire the concurrence of this House.

Tuesday, February 28.

Mr. Livingston, from the committee appointed to inquire whether any, and what, alterations were necessary in the act passed last session for the relief and protection of American seamen, made a report, which was referred to a Committee of the Whole to-morrow.

Mr. Gallatin, from the committee appointed to confer with a committee of the Senate on the disagreeing vote of the two Houses on the subject of the balances due from individual States to the United States, reported that they had held several conferences with the committee of the Senate, but not having come to any agreement, the committee recommend to the House not to recede from their disagreement to the amendment of the Senate. Ordered to lie on the table.

The committee to whom was referred the amendments of the Senate on the Post Office bill, recommended the amendment to be agreed to.

The Secretary of State, to whom was referred the petitions of George Smith and John Robeson, who prayed for a repayment of the money which they had themselves paid for their ransom from Algerine slavery, reported that the ransom of George Smith cost $2,426, of which Colonel Humphreys had paid $1,526, and George Smith the remainder; that by the late return of our citizens from Algiers, the expense attending the redemption of each man was ascertained to be $2,395, independent of the expense of the general negotiation, and allowing for small inaccuracies on ac

count of some expenses which could not at present be ascertained. He recommends, therefore, that George Smith have paid him $873, which, with the sum paid by Colonel Humphreys, would make about $2,400. John Robinson paid for his own ransom $1,518, the interest upon which came to $516, the Secretary therefore recommends that $2,034 be paid to him.

On motion of Mr. Swanwick, this report was referred to a select committee, viz: Messrs. Swanwick, Blount, Coit, Sewall, and Parker.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act in addition to the act, entitled 'An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to jurors and witnesses in the Courts of the United States," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the last mentioned bill; whereupon,

Resolved, That this House doth agree to the first amendment, and doth disagree to the last amendment to the said bill.

A message from the Senate also informed the House that the Senate adhere to their amendment, disagreed to by this House, to the resolutions of the fifth ultimo, "relative to the balances found due by Commissioners for settling accounts between the United States and individual States." The Senate have passed a bill, entitled "An act concerning the Circuit Courts of the United States;" to which they desire the concurrence of this House.

GENERAL APPROPRIATION BILL.

The amendments from the Senate to the bill making appropriations for the support of Government for the year 1797, were taken up and agreed to, as also those to the bill laying additional duties on sundry articles of impost. The amendments which were agreed to were, to add to white cotton goods, "velvets and velverets, whether printed, stained, colored, or otherwise, and all muslins and muslinets, two and a half per cent." And also a new section, enacting that an addition of 10 per cent. should be laid upon these articles when imported in ships or vessels not of the United States. The duties are to take place after the 31st of December next.

POST OFFICE BILL.

The House took up the report of the select committee on the amendments of the Senate to the Post Office and Post Road bill, which they went through, agreeing to some and rejecting others. One of the amendments agreed to was, that George Washington shall have the privilege of franking letters and packets during his life—yeas 38, noes 26.

MILITARY AND NAVAL APPROPRIATIONS.

The House again resolved itself into a Committee of the Whole on the Military and Naval Appropriations; when, the pay and subsistence of three Captains in the Naval department being under consideration—

Mr. Swanwick thought it would be necessary to have a laborer or two employed to take care of the vessels and materials.

Mr. W. Smith said, the estimate for the Captains was $4,200; if the sum was made $5,000, there would be sufficient for the payment of any laborers which might be necessary. Agreed to.

The blank for the payment of Military Pensions was agreed to be filled with $96,350.

And for making good the deficiencies of the Military Establishment of 1796, $76,312.

Also, for the payment of the expedition of General Sevier into the Cherokee nation, $22,816.

The Committee now rose, and had leave to sit again.

The House again resolved itself into a Committee of the Whole on the Military Appropriation Bill, and, after debating several articles, they got through the whole. The Committee rose, and just as the amendments were about to be taken up in the House—

The following Message, in writing, was received from the President of the United States, containing his objections to the bill for fixing the Military Establishment:

Gentlemen of the House of Representatives:

Having maturely considered the bill to alter and amend an act, entitled "An act to ascertain and fix the Military Establishment of the United States," which was presented to me on the twenty-second day of this month, I now return it to the House of Representatives, in which it originated, with my objections.

First. If the bill passes into a law, the two companies of light dragoons will be, from that moment, *legally* out of service, though they will continue afterwards *actually* in the service; and for their services during this interval, namely, from the time of *legal* to the time of *actual* discharge, it will not be lawful to pay them, unless some future provision be made by law. Though they may be discharged at the pleasure of Congress, in justice they ought to receive their pay, not only to the time of passing the law, but at least to the time of their actual discharge.

Secondly. It will be inconvenient and injurious to the public to dismiss the light dragoons as soon as notice of the law can be conveyed to them, one of the companies having been lately destined to a necessary and important service.

Thirdly. The companies of light dragoons consist of one hundred and twenty-six non-commissioned officers and privates, who are bound to serve as dismounted dragoons when ordered so to do. They have received, in bounties, about two thousand dollars; one of them is completely equipped, and above half of the non-commissioned officers and privates have yet to serve more than one-third of the time of their enlistment; and, besides, there will, in the course of the year, be a considerable deficiency in the complement of infantry intended to be continued. Under these circumstances, to discharge the dragoons does not seem to comport with economy.

Fourthly. It is generally agreed that some cavalry, either militia or regular, will be necessary; and, according to the best information I have been able to obtain,

it is my opinion that the latter will be less expensive and more useful than the former in preserving peace between the frontier settlers and the Indians, and, therefore, a part of the Military Establishment should consist of cavalry.

G. WASHINGTON.

United States, *February* 28, 1797.

On motion,

"*Resolved*, That to-morrow be assigned for the reconsideration of the said bill, in the mode prescribed by the Constitution of the United States."

The question to concur was put and carried—40 to 37.

Mr. Gallatin then moved to postpone the further consideration of the bill until the first Monday in December next. The amendment of the Senate, he said, which had just been adopted, put the bill upon this ground: The law, which was of doubtful construction, was not to be repealed, but suspended. This would go to establish what was at present doubtful. It would be as much as to declare that the President should have the power to man the frigates; on the other hand, if they said nothing, but suffered the bill to die, the contrary construction would prevail. He thought the true construction of the law at present was, that the President had not the power to man the vessels; but if the bill were passed, as amended, by suspending the power, they would give him the power. If no bill was passed, he was of opinion the President would not attempt to man the frigates. He never looked upon this bill in any other light than as settling a doubtful point; and since the amendment of the Senate had been agreed to, the best way would be not to pass the bill at all.

The question for postponement was put and carried—43 to 29.

PENSION CLAIMS.

The House resolved itself into a Committee of the Whole on the bill for placing certain persons on the pension list; when a considerable discussion took place on motions to admit Samuel Hull and Godfrey Sweet upon the bill. The former was proposed by Mr. Dayton, (the Speaker,) and the latter by Mr. Van Allen. Neither of them, it seems, had complied with all the forms of the law, though there seemed to be little doubt that both were entitled. The only informality in the case of Samuel Hull was, that his affidavits had been taken before Justices of the Peace instead of Judges of the District Court. Mr. D. plead this poor man's cause in a most feeling manner; and the consequence was, that Samuel Hull was placed on the pension list.

Mr. Van Allen was not so successful, though the case of Godfrey Sweet appeared to be a hard one, and he had only failed to give evidence of the rates of his disability. The bill was ordered to be engrossed for a third reading.

Wednesday, March 1.

Mr. Swanwick made a report on the petitions of James O'Brien and James Aylwards, mariners, who fled from Newfoundland at the time the French landed there, and put into Portsmouth, where their vessels had been seized for tonnage duties; they prayed for a remission of the duties. The report was favorable. It was opposed by Mr. Coit, as being contrary to law, but supported by Messrs. Swanwick, W. Smith, and Sewall, as one of those strong cases which ought to form an exception to any general rule. The report was finally agreed to; afterwards a bill was reported, it was engrossed for a third reading, and, before the House rose, passed.

The bill directing certain pensioners to be placed on the pension list was read a third time and passed.

A bill was received from the Senate concerning the Circuit Courts of the United States; which was twice read, and committed to a Committee of the Whole to-morrow.

MILITARY ESTABLISHMENT.

Mr. Gallatin wished the bill for fixing the Military Establishment, which had been returned by the President of the United States, with his objections, to be taken up.

Mr. W. Smith hoped this subject would be taken up, but before it was entered upon, he wished the Committee of the Whole to be discharged from the consideration of it, as he found, in a former instance of a similar kind, the business had been settled in the House. The Committee was accordingly discharged. The House then proceeded to reconsider the bill, agreeably to the direction of the Constitution. The bill was first read, and then the objections of the President.

The bill is in the following words:

An act to alter and amend an act, entitled "An act to ascertain and fix the Military Establishment of the United States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third section of the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to ascertain and fix the Military Establishment of the United States," together with all other parts thereof which relate to provision made for the Major General and his staff, be repealed; and that all such parts of the said act which relate to the light dragoons, together with so much of the twenty-third section of the said act as may be construed to affect the Brigadier, and the whole of the eleventh section of the said act be, and are hereby, repealed.

And be it further enacted, That there shall be one Brigadier General, who may choose his Brigade Major and Inspector from the Captains and subalterns in the line, (to each of whom there shall be allowed the monthly pay of twenty-five dollars, in addition to his pay in the line, and two rations extraordinary per day; and whenever forage shall not be furnished by the public, to ten dollars per month, in lieu thereof.) That there shall be one Brigade Quartermaster, one Brigade Paymaster, and one Judge Advocate, who shall be taken from the commissioned officers of the line, and each of whom shall be entitled to receive two rations extra per day, and twenty-five dollars per month, in addition to his pay in the line; and whenever forage shall not be furnished by the public, to ten dollars per month, in lieu thereof.

And be it further enacted, That, from and after the thirtieth day of June next, the monthly pay of the Lieutenants shall be thirty dollars, and that of the Ensigns, twenty-five dollars; that to the Brigadier, while Commander-in-Chief, and to each officer, while commanding a separate post, there shall be allowed twice the number of rations to which they would otherwise be entitled.

And be it further enacted, That the Majors be entitled to receive four rations per day for their subsistence.

And be it further enacted, That to each commissioned officer who may have been deranged under the act "to ascertain and fix the Military Establishment of the United States," or who may be deranged under the present act, there shall be paid one hundred dollars.

JONATHAN DAYTON,
Speaker of the House of Representatives.
WILLIAM BINGHAM,
President of the Senate pro tempore.

The Speaker then read the clause in the Constitution which directs the proceeding on such an occasion, and which says, that in case two-thirds of the House wherein it originated shall be in favor of passing the bill, it shall be sent to the other, and if two-thirds of that House be also in favor of it, it shall become a law. The votes of both Houses to be determined by yeas and nays.

Mr. Nicholas said, he meant to vote against the bill, but he did not wish to stand charged with refusing to pay the men for the time they were in service. He thought this bill was by no means liable to a charge of this kind. As it could scarcely be supposed that, at the time they were making a voluntary gift of $100 to every officer discharged, the Legislature meant to defraud the men of their pay.

Mr. W. Smith did not see any necessity for the observations of the gentleman from Virginia. There was nothing in the Message of the President which charged that House with an intention to defraud the men of their pay. Whatever was the design of gentlemen, this was not the charge. But certain it was that this would be the result of the bill, and it would be six weeks or two months before they could be notified that the act was passed. It was the legal opinion of the Attorney General, therefore, that they would not be entitled to pay during that time.

Mr. Nicholas was sorry that the gentleman from South Carolina and he did not think alike on the subject; he thought the objections he had made were necessary, and he had made them for the purpose stated. He thought the President ought not to have doubted their willingness to have allowed the pay in question. He was of opinion the House had given some extraordinary proofs of their liberality this session; amongst other proofs of this, they had determined to appropriate money for the building of a thirty-six gun frigate, which he had caused to be built without authority. But the pay of these men was so much a point of law, that he believed the men would have been entitled to pay.

Mr. W. Smith said, their having agreed to give each of the officers $100, without mentioning the men, rather went against the gentleman's conclusion; because, if anything had been intended to have been given to them, they would also have been mentioned.

Mr. Williams was sorry that some things had not been more attended to, when that bill was under consideration; and, although there would be a difficulty respecting the Brigadier General and Staff, yet he thought the objections well-founded, and would vote against the passing of the bill, in order that a new one might be brought in to avoid the objections, from the demands lately made for the protection of the frontiers of Georgia and Tennessee, which amounted to upwards of $300,000; he fully agreed with the President that it would be less expense to keep up the two companies of dragoons than to employ militia horse.

The yeas and nays were then taken, and stood 55 to 26, as follows:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, William Findley, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, Geo. Jackson, Aaron Kitchell, Edward Livingston, Matthew Locke, Samuel Mackay, Nathaniel Macon, Jas. Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, John Richards, John S. Sherburne, Thompson J. Skinner, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, William Strudwick, John Swanwick, Zephaniah Swift, Abraham Venable, and Richard Winn.

Nays.—Fisher Ames, Theophilus Bradbury, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, William Hindman, John Wilkes Kittera, Samuel Lyman, William Lyman, Francis Malbone, William Vans Murray, Elisha R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, George Thatcher, Richard Thomas, John E. Van Allen, Peleg Wadsworth, and John Williams.

The bill being accordingly lost, Mr. Nicholas moved that a committee be appointed to bring in a new bill, which being agreed to, a new bill was reported (exactly the same as the former, except an omission of the parts objected to by the President.) It was ordered to be engrossed for a third reading, and afterwards passed.

On motion of Mr. Ames, the House went into a Committee of the Whole on the bill for placing certain buoys in and near the harbor of Boston; which was agreed to, after filling up the blank for six large buoys with $1,600, and that for ten small ones with a like sum; the bill was ordered for a third reading, and afterwards passed.

The bill for extending the time for receiving on loan the Domestic Debt of the United States, went through the same form, and was passed.

DUTIES ON DISTILLED SPIRITS.

The House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill for making regulations with respect to the duty on spirits distilled within the United States. They proposed to do away the licenses for two weeks, and to provide only for monthly licenses, to bear date on the first day of every calendar month.

Mr. Harrison hoped these amendments would not be agreed to. It was well known that, in the Southern parts of the Union, there was a small distillery on almost every farm; but, if these amendments were adopted, it would have the effect to destroy them, and the law would become particularly odious to the people; it would, also, wholly defeat the purpose of raising revenue from the tax.

Mr. Parker also alleged that it would be the ruin of many small stills; there were a thousand, he said, in his district, which did not distil one hundred gallons a year. When the law was passed which had been in force, Mr. P. said, he was obliged to quiet the minds of the people by telling them that it was according to the Constitution. Many, he said, had not fruit enough to employ a still more than two or three weeks; besides, owing to their inconvenient situation, they were frequently obliged to stand still in the middle of their work. Indeed, he thought if they were oppressed too much by this law, the consequences would be bad, for though he did not immediately conceive of an insurrection, yet they certainly would oppose the officers of collection, and, from one step to another, it may lead to that dangerous end. He thought, as times were rather critical, and we had enemies enough abroad, we should be careful not to make them at home also.

Mr. Dayton said, nothing could be more true than the observations of the gentlemen last up—this would certainly tend to ruin all the small stills. He was sorry no more attention was paid to the public good. Its tendency must go to destroy all small distilleries, and without any aid to the revenue, but would lessen it, for at least one-third of the distilleries would drop. He hoped, therefore, the House would adhere to their former resolutions, without which he would rather no bill should pass.

Mr. Macon spoke to the same effect, observing that, as there could be no good, it would be wrong to run a risk of either. The question, on a disagreement from the Senate, was then put, and passed unanimously.

CASE OF HANGING MAW.

Mr. Blount called for the order of the day on the report of the Committee of Claims on the petition of the widow of the late Scollacuttaw, or Hanging Maw. The House accordingly went into a Committee thereon, when the report was read, as follows:

"That the complaints against the conduct of one John Beard, and a number of armed men, who, she states, in the year one thousand seven hundred and ninety-three, contrary to law and the good faith of Government, attacked the dwelling-house of the petitioner and husband, killed and wounded a number of well-disposed Indians; burnt, and destroyed, and carried away their property, and wounded the petitioner. She now prays that some provision may be made for her.

"After examining the statement made by the petitioner, and the facts upon which she rests her present application, the committee have found some difficulty in deciding what measures would be most advisable for the House to adopt.

"Previous to the attack on the Hanging Maw, the frontier settlers of Tennessee and the Indians in that quarter had been guilty of mutual acts of aggression and hostility. A party of the Indians had killed some settlers; their trail was discovered, conducting across the Tennessee—this circumstance induced a belief in their pursuers that the Hanging Maw had been concerned in that business, and occasioned his being wounded, and the misfortunes complained of by his widow. The general opinion, however, represents the Hanging Maw as having been uniformly friendly to the settlers; as vigilant to apprise them of the approach of banditti, and constant in his exertions, on all occasions, to compose difficulties between them and his nation; and, withal, as possessing considerable influence over the Indians. The same disposition is also attributed to his widow, the present petitioner; who, instead of exciting her people to acts of retaliation, has abated nothing in her friendship to the white people.

"All these circumstances seem to countenance, if not to require for her a pension from the Government, or some other relief from the Legislature. Such a provision might also be considered as extending its influence beyond the particular object; or, as an inciting cause to other Indians to pursue a similar line of conduct, under circumstances alike cruel and distressing, should they happen.

"But, on the other hand, it is to be considered that there are citizens on the frontiers who have suffered injuries as cruel, and deprivations as severe, by the Indians; and who have been thereby left in situations of distress that would equally call for assistance from the Legislature. Questions arise whether both descriptions of sufferers ought not to be provided for? Whether the abilities of Government would be competent to meet all possible claims of this nature? And whether help can be extended by law to the one, and consistently refused to the other?

"It may be said that those who settle on the frontiers voluntarily assume all the risks and dangers attached to that position; and, therefore can have no just claim upon the Government for consequences resulting from their choice; whilst, on the contrary, policy requires that the minds of Indians, who may be roused to hostility by acts of the settlers, should be quieted by small pecuniary interpositions.

"Under these views of the subject, the committee have hesitated what report to make; but, upon the whole, as the authority vested in the Executive Department is competent to meet this claim; and should the petitioner, from her sufferings and her attachment to the United States, appear to the Executive to be entitled to any annual relief, as it may be afforded out of the appropriations for contingent expenses in the Indian department, without any interference of the Legislature, and as this mode will probably involve the fewest difficulties, the committee think she should apply to that department; and that the prayer of her petition ought not to be granted."

The Committee reported their agreement with the resolution reported from the Committee of Claims.

The question was taken, that the House do agree with the Committee of the Whole House in their agreement to the said report, and resolved in the affirmative.

PROTECTION OF AMERICAN SEAMEN.

On motion of Mr. Livingston, the House resolved itself into a Committee of the Whole on the bill in addition to an act for the relief and protection of American seamen. This bill was brought forward to supply an omission in the bill passed last session, respecting the manner in which certificates of citizenship should be granted. This part of the bill occasioned considerable discussion last session, and was a subject of conference between the two Houses; but, from some unaccountable neglect, was omitted in the law, and had been supplied by the President, who had adopted the plan agreed upon by the two Houses, except that he had somewhat enlarged it. The bill now proposed was a copy of the provisions which had been acted upon by the President.

Mr. Harper spoke at considerable length against the mode laid down for the ascertaining of citizenship, which was to be proved, in case of the failure of a copy of the register where the person was born, by one credible witness. Mr. H. proposed that the testimony of three freeholders should be necessary.

Messrs. W. Lyman, Buck, and Livingston, severally spoke against the motion, when the question was put and negatived—three members only rising in favor of it.

The bill was ordered to be engrossed for a third reading to-morrow.

BALANCES DUE FROM STATES.

The House proceeded to consider the amendments proposed by the Senate to the resolution calling upon the States for the payment of certain balances.

Mr. W. Smith moved to recede from their disagreement to the Senate's amendments, which was negatived—there being only twelve votes in favor of it.

Mr. Nicholas then moved to adhere, and the motion was carried.

Mr. Swanwick reported a bill to authorize a statement of the claims of George Smith and John Robertson, formerly slaves in Algiers; which was referred to a Committee of the Whole.

Thursday, March 2.

The bill for the relief of American seamen was read the third time and passed.

MILITARY APPROPRIATIONS.

On motion of Mr. W. Smith, the House went into a Committee of the Whole on the bill making appropriation for the Military Establishment, when the following items were agreed to without debate:

For the payment of the Army - -	$256,456
For the subsistence of the officers - -	47,395
For the subsistence of non-commissioned officers and privates - - - -	245,233
For forage - - - - - -	14,904
For clothing - - - - - -	83,050

Mr. W. Smith then proposed to insert a new item, in consequence of the bill just passed, "For the purchase of horses and the equipment of the cavalry, $16,085."

Mr. Gallatin said, the items which had been agreed to was upon the ground of an increase of 126 dragoons which were not in the former bill. The item now under consideration went to provide horses and equipments for an additional company of cavalry. It appeared that this company was heretofore without either, so that they must have been employed as dismounted dragoons; and if they now appropriated the sum before them, they would, in fact, add a company of horse to the establishment. He believed it to be the general opinion that they had cavalry sufficient at present; indeed, it was the opinion of a large majority of that House that none were necessary; but if they did appropriate for any, he thought they ought not to go beyond the present establishment.

Mr. W. Smith said, if they refused to make the appropriation under consideration, they declared that one of the two companies of cavalry should act as infantry. By the bill passed yesterday, it was left altogether to the option of the President to employ them either as cavalry or infantry: but if this appropriation was withheld, he would be under the necessity of employing them as infantry only, and this House would now exercise a discretion which only yesterday they had vested in the Executive.

It would be observed, that, in the Message of the President, he had fully stated the reasons why dragoons would be requisite. The business upon which one of the companies was at present employed was to escort the Commissioners employed in running the boundary lines betwixt the territory of the United States and the Indians; the other was indispensable for the protection of the frontiers.

What, Mr. S. asked, would be the consequence of refusing this appropriation? One of the companies of dragoons would be obliged to act as infantry, and Government would be compelled to employ militia-horse at a great expense. If this was economy, he was mistaken in his ideas of economy. The sum was conformable to the estimate which he had received from the War Office.

Mr. Hartley was in favor of the appropriation, that the President might be at full liberty to employ the troops on foot or on horseback, according as the service might require.

Mr. Nicholas thought, while they were making appropriations, this object might as well be included. If these men were to be kept, they ought to be properly equipped. He said it was the opinion of the President and the Secretary of War that cavalry was necessary, and therefore he had concluded it would be proper, and wished them to

be kept up, so as to be called into service whenever necessary.

Mr. Milledge thought there was great need of cavalry; it would be an object of policy, as, by information he had received from the Governor of Georgia, (which he had in his hand, and which was corroborated by a late Governor,) horse were absolutely necessary—he thought three companies—on the frontier. He therefore was in favor of the appropriation.

Mr. Varnum had no doubt but the gentleman from Georgia, and every gentleman in the House, would be glad to have horse and infantry too kept up in their State: every part would be glad to have the public money expended upon it. He could not see why a body of cavalry should be kept up in a time of peace. He thought the Legislature had as good a right to judge as any person, notwithstanding the authorities produced to sanction the appropriation. Mr. V. had no doubt, if this was granted, that application would soon be made again for a similar purpose. He hoped this appropriation would not take place; it would be a small saving, and might as well be made, as there was so much want of it. He could have wished the troops reduced to two regiments, which he thought quite sufficient for a Peace Establishment. He hoped the President's ideas on the subject would not obtain to govern the decisions of the House, as we have the power, said he, to withhold appropriations; and what gentlemen who were locally concerned should say, he could not be guided by; as soldiers would consume their produce and spend money amongst them, consequently they were interested.

Mr. Craik really lamented that the gentleman had not been in the House yesterday, at the time the subject was more under consideration: he might then have inveighed against the President. The observations might have come with more propriety, if they had been made before the bill passed, and when under discussion; but, after a law has passed the proper authorities—after it has been resolved to have these troops of horse—to say, we will not appropriate money to carry it into effect, is strange conduct. If the determination of the gentleman was to oppose the bill, he should have used every means to that purpose, and if not effectual, at least to suffer others to enjoy their will—especially a majority. For the sake of consistency, he hoped the gentleman would withdraw his opposition, and not in this side-way try to defeat the operation of a bill which has passed. The cavalry were voted because they were supposed to be necessary, and now a gentleman comes forward, endeavoring to excite the jealousy of the House on the Executive's meddling with the Military Establishment. Mr. C. said he was pleased that the President had refused it, if it was only to convince some gentlemen that he had power to refuse that or any other bill. [Here Mr. Dent asked the gentleman if he was in order.] Mr. Craik said he only wished to prove the inconsistency of the member's conduct. He thought the House should not betray a want of consistency. He believed, from the statement of the member from Georgia, and the reasons of the President, that horse were necessary, and he therefore should wish the appropriation to be passed.

Mr. Kitchell said, gentlemen seemed to be mistaken; they were continually alluding to the law passed yesterday. There was not a word about two troops of horse yesterday. All we then said, was, that we would not say there should not be two troops of horse; the Message of the President did not say that two troops should be mounted, nor do I say, said Mr. K., that horse are not necessary; I think some are necessary; but the inquiry seemed to be, now, whether the House were to vote for more.

Mr. W. Smith said, the gentleman's observations were very extraordinary; he surely could not have attended to the subject, to say that the House had not passed the law authorizing two troops of horse. We have a law in force, said he, to ascertain and fix the Military Establishment, in which we authorize the President to employ the two troops of dragoons, to serve either on horse or foot, at his discretion. The bill we sent up yesterday does not repeal that law, and yet gentlemen would now come forward to oppose the appropriation, and determine they shall act on foot. He could not think with what propriety the restriction could be made as the gentleman from Massachusetts wishes, nor could he think how the gentleman from Jersey had attended. Should we now say they should be at our direction, and that we would not grant money without? This would be strange conduct—an assumption of power which he hoped the House would never arrogate.

Mr. Kitchell said his meaning was, that the horse were not established yesterday, but before.

Mr. Hartley said it appeared, from good testimony, that the troops were requisite to save the people on the frontiers from the depredations of the Indians; he thought, therefore, that they having been established before, the House were bound to make the appropriation to give effect, or show the great inconsistency.

Mr. Nicholas said it was not his intention to vote for these men at all; but if they must have them, perhaps it would be most economical to equip them. With respect to their power of withholding the appropriation, he had no doubt; and though they had yesterday passed a law establishing two companies of cavalry, it was in the power of that House, of the Senate, or of the President, to refuse an appropriation. This was the sense of the Constitution. When the bill came before the House, he should give his negative to the additional horse; for, if they were always to keep up the same number of men, whether in war or peace, except two-thirds of both Houses were found to oppose the will of the President, they might bid adieu to all restraint upon Executive power, and count upon a military Government, if ever an Executive should be found whose will it should be to make it so. If these were to be kept up, he would still say the House had better go to $100,000 expense to mount them on horseback.

Mr. Varnum said it was observed by gentlemen that those troops were not mounted; if so, there

must have been a very lavish waste of money. However that might be, gentlemen who state this matter ought to state it fairly. They ought not to say that two companies of cavalry were yesterday voted. No, they were part of the old War Establishment. It was true, the House had not the power to repeal the law; but one thing was in their power, and that they ought to do, if they see this part of the standing army necessary. The Constitution returns the power to act on it once in every two years to each branch of the Legislature. The House, he thought, had good right to exercise their own opinion on the necessity of mounting these men. It was not in the power of one branch to repeal the law which keeps these men, but we ought to consider whether they are to be put in the same situation as in time of war. Mr. V. said he discharged his duty in voting against this appropriation. The House had a right to judge, and it was not in the power of the President to act for them.

Mr. Heath said that the subject had been fully discussed, and therefore he should only observe, that, from the authority which had recommended the mounting of these cavalry, he should vote for the appropriation.

Mr. Milledge repeated his arguments on the local situation of the country, and asserted the absolute necessity of the troops.

The motion was put and carried—there being 56 in favor of it.

NAVAL APPROPRIATIONS.

Mr. W. Smith then proposed to add $172,000 for finishing the frigates United States, Constitution, and Constellation.

Mr. Nicholas said he should be against appropriating so large a sum for this purpose. It was the sense of the House, on a former occasion, that it would be proper to appropriate such a sum as should put them in such a situation as to secure them from injury, but to stop short of making them fit for sea, that the expense of manning them might be avoided.

Mr. Swanwick said a new view of the subject seemed to be brought forward at present. Before, they had determined to finish the frigates; but now, they were not to finish them, lest they should be manned, but to finish them in part only. A gentleman yesterday said, when speaking on the subject of the President's Message, that he could not suppose they would have refused to pay the soldiers, though there might be some deficiency in the expression of the act; and might he not suppose, said Mr. S., that if the frigates were so nearly finished, he might go on to finish them, and trust to the Legislature to furnish the money? These frigates, he said, were a very extraordinary concern. It seemed as if it was only when it were to be made a present of to Algiers, that a frigate could be finished, and not when it was for the protection of our own commerce. He trusted, however, that there would not be a majority found in that House who would vote against finishing the frigates: as to manning them, that would remain for a future consideration.

Mr. Parker said, it would require all the money which had been named for finishing the frigates, without rigging, though there would be a considerable quantity of materials left on hand. There need be no apprehension of their being manned, whilst seamen's wages remained at the price they were, because men could not be got on the terms stipulated in the law for this purpose. If a smaller sum than was mentioned were to be granted, they might as well give nothing.

Mr. Sitgreaves supposed the blank was now proposed to be filled with the same sum which had been agreed upon on a former occasion. If this were the case, it ought to dissipate the fears of the gentleman from Virginia, [Mr. Nicholas,] as it was well known that the sum was predicated upon a supposition that the frigates were not to be manned. If they were to be manned, a further appropriation would certainly be necessary.

Mr. Nicholas said, it appeared to him that if all gentlemen were agreed that this business should go no further than the building of the frigates, they could have no hesitation to leave undone some of the internal finishing work of the vessels; if they did not wish to put them into such a situation as that they might force them into service upon the spur of an alarm, they could have no objection to their being left in such a situation as to be perfectly secure, but not finished fit for sea.

Mr. Sitgreaves said this subject had heretofore undergone a very full discussion. A motion was then made merely to finish the hulls, which was negatived. It was then said that contracts were made for all the materials, and that except the frigates were finished, the engagements which had been entered into could not be fulfilled. But there was another security against the danger apprehended. They had lately come to a determination to make all appropriations specific and particular. What was the language of the present appropriation? It was for finishing the frigates, not for manning them. If it had been said to be for carrying into effect the law for the Naval Establishment, there might have been some little ground for apprehension; but, as it now stood, the Executive could not proceed to man the vessels.

Mr. Nicholas said, when they voted the sum now asked for finishing the frigates, the expenditure was accompanied by a law to repeal the manning clause of the former act. He had made inquiries respecting contracts, and found the money in hand was equal to the fulfilment of them; if there had been any others, he supposed they should have heard of them. He again said there were many ornamental parts of the vessels which might be as well thrown upon the expense of next year as of this.

Mr. Swanwick said, if Government could have had foresight sufficient to have known that there would have been any objections made to the finishing of the frigates, they would certainly not have entered into any contracts to that extent, but they could not possibly do this. He wished, if gentlemen were determined the frigates should not be made use of, that they would say at once

they should be sold on the stocks. With respect to manning of them from the money proposed to be appropriated, that was impossible, and he saw no reason for making the business *doubly sure* by any other precaution.

Mr. Holland said it was, with great propriety, intended by many members in the House to keep the frigates in such a state as to prevent their being manned. If we appropriate to finish them, said he, we shall be exposed to all the difficulties depicted by the gentleman from Pennsylvania; for some way would be devised to procure and pay men, if the House put it in the power of the Executive to do it: therefore, he hoped, to avoid all that trouble and expense, they would not vote to finish them. For what purpose said he, should they be finished, unless it were intended to man them? To avoid every danger of that kind, he should vote against the sum proposed.

Mr. Hartley said, that last year the six frigates which had been before voted for were reduced to three, with intent to complete them. Was it not probable then, he would ask, that the President would proceed to complete those frigates, according to the power given him? Was it not to be supposed that contracts were entered into for that purpose? No person could suppose but contracts were made. Then certainly the House ought not to expose the Executive to the ridiculous situation of receding from his contracts! They would not be finished before next session, and therefore no danger of equipping could be apprehended. It may be necessary to use them, but at any rate it would be running no risk to have them finished, as they could not be manned by this appropriation.

Mr. Gallatin said, there seemed to be involved in the present consideration the question whether or not we should have a Navy. As to himself, he should vote against the present appropriation, because if the frigates were completely finished he should fear they would get to sea. When they had on a former occasion consented to finish them, it was under the condition of the law for manning being repealed; but they now stood upon new ground. Mr. G. said he had been charged with inconsistency of opinion, from having before said that he thought the President would not be authorized to proceed in the manning of the vessels under the present law, whilst he was now apprehensive that he might do so. He wished to be on sure ground. He did not know but the President might put a different construction upon the law from him. Indeed, from the experience they had had of Presidential discretion, they need not be surprised if the vessels were sent to sea, though no appropriation was made for the purpose, should the President suppose there was any plea for doing so. As a proof of this power having been exercised heretofore, Mr. G. referred to the Western insurrection. In that case, he said, no appropriation was made for the expense; but the law authorizes the President to call out the militia when he shall see occasion to do so; he called them out, and got money from the Treasury. Indeed, the building of a frigate for Algiers, without any authority, and the pledging of the faith of the nation to pay the expense of the law-suits of our citizens in London, were strong proofs of what the Executive could do.

Mr. G. said he did not mean to bring into view any arguments relative to the propriety of establishing a Navy in this country. He should vote against the present motion, because he did not wish to see the frigates at sea, and because he conceived a Navy to be prejudicial to the true interests of this country. Something had been said about contracts, but he did not believe any existed. They had last year been told the same thing. Any person reading the statements which had been furnished to them, would perceive that the business was not done by contract, but that men were employed by Government, and regular wages paid to them. The frigate which had been built for Algiers had been built by contract, they had an estimate of it at so much a ton, but this was not the case with respect to any other of the frigates.

Mr. W. Smith did not wish to go into a long debate on the subject, when they had so much business before them, in order to show whether it was proper for this country to have a Navy or not; the only question now was, whether they ought to appropriate money for finishing the three frigates. If they did not do it, all the money which had been already expended would probably be lost. The only objection to the doing of this seemed to arise from a fear that the vessels would be manned, though when this subject was before them, the other day, the gentleman from Pennsylvania [Mr. Gallatin] moved to postpone the bill relative to the repealing or suspending the law for manning the vessels till next session, from an opinion that, by the present law, the President was not authorized to man them. That gentleman seemed now, however, in contradiction to himself, to fear the President would put a different construction upon the law: if he did not believe the President would violate the law, he could not account for his refusing now to vote the money which was merely necessary to finish the vessels. Mr. S. read an extract from the report of the Secretary of War, to show the forward state in which the vessels were, and added, that they were bound in duty to finish them, were it only to prevent the loss of the money already expended upon them.

Mr. Dearborn observed, that if he was convinced, from the documents which had been laid before them, that the sum now asked for was necessary merely to finish the frigates, he should not hesitate to vote for it; but it was not a little extraordinary that the gentlemen on that committee (not even the chairman, who seemed to have the business so much at heart) could not say whether this sum was necessary for finishing and rigging, or finishing without rigging, or for finishing, rigging, and manning. The frigate building in this city, the captain had told him, was calculated, in point of size to carry 62 guns, instead of 44; which was one of the reasons they had cost so much more than they had been estimated at.

Mr. D. said, he suspected that the sum proposed would not only be sufficient to finish the hulls, but to rig and fit the vessels for sea, and until he had more satisfaction on the subject he could not consent to give his vote for it.

Mr. Kittera observed, that gentlemen first said, that under the present law, the President could not proceed to man and send the vessels to sea, but now they were apprehensive this might be done, though no appropriation was made for the purpose. This, he thought, somewhat inconsistent; but he believed whilst thirty dollars a month was given to seamen by merchants, and their law only authorized eleven to be given, there was not much to be feared on this head.

Mr. Ames said, that gentlemen opposed to the finishing of the frigates, seemed to be also opposed to all ideas of this country ever becoming a naval Power; the necessity of this, he was persuaded, would ere long appear. It was not to be supposed that a nation whose commerce was greater than that of any other, except Great Britain, should go on long without a naval protection; and he believed the more strenuous the opposition shown against this measure, the sooner it would be accomplished; he was not therefore displeased to see the present violent opposition to everything which looked towards this object.

It was not enough, Mr. A. said, for gentlemen to discourage the building of ships, they would also discredit the administration of Government; and nothing was more natural than that those who thought so ill of it themselves should endeavor to spread those opinions. This was done continually. With respect to the building of the frigates, he thought it was a wise step; and as to the extra expense and delay which had attended the business, he believed, gentlemen might take a share of the blame upon themselves, on account of the versatility which had been shown upon the occasion, in this day agreeing upon one thing, and that upon another. It was true, that another cause of extra expense was owing to a resolution which had been taken to make the ships much larger than was contemplated by the House; the vessel building here, he believed, was nearly 1,600 tons. He was glad that this alteration of plan had been adopted; not because more money would be expended on this account; not because contrary to the direction of the Legislature, but because true wisdom required it; they would now be an overmatch for any frigate, or any vessel which the Algerines could send out against them. These, he believed, were the views of the Executive in having them built of the size they were. The number of the frigates agreed to be finished had been reduced to three; and these they last session passed a law to finish. But what was now to be done? It was said they should not be finished. Who said this? Did the people? did the Government say it? No; that House alone said it: so that that House were about to usurp the supreme authority. We are the Government, we are the people, we are every thing.

But, if there be a law which says that these three frigates should be built and equipped for sea, was it not necessary, before it was concluded that they should not be so built and equipped, that this law should be repealed by all the branches of the Legislature? No, say gentlemen, we can appropriate or not, according to our sovereign will and pleasure. If they possessed the power to nullify what was enacted by all the three branches of Government, it was greatly to be lamented. But if they could appropriate according to their will, they were bound to do it also according to their consciences too. It was not only a weapon, but a shield, which it was their duty to use with great caution, and according to law; for, if they were to use it contrarily, it would be to make that House the supreme power, it would be to usurp the supreme authority.

Mr. Cott believed the only real question before them was, what sum they would appropriate for this object; he wished the mover would consent to leave the item blank.

Mr. W. Smith had no objection to its being left blank.

Mr. Venable said, if this was a mere question of expense, it was very extraordinary that it should have called forth such a phillippic from the gentleman from Massachusetts, [Mr. Ames,] who had charged the House with arrogating to itself all the powers of Government; as being omnipotent. Upon what ground could he found such charges? If it were a question of expense merely, there could certainly be no ground for such charges; but if it were to be considered as a question of power, if they were to be told they dared not to withhold the appropriation in question, here he would entrench himself as a Representative of the people; he had a right, as a member of that House, to vote against the expense which he thought improper, and he would exercise that right. Every branch of Government had the same right, and he wished them to exercise it. And he would not be told, when he was about to exercise this right, that he was arrogating to himself all the powers of Government. He was determined to exercise his discretion on every question which came before him for decision, and he would vote against this expense.

Mr. Nicholas said, the gentleman from Massachusetts [Mr. Ames] seldom spoke without casting some denunciation against that House. He had, however, allowed that the President had done, with respect to this fleet, all that any gentleman had charged him with doing; he had even put the case stronger than any other person had put it; for he had said that the Executive had determined to build the vessels of a larger size than had been contemplated by the Legislature, in order to be an overmatch for any other frigate. All this, said Mr. N., may be right, and the approbation he gave this conduct, was a proof the gentleman thought so; all he had to say was, that it was not legal; it might be patriotic, and be done with an intention to serve the country; the President might understand the interests of the country better than they; but it was a conduct which would not meet with the same approbation from him that it met with from the gentleman

from Massachusetts. That gentleman had also said, that a law imposed a duty upon the House to find the means for carrying it into effect. Were they not, then, to be called upon for money to man the frigates? He asked those gentlemen whether the President had not a right to man the frigates, and if so, whether they should not be *obliged* to find the money?

The powers of this House to control appropriations, had, however, already been settled. It was, indeed, an absurdity to call a body a Legislature, and at the same time deny them a control over the public purse; if this were not so, where would be the use of going through the forms of that House with a money bill? The Executive might as well draw upon the Treasury at once for whatever sums he might stand in need of. A doctrine like this would be scouted even in despotic countries.

And what was all this power that so much alarmed the gentleman from Massachusetts? It was merely a negative power to refuse to do what they thought it would be mischievous to do. Mr. N. said there was a very fashionable doctrine of throwing all power into the hands of the Executive. If there were to be extremes, however, he believed an excess of power would at least be as safe in their hands as in those of the Executive; and if this were his opinion, and the ground upon which he acted, the gentleman from Massachusetts never failed to take an opposite direction. He never thought any Executive power too great.

Mr. Parker remarked, that it had been said the frigates would carry 62 guns; it might have been possible to have made them so, but they were no more than a large sized 44-gun frigate. They might be a little larger than any other of that number of guns, but not so much. It was true they were not at first contemplated to be so large, but strong reasons were offered for making them of the present size; the expense was not increased by the increase of size, in proportion to their usefulness. He therefore himself approved of what the President had done; and, if he had had the management of the business, he should have done the same. It had been doubted whether the sum proposed to be granted would not only finish, but equip and man the vessels. If the gentleman who had these doubts would refer to the report which had been made on the subject, he would find that $220,000 would be required for that purpose; the $172,000 proposed would barely make them ready for sea in other respects.

The gentleman from Pennsylvania, [Mr. Gallatin,] who was generally very correct in his statements, had supposed that if the frigates were finished, the President might go on to man them without consulting the Legislature upon the occasion; and, to show the possibility of doing this, he had alluded to his having built a frigate for the Algerines without the approbation of Congress. He lamented the situation in which we stood with that country, but he believed the building of the frigate was necessary. The Western insurrection, and the law-suits in London had also been named, which he should not stop to notice.

In answer to the gentleman from Pennsylvania, he would say, that if the President could man the vessels and send them to sea independent of Congress, he might also finish them without their aid; but he did not believe he would place himself in the same situation with respect to them as if he had to do with a foreign nation. In relation to foreign nations, he had great power; but, if he went beyond his power with respect to internal regulations, he would be liable to impeachment, and he would be one of the first to promote an impeachment, were such to be his conduct.

Mr. Ames said, he understood the gentleman from Virginia [Mr. Nicholas] to say, that the conduct of the Executive was illegal; but certainly if a frigate was estimated to cost $12,000 and it cost $15,000, the expenditure of the additional $3,000 was not illegal.

Mr. Nicholas said, he had made use of the gentleman's own words with respect to the change in the plan of building the frigates, which he had called illegal.

Mr. Ames said, as to the size of the vessels, that was Executive business. The gentleman from Virginia [Mr. Venable] seemed to take the observation which he had made with a degree of sensibility perfectly natural, because it went to touch the power which he had claimed as a member of that House. The gentleman said, "Here I entrench myself behind my privileges." Nothing was said about the public good; all was self.

And was it to be considered, he asked, that they enjoyed the powers committed to them in their own right, as barons of empire, as sovereign despots? Or was the power placed in them to be exercised like other duties, according to justice and propriety? He believed no one would deny that the latter was the truth.

How did the matter stand? They had attempted to repeal a law, but another branch of the Legislature had refused to accede to the repeal; of course it could not be effected. Were they then to act as if the law had been repealed? Yes, say gentlemen, we will refuse to appropriate the money since we think the thing unnecessary. He hoped, however, the day would soon come (as melancholy would be the period until it did arrive) when this power of refusing an appropriation to carry an existing law into effect, should no longer be countenanced by a majority of that House.

Mr. Venable was of opinion, that if the gentleman from Massachusetts had only the public good in view, which he had spoken of, he could have had no inducement to have gone into the arguments which he had introduced on this occasion. He could assure that gentleman that he felt himself as strongly bound to consider the public good in all his conduct as he could be. He believed no instance could be named in which he had not consulted that interest. As to what was, or was not, calculated for the public good, he must be left at liberty to judge for himself. But the gentleman had not put the business on this ground,

but because gentlemen differed in opinion from others, they were charged with assuming absolute authority, with principles of despotism, overturning the Government, &c.

Mr. V. said, it was his opinion, that in all laws which came before that House, every member had a full right to say yea or nay, for which they were not accountable to that gentleman, or to any other. The other branches of Government had also the same power. Indeed, the other House had exercised this right in negativing the repeal of the law relative to the manning of these vessels. He trusted both Houses would always continue to assert their right thus to use their discretion and privilege.

Mr. Ames said, he had not charged that House with usurping power, or breaking down the other branches of Government; nor did he say they had not a discretion; but that their discretion ought to be regulated by duty.

Mr. Swanwick said, amidst all the foreign objections which had been urged against this appropriation, he wished the act passed last session to be referred to. [Mr. S. read an extract from it.] Here, in April last, said he, it is provided that the frigates shall be finished, and yet now gentlemen wished the House to come to a conclusion only to half finish them. What, he asked, would the world think of such a versatility of conduct?

Mr. Kittrell thought, if they meant to get through the business which lay before them, it was time they disposed of this question. He thought the debate upon it had been sufficiently long.

Mr. Brent said, when this subject first came before the Committee, he had determined to give the sum necessary to complete them; nor had he ever wavered on the subject, until he heard the ground which had been taken by the gentleman from Massachusetts [Mr. Ames.] He did most feelingly participate in the sentiments expressed by his colleague [Mr. Venable] on the occasion. It was really difficult to know what was the amount of his doctrines. In the first instance, he understood the gentleman to rise for two purposes, viz: to justify the Executive from certain charges which had been brought against him, and to show the obligation which the House lay under to grant the money.

In the first place, the gentleman said the Executive had been charged with violating the law; and, when he went into the subject, he understood him to say, as his colleague understood him, that the Executive had changed the plan; he understood him to say, that though Congress had ordered 44-gun frigates, he had ordered 74's, which remark he concluded by expressing his approbation of the President's conduct. If he admitted that the Executive had violated the law, and yet felicitated him upon having done so, he might enjoy his pleasure, he would not participate with him.

With respect to the second part of his observations, as to the absolute necessity under which every member lay to vote for the sum required for finishing the frigates, because the building of them was directed by law, this was a most important point. He thought this involved one of the most valuable principles which that House possessed, and which should never be lost sight of viz: the right of every member to exercise his discretion upon every question, appropriations as well as others, which came before him. Did not the gentleman know that the most solemn decision had taken place last session on this subject, by a large majority? Indeed, said he, this sentiment was so engrafted in the Constitution that the House could not divest themselves of it; for the gentleman to say they did not possess it, was to make a dead letter of their privileges. There could be no doubt on the subject; and it was a sacred and essential principle which would go further to preserve our liberties than any other which they possessed. He trusted, therefore, they should guard it with special care.

Mr. Gallatin said, he did not mean to follow the gentleman from Massachusetts in what he had said on this subject, because he had not felt the force of what he had advanced, nor very well understood what he meant. Both his meaning and his motive for bringing this subject before them today were to him mysterious. He had brought before them the Treaty question anew, and it would be recollected what were the feelings of the House on that occasion; but he could see no relation which it bore to the present question; and though a number of members in that House had asserted that they were bound to appropriate money to carry a Treaty into effect, he did not believe they were ready to say the same with respect to laws.

The gentleman from Massachusetts had said, that if they put a meaning upon the Constitution in this respect different from him, that they arrogated the supreme power to themselves. Did not he know that the doctrine applied to the Senate as well as to that House? and did he not see that that would be a check upon the abuse of it in either House, since it was a weapon which both could use?

The gentleman had said they were bound to obey the law. Bound to obey what law? The law for authorizing the building of the three frigates? He did not understand how this law was to bind them. This was a mere administrative law, which did not extend to the citizens of the United States, but gave power to the President to do a certain act; therefore, as citizens, they had nothing to do with that law, except they were to obey it by appropriating the money necessary to carry it into effect. Yet the gentleman allowed there might be cases in which it would be right to use discretion in the appropriation of money. For his part, he did not understand the being bound and not bound at the same time; to have discretion and no discretion. He wished either that the one or the other opinion might be adopted; and that they might be told that they had, or that they had not, a right to exercise discretion in the appropriation of money. If this exercise were to be allowed in any case, why could it not be allowed in the present? He wondered, therefore, that gentlemen in favor of this motion should have touched upon this ground. He agreed with the gentleman that they had this discretion, and that it ought to be used with caution, and not upon trifling occasions. But he conceived this to be one of those occasions in which it was necessary for those opposed to a Naval Establishment, to vote against this appropriation. He meant against the appropriation in its extent. It was because he considered a Naval Establishment as highly injurious to the interests of this country, he should vote against every measure which had a tendency to produce it. That gentleman, and others who thought differently, would vote accordingly.

Mr. G. moved an amendment, viz: that before the word "frigates," to add "the hulks of." On the question, ayes 45, noes 44—the Chairman giving his vote against the amendment, it was not carried. It was then put in the original form, to finish the frigates, the sum of —— dollars, and carried—ayes 54.

The question on the blank being filled with $172,000 was then put, and carried—ayes 47.

Mr. Gallatin moved to add an item to pay the bounty of one hundred dollars which they had agreed should be paid to every officer discharged from the military service in consequence of the regulations which had taken place in the establishment.

This item was filled up with three thousand dollars.

Mr. Gallatin moved to add the following words: "which several sums shall be solely applied to the objects for which they are respectively appropriated."

Mr. W. Smith wished, as much as the gentleman from Pennsylvania, to confine the expenditure to the sums appropriated; but the provision for some objects might fall short, while others might have a surplus, which he thought ought to be made use of to supply deficiencies in cases of emergency. Ever since the establishment of the present Government, the whole appropriation for the Military Establishment had been considered as an aggregate fund out of which any of the objects of that establishment might be paid for; but the expense of each object was now to be confined to the specific appropriation. He was afraid, however well this might look in theory, it would be found very mischievous in practice. He wished the gentleman would amend his proposition by adding, "so far as may be consistent with public exigency;" this would restrict the expenditures, except in unforeseen cases of emergency, to provide for which some latitude of discretion ought to be left to the Executive.

Mr. Sitgreaves did not see the necessity or propriety of the amendment of his colleague, when the House had distributed the appropriations amongst the different objects; as the amendment, he conceived, meant nothing more than that the Department should not expend any more than the sum appropriated for the different items, which they had no right to do if there were no amendment. Heretofore, when appropriations were made in a mass, the Secretary of War did not feel himself bound to govern himself by the estimate which he had given in, but by particularizing the different items, the former evil was corrected.

Mr. Gallatin said, if the fact was exactly as it had been stated by his colleague, his amendment might be unnecessary, but the Treasury Department had not acted upon the principle which he had stated. They had, notwithstanding the distribution of the appropriation, thought themselves at liberty to take the money from an item where there was a surplus and apply it to another where it was wanted. And when this was objected to, as taking from the Legislature their appropriating power, they answered that the Legislature had entered so much into detail that they could not attend to their directions. They had, last session, made the appropriations more specific than at present, yet the Secretary of the Treasury, in a letter written to the House during this session, said, "that it was well known to have been a rule since the establishment of the Government, that the appropriations for the Military Establishment were considered as general grants of money, liable to be issued to any of the objects included under that Department." Therefore, unless this amendment was introduced, it would leave the power as before. In order to make the business more easy, all the contingent expenses were appropriated in one sum.

The object of this amendment, said Mr. G., was that no part of the pay of the Army should go to the Quartermaster's department, &c., and that none of them should go to the building or equipping the frigates; but if this were not the case, money might be found to get the frigates to sea from the appropriations for the Military Department, if the President should think it necessary so to apply it. As to the amendment, it would do away the intention of it altogether.

Mr. Harper was against the amendment. He thought the Department ought to be at liberty, in case of an appropriation proving deficient, to have recourse to other funds where there might be a surplus, and as none would be taken, except where there was a surplus, he could see no objection to this being allowed. Indeed, for want of such a privilege very serious inconveniences might arise to the service, in case of accident or unforeseen events.

Mr. Gallatin said, the law did not operate in the manner which the gentleman last up supposed. They had lately voted a sum of forty thousand dollars to make good a deficiency of last year, which had been used for some other purpose, in consequence the deficiency fell upon the pay of the Army, although that could not increase, because the number of men was never increased; it might be less, as the nominal, not the actual number of men was appropriated for.

Mr. Kittera thought the amendment a bad one. Suppose, said he, a boat should be overset with tents in the lake, or a magazine blown up, the losses could not be repaired, because, though there might be surplus sums in the Treasury from

other items in the establishment, yet, if this amendment prevailed, they could not be touched. He thought this would be the effect; he was against innovations.

The amendment was put and carried, there being fifty-four votes in favor of it.

The Committee then rose, and the House took up the amendments; when

Mr. Dearborn renewed the motion to place "bulls of the" before frigates; when, after a few observations from Mr. Page against the manner in which the business of building the frigates had been conducted, particularly with respect to their being built of so much larger a size than ordered, the question was taken by yeas and nays, and negatived, 47 to 45, as follow:

Yeas.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, William Findley, Jesse Franklin, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, John Patton, John Richards, John S. Sherburne, Israel Smith, Richard Sprigg, jun., William Strudwick, Joseph B. Varnum, and Abraham Venable.

Nays.—Fisher Ames, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, John Heath, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Josiah Parker, Elisha R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

And then the main question, "to finish the frigates —— dollars," was taken by yeas and nays, as follow:

Yeas.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Richard Brent, Daniel Buck, Dempsey Burges, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, George Ege, William Findley, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Heath, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, Alexander D. Orr, Josiah Parker, Elisha R. Potter, John Reed, Samuel Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John A. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, David Bard, Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Patton, John Richards, Israel Smith, Richard Sprigg, jr., William Strudwick, and Abraham Venable.

The question to fill the blank with $178,000 was then put and carried—ayes 47, noes 42, and the bill ordered for a third reading to-morrow.

DUTY ON DISTILLED SPIRITS.

The House took up the amendments of the Senate to the bill for making regulations respecting the duty on distilled spirits, one of which they insisted upon, viz: that providing that no licenses be issued for less than one month. The House adhered to their disagreement to this amendment.

POST OFFICE BILL.

The amendments of the Senate to the Post Office bill were taken up, and the House receded from their former disagreement to them. One of them, viz: for introducing the words requiring "newspapers to be sufficiently dried," was opposed by Mr. Gallatin and Mr. Macon, as a very oppressive regulation to printers of newspapers, as giving postmasters power to put them to great inconvenience, and as a certain way of increasing the price of newspapers sent into the country. As it involved a principle of consequence, Mr. G. called the yeas and nays upon the question, which were, yeas 39, nays 31.

Mr. Macon said, since the question had been thus carried, he would move to put off the further consideration of the bill till the first Monday in December, as he believed that clause would do more harm than the bill would do good. The motion was negatived.

Friday, March 3.

SUNDRY BILLS.

The bill making appropriations for the Military and Naval Establishments was read the third time, and passed.

A resolution was agreed upon for distributing the five hundred copies of the laws ordered to be printed at the last session.

The act for fixing the Military Establishment was received from the Senate with an amendment, proposing a Quartermaster General and a Paymaster General to be inserted; which was agreed to, 35 to 32.

The House went into a Committee of the Whole on the bill respecting the Courts of the United States, which having been agreed to, was ordered to be read a third time: it was afterwards read a third time, and passed.

The same course was taken with the bill for

the relief of John Browne, and also with that for authorizing the adjustment and payment of the claims of John Robertson and John G. Smith formerly captives in Algiers; and both were passed.

On motion of Mr. Harper, the resolution calling upon the Secretary of the Treasury for certain statements of duties and drawbacks to be laid before the House every session, was agreed to.

A bill from the Senate for altering the time of the next meeting of Congress to the first Monday in November, instead of the first Monday in December, was then taken up. After some objections had been urged against, and some observations in favor of the change, the bill finally passed, 46 to 29.

PRE-EMPTION RIGHTS, &c.

A bill from the Senate to authorize the sale of the land between the Great and Little Miami rivers, and to give a pre-emption right to certain purchasers, was read; when

Mr. Sitgreaves moved to postpone the consideration of this bill till the first Monday in December next. He did not think it was right of the Senate send down to them a bill of this kind on the last day of the session. He did not himself understand the matter, nor was there sufficient time to go into an inquiry on the subject.

Mr. Gallatin and Mr. Nicholas also spoke against taking up this subject. They observed that the public would perceive that the Senate wished to confine the contract of Mr. Symmes within narrower bounds than that House wished, and therefore no persons could be deceived in this respect in their future purchases of Mr. Symmes.

A bill was also received from the Senate to enable the officers and soldiers of the Virginia line on the Continental Establishment to obtain titles to certain lands Northwest of the river Ohio, between the rivers Sciota and Miami; which, on motion of Mr. Coit, was also postponed till the first Monday in December.

CALL FOR STATEMENTS.

Mr. Gallatin said, he wished to propose to the House three resolutions, calling for statements relative to the War Department, which he wished to be laid before the House at the next session. They had heard it said upon that floor, by gentlemen who were considered to be well acquainted with the subject, that many expenses had taken place in that Department which ought to have been checked. Conceiving a check of this kind to be necessary, and knowing the expense of the military department was increasing from year to year, beyond what the increase in the number of troops would warrant, it was proper to lay the foundation of an inquiry into the subject. Indeed, having just passed a pretty severe law relative to the Receivers of Public Money, and understanding that the Secretary of the Treasury had a long list of delinquents, he was desirous of taking some steps in the business. From these considerations, he offered the following resolutions for acceptance:

"*Resolved*, That the Secretary of the Treasury be directed to lay before the House of Representatives, within the first week of January next, abstracts of the accounts of all paymasters, quartermasters, contractors, agents for the purchase of supplies, and generally of all the Receivers of Public Moneys, paid from the Treasury from the 1st of January, 1791, to the 1st of January, 1797, on account of the Military Establishment, so as to exhibit a detailed statement of the whole amount of moneys thus expended to that period; and whether any of the accounts be not finally settled; and shall lay before the House an estimate of moneys not accounted for.

"*Resolved*, That the Secretary of the Treasury be directed to lay, at the same time, before the House of Representatives similar abstracts of the accounts of all the Receivers of Public Money expended for the building of the frigates.

"*Resolved*, That it shall be the duty of the Secretary of the Treasury to lay before the House of Representatives, within the last week of January in each year, a statement of money expended for the Military Establishment during the next preceding year, distinguishing the sums expended under each head, for which specific appropriations have been made, and an estimate of the probable unsettled demands in relation to each of those heads."

The resolutions were severally agreed to.

ACCOUNTS OF EDMUND RANDOLPH.

Mr. Williams called for the resolution which he laid on the table some days ago. On examining the Report of the Secretary of the Treasury relative to the application and expenditure of the moneys appropriated for expenses attending the intercourse between the United States and foreign nations, he said, he found large sums of money had been paid on the warrants of the late Secretary of State, whose accounts remained unsettled; and that neither the accounts of foreign Ministers, bankers, or agents of the United States, nor the records of the Department of State, contained any explanation in respect to a considerable part of this money; that they had appropriated large sums of money from time to time, and it was necessary that a full investigation of that matter should be had. There was in the Report eighteen thousand dollars, paid on a warrant to Mr. Randolph for the expenses of a special Envoy to Madrid, though he believed the Envoy was not three months on that mission. In order, therefore, to come to a more full knowledge of this subject, he hoped the resolution would be agreed to. It was in the following words:

"Whereas it is stated to this House, in a Report of the Secretary of the Treasury of the 16th instant, that the accounts of moneys advanced to Edmund Randolph, Esq., late Secretary of State, for the expenses of foreign intercourse, still remain unsettled, and that neither the accounts of the foreign Ministers, bankers, or agents of the United States, nor the records of the Department of State, contain any explanation in respect to a considerable sum of the said moneys:

"*Resolved*, That the Secretary of the Treasury lay before the House of Representatives information of the amount of the sums so received by the said Edmund Randolph, Esq., for which there is no explanation, as

aforesaid, and what measures have been taken to obtain a settlement of the said accounts."

Mr. Gallatin had no objection to the inquiry, but he did not think the way proposed was the proper way of making it. If the gentleman had attended to the statement on the subject, he would have seen that the Secretary of the Treasury was not the person to be applied to. The statement alluded to by the gentleman from New York was not satisfactory; but the law with respect to foreign intercourse gave the President power to draw money from the Treasury without stating anything more than that it was wanted for foreign intercourse; [Mr. G. read an extract from the law on the subject,] therefore they only knew the President of the United States. He was the only officer authorized to draw money from the Treasury for this purpose, in doing which he might specify the purpose for which it was wanted, or he might issue a certificate, or cause the Secretary of State to do so, under the general head of foreign intercourse, and it was sufficient authority for the payment of the money. From the statement which they had received, it was evident that the Secretary of the Treasury must have received information from the President of the United States beyond what he had received by means of the certificates calling for the money, because he informed them that the sums of money received by Edmund Randolph were not accounted for, which information he could have had only from the President himself, who must have informed him that he entrusted him as his agent in the business, and that he had not duly accounted for the money which he received. He supposed the President would direct the Secretary of the Treasury to take measures to get a settlement with Mr. Randolph; but, in a legal point of view, they could not apply to the Secretary of the Treasury, as, *ex officio*, he knew nothing of the matter. He moved, therefore, that instead of the Secretary of the Treasury, "the President of the United States should be requested, if he shall think it advisable," &c. He wished information on the subject, as, from the report of the Secretary of the Treasury, there seemed to lie a strong suspicion against Mr. Randolph in the business; but, as they knew no other person than the President of the United States in the transaction, he wished him to be called upon, and not the Secretary of the Treasury.

Mr. Williams said it mattered not to him who was called upon, so that he had the information; but he thought the Secretary of the Treasury was the proper person to be applied to.

Mr. W. Smith thought it best for the resolution to pass in its present shape. All these accounts were settled at the Treasury Department; that Department had sent them some information, but it did not go far enough. It did not descend sufficiently into particulars; it was proper, therefore, to apply to the same Department for other and further information. Certain large sums were stated to have been drawn out of the Treasury by warrants in favor of Mr. Randolph, but no account had been given by him of the expenditure of the said money. The course of this transaction was this: When the Secretary of State applied for money at the Treasury, he stated a certain sum to be wanted for foreign intercourse, or whatever the expenditure might be; this might go on from time to time, until the whole sum appropriated was expended. Afterwards it was the practice of the Secretary of State to make out a detailed statement of the expenditure; to exhibit his vouchers and balance the account according to law; and, if any balance remained in hand, to pay it into the Treasury, or retain it in hand for further service. But, with respect to Mr. Randolph, it appeared that one hundred and fifty thousand or one hundred and sixty thousand dollars had been received by him on warrants, of which no detailed account of the expenditure had yet been settled at the Treasury; and although, before his resignation, in August, 1795, he informed the Executive that he should settle his accounts before he left Philadelphia, yet they were now informed from the Treasury that they had received no account of the application of a considerable part of this money. Under these circumstances, it would be idle to apply to the President, for he could only refer them to the Treasury Department.

The motion of the gentleman from New York seemed to have two objects in view, viz: to obtain information as to the amount, for which no account had been rendered, and also to know what measures had been adopted to force a settlement. They found, from the report, the business stated in this vague manner: Issued to Mr. Randolph, on a warrant dated February 7, $10,000; on another, dated February 13, $10,000; on another, dated April 10, $10,000 more. In May, 1794, there were also $18,000 issued to him on account of Mr. Jay's negotiation, &c., but there was nothing to show, on the part of Mr. Randolph, as to the application of all this money, as far as appeared from the records of the Treasury.

As no vouchers had been received from Mr. Randolph of the expenditure of all these several sums, to enable the Treasury Department to make a final adjustment of his accounts, it was necessary, therefore, to call upon the Secretary of the Treasury to know the amount of the deficiency, and what means had been taken to obtain a settlement.

Mr. S. concluded by observing that, without intending to pre-judge the ultimate issue of this business, he would, however, incidentally remark that this information would be very useful to the next House, which might, on a view of it, determine on the propriety or impropriety of an impeachment; for as judgment, on cases of impeachment, involved a disqualification to hold and enjoy any office of honor, trust, or profit, under the United States, he considered an impeachment to be against an officer of the United States as well after as before a resignation or dismission from office.

Mr. Gallatin said, the gentleman from South Carolina had not paid the least attention to what

he had said on the subject. If he had read the law, he would have seen that the President of the United States was authorized to specify the purposes for which money was drawn from the Treasury for foreign intercourse, or not, as he pleased. The law being so expressed, it appeared to him that the Secretary of the Treasury had nothing to do in the business. The President had directed certificates to be drawn out in general terms, which had been paid by the Secretary of the Treasury. After he had done this, he had no further concern in the business: the matter lay between the President and the Secretary of State, and he thought they could only properly apply to the President for information on the subject. If they applied to the Secretary of the Treasury for information, what they could get from thence would only be of a partial kind, since he could not know much about the business. If, indeed, gentlemen were apprised that other information could be had from thence, more than had been received, he knew of none such, nor did the House know of any. Whatever knowledge that department had of the transaction must have been gained from other sources; they could not have it in their official capacity; but, by an application to the President the House would not only learn what was known at the Treasury, but what he knew also upon the business, which would certainly be most satisfactory.

Mr. Harper was doubtful whether the measure was proper at all: if it were, he thought the motion should be agreed to as moved originally. The gentleman from Pennsylvania seemed to think the object of this resolution was to know in what manner this money had been expended. He took it that this was not the object of the resolution. They all knew what the President of the United States had done; they knew he had not only employed Mr. Randolph to obtain the money from the Treasury, but also as his agent in the expenditure of it. What further did they wish to know from the President? They knew his agent had not rendered an account of the manner in which this money had been expended. They should probably be told that considerable sums had not been accounted for. He would tell them he had directed his agent to do so and so, and account with the Treasury Department. This they knew already as well as the President of the United States. What was it, then, they wanted to know? They wanted to know the amount of the deficiency, and he thought they might very well trust the Executive and the Secretary of the Treasury to settle the business. He believed it was not necessary to make the matter more public than it was. They were told steps had been taken; and he supposed they all knew what these steps were; and when the result was known they should doubtless be informed of it.

The amendment was put and negatived, 32 to 26.

Mr. W. Smith wished to make a few observations in reply to his colleague, who seemed to think there was no need for the proposed application. He was decidedly of opinion that an officer was as liable to impeachment for misconduct after he had resigned his office, as whilst he held it, as an impeachment went to disqualify a person for ever after from holding any office under the Government of the United States. If it should appear, therefore, that any person who had retired from office, had misapplied any part of the public money, it was the duty of that House to institute an impeachment against him, and if such impeachment should be successful before the Senate, he would be accordingly forever disqualified from holding any office under the United States. There was, therefore, a strict propriety in that House, whenever there was information before them of a misapplication of public money, prosecuting an inquiry into the matter, not only as to the amount of the deficiency, but as to the nature of the steps which may have been taken on the subject. He, therefore, thought the present inquiry was a very proper one.

Mr. Williams again urged the propriety of his motion, and the question was put and carried, without a division.

Evening Session.

MILITARY AND NAVAL APPROPRIATIONS.

The bill appropriating money for the Military and Naval Establishments, was received from the Senate with an amendment, proposing to do away the restriction which had been introduced into the bill to confine the expenditure of money to the specific objects for which each sum is appropriated.

Mr. Dana hoped the House would recede from the amendment.

Mr. Gallatin said that, by the Constitution, no money was to be granted but by a law passed in the regular mode. Now, said Mr. G., this is not by law; if, after a certain sum is granted for each item, it be not used for that purpose, but put to some other object. This was certainly according to the spirit of the Constitution, and if you do not strictly abide by that, you may as well set aside the Constitution, and say we will appropriate $6,000,000 for the support of Government for the present year. If we mean to carry the Constitution into effect we must reject the amendment.

Mr. Sitgreaves observed, that his opinion on this point was, that the House had a Constitutional power to depart from any identifying of articles to sums granted, and that departure grew out of necessity; for the extreme embarrassment which would attend the practice of a strict adherence, would render it impracticable. But, as he did not mean to stand responsible for the motion, he should be satisfied with calling for the yeas and nays; which were agreed to be taken.

Mr. Nicholas thought, that when gentlemen went on supporting such unlimited measures as had lately taken place, and voting such a waste of money, it would be very dangerous. When we see large sums voted for an army and navy in time of peace, said he, it would justify us in adopting some regulation to prevent it. The difference between the operation of this and the other mode is, that in this you confine your public officers to the identical object for which a sum is ap-

propriated; otherwise they might use what they would call overplus money for any object they might think fit. According to this method, proposed by the Senate, any sum may be taken from any certain object, and placed to any other, which Mr. N. thought too unbounded a power to be placed in the Executive.

Mr. Parker said, he would not pretend to justify the expenditure on the Military Establishment, but he could not help observing that the casualties to which the forage and clothing, &c., which is transported to our garrisons, are exposed, are very great. Though at peace with the Indians, it is but a temporary one, and we cannot be sure they will not intercept our stores; besides other accidents to which it is exposed, all which make it necessary that the hands of the Executive should not be tied from using the surplusage of some, for the accidental and unforeseen deficiencies of others; without this the Army may be exposed to the most poignant distress, owing to a deficiency in the appropriation, while the Treasury has money in hand as surplus from other objects. Considering the great importance of an appropriation, he hoped gentlemen would not so incline to oppose the bill, especially, said he, when our existence will not, as a Legislative body, be more than four hours, and, in that time, it must pass other authorities before it can be put into effect; if it is lost the effects will be bad. Mr. P. said he had as many scruples as any gentleman, and would take every measure to preserve the Constitution inviolate, but he should be sorry if, under the fear of offending it, the Government should be stopped.

Mr. Heath.—If my existence was to be but for one moment, I would stand here and oppose this resolution; to let it pass, is precluding the freedom of inquiry into the conduct of our public officers. If we were to commence this loose kind of a way of appropriating, we may go on to do this, that, and the other, until we were too far to stop. Were we to indulge ourselves to go into the wide fields of accident, we might suppose this and that, but our imaginations would have no end. He lamented the shortness of the time they had to discuss it.

Mr. Gilbert acknowledged this was the age of reason, but he was sorry the House should be inclined to adopt an entire new doctrine of privileges. We should not hazard a new position, when it may be attended with the greatest danger; therefore he hoped they would agree with the Senate.

Mr. Harper thought it would not be very difficult to convince gentlemen who oppose it, that the amendment was calculated to secure the very object they wished. It was not a violation of the Constitution, as some gentlemen supposed. He would ask, could not an appropriation be made for the use of the Military Establishment in general terms? Yes, he would answer; else how could an appropriation in general terms have been made for the intercourse with foreign nations? Certainly it could not be unconstitutional to appropriate the overplus of one article to supply the deficiency of another. One moment's reflection, Mr. H. thought, would convince members of the error of a contrary opinion. It might not be safe to do it without law, but here is a law allowing it. The whole must suffer if the War Department is deficient, which cannot be avoided if one is not to assist another branch, for it is scarce possible to guard against every contingency. He thought the amendment beneficial in the highest degree, and without it, would stop the War Department in its operations. He hoped no delay would take place, as it endangered the bill.

Mr. Varnum said, that notwithstanding all that gentlemen might produce to prove the necessity of giving the Executive large powers, yet it was dangerous; he instanced that, if the Executive were determined to man and equip the frigates for sea, they would have power to do it from money appropriated, and intended for other purposes; thus it was transferring a power, solely vested in the Legislature, into the Executive Department. He thought it was an infringement on the Constitution; it was putting the power where it never was intended to be; although he had great respect for that department, yet he did not wish to see its powers extended too far. A gentleman had intimated he should not wish the bill to be altered, if he was sure there would not be war with the Indians. He would answer that there could not be a war until the Legislature met again.

Mr. V. said, that there was one-fifth more money appropriated than could be used before the next meeting of Congress, for there would be two months of the present year's appropriation, during any part of which another bill might be passed.

Mr. Swanwick thought there was no danger of the bill being lost; it was necessary to discuss a principle which appeared to admit of danger; it was throwing the whole of the money to the mercy of the Treasury Department.

Mr. Page said he should vote for the amendment, but he rose to express his disapprobation of it, and he should have been glad if there was time to make another bill. We must either suffer the community to abide under great disadvantages, or ourselves. If they could exist, politically, he said he should be happy to destroy that bill. He must acknowedge that it was crammed down his throat.

Mr. Livingston said, that the reasons urged by the gentleman from Massachusetts, instead of the end he proposed, would have a contrary effect. Mr. L. believed that this amendment had a tendency to lessen the privileges of the House; believing this, no object of convenience, no view to the general opinion, should ever prevent him voting against it. He believed it pregnant with mischief. The Civil and Military Departments would be too easily connected; if the one wanted assistance, while the Treasury had money in hand it would be supplied. He thought the House had voted sufficient to answer every purpose intended, and he believed, whatever specious

arguments may be used, the House would not recede. If any evil attended, he was willing to take his part of the blame; but he was not apprehensive of any.

Mr. W. Lyman hoped it would not pass, as it was full of danger and bad principles.

Mr. W. Smith said, the appropriation to the Military Establishment had always been considered a general grant of money; therefore it would introduce no new principles, but the manner of this bill, passed in this House the day before the close of the session, and sent up to the Senate the very day of the adjournment.

Mr. S. said gentleman talked about the Constitution, but he thought they had wrong ideas of the evils of this business: it was not whether they gave too much power to their officers, but the Military Establishment could not go on; then the President would be obliged to alarm the whole nation, and incur a vast expense to get the Congress together, and all for want of due time and regulations: and now we must cram it down the throats of the Senate. Surely gentlemen should have some moderation, and not be so high-toned as to prevent any other branch of the Legislature from exercising their powers as well as us.

On the question being taken to concur with this amendment, the yeas and nays stood, 36 to 52, as follow:

Yeas.—Theophilus Bradbury, Daniel Buck, Dempsey Burges, Joshua Coit, Wm. Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, John Page, Josiah Parker, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, John E. Van Allen, Peleg Wadsworth, and John Williams.

Nays.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, William Findley, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Patten, Elisha R. Potter, John Reed, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Richard Sprigg, jr., Thomas Sprigg, William Strudwick, John Swanwick, Joseph B. Varnum, Abraham Venable, and Richard Winn.

The bill was again sent to the Senate, and was soon after returned with the amendment receded from.

GENERAL LAFAYETTE.

Mr. Harper moved that a resolution, which he laid on the table yesterday, respecting Major General Lafayette, should be taken up for consideration. The motion was seconded by Mr. W. Smith. The resolution was in the following words:

"This House, strongly impressed with a just sense of the important and disinterested services rendered to their country during the late war by their fellow-citizen, Major General Lafayette, and deeply regretting the sufferings to which he is now subjected from a long and rigorous imprisonment, and which have equally excited their sympathy, and the ardent wish of their constituents for his deliverance, do resolve, that the President of the United States be informed, that this House will see with the highest satisfaction, any measures which he may deem expedient to adopt towards effecting the restoration of their said fellow-citizen to liberty."

The question was taken for the House to take it up, and lost—ayes 32, noes 52.

Mr. Livingston said he had some time been wishing to put forward something similar; he really hoped some negotiation would be carried on to effect his liberation. It would be honorable to this country to interpose in behalf of this man, who has a claim on American service. While suffering for us on his part, let gratitude, and every feeling that can affect the heart, be ours. Abandoned by his own country, and to increase his sufferings, precluded from almost every enjoyment of life, it would be honorable in us to interest ourselves in his behalf, appropriating some small sum which may enable the President to make some progress towards his releasement. Thus, while it is honorable to America, if it has no effect, it may afford some comfort to the unfortunate sufferer, to think he is not forgotten. He then proposed a resolution, not materially varying from that just offered by Mr. Harper, hoping that the little variation would prevent it suffering a similar fate.

Mr. Parker said, as it was a personal question, he hoped it would lie on the table.

Mr. Coit thought it a delicate question, and one which ought not to be agitated, and therefore moved the previous question.

Mr. Hartley spoke of Mr. Parker's observing its personality. He answered that the man suffered much for this country, and therefore was entitled to regard. He acknowledged with Mr. Coit, that there was much delicacy in the business, and therefore hoped it would speedily be discussed; it ought not be postponed; the man is now suffering in a most distressing confinement. If any of the soldiers of 1789 were here with whom he was in council, there would not be a dissenting voice to using every exertion. He hoped the House would never forget such brilliant services.

Mr. Swanwick said, there need not be a dissenting voice, but we ought to be cautious how we multiply our negotiations, as this could not be done without entering into a negotiation with the Emperor of Germany in the regular way. It is not want of respect that should prevent us, but are we provided to go into all the consequences attending a new negotiation? There is a deli-

easy in it, of which we ought to be careful. There is not the least doubt but the President has as much desire for his release as any gentleman, but he, no doubt, deliberated, and saw the danger of it. Mr. S. said he lamented our foreign negotiations *in toto*. There was no good derived from them, and he could not anticipate any from new ones.

Mr. Nicholas said, he felt as much disposition to take measures for his release as any man, but he thought the business undertaken too hastily. Suppose you give instructions to the President, and he does not think proper to act on it, so far from being a compliment to Lafayette, it would hurt his mind, should he hear it had been agitated.

Mr. Claiborne saw no difficulty attending the resolution. He hoped the House would render this essential service to the unfortunate sufferer, if even in the last hour of the Congress.

Mr. Christie said, it was an improper time to take up the resolution, but as they had to sit there two or three hours longer and no business to do, this might as well occupy the attention of the House as not.

Mr. Livingston would be sorry to impose a burden upon the country, but he thought this a duty incumbent on them. He hoped gentlemen would openly come forward and avow their sentiments, and not shelter themselves under the previous question. Remember, he came here from the pompous ease of a foreign Court; he voluntarily served the cause of America, and bled for her; he, in a great measure, procured the interest which formed the alliance with France in our defence; besides spending a princely fortune in our cause, he asked nothing, nor would accept any compensation for his services; and now he is abandoned to the most dreadful situation possible; some of that compensation, justly due to his services, is refused him as a balm to his former woes by not attempting his release. This is the situation of the man for whom this House is asked only to express their desire for his comfort; this is the man who was met with pleasure in every part of the United States; all the people rejoiced to express their gratitude to him; he was accompanied with testimonials of admiration and thanks from the whole Continent: and now we should not say that we will feel with pleasure measures taken towards obtaining his liberty! We can pity him, and regret his situation, but refuse to lend him the least assistance to soothe his distress. We do not call upon the House to vent its infantine sorrow, to show its womanish pity. No. We call on it to express a will, predominant throughout the United States, in the behalf of this unfortunate man. But it is said that we should get the ill will of the nations who persecuted him. Unless they bid adieu to all the tender feelings of humanity, they never can take offence. It has been also supposed it would be ineffectual; he had no doubt but the Executive would take those measures which would be most effectual and least endangering to the nation; it could not make the situation of the sufferer worse, and if we succeed in procuring his liberty, it would give pleasure to every heart who can sympathize with the distressed, or feel gratitude for high obligations: and if it does not have that happy effect, still we may feel consolation at having done our duty. If these measures were taken, it would illuminate the loathsome horrors of a dungeon the most dreadful; it would sweep away the reproach "that Republicans know no gratitude;" that we, who had his best exertions whilst in prosperity, do not forget him in adversity. Mr. L. said he really believed that if he had not known the principles of liberty here, and helped us in our struggle for it, he would have never existed in misery in the dungeon at Olmutz, and therefore the highest obligations were laid on the United States to exert herself in his behalf.

Mr. Heath hoped, that, although the gentleman had labored to excite the pathetic, yet he would not charge the House with a want of Republicanism if the measure was not adopted. Mr. H. thought it extremely improper to be introduced in the House. He said the President knew the will of the United States on the subject, and therefore, if he saw proper, he could take it up. He hoped the gentleman would remember this was a complicated case; for, since he had left this country, he had become a citizen of another country. Mr. H. said he felt for his unfortunate situation: he had fought under his banner. We are not to be charged with a want of patriotism and feeling for this suffering hero, because we think it imprudent to interest and involve ourselves in his behalf, merely to indulge the flighty fancy of a few individuals. We might go, said he, and address the President to exert himself as far as he saw proper in his behalf, as a body of individuals, but not as a Legislature.

Mr. W. Smith could see no kind of impropriety in the measure. It had been said it was a new subject, and, therefore, ought not to be taken up now; but it was not introduced yesterday! Did gentlemen want an age to express an opinion which every member feels—which the whole nation feels? The motion only went to express a wish that measures may be taken according to the judgment of the Executive: if he had a thought or wish to adopt measures, this would encourage him to carry them into effect. Europe might feel a pleasure that we interested ourselves in his behalf. Did he not embark his all for this country? It has been well said, said Mr. S., that if the motion had been made in 1779 or 1780, no previous question would then have been called—no opposition then made. Read the Journals of the National Representation for 1780 and 1783: there we find one member from each State was appointed to take leave of him in behalf of the whole. [Mr. S. here read the Journals of that time, which insert at length the proceeding, address, and answer, attending the transaction.] There, said he, they expressed their zeal for his future welfare, and gratitude for his favors, accompanying it with a letter to the French King, requesting him to bestow his favors upon him. From the frequent respectful mention made of his services on the Journals of the House, there appears to have been much attention paid to his services by Congress. Even the Parliament of Great Britain,

he said, had discussed the question of his confinement; and should this House refuse, who are so much obliged by his services? Nothing that had been said, in opposition to it, could convince him but that we were called upon, by every tie of gratitude, to adopt the measure. The satisfaction of knowing that his services are not forgotten may render him more comfortable in his dungeon—may follow him into the deserts of Siberia, or wherever the cruel hand of oppression may send him.

Mr. Madison did not think there was time to do all the business requisite to render due justice to the motion, and he hoped the House would do more than was intended by the motion. He believed the only regular mode would be to appoint a committee to bring in a bill. He therefore moved that the House go into Committee for that purpose.

Mr. Sitgreaves said, according to the motion there was no necessity for this mode, as it was of a nature not to require the aid of another branch of the Legislature, it was quite sufficient if the House passed the resolution. He was sorry to hear the previous question called for to get rid of the subject, but he hoped it would not prevail; he thought this motion required early attention. He said attention was due to Lafayette; America was highly indebted to him. It is a debt of justice, and ought to be paid; and while this House delays to interpose in his behalf he must remain in confinement. Those gentlemen who thought the House ought to interpose should think this is the very time, if any good is intended to be done: he therefore hoped they would not delay.

Mr. Harper said, if the subject was on the sending an Ambassador to negotiate for the liberation of this man, it might with more propriety be opposed. He was surprised that any gentleman in the House should be opposed to expressing a wish for measures to be taken which may prove effectual for that purpose. When he had no need of our caresses, the United States resounded with his name: he was then met with tokens of respect and congratulation wherever he went. But now, pining under the cruel hand of despotic vengeance in a loathsome dungeon, weighed down by chains, with a scanty allowance; when we view his present, contrasted with his past, situation—embarking from the magnificent splendor of a French Court, displeasing his Sovereign—embarking himself, and hazarding everything that was dear to him, in support of American liberty—is this the man, Mr. H. would ask, to whom America said, he should never cease to have her best wishes and endeavors for his good, when, in the most grievous captivity, we refuse to express a desire for a morsel of comfort to his depressed mind! What avail our toasts—our boasted recollections of him, and regret at his fate—if we take not every opportunity to alleviate that distress? But the worst of his misfortunes is not to be in a dungeon: he is now racked with a fear of being sent into the inhospitable deserts of Siberia, whence is no hope ever to expect his return into the civilized world; and, with this unwelcome intelligence, the American Legislature refuses to express a wish for his deliverance! Who knows but the power in whose custody he is may expect America to interest herself in his favor? And by a pretext like this he might be liberated, or at least his fear of removal dissipated, and his present misery alleviated. Mr. H. said he was sure it would be highly gratifying to the citizens of America to hear of the measure; they had long expected it, and, if undertaken, he had the greatest hopes of its success in a measure. If it should but tend to soften his present distress, it would be a happiness; but if its effects should be to restore to liberty one to whom America is so much indebted, it would amply repay whatsoever trouble is taken towards its accomplishment.

Mr. W. Lyman did not doubt of the services of the Marquis Lafayette; he was always the subject of adoration and the toast of this country. Besides, it has made him liberal grants for his services, and he thought there could be no proof that we were wanting in marks of esteem for him. With respect to the motion, Mr. L. asked, to whom was application to be made? Does any gentleman on this floor know who confined him, or by order of what Government? No Court are willing to avow it. Britain, France, and Prussia, disavow it, and he believed the Emperor also. Until that was clear, the measure would be improper. May not the agitation of such a question in the House awaken a jealousy in some of those Powers towards us which may militate to our injury, and injure the man whom the attempt is meant to serve? Gentlemen have depicted his sufferings in very lively colors, said Mr. L., and were it in my power, or were it consistently in the power of the House, I should be very happy to afford relief. Until some of the difficulties in its way were cleared, he said, he should be forced to put his negative to it. He thought gentlemen who saw the matter so necessary, and the way so clear, had reason to reproach themselves for letting it sleep so long, and for having introduced it at the last hour of the session of the Houses.

Mr. Harper and Mr. Livermore said that nothing but the constant press of public business had prevented their motions sooner, and they thought there was even now time enough, as it only required the expression of a desire of the House for the object.

Mr. Buck said the services and sufferings of the Marquis were indelibly written on the hearts of all the citizens of America, and he thought there was no need of that torrent of oratory which had been displayed to affect the feelings of the House. He thought it would prove its weakness to suffer its feelings to predominate. We ought to give a decision only by the force of judgment, after due deliberation; for *feeling* could not look forward to consequences. Were we implicitly to obey it, we should take many bad steps. Do we not know, said Mr. B., that he is among the persons proscribed by France? and, considering the very brittle situation of our peace with that country at present, we should be induced rather to strengthen than weaken our ties; for the motion goes to authorize the President to take *any* measures to support Lafayette. This being the situation, we know not where the measures may end, and it

would be a serious thing to be plunged in a war with France on that account. He hoped the House would not precipitate the business, but give themselves time to examine the consequences. This, Mr. B. said, had induced him to oppose the motion. Though congenial to his feelings, he therefore should vote for the previous, and against the main question.

Mr. Claiborne was against the previous question. He would hazard anything for the happiness of a man we owe so much to—who sees, said he, the unfortunate man with his lady and daughter, under all the miseries that despotism and tyranny can inflict, in a wretched dungeon, without even the comforts of life? Here he appealed to the feelings of the members in a very forcible manner, and, with the most bitter invective, ardently wished the destruction of his cruel oppressors. He observed on the uneasiness the members of the House were in if public business detained them half an hour after the usual time of their dinners, and applied the case to this unfortunate man in continual confinement, and after all with miserable fare.

Mr. C. asked where the word in the motion was that could give umbrage to France or Britain or any other Power? He should wish to avoid that with as much care as any member, but he saw no danger of this kind. Let us, said he, show the world that America has gratitude and pity to display. He concluded, after much nervous sympathy, with hoping that the spirit of patriotism and love of liberty which Lafayette displayed in America might pervade the whole world, and ultimately that ALL NATURE MAY BE FREE!

The previous question was then put, "Shall the main question be now put?" and negatived—ayes 25.

Mr. Livingston then brought forward a similar resolution, which caused very considerable debate, and was at length got rid of by the previous question. The principal objection to the adoption of this motion seemed to be the late period at which it was brought forward. All were agreed as to the merits and the misfortunes of the man, and had the motion been introduced at any other time than on the eve of the rising of the session, there could be little doubt it would have been agreed to by a very large majority.

STATEMENTS OF COMMERCE AND NAVIGATION.

The following resolution was submitted and agreed to:

Resolved, That the Secretary of the Treasury do lay before the House of Representatives, as early as may be after the commencement of the next session, a statement of the goods, wares, and merchandise imported into the United States during the years one thousand seven hundred and ninety-five and one thousand seven hundred and ninety-six, and those parts of the year one thousand seven hundred and ninety-seven, the accounts respecting which can be obtained in due time; which statement shall distinguish the amount in quantity or value, or both, as the case may be, of the several articles paying a rate of duty ad valorem, divided and arranged under such heads as the said Secretary shall deem most conclusive to a clear and full view of the subject; and shall, moreover, distinguish from what countries the importations respectively were made, and whether in American or foreign vessels.

THANKS TO THE SPEAKER.

Mr. Blount said he wished to offer a resolution to the House, which, as he was certain there could be no opposition to it, would occupy little of their time. He should wish the Clerk to read it, and take the sense of the House upon it. It was in the following words:

"*Resolved*, That the thanks of this House be presented to Jonathan Dayton, in testimony of their approbation of his conduct in discharging the arduous and important duties assigned him while in the Chair."

The Clerk accordingly put the resolution, and it was unanimously carried; when—

The Speaker thus addressed the House:

"Gentlemen: I feel myself deeply impressed with this fresh proof of your approbation of my conduct in the Chair. The confidence and support which you have in every instance afforded me, in the station assigned to me, have alone enabled me to discharge the important duty with satisfaction to myself, and with advantage to the public."

ADJOURNMENT OF THE SESSION.

A message was received from the Senate, informing the House that they had appointed a committee to join a committee of that House, to wait upon the President to inform him they had finished their business, and, except he had any further communications to make, they were ready to adjourn, without day.

The House then agreed to appoint a committee to join that of the Senate to wait upon the President, and Messrs. Sitgreaves, Parker, and Sherburne, being named, they accordingly waited upon the President; and—

Mr. Sitgreaves reported that the President had no further communication to make, except "that he wished them a happy return to their families and friends."

The Speaker then adjourned the House *sine die*, at about eleven o'clock.

APPENDIX

TO THE HISTORY OF THE FOURTH CONGRESS,

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

TREATY WITH GREAT BRITAIN.

[Communicated to the Senate, June 8, 1795.]

United States, *June* 8, 1795.

Gentlemen of the Senate:

In pursuance of my nomination of John Jay as Envoy Extraordinary to His Britannic Majesty, on the 16th day of April, 1794, and of the advice and consent of the Senate thereto, on the 19th, a negotiation was opened in London. On the 7th of March, 1795, the Treaty resulting therefrom was delivered to the Secretary of State. I now transmit to the Senate that Treaty, and other documents connected with it. They will, therefore, in their wisdom decide whether they will advise and consent that the said Treaty be made between the United States and His Britannic Majesty.

G. WASHINGTON.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO JOHN JAY, *greeting:*

Reposing special trust and confidence in your integrity, prudence, and ability, I have nominated, and, by and with the advice and consent of the Senate, do appoint you, the said John Jay, Envoy Extraordinary from the United States of America to the Court of His Britannic Majesty, authorizing you hereby to do and perform all such matters and things as to the said place or office doth appertain, or as may be duly given you in charge hereafter, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, the nineteenth day of April, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

[L. S.]

G. WASHINGTON.

By the President:

Edm. Randolph,
Secretary of State.

Letter of Credence to His Britannic Majesty.

Great and Good Friend: Being desirous of confirming, between your Majesty and the United States of America, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction by a friendly discussion, I have made choice of John Jay, Chief Justice of the United States, to repair to your Majesty, in the quality of their Envoy Extraordinary. From a knowledge of his fidelity, probity, and good conduct, I have entire confidence that he will render himself acceptable to your Majesty, and will contribute, to the utmost of his power, to preserve and advance, upon all occasions, the interest and happiness of the two nations. I beseech your Majesty, therefore, to give full credence to whatever he shall say to you on the part of the United States, and, most of all, when he shall assure you of their friendship and wishes for your prosperity. And I pray God to have your Majesty in his safe and holy keeping.

Written at Philadelphia, this fifth day of May, in the year of our Lord 1794.

G. WASHINGTON.

By the President:

Edm. Randolph,
Secretary of State.

To our great and good friend, His Britannic Majesty.

Letter of Credence to the Queen.

Madam, our Good Friend: I have named John Jay, Chief Justice of the United States of America, Envoy Extraordinary to your royal consort. My knowledge of his good qualities gives me full confidence that he will so conduct himself as to merit your esteem. I pray, therefore, that you yield entire credence to the assurances which he will bear to you of our friendship; and that God may always have you, madam, our good friend, in his holy keeping.

Written at Philadelphia, this sixth day of May, in the year of our Lord 1794.

G. WASHINGTON.

By the President:

Edm. Randolph,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular whom these presents shall concern, greeting:

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John Jay Envoy Extraordinary of the United States to His Britannic Majesty, hereby giving and granting to him full and all manner of power and authority; as also a general and special command, at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly; and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the inexecution or infraction of the armistice declaring a cessation of hostilities between the United States of America and His Britannic Majesty, at Versailles, on the 20th day of January, 1783, or the definitive Treaty of Peace made between the United States and his said Majesty on the 3d day of September, 1783; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular whom these presents shall concern, greeting:

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John Jay Envoy Extraordinary of the United States to His Britannic Majesty, hereby giving and granting to him full and all manner of power and authority, as also a general and special command, at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly; and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, whether the same respect the inexecution or infraction of the armistice declaring a cessation of hostilities between the United States of America and His Britannic Majesty, at Versailles, on the 20th day of January, 1783, or the definitive Treaty of Peace made between the United States and his said Majesty, on the 3d day of September, 1783, or the instructions of his said Majesty to his ships of war and privateers, of whatever date, but especially on the 8th of June, 1793, the 6th of November, 1793, and the 8th of January, 1794; or restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers; or retribution for the injuries received therefrom by any citizen of the United States; and, also, of and concerning the general commerce between the United States and the kingdoms and dominions of His Britannic Majesty, wheresoever they may be; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises; transmitting the same to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular whom these presents shall concern, greeting:

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John Jay Envoy Extraordinary of the United States to His

Britannic Majesty, hereby giving and granting to him full and all manner of power and authority; and also a general and special command at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly; and with them to agree, treat, consult, and negotiate of, and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the instructions of his said Majesty to his ships of war and privateers, of whatsoever date, but especially on the 8th of June, 1793, the 6th of November, 1793, and the 8th of January, 1794, or restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers; or retribution for the injuries received therefrom by any citizen of the United States; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED OF AMERICA.

To all whom these presents shall concern, greeting:

Know ye, that, reposing special trust and confidence in the integrity, prudence, and abilities of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, have appointed, the said John Jay, Envoy Extraordinary of the United States to His Britannic Majesty; hereby giving him full power and authority for, and in the name of, the United States of America, to confer, treat, and negotiate, with any person or persons duly authorized by his said Majesty, of and concerning the general commerce between the said United States and the kingdoms and dominions of his Majesty, wheresoever they may be; and to conclude and sign a Treaty or Treaties, Convention or Conventions, thereon; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States the eighteenth.

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

Instructions to Mr. Jay.

PHILADELPHIA, *May* 6, 1794.

Sir: The mission upon which you are about to enter, as Envoy Extraordinary to the Court of London, has been dictated by considerations of an interesting and pressing nature.

You will doubtless avail yourself of these to convince Mr. Pinckney, our Minister in ordinary there, of the necessity of this measure, and will thus prevent any wound to his sensibility. He may be assured that it is the impression which will naturally accompany this demonstration of the public sentiment, and not the smallest abatement of confidence in him, which has recommended a special appointment; nor will any of his usual functions be suspended, except so far as they may be embraced in the present commission. It would be unnecessary to add, but for the sake of manifesting this fact and removing difficulties which may arise in your own breast, that you will communicate with him without reserve.

A full persuasion is entertained that, throughout the whole negotiation, you will make the following its general objects: to keep alive in the mind of the British Minister that opinion which the solemnity of a special mission must naturally inspire, of the strong agitations excited in the people of the United States, by the disturbed condition of things between them and Great Britain; to repel war, for which we are not disposed, and into which the necessity of vindicating our honor and our property may, but can alone, drive us; to prevent the British Ministry, should they be resolved on war, from carrying with them the British nation; and at the same time, to assert with dignity and firmness our rights, and our title to reparation for past injuries.

One of the causes of your mission being the vexations and spoliations committed on our commerce by the authority of instructions from the British Government, you will receive from the Secretary of State the following documents, viz: the instructions of the 8th of June, 1793, 6th of November, 1793, and 8th of January, 1794; the Secretary of State's letter to Mr. Pinckney, on the 7th of September, 1793; Mr. Hammond's letter to the Secretary of State, on the 12th of September, 1793; Mr. Pinckney's note and memorial to Lord Grenville; Mr. Hammond's second letter to the Secretary of State, on the 11th of April, 1794; the Secretary of State's answer on the 1st instant; a list and sketch of the cases upon which complaints have been made to our Government; and the instructions given to N. C. Higginson, who has been lately sent as agent to the British Islands in the West Indies.

There several papers develope the source of our discontent on this head; the representations which have been offered; the answers which have been rendered; and the situation of the business at this moment.

You will perceive that one of the principles upon which compensation is demanded for the injuries under the instructions of the 8th of June, 1793, is, that provisions, except in the instance of a siege, blockade, or investment, are not to be ranked among contraband. To a country remote as the United States are from Europe and its troubles, it will be of infinite advantage to obtain the establishment of this doctrine.

Upon the instructions of the 6th of November, 1793, Mr. Pinckney has made a representation, and perhaps a memorial, to Lord Grenville; both of which you will procure of Mr. Pinckney. The matter of these instructions fills up the measure of depredation. They were unknown publicly in England until the 26th of December, 1793; there is good reason to suppose that they were communicated to the ships of war, before they were published, and that, in consequence of a private notification of them, a considerable number of new privateers were fitted out; the terms "legal adjudication," in spite of the explanation on the 8th of January, 1794, was most probably intended to be construed away or not, according to events; and many vessels have been condemned under them.

Compensation for all the injuries sustained, and captures, will be strenuously pressed by you. The documents which the agent in the West Indies is directed to transmit to London will place these matters in the proper legal train to be heard on appeal. It cannot be doubted that the British Ministry will insist that, before we complain to them, their tribunals, in the last resort, must have refused justice. This is true in general, but peculiarities distinguish the present from the past cases. Where the error complained of consists solely in the misapplication of the law, it may be corrected by a superior Court; but where the error consists in the law itself, it can be corrected only by the law-maker, who, in this instance, was the King, or it must be compensated by the Government. The principle, therefore, may be discussed and settled without delay; and even if you should be told to wait until the result of the appeals shall appear, it may be safely said to be almost certain that some one judgment in the West Indies will be confirmed; and this will be sufficient to bring the principle in question with the British Ministry.

Should the principle be adjusted, as we wish and have a right to expect, it may be advisable to employ some person to examine the proper offices in London, for such vessels as may have been originally tried or appealed upon, and finally condemned. You will also reserve an opportunity for new claims, of which we may all be ignorant for some time to come; and if you should be compelled to leave the business in its legal course, you are at liberty to procure professional aid at the expense of the United States.

Whenever matters shall be brought to such a point as that nothing remains for settlement but the items of compensation, this may be entrusted to any skilful and confidential person whom you may appoint.

You will mention, with due stress, the general irritation of the United States at the vexations, spoliations, captures, &c. And being on the field of negotiation you will be more able to judge than can be prescribed now, how far you may state the difficulty which may occur in restraining the violence of some of our exasperated citizens.

If the British Ministry should hint at any supposed predilection in the United States for the French nation, as warranting the whole or any part of these instructions, you will stop the progress of this subject, as being irrelative to the question in hand. It is a circumstance which the British nation have no right to object to us, because we are free in our affections and independent in our Government. But it may be safely answered, upon the authority of the correspondence between the Secretary of State and Mr. Hammond, that our neutrality has been scrupulously observed.

II. A second cause of your mission, but not inferior in dignity to the preceding, though subsequent in order, is to draw to a conclusion all points of difference between the United States and Great Britain, concerning the Treaty of Peace.

You will therefore be furnished with copies of the negotiation upon the inexecution and infractions of that Treaty, and will resume that business. Except in this negotiation, you have been personally conversant with the whole of the transactions connected with the Treaty of Peace. You were a Minister at its formation, the Secretary of Foreign Affairs when the sentiments of the Congress, under the Confederation, were announced through your office; and as Chief Justice you have been witness to what has passed in our Courts, and know the real state of our laws, with respect to British debts. It will be superfluous, therefore, to add more to you than to express a wish that these debts, and the interest claimed upon them, and all things relating to them, be put outright in a diplomatic discussion, as being certainly of a judicial nature, to be decided by our Courts; and if this cannot be accomplished, that you support the doctrines of Government with arguments proper for the occasion, and with that attention to your former public opinions, which self-respect will justify, without relaxing the pretensions which have been hitherto maintained.

In this negotiation as to the Treaty of Peace, we have been amused by transferring the discussions concerning its inexecution and infractions from one side of the Atlantic to the other. In the mean time, one of the consequences of holding the posts has been much bloodshed on our frontiers by the Indians, and much expense. The British Government having denied their abetting of the Indians, we must of course acquit them. But we have satisfactory proofs (some of which, however, cannot, as you will discover, be well used in public) that British agents are guilty of

stirring up and assisting with arms, ammunition, and warlike implements, the different tribes of Indians against us. It is incumbent upon that Government to restrain those agents; or the forbearance to restrain them cannot be interpreted otherwise than as a determination to countenance them. It is a principle from which the United States will not easily depart, either in their conduct towards other nations, or what they expect from them, that the Indians dwelling within the territories of one shall not be interfered with by the other.

It may be observed here, as comprehending both of the foregoing points, that the United States testify their sincere love of peace, by being nearly in a state of war, and yet anxious to obviate absolute war by friendly advances; and if the desire of Great Britain to be in harmony with the United States be equally sincere, she will readily discover what kind of sensations will at length arise, when their trade is plundered; their resources wasted in an Indian war; many of their citizens exposed to the cruelties of the savages; their rights by Treaty denied; and those of Great Britain enforced in our Courts. But you will consider the inexecution and infraction of the Treaty as standing on distinct grounds from the vexations and spoliations; so that no adjustment of the former is to be influenced by the latter.

III. It is referred to your discretion whether, in case the two preceding points should be so accommodated as to promise the continuance of tranquility between the United States and Great Britain, the subject of a Commercial Treaty may not be listened to by you, or even broken to the British Ministry. If it should, let these be the general objects:

1st. Reciprocity in navigation, particularly to the West Indies, and even to the East Indies.

2d. The admission of wheat, fish, salt meat, and other great staples, upon the same footing with the admission of the great British staples in our ports.

3d. Free ships to make free goods.

4th. Proper security for the safety of neutral commerce in other respects; and particularly, by declaring provisions never to be contraband, except in the strongest possible case, as the blockade of a port; or, if attainable, by abolishing contraband altogether: By defining a blockade, if contraband, must continue in some degree, as it is defined in the armed neutrality: By restricting the opportunities of vexation in visiting vessels; and by bringing under stricter management privateers, and expediting recoveries against them for misconduct.

5th. Exemption of emigrants, and particularly manufacturers, from restraint.

6th. Free exports of arms and military stores.

7th. The exclusion of the terms "the most favored nation," as being productive of embarrassment.

8th. The convoy of merchant ships by the public ships of war, where it shall be necessary, and they be holding the same course.

9th. It is anxiously to be desired, that the fishing grounds now engrossed by the British should be opened to the citizens of the United States.

10th. The intercourse with England makes it necessary that the disabilities arising from alienage, in cases of inheritance, should be put upon a liberal footing, or rather abolished.

11th. You may discuss the sale of prizes in our ports while we are neutral; and this, perhaps, may be added to the considerations which we have to give, besides those of reciprocity.

12th. Proper shelter, defence, and succor against pirates, shipwreck, &c.

13th. Full security for the retiring of the citizens of the United States from the British dominions, in case a war should break out.

14th. No privateering commissions to be taken out by the subjects of the one, or citizens of the other party, against each other.

15th. Consuls, &c., to be admitted in Europe, the West and East Indies.

16th. In case of an Indian war, none but the usual supplies in peace shall be furnished.

17th. In peace, no troops to be kept within a limited distance from the Lakes.

18th. No stipulation whatsoever is to interfere with our obligations to France.

19th. A Treaty is not to continue beyond fifteen years.

IV. This enumeration presents generally the objects which it is desirable to comprise in a commercial Treaty; not that it is expected that one can be effected with so great a latitude of advantages.

If to the actual footing of our commerce and navigation in the British European dominions could be added the privilege of carrying directly from the United States to the British West Indies, in our own bottoms generally, or of certain defined burdens, the articles which, by the act of Parliament, 28 Geo. III. c. 6, may be carried thither in British bottoms, and of bringing from thence, directly to the United States, in our bottoms, of like description, the articles which, by the same act, may be brought from thence to the United States in British bottoms, this would afford an acceptable basis of Treaty for a term not exceeding fifteen years; and it would be advisable to conclude a Treaty upon that basis. But such a Treaty, instead of the usual clause concerning ratification, must contain the following: "This Treaty shall be obligatory and conclusive, when the same shall be ratified by His Britannic Majesty, of the one part, and by the President of the United States, by and with the advice and consent of the Senate, of the other."

But if a Treaty of Commerce cannot be formed upon a basis as advantageous as this, you are not to conclude or sign any such; it being conceived that it would not be expedient to do anything more than to digest with the British Ministry the articles of such a Treaty as they appear willing to accede to; referring them here for consideration and further instruction previous to a formal conclusion.

Some of the other points, which it would be interesting to comprehend in a Treaty, may not

be attended with difficulty. Among these is the admission of our commodities and manufactures, generally, into the British European dominions upon a footing equally good with those of other foreign countries. At present, certain enumerated articles only are admitted; and though the enumeration embraces all the articles which it is of present consequence to us to be able to export to those dominions, yet in process of time an extension of the objects may become of moment. The fixing of the privileges which we now enjoy in the British East Indies, by toleration of the Company's government, if any arrangement can be made, with the consent of the Company, for that purpose, would be also a valuable ingredient.

V. You will have no difficulty in gaining access to the Ministers of Russia, Denmark, and Sweden, at the Court of London. The principles of the armed neutrality would abundantly cover our neutral rights. If, therefore, the situation of things, with respect to Great Britain, should dictate the necessity of taking the precaution of foreign co-operation upon this head; if no prospect of accommodation should be thwarted by the danger of such a measure being known to the British Court; and if an entire view of all our political relations shall, in your judgment, permit the step, you will sound those Ministers upon the probability of an alliance with their nations to support those principles.

However, there can be no risk in examining what can be concerted with Denmark and Sweden, or any other Power, against the Algerines. It may be represented to the British Ministry, how productive of perfect conciliation it might be to the people of the United States, if Great Britain would use her influence with the Dey of Algiers for the liberation of the American citizens in captivity, and for peace upon reasonable terms. It has been communicated from abroad, to be the fixed policy of Great Britain to check our trade in grain to the Mediterranean. This is too doubtful to be assumed, but fit for inquiry.

VI. Such are the outlines of the conduct which the President wishes you to pursue. He is aware that, at this distance, and during the present instability of public events, he cannot undertake to prescribe rules which shall be irrevocable. You will, therefore, consider the ideas herein expressed as amounting to recommendations only, which, in your discretion, you may modify as seems most beneficial to the United States, except in the two following cases, which are immutable: 1st. That as the British Ministry will doubtless be solicitous to detach us from France, and may probably make some overture of this kind, you will inform them that the Government of the United States will not derogate from our Treaties and engagements with France, and that experience has shown that we can be honest in our duties to the British nation, without laying ourselves under any particular restraints as to other nations; and, 2d. That no Treaty of Commerce be concluded or signed contrary to the foregoing prohibition.

Besides the papers and documents mentioned in the former parts of these instructions, you have received your commission as Envoy Extraordinary, letters of credence to the King and Queen of England; the latter of which, being without superscription, you will address as may appear proper, and deliver or not, as you find to be right on such occasions; four sets of powers, one general, comprehending all the points to be negotiated with Great Britain; the other three special, for each separate point, in order that you may be prepared to exhibit your authority altogether, or by detachment, as may be most convenient. Copies of Lord Dorchester's speech to the Indians, the authenticity of which, though not absolutely ascertained, is believed: and of certain affidavits respecting the British interference with our Indians; and a cipher.

You are too well acquainted with the nature of the great functions which you are called to exercise, to render it necessary for me to add the earnest wish of the President of the United States that your communications to the Secretary of State should be frequent and full; and that you should correspond with our Ministers abroad, upon any interesting occasion which may demand it. For the latter of these purposes, you will avail yourself of Mr. Pinckney's ciphers.

Your expenses will be paid, together with the allowance of thirteen hundred and fifty dollars per annum for a secretary.

On your return, you will be pleased to deliver into the Secretary of State's office, such papers as you may possess, of importance sufficient to be filed there; and will prepare a general report of all your transactions.

Not doubting that you will execute this trust in a manner honorable to yourself, and salutary to the United States, I beg leave to offer to you my sincere wishes for your health and safe return.

EDMUND RANDOLPH,
Secretary of State.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *May* 27, 1794.

SIR: The embargo ceased the day before yesterday; and the William Penn, being the first ship from this port destined to London, will bear my despatches.

If it were not to demonstrate our anxiety for the success of your mission, it would be scarcely worth mentioning a circumstance which you will doubtless have ascertained before that part of your instructions relative to Sweden is executed. The Vice President assures us that the present Minister from that country at the Court of London, is so notoriously at the command of the British Minister, that the latter is instantaneously informed of every piece of intelligence deposited with the former. Still, the President, reviewing the possibilities which are opened by the prospect of what you already know, and what will now be communicated to you, becomes daily more strenuous that Denmark and Sweden should be well understood, as to the point to which they will go with us, in case we are driven into a war with Great Britain. He would send a Minister thither immediately,

to explore and negotiate eventually; but that good faith, and the state of things in your hands, require a suspension of this measure, and he confides that you will, if necessary, prepare the minds of those Powers, through their representatives in London, and give us the earliest notice of the fitness of making a more direct and formal application to them.

Although our agent in the West Indies, Mr. Higginson, will certainly forward to you the various documents and information which he was instructed to collect, yet I have thought it best to send to you, by this opportunity, such papers on the vexations and spoliations of our trade as have been transmitted to my office. They are, indeed, extremely imperfect in every respect; but they contain enough of the cases, in general, to afford a competent idea of the principle of each, and may be useful until the full records arrive, or if any accident should befal them.

You carried with you a list of all which had been brought to view at the time of your departure. Some additions have been since made, and are noted in a supplementary list. The Senate is in possession of a short abstract of most of the complaints; and immediately upon their rising, which will probably take place in ten days, I will procure it, and convey it by the next conveyance afterwards. I beg leave to suggest to you that, as several of these papers may, perhaps, be useful in controversies with underwriters, it may be advisable to return such of them as are not indispensably necessary to be retained.

The late conduct of Mr. Hammond is that of a minister foreseeing a rupture with the United States, and collecting every scrap of exceptionable matter, howsoever small, in order to swell the list of grievances in some future manifesto. He will, therefore, magnify an affair which happened here a week or two ago, when an American vessel, chartered by some British officers, was supposed to be secretly preparing to violate the embargo. But the letters which have passed on the occasion, and accompanying this, will prove the exertions of the Government and the petulance of himself.

There was more pretext, however, for this than for some other of his complaints. He wrote strongly of danger to Mr. Thornton, the British Consul at Baltimore, from a lawless mob there; of danger to Mr. Hamilton, the British Consul at Norfolk, from a lawless mob there; of danger to Sir C. H. Knowles, commander of the Dædalus frigate, at Norfolk, from the same lawless mob; and of an unjust prohibition to the Gœlan and Hussar frigates, to go up to Charleston, South Carolina. The Government yielded to his apprehensions, and took the steps, and produced the result disclosed in the papers now forwarded, as being connected with these affairs. You will see from them how prompt he is to begin a remonstrance, when his information is neither precise nor specific. The Government, I am sure, ought not, and, I trust, never will, suffer unauthorized individuals to measure out compensation or revenge for themselves. But you well know the irritability which the late plunderings and injuries have excited; and I can assure you that it is hourly increased by the animated accounts which are daily brought from the West Indies by our returning captains and sailors, of their aggravated and unparalleled sufferings there. We ask, on the arrival of every vessel from thence, with an earnestness to be answered in the affirmative, "have the instructions of the 8th of January abolished the severities of preceding instructions?" We hear nothing satisfactory; and we hear many new things of the depredations on our property at Martinique, which keep us in a dreadful uncertainty.

A few days ago we were roused by the intelligence that Governor Simcoe had marched to the rapids of the Miami of the Lake, with three companies of Colonel England's regiment, to build a fort there. This produced a letter from myself to Mr. Hammond, and his answer. From them, and the other papers, you will observe, that Lord Dorchester's speech is unquestionably authentic, and that we are utterly at a loss whether the movement of Simcoe springs from the spirit of November 6, 1793, which the British Minister has not had time to correct, or a part of the system which is even yet to be adhered to. In a day or two I expect to have an answer ready to Mr. Hammond's answer, the principal drift of which will be to obviate the insinuations in the latter part of his letter. In the mean while, I enclose to you the proceedings at Newport, in Rhode Island, which involve too much delicacy to be delayed in the communication. But all these events, proceeding, as they do, from a state of inflammation, which the British Government has it in their power to extinguish, manifest the necessity of an immediate adjustment of our disputes.

To prove that we do not suffer the French to take any liberty, not consistent with their duty to us as neutrals, I beg leave to refer to the publications of our measures in Kentucky, South Carolina, and Georgia.

We take it for granted that the nature of the subject, the opinions expressed to you by the President, the instructions which were delivered to you, and, indeed, your own judgment and inclination, rendered it unnecessary to use any very pointed prohibition of a surrender of the posts or any part of our territory to Great Britain, upon any consideration. The interesting magnitude of the subject will therefore be my apology for mentioning the decided and irrevocable sense of the President relative to this affair.

You will be pleased to communicate this letter to Mr. Pinckney; and to be assured that I am, sir, with truth and sincerity, your obedient servant,

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *May* 28, 1794.

SIR: It will be out of my power to send by the William Penn any other of the documents mentioned in my letter of yesterday, than those which relate to British spoliations, (in a box;) copies

from the War Office, respecting Lord Dorchester's and Governor Simcoe's movements; copies of Mr. Hammond's correspondence with me upon this subject; and copies of what has been published by the House of Representatives concerning the expeditions meditated against the Spanish dominions. The other papers will be expedited by the George Barclay, which will sail to-morrow for London.

I have the honor, sir, to be, with sincere respect, your most obedient servant,

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *May* 29, 1794.

SIR: The remaining papers, referred to in the letter which I had the honor of writing to you yesterday, are herewith enclosed, according to the list. From No. 1 to No. 23, inclusive, you will find an explication of what relates to the British Consul at Baltimore, the British Consul at Norfolk, Sir C. H. Knowles, and the Bermudian privateer. From No. 24 to 35, inclusive, the affair of the Swift Packet, and the supposed insult to the British officers, are stated. No. 36 contains the allegations against the State of Rhode Island. No. 37 is no further important than to show the sense of Mr. Hammond, while he was in good temper, of the actual civility of our conduct towards him.

I forward by this conveyance to Mr. Pinckney some papers relative to a claim of Maryland, for stock in the Bank of England. That State conceives this matter to have been discarded by some decree of the Chancellor of Great Britain from forensic jurisdiction, and to be now converted into a diplomatic question. How far this may be the case I pretend not to determine; but should it be so, and effectual aid can be given to Mr. Pinckney by your intervention, or it can be seasonably mixed with your mission, the President wishes you to take the subject up.

In the box sent yesterday, are my letters, newspapers, and the publications respecting Lord Dorchester's speech, Governor Simcoe's movement, and the expeditions meditated against the Spanish dominions. The publications are now repeated to Mr. Pinckney.

I have the honor, sir, to be, with great and sincere respect, your most obedient servant,

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *June* 8, 1794.

SIR: I do myself the honor of referring you to my letters of the 27th, 28th, and 29th of the last month, and the papers forwarded with them. By the Atlantic, from this port, will go another bundle of spoliations, according to the list sent, and my answer to Mr. Hammond's letter of the 22d ultimo.

We have not yet received any very authentic documents from Martinique; but, if we are to believe a report which circulates here upon good foundation, the system of plunder, persecution, and cruelty, adopted by Admiral Jervis, after acquiring possession of the island, is unknown in the history of any warring towards a neutral nation. It is said that, before a vessel could be claimed by the citizens of the United States in the Court of Admiralty, the Captain was obliged to give security to the amount of sixty johanneses to answer the costs; that condemnation being general, this sum was an addition to their loss; that prison-ships are open for the reception of the Americans; and that multitudes are crowded in them. So much depends upon your mission that, if it should be unsuccessful, contrary to the wish of my friends and the friends of peace, I know not how the general irritation can be checked.

I have the honor, sir, to be, with great respect and esteem, your most obedient servant,

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *June* 6, 1794.

SIR: Since the writing of my letter yesterday, I have received from Mr. Pinckney the case of the snow Sukey, and from the eastward, that of the brigantine Maria. I beg leave to add these to the long list already in your hands, and to assure you of the great respect and esteem with which I have the honor, sir, to be, your most obedient,

EDMUND RANDOLPH.

Mr. Jay to Mr. Randolph—No. 1.

FALMOUTH, *June* 9, 1794.

SIR: I landed here last evening, and immediately informed Lord Grenville and Mr. Pinckney of my arrival, by letters which went by the post last night.

In the course of this day I expect to set out for London, from whence I promise myself the honor of writing to you again very speedily. This letter will be committed to the care of Captain Blair, who will sail next week for Philadelphia. Be so obliging as to forward the enclosed.

I shall request Mr. Fox, our Consul here, to send you some of the latest public papers. As yet I have not had time to read any of them; but am told they mention several interesting events.

I have the honor to be, with great respect, &c.,

JOHN JAY.

P. S. Mr. Fox, the Consul, informs me that his commission is to *Richard* Fox, instead of *Robert Were* Fox, which is his name—he wishes that another commission may be issued accordingly.

Mr. Jay to Mr. Randolph—No. 2.

LONDON, *June* 23, 1794.

SIR: I had the honor to write to you a few lines at Falmouth on the 9th instant, mentioning my having arrived there the preceding evening; that letter was committed to the care of our Consul Mr. Fox. He expected to forward it by the Active, Captain Blair, who was soon to sail for Philadelphia, but whose departure has been unexpectedly prolonged to this time.

On the 15th I arrived here, and the same day mentioned it by letter to Lord Grenville. He appointed the 18th for my reception, and I then communicated to him my first commission, and left with him a copy of it. This was a visit of ceremony, and nothing passed between us relative to the objects of my mission. The next day I sent him copies of my letters of credence.

On the 20th I had an interview with him by his appointment; and I communicated to him my general power, of which I have since sent him a copy. Much general conversation took place, and the principal topics were touched upon. His lordship did not commit himself on any point; he heard me very patiently and politely. He promised to appoint a short day for another conference, and I took my leave impressed with sentiments favorable to his character and manners. If his disposition be hostile he conceals it admirably. What will be the decision of the Court I will not venture even to conjecture. As yet I have no reason to be dissatisfied, or to consider appearances as being unfavorable. No delays or arts to procrastinate have been practised.

It is to be wished that no intelligence of an irritating nature may arrive from America. I do not regard preparations for war as of that nature. They ought not, in my opinion, to be neglected or delayed in the most profound state of peace.

I shall not omit any opportunity of giving you such information as will enable you to see precisely the state of the negotiation, and shall endeavor to avoid deceiving you or myself by delusive hopes or groundless fears.

I have the honor to be, with great respect, &c.,

JOHN JAY.

Mr. Jay to Mr. Randolph—No. 3.

LONDON, *June* 26, 1794.

SIR: Since my last, the Minister has appointed to-morrow for a conference with me. Captain Allen waits for my letter. Nothing new has occurred; appearances continue favorable.

Yours, &c.,

JOHN JAY.

Mr. Jay to Mr. Randolph—No. 4.

LONDON, *July* 6, 1794.

The letters which, since my arrival, I have had the honor of writing to you, are as follows: 9th June, at Falmouth, left with our Consul there to transmit by the Active, Captain Blair, for Philadelphia; and the 23d June, by Mr. Francis, of which I also sent a duplicate by the Mohawk, Captain Allen, to New York, and 26th June, by the same.

On the 27th June, I had a conference with Lord Grenville, in the course of which all the topics of difference between the two nations were touched. This conference I considered as intended for more particular discussions. It amounted, however, only to a friendly and informal conversation on these subjects. He appeared to be liberal, candid, and temperate, but did not commit himself, or say anything decisive on any point. He observed that he wished first to be informed of the extent of our views and objects, and that a consultation with the rest of the King's Ministers would be necessary to enable him to be more explicit. This appeared to me to be perfectly fair and proper.

In conversing on the subject of captures and spoliations, I was surprised that not a single case under the instructions of November had been laid before him. He requested me to furnish him with some of the strongest of those cases, and remarked that an accurate knowledge of facts should precede any measures on that head. He said very frankly that there might be such a state of things as to render the interposition of Government proper and necessary to satisfy justice; and that he was desirous of having such exact information as would enable him to judge whether, and how far, the captures in question were under that predicament. On applying to Mr. Pinckney, I learned that no such cases had been transmitted to him from America. Mr. Crafts, a gentleman from Boston, has furnished me with the case of the Charlotte, decided at Antigua, and from which decision an appeal was made. It unfortunately happens that this is not among the strongest of those cases. Mr. Crafts took the opinion of counsel on the subject; that opinion is as follows:

"THE CHARLOTTE, COFFIN.—*Appeal from Antigua.*

"Dr. Nicoll is requested to peruse the proceedings and evidence contained in the process herewith left, and advise whether it is expedient for the claimants to prosecute this appeal.

"I have perused the proceedings and evidence contained in the process transmitted, by which it appears that the cargo of this ship being the produce of the French West India colonies, and coming directly from thence to France, was considered as liable to confiscation, although it should be the property of Americans.

"In the war before the last, Great Britain condemned neutral vessels and their cargoes trading to the French islands, upon the ground that the trade was not permitted in time of peace, and that the permission was given by the French during the distresses of war, as an expedient to protect their property against British captors; which occasional protection, neutral nations were held to have no right to afford them. In the last war, neutral vessels trading to the French islands were not condemned, but the former principle was not thereby considered to be abandoned, inasmuch as the French had opened their colonial ports before the commencement of hostilities. No such step (as far as I am informed) was taken by the French previous to the present hostilities; and, as the Americans and other neutrals were not permitted, before the war, to purchase the produce of the French islands and carry it in their own vessels from thence to France, and as the instructions of the 8th of January, 1794, (revoking those of 6th November, 1793,) still direct the seizure of 'all

vessels, with their cargoes, that are laden with goods, the produce of the French West India islands, and coming directly from any port of the said islands to any port in Europe, I should apprehend that the sentence of condemnation will be affirmed. However, it being understood that a negotiation between Great Britain and America is now pending, in which it is probable that the legality of this trade will undergo some discussion and settlement, it will, at all events, be expedient on the part of the appellant so far to proceed as to preserve his right of bringing the sentence to a revision; more especially as no decision upon the point has yet taken place by the Lords of Appeal; but the expediency of finally bringing the cause to a hearing may depend upon the result of the pending negotiation, or upon some decision to be given by the Appellant Court.

"J. NICHOLL.

"JULY 2, 1794."

The list of captures with which I was furnished does not state the principles or pretexts on which the condemnations mentioned in it were grounded, and consequently is of little use on the present occasion. The case of Marston Watson, which I received from you before my departure, is a very strong one; but then it asserts only the expectation, but not the certainty of condemnation.

No despatches from Mr. Higginson (of whose instructions I have a copy) have as yet reached me. These instructions are, in my opinion, well devised; and if as well executed, will furnish me with all the information which it seems has become so requisite.

On the 3d of this month I was, in the usual form, presented to the King, and the next day to the Queen. The reception I received from them both was affable and satisfactory, and perfectly calculated to create an opinion of the good will of this Government to the United States. The King seemed to be well prepared for the occasion. He expressed his confidence in the assurances I gave him of the disposition of the United States to cultivate peace and harmony. He intimated (but without any direct application) that it was expedient for all nations who respected order, good government, morality, and religion, to be friends. On this topic he expressed many general sentiments that were liberal and proper. How far these appearances will correspond with future facts, time only can decide; they certainly afford *some*, though not *conclusive* evidence, of a friendly disposition.

By the arrival of the William Penn, your late correspondence with Mr. Hammond became known to the public. What impression it has made on the Government here, I have not as yet been able to judge.

In the conduct of this negotiation, I shall proceed with as much expedition as prudence will permit. It appears to me expedient to be guided by occasions and circumstances, and to give every conciliatory application a fair experiment. Conceiving it to be advisable to afford the Minister an opportunity of increasing the evidence of a friendly disposition, I prepared a letter to him, which, after having well considered, I sent to him the next day. It is in these words, viz:

"PALL MALL, ROYAL HOTEL, *July* 3, 1794.

"MY LORD: Such various and important affairs must necessarily demand and employ your time and attention, that I really feel a reluctance to add to their number; and yet, circumstanced as I am, and circumstanced as my country is, I find myself irresistibly impelled to submit to your lordship's consideration, the expediency of my being authorized to convey to the President (by the vessels which sail next week) such assurances as may tend to compose his and the public mind in America.

"I can find but few authenticated cases of the captures in question, which have as yet arrived here, and they shall be speedily laid before your lordship. Would it not, for the present, consist with your ideas on that subject to say, that, if those captures, on being investigated, should appear to be of such extent and magnitude as to merit the attention and interposition of Government, that then, &c., &c.?

"Would it not also be right and proper to open the door for appeals, and to instruct His Majesty's officers in America to promote, by their conduct, that friendship and mutual good will which the Governments of both countries desire to establish and perpetuate? Delay is often hazardous. Pardon my anxiety, lest new difficulties should arise; to prevent, is generally more easy than to remedy.

"I cannot conclude this letter, without expressing to your lordship how sensibly I feel, and am gratified, by the friendly disposition of His Majesty towards the United States, manifested by the very gracious reception with which I have been honored by their Majesties, and the magnanimity of the sentiments which the King condescended to express on the occasion.

"It is my duty, and I shall perform it with the most cordial satisfaction, to make known to the President these pleasing circumstances; they perfectly harmonize with the liberality and candor, and with the obliging attentions I have experienced from your lordship; and if these representations should be accompanied with correspondent official assurances, a promising foundation would be laid for the establishment and duration of that friendship and cordiality between our two countries, which I pray God may speedily take place, and become perpetual.

"With very sincere respect and esteem, I have the honor to be, my lord, your lordship's, &c.,

"J. J.

"P. S. As yet I have received no official letters by the late arrivals from America.

"Rt. Hon. Lord GRENVILLE, *one of His Majesty's Principal Secretaries of State, &c.*"

To this letter I have not as yet received an answer, nor did I expect one so early. You will readily perceive, that, before it can be answered, the Administration will probably think it necessary to decide on their line of conduct towards our country. Whatever the answer may be, it will unavoidably contain indications, either of evasion, or suspense, or irritation, or fair and liberal conduct. What the complexion will be, I cannot predict. As yet I have every reason to be satisfied, and it is but just and right that I should say it without reserve.

I shall persevere in my endeavors to acquire the confidence and esteem of the Government, not by improper compliances, but by that sincerity, candor, truth, and prudence, which, in my opinion, will always prove to be more wise and more effectual than finesse and chicane.

Formal discussions of disputed points should, in my judgment, be postponed, until the case becomes desperate. My present object is to accommodate, rather than to convict or convince. Men who sign their names to arguments seldom retract.

If, however, my present plan should fail, and I am far from being certain that it will not, I shall then prepare and present such formal, and, at the same time, such temperate and firm representations as may be necessary to place the claims and conduct of the two Governments in their proper points of view.

On the 5th of July I received the following letter from Mr. Henry Waddell, viz:

"JULY 5, 1794.

"SIR: By the advice of Thomas Pinckney, Esq., I have called upon you to state the particulars of the capture and detention of the American ship Amsterdam Packet, but not having the honor of a personal interview, permit me to do it in this way.

"The American ship Amsterdam Packet, (Henry Waddell, master,) of New York, owned by Messrs. Daniel Ludlow & Co., laden with sugar, cotton, coffee, pot and pearl ashes, oil and tobacco, left said port on the 28th of October last, bound for the port of Havre-de-Grace; but, on the 29th November following, was forcibly taken by the privateer Princess Elizabeth cutter, and carried into Liverpool, where the vessel, as well as cargo, are still detained, without any other reason assigned than that the captors say they are indemnified by the order of the 6th November, (which no doubt you are acquainted with,) and for which she must wait the adjudication. It is now seven months since the vessel was taken, and if we have to wait our turn for the adjudication of the Admiralty Court, it will be three or four months more before we can hope for a releasement. Any services rendered by you will be thankfully acknowledged by, sir, &c., &c.,

"HENRY WADDELL.

"Hon. JOHN JAY, Esq.,
Envoy Extraordinary, &c."

I immediately sent it to Lord Grenville, enclosed in the following letter, viz:

"PALL MALL, *July* 5, 1794.

"MY LORD: I am persuaded your sensibility will be hurt by the delay mentioned in the enclosed letter from Mr. Waddell. The impressions which it must naturally make, even on the most liberal minds, are to be regretted. It will be sensibly felt by the owner, whose nearest connexions have, to my knowledge, done and suffered much from their attachment to this country.

"I forbear to add any thing, accept sincere assurances of the respect and esteem with which I have the honor to be, &c., J. J.

"The Right Hon. Lord GRENVILLE, &c."

This letter needs no comment; it will probably lead the Minister to observe that all descriptions of persons amongst us are affected by the injuries of which we complain, and will naturally participate in the sentiments which those injuries cannot fail to excite. It is for the sake of this idea that I mention the transaction, which, in other respects, may not be deemed of sufficient importance to find a place in this letter.

I have seen many respectable and influential characters here, and, from their sentiments and conversation, there certainly is reason to believe that war with us would be an unpopular measure, provided nothing should occur to fix the imputation of aggression on us.

In a late conversation with certain persons attached to the Administration, and of weight in that scale, the general conduct of our Government received the most unreserved approbation, and the character of the President was spoken of in terms of the highest respect.

I have not heard that Carleton's speech or Simcoe's interference were defended by anybody. As yet I have neither heard nor seen anything that looks like a hostile disposition in the mass of this nation towards ours, but the contrary.

What designs may be, or have been, in the Cabinet, is another matter. Information of that kind is not readily acquired, but I shall not be inattentive to it. Men are prone to suspect, sometimes, too much, and sometimes too little; and to avoid both extremes is more proper than it is easy.

On the subject of the affairs committed to me, I have nothing further to add at present.

I have received a letter from Mr. Bourne, which, together with my answer to it, should, I think, be communicated to you. They are as follows, viz:

"AMSTERDAM, *June* 27, 1794.

"SIR: I am made happy by the opportunity of tendering to you my congratulations on your safe arrival in Europe, which I beg you to accept of, accompanied with my cordial wishes for the success of your mission, as involving the most important interests of our country.

"I am sorry to observe that the conduct of this Government of late (though perhaps more equivocal than that which has been pursued by Great Britain) must operate as a very serious injury to the commerce of America. In the face of express stipulation of Treaty, they have prohibited us from taking away nearly all the articles for which we have a demand, and many others, unless on condition of giving heavy bonds that they shall be landed in America, or rather, not in France. In short, such are the troubles and vexations

which burden our intercourse with them, that our vessels are generally obliged to depart in ballast.

"We have no friend or assistant here, clothed with public authority, to whom we can resort for advice or protection on the points alluded to; but should it be within the latitude of your powers to remonstrate, I doubt not the issue would be favorable.

"Persuaded that you will not ask an apology for what has been prompted by a sense of duty to my country, I forbear to make one for the trouble I give you by this communication, and pray you to be assured of those sentiments of profound respect and esteem with which I have the honor to be, &c., &c.,

"S. BOURNE.

"Hon. JOHN JAY, Esq." &c. &c.

"LONDON, *July* 5, 1794.

"SIR: I have been favored with yours of the 27th of last month; accept my thanks for the friendly congratulations contained in it.

"That the President may be informed of the facts you mention, I shall take the liberty of transmitting a copy of your letter to the Secretary of State.

"Not being within the limits of my commission, I cannot with propriety interfere by making any representations on these subjects. With the best wishes for your health and happiness, I am, sir, &c., &c.,

"J. J.

"SYLVANUS BOURNE, Esq., *Amsterdam.*

July 6, 1794. Nothing new has occurred since the foregoing letter was written.

I have the honor to be, &c.,

JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *July* 9, 1794.

SIR: The object of this letter is simply to meet some violent representations which have probably been hurried to Great Britain from Bermuda, that their impression might be free to operate for some time without contradiction. For it is a lamentable thing to believe, with too much reason, that, in general, the agents of Great Britain in America are gratified when they can cast a distant suspicion upon our neutrality. I cannot forbear to remark how singular it is, that the Governor of Bermuda has not forwarded to Mr. Hammond any of the proofs which are said to be possessed by him; and that Mr. Hammond has imparted the little which he knew, only on a special application, as if both the one and the other were afraid of enabling us to vindicate our character.

During the existence of our embargo, Mr. Hammond obtained a passport for his despatches to London, by the way of Halifax. A similar privilege being requested by Mr. Fauchet for Port au Paix, a passport was granted, with an express injunction that the vessel, which was called L'Aimable, or L'Aimable Gentille, should proceed in ballast. We never heard more of her, until, on the 30th ult., intelligence arrived of her having been captured with one hundred and fifty barrels of powder on board. Hence arose the different letters and documents, displaying the whole of our conduct up to this day. If, before this letter is put on board of the vessel which is to carry it, anything else shall occur, it will be added. If not, be assured that you may, with the utmost confidence, declare, that we will not relinquish the investigation until we procure all the proof in our power, and whatsoever punishment the laws inflict on any person found culpable, shall be inflicted. I can hardly suppose that the British Ministry, after such manifestations of our sincerity, will be hastily caught by appearances. No law prohibited the exportation of powder, the resolution of embargo excepted, at the time of the sailing of L'Aimable; and to suspect that Government would, if inclined to aid the French resistance to the combined Powers, resort to so petty a manœuvre, would look strongly like a predetermined rancor. Government disclaims the idea.

I have the honor, sir, to be, with sincere esteem and respect, &c.,

EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No 5.

LONDON, *July* 9, 1794.

SIR: On the 6th instant I had the honor of writing you a long and particular letter; it was closed yesterday by a postscript informing you that nothing new had occurred.

This morning I received, by the post from Dover, a letter which I suppose was there put into the office from an American vessel lately arrived. I presume it was from your office; it contained a copy of the acts passed during the late session of Congress, but no letter was enclosed with it.

The events which gave occasion to your late correspondence with Mr. Hammond, and the expiration of the embargo, are circumstances which rendered me solicitous to receive from you official accounts of them, as in that case I might have made them the subjects of an interesting and perhaps useful communication to the Minister. Doubts of the propriety of grounding it on newspaper evidence, and the daily expectation of receiving letters from you, which might contain not only information but instructions, have induced me to decline writing or saying anything officially on those subjects. I suspect that your letters are still on the way, and will soon arrive.

A new arrangement of the Ministry has, it is said, taken place, and will soon be announced; the enclosed paper will inform you of the particulars: if true, it will give strength to the Administration by uniting the leaders of the contending parties.

As yet I have received no answer to my letter of the third instant to the Minister. It is not improbable that the operation of this change in the Ministry has occasioned the delay, as the concurrence and counsels of the new Ministers would be necessary to the stability of any system relative to us that may be in contemplation. What that system may be, I cannot pretend to predict

or even conjecture: and, therefore, again take the liberty of hinting, that, in my opinion, our preparations for war should continue unremitted.

The merchants here, it seem, entertain sanguine expectations that all differences will be amicably settled, and I believe that the Ministry has encouraged and countenanced these expectations, though not in a manner so explicit and decided as to have committed themselves. At present, things appear to me to be so circumstanced as that neither a hostile nor a pacific system would surprise me. You shall be regularly and accurately informed of every change that may happen in the prospect of either. And I think it will not be difficult so to manage as that, in case of a war, our people will be united, and their people divided. This will certainly be the case if we do nothing but what is just and right.

I have the honor to be, with great respect, &c.,

JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *July* 10, 1794.

SIR: You will receive, by this conveyance, a supplement to the cases of British spoliations, the very abridgment of which makes a large quarto volume in my office: and also duplicates of my letters of 27th, 28th, 29th May, and 8th June.

I have been endeavoring to obtain the particulars of the different instances of capture, covered, as the Americans say, by the armistice; but not being able to succeed, I have selected so much of Pagan's case, which you know was brought before the Supreme Court of the United States in another shape, as will give an idea of the general principle of these cases. Some proctor can easily procure full information of the several cases, if your success in the discussion of the principle should render it necessary.

It is an exceedingly happy circumstance for the peace of nations, that they are not obliged to credit the facts or reasoning of their Ministers abroad; that they can distinguish their zeal to seem watchful, their irascibility, and the errors into which they have fallen or have been misled, from a temper of hostility in the nation to which they are sent. How far this is fortunate for us, with respect to Great Britain, will be evinced from my correspondence with Mr. Hammond, upon the rule of twenty-four hours for the sailing of hostile vessels from our ports, and upon his list of charges against our fidelity to the obligation of neutrality. We have too much reason to fear, from the boldness with which he assumes facts to us, he will be less restrained in his declarations to the British Ministry. As often, therefore, as you shall be assailed by any strong intelligence, I must request you to keep off any conclusions from being made, until you shall have an opportunity of hearing from my office: for our unalterable desire of peace will not only quicken our communications to you, but authorize me to pronounce beforehand, that the Government can never be chargeable with any wilful breach of neutrality; and, indeed, notwithstanding Mr. Hammond's insinuations, with any negligence in preserving it inviolate. The papers as to the Charles and Delight, will be a fresh testimony of this assertion.

I have the honor, sir, to be, &c.,

EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 6.

LONDON, *July* 12, 1794.

SIR: I had yesterday the honor of seeing Lord Grenville. He assured me that no unnecessary delays should retard a full discussion of the points in question; and observed that the new arrangement of the Ministry involved the necessity of time for their being all informed and consulted. In this assurance I have perfect confidence.

We had an informal conversation relative to Simcoe's hostile measure. We concurred in opinion that, during the present negotiation, and until the conclusion of it, all things ought to remain and be preserved in *statu quo*; that, therefore, both parties should continue to hold their possessions, and that all encroachments on either side should be done away; that all hostile measures (if any such should have taken place) shall cease; and that, in case it should unfortunately have happened that prisoners or property should have been taken, the prisoners shall be released, and the property restored. And we have agreed that both Governments shall immediately give orders and instructions accordingly.

This agreement appears to me so perfectly reasonable, and so conducive to the preservation of mutual confidence and good temper, that I flatter myself it will meet with the President's approbation; and I have given Lord Grenville explicit assurances (which he has reciprocated) that, on the part of the United States, it will be faithfully observed and fulfilled.

I have the honor to be, &c.,

JOHN JAY.

Mr. Jay to Mr. Randolph—No 7.

LONDON, *July* 16, 1794.

SIR: In my last letter, viz: of the 12th instant, I had the honor of stating to you, particularly, an agreement between Lord Grenville and myself, for preserving all things between the United States and our Canadian neighbors, in a peaceable state during the negotiation. Yesterday Lord Grenville read to me what he had written to Mr. Hammond on that subject; it exactly corresponded with what I had written to you in my letter of the 12th. His Lordship desired I would take charge of his letter, and give it a place among my despatches to you. I received it from him last night; it will be herewith enclosed. You will, I am persuaded, take particular care that it be delivered speedily and in good order. Correspondent letters and orders will doubtless be expedited directly to Lord Dorchester and Mr. Simcoe, by the first packet.

The arrival and obvious effects of such letters and orders cannot fail to have a favorable influence on the hostile Indians; as their expectations

of aid abate and diminish, their disposition to peace will increase, and become operative.

It was not until the 14th instant that the Captain of the William Penn knew that there was a box on board directed to me; in the afternoon of that day I received it, and found your letters to me of the 27th and 28th May, and a note covering a list of the papers sent in the box. As yet I have not had leisure to compare the papers with the list. On opening one or two cases of spoliation, I find several papers not important for me to have; plain, concise statements are sufficient, and best for diplomatic purposes. I am glad that these cases are come: after making the necessary selections and statements, I will lay them before the Minister.

I have also had the pleasure of receiving your letters of the 29th May and 8th June. With the former was a list; but really, sir, I have not yet had time to compare the papers with the list, nor to prepare myself for writing to you on the subject of those letters at present.

I have the honor to be, &c.,
JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *July* 18, 1794.

SIR: The enclosed letter from Mr. Higginson, of the 18th ultimo, gives me reason to suppose that the opportunities from Barbadoes to London may not be sufficiently frequent for the conveyance of the documents which he is sent to collect. I have, therefore, the honor of enclosing to you the records of the brig Despatch, schooner Trial, schooner Hope, (Farley,) schooner Hope, (Felt,) schooner Resolution, brig Lady Washington, sloop Ranger, schooner Polly, and schooner Fox; and to be, with great respect and esteem, &c.,
EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 8.

LONDON, *July* 30, 1794.

SIR: The great, and, I believe, unexpected events in Flanders, and the unusual number of interesting affairs which constantly demand the attention of the British Cabinet, keep their Ministers unceasingly employed, and is, doubtless, one reason why more time has not been allotted to our concerns. We are, nevertheless, beginning to do business apparently in good earnest. The Minister is (if I may say so) besieged by our British creditors. The subject of the debts is attended with difficulties. The Minister has been informed that the law in Virginia relative to the evidence of book debts has, since the war, been made more strict than it was before. If the law has been thus changed, and made to apply to pre-existing transactions, there is room for complaint. I wish to have exact information on this head.

I am to see Lord Grenville to-morrow at 11 o'clock, by appointment, on the business of spoliations and impressments, when I hope he will be prepared to say something decisive. I have laid before him several of the cases you sent me, and also, the statement by the captains of vessels taken at Martinique. Of the facts mentioned in the latter, he had never received any information.

I know the impatience that must prevail in our country. At times, I find it difficult to repress my own impatience; but for all things there is a season. The importance of moderation and caution in the present moment is obvious, and will, it is to be hoped, continue to operate on the minds and conduct of our fellow-citizens. As yet, I do not apprehend that I have committed any mistakes in this business. I wish I may be able to say as much at the conclusion of it.

I have read your thirty odd papers to, and from, and respecting, Mr. Hammond and his complaints. You have, in my opinion, managed that matter well; continue, by all means, to be temperate, and put him in the wrong.

Let us hope for the best, and prepare for the worst. I confess I have hopes, but I also perceive circumstances and causes which may render them abortive.

This letter cannot be satisfactory; it amounts to little more than this: That nothing decisive has yet been done, and that I cannot tell you whether anything, and what, will be done. So is the case; and such will often be the case pending any negotiation, or any game connected with events not in our power to control. In both, chances frequently defeat skill, and as frequently give to skill unmerited reputation. For these things I must take my chance.

I have the honor to be, with great respect, &c.,
JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *July* 30, 1794.

SIR: I do myself the honor of enclosing to you a copy of my last letter to Mr. Hammond, together with the following duplicates, viz: May 27th, 28th, and 29th, June 8, July 5, with its enclosures.

The reports of a determination in the British to abet the Indians, grow daily more and more serious; and there is great reason to apprehend that British troops will be found mixed with the savages, who are prepared to meet Gen. Wayne.

The gazette of Mr. Bache, published on the 26th day of this month, will give you all the information which we have yet received of a very unfortunate tumult near Pittsburg. The President has not yet acted upon the subject, as authentic facts are not yet before him.

I have the honor to be, &c.,
EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 9.

LONDON, *July* 31, 1794.

SIR: My letter of yesterday informed you that I should, this day, at 11 o'clock, see Lord Grenville on the subject of spoliations, &c. I have seen him accordingly. Having presented to him an official note on this object of my mission, it became the topic of our conversation. He promised to send me a written answer to-morrow, and I am induced to believe it will, in some respects, meet our wishes, but that it will not extend to immediate compensation by Government; and yet, that it will include eventual compensation in all cases where the ordinary course of appeals, &c., may not afford it. On receiving this answer I shall immediately write to you again, and enclose copies both of my note and of the answer to it.

I have the honor to be, &c.,
JOHN JAY.

P. S. I think our affairs here assume a more promising aspect.

Mr. Jay to Mr. Randolph—No. 10.

LONDON, *August* 2, 1794.

SIR: I had the honor of writing to you on the 31st ult. That letter was sent to Falmouth in hopes it would reach Dr. Edwards before he sailed from thence for Boston. He went from hence on Tuesday last. I now enclose a copy.

That letter mentioned my having presented an official representation to Lord Grenville on the subject of spoliations, &c., to which his Lordship had given me reason to expect an answer in a day or two. I have accordingly received it, and now take the first opportunity which has since offered, of transmitting to you (herewith enclosed) copies of them both.

The footing on which the answer places compensation by Government affords scope for delay. Much will depend on the good faith with which the business may be conducted. The present Administration does not appear to me to be hostile to us, but the contrary. As to Lord Grenville, it is doing him no more than justice to say, that, from the commencement of the negotiation, I have observed no change in his conduct, which has been uniform, candid, and conciliatory. From hence, however, no inferences are to be drawn, that, in my opinion, an ultimate settlement, satisfactory to either party, can or will take place. To such a settlement (speaking in general terms) I do believe that this country, as well as ours, is disposed, but there are real difficulties, as well as some prejudices, which stand in the way. I am not without hopes that such a settlement will be effected, but am not sanguine in my expectations; for, in all *accommodations*, there must be yieldings; and questions relative to the due degree and reciprocity of such yieldings, by one side or the other, may produce great, and, perhaps, insuperable obstacles.

It is very desirable that the negotiation may not suffer from useless and improper asperities of any kind, on either side; and that the conduct of our fellow-citizens may constantly harmonize with that of their Government—by wisdom and moderation, endeavoring to preserve and cultivate peace and friendship, and yet preparing to meet hostile events with composure, firmness, and vigor.

I have the honor to be, &c.,
JOHN JAY.

Mr. Jay's representation to Lord Grenville.

The undersigned, Envoy of the United States of America, has the honor of representing to the Right Honorable Lord Grenville, His Britannic Majesty's Secretary of State for the Department of Foreign Affairs:

That a very considerable number of American vessels have been irregularly captured, and as improperly condemned by certain of His Majesty's officers and judges.

That, in various instances, these captures and condemnations were so conducted, and the captured placed under such unfavorable circumstances, as that, for want of the securities required, and other obstacles, no appeals were made in certain cases, nor any claims in others.

The undersigned presumes that these facts will appear from the documents which he has had the honor of submitting to his lordship's consideration; and that it will not be deemed necessary, at *present*, to particularize these cases, and their merits, or detail the circumstances which discriminate some from others.

That great and extensive injuries having thus, under cover of His Majesty's authority and commissions, been done to a numerous class of American merchants, the United States can, for reparation, have recourse only to the justice, authority, and interposition of His Majesty.

That the vessels and property, taken and condemned, have been chiefly sold, and the proceeds divided among a great number of persons, of whom some are dead, some unable to make retribution, and others, from frequent removals, and their particular circumstances, not easily reached by civil process.

That as, for these losses and injuries, adequate compensation, by means of judicial proceedings, has become impracticable, and considering the causes which combined to produce them, the United States confide in His Majesty's justice and magnanimity to cause such compensation to be made to these innocent sufferers as may be consistent with equity; and the undersigned flatters himself that such principles may, without difficulty, be adopted, as will serve as rules whereby to ascertain the cases, and the amount of compensation.

So grievous are the expenses and delays attending litigated suits, to persons whose fortunes have been so materially affected, and so great is the distance of Great Britain from America, that the undersigned thinks he ought to express his anxiety that a mode of proceeding as summary and little expensive may be devised as circumstances and the peculiar hardship of these cases may appear to permit and require.

And as (at least in some of these cases) it may be expedient and necessary, as well as just, that the sentences of the Courts of Vice Admiralty should be revised and corrected by the Court of Appeals here, the undersigned hopes it will appear reasonable to His Majesty to order that the captured in question (who have not already so done) be there admitted to enter both their *appeals* and their *claims*.

The undersigned also finds it to be his duty to represent that the irregularities before mentioned extended not only to the capture and condemna-

tion of American vessels and property, and to unusual personal severities, but even to the impressment of American citizens to serve on board of armed vessels. He forbears to dwell on the *injuries* done to the unfortunate individuals, or on the *emotions* which they must naturally excite, either in the breast of the nation to whom they belong, or of the just and humane of every country. His reliance on the justice and benevolence of His Majesty leads him to indulge a pleasing expectation that orders will be given that Americans so circumstanced be immediately liberated, and that persons honored with His Majesty's commissions do in future abstain from similar violences.

It is with cordial satisfaction that the undersigned reflects on the impressions which such equitable and conciliatory measures would make on the minds of the United States, and how naturally they would inspire and cherish those sentiments and dispositions which never fail to preserve, as well as produce respect, esteem, and friendship.

JOHN JAY.

LONDON, *July* 30, 1794.

Lord Grenville's reply.

DOWNING STREET, *Aug.* 1, 1794.

The undersigned, Secretary of State, has had the honor to lay before the King the Ministerial note which he has received from Mr. Jay, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, respecting the alleged irregularity of the capture and condemnation of several American vessels, and also respecting the circumstances of personal severity by which those proceedings are stated to have been accompanied in some particular instances.

The undersigned is authorized to assure Mr. Jay that it is His Majesty's wish that the most *complete and impartial justice* should be done to all the citizens of America who may in fact have been injured by any of the proceedings above mentioned. All experience shows that a naval war, extending over the four quarters of the globe, must unavoidably be productive of some inconveniences to the commerce of neutral nations, and that no care can prevent some irregularities in the course of those proceedings which are universally recognised as resulting from the just rights incident to all belligerant Powers. But the King will always be desirous that these inconveniences and irregularities should be as much limited as the nature of the case will admit, and that the fullest opportunity should be given to all to prefer their complaints, and to obtain redress and compensation where they are due.

In Mr. Jay's note, mention is made of several cases where the parties have hitherto omitted to prefer their claims, and of others where no appeals have been made from the sentences of condemnation pronounced in the first instance.

As to the cases of the *first* description, Lord Grenville apprehends that the regular course of law is still open to the claimants; and that, by preferring appeals to the Commissioners of Prize Causes here, against the sentence of the Courts below, the whole merits of those cases may be brought forward, and the most complete justice obtained.

In the cases of the *second* description, the proceedings might, in some instances, be more difficult, from the lapse of time usually allotted for preferring appeals. But His Majesty being anxious that no temporary or local circumstances, such as those to which Mr. Jay refers to in his note, should impede the course of substantial justice, has been pleased to refer it to the proper officers, to consider of a mode of enlarging the time for receiving the appeals in those cases, in order to admit the claimants to bring their complaints before the regular Court appointed for that purpose.

The undersigned has no doubt that, in this manner, a very *considerable part* of the injuries alleged to have been suffered by the Americans may, if the complaints are well founded, be redressed in the usual course of judicial proceeding, at a very small expense to the parties, and without any other interposition of His Majesty's Government than is above stated. Until the result and effect of these proceedings shall be known, no *definitive* judgment can be formed respecting the nature and extent of those cases (if any such shall ultimately be found to exist) where it shall not have been practicable to obtain substantial redress in this mode. But he does not hesitate to say, beforehand, that, if cases shall then be found to exist to such an extent as properly to call for the interposition of Government, where, without the fault of the parties complaining, they shall be unable, from *whatever circumstances*, to procure such redress, in the ordinary course of law, as the justice of their cases may entitle them to expect, His Majesty will be anxious that *justice* should, at *all events*, be done, and will readily enter into the discussion of the *measures* to be adopted, and the *principles* to be established for that purpose.

With respect to all acts of personal severity and violence, as the King must entirely disapprove every such transaction, so His Majesty's Courts are always open for the punishment of offences of this nature; and for giving redress to the sufferers in every case where the fact can be established by satisfactory proof; nor does it appear that any case of that nature can exist where there would be the smallest difficulty of obtaining, in that mode, substantial and exemplary justice.

On the subject of *impress*, Lord Grenville has only to assure Mr. Jay that, if, in any instance, American seamen have been impressed into the King's service, it has been *contrary* to the King's desire; though such cases may have occasionally arisen from the difficulty of discriminating between British and American seamen, especially where there so often exists an interest and intention to deceive. Whenever any representation has been made to Lord Grenville on this subject, he has never failed to receive His Majesty's commands for putting it in a proper course, in order that the facts might be inquired into and ascertained; and to the intent that the persons in question might be released, if the facts appeared to be satisfactorily established.

With respect to the desire expressed by Mr. Jay that new orders might be given with a view to prevent, as far as it is possible, the giving any just ground of complaint on this head, Lord Grenville has no reason to doubt that His Majesty's intentions respecting this point are already sufficiently understood by His Majesty's officers employed on that service; but he has, nevertheless, obtained His Majesty's permission to assure Mr. Jay that instructions to the effect desired will be renewed, in consequence of his application.

The undersigned avails himself, with pleasure, of this opportunity to renew to Mr. Jay his assurances of his sincere esteem and consideration.

GRENVILLE.

Mr. Jay to Mr. Randolph.—No. 11.

LONDON, *August* 8, 1794.

SIR: I refer you to my letter No. 10, and its enclosures, by Captain Coit, via New York, of which duplicates are also sent by the William Penn.

Having understood that one of our Indiamen had been captured and sent to Halifax, I mentioned it to Lord Grenville. He readily promised to write by the packet, and direct the attention of the Government there to that object, so that nothing improper may take place. My present prospects are not discouraging. I expect to be able, in about a fortnight, to give you some interesting details; and I *hope* some of them will be *agreeable*, but of this I cannot be *certain*.

I have the honor to be, &c.,

JOHN JAY.

P. S. The Pigou is arrived. I have not yet seen the Captain; he probably has letters for me.

Mr. Jay to Mr. Randolph.—No. 12.

LONDON, *August* 9, 1794.

SIR: Last evening I received from Lord Grenville an Order of the King and Council, dated the 6th instant, relative to appeals from sentences of condemnation passed against American vessels. The enclosed is a copy of it. I have employed Sir William Scott and Dr. Nicholl in behalf of our appeals and claims.

The letter which (from that by Mr. Fisher) I find you have written me by the Pigou, has not yet reached me.

I have the honor to be, &c.,

JOHN JAY.

AT THE COURT OF ST. JAMES'S, *August* 6, 1794.

Present: The King's Most Excellent Majesty in Council.

Whereas, in many of His Majesty's Vice Admiralty Courts in the West Indies, sentences of condemnation have passed against ships and goods belonging to the subjects of the United States of America; and whereas, from ignorance of the rules respecting the time of appealing, or from inability to find the security required, or from other just and reasonable impediments, the claimants have been prevented from duly entering and prosecuting their appeals from the said sentences; and whereas it hath been represented to His Majesty, on their behalf, that they are desirous of entering and prosecuting the same: His Majesty is thereupon pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that the said parties shall be admitted to their respective appeals, notwithstanding the ordinary times for entering and prosecuting the same may have elapsed; provided the same are entered and prosecuted in a reasonable time, to be approved of by the Lords Commissioners of Appeals in Prize Causes.

STEPHEN COTTRELL.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *August* 11, 1794.

SIR: Having regularly transmitted to you copies of my late correspondence with Mr. Hammond, in relation to Lord Dorchester's speech, Governor Simcoe's invasion, and his own criminations of the United States, I now do myself the honor of adding his concluding letter of July 30, 1794. If he wishes any new evidence of our unchangeable neutrality, he may be told, and the British Ministry likewise, that the militia of Richmond, in Virginia, actually marched, at a moment's warning, between seventy and eighty miles, to seize a vessel supposed to be under preparation as a French privateer. Resistance was at first apprehended; but it was overawed, and the business completely effected.

The discontents, evasions, and occasional oppositions, which have been manifested against the excise in the counties of Pennsylvania westward of the Alleghany mountain, have at length assumed a menacing and formidable air. The enclosed paper contains the President's proclamation, which is a summary of facts, except that Neville's house and out-houses were destroyed by fire. Commissioners are gone upon the ground, and particularly to be present at a great meeting on the 14th instant. Upwards of twelve thousand militia are ordered to hold themselves in readiness; and if the errand of the Commissioners should be unavailing, the militia will, I believe, be commanded to proceed. The experiment upon their temper is untried. The Governor of Pennsylvania is against the calling forth of the militia until more formal legal measures are pursued. He, too, has sent two Commissioners on the part of the State, and has called the Assembly for the first of September ensuing. But he has expressed his persuasion that a sufficiency of militia of the State cannot be prevailed on to move forward. Hence proportions of the number required will be procured from Virginia, Maryland, and Jersey, as well as Pennsylvania. The temper of the militia is not yet developed; some, however, vibrate between hatred of the excise and horror of these unauthorized violences. At present it can only be said,

that, if an accommodation does not take place, a new *era* will immediately spring up in our Government.

The letter from Clerke and Bentalou, of Baltimore, the papers of the snow Sukey, ship Charlotte, sloop Sally, schooner Fame, brig David and George, schooner Friendship, and schooner Sarah, brig Union, Captain Cottle, and brig Dolphin, Captain Knapp, are additions to the cases of spoliations, and now sent.

I have the honor to be sir, &c.,

EDMUND RANDOLPH.

P. S. I ought to have mentioned the death of Mr. N. C. Higginson, who was sent to the West Indies to collect documents. This may occasion some delay and disappointment in the transmission of them to London. The spoliations are unavoidably detained for another conveyance.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *August* 15, 1794.

SIR: Mr. James King, the owner of the schooner Nancy, the papers in whose case have been forwarded, as far as they were received, has this moment laid before me a copy of the record. From the whole proceedings, it appears that she was acquitted at Nassau upon the payment of costs, and that the captors have appealed. As this vessel and her cargo come within the catalogue of spoliations, I have to request that they may be protected by your attention, and that you will give directions for the employment of counsel in behalf of the United States, unless some adjustment which you may make with the British Ministry, on general grounds, shall supersede the necessity of such a step.

I have the honor, sir, to be, &c.,

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *August* 18, 1794.

SIR: I had the honor of receiving, on the 16th instant, your first letter of the 23d of June, from London, and, on the 17th instant, your first letter of the 9th of June, from Falmouth. Both of them came by the Active, Captain Blair, but the latter was brought, more expeditiously, by Mr. Francis, than the former, which was delivered out with the other letters in the bag of the ship.

It has given great pleasure to the President to hear of your safe and speedy arrival, and of the style of your reception by the Minister. You know the temper and conduct of the President so thoroughly, that I need not assure you of the impartiality which he continues to preserve towards all nations: and yet the irritation from the British quarter has been exceedingly aggravated. I pass over Lord Dorchester's speech, which, notwithstanding the half disavowal of it in the British Houses of Lords and Commons, on the 26th of May last, is believed by everybody here to be genuine, and is argued upon, as you will perceive, in Mr. Hammond's two letters to me, of the 22d May and 7th June, as if it were rather genuine than otherwise. But Governor Simcoe's invasion of the Rapids of the Miami, comes confirmed to us from every source, except Mr. Hammond, who has had near three months for ascertaining the fact, and whose silence during that time, after his promise to inform us of the truth, is the highest presumption of the act of hostility. So, too, the enclosed copies, from the War Office, prove that the British were associated with the Indians in the affair of Fort Recovery, on the 30th of June. We cannot add, upon proof, that British influence has been tampering with the people of Kentucky, and of the neighborhood of Pittsburg, to seduce them from the United States, or to encourage them in a revolt against the General Government; it has, however, been boasted of by them, and an expectation of such support is suspected to have been excited in the breasts of some.

The impression of our Commissioners, and those of the State of Pennsylvania, upon the insurgents near Pittsburg, cannot be yet known, and we can transmit to you no other indications of the issue of this commotion than what may be drawn from my letter of the 11th of August.

The enclosed copy of Mr. Hammond's letter of the 14th of August, with its enclosure, will be justly appreciated, when you advert to those of my former letters which speak of his facility of complaining. But we shall again demonstrate the promptness with which we exert ourselves to redress his grievances, real or supposed, as an injunction will be immediately despatched to the several Governors to grant to the British ships the most complete hospitality consistent with our stipulations to other nations. The particular case to which he alludes will be consigned to the special attention of the Governor of Delaware.

The letters which I have written to you, since your departure, are of the following dates: May 27, 28, 29; June 8, 9; July 9, 10, 18, 30; August 11. I now enclose duplicates of the four last mentioned, together with sundry other papers, agreeably to the enclosed list; duplicates of all the others having been formerly sent.

I have the honor to be. &c.

EDMUND RANDOLPH.

Mr. Jay to Mr. Randolph—No. 13.

LONDON, *August* 21, 1794.

SIR: I have received the letter you did me the honor to write on the 9th June, enclosing the case of the snow Sukey, and of the brigantine Maria. That letter begins thus: "Since writing of my letter yesterday, I have received," &c. That letter has never come to my hands.

A few days ago I was favored with yours of the 9th July, on the subject of the American vessel carried into Bermuda, and on board of which a large quantity of powder was found, and enclosing copies of several letters relative to it. That letter appeared to me to be well calculated to manifest the sincerity of the Government, and evidently shows a disposition rather to invite than to evade an investigation into every transaction that afforded color for complaint. I therefore thought it expedient to communicate it, and all the papers which accompanied it, to the Minister, without diminution.

Since my last, nothing new has occurred. We are endeavoring to digest and mature a final settlement; whether we shall be able to agree is uncertain; I have hopes as well as apprehensions. I think our next conference will produce something decisive, at least on some of the great points. If so, you shall be immediately informed of it.

Considering how many urgent affairs, which cannot be postponed, daily call for the Minister's orders, we cannot expect that ours should proceed without some occasional delays. As yet, I have no reason to believe that any of them have been avoidable.

Sir William Scott, the King's Advocate, who is retained for us, is, at my request, preparing instructions for our people how have claims or appeals to bring forward. When finished, they shall be sent to you. I really do believe that this business will be conducted and concluded with good faith. At Martinico there was no legal Court of Vice Admiralty; consequently, the condemnations there are nugatory, and original claims may be entered and prosecuted here.

I have the honor to be, &c.,

JOHN JAY.

Mr. Jay to Mr. Randolph—No. 14.

LONDON, *August* 23, 1794.

SIR: When you shall have received my letter enclosing copies of my representation to Lord Grenville, on the subject of captures, and of his answer, and a subsequent letter enclosing a copy of the Order of Council respecting appeals and claims, you will perceive that they who wish to prosecute either, should, without delay, appoint agents here to manage their business, and to whom I may deliver such papers in my possession as relate to those cases of capture which may be committed to their care and direction.

I am inclined to think that the Order of Council alone will not be satisfactory to the claimants; and, therefore, that the representation, and the answer to it, and, perhaps, my letter No. 10, of the 2d August, covering them, should be published at large. But of this, the President and you, who are on the spot, will be better able to judge than I can be.

I heard yesterday that Mr. Monroe had arrived at Paris. Be so good as to inform me, from time to time, which of my letters and also the duplicates (for, of some, duplicates have been sent) come to your hands.

I have the honor to be, &c.,

JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Aug.* 30, 1794, 1 *o'clock.*

SIR: The treatment which American vessels have experienced from the warring Powers causes a general concealment of their departure, so that I am frequently obliged to snatch an opportunity at a moment's warning. This is the case at present. Having just heard of a vessel ready to sail from New York, I shall despatch an express at two o'clock, P. M., which I hope will reach her.

Last night we received from Captain Williamson, living at Sodus, in Ontario county, in the State of New York, the enclosed letter, containing the most unwarrantable and insolent demand from Governor Simcoe, through Lieutenant Sheaff, that he should desist from the prosecution of his settlement there. The original, now in my office, may be proceeded on as authentic. Sodus is probably well known to you. If it be not, I add the only information which I can obtain of its position; that it lies between Oswego, on Lake Ontario, and Niagara, about twenty-five miles from the former, and nearly three times that distance from the latter. What might we not be justified in saying or doing on this new aggression? Mr. Hammond has promised to procure the truth of the report as to Governor Simcoe's seizure of the Rapids of the Miami; but, with a full scope of time, he remains silent, while it is firmly believed that British troops were associated with the Indians in the late attack on Fort Recovery; and it is certain that the British Governor of Upper Canada threatens us if we clear our own lands and build houses to shelter our laborers. The admonition, sir, which your letter of June 23d gives, to prevent the arrival of any irritating intelligence in London, is but a comment upon the unvaried policy of the President, and of every member of the Administration. This is evidenced by the step on which the President has now resolved, which is, to transmit copies of the papers to Mr. Hammond, now at New York, (where he has been for a considerable time, and whither he went, after an intermission of visits to the President for more than two months, without taking leave of him, further than his notification to me might be considered as such,) to afford to him an occasion to explain this procedure away, or, or if he should perchance have power, to check it; to inform Captain Williamson that he is right in his determination to push on his settlement, and that the owner of lands may repel force brought by an invader; and to offer to the Governor of New York, on loan, arms for the purposes of defence. My letter to Mr. Hammond cannot be prepared early enough for the express; but it will not be required as in any manner immediately useful to you, since the outrage of the principle asserted in Governor Simcoe's challenge will instantaneously occur to you; and compared with similar acts on the part of the British will establish our love of peace in triumph over the calumnies which British agents, indisposed to us from interest or other motives, may propagate on the other side of the Atlantic.

My late letters have announced to you the insurrection at Pittsburg, and with the gazettes which have been forwarded gave you the real state of the business up to the 17th instant. At that time, the Commissioners wrote that nothing but the physical force of the nation could subdue it. The President, in consequence of this declaration, arranged the march of the militia. But

you will perceive how the gloom of bloodshed is brightened by their letters of the 21st and 22d instants, with their enclosures, copies of which I have now the pleasure of transmitting to you. We may count upon an express from Pittsburg in the course of this day, which will enable us to judge whether any difficulty can have arisen in the detail spoken of. But I flatter myself that this event will close with a return of harmony; will demonstrate the horror of our citizens at an opposition to laws; will prove that the Government can protect itself against insult and rebellion, and will be an era of stability in our affairs. While I wish that the rashness and delusion of some, and the deliberate wickedness of others, had not plunged us into such dangers, I must confess my belief that the catastrophe will show that there is a point—the point of actual opposition to Government—concerning which the desperate may prate with indifference, but at which the very great majority of our citizens shudder.

By the present conveyance, I repeat some of my former letters, with various enclosures. The newspapers are also sent.

I have the honor, sir, to be, &c.,

EDMUND RANDOLPH.

Shall I beg the favor of you to show this letter to Mr. Pinckney, to whom I cannot in my hurry write at this moment.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Sept.* 5, 1794.

SIR: I write only to enclose to you copies of the papers respecting the commotion at Pittsburg, and of my letter to Mr. Hammond on the 1st instant, and his answer to me on the 3d, concerning the settlement at Great Sodus.

We have reason to expect the conclusion of the insurrection without bloodshed, but we are hourly looking for more particular intelligence of the proceedings at Redstone on the 25th ultimo. These will be indicative of the final issue.

I have the honor to be, &c.

EDMUND RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Sept.* 12, 1794.

SIR: It is said that a vessel will sail from hence on Sunday next for Liverpool, and I cannot lose this chance of conveying to you the acknowledgment of your letters of the 26th June, and duplicate of June 23, and the real state of the insurrection at Pittsburg at this moment.

The gazettes sent by a former opportunity, together with those now enclosed, will inform you of the facts. To guide you more certainly, I will refer to the following dates of Dunlap's paper: For the President's Proclamation, see the paper of the 8th August; for the statement of the Secretary of the Treasury, see 21st August; for the proceedings at Parkinson's Ferry, and with the first committee, see Bache's paper of the 6th September; for the proceedings at Redstone, and with the new committee, see the paper of this day.

Yesterday the votes of the people were to be taken on the question of resistance or submission. Mr. Bradford, the Attorney General of the United States, came to town last evening, having left his colleague (Mr. Ross) to be present at Uniontown, in Fayette county, on the 16th, when the report of those votes is to be made to him.

Mr. Bradford is of opinion that the county of Alleghany will be nearly, if not wholly, unanimous for submission; that Fayette county will approach considerably to unanimity; that Westmoreland is very doubtful; and that Washington will probably hold out.

What can be the hopes of the insurgents, with all the men of influence and property residing in those counties against them—without money, without discipline, with no distinguished skill in the use of fire-arms; with no disposition to pay taxes; with no communication with the sea; with no markets for their produce, except in the Atlantic States; with a feeble population; with the certainty of punishment before them, or the necessity of flight from their possessions; without ammunition, and even arms? Mr. Bradford thinks that scarce five hundred will take the field.

Nor can the insurgents expect anything from the sympathy of other States. On the contrary, they have everything to dread. Virginia will readily produce her quota of the fifteen thousand demanded. Her inhabitants are steadfast in their abhorrence of the insurrection, and her Governor (Henry Lee) will have the command. General Morgan is in motion also. Maryland, notwithstanding the defects in her militia laws, will act very satisfactorily. New Jersey, probably headed by her Governor, will exhibit a most heroic example. Pennsylvania, which has been supposed to be reluctant, will furnish in volunteers what the incompetency of her militia laws would not yield. The speech of Governor Mifflin to the Assembly, and to the officers, the answers of the State Senate and House of Representatives, breathe a spirit determined to subdue the commotion. It has been even proposed (and the proposal seems likely to be successful) that the lawyers of this city should imbody themselves and march. You may therefore, sir, with safety pronounce, that, howsoever painful the appeal may be to arms; howsoever active the insurgents may have been in endeavoring to obtain proselytes; howsoever inconvenient the long distance to the principal scene may be—Government has not the most remote apprehension of difficulty in quelling the infatuation. Your negotiation cannot, I hope, be embarrassed by any appearance which this affair may have assumed: if it has been perplexed by it, you may truly affirm that, instead of shaking, it will terminate in the manifestation of the love of the people for the Government of the United States, and their zealous guardianship of it.

My pen is wearied by ineffectual remonstrances to Mr. Hammond on Governor Simcoe's perpetual encroachments, threats, and indeed hostilities. In support of my letter to him on the 2d instant, the enclosed affidavit of John Kelly presents a most savage fact. Be assured that I shall rejoice in your

honor in happily closing this and every other branch of your functions. If, however, Lord Dorchester and Governor Simcoe are to continue uncontrolled in their course, what consequences may not be feared?

The copies of two other letters from myself to Mr. Hammond, of the 22d and 27th August, and of an extract from his reply on the 3d instant, will prove how we are harassed by their conduct respecting American seamen. So too will Governor Gelston's letter of the 8th instant, Governor Clinton's of the 9th, and the affidavits of Lloyd Daubeny and John R. Livingston, show what unjust and oppressive captures continue to be made of our property by British cruisers on our very coasts.

I have the honor to be, &c.

EDMUND RANDOLPH.

Mr. Jay to Mr. Randolph—No. 15.

LONDON, *September* 13, 1794.

SIR: Hitherto my letters have communicated to you but little information of much importance, except on one point. Although all the general objects of my mission were opened at once, and were received with every indication of the same candor and disposition to agreement with which they were stated, yet the nature of the business turned the immediate and more particular attention of both parties to the affair of the captures. The result has been communicated to you.

A number of informal conversations on the other points then took place, and every difficulty which attended them came into view, and was discussed with great fairness and temper. The inquiry naturally led to the fact which constituted the first violation of the Treaty of Peace. The carrying away of the negroes, contrary to the 7th article of the Treaty of Peace, was insisted upon as being the first aggression. To this it was answered, in substance, that Great Britain understood the stipulation contained in that article, in the obvious sense of the words which expressed it, viz: as an engagement not to cause any destruction, nor to carry away any negroes or other property of the American inhabitants, or, in other words, that the evacuation should be made without depredation; that no alteration in the actual state of property was operated or intended by that article; that every slave, like every horse, which escaped or strayed from within the American lines, and came into the possession of the British army, became, by the laws and rights of war, British property; and, therefore, ceasing to be American property, the importation thereof was not inhibited by the stipulation in question; that, to extend it to the negroes, who, under the faith of proclamations, had come into them, of whom they thereby acquired the property, and to whom, according to promise, liberty had been given, was to give to the article a greater latitude than the terms of it would warrant, and was also unnecessarily to give it a construction which (being odious) could not be supported by the known and established rules for construing Treaties. To this was replied the several remarks and considerations which are mentioned at large in a report which I once made to Congress on this subject, and which, for that reason, it would be useless here to repeat: on this point we could not agree.

I then brought into view another circumstance, as affording a just cause of complaint, antecedent to any of those urged against us, viz: that, from the documents recited and stated in Mr. Jefferson's letter to Mr. Hammond, it appears that the posts were not only not evacuated within the reasonable time stipulated by Treaty, but also that no orders for the purpose had, at least within that time, if ever, been given.

To this it was answered, that the provisional articles were signed at Paris on the 30th November, 1782; that those articles were to constitute the Treaty of Peace proposed to be concluded between Great Britain and the United States, but which Treaty was not to be concluded till terms of peace should be agreed upon between Great Britain and France; that the Treaty of Peace was not concluded until the 3d September, 1783; that it was not ratified in America until the 14th January, 1784; and that the ratification was not received in London until the 28th May, 1784, nor exchanged until the end of that month; that, according to the Laws of Nations, Treaties do not oblige the parties to begin to execute the engagements contained in them until they have received their whole form—that is, until they shall have been ratified by the respective Sovereigns that are parties to them, and until after those ratifications shall have been exchanged; that, therefore, it was not until the end of May, 1784, that Great Britain was bound to give any orders to evacuate the posts; that such orders could not arrive at Quebec until in July, 1784, and consequently that the allegations of a breach of the Treaty by the non-execution of the article respecting the posts, grounded on circumstances prior to the 13th July, 1784, are evidently unfounded; that, in the interval between the arrival and publication in America of the provisional articles and the month of July, 1784, by which time, at soonest, orders issued after the exchange of the ratifications of the Treaty of Peace (the last of May) could reach Quebec, incontestible violations of the Treaty had taken place in the United States; that reason and the practice of nations warrant, during a suspension of hostilities, only such measures as result from a continuance of the *status quo*, until the final exchange of ratifications; that, in opposition to this, new Legislative acts had, in the interval before mentioned, been passed, which were evidently calculated to be beforehand with the Treaty, and to prevent its having its full and fair operation on certain points and objects when it should be ratified and take effect; that these acts were the first violations of the Treaty, and justified Great Britain in detaining the posts until the injuries caused by their operation should be compensated.

That Britain was not bound to evacuate the posts, nor to give any orders for the purpose, until after the exchange of the ratifications, does appear to me to be a position that cannot be reasonably disputed.

That certain Legislative acts did pass in the United States, in the interval aforesaid, which

were inconsistent with the Treaty of Peace, is equally certain; but it does not thence necessarily follow that those acts were without justice even as relative to the Treaty; for precedent violations on the part of Great Britain would justify subsequent retaliation on the part of the United States. Here again the affair of the negroes emerged, and was insisted upon, and was answered as before. I confess, however, that his construction of that article has made an impression upon my mind, and induced me to suspect that my further opinion on that head may not be well founded.

Thus, it became evident that admissions of infractions of the Treaty of Peace, and that this or that party committed the first aggression, were not to be expected, and that such discussions would never produce a settlement.

It then became advisable to quit those topics, and to try to agree on such a set of reciprocal concessions as (balancing each other) might afford articles for a Treaty, so beneficial to both parties as to induce them to bury in it all former questions and disputes. This idea gave occasion to a variety of propositions of different kinds, which it would be tedious and useless to enumerate, and of which you will readily conceive there were some that could not meet with mutual approbation. Among those which were mentioned, was one for altering essentially our boundaries in the Northwest corner of the United States. This I regarded as inadmissible, and hoped would not be persisted in. One for doing us complete justice respecting the captures; one for partially opening to us a trade with the West India Islands; one for our paying the damages sustained by British creditors, by lawful impediments: this was strongly insisted on. I did not think it utterly inadmissible, in case we received proper justice and privileges under other articles; for then, in my judgment, it would not be advisable to part and separate on that point, and various reasons convinced me it would be adhered to. One for putting the ships and merchants of both parties on an equal footing. In short, in order to bring the whole subject comprehensively into view, nothing that occurred was omitted to be mentioned. These were free conversations, neither of us considering the other as being committed by anything that was said or proposed.

It was necessary then to select points for mutual consideration, and quitting desultory discussions, to fix our attention on certain propositions—each being at liberty to propose what he pleased, and again to retract his proposition, if, on mature reflection, he should be so inclined. With this view, after returning home, I selected the following, and having reduced them to writing, sent them to Lord Grenville for his consideration; in the meantime, employing myself in reflecting and endeavoring to decide in my own mind how far, and with what modifications or omissions, it would be proper to adopt them:

"*August* 6, 1794.

"Mr. Jay presents his compliments to Lord Grenville, and encloses some outlines for a Convention and Treaty of Commerce. Some of them appear to him questionable. More mature reflection, and the light which usually springs from mutual discussions, may occasion alterations. Many of the common articles are omitted, and will be inserted of course. It is very desirable that it may be concluded in season to arrive about the 1st of November."

"Right Honorable Lord GRENVILLE," &c.

The paper that was enclosed is in these words, viz:

"Whereas between His Majesty the King of Great Britain and the United States of America there do exist mutual complaints, and consequent claims, originating as well in certain articles of their Treaty of Peace as in the Law of Nations relative to the respective rights of belligerant and neutral nations:

And whereas both the said parties being sincerely desirous to establish permanent peace and friendship by a Convention that may be satisfactory and reciprocally advantageous, have respectively empowered their undersigned Ministers to treat of and conclude the same:

And whereas the said Ministers find it impossible to admit the said mutual complaints and claims of the first description to be well founded, in their existing extent; and to the end that the obstacles to concord and agreement which thence arise may be done away, they have agreed that all the said complaints and claims shall be forever merged and sunk in the following articles, viz:

The boundaries of the United States, as delineated in the said Treaty of Peace, and every article in the said Treaty contained, are hereby recognised, ratified and forever confirmed; but, inasmuch as the parties differ as to which is the river intended by the Treaty, and therein called the river St. Croix, it is agreed thas the said question shall be referred to the final decision of —— Commissioners, to be appointed and empowered as follows, viz.

Whereas it is doubtful whether the river Mississippi extends so far to the Northward as to be intersected by the West line from the Lake of the Woods, which is mentioned in the said Treaty, it is agreed that the actual extent of the said river to the Northward shall be explored and ascertained by Commissioners for that purpose, to be appointed and authorized as follows, viz.

It is agreed that if, from the report of the said Commissioners, it shall appear that the said river does not extend so far to the Northward as to be intersected by the West line aforesaid, by reason whereof the boundary lines of the United States in that quarter would not close, then, and forthwith thereupon, such a closing line shall be established as shall be adjudged and determined to be most consistent with the true intent and meaning of the said Treaty by —— Commissioners, to be appointed and authorized in the manner prescribed in the article relative to those who are to decide which is the river St. Croix, intended by the said Treaty, with these differences only, viz.

"It is agreed that His Majesty shall withdraw all his troops and garrisons from every post and place within the limits of the United States by the

1st day of June next, and that all settlers and traders within the precincts or commands of the said posts and garrisons shall continue to have and enjoy, unmolested, all their property of every kind, and shall be protected therein; and may either remain and become citizens of the United States, or may sell their land or other property, and remove, with their effects, at any time within two years from the 1st day of June next.

It is agreed that His Majesty will cause full and complete satisfaction and compensation to be made for all vessels and property of American citizens which have been, or during the course of the present war shall be, illegally captured and condemned under color of authority and commissions derived from him; and that, in all cases where it shall be apparent full justice and compensation cannot be obtained and actually had, in the ordinary course of Judicial proceedings; and for this purpose —— Commissioners shall be appointed and empowered in manner following, viz.

And whereas debts *bona fide* contracted before the peace, and remaining unpaid by American debtors to British creditors have probably in some instances been prejudiced and rendered more precarious by the lawful impediments which, after the peace, did for some time exist to their being prosecuted and recovered, it is agreed that, in all cases where it shall be apparent that the said creditors, by the operation of the said impediments on the security and value of their debts, have sustained damage, for which adequate reparation cannot now be obtained and actually had in the ordinary course of Judicial proceedings, (it being understood that in these damages interest shall be included only in cases where, according to equity and good conscience, all things being considered, it ought to be allowed and paid,) the United States will make full and complete satisfaction and compensation to the said creditors for the same; and for this purpose Commissioners shall be appointed and authorized in the manner prescribed in the preceding article, with these differences only, viz.

It is agreed that it shall and may be lawful for the said United States and their citizens to carry, in their own vessels, of the burden of 100 tons, or under, from the said United States, any goods, wares, and merchandises, which British vessels now carry from the United States, to any of His Majesty's islands and ports in the West Indies; and shall pay in the said islands and ports only such rates of tonnage as British vessels do, or shall be liable to, pay in the United States; and only such other charges, imposts, and duties, as British vessels and cargoes laden in, and arriving from, the United States, now are, or hereafter shall be, lawfully liable to in the said islands and ports; and that it shall and may be lawful for the said American vessels to purchase, lade, and carry away, from the said islands and ports, all such of the productions and manufactures of the said islands as they may think proper, and paying only such duties and charges on exportation as such vessels and cargoes, if British, would be liable to: *Provided always*, That they carry and land the same in the United States, and at no place whatever out of the same; it being expressly agreed and declared, that West India productions or manufactures shall not be transported in American vessels, either from His Majesty's said islands, or from the United States, to any part of the world except the United States, reasonable sea stores excepted, and excepting, also, rum made in the United States from West India molasses.

It is agreed that all the other ports and territories of His Majesty, whatsoever and wheresoever, (not comprehended within the limits of his chartered trading companies,) shall be free and open to the citizens of the United States, and that they, and their vessels and cargoes, shall therein enjoy all the commercial rights, and pay only the same duties and charges, either on importation or exportation, as if they were British merchants' vessels and cargoes, except that they shall pay the same rate of tonnage as may be charged on British vessels in the United States. And, on the other hand, it is agreed that all the ports and territories of the United States, without exception, shall be free and open to British merchants and subjects, and that they, and their vessels and cargoes, shall therein enjoy all the commercial rights, and pay only the same duties and charges, as if they were American merchants' vessels and cargoes; it being the intention of this article that, in His Majesty's territories (except as before excepted) American merchants and merchant vessels shall be exactly on the same footing with British merchants and merchant vessels, and that British merchants and merchant vessels shall, in all the territories of the United States, be exactly on the same footing with American merchants and merchant vessels, tonnage only excepted.

The trade between the United States and the British West Indies shall be considered as regulated and explained by the preceding article, and therefore as being excluded from the operation of the following articles:

It is agreed that all the productions and manufactures of His Majesty's dominions in any part of the world may freely be imported in British or American vessels into the United States, subject equally and alike to the duties on importation which may there be established; and that all the productions and manufactures of the United States may be freely imported in American or British vessels into any of the said dominions of His Majesty, subject equally to the duties on importation which may there be established.

And to the end that these duties may be made reciprocal, it is agreed that additional articles for that purpose shall be negotiated and added to this Convention as soon as may be conveniently done.

It is agreed that when Great Britain is at war and the United States neutral, no prizes taken from, or by Great Britain, shall be sold in the United States; and that, when the United States are at war and Great Britain neutral, no prizes taken from, or by the United States, shall be sold in His Majesty's dominions.

It is agreed that, if it should unfortunately happen that Great Britain and the United States

should be at war, there shall be no privateers commissioned by them against each other, and that the merchants and others residing in each other's countries shall be allowed nine months to retire with their effects, and shall not be liable to capture on their way home to their respective countries.

It is agreed that British subjects who now hold lands in the United States, and American citizens who now hold land in His Majesty's dominions, shall continue to hold them according to the nature and tenure of their estates and titles therein, and may grant, and sell, and devise the same, as, and to whom they please, in like manner as if they were natives; and that neither they, nor their heirs or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

It is agreed that neither debts due from individuals of the one nation to individuals of the other, nor shares or moneys which they may have in the funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; except that, in case of war, and only during its continuance, payment may be suspended, it being both unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents."

From the 6th to the 30th of August nothing of importance occurred.

On the 30th day of August Lord Grenville wrote me a letter, and enclosed two draughts or projets of Treaties. The letter is in these words, viz:

AUGUST 30, 1794.

SIR: I have now the honor to transmit to you two projets, the one for regulating all points in dispute between His Majesty and the United States, the other for the establishment of commercial regulations. You will perceive that I have proceeded in forming these projets on the foundation of the paper you communicated to me, but that I have occasionally made such variations as seemed to me to be just and expedient. I have thought that some time might be saved by communicating them to you in this manner. Whenever you shall have sufficiently considered them to be enabled to converse, either on the whole, or on any distinct branches of so extensive a subject, I shall be very much at your order, having very sincerely at heart the speedy and favorable conclusion of our negotiation.

It would have been more satisfactory to me if I had found it practicable to send you these projets sooner; but you will, I am sure, be sensible of the circumstances which must, at this juncture, have interfered with the preparation of an arrangement intended to comprehend so extensive a subject, and to lay the foundation of lasting harmony and friendship between our two countries. Even in the state in which I now send you these papers, I am apprehensive that some verbal corrections may occur as necessary to give full effect to the objects intended to be provided for, supposing those objects to be mutually consented to; and I think there are one or two points, on which we have occasionally touched in our conversations, for which no provision is made in these projets. But I have preferred making the communication in its present shape rather than that any further delay should be created, and I trust, with real confidence, to your candor, respecting such further suggestions as I may occasionally see ground to state to you.

I have the honor to be, &c.,

GRENVILLE.

The Hon. Mr. JAY, &c.

The draughts, or projets, are as follows, viz:
First, the preamble.

ARTICLE 1. It is agreed that His Majesty will withdraw all his troops and garrisons from the posts within the boundary line assigned by the Treaty of Peace to the United States. This evacuation shall take place on or before the first of June, 1796, and all the proper measures shall, in the interval, be taken by concert between His Majesty's Governor General in America, and the Government of the United States, for settling the previous arrangements which may be necessary respecting the delivery of the said posts. All settlers and traders within the precincts or jurisdiction of the said posts shall continue to have and to enjoy, unmolested, all their property of every kind, and shall be protected therein so long as they shall think proper to remain there, and shall be at full liberty to remove at such times as they shall think proper, and to sell their lands, houses, or effects, or to retain the property thereof.

It shall at all times be free to His Majesty's subjects, and to the Indians who are to the southward and westward of the Lakes, to pass and repass with their goods and merchandises, and to carry on their commerce within and without the jurisdiction of the said posts, in the manner hitherto accustomed, and without any hindrance or molestation from the officers or citizens of the United States. The several waters, carrying places, and roads, adjacent to the Lakes, or communicating with them, shall continue to be free and open to His Majesty's subjects, and to the Indians, for that purpose; and no impediment or obstacle shall be given to the passage of goods or merchandise of any kind; nor shall any duty be attempted to be levied upon them.

ART. 2. In order to remove all uncertainty with respect to the said boundary line assigned to the United States, by the said Treaty of Peace, the following arrangements have been agreed upon, between the two contracting parties to the said Treaty, and are to be considered as forming a part thereof:

First. That, whereas doubts have arisen what river was truly intended, under the name of the river St. Croix, mentioned in the said Treaty, and forming a part of the boundary therein described, that question shall be referred to the final

decision of Commissioners in London, to be appointed in the following manner, viz: That one Commissioner shall be named by His Majesty, and one by the United States, and that the said two Commissioners shall agree on the choice of a third, or, if they cannot so agree, that they shall each propose one person, and that, of the two names so proposed, one shall be drawn by lot, in the presence of the two original Commissioners; and that the two Commissioners so appointed shall be sworn impartially to examine and decide the said question, according to such documents as shall respectively be laid before them, on the part of the British Government, and of the United States.

Secondly. That whereas it is now understood that the river Mississippi would, at no point thereof, be intersected by such westward line as in the said Treaty; and, whereas it was stipulated, by the said Treaty, that the navigation of the Mississippi should be free to both parties, it is agreed that the boundary line shall run in the manner described by the said Treaty, from the Lake Huron, to the northward of the Isle Philippeaux, in Lake Superior; and that from thence the said line shall proceed to the bottom of West Bay, in the said Lake; and from thence, in a due west course, to the river of the Red Lake, or eastern branch of the Mississippi, and down the said branch to the main river of the Mississippi, and that, as well on the said branch, as on (——— or ——— through Lake Superior; and from thence to the water communication between the said Lake, and the Lake of the Woods, to the point where the said water communication shall be intersected by a line running due north from the mouth of the river St. Croix, which falls into the Mississippi below the falls of St. Anthony, and that the boundary line shall proceed from such point of intersection, in a due southerly course, along the said line to the Misssissippi, and that, as well as on the said water communication, as on) every part of the Mississippi where the same bounds the territory of the United States, the navigation shall be free to both parties, and His Majesty's subjects shall always be admitted to enter freely into the bays, ports, and creeks, on the American side, and to land and dwell there for the purposes of their commerce; and, for greater certainty, the undersigned Ministers have annexed to each of the copies of this Treaty a copy of the map made use of by them, with the boundaries marked thereon, agreeably to this article; and the boundaries of the United States, as fixed by the said Treaty of Peace, and by this Treaty, together with all the other articles of the said Treaty, are hereby recognised, ratified, and forever confirmed.

ART. 3. Whereas it is alleged, by divers British merchants and others, His Majesty's subjects, that debts, to a considerable amount, which were *bona fide* contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that, by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the security and value thereof has been impaired and lessened, and that, in many instances, the British creditors cannot now obtain, by the ordinary course of judicial proceedings, full and just relief for the loss and damage so sustained by them, it is agreed, that, in all cases where such relief cannot, for whatever reason, be now had by British creditors, in the ordinary course of justice, the United States of America will make full and complete satisfaction to the said creditors; and that, for this purpose, Commissioners shall be appointed and authorized to act in America, in the manner following, that is to say: two Commissioners shall be named by His Majesty, and two by the United States, and a fifth by the unanimous choice of the other four; but, if they shall not agree in such choice, then one name shall be proposed by the British Commissioners, and one by the Commissioners of the United States, and one of the two names so proposed shall be drawn by lot, in the presence of the said original Commissioners; and in case of death, sickness, or necessary absence, the places of the said Commissioners shall be respectively supplied in the same manner as such Commissioners respectively were first appointed. The said five Commissioners shall be sworn to hear all such complaints as shall, within the space of eighteen months from their first sitting, or within such further time as they shall see cause to allow for that purpose, be preferred to them, by British creditors, or their representatives, in virtue of this article, and impartially to determine the same, according to the true intent of this article, and of the Treaty of Peace.

And the said Commissioners, in awarding such sums as shall appear to them to be due to the said creditors by virtue of this article, are empowered to take into their consideration, and to determine, all claims, on account either of principal or interest, in respect of the said debts, and to decide respecting the same, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require; and the said Commissioners shall be empowered to examine all persons, on oath, touching the premises, and also to receive in evidence, at their discretion, and according as they shall think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof, every such deposition, book, paper, copy, or extract, being duly authenticated, according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to prescribe and require. Three of the said Commissioners shall constitute a Board, and be empowered to do any act appertaining to the said commission; provided that, in every such case, one of the Commissioners named on each side, and the fifth Commissioner, chosen as above, shall be present; and all decisions shall be made by the majority of voices of the Commissioners then present.

The award of the said Commissioners, or any three of them, as aforesaid, shall, in all cases, be

final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the claimant; and the United States undertake to cause the same to be paid to such claimants, without deduction, in sterling money, and in such place or places, and at such time or times, as shall be awarded by the said Commissioners; and on condition of such releases to be given by the claimant of his demands against individuals, as to them shall appear just and reasonable.

Art. 4. Whereas complaints have been made by divers merchants and others, citizens of the United States, that, during the course of the war in which His Majesty is now engaged, they have sustained considerable loss and damage by reason of irregular or illegal captures and condemnation of their vessels under color of authority or commission from His Majesty: and that, from various circumstances belonging to the said cases, adequate compensation for the said losses cannot now be obtained by the ordinary course of Judicial proceedings, it is agreed that in all such cases where adequate compensation cannot, for whatever reason, be now had by the said merchants and others, full and complete satisfaction will be made by the British Government to the said complainants; and that, for this purpose, Commissioners shall be appointed and authorized to act in London in the same manner, and with the same powers and authorities, and subject to the same restrictions, as the Commissioners named in the third article of this Treaty; and that the award of the said Commissioners shall, in like manner, be final and conclusive in all respects. And His Britannic Majesty engages to cause to be paid to such complainants, respectively, the amount of all sums so awarded, without deduction, in sterling money, and at such time or times, and in such place or places, as shall be awarded by the said Commissioners, and on condition of such releases, on the part of the complainants, of their demands against individuals, as to the said Commissioners shall appear just and reasonable.

And it is further agreed that, if it shall appear that in the course of the war, loss and damage has been sustained by His Majesty's subjects, by reason of the capture of their vessels and merchandise—such capture having been made, either within the limits of the jurisdiction of the said States, or by vessels armed in the ports of the said States, or by vessels commanded or owned by the citizens of the said States—the United States will make full satisfaction for such loss or damage, the same being to be ascertained by Commissioners in the manner already mentioned in this article.

Art. 5. It is agreed that, with respect to the neutral commerce which one party may carry on with the European enemies of the other when engaged in war, the principles to be observed by Great Britain towards the United States, and reciprocally by the United States towards Great Britain, shall always, and in all points, be the same as those which shall at that time be observed by the said parties, respectively, towards the most favored neutral nations of Europe, with the exception of such particular privileges as may, before the commencement of the war to which the same shall apply, have been granted by special Treaty to particular European nations, and with such extensions or modifications as may occasionally be established by special Treaty between Great Britain and the United States, for their mutual convenience.

Art. 6. It is agreed that, in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port; and that all proper measures shall be taken to prevent delay in deciding the case of ships so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

Art. 7. When one of the contracting parties is engaged in war and the other remains neutral, the said neutral Power shall not suffer the ships, vessels, goods, or merchandise, of the other, which may be taken at sea, or elsewhere, by the enemy, to be brought into any of its ports or dominions, and much less to be there sold or exchanged; but shall publicly forbid anything of that kind to be done. And if any ships, vessels, goods, or merchandise, of either of the contracting parties, or their people or subjects so taken at sea or elsewhere, shall be carried into the ports or countries of the other by the enemy, neither the same nor any part thereof shall be allowed to be sold or exchanged in that port, or in any other place in the dominion of the said neutral party. The master of the ship or vessel so taken, as also the mariners and passengers of every description shall, as soon as they arrive, be immediately set at liberty; and the said ship or vessel so brought, shall not be permitted to stay in that harbor, but shall be obliged immediately to leave the port, with her goods, merchandise, and lading, and without being allowed to return to the same, or to any other port in the dominions of the said neutral party: *Provided, nevertheless*, That nothing in this article shall be construed to derogate from the public Treaties which have already been entered into by either of the contracting parties with other nations; but in so far as such Treaties do not interfere, and in all cases to which they do not apply, the above article shall remain in full force, and shall be executed accordingly. And the contracting parties will not in future conclude any Treaty in derogation of this article.

Art. 8. It is agreed that the subjects and inhabitants of the kingdoms, provinces, and dominions of the contracting parties, shall exercise no acts of hostility or violence against each other, either by sea or by land, or in rivers, streams, ports, or havens, under any color or pretence whatsoever; and particularly, that the subjects or people of either party shall not receive any patent, commission, or instruction, for arming and acting at sea as privateers, or any letters of reprisal, as they are called, from any Prince or State, enemies to the other party; neither shall they arm ships in such manner as is above said, nor go out

to sea therewith, for the purpose of exercising any act of violence against the subjects or people of the other contracting party; nor shall they in any manner molest or disturb the said subjects or people; to which end sufficient laws and regulations shall, if necessary, be provided; and as often as it is required by either party, strict and express prohibitions shall be renewed and published in all the territories, countries, and dominions of each party, wheresoever, that no one shall in anywise use such commissions or letters of reprisal, or engage in any such acts of hostility as aforesaid, under the pain of severe punishment to be inflicted on the transgressors, besides their being liable to make full restitution and satisfaction to those to whom they have done any damage. Neither shall any letters of reprisal be hereafter granted by either of the said contracting parties, to the prejudice or detriment of the subjects of the other; except only in such case wherein justice is denied or delayed; which denial or delay of justice shall not be regarded as verified, unless the petition of the person who desires the said letters of reprisal shall be communicated to the Minister residing there on the part of the Government against whose subjects or people they are granted, that, within the space of four months or sooner, if it be possible, they may manifest the contrary, or procure the satisfaction which may be justly due.

Art. 9. Neither of the said contracting parties shall permit the ships or goods belonging to the subjects of the other, to be taken within the limits of their respective jurisdictions on their coasts, nor in the ports or rivers of their dominions by ships of war or others, having commission from any Prince, Republic, or city whatsoever: but in case it should so happen, both parties shall employ their united force to obtain reparation of the damage thereby occasioned.

Art. 10. If it should unfortunately happen that a war should break out between Great Britain and the United States, all merchants and others residing in the two countries, respectively, shall be allowed nine months to retire with their effects, and shall be protected from capture in their way home: *Provided, always*, that this favor is not to extend to those who shall act contrary to the established laws. And it is further agreed that neither debts due from individuals of the one nation to individuals of the other, nor shares or moneys which they may have in the public funds or in the public or private banks, shall ever in any event of war or national differences be sequestered or confiscated; it being both unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.

Art. 11. It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in His Majesty's dominions, shall continue to hold them, according to the nature and tenure of their estates and titles therein; and may grant and sell, and devise the same, as and to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

COMMERCIAL PROJET.

The Preamble.

Article 1. It is agreed that there shall be, between the dominions of His Britannic Majesty in Europe and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation, and a free admission of all ships belonging to either party, whether the same be ships of war or merchant vessels; and that the subjects and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hindrance or molestation of any kind, to come with their said ships and their cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort thereto, and to remain and reside therein, without any limitation of time; also to hire, purchase, and possess houses and warehouses, for the purpose of their commerce; and, generally, that the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the general laws and statutes of the two countries, respectively.

Art. 2. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid, the same being of the nation on whose behalf they shall be so appointed, and not otherwise; and such Consuls shall enjoy those liberties and rights which belong to them by reason of their functions; but either party may except, from the general liberty of residence of such Consuls, such particular places as such party shall judge proper to be so excepted.

Art. 3. The vessels of the two contracting parties, respectively, coming to the dominions or territories aforesaid, shall enjoy the same liberty in respect to the entry and discharge of their lawful cargoes, and all other regulations which respect the general convenience and advantage of commerce, as now are, or shall at any time be, enjoyed by any other foreign nation, which shall be the most favored in that respect; and no distinction shall exist of tonnage or other duties, (such lighthouse duties excepted as are levied for the profit of individuals or of corporations,) by which the vessels of the one party shall pay in the ports of the other any higher or other duties than shall be paid, in similar circumstances, by the vessels of the foreign nation the most favored in that respect, or by the vessels of the party into whose ports they shall come.

Art. 4. No article, being the growth, produce, or manufacture of any of the dominions or territories of the one party shall pay, on being imported directly from the said territories or dominions, into the ports of the other, any higher or

other duties than shall be there paid for the like articles on importation from any other foreign country.

ART. 5. No new prohibition shall be laid in any of the territories or dominions aforesaid, by one of the contracting parties, on the importation of any article, being of the growth, produce, or manufacture of the territories or dominions of the other; nor shall articles, being of the growth, produce, or manufacture of any other country, be prohibited to be imported into the dominions of one of the contracting parties by the vessels of the other, except such articles only as are now so prohibited.

ART. 6. With respect to the territories and dominions of His Britannic Majesty in the West Indies, the following arrangements have been agreed to by the contracting parties:

His Majesty consents that it shall and may be lawful, during the time hereinafter limited, for the citizens of the United States of America to carry to any of His Majesty's islands and ports in the West Indies, from the United States in their own vessels, not being above the burden of seventy tons, any goods or merchandise, being of the growth or produce of the said States, which it is or may be lawful to carry to the said islands and ports from the said States in British vessels; and that the said American vessels and their cargoes shall pay there no other or higher duties than shall be payable by British vessels in similar circumstances; and that it shall be lawful to the said American citizens to purchase, load, and carry away, in their said vessels to the United States, from the said islands and ports, all such articles, being of the growth and produce of the said islands, as may by law be carried from them to the said States in British vessels; and subject only to the same duties and charges on exportation, to which British vessels are or shall be subject in similar circumstances: *Provided, always*, That they carry and land the same in the United States only; it being expressly agreed and declared that, during the continuance of this article, the United States will prohibit the carrying any West India productions or manufactures in American vessels, either from His Majesty's islands or from the United States, to any part of the world except the United States—reasonable sea stores excepted, and excepting also rum made in the United States from West India molasses.

It is agreed that this article, and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged, and also for two years from and after the day of the signature of the preliminary articles of peace by which the same may be terminated.

And it is further agreed that, at the expiration of the said term, the two contracting parties will treat further concerning the arrangement of their commerce in this respect, according to the situation in which His Majesty may then find himself as with respect to the West Indies, and with a view to the mutual advantage and extension of commerce.

ART. 7. This Treaty, and all the matters therein contained except the sixth article, shall continue to be in force for twelve years from the day of the exchange of the ratification thereof; and if, during the continuance of this Treaty, there shall arise on either side any complaint of the infraction of any article thereof, it is agreed that neither the whole Treaty nor any article thereof shall, on that account, be suspended, until representation shall have been made to the Government by the Minister of the party complaining; and, even if redress shall not then be obtained, four months' notice shall be given previous to such suspension."

To the before-mentioned letter I returned the following answer, viz:

PALL MALL, ROYAL HOTEL,
September 1, 1794.

MY LORD: I was yesterday honored with your lordship's letter of the 30th August, with the projets and map which accompanied it. I consider the articles in these projdts as being (like those in our conversations) merely for mutual consideration.

In these projets several parting points present themselves; some of them, I presume, may be easily accommodated, but there are others which create in my mind serious apprehensions. One of these articles (being without the limits of my authority) I think I ought now to particularize; it is the one which proposes a cession of territory in the Northwestern corner of the United States. It is proper, also, that I should say with frankness that, in my opinion, many circumstances and considerations which shall be submitted to your lordship, will restrain the United States from such a cession.

This article would entirely frustrate my hopes, if I had not reason to persuade myself that the enlarged and enlightened policy of excluding secondary from a competition with primary objects, will always harmonize with your lordship's mind. The present occasion is great, and though critical, yet auspicious to the establishment of confidence and friendship between the two countries. With the magnitude and importance of these objects, the projets in question really do not strike me as being commensurate. I am aware that, in forming them, your lordship had many difficulties growing out of the subject, and probably some others to encounter, and that your attention was constantly divided between a multitude of great and pressing affairs.

The negotiation now becomes delicate, and I should experience more than a proportionate embarrassment were it not for my confidence in your lordship's candor and liberality, and for those sentiments of esteem, as well as respect, which I have the honor to be, &c. J. J.

The Rt. Hon. LORD GRENVILLE, &c.

The proposed alterations in our Northwestern boundary, and the consequential cession and dereliction of territory, appeared to me to be a point which I ought, without delay, to state to his lordship in the light in which it appeared to me; I

therefore prepared and sent him, enclosed in a note, the following remarks, viz:

ROYAL HOTEL, PALL MALL,
September 4, 1794.

Mr. Jay presents his compliments to Lord Grenville, and requests the favor of his lordship to name a time for receiving Mr. Jay on the subject of the proposed Treaties. In the mean time, Mr. Jay has the honor of submitting the remarks herewith enclosed, to his lordship's consideration.

Remarks on that part of the second article of the projet of a Treaty for terminating all differences between Great Britain and the United States of America, which purports a cession or dereliction by the latter of the country lying to the Westward and Northward of either of the two lines therein proposed and described.

For this cession or dereliction, two reasons are assigned, viz:

1st. That it is now understood that the river Mississippi would in no part thereof be intersected by a west line from the Lake of the Woods.

2d. That it was stipulated by the Treaty of Peace, that the navigation of the river Mississippi should be free to both parties.

Admitting the fact mentioned in the first of these reasons to be well founded, it shows only that the Northern and Western lines of the United States do not meet and close, and therefore that it is necessary to fix on a line for closing them. But no argument thence results that either Great Britain or the United States ought to cede or to acquire any territory further than what such closing line may possibly render unavoidable.

That the Mississippi would, in no point thereof, be intersected by a west line from the Lake of the Woods, is a fact involved in too much uncertainty to be assumed as a foundation for national stipulation; for however it may be conjectured or supposed, yet it still remains to be ascertained.

The map sent to Mr. Jay by Lord Grenville, viz: Faden's, published in 1793, informs us that the river Mississippi has been ascended only as far up as about the forty-fifth degree of North latitude—that is, about a degree above the falls of St. Anthony; so that its further extent and course towards the North are yet to be discovered.

On the same map, Faden lays down a stream connected with the Marshy Lake, near the forty-fifth degree of latitude, and thus denominates it, "Mississippi by conjecture."

He also lays down on the same map a stream connected with the White Bear Lake, near the latitude forty-six, and thus denominates it, "The Mississippi by conjecture."

He also lays down, on the same map, a stream connected with the Red Lake, in latitude forty-seven, and thus denominates it, "Red Lake river, or Lahontan's Mississippi."

Inasmuch, therefore, as three different streams, found in the immense wilderness above latitude forty-five, are conjectured to be the Mississippi, it is plain that, so far from being certain how far that river runs to the North, we really are yet to learn where it does run, and which of the rivers in that wilderness it is. How then can it be assumed, as a fact resting on good evidence, that the Mississippi would at no point thereof be intersected by a west line from the Lake of the Woods?

Individuals differing about boundaries depending on the course and extent of brooks and streams, settle questions of that kind by actual surveys. States usually, and with good reason, do the same. Why be content with delusive conjectures and probabilities, when absolute certainty can easily be had? Let a survey be accurately made by joint Commissioners, and at joint expense. The United States are ready to adopt that measure, and to enter into the necessary stipulations and arrangements.

If it should appear, on such a survey, that the west line would intersect the Mississippi, no room for further question or dispute will remain; but if the contrary should prove to be the case, then, as the Northern and Western lines of the United States would not close, the manner of closing them will naturally and necessarily come under consideration. Several modes of closing them may be devised, neither of which may be altogether agreeable to both parties. Unless they shall be able to agree, let joint Commissioners, at joint expense, and upon oath, fix a closing line in the manner which they shall judge most consonant with the true intent and meaning of the Treaty of Peace. The United States are ready to enter into such eventual stipulations as may be necessary for that purpose.

The second reason assigned for this cession, is, "that it was stipulated by the Treaty of Peace that the navigation of the Mississippi should be free to both parties."

From this stipulation it is argued, as a natural and necessary inference, that it was in the expectation and intention of the parties, that they should and would both border, not only on the river, but also on the navigable part of it.

This inference seems to be violent. A right freely to navigate a bay, a strait, a sound, or a river, is perfect without, and does not necessarily presuppose the dominion and property of lands adjacent to it.

But, although, from a right to navigate the river Mississippi, a right to adjacent lands cannot be inferred, yet, when that right is connected with the circumstance that both parties were to be bounded by a line terminating at the river, it is thought to be thence presumable that the parties expected and intended the said line would and should terminate at a navigable part of it. They might or they might not have intended it. Whether they did or not, can only be discovered from their concomitant words and actions. On looking into the Treaty for words indicating such intention, our search proves fruitless; there are no such words in it, nor the least shadow of a stipulation or declaration on the point. If we review the plain and manifest design of the Treaty relative to boundaries, we find the idea of such intention uniformly contradicted. The Treaty, in delineating the boundaries of the United States,

passes from the northwest angle of Nova Scotia to the head of Connecticut river, then down that river to the forty-fifth degree of latitude, then on that line of latitude to the river Iroquois, then (quitting that line of latitude) to Lake Ontario, then, from Lake to Lake, through their connecting waters, until it arrives at the Lake of the Woods, and passing through it, to the northwesternmost point thereof, proceeds on a due west course to the Mississippi, &c.

Now, it was always well known, and the maps show it, that the Lake of the Woods is situated at a great distance in the North, above the latitude of the falls of St. Anthony, which interrupt the navigation of the Mississippi, and consequently that a due west line from the Lake of the Woods must of necessity strike the river above those falls, and as far above them as the latitude of the Lake is above the latitude of the falls.

Again: it was not then known, nor is it yet known, how far the Mississippi runs navigable beyond those falls; nor whether any, or how many, other falls intervene between them and its source. The parties, therefore, being entirely ignorant of the extent, and of the course, and of the character of the river high above the falls, could not possibly have judged, or divined, or guessed, whether the place or part of the river at which the west line would strike it, was navigable or not; how, then, could they expect or intend any thing about it? Nothing could be more obvious than that a due west line might terminate on the river at a place not navigable; and had navigation been in view, it seems strange that the Treaty should not contain a provision, that, if the said west line, on being actually run, should strike the river at a place where it was not navigable, then the said line should be inclined so many degrees southerly as might be necessary to bring it to the first navigable water of the river. Yet nothing like this is to be found in the Treaty.

It is not difficult to discern from the Treaty, and so was the fact, that other ideas and views governed the direction of the boundary lines.

The question, then, was, where would it be most convenient to both parties, and, all things considered, where would be most wise and prudent, that the boundaries between them should be fixed? Two lines were proposed and considered: one from the point before mentioned, on Connecticut river, and running straight on the line of the 45th degree of latitude West to the Mississippi; the other was the one adopted and established by the Treaty. The official papers of the British Ministers which respect that negotiation, will probably show that Great Britain had the choice of these two lines, and that she preferred the latter.

This choice and preference gives no support to the idea that she then contemplated navigable water in that part of the Mississippi which was supposed to penetrate into Canada. The first line, if adopted, would have favored it, and fair presumption might have classed that among the reasons of preference; but notwithstanding this, Great Britain did not prefer it; on the contrary, as the waters would form a line which could never be mistaken, and afforded great conveniences to both parties, the line of the waters was preferred by both. This water line was, by mutual consent, terminated at the northwesternmost point of the Lake of the Woods; it was agreed that the Mississippi should bound the United States on the West; nothing then remained but to agree on the course which the closing line, from that Lake to the river, should run; and a due west course was agreed upon without any expectation or design that it would or should there meet the navigable water. The truth is, that the stipulation respecting the navigation of the river being free to both parties, was an afterthought, and gave occasion to a new and subsequent article, viz: the 8th. Even in the drawing that article, when the navigation of the river became an object of contemplation, no connexion was introduced between the right mentioned in that article, and the boundaries designated in the second article; no facilities were asked, or proposed, or stipulated, for a water, or any other communication between Canada and the navigable water of the Mississippi, which doubtless would have been the case, had such a communication been then in view, especially considering the absolute uncertainty and extreme improbability of that river being navigable above the high latitude of the Lake of the Woods.

From the before mentioned circumstances and considerations, it seems fairly to result, that the two reasons assigned for the cession in question, as a matter of equity and right, do not afford it a solid foundation.

If this conclusion be just, it precludes the necessity of showing at large, that none of the inferences ascribed to the said two reasons, involve a claim to tracts of country so extensive as either of the two proposed and marked on the map; each of which includes more than thirty thousand square miles; and that, without taking into the computation the extensive country lying between (what in the subjoined diagrams are for the purpose of computation regarded as) the west sides of these tracts and the Mississippi, and to the southward of the West line from the Lake of the Woods; and which country would on either of these plans become also annexed to Canada."

In order that you may have an accurate idea of the lines proposed by Lord Grenville, I here insert copies of the diagrams mentioned in the aforegoing remarks. [Nos. 1 and 2.]

On the 5th September, Lord Grenville wrote me the following note, viz:

"DOWNING STREET, *September* 5, 1794.

"Lord Grenville presents his compliments to Mr. Jay. He has received Mr. Jay's note, with the enclosed remarks, and will be glad to see him at his office to-morrow, at twelve o'clock. Lord Grenville has, in the mean time, the honor to enclose to Mr. Jay some observations which have occurred to him on the perusal of the paper which he received from Mr. Jay."

The observations enclosed with this note were as follows, viz:

Observations respecting the Northwestern boundary of the United States of America.

It cannot for a moment be admitted, that the proposed arrangement on the subject of the Northwestern boundary, is properly to be considered in the manner in which it is spoken of by Mr. Jay, namely, as a cession, or dereliction of territory on the part of the United States.

Their boundary to the Northwest, as fixed by the Treaty, is a line "to be drawn from the Lake of the Woods, in a due west course, to the Mississippi." There are in this agreement two distinct parts:

1st. That the boundary line should be drawn in a due westerly course from the Lake of the Woods; and 2d. That it should likewise be drawn in a due westerly course to the Mississippi:

If such a line cannot in fact be drawn between those points, there can be no ground for considering one part of this stipulation as more permanently fixed than the other, or as affording a more equitable ground for any future arrangement; and it would be quite as reasonable for this country to consider as a cession of territory on our part, the adoption of any other boundary than that of a due westerly line striking the Mississippi, as for the United States to urge that such a cession exists on their part, if such a line is not drawn from the Lake of the Woods.

To this consideration must be added that which so plainly results from the article respecting the free navigation of the Mississippi; on which head it seems sufficient for the present to remark, that such a right evidently and necessarily implies the possibility of access to that river, without passing through a foreign territory.

Little objection occurs to the making an actual survey, except that of delay. If, on that survey, the stipulations in the Treaty should be found to be compatible with the real geography of the country, it is certain that no further dispute could exist on that point.

But if we have, from the best information on the subject, sufficient reason to believe that no such line can be drawn as is mentioned in the Treaty, it cannot be desirable, when all the interests of the two countries with relation to each other are under discussion, with a view to lasting friendship, to leave unsettled so material a ground of difference as that of an unascertained boundary. The mode of settling that point is necessarily connected with the general result of the present negotiation. If no more can be accomplished on any other point than the doing strict justice between the parties, according to existing Treaties and the Laws of Nations, the appointment of Commissaries, as proposed by Mr. Jay, does not appear ill adapted to obtain the same object as to this point; provided that those Commissaries are distinctly enabled to take into their consideration the 8th article, and to give to that stipulation such effect as they shall think it ought in justice to have in the formation of a new boundary line.

But, if the negotiation should lead to new stipulations of mutual advantage, no subject appears more proper for the application of that principle, than one in which there exist two doubtful and contradictory claims, founded on an agreement which cannot by any possibility be executed; especially if it be true, as it is considered here, that this is a point where any advantage, whatever it should be, which Great Britain might acquire, would, under all circumstances, be found at least equally beneficial to the United States.

DOWNING STREET, *September* 5, 1794.

Expecting that when we met the first of the above projets would, as first in the order of things, be first considered, my attention was more immediately confined to it; but the time consumed in preparing the remarks before mentioned, left me very little leisure to employ in forming satisfactory opinions on the different parts of this projet; several, however, occurred to me, of which I made short notes; they are as follows. You will find the numbers marked in the margin of the projet.

Note 1. In what capacity are they so to remain? as British subjects or American citizens? If the first, a time to make their election should be assigned.

2. If His Majesty's subjects are to pass into the American territories for the purposes of Indian trade, ought not American citizens to be permitted to pass into His Majesty's territories for the like purpose?

3. If the American Indians are to have the privilege of trading with Canada, ought not the Canada Indians to be privileged to trade with the United States?

4. If goods for Indian trade shall be introduced duty free by British traders, how is the introduction of other goods with them to be prevented? And for this privilege, operating a loss to the American revenue, what reciprocal benefit is to be allowed?

5. Why should the Commissioners for ascertaining the river St. Croix meet and decide in London? Is it not probable that actual views and surveys, and the testimony and examination of witnesses on the spot will be necessary?

6. Why confine the mutual navigation of the Mississippi to where the same bounds the territory of the United States?

7. Why should perpetual commercial privileges be granted to Great Britain on the Mississippi, &c., when she declines granting perpetual commercial privileges to the United States any where?

8. This preamble, connected with the silence of the Treaty as to the negroes carried away, implies that the United States have been aggressors; it also unnecessarily impeaches their judicial proceedings.

9. On no principle ought more to be asked than that the United States indemnify creditors for losses and damages caused by the impediments mentioned.

10. The word *had* is not sufficiently definite;

the object being not only sentence, decree, or judgment, but payment and satisfaction.

11. Sterling money fluctuates according to exchange; this should be *fixed.*

12. Why not place these captures on the footing with the others, and charge the United States only in cases where justice and complete compensation cannot be had from judicial proceedings?

13. Why provide only for neutral commerce with European enemies? The whole of this article is so indefinite as to be useless.

14. What are or shall be deemed contraband in the sense of this article?

15. As the United States have permitted the French to sell prizes in the United States, should the restriction not to do it in future, commence at the expiration of the present war?

16. There should be an article against the impressment of each other's people.

17. This united force should be confined to the moment of aggression.

18. The confiscation of debts, &c. This article should be in the Treaty of Commerce.

On the 6th of September, agreeably to Lord Grenville's appointment, I waited upon him; we spent several hours in discussing the several topics which arose from these notes, and some others, which in the course of the conversation occurred. He promised to take what I had offered into consideration, and manifested throughout the conversation every disposition to accommodate that could be wished: we may not finally be able to agree. If we should not, it would, in my opinion, occasion mutual regret, for I do believe that the greater part of the Cabinet, and particularly Lord Grenville, are really disposed and desirous not only to settle all differences amicably, but also to establish permanent peace, good humor, and friendship, between the two countries.

On the 8th of September, I received from Lord Grenville the following letter, enclosing the papers mentioned in it, viz:

St. James's Square, *Sept.* 7, 1794.

Sir: In order to narrow as much as possible the objects of our discussions, I have stated in the enclosed paper what occurs to me on the different points to which your notes apply, except the second, third, and fourth articles of those notes, which I have reserved for further examination and inquiry. I expect that, by Tuesday or Wednesday at furthest, I shall be able to converse further with you on those points, as well as with respect to what you suggested on the subject of the East Indies. The points in discussion will then be reduced within a small compass, but they certainly do not relate to the least important parts of our negotiation. With respect to them, I can only say, that you shall continue to find in me the same openness of discussion, and the same desire to state to you, without reserve, what I think may be conceded to the object of speedy conciliation, and what the interest and honor of my country, and the duty which I owe to the King, oblige me to insist upon, as necessary for that object. It is with sentiments of very real esteem and respect, that I have the honor to be, &c., &c.,

GRENVILLE.

P. S. I also send a note of two alterations to be made in the commercial projet, in consequence of our conversation of yesterday. G.

To the Hon. Mr. Jay, &c.

Observations, (enclosed with the above letter.)

No. 1. In consequence of the observation contained in the first remark, Lord Grenville proposes to add, in the first article of the projet, after the words "property thereof," at the end of the first paragraph, these words: "and such of them as shall continue to reside there for the purposes of commerce, shall not be compelled to become subjects of the United States, or take any oath of allegiance to the Government thereof, but shall be at full liberty so to do (if they think proper) within one year after the evacuation of the posts, which period is hereby assigned to them for making their choice in this respect." Considering the length of the first article, now increased by this addition, it may be better to divide it into two—the second beginning with the words, "It shall at all times be free," &c. &c.

Articles 2, 3, and 4, reserved for further examination.

5. The meeting of the Commissioners respecting the river St. Croix is proposed to be in London, because it is supposed that the great mass of evidence on the subject is here. A power may be given to them, either to direct a local survey, or to adjourn to America, but it seems very unlikely that this would become necessary.

6. No idea was entertained of confining the mutual navigation of the Mississippi to that part of the river where it bounds the territory of the United States. That qualification was intended only to have reference to the free admission of British merchant ships into the bays, ports, and creeks of the United States, on the Mississippi; nor would it have been proposed at all to repeat in this article what is so distinctly stipulated in the Treaty of Peace, respecting the free navigation of the Mississippi, except for the purpose of expressly extending that stipulation to every part of the waters now proposed to form a part of the boundary.

7. The right of admission into ports, &c., for the purposes of trade, and the general liberty of commerce, spoken of in this article, are not considered as commercial privileges, such as are usually made the subject of temporary regulation by special Treaties of Commerce. Great Britain by no means declines to give the same rights permanently to America, as with respect to those parts of her dominions which are open to foreign commerce. These rights are, indeed, now generally acknowledged to be incident to a state of amity and good correspondence; and if it is proposed to particularize them, as with respect to the Mississippi, this is done only with a view of removing the possibility of such doubts as were formerly raised here upon the subject.

8. On the fullest reconsideration of this preamble, Lord Grenville sees no ground to think it liable to the objections made by Mr. Jay, particularly when compared with the preamble proposed for the fourth article. The proceedings in both articles are grounded on the allegations of individuals. The truth of those allegations is referred to the decision of the Commissioners. Lord Grenville's opinion respecting the prior aggression of the United States, as well as his reasons for that opinion, are well known to Mr. Jay; but he has no wish to introduce into the proposed Treaties any discussion of that point. He is therefore very ready to consider any form of words which Mr. Jay may suggest for those articles, as better suited to the two objects to which they are directed—those of justice to individuals and conciliation between the Governments; and this applies equally to the remarks Nos. 9 and 10.

11. The substitution of the word *specie*, as suggested by Mr. Jay, seems fully to meet the object here mentioned.

12. What Mr. J. here desires was intended to be done, and was indeed conceived to be implied in the general words at the end of the article. But Lord Grenville sees no objection to the insertion of express words for the purpose.

13. Lord Grenville explained to Mr. Jay this morning the reason of the insertion of the word *European*, in the place here referred to. The subject is connected with the larger consideration to which their conversation led, and from the further discussion of which Lord Grenville is inclined to hope that mutual advantage may arise. Mr. Jay will observe, that the subject to which his remark, No. 15, applies, is one instance among many which might be brought to show that this article would not be inefficient.

14. To meet the object which was this morning suggested in conversation on this article, Lord Grenville would propose the adoption of the following additional article, to come in immediately after the eighth. Lord Grenville has, in conformity to what was mentioned by Mr. Jay, used the words of *Vattel:*

"In order to regulate what is in future to be esteemed contraband, it is agreed that, under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandeliers, gunpowder, match, saltpetre, ball, pikes, swords, headpieces, cuirasses, halberds, lances, javelins, horses, horse furniture, holsters, belts, and generally all other implements of war; as also timber for shipbuilding, tar, or rosin; sheet copper, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels; unwrought iron and fir planks only excepted. And all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

"And whereas corn, grain, or provisions, can be considered as contraband in certain cases only, namely, when there is an expectation of reducing the enemy by the want thereof, it is agreed that, in all such cases, the said articles shall not be confiscated; but that the captors, or, in their default, the Government under whose authority they act in this respect, shall pay to the masters or owners of such vessels the full value of all such articles, together with a reasonable mercantile profit thereon, and also the freight and demurrage incident to their detention."

15. It seems by no means unreasonable that the effect of this stipulation should be extended to the existing war, as a natural consequence of the good understanding to be established in this negotiation, and by the removal of all existing differences. And it would tend to prevent so many occasions of acrimony and dispute, on both sides, that Lord Grenville thinks it highly desirable to maintain this article in its present form.

16. Lord Grenville sees no reason whatever to object to this article.

17. This remark seems also perfectly just, and will be best met by omitting the concluding part of this article.

18. Lord Grenville rather thinks this article ought to be permanent, for the mutual interest of both countries; but he is content to leave this point to the decision of Mr. Jay, who is much too enlightened not to see the effect which a contrary conduct to that here prescribed must produce as with respect to America.

Commercial Projet—Observations.

Art. 2. Omit these words: "the same being of the nation on whose behalf they shall be appointed, and not otherwise," and insert, in lieu thereof, "the same being first approved by the Government of the country in which they shall be so appointed to reside, and not otherwise."

Art. 3. The last sentence to run thus: "by which the vessels of the one party shall pay, in the ports of the other, any higher or other duties than shall be paid in similar circumstances by the vessels of the foreign nation the most favored in that respect, or any higher or other duties than shall be paid in similar cases by the vessels of the party itself into whose ports they shall come."

Thus, sir, I have given you a very particular and correct account of the negotiation. Many observations and explanatory remarks might be added. I might also inform you that I had strenuously urged the justice of compensation for the detention of the posts, and that I consider the privilege of trading to the West Indies as providing for claims of that kind. On this privilege, and the probability of its being revived after the expiration of the term assigned for its duration, I could enlarge, but it does not strike me as necessary to go into further details, nor indeed could I at present find time for the purpose.

It will not escape you that the articles now under consideration will doubtless undergo many alterations before they assume that final form in which they will either be accepted or rejected; and, *therefore*, that it would not be proper to publish them at present. I think that in the course of a few weeks the questions now under discus-

sion will be decided. No time shall be lost in communicating to you the result.

Another subject remains to be mentioned. It appeared to me advisable that our people should have precise and plain instructions relative to the prosecution of appeals and claims in cases of capture. For that purpose I applied to Sir William Scott, and requested him, in concert with Dr. Nicholl, to prepare them. We conversed on the subject, and I explained to him my views and objects.

On the 10th of September I received them, enclosed with the following letter from Sir William, which I insert on account of the friendly disposition towards our country which it manifests, and which appears to me to be less uncommon here than we generally suppose, viz:

To His Excellency John Jay, Esq.:

SIR: I have the honor of sending the paper drawn up by Dr. Nicholl and myself; it is longer and more particular than perhaps you meant, but it appeared to be an error on the better side rather to be minute than to be too reserved in the information we had to give; and it will be in your excellency's power either to apply the whole or such parts as may appear more immediately pertinent to the objects of your inquiry.

I take the liberty of adding, that I shall at all times think myself much honored by any communications from you, either during your stay here or after your return, on any subject in which you may suppose that my situation can give me the power of being at all useful to the joint interests of both countries; if they should ever turn upon points in which the duties of my official station appear to me to impose upon me an obligation of reserve, I shall have no hesitation in saying that I feel them to be such. On any other points in which you may wish to have an opinion of mine, you may depend on receiving one that is formed with as much care as I can use, and delivered with all possible frankness and sincerity.

I have the honor to be, with great respect, &c.,
WILLIAM SCOTT.

COMMONS, *September* 10, 1794.

Paper enclosed in the foregoing letter.

SIR: We have the honor of transmitting, agreeably to your excellency's request, a statement of the general principles of proceedings in Prize Causes in the British Courts of Admiralty, and of the measures proper to be taken when a ship and cargo are brought in as prize within their jurisdictions.

The general principles of proceeding cannot, in our judgment, be stated more correctly or succinctly than we find them laid down in the following extract from a report made to his late Majesty, in the year 1753, by Sir George Lee, then Judge of the Prerogative Court, Dr. Paul, His Majesty's Advocate General, Sir Dudley Ryder, His Majesty's Attorney General, and Mr. Murray, (afterwards Lord Mansfield,) His Majesty's Solicitor General:

"When two Powers are at war, they have a right to make prizes of the ships, goods, and effects of each other upon the high seas. Whatever is the property of the enemy may be acquired by capture at sea; but the property of a friend cannot be taken, provided he observes his neutrality.

"Hence the Law of Nations has established that the goods of an enemy, on board the ship of a friend, may be taken.

"That the lawful goods of a friend, on board the ship of an enemy, ought to be restored.

"That contraband goods going to the enemy, though the property of a friend, may be taken as a prize; because supplying the enemy with what enables him better to carry on the war is a departure from neutrality.

"By the Maritime Law of Nations, universally immemorially received, there is an established method of determination whether the capture be or be not lawful prize.

"Before the ship or goods can be disposed of by the captor, there must be a regular judicial proceeding, wherein both parties may be heard, and condemnation thereupon as prize, in a Court of Admiralty, judging by the Law of Nations and Treaties.

"The proper and regular Court for these condemnations is the Court of that State to whom the captor belongs.

"The evidence to acquit or condemn, with or without costs and damages, must, in the first instance, come merely from the ship taken, viz: the papers on board, and the examination, *on oath*, of the master and other principal officers; for which purpose there are officers of Admiralty in all the considerable seaports of every maritime Power at war, to examine the captains and other principal officers of every ship brought in as a prize, upon general and impartial interrogatories; if there do not appear from thence ground to condemn as enemy's property or contraband goods going to the enemy, there must be an acquittal, unless, from the aforesaid evidence, the property shall appear so doubtful that it is reasonable to go into further proof thereof.

"A claim of ship or goods must be supported by the oath of somebody, at least as to belief.

"The Law of Nations requires good faith; therefore, every ship must be provided with complete and genuine papers, and the master, at least, should be privy to the truth of the transaction.

"To enforce these rules, if there be false or colorable papers; if any papers be thrown overboard; if the master or officers, examined *in preparatorio*, grossly prevaricate; if proper ships' papers are not on board; or if the master and crew cannot say whether the ship or cargo be the property of a friend or enemy, the Law of Nations allows, according to the different degrees of misbehavior or suspicion, arising from the fault of the ship taken, and other circumstances of the case, costs to be paid, or not to be received by the claimants, in case of acquittal or restitution; on the other hand, if a seizure is made without probable cause, the captor is adjudged to pay costs and damages; for which purpose all privateers are

obliged to give security for their good behavior; and this is referred to and expressly stipulated by many Treaties.

"Though, from the ships' papers, and the preparatory examinations, the property does not sufficiently appear to be neutral, the claimant is often indulged with time to send over affidavits to supply that defect; if he will not show the property, by sufficient affidavits, to be neutral, it is presumed to belong to the enemy. Where the property appears, from evidence, not on board the ship, the captor is justified in bringing her in, and excused paying costs, because he is not in fault; or, according to the circumstances of the case, may be justly entitled to receive his costs.

"If the sentence of the Court of Admiralty is thought to be erroneous, there is in every maritime country, a superior Court of Review, consisting of the most considerable persons to which the parties who think themselves aggrieved may appeal; and this superior Court judges by the same rule which governs the Court of Admiralty, viz: the Law of Nations, and the Treaties subsisting with that neutral Power, whose subject is a party before them.

"If no appeal is offered, it is an acknowledgment of the justice of the sentence by the parties themselves, and conclusive.

"This manner of trial and adjudication is supported, alluded to, and enforced, by many Treaties.

"In this method all captures at sea were tried, during the last war, by Great Britain, France, and Spain, and submitted to by the neutral Powers; in this method, by the Courts of Admiralty acting according to the Law of Nations and particular Treaties, all captures at sea have immemorially been judged of in every country of Europe. Any other method of trial would be manifestly unjust, absurd, and impracticable."

Such are the principles which govern the proceedings of the prize Courts

The following are the measures which ought to be taken by the captor, and by the neutral claimant, upon a ship and cargo being brought in as prize:

The captor, immediately upon bringing his prize into port, sends up, or delivers upon oath, to the registry of the Court of Admiralty, all papers found on board the captured ship. In the course of a few days the examinations in preparatory of the Captain and some of the crew of the captured ship are taken upon a set of standing interrogatories, before the Commissioners of the port to which the prize is brought, and which are also forwarded to the registry of the Admiralty as soon as taken; a monition is extracted by the captor from the registry, and served upon the Royal Exchange, notifying the capture, and calling upon all persons interested to appear, and show cause why the ship and goods should not be condemned; at the expiration of twenty days the monition is returned into the registry with a certificate of its service, and, if any claim has been given, the cause is then ready for hearing, upon the evidence arising out of the ship's papers, and preparatory examinations.

The measures taken on the part of the neutral master or proprietor of cargo, are as follows:

Upon being brought into port, the master usually makes a protest, which he forwards to London as instructions (or with such further directions as he thinks proper) either to the correspondent of his owners, or to the Consul of his nation, in order to claim the ship, and such parts of the cargo as belong to his owners, or with which he was particularly entrusted; or the master himself, as soon as he has undergone his examination, goes to London to take the necessary steps.

The master, correspondent, or Consul, applies to a proctor, who prepares a claim, supported by an affidavit of the claimant, stating briefly to whom, as he believes, the ship and goods claimed belong, and that no enemy has any right or interest in them. Security must be given to the amount of sixty pounds to answer costs, if the case should appear so grossly fraudulent on the part of the claimant as to subject him to be condemned therein.

If the captor has neglected, in the mean time, to take the usual steps, (but which seldom happens, as he is strictly enjoined, both by his instructions and by the prize act, to proceed immediately to adjudication,) a process issues against him on the application of the claimant's proctor, to bring in the ship's papers and preparatory examinations, and to proceed in the usual way.

As soon as the claim is given, copies of the ship's papers and examinations are procured from the registry, and upon the return of the monition, the cause may be heard. It, however, seldom happens (owing to the great pressure of business, especially at the commencement of a war) that causes can possibly be prepared for hearing immediately upon the expiration of the time for the return of the monition. In that case, each cause must necessarily take its regular turn; correspondent measures must be taken by the neutral master, if carried within the jurisdiction of a Vice-Admiralty Court, by giving a claim, supported by his affidavit, and offering security for costs, if the claim should be pronounced grossly fraudulent.

If the claimant be dissatisfied with the sentence, his proctor enters an appeal in the registry of the Court where the sentence was given, or before a Notary Public, (which regularly should be entered within fourteen days after the sentence,) and he afterwards applies at the registry of the Lords of Appeal in prize causes (which is held at the same place as the registry of the High Court of Admiralty) for an instrument called an inhibition, and which should be taken out within three months, if the sentence be in the High Court of Admiralty, and within nine months, if in a Vice-Admiralty Court, but may be taken out at later periods if a reasonable cause can be assigned for the delay that has intervened. This instrument directs the Judge, whose sentence is appealed from, to proceed no further in the cause. It directs the registry to transmit a copy of all the pro-

ceedings of the inferior Court; and it directs the party who has obtained the sentence to appear before the superior tribunal to answer to the appeal. On applying for this inhibition, security is given on the part of the appellant, to the amount of two hundred pounds, to answer costs in case it should appear to the Court of Appeals that the appeal is merely vexatious. The inhibition is to be served upon the Judge, the Register, and the adverse party and his proctor, by showing the instrument under seal, and delivering a note or copy of the contents. If the party cannot be found, and the proctor will not accept the service, the instrument is to be served "*viis and modis*;" that is, by affixing it to the door of the last place of residence, or by hanging it upon the pillars of the Royal Exchange. That part of the process above described, which is to be executed abroad, may be performed by any person to whom it is committed, and the formal part at home is executed by the officer of the Court; a certificate of the service is endorsed upon the back of the instrument, sworn before a Surrogate of the Superior Court, or before a Notary Public, if the service is abroad.

If the cause be adjudged in a Vice-Admiralty Court, it is usual, upon entering an appeal there, to procure a copy of the proceedings, which the appellant sends over to his correspondent in England, who carries it to a proctor, and the same steps are taken to procure and serve the inhibition, as where the cause has been adjudged in the High Court of Admiralty. But if a copy of the proceedings cannot be procured in due time, an inhibition may be obtained by sending over a copy of the instrument of appeal, or by writing to the correspondent an account only of the time and substance of the sentence.

Upon an appeal, fresh evidence may be introduced, if, upon hearing the cause, the Lords of Appeal shall be of opinion that the case is of such doubt as that further proof ought to have been ordered by the Court below.

Further proof usually consists of affidavits made by the asserted proprietors of the goods, in which they are sometimes joined by their clerks and others acquainted with the transaction, and with the real property of the goods claimed. In corroboration of these affidavits may be annexed original correspondence, duplicates of bills of lading, invoices, extracts from books, &c. These papers must be proved by the affidavits of persons who can speak to their authenticity; and if copies or extracts, they should be collated and certified by public notaries. The affidavits are sworn before the magistrates or others competent to administer oaths in the country where they are made, and authenticated by a certificate from the British Consul.

The degree of proof to be required depends upon the degree of suspicion and doubt that belongs to the case. In cases of heavy suspicion and great importance, the Court may order what is called "plea and proof;" that is, instead of admitting affidavits and documents introduced by the claimants only, each party is at liberty to allege, in regular pleadings, such circumstances as may tend to acquit or condemn the capture, and to examine witnesses in support of the allegations, to whom the adverse party may administer interrogatories. The depositions of the witnesses are to be taken in writing. If the witnesses are to be examined abroad, a commission issues for that purpose; but in no case is it necessary for them to come to England. These solemn proceedings are not often resorted to.

Standing Commissioners may be sent to America for ths general purpose of receiving examinations of witnesses in all cases where the Court may find it necessary, for the purpose of justice, to decree an inquiry to be conducted in that manner.

With respect to captures and condemnations at Martinico, which are the subjects of another inquiry contained in your note, we can only answer in general, that we are not informed of the particulars of such captures and condemnations; but as we know of no legal Court of Admiralty established at Martinico, we are clearly of opinion that the legality of any prize taken there must be tried in the High Court of Admiralty of England, upon claims given in the manner above described, by such persons as may think themselves aggrieved by the said captures.

We have the honor to be, &c.,

WM. SCOTT,
JOHN NICHOLL.

COMMONS, *September* 10, 1794.

I take the liberty of advising that these instructions, with a proper title prefixed, be printed in a pamphlet, and published for general information.

You will find, herewith enclosed, a copy of instructions of the King and Council, revoking the order to capture neutral vessels laden with corn, &c., bound to France. A gazette of the 6th September, containing an order restraining impressments, &c., and a gazette of 9th September, containing a copy of the order of 6th August, relative to appeals and claims, of which copies have already been sent to you.

I have the honor to be, &c.,

JOHN JAY.

Mr. Jay to Mr. Randolph—No. 16.

LONDON, *September* 14, 1794.

SIR: Mr. Morris will, together with this, deliver to you a long letter from me, dated yesterday.

The negotiation proceeds; and I now have some reason to hope that the business of the Northwestern corner will be so managed as to cease to be an obstacle to agreement.

I have proposed that the further discussion of that matter be postponed until accurate surveys of the river be made by joint Commissioners, at joint expense; and I do flatter myself that this proposition will be adopted. Of this I cannot yet be certain, but it is, however, my present opinion that it will.

I have the honor to be, &c.,

JOHN JAY.

P. S. I wrote to you (No. 14) 23d August last, by Captain Scott, to Boston. My letter of yesterday is No. 15.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Sept.* 17, 1794.

SIR: Your letter of July 9, 1794, referring to a long and particular letter of the 6th of the same month, having reached me yesterday, unaccompanied by the latter, we are thrown into a painful anxiety. My calculation has, however, been, that the Portuguese Minister, who is said to have arrived at New York from London the day before yesterday, may have been charged with it. As you speak of having closed it on the eighth, and by sending no duplicate in that of the ninth, you seem to have intended them both for the same vessel.

The copy of the acts passed during the last session of Congress were probably sent to New York from my office to you, as Chief Justice, and may have been forwarded from thence on the supposition of being destined for you in your diplomatic character. It will appear, from the enclosed list of papers transmitted to you from time to time, that no opportunity occurred to me, after the complete publication of those laws, until the 30th of July. Nothing has ever been enclosed to you without some explanatory notice of it.

The same list will show, if the letters noted there have not got to hand, how many have been written by me, and repeated by duplicates. In them the events which gave occasion to my correspondence with Mr. Hammond, and the expiration of the embargo, are detailed. The justice which you do me in suspecting that my letters were still on the way, I beg you to continue, as every occurrence bearing the most distant affinity to your mission has been immediately minuted down, and conveyed by the first vessel. But there is too much reason to fear that the reluctance of most Captains of ships to receive letters which contain a particle of politics; their readiness to surrender them to cruisers; and the little care taken of packets after they are landed, will disappoint both you and myself very frequently. In these times it is no small labor to search out the names and ports of vessels about to sail for Europe.

With the names of the new British Ministry before us, we prediet nothing favorable to the United States, from this interweaving of parties. Without bringing a better disposition towards us, the projects may possibly render the operations of the Cabinet more cordial to the nation; and if Lord Dorchester's and Governor Simcoe's movements be indications of the purposes of Government; or the reports be true, that our vessels are still seized upon the old principles, without mercy, in Bermuda and the West Indies, any popularity of the Ministry is so much against us. My letter of August 30th, enclosing copy of Mr. Charles Williamson's of the 19th, together with another of the 12th instant, enclosing duplicates of the 18th and 30th of August, will develope the threat against the settlement at Sodus; and in conjunction with John Kelly's affidavit, and Mr. Williamson's letter of the 1st instant, furnish the latest situation of this business.

You will have collected from my past letters that Thursday last, the 11th instant, was allotted for the taking of the votes in the insurgent counties of Pennsylvania, whether the terms settled between the Commissioners of Government and the committees appointed by them should be accepted; and yesterday for the report to Mr. Ross, one of those Commissioners, who undertook to attend at Uniontown, in Fayette county. We hope for a peaceable result; but the whole body of fifteen thousand militia are in motion, and incredible fervor has possessed all orders of people here; even many respectable Quakers have entered the volunteer ranks; three troops of horse and a large body of infantry are now in my view; the Jersey, Maryland, and Virginia militia, are advancing, in order to strike, if the overtures shall have been rejected. The insurrection will be quelled, be assured sir; and if any, to whom you may address yourself, shall draw inferences of disunion, and retract their good temper, they will be fatally disappointed. You will instantly call to mind the course of Governments and human nature; and be persuaded that the universal rising of a people against a handful of insurgents, scarcely the seventieth part of the Union, ignorant, poor, and unprovided with military means, will shoot the roots of the Government deep.

I have the honor to be, &c.,

EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 17.

LONDON, *September* 18, 1794.

SIR: You will receive, herewith enclosed, duplicates of my letters of the 13th and 14th of this month, which were committed to the care of Mr. Robert Morris, jr., who was to have sailed last Monday, in the Sansom, Captain Smith, from New York; I have since heard that he did not sail on that day, and, indeed. I am not certain that the Sansom has yet left Deptford. The last of these letters was a very short one, intended merely to hint to you that I had reason to hope that the business of the Northwest corner might be so managed, as not to be an obstacle to a settlement.

I have prepared and submitted to the consideration of Lord Grenville, an article stating that it was uncertain and doubtful whether the Mississippi extended to the west line from the Lake of the Woods; and, consequently, whether our Northern and Western lines closed in that corner; stating also, that it would be premature to decide on, and endeavor to settle these questions, and others connected with them, while the parties remained uninformed of the actual extent, and other material circumstances of the river; then providing that all discussions on these subjects be postponed until a survey of the river should be made; and lastly, directing that it be made by joint Commissioners at the joint expense, and specifying

particularly the manner of its being done. Lord Grenville received, and conversed with me about this article, in his usual temperate and candid manner; and I expect in a few days to have his answer.

Facilities for our ships in the East Indies, and several other interesting matters are under consideration; and upon the whole, the probability of our finally agreeing increases.

We shall also, I think, agree that any payments which may be directed by the proposed Commissioners relative to the debts, shall be postponed to the evacuation of the posts; in short, sir, my opinion of the disposition of the Cabinet and great mass of the nation towards us, becomes more confirmed. At any rate, let temper and a little longer patience on our part, give the negotiation a fair chance; one of two things will then certainly result from it—either peace or, if war, union. To continue to prepare for war will be wise, to avoid unnecessary asperities and indications of ill will, would be equally so.

I have the honor to be, &c.,
JOHN JAY.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Sept.* 20, 1794.

SIR: The mail of yesterday from New York undeceived me in my expectation of your favor of the 6th of July, 1794, being in the hands of the Portuguese Minister, as I mentioned in the letter which I had the honor of writing to you on the 17th instant, acknowledging the receipt of yours of the 9th of July, and which will go, together with this, by the ———, destined to Liverpool. I have now before me your letters of the 6th, 12th, and 16th of July, 1794.

Answer to that of July 6th.

Your letters there referred to have come to hand. When you recollect the circumstances of the captures under the British instructions of November the 6th, you will not be surprised that none of them had been laid before Lord Grenville, or transmitted to Mr. Pinckney. The merchants had been, for a considerable time, invited by our Government to collect the various oppressions of our trade, and forward them to the Department of State. This induced the opinion that the Executive would take up the several cases on public ground; and they were, therefore, consigned to our management, except so far as appeals to England were entered. At the beginning of the last session of Congress, the President informed them by Message, that progress had been made in the assembling the various complaints, and afterwards a summary statement was reported to both Houses. The Senate required an abstract of each case, which produced a further delay; and the different fluctuations of temper, and diversity of projects, with respect to Great Britain, stagnated the measures of the Executive, and of the individuals interested, until the whole of the business was concentered in your mission. But the call for particular cases by Lord Grenville is, notwithstanding the frankness, candor, and promptness to discussion, hitherto shown by him, somewhat inauspicious. For, if the principle of those instructions is not to be relinquished, and compensation shall be admitted to be due only where some striking injustice or hardship shall be attached to peculiar examples, it will be only here and there that we shall be retributed, and our discontents will continue in their full asperity. And, indeed, we apprehend that a broad scale of satisfaction could not be contemplated by his lordship, when he expressed that there might be such a state of things as would render the interposition of Government proper and necessary to satisfy justice. However, I beg you to believe that, even if my conjectures on this head should unfortunately be true, there is not a man in the United States who is more thoroughly persuaded than myself, of your exertions to repel the consequences of an attempt to support the intolerable severity of the principle, without the sapping of which complete relief is scarcely to be expected.

The list of captures, with which you were furnished, was not intended to be more than the forerunner of the documents which have since reached you, and were to have been sent to you in ample form, by Mr. Higginson. But although Marston Watson's situation was not known at the time of my delivering his case to you, it has since turned out to be as appears in the enclosed short statement. Of the progress made by Mr. Higginson up to his death, you have been apprised in my letters of the 18th of July and 11th of August. His widow is possessed of several papers, probably records, which have been withheld from me, on account of their having come in a vessel infected with the yellow fever. As soon as they are purified I shall despatch them to you; and further measures will be pursued for obtaining the other records from the Admiralty Courts in the West Indies. But will you not have an immense labor, the duration of which cannot be easily foreseen, if you are personally to discuss each case, instead of leaving the minutiæ (as was supposed to be best) to some subordinate characters?

Whatsoever may be necessary and proper to be said, on the part of the President, relative to the satisfactory reception given to you by the King and Queen, is submitted to your judgment.

I have the pleasure of informing you that the President approves of your letter to Lord Grenville, on the 3d of July, 1794; and while he is desirous of expedition in the conduct of the negotiation, he thinks, with you, that it ought not to be pushed beyond the dictates of prudence; but that it is expedient to be guided by occasions and circumstances, and to give every conciliatory application a fair experiment. It is his wish, too, that the characteristic of an American Minister should be marked, on the one hand, by a firmness against improper compliances, and on the other, by sincerity, candor, truth, and prudence, and by a horror of finesse and chicane. These ideas, however, will not oppose those temperate and firm representations which you meditate, should your present plan fail. For it is fair and indispensable,

in the event of a rupture, to divide the nation from the Government. The system of peace begun by the President will be adhered to, so far as his functions are concerned, until he is driven from it by the British Government.

Before this letter arrives, Mr. J. Q. Adams will have presented himself to you, and obviated the inconveniences noticed in Mr. S. Bourne's letter to you.

Answer to that of the 12th of July, 1794.

The President approves the agreement that, during the present negotiation, and until the conclusion of it, all things remain and be preserved in *statu quo*. The War Department is instructed to issue correspondent orders, and the Department of State to notify the Governors in the neighborhood of those scenes to which the agreement relates.

Answer to that of the 16th of July, 1794.

The despatches to Mr. Hammond, enclosed in your letter of this date, were yesterday sent off by express to that gentleman.

The conduct of the Captain of the William Penn is a specimen of the numerous retardments which the negligence of persons in his line may bring upon our correspondence. His owners certainly gave the box most specially into his care. That you will find several papers, not very important to you, is certain; and I observed in a former letter that they were imperfect. Still it was necessary that they should be forwarded to you; and I am happy to discover that they have been acceptable to you. I have furnished, from time to time, everything which I could collect.

I can add nothing respecting the insurrection in the Western parts of this State, except that there is too much reason to conclude that several of the townships will hold out until the Militia shall approach them, or, perhaps shall have made themselves felt in some degree. The really leading, rich, and understanding men amongst them have, we believe, generally subscribed to be submissive to Government.

I have the honor to be, &c.,
EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 18.

LONDON, October 2, 1794.

SIR: You will, I hope, receive my letters, viz: No. 15 and No. 16, by Mr. Robert Morris, jr., who lately sailed in the Sansom, for New York. Duplicates of them, and No. 17, were committed to the care of Captain Loxley, of the Pigou, for Philadelphia; those despatches are interesting.

This will be delivered to you by Captain Morgan, of the brig Molly, who will leave this place for Philadelphia this evening.

I can add nothing of importance to my late communications, except that we are occupied in endeavoring to incorporate the two projets into one, to be entitled a Treaty of Amity and Commerce. I have proposed several additional articles. My hopes of agreement are not abated, but still the issue is uncertain. I think a few weeks more will enable me to inform you of the final result of the negotiation.

On the 25th ultimo I received a few lines from you, by the way of Cork, of the 15th August, informing me "that Mr. James King, the owner of the schooner Nancy, the papers in whose case had been forwarded as far as they were received, had that moment laid before you a copy of the record. That, from the whole proceedings, it appeared that she was acquitted at Nassau, upon the payment of costs, and that the captors had appealed. That, as this vessel and her cargo came within the catalogue of spoliations, you request me to give directions for the employment of counsel in behalf of the United States, unless some adjustment which I might make with the British Ministry, on general grounds, should supersede the necessity of such a step."

I am thus particular in reciting this letter, because it seems to countenance implications, and admit of doubts which embarrass me.

In the case of the schooner Nancy, you desire me to employ counsel in behalf of the United States.

From this I think I must conclude generally, that the prosecution of the appeal in *this case* is to be carried on by and at the expense of the United States, and that I am to act accordingly.

The reason assigned for this measure is, because this vessel and her cargo came within the catalogue of spoliations.

Is it intended that the like measure should be taken with respect to all or any other vessel and cargoes within that catalogue? Or is this case regarded as discriminated from the others?

I wish to know precisely what is expected from me relative to these subjects; and be assured that I will faithfully endeavor to fulfil your intentions, whatever their latitude or limitations may be.

I have the honor to be, &c.,
JOHN JAY.

P. S. Be so obliging as to send the enclosed letter for Mrs. Jay by the post.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *October* 11, 1794.

SIR: On the 7th current I was honored by your three letters of the 30th and 31st of July, and 2d of August, 1794; to-day, by your favor of the 21st of August, 1794.

By the conveyance of this letter, which is as yet unknown to me, I repeat duplicates of my former letters of the 12th, 17th, and 20th of September, with their several enclosures.

Having been absent from the practice of the law in Virginia for more than four years, I have written to a professional friend there for an accurate statement of the laws of that State relative to the evidence of book debts. His answer shall be forwarded. In the meantime, however, I have sufficient confidence in my knowledge of those laws up to July, 1790, and in my attention to the others which have been published at the close of each session since, to give the following informa-

tion. To debts due to British subjects residing in Great Britain, by any of the inhabitants of the Colonies, a great facility of proof was afforded by the British statute of the 5th of George 2d, c. 7. This statute prevailed until the Revolution; when, with all other acts of Parliament not specially adopted, it necessarily expired. It is worthy, too, of remark, that the date of its enaction is long subsequent to that era at which British legislation ought to have ceased. I mean the 4th of James the 1st, which was the general limitation of the operation of British statutes in Virginia even before the war; although, indeed, you recollect a principle which our inability to resist sanctified, that statutes, after that epoch, expressly naming the Colonies, were permitted to operate. The advantages which the *ex parte* proof, warranted by the statute, gave to the British resident, were immense. But it is generally understood, though I believe it has never been adjudged, that this privileged form of evidence was not so much of the essence of the contract as to be revived with it.

In the year 1748 the act of Assembly, No. 1, was passed upon the same subject, and continued in force until the year 1780, in the May of which year, a new act, No. 2, was substituted.

I happened to be Clerk of the House of Delegates in Virginia when this last act was moved. The reason assigned was to abolish credit in merchandise, the facility of which had transferred multitudes of fortunes to transatlantic creditors. I recollect, too, that the nation which could give the longest credit, and speak our language, was considered as having too great an ascendancy over its competitors; and this law was designed to produce equality in the struggle by extinguishing credit. However, the consequence is, that the rule bears upon all people, British, French, Americans, and even Virginians in particular. Not a shilling of the old British debts can be affected. Who, then, can complain? I firmly believe that no posterior regulation of the evidence of both debts is admitted in Virginia.

Be assured, sir, that I will co-operate with you *here*, in the very laudable example of moderation which you have set on the other side of the water. I wish that I had any reason to expect a return of temper from the British Minister with us. But he shall not lead me astray.

October 13. Your favors of August 8th and 9th are now received.

If the instructions which Sir William Scott shall prepare, relate in any part to the giving of security, do not Higginson's, of which you carried a copy, show that the Government means to sustain the expenses of prosecution? I take the liberty of hinting this, that the demand for security may create no delay.

The impatience of the people is as great as you apprehend, and I am therefore more communicative than perhaps I should be on any other occasion. For I have, in an unauthoritative way, published the substance of some portion of your intelligence. You will find it in Fenno's papers of the 22d September and 8th instant. But I persuade myself that nothing has been indiscreetly divulged.

The President being at Carlisle, I have forwarded to him copies of your letters noted above; together with another which I presumed to be private, and therefore did not open under the general license which he left with me. He will proceed to Bedford, where almost the whole force will unite, and he will decide whether to lead the army into the insurgent country, or to return to the meeting of Congress on the 3d of next month. I rather believe that he will return, because the submission to the laws is now nearly, if not absolutely universal; and the corps which may be required to overawe any latent spark of insurrection, and its object, are too small to demand his immediate presence.

October 18. Yesterday I had the honor of receiving your favor of the 23d of August.

The intimation of your wish that I should acknowledge your different letters, must have been found by you before this day to be strictly attended to. The importance of it is so obvious, that I have made it a standing memorandum.

I shall immediately publish your communications, exchanged with Lord Grenville, and contained in your letter No. 10. This would have been done upon their coming to hand, but the delicacy of giving in form parts of an incomplete negotiation had restrained me. This is now removed by your letter of the 23d of August, and I feel the propriety of sending them into public so fully, that I will venture to presume upon the President's approbation.

The order of His Britannic Majesty in council, when I first read it, appeared to me to call for some special agent to be appointed by the persons interested. But I own that I have much doubt whether the powers vested in you do not lead to an expectation that you would cause this branch of the business to be executed by some subordinate characters. However, I am to meet the merchants concerned this morning at 11 o'clock, when I shall converse with them on this subject, and will subjoin the result.

October 19. The merchants are much gratified by your exertions. But they were too numerous for the doing of real business, and therefore I requested them to appoint a standing committee, who should occasionally confer with me. They have accordingly nominated five, of whom Mr. Fitzsimons is the first, and I am to receive their sentiments to-morrow.

The enclosed report, from the Commissioners of the Union, completes the history of the insurrection as far as we have it, except that the mission of Messrs. Findley and Reddick to the President, as described in the late resolutions at Parkinson's Ferry on the 2d instant, has been too equivocal to justify an absolute suspension of the march of the army.

Mr. Higginson's death is no small embarrassment to us. His outfit and expenses have amounted to no inconsiderable sum, and the fruit has been small. The apprehension created by his fall of the ravages of the yellow fever in the West Indies, has rendered it impossible to procure another agent of sufficient fitness. Mr. Fitzsimons some time ago seemed to think that the appointment of a new agent had better be postponed, until something definite should come from you. This was not my opinion; but we were obliged to acquiesce, as no proper successor appeared to our view. I have no doubt that you will see the necessity of entering into some stipulation, which may prevent the sufferers under British depredation from being barred by the time, which, under these circumstances, may elapse before the appeals and claims can be filed.

I have sent instructions to Bermuda for procuring the records of condemnation there. But, from every account, Bridges Goodrich, who is the Prince of Privateers, is so unbounded in his influence over all classes of men in that island, that he may contrive to retard the copies. Indeed, the captures by cruisers, issuing thence, are more numerous than ever, and are multiplying every day. I am hourly asked how these things accord with pacific intentions.

The yellow fever, whatsoever may have been said to the contrary, has produced no alarm, no removal from this city; and if it was imported at all, the instances of its prevalence were few, and the traces of it are now absolutely obliterated. In Baltimore it is supposed to have been severe, but even there it has perfectly vanished.

General Wayne's success is announced in the paper of Bache, of October 2d.

I have the honor, sir, to be, &c.,

EDM. RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *October* 20, 1794.

SIR: My letter of the 11th instant, concluding with the date of the 19th, has been sent to Mr. Pragers, whose vessel goes for Amsterdam ultimately, but intermediately for an English port.

Having left the completion of the references in that letter to another hand, I now find that the report of the Commissioners has been omitted; and hasten to supply the defect by the same conveyance.

Nothing has yet transpired from the President since the 10th instant. I suspect that he has proceeded to Fort Cumberland. Still I remain under the persuasion that military opposition from the insurgents is not to be expected; although it may be expedient to adopt arrangements for continuing a certain force to cover the officers of excise, and the officers for arresting the delinquents, for a considerable time hence; the representations of Findley and Reddick, as mentioned in Brown's paper, enclosed yesterday, not being so satisfactory as to render, according to my judgment, the return of the whole militia proper.

Your letter, No. 10, will not be published with your memorial and Lord Grenville's answer, unless the President shall direct it. The following are my reasons: 1. That the substance of it has been already published, with circumstances indicating its truth, though not with any formal authenticity; 2d. That we shall be immediately charged with preparing the public mind for yieldings and sacrifices; 3. Because nothing being said of the posts, the cavillers would break out with idle stories (which, although they need not be feared, need not be courted) that the posts are passed over as of scarcely any concern; and thus unpleasant impressions may uselessly be left on the minds of many; 4. Because I have read the letter to those here who are alone interested, and who will communicate it to the others in different quarters, who are alike interested; and thus all who have any business with it will know it, and none will be ignorant, except those whose affair it is not; and 5. Because it not being absolutely necessary to be posted in a newspaper, both you and ourselves will be more the masters of the whole matter at its winding up.

The mode of conveyance precludes the sending of our newspapers, as they would certainly be rifled if dropped at an outport.

I have the honor to be, &c.,

EDM. RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *October* 29, 1794.

SIR: Duplicates of the two last letters which I had the honor of writing to you on the 19th and 20th current, will accompany this letter. They are intended to go by the Wilmington, for Bristol, from this port.

On Tuesday next, the Adriana will carry to London Mr. Samuel Bayard. In consequence of your recommendation that an agent should be sent, that gentleman goes over with the approbation of the merchants of this city interested in British captures, for the objects designated in your favor of the 23d August. When I convened them for the purpose of consultation, they seemed to have great reluctance to meddle at all in a business which they considered as taken wholly into the hands of Government. But, after many explanations and remarks, which passed between us, they resolved to appoint a committee, who should act in concert with me. That committee accordingly wrote to me the enclosed letter.

I accepted their proposal as there expressed, because I knew it to be consentaneous to the views of the President, who has this day signified his approbation. The merchants will immediately push on the appeals and claims as fast as the documents can be forwarded to London by their correspondents in the islands. Too much time cannot be allowed for this purpose, all difficulties being considered. We were all embarrassed by the inquiry whether it was necessary that these appeals and claims should be entered in the islands. I did not myself doubt, that negotiation might change the course of Admiralty Courts, so as to permit them to be instituted in England. But it did not sufficiently appear that this was your meaning. I therefore proposed that the persons who procured the records in the West Indies should file appeals and claims there, if, contrary to my expectation,

it should be required in ordinary practice. This, they replied, was impracticable, alleging that neither their own credit, nor that of the United States, could obtain the enormous security which is demanded. So much of the fact as relates to the United States is verified by one of Mr. Higginson's letters, and what relates to themselves comes from a pure source. I therefore suggested this expedient: that Mr. Bayard should immediately on his arrival apply to you for information, whether the appeals and claims must begin in the islands: that, if this should be found to be according to the usual course required, you should be requested, if it were possible, and proper under all circumstances, to attempt to except from the general rule those instances in which security would be so serious a difficulty, and so great an impediment to justice: that, if this modification were unattainable, you would endeavor to stipulate for the giving of security in England: and, if at length nothing could be done but in the West Indies, letters of credit might be solicited from some mercantile houses in London to their correspondents in the islands, to induce them to join in the necessary bonds.

The President has confirmed this further branch of the arrangement, and Mr. Bayard can be used by you, in the execution of it, in any manner most agreeable to yourself. Although no special clause is inserted in your instructions with an eye to this shape of the affair, yet it cannot be necessary to send you formal and ostensible powers, to enable you to authorize Mr. Bayard to execute bonds, or to seek out those letters of credit. But you are hereby at the most ample liberty to vest him with the authority necessary for effectuating the foregoing purposes. This is particularized, lest you should not coincide in the opinion which I hinted in my letter of the 20th of September last, that, from the expression which relates to security in Higginson's instructions, and the latitude of your own powers, you might delegate such an authority, even without a special declaration to that effect in this place.

For the reasons assigned in my letter of the 11th instant, the President concurs in the measure of not publishing yours, No. 10. The memorial and answer which it contained are running through all the papers of the United States.

The return of the President from the Militia Army confirms, what I have often written to you, that the insurrection would not venture to show any degree of military opposition. Many of the insurgents have been arrested in different quarters, where their force, if they had any, must have been; but the arrests were perfectly quiet, and free from resistance. The Army has, however, marched to the centre of the disaffected counties, to impress and overawe. Some force will, no doubt, be left behind to complete the work. I shall endeavor to send, by Mr. Bayard, the speech which the President will deliver to Congress some time in the next week, as I presume that he will think the insurrection too important a subject to be passed over without notice. The newspapers will go by the same opportunity.

To prove to you the thoughtless severity which the British captains are disposed to exercise upon our citizens, under the name of piracy, I enclose to you my letter of the 23d instant to Mr. Hammond, and his disavowal of what Captain Cochrane declares to be his orders.

I also enclose Mr. Hollin's letter, and shall inform him that I mean to transmit it to you, that it may pass into the agent's hands.

I shall write again by Mr. Bayard, and, in the meantime, have the honor to be, with sentiments of the highest respect and esteem,

EDMUND RANDOLPH.

Mr. Jay to Mr. Randolph—No 19.

LONDON, *October* 29, 1794.

SIR: I have been favored with yours of the 15th, 18th, and 30th of August, and of the 5th, 12th, 17th, and 20th of September last.

Although I have materials for another letter as long and particular as the one which I had the honor of writing to you on the 13th of September, yet sufficient time for details cannot possibly be spared from the business of the negotiation. I must confine myself to generals, and postpone a minute statement of the transactions which have taken place since the date of that letter to a future opportunity.

You have been informed that we had agreed to incorporate the two projets, viz: of a settlement and of a Commercial Treaty. I undertook this business, and prepared a draught, including most of the articles in those two, and adding several others, but all of them for mutual consideration. From these, Lord Grenville, extracting several, omitting some and adding others, formed a new draught. Difficulties have appeared, and been discussed; some have been removed, some lessened by proposed modifications, and a few still remain. It was proposed that goods for the Indian trade should pass from Canada to the Indians within the United States, duty free: to this I could not consent. It has been proposed that alien tonnage and impost should cease: to this there also appeared to me to be very strong objections. I think the former may be yielded, in some degree, to us; as to the latter, I cannot yet form a judgment.

We spent several hours on Friday and yesterday in these discussions, and they will be resumed to-morrow morning. I perceive nothing that indicates a desire to protract, and I think it cannot be long before the negotiation terminates either in a Treaty, or in a certainty that an amicable settlement is impracticable.

All propositions relative to a new line in our Northwestern corner are suspended. We have agreed that the river shall be surveyed, and its source ascertained. I think Canada and its Indian trade will be opened to us, but not the navigation of the St. Lawrence from the sea.

Although a more early day than the 1st of June, 1796, cannot be had for the evacuation of the posts, (for reasons which shall hereafter be mentioned) yet we agreed yesterday to add, "the

United States, in the meantime, extending their settlements to any parts within their boundaries, except within the precincts of any of the posts."

I wish to take particular notice of your letters, but really, sir, I cannot do it now.

I feel very sensibly the confidence reposed in me by the permission to take such notice of my reception here as I might judge proper. The following is a copy of the letter which I have written to Lord Grenville on that subject:

ROYAL HOTEL, PALL MALL, *Oct.* 27, 1794.

MY LORD: The President, having been informed of the gracious reception with which their Majesties were pleased to honor me, has made it my duty to assure them of the sense he entertains of that pleasing mark of attention to the United States. He flatters himself that a negotiation, commenced under such favorable auspices, and conducted with a correspondent disposition to conciliation, will terminate in a settlement mutually satisfactory and beneficial.

He requests His Majesty to be persuaded that he will continue to promote every measure that may conduce to this desirable event; and that the United States will, with pleasure and alacrity, cherish the concord and good will which will naturally result from it. I am convinced, my lord, that this communication will derive advantages from the manner in which you will convey it to their Majesties; and I am the more gratified in addressing it to your lordship, as an additional opportunity is thereby afforded me of assuring you of the respect and esteem with which I have the honor to be your lordship's, &c.

The Right Hon. LORD GRENVILLE, &c.

I am preparing an official representation touching unfriendly interferences with the Indians, and I have reason to believe that a satisfactory answer will be given to it.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Nov.* 3, 1794.

SIR: I do myself the honor of writing to you merely to inform you that I have now received an assurance from Mr. Marshall, (whom you know,) of Virginia, that the statement which I made to you in my letter of the 29th ult., on the evidence of the British debts, is accurate. Mr. Bayard sails on the 6th instant, by whom I shall enclose a copy of Mr. Marshall's information and of the President's speech.

There was not a sufficient number of either House of Congress to proceed to business to-day. To-morrow a quorum is certainly expected.

I have the honor to be, &c.,

EDM. RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Nov.* 7, 1794.

SIR: Notwithstanding Monday last was appointed for the meeting of Congress, a quorum of neither House then appeared. On Tuesday the Representatives assembled in sufficient numbers, but the Senators are yet four short of a majority. This stagnates the communication from the President, and deprives me of an opportunity of adding more at present than the enclosure of Mr. Marshall's letter, mentioned in mine of the 3d instant, and the great respect and esteem with which I have the honor to be, sir, &c.,

EDM. RANDOLPH.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Nov.* 8, 1794.

SIR: There is no prospect of Congress assembling until the day after to-morrow, and Mr. Bayard is compelled, by the sailing of the Adriana, to leave us to-morrow; I am therefore deprived of the pleasure of sending you the President's speech.

My answer to the letter of the committee of merchants, which I had the honor of enclosing to you on the 29th ultimo, is now forwarded, together with the newspapers.

Permit me to remark to you, that there are some cases of spoliation and vexation, which do not strictly come within the compass of Admiralty jurisdiction, or have been denied relief, and are not, as far as I can discover, within the stipulations between yourself and Lord Grenville: for example, plundering of goods; violence to the person; loss of freight, &c., where an acquittal has taken place, or no trial has been had. I own that these instances, especially where they have never been before a Court, do not admit an easy remedy, if the amenability of the British Government be considered, because they have probably proceeded from privateers; and, having never been brought before a Court, that Government cannot readily obtain cognizance of them. However, if it be practicable to make a reservation for the introduction of them before Commissioners, or in any manner which can ultimately create a resort to that Government for satisfaction, it will be extremely acceptable to the persons interested. As to the refusal of redress by the Courts, perhaps this reservation may be obtained.

Mr. Fitzsimons has just informed me that, when Martinique and Gaudaloupe were taken, a very large property of American merchants was found in the warehouses there, and carried off or destroyed. I asked him for the documents and proofs: he has promised to send them. If such losses are susceptible of a remedy, I am persuaded that your attention will be drawn to them.

The duplicates now sent are of the following dates: October 29, November 3d and 7th, 1794, together with their several enclosures.

I have the honor to be, sir, &c.,

EDM. RANDOLPH.

[NOTE.—The following despatches from Mr. Jay, and letters from the Secretary of State, with the exception of despatch No. 22, were not communicated to the Senate with the Treaty.]

Mr. Jay to Mr. Randolph—No 20.

LONDON, *November* 5, 1794.

SIR: It has now become almost certain that the draught of the Treaty will soon be perfected,

and that when finished, it will, instead of being concluded, be sent to you for the consideration of the President; further instructions to me will then become necessary. I shall, when I send it, write to you on the subject as particularly as may be necessary, or as the time may admit.

With the best wishes for your health and happiness, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State, &c.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Nov.* 12, 1794.

SIR: Last evening I had the honor of receiving, through Mr. Morris, your favor of the 13th and 14th of September.

Although the immediate departure of the William Penn leaves too short a time for a copious reply to them, I must, after enclosing a duplicate of my letter of the 8th instant, trouble you with a few remarks on those points which attract notice on the first view.

The reasoning of Lord Grenville, in relation to the negroes, is so new to me, as are his observations on the first aggression, that their accuracy cannot be assented to without the fullest reflection.

Is there not some mistake in the copy of Lord Grenville's proposition for surrendering the posts, when the time is fixed to June, 1796? You proposed June, 1795; but, having made no comment on this extension of the epoch of delivery, you give reason to suppose that 1796 ought to be 1795: for such an epoch must be obviously unnecessarily long, and it is perhaps deserving of consideration whether, during so great an interval they will not be able to enter into more injurious arrangements of the Indian trade than they could if we should be their neighbors at Detroit a twelvemonth sooner?

In the articles enumerated in your instructions, as heads of a Commercial Treaty, the leading idea was briefly stated, as, in most instances, it had been extracted from other Treaties subsisting between the United States and other nations. But it was not understood that privateering commissions were to be withheld from our citizens in case of a war between us and Great Britain; especially as Treaties are dissolved by war, unless some special provision is made for the continuance of certain stipulations even in time of war. No such provision exists in the short clause respecting privateering commissions; it being intended merely that the citizens or subjects of either nation, being neutral, should not engage in privateering against the other. To restrict privateers, on the event of a war between us and Great Britain, would cut up a most effectual resource for naval defence. Although Lord Grenville's counter-proposition seems to continue the right of privateering in full force, I am directed by the President to inform you, for the sake of preventing any mistake, that it is his earnest desire that such an agreement may not be concluded.

Ought not future inheritances in land, as well as present, be permitted to the people of either country, in the other?

May not Lord Grenville's stipulation for British subjects, and the Indians within our limits, to carry on trade as usual in the Northwestern country, produce great embarrassment, and all the heart-burnings of rivalship?

I am afraid that the terms *irregular* and *illegal* are not sufficient when applied to the captures of our vessels, to let many of them into compensation.

Among the correspondence which you carried with you between Mr. Jefferson and Mr. Hammond, you will find letters which prove that, for captures made by vessels armed in our ports, within certain periods, we ought not to be accountable. The propositions seem to go the whole.

The instructions of the 8th of June, 1793, are, in substance, renewed upon us by one of Lord Grenville's propositions.

I am suspicious that the phrase relative to the exception of prior Treaties, to wit: "in all cases in which they do not apply," will, at some future day, be tortured to a sense which probably is not intended by Lord Grenville now. Suppose that it should be insisted that the French Treaty does not apply, because the Government is so essentially changed? I do not think that fair construction will justify such a sentiment; but it will not be amiss to exclude its possibility.

The commercial project will be immediately examined: for we cannot, at this early moment, discover whether it be probable that the concessions will be such as to induce you, under your powers, to sign a Commercial Treaty, or to digest only; nor can we so immediately appreciate the different parts of the project.

If the prohibition to sell French prizes should commence sooner than the termination of the war, we shall be placed in very great difficulties; and I am pleased to observe that you are impressed with the force of this idea.

I have laid the opinion of Dr. Nicholl and Sir William Scott before the merchants. We shall endeavor to give it its full effect.

These ideas are not felt by me to be in all respects accurate. I shall revise them, and shall particularly keep in view that both the language and matter of the propositions will undergo great alterations and new arrangements. But I will take the liberty of suggesting that it may be well to avoid, as much as possible, postponements of final settlements. You know from history that Commissioners, who meet after a peace, are very apt to sow the seeds of war.

I have the honor to be, sir, with great respect and esteem your most obedient servant,

EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No 21.

LONDON, *November* 17, 1794.

SIR: A Treaty agreed upon and copied, I expect, will be signed to-day or to-morrow, and sent by the packet.

In my letter, No. 19, dated the 29th October, I mentioned that I had written a letter to Lord Grenville on the subject of my reception here; of that letter I sent a copy, but the answer had not then been received. I now subjoin copies of both, and have the honor to be, sir, your most obedient humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State, &c.

To the Right Honorable Lord Grenville, &c., &c.

ROYAL HOTEL, PALL MALL, *Oct.* 27, 1794.

MY LORD: The President having been informed of the gracious reception with which their Majesties were pleased to honor me, has made it my duty to assure them of the sense he entertains of that pleasing mark of attention to the United States. He flatters himself that a negotiation commenced under such favorable auspices, and conducted with a correspondent disposition to conciliation, will terminate in a settlement mutually satisfactory and beneficial. He requests His Majesty to be persuaded that he will continue to promote every measure that may conduce to this desirable event; and that the United States will, with pleasure and alacrity, cherish the concord and good will which will naturally result from it.

I am convinced, my lord, that this communication will derive advantages from the manner in which you will convey it to their Majesties; and I am the more gratified in addressing it to your lordship, as an additional opportunity is thereby afforded me of assuring you of the respect and esteem with which I have the honor to be, my lord, your lordship's most obedient, humble servant,

JOHN JAY.

To John Jay, Esquire, &c.

DOWNING STREET, *October*, 1794.

SIR: I have taken the earliest opportunity to lay before the King your letter of the 27th inst., and I have it in command to express to you the satisfaction which His Majesty has derived from the sentiments which you have been charged to convey to me on the part of the President of the United States; and to assure you that there exists, on His Majesty's part, the same disposition towards the object of conciliation and friendship.

I trust you are convinced of the satisfaction which those who are honored with His Majesty's confidence will always feel in executing, to the best of their power, His Majesty's intentions in this respect.

It has, on that account, been matter of the greatest satisfaction to me that, in the course of a negotiation directed to the attainment of this desirable object, I have to treat with a Minister whose dispositions and conduct are so well calculated to promote it. I trust, with no small degree of confidence, that the final issue of our joint endeavors will be such as, I am persuaded, we both wish; but, in every case, I shall always retain those sentiments of the most sincere respect and esteem, with which I have the honor to be, sir, your most obedient, humble servant,

GRENVILLE.

Mr. Jay to Mr. Randolph—No. 22.

LONDON, *November* 19, 1794.

SIR: The long expected Treaty accompanies this letter; a probability of soon concluding it has caused the packet to be detained for more than a week. The difficulties which retarded its accomplishment frequently had the appearance of being insurmountable; they have at last yielded to modifications of the articles in which they existed, and to that mutual disposition to agreement which reconciled Lord Grenville and myself to an unusual degree of trouble and application. They who have levelled uneven grounds, know how little of the work afterwards appears.

Since the building is finished, it cannot be very important to describe the scaffolding, or go into all the details which respected the business. Explanatory remarks on certain articles might be useful, by casting light on governing principles, which, in some instances, are not so obvious as to be distinctly seen on the first view. Feeling the want of leisure and relaxation, I cannot undertake it in this moment of haste. I must confine myself to a few cursory observations, and hope allowances will be made for inaccuracies and omissions.

My opinion of the Treaty is apparent from my having signed it. I have no reason to believe or conjecture that one more favorable to us is attainable.

Perhaps it is not very much to be regretted that all our differences are merged in this Treaty, without having been decided; disagreeable imputations are thereby avoided, and the door of conciliation is fairly and widely opened, by the essential justice done, and the conveniences granted to each other by the parties.

The term limited for the evacuation of the posts could not be restricted to a more early day; that point has been pressed. The reasons which caused an inflexible adherence to that term, I am persuaded, were these, viz: That the traders have spread through the Indian nations goods to a great amount; that the returns for those goods cannot be drawn into Canada at an earlier period; that the impression which the surrender of all the posts to American garrisons will make on the minds of the Indians cannot be foreseen. On a former occasion it was intimated to them (not very delicately) that they had been forsaken, and given up to the United States; that the protection promised on our part, however sincere, and however, in other respects, competent, cannot entirely prevent those embarrassments which, without our fault, may be occasioned by the war; that, for these reasons, the traders ought to have time to conclude their adventures, which were calculated on the existing state of things; they will afterwards calculate on the new state of things; but that, in the mean time, the care of Government should not be withdrawn from them.

The third article will, I presume, appear to you in a favorable light; a number of reasons which, in my judgment, are solid, support it. I think they will, on consideration, become obvious. It was proposed and urged that the commercial intercourse opened by this article ought to be exempted from all duties whatever on either side. The inconveniences which we should experience from such a measure were stated and examined; it was finally agreed to subject it to native duties. In this compromise, which I consider as being exactly right, that difficulty terminated; but for this compromise the whole article would have failed, and every expectation of an amicable settlement been frustrated. A continuance of trade with the Indians was a decided ultimatum; much time and paper, and many conferences were employed in producing this article; that part of it which respects the ports and places on the eastern side of the Mississippi, if considered in connexion with the ——— article in the Treaty of Peace, and with the article in this Treaty which directs a survey of that river to be made, will, I think, appear unexceptionable.

In discussing the question about the river St. Croix, before the Commissioners, I apprehend the old French claims will be revived; we must adhere to Mitchell's map. The Vice President perfectly understands this business.

The sixth article was a *sine qua non*, and is intended as well as calculated to afford that justice and equity which judicial proceedings may, on trial, be found incapable of affording. That the Commissioners may do exactly what is right, they are to determine according to the merits of the several cases, having a due regard to all the circumstances, and as justice and equity shall appear to them to require.

It is very much to be regretted that a more summary method than the one indicated in the seventh article could not have been devised and agreed upon for settling the capture cases; every other plan was perplexed with difficulties, which frustrated it. Permit me to hint the expediency of aiding the claimants, by employing a gentleman, at the public expense, to oversee and manage the causes of such of them as cannot conveniently have agents of their own here; and whether, in some cases, pecuniary assistance might not be proper. I do not consider myself at liberty to make such an appointment, nor to enter into any such pecuniary engagements. It would, probably, be more easy to find a proper person on your side of the water than on this. Here there are few fit for the business, and willing to undertake it, who (having many affairs of their own to attend to) would not be tempted to consider the business of the claimants in a secondary light; several objections to giving him a fixed salary are obvious; in my opinion a moderate commission on the sum to be recovered and received, would be a more eligible method of compensating him for his services. Our Consul here talks, and, I believe, in earnest, of returning to America, or I should expect much advantage from his zeal and endeavors to serve such of the claimants as might commit their business to his management.

You will find in the eighth article, a stipulation which, in effect, refers the manner of paying the Commissioners very much to our election. I prefer paying them jointly; the objection to it is, that the English pay high. I have always doubted the policy of being penny-wise.

The Lord Chancellor has prepared an article respecting the mutual admission of evidence, &c., which we have not had time fully to consider and decide upon; it contains a clause to abolish alienism between the two countries. His lordship's conduct and conversation indicate the most friendly disposition towards us; a copy of his article shall be sent, and I wish to receive precise instructions on that head.

The credit of some of the States having, to my knowledge, suffered by appearances of their being favorable to the idea of sequestrating British debts on certain occasions, the tenth article will be useful. Persons wishing to invest their property in our funds and banks, have frequently applied to me to be informed whether they might do it without risk of confiscation or sequestration; my answer has been uniform, viz: that, in my opinion, such measures would be improper, and therefore, that, in my opinion, they would not be adopted; some pressed me for assurances, but I have declined giving any.

The twelfth article, admitting our vessels of seventy tons and under, into the British West Indies, affords occasion for several explanatory remarks. It became connected with a proposed stipulation for the abolition of all alien duties, of every kind, between the two countries. This proposition was pressed, but strong objections opposed my agreeing to it; a satisfactory statement of the negotiation on this point would be prolix; at present, I cannot form a very concise one, for that would not require less time: the selection and arrangement necessary in making abridgments, cannot be hastily performed. The duration of this article is short, but if we meet the disposition of this country to good humor and cordiality, I am much inclined to believe it will be renewed; the duration of the Treaty is connected with the renewal of that article, and an opportunity will then offer for discussing and settling many important matters.

The article which opens the British ports in the East Indies to our vessels and cargoes, needs no comment. It is a manifestation and proof of good will towards us.

The questions about the cases in which alone provisions become contraband, and the question whether, and how far, neutral ships protect enemy's property, have been the subjects of much trouble, and many fruitless discussions. That Britain, at this period, and involved in war, should not admit principles which would impeach the propriety of her conduct in seizing provisions bound to France, and enemy's property on board of neutral vessels, does not appear to me extraordinary. The articles, as they now stand, secure compensation for seizures, and

leave us at liberty to decide whether they were made in such cases as to be warranted by the existing Law of Nations; as to the principles we contend for, you will find them saved in the conclusion of the twelfth article, from which it will appear that we still adhere to them.

The articles about privateers were taken from the Treaty of Commerce between Great Britain and France, and the one for treating natives, commanding privateers, as pirates, in certain cases, was partly taken from ours with Holland.

The prohibition to sell prizes in our ports had its use; and we have no reason to regret that your instructions to me admitted of it.

Various articles, which have no place in this Treaty, have, from time to time, been under consideration, but did not meet with mutual approbation and consent.

I must draw this letter to a conclusion: Lord Grenville is anxious to dismiss the packet as soon as possible.

There is reason to hope that occasions for complaint on either side will be carefully avoided. Let us be just and friendly to all nations.

I ought not to omit mentioning the acknowledgments due from me to Mr. Pinckney, with whom I have every reason to be satisfied, and from whose advice and opinions I have derived light and advantage in the course of the negotiation. His approbation of the Treaty gives me pleasure, not merely because his opinion corresponds with my own, but also from the sentiments I entertain of his judgment and candor.

It is desirable that I should have the earliest advice of the ratification; and be enabled to finish whatever may be expected of me, in season to return in one of the first Spring vessels. My health is not competent to a Winter's voyage, or I should be the bearer of the Treaty. This climate does not agree with me, and the less so on account of the application and confinement to which it was necessary for me to submit.

I had almost forgotten to mention that, on finishing and agreeing to the draught of the Treaty, I suggested to Lord Grenville, as a measure that would be very acceptable to our country, the interposition of His Majesty with Algiers, and other States of Barbary, that may be hostile to us. This idea was favorably received, and it is my opinion that this Court would, in good earnest, undertake that business, in case nothing should occur to impeach the sincerity of that mutual reconciliation which it is to be hoped will now take place.

It will give you pleasure to hear that great reserve and delicacy has been observed respecting our concerns with France. The stipulation in favor of existing Treaties was agreed to without hesitation; not an expectation, nor even a wish has been expressed that our conduct towards France should be otherwise than fair and friendly. In a word, I do not know how the negotiation could have been conducted, on their part, with more delicacy, friendliness, and propriety, than it has been from first to last.

I have the honor to be, &c., JOHN JAY.

Mr. Jay to Mr. Randolph—No. 23.

LONDON, *November* 20, 1794.

SIR: I received last night a letter from Lord Grenville, of which the following is a copy:

DOWNING STREET, *November* 19, 1794.

SIR: I have the honor to transmit to you the papers which you have already seen relative to the claims of certain persons having rights of remainder, or other interests in estates, confiscated in America during the late war, but whose rights or interests, according to justice, and the established laws under which those estates were held, could not be affected by such confiscation.

I have no doubt, both from the justice of the case itself, and from what has passed between us respecting it, that if, on inquiry in America, it should appear that any impediments to the prosecution of such claims in the ordinary course of justice have existed, or still exist, these cases will be considered as being completely within the principle of the article in the Treaty signed between us this day respecting the British creditors. But as you did not possess sufficient information respecting the particulars of this business to be enabled to enter fully into it, I have transmitted to you the papers relative to it, and I shall be obliged to you if, when you have received further information upon it, you will acquaint me in what situation you conceive the parties interested in it to stand, with respect to the means of recovering their rights in the ordinary course of justice.

I also transmit to you, for a similar purpose, an application which I have received from a particular class of British creditors, whose case is there stated.

I cannot conclude this letter without repeating to you the very great satisfaction I have derived from the open and candid manner in which you have conducted, on your part, the whole of the difficult negotiation which we have now brought to so successful an issue, and from the disposition which you have uniformly manifested to promote the objects of justice, conciliation, and lasting friendship, between our two countries.

These dispositions are perfectly reciprocal on the part of this Government, and I am happy in any opportunity of expressing them to you, and of renewing to you the sincere assurances of the very great personal esteem and regard with which I have the honor to be, sir, your most obedient humble servant,

GRENVILLE.

TO JOHN JAY, Esq., *&c.*

The fifth article of the Treaty of Peace concluded with the following paragraph, viz:

"And it is agreed that all persons who have any interest in confiscated land, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediments in the prosecution of their just rights."

Lord Grenville lately mentioned to me that there were persons who had interests in confiscated lands, and that it was reasonable those interests should be taken care of by the present Treaty. He named the case of Lord Fairfax's

estate, and that of Colonel Roger Morris, in the State of New York. I answered that my information respecting those cases was too imperfect to permit me to enter into any particular stipulations respecting them individually, or respecting the others that were generally alluded to in the above article; that I was not apprised of any lawful impediments to the prosecution of such rights as that article contemplated, but I concurred with him in opinion that, if there had been, or still were, such impediments, those cases were within the same principle, and had the same claims to justice and equity as the cases of British creditors, and ought to be provided for accordingly.

The papers I received from him last night are too voluminous to be copied in season to accompany this letter; it is absolutely impossible. You will receive them by the next ship.

The application mentioned in his letter, and which "he had received from a particular class of British creditors," &c., is a memorial of divers American loyalists, &c. These persons (whose estates were confiscated) think they have a right to recover the debts that were due to them, and that the article of the Treaty of Peace in favor of British creditors applies to them. This cannot, in my opinion, be admitted, and will, I believe, give us no trouble.

I have the honor to be sir, your most obedient and humble servant,

JOHN JAY.

To the Hon. Edm. Randolph, Esq.,
Secretary of State, &c.

Mr. Jay to Mr. Randolph—No. 24.

London, *November* 21, 1794.

Sir: On the 19th instant a Treaty was signed. The next day it was, together with my letters to you, Nos. 21, 22, and 23, despatched to the packet at Falmouth, which had been detained.

I now send you duplicates of them all by Mr. Blaney, a gentleman of Virginia, recommended to me by Governor Lee. The earliest advices from you will be expedient. There are articles in this Treaty which will give strength to our applications to other Powers for extensions of commerce. Much use may be made of them.

I daily become more and more convinced of the general friendly disposition of this country towards us. Let us cherish it. Let us cultivate friendship with all nations. By treating them all with justice and kindness, and by preserving that self-respect which forbids our yielding to the influence or policy of any of them, we shall, with the Divine blessing, secure peace, union, and respectability.

I feel very sensibly the confidence that has been reposed in me, as well as the responsibility that resulted from it. If this Treaty should prove beneficial, I shall not regret my anxiety and efforts to render it so. The Canada article strikes me as one of the best in it. If discreetly managed, important benefits will, in my opinion, be derived from it. Very much ought not to be written on these subjects.

That the termination of these perplexing differences should be effected during your administration of the Foreign Department, cannot fail to give you pleasure. It will afford some compensation for the trouble you have had, and relieve you from the disagreeable correspondences to which such differences frequently give occasion.

Accept my thanks for the many interesting communications and marks of attention I have received from you in the course of the negotiation, and be assured that I am, with every corresponding sentiment, sir, your most obedient and most humble servant,

JOHN JAY.

Hon. Edm. Randolph, Esq.,
Secretary of State, &c.

Mr. Jay to Mr. Randolph—No. 25.

London, *December* 6, 1794.

Sir: Copies of the papers mentioned in my letter (No. 23) are hereunto subjoined.

I have the honor to be, sir, your most obedient humble servant,

JOHN JAY.

Office of American Claims,
August 13, 1790.

Dear Sir: I send you extracts of some papers and reports relative to the claim of Colonel Morris and his children. The other cases of a similar nature are those of Lord Fairfax and Mr. Martin, and you will see the Attorney General's opinion applies to all of them.

Yours, very sincerely,

JOHN WILMOT.

George Rose, Esq., &c.

NAMES.	Province.	Value of the fee simple.	Value of the life interest.	Value of reversion.
Col. R. Morris and Mary his wife.	N. York	£20,000	£12,605	£7,395
Samuel Martin	Virginia	13,115	6,500	6,615
Rt. Hon. Lord Fairfax.	Virginia	60,000	13,758	46,242

N. B. Colonel Morris, Mr. Martin, and Lord Fairfax, have received their certificates for the value of their life interests.

Mr. Attorney General's opinion in the case of Mr. and Mrs. Morris.

What interpretation the State of New York may give to their act of attainder I don't know; but nothing is more clear, that, if a similar act of attainder against Mr. and Mrs. Morris had passed here, it would not have affected the remainder limited to the children who are not attainted; and they seem to me, upon this state of the case, to be most clearly entitled to the benefit of the last clause of the 5th

article of the Treaty of Peace with America. Under these circumstances, I cannot advise the Commissioners to consider this remainder in fee as absolutely lost, until an attempt has been made to obtain that justice in America to which they are entitled, and the refusal of which will, in my opinion, be a direct violation of the Treaty. If they cannot obtain justice ultimately, they certainly ought to have a compensation; and therefore I think the Commissioners, after having made a compensation to Mr. and Mrs. Morris for their life interest, should state specially the case of the children, as that may hereafter be of use to them if they fail in seeking redress in America.

R. P. ARDEN.

March 31, 1787.

N. B. As there are two or three other cases similarly circumstanced, the Commissioners considered them altogether in a separate class, and made a general observation upon them in their general reports, particularly that of May 15, 1789. *Vide* extracts.

Extract from the report of the Commissioners of American Claims, dated 7th April, 1786.

We have not considered any interest in confiscated lands, whether by debt, marriage settlement, or otherwise, as lost to the parties, (in cases where such parties are not named in, or are not the immediate object of, the confiscation law,) though we apprehend it may be difficult for them, without the aid of Government, to have their rights ascertained and secured.

We have thought it our duty to represent this to your lordships, as we apprehend it to be one of the objects of our inquiry to furnish Government with such information as may promote His Majesty's endeavors to procure from the United States of America restitution of, or recompense for, the estates and effects of the sufferers under the provisional article, as stated in the preamble of the act which first instituted the inquiry.

Extract from the report of the Commissioners of American Claims, dated 5th April, 1788.

There is likewise another description of persons, concerning whom we have been under considerable difficulties, as stated in our fifth report of the 7th April, 1786, namely, of loyal British subjects, who appear to have relief under the Treaty of Peace, but state the utter impossibility of procuring it. We have stated these losses, therefore, in a separate class, (the eleventh,) in order to facilitate the endeavors of Government to procure from the United States of America a restitution of, or recompense for, the estates and effects of the sufferers under the Treaty of Peace, or if that Government and the Legislature may be enabled to make them compensation at home, if it should be thought proper.

Extract from the report of the Commissioners of American Claims, dated 15th May, 1789.

With respect to the eleventh class, (viz., of those who appear to have relief by the Treaty of Peace,) it is to be observed that it consists of the value of reversionary interest in estates expectant on the determination of lives now in being, the value of the life interests being included in some of the other classes. It is proper to observe, likewise, that the fee of the property in these instances has been seized, confiscated, and sold, by the respective States in whose territory the property lies; and notwithstanding the provisions of the Treaty of Peace, we are afraid there is little probability of the recovery of such reversionary interests by the persons entitled in remainder. We submit, therefore, to the consideration of Government and Parliament, whether it will be more eligible to make those persons who have lost their life-interests a compensation only for the loss of those life-interests, or to make a compensation for the fee simple of the property, to be paid to trustees, subject to the same uses to which the estates were settled; by which means, for a comparatively small additional consideration, those entitled in remainder will have no future claim on the justice and liberality of the nation, if they should not recover their property on the death of the tenants for life; and this country will become creditor of the different States for the value of this reversionary property, whenever an arrangement shall take place between the two countries of their respective interests and pretensions.

Extract from the decision of the Commissioners of American Claims, on the claim of Colonel Roger Morris, and Mary his wife.

The Board is of opinion that the value of the fee simple of the said estate was £20,000, and that the value of the interest of the said Colonel R. Morris, and Mary his wife, for their joint lives, and the life of the survivor, (as calculated by Mr. William Morgan, actuary to the Equitable Society of Annuitants,) is £12,605.

The Board, under all the circumstances of the case, is of opinion that the loss of the said Colonel R. Morris, and Mary his wife, must be confined to the said sum of £12,605, which sum they accordingly allow for the same; but they do not consider the interests of the children of the marriage as being lost, the same being protected by the fifth article of the Treaty of Peace.

Extract from the decision of the Commissioners of American Claims, on the claim of Samuel and George Martin.

The Commissioners disallow the claim, (so far as the reversionary interest of the son, George Martin, is concerned,) considering the same to be protected by the fifth article of the definitive Treaty of Peace between Great Britain and America.

Although the Commissioners are of opinion the reversionary interest of the claimant, George Martin, must be considered as being protected by the fifth article of the Treaty of Peace, it appears, nevertheless, that the whole property has in fact been seized and forfeited as the fee simple estate of the said Samuel Martin. And although a repre-

sentation has been made to the Legislature of Virginia, setting forth the interest the said George Martin was entitled to therein, no attention whatever has been paid thereto.

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Decision on the claim of the Right Honorable Robert Lord Fairfax, on behalf of himself and of Frances Martin, (widow, his sister,) and of Denny Fairfax, D. D., Philip Martin, Esq., and Thomas Martin, Esq., (his nephews and their three sisters, his nieces.) Claim £98,000.

My Lords: The case of the Right Honorable Lord Fairfax being in many respects peculiarly circumstanced, and being of considerable importance in respect to the magnitude of the claim, we have thought fit to make it the subject of a separate report.

We find that His late Majesty, King James the Second, by letters patent, bearing date the 27th day of December, in the fourth year of his reign, which recite former letters patent of King Charles the Second, bearing date the 8th day of May, in the twenty-first year of his reign, did give, grant, and confirm, unto the Right Honorable Lord Culpeper (grandfather of the claimant) all that entire tract, territory, or parcel of land, in Virginia, in America, and bounded by and within the first heads or springs of the river of Tappahannock alias Rappahannock, and Querough alias Potomac river—the courses of the said rivers from their first heads or springs, as they are commonly called and known by the inhabitants and descriptions of those parts, and the Bay of Chesapeake, together with the said rivers themselves, and all the lands within the uttermost banks thereof, and the soil of all and singular the premises, and all the lands, &c.—to have, hold, and enjoy, the said granted premises to, and to the use of, the said Thomas Culpeper, his heirs and assigns forever, at the rent of £6 13*s.* 4*d.*, payable as therein mentioned; all which said granted premises are commonly known and distinguished by the name of the Northern Neck of Virginia.

That all the said granted premises were, under such grants, held and enjoyed by the said Thomas Lord Culpeper from thencefort to the time of his death, when the same became the property of, and vested in, the Right Honorable Catharine, late Lady Fairfax, his daughter, who, by her last will and testament, bearing date the 21st day of April, 1719, devises the same (*inter alia*) by the description of all her honors, lands, plantations, and premises in Virginia, unto William Cage, of Milgate, in the parish of Bersted, in the county of Kent, Esquire; and Edward Filmer, of East Sutton, in the said county, Esquire; to hold the same unto the said William Cage and Edward Filmer, and their heirs and assigns forever, upon the said several trusts therein and hereinafter described—that is to say:

Upon trust in the first place by mortgage, a sale of a sufficient part of the estates thereby devised, to raise a sufficient sum for discharging all her debts, legacies, and funeral expenses; and after such mortgage, sale, and disposition to the use of her eldest son, Thomas Lord Fairfax, and his assigns, for life.

Remainder to the said William Cage, and Edward Filmer, and their heirs, as trustees to preserve contingent remainders.

Remainder to the first and other sons of the said Thomas Fairfax, in tail male.

Remainder to her second son, Henry Culpeper Fairfax, and his assigns, for life.

Remainder to trustees, to preserve contingent remainders.

Remainder to the first and other sons of the said Henry Culpeper Fairfax, in tail male.

Remainder to her third son, Robert Fairfax, and his assigns, for his life.

Remainder to trustees, to preserve contingent remainders.

Remainder to the first and other sons of the said Robert Fairfax, in tail male.

Remainder to the daughters of the said testatrix, as tenants in common, in tail.

Remainder to the right heirs of the said testatrix, in fee.

The said Catharine Lady Fairfax died in the said year 1719, soon after the making of her said will; whereupon the aforesaid lands and premises, under the devise contained, became vested in the said Thomas Lord Fairfax, for the term of his natural life.

We find by a survey produced to us, made in the years 1736 and 1737, that the quantity of land contained within the boundary described in the aforesaid grant of King James the Second, was five millions two hundred and eighty-two thousand acres, a considerable part whereof, at the time of the breaking out of the troubles in America, had been granted by the late Thomas Lord Fairfax, and his predecessors, upon quit rents; other parts had been appropriated by his lordship as his private estate, and the remainder lay waste and ungranted.

We find that the said Thomas Lord Fairfax, who resided in Virginia, at the commencement of and during the troubles in America, conducting himself as a loyal subject to His Majesty, but being of a very advanced age, (upwards of fourscore years,) for that reason, as we presume, he was not divested of the said estates during his lifetime, but was permitted to hold and enjoy the same until his death, which happened in the year 1781; whereupon the same descended to, and became vested in the claimant, Lord Robert Fairfax, for the term of his natural life, (the said Henry Culpeper Fairfax having, many years before, died unmarried, and without issue,) but owing to divers laws which have been since enacted by the State of Virginia, and which are hereafter set forth, he has been prevented from taking possession of, and enjoying the same: for we find that, by an act of Assembly of the said State, passed at a session begun the 21st day of October, 1782, entitled "An act to amend and reduce the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act:" after reciting that, among other things, that no provision was made

by the said act, or by the act for equalizing the land tax, to credit the citizens in the Northern Neck for so much of the land tax as their respective quit rents might amount to; and that, since the death of the late proprietor of the Northern Neck, there was reason to suppose that the said proprietorship had descended upon alien enemies. It was therefore enacted, that persons holding land in the Northern Neck should retain sequestered in their hands all quit rents which were then due, until the right of descent should be more fully ascertained, and the General Assembly should make final provision thereon. And all quit rents which might thereafter become due within the limits of the said Northern Neck, were directed to be paid into the public Treasury under the operation of the laws of that session of Assembly, from which quit rents the inhabitants of the said Northern Neck were thereby exonerated from the future claim of the proprietor.

By another act of the same session of Assembly, entitled "An act concerning surveys," after reciting that the death of the Right Honorable Thomas Lord Fairfax might occasion great inconvenience to those who might incline to make entries for vacant lands in the Northern Neck, it was enacted that all entries made with the surveyors of the counties within the Northern Neck, and returned to the office formerly kept by Thomas Lord Fairfax, should be held, deemed, and taken as good and valid in law, as those theretofore made under the direction of the said Thomas Lord Fairfax, until some mode should be taken up and adopted by the General Assembly concerning the territory of the Northern Neck.

By another act, passed at the session begun the 5th day of May, 1783, entitled "An act to amend the act to amend and reduce the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," after reciting "that, by the said act, all persons who were indebted for quit rents due within the Northern Neck, were permitted to retain the same in their hands until the further directions of the Assembly, and that it was unjust that the executors of the late proprietor of the Northern Neck should be any longer prevented from receiving what was due to the said proprietor at the time of his death, it was enacted that so much of the said act as permitted the persons indebted as aforesaid, to retain in their hands the sums due at the time of the death of the said proprietor, should be, and the same was thereby, repealed."

And by another act, passed at a session begun the 17th day of October, 1785, entitled "An act for safe keeping the land papers of the Northern Neck in the Register's office," after reciting, "that since the death of the late proprietor of the Northern Neck, the Right Honorable Thomas Lord Fairfax, no mode had been adopted to enable those who had, before his death, made entries for waste and unappropriated lands in his office, nor to enable those who, since his death, had made entries within the said district, according to an act of Assembly, entitled 'An act concerning surveyors,' to obtain titles for the same," it was enacted that, "where any surveys had been theretofore made, or thereafter should be made, under entries made in the life of the said proprietor, or under entries made with the surveyor of any county, under the act of Assembly aforesaid, and which had been returned to the said proprietary office, should thereafter be returned to the register's office, the register should make out grants therefor, to bear test under the hand of the Governor, and the seal of the Commonwealth, in the same manner as was by law directed in cases of other unappropriated lands; and the surveyors with whom such entries had been made, were thereby directed and empowered to proceed to survey and record the same, and to make return of such surveys to the Register's office, in the same manner and within the same time as was, or should be directed, in cases of warrants issued for other unappropriated lands within this Commonwealth, and therefor grants should issue in the manner therein before directed." And it was further enacted, that "from and after the passing of the aforesaid act, the unappropriated lands within the said District should be subject to the same regulation, and granted in the same manner, and all caveats should be proceeded upon, tried and determined, as was by law directed in cases of other unappropriated lands belonging to the said Commonwealth." And it was further enacted "that the landholders within the said District of the Northern Neck, should be forever thereafter exonerated and discharged from composition and quit rents, any law, usage, or custom, to the contrary notwithstanding."

It has been represented to us, that, in the year 1786, a memorial was presented to the Assembly, on behalf of the claimant, (Robert Lord Fairfax,) who, together with all the heirs in remainder, (except Thomas Martin,) we find to be loyal subjects of His Majesty, who resided in Great Britain during the troubles, by his agents in Virginia, praying to be relieved from the effects of the acts before recited, and to be restored to the possession of the quit rents within the said Northern Neck, to which he was entitled under the will of his mother, as before mentioned, which application was unsuccessful; but no copy of the said memorial, nor of the minutes of the said Assembly relative thereto, having been produced to us, we are unable to state the particulars of the said application, or the grounds upon which the same was rejected.

On a full consideration of the above acts, it does not appear to us that there is anything contained in them (excepting the act of 1785) which operates as a forfeiture of the estate of Lord Fairfax, or those in remainder after his decease: for, although the first act, of October, 1782, directs the payment of all quit rents that should thereafter become due into the Treasury, yet we cannot infer the object of that direction to have been any other than the same which is expressed in that act, as to the prior quit rents, which are thereby directed to remain sequestered in the hands of the landholders in the Northern Neck, viz: there to

remain until the rights of descent to the said territory should be ascertained, and the General Assembly should make final provision thereon. But the act of 1785 having placed the said district under the same regulations with all the other lands within the said State, and having, also, totally abolished the quit rents due therein, we are of opinion that Lord Fairfax, and those in remainder after his decease, are thereby entirely divested of their estate, and interest therein, and have lost every prospect of recovering the same.

At the same time we cannot help remarking, that this act appears to us to militate strongly against the spirit and meaning of the sixth article of the Treaty of Peace, which provides that there shall be no future confiscations made, or any prosecution commenced against any person or persons, for, or by reason of, the part which he or they have taken in the (then) present war, and that no person shall on that account suffer any future loss or damage, either in his person, liberty, or property: for, although it is not by the terms thereof, an act of confiscation, yet it has all the effect and operation of an express act of forfeitures; and although the grounds and motives of passing it are not expressed in the act itself, we cannot but conclude, that if the parties interested had not been considered as British subjects and aliens, either the landholders would not have been exonerated from the payment of quit rents, or that some compensation would have been made in lieu of the same.

It does not appear to us that the act of 1779, entitled an act concerning escheats and forfeitures from British subjects, which is the only act of the State of Virginia which operates as a general act of forfeitures, has any relation to the present case, the same having been passed a considerable time previous to the death of the late Thomas Lord Fairfax, and none of the directions therein contained for ascertaining who were objects of the same act, having been pursued with respect to the present claimant, or granting that they had, it could only operate as a forfeiture of the individual interest of Lord Fairfax for the term of his life; the estate of those in remainder being in that case, as we conceive, protected and preserved by the fifth article of the Treaty of Peace, by which it is agreed "that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights." We submit, therefore, whether this be not, under all its circumstances, of the cases which call for the interposition of Government, to assist the parties in obtaining a restitution of their just rights, which are thus guaranteed and protected by the Treaty.

We have had some difficulty in ascertaining the value of the estate in question, for the several books and papers relative to the land office having been, as we are informed, and appears by the act of Assembly of 1785, taken possession of by the State, it has not been in the power of Lord Fairfax to lay before us such clear and decisive evidence of the amount of the annual quit rents as was desirable; we have, therefore, been obliged to estimate from the parole evidence of several respectable witnesses as to the general repute of the country of their amount, previous to the war, and the positive testimony of his lordship of their produce in the year 1768, when he was in Virginia, and had access to the books wherein the accounts thereof were kept; and, on a general consideration of all its circumstances, we are of opinion it will be just to value the said estate at £60,000; and, in order that Parliament may have every information to guide its determination, with regard to the compensation it may think fit to make for the loss of this property, if that should be its ultimate resolution, we have calculated the value of Lord Fairfax's life in the above sum, which we find to be £13,758.

In the above sum we have not, for the reasons stated in our first general report, taken into account the arrears of quit rents, which are stated by Lord Fairfax to amount to £28,000, nor of the waste or unappropriated lands, no proof having been laid before us of their extent or value, nor any claim made for the loss thereof.

With respect to the private and unappropriated estates of the late Thomas Lord Fairfax, no evidence has been laid before us to show that the present Robert Lord Fairfax has any title thereto, or interest therein, neither does it appear that the same has been confiscated or forfeited; on the contrary the inference is, that no forfeiture has taken place: for the act of 1783, having declared that it was unjust that the executors of the late proprietor of the Northern Neck should be any longer prevented from receiving what was due to the said proprietor at the time of his death, and having repealed the provisions of the former act, whereby the quit rents were ordered to remain sequestered in the hands of the landholders, it is to be presumed that the residue of his private estate has been equally protected and preserved for the benefit of those entitled thereto.

For these reasons, and because no express claim has been put in for the loss of the private estates of the late Lord Fairfax, we have not thought it material to go into a particular inquiry respecting the same.

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Copy of a letter written by John Wilmot, Esq., to George Rose, Esq.

Mr. Wilmot presents his compliments to Mr. Rose, and acquaints him that Lord Fairfax's property in America claims at £60,000, in which Lord Fairfax had only a life estate. The Commissioners made a special report on this case, being under very particular circumstances. The result however was, that Mr. Pitt recommended to Parliament to pay Lord Fairfax the value of the life estate, which, after deducting what his lordship had already received from Government, amounted to the sum of £11,868.

No sum was recommended by Mr. Pitt to be granted to those who have the reversionary interest after Lord Fairfax's death.

JANUARY 24, 1792.

To the Right Honorable William Lord Grenville, His Majesty's Principal Secretary of State for the Foreign Department, &c., &c.

The memorial of divers American loyalists in behalf of themselves and others, residing in Great Britain and elsewhere, in His Majesty's dominions, most respectfully showeth:

That your memorialists, at the time of their banishment and confiscation of their estates, had large sums of money justly due to them, by some of the richest inhabitants of the American States, on bond, note, and other securities, which were included in your memorialists' claims, delivered in to the Commissioners of an "Act for appointing Commissioners to inquire into the losses and services of all such persons who have suffered in their rights, properties and professions, during the late unhappy dissensions in America, in consequence of their loyalty to His Majesty, and attachment to the British Government." But, on the discussion of those claims, your memorialists were informed by the said Commissioners, that they could not take cognizance of such debts, as provision was made for the recovery thereof by the definitive Treaty of Peace between Great Britain and the American States.

That your memorialists have since exerted every endeavor to recover the moneys so due to them from their debtors, but were restrained by laws, passed from time to time in the American States, regardless of the Treaty; and where your memorialists' debts had been confiscated by laws of any of the States, on suits instituted by them for the recovery thereof, it has been adjudged by the Federal Courts of the Union, "that those debts were extinguished as to your memorialists, and vested in the States that passed the confiscatory law; your "memorialists not being real British subjects, but American British subjects, and therefore not entitled to the benefit of the Treaty of Peace;" which adjudication equally precludes your memorialists from relief where their moneys had been paid for their use by their debtors into the public Treasuries, pursuant to laws of any of the States; and also where their debtors had discharged the moneys owing by them in a depreciated paper currency, at the rate of six-pence or less in the pound, under the sanction of arbitrary and unjust tender laws, passed from time to time in the American States during the war; although it is expressly stipulated by the fourth article of the Treaty of Peace, "that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts heretofore contracted;" which article of the Treaty mentioning creditors on either side generally, without the least allusion to creditors of any particular description, the words "shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts heretofore contracted, must necessarily refer to laws and adjudications that would defeat the object as to any creditor who had adhered to Great Britain, and made themselves a party in the controversy; nor is the distinction between real British subjects and American British subjects reconcileable with the intent of the Treaty, as it would promote a spirit of resentment and persecution, which ought to subside on a return of the blessings of peace. Besides, this distinction is evidently repugnant to reason; because it admits a right to recover debts in the British merchants who took no active part in the contest; and disallows that right to your memorialists, who manifested their allegiance by submitting to the attainder of their persons, and confiscation of their estates, and all the calamities of war, which are the strongest proofs of national attachment to natural justice; because it enables debtors to evade the just demands of their creditors, in violation of the most solemn contracts and obligations, which have ever been held sacred among all civilized societies.

That your memorialists, being informed that the British merchants have been called on by His Majesty's Ministers for some statement of their demands against the subjects of the American States, in the negotiation now pending between their Plenipotentiary and the British Court, your memorialists think it a duty they owe to themselves and to the Government, to lay this representation of their hard case before your lordship, trusting their rights will meet with due attention in that negotiation; and that if they should not ultimately obtain satisfaction of their just demands in America, according to the Treaty of Peace, to which they have been referred by the Commissioners of the act of Parliament abovementioned, your memorialists' claim on the national justice for compensation and relief, pledged, to them by that act, will merit your lordship's countenance and protection.

In the hopes whereof your memorialists in gratitude will pray, &c., &c,

ROBERT WILLIAMS,
J. PARKER,
EDMUND HEAD,
JOHN DAVIS,
W. P. TONGE,
R. W. POWELL,
JOHN STOPTON,
ROBERT GILMOUR,
WILLIAM BROWN,
S. H. JENKINS,
LEWIS JOHNSTONE,
By his attorney, J. Irvine.

CHARLES COOKE,
ROBERT COOKE,
JAMES WILSON,
for Cumberland Wilson.

THOMAS HARPER,
THOMAS YORKE,
ROBERT COOPER,
As Executor to H. Perannean, dec'd.

JOHN RENNIE,
JOSIAH TATHNALE,
for John Hamilton & Co.

CHARLES ATKINS.

LONDON, *October* 9, 1794.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Dec.* 3, 1794.

SIR: As I cannot get a confidential person going to Liverpool in the ship which will carry this letter, to take charge of some remarks which will be submitted to your consideration, I prefer to send them by two other ships going to-morrow or next day. In them a passenger will be found who will hasten to you with fidelity.

You must have received, almost by this time, my letter, which requests you not to stipulate against our citizens in case of a war between us and Great Britain, taking privateering commissions against that country. I barely repeat it now.

The remarks above alluded to relate to the Treaty on foot. Although, in the combining of your and Lord Grenville's projects, things may be so changed as that observations directed to each, may be unavailing and inapplicable, yet I must, in the hurry of the moment, take the liberty of suggesting that I am extremely afraid that the reasoning about the negroes will not be satisfactory. Indeed, I own that I cannot myself yield to its force. But, if you omit mentioning them at all, will not some quarters of the Union suppose themselves neglected?

If the British are to retain the posts until 1796, and have free access to the Indians within our limits in the meantime, have we not reason to apprehend that they will contrive to perpetuate their ascendancy over them?

The departure of the vessel precludes more at present. I will, therefore, only acknowledge your duplicates Nos. 15 and 16, and your letters of the 18th of September and 2d of October, being Nos. 17 and 18.

The arrival of Mr. Bayard, and a letter from me preceding his appointment, will explain to you that it is the intention of the Government that the costs and damages attending all vessels and cargoes, within the catalogue of spoliations, should be defrayed by the United States; and that Mr. King's case, mentioned in my letter of August 15, is not regarded as discriminated from the others; but that all are to receive equal patronage in this particular. It will be however, of course, understood, that if, in this and the other cases, you can obtain redress without a process through the Courts, it is the wish of Government that the shortest method be pursued.

I have the honor to be, sir, with great respect, your most obedient servant,

EDM. RANDOLPH.

Mr. Jay to Mr. Randolph—No. 26.

LONDON, *December* 10, 1794.

SIR: I have been favored with your letters of the 11th and 20th October last, with the papers mentioned in them. As the Treaty concluded on the 19th of last month was sent by the packet, and a duplicate was committed to the care of Mr. Blaney, who sailed in a vessel for Virginia, commanded by Captain Vickary, I flatter myself it will arrive before you receive this letter.

It gives me pleasure to acknowledge the attention and punctuality manifested in your letters, and your prudence in publishing only in the way you mention, advices respecting the negotiation.

Yesterday I received a letter from Mr. Bayard, informing me that he was on the road from Falmouth to this place, and giving me a hint of his appointment.

Being very solicitous to return home, I purpose to embark in one of the Spring vessels for New York or Philadelphia. The Treaty may possibly not arrive so soon as that the ratification will reach this place before my departure, especially as not only the packet, but also Mr. Blaney, were detained a considerable time by contrary winds. I beg leave, therefore, to submit to the President's consideration the expediency of instructing Mr. Pinckney to make the exchange in case of my absence, and of authorizing him to execute such instructions to me as may be sent with the ratification.

I wish I was now at Philadelphia, not only because I should then be in my own country, but because I could give you interesting information, which cannot be so advantageously communicated in writing as in conversation. I will make one remark. This Treaty may be used to open the Mississippi and rivers running through Florida.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,
Secretary of State, &c.

P. S. You will receive herewith enclosed, a copy of Lord Grenville's full powers. Duplicates of Nos. 23, 24, and 25, are already on board the ship which will bear this.

Mr. Randolph to Mr. Jay.

PHILADELPHIA, *Dec.* 15, 1794.

SIR: I suggested to you, in my last letter, on the 3d instant, the reason why much scope of observation could not be indulged by the opportunity which then occurred, on your letter of September 13, 1794. Having a full assurance now that the danger of the sea can alone prevent this despatch from reaching you in safety, I shall take the liberty, under the correction of the President, to run through, in a summary way, some parts of your interesting communication.

At the threshold, however, this important difficulty awaits us. Upon the fitness of your own or Lord Grenville's propositions, separately viewed, we might perhaps decide with satisfaction to ourselves. But, until the two projects shall be moulded into one; until we shall, at least, see how much will be yielded on either side, our remarks may not only wander from the true points, which may be best entitled to examination, but may also mislead you, if they be not cautiously applied to a state of things which is not precisely the same with that which gave rise to them. You will be pleased, therefore, to accept them as testimonies of our anxiety that your mission may

terminate happily to our country and honorable to yourself; hoping that, although they should arrive after some conclusion with the British Ministry, they will operate so far as the then position of affairs will permit.

As a mere point of honor, it would certainly have been immaterial to settle what act, on either side, constituted the first violation of the Treaty of Peace. Nor can we, at this distance, judge as well as yourself to what degree the whole of our claims, pretensions, and complaints, may be affected by relinquishing, or failing to fix on the British Government the first infraction. But really, sir, the force of Lord Grenville's reasoning appears to fall very short of its object.

That a property is acquired in moveables as soon as they come within the power of the enemy, is acknowledged. But it will not be denied that rights even in moveables, acquired by war, may, by the Treaty of Peace, be renounced. In this instance there was great reason for such a renunciation. Negroes were not, like moveables in general, difficult to be distinguished. They carried an infallible mark. British debts were stipulated to be paid, and the States in which the mass of them lay, depended for their payment principally on the culture of their soil, and for the culture of their soil, on this species of labor. As property, the British Government could not have been tenacious of negroes; and it may therefore be supposed, that in this view, they were so indifferent as to be the more easily given up.

If the stipulation as to negroes did not mean an alteration in the actual state of property, and imported only an engagement not to cause any destruction, or carry away any negroes or other American property, why was it made? The cessation of war implied the cessation of further depredations; the renewal of depredation would have been the renewal of war. The words of Treaties, if they can be construed in an operative sense, ought not to be turned to signify merely what would have existed without them. It was a thing of course that orders should be given by the British Government against plundering on the evacuation; or, if they should not be given by Government, it became incumbent upon the commander, in behalf of the British army in America, to issue them under his own authority.

The essence of Lord Grenville's argument seems to consist in a refinement of interpretation which he gives to the words, "other property of the American inhabitants," as if they confined the word "negroes" to those negroes who should be thereafter captured from the Americans by the British arms, and excluded such as were then denominated, by the rights of war, British property. The use of the term "negroes," by itself, proves that the inquiry was simply to be, whether the persons who were not to be carried away came within the description of negroes generally; and it is as fair to conclude, from the words "other property of the American inhabitants," that the opinion of the negotiators was, that negroes within the British power were made thereby American property, as the reverse. The fact, too, is, that the original proprietors of the negroes never lost entirely the hope of recovering them, still called them theirs, would have reclaimed them upon the principles of postliminy, if they had been retaken by the army of America or its ally, and thus even the Plenipotentiaries themselves might, without any impropriety, have talked of the negroes in British possession as the negroes of the American inhabitants. These ideas are supported by other parts of the 7th article. Why is the "carrying away" only mentioned, if negroes which might be thereafter seized were chiefly contemplated? Is it not reasonable to believe that, with this impression, it would have been said that negroes shall not be captured and carried away? If a critical exposition must be resorted to, "carrying away" implies that the thing to be carried away is already in possession. Another part of the stipulation is, that the American artillery that may be in the fortifications, shall be left therein. That is, not artillery made in America, but artillery the property of America, or in other words, of the United States. Now, this artillery was surely the property of the British at the moment of capture, and yet no pretence, as far as I can learn, was hatched up to carry away our cannon.

For the interpretation of Treaties, as well as in all moral reasoning, general rules are prescribed; but your own experience must have satisfied you that these rules can be seldom applied with mathematical precision. We have an example of this in Lord Grenville sheltering himself from the true construction of the article of the Treaty, by branding it with the epithet "odious." What is more customary than for nations to surrender rights? What more common than for them to surrender, on a peace, rights acquired purely and solely through a war? The construction is not odious, because the British Government hate slavery. No, sir, they established it in the United States while colonies; they continued the importation of slaves against the will of most of the States; it exists by their authority in many of their foreign dominions. The odium then of the business, must be in depriving the slaves of the liberty granted to them; that is, in first giving and then taking away. In answer to this I observe, that the construction is not so doubtful as to let in any remarks upon odium: for vague ideas of this kind are inadmissible, except in truly doubtful cases. There might, perhaps, have been some countenance to this plea, if we should insist that slaves originally belonging to the British, and afterwards manumitted by them, were now demanded by us to return to their former condition. But those in question belonged to our citizens: the war only presented the chance of liberation. They were covered in their flight from their masters by the operation of war. They must have been conscious (and such is the Law of Nations) that, if they had been regained by their former proprietors in the course of the war, they would have reverted to the condition of slaves; and that what the war gave, might by a peace be taken away.

You must be too sensible of the anxiety of many parts of the United States upon this subject to pass it over unnoticed. Permit me, therefore, to beg your attention to the foregoing ideas, since I have it greatly at heart that your negotiation may not be encumbered by any objection which may be anticipated.

It was at first hoped that, as you had proposed June, 1795, for the epoch of surrendering the posts, and have not commented upon the proposition of Lord Grenville for June, 1796, there might have been a mistake in copying what he wrote. But the duplicate of your letter of September 13 confirms the truth of 1796. In a past letter you have been apprised of the unpleasantness which will accompany such a result. Further reflection has not diminished, but on the contrary, has increased the repugnance of the President to this extension of the time. There may be a danger of our losing the moment when we may be the most impressive. If we have been fortunate enough at present to catch the wheel of political events in its rapid revolutions, before June, 1796, the face of things may be so much changed as to substitute the spirit which governed Great Britain in her past injustice towards us, in the place of that moderation which we experience in the hour of her depression. Every artifice for riveting an ascendancy over the Indians, and counteracting our competition for the fur trade, will have had its fullest scope. In short, the interval will be employed in rendering the transference of the British fort from one side of the river to the other, as little operative as possible on the minds of the Indians, by gradually managing and persuading them to believe that the new position is more convenient to them, and that the removal was the effect of choice, and by an infinity of other pretences. And truly, sir, it cannot be deemed severe to insist upon June, 1795. For what purpose, sincere in all its aspects, is a twelvemonth more wanted? The distance for transporting the appendages of the garrison within the British territory is trifling, and becomes more so by the facility of water carriage. The settlers under British auspices will be protected. The season will be favorable. The President is therefore very much fixed in the opinion, that the arrangements for June, 1796, will be injurious to the United States. We are fully sensible that something was to be yielded for the accommodation of the British garrison, so as not to precipitate their surrender of the places unnecessarily; but no title to indulgence seems to go beyond June, 1795; and the President instructs me to add that, as long as the British retain Detroit, and other posts within our limits, he is convinced that we shall never have perfect tranquillity with the Indians. The free ingress and egress stipulated for British subjects and the Indians, will, it is feared, strike deep into our Indian trade; nor can we be sure that the reciprocity claimed by you will compensate the inconvenience. Nor yet can it be calculated how much our revenue may be impoverished, if goods may be imported through Canada duty free.

I have the pleasure to inform you that your reasoning and conduct respecting the St. Croix and the Mississippi appear to be very judicious, and the form in which those subjects have been placed by you, according to your different letters, is approved by the President.

The correspondence between Mr. Jefferson and Mr. Hammond, relative to the captures of British vessels by French cruisers, fitted out of our ports, or manned by our citizens, places the subject of compensation upon the ground which is the most acceptable to the President.

Ought any settlers or traders within the precincts of any British garrison, within the United States, to be protected in their landed property there, unless it lies strictly within the just limits of a garrison, and their title originated before the peace? Perhaps nothing more is meant; my suggestion is for greater certainty only.

Neutral commerce, if it can be so settled, had better be freed, as much as possible, from contraband. But it is peculiarly important that provisions should be so.

I am apprehensive that, to bind the British King to compensation only where our property has been illegally captured and condemned, under color of his authority and commission, or where apparent full justice and compensation cannot be obtained, and actually had, by judicial proceedings, will not reach the mischief; and that there is no effectual mode for repairing it, but by granting compensation upon the broad ground of the principle of the instructions of November 6, 1793, being unsound; that is, by providing that they violated our rights in authorizing condemnations; or it will amount to the same thing if it be said that it was not the intention of those instructions that they should form a law for condemnation. In either case, compensation will follow.

My former letters have communicated the desire of the President that, in case we should have a war with Great Britain, we should not be excluded from privateering commissions.

You, sir, who have before you the whole of this affair, from its first breaking to the British Ministry, know best how to balance reciprocal concessions, which shall be satisfactory to the people of the United States. But the difficulty of accomplishing such a work is very apparent at all times; and the delicacy of undertaking to pay the damages sustained by British creditors by lawful impediments, in consideration of advantages under a different head, is, at this time, exceedingly great.

The question as to the first violation of the Treaty assumes an important shape, when your proposition for the United States to compensate the consequences of impeding the recovery of British debts is examined; because, if the British were the aggressors as to the negroes, we had a right to retaliate. But, throwing this out of sight, since it appears that you and Lord Grenville could not begin to agree until this discussion was dismissed, permit me to add, that the litigation will be extremely involved when it is attempted to ascertain the various kinds of losses arising from

the deaths of the debtors, the loss of evidence, &c. The sum will not be inconsiderable. Many estates have been incapacitated to pay British debts by being deprived of their negroes by British arms. One-half, at least, of the United States would be very reluctant in assuming the payment of these sums, and, perhaps, would not think the *douceur*, in trading to the West Indies and other places, as sufficient. However, if it is necessary, in order to accomplish the negotiation amicably, that this species of compensation should be made, ought not the United States to be considered as assignee of the judgment entered up against the debtor, that they may reimburse themselves as far as they can?

You have doubtless considered how far we may be compelled to extend to the nations with whom we have Treaties of Commerce, the same privileges which are granted to Great Britain, and what the effect may be upon our revenue and commercial regulations.

Not only in the foregoing observations, but also in those which follow, and are more particularly directed to the commercial projet of Lord Grenville, have I been guided by these two ideas: 1, that, as much conference had taken place between yourself and Lord Grenville, at an early period after your arrival, and before any shape was given to the business by formal propositions, many points may have received, before that time, by mutual understanding, a form which candor or delicacy may create a difficulty in attempting to change; and 2, that, from the latitude of your instructions, you were left at such full liberty as to render it improper to seem to get rid of some share of responsibility, by passing too minute strictures on what has been done. I flatter myself that the style of our intercourse has satisfied you that nothing can be further from my mind than any measure which, in a similar situation, I should not wish to be pursued in my own case; and you may be assured that, if it was not for the hope that the course of this transaction, and my letter of the 12th ultimo, may, perhaps, have kept it unclosed, I would not trouble you with any remarks.

The greater part of the first article, in Lord Grenville's commercial projet, seems to be little more than that courtesy, and liberty of trade, and access to our ports, which is usually granted by one friendly nation to another. But, if its meaning extends further, will not the provision which subjects what respects this article to the general laws and statutes of the two countries, respectively, leave the whole of this matter to the discretion of the two countries, and thereby render the stipulation totally unavailing, at least when the Legislature of either chooses to make it so?

The second article is customary, and Lord Grenville's correction of it is, perhaps, more suitable to the temper of the United States, which would steer as clear as possible of giving the least handle to a foreign Government to seduce our citizens by the allurements of office. Is it intended that there should be no delineation of Consular powers, in any stage of the negotiation? The customs of most nations differ on this head; and, for ourselves, it can hardly be said that we have any, except those which are defined in the Consular Convention with France.

In article 3d, the light-house duties of the particular kind being relinquished, it is an important consideration that, as the distinctions which now exist between foreign and our own vessels are really of moment to our trade, our merchants will see them relinquished with reluctance, unless there be some very obvious equivalent; and if the stipulation extends to the removal of the distinction in the duties on goods brought to the United States in British bottoms, their reluctance will be so much the stronger.

The fifth article wants reciprocity. The British system is established upon the most abundant experience and examination of all the relations of British commerce, and contains *now* numerous prohibitions. Our system, which time will mature and improve, contains none. By fixing this state of things, we should renounce an important right, of the defensive kind at least, and place ourselves on an equal footing. At any rate, it gives a claim to some very considerable equivalent.

I should have probably conjectured that this equivalent was supposed to be found in the sixth article, which opens to us the British West Indies to a certain degree, had it not been for your observation, that "you had strenuously urged the justice of compensation for the detention of the posts, and that you consider the privilege of trading to the West Indies as providing for claims of that kind." We are, therefore, led to weigh one part of this article against the other; to compare this article with the arrangements of our trade to British Europe, in the preceding articles, and to ascertain where the balance of advantage lies. Upon this head three remarks more particularly arise: 1st. The duration of the privilege to trade to the West Indies not being co-extensive with the other parts of the Treaty, the short term of its existence, as proposed to be granted, renders it of inconsiderable value. 2d. I confess that I would not positively say that the proviso which prohibits vessels of the United States from carrying "West India productions or manufactures in American vessels" from the British islands, or the United States, to any part of the world, except the United States, is to be interpreted so literally as to extend to the West India productions or manufactures, or the West India possessions of other countries than the dominions of Great Britain. But there is a doubt of some magnitude whether this proviso may not be so interpreted. If it is to be so interpreted, we should renounce a valuable branch of trade, now enjoyed, and probably much more than would be gained. You will, therefore, I am sure, see the propriety of removing the doubt and preventing the mischief. 3d. But, even if the proviso is not to be construed in this harsh sense, still it would imply, in its mildest signification, that, after we have brought into the United States the productions or manufactures of the British West Indies, and have, by our own labor, improved them, or converted them into another form, we shall not

carry them, except in sea stores, or rum made in the United States, to any foreign dominion whatsoever, although it may not have the smallest dependency on Great Britain. This is unreasonable in every view. The restriction applies even to those West India productions and manufactures which British vessels themselves bring hither, because they find it profitable to do so. It dictates too much to the United States in what manner a certain portion of our foreign export trade is to be conducted. And why is Lord Grenville desirous that this should be done? Ought not the British Government to be contented with the advantage which they will possess by being able to carry the productions and manufactures of their West Indies directly to foreign ports, while we should be first obliged to land them in the United States? Besides, we shall expose ourselves, by such a stipulation with Great Britain, to be urged upon the same points by every nation which is entitled to enjoy the privileges of the most favored nation.

The duration of twelve years, given by the seventh article to the Treaty, as it respects the trade with Europe, and of only two years, as it respects the trade with the West Indies, will probably be very unacceptable. It will be the more so, as the commercial project of Lord Grenville does not even secure the *status quo* with the European dominions of Great Britain; that is, it does not secure the particular privileges and exemptions which we now enjoy by proclamation, compared with other foreign nations.

We might, perhaps, be better able to decide what is proper to be done, if we knew how far the whole of one project might be made, in the purpose of the British Ministry, the condition for the whole of the other; how far one part of one project may be the condition of another part of the other; or how far any particular part of either project may be the condition of the whole of that project. It is a great satisfaction, however, to believe that most of these remarks have occurred to yourself, and that the interest of the United States is well reposed in your discernment, talents, and zeal.

I have the honor to be, with the greatest respect, sir, your most obedient servant,

EDM. RANDOLPH.

Mr Jay to Mr. Randolph—No. 27.

LONDON, *January* 7, 1795.

SIR: I have been favored with yours of the 29th October, 3d of November, and 12th of November, with the papers mentioned in them.

Considering the number of capture cases which Mr. Bayard would have to manage, and apprehending that it might cost much time and trouble to prevail on private persons to become sureties for costs, it appeared to me advisable to propose to Lord Grenville a stipulation on that subject.

On the 17th of last month, I had a conference with his lordship. He expressed much satisfaction with Mr. Bayard's appointment. He considered it as a conciliatory measure, and would, with pleasure, do whatever might depend upon him to facilitate the business. We both saw that difficulties would occur in forming such a stipulation. He promised to consider it, and, after consulting the Advocate General, to converse with me again upon the subject.

In the meantime, Colonel Trumbull set about making an accurate list of the papers in my possession, and which Mr. Bayard was to receive from me. That no time might be lost, several of the cases were delivered to him within a few days after his arrival.

On the 25th December, I received the following letter from Mr. Bird, viz:

LONDON, *25th December*, 1794.

DEAR SIR: The offer I made two days ago to you and Mr. Pinckney was under the impression of the moment, and to give what little assistance might be in my power to remove any difficulty in the arrangements to be made for the adjustment of the appeals from our Courts of Vice Admiralty.

On hearing that the security of the United States was to be offered as bail in these appeals, it struck me that, although no possible difficulty could arise as to the validity of the security, an objection might be made to the bail being given by a Government, not liable to be sued, instead of the usual mode of the bail of a person, resident in London, who could be sued. Under this impression, I immediately made the offer that, in such case, where it would be wanted, I and my partners could give the bail, taking the counter security of the United States.

Having since made inquiries in the Commons, I find it likely that the objection would be made there on the ground of informality and deviation from the practice of the Court, unless it was set aside by an Order in Council.

Under these circumstances, having consulted my partners, and obtained their full concurrence, I beg leave to repeat the offer, that in all such cases where the security of the United States was intended to be offered, which I suppose to be in those appeals where the parties in America have not the means of giving security by their regular correspondents, and even in these cases, if it be the intention of the United States to give their security in them, my partners and I are ready to give the requisite bail, taking as our counter security the bail of the United States, in such manner and form as you are empowered to give it, and as shall by our counsel be deemed sufficient to secure us, and provide for the reimbursement of such sums as our bail may make us liable to.

This offer is made from an anxious desire to serve both countries, by assisting in paving the way for your obtaining full justice to your citizens for the real injuries they have suffered, particularly under the hasty order of November 6, which, from the first moment of knowing it, I have never ceased to condemn, as equally unjust and impolitic. As nothing but proper compensation for the injuries your citizens have suffered, under that and similar measures, can restore that

cordial friendship which it has ever been my wish to promote between the two countries, I trust that, by this offer of my feeble services to America, I cannot give a stronger proof of my zealous attachment to the real interests of my own country.

I have the honor to be, &c.,

H. M. BIRD.

To the Hon. JOHN JAY, *&c.*

To this letter I returned the following answer:

LONDON, *December* 26, 1794.

DEAR SIR: I have been favored with your letter of yesterday, and am much obliged by the offer contained in it, which I think it expedient for Mr. Bayard to accept; I will prepare an instrument to provide for your being indemnified by the United States, which, when finished, I will submit to your consideration.

A copy of your letter shall be transmitted to the Secretary of State at Philadelphia, and I am persuaded that the friendly conduct of you and your partners, on this occasion, will make correspondent impressions on the Government and people of the United States.

I am, dear sir, your most obedient and humble servant,

JOHN JAY.

To H. M. BIRD, Esq.

In consequence of Mr. Bird's offer, I wrote the following letter to Lord Grenville, viz:

To the Right Honorable Lord Grenville, &c.

ROYAL HOTEL, PALL MALL,
December 26, 1794.

MY LORD: I have received a letter from Mr. H. M. Bird, of this city, containing an offer to become surety, together with his partners, for costs in the prosecution of claims and appeals in the capture cases, on engagements to be indemnified by the United States.

The difficulties which attend the stipulation on this subject, which I had the honor to propose to your lordship, induce me to think it advisable to accept this offer, and thereby relieve your lordship from further trouble on that head. I shall endeavor to make the necessary arrangements with Mr. Bird and his partners, and will inform your lordship of the result.

I have the honor to be, with great respect and esteem, your lordship's, &c.,

JOHN JAY.

To this letter I received the following answer, viz:

DOVER STREET, *December* 26, 1794.

DEAR SIR: I was about to write to you on the subject of the security, when I was prevented by your obliging letter. A slight indisposition, which has confined me to my room for these three last days, had hindered my seeing the King's Advocate, as I had proposed. I had, however, taken some steps to bring the subject under his consideration.

The difficulties which seemed likely to arise, are completely done away by the mode which you have adopted; and I cannot omit this opportunity of again expressing to you the great gratification which we have all derived from so judicious and conciliatory a step as that taken by the President of the United States.

GRENVILLE.

To the Hon. JOHN JAY, *&c.*

After having prepared the papers which, in my judgment were proper for Mr. Bayard and myself to execute, in order to indemnify Mr. Bird, I sent them to him for his consideration. On the 3d instant, Mr. Bird called upon me: I explained to him exactly, in the presence of Mr. Pinckney, the precise state of the business; I observed to him that the Congress had not as yet passed any act for appropriating money to these purposes; but I had no doubt but that the arrangements contemplated, and the measures adopted by the President, relative to these cases, would meet with their approbation. He was desirous that the papers should specify the manner in which he should be reimbursed any sums which he might be obliged to pay. I observed that it was not in my power to make any provision of that kind, without further instructions. We then completed the draughts of the papers. He said he would consult his partners, and inform me without delay of their joint determination. In the evening I received the following letter from him, viz:

JEFFRIES SQUARE, *Saturday*, 3 *o'clock.*

DEAR SIR: My partners agreeing with me that we run no risk in trusting to the honor and integrity of the Executive and Legislature of the United States, to perfect what Mr. Bayard has been authorized to engage for, you may complete the writings, and I will call on you on Tuesday at twelve o'clock.

I am, &c.,

H. M. BIRD.

Hon. JOHN JAY, *&c.*

The following are copies of the papers above mentioned, viz:

Whereas the Secretary of State of the United States of America hath officially informed me that the President of the said United States has been pleased to appoint you agent to manage claims and appeals in cases of irregular or illegal captures or condemnations of American vessels, or other property, under color of authority or commissions from His Britannic Majesty; and whereas it will be necessary to the prosecution of the said claims and appeals that the usual security for costs in each cause be given; and whereas Henry Martins Bird, Benjamin Savage, and Robert Bird, of the city of London, merchants, trading under the firm of Bird, Savage, & Bird, have offered to become securities, jointly or separately, as may be required, in the usual sums and form, for the payment of such costs as may be legally decreed against any such claimants or appellants, on the faith and engagement

of the said United States to indemnify them for any losses or damages which they may sustain thereby; and whereas I am empowered and instructed to authorize you to execute bonds, and make engagements (under my direction) to effectuate the said purposes: Now, therefore, I do hereby authorize you, in your capacity of agent, aforesaid, to pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify, and keep harmless, the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties as aforesaid, and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they or either of them shall be obliged to pay on that account, together with interest for the same.

Given under my hand and seal, the fifth day of January, in the year one thousand seven hundred and ninety-five.

JOHN JAY.

Sealed and delivered in the presence of
JNO. TRUMBULL,
P. A. JAY.

TO SAMUEL BAYARD, Esq.

Know all men by these presents, That, whereas John Jay, Envoy Extraordinary from the United States of America to His Britannic Majesty, hath made and delivered to me an instrument in writing, under his hand and seal, in the words following, viz:

TO SAMUEL BAYARD, Esq.:

Whereas the Secretary of State of the United States of America hath officially informed me that the President of the said United States has been pleased to appoint you agent to manage claims and appeals in cases of irregular or illegal captures or condemnations of American vessels, or other property, under color of authority or commissions from His Britannic Majesty; and whereas it will be necessary to the prosecution of the said claims and appeals that the usual security for costs in each cause be given; and whereas Henry Martins Bird, Benjamin Savage, and Robert Bird, of the city of London, merchants, trading under the firm of Bird, Savage, & Bird, have offered to become sureties, jointly or separately, as may be required, in the usual sums and form, for the payment of such costs as may be legally decreed against any such claimants or appellants, on the faith and engagement of the said United States to indemnify them for any losses or damages which they may sustain thereby; and whereas I am empowered and instructed to authorize you to execute bonds and make engagements (under my direction) to effectuate the said purposes: Now, therefore, I do hereby authorize you, in your capacity of agent, aforesaid, to pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify, and keep harmless, the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties, as aforesaid, and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they or either of them shall be obliged to pay on that account, together with interest for the same.

Given under my hand and seal, the fifth day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Now, know ye, that I, the above-named Samuel Bayard, agent, as aforesaid, do hereby pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify and keep harmless the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties, as aforesaid, and shall and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they, or either of them, shall be obliged to pay on that account, with interest for the same.

In witness whereof, I, the said Samuel Bayard, agent, as aforesaid, have hereunto set my hand and seal, at London, on the —— day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Sealed and delivered in the presence of ——.

Having more public money in my hands than I shall probably want, and Mr. Pinckney thinking that he could draw some money from Holland, we agreed each to place five hundred pounds in Mr. Bird's hands, as a fund to defray the current expenses of the prosecutions, until the measures to be taken on your side of the water for the purpose can be concerted.

When this is done, I purpose to give Mr. Bayard instructions relative to his drawing and applying moneys from this little fund; as to his agency, in general, I have given him the following, viz:

TO SAMUEL BAYARD, Esq., *appointed by the President of the United States of America agent for claims and appeals, &c.*

It having been made my duty to give you instructions relative to your agency, I think it expedient to give you the following for the present, and will add to them as circumstances may require:

Agreeably to the advice which you have already received from me, you will procure a proper register, and enter in it the title of every cause, and note the different papers which belong to it, and minute, from time to time, every *step* and proceeding in the cause.

You will, I think, find it useful to class all the cases according to their discriminating and governing principles and merits. Considering the number and variety of cases, this cannot be

hastily accomplished; much examination, care, and judgment, will be indispensable to performing it with accuracy; but, without such a classification, there will be danger of confusion; order facilitates every kind of business.

Make a correct statement of one or two cases of each class for the consideration and opinion of counsel; take their opinions in writing, and send them to the Secretary of State.

With respect to such of the classes as, in their opinion, may be prosecuted with a prospect of success, put all the cases of such classes as speedily as possible into a state for decision, but select one or two to take the lead for formal argument: to the end that the decrees in those cases may become rules whereby to decide all others under similar circumstances. There can be no use in expending time and money in causing long briefs and labored arguments to be prepared, in a great many causes, whose merits are essentially alike.

If any one or more of the classes cannot, in the opinion of counsel, be prosecuted with a prospect of success, you will, nevertheless, file the claims and appeals, but not proceed further, until you shall have sent the opinions to the Secretary of State, and received his instructions, provided there be time; otherwise it will be best to give one or two of the strongest cases a strenuous trial, even though the last resort; and, in the meantime, take care that none of the others go against you by default.

You will find that, in many of the cases, necessary documents and proofs are wanting; in such cases state the defects immediately to the Secretary of State; and (when opportunities offer) write also to the claimants or owners; point out, very particularly, what you want, and the manner in which the business should be done; and, if you have doubts, consult your counsellors. You know that commissions for examining witnesses abroad may be had, and may be expedient, in cases where extra proofs may be had, and be permitted. By all means avoid delay, and take care to be particular, perspicuous, and explicit in your communications.

Money will, from time to time, be wanted, to defray the expenses incident to the suits. Mention this to the Secretary of State, in order that proper measures for the purpose may be taken, without loss of time. The fund I am preparing for those expenses will not be adequate.

In some of the cases the claimants or owners will probably constitute agents of their own to manage them; should papers respecting such cases be in your hands, you will deliver them to such agents, taking their receipts for the same; cultivate a good understanding with such agents; be useful to them, and endeavor to dispose them to be useful to you.

You will regularly inform the Secretary of State of your progress and prospects in the business; and I think it would be well to submit to his consideration the expediency of sending you a formal appointment, together with such instructions as may be deemed proper.

Whenever an application to the Government here would, in your opinion, be advisable, and on every other occasion, when you may desire advice and aid, you will apply to me, or, in my absence, to Mr. Pinckney.

You have undertaken an arduous task—great responsibility is attached to it. Although you have able counsellors in Sir William Scott and Dr. Nicholl, yet unremitted attention and diligence, on your part, will be absolutely necessary to your giving even a moderate degree of satisfaction to the many persons whose important interests are confided to your care and management. You will always find me ready to assist you in so conducting your agency as to render it beneficial and satisfactory to them, and honorable to yourself.

Given under my hand, at London, on the fifth day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Permit me to suggest the expediency of arranging all matters that relate to Mr. Bayard's agency, as speedily as possible, and of giving him explicit instructions relative to the conduct of it. I shall, if alive and well, return in the Spring, and it will be best to provide for exchanging the ratifications of the Treaty, in case of my absence, by committing that formality either to Mr. Pinckney, if here, or to our Consul, Mr. Johnson.

I have had some conversation with the Lord Chancellor about the Maryland cause, and am inclined to think it will have a favorable issue. In this I may be mistaken; but I shall continue to attend to it. During the negotiation I could think of and attend to little else.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State, &c.

P. S. In my opinion, Mr. Pinckney should defer a certain business until the Treaty is ratified; it will afford him strong ground for strong measures. I think this Government would rather promote than mar the business alluded to; indeed, I am convinced of it, from a variety of considerations.

Mr. Jay to Mr. Randolph—No. 28.

LONDON, *January* 31, 1795.

SIR: You will herewith receive a duplicate of my letter of the 7th instant to which this will be little more than a supplement; since the date of it no letters from you have come to hand, nor has anything very interesting to the object of my mission occurred. My health is mended, and I wait with as much patience as I can command for the day of my return to my country and family.

On the 27th instant Mr. Bayard wrote me the following letter, viz:

HATTON GARDEN, *January* 27, 1795.

DEAR SIR: Your instructions of the 5th reached me on the 8th instant. The receipt of them I

wished to acknowledge immediately, but was prevented by the circumstance of then changing my lodgings. Since my removal I have delayed this duty till I could announce to you some progress in the business under my care.

In pursuance of your former advice I had procured a "proper register," in which, conformably to your recent instruction, I have, with the assistance of a proctor, been engaged in entering the "title of every cause," in their order, as marked in Mr. Trumbull's list; the contents of every record and paper are examined, and the prominent features of every cause are copied into the register. In doing this, the first object of regard is to ascertain whether the usual time of entering an appeal has expired in any of the cases; that, if it has not, but shortly would expire, we might avoid the extra expense, delay, and trouble, of specially applying for leave to enter such appeal. Having accomplished this our next step will be, agreeably to your instructions, to "class the cases according to their discriminating and governing principles and merits." After which your other directions will regularly come into operation, and be faithfully executed.

There are, as you observe, sir, "in many of the cases, necessary documents and proofs wanting." In such, as soon as I possibly can with accuracy, I propose "to state the defects to the Secretary of State, and (when opportunities offer) to the claimants or owners." But to supply, for the present, the want of this particular information, I have described minutely to the Secretary of State the kinds of evidence, and the mode of authenticating the same, that will be requisite to support the claims and appeals I am about to institute. If this should be communicated to the merchants of the United States, it will inform such as have sent forward some papers, the deficiencies to be supplied; and it will instruct such as have not yet forwarded any of their proofs, how to render them complete.

There is no one of your instructions I have more at heart, sir, than that which enjoins me, "by all means, to avoid delay." I am fully aware of the anxiety of the many persons whose interests I have in charge, speedily to obtain a restoration of the property of which they have been illegally deprived. I am aware, also, that our fellow-citizens, particularly those of the Eastern States, from being unaccustomed to great delay in legal controversies, will brook with impatience the dilatory proceedings of the English Courts of Admiralty. Rest assured, sir, I shall, therefore, diligently exert myself, and constantly urge our proctors to have the causes prepared for a hearing at the earliest moment, that no avoidable delay may exist, but if any should, that it may not be attributable to us.

The sum of money which the United States will have to advance for the prosecution of this business, I am sorry to say, will be very considerable. I have mentioned to the Secretary of State the average expense that will be incurred in each cause, and that ought to be provided for by the General Government. The proctors will expect an advance of about thirty pounds, in each cause where proceedings are instituted, which they must disburse to the advocates, register, &c., and for which they will particularly account.

If I am occasionally to take the opinion of counsel, as you intimate, by remarking that "I shall have able counsellors in Sir William Scott and Dr. Nicholl," it seems necessary to apprize you that a compensation for the advice I may take will always be expected.

There are, sir, as you know, sundry agents of American merchants in town, who have under their care some cases of appeal or claim. I have been requested by some of them to assume the direction of these causes, and to prosecute them at the expense of the United States; this, however, I have declined doing until I could have your express instructions on the subject, which I request, as well for my own government as for the satisfaction of the gentlemen making the application.

In regard to the proctors whom we had best employ, I have made inquiry and taken advice. Messrs. Cricket and Townley, and Mr. Slade, have come forward with the strongest recommendations. Into the hands of the latter gentleman my judgment clearly points it out as our interest to put the larger part of the business; and for these reasons: he has in a Mr. Keernan a very able assistant; he has not much business at present on hand; he is highly recommended for his ability, energy, and despatch; he offers the whole time and attention of himself and associate to the American business; he has in no instance, during the present war, been concerned for captors, but always for neutral claimants; his principles, and many of his friendships, are American. To me, personally, it is more agreeable to transact business with him and his assistant, than with others of his profession.

On the other hand, Messrs. Cricket and Townley have a large mass of the Danish and Swedish business still on hand; this may interfere in some degree with that of our fellow-citizens. Mr. Cricket's public engagements throw the burden of his business on his partner; we cannot, of course, expect a devotion of even the larger part of his time to our causes. These things, however, sir, I state in perfect submission to your direction. Whatever instructions you may please to give in relation to the claims and appeals I am about to institute, it shall always be my pleasure, as it is my duty, implicitly and cheerfully to obey.

I have the honor to be, &c.,

SAMUEL BAYARD.

To the Hon. JOHN JAY, Esq.

To this letter I returned the following answer, viz:

ROYAL HOTEL, PALL MALL,

January 27, 1795.

DEAR SIR: I was this afternoon favored with your letter of yesterday, informing me, among other things, "that there are sundry agents of American merchants in town, who have under their care some cases of appeal or claim, and that you have been requested by some of them to assume the direction of those causes, and to prosecute them at the expense of the United States; that you had, however, declined doing it, until you should receive my express instructions on the subject."

In my opinion it will be proper for you to state this application to the Secretary of State, and be directed by such instructions as he may send to you relative to it. The claimants are now prosecuting these causes by their own agents, and perhaps from preference; and I much doubt the propriety of your assuming those causes at present, on the spontaneous applications of those agents. The United States will doubtless conduct their interposition in favor of claimants on such principles as shall be just and proper; and it will probably not be long before their arrangements and orders will be perfected and communicated to you.

As to the proctors most advisable to employ, Sir William Scott, from motives of professional delicacy, declined recommending any in particular. Having no personal knowledge of the characters or professional merits of any of them, I found it necessary to be guided by the opinions of others. Mr. Pinckney, our Minister, and Mr. Johnson, our Consul, assured me (as I mentioned to you) that Cricket and Townley, whom they had employed, had managed their business to their satisfaction. Their recommendation is with me decisive, as well from their ability and means of forming a right judgment, as from the confidence due to their private and public characters. As men, they are judicious and upright; as public officers, they gave me their opinions and advice, under a sense of official obligations, and under the influence of that attachment to our country and its interests which foreigners cannot readily be supposed to possess in an equal degree. Besides, it is a maxim with me, that they who are faithful to us and who conduct our affairs to our satisfaction, should not be neglected by us. Neglect, under such circumstances, gives unmerited pain, and encourages malevolent imputations. For these reasons I think it my duty to instruct you to employ Messrs. Cricket and Townley in all cases in which the claimants shall not have already employed proctors, or in which they shall not otherwise direct; provided, however, that you are perfectly free from all commitments to Mr. Slade. But if you are so circumstanced, relative to that gentleman, as that he has good reason to expect at least some share in the business, then, sir, I think it will be proper to give him such a number of the causes, not exceeding fifty, as in your opinion may be necessary to evince the fairness and sincerity of your intentions, in giving occasion to any reasonable expectations which your communications with him may have led him to entertain.

I postpone observations on pecuniary matters until the arrangement I am making on that subject, and which I mentioned to you, shall be completed. Be assured that every measure which may conduce to facilitate the business of your agency will command the earnest attention and best endeavors of, dear sir, yours, &c.

To SAMUEL BAYARD, Esq.

Thus, sir, from this letter, and from No. 27, you will acquire exact information of my proceedings relative to Mr. Bayard's agency. I am endeavoring, in concert with Mr. Pinckney and Sir William Scott, to form such an arrangement relative to pecuniary matters as to regulate payments to the proctors, to prevent improper charges, and so to conduct that part of the business, as that proper vouchers for all the expenditures may be kept and preserved. I am solicitous to prevail on Sir William Scott to examine the proctor's bills, and certify them to be right before they are paid. He has taken the subject into consideration, but as yet I have not got his answer. There are difficulties in forming this arrangement; I will do the best I can.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

Hon. EDM. RANDOLPH, Esq.,
Secretary of State, &c.

P. S. Such is the nature and magnitude of the business of these capture cases, as that, on certain occasions, diplomatic and prudential, as well as legal proceedings may be advisable. Having maturely reflected on the subject, I take the liberty of submitting to your consideration the propriety of giving Mr. Pinckney a general superintendence over the business, and authorizing him to give Mr. Bayard such instructions as he may from time to time judge proper.

Mr. Jay to Mr. Randolph—No. 29.

LONDON, *February* 2, 1795.

SIR: It occurs to me that I have omitted to inform you that, after signing the Treaty, I took the three first opportunities which offered, of writing to our Minister at Paris, "that it contained an express declaration that nothing contained in it should be construed, or operate against existing Treaties between the United States and other Powers.

The following are copies of those letters, viz:

No. 1.

LONDON, *November* 24, 1794.

SIR: It gives me pleasure to inform you that a Treaty between the United States and His Britannic Majesty was signed on the 19th instant.

This circumstance ought not to give any uneasiness to the Convention. The Treaty expressly declares that nothing contained in it shall be construed or operate contrary to existing Treaties between the United States and other Powers. I flatter myself that the United States, as well as all their Ministers, will, upon every occasion, manifest the most scrupulous regard to good faith; and that those nations who wish our prosperity

will be pleased with our preserving peace and good understanding with others.

I have the honor to be, &c.

Hon JAMES MONROE, Esq.,
Minister United States at Paris.

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No. 2.

LONDON, *November* 25, 1794.

SIR: By a letter written and sent a few days ago, I had the pleasure of informing you that, on the 19th instant, the principal business of my mission was concluded by a Treaty signed on that day.

It contains a declaration that it shall not be construed nor operate contrary to our existing Treaties. As, therefore, our engagements with other nations remain unaffected by it, there is reason to hope that our preserving peace and a good understanding with this country, will not give uneasiness to any other. As the Treaty is not yet ratified it would be improper to publish it. It appears to me to be, upon the whole, fair, and as equal as could be expected. In some respects both nations will probably be pleased, and in others displeased.

I have the honor to be, with great respect, &c.

Hon Mr. MONROE, &c., *Paris.*

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No. 3.

LONDON *November* 28, 1794.

SIR: Within this week past I have written to you two letters to inform you that, on the 19th instant, a Treaty between the United States and His Britannic Majesty was signed. The design of this letter is chiefly to introduce to you Mr. Pleasants, of Philadelphia, whose connexions there are respectable. I have not the pleasure of being personally acquainted with this gentleman, but as a fellow-citizen I wish to do him friendly offices; and I am persuaded that a similar disposition on your part will insure to him such a degree of attention as circumstances may render proper.

As Mr. Pinckney has a cipher with our other Ministers in Europe, either he or I will shortly use it, in communicating to you the principal heads of the Treaty confidentially. You need not hesitate, in the meantime, to say explicitly that it contains nothing repugnant to our engagements with any other nation.

With the best wishes for your health and prosperity, I have the honor to be, &c.

The Hon. JAMES MONROE, Esq.,
Minister of the United States to the French Republic.

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Considering that the declaration in question need not be kept secret, but, on the contrary, that advantages would result from its publicity, I also authorized a respectable American merchant here, who had correspondents in France, to mention it in explicit terms. My letters to Mr. Short and Mr. Adams conveyed the like information; it appeared to me proper to take these early measures to obviate any disagreeable apprehensions which the French Convention might perhaps otherwise entertain. Whether our Minister at Paris received those letters, I have as yet no information from him. From Mr. Short and Mr. Adams I have received answers.

I have the honor to be, with sentiments of respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,
Secretary of State, &c.

Mr. Jay to Mr. Randolph—No. 30.

LONDON, *February* 5, 1795.

SIR: I received yesterday the following letter from Mr. Monroe, our Minister at Paris, viz:

PARIS, *January* 17, 1795.

SIR: Early in December last, English papers were received here, containing such accounts of your adjustments with the British administration as excited much uneasiness in the councils of this Government, and I had it in contemplation to despatch a confidential person to you for such information of what had been done as would enable me to remove it. At that moment, however, I was favored with yours of the 25th November, intimating that the contents of the Treaty could not be made known until it was ratified, but that I might say it contained nothing derogatory to our existing Treaties with other Powers. Thus advised, I thought it improper to make the application, because I concluded the arrangement was mutual, and not to be departed from. I proceeded, therefore, to make the best use in my power of the information already given.

To-day, however, I was favored with yours of the 28th of the same month, by which I find you consider yourself at liberty to communicate to me the contents of the Treaty; and as it is of great importance to our affairs here to remove all doubt upon this point, I have thought it fit to resume my original plan of sending a person to you for the necessary information, and have in consequence despatched the bearer, Mr. John Purviance, for that purpose. I have been the more induced to this from the further consideration, that, in case I should be favored with the communication promised in cipher, it would be impossible for me to comprehend it, as Mr. Morris took his off with him. Mr. Purviance is from Maryland, a gentleman of integrity and merit, and to whom you may commit whatever you may think proper to confide with perfect safety. It is necessary, however, to observe, that, as nothing will satisfy this Government but a copy of the instrument itself, and which as our ally, it thinks itself entitled to, so it will be useless for me to make to it any new communication short of that; I mention this that you may know precisely the state of my engagements here, and how I deem it my duty to act under them in relation to this object. I beg leave to refer you to Mr. Purviance for whatever other information you may wish to have either

on this subject, or the affairs more generally of this Republic.

I have the honor to be, with great respect, your most obedient servant,

JAMES MONROE.

To this letter I returned the following answer, viz:

LONDON, *February* 5, 1795.

SIR: I have received the letter which you did me the honor to write on the 17th of last month by Mr. Purviance. It is much to be regretted that any unauthorized accounts, in English newspapers, of my "adjustments with the British administration," should have excited much uneasiness in the councils of the French Government; and the more so, as it does not imply that confidence in the honor and good faith of the United States which they certainly merit.

You must be sensible that the United States, as a free and independent nation, have an unquestionable right to make any pacific arrangements with other Powers which mutual convenience may dictate; provided those arrangements do not contradict or oppugn their prior engagements with other States.

Whether this adjustment was consistent with our Treaty with France, struck me as being the only question which could demand or receive the consideration of that Republic, and I thought it due to the friendship subsisting between the two countries that the French Government should have, without delay, the most perfect satisfaction on that head. I, therefore, by three letters of the 24th, 25th, and 28th of November, 1794, gave you what I hoped would be very acceptable and satisfactory information on that point. I am happy in this opportunity of giving you an exact and literal extract from the Treaty; it is in these words, viz:

"Nothing in this Treaty contained shall, however, be construed, or operate contrary to former and existing public Treaties with other Sovereigns or States."

Considering that events favorable to our country could not fail to give you pleasure, I did intend to communicate to you concisely some of the most interesting particulars of this Treaty, but in the most perfect confidence, as that instrument has not yet been ratified, nor received the ultimate forms necessary to give it validity. As further questions respecting parts of it may yet arise, and give occasion to further discussions and negotiations, so that, if finally concluded at all, it may then be different from what it now is, the impropriety of making it public at present is palpable and obvious; such a proceeding would be inconvenient and unprecedented. It does not belong to Ministers who negotiate Treaties to publish them even when perfected, much less Treaties not yet completed, and remaining open to alteration or rejection. Such acts belong exclusively to the Governments who form them.

I cannot but flatter myself that the French Government is too enlightened and reasonable to expect that any consideration ought to induce me to overleap the bounds of my authority, or to be negligent of the respect which is due to the United States. That respect, and my obligations to observe it, will not permit me to give, without the permission of their Government, a copy of the instrument in question to any person, or for any purpose; and by no means for the purpose of being submitted to the consideration and judgment of the councils of a foreign nation, however friendly.

I will, sir, take the earliest opportunity of transmitting a copy of your letter to me, and of this in answer to it, to the Secretary of State, and will immediately and punctually execute such orders and instructions as I may receive on the subject.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

JOHN JAY.

The Hon. JAMES MONROE,
Minister of the United States to the Republic of France.

As this letter and the answer to it speak for themselves, I forbear making any remarks.

I have the honor to be, with respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,
Secretary of State.

Mr. Jay to Mr. Randolph—No. 31.

LONDON, *February* 6, 1795.

SIR: I was yesterday honored with yours of the 3d December last. Our vessels here being confined by the ice, I think it best to send you some despatches by the packet.

In considering the Treaty, it will doubtless be remembered, that there must be two to make a bargain. We could not agree about the negroes. Was that a good reason for breaking up the negotiation? I mentioned in a former letter, that I considered our admission into the islands as affording compensation for the detention of the posts, and other claims of that nature. In that way we obtain satisfaction for the negroes, though not in express words.

We are not obliged by Treaty to permit the French to sell prizes in our ports. By denying that privilege to all, we adhere to the line of impartiality; and without being assured of impartiality on our part, Britain would not have granted us what she has.

I wish the season had permitted me to accompany the Treaty, for I think it is in my power to give you satisfactory answers to every question that can arise from it.

I have the honor to be, with respect and esteem, sir, your most obedient servant.

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State.

Mr. Jay to Mr. Randolph—No. 32.

LONDON, *February* 22, 1795.

SIR: This letter will comprise a duplicate of

my letter to you, No. 30, of the 5th instant, and also a copy of an additional letter which I wrote to Mr. Monroe on the 19th instant, and which will be carried to Paris by Col. Trumbull (See No. 30.)

Copy of an additional letter, viz:

LONDON, *February* 19, 1795.

SIR: On the 5th of this month I had the honor of writing to you a letter in answer to yours of the 17th ult. by Mr. Purviance, who is still here waiting for an opportunity to return, and who will be the bearer of that letter.

You will receive this by Col. Trumbull, who, for some time past, has been waiting for an opportunity to go through Paris to Stutgard on private business of his own. He did me the favor to accompany me to this country as my Secretary. He has been privy to the negotiation of the Treaty between the United States and Great Britain, which I have signed; and having copied it, is perfectly acquainted with its contents. He is a gentleman of honor, understanding, and accuracy, and able to give you satisfactory information relative to it. I have thought it more advisable to authorize and request him to give you this information personally than to send you written extracts from the Treaty, which might not be so satisfactory. But he is to give you this information in perfect confidence that you will not impart it to any person whatever; for, as the Treaty is not yet ratified, and may not be finally concluded in its present form and tenor, the inconveniences which a premature publication of its contents might produce, can only be obviated by secrecy in the meantime. I think myself justifiable in giving you the information in question, because you are an American Minister, and because it may not only be agreeable, but perhaps useful.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. JAMES MONROE, Esq.

I flatter myself that these letters which I have written to Mr. Monroe will meet with the President's and your approbation.

I have the honor to be, with sentiments of respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.
Secretary of State, &c.

P. S. I have been honored with yours of the 4th November, and 11th and 16th of December, and with duplicates of yours of 15th, 20th, and 23d December last, and, in reply, shall write by one of the Philadelphia vessels soon to sail.

Mr. Jay to Mr. Randolph—No. 33.

LONDON, *March* 5, 1795.

SIR: On the 7th of last month I received the letter you was so obliging as to write me on the 16th December last, requesting to be informed what would probably be required for my expenditures over the eighteen thousand dollars, in order that you might lodge a proper sum for me in Amsterdam.

It gives me pleasure to inform you that the eighteen thousand dollars will, in my opinion, be more than sufficient for the expenses incident to my mission. When you receive my letter respecting Mr. Bayard's agency, and the expenses that will attend it, and for which provision was yet to be made, you will be informed of my intention to apply part of these eighteen thousand dollars to those expenses; and consequently, that further supplies to me would not be requisite. It is, nevertheless, proper that I should write to you particularly about my expenditures, and I should have done it sooner, had I been less engaged about other matters more immediately interesting.

On considering of the manner of dwelling most advisable for me to adopt during my stay here, four plans or modes engaged my attention. To take a house and purchase furniture, &c.; to take a house and hire furniture, &c.; to take lodgings; to reside in a hotel.

To take a house and furnish it, to hire and provide for the number of servants that would be necessary, to purchase the plate, china, glass, linen, liquors, kitchen utensils, and the many other articles which according to the most strict rules of economy and propriety, would be indispensable, would, with the expense of a decent table, carriage, &c., require nearly the whole sum allotted. On my return to America, all these things would remain to be sold at auction, and at a very great loss.

To take a house and hire the furniture, and the numerous other necessary articles, was liable to objections equally strong. The ordinary rate of hire, I was told, amounted to an exceeding high interest on the prime cost. I should be responsible for loss, waste, and damage, and be exposed to disputes, and extravagant demands about them. An equal number of servants would be requisite, and the losses from their peculation and mismanagement would be the same. To go into lodgings, I soon found was out of the question, there being none of a proper class, where a table would be provided. From these concise hints, you will perceive that, of these plans, that of residing in a hotel was the most expedient.

The expenses of living in a hotel are well known to be extravagantly high, but they are simple; many servants would not be necessary; and, on calculation, it became evident that the excess in the price of everything which I should there pay, would not amount to near as much as the losses and extra expenses incident to either of the two first-mentioned plans. But had this been otherwise, there was an objection which appeared to me of still greater importance. As I expected to remain in this country only until my business should be finished, anything that looked like a settled establishment would have counteracted the idea of a residence only for a few months, and would naturally have created and justified an opinion that I did not expect to have my negotiations terminated with that expedition which I professed and pressed.

To reside in a hotel not being usual for a foreign Minister, I took care to let it be known that I expected to return in the course of a few months, and therefore could have no inducement to take a house.

The hotel I preferred is the one I am still in, viz: Royal Hotel, in Pall Mall, near St. James—the first, but the most expensive in London. My reasons for preferring the first must be obvious to you, and need not to be particularized. I have but three servants—the one I brought with me, a footman, and a coachman—yet my expenses run high, and the bills are often so like exactions as sometimes to try my patience. I know that I pay more than is reasonable, and am frequently charged rather according to the station I am in than the value of what I have; but I am nevertheless certain that, in this situation, less of the public money in my hands will be expended than in any other in which I could, with propriety, have placed myself.

Having perfect confidence in the accuracy, as well as integrity, of Colonel Trumbull, I have made it an invariable rule, from the beginning, to commit to him the settlement and payment of all accounts, and the keeping of the books in which they are entered. I have therefore given him successive orders on my bankers for generally about one hundred pounds at a time, for which he made himself debtor, and regularly accounted. I regret that his private concerns call him to Stutgard; but that being the case, I could not refuse my consent. His salary is paid up to the 12th of last month. My son will act for him as Secretary during his absence, so that his appointment and salary will continue until my departure for America. Until his return, I shall cause all moneys paid out to pass through the hands of my son. Pecuniary transactions for others are always delicate, and the utmost care and fidelity will not always be sufficient to guard one against the suspicions and imputations which certain characters (common to all countries) may find it convenient to germinate and encourage.

When Mr. J. Q. Adams was here, on his way to Holland, I advanced him fifty guineas. The following extract of a letter from him, of the 21st November last, explains the manner in which that sum is to be accounted for to the public:

"The fifty guineas for which you was so obliging as to give me an order upon the Messrs. Cazanove, our bankers here have agreed to charge to my account; it will therefore be no further troublesome to you."

The bills you gave me for 40,746.4 on Amsterdam were negotiated by the Messrs. Cazanove, and produced, in sterling - -	£3,391	13	5
The draft for $1.000 on the Branch Bank at New York produced -	219	9	0
	£3,611	2	5

Of this money somewhat more than one-half still remains, and there are no outstanding accounts to pay.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State, &c.

Mr. Jay to Mr. Randolph.

NEW YORK, *May* 28, 1795.

SIR: It appearing by advices from America that the Treaty had not arrived at Philadelphia the last of February, I concluded that the ratification could not reach me in season to return in any of the Spring vessels that yet remained. I embarked at Bristol the 12th April, on board the Severn, Captain Goodrich, and landed here this afternoon, when I had the pleasure of receiving yours of the 26th of last month. Not having had a well day during the voyage, I am at present too feeble to undertake a journey to Philadelphia: perhaps I may in a week or ten days be so far recruited as to be able to perform it. It will be useful that we confer. At this moment I cannot enlarge, for want of leisure; besides, I find myself greatly fatigued. Remember me to the President. Accept my thanks for your obliging attention to Mrs. Jay.

Yours, &c. JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State, &c.

Mr. Jay to Mr. Randolph.

NEW YORK, *June* 1, 1795.

SIR: Last Thursday evening I wrote you a few hasty lines, to inform you that I had just arrived; that I had received your letter of the 26th ultimo; that I was too feeble to repair immediately to Philadelphia; and that I hoped to be able to undertake the journey in eight or ten days. Be so good as to inform me whether I may expect you here; if not, I will go for a few days out of town, where I should probably recruit faster than at home. I shall attempt the journey to Philadelphia within a fortnight, unless I should grow weaker, which I do not apprehend. The communications proposed for the Senate indicate the disposition I expected. I had no apprehensions on that head, being persuaded that those communications would be entirely directed by regard to public good. Be pleased to present my respectful compliments to the President.

With sentiments of respect and esteem, I remain, sir, your most obedient servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,
Secretary of State.

Mr. Jay to Mr. Randolph.

NEW YORK, *June* 1, 1795.

SIR: Since writing to you this morning, by Mr. Bingham, I have been honored with yours of the 30th ultimo.

Your reasons for not thinking it advisable to leave Philadelphia at present are, I think, conclusive.

In the course of the next week I hope to be with you, and then to give you more full and satisfactory answers to your letter than the following concise ones, viz: To the first question. In my opinion the views of Great Britain, when I arrived there, had been, and then were, so far hostile to us as they had been rendered so by popular indications of a disposition in this country to aid France in the war against her.

2. I am convinced that the evacuation of the posts at a more early period was (for the reasons mentioned in my letter on that subject) unattainable. It was my duty—and I have strenuously, and I believe successfully, endeavored—to exhaust their ultimatums.

3. Notwithstanding all that could be said to postpone the prohibition to sell prizes until after the present war, it was insisted that, as on the one hand, they asked nothing from us but what they had a right to expect from a neutral nation, so, on the other, that no deviations from the line of impartiality (not stipulated for by our pre-existing Treaties) could possibly be admitted.

4. Most clearly the Treaty does prohibit the re-exportation from the United States, in American vessels, of the West India commodities enumerated in the Treaty, though brought from French islands, it being impossible to distinguish; but we may carry them from French or other islands (not British) to Europe. That article being offered as a privilege or boon, we cannot avail ourselves of it without complying with the stipulation to pass laws to prohibit the re-exportation of the enumerated articles. If the article should be regarded as ineligible, might not the passing of those laws be postponed, and the trade continue to go on as at present—taking care properly to represent to the British Government the wishes of the United States that this article may not be carried into execution, and requesting their consent to its remaining dormant? In my opinion, however, it is manifestly our interest to accept and to execute it; especially, considering its very limited duration, and the probability of its being introductory to more favorable arrangements, as the public mind in Britain shall gradually become more reconciled to this and the other unprecedented departures from their favorite navigation act.

5. The Danish spoliations were not adjusted when our Treaty was signed, and I have no idea of their obtaining better terms.

6. The discussions in the Admiralty will probably be tedious, and the more so from the want of documents in the great majority of the cases. In a large number of them appeals and claims have not yet been lodged, for want even of the names of the parties.

7. Such orders may be expected as the Treaty, according to its true intent and meaning, shall dictate. I believe it will be fairly and liberally executed, unless new cases of irritation and disgust should arise. I have, for my part, no doubt of their dispositions and sincere desire to give the system of conciliation with us a full and fair experiment.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. Edm. Randolph,
Secretary of State, &c.

Treaty of Amity, Commerce, and Navigation, between his Britannic Majesty and the United States of America, by their President, with the advice and consent of their Senate.

His Britannic Majesty and the United States of America being desirous, by a Treaty of Amity, Commerce, and Navigation, to terminate their differences in such a manner as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding; and also to regulate the commerce and navigation between their respective countries, territories, and people, in such a manner as to render the same reciprocally beneficial and satisfactory; they have, respectively, named their Plenipotentiaries, and given them full powers to treat of and conclude the said Treaty—that is to say: His Britannic Majesty has named for his Plenipotentiary the Right Honorable William Windham, Baron Grenville, of Wotton, one of His Majesty's Privy Council, and His Majesty Principal Secretary of State for Foreign Affairs; and the President of the said United States, by and with the advice and consent of the Senate thereof, hath appointed for their Plenipotentiary the Honorable John Jay, Chief Justice of the said United States, and their Envoy Extraordinary to His Majesty—who have agreed on and concluded the following articles:

Art. 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between his Britannic Majesty, his heirs and successors, and the United States of America; and between their respective countries, territories, cities, towns, and people of every degree, without exception of persons or places.

Art. 2. His Majesty will withdraw all his troops and garrisons from all posts and places within the boundary lines assigned by the Treaty of Peace to the United States. This evacuation shall take place on or before the first day of June, one thousand seven hundred and ninety-six, and all the proper measures shall in the interval be taken by concert between the Government of the United States and His Majesty's Governor General in America, for settling the previous arrangements which may be necessary respecting the delivery of the said posts—the United States, in the meantime, at their discretion, extending their settlements to any part within the said boundary line, except within the precincts or jurisdiction of any of the said posts. All settlers and traders within the precincts or jurisdiction of the said posts shall continue to enjoy, unmolested, all their property of every kind, and shall be protected therein. They shall be at full liberty to remain there, or to remove, with all or any part of their effects; and it shall also be free to them to sell their lands, houses, or effects, or to retain the property thereof,

at their discretion. Such of them as shall continue to reside within the said boundary lines shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the Government thereof; but they shall be at full liberty so to do if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year without having declared their intention of remaining subjects of His Britannic Majesty, shall be considered as having elected to become citizens of the United States.

Art. 3. It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the Continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the seaports, harbors, bays, or creeks, of his Majesty's said territories, nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof and the highest port of entry from the sea, except in small vessels trading *bona fide* between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect, nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the Treaty of Peace, be entirely open to both parties; and it is further agreed that all the ports and places on its Eastern side, to whichsoever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandise whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by the citizens of the United States, and such goods and merchandise shall be subject to no higher or other duties than would be payable by his Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner, all goods and merchandise whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by His Majesty's subjects, and such goods and merchandise shall be subject to no higher or other duties than would be payable by the citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States. And all goods not prohibited to be exported from the said territories respectively, may, in like manner, be carried out of the same by the two parties respectively, paying duty aforesaid.

No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects, of whatever nature, pay for the same any impost or duty whatever. But goods in bales, or other large packages, unusual among Indians, shall not be considered as goods belonging *bona fide* to Indians.

No higher or other tolls or rates of ferriage than what are or shall be payable by natives shall be demanded on either side; and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying places on either side, for the purpose of being immediately reimbarked and carried to some other place or places. But as, by this stipulation, it is only meant to secure to each party a free passage across the portages on both sides, it is agreed that this exemption from duty shall extend only to such goods as are carried in the usual and direct road across the portage, and are not attempted to be in any manner sold or exchanged during their passage across the same; and proper regulations may be established to prevent the possibility of any frauds in this respect.

As this article is intended to render, in a great degree, the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood, it is agreed that the respective Governments will mutually promote this amicable intercourse, by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein.

Art. 4. Whereas it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line to be drawn due west from the Lake of the Woods, in the manner mentioned in the Treaty of Peace between His Majesty and the United States, it is agreed that measures shall be taken in concert between His Majesty's Government in America and the Government of the United States for making a joint survey of the said river, from one degree of latitude below the falls of St. Anthony, to the principal source or sources of the said river, and also of the parts adjacent thereto; and that if, on the result of such survey, it should appear that the said river would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed, by amicable negotiation, to regulate the boundary line in that quarter, as well as all other points to be adjusted between the said parties, according to justice and mutual convenience, and in conformity to the intent of the said Treaty.

Art. 5. Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said Treaty of Peace, and forming a part of the boundary therein described, that question shall be referred to the final

decision of Commissioners, to be appointed in the following manner, viz:

One Commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two Commissioners shall agree on the choice of a third; or, if they cannot so agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original Commissioners. And the three Commissioners, so appointed, shall be sworn impartially to examine and decide the said question, according to such evidence as shall respectively be laid before them on the part of the British Government and of the United States. The said Commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said Commissioners shall, by a declaration, under their hands and seals, decide what river is the river St. Croix, intended by the Treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts, and of the journal of their proceedings, shall be delivered by them to the agent of His Majesty, and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject to dispute or difference between them.

Art. 6. Whereas it is alleged by divers British merchants, and others, His Majesty's subjects, that debts to a considerable amount, which were *bona fide* contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that, by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been in several instances impaired and lessened, so that, by the ordinary course of judicial proceedings, the British creditors cannot now obtain, and actually have and receive full and adequate compensation for such losses and damages which they have thereby sustained, it is agreed that, in all such cases, where full compensation for such losses and damages cannot, for whatever reason, be actually obtained, had, and received, by the said creditors, in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors; but it is distinctly understood that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such insolvency of the debtors, or other causes, as would equally have operated to produce such loss, if the said impediments had not existed, nor to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission, of the claimant.

For the purpose of ascertaining the amount of any such losses and damages, five Commissioners shall be appointed, and authorized to meet and act in manner following, viz: Two of them shall be appointed by His Majesty, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and if they should not agree in such choice, then the Commissioners named by the two parties shall respectively propose one person, and of the two names so proposed one shall be drawn by lot, in the presence of the four original Commissioners. When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other; which oath, or affirmation, being so taken, and duly attested, shall be entered on the record of their proceedings, viz: I, A B, one of the Commissioners appointed in pursuance of the sixth article of the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America, do solemnly swear (or affirm) that I will honestly, diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide, all such complaints as, under the said article, shall be preferred to the said Commissioners; and that I will forbear to act as a Commissioner in any case in which I may be personally interested.

Three of the said Commissioners shall constitute a Board, and shall have power to do any act appertaining to the said Commissioners, provided that one of the Commissioners named on each side, and the fifth Commissioner, shall be present; and all decisions shall be made by the majority of the voices of the Commissioners then present. Eighteen months from the day on which the said Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications; but they are, nevertheless, authorized, in any particular cases in which it shall appear to them to be reasonable and just, to extend the said term of eighteen months for any term, not exceeding six months, after the expiration thereof. The said Commissioners shall first meet at Philadelphia, but they shall have power to adjourn from place to place, as they shall see cause.

The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same, respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the

premises; and also to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof; every such deposition, book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow.

The award of the said Commissioners, or of any three of them, as aforesaid, shall, in all cases, be final and conclusive, both as to the justice of the claim and to the amount of the sum to be paid to the creditor or claimant. And the United States undertake to cause the sum so awarded to be paid in specie to such creditor or claimant, without deduction; and at such time or times, and at such place or places, as shall be awarded by the said Commissioners; and on condition of such releases or assignments to be given by the creditor or claimant, as by the said Commissioners may be directed: provided, always, that no such payment shall be fixed by the said Commissioners to take place sooner than twelve months from the day of the exchange of the ratifications of this Treaty.

Art. 7. Whereas complaints have been made by divers merchants and other citizens of the United States, that, during the course of the war in which His Majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from His Majesty; and that, from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained, had, and received, by the ordinary course of judicial proceedings; it is agreed that, in all such cases where adequate compensation cannot, for whatever reason, be now actually obtained, had, and received, by the said merchants and others, in the ordinary course of justice, full and complete compensation for the same will be made by the British Government to the said complainants. But it is distinctly understood that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission, of the claimant.

That, for the purpose of ascertaining the amount of any such losses and damages, five Commissioners shall be appointed, and authorized to act in London, exactly in the manner directed with respect to those mentioned in the preceding article; and, after having taken the same oath or affirmation, (*mutatis mutandis*,) the same term of eighteen months is also assigned for the reception of claims, and they are in like manner authorized to extend the same in particular cases. They shall receive testimony, books, papers, and evidence, in the same latitude, and exercise the like discretion and powers, respecting that subject; and shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the Laws of Nations. The award of the said Commissioners, or any such three of them, as aforesaid, shall, in all cases, be final and conclusive, both as to the justice of the claim and the amount of the sum to be paid to the claimant; and His Britannic Majesty undertakes to cause the same to be paid to such claimant in specie, without any deduction, at such place or places, and at such time or times, as shall be awarded by the said Commissioners, and on condition of such releases or assignments to be given by the claimant, as by the aforesaid Commissioners may be directed.

And whereas certain merchants and others, His Majesty's subjects, complain that, in the course of the war, they have sustained loss and damage, by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States, it is agreed that, in all such cases, where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5, 1793, a copy of which is annexed to this Treaty, the complaints of the parties shall be, and hereby are, referred to the Commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed, in the like manner, relative to these as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants, in specie, without deduction, the amount of such sums as shall be awarded to them respectively by the said Commissioners, and at the times and places which, in such awards, shall be specified; and on condition of such releases or assignments to be given by the claimants, as in the said awards may be directed; and, it is further agreed that not only the now existing cases of both descriptions, but also all such as shall exist at the time of exchanging the ratifications of this Treaty, shall be considered as being within the provisions, intent, and meaning, of this article.

Art. 8. It is further agreed that the Commissioners, mentioned in this and in the two preceding articles, shall be respectively paid in such manner as shall be agreed between the two parties, such agreement being to be settled at the time of the exchange of the ratifications of this Treaty. And all other expenses, attending the said Commissioners, shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the Commissioners. And in the case of death, sickness, or necessary absence, the place of every such Commissioner, respectively, shall be supplied in the same manner as such Commissioner was first appointed, and the new Commissioners shall take the same oath or affirmation, and do the same duties.

Art. 9. It is agreed that British subjects, who now hold lands in the territories of the United States, and American citizens, who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and

tenure of their respective estates and titles therein; and may grant, sell, or devise, the same, to whom they please, in like manner as if they were natives; and that neither they, nor their heirs or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

Art. 10. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.

Art. 11. It is agreed, between His Majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations, and on the conditions, specified in the following articles.

Art. 12. His Majesty consents that it shall and may be lawful, during the time hereinafter limited, for the citizens of the United States to carry to any of His Majesty's islands and ports in the West Indies, from the United States, in their own vessels, not being above the burden of seventy tons, any goods or merchandises, being of the growth, manufacture, or produce, of the said States, which it is or may be lawful to carry to the said islands or ports, from the said States, in British vessels; and that the said American vessels shall be subject there to no other other or higher tonnage duties or charges than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there to no other or higher duties or charges than shall be payable on the like articles if imported there from the said States in British vessels.

And His Majesty also consents that it shall be lawful for the said American citizens to purchase, load, and carry away, in their said vessels, to the United States, from the said islands and ports, all such articles, being of the growth, manufacture, or produce, of the said islands, as may now by law be carried from thence to the said States in British vessels, and subject only to the same duties and charges, on exportation, to which British vessels and their cargoes are, or shall be, subject, in similar circumstances.

Provided always, That the said American vessels do carry and land their cargoes in the United States only; it being expressly agreed and declared, that, during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa, or cotton, in American vessels, either from His Majesty's islands, or from the United States, to any part of the world, except the United States, reasonable sea stores excepted. *Provided also*, That it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever, being of the growth, produce, or manufacture of the said islands, or of the United States, respectively, which now may, by the laws of the said States, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties, or charges, than shall be payable on the same articles if so imported or exported in American vessels.

It is agreed that this article, and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged; and also for two years from and after the day of the signature of the preliminary or other articles of peace by which the war may be terminated.

And it is further agreed that, at the expiration of the said term, the two contracting parties will endeavor further to regulate their commerce in this respect, according to the situation in which His Majesty may then find them himself, with respect to the West Indies, and with a view to such arrangements as may best conduce to the mutual advantage and extension of commerce. And the said parties will then also renew their discussions, and endeavor to agree whether, in any, and what, cases neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But, in the meantime, their conduct towards each other in these respects shall be regulated by the articles hereinafter inserted on those subjects.

Art. 13. His Majesty consents that the vessels belonging to the citizens of the United States of America shall be admitted, and hospitably received, in all the seaports and harbors of the British territories in the East Indies; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States in all articles of which the importation or exportation, respectively, to or from the said territories, shall not be entirely prohibited. *Provided, only*, That it shall not be lawful for them, in any time of war between the British Government and any other Power or State whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage duty than shall be payable on British vessels, when admitted into the ports of the United States. And they shall pay no other or higher duties or charges, on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to

some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties, as shall, from time to time, be found necessary to enforce the due and faithful observance of this stipulation. It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the British territories; but vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted, in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction, of whatsoever nature, established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there.

Art. 14. There shall be, between all the dominions of His Majesty in Europe and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time. Also to hire and possess houses and warehouses for the purposes of their commerce, and, generally, the merchants and traders, on each side, shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries, respectively.

Art. 15. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country, on the importation of any articles, the growth, produce, or manufacture of the other, than are, or shall be, payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties, respectively, which shall not equally extend to all other nations.

But the British Government reserves to itself the right of imposing on American vessels, entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America; and also such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels.

The two parties agree to treat for the more exact equalization of the duties on the respective navigation of their subjects and people, in such manner as may be most beneficial to the two countries. The arrangements for this purpose shall be made at the same time with those mentioned at the conclusion of the twelfth article of this Treaty, and are to be considered as a part thereof. In the interval, it is agreed that the United States will not impose any new or additional tonnage duties on British vessels, nor increase the now subsisting difference between the duties payable on the importation of any articles in British or in American vessels.

Art. 16. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their functions. But before any Consul shall act as such, he shall be, in the usual forms, approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper that, in case of illegal or improper conduct towards the laws or Government, a Consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back, the offended Government assigning to the other their reasons for the same.

Either of the parties may except, from the residence of Consuls, such particular places as such party shall judge proper to be so excepted.

Art. 17. It is agreed that, in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port; and if any property of any enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

Art. 18. In order to regulate what is in future to be esteemed contraband of war, it is agreed

that, under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, headpieces, cuirasses, halberds, lances, javelins, horse furniture, holsters, belts, and, generally, all other implements of war; as, also, timber for ship building, tar or rosin, copper in sheets, sails, hemp and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

And whereas the difficulty of agreeing on the precise cases in which alone provisions and other articles, not generally contraband, may be regarded as such, renders it inexpedient to provide against the inconveniences and misunderstandings which might thence arise: it is further agreed that, whenever any such articles, so becoming contraband, according to the existing Laws of Nations, shall, for that reason, be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the Government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention.

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel, so circumstanced, may be turned away from such port or place, but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after notice, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested, by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

Art. 19. And that more abundant care may be taken for the security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war and privateers, and all others the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of fifteen hundred pounds sterling, or if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of three thousand pounds sterling, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this Treaty, or to the laws and instructions for regulating their conduct; and further, that, in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed that, whenever a Judge of a Court of Admiralty of either of the parties shall pronounce sentence against any vessel, or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel, without the smallest delay, he paying all legal fees and demands for the same.

Art. 20. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents, duly deputed and authorized, in writing, by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

Art. 21. It is likewise agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties, respectively, shall accept any foreign commission, or letters of marque, for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque, as a pirate.

Art. 22. It is expressly stipulated that neither

of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries or damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

Art. 23. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country. The officers shall be treated with that respect which is due to the commissions which they bear; and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And His Majesty consents that, in case an American vessel should, by stress of weather, danger from enemies, or other misfortune, be reduced to the necessity of seeking shelter in any of His Majesty's ports, into which such vessel could not in ordinary cases, claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the government of the place, be hospitably received, and be permitted to refit and to purchase, at the market price, such necessaries as she may stand in need of, conformably to such orders and regulations as the government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted. Nor shall be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expenses, and then not without the express permission of the government of the place. Nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

Art. 24. It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necesssary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

Art. 25. It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any fee to the officers of the Admiralty, or to any Judges whatever; nor shall the said prizes, when they arrive at, and enter the ports of, the said parties, be detained or seized; neither shall the searchers, or other officers of those places, visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore, in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officer take cognizance of the validity of such prizes; but they shall be at liberty to hoist sail and depart as speedily as may be, and carry their said prizes to the place mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show. No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but, if forced by stress of weather or dangers of the sea, to enter therein, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible. Nothing in this Treaty contained shall, however, be construed or operate, contrary to former and existing public Treaties with other Sovereigns or States. But the two parties agree that, while they continue in amity, neither of them will, in future, make any Treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having commission from any Prince, Republic, or State whatever. But, in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

Art. 26. If at any time a rupture should take place (which God forbid) between His Majesty and the United States, the merchants, and others, of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they behave peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order, shall be allowed them for that purpose, to remove, with their families, effects, and property; but this favor shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective Ambassadors or Ministers, if such there shall be, shall be recalled, or sent home, on account of such differences, and not on account of personal misconduct, according to the nature and degrees of which, both parties retain their rights, either to request the recall, or immediately to send home the Ambassador or Minister of the other; and that without prejudice to their mutual friendship and good understanding.

Art. 27. It is further agreed that His Majesty and the United States, on mutual requisitions, by them, respectively, or by their respective Ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged

with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other: *Provided*, That this shall only be done on such evidence of criminality, as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive.

ART. 28. It is agreed that the first ten articles of this Treaty shall be permanent, and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, to be computed from the day on which the ratifications of this Treaty shall be exchanged, but subject to this condition, that, whereas the said twelfth article will expire, by the limitation therein contained, at the end of two years from the signing of the preliminary or other articles of peace which shall terminate the present war in which His Majesty is engaged, it is agreed that proper measures shall, by concert, be taken for bringing the subject of that article into amicable Treaty and discussion, so early before the expiration of the said term, as that new arrangements on that head may, by that time, be perfected, and ready to take place. But, if it should unfortunately happen, that His Majesty and the United States should not be able to agree on such new arrangements, in that case all the articles of this Treaty, except the first ten, shall then cease and expire together.

Lastly. This Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them, respectively, executed and observed, with punctuality and the most sincere regard to good faith. And whereas it will be expedient, in order the better to facilitate intercourse and obviate difficulties, that other articles be proposed and added to this Treaty, which articles, from want of time and other circumstances, cannot now be perfected, it is agreed that the said parties will, from time to time, readily treat of and concerning such articles, and will sincerely endeavor so to form them as that they may conduce to mutual convenience, and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, shall be added to, and make a part of, this Treaty.

In faith whereof, we, the undersigned, Ministers Plenipotentiary of his Majesty the King of Great Britain and the United States of America, have signed this present Treaty, and have caused to be affixed thereto the seal of our arms.

Done at London, this nineteenth day of November, one thousand seven hundred and ninety-four.

GRENVILLE, [L. S.]
JOHN JAY. [L. S.]

TREATY WITH GREAT BRITAIN.

[Communicated to the Senate, May 5, 1796.]

UNITED STATES, *May* 5, 1796.

Gentlemen of the Senate:

I lay before you, for your consideration and advice, an explanatory article proposed to be added to the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain; together with a copy of the full power to the Secretary of State to negotiate the same.

G. WASHINGTON.

Mr. Bond to Mr. Pickering.

PHILADELPHIA, *March* 26, 1796.

The undersigned, His Britannic Majesty's Chargé des Affaires, has the honor of representing to the Secretary of State of the United States, that the King, his master, has been informed that a Treaty was concluded on the 3d of August last, between the United States and certain tribes of Indians living on the northwestern frontier of those States, which Treaty appears to His Majesty to contain certain stipulations repugnant to the due execution of the provisions of the Treaty between His Majesty and the United States of America, signed at London on the 19th of November, 1794, and particularly that, by the eighth article of the said Treaty between the United States and the Indians above-mentioned, it is agreed that no person shall be admitted to reside among, or to trade with, those tribes of Indians, unless they be furnished with a license for that purpose from the Government of the United States; and that any person so trading without such license, shall be delivered up by the Indians to a superintendent appointed by the Government of the United States, to be dealt with according to the laws of the United States: whereas the third article of the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States, expressly provides, "that it shall, at all times, be free to His Majesty's subjects and to the citizens of the United States, and also to the Indians dwelling on either side of the boundary line, freely to pass and repass, by land or inland navigation, into the respective territories and countries of the two parties on the Continent of America, [the country within the limits of the Hudson's Bay Company only excepted,] and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other."

The undersigned is directed to state that the King, his master, is fully persuaded that the said Indian Treaty was concluded in consequence of instructions given by the Government of the United States at a time when that Government had not yet been apprised of the terms and stipulations of the Treaty entered into by the respective Plenipotentiaries at London, on the 19th of November, 1794. Even if any doubt could arise on this subject in His Majesty's mind, His Majesty,

in claiming the full execution of the said last mentioned Treaty, would rely, with the utmost confidence, on the justice and good faith of the Government of the United States, and on the universally admitted rule of the Law of Nations, that no stipulations of existing Treaties can be superseded by any engagements subsequently concluded by one of the parties with another State or nation; but when the particular circumstances connected with this important subject, and the influence which they may have on the lives and properties of so many, both of His Majesty's subjects and of the citizens of the United States, are fairly and impartially considered, His Majesty can entertain no doubt that the Government of the United States will be equally anxious with himself that all possible misconstruction or doubt on this point, on the part either of His Majesty's subjects, or of the citizens of the United States, and still more on the part of the Indians, should be completely and authentically removed: and that this may be done with as little delay as possible, in order that less time may be left for the effect of any misrepresentations, which evil designing persons may have labored to impress on the minds of those whose situation renders them peculiarly liable to such impressions, His Majesty trusts, therefore, that the Government of the United States will readily agree in the propriety of an explanation, which, under the circumstances above stated, appears to be of such indispensable necessity; and the undersigned is directed to propose, on His Majesty's part, that an article should for that purpose be added to the Treaty of Amity, Commerce, and Navigation, between His Majesty and the United States, so as to form a part thereof, conformably to the provisions contained in the 29th article of that instrument, by which it shall be declared that no Treaty subsequently concluded by either party with any other State or nation, whether European or Indian, can be understood in any manner to derogate from the rights of free intercourse and commerce secured by the aforesaid Treaty of Amity, Commerce, and Navigation, to the subjects of His Majesty, and to the citizens of the United States, and to the Indians on both sides of the boundary line; but that all the said persons shall remain at full liberty freely to pass and repass into the countries on either side of the said boundary line, and to carry on their trade and commerce with each other freely and without restriction, according to the stipulations of the third article of the said Treaty, which stipulations are, by the said Treaty, declared to be permanent.

If this measure, which appears to His Majesty conformable to the principles of justice and good faith, and indispensably required by the circumstances of the case, should meet the approbation of the Government of the United States, the undersigned is instructed and authorized to arrange the terms of such article with any person who may be appointed by the Government of the United States for the purpose, and to conclude and sign the same, subject to the ratification of the King, his master: His Majesty being always desirous to take the earliest and most effectual means of removing any cause of uneasiness between the two Governments, and to maintain with the United States the most uninterrupted harmony and good understanding.

P. BOND.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO ALL WHO SHALL SEE THESE PRESENTS, *greeting:*

It having been represented by the Chargé des Affaires of His Britannic Majesty to the United States, that the eighth article of the Treaty of Peace and Friendship, concluded on the 3d day of August last, between the United States and certain tribes of Indians, living on the Northwestern frontier of these States, appears to His Majesty to contain stipulations repugnant to the provisions of the third article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, signed at London on the 19th of November, 1794: And it being the sincere desire of the United States, as well as of His Britannic Majesty, to prevent the inconveniences which might arise from any misconstruction or doubt on the subject of the said two articles: And for this purpose, deeming it expedient to declare their understanding thereof by an explanatory article: Now, be it known, that, pursuant to the laws of the United States, I have intrusted, and do hereby intrust, and give full power to, Timothy Pickering, Esq., Secretary of State of the United States, to negotiate and agree, on the part of the United States, with the Commissioner named on the part of His Britannic Majesty, on an article explanatory of the understanding of the two parties on the subject of the two articles aforementioned; such explanatory article, when ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications mutually exchanged, to be added to, and constitute a permanent part of, the said Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, the fourth day of May, in the year of our Lord one thousand seven hundred and ninety-six, and of the independence of the United States of America the twentieth. [L. S.]

G. WASHINGTON.

EXPLANATORY ARTICLE.

Whereas, by the third article of the Treaty of Amity, Commerce, and Navigation, concluded at London, on the nineteenth day of November, one thousand seven hundred and ninety-four, between His Britannic Majesty and the United States of America, it was agreed that it should at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the In-

dians dwelling on either side of the boundary line assigned by the Treaty of Peace to the United States, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two contracting parties on the Continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters, thereof, and freely to carry on trade and commerce with each other, subject to the provisions and limitations contained in the said articles. And whereas, by the eighth article of the Treaty of Peace and Friendship, concluded at Greenville, on the 3d day of August, 1795, between the United States and the nations or tribes of Indians called the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pattawatamies, Miamies, Eel Rivers, Weas, Kickapoos, Piankeshaws, and Kaskaskias, it was stipulated that no person should be permitted to reside at any of the towns or hunting camps of the said Indian tribes, as a trader, who is not furnished with a license for that purpose under the authority of the United States; which latter stipulation has excited doubts whether in its operation it may not interfere with the due execution of the said third article of the Treaty of Amity, Commerce, and Navigation: And it being the sincere desire of His Britannic Majesty and of the United States that this point should be so explained as to remove all doubts, and promote mutual satisfaction and friendship, and for this purpose, His Britannic Majesty having named for his Commissioner Phineas Bond, Esq., His Majesty's Consul General for the Middle and Southern States of America, (and now His Majesty's Chargé des Affaires to the United States,) and the President of the United States having named for their Commissioner, Timothy Pickering, Esq., Secretary of State of the United States, to whom, agreeably to the laws of the United States, he has intrusted this negotiation, they, the said Commissioners, having communicated to each other their full powers, have, in virtue of the same, and conformably to the spirit of the last article of the said Treaty of Amity, Commerce, and Navigation, entered into this explanatory article, and do, by these presents, explicitly agree and declare, that no stipulations in any Treaty subsequently concluded by either of the contracting parties with any other State or nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce secured by the aforesaid third article of the Treaty of Amity, Commerce, and Navigation, to the subjects of His Majesty, and to the citizens of the United States, and to the Indians dwelling on either side of the boundary line aforesaid; but that all the said persons shall remain at full liberty freely to pass and repass, by land or inland navigation, into the respective territories and countries of the contracting parties on either side of the said boundary line, and freely to carry on trade and commerce with each other, according to the stipulations of the said third article of the Treaty of Amity, Commerce, and Navigation.

This explanatory article, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the said Treaty of Amity, Commerce, and Navigation, and shall be permanently binding upon His Majesty and the United States.

In witness whereof, we, the said Commissioners of His Majesty, the King of Great Britain and the United States of America, have signed this present explanatory article, and thereto affixed our seals. Done at Philadelphia, this fourth day of May, in the year of our Lord one thousand seven hundred and ninety-six.

[L. S.]

P. BOND.
TIMOTHY PICKERING.

TREATY WITH SPAIN.

[Communicated to the Senate, Feb. 26 and 29, 1796.]

UNITED STATES, *February* 26, 1796.

Gentlemen of the Senate:

I send, herewith, the Treaty concluded on the 27th of October last, between the United States and Spain, by their respective Plenipotentiaries.

The communications to the Senate, referred to in my message of the 16th of December, 1793, contain the instructions to the Commissioners of the United States, Messrs. Carmichael and Short, and various details relative to the negotiations with Spain. Herewith I transmit copies of the documents authorizing Mr. Pinckney, the Envoy Extraordinary from the United States to the Court of Spain, to conclude the negotiation, agreeable to the original instructions above mentioned; and to adjust the claims of the United States for the spoliations committed by the armed vessels of His Catholic Majesty on the commerce of our citizens.

The numerous papers exhibiting the progress of the negotiation, under the conduct of Mr. Pinckney, being in the French and Spanish languages, will be communicated to the Senate as soon as the translations which appear necessary shall be completed.

G. WASHINGTON.

UNITED STATES, *February* 29, 1796.

Gentlemen of the Senate:

I send, herewith, the papers relating to the negotiation of the Treaty with Spain, to which I referred in my Message of the 26th instant.

G. WASHINGTON.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO THOMAS PINCKNEY, *greeting:*

Reposing especial trust and confidence in your integrity, prudence, and ability, I have nominated, and, by and with the advice and consent of the

Senate, do appoint you, the said Thomas Pinckney, Envoy Extraordinary from the United States of America to the Court of His Catholic Majesty; authorizing you, hereby, to do and perform all such matters and things as to the said place or office doth appertain, or as may be duly given you in charge hereafter, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, the twenty-fourth day of November, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

[L. S.]

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular whom these presents shall concern, greeting:

Know ye, that, for the purpose of confirming, between the United States of America and His Catholic Majesty, perfect harmony and a good correspondence, and removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities of Thomas Pinckney, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said Thos. Pinckney Envoy Extraordinary and sole Commissioner Plenipotentiary of the United States of America to His Catholic Majesty; hereby giving and granting to him full, and all manner of, power and authority, as also a general and special command at the Court of his said Majesty, for, and in the name of, the United States, to meet, confer, treat, and negotiate, with the Ministers, Commissioners, Deputies, or Plenipotentiaries, of his said Majesty; being furnished with sufficient authority of and concerning the navigation of the river Mississippi, and such other matters relative to the confines of the territories of the United States and His Catholic Majesty, and the intercourse to be had thereon, as the mutual interests and general harmony of neighboring and friendly nations require to be precisely adjusted and regulated; and of and concerning the general commerce between the United States and the kingdoms and dominions of His Catholic Majesty; and to conclude and sign a Treaty or Treaties, Convention or Conventions, thereon; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this twenty-fourth day of November, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

[L. S.]

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular whom these presents shall concern, greeting:

Know ye, that, for the purpose of confirming, between the United States of America and His Catholic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of Thomas Pinckney, whom I have nominated, and, by and with the advice and consent of the Senate, appointed, Envoy Extraordinary of the United States to His Catholic Majesty, I do, hereby, give and grant to him, the said Thomas Pinckney, full, and all manner of, power and authority, as also a general and special command at the Court of his said Majesty, for, and in the name of, the United States, to meet and confer with the Ministers, Commissioners, or Deputies, of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly, and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the instructions of his said Majesty, or of any of the tribunals or authorities of his said Majesty, to his ships of war and privateers, of whatsoever date, as well as of and concerning restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers, and retribution for the injuries received therefrom by any citizen of the United States; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises, transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this twenty-fourth day of November, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

[L. S.]

G. WASHINGTON.

By the President:
EDM. RANDOLPH,
Secretary of State.

The Secretary of State to Thomas Pinckney.

PHILADELPHIA, *November* 3, 1794.

DEAR SIR: Mr. Bayard, who sails on Thursday, as an agent for those who have suffered by

British depredations, will be charged with both private and public despatches from me to you. I drop you this line to prepare you for a mission, which the President has prepared for you, as Envoy Extraordinary to Madrid. I beg you, immediately upon the receipt of this, to make any arrangements which may seem expedient, before you quit London. The business relates to the Mississippi; will be temporary; and, under present circumstances, probably not dilatory. You will necessarily conclude that your return to London upon your former footing will be a thing of course.

I have the honor to be, dear sir, with sincere esteem and true respect your most obedient servant,

EDMUND RANDOLPH.

Extract of a letter from the same to the same, dated November 8, 1794.

"The failure of the Senate to meet at the day appointed, and the continuance of that failure to the very moment of Mr. Bayard's departure, disable me from sending you a commission, and its appendages, in the quality of Envoy Extraordinary to Madrid. I hope, however, that my letter of the 3d instant will have prepared you, in some measure, for this new mission, before its duplicate, now sent, shall arrive."

Extract of a letter from the same to the same, dated Philadelphia, November 28, 1794.

"In my two last letters of the 3d and 8th instant, duplicates of which have been forwarded, I prepared you for a temporary transference of your services from London to Madrid. The determination of the President is now confirmed by the approbation of the Senate, as you will perceive from the commission, which accompanies this letter.

"Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for, will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity, before you reach Madrid, I send a statement of our pretensions, as they were laid before Congress, comprehending Mr. Jay's discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these the President sees no reason for a change."

MADRID, *July* 21, 1795.

MY DEAR SIR: I arrived at this metropolis on the 28th of the last month, but finding the Court were still at Aranjuez, I proceeded to that place; their residence there, however, was so short after my arrival that I could do no more than obtain an introduction to the Duke de la Alcudia. I returned to Madrid on the 2d of July, where the Court remained only ten days; of course, every thing was in a kind of hurry and confusion unfavorable to business. I however passed through all my ceremonials, and have had two conferences with the Minister, the result of which is, that they are still anxious for further delay, which is to them equivalent to a cession of our rights, so long as we shall acquiesce therein, they being in possession of the object of controversy. The Duke de la Alcudia received me with politeness, but, at the same time, informed me that he could come to no conclusion on the principal points of my mission until he should have received an answer to the propositions which he directed the Spanish Chargé des Affaires to make our Government, in America, in the months of July and August last. I told him, in reply, that Mr. Jaudenes did not conceive himself authorized to make any direct propositions to the President so late as the month of March last, notwithstanding he had received the instructions, to which the Duke alluded, and therefore, that it was in vain to wait for an answer to propositions which, without further instructions, could not be brought forward in a mode through which any answer could be given to them.

He seemed to doubt the possibility of M. Jaudenes's not having made the proposals he had directed, and said he expected an answer thereto daily, and would immediately apprise me thereof. I then told him that I had undoubted proof of the matter being as I had stated, having in my possession a letter from M. Jaudenes to you, ascertaining the fact, with a copy of which, at his request, I promised to furnish him. I accordingly enclosed it to him in a note, the copy of which is herewith. The Court leaving Madrid for San Ildefonso within a few days, I have received no answer thereto. I cannot help here lamenting that, when you enclosed to Mr. Short Mr. Jaudenes's letter containing these proposals, (however informally expressed,) you had not stated the sense of our Government thereon, and that, consequently, I must either acquiesce in a further delay, or take upon myself to determine what will be the resolution of our Government upon a question of great importance. It is true that I can deduce, by inference from the instructions heretofore given, and from reasoning upon our situation and circumstances, that the United States will not guaranty the possessions of Spain in America, and will not consent to purchase what is their right. But, upon a proposition so new, it would have been desirable that I could have stated to the Spanish Government that I was directly instructed on this head, in case any such proposal should be made here. I conceive, however, that it is of such importance that our controversy with this Government should be determined during the present war, (which, I think, will not be continued another campaign,) and it is also so essential to our internal harmony that the President should be made acquainted with the real intentions of this Court, during the next session of Congress, that I mean to urge the decision as strongly as propriety and attention to my instructions on the subject will admit. Mr. Short has already informed you of the line which this

Court has determined to pursue to us, respecting navigation, during the present war, and of the reasons which prevent them from entering into written stipulations on this subject. This line of conduct, while observed, is as favorable to us as we could expect; but, as no general orders can be published on the occasion, individual cases will occasionally occur, in which it will be necessary to apply to this Administration for a compliance with their verbal agreement; and to these the Duke promises to pay immediate attention. This took place in a joint conference, which Mr. Short and I had with him, when we thought it prudent to state to him what his engagements were on that subject; to which statement he readily acquiesced, (namely, that the stipulations on this subject in our Treaty with France should be observed.) In addition to the propositions said to have been directed to be made to our Government, as above stated, I find, in conversation with the Duke, that another object is started, which, I presume, may be brought forward, still further to retard the negotiation. In our first conversation, he said that our negotiation seemed so connected with their accommodation with France, that it would be best to let them proceed together. When I observed that I could not discover the connexion, he did not then explain himself to my comprehension, but, in a joint conference with Mr. Short and myself, he expressed a wish to establish a triple alliance between France, Spain, and ourselves. He received the answer from Mr. Short, which he had previously given him, with great propriety, on former occasions, of a nature somewhat similar, which is, in substance, that a generous and friendly conduct would insure to both parties all the benefits of an alliance, and that the first object was to establish our rights on just principles, when objects of mutual convenience and accommodation might with propriety be resorted to. Mr. Monroe has informed you of the intentions of the French Government with respect to our negotiation here. I had no conversation with them on the subject, as I conceived the business placed on as good a footing as I could desire, and, since I have been here, I conclude that the French Commissioners have complied with their instructions; the Duke having informed me that he had certain information that our Minister at Paris opposed an accommodation between Spain and France, unless our rights were previously acknowledged by the former.

The repairs which so long a journey had rendered necessary for my carriage have detained me here a few days beyond the departure of the Court; to-morrow, however, I set out to join them, and will inform you of the result of my next conference by the earliest opportunity.

I have received all possible assistance and information from Mr. Short, since I have been here. He has placed in my hands all the papers of which he was possessed, relative to the objects of my mission. I am personally obliged to him for the readiness and friendly good will with which he has rendered me this service, and the United States are, I conceive, much indebted to him for the assiduity and ability with which he has conducted his negotiations at this Court. I do not conceive that it can be necessary for me to remain here until an answer can be obtained to this letter, as it must be decided long before that time, whether this Court means to proceed in their system of delay, or whether they will yield to us our rights. In either case, it will be necessary that you should have a decided answer during the ensuing session of Congress. After that answer is obtained, my present idea is, that my presence here will be unnecessary; at all events, however, I will observe the directions contained in the ciphered part of your letter of 28th of November, 1794. I would however, submit to you the propriety of an explicit instruction to whoever may be here, on the subject of alliance and guaranty, if it should not have been done previous to your receipt hereof, as, from the circumstances which have already occurred, I do not expect that it will be brought before our Government soon, in an official manner, and, if the instructions should arrive too late to be of service, they can do no harm.

I have the honor to be, dear sir, with great respect, your obedient and faithful servant,

THOMAS PINCKNEY.

The SECRETARY OF STATE.

[Enclosed in the foregoing despatch.]

MADRID, *July* 10, 1795.

MONSIEUR LE DUC: In conformity with the promise which I had the honor of making to your excellency, I herewith send the letter written by the Chargé des Affaires of His Catholic Majesty to the Secretary of State of the United States of America, dated the 28th of March, 1795, by which it is unquestionable that, at that time, M. Jaudenes did not think himself authorized to make propositions to the President of the United States, in consequence of your excellency's instructions, although he there acknowledges the receipt of your excellency's letter of the 26th of July, which, according to the communication with which you honored Mr. Short on the ——, contained his instructions on the propositions which the Court of Spain thought proper to make to the Executive power of the United States, and although he has likewise written to the Secretary of State of the United States that your excellency had signified, by a letter of the 21st of November, 1794, that you had nothing to add to your informations of the said 26th of July, and of your duplicates of the 6th and 15th of August. This being the case, I beg your excellency to be pleased to inform me whether M. Jaudenes has properly understood his instructions of the 26th of July, and whether the five articles which he cites, under the term of insinuations, are such as His Majesty thought proper to propose to the United States.

I have the honor to be, with the highest consideration and respect, M. le Duc, your most humble and most obedient servant,

THOMAS PINCKNEY.

Mr. Pinckney to the Secretary of State.

SAN ILDEFONSO, *August* 11, 1795.

MY DEAR SIR: By my letter of the 21st July, it must have appeared to you that this Court was proceeding in that system of delay which it seems hitherto to have adopted, the Minister having referred me, in my first conferences, to the answer expected to Mr. Jaudenes's proposals. As a means of obviating this, I thought it best to put a stop to all expectations on that subject, and, therefore, at the first conference I had with the Duke at this place, I told him candidly, that however full my powers were, (which he must have seen,) and however amicably inclined the United States were to this country, I did not think myself authorized to insert in any Treaty to be formed with this country, a guarantee of their possessions in America. With this declaration the Duke appeared much mortified, conceiving, as was natural, that the proposals, though informally made, had been considered and rejected by our Government. I then proceeded to state how ready the United States were to enter into every other friendly stipulation, and urged the arguments that occurred to me for an immediate settlement of the points in controversy; the result was, that he promised to proceed with me in our negotiations concerning the limits, &c., without the guarantee. I urged the fixing a day to proceed to the business, which he said was impossible, as he wished some further information, but promised to appoint an early day. This, however, not immediately taking place, I requested, in three or four days, a further conference, in which he still urged that he was not prepared, but said that he would very shortly enter into the business; and, from his conversation, I collected that he had really been looking into the subject.

On Saturday last it was pretty generally known here that the terms of a Treaty of Peace were settled between this country and France. On Sunday, at a conference with the Duke, on my urging our progress, he told me that our business should be very speedily settled to our satisfaction; that I might consider it perfectly in that point of light, as His Majesty was determined to sacrifice something of what he considered as his right, to testify his good will to us. You, sir, have seen so much of this business as to know how to appreciate those circumstances; my present opinion is, that the new position of Spain with respect to England will induce them to come to a decision with us. You may be assured, sir, that I shall omit neither assiduity nor such arguments as I am furnished with to accelerate the determination.

Having short information of a vessel ready to sail from Bilboa, I thought it advisable to give you this hasty sketch of our present position, which otherwise I should have deferred till after the conference I mean to request to-morrow, and in which I hope something more decisive will be fixed.

I am, with sentiments of the utmost respect and sincerest esteem, my dear sir, your faithful and obedient servant,

THOMAS PINCKNEY.

To the SECRETARY OF STATE.

Mr. Pinckney to the Secretary of State.

SAN ILDEFONSO, *October* 1, 1795.

DEAR SIR: I am not favored with any of your letters, since I left England; but, as the President may desire to know the progress of the negotiation with which I am charged, previous to the meeting of Congress, I herewith send you the material parts of what has passed in writing, from whence he will be able to form his own opinion of our prospects in this business. It will be unnecessary to state to you the purport of the various oral conferences I have had with the Prince de la Paix (late Duke of Alcudia) on this occasion, as they were preparatory to the written documents I now enclose, which may be considered as the result of those conferences so far as they extend. I will not take up your time with conjectures of what may probably be the issue of this negotiation; for where measures are adopted from the fluctuation of occurrences and not from system, conjectures must be wildly hazarded.

You may be assured that nothing within the scope of my abilities shall be wanting to induce a line of steady conduct towards us, and I conclude that, in the course of another month, it will be decided whether this business can be concluded or not; in either event it will be unnecessary for me to remain here, and I therefore propose setting out for England in that space, unless events, which I do not now foresee, should require a longer residence here.

When Mr. Short leaves this Court, he intends, in pursuance of your authority, to appoint Mr. Charles Rutledge as Chargé des Affaires during his absence. This young gentleman, who accompanied me here as secretary, and with whose conduct I am perfectly satisfied, is son of the Chief Justice of South Carolina, whom I believe you know. Mr. Short says his appointment will be only at the rate of £300 per annum. I therefore beg leave to represent to you that it is impossible for him to live in a decent style on that salary, and would, therefore, submit the propriety of an augmentation. That sum may be sufficient for a secretary living with a Minister, and the principal part of his expenses borne by him, but it is beyond question, that a person cannot attend on this Court without expending far beyond that sum.

I am, with sentiments of consideration and respect, dear sir, your faithful and obedient servant,

THOMAS PINCKNEY.

The SECRETARY OF STATE.

[Enclosures in the foregoing despatch of Mr. Pinckney.]

Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *July* 29, 1795.

MONSIEUR LE DUC: In running over the "ordenanza de corso" of His Majesty, dated the 1st of May, 1794, I perceive, with pleasure, the sentiments of justice which dictated the 11th article, which appears to me conformable with the engagements entered into by the Court of Spain, by concurring in the terms of the armed neutrality of the last war. The spirit of this article, if I mistake not, amounts to this: that Spain, faithful to the principles she had adopted on neutral rights, was ready to act in conformity to these principles, but that prudence required a previous knowledge whether France, who had also adopted the articles of the armed neutrality, would act in the same manner. That, therefore, she permitted her vessels of war to bring into her ports neutral vessels laden with produce belonging to France, by way of precaution, and only until this point should be cleared up; but that, as soon as it was ascertained that France would act in conformity to these principles towards a neutral nation, she would adopt the sentiments in conformity to her engagements, by conducting in the same manner with regard to that nation. Now, if I am not mistaken in the sense of the said article, I think I may, with propriety, propose to your excellency that the King be pleased to give orders that his ships of war and privateers bring no longer into Spanish ports, vessels of the United States of America, laden with produce belonging to Frenchmen.

Seeing that your excellency has been informed of the Treaty existing between the United States and France, which establishes these principles between the two nations; seeing that the Government of France has given the most unequivocal assurances to ours that it will observe this Treaty; and seeing that it acts in conformity to its promises, I conceive that it will not be necessary for me to detail here to your excellency all the inconveniences which result from the practice of putting merchant vessels out of their course, and carrying them to ports to which they were not destined, merely for the purpose of sending them away after they have been brought in.

From the delays, waste, and inevitable expenses arising therefrom, from the bad treatment of which our citizens complain of receiving sometimes from the crews of the privateers, and, above all, from the spite and animosity which often follow between the individuals of two nations between whom it is the ardent desire of the United States to cultivate the most perfect harmony and friendship, not doubting but that your excellency entertains corresponding sentiments of good will towards my nation, I have no apprehension that a conduct towards us will be continued, which, without being of the least advantage to the interests of the King, is very prejudicial to the United States.

I pray your excellency to accept the expression of respect and high consideration with which I have the honor to be, &c.

Not knowing whether your excellency has at the Sitio a copy of our Treaty with France, I take the liberty to enclose the article on the contraband of war.

Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *August* 6, 1795.

MONSIEUR LE DUC: As in the cases not comprehended in the "ordenanza de corso" of His Majesty, but which are to be determined (according to the agreement your excellency made with Mr. Short) by the principles of our Treaty with France, it appears to me there will be less inconvenience to all parties in preventing judgments contrary to the Treaty, than if that agreement were changed, after I take the liberty of laying before your excellency the cases as they arrive, in order that your excellency may give the proper orders. With this view I have the honor to inform you that the brigantine Maria, of Boston, laden with provisions belonging to France, was taken into the port of Santander, on the 11th of June, where she is now detained; and I request your excellency to give orders to enable her to pursue her voyage. The long detention which this vessel has already undergone, with a perishable cargo, will, I hope, plead my excuse with your excellency for my pressing solicitation to have a speedy decision on this affair. I also take the liberty to inform M. le Duc of the circumstances relative to the American ship Liberty, of New York, according to the advices I have received, which are, that this vessel, being at Bordeaux, was freighted by an American house to carry a cargo to Bilboa, consisting partly of whale oil and of dried codfish. The fish was taken out by another American vessel in the river, and the oil landed, and was, of course, laden on board the Liberty, in the port, but it always continued to be American property. This vessel was met at sea, eight leagues from Bilboa, and carried as a prize into that port by a Spanish privateer, who pretends to have the articles which were laden at Bordeaux condemned as good prize, in virtue of the declaration of His Majesty, at the commencement of the war; by which it is ordained that French produce, and even those of foreigners landed in France, having paid the entrance duty, shall not be admitted into Spanish ports, though they should be laden on board of neutral bottoms. But I submit to the superior wisdom of your excellency whether this arrêt could have had in view a case like the present, in which the entry duties were not received by the French, and in which the property has not been changed. And I request your excellency to observe, also, that this determination, taken at the beginning of the war, was modified by the principles established in the 4th article of the "ordenanza," by which it was proved that, in the actual circumstances, if the cargo of this vessel had been altogether the manufacture and property of Frenchmen, and was met at sea by a Spanish privateer, she could not be condemned according to the said principles. It would, therefore, be very extraordinary if the property of the friends of Spain were condemned in a case in which her enemy's property would go free.

In submitting those cases to the inspection of your Excellency, I have the most perfect confidence in the equity of the decision, and I pray

you to be assured of the sentiments of the high consideration and respect with which I have the honor to be, &c., &c.

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The Duke of Alcudia to Mr. Pinckney.

SAN ILDEFONSO, *Aug.* 14, 1795.

SIR: I have communicated to the King the contents of your letters of the 29th of July and 6th current, in which you bring to view the offer made to Mr. William Short, that our ships of war and privateers should respect the free navigation of the United States in the same manner as those of France.

You solicit to have liberated some vessels detained, and the restoration of the cargoes of some others reputed contraband according to the fifteenth article of our privateering ordinance.

On observing what you state, His Majesty has directed proper orders to be given to the Minister of Marine for liberating the brigantine Maria, of Boston, and the Liberty, from Bordeaux, which you declare to be American property. That the captain of the Providence be paid for the pitch, tar, and turpentine, taken from him at Santander, as contraband articles.

And in like manner that restitution be made for the cargo of the American brigantine Abigail, of New York, consisting of iron, steel, boards, and paints, confiscated by the marine Judge of Santander.

I hope that, in these dispositions, you will acknowledge the sincere desire which animates His Majesty to cultivate the most perfect harmony with the United States, and to cement still more the friendship subsisting between the two countries.

On my part, I renew to you on this occasion, &c.

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Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *Aug.* 10, 1795.

MONSIEUR LE DUC: As in the conference with which you honored me on Wednesday last, I perceived that, although you have read with attention the memoir of Messrs. Short and Carmichael, upon the right of the United States to the navigation of the Mississippi, and to our Southern limit, and admit the justice of the arguments therein contained, yet, that your Excellency entertained some doubt relative to a part of the pretensions of the United States, I have thought it my duty to lay before your Excellency some arguments in addition, and I have endeavored to avoid as much as possible a repetition of those which have been so well developed in the said memoir, upon which I always rely as the most perfect exposition of our rights.

I have the honor to be, &c.,

T. PINCKNEY.

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Memoir, by Mr. Pinckney.

"Thirty-two years have elapsed since all the country on the left or Eastern bank of the Mississippi, being under the legitimate dominion of the then King of England, that Sovereign thought proper to regulate with precision the limits between the provinces of Georgia and of the two Floridas, which was done by his solemn proclamation, published in the usual form, by which he established between them precisely the same limits which, nearly twenty years after, he declared to be the southerly limit of the United States by the Treaty which this same King of England concluded with them in the month of November, 1782.

"By the Treaty of Peace between the late King of Spain and that Sovereign, signed the 20th January, 1783, he ceded to His Catholic Majesty the two Floridas, without making any description of their limits. However, it is not difficult to prove, not only what were those limits, but also what the two contracting parties understood by that cession. It is very evident that Great Britain could not be understood to have ceded more to Spain than the two Floridas, according to the limits fixed by the proclamation of 1763, and according to what had recently been concluded by a solemn Treaty to be the southerly limit of the United States. She had not been fortunate in the war which preceded that Treaty; but it had not so far humiliated her as to dishonor herself by ceding to Spain a territory which, two months before, she declared to belong of right to the United States. But, it is likewise evident that the Spanish Government at that time understood the same thing in receiving as England did in ceding the Floridas. In order to prove this, one need only observe the dates of the relative circumstances in this business. The said proclamation of the King of England had been published more than nine years before that epoch; it was impossible, therefore, for the Court of Spain to be uninformed on the subject of it; and if it were not content with the limits therein adjusted, it should have had others inserted in the Treaty of Peace of 1783. Besides, the provisional articles of the Treaty between the United States and England, in which this limit was acknowledged, were signed in the month of November, 1782, and immediately communicated to the Court of France. Now, the close connexion which at this time united the House of Bourbon, who possessed the crowns of Spain and France, was notoriously known. It is well known that these two nations were allies and confederates in the war against Great Britain. Is it, therefore, credible that the Court of France omitted to communicate to their ally the Treaty of the United States with Great Britain before the articles with Spain and the latter Power had existence? And this being the case, I repeat that, if she were discontented with the limits there determined for Florida, she then had an opportunity for opening negotiations in order to change them. But if it were possible to imagine that Spain, thus linked with France, and having an able negotiator upon the spot, treating of peace with the same Power, could have been ignorant of what was passing, a subsequent period occurred in which she still had

an opportunity of making her objections to those limits, and when it was impossible that she could not have possessed all the necessary information, that is to say, all the time which had elapsed until her definitive Treaty with Great Britain, which was not signed until the 3d of September, 1783, a period of two months after the Treaty with America had been communicated to France, and even six months after it had been published in the United States. From these facts it follows that Spain, being informed of the limits fixed by the proclamation of 1763, and acknowledged by the Treaty of the United States, was content with them; or that, if she were not, that she made attempts with Great Britain, which, having failed in bringing about a change of them in the Treaty by which she obtained Florida, it results from every principle of justice, that she remained satisfied with those limits. But it has been said that Spain had pretensions for passing the limits abovementioned by the right of conquest—her troops having, during the war, seized a certain portion of territory beyond that limit; but the answer to this pretension is as simple and as conclusive as that just developed, which is, that the territory conquered must have belonged before the war either to the United States or to Great Britain. If it belonged to the United States, it is very clear that Spain could have no right to make conquests on a nation with whom she was not at war; and I will not, for a single moment, admit an idea so disrespectful to Spain as to imagine that she could pretend to be the friend of the United States, to have succored them in the war, to have even lent them money for maintaining it, at the same time she was depriving them of their property. If this territory belonged to Great Britain, His Catholic Majesty obliged himself, by the sixth article of the definitive Treaty with Great Britain, to deliver up, without difficulty, all the country and territories conquered by the arms of His Majesty, which were not comprehended in the same under the name of cessions or of restitutions. Now, by the Treaty, there was under this description (besides the island of Minorca) only Florida, whose limits have been proved above. Therefore, in both cases, Spain has not the right of retaining these possessions under the name of conquest.

"MISSISSIPPI.—The right of the United States to the free navigation of the Mississippi, also depends upon the best founded and most incontestable principles. In considering them I shall avoid, as much as possible, a repetition of the contents of the memoir of Messrs. Short and Carmichael, as I have endeavored to do in that which I had the honor of submitting to your excellency on the question of the limits, and this is the reason why I shall say nothing upon the argument which appears to me alone to decide this discussion in favor of the United States, to wit: the natural right they have to this navigation. But I shall content myself by saying some words on their right, founded upon the contracts, or their conventional right. And as to the first, but one observation presents itself, which can be applied to both the questions of limits and of navigation, which is, that the contracts and the stipulations relative to these two subjects were made by those who had the right of making them when Spain had no interest therein; and that this Power having acquired the territories upon which she supports her rights, after they had been subjected to those conditions by the lawful proprietors, it consequently follows that she should be liable to the same conditions with regard to these territories as the ancient proprietors were: for there is nothing more clear, than that those proprietors could not cede to Spain a right which they themselves had not. Let us examine, then, whether those ancient owners, admitting they were in actual possession, could with justice hinder the inhabitants of the United States from navigating the Mississippi. The parties were France and England, who (the one possessing the right and the other the left bank of the river) declared, by the Treaty of Peace of 1763, that all the subjects of the British Empire should have the right of navigating the Mississippi in its full extent, from its source to the ocean. By this article, the right of the United States (then a constituent part of the British empire) to navigate this river was acknowledged, and it may be added that they were the part of that empire for which this article must have been principally stipulated, being the part the most interested in it. Now, which of those two contracting Powers could now lawfully deprive us of this right? Certainly not France, who would do it in direct contravention of her Treaty of 1763—France, our friend, our ally, who lavished her blood and treasure for the support of our rights—France, in a word, who, by the 11th article of her Treaty of Alliance, had agreed to guaranty to the United States 'their possessions and the additions or conquests which their confederation may procure during the war, from any of the dominions now, or heretofore, possessed by Great Britain in North America, the whole, as their possessions, shall be fixed and assured to the said United States, at the moment of the cessation of their war with England.'

"Neither can Great Britain oppose the right of the United States to this navigation, in derogation of her Treaty of 1763, and in direct contravention of her Treaty with the United States, in November, 1782. If, therefore, neither the one nor the other of these ancient proprietors had the right of prohibiting the United States from the navigation of this river, I must repeat here, that they could not, in ceding their territory to Spain, cede, also, a right which did not at all belong to them, and, consequently, that Spain does not possess that right. It may here be added, that all the arguments founded upon the knowledge Spain possessed of the existing state of the contracts, when she obtained her acquisitions, which have been above applied to the question of limits, are opposed with still greater force, to her pretensions to the exclusive navigation of the Mississippi; for as much as she was one of the contracting parties to the Treaty of Peace of 1763, and as, by the second article of the definitive Treaty of

Peace, concluded in 1783, that very Treaty was expressly one of those which served as a basis and foundation to that of 1783."

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Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *Aug.* 29, 1795.

MONSIEUR LE DUC: Having had the honor of presenting to you the project of a Treaty of Friendship, of Limits, and of Commerce, and having, at the same time, offered another project, separately, contained in a single article, which tends to cement, still more, the connexions of friendship between the two nations, I must remark to your excellency that, in case you agree to the latter project, it may be substituted in the Treaty instead of the twelve articles, from the fifth to the sixteenth, inclusively, which, in that case, would become useless; but wishing to insert this observation in the Treaty, I take the liberty to inform your excellency thereof, in order to avoid the confusion that would otherwise take place.

With a hope, which I conceive to be founded in the interest of both nations, that this negotiation will speedily terminate to their mutual advantage,

I have the honor to be, &c.,

THOMAS PINCKNEY.

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The Duke of Alcudia to Mr. Pinckney.

SAN ILDEFONSO, *Aug.* 29, 1795.

SIR: I have observed, in yours of this date, the reflection which you have made relative to the project of a Treaty of Friendship, Limits and Commerce, which you delivered to me, and the separate article, at the same time, accompanying it, and coincide with you in the just observation which you have made.

I renew, &c.

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Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *Aug.* 30, 1795.

MONSIEUR LE DUC: I have the honor to address your excellency in favor of an American citizen, named Denabre, captain of the merchant ship Betsey, of Philadelphia, who writes to me from Madrid, that, after having been detained upwards of two years in the pursuit of his claim against the captors of his vessel, and after having obtained a favorable sentence from the tribunal of appeal, who were to judge his process in the last resort, his adversary still sought further delays, by making a representation to His Majesty, requesting that a greater number of judges be appointed for giving definitive judgment. If this representation has been made, I doubt not but your excellency will see it in its true light, and will act so as that that justice, which I am confident His Majesty desires to render, be no longer delayed.

I have the honor to be, &c., &c.,

THOMAS PINCKNEY.

Mr. Pinckney to the Duke of Alcudia.

SAN ILDEFONSO, *September* 3, 1795.

MONSIEUR LE DUC: I have the honor to send you, enclosed herein, the copy of two petitions, presented by the Captain of an American vessel called "The Three Friends," [Los Tres Amigos] to the Marine Tribunal of Santander, in which the circumstances relative to his detention are detailed, and from which, it appears that the captors, notwithstanding his claims, have landed the cargo of the said vessel.

As I am well assured, from what has already taken place on like occasions, that His Majesty will be pleased to cause this vessel and cargo to be restored, I take the liberty of laying these facts before your excellency, not doubting but that you will have the goodness so to act as that this affair be terminated with the least possible expense to all the parties interested.

I shall only add an observation, that the circumstances of this vessel having been found in the possession of Frenchmen, cannot change the case, because she would not have been deemed good prize if she had been carried into France; and even if all the cargo belonged to Frenchmen, it would be restored here, according to the last disposition of His Majesty.

I have the honor to be, &c.

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*Mr. Pinckney to the Prince of Peace.**

SAN ILDEFONSO, *September* 13, 1795.

MONSIEUR LE PRINCE: I have the honor to inform your excellency that the owners of the American vessels, the Rooksby and Greenway, which were carried into the port of Cadiz, in the year 1793, by His Majesty's frigate Santa Cathalinda, have sent an agent to Spain, in order to receive those vessels, which they supposed had been put in complete repair in the royal dock-yards of His Majesty. Your excellency will readily recollect all the circumstances of this affair, by recurring to the letters with which you honored Mr. Short, on the 14th and 24th of October, 1794. The agent of the proprietors has had those vessels surveyed at Cadiz, and the report of the artists states, that there is still sufficient time to repair them, if the work be done before the autumnal rains complete their ruin. This agent is authorized to receive the indemnifications due for the freight of the cargoes of these vessels, and for the expense of their detention; but that which presses most in this case, and on which I beg your excellency to communicate to me the King's determination, is the giving of an order for the commencement of those repairs, as the agent is arrived here at the Sitio, where his expenses are more considerable than he can conveniently afford, and as he assures me that, if the repairs are not begun immediately, it will be useless to undertake them. As to what regards the freight and other demands, I have no doubt but we shall be able to arrange them amicably, at the same time we regulate the principles of several other claims of the same nature.

I have the honor to be, &c.

* Before addressed as the Duke of Alcudia.

The Prince of Peace to Mr. Pinckney.

SAN ILDEFONSO, *September* 15, 1795.

SIR: On observing what you state in the letter of the day before yesterday, on the solicitation of the proprietors of the American vessels, the Rooksby and Greenway, detained at Cadiz since the end of 1793, I assure you, sir, that orders have long ago been given for proceeding, without loss of time, to the repairing and refitting of the said vessels, agreeably to what has been proposed; but without attending to the pretended reclamations, for the reasons mentioned in my letters to Mr. William Short upon this subject.

On this occasion I reiterate to you, &c.

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Mr. Pinckney to the Prince of Peace.

SAN ILDEFONSO, *September* 20, 1795.

MONSIEUR LE PRINCE: Having received orders from the Government of the United States of America to make reclamations to the Court of Spain, in consequence of the capture of several vessels belonging to their citizens, as well by the Spanish ships of war as by their privateers, during the war which has just been terminated, it is my duty to state to your excellency the basis upon which these reclamations are founded. There is no principle more incontestable, or more generally acknowledged, than that which establishes that, when two nations have the misfortune to be at war, the other nations wishing to remain at peace and not to meddle in the quarrel, ought not to meet with any molestation or bad treatment from them; but, on the contrary, that they should be free to go and come, to pursue their commerce and their labor, in the same manner as though the war did not exist; always suspending the plenitude of the exercise of this right in two cases only: the first of which is, not to carry, either to the one or to the other of the belligerant parties, warlike stores. The second, to carry nothing to places besieged or blocked up. With the exception of these two conditions, the war should be null, and as though it did not exist, so far as it respects neutral nations. This doctrine, founded upon reason, and supported by the sentiments of the most enlightened writers, is further established by the express approbation of the commercial nations of Europe, of whom there is scarcely one who has not adopted these principles in their late Treaties, in which they declare the conduct which the contracting parties should hold, in case either should be at war. But the time in which this common sentiment of the majority of the maritime nations manifested itself still more clearly on this subject, was, when maritime conventions were established in 1780, in the first instance, between the Northern Powers, and adopted posteriorly by a decisive plurality of the nations of Europe, and particularly by Spain.

It is this respectable code, dictated by wisdom and moderation, which, by preserving the privileges of those at peace, does not infringe the rights of those at war. This code, whose equitable principles have drawn forth the assent and support of the most respectable Powers of Europe, who also, by their position, as well political as geographical, seemed to have but little interest in it—I mean the Emperor and the King of Prussia, who have solemnly adopted it—this code, in a word, uniting the sentiments of all the nations of the two hemispheres, except a single Power, has placed on a certain basis that which henceforward should be the Law of Nations on this subject. It is this code which I cite for the foundation of the proposition I have to make to your excellency, to wit: that the decisions on the captures of the American vessels which have been brought into ports belonging to His Catholic Majesty by his ships of war or privateers, shall be given according to the principles of the above-mentioned convention, made between the Empress of Russia and the King of Denmark in 1780, and to the principles of which Spain and the United States have since declared their intention of adhering, and that Commissioners shall be named on both sides for determining the reimbursements that may be due on this account. I do not think I can propose to your excellency a more convenient method for terminating all discussion on this subject, than by establishing a rule formally approved of by both nations, who have united in its favor, so remarkable a plurality of the important European Powers—a rule, moreover, conformable to the principles which His Majesty has declared he would follow in the war which has just been terminated, since, in the 14th article of his "*ordenanza de corso*," he has determined to observe the same conduct in this respect, which should be held by his enemies. Now, France has been held, by her Treaty with the United States, to observe these same principles, and she has acted conformably, so that the same rule which the King has already established, is precisely that which I at present claim. If the fact be as our citizens complain, that a considerable number of our vessels have been taken and carried into the ports of His Majesty, (particularly in the West Indies,) when they were occupied in lawful traffic only, where, after a long detention, their cargoes have been carried off by force, without the proprietors, for the most part, knowing whether they were condemned by a court of justice or not; if it be proved that half of the crews of some of these vessels died of the disorders incident to their captivity, those who survived abandoned their vessels and cargoes, rather than face the dangers of so destructive a detention; and if, by the very sentences of the tribunals in the islands, (where the sentences have been communicated to the owners,) it be proved that the acts for which these cargoes have been condemned were not offences against the Law of Nations; I am too well convinced of His Majesty's equity, and of his benevolence towards my nation, one instant to doubt that he will order proper measures to be taken for repairing the wrongs committed under color of his authority. If, on the contrary, these facts do not exist and should not be proved to the satisfaction of the Commissioners named by the King, he will have given a proof of his love of justice, and of his

friendship for the United States, which will cost but little; will put a stop to every complaint in this respect; and do away the necessity of a claim on the part of Government upon each individual case, which would give an infinite deal of trouble to your excellency, and bring with it an endless discussion. I take the liberty of adding here a single reflection, which is founded on what appears to me to be the true interests of Spain on this subject, to wit: that it is expedient for a nation possessing the richest productions in the world, and who, during a war, must necessarily draw great resources from her distant possessions, for a nation whose inhabitants are not generally led by habit, or perhaps by sentiment, to a privateering war, that it is expedient, in a word, for the mistress of the mines of Mexico and Peru, to give the most ample latitude to the rights of neutral nations during a war. It is this sentiment, founded on justice and sound policy, which, doubtless, dictated the adherence of Spain to the principles of the armed neutrality proposed by Russia; and I have no suspicion that, in the present case, she would wish to swerve from it to do an injury to a nation, led equally, from interest and disposition, to rank herself among her best friends.

I have the honor to be, with sentiments of the highest consideration and respect, Monsieur le Duc, your most obedient and very humble servant,

THOMAS PINCKNEY.

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The Prince of Peace to Mr. Pinckney.

SAN ILDEFONSO, *September* 23, 1795.

SIR: I yesterday received yours of the 20th, relative to the orders you have received from the President of the United States, for claiming indemnification for various prizes made by the ships of war and privateers of Spain, particularly in America, and soliciting the naming of persons on both sides, informed of the cases and complaints of the proprietors for determining them according to the principles of the neutrality adopted in the year 1780, by the Northern Powers of Europe and by Spain.

You accompanied the said paper with an additional one, which I did not touch upon on Sunday, when I handed you the project of the Treaty, expecting that this point would be provided for therein.

And, in answer to both cases, I can inform you that, on the same terms as have been determined the American prizes in Europe, since the neutrality of the United States with France, in the present war, has been known, shall be judged the prizes which may have been made in America. But this matter being very different from the system of a Treaty stipulating positive regulations for the future, there is no necessity of including it therein.

I renew, on this occasion, my sincere desires, &c.,

THE PRINCE OF PEACE.

Notes on the project of a Convention proposed by His Excellency the Prince of Peace.

SEPTEMBER 25, 1795.

The preamble of this project appears very convenient, but there would be no impropriety in expressing the appointment of the Plenipotentiary of the United States according to the forms prescribed by their Constitution.

ARTICLE 1.

ART. 2. I think that it would be better to insert six months, instead of one year, for the period in which the garrisons shall retire, because six months may elapse after the signature of the Treaty, before the ratifications are completed, and hence the year which Spain requires for this purpose will be obtained.

ART. 3. The same period of six months may be substituted instead of one year, as in the preceding article, which corresponds with this.

ART. 4. In the ninth line of this article it appears that the word "*anchura*" (breadth) may be substituted for "extension."

In the 11th and 12th lines, the words "*solo et exclusivamente*" (alone and exclusively) should be omitted, for Spain could scarcely confide in the good faith of the United States, nor in this Convention, which she is about to conclude with them, if they agreed to an article which would be an infraction of another Treaty, previously made. Now, by the Treaty of Peace between the United States and Great Britain, concluded in 1783, it is stipulated that the navigation of the river Mississippi shall continue free to the subjects of Great Britain and to the citizens of the United States. It appears that the following provision would have all the desired effect: "It is nevertheless agreed, that nothing contained in this article shall be construed or interpreted to communicate the right of navigating this river to other nations or persons, than to the subjects of His Catholic Majesty, and to the citizens of the United States."

Again, this article is incomplete, and does not fulfil the object of the two parties, which is to avoid all circumstances which might become a cause of the interruption of the good harmony of the two nations; because it does not point out the manner in which this navigation shall be exercised. It is true, that the stipulation of the free navigation carries with it, as of natural consequence, that the persons and effects of the contracting nations cannot be arrested, or subjected to pay any duty for the use of this navigation, and that they are to enjoy all the conveniences on the borders of the river which the Laws of Nations permit; but it could produce no inconveniency to stipulate these points in the same article, by which means every discussion in this respect would be avoided in future. And I think it would also be the interest of His Majesty, in order to do away all suspicion of contraband trade, that a place be assigned for the American vessels, arriving from sea or from the river, to put into, or to touch at, instead of a more diffusive exercise of this right.

SUSPENSION.—Again, as it appears that the Court of Spain desires to establish this convention upon the basis of justice, although, at present, it does not judge proper to enter into commercial arrangements with the United States, I think that, upon this footing, also, M. le Prince will agree, that justice will not be complete without some addition to this article. For I take it for granted, that the right of the United States to the navigation of the Mississippi, and to the limits, has been proved, and that it is incontestable; and I conceive this is deducible from the arguments which have been brought forward on the subject, on the part of the United States, having never been answered; and I am very certain that, if there were reasons capable of refuting them, they would not have escaped the penetration and intelligence of the Minister conducting this negotiation on the part of His Majesty, who would have displayed all the arguments which could be opposed with justice and energy to our pretensions. But his views are too upright to use unfounded arguments. He is also too enlightened to employ weak reasonings, and I am sincerely and fully persuaded that he had no others to produce. The right of the United States, therefore, being established, there is certainly something due to them for the suspension of that right, during a period of twelve years, which has done incalculable injury to the inhabitants of the fertile countries watered by the Mississippi. Under this point of view, then, I conceive I do not demand a thing incompatible with the most rigorous justice, when I make the proposition to cede to us a convenient space of ground for establishing a depôt, where the American vessels coming from sea may discharge their cargoes, with those arriving from the neighboring ports on the river. Besides, Spain having actually seen and considered the reasonings and the equitable basis upon which the pretensions of the United States are founded, as soon after that examination as she was convinced of their solidity, she has said, with a frankness and respect for justice which does her great honor, "We do agree, that the navigation of the Mississippi be common to both nations:" and I am too well assured of the Spanish good faith, to imagine that she wished this declaration to be illusory, without utility and without effect. Now, by the position and singular nature of the Mississippi, its navigation cannot be exercised with advantage by the citizens of the United States, without such a place for unlading their vessels as I wish to have stipulated by this convention; and I doubt not but that His Majesty will agree to it, after having reflected that it is a natural consequence of what is already concluded. Nor do I think it would be well to omit this part of the article under an idea that when we agree to a thing we agree to every matter necessary for its execution, and, consequently, that the Americans will have the right of using the necessary accommodations on this navigation; because I consider, as the principal object of this convention, the termination of everything that may give room for future complaints and disputes, whereas, the indeterminate manner of the use of this navigation would be a fertile source of altercation, which I doubt not but M. le Prince will readily co-operate with me to avoid.

Before I examine the 5th article, it is necessary to remark here, that if the 5th, 6th, 7th, and 8th, and after, the 15th, 16th, and 17th articles of the project which Mr. Pinckney had the honor of proposing, be entirely omitted, without any substitute, then it appears that every stipulation on commercial relations is rejected, and that His Majesty contents himself with doing what appears to him to be just, without wishing to connect more closely the bands of friendship with the United States by means mutually convenient. Mr. Pinckney, however, cannot allow himself to think—such being the dispositions of His Majesty, observing his benevolence for the United States, and the position of the two nations—but that M. le Prince still has some articles relative to commerce to propose. As to what regards an intimate friendship between Spain and the United States, under a political point of view, as relating particularly to those possessions of Spain in America, Mr. Pinckney does not hesitate to say that the advantages which would result therefrom to Spain are incalculable; and as to what regards merely the benefits of the commerce, he will content himself with laying only two circumstances before his excellency, proving that the commerce of the United States is not contemptible. The first is, that the inhabitants of the United States have doubled in the space of twenty years, eight of which have been employed in a war, which having partook of the nature of a civil war, was destructive to population, not only from the rage with which such wars are pursued, but by the emigrations which follow in such cases. Notwithstanding, the population of those States, which, at the commencement of the war in 1775, was under two millions and a half of persons, at this moment amounts to near five millions of inhabitants. The other fact is, that the exports from the United States to foreign countries, for the last year, exceeded in value the sum of thirty-two millions of dollars. A country, therefore, which offers a market consisting of five millions of persons, manufacturing but little for themselves, and which exports to the value of upwards of thirty millions, principally of articles of the first necessity, cannot offer a disadvantageous commerce.

ART. 5. It would seem that a part of this article contains inconveniences which should cause it to be rejected by both parties. The first principle apparently necessary to establish relative to the Indians is, that neither party should meddle in the political affairs of those inhabiting the territory within the limits of the other; and it is especially the interest of Spain to hinder such practices with the great number of Indians inhabiting her territory. But, if it be stipulated by this Convention, "*Que no se depojara ni hechara de sus tierras a dichas naciones*,"* and a war should take place between one of the parties and an Indian nation inhabiting the territory within its limits, that party

* That the said Indian nations shall neither be dispossessed nor driven from their lands.

could not repel such enemies, or drive them from its lands, though they should be the aggressor, without an infraction of the Treaty. The objection to this article originates only in the desire which the United States have to avoid every source of discord with Spain. There is nothing more evident than the care with which the United States have avoided a rupture, under very delicate circumstances. All Europe have witnessed, and Spain ought to be convinced of, the moderation and the wisdom of their Government on this score, with regard to European nations; and as to the Indians I can also with confidence assert that our Government has spared no pains in order to live upon good terms with them, and to render to them every friendly office and succor in its power—having established it as a principle never to take their lands unless it had a title to them as a just indemnification for a war of aggression on the part of the Indians, or unless by a sale voluntarily and publicly made. I am well convinced that His Majesty possesses the same sentiments of justice and benevolence for those nations; but it appears clearly that neither Spain nor the United States should agree that any other foreign Power whatsoever should have the right of meddling in the discussions which might take place between them and the Indians inhabiting their territories.

The last part of this article appears also to require some ulterior explanations.

Art. 6. Agreed to.

Art. 7. to require explanation of the 10th and 11th lines.

Art. 8, 9, 10, and 11. Agreed to.

Art. 12. Here are omitted the 15th, 16th, and 17th articles of the project of Mr. Pinckney.

Art. 13. Here are omitted the 19th, 20th, 21st, 22d, and 23d articles of Mr. Pinckney.

Art. 14 and 15. Agreed to.

Art. 16. Agreed to as far as the last paragraph, beginning with the words "*y los casos*," to which I am opposed; because it would render almost useless everything contained in this and the preceding article; because it is repugnant to the system of the armed neutrality of the last war, which I conceive it is the interest of Spain, as well as of the United States, to support; and because it would give room to perpetual abuse and vexations. I will put a case, which will show the inconveniences of this part of the article. The United States are at war with the Algerines; if this war should not soon terminate, it is probable that the United States will have a squadron in the Mediterranean. In that case, I suppose that Spain would not think it proper that the American ships of war should have the liberty of arresting those of Spain—of putting them out of their course, and of taking part of their cargoes, which they might do under pretext that they stood in need of it.

Art. 20. This article, according to the *projet* of M. le Prince, could not be executed in the United States on account of their Constitution, in which no authority exists giving them the right to cause a person to be arrested unless sufficient testimony be produced for having him brought before the tribunals. Mr. Pinckney, therefore, would not act with good faith were he to consent to the insertion of an article which could be executed in Spain, and not in the United States. And he thinks also that it would be better to form from this article a separate Convention, in which the necessary forms for having arrested and delivered up any person whomsoever, according to the Constitution of the United States, shall be more detailed, and in which M. le Prince might insert the testimony and forms required by the Spanish laws for obtaining the effect desired.

M. le Prince will doubtless find, on reflection, that the term "*malhechores*" (malefactors) is infinitely too vague, as it comprehends every sort of transgression opposed to good morals; and it is also too uncertain, because such an act as would be reputed "*malhecho*" (a bad or criminal action) in one country, or in one age, might not be deemed so in another. As to what regards the effects or property that may be stolen or concealed, and carried into the territories of one of the parties, the following article gives a remedy, and the slaves are comprehended under these descriptions. The reason why the crime of murder is the only one mentioned in the project of Mr. Pinckney is, because it is the only crime appearing to merit the vengeance of Governments, which obliges them to take the trouble of pursuing the fugitives into foreign countries; because the exile which is the consequence of their flight appears to be a punishment sufficient for other crimes, and because by the 22d article they may be deprived of all the property which they may have been able unjustly to carry with them.

Art. 22.

Art. 23. Mr. Pinckney having stated, in a separate memoir, the reasons for inserting here an article as to the captures made by the Spanish privateers during the war just terminated, has nothing further to add to this.

[Enclosures in Mr. Pinckney's dispatch of October 28, 1795—*postea.*]

Mr. Pinckney to the Prince of Peace.

Madrid, *October* 5, 1795.

Monsieur le Prince: Your excellency, by the letter with which you honored me on the 23d ult., having agreed that the captures of the vessels of the United States which shall have been made in America shall be judged according to the same principles by which the prizes made upon the Americans in Europe have been determined since the neutrality of the United States towards France has been known, there only remains, for the accomplishment of the commission with which I am charged by the President of the United States on the subject, to explain what those principles are, and to bring them forth; although it appears to me that this might be done very conveniently by an article in the Treaty which, I hope, we shall soon terminate, as the principal object of this Convention is the termination of the differences which have formerly subsisted. However, as your excellency appeared to have objections to it, I have put those details in the form of a separate Convention, herein enclosed, and I flatter myself that the terms in which it is conceived will be acceded to by your excellency.

The Prince of Peace to Mr. Pinckney.

San Lorenzo, *October* 7, 1795.

Sir: In answer to yours of the 5th current, in reply to mine of the 23d, you say that you suppose the difficulties pointed out therein against the insertion in the present Treaty of an article relative to the captures made on the citizens of the United States during the present war would require a separate Convention, in the terms mentioned. But there is, moreover, opposed to this, the same reasons as those to the insertion of the article. I must add that, as this business will require little explanation when agreed upon, there is no need of multiplying writing for inserting it, and that it will be proper to confine ourselves to the limits of our particular agreement, for whose execution the most clear and positive orders will be communicated.

San Lorenzo, *October* 7, 1795.

The Prince of Peace, in consequence of the conference with Mr. Thomas Pinckney on Friday last, on the Treaty between Spain and the United States, which finally closed the said Treaty, hopes that, if Mr. Thomas Pinckney finds it conformable to his instructions, and to what has been agreed upon, he will sign it when convenient.

Mr. Pinckney to the Prince of Peace.

Madrid, *October* 9, 1795.

M. le Prince: I have had the honor of receiving the project of the Treaty with the last corrections which your excellency has given to it, and I have considered it with all the attention which an instrument apparently of so much importance to my country merits; and I request you to be assured that I have borne in this investigation the most convenient disposition for establishing, upon just and solid bases, a close and sincere friendship between our two nations. It is, therefore, with much regret that I find myself, after the most mature reflection, unable to sign this Convention without its undergoing some alteration, and the principal reason is, that it is not final and conclusive, but refers to ulterior negotiations one of the principal objects of my mission, which is to establish the manner in which the citizens of the United States are to navigate the river Mississippi. I should here remind your excellency that it was in consequence of the representation of the Chargé des Affaires of His Majesty, that the President of the United States thought proper to establish the mission extraordinary which he has confided to me; and the principal reason offered by Mr. Jaudenes in his letter of the 16th of August, 1794, for the adoption of this measure was, that "His Majesty would not enter into any Treaty, unless the powers to the Ministers of the United States were ample, or accompanied with secret instructions having for object to conclude a partial, and not a general, Treaty." After which, he adds, "that Spain is ready to treat upon the points of limits, Indians, commerce, and whatever may conduce to the best friendship between the two countries." Having, therefore, arrived here with the impressions naturally made by these expressions, it is with pain I have received the intelligence which your excellency has given me, that His Majesty would not, under present circumstances, enter into commercial arrangements. But, as Commercial Conventions should be arrangements of mutual convenience, I have the honor of assuring your excellency that the United States would not desire to have any, if the nation with whom they contract does not find a mutual advantage in them; and for that reason I have not been more importunate with your excellency for establishing articles on this subject, which the letter I have just cited appeared to authorize. But this is not the case with respect to what regards the navigation of the river Mississippi, which has been the subject of discussion between the two countries since the peace of 1783, and which, after all that has passed, I think that the United States have a right to expect to be put upon an advantageous footing in this Treaty. I shall not here repeat what I have already had the honor of representing to your excellency in writing and in conversation on this subject—adding only to my note on the 4th article of the project of your excellency references to some authors on the Laws of Nations, proving that we pretend to nothing unauthorized by those laws, even admitting we had no other equitable demands on account of the exclusion from that navigation which we have suffered for twelve years. *V. Grotius de J. B. and P.*, l. 2, c. 2, sec. 13; *Puffendorf*, l. 3, c. 3, sec. 8; *Vattel*, l. 2, sec. 129.

I shall here take the liberty of submitting a paragraph which might be added to the last article of the project of your excellency, and which appears to me of a nature not to encounter any difficulty, and may be regarded as an intermediate mean until His Majesty shall think proper to bring forward the ulterior measures on the subject mentioned in this article—observing, at the same time, that I do not pretend to propose this as an exclusive mean; but that if your excellency should have any other to propose, by which the United States might freely enjoy this navigation without waiting the result of the ulterior measures, which circumstances may still put off for a long time, I shall be much charmed at being able to agree thereto, having nothing more at heart than to terminate this discussion to mutual satisfaction. There are some other points in this project of less importance, but which appear to me susceptible of changes which I shall have the honor of adding, in which I think we shall readily agree.

I expect to go to the Sitio to-morrow, and I shall have the honor of presenting my respects to your excellency at the conference on Sunday, when I hope to receive the determination of your excellency on the subject.

I have the honor to be, &c.

In the fifth article, the word "*offendax*" appears to me too vague and indefinite, and therefore it would be the better to omit it. In the last paragraph of the sixteenth article, for "*la Espana*," should be substituted "*las dos Potencias*," because the two Powers having equally the liberty of arresting the vessels of the other party in case of neutrality, they should be equally held to make compensation; and although the United States do not support a great naval army during peace, I conceive that, in case of a war, they would not want resources of this kind. And in the note which I have already had the honor of presenting on this article, I have detailed a case in which an American squadron, under very probable circumstances of arriving soon, might be able to make use of the right which this article would concede. It appears also that the price of the articles should be fixed in this convention; and as it is only in cases of urgent necessity that the right of taking them will be exercised, that price should be fixed high enough to hinder them from being taken without a real necessity, in which case those who would take them might easily have them also on paying a high price, and the neutral nations would be indemnified for their detention, and for having lost the object of their voyage. Wherefore, I propose that, in lieu of the words "*por tanto de su valor*," there be inserted, "at double the price which these effects cost," which will be proved by the papers relative to the cargoes found on board of the said vessels.

In the seventeenth article, I propose that, instead of "d'Espagne," towards the end of that article, the words "of the belligerant Power," be inserted; and that, instead of the last words, beginning with "Lino," there be inserted, "if it shall not be proved that they truly belong to the subjects or citizens of the contracting Power which shall be neutral."

In article twenty-first, I propose to change the following words: instead of "S. M. Catolica," insert "the two Powers;" and instead of "concedara," "shall mutually give on both sides to the commerce between the two nations."

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Mr. Pinckney to the Prince of Peace.

San Lorenzo, *October* 11, 1795.

Monseigneur le Prince: If I have rightly understood what you did me the honor to say to me at the conference to-day on the subject of my letter of the 9th current, that you could not agree to add what I proposed to you in the last article of the project of the Treaty of your excellency, because, that proposition being naturally temporary, and liable to be changed as soon as the ulterior measures brought into question in the last article shall have been taken, you did not think proper to insert it in a Treaty whose articles are of a permanent nature; but that you would agree to propose to His Majesty, and to support the proposition, that, by a separate instrument, the accommodation of a depôt at New Orleans, which I proposed shall be agreed on, and that, in the same instrument, we may also insert the arrangements relative to the prizes made upon the Americans during the war lately terminated; having, therefore, reflected on this proposition, I have the honor to reply, that, although I do not see, under the same point of view as your excellency, the objection made to the insertion of a temporary article in the same Treaty with other permanent arrangements, since it has generally been practised hitherto, yet the regard I have for your excellency's opinion, and my sincere desire of rendering the arrangements we are treating of as agreeable to Spain as may be compatible with my duty, lead me to acquiesce in this matter, provided that the latter convention be of the same force, and executed at the same time as the principal Treaty; and the better to explain my intentions hereon, I take the liberty of sending, herein enclosed, the project of two separate articles for the latter instrument, such as I can sign, and as, I doubt not, your excellency will find reasonable.

Mr. Pinckney proposes that the following be added to the last article of the project of M. le Prince: 1st. And that, in the meanwhile, the citizens of the United States shall have liberty to carry their produce and merchandise to New Orleans, and there to lodge them in stores, to which there shall be two keys, one of which shall be kept by His Majesty's custom-house officer, and the other by the proprietor, and that they be permitted to import the said effects whenever they think proper, in vessels of the United States, without paying custom-house or any other duties, except the ordinary and reasonable price for the hire of the said stores.

2d. His Catholic Majesty having, by his "ordenanza de corso," dated the 1st of May, authorized his vessels of war and privateers to bring into the ports of his domains the vessels of neutral nations, laden with merchandises belonging to his enemies, and to detain them until it should appear whether the enemy nation, to which those merchandises should belong, would not refuse, but, on the contrary, allow the same privilege, "observing the conduct which it has held, and will hold towards Spain, requiring a reciprocal treatment on her part:"

And whereas a Treaty subsists between the United States of America and France, by which the conduct of the two nations is to be governed when one of them is at war; and it further appearing that the French have observed the stipulations of that Treaty with regard to Spain during the war which has just been terminated: His Catholic Majesty, in consequence, has agreed with the said United States of America, that all the vessels belonging to the citizens of the said States, which shall have been brought into the ports of Spain, as well in Europe as in the dominions of Spain in other parts of the world, shall be judged according to the stipulations contained in the said Treaty; and that there shall be two Commissioners appointed on the part of each nation, immediately after the ratification of this convention, who shall determine whether, according to the said Treaty, there is any right to indemnity, and who, in that case, shall fix the

sum to be restored, which His Catholic Majesty shall cause to be paid, without delay, to the injured party; and, in case of disagreement of the said Commissioners, they shall choose by common consent, (if they can agree in the choice, if not, by lot,) a fifth Commissioner, and a majority of votes of these five shall finally determine the question, and without appeal.

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The Prince of Peace to Mr. Pinckney.

San Lorenzo, *Oct.* 12, 1795.

Sir: In answer to yours of yesterday, with the two articles referred to our conference for to-morrow, the one relative to the mode in which you wish the effects of the citizens of the United States navigating the Mississippi should be deposited at New Orleans; the other for regulating the prizes made during the present war, I can assure you that His Majesty, by a very particular grace, and as a proof of his liberality, will permit the citizens of the United States to deposite their effects in the custom-house at New Orleans, on paying the storage duties to which his own subjects are subjected: but without having the two keys you mention, because this, besides being entirely novel, is also contrary to confidence and good faith. As to what respects the point of prizes, I cannot add anything not already contained in my former official letters, since His Majesty will never admit this matter to be included in a Treaty or Convention.

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Mr. Pinckney to the Prince of Peace.

San Lorenzo, *Oct.* 16, 1795.

M. le Prince: On considering the letters which your excellency has written and what you have done me the honor to say to me in conversation, in reply to the representations which I have made relative to the vessels which have been taken by the ships of war of Spain during the war, it appears clearly that we agree upon the principles which ought to determine this business, since the verbal convention which you made with Mr. Short, "That Spain will observe in the determination the same conduct towards you which is prescribed by the Treaty of Commerce between France and the United States," is so much the more satisfactory, as your excellency, by your letter of 23d of September, extends this principle to all the vessels of the United States which have been taken during the war as well in the American seas as in those of Europe. What at present appears to me necessary is to put it in my power to send to the President of the United States the result of the claims which I have had the honor to make in virtue of my commission on this subject, and to agree upon arrangements for giving effect to these principles. With this view I have the honor to propose that your excellency communicate to me officially the determination of His Majesty on the subject, and that the principles being thus stipulated, Commissioners be named on both sides for ascertaining the damages which may be due to the citizens of the United States according to those principles.

The Prince of Peace to Mr. Pinckney.

San Lorenzo, *Oct.* 18, 1795.

Sir: You refer me, in your letter of the 15th instant, to mine of the 23d ultimo, for what I have said on the mode in which the captures of the vessels of the United States, lately made in America, shall be judged, and to my verbal conversation, on this point, both with you and Mr. Short; and you suppose that we perfectly agreed thereon, and that we might conclude upon a rule of procedure conformably to the principles adopted. But, from the same context of my letter already mentioned, is to be clearly inferred the distinction of two epochs; the one from the beginning of the war until the 6th of April, when His Majesty ordered the vessels of the United States to be treated in the same manner as those of France; and the other from the 6th of last April until the present time. The captures made within the first, must be judged according to the marine ordinance, (ordenanza de corso,) and the general orders communicated at the time; and the vessels which may have been detained since the first of April, in the present year, shall be treated in the same manner as those which were then brought from the coast of Cantarabia.

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Mr. Pinckney to the Prince of Peace.

San Lorenzo, *Oct.* 20, 1795.

Monseigneur le Prince: I am mortified on finding, by the letter with which you honored me on the 18th, that your excellency proposes to divide the war, which has just been terminated, into two epochs, and that the American vessels which have been detained by those of Spain, during that war, should be differently treated, according to the time at which they were taken; as it seems to me that that justice which should govern the conduct of nations towards neutral flags is always the same, and ought not to be liable to the variations of time or circumstances. It is very clear that the United States were as much neutral and as friendly to Spain at the beginning of the war as after the 1st of April last, and that consequently they should expect similar treatment at both epochs. That which is at least certain is, that, at all times, they ought to be treated according to the Laws of Nations, and I conceive I have proved very clearly what those laws are on this subject in my official letter of the 20th of September last; and, in order to avoid repetitions, I take the liberty of requesting your excellency to recur to that letter for the reasons upon which our claims are founded. As I do not know what are the general orders mentioned by your excellency, which were given before the 1st of August, 1795, I cannot answer that the United States will be contented with the determinations founded on them. If they are conformable to the armed neutrality of 1780, to which Spain and the United States have declared their adhesion, the United States will have nothing to say against them; but if they were formed upon the supposition that France was not a legitimate Power, the Laws of Nations cannot take place in cases respecting the

commerce with that nation, and the United States would not consent to a proposition which would do so much wrong to a friendly and ally Power, which would sacrifice the honor of her flag and the property of their citizens, when they were occupied in lawful commerce: but, in order to avoid all discussion on a subject rather delicate, I have the honor to subjoin to this some specific propositions, founded upon justice and the Laws of Nations, as now established by the consent of a great majority of the nations of Europe, and adopted by Spain herself, which are, that no vessel of the United States, which has been detained by the subjects of His Catholic Majesty since the commencement of the war, can be deemed good prize, unless she carry articles which are contraband of war, to the enemies of Spain, or unless she be intercepted in endeavoring to enter a port inimical to Spain, which was blockaded, having been previously informed of the blockade; that, in order to determine what shall be deemed a blockade, this denomination is confined to that only where, by the disposition of the Power making the attack, the arrested vessels were sufficiently near to cause an evident danger of their entering.

That, for determining what should be deemed contraband of war, nothing ought to be acknowledged such, except the merchandises comprised under that denomination in the 24th article of the Treaty made between Spain and England on the 23d of May, 1667, or in the 24th article between France and the United States, concluded in 1778.

That His Catholic Majesty shall cause to be restored all the vessels belonging to the citizens of the United States with their cargoes, which have been taken in this war, except those which come within the above-mentioned case, with the damages due for their detention and other losses, and if it be impossible to restore them at present, that His Majesty cause to be paid to the owners the amount of their just value.

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The Prince of Peace to Mr. Pinckney.

San Lorenzo, *Oct.* 20, 1795.

Sir: Informed by yours of yesterday of the objection made to the addition proposed to be made to the last article of the Treaty relative to the permission given by His Catholic Majesty to the citizens of the United States, for three years, to deposite their merchandises at New Orleans, I repeat to you what I have already said, that I cannot vary it in the least; observing, however, that in the interval, His Majesty will have examined the medium through which the navigation may increase the commerce of his subjects, and of the citizens of the United States.

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The Prince of Peace to Mr. Pinckney.

San Lorenzo, *Oct.* 22, 1795.

Sir: Observing by yours of the 20th current, that you do not agree to the distinction made in mine of the 18th instant, of the epochs relative to the detention of the vessels of the United States since the beginning of the war between Spain and France, lately terminated, you refer to what you expressed on the subject in yours of the 20th September last, and conclude by repeating that all detentions of the said vessels should be decided agreeably to the principles which you lay down as most consonant to the interests of the States, and conformable to the laws of nations. Without waiting to prove to you the modifications which, according to the same Laws of Nations, those principles are susceptible of, I only inform you that the vessels, detained before the 1st of April, must be judged like all those of the other Powers, according to the marine ordinance (ordenanza de corso) of the 1st of May, 1794, in general the United States as well as all others, until the special exception in their favor, verified on the 6th of April last, by just considerations, towards France. This is the reason why they should be judged according to the said ordinance until the epoch mentioned, from which time there is no given case; seeing that, from the moment of their detention, the vessels have been liberated; and, for the same cause, I conceive every proposition superfluous, which is not conformable to the said ordinance, and I shall not subscribe to any.

I hope you will entirely agree with me in opinion, as I cannot conclude the Treaty until this point be fully settled.

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Mr. Pinckney to the Prince of Peace.

San Lorenzo, *October* 23, 1795.

M. le Prince: The propositions which I had the honor to communicate to you in my letter of the 20th current having been formed upon principles already recognised by Spain and by the United States, I thought it the best mode for determining all discussion on the subject; for it appears clear, that where there is a difference of opinion between two independent Powers, it is a happy circumstance if they can have recourse to principles already admitted by both parties, without the one being obliged to give up his opinion, or to sacrifice his rights to the other. With this impression, I have the honor of repeating to you that I cannot agree to any proposition which does not contain substantially what I proposed to your excellency in my former representations.

I take the liberty of observing, here, that your excellency does not appear to have received correct information as to the immediate liberation of the American vessels, taken since the 6th of April last, as, out of the five carried into Santander, for which I presented a claim, to wit: the Liberty, of New York; the Maria, of Boston; the Providence, of Philadelphia; the Abigail, of New York; and the Three Friends, of Salem. The Liberty was detained one hundred and ten days; the Three Friends was detained at the departure of the last post; and the three others put to sea without a part of their cargoes, which your excellency had ordered to be restored, although I know that the officers of the marine, at

that place, have received positive orders from your excellency for the restitution of the said vessels and effects.

As to what concerns the Treaty, I agree with your excellency that it would not be convenient to your excellency or myself to sign it until we have agreed relative to the vessels; and I can add that, even then, I cannot sign, unless the manner of navigating the river Mississippi, by the citizens of the United States, be regulated upon the principles of some one of the propositions which I have had the honor of making to you.

I have the honor to be, &c.

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Mr. Pinckney to the Prince of Peace.

San Lorenzo, *October* 24, 1795.

M. le Prince: Important affairs demanding my return to England, I shall have the honor to take leave of their Majesties, as we have agreed, to-morrow; and I take the liberty of requesting you to have the usual passports expedited for my journey. Wishing to enter France by the way of Perpignan, I am desirous, also, of taking the route of Valencia and Barcelona, and shall be charmed to execute the orders with which your excellency may be pleased to honor me for any place on the road. I embrace this opportunity of testifying to your excellency my acknowledgments for the marks of good will, and for all the friendly offices, received from you during my stay here, and I pray you to accept the sentiments of respect and high consideration, with which I have the honor to be, &c.

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The Prince of Peace to Mr. Pinckney.

San Lorenzo, *October* 28, 1795.

Sir: In consequence of having yesterday signed with you a Treaty of Friendship, Limits, and Navigation, between the King my Lord and the United States of America, and of the information lately received from the Governor of Louisiana, stating that the Governor of the Natchez had advanced to occupy the post of the Baraneas of Margot, comprehended within our ancient limits, and that some inhabitants of Kentucky, and of the neighboring States also, intended taking possession, His Majesty has commanded the said Governor to suspend all hostility, in case any shall have been committed on his part, or on that of the citizens of the United States, leaving matters in the situation in which they may be on the receipt of the order until the ratification of the Treaty. And he most sincerely enjoins all the military officers of the two Floridas to maintain perfect harmony with the commanders of the troops of the United States on those frontiers, as His Majesty wishes that the said Treaty may eradicate every motive of dispute which has hitherto existed, and that it will more and more strengthen the reciprocal friendship of both countries, not doubting but you will communicate every thing, without loss of time, to the President of the United States, that he may expedite similar orders for preventing every kind of inconvenience on both sides, and perhaps an effusion of blood, now as useless as repugnant to humanity.

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Treaty of Amity, Limits, and Navigation.

Art. 1.

Art. 2. This agrees with our proper boundary.

Art. 3. The instructions do not mention this, but I thought it might prevent disputes in future, and would have an immediate good effect with the Indians.

Art. 4. The wording of the latter part of this article seemed objectionable, and various alterations were proposed. It required much contest to obtain any alteration from the mode first proposed by Spain, whose doubts were principally founded on a jealousy of our letting in others. The substance, however, appears to me not disadvantageous, when considered as connected with the provision in the twenty-first article, and the wording fully authorized by my instructions.

Art. 5. This article occupied much time, and great prejudices were to be removed. The only part, as it now stands, which may appear objectionable, is the kind of defensive alliance we herein make with Spain against our respective Indians; and as the case was new, and the instructions not pointed on this head, I wished other modifications more for the sake of further investigation than from an opinion of disadvantage resulting from it: for, it appears to me, under our present and probable future circumstances, to be a beneficial stipulation.

Art. 6. Taken from the 7th of Prussia, with a small addition at the end, which appears to be not objectionable.

Art. 7. The first part taken from the 16th of Prussia; the latter part I added, because I considered it a good stipulation in all situations, but particularly so in Spain.

Art. 8. Taken from the 19th of France.

Art. 9. 16th of France.

Art. 10. 9th of Prussia—the last paragraph omitted.

Art. 11. 13th of Prussia—omitting the last paragraph.

Art. 12. 12th of France.

Art. 13. 20th of France.

Art. 14. 21st of France.

Art. 15. 23d of France.

Art. 16. From the 24th of France to the last paragraph, on which the greatest dissension prevailed. This conclusion is, however, the result of a composition, which I hope will not have a bad effect.

Art. 17. From the 25th of France to the last paragraph. The same remark may be made on this paragraph as was applied to the last article. It may, however, be remarked, that it is evidently to our advantage, that every precaution should be taken to prevent abuses against which this article is directed; even in this war great injury has been done to the confidence which should be reposed in the sanction of our flag, from its having

been assumed by others; and, I am sorry to add, from unjustifiable conduct in some of our citizens.

Art. 18. From the 27th of France. This being the last of the articles relating to the neutral rights, I will here make an observation which is applicable to all this class; which is, that every stipulation in favor of these rights has appeared to be thought, by the Spanish Cabinet, a concession in favor of America. I think I have proved to the Minister, most clearly, that the amplest freedom given to neutral commerce is consonant to the true interests of Spain, but I have had almost as much trouble to obtain these stipulations as to settle other points, wherein their immediate interests were not so clear. And, after all, they are not exactly as I could wish.

Art. 19. As no commercial arrangements were made in this Treaty, this was all that could be said concerning Consuls.

Art. 20. This article appears favorable to us.

Art. 21. The part of this article which relates to our accommodation on the Mississippi, occasioned the greatest difficulty. It was our difference upon this point, and that of the spoliations, which occasioned me to ask for my passports; and the only words of warmth which have passed between the Prince de la Paz and myself, were on the subject of this article. And, on my part, I assure you, they were merely confined to repelling an expression in that line. Upon the whole, the personal conduct of the Minister to me has been perfectly satisfactory. By this article, we are insured a permanent depôt at New Orleans, or another equivalent establishment, which I hope will prove of real utility. If good faith is observed, it certainly will, and without good faith, any article which could be inserted in a Treaty would be nugatory.

Art. 22. The written correspondence will, in part, show the various ways in which I endeavored to arrange this business. The proposal of the British principle of accommodation came from the Spanish negotiator, and was urged upon strong grounds. I trust, however, that this is, upon the whole, better than the British arrangement. There was, at first, a rooted repugnance here to insert this and the preceding article in the Treaty, in which objection the national pride seemed most concerned.

Art. 23. The time assigned for the exchange of the ratifications was made so short, because I knew the Senate would be assembled at the time when this Treaty may be expected to arrive, and because some stipulations beneficial to us cannot be executed till after this exchange.

Mr. Pinckney to Mr. Randolph.

San Lorenzo, *Oct.* 28, 1795.

Dear Sir: I herewith send to you a Treaty which I have just signed conjointly with the Prince de la Paz, His Catholic Majesty's first Minister and Plenipotentiary for negotiating this business. The stipulations which it contains have been formed to the best of my judgment, in conformity to my instructions, and where they left a latitude to the negotiator, according to what I conceived the interest of our country; and I sincerely believe them to be placed on the most advantageous footing which we could, at this time, obtain by friendly negotiation. I enclose copies of the written correspondence which passed between the Minister and myself, since my letter of the 30th of September, which covered our written negotiation to that time. These will throw some light on points in the Treaty which may require it, and render it unnecessary for me to give you a long detail of the oral part of the negotiation, which was frequent, diffuse, and extensive. I, however, took care to bring forward the written documents herewith which relate to the most material points. I can safely say that, if the Treaty be defective, it has not originated in want of assiduity. You will observe by my note of the 24th of October, that I found the difficulties of such an accommodation as I could accede to were so insuperable that I had asked for my passports to return. This may illustrate the difficulties I had to encounter, and the prejudices to be removed, which it requires some knowledge of the national character fully to conceive. The peace concluded between this country and France, and the pacific disposition (at least exteriorly) exhibited to Spain by the British Cabinet, added to our critical situation with the last Power, rendered this negotiation more difficult than it might otherwise have been. With respect to commercial arrangements, you will find that, in the outset of the negotiation, I endeavored strenuously to urge a close connexion; but finding the mind of the Minister completely made up on this point, and that he advanced reasons for delaying arrangements of this nature, which appeared to me to be founded on the true interests of Spain, connected with views to other nations at this juncture, I have lately ceased to insist on this subject; besides which, I believe they wish to reserve the commercial advantages they can offer as the equivalent for a guarantee of their American possessions.

I am informed by the Secretary of State here, that he has lately received advice, that a party of ours having advanced to the Muscle Shoals, on the Tennessee, and threatening to take possession of an advantageous post called the Barancas de Margot, the Spanish Commandant had sent a party to occupy that post; but the Minister assures me that he has sent orders to the commanding officer in the Floridas to abstain from all hostile operations.

I purpose setting out on my return in a few days. Mr. Charles Rutledge will remain here as Chargé des Affaires, by appointment of Mr. Short. I mentioned him to you in my letter of the 30th September, and I now enclose an extract from that letter, which concerns him, lest the first may have miscarried.

I am, my dear sir, with esteem, your faithful and obedient servant,

THOMAS PINCKNEY.

Treaty between the United States and Spain.

His Catholic Majesty and the United States of America desiring to consolidate on a permanent basis the friendship and good correspondence which happily prevails between the two parties, have determined to establish, by a Convention, several points, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention His Catholic Majesty has appointed the Most Excellent Lord Don Manuel de Godoy and Alvarez de Faria, Rios, Sanchez, Zarzosa, Prince de la Paz, Duke de la Alcudia, Lord of the Soto de Roma and of the State of Albala, Grandee of Spain of the first class, Perpetual Regidor of the city of Santiago, Knight of the illustrious order of the Golden Fleece and Great Cross of the royal and distinguished Spanish order of Charles III, Commander of Valencia del Ventoso, Rivera, and Accuchal in that of Santiago, Knight and Great Cross of the religious order of St. John, Counsellor of State, First Secretary of State and Despatcho, Secretary to the Queen, Superintendent General of the posts and highways, Protector of the Royal Academy of the Noble Arts and of the Royal Societies of Natural History, Botany, Chemistry, and Astronomy, Gentleman of the King's Chamber in employment, Captain General of his Armies, Inspector and Major of the Royal Corps of Body Guards, &c., &c., &c.; and the President of the United States, with the advice and consent of their Senate, has appointed Thomas Pinckney, a citizen of the United States, and their Envoy Extraordinary to His Catholic Majesty. And the said Plenipotentiaries have agreed upon and concluded the following articles:

Articles 1. There shall be a firm and inviolable peace and sincere friendship between His Catholic Majesty, his successors and subjects, and the United States and their citizens, without exception of persons or places.

Art. 2. To prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed as follows, to wit: the Southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi at the northernmost part of the thirty-first degree of latitude North of the equator, which from thence shall be drawn due East to the middle of the river Apalachicola, or Chatahoochee; thence along the middle thereof to its junction with the Flint; thence straight to the head of St. Mary's river; and thence down the middle thereof to the Atlantic Ocean. And it is agreed that, if there should be any troops, garrisons, or settlements of either party in the territory of the other, according to the above-mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this Treaty, or sooner if possible; and that they shall be permitted to take with them all the goods and effects which they possess.

Art. 3. In order to carry the preceding article into effect, one Commissioner and one Surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein. And, if on any account, it should be found necessary that the said Commissioners and Surveyors should be accompanied by guards, they shall be furnished in equal proportions by the commanding officer of His Majesty's troops in the two Floridas, and the commanding officer of the troops of the United States in their Southwestern territory, who shall act by common consent and amicably, as well with respect to this point, as to the furnishing of provisions and instruments, and making every other arrangement which may be necessary or useful for the execution of this article.

Art. 4. It is likewise agreed that the Western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the Northern boundary of the said States to the completion of the thirty-first degree of latitude North of the equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth, from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention.

Art. 5. The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of His Catholic Majesty, or his Indians, in any manner whatever. And whereas several Treaties of friendship exist between the two contracting parties and the said nations of Indians, it is hereby agreed that, in future, no Treaty of Alliance, or other whatever, (except Treaties of Peace,) shall be made by either party with the Indians living within the boundary of the other, but both parties will endeavor to make the advantages of the Indian trade common and mutually beneficial to their respective subjects and citizens, observing in all things the most complete reciprocity; so that both parties may obtain the advantages ari-

sing from a good understanding with the said nations, without being subject to the expense which they have hitherto occasioned.

Art. 6. Each party shall endeavor, by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land, and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects which have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the Power whose subjects have taken possession of the said effects.

Art. 7. And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other, for any military expedition, or other public or private purpose whatever. And in all cases of seizure, detention, or arrest, for debts contracted, or offences committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors, as they may judge proper in all their affairs, and in all their trials at law in which they may be concerned before the tribunals of the other party, and such agents shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in the said trials.

Art. 8. In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbor, to retreat and enter into any of the rivers, bays, roads, or ports, belonging to the other party, they shall be received and treated with all humanity, and enjoy all favor, protection, and help; and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals, and all things needful for the sustenance of their persons, or reparation of their ships and prosecution of their voyage; and they shall no ways be hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

Art. 9. All ships and merchandise of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either State, and shall be delivered to the custody of the officers of that port, in order to be taken care of and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

Art. 10. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts, or within the dominion of the other, their respective subjects or citizens shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case: and if the operations of repair would require that the whole or any part of the cargo be unladen, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away.

Art. 11. The citizens and subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other by testament, donation, or otherwise, and their representatives, being subjects or citizens of the other party, shall succeed to their said personal goods, whether by testament, or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representatives, such care shall be taken of the said goods as would be taken of the goods of a native in like cases, until the lawful owner may take measures for receiving them. And if question shall arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would by the laws of the land descend on a citizen or subject of the other were he not disqualified by being an alien, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of detraction on the part of the Government of the respective States.

Art. 12. The merchant ships of either of the parties which shall be making into a port belonging to the enemy of the other party, and concerning whose voyage and the species of goods on board her there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports and havens, not only her passports, but likewise certificates expressly showing that her goods are not of the number of those which have been prohibited as contraband.

Art. 13. For the better promoting of commerce on both sides, it is agreed that, if a war shall break out between the said two nations, one year after the proclamation of war shall be allowed to the merchants in the cities and towns where they shall live for collecting and transporting their goods and merchandises; and if anything be taken from them, or any injury be done them, within that term by either party, or the people or subjects of either, full satisfaction shall be made for the same by the Government.

Art. 14. No subject of his Catholic Majesty shall apply for or take any commission or letters of marque for arming any ship or ships, to act as privateers against the said United States, or against

the citizens, people, or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any Prince or State with which the said United States shall be at war.

Nor shall any citizen, subject, or inhabitant of the said United States apply for, or take any commission or letters of marque for arming any ship or ships, to act as privateers against the subjects of His Catholic Majesty, or the property of any of them, from any Prince or State with which the said King shall be at war. And if any person of either nation shall take such commissions or letters of marque, he shall be punished as a pirate.

Art. 15. It shall be lawful for all and singular the subjects of His Catholic Majesty, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port, to the places of those who now are, or hereafter shall be, at enmity with His Catholic Majesty or the United States. It shall be likewise lawful for the subjects and inhabitants aforesaid to sail, with the ships and merchandises aforementioned, and to trade with the same liberty and security, from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince or under several; and it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed free and exempt, which shall be found on board the ships belonging to the subjects of either of the contracting parties, although the whole lading or any part thereof, should appertain to the enemies of either: contraband goods being always excepted. It is also agreed, that the same liberty be extended to persons who are on board a free ship, so that, although they be enemies to either party, they shall not be made prisoners or taken out of that free ship, unless they are soldiers, and in actual service of the enemies.

Art. 16. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended arms, great guns, bombs with the fuses, and the other things belonging to them, cannon ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades, saltpetre, muskets, musket ball, bucklers, helmets, breastplates, coats of mail, and the like kinds of arms, proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow, shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other materials whatever, all kinds of wearing apparel, together with all species whereof they are used to be made; gold and silver as well coined as uncoined, tin, iron, latten, copper, brass, coals; as also wheat barley, and oats, and any other kind of corn and pulse; tobacco, and likewise all manner of spices, salted and smoked flesh, salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salts, and, in general, all provisions which serve for the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloths, anchors, and any parts of anchors; also ships, masts, planks, and wood of all kinds, and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument prepared for war, by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any other use; all which shall be wholly reckoned among free goods; as likewise all other merchandises and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods; so that they may be transported and carried in the freest manner by the subjects of both parties, even to places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested. And except the cases in which any ship of war or squadron shall, in consequence of storms or other accidents at sea, be under the necessity of taking the cargo of any trading vessel or vessels, in which case they may stop the said vessel or vessels, and furnish themselves with necessaries, giving a receipt, in order that the Power to whom the said ship of war belongs, may pay for the articles so taken, according to the price thereof at the port to which they may appear to have been destined by the ship's papers; and the two contracting parties engage that the vessels shall not be detained longer than may be absolutely necessary for their said ships to supply themselves with necessaries; that they will immediately pay the value of the receipts, and indemnify the proprietor for all losses which he may have sustained in consequence of such transaction.

Art. 17. To the end that all manner of dissensions and quarrels may be avoided and prevented, on one side and the other, it is agreed that, in case either of the parties hereto should be engaged in a war, the ships and vessels belonging to the subjects or people of the other party must be furnished with sea letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties; which passport shall be made out and granted according to the form annexed to this Treaty. They shall likewise be recalled every year, that is, if the ship happens to return home within the space of a year. It is likewise agreed that such ships, being laden, are to be provided, not only with passports, as above mentioned, but also with certificates, containing the several particulars of the cargo, the place whence the ship sailed, that so it may be known whether

any forbidden or contraband goods be on board the same; which certificate shall be made out by the officers of the place whence the ship sailed, in the accustomed form; and if any one should think it fit or advisable to express in the said certificates the person to whom the goods on board belong, he may freely do so; without which requisites they may be sent to one of the ports of the other contracting party, and adjudged by the competent tribunal, according to what is above set forth, that all the circumstances of this omission having been well examined, they shall be adjudged to be legal prizes, unless they shall give legal satisfaction of their property by testimony entirely equivalent.

Art. 18. If the ships of the said subjects, people, or inhabitants of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war of the other, or by any privateer, the said ship of war or privateer, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship which they shall so meet with, and may enter her, to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passports concerning the property of the ship, made out according to the form inserted in this present Treaty; and the ship, when she shall have showed such passport, shall be free, and at liberty to pursue her voyage, so as it shall not be lawful to molest or give her chase in any manner, or force her to quit her intended course.

Art. 19. Consuls shall be reciprocally established, with the privileges and powers which those of the most favored nations enjoy in the ports where their Consuls reside, or are permitted to be.

Art. 20. It is also agreed that the inhabitants of the territories of each party shall, respectively, have free access to the Courts of Justice of the other, and they shall be permitted to prosecute suits for the recovery of their properties, the payment of their debts, and for obtaining satisfaction for the damages which they may have sustained, whether the persons whom they may sue be subjects or citizens of the country in which they may be found, or any other persons whatsoever who may have taken refuge therein; and the proceedings and sentences of the said Courts shall be the same as if the contending parties had been subjects or citizens of the said country.

Art. 21. In order to terminate all differences, on account of the losses sustained by the citizens of the United States, in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of Commissioners, to be appointed in the following manner: His Catholic Majesty shall name one Commissioner, and the President of the United States, by and with the advice and consent of their Senate, shall appoint another, and the said two Commissioners shall agree on the choice of a third, or, if they cannot agree so, they shall each propose one person, and of the two names so proposed, one shall be drawn, by lot, in the presence of the two original Commissioners, and the person whose name shall be so drawn shall be the third Commissioner; and the three Commissioners so appointed, shall be sworn impartially to examine and decide the claims in question, according to the merits of the several cases, and to justice, equity, and the Laws of Nations. The said Commissioners shall meet and sit at Philadelphia; and in the case of the death, sickness, or necessary absence of any such Commissioner, his place shall be supplied in the same manner as he was first appointed, and the new Commissioner shall take the same oaths, and do the same duties. They shall receive all complaints and applications authorized by this article, during eighteen months from the day on which they shall assemble. They shall have power to examine all such persons as come before them, on oath or affirmation, touching the complaints in question, and also to receive in evidence all written testimony, authenticated in such manner as they shall think proper to require or admit. The award of the said Commissioners, or any two of them, shall be final and conclusive, both as to the justice of the claim and the amount of the sum to be paid to the claimants; and His Catholic Majesty undertakes to cause the same to be paid in specie, without deduction, at such times and places, and under such conditions as shall be awarded by the said Commissioners.

Art. 22. The two high contracting parties, hoping that the good correspondence and friendship which happily reigns between them will be further increased by this Treaty, and that it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favor which the advantages of both countries may require.

And in consequence of the stipulations contained in the fourth article, His Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposite their merchandises and effects in the port of New Orleans, and to export them from thence, without paying any other duty than a fair price for the hire of the stores; and His Majesty promises, either to continue this permission, if he finds, during that time, that it is not prejudicial to the interests of Spain, or, if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment.

Art. 23. The present Treaty shall not be in force until ratified by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the underwritten Plenipotentiaries of His Catholic Majesty and of the United States of America, have signed this present Treaty of Friendship, Limits, and Navigation, and have thereunto affixed our seals, respectively.

Done at San Lorenzo el Real, this twenty-seventh day of October, one thousand seven hundred and ninety-five.

THOMAS PINCKNEY, [L. S.]
EL PRINCIPE DE LA PAZ, [L. S.]

SITES FOR ARSENALS.

Report of the Secretary of War, on the measures which have been pursued to obtain proper sites for Arsenals; which is respectfully submitted to the House of Representatives of the United States.

It having been determined to erect one arsenal on the Potomac, and another in South Carolina; the latter in a situation to and from which water transportation would be afforded, and the former in the vicinity of a number of iron works; the necessary orders were given, in the year 1794, for exploring both countries. The agent employed on the former, reported, in the same year, in favor of a situation about twenty-five miles below the Blue Ridge, where a number of circumstances invited the establishment. In an undertaking, however, of such importance and permanency, it was deemed expedient to make another examination. This was done last Spring. The engineer employed, pursuant to his instructions, reported the situation of various places where it would be practicable to erect the necessary works and magazines, with their respective advantages and disadvantages; and at what prices they could probably be obtained. These were all extremely high, and one far exceeded the whole appropriation for all the arsenals proposed to be erected. For this reason, another place, comprehending several lots of land, had the preference, and the requisite negotiations were begun for making the purchases. Before these were concluded, the attention of the Executive was called to another situation on the Potomac, possessing, with some difficulties to be encountered, apparently many important advantages. The engineer was again instructed to examine this place, from whence he has lately returned. The American gentleman, well acquainted with the country, and who assisted him in this examination, was to have transmitted a survey of the place referred to, and of the adjacent waters, on which the engineer's report would be completed. The survey has not yet been received, and the determination of the Executive is consequently suspended.

The engineer employed, for the like purpose, in South Carolina, made a report, which was received early in the last Summer. He had explored that part of the country to which his attention had been directed by the Executive. He also examined another. The latter, independent of its being in a more healthful situation, was deemed by him to possess some other advantages over the former. However, he proposed to visit the Seat of Government, and personally explain his ideas of the subject. This visit was waited for, but not made: no decision has consequently been taken on his report.

The prices of lands and mill-seats (for the latter must be comprehended in the plan of an arsenal) so far exceeded those upon which the calculations were made, when the plan of erecting arsenals was projected, and rose so rapidly soon after, it is now found that the whole appropriation, for the three or four arsenals which the Executive was authorized by law to erect, would be inadequate for a single new establishment. Hence the principal object, in the measures pursued during the last Summer, was to ascertain and secure the most eligible site on the Potomac, where magazines could be erected, and certain military stores be collected and safely deposited; and where, afterwards, the works necessary in the formation of all the implements of war, might be erected, as the requisite funds could be provided.

In a country where such establishments are unknown, and where the actual state of things admits of a suspension of some of them, consistently with the public safety, it would seem expedient to make an experiment with one, in a central position. The obvious principles of economy recommend this caution, and the avoiding of defects likely to appear in a first attempt, and the probability of solid improvements which experience would suggest, in a second, strongly enforce it.

Springfield, in the State of Massachusetts, was at once fixed on as a proper situation for the arsenal to be established in the Eastern division of the States. Magazines for military stores had been formerly erected at that place. Some additional buildings have been made, and a number of workmen collected for the purpose of repairing and manufacturing small arms. The former has been executed, and the latter commenced.

TIMOTHY PICKERING.

Department of War, *Dec.* 12, 1795.

MILITARY STORES.

Report of the Secretary of War, on the measures which have been taken to replenish the Magazines with Military Stores.

In respect to some of the most essential articles, the stock on hand is respectable; and as to others, the magazines are now not ill supplied.

A contract has been made for a large quantity of saltpetre; and probably it is now on its way from India. This important article may, however, be obtained in the Western parts of the United States. The fact is ascertained. Forty or fifty tons have been brought from those parts to Philadelphia for sale; and it is said that several hundred tons might be procured, in the same way, in the course of the next Summer, if needed.

To increase the stock of small arms, and to render serviceable those already in the public stores, two sets of armorers have been employed, to wit, at Springfield, in Massachusetts, and at New London, in Virginia, in repairing arms, and preparing to manufacture the most essential parts of muskets; and some specimens have been produced which prove their capacity to equal, in that article, the manufacture of any country in the world. All the arms in the magazines in Philadelphia have been repaired; with some thousands at West Point, where the residue are now repairing.

In addition to these sources of supply—besides two thousand rifles which have been purchased—contracts have been made, and are executing, for

seven thousand muskets, to be manufactured in the United States. The present period may be deemed an unfavorable one to carry on such manufactures, on account of the high price of labor. Nevertheless, it seemed important to secure the services of the manufacturers, when they might be of the highest necessity, by continuing to furnish them employment. Such muskets as are manufactured are after the model of the French arms, which compose by far the greatest part of those in our magazines. For this reason, and because they are preferable to those of any other nation known in the United States, it was apparently inexpedient to make an importation of arms from Europe, seeing a supply was not to be expected from France, and the situation of the United States not rendering the measure of an immediate importation indispensable.

The casting of cannon has not been attended hitherto with the expected success. The foundries which formerly succeeded very well in the casting of small guns, were not well adapted to the casting of 24 and 32-pounders. A French gentleman, of some knowledge and experience in cannon foundries, has lately been employed to amend the process of casting, and to improve the machinery for boring; and there is room to hope that his projected improvements will be realized. Nevertheless, in an undertaking so important, and at the same time so expensive, it was desirable to obtain, if possible, a complete cannon founder; and, from the information received, it seemed probable that one might be procured from one of the first foundries in Europe. Measures for that purpose have accordingly been taken.

All which is respectfully submitted to the House of Representatives of the United States.

TIMOTHY PICKERING.

DEPARTMENT OF WAR, *Dec.* 12, 1795.

FORTIFICATIONS.

Report from the Department of War, relative to the Fortifications of the Ports and Harbors of the United States.

Portland, in the District of Maine.—The works consist of a fort, a citadel, a battery for ten pieces of cannon, an artillery store, a guard House, an air furnace for heating shot, and a covered way from the fort to the battery.

The works are substantially executed, except the covered way; to complete this (the earth on the spot being of a bad quality) with the necessary supports of stones and sods, is estimated at four hundred dollars. Leveling the earth round the works, fencing the land pertaining to them, a pump for the well, painting the wood work, and rendering the whole perfectly complete; the estimate is four hundred and seventy-one dollars: in the whole, eight hundred and seventy-one dollars.

Portsmouth, New Hampshire.—The works consist of a fort, a citadel, an artillery store, and a reverberatory furnace. These are all completed excepting a little carpenter's work, suspended to let the wood season, and which may cost about fifty dollars. But a small and unforeseen expense must be incurred for a drain to carry the water from the magazine, and may cost one hundred dollars.

Gloucester, Cape Ann.—The works consist of a battery and a citadel. These are completed. But to inclose the fort towards the town, the cost is estimated at one thousand four hundred dollars. This, however, may be postponed till circumstances require it to be done.

Salem.—The works, consisting of a fort and a citadel, have been erected. A gate remains to be made, and some repairs to the walls.

Marblehead.—A battery and a citadel have been erected. Any other works may be suspended until circumstances shall change.

Newport, Rhode Island.—For the defence of this harbor there have been erected on Goat Island a fort, a citadel, and an air furnace. The excellence and importance of this harbor in the time of war, recommend a further expenditure to render the defence complete. To finish the fort, erect an artillery store, and make a covered way round it, as in a regular fortification, the expense is estimated at about six thousand dollars.

There has also been erected a citadel on Tammany Hill, back of the town of Newport, for the protection of its inhabitants; and a battery and guard-house at Howland's Ferry, at the northern end of the island, to keep open a communication with the main in case of an invasion. But to secure effectually this communication, a citadel should be erected on Butt's Hill, that position commanding Howland's Ferry and Bristol Ferry. The cost of it is estimated at eighteen hundred dollars.

New London.—The works consist of a fort and citadel on the Groton side of the harbor, and of a fort, a citadel, and an air furnace on the New London side. They remain incomplete. Under present circumstances a small expenditure may be proper merely to preserve what has been done.

New York.—Governor's Island has been fortified with a fort made of earth, and two batteries under its protection, partly lined with brick masonry, two air-furnaces, a large powder magazine, and barrack for the garrison; the whole completed.

Philadelphia.—A large pier, as the foundation for a battery on a sand-bar opposite Mud Island, to make a cross fire, has been completed. A fort on Mud Island is about half done, and a citadel has been erected. To complete the fort, and on a plan much more circumscribed than was at first projected, the expense is estimated at fifteen thousand dollars.

Wilmington, Delaware.—Nothing has been done. The project of erecting a fort there has been abandoned as useless.

Baltimore.—A battery and barracks have been constructed, and some guns are mounted.

Annapolis.—Some progress had been made in the construction of a fort and battery, and a barrack has been erected. But an examination of the works by an engineer, other than the one first employed, produced an unfavorable report of the plan and of the works, and under actual circumstances, induced a relinquishment of them.

Alexandria.—A similar report as to the plan and situation of the work at this place, induced a like relinquishment.

Norfolk.—Two forts intended to cross their fire are erected on the opposite sides of the harbor. The one on the Norfolk side, with barracks and a powder magazine, is completed. The other, Fort Neilson, on the Portsmouth side, is very far advanced, and a powder magazine has been erected. The principal work remaining to be done is opening of seven embrasures, completing one ditch of three hundred and sixty feet long, completing the glacis, and removing the earth from within side of the fort, where it is two feet and a half too high. The expense of doing this, and completing the fortification, may be estimated at five thousand dollars.

Ocracock, North Carolina.—The defence proposed was to erect a fort on Beacon Island. The foundation was laid in 1794. The situation is so far removed (about ninety miles) from any inhabitants, and so exposes any works to injuries from storms, that nothing but an impending or actual war would seem to authorize the construction of a fort there, and furnishing it with a proper garrison.

Wilmington, North Carolina.—The battery on the whole front of the fort has been completed, and a barrack and powder magazine have been erected.

Georgetown, South Carolina.—A battery was begun, and materials collected, when the work was suspended, the owner of the land previously desiring to ascertain the terms on which it was to be occupied for the fortification, and for the road of communication with it. The unhealthiness of the situation, and other circumstances, authorize an abandonment of the work until war, actual or impending, shall require it to be resumed.

Charleston, South Carolina.—The work planned for Sullivan's Island, of which the foundation only was laid in 1794, being on a scale supposed too extensive for the funds destined to this service, was directed to be left as it was. For the same reason, a new work proposed by the engineer, on a point on the opposite side of the harbor from Fort Johnson, was not attempted. A battery has been erected in the town by the mechanics.

There remained only Fort Johnson, on which directions were given to make such repairs as would preserve the works already constructed, and render them serviceable. The engineer omitted the work. The officer in command at the fort has undertaken to make the necessary repairs for the works and barracks; and his intelligence and experience leave no room to doubt but these will be done.

Savannah, Georgia.—The work consists of a battery, at present destined only for six guns, made of timber filled with earth, enclosed behind with pickets, with a guard-house for the garrison, which were in train to be completed early in the last autumn.

St. Mary's, Georgia.—The work consists of a battery made of timber filled with earth, enclosed with pickets. By the personal report of the superintendent, it must have been completed.

General Remark.—The few ports of the highest importance to the commerce of the United States, in situations to demand, for their security, fortifications of such kinds and extent as cannot suddenly be erected, prudence may require to have fortified in time of peace, and with durable materials.

TIMOTHY PICKERING.

WAR OFFICE, *January* 16, 1796.

A statement of the progress in providing materials for the frigates, and in building them.

If the frigates had been constructed with the timber at hand, in the several places where they were destined to be built, they might by this time have been completed. But the design of rendering them permanently useful having determined the Executive to have them constructed with live oak and cedar, the measures deemed necessary and adequate to the procuring of those materials were taken during the last year. The common and easy acquisition of those articles for the ordinary service of the merchants, forbade any apprehensions of extraordinary difficulty in procuring the same for the frigates. But in the experiment it has been found, that timber of the lengths and sizes necessary for frigates, was greatly dispersed, and grew generally in places difficult of access, and required extraordinary means of transportation to the landing. The natural difficulties of the country have been increased by unusual quantities of rain. Ship carpenters were sent from the Northern States to the islands, bearing the live oak, and employed during the last winter in cutting and hewing the timber: but the climate deterred them from staying to prosecute their work; so that three men only capable of selecting the proper timber, and moulding it in the requisite forms, have been prevailed upon to remain. These, with negro laborers, have continued the work, and are still employed. With these, however, it was judged practicable to procure the whole of the live oak timber by the month of May, 1796. Such was the report of an intelligent agent employed in Georgia during the last winter, and who has now returned thither to superintend, and, as far as possible, to expedite the operations.

Upon this report, made in June last, it was judged eligible to concentrate the efforts that were making to furnish the yards with live oak timber, and accordingly orders were given to accumulate, at two of the yards, so much of it as would be necessary to complete two frigates by the ensuing Spring. But before these orders could reach the manager, several vessels were despatched to different yards; and one was cast away and her cargo lost. Some difficulty occur-

ring in procuring proper vessels to transport the timber, several of those which had made one voyage having encountered such hardships and sickness as to be deterred from making a second.

Nevertheless, under all these embarrassments, the work is continued, and with the well grounded expectation, before expressed, that all the live oak timber will be cut and transported to the different ship yards, at furthest, by the next midsummer.

Details of the quantities of timber and other materials already provided, and of the progress in building, will appear in the annexed schedules. The live oak and white oak timber mentioned, are generally or wholly moulded and dressed, and ready for raising.

Since draughting the foregoing report, a letter has been received from the chief carpenter employed in procuring timber in Georgia, presenting a very favorable account of his progress. Two vessels laden with live oak had recently sailed for the two yards of Philadelphia and Baltimore, and the rest of the timber to complete the frames of the frigates building at those places, was cut, and ready to be shipped. These were the two frigates, which, as before mentioned, it was proposed first to finish. The chief carpenter adds that if he is furnished with vessels fit for the service, he will have all the timber in the six yards in the month of May next, excepting the knees, all of which he thinks cannot be got of live oak. The agent who engages the vessels for transporting the timber has no doubt of procuring timely all that will be wanted for the service.

Sail cloth has been provided for one suit of sails for each of the frigates. It was contracted for and manufactured in the United States in the year 1794. It has been proposed to procure one kind of foreign cloth, of a superior quality, for the second suit; but the purchase has been suspended to avoid an expenditure of money until it could be ascertained at what time the cloth would actually be wanted to equip the frigates. For the like reason, no more hemp has been purchased than will be required for the cordage of the two frigates, the building of which it was intended to advance in preference to the others, and which it was then hoped would be constructed by the close of the next Spring. For the same cause the number of anchors which will eventually be required, remains incomplete.

All which is respectfully submitted to the House of Representatives of the United States.

TIMOTHY PICKERING.

DEPARTMENT OF WAR, *Dec* 12, 1795.

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Statement of the progress made in building a frigate at Philadelphia to carry 44 guns, under the direction of Mr. Joshua Humphreys, Naval Constructor, and Captain John Barry, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is complete and ready for raising; about two-thirds of the live oak for the frame is received, nearly all of which is worked agreeable to the moulds, and many of the frames are together, and bolted, and ready to put into the ship; two-thirds of the plank for outside and ceiling, are received, and about one-third for the wales; the remainder is nearly ready. The beams for the orlop deck are all procured and worked, and many of the upper deck beams are likewise worked, and the remainder are expected to arrive daily; a large quantity of live oak knees have arrived for the security of the decks, and pieces for combings for the hatchways, partners for the masts and several other purposes are ready. The masts, bowsprit, yards, and the other spars are procured, several of which are received. The copper necessary for securing the various parts of the ship, and for sheathing the bottom, is in the public stores. The iron work is now preparing and ready for delivery as fast as it is wanted. The boiler for boiling the white oak plank in salt water, to render it durable in the greatest possible proportion to live oak, is completed. All the anchors are procured, and the hemp for the cables and materials is now spinning and preparing. All the canvass necessary for one suit of sails is in the public stores. The blocks for the rigging are manufacturing, and a great part are ready for delivery. Kentledge for ballast is all cast and delivered. A contract for the trennails has been made, and next month appointed for delivery. Bunting for the colors is on hand, and a great number of smaller articles for the hull, rigging, and equipping the ship, are stored in the public stores.

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Statement of the progress made in building a frigate to carry 44 guns, at New York, under the direction of Mr. Foreman Cheeseman, Naval Constructor, and Captain Silas Talbot, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is not yet complete; several transoms are wanting; about one quarter of the live oak timbers for the frame of the ship are arrived, all of which are worked to the moulds. Timber for the gun deck and lower deck beams are received, and the plank for those decks is ready. The copper and trennails are all in the public stores. The plank for the outside of the ship as well as the ceiling, are nearly all cut; great part are put into the sea water to draw out the sap and to season them. The carlings, ledges, combings for the hatchways and bits, are sawing in the yards. The masts, bowsprit, yards, and spars, are procured and ready for finishing. The kentledge for ballast is all cast and delivered, and the iron work for the hull and materials is now in hand, and the articles, when finished, are placed in the public stores. All the necessary contracts are entered into by the agent, and the articles are daily arriving.

N. B. A large schooner with live oak, bound to New York, was unfortunately lost on Cape Hatteras, and every part of the cargo lost. On board of this schooner were many of the principal pieces of timber necessary for the frame.

Statement of the progress made in building a frigate to carry 44 guns, at Boston, under the direction of Mr. George Claghorne, Naval Constructor, and Captain Samuel Nicholson, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is now completing, and will be soon ready to raise. The stem is also putting together, every part being worked to the moulds. About two thirds of the live oak timbers have been received, and are all worked agreeable to the moulds; great part of those timbers are bolted together in frames, and are ready to put into the ship; but some of the principal pieces for the frame have not yet arrived. All the gun deck and lower deck beams are procured and are ready for delivery, and the plank for those decks are received into the yard. The plank for outside and ceiling are also received and are now seasoning. The copper is all in the public stores. The masts, bowsprit, yards, and other spars, are all ready for working. The bits for the cables, combings for the hatchways, partners for the masts, are all ready. The caboose with a forge, hearth, armorer's tools, spare coppers, boilers, &c., are all complete; most of the iron work is in great forwardness; all the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

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Statement of the progress made in building a frigate to carry 44 guns, at Norfolk, under the direction of Mr. Josiah Fox, Naval Constructor, and Captain Richard Dale, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is complete and ready for raising; more than two-thirds of the live oak for the frame is arrived, which is worked to the various moulds; great part of the timbers are bolted together in frames, and are ready for raising. The gun deck and lower deck beams are all finished and are ready to put into the ship; the plank for the decks is not yet arrived. The outside plank, as likewise the ceiling, are preparing, and some parts have been delivered; all the copper necessary for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The keelsons, and midship deadwoods, are complete. The masts, bowsprit, yards, and all the other spars, are cut, and several of them are received at the yard. The carlings, ledges, combings for the hatchways, and the partners for the masts, are now in hand. The iron work for the hull and materials is nearly ready. The caboose, with a forge, hearth, armorer's tools, spare coppers, boilers, &c., are complete. All the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

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Statement of the progress made in building a frigate to carry 36 guns, at Baltimore, under the direction of Mr. David Stoddert, Naval Constructor, and Captain Thomas Truxtun, Superintendent.

The keel is complete and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is not quite complete. Near two thirds of the live oak timber for framing the ship is arrived; great part of which is worked to the various moulds, and some part bolted together in frames, and is ready to go into the ship. The beams for gun deck and lower deck are received, and are put to season. The plank for some of the decks is in the yard, and ready for laying: most of the plank for outside and ceiling is ready and in the yard. The copper for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The masts, bowsprit, yards, and all the other spars, are cut, and ready to be delivered. The boats are building; and the bits for the cables, combings for the hatchways, carlings, ledges, and partners for the masts, are getting out. The principal part of the iron work is done for the hull, and materials, and all the necessary contracts are entered into by the agents, and the stores contracted for are daily arriving.

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Statement of the progress made in building a frigate to carry 36 guns, at Portsmouth, New Hampshire, under the direction of Mr. James Hacket, Naval Constructor, and Captain James Seaver, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is nearly ready for raising; the principal framing of the body of the ship is not yet complete. About two-thirds of the live oak timber have been delivered into the yard, which is nearly all worked to the moulds; great part of the timbers are bolted together in frames, and are ready to go into their proper places. The beams for the gun deck and lower deck are ready, as well as the carlings and ledges for framing the decks; and the plank for those decks are also procured, and great part are in the yard. The outside plank and the wales are all cut, and will be ready in a few weeks, as is the ceiling; great part of the plank is already received into the yard, and is now seasoning. All the copper necessary for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The masts, bowsprit, yards, and the other spars, are delivered by the contractors. The bits for the cables, combings for the hatchways, partners for the masts, are all received and trimmed. Most of the iron work is in great forwardness; and all the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

MINT OF THE UNITED STATES.

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DEPARTMENT OF STATE,
December 14, 1795.

SIR: By the direction of the President of the United States, I have the honor to enclose, to be laid before the House of Representatives, the reports of the late and present Director of the Mint,

exhibiting the state of that establishment, and showing the necessity of some further Legislative provisions to render it more efficient and secure.

I am, most respectfully, sir, your obedient servant,

TIMOTHY PICKERING.

The SPEAKER *of the House of Reps. of the United States.*

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Henry William de Saussure's report on the Mint.

MINT OFFICE, *October* 27, 1795.

DEAR SIR: The law establishing this office having placed it more immediately under your guidance, I deem it a duty to lay a state of its past operations and actual situation before you at the moment of my resigning its direction. The enclosed document, marked A, will show the quantity of copper which has been coined and sent into circulation from the Mint. The whole of this coinage was accomplished by my predecessor, Mr. Rittenhouse. The enclosed documents, marked B and C, will show the quantity of the precious metals which have been worked up and coined, partly under the direction of Mr Rittenhouse, and partly under mine—the gold wholly under mine.

It may possibly appear to those who have not taken pains to inform themselves of the difficulties to be encountered in the formation of new establishments, that little has been done; but a short review of the embarrassments which occurred, will show that as much has been done as could reasonably be expected in the infancy of this establishment. In the first instance, it was exceedingly difficult to procure workmen, in any degree acquainted with the various kinds of work to be performed. Indeed, most of the workmen have been formed in the Mint, and have only recently attained that skill and facility in their several walks which practice alone can give, but which is essential to the despatch of business. Much difficulty occurred in obtaining the very tools and implements necessary for the operations of the Mint; and most of them have been prepared under the immediate direction of the officers, and particularly Mr. Voight, the Coiner.

Great delays were incurred in obtaining the heavy iron work, particularly the rollers; and these were not always fit for use, when obtained. Those which are now in use being almost worn out, I have been striving in vain to replace them with the fine Andover iron.

One unsuccessful attempt has been made for us at an air furnace; and it yet remains to be tried, if it can be accomplished without recurring to the tedious and expensive method of making them of wrought iron, converted into steel.

More than once, as I have been informed, the operations have been suspended for want of dies, which the industry of the engraver could not supply fast enough for the presses. A happier selection of steel, aided by more skill in hardening the dies, has remedied this evil, and the engraver is now enabled to supply the Mint with dies of every kind in advance. To these causes of delay must be added, that the greatest part of the bullion which has been brought to the Mint for coinage has been below our standard, and required the tedious operation of refining; or the precious metals have been brought melted up together, and required the more tedious operation of separation—operations which I understand are never performed at any other Mint, and which the diminutive scale on which ours is formed but illy qualified it to perform. These are some of the difficulties which occurred. Most of them had been vanquished by the judgment of my able and very respectable predecessor, whose mechanical genius and powers of calculation seem to have been essential to the organization of the establishment. The remainder I have endeavored to subdue; and I am now free to say that the Mint, even on its present contracted scale, if regularly supplied with the precious metals, of the legal standard, will be adequate to the coinage of $1,500,000 annually in silver, and as much in gold; and that a small increase of the labor and expense will produce an addition of as much of the copper coinage as will be requisite for the use of this country. I venture this assurance upon my view of its operations upon a late deposite of silver, vigorously urged for a few weeks. The gold coinage was carried on at the same time, to a small amount, and might have been to a much larger, if there had been any bullion in a state fit for coinage. All the gold, and almost all the silver, within a mere trifle, in a state actually fit for immediate coinage, has been coined and delivered.

It will be proper for me to state to you what I have before stated to the late Secretary of State and the present Secretary of the Treasury, that there is no copper in the Mint fit for coinage. There are, indeed, considerable quantities of clippings of the copper which are reducible into ingots, and would, when rolled, be fit for use; but the Mint is so illy prepared for these operations on that metal, whilst occupied in the coinage of the precious metals, that it would be advisable for the Government to apply these clippings, and some other masses of copper in possession of the Mint, to some other purposes, and to exchange therefor some of the sheet-copper it possesses, or to purchase sheet-copper for the coinage. The price of copper having risen considerably, from causes which it is said will be operative for some length of time, if not permanently, it has been suggested that it would be useful to diminish the weight of the cent, as the copper would thereby be brought nearer to its proportionate value to silver, and might prevent its being worked up by the coppersmiths. The law seems to have contemplated the possibility of such an arrangement being proper, by giving you the power to make the alteration.

It is important to inform you of what I have before mentioned to the Heads of Departments above-named, that the standard of silver coin, in use at the Mint, differs from the standard fixed by law. The law establishing the Mint, fixes that the silver coinage should contain 1,485 parts of fine silver to 179 parts alloy; or ten ounces, fourteen pennyweights, five grains, of fine silver, to one ounce, five pennyweights, nineteen grains, alloy.

Before any operations commenced under this law, it was supposed, by the best informed men, that this standard was too low—would debase the coin too much—and was inconvenient in other respects; and it was presumed that an alteration would be made, which was recommended by its propriety and correctness. The alteration contemplated went to the establishment of a standard which required that nine parts in ten should be fine silver, the other tenth alloy; or ten ounces, sixteen pennyweights fine, to one ounce, four pennyweights alloy, in the pound troy. Upon the presumption of such an alteration, I understand the coinage was commenced in October, 1794, and the matter was submitted in the winter to a committee of Congress, who reported on the propriety of the alteration. By some means, that part of the report on the Mint which related to the standard, after passing one branch of the Legislature, did not pass the other. Still, however, the coinage was continued on the principle it was commenced. It being represented to me, when, soon after my coming into office, I observed the fact, that some mistake alone had prevented the change by the Legislature, I did not feel myself qualified to alter the standard which I found in use in the Mint, under the weighty sanctions of Mr. Rittenhouse's authority, and the report of a committee of the Legislature. I am thus particular in stating this business, as it is of high importance that the law should be altered, or that the standard should be accommodated to the law.

Permit me, sir, to suggest the necessity of protecting the laws for the coinage. I understand that none of the laws of Congress have provided any penalties for the various offences which may be committed against the coinage. In most countries strict laws are enacted, prohibiting the interference of individuals in this attribute of sovereignty; and in some, the very possession of dies or presses, or other implements essential in the coinage, is made criminal. In this country, Mints are said to be boldly erected in Baltimore and elsewhere, professedly to imitate the coins of foreign countries, and to furnish a debased gold coin for the West India markets; and much of the gold bullion which would be brought to the National Mint is carried to these private establishments, which degrade our national character. Encouraged by this negligence of Government, men have carried their ideas further; and there is but too much reason to fear that a recent attempt on the dies and other implements was made with nefarious views.

Amongst the unpleasant circumstances which attend the contracted scale on which the Mint has been erected, there is one of very serious import. The owner of a small lot adjoining the Mint has a right of passage through the interior of the lots of the Mint. This exposes the works to improper intrusion, and prevents that complete control over the workmen which is essential to the well-ordering of the business. A small sum of money would have purchased that lot some time ago. I believe it may still be had reasonably.

I feel it a duty to warn the Government of the propriety of putting itself in a situation to replace the Assayer, if that measure should become necessary. The time of his engagement with Mr. Pinckney has almost expired, and he is forming works, in connexion with other persons, for carrying on business on his private account. Probably he may not choose to remain in the public service at the expiration of that time. Possibly it might be inexpedient to allow the Assayer of the Mint to be connected in the works which bear some relation to the coinage, or to the preparation of the metals for coinage—at least some check should be provided.

Permit me to suggest that it might be useful to publish a short statement of the operations of the Mint, and of its actual prepared state to carry on the coinage of the precious metals to a considerable amount. It might satisfy the public mind, and might also lead to the production of considerable quantities of bullion, which are said to be in the hands of individuals in the United States, who are unadvised of the facility and certainty with which they may now have bullion coined.

I must intreat your pardon for intruding so long on your time. It appeared to me important to lay this information before you.

I am now prepared to deliver up the direction of the Mint to my successor. It only remains for me to thank you, in all sincerity, for your confidence in the unsolicited bestowal of this office on me, and to assure you that I have endeavored to deserve it. Allow me to hope that you will be persuaded that I am, sir, with the truest and most affectionate attachment and respect, your obedient servant,

HENRY WM. DE SAUSSURE.

The PRESIDENT *of the United States.*

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The DIRECTOR OF THE MINT, in obedience to the President's commands, makes the following Report relative to the Mint of the United States, hoping that the short time of one month which he has had to make himself acquainted with the present state of it, will apologize for any inaccuracies that appear therein:

On entering on this service, the Director found that the united exertions of the several officers had been engaged to complete as many coins of the precious metals as circumstances would permit, by which the state of their accounts relative to deposites had been delayed. It became a prudent measure, on the part of the new Director, and one absolutely necessary to the future conducting the department with propriety, to insist on an immediate close of all accounts relative to the precious metals, from the first establishment of the Mint.

The many difficulties attending this process put a stop to any further coinage, excepting as to what was then in hand. The accounts of those metals are now nearly brought up, and in a few days will be finished.

Every previous step was preparing for a vigorous and systematic renewal of the coinage, when the sudden and unexpected death of the Assayer, (Mr. Albion Cox,) on Friday last, by an apoplectic fit, deprived the Mint of an intelligent officer, essentially necessary to the future progress in the coin-

age of the precious metals. Until this officer is replaced, the business at the Mint must be confined to striking cents only.

The Director has endeavored to avail himself of the temporary cessation of full business to prepare a system of rules for conducting the Mint in future, in all its branches, which shall be reported to the President in a few days, and which will be hereafter carried into execution, if it should meet with the President's approbation. Future experience will improve it, by such additions and alterations as practice will discover to be necessary.

The issues of the Mint, from its first establishment to this day, as collected from the Register kept for that purpose, consist of—

Eagles	2,795
Half-eagles	8,707
Dollars	204,791
Half-dollars	323,144
Half-dimes	86,416
Cents	1,066,033
Half-cents	142,534
Total in dollars	453,541 80

There are not, to the knowledge of the Director, any protecting laws yet enacted, securing the coinage by proper penalties against those (other than persons concerned in the Mint) who may counterfeit, debase, clip, or otherwise lessen the value thereof, with intent to defraud.

The interference of individuals with so necessary a branch of the Executive Government as that of coining money, by setting up coining-presses for imitating foreign coins, should be prevented by law, if either the national honor or the success of the Mint are to be objects of public attention. The one is injured in foreigners being imposed upon by an imitation of foreign coins of a reduced weight, and perhaps wanting in standard purity; the other may be deprived of all the bullion thus wrought up at these irregular presses.

The stealing of the dies, hubs, milling-stamps, screws, presses, or other instruments used in the coinage, as well as the taking, receiving, adulterating, or secreting the metals kept in or belonging to the Mint, call for special provision from the Legislature of the United States. The Director is sorry to say that these observations are justified by facts that have already happened at the Mint. The laws of the several States are not particularly adapted to these objects, so as to guard against these evils—a Mint never having been taken into their contemplation.

This opportunity ought not to be lost, of urging the propriety of prohibitory laws against any persons concerned in the Mint, either as an officer or workman, being engaged directly or indirectly in buying or selling of bullion, gold, or silver, or a mixture of either with other metals, on his or their private account. The checks provided for security against imposition will be in vain, if the property of the precious metals assayed and coined at the Mint may be vested in the persons who have the charge thereof, in its passage through the Mint.

The same reasoning will equally show the impropriety of any officer or workman engaged in the Mint being allowed, by himself or in company with others, to be concerned, directly or indirectly, in the works of a similar nature on their private account, or in any such works wherein metals are melted, refined, rolled, or otherwise prepared, so as to be fit for coining.

To remedy some of these evils, it would be a measure highly advantageous to the United States, and very beneficial to depositors, if some proper person was authorized to purchase, on public account, all small quantities of silver and gold brought to the Mint, at the best market price, to be coined for the public Treasury.

It has been the opinion of former officers of the Mint that the legal standard for silver should be reconsidered; and the Director, on coming into office, found that, for some special reasons, the standard of coins heretofore completed varied in a small degree from that established by law. Whatever force those reasons may have with the Legislature, the Director did not think himself justifiable in permitting so important a measure to be continued without the Legislative sanction. He has therefore issued orders that, in future, the precise terms of the act of Congress in this respect should be observed; but as the coinage is at present in a state of suspense, it may be a proper time to review the alloy directed by law, as the alteration, if found necessary, could now be adopted without injury to any one.

The act of Congress directs that the alloy of gold shall be of silver and copper, not exceeding half silver. The practice at the Mint has been to form the alloy of copper, with the smallest portion of silver, so as barely to comply with the words of the law. The silver contained in the alloy is an entire loss to everybody, without answering the least valuable purpose. It is said not to mix so intimately and freely with gold as copper does, neither will it equally add to the hardness of the coin; at the same time it is a heavy increase of the annual expenses of the Mint. This regulation of part silver in the alloy of gold, it is said, may be repealed with great propriety.

These appear to the Director to be the principal points relative to the Mint, demanding the President's immediate attention. As to the practice in detail, whatever has been found by experience to need checks or alterations, and has come to the Director's knowledge, and which he could remedy without troubling the President, he has endeavored to incorporate into the system of rules hereinbefore referred to.

All which are respectfully submitted.

ELIAS BOUDINOT, *Director.*

MINT OF THE UNITED STATES,
December 3, 1795.

A.—A statement of the species and value of copper coin delivered at sundry times by the Chief Coiner of the Mint, to September 30, 1794, as appears by the books of the Treasurer of the Mint.

Cents	908,012
Half-cents	116,934
Value in dollars	9,664 79

B.—A statement of the species and value of silver coins delivered by the Chief Coiner of the Mint, from October 15, 1794, to October 24, 1795, inclusive, as appears by the books of the Treasurer of the Mint.

From October 15, 1794, to June 30, 1795	$68,169
From July 1, 1795, to October 24, 1795	136,622
Total	204,791
Half-dollars	323,144
Half-dimes	20,856
Do.	31,660
Total	52,516
Value in dollars	468,988 80

C.—A statement of the species and value of gold coins delivered by the Chief Coiner of the Mint, from July 31 to October 24, 1795, inclusive, as appears by the books of the Treasurer of the Mint.

Eagles	1,884
Half-eagles	8,707
Value in dollars	62,375

SEAT OF GOVERNMENT.

To the Honorable Congress of the United States of America:

The Memorial of the Commissioners appointed by the President of the United States, by virtue of an act, entitled, "An act for establishing the temporary and permanent Seat of the Government of the United States," respectfully sheweth:

That the President of the United States, by virtue of the act above-mentioned, appointed three Commissioners, for the purposes declared in the said act, and in an act to amend the same, passed at Philadelphia in the year 1791, who, under his direction did cause to be surveyed, and by proper metes and bounds defined and limited, a district of territory ten miles square, on both sides of Potomac river, including the towns of Alexandria, in Virginia, and Georgetown, in Maryland, for the permanent Seat of the Government of the United States: that the proprietors of all the lands within the following bounds—that is to say, beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence along the middle of the said road to a stone standing on the east side of Reedy branch of Goose creek; thence southeasterly, making an angle of sixty-one degrees and twenty minutes, with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern branch ferry; thence south to a stone eighty poles north of the east and west line drawn from the mouth of Goose creek to the Eastern branch; thence with the waters of the Eastern branch, Potomac river, and Rock creek, to the beginning, have conveyed the same to trustees for a Federal City, to be laid out with such streets, squares, parcels, and lots, as the President of the United States should approve; the streets and squares to be the property of the United States solely, and the lots to be equally divided between the granters and the United States. That the State of Virginia has paid one hundred and twenty thousand dollars, which had been previously offered by an act of the Legislature on condition that Congress would establish the permanent Seat of Government on the banks of the Potomac, to be applied, under the direction of the President of the United States, towards erecting the necessary buildings for the Federal Government; and that the State of Maryland hath paid seventy-two thousand dollars for the same purpose. That the Commissioners, in order to secure proper materials for the public buildings, directed by the act above mentioned, at reasonable rates, and to facilitate the carriage thereof, proceeded to purchase quarries of freestone; to build wharves and bridges; and to open such roads and canals as were deemed necessary for these purposes; which having accomplished, they commenced building of the Capitol and President's house, and have made considerable progress therein. The Commissioners considering that an increase of houses would induce settlers in the city, and thereby contribute much to the accommodation of Congress and the advancement of trade and manufactures, did, in the month of December, 1793, enter into a contract with two gentlemen for the sale of six thousand lots, at the low rate of eighty dollars per lot, payable in seven annual instalments, the purchasers obliging themselves to erect one hundred and forty convenient brick dwelling houses, each covering one thousand two hundred square feet, before the year 1800; and, engaging further, that all sales made by them previous to the year 1796 should be on condition that the purchasers should erect one such house for every three lots purchased. The Commissioners have, from time to time, sold lots in small numbers or singly, to various persons, to the amount of ninety-five thousand six hundred and fifty-two dollars, and there still remain unsold about four thousand seven hundred lots; which, valued at the average price of those sold as last above mentioned, are worth nearly one million and a half of dollars. With these resources in their hands, your memorialists entertain no doubt of completing such buildings as will be absolutely necessary for the reception of Congress, before the time appointed for their removal to the permanent Seat of Government; but, as the punctual compliance with the contracts of individuals cannot be relied on with that certainty which is necessary to the carrying on the public works to advantage, and as the bringing into market so large a portion of the city property as would raise money sufficient for that purpose, would greatly depreciate its value, your memorialists conceive that the loan of a sum of money, secured on the city property, would be highly ad-

vantageous, as it would enable them to proceed with more celerity in completing the public buildings than a dependance on the collection of debts and sale of property will admit.

The rapid progress of the buildings would in itself be an encouragement to private improvements, and have an immediate tendency to enhance the price of lots; but could the lots be generally retained until the Seat of Government shall be removed, they will rise so far beyond their present value, that not only all sums now borrowed on that foundation may be repaid, but much property reserved for the disposal of the United States; yet, as the laws of Maryland, which are still in force in the Federal District, do not permit the receiving of more than an interest of six per centum per annum, which on this occasion it will probably be necessary to exceed, and as money lenders, in foreign countries at least, may be unacquainted with the value of the security offered, your memorialists beg leave to submit to the consideration of your honorable body the propriety of giving your sanction to a loan, on the principle above stated, so far as to guaranty the payment of such sums as may be deemed adequate to the purpose of erecting the Federal buildings; or to such an amount as Congress may be satisfied is clearly within the value of the property pledged, if it shall be judged expedient either to advance money, or at this time to subject the revenues of the United States to the eventual payment of moneys in future for the above mentioned purposes; and to authorize the payment of such interest as the President of the United States may judge reasonable. Should Congress adopt the proposed measure, your memorialists have no hesitation in expressing their confidence that, not only all the buildings required by the acts aforesaid will be erected in a convenient and elegant style, and in due time, and (what is perhaps unparalleled among nations) at private expense, but that private buildings will progress in such a degree as to afford sufficient accommodation for Congress, and all their attendants, and render their situation perfectly agreeable. Your memorialists, in contemplating a measure which to them apppears mutually advantageous to the city and to the United States, have considered what objections, if any, could be raised against it. They discover none: they have heard none suggested; and they cannot believe that Congress will refuse their aid to render valuable, property granted by individuals for public purposes, on the faith of Government pledged by repeated acts of the Legislature; more especially when, by giving that aid, no expense will be incurred; but, on the contrary, much property will be saved to the United States. Your memorialists therefore pray your honorable body to pass an act authorizing the President of the United States to borrow such sums as, on consideration of the premises, shall appear reasonable, to be secured on the lots ceded for the Federal City, (now called the City of Washington,) as above stated, at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper, after the year 1800; and to guaranty to the money-lenders, that in case the property so pledged shall prove inadequate to the purpose of repayment, the United States will make good the deficiency.

GUST. SCOTT,
WILLIAM THORNTON,
ALEXANDER WHITE.

The committee to whom was referred the Message from the President of the United States, of the 8th of January instant, enclosing a memorial of the Commissioners appointed by virtue of the "Act establishing the temporary and permanent Seat of Government of the United States," report—

That, having carefully perused the memorial and documents furnished by the Commissioners, and having been attended by one of them in person, as the result of their inquiries, they beg leave to state, for the consideration of the House—

That considerable progress has been made towards fulfilling the object of the aforementioned act. The difficulties incidental to an undertaking of this nature are chiefly surmounted: though much remains to be done, yet almost every branch of the business has been commenced, and many of the materials necessary for erecting the buildings are provided. The House for the accommodation of the President is in considerable forwardness, and the foundation of the Capitol is laid, and the walls begun; wharves and bridges have also been built, and the necessary roads opened.

The funds for defraying the expense of procuring the lands and erecting the buildings necessary for the accommodation of Congress, of the President, and for the public offices, are the lands ceded to the Commissioners, as stated in the memorial, together with one hundred and twenty thousand dollars granted by the State of Virginia, and seventy-two thousand dollars by the State of Maryland. It is the opinion of the committee that these funds, if properly managed, are fully adequate to the completing of all the buildings required for the accommodation of the Government, in season, without any aid from the Treasury of the United States.

The Commissioners, soon after the laying out of the Federal City, sold six thousand of the public lots, at eighty dollars each; the purchasers stipulating to build one hundred and forty convenient large brick dwelling houses in the Federal City, before the year 1800; and the said purchasers further stipulating that all sales made by them previous to 1796 should be on condition that for every three lots so sold, one such dwelling house should be erected.

The committee are informed, that under this condition, upwards of six thousand lots have been sold.

The Commissioners have, at different periods, sold to sundry persons upwards of two hundred other lots, together with a small number of water lots, for the sum of ninety-six thousand six hun-

dred and fifty-two dollars. The payment of the six thousand lots was to be in seven equal annual instalments.

The whole amount of donations and sale of lots is seven hundred and sixty-eight thousand six hundred and fifty-two dollars.

The Commissioners state to the committee that of this sum three hundred and seventy-four thousand two hundred and fifty dollars are already expended.

From this statement, which is apprehended to be sufficiently accurate for general purposes, it is easy to form an estimate of the resources remaining in the hands of the Commissioners. They are the money due on contracts for lots sold, being three hundred and ninety-four thousand four hundred and two dollars, payable in the present and four succeeding years, in sums nearly equal; that is about eighty thousand dollars: and the lots unsold, being four thousand six hundred and ninety-four, exclusive of the water lots, which occupy three thousand five hundred feet on the water, and extend back from sixty to an hundred feet.

It is difficult to say, with any degree of precision, what this property will realize, as much will depend on the time and manner of the sale.

It is stated by the Commissioners, that estimating these lots according to the average price of the lots sold, exclusive of the great sale of six thousand in 1793, they are worth one million three hundred and ninety-three thousand seven hundred and ninety dollars; and that, from the progress made in the public buildings, and from the improvements made and contemplated by private persons, the value of this property must rapidly increase.

The Commissioners also state, that, in their opinion, it would be unsafe to calculate on strict punctuality in the payment of the instalments as they become due from their debtors, though they assure the committee that there will eventually be no loss.

The committee have endeavored to state, as correctly as possible, the resources now in the hands of the Commissioners, that these may be compared with the objects yet to be accomplished. The principal of these are the completing of the President's house, the Capitol, at least as far as may be necessary for the accommodation of the two Houses of Congress and their officers, a building for the Judiciary, and another for the several Departments of State, of the Treasury, in all its branches, the Department of War, and the General Post Office, and such improvements in the streets as may be essentially requisite for the public convenience.

The committee have availed themselves of the best means of information which the shortness of the time they have had the subject under consideration would allow, to form an estimate of the sums necessary for these several purposes; and though certainty cannot be expected, and much must after all be left to conjecture, they apprehend they may with safety be estimated at seven hundred thousand dollars, for completing the whole.

The committee conceive that it will be necessary to expend, until the year 1800, in completing the several objects enumerated, at least the annual sum of one hundred and forty thousand dollars.

The committee have already observed, that firm reliance cannot be placed on the punctuality of the debtors of the public. If forty thousand dollars be taken as the sum that shall be annually received from this source, there will be an annual deficiency of the sum of one hundred thousand dollars.

If this deficiency be not supplied in some way, it will result that the public buildings will not be in readiness for the reception of Congress at the time proposed.

This deficiency must be supplied by the sale of the lots belonging to the public, if no better mode can be devised.

The committee conceive that the real interest, as well as the good faith of the Government, forbid the relinquishment of the objects contemplated by the act establishing the permanent Seat of Government. It is stated by the Commissioners that this property, if sold under the most unfavorable circumstances, would still be adequate to the purpose; but, as this property may justly be considered as that of the public, it would, in the opinion of the committee, be a wanton sacrifice of the public interest, and justified only by the most urgent necessity, which the committee conceive does not exist, to raise the money wanted in this way. It is, in the opinion of the committee, the duty of Congress, founded on the truest principles of economy, to cherish these funds so as to make them productive of the greatest public utility.

But two other modes of accomplishing the objects contemplated, have presented themselves to the view of the committee, namely, that of annual advances from the Federal Treasury of the requisite sums, and that by raising the same by a loan.

If the state of the public finances would admit of it, the former would, in every point of view, be the most economical, and the most certain. The public would, in that case, derive all the advantages resulting from the rapid increase of the value of property in this infant city, and might reimburse the sums so advanced, by sales at such times, and in such manner, as would be most advantageous. But, conceiving that the existing objects of expenditure will equal, if not exceed, the revenues already provided, and that it would not be advisable to impose new taxes for this object, the committee are induced to believe, that the only mode which can with propriety be adopted at this time, for supplying the deficiency stated, will be that of a loan, secured on the city property, and negotiated under the direction of the President; and that it would conduce to the real interest of the public that the United States should guaranty the payment of the sums so bor-

rowed, in case the property pledged should prove insufficient.

The committee also conceive that it would be proper, in order that Congress may be enabled to judge of the application of the moneys so borrowed, that it be made the duty of the Commissioners, semi-annually, to render to the Secretary of the Treasury a particular account of their receipts and expenditures, and also of the progress and state of the business entrusted to their care, and the state of the funds in their hands; and that the same be laid before Congress, by the said Secretary, at every session.

The committee, therefore, recommend the following resolutions:

Resolved, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of five hundred thousand dollars in the whole, and not exceeding two hundred thousand in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the City of Washington; the said loan to be secured on the public property in the said city, and at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper, after the year 1800; and that the United States guaranty to the money-lenders, that in case the property so pledged shall prove inadequate, the United States will make good the deficiency.

Resolved, That it shall be the duty of the Commissioners appointed by virtue of the act, entitled, "An act for establishing the temporary and permanent Seat of the Government of the United States," every six months to render to the Secretary of the Treasury, a particular account of the receipts and expenditures of all moneys entrusted to them; and also the progress and state of the business, and the state of the funds in their hands; and generally an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received, and that a bill or bills be brought in accordingly.

[Communicated to the House of Representatives, January 19, 1796.]

A Statement showing the final liquidation of the French Loans, and their full reimbursement at the Treasury, upon the principles of the Loan opened for the Foreign Debt, under the act making further provision for the support of Public Credit, and for the redemption of the Public Debt.

Liquidation of French Loans, &c.	Livres. S. D.	Livres. S. D.	Livres. S. D.	Dolls. Cts.
Balance due to France on December 31, 1794, agreeably to the printed statement for that year, payable at different future periods, ascertained by contracts dated July 16, 1782, and February 25, 1783 - -	- -	- - -	12,166,040 12 2 a $18 15	2,212,129 37
Debt due to the Farmers General of France, upon a contract made June 3, 1777, with Messrs. Franklin & Dean, as agents of the U. States' amount of the Loan - - - -	- -	1,000,000 0 0		
Deduct remittances made by the late Government - - -	- -	153,229 5 7	846,770 14 5 a 18 15	153,629 89
Interest arising in the year 1795, on the instalments becoming payable by contracts after December 31, 1794, viz:				
One year's interest due September 3, 1795, on six millions, being the residue of the Loan of eighteen millions of livres, at five per cent. per annum	300,000 0 0			
One year's interest due November 4, 1795, on two millions livres, being the residue of the Loan of ten millions, at four per cent. per annum -	80,000 0 0			
One year's interest due December 31, 1795, on the entire loan of six millions, at five per cent. per annum -	300,000 0 0			
Interest from September 3 to December 31, 1795, on four millions five hundred thousand remaining of the Loan of eighteen millions, after paying one million five hundred thousand, the instalment of September 3, 1795 -	73,750 0 0			
Interest from November 4 to December 31, 1795, on one million livres remaining of the Loan of ten millions, after paying one million, the instalment of November 4, 1795 -	6,333 6 7	760,083 6 7		
For amount of interest relinquished, which had been charged in the account settled to December 31, 1794, upon moneys advanced by the United States on account of instalments becoming due - - -	- -	104,462 2 5		
For amount of interest on 846,770 14 5, being the balance due to the Farmers General from September 3, 1783, to December 31, 1793—ten years, three months, and twenty-eight days -	- -	437,262 19 10	1,361,606 8 10 a 18 15	236,278 29
			14,336,619 15 5 a $18 15	2,602,038 49

The French Loans.

The United States have reimbursed the French Government, the full amount of the preceding, viz:

Liquidation of French Loans, &c.	Livres. S. D.	Livres. S. D.	Livres. S. D.	Dolls. Cts.
By payments made at the Treasury for the discharge of the instalments of September 3 and November 4, 1795, four hundred and fifty three thousand seven hundred and fifty dollars, at eighteen dollars and fifteen cents -	- -	- - -	2,500,000 00 0 *a* $18 15	453,750 00
By amount of supplies furnished during the late war to the Marine of France, under the agency of John Holker, Esq., Consul General, as settled at the Treasury, viz:				
Principal sum - - -	- -	448,471 14 8		
Interest thereon, from September 3, 1783, to December 31, 1793	- -	231,585 16 4	680,057 11 0 *a* 18 15	123,430 45
Subscribed to the Loan opened for the Foreign Debt, and for which certificates of Domestic Debt were issued in favor of J. Swan, Esq., agent duly authorized by the Committee of Public Safety of the National Convention.				
Certificates bearing interest at 5½ per cent. per annum, from January 1, 1796, to the amount of one million eight hundred and forty-eight thousand nine hundred dollars - -	- -	10,186,776 17 2		
Certificates bearing interest at 4½ per cent. per annum, from same period, one hundred and seventy-six thousand dollars - - -	- -	969,696 19 5	* 11,156,473 16 7 *a* 18 15	2,024,900 00
Payment to the said agent by Treasury warrant, No. 5132, dated July 22, 1795, for sixteen dollars and four cents, being the balance due the Republic of France, on loan of money and other supplies obtained by the United States of the Government of France, during the late war -	- -	- - -	88 7 10 *a* 18 15	16 04
			14,336,619 15 5 *a* 18 15	2,602,096 49

* This subscription is in discharge of the residuary instalments, which had not become due on the 31st of December, 1795, viz:

Three of 1,500,000 each, of the Loan of eighteen millions, at 5 per cent. per annum - - - - - - - -	4,500,000 00 00	
Six of 1,000,000 each, of the Loan of six millions, at 5 per cent. per annum - - - - - - - -	6,000,000 00 00	
	10,500,000 00 00	
Deduct so much paid in advance, on account of the instalment becoming due on the 3d of September, 1796 - - - -	313,223 02 10	
		10,186,776 17 02
One of 1,000,000, of the Loan of one million, at 4 per cent. per annum - - - - - - -	1,000,000 00 00	
Deduct so much paid in advance on account of the instalment becoming due the 4th of November, 1796 - - - -	30,303 00 7	
		969,696 19 5
		11,156,473 16 07

TREASURY DEPARTMENT, *January* 16, 1796.

Statement of Exports—Estimates for 1796.

STATEMENT OF EXPORTS.

TREASURY DEPARTMENT, *Jan.* 25, 1796.

SIR: I have the honor to transmit, herewith, a letter from the Commissioner of the Revenue, dated the 23d instant, with the statement of the exports of the United States therein mentioned.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

The Hon. the SPEAKER
of the House of Representatives.

TREASURY DEPARTMENT,
Revenue Office, Janaury 23, 1796.

SIR: The returns of exports being received from the several custom-houses, with a few exceptions of very small amount, you will find in this enclosure a copy of a statement thereof, exhibiting the value which has been shipped annually from every port of the United States between the 1st day of October, 1790, to the 30th day of September, 1795.

This document has been so formed as to show likewise the annual exportations from each State, and from the United States, in order to afford a more complete view of this part of our foreign commerce. None of the great and numerous interchanges of domestic and foreign commodities, which occur by water among the States, appear in this paper, nor could that part of the produce of the fisheries have any place in it, which is sold in foreign countries, without a previous importation into our ports.

In revising the custom-house returns for the years preceding the last, a few corrections and additions have been made, which occasion some inconsiderable variations from the former statements; these are, however, upon the whole, in favor of the United States.

I am, sir, with great respect, your most obedient servant,

TENCH COXE,
Commissioner of the Revenue.

The SECRETARY OF THE TREASURY.

Summary of the value of the exports from the several States for five years.

STATE.	October 1, 1790, to September 30, 1791.	October 1, 1791, to September 30, 1792.	October 1, 1792, to September 30, 1793.	October 1, 1793, to September 30, 1794.	October 1, 1794, to September 30, 1795.
New Hampshire	$142,858 62	$181,413 90	$198,304 38	$153,860 30	$229,436 99
Massachusetts	2,519,650 52	3,888,104 48	3,755,946 99	5,203,441 20	7,117,907 38
Rhode Island	470,131 27	698,109 92	616,433 03	954,599 32	1,222,916 86
Connecticut	710,352 52	879,753 62	770,354 50	812,764 64	819,465 45
New York	2,505,465 01	3,535,790 35	2,932,370 00	5,442,183 10	10,204,580 78
New Jersey	26,987 73	23,406 71	54,178 75	58,154 38	130,814 34
Pennsylvania	3,436,092 85	3,820,663 00	6,958,836 00	6,643,092 00	11,536,260 00
Delaware	119,878 93	138,972 27	93,559 45	207,985 33	158,041 21
Maryland	2,339,690 96	2,633,806 33	3,665,055 50	5,686,190 50	5,611,379 55
Virginia	3,131,865 27	3,552,924 58	2,987,097 94	3,321,636 71	3,490,040 50
North Carolina	524,548 34	527,599 55	365,414 03	321,587 21	492,161 23
South Carolina	2,693,267 97	3,438,249 79	3,191,367 15	3,867,906 33	5,998,493 49
Georgia	491,250 86	459,105 55	520,955 42	263,831 50	695,985 77
Total	19,012,040 58	20,753,097 95	26,109,573 14	33,026,233 91	47,989,472 44

TENCH COXE,
Commissioner of the Revenue.

TREASURY DEPARTMENT,
Revenue Office, January 28, 1796.

ESTIMATES FOR 1796.

[Communicated to the House of Representatives, December 14, 1795.]

TREASURY DEPARTMENT, *Dec.* 14, 1795.

SIR: I have the honor to present, herewith, a report and estimates of the appropriations which appear to be necessary for the service of the year 1796, and for other purposes; also, statements in relation to the expenditure of certain sums, heretofore appropriated.

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

The Hon. the SPEAKER
of the House of Representatives.

The Secretary of the Treasury respectfully reports to the House of Representatives:

That, for the service of the year 1796, and for making good deficiencies in former grants, the following appropriations, as detailed in the estimates herewith transmitted, appear to be necessary:

For the Civil List, or the support of Government, including the incidental and contingent expenses of the several departments and offices, the sum of - - - -	$485,971 12
For the payments of annuities and grants - - - -	3,157 73
For the support of the Mint Establishment - - -	52,464 00

For the support of light-houses, beacons, buoys, and public piers,		24,000 00
For satisfying certain miscellaneous claims and expenses -		33,672 09
For the Department of War, comprising the following general objects of expenditure:		
The support of the Army, including the expenses in the clothing, hospital, ordnance, Quartermaster, and Indian departments, the defensive protection of the frontiers, contingencies, and the improvement and completion of sundry fortifications -	$1,480,247	
The Naval Department	73,934	
The payment of military pensions -	85,098	
Total estimate for War Department,		$1,639,279 00
Amounting, together, to -		$2,238,543 94

In addition to the said estimates, the following sums are stated, on the presumption that laws authorizing the expenditure will be passed, during the present session of Congress:

For defraying the expenses of the intercourse of United States with foreign nations -	$40,000 00
For defraying the contingent expenses of the Government of the United States - - - -	20,000 00
For the compensation of clerks in the several Loan offices, and for books and stationery - - -	14,000 00
Amounting to - - -	$74,000 00

The funds out of which appropriations may be made for the purposes before mentioned, are, 1st, The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1796, which sum is annually reserved for the support of Government, by the act, entitled "An act making provision for the Debt of the United States;" and 2d, The surplus of revenue and income which will accrue to the end of the year 1796, after satisfying the objects for which appropriations have been heretofore made.

Subjoined to this report, is a statement, marked A, which exhibits a prospective view of the revenue and expenditure of the United States, for the ensuing year, by which it satisfactorily appears that the proceeds of the duties on imports and tonnage, and on domestic distilled spirits, and on stills, will be adequate to the discharge of the appropriations already made, including the reimbursement of the domestic stock, bearing a present interest of six per cent.; and also to the payment of the sums contained in the estimates, now presented, for the current service.

But, as a great proportion of the revenue arising from imports, is subject to long credits, the customary anticipations, by means of loans, will continue to be necessary.

In addition to the sums charged upon the revenue, arising from imports and tonnage, and domestic distilled spirits, and stills, there are other debts of the United States which will fall due in the year 1796, and for which provision is necessary.

The following are of this decription:

A loan had of the Bank of New York, pursuant to an act passed on the 20th of March, 1794, for - - - -	$200,000 00
An instalment of $800,000, had of the Bank of the United States, pursuant to the same act - -	200,000 00
Amounting, together, to -	$400,000 00

The interest of the loans before mentioned is secured by the existing revenues, but there is no authority to reimburse the principal, except from the proceeds of the duties upon carriages for the conveyance of persons, licences for selling wines and foreign distilled spirits, snuff mills, refined sugar, and property sold at auction. The present state of these revenues does not justify a reliance that they will be sufficiently productive, in the year 1796, to admit of the reimbursement of the debts with which they are charged. The alternative which offers is, therefore, either an appropriation of other revenues, or a payment from the proceeds of new loans.

If it were certain that the exigencies of the United States would not require appropriations beyond the sums at present contemplated, and that the revenue would equal the estimates, a sum sufficient to cover any deficiency of the appropriated revenues might be safely charged upon the duties arising from imports and tonnage; but, in the actual state of uncertainty which necessarily exists, it is deemed expedient to keep in view the auxiliary resource provided by the tenth section of the act, entitled "An act making provision for the support of public credit, and for the redemption of the public debt."

The following sums will, moreover, be required, in the year 1796, for the payment of which the laws contemplate no provision, except the proceeds of certain loans, which are authorized by the act last recited:

1st. An instalment of one million of guilders, which will fall due in Amsterdam, on the 1st of June ensuing, to pay which, with the charges thereon, according to the course of exchange which has lately obtained, there will be necessary, the sum of - - -	$414,100 00
2d. An instalment of the loan of two millions, had of the Bank of the United States, for stock of said Bank, held by the United States, which instalment will fall due on the last day of the present year - -	200,000 00
3d. An instalment of the same loan, which will fall due on the last day of December, 1796 - -	200,000 00
Amounting to - - -	$814,100 00

There are other loans detailed in the annexed statement, which will also fall due to the Bank of the United States in the course of the ensuing year; but, as they are merely anticipations of the revenue, for refunding which there exist legal provisions, they are introduced to show the course of receipt and expenditure, and the extent to which future anticipations will be requisite.

The view, now presented, of the expenditure and revenue for the year 1796, authorizes the following conclusions:

1st. That, after making a liberal allowance for unforeseen demands which may require appropriations, and for deficiencies, the revenue will be adequate to the annual reimbursement of the six per cent. stock, bearing a present interest; to the payment of the interest on the foreign and domestic debt; and to the discharge of the sums estimated for the current service.

2d. That the anticipations of the revenue which may exist at the close of the present year, must be continued for the year ensuing.

And, 3d. That the instalment of the foreign debt, which will fall due on the 1st of June next, and certain instalments of domestic loans, before mentioned, must be re-loaned, or satisfied out of the proceeds of new revenues.

On this statement the Secretary takes the liberty to observe, that the act of the last session, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," contains the following provisions:

1st. A proposal for re-loaning the whole of the foreign debt, and converting the same into a funded domestic stock, transferable at the Treasury, and the respective loan offices; the principal stock to be redeemable at the pleasure of the United States, and the interest to be payable quarter-yearly, with an additional interest of one-half per centum per annum to the rates of interest secured by former contracts.

2d. A power to the Commissioners of the Sinking Fund to borrow, with the approbation of the President of the United States, any sums requisite for the payment of any instalments, or parts of principal as the same shall become due. It is, however, provided that the interest of any loan so made, shall not exceed six per centum per annum, and that the principal shall be liable to reimbursement, at the pleasure of the United States.

Agreeably to the proposal first mentioned, the accounts subsisting between the United States and France have been finally adjusted to the satisfaction of an authorized agent of the French Republic; the instalments which fell due in the present year, have been paid at the Treasury, and the remainder of the debt has been subscribed to the proposed loan, and converted into funded domestic stock, bearing interest at five and one-half and four and one-half per centum per annum.

By this operation the debt, as due under former contracts, to the Republic of France, may be considered as discharged.

Measures have been, moreover, taken for ascertaining whether the residue of the foreign debt, due in Amsterdam and Antwerp, could be re-loaned with the consent of the creditors. The experiment cannot yet be considered as fully made; but the prospect of success is not encouraging. The objections against a mutation of the contracts in the manner proposed, which have been stated, are, generally, 1st. That the proposed new stock will be redeemable at the pleasure of the United States, by which condition the Government will possess the power of reducing the rate of interest, or refunding the capital at periods when the reimbursement may be difficult, or disadvantageous to the creditors. 2d. That the proposed addition of one-half per centum per annum to the rates of interest, does not afford an equivalent for the expenses of agency, loss upon the exchange, and the risk of remittances from America. And, 3d. That the facilities which attend the negotiation of bonds payable to bearer, over funds which can only be transferred at the Treasury or loan offices in the United States, render the obligations of foreign debt, in their present form, particularly eligible for foreign creditors.

It is not yet ascertained that these objections will be conclusive in the minds of the creditors against the proposed re-loan, and circumstances are not unlikely to happen which may, in some degree, abate their force. Nevertheless, as the object of converting the foreign debt into domestic stock is of real importance to the United States; as unprecedented difficulties attend remittances at present; as similar difficulties will always exist, in a greater or less degree, in time of war; and as, in proportion to their operation, they must endanger the public credit; the Secretary respectfully submits it to the House of Representatives to consider and determine whether some modification of the existing proposal be not expedient.

Considering the actual state of Holland, and the restrictions upon our intercourse with that country, it was deemed for the interest of the United States to propose a postponement of the instalment which fell due in the present year. It has, however, been conclusively ascertained that no additional loans can be obtained in Holland; of course, that the United States must be provided to make the reimbursements stipulated in their contracts.

The measures adopted by this Department to effect a reimbursement, were seasonable, and such as promised to be effectual; but, owing solely to the war, and the stagnation of credit occasioned by the Revolution, the instalment which fell due on the first of June, had not been paid at the date of the last advices in August.

The causes of the delay were, however, well understood by the creditors; and as they neither originated with, nor could be controlled by, the United States, and as the interest has been paid, the public credit has as yet suffered no blemish.

It being rendered certain that funds to meet the instalments of the foreign debt, now annually falling due, must be remitted from the United States, measures have been taken for ascertaining whe-

ther the powers vested by law in the Commissioners of the Sinking Fund, contain an adequate resource. As before mentioned, these powers limit the rate of interest upon any loan to six per centum per annum, and, moreover, provide that the capitals borrowed shall be redeemable at the option of the Government.

Though the rate of six per centum per annum may be justly considered as a liberal compensation for the use of money, in ordinary times, yet, at the present moment, when the demand for American funds are greatly limited by the operation of the war in Europe, and when a variety of new objects are presented for the profitable employment of capital in this country, it is found that the redeemable quality of the stock which the Commissioners of the Sinking Fund are authorized to constitute, will so far derogate from its value as to defeat the intention of the law.

The Secretary is confident that the House of Representatives will appreciate fully all the arguments in favor of an augmentation of the revenue, for the purpose of reimbursing the foreign debt; and he, therefore, omits to make any comments on the statement of facts now presented. But, it is his duty to observe, that, if it shall be determined to confine the reimbursement of the public debt to the scale now established by law, it will be necessary to enlarge the powers granted to the Commissioners of the Sinking Fund, in such manner as that there may exist a certainty of obtaining the necessary funds, with that strict punctuality which it is necessary to observe in whatever relates to the delicate concerns of public credit.

The annexed statement, marked B, exhibits a summary view of the receipts and expenditures at the Treasury, from the 1st of January to the 30th of September, 1795; and those marked C and D show, in detail, the expenditure of two sums granted by an act of Congress, passed on the 2d of January, 1795, for discharging such demands on the United States, not otherwise provided for, as should be ascertained and admitted at the Treasury, and of a nature, according to the usages thereof, to require payment in specie.

The prolonged time for receiving on loan the unfunded Domestic Debt of the United States will expire on the last day of the present year; this debt, including what remains to be liquidated, computed according to the principles which have governed former estimates, amounted, on the 30th of September, 1795, to $1,382,837 37, for which some provision will be necessary.

All which is humbly submitted.

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

TREASURY DEPARTMENT,
December 14, 1795.

A.—*An Estimate of the Expenditures and Revenue of the United States, for the year* 1796.

ESTIMATED EXPENDITURES FOR THE YEAR 1796, viz:

For the Interest on the Foreign Debt.

One year's interest on 29,500,000 guilders, being the debt due in Amsterdam and Antwerp, supposing the instalment for 1795 to have been paid, calculated according to the different contracts, bearing interest at four, four and one-half, and five per centum per annum, is, guilders -		$1,385,250 00
Commissions to the bankers for making the payments, at one per centum - -		13,852 10
Guilders - - - - - - -		$1,399,102 10
Which sum of guilders, 1,399,102 10, calculated at 40 cents per guilder, is equal to - - - - - - - -	$559,641 00	
But, supposing the exchange to be at 41 cents per guilder, which is likely to be the case, there will be necessary, to effect remittances, the further sum of - - - - - - - -	13,991 02	
		$573,632 02

For the interest on the Domestic Debt, including the annuity necessary for redeeming the six per cent. stock, bearing a present interest, viz:

Interest and redeeming annuity, for one year, on the six per cent. stock, subscribed on the 30th September, 1795, calculated on the principle of the act of March 3, 1795, supposing no part of the balances due to certain States, to be subject to reimbursement -	2,274,624 13	
But, supposing the balances due to certain States to be transferred, agreeably to the act authorizing transfers thereof, an additional annuity, to redeem the same, will be necessary, amounting to -	46,901 12	
		2,321,525 25
For the interest on the three per cent. stock, subscribed on the 30th of September, 1795, calculated for one year - - - - - -		587,097 28

For interest on the stock bearing interest at 5½ per cent., created by a subscription of a part of the debt lately due to France, calculated for one year - - - - - - - - -		$101,689 50
Interest on the stock bearing interest at 4½ per centum per annum, created by a subscription of the residue of the debt lately due to France, calculated for one year - - - - - - -		7,920 00
Estimated amount of one year's interest on the whole unfunded debt, receivable on loan till the close of the present year, calculated upon the principles which have governed former appropriations - - - -		71,029 44

Estimated expenditures for the year 1796, *agreeably to the documents herewith transmitted, viz:*

For the Civil List - - - - - - - -	$485,971 12	
For the payment of annuities and grants - - - - -	3,157 73	
For the Mint Establishment - - - - - - -	52,464 00	
For the Military Department - - - - - - -	1,480,247 00	
For the Naval Department - - - - - - -	73,934 00	
For the payment of military pensions - - - - -	85,098 00	
For the support of light-houses - - - - - -	24,000 00	
For the payment of miscellaneous claims - - - - -	33,672 09	
		2,238,543 94

But, in addition to the said estimates, the following sums are stated, on the presumption that laws authorizing the expenditure will be passed, viz:

For defraying the expenses of the intercourse of the United States with foreign nations - - - - - - - -	40,000 00	
For the contingent expenses of Government - - - - -	20,000 00	
For the compensation of clerks in the several Loan Offices, and for books and stationery - - - - - - - -	14,000 00	
		74,000 00

Interest on Domestic Loans, for the payment of which provision has been made by law, viz:

On $1,400,000 of the loan of $2,000,000 had of the Bank of the United States, for stock of said Bank, held by the United States, at six per cent., payable out of the dividends in favor of the United States - - - - - - - - - -	84,000 00	
On $3,300,000 borrowed of the Bank of the United States, pursuant to several laws authorizing anticipations of the revenue on imports and tonnage, and on distilled spirits and stills, to the close of 1795, and remaining uncollected, calculated according to existing contracts, at five per cent. and six per cent. per annum - -	175,000 00	
On $1,000,000 borrowed on the credit of, and to be refunded from, the product of the duties on carriages, licenses for selling spirits and wines, snuff mills, refined sugar, and sales at auction, the interest of which is secured by the revenues arising from imports and tonnage, and on distilled spirits and stills, of which $200,000 was borrowed at five per cent., and the remainder at six per cent. - -	58,000 00	
In addition to the loans above mentioned, a further sum of $500,000 will be necessary at the close of the present year, the interest of which is calculated at six per cent. - - - - - -	30,000 00	
		347,000 00

For the reimbursement of Domestic Loans, payable out of the revenue on imports and tonnage, &c., viz:

Instalment of a loan of $400,000, had of the Bank of the United States, pursuant to an act passed on the 2d of May, 1792, entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned" - - -	300,000 00	
Instalment of a loan had of the Bank of the United States, pursuant to the act passed on the 18th day of December, 1794, entitled "An act authorizing a loan of two millions of dollars" - - -	2,000,000 00	
Instalment of loans had of the Bank of the United States, pursuant to the act entitled "An act making further provision for the Military and Naval Establishments, and for the support of Government," passed on the 3d of March, 1795 - - - - - -	1,000,000 00	
		3,300,000 00

Estimates for 1796.

For the reimbursement of Domestic Loans, the payment of which is charged by law upon the proceeds of the revenue from duties upon carriages, licenses for selling distilled spirits and wines, upon snuff mills and refined sugar, and upon sales at auction, viz:

A loan had of the Bank of New York, pursuant to an act passed on the 20th of March, 1794, making provision for the expenses attending the intercourse of the United States with foreign nations -	$200,000 00	
Instalment of a loan of $800,000 had of the Bank of the United States, for the same purpose - - - - - -	200,000 00	
		$400,000 00

For the reimbursement of Loans, foreign and domestic, payable out of the proceeds of loans authorized by law to be made on the credit of the United States, viz:

Instalment of one million of guilders which will become due in Amsterdam on the 1st of June, 1796, pursuant to a contract dated June 11, 1782, calculated at 40 cents - - - - - -	400,000 00	
Commissions thereon, at one per cent. - - - - - -	4,000 00	
Expenses of remitting the above sum, in case the exchange shall be at the rate of 41 cents per guilder - - - - - -	10,100 00	
Instalment of two millions had of the Bank of the United States, for stock of said Bank, which will fall due on the last day of December, 1795 - - - - - - - -	200,000 00	
Instalment of the said loan, which will fall due on the last day of December, 1796 - - - - - - - -	200,000 00	
		814,100 00
		10,836,537 43
Balance, reserved in this estimate, to cover any deficiencies in the product of the revenue, and to satisfy any unforeseen demands which may require appropriations - - - - - - -		420,883 94
		$11,257,421 37

RECEIPTS.

From duties on Imports and Tonnage.

The actual receipts from the duties on imports and tonnage, during the three first quarters of the year 1795, as credited by the Treasurer, amounted to - - - - - - - -	4,234,046 26	
The product of the fourth quarter of 1795, may be estimated at -	1,445,372 32	
		$5,679,418 58

Which sums may be safely estimated as the probable product of the revenue from imports and tonnage, in the year 1796.

From Internal Revenues.

The duties on domestic distilled spirits have been estimated in former years, at - - - - - - - - -	400,000 00	
The duties on snuff mills, refined sugar, sales at auction, licenses to retail spirits and wines, and on carriages, have also been calculated at - - - - - - - - - -	380,000 00	
		780,000 00

Though these revenues have never produced in the Treasury the sums at which they have been estimated, yet, as the deficiency has been produced by causes which have prevented a regular and punctual collection, and which may be obviated by more efficient measures, the former estimate is continued.

From the postage of letters, founded on an estimate of the Postmaster General - - - - - - - - - -		35,000 00
From fees on letters patent, estimated at - - - - - -		660 00
From dividends on stock of the Bank of the United States - -		160,000 00
From the proceeds of the Sinking Fund, calculated on the stock actually purchased, and redeemed on the 30th of September, 1795, appropriated to the redemption of the six per cent. stock - - -		88,242 79

Estimates for 1796.

The principal of the Foreign Debt and of Domestic Loans, which will fall due before the year 1797, is estimated at $4,514,100, which sum may be continued on loan, in the following manner, viz:		
From the proceeds of a loan to be negotiated in the year 1796, pursuant to the first section of the act, entitled "An act making further provision for the support of the Public Credit, and for the redemption of the Public Debt," to be applied to the purpose therein mentioned - - - - - - - - - -		$1,000,000 00
From the proceeds of a loan to be negotiated in the year 1796, pursuant to the tenth section of the last recited act, to be applied as follows, viz:		
To the payment of the instalment of the Foreign Debt, which will fall due in 1796 - - - - - - - - -	$414,100 00	
To the payment of two instalments of the loan of two millions, had of the Bank of the United States, for stock - - - -	400,000 00	
To the payment of the instalments due on the loans obtained for defraying the expenses of foreign intercourse, in case the appropriated revenues should not prove sufficiently productive during the year 1796, not exceeding, however, the sum of - - - -	400,000 00	
		1,214,100 00
To be applied to the discharge of such sums as shall be appropriated for the current service, the said loan to be reimbursed out of the proceeds of any revenues of the United States, not otherwise appropriated, which shall accrue during the year 1796, not exceeding - - - - - - - - - -		2,300,000 00
		$11,257,421 37

OLIVER WOLCOTT, Jr., *Secretary of the Treasury.*

TREASURY DEPARTMENT, *December* 14, 1795.

B.—*Account of Receipts and Expenditures of the United States, commencing on the 1st day of January, and ending on the 30th September,* 1795.

FOR AMOUNT OF EXPENDITURES DURING SAID PERIOD, UNDER THE FOLLOWING HEADS, VIZ:

Civil Department - - - - - - - - - -		$286,958 29
Military Department - - - - - - - - - -		2,059,636 34
Naval Department - - - - - - - - - -		302,940 00
Fortifications of ports and harbors - - - - - - - -		65,168 46
Military pensions - - - - - - - - - -		67,637 22
Annuities and grants - - - - - - - - - -		2,530 20
Temporary Domestic Loans, viz:		
January 1. For the two last instalments due to the Bank of the United States, on a loan of one million of dollars, obtained of the President, Directors, & Co. of said Bank, on the 27th of March, 1794, per act of 20th of March, 1794 -	$400,000 00	
April 1. In full of the loan of one million of dollars obtained of the said Bank the 27th of August, 1794, per act of 9th June, 1794 - -	1,000,000 00	
		1,400,000 00
Interest on Domestic Loans - - - - - - - - -		221,099 99
Diplomatic Department - - - - - - - - -		15,005 00
Extra expenses of do. - - - - - - - - - -		897 680 12
Appropriation for paying the third instalment of the loan of two millions of dollars -		200,000 00
Debts contracted by Timothy Pickering - - - - - - -		61 59
Interest on the Domestic Debt - - - - - - - - -		1,782,084 38
Support and erection of light-houses - - - - - - - -		13,969 10
Contingent expenses of Government - - - - - - - -		9,983 98
French Debt - - - - - - - - - - -		272,266 04
Dutch Debt - - - - - - - - - - -		675,373 33
Debt due to foreign officers - - - - - - - - -		5,866 32
Mint Establishment - - - - - - - - - -		13,000 00

Estimates for 1796.

Miscellaneous expenses - - - - - - - -		$32,874 80
Balance in Treasurer's hands on the 26th September, 1795 - -	$447,271 91	
From which deduct warrants remaining unpaid on that day, which are charged as expenditures in this statement - - - -	77,445 62	
The balance subject to warrants, on the 1st October, 1795, therefore, was - - - - - - - -		369,826 29
		$8,693,961 45

RECEIPTS.

By balance in the hands of the Treasurer on the 31st December, 1794	$1,151,924 17	
Deduct warrants drawn on him previous to the 1st of January, 1795, which remained unpaid that day - - - - -	3,776 62	
Balance subject to warrants, January 1, 1795 - - - -		$1,148,147 55
Moneys received into the Treasury, as follows:		
For duties on merchandise and tonnage:		
In the quarter ending the 31st March - - - - -	1,224,449 28	
Do. do. 30th June - - - - -	1,623,930 84	
Do. do. 30th September - - - -	1,385,666 14	
		4,234,046 26
Duties on Spirits distilled in the United States.		
In the quarter ending the 31st March - - - - -	59,237 52	
Do. do. 30th June - - - - -	91,164 04	
Do. do. 30th September - - - -	59,614 62	
		210,016 18
Postage of Letters.		
In the quarter ending the 31st March - - - - -	7,000 00	
Do. do. 30th June - - - - -	5,000 00	
Do. do. 30th September - - - -	10,400 00	
		22,400 00
Dividends on capital stock in the Bank of the United States.		
Due 31st December, 1794 - - - - - -	80,000 00	
Due 30th June, 1795 - - - - - - -	80,000 00	
		160,000 00
Fees on Letters Patent.		
In the quarter ending the 31st March - - - - -	150 00	
Do. do. 30th June - - - - -	270 00	
Do. do. 30th September - - - -	90 00	
		510 00
For Domestic Loans.		
In the quarter ending the 31st March, 1795, per act of March 20, 1794, and February 21, 1795 - - - - - -	800,000 00	
In the quarter ending 30th June, viz:		
On account of the loan of two millions, per act of 18th December, 1794 - - - - 1,000,000 00		
On the loan of five hundred thousand, per act of the 3d March, 1795 - - - - - 500,000 00		
	1,500,000 00	
In the quarter ending 30th September, 1795, on the loan of five hundred thousand, per act of 3d of March, 1795 - - -	500,000 00	
		2,800,000 00
For Bills of Exchange.		
Amount of a bill of exchange, drawn by Samuel Meredith on W. and J. Willink, and J. Van Staphorst and Hubbard, of Amsterdam, the 2d June, 1794, for 60,449 8-20 guilders, for the purpose of satisfying a grant to Major General Lafayette, per act of 27th March, 1794 -	24,424 00	
Amount of a bill drawn as above, the 28th June, 1794, in favor of Thomas Pinckney, Esq., for 180,000 guilders, for the purpose of purchasing certain articles for the frigates - - - -	72,000 00	
		96,424 00

Estimates for 1796.

Repayments, viz:			
In the quarter ending the 31st March—			
From Colonel Francis Nichols, balance of moneys advanced him as agent for superintending the supply and accommodation of the Pennsylvania division of the militia army, on their return from Lancaster - - - - - - -	$1,224 97		
From S. A. Otis, balance of moneys advanced him for paying the compensations due to the Senators of the United States - - - - - -	1,545 20		
		$2,770 17	
In the quarter ending 30th June—			
From Frederick A. Muhlenberg, Speaker of the House of Representatives, being the balance remaining in his hands, of moneys advanced him for payment of compensations due to the members of said House -	5,983 73		
From Ebenezer Stevens, balance of moneys advanced him for the purpose of erecting fortifications at New York - - - - - - - -	111 63		
		6,095 36	
In the quarter ending 30th September—			
From Eli Williams, on account of a balance remaining in his hands, of moneys advanced him to procure provisions for the militia lately called into service - - - - - - - -		10,000 00	
			$18,865 53
For balances due the United States under the late Government.			
In the quarter ending the 31st March—			
From Daniel Heister, jr., balance due him on settlement of his account for green hides - - - - - - - -		97 33	
In the quarter ending the 30th June—			
From Furman and Hunt, balance of their account for transportation of troops, &c., in the year 1776 - - -	$5 94		
From James Lovell, receiver of Continental taxes for the State of Massachusetts, in part of a balance due by him - - - - - - -	233 75		
		998 28	
In the quarter ending the 30th of September—			
From Robert Townsend Hoe, the proceeds of four hogsheads of damaged tobacco, received by John Hopkins - - - - - - - -	37 44		
From Edward Carrington, late Deputy Quartermaster General, amount of sundry payments made to Thomas Packer, Attorney of the United States, by persons in discharge of their bonds, given for public property sold by him - - - - - -	1,846 85		
From Edward Carrington, being a balance received by him as Deputy Quartermaster General, from the estate of George Webb, late receiver of taxes for Virginia - - - - - - -	1,330 62		
		3,214 91	
			3,551 97
			$8,693,961 45

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT, REGISTER'S OFFICE, *November* 4, 1795.

PUBLIC DEBT.

[Communicated to the House of Representatives, January 4, and February 3, 1796.]

TREASURY DEPARTMENT, *Dec.* 31, 1795.

SIR: Agreeably to what was proposed by the committee of the House of Representatives at the conference with them on the 26th instant, I have now the honor to present a statement of the debts of the United States, with a view of the sums which will be annually requisite for discharging them.

1st. Of the debts due in Amsterdam and Antwerp, for loans obtained under the late and present Governments.

The amount of these loans, exclusive of certain premiums with which one of them is charged, amounted, on the 1st of January, 1795, to thirty millions and five hundred thousand guilders, equal, at the exchange of forty cents per guilder, to $12,200,000.

The annexed statement, marked A, shows, in detail, the several loans which constitute this description of debt, the rates of interest payable thereon, and the sums which, according to existing contracts, are reimbursable in each year. It is to be observed, however, that the sums stated in dollars are calculated at par, or forty cents per guilder; the sums which may be really necessary to effect reimbursements cannot be ascertained, and will vary, from time to time, according to the course of exchange.

2d. Of the Domestic Funded Debt, bearing a present interest of six per centum per annum.

This debt, on the 31st of December, 1794, amounted to $29,046,730 62, but by subscriptions under the supplementary funding act, passed on the 28th of January, 1795, it had increased, on the 30th of September, 1795, to $29,310,856 86.

In this last capital is included the sum of $1,167,164 58, which has been purchased or redeemed; the interest of which is vested in the Commissioners of the Sinking Fund; also the stock created by funding the balances due to certain States, in consequence of the report of the late Board of Commissioners in their favor; which balances originally amounted to $2,345,056.

By the act of the last session, providing for the redemption of the Public Debt, the Commissioners of the Sinking Fund are instructed to commence the reimbursement of the six per cent. stock, bearing a present interest on the first of January ensuing, and to continue the same annually, until the said stock is fully redeemed. The sum placed to the credit of the Sinking Fund, and the balances standing to the credit of certain States, in consequence of the report of the Commissioners in their favor, are, however, excepted by the law from reimbursement.

The annexed statement, marked B, shows the annuity necessary to complete the payment of the stock subscribed on the 30th of September; other subscriptions, though not to any great amount, have been, and will continue to be made until the close of the present year.

The interest and redeeming annuity, exclusive of the sum funded in favor of certain States, will require - - - - -	$2,274,624 13
But to reimburse the said balances to States, there would be necessary the further sum of - -	46,901 12
Amounting to - - -	2,321,525 25

It is proper, however, to observe that, by a law passed on the 2d of January, 1795, the balances due to States are, on certain conditions, not now controllable by the United States, subject to be transferred at any time before the 2d of January, 1797, and that said balances, when so transferred, are subject to reimbursement.

As the redeeming annuity is therefore unsusceptible of calculation at present, and may, with the interest, amount to $2,321,525 25, this last sum is assumed, in the general statement which is annexed, as the annual charge upon the revenue.

The annuity will be necessary for the object before stated until the end of the year 1817. During the year 1818, it will decline to $1,862,501 63, and will then be liberated by the extinguishment of the debt.

3d. Of the Funded Domestic Debt, bearing interest of six per centum per annum, after the year 1800.

This debt, on the 31st of December, 1794, amounted to $14,523,365 45; but on the 30th of September, 1795, it had increased by additional subscriptions to $14,561,934 41.

In the capital last mentioned is included the sum of $929,220 14, which has been placed to the credit of the Sinking Fund, and a sum of $1,172,528, arising from balances due to certain States, in consequence of the report of the late Board of Commissioners in their favor.

The interest on this debt will commence on the 1st of January, 1801; the first reimbursement of principal is to be made on the 1st of January, 1802; the credit to the Sinking Fund, and the balances due to certain States, which may remain untransferred, are not subject to reimbursement.

The interest and redeeming annuity, exclusive of the balances, originally funded in favor of certain States, will require -	$1,122,919 78
And to redeem the balances originally credited to certain States, the further annuity of - -	23,450 56
Amounting to - - -	1,146,370 34

It being very uncertain whether any part of the balances due to States will remain untransferred till the year 1802, and there being important reasons in favor of a reimbursement of the whole debt on uniform principles, the sum last stated is assumed as what will probably be the annual charge upon the revenue.

This annuity will continue from the year 1801 to the year 1823; during the year 1824, it will fall to $924,020 76, and will then be liberated.

4th. Of the Domestic Funded Debt, bearing interest at three per centum per annum.

This debt, on the last day of December, 1794, was $19,484,840 68; on the 30th of September, 1795, it had increased by new loans to $19,569,909 63.

The sum purchased or redeemed, and passed to the credit of the Sinking Fund, was $607,097 27.

Notwithstanding this debt is redeemable at the pleasure of the United States, and though funds are, by the act of March 3d, 1795, eventually destined for that purpose, yet, as the appropriation is conditional and revokable by Congress, nothing more is stated as a charge upon the revenue than the annual interest, being $587,097 28.

5th. Of the Domestic Funded Debt, bearing interest at five and one-half per centum per annum.

This debt has lately been created by a subscription at the Treasury of that part of the loans obtained from France during the late war, which remained unpaid, and which bore interest at five per centum per annum, and amounts to $1,848,900.

This species of debt is liable to be increased by subscriptions of the debt due in Holland, bearing five per cent. interest; but any increase will operate as an equivalent reduction of the foreign debt; the interest is payable quarter-yearly, from and after the 1st of January, 1796; the annual sum requisite for this object is $101,689 50.

6th. Of the Domestic Funded Debt, bearing interest at four-and-a-half per centum per annum.

This, like the debt last mentioned, has been produced by a subscription of a part of the sum due to France, and arises from the loans which bore an interest of four per centum; the amount is $176,000.

To discharge the interest, there will be required annually the sum of $7,920.

7th. Of the Unfunded Debt, contracted during the late war.

This debt is composed of Loan Office and final settlement certificates, indents of interest, certificates of the Register of the Treasury, credits on the public books, and unliquidated claims. The amounts cannot be precisely ascertained, but, on the principles of former estimates, which cannot be materially erroneous, the principal is stated at - - - - - -	$984,811 09
And the arrearages of interest, prior to 1791, at - - - -	398,026 28
Amounting to - - -	1,382,837 37

Agreeably to the contracts expressed in the certificates of Unfunded Debt, the principals bear an interest of six per centum per annum; the arrearages of interest, prior to the year 1791, on being subscribed to the loan opened for the Domestic Debt, become three per cent. stock.

As yet, however, the acts of Congress have contained no provision for the payment of interest on this debt, except on that part which has been registered at the Treasury, and then only for a payment on account of interest, equivalent to what would be payable in consequence of a subscription to the loan.

On the principles which have governed former appropriations, there would be necessary, until and including the year 1800, the sum of $51,333 22, and after the year 1800, the sum of $71,029 44.

As, however, the amount of the Unfunded Debt is uncertain, and as no principles of the reimbursement thereof have been established, the sum last stated is assumed as the annual charge proper to be estimated for this object.

8th. Of the Domestic Loans, obtained under the authority of the present Government.

The annexed statement, marked C, shows, in detail, the several loans which had been obtained on the 30th of September, 1795, amounting to $5.700,000. A further sum of $500,000 will be obtained at the close of the present year, which will increase this description of debt to $6,200,000.

In this sum is included $1,400,000, being the amount of instalments which remain unpaid of two millions had of the Bank of the United States, for an equal sum of the capital stock of the said bank; according to contract, this loan bears an interest of six per centum per annum, and is reimbursable in instalments of $200,000 at the close of the years, from 1795 to 1801, inclusive.

There is also included in the aggregate amount before stated, the sum of $1,000,000, borrowed of the Bank of the United States and the Bank of New York, for expenses incident to the intercourse of the United States with foreign nations; $400,000 of this loan will fall due in the year 1796, and the remainder at the close of the years 1797, 1798, and 1799, in equal instalments of $200,000 each.

The other loans, with that to be made at the close of the present year, will require provision in the course of 1796.

It being evident that these loans, especially those which will fall due in the course of the ensuing year, must be continued by new contracts, the annual interest only is introduced into the general statement which is annexed; this interest, for reasons which will be developed in a subsequent part of this communication, is calculated at six per centum, or $372,000.

The several sums before stated have been brought into an aggregate view in the annexed table, marked D, the last column of which exhibits the sums which are estimated as being necessary to be provided in addition to the ordinary expenses of Government.

If a revenue adequate to the payment of the sums included in this estimate were to be established, the following reductions of the Public Debt might be effected:

At the close of the year 1809, the whole Foreign Debt, amounting to $12,200,000, would be discharged, and an annuity of $573,632 02, now required for the payment of interest, would revert to the public.

At the close of the year 1818, the Funded Domestic Debt, bearing a present interest of six per cent., would be discharged. This debt amounts to $29,310,856 86, the annuity then liberated would be $2,321,525 25.

At the close of the year 1824, the funded six per cent. stock, bearing a future interest, amounting to $14,561,934 41, would also be reimbursed, when a further annuity of $1,146,370 34 would be liberated.

The act of the last session provides fully for the fulfilment of the two last mentioned objects, by an absolute appropriation of revenue.

After the reimbursement before mentioned, there would still remain the following sums of the existing debt:

The stock bearing 3 per cent. interest, being - - - -	$19,569,909 63
The stock bearing 5½ per cent. interest - - - - -	1,848,900 00
The stock bearing 4½ per cent. interest - - - - -	176,000 00
The capital of the present Unfunded Debt, with the arrearages of interest prior to 1791, estimated	1,382,837 37
And the capital existing in loans of the Bank of the United States and the Bank of New York -	6,200,000 00
Amounting, in the whole, to	29,177,647 00

But if a revenue were to be established equal to what will be requisite to satisfy the public engagements upon the scale of expenditure which will be necessary in the year 1801, the whole of the Public Debt might be extinguished, by payment or purchase, at or before the close of the year 1824, as also a very considerable additional debt, if any such should arise, out of future contingencies.

This view of the public engagements will, it is presumed, demonstrate to the committee that, in the arrangements which have been hitherto made, an attention has not been wanting to secure a right of reimbursing the debt, fully, if not more than equal, to what the United States can exercise, and that the unforeseen events which have lately happened in Europe render it necessary to combine some efficacious plan for obtaining loans, with any augmentation of the revenue which it may now be judged expedient to establish.

After a full consideration of different expedients, it has appeared to me most eligible to propose a commutation of the whole debt due to the Bank of the United States into a funded domestic stock, bearing interest at six per centum per annum, transferable at the Treasury and Loan Offices, respectively, and irredeemable for such a period as will invite purchases at par.

Considering the great capitals which will soon be demandable, or which are in train of reimbursement in consequence of the act of the last session, it is evident that, if the proposed new stock were to be declared irredeemable for a period of twenty or twenty-five years, still the purchase or redemption of the remaining debt would be sufficient for the employment of any revenues which can readily be acquired. It will also appear, from the table marked D, that such an arrangement would leave it in the power of the United States to reimburse the proposed new stock at a favorable period, by the application of revenue which will then be liberated, in consequence of the final reimbursement of the six per cent. stock, bearing a present interest.

The utility of the proposed measure can, I presume, receive but little illustration beyond that afforded by a naked exhibition of the public engagements.

It is, indeed, very probable that the final payment of the Public Debt, instead of being postponed by any existing stipulations which forbid reimbursements, will, in fact, be rendered additionally burdensome, if it be not somewhat retarded by those conditions which require repayments at fixed periods.

The difficulties which are now experienced in respect to the Foreign Debt effectually demonstrate the impolicy of unnecessarily contracting engagements which cannot be satisfied directly from the proceeds of the revenue. At no time will those who negotiate loans for the public be able to calculate the value of money or the probability of an increase or reduction of the rate of interest, with greater precision than those who lend. At all times must the borrower be exposed to certain expenses, risks, and embarrassments, for which no equivalent can be obtained.

Among the reasons which recommend a commutation of the temporary debt due to the Bank of the United States, the following deserve notice:

1st. That this debt was contracted for the very beneficial consideration of an equal sum of the capital stock of that institution, or, it consists of sums advanced for the public service in anticipation of the revenue. In these respects, the debts due to the bank may be fairly considered as first in merit and importance.

2d. That the proposed commutation will enable the bank to grant such further loans as the public exigencies may require, without exposing the United States to certain expenses which are always incident to loans had of individuals.

3d. That, through the agency of the bank, sales of stock can be made to the best possible advantage, and the benefit of any premium which can be obtained be secured to the United States.

This last consideration is of much importance; for, though the proposed stock might not, in the present moment of commercial enterprise, command a premium, yet there can be but little doubt that it would bear a price considerably above par at no distant period. While, therefore, any present exigencies would be supplied on the most favorable terms, a certainty would remain that the real value of the stock would accrue to the public. I have the honor to be, &c.,

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

To the Hon. WILLIAM SMITH, Esq.

[The tables, being merely details, are omitted.]

[Presented to the House of Representatives, February 3, 1796.]

TREASURY DEPARTMENT, *Jan.* 26, 1796.

SIR: The object of this communication is to represent to the Committee of Ways and Means that certain additional provisions appear to be advisable, in order to a due execution of the act, passed during the last session of Congress, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt."

The eleventh section of the recited act directs, that the Commissioners of the Sinking Fund shall cause to be paid, yearly, such sums as, according to the right for that purpose reserved, may rightfully be paid for and towards the reimbursement or redemption of the debt or stock, bearing or to bear an interest of six per centum per annum.

In respect to the stock bearing a present interest, it was directed that the reimbursement should commence on the first day of January, 1796. Upon the stock which will bear interest after the year 1800, the reimbursement is to continue on the first day of January, 1802.

The sum which may rightfully be paid in one year, is eight per centum per annum upon the original capital, debt, or stock.

As the injunctions of the law upon the Commissioners of the Sinking Fund are unconditional, and as permanent funds have been vested and appropriated, it is conceived that a successive reimbursement annually of the debts before mentioned, has become an irrevocable stipulation with the creditors. The stock bearing a present interest has, therefore, by the act of the last session, been converted from an annuity of six per centum per annum, for an indefinite period, into an annuity of eight per centum per annum, for a period of somewhat less than twenty-four years, commencing with the year 1795.

The stock upon which interest was to commence in 1801, is a like annuity from that period.

But a stipulation in the fourth section of the act, entitled "An act making provision for the debt of the United States," requires a quarter yearly payment of interest, and this stipulation remains in force; a distribution of the annuity of eight per centum per annum into four quarter yearly dividends, is therefore necessary to satisfy the contract with the creditors.

If the dividends on the last days of March, June, and September, in each year, were to be confined to a simple payment of interest upon the unredeemed capital, the contract would be strictly satisfied; the fourth quarterly dividend, or that to be made on the last day of December annually, might, in this case, be calculated at such a rate as would complete the sum of eight per centum for each entire year; this appears to have been the design of the law in contemplating a distinction between the payments on account of principal and those on account of interest.

The effect of such a distribution of the annuity of eight per centum is exhibited in the annexed table, which shows the dividends of interest for the first three quarters of a year, in a decreasing ratio, proportioned to the reduction of capital by reimbursement; while the dividends to be made at the end of the year, for principal and interest, are represented as increasing by the amount of liberated interest; the dividends for the entire year being uniformly eight per centum upon the original capital.

Upon this statement, it may be observed, that it has been the established practice at the Treasury and Loan Offices to suspend all transfers for fourteen days preceding the expiration of each quarter; that time being found by experience to be indispensably necessary for the purposes of balancing the books, and calculating the dividends upon the stock held by individual creditors: a view of the annexed table will, however, prove that the labor of stating the dividends must be immensely increased, if a distinction between the payments on account of interest and those on account of principal is to be preserved. But the trouble and expense which would be created in the public offices would not be the only or greatest inconvenience. Such a system of reimbursement would, after a few years, render it necessary to accumulate in the Treasury, and suspend from circulation very considerable sums; the effects of such an accumulation might be inconvenient to commerce, and could not be materially advantageous to the public. As the rates of the dividends would vary from year to year, the true value of the stock could only be ascertained by intricate calculations, to which many of the creditors would be incompetent. Moreover, the rates of the dividends for interest for several of the last years, would, upon small sums, be too inconsiderable to induce the creditors to a cheerful compliance with certain forms which have been established with reference to the public security, and the responsibility of the public officers. This last objection is very important; as every degree of loss and vexation to the creditors would not fail to produce a corresponding injury to the public credit.

Notwithstanding it is believed that the powers granted by the seventeenth section of the act of the last session might be justifiably construed in such a manner as would obviate some, if not all the inconveniences which have been stated, yet, in a matter of importance like the present, the decision of the Legislature is desirable. It is, therefore, proposed that the rates of the quarterly dividends, until the final reimbursement of the six per cent. stock, bearing interest at present, and after the year 1800, be now declared and established by law.

Two propositions are submitted for consideration: 1st. That, in respect to the stock bearing a present interest, it be declared, that there shall be dividends made on the last days of March, June, and September, from the present year to the year 1818, inclusive, at the rate of one and one-half per centum upon the original capital; that there be dividends made on the 1st days of December, from the present year to the year 1817 inclusive, at the rate of three and one-half per centum upon the original capital, and that a dividend be made, on the last day of December, in

the year 1818, of one dollar eighty-six cents and nine mills per centum, upon the original capital, in full of said stock.

Or, 2d. That, in respect to said stock, bearing a present interest, the following dividends be established, namely: from the present year to the year 1806, inclusive, a dividend of one and one-half per centum on each of the last days of March, June, and September, upon the original capital; and upon each of the last days of December, during the said period, a dividend of three and one-half per centum upon the original capital; from the year 1807 to the year 1818, inclusive, a dividend of one per centum on each of the last days of March, June, and September, upon the original capital; from the year 1807 to the year 1817, inclusive, on each of the last days of December, a dividend of five per cent., and upon the last day of December, in the year 1818, a dividend of three dollars thirty-six cents and nine mills per centum upon the original capital, in full of said stock.

If either of these propositions shall be adopted, in respect to the stock bearing a present interest, it will be proper to establish the same rule for reimbursing the stock upon which interest will commence after the year 1800.

Either of the plans proposed will admit of an easy execution in the public offices, and either of them may be adopted consistently with the public engagements. The first proposition would be most favorable to an equal and regular circulation of the public revenue, and would serve to impress upon the stock the most uniform value. It is liable, however, in a greater degree than the second, to what may be deemed an objection common to both; namely, that of requiring an expenditure of money before the time actually stipulated for payment by the existing contract. The considerations of public utility, which have been stated, will however, it is presumed, more than counterbalance the objection.

It is further proposed, as an amendment to the act of the last session, that provision be made for reimbursing the balances, bearing and to bear interest at six per centum, due to certain States, which were funded in consequence of an act passed May 21, 1794. These balances, at present, constitute a part of the domestic funded debt, and unless they shall be reimbursed in course with the residue of said debt, it is apprehended that a degree of complexity will be introduced into the public accounts unfavorable to a regular and satisfactory administration of the business of the Treasury.

In deciding on the manner of executing the law, it has been judged inexpedient to renew the certificates in consequence of the annual reimbursements. It was indeed doubted, whether the operation would be practicable; at any rate, the expense to the public, and the trouble which would be produced to the creditors, were deemed insuperable objections. Accordingly the creditors have been notified, that their certificates will not be recalled, and that transfers will be continued upon the original capital stock. The value of the stock will, therefore, be hereafter a matter of calculation, depending on the term for which the annuity of eight per centum per annum is to continue.

To guard purchasers against deception, an intimation of the arrangement which has been adopted is expressed in the certificates which have been issued since the commencement of the present year.

It is, however, essential to the preservation of order in the public accounts, and to the security of negotiations of this description of stock, that all the certificates which may, at any time, be in a course of transfer, should possess a uniform character and value. That this uniformity will in fact be preserved, cannot be rendered sufficiently certain, unless the whole debt is subject to a regular reimbursement. It is now ascertained, that a considerable portion of the balances due to States will not be transferred within the time limited by the act of January 2, 1795. Unless, therefore, a provision is made for reimbursing these balances in their present form, one of two consequences must follow: the United States must hereafter refuse to permit transfers to be made, however pressing the emergencies of the creditor States may be; or, two new denominations of funded stock must be admitted into circulation. It is conceived that neither the magnitude of these debts, nor any objects of public utility, require that the exemption from reimbursement, contained in the act of the last session, should be continued. If, however, the proposition now made should be adopted by Congress, it will be proper that an option should be reserved to the States to receive or reject, at their pleasure, a reimbursement equivalent to that made on the residue of the six per cent. stock at the commencement of the present year. It may, however, be safely presumed that each of the creditor States will readily comply with a measure obviously tending to produce an accommodation to the Government.

It is conceived to be a true construction of the law, that the annual reimbursement upon any stock, which may be in a state of transition to, or from, the Loan Offices or Treasury respectively, and on that account, not in a state to be included in a dividend at the usual period, may be lawfully made at the end of the ensuing quarter, at the office where the stock may then remain.

This construction is necessary to a due and regular execution of the law, and is supposed not to be inconsistent with the limitation which forbids the reimbursement of a greater sum than eight per centum on account of principal and interest in one year. It would be unreasonable if an act of the creditor were to be construed to preclude the right of the public to discharge the annuity at the regular period. If, however, any doubt should exist as to the powers of the Treasury upon this point, a Legislative explanation will be advisable.

The trusts vested in the Commissioners of the Sinking Fund, in respect to the reimbursement of the Public Debt, and for other purposes, are, at present, of high responsibility and importance, and

such as will require frequent decisions upon representations from the Treasury Department. It is, in every sense, proper, that the documents received by the Commissioners, and their determinations thereon, should be fully recorded, and carefully preserved by some confidential person, to be appointed by them. An annual provision of a sum not exceeding two hundred and fifty dollars, for the services of a secretary, will be sufficient for the object, and is advisable.

It is already known to the committee, that the proposal for converting the Foreign Debt into a funded domestic stock, has not been accepted by the creditors in Amsterdam and Antwerp. It was foreseen, that the trouble of maintaining a distant correspondence, the necessity of employing agents in this country, the chances of exchange and the charges of insurance and commissions, would powerfully operate to deter the creditors from acceding to any commutation of their contracts on the principles proposed. The additional interest of one half per centum was intended to counterbalance these inconveniences, which were accordingly estimated on a scale liberal for the creditors; whether the allowance will be considered by them as an adequate compensation, is uncertain. As, in accomplishing the object of a re-loan, the United States will necessarily have to oppose many interests and some prejudices, it is desirable to render the proposal of the Government free from all real objections; that which has been urged with the most force, arises from the redeemable quality of the new stock.

The documents in the possession of the committee contain data upon which an opinion is now expressed, that a renunciation of the right of redemption, until the year 1819, would be attended with no inconvenience to the United States, by prolonging the existence of the Public Debt.

Considering the great amount of the debt in Holland, the unsettled state of that country, and the extensive operations which either a re-loan or direct reimbursement must occasion, it is conceived to be advisable that a discretionary power of appointing a commissioner or agent to superintend the foreign expenditures should be vested in the President.

Though it is not certain that such an appointment will be necessary, yet there are sufficient grounds to recommend a provision for such a contingency.

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, Jun.,
Secretary of the Treasury.

The Hon. WILLIAM SMITH,
Chairman of the Committee of Ways and Means of the House of Representatives.

Statement exhibiting the operation of the act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," in respect to the reimbursement of the six per cent. stock, bearing a present interest.

Term, being the close of the year.	Rates per centum due on the original capital in each year, after the payments made, to the end of the preceding years, are deducted.			Rates per centum due for interest in the 1st, 2d, and 3d quarters of each year.		Rates per centum payable at the end of the 4th quarter of each year, on account of principal and interest.	
	Years.	Dollars.	Parts.	Dollars.	Parts.	Dollars.	Parts.
1795	1	100	–	1	.50	3	.50
1796	2	98	–	1	.47	3	.59
1797	3	95	.880	1	.439	3	.683
1798	4	93	.632	1	.405	3	.785
1799	5	91	.250	1	.369	3	.893
1800	6	88	.725	1	.331	4	.007
1801	7	86	.049	1	.291	4	.127
1802	8	83	.212	1	.249	4	.253
1803	9	80	.205	1	.203	4	.391
1804	10	77	.017	1	.156	4	.532
1805	11	73	.638	1	.105	4	.685
1806	12	70	.056	1	.051	4	.847
1807	13	66	.260	–	.994	5	.018
1808	14	62	.236	–	.934	5	.198
1809	15	57	.969	–	.870	5	.390
1810	16	53	.448	–	.802	5	.594
1811	17	48	.654	–	.730	5	.810
1812	18	43	.574	–	.654	6	.038
1813	19	38	.188	–	.573	6	.280
1814	20	32	.480	–	.488	6	.536
1815	21	26	.428	–	.397	6	.809
1816	22	20	.014	–	.301	7	.097
1817	23	13	.215	–	.199	7	.403
1818	24	6	.008	–	.091	6	.096

TREASURY DEPARTMENT, *January* 26, 1796.

INTERNAL REVENUE.

[Communicated to the House of Representatives, March 7, 1796.]

TREASURY DEPARTMENT, *March* 5, 1796.

SIR: I have the honor to transmit herewith certain statements, which have been prepared by the Commissioner of the Revenue, in pursuance of the resolutions of the House of Representatives, passed on the 2d day of March, 1795, and the 26th day of February, 1796, with a report explanatory thereof, by that officer.

I have the honor to be, &c.,

OLIVER WOLCOTT, Jun.,

Secretary of the Treasury.

The SPEAKER *of the House of Representatives.*

A report of the Commissioner of the Revenue, required by the order of the House of Representatives of the 2d day of March, 1795, concerning the internal revenues of the United States.

TREASURY DEPARTMENT,

Revenue Office, Feb. 29, 1796.

The order of the House of Representatives having been made at the expiration of its last term, a report could only be made to the present House. On the day following the receipt of the order, circular letters, communicating the substance thereof, were transmitted to the supervisors. These letters contained also explicit and particular instructions, intended to insure the requisite attention to punctuality and to the necessary details, as will appear from the annexed copy. With a view to expeditious and easy communications from the supervisors to the inspectors, printed copies were transmitted to the former, for all of the inspectors of surveys as well as for themselves. As circumstances immediately preceding the order of the House had convinced those who had to pay the tax, that the revenue laws would be executed in future, and had removed some of the difficulties which had impeded and greatly disordered the antecedent business, it appeared expedient to reinforce, by the influence of this Legislative call, the injunctions which had been previously given to settle and return, as far as was then possible, all that remained in arrear. To prevent inconvenience from accidents, and to increase impression, duplicates of those letters were also transmitted.

One of the acts concerning snuff and snuff mills, requiring an annual report of the revenue from that object to be made to Congress, a special circular letter upon that subject was transmitted to the supervisors, shortly after the circular communication above mentioned, and nearly six months before the expiration of the first year of the operation of the snuff tax.

Immediately before the time when the five new duties would have existed an entire year, other letters were transmitted to the supervisors, calculated to promote their attention to the objects required by the House, and requesting them immediately to furnish, for Legislative and Executive use, anticipated estimates of what each of the internal revenues might be expected to produce in the year 1796.

Other letters, partially circular, have been transmitted, at different times, to those supervisors who continued to be most in arrear as to these and their other returns. Besides which, special letters, as frequent, and in terms as urgent, as circumstances required and admitted, have been addressed to some of the supervisors, and indeed to other officers of the revenue, who, from considerations of weight, cannot be instructed immediately from the Treasury on ordinary occasions.

But, although a perfect respect to the order of the House, and the proper duties of this office, have produced these early and repeated communications to the supervisors, it is not intended to convey the idea, that they, or the other officers of the revenue, have made less exertions than any other description of persons in the public service. For, it is believed, that a comparative view of their services and duties would produce different impressions. It is, however, true, that the embarrassments and difficulties of the revenue business have been met by inadequate exertions in some instances. These cases have been the subjects of explicit communications with the proper officers. But it is doubted whether a complete remedy can be applied without transferring the tax upon spirits to the stills.

When the order of the House was received at this office, the reflection occurred, that the first year of the five internal revenues established in 1794, would not terminate until the 30th of September, 1795; and that the revenues from both kinds of domestic distilled spirits and from stills, would have their nearest annual period on the 30th of June following the receipt of the order. It was only on the same 30th of June that the existing arrangement of officers and compensations would have been in operation for an entire year in relation to all the revenues which are considered as parts of the system of internal taxation. It appeared desirable, therefore, and indeed necessary, to make preparation for statements, which should respectively terminate on those two days of June and September 1795, and a return of officers and compensations, as of the first of those days being the middle of the year. When, however, it is remembered, that the statements of the familiar and unembarrassed business of the customs, concentrated as they are, in each instance, in a single port and post-town, cannot be conveniently made up at the Treasury, for any year, until near the close of the year following, much longer time will appear necessary in the case of the internal revenues. Some of these are new, one litigated, and the largest of them has been the subject of forcible opposition and coercion. They are moreover so scattered, that one or the other of them accrues in every county, and in almost every township of the United States.

The following statements, A, B, C, D, E, F, and G, contain an exhibition of all the returns,

whether formal or irregular, which have been yet received at the Treasury. To those papers are added such supplementary estimates as we possess materials to justify. The paper H contains a list of the officers, with their compensations. The paper I is a copy of the act of the President, establishing those compensations. The paper K is the general statement of those revenues, with all the expenses of collection. The drawbacks are inserted in the particular statements of the several revenues, so far as they are ascertained. These statements are accompanied with some remarks, which may contribute to place the subject within the view of the Legislature.

1. The gross revenue from spirits distilled from domestic materials and from stills appears, by the accompanying statement and estimate A, to amount to 218,036 dollars and 16⅔ cents, for one year, ending on the 30th of June, 1795.

The two earliest and largest estimates of that branch of the spirit tax, which were made in December, 1790, resulted in a gross amount of		$270,000
But, since the passing of the law of 1791, which was predicated on those estimates, the duty on spirits from domestic materials has been reduced from nine to seven cents, being two-ninth parts of the whole; for which, of course, there is to be deducted from the estimate -	$60,000	
The yearly duty upon the capacity of the still has also been reduced from sixty to fifty-four cents, since the passing of the act of 1791. This difference, taken upon only one-fifth part of the whole $270,000, gives the sum of -	5,400	
Since that year, monthly licenses, not contemplated by the estimates, have been allowed by law, and an opinion is held at the Treasury, grounded on a report made upon experiments by distillers, that, in consequence of that allowance, the duty, in the case of stills employed on grain, may be easily reduced from seven cents to four cents and one-half, and in the case of fruit, from seven cents to four cents per gallon. If this be taken at the minimum of two cents and one half per gallon, it will justify a deduction of - - -	37,500	
		102,900
And the sum of - - -		$167,100

will be left as the just and true residuum, after thus deducting, from the original estimate, the aggregate of those excisions from this duty which have been actually made by the law of 1792. Instead of that sum, there can be no doubt, from the face of the statement A, that a larger amount has accrued and will be collected. And if the statutes concerning this branch of the revenue had not been greatly frustrated by the unavoidable want of a law officer, to prosecute the pleas of the United States in a productive district, a confident belief is entertained, that it would have yielded a sum nearly one-third larger than the residuum above stated.

To collect, with an effect really equal to previous estimates, so very small a revenue over the face of an extensive and sparsely-peopled country, under the disadvantages of necessarily imperfect and untried laws, of prejudice, and even opposition, will be considered as favorable to the general character of the revenue officers in the districts. It is, moreover, to be remembered, that there are some occasional circumstances, which might have been expected to produce a defalcation of the duties upon spirits from domestic materials. The excessive prices of grain, of marketable and exportable fruit, and of cider, have deprived the distillers of a very large portion of the means to employ their stills. In all places, the inducements to distil have been greatly diminished by the increased competition of the miller and merchant for every species of grain. It might have been supposed, too, that the great additional importations of foreign spirits*, of low priced wines,† and of malt liquors,‡ with the multiplication and extension of the manufactories of the latter, concurring with those circumstances, would have reduced the revenue on spirits from domestic materials, far below all former expectation. Yet this does not appear to be the case. It is worthy of remark here, that, on a calculation predicated upon the premised facts, the quantity of spirits, from fruit and grain only, which have been subjected to the revenue in the United States in the reported year, appears to be greater than the average of the same branch in England during the last thirty years, notwithstanding the more strict and rigorous nature of their laws. If these objects have produced there a greater sum, it is because the duty is much higher. A comparison with the same revenue, under the laws of certain of the States, would be still more favorable to the operation by the United States. Pennsylvania, for example, collected in the year 1790, from an excise of eight cents and eight ninths, upon foreign and domestic spirits and upon all kinds of wine, much less than is now collected from spirits made from domestic materials only, though her territory is crowded with emigrants consuming her produce, and she contributed very largely to the supply of the Western and Militia armies out of the crop of 1794.

*The quantity of foreign distilled spirits, imported in the year ending on the 30th September, 1790, was 3,678,199 gallons. That in 1794 was 5,699,269 gallons.

†The quantity of wines, other than those of Madeira, imported in the year ending on the 30th of September, 1790, was 607,561 gallons. That in 1794, was 1,336,076 gallons.

‡The quantity of beer, ale, and porter, imported in the year ending on the 30th September, 1790, was 70,564 gallons. That in 1794, was 331,488 gallons.

2. The tax upon spirits distilled from foreign materials appears, by the same accompanying statement A, to amount to $141,989 15¼ for one year, ending likewise on the 30th day of June, 1795.

The estimates of 1790, already referred to, resulted, in regard to the tax on spirits from molasses, in the gross amount of - - $385,000 00

But, since the passing of the first law, in 1791, which was predicated on those estimates, the duty on this kind of spirits has been reduced from eleven to nine cents per gallon. Wherefore, there are to be deducted two-eleventh parts of $385,000, being - - -	70,000 00
	315,000 00
Allowances for leakage and for prompt payment were also made, for both of which there is yet to be deducted about - -	6,662 50
	$308,337 50

The revenue from spirits distilled from foreign materials, in the year ending with June, 1795, was, according to statement and estimate A, $141,989 15. The defalcation of this branch of the revenue appears, therefore, $166,348 35. But the importation of molasses, in the year 1794, was less than that in 1791, by 3,700,000 gallons. Allowing something extraordinary for the portion which would not have been used in distillation, the duties on the remainder, at nine cents per gallon, would more than counterbalance that sum. To this deficiency in the supply of molasses, it is probable that something might be added for the increased consumption of it in substance on account of the high price of sugar. These circumstances not only explain the defalcation of the tax on spirits distilled in the United States from foreign materials, but afford ground of conviction, that a great revenue from this source has been prevented only by the extraordinary nature of the war in the West Indies. As to the future course of the business, there appears little uncertainty in the expectation that the restoration of the molasses trade, the reduction of the prices of grain abroad and at home, and the increase of fruit, or even the two latter, should molasses continue to fail, will render the revenue from domestic spirits highly valuable, especially if further modified by the Legislature.

The estimates of the duties on sales at auction, snuff and snuff mills, refined sugar, carriages, and licenses to retail wines and foreign distilled spirits, were formed upon grounds which are unknown at the Treasury, having been made by a committee of the House of Representatives. It appears highly probable, however, that any information which could have been attainable at that time, must have been very imperfect and uncertain, and it is to be remembered, that alterations in the bills which produced diminutions in the product, were made during their passage through the Legislature. On these five duties, the following observations occur:

1. The auctioneer's tax, according to the statement B, amounts to $31,593 23¼, and falls considerably short of the estimate referred to. It is conceived that the numerous and extensive exemptions in the proviso to the first section of the law, the very increased agency of brokers instead of auctioneers, in the business of the seaport towns, and the multiplication of the various objects which now form our circulating medium, have greatly affected this revenue.

2. The taxes on snuff and snuff mills amount, according to the statements C and D, to $9,511 8¼, and have proved apparently the least conformable with the Committee's estimate, though it is not known what proportion they expected from manufactured tobacco. This article, which is of much greater consumption than snuff, was not subjected to duty, as proposed by the Committee. An opinion prevails, and it is believed on just grounds, that the existing law, relative to this branch of the public revenues, is either constructed upon wrong principles, or is very defective in its provisions. It is understood, also, that the productiveness of this tax has been diminished by extraordinary, though very natural exertions of the manufacturers of snuff to increase the stock on hand before the operation of the duty; and it is represented that, since the alteration of the principle of the law, the larger mills, with great powers of water and capital, have been enabled to make snuff by license, so as to reduce the contribution on the pound of the manufactured commodity to a much less rate than eight cents.

3. The refined sugar tax amounts to $34,527 86, and appears, also, by the statement E, to fall short of the original estimate; but additions will be made when all the returns shall be received. The defalcation may be owing not more to the imperfection of the materials which the Committee could obtain to govern their opinions, than to the increased use of the fine Muscovadoes, and of the clayed and powdered white sugars, which are understood to have been imported in a greater degree than formerly. These have facilitated a prudent economy, to which the prices of many of the necessaries of life have invited the consumer.

4. The tax upon carriages for the conveyance of persons appears, by the statement F, to have produced $41,421 17. The members of the Legislature are generally informed that a question has been raised, in an extensive State, about the constitutionality of the law which imposes it. That circumstance is conceived not only to have diminished the revenue in that district, but in some other places. As it was, for obvious reasons, highly desirable to have this point immediately settled, every exertion was made, short of precipitating the decision, to bring it early before the District Court. The Judges of that tribunal were divided, and the case was carried by appeal to the Supreme Court of the United States. It was endeavored, on the part of the Government, to have the question finally argued in August last, but, from circumstances on the side of the defendant,

it became necessary to acquiesce in a postponement until the February term. It is understood that the revenue of the current year will be further diminished by the unavoidable delay of a decision.

5. The statement G exhibits the gross revenue from licenses to retail wines and foreign distilled spirits, at $54,731 54, so far as returns have been received at the Treasury. It was to be expected that the amount would fall considerably below the original estimate, because the spirit licenses were confined to the retailers of foreign spirits, contrary to what seems to have been the first intention of the Committee. This not only diminished greatly the number of licenses, but is supposed to have facilitated evasions of the law. It is not doubted, that the occurrence of the month of entry (September) so soon after passing the license act, may have prevented that timely promulgation of it which was necessary to the perfect collection of this tax. A similar reflection arises with greater force in regard to the carriage tax; and, indeed, the arrangements necessary to carry into execution the several laws concerning the five new duties, required more time than intervened between the beginning of June and the month of September.

The paper H contains the names of nearly all the officers employed in the business of the internal revenues throughout the United States. Judging by a comparison with facts in the scene most adjacent to the Seat of Government, these are less numerous than the corresponding officers of the States. The collectors, alone, of the revenues of the State of Pennsylvania, all of which are of course internal, are believed to be very many more in number, as well in fact as in proportion to the respective aggregates of the taxes, than all the officers of every description employed in that district to superintend and collect the six duties of the United States, which are the subjects of this communication. Throughout the Eastern parts of the Union, it is understood that there is a collector of their taxes in every township, which must give a number greater, in that quarter alone, than that of all the officers of the internal revenues of the United States. In the other parts of the Union, it is believed that there is considerably more than the proportion of one collector of State dues in each county, on a medium. It is certain that the internal revenue officers of every class, upon the Federal Establishment, are fewer in number, although one description of them (the auxiliary officers) has been appointed for the sole purpose of bringing conveniently near to the payers of certain of the taxes, an office of entry and application.

The apparent emoluments of the officers, and the expenses of collection, though not higher than has been expected, if accurately considered, must be taken in conjunction with several connected circumstances.

Some of the supervisors and inspectors have allowances for preparing or signing certificates for foreign distilled spirits, wines, and teas, which, not being conveniently separable, appear, in their general mass of charges, on the internal revenues. They are, however, not considerable. For the important service of checking, on land, the great import duties on those three articles, these revenue officers receive no other than the very small allowance which is just referred to. A puncheon of spirits, worth one hundred dollars, yields to some one of them in a district, no more than two cents and one-half; and a cask of wine, worth forty dollars, yields, in like manner, but a single cent. The supervisors and inspectors' office rent, fuel, and clerk hire, the value, or hire, of the collectors' horses and their keeping, together with their own expenses when on the road, are deductions from their emoluments. The postage of letters and packets, which greatly contribute to swell the incidental expenses, are all returned into the public Treasury, except the allowances to the post officers. Most of the supervisors, and several of the inspectors, perform necessary and important duties, auxiliary to some of the officers of the several Executive Departments, on terms very far, indeed, below what would be accepted by any special agent, public or private.

The statements and estimates accompanying this report contain the substance of all the returns and documents concerning the internal revenues for the year to which they relate. Such papers as may be received during the course of the session, are proposed to be digested into a supplementary statement.

TENCH COXE,
Commissioner of the Revenue.

[CIRCULAR.]

TREASURY DEPARTMENT,
Revenue Office, May 16, 1795.

GENTLEMEN: I have been obliged to postpone, until this day, a communication to you concerning a resolution of the House of Representatives of the 2d of March last. It did not reach my hands till yesterday afternoon. The resolution requires, that there be laid before the next Congress "such a statement of the internal revenues as will ascertain, with precision, the nett product thereof, and the expense of collection;" also, "a list of all the officers employed in that service, and the compensation allowed to each of them."

Completely to effect these several objects, and as the basis of the relative observations and explanations which should accompany the statements from the Treasury, it is necessary that early and particular attention be paid to the following points:

1. The completion of all the returns and abstracts relative to retailers' licenses, sales at auction, carriages, refined sugar, and snuff and snuff mills, until the 30th of September next, on which day the first year of those revenues will end.

2. The completion of all the returns and abstracts relative to the distillation in cities, towns, and villages, and from foreign materials, from the first day of July, 1791, until the 30th day of September, 1795, the return for each quarter, now unreturned, to be transmitted to the Treasury, as soon as completed.

3. The completion of all the returns and abstracts relative to the distillation from domestic materials, in places other than cities, towns, and villages, and to stills, as far as the same can, by every exertion in your power, be completed. From the first day of July, 1791, to the last day of December, 1794, they should be made up by the close of the current quarter, the 30th of June next. These, also, should be immediately sent forward, as each shall be completed. I recommend, too, such exertion as will possess the Treasury of the abstract, relative to the half year, now current, by the close of the year 1795.

4. The completion of the quarterly accounts current, with the proper accompaniments, from July 1, 1791, to the 30th day of September, 1795, and the transmission of each of them, which is, at this time, incomplete, as soon as it shall be made up.

5. A complete list of all the inspectors of surveys, inspectors of the revenue for the ports, collectors of the revenue, auxiliary officers, and deputies of the inspectors of the revenue for the ports, as the same shall stand in the month of June, 1795, exhibiting the salary allowed to each, and an estimate of the commissions, fees for marking stills, &c.; also, the surveys, divisions, and counties. To these you will prefix a similar exhibition of all the emoluments of the supervisors.

Should anything further occur likely, in your opinion, to give to the Legislature a perfect view of the revenue service, and of its results, you will be pleased to add such information.

I am, gentlemen, very respectfully, your most obedient servant,

TENCH COXE,
Commissioner of the Revenue.

The Supervisors of the Revenue.

[The tables accompanying the Report are omitted.]

DIRECT TAXES.

[Communicated to the House of Representatives, December 14, 1796.]

TREASURY DEPARTMENT, *Dec.* 14, 1796.

SIR: In obedience to the resolution of the House of Representatives, of the 4th of April, 1796, I have the honor to transmit a report, containing a plan for laying and collecting direct taxes, by apportionment among the several States, agreeably to the rule prescribed by the Constitution.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT, JR.

The Hon. the SPEAKER
of the House of Representatives.

The Secretary of the Treasury has, during the recess of Congress, directed his attention to collect such information as appeared necessary to enable him to comply with the resolution of the House of Representatives, passed on the fourth day of April, 1796; and though, from the importance and complexity of the subject, more time and leisure would have been desirable, yet, in obedience to the said resolution, he most respectfully submits the following report:

The duty enjoined is to "report a plan for laying and collecting direct taxes by apportionment among the several States, agreeably to the rule prescribed by the Constitution; adapting the same, as nearly as may be, to such objects of direct taxation, and such modes of collection, as may appear by the laws and practice of the States, respectively, to be most eligible in each."

The amount of the proposed tax not being specified in the resolution, the Secretary presumes it to have been the intention of the House that the sum to be apportioned should be sufficient to consummate the system which was established in March, 1795, for the reduction of the present debt of the United States, and commensurate to the probable exigencies of the Government.

This construction has appeared the more reasonable, because necessary to prevent the measures then adopted, from producing effects in some degree opposite to what were intended. The public faith having been pledged to reimburse a great portion of the debt, which lately rested in permanent loans, sufficient revenues for this object, and all necessary expenses of Government, must be provided, or recourse had to a continued system of borrowing. If this last expedient should be resorted to, the public burdens, though the debts may change their form, will remain substantially the same. The Government will, moreover, be liable to certain risks and expenses, which inevitably attend extensive contracts; and unless it shall be found practicable to obtain new loans on terms at least as favorable as those to be extinguished, the public debts will be somewhat increased by the inefficacy of the measures which were intended to reduce them.

It will not escape the attention of the House, that the causes which at present most favor the prosperity of the United States, and, consequently, increase the ability of the people to pay taxes, are such as oppose obstacles to the negotiation of new loans, or, at least, render their terms peculiarly burdensome and expensive. But, while it would be improper to encourage an expectation that the affairs of this extensive and enterprising country can be successfully conducted without an occasional application to this resource, it ought to be a fixed principle to establish a permanent revenue, adequate to every permanent expense, and sufficient to discharge, in a reasonable time, all loans arising from extraordinary and unforeseen contingencies. This principle has already been recognised by the act of March 3d, 1795, which has solemnly pledged the public faith for the reimbursement of the debt now existing; it, therefore, only remains to embrace the present period, as the most auspicious which has yet occurred, and as favorable as any which may be expected, for establishing and maturing such systems as will efficaciously fulfil the intentions of the Legislature.

As necessarily connected with the question,

how far additional revenues are requisite, the Secretary has deemed it proper, though not enjoined by the resolution of the House, to present a concise statement of the finances. The period selected for this purpose is the first day of July, of the present year, at which time the debts of the United States were of the following descriptions and amounts:

1st. The foreign debt, consisting of loans obtained by the late and present Government in Amsterdam and Antwerp, amounting to twenty-nine millions five hundred thousand guilders; equal, at forty cents per guilder, to - - -	$11,800,000 00
2d. The six per cent. domestic stock, now in course of reimbursement - - -	29,344,752 98
3d. The six per cent. domestic stock, upon which reimbursements are to commence in the year 1801 - - -	14,578,882 39
4th. The three per cent. domestic stock - - - -	19,597,545 93
5th. The five and a half per cent. domestic stock - - -	1,848,900 00
6th. The four and a half per cent. domestic stock - - -	176,000 00
7th. The unfunded registered debt, exclusive of arrearages of interest prior to the year 1791 -	179,953 16
8th. The debts due to the Bank of the United States and the Bank of New York - -	6,200,000 00
The sums before enumerated are precisely ascertained by the records of the Treasury, and amount to - - -	83,726,034 46
There are, however, in circulation, various descriptions of certificates, the amount and value of which are not exactly ascertained, which, with the balances of certain unliquidated accounts and arrearages of interest, may possibly rise to - - - -	1,124,404 24
The entire amount of all those capitals, upon which an expenditure is incurred, and for which provision is necessary, may, therefore, be estimated at - -	84,850,438 70

To reconcile this representation with reports heretofore made from the Treasury, and to prevent erroneous opinions from being entertained respecting the real amount of the public debt, it appears proper to represent that the following sums are indisputable off-sets against the capitals before enumerated:

1st. Six per cent. stock, bearing a present interest, already purchased or redeemed, and vested in the Commissioners of the Sinking Fund - - -	$1,170,232 13
2d. Six per cent. stock, on which interest will accrue after the year 1800 - - -	930,753 91
3d. Three per cent. stock, also purchased or redeemed - -	610,757 94
4th. Stock of the Bank of the United States, sold by the United States, estimated at par -	2,000,000 00
5th. The sum reimbursed at the close of the year 1795, on the six per cent. stock - -	544,066 54
Amounting, in the whole, to	5,255,810 52

The particulars and amount of expenditure required by the public contracts, in relation to the capitals first enumerated, calculated on an average of the respective years for which each description of debt is to continue, are as follows:

1st. The debts due in Amsterdam and Antwerp, as before stated, amount to eleven millions eight hundred thousand dollars. The contracts respecting them require annual reimbursements in unequal portions, until the year 1809, when the last payment is to be made. The whole sum required for principal and interest, on an accurate calculation, and supposing the utmost punctuality to be maintained on the part of the United States, is sixteen millions seven hundred and seventy thousand four hundred and forty-four dollars.

The average sum which will be required, during the fourteen years which this debt is to continue, is, therefore - - - -	$1,197,888 84
This calculation, however, supposes the practicability of such a punctual provision for the payment of interest and principal, as will entirely supersede the use of temporary credits in Europe; and it moreover supposes that remittances can be uniformly made at the par of exchange. As neither of these suppositions will be, in fact, realized, there is to be added to the foregoing sum the estimated expense of remittances above par, and for interest on temporary advances to the United States, to insure punctuality; this expense will not, probably, be less than five per centum on the annual payments, and being calculated on the average annual demand above stated, will, at this rate, amount to -	59,537 30
	1,257,426 14

Upon the principles herein assumed, the average sum to be provided, until the year 1809, inclusive, for the extinguishment of the Dutch debt, will be one million two hundred and fifty-seven thousand four hundred and twenty-six dollars and fourteen cents.

It is proper, however, to state that the foregoing estimate is founded on a presumption that some

systematical plan will be adopted for satisfying the existing contracts, by direct payments from the Treasury. In every degree in which recourse may be had to new loans, the expense of reimbursement will be finally increased by at least the charges of negotiation; these, upon such loans as may be hereafter obtained in Holland, cannot be estimated at less than six or seven per centum upon the capitals which may be borrowed.

2d. The six per cent. stock now in course of reimbursement, exclusive of the sum passed to the credit of the Sinking Fund, is twenty-eight millions one hundred and seventy-four thousand five hundred and twenty dollars and eighty-five cents, upon which the annuity of eight per centum amounts to - - - $2,253,961 66

The capital passed to the credit of the Sinking Fund is one million one hundred and seventy thousand two hundred and thirty-two dollars and thirteen cents; upon which the accruing interest of six per centum per annum, is - 70,213 92

Amounting to - - 2,324,175 58

This sum, last mentioned, will be annually required until the close of the year 1817. During the year 1818, the demand for the object will decline to about one million eight hundred and sixty-five thousand dollars, and will then cease by the extinguishment of the debt.

3d. The six per cent. stock, on which reimbursements will commence in the year 1801, amounted, on the first day of July, 1796, to thirteen millions six hundred and forty-eight thousand one hundred and twenty-eight dollars and forty-eight cents, exclusive of nine hundred and thirty thousand seven hundred and fifty-three dollars and ninety-one cents, passed to the credit of the Sinking Fund. The annuity on the first sum, at eight per centum, amounts to - $1,091,850 28

And on the latter sum, at six per centum, to - - - 55,845 23

Being, together, - - 1,147,695 51

Which last sum will be required, from the year 1801 to the year 1823, inclusive. During the year 1824, the charge will be reduced to about nine hundred and twenty-five thousand dollars; and, after that period, will wholly cease, with the reimbursements of the debt.

4th. The funded three per cent. stock, exclusive of the credit to the Sinking Fund, amounts to eighteen millions nine hundred and eighty-six thousand seven hundred and eighty-seven dollars and ninety-nine cents; on which the annual interest is - - - 569,603 63

The stock of the Sinking Fund is six hundred and ten thousand seven hundred and fifty-seven dollars and ninety-four cents; and the interest thereon - - 18,322 73

Amounting to - - 587,926 36

The duration of this annuity may be considered as indefinite; for, though funds for the redemption of the capital stock are eventually appropriated by the act, entitled "An act making further provision for the support of public credit and for the redemption of the public debt," yet, by a proviso to the twelfth section of the said act, the power of diverting the appropriation to other objects, is reserved to the Government.

5th. The interest on the stock bearing interest at five and a half per centum per annum, (being one million eight hundred and forty-eight thousand nine hundred dollars) will require one hundred and one thousand six hundred and eighty-nine dollars and fifty cents.

6th. The interest on the stock bearing interest at four and a half per centum, being one hundred and seventy-six thousand dollars, will be annually seven thousand nine hundred and twenty dollars.

7th the unfunded debt is of two descriptions, viz:

That which is registered, being $179,953 16

And that not registered, estimated at - - - - 1,124,404 24

Amounting to - - 1,304,357 40

For this debt no provision has been made by law, except a partial grant from year to year, on account of interest. So far as the debt has been liquidated, the public are bound by contract to pay an interest of six per centum per annum. Similar engagements will be expressed in the certificates hereafter to be issued; to discharge which interest there will be annually required the sum of seventy-eight thousand two hundred and sixty-one dollars and forty-one cents.

8th. The debts due to the Bank of the United States and Bank of New York amount to six millions two hundred thousand dollars; though a part of this sum was borrowed at five per centum per annum, yet, as the existing contracts are expected to be satisfied from the proceeds of new loans at six per centum, the annuity chargeable upon the revenue is calculated upon this last rate, being three hundred and seventy-two thousand dollars.

The annuities before recited comprise all the demands which will be made upon the Treasury, in consequence of the present debt of the United States; and being reduced to aggregate sums, and classed according to the epochas for which the said annuities are to continue, they will require a provision of revenue as follows:

1. From the year 1796 until the end of the year 1800, when the annuity on the deferred six per cent. stock will begin to accrue, four millions seven hundred and twenty-nine thousand three hundred and ninety-eight dollars and ninety-nine cents.

2. From the year 1801 to the year 1809, inclusive, when the present foreign debt will be extinguished, five milions eight hundred and seventy-seven thousand ninety-four dollars and fifty cents.

3. From the year 1810 to the year 1818, inclusive, when the annuity on the six per cent. stock,

bearing a present interest, will be extinguished, four millions six hundred and nineteen thousand six hundred and sixty-eight dollars and thirty-six cents.

4. From the year 1819 to the year 1824, inclusive, when the annuity on the deferred six per cent. stock will be extinguished, two millions two hundred and ninety-five thousand four hundred and ninety-two dollars and seventy-eight cents.

5. After the year 1824, supposing the debt above mentioned to be extinguished, and the other debts of the United States to remain in their present situation, one million one hundred and forty-seven thousand seven hundred and ninety-seven dollars and twenty-seven cents.

By the establishment of a revenue adequate to the current expenses of the Government, in addition to the foregoing estimate, during the periods above recited, the following reductions of debt might be effected:

1. At the close of the year 1809, the entire amount of the present foreign debt, being - - $11,800,000 00

2. At the close of the year 1818, the six per cent. stock, bearing a present interest - - - 29,344,752 98

3. At the close of the year 1824, the deferred six per cent. stock - 14,578,882 39

Amounting, together, to - 55,723,635 37

After the reimbursement of the foregoing sums, there would still remain, of the present debt—

1. The three per cent. stock, being - - - - $19,597,545 93

2. The five and a half per cent. stock - - - - 1,848,900 00

3. The four and a half per cent. stock - - - - 176,000 00

4. The unfunded and unliquidated debts - - - 1,304,356 97

5. The debts due to banks, or the stock which may be substituted therefor - - - 6,200,000 00

Amounting, in the whole, to 29,126,802 90

If, however, the United States can establish a revenue equal to the scale of expenditure which will be necessary in the year 1801, the whole debt may be extinguished by payment or purchase, on or before the end of the year 1824; as, also, a considerable additional debt, if such should accrue from future contingencies.

The foregoing calculations being founded on existing contracts, are liable to but little uncertainty; it is necessary, however, to form an estimate of the probable expenses of those establishments which the United States must at all times maintain. On this subject there exists no data, from past experience, which afford a satisfactory ground for an opinion; it is believed, however, that it will be unsafe and deceptive to calculate the current expenses of Government at less than the following estimate:

For the support of the civil list $486,000 00

For expenses of intercourse with foreign nations - - - 100,000 00

For the mint establishment - 40,000 00

For light-houses - - 25,000 00

For expenses of the loan offices 12,000 00

For miscellaneous objects and contingent expenses of Government - - - - 37,000 00

For the military and naval departments, including pensions - 2,000,000 00

Amounting, in the whole, annually, to - - - - 2,700,000 00

If it shall be found that the expenses of the military and naval departments cannot be reduced below the above estimate, which, though much to be desired, is far from certain, the foregoing calculation will fall short of the real expense; it being morally certain that the expenses of civil government will, hereafter, considerably increase.

Assuming it, however, as a principle, that the expenses of the public establishments will amount to two millions seven hundred thousand dollars, and no more, it follows that, to preserve the United States from the necessity of recurring to future loans, it is requisite to establish a revenue to continue until the close of the year 1800, of seven millions four hundred and twenty-nine thousand three hundred and ninety-eight dollars and ninety-nine cents. And from the year 1801 to the year 1809, inclusive, a revenue of eight millions five hundred and seventy-seven thousand ninety-four dollars and fifty cents.

It is a further consequence of the foregoing data that, though a revenue upon this last scale would be more than sufficient to discharge the whole public debt, on or before the year 1824, yet, that the absolute engagements of the United States will not require, after the year 1809, more than seven millions three hundred and nineteen thousand six hundred and sixty-eight dollars and thirty-six cents; which last sum is less than the annual expenditure required by existing contracts and arrangements.

Having thus presented a view of the probable expenditures of the United States, it remains to show how far the revenues already established afford an adequate resource; the particulars and amount of these revenues are as follows:

Duties arising on imports and tonnage, calculated upon the actual receipts during the year 1795 - $5,588,961 26

Duties on domestic distilled spirits and on stills, on refined sugar, sales at auction, licenses to retail spirits and wines, and on carriages for the conveyance of persons, calculated upon the receipts of 1795 - - - - 337,255 36

Revenue from the Post Office - 35,000 00

Dividends on bank stock, calculated with reference to certain sales, the proceeds of which will be applied to the payment of

part of the debt due the Bank of the United States - - -	150,000 00
Interest on stock purchased and redeemed, and vested in the Sinking Fund - - - -	88,635 65
Duties on patents and contingent receipts (uncertain) - -	746 73
Estimated annual current revenue	6,200,600 00

The revenue from imports and tonnage was, in the beginning of the year 1795, calculated at $5,679,418 56, being about $90,000 more than the present estimate. Fluctuations in the amount of this revenue are to be expected; what the product of the present year will be cannot be yet known, although it is certain that it will exceed, considerably, that of the year 1795.

As the present design is to ascertain, as accurately as possible, the extent in which confidence may be reposed in the existing revenues, it becomes interesting to consider what effects a termination of the present war in Europe is likely to produce. A consideration of all the causes which may contract or extend the future commerce of the United States would be evidently premature and unprofitable; it may, however, be safely affirmed that the unexampled prices which the exports of the United States have lately borne, must have stimulated the demand for, and consumption of, foreign manufactures and productions. A certain proportion of this demand will cease when the temporary causes by which it has been produced are removed. Whatever cause diminishes the consumption of imported articles will produce a corresponding decrease of the revenue from foreign commerce. There is ground, however, to hope that the unfavorable effects in regard to revenue which are to be expected from a depression of the present prices of some of our articles of export, will be counterbalanced by an increase of their quantities; by the superior value which others of them are daily acquiring, in consequence of improvements in their manufacture; by the extension of our commerce to new markets, and by the increasing demand for imported articles, which must result from progressive wealth and population.

The sum stated as the product of the internal revenues will also be considerably exceeded by the receipts of the present year, and is believed to be much below what might be obtained under a different modification of the act imposing duties on distilled spirits and stills, aided by provisions for insuring a more energetic and punctual collection in some districts. It may also be remarked, that some of the causes which may diminish the revenue from importations will tend to increase that derived from internal objects. It appears, therefore, to be safe to calculate permanently upon the collective amount of the sums which have been stated as the probable future product of both branches.

The revenue from the Post Office is likely to increase, if the expenses of that institution are not greatly enhanced by the establishment of new post roads.

In respect to the income from bank stock held by the United States, it is proper to observe, that dividends have been for some time declared at the rate of eight per centum per annum; on the supposition that the stock would not be alienated, it has been customary to estimate this item of revenue at $160,000. In consequence of the authority contained in an act of the last session, sales have, however, been commenced for the purpose of reimbursing a part of the debt due to the bank.

To extinguish an annuity due to the bank, equivalent to that received from the dividends, it would have been necessary to sell the bank stock at an advance of thirty-three and one-third per centum upon the original capital. This, however, was not practicable; the best terms which could be obtained were twenty-five per centum. With reference to the effect which sales, at this rate, will have upon the statement of revenue and expenditure, now presented, the proceeds of the bank dividends are calculated at $150,000.

The fund arising from stock purchased or redeemed will be increased by the interest on such sums of stock as may hereafter accrue to the Sinking Fund, but will, in no event, be diminished. Though this income is vested in the Commissioners of the Sinking Fund, it has been thought proper to present it as an object of public revenue, being, with other funds, appropriated for the redemption of the Public Debt.

It results, from what has been stated, that the following sums must be provided by the United States, in addition to the revenue already established:

1st. From the present time until and during the year 1800, $1,228,798 99.

2d. From the year 1801 to 1809, inclusive, $2,376,494 50.

3d. From and after the year 1809, until the time when the present debt may be extinguished, which will be before the year 1824, $1,119,068 36.

To provide the sums annually required until the year 1801, without imposing an inconvenient burden on the people, is evidently within the power of the United States; to reimburse the whole of the Foreign Debt before the year 1809, by direct payments from the proceeds of revenue, may be practicable. It is, however, most probable that occasional loans, with a view of postponing the final reimbursement of the whole or some part of the said debt until after the year 1818 will be judged advisable.

From a general view of the operation of the systems of taxation established in the several States, it appears that, in apportioning a direct tax, to be collected under the authority of the United States, an allowance ought to be made for a defalcation of fifteen per centum, on account of abatements to indigent and unfortunate persons, for erroneous assessments or calculations, and for charges and expenses of collection.

Assuming these data, it is proposed that there be laid upon the United States a direct tax of

$1,484,000, and that the same be apportioned to the several States in the following manner:

To the State of Vermont - - -	$28,000
To the State of New Hampshire - -	56,000
To the State of Massachusetts - -	196,000
To the State of Rhode Island - -	28,000
To the State of Connecticut - -	98,000
To the State of New York - - -	140,000
To the State of New Jersey - - -	70,000
To the State of Pennsylvania - -	182,000
To the State of Delaware - - -	14,000
To the State of Maryland - - -	112,000
To the State of Virginia - - -	266,000
To the State of Kentucky - - -	28,000
To the State of North Carolina - -	140,000
To the State of Tennessee - - -	14,000
To the State of South Carolina - -	84,000
To the State of Georgia - - -	28,000
Amounting to - - - - -	1,484,000
From which there being deducted for abatements, erroneous assessments, and charges of collection, fifteen per cent., or - - - - - - -	222,600
There will remain the estimated nett proceeds of the proposed tax, being -	1,261,400

An account of the systems of taxation at present prevailing in the several States, and information on various points connected with the subject under consideration, is next proposed.

OF VERMONT.

The taxes imposed in this State, whether for the use of the State, or of counties, towns, societies, or other subordinate communities, are levied by one rule, that is, in proportion to a general list of ratable objects, composed of the following particulars:

Polls, of male persons from twenty-one to sixty years of age, are rated at six pounds each.

Lands, after being improved two years, either for pasture, ploughing, or mowing, or stocked with grass, and within enclosure, at ten shillings per acre.

Oxen, four years old and upwards, at three pounds each.

Other neat cattle, three years old and upwards, at two pounds.

Neat cattle of two years old, at one pound ten shillings.

Neat cattle of one year old, at fifteen shillings.

All horse kind, except stud horses of three years old and upwards, at four pounds.

Horse kind, of two years old, at two pounds.

Horse kind, of one year old, at twenty shillings.

Stud horses of two years old and upwards, at twenty pounds.

Money, on hand or due, or obligations for goods or produce over and above all debts due by the individual creditors, at twenty per centum of the amount, to be exhibited on oath, if required; to which may be added—

Assessments proportioned to the profits of all lawyers, traders, and owners of mills, according to the judgment and discretion of the listers or assessors.

Exemptions from the assessment on polls are allowed in favor of settled ministers of the Christian religion, the president and tutors of colleges, constant schoolmasters, students of colleges, until three years after receiving their first academical degrees; as, also, in favor of persons disabled by sickness or infirmity. The ratable estates of settled ministers, and the president of the college, lying in the towns where they live, and not exceeding five hundred pounds in value, are also exempted, together with all lands sequestered and improved for schools and other public, pious, and charitable uses. An exemption from taxation, for ten years, is, moreover, allowed for lands properly cleared and tilled for orchards, and planted with apple trees, and containing not less than forty trees upon an acre.

Lists of the ratable estates of individuals are collected in the following manner: At the annual town meetings in March, the inhabitants of each town elect a number of officers, styled listers, who are sworn to a faithful discharge of their office. In the month of May, annually, the inhabitants are warned to exhibit, before the 10th day of July following, lists or written accounts of the ratable polls and estates of which they are respectively possessed, on the 20th day of June. To these lists, as exhibited by individuals, the listers add such sums as they judge reasonable, in cases where the law requires assessments to be imposed on professions and occupations.

Lands are, in all cases, rated in the towns where the lands lie; but cattle on farms, not under the management of a tenant, are rated in the towns where the owners live. No warning by the listers is required beyond the limits of a town.

The sums total of the ratable property, in each town, are returned by the listers to the General Assembly in October, with certificates that they have been sworn to a faithful discharge of their trust; in case of omission or neglect, the listers become liable to a penalty, and the town, in respect to which the omission happens, becomes subject to be assessed, at the discretion of the General Assembly.

The possession of ratable articles on the 20th of June is, by law, declared to be presumptive evidence of property, and, if not included in the list of the possessor, he becomes liable to a two-fold assessment; on proof being made to the listers, at any time before the 25th of September, that the articles omitted to be returned were, on the 20th of June, the property of some other person than the possessor or occupant, relief may, however, be obtained.

The compensation allowed for the services of listers, arises from the taxes on two-fold assessments, one-half of which accrue to their benefit.

When individuals are aggrieved by the decisions of the listers, either in respect to two-fold assessments, or by assessments on the profits of certain professions and occupations, an appeal is allowed to a justice of the peace and two selectmen of the town, who, after notifying two or more

of the listers, may proceed to make a final decision.

The first constables are collectors of taxes, and are chosen by the inhabitants of the respective towns, which are responsible for their conduct; when a tax is granted by the State, a warrant is issued by the treasurer, directed to the collector, declaring the rate or proportion of the tax, the sum due by the town, and the time prescribed for payment into the treasury. It then becomes the duty of the selectmen to apportion the said tax among the inhabitants of the town, according to their respective lists, and to deliver a statement thereof to the collector, by which to regulate his demands upon individuals; a time and place is then appointed by the collector for receiving the tax, which the inhabitants are bound to observe; on failure of payment at the time and place appointed, the collector may afterwards distrain the goods and chattels of delinquents for the amount of the tax, with an addition thereto of one-twelfth part for extra trouble and expenses. Where no goods or chattels can be found or are tendered, the person of the delinquent may be committed to prison. If the delinquent abscond, and no goods or chattels can be found, the lands of the delinquent become liable, of which a sufficient quantity for the payment of the tax and the necessary charges, may be sold at public auction. Prior to the sale of lands, notice of the proposed sale must, however, be given for three weeks in the town in which the land lies, and in two adjoining towns; as, also, in one or more of the newspapers printed in the State. Lands sold for the payment of taxes may, however, be redeemed at any time within one year after the sale, by the payment or tender of the sum advanced by the purchaser, with interest at the rate of twelve per centum per annum.

When a collector is delinquent in collecting and paying over a tax entrusted to his management, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, commanding him to collect the sum unpaid, by distraining the goods, chattels, and estate, of such collector. In case a sheriff omits to execute the warrant of the treasurer against a delinquent collector the treasurer is empowered to issue a like warrant against the sheriff, directed to a constable of the town in which the sheriff lives; and if a constable, in such case, should omit to collect the tax from the sheriff, he, in turn, becomes liable, and the treasurer may commit the collection of the sum unpaid to any other person, at his discretion.

When a collector of a tax becomes insolvent, the treasurer may issue his warrant against the selectmen of the town, directed to the sheriff of the county, who, in this case, become liable for the arrearages due by the insolvent collector. The selectmen may, however, indemnify and reimburse themselves, by assessing a sufficient tax upon the town, for collecting which, the warrant of any one justice of the peace is a sufficient authority.

Though the office of collector is, by law, attached to that of first constable, which depends upon an annual election by the people, yet, in respect to unpaid taxes, the powers of the collector continue until a final collection and settlement can be effected; and, in case of the death of a collector, his powers and responsibility, while living, descend to his executors or administrators. If, however, a collector remove out of the State, or die, and his estate is found to be insolvent, the people of the town may proceed to the choice of a new collector.

All persons employed in the collection of taxes possess the usual power and authority of sheriffs, and may command any assistance necessary to the performance of their duty.

OF NEW HAMPSHIRE.

The Constitution of this State directs, that a valuation of all estates shall be made, at least, once in five years, under regulations to be prescribed by the General Court or Legislature. The last valuation was made by the selectmen of the several towns, in 1793, and confirmed by law, in, February, 1794. In taking said valuation, the proportions of the different articles, of ratable property were estimated in the following ratio:

Polls of male persons, from eighteen to seventy years of age, at eight shillings each.

Orchard land, accounting for an acre, a sufficient quantity to produce, on an average of several years, ten barrels of cider or perry, at one shilling and sixpence per acre.

Arable land, accounting for an acre, a sufficient quantity to produce, on an average of several years, twenty-five bushels of Indian corn, or other grain equivalent, at one shilling per acre.

Mowing land, accounting for an acre, a sufficient quantity to produce, on an average of several years, one ton of English hay, or other hay equivalent, at one shilling per acre.

Pasture land, accounting for four acres, a sufficient quantity to support, on an average of several years, one cow, at fivepence each acre.

Unimproved lands, and all buildings, whether owned by inhabitants or non-residents, at one-half of one per cent. of the real value.

Stud horses, two years old and upwards, at one pound ten shillings.

Other horse kind, four years old and upwards, at three shillings.

Oxen, four years old and upwards, at three shillings.

Cows, four years old and upwards, at two shillings.

Other neat cattle, three years old and upwards, at one shilling and sixpence.

Other neat cattle, two years old, at one shilling.

Other neat cattle, one year old, at sixpence.

All stock or property of tanners, curriers, blacksmiths, or other tradesmen, employed in the business of trades, at one-half of one per centum.

All stock in trade of merchants, shopkeepers, or other traders, reckoning the same at the average value thereof for a year, at one-half of one per centum.

All money on hand, or at interest, more than

the owner pays interest for, and all property in public funds, estimated at its real value, at three-fourths of one per centum.

Mills, wharves, and ferries, at one-twelfth part of their yearly nett income, after deducting repairs.

The polls and ratable property returned from the different towns, with the assessments upon such towns as did not comply with the act prescribing a valuation, amounted, in 1794, to forty-two thousand and ninety-nine pounds six shillings and fourpence, or one hundred and forty thousand three hundred and thirty-one dollars and five cents. In proportion as the lists of the several contributed to this amount, their quotas were established by law, to continue until a new valuation may be made. The quantities of the different kinds of ratable property, of which the list was composed, will be seen by reference to an annexed document, A.

When a tax is granted by the State, the quotas of the several towns are calculated according to the rule above mentioned; warrants are then issued by the Treasurer of the State, directed to the selectmen, requiring them to assess the said quotas upon the inhabitants. The assessments upon individuals are governed by the principles of the rule by which the quotas of towns are determined. The selectmen are, therefore, empowered to require, annually, inventories of the polls and ratable property of the inhabitants. The time for taking these inventories, is the first day of April in each year. Those who omit to exhibit inventories, or refuse to verify the same on oath, when required, may be doomed or assessed by the selectmen, as they judge equitable. In cases where it is discovered that there has been a fraudulent concealment of ratable property, by an individual, the selectmen are empowered to increase the assessment to four times the amount at which the concealed property would otherwise have been rated.

The selectmen are empowered to abate taxes, and to correct erroneous assessments. Individuals who are aggrieved, may, within nine months after notice of an assessment, apply by petition to the court of sessions of the peace for the county, whose judgment is conclusive.

To prevent trouble and expense from repeated collections during the same year, the selectmen may include, in one tax bill, the taxes granted by the State, the county, and the town, with an addition of five per centum to cover defalcations arising from abatements or other causes; the surplus of which, if any is found to remain, accrues to the treasury of the town.

Collectors of taxes are either chosen by the inhabitants, or they may be appointed or employed by the selectmen, from whom they receive tax bills, with warrants to collect the sums therein expressed. The selectmen are directed to cause their proceedings, in assessing taxes, to be recorded by the town clerks, and to make returns to the treasurers of the State, county, and town, of the sums assessed to be paid to them respectively, with the names of the collectors, the dates of their warrants, and the time therein prescribed for the settlement of the taxes entrusted to them for collection.

In cases where the selectmen neglect to assess a tax pursuant to a warrant from the treasurer, their persons and estates become liable to the payment of the tax, which may be taken and distrained for the same. When the name of the collector is not returned to the treasurer, pursuant to warrant, the selectmen also become liable, and are, moreover, precluded from any remedy against the town for any costs and expenses attending the collection, exceeding the quotas mentioned in the treasury warrant. If the estates of the selectmen are found to be insufficient, or their persons cannot be taken and imprisoned, the treasurer may issue his warrant against the inhabitants of the town generally, who, in this case, become, jointly and severally, responsible.

The collectors of taxes are required to give fourteen days' notice of the sums assessed upon individuals, before they proceed to collect the same by distress; and in no case is it lawful to take by distress the tools or implements necessary to the trade or occupation of any person, nor his arms, or the necessary household furniture of a family.

For want of goods or chattels whereon to make distress, the person of the individual indebted may be taken and committed to prison.

When no personal estate can be found whereon to levy by distress, and the person of the delinquent cannot be taken, real estate may be taken and sold for the payment of taxes, under certain prescribed regulations, calculated to give publicity to the sale. On the sale of real estate, according to law, the collectors may execute conveyances, defeasible within one year, by the payment or tender of the sum advanced, with interest and costs.

The powers of collectors continue until the taxes committed to their management are finally adjusted. Their compensations are various, and depend upon agreements with the selectmen of the several towns; on a medium calculation, they are estimated from four to five per centum on the amount of the taxes. It is customary to require bonds, to secure the towns against their delinquencies.

The time commonly prescribed for collecting and paying a tax into the treasury, is one year. In what degree the requirements of law, in this respect, have been fulfilled, is not ascertained. It is to be inferred, from the information received, that delays beyond the prescribed term frequently occur, and that, when heavy taxes have been imposed, arrears have remained uncollected for several years, which have been afterwards entirely remitted. The principles of the system of taxation, now established, have been generally approved by the people of the State.

The existing debt of the State is inconsiderable, and is likely to be entirely discharged in a short time. The whole expense of supporting civil government, paid by the State, is estimated at about twenty-eight thousand six hundred dol-

lars per annum. The aggregate amount of county, town, and parochial taxes, is known to be more considerable, though not ascertained.

OF MASSACHUSETTS.

The Constitution of this State provides, that, while the public charges of Government, or any part thereof, shall be assessed on polls and estates, in the manner practised prior to the establishment of the said Constitution, there shall be a valuation of estates taken, once in ten years, and as much oftener as the General Court or Legislature shall direct.

The valuation under which taxes are, at this time, assessed, was taken in pursuance of an act passed on the 22d of February, 1792.

By this act, the assessors of the different towns, districts, and plantations, (officers always existing,) were directed to take and lodge in the office of the Secretary of State, on or before the 10th day of October, 1792, true and perfect lists of all male polls, including negroes and mulattoes, sixteen years old and upwards, whether at home or abroad; distinguishing the polls of persons from sixteen years to twenty-one years of age, from those of persons twenty-one years of age and upwards, and also distinguishing the polls of persons exempted from taxation. Also, particularly mentioning dwelling-houses, with shops within the same, or adjoining thereto, shops separate from dwelling-houses, tan-houses, slaughter-houses, sugar-houses, pot and pearlash works, ware-houses, wharves, grist mills, fulling mills, saw mills, iron works and furnaces, bake-houses, and all other buildings and edifices of the value of five pounds and upwards; the number of tons of vessels, and small craft of every kind, upwards of five tons burden, whether at home or abroad; the amount of each person's whole stock in trade, including all goods, wares, and merchandise, at home or abroad, paid for or not paid; also, those in their hands by factorage; Government securities of all kinds, distinguishing those of the United States; all moneys placed out at interest, exceeding the sums due on interest by the individual creditors; moneys on hand, including moneys deposited with an agent, or in any bank; stock owned by stockholders in any bank; ounces of plate of all kinds; horses and neat cattle, of three years old and upwards; and swine of six months old and upwards.

In rendering lists of lands, the assessors were directed to distinguish the improvements thereon by the following criteria: The number of acres of pasture land, with the number of cows which the grass of each entire farm would support, together with the number of barrels of cider produced, on an average of several years, upon each farm; the number of acres of tillage land, with the number of bushels of grain or corn of all sorts usually produced; the number of acres of salt marsh, with the tons of hay usually produced; the number of acres of English upland and fresh meadow, mowing land, with the tons of hay of each sort usually produced; the number of cows, let out, according to a custom, by which a proportion of their increase is reserved to the owners; the number of enclosed acres of woodland; also of lands unimproved, owned by individuals and by towns; of lands unimprovable, or used for roads, or covered with water; distinguishing each by estimate.

In making up the returns above mentioned, provision was made for exempting from valuation the polls of the president, fellows, professors, tutors, librarian, and students of Harvard College; of settled ministers, of grammar school-masters, and masters of the several incorporated academies, with their estates, under their own actual occupation and improvement, and also all the estates belonging to Harvard College, and the said academies.

The object of this minute detail of the different species of property possessed by the inhabitants, was to obtain information of the sources of the revenue or income of the whole State, and thereby to establish an equitable ratio of contribution for the several counties and towns. It was specially declared in the act, that the enumeration of the articles of the produce of the lands should not be taken into consideration in forming the valuation, for any other purpose than for ascertaining the relative value of lands in different districts. In collecting and making up the returns, the assessors were under oath faithfully to execute their trust; and they had power to require of individuals, a verification, on oath, of the lists of property by them respectively exhibited. In cases of neglect to exhibit written lists of property subject to valuation, or of refusal to attest the same on oath or affirmation, the assessors were authorized to doom or assess the individuals so neglected or refusing, according to a conjectural estimate of their property.

The result of the returns taken, according to the act before mentioned, is annexed, (B.) In determining the quotas of towns, all property, except unimproved lands, was estimated at six per centum of its supposed real value; and unimproved lands at two per centum of the real value. At these rates, the wealth of the whole State was found to be nine hundred and thirty-seven thousand six hundred and ninety-eight pounds four shillings and two-pence half-penny, lawful money; upon which sum, in combination with an assessment on polls, hereafter mentioned, the quotas of the several counties, towns, and plantations, in a tax of one thousand pounds upon the State, were established, and by these quotas, taxes are now imposed. The number of taxable polls returned, was one hundred and six thousand one hundred and sixty-seven; which were assessed one half-penny each, or two ninth parts of a tax of one thousand pounds upon the State.

The proportions of taxes payable by counties and towns, being thus settled by a rule which may continue for ten years, unless changed in consequence of a new valuation, they are assessed upon individuals, and collected under the following regulations:

In the month of March or April, annually, when other town officers are chosen, the inhabitants of

the respective towns, severally, elect three, five, seven, or nine assessors, who are sworn to a faithful discharge of their duty. A person chosen to be an assessor, and refusing to take the oath, becomes liable to a fine of five pounds; which may, however, be remitted by the court of the general sessions of the peace, at their discretion.

If a town omits to choose assessors, or they refuse to serve, the selectmen become assessors, of course. If a town omits to choose either assessors or selectmen, or if they omit to do their duty, assessors may be appointed by the court of the general sessions of the peace for the county; who, in addition to their other duties, may be authorized to assess a fine upon the town, not exceeding one hundred pounds, nor less than thirty pounds, as may be determined by the court. The compensation allowed to assessors chosen by the towns, is four shillings per diem, while employed in service; and to assessors appointed by the court of general sessions, ten shillings per diem, payable, in both cases, out of the town treasuries.

When a tax is granted by the State, the treasurer issues his warrant, directed to the assessors, commanding them to assess the proportion or quota of the town; the sum to be assessed on each poll is always expressed in the treasurer's warrant, and is, as nearly as may be, one half-penny for each thousand pounds of the tax laid upon the State. The tax on polls being uniform, is assigned to each individual; a sufficient sum to secure a collection of the remainder of the town quota, is then apportioned upon estates. In this apportionment the assessors are directed by the treasurer's warrant, in which reference is had to the objects of taxation, and rules of estimating the same, which governed in fixing the last valuation. In making out the assessments upon individuals, the assessors are required to distinguish the proportions assessed for polls, for real estates, and for personal estate and income; also the number of acres of unimproved land for which a tax is assigned to a non-resident proprietor, and the value at which the same is estimated; also the tax assessed to any person upon property held in trust for others. The warrant moreover directs, that, when the list is completed and signed by a majority of assessors, it shall be delivered to the collector of the town, with a warrant and direction for collecting the sums therein expressed, and paying the quota of the town over to the treasurer, by a certain day. It also prescribes a day for rendering a return to the treasurer of the name of the collector.

If, for any reason, there be no assessors to execute the treasurer's warrant before mentioned, or if they neglect to perform the duties enjoined on them for the space of five months, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, commanding him to collect the amount of the tax by distress and sale of the estates, real and personal, of any of the inhabitants of the delinquent town. On receiving this warrant, it becomes the duty of the sheriff forthwith to transmit an attested copy thereof to the selectmen or town clerk of the delinquent town; if, however, within sixty days, the sheriff receive a certificate that the taxes required by the warrant have been assessed, he may return the same unsatisfied, to the treasurer.

The process pursued in executing the treasurer's warrant to assessors is similar to that before described for taking a valuation; that is, a time is prescribed, by notification to the inhabitants, for exhibiting lists of their polls and ratable property; such as omit a compliance, or as refuse to verify their lists on oath, when required, are liable to be doomed or assessed, at discretion.

Persons aggrieved by erroneous or excessive assessments, may obtain relief by application to the court of general sessions of the peace for the county.

It is a general rule to make a list for every tax which is granted; but when county or town taxes are so small as to render a separate assessment inconvenient, they may be combined with other taxes, and collected together. To cover defalcations arising from abatements, and for the purpose of avoiding inconvenient fractional divisions, the assessors may apportion, beyond the sums proposed to be raised, a surplus or addition of five per centum; provided, that such addition does not exceed forty pounds in the whole, for any town. When the assessors have completed an assessment, copies of their proceedings are lodged in the office of the clerk or register of the town.

The collectors of taxes are chosen by the inhabitants of towns, at their annual meetings, and are sworn to a faithful and diligent discharge of their trust; if no collectors are chosen, the constables are collectors, of course; in towns where no constables are chosen, the taxes are collected by the sheriff of the county or his deputies.

The towns agree with the collectors upon the sums which they are to receive for collecting taxes, and their compensations are paid by the towns respectively; these compensations vary from three to five per centum on the sums collected; when the collections are made by the sheriffs or their deputies, (in consequence of omissions to choose collectors or constables,) they are allowed to take a commission of five per centum of such persons as voluntarily pay the sums assessed upon them within thirty days after a public and general notification and demand; those individuals who neglect to pay their proportions for a longer term, become liable to the charges incident to a levy and collection by distress.

The powers of collectors are derived from warrants granted by the assessors or selectmen; these warrants accompany the lists of assessments upon individuals, and specify the quota payable by a town, the time when it is to be settled with the treasurer, and the duties of the collectors.

Unless there is reason to suspect that a person from whom a tax is due is about to abscond, no collection by distress can be made until twelve days after a demand; after twelve days, goods and chattels sufficient to satisfy the tax may be taken. The goods and chattels so taken must, however, be kept four days, at the risk and charge

of the owner, after which, and a public notification of the proposed sale, during two days, they may be sold at public auction. If goods and chattels sufficient to satisfy the tax are not presented by the debtor, his person may be taken and committed to prison, there to remain until discharged according to the usual course of law, or in consequence of an abatement of the tax by the assessors. It is not lawful to make distress of the tools or implements of a trade or occupation, beasts of the plough necessary for the cultivation of improved lands, arms, or the household utensils, or apparel necessary for a family. When a person removes from a town, leaving a tax unpaid, the collector may pursue him and take his goods by distress, or his person, in any part of the State where he may be found.

When no person appears to pay the taxes on unimproved lands of non-resident proprietors, or improved lands of proprietors living out of the State, the collectors are to advertise the same for three weeks successively, in the newspaper printed by the printer to the State; as also in the town where the lands lie, and in three adjacent towns; describing particularly the said lands, and mentioning the taxes remaining unpaid, and the time proposed for a sale. If the taxes be not paid in consequence of such advertisement, a quantity of the lands sufficient to pay the taxes and incidental charges may be sold by the collectors, who may grant conveyances therefor, defeasible in two years, by the payment of the sums for which the sale was made, and intervening charges, with interest at the rate of ten per centum per annum. The purchaser is in the meantime, however, restrained from committing any waste or destruction of the timber on the lands so purchased. When the owners of improved lands, or other real estates, remove from the towns where they resided when taxes were assessed, leaving the same unpaid, and no personal property to satisfy the said taxes can be found, the collectors may, after three months, proceed to sell the same under the provisions and conditions before mentioned. To prevent the sale of lands without due notice, it is, however, provided that, when non-resident proprietors shall have authorized, in writing, agents or attorneys, dwelling in the towns where the lands lie, to pay the taxes accruing thereon, and shall have caused their written authorities for this purpose to be recorded in the offices of the town clerks, the collectors shall not proceed to advertise for sale the lands of such non-resident proprietors until the expiration of two months after a personal or written demand of such agents or attorneys and a failure of payment.

When taxes are made payable at two different periods, and a person assessed is about to remove from the town, the whole of the tax, although the same may not have become due, may be demanded at one time, and, if necessary, be collected by distress. The powers of collectors continue until the taxes committed to them are fully settled, although the time for which they were elected be expired; and if they are hindered or obstructed in the execution of their duty, they may, both within and without the limits of their respectives towns, command assistance, under a penalty of fine or imprisonment, if such assistance be not afforded. Personal property of a tenant found on lands at any time within nine months after a tax bill is committed to a collector is liable to be distrained for the taxes assessed on the lands in his occupancy; the proprietor of the land is, however, in this case, answerable for the value of the property distrained. If the collector forbears to levy the tax during nine months, he may not afterwards proceed, except against the person of the proprietor, or by sale of the lands in the manner before described. When persons indebted for taxes abscond or conceal their property, collectors of taxes are allowed the same remedies against their agents, factors, or trustees, as other creditors have for the recovery of their debts.

When a collector is delinquent in collecting or paying over the sums expressed in his rate bills, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, returnable in ninety days, commanding him to levy the sums in arrear, by distress and sale of the real or personal estate of the delinquent collector; and, for want of estate, to commit his body to prison. If the sheriff fail to execute the warrant, or to pay the sums collected, a like warrant, directed to the coroner of the county, may be issued against the real and personal estate of the sheriff.

When no estate of a delinquent collector can be found by the sheriff, or his estate is insufficient, or when the person of the collector cannot be taken, or, being taken and committed to prison, the tax remains unsatisfied for the term of three months, the town becomes responsible, and liable to a new assessment for the deficiency. It then becomes the duty of the treasurer to notify the assessors of the town of the failure and delinquency of their collector, and to require them to reassess the deficiency, and to commit the collection thereof to a new collector. On failure of compliance for more than three months, the assessors become liable to be proceeded against in the same manner as against delinquent collectors. The property of delinquent collectors, at any time acquired, is held responsible for sums reassessed upon towns, in consequence of their neglect, and for all damages occurring thereby. When collectors die, their executors and administrators are responsible for all sums actually collected, to the full amount of all assets in their hands; and if they fail, for more than two months after the decease of the collector, to make up and settle their accounts with the assessors, they become, in like manner, responsible for any sums remaining uncollected.

When a warrant of distress is directed by the treasurer against a delinquent sheriff, deputy sheriff, or collector, and lands or real estate are taken, fourteen days' notice of a proposed time of sale must be given in at least two public places in the town where the estate lies, and also in two adjoining towns; after which, the officer executing the warrant may proceed to make sale of the estate at public auction, and may execute a valid

conveyance therefor. If the estate taken is insufficient to satisfy the warrant and the charges of sale, the treasurer may issue an *alias* warrant or execution, which may be levied on the person of the delinquent deputy sheriff or collector.

When a collector has been taken by a warrant from the treasurer, or is supposed to be about to remove out of the State, the assessors or selectmen may require a surrender of the tax bill in his hands, with the evidences of the sums by him collected, and may convene the inhabitants of the town for the purpose of electing a new collector. If a collector abscond or secrete himself for one month, the selectmen or assessors may proceed, by a declaration, filed in the supreme judicial court, to obtain judgment of outlawry; if, however, the collector afterwards surrender himself, and pay the taxes by him due, and all costs of the process against him, and cause the settlement thereof to be recorded in the supreme judicial court, such record will operate, and be a full reversal of the judgment of outlawry.

When the estate of an inhabitant, not being an assessor, is taken by a warrant of the treasurer, issued against the inhabitants of a town generally, the inhabitant whose estate is so taken is entitled to an action against the town to recover the full value of the estate taken, with costs and interest, at the rate of twelve per centum per annum.

There are at present in Massachusetts seventeen counties and about three hundred and eighty towns or districts, liable to be assessed for the payment of taxes. Some towns elect but one collector, others three or four, as is judged most economical or convenient. In the treasurer's books one account is opened with each town or collection district for the whole amount of the tax; if there be more than one collector, the sums which each is to pay are separately detailed. All payments are passed to the credit of the town generally, expressing, however, by whom made.

The regulations and provisions before mentioned have been found sufficient to ensure the final payment into the treasury of the taxes hitherto imposed by the State. The degrees of punctuality with which settlements have been effected are understood to have been various, according as the taxes have been more or less burdensome. Of a tax of about one hundred and fifty thousand dollars, granted in June, 1794, and directed to be paid into the treasury by the 1st day of April, 1795, about eleven thousand dollars were paid by the time prescribed; seventy-one thousand dollars, including the payment first mentioned, within three months; eighty-eight thousand dollars within six months; one hundred and nine thousand dollars within nine months; one hundred and thirty-one thousand dollars within twelve months; and one hundred and forty-five thousand dollars within fifteen months after the time limited. As this was a tax of ordinary magnitude, and one of the last which has been imposed, it is supposed to afford a fair illustration of the operation of the revenue system under which it was collected.

The debt of the State is estimated at two millions three hundred and fifty thousand dollars, bearing an interest of five per centum per annum, or -		$117,500
The funds out of which this interest is paid are the dividends on stock of the Union Bank held by the State, estimated at - -	$34,300	
Interest on the debt due by the United States on the settlement made by the commissioners - - -	57,518	
Amounting to - -		91,818
The deficiency being -		25,682

is supplied by an annual tax on polls and estates.

The annual expenses of supporting the Government of the State are estimated at about one hundred and twenty thousand dollars; consequently, the annual taxes cannot be less than one hundred and forty-five thousand dollars. (C.)

The proceeds of certain lands are by law appropriated, in the hands of commissioners, to the purchase of the debt due by the State, with the interest of debt so purchased; by the operation of this fund, about three hundred thousand dollars have been already redeemed.

It is understood that the county and corporation taxes very considerably exceed those imposed by the State.

OF RHODE ISLAND.

The mode of assessing and collecting in this State is understood to have been essentially the same as at present, from an early period of its settlement; for, though various alterations have been made, none of them have been of a nature to affect the principles of the system.

At present, taxes are assessed on polls and on the collective mass of property owned by the inhabitants of the State, both real and personal. The only exceptions which appear, in an act passed in June, 1795, for taking a general estimate of ratable property, are household furniture, excepting plate, farming utensils, the tools of mechanics, and one-quarter part of all property at sea. The last exception is understood to have been made merely in consideration of the risk incident to commerce.

The towns are the only collection districts; they are responsible to the State treasury for the proportions of taxes assigned to them by the Legislature. These proportions are ascertained by general valuations, which are from time to time directed to be taken, when an increased population, advanced improvements, or accumulations of wealth from commercial business, or other causes, are found to have changed the relations of wealth which subsisted at the time of taking a former valuation; the three last valuations were taken in the years 1767, 1778, and 1795. (D.)

The estimate according to which the quotas of the different towns are at present determined, was taken in the following manner:

An act was passed by the Legislature in June, 1795, directing the towns to elect committees in the month of August following, to consist of not less than three, or more than five persons; which committees were directed to call upon the inhabitants of their respective towns and to require them to render, on oath or affirmation, true and perfect accounts of all their property, real and personal, with the exceptions before mentioned.

The committees were directed, in the next place, from the lists of property exhibited by individuals, the former valuation lists of the towns, and such other information as they might be able to obtain, to make out just estimates of the whole property of their respective towns; in performing which duty they were to be under oath.

By the act of the Legislature abovementioned, a committee of ten persons was appointed, who were directed to visit all the towns in the State, and after requiring the committees of towns to appear before them with their estimates, and the lists exhibited by individuals, they were empowered, on the best information which they could obtain, to fix the quotas of the several towns, and to report a general estimate of the ratable property of the State.

It was provided that, if any person should refuse to exhibit a list of his property to the committee of the town, it should be in the power of the committee of the State to fix such a valuation as they should judge proper; according to which, the delinquent individual should be liable to two-fold taxation; a like provision was also made for assessing and taxing a town, in case of an omission to elect a town committee, or of a general omission of the inhabitants to exhibit lists of their property.

By the valuation taken in the year 1767, the ratable property of the State was found to be seven millions three hundred and seventy-one thousand one hundred and eighty-six dollars seventy-seven cents. By the valuation taken in 1778, including that of the insular towns in Newport county, which was not taken till 1783, ten millions nine hundred and seventy-seven thousand nine hundred and nine dollars sixteen cents. And by the valuation taken in 1795, fifteen millions five hundred thousand dollars. Of the valuation taken in 1767, about three-fourths of the aggregate estimate appears to have arisen upon real, and one-fourth part upon personal property. Of the valuation taken in 1778, but little more than one-sixth part was estimated for personal property. No certain data have been obtained for ascertaining the proportion in which personal property contributed to the valuation in 1795. It however appears that the increase in the estimate has been principally owing to real or supposed accumulations in the commercial towns of the State, some of which have complained of undue assessments.

According to a principle established by long usage, the poll tax is uniformly six-pence on each poll, for every thousand pounds of a tax upon the State. Assuming as data, which cannot be materially erroneous, that there are twelve thousand ratable polls in the State, and that one fourth part of the general valuation taken, in 1795, was founded on personal property, it will follow that taxes are assessed on real and personal property and on polls, in the following proportions:

On polls by an uniform rate - -	$200
On personal property, ad valorem -	175
On real estates, ad valorem - -	525
Whole amount of a supposed tax -	$1,000

But, notwithstanding the general rule is supposed to be nearly as is above stated, it is understood that the individual towns are not necessarily confined thereto. By a vote of the freemen of Providence, the poll tax has been abolished, in respect to that town, where it has been resolved that all taxes shall be raised by an assessment on estates only.

The exemptions from taxation are in favor of the estates belonging to Rhode Island College, houses dedicated to public worship, and the polls of settled ministers of the Christian religion.

The apportionment of taxes upon individuals is performed by assessors, who are annually chosen by the inhabitants of the respective towns. When a town omits to choose assessors, it becomes liable to a fine of fifty pounds, recoverable by the treasurer of the State, by an action of debt against the treasurer of the delinquent town. Notwithstanding the obligation upon towns to choose assessors annually, it has, however, been usual to authorize new appointments, whenever a tax is granted by the State.

Prior to the assessment of a tax, the inhabitants are required to exhibit, on oath or affirmation, lists or accounts of their estates. Those who omit or refuse, are assessed at the discretion of the assessors, and are, moreover, precluded from any remedy by abatement. The value of the property exhibited in the lists of individuals, is determined by the judgment of the assessors. The court of general sessions of the peace of the county may, however, relieve against excessive valuations, and may award the payment of costs out of the town treasury.

When the valuations of property are ascertained, the sum to be raised by the uniform poll tax, before described, is apportioned, and the remainder of the tax is then distributed by a poundage rate, in proportion to the lists of property possessed by individuals. The completed tax bills are then delivered to the town clerk, by whom a copy is made and certified to the treasurer of the State, with the name of the collector for the town.

Collectors are chosen by the inhabitants of towns, which are responsible for their conduct; they are authorized to proceed in collecting taxes, by warrants from the treasurer of the State, affixed to the copies of tax bills, transmitted to him by the town clerks. As a security against the delinquencies of collectors, it has become an universal practice for the towns to require sureties for their fidelity.

The collectors may distrain goods or chattels for the payment of taxes, and for want thereof may commit delinquents to prison. When goods and chattels are not to be found, the lands of persons living out of the limits of the State may be sold and conveyed by a collector; due notice being previously given by advertisement in the newspapers printed within the State.

When collectors were delinquent, it was formerly the practice, authorized by law, for the treasurer of the State to issue warrants of distress against their goods and chattels, and for want thereof, to commit their bodies to prison. Of late, a different rule has obtained; when the quota of a town is not paid into the treasury, by the day prescribed, a warrant is issued by the treasurer of the State, against the treasurer of the delinquent town, who may proceed in a summary manner against the delinquent collector and his sureties. All charges incident to a warrant against a town treasurer, may, in addition to the original tax, be collected of the individuals who remained delinquent at the time of issuing the said warrant. The towns are responsible for interest on the sums not paid into the State treasury by the time prescribed, which interest may be collected of the individuals in arrear.

All expenses of assessing and collecting taxes, are paid by the towns respectively; when the rule of compensation is not varied by special agreement, the assessors are entitled to one and three quarters per centum, for apportioning, and the collectors to five per centum, for collecting a tax. The actual expense of collection is various, but, in consequence of competitions for the office of collector, which have been encouraged by the towns, this expense has been reduced to three and three quarters per centum, and, in some instances, as low as two and a half per centum.

The taxes lately imposed have been moderate, and have been well collected. Of a tax for twenty thousand dollars, granted in October, 1794, payable on the first of February, 1795, two thirds were paid in three months, and the whole in nine months after it became due.

The expenses of the State Government are annually about five thousand dollars, exclusive of the expenses attending the erection of State-houses and prisons, which, for several years past, have averaged about eight thousand three hundred dollars more. The amount of country and town taxes cannot be ascertained.

The State is indebted about ninety-eight thousand dollars, for discharging which no resource is known to exist except revenue from taxation.

OF CONNECTICUT.

Taxes are imposed in this State according to a system which has obtained from an early period, without any radical change or alteration.

The objects specifically enumerated in the law now in force, are polls, lands, and the stock of farms, with certain exemptions; houses, carriages for the conveyance of persons, plate, clocks and watches, credits on interest, exceeding the debts due on interest by the individual creditors, excepting loans to the State and the United States; to which may be added assessments proportioned to the estimated gains or profits arising from any, and all, lucrative professions, trades, and occupations, excepting compensations to public officers, the profits of husbandry, and common labor for hire. The proportions in which taxes were imposed on the several ratable objects, in the year 1795, will appear from the annexed document E.

The distribution, assessment, and collection, of taxes upon these objects, are performed in the following manner.

In the month of December, annually, the inhabitants of the respective towns are convened, pursuant to a permanent law, for the choice of town officers. A description of officers is then chosen, denominated *listers;* the number of these officers, in each town, is determined by the inhabitants; previously to entering on their duties, the listers are sworn to a faithful and diligent execution of their trust. In the month of July, annually, the listers, by notification at some public place, in each society of their respective towns, require the inhabitants to exhibit, on or before the tenth day of September following, lists or inventories of the ratable property by them respectively owned, on the twentieth day of August, which day is assigned by law for taking the lists of ratable property throughout the State.

Immediately after the tenth day of September, the lists or inventories of ratable property, returned by the inhabitants, are, by the listers, collected and arranged; of these, an aggregate list or statement is formed, exhibiting the quantities and ratable value of the different taxable objects, as, also, the particular sums assessed upon trades and professions. From the list of polls, the listers then, in conjunction with the civil authority and selectmen, abate or deduct the polls of persons disabled by sickness or other infirmity; it is, however, provided, that such abatements or deductions may not exceed one tenth of the number of polls borne on the list of the town; the aggregate list of the town, after the abatement of polls is made, is then returned to the General Assembly, at their annual session in October.

After the return of the aggregate list to the General Assembly, the listers meet, and enter upon a scrutiny of the lists exhibited by the individual inhabitants, which continues from time to time, as circumstances require, until the close of the year. During this period, inquiries are made respecting ratable property, which may have been omitted, and such as is discovered to have been omitted through fraud or neglect is assessed four-fold. The additions to the list, in consequence of accidental omissions, and the amounts subjected to four-fold taxation, are then arranged and reduced to a new aggregate, which is returned to the General Assembly, in May following. In case of an omission to make up and transmit to the General Assembly the aggregate list, in October, or the additions and four-fold assessments in May, together with a certificate that the listers have taken the oath prescribed by law, they become subject to a fine, and the town in which the omission happens is, moreover, liable to be doomed or assessed, at the discretion of the General Assembly.

The amounts of ratable property, in each town, and the proportions in which it is possessed by individuals, being definitively settled for the year, by the result of the scrutiny ending on the last day of December, the listers are required by law, some time in the month of January, to make out lists or statements, containing, in alphabetical order, the names of the inhabitants, their ratable property, and the amount of the lists of each individual. In these lists or statements the inhabitants are classed according to the societies or religious corporations to which they respectively belong. When the lists are completed, they are delivered to the town clerk, or register, and form a part of the records of the town.

By means of the aggregate lists returned to the General Assembly, a general statement of the ratable property possessed in the State, and in each county and town, is annually framed; and by a reference to the offices of the town clerks, the list of any society, or individual, may at any time be known.

According to these annual lists of ratable property, all taxes are imposed, whether for the use of the State, or for the use of any county, town, or society. When a sum of money is required, a calculation is made of the rate or proportion necessary to be imposed, on the aggregate list, and by knowing the rate or proportion of the tax granted on the aggregate list, every individual can readily ascertain the sum with which he is charged.

Errors in the aggregate lists, which affect the proportions of towns, are rectified by the treasurer, on receiving satisfactory certificates from the listers, pointing out the causes of such errors. When individuals are affected by errors or overcharges, they may receive redress by applying to the listers; but, if the listers refuse relief, an appeal is allowed to a tribunal, consisting of two justices of the peace, and three selectmen of the town, who, after notifying two or more of the listers, may proceed to a final decision. All applications, by individuals, for relief against errors or overcharges, must, however, be made on, or before, the twentieth of April next, after the error or overcharge occurred.

The property of non-residents is taxed in the same manner as that of inhabitants. The exemptions from taxation are in favor of settled ministers of the Christian religion, and the President of Yale College, whose polls and their estates, lying in the society or town in which they dwell, together with all lands or buildings sequestered for schools, or other public or pious uses, are exempted.

The listers are, by law, entitled to receive, from the town treasuries, a compensation of thirteen cents upon every thousand pounds of the sums included in the lists of the respective towns; besides which, one half of all the taxes collected upon four-fold assessments accrue to their benefit.

The collectors of taxes are chosen by the towns, respectively, which are responsible for their delinquencies; in some cases, bonds, with sufficient sureties, are required, as a condition of appointment; in all cases, the selectmen have a controlling power over the conduct of collectors.

When a tax is granted by the State, the treasurer, without special direction, but as a matter of course, issues his warrants directed to the collectors, requiring each of them to collect a certain sum, which is always a poundage rate upon the lists of the several towns; of the sums expressed in the warrants, the civil authority and selectmen are, however, authorized to abate one eighth part, which is never collected, but applied to the relief of indigent or unfortunate persons; by means of this provision, the operation of a general rule of taxation is reconciled with equity, in particular cases.

There is, also, allowed annually, out of the taxes granted by the State, the sum of two dollars upon every thousand dollars of the aggregate lists of the several towns, as a partial support for public schools; this allowance, in a fiscal view, is equivalent to an additional abatement or deduction from the annual taxes.

The collectors have the usual powers of sheriffs, and may execute their warrants, by distress and sale of goods and chattels; when these are not to be found, they may attach real estate, or, for want thereof, they may commit delinquents to prison. They are required, however, to warn the inhabitants to pay their proportions, and may not proceed to make distress until after such warning, and a consequent non-compliance, nor until two months before the day assigned for paying the tax into the treasury.

When the person of a delinquent is committed to prison, the town becomes liable to the collector for the amount of the tax, which, if necessary, may be recovered of the selectmen, by a warrant from the treasurer, in favor of the collector; to charge the town, it is, however, necessary that the commitment be made within eight months after the tax became payable. The warrants of collectors run throughout the State, and may be levied wherever persons indebted for taxes can be found. If a collector die, after the year for which he was appointed be expired, his powers, while living, survive to his executors or administrators; but if the collector die during the year, it becomes the duty of the town to proceed to make a new appointment. When real estate is taken, it is necessary that the proposed time of sale should be advertised for three weeks, in a public newspaper, at least six weeks prior to the sale. Lands sold for taxes may, during twelve months after the sale, be redeemed, on payment of the purchase money, and costs, with interest, at the rate of twelve per centum per annum. Creditors of persons whose lands have been sold, may avail themselves of the right of redemption; in which case, the lands remain pledged, in nature of a mortgage, until the sums advanced are refunded, with twelve per cent. interest. All taxes due by an individual remain as a lien upon his real estate, for one year after they become payable.

The powers of collectors terminate at the expiration of three years from the dates of their respective warrants, except in respect to persons

who may have removed from the State, with their property. The powers of executors and administrators of collectors continue for two years after being capacitated as such, in respect to taxes which were demandable by the collector while living.

When a collector is delinquent for more than four months after the time limited for a settlement with the treasurer, a warrant of distress is issued against his person and estate, returnable in sixty days. If the collector or sufficient estate are not to be found, or if he be committed to prison, and the tax remain unpaid, a second warrant is issued against the estates of the selectmen; if no, or sufficient, estates of the selectmen can be found, and a return is accordingly made, a third warrant is issued, against the goods and chattels of the inhabitants of the delinquent town, indiscriminately.

The issuing of the two warrants first described, is frequently found, in practice, to be attended with no coercive effect, except that arising from a sense of the accumulated expenses, which must be finally borne by the town on issuing the third warrant. This circuitous process was, therefore, inefficacious, when, as during and for some time subsequent to the late war, taxes were really burdensome.

When the goods and chattels of selectmen or inhabitants are taken by distress, a warrant is issued by a justice of the peace, directing an appraisement, for which, with reasonable costs and damages, the town is made responsible, and for the reimbursement of which a tax may be assessed by the selectmen.

The compensations of collectors are a commission of two and one half per centum on the sums collected and paid over, besides travelling fees when they settle their accounts. These allowances are paid by the State; when taxes are collected by distress, extra fees are allowed, which are paid by the delinquents.

The moderate taxes lately imposed by the State have been well collected. Of a tax of one penny on the pound, or about twenty-three thousand dollars, made payable on the first day of December, 1795, nearly one-half was paid into the Treasury in three months, and almost the whole of the remainder in six months after it became due. The taxes granted by the people themselves, as members of legal corporations, such as cities, towns, ecclesiastical and school societies, are supposed to exceed, on an average, ten times the sums lately granted by the State.

The ordinary expense of supporting Government has been about forty thousand dollars per annum; but, in consequence of a temporary addition to the compensations and fees, heretofore established, the present expense may be estimated at about fifty thousand dollars per annum.

After liquidating the debt incurred during the late war, there will belong to the State about three hundred and fifty thousand dollars of the balance which was found due on the settlement of the accounts of the late war.

OF NEW YORK.

No general or direct tax has been levied by this State since the year 1788; no objects of taxation are defined in the laws, nor any principles of valuation prescribed. The amount of a tax upon the State being declared, the Legislature determines the quotas to be paid by counties, the supervisors of counties determine the quotas of towns, which last are apportioned to individuals by assessors; no provision has been made for requiring a disclosure of the property owned by individuals; of course, all assessments by the Legislature, by supervisors, and assessors, are determined by a discretionary estimate of the collective and relative wealth of corporations and individuals.

The process by which taxes are assessed and collected, and the manner in which the responsibility of officers and collection districts are secured, are, however, to be explained.

In the month of April annually, the freeholders and inhabitants of the several towns elect one supervisor, not less than three, nor more than seven assessors, and one or more collectors of taxes. Vacancies occasioned by deaths, removals, or any other cause, may be filled by new elections, to continue during the remainder of the year; when towns neglect to elect, and continue in office supervisors and assessors, they may be appointed by three justices of peace of the county. Persons refusing to serve in the offices to which they may have been elected or appointed, are subject to a fine. When the assessors have been qualified by taking an oath faithfully to discharge their trusts, it becomes their duty to meet for the purpose of estimating the value of all real and personal estates in their respective towns; in the first place a list is made of the names of all resident freeholders and inhabitants, and of all persons living elsewhere, possessed of any property lying in the town: against the name of each person, the assessors place such sums as they judge to be the true value of real and personal estates owned by individuals, distinguishing the value of real from that of personal estates; these lists, with the assessments to each person, signed by a majority of the assessors, are then delivered to the supervisors of the county, or their clerk, on or before the last Tuesday of May, annually. If the assessors omit to perform their duty, they become severally liable to a fine of twenty-five pounds, recoverable for the use of the county.

On the day last mentioned, the supervisors of the respective counties meet at the court-house of each county, and afterwards at such times and places as they can agree. When a tax has been granted by the State, the quota of the county is by them apportioned to the several towns, according to their best discretion; to which is added a sum sufficient to defray the expenses of the county during the year; and a further sum for the maintenance of the poor of each town. The sums thus assigned to each town are then apportioned by a poundage rate to individuals, according to their proportions, as exhibited in the lists transmitted by the assessors.

The lists, with the same payable by individuals, are then transmitted to the collectors of the several towns, with the warrants of the supervisors of the county annexed. Of the sums first collected, the amount of the assessments for the maintenance of the poor are paid to the overseers of the poor in each town; the remainder, including the sum assessed for the use of the State, is made payable to the treasurer of the county.

The treasurers of counties are appointed by the supervisors, and are required to give bonds, with sufficient sureties, for the faithful discharge of their trusts. The collectors of towns are responsible to the county treasurers, which last are responsible to the supervisors and to the treasurer of the State.

The warrants of the supervisors to collectors authorize them to proceed by distress and sale of the goods and chattels of the persons indebted for taxes; when goods and chattels are not to be found, the taxes accruing upon real estates may be collected by a sale at public auction of a sufficient quantity of the timber, wood, or grass, growing thereon; a notice of such intended sale, for six weeks, and an advertisement for six days, at two or more public places in the town where the estate lies, are however required.

When a collector is delinquent, the county treasurer is required to issue his warrant, returnable in thirty days, directed to the sheriff of the proper county, commanding him to levy the sum in arrear of the lands and tenements, or goods and chattels of the collector, and for want thereof, to confine his person in prison. Of the sums assigned to collectors, they may however discharge themselves, in all cases where no goods or chattels of individuals are to be found whereon to levy, by rendering an account of deficiencies to the county treasurer, on oath, prior to the time assigned for the settlement of the tax. If the collector omits to exonerate himself by rendering an account of deficiencies by the time prescribed, he becomes liable for the whole sum assigned to him for collection; such accounts of deficiencies as are rendered by the collectors, are, by the county treasurers, laid before the supervisors at their next meeting.

When taxes have been granted by the State, the county treasurers are required, annually, before the month of March, to pay the sums by them received, to the treasurer of the State, at the same time exhibiting accounts on oath of all warrants issued against delinquent collectors, expressing the amount of each; where a county treasurer has omitted to pay over the sums by him received, within the time prescribed, or to exhibit, on oath, an account as above-mentioned, or has neglected to issue his warrants against delinquent collectors, it becomes the duty of the treasurer of the State to proceed against the county treasurer, in the manner before described, with respect to delinquent collectors.

It is the duty of the supervisors of counties, at their annual meetings, previously to ascertaining and assessing the county tax for the year, to examine the accounts of deficiencies exhibited by the collectors to the county treasurers, during the former year; when, in the judgment of the supervisors, the taxes are collectible, notwithstanding the return of the collectors, they are authorized to issue new warrants for collecting the same, under the same formalities and conditions as though a new tax had been assessed; when the deficiencies are found to proceed from insolvencies, or want of goods, or other property, whereon a levy might have been made, or from the insolvency of a collector, the deficiencies are added to the quota of the town in which they arose, to be collected with the new tax. In cases where towns are charged with deficiencies, the first payments thereafter made are applied by the county treasurers on account thereof.

The compensations of the supervisors and their clerks, as also of assessors, are determined by the supervisors, and included with the annual taxes upon the county.

The collectors are allowed to retain, from the sums collected by them, a commission of five per centum; the fees of sheriffs for levying moneys of delinquent collectors are two and one-half per centum; the compensation of the county treasurers is a commission of one and three quarters per centum upon the sums received and paid over; the whole expense of assessing and collecting a tax has been estimated at from fifteen to twenty per centum of the sums collected from the people.

The last State tax, granted in 1788, was for sixty thousand dollars, of which three-fourths was paid into the treasury in one year, the residue was not entirely paid in two years. The expenses of supporting civil Government are annually about seventy-five thousand dollars; the annual grants to the university, college, schools, hospital, and for contingencies, somewhat exceed this amount. The outstanding debts of the State are about two hundred and twenty-five thousand dollars, a principal part of which consists of bills of credit issued since the late war. The credits and funds of the State are ample, and their product sufficient to supersede the necessity of taxation except for county and other local purposes.

OF NEW JERSEY.

The objects of taxation enumerated in the laws of this State, are lands, whether improved or unimproved; houses, with lots adjoining, not exceeding ten acres; horses and neat cattle, furnaces, forges and mills of several kinds; tan-yards, ferries, fisheries, vessels, carriages for the conveyance of persons, including sleighs; personal taxes on shop-keepers, single men who keep horses, single men who do not keep horses, and on slaves.

Each of the taxable objects before enumerated, is, by the Legislature, assessed from time to time, at a certain value; the assessments on lands, and on houses and lots, are graduated according to an equitable scale, with reference to the relative fertility and local advantages or disadvantages of the several counties. The quantities of taxable property, the rates at which they were assessed in the year 1794, and the quotas of the several

counties in a tax of thirty thousand pounds, appear in an annexed document (F.)

It appears that the quotas of counties are determined by their lists of ratable property, according to the valuations from time to time made by the Legislature; the quotas of townships and individuals are assessed pursuant to the following regulations:

At the annual town meetings there are chosen within each township, ward, and precinct, two freeholders, three commissioners of appeals, one assessor, and one collector of taxes. In case of neglect in any township to make elections of assessors and collectors, or of the disability of the persons chosen, two justices of the peace of the county may appoint a town meeting, at which elections may be made by a plurality of the voices present; in case of a refusal or neglect to make elections in this mode, two justices of the peace may make the necessary appointments.

The assessors, after being qualified, by taking an oath or affirmation, faithfully to discharge their trusts, are required, between the twentieth day of July and the twentieth day of August in each year, to apply to the inhabitants of their several townships for an account of all their property, real and personal, then ratable by law; of the property disclosed, correct and particular lists are taken in writing by the assessors.

Such of the inhabitants as refuse to disclose a true state of their taxable estates, are liable to be assessed, at the discretion of the assessors, double the amount of the sums for which they would otherwise be liable in the opinion of the assessors.

In making assessments, lands, houses, and lots, are estimated *ad valorem*, not exceeding certain rates, which are prescribed by law; horses and neat cattle are assessed uniformly throughout the State; the assessments on all other objects of taxation are specific, not exceeding certain prescribed rates; the objects of specific taxation are styled *certainties*, of which particular and distinct accounts are taken.

Four months before a tax is made payable into the treasury, the assessors of the several townships meet at the court-house of the county, with the lists of ratable property collected in the several townships. After the lists have been arranged, and the quantities of each description of taxable objects have been ascertained, a calculation is made of the proportion of the tax which can be raised on the certainties, or objects of specific taxation; the remainder is then apportioned to the several townships, at the discretion of a majority of the assessors present; so, however, that the rates of valuation, prescribed by law, be not exceeded in assessing the quota of any township: when the quotas of the townships have been ascertained, an abstract is formed of all the certainties and other property subject to taxation in the county, distinguishing the amount in each township, which, being signed by the assessors, is delivered to the collector of the county.

Within ten days after the quotas of the townships are settled, the assessors are required to make out duplicates of the assessments upon individuals, containing an account of the certainties, the sums estimated for other property, with the taxes assigned to each person, one of which duplicates is delivered to the collector of the proper township, ward, or precinct, and the other to the collector of the county, who is required to lay the duplicates, being the assessments on townships and persons, with the abstract thereof for the county, before the General Assembly, in October, annually.

Though, in assigning the proportions of individuals, the assessors appear to be confined to the objects of taxation prescribed by law, and are not allowed to exceed certain rates of valuation, of which the limits are designated, yet, as within these limits a wide latitude of discretion may be exercised, provision has been made for an appeal where the assessments are deemed excessive. With a view to this subject, the constitution has prescribed that the townships shall annually elect three or more judicious freeholders to hear and finally determine all appeals relative to unjust assessments, who are directed to sit at suitable times, to be by them appointed, and made known to the people by advertisements.

In conformity with this provision, the law directs that, within four days after the duplicate assessment, or tax bill, is received by the township collector, he shall, by advertisement, give public notice that a tax has become payable, therein mentioning the time when a return of delinquents will be made in manner hereafter mentioned, and the time when the meeting of the commissioners of appeals is to be holden. In case the commissioners of appeals see fit to allow a deduction from any assessment, a transcript of their decision becomes a voucher in favor of the collector to whom it is directed.

The township collectors are responsible to the collectors of counties, who are appointed by the justices and freeholders of the counties respectively. The county collectors are responsible to the treasurer of the State.

Within twenty-five days after receiving the duplicate assessments, the collectors of townships are required to demand the taxes due by individuals, either by personal application, or by notice at their respective dwellings, mentioning, at the same time, the session of the commissioners' appeal. In case of non-payment, until within one month and fifteen days before the time prescribed for payment into the treasury, it becomes the duty of the collector to make a return, on oath, to some justice of the peace of the county, therein specifying the names of the delinquents and the sums due from them, respectively, for which return, the justice of the peace may be required to grant his receipt or acknowledgment. Prior to the time prescribed for settlement with the county collector, the collectors of townships must pay over the sums by them collected; in which case, they cease to be chargeable for such assessments as have been returned to a justice of the peace, in manner before mentioned. When a township collector omits to make a return of delinquents,

or pay over the sums by him collected, he becomes liable to a fine of twelve pounds, collectable by the county collector for the use of the State.

Within three days after a return of delinquents to a justice of peace, it becomes his duty to issue warrants, directed to some constable of the county, requiring him to levy the sums in arrear with costs, by distress and sale of the goods and chattels of the delinquents, or for want thereof, to commit them to prison; the warrants moreover require the constable to pay the taxes so collected by distress, to the township collector, within thirty days, and to make a special return to the justice of the peace of the sums collected, of the sums not collectable, and generally, of the manner in which the warrants have been executed. If a justice of the peace refuse to perform the duties before mentioned, he becomes subject to a fine of twelve pounds, recoverable with costs, for the use of the State, by the county collector. If a constable omit to execute the warrants of the justice of the peace, he becomes liable to a like fine, for the use of the county and the township collector jointly; as also, for all the taxes entrusted to him for collection, recoverable by distress, on a summary process, before any one of the judges of the court of common pleas for the county.

On the receipt of moneys from any constable, the township collector is required to pay the same to the county collector, and to account for all outstanding deficiencies. If the township collector omits his duty in this respect for ten days, it becomes the duty of the county collector to apply to one of the judges of the court of common pleas for the county, who is required to issue a summons to the township collector, and thereupon to hear and determine the cause, in a summary manner. In such case, the township collector is held responsible for all the taxes entrusted to him for collection, except such as may appear uncollected by the return of the constable, on the warrant of distress, issued by a justice of the peace. For the remainder, with any fines received, and interest thereon, from the time payment ought to have been made, judgment may be given, recoverable with costs, by a warrant of distress, directed to the sheriff of the county.

The collectors of counties are required to pay over to the treasurer of the State all assessments and forfeitures by them received from township collectors, for which, the receipts of the treasurer operate as a discharge, after having been entered in the office of the State auditor. When a county collector omits or refuses to pay over such assessments and forfeitures, and to account for the deficiencies remaining uncollected, for twenty days after the time prescribed for a settlement of the tax, it becomes the duty of the treasurer to report the defaulter to a Judge of the Supreme Court, who is required to institute a summary inquiry. The county collectors, in this case, are held responsible for the quotas assessed upon the counties, except so far as they can exonerate themselves by showing that the sums remain uncollected, in the hands of township collectors or constables, in respect to whom, the requirements of law, before mentioned, have been enforced. For such sums as the county collectors are found delinquent, on the principles above stated, the judge of the superior court may issue a warrant of distress, directed to any sheriff of the State. In addition to the unpaid taxes before mentioned, a delinquent county collector is liable to pay a fine of ten pounds, for the use of the State.

If a sheriff, to whom a warrant of distress, against a county collector, is directed, neglect or refuse to execute the same, or omit to pay to the treasurer the sums collected, within thirty days after receiving the warrant, he becomes liable to forfeit double the sum therein expressed, collectable by the treasurer, agreeably to the process prescribed in respect to delinquent county collectors.

The counties are responsible to the State for all delinquencies of county collectors; and the townships are, in like manner, responsible to the counties, for the delinquencies of their collectors and constables, respectively. When a county collector is found to be delinquent, the sum due by him is, by the treasurer, added to the quota of the county, in the next tax. If the assessors omit or refuse to assess the deficiency, or any tax granted by the State, they severally forfeit twelve pounds, recoverable by the overseers, for the use of the poor.

The county collectors are required to attend the meetings of the assessors in the several counties, and to lay before them accurate accounts of the deficiencies, in the several townships, precincts, and wards; the amount of which are required to be re-assessed with the future taxes of the townships, precincts, and wards, in which such deficiencies arose.

Tenants, or persons residing on, or having the care of lands or tenements, are responsible for the taxes assessed thereon, as also, their goods and chattels. The amount of such taxes may, however, be deducted out of future rent, or recovered of the landlord; but in such manner, as not to affect any subsisting contract or agreement.

In default of payment of the taxes assessed on unimproved or untenanted lands, the owners of which do not reside in the townships where such lands are situated, warrants may be issued by a justice of the peace of the county, authorizing a distress and sale of timber, wood, herbage, or other saleable property, found on the premises.

Township collectors and constables are responsible to the chosen freeholders of their respective townships for all moneys received by them, or for which they may be accountable, above the sums paid to the county collectors.

The general rule of compensation for assessors, has been a commission of one and three-quarters per centum, upon the sums assessed, with a like commission to the collectors of townships, both of which compensations were included in the assessment of taxes. By an act, passed in the year 1794, for raising fifteen thousand pounds, the assessors were allowed fourpence for assessing the tax of each person, and the collectors, a like sum

for each collection. It is not known whether this has operated as an increase or reduction of the compensation before established. The commissioners of appeals are allowed one dollar per diem for their services. In addition to each tax, constables are allowed to collect two shillings and sixpence for each distress, and sixpence for each name mentioned in the warrant of a justice of the peace, both of which sums are payable by the delinquents. County collectors are allowed one penny in the pound, of the sums received of township collectors and paid over to the treasurer, besides sixpence per mile, for travelling to settle their accounts.

Of a tax of fifteen thousand pounds, granted in December, 1794, payable into the treasury on the last day of December, 1795, the whole, except a trifling balance from one county, was paid before and during the month of May, 1796.

The outstanding debt of the State amounted, in April last, to forty-five thousand pounds, or one hundred and twenty thousand dollars, for the discharge of which, in four equal annual payments, appropriations have been made; the payment of the first instalment is supposed to have been, before this time, completed. The arrears of certain taxes, funds belonging to the treasury, and the proceeds of an annual tax of forty thousand dollars, are represented as sufficient to liberate the State from debt, within the time proposed.

The expenses of supporting the State Government and contingent charges, are annually about twenty-seven thousand dollars; the amount of county and other taxes is not known.

OF PENNSYLVANIA.

In the year 1785, an act was passed providing a revenue for funding and paying the interest of debts of the State, and also, the State quota of the interest accruing on the debts of the United States. In aid of other revenues which were then appropriated, an annual tax of seventy-six thousand nine hundred and forty-five pounds seventeen shillings and sixpence was directed to be assessed and collected on persons and real and personal estate. This tax was continued from 1785 to 1789, inclusively, since which time no general tax has been imposed.

The tax above mentioned was apportioned to the several counties by the Legislature; the quotas of townships were determined by county commissioners, and assessed upon individuals by township assessors.

The objects of taxation were, the time of servitude of all bound servants above fourteen years of age; negro and mulatto slaves, above the age of twelve years; horses and horned cattle, above three years old; wrought plate; travelling or pleasure carriages; lands generally, houses, ground rents, mills of all kinds, furnaces, forges, bloomeries, distilleries, sugar-houses, malt-houses, breweries, tan yards, and ferries; all of which were made taxable *ad valorem*.

Personal taxes, not exceeding thirty shillings, nor less than ten shillings, were assessed upon single freemen above twenty-one years of age, who had been free from apprenticeship nine months; all offices and posts of profit, trades, occupations, and professions, (ministers of the Gospel, mechanics, manufacturers, and school-masters excepted,) were rated at the discretion of the assessors, with reference to their respective profits.

By a proviso to the act, which still remains in force, the lands granted to any officers or soldiers of the line of the State, for their services, were declared to be exempted from taxation, during the lives of the grantees, respectively, unless the same should be transferred or alienated.

It would be difficult to ascertain the precise degree of punctuality with which these taxes have been collected; the delays are, however, known to have been considerable; on account of arrearages of taxes, it appears that fourteen thousand five hundred and sixty-five dollars were received in the year 1795.

The system of taxation at present in force is contained in an act passed in April, 1795, to regulate the mode of assessing and collecting county rates and levies.

The officers for assessing taxes, are county commissioners and township assessors; three commissioners are elected by the people, in each county, for three years; their offices are annually vacated in succession, one commissioner being elected in every year.

Every three years, commencing with October, 1795, the freemen of every ward, township, or district, in the city or county of Philadelphia, and in the other counties, respectively, elect one assessor, and two assistant assessors, for the purpose of making triennial assessments of taxable property; in years other than those in which the triennial assessments are made, only one assessor is elected.

The assessors and assistant assessors are required, every three years, to state and return to the commissioners of their respective counties, within six weeks from the day of their election, a list, setting forth the names and places of residence, if known, of the owners of all the lands occupied and inhabited; of all unseated lands, and of all the houses and lots of ground, in the wards, townships, or districts, to which they belong; with a description of all the buildings, erections, and improvements, appertaining to the same; the amount of all ground rents charged thereon; and also, a list of the mechanics or tradesmen, tavern-keepers, shop-keepers, persons retailing goods, wares, or merchandise, brokers, bankers, merchants, lawyers, and physicians, freemen who do not follow any profession, occupation, or calling, and persons of professions or occupations not above described; persons held as slaves, under forty-five years of age; horses and horned cattle, above four years old, with a just and faithful valuation of the estate and interest of each of the owners respectively, in the real and personal taxable property before mentioned.

In every year in which the triennial assessments of property are made, the county commissioners are required to meet on the first Tuesday

in January, to examine and compare the returns made to them by the assessors and assistant assessors, with full power to revise, alter, and adjust, the valuations in such returns; provided they do not change or vary the relative valuations of property in the same township, ward, or district. The proportional assessments upon individuals, thus equalized by the commissioners, in respect to counties, constitute a general rule or criterion, by which taxes on property are regulated for three years ensuing.

The amount of each county tax is determined by the county commissioners, under the limitation, however, that not more than one per centum can, at any time, be raised on the valuation of lands. When the commissioners deem it necessary to levy a tax equal to one per centum, upon the value of property, as by them adjusted, they are directed to order the following taxes on persons and professions to be collected. From every freeman of no profession or calling, not more than ten dollars, nor less than fifty cents; from every mechanic or tradesman, not more than two dollars, nor less than thirty cents; from every tavern-keeper, shop-keeper, or other person, retailing goods, wares, or merchandise, not more than five dollars, nor less than fifty cents; from every broker, banker, merchant, lawyer, or physician, not more than ten dollars, nor less than one dollar; from persons of professions or occupations, not before described, not more than eight dollars, nor less than twenty-five cents; and from the holder of any person held as a slave, one dollar for every such slave. Whenever the tax on real property is below one per centum of the valuation, the taxes on occupations, professions, and personal property, are directed to be proportionally reduced; no article of property can be assessed which is not enumerated in the law.

When the commissioners have declared the amount of a tax, and the proportions to be assessed on real estates, and on persons and occupations, they issue warrants to the assessors, requiring them to take an account of all persons and effects subject to the tax, and to make returns, in thirty days, of the names and sums, with which, in their judgment, each person ought to be charged, distinguishing the sums assessed for real property from those assessed for personal estates, professions, or occupations; the assessors are, moreover, required to notify each individual of the amount wherewith he is charged, and of the time and place, when and where, the county commissioners will meet, to hear and decide on appeals.

The county commissioners are authorized, on the appeals of individuals, to alter the assessments on persons or professions, or to abate them entirely, in cases where they judge the appellants unable to discharge the same; it is declared, however, that the commissioners shall not vary the assessments on real property, except where lands have been divided, or where houses or buildings, valued in the triennial assessments, have been destroyed or damaged by accidents; in which cases alone, the commissioners may apportion the assessments between the owners of the property so divided, or may make abatements in proportion to the damages sustained.

The tenant in possession of lands or tenements, belonging to an owner residing in a township, ward, or district, other than that in which the lands or tenements are situated, is, jointly with the owner, liable for the taxes thereon, and his goods or chattels may be distrained therefor; but the tenant may retain the sums paid, out of the rents due or to become due, or may recover the same, with costs, by action of debt against his landlord, unless prevented by the conditions of some prior contract.

The deputy surveyors of counties or districts are required, on the application of the county commissioners, to make returns of all lands surveyed, and of all warrants or orders of survey, to them directed and not executed, therein describing the number of acres in each survey, the names of the original warrantees, the waters on which situated, the lands contiguous thereto, and the townships where the same lie; all unseated lands are directed to be taxed, returned, advertised, or sold, in the name of the original warrantee, until notice has been given to the commissioners that the said lands have been alienated to some other person.

Within three months after a tax has been laid on unseated lands, the commissioners are directed to transmit a transcript of the assessor's return, and of the tax imposed, to the sheriff of the county, in case the owner resides therein; or if the owner does not reside in the county, but has previously filed with the commissioners an account of his abode and occupation, then to the sheriff of the county in which such owner is resident; in either of which cases, it is made the duty of the sheriff to serve a copy of such transcript on the owner, or to leave a copy thereof at his usual place of abode.

When the owner of unseated lands cannot be found, and any tax has remained unpaid for three years after the assessment thereof, the county commissioners having first advertised the same in seven different public places, within the county, are directed to proceed, on the first Tuesday of August next, after the expiration of the three years, to sell so much of the said lands as may be necessary to satisfy the taxes remaining unpaid, with interest, at the rate of twelve per centum per annum, from the time the taxes became due. Persons who occupy lands which were unseated previously to such occupancy, are liable for taxes in the same manner as though they were original owners; as also purchasers of unseated lands, who shall have recorded their deeds, or in any other manner acquired titles to the same, and may be proceeded against in like manner as though they were original owners.

The county treasurers, and collectors for townships, are appointed by the county commissioners; the collectors are accountable to the county treasurers for the taxes entrusted to them for collection, except for taxes on unseated lands, and may

distrain and sell the property of delinquent individuals. When collectors are delinquent, their goods and property may be distrained and sold by the county treasurers.

The county commissioners, assessors, assistant assessors, and county treasurers, are severally required, before entering on the duties of their offices, to take and subscribe an oath or affirmation, faithfully and impartially to execute the duties of their respective offices.

When townships omit to elect assessors or assistant assessors, or when vacancies happen from any cause, the county commissioners may proceed to make the necessary appointments.

The compensation allowed to county commissioners is one dollar and one-third for each day they are employed, and to the assessors, one dollar. Upon an average, the expense of assessing county taxes through the State, may be estimated at ten thousand dollars per annum. The commission allowed to collectors is generally about five per centum on the amount of the taxes; the county treasurers are allowed one dollar upon each hundred pounds received and paid by them, respectively.

The townships are responsible to the counties, and the counties are, in like manner, responsible to the State, for the amount of all assessments. No State tax having been laid for several years, it has been found impossible to collect an account of the value of taxable property in the several counties.

The annual expenses of maintaining Government may be estimated at one hundred and thirty thousand dollars; the revenues of the State exceed this amount; of course, there is a probability that the State will continue to be exempted from the necessity of taxation, except for county purposes.

OF DELAWARE.

Taxes have been hitherto collected on the estimated annual income of the inhabitants of this State, without reference to specific objects.

For about twenty years past, the quotas of the counties, in a general tax, have been uniform; every tax has been divided into twenty-one parts, of which eight parts have been assigned to the county of Newcastle, seven to the county of Kent, and six to the county of Sussex.

The counties are divided into hundreds, in each of which an assessor is annually chosen on the 15th of September. After their election, they are furnished with lists of all taxable persons by the constables of the hundreds; to these lists the assessors, in a general meeting for the county, affix estimates of the supposed income of each inhabitant, according to their best discretion, subject only to the following restrictions: 1st. That unsettled tracts of land, persons under twenty-one years of age, and persons who have not been six months free from servitude or apprenticeship, are to be exempted. 2d. That assessments upon poor persons having a charge of children are to be assessed with reference to this expense, but in no case less than eight pounds. 3d. That single men, having no visible property, are to be assessed not less than twelve nor more than twenty-four pounds.

It appears to have been a rule established by the assessors, and confirmed by long usage, to assess all persons at one-fifth part of their annual income; no account of the general amount of income upon which taxes have at any time been imposed has been obtained.

When the assessors have completed their assessments, lists of their proceedings are published in the several hundreds, with notice of the time appointed for holding the levy court and court of appeals for the county.

The commissioners of the levy court and court of appeals are elected for three years by the people of the respective counties; one-third part of the court is renewed annually; they are empowered to hear and decide on all appeals respecting erroneous or excessive assessments, for which purpose they may require the attendance of all necessary witnesses.

Of late years, the collectors of State taxes have been appointed by the treasurer, who is responsible for all losses occasioned by their delinquencies, or the insufficiency of their sureties; with the bonds of collectors, powers of attorney, for obtaining judgment, are required.

The collectors of taxes are allowed a commission of seven and a half per centum on their collections; the commissioners of the levy court and court of appeals and assessors receive one dollar and one-third per diem during the time they are employed.

It does not appear that the State is burdened with debt; the expenditures from the treasury during the year 1795 amounted nearly to seventeen thousand dollars; the receipts of the treasury exceeded twenty thousand dollars, including the proceeds of certain sales of vacant lands, and taxes granted before and during the year 1794. No certain information has been obtained respecting the ordinary expense of supporting Government, or the degree of energy with which collections have been enforced.

To remedy the inconveniences and inequality which have been experienced from arbitrary assessments, an act has been passed during the present year providing for the valuation of real and personal estates. Though the new system has not yet been reduced to practice, an exposition of its principles has been deemed necessary.

It has been declared that all real and personal property shall be taxed, except property belonging to the United States, to the State, or to any county, religious society, college, county school, or corporation for charitable purposes, provisions for a family, tools and implements of a trade or profession, household furniture, (plate excepted,) the produce of land, apparel, money, bonds and securities, imported merchandise, and such carriages as are already taxed; provision is however made for ascertaining the stock of merchants, traders, mechanics, and manufacturers, for the purpose of regulating assessments upon such persons, proportioned to their gains and profits.

The Governor is empowered to constitute a board of commissioners in each county, to consist of six persons, who are to remain in office for three years. One-third part of the commissioners are to be appointed annually; no person may receive two successive appointments.

Assessors, appointed as formerly, are required to take an accurate account of the lands in their respective hundreds, specifying the names of their owners, what part is improved or unimproved, with the buildings and improvements thereon, and the value of each tract, in ready money. The assessors are also to ascertain the number of lots and houses in cities, boroughs, and villages, their value, and the rents annually paid.

Real property, and the rents arising therefrom, are to be estimated in the following manner:

Ground rents, at one hundred pounds for every eight pounds of rent. Lands subject to ground rent, according to the actual value, after deducting one hundred pounds for every eight pounds rent; rents of houses and lots in cities, towns, and villages, at one hundred pounds for every twelve pounds of rent reserved; houses and lots of the above description, at the true value, after deducting at the rate of one hundred pounds for every twelve pounds of the rent annually secured.

Certain articles of personal property are to be valued as follows:

Male and female slaves, from eight to fourteen years of age, not less than ten nor more than forty pounds.

Male slaves from fourteen to forty-five years of age, any sum above twenty and not exceeding seventy pounds; female slaves, over fourteen and not exceeding thirty-six years of age, any sum above fifteen and not exceeding thirty-five pounds; male and female slaves under eight years of age, male slaves above the age of forty-five years, and female slaves above the age of thirty-six years, at rates proportioned to those before mentioned. Male slaves who are tradesmen are to be assessed according to the value of their labor. Plate is to be assessed at eight shillings and four pence per ounce; all other articles of personal property, not specially exempted, are to be estimated according to their value in ready money, at the discretion of the assessors.

Every free man, above twenty-one years of age, in addition to the assessment upon his property, is chargeable with a personal assessment, not exceeding two hundred nor less than fifty pounds, subject to abatement in whole or in part, at the discretion of the levy court and court of appeals. Provision is made for requiring a disclosure of the taxable property possessed by individuals; persons who omit to make returns when required are subject to a penalty, and may be assessed at discretion.

The assessors, in performing the duties before mentioned, are subject to the control and direction of the county commissioners; when the valuations or assessments have been completed, they are to be published in each hundred; after which, the commissioners are to hear and determine the complaints of individuals, subject, however, to the final decision of the levy court and court of appeals for the county.

It will be seen that, by the new system, taxes are to be imposed upon the mass of property, real and personal; and that certain limits are assigned to the powers of the assessors, although a wide field will still remain for the exercise of discretion.

OF MARYLAND.

All property is, in this State, subject to taxation, except property belonging to the State or the United States; houses for public worship, burying grounds, or property belonging to any county, college, or county school; the crop and produce of lands in the hands of the person whose lands produced the same; provisions necessary for the use and consumption of persons and families for the year; plantation utensils; the working tools of mechanics and manufacturers, actually and constantly employed in their respective occupations; wearing apparel; goods, wares, and merchandise imported; home made manufactures in the hands of manufacturers; stills and ready money.

Taxes are, therefore, imposed on the mass of property in general, in conformity to an article in the Declaration of Rights, agreed to by the State Convention in November, 1776, which asserts, "That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of Government, but that every other person ought to contribute his proportion of the public taxes for the support of Government, according to his actual worth in real or personal property."

The following specific taxes are collected, viz: Of every attorney at law, for admission to the bar of each county court, three pounds, and a like sum, annually, during his continuance of practice. On licenses to retail spirituous liquors, six pounds; on licenses to keep taverns, three pounds; on licenses for marriage, twelve shillings and six pence. There are, moreover, certain taxes collected on process issuing from the county courts; on orders issued by the judge of the land office; or final adjudications, on caveats, and on proceedings and seals in the court of chancery.

The produce of these taxes, with the incidental revenue accruing from fines and forfeitures, and from amercements on persons failing in their suits at law, and the interest accruing on funds belonging to the State, have been found sufficient to supersede the necessity of any general State tax, since the year 1786. County taxes are assessed and collected pursuant to two acts passed in 1785 and 1792, prescribing rules for ascertaining the value of property; from the last mentioned acts, and the act by which the tax was granted in 1786, the following is inferred to be the mode of assessment and collection in this State:

The lands in each county have received an average valuation by the Legislature, at various rates, chiefly between thirty-three shillings and nine pence and twenty-two shillings and three pence, but in one instance as low as four shillings by the acre. Slaves, from eight to fourteen years of age, are valued at fifteen pounds; male slaves, from fourteen to forty-five years of age, at forty-five pounds; female slaves, from fourteen to thirty-six years of age, at thirty pounds; male and female slaves, under eight years of age, male slaves above forty-five years of age, female slaves above thirty-six years of age, and slaves who are tradesmen, are directed to be valued by assessors, in proportion to the rates above mentioned; when slaves are infirm, the assessors may allow a reasonable abatement. Silver plate is valued by law at eight shillings and four pence per ounce.

In estimating the value of ground rents in towns, eight pounds rent is considered as an equivalent to a capital of one hundred pounds; of the rents of houses in towns, sixteen pounds are estimated as equivalent to one hundred pounds; in respect to limited estates carved out of estates in fee simple, it is prescribed as a general rule that a right of possession for fifteen years, without payment of rent, is equivalent to one-half of the value of the fee simple. In all cases, estates and property are estimated at their full value in money in the first instance; after which, a computation is made of the value of any particular estates or interest arising therefrom, in order to a just apportionment between the parties; where the law has not prescribed a rule of valuation, assessments are made at discretion.

When a tax is to be granted, five persons in each county and in Baltimore town, are named by the Legislature, in the supply bill, as commissioners of the tax; the commissioners are sworn to a faithful and impartial discharge of their duty; they meet on a fixed day, at the usual place for holding the county courts, and, after appointing their clerks, they proceed to divide their counties into convenient districts; to appoint an assessor for each, who must be a person worth two hundred pounds; to instruct the assessors in their duty, and to prescribe a time when they are to appear with written returns of their several valuations of property.

The assessors are directed to inform themselves, by all lawful ways and means, of all real and personal property in their districts, and for this purpose they may require of all persons owning or having the care of slaves an account of them, under the penalty of paying a double tax for every slave omitted, or whose age is wilfully misrepresented in the account. Every person is also bound to give, upon the assessors' requisition, a true account of all other property, real and personal, belonging to him, or under his care and management, or simply in his possession, under the penalty of paying a double assessment, in the case of refusal to give in such account, or where a partial one is rendered, of forfeiting the value of the property omitted. In respect to property concealed or omitted in the accounts of individuals, the assessors affix a discretionary valuation.

In ascertaining the quantities of lands, the commissioners, and, under them, the assessors, are governed by former valuation lists, lists of alienations received from the clerks of courts, and by information which may be required of the proprietors on oath; this last security is, however, rarely resorted to in any instance. When the quantity of land in a county has been ascertained, its value is first computed according to the average prescribed by law; the aggregate amount is then apportioned to individuals, according to the relative value of their respective portions of lands and their interest therein, on the principles before-mentioned. The mode of recovering penalties or forfeitures incurred by concealment or fraud in the disclosure of property, is by presentment in a court of justice; the occasions for this are, however, represented to have but rarely occurred.

Erroneous or excessive assessments may be corrected by application to the commissioners of the tax for the county, who may examine the parties or other persons on oath, and finally determine as shall appear equitable.

When the assessments upon individuals have been completed, the assessors are required to report to the commissioners for the county alphabetical lists of all persons whose property has been valued, with a specification of the number and value of slaves of each description, the weight of plate, with the value thereof; also, the particulars of real and personal estates as designated by law, and the value of each description. When the owner of any property is not known, it is directed to be so returned.

Owing to the long time since any general tax has been laid, it has been found difficult to ascertain the quantities of taxable property now existing in the State. The annexed document (G) on this subject, so far as it is founded on returns, is entitled to full confidence; the estimate of certain objects is derived from an intelligent source, and is believed to be free from material error.

The collectors of taxes are appointed by the commissioners of counties, and give bond with sureties for the sums intrusted to them for collection; they account with one of the State treasurers, of which one is appointed for the counties eastward and the other for the counties westward of the Chesapeake.

Persons who were appointed under the last act to the office of collector, and who refused to accept the office or to give bond, were subject to a fine of fifty pounds.

It has been a general usage to appoint the sheriffs of counties to be collectors of taxes, who, with the consent of the commissioners, have been allowed to appoint deputies for one or more hundreds in said counties; for the conduct of their deputies the collectors or sheriffs have been held responsible.

The collectors under the last act were subject to the general control and superintendence of the commissioners of the tax, and might be compelled to disclose the sums actually collected, for the purpose of being required to pay the same to the State treasurer.

All goods and chattels found on lands chargeable with taxes were liable to be taken by distress; if no goods nor chattels were to be found, the lands remain chargeable with the tax and interest thereon, at six per centum per annum.

When it was discovered by a collector that a

person charged with a tax resided in some other county, it became his duty, under a penalty of twenty pounds, to transmit an account of said tax to the commissioners of such other county, to be collected under their direction.

About two months after the time prescribed for the payment of the last tax, the collectors were required, under a penalty of two hundred pounds, to present their accounts for adjustment to the commissioners of their counties. In this adjustment the commissioners were authorized to allow the collectors a commission of four per centum, and to pass to their credit such sums as appeared to be uncollectable; it appears to have been the object of these settlements to define and fix the sums for which the collectors were to be finally responsible; two copies of each settlement were made, one of which was transmitted to the clerk of the House of Delegates and the other to the proper treasurer, by which to hold the collectors accountable.

Delinquent collectors and their sureties were liable to be proceeded against by a summary process; delinquent deputy collectors might be compelled to account, by warrants from the commissioners, authorizing the sheriffs to levy the sum due on the lands, goods, chattels, or persons, of the delinquents.

The commissioners and their clerks were allowed, each, ten shillings per diem, during the time their services were required; the assessors a sum at the discretion of the commisioners, not exceeding twenty-five pounds each; and the collectors as beforementioned, a commission of four per centum; the expenses of collecting the last tax, exclusive of loss, occasioned by delay and other incidents, amounted to twelve and one-half per centum.

The State tax assessed in 1786, amounted to twenty shillings on each hundred pounds of property, according to the valuation; the collection was several times partially or wholly suspended by the Legislature, on applications from the collectors.

In the year 1786, there was paid	£5,037	4	0
In the year 1787 - -	37,610	6	2
In the year 1788 - -	22,898	2	11
In the year 1789 - -	33,478	7	7
In the year 1790 - -	5,060	7	3
In the year 1791 - -	2,084	14	4
Amount of the tax - -	106,169	2	3

A small part of the above statement is founded on estimate.

A principal part of the delay which attended the settlement of this tax, arose from the indulgences granted by the Legislature, and it may be doubted, on reverting to the state of the country at the time, whether the tax was not in some degree excessive; it will not, therefore, be proper to consider the proceedings under this act as affording a correct exhibition of the general operation of the State system. It is understood, however, that, on other occasions, the collection of State taxes has been inefficient and defective, owing to the want of a more energetic control than has been afforded by the boards of county commissioners, and to the practice of entrusting the collection of taxes to sheriffs and their deputies.

The ordinary expenses of maintaining the State Government, are estimated at about twenty-five thousand pounds per annum; a small debt remains unliquidated; but the means already possessed by the State, are supposed to be more than competent to its discharge.

Taxes are collected in Baltimore town for town purposes, on riding carriages, wagons, carts, riding horses, tavern keepers, sales at auction, billiard tables, and on the play-house; besides a general tax on property. All these taxes may amount, during the present year, to thirty shillings on each hundred pounds of property, according to the usual mode of valuation. The annual county taxes are estimated, on an average, at eight shillings upon a hundred pounds of property. The proceeds are applied to the maintenance of county police, the building and repairing of courthouses, tobacco warehouses, bridges, repairs of roads, the support of the poor, and other local objects.

OF VIRGINIA.

Lands in this State have received a permanent valuation, agreeably to which all taxes are imposed.

In pursuance of an act passed in November, 1781, the justices of each county appointed three commissioners, who were sworn to make an impartial valuation of lands in their respective counties. These commissioners had power to require of all proprietors an account of their lands lying within the county, distinguishing lots lying within any town. In forming their estimates, the commissioners were required to ascertain, according to their best judgment, the average price per acre for which each tract or parcel of land might be sold, for immediate payment in specie, excluding from valuation all reference to buildings or other improvements. Lands under a lease for years, were directed to be valued, in the first instance, without regard to the rent; but where such valuation exceeded twenty years' purchase, computed upon the rent reserved, the landlord was assessed for the amount of twenty years' purchase, and the remainder was apportioned to the tenant; the returns of the valuations were made to the auditors of public accounts.

As was to have been foreseen, the valuations made by the commissioners of counties, though they might be, and doubtless were, just and accurate, in respect to the relative value of different tracts of land within the same county, were found to be exceedingly unequal when compared with the valuations of other counties. This inequality, the unavoidable consequence of assessments by commissioners, whose proceedings were independent of each other, and uncontrolled by any common standard of opinion, rendered a revision indispensable. To effect a general equalization of the assessments, an act was passed in October, 1782, by which the different counties of the State were arranged into four districts; in this classification of counties, reference was had to their soil and situation, with the view of obtaining a general and equitable standard of value for the lands of the several counties. This standard or average value was declared by the Legislature to be, for lands lying in the first district, ten shillings per acre; in the second district, seven shillings and six pence per acre; in the third district, five shillings and six pence per acre; and in the fourth district, three shillings per acre. To give effect to this declaration, two commissioners were appointed, who were directed to examine the county returns, and, after ascertaining the average value of the lands in each county, agreeably to the assessments made pursuant to the act of November, 1781, and, after comparing the same with the standard or average value for the district, to apply the difference by adding or deducting the same, *pro rata*, to the assessment of each individual.

Upon the assessments thus made, pursuant to the act of November, 1781, equalized according to the act passed in October, 1782, all taxes on lands, except on lots in towns, have been since apportioned by a poundage rate; this rate has, of late years, been five shillings on each hundred pounds, or one-fourth of one per centum *ad valorem*.

The tax on houses and lots in towns, is annually assessed by the commissioners of the revenue, who are authorized to require of every tenant or proprietor to disclose, on oath or affirmation, the amount of rent paid or received by them, respectively; in cases where houses or lots are in the occupation of the proprietors, the yearly rent is ascertained on a comparison of their value with other houses and lots actually rented; the tax lately assessed has been sixteen shillings and eight pence, or five-sixths of one per centum of the ascertained or yearly rent or income arising from this species of property.

The other revenues of the State arise from specific taxes on the following objects:

On every slave above twelve years of age, except such as are exempted by the county or corporation courts, on account of age or infirmity, at one shilling and eight pence each.

On stud horses and jack asses, at various rates; on other horses, and on mules, at four pence each.

On every ordinary license, two pounds.

On every billiard table, fifteen pounds.

On every four-wheel riding carriage, except phætons, and stage wagons, six shillings per wheel.

On every phæton and stage wagon, four shillings per wheel.

On every riding carriage with two wheels, two shillings per wheel.

Certain taxes are, moreover, imposed on legal proceedings in the superior courts; on transfers of surveyors' certificates for lands; on the instruments and attestations issued and taken by public notaries; on certificates issued by the county and corporation courts; and on certificates issued under the seal of the State.

An occasional revenue sometimes accrues from the duties collected at the public warehouses on the inspection of tobacco, exceeding the expenses incident to these establishments.

All property belonging to the State, or to any county, town, college or seminary of learning, and houses dedicated to public worship, are exempted from taxation. Persons may be exempted, for age or infirmity, by judgments of the county or corporation courts. Artizans, mechanics, and tradesmen, who migrate into the State, are exempted from all taxes except on lands, for five years after their migration, if, during that time, they continue to exercise their occupations.

The tax on lands and on houses, and lots in towns, taken collectively, for the year 1794, amouted to	$57,636 58
The tax on slaves, to - -	47,007 78
The tax on horses and mules is estimated to have produced -	15,154 95
The taxes on carriages, ordinary licenses, and billiard tables, by estimate - - - -	9,954 73
The total amount of taxes of 1794, collected by sheriffs, under the apportionments of county commissioners of the revenue, (H) -	129,755 04

From the foregoing gross amount of revenue, there ought to be deducted the following defalcations and expenses, incident to the assessment and collection:

Compensations of commissioners of the revenue paid in 1794 -	$11,931 60
Commissions to sheriffs for collection, five per cent. - -	6,487 75
Allowances for insolvencies and errors, five per cent. - -	6,487 75
Total charges of assessment and collection - - -	24,907 10

In addition to the commission of five per centum, which is the ordinary allowance for collection, a premium of two and a half per centum is allowed to sheriffs, who settle their accounts with strict punctuality.

The taxes on law process and official papers are collected by the clerks of courts, and by the officers by whom the papers are issued; the general taxes are assessed and collected pursuant to the following regulations:

Every county and corporation court in the State is required annually, in the months of September or October, to appoint one or more discreet and reputable persons to be commissioners of the revenue; in some counties the law requires the appointment of three commissioners, in others two, and in others one. Sheriffs, deputy sheriffs, and collectors of taxes, who have not finally settled their accounts, as also certain other officers, are declared incapable of serving as commissioners: in cases where the law requires the appointment of more than one commissioner to a county, the limits of their several districts are defined by the court having the right of appointment.

The commissioners, after being qualified, by taking an oath faithfully and impartially to execute their trusts, receive from the commissioners of the preceding year, the books containing the permanent valuations of lands in their respective counties. In these books, all alterations, alienations, divisions, and additions, which occur in the county or district of a commissioner, are, from time to time, noted and recorded.

That the commissioners may be informed of the changes of individual property, the clerks of the general, district, county, and corporation courts, and the register of the land office, are required to furnish statements of all alienations, partitions, and grants, during the preceding year; in respect to alienations of entire tracts, the commissioners debit the purchaser and credit the seller for the tax transferred; in respect to lands which have been divided, the former tax is equitably apportioned between the proprietors. Lands recently granted are assessed at a price equal to other lands in the same district, similar in soil and situation.

In respect to taxable property, other than land, the commissioners are directed to commence a scrutiny on the 10th of March annually, to continue until the service is completed.

Each person, on the requisition of a commissioner, must furnish a written list of their taxable property, possessed on the 9th March, and verify the same on oath or affirmation. Persons who omit or refuse to exhibit verified lists, or who are guilty of concealments of taxable property, are subject to a fine and triple tax, on conviction before the next county court.

When the lists of taxable property have been taken, they are reduced to an abstract, according to a form prescribed by law, exhibiting the dates of receiving the lists, the names of the persons chargeable, and the articles subject to specific taxation. Of this abstract four copies are made, one for the use of the commissioner, and to be transmitted to his successor; one for the clerk of the county, by which to regulate county taxes and poor rates; one for the sheriff or collector of the tax; and a fourth for the auditor of the State, by which to hold the sheriff accountable.

At the time of rendering the abstracts before mentioned, which is directed to be on or before the last day of May annually, the commissioners are required to deliver to the clerks of their counties, and to the auditor of the State, correct copies of the state of the land tax, adjusted according to such alterations, alienations, and partitions, as are found to have occurred during the preceding year; by these returns the accounts of the State, and of the counties, are, from year to year, regulated. The commissioners, moreover, deliver to the sheriffs lists of the sums for which each person is chargeable on account of the land tax, by which to proceed in their collections.

Each commissioner is entitled to receive from the public Treasury, one dollar per diem for such a period as is judged requisite for the performance of his duties, by the county court; besides a fee of forty-two cents, for recording every alteration in the land tax, payable by the party claiming an exoneration.

The counties are collection districts, of which there are eighty-eight in the State; the sheriffs are, ex-officio, collectors of taxes; they are appointed annually by the Governor, with the advice of his council, from a list of three justices of the county, nominated by the county courts; they cannot be appointed for more than two years successively.

It has been the usual practice for the county courts to nominate the justices in rotation, and for the Governor and Council to commission the first in nomination. If all the justices of the county refuse to accept the office, the county courts may nominate three freeholders, from whom an appointment may be made. In case of the disability or refusal of a sheriff to collect the public taxes, the Executive may appoint a collector.

Sheriffs and collectors, before entering on the duties of their offices, are required to enter into bonds, with sufficient sureties, before the justices of the county courts, in the sum of thirty thousand dollars, to secure a due collecting and accounting for the taxes imposed on their respective counties.

Persons who pay taxes may require a fair and distinct account of the articles upon which the same accrue, and also receipts from the sheriffs or collectors for the sums paid; if payment be not made on or before the first day of May, of all taxes due on the 31st day of December preceding, the sheriff or collector may distrain any slaves, goods, or chattels, found on the lands or in the possession of the person indebted, notwithstanding such slaves, goods, or chattels, are comprised in a deed or mortgage. All goods taken by distress, must be kept five days, after which time they may be sold for ready money, sufficient to discharge the taxes and incidental charges. Slaves cannot be distrained except for want of goods or chattels; no distress can be made after two years from the time when taxes become due.

In cases where effects sufficient to satisfy a tax are not to be found on the lands charged therewith, or where the persons indebted are insolvent, a list of such lands and insolvent persons may be rendered by the sheriff or collector to the county or corporation court, and if the court be satisfied with the truth thereof, they may admit the sheriff to make oath to such list, which, being certified to the auditor of public accounts, will entitle the sheriff or collector to a credit on settlement. Where it appears to the auditor that the persons indebted possess slaves or personal property in some other county, the taxes returned as uncollectible must be transmitted to the sheriff of the county for collection, with the taxes of the ensuing year. In case the said taxes are not collected during the ensuing year, it becomes the duty of the treasurer to publish, for three weeks successively, in the newspaper of the printer to the State, the names of the delinquents, with the quantity of land, the situation thereof, and the taxes due thereon; in case the taxes on any tracts of land not belonging to infants, insane persons, or married women, are not paid in three years, the right

to such land becomes forfeited to, and vested in, the State; in favor of the persons above described, an exemption from liability to forfeiture is allowed, until the expiration of three years after their legal disabilities are removed.

The principles of the system of taxation before described, have been generally approved. Some objections have been made against the supposed inequality of the land tax, and against the mode of assessing houses and lots in towns. The duties of the county and corporation courts, have generally been well executed; the successive pretensions of justices to the primary office of sheriff have, however, not unfrequently occasioned defalcations, which might have been avoided by appointments with a sole reference to the qualifications proper for collectors of the revenue. The precise degree of punctuality with which taxes have been lately collected, is not known; of the tax for the year 1793, ten thousand dollars, and, of the tax for the year, 1794, eleven thousand dollars remained unpaid in August, 1796.

The expenses of supporting the State Government, and for contingencies and grants, in the year 1793, amounted to one hundred and twenty-seven thousand four hundred and forty dollars and thirty cents.

The same expenses, in 1794, were one hundred and fifty-seven thousand two hundred and one dollars, and seventeen cents.

The whole revenue of the year 1793 was one hundred and thirty-two thousand nine hundred and seventy-eight dollars and thirty-one cents.

And that of the year 1794, one hundred and fifty-nine thousand two hundred and sixty-nine dollars and thirty cents.

It is supposed that the statement for the year 1793 exhibits the most correct view of the usual annual expenditures.

The debt of the State is inconsiderable, and the arrearages of old taxes are considered as sufficient, when collected, for its extinguishment.

The amounts of the several articles which were subject to specific taxes, in the years 1786 and 1795, will appear in an annexed statement.

OF KENTUCKY.

The objects of taxation are as follow:

Lands, except town lots, which are divided into three classes, by entire tracts. The first class is taxed at half a dollar per hundred acres, the second class at one-fourth of a dollar, and the third class at one-eighth of a dollar, per hundred acres. Horses, other than stud-horses, at one-twelfth of a dollar, which last are taxed at various rates; neat cattle at one forty-eighth part of a dollar; slaves at one-fourth part of a dollar; ordinary licenses at ten dollars each; coaches and chariots at one dollar per wheel; other four-wheel carriages, except those used for purposes of agriculture, two-thirds of a dollar per wheel; riding two-wheel carriages at one dollar per wheel; billiard tables and retail stores, at thirty-three and one-third dollars each. Taxes are, moreover, imposed on each original writ of *subpœna* in the court of appeals, at one dollar; on like writs or *subpœnas* in other courts, half a dollar; on each appeal to the court of appeals, two dollars; on each writ of error, *subpœna*, or *certiorari*, from the court of appeals, one dollar; on each record of a deed for land, half a dollar; on every paper issued under the seal of the State, one dollar; and under the seal of any court, half a dollar.

In addition to the specific taxes before enumerated, town-lots are taxed, *ad valorem*, at the rate of half a dollar upon every three hundred and thirty-three dollars and one-third—the value to be ascertained without regard to improvements.

For the assessment and collection of these taxes, the following regulations have been provided:

The county courts divide the counties into districts, for each of which a commissioner of taxes is appointed, whose duty it is to collect lists or returns of the taxables belonging to individuals. These returns are taken on the oath of the party, between the 10th of March and 1st of July in every year. The commissioners, severally, determine to what class lands in their respective districts shall be referred, on the following principles: Where the greater part of a tract is superior in quality to second-rate land, it is placed in the first class; where the greater part of a tract is inferior to first-rate, and superior to third-rate, it is classed as second-rate; where the greater part of a tract is inferior to second-rate, it is placed as third-rate; and where the commissioner has no knowledge of the quality, he may take information, on oath, of the owner of the land, or of any other person. If no information can be obtained, the land is assessed as second-rate.

When the returns of individuals are collected, they are digested in alphabetical order by the commissioners, and returned to the county courts. Of the general list for the county, three copies are made—of which, one, certified by the clerk of the county court, is transmitted to the auditor of public accounts; a second is delivered to the sheriff of the county; the third is retained for the use of the commissioners.

The county courts have power to correct mistakes in the lists, and to relieve persons aggrieved by erroneous or excessive assessments.

Persons who omit to include the whole of their taxable property in their lists are subject to a fine, and to the payment of treble taxes. If lands are omitted, the party forfeits his right and title thereto. Non-resident proprietors may return their lands directly to the auditor, and pay the taxes thereon to the treasurer.

The sheriffs are generally collectors of taxes; they are elected every three years by the people of the respective counties; they are required to give bonds, with sufficient sureties, for the faithful discharge of their trusts. If a sheriff, in any case, cannot give bond to the satisfaction of the county court for the county, or if he decline to collect the public taxes, the court may appoint a special collector, with the same powers and like responsibility, in respect to the revenue, as are provided in the case of sheriffs.

The sheriffs may proceed to make collections, by personal demand of individuals, from the first

day of December to the first day of April. After the first day of April they may distrain goods and chattels, and, for want thereof, may sell lands for the payment of taxes. They are enjoined to settle their accounts by the first day of August in each year. In cases where there are interfering claims, and two or more persons pay the taxes for the same land, the person evicted is entitled to compensation from the treasury.

In cases where persons indebted are deemed insolvent, they may be reported to the county courts, and, being so adjudged, their taxes are certified to the auditor, and passed to the credit of the sheriff or collector. If either a sheriff or collector be delinquent, judgment against them may be obtained, on motion, with a penalty of twenty per centum, in addition to the sums remaining in arrear.

The compensation allowed to sheriffs, is, a commission of five per centum; that of commissioners is one dollar per day for the time they are actually employed—which last allowance is paid on the certificates of the county courts.

The debt of the State is inconsiderable. The expense of supporting Government may be estimated at thirty thousand dollars per annum. The amount of each species of taxable property, agreeably to the returns made by the commissioners of the several counties, in the year 1795, appears in a statement hereto annexed.

OF NORTH CAROLINA.

The revenues of this State are derived from taxes on the following objects:

On all patented lands, except lots in towns, without regard to quality or situation, and on all entries of land, whether disputed or not, eightpence per hundred acres.

On every hundred pounds value of town-lots, with their improvements, two shillings.

On all white men of twenty-one years of age and upwards, whether free or bound to service; and on all slaves and indented servants of color, between twelve and fifty years of age, two shillings.

On stud-horses, various rates, which may be averaged at ten shillings each.

On licensed ordinaries, and houses for retailing spirituous liquors in small quantities, forty shillings per annum.

On every original writ, or leading process in equity, twenty shillings; in the superior court, ten shillings; in the inferior courts, five shillings; and on appeals from the inferior courts eight shillings. On billiard tables, twenty pounds each.

The taxes abovementioned are collected under the following regulations:

The county courts divide the counties into convenient districts, and appoint a justice of the peace to receive the returns of taxables in each district. To facilitate the performance of this duty, it is usual for the captains of militia to advertise musters; to these musters the people repair, with written lists of their whole property subject to taxation, which are exhibited to the justices, on oath or affirmation. The period to which the lists refer is the first of April, annually. It is required that each list should contain a specification of the particular tracts of land, the number of town lots, the counties and towns in which the same lie, and the number of white polls and taxable slaves appertaining to the family of the person exhibiting the same. Persons who omit to disclose true statements of their taxable property are liable to an amercement, and to the payment of a double tax.

The valuation of town property is effected by freeholders, three of whom are appointed annually in each town for this purpose by the county courts: they are sworn to estimate the true value of all lots, with their improvements.

The returns of individuals are, by the justices, exhibited to the county courts, with the names of the individuals who refused to comply with the law. Three transcripts of the returns, digested in alphabetical order, are then prepared; one is exposed publicly in the court-house, for the inspection and information of the people; another is delivered to the sheriff of the county, which constitutes a rule of collection; a third is transmitted to the comptroller of the accounts of the State, by whom the sheriff and his sureties are held accountable.

The sheriffs of counties are *ex officio* collectors of public taxes: they are appointed by the county courts, who are judges of the sufficiency of their sureties.

The sheriffs are authorized to collect not only the sums appearing on their lists, but also taxes from persons who omitted to make returns: from the latter they may collect a double tax, one-half of which accrues to their own benefit. To secure an account for such collections as are not borne on the lists furnished by the county courts, each sheriff is chargeable, in addition to the amount of his list, with one hundred pounds, unless he exonerate himself from the whole, or some part thereof, by rendering on oath a particular account of all two-fold collections. This provision is, by experience, found sufficient to secure returns of all extra receipts.

The sheriffs are authorized to commence their collections after the first of January; they may not distrain until after the first of April, but they are required to settle their accounts, and pay the moneys into the State treasury, by the first day of October, annually.

The sheriffs obtain credit for such taxes as appear to the county courts to be due from insolvents, on being certified as such to the comptroller. All taxes remain a lien upon lands until discharged, and where goods and chattels cannot be found, may be sold for payment of taxes.

The compensation allowed to sheriffs is six per centum on the amount of their collections, and an allowance of sixpence per mile for travelling to and from the Treasury, to settle their accounts. These compensations are both forfeited, if the sheriffs do not settle their accounts by the first day of October in each year.

When sheriffs are delinquent, the treasurer is required to obtain the certificates of the comptroller of the sums due, including the extra charge of one hundred pounds, and thereupon to apply for

judgment and execution against the delinquents. These judgments are granted of course, on motion by the treasurer, without notice to the sheriff, or any evidence other than the comptroller's certificates.

The clerks of courts account with the treasurer for all collections made by them of taxes on law-process and fines on amercements.

The annual product of all the taxes before-mentioned may be computed at this time to be between fifteen and sixteen thousand pounds. The charges of collection and defalcations for insolvents are estimated at fifteen per centum.

On account of the tax for the year 1794, the returns of lands amounted to fourteen millions three hundred and fifty-nine thousand six hundred and seventy acres; and the number of free persons, servants, and slaves, subject to taxation, to one hundred and one thousand six hundred and five. The taxes on law-process, houses for retailing spirits, gaming-tables, and stud-horses, are supposed not to have produced, at any time, more than one thousand pounds per annum. The land tax has greatly increased since the year 1794, owing to the many new entries since that period.

The following estimates of the proportions in which each class of taxable objects contributes to a nett tax of between fifteen and sixteen thousand pounds upon the State, being founded on the foregoing data, cannot be materially erroneous:

Tax on lands, other than town-lots, computed on fourteen millions three hundred and fifty-nine thousand six hundred and seventy acres, at eightpence per hundred acres -	£4,786	10	0
Tax on white males of twenty-one years and upwards, and on all slaves and indented servants of color of both sexes, from twelve to fifty years of age, computed on one hundred and one thousand six hundred and five persons, at two shillings each -	10,160	10	0
Estimated product of taxes on law process, houses for retailing spirits, gaming-tables, and stud-horses - - - - -	1,000	0	0
Estimated product of the tax on town-lots and improvements, at two shillings in each hundred pounds - - - - -	1,000	0	0
Estimated increase of the tax on lands since 1794, occasioned by new entries and grants - -	1,500	0	0
Gross product of all taxes -	£18,447	0	0
Expenses of collections and defalcations, occasioned by insolvents, estimated at fifteen per centum	2,767	0	0
Estimated nett receipts -	£15,680	0	0

There are fifty-eight counties or collection districts in the State. The whole revenue is collected by fifty-eight sheriffs and seventy-four clerks of courts and masters in chancery.

The expenses of supporting Government and contingent grants vary from fifteen to twenty thousand pounds per annum. The deficiency of the State tax has been hitherto supplied from the proceeds of vacant lands. The debt of the State consists principally of paper bills of credit, of which about one hundred and fifty thousand pounds are estimated to be in the treasury and in circulation. The amount of the county taxes is supposed to be nearly the same, on an average, as the annual State tax.

OF TENNESSEE.

It is not known whether any law for collecting a revenue has been yet passed in this State.

OF SOUTH CAROLINA.

All the lands in this State are divided into districts, which are particularly described by law. Within most of the districts the lands are classed by general descriptions, indicative of their value, as resulting from natural fertility or situation. To each class a specific value is assigned, according to which all lands falling within a given class are uniformly taxed: For instance, all tide-swamps, not generally affected by the salts or freshes, of the first quality, are rated at six pounds per acre; of the second quality, at four pounds per acre; of the third quality, at two pounds per acre; all pine-barren land, adjoining such swamps, or contiguous thereto, with respect to the benefit of water-carriage, at ten shillings per acre; all prime inland swamp, cultivated and uncultivated, at an average of three pounds per acre; second quality at two pounds per acre; third quality, at one pound per acre; pine-barren land, adjoining or contiguous thereto, at five shillings per acre; salt marsh, or inland swamp, proved to be incapable of immediate cultivation, at five shillings per acre.

In like manner, all the lands in the State are valued by districts or classes. The quantities of lands subject to taxation at each rate, and of all other articles of ratable property, as returned in consequence of the tax granted in the year 1794, are hereto subjoined.

From the foregoing general rule of valuation, lands lying within the parishes of St. Philip and St. Michael, near Charleston, are excepted; these last, with lands, lots, and buildings, lying within any city, village, or borough, are assessed in detail, with reference to the local advantages and value of each separate lot or building, and in a relative proportion to lands in the country.

The tax on lands, lots, and buildings, has lately been ten shillings on every hundred pounds, or one-half of one per centum ad valorem; a like tax has been imposed on every hundred pounds of stock in trade, factorage, employments, faculties, and professions; clergymen, mechanics, schoolmasters, and schoolmistresses excepted. All slaves are taxed at four shillings and eight pence per head; and free negroes, mulattoes, and mestizoes, at nine shillings and four pence per head; a tax is collected on sales at auction, but the rate imposed is not certainly ascertained.

The assessors and collectors of taxes are the same persons; they are appointed by the Legisla-

ture; vacancies which happen from deaths or resignations, are supplied by the Governor; the collectors hold their offices during the pleasure of the Legislature.

The collectors for the parishes of St. Philip and St. Michael are required to give bonds in the sum of ten thousand pounds; the other collectors are bound in the sum of one thousand pounds; before entering upon the execution of their offices, they are sworn to a faithful and impartial discharge of their trusts; in case of omission to take the said oath before entering upon their offices, they forfeit the sum of fifty pounds.

Three weeks prior to the first Monday in September, annually, the collectors notify the inhabitants to prepare returns of their taxable property; in the parishes of St. Philip and St. Michael, the collectors are required to call once at the dwellings of the inhabitants; in other parishes, fixed places may be appointed for receiving the said returns; no person can, however, be compelled to attend at a greater distance than fifteen miles from his residence, either for the purpose of delivering a return, or making payment of a tax.

Every person possessed of any taxable property, either in his own right, or in the right of any other person, as guardian, executor, attorney, agent, or trustee, is required to exhibit, on oath, an account containing an enumeration of each lot of land lying in any city, borough, or village, with the dimensions thereof, and improvements thereon; also of his lands in the country, with a particular account of the situation, quantity, and quality of the same, and the number of his slaves, and all other objects of taxable property; these accounts are taken with reference to the first day of October, annually. Persons who conceal any part of their taxable property, are subject to quintuple taxation on such part as has been concealed; persons who neglect or refuse to exhibit their accounts, are declared to be defaulters, and may be doubly taxed, according to the best information which the collectors can obtain of their taxable property.

When the accounts of taxable property have been collected, the collectors determine the class to which any lands shall belong; and in respect to other objects of taxable property, they annex such valuations as they judge equitable. The assessments on stock in trade, faculties, and professions, are founded on conjectural estimates, according to the best judgment of the collectors. These assessments are understood to be generally very moderate; in Charleston, they are graduated according to the circumstances of individuals, from five thousand to one hundred dollars.

When individuals judge themselves to be overrated, they are allowed to fix the quantum of their assessments, by declaring on oath the value of their property; their declarations so made, become, in this case, a rule for the government of the collectors.

There are two treasurers in South Carolina, one residing in the upper and the other in the lower country. To these officers, the collectors of taxes account, by delivering two lists; the first containing a specification of all taxable property returned to them, with the names of the persons who returned the same, and the sums paid by individuals, respectively; the second containing an account of all taxable property which has come to the knowledge of the collectors, and which has not been returned. Collectors who refuse to render accounts, on oath, in the manner before mentioned, may be committed to prison by warrants from the commissioners of the treasury.

Lists, containing the names and sums assessed upon individuals, are publicly exposed at the exchange in Charleston, or at some public place in the parishes where they reside for ten days; after which time, if the taxes are not paid, warrants are issued by the collectors, directed to the nearest constable, or to the sheriff of the city of Charleston, commanding them to levy the taxes by distress and sale of real and personal estate: if the defaulter neglect or refuse to point out lands, or to produce goods or effects, whereon the warrants may be levied, his person may be taken and committed to prison. Taxes are preferred to all securities, and must be paid out of the assets in the hands of executors, prior to any judgments, mortgages, or debts whatsoever.

Lands and property, of persons residing out of the State, upon which the taxes are not paid, with interest thereon, within one year after public notice in the gazettes of the State, are forfeited to the use of the State, saving the rights of infants and married women, until two years after the removal of their legal disabilities.

The property of persons residing without the limits of the United States, except persons in the employment of the State, or of the United States, and young men sent abroad for their education, until they attain the age of twenty-three years, is subject to double taxation. Property belonging to religious or charitable societies, cities, or free schools, is altogether exempted. Individuals may elect in what parish to pay their taxes; the taxes paid in Charleston, of course, include assessments on property lying in all parts of the State.

The collectors are allowed a commission of five per centum on the sums accounted for by them, except those for the parishes of St. Philip and St. Michael, who are allowed only two and one-half per centum.

The balance found due from the United States, on the final settlement of the accounts of the late war, is understood to be nearly equal to the domestic debt of the State; a sum of about two hundred and ten thousand dollars remains due to certain foreign creditors, for the interest and reimbursement of which, an annual tax of one-fourth of a dollar per head on slaves, is pledged and appropriated. The expenses of maintaining the State Government and contingent grants, are estimated, on an average, at one hundred and twenty thousand dollars. The expenses of the city of Charleston are defrayed by local taxes; from September, 1795, to September, 1796, these expenses amounted to nearly fifty thousand dollars; the amount of parochial and other taxes in the country is not known.

The period during which a State tax has been usually in collection is not ascertained. It is inferred, however, from information which has been obtained, that the practice of combining the appointments of assessors and collectors in the same persons; the want of an efficient control over the accounts of the collectors, of which this association of duties has been a consequence; and the permission to individuals of electing the parish or county where their taxes shall be paid, have been causes of defalcations and delays, which would not otherwise have been experienced.

OF GEORGIA.

Lands in this State, as in South Carolina, are laid into districts or classes, to each of which a value is assigned by law. In the act granting a tax for the support of Government for the year 1796, tide swamps of the first quality are rated at ten dollars and thirty-nine cents per acre, and pine barren lands at twenty-one cents per acre. Lands of intermediate qualities are rated at various rates, according to their advantages either of soil or situation.

On the value of lands, agreeably to the classification above-mentioned, and on the value of all lots, wharves, and buildings, within the limits of any town, village, or borough, as ascertained by a particular assessment, a tax has been imposed of forty cents upon each hundred dollars.

On every hundred dollars value, at prime cost, of the stock in trade of shopkeepers, twenty cents.

On every hundred dollars value of foreign wares, liquors, and merchandise, sold, bargained, or trafficked for, by factors and brokers, eighteen and three-quarter cents.

On every hundred dollars of the funded debt of the United States, fifty cents.

On all free white male persons of the age of twenty-one years and upwards, and on all slaves under the age of sixty years, thirty-seven and a half cents.

On all male free negroes, mulattoes, and mestizoes, from the age of twenty-one years and upwards, over and above the taxable property they may be possessed of, fifty cents.

On all negroes brought into the State by sea, for settlement or sale, except such as are brought in by emigrants from any part of the United States, ten dollars.

On all professors of law or physic, and on all factors and brokers, four dollars.

On all billiard tables, fifty dollars.

The county courts have power to remit the poll tax in favor of indigent and infirm persons.

In every county there is appointed a receiver of tax returns, who is sworn to a faithful discharge of his duty. The receivers are required to give notice to each captain's district in their counties, by previous advertisements, for ten days, of the times and places where they will attend to receive returns of taxable property. They are required to attend three days in each district, which days must not be within seven days of each other. The commanding officer of each company must furnish the receivers with lists, on oath, of all persons in their districts liable to the payment of taxes.

All persons possessed of taxable property are required to exhibit, on oath, particular accounts thereof, to the receivers of tax returns, under a penalty of ten dollars for every hundred dollars value omitted or concealed, and a liability to the payment of double taxes, to be ascertained by three freeholders of the county.

When the returns of inhabitants have been collected, they are by the receivers digested into a general return, of which three copies are made, one for the use of the collector of the county, a second for the treasurer of the State, and a third for the county court of the county. Within one month after the returns are made, the receivers are required to publish, in the State gazette, the names of all defaulters.

The counties are collection districts. The collectors are required to give bond, with surety, according to the magnitude of the sums entrusted to them for collection, from twenty thousand to three thousand dollars; they are sworn to a faithful discharge of their offices; the sufficiency of their sureties is determined by the justices of the county courts. Receivers of tax returns and collectors are appointed by the Legislature; vacancies are supplied by the Governor.

The act granting the tax for the present year, was passed in the month of February. Individuals are allowed till the first of December to make their respective payments, after which their goods and chattels may be distrained and sold; if goods and chattels are not to be found, lands may be taken, sold, and conveyed by the collectors, notice for twenty days, being previously given in the public gazettes of the State. The collectors' accounts must be settled with the treasurer before the first day of February, 1797. Claims of collectors on account of taxes due by insolvents, are to be presented on oath, to the grand jurors of the respective counties, who are empowered to decide finally thereon.

The receivers of tax returns are allowed two and one-half per centum on the taxes arising upon the property reported by them, beside six cents and one quarter on each return of a poll without property. The collectors are allowed five per centum on the sums accounted for by them, and certain fees in cases of distress, which are paid by the delinquents.

No information has been obtained of the quantities of taxable property in this State, of the amount of its debt, the usual expenses of maintaining Government, or the manner in which the revenue laws have been executed.

As an apology for the minuteness of the foregoing detail, the Secretary respectfully observes, that, fully conscious of the importance and difficulty of the subject under consideration, he has been anxious to prevent the consequences of any misapprehensions on his part, by a full exhibition of the data upon which his opinions have been formed. Owing to the great variety of acts and documents, which it has been necessary to con-

sult, it is not to be presumed that the foregoing recital is perfectly accurate. It is hoped, however, that no errors will be discovered, which can embarrass or delay the deliberations of the Legislature.

In the expression of opinions respecting the best mode of imposing the proposed tax, the three following have been suggested:

1. That an act of Congress should be passed, declaring the quotas of the different States; assigning a time for payment into the treasury, and prescribing, in cases of delinquency, that the said quotas should be assessed and collected by authority of the United States, upon the same objects of taxation, and pursuant to the same rules by which the last taxes were assessed and collected by the respective States.

2. That the act of Congress should direct that the proposed tax should be assessed and collected under authority of the United States, upon the same objects of taxation, and pursuant to the rules of collection by which taxes are collected in the States respectively.

3. That the act of Congress should define certain objects of taxation, and principles of assessment, according to which the proposed tax should be assessed in all the States, to be collected pursuant to uniform regulations.

The first of these propositions deserves but a momentary consideration. In the first place, it is obviously liable to every objection which can attend a reliance upon State contributions in any other and less exceptionable form. Secondly, it partakes of the system of requisitions upon the States, which utterly failed under the late Confederation, and to remedy which, was one great object of establishing the present Government. Thirdly, it presupposes a possible necessity of recourse to the national authority, under circumstances of unavoidable collision with the State Governments.

It may, therefore, be safely affirmed, that, if this mode should be adopted, all certain expectation of a revenue from direct taxes will be destroyed; that discontents and jealousies between the different members of the Union will be excited; and that the constitutional power of the Government of the United States will be required to be exerted under unfavorable circumstances.

The second proposition is recommended by plausible, if not solid considerations; and as the resolution of the House countenances an expectation that a plan of this nature may be realized, its advantages and disadvantages have been maturely considered.

It appears, from the account already given of the fiscal systems of the several States, that, in many instances, they have been long established; that, in general, they are well approved by the people; that habit has rendered an acquiescence under the rules they impose familiar. A presumption in favor of their intrinsic merit, arises from their having been enacted by Legislatures possessed of a minute and particular knowledge of the circumstances and interests of the respective States; and it may be conceded that, so far as the principles of the State systems can, with propriety, be adopted by Congress, the hazards of new experiments, and the delays incident to the organization of a new plan, will be avoided.

It is believed that the foregoing observations comprise the substance of all the arguments which can be urged in favor of the proposition to be considered. They are acknowledged to be of weight. According to first impressions on most minds, they will be pronounced almost irrefragable. It is, however, presumed, that a particular knowledge of the State systems, and attention to their operation, will produce a conviction that the plan is liable to great, if not insuperable objections.

I. The systems of the States are, in many instances, utterly different from each other, in respect to objects and principles of taxation.

The truth of this proposition is demonstrated by the preceding part of this report, and by the documents which are hereunto annexed; it may be proper, however, to contrast some of the most important features of difference:

1st. Uniform capitation taxes, or taxes on persons, without respect to property, professions, or occupations, are imposed in Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, North Carolina, and Georgia. The proportion of taxes raised in this manner, in Vermont and Georgia, is not ascertained; in the other States above mentioned, the capitation taxes produce between two-ninth parts and somewhat more than one-third part of all the sums collected. In the other States this tax is unknown, the taxes on professions, and certain classes of persons, and on slaves, not being considered as of this description.

2d. Taxes on horses and cattle, with certain exceptions, are imposed in Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, and Kentucky. Horses only, are taxed in Virginia. The whole stock of farms is included in the general valuations of property in Rhode Island, New York, Delaware, and Maryland. In all the other States, no part of the stock of farms is subject to taxation.

3d. Taxes are imposed on the mass of property, real and personal, with certain exceptions, in the States of Rhode Island, New York, Delaware, and Maryland. In the other States, specific objects are designated.

4th. Lands, including those unenclosed and uncultivated, are subject to taxation in all the States, except Vermont and Delaware. In the latter State, they will be hereafter taxed. Lands are uniformly taxed by the quantity, without reference to soil or situation, in North Carolina. They are divided into three classes, with reference to quality, in Kentucky, each of which is uniformly taxed. They are taxed uniformly, by districts, in South Carolina and Georgia, whether cultivated or uncultivated. They are taxed according to a permanent valuation, in Virginia. The relative value of lands in different counties or districts, is determined by law, in Maryland and New Jersey; within which districts they are taxed *ad valorem*, not exceeding certain average rates. In Pennsylvania, lands are taxed *ad valorem*, according to triennial assessments. In Connecticut, except certain lands in two counties, they are taxed according to the mode of cultivation or condition, by a uniform rule, without reference to value. In Massachusetts and New Hampshire, they are taxed according to their produce or supposed annual rent or profit. In Vermont, enclosed and cultivated lands, with certain exceptions, are uniformly taxed, without reference either to value or profit.

5th. Stock employed in trade or manufactures, and moneys loaned on interest, are taxed on different principles, in different States. In some States, these objects are wholly exempted.

6th. Assessments at discretion, on the supposed property and income of individuals, are permitted in various degrees, and under different modifications, in some States. In other States, all taxes attach to certain defined objects, at prescribed rates.

Other circumstances of discrimination might be noticed; those which have been mentioned, are, however, sufficient to show that the State systems are utterly discordant and irreconcilable, in their original principles. It now remains to deduce the objections arising from this diversity of system.

It is assumed as a principle, that all the objects of income, whether consisting of skill, labor, or capital, bear certain relations to each other, which may be defined to be their natural value.

When a consumable article is taxed, the relations by which value was before determined, are immediately affected; the tax being an unavoidable expense attached to the article, enhances its value. But, though the value of the article in this sense is enhanced, by being rendered the subject of taxation, it is well known that its price in money may still remain as before, or may be enhanced, or may even be depressed. Value, therefore, is determined by the degrees of labor, skill, and expense, necessarily bestowed on a subject; while price is determined by the correlative demand for money, and the articles for which money is exchanged.

Various causes may influence price, independent of, and unconnected with, taxes. The most useful of these are the occasional plenty and scarcity of money, or its substitutes; or a redundant or deficient supply of exchangeable commodities. The vibrations of price, produced by these causes, are, however, always temporary; it being the constant tendency of free commerce to restore that equilibrium which results from a coincidence between price and value.

Unless taxes are laid with a view to encourage certain objects, by giving a new direction to the public industry, it is proper that the natural relations of value should be regarded. When, notwithstanding a new tax, the price and value continue to be coincident; when no business or profession is either encouraged or discouraged, taxes may be said to be laid with perfect equity, and in exact proportion to the relative ability of individuals.

Various have been the devices of nations to attain this object; the regulations of the United States have been, hitherto, governed by the following maxims:

1st. To tax the same subject, in all cases, by an uniform rule.

2d. To protect every taxed article by a proportional tax upon its competitor.

3d. To prevent disadvantageous competitions in foreign markets, by bounties or drawbacks, proportioned to the amount of the tax.

There appears to be no good reason, why these principles, so far as circumstances will permit, should not be respected in a system of direct taxation for the United States; their application to the subject, and the objections which they form against the State systems, are obvious.

If an article is taxed in one State, and is entirely exempted or differently taxed in another State, the action of the tax upon the same subject must be different in these different situations; in the State in which the article is taxed, it must suffer, not only from the new and disadvantageous relation in which it will be placed in respect to other branches of industry, but it must also suffer from competitions of industry similarly employed in other States. From the first mentioned disadvantage, relief will in time be obtained, by the operation of those causes which invariably conform all supplies to the state of the demand; from the last, it can never be relieved, except by a change of situation. The tendency of opposite systems of taxation, in the same country, if the foregoing positions are true, must, therefore, be, to dislocate property, and to divert industry from those situations in which it might naturally have found employment.

The Secretary feels no disposition to magnify the force of this objection, and therefore he observes, that the influence of such a tax as is now proposed to be laid, may not be so considerable as to be immediately visible. An effect can only be proportioned to its cause; if, therefore, the theory should be admitted to be true, yet, if its application to practical purposes is only to be justified by speculative reasoning, and shall appear to be unfounded in probability, it may, with propriety, be discarded.

In speaking of the probable effects of collecting a general revenue, by diverse modes of taxation, it is, however, proper to notice that the peculiar circumstances of the United States will justify an opinion, that even slight causes may produce great effects. Enterprise, in pursuit of wealth, is a characteristic of Americans; a part of our country is wholly unexplored, and the residue susceptible of great meliorations; a free circulation of industry and wealth is patronised by our laws; capital is very equally divided; attachments and habits, favorable to particular employments, are but imperfectly formed; expensive manufacturing establishments exist but in few instances, and rarely accompanied with any peculiar local advantages.

It is believed that most of these circumstances favorably discriminate the United States from every other country; they are all of a nature to

render the effects of any general system of taxation inoppressive, by facilitating a restoration of that proportional level between price and value, supply and demand, which taxes have a tendency to disturb; but, at the same time, they powerfully dissuade from systems of a local bias and operation.

It is no refutation of this objection to say, that the existing relations of property and industry have conformed to the State systems, and would be disturbed by a change. It is known that the State taxes have generally been very inconsiderable; that the most partial taxes, when very moderate, produce no sensible effects; that when, as during the Confederation, attempts were made to draw a considerable revenue from requisitions, insuperable difficulties were found to attend the collection of direct taxes, in every State; it will also be recollected that these difficulties were, in a great measure, ascribed to the discordance and counteraction of opposite systems; experience, therefore, instead of refuting, affords a proof of the principles herein maintained.

II. A second objection against adopting the laws of the States arises from the diversity of the principles by which taxes are apportioned and collected.

It appears from the preceding part of this report, that, in the States south of Delaware, including Kentucky, all taxes attach to persons or to individual property, and that the assessing and collecting officers are appointed by the Legislatures, State Executives, or by certain courts. In the States north of Delaware, taxes attach to corporations or districts, as townships or counties, in which the assessing and collecting officers are chosen by the people, who are ultimately responsible for their conduct. In the State of Delaware, taxes are apportioned to counties, but, as the collectors are appointed by the treasurer, the counties are not responsible.

It is of the utmost importance that a strict responsibility should be maintained in every grade of the fiscal department; without real responsibility, the characters of those entrusted with the public revenues can never be protected against unjust suspicions, nor can abuses be long prevented.

To secure responsibility in the collection of a direct tax, it appears to be essential that the persons who assess the tax should be different from those who collect moneys from the people; in other words, no man ought to be allowed to prescribe the rule by which individuals are to contribute, and by which his own accounts are to be adjusted. If it shall be determined to impose a direct tax, in the mode prescribed by the laws of the several States, it is not perceived how the principle of rendering districts responsible for fixed quotas, can, in respect to certain States, be renounced.

Nothing is more certain than that a new assessment will be necessary for every tax imposed on objects of a transitory nature; and that, in proportion to the variety of objects, will the details of assessments be rendered complicated, and susceptible of error.

To establish officers in every district, possessed of skill competent to institute and maintain a check on the collectors, would be attended with enormous expense; to allow the people to elect assessors in the manner now practised, and, at the same time, to renounce the idea of local responsibility, would be manifestly unsafe. Under such a system, there could be no security that local partiality would not lead to connivances for the suppression and concealment of property justly subject to taxation. Notwithstanding the temptation to practices of this kind is greatly diminished, by establishing quotas, yet the returns of taxable property, hereto annexed, exhibit, in some instances, most decisive indications of imperfection.

There is reason to believe that an experience of the difficulty of obtaining accurate and impartial assessments has dictated many of the late changes in the State systems; it being observable that where the principle of local responsibility has not been adopted, the systems of taxation have been simplified, and more and more confined to visible and permanent objects.

But, though the principle of local responsibility appears to be a natural consequence of assessments, requiring a minute and frequent specification of taxable objects, yet it is to be observed that a system of this nature is frequently dilatory, and sometimes may be found impracticable, owing to the intrinsic difficulties which must ever attend the coercion of communities.

In the States south of Pennsylvania, where taxes attach to persons or to individual property, the State regulations are more coincident with those by which the internal revenues of the United States have been hitherto governed, than in the northern section. The taxes are more specific, and are confined to fewer objects. Nevertheless, in some of the States, the assessment of a tax would necessarily require specifications of considerable extent and intricacy, in order to secure a due responsibility to the public.

If it should be determined that the rules by which taxes are collected in the several States shall form the basis of an act of the United States, still provisions would be necessary in cases where the State laws are defective; in the States of New York and Pennsylvania no taxes have for several years been imposed, except for county purposes; the quotas of the several counties, in respect to the last tax, would evidently be unsuitable at present; and even if the valuations by which county taxes are now assessed, were known, they would not afford a just criterion for apportionments; being designed merely to regulate the quotas of townships, and the proportions of individuals, no judgment of the relations of the several counties to each other could be deduced from them.

In some of the States, all officers, in others, officers of certain descriptions, are disqualified by law from accepting appointments under the General Government; serious inconveniences have been experienced in the collection of the internal

revenues already established, from this cause; they would be increased by an adoption of the State systems to a degree which it is not easy to foresee or calculate.

To the objections which have been stated, and which relate to local and subordinate administration, it is proper to add those which would affect the Treasury Department, under the operation of a system predicated on the proposition now considered.

No extensive business can be conducted with security, except it be susceptible of plain, distinct, and invariable regulations. Cases will, indeed, arise, relative to which some degree of discretion must be exercised. Under a well-organized plan, these cases may always be identified, to be judged of according to their particular circumstances and merits. In proportion to the complexity of any system, will be the number of doubtful or anomalous cases, and in the same proportion will the number of general rules, and the volume of details, be increased.

All causes which complicate business tend to produce error, to lessen responsibility, and to encourage and foster suspicions to the disadvantage of the Executive Administration. It is believed that the laws relating to the fiscal department have been hitherto framed according to principles, and executed in a manner, which will admit of a satisfactory elucidation of every material transaction. Though the business of the Treasury consists of several branches, yet each branch is governed by uniform rules; there has, therefore, as yet, been introduced no other complexity than what unavoidably results from a variety of duties. To enforce one simple and uniform system of taxation throughout this extensive country, would considerably add to the labors of that Department; the considerations which have been mentioned, oppose strongly that accumulation of duties which would result from a system founded on a diversity of principles.

The Secretary presumes that it has been evinced that there are weighty, if not insuperable, objections against an adoption of the State systems by the United States; the more difficult task of proposing a plan, not attended with difficulties of equal or greater magnitude, remains to be attempted. To this end, a review of the principal taxes collected in the several States, appears to be necessary.

1st. *Uniform capitation taxes, or taxes on persons, without reference to property.*

This species of tax is liable to fewer objections in the United States than in any other country; such is, and must be, the demand for labor, while lands are so easily attainable as at present, that there can be no danger of depressing the condition of laborers. A tax of this nature could, moreover, be easily adjusted, both to the rule of uniformity and to the rule of apportionment, by one of which the Constitution requires that all contributions shall be regulated.

But it cannot be doubted that capitation taxes tend to increase the price of labor, and of course to discourage manufactures, contrary to the policy of the United States. Moreover, by multiplying the objects of taxation, an undue proportion of the public burdens is thrown upon the class of middling farmers, whose interests appear to be disadvantageously affected by the operation of most of the State systems. This species of tax is decidedly opposed by public opinion in some States. A new assessment would be necessary for every tax, the expenses of which, and of maintaining a due check upon the collection, would be disproportioned to the revenue; and owing to migrations, a considerable part of every assessment would fail of being collected. On these grounds, capitation taxes are deemed inexpedient.

2d. *Taxes on the stock and produce of farms.*

Taxes of this kind are unequal, even when imposed according to uniform rates, as is the practice in most of the States. When they are not imposed according to uniform rates, they are necessarily arbitrary, and still more unequal. The same article, in different situations, being of very different value, a uniform tax on the stock of farms could not fail of producing various results in respect to the income of individuals. Taxes of this nature discourage improvements. Beasts employed in agriculture and common transportation are, in no respect, more eligible objects of taxation than the tools and implements of a farm, or those of a trade or profession. A great proportion of the stock of middling farmers is of this description, upon which a tax on the stock of farms would fall with undue weight. Such a tax would require minute specifications and repeated assessments; the effects of which towards increasing the expenses of collection and diminishing the responsibility of the revenue officers, have been already noticed.

3d. *Taxes on stock employed in trade and manufactures, and on moneys loaned on interest.*

It is believed that direct taxes on these objects, except in extraordinary and temporary emergencies, are impolitic, unequal, and delusive. When taxes of this kind are so levied as not to be, in some form, reimbursed to the contributors, they tend to drive capital, commerce, and industry, from a country; in other cases, they operate as taxes on consumable commodities. They are either arbitrary, or they require an inquisition into the circumstances of individuals, to which free Governments are incompetent. As it is practicable, in most cases, to arrive at the object proposed by taxes of this description, by means of uniform duties on consumable commodities, and on visible signs of expense, there appears to be no reason for recurring to a mode which constant experience has shown to be unequal and unproductive, and which is in its nature arbitrary.

4th. *Taxes on the profits resulting from certain employments.*

This head will comprise a variety of taxes collected in certain of the States upon lawyers, physicians, and other professions, upon merchant

traders, and mechanics, and upon mills, furnaces, and other manufactories. In some States these taxes are attempted to be proportioned to the gains and profits of individuals, in which cases they are both arbitrary and unequal; in other States, the taxes are uniform, in which cases they are only unequal.

It is presumed that taxes of this nature cannot be considered as of that description which the Constitution requires to be apportioned among the States; moderate taxes of this kind have been resorted to in most countries. It is impossible to render them exactly equal; that they are easy of collection, that their operation is indirect, and that they are capable of being rendered perfectly certain, are recommendations in their favor.

5th. *Taxes on lands.*

A direct tax, in the sense of the Constitution, must necessarily include a tax on lands; it therefore only remains to determine on a mode of assessment, of which the principles shall be, as nearly as possible, certain, uniform, and equal.

The general principles, according to which lands are now taxed in the several States, have been already mentioned. Taxes on the quantity of lands, without respect to quality, situation, or improvements, are both certain and uniform; but they are so manifestly unequal as to be altogether improper, except in countries very recently settled, and where the taxes are very moderate.

Uniform taxes on lands, with reference merely to districts or local situation, are certain; but when imposed on districts partially and unequally improved, they are exceedingly inequitable. If any considerable taxes should be imposed, according to this rule, on lands so circumstanced, it is believed that it would be perceived to be their tendency to accumulate landed property into few hands, and to discourage improvements.

Uniform taxes, with reference to the quality of lands, determined by a classification, are somewhat less certain, though more equal, than either of the modes beforementioned. During a certain period after the first settlement of a country, this mode of raising a moderate revenue appears to be liable to no considerable objection.

A uniform tax on all improved lands would be sufficiently certain, though very unequal, except in a country the lands of which were nearly similar in quality, productions, and advantages, in respect to markets; this mode of taxation is, therefore, but illy adapted to the condition of any other than a small State and recent settlements.

A uniform tax on lands, with reference to their condition or mode of cultivation, would evidently be unsuitable, except in a small State, where the quality of the lands and circumstances of the people were nearly similar; the frequency of assessment which this mode of taxation requires is of itself an insuperable objection against its adoption as a general rule.

Taxes proportioned to the value of improved lands, and taxes proportioned to their produce or annual income or rent, are nearly, if not entirely, alike in principle. In countries where lands are generally leased and cultivated by tenants, the annual rent affords a certain criterion of value; but in this country, where lands are generally held and cultivated under allodial tenures, the sums of money for which lands are commonly sold afford a more correct standard. As unimproved lands afford no rent, their value can be no otherwise determined than by the rule last mentioned.

The value of lands being assumed as the most eligible criterion of assessment, a question arises, how often will new assessments be necessary?

In a country generally peopled or cultivated, or, in other words, where the relative value of lands has been adjusted by settlements in every part, there appears to be no necessity for frequent valuations. On the contrary, taxation, by a permanent and invariable rule, would be most convenient for both the public and for the proprietors, until some cause had operated an essential change in the relative value of landed property.

Our country is, however, far removed from that fixed state which alone could justify an attempt to establish a permanent standard of taxation. It may be expected that in some parts the value of lands will decline, in others, it will certainly increase. As no tax on lands occupied for purposes of agriculture can exceed the value of a certain proportion of its produce, it might follow that the resources of the Government would be unreasonably and improperly restricted by the establishment of a permanent rule. On the contrary, frequent valuations are discouraging to improvements, and necessarily occasion the expenses incident to assessment and collection of the revenue to be excessive; such a mean between a permanent rule and annual valuations, therefore, appears to be advisable, as would, on the one hand, produce an apportionment in a great measure corresponding with the actual value of lands, and, on the other, not discourage improvements or inconveniently enhance the expenses of the assessment. A period of not less than ten years nor more than fifteen years, is suggested as a proper medium.

Temporary and perishable improvements, including buildings, do not appear to be proper objects of valuation in the assessment of a tax on lands.

The expediency of a tax on unimproved lands is at least doubtful; being absolutely unproductive, the capital advanced by the proprietors can only be considered as a species of loan, to be reimbursed at a future period, or as an expenditure for the purpose of commencing settlements. Large tracts of land are held by persons whose only object in making purchases was the investment of capital with a view to security, and to the profit expected from future sales; perhaps equal quantities in the aggregate are held in small portions, which were purchased with a view to actual improvements.

It has been sometimes supposed that taxes on new lands tend to encourage settlements and to promote an equal division of landed property; this opinion has probably been founded on an observation, that wherever considerable taxes have been

imposed, extensive alienations have followed. The vibrations of price, and consequent speculations and frauds which have been thereby occasioned, have been serious evils. Considering the immense quantities of new lands in this country, there is no hazard in affirming that monopolies, for any considerable time, are utterly impracticable; though, in particular places, proprietors of extensive tracts may counteract settlements, yet it will more frequently happen that the competitions between sellers of lands will be decidedly favorable to purchasers; in general, proprietors will, from views of private interest, be active encouragers of new settlements.

The greatest obstacles to the vigorous and successful prosecution of new settlements arise from the general poverty of the first cultivators, and the hardships which they are obliged to encounter. It is the policy of individuals who are desirous of promoting settlements, and who are able to command capital, to diminish these inconveniences as much as possible. Not unfrequently, the first improvements are made at the expense of proprietors other than actual settlers. When this is not done, the necessity of an advance, which would diminish the stock of the cultivator, is obviated by sales of land on credit for a term of years. Taxes on new settlements create a demand for capital; their tendency must be disadvantageous to the poor and favorable to the wealthy; they may, indeed, operate to the benefit of one description of capitalists and to the injury of another, but it is believed that an impartial appeal to experience will demonstrate that, wherever taxes have been imposed for other than local purposes, immediately beneficial to new settlements, they have produced an accumulation, not a division of landed property.

But, though it appears to be inexpedient to extend the proposed tax to unimproved lands generally, it will not be possible to exempt them in all situations, without relinquishing that criterion for regulating the accounts of the revenue, which would result from an ascertainment of the quantities of lands within the districts to which the tax may be extended. As being a medium most consistent with equity and the security of the revenue, it is proposed that the law should define the limits to which the sphere of taxation shall be extended, and that it should prescribe a maximum of value, above which unimproved and unenclosed lands shall not be valued, in certain districts, to be defined.

It appears to be proper that all lands belonging to corporations or individuals, which are or shall be permanently exempted from taxation by the laws of the States, respectively, should also be exempted by the United States.

6th. *Taxes on houses.*

In a scientific view, a tax on houses can only be considered as a tax on expense, and in no sense as a tax on capital or revenue; whether a tax of this nature be imposed on the landlord, builder, or tenant, it must, under the operation of a permanent system, finally fall entirely upon the tenant. Permanency and immobility are the only properties which distinguish houses from those objects of taxation which are universally considered as manufactures and consumable commodities. It is, indeed, the tendency of these properties to protract a readjustment of the natural relations between price and value, supply and demand, whenever they happen to be varied by taxation, or any other cause; they are, however, deemed insufficient to change the definition and nature of the subject.

Houses, therefore, being, in respect to their occupants, unproductive objects, and, in a fiscal view, mere indices of expense, the expediency of subjecting them to direct taxation is somewhat questionable.

It is conceived that the houses and other buildings of the great body of farmers and laborers of a country ought to be regarded as objects of necessary expense, which are supported out of the profits of labor, or some other productive fund. Houses of this description are not, therefore, the most eligible objects of public revenue. If the tax were imposed by an uniform rule, its operation would not be materially different from an equal capitation; if imposed according to the value of the building, it would be very unequal in respect to the revenue of individuals, and would, moreover, tend to discourage durable improvements.

Such houses, however, as exceed in value the average of those occupied by farmers and laborers, may be regarded as among the most suitable objects of taxation. Perhaps there is no single criterion by which the comparative expenses of individuals can be so fairly estimated as by their dwellings. The assessment of a tax upon certain descriptions of houses only, unless restrained by legal provisions, might, however, be attended with difficulties arising from the danger of prejudice and partiality on a subject where no sense of a common interest would operate to prevent abuses.

As a security against oppression, it is proposed that the law should declare that houses, with the lots upon which they are erected, not exceeding two acres in any case, and not exceeding a certain value, to be defined in respect to each State, shall be wholly exempted.

It is further proposed that all houses and lots exceeding in value the description to be exempted should be distributed into three classes, with reference to their value, to be taxed uniformly in each class, at specific rates, to be prescribed by law.

By this mode, all uncertainty in the assessment, except that of determining the class in which a house ought to be placed, would be obviated, and this, in respect to so small a number as four classes would not be very considerable.

The Secretary is not possessed of sufficient information to be enabled to suggest limitations of value, by which it may be proper to define the proposed classes. This defect, it is presumed, can be readily supplied by the Representatives of the respective States.

7th. Taxes on slaves.

It has been remarked that taxes on slaves are of a nature essentially different from capitation taxes on freemen, with which they are sometimes confounded. Among the strong circumstances of discrimination which confirm this position, it is barely necessary to mention that slaves are generally incapable of performing any other than the most simple operations of agricultural labor; that they exercise no volition or choice respecting the nature of their employments; and that their condition is neither depressed nor ameliorated by the operation of taxes, which fall invariably on their proprietors, in the same manner as taxes on the stock and produce of farms.

The circumstances alluded to, considered in connexion with the uncertainty and expense which repeated assessments would occasion, afford sufficient arguments to justify an exemption of slaves from taxation, were it not that they contribute very considerably to increase the quotas of several of the States. To exempt a species of property which enhances the proportions of several States, and thus to relieve one class of landed proprietors at the immediate expense of another, does not appear to be equitable. On this ground, such a tax on slaves as may be sufficient to correct what would otherwise be an inequality, appears to be advisable.

The Secretary is not sufficiently informed to be able to express an opinion respecting a suitable rule of assessment; it is important, however, that the rule should be uniform, even though it should, on that account, be rendered somewhat unequal.

It does not appear expedient that the proposed direct tax should be extended to any other objects than have been mentioned. These are as follow:

1st. Lands, which it is proposed should be taxed *ad valorem*, but under limitations, to be prescribed by law, in respect to the estimated value of unenclosed and unimproved lands, in districts to be defined.

2d. Houses exceeding in value those most generally occupied by famers and laborers; which are proposed to be distributed, in each of the States, into three classes, with reference to their value; to be taxed uniformly in each class, at specific rates, to be prescribed by law.

3d. Slaves in general, or of such descriptions as shall be determined by law, to be taxed at one uniform rate.

The particular exposition which has been given of the laws of the respective States will, it is presumed, supersede the necessity of detailing, at length, a plan of assessment and collection. If it shall be determined to adopt the systems of the States in respect to objects of taxation, there can remain but little doubt of the expediency of adopting their modes of collection. In this case, nothing more can with safety be attempted than to re-enact the State laws, with suitable provisions for the appointment of officers, for defining their powers and duties, and securing their responsibility to the United States. To this general observation the following exceptions, however, occur:

1st. It will be necessary either to apportion the quotas of counties in the States of New York and Pennsylvania by a conjectural estimate, or to provide for new valuations or assessments, by which to ascertain the said quotas.

2d. Instead of prescribing by law the specific rates at which different articles shall be taxed, as has been usual in the States southward of Pennsylvania and Delaware, it will, in respect to the said States, be necessary to vest a power for determining the proportional rates of each description of taxable articles, as soon as the quantities thereof shall have been ascertained by assessing officers. The necessity of vesting such a power arises from the impossibility of otherwise determining what rates of taxation would be necessary, in order to produce the sums which may be apportioned.

3d. If it shall not be seasonably ascertained that the State of Tennessee has established some general rule of taxation, it will be necessary that suitable provision be made for assessing and collecting the sum which may be apportioned to that State.

If, on the other hand, it shall be determined to establish a uniform mode of taxation for the United States, it is conceived that an eligible plan of assessment can be easily extracted from the acts of New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, and Virginia, of which a summary has already been given.

The principal objects to be attained are:

1st. An impartial estimate of the relative value of the different tracts of land in each State.

2d. A correct register of the quantities of taxable lands in each collection district.

The result being an ascertainment of quantities and value, would afford all the data necessary to insure a faithful collection.

It is in respect to the value of lands only, that any real difficulties could arise; disputes with respect to the quantity being susceptible of certain adjustment.

No more eligible mode occurs, for obtaining a correct valuation and register of taxable lands, than by the appointment of commissioners for each State, with the power of appointing a suitable number of assessors, and of requiring a disclosure of the quantities of lands possessed by individuals.

As the Constitution has established a rule of apportionment, there appears to be no necessity that the principles of valuation should be uniform in all the States. It is certain that the records and documents which are known to be attainable, would exceedingly facilitate the adoption of principles for determining the relative value of lands in different districts of the same State. A provision for correcting errors in individual assessments, by some tribunal superior to the assessors, will be necessary.

The assessments on houses and on slaves may, in like manner, be under the direction of commissioners in the first instance; but, as these objects are of a temporary and variable nature, it will be proper that the accounts should be kept distinct from those of lands.

The assessments of the proposed tax will necessarily be attended, in the first instance, with considerable difficulty and expense; the experience of the States proves, however, that the measure is by no means impracticable. It is certain that a rule of taxation for lands, at once uniform, and at least as equitable as the systems of the several States, may be established. If the necessity of repeated assessments for every tax can be avoided, the expenses of collection, after the first year, may probably be reduced to one half of the sum estimated as the average defalcations incident to the State revenues.

The superintendence of the proposed tax, after the first valuations and assessments have been made, may be committed to the supervisors and inspectors of the existing internal revenues, under the direction of the Treasury. The collection districts may be of the same extent as those already established in the respective States.

It is proposed that competent salaries should be established for the supervisors and inspectors, with suitable allowances for the hire of clerks. The compensations of collectors may be a certain per centage on the sums which they receive, except that when moneys are collected by distress, it will be advisable to authorize the collection of fees and mileage from delinquents. An authority to demand a suitable fee for recording transfers and distributions of assessments on lands, appears to be a proper mode of compensating the persons entrusted with that service.

The power of appointing collectors, under suitable conditions for securing their accountability, may be committed to the supervisors; that of controlling the accounts of assessment, and regulating the distribution of taxes, in consequence of the alienation of property, may be entrusted to the inspectors of surveys and their deputies.

All which is respectfully submitted.

OLIVER WOLCOTT, Jr.,
Secretary of the Treasury.

Treasury Department, *Dec.* 13, 1796.

[The tables referred to are omitted.]

FRENCH AFFAIRS.

[Documents communicated to Congress, with the President's Message of Jan. 19, 1797.]

From Mr. Pickering, Secretary of State, to Mr. Pinckney, Plenipotentiary of the United States, at Paris.

Department of State, *Jan.* 16, 1797.

Sir: In my letters of the 5th and 26th November, I sent you two notes from Mr. Adet, the Minister of the French Republic to the United States; the former dated the 27th of October, and the other the 15th of November last; and my answer to the first: the latter note embracing numerous topics of complaint, and going as far back as the year 1793, required a particular examination of all the transactions of our Government from that time to the present. The other indispensable duties of the office prevented my entering on this examination as early as I had expected, and the current business has retarded the pursuit. The result of this examination I am now, by the direction of the President of the United States, to communicate to you. This history of our affairs you will find supported by documents, many of which were delivered to you at your departure, and the residue will be herewith transmitted. The remarks and reasonings on facts you will duly appreciate; and from the whole, joined with your own observations, you will be enabled, it is believed, to vindicate the United States, and to demonstrate their impartiality as a neutral nation, their fidelity in the observation of Treaties, and their friendship as an ally.

The discussion on which I am entering will involve much repetition; for the general questions and particular cases grouped together in the Minister's last note, have been subjects of controversy and correspondence from May, 1793, to this day. Some other points have indeed been contended for, which the Minister has now passed without notice. Why they are omitted I know not; for in these cases the United States were as positively charged with violating Treaties as in those which he has been pleased now to detail. Some of them it may be found proper to introduce, to render less imperfect the view of our relations to France.

The complaints of the French Minister against the United States have reference to three principal subjects.

1. To the abandonment of their neutral rights to the injury of France, in not maintaining the pretended principles of the modern Law of Nations, *that free ships make free goods*, and that timber and naval stores for the equipment and armament of vessels, are not contraband of war.

2. To violations of our Treaties with France, even in their letter.

3. To the Treaty of Amity and Commerce between the United States and Great Britain; which he alleges "deprives France of all the advantages stipulated in a previous Treaty." A fourth complaint is truly ingenious. The fortune of war has constrained some of the belligerant Powers, from enemies, to become her allies; and if the alleged abandonment of the rules of the modern Law of Nations, in its consequences, works an injury to those allies, from that moment France is also injured. Perhaps it will be in time to notice this last charge when those allies themselves complain; if the answer to the first, involving the same principle, should not render such notice altogether unnecessary.

I shall now present to your view those facts and observations which will prove, we conceive, that the Minister's complaints are without any just foundation.

Under the first charge, that we have not maintained, as we ought to have done, our neutral rights, it is alleged—

1. That the position, that free ships make free goods, is an established principle of the modern Law of Nations, and that Great Britain, by capturing French property on board our vessels, has

violated our neutral rights; and that unless we compel Great Britain to respect those rights, France will be justified in violating them.

Not to remark on the singular reasoning, that if one warring Power commits an act of injustice towards a neutral and innocent nation, another warring Power may lawfully commit the like injustice, we may ask what authority is adduced, to show that the modern Law of Nations has established the principle, that free ships make free goods? *Vattel* says, positively, "That effects be-'longing to an enemy found on board a neutral 'ship, are seizable by the rights of war."* Agreeably to this long established rule of the Law of Nations, France herself, in her marine laws, has directed that "the merchandises and effects be-'longing to her enemies, which shall be found on 'board neutral vessels, shall be good prize."† By a former law, indeed, the neutral vessels themselves, as well as the effects of her enemies on board, were declared to be good prize." ‡*Valin* remarks, however, that this regulation was peculiar to France and Spain; and that elsewhere the goods of the enemy were alone subjected to confiscation. And in the Treaty of France with the city of Hamburg, in 1769, it was stipulated, that "All effects, provisions, and merchandise whatso-'ever, belonging to her enemies and found on 'board the vessels of Hamburg, should be confis-'cated."

Mr. Adet remarks, that one of his predecessors, in July, 1793, applied on this subject to the Government of the United States, but was unsuccessful. He must refer to Mr. Genet's letter to Mr. Jefferson, dated July 9th, 1793,§ [the subject was resumed in terms still more extraordinary in his letter of July 25, 1793,] to which Mr. Jefferson answered on the 24th, declaring "his belief 'that it cannot be doubted, but that by the general 'Law of Nations, the goods of a friend found in 'the vessel of an enemy, are free, and the goods 'of an enemy found in the vessel of a friend, are 'lawful prize." "It is true that sundry nations, 'desirous of avoiding the inconveniences of hav-'ing their vessels stopped at sea, ransacked, car-'ried into port and detained, under pretence of 'having enemy goods on board, have, in many in-'stances, introduced, by their special Treaties, 'another principle between them, that enemy 'bottoms shall make enemy goods, and friendly 'bottoms friendly goods; but this is altogether 'the effect of particular Treaty, controling in spe-'cial cases, the general principle of the Law of 'Nations, and therefore taking effect between such 'nations only as have so agreed to control it." And it is plain, that it was to avoid the inconveniences resulting from this general rule of the Law of Nations that France and the United States stipulated, in the 23d article of their Commercial Treaty, "That free ships should give 'freedom to goods; and that everything should 'be deemed free which should be found on board 'the ships belonging to the subjects of either of 'the contracting parties, although the whole la-'ding, or any part thereof, should appertain to the 'enemies of either, contraband goods being al-'ways excepted." It is also plain, that this stipulation was intended to operate (indeed it was its sole object and otherwise could have no operation at all) when one of the parties should be at war with a nation or nations with whom the other should be at peace. France, therefore, has now no right to complain if the goods of her enemies find protection on board American ships, or to pretend, that in order "to restore the balance of 'neutrality to its equilibrium," she may seize on such goods: the just equilibrium between her and the United States will be restored when we are at war and she at peace; at which time the goods of our enemies will find protection on board the vessels of her citizens.

2. It is alleged that we have abandoned the modern public law on contraband, and by our Treaty with Great Britain, granted to that Power, exclusively, the free carriage of articles for the equipment and armament of vessels.

Here, as in the former case, the question recurs, what is the Law of Nations on the point in dispute? *Vattel defines contraband goods to be "commodities particularly used in war; such are 'arms, military, and naval stores, timber, horses, 'and even provisions in certain junctures, when 'there are hopes of reducing the enemy by fa-'mine." In the Treaty between France and Denmark, concluded on the 23d of August, 1742†, "tar was declared contraband, together with rosin, 'sails, hemp, cordage, masts, and timber for ship 'building." "Thus, on this account, (says *Valin*) 'there would have been no cause for complaining 'of the conduct of the English, if they had not 'infringed particular Treaties; for of right these 'things are now contraband, and have been so 'since the beginning of this century, which how-'ever, was not the case formerly." "The modern 'public law on contraband," mentioned by Mr. Adet and his predecessors, probably refers to the principles declared by the armed neutrality during the American war. This transaction is too remarkable to be passed unnoticed.

During that war, Great Britain and the other belligerant Powers, exercising the rights assured to them by the Law of Nations, made prize of enemies' property on board neutral vessels, and of contraband goods belonging to neutrals. Eager as neutral nations must be to seize the opportunity which war presents, of becoming the carriers for the belligerant nations, whose ships and mariners are wanted for military operations, it was perfectly natural that the former should desire to establish as a rule, that free ships should make free goods; or, in other words, that neutral bottoms should protect the goods on board to whomsoever these belonged; and it was equally natural for them to desire to diminish the list of contraband. In respect to the latter it must have been particularly interesting to the three Northern maritime Powers, from whose dominions chiefly

* Book 3, sec. 115. † Valin, page 250, Reg. Oct. 21, 1744, art. 5.
‡ Valin, vol. 2, pages 252, 253. § State Papers, pages 50, 53, 55.

* Book 7, sec. 112. † Valin, vol. 2, page 254.

the other maritime nations of Europe received supplies of timber and naval stores, to strike these from the list of contraband, or by some means to exempt them from capture.

With these dispositions, the Empress of Russia, in February, 1780, made public the principles on which she would maintain the commerce of her subjects. It is necessary here to recite only two of them. 1. That all the effects belonging to subjects of the nations at war should be free on board neutral vessels; contraband goods excepted. 2. That the articles of contraband should be regulated by the 10th and 11th articles of her Treaty of Commerce with Great Britain, extending the regulations of those articles to all the belligerant Powers. To enforce the observance of these principles, she gave orders for equipping a considerable part of her marine.

In July of the same year, Denmark acceded to the principles of the armed neutrality, and entered into a convention with Russia for maintaining them, assuming for her rule in determining what articles should be deemed contraband, her Treaty of Commerce with Great Britain, concluded the 11th of July, 1670. In the third article of this Treaty, the description of contraband goods is in general terms: "Any provisions of war, as sol-'diers, arms, machines, cannon, ships, or other 'things of necessary use in war." But, by a convention concluded at London on the 4th of July, 1780, between Great Britain and Denmark, "to 'explain the Treaty of Commerce of 1670, be-'tween the two Powers," the articles deemed contraband are particularly enumerated, and among them we see "timber for ship-building, tar, rosin, 'copper in sheets, sails, hemp, and cordage, and 'generally whatever serves directly for the equip-'ment of a vessel, unwrought iron and fir-planks 'excepted." It is remarkable that these are the very articles† admitted as contraband in the 18th article of our Treaty of Commerce with Great Britain, and for which admission Mr. Adet declares, "all the commercial relations between 'France and the United States are entirely 'broken."

But it is further to be noticed, that this convention between Russia and Denmark, concluded in the midst of the American war, for maintaining the principles of the armed neutrality, and to which other European Powers acceded, is explicitly declared, in the 9th article, to have been concluded and agreed on for the time that war should last;* though it was to serve as a basis to future engagements which circumstances might render necessary, on account of new naval wars in Europe; and with the latter view, the King of Sweden manifested the utmost solicitude lest the war should be closed without the intervention of the neutral Powers. He, therefore, was urgent that the Empress, with all the parties to the Maritime Convention, "should propose to the bel-'ligerant Powers the establishing of a Congress, 'in which the different concerns, both of the Pow-'ers at war and of the neutral States, should be 'examined and terminated."* And these concerns he afterwards mentions to be "the pacification, 'and the settling of a maritime code of laws;" objects truly important, and meriting all the solicitude manifested on the occasion by the King.

But these steps of the King of Sweden serve as additional proofs that the principles of the armed neutrality were not considered by the parties to the Maritime Convention, as sanctioned by the existing Law of Nations. For permanently to establish those assumed principles, by introducing them into a maritime code, was obviously the influential motive with the King for desiring a Congress, at which such a code might be settled with the assent of all the nations of Europe. But this project did not succeed; no Congress was formed; the belligerant Powers made peace at different periods, and with that war ended the Maritime Convention. This no nation has more reason to regret than our own, as well because the principles in question respect some very valuable portions of our exports, as because our disposition and our policy preserving us in peace, such an extended liberty of commerce would prove highly advantageous to us as carriers for the Powers at war.

We have seen, then, that the Law of Nations, the marine laws of France, her own Treaties, as well as those of other nations, and even the system of the armed neutrality, incontestibly establish these principles: That enemies' goods on board neutral vessels are rightful subjects of capture and condemnation; and that timber and other articles for the equipment and armament of ships, are contraband of war: and, therefore, that the admission of these principles in the Treaty between the United States and Great Britain, not being a grant to her of any right (for in what sense could we be said to give what she before possessed?) furnishes no just ground of offence to France. In what sense, too, can the United States be said to have "refused to other nations a 'right" which they and we voluntarily and mutually agreed to renounce? Or how are we chargeable with "partiality in favor of England," because we do not take arms to compel her also to renounce it?

But Mr. Adet, still resting on the idea that not to compel Great Britain to renounce, is to grant her a right, seems to imagine that we shall attempt to obviate his complaints by saying "That 'France, having the right by her Treaty of 1778, 'to enjoy all the advantages in commerce and 'navigation which the United States have granted 'to England, is not injured by the stipulations of 'the Treaty of 1794 (with Great Britain) relative 'to contraband of war, as they become common 'to her." But we shall say no such thing. The second article to which he refers has no relation to this subject. Had we granted any particular favor to Great Britain, or to any other nation in respect to commerce and navigation, we readily admit that, by this article, France would be immediately entitled to the same. But in regard to

* Hist. Armed Neutrality, p. 77. Marten's Treaties, vol. 2, p. 103.

* History Armed Neutrality, pages 147, 150.

contraband of war, we have granted nothing, and therefore, under that article, France can claim nothing.

Under the influence of present and temporary interests, the very nature of the stipulations between France and the United States, on the subject of free commerce and the limitation of contraband, seems to be forgotten. They took for the basis of their Treaty "the most perfect 'equality and reciprocity:" would they then conspire to their own hurt? Would they voluntarily and mutually stipulate for injuries? or for advantages? Certainly the latter; and both considered the agreement reciprocally advantageous which secured to each, in its turn, the freedom of commerce provided by the rules, that free ships should make free goods; and that timber and naval stores should be excluded from the list of contraband.

Connected with this subject is what concerns the article of provisions. Mr. Adet says, that "after having assured to the English the carriage 'of naval stores, the Federal Government wished 'to assure them that of meals; in a word, it desired 'to have commerce only with England. Thus it 'stipulates by the 18th article, that the American 'vessels laden with grain may be seized under the 'frivolous pretext, that it is extremely difficult to 'define the cases wherein provisions, and other ar'ticles, which are generally excepted, could be 'classed in the list of contraband of war."

There are so many extraordinary assertions in Mr. Adet's notes, those in the above paragraph excite no surprise. The Federal Government is constituted of citizens who have a common interest with their fellow-citizens of the United States. That common interest has a peculiar relation to commerce, on the freedom and extension of which the public revenue and the general prosperity of our country chiefly depend. Will it then be believed that the Government wished this commerce to be restrained, particularly the commerce in meals, which compose the most valuable parts of our exports? Especially, will it be believed that the Government desired that our citizens might have commerce only with England? Let the general sense of our fellow-citizens answer these charges. Let the great mass of our commercial brethren answer; they whose enterprise traverses every sea and explores every region of the globe, to extend their gainful trade; citizens whose commercial adventures to France and her colonies have risen annually to many millions; adventures by which many have hazarded their credit and their fortunes. Yet among all our citizens, none have been more solicitous to form a Commercial Treaty with Britain; none more decided in approving that which has been made.

For the reasoning of our own Government on this subject, I beg leave to refer you to my letter of September 12, 1795, written by the President's direction to Mr. Monroe. Therein it was attempted to show the necessity and our right of forming that Treaty with Great Britain, and I hope it will appear to you that the conclusion is there fairly drawn, that even the 18th article, as it respects provisions, would operate favorably to France.

Before the Treaty with Great Britain, her cruisers captured neutral vessels bound to France with provisions. She asserted, that in certain cases, provisions were contraband of war; consequently, that she might lawfully capture and confiscate such provisions. We opposed the principle and the practice. Britain insisted on her right. In this dilemma, it was agreed by the Treaty, that whenever provisions, becoming contraband by the Law of Nations, should be captured, they should be paid for with a reasonable mercantile profit. This stipulation, without admitting the principle, by securing the American merchants from loss in case of capture, would certainly tend to promote rather than to discourage adventures in provisions to France.

But as this Treaty has been the subject of serious complaint on the part of France, it is important to inquire with what foundation the complaint is made.

I might pass over the unworthy insinuations of the Minister, that the Treaty was entered into by us in order to insure advantages to the English, and to furnish our own Government with a reply to the claims of France, and peremptory motives for refusals to concede to them; that the true object of the negotiation was incessantly disguised under specious pretexts, and covered with the veil of dissimulation. These insinuations have been indiscreetly addressed to the people of the United States. They will gain no belief. It may, however, be useful for you to be truly informed on this subject.

The President's Message to the Senate on the 16th of April, 1794, does not declare (as Mr. Adet asserts) "that Mr. Jay was sent to London *only* 'to obtain a redress of wrongs." The President says, that Mr. Jay's mission would announce to the world "a solicitude for a friendly adjustment 'of our complaints," and that "going immediately 'from the United States, such an Envoy would 'carry with him a full knowledge of the existing 'temper and sensibility of our country; and thus 'be taught to vindicate our rights with firmness, 'and to cultivate peace with sincerity." And shall the pursuit of either of these objects be denied to us? What were our complaints? The most urgent regarded the spoliations on our commerce, and the inexecution of the article of the Treaty of Peace respecting the posts. With the latter was connected the Indian war, with which we had been harassed for so many years; and with the former, the injury or ruin of our merchants, and the consequent extensive damages to agriculture. These being the most prominent objects of the mission, were, of course, most observable and most talked of; and without them the mission, probably, would not at that time have been contemplated. But had we no other "complaints?" Did not the impressment of our seamen, like the spoliations on our commerce, excite a universal complaint? Had we never manifested our uneasiness at Great Britain's avoiding a commercial Treaty? Was it not even a subject of complaint

and reproach? Was not the inducing her to enter into such a Treaty the object of divers measures agitated in Congress? Had not a commercial Treaty with Great Britain been earnestly sought for from the conclusion of the war to the time of Mr. Jay's mission? How, also, could Mr. Jay, after adjusting the primary objects of his mission, better prove the sincerity of our pacific disposition, and more effectually "cultivate peace," than by forming arrangements calculated to extend and protect our trade, to promote good neighborhood and a friendly and mutually beneficial intercourse; by prescribing a previous demand of justice and satisfaction to hasty reprisals, which naturally lead to war; and by agreeing on other regulations to prevent disputes, or to adjust them when they should arise? All these objects, then, and whatever else would be the means of "cul'tivating peace," were clearly comprehended in the President's Message.

But Mr. Adet says, "that Mr. Jay's negotiation 'was enveloped from its origin in the shadow of 'mystery." And to whom was our Government bound to unveil it? To France or to her Minister? Mr. Adet should answer, or not have complained. And was it for this, to make us a dependence on the French Empire that our alliance was formed? Did we stipulate to submit the exercise of our sovereignty (if it is not a contradiction in terms) to the direction of the Government of France? Let the Treaty itself furnish the answer: * "The essential and direct end of 'the present defensive alliance is to maintain ef'fectually the liberty, sovereignty, and inde'pendence, absolute and unlimited, of the said 'United States, as well in matters of 'govern'ment as of commerce." So, likewise, the Treaty of Amity and Commerce, in its preamble declares, that his most Christian Majesty and the United States, willing to fix the rules which ought to be followed relative to the correspondence and commerce which they desire to establish between their respective countries, have taken "for the basis of their agreement, the most 'perfect equality and reciprocity; and reserving 'withal to each party the liberty of admitting at 'its pleasure other nations to a participation of 'the same advantages." Corresponding with this declaration in our Treaty of Amity and Commerce with France, is the declaration of the Marquis de Noailles, her Ambassador at the Court of London, on the 13th of March, 1778, five weeks after the Treaty was signed. Some passages in this declaration are so pertinent to the subject in discussion, I shall quote them at length.

"The undersigned Ambassador of his most 'Christian Majesty, has received express orders 'to make the following declaration to the Court 'of London."

"The United States of North America who are 'in full possession of Independence as pronounced 'by them on the 4th of July, 1776, having pro'posed to the King to consolidate, by a formal 'Convention, the connexion begun to be establish'ed between the two nations, the respective Plen'ipotentiaries have signed a Treaty of Friendship 'and Commerce, designed to serve as a founda'tion for their mutual good correspondence."

"His Majesty being determined to cultivate the 'good understanding subsisting between France 'and Great Britain by every means compatible 'with his dignity and the good of his subjects, 'thinks it necessary to make this proceeding 'known to the Court of London, and to declare, 'at the same time, that the contracting parties 'have paid great attention not to stipulate any 'exclusive advantages in favor of the French na'tion, and that the United States have reserved the 'liberty of treating with every nation whatever 'upon the same footing of equality and recipro'city." Why, after all this, do we hear from Mr. Adet the complaint, that the negotiations of the British Treaty were secretly conducted? In other words, that in exercising their absolute and unlimited rights of "Government and Commerce" the United States did not lay open to the French Minister or his Government the instructions to our Envoy for settling our own disputes and regulating our own commerce with Great Britain? So far as candor and friendship required, a communication was made to the French Minister. He was officially informed "that Mr. Jay was 'instructed not to weaken our engagements to 'France." This instruction was obeyed; Mr. Jay having taken care to insert in the 25th article of the Treaty this explicit stipulation, that "no'thing in this Treaty contained shall be construed 'or operate contrary to former and existing pub'lic Treaties with other Sovereigns or States."

The Government gave a further proof of its candor and friendship, by communicating to the French Minister the Treaty itself, prior to its ratification, "in order to make such observations 'thereon as he might judge proper." These observations you will see in Mr. Adet's letter to the Secretary of State of June 30th, 1795; and the refutation of his objections in the Secretary's answer, dated the 6th of July following.

With these facts in view, facts of which the chief are drawn from our Treaties with France, and from her own acts and laws, what opinion is to be formed of Mr. Adet's declaration, "That 'the Executive Directory regards the Treaty of 'Commerce concluded with Great Britain as a 'violation of the Treaty made with France in '1778, and equivalent to a Treaty of Alliance with 'Great Britain?"

I will now advert to the charge, "that far from 'offering the French the succors which friendship 'might have given without compromitting it, the 'American Government, in this respect, violated 'the letter of Treaties."

As far as I can discover, the latter part of this charge is rested wholly on the 17th article of the Commercial Treaty, which, therefore, it will be necessary to examine. The stipulations are mutual; but the examination will be simplified by considering their application to France alone. The 17th article then declares—

1. That the ships of war and privateers of

* Treaty of Alliance, art. 2.

France may freely carry the ships and goods, taken from their enemies, into the ports of the United States, without being obliged to pay any fees to the officers of the admiralty or any other Judges.

2. That such prizes are not to be arrested or seized when they enter the ports of the United States.

3. That the officers of the United States shall not make any examination concerning the lawfulness of such prizes: but

4. That they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions.

5. That, on the contrary, no shelter or refuge shall be given in the ports of the United States, to such as shall have made prize of the subjects, people or property of France; but if such shall come in, being forced by stress of weather or the danger of the sea; all proper means shall be vigorously used that they go out and retire thence as soon as possible.

It will also be convenient here to notice the stipulations contained in the 22d article. These are—

1. That foreign privateers not belonging to French subjects or citizens, having commissions from any other Prince or State in enmity with France, shall not fit their ships in the ports of the United States.

2. Nor sell their prizes, nor in any other manner exchange their ships, merchandises, or any other lading.

3. Nor purchase victuals, except such as shall be necessary for their going to the nearest port of the Prince or State from which they have commissions.

The cases that have occurred in the course of the present war, in relation to our Treaty with France, particularly the 17th and 22d articles just mentioned, have led to numerous discussions, in which several points have been deliberately settled, either by Legislative or Executive acts, or by judicial decisions.

The first important Executive act was the proclamation of neutrality by the President of the United States. This was issued on the 22d of April, 1793.

At the next meeting of Congress, on the 3d of December, 1793, the President laid this proclamation before both Houses. The Senate, in their address, in answer to the President's Speech, thus express their opinion of the proclamation:

"We deem it a measure well-timed and wise; 'manifesting a watchful solicitude for the welfare 'of the nation, and calculated to promote it."

The address of the House of Representatives was unanimously agreed to. We read in it this paragraph:

"The United States having taken no part in the 'war which had embraced, in Europe, the Powers 'with whom they have the most extensive relations, the maintenance of peace was justly to be 'regarded as one of the most important duties of 'the magistrate charged with the faithful execution of the laws. We accordingly witness, with 'approbation and pleasure, the vigilance with 'which you have guarded against an interruption 'of that blessing, by your proclamation, admonishing our citizens of the consequences of illicit 'or hostile acts towards the belligerant parties; 'and promoting, by a declaration of the existing 'legal state of things, an easier admission of our 'right to the immunities belonging to our situation."

Yet this is the instrument, thus approved by Congress, and whose only object was to caution our citizens to avoid certain acts which would violate the Laws of Nations, which Mr. Adet has ventured to call "An *insidious* proclamation of 'neutrality!"

The next Executive act noticed by Mr. Adet, is the letter of the 4th of August, 1793, written by the President's command, by the Secretary of the Treasury, to the collectors of the customs, and accompanied by the rules which the President had adopted, for preventing all armaments in favour of any of the belligerant Powers. These rules were considered as just and necessary deductions from the laws of neutrality established and received among nations. The letter from the Secretary of the Treasury is explanatory of these rules, and, among other instructions, particularly points the collectors to the 17th and 22d articles of our Treaty with France; lest, by inattention or misconception of them, she might be injured and her enemies benefitted. The letter concludes with enjoining the collectors to execute those instructions "with vigilance, care, activity, and im'partiality, because omissions would tend to ex'pose the Government to injurious imputations 'and suspicions, and proportionably to commit the 'good faith and peace of the country." How could such rules, with such reasons to enforce them, not escape censure? They were framed and required to be executed with strict impartiality; and, consequently, were to prevent Frenchmen continuing those aggressions on our sovereignty and neutrality, which had been commenced under Mr. Genet's orders, and which were calculated to involve us in a war with Britain, Spain, and Holland; for at that time these were all combined against France. Frenchmen were to have no other preferences than those secured to them by Treaty; (except that they were not forbidden to sell their lawful prizes in our ports,) and our own citizens were to be restrained from committing hostilities under the banners of France, as well as those of other Powers.

The third offensive act was the President's submitting to Congress these measures, and suggesting the expediency of extending our legal code, giving competent jurisdiction to the courts, and providing adequate penalties to prevent or punish violations of the Laws of Nations.

The next complaint respects the act of Congress passed on the 5th of June, 1794, "for the 'punishment of certain crimes against the United States;" being those to which their attention had been called by the President's Speech. Mr. Adet asks, "what was its result?" And gives, himself, the following answer: "In consequence

'of this law, the greater part of the French privateers have been arrested, as well as their prizes; 'not upon formal depositions, not upon established testimony, not upon a necessary body of proofs, 'but upon the simple information of the consul 'of one of the Powers at war with the French Republic; frequently upon that of sailors of the 'enemy-Powers: sometimes, according to the orders of the Governors, but often upon the demand 'of the district attorneys, who assert, upon principles avowed by the Government, that their conviction was sufficient to authorize them, without 'complaint or regular information, to cause the 'privateers to be prosecuted in virtue of the law 'above mentioned. And when the Ministers of 'the Republic have asked for justice of the Government, for the vexations experienced by the 'privateers, in contempt of the 17th article of the 'Treaty, they have never been able to obtain satisfaction."

Judging only by these declarations of Mr. Adet, a stranger would imagine there had been a combination of the General and State Governments, and of our courts, to harass and do injustice to Frenchmen engaged in privateering. But our citizens place a different estimate on this impeachment of their President, their Senators and Representatives in Congress, their judges and other public officers; and an examination of the cases cited by Mr. Adet to support his assertions, will manifest their incorrectness.

1st case. *The French privateer Sans Pareil and her prize the Perseverance.*

On the 26th August, 1794, Mr. Fauchet complained, that the prize had been seized on the pretext that the Sans Pariel had been illegally armed in the United States. The answer of September 3d, from the Secretary of State, which Mr. Adet censures "as indicative of delay," assured him that the Secretary had urged the Governor of Rhode Island, where the prize was carried, to report the circumstances of the case without delay. On the 27th of September, the Secretary informed Mr. Fauchet that the Governor had decided that the prize should be restored. On the 17th of October, Mr. Fauchet renewed his complaint, for, on the suit of the claimant, the prize had again been arrested by process from the district court. The Secretary of State answered, on the 22d, with information that ought to have satisfied Mr. Fauchet. For admitting that, agreeably to the law of the 5th of June, 1794, the courts had authority and were bound in duty to take cognizance of captures made within the jurisdiction of the United States, or by privateers illegally fitted out in their ports, (the right of doing which Mr. Fauchet did not contest,) they could not refuse it in the case of the Sans Pareil; the guard against vexatious prosecutions being the judgment for costs and damages, to which an unjust prosecutor is exposed. The circular letter, written on this occasion to the Governors of States, manifests the solicitude of our Government to prevent vexatious suits.

2d case. *Glass and Gibbs.*

By the copy of the proceedings in the Supreme Court of the United States in this case, you will see that the court did not, as stated by Mr. Adet, determine "that the tribunals could decide whether a prize belonged to enemies or to neutrals." The question before the court was of the cognizance of a captured vessel and cargo, the former the property of a Swede, and the latter belonging partly to some Swedes and partly to a citizen of the United States. The opinion, therefore, pronounced by the Supreme Court, applied to the case in which one of the claimants was a citizen of the United States. And, after solemn argument, the court decided "that the district court 'of Maryland had jurisdiction, and should accordingly proceed to determine upon this case agreeably to law and right."

I will add only one more remark: That the 17th article, the letter of which we are charged with violating, in suffering our courts to take cognizance of French prizes, expressly refers to "the 'ships and goods taken from their enemies;" and it is the "examination concerning the lawfulness of 'such prizes" which the article forbids. But no examination of such prizes had been attempted by our Government or tribunals, unless on clear evidence, or reasonable presumption, that the captures were made in circumstances which amounted to a violation of our sovereignty and territorial rights.

3d case. *The French privateer L'Ami de la Point a Petre, Captain William Talbot, and her Dutch prize the Vrouw Christiana Magdalena.*

To the information contained in the papers collected in this case, I have to add that this cause was finally decided in the Supreme Court in August term, 1795. The court were unanimously of opinion that, in the particular circumstances of Talbot's case, notwithstanding his French commission, and his taking an oath of allegiance to the French Republic, he continued to be a citizen of the United States. But the cause, as I am informed, did not appear to have turned on this point. Talbot had associated with one Ballard, commanding an armed vessel called the Ami de la Liberté, which had been fitted out in the United States, and had no commission. Talbot and Ballard cruised together as consorts; and, in fact, it was Ballard's vessel that took the prize, Talbot not coming up till an hour after the capture. Ballard was afterwards tried, before the circuit court, for piracy.

The court were also of opinion, from the tenor of the evidence, that Talbot's vessel was owned by citizens of the United States, to whom the prize-money would eventually find its way in case of restitution to the captors.

Ballard and Talbot were both citizens of Virginia. The attempt of the latter to become a French citizen was considered to be fraudulent, being made for the sole purpose of obtaining a commission, under color of which he might plun-

der the subjects of nations with whom the United States were at peace.

An observation ought not to be omitted here, that, although the captors, Talbot and others, had been defeated both in the district and circuit courts, yet they carried the cause up to the Supreme Court; thus using the legal right of appealing to the court in the last resort; a right which, alike exercised by the subjects of Powers who were enemies to France, has formed a principal subject of Mr. Fauchet's and Mr. Adet's continued complaints.

4th. Under the head of complaints for vexatious prosecutions, Mr. Adet mentions only two cases in which damages and interest were allowed to the French captors, viz: one of la nuestra Senora del Carmen, at Rhode Island, and the other of la Princesa des Asturias, at New York. "Yet (says 'he) the tribunals have always allowed damages 'to the captured, when they have declared the 'prizes illegal." How far the facts will warrant this last assertion I am not possessed of documents to determine. I presume it is to be understood in a general sense only, and to admit of exceptions. And in this sense there will be no difficulty in admitting the truth of the assertion, and accounting for it. The captures here referred to, were made either within our jurisdictional line, or by illegal privateers, being such as were equipped in whole or in part, in the ports of the United States. Of these material facts the captors could not be ignorant, consequently they could have no apology for defending their unjust claims in our courts; and of course were justly condemned in costs and damages.

In the case of the prizes of the privateer the Citizen of Marseilles, damages were claimed by the captors, but denied. For those prizes had been considered in the district court to be illegal. And although the sentence of that court was reversed in the circuit court, yet it was upon the introduction of new testimony on the part of the captors. This last decision was affirmed in the Supreme Court, yet without damages; inasmuch as the testimony was considered to be so ambiguous as to justify the appeal.

The same remarks apply to the prizes of the privateer General Lavaeux; with this addition, that one of the judges dissented from the opinion of the court, being firmly of opinion that this privateer was covered American property.

The privateer la Parissienne had been registered as an American coasting vessel, under the name of the Hawk. During the embargo, in the Spring of 1794, she slipped out of Charleston and went to Port de Paix, where she was sold to one Blochos, a Frenchman, who armed her and provided her with a commission. Having afterwards arrived at Charleston, she was recognised and prosecuted for a breach of the revenue laws, in having gone to a foreign port whilst she was in the legal predicament of a coaster. The district court condemned her; but, on the application of Blochos to have her restored on paying the appraised value, the judge permitted him to take her, in a state of warlike equipment. Shortly afterwards she put to sea and captured two valuable British prizes, the brigantines Cæsar and Favorite. On their arrival, the one at Charleston, the other at Savannah, suits were commenced to obtain their restitution, as having been captured by an illegal privateer. The decrees of the courts were in favor of the captors, but without damages. The Supreme Court disapproved of the restitution of the privateer without dismantling her; and considered the mistake committed in this respect a sufficient reason to cover the party prosecuting from the payment of damages.

All the other cases of captures by French privateers, which have been brought up to the Supreme Court, were decided at last August term. In some of them the circumstances would not have warranted an award of damages; in others, the counsel for the captors omitted to ask for them. When demanded, you know that it is in the discretion of the court to grant or refuse them; this discretion being regulated by all the circumstances of each case. Hence, when a party is drawn before the court without good cause and vexatiously, damages are always given, but are denied when there appears a reasonable cause of controversy.

5th. Mr. Adet having briefly noticed several cases by name, seems to reserve those of the Vengeance and the Cassius for a full display of unwarrantable conduct in the Government and Courts of the United States, and therefore descants on them at some length; but with so many aberrations from the facts, with so many erroneous ideas concerning our jurisprudence, and so many injurious insinuations respecting our courts and their officers, it will be necessary that you should learn the true history of these cases from authentic documents.

Case of the French privateer la Vengeance.

For the full history of this privateer and her prize, I must refer you to the documents in the case. The principal facts are these: About the latter end of June, or the beginning of July, 1795, the privateer la Vengeance arrived at New York with a valuable prize, called Princessa de las Asturias. Don Diego Pintado, the owner, commenced a suit for his vessel, on the ground that she had been taken by an illegal privateer. The suit was instituted by Mr. Troup, not wantonly, but upon information, which was afterwards verified by the oaths of several witnesses. In the progress of the cause, these witnesses were contradicted by the witnesses produced on behalf of the captors, for whom a decree was finally given: the clashing evidence preponderating, in the Judge's opinion, in the favor of the captors; but he expressly declared that there was probable cause for the seizure.

After this suit for the prize had been commenced, the Spanish Consul complained to Mr. Harrison, the District Attorney, in his official capacity, of a violation of law, on the part of the privateer la Vengeance, in consequence of which a Spanish subject had been injured. Mr. Harrison, upon an inquiry, found at least a probability

that the complaint respecting the privateer was true. This probability arose from what he considered as affording the certainty of material proof; and, therefore, in conformity with his official duty, commenced a prosecution on the act of Congress forbidding the arming of privateers in our ports. The decision of this, and of the prize cause, depended on the same evidence. The decision being in favor of the captors, Mr. Harrison acquiesced in it, as it respected the privateer; and he united with his associate counsel in the prize cause in advising the like submission in that case. But the Spanish Consul deemed it his duty to pursue the claim to the Court in the last resort. This can warrant no complaint; for Mr. Harrison remarks, that perhaps there never were causes in which more contradictory and irreconcileable evidence was offered, and in which the minds of the auditors were more divided as to the real state of facts.

The second public suit against the privateer, was for exporting arms and ammunition from the United States, when such exportation was prohibited by law. The evidence which appeared in the other causes gave rise to this prosecution, and upon the trial the Judge condemned the privateer. An appeal from this sentence was interposed by the French Consul. The appeal was heard in the Circuit Court, and upon new evidence the sentence of the District Court was reversed.

Mr. Adet complains, that while one suit was pending for the prize, and another against the privateer, the District Attorney should exhibit a second information against the privateer, on which she was arrested anew, for having exported arms in violation of a law of the United States, which was in force when the Vengeance sailed from New York; and that this information was filed on the simple declaration of Mr. Giles, the Marshal of the Court, who, as informer, was to share part of the confiscation. As Mr. Harrison remarks, it was in favor of the privateer that this second information was filed, while the first was pending; because it saved time. Had he postponed the latter until the first had been decided, there might have been some foundation for a charge of unnecessary delay. Mr. Harrison's statement of the case shows that this second information was not made on the declaration of the Marshal, but on the evidence that appeared on the examination of the first.

Mr. Adet having been pleased to censure the conduct of the attorney, clerk, and Marshal of the District Court of New York, in justice to them, I have added to the other documents in this case the letters of Mr. Harrison and Mr. Troup. They will answer the double purpose of justifying them, and of vindicating our Government and tribunals.

Mr. Adet particularly notices the papers he had received from St. Domingo, "proving," as he says, "in the most convincing manner, that the 'Vengeur (la Vengeance) had arrived at Port de 'Paix without any armament or equipment what-'ever; and that she had been sold, armed, and 'equipped wholly, and commissioned as a privateer, 'on the territory of the Republic. These documents 'were certificates of the general, the ordonnateur, 'and of the greater part of the principal officers 'of St. Domingo, &c. He hastened to communicate them to the Secretary of State, and to 'request him to order the attorney of New York 'district to stay the proceedings instituted in the 'name of the Government: there was nothing 'done with them, and Mr. Harrison continued his 'prosecution." It will appear by my letter of October 1, 1795, to Mr. Harrison, that these papers were sent to him, and by his answer of October 3d, that he received them. That the bill of sale (one of the papers) was produced to the Court, in behalf of the claimant of the privateer; but that the certificate of General Leveaux could not be considered as evidence in the cause; and if it had been admissible, "the claimant would 'be very cautious of producing it, on account of 'its differing from the witnesses."

6. *Case of the French privateer le Cassius.*

For the full history of this case I must also refer you to the documents; and here only present you with a concise statement.

The Cassius, under the name of les Jumeaux, was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed—the crew of les Jumeaux, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon, and brought them to bear on the cutter in which the militia (about forty in number) were embarked. Their force being inadequate to the enterprise, they retired, with the intention to return the next day with a reinforcement. They did so; but les Jumeaux had sailed, and gone to sea. The agent (Mr. Guenet) by whom les Jumeaux had been fitted out, was tried in the Circuit Court at Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo. Samuel B. Davis, a citizen of the United States there took the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to le Cassius; and on a cruise she took a schooner called the William Linsay, belonging to Messrs. Yard and Ketland, of Philadelphia; Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding le Cassius, came with her to Philadelphia. She was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled le Cassius in the District Court, and caused the captain to be arrested. Soon after, the

Supreme Court being in session, Captain Davis's counsel applied for and obtained a prohibition to the District Court to stop its proceeding; by which the suits both against him and le Cassius were defeated. The prohibition was granted on this principle: that the trial of prizes, taken without the jurisdiction of the United States, and carried into places within the jurisdiction of France, for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war and their officers are not liable to the process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French Government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process on the information of Mr. Ketland, to be issued from the Circuit Court, by which le Cassius was attached as a vessel armed and equipped as a ship of war in the port of Philadelphia, with intent to cruise and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armaments. Mr. Adet complained that the process was taken out of the Circuit Court; because, as he alleged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year: whereas the District Court, in which it was said the prosecution (if at all permitted) should have been commenced, was always open. I consulted gentlemen of legal knowledge, on the point of jurisdiction in this case, and they were decided in their opinion, that the Circuit Court had jurisdiction, and exclusively of the District Court. You will see also in Mr. Rawle's statement of this case, that this opinion was adopted and supported by two gentlemen of eminence at the bar: you will further see in that statement that the Government of the United States had no part in originating this prosecution; and that the District Attorney, in behalf of the United States, took measures at each term of the Circuit Court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to a hearing. In the course of the argument the question of jurisdiction presented itself. The Court adjourned until next day, to consider of it, and on the following morning dismissed the suit. As soon as I had received notice of this event, (on the 19th of October last,) I wrote to Mr. Adet, informing him that le Cassius remained in the custody of the Marshal, but ready to be delivered to his order. To this no answer was returned; but he mentions the matter, in the notes subjoined to his note of the 15th November, intimating that the United States were answerable in this case for a violation of Treaties, and for the damages the Cassius has sustained. Here the affair rests.

In his letter of the 3d of June, 1796, which you will find among the papers, respecting the Cassius, Mr. Adet mentioned the affair of the Favorite, at New York, and intimated an idea that the Executive might in like manner cause the prosecution against le Cassius to cease. But the proceedings in the case of the Favorite were wholly in the hands of the Executive officers, who were under the President's immediate control, and to whom, on evidence satisfactory to the Executive, orders were given to discontinue the process. In this affair of the Favorite, we are fortunate in finding one case in which Mr. Adet (contrary to his assertion in his note of November 15) acknowledges that justice was done by our Government. You will observe in Mr. Fauchet's letter of the 23d of September, 1794, a very formidable complaint in this affair of the Favorite; that it was pretended that a privateer fitted for a cruise had deposited arms on board her, and that this pretext was used for visiting and pillaging her; that she was a ship of war of the Republic, then serving as a store-ship until she could be repaired; that the sovereignty of France was violated, and her flag insulted. Yet, by the letter of John Lamb, Esq., collector of the port of New York, of the 22d of November, 1794, you will see that at the time the seizure was made of the suspected articles on board the Favorite, "she having been totally dismantled, her crew sent on board other ships of war, and her sails, rigging, and other materials sold at public auction, she was considered as a hulk; otherwise the event would not have taken place." The collector further declares that the charge of pulling down the national flag and hoisting another in its place was groundless.

These are all the cases expressly mentioned by Mr. Adet, in which French privateers and their prizes have been brought under the cognizance of our courts of justice, and all, therefore, to which an answer can be directed. Had he cited the other cases, which he says would fill a volume, we have no doubt there would be found in them, as in those which have been mentioned, abundant reason to justify the Government and the tribunals.

Mr. Adet's complaints are not confined to imputations of injustice experienced by French privateers and their prizes from our courts.

First. "He protests against the violation of the 17th article of the Treaty, in contempt of which the American tribunals have taken cognizance of the validity of prizes made by French ships of war or privateers, under pretext of original armament or augmentation of armament in the United States; or of capture within their line of jurisdiction." But his predecessor, Mr. Fauchet,* after saying that our admiralty courts interfered in prize cases on the ground of "seizure within the jurisdictional line of the United States, or of armament or augmentation of armament of the capturing vessels in their ports," immediately adds, "on this subject, sir, you request me to specify to you a circumstance in which a prize was arrested, which did not come under that denomination, and you take the trouble to establish that they have a right to intervene in every case that can be brought under those

*Letter June 8th, 1795.

heads. In the first place, sir, I never have, at least to my recollection, contested the right of your courts, or of the Government, to interfere in matters of the nature of those you mention; but I complain of the facility with which prizes have been thrown into those two classes, which do not belong to them." He then says that he could cite a great number of affairs to which he alludes; but contents himself with mentioning only two. The first is the case of Talbot, of which I have already given some details, and which, with the documents referred to, will show this to have been an unfortunate instance to support his complaint. The other is that of the prizes of the Citizen of Marseilles, also, already mentioned, and which will not justify a complaint; for although the final decision was in favor of the privateer, yet the sentence of the district court was not reversed in the circuit court but upon the introduction of new testimony; and the Supreme Court allowed no damages, because the testimony was so ambiguous as to justify the appeal.

But, quitting the contradictory declarations of the French Ministers, and referring you to the letter dated August 16, 1793, from the Secretary of State to our Minister at Paris, (which has been published,)* for the reasoning of our Government on this subject, and the demonstration of their right and duty as a neutral Power, to prohibit any of the belligerant Powers arming their vessels in our ports, consequently to restore to their proper owners prizes taken and brought in by vessels so unlawfully armed, or when taken within our line of jurisdiction, I will only add here, that the principle of the rules on this subject, first adopted by the President, on the most mature deliberation, received afterwards the sanction of Congress, by their act of June 5, 1794, and of the Judges in all their judicial proceedings in the prize-causes in question. If, then, the 17th article of the French Treaty has been violated, the Executive, the Legislature, and the Judges of the Federal Courts, have all deliberately concurred in the violation. This no American citizen will be inclined to believe; and we might suppose that the consideration of such concurrence in one opinion would anywhere produce a pause, and some diffidence in pronouncing it erroneous. Neither the rules adopted by the President, nor the act of Congress, have made a new law respecting such prizes: they have only directed the modes of proceeding to fulfil our neutral duties, agreeably to the universal Law of Nations. The Judges have applied this law, but not without due attention to the obligations of our Treaties, which they regard as supreme laws of the land.

2. Mr. Adet "protests against the violation of the 17th article of the Treaty, in contempt of which, English vessels which had made prize on Frenchmen have been admitted into the ports of the United States." The construction of this part of the 17th article, for which Mr. Adet, after his predecessor, (Mr. Fauchet,) contends, is this: That, if a national ship of war of the enemies of France has at any time, and in any part of the globe, made prize of a French vessel, such ship of war is to be allowed no shelter or refuge in our ports, unless she is driven in through stress of weather; and then she is to be made to depart as soon as possible. On the contrary, the construction adopted by the Executive of the United States, and expressed in the rules beforementioned, which had been transmitted to the collectors in August, 1793, was this: That privateers only of the enemies of France were absolutely excluded from our ports, except as before, when compelled to enter through stress of weather, pursuant to the 22d article of the Treaty; while the national ships of war of any other nation were entitled to an asylum in our ports, excepting those which should have made prize of the people or property of France, coming in with their prizes.

On the 9th of September, 1793, the Secretary of State thus expressed to the British Minister the determination of the Executive: "The public ships of war of both nations (French and English) enjoy a perfect equality in our ports. 1. In cases of urgent necessity; 2. In cases of comfort and convenience; and, 3. In the time they choose to continue. And though the admission of prizes and privateers of France is exclusive, yet it is the effect of Treaty," &c.*

In support of our construction of the Treaty, it has been observed, that† "the first part of the 17th article relates to French ships of war and privateers entering our ports with their prizes; the second contrasts the situation of the enemies of France, by forbidding such as shall have made prize of the French—intimating, from this connexion of the two clauses, that those forbidden are those which bring their prizes with them." To these observations I will add, that, if the literal construction contended for by the French Ministers were admitted, then, although the public ships of war which had made prize of French people or property would be excluded from our ports, yet the prizes of such public ships might be received, and they might be sold too; for the prohibition in the 22d article of the Treaty applies only to privateers and their prizes, while the Government of the United States judged that the 17th article was intended to exclude the prizes made on the French by public ships of war, as well as those made by privateers, and gave directions accordingly to have them excluded. Further; if it had been intended to exclude from our ports the public ships of war of the enemies of France, coming without any prize, then they would doubtless have been comprehended in one provision with the privateers in the 22d article; for privateers are thereby excluded, whether they come with or without prizes. But public ships of war are not comprehended, or at all referred to in the 22d article; whence the conclusion is fair, that it was not intended to forbid them coming alone; and, consequently, that the exclusion provided in the 17th article applies to them only when they would come into our ports with their prizes—this last clause of the same arti-

* State Papers, page 57.

* State Papers, page 77.

† Secretary of State to Mr. Fauchet, September 7, 1794.

cle being in its form opposed to the first clause, which admits the entrance of French ships with their prizes. Besides, if a public ship of war of the enemies of France comes into our ports without any prize, how is it to be known whether she has or has not made prize of the people or property of the French? Who is to erect a tribunal to investigate and pronounce on the fact? But if she comes with a prize, the case presents no difficulty; she brings with her the evidence which goes to the exclusion of her and her prize.

I must now advert to some others of Mr. Adet's charges against the Government of the United States.

1. "It [the Government of the United States] 'put in question whether it should execute the 'Treaties or receive the agents of the rebel and 'proscribed Princes.'" And is there anything in this unjustifiable or extraordinary? Was it easy for a nation distant as ours to obtain promptly such accurate information as would enable it duly to estimate the varying condition of France? In 1791, the Constitution formed by the Constituent Assembly was accepted by Louis XVI. It was notified to the United States in March, 1792. Congress desired the President to communicate to the King of the French their congratulations on the occasion. In August, 1792, the King was suspended; in September, royalty was abolished; and in January, 1793, Louis XVI, tried and condemned by the Convention, suffered death. Was it easy to keep pace with the rapid succession of such revolutionary events? and was it unlawful, under such circumstances, even to deliberate? I do not find that information of the death of the King was received from our Minister at Paris until May 1, 1793. The news, however, had previously arrived in such a manner as to attract the attention of Government; for, in April, the President had determined to receive a Minister from the French Republic. And it is remarkable that this was before he knew that a Minister had arrived in the United States. This promptitude in deciding a leading question does not bear any strong marks of hesitation. And was there no merit in this ready determination to acknowledge the French Republic? Had it been before acknowledged by any Power on the globe? How long did France hesitate to acknowledge the Republic of the United States? A year and a half. And under what circumstances was the acknowledgment finally made? After the capture of a whole British army appeared to have established our independence. But of this, more hereafter. In matters of importance, (and what could be more important than the decision of a neutral and allied nation on questions perhaps involving war or peace,) is it the part of wisdom to reject all deliberation, even on points which do not obviously present difficulties? Will not prudence dictate to him who is to decide great national questions—rather to deliberate long than risk the consequences of hasty decisions?

2. "It made an insidious proclamation of neutrality."

I have already remarked that this proclamation received the pointed approbation of Congress, and, I might truly add, of the great body of the citizens of the United States. And what was the general object of this proclamation? To preserve us in a state of peace. And have not the Ministers of France declared that their Government did not desire us to enter into the war? And how was peace to be preserved? By an impartial neutrality. And was it not then the duty of the Chief Executive to proclaim this to our citizens, and to inform them what acts would be deemed departures from their neutral duties? This was done by the proclamation. It declared it to be the duty, interest, and disposition of the United States, to adopt and pursue a conduct friendly and impartial towards the belligerant Powers: it warned the citizens to avoid all acts which might contravene that disposition: it declared that whosoever of the citizens who should render himself liable to punishment or forfeiture under the Law of Nations, by committing or abetting hostilities against any of those Powers, or by carrying to any of them articles deemed contraband of war, would not receive the protection of the United States against such punishment and forfeiture: and that the President had given instructions to the proper officers to prosecute all persons who should violate the Law of Nations with respect to the Powers at war, or any of them. To what, in all this, can the epithet *insidious* be applied? On the contrary, is not the whole transaction stamped with candor and good faith?

3. "By its chicanaries it abandoned French pri-'vateers to its courts of justice." Abandoned them to its courts of justice! Sir, you know many of the Judges personally, and all of them by reputation, and that their characters need no vindication from such an insinuation. They are Judges with whose administration of justice our own citizens are satisfied; and we believe they may challenge the world to furnish a proof that they have not administered justice with equal impartiality to foreigners. I will only add here one remark, that the correspondences with the French Ministers formerly published, joined to those now furnished you, with the other documents accompanying them, will show how loudly they can complain of the proceedings in our courts, and, at the same time, with how little justice.

4. "It eluded the amicable mediation of the 'Republic for breaking the chains of its citizens at 'Algiers." We did not entertain any doubt of the friendly disposition of the French Republic to aid us in this business; but what was really done we have never known. You will find herewith Mr. Fauchet's letter of June 4, 1794, and the answer of the Secretary of State on the 6th, to which Mr. Adet refers. The information on the subject which Mr. Fauchet expected "in a little time from 'Europe," probably never arrived—at least, it was never communicated to our Government. There is surely in the Secretary's answer no evidence that our Government were unwilling to accept the mediation of the Republic. On the contrary, we have relied upon it to aid our negotiations with the Barbary Powers. Accordingly, when Colonel Humphreys went from hence in 1797, clothed

with powers for negotiating peace with those States, he was particularly instructed to solicit the mediation of the French Republic; and for that purpose only he went from Lisbon to Paris, where, through our Minister, the Committee of Public Safety manifested their disposition to contribute to the success of his mission. But Colonel Humphreys was at the same time authorized to depute Joseph Donaldson, Esq. (who had been appointed Consul of the United States for Tunis and Tripoli, and who went with Colonel Humphreys from America) to negotiate immediately a Treaty with Algiers: for, in a country where a negotiation depended on so many contingencies, it was of the last importance to be ready to seize the favorable moment to effect a peace whenever it should offer. Such a moment presented on Mr. Donaldson's arrival at Algiers. He had not been there forty-eight hours before the Treaty was concluded. It is also a fact that it was effected without the aid of the French Consul at that place. However, with respect to Mr. Donaldson's negotiation, we are well informed, that "his not conferring with 'the Consul of France was not his fault; and if 'he had done it, that it would have injured his 'cause—neither the Republic nor her Consul en-'joying any credit with the Dey." But we are at the same time informed that the cause of this was transitory, and ought not to hinder us from endeavoring to engage her interest for other places, and in that place for future occasions. Agreeably to this idea, the agent of the United States applied to the French Consul (Herculais) at Algiers, the last Spring, to recommend a suitable person to negotiate a Treaty with Tunis. The person recommended was employed, and, we had been informed, had in part succeeded, and was expected to complete a Treaty of Peace. This information was communicated to our Minister at Paris, in a letter dated the 30th August last, from the French Minister for Foreign Affairs, accompanied by an extract of a letter from the Consul, Herculais.

In all these transactions, far from discovering a trace of evidence to support Mr. Adet's charge, the reverse is manifestly proved.

5. "Notwithstanding Treaty stipulations, it allowed to be arrested vessels of the State."

While we admit the fact that French vessels have been arrested, we deny that the arrests have infringed any Treaty stipulations. The details in this letter, and the documents referred to, appear to us entirely to exculpate the Government. And if neither the Executive nor our tribunals could in any case take cognizance of captures which the French privateers called prizes, then they might take our own vessels in our rivers and harbors, and our citizens be without redress. But* "It is an essential attribute of the jurisdiction of 'every country to preserve peace, to punish acts 'in breach of it, and to restore property taken by 'force within its limits. Were the armed vessel 'of any nation to cut away one of our own from 'the wharves of Philadelphia, and to choose to 'call it a prize, would this exclude us from the 'right of redressing the wrong? Were it the ves-'sel of another nation, are we not equally bound 'to protect it while within our limits? Were it 'seized in any other waters, or on the shores 'of the United States, the right of redressing is 'still the same; and humble indeed would be our 'condition were we obliged to depend for that on 'the will of a foreign Consul, or on negotiations 'with diplomatic agents."

The same reasoning will apply to captures made by illegal privateers; that is, by such as were armed and equipped in the ports of the United States; for it being by the Law of Nations the right of our Government, and as a neutral power its duty, to prevent such armaments, it must also be its right and duty, by all means in its power, to restrain the acts of such armaments done in violation of its rights and in defiance of its authority. And such were the armaments made by the French people in the ports of the United States. And the most effectual means of defeating their unlawful practices was the seizing of their prizes when brought within our jurisdiction. It is very possible, indeed, that in some cases the irritated subjects or public agents of nations whose property was taken by French privateers, might commence vexatious prosecutions: but this is no more than happens frequently among our own citizens, and in every nation in the world; and the only restraints on the vindictive passions of men, in such cases, which the policy of free Governments has imposed, are the damages which the courts compel the malicious prosecutor to pay to the injured party. If, as Mr. Adet asserts, damages have in two cases only been granted by the courts to French privateers, even when the decisions have been in their favor, it has arisen from their own conduct, or the omission of their counsel, or from accidental circumstances, which, in the opinion of the courts, furnished reasonable presumptions against them of having violated the laws, either by illegally arming in our ports or making the captures within our jurisdiction. If, on the other hand, they have, in the event of contrary decisions, been always condemned to pay damages, we may venture to say it was because they were always in the wrong. For no one will find sufficient ground to impeach the discernment or integrity of our courts.

6. "It suffered England, by insulting its neutrality, to interrupt its commerce with France."

That our commerce has been interrupted by the armed vessels of England, and sometimes with circumstances of insult, we certainly shall not attempt to deny: the universal resentment and indignation excited by those injuries were admissions of the fact; but that the Goverment has *connived* at the practice, (for by that Mr. Adet must have intended to insinuate the word *suffered*,) all its acts most forcibly contradict. It was because of those aggressions that preparations for war were commenced, and to demand satisfaction for them was the leading object of Mr. Jay's mission to London. Satisfaction was demanded, and the arrangements agreed on for rendering it are now in execution at London. But if by *suffered*, Mr.

* Letter from the Secretary of State to Mr. Morris, August 16, 1793, State Papers, page 62.

Adet means that we did not arm—that is, make war on England—to obtain the indemnification, when humanity, reason, and the Law of Nations, prescribed the mode of previous peaceable demand, to these very principles we may appeal for our justification; and if it is necessary to go further, we say, that as an independent nation, we must be left to determine in what manner we can most beneficially obviate an evil, and when it is most proper for us to repel an injury. To deny us this right of judgment is to deny our independence. We have not been insensible either to our honor or our interest. If we have manifested much long-suffering, we have not been singular. Neutral nations very commonly endure many temporary evils, because these appear light, when compared with the calamities of war; and they look forward, as we have done, to a period when returning justice may redress their wrongs. This period, we trust, will arrive in regard to those we are now suffering from the French Republic. If a nation, not bound to us by Treaty, and between whom and ourselves actual circumstances and many recollections tended to excite peculiar passions, engaged to render us justice, shall we expect less of an avowed friend?

We may here properly inquire, what could have been the understanding of the parties on this point, when the Treaty of 1778 was made between France and the United States? She knew, that notwithstanding the extent of our country, and its rapid increase in population, many years must elapse before we could form a powerful Navy to protect our commerce. She knew the conduct of maritime Powers in all their wars; particularly, she was acquainted with the maxims and measures of England towards the commerce of neutral nations, in all her wars with France. And if, knowing these things, France then expected that in all subsequent wars we should compel the maritime Powers in general, and Great Britain in particular, to admit our commerce to perfect freedom, then, instead of a Treaty of Commerce containing regulations for conducting it, when France should be at war, she would have demanded from us a stipulation, that in every future war in which she should be engaged with any other maritime Power, we also should engage in it as her associate. But this is a condition which France was too just to demand, and to which the United States never would have agreed.

7. "Notwithstanding the faith of Treaties, it 'gave an asylum to these same English, who, after 'having insulted her flag and pillaged her citizens, 'came also to brave the American people in their 'ports, and to take a station whence to cruise, on 'a favorable opportunity, against the French."

This, like most others of Mr. Adet's charges, is but the renewal of the complaints of his predecessor, Mr. Fauchet; and the vindication of the Government will appear in the answers and communications from the Secretary of State to that Minister, in the years 1794 and 1795. The cases particularly noticed were those of the British frigate Terpsichore and her prize la Montague; and of the British ship Argonaut and her prize l'Esperance. The Thetis and Hussar, British frigates, with their French prizes la Prevoyance and la Raison, are also mentioned, but without any facts or circumstances as subjects of inquiry, which of course is precluded. That of the Terpsichore and her prize appears to have been the first case of the kind in which the Executive of the United States, and those of the particular States, were called to interfere; and therefore it will not be thought extraordinary, if the Executive of Virginia was unprepared with arrangements to give instant effect to the stipulation of the 17th article of the Treaty of 1778, forbidding an asylum to the armed vessels of the enemies of France and their prizes. What delay took place seems to have been the result of accident—certainly not of design. And by letters from this Department, the Executives were earnestly pressed to take the necessary order for prompt execution, in future, of this part of the Treaty. But why should the French Ministers complain, with such energy, that a British ship of war, with her prize, remained in one of our ports during perhaps twenty or five-and-twenty days; when, against the earnest requests and orders of the Executive, the French privateers, armed in our ports in violation of the laws, long continued to keep on our coast, and enter our harbors—thence, on favorable opportunities, to cruise against their enemies? The Columbia, or Carmagnole, continued such her unlawful acts for more than a year.

After all the zealous remonstrances of Mr. Fauchet, now renewed by Mr. Adet, about the capture of the French corvette l'Esperance by the British ship Argonaut, who went with her prize into Lynnhaven bay, what were the facts? The Governor of Virginia went personally to the French Consul at Norfolk, for information concerning this declared violation of the Treaty, but "received 'none which appeared to justify the uneasiness 'occasioned by that event—he charging no circumstance as improper in the captors, but rather 'seemed to consider the introduction of the prisoners made on that occasion, so soon, into a place 'where the exchange would be effected, as an alleviation of the misfortune of losing the vessel." The captain of the French corvette himself was desired to give evidence in the case. He promised, but failed to appear. He was called upon a second time to give information, but discovered an unwillingness to do it—observing that he had given to the Consul a circumstantial account of the transaction on his arrival. The Governor having heard that a respectable pilot, by the name of Butler, was acquainted with the circumstances of this affair, he directed his deposition to be taken. It was taken, and imported that Admiral Murray himself purchased the prize l'Esperance, and manned and fitted her in Lynnhaven bay for a cruise. But Butler's deposition was afterwards taken on the part of the British, in which he contradicted all the material facts recited in the former deposition; for which he accounted, by saying, that he could neither write nor read, and that there had been inserted in his first deposition what he had never said. Under these circumstances, it was desirable

to obtain further information. This was furnished by the British Minister, in the extract of a letter from Admiral Murray, which bears every mark of candor and humanity, and of respect for the United States. It is as follows: "The French sloop of 'war l'Esperance was brought into Lynnhaven 'bay on the 11th of January (a few days after my 'arrival there) by Captain Ball, who had captured 'her fifteen leagues from the shore. The weather 'being very tempestuous, a lieutenant, with a 'sufficient number of men only to navigate her, '(not being half the complement the French had 'in her,) were sent on board from the Resolution 'and Argonaut; and so soon as the weather permitted those ships to supply her with water and 'provisions, I sent her to sea, that I might give no 'umbrage to the American States. An additional 'reason for bringing l'Esperance into Lynnhaven 'bay, was out of humanity to the French prisoners, whom, having had a long voyage, I sent to 'Norfolk as soon as prudence would permit: otherwise, they must have been kept prisoners on 'board the whole Winter, and sent to Halifax in 'the Spring. Nor was she equipped or armed then, 'in any manner whatever; nor did the lieutenant 'receive any commission for her whilst in Lynnhaven bay; and when at sea, only an acting 'order to command her, which is customary, and 'absolutely necessary in all captures: otherwise, 'if retaken by the enemy, he might be considered 'as a pirate."

8th. "It might be said that it applauded their '(the English) audacity; all submission to their 'will, it allowed the French colonies to be declared in a state of blockade, and its citizens interdicted the right of trading to them."

If, among the multitude of such complaints as Mr. Adet has exhibited, any one could excite surprise, this charge is calculated to produce it. Here a formal charge is made against the Government of the United States, that it did not control, in another independent nation, the right of judging of its own affairs; that it did not forbid and effectually prevent the officers of a foreign Power, the British admirals and commanders in the West Indies, declaring certain French colonies to be in a state of blockade! "But the official legalization of a proclamation had been 'posted up under our eyes, prohibiting our commerce with the French colonies, and suspending 'to us alone the Law of Nations!" The answer to Mr. Fauchet, from the Secretary of State, represents this matter differently. The British Consul General at Philadelphia, by a publication on the 10th of April, 1795, gave notice that he had received official communications that the islands of Guadaloupe, Marigalente, and Desirade, were, by proclamation issued by His Britannic Majesty's general and vice admiral commanding in the West Indies, declared to be in an actual state of blockade; and that neutral (not singly American) vessels were thereby prohibited from attempting to enter any ports or places in those islands, with supplies of any kind, under the penalty of being "dealt with conformably to existing Treaties, and as warranted by the established Laws of Nations." And while existing Treaties (our Treaty with Great Britain had no operative existence till six months after the consul's advertisement) and the Laws of Nations were avowed to be the rules by which the property of neutrals was in this case to be adjudged, had they reason to complain? If any neutral vessels attempted to enter any of those ports which were not in reality in a state of blockade, and yet were captured, could they be condemned? Certainly not by the rules which the British prescribed to themselves—"Treaties and the Laws of Nations." But if the British commanders proclaimed untruths, and issued arbitrary orders for capturing neutral vessels, and their cruisers and courts of admiralty executed them arbitrarily, could the American Government prevent them? We could demand of the British Government satisfaction for injuries to our own citizens consequent on such orders; and if any such were sustained, the arrangements for making reparation are now in execution. But admitting that any ports in the French colonies were in fact blockaded, who should notify it to neutral nations accustomed to trade with those ports? Certainly the officers of that Power whose fleets and armies formed the blockade; and, in the United States, no mode of giving universal notice could be so effectual as a publication in handbills and newspapers.

9th. "It eluded all the advances made by the Republic for renewing the Treaties of Commerce 'upon a more favorable footing to both nations; 'it excused itself on the most frivolous pretexts; 'whilst it anticipated Great Britain by soliciting 'a Treaty, in which, prostituting its neutrality, 'it sacrificed France to her enemies; or rather 'looking upon her as obliterated from the map of 'the world, it forgot the services she had rendered it, and threw aside the duty of gratitude, as 'if ingratitude were a governmental duty."

Of the advances referred to, the first were made by Mr. Genet. These you will see in the printed correspondence between him and Mr. Jefferson. Mr. Genet's letter is dated the 23d of May, 1793, in which he informed the Government that he was authorized to propose a Treaty on a "liberal 'and fraternal basis."* Mr. Jefferson's letter to Mr. Morris, our Minister at Paris, dated the 23d of August, 1793, assigns the reason for postponing the negotiation.† "The Senate (says he) being 'then in recess, and not to meet again till the 'Fall, I apprised Mr. Genet that the participation 'in matters of Treaty, given by the Constitution 'to that branch of our Government, would, of 'course, delay any definitive answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to 'lie over till the meeting of the Senate." Congress were not to meet until December, consequently there was no necessity for precipitating the business. But, with the best dispositions to form new commercial arrangements, mutually more beneficial than those of the Treaty of 1778, the unwarrantable conduct of Mr. Genet, from

* State Papers, p. 15. † State Papers, p. 68.

the moment he landed at Charleston, until the date of his letter on the subject of the negotiation, was sufficient to excite caution in the American Government. He had there violated the sovereignty of the United States,* "by authorizing the fitting and arming vessels in that port, 'enlisting men, citizens and foreigners, and giving them commissions to cruise and commit 'hostilities on nations at peace with us," and with whom we had extensive commercial connexions. "These privateers were taking and bringing 'prizes into our ports, and the consuls of France 'were assuming to hold courts of admiralty on 'them, to try, condemn, and authorize their sale 'as legal prizes." Nevertheless, the Government, really desirous of forming a new and more advantageous commercial treaty with France, instructed the Minister of the United States at Paris, to manifest the same to the Executive of France, and to suggest, for this purpose, that the powers of Mr. Genet be renewed to his successor. It is true, that in his letter dated the 30th of September, Mr. Genet had renewed the proposition of negotiating a commercial treaty; but how was it possible for the Government to undertake a negotiation with that Minister, after "the correspondence which had taken place be'tween the Executive and him," (a correspondence on his part replete with insults,) "and the 'acts which he had thought proper to do and to 'countenance, in opposition to the laws of the 'land?" After the Government had instructed our Minister at Paris to desire Mr. Genet's recal, and to declare to the Government of France, "the necessity of their having a representative 'here disposed to respect the laws and authority 'of the country, and to do the best for their interest 'which these would permit; and when it was 'only an anxious regard for those interests, and 'a desire that they might not suffer, which in'duced the Executive in the meantime to re'ceive his communications in writing, and to ad'mit the continuance of his functions so long as 'they should be restrained within the limits of 'the law, as heretofore announced to him, or 'should be of the tenor usually observed towards 'independent nations by the representative of a 'friendly Power residing with them?" Under such circumstances, what answer could the Executive return to Mr. Genet, more proper and more marked with attention to France, than that his letter "would be considered with all the re'spect and interest which its object necessarily 'required?"

It is probable that the powers to negotiate a commercial treaty were not renewed to Mr. Genet's successor; certainly they were not communicated to our Government.

We now come to the fresh overtures of a commercial negotiation made by Mr. Adet.

The first notices of them are found in a memorandum of facts dated the 27th and 29th of June, 1795, and subscribed by the Secretary of State. By these it appears that, on the 12th of June Mr. Adet arrived at Philadelphia. On the 15th Mr. Fauchet introduced him to the Secretary of State. On the 16th Mr. Adet informed the Secretary that he should the next day send him some act of the French Government relative to commerce; but it was not sent. On the 22d of June Mr. Adet was reminded of the promised communication. He said it was copying, and gave reason to suppose that he should forward it on that day, but on that day nothing was received.

On the 29th of June, 1795, Mr. Adet had an interview with the Secretary of State; he observed that he brought with him the commercial decrees which Mr. Genet had formerly propounded to our Government, and was instructed to negotiate a Treaty of Commerce upon their basis. He was asked whether he had any documents to communicate. He replied that he would send them that day. He said he had to communicate some inquietudes respecting the late Treaty between the United States and Great Britain. He observed that it was understood that the United States had disabled themselves from entering into a new commercial treaty upon a liberal scale with France. The Secretary answered, that he had determined, before he came, to ask the permission of the President to communicate to him a copy of the Treaty; and then he might say in what part he supposed that any impropriety with respect to France existed. The President having afterwards assented, the Secretary on the same day delivered to Mr. Adet a printed copy of the Treaty, on which he promised to communicate his remarks.

These remarks, dated June 30th, and the Secretary's answer, dated July 6th, refuting the objections they contained, I have already noticed. The subsequent proceedings will show either that those objections did not make any strong impressions on Mr. Adet's mind, or that the Secretary's answer had removed them.

On the 30th June, 1795, Mr. Adet communicated a part of his instructions relative to "a new 'commercial treaty and a new consular convention, to be entered into between France and the 'United States." The instructions imported that he was only to "prepare, with the American Go'vernment, the means and arrangement" of these treaties, and then to communicate them to the committee of public safety. The object of the new Treaty was declared to be "to found the 'commercial relations of the two Republics upon 'stipulations more reciprocally advantageous, 'and more clearly worded than that of 1778, and 'the object of the consular convention to secure 'the execution of the commercial treaty."

The Secretary of State answered, on the first of July, expressing the readiness of the Government to open the proposed negotiation; and requested a communication of the dates of the decrees to which Mr. Adet's instructions referred.

On the 8th of July, 1795, Mr. Adet replied to the Secretary of State, "that he neither knew nor 'possessed any other decree, relative to the new 'negotiation to be opened between France and

* Mr. Jefferson to Mr. Monroe, August 16th, 1792. State Pap. p. 58.

'the United States, than that of the 5th* of February, 1793, communicated to us by citizen Ge'net." This letter of the 8th was received the 12th, accompanied by a note of the latter date apologising for the delay on account of sickness. On the 12th the Secretary of State had written to him pressing him on the subject of the new negotiation.

On the 16th of July, 1795, the Secretary of State again wrote to Mr. Adet; and, after informing him that he was not clothed with any very formal authority upon this subject, the President of the United States had thought proper to place him (the Secretary of State) upon the same and no other footing, the Secretary proposed that the negotiation should be conducted in writing, unless when either thought it expedient to have an interview on any particular difficulty. And then assuring Mr. Adet that no unnecessary procrastination should be found in the Secretary of State, further proposed that Mr. Adet should state, 1st. The parts of the Treaty which he wished to be abolished; 2d. Those parts which he wished to be corrected; and, 3d. Any additions which seemed to him desirable; but expressed the readiness of the Secretary to adopt any other better mode of conducting the negotiation, if such occurred to Mr. Adet.

On the 20th of July, 1795, Mr. Adet, mentioning his sickness, which, for fifteen days, had obliged him to abstain from business, replied on the subject of the negotiation in these words: "In a 'few days I shall have the honor of seeing you, 'and of taking the necessary measures in order to 'commence the business relative to the digesting 'of the new Treaty and new consular convention."

From this detail it must, I conceive, be no easy task to find any facts by which Mr. Adet's charge can be supported. What he affects to call "fri'volous pretexts," are substantial reasons; and, in respect to his own advances to treat, the conduct of our Government manifests an eagerness to enter on the negotiation; certainly you will discover in it no disposition to elude or to procrastinate.

You will be pleased to observe, sir, that the letter from the Secretary of State to Mr. Adet, explaining the manner in which they should proceed in the negotiation, is dated the 16th of July; and that Mr. Adet's answer, agreeing shortly to meet the Secretary, in order to take the necessary measures for commencing the business, is dated the 20th of July; yet, in his note of November 15th, 1796, after having charged the Government of the United States "with eluding all advances made by the Republic for renewing the 'treaties of commerce, and excusing itself on 'the most frivolous pretexts;" after acknowledging that the President had authorized the Secretary of State to negotiate, and that the latter had explained the manner of proceeding, he asks, "but at 'what time? When the ratification of the Treaty 'concluded between Lord Grenville and Mr. Jay, 'no longer permitted the undersigned to pursue 'that negotiation." I am sorry, sir, in this place, to call your attention to dates. The British Treaty was not ratified until the 14th of August, 1795, that is, about a month after the plan of negotiating with Mr. Adet had been proposed to him by the Secretary of State, and twenty-five days after he had agreed to proceed in it. And if that ratification finally induced him to abandon the idea of negotiating a new Treaty between France and the United States, it did not instantly produce this determination. He doubtless perceived that his own objections to the British Treaty were obviated by the answer from the Secretary of State; and when he acknowledged the receipt of it, he had given up the right of judging of the Treaty, whether it was good or bad. "I 'shall," says he in his letter of July 20th, 1795, "transmit it (the Secretary's answer) to the 'French Government, together with my observa'tions and the Treaty. In such important cir'cumstances, it is exclusively the province of my 'Government to judge; and I cannot permit my'self to decide at all." And then immediately adds, "In a few days I shall have the honor of 'seeing you, and of taking the necessary measures 'in order to commence the business relative to 'the digesting of the new Treaty and new con'sular convention." The British Treaty then did not obstruct the negotiation; the principles of which might have been agreed on, and the articles drawn into form to be submitted to the respective Governments; for that was all the respective negotiators were authorized to do.

Will the Ministers of the French Republic never cease to reproach us with "ingratitude?" If, indeed, "France wrought" as well as "guaranteed 'the independence of the United States," as Mr. Adet asserts, "at a time when she might, as the 'price of that very independence, have granted 'them less liberal conditions," our obligations are greater than we have hitherto imagined. But it is time that these claims to our gratitude were investigated, and their extent ascertained. We have citizens yet alive who were actors and witnesses of the Declaration of our Independence, and of the efforts to maintain it, with their effects, prior to our Treaty with France. But laying no stress on our own recollections or consciousness, we will resort to the testimony of France herself.

France, by her Minister, the Marquis de Noailles, having, in the declaration of the 13th of March, 1778, which I have already quoted, announced to the Court of London the Treaty of Friendship and Commerce she had formed with the United States; and that to maintain the commerce of his subjects with them, which was the object of that Treaty, His Most Christian Majesty had "taken eventual measures in concert with 'the United States of North America," that Court published a justificative memorial, to vindicate to the world the war she had determined to wage against France. In the Observations of the Court of France on this British memorial, we find the following declarations on the part of France:

* Mr. Adet has since corrected this date, the decree intended being dated February 17th, 1793.

* "While the Ambassador of England put the 'King's patience to the strongest proofs, and while 'the Court of London was constantly repeating 'denials of justice to His Majesty's subjects, at 'the same time that the British officers continued 'to desolate them on the sea, an event came to pass 'in America which essentially changed the face of 'things in that quarter of the world. This event was 'the defeat of the army under General Burgoyne. 'The news of this unexpected disaster, which 'arrived in Europe in November, 1777, astonished 'the British Ministers, and must have more sen-'sibly affected them, as it overthrew the plan they 'had laid for the reduction of the colonies." The Observations then suggest that this great event induced, in the British Cabinet, the idea of conciliation with America, and of a coalition against the Crown of France, in revenge for the supposed aid rendered by her to the United States; and to gratify "their most dear and constant wish—that 'of humbling France."† "It was natural for the 'British Ministry, unable to subdue her colonies, 'to seek to be reconciled to them, and to engage 'them to espouse her resentment. They might 'so much the more flatter themselves that they 'should succeed herein, as the proceedings of 'France with regard to American privateers, and 'especially the dislike the King had at all times 'manifested to any engagement with the Con-'gress, must have given disgust and dissatisfac-'tion to their Deputies, and induce them, not-'withstanding their well known aversion, to seek 'even in England the safety of their country, 'when they failed to find it in France."

‡ "The King, well informed of the plan of the 'Court of London, and of the preparations which 'were the consequence of it, perceived that no 'more time was to be lost, if he would prevent 'the designs of his enemies. His Majesty deter-'mined, therefore, to take into consideration, at 'length, the overtures of Congress."

‖ "The Commissioners [from the United States] 'proposed to the King a Treaty of Amity and 'Commerce, and an alliance offensive and defen-'sive, by which His Majesty should engage not 'only to acknowledge simply and purely the in-'dependence of the United States, but also to gua-'rantee and defend it by force of arms. The King 'ordered an answer to be given, that he could in-'deed look upon the independence of the United 'States as existing, but that it did not belong to 'him to acknowledge it, because he had not any 'right to judge of it; neither could he guarantee 'it, as he did not intend to enter into a war for its 'support. His Majesty in consequence refused an 'offensive alliance, and confined himself to the 'Treaty of Amity and Commerce. But as it was 'more than probable that the Court of London 'had formed the design of attacking France, His 'Majesty thought he ought to enter into an alli-'ance with the United States eventual and purely 'defensive. The stipulations contained in this 'second Treaty are, in substance, that if France 'should be attacked by the Court of London be-'fore the cessation of hostilities between that 'Court and its Colonies, then the King and the 'United States should mutually assist each other 'against the common enemy; that the King 'should guarantee the independence and sove-'reignty of the United States; and that he should 'not lay down his arms till it should be acknow-'ledged by Great Britain."

Thus it is manifest that the United States were to be left still to fight their own battles, unless Great Britain should choose to increase the number of her enemies by attacking France; in which case it would be as truly the interest of France as of the United States to make it a common cause.

* "This last Treaty remained secret, because it 'was not in force at the time of concluding it; 'but that of commerce was notified at the Court 'of London, March 13th, 1778." The first words of the notification are these: "The United States 'of North America, who are in full possession of 'independence," &c. The whole paragraph has been already quoted. The notification further expressed "that the King, being determined to 'protect effectually the lawful commerce of his 'subjects, and to maintain the dignity of his flag, 'His Majesty has, in consequence, taken eventual 'measures, in concert with the United States of 'North America." The Court of London chose to consider this notification as a declaration of war, of which they accuse the King as being the author, and represent him as the violator of laws, divine and human, &c., &c. "The act, however, 'which has drawn upon the King such odious im-'putations, has, for its foundation, two incontesta-'ble truths: the first, that at the period of the 6th 'of February, 1778, the Americans had the public 'possession of their independence; the second, 'that the King had a right to look upon this in-'dependence as existing, without being obliged to 'examine the legality of it, and that no law for-'bade him to form connexions with the Ameri-'cans."

The Observations then reciting that the fruitless attempts of the Colonies to obtain redress from their mother country, in the mode of supplication, had induced them to league together to maintain their privileges, sword in hand; and, soon after, to publish the solemn act, whereby they declared themselves independent, say, † "This act, which 'is of the 4th of July, 1776, induced the Court of 'London to give way to her resentment; she dis-'played her power to chastise the Americans, and 'to reduce them by conquest. But what has been 'the fruit of their efforts? Have they not served 'to demonstrate to America, to all Europe, and to 'the Court of London herself, her impotence, and 'the impossibility of her ever hereafter bringing 'the Americans again under her yoke!" That she had given this demonstration to America is evident by the manner in which Congress received the conciliatory bills, hastily sent from the Court of London to America, and communicated by Lord and General Howe. Congress were then

* Obs. p. 69. † Obs. p. 64. ‡ Obs. p. 66. ‖ Obs. p. 67.

* Obs. p. 69. † Obs. p. 73.

uninformed of the Treaties which their Commissioners had lately concluded at Paris. Yet confident in the strength and spirit of their country, and of the inability of Britain to subdue it, they* resolved, unanimously, to reject these overtures for peace and conciliation, and to hold no conference or Treaty with any Commissioners on the part of Great Britain, unless, as a preliminary, they withdrew their fleets and armies, or in positive terms acknowledged the independence of these States.

Again: † "It is sufficient for the justification of 'His Majesty that the Colonies, which form a 'nation, considerable as well for the number of 'their inhabitants as for the extent of their domin-'ion, have established their independence, not 'only by a solemn declaration, but also in fact; 'and that they have supported it against the efforts 'of their mother country. Such was, in effect, 'the situation of the United States when the 'King began to negotiate with them. His Ma-'jesty had full liberty of considering them as in-'dependent, or as the subjects of Britain. He 'chose the first part, because his safety, the inte-'rest of his people, invariable policy, and, above 'all, the secret projects of the Court of London, 'imperiously laid him under the necessity." The secret projects here referred to were those of reconciliation, on terms which might satisfy the United States, and produce a re-union and coalition for the purpose of falling upon France. To avoid the risk of this combined attack, to avoid greater danger in future, by preventing the possibility of uniting again the great portions of the British empire, separated, in fact, and thus essentially to diminish its power, were the avowed inducements with the Court of France to consider the United States as independent. Having stated these things, they ‡ "ask if there is a Sovereign 'who, in the same situation with His Majesty, 'would not have imitated his example?"

Again: ‖ "He (the King of France) had the 'right to consider as independent the confederate 'inhabitants of an immense continent, who pre-'sented themselves to him with this character; 'especially after their ancient Sovereign had de-'monstrated, by efforts as continual as painful, 'the impossibility of bringing them back to obe-'dience."

§ "To complete the justification of His Majesty, nothing remains but to examine whether what 'are called *Reasons of State* could have deter-'mined His Majesty to connect himself with the 'Americans. To treat this question with all the 'clearness of which it is susceptible, the political 'interest of France must be viewed under two 'different relations: the first respects the other 'Powers of Europe, the second respects Great 'Britain."

"In treating with the Americans, after they became independent, the King exercised the right 'inherent in his sovereignty, with no other view 'than to put an end to the predominant power, 'which England abused in every quarter of the 'globe." The Observations then suggest that by this conduct the King has essentially watched over the interests of all the Sovereigns of Europe, * "by contributing to restrain a Power which has 'always carried to excess the abuse of her re-'sources."

The Court of London having charged the King of France with ambition, and the project of demolishing the power of England, by his engagements with the Americans, the Observations declare, that † "Nothing more will be discovered in 'them, [his engagements with the United States,] 'on the most accurate scrutiny, than a diminution 'of this power—a diminution which England has 'herself provoked, by a conduct the most unjust 'and most irregular, and which the tranquility 'and happiness of Europe have for a long time re-'quired."

‡ "The most vigilant and consummate prudence 'could not devise adequate precautions against 'the enterprises of such a Power; so that the 'only means of being secured from it was to seize 'the opportunity of diminishing it."

‖ "It may then be truly said, that, on examina-'tion of the conduct of the King, it was not only 'just and lawful, but even necessary, as well for 'the individual interest of France as for that of 'all Europe."

I will trouble you with but one extract from the justificatory Observations of the Court of France.

§ "To deceive the other nations with regard to 'the real motives which have directed the con-'duct of the King, the British Ministry maintain 'that he entered into the Treaty with the Ame-'ricans, not because he feared the secret views of 'Great Britain, but because he foresaw that the 'Americans, defeated, discouraged, without sup-'port, and without resources, were about to re-'turn to their mother country; and that there was 'not a moment to be lost in reanimating and con-'firming them in their opposition. It was, with-'out doubt, for the sake of this assertion, that the 'British Ministry have thought it beneath the 'dignity of their Sovereign to search for the pe-'riod at which France formed connexions with 'the United States; it might with greater truth 'be said that this research did not coincide with 'their plan of defence. The King is willing to 'spare the British Ministry a task so disagreeable 'and embarrassing, by observing for them, that 'the conversations which led to the Treaties of 'the 6th of February, 1778, were considered pos-'terior to the capitulation of General Burgoyne. 'Now, it is notorious that this event elevated the 'courage and the hopes of the Americans as much 'as it dejected the British nation, and principally 'the Court of London. If, then, the King has 'listened to the propositions of Congress, after 'this period, so disastrous to the British, it has not 'been, and could not have been, for any other 'reason but because he thought, with the Unit-

* Journals of Congress 22d April, 1778. † Obs. p. 77. ‡ Obs. p. 78. ‖ Obs. p. 82. § Obs. p. 86.

* Obs. p. 88. † Obs. p. 90. ‡ Obs. p. 91. ‖ Obs. p. 92. § Obs. pp. 95, 96.

'ed States, that their independence was thence-'forward irrevocable."

In these extracts from the Observations of the Court of France, we see an open avowal of her motives for entering into Treaties with the United States during our Revolution,—but do such motives afford any strong claims to our gratitude? She rejoiced at the prospect of a final separation of the thirteen Colonies from Great Britain. She saw them erected by their solemn declaration into independent States: but during near three years of our contest she continued waiting for some fortunate event that should ensure stability and ultimate success to our enterprise. This event took place in the capture of a whole British army. "Then the King listened to the propositions of 'Congress, because he thought with the United 'States that their independence was irrevocable." He then treated with the Americans with no other view than to put an end to the predominant power which "England exercised in every quarter of 'the globe." "A diminution of this power (says 'the King) the tranquillity and happiness of Eu-'rope have for a long time required:" "The 'only means of being secured from it, was to 'seize the opportunity of diminishing it:" and he 'did seize it, because his safety, the interest of 'his people, invariable policy, and above all, the 'secret projects of the Court of London, impe-'riously laid him under the necessity."

After these repeated declarations on the part of France, that her only view in contracting engagements with the United States was to diminish the British power, and thereby promote the safety and interest of her own people, and the tranquillity of Europe; very unexpected indeed are the modern claims of boundless and perpetual gratitude. Nevertheless, animated as we always have been with sincere desires to maintain those useful and friendly connexions with France, which had their foundation in our Revolution, we should have remained silent on these claims, had not the frequency and manner in which they have been urged compelled their discussion. We are not now disposed to question the importance of the aid we actually derived from France in the war of our Revolution, nor to retract the grateful acknowledgments that all America has from that time offered to that nation: we were in the habit of expressing our gratitude to her for the benefits which we received, although they resulted from her exertions to advance her own interest and secure her own safety. But if those benefits had been rendered from pure benevolence, from disinterested good will to us, and we had been remiss in acknowledging them, is it the part of generosity, of magnanimity, constantly to upbraid the receivers of their favors with ingratitude? Do not such reproaches cancel the obligation? But if for favors apparently generous, substantial returns are demanded, the supposed liberal act degenerates, and becomes a mercenary bargain.

If such only are the motives for our gratitude towards France, at the commencement of her political and commercial connexions with us, in the midst of our war with Great Britain, what more can we discover at the conclusion of that war? Let us examine.

In 1781, with the assistance of a French army by land, and a powerful fleet by sea, a second British army was captured. This event made even the British Government despair of bringing the United States again under her subjection. The Ministry was changed; and the Parliament passed an act to authorize the King to make peace. In the Summer of 1782, an agent, on the part of Great Britain, repaired to Paris to negotiate with the Commissioners of the United States. For some time Doctor Franklin and Mr. Jay were alone at Paris. The commission to Mr. Oswald (the British negotiator) authorized him to treat of and conclude a peace or truce with any Commissioner or Commissioners, named or to be named by the colonies or plantations of New Hampshire, &c. (naming the thirteen) or with any of them separately, with parts of them, or with any persons whatsoever. Mr. Jay was not satisfied with this commission to Mr. Oswald: the independence of the thirteen States was no where intimated. Agreeably to their instructions from Congress, to take advice of the Court of France, the Commissioners communicated Mr. Oswald's commission to the Prime Minister, the Count de Vergennes. The Count expressed his opinion that the commission was sufficient; that it was such an one as we might have expected it would be: "That an acknowledgment of our independence, 'instead of preceding, must, in the natural course 'of things, be the effect of the Treaty." This opinion the Count continued from time to time to repeat. In short, "it was evident the Count 'did not wish to see our independence acknow-'ledged by Britain, until they had made all their 'uses of us." Mr. Jay still continued unmoved. He conferred with Mr. Oswald, and "urged in 'the strongest terms the great impropriety, and 'consequently the utter impossibility of our ever 'treating with Great Britain on any other than 'an equal footing; and told him plainly, that he '(Mr. Jay) would have no concern in any nego-'tiation in which we were not considered as an 'independent people."

It was on this occasion that Mr. Oswald communicated to Mr. Jay this article of his instructions: "In case you find the American Commis-'sioners are not at liberty to treat on any terms 'short of independence, you are to declare to 'them that you have our authority to make that 'cession: our ardent wish for peace disposing us 'to purchase it at the price of acceding to the 'complete independence of the thirteen colonies."

The British Ministry approved of this communication; but still were for treating with us as colonies, and making an acknowledgment of our independence only an article of the Treaty. Mr. Jay's discernment discovered the source of the backwardness, at this time, in the British Court, to admit our independence previous to the negotiating of the Treaty; and mentioned it with his reasons to Mr. Oswald; who, far from contradicting Mr. Jay's inference, told him a fact which confirmed his opinion that it originated in the

Court of France, and was communicated to that of London by the British Commissioner then in Paris, to treat of peace between France and Great Britain. Mr. Jay then explained to Mr. Oswald what he supposed to be the natural policy of the French Court, and showed him, "that it was the 'interest of Britain to render us as independent 'of France as we were resolved to be of Britain." Mr. Oswald was convinced. Mr. Jay reminded him of the several resolutions of Congress, passed at different periods, not to treat with British Commissioners on any other footing than that of absolute independence; and proposed to give to him in writing what he had before expressed in conversation—his determination not to treat but on the footing of equality. Mr. Oswald preferred having it in writing. Mr. Jay prepared the draught of a letter, to be signed by him and Dr. Franklin, expressing their determination not to treat but on terms of equality, as an independent nation; and exhibiting the reasons of this determination. Dr. Franklin thought the letter "ra-'ther too positive, and therefore rather impru-'dent; for that in case Britain should remain 'firm, and future circumstances should compel us 'to submit to their mode of treating, we should 'do it with an ill grace, after such a decided and 'peremptory refusal." Besides, the Doctor seemed much perplexed and fettered by the instructions from Congress—to be guided by the advice of the French Court. Neither of these considerations affected Mr. Jay. For as to the first, he could not conceive of any event which would render it proper, and therefore possible, for America to treat in any other character than as an independent nation. And as to the second, he could not believe that Congress intended they should follow any advice which might be repugnant to their dignity and interest.

Dr. Franklin's doubts prevented this letter being signed. Mr. Oswald was disappointed, and desired to see the draught. He saw it, and requested a copy of it. After taking time for consideration, Mr. Jay complied with the request. "For though unsigned, it would convey to the 'British Ministry the sentiments and opinions he 'wished to impress; and if finally they should not 'be content to treat with us as independent, they 'were not yet ripe for peace or treaty with us. 'Besides, he could not be persuaded that Great 'Britain, after what the House of Commons had 'declared, after various other acts of that Govern-'ment, manifesting the intention to acknowledge 'it, would persist in refusing to admit our inde-'pendence, provided they really believed that we 'had firmly resolved not to treat on more humble 'terms."

"With the copy of this draught Mr. Jay gave 'Mr. Oswald copies of the various resolutions of 'Congress which evinced their adherence to their 'independence. These papers Mr. Oswald sent 'by express to London, and warmly recommended 'the issuing a new commission, to remove all 'further delay."

Mr. Jay having afterwards ascertained that the Count de Vergennes had sent a confidential agent to London, but whose journey was intended to have been a secret, for purposes evidently hostile to the interests of the United States, determined immediately to counteract the project, by an agent on whom he could rely, to make to the Court of London such representations as he thought the occasion demanded. He succeeded, and in about two weeks, Mr. Oswald received a new commission in the form for which Mr. Jay had contended.

Mr. Jay remarked, that agreeably to the Declaration of Independence, the United States, as free and independent, had full power to levy war, conclude peace, contract alliances, &c. That by the act of confederation, the style of the Confederacy was declared to be, THE UNITED STATES OF AMERICA, and by that act Congress were vested with the sole and exclusive right and power of determining on peace and war, and of entering into treaties and alliances: that being of right and in fact free and independent States, their Representatives in Congress granted a commission to certain gentlemen, of whom Dr. Franklin and he were two, in their name to confer, treat, and conclude with Ambassadors or Commissioners, vested with equal powers, relating to the re-establishing of peace, &c. But the first commission to Mr. Oswald was not equivalent: the United States were not named in it; nor their Commissioners, who consequently were not the persons with whom Mr. Oswald was authorized to treat. And if the Commissioners had consented to treat with Mr. Oswald under such a commission, what would have been the condition of the people of the United States in the interval, between the commencement of the negotiation and the conclusion of peace? They would have been not independent citizens; but, by our own acknowledgment, British subjects. Mr. Jay would not consent to this degradation, after we had maintained our independence six years, after we had established it in fact, and after Congress had, by firm and repeated resolutions, refused to treat with Great Britain, unless as a preliminary, she withdrew her fleets and armies, or else in positive and express terms, acknowledged the independence of the United States. At the same time, Congress manifested their readiness to attend to such terms of peace as might consist with the honor of independent nations; but the honor of an independent nation forbade their treating in a subordinate capacity. Even the dignity of France, who four years before treated with us as an independent nation, required that we should not degrade ourselves when going to treat with her enemy; and why then should her Ministers desire us to do it? Especially when the Treaty of Defensive Alliance declared the "essential and direct end of it 'was to maintain effectually the liberty, sove-'reignty and independence, absolute and unlimi-'ted, of the United States, as well in matters of 'government as of commerce." There were several reasons. The two parties, France and the United States, engaged not to lay down their arms until the independence of the United States should be attained. The explicit acknowledg-

ment of their independence by Great Britain would show, that for the essential and direct object of the alliance, there was no necessity for continuing the war. But since making this Treaty of Alliance with the United States, France had formed other connexions, with whose views we had no concern, and for whose sake we were not bound to postpone the offered peace. We have seen the explicit avowal of the King of France that he entered into a Treaty with the United States with the view to promote the safety and interest of his kingdom and subjects, by diminishing the power of England: but in doing this, and eventually facilitating our independence of Great Britain, it became apparent that there would be no objection to our dependance on France, particularly in "leaving the 'King master of the terms of the Treaty of Peace." And to keep us thus far dependant was manifestly the object of certain measures of the French Court calculated to deprive the United States of an immense western territory; of the navigation of the Mississippi, and of the fisheries, except on our own coast.

A combination of facts and circumstances leave no doubt of the intentions of the French Court as to the objects above-mentioned. I cannot undertake the lengthy detail, and will only just mention in regard to territory, what was proposed and urged by one whose official station rendered it impossible to believe, that he was expressing only his own sentiments; or that he was not acting by the direction of the French Court. He proposed, what he called a conciliatory line between the United States and Spain. This was to begin at the division of East from West Florida, and run thence to fort Toulouse on the river Alabama; thence by different courses to Cumberland river, and down the Cumberland to the Ohio. It was insisted that the United States could have no pretensions westward of this line. That "as to the course and navigation of the 'Mississippi, they followed the property, and would 'belong therefore to the nation to which the two 'banks belonged; the United States could have 'no pretensions, not being masters of either bor-'der of the river;" and that "as to what respects 'the lands situated to the northward of the Ohio, 'there was reason to presume that Spain could 'form no pretensions thereto: their fate must be 'regulated with the Court of London." It is certain that, originally, Spain made no pretensions to any lands eastward of the Mississippi to the northward of the Floridas; and it is clear that the idea of her finally making the claim, was suggested by the Court of France.

We are now prepared to understand the declarations made in the instructions of Citizen Genet, Minister Plenipotentiary from the French Republic to the United States. These instructions are dated the 4th of January, 1793, and were published in December of that year, in Philadelphia, by Mr. Genet, in vindication of his extraordinary measures, which had induced our Government to desire his recall. In these instructions we find the following passages: "The Executive Coun-'cil has called for the instructions given to Citizen 'Genet's predecessors in America, and has seen 'in them, with indignation, that at the very time 'the good people of America expressed their grat-'itude to us in the most feeling manner, and gave 'us every proof of their friendship, Vergennes 'and Montmorin thought that it was right for 'France to hinder the United States from taking 'that political stability of which they were capa-'ble; because they would soon acquire strength, 'which it was probable they would be eager to 'abuse." "The same Machiavelian principle in-'fluenced the operations of the war for indepen-'dence—the same duplicity reigned over the ne-'gotiations for peace."

We see, then, that in forming connexions with us in 1778, the Court of France, the actual organ of the nation, had no regard to the interest of the United States, but that their real object was, by seizing the occasion of dismembering the British empire, to diminish the power of a formidable rival; and that when, after we had carried on a distressing war for seven years, the great object for which we had contended—independence—was within our reach, that Court endeavored to postpone the acknowledgment of it by Great Britain, and eventually to deprive us of its fairest fruits—a just extent of territory, the navigation of the Mississippi, and the fishery.

Such being the motives and conduct of France, what inspired our truly grateful sentiments towards that nation? The ardent affection, the sincere friendship of Americans to Frenchmen. We were engaged in a common cause against Great Britain. We received loans of money; we were aided by troops and ships in attacking and conquering the common enemy in the bosom of our country; and this association in war produced acquaintances and personal friendships; and, experiencing these benefits, we gave way to our feelings, without inquiring into the motives from which they were rendered.

But why are we so often reminded of the debt of gratitude? Is it really because more than gratitude—because compensation is expected to cancel it? If compensation is the object, the Treaty of Alliance has absolved the claim: "The 'contracting parties declare that, being resolved 'to fulfil, each on his own part, the clauses and 'conditions of the present Treaty of Alliance, ac-'cording to its own power and circumstances, 'there shall be no after claim of compensation on 'one side or the other, whatever may be the event 'of the war."

I am here naturally led to notice Mr. Adet's charge already mentioned—That we have not offered to France the succors which friendship might have given, without compromitting the Government.

If Mr. Adet had specified the kind of succors which might thus have been offered, we could better judge of the correctness of his assertion.

But is it true that we have rendered no succors to France? Read the following passages in the Secretary of State's letter of the 16th of August, 1793, to Mr. Morris: "We recollect with satis-

'faction, that in the course of two years, by un-'ceasing exertions, we paid up seven years arrear-'ages and instalments of our debt to France, 'which the inefficacy of our first form of Govern-'ment had suffered to be accumulating; that, press-'ing on still to the entire fulfilment of our engage-'ments, we have facilitated to Mr. Genet the ef-'fect of the instalments of the present year, to en-'able him to send relief to his fellow-citizens in 'France, threatened with famine; that, in the 'first moment of the insurrection which threat-'ened the colony of St. Domingo, we stepped for-'ward to their relief with arms and money, taking 'freely on ourselves the risk of an unauthorized 'aid, when delay would have been denial; that 'we have given the exclusive admission to sell 'here the prizes made by France on her enemies 'in the present war, though unstipulated in our 'Treaties, and unfounded in her own practice, or 'in that of other nations, as we believe."

To this detail I have to add, that of all the loans and supplies received from France in the American war, amounting nearly to fifty-three millions of livres, the United States, under their late Government, had been enabled to pay not two millions and a half of livres; that the present Government, after paying up the arrearages and instalments mentioned by Mr. Jefferson, has been continually anticipating the subsequent instalments, until, in the year 1795, the whole of our debt to France was discharged, by anticipating the payment of eleven millions and a half of livres; no part of which would have become due until the 2d of September, 1796, and then only one million and a half; the residue at subsequent periods; the last not until the year 1802.

There remain yet various passages in Mr. Adet's notes on which some observations are to be made.

In my letter of the 1st of November last, in answer to Mr. Adet's note of October 27th, in which he communicated the decree of the Executive Directory of the 2d of July last, declaring that the flag of the Republic of France should treat the flag of neutrals in the same manner as these should suffer it to be treated by the English, I asked an explanation of the decree, mentioning the circumstances which excited doubts. There seemed to be sufficient cause for inquiry. Had the decree referred to the past captures by the English, our knowledge of them would have been some guide in forming our opinion of the threatened captures by the French; but the operation of the decree was to depend on the future conduct of the English; the French were to treat the flag of neutrals as these shall suffer it to be treated by the English. As this could not be ascertained beforehand, we wished to know whether the restraints then exercised by the British Government were considered as of a nature to justify a denial of those rights which were pledged to us by our Treaty with France? Whether the orders had actually been given to capture the vessels of the United States? And, if given, what were the precise terms of those orders? Mr. Adet, in his reply, says, that I appear not to have understood either the decree of the Directory or his note which accompanied it. The meaning of the decree is certainly not very obvious. The manner of executing it was declared to depend on a contingency—the future conduct of the English. How were the French cruisers in the four quarters of the world to determine what was the conduct of the English at any given time? If he could have furnished a copy of the orders actually given to French armed vessels under the decree, we might have seen clearly what were the intentions of the Directory. If we are to take the practice of the French armed vessels, and of some of the French tribunals, as the true illustration of the decree, Mr. Adet's own explanation will be very defective. He has specified only two cases—the taking of English (or other enemy's) property on board American vessels, and the seizure of all the goods classed as contraband in our Treaty with Great Britain. In the case of contraband goods, the seizure of them is lawful only when they are destined to the ports of their enemies; and the contraband goods only are liable to confiscation. But the special agents of the Directory in the West Indies order the seizure of all vessels having on board contraband goods, no matter whether destined to an enemy's, or to a neutral, or even to a French port; and when seized, they confiscate not merely the contraband articles, but all other goods, and the vessel herself in which they are laden. They also assign, in their decrees of confiscation, another cause of capture and condemnation—that the American vessel has sailed to or from a port in possession of the English. We are not informed that the English take any neutral vessels for this cause. We have heard of several American vessels being captured and confiscated by the French, merely because they had not a sea-letter, when no doubt could have been entertained of the property being American. Yet it is conceived that the want of a sea-letter was never intended to exclude other proofs of property.

Further: ought we to have imagined that the Executive Directory intended to leave it to the discretion of every privateer, and of every inferior tribunal, to judge what, at any time subsequent to their decree, was the actual treatment received by American vessels from the British? Ought we to have imagined that the decree was formed in such indefinite terms on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression? Ought we to have imagined what Mr. Adet has himself declared to be the meaning of the decree, that the French armed vessels were not to content themselves with capturing American vessels having English property or contraband goods on board, and getting such property and goods condemned by their tribunals, but if any English commanders were to practice "vexations" towards Americans, that Frenchmen were to do the same? Ought we to have imagined that the Directory intended the citizens of France should be encouraged to take revenge on their friends for the outrages of their enemies? And what is to limit these vexations? If one English commander in a hundred perversely

and wantonly abuses his power, is every French officer to become his rival in dishonor? Or, if we are to suffer only measure for measure, (and surely the decree goes not beyond this,) who is to designate the every hundredth French officer who is to be the instrument of similar oppression?

But French armed vessels are to make all these captures in violation of the Treaty, and we are to suffer all these vexations in violation of reason and humanity, while we endure them from the English "without an efficacious opposition!" And what opposition will be deemed efficacious? For all captures made by the British contrary to the Law of Nations we have, agreeably to that law, demanded satisfaction. The British have engaged to make us satisfaction, and Commissioners are now sitting to liquidate those demands. What opposition could have been more efficacious? What further opposition can be lawful?

Instead of further comments on this subject, let me present to you some passages in Mr. Adet's letter of the 14th of July, 1795. In this letter he communicated to the Secretary of State the decree of the Committee of Public Safety of the * 3d January, 1795, repealing the 5th article of the decree of the † 15th of November, 1794. The latter violated our Treaty by subjecting the property of the enemies of France on board American vessels to capture, and by adding to the list of articles contraband. It was therefore repealed by the former. Mr. Adet seized this occasion to make the following declaration: "You will see, 'sir, (said he,) in both [the decrees] the undis-'guised disposition and sincere desire of the 'French Government religiously to observe the 'engagements it has contracted with its allies, 'and its readiness to redress infractions, which 'have never taken place but from the impulse of 'circumstances." "It is amidst her triumphs that 'the Republic loves to give this striking mark of 'its fidelity. Victorious France knows no other 'concern than that of justice—no other diplomatic 'language than that of truth." To this truth, to this justice, to this fidelity, we now make our appeal.

From the style of Mr. Adet's complaint of the British being suffered to arm in our ports, it might be imagined the instances were numerous. None were permitted; the actual armaments were few, and are as old as the year 1793, and were represented by Mr. Genet to the Secretary of State. "What answer (asks Mr. Adet) did the Govern-'ment give to the representations of the Minis-'ter of the French Republic in this respect? It 'said that these vessels sailed too suddenly; that 'it was not able to cause them to be stopped." The answer was given by the Secretary of State in different words: ‡ "Those from Charleston 'and Philadelphia have gone off before it was 'known to the Government, and the former, in-'deed, in the first moments of the war, and before 'preventive measures could be taken in so distant 'a port." In the case of the Trusty, Captain Hale, at Baltimore, the Governor of Maryland having been informed that she had been buying guns, had given orders to examine the fact; "but 'she got off before the officer could get on board, 'having cleared out three or four days before." I have not observed that Mr. Genet ever renewed his complaint with regard to any of these vessels; whence I suppose he was satisfied with the answer, as he indeed ought to have been. The two English vessels that sailed from Philadelphia escaped even the vigilance of the French Consul,* both had departed many days before he had been informed of them. This is stated by the Consul himself in his report of the 21st of June, 1793, to Mr. Genet. And yet the Government is now charged by Mr. Adet with violating the Treaty, because it did not stop them! Although the officers of the United States had been required to be watchful, and to report all illegal armaments in our ports, yet it was natural for the Government to expect to derive information from the French Consuls, who doubtless were charged by their own Government to be particularly vigilant in regard to all attempts at such armaments by the enemies of the Republic. Mr. Adet remarks, that "some in-'habitants of the United States had aided in these 'illegal armaments" of the enemies of France, and asks, "What measures were taken against 'them? Was any search made to discover them—'to prosecute them? Never." Yet the very letter from Mr. Genet to the Secretary of State, in which and its enclosures Mr. Adet has found this subject of complaint, suggests a different conclusion: † "I learn with pleasure, (says Mr. Genet,) 'by your letter of the 23d of this month, [June, '1793,] that the Government of Georgia have 'caused to be stopped a vessel armed in that State 'for the purpose of cruising against the French, 'and that the persons interested in this vessel will 'be prosecuted."

I shall say but a few words on the subject of the letters of which Mr. Adet complained that they remained unanswered. The first (of September 29, 1795) contained those reproachful insinuations which were recited in my letter of the 1st of November last. Why were these introduced by him if they were not to be applied? An answer was draughted on the subject of his letter, with animadversions on those insinuations: but desiring to avoid irritations, the answer was not sent. It was deemed of the less consequence, seeing in my letter to Mr. Monroe of the 12th of September, 1795, the sentiments and reasonings of the Government on that and other subjects relating to France, had been fully expressed, to enable him to make immediate communications to the French Government itself; and it was hoped that the information given in that letter, and in others written to him the preceding Summer, would have furnished materials (and that these materials would have been timely used) for such representations as would have satisfied the French Government that the United States, in forming the Treaty with Great Britain, had only

* 14 Nivose, 24 year. † 25 Brumaire, 24 year.
‡ State Papers, p. 41. June 28, 1793.

* State Papers, p. 41. † State Papers, p. 42.

exercised an indisputable right; and neither by that Treaty, nor any other act, had infringed a single article of our Treaties with France.

On the subject of the impressment of our seamen, mentioned in Mr. Adet's letters of March and April, 1796, I shall only add, that nothing was more notorious than that those impressments had excited universal resentment in the United States, and been the subject of repeated remonstrance from our Government to the British Court. Thus, in Mr. Pinckney's note to Lord Grenville, in August, 1793, which was published here that year, in the same collection of State papers with Mr. Jefferson's letter of September 7th,* which Mr. Adet has quoted, and on the fifth page next succeeding it, we find the following: "Under this 'head it may be observed, that for want of ar-'rangements being made for the security of Ame-'rican seamen in the ports of this country, (Eng-'land,) they are subject to the various hardships 'Mr. Pinckney has so freqently detailed to Lord 'Grenville. And in the next page, in his letter 'to Mr. Jefferson, Mr. Pinckney says: The pro-'tection afforded our seamen remains also on the 'same footing; they (the British Government) 'profess a willingness to secure to us all real 'American seamen, when proved to be such; but 'the proof they will not dispense with." To remove as far as possible the embarrassments arising from this cause, and more effectually to protect our seamen, was the object of a bill pending in Congress, and the subject of public debate, at the time I received Mr. Adet's letters. This bill was passed into a law.

All these acts demonstrated that the Government did not assent, but on the contrary that they resisted the impressment of American seamen: and this resistance has been continued; consequently, we cannot be charged on this ground with a violation of our neutrality.

Among the former subjects of complaint not now renewed by Mr. Adet, is that against the Government for permitting the purchase and exportation of horses, by British agents, in the course of the last Winter and Spring. The correspondence on this subject is lengthy; and yet the question lies within a very narrow compass.

Perhaps no rule is now better established, than that neutral nations have a right to trade freely with nations at war; either by carrying and selling to them all kinds of merchandise, or permitting them to come and purchase the same commodities in the neutral territory; in the latter case, not refusing to one Power at war what it permits another to purchase; with this exception in respect to articles contraband, that if the cruisers of one of the belligerant Powers meet at sea with neutral vessels laden with such articles destined to the ports of their enemies, the neutral vessels may be captured, and the contraband goods will be lawful prize to the captors; but the residue of their cargo and the vessels themselves are to be discharged.

But if there were any doubt on this point under the Law of Nations, there can be none in relation to France and the United States; because this matter is specially regulated by their Treaty of Commerce. This Treaty, so far from restraining the trade of either party remaining neutral, while the other is engaged in war, provides regulations agreeably to which it should be conducted.

The 12th and 13th articles authorize either party that is at war, to stop the neutral merchant vessels of the other destined to the ports of an enemy, upon just grounds of suspicion, concerning the voyage or the lading. If, on examining the ships' papers, it appears there are any contraband goods on board, "consigned for a port under 'the obedience of his enemies," she may be carried into port, and the contraband articles may, by regular proceedings in the Admiralty, be confiscated: "saving always as well the ship itself 'as any other goods found therein, which by this 'Treaty are to be esteemed free; neither may 'they be detained on pretence of their being as 'it were infected by the prohibited goods; much 'less shall they be confiscated as lawful prize." It further provides, that if the master of the neutral ship shall be willing to deliver the contraband goods to the captor, and the latter receives them, then is the neutral ship to be forthwith discharged and allowed freely to prosecute her voyage. The 23d article goes further. If the neutral ship shall have on board the enemies of the other, "they are not to be taken out unless they 'are soldiers in actual service."

These articles are so explicit, it may seem strange that a doubt should arise concerning them. I presume no doubt did arise: for Mr. Adet, overlooking those provisions of the Treaty, demanded that the Government should stop the exportation of horses by the British, upon the principle that it was a neutral duty, required by the Law of Nations. An answer was given to his demands, in which the regulations of our Treaty with France were particularly brought into view, as well as the rules of the Law of Nations. Mr. Adet, however, after some time renewed his claims; but again kept the Treaty out of sight. An answer was given to the renewed claims; and we heard no more on the subject until the French privateers in the West Indies began to capture American vessels which had horses on board. You will find among the documents on this subject the copy of a decree of the citizens Victor Hugues and Lebas, the special agents of the Executive Directory in the Windward islands, condemning an American vessel and her entire cargo for having a small number of horses on board, not bound to their enemy's, but to a neutral port. And these special agents ground their decree on the advice they received from Mr. Adet, under the date of 14th Messidor, being July 2, 1796. This vessel and cargo were thus condemned without the sight of a single paper belonging to her: the master had them in his pocket, and would have brought them home, but for the recollection of the interpreter, some hours after the sentence of condemnation had been passed. These citizens exercise, indeed, a very brief authority. The

* Mr. Adet by mistake dates it September 12th.

process in the case of a second American vessel, which to complete her lading had taken on board nineteen horses, but which was also bound to a neutral port, was in this form: The captain having come before one of the agents, he, without any previous examination or hearing, addressing himself to the captain, pronounced sentence, in these words: "I have confiscated your 'vessel and cargo;" closing the sentence with opprobrious language.

Mr. Adet, on the 18th of May last, revived his predecessor's claim of right by Treaty to sell their prizes in our ports. This occasioned the correspondence on this subject which you will find among the documents collected on this occasion. He contents himself, however, with considering it as a right granted not positively, but by implication. That is, because the Treaty forbids the enemies of France to sell their prizes in our ports; therefore it grants to her a right of selling her prizes. As if my friend's denial of a favor to my enemy, was in fact a grant of the same favor to me. The simple statement of the ground of the claim would seem sufficient to show that the Treaty will not support it. That sales of French prizes have been at all permitted, has been owing to the indulgence of the Government. This indulgence was continued until it interfered with a new positive obligation: an obligation precisely the same that France herself contracted eight years subsequent to her Treaty with us, and with the same Power. This obligation is found in the twenty-fourth article of our Treaty, and the sixteenth of the French Treaty with Great Britain. Thus France and the United States alike engaged to permit no enemy of Great Britain to arm privateers in their ports, or to sell their prizes there, or in any manner to exchange them. Consequently had France remained at peace, and we engaged in a war with Great Britain, our privateers would not be permitted to sell their prizes in French ports.

And by the maritime law of France,* prizes, except they are taken from her enemies, can stay in her ports no more than twenty-four hours, unless compelled by tempest to remain longer; and the sales of such prizes are forbidden under severe penalties. But, notwithstanding the certainty of our right to forbid the sales of prizes in our ports, and notwithstanding the express legal command of the Chief Justice of the United States holding a Circuit Court in South Carolina, in May last, prohibiting the sale of a particular prize (the British ship Amity) at Charleston, the French agents sold the prize vessel, and the sale received the formal sanction of the French Consul. Yet even this affair has been made a subject of complaint by Mr. Adet, because the Collector of that port refused a clearance to the prize vessel thus sold in defiance of the authority of the United States; and because he also delayed, until, in a new case, he should get advice to permit the exportation of the cargo of the prize ship which on a survey had been reported to be irreparable.

* Valin, vol. 2, p. 272.

Indeed the French Minister has discovered an aptitude to complain. I may cite as instances his letters of the 9th January and 3d of March 1796; the former because the colors of France, which he had presented to the United States, were not permanently fixed and displayed before Congress; the latter, because some printers of almanacs or other periodical publications in the United States, in arranging the names of the Foreign Ministers and Agents resident among us, had placed those of Great Britain before those of France and Spain. Mr. Adet desired my declaration in writing that the Government of the United States had no concern in printing the works in which the agents of the French Republic were registered after those of Great Britain, and that the works themselves might be suppressed. I gave him an answer in writing with my consent to his publishing it in the newspapers, agreeably to his request. The answer states, that in matters of this kind the Government did not and could not interfere. With regard to the colors, I must observe that, in what concerns our foreign relations, the President being the sole representative of the people of the United States, they were properly presented to him. He received them with all possible respect and directed them to be deposited with our national archives, that both might be preserved with equal care.

It remains to notice a summary of complaints exhibited by M. De la Croix, the French Minister for Foreign Affairs, to Mr. Monroe, our Minister at Paris, under the date of March 9th, 1796; to which the latter returned an answer, under the date of March 15th. These were inclosed in Mr. Monroe's letter of the 2d of May and received at the Department of State on the 19th of July. Copies of both papers and an extract of so much of his letter as relates to this subject are among the documents now collected.

First complaint—the inexecution of Treaties.

1st. The courts of justice have taken and still take cognizance of prizes brought by French privateers into the ports of the United States.

2d. English ships of war have been admitted into those ports, even in cases prohibited by the 17th article of the Treaty; that is, when they have made prizes on the French Republic or its citizens; and have also conducted thither their prizes.

3d. The Consular Convention has in two points become illusory—1st. For want of giving to the Consuls the means of having their decisions executed in all disputes between Frenchmen, of which the Consuls have the exclusive cognizance: 2d. Because the Judge charged with issuing warrants for apprehending French mariners who desert, require the original roll of the crew to be first produced: 3d. The arrest of the corvette Le Cassius and her captain.

Second complaint—The impunity of the outrage committed on the Republic in the person of its Minister, the Citizen Fauchet, by the English ship Africa, in concert with the vice-consul of that nation, within the waters of the United States.

Third complaint—"The Treaty concluded in

November 1794, between the United States and Great Britain."

Excepting the second complaint, relative to the attempt of the English ship Africa to seize Mr. Fauchet and his papers, and the 3d article under the first complaint relative to the Consular Convention, all the charges in this summary have been already examined, and we think proved to be unfounded.

As to the Consular Convention, many inconveniences would attend the giving to the Consuls a jurisdiction to the extent contended for on the part of the French Republic, to be exercised by French Consuls in the United States, and consequently by American Consuls in France. The inconveniences are manifestly so great as to require very explicit language in the convention of the two nations on this subject, to authorize the conclusion that such enlarged jurisdiction was intended. It would be to erect in foreign countries, complete courts of justice, with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce and navigation could not in the nature of things be confined to the foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction demanded is only of French Consuls over French citizens in the United States, and reciprocally of American Consuls over the citizens of the United States in France. From these considerations a presumption would arise, that the jurisdiction contemplated in the Consular Convention was to be merely voluntary, but at the same time exclusive of the courts of the country. An examination of the convention we believe will support this and no other construction. The 12th article provides that all differences and suits between Frenchmen in the United States, and between citizens of the United States in France, and particularly all disputes between seamen and their captains, and between captains of different vessels of their nation, shall be determined by the respective Consuls, either by a reference to arbitrators, or by a summary judgment and without costs. "No officer of the country, 'civil or military shall interfere therein, or take 'any part whatever in the matter." This last clause alone would seem sufficient to repel the claim we are considering. Sheriffs, marshals, and their deputies cannot aid in the execution of consular decisions, because they are "officers of 'the country," expressedly forbidden to "take any 'part in the matter.' But was it meant that the laws should give Consuls the power to appoint such executive officers of their own nation? We find no such thing in the convention, On the contrary, in the case of deserters from vessels mentioned in the 9th article, whom the Consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, 'judges, and officers, competent," to make the arrests; meaning the courts, judges, and officers of the country where the Consuls reside. Besides, if power could be given to Consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation, to be paid by one or other of the parties: but the 12th article declares that the consular judgments shall be "without costs." To these observations I subjoin the deliberate opinions of two respectable lawyers, Mr. Harrison of New York, and Mr. Bradford, the late Attorney General of the United States.

"I have considered the 12th article of the 'convention between his late most Christian 'Majesty and the United States of America, 'and also the act of Congress concerning Consuls 'and Vice-Consuls, as far as it prescribes the duty 'of Marshals of the United States, and it is my 'opinion that the Marshals are not bound by law 'to execute any sentence of a French Consul, 'arising under the said article.

RICHARD HARRISON,
U. S. Attorney for the N. Y. District.

"NEW YORK, 6th *March*, 1794."

"I have considered the convention and act 'above referred to, and I perfectly coincide in the 'opinion given by the Attorney of the United 'States for the district of New York.

WILLIAM BRADFORD.

"PHILADELPHIA, 14th *March*, 1794."

The other complaint under this head is, that the Judges who are charged (by an act of Congress) to issue warrants of arrests against deserters from French vessels have required the original ship's roll to prove that the men alleged to have deserted were a part of the crew; in contempt of the 5th article, which admits in the tribunals of both countries copies certified by the Consul.

If we look at the 9th article of the Consular Treaty we shall see that the Consuls who demand the arrests of deserters from vessels of their nation, must prove "by an exhibition of the regis-'ters of the vessel or ship's roll, that those men 'were a part of the crew." It is apparent that the original roll, and not a copy, is here referred to; nor indeed is the contrary pretended: but it is said that the 5th article admits certified consular copies as evidence in the courts of both nations. But the 5th article appears to have no relation to the subject of the 9th. It stipulates that "the Consuls respectively shall have the exclu-'sive right of receiving in their chancery, or on 'board of vessels, the declarations and all other 'acts which the captains, masters, crews, passen-'gers, and merchants of their nation may choose 'to make there, even their testaments and other 'disposals by last will: and the copies of the said 'acts, duly authenticated by the said Consuls, un-'der the seal of their consulate, shall receive faith 'in law, equally as the originals would." The ship's roll (or shipping paper) of a vessel's crew is not an act to be done before the Consul, but the evidence of a private agreement between the captain of a vessel and his crew; and when he alleges that any of them have deserted, the 9th article requires this original evidence of the fact

to be produced to the Judge as the ground on which he shall issue his warrant to arrest them. And this is the construction put on this article by the Judges; and, for aught I know, without any diversity of opinion. The difference alleged by Mr. Fauchet in one of his letters to the Secretary of State I have inquired into, and find he was under a mistake. And the mistake arose probably from this circumstance, that when from the information of the Consul there was danger that the deserter would wholly escape unless instantly apprehended, the Judge has issued his warrant to arrest and bring before him the alleged deserter, but when brought, that Judge has not committed the man, or delivered him to the Consul, unless the original roll was produced to prove him one of the ship's crew.

As to the outrage against Mr. Fauchet by the Africa man-of-war, in attempting to seize him and his papers within the jurisdiction of the United States, and Captain Home's insult on their authority, I do not know what measures more efficacious could have been taken by the Executive than those which were adopted, to obtain satisfaction. After waiting a reasonable time for explanations on the part of Captain Home, and of Mr. Moore the English Vice-Consul, and receiving none, the President revoked the Exequatur of the Vice-Consul, and desired the Governor of Rhode Island, where the Africa had been lying, to communicate to Captain Home the demand of the President—that he should immediately remove from a station within the jurisdiction of the United States where he had violated their rights; and further to make known to him, that in forty-eight hours after the requisition should be communicated to him all intercourse between the citizens of the United States and his ship would be forbidden.

It is very true that the Exequatur of the British Vice-Consul was withdrawn expressly for his knowingly transmitting to the Governor of Rhode Island a most insulting letter from Captain Home; because although he was on board the Africa when the attempt was made against Mr. Fauchet, the President had no evidence of his co-operation. The Minister of the United States in London, was directed to represent to that Court the conduct of Captain Home, and to demand his exemplary punishment. It was not to be expected that he would be judged unheard; and consequently much delay must have ensued. From her station on the coast of North America, the Africa went to the West Indies. Seeing some time since, by an article in the newspapers, that the Africa was returned to England, our Minister in London was reminded of this affair, that the demand of satisfaction might be renewed.

Although the subject of M. De la Croix's third and last complaint (the British Treaty) has been already discussed, allow me here to make a few remarks. He says "it will be easy to prove that 'the United States, in this Treaty, have knowingly and evidently sacrificed their connexions with 'the Republic, and the most essential and least 'contested prerogatives of neutrality." The reverse of what the Minister considers so easy to prove, we think has been demonstrated. Our legally binding connexions with France we always considered as being formed by our Treaties: and we may say with confidence that we have not "knowingly" violated these in a single article. If individuals have at any time infringed them, the Government has been sincere and diligent in its endeavors to redress the wrong. If the ties of affection, of warm enthusiastic friendship, have been weakened, the cause is to be sought for not in the acts of the American Government, which have been constantly directed to the preservation of our peace with all nations. These ties did not depend on Treaties. It was our friendship to France, contracted during our Revolution, and our partiality for the cause of liberty and self-government for which she engaged in her own, that made us endure numerous injuries almost without complaining. We were not willing to ascribe to the Republic, the outrages of her Ministers against the laws, the sovereignty, and the dignity of the United States, or the exceptionable style of their communications. Even when for such flagrant aggressions, often repeated, we desired the recal of one of her Ministers, it was done in the most soothing language; and in the meantime, lest the interest of the Republic should suffer, he was permitted to exercise his functions in all cases in which those interests could be affected. When his successor arrived he officially requested that the offending Minister might be apprehended, that he might be sent to France: but the Government, satisfied by his removal, declined the measure. Some irritations were experienced from that successor—what sensations have been produced by Mr. Adet's notes, your own feelings, on the perusal, will enable you to judge. If he intended to excite the general indignation of our citizens, he is not disappointed; but it is presumed this was not the object. After an exhibition of complaints in a style so exceptionable, he could add but one more improper act, that of publishing his notes in the newspapers: he had scarcely transmitted them to the Executive, before he forwarded them to the printer for publication.

From the foregoing statement, we trust it will appear, that there has been no attempt in the Government of the United States to violate our Treaty or weaken our engagements with France: that whatever resistance it has opposed to the measures of her agents, the maintenance of the laws and sovereignty of the United States, and their neutral obligations, have rendered indispensable. That it has never acquiesced in any acts violating our rights of interfering with the advantages stipulated to France, but, on the contrary, has opposed them by all the means in its power; that it has withheld no succors from France that it was compatible with the duties of neutrality to grant; that, as well by their independent political rights as by the express provisions of the Commercial Treaty with France, the United States were at full liberty to enter into Commercial Treaties with any other nation, and consequently with Great

Britain; that no facts manifesting a partiality to that country have been, and I add that none such can be, produced.

Of the propriety and justness of these conclusions you will endeavor to satisfy the French Government; and, conscious of the rectitude of our own proceedings during the whole course of the present war, we cannot but entertain the most sanguine expectations that they will be satisfied. We even hope that this has been already accomplished, and that you will be saved from the pain of renewing a discussion which the Government has entered upon with regret. Your mission and instructions prove its solicitude to have prevented this necessity, and the sincerity of its present hopes that your endeavors, agreeably to those instructions, "to remove jealousies and obviate com'plaints, by showing that they are groundless; to 'restore confidence so unfortunately and injuri'ously impaired; to explain the relative interests 'of both countries, and the real sentiments of your 'own"—have been attended with success. And, as a consequence thereof, we rely on the repeal of the decrees and orders which expose our commerce to indefinite injuries—which militate with the obligations of Treaties, and our rights as a neutral nation.

I have the honor to be, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

FRENCH SPOLIATIONS.

Report of the Secretary of State on the Memorial of sundry citizens of the United States residing in the city of Philadelphia, referred to him by order of the House on the 7th of May, 1796, and laid before the House of Representatives the 27th February, 1797.

The Secretary of State, in pursuance of an order of the House of Representatives of the 7th of May, one thousand seven hundred and ninety-six, on the memorial and petition of sundry citizens of the United States residing in the city of Philadelphia, relative to the losses they had sustained by the capture of their property by French armed vessels on the high seas, or in consequence of the forced or voluntary sales of their provisions and merchandise to the officers of the colonial administrations of the French Republic, having examined the same, together with accounts of similar losses sustained by American citizens from the French, in the European seas, or in the ports of France, which, in the details, were necessarily connected with the former—respectfully reports:

That, since the commencement of the present war, various and continual complaints have been made by citizens of the United States to the Department of State, and to the Ministers of the United States in France, of injuries done to their commerce under the authority of the French Republic and by its agents. The injuries were—

1. Spoliations and maltreatment of their vessels at sea by French ships of war and privateers;

2. A distressing and long-continued embargo laid upon their vessels at Bordeaux, in the years one thousand seven hundred and ninety-three and one thousand seven hundred and ninety-four;

3. The non-payment of bills and other evidences of debts due, drawn by the colonial administration in the West Indies;

4. The seizure or forced sales of the cargoes of their vessels, and the appropriating of them to public use, without paying for them, or paying inadequately, or delaying payment for a great length of time;

5. The non-performance of contracts made by the agents of Government for supplies;

6. The condemnation of their vessels and cargoes under such of the marine ordinances of France as are incompatible with the Treaties subsisting between the two countries; and—

7. The captures sanctioned by a decree of the National Convention of the ninth of May, one thousand seven hundred and ninety-three, (hereto annexed, and marked A.) which, in violation of the Treaty of Amity and Commerce, declared enemy's goods on board of their vessels lawful prize, and directed the French ships of war and privateers to bring into port neutral vessels laden with provisions, and bound to an enemy's port. It may be proper to remark here, that this decree of the Convention directing the capture of neutral vessels laden with provisions, and destined for enemy's ports, preceded, by one month, the order of the British Government for capturing "all vessels 'laden with corn, flour, or meal, bound to any port 'in France, or any port occupied by the armies of 'France."

Such was the general nature of the claims of the citizens of the United States upon the French Republic, previous to the departure of Mr. Monroe as a Minister Plenipotentiary to France, in the Summer of 1794, and since his residence there. To him were entrusted the documents which had been collected to substantiate particular complaints; and he was instructed to press the French Government to ascertain and pay what might be found justly due. From time to time, as additional cases arose, they were transmitted to him, with the like view. In September of that year, he assigned to his Secretary, Mr. Skipwith, (with the provisional appointment of Consul for Paris,) the charge of stating the cases, and placing them in the proper train of settlement—reserving to himself the duty of fixing general principles with the Government, and of patronising and superintending his proceedings.

In conformity with the direction of the Minister, Mr. Skipwith shortly afterwards made a general report on the injuries and difficulties and vexations to which the commerce of the United States was subjected by the regulations and restraints of the French Government, or by the abuses practised by its agents—to which he added a number of particular cases. A copy of the whole (marked B) is hereto annexed. This report was laid before the French Government, and, added to the various representations of Mr. Monroe and his predecessor, it produced a decree of the joint committees

of Public Safety, Finance, Commerce, and Supplies, dated the 15th November, one thousand seven hundred and ninety-four, a copy of which (marked C) is annexed. This decree, apparently calculated to remedy many of the evils complained of, afforded but a very partial—in respect to compensations, a comparatively small—relief; while it continued in force the principle of the decree of the ninth of May, one thousand seven hundred and ninety-three, which rendered liable to seizure and confiscation the goods of enemies found on board neutral vessels. American vessels had been declared exempt from that part of the decree of the ninth of May, which authorized the seizing of vessels going to an enemy's port with provisions, by the decree of the National Convention of the twenty-seventh of July, one thousand seven hundred and ninety-three.

On the appearance of the decree of the ninth of May, the American Minister at Paris remonstrated against it, as a violation of the Treaty of Commerce between France and the United States. In consequence thereof, the Convention, by a decree of the 23d of the same month, declare, "That the vessels of the United States are not 'comprised in the regulations of the decree of the '9th of May.'" M. le Brun, the Minister for Foreign Affairs, on the 26th of May, communicated this second decree to our Minister, accompanying it with these words: "You will there find a new 'confirmation of the principles from which the 'French people will never depart, with regard to 'their good friends and allies the United States of 'America." Yet two days only had elapsed before those principles were departed from; on the 28th of May the Convention repealed their decree of the 23d. The owners of a French privateer that had captured a very rich American ship (the Laurens) found means to effect the repeal, to enable them to keep hold on their prize. They had even the apparent hardiness to say, beforehand, that the decree of the 23d would be repealed.

The American Minister again complained. So on the 1st of July the Convention passed a 4th decree, again declaring "that the vessels of the United 'States are not comprised in the regulations of the 'decree of the 9th of May; conformably to the 16th '[it should be the 23d] article of the Treaty con-'cluded the 6th of February, 1778." The new Minister for Foreign Affairs, M. Desforgues, accompanies this new decree of July 1st, with the following expression: "I am very happy in be-'ing able to give you this new proof of the fra-'ternal sentiments of the French people for their 'allies, and of their determination to maintain to 'the utmost of their power the Treaties subsist-'ing between the two Republics." Yet this decree proved as unstable as the former. On the 27th of July it was repealed.

The next decree on this subject was that of the joint committees of the 15th of November, 1794, already mentioned. Then followed the decree of the Committee of Public Safety, of the 4th of January, 1795, (14th Nivose, 3d year,) repealing the 5th article in the decree of the 15th November, preceding, and in effect the articles in the original decree of the 9th of May, 1793, by which the Treaty with the United States had been infringed. It is not necessary for the Secretary to add that the decree of the 4th of January, 1795, has been repealed by the decree of the Executive Directory of the 2d of July, 1796; under color of which are committed the shocking depredations on the commerce of the United States, which are daily exhibited in the newspapers. The agents of the Executive Directory to the Leeward islands, (Leblanc, Santhonax, and Raimond,) on the 27th of November, 1796, passed a decree (marked C C) for capturing all American vessels bound to or from British ports. The Secretary presumes this is not an arbitrary unauthorized act of their own, but that it is conformable to the intentions of the Executive Directory; the privateers of the French Republic in Europe having captured some American vessels on the same pretence; and the consul of the Republic at Cadiz, having explicitly avowed his determination to condemn American vessels on that ground, pleading the decree of the Directory for his authority.

The Secretary has already intimated, that the decree of the 15th of November, 1794, was not followed by the extensively good effects expected from it. By a communication from Mr. Skipwith, of the 10th of last September, (the latest communication from him in answer to the Secretary's request for information,) it appears that the claims for detention of 103 American vessels by the embargo at Bordeaux remained undetermined; no funds having been appropriated by the Legislature for payment of them; and that none of the bills drawn by the colonial administrations in the West Indies had been paid to him; the Treasury having tendered payment in assignats at their nominal value, and afterwards in another species of paper called mandats, which had suffered a great depreciation, even before they were put into circulation; both which modes of payment were refused to be accepted. The progress made by Mr. Skipwith, in the adjustment of other claims, so far as known to the Secretary, will appear in the annexed printed statement, (marked D,) copies of which were transmitted ten months ago to the offices of the principal collectors of the customs, from the Department of State, for the information of our mercantile citizens.

That nothing might be left undone which could be accomplished by the Executive, the attention of General Pinckney, the present Minister of the United States to France, was particularly directed to the subject of these claims; but the interval which has elapsed since his departure, has not admitted of any interesting communication from him on this subject.

In connexion with other spoliations by French armed vessels, the Secretary intended to mention those committed under a decree dated the first of August, 1796, issued by Victor Hugues and Lebas, the special agents of the Executive Directory, to the Windward islands, declaring all vessels loaded with contraband articles of any kind, liable to seizure and confiscation, with their entire cargoes; without making any discrimination in

favor of those which might be bound to neutral, or even to French ports. This decree has been enforced against the American trade, without any regard to the established forms of legal proceedings, as will appear from the annexed deposition (marked E) of Josiah Hempstead, master of the brigantine Patty, of Weathersfield. A copy of the decree (marked F) is also annexed.

The Secretary has also received a printed copy of another decree of the same special agents to the Windward islands, dated the 13th of Pluviose, fifth year, answering to February the 1st, 1797, authorizing the capture of all neutral vessels destined to any of the Windward or Leeward islands in America, which have been delivered up to the English, and occupied or defended by emigrants, naming Martinique, Saint Lucia, Tobago, Demerara, Berbice, and Essequibo; and to leeward, Port-au-Prince, L'Archaye, and Jeremie; declaring such vessels and their cargoes to be good prize; as well as all vessels cleared out vaguely for the West Indies. A copy of this last decree will be added to this report as soon as it shall be translated. All which is respectfully submitted.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *Feb.* 27, 1797.

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A.

[TRANSLATION.]

Copy of a decree of the National Convention, of the 9th of May, 1793, 2d year of the French Republic.

The National Convention, after having heard the report of its Committee of Marine, considering that the flag of neutral Powers is not respected by the enemies of France; that two cargoes of flour having arrived at Falmouth in Anglo-American vessels, and been bought before the war for the service of the French marine, have been detained in England by the Government, which would not pay for it but at a price below what it had been sold for; that a vessel of Papembourg, called the Therisia, commanded by Captain Hendrick Kob, loaded with various effects belonging to Frenchmen, was carried into Dover, the 2d of last March, by an English cutter; that a privateer of the same nation carried into the same port of Dover, on the 18th of the same month, the Danish ship Mercury Christianland, Captain Treuchen, which had sailed from Dunkirk on the 17th, with a cargo of wheat for Bordeaux; that the ship John, Captain Shkeley, loaded with about six thousand quintals of American wheat, in going from Falmouth to St. Malo, was stopped by a frigate, and carried to Guernsey, where the agents of Government have simply promised to pay the value of the cargo, although it was not on French account; that 101 French passengers, of different professions, embarked at Cadiz, by order of the Spanish Minister, on board the Genoese ship Providence, Captain Ambrose Briasco, to be carried to Bayonne, were shamefully pillaged by the crew of an English privateer; that various reports, which are successively made by the seaport towns of the Republic, announce that the same acts of inhumanity and injustice are multiplied and repeated with impunity every day along the whole seacoast:

That, under such circumstances, all the Laws of Nations being violated, it is not permissible that the French people should fulfil towards all the neutral Powers in general, the vow they have so repeatedly manifested and constantly make, for the full and entire liberty of commerce and navigation, decrees as follows:

ARTICLE 1. The French ships of war and privateers may stop and bring into the ports of the Republic, such neutral vessels as are loaded in whole or in part, either with provisions belonging to neutrals, and destined for enemy's ports, or with merchandise belonging to enemies.

ART. 2. Merchandise belonging to enemies shall be declared good prize, and confiscated for the benefit of the captors; the provisions belonging to neutrals, and loaded for enemy's ports, shall be paid for, according to their value in the place for which they were destined.

ART. 3. In all cases, neutral vessels shall be released when the unlading of the provisions which are stopped, or the merchandise which are seized is completed; the freight for them shall be paid at the rate stipulated by the persons who shipped them. A just indemnity shall be made in proportion to their detention by the tribunals who have cognizance of the validity of the prizes.

ART. 4. Those tribunals shall be bound, also, to transmit, three days after their sentence, a duplicate of the inventory of the said provisions or merchandise to the Minister of Marine, and another duplicate to the Minister for Foreign Affairs.

ART. 5. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect after the enemy Powers shall declare free and not liable to seizure, although destined for the ports of the Republic, provisions which may be neutral property, and merchandise loaded in neutral ships, which belongs to the French Government or to French citizens.

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B.

PARIS, *Vendemiaire,*
3d year, (*October,* 1794.)

To James Monroe, Minister Plenipotentiary of the United States of America at Paris.

SIR: At your request I now lay before you a statement of the innumerable embarrassments and difficulties which our commerce has, for a long time, and continues still to labor under, in the different ports of the French Republic. It is evident if their Government does not soon remedy the incessant abuses and vexations practised daily upon our merchants, vessels, captains, and crews, the trade of the United States with France must cease. I cannot give you an ample detail of all the inconveniences and oppressions which have been thrown upon our commerce; many of the consuls and their agents, to whom

you have written to forward such documents to my office, having not yet done it; besides, it would take volumes to expose them at full length.

From the communication, however, already received from the different ports, and from the information I have collected from the captains present, I can assure you that there are near 300 sail of American vessels now in the ports of France; all of whom have suffered or are suffering more or less delay and difficulties, of which the examples annexed will afford you a general view. The hardships of which I have chiefly to complain, and out of which there grow incalculable evils, may be developed under four general heads.

1st. The capture, indiscriminately, of our vessels at sea, by the vessels of war of the Republic.

2d. The impossibility of Americans selling their cargoes and receiving payment at the ports to which they are conducted, or of their own accord arrive.

3d. The difficulties and procrastination which they find in their transactions with the boards of Marine and Commerce.

4th. The non-compliance or, heretofore, delay in fulfilling the contracts made by the agents of the French Republic in America, for supplies of provisions.

The seizure of our vessels at sea often gives rise to the most serious and well-founded complaints. The stripping them of their officers and crews, who are generally replaced by boys and inexperienced hands, in order to be conducted to ports, exposes them to much injury, and sometimes total loss. The confinement of our sailors, taken out of these vessels; the seals upon their cargoes; and, above all, the sending their papers to the Commission of Marine at Paris, involves the most unwarrantable hardships and delays: and I am sorry to add, that all our vessels experience some of these difficulties; and, indeed, such as arrive with cargoes on account of the Republic; months elapsing before the captains can get their clearances and papers, many of which are often lost or mislaid.

As to the second head, the agents of the Commissions of Commerce at the different ports having no power to treat directly for cargoes, it follows that they must write to the Commission at Paris for orders; and, after one or two months' fruitless correspondence, it often happens that the captains are obliged to come up to Paris, where, being ignorant of forms and language, they have to encounter a thousand difficulties.

It would be too tedious to mention all the inconveniences resulting from the third general complaint. In the first place, the delays at the Commission of Marine are incredible. The captains whose vessels are brought into ports by the armed vessels of the Republic, cannot withdraw their papers from the hands of the Marine Agents, but are forced to Paris, to solicit time after time, of the Marine, a report upon them to the Committee of Public Safety. The cruel delays attending this will be illustrated in the examples annexed. The report being made, before it can reach the latter body, it must have the signature of the commissaries, and go through other formalities; and when it receives the sanction of the Committee of Safety, has to travel nearly the same road back. Judge, sir, of the tedious delay attending this. Indeed you will see cases where the poor captains have been many months in arriving at the above point; and I myself, after having pressed several reclamations for weeks past, have not yet been able to bring one to that issue.

To sell to the Commission of Commerce is still more difficult. When a bargain is concluded with them, an order is issued to the keepers of the public magazines to receive the cargo sold, who often pretend that there is no room to receive it, and frequently they keep the captains waiting weeks before their whim or convenience will induce them to receive it. This point gained, application must then be made at Paris, to the Commission of Commerce, for payment, who refer the captain to their board of agency; they make a report to the Comptabilité of the same Commission; from thence it must go to the Committee of Finance, then to the Committee of Public Safety, from whence it returns to the Comptabilité. This labyrinth of perplexity, of course, throws the captain into the hands of an agent, who preys upon his distress; and, when all these forms are fulfilled, it is not always that the captain can immediately touch his money. If, in the first instance, the Commission will not purchase his cargo on the terms he asks, they tell him he may depart; but, on returning to his vessel, is most commonly prevented from sailing by the agents at the port. If it is mutually agreed that merchandise shall be taken in exchange, the difficulties become greater. If assignats, with permission to export wines and brandy, the captain finds himself taken in; for the Commission will put those very articles in requisition. If the Commission tells the captain that they do not want his cargo, and that he may sell to individuals, he finds that he cannot export the proceeds unless he gives a security that he will import afterwards into the Republic the same amount in articles of the first necessity, such as provisions, &c. If the captain is so unfortunate as to have to treat with the agents of the Commission, he is certain to feel their imposition; they frequently refuse to confirm their own agreements. In short, after every sort of delay and vexation, should the captain claim an indemnity, he has to wade through double the difficulties heretofore stated, and perhaps after all to leave his business incomplete in the hands of an agent.

The fourth and last general complaint is of a delicate and important import. Mr. Fauchet, the French Minister, has made considerable purchases of provisions in America for account and in the name of the French Republic; one house has engaged to furnish 20,000 barrels of flour. Thirteen vessels loaded with these provisions have already arrived; and in vain have I demanded of the Commission of Commerce their answer respecting the payment of those contracts; except that, in the commencement, they assured me the Committee of Finance had ordered the

payment of three cargoes at Bordeaux; but to my surprise, two days after, I found that no report had been made by the commission of that committee.

You having judged, sir, the commerce of this country being immediately under the control of one branch of the Administration of its Government, that it was necessary to adopt some corresponding measures in order to protect the rights and interests of our citizens, and for that purpose having provisionally named me to the place of Consul, I have accepted it, as well to answer your views, as in the hope of rendering some good to both Republics.

Before I conclude, permit me to observe, that it is of indispensable importance to obtain some mode of having the claims of our citizens adjusted, for supplies furnished to the Colonies of the French Republic, and likewise the numerous claims in consequence of the late embargo at Bordeaux. I am authorized by many of the claimants to adjust them; and have many of the documents in hand, but wish for further instructions from you.

I would offer to your view a statement of the immense sums already paid by this Republic, and to be paid as indemnities for the extraordinary and useless delays of our vessels: but the Consuls and agents have not yet furnished me with the requisite documents; it is however a fact, that not a single vessel arrives from America, and departs, without having some such reclamation to make. I am persuaded that many millions are absorbed in this manner.

It is with regret, sir, that I find myself obliged—the duties of my station requiring it—to present to your view so many complaints of so serious a nature, as, in my opinion, calls for your earliest attention; but in doing this, I do not forget—and it will ever be my effort to cultivate as much as possible—a good understanding between the citizens of our country and those of France.

With respect, I remain, sir, your most humble servant,

FULWAR SKIPWITH.

The Hon. Col. Monroe.

[Here follows the names of some of the American vessels captured by the armed vessels of the French Republic, and carried into the various ports of the Republic.]

THE MINT.

Department of State,
December, 19, 1796.

Sir: By the direction of the President of the United States, I have the honor to enclose a report of the Director of the Mint, suggesting the expediency of some alterations in its establishment, to render it less expensive to the public, and more accommodating to depositors. The report is accompanied with statements of the gold, silver, and copper coins, issued from the Mint from its commencement to the 24th of the last month, accounts of the gold and silver bullion which has been deposited, and an account of wastage, and a deficit in the silver coinage, which require an appropriation of two thousand eight hundred and twenty dollars and seventy-one cents, to reimburse depositors.

I am, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

The Speaker *of the House of Representatives of the United States.*

Mint of the United States,
November 29, 1796.

Sir: I have the honor of enclosing, for the President of the United States, my annual report on the state of the Mint, with the abstracts referred to therein.

With sentiments of esteem and respect, I remain, sir, your most obedient and very humble servant,

ELIAS BOUDINOT.

To the Secretary of State.

The Director of the Mint of the United States respectfully reports to the President of the United States on the state of the Mint—

That, during the experience of twelve months, he has turned his attention (as far as has been in his power) to the institution under his care. He has seen with regret an opinion generally prevailing, that the establishment is unnecessarily expensive, and less productive than was rationally expected by its advocates and friends.

The Director, finding some foundation for the charge, has endeavored to discover the cause, as nothing appears in the general nature of the institution to warrant the idea.

The issue of the inquiry is, that the extraordinary expenses attending the Mint are in a great measure owing to its original plan, and the principles on which it was established. Among others, the whole coinage, including the refinement of the precious metals, was directed by law to be executed at the public expense, the depositor being fully indemnified from all charges whatever. On this principle, not only the original cost of the works, and the salaries of the stated officers, fall on the public, but also the whole amount of the workmanship, with the alloy, wastage, and contingent losses.

The want of experimental knowledge in the business, at the first establishment of the Mint, prevented any tolerable precise estimate of the expenses necessarily attending the process; but soon after the commencement of the business it was found impracticable to proceed with propriety, unless an addition was made to the establishment by the appointment of a Melter and Refiner.

This important and necessary officer is not

known in foreign Mints, as the precious metals are there generally deposited of the proper standard, or above it; or they are purchased by the Mint, and become public property; there being professional refiners independent of the Mint, whose business it is to purify metals under standard, but there being no such artists in this city who follow the business, it became indispensably necessary to execute this service in the Mint.

This circumstance was not foreseen, or, if foreseen, was considered as included in the duties of the Assayer; but the necessity of so essential a check on that officer forbade this measure, had it been otherwise practicable. This added considerably to the annual expenses of the Mint.

Formerly the Director could not make any charge for this process against depositors; the whole expense, therefore, fell on the public. Thus on assaying one deposite of about 96,000 ounces of silver bullion, it turned out near 24,000 ounces under standard; to refine which it cost the United States upwards of £500, so that the depositor really gained that sum by bringing his bullion to the Mint. This operated very unequally among depositors. The citizen who brought bullion in this debased state to the Mint received as much coin for the standard silver therein as he whose bullion was previously refined equal to the standard, and ready for coining at a very trifling expense.

Again: the institution of the Mint, without any appropriation of capital, either to purchase the precious metals in bullion, anticipate payments due on deposits, or to coin for the public, has been another cause of very considerable expense. Depending upon depositors alone for the precious metals, it became necessary, for their encouragement and satisfaction, to coin every deposite as soon as possible after it came into the treasury of the Mint, to prevent its remaining unproductive to the depositor, by which means the clippings and grains were obliged to be melted and coined as they arose, often three or four times for one deposite.

Thus the melting, refining, and coining a deposite of 200 ounces of silver or 20 ounces of gold would cost the public nearly as much as 1,000 ounces of either, and a much greater proportional wastage; whereas, could the bullion be purchased for the public at the market price, and kept in the vaults till a large quantity might be coined at once, or a capital of about ten thousand dollars be allowed to the Mint, so as to anticipate the payments to depositors without being obliged to an immediate coinage on every occasion, a very great public saving would take place, not only as to the wastage, but in the expenditure of the materials and labor used in the process, and no injury done to the United States, but in the loan of the money for a short time. In a word, the difference would be much the same as between the wholesale merchant and and the huckster.

This measure would also have a tendency to fix the price of bullion, and indemnify the public for some part of the expense of coinage. The only question that would arise is, whether on the principle of political economy it would be a prudent measure on the part of Government? Suppose the expenses of coinage, including wastage, to be fixed at three per centum to the depositor, while in foreign countries it costs nothing. The consequence would be, that bullion in America might vary its price three per cent. according to the balance of trade; while bullion in those countries must be supposed invariable in its price, let the balance of trade stand as it will. Bullion, then, in those countries will always be at the highest price it can ever be at in America, since it is the price of coin; but in America it may be three per cent. lower. If, therefore, the United States, by coining free of all expense, contribute to keep the price of bullion higher than it is in countries where the coinage is paid for, a voluntary expense is created, of which there can be no just reason to complain.

A representation of some of these difficulties, with the dangerous situation of the Mint, for want of protecting laws to secure the instruments of coinage, the metals, and the coin, as also to prevent counterfeits, has been heretofore made by the officers of the Mint with but little other success than a resolution of Congress enabling the Director to retain the expense of refining the precious metals under standard; but the wastage, alloy, and coinage, are still dead charges on the public Treasury.

While, therefore, this policy, on the whole, is considered as beneficial to the United States, the complaints against the Mint for its heavy expenses to the public are without solid foundation, as it is impossible to carry on an institution of this nature under these circumstances, and which requires from fifteen to twenty workmen and laborers to attend it, without great expense. Add to this, that the alloy of silver and copper, with the loss by necessary wastage, must unavoidably rise to a considerable annual amount.

But notwithstanding these and other difficulties attending an infant institution, especially the late great advance in the prices of materials and labor, the aggregate expenses of the Mint are greatly reduced, either from the superior knowledge of the persons employed, gained by experience, or from new arrangements found to be more advantageous than those made on the spur of the occasion. This will appear more evident by a review of the progressive reduction of the contingent expenses in the quarterly accounts rendered into the Treasury Department, and it is hoped there will be a further progress in this desirable economy.

When the present Director entered upon the administration of the Mint, there was no appropriation of money for the purchase of copper for the coinage of cents. This he clearly foresaw would prove a source of further expense, by often leaving the workmen without employ. He made application to Congress, by their committee, on the subject; but all that was obtained was thirteen thousand dollars, which was coined into cents, and returned into the public Treasury, or remitted for the purchase of copper, before the rising of Congress the last Spring. No further

appropriation was made, till it was too late to procure the necessary importation of copper for the Summer's coinage; whereby much time has been lost, and some considerable expense of workmen has been added to the Summer's account.

It is now hoped, from the present arrangement, no such inconvenience will arise hereafter, but a continual and ample supply of copper coinage be produced adequate to the public wants.

As the laws relative to the Mint now stand, the officers are obliged to pay to each depositor the coins arising from his deposite, in strict order, and to reserve three pieces of coin from each mass; yet no appropriation has been made to replace the reserves, or to make good the wastage; it is, therefore, impossible for the officers of the Mint to comply with the law; and the depositors complain of being kept out of their property till provision is made by Congress for their relief.

By a number of new half johannes brought to the Mint for assaying, said to have been coined in the United States, it appears that a coinage for that purpose is carried on in some State in the Union. Some of these are found to be under standard in their quality, and between two and three pennyweights less than their true weight. These are facts which the Director thinks it his duty to communicate to the President.

From the various experiments made since the establishment of the Mint, it is found unnecessary to make use of silver in alloying of gold, unless it is for the purpose of beautifying the coin; in which case it should be composed at the proportion of one-third silver to two-thirds copper.

By the following abstract of the bullion and coin received and issued from the Mint, since its first establishment, may be seen, as well the nature of the deposites made, as the coins returned to the Treasury, and the dates of the receipts and issues to this day, with the amount of the copper coinage.

From this it appears that there is due for wastage, during that period, the quantity of fifteen hundred and ninety-nine ounces sixteen pennyweights and fifteen grains of silver, equal to eighteen hundred and forty-five dollars ninety-five cents and five mills; besides a deficit of eight hundred and forty-four ounces seventeen pennyweights and five grains of silver, equal to nine hundred and seventy-four dollars seventy-five cents and five mills—making, in the whole, two thousand eight hundred and twenty dollars and seventy-one cents; for which an appropriation ought to be made by law, to satisfy a deficient deposite.

The Director thinks it necessary to mention, in exculpation of the former officers of the Mint, that by a report made on this subject, it appears that there is yet a considerable quantity of old pots and test bottoms, from which it is expected that nearly the amount of the deficient silver, as stated above, will be extracted.

ELIAS BOUDINOT.

MINT OF THE UNITED STATES,
November 29, 1796.

RECEIPTS AND EXPENDITURES.

Account of receipts and expenditures of the United States, commencing on the 1st day of October, 1795, and ending on the 30th September, 1796.

Dr.

For amount of expenditures during said period under the following heads, viz:		
Civil Department		$ 438,217 67
Military Department		1,263,275 69
Diplomatic Department		69,388 89
Miscellaneous expenses		39,445 03
Contingent charges of Government		13,518 97
Support and erection of light-houses		39,927 81
Interest on Domestic Loans		224,500 00
Trade with the Indians		50,000 00
Naval Department		310,906 07
Fortifications of ports and harbors		40,788 70
Military Pensions		97,367 45
Annuities and grants		2,662 21
Interest on Domestic Debt, &c.		2,808,200 24
Mint Establishment		46,330 19
Dutch debt		991,649 47
French debt		181,500 00
Debt due to foreign officers		19,149 98
Payment for unclaimed merchandise		50 78
Protection of American seamen		5,000 00
Temporary Domestic Loans, viz:		
1796, August 18. On account of the loan of $523,500, obtained of the Bank of the United States the 25th May, 1792		120,000 00
Appropriation for carrying into effect the Treaty between the United States and the King of Spain		4,030 00
Appropriation for carrying into effect the Treaty between the United States and the King of Great Britain		7,555 54
Appropriation for carrying into effect the Treaty between the United States and certain hostile Indian tribes northwest of the river Ohio		9,500 00
Balance in the Treasurer's hands on the 30th September, 1796,	1,045,212 13	
From which deduct warrants remaining unpaid on that day, which are charged as expenditures in this statement	6,918 62	
The balance subject to warrants on the 1st October, 1796, therefore was		1,038,293 51
		7,911,248 20

Cr.

By balance in the hands of the Treasurer, on the 30th September, 1795,	447,271 91	
Deduct warrants drawn on him previous to the 1st of October, 1795, which remained unpaid that day	77,445 62	
Balance subject to warrant on the 1st October, 1795		$369,826 29

Moneys received into the Treasury as follow:

For duties on merchandise and tonnage in the quarter ending 31st December, 1795 -	1,384,915 09	
31st March, 1796 -	1,177,882 13	
30th June -	1,680,128 25	
30th September -	1,923,011 25	
		6,135,936 64
For duties on spirits distilled in the United States, and on stills; on sales at auction; on licences for selling wines and spirituous liquors by retail; on carriages for the conveyance of persons; on refined sugar, and on snuff and snuff mills; in the quarter ending 31st December, 1795 -	127,329 19	
31st March, 1796 -	119,456 75	
30th June, 1796 -	97,151 96	
30th Sept., 1796 -	125,729 42	
		469,679 31
For postage of letters in the quarter ending 31st Dec., 1795 -		
30th March, 1796 -	18,760 27	
30th June, 1796 -	12,149 57	
30th Sept., 1796 -	28,000 00	
		58,909 84
For dividends on capital stock in the Bank of the United States, due the 31st Dec., 1795 -	80,000	
30th June, 1796 -	80,000	
		160,000 00
For fees on letters patent, in the quarter ending the 31st Dec., 1795 -	[illegible]	
31st March, 1796 -	[illegible]	
30th June, 1796 -	[illegible]	
30th Sept., 1796 -	[illegible]	
		3,250 00

Domestic Loans.

In the quarter ending the 31st December, 1795, on account of the loan of $500,000 per act of 24 March, 1795 -	500,000	
In the quarter ending the 30th September, 1796, on account of the loan of $320,000, per act of 31st of May -	120,000	
		620,000 00

Balances due the United States under the late Government.

In the quarter ending 31st December, 1795.—From James Lovell, receiver of Continental taxes for the State of Massachusetts: balance due by him -	1,986 [illegible]	
In the quarter ending 31st March, 1796.—From Edward Carrington, late Deputy Quartermaster General, for public property sold -	375 00	
In the quarter ending 30th June, 1796.—From Rufus King, on account of balance due by John Alsop and others	2,880 49	
Edward Carrington, late Deputy Quartermaster General, for public property sold -	629 34	
		3,509 49
In the quarter ending 30th September, 1796.—From the trustees in behalf of the creditors of Thomas Huggins, deceased, late Commissary of Purchases in the State of Maryland	1,178 25	
		4,819 79

Repayments.

In the quarter ending the 30th June, 1796.—From Samuel A. Otis, balance of moneys advanced him for paying the compensations due to the Senators of the United States	4,069 55	
In the quarter ending 30th September, 1796.—From John Jay, late Envoy to the Court of Great Britain, balance due by him	496 09	
		4,594 64

Cents and Half cents coined at the Mint.

In the quarter ending 31st March, 1796 -	2,058 00	
30th June -	2,923 70	
30th September -	300 00	
		5,281 70

Funds arising from six per cent. stock loaned and purchased from the Bank of the United States.

In the quarter ending 31st December, 1795 -	51,300	
30th June, 1796 -	26,750	
		78,050 00
		7,911,248 29

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT,
Register's Office, 29th Nov., 1796.

NAVAL EQUIPMENTS.

The following is a statement received from the Secretary of War, of the present situation and appropriations necessary to complete and man the three frigates now building; with the report of the committee thereon.

WAR OFFICE, *January* 11, 1797.

SIR: In compliance with your letter of the 21st ultimo, I have the honor to submit the enclosed statements, which exhibit as particular a view of the material objects of your inquiries, as could be obtained, without occasioning a delay that might have counteracted your intentions.

The measures that have been taken to prepare the rigging and sails, and to procure the necessary stores, and the advances made towards the final equipment of the frigates, render it probable that they may be got ready for sea in about two months after being launched.

While on this subject, permit me to observe, that, if Congress perceive advantages in the extension of their marine, or think it expedient that early precautions should be taken to secure to the United States a lasting fund of live-oak for future use, it will be proper that authority should be given for the purpose, as well as to purchase a site for a navy-yard.

The probability is, that an article so important to marine nations as live-oak will be sought after with much avidity, and that the land which is clothed with it may pass into hands that may make its attainment hereafter more expensive, if not impracticable.

But, whether it is right that the United States should be the purchaser of such land, is a question which, no doubt, you have examined.

I am, sir, with great respect, your obedient servant,
JAMES McHENRY.

Hon. Mr. PARKER, *Chairman of the Committee for inquiring into the state of naval equipments, &c., &c.*

Statement of the progress made in building a Frigate at Philadelphia, to carry forty-four guns.

The hull is all planked inside and out, and all the principal decks are laid and caulked, excepting a part of the gun-deck; the upper-deck beams are in and a part of them kneed; about half of the bottom is dubbed off, and a considerable part caulked; the braces and pintles for the rother are all cast; the knee of the head, together with the figure, are nearly ready. All other parts of the hull is in such forwardness, that it is expected she may be launched by the beginning of April next, provided the winter does not prove severe. The rigging is all made and nearly fitted; the yarns for the cables are spun; the anchors and iron ballast on hand; and the blocks, deadeyes, water-casks, boats, lanterns, and all the tin work, are provided. The other materials are in part procured, and the work in general progresses rapidly towards completion.

Statement of the progress made in building a Frigate at Boston, to carry forty-four guns

The whole of the frame is raised, and is ready for planking; the wales are prepared, and it is expected will be on and fastened this month; the keelsons are in their places, and bolted off. The masts are now in hand, and the boats are building; all the deadeyes for lower and topmast shrouds are made and strapped. The knees for all the decks are procured, as well as the beams, carling, ledges, &c. Iron ballast sufficient is in store, and the necessary materials for completing the hull are procured and received.

The hemp for the cables, rigging, &c., and blocks, are in the hands of the respective tradesmen, manufacturing, and if the winter should prove favorable, there is no doubt but this frigate may be launched in July next.

Statement of the progress made in building a Frigate at Baltimore, to carry thirty-six guns.

The whole of the frame is raised; the wales, black strakes, flush, quarter, and fore drifs, on and dressed off. The ceiling, clamps for gun, lower and orlop decks, are all in and dubbed off. The beams are prepared and ready to be put into their respective stations. The bottom is now planking, and the knees are getting ready for the decks; other parts of the hull are progressing as fast as the workmen can be employed to advantage; and, from the present appearances, this ship may be launched in May next. The lower topmast and topgallant shrouds, with all their respective stays, are fitted and ready to go over the mast-heads. The other rigging is also in great forwardness.

The boats are all built, water casks mostly made, together with the blocks, deadeyes, hearts, &c. The cannon for the gun-deck are all in the navy-yard, trimmed, and are ready for mounting on the carriages, which are made.

Estimate of the sums necessary to complete and equip the frigates United States and Constitution, of forty-four guns, and Constellation, of thirty-six guns.

To complete the frigate building at Philadelphia -	$55,950 00
To complete the frigate building at Boston -	96,571 71
To complete the frigate building at Baltimore -	47,575 00
	199,896 71
Salaries of two persons to have charge of the timber in the navy yards at New York and Norfolk -	2,000 00
Rent of navy-yards at New York and Portsmouth, (New Hampshire) -	1,200 00
	203,096 71
Balance of appropriation unexpended -	94,133 78
To be provided for, to complete and equip the above frigates, &c. -	$177,962 93

An Estimate of the expense for pay and subsistence of the Captains and Crews of two forty-four gun, and one thirty-six gun frigates.

Pay of the officers, seamen, and marines of two frigates, of forty four guns each.

	Per. mo.	12 mo.
2 Captains -	$75	$1,800
8 Lieutenants -	40	3,840
2 Lieutenants of Marines	26	624
2 Chaplains -	40	960
2 Sailing Masters -	40	960
2 Surgeons -	50	1,200
4 Surgeon's Mates -	30	1,440
2 Purseers -	40	960
2 Boatswains -	18	432
2 Gunners -	18	432
2 Sail makers -	18	432
2 Carpenters -	18	432
4 Boatswain's Mates -	13	624
4 Gunner's Mates -	13	624
2 Sail-maker's Mates -	13	312
16 Midshipmen -	13	2,496
4 Master's Mates -	13	624
2 Captain's Clerks -	13	312

	Per mo.	12 mo.	
2 Cockswains	$13	$312	
2 Yeomen of the Gun Rooms	13	312	
22 Quarter Gunners	13	3,432	
4 Carpenter's Mates	13	624	
2 Armorers	13	312	
2 Stewards	13	312	
2 Coopers	13	312	
2 Master-at-Arms	13	312	
2 Cooks	13	312	
300 Seamen	11	39,600	
206 Midshipmen and ordinary Seamen	9	22,248	
2 Sergeants	10	240	
2 Corporals	10	240	
2 Drummers	9	216	
2 Fifers	9	216	
100 Marines	9	10,800	
			$98,304

4,096 dollars per month for each frigate of forty-four guns.

Pay of the officers, seamen, and marines of one frigate of thirty-six guns.

	Per mo.	12 mo.
1 Captain	$75	$900
3 Lieutenants	40	1,440
1 Lieutenant of Marines	26	312
1 Surgeon	50	600
1 Surgeon's Mate	30	360
1 Sailing Master	40	480
1 Purser	40	480
1 Boatswain	18	216
1 Gunner	18	216
1 Sail-maker	18	216
1 Carpenter	18	216
8 Midshipmen	12	1,248
2 Master's Mates	13	312
1 Captain's Clerk	13	156
2 Boatswain's Mates	13	312
1 Cockswain	13	156
1 Sail-maker's Mate	13	156
2 Gunner's Mates	13	312
1 Yeoman of the Gun Room	13	156
9 Quarter Gunners	13	1,404
2 Carpenter's Mates	13	312
1 Armorer	13	156
1 Steward	13	156
1 Cooper	13	156
1 Master-at-Arms	13	156
1 Cook	13	156
130 Able Seamen and Midshipmen	11	17,160
90 Ordinary Seamen	9	9,720
1 Sergeant	10	120
2 Corporals	10	240
1 Drummer	9	108
1 Fifer	$9	$108
40 Marines	9	360
		$42,516

3,513 dollars per month.

SUBSISTENCE.

	Rations per day.	12 mo.
3 Captains	6	6,570
11 Lieutenants	2	12,045
3 Lieutenants of Marines	2	2,190
2 Chaplains	2	1,460
3 Surgeons	2	2,190
5 Surgeon's Mates	2	3,650
3 Sailing Masters	2	2,190
3 Pursers	2	2,190
3 Boatswains	2	2,190
6 Boatswain's Mates	1	2,190
3 Gunners	2	2,190
6 Gunner's Mates	1	2,190
3 Sail makers	2	2,190
3 Sail maker's Mates	1	1,095
3 Carpenters	2	2,190
6 Carpenter's Mates	1	2,190
24 Midshipmen	1	8,760
6 Master's Mates	1	2,190
3 Captain's Clerks	1	1,095
3 Cockswains	1	1,095
3 Yeomen of the Gun Rooms	1	1,095
31 Quarter gunners	1	11,315
3 Armorers	1	1,095
3 Stewards	1	1,095
3 Coopers	1	1,095
3 Masters at-Arms	1	1,095
3 Cooks	1	1,095
726 Able Seamen, Midshipmen, and ordinary Seamen	1	264,990
3 Sergeants	1	1,095
4 Corporals	1	1,460
3 Drummers	1	1,095
3 Fifers	1	1,095
140 Marines	1	51,100
400,770 rations, at 20 cents per ration, is		80,154
		$220,974

War Office, *December* 29, 1796.

Names of the Officers appointed.

Captain John Barry, to command the frigate United States, building at Philadelphia.

Captain Samuel Nicholson, to command the frigate Constitution, building at Boston.

Captain Thomas Truxtun, to command the frigate Constellation, building at Baltimore.

Materials remaining on hand in the Navy Yards at New York, Norfolk, and Portsmouth, (New Hampshire,) which have been provided, and deposited there for the frigates whose building has been suspended by an act of Congress.

Names of places where deposited.	No. of pieces of live oak timber provided for the frames.	No. of feet of white-oak timber in logs.	No. of feet of white-oak timber, of various descriptions.	No. of feet of white oak plank for the bottom, ceiling, and top-sides.	No. of feet of white-oak plank for other uses.	No. of feet of cedar ceilings and ledges.	No. of feet of Georgia pine planks for decks.	No. of feet of yellow pine plank, for various uses.	No. of pounds of copper for sheathing, &c.	Weight of iron bentledge for ballast.	Weight of 24-pound shot.	Number of anchors.	Number of pounds of iron.	Masts and spars of various sizes.	Number of white oak-knees.	No. of pieces of bunting for colors.	Caboose, with a complete set of cooking utensils, &c.
New York -	314	105,864	24,444	159,893	48,371	18,130	85,930	35,679	56,379	Tons. 140	Pounds. 57,661	2	3,562	17	-	-	-
Norfolk -	402	48,052	57,946	17,877	-	†8,064	-	28,977	53,631	- *	-	-	33,534 $120	‡ -	-	-	-
Portsmouth -	541	*34,600	34,560	105,989	21,719	6,765	36,250	-	-	-	-	‡1	9,339	¶ -	200	99	-

N. B.—Considerable quantities of live-oak timber, and other materials, have been selected out of the above Navy Yards, for the use of the frigates under construction.

* Maple. † Timbers. ‡ A large number of 44 cwt. 3 qrs. 14 lbs. § Bars. ‖ All provided, but not delivered. ¶ One complete set.

Materials that have been sold agreeably to act of Congress; to which are added the prices and amount.

2,503 feet 9 inches 3-inch white-oak plank, at $90 00	$225 53 1-4	
3,749 feet 10 inches 3 1-2-inch white-oak plank, at $105 00	393 72	
2,274 feet 4 inches 5 inch white oak plank, at $120 00	272 93	
24 feet 2 inches 4 1-2-inch white-oak plank, at $135 00	3 26 1-2	
		$895 24 1-6
806 feet 2 inches 3-inch ceiling white oak plank, at $70 00	56 42 1-2	
852 feet 9 inches 3 1-2-inch ceiling white-oak plank, at $81 66 1-2	69 64	
1,303 feet 3 inches 4 inch ceiling white-oak plank, at $93 33 1-2	121 64 1-2	
		247 71 1-6
2,404 feet 3-inch pitch pine plank, at $90 00	216 36	
161 tons long white-oak timber, (8 feet,) $10 00 per ton	1,612 00	
60 tons short white oak timber, (23 feet,) at $6 00 per ton	363 45	
1,547 1-4 inches white oak-knees, at 40 cents	618 88	
10 tons pine timber, (27 feet,) at $3 50	37 50	
		2,848 09 5-6
88 1-2 inches spruce spars, at 8 cents		7 0-9
1,200 locust treenails, of 26 inches, at $22 50 per 1,000	26 25	
3,000 locust treenails, of 24 inches, at $15 00 per 1,000	45 00	
3,000 locust treenails, of 20 inches, at $12 50 per 1,000	37 50	
8,000 locust treenails, of 18 inches, at $11 25 per 1,000	90 00	
1,630 locust treenails, of 16 inches, at $10 00 per 1,000	16 30	
318 white-oak treenails, at 60 cents per 100	1 90 1-5	
		213 95 1-5
		4,214 00 0-5

OPPOSITION TO THE EXCISE LAW IN PENNSYLVANIA.

COMMUNICATED TO CONGRESS BY THE PRESIDENT OF THE UNITED STATES, NOVEMBER 20, 1794.

And referred to in his speech to the two Houses on the 19th, of which the following is an extract:

Fellow-citizens of the Senate and of the House of Representatives:

When we call to mind the gracious indulgence of Heaven, by which the American people became a nation; when we survey the general prosperity of our country, and look forward to the riches, power, and happiness, to which it seems destined; with the deepest regret do I announce to you that, during your recess, some of the citizens of the United States have been found capable of an insurrection. It is due, however, to the character of our Government, and to its stability, which cannot be shaken by the enemies of order, freely to unfold the course of this event.

During the session of the year one thousand seven hundred and ninety, it was expedient to exercise the Legislative power, granted by the Constitution of the United States "to lay and collect excises." In a majority of the States, scarcely an objection was heard to this mode of taxation. In some, indeed, alarms were at first conceived, until they were banished by reason and patriotism. In the four western counties of Pennsylvania, a prejudice, fostered and imbittered by the artifice of men, who labored for an ascendency over the will of others, by the guidance of their passions, produced symptoms of riot and violence. It is well known that Congress did not hesitate to examine the complaints which were presented; and to relieve them, as far as justice dictated, or general convenience would permit. But the impression which this moderation made on the discontented did not correspond with what it deserved. The arts of delusion were no longer confined to the efforts of designing individuals. The very forbearance to press prosecutions was misinterpreted into a fear of urging the execution of the laws, and associations of men began to denounce threats against the officers employed. From a belief that, by a more formal concert, their operation might be defeated, certain self-created societies assumed the tone of condemnation. Hence, while the greater part of Pennsylvania itself were conforming themselves to the acts of excise, a few counties were resolved to frustrate them. It was now perceived, that every expectation from the tenderness which had been hitherto pursued was unavailing, and that further delay could only create an opinion of impotency or irresolution in the Government. Legal process was therefore delivered to the marshal against the rioters and delinquent distillers.

No sooner was he understood to be engaged in this duty, than the vengeance of armed men was aimed at his person, and the person and property of the inspector of the revenue. They fired upon the marshal, arrested him, and detained him, for some time, as prisoner. He was obliged, by the jeopardy of his life, to renounce the service of other process, on the west side of the Allegany mountain; and a deputation was afterwards sent to him to demand a surrender of that which he had served. A numerous body repeatedly attacked the house of the inspector, seized his papers

of office, and finally destroyed by fire his buildings and whatsoever they contained. Both of these officers, from a just regard to their safety, fled to the seat of Government—it being avowed, that the motives to such outrages were to compel the resignation of the inspectors; to withstand by force of arms the authority of the United States; and thereby to extort a repeal of the laws of excise, and an alteration in the conduct of Government.

Upon the testimony of these facts, an Associate Justice of the Supreme Court of the United States notified to me that "in the counties of Washington and Allegany, in Pennsylvania, laws of the United States were opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." On this call, momentous in the extreme, I sought and weighed what might best subdue the crisis. On the one hand, the judiciary was pronounced to be stripped of its capacity to enforce the laws; crimes, which reached the very existence of social order, were perpetrated without control; the friends of Government were insulted, abused, and overawed into silence, or an apparent acquiescence; and, to yield to the treasonable fury of so small a portion of the United States, would be to violate the fundamental principle of our Constitution, which enjoins that the will of the majority shall prevail. On the other, to array citizen against citizen, to publish the dishonor of such excesses, to encounter the expense, and other embarrassments, of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning of the militia immediately into the field; but I required them to be held in readiness, that, if my anxious endeavors to reclaim the deluded, and to convince the malignant of their danger, should be fruitless, military force might be prepared to act before the season should be too far advanced.

My proclamation of the 7th of August last was accordingly issued, and accompanied by the appointment of commissioners, who were charged to repair to the scene of insurrection. They were authorized to confer with any bodies of men or individuals. They were instructed to be candid and explicit in stating the sensations which had been excited in the Executive, and his earnest wish to avoid a resort to coercion; to represent, however, that, without submission, coercion must be the resort; but to invite them, at the same time, to return to the demeanor of faithful citizens, by such accommodations as lay within the sphere of Executive power. Pardon, too, was tendered to them by the Government of the United States, and that of Pennsylvania, upon no other condition than a satisfactory assurance of obedience to the laws.

Although the report of the commissioners marks their firmness and abilities, and must unite all virtuous men, by showing that the means of conciliation have been exhausted, all of those who had committed or abetted the tumults did not subscribe the mild form which was proposed as the atonement; and the indications of a peaceable temper were neither sufficiently general nor conclusive to recommend or warrant the further suspension of the march of the militia.

Thus, the painful alternative could not be discarded. I ordered the militia to march, after once more admonishing the insurgents, in my proclamation of the 25th of September last.

It was a task too difficult to ascertain, with precision, the lowest degree of force competent to the quelling of the insurrection. From a respect, indeed, to economy, and the ease of my fellow citizens belonging to the militia, it would have gratified me to accomplish such an estimate. My very reluctance to ascribe too much importance to the opposition, had its extent been accurately seen, would have been a decided inducement to the smallest efficient numbers. In this uncertainty, therefore, I put in motion fifteen thousand men, as being an army which, according to all human calculation, would be prompt and adequate in every view, and might, perhaps, by rendering resistance desperate, prevent the effusion of blood. Quotas had been assigned to the States of New Jersey, Pennsylvania, Maryland, and Virginia; the Governor of Pennsylvania having declared, on this occasion, an opinion which justified a requisition to the other States.

As commander-in-chief of the militia, when called into the actual service of the United States, I have visited the places of general rendezvous, to obtain more exact information, and to direct a plan for ulterior movements. Had there been room for persuasion that the laws were secure from obstruction; that the civil magistrate was able to bring to justice such of the most culpable as have not embraced the proffered terms of amnesty, and may be deemed fit objects of example; that the friends to peace and good government were not in need of that aid and countenance which they ought always to receive, and, I trust, ever will receive, against the vicious and turbulent; I should have caught with avidity the opportunity of restoring the militia to their families and home. But, succeeding intelligence has tended to manifest the necessity of what has been done; it being now confessed by those who were not inclined to exaggerate the ill conduct of the insurgents, that their malevolence was not pointed merely to a particular law, but that a spirit, inimical to all order, has actuated many of the offenders. If the state of things had afforded reason for the continuance of my presence with the army, it would not have been withholden. But every appearance assuring such an issue as will redound to the reputation and strength of the United States, I have judged it most proper to resume my duties at the seat of Government, leaving the chief command with the Governor of Virginia.

Still, however, as it is probable that, in a commotion like the present, whatsoever may be the pretence, the purposes of mischiefs and revenge may not be laid aside, the stationing of a small

force, for a certain period, in the four western counties of Pennsylvania, will be indispensable, whether we contemplate the situation of those who are connected with the execution of the laws, or of others, who may have exposed themselves by an honorable attachment to them. Thirty days from the commencement of this session being the legal limitation of the employment of the militia, Congress cannot be too early occupied with this subject.

Among the discussions which may arise from this aspect of our affairs, and from the documents which will be submitted to Congress, it will not escape their observation, that not only the inspector of the revenue, but other officers of the United States, in Pennsylvania, have, from their fidelity in the discharge of their functions sustained material injuries to their property. The obligation and policy of indemnifying them are strong and obvious. It may also merit attention, whether policy will not enlarge this provision to the retribution of other citizens, who, though not under the ties of office, may have suffered damage by their generous exertions for upholding the Constitution and the laws. The amount, even if all the injured were included, would not be great; and, on future emergencies, the Government would be amply repaid by the influence of an example, that he, who incurs a loss in its defence, shall find a recompense in its liberality.

While there is cause to lament that occurrences of this nature should have disgraced the name or interrupted the tranquillity of any part of our community, or should have diverted, to a new application, any portion of the public resources, there are not wanting real and substantial consolations for the misfortune. It has demonstrated that our prosperity rests on solid foundations, by furnishing an additional proof that my fellow citizens understand the true principles of Government and liberty; that they feel their inseparable union; that, notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage the value of Republican Government, to behold the most and the least wealthy of our citizens standing in the same ranks as private soldiers, pre-eminently distinguished by being the army of the Constitution; undeterred by a march of three hundred miles over rugged mountains, by the approach of an inclement season, or by any other discouragement. Nor ought I to omit to acknowledge the efficacious and patriotic co-operation which I have experienced from the Chief Magistrates of the States to which my requisitions have been addressed.

To every description, indeed, of citizens let praise be given. But let them persevere in their affectionate vigilance over that precious depository of American happiness, the Constitution of the United States. Let them cherish it, too, for the sake of those who, from every clime, are daily seeking a dwelling in our land. And when, in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations, of the whole Government.

PHILADELPHIA, *August* 4, 1794.

SIR: From evidence which has been laid before me, I hereby notify to you that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district.

I have the honor to be, with the highest consideration and respect, sir, your most obedient and humble servant, JAMES WILSON.

The PRESIDENT OF THE UNITED STATES.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas combinations to defeat the execution of the laws laying duties upon spirits distilled within the United States, and upon stills, have, from the time of the commencement of those laws, existed in some of the western parts of Pennsylvania: And whereas the said combinations, proceeding in a manner subversive equally of the just authority of Government, and of the rights of individuals, have hitherto effected their dangerous and criminal purpose, by the influence of certain irregular meetings, whose proceedings have tended to encourage and uphold the spirit of opposition, by misrepresentations of the laws, calculated to render them odious, by endeavors to deter those who might be so disposed from accepting offices under them, through fear of public resentment, and of injury to person and property, and to compel those who had accepted such offices, by actual violence to surrender or forbear the execution of them; by circulating vindictive menaces against all those who should otherwise directly or indirectly aid in the execution of the said laws, or who, yielding to the dictates of conscience and to a sense of obligation, should themselves comply therewith; by actually injuring and destroying the property of persons who were understood to have so complied; by inflicting cruel and humiliating punishments upon private citizens, for no other cause than that of appearing to be the friends of the laws; by intercepting the public officers on the highways, abusing, assaulting, and otherwise ill-treating them; by going to their houses in the night, gaining admittance by force, taking away their papers, and committing other outrages; employing, for these unwarrantable purposes, the agency of armed banditti, disguised

in such manner as, for the most part, to escape discovery: And whereas the endeavors of the Legislature to obviate objections to the said laws, by lowering the duties, and by other alterations conducive to the convenience of those whom they immediately affect, (though they have given satisfaction in other quarters,) and the endeavors of the Executive officers to conciliate a compliance with the laws, by explanations, by forbearance, and even by particular accommodations, founded on the suggestion of local considerations, have been disappointed of their effect by the machinations of persons, whose industry to excite resistance has increased with every appearance of a disposition among the people to relax in their opposition, and to acquiesce in the laws, insomuch that many persons in the said western parts of Pennsylvania have at length been hardy enough to perpetrate acts which I am advised amount to treason, being overt acts of levying war against the United States; the said persons having, on the 16th and 17th July last past, proceeded in arms (on the second day amounting to several hundreds) to the house of John Neville, inspector of the revenue for the fourth survey of the district of Pennsylvania, having repeatedly attacked the said house, with the persons therein, wounding some of them; having seized David Lenox, marshal of the district of Pennsylvania, who, previous thereto, had been fired upon while in the execution of his duty by a party of armed men, detaining him for some time prisoner, till, for the preservation of his life, and the obtaining of his liberty, he found it necessary to enter into stipulations to forbear the execution of certain official duties touching processes issuing out of a court of the United States; and having finally obliged the said inspector of the said revenue, and the said marshal, from considerations of personal safety, to fly from that part of the country, in order, by a circuitous route, to proceed to the Seat of Government; avowing, as the motives of these outrageous proceedings, an intention to prevent, by force of arms, the execution of the said laws; to oblige the said inspector of the revenue to renounce his said office; to withstand, by open violence, the lawful authority of the Government of the United States; and to compel thereby an alteration in the measures of the Legislature, and a repeal of the laws aforesaid: And whereas by a law of the United States, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," it is enacted, "that, whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by that act, the same being notified by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed. And if the militia of a State where such combinations may happen shall refuse, or be insufficient to suppress the same, it shall be lawful for the President, if the Legislature of the United States shall not be in session, to call forth and employ such numbers of the militia of any other State or States most convenient thereto as may be necessary; and the use of the militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session: *Provided, always*, That, whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, and previous thereto, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time." And whereas James Wilson, an associate justice, on the 4th instant, by writing under his hand, did, from evidence which had been laid before him, notify to me that, "in the counties of Washington and Allegany, in Pensylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district:" And whereas it is, in my judgment, necessary, under the circumstances of the case, to take measures for calling forth the militia in order to suppress the combinations aforesaid, and to cause the laws to be duly executed, and I have accordingly determined so to do, feeling the deepest regret for the occasion, but withal the most solemn conviction that the essential interests of the Union demand it; that the very existence of Government and the fundamental principles of social order are materially involved in the issue, and that the patriotism and firmness of all good citizens are seriously called upon, as occasions may require, to aid in the effectual suppresssion of so fatal a spirit:

Wherefore, and in pursuance of the proviso above recited, I, George Washington, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before the first day of September next, to disperse and retire peaceably to their respective abodes. And I do moreover warn all persons whomsoever against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and do require all officers and other citizens, according to their respective duties, and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same [L. S.] with my hand. Done at the city of Philadelphia, the seventh day of August, one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

GEO. WASHINGTON.

By the President:

EDMUND RANDOLPH.

AUGUST 5, 1794.

GENTLEMEN: The recent events in the neighborhood of Pittsburg have called the attention of the President to the formation of some plan by which the insurrection may be suppressed.

The intelligence which has been transmitted, having been laid before Judge Wilson, he has granted a certificate, declaring that the opposition to the laws of the United States, in the counties of Washington and Allegany, cannot be suppressed by the ordinary course of judicial proceedings, or the power of the marshal. (A copy of that certificate is enclosed No. 1.)

You, or any one or more of you, are, therefore, authorized and appointed forthwith to proceed to the scene of the insurrection, and to confer with any bodies of men or individuals with whom you shall think proper to confer, in order to quiet and extinguish it. There is reason to believe that a collection of discontented individuals will be found at Mingo creek on the fourteenth instant, and, as the object of their assembling is undoubtedly to concert measures relative to this very subject, it is indispensably necessary that you should press thither with the utmost expedition. It is uncertain whether they will remain together for a long or short time; therefore, the being on the ground on the day first named for their meeting is necessary to prevent a miscarriage.

These are the outlines of your communication:

1. To state the serious impressions which their conduct has excited in the mind of the Executive, and to dilate upon the dangers attending every Government where laws are obstructed in their execution.

2. To inform them that the evidence of the late transactions has been submitted to a Judge of the Supreme Court, and that he has granted the above-mentioned certificate, whence a power has arisen to the President to call out the militia to suppress the insurrection. (See the act of May 2, 1792.)

3. To represent to them how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity, a love of peace and tranquillity, and the happiness of his fellow-citizens dictate.

4. You will then explain your appointment as Commissioners, in a language and with sentiments most conciliatory, but reconcilable to the self-respect which this Government ought to observe.

5. Whether you are to proceed further, and in what manner, must depend upon your judgment and discretion at the moment, after an estimate of the characters with whom you are conversing, their views, their influence, &c.

6. Whensoever you shall come to the point at which it may be necessary to be explicit, you are to declare that, with respect to the excise law, the President is bound to consider it as much among the laws which he is to see executed as any other. That, as to the repeal of it, he cannot undertake to make any stipulation, that being a subject consigned by the Constitution to the Legislature, from whom alone a change of Legislative measures can be obtained. That he is willing to grant an amnesty and perpetual oblivion for every thing which has passed; and cannot doubt that any penalty to which the late transactions may have given birth, under the laws and within the jurisdiction of Pennsylvania, may be also wiped away—but upon the following conditions: That satisfactory assurances be given that the laws be no longer obstructed in their execution by any combinations, directly or indirectly: and that the offenders against whom process shall issue for a violation of or an opposition to the laws, shall not be protected from the free operation of the law. Nothing will be enforced concerning the duties of former years if they will fairly comply for the present year.

7. If they speak of the hardship of being drawn to the federal courts at a distance, to that no other reply can be made than this: that the inconvenience, whatsoever it may be, was the act of their own Representatives, and is continued as being still their sense; that, however, on all occasions which will permit the State courts to be used without inconvenience to the United States, or danger of their being frustrated in the object of the suits and prosecutions, the State courts will be resorted to; but the choice of jurisdictions must always depend upon the discretion of the United States, and, therefore, nothing more specific can be said at present.

8. Whensoever you shall choose to speak of the ulterior measures of the Government, you will say that orders have already issued for the proper militia to hold themselves in readiness, and that every thing is prepared for their movement, (as will be seen by the proclamation No. 3,) and is known to yourselves from the communications of the Government; but that these movements will be suspended until your return.

9. These are said to be the outlines; you will fill them up, and modify them so as most effectually to prevent, if possible, the last dreadful necessity which the President so much deprecates; and you may, in particular, assure any individuals of pardon who will expiate their offence by a compliance with the law.

10. You will keep the Executive minutely and constantly informed of all your proceedings, and will use expresses whensoever you think proper, at the public expense.

11. You will be allowed eight dollars per day and your expenses, and may employ a proper person to act as your clerk, who shall be paid whatsoever you may certify him to deserve. The sum of one thousand dollars is advanced to you on account.

12. William Bradford is empowered to add the name of Thomas Smith, or any other proper person, if either J. Ross or J. Yeates shall refuse or be unable to attend.

EDMUND RANDOLPH,
Secretary of State.

TO JAMES ROSS, JASPER YEATES, and WILLIAM BRADFORD.

DEPARTMENT OF STATE, *Aug.* 8, 1794.

GENTLEMEN: In pursuance of instructions from the President of the United States, you, or any one or more of you are hereby authorized and empowered forthwith to repair to the counties on the western side of the Allegany mountain, in the State of Pennsylvania, there to confer with such bodies or individuals as you may approve concerning the commotions, which are referred to in the proclamation of the President of the United States, bearing date the 7th day of August instant; and whatsoever promise or engagement you shall make in behalf of the Executive of the United States, the same will be ratified in the most ample manner.

Given under my hand, and the seal of office of the Department of State, the eighth [L. S.] day of August, one thousand seven hundred and ninety-four.

EDMUND RANDOLPH,
Secretary of State.

TO JAMES ROSS, JASPER YATES, and WILLIAM BRADFORD.

PHILADELPHIA, *Sept.* 24, 1794.

The Commissioners, appointed to confer with the citizens in the western counties of Pensylvania, in order to induce them to submit peaceably to the laws, and to prevent the necessity of using coercion to enforce their execution, respectfully report to the President of the United States:

That, in pursuance of their instructions, they repaired to the western counties; and, on their arrival there, found that the spirit of disaffection had pervaded other parts of the fourth survey of Pennsylvania, besides those counties declared to be in a state of insurrection; that all the offices of inspection established therein had lately been violently suppressed; and that a meeting of persons, chosen by most of the townships, was assembled at Parkinson's Ferry, for the purpose of taking into consideration the situation of the western country. This assembly, composed of citizens coming from every part of the fourth survey, would have furnished a favorable opportunity for a conference and mutual explanation; but as they met in the open fields, and were exposed to the impressions of a number of rash and violent men (some of them armed) who surrounded them, an immediate communication with the whole body would have been inconvenient and hazardous. The meeting was probably of that opinion also; for, soon after the appointment of Commissioners was announced to them, they resolved that a committee, to consist of three persons from each county, should be appointed to meet any Commissioners that might have been or might be appointed by the Government; and that they should report the result of their conference to the standing committee, which was to be composed of one person from each township. As soon as this committee of conference were nominated, they agreed to meet at Pittsburg, on the 20th of the same month.

The underwritten accordingly repaired to that place, and were soon after joined by the honorable Thomas McKean and William Irvine, esqrs., who had been appointed Commissioners on the part of the Executive of Pennsylvania. A full and free communication was immediately had with those gentlemen as to the powers delegated, and the measures proper to be pursued at the expected conference.

On the day appointed a sub-committee of the conferees waited on the Commissioners, and arranged with them the time, place, and manner of conference. It was agreed that it should be had the next morning at the house of John McMasters, in Pittsburg, and should be private.

On the 21st, all the Commissioners met the conferees at the place appointed. Of the latter there were present John Kirkpatrick, George Smith, and John Powers, from Westmoreland county; David Bradford, James Marshall, and James Edgar, from Washington county; Edward Cook, Albert Gallatin, and James Lang, from Fayette county; Thomas Morton, John Lucas, H. H. Brackenridge, from Allegany county; together with William McKinley, William Sutherland, and Robert Stevenson, who were inhabitants of Ohio county, in Virginia.

The conference was begun by the underwritten, who expressed the concern they felt at the events which had occasioned that meeting, but declared their intention to avoid any unnecessary observations upon them, since it was their business to endeavor to compose the disturbances which prevailed, and to restore the authority of the laws by measures wholly of a conciliatory nature.

It was then stated, that the formal resistance which had lately been given to the laws of the United States violated the great principle on which Republican Government is founded; that every such Government must, at all hazards, enforce obedience to the general will; and that, so long as they admitted themselves to be a part of the nation, it was manifestly absurd to oppose the national authority.

The underwritten then proceeded to state the obligations which lay on the President of the United States to cause the laws to be executed; the measures he had taken for that purpose; his desire to avoid the necessity of coercion; and the general nature of the powers he had vested in them; and, finally, requested to know whether the conferees could give any assurances of a disposition in the people to submit to the laws, or would recommend such submission to them.

The Commissioners, on the part of the State of Pennsylvania, then addressed the conferees on the subject of the late disturbances in that country; forcibly represented the mischievous consequences of such conduct; explained the nature of their mission; and declared they were ready to promise, in behalf of the Executive authority of the State, a full pardon and indemnity for all that was past, on condition of an entire submission to the laws.

On the part of the conferees a narrative was given of those causes of discontent and uneasi-

ness which very generally prevailed in the minds of the people in the western counties, and which had discovered themselves in the late transactions. Many of these, they said, had long existed, and some of them from the settlement of that country. Among other causes of discontent, they complained of the decisions of the State courts, which discountenanced improvement titles, and gave the preference to paper titles; of the war which had so long vexed the frontiers; and of the manner in which that war had been conducted. They complained that they had been continually harassed by militia duty, in being called out by the State Government to repel incursions, &c.; that the General Government had been inattentive to the execution of the Treaty of Peace respecting the Western posts, and remiss in asserting the claim to the navigation of the Mississippi; that the acts for raising a revenue on distilled spirits were unequal and oppressive, in consequence of their local circumstances; that Congress had neglected their remonstrances and petitions; and that there was great hardship in being summoned to answer for penalties in the courts of the United States at a distance from the vicinage. They also mentioned the suspension of the settlement at Presqu'isle, the engrossing of large quantities of land in the State by individuals, the killing of certain persons at General Neville's house, and the sending of soldiers from the garrison at Pittsburg to defend his house, as causes of irritation among the people. To these they added the appointment of General Neville as inspector of the survey, whose former popularity had made his acceptance of that office particularly offensive.

They said they were persuaded that the persons who were the actors in the late disturbances had not originally intended to have gone so far as they had gone, but were led to it from the obstinacy of those who refused to do what was demanded of them; that the forcible opposition which had been made to the law was owing to the pressure of the grievance; but, if there was any prospect of redress, no people would be more willing to show themselves good citizens.

The Commissioners expressed their surprise at the extent of these complaints, and intimated that if all these matters were really causes of uneasiness and disaffection in the minds of the people, it would be impossible for any Government to satisfy them. But as some of these complaints were of a nature more serious than others, though they could not speak officially, they stated what was generally understood as to the conduct, measures, and expectations of Government respecting the Mississippi navigation; the Treaty of Peace; the suspension of the settlement at Presqu'isle, &c.; that, as to the acts of Congress which had been forcibly opposed, if it were proper they should be repealed, Congress alone could do it; but that while they were laws, they must be carried into execution; that the petitions of the western counties had not been neglected, nor their interests overlooked; that, in fact, the local interests of those counties were better represented than those of any other part of the State; they having no less than three gentlemen in the House of Representatives, when it appeared by the census that their numbers would not entitle them to two; that the acts in question had been often under the consideration of Congress; that they had always been supported by a considerable majority, in which they would find the names of several gentlemen, considered, in those counties, as the firmest friends of their country; that, although the general interests of the Union did not admit of a repeal, modifications had been made in the law, and some favorable alterations, in consequence of their representations; and that, at the last session, the State courts had been vested with a jurisdiction over offences against those acts, which would enable the President to remove one of their principal complaints; that the convenience of the people had been, and would always be, consulted by the Government; and the conferees were desired to say, if there was anything in the power of the Executive that yet remained to be done to make the execution of the acts convenient and agreeable to the people.

One of the conferees then inquired whether the President could not suspend the execution of the excise acts until the meeting of Congress; but he was interrupted by others, who declared that they considered such a measure as impracticable. The Commissioners expressed the same opinion; and the conversation then became more particular, respecting the powers the Commissioners possessed; the propriety and necessity of the conferees expressing their sense upon the proposals to be made, and of their calling the standing committee together before the 1st of September. But as it was agreed that the propositions and answers should be reduced to writing, the result is contained in the documents annexed, and it appears unnecessary to detail the conference further.

The underwritten accordingly presented to the conferees a letter, (of which a copy, marked No. 1, is annexed;) and the following day they received an answer from them, in which they declare that they are satisfied that the Executive had, in its proposals, gone as far as could be expected; that, in their opinion, it was the interest of the country to accede to the law; and that they would endeavor to conciliate not only the committee to whom they were to report, but the public mind in general to their sense of the subject. (A copy of this letter also is annexed, No. 2.)

The underwritten then proceeded to state, in writing, what assurances of submission would be deemed full and satisfactory, and to detail more particularly the engagements they had power to make. This detail was submitted to the inspection of a sub-committee of the conferees, who candidly suggested such alterations as appeared to them necessary to render the proposals acceptable. From a desire to accommodate, most of the alterations suggested by those gentlemen were adopted; and though some of them were rejected, the reasons given appeared to be satisfactory, and no further objections remained. (A copy of this detail is marked No. 3.)

The conferees, on the following day, explicitly approved of the detail thus settled, engaged to recommend the proposals to the people, and added, that however it might be received, they were persuaded nothing more could be done by the Commissioners, or them, to bring the business to an accommodation. (No. 4 is a copy of their letter.)

So far as this letter respects the gentlemen from Ohio county, in Virginia, a reply was made, and some arrangements entered into with them, the nature and extent of which appear by the correspondence. (Copies of which are annexed, numbered 5, 6, 7, and 8.)

The hopes excited by the favorable issue of this conference were not realized by a correspondent conduct in the citizens who composed what was called "the standing committee." They assembled at Brownsville (Redstone Old Fort) on the 28th August, and broke up on the 29th, and on the following day, a letter was received from Edward Cook, their chairman, announcing that difficulties had arisen, and that a new committee of conference was appointed; and although the resolve which is annexed was passed, it did not appear that the assurances of submission which had been demanded had been given. (Copies of this letter and resolve are marked Nos. 9 and 10.)

The underwritten were informed by several of the members of that meeting, as well as other citizens who were present at it, that the report of the committee of conference, and the proposals of the Commissioners, were unfavorably received; that rebellion and hostile resistance against the United States were publicly recommended by some of the members; and that so excessive a spirit prevailed, that it was not thought prudent or safe to urge a compliance with the terms and preliminaries prescribed by the underwritten, or the Commissioners from the Governor of Pennsylvania. All that could be obtained was the resolve already mentioned, the question upon it being decided by ballot; by which means each member had an opportunity of concealing his opinion and of sheltering himself from the resentment of those from whom violence was apprehended. But notwithstanding this caution, the opinion was so far from being unanimous, that out of fifty-seven votes, there were twenty-three nays, leaving a majority of only eleven: and the underwritten have been repeatedly assured, by different members of that meeting, that if the question had been publicly put, it would have been carried in the negative by a considerable majority.

With a view of counteracting the arts and influence of the violent, the underwritten, on the 27th of August, addressed a letter to the late conferees, authorizing them to assure the friends of order, who might be disposed to exert themselves to restore the authority of the laws, that they might rely on the protection of Government, and that measures would be taken to suppress and punish the violence of those individuals who might dissent from the general sentiment. This letter (a copy of which is marked No. 11) was delivered to one of the conferees going to Brownsville; but he afterwards informed the underwritten that the gentleman to whom it was addressed did not "think it prudent to make any use of it, as the temper which prevailed was such that it would probably have done more harm than good."

The conduct of the meeting at Brownsville, notwithstanding the thin veil thrown over it by the resolve already mentioned, was said to be considered by many (and especially by the violent party) as a rejection of the terms. It was certainly a partial rejection of those proposed by the underwritten, and a total one of the preliminaries prescribed by the State Commissioners, who had required assurances from the members of that meeting only, and not from the people themselves.

Having, therefore, no longer any hopes of a universal, or even general submission, it was deemed necessary, by a solemn appeal to the people, to ascertain as clearly as possible the determination of every individual; to encourage and oblige the friends of order to declare themselves; to recal as many of the disaffected as possible to their duty, by assurances of pardon dependent on their individual conduct; and to learn with certainty what opposition Government might expect if military coercion should be finally unavoidable.

To secure these advantages, the underwritten were of opinion that the assurances of submission required of the people ought not only to be publicly given, but ought also to be reduced to writing; and that the state of each county should be certified by those who were to superintend the meetings at which the disposition of the people was to be ascertained.

On the 1st instant, nine of the gentlemen appointed by the meeting at Brownsville assembled at Pittsburg, and in the afternoon requested a conference with the Commissioners, which was agreed to. They produced the resolves by which they were appointed, and entered into some explanation of the nature of their visit; but being desired to communicate it in writing, they withdrew, and soon after sent a letter addressed to the Commissioners of the United States and of the State of Pennsylvania; to which an answer was immediately written. (Copies of these letters are annexed, Nos. 12 and 13.)

As no part of their letter, although addressed to the Commissioners from Pennsylvania, related to the preliminaries prescribed by them, they made no answer in writing; but, in a conference held the next morning with those nine gentlemen, they verbally declared to them their entire concurrence in the sentiments contained in the letter from the underwritten; and they expressed, at some length, their surprise and regret at the conduct of the meeting at Brownsville. The conferees declared themselves satisfied with the answer they had received—avowed an entire conviction of the necessity and propriety of an early submission in the manner proposed, and offered immediately to enter into the detail for settling the time, place, and manner, of taking the sense of the people. (A copy of their

letter, which also expresses these sentiments, is annexed, No. 14.)

It was accordingly agreed between the Commissioners on the one part, and these gentlemen on the other, that the people should assemble for the purpose of expressing their determination, and giving the assurances required, on the 11th instant; and the mode of ascertaining the public sentiments of the citizens resident in the fourth survey of Pennsylvania was clearly and definitely prescribed by the unanimous consent of all who were present at the conference. It was evident that circumstances might arise to prevent the real disposition of the citizens from being fully ascertained at these meetings, and that even arts might be used to procure such an expression of the public mind, that, while it held up an appearance of submission, might be in reality a false and delusive representation of it. It was therefore necessary that persons of character from every township or district (who might be able, from their own knowledge or the comparison of all circumstances, justly to appreciate the public opinion) should assemble and jointly certify their opinion whether there was such a general submission in their respective counties, or not, that the laws could be peaceably carried into execution. For the same purpose it was agreed to be proper that the number of those who openly refused, as well as of those who promised to submit, in their respective townships or districts, should be reported to the Commissioners. (A copy of this agreement, marked No. 15, is annexed.)

It appears that meetings were held in the several counties, in pursuance of this agreement; but the underwritten, with extreme regret, find themselves obliged to report, that, in the returns made to them no opinions are certified that there is so general a submission in any one of the counties that an office of inspection can be immediately and safely established therein. On the contrary, the report of those who superintended the meeting in Westmoreland, states their opinion to be that such a measure would not be safe.

From Allegany county no report whatever has been received; and, although it is understood that a very great majority of those assembled in the Pittsburg district actually subscribed the declaration required, yet there is no reason to believe that there was a favorable issue in any other district. Information has been received that great violence prevailed in one of them, and that in another the majority declared their determination not to submit to the laws of the United States.

From Washington county a general return was duly transmitted to one of the Commissioners at Uniontown, signed by twenty-eight of the superintendents of the meeting. They do not, however, state the number of the yeas and nays on the question for submission. They decline giving any opinion whether there is such a general submission that an office of inspection may be established therein, but certify their opinion and belief "that a large majority of the inhabitants will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal the law."

The report from the superintendents in Westmoreland county is equally defective, in not stating the numbers as required; but it certifies their opinion, that, as ill-disposed lawless persons could suddenly assemble and offer violence, it would not be safe immediately to establish an office of inspection in that county.

The county of Fayette rejected the mode of ascertaining the sense of the people, which had been settled between the underwritten and the last committee of conference at Pittsburg. The standing committee of that county directed those qualified by the laws of the State for voting at elections, to assemble in their election districts, and vote by ballot whether they would accede to the proposals made by the Commissioners of the United States, on the 22d of August, or not. The superintendents of these election districts report that five hundred and sixty of the people thus convened had voted for submission, and that one hundred and sixty-one had voted against it; that no judge or member of their committee had attended from the fourth district of the county, to report the state of the votes there, and that they are of opinion that a great majority of the citizens who did not attend are disposed to behave peaceably, and with due submission to the laws. But it is proper to mention, that credible and certain information has been received, that in the fourth district of that county (composed of the townships of Tyrone and Bullskin, of which the standing committee has given no account) six-sevenths of those who voted were for resistance. (Copies of the reports stated are annexed, and numbered 16, 17, and 18.)

From that part of Bedford county which is comprehended within the fourth survey of Pennsylvania, no report or returns have been sent forward, nor has any information been received that the citizens assembled there for the purpose of declaring their opinions upon questions proposed.

The written assurances of submission which have been received by the Commissioners are not numerous, nor were they given by all those who expressed a willingness to obey the laws. In Fayette county, a different plan being pursued, no written assurances were given in the manner required. In the three other counties, which, from the census taken under the laws of the State, appear to contain above eleven thousand taxable inhabitants, (in which none under the age of twenty-one are included,) the names subscribed to the papers received barely exceed two thousand seven hundred, and of these a very considerable part have not been subscribed in the mode agreed on—being either signed at a different day, unattested by any person, or wilfully varied from the settled form.

From credible information received, it appears to the underwritten, that in some townships the majority, and, in one of them, the whole of the persons assembled, publicly declared themselves for resistance. In some, although the sense of the majority was not known, yet the party for resistance was sufficiently strong to prevent any declarations for submission being openly made; and in others, the majority were intimidated or opposed by a violent minority. But, notwithstanding these

circumstances, the underwritten firmly believe that there is a considerable majority of the inhabitants of the fourth survey who are now disposed to submit to the execution of the laws; at the same time, they conceive it their duty explicitly to declare their opinion that such is the state of things in that survey, that there is no probability that the act for raising a revenue on distilled spirits and stills can at present be enforced by the usual course of civil authority; and that some more competent force is necessary to cause the laws to be duly executed, and to insure to the officers and well-disposed citizens that protection which it is the duty of Government to afford.

This opinion is founded on the facts already stated; and it is confirmed by that which is entertained by many intelligent and influential persons, officers of justice and others, resident in the western counties, who have lately informed one of the Commissioners that whatever assurances might be given, it was, in their judgment, absolutely necessary that the civil authority should be aided by a military force, in order to secure a due execution of the laws.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

[The documents referred to in the foregoing report.]

No. 1.

From the Commissioners on the part of the Union to the Committee of Conference, assembled at Pittsburg.

PITTSBURG, *August* 21, 1794.

GENTLEMEN: Having had a conference with you on the important subject that calls us into this part of Pennsylvania, we shall now state to you in writing, agreeably to your request, the nature and object of our mission hither. Considering this as a crisis infinitely interesting to our fellow-citizens who have authorized you to confer with us, we shall explain ourselves to you with that frankness and sincerity which the solemnity of the occasion demands.

You well know that the President of the United States is charged with the execution of the laws. Obedience to the national will being indispensable in a Republican Government, the people of the United States have strictly enjoined it as his duty "to see that the laws are faithfully executed;" and when the ordinary authorities of the Government are incompetent for that end, he is bound to exert those high powers with which the nation has invested him for so extraordinary an occasion.

It is but too evident that the insurrections which have lately prevailed in some of these western counties have suppressed the usual exercise of the civil authority; and it has been formally notified to the President, by one of the associate judges, in the manner the law prescribes, "that in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or the powers vested in the marshal of that district." He therefore perceives, with the deepest regret, the necessity to which he may be reduced, of calling forth the national force in order to support the national authority, and to cause the laws to be executed; but he has determined previously to address himself to the patriotism and reason of the people of the western counties, and to try the moderation of Government, in hopes that he may not be compelled to resort to its strength. But we must not conceal from you that it is also his fixed determination, if these hopes should be disappointed, to employ the force, and, if it be necessary, the whole force of the Union, to secure the execution of the laws. He has, therefore, authorized us to repair hither, and by free conferences and the powers vested in us, to endeavor to put an end to the present disturbances, and to the opposition to the execution of the laws, in a manner that may be finally satisfactory to all our fellow-citizens.

We hope that this moderation in the Government will not be misconstrued by the citizens to whom we are sent. The President, who feels a paternal solicitude for their welfare, wishes to prevent the calamities that are impending over them; to state to them clearly the inevitable consequences of further resistance; to recal them to their duty; and to prove to the whole world, that if military coercion must be employed, it is their choice, and not his.

The powers vested in us will enable us so to arrange the execution of the acts for raising a revenue on distilled spirits and stills, that little inconvenience will arise therefrom to the people; to prevent, as far as is consistent with the public interests, the commencing prosecutions under those acts at a distance from the places where the delinquents reside; to suspend prosecutions for the late offences against the United States; and even to engage for a general pardon and oblivion of them.

But, gentlemen, we explicitly declare to you, that the exercise of these powers must be preceded by full and satisfactory assurances of a sincere determination in the people to obey the laws of the United States, and their eventual operation must depend upon a correspondent acquiescence in the execution of the acts which have been opposed. We have not (and, coming from the Executive, you well know that we cannot have) any authority to suspend the laws, or to offer the most distant hopes that the acts, the execution of which has been obstructed, will be repealed. On the contrary, we are free to declare to you our private opinions, that the National Councils, while they consult the general interests of the Republic, and endeavor to conciliate every part by local accommodations to citizens who respect the laws, will sternly refuse every indulgence to men who accompany their requests with threats, and resist by force the public authority.

Upon these principles we are ready to enter with you into the detail necessary for the exercise of our powers; to learn what local accommodations are yet wanting to render the execution of the laws convenient to the people; to concert with you measures for restoring harmony and order, and for

burying the past in oblivion; and to unite our endeavors with yours to secure the peace and happiness of our common country.

It is necessary, however, to apprize you thus early that, at present, we do not consider ourselves as authorized to enter into any conferences on this subject after the 1st of September ensuing. We therefore hope the business will be so conducted that some definitive answer may be given to us before that day.

We cannot believe that, in so great a crisis, any attempts to temporize and procrastinate will be made by those who sincerely love their country, and wish to secure its tranquillity.

We also declare to you, that no indulgence will be given to any future offence against the United States, and that they who shall hereafter directly or indirectly oppose the execution of the laws must abide the consequences of their conduct.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

No. 2.

The following is the answer of the committee.

PITTSBURG, *August* 22, 1794.

GENTLEMEN: Having, in our conference, at considerable length stated to you the grounds of that discontent which exists in the minds of the people of this country, and which has lately shown itself in acts of opposition to the excise law, you will consider us as waiving any question with regard to the nature of those acts, whether treasonable, or amounting only to riot and breach of the peace; of course, as waiving the question of the constitutional power of the President to call upon the force of the Union to suppress them. It is our object, as it is yours, to compose the disturbance.

We are satisfied that, in substance, you have gone as far as we could expect the Executive to go. It only remains to ascertain your propositions more in detail, and to say what arrangements it may be in your power to make with regard to convenience in collecting the revenue under the excise laws; how far it may be consistent with the public interest to prevent commencing prosecutions under those laws at a distance from the places where the delinquents reside; on what condition or circumstance prosecutions for the late violations of the laws shall be suspended; that is to say, whether on the individual keeping the peace, or on its being kept by the country in general; and also with regard to the general amnesty, whether the claiming the benefit of it by an individual shall depend on his own future conduct or that of the whole community.

We have already stated to you, in conference, that we are empowered to give you no definitive answer with regard to the sense of the people on the great question of acceding to the law, but that, in our opinion, it is the interest of the country to accede; and that we shall make this report to the committee to whom we are to report, and state to them the reasons of our opinion, that so far as they may appear to have weight they may be regarded by them. It will be our endeavor to conciliate not only them, but the public mind in general, to our sense on this subject; for this purpose, we hope to be assisted by you in giving all that extent and precision, clearness and certainty to your propositions, as may satisfy the understandings and engage the acquiescence of the people.

It is to be understood that, in acceding to the law, no inference is to be drawn, or construction made, that we will relinquish a constitutional opposition; but that we will invariably, undeviatingly, and constantly pursue every legal means and measure of obtaining a repeal of the law in question.

As we are disposed with you to have the sense of the people taken on the subject of our conference as speedily as may be, with that view we have resolved to call the committee to whom our report is to be made at an earlier day than had been appointed, to wit, to meet on Thursday, the 28th instant, but have not thought ourselves justifiable in changing the place, to wit, at Redstone, (Old Fort,) on the Monongahela.

By order of the committee:

EDWARD COOK, *Chairman.*

To the COMMISSIONERS
on the part of the Union.

No. 3.

The Commissioners appointed by the President of the United States, to confer with the citizens in the western parts of Pennsylvania, having been assured by the committee of conference of their determination to approve the proposals made, and to recommend to the general committee, appointed by the meeting at Parkinson's Ferry, a submission to the acts of Congress, do now proceed to declare what assurances of submission will be deemed full and satisfactory, and to detail the engagements which they have power to make.

1st. It is expected and required by the said Commissioners, that the citizens composing the general committee do, on or before the first day of September, explicitly declare their determination to submit to the laws of the United States; and that they will not, directly or indirectly, oppose the execution of the acts for raising a revenue on distilled spirits and stills.

2d. That they do explicitly recommend a perfect and entire acquiescence under the execution of the said acts.

3d. That they do, in like manner, recommend that no violence, injuries, or threats be offered to the person or against the property of any officer of the United States, or citizens complying with the laws, and do declare their determination to support (as far as the laws require) the civil authority, in affording the protection due to all officers and citizens.

4th. That measures be taken to ascertain, by meetings in election districts or otherwise, the determination of the citizens in the fourth survey of Pennsylvania to submit to the said laws; and that satisfactory assurances be given to the said Commissioners that the people have so determined to submit, on or before the 14th of September next.

The said Commissioners, if a full and perfect compliance with the above requisitions shall take place, have power to promise and engage in manner following, to wit:

1st. No prosecution for any treason or other indictable offence against the United States, committed in the fourth survey of Pennsylvania before this day, shall be commenced or proceeded on until the 10th of July next.

2d. If there shall be a general and sincere acquiescence in the execution of the said laws until the said 10th day of July next, a general pardon and oblivion of all such offences shall be granted; excepting therefrom, nevertheless, every person who shall in the meantime wilfully obstruct, or attempt to obstruct, the execution of any of the laws of the United States, or be in anywise aiding or abetting therein.

3d. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has determined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4th. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made, and communicated by the officers appointed to carry the said acts into execution.

Given under our hands, at Pittsburg, this 22d day of August, 1794.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

To the COMMITTEE OF CONFERENCE.

No. 4.

PITTSBURG, *August* 23, 1794.

GENTLEMEN: We presume it has been understood by you that the conference on our part consists of members not only from the counties of Pennsylvania west of the Allegany mountains, but also from Ohio county, in Virginia, and your propositions made in general by your first letter being addressed to this conference, the Ohio county was considered as included; yet in your propositions, made in detail by your last, you confine them to the survey within Pennsylvania. We would request an explanation on this particular.

We have only further to say, we shall make a faithful report of your propositions, which we approve of, and will recommend to the people; and, however they may be received, we are persuaded nothing more could have been done by you or us to bring this business to an accommodation.

Signed by order of the committee.

EDWARD COOK, *Chairman.*

To the COMMISSIONERS
on the part of the Union.

No. 5.

To which the following answer was returned:

PITTSBURG, *August* 23, 1794.

GENTLEMEN: Having received assurances of your approbation of the propositions made by us, and of your determination to recommend them to the people, we have nothing further to add, except to reply to that part of your letter which relates to the gentlemen from Ohio county.

The whole tenor of our letter of the 21st instant shows that we had come among you in consequence of the disturbances which had prevailed in the western parts of Pennsylvania, to prevent the actual employment of military coercion there, as contemplated in the President's proclamation, and that the late offences referred to were the insurrections which had prevailed in some of the western counties. We therefore cannot extend our propositions.

In addition to this, we are well assured that the people of Ohio county have not generally authorized these gentlemen to represent them, and we cannot at present undertake to make any definite arrangement with them.

We are, however, willing to converse with these gentlemen on this subject, and we have no doubt that, on satisfactory proofs of their determination to support the laws of their country, and of an entire submission to them by those from whom they come being given, the President will, upon our recommendation, extend a similar pardon to any late offences committed against the United States, if such there be committed. We are willing, on receiving such assurances from them, to recommend such application accordingly.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

To the COMMITTEE OF CONFERENCE.

No. 6.

The following communication was made to the Commissioners by the persons said to have been sent from Ohio county, in Virginia.

PITTSBURG, *August* 23, 1794.

GENTLEMEN: We have seen, by your letter of this day, that you have been well assured that the people of Ohio county did not generally authorise us to represent them. All we have to say on that subject is, that we were authorised fuly and generally by such persons as met on that accasion. Wheather any of the inhabsants were dissatisfied with our being appointed for that purpose, or wheather there were any who did not wish an appointment to take place at all, we know not; but we pretent to have no other disine than that of representing such of the citizens of Ohio county as sent us here.

Waving, hower, the mear personal subject, we think it a duty we owe our fellow-citizens, to wish (and we know it to have been the opinion of the whole committee of conference) that no destinction should be made between offences committed upon the same accasion, arising from the same source,

and perpetrated at the same time, wheather they happined in Pennsylvanah or in Virginia; and we therefore hope you will conceive it, upon full examenation, to be part of your present pacific mission to satisfy the minds of the people of Virginia as well as thouse of Pennsylvana; and that you will give assurances that the same proofs which you require from the people of Pennsylvana of there determination to submit to the laws shall be deemed sufficient when given by the people of Ohio county, to enduce you to recommend to the President to extend a simlar pardon to any offences committed there against the United States; and that, whatever objects you may have to consider us in the same point of view with the other members of the committee of conference, you will not require different conditions from, or propose different terms to, the citizins of the too States, &c.*

We have the honor to be, with respect, gentlemen, your most obedient and very humble sarvants,

ROBT. STEPHENSON,
WILLIAM SUTHERLAND,
WILLIAM McKINLEY.

To the COMMISSIONERS *for the U. S.*

No. 7.

GENTLEMEN: Having conversed with you on the subject of your letter of this date, we declare to you that, if the same declarations and assurances are made by you, which it is required should be made by the citizens to be assembled at Redstone, and if satisfactory assurances are also given to us of a sincere determination of those individuals in Ohio county, who sent you hither, to submit to the laws for raising a revenue on distilled spirits and stills, on or before the 14th September next, in such case we will recommend to the President of the United States your petition, requesting that a pardon may be granted for any indictable offence against the United States, committed in Ohio county since the 15th day of July last, and before the present day, on the same terms offered to the inhabitants of the fourth survey of Pennsylvania. But, as certain bonds have been lately taken by force from Zaccheus Biggs, the collector of the said revenue in Ohio county, it is to be clearly understood that said pardon shall not extend to prevent any civil remedy against those who have destroyed the said bonds, or are parties to them.

Given under our hands, August 23, 1794.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

To Messrs. ROBERT STEPHENSON, WILLIAM SUTHERLAND, and WILLIAM McKINLEY.

To which the following reply was made.

No. 8.

PITTSBURG, *August* 23, 1794.

GENTLEMEN: Having Conceded your Letter of this Deate since the Departur of the speache Comatie delegated from Westmorland Washington Featt & Alegunie countis in Pensilvenea & Considering our Selves a Justifyabel repentation of those inhabtents of Ohio County by Whowe we were Deligated & a part of that speachell Comitee to whom your prposals wear mead and Accepted yesterday & the day posding, and relying on the faith alrdy pledged by you and Acepted by the Speachell Comatee we dclen entereing any further on this Bussens untell we Consult our Constaituents & the Cometee of Safety.

We are, Gentl. with Esteem, Your most Obed. Humble Servt.*

ROBERT STEPHENSON,
WILLIAM SUTHERLAND,
WM. M'KINLY.

No. 9.

BROWNSVILLE, *August* 29, 1794.

GENTLEMEN: Difficulties having arisen with us, we have thought it necessary to appoint a committee to confer with you, in order to procure, if possible, some further time, in order that the people may have leisure to reflect on their true situation.

I am, gentlemen, your most obedient humble servant,

EDWARD COOK.

P. S. Enclosed you have a copy of the resolution on that subject.

The Hon. the COMMISSIONERS *of the U. S.*

No. 10.

At a meeting of the standing committee of the western counties, held at Brownsville, (Redstone, Old Fort,) on the 28th and 29th of August, 1794.—

The report of the committee appointed to confer with the Commissioners of Government being taken into consideration, the following resolutions were adopted, to wit:

1. *Resolved*, That in the opinion of this committee, it is the interest of the people of this country to accede to the proposals made by the Commissioners on the part of the United States.

2. *Resolved*, That a copy of the foregoing resolution be transmitted to the said Commissioners.

EDW. COOK, *Chairman.*
A true copy: ALBERT GALLATIN.

No. 11.

The following letter was delivered to Hugh H. Brackenridge, just before his departure to Redstone, (Old Fort,) directed "To Messrs. Kirkpatrick, Smith, Powers, D. Bradford, Marshall, Edgar, Cook, Gallatin, Lang, Morton, Lucas, and Brackenridge, late conferees."

PITTSBURG, *August* 27, 1794.

GENTLEMEN: Since your departure from Pittsburg, we have transmitted information of our proceedings to the Secretary of State; and it being evident from them, that the satisfactory proofs of a sincere submission to the laws cannot be obtained before the 1st September, we may undertake to assure you that the movement of the militia will be suspended until further information is received from us.

We also authorize you to assure the friends of order, who may be disposed to exert themselves to restore the authority of the laws, that they may rely upon all the protection the Government can give; and that every measure necessary to suppress and punish the violence of ill-disposed individuals who may dissent from the general sentiment (if there should be any such) will be promptly taken in the manner the laws direct.

We are, gentlemen, your most humble servants,

JAMES ROSS,
J. YEATES.
WM. BRADFORD.

No. 12.

PITTSBURG, *September* 1, 1794.

GENTLEMEN: The committee appointed by the Committee of Safety, at Redstone, the 28th of August last, to confer with the Commissioners of the United States and State of Pennsylvania, and agreeable to the resolution of said committee, do request:

1st. That the said Commissioners give an assurance, on the part of the General Government, of an indemnity to all persons as to the arrearage of excise that have not entered their stills to this date.

2d. Will the Commissioners aforesaid give to the eleventh day of October next, to take the sense of the people at large of the four counties west of Pennsylvania, and that part of Bedford west of the Allegany mountains, and the Ohio county in Virginia, whether they will accede to the resolution of the said Commissioners as stated at large in the conference with the committee of conference met at Pittsburg the 21st day of August last?

By order of the committee:

JOHN M'CLELLAND.

The Hon. the COMMISSIONERS
on the part of the U. S. and of the State of Pa.

No. 13.

PITTSBURG, *September* 1, 1794.

GENTLEMEN: We have received your letter of this date, and, as time presses, have determined to give it an immediate answer, although we shall be prevented thereby from making so full and correct a reply as the importance of the subject requires.

In our correspondence with the late committee of conference, we detailed those assurances of submission to the laws, which would have been deemed full and satisfactory, and which were necessary to the exercise of the powers vested in us. This detail was minutely settled in a conference with a sub-committee of that body. From a desire on our part to accommodate and to render the proposals as unexceptionable as possible, they were altered and modified at their request, till, being superior to all exception, they received the unanimous approbation of those gentlemen.

The detail, thus settled, required from the standing committee assurances of their explicit determination to submit to the laws of the United States; that they would not, directly or indirectly, oppose the execution of the acts for raising a revenue upon distilled spirits and upon stills; and that they would support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens. These assurances have not been given. On the contrary, we learn, with emotions difficult to be repressed, that in the meeting of the committee at Redstone, resistance to the laws and open rebellion against the United States were publicly advocated; and that two-fifths of that body, representing twenty-three townships, totally disapprove the proposals, and preferred the convulsions of a civil contest to the indulgence offered them by their country. Even the members composing the majority, although by a secret and undistinguishing vote they expressed an opinion that it was the interest of the people to accede to the proposals, did not themselves accede to them, nor give the assurances, nor make the recommendations explicitly required of them. They have adjourned without day, and the terms are broken on their part.

We had reason for requiring these declarations and recommendations from that body. They were a representation (in fact) of the different townships of the western counties; they were a body in whom the people had chosen to place confidence; there were among them men, whose advice and example have had influence in misleading the people, and it was proper they should be instrumental in recalling them to their duty; and an avowed determination to support the civil authority, in protecting the officers, would have assisted in repressing the violence of turbulent individuals.

Our expectations have been unfortunately disappointed; the terms required have not been acceded to. You have been sent hither to demand new terms; and it is now necessary for us to decide, whether we will return home or enter into other arrangements.

Upon reflection, we are satisfied that the President of the United States, while he demands satisfactory proofs that there will be in future a perfect submision to the laws, does not wish the great body of the people should be finally concluded by the conduct or proceedings of that committee; and if the people themselves will make the declarations required of the standing committee, and give satisfactory proofs of a general and sincere determination to obey the laws, the benefits offered may still be obtained by those individuals who shall explicitly avow their submission, as hereinafter mentioned.

It is difficult to decide in what manner the said declarations and determinations of the people to submit peaceably should be taken and ascertained. We have thought much on this subject, and are fully satisfied that a decision by ballot will be wholly unsatisfactory, and that it will be easy to

* The spelling in the foregoing is agreeably to the original.

* The spelling in this reply is agreeably to the original.

produce by these means an apparent but delusive unanimity. It is, therefore, necessary that the determination of every individual be publicly announced. In a crisis, and on a question like this, it is dishonorable to temporize. Every man ought to declare himself openly, and give his assurances of submission in a manner that cannot be questioned hereafter. If a civil contest must finally take place, the Government ought to know not only the numbers, but the names of the faithful citizens, who may otherwise be in danger of being confounded with the guilty. It therefore remains with you to say, whether you will recommend such a mode of procedure, and will immediately arrange with us the manner in which the sense of the people may be publicly taken, and written assurances of submission obtained, within the time already limited. We desire an explicit and speedy answer in writing.

You request us to "give assurances, on the part of the United States, that an indemnity shall be granted as to the arrears of excise, to all persons that have not entered their stills to this date." If it were proper to remit all arrears of duty, we cannot conceive why those who have entered their stills should not receive a similar indulgence with those who have refused to do so; nor why you demand peculiar favors for the opposers of the acts, while you abandon those who have complied to the strictness of the laws. We have gone on that subject as far as we think advisable. The clause was introduced at the request of the late committee of conference; and even the style of expressing it was settled with them. We, therefore, have nothing more to add to that subject.

You require also that time be given until the 11th day of October, in order to ascertain the sense of the people. That is wholly inadmissible. On the day of the conference, the time allowed was deemed sufficiently long; and we are sorry to perceive that delay only tends to produce an indisposition to decide. There are strong reasons, obvious to a reflecting mind, against prolonging the time a single hour. Nothing is required but a declaration of that duty which every man owes to his country, and every man before this day must have made up his mind on the subject. Six weeks have already elapsed since the ordinary exercise of civil authority has been forcibly suppressed, the officers of Government expelled, and the persons and property of well-disposed citizens exposed to the outrages of popular violence. The protection which is due to peaceable citizens; the respect which every Government owes itself, and the great interests of the United States, demand that the authority of the laws be quickly restored. To this we may add, that the militia (which, by late orders from the President, have been increased to 15,000 men, including 1,500 riflemen from Virginia, under the command of Major General Morgan,) have received orders to assemble; and we cannot undertake to promise that their march will be long suspended. All possible means to inform, to conciliate, and to recall our fellow citizens to their duty have been used. That their infatuation still continues, we regret, but are persuaded that further moderation and forbearance will but increase it.

If the whole country shall declare its determination peaceably to submit, the hopes of the Executive will be fulfilled; but if a part of the inhabitants of the survey shall persist in their unjustifiable resistance to the lawful authority of the United States, it is not the intention of the Government to confound the innocent with the guilty; you may, therefore, assure the friends of order and the laws that they may rely upon promptly receiving all the protection the Government can give, and that effectual measures will be taken to suppress and punish the violence of those individuals who may endeavor to obstruct the execution of the laws, and to involve their country in a scene of calamity, the extent and seriousness of which it is impossible to calculate.

It is easy to perceive, from the whole scope of this letter, that no part of it is addressed to the gentlemen of Ohio county, Virginia.

JAMES ROSS,
J. YEATES,
WM. BRADFORD.

To ROBERT DICKEY, JOHN PROBST, JOHN NESBITT, JOHN MARSHEL, DAVID PHILLIPS, JOHN MCCLELLAND, GEORGE WALLACE, and SAMUEL WILSON.

No. 14.

PITTSBURG, *Sept.* 2, 1794.

GENTLEMEN: We have received your letter of yesterday, and, after having duly considered its contents, we are all of opinion that it is the interest and duty of the people in the western counties of Pennsylvania to submit to the execution of the laws of the United States and of the State of Pennsylvania, upon the principles and terms stated by the Commissioners; and we will heartily recommend this measure to them. We are also ready to enter into the detail with you of fixing and ascertaining the time, place, and manner of collecting the sense of the people upon this very momentous subject.

Signed by the unanimous order of the committee:

JOHN MCCLELLAND.

To the COMMISSIONERS *of the United States and of the State of Pennsylvania.*

No. 15.

At a conference between the Commissioners from the United States and the State of Pennsylvania, on the one part, and Messrs. Probst, Dickey, Nesbit, Marshel, Philips, McClelland, Wallace, and Wilson, conferees, appointed by the standing committee at Brownsville, (Redstone, Old Fort,) on the 28th and 29th days of August, 1794, it was agreed that the assurances required from the citizens in the fourth survey of Pennsylvania should be given in writing, and their sense ascertained in the following manner:

That the citizens of the said survey (Allegany county excepted) of the age of eighteen years and

upwards, be required to assemble on Thursday, the 11th instant, in their respective townships, at the usual place for holding township meetings; and that between the hours of twelve and seven in the afternoon of the same day, any two or more members of the meeting who assembled at Parkinson's Ferry on the 14th ultimo, resident in the township, or a justice of the peace of said township, do openly propose to the people assembled the following questions: "Do you now engage to submit to the laws of the United States, and that you will not hereafter, directly or indirectly, oppose the execution of the acts for raising the revenue upon distilled spirits and stills? And do you also undertake to support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens?" Yea or nay.

That the said citizens, resident in Allegany county, shall meet in their respective election districts on the said day, and proceed in the same manner as if they were assembled in townships.

That a minute of the number of the yeas and nays be made immediately after ascertaining the same.

That a written or printed declaration of such engagements be signed by all those who vote in the affirmative, of the following tenor, to wit:

"I do solemnly promise henceforth* to submit to the laws of the United States; that I will not directly nor indirectly oppose the execution of the acts for raising a revenue on distilled spirits and stills; and that I will support, as far as the law requires, the civil authority in affording the protection due to all officers and other citizens."

This shall be signed in the presence of the said members or justices, attested by him or them, and lodged in his or their hands.

That the said persons, so proposing the question stated as aforesaid, do assemble at the respective county court-houses on the 13th instant, and do ascertain and make report of the number of those who voted in the affirmative in the respective townships or districts, and of the number of those who voted in the negative; together with their opinion whether there be such a general submission of the people in their respective counties, that an office of inspection may be immediately and safely established therein.

That the said report, opinion, and written or printed declarations be transmitted to the Commissioners, or any one of them, at Uniontown, on or before the 16th instant.

If the said assurances shall be *bona fide* given in the manner prescribed, the Commissioners on the part of the United States do promise and engage in manner following, to wit:

1. No prosecution for any treason or other indictable offence against the United States, committed within the fourth survey of Pennsylvania, before the 22d day of August last, shall be commenced or prosecuted before the 10th day of July next, against any person who shall, within the time limited, subscribe such assurance and engagement as aforesaid, and perform the same.

2. On the said 10th day of July next there shall be granted a general pardon and oblivion of all the said offences, excluding therefrom, nevertheless, every person who shall refuse or neglect to subscribe such assurance and engagement in manner aforesaid, or shall, after such subscription, violate the same, or wilfully obstruct, or attempt to obstruct, the execution of the said acts, or be aiding or abetting therein.

3. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has determined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made and communicated by the officers appointed to carry the said acts into execution.

JAMES ROSS,
J. YEATES,
WILLIAM BRADFORD.

Signed, in behalf of the committee representing the fourth survey of Pennsylvania, unanimously by the members present.

JOHN PROBST,
ROBERT DICKEY,
JOHN NESBITT,
DAVID PHILIPS,
JOHN MARSHEL,
SAMUEL WILSON,
GEORGE WALLACE,
JOHN MCCLELLAND.

PITTSBURG, *Sept.* 2, 1794.

We, the underwritten, do also promise, in behalf of the State of Pennsylvania, that in case the assurances now proposed shall be *bona fide* given and performed until the 10th day of July next, an act of free and general pardon and oblivion of all treasons, insurrections, arsons, riots, and other offences inferior to riots, committed, counselled, or suffered, by any person or persons within the four Western counties of Pennsylvania, since the 14th day of July last past, so far as the same concerns the said State, or the Government thereof, shall be then granted; excluding therefrom every person who shall refuse or neglect to subscribe such assurance, or who shall, after such subscription, wilfully violate or obstruct the laws of the State or of the United States.

THOMAS MCKEAN,
WILLIAM IRVINE.

* Objections having been made to the words "solemnly" and "henceforth," the Commissioners, by a publication in the Pittsburg Gazette, declared their consent to their being struck out.

No. 16.

We, the subscribers, members of the committee who met at Parkinson's Ferry on the 14th August last, and justices of the peace of the different townships in Washington county, met this 13th day of September, 1794, do find ourselves under great embarrassment to express our sentiments and opinions whether there be such a general submission of the people as that an office of inspection may be immediately and safely established in this county; yet we are free to declare that no opposition shall arise from us, the undersigned, to the excise law, or to any officer appointed under it; and we believe and are of opinion that a large majority of the inhabitants of the respective townships in this county will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal said law.

Given under our hands, at Washington court-house, the 13th of September, 1794.

DAVID BRADFORD,
and twenty-seven others.

No. 17.

We, the subscribers, judges of a general election, held in the several townships of the county of Westmoreland, for the purpose of ascertaining certain assurances required of the citizens by the Commissioners on the part of the Government, and agreed to on the part of the delegates, having met this day, and taken into consideration the returns from said townships, (true copies of which have been returned to one of the Commissioners,) and finding that some gave only general assurances of their submission and disposition for peace, without individually signing the same, and others, in number according to the returns by them respectively made, do certify that, in our opinion, as ill-disposed lawless persons could suddenly assemble and offer violence, it would not be safe in immediately establishing an office of inspection therein.

Given under our hands, at the court-house, in Greensburg, this 13th day of September, 1794.

JAMES McLEAN,
EBENEZER BRADY,
CLEMENTS BURLEIGH,
HUGH MARTIN,
JOHN DENNISTON,
CHRISTOPHER FINLEY,
JOHN KIRKPATRICK,
JOHN YOUNG,
JAMES CALDWELL,
JAMES IRWIN,
JAMES BRADY,
JOHN ANDERSON,
JOHN FINDLEY,
JEREMIAH MURRAY,
GEORGE AMENT.

No. 18.

UNIONTOWN, *Sept.* 16, 1794.

We, the subscribers, having, according to resolutions of the committee of townships for the county of Fayette, acted as judges, on the 11th instant, at the meetings of the people of the said county, respectively convened at the places, in the first, second, and third election districts, where the general elections are usually held, (no judge or member of the committee attending from the fourth and last district, which consists of the townships of Tyrone and Bullskin,) do hereby certify that five hundred and sixty of the people thus convened on the day aforesaid, did then and there declare their determination to submit to the laws of the United States in the manner expressed by the Commissioners on the part of the Union, in their letter dated the 22d day of August last; the total number of those who attended on that occasion being only seven hundred and twenty-one, that is to say, something less than one-third of the number of citizens of the said three districts. And we do further certify, that, from our previous knowledge of the disposition of the general body of the people, and from the anxiety since discovered by many (who, either from not having had notice, or from not having understood the importance of the question, did not attend) to give similar assurances of submission, we are of opinion that the great majority of those citizens who did not attend are disposed to behave peaceably and with due submission to the laws.

ALBERT GALLATIN,
WILLIAM ROBERTS,
GEORGE DIEUTH,
JAMES WHITE,
JOHN JACKSON,
ANDREW RABB,
THOMAS PATTERSON.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas, from a hope that the combinations against the Constitution and laws of the United States, in certain of the western counties of Pennsylvania, would yield to time and reflection, I thought it sufficient, in the first instance, rather to take measures for calling forth the militia than immediately to embody them; but the moment is now come when the overtures of forgiveness, with no other condition than a submission to law, have been only partially accepted; when every form of conciliation, not inconsistent with the being of Government, has been adopted without effect; when the well-disposed in those counties are unable by their influence and example to reclaim the wicked from their fury, and are compelled to associate in their own defence; when the proffered lenity has been perversely misinterpreted into an apprehension that the citizens will march with reluctance; when the opportunity of examining the serious consequences of a treasonable opposition has been employed in propagating principles of anarchy, endeavoring, through emissaries, to alienate the friends of order from its support, and inviting its enemies to perpetrate similar acts of insurrection; when it is manifest that violence would continue to be exercised upon every attempt to enforce the laws; when, therefore, Government is set at defiance, the contest being whether a small portion of the United States shall dictate to the whole Union, and, at the expense of those who desire peace, indulge a desperate ambition: Now, therefore, I, George Washington, President of the United States, in obedience to that high and irresistible duty consigned to me by the Constitution, to "take care that the laws be faithfully executed," deploring that the American name should be sullied by the outrages of citizens on their own Government; commiserating such as remain obstinate from delusion; but resolved, in perfect reliance on that gracious Providence which so signally displays its goodness towards this country, to reduce the refractory to a due subordination to the law, do hereby declare and make known that, with a satisfaction which can be equalled only by the merits of the militia summoned into service from the States of New Jersey, Pennsylvania, Maryland, and Virginia, I have received intelligence of their patriotic alacrity in obeying the call of the present, though painful, yet commanding necessity; that a force, which according to every reasonable expectation is adequate to the exigency, is already in motion to the scene of disaffection; that those who have confided, or shall confide, in the protection of Government, shall meet full succor under the standard and from the arms of the United States; that those who, having offended against the law, have since entitled themselves to indemnity, will be treated with the most liberal good faith, if they shall not have forfeited their claim by any subsequent conduct, and that instructions are given accordingly. And I do moreover exhort all individuals, officers, and bodies of men, to contemplate with abhorrence the measures leading directly or indirectly to those crimes which produce this resort to military coercion; to check, in their respective spheres, the efforts of misguided or designing men to substitute their misrepresentations in the place of truth, and their discontents in the place of stable Government; and to call to mind, that, as the people of the United States have been permitted, under the Divine favor, in perfect freedom, after solemn deliberation, and in an enlightened age, to elect their own Government, so will their gratitude for this inestimable blessing be best distinguished by firm exertions to maintain the Constitution and the laws. And, lastly, I again warn all persons whomsoever and wheresoever not to abet, aid, or comfort the insurgents aforesaid, as they will answer the contrary at their peril; and I do also require all officers and other citizens, according to their several duties, as far as may be in their power, to bring under the cognizance of the law all offenders in the premises.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of
[L. S.] Philadelphia, the twenty-fifth day of September, one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

G. WASHINGTON.

By the President:
EDM. RANDOLPH.

PHILADELPHIA, *Aug.* 5, 1794.

SIR: The important subject which led to our conference on Saturday last, and the interesting discussion that then took place having since engaged my whole attention, I am prepared, in compliance with your request, to state with candor the measures which, in my opinion, ought to be pursued by the Commonwealth of Pennsylvania. The circumstances of the case evidently require a firm and energetic conduct on our part, as well as on the part of the General Government; but as they do not preclude the exercise of a prudent and humane policy, I enjoy a sincere gratification in recollecting the sentiment of regret with which you contemplated the possible necessity of an appeal to arms; for I confess that in manifesting a zealous disposition to secure obedience to the Constitution and laws of our country, I too shall ever prefer the instruments of conciliation to those of coercion, and never, but in the last resort, countenance a dereliction of judiciary authority for the exertion of military force.

Under the influence of this general sentiment, I shall proceed, sir, to deliver my opinion relatively to the recent riots in the county of Allegany, recapitulating, in the first place, the actual state of the information which I have received. It appears, then, that the marshal of the district having, without molestation, served certain process that issued from a federal court on various citizens who reside in the county of Fayette, thought it proper to prosecute a similar duty in the county of Allegany, with the assistance and in the company of General Neville, the inspector of the excise for the western district of Pennsylvania; that, while thus accompanied, he suffered some insults and encountered some opposition: that considerable bodies of armed men, having at several times demanded the surrender of General Neville's commission and papers, attacked and ultimately destroyed his house: that these rioters, (of whom a few were killed and many wounded) having taken the marshal and others prisoners, released that officer in consideration of a promise that he would serve no more process on the western side of the Allegany mountain: that, under the apprehension of violence, General Neville, before his house was destroyed, applied to the judges of Allegany county for the protection of his property; but the judges, on the 17th day of July, the day on which his house was destroyed, declared that they could not, in the present circumstances, afford the protection that was requested, though they offered to institute prosecutions against the offenders: and that General Neville and the marshal, menaced with further outrage by the rioters, had been under the necessity of withdrawing from the county. To this

outline of the actual information respecting the riots, the stoppage of the mail may be added as a matter of aggravation, and the proposed convention of the inhabitants of the neighboring counties of Pennsylvania and Virginia as matter of alarm.

Whatever construction may be given on the part of the United States, to the facts that have been recited, I cannot hesitate to declare, on the part of Pennsylvania, that the incompetency of the judiciary department of her Government to vindicate the violated laws has not at this period been made sufficiently apparent; and that the military power of the Government ought not to be employed until its judiciary authority, after a fair experiment, has proved incompetent to enforce obedience or to punish infractions of the law.

The law having established a tribunal, and prescribed the mode for investigating every charge, has likewise attached to every offence its proper punishment. If an opponent of the excise system refuses or omits to perform the duty which that system prescribes to him in common with his fellow-citizens, his refusal or omission exposes him to the penalty of the law; but the payment of the penalty expiates the legal offence. If a riot is committed in the course of a resistance to the execution of any law, the rioters expose themselves to prosecution and punishment; but the sufferance of their sentence extinguishes their crime. In either instance, however, if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or to inflict a punishment, that authority may constitutionally claim the auxiliary intervention of a military power; but still the intervention cannot commence till the impotency of the judicial authority has been proved by experiment, nor continue a moment longer than the occasion for which it was expressly required. That the laws of the Union are the laws of the State, is a constitutional axiom that will never be controverted. That the authority of the State ought to be exerted in maintaining the authority of the Union, is a patriotic position which I have uniformly inculcated; but in executing the laws, or maintaining the authority of the Union, the Government of Pennsylvania can only employ the same means by which the more peculiarly municipal laws and authority of the State are executed and maintained. Till the riot was committed, no offence had occurred which required the aid of the State Government. When it was committed, it became the duty of the State Government to prosecute the offenders as for a breach of the public peace and the laws of the Commonwealth; and if the measures shall be precisely what would have been pursued had the riot been unconnected with the system of federal policy, all, I presume, will be done which good faith and justice can require. Had the riot been unconnected with the system of federal policy, the vindication of our laws would be left to the ordinary course of justice; and only in the last resort, at the requisition, and as an auxiliary of the civil authority, would the military force of the State be called forth.

Experience furnishes the strongest inducements to my mind for persevering in this lenient course. Riots have heretofore been committed in opposition to the laws of Pennsylvania; but the rioters have invariably been punished by our courts of justice. In opposition to the laws of the United States, in opposition to the very laws now opposed, and in the very counties supposed to be combined in the present opposition, riots have likewise formerly occurred; but in every instance, supported by legal proof, the offenders have been indicted, convicted, and punished, before the tribunals of the State. This result does not announce a defect of jurisdiction, a want of judicial power or disposition to punish infractions of the law, or a necessity for an appeal from the political to the physical strength of the nation.

But another principle of policy deserves some consideration. In a free country it must be expedient to convince the citizens of the necessity that shall at any time induce the Government to employ the coercive authority with which it is invested. To convince them that it is necessary to call forth the military power for the purpose of executing the laws, it must be shown that the judicial power has in vain attempted to punish those who violate them; and, therefore, thinking as I do that the incompetency of the judicial power of Pennsylvania has not yet been sufficiently ascertained, I remarked, in the course of our late conference, that I did not think it would be an easy task to embody the militia on the present occasion. The citizens of Pennsylvania (however a part of them may for a while be deluded) are the friends of law and order; but when the inhabitants of one district shall be required to take arms against the inhabitants of another, their general character does not authorize me to promise a passive obedience to the mandates of Government. I believe that, as freemen, they would inquire into the cause and nature of the service proposed to them; and I believe that their alacrity in performing, as well as in accepting it, would essentially depend on their opinion of its justice and necessity.

Upon great political emergencies, the effect of every measure should be deliberately weighed. If it shall be doubted, whether saying that the judiciary power is yet untried is enough to deter us from the immediate use of military force, an anticipation of the probable consequences of that awful appeal will enable us, perhaps, satisfactorily to remove or overlook the doubt. Will not the resort to force inflame and cement the existing opposition? Will it not associate, in a common resistance, those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence of the excise? Will it not collect and combine every latent principle of discontent, arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition, on the part of the ill-disposed, or the dis-

satisfaction at a premature resort to arms, on the part of the well-disposed citizens of this State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that movement may produce, who can calculate, or who will be able to avert? Nor, in this view of the subject, ought we to omit paying some regard to the ground for suspecting that the British Government has already, insidiously and unjustly, attempted to seduce the citizens on our western frontier from their duty; and we know that, in a moment of desperation or disgust, men may be led to accept that as an asylum, which, under different impressions, they would shun as a snare. It will not, I am persuaded, sir, be presumed, from the expression of these sentiments, that I am insensible to the indignation which the late outrages ought to excite in the mind of a magistrate entrusted with the execution of the laws. My object, at present, is to demonstrate that, on the principles of policy as well as of law, it would be improper in me to employ the military power of the State, while its judiciary authority is competent to punish the offenders. But should the judiciary authority prove insufficient, be assured of the most vigorous co-operation of the whole force which the constitution and laws of the State entrust to me, for the purpose of compelling a due obedience to the Government; and, in that unfortunate event, convinced that every other expedient has been resorted to in vain, the public opinion will sanctify our measures, and every honest citizen will willingly lend his aid to strengthen and promote them.

The steps which, under my instructions, were taken as soon as the intelligence respecting the riots was received, will clearly, indeed, manifest the sense that I entertain upon the subject. To every judge, justice, sheriff, brigade inspector—in short, to every public officer residing in the western counties, a letter was addressed, expressing my indignation and regret, and requiring an exertion of their influence and authority to suppress the tumults and punish the offenders. The Attorney General of the State was, likewise, desired to investigate the circumstances of the riot, to ascertain the names of the rioters, and to institute the regular process of the law for bringing the leaders to justice. In addition to these preliminary measures, I propose issuing a proclamation, in order to declare (as far as I can declare them) the sentiments of the Government; to announce a determination to prosecute and punish the offenders; and to exhort the citizens at large to pursue a peaceable and patriotic conduct. I propose engaging three respectable citizens to act as commissioners for addressing those who have embarked in the present combination, upon the lawless nature and ruinous tendency of their proceedings; for inculcating the necessity of an immediate return to the duty which they owe their country; and for promising (as far as the State is concerned) a forgiveness of their past transgressions, upon receiving a satisfactory assurance that, in future, they will submit to the laws; and I propose, if all these expedients should be abortive, to convene the Legislature, that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority.

You will perceive, sir, that throughout my observations I have cautiously avoided any reference to the nature of the evidence from which the facts that relate to the riots are collected, or to the conduct which the Government of the United States may pursue on this important occasion. I have hitherto, indeed, only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the Commonwealth be faithfully executed, leaving it, as I ought, implicitly to your judgment to choose, on such evidence as you approve, the measures for discharging the analogous trust which is confided to you in relation to the laws of the Union. But before I conclude, it is proper, under the impression of my federal obligations, to add a full and unequivocal assurance, that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, will on my part be promptly undertaken and faithfully discharged.

I have the honor to be, with perfect respect, sir, your excellency's most obedient humble servant,

THO. MIFFLIN.

The President of the United States.

Department of State, *August* 7, 1794.

Sir: The President of the United States has directed me to acknowledge the receipt of your letter of the 5th instant, and to communicate to you the following reply:

In requesting an interview with you on the subject of the recent disturbances in the western parts of Pennsylvania, the President, besides the desire of manifesting a respectful attention to the Chief Magistrate of a State immediately affected, was influenced by the hopes that a free conference, guided by a united and comprehensive view of the Constitutions of the United States and of Pennsylvania, and of the respective institutions, authorities, rights, and duties of the two Governments, would have assisted him in forming more precise ideas of the nature of the co-operation which could be established between them, and a better judgment of the plan which it might be advisable for him to pursue, in the execution of his trust in so important and delicate a conjuncture. This having been his object, it is matter of some regret that the course which has been suggested by you as proper to be pursued, seems to have contemplated Pennsylvania in a light too separate and unconnected. The propriety of that course in most, if not in all respects, would be susceptible of little question, if there were no Federal Government, federal laws, federal judiciary, or federal officers; if important laws of the United States, by a series of violent, as well as of artful expedients, had not been frustrated in their execution for more than three years; if officers immediately charged with their execution, after suf-

fering much and repeated insult, abuse, personal ill-treatment, and the destruction of property, had not been compelled for safety to fly the places of their residence and the scenes of their official duties; if the service of the processes of a court of the United States had not been resisted, the marshal of the district made and detained for some time prisoner, and compelled for safety also to abandon the performance of his duty, and return, by a circuitous route, to the seat of Government; if, in fine, a judge of the United States had not, in due form of law, notified to the President, "that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." It is true your excellency has remarked that, in the plan suggested, you have only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the Commonwealth be fully executed, leaving it implicitly to the judgment of the President to choose, on such evidence as he approves, the measures for discharging the analogous trust which is confided to him in relation to the laws of the Union. But it is impossible not to think that the current of the observations in your letter, especially as to the consequences which may result from the employment of coercive measures previous to the preliminary course which is indicated in it, may be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government in the actual stage of its affairs, which you acknowledge would be proper on the part of the Government of Pennsylvania if arrived at a similar stage. Let it be assumed here, (to be more particularly shown hereafter,) that the Government of the United States is now at that point where it is admitted, if the Government of Pennsylvania was, the employment of force, by its authority, would be justifiable. And let the following extracts be consulted for the truth of the inference which has been just expressed: "Will not the resort to force inflame and cement the existing opposition? Will it not associate in a common resistance those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence to the excise? Will it not collect and combine every latent principle of discontent arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition on the part of the ill-disposed, or the dissatisfaction of a premature resort to arms on the part of the well-disposed citizens of the State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that movement may produce, who can calculate, or who will be able to avert?"

These important questions naturally give birth to the following serious reflections. The issue of human affairs are in the hands of Providence. Those entrusted with them in society have no other sure guide than the sincere and faithful discharge of their duty, according to the best of their judgment. In emergencies great and difficult, not to act with an energy proportioned to their magnitude and pressure is as dangerous as any other conceivable course. In the present case, not to exert the means which the laws prescribe for effectuating their own execution, would be to sacrifice those laws, and with them the Constitution, the Government, the principles of social order, and the bulwarks of private right and security. What worse can happen from the execution of those means?

If, as cannot be doubted, the great body of the citizens of the United States are attached to the Constitution which they have established for the management of their common concerns; if they are resolved to support their own authority, in that of the constitutional laws, against disorderly and violent combinations of comparatively small portions of the community; if they are determined to protect each other in the enjoyment of security to person and property; if they are decided to preserve the character of Republican Government, by evincing that it has adequate resources for maintaining the public order; if they are persuaded that their safety and their welfare are materially connected with the preservation of the Union, and, consequently, of a Government adequate to its exigencies; in fine, if they are disposed to continue that state of respectability and prosperity which is now deservedly the admiration of mankind, the enterprise to be accomplished, should a resort to force prove inevitable, though disagreeable and painful, cannot be arduous or alarming.

If, in addition to these dispositions in the community at large, the officers of the Governments of the respective States, feeling it to be not only a patriotic, but a constitutional duty (inculcated by the oath enjoined upon all the officers of a State, legislative, executive, and judicial) to support, in their several stations, the Constitution of the United States, shall be disposed, as occasion may require, (a thing as little to be doubted as the former,) with sincerity and good faith to co-operate with the Government of the United States, to second, with all their influence and weight, its legal and necessary measures by a real and substantial concert, then the enterprise to be accomplished can hardly ever be deemed difficult.

But if, contrary to the anticipations which are entertained of these favorable dispositions, the great body of the people should be found indifferent to the preservation of the Government of the Union, or insensible to the necessity of vigorous exertions to repel the danger which threatens their most important interests; or if an unwillingness to encounter partial inconveniences should interfere with the discharge of what they owe to their permanent welfare; or if, either yielding to the suggestions of particular prejudices, or misled by the arts which may be employed to infuse jealousy and discontent, they should suffer their zeal for the support of public order to be relaxed by

an unfavorable opinion of the merits and tendency of the measures which may be adopted; if, above all, it were possible that any of the State Governments should, instead of prompting the exertions of the citizens, assist directly or indirectly in damping their ardor, by giving a wrong bias to their judgment, or by disseminating dissatisfaction with the proceedings of the General Government, or should counteract the success of those proceedings by any sinister influence whatever; then, indeed, no one can calculate, or may be able to avert, the fatal evils with which such a state of things would be pregnant. Then, indeed, the foundations of our political happiness may be deeply shaken, if not altogether overturned.

The President, however, can suppose none of these things. He cherishes an unqualified confidence in the virtue and good sense of the people, in the integrity and patriotism of the officers of the State Governments; and he counts absolutely on the same affectionate support which he has experienced upon all former occasions, and which he is conscious that the goodness of his intentions now, not less then heretofore, merits.

It has been promised to show more particularly hereafter that the Government of the United States is now at that point where it is confessed, if the State Government was, the employment of force on its part would be justifiable. This promise remains to be fulfilled.

The facts already noted establish the conclusion; but to render it palpable, it will be of use to apply them to the positions which your excellency has been pleased to lay down.

You admit that, as the offences committed respect the State, the military power of the Government ought to be employed where its judiciary authority, after a fair experiment, had proved incompetent to enforce obedience, or to punish infractions of the laws; that if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or inflict a punishment, that authority may constitutionally claim the auxiliary intervention of the military power; that, in the last resort, at the requisition, and as an auxiliary of the civil authority, the military force of the State would be called forth. And you declare that the circumstances of the case evidently require a firm and energetic conduct on the part both of State and General Governments.

For more than three years, as already observed, certain laws of the United States have been obstructed in their execution by disorderly combinations. Not only officers, whose immediate duty it was to carry them into effect, have suffered violent personal outrage and injury, and destruction of property, at different times, but similar persecution has been extended to private citizens, who have aided, countenanced, or only complied with the laws. The violences committed have been so frequent, and such, in their degree, as to have been matter of general notoriety and alarm; and it may be added, that they have been abundantly within the knowledge and under the notice of the judges and marshals of Pennsylvania, of superior as well as of inferior jurisdiction. If, in particular instances, they have been punished by the exertions of the magistrates, it is at least certain that their effects have been, in the main, ineffectual. The spirit has continued, and, with some intervals of relaxation, has been progressive, manifesting itself in reiterated excesses. The judiciary authority of the United States has, also, prior to the attempt which preceded the late crisis, made some fruitless efforts under a former marshal; an officer sent to execute process, was deterred from it by the manifest danger of proceeding. These particulars serve to explain the extent, obstinacy, and inveteracy of the evil.

But the facts which immediately decide the complexion of the existing crisis are these: Numerous delinquencies existed with regard to a compliance with the laws laying duties on spirits distilled within the United States, and upon stills. An armed banditti, in disguise, had recently gone to the house of an officer of the revenue in the night, attacked it, broke open the doors, and, by menaces of instant death, enforced by pistols presented at him, had compelled a surrender of his commission and books of office. Contemporary acts of violence had been perpetrated in other quarters. Processes issued out of a court of the United States to recover the penalties incident to non-compliance with the laws, and to bring to punishment the violent infractors of them in the above-mentioned case, against two of whom indictments had been found. The marshal of the district went in person to execute these processes. In the course of his duty he was actually fired upon on the high road by a body of armed men. Shortly after, other bodies of armed men (in the last instance amounting to several hundred persons) repeatedly attacked the house of the inspector of the revenue, with the declared intention of compelling him to renounce his office, and of obstructing the execution of the laws. One of these bodies of armed men made prisoner the marshal of the district, put him in jeopardy of his life, and did not release him till, for safety, and to obtain his liberty, he engaged to forbear the execution of the processes with which he was charged. In consequence of further requisitions and menaces of the insurgents, the marshal, together with the inspector of the revenue, have been since under the necessity of flying secretly, and by a circuitous route, from the scene of these transactions towards the seat of Government.

An associate justice, pursuant to the provisions of the laws for that purpose, has, in the manner already stated, officially notified the President of the existence of combinations in two of the counties of this State to obstruct the execution of the laws, too powerful to be suppressed by the judiciary authority, or by the powers of the marshal.

Thus, then, is it unequivocally and in due form ascertained, in reference to the Government of the United States, that the judiciary authority, after a fair and full experiment, has proved incompetent to enforce obedience to, or to punish infractions of the laws; that the strength and

audacity of certain lawless combinations have baffled and destroyed the efforts of the judiciary authority to recover penalties or inflict punishment; and that this authority, by a regular notification of this state of things, has, in the last resort, as an auxiliary of the civil authority, claimed the intervention of the military power of the United States. It results, from these facts, that the case exists, when, according to the positions advanced by your excellency in reference to the State Government, the military power may, with due regard to all the requisite cautions, be rightfully interposed; and that the interposition of this power is called for, not only by principles of a firm and energetic conduct on the part of the General Government, but by the indispensable duty which the Constitution and the laws prescribe to the Executive of the United States.

In this conclusion your excellency's discernment, on mature reflection, cannot, it is presumed, fail to acquiesce; nor can it refuse its concurrence in the opinion which the President entertains, that he may reasonably expect, when called for, the zealous co-operation of the militia of Pennsylvania; that, as citizens, friends to law and order, they may comply with the call without anything that can properly be denominated "a passive obedience to the *mandates* of Government;" and that, as freemen, judging rightly of the cause and nature of the service proposed to them, they will feel themselves under the most sacred of obligations to accept and to perform it with alacrity. The theory of our political institutions knows no difference between the obligations of our citizens in such a case, whether it relate to the Government of the Union or of a State; and it is hoped and confided that a difference will be as little known to their affections or opinions.

Your excellency, it is also presumed, will as little doubt, on the like mature reflection, that in such a case the President could not, without an abdication of the undoubted rights and authorities of the United States and of his duty, postpone the measures for which the laws of the United States provide, to a previous experiment of the plan which is delineated in your letter.

The people of the United States have established a government for the management of their general interests. They have instituted executive organs for administering that government; and their representatives have established the rules by which those organs are to act. When their authority, in that of their Government, is attacked by lawless combinations of the citizens of part of a State, they could never be expected to approve that the care of vindicating their authority, of enforcing their laws, should be transferred from the officers of their own Government to those of a State; and this to wait the issue of a process so undeterminate in its duration as that which it is proposed to pursue; comprehending a further and full experiment of the judiciary authority of the State, a proclamation "to declare the sentiments of its Government, announce a determination to prosecute and punish offenders, and to exhort the citizens at large to pursue a peaceable and patriotic conduct;" the sending of Commissioners "to address those who have embarked in the present combinations upon the lawless nature and ruinous tendency of their proceedings, to inculcate the necessity of an immediate return to the duty which they owe their country, and to promise, as far as the State is concerned, forgiveness of their past transactions, upon receiving a satisfactory assurance that in future they will submit to the laws," and finally, a call of the Legislature of Pennsylvania, "that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority."

If there were no other objection to a transfer of this kind, the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed in the contemplation of the laws of the United States and those of Pennsylvania, would alone be a very serious obstacle.

The paramount considerations which forbid an acquiescence in this course of proceeding, render it unnecessary to discuss the probability of its success; else it might have been proper to test the considerations which have been mentioned as a ground of hope, by the inquiry, What was the precise extent of the success of past experiments? and especially, whether the execution of the revenue laws of Pennsylvania, within the scene in question, was truly and effectually accomplished by them; or, whether they did not rather terminate in a tacit compromise, by which appearances only were saved.

You are already, sir, advised, that the President, yielding to the impressions which have been stated, has determined to take measures for calling forth the militia, and that these measures contemplate the assembling a body of between twelve and thirteen thousand men from Pennsylvania, and the neighboring States of Virginia, Maryland, and New Jersey. The recourse thus early to the militia of the neighboring States, proceeds from a probability of the insufficiency of that of Pennsylvania alone to accomplish the object; your excellency having, in your conference with the President, confirmed the conclusion, which was deducible from the known local and other circumstances of the State, by the frank and express declaration which you made of your conviction of that insufficiency in reference to the number which could be expected to be drawn forth for the purpose.

But while the President has conceived himself to be under an indispensable obligation to prepare for that eventual resort, he has still consulted the sentiment of regret which he expressed to you at the possible necessity of an appeal to arms; and to avert it, if practicable, as well as to manifest his attention to the principle, that "a firm and energetic conduct does not preclude the exercise of a prudent and humane policy," he has (as you have been also advised) concluded upon the measure of sending, himself, Commissioners

to the discontented counties, to make one more experiment of a conciliatory appeal to the reason, virtue, and patriotism of their inhabitants; and has also signified to you how agreeable would be to him your co-operation in the same expedient, which you have been pleased to afford. It can scarcely be requisite to add, that there is nothing he has more at heart than that the issue of this experiment, by establishing the authority of the laws, may preclude the always calamitous necessity of an appeal to arms. It would plant a thorn in the remainder of his path through life, to have been obliged to employ force against fellow-citizens, for giving solidity and permanency to blessings which it has been his greatest happiness to co-operate with them in procuring for a much-loved country.

The President receives with much pleasure the assurance you have repeated to him, that whatever requisition he may make, whatever duty he may impose, in pursuance of his constitutional and legal powers, will, on your part, be promptly undertaken and faithfully discharged; and acknowledging, as an earnest of this, and even more, the measures of co-operation which you are pursuing, he assures you in return, that he relies fully on the most cordial aid and support from you in every way which the Constitutions of the United States and of Pennsylvania shall authorize, and present or future exigencies may require.

And he requests that you will construe, with a reference to this assurance of his confidence, whatever remarks may have been made in the course of this reply to your letter, if it shall have happened that any of them have erred, through a misconception of the sentiments and views which you may have meant to communicate.

With perfect respect, I have the honor to be, sir your most obedient servant,

EDM. RANDOLPH,
Secretary of State.

His Excellency Governor MIFFLIN.

PHILADELPHIA, *August* 12, 1794.

SIR: The Secretary of State has transmitted to me, in a letter dated the 7th of August, (but only received yesterday,) your reply to my letter of the 5th instant.

For a variety of reasons, it might be desirable at this time to avoid an extension of our correspondence upon the subject to which those letters particularly relate; but the nature of the remarks contained in your reply, and the sincerity of my desire to merit, on the clearest principles, the confidence which you are pleased to repose in me, will justify, even under the present circumstances of the case, an attempt to explain any ambiguity and to remove any prejudices that may have arisen, either from an inaccurate expression, or an accidental misconception of the sentiments and views which I meant to communicate.

That the course which I have suggested as proper to be pursued in relation to the recent disturbances in the western parts of Pennsylvania contemplates the State in a light too separate and unconnected, is a position that I certainly did not intend to sanction in any degree that could wound your mind with a sentiment of regret. In submitting the construction of the facts which must regulate the operations of the General Government implicitly to your judgment; in cautiously avoiding any reference to the nature of the evidence from which those facts are collected, or to the conduct which the Government of the United States might pursue; in declaring that I spoke only as the Executive Magistrate of the State, charged with a general superintendence and care that its laws be faithfully executed; and, above all, in giving a full and unequivocal assurance that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, would, on my part, be promptly undertaken and faithfully discharged—I thought that I had manifested the strongest sense of my federal obligations, and that so far, from regarding the State in a separate and unconnected light, I had expressly recognised the subjection of her individual authority to the national jurisdiction of the Union.

It is true, however, sir, that I have only spoken as the Executive Magistrate of the State; but, in that character, it is a high gratification to find that, according to your opinion likewise, "the propriety of the course which I suggested would, in most, if not in all respects, be susceptible of little question." Permit me then to ask, In what other character could I have spoken, or what other language did the occasion require to be employed? If the co-operation of the Government of Pennsylvania was the object of our conference, your constitutional requisition as the Executive of the Union, and my official compliance as the Executive of the State, would indubitably insure it; but if a preliminary, a separate, an unconnected conduct was expected to be pursued by the Executive Magistrate of Pennsylvania, his separate and unconnected power and discretion must furnish the rule of proceeding; and by that rule, agreeably to the admission which I have cited, "the propriety of my course would, in most if not in all respects, be susceptible of little question." It must, therefore, in justice, be remembered, that a principal point in our conference related to the expediency of my adopting, independent of the General Government, a *preliminary* measure, (as it was then termed,) under the authority of an act of the Legislature of Pennsylvania, which was passed on the 22d of September 1783, and which the Attorney General of the United States thought to be in force, but which had in fact been repealed on the 11th of April, 1793.

Upon the strictest idea of co-operative measures, however, I do not conceive, sir, that any other plan could have been suggested, consistently with the powers of the Executive Magistrate of Pennsylvania, or with a reasonable attention, on my part, to a systematic and energetic course

of proceeding. The complicated nature of the outrage which was committed upon the public peace, gave a jurisdiction to both Governments; but in the mode of prosecuting or in the degree of punishing the offenders, that circumstance could not, I apprehend, alter or enlarge the powers of either. The State (as I observed in my last letter,) could only exert itself in executing the laws or maintaining the authority of the Union, by the same means which she employed to execute and maintain her more peculiarly municipal laws and authority; and hence I inferred, and still venture to infer, that if the course which I have suggested is the same that would have been pursued, had the riot been unconnected with the system of federal policy, its propriety cannot be rendered questionable merely by taking into our view (what I never have ceased to contemplate,) the existence of a Federal Government, federal laws, federal judiciary, and federal officers. But would it have been thought more consonant with the principle of co-operation, had I issued orders for an immediate, a separate, and an unconnected call of the militia, under the special authority which was supposed to be given by a law, or under the general authority which may be presumed to result from the Constitution? Let it be considered that you had already determined to exercise your legal powers in drafting a competent force of the militia, and it will be allowed, that if I had undertaken, not only to comply promptly with your requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced, instead of system and co-operation. Regarding it in this point of light, indeed, it may be natural to think that, in the judiciary as well as the military department, the subject should be left entirely to the management either of the State or of the General Government; for "the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed, in the contemplation of the laws of the United States and those of Pennsylvania," must otherwise destroy that uniformity in the distinction of crimes and the apportionment of punishments, which has always been deemed essential to a due administration of justice.

But let me not, sir, be again misunderstood. I do not mean by these observations to intimate an opinion or to express a wish, that "the care of vindicating the authority or of enforcing the laws of the Union should be transferred from the officers of the General Government to those of the State;" nor, after expressly avowing that I had cautiously avoided any reference to the conduct which the Government of the United States might pursue on this important occasion, did I think an opportunity could be found to infer that I was desirous of imposing a suspension of your proceedings, for the purpose of waiting the issue of the process which I designed to pursue. If, indeed, "the Government of the United States was at that point where, it was admitted, if the Government of Pennsylvania was, the employment of force by its authority would be justifiable," I am persuaded that, on mature consideration, you will do more credit to my candor than to suppose that I meant to condemn or to prevent the adoption of those measures on the part of the General Government which, in the same circumstances, I should have approved and promoted on the part of Pennsylvania. The extracts that are introduced into the letter of the Secretary of State, in order to support that inference, can only be justly applied to the case which was immediately in contemplation—the case of the State of Pennsylvania, whose judiciary authority had not then, in my opinion, been sufficiently tried. They ought not, surely, be applied to a case which I had cautiously excluded from my view: the case of the United States, whose judiciary authority had, in your opinion, proved inadequate to the execution of the laws and the preservation of order. And if they shall be thus limited to their proper object, the justice and force of the argument which flows from them can never be successfully controverted or denied. While you, sir, were treading in the plain path designated by a positive law, with no other care than to preserve the forms which the Legislature had prescribed, and relieved from a weight of responsibility by the legal operation of a judge's certificate, I was called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the Executive office.

The Legislature had prescribed no forms to regulate my course; no certificate to inform my judgment; every step must be directed by my own discretion; and every error of construction or conduct would be charged on my own character. Hence arose an essential difference in our official situations; and I am confident that on this ground alone you will perceive a sufficient motive for my considering the objection, in point of law, to forbear the use of military force, until the judiciary authority had been tried, as well as the probable effects, in point of policy, which that awful appeal might produce.

For, sir, it is certain that, at the time of our conference, there was no satisfactory evidence of the incompetency of the judicial authority of Pennsylvania to vindicate the violated laws: I, therefore, could not, as Executive Magistrate, proceed upon a military plan; but actuated by the genuine spirit of co-operation, not by a desire to sully the dignity or to alienate the powers of the General Government, I still hoped and expected to be able on this, as on former occasions, to support the laws of the Union, or to punish the violators of them, by an exertion of the civil authority of the State Government, the State judiciary, and the State officers. This hope prompted the conciliatory course which I determined to pursue, and which, so far as respects the appointment of Commissioners, you have been pleased to incorporate with your plan. And if, after all,

the purposes of justice could be attained, obedience to the laws could be restored, and the horrors of a civil war could be averted, by the auxiliary intervention of the State Government, I am persuaded you will join me in thinking that the idea of placing the State in a separate and unconnected point of view, and the idea of making a transfer of the powers of the General Government are not sufficiently clear or cogent to supersede such momentous considerations.

Having thus generally explained the principles contained in my letter of the 5th instant, permit me (without adverting to the material change that has since occurred in the state of our information, relative to the riots, and which is calculated to produce a corresponding change of sentiments and conduct) to remark, that many of the facts that are mentioned by the Secretary of State, in order to show that the judiciary authority of the Union, after a fair and full experiment, had proved incompetent to enforce obedience, or to punish infractions of the laws, were, before that communication, totally unknown to me. But still, if it shall not be deemed a deviation from the restriction that I have determined to impose upon my correspondence, I would offer some doubts which, in that respect, occurred to my mind on the evidence, as it it appeared at the time of our conference.

When I found that the marshal had, without molestation, executed his office in the county of Fayette, that he never was insulted or opposed until he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, I thought there was ground yet to suppose (and as long as it was reasonable I wished to suppose) that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which we deprecate. It is true that these sources of opposition are equally reprehensible, and that their effects are alike unlawful: but on a question respecting the power of the judiciary authority to enforce obedience, or to punish infractions of the law, it seemed to be material to discriminate between the cases alluded to, and to ascertain with precision the motives and the object of the rioters. Again; as the associate judge had not, at that time, issued his certificate, it was proper to scrutinize with strict attention the nature of the evidence on which an act of Government was to be founded.

The Constitution of the Union, as well as of the State, had cautiously provided, even in the case of an individual, that "no warrant should issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." And a much higher degree of caution might reasonably be exercised in a case that involved a numerous body of citizens in the imputation of treason or felony, and required a substitution of the military for the judicial instruments of coercion. The only affidavits that I recollect to have appeared at the time of our conference, were those containing the hearsay of Colonel Mentges, and the vague narrative of the post rider. The letters that had been received from a variety of respectable citizens, not being written under the sanction of an oath or affirmation, could not acquire the legal force and validity of evidence from a mere authentication of the signatures of the respective writers. Under such circumstances doubts arose, not whether the means which the laws prescribe for effectuating their own execution should be exerted, but whether the existence of a specific case, to which specific means of redress were appropriated by the laws, had been legally established; not whether the laws, the Constitution, the Government, the principles of social order, and the bulwarks of private right and security should be sacrificed, but whether the plan proposed was the best calculated to preserve those inestimable blessings. And, recollecting a declaration which was made in your presence, "that it would not be enough for a military force to disperse the insurgents, and to restore matters to the situation in which they were, two or three weeks before the riots were committed, but that the force must be continued for the purpose of protecting the officers of the revenue, and securing a perfect acquiescence in the obnoxious law," I confess, sir, the motives to caution and deliberation strike my mind with accumulated force. I hope, however, that it will never be seriously contended that a military force ought now to be raised with any view but to suppress the rioters; or that, if raised with that view, it ought to be employed for any other. The dispersion of the insurgents is, indeed, obviously the sole object for which the act of Congress has authorized the use of military force, on occasions like the present, for, with a generous and laudable precaution, it expressly provides that, even before that force may be called forth, a proclamation shall be issued, commanding the insurgents to disperse, and retire peaceably to their respective abodes within a limited time.

But the force of these topics I again refer implicitly to your decision; convinced, sir, that the goodness of your intentions now, not less than heretofore, merits an affectionate support from every description of your fellow-citizens. For my own part, I derive a confidence from the heartfelt integrity of my views, and the sincerity of my professions, which renders me invulnerable by any insinuation of practising a sinister or deceitful policy.

I pretend not to infallibility in the exercise of my private judgment, or in the discharge of my public functions; but in the ardor of my attachment, and in the fidelity of my services to our common country, I feel no limitation; and your excellency, therefore, may justly be assured that, in every way which the Constitutions of the United States and of Pennsylvania shall authorize and present, or future exigencies may require, you will receive my most cordial aid and support.

I am, with perfect respect, sir, your excellency's most obedient humble servant,

THOS. MIFFLIN.

The President of the United States.

Philadelphia, *August* 30, 1794.

Sir: I am directed by the President to acknowledge the receipt, on the 17th, of your excellency's letter dated the 12th instant.

The President feels with you the force of the motives which render undesirable an extension of correspondence on the subject in question. But the case being truly one of great importance and delicacy, these motives must yield, in a degree, to the propriety and utility of giving precision to every part of the transaction, and guarding effectually against ultimate misapprehension.

To this end it is deemed advisable, in the first place, to state some facts which either do not appear, or are conceived not to have assumed an accurate shape in your excellency's letter. They are these:

1. You were informed at the conference that all the information which had been received had been laid before an associate justice, in order that he might consider and determine whether such a case as is contemplated by the second section of the act which provides for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, had occurred; that is, whether combinations existed too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal by that act; in which case the President is authorized to call forth the militia to suppress the combinations, and to cause the laws to be duly executed.

2. The idea of a preliminary proceeding by you was pointed to as eventual co-operation with the Executive of the United States, in such plan as, upon mature deliberation, should be deemed advisable, in conformity with the laws of the Union. The inquiry was particularly directed towards the possibility of some previous accessary step in relation to the militia, to expedite the calling them forth if an acceleration should be judged expedient and proper, and if any delay on the score of evidence should attend the notification from a judge, which the laws make the condition of the power of the President to require the aid of the militia, and turned more especially upon the point, whether the law of Pennsylvania of the 22d of September, 1783, was or was not still in force. The question emphatically was: Has the Executive of Pennsylvania power to put the militia in motion, previous to a requisition from the President, under the laws of the Union, if it shall be thought advisable so to do? Indeed, it seems to be admitted by one part of your letter, that the preliminary measure contemplated did turn on this question, and with a particular eye to the authority and existence of the act just mentioned.

3. The information contained in the papers read at the conference, besides the violence offered to the marshal, while in company with the inspector of the revenue, established that the marshal had been afterwards made prisoner by the insurgents, put in jeopardy of his life, had been obliged to obtain safety and liberty by a promise guaranteed by Colonel Presby Neville, that he would serve no other process on the west side of the Allegany mountain; that, in addition to this, a deputation of the insurgents had gone to Pittsburg to demand of the marshal a surrender of the processes in his possession, under the intimation that it would satisfy the people and add to his safety; which necessarily implied that he would be in danger of further violence without such a surrender. That, under the influence of this menace, he had found it necessary to seek security by taking secretly, and in the night, a circuitous route.

This recapitulation is not made to invalidate the explanation offered in your last letter of the view of the subject, which you assert to have led to the suggestions contained in your first, and of the sense which you wish to be received as that of the observations accompanying those suggestions. It is intended solely to manifest that it was natural for the President to regard your communication of the 5th instant in the light under which it is presented in the reply to it.

For, having informed you that the matter was before an associate justice, with a view to the law of the United States which has been mentioned, and having pointed out what was said respecting a preliminary proceeding on your part to a call of the militia under the authority of a State law, by anticipation of a requisition from the General Government, and in co-operation with an eventual plan to be founded upon the laws of the Union, it was not natural to expect that you would have presented a plan of conduct entirely on the basis of the State Government, even to the extent of resorting to the Legislature of Pennsylvania, after its judiciary had proved incompetent "to prescribe by their wisdom and authority the means of subduing the spirit of insurrection, and of restoring tranquillity and order;" a plan which, being incompatible with the course marked out in the laws of the United States, evidently could not have been acceded to without a suspension, for a long and indefinite period, of the movements of the Federal Executive pursuant to those laws. The repugnancy and incompatibility of the two modes of proceeding at the same time cannot, it is presumed, be made a question.

Was it extraordinary, then, that the plan suggested should have been unexpected, and that it should even have been thought liable to the observation of having contemplated Pennsylvania in a light too separate and unconnected?

The propriety of the remark, "that it was impossible not to think that the current of the observations in your letter might be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government, in the actual stage of its affairs, which you acknowledged would be proper on the part of the Government of Pennsylvania, if arrived at a similar stage," must be referred to the general tenor and complexion of those observations, and to the inference they were naturally calculated to inculcate. If this inference was, that under the known circumstances of the case, the employment of force to suppress the insurrection was improper, without a long train of preparatory expedients: and if, in fact, the Government of the United States (which has not been controverted) was at that point where it was admitted that the Government of Pennsylvania being arrived, a resort to force on its part would be proper, the impression which was made could not have been effaced by the consideration that the forms of referring what concerned the Government of the Union to the judgment of its own Executive were carefully observed. There was no difficulty in reconciling the intimation of an opinion unfavorable to a particular course of proceeding with an explicit reference of the subject (officially speaking) to the judgment of the officer charged by the Constitution to decide, and with a sincere recognition of the subjection of the individual authority of the State to the national jurisdiction of the Union.

The disavowal by your excellency of an intention to sanction the inference which was drawn, renders what has been said a mere explanation of the cause of that inference, and of the impression which it at first made.

It would be foreign to the object of this letter to discuss the various observations which have been adduced to obviate a misapprehension of your views, and to maintain the propriety of the course pursued in your first communication. It is far more pleasing to the President to understand you in the sense you desire, and to conclude that no opinion has been indicated by you inconsistent with that which he has entertained of the state of things and of his duty in relation to it. And he remarks, with satisfaction, the effect which subsequent information is supposed to be calculated to produce favoring an approximation of sentiment.

But there a few miscellaneous points which, more effectually to prevent misconception any where, seem to demand a cursory notice.

You observe that the President had already determined to exercise his legal powers in draughting a competent force of the militia. At the point of time to which you are understood to refer, namely, that of the conference, the President had no legal power to call forth the militia. No judge had yet pronounced that a case justifying the exercise of that power existed. You must be sensible, sir, that all idea of your calling out the militia by your authority was referred to a state of things antecedent to the lawful capacity of the President to do it by his own authority; and when he had once determined upon the call, pursuant to his legal powers, it were absurd to have proposed to you a separate and unconnected call. How, too, it might be asked, could such a determination, if it had been made, and was known to you, have comported with the plan suggested in your letter, which pre-supposes that the employment of force had not already been determined upon? This passage of your letter is therefore construed to mean only that the President had manifested an opinion predicated upon the event of such a notification from a judge, as the law prescribes, that the nature of the case was such as would probably require the employment of force. You will also, it is believed, recollect that he had not at the time finally determined upon anything, and that the conference ended with referring the whole subject to further consideration.

You say that, if you had undertaken, not only to comply promptly with the President's requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced instead of system and co-operation. But both were never expected. Your embodying the militia independent of a requisition from the President was never thought of, except as a preliminary and auxiliary step. Had it taken place when the requisition came, the corps embodied would have been ready towards a compliance with it, and no one of the inconveniences suggested could possibly have arisen.

You say in another place, that you "were called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the Executive office." It is conceived that it would have been more correct to have said, "you were called upon to be consulted whether you had power in the given case to call forth the militia without a previous requisition from the General Government." The supposition that you might possess this power was referred to a law of Pennsylvania, which appeared, on examination, to have been repealed. A gentleman who accompanied you thought that the power, after a due notification of the incompetency of the Judiciary, might be deduced from the nature and constitution of the Executive office.

It has appeared to your excellency fit and expedient to animadvert upon the nature of the evidence produced at the conference, and to express some doubts which had occurred to your mind concerning it.

As the laws of the United States have referred the evidence in such cases to the judgment of a district judge or associate justice, and, foreseeing that circumstances so peculiar might arise as to render rules relating to the ordinary and peaceable state of society inapplicable, have forborne to prescribe any, leaving it to the understanding and conscience of the judge, upon his responsibility, to pronounce what kind and degree of evidence should suffice, the President would not sanction a discussion of the standard or measure by which evidence in those cases ought to be governed. He would restrain himself by the reflection that this appertains to the province of another, and that he might rely as a guide upon the decision which should be made by the proper organ of the laws for that purpose.

But it may be no deviation from this rule to notice to you that the facts stated in the beginning of this letter, under the third head, appear to have been overlooked in your survey of the evidence, while they seem to be far from immaterial to a just estimate of it.

You remark that, "when you found that the marshal had, without molestation, executed his office in the county of Fayette, that he never was insulted or opposed till he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, you thought there was ground yet to suppose that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which are deprecated."

It is natural to inquire how this supposition could consist with the additional facts which appeared by the same evidence, namely, that the marshal, having been afterwards made prisoner by the rioters, had been compelled, for obtaining safety and liberty, to promise to execute no more processes within the discontented scene; and that subsequently again to this, in consequence of a deputation of the rioters deliberately sent to demand a surrender of the processes in his possession, enforced by a threat, he had found it necessary to seek security in withdrawing by a secret and circuitous route. Did not these circumstances unequivocally denote that officers employed in the administration of justice were as much objects of opposition as those employed in the execution of the particular laws, and that the rioters were at least consistent in their plan?

It must needs be that these facts escaped your excellency's attention, else they are too material to have been omitted in your review of the evidence, and too conclusive not to have set aside the supposition which you entertained, and which seems to have had no great a share in your general view of the subject.

There remains only one point on which your excellency will be longer detained—a point, indeed, of great importance, and consequently demands serious and careful reflection. It is the opinion you so emphatically express, that the mere *dispersion* of the insurgents is the sole object for which the militia can be lawfully called out, or kept in service after they may have been called out.

The President reserves to the last moment the consideration and decision of this point.

But there are arguments weighing heavily against the opinion you have expressed, which, in the meantime, are offered to your candid consideration.

The Constitution of the United States (article 1, section 8) empowers Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:" evidently, from the wording and distribution of the sentence, contemplating the execution of the laws of the Union as a thing distinct from the suppression of insurrections.

The act of May 2, 1792, for carrying this provision of the Constitution into effect, adopts for its title the very words of the Constitution, being "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions"—continuing the constitutional distinction.

The first section of the act provides for the cases of invasion and of insurrection, confining the latter to the case of insurrection against the Government of a State. The second section provides for the case of the execution of the laws being obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals.

The words are these: "Whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceeding, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed." Then follows a provision for calling forth the militia of other States.

The terms of this section appear to contemplate and describe something that may be less than insurrection. "The combinations" mentioned may indeed amount to insurrections, but it is conceivable that they may stop at associations not to comply with the law, supported by riots, assassinations, and murders, and by a general spirit in a part of the community which may baffle the ordinary judiciary means, with no other aid than the *posse comitatus*, and may even require the stationing of military force, for a time, to awe the spirit of riot and countenance the magistrates and officers in the execution of their duty. And the objects for which the militia are to be called are expressly, not only to suppress these combinations, (whether amounting to insurrections or not,) but to cause the laws to be duly executed.

It is therefore plainly contrary to the manifest general intent of the Constitution and of this act, and to the positive and express terms of the second section of the act, to say that the militia called forth are not to be continued in service for the purpose of causing the laws to be duly executed, and, of course, till they are so executed.

What is the main and ultimate object of calling forth the militia? "To cause the laws to be executed." Which are the laws to be executed? Those which are opposed and obstructed in their execution by the combinations described in the present case—the laws laying duties upon spirits distilled within the United States, and upon stills; and, incidentally, those which uphold the judiciary functions. When are the laws executed? Clearly, when the opposition is subdued; when

penalties for disobedience can be enforced; when a compliance is effectuated.

Would the mere dispersion of insurgents, and their retiring to their respective homes, do this? Would it satisfy either member of the provision—the suppression of the combinations or the execution of the laws? Might not the former, notwithstanding the dispersion, continue in full vigor, ready at any moment to break out into new acts of resistance to the laws? Are the militia to be kept perpetually marching and countermarching towards the insurgents while they are embodied, and from them when they have separated and retired? Suppose the insurgents hardy enough to wait the experiment of a battle, are vanquished, and then disperse and retire home, are the militia immediately to retire also, to give them an opportunity to reassemble, recruit, and prepare for another battle? And is this to go on and be repeated without limit?

Such a construction of the law, if true, were certainly a very unfortunate one, rendering its provisions essentially nugatory, and leading to endless expense, and as endless disappointment. It could hardly be advisable to vex the militia by marching them to a distant point, where they might scarcely be arrived before it would be legally necessary for them to return, not in consequence of having effected their object—of having "caused the laws to be executed"—but in consequence of the mere stratagem of a deceitful dispersion and retiring.

Thus far the spirit as well as the positive letter of the law combats the construction which you have adopted. It remains to see if there be any other part of it which compels to a renunciation both of the letter and spirit of the antecedent provisions.

The part which seems to be relied upon for this effect is the third section, which, by way of proviso, enjoins "that whenever it may be necessary, in the judgment of the President, to use the military force by that act directed to be called forth, he shall forthwith and previous thereto, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes, within a limited time." But does this affirm, does it even necessarily imply, that the militia, after the dispersion and retiring, are not to be used for the purpose for which they are authorized to be called forth; that is, "to cause the laws to be duly executed; to countenance by their presence, and in case of further resistance, to protect and support, by their strength, the respective civil officers in the execution of their several duties, whether for bringing delinquents to punishment, or otherwise for giving effect to the laws? May not the injunction of this section be regarded as a merely humane and prudent precaution, to distinguish, previous to the actual application of force, a hasty tumult from a deliberate insurrection? To give an opportunity for those who may be accidentally or inadvertently mingled in a tumult or disorderly rising, to separate and withdraw from those who are designedly and deliberately actors? To prevent, if possible, bloodshed in a conflict of arms; and, if this cannot be done, to render the necessity of it palpable, by a premonition to the insurgents to disperse and go home? And are not all these objects compatible with the further employment of the militia for the ulterior purpose of causing the laws to be executed in the way which has been mentioned? If they present a rational end for the proviso, without defeating the main design of the antecedent provision, it is clear they ought to limit the sense of the former, and exclude a construction which must make the principal provision nugatory.

Do not the rules of law and reason unite in declaring that the different parts of a statute shall be so construed as, if possible, to consist with each other; that a *proviso* ought not to be understood or allowed to operate in a sense tending to defeat the principal clause; and that an implication (if, indeed, there be any such implication as is supposed in the present case) ought not to overrule an express provision, especially at the sacrifice of the manifest general intent of a law, which, in the present case, undoubtedly is, that the militia shall be called forth "to cause the laws to be duly executed?"

Though not very material to the merit of the argument, it may be remarked that the proviso which forms the third section contemplates merely the case of insurrection. If the combinations described in the second section may be less than insurrection, then the proviso is not commensurate with the whole case contained in the second section, which would be an additional circumstance to prove that it cannot work an effect which shall be a substitute for the main purpose of the first section.

I have the honor to be, with perfect respect, sir, your excellency's most obedient servant,

EDM. RANDOLPH.

His Excellency Governor Mifflin.

TREASURY DEPARTMENT,
August 5, 1794.

SIR: The disagreeable crisis at which matters have lately arrived in some of the western counties of Pennsylvania, with regard to the laws laying duties on spirits distilled within the United States, and on stills, seems to render proper a review of the circumstances which have attended those laws in that scene, from their commencement to the present time, and of the conduct which has hitherto been observed on the part of the Government, its motives and effect, in order to a better judgment of the measures necessary to be pursued in the existing emergency.

The opposition to those laws in the four most western counties of Pennsylvania, (Allegany, Washington, Fayette, and Westmoreland,) commenced as early as they were known to have been passed. It has continued, with different degrees of violence, in the different counties and at different periods; but Washington has uniformly distinguished its resistance by a more excessive spirit than has appeared in the other counties, and

seems to have been chiefly instrumental in kindling and keeping alive the flame.

The opposition first manifested itself in the milder shape of the circulation of opinions unfavorable to the law, and calculated, by the influence of public disesteem, to discourage the accepting or holding of offices under it, or the complying with it by those who might be so disposed; to which was added a show of the discontinuance of the business of distilling.

These expedients were shortly after succeeded by private associations to forbear compliances with the law. But it was not long before these mere negative modes of opposition were perceived to be likely to prove ineffectual. And in proportion as this was the case, and as the means of introducing the laws into operation were put into execution, the disposition to resistance became more turbulent, and more inclined to adopt and practise violent expedients; the officers now began to experience marks of contempt and insult; threats against them became more frequent and loud; and, after some time, these threats were ripened into acts of ill-treatment and outrage.

These acts of violence were preceded by certain meetings of malcontent persons, who entered into resolutions calculated at once to confirm, inflame, and systematize the spirit of opposition.

The first of these meetings was held at a place called Redstone, (Old Fort,) on the 27th of July, 1791, where it was concerted that county committees should be convened in the four counties, at the respective seats of justice therein. On the 23d of August following, one of these committees assembled in the county of Washington.

This meeting passed some intemperate resolutions, which were afterwards printed in the Pittsburg Gazette, containing a strong censure on the law, declaring that any person who had accepted or might accept an office under Congress, in order to carry it into effect, should be considered as inimical to the interests of the country; and recommending to the citizens of Washington county to treat every person who had accepted, or might hereafter accept, any such office, with contempt, and absolutely to refuse all kind of communication or intercourse with the officers, and to withhold from them all aid, support, or comfort.

Not content with this vindictive proscription of those who might esteem it their duty, in the capacity of officers, to aid in the execution of the constitutional laws of the land, the meeting proceeded to accumulate topics of crimination of the Government, though foreign to each other; authorizing by this zeal for censure a suspicion that they were actuated not merely by the dislike of a particular law, but by a disposition to render the Government itself unpopular and odious.

This meeting, in further prosecution of their plan, deputed three of their members to meet delegates from the counties of Westmoreland, Fayette, and Allegany, on the first Tuesday of September following, for the purpose of expressing the sense of the people of those counties in an address to the Legislature of the United States upon the subject of the excise law and other grievances.

Another meeting accordingly took place on the 7th of September, 1791, at Pittsburg, in the county of Allegany, at which there appeared persons in character of delegates from the four western counties.

This meeting entered into resolutions more comprehensive in their objects, and not less inflammatory in their tendency, than those which had before passed the meeting in Washington. Their resolutions contained severe censures not only on the law which was the immediate subject of objection, but upon what they termed the exorbitant salaries of officers; the unreasonable interest of the public debt; the want of discrimination between original holders and transferees, and the institution of a national bank. The same unfriendly temper towards the Government of the United States, which seemed to have led out of their way the meeting at Washington, appears to have produced a similar wandering in that at Pittsburg.

A representation to Congress, and a remonstrance to the Legislature of Pennsylvania, against the law more particularly complained of, were prepared by this meeting, published, together with their other proceedings, in the Pittsburg Gazette, and afterwards presented to the respective bodies to whom they were addressed.

These meetings, composed of very influential individuals, and conducted without moderation or prudence, are justly chargeable with the excesses which have been from time to time committed; serving to give consistency to an opposition which has at length matured to a point that threatens the foundations of the Government and of the Union, unless speedily and effectually subdued.

On the 6th of the same month of September, the opposition broke out in an act of violence upon the person and property of Robert Johnson, collector of the revenue for the counties of Allegany and Washington.

A party of men, armed and disguised, waylaid him at a place on Pigeon creek, in Washington county, seized, tarred and feathered him, cut off his hair, and deprived him of his horse, obliging him to travel on foot a considerable distance in that mortifying and painful situation.

The case was brought before the District Court of Pennsylvania, out of which processes issued against John Robertson, John Hamilton, and Thomas McComb, three of the persons concerned in the outrage.

The serving of these processes was confided by the then marshal, Clement Biddle, to his deputy, Joseph Fox, who, in the month of October, went into Allegany county for the purpose of serving them.

The appearances and circumstances which Mr. Fox observed himself in the course of his journey, and learned afterwards upon his arrival at Pittsburg, had the effect of deterring him from the service of the processes, and unfortunately led him to adopt the injudicious and fruitless expedient of sending them to the parties by a private messenger, under cover.

The deputy's report to the marshal states a

number of particulars, evincing a considerable fermentation in the part of the country to which he was sent, and inducing a belief, on his part, that he could not with safety have executed the processes. The marshal, transmitting this report to the district attorney, makes the following observations upon it: "I am sorry to add that he (the deputy) found the people, in general, in the western part of the State, and particularly beyond the Allegany mountains, in such a ferment on account of the act of Congress for laying a duty on distilled spirits, and so much opposed to the execution of the said act, and from a variety of threats to himself personally, (although he took the utmost precaution to conceal his errand,) that he was not only convinced of the impossibility of serving the process, but that any attempt to effect it would have occasioned the most violent opposition from the greater part of the inhabitants; and he declares that, if he had attempted it, he believes he should not have returned alive.

"I spared no expense or pains to have the process of the court executed, and have not the least doubt that my deputy would have accomplished it, if it could have been done."

The reality of the danger to the deputy was countenanced by the opinion of General Neville, the inspector of the revenue, and a man who before had given, and since has given, numerous proofs of a steady and firm temper; and what followed is a further confirmation of it.

The person who had been sent with the processes was seized, whipped, tarred, and feathered; and, after having his money and horse taken from him, was blindfolded and tied in the woods; in which condition he remained for five hours.

Very serious reflections naturally occurred upon this occasion. It seemed highly probable, from the issue of the experiment which had been made, that the ordinary course of civil process would be ineffectual for enforcing the execution of the law in the scene in question, and that a perseverance in this course might lead to a serious concussion. The law itself was still in the infancy of its operation, and far from established in other important portions of the Union. Prejudices against it had been industriously disseminated, misrepresentations diffused, misconceptions fostered. The Legislature of the United States had not yet organized the means by which the Executive could come in aid of the Judiciary, when found incompetent to the execution of the laws. If neither of these impediments to a decisive exertion had existed, it was desirable, especially in a Republican Government, to avoid what is in such cases the ultimate resort, till all the milder means had been tried without success.

Under the united influence of these considerations, it appeared advisable to forbear urging coercive measures until the laws had gone into more extensive operation; till further time for reflection and experience of its operation had served to correct false impressions, and inspired greater moderation; and until the Legislature had had an opportunity, by a revision of the law, to remove as far as possible objections, and to reinforce the provisions for securing its execution.

Other incidents occurred, from time to time, which are further proofs of the very improper temper that prevailed among the inhabitants of the refractory counties.

Mr. Johnson was not the only officer who, about the same period, experienced outrage. Mr. Wells, collector of the revenue for Westmoreland and Fayette, was also ill-treated at Greensburg and Uniontown. Nor were the outrages perpetrated confined to the officers; they extended to private citizens, who only dared to show their respect for the laws of their country.

Some time in October, 1791, an unhappy man, of the name of Wilson, a stranger in the county, and manifestly disordered in his intellects, imagining himself to be a collector of the revenue, as invested with some trust in relation to it, was so unlucky as to make inquiries concerning distillers who had entered their stills, giving out that he was to travel through the United States to ascertain and report to Congress the number of stills, &c. This man was pursued by a party in disguise, taken out of his bed, carried about five miles back to a smith's shop, stripped of his clothes, which were afterwards burnt, and, having been himself inhumanly burnt in several places with a heated iron, was tarred and feathered, and about day-light dismissed, naked, wounded, and otherwise in a very suffering condition. These particulars are communicated in a letter from the inspector of the revenue of the 17th of November, who declares that he had then himself seen the unfortunate maniac, the abuse of whom, as he expresses it, exceeded description, and was sufficient to make human nature shudder. The affair is the more extraordinary, as persons of weight and consideration in that county are understood to have been actors in it, and as the symptoms of insanity were, during the whole time of inflicting the punishment, apparent; the unhappy sufferer displaying the heroic fortitude of a man who conceived himself to be a martyr to the discharge of some important duty.

Not long after, a person of the name of Roseberry underwent the humiliating punishment of tarring and feathering, with some aggravations, for having in conversation hazarded the very natural and just, but unpalatable remark, that the inhabitants of that county could not reasonably expect protection from a Government whose laws they so strenuously opposed.

The audacity of the perpetrators of these excesses was so great, that an armed banditti ventured to seize and carry off two persons who were witnesses against the rioters in the case of Wilson, in order to prevent their giving testimony of the riot to a court then sitting, or about to sit.

Designs of personal violence against the inspector of the revenue himself, to force him to a resignation, were repeatedly attempted to be put in execution by armed parties, but, by different circumstances, were frustrated.

In the session of Congress which commenced in October, 1791, the law laying a duty on distill-

ed spirits and stills came under the revision of Congress, as had been anticipated. By an act passed May 8, 1792, during that session, material alterations were made in it; among these, the duty was reduced to a rate so moderate as to have silenced complaint on that head; and a new and very favorable alternative was given to the distiller—that of paying a monthly instead of a yearly rate, according to the capacity of his still, with liberty to take a license for the precise term which he should intend to work it, and to renew that license for a further term or terms.

This amending act, in its progress through the Legislature, engaged the particular attention of members, who themselves were interested in distilleries, and of others who represented parts of the country in which the business of distilling was extensively carried on.

Objections were well considered, and great pains taken to obviate all such as had the semblance of reasonableness.

The effect has, in a great measure, corresponded with the views of the Legislature. Opposition has subsided in several districts where it before prevailed, and it was natural to entertain, and not easy to abandon a hope, that the same thing would by degrees have taken place in the four western counties of this State.

But notwithstanding some flattering appearances at particular junctures, and infinite pains, by various expedients, to produce the desirable issue, the hope entertained has never been realized, and is now at an end, as far as the ordinary means of executing laws are concerned.

The first law had left the number and positions of the offices of inspection, which were to be established in each district for receiving entries of stills, to the discretion of the supervisor. The second, to secure a due accommodation to distillers, provides, peremptorily, that there shall be one in each county.

The idea was immediately embraced that it was a very important point in the scheme of opposition to the law, to prevent the establishment of offices in the respective counties.

For this purpose, the intimidation of well-disposed inhabitants was added to the plan of molesting and obstructing the officers, by force or otherwise, as might be necessary. So effectually was the first point carried, (the certain destruction of property and the peril of life being involved,) that it became almost impracticable to obtain suitable places for offices in some of the counties; and, when obtained, it was found a matter of necessity, in almost every instance, to abandon them.

After much effort, the inspector of revenue succeeded in procuring the house of William Faulkner, a Captain in the Army, for an office of inspection in the county of Washington. This took place in August, 1792. The office was attended by the inspector of the revenue in person, till prevented by the following incidents:

Captain Faulkner, being in pursuit of some deserters from the troops, was encountered by a number of people, in the same neighborhood where Mr. Johnson had been ill-treated the preceding year, who reproached him with letting his house for an office of inspection, drew a knife upon him, threatened to scalp him, tar and feather him, and reduce his house and property to ashes, if he did not solemnly promise to prevent the further use of his house for an office. Captain Faulkner was induced to make the promise exacted; and, in consequence of the circumstance, wrote a letter to the inspector, dated the 20th of August, countermanding the permission for using his house, and the day following gave a public notice in the Pittsburg Gazette that the office of inspector should be no longer kept there.

At the same time another engine of opposition was in operation. Agreeable to a previous notification, there met at Pittsburg, on the 21st of August, a number of persons, styling themselves "A meeting of sundry inhabitants of the western counties of Pennsylvania."

This meeting entered into resolutions not less exceptionable than those of its predecessors. The preamble suggests that a tax on spirituous liquors is unjust in itself and oppressive upon the poor; that internal taxes upon consumption must, in the end, destroy the liberties of every country in which they are introduced; that the law in question, from certain local circumstances, which are specified, would bring immediate distress and ruin upon the western country; and concludes with the sentiment, that they think it their duty to persist in remonstrances to Congress, and in every other legal measure that may obstruct the operation of the law.

The resolutions then proceed, first, to appoint a committee to prepare and cause to be presented to Congress an address stating objections to the law, and praying for its repeal; secondly, to appoint committees of correspondence for Washington, Fayette, and Allegany, charged to correspond together, and with such committees as should be appointed for the same purpose in the county of Westmoreland, or with any committees of a similar nature that might be appointed in other parts of the United States; and, also, if found necessary, to call together either general meetings of the people in their respective counties, or conferences of the several committees; and lastly, to declare that they will in future consider those who hold offices for the collection of the duty as unworthy of their friendship; that they will have no intercourse nor dealings with them, will withdraw from them every assistance, withhold all the comforts of life which depend upon those duties that as men and fellow-citizens we owe to each other, and will, upon all occasions, treat them with contempt; earnestly recommending it to the people at large to follow the same line of conduct towards them.

The idea of pursuing legal measures to obstruct the operation of a law needs little comment. Legal measures may be pursued to procure the repeal of a law, but to obstruct its operation presents a contradiction in terms. The operation (or, what is the same thing, the execution) of a law cannot be obstructed after it has been constitutionally enacted, without illegality and crime. The expression quoted is one of those phrases which can only be used to conceal a disorderly and culpable intention under forms that may escape the hold of the law.

Neither was it difficult to perceive that the anathema pronounced against the officers of the revenue placed them in a state of virtual outlawry, and operated as a signal to all those who were bold enough to encounter the guilt, and the danger to violate both their lives and their properties.

The foregoing proceedings, as soon as known, were reported by the Secretary of the Treasury to the President. The President, on the 15th of September, 1792, issued a proclamation "earnestly admonishing and exhorting all persons whom it might concern to refrain and desist from all unlawful combinations and proceedings whatsoever, having for object, or tending, to obstruct the operation of the laws aforesaid, inasmuch as all lawful ways and means would be put in execution for bringing to justice the infractors thereof, and securing obedience thereto:" and, moreover, charging and requiring all courts, magistrates, and officers, whom it might concern, according to the duties of their several offices, to exert the powers in them respectively vested by law for the purposes aforesaid; thereby, also, enjoining and requiring all persons whomsoever, as they tendered the welfare of their country, the just and due authority of Government, and the preservation of the public peace, to be aiding and assisting therein, according to law; and likewise directed that prosecutions might be instituted against the offenders, in the cases in which the laws would support, and the requisite evidence could be obtained.

Pursuant to these instructions, the Attorney General, in co-operation with the attorney of the district, attended a circuit court, which was holden at Yorktown, in October, 1792, for the purpose of bringing forward prosecutions in the proper cases.

Collateral measures were taken to procure for this purpose the necessary evidence.

The supervisor of the revenue was sent into the opposing survey, to ascertain the real state of that survey, to obtain evidence of the persons who were concerned in the riot in Faulkner's case, and of those who composed the meeting at Pittsburg, to uphold the confidence and encourage the perseverance of the officers acting under the law; and to induce, if possible, the inhabitants of that part of the survey, which appeared least disinclined to come voluntarily into the law, by arguments addressed to their sense of duty, and exhibiting the eventual dangers and mischiefs of resistance.

The mission of the supervisor had no other fruit than that of obtaining evidence of the persons who composed the meeting at Pittsburg, and of two who were understood to be concerned in the riot; and a confirmation of the enmity which certain active and designing leaders had industriously infused into a large proportion of the inhabitants, not against the particular laws in question only, but of a more ancient date, against the Government of the United States itself.

The then Attorney General being of opinion that it was at best a doubtful point, whether the proceedings of the meeting at Pittsburg contained indictable matter, no prosecution was attempted against those who composed it; though, if the ground for proceeding against them had appeared to be firm, it is presumed that the truest policy would have dictated that course.

Indictments were preferred to the circuit court, and found against the two persons understood to have been concerned in the riot; and the usual measures were taken for carrying them into effect. But it appearing afterwards, from various representations supported by satisfactory testimony, that there had been some mistake as to the persons accused, justice and policy demanded that the prosecution should be discontinued, which was accordingly done. This issue of the business unavoidably defeated the attempt to establish examples of the punishment of persons who engaged in a violent resistance to the laws, and left the officers to struggle against the stream of resistance, without the advantage of such examples.

The following plan, afterwards successively put in execution, was about this time digested, for carrying, if possible, the laws into effect, without the necessity of recurring to force:

1. To prosecute delinquents in the cases in which it could be clearly done for non-compliance with the laws. 2. To intercept the markets for the surplus produce of the distilleries of the non-complying counties, by seizing the spirits in their way to those markets, in places where it could be effected without opposition. 3. By purchases, through agents, for the use of the army, (instead of deriving the supply through contractors, as formerly,) confining them to spirits in respect to which there had been a compliance with the laws.

The motives to this plan speak for themselves. It aimed, besides the influence of penalties on delinquents, at making it the general interest of the distillers to comply with the laws, by interrupting the market for a very considerable surplus, and by, at the same time, confining the benefit of the large demand for public service to those who did their duty to the public; and furnishing, through the means of payments in cash, that medium for paying the duties, the want of which was alleged to be a great difficulty in the way of compliance.

But two circumstances conspired to counteract the success of the plan: one, the necessity, towards incurring the penalties of non-compliance, of there being an office of inspection in each county, which was prevented in some of the counties by means of the intimidation practised for that purpose: another, the non-extension of the law to the territory northwest of the Ohio, into which a large proportion of the surplus before mentioned was sent.

A cure for these defects could only come from the Legislature; accordingly, in the session which began in November, 1792, measures were taken

for procuring a further revision of the laws. A bill containing amendments of those and other defects was brought in; but it so happened that this object, by reason of more urgent business, was deferred till towards the close of the session, and finally went off, through the usual hurry of that period.

The continuance of the embarrassment incident to this state of things naturally tended to diminish much of the efficacy of the plan which had been devised; yet it was resolved, as far as legal provisions would bear out the officers, to pursue it with perseverance. There was ground to entertain hopes of its good effect, and it was certainly the most likely course which could have been adopted towards attaining the object of the laws by means short of force; evincing, unequivocally, the sincere disposition to avoid this painful resort, and the steady moderation which has characterized the measures of the Government.

In pursuance of this plan, prosecutions were occasionally instituted in the mildest forms; seizures were made as opportunities occurred; and purchases on public account were carried on. It may be incidentally remarked, that these purchases were extended to other places, where, though the same disorders did not exist, it appeared advisable to facilitate the payment of the duties by this species of accommodation. Nor was this plan, notwithstanding the deficiency of legal provision, which impeded its full execution, without corresponding effects. Symptoms from time to time appeared, which authorized expectation that, with the aid, at another session, of the desired supplementary provisions, it was capable of accomplishing its end, if no extraordinary events occurred.

The opponents of the laws, not insensible of the tendency of that plan, nor of the defects in the laws which interfered with it, did not fail, from time to time, to pursue analogous modes of counteraction. The effort to frustrate the establishment of officers of inspection in particular was persisted in, and even increased; means of intimidating officers and others, continued to be exerted.

In April, 1793, a party of armed men in disguise made an attack in the night upon the house of a collector of the revenue, who resided in Fayette county; but he happening to be from home, they contented themselves with breaking open his house, threatening, terrifying, and abusing his family. Warrants were issued for apprehending some of the rioters upon this occasion by Isaac Meson and James Findley, assistant judges of Fayette county, which were delivered to the sheriff of that county, who, it seems, refused to execute them; for which he has since been indicted. This is at once an example of a disposition to support the laws of the Union, and of an opposite one in the local officers of Pennsylvania within the non-complying scene. But it is a truth too important not to be noticed, and too injurious not to be lamented, that the prevailing spirit of those officers has been either hostile or lukewarm to the execution of those laws; and that the weight of an unfriendly official influence has been one of the most serious obstacles with which they have had to struggle.

In June following, the inspector of the revenue was burnt in effigy in Allegany county, at a place and on a day of some public election, with much display, in the presence of, and without interruption from, magistrates and other public officers.

On the night of the 22d of November, another party of men, some of them armed, and all in disguise, went to the house of the same collector of Fayette, which had been visited in April, broke and entered it, and demanded a surrender of the officer's commission and official books; upon his refusing to deliver them up, they presented pistols at him, and swore that if he did not comply they would instantly put him to death. At length a surrender of the commission and books was enforced; but, not content with this, the rioters, before they departed, required of the officer that he should, within two weeks, publish his resignation, on pain of another visit, and the destruction of his house.

Notwithstanding these excesses, the laws appeared, during the latter periods of this year, (1793) to be rather gaining ground. Several principal distillers, who had formerly held out, complied; and others discovered a disposition to comply, which was only restrained by the fear of violence. But these favorable circumstances served to beget alarm among those who were determined, at all events, to prevent the quiet establishment of the laws. It soon appeared that they meditated, by fresh and greater excesses, to aim a still more effectual blow at them, to subdue the growing spirit of compliance, and to destroy entirely the organs of the laws within that part of the country, by compelling all the officers to renounce their offices.

The last proceeding, in the case of the collector of Fayette, was in this spirit. In January of the present year, further violences appear to have been perpetrated. William Richmond, who had given information against some of the rioters, in the affair of Wilson, had his barn burnt, with all the grain and hay which it contained; and the same thing happened to Robert Shawhan, a distiller, who had been among the first to comply with the law, and who had always spoken favorably of it; but in nether of these instances, (which happened in the county of Allegany) though the presumptions were violent, was any positive proof obtained.

The inspector of the revenue, in a letter of the 27th of February, writes that he had received information that persons, living near the dividing line of Allegany and Washington, had thrown out threats of tarring and feathering one William Cochran, a complying distiller, and of burning his distillery; and that it had also been given out that in three weeks there would not be a house standing in Allegany county of any person who had complied with the laws; in consequence of which, he had been induced to pay a visit to several leading individuals in that quarter, as well to

ascertain the truth of the information as to endeavor to avert the attempt to execute such threats. It appeared afterwards, that on his return home, he had been pursued by a collection of disorderly persons, threatening, as they went along, vengeance against him. On their way, these men called at the house of James Kiddoe, who had recently complied with the laws, broke into his still-house, fired several balls under his still, and scattered fire over and about the house.

Letters from the inspector, in March, announce an increased activity in promoting opposition to the laws; frequent meetings to cement and extend the combinations against it; and among other means for this purpose, a plan of collecting a force to seize him, compel him to resign his commission, and detain him prisoner—probably as a hostage.

In May and June new violences were committed. James Kiddoe, the person above mentioned, and William Cochran, another complying distiller, met with repeated injury to their property. Kiddoe had parts of his grist-mill at different times carried away; and Cochran suffered more material injuries. His still was destroyed; his saw-mill was rendered useless, by the taking away of the saw, and his grist-mill so injured as to require to be repaired at considerable expense.

At the last visit a note in writing was left, requiring him to publish what he had suffered in the Pittsburg Gazette, on pain of another visit, in which he is threatened, in figurative but intelligible terms, with the destruction of his property by fire—thus adding to the profligacy of doing wanton injuries to a fellow-citizen the tyranny of compelling him to be the publisher of his wrongs.

June being the month for receiving annual entries of stills, endeavors were used to open offices in Westmoreland and Washington, where it had been hitherto found impracticable. With much pains and difficulty, places were procured for the purpose. That in Westmoreland was repeatedly attacked in the night by armed men, who frequently fired upon it; but, according to a report which has been made to this Department, it was defended with so much courage and perseverance by John Wells, an auxiliary officer, and Philip Ragan, the owner of the house, as to have been maintained during the remainder of the month.

That in Washington, after repeated attempts, was suppressed. The first attempt was confined to pulling down the sign of the office, and threats of future destruction. The second effected the object in the following mode: About twelve persons, armed and painted black, in the night of the 6th of June, broke into the house of John Lynn, where the office was kept, and, after having treacherously seduced him to come down stairs, and put himself in their power, by a promise of safety to himself and his house, they seized and tied him—threatened to hang him—took him to a retired spot in the neighboring wood, and there, after cutting off his hair, tarred and feathered him—swore him never again to allow the use of his house for an office—never to disclose their names, and never again to have any sort of agency in aid of the excise. Having done which, they bound him naked to a tree, and left him in that situation till morning, when he succeeded in extricating himself. Not content with this, the malcontents some days after made him another visit—pulled down part of his house, and put him in a situation to be obliged to become an exile from his own home, and to find an asylum elsewhere.

During this time, several of the distillers, who had made entries and benefitted by them, refused the payment of the duties—actuated, no doubt, by various motives.

Indications of a plan to proceed against the inspector of the revenue, in the manner which has been before mentioned, continued. In a letter from him of the 10th of July, he observed that the threatened visit had not yet been made, though he had still reason to expect it.

In the session of Congress which began in December, 1793, a bill for making the amendments in the laws, which had been for some time desired, was brought in, and on the 5th of June last became a law.

It is not to be doubted that the different stages of this business were regularly notified to the malcontents, and that a conviction of the tendency of the amendments contemplated to effectuate the execution of the law had matured the resolution to bring matters to a violent crisis.

The increasing energy of the opposition rendered it indispensable to meet the evil with proportionable decision. The idea of giving time for the law to extend itself, in scenes where the dissatisfaction with it was the effect, not of an improper spirit, but of causes which were of a nature to yield to reason, reflection, and experience, (which had constantly weighed in the estimate of the measures proper to be pursued,) had had its effect in an extensive degree. The experiment, too, had been long enough tried to ascertain that, where resistance continued, the root of the evil lay deep, and required measures of greater efficacy than had been pursued. The laws had undergone repeated revisions of the Legislative Representatives of the Union, and had virtually received their repeated sanction, without even an attempt, as far as is now recollected or can be traced, to effect their repeal—affording an evidence of the general sense of the community in their favor. Complaints began to be loud, from complying quarters, against the impropriety and injustice of suffering the laws to remain unexecuted in others.

Under the united influence of these considerations, there was no choice but to try the efficiency of the laws in prosecuting with vigor delinquents and offenders.

Process issued against a number of non-complying distillers in the counties of Fayette and Allegany; and indictments having been found at a circuit court holden at Philadelphia in July last, against Robert Smilie and John McCullock, two of the rioters in the attack which, in November preceding, had been made upon the house of a

collector of the revenue in Fayette county; processes issued against them also, to bring them to trial, and, if guilty, to punishment.

The marshal of the district went in person to serve these processes. He executed his trust without interruption, though under many discouraging circumstances, in Fayette county; but while he was in the execution of it in Allegany county, (being then accompanied by the inspector of the revenue—to wit, on the 15th of July last,) he was beset on the road by a party of from thirty to forty armed men, who, after much previous irregularity of conduct, finally fired upon him, but, as it happened, without injury either to him or to the inspector.

This attempt on the marshal was but the prelude of greater excesses.

About break of day the 16th of July, in conformity with a plan which seems to have been for some time entertained, and which probably was only accelerated by the coming of the marshal into the survey, an attack by about one hundred persons armed with guns and other weapons was made upon the house of the inspector, in the vicinity of Pittsburg. The inspector, though alone, vigorously defended himself against the assailants, and obliged them to retreat without accomplishing their purpose.

Apprehending that the business would not terminate here, he made application by letter to the judges, generals of militia, and sheriff of the county, for protection. A reply to his application, from John Wilkins, jr., and John Gibson, magistrates and militia officers, informed him that the laws could not be executed, so as to afford him the protection to which he was entitled, owing to the too general combination of the people in that part of Pennsylvania to oppose the revenue law—adding that they would take every step in their power to bring the rioters to justice, and would be glad to receive information of the individuals concerned in the attack upon his house, that prosecutions might be commenced against them; and expressing their sorrow, that, should the *posse comitatus* of the county be ordered out in support of the civil authority, very few could be gotten who were not of the party of the rioters.

The day following, the insurgents reassembled with a considerable augmentation of numbers, amounting, as has been computed, to at least five hundred; and, on the 17th of July, renewed their attack upon the house of the inspector, who, in the interval, had taken the precaution of calling to his aid a small detachment from the garrison of Fort Pitt, which, at the time of the attack, consisted of eleven men, who had been joined by Major Abraham Kirkpatrick, a friend and connexion of the inspector.

There being scarcely a prospect of effectual defence against so large a body as then appeared, and as the inspector had everything to apprehend for his person, if taken, it was judged advisable that he should withdraw from the house to a place of concealment—Major Kirkpatrick generously agreeing to remain with the eleven men, in the intention, if practicable, to make a capitulation in favor of the property; if not, to defend it as long as possible.

A parley took place under cover of a flag, which was sent by the insurgents to the house to demand that the inspector should come forth, renounce his office, and stipulate never again to accept an office under the same laws. To this it was replied that the inspector had left the house upon their first approach, and that the place to which he had retired was unknown. They then declared that they must have whatever related to his office. They were answered that they might send persons, not exceeding six, to search the house, and take away whatever papers they could find appertaining to the office. But not satisfied with this, they insisted, unconditionally, that the armed men who were in the house, for its defence, should march out and ground their arms, which Major Kirkpatrick peremptorily refused—considering it and representing it to them as a proof of a design to destroy the property. This refusal put an end to the parley.

A brisk firing then ensued between the insurgents and those in the house, which, it is said, lasted for near an hour, till the assailants, having set fire to the neighboring and adjacent buildings, eight in number, the intenseness of the heat, and the danger of an immediate communication of the fire to the house, obliged Major Kirkpatrick and his small party to come out and surrender themselves. In the course of the firing one of the insurgents was killed and several wounded, and three of the persons in the house were also wounded. The person killed is understood to have been the leader of the party, of the name of James McFarlane, then a major in the militia—formerly a lieutenant in the Pennsylvania line. The dwelling-house, after the surrender, shared the fate of the other buildings, the whole of which were consumed to the ground. The loss of property to the inspector upon this occasion is estimated (and as it is believed with great moderation) at not less than three thousand pounds.

The marshal, Colonel Presley Neville, and several others were taken by the insurgents going to the inspector's house. All except the marshal and Colonel Neville soon made their escape; but these were carried off some distance from the place where the affray had happened, and detained till one or two o'clock the next morning. In the course of their detention, the marshal in particular suffered very severe and humiliating treatment, and was frequently in imminent danger of his life. Several of the party repeatedly presented their pieces at him, with every appearance of a design to assassinate, from which they were with difficulty restrained by the efforts of a few more humane and more prudent.

Nor could he obtain safety or liberty, but upon the condition of a promise, guarantied by Colonel Neville, that he would serve no other process on the west side of the Allegany mountain. The alternative being immediate death, extorted from the marshal a compliance with this condition, notwithstanding the just sense of official dignity, and the firmness of character which were witnessed by

his conduct throughout the trying scenes he had experienced.

The insurgents, on the 18th, sent a deputation of two of their number (one a justice of the peace) to Pittsburg, to require of the marshal a surrender of the processes in his possession, intimating that his compliance would satisfy the people, and add to his safety; and also to demand of General Neville, in peremptory terms, the resignation of his office, threatening, in case of refusal, to attack the place and take him by force—demands which both these officers did not hesitate to reject, as alike incompatible with their honor and their duty.

As it was well ascertained that no protection was to be expected from the magistrates or inhabitants of Pittsburg, it became necessary to the safety both of the inspector and marshal to quit that place; and as it was known that all the usual routes to Philadelphia were beset by the insurgents, they concluded to descend the Ohio, and proceed by a circuitous route to the Seat of Government—which they began to put in execution on the night of the 19th of July.

Information has also been received of a meeting of a considerable number of persons at a place called Mingo-creek Meeting-house, in the county of Washington, to consult about the further measures which it might be advisable to pursue; that, at this meeting, a motion was made to approve and agree to support the proceedings which had taken place until the excise law was repealed, and an act of oblivion passed. But, that, instead of this, it had been agreed that the four western counties of Pennsylvania and the neighboring counties of Virginia should be invited to meet in a convention of delegates on the 14th of the present month, at Parkinson's on Mingo creek, in the county of Washington, to take into consideration the situation of the Western country, and concert such measures as should appear suited to the occasion.

It appears, moreover, that on the 25th of July last the mail of the United States, on the road from Pittsburg to Philadelphia, was stopped by two armed men who cut it open and took out all the letters, except those contained in one packet. These armed men, from all the circumstances which occurred, were manifestly acting on the part of the insurgents.

The declared object of the foregoing proceedings is to obstruct the execution and compel a repeal of the laws laying duties on spirits distilled within the United States, and upon stills. There is just cause to believe that this is connected with an indisposition, too general in that quarter, to share in the common burdens of the community, and with a wish among some persons of influence to embarrass the Government. It is affirmed by well-informed persons to be a fact of notoriety, that the revenue laws of the State itself have always been either resisted or very defectively complied with in the same quarter.

With the most perfect respect, I have the honor to be, sir, your most obedient and humble servant,

ALEXANDER HAMILTON.

The President *of the United States.*

Bedford, *October* 20, 1794.

Sir: I have it in special instruction from the President of the United States, now at this place, to convey to you, on his behalf, the following instructions for the general direction of your conduct in the command of the militia army with which you are charged:

The objects for which the militia have been called forth are—

1. To suppress the combinations which exist in some of the western counties of Pennsylvania in opposition to the laws laying duties upon spirits distilled within the United States, and upon stills.
2. To cause the laws to be executed.

These objects are to be effected in two ways—

1. By military force;
2. By judiciary process, and other civil proceedings.

The objects of the military force are two-fold—

1. To overcome any opposition which may exist;
2. To countenance and support the civil officers in the means of executing the laws.

With a view to the first of these two objects, you will proceed as speedily as may be with the army under your command into the insurgent counties to attack, and as far as shall be in your power subdue, all persons whom you may find in arms in opposition to the laws above-mentioned. You will march your army in two columns from the places where they are now assembled by the most convenient routes, having regard to the nature of the roads, the convenience of supply, and the facility of co-operation and union; and bearing in mind that you ought to act till the contrary shall be fully developed, on the general principle of having to contend with the whole force of the counties of Fayette, Westmoreland, Washington, and Allegany, and of that part of Bedford which lies west of the town of Bedford: and that you are to put as little as possible to hazard. The approximation therefore of your columns is to be sought, and the subdivision of them, so as to place the parts out of mutual supporting distance, to be avoided as far as local circumstances will permit. Parkinson's Ferry appears to be a proper point towards which to direct the march of the columns for the purpose of ulterior measures.

When arrived within the insurgent country, if an armed opposition appear, it may be proper to publish a proclamation, inviting all good citizens—friends of the Constitution and laws—to join the standard of the United States. If no armed opposition exist, it may still be proper to publish a proclamation, exhorting to a peaceable and dutiful demeanor, and giving assurances of performing with good faith and liberality whatsoever may have been promised by the Commissioners to those who have complied with the conditions prescribed by them, and who have not forfeited their title by subsequent misconduct.

Of those persons in arms, if any, whom you may make prisoners, leaders, including all persons in command, are to be delivered up to the civil magistrate; the rest to be disarmed, admonished, and

sent home, (except such as may have been particularly violent and also influential,) causing their own recognizances for their good behavior to be taken, in the cases in which it may be deemed expedient.

With a view to the second point, namely, "the countenance and support of the civil officers in the means of executing the laws," you will make such dispositions as shall appear proper to countenance and protect, and, if necessary, and required by them, to support and aid the civil officers in the execution of their respective duties; for bringing offenders and delinquents to justice; for seizing the stills of delinquent distillers, as far as the same shall be deemed eligible by the supervisor of the revenue, or chief officer of inspection; and also for conveying to places of safe custody such persons as may be apprehended and not admitted to bail.

The objects of judiciary process, and other civil proceedings, will be—

1. To bring offenders to justice.

2. To enforce penalties on delinquent distillers by suit.

3. To enforce the penalty of forfeiture on the same persons by the seizure of their stills and spirits.

The better to effect these purposes, the judge of the district, Richard Peters, Esq., and the attorney of the district, William Rawle, Esq., accompany the army.

You are aware that the judge cannot be controlled in his functions; but I count on his disposition to co-operate in such a general plan as shall appear to you consistent with the policy of the case. But your method of giving a direction to legal proceedings, according to your general plan, will be by instruction to the district attorney.

He ought particularly to be instructed, (with due regard to time and circumstance,) 1st. To procure to be arrested all influential actors in riots and unlawful assemblies relating to the insurrection, and combinations to resist the laws, or having for object to abet that insurrection and those combinations, and who shall not have complied with the terms offered by the Commissioners, or manifested their repentance in some other way, which you may deem satisfactory. 2d. To cause process to issue for enforcing penalties upon delinquent distillers. 3d. To cause offenders who may be arrested to be conveyed to jails where there will be no danger of rescue; those for misdemeanors, to the jails of York and Lancaster; those for capital offences, to the jail of Philadelphia, as more secure than the others. 4th. To prosecute indictable offences in the courts of the United States: those for penalties on delinquents, under the laws before mentioned, in the courts of Pennsylvania.

As a guide in the case, the district attorney has with him a list of the persons who have availed themselves of the offers of the Commissioners on the day appointed.

The seizure of stills is the province of the supervisor and other officers of inspection. It is difficult to chalk out the precise line concerning it. There are opposite considerations, which will require to be nicely balanced, and which must be judged of by those officers on the spot. It may be found useful to confine the seizures to stills of the most leading and refractory distillers. It may be advisable to extend them far in the most refractory county.

When the insurrection is subdued, and the requisite means have been put in execution to secure obedience to the laws, so as to render it proper for the army to retire, (an event which you will accelerate as much as shall be consistent with the object,) you will endeavor to make an arrangement for detaching such a force as you deem adequate, to be stationed within the disaffected country, in such manner as best to afford protection to well-disposed citizens and to the officers of the revenue, and to repress, by their presence, the spirit of riot and opposition to the laws.

But before you withdraw the army, you will promise, on behalf of the President, a general pardon to all such as shall not have been arrested, with such exceptions as you shall deem proper. The promise must be so guarded as not to affect pecuniary claims under the revenue laws. In this measure, it is advisable there should be a co-operation with the Governor of Pennsylvania.

On the return of the army, you will adopt some convenient and certain arrangement for restoring to the public magazines the arms, accoutrements, military stores, tents, and other articles of camp equipage and entrenching tools, which have been furnished, and shall not have been consumed or lost.

You are to exert yourself by all possible means to preserve discipline among the troops, particularly a scrupulous regard to the rights of persons and property, and a respect for the authority of the civil magistrate; taking especial care to inculcate and cause to be observed this principle: that the duties of the army are confined to the attacking and subduing of armed opponents of the laws, and to the supporting and aiding of the civil officers in the execution of their functions.

It has been settled that the Governor of Pennsylvania will be second, the Governor of New Jersey third in command; and that the troops of the several States in line, on the march and upon detachment, are to be posted according to the rule which prevailed in the army during the late war, namely, in moving toward the sea-board, the most southern troops will take the right; in moving westward, the most northern will take the right.

These general instructions, however, are to be considered as liable to such alterations and deviations in the detail as from local and other causes may be found necessary, the better to effect the main object upon the general principles which have been indicated.

With great respect, I have the honor to be, sir, your obedient servant,

ALEXANDER HAMILTON.

Gen. Henry Lee.

WASHINGTON'S FAREWELL ADDRESS.

TO THE PEOPLE OF THE UNITED STATES.

Friends and fellow-citizens: The period for a new election of a citizen to administer the Executive Government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence, in my situation, might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the organization and administration of the Government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me, and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead—amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which, not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts and a guaranty of the plans by which they were effected. Profoundly penetrated with this idea I shall carry it with me to my grave, as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence, that your union and brotherly affection may be perpetual; that the free Constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplations, and to recommend to your frequent review, some sentiments, which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquility at home, your peace abroad; of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness—that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety, discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens, by birth or choice, of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common Government, finds in the productions of the latter great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and, what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connexion with any foreign Power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries, not tied together by the same Government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments, which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations—*Northern* and *Southern*—*Atlantic* and *Western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head: they have seen, in the negotiation by the Executive, and in the unanimous ratification by the Senate, of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government, and in the Atlantic States, unfriendly to their interest in regard to the Mississippi: they have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren, and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But, the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, pre-supposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government, and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions—that experience is the surest standard by which to test the real tendency of the existing constitution of a country—that facility in changes upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty, is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popu-

lar form, it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual: and sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments, occasionally, riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself, through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country, should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments, ancient and modern: some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in a way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is, to use it as sparingly as possible; avoiding occasions of expense by cultivating peace; but remembering, also, that timely disbursements to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding, likewise, the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your Representatives; but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be re-

venue; that to have revenue, there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects, (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the Government in making it, and for the spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct; and can it be, that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent inveterate antipathies against particular nations, and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is, in some degree, a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill-will and resentment, sometimes impels to war the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts, through passion, what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes, perhaps, the liberty of nations, has been the victim.

So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads, also, to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill-will, and a disposition to retaliate, in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens, (who devote themselves to the favorite nation,) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practise the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, my fellow-citizens) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation, and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality, we may at any time resolve upon, to be scrupulously respected; when belligerant nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situ-

ation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise to extend them. Taking care to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing; establishing, with Powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations; but if I may even flatter myself, that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare, by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice and by that of your Representatives in both Houses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it, with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerant Powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its recent institutions, and to progress, without interruption, to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though, in reviewing the incidents of my administration, I am unconscious of intentional error, I am, nevertheless, too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansion of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man, who views in it the native soil of himself and his progenitors for several generations; I anticipate, with pleasing expectation, that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws under a free Government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers.

G. WASHINGTON.

UNITED STATES, *Sept.* 17, 1796.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE FOURTH CONGRESS, BEGUN AND HELD AT PHILADELPHIA, ON THE SEVENTH OF DECEMBER, 1795.

AN ACT making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, for defraying the expenditure of the civil list of the United States, for the year one thousand seven hundred and ninety-six, together with the incidental and contingent expenses of the several departments and offices thereof, there be appropriated a sum of money, not exceeding five hundred and thirty thousand three hundred and ninety-two dollars, and eighty-five cents; that is to say:

For the compensations granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of six months continuance, one hundred and ninety-three thousand, four hundred and sixty dollars.

For the expenses of firewood, stationery, printing-work, and all other contingent expenses of the two Houses of Congress, eleven thousand five hundred dollars.

For the compensations granted by law to the Chief Justice, Associate Judges, District Judges, and Attorney General, forty-three thousand six hundred dollars.

For defraying the expense of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and likewise for defraying the expenses of prosecutions for offences against the United States, and for safe keeping of prisoners, twenty thousand dollars.

For making good deficiencies in the last mentioned fund, in the appropriation of the year one thousand seven hundred and ninety-five, ten thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, seven thousand, eight hundred and fifty dollars.

For incidental and contingent expenses in the said department, twenty-three thousand, three hundred and eighty dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eight thousand, one hundred and fifty dollars.

For expenses of stationery, printing, and all other contingent expenses in the office of the Secretary of the Treasury, five hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, ten thousand, nine hundred dollars.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, four thousand, four hundred dollars.

For expense of firewood, stationery, printing, rent, and other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, eleven thousand, two hundred and fifty dollars.

For expense of stationery, printing, and other contingent expenses in the Auditor's office, six hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and persons employed in his office, five thousand, two hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, fourteen thousand, seven hundred dollars.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks,) two thousand, eight hundred dollars.

For compensation to the Purveyor of Public Supplies, including his salary from the time of his appointment to the thirty-first day of December, one thousand, seven hundred and ninety-five, three thousand, six hundred and ninety-four dollars, and forty-four cents.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) one thousand, nine hundred and eighty-six dollars, and sixty-eight cents.

For expense of firewood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand dollars.

For defraying the expense incident to the stating and printing the public accounts, for the year one thousand seven hundred and ninety-six, one thousand dollars.

For the payment of certain incidental and contingent expenses of the Treasury Department in the year one thousand seven hundred and ninety-five, beyond the sum which was appropriated, two thousand five hundred dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For payment of clerks allowed to several of the loan offices, for the year one thousand seven hun-

dred and ninety-five, by an act of the last session of Congress, ten thousand one hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, seven thousand and fifty dollars.

For expense of firewood, stationery, printing, rent, and other contingent expenses of the office of the Secretary of War, (including the rent of the General Post Office which is kept under the same roof,) one thousand eight hundred dollars.

For compensation to the Accountant to the War Department, clerks and persons employed in his office, six thousand four hundred and fifty dollars.

For contingent expenses in the office of the Accountant to the War Department, six hundred dollars.

For compensations to the following officers of the Mint: The Director, two thousand dollars; the Treasurer, one thousand two hundred dollars; the Assayer, one thousand five hundred dollars; the Chief Coiner, one thousand five hundred dollars; the Melter and Refiner, one thousand five hundred dollars; the Engraver, one thousand two hundred dollars; three clerks at five hundred dollars each, one thousand five hundred dollars.

For the purchase of copper for the use of the Mint, thirteen thousand dollars.

For defraying the expenses of laborers in the different branches of refining, melting, and coining at the Mint, eight thousand dollars.

For the pay of mechanics employed in repairing and making machinery for the Mint, three thousand two hundred and sixty-four dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for other contingencies of the establishment of the Mint, eight thousand seven hundred dollars.

For making good deficiencies in the former appropriations for the Mint, to the end of the year one thousand seven hundred and ninety-five, eighteen thousand three hundred dollars.

For compensations to the Governors, Secretaries, and Judges of the Territory northwest, and the Territory south of the river Ohio, ten thousand three hundred dollars.

For expenses of stationery, office-rent, printing, patents for lands, and other contingent expenses in both the said Territories, seven hundred dollars.

For the payment of sundry pensions, granted by the late Government, two thousand and seven dollars, and seventy-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty seventh of February, one thousand seven hundred and ninety-three, seven hundred and fifty dollars.

For the annual allowance for the education of Hugh Mercer, son of the late Major General Mercer, by an act of Congress of the second of March, one thousand seven hundred and ninety-three, four hundred dollars.

For the discharge of such demands against the United States, on account of the Civil Department, not otherwise provided for, as shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, three thousand dollars.

Sec. 2. *And be it further enacted*, That for the support of light houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-six; and to satisfy certain miscellaneous claims, stated in the report of the Secretary of the Treasury, of the fourteenth of December last, there be appropriated a sum not exceeding thirty-seven thousand six hundred and seventy-two dollars, and nine cents; that is to say:

For the maintenance and support of light houses, beacons, buoys, public piers, and stakeage of channels, bars, and shoals, twenty-four thousand dollars.

To repay David Lenox, late Marshal of the district of Pennsylvania, for payments made with the approbation of the Judge of the said district, to sundry persons, for summoning jurors to attend the district court of Pennsylvania, upon the trial of sundry persons committed for high treason, two hundred and fifty-six dollars, and eighty-eight cents.

For the payment of a balance due to Lewis Pintard, agent for American prisoners to the city of New York, during the late war, four hundred and twenty-nine dollars, and twenty-one cents.

For the payment of a balance due to the representatives of Thomas Smith, late Commissioner of the loan office for the State of Pennsylvania, nine thousand and eleven dollars, and ninety-seven cents.

For the payment of a balance due to the representatives of Joseph Clarke, late Commissioner of the loan office for the State of Rhode Island, one thousand nine hundred and seventy-four dollars, and three cents.

For the discharge of such miscellaneous demands against the United States, other than those on account of the Civil Department, not otherwise provided for, and which shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

Sec. 3. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States."

JONATHAN DAYTON,
Speaker of the House of Representatives.

JOHN ADAMS,
Vice President of the United States, and President of the Senate.

Approved, February 5, 1796.

G. WASHINGTON,
President of the United States.

An Act further extending the time for receiving on loan the Domestic Debt of the United States.

Be it enacted, &c., That the term for receiving on loan that part of the Domestic Debt of the United States, which has not been subscribed, in pursuance of the provisions heretofore made by law for that purpose, be, and the same is hereby, further extended until the thirty-first day of December next, on the same terms and conditions as are contained in the act, entitled "An act making provision for the debt of the United States:" *Provided*, That the books for receiving the said subscriptions shall be opened only at the Treasury of the United States.

Sec. 2. *And be it further enacted*, That it shall be lawful to reimburse so much of the principal of the debt or stock, which may be subscribed, pursuant to this act, as will make the reimbursement thereof equal, in proportion and degree, to that of the same stock subscribed antecedent to the present year; and the said reimbursement shall be made at the expiration of the quarter in which such debt or stock shall be subscribed, and pursuant to the rules and conditions prescribed by the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt."

Sec. 3. *And be it further enacted*, That such of the creditors of the United States as have not subscribed, and shall not subscribe, to the said loan, shall, nevertheless, receive, during the year one thousand seven hundred and ninety-six, a rate per centum on the amount of such of their demands as have been registered, or shall be registered, at the Treasury, conformably to the directions in the act, entitled "An act making provision for the debt of the United States," equal to the interest which would be payable to them as subscribing creditors.

Approved, February 19, 1796.

An Act allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses.

Be it enacted, &c., That at every session of Congress, and at every meeting of the Senate in the recess of Congress, from and after the third day of March in the present year, each Senator shall be entitled to receive six dollars for every day he shall attend the Senate; and shall also be allowed, at the commencement of every such session and meeting, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress. And in case any member of the Senate shall be detained by sickness on his journey to or from any such session or meeting, or, after his arrival, shall be unable to attend the Senate, he shall be entitled to the same daily allowance: *Provided, always*, That no Senator shall be allowed a sum exceeding the rate of six dollars per day from the end of one such session or meeting to the time of his taking his seat in another.

Sec. 2. *And be it further enacted*, That at each session of Congress each Representative shall be entitled to receive six dollars for every day he shall attend the House of Representatives; and shall be allowed, at the commencement and end of each session, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress. And in case any Representative shall be detained by sickness on his journey to or from the session of Congress, or, after his arrival, shall be unable to attend the House of Representatives, he shall be entitled to the daily allowance aforesaid. And the Speaker of the House of Representatives shall be entitled to receive, in addition to his compensation as a Representative, six dollars for every day he shall attend the House: *Provided, always*, That no Representative shall be allowed a sum exceeding the rate of six dollars per day, from the end of one such session or meeting, to the time of his taking his seat in another.

Sec. 3. *And be it further enacted*, That there shall be allowed to each Chaplain of Congress at the rate of five hundred dollars per annum, during the session of Congress; to the Secretary of the Senate and Clerk of the House of Representatives, fifteen hundred dollars per annum each, to commence from the time of their respective appointments; and, also, a further allowance of two dollars per day to each, during the session of that branch for which he officiates. And the said Secretary and Clerk shall each be allowed (when the President of the Senate or Speaker shall deem it necessary) to employ one principal clerk, who shall be paid three dollars per day, and two engrossing clerks, who shall be paid two dollars per day each, during the session, with the like compensations to such clerks, respectively, while they shall be necessarily employed in the recess.

Sec. 4. *And be it further enacted*, That there shall be allowed to the Sergeant-at-Arms the sum of four dollars per day, during every session of Congress, and while employed on the business of the House.

Sec. 5. *And be it further enacted*, That the said compensation, which shall be due to the members and officers of the Senate, shall be certified by the President; and that which shall be due to the members and officers of the House of Representatives, shall be certified by the Speaker; and the same shall be passed as public accounts, and paid out of the public Treasury.

Approved, March 10, 1796.

An Act providing relief, for a limited time, in certain cases, of invalid registers.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, empowered to allow to such vessels and their cargoes, whose registers have already, or that may, before the close of the present session of Congress, become invalid, by reason of a non-compliance with the terms of the fifth section of the act "concerning the registering and recording of ships or vessels," the same privileges and benefits they would have been en-

titled to if no such invalidity had taken place: *Provided*, It shall appear to him that such non-compliance did not proceed from wilful negligence or an intention of fraud: *And provided, also*, That a new register shall be obtained, in the manner prescribed by law, for such vessels, respectively, as may now be within the United States, within ninety days from the passing of this act: and for others, within the same time after their first arrival within the United States.

Approved, March 10, 1796.

An Act making a partial appropriation for the support of the Military Establishment for the year one thousand seven hundred and ninety-six.

Be it enacted, &c., That the sum of five hundred thousand dollars be, and the same is hereby, appropriated towards defraying the expenses of the Military Establishment for the year one thousand seven hundred and ninety-six.

Sec. 2. *And be it further enacted*, That the said sum shall be paid and discharged out of the funds following, to wit: First, the balance which may remain unexpended of the sum of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," after satisfying the appropriations made in the present session, for the support of Government. Secondly, the surplus of revenue and income beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-six.

Approved, March 12, 1796.

An Act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States.

Be it enacted, &c., That every commissioned, non-commissioned officer, private, or musician, who has been wounded or disabled, while in the line of his duty, in actual service, called out by authority of any law of the United States, while he belonged to the militia; or any volunteer not belonging to the militia, who has been wounded or disabled while in the line of his duty, in actual service, as aforesaid, shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States for the time being: *Provided*, The rate of compensation for such wounds and disabilities shall never exceed, for the highest disabilities, half the monthly pay received by any commissioned officer at the time of being so wounded or disabled; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month; and that all inferior disabilities shall entitle the person so disabled to receive only a sum in proportion to the highest disability: *And provided*, That these provisions shall not be construed to extend to any person wounded or disabled before the fourth of March, one thousand seven hundred and eighty-nine, nor to any person wounded or disabled since that time, who has made application for a pension under any existing law of the United States, and has been denied or admitted on the pension list: *And provided*, That all applications herein shall be made within one year after the end of the present session of Congress.

Approved, March 23, 1796.

An Act making certain provisions in regard to the Circuit Court for the District of North Carolina.

Whereas a sufficient quorum of judges did not attend to hold the Circuit Court for the district of North Carolina for the purpose of doing business in June term, one thousand seven hundred and ninety-five; and no judge attended to hold the said court in November term, in the same year, in consequence whereof certain provisions are now become necessary and expedient to prevent a failure of justice in the said court:

Be it therefore enacted, &c., That it shall and may be lawful for the district judge of the State of North Carolina to direct the clerk of the said court to issue such process for the purpose of causing persons to be summoned to serve as jurymen at the said court, at the term to commence the first of June next, as has been before issued by the clerk of the said court for the like purpose, returnable to June term, one thousand seven hundred and ninety-five; that the persons ordered by the said process to be summoned for the said purpose shall be ordered to be summoned in the same proportion and from the same counties as those persons who were ordered to be summoned for the like purpose by process returnable at June term, one thousand seven hundred and ninety-five: *Provided*, That if it shall appear expedient to the said district judge that a different time of notice shall be prescribed than that hitherto prescribed, he may cause such other time of notice to be directed to be given as to him shall appear most conducive to justice and convenient to the persons so summoned; and the marshal is hereby directed to execute the said process so to be issued, and the persons who shall be legally summoned to attend as jurymen in consequence thereof are hereby required to attend the said court, under the like penalties for disobedience as if the said process had been ordered to be issued by the said court in the ordinary method of proceeding; and the marshal and the persons who shall attend as jurymen in virtue of the said process so to be issued shall be entitled to the like allowance for their services, respectively.

Sec. 2. *And be it further enacted*, That all suits and proceedings, of what nature or kind soever, which have been commenced in the said court and not finished, shall be proceeded on at the ensuing term, in the same manner and to the same effect as if the said Circuit Court had been regularly held for the purpose of business in June and November terms, one thousand seven hundred and ninety-five, and continuances had been regularly entered of all suits and proceedings in either or both of the said terms, in which they were depending, in the usual manner of proceeding, as the case might be.

Sec. 3. *And be it further enacted*, That all writs and other process sued out of the clerk's office of the said Circuit Court, according to the accustomed method of bearing teste in November term, one thousand seven hundred and ninety-four, June term, one thousand seven hundred and ninety-five, or November term, one thousand seven hundred and ninety-five, shall be held and deemed of the same validity and effect as if the respective terms of June and November, one thousand seven hundred and ninety-five, had been regularly held by a judge or judges competent to do business and continuances in respect to writs or other process returnable to the two last mentioned terms had been regularly entered.

Approved, March 31, 1796.

An Act to continue in force "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes."

Be it enacted, &c., That the act, entitled "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes," be, and is hereby, continued in force for the term of two years from the passing of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, March 31, 1796.

An Act authorizing the erection of a light-house on Baker's island, in the State of Massachusetts.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to provide, by contract, which shall be approved by the President of the United States, for building a light-house on Baker's island, near the entrance into the harbor of Salem and Beverly, in the State of Massachusetts. (as soon as a cession of the jurisdiction to the United States over the land proper for the purpose is made by the said State,) and to furnish the same with all necessary supplies; and also to agree to the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of the same; and that the President be authorized to make the said appointments. That the number or disposition of the light or lights in the said light-house be such as may tend to distinguish it from others, as far as practicable; and that six thousand dollars be appropriated for the same, out of any moneys not otherwise appropriated.

Approved, April 8, 1796.

An Act for establishing trading-houses with the Indian tribes.

Be it enacted, &c., That it shall be lawful for the President of the United States to establish trading-houses at such posts and places on the western and southern frontiers, or in the Indian country, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations within the limits of the United States.

Sec. 2. *And be it further enacted*, That the President be authorized to appoint an agent for each trading-house established, whose duty it shall be to receive and dispose of in trade with the Indian nations aforementioned such goods as he shall be directed by the President of the United States to receive and dispose of as aforesaid, according to the rules and orders which the President shall prescribe; and every such agent shall take an oath or affirmation faithfully to execute the trust committed to him; and that he will not, directly or indirectly, be concerned or interested in any trade, commerce, or barter with any Indian or Indians whatever, but on the public account; and shall also give bond, with sufficient security, in such sum as the President of the United States shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, or for which, in good faith, he ought so to account, and to perform all the duties required of him by this act; and his accounts shall be made up half-yearly, and transmitted to the Secretary of the Treasury of the United States.

Sec. 3. *And be it further enacted*, That the agents, their clerks, or other persons employed by them, shall not be, directly or indirectly, concerned or interested in carrying on the business of trade or commerce on their own or any other than the public account, or take, or apply to his or their own use, any emolument or gain for negotiating or transacting any business or trade during their agency or employment, other than is provided by this act. And if any such person shall offend against any of the prohibitions aforesaid, he or they shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such agency or employment, and forever thereafter be incapable of holding any office under the United States: *Provided*, That if any other person than a public prosecutor shall give information of any such offence, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty, when received, shall be for the use of the person giving such information.

Sec. 4. *And be it further enacted*, That the prices of the goods supplied to, and to be paid for by the Indians, shall be regulated in such manner that the capital stock furnished by the United States may not be diminished.

Sec. 5. *And be it further enacted*, That during the continuance of this act the President of the United States be, and he is hereby, authorized to draw annually from the Treasury of the United States a sum not exceeding eight thousand dollars, to be applied, under his direction, for the purpose of paying the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day.

Sec. 6. *And be it further enacted*, That one hundred and fifty thousand dollars, exclusive of the

allowances to agents and clerks, be, and they are hereby, appropriated for the purpose of carrying on trade and intercourse with the Indian nations in the manner aforementioned, to be paid out of any moneys unappropriated in the Treasury of the United States.

SEC. 7. *And be it further enacted*, That if any agent or agents, their clerks, or other persons employed by them, shall purchase or receive from any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting; any instrument of husbandry, or cooking utensil, of the kind usually obtained by Indians in their intercourse with white people; any article of clothing, (except skins or furs,) he or they shall, respectively, forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court of law of the United States, or of any particular State having jurisdiction in like cases, or in the Supreme or Superior Courts of the Territories of the United States: *Provided*, That no suit shall be commenced except in the State or Territory within which the cause of action shall have arisen, or the defendant may reside; and it shall be the duty of the Superintendents of Indian Affairs and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, and to prosecute the offender without delay.

SEC. 8. *And be it further enacted*, That this act shall be in force for the term of two years, and to the end of the next session of Congress thereafter, and no longer.

Approved, April 18, 1796.

An Act supplementary to an act, entitled "An act to provide a Naval Armament."

Be it enacted, &c., That the President of the United States be authorized to continue the construction and equipment (with all convenient expedition,) of two frigates of forty-four and one frigate of thirty-six guns," anything in the act, entitled "An act to provide a naval armament," to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That so much of the sum of six hundred and eighty-eight thousand eight hundred and eighty-eight dollars and eighty-two cents, which by the act of June the ninth, one thousand seven hundred and ninety-four, was appropriated, (to defray the expenses to be incurred pursuant to the act to provide a naval armament,) as remains unexpended, as well as the sum of eighty thousand dollars, which was appropriated for a provisional equipment of galleys by the before-recited act, be appropriated for the said purposes.

SEC. 3. *And be it further enacted*, That the President of the United States be and he is hereby authorized to cause to be sold, such part of the perishable materials as may not be wanted for completing the three frigates, and to cause the surplus of the other materials to be safely kept for the future use of the United States.

Approved, April 20, 1796.

An Act authorizing and directing the Secretary of War to place certain persons therein named on the pension list.

Be it enacted, &c., That the Secretary for the Department of War be and he is hereby directed to place upon the list of invalid pensioners of the United States the persons hereinafter named, who have been returned as such by the judges of the several districts, pursuant to the act of Congress passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions," at the rates and proportions annexed to the names of the said persons respectively; that is to say:

Of the District of Maine—Daniel Brawn, a private, two-thirds of a pension; John Knowles, a private, one third of a pension; Ebenezer Phinney, a private, one fourth of a pension.

Of the District of New Hampshire—Jonas Adams, a private, one-third of a pension; Andrew Aiken, a sergeant-major, three-fourths of a pension; Caleb Aldrish, a sergeant, a full pension; Caleb Austin, a private, one-third of a pension; John Barter, a sergeant, half a pension; Archelaus Batcheldor, a sergeant, half a pension; Ebenezer Bean, a private, one-third of a pension; Job Briton, a private, one-third of a pension: Ebenezer Carleton, a private, three-fourths of a pension; Levi Chubbock, a fifer, one-fourth of a pension; Edward Clark, a sergeant, one-fourth of a pension; Morrell Coburn, a private, one-fourth of a pension; Richard Colony, a private, half a pension; Ebenezer Copp, a sergeant, a full pension; James Crombie, a lieutenant, a full pension; William Curtiss, a private, half a pension; Henry Danforth, a private, half a pension; James Dean, a private, one-fourth of a pension: Lemuel Dean, a private, half a pension; Thomas Eastman, a private, three-fourths of a pension; Ebenezer Fletcher, a fifer, one-fourth of a pension; James Ford, a captain, half a pension; Stephen Fuller a private, one-third of a pension; Moses Sweat George, a private, half a pension; Joshua Gilman, a private, two-thirds of a pension; Windsor Gleason, a private, one-fourth of a pension; Joseph Greely, a private, one-fourth of a pension: Joseph Green, a private, half a pension; Joshua Haynes, a private, half a pension; Joseph Hilton, a lieutenant, half a pension; Nathan Holt, a private, one-fourth of a pension; Jonathan Holten, a lieutenant, half a pension; Caleb Hunt, a private, half a pension; Humphrey Hunt, a private, one-fourth of a pension; Charles Huntoon, jr., a private, one-third of a pension; Zadoc Hurd, a private, one-third of a pension; Ebenezer Jennings, a sergeant, one-fourth of a pension; Peter Johnson, a private, one-fourth of a pension; Thos. Kimball, a private, one-fifth of a pension; Abm. Kimball, a private, half a pension; Benjamin Knight, a sergeant, one-third of a pension; John Knight, a private, half a pension; Jonathan Lake, a corporal, half a pension; John Lapish, a private, one-fourth of a pension; Nathaniel Leavitt, a corporal, half a pension; John Lincoln, a private, one-fourth of a pension; Joshua Lovejoy, a sergeant, half a pension; William Lowell, a sergeant,

three-fourths of a pension; Jonathan Margery, a private, two-thirds of a pension; James Moore, a private, a full pension; Samuel Morrell, a private, two-fifths of a pension; Joseph Moss, a private, two-thirds of a pension; Jotham Nute, a sergeant, half a pension; Phinehas Parkhurst, a fifer, a full pension; Amos Pierce, a lieutenant, one-third of of a pension; Silas Pierce, a lieutenant, half a pension; Joel Porter, a private, one-fourth of a pension; Samuel Potter, a sergeant, half a pension; Thomas Pratt, a private, half a pension; Jeremiah Pritchard, a lieutenant, half a pension; Asa Putney, a sergeant, half a pension; Charles Rice, a private, half a pension; John Smith, a sergeant, half a pension; Samuel Stocker, a private, half a pension; Wm. Taggart, an ensign, half a pension; Eliphalet Taylor, a private, one-third of a pension; Ebenezer Tinkham, a private, one-third of a pension; John Varnum, a private, half a pension; Edward Waldo, a lieutenant, two-thirds of a pension; Weymouth Wallace, a private, half a pension; Josiah Walton, a private, one-third of a pension; Jacob Wellman, jr., a private, one-fourth of a pension; Francis Whitcomb, a private, one-third of a pension; Robert B. Wilkins, a private, two-thirds of a pension; Jonathan Willard, an ensign, one-fourth of a pension; Seth Wyman, a private, one-fourth of a pension.

Of the District of Massachusetts—Thomas Alexander, a captain, half a pension; Ephraim Bailey, a private, half a pension; Robert Bancroft, a private, one-sixth of a pension; James Batcheldor, a private, one-fourth of a pension; James Campbell, a private, one-fourth of a pension; Caleb Chadwick, a private, one-fourth of a pension; Barnabas Chapman, a private, one-third of a pension; Richard Chase, a private, half a pension; Joseph Coxe, a sergeant, two-thirds of a pension; Thos. Crowell, a private, a full pension; Levi Farnsworth, a private, half a pension; Benjamin Farnum, a captain, one-third of a pension; Moses Fitch, a private, one-fifth of a pension; Frederick Follett, a private, half a pension; Joseph Frost, a private, one-eighth of a pension; Uriah Goodwin, a private, one-fourth of a pension; Joseph Hale, a private, half a pension; Gamaliel Handy, a private, two-thirds of a pension; Peter Hemenway, a private, half a pension; Jesse Holt, a corporal, one-eighth of a pension; Job Lane, a private, half a pension; Ebenezer Learned, a colonel, one-fourth of a pension; Moses McFarland, a captain, one-third of a pension; Hugh Maxwell, a captain, one-eighth of a pension; John Maynard, a lieutenant, one-tenth of a pension; Tilley Mead, a private, one-fourth of a pension; Elisha Munsell, a private, half a pension; John Nixon, a colonel, one-third of a pension; Timothy Northam, a private, one-third of a pension; Joseph Peabody, a private, one-third of a pension; Amos Pearson, a sergeant, one-fifth of a pension; Abner Pier, a private, half a pension; Job Priest, an ensign, one-third of a pension; Amasa Scott, a private, one-fourth of a pension; Robert Smith, a private, two-thirds of a pension; Sylvanus Snow, a private, one-third of a pension; Cæsar Sprague, a private, half a pension; Samuel Warner, a private, half a pension; William Warren, a lieutenant, one-third of a pension; Samuel Willington, a private, half a pension; Nahum Wright, a sergeant, one-eighth of a pension.

Of the District of Rhode Island—Clark Albro, a private, one-fourth of a pension; John Baggs, jr., a sergeant, one-third of a pension; Robert Carr, a private, half a pension; Jonathan Davenport, a private, one twenty-fourth of a pension; Nathan Jacquays, a private, one-third of a pension: William Lunt, a private, half a pension; George Popple, a sergeant, one-eighth of a pension; Job Snell, a private, one-fourth of a pension; Edward Vose, a sergeant, one-sixth of a pension.

Of the district of Connecticut—Theodore Andrus, a private, a full pension; Samuel Andrus, a corporal, half a pension; William Bailey, a private, one-fourth of a pension; Robert Bailey, a private, one-fourth of a pension; Job Bartram, a captain, half a pension; Francis Baxter, a private, three-fourths of a pension; Enos Blakesley, a private, a full pension; David Blackman, a private, two-thirds of a pension, Elijah Boardman, a sergeant, three-fourths of a pension; Jonathan Bowers, a corporal, half a pension; Anor Bradley a sergeant, half a pension; Jedediah Brown, a sergeant, one-fourth of a pension; Isaac Buel, a private, one-third of a pension; Oliver Burnham, a sergeant, one-fourth of a pension; William Burritt, a private, one-fourth of a pension; John Chappell, a private, one-third of a pension; Elisha Clark, a private, one fourth of a pension; Jonah Cook, a private, half a pension; Henry Cone, a private, one-fourth of a pension; Simon Crosby, a private, half a pension; Prince Dennison, a private, half a pension; Israel Dibble, a private, one-third of a pension; Gershom Dorman, a private, one-third of a pension; Joseph Dunbar, a corporal, three-fourths of a pension; Henry Fillmore, a private, half a pension; Samuel French, a private, half a pension; Barr Gilbert, a corporal, two-thirds of a pension; David Hall, jr., a sergeant, half a pension; Nathan Hawley, a corporal, one-third of a pension; Daniel Hewitt, a sergeant, one-third of a pension, Isaac Higgins, a private, half a pension; Thurston Hilliard, a private, one-third of a pension; Thomas Hobby, a major, half a pension; John Horseford, a private, one-eighth of a pension, Benjamin Howd, a private, three-fourths of a pension; Elijah Hoyt, a private, half a pension; David Hubble, a private, half a pension; Enoch Jacobs, a private, three-fourths of a pension; Robert Jeroin, a fifer, one-fourth of a pension; Aaron Kelsey, a lieutenant, one-fourth of a pension; Lee Lay, a captain, one-sixth of a pension; John Ledyard a private, three-fourths of a pension: William Leeds, a lieutenant, half a pension; Naboth Lewis, a private, two-thirds of a pension; Nathaniel Lewis, a private, one-fourth of a pension; George Lord, a private, half a pension; Samuel Loomis, a corporal, one-fourth of a pension; Jeremiah Markham, a sergeant, half a pension; Allyn Marsh, a corporal, half a pension; Josiah Merryman, a corporal, two-thirds of a pension; Stephen Minor, a quarter-gunner, half a pension;

Justus Munn, a private, half a pension; Elnathan Norton, a private, three-fourths of a pension; Joseph Otis, a private, half a pension; Thomas Parmelee, a sergeant, one eighth of a pension; Chandler Pardie, a private, seven eighths of a pension; Frederick Platt, a private, one-third of a pension; Daniel Preston, a private, one-third of a pension; David Ranney, a private, three-fourths of a pension; Solomon Renolds, a private, two-thirds of a pension; Isaac Richards, a private, one-third of a pension; Samuel Rossetter, a private, half a pension; Elijah Royce, a private, three-fourths of a pension; Elihu Sabin, a private, half a pension; Samuel Sawyer, a private, half a pension; Nathan Scribner, a captain, one-fourth of a pension; Thomas Shepherd, a private, one-fourth of a pension; Amos Skeel, a private, one-third of a pension; Heber Smith, a sergeant, half a pension; Aaron Smith, a private, one-fourth of a pension; Edmund Smith, a private, half a pension; Josiah Spalding, a lieutenant, half a pension; Samuel Stillman, a private, half a pension; Benjamin Sturges, a private, one-sixth of a pension; Enoch Turner, jr., a private, two-thirds of a pension; Richard Watrous, a private, three-fourths of a pension; Stephen Wells, a lieutenant, half a pension; Jonathan Whaley, a private, one-fourth of a pension; Ezra Wilcox, a private, one-fourth of a pension; Azel Woodworth, a private, three-fourths of a pension.

Of the District of Vermont—Elijah Barnes, a private, one-fourth of a pension; Elijah Bennett, a private, half a pension; Gideon Brownson, a major, a full pension; Thomas Brush, a private, one-fourth of a pension; David Brydia, a private, half a pension; Nathan Burr, a private, half a pension; James Campbell, a private, half a pension; Oliver Darling, a private, five-eighths of a pension; Samuel Eyres, a private, one-fourth of a pension; Asa Gould, a private, half a pension; Benjamin Gould, a private, half a pension; Amasa Grover, a private, one-third of a pension; William Hazeltine, a private, half a pension; Jonathan Haynes, a private, two-thirds of a pension; Zimri Hill, a private, half a pension; William Hunt, a private, half a pension; Elijah Knight, a private, one-fourth of a pension; Ebenezer McIlvain, a private, half a pension; William Martin, a private, two-thirds of a pension; Pliny Pomeroy, a private, four-fifths of a pension; Moses Saunderson, a private, two-thirds of a pension; John Stark, a captain, one-fourth of a pension; Thomas Torrance, a private, half a pension; Benjamin Tower, a private, two-thirds of a pension; William Waterman, a private, one-third of a pension; John Wilson, a sergeant, one-third of a pension.

Of the District of New York—Thomas Baldwin, a sergeant, half a pension; Abraham Blauvelt, a private, a full pension; Thomas Brooks, a private, three-fourths of a pension; Duncan Campbell, a lieutenant, half a pension; William Champenois, a private, three-fourths of a pension; Russell Chappell, a private, half a pension; Jeremiah Everett, a private, half a pension; Samuel Miller, a private, a full pension; Jared Palmer, a sergeant, half a pension; Stephen Powell, a private, one-sixteenth of a pension; John Rogers, a private, half a pension; William Smith Scudder, a private, half a pension; James Slater, a private, half a pension; John Utters a private, three-fourths of a pension; John Vaughn, a sergeant, one-fourth of a pension; Asa Virgil, a private, one-fourth of a pension.

Of the District of New Jersey—William Crane, a lieutenant, a full pension; William Oliver, a lieutenant, two-thirds of a pension; Joel Phelps, a private, half a pension; Samuel Taylor a corporal, two-thirds of a pension.

Of the District of Pennsylvania—John Cardiffe, a private, a full pension; Josiah Conckling, a private, half a pension; William Dewitt, a private, half a pension; Thomas Eagan, a matross, half a pension; Jacob Fox, a private, one-third of a pension; Alexander Garrett, a private, three-fourths of a pension; Samuel Gilman, (alias Gilmore,) a private, half a pension; Adam Godenberger a private, one-fourth of a pension; John Haley, a corporal, three-fourths of a pension; David Hickey, a private, a full pension; Lawrence Hipple, a private, half a pension; Nathaniel Hubble, a major, two-thirds of a pension; Philip Lauer, a sergeant, one-fourth of a pension; Charles McCormick, a private, a full pension; William McHatten, a lieutenant, a full pension; Michal Orner, a private, one-fourth of a pension; Griffith Rees, a private, half a pension; Thomas Richart, a private, a full pension; Edward Wade, a private, half a pension; Thadeus Williams, a private, one-fourth of a pension; John Wright, a sergeant, half a pension.

Of the District of Delaware—Donald McDonald, a corporal, a full pension.

Of the District of Maryland—John Bean, a private, half a pension; William Ormond, a private, three-fourths of a pension.

Of the District of Virginia—John Bell, a lieutenant, three-fourths of a pension; David Welch, a private, a full pension.

Of the District of Kentucky—James Speed, a lieutenant, a full pension.

Of the District of North Carolina—John Benton, a private, a full pension; George Bledsoe, a private, a full pension; Thomas Chiles, a captain, two-thirds of a pension; James Christian, a private, half a pension; Robert Harris, a private, a full pension; John Knowles, a private, two-thirds of a pension; James Smith, a private, a full pension.

Sec. 2. *And be it further enacted*, That the pensions allowed by this act shall be estimated in manner following, that is to say: A full pension to a commissioned officer shall be considered the one-half of his monthly pay, as by law established; and the proportions less than a full pension, shall be the like proportions of half pay. And a full pension to a non-commissioned officer or private soldier, shall be five dollars per month; and the proportions less than a full pension, shall be the like proportions of five dollars per month: *Provided*, That every commissioned officer who shall, by virtue of this act, be placed on the pension list, as entitled to a sum less than a full pension, shall receive such pension only upon compliance with the same rule respecting a return of the commutation which he may have received, as is provided for in the case of Captain David Cook, by an act of Congress passed December the sixteenth, one thousand seven hundred and ninety-one.

Sec. 3. *And be it further enacted*, That the pensioners aforesaid shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the list of pensioners of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

Approved, April 20, 1796.

An Act in addition to an act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt."

Be it enacted, &c., That it shall be lawful for the Commissioners of the Sinking Fund, and they are hereby required, to cause the funded stock of the United States, bearing a present interest of six per centum per annum, to be reimbursed and paid in manner following, to wit: First, by dividends to be made on the last days of March, June, and September, for the present year, and from the year one thousand seven hundred and ninety-seven to the year one thousand eight hundred and eighteen, inclusive, at the rate of one and one-half per centum upon the original capital. Secondly, by dividends to be made on the last day of December for the present year, and from the year one thousand seven hundred and ninety-seven to the year one thousand eight hundred and seventeen, inclusive, at the rate of three and one-half per centum upon the original capital; and by a dividend to be made on the last day of December, in the year one thousand eight hundred and eighteen, of such a sum as will be then adequate, according to the contract, for the final redemption of the said stock.

Sec. 2. *And be it further enacted*, That it shall be lawful for the said Commissioners of the Sinking Fund, and they are hereby required, to cause the funded debt of the United States, upon which an interest of six per centum per annum will commence on the first day of January, in the year one thousand eight hundred and one, to be reimbursed and paid in manner following, to wit: First, by dividends to be made on the last days of March, June, and September, from the year one thousand eight hundred and one to the year one thousand eight hundred and twenty-four, inclusively, at the rate of one and one-half per centum upon the original capital. Secondly, by dividends to be made on the last day of December, from the year one thousand eight hundred and one to the year one thousand eight hundred and twenty-three, inclusively, at the rate of three and one-half per centum upon the original capital; and by a dividend to be made on the last day of December, in the year one thousand eight hundred and twenty-four, of such a sum as will be then adequate, according to the contract, for the final redemption of the said stock.

Sec. 3. *And be it further enacted*, That it shall be lawful for the said Commissioners of the Sinking Fund, and they are hereby required, to cause to be reimbursed and paid, in manner before prescribed, such sum and sums, as, according to the right for that purpose reserved, may rightfully be paid for and towards the reimbursement or redemption of all such balances of the funded debt or stock of the United States, bearing a present interest of six per centum per annum, or which will bear a like interest from and after the first day of January, in the year one thousand eight hundred and one, as stand to the credit of certain States, in consequence of an act passed on the thirty-first day of May, in the year one thousand seven hundred and ninety-four; and, with the consent of the said States, such additional sums as will render the reimbursement of the said balances equal to that made upon the residue of the said stock, at the commencement of the present year.

Sec. 4. *And be it further enacted*, That, in addition to the sums already appropriated to the Sinking Fund, by the act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," there shall be, and is hereby, in like manner, appropriated to the said fund, such a sum of the duties on goods, wares, and merchandise imported, on the tonnage of ships and vessels, and on spirits distilled in the United States, and on stills, as, with the moneys which now constitute the Sinking Fund, and shall accrue to it, in virtue of the provisions already made by law, and the interest upon the sums which shall be annually reimbursed, will be sufficient, yearly and every year, to reimburse and pay the said balances standing to the credit of certain States, in the manner hereinbefore prescribed and directed.

Sec. 5. *And be it further enacted*, That it shall be lawful for the Commissioners of the Sinking Fund to appoint a secretary, whose duty it shall be to record and preserve their proceedings and documents, and to certify copies thereof, when thereunto duly required; and the said secretary shall be allowed a compensation not exceeding two hundred and fifty dollars annually, for his services.

Approved, April 28, 1796.

An Act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain.

Be it enacted, &c., That, towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain, there be appropriated a sum not exceeding eighty thousand eight hundred and eight dollars, to be paid out of the duties on impost and tonnage, to the end of the present year,

not already appropriated: *Provided*, That the compensations to be allowed to any of the Commissioners appointed, or to be appointed, in pursuance of any article of the said treaty, shall not exceed, to those who shall serve in Great Britain, the rate of six thousand six hundred and sixty-seven dollars and fifty cents per annum; and to those who shall serve in the United States, the rate of four thousand four hundred and forty-five dollars per annum.

Approved, May 8, 1796.

An Act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers.

Be it enacted, &c., That, for the purpose of defraying the expenses of carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers, the moneys arising under the revenue laws of the United States, which have been heretofore passed, not already appropriated to any other purpose, or so much thereof as may be necessary, to the amount of twenty-four thousand dollars per annum, be, and the same are hereby pledged and appropriated for the payment of the annuity stipulated in the said treaty, to be paid to the said Dey and Regency of Algiers; and to continue so pledged and appropriated, so long as the said treaty shall be in force.

Approved, May 6, 1796.

An Act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain.

Be it enacted, &c., That, for the purpose of defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain, a sum not exceeding eighteen thousand six hundred and eighty-three dollars, be, and the same hereby is appropriated, to be satisfied from the duties of impost and tonnage, to the end of the present year, not heretofore appropriated: *Provided*, That the compensation to be allowed to any of the Commissioners, to be appointed in pursuance of any article of the said treaty, shall not exceed the rate of three thousand five hundred dollars per annum.

Approved, May 6, 1796.

An Act making appropriation for defraying the expenses which may arise in carrying into effect a Treaty made between the United States and certain Indian tribes northwest of the river Ohio.

Be it enacted, &c., That, for the purpose of defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the tribes of Indians called the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pattawatimas, Miamis, Eel-river, Wea, Kickapoo, Piankeshaw, and Kaskaskias, at Greenville, on the third day of August, one thousand seven hundred and ninety-five, the moneys arising under the revenue laws of the United States, which have been heretofore passed, not already appropriated to any other purpose, or so much thereof as may be necessary, be, and are hereby pledged and appropriated for the payment of the annuity stipulated in the said treaty, to be paid to the said Indian tribes; that is to say, to the Wyandots, one thousand dollars; to the Delawares, one thousand dollars; to the Shawanees, one thousand dollars; to the Ottawas, one thousand dollars; to the Chippewas, one thousand dollars; to the Pattawatimas, one thousand dollars; to the Miamis, one thousand dollars; to the Eel-river, Wea, Kickapoo, Piankeshaw, and Kaskaskias tribes, each five hundred dollars: and to continue so pledged and appropriated so long as the said treaty shall be in force. And that a further sum of one thousand five hundred dollars, out of the moneys aforesaid, be also appropriated to defray the cost of transportation, and other contingent charges which may arise from the payment of the said annuity, according to the stipulations contained in the said treaty.

Approved, May 6, 1796.

An Act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned.

Be it enacted, &c., That the Commissioners under the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," be, and they are hereby authorized, under the direction of the President of the United States, to borrow, from time to time, such sum or sums of money, as the said President shall direct, not exceeding three hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars, in any one year, at an interest not exceeding six per centum per annum, and reimbursable at any time after the year one thousand eight hundred and three, by instalments, not exceeding one-fifth of the whole sum borrowed in any one year; which said loan or loans shall be appropriated and applied by the said Commissioners in carrying into effect the above recited act, under the control of the President of the United States.

Sec. 2. *And be it further enacted*, That all the lots, except those now appropriated to public use in the said city, vested in the Commissioners aforesaid, or in trustees, in any manner, for the use of the United States, now holden and remaining unsold, shall be, and are hereby declared and made chargeable with the repayment of all and every sum and sums of money, and interest thereupon, which shall be borrowed in pursuance of this act: And to the end that the same may be fully and punctually repaid, the said lots, or so many of them as shall be necessary, shall be sold and conveyed, at such times, and in such manner, and on such terms, as the President of the United States, for the time being, shall direct: And the moneys arising from the said sales shall be applied and appropriated, under his direction, to the discharge of the said loans, after first paying the original proprietors any balances due to them respectively, according to their several conveyances, to the said Commissioners or trustees. And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said loans; for it is expressly hereby declared and provided, that the United States shall be liable only for the repayment of the balance of the moneys to be borrowed under this act which shall remain unsatisfied by the sales of all the lots aforesaid, if any such balance shall thereafter happen.

Sec. 3. *And be it further enacted*, That every purchaser or purchasers, his or their heirs or assigns, from the said Commissioners or trustees, under the direction of the said President, of any of the lots hereinbefore mentioned, after paying the price, and fulfilling the terms stipulated and agreed to be paid and fulfilled, shall have, hold, and enjoy the said lot or lots so bought, free, clear and exonerated from the charge and incumbrance hereby laid upon the same.

Sec. 4. *And be it further enacted*, That the Commissioners aforesaid shall, semi-annually, render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys entrusted to them, and also the progress and state of the business, and of the funds under their administration; and that the said Secretary lay the same before Congress, at every session after the receipt thereof.

Approved, May 6, 1796.

An Act making further provision relative to the Revenue Cutters.

Be it enacted, &c., That, from and after the first day of May, in the present year, there be allowed, in lieu of the compensation now established, to the master of each revenue cutter, fifty dollars per month; to each first mate, thirty-five dollars per month; to each second mate, thirty dollars per month; to each third mate, twenty-five dollars per month; and to each mariner, not exceeding twenty dollars per month; to be paid by the collectors of the revenue, who shall be designated for that purpose.

Sec. 2. *And be it further enacted*, That all penalties, fines, and forfeitures, which may be incurred under the impost laws of the United States, and recovered in consequence of information given by any officer of a revenue cutter, shall, after deducting all proper costs and charges, be disposed of as follows: One-fourth part shall be for the use of the United States, and be paid into the Treasury thereof; one-fourth part for the officers of the customs, to be distributed in the manner now provided, relative to that part of the forfeitures they are now entitled to; and the remainder thereof to the officers of such cutter, to be divided among them in proportion to their pay.

Sec. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to cause other revenue cutters to be built or purchased, in lieu of such as are or shall, from time to time, become unfit for further service; the expense whereof, as well as all future expenses of building, purchasing or repairing revenue cutters, shall be paid out of the product of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

Sec. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause such revenue cutters as shall, from time to time, become unfit for service, to be sold at public auction, and the proceeds of such sales to be paid into the Treasury of the United States.

Sec. 5. *And be it further enacted*, That so much of this act as fixes the compensation of the officers and men on board the said cutters shall be and remain in force for the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 6, 1796.

An Act to continue in force, for a limited time, an act, entitled "An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer."

Be it enacted, &c., That the consent of Congress be, and is hereby, granted and declared to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, entitled "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the State aforesaid to collect a duty of one cent per ton, on all vessels coming into the District of Baltimore, from a foreign voyage, for the purposes in the said act intended.

Sec. 2. *And be it further enacted*, That this act shall be in force for one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 6, 1796.

An Act to repeal so much of an act, entitled "An act to establish the Judicial Courts of the United States," as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown; and for other purposes.

Be it enacted, &c., That so much of the fifth section of the act, entitled "An act to establish the Judicial Courts of the United States," as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, be, and the same is hereby repealed; and that all the sessions of the said Circuit Court, shall, from and after the passing of this act, be holden at the city of Philadelphia, excepting only, when, at any session of the said court, the judges thereof shall direct the next session to be holden at Yorktown, which they are hereby au-

thorized and empowered to do, whenever it shall appear to them to be necessary.

Sec. 2. *And be it further enacted*, That all such process of the said courts as may have issued before the passing of this act, and all recognisances returnable, and all suits and other proceedings that were continued to the said Circuit Court for the District of Pennsylvania, on the eleventh of October next, in Yorktown, shall now be returned, and held continued to the same court, on the same day, at Philadelphia. And to the end that suitors, witnesses, and all others concerned, may have notice of the alteration hereby made, the marshal of the said District of Pennsylvania is hereby required to make the same known by proclamation, on or before the first day of August next.

Approved, May 12, 1796.

An act allowing compensation for horses killed in battle belonging to officers of the army of the United States.

Be it enacted, &c., That every officer in the army of the United States, whose duty requires him to be on horseback in time of action, and whose horse shall be killed in battle, be allowed a sum not exceeding two hundred dollars, as a compensation for each horse so killed.

Sec. 2. *And be it further enacted*, That the provision contained in this act shall have retrospective operation, so far as the fourth day of March, in the year one thousand seven hundred and eighty-nine: *Provided*, That no person shall receive payment for any horse so killed, until he make satisfactory proof to the Secretary at War, that the horse for which he claims compensation was actually killed under such circumstances as to entitle him to this provision, in all cases which have heretofore taken place within one year after the end of the present session of Congress; and in all cases which may take place hereafter, within one year after such horse shall have been killed.

Sec. 3. *And be it further enacted*, That the proof of the value of such horse shall be by the affidavit of the quartermaster of the corps to which the owner may belong, or of two other credible witnesses.

Approved, May 12, 1796.

An Act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations.

Be it enacted, &c., That the consent of Congress be, and is hereby granted and declared to the operation of an act of the General Assembly of Maryland, made and passed at a session begun and held at the city of Annapolis, on the first Monday of November, in the year one thousand seven hundred and ninety-one, entitled "An act empowering the wardens of the port of Baltimore to levy and collect the duty therein mentioned."

Sec. 2. *And be it further enacted*, That the act, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations," shall be continued, and is hereby declared to be in full force, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations.

Sec. 3. *And be it further enacted*, That this act shall be and continue in force for the term of three years, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 12, 1796.

An Act authorizing the erection of a Lighthouse on Cape Cod, in the State of Massachusetts.

Be it enacted, &c., That it shall be the duty of the Secretary of the Treasury to provide, by contract, which shall be approved by the President of the United States, for building a lighthouse on Cape Cod, in the State of Massachusetts, (as soon as the necessary cession of land for the purpose shall be made by the said State to the United States;) and to furnish the same with all necessary supplies: And also to agree for the salaries or wages of the person, or persons, who may be appointed by the President for the superintendence and care of the same: And that the number or disposition of the light or lights in the said lighthouse, be such as may tend to distinguish it from others, as far as is practicable; and that the light or lights on Gurnet-head, at the entrance of Plymouth harbor, be altered or diminished, if necessary: And that eight thousand dollars be appropriated for the same out of any moneys not otherwise appropriated.

Approved, May 17, 1796.

An Act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States northwest of the river Ohio.

Be it enacted, &c., That, upon the conditions hereinafter mentioned, there shall be granted to Ebenezer Zane three tracts of land, not exceeding one mile square each, one on the Muskingum river, one on Hockhocking river, and one other on the north bank of Scioto river, and in such situations as shall best promote the utility of a road to be opened by him on the most eligible route between Wheeling and Limestone, to be approved by the President of the United States, or such person as he shall appoint for that purpose: *Provided*, such tracts shall not interfere with any existing claim, location, or survey; nor include any salt-spring, nor the lands on either side of the river Hockhocking at the falls thereof.

Sec. 2. *And be it further enacted*, That, upon the said Zane's procuring at his own expense the said tracts to be surveyed in such way and manner as the President of the United States shall approve, and returning into the Treasury of the United States plats thereof, together with warrants granted by the United States for military land bounties to the amount of the number of acres contained in the said three tracts; and

also producing satisfactory proof, by the first day of January next, that the aforesaid road is opened and ferries established upon the rivers aforesaid, for the accommodation of travelers, and giving security that such ferries shall be maintained, during the pleasure of Congress, the President of the United States shall be, and he hereby is, authorized and empowered to issue letters patent, in the name and under the seal of the United States, thereby granting and conveying to the said Zane and his heirs the said tracts of land located and surveyed as aforesaid; which patents shall be countersigned by the Secretary of State and recorded in his office: *Provided always*, That the rates of ferriage at such ferries shall, from time to time, be ascertained by any two of the Judges of the Territory northwest of the river Ohio, or such other authority as shall be appointed for that purpose.

Approved, May 17, 1796.

An Act providing for the sale of Lands of the United States in the Territory northwest of the river Ohio, and above the mouth of Kentucky river.

Be it enacted, &c., That a Surveyor General shall be appointed, whose duty it shall be to engage a sufficient number of skilful surveyors, as his deputies, whom he shall cause, without delay, to survey and mark the unascertained outlines of the lands lying northwest of the river Ohio, and above the mouth of the river Kentucky, in which the titles of the Indian tribes have been extinguished, and to divide the same in the manner hereinafter directed; he shall have authority to frame regulations and instructions for the government of his deputies; to administer the necessary oaths upon their appointment; and to remove them for negligence or misconduct in office.

Sec. 2. *Be it further enacted*, That the part of the said lands, which has not been already conveyed by letters patent, or divided, in pursuance of an ordinance in Congress, passed on the twentieth of May, one thousand seven hundred and eighty-five, or which has not been heretofore, and, during the present session of Congress, may not be appropriated for satisfying military land bounties, and for other purposes, shall be divided by north and south lines, run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of the late Indian purchase, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers may render it impracticable; and then this rule shall be departed from no further than such particular circumstances may require. The corners of the townships shall be marked with progressive numbers from the beginning; each distance of a mile between the said corners shall be also distinctly marked with marks different from those at the corners. One-half of the said townships, taking them alternately, shall be sub-divided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines, at the end of every two miles; and by marking a corner, on each of the said lines, at the end of every mile; the sections shall be numbered respectively, beginning with the number one, in the northern section, and proceeding west and east alternately, through the township, with progressive numbers, till the thirty-sixth be completed. And it shall be the duty of the deputy surveyors, respectively, to cause to be marked, on a tree near each corner, made as aforesaid, and within the section, the number of such section, and over it, the number of the township, within which such section may be; and the said deputies shall carefully note, in their respective field books, the names of the corner trees marked, and the numbers so made. The fractional parts of townships shall be divided into sections, in manner aforesaid, and the fractions of sections shall be annexed to, and sold with, the adjacent entire sections. All lines shall be plainly marked upon trees, and measured with chains containing two perches of sixteen feet and one-half each, sub-divided into twenty-five equal links, and the chain shall be adjusted to a standard to be kept for that purpose. Every surveyor shall note in his field book, the true situations of all mines, salt licks, salt springs, and mill seats, which shall come to his knowledge; all water courses, over which the line he runs shall pass; and also the quality of the lands. These field books shall be returned to the Surveyor General, who shall therefrom cause a description of the whole lands surveyed, to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships, and fractional parts of townships, contained in the said lands, describing the sub-divisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; a copy thereof shall be kept open at the Surveyor General's office, for public information; and other copies sent to the places of the sale, and to the Secretary of the Treasury.

Sec. 3. *Be it further enacted*, That a salt spring lying upon a creek which empties into the Scioto river, on the east side, together with as many contiguous sections as shall be equal to one township, and every other salt spring which may be discovered, together with the section of one mile square which includes it, and also four sections at the centre of every township, containing each one mile square, shall be reserved, for the future disposal of the United States. But there shall be no reservations, except for salt springs, in fractional townships, where the fraction is less than three fourths of a township.

Sec. 4. *Be it further enacted*, That, whenever seven ranges of townships shall have been surveyed below the Great Miami, or between the Scioto river and the Ohio company's purchase, or southern boundary of the Connecticut claims and the ranges already laid off, beginning upon the Ohio river and extending westwardly, and the plats thereof made and transmitted, in conformity to the provisions of this act, the said sections of six hundred and forty acres, (excluding those hereby reserved,) shall be offered for sale, at public vendue, under the direction of the Governor,

or Secretary of the Western Territory, and the Surveyor-General; such of them as lie below the Great Miami, shall be sold at Cincinnati; those of them which lie between the Scioto and the Ohio company's purchase, at Pittsburg; and those between the Connecticut claim and the seven ranges, at Pittsburg. And the townships remaining undivided shall be offered for sale, in the same manner at the seat of Government of the United States, under the direction of the Secretary of the Treasury, in tracts of one quarter of a township, lying at the corners thereof, excluding the four central sections, and the other reservations before mentioned: *Provided always*, That no part of the lands directed by this act to be offered for sale, shall be sold for less than two dollars per acre.

Sec. 5. *Be it further enacted*, That the Secretary of the Treasury, after receiving the aforesaid plats, shall forthwith give notice, in one newspaper of each of the United States, and of the Territories northwest and south of the river Ohio, of the times of sale; which shall, in no case, be less than two months from the date of the notice, and the sales at the different places shall not commence, within less than one month of each other. And when the Governor of the Western Territory, or Secretary of the Treasury, shall find it necessary to adjourn, or suspend the sales under their direction, respectively, for more than three days, at any one time, notice shall be given, in the public newspapers, of such suspension, and at what time, the sales will recommence.

Sec. 6. *Be it further enacted*, That immediately after the passing of this act, the Secretary of the Treasury shall, in the manner hereinbefore directed, advertise for sale, the lands remaining unsold in the seven ranges of townships, which were surveyed, in pursuance of an ordinance of Congress, passed the twentieth of May, one thousand seven hundred and eighty-five, including the lands drawn for the army, by the late Secretary of War, and also those heretofore sold, but not paid for; the townships which by the said ordinance are directed to be sold entire, shall be offered for sale, at public vendue in Philadelphia, under the direction of the Secretary of the Treasury, in quarter townships, reserving the four centre sections, according to the directions of this act. The townships which, by the said ordinance, are directed to be sold in sections, shall be offered for sale at public vendue, in Pittsburg, under the direction of the Governor or Secretary of the Western Territory, and such person, as the President may specially appoint for that purpose, by sections of one mile square each, reserving the four centre sections, as aforesaid; and all fractional townships shall also be sold in sections, at Pittsburg, in the manner and under the regulations provided by this act for the sale of fractional townships: *Provided always*, That nothing in this act shall authorize the sale of those lots which have been heretofore reserved in the townships already sold.

Sec. 7. *Be it further enacted*, That the highest bidder for any tract of land, sold by virtue of this act, shall deposit, at the time of sale, one twentieth part of the amount of the purchase money; to be forfeited, if a moiety of the sum bid, including the said twentieth part, is not paid within thirty days to the Treasurer of the United States, or to such person as shall be appointed by the President of the United States to attend the places of sale for that purpose; and upon payment of a moiety of the purchase money, within thirty days, the purchaser shall have one year's credit for the residue; and shall receive from the Secretary of the Treasury, or the Governor of the Western Territory (as the case may be) a certificate describing the land sold, the sum paid on account, the balance remaining due, the time when such balance becomes payable; and that the whole land sold will be forfeited, if the said balance is not then paid; but that if it shall be duly discharged, the purchaser, or his assignee, or other legal representative, shall be entitled to a patent for the said lands. And on payment of the said balance to the Treasurer, within the specified time, and producing to the Secretary of State a receipt for the same, upon the aforesaid certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns. And all patents shall be countersigned by the Secretary of State, and recorded in his office. But if there should be a failure in any payment, the sale shall be void, all the money therefore paid on account of the purchase shall be forfeited to the United States, and the lands thus sold shall be again disposed of, in the same manner as if a sale had never been made: *Provided, nevertheless*, That should any purchaser make payment of the whole purchase money, at the time when the payment of the first moiety is directed to be made, he shall be entitled to a deduction of ten per centum on the part for which a credit is hereby directed to be given; and his patent shall be immediately issued.

Sec. 8. *Be it further enacted*, That the Secretary of the Treasury, and the Governor of the Territory northwest of the river Ohio, shall, respectively, cause books to be kept, in which shall be regularly entered an account of the dates of all the sales made, the situation and numbers of the lots sold, the price at which each was struck off, the money deposited at the time of sale, and the dates of the certificates granted to the different purchasers. The Governor or Secretary of the said Territory shall, at every suspension or adjournment, for more than three days, of the sales under their direction, transmit to the Secretary of the Treasury a copy of the said books, certified to have been duly examined and compared with the original. And all tracts sold under this act shall be noted upon the general plat, after the certificate has been granted to the purchaser.

Sec. 9. *And be it further enacted*, That all navigable rivers, within the Territory to be disposed of by virtue of this act, shall be deemed to be and remain public highways. And that in all cases, where the opposite banks of any stream, not navigable, shall belong to different persons,

the stream and the bed thereof shall become common to both.

Sec. 10. *And be it further enacted*, That the Surveyor General shall receive, for his compensation, two thousand dollars per annum; and that the President of the United States may fix the compensation of the assistant surveyors, chain carriers, and axe-men: *Provided*, That the whole expense of surveying and marking the lines, shall not exceed three dollars per mile, for every mile that shall be actually run or surveyed.

Sec. 11. *And be it further enacted*, That the following fees shall be paid for the services to be done under this act, to the Treasurer of the United States, or to the receiver in the Western Territory, as the case may be: for each certificate for a tract containing a quarter of a township, twenty dollars; for a certificate for a tract containing six hundred and forty acres, six dollars; and for each patent for a quarter of a township, twenty dollars; for a section of six hundred and forty acres, six dollars. And the said fees shall be accounted for by the receivers, respectively.

Sec. 12. *And be it further enacted*, That the Surveyor General, assistant surveyors, and chain carriers shall, before they enter on the several duties to be performed under this act, severally take an oath or affirmation, faithfully to perform the same; and the person to be appointed to receive the money on sales in the Western Territory, before he shall receive any money under this act, shall give bond with sufficient security, for the faithful discharge of his trust. That, for receiving, safe-keeping, and conveying to the Treasury, the money he may receive, he shall be entitled to a compensation, to be hereafter fixed.

Approved, May 18, 1796.

An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

Be it enacted, &c., That the following boundary line, established by treaty between the United States and various Indian tribes, shall be clearly ascertained, and distinctly marked in all such places as the President of the United States shall deem necessary, and in such manner as he shall direct, to wit: Beginning at the mouth of Cuyahoga river, on Lake Erie, and running thence up the same, to the portage between that and the Tuscaroras branch of the Muskingum; thence, down that branch, to the crossing-place above Fort Lawrence; thence, westerly, to a fork of that branch of the Great Miami river running into the Ohio, at or near which fork stood Laromie's store, and where commences the portage, between the Miami of the Ohio, and Saint Mary's river, which is a branch of the Miami which runs into Lake Erie; thence, a westerly course to Fort Recovery, which stands on a branch of the Wabash; thence, southwesterly, in a direct line to the Ohio, so as to intersect that river, opposite the mouth of Kentucky or Cuttawa river; thence, down the said river Ohio, to the tract of one hundred and fifty thousand acres, near the rapids of the Ohio, which has been assigned to General Clarke, for the use of himself and his warriors; thence, around the said tract, on the line of the said tract, till it shall again intersect the middle of Ohio; thence, down the same, to a point opposite the high lands or ridge between the mouth of the Cumberland and Tennessee rivers; thence, easterly on the said ridge to a point, from whence a southwest line will strike the mouth of Duck river; thence, still easterly on the said ridge, to a point forty miles above Nashville; thence, northeast, to Cumberland river; thence, up the said river, to where the Kentucky road crosses the same; thence, to the top of Cumberland mountain; thence, along Campbell's line, to the river Clinch; thence, down the said river, to a point from which a line shall pass the Holsten, at the ridge which divides the waters running into Little river, from those running into the Tennessee; thence, south, to the North Carolina boundary; thence, along the South Carolina Indian boundary, to and over the Ocunna mountain, in a southwest course, to Tugelo river; thence, in a direct line, to the top of the Currahee mountain, where the Creek line passes it; thence, to the head or source of the main south branch of the Oconee river, called the Appalachee; thence, down the middle of the said main south branch and river Oconee, to its confluence with Oakmulgee, which forms the river Altamaha; thence, down the middle of the said Altamaha, to the old line on the said river; and thence, along the said old line, to the river Saint Mary's: *Provided always*, That if the boundary line between the said Indian tribes and the United States, shall at any time hereafter be varied by any treaty which shall be made between the said Indian tribes and the United States, then all the provisions contained in this act shall be construed to apply to the said line so to be varied in the same manner as the said provisions now apply to the boundary line hereinbefore recited.

Sec. 2. *And be it further enacted*, That if any citizen of, or other person resident in the United States, or either of the territorial districts of the United States, shall cross over, or go within the said boundary line, to hunt, or in anywise destroy the game; or shall drive, or otherwise convey any stock of horses or cattle to range, on any lands allotted or secured by treaty with the United States, to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months.

Sec. 3. *And be it further enacted*, That if any such citizen, or other person, shall go into any country which is allotted or secured by treaty as aforesaid, to any of the Indian tribes south of the river Ohio, without a passport first had and obtained from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may from time to time authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned, not exceeding three months.

Sec. 4. *And be it further enacted*, That if

any such citizen, or other person, shall go into any town, settlement, or territory, belonging, or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punishable, if committed within the jurisdiction of any State, against a citizen of the United States; or, unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall, also, when property is taken or destroyed, forfeit and pay to such Indian or Indians, to whom the property taken and destroyed belongs, a sum equal to twice the just value of the property so taken or destroyed; and if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value, shall be paid out of the Treasury of the United States: *Provided, nevertheless*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence.

Sec. 5. *And be it further enacted*, That if any such citizen, or other person, shall make a settlement on any lands belonging, or secured, or granted by treaty with the United States, to any Indian tribe, or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees, or otherwise, such offender shall forfeit all his right, title, and claim, if any he hath, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, whereupon he shall make a settlement, or which he shall survey, or attempt to survey, or designate any of the boundaries thereof, by marking trees or otherwise, and shall also forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months. And it shall, moreover, be lawful for the President of the United States to take such measures and to employ such military force, as he may judge necessary, to remove from lands belonging, or secured by treaty, as aforesaid, to any Indian tribe, any such citizen or other person, who has made or shall hereafter make, or attempt to make, a settlement thereon; and every right, title, or claim, forfeited under this act, shall be taken and deemed to be vested in the United States, upon conviction of the offender, without any other or further proceeding.

Sec. 6. *And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement, or territory, belonging to any nation or tribe of Indians, and shall there commit murder, by killing any Indian or Indians belonging to any nation or tribe of Indians in amity with the United States, such offender, on being thereof convicted, shall suffer death.

Sec. 7. *And be it further enacted*, That no such citizen, or other person, shall be permitted to reside at any of the towns or hunting camps, of any of the Indian tribes as a trader, without a license under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall authorize to grant licenses for that purpose; which superintendent, or person authorized, shall, on application, issue such license, for a term not exceeding two years, who shall enter into bond with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, conditioned for the true and faithful observance of such regulations and restrictions as are or shall be made for the government of trade and intercourse with the Indian tribes: and the superintendent, or person issuing such license, shall have full power and authority to recal the same, if the person so licensed shall transgress any of the regulations or restrictions, provided for the government of trade and intercourse with the Indian tribes; and shall put in suit such bonds as he may have taken, on the breach of any condition therein contained.

Sec. 8. *And be it further enacted*, That any such citizen, or other person, who shall attempt to reside in any town or hunting camp of any of the Indian tribes as a trader, without such license, shall forfeit all the merchandise offered for sale to the Indians, or found in his possession, and shall, moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days.

Sec. 9. *And be it further enacted*, That if any such citizen, or other person, shall purchase, or receive of any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry, or cooking utensil, of the kind usually obtained by the Indians in their intercourse with white people, or any article of clothing, except skins or furs, he shall forfeit a sum not exceeding fifty dollars, and be imprisoned not exceeding thirty days.

Sec. 10. *And be it further enacted*, That no such citizen, or other person, shall be permitted to purchase any horse of an Indian, or of any white man in the Indian territory, without special license for that purpose; which license, the superintendent, or such other person as the President shall appoint, is hereby authorized to grant, on the same terms, conditions, and restrictions, as other licenses are to be granted under this act. And any such person who shall purchase a horse or horses under such license, before he exposes such horse or horses for sale, and within fifteen days after they have been brought out of the Indian country, shall make a particular return to the superintendent, or other person, from whom he obtained his license, of every horse purchased by him, as aforesaid; describing such horses by their color, height, and other natural or artificial marks, under the penalty contained in their respective bonds. And every such person purchasing a horse or horses, as aforesaid, in the Indian country, without a special license, shall, for every horse thus purchased and brought into any settlement of citizens of the United States, forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding thirty days. And every person who shall purchase a horse, knowing him to be brought out of the Indian territory, by any person or persons not licensed as above to purchase the same, shall forfeit the value of such horse.

Sec. 11. *And be it further enacted*, That no agent, superintendent, or other person, authorized to grant a license to trade or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse to or from any Indian, excepting for and on account of the United States. And any person offending herein, shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

Sec. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation, or tribe of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution. And it shall be a misdemeanor in any person not employed under the authority of the United States, to negotiate such treaty or convention, directly or indirectly, to treat with any such Indian nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months: *Provided, nevertheless*, That it shall be lawful for the agent or agents of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claims to the lands within such State, which shall be extinguished by the treaty.

Sec. 13. *And be it further enacted*, That, in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States to cause them to be furnished with useful domestic animals, and implements of husbandry, and with goods or money, as he shall judge proper, and to appoint such persons from time to time, as temporary agents, to reside among the Indians, as he shall think fit: *Provided*, That the whole amount of such presents and allowance to such agents, shall not exceed fifteen thousand dollars per annum.

Sec. 14. *And be it further enacted*, That if any Indian or Indians belonging to any tribe in amity with the United States, shall come over or cross the said boundary line, into any State or territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage, upon such citizen or inhabitant, it shall be the duty of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose; who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe to which such Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding eighteen months, then it shall be the duty of such superintendent or other person authorized, as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken, as shall be proper to obtain satisfaction for the injury: and in the meantime, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party injured an eventual indemnification: *Provided, always*, That if such injured party, his representative, attorney, or agent, shall in any way violate any of the provisions of this act, by seeking, or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That nothing herein contained shall prevent the legal apprehension or arresting within the limits of any State or district of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen, or destroyed by any such Indian, out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

Sec. 15. *And be it further enacted*, That the superior courts in each of the said territorial districts, and the circuit courts, and other courts of the United States of similar jurisdiction in criminal causes, in each district of the United States, in which any offender against this act shall be apprehended, or, agreeably to the provisions of this act, shall be brought for trial, shall have, and are hereby invested with full power and authority to hear and determine all crimes, offences, and misdemeanors, against this act; such courts proceeding therein in the same manner, as if such crimes, offences, and misdemeanors, had been committed within the bounds of their respective districts: and in all cases where the punishment shall not be death, the county courts of quarter sessions in the said territorial districts, and the district courts of the United States in their respective districts, shall have, and are hereby invested with, like power to hear and determine the same, any law to the contrary notwithstanding: and in all cases where the punishment shall be death, it shall be lawful for the Governor of either of the territorial districts, where the offender shall be apprehended, or into which he shall be brought for trial, to issue a commission of oyer and terminer to the superior judges of such district, who shall have full power

and authority to hear and determine all such capital cases, in the same manner as the superior courts of such district have in their ordinary sessions: and when the offender shall be apprehended, or brought for trial, into any of the United States, except Kentucky, it shall be lawful for the President of the United States to issue a like commission to any one or more judges of the Supreme Court of the United States, and the judge of the district in which such offender may have been apprehended, or shall have been brought for trial; which judges, or any two of them, shall have the same jurisdiction in such capital cases as the circuit court of such district, and shall proceed to trial and judgment in the same manner as such circuit court might or could do. And the district courts of Kentucky and Maine shall have jurisdiction of all crimes, offences, and misdemeanors, committed against this act, and shall proceed to trial and judgment, in the same manner as the circuit courts of the United States.

Sec. 16. *And be it further enacted*, That it shall be lawful for the military force of the United States, to apprehend every person who shall or may be found in the Indian country over and beyond the said boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of this act, and him or them immediately to convey in the nearest convenient and safe route, to the civil authority of the United States, in some one of the three next adjoining States or districts, to be proceeded against in due course of law: *Provided*, That no person apprehended by military force as aforesaid, shall be detained longer than ten days after the arrest and before removal.

Sec. 17. *And be it further enacted*, That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territorial districts of the United States, such offender may be there apprehended and brought to trial, in the same manner as if such crime or offence had been committed within such State or district; and it shall be the duty of the military force of the United States, when called upon by the civil magistrate or any proper officer, or other person duly authorized for that purpose and having a lawful warrant, to aid and assist such magistrate, officer, or other person authorized as aforesaid in arresting such offender, and him committing to safe custody, for trial according to law.

Sec. 18. *And be it further enacted*, That the amount of fines and duration of imprisonment directed by this act as a punishment for the violation of any of the provisions thereof, shall be ascertained and fixed, not exceeding the limits prescribed, in the discretion of the court before whom the trial shall be had; and that all fines and forfeitures which shall accrue under this act shall be one half to the use of the informant and the other half to the use of the United States; except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Sec. 19. *And be it further enacted*, That nothing in this act shall be construed to prevent any trade or intercourse with Indians living on lands surrounded by settlements of the citizens of the United States, and being within the ordinary jurisdiction of any of the individual States; or the unmolested use of a road from Washington district to Mero district, and of the navigation of the Tennessee river, as reserved and secured by treaty.

Sec. 20. *And be it further enacted*, That the President of the United States be and he is hereby authorized to cause to be clearly ascertained and distinctly marked, in all such places as he shall deem necessary, and in such manner as he shall direct, any other boundary lines between the United States and any Indian tribe which now are or hereafter may be established by treaty.

Sec. 21. *And be it further enacted*, That all and every other act and acts, coming within the purview of this act, shall be and they are hereby repealed: *Provided nevertheless*, That all disabilities that have taken place shall continue and remain, all penalties and forfeitures that have been incurred may be recovered, and all prosecutions and suits that may have been commenced may be prosecuted to final judgment under the said act or acts, in the same manner as if the said act or acts were continued and in full force and virtue.

Sec. 22. *And be it further enacted*, That this act shall be in force for the term of two years, and from thence to the end of the session of Congress next thereafter, and no longer.

Approved, May 19, 1796.

An Act relative to quarantine.

Be it enacted, &c., That the President of the United States be and he is hereby authorized to direct the revenue officers and the officers commanding forts and revenue cutters, to aid in the execution of quarantine, and also in the execution of the health laws of the States respectively, in such manner as may to him appear necessary.

Approved, May 27, 1796.

An Act altering the compensation of the Accountant of the War Department.

Be it enacted, &c., That there shall hereafter be allowed to the Accountant of the Department of War, the sum of one thousand six hundred dollars per annum, as a compensation for his services, in lieu of the compensation heretofore allowed.

Sec. 2. *And be it further enacted*, That all letters and packets to and from the Accountant of the Department of War, shall be conveyed by post, free of postage, under such restrictions as are provided by law in like cases.

Approved, May 27, 1796.

An Act respecting the Mint.

Be it enacted, &c., That there shall be appropriated for the purchase of copper for the further

coinage of cents and half cents, a sum equal to the amount of the cents and half cents which shall have been coined at the Mint and delivered to the Treasurer of the United States, subsequent to the first day of January, one thousand seven hundred and ninety-six; which sum shall be payable out of any moneys in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That, from and after the passing of this act, there shall be retained from every deposite in the Mint of gold or silver bullion below the standard of the United States, such sum as shall be equivalent to the expense incurred in refining the same; and an accurate account of such expense on every deposite shall be kept, and of the sums retained on account of the same, which shall be accounted for by the Treasurer of the Mint to the Treasurer of the United States.

Sec. 3. *And be it further enacted*, That this act shall continue in force for the term of two years from the passing thereof, and from thence until the end of the next session of Congress thereafter holden, and no longer.

Approved, May 27, 1796.

An Act altering the sessions of the Circuit Courts in the districts of Vermont and Rhode Island, and for other purposes.

Be it enacted, &c., That, from and after the first day of June next, the Circuit Court for the district of Vermont shall be held at Rutland and Windsor alternately, beginning with the former, on the seventh day of November and on the twelfth day of May annually: *Provided*, when either of those days shall be Sunday the court shall be held on the day following.

Sec. 2. *And be it further enacted*, That the fall session of the Circuit Court for the district of Rhode Island shall be held on the nineteenth day of November, with the exception for Sunday, as is provided in the preceding section.

Sec. 3. *And be it further enacted*, That the District Court for the district last aforesaid, instead of the several days heretofore prescribed, shall be held annually, on the first Tuesday of August, the third Tuesday of November, the first Tuesday of February, and the second Tuesday of May.

Sec. 4. *And be it further enacted*, That all writs and processes, of whatever name or description, which may have issued from either of the courts before mentioned, or which shall hereafter issue, the return of which will be interrupted by this act, shall be returned to the terms of the courts respectively next succeeding the terms to which they were made returnable. And the said writs and processes before mentioned, together with all matters and business depending before either of the courts before mentioned, shall be taken up and proceeded upon to final issue and determination, in the same manner and to the same effect as if no alteration had been made in the times or places of holding the said courts respectively.

Approved, May 27, 1796.

An Act in addition to an act, entitled "An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels."

Be it enacted, &c., That, from and after the last day of June next, there shall be established the following new districts and ports of delivery, to wit: in the State of Massachusetts, a district to be called the district of Ipswich, which shall include the waters and shores within the said town of Ipswich, which shall be the sole port of entry of the same; and a collector shall be appointed to reside in the said town of Ipswich, and thenceforward the office of surveyor for the said port shall cease. In the State of New Jersey, a district to be called the district of Little Egg harbor, which shall comprehend all the shores, waters, bays, rivers, and creeks, from Barnegat inlet to Brigantine inlet, both inclusively; and the town of Tuckerton shall be the sole port of entry for the said district; and a collector for the same shall be appointed to reside at the said town of Tuckerton, and thenceforward the office of surveyor for the said port of Little Egg harbor shall cease. In the State of Maryland, a district to be called the district of Havre de Grace, which shall include all the shores and waters of the Chesapeake bay, above Turkey point and Spes Utile island; and a collector shall be appointed to reside at Havre de Grace, which shall be the sole port of entry for the same. In the district of Newburyport the town of Newbury shall be a port of delivery. In the district of Dighton the towns of Berkley and Taunton shall be ports of delivery.

Sec. 2. *And be it further enacted*, That, from and after the last day of June next, the district of Hudson, in the State of New York, shall be confined to the limits of the city of Hudson; and all other places which were, by the act, entitled "An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" included in the said district of Hudson, shall be annexed to the district of New York. And the description of the district of Waldoborough in the said recited act shall be so far altered as, instead of saying "a place called Duck-trap," to say, "that part of a place called Duck-trap, which lies between the towns of Camden and Northport," and, instead of saying, "all the shores and waters from the middle of Damarascotty river to Duck-trap," to say, "all the shores and waters from the middle of Damarascotty river to the southwardly side of the town of Northport." That in the State of Maryland the district of Cedar point shall be called the district of Nanjemoy, which shall be the sole port of entry and delivery for the said district; and the collector shall reside at Nanjemoy. And that in the district of Nantucket, in the State of Massachusetts, the name of the port of Sherburne shall be changed to the port of

Nantucket: *Provided always*, That no alteration in the name or description of the said districts shall be construed to affect the compensation of the officers thereof.

SEC. 3. *And be it further enacted*, That the collectors to be appointed in conformity with this act, shall each become bound in the sum of two thousand dollars, in manner as is by law provided in like cases, and the same duties, authorities, and fees of office, with a similar distribution thereof, shall appertain to those appointments as are now in like cases authorized by law. And the collectors aforesaid shall each receive two per centum on all moneys by them respectively received; and shall also respectively receive the allowance of one hundred dollars annually, from and after the said last day of June next.

Approved, May 27, 1796.

An Act for the relief and protection of American seamen.

Be it enacted, &c., That the President of the United States, by and with the advice and consent of the Senate, be, and hereby is, authorized to appoint two or more agents: the one of whom shall reside in the kingdom of Great Britain, and the others at such foreign ports as the President of the United States shall direct. That the duty of the said agents shall be, under the direction of the President of the United States, to inquire into the situation of such American citizens, or others sailing, conformably to the Law of Nations, under the protection of the American flag, as have been or may hereafter be impressed or detained by any foreign Power; to endeavor, by all legal means, to obtain the release of such American citizens or others, as aforesaid; and to render an account of all impressments and detentions whatever, from American vessels, to the Executive of the United States.

SEC. 2. *And be it further enacted*, That if it should be expedient to employ an additional agent or agents for the purposes authorized by this law, during the recess of the Senate, the President alone be, and he hereby is, authorized to appoint such agent or agents.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to draw annually out of the Treasury of the United States a sum not exceeding fifteen thousand dollars, not otherwise appropriated, to be applied by him in such proportions as he shall direct, to the payment of the compensation of the said agents for their services, and the incidental expenses attending the performance of the duties imposed on them by this act.

SEC. 4. *And be it further enacted*, That the collector of every district shall keep a book or books, in which, at the request of any seaman, being a citizen of the United States of America, and producing proof of his citizenship, authenticated in the manner hereinafter directed, he shall enter the name of such seaman, and shall deliver to him a certificate, in the following form, that is to say: "I, A B, collector of the district of D, do hereby certify that E F, an American seaman, aged —— years, or thereabouts, of the heighth of —— feet —— inches, [describing the said seaman as particularly as may be,] has this day produced to me proof in the manner directed in the act, entitled 'An act for the relief and protection of American seamen;' and, pursuant to the said act, I do hereby certify that the said E F is a citizen of the United States of America. In witness whereof, I have hereunto set my hand and seal of office, this —— day of ——." And it shall be the duty of the collectors aforesaid to file and preserve the proofs of citizenship produced as aforesaid; and for each certificate delivered as aforesaid, the said collectors shall be entitled to receive from the seaman applying for the same the sum of twenty-five cents.

SEC. 5. And, in order that full and speedy information may be obtained of the seizure or detention, by any foreign Power, of any seamen employed on board any ship or vessel of the United States, *Be it further enacted*, That it shall, and hereby is declared to be the duty of the master of every ship or vessel of the United States, any of the crew whereof shall have been impressed or detained by any foreign Power, at the first port at which such ship or vessel shall arrive, if such impressment or detention happened on the high seas, or if the same happened within any foreign port, then in the port in which the same happened, immediately to make a protest, stating the manner of such impressment or detention, by whom made, together with the name and place of residence of the person impressed or detained; distinguishing also whether he was an American citizen, and, if not, to what nation he belonged. And it shall be the duty of such master to transmit, by post or otherwise, every such protest made in a foreign country to the nearest Consul or agent, or to the Minister of the United States resident in such country, if any such there be; preserving a duplicate of such protest, to be by him sent, immediately after his arrival within the United States, to the Secretary of State, together with information to whom the original protest was transmitted; and in case such protest shall be made within the United States, or in any foreign country in which no Consul, agent, or Minister of the United States resides, the same shall, as soon thereafter as practicable, be transmitted by such master, by post or otherwise, to the Secretary of State.

SEC. 6. *And be it further enacted*, That a copy of this law be transmitted by the Secretary of State to each of the Ministers and Consuls of the United States resident in foreign countries, and by the Secretary of the Treasury to the several collectors of the districts of the United States, whose duty it is hereby declared to be, from time to time, to make known the provisions of this law to all masters of ships and vessels of the United States entering or clearing at their several offices. And the master of every such ship or vessel shall, before he is admitted to an entry by any such collector, be required to declare, on oath, whether any of the crew of the ship or vessel under his command have been impressed or detained in the course of his voyage, and how far he has complied with the directions of this act. And every such master as shall wilfully neglect or refuse to make the declarations herein required, or to perform the duties enjoined by this act, shall forfeit and pay the sum of one hundred dollars. And it is hereby declared to be the duty of every such collector to prosecute for any forfeiture that may be incurred under this act.

SEC. 7. *And be it further enacted*, That the collector of every port of entry in the United States shall send a list of the seamen registered under this act once every three months to the Secretary of State, together with an account of such impressments or detentions as shall appear by the protests of the masters to have taken place.

SEC. 8. *And be it further enacted*, That the first, second, and third sections of this act shall be in force for one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 28, 1796.

An Act laying duties on carriages for the conveyance of persons; and repealing the former act for that purpose.

Be it enacted, &c., That, from and after the last day of August next, the duties laid by the act, entitled "An act laying duties upon carriages for the conveyance of persons," shall cease, and shall not thenceforth be collected; but in lieu thereof, there shall be levied, collected, and paid, the following yearly rates and duties upon all carriages for the conveyance of persons, which shall be kept by, or for any person, for his or her own use, or to be let out for hire, or for the conveyance of passengers, to wit: For and upon every coach, whether driven with a box, or by postillion, the yearly sum of fifteen dollars; for and upon every chariot, post-chariot, and post-chaise, the yearly sum of twelve dollars; for and upon every phæton for the conveyance of one or more persons, with or without a top; and for and upon every coachee, or other carriage, having panel work, with blinds, glasses, or curtains in the upper division of the sides, front or back thereof, the yearly sum of nine dollars; for and upon every four wheel carriage having framed posts and tops, and hanging on steel springs, (whether drawn by one or more horses,) the yearly sum of six dollars; for and upon every four wheel top carriage hanging upon wooden or iron springs or jacks (whether drawn by one or more horses); and upon every curricle, chaise, chair, sulkey, or other two wheel top carriage, and upon every two wheel carriage hanging or resting upon steel or iron springs, the yearly sum of three dollars; and for and upon every other two wheel carriage, the yearly sum of two dollars; and upon every four wheel carriage having framed posts and tops, and resting upon wooden spars, the yearly sum of two dollars: *Provided always*, That nothing herein contained shall be construed to charge with a duty any carriage usually and chiefly employed in husbandry, or for the transportation or carrying of goods, wares, merchandise, produce, or commodities.

SEC. 2. *And be it further enacted*, That the duties aforesaid shall be levied and collected upon all carriages usually and chiefly employed for the conveyance of persons, by whatever name or description the same have been, or shall hereafter be known and called. And in cases of doubt, any carriage shall be deemed to belong to that class, to which the same shall bear the greatest resemblance. (to be determined in manner hereinafter provided,) and shall be subject to duty accordingly.

SEC. 3. *And be it further enacted*, That the duties aforesaid shall be levied, collected, received, and accounted for, by and under the immediate direction of the supervisors and inspectors of the revenue, and other officers of inspection; subject to the superintendence, control, and direction of the Department of the Treasury, according to the authorities and duties of the respective officers thereof.

SEC. 4. *And be it further enacted*, That every person having or keeping a carriage or carriages, upon which a duty or duties shall be payable according to this act, shall yearly, and in every year, in the month of September, or within sixty days previous thereto, make and subscribe a true and exact entry of each and every such carriage; therein specifying distinctly each carriage owned or kept by him or her for his or her use, or for hire, with the description and denomination thereof, and the rate of duty to which each and every such carriage is liable; which entry shall be lodged with the officer of inspection for the district in which such owner or person liable for the payment of such duty shall reside: And that it shall be the duty of the officers of inspection to attend, within the month of September in each year, at one or more of the most public and convenient places in each county within their respective districts, and to give public notice at least one month previous to such day, of the time and place of such attendance, and to receive such entry made in the manner before directed, at such place, or at any other, where he may happen to be within the said month of September; and on tender and payment being made of the duty or duties therein mentioned, to grant a certificate for each and every carriage mentioned in such entry; therein specifying the name of the owner, the description and denomination of the carriage, and the sum paid, with the time when, and the period for which such duty shall be so paid: And the forms of the certificates to be so granted shall be prescribed by the Treasury Department; and such certificates, or the acknowledgments of the officer of inspection, by a credit in his public accounts, shall be the only evidence to be exhibited and admitted, that any duty imposed by this act has been discharged: *Provided nevertheless*, That no certificate shall be deemed of validity any longer than while the carriage, for which the said certificate was granted, is owned by the person

mentioned in such certificate, unless such certificate shall be produced to the officer of inspection by whom it was granted; and an entry shall be thereon made, specifying the name of the then owner of such carriage, and the time when he or she became possessed of the same.

Sec. 5. *And be it further enacted*, That any and all persons, who shall commence the having or keeping of any carriage, subject to duties, after the month of September, and before the month of September in the next succeeding year, shall and may, at any time during the month in which they shall so commence the having or keeping of such carriage, make like entry in manner before prescribed; and on payment of such proportion of the duties laid by this act on such carriage, as the time at which he shall commence the keeping of such carriage to the end of the month of September then next ensuing shall bear to the whole year, shall be entitled to, and may demand like certificates; subject, nevertheless, to the conditions before and hereinafter provided.

Sec. 6. *And be it further enacted*, That the duties payable by this act shall, in respect to any and all persons who shall have or keep carriages during the month of September, be deemed to commence, and shall be computed from the last day of the said month: And in respect to persons who shall commence the having or keeping of carriages after the said month of September, the said duties shall be deemed to commence, and shall be computed from the last day of the month in which they shall so begin to have or keep such carriages; conformably to which, the certificates before and hereinafter mentioned, shall be issued and granted.

Sec. 7. *And be it further enacted*, That any person having or keeping any carriage subject to duty, who shall make an untrue or defective entry, to evade the whole or any part of the duty justly and truly payable, according to this act, shall lose the sum paid pursuant to such untrue or defective entry; and where such untrue or defective entry hath been made, or where no entry shall be made, or where there shall be a neglect of payment after entry, such person shall, moreover, in addition thereto, at any time thereafter, on personal application and demand, at the house, dwelling, or usual place of abode of such person, by the proper officer of inspection, be liable, and shall pay the duties by this act imposed, with a further sum, for the benefit of such officer, of twenty-five per centum: which duties, with the said addition, shall be collected by distress and sale of the goods and chattels of the person, by whom the same shall be due and payable: *Provided always*, That such application and demand shall not be made until sixty days after the day on which any duty shall commence; and if entry and payment shall be made, within the said sixty days, at the office of inspection of the district, or at any other place where the inspector may happen to be, the owner of the carriage shall be exempted from the payment of the said sum of twenty-five per centum: *Provided, nevertheless*, That if any person of whom such application and demand shall be made, shall forthwith present to such officer of inspection, a full and exact description of the carriage or carriages, on which the duties demanded shall have accrued, with a statement of the cause, matter, or thing, whereby an entire exemption from duty is claimed, or whereby a right is claimed, under this act, to a remission of a part of the sum demanded, such description and statement being first subscribed and verified on oath or affirmation, before some competent magistrate, by the person, by, or for whom, the same shall be presented; then and in such case, the officer of inspection shall receive such description and statement, and shall, furthermore, forbear to collect the duties and sum demanded.

Sec. 8. *And be it further enacted*, That the officers of inspection who shall receive the statements and allegations of persons claiming, either an entire exemption, or a remission of any part of any duty, or sum demanded under authority derived from this act, which may be presented to them, in manner and form before prescribed, shall forthwith transmit the same to the supervisors of their respective districts, for their consideration and decision, with such proofs and evidence in relation thereto, as they shall judge proper. And the supervisors shall forthwith, on receiving the statements and allegations before mentioned, with the proofs and evidence accompanying the same, decide thereon, according to the true intent and meaning of this act.

Sec. 9. *And be it further enacted*, That the decisions of the supervisors in the cases referred to them, in manner before prescribed, shall be forthwith communicated to the officers of inspection, whom the same may concern; and such decisions shall be final and conclusive when rendered against the demand of any officer of inspection for any duties imposed by this act: And in cases where the said supervisors shall decide, that the duties in question, or any part thereof, are justly payable according to this act, the proper officer of inspection shall forthwith collect the same by distress and sale of the goods and chattels of the persons charged with such duties: *Provided, nevertheless*, That any person aggrieved by the decision of a supervisor, may, within two months, by application in writing to such supervisor, require that the statements and proofs on which such decision was founded, be transmitted to the Secretary of the Treasury, who shall have power to determine thereon, and, if he judge proper, to direct the duty or duties which shall have been collected, in consequence of such decision, to be returned; and if any such person shall be aggrieved by the decision of the Secretary of the Treasury, he shall be allowed, within four months, to institute a suit in the proper district court of the United States against the supervisor of the district, for the recovery of any duties collected in pursuance of any decision rendered in manner aforesaid, but the parties maintaining such suits shall, in all such cases, be confined to the assignment and proof of such facts and matters as may have been previously stated to the said supervisors, in manner before provided.

Sec. 10. *And be it further enacted*, That in all cases where any duty shall be collected pursuant to this act, whether by distress or otherwise, certificates shall be granted for each carriage in manner as before prescribed.

Sec. 11. *And be it further enacted*, That the supervisors of the revenue, and inspectors of surveys, shall have power, from time to time, to examine, upon oath or affirmation, any officers or persons employed under them in the collection and receipt of the duties imposed by this act: And any officer or person who shall swear or affirm falsely, touching any matter hereby required to be verified on oath or affirmation, shall, on conviction thereof, suffer the pains and penalties which are prescribed for wilful and corrupt perjury.

Sec. 12. *And be it further enacted*, That it shall be lawful for the President of the United States, and he is hereby empowered, to make such allowances for compensation to the officers of inspection employed in the collection of the duties aforesaid, and for incidental expenses, as he shall judge reasonable, not exceeding, in the whole, five per centum of the total amount of the said duties collected.

Sec. 13. *And be it further enacted*, That the act, entitled "An act laying duties on carriages for the conveyance of persons," and so much of the fifteenth section of the act, entitled "An act to alter and amend the act, entitled "An act laying certain duties upon snuff and refined sugar," as authorizes the President of the United States to apply a sum not exceeding five per centum on the total amount of duties collected on carriages for the conveyance of persons, shall cease and be repealed, from and after the last day of August next; except for the recovery of any duties or penalties, which shall have accrued and remain unpaid; anything in the last section of the act of the last session, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," to the contrary notwithstanding: And that this act shall continue in force until the last day of August, in the year one thousand eight hundred and one, and no longer.

Approved, May 28, 1796.

An Act for the relief of persons imprisoned for debt.

Be it enacted, &c., That persons imprisoned on process issuing from any court of the United States in civil actions, shall be entitled to like privileges of the yards or limits of the respective jails, as persons confined in like cases, on process from the courts of the respective States are entitled to, and under the like regulations and restrictions.

Sec. 2. *And be it further enacted*. That any person imprisoned as aforesaid may have the oath or affirmation hereinafter expressed administered to him by any judge of the United States; and in case there shall be no judge of the United States residing within twenty miles of the jail wherein such debtor may be confined, such oath or affirmation may be administered by any two persons who may be commissioned for that purpose by the judge of the district court of the United States within whose jurisdiction the debtor may be confined; the creditor, his agent, or attorney, if either live within one hundred miles of the place of imprisonment, or within the district in which the judgment was rendered, having had at least thirty days' previous notice by a citation served on him, issued by the district judge, to appear at the time therein mentioned at the said jail, if he see fit, to show cause why the said oath or affirmation should not be so administered: at which time and place, if no sufficient cause, in the opinion of the judge, (or the commissioners appointed as aforesaid,) be shown, or from examination appear to the contrary, he (or they) may, at the request of the debtor proceed to administer to him the following oath or affirmation, as the case may be, viz: "You ——— solemnly swear (or affirm) that you have not estate, real or personal, nor is any to your knowledge holden in trust for you, (necessary wearing apparel excepted,) to the amount or value of thirty dollars, nor sufficient to pay the debt for which you are imprisoned." Which oath or affirmation being administered, the judge or commissioners shall certify the same under his or their hands to the prison keeper and the debtor shall be discharged from his imprisonment on such judgment, and shall not be liable to be imprisoned again for the said debt, but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then or at any time afterwards belong to the debtor. And whenever the oath aforesaid shall be administered by commissioners, in addition to the certificate by them made and delivered to the prison keeper, they shall make return of their doings to the district court with the commission to them issued, to be kept upon the files and records of the same court.

Sec. 3. *And be it further enacted*, That if any person shall falsely take the oath or affirmation aforesaid, such person shall be deemed guilty of perjury, and upon conviction thereof shall suffer the pains and penalties in that case provided. And the court upon the motion of the creditor shall recommit the debtor to the prison from whence he was liberated, there to be detained for the said debt, in the same manner as if such oath or affirmation had not been taken.

Sec. 4. *And be it further enacted*, That the act, entitled "An act to continue in force the act for the relief of persons imprisoned for debt," be, and the same is hereby repealed.

Sec. 5. *And be it further enacted*, That this act shall continue in force for the term of three years.

Approved, May 28, 1796.

An Act to ascertain and fix the Military Establishment of the United States.

Be it enacted, &c., That the Military Establishment of the United States, from and after the last day of October next, be composed of the corps of artillerists and engineers, as established by the

act, entitled "An act providing for raising and organizing a corps of artillerists and engineers;" two companies of light dragoons, who shall do duty on horse or foot, at the discretion of the President of the United States; and four regiments of infantry, of eight companies each; the company of dragoons shall consist of one captain, two lieutenants, one cornet, four sergeants, four corporals, one farrier, one saddler, one trumpeter, and fifty-two privates, and shall be armed and accoutred in such manner as the President of the United States may direct.

Sec. 2. *And be it further enacted*, That each regiment of infantry shall consist of one lieutenant-colonel commandant, two majors, one adjutant, one paymaster, one quartermaster, one surgeon, two surgeons' mates, eight captains, eight lieutenants, eight ensigns, two sergeant-majors, two quartermaster-sergeants, two senior musicians, thirty-two sergeants, thirty-two corporals, sixteen musicians, and four hundred and sixteen privates: *Provided, always*, That the President of the United States may, in his discretion, appoint an additional number of surgeon's mates, not exceeding ten, and distribute the same, according to the necessity of the service.

Sec. 3. *And be it further enacted*, That there shall be one major-general, with two aids-de-camp, one brigadier-general, who may choose his brigade-major from the captains or subalterns of the line; which brigade-major shall receive the monthly pay of twenty-four dollars, in addition to his pay in the line, be entitled to four rations of provisions, for his daily subsistence; and, whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof; one quartermaster-general; one inspector, who shall do the duty of adjutant-general; and one paymaster-general; and that the adjutants, quartermasters, and paymasters, of regiments shall be appointed from the subalterns of their respective regiments.

Sec. 4. *And be it further enacted*, That the President of the United States cause to be arranged the officers, non-commissioned officers, privates, and musicians, of the legion of the United States, and light dragoons in such manner as to form and complete out of the same the four regiments aforesaid, and two companies of light dragoons. And the supernumerary officers, privates, and musicians, shall be considered, from and after the last day of October next, discharged from the service of the United States.

Sec. 5. *And be it further enacted*, That the corps of artillerists and engineers be completed, conformably to the act of the eighth day of May, one thousand seven hundred and ninety-four, establishing the same, and prescribing the number and term of enlistments, and the method of organization.

Sec. 6. *And be it further enacted*, That the commissioned officers, who shall be employed in the recruiting service, to keep up, by enlistments, the corps of artillerists, infantry, and dragoons aforesaid, shall be entitled to receive, for every able-bodied recruit, duly enlisted and mustered, of at least five feet six inches in height, and not under the age of eighteen nor above the age of forty-six years, the sum of two dollars.

Sec. 7. *And be it further enacted*, That there shall be allowed and paid to each soldier now in the service of the United States, or discharged therefrom, subsequent to the third day of March, one thousand seven hundred and ninety-four, who shall re-enlist for the term of five years, unless sooner discharged, a bounty of sixteen dollars; and to each person not now in the army of the United States, or discharged as above, who shall hereafter enlist for the term aforesaid, a bounty of fourteen dollars; but the payment of four dollars of the bounty of each and every man so enlisting shall be deferred until he shall have joined the corps in which he is to serve.

Sec. 8. *And be it further enacted*, That every non-commissioned officer, private, and musician, of the artillery and infantry, shall receive, annually, the following articles of uniform clothing, to wit: one hat, one coat, one vest, two pair of woollen and two pair of linen overalls, four pair of shoes, four shirts, four pair of socks, one blanket, one stock and clasp, and one pair of buckles.

Sec. 9. *And be it further enacted*, That suitable clothing be provided for the dragoons, adapted to the nature of the service, and conformed as near as may be, to the value of the clothing allowed to the infantry and artillery.

Sec. 10. *And be it further enacted*, That every non-commissioned officer, private, and musician, shall receive, daily, the following rations of provisions, to wit: one pound of beef, or three-quarters of a pound of pork, one pound of bread or flour, half a gill of rum, brandy, or whiskey; and at the rate of one quart of salt, two quarts of vinegar, two pounds of soap, and one pound of candles, to every hundred rations.

Sec. 11. *Provided always, and be it further enacted*, That to those in the military service of the United States, who are, or shall be, employed on the western frontiers, there shall be allowed, during the time of their being so employed, two ounces of flour or bread, and two ounces of beef or pork, in addition to each of the rations, and half a pint of salt, in addition to every hundred of their rations.

Sec. 12. *And be it further enacted*, That the monthly pay of the officers, non-commissioned officers, musicians, and privates, of the Military Establishment, be as follows: a major-general, one hundred and sixty-six dollars; a brigadier-general, one hundred and four dollars; quartermaster, inspector, and paymaster generals, each, in addition to their pay in the line, twenty-five dollars; principal artificer, forty dollars; second artificer, twenty-six dollars; lieutenant-colonel commandant, seventy-five dollars; major of artillery and of dragoons, fifty-five dollars; major of infantry, fifty dollars; paymaster, adjutant, and regimental quartermaster, in addition to their pay in the line, ten dollars; captain, forty dollars; lieutenants, twenty-six dollars; ensigns and cornets, twenty dollars; surgeons, forty-five dollars; surgeons' mates, thirty dollars; sergeant-majors

and quartermaster-sergeants, eight dollars; senior musicians, seven dollars; sergeants, seven dollars; corporals, six dollars; musicians, five dollars; privates, four dollars; artificers allowed to the infantry and artillery, farriers and saddlers to the dragoons, each, nine dollars; matrons and nurses in the hospital, eight dollars.

Sec. 13. *And be it further enacted*, That the commissioned officers aforesaid shall be entitled to receive for their daily subsistence the following number of rations of provisions: a major-general, fifteen rations; a brigadier-general twelve rations; a lieutenant-colonel commandant, six rations; quartermaster, inspector, and paymaster generals, each, six rations; and each aid-de-camp shall receive the monthly pay of twenty-four dollars in addition to his pay in the line, be entitled to four rations of provisions for his daily subsistence, and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof; a captain, three rations; a lieutenant, ensign, and cornet, each, two rations; a surgeon, three rations; a surgeon's mate, two rations; a principal and second artificer, each, two rations, or money in lieu thereof, at the option of the said officers, at the posts, respectively, where the rations shall become due; and if at such posts supplies are not furnished by contract, then such allowance as shall be deemed equitable, having reference to former contracts, and the position of the place in question.

Sec. 14. *And be it further enacted*, That the officers hereinafter described shall, whenever forage shall not be furnished by the public, receive at the rate of the following enumerated sums, per month, instead thereof, to wit: a major-general, twenty dollars; a brigadier-general, sixteen dollars; quartermaster, inspector, and paymaster generals, each, twelve dollars; lieutenant-colonel commandant, twelve dollars; major, ten dollars; captain of dragoons, eight dollars; lieutenant and cornet, each six dollars; surgeon, ten dollars; surgeon's mate, six dollars; principal artificer, paymaster, adjutant, and regimental quartermaster, each, six dollars.

Sec. 15. *And be it further enacted*, That every person who shall procure or entice a soldier in the service of the United States to desert, or who shall purchase from any solder his arms, uniform clothing, or any part thereof; and every captain or commanding officer of any ship or vessel, who shall enter on board such ship or vessel as one of his crew, knowing him to have deserted, or otherwise carry away any such soldier, or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined, at the discretion of the court, in any sum not exceeding three hundred dollars, or be imprisoned for any term not exceeding one year.

Sec. 16. *And be it further enacted*, That no non-commissioned officer or private shall be arrested, or subject to arrest, for any debt under the sum of twenty dollars.

Sec. 17. *And be it further enacted*, That if any non-commissioned officer, musician, or private shall desert from the service of the United States, he shall, in addition to the penalties mentioned in the rules and articles of war, be liable to serve for and during such a period as shall, with the time he may have served, previous to his desertion, amount to the full term of his enlistment, and such soldier shall and may be tried and sentenced by a regimental or garrison court-martial, although the term of his enlistment may have elapsed, previous to his being apprehended or tried.

Sec. 18. *And be it further enacted*, That the sentences of general courts-martial, in time of peace, extending to the loss of life, the dismission of a commissioned officer, or which shall, either in time of peace or war, respect a general officer, shall, with the whole of the proceedings in such cases, respectively, be laid before the President of the United States; who is hereby authorized to direct the same to be carried into execution or otherwise, as he shall judge proper.

Sec. 19. *And be it further enacted*, That if any officer, non-commissioned officer, private, or musician aforesaid, shall be wounded or disabled while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations as shall be directed by the President of the United States for the time being: *Provided, always*, That the rate of compensation to be allowed for such wounds or disabilities to a commissioned officer, shall never exceed, for the highest disability, half the monthly pay of such officer at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

Sec. 20. *And be it further enacted*, That the officers, non-commissioned officers, privates, and musicians aforesaid, shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, [except so much of the same as is by this act altered or amended,] as far as the same may be applicable to the Constitution of the United States; or by such rules and articles as may hereafter by law be established.

Sec. 21. *And be it further enacted*, That every officer, non-commissioned officer, private, and musian aforesaid, shall take and subscribe the following oath or affirmation, to wit: "I, A B, do solemnly swear or affirm (as the case may be) to bear true allegiance to the United States of America, and to serve them honestly and faithfully against their enemies or opposers whomsoever, and to observe and obey the orders of the President of the United States and the orders of the officers appointed over me, according to the rules and articles of war."

Sec. 22. *And be it further enacted*, That so much of any act or acts now in force, as comes within the purview of this act, shall be, and the same is hereby repealed; saving, nevertheless, such parts thereof as relate to the enlistments or term of service of any of the troops which, by

this act, are continued on the present Military Establishment of the United States.

SEC. 23. *And be it further enacted*, That the general staff, as authorized by this act, shall continue in service until the 4th day of next March, and no longer.

Approved, May 30, 1796.

An Act to regulate the compensation of Clerks.

Be it enacted, &c., That the Secretary of the Treasury, the Secretary of the Department of State, and the Secretary of the Department of War, be authorized to vary for the present year the compensations heretofore established for clerks in their respective departments, in such manner as the services to be performed shall in ther judgment require.

SEC. 2. *And be it further enacted*, That, to the aggregate of compensations for clerks in the year one thousand seven hundred and ninety-four, there shall, during the present year, be further allowed—

In the Treasury Department, the sum of four thousand dollars, including one thousand eight hundred dollars to three additional clerks;

In the Department of State, the sum of two hundred dollars;

In the Department of War, the sum of two hundred dollars. And that the Accountant of the War Department may employ a principal clerk, at the salary allowed to principal clerks in the other departments;

And to the Director of the Mint, for one clerk to be employed by him, the additional sum of two hundred dollars.

SEC. 3. *And be it further enacted*, That there be allowed for the present year to the Commissioners of Loans, in the States of Massachusetts and New York, respectively, not exceeding five clerks, at the rate of five hundred dollars each; to the Commissioner of Loans in the State of Connecticut, not exceeding two clerks, at the rate of four hundred dollars each; and to the Commissioners of Loans in the States of Pennsylvania, Virginia, and South Carolina, respectively, not exceeding two clerks, at the rate of five hundred dollars each. The aggregate of the compensations for the clerks employed by either of the said Commissioners to be apportioned among them at his discretion. That there be allowed for the year aforesaid, in lieu of clerk-hire, to the Commissioner of Loans in the State of New Hampshire, three hundred and fifty dollars; to the Commissioner of Loans in the State of Rhode Island, four hundred dollars; to the Commissioner of Loans in the State of New Jersey, three hundred dollars; and to the Commissioner of Loans in the State of Maryland, two hundred and fifty dollars.

Approved, May 30, 1796.

An Act to continue in force, for a limited time, the acts therein mentioned.

Be it enacted, &c., That the act, entitled "An act supplementary to the act for the establishment and support of light-houses, beacons, buoys, and public piers," so far as the same provides for defraying the necessary expense of supporting light-houses, beacons, buoys, and public piers, and the stakeage of channels on the sea-coast; and also the act, entitled "An act to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws in certain cases therein mentioned"—be, and the same are hereby, continued in force for the term of two years.

SEC. 2. *And be it further enacted*, That the thirteenth section of the act, entitled "An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas," which section will expire at the end of the present session of Congress, shall be, and the same is hereby, further continued in force for the term of one year from the passing of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 30, 1796.

An Act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations.

Be it enacted, &c., That the act, entitled "An act providing the means of intercourse between the United States and foreign nations," passed the first day of July, one thousand seven hundred and ninety; together with the second section of the act, entitled "An act to continue in force, for a limited time, and to amend the act, entitled 'An act providing the means of intercourse between the United States and foreign nations," passed the ninth day of February, one thousand seven hundred and ninety-three, shall be continued in force for the term of one year from the passing of this act; and from thence until the end of the next session of Congress thereafter holden, and no longer.

SEC. 2. *And be it further enacted*, That the sum of twenty thousand dollars be, and the same is hereby, appropriated, for defraying the expenses which may attend the intercourse between the United States and foreign nations, during the year one thousand seven hundred and ninety-six, in addition to the sum of forty thousand dollars annually appropriated for that purpose.

SEC. 3. *And be it further enacted*, That so much of the sum appropriated by the first section of the act, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations;' and further to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations," passed the twentieth day of March, one thousand seven hundred and ninety-four, as remains unexpended, together with a further sum of two hundred and sixty thousand dollars, be, and the same is hereby, appropriated, for the purpose of carrying into effect any Treaty already made, and to enable the President to effect any Treaty or Treaties with any of the Mediterranean Powers.

SEC. 4. *And be it further enacted*, That the sum

of four thousand five hundred and thirty-nine dollars and six cents be, and the same is hereby, appropriated, to reimburse certain sums advanced by Captain Colvill and Captain Burnham for their ransom from captivity in Algiers; which sum, the Secretary of the Treasury is hereby authorized and required to pay to the said Captains Colvill and Burnham, dividing the same equally between them.

SEC. 5. *And be it further enacted*, That the President of the United States be authorized to borrow, on the credit of the United States, if, in his opinion, the public service shall require it, a sum not exceeding three hundred and twenty-four thousand five hundred and thirty-nine dollars and six cents, at an interest not exceeding six per centum per annum, reimbursable at the pleasure of the United States, to be applied to the purposes of this act, and to be repaid out of the duties on imports and tonnage accruing during the present year, and not otherwise appropriated. And it shall be lawful for the Bank of the United States to lend the same.

Approved, May 30, 1796.

An Act making provision for the payment of certain Debts of the United States.

Be it enacted, &c., That it shall be lawful for the Commissioners of the Sinking Fund, with the approbation of the President of the United States, to borrow, or cause to be borrowed, on the credit of the United States, any sum not exceeding five millions of dollars, to be applied to the payment of the capital or principal of any parts of the debt of the United States now due, or to become due during the course of the present year, to the Bank of the United States, or to the Bank of New York, or for any instalment of foreign debt: And that, for the whole, or such part of the said sum as shall be borrowed, certificates shall be issued, purporting that the United States are indebted for the sums to be therein expressed, bearing an interest of six per centum per annum, payable quarter yearly; which sums, at the said rate of interest, are to remain fixed and irredeemable, until the close of the year one thousand eight hundred and nineteen, and to be redeemed thereafter, at the pleasure of the United States. And the Bank of the United States is hereby authorized to lend the whole, or any part of the said five millions of dollars, and to sell the stock received for such loan.

SEC. 2. *And be it further enacted*, That credits for the sums which shall be borrowed, pursuant to this act, shall be entered and given on the books of the Treasury, in like manner as for the present domestic funded debt; and that certificates, for sums not less than one hundred dollars, pursuant to the provisions herein contained, shall be issued by the Register of the Treasury; which shall be transferable in like manner, and by the like ways and means, as are provided by the seventh section of the act, entitled "an act making provision for the debt of the United States," touching the credits or stock therein mentioned; and that the interest to be paid upon the stock, which shall be constituted by virtue of the loan herein proposed, shall be paid at the offices or places where the credits for the same shall, from time to time, stand or be; subject to the like conditions and restrictions as are prescribed in and by the eighth section of the act last aforesaid.

SEC. 3. *And be it further enacted*, That it shall be deemed a good execution of the power to borrow, herein granted, for the said Commissioners of the Sinking Fund to cause to be constituted certificates of stock of the description herein mentioned, and to cause the same to be sold in the United States, or elsewhere: *Provided*, That no more than one moiety of the said stock shall be sold under par. And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such and so many of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper; and that they apply the proceeds thereof to the payment of the said debts, instead of selling certificates of stock, in the manner prescribed by this act. And such of the revenues of the United States, heretofore appropriated for the payment of interest of debts, thus discharged, shall be, and the same are hereby, pledged and appropriated towards the payment of the interest, and instalments of the principal, which shall hereafter become due, on the loan obtained of the Bank of the United States, pursuant to the eleventh section of the act for incorporating the subscribers to the said bank.

SEC. 4. *And be it further enacted*, That such of the revenues of the United States, heretofore appropriated for the payment of interest on such debts as may be liberated or set free, by payments from the proceeds of the loan herein proposed, together with such further sums of the proceeds of the duties on goods, wares and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled in the United States, and stills, as may be necessary, shall be, and the same are hereby, pledged and appropriated for the payment of the interest which shall be payable upon the sums subscribed to the said loan; and shall continue so pledged and appropriated, until the principal of the said loan shall be fully reimbursed and redeemed.

SEC. 5. *And be it further enacted*, That the principal of the said loan, bearing interest as aforesaid, shall remain fixed and irredeemable by the United States, until the close of the year one thousand eight hundred and nineteen; after which period the said loans shall be redeemed at the pleasure of the United States; and the funds which shall be liberated by the discharge of the stock of the United States, bearing a present interest of six per cent., or so much thereof as may be necessary, shall be, and the same are hereby, pledged and appropriated for the said redemption.

SEC. 6. *And be it further enacted*, That the Department of the Treasury, according to the respective duties of the offices thereof, shall, and they are hereby directed to, establish such forms and rules of proceeding, touching the execution of

this act, as shall be conformable with the provisions thereof.

Approved, May 31, 1796.

An Act providing passports for the ships and vessels of the United States.

Be it enacted, &c., That it shall be the duty of the Secretary of State to prepare a form, which, when approved by the President, shall be deemed the form of a passport for ships and vessels of the United States.

SEC. 2. *And be it further enacted*, That every ship and vessel of the United States, going to any foreign country, shall, before she departs from the United States, at the request of the master, be furnished by the collector for the district where such ship or vessel may be, with a passport of the form prescribed and established, pursuant to the foregoing section; for which passport, the master of such ship or vessel shall pay to the said collector ten dollars, to be accounted for by him: And, in order to be entitled to such passport, the master of every such ship or vessel shall be bound, with sufficient sureties, to the Treasurer of the United States, in the penalty of two thousand dollars, conditioned, that the said passport shall not be applied to the use or protection of any other ship or vessel than the one described in the same; and that, in case of the loss or sale of any ship or vessel having such passport, the same shall, within three months, be delivered up to the collector from whom it was received, if the loss or sale take place within the United States; or within six months, if the same shall happen at any place nearer than the Cape of Good Hope; and within eighteen months, if at a more distant place.

SEC. 3. *And be it further enacted*, That there shall be paid on every ship and vessel of the United States sailing or trading to any foreign country, other than some port or place in America, for each and every voyage, the sum of four dollars, to be received and accounted for by the collector, at the time of clearing outward, if such vessel be bound direct to such foreign country, from any port of the United States, or at the time of entry in the United States, if such ship or vessel shall have sailed to such foreign country, from any port or place in America, other than of the United States.

SEC. 4. *And be it further enacted*, That if any ship or vessel of the United States shall depart therefrom, after the first day of September next, and shall be bound to any foreign country, other than to some port or place in America, without such passport, the master of such ship or vessel shall forfeit and pay the sum of two hundred dollars for every such offence.

Approved, June 1, 1796.

An Act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen.

Be it enacted, &c., That the Surveyor General be and he is hereby required to cause to be surveyed the tract of land beginning at the northwest corner of the seven ranges of townships, and running thence fifty miles due south, along the western boundary of the said ranges; thence due west to the main branch of the Scioto river; thence up the main branch of the said river, to the place where the Indian boundary line crosses the same; thence along the said boundary line, to the Tuscaroras branch of the Muskingum river, at the crossing place above Fort Lawrence; thence up the said river, to the point where a line, run due west from the place of beginning, will intersect the said river; thence along the line so run to the place of beginning. And shall cause the said tracts to be divided into townships of five miles square, by running, marking, and numbering the exterior lines of the said townships, and marking corners in the said lines, at the distance of two and one half miles from each other, in the manner directed by the act, entitled "An act providing for the sales of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river;" and that the lands above described, except the salt springs therein, and the same quantities of land adjacent thereto as are directed to be reserved with the salt springs in the said recited act, and such tracts within the boundaries of the same as have been heretofore appropriated by Congress, be and they are hereby set apart and reserved for the purposes hereinafter mentioned.

SEC. 2. *And be it further enacted*, That the said land shall be granted only in tracts containing a quarter of the townships to which they belong, lying at the corners thereof; and that the Secretary of the Treasury shall, for the space of nine months, after public notice in the several States and territories, register warrants for military services, to the amount of any one or more tracts, for any person or persons holding the same; and shall, immediately after the expiration of the said time, proceed to determine by lot, to be drawn in the presence of the Secretaries of State and of War, the priority of location of the said registered warrants. And the person or persons holding the same shall severally make their locations, after the lots shall be proclaimed, on a day to be previously fixed in the before mentioned notice; in failure of which they shall be postponed in locating such warrants to all other persons holding registered warrants. And the patents for all lands located under the authority of this act, shall be granted in the manner directed by the before mentioned act, without requiring any fee therefor.

SEC. 3. *And be it further enacted*, That after the time limited for making the locations as aforesaid, any person or persons holding warrants of the before mentioned description, sufficient to cover any one or more tracts as aforesaid, shall be at liberty to make their locations on any tract or tracts not before located.

SEC. 4. *And be it further enacted*, That all the lands set apart by the first section of this act, which shall remain unlocated on the first day of January, in the year one thousand eight hundred,

shall be released from the said reservation, and shall be at the free disposition of the United States, in like manner as any other vacant territory of the United States. And all warrants or claims for lands on account of military services, which shall not, before the day aforesaid, be registered and located, shall be for ever barred.

SEC. 5. *And be it further enacted*, That the said Surveyor General be, and he is hereby, required, to cause to be surveyed three several tracts of land, containing four thousand acres each, at Shoenbrun, Gnadenhutten, and Salem; being the tracts formerly set apart by an ordinance of Congress of the third of September, one thousand seven hundred and eighty-eight, for the Society of United Brethren for propagating the Gospel among the Heathen; and to issue a patent or patents for the said three tracts to the said society, in trust for the uses and purposes in the said ordinance set forth.

SEC. 6. *And be it further enacted*, That all navigable streams or rivers within the territory to be disposed of by virtue of this act, shall be deemed to be and remain public highways. And that in all cases where the opposite banks of any stream not navigable shall belong to different persons, the stream and the bed thereof shall be common to both.

Approved, June 1, 1796.

An Act for the admission of the State of Tennessee into the Union.

Whereas, by the acceptance of the deed of cession of the State of North Carolina, Congress are bound to lay out into one or more States the territory thereby ceded to the United States:

Be it enacted, &c., That the whole of the territory ceded to the United States by the State of North Carolina shall be one State, and the same is hereby declared to be one of the United States of America, on an equal footing with the original States, in all respects whatever, by the name and title of the State of Tennessee. That, until the next general census, the said State of Tennessee shall be entitled to one representative in the House of Representatives of the United States; and in all other respects, as far as they may be applicable, the laws of the United States shall extend to and have force in the State of Tennessee, in the same manner as if that State had originally been one of the United States.

Approved, June 1, 1796.

An Act making an appropriation to satisfy certain demands attending the late insurrection; and to increase the compensations to jurors and witnesses in the courts of the United States.

Be it enacted, &c., That a sum not exceeding twenty thousand dollars, out of any moneys not otherwise appropriated, be and the same is hereby appropriated to the discharge of certain incidental demands, occasioned by the trial of persons for crimes and offences during the late insurrection, for the payment of which no special provision has been made by the law.

SEC. 2. *And be it further enacted*, That, in addition to the compensation now allowed by law to jurors and witnesses attending in the courts of the United States, there shall be allowed and paid to each grand and petit juror for his attendance fifty cents per day, and to each witness, for like attendance, fifty cents per day.

SEC. 3. *And be it further enacted*, That the sum of ten thousand dollars, out of any moneys not otherwise appropriated, be and the same is hereby appropriated for defraying the expense of clerks of courts, jurors, and witnesses, for the year one thousand seven hundred and ninety-six, in aid of the fund arising from fines, forfeitures, and penalties, and of the appropriations already made for that purpose.

Approved, June 1, 1796.

An Act limiting the time for the allowance of a drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi.

Be it enacted, &c., That, from and after the first day of July next, no drawback shall be allowed on any of the spirits distilled in the United States, which shall not be exported, pursuant to regulations heretofore enacted, and in force, within twelve months from the time when such spirits were distilled, to be ascertained by the dates of the certificates which may and ought to accompany the said spirits at the time of exportation.

SEC. 2. *And be it further enacted*, That the restriction in the fifty-sixth section of the act, entitled "An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead; and also upon spirits distilled in the United States, and for appropriating the same," shall, from and after the first day of July next, be suspended and cease to operate for the space of one year, so far as the said restriction respects any distilled spirits which may be exported from the district of Louisville, in the State of Kentucky, or from any district which may be hereafter established on the rivers Mississippi or Ohio, or the branches thereof.

Approved, June 1, 1796.

An Act making further appropriations for the year one thousand seven hundred and ninety-six.

Be it enacted, &c., That, in addition to the sums heretofore appropriated, there be further appropriated for and during the present year the following sums, that is to say: In the Department of State, for the compensation of clerks, two hundred dollars; in the Department of the Treasury, for the compensation of clerks, four thousand dollars; in the Department of War, for the additional salary of the accountant, four hundred dollars; and for the additional compensation of clerks in the said Department, seven hundred dollars; and in the Mint of the United States, for the additional salary of the clerk, two hundred dollars.

SEC. 2. *And be it further enacted*, That for the compensation of clerks in the several Loan Offices,

and for defraying the expenses of books and stationery for the said offices, during the present year, and during the year one thousand seven hundred and ninety-five, there be appropriated a sum not exceeding fourteen thousand dollars.

Sec. 3. *And be it further enacted*, That there be further appropriated towards defraying the extraordinary expenses which may be incurred during the year one thousand seven hundred and ninety-six for foreign intercourse, a sum not exceeding twenty-three thousand five hundred dollars, in addition to the sum already appropriated for that purpose by the second section of the act of the present session, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act entitled 'An act providing the means of intercourse between the United States and foreign nations."

Sec. 4. *And be it further enacted*, That there be appropriated for the contingent expenses of the Government of the United States a sum not exceeding twenty thousand dollars, subject to the disposition of the President of the United States, and for the payment of such miscellaneous demands against the United States, other than those on account of the civil department, not otherwise provided for, and which shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, a sum not exceeding two thousand dollars; and that the several appropriations hereinbefore made be, and the same are hereby, directed to be paid out of the proceeds of the duties on imports and the tonnage of ships and vessels, and the duties on domestic distilled spirits and on stills, which shall accrue until the close of the present year.

Approved, June 1, 1796.

An Act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six.

Be it enacted, &c., That, including the appropriation of five hundred thousand dollars, made for the Military Establishment for the year one thousand seven hundred and ninety-six, by an act of the present session, there be appropriated for the Military and Naval Establishments a sum not exceeding one million three hundred and eighteen thousand eight hundred and seventy-three dollars, that is to say: For the pay of the Army of the United States, the sum of two hundred and seventy-three thousand six hundred and sixty-six dollars; for subsistence of the officers of the Army, the sum of forty-five thousand six hundred and six dollars; for the subsistence of the non-commissioned officers and privates, the sum of three hundred thousand dollars; for forage, the sum of sixteen thousand five hundred and ninety-two dollars; for clothing, the sum of seventy thousand dollars; for purchase of horses for the cavalry, the sum of three thousand seven hundred and fifty dollars; for bounties, the sum of ten thousand dollars; for the hospital department, the sum of thirty thousand dollars; for the ordnance department, the sum of forty thousand dollars; for the Indian department, the sum of sixty thousand dollars; for the quartermaster's department, the sum of two hundred thousand dollars; for contingencies of the War Department, the sum of thirty thousand dollars; for the defence and protection of the frontiers, the sum of one hundred thousand dollars; for the completion of fortifications, magazines, store-houses, and barracks, at West Point, the sum of twenty thousand dollars; for the pay and subsistence of three captains in the Naval Department, the sum of five thousand dollars; for the payment of military pensions, including an allowance to the widows and children of officers, under an act, entitled "An act in addition to the act for making further and more effectual provision for the protection of the frontiers of the United States," the sum of one hundred and fourteen thousand two hundred and fifty-nine dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid and discharged out of the funds following, to wit: First. The surplus of the sum of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," and which shall accrue during the year one thousand seven hundred and ninety-six. Secondly. The surplus of revenue and income beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-six. And, thirdly. The surplus which shall remain unexpended of the moneys appropriated to the use of the War Department for the year one thousand seven hundred and ninety-five.

Sec. 3. *And be it further enacted*, That the President of the United States be empowered to borrow, at an interest not exceeding six per cent., of the Bank of the United States, which is hereby authorized to lend the same, or of any body or bodies politic, person or persons, any sum or sums not exceeding in the whole six hundred and fifty thousand dollars, and to be applied to the purposes aforesaid, and to be reimbursed, as well interest as principal, out of the funds aforesaid.

Approved, June 1, 1796.

An Act providing relief to the owners of stills within the United States for a limited time, in certain cases.

Be it enacted, &c., That in every case of a distiller who hath entered his still or stills in such manner as to be liable to pay the duty of fifty-four cents upon the capacity or capacities thereof for the year to end in June, one thousand seven hundred and ninety-six, wherein it shall be made to appear to the supervisor of the district that the said distiller has been really and truly prevented from employing or working his still or stills during any part of the term aforesaid, by the destruction or failure of fruit and grain, or any other unavoidable cause, within the district in which he resides, it shall and may be lawful for the said supervisor, on application made to him any time before the last day of September next, to admit such distiller to the benefit

of an election to pay, in lieu of the duty on the capacity of his still or stills for the year, the monthly duty of ten cents per gallon of the capacity for the time he employed his still or stills.

Approved, June 1, 1796.

An Act to suspend, in part, the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar."

Be it enacted, &c., That so much of the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar," as respects the duties therein laid upon mills and implements employed in the manufacture of snuff, and the drawbacks therein allowed upon the exportation of snuff manufactured within the United States, be suspended from the passing of this act until the end of the next session of Congress.

Approved, June 1, 1796.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the Department of War return to the respective district judges the names of all such persons as have been transmitted to him by the several district judges, pursuant to the act for the regulation of claims to invalid pensions; and in whose cases the examining physicians have neglected to specify the ratio of disability, together with such defective returns of physicians. And the said district judges, respectively, shall forthwith cause the examining physicians to specify the several rates of disability which have been so neglected; or, in case of sickness, death, or removal of one or both such physicians, to make new appointments, and cause the several rates of disability to be specified, and by the said physicians returned to them as soon as may be; of which they shall make return to the Secretary of War, who shall, at the session of Congress holden next after, or at the time of such receipt, make return thereof, with such observations as he may think proper to subjoin, that the proper order may be taken thereon by Congress.

Approved, April 18, 1796.

ACTS PASSED AT THE SECOND SESSION.

An Act to amend the act, entitled "An act for the more general promulgation of the Laws of the United States."

Be it enacted, &c., That the Secretary for the Department of State shall cause to be included in the edition of the Laws of the United States, directed to be printed by the said act, the laws of the United States, which may be passed during the present session of Congress: *Provided*, The same can be done at an expense which he shall judge reasonable.

Approved, December 21, 1796.

An Act giving effect to the Laws of the United States within the State of Tennessee.

Be it enacted, &c. That all the laws of the United States, which are not locally inapplicable, ought to have, and shall have, the same force and effect within the State of Tennessee, as elsewhere within the United States.

Sec. 2. And to the end that the act, entitled "An act to establish the judicial courts of the United States," may be duly administered within the State of Tennessee, *Be it enacted*, That the said State shall be one district, to be denominated Tennessee district; and there shall be a district court therein, to consist of one judge, who shall reside in the said district, and be called the district judge, and annually hold four sessions: the first to commence on the first Monday in April next, and the three other sessions, progressively, on the like Mondays of every three calendar months afterwards. The said district courts shall be held alternately at Knoxville and Nashville, beginning at Nashville. And the said judge shall, in all things, have and exercise the same jurisdiction and powers which, by law, are given to the judge of the district of Kentucky.

Sec. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the yearly compensation of eight hundred dollars, to commence from the date of his appointment, to be paid quarterly at the Treasury of the United States. And to the end, that the laws providing for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, may be carried into effect, in the said State of Tennessee,

Sec. 4. *Be it further enacted*, That for the due collection of the said duties, the said State of Tennessee shall be one district, and a collector shall be appointed to reside at Palmyra, which shall be the only port of entry or delivery within the said district, of any goods, wares, or merchandise, not the growth or manufacture of the United States; and the said collector shall have and exercise all the powers which any other collector hath, or may legally exercise, for collecting the duties aforesaid; and in addition to the fees, by law provided, shall be paid the yearly compensation of one hundred dollars.

Approved, January 31, 1797.

An Act to augment the compensation of the Attorney General of the United States.

Be it enacted, &c., That the compensation allowed by law to the Attorney General of the United States shall be, and the same is hereby aug-

mented, by an addition of the sum of five hundred dollars per annum, to commence on the first day of January in the present year, and payable quarter-yearly, at the public treasury.

Approved, March 2, 1797.

An Act to continue in force, for a limited time, the act, in addition to the act, for the punishment of certain crimes against the United States.

Be it enacted, &c., That the act, entitled "An act in addition to the act for the punishment of certain crimes against the United States," shall continue and be in force for and during the term of two years, and from thence to the end of the next session of Congress, and no longer.

Approved, March 2, 1797.

An Act making provision for the further accommodation of the household of the President of the United States.

Be it enacted, &c., That, after the third day of March next, the President of the United States be, and he hereby is, authorized and empowered to cause to be sold, such articles furnished by the United States for the President's household, as may be decayed, out of repair, or unfit for use; and that the proceeds of such sale, and so much of a sum, not exceeding fourteen thousand dollars in addition thereto, out of the proceeds of the duties on imports and tonnage which may accrue during the present year, as the President of the United States may judge necessary, be, and hereby are, appropriated for the accommodation of the household of the President, to be laid out and expended for such articles of furniture as he shall direct.

Approved, March 2, 1797.

An Act in addition to an act, entitled "An act concerning the registering and recording of ships or vessels," and to an act, entitled "An act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same."

Be it enacted, &c., That, whenever it shall appear, by satisfactory proof, to the Secretary of the Treasury, that any ship or vessel hath been sold and transferred by process of law, and that the register, certificate of enrolment, or license, as the case may be, of such ship or vessel is retained by the former owners, it shall be lawful for the said Secretary to order and direct the collector of the district to which such ship or vessel may belong, to grant a new register, certificate of enrolment, or license, as the case may be, on the owners, under such sale, complying with such terms and conditions as are by law required for granting of such papers; excepting only the delivering up of the former certificate of registry, enrolment, or license, as the case may be: *Provided, nevertheless*, That nothing in this act contained shall be construed to remove the liability of any person or persons to any penalty for not surrendering up the papers belonging to any ship or vessel, on a transfer or sale of the same.

Approved, March 2, 1797.

An Act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-seven.

Be it enacted, &c., That, for the expenditure of the civil list; for the extra expenses of foreign intercourse; for the support of the mint establishment, light-houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-seven; and to satisfy certain miscellaneous claims, stated in the report of the Secretary of the Treasury, of the fifteenth day of December, one thousand seven hundred and ninety-six, together with the incidental and contingent expenses of the several Departments, and the offices thereof, the following sums be respectively appropriated; that is to say:

For the compensations granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months' continuance, one hundred and thirty-eight thousand seven hundred and eighty-six dollars and sixty-seven cents.

For the expenses of fire-wood, stationery, printing-work, and all other contingent expenses of the two Houses of Congress, twelve thousand dollars.

For the compensations granted by law to the Chief Justice, Associate Judges, District Judges, and Attorney General, forty-four thousand nine hundred dollars.

For defraying the expenses of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and, likewise, for defraying the expenses of prosecutions for offences against the United States, and for safe-keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that Department, seven thousand seven hundred and ninety-two dollars and sixty-four cents.

For incidental and contingent expenses in the said Department, eight thousand seven hundred and five dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eight thousand seven hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Secretary of the Treasury, five hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, eleven thousand seven hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Treasury, and clerks employed in his office, four thousand five hundred and fifty dollars.

For expense of firewood, stationery, printing, rent, and other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, eleven thousand eight hundred and twenty-five dollars.

For expense of stationery, printing, and other contingent expenses in the Auditor's office, seven hundred and fifty dollars.

For compensation to the Commissioner of the revenue, clerks, and persons employed in his office, five thousand four hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, fifteen thousand four hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, two thousand dollars, and five hundred dollars for a clerk.

For compensation to the Secretary to the Commissioners of the Sinking Fund, including his salary from the time of his appointment to the thirty-first day of December, one thousand seven hundred and ninety-seven, four hundred and nineteen dollars and seventeen cents.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand six hundred and ninety-three dollars and thirty-three cents.

For expense of firewood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stating and printing the public accounts for the year one thousand seven hundred and ninety seven, one thousand dollars.

For the payment of certain incidental and contingent expenses of the Treasury Department, in the year one thousand seven hundred and ninety-six, beyond the sum which was appropriated, one thousand five hundred dollars.

For compensation to the several Loan officers, thirteen thousand two hundred and fifty dollars.

For clerk-hire and stationery to the Commissioners of Loans, for the year one thousand seven hundred and ninety-seven, twelve thousand dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eight thousand dollars.

For expense of firewood, stationery, printing, rent, and other contingent expenses of the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, seven thousand six hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the War Department, six hundred dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain carriers, axe-men, and other persons employed in carrying into effect the surveys to be made by the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio and above the mouth of Kentucky river, twenty-five thousand dollars.

For compensation to the Governor, Secretary, and Judges, of the territory northwest of the river Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, printing patents for land, and other contingent expenses in the said territory, three hundred and fifty dollars.

For the payment of sundry pensions granted by the late Government, one thousand one hundred and thirteen dollars and thirty-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty-seventh of February, one thousand seven hundred and ninety-three, one thousand seven hundred and fifty dollars.

For the annual allowance for the education of Hugh Mercer, son of the late Major General Mercer, by the act of Congress of the second of March, one thousand seven hundred and ninety-three, four hundred dollars.

For defraying the expenses of foreign intercourse, for the year one thousand seven hundred and ninety-seven, beyond the annual appropriations authorized by the act of Congress, passed the first day of July, one thousand seven hundred and ninety, entitled "An act providing the means of intercourse between the United States and foreign nations," seventeen thousand nine hundred dollars.

For compensations to the following officers of the Mint: The director, two thousand dollars; the treasurer, one thousand two hundred dollars; the assayer, one thousand five hundred dollars; the chief coiner, one thousand five hundred dollars; the melter and refiner, one thousand five hundred dollars; the engraver, one thousand two hundred dollars; three clerks, one at seven hundred dollars, and two at five hundred dollars each, one thousand seven hundred dollars.

For the wages of persons employed in the Mint, at the different branches of refining, melting, carpenter's, millwright's, and smith's work, including the sum of eight hundred dollars per annum, allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, seven thousand dollars.

For the payment of a deficiency which has arisen in the Mint, in coining the precious metals, by reason of wastage, the sum of one thousand eight hundred and forty-five dollars and ninety-

six cents; and for the payment of a deficiency which has arisen by reason of the loss of a quantity of silver, the further sum of nine hundred and seventy-four dollars and seventy-six cents.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies for the establishment of the Mint, seven thousand four hundred dollars.

For the discharge of such demands against the United States, on account of the Civil Department, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, one thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, for the year one thousand seven hundred and ninety-seven, twenty-eight thousand five hundred dollars.

For completing a light-house on the island of Seguin, two thousand one hundred and seventy dollars.

For completing the payment due for building the light-house on Baldhead, North Carolina, one thousand three hundred and fifty-nine dollars and fourteen cents.

For completing a light-house on Montauk point, two thousand seven hundred and forty dollars and sixty-seven cents.

For the balance carried to the "Surplus Fund," of an appropriation for building a light-house on Montauk point, thirteen thousand dollars.

For extra clerkship, necessary for a part of the present year in the Loan office, for consolidating the accounts of assumed and original debt, agreeable to the thirteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, two thousand five hundred dollars.

For the payment of the representatives of Samuel Patterson, late Commissioner of the Loan office for the State of Delaware, two hundred and seventy-two dollars and eighty-nine cents.

For the payment of a balance due to James O'Hara, late agent for the Quartermaster's department, two hundred and thirty-five dollars and eighty-one cents.

For the payment of a balance due to Timothy Pickering, as commissioner appointed to hold the Indian treaties at Canandaigua and Oneida, three thousand four hundred and sixty-three dollars and twelve cents.

For compensation to persons employed in bringing votes to the seat of Government for electors of the President and Vice President of the United States, one thousand six hundred dollars.

For making good certain deficiencies arising from the balance of moneys of various appropriations, being carried to the credit of the "Surplus Fund," in pursuance of the sixteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, viz:

For payment of the clerks employed by the Commissioners of Loans, for the State of Massachusetts, New York, and North Carolina, for the quarter ending the thirtieth of March, one thousand seven hundred and ninety-five, seven hundred and eighty-nine dollars and seventy cents.

For the payment of a balance due to Timothy Pickering, Beverly Randolph, and Benjamin Lincoln, commissioners appointed to negotiate and treat with the Indians, northwest of the river Ohio, on the second day of March, one thousand seven hundred and ninety-three, three thousand two hundred and forty-seven dollars and fifty-six cents.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States;" together with so much as may be necessary, of the proceeds of the duties on imports and the tonnage of ships and vessels, and the duties on domestic distilled spirits and stills, which shall accrue until the close of the present year.

Approved, March 3, 1797.

An Act relative to the compensations and duties of certain officers employed in the collection of import and tonnage.

Be it enacted, &c., That, in lieu of the commissions heretofore established by law, there shall be allowed to the collectors of the duties of impost and tonnage, on all moneys by them respectively received on account of the duties aforesaid arising on tonnage, and on goods, wares, and merchandise, imported after the last day of March in the present year, as follows: to wit,

To each of the collectors of the districts of Pennsylvania and New York, one quarter per cent.

To each of the collectors of the districts of Boston and Charlestown, and of Baltimore, one half per cent.

To each of the collectors of the districts of Charleston, Salem, and of Norfolk and Portsmouth, seven-eighths of one per cent.

To each of the collectors of the districts of Alexandria and Savannah, one per cent.

To the collector of the district of Newburyport, one and one-fourth per cent.

To each of the collectors of the districts of Portsmouth, Portland, Newport, Providence, and Newhaven, one and one-half per cent.

To each of the collectors of the districts of Georgetown (in Maryland) and Marblehead, two and one-half per cent.

To each of the collectors of the districts of New London, Biddeford, Bath and Wiscasset, two per cent.

And to each of the collectors of the districts of Tappahannock, Vermont, Champlain, Gloucester, Ipswich, Plymouth, Barnstable, Nantucket, Edgartown, New Bedford, Dighton, York, Penobscot, Frenchman's Bay, Machias, Passamaquoddy, Waldoborough, Middletown, Fairfield, Sag Harbour, Hudson, Perth-Amboy, Burlington, Bridgetown, Little-Egg Harbor, Wilmington (in Delaware,) Havre-de-Grace, Chester, Oxford, Vienna, Snow Hill, Annapolis, Nottingham, Nanjemoy, Bermuda Hundred, Hampton, Yorktown, Yeocomico, Dumfries, Foley Landing, Cherrystone, South Quay, Kentucky, Wilmington (North Carolina,) Newbern, Washington, Edenton, Camden, Georgetown (South Carolina,) Beaufort, Sunbury, Brunswick, St. Mary's, Hardwick, and Tennessee, three per cent.

Sec. 2. *And be it further enacted*, That, from and after the last day of March in the present year, in lieu of the yearly allowances heretofore established by law, there shall be yearly allowed to the following officers the sums following: to wit,

To each of the collectors of the districts of Annapolis, Havre-de-Grace, Gloucester, South Quay, Yeocomico, Tappahannock, Newbern, Edenton, Camden, Wilmington (North Carolina,) Nanjemoy, Ipswich, York, Washington, Passamaquoddy, Saint Mary's, Vermont, Champlain, and Bermuda Hundred, the sum of two hundred and fifty dollars.

To each of the collectors of the districts of Oxford, Vienna, Chester, Sag Harbor, Nottingham, Hampton, York Town, Dumfries, Foley Landing, Cherrystone, Beaufort, Brunswick, and Hardwick, the sum of two hundred dollars.

To each of the collectors of the districts of Perth Amboy, Kentucky, Portsmouth, Hudson, Plymouth, Barnstable, Nantucket, Edgartown, New Bedford, Dighton, Penobscot, Frenchman's Bay, Machias, Newport, Middletown, Fairfield, Burlington, Bridgetown, Great Egg Harbor, Little Egg Harbor, Wilmington (in Delaware,) Snow Hill, Georgetown (in South Carolina,) Sunbury, Tennessee, Marblehead, Newhaven, and Georgetown (in Maryland,) the sum of one hundred and fifty dollars.

To each of the collectors of Biddeford, Bath, and Wiscasset, one hundred dollars.

To the naval officer of the district of Portsmouth, two hundred dollars.

To each of the naval officers of the districts of Newburyport, Salem, Newport, Providence, Wilmington (in North Carolina,) and Savannah, the sum of one hundred and fifty dollars.

To each of the surveyors of Salem, Portsmouth, Newburyport, Bristol, Warren, East Greenwich, Saint Mary's, Suffolk, Smithfield, Richmond, Petersburg, Fredericksburg, Wilmington, Beaufort, and Swansborough, the sum of two hundred and fifty dollars.

To each of the surveyors of Newport, Providence, Thomastown, Beverly, Newhaven, Middletown, Hartford, Saybrook, Albany, Hudson, Lewellensburg, Portland, North Kingston, Pawhatuck, Patuxet, New London, Stonington, Town Creek, Bermuda Hundred, West Point, Urbanna, Port Royal, Alexandria, Windsor, Hertford, Plymouth, Skewarky, Murfreesborough, Bennet's Creek, Winton, Nixonton, New Biggen Creek, Pasquotank river, Indian Town, Currituck inlet, Savannah, and New Brunswick (in New Jersey,) the sum of one hundred and fifty dollars.

Sec. 3. *And be it further enacted*, That, from and after the last day of March in the present year, in lieu of the sum heretofore established by law, there shall be paid to each inspector, for every day he shall be employed in aid of the customs, a sum not exceeding two dollars; and that, instead of the sum heretofore established by law to be paid for the weighing of every one hundred and twelve pounds, in the districts of Pennsylvania and New York there shall be paid one cent, in the districts of Boston and Charlestown, and of Baltimore, one cent and a quarter; and the weighers in the several districts shall defray all expense of laborers in weighing, and shall mark on each cask, box, bag, or package, the weight thereof, where the same is not less than three hundred pounds, if thereunto required by the owner at the time of weighing.

Sec. 4. *And be it further enacted*, That, from and after the last day of March in the present year, all fees arising on the exportation of any goods, wares, or merchandise, on which drawbacks are allowed, shall be equally shared among the collector, naval officer, and surveyor, where there are such officers at the port where such fees are paid, to be accounted for quarterly by the collector or naval officer who shall receive the same; and where there is no naval officer, such fees shall be divided equally between the collector and the surveyor who may have been concerned in attending to such exportation. And the surveyors shall pay their proportion of the expense of stationery and printing.

Sec. 5. *And be it further enacted*, That, previous to a clearance being granted to any vessel outward bound, the legal fees which shall have accrued on such vessel, shall be paid at the office or offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before such clearance is granted.

Sec. 6. *And be it further enacted*, That a surveyor be appointed for the port of New Brunswick in New Jersey, to reside at New Brunswick. And the port of Marblehead shall hereafter be a port at which vessels arriving from beyond the Cape of Good Hope may enter and unlade.

Approved, March 3, 1797.

An Act for raising a further sum of money, by additional duties on certain articles imported, and for other purposes.

Be it enacted, &c., That, from and after the thirtieth day of June next the following duties in addition to those now in force, and payable on the several articles hereinafter enumerated, shall be laid, levied, and collected upon those articles respectively, at their importation into the United States from any foreign port or place, viz: upon all brown sugar, per pound one half cent; upon

all bohea tea, per pound, two cents; upon all molasses, per gallon, one cent; and upon all velvets and velverets, whether printed, stained, colored, or otherwise, and upon all muslins and muslinets, and other cotton goods, not printed, stained or colored, two and a half per centum, ad valorem.

SEC. 2. *And be it further enacted*, That, from and after the said thirtieth day of June next, the duties now in force and payable upon sugar-candy and cocoa imported into the United States shall cease; and that, in lieu thereof, there shall thenceforth be levied and collected the following duty: viz., upon all sugar-candy, at its importation into the United States from any foreign port or place, nine cents per pound; and upon all cocoa upon its importation as aforesaid, two cents per pound.

SEC. 3. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandise, as aforesaid, as shall, after the said last day of June next, be imported in ships or vessels not of the United States.

SEC. 4. *And be it further enacted*, That the duties laid by this act, shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, with the several duties now in force on the respective articles hereinbefore enumerated.

SEC. 5. *And be it further enacted*, That, on account of the additional duties laid on brown sugar and molassess by this act, the following sums, respectively, shall, from and after the last day of December next, be added to drawbacks now allowed and paid by law on sugar refined within the United States, and exported therefrom, and on spirits distilled from molasses within the United States, and exported therefrom, viz: on all sugar so refined and exported, one cent per pound; and on all spirits so distilled and exported, one cent per gallon; which additional drawbacks shall be allowed and paid according to the regulations now established by law, respecting the present drawbacks allowed on the said articles.

SEC. 6. *And be it further enacted*, That the proceeds of the duties laid by this act, shall be solely appropriated to the following purpose, that is to say: First, for the payment of the principal of the present foreign debt of the United States. Secondly, for the payment of the principal of the debt due by the United States to the Bank of the United States.

Approved, March 3, 1797.

An Act repealing in part the "Act concerning the duties on spirits distilled within the United States," passed the eighth of May, one thousand seven hundred and ninety-two; and imposing certain duties on the capacity of stills of a particular description.

Be it enacted, &c., That, in respect to stills employed in distilling spirits from materials of the growth and produce of the United States, at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there are one or more stills, which singly, if only one, or together, if more than one, are of less capacity than four hundred gallons, the option and alternative of paying a duty of seven cents for every gallon of spirits distilled in such stills, as secured and allowed by the first section of the act, entitled "An act concerning the duties on spirits distilled within the United States," passed on the eighth day of May, one thousand seven hundred and ninety-two, be, and the same is hereby, declared to be, abolished, from and after the thirtieth day of June ensuing.

SEC. 2. *And be it further enacted*, That, in lieu of the option and alternative aforesaid, the proprietor or possessor of any such still or stills, as are above mentioned, shall, and may, after the first day of July ensuing, be charged with and shall pay the following duties, to wit: For a license for the employment of each and every such still, for and during the term of two weeks, six cents per gallon, according to the capacity or content of every such still, including the head thereof. For a license for and during the term of one month, ten cents per gallon, as aforesaid. For a license for and during the term of two months, eighteen cents per gallon, as aforesaid. For a license for and during the term of three months, twenty-four cents per gallon, as aforesaid. For a license for and during the term of four months, thirty cents per gallon, as aforesaid. For a license for and during the term of five months, thirty-six cents per gallon, as aforesaid. And for a license for and during the term of six months, forty-two cents per gallon, as aforesaid.

SEC. 3. *And be it further enacted*, That upon the sale or transfer of any still licensed according to this act, the right and privilege of using such still during the time for which such license may remain in force, shall accrue to the new proprietor or possessor, due entry of the sale or transfer being previously made with the proper officer of inspection.

SEC. 4. *And be it further enacted*, That every distiller, as aforesaid, who shall commence any distillation, prior to obtaining a license therefor, shall pay a duty equal to that demandable in consequence of a license for six months; and no new license shall be granted for any still until all duties which have accrued thereon shall have been paid and discharged.

SEC. 5. *And be it further enacted*, That the several provisions and clauses of the acts heretofore passed, and remaining in force, for laying, securing, and collecting duties on spirits distilled within the United States, and on stills; for regulating the exportation of such spirits, and for making an allowance to the exporters of the same, by way of drawback, shall extend to and remain in full force, with respect to the several provisions and clauses of this act, subject only to the alterations hereby made.

Approved, March 3, 1797.

An act authorizing the President of the United States to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to apply a sum not exceeding two hundred and eighty thousand two hundred and fifty-nine dollars and three cents to the expenses which may have been incurred in any negotiations with the Dey and Regency of Algiers, beyond the sums heretofore appropriated; and that the said sum of two hundred and eighty thousand two hundred and fifty-nine dollars and three cents be, and the same is hereby, appropriated for that purpose.

SEC. 2. *And be it further enacted*, That a further sum, not exceeding ninety-six thousand two hundred and forty-six dollars and sixty-three cents, be, and the same is hereby, appropriated for discharging the two first years' annuity to the Dey and Regency of Algiers, pursuant to treaty, in addition to the sum appropriated for that purpose by the act of the sixth of May, one thousand seven hundred and ninety-six.

SEC. 3. *And be it further enacted*, That the said several sums shall be paid and discharged out of any moneys arising from the revenues of the United States, beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-seven.

Approved, March 3, 1797.

An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned.

Be it enacted, &c., That, whenever any person or persons who shall have incurred any fine, penalty, forfeiture, or disability, or or shall have been interested in any vessel, goods, wares, or merchandise, which shall have been subject to any seizure, forfeiture, or disability, by force of any present or future law of the United States for the laying, levying, or collecting, of any duties or taxes, or by force of any present or future act concerning the registering and recording of ships or vessels, or any act concerning the enrolling and licensing ships or vessels employed in the coasting trade or fisheries, andf or regulating the same, shall prefer his petition to the judge of the district, in which such fine, penalty, forfeiture, or disability, shall have accrued, truly and particularly setting forth the circumstances of his case, and shall pray that the same may be mitigated or remitted, the said judge shall inquire, in a summary manner, into the circumstances of the case, first causing reasonable notice to be given to the person or persons claiming such fine, penalty, or forfeiture, and to the attorney of the United States, for such district, that each may have an opportunity of showing cause against the mitigation or remission thereof; and shall cause the facts which shall appear, upon such inquiry, to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury of the United States, who shall, thereupon, have power to mitigate or remit such fine, forfeiture, or penalty, or remove such disability, or any part thereof, if, in his opinion, the same shall have been incurred without wilful negligence, or any intention of fraud in the person or persons incurring the same; and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued, upon such terms and conditions as he may deem reasonable and just.

SEC. 2. *And be it further enacted*, That the judicial courts of the several States, to whom, by any of the said acts, a jurisdiction is given, shall and may exercise all and every power in the cases cognizable before them, for the purpose of obtaining a mitigation or remission of any fine, penalty, or forfeiture, which may be exercised by the judges of the district courts in cases depending before them.

SEC. 3. *Provided always, and be it further enacted*, That nothing herein contained shall be construed to affect the right or claim of any person to that part of any fine, penalty, or forfeiture, incurred by the breach of any of the laws aforesaid, which such person shall or may be entitled to, by virtue of the said laws, in cases where a prosecution has been commenced, or information has been given before the passing of this act or any other act relative to the mitigation or remission of such fines, penalties, or forfeitures: the amount of which right and claim shall be assessed and valued by the proper judge, or court, in a summary manner.

SEC. 4. *And be it further enacted*, That this act shall continue in force for the term of two years, and from thence to the end of the next session of Congress, and no longer.

Approved, March 3, 1797.

An Act to authorize the receipt of evidences of the Public Debt, in payment for the lands of the United States.

Be it enacted, &c., That the evidences of the public debt of the United States shall be receivable in payment for any of the lands which may be hereafter sold, in conformity to the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio, and above the mouth of Kentucky river," at the following rates, viz: The present foreign debt of the United States, and such debt or stock as at the time of payment shall bear an interest of six per centum per annum, shall be received at their nominal value; and the other species of debt, or stock of the United States, shall be received at a rate bearing the same proportion to their respective market price at the seat of Government, at the time of payment, as the nominal value of the above-mentioned six per centum stock shall, at the same time, bear to its market price at the same place—the Secretary of the Treasury, in all cases, determining what such market price is.

Approved, March 3, 1797.

An Act to alter the time for the next meeting of Congress.

Be it enacted, &c., That, after the end of the

present session, the next meeting of Congress shall be on the first Monday of November, in the present year.

Approved, March 3, 1797.

An Act to amend and repeal, in part, the act, entitled "An act to ascertain and fix the Military Establishment of the United States."

Be it enacted, &c., That the third section of the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to ascertain and fix the Military Establishment of the United States," together with all other parts thereof which relate to provision made for the major general and his staff, be repealed; and that all such parts of the said act, together with so much of the twenty-third section as may be construed to affect the brigadier, and the whole of the eleventh section of the said act be, and are hereby, repealed.

SEC. 2. *And be it further enacted*, That there shall be one brigadier general, who may choose his brigade major and inspector from the captains and subalterns in the line, (to each of whom there shall be allowed the monthly pay of twenty-five dollars, in addition to his pay in the line, and two rations extraordinary per day; and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof.) That there shall be one judge advocate, who shall be taken from the commissioned officers of the line, and shall be entitled to receive two rations extra per day, and twenty-five dollars per month, in addition to his pay in the line; and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof.

SEC. 3. *And be it further enacted*, That there shall be one quartermaster general, and one paymaster general, who shall receive the same pay and emoluments, respectively, which those officers have heretofore been allowed by law.

SEC. 4. *And be it further enacted*, That, from and after the thirtieth day of June next, the monthly pay of the lieutenants shall be thirty dollars, and that of the ensigns twenty-five dollars; that to the brigadier, while commander-in-chief, and to each officer, whilst commanding a separate post, there shall be allowed twice the number of rations to which they would otherwise be entitled.

SEC. 5. *And be it further enacted*, That the majors be entitled to receive four rations per day, for their daily subsistence.

SEC. 6. *And be it further enacted*, That, to each commissioned officer who may have been deranged under the act "to ascertain and fix the Military Establishment of the United States," there shall be paid the amount of six months' pay and subsistence.

Approved, March 3, 1797.

An Act making appropriations for the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven.

Be it enacted, &c., That, for the support of the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven, the following sums be respectively appropriated—that is to say:

For the pay of the Army of the United States, the sum of two hundred and fifty-six thousand four hundred and fifty dollars.

For the subsistence of the officers of the army, a sum not exceeding forty-seven thousand three hundred and ninety-five dollars.

For the subsistence of the non-commissioned officers and privates, a sum not exceeding two hundred and forty-five thousand two hundred and eighty-three dollars.

For forage, the sum of fourteen thousand nine hundred and four dollars.

For clothing, a sum not exceeding eighty-three thousand and fifty dollars.

For the purchase of horses and equipments for the cavalry, sixteen thousand and eighty-five dollars.

For the hospital department, a sum not exceeding ten thousand dollars.

For the ordnance department, a sum not exceeding forty thousand dollars.

For the fortifications of the ports and harbors of the United States, a sum not exceeding twenty-four thousand dollars.

For the quartermaster's department, the Indian department, the defensive protection of the frontiers, bounties, and all the contingent expenses of the War Department, a sum not exceeding three hundred thousand dollars.

To make good deficiencies in the appropriations in the Military Establishment, for the year one thousand seven hundred and ninety-six, the sum of seventy-six thousand three hundred and twelve dollars.

For the pay and subsistence of three captains in the Naval Department, and for the pay of laborers employed in taking care of the frigates, the sum of five thousand dollars.

For finishing the frigates United States, Constitution, and Constellation, the sum of one hundred and seventy-two thousand dollars.

For the payment of military pensions, including an allowance to the widows and children of officers, under an act entitled "An act in addition to the act for making further provision for the protection of the frontiers of the United States," the sum of ninety-six thousand three hundred and fifty dollars.

To satisfy and discharge claims for militia services on the frontiers of Georgia, the sum of seventy thousand four hundred and ninety-six dollars and thirty-five cents: for militia services on the frontiers of Kentucky, three thousand eight hundred and thirty-six dollars and seventy-six cents: and for militia services on the frontiers of South Carolina, the sum of forty-eight thousand four hundred dollars and twenty-five cents.

For the payment of General John Sevier and his brigade, for services in the year 1793, the sum of twenty-two thousand eight hundred and sixteen dollars and thirty-five cents.

For the payment of six months' pay and subsistence to each of the officers discharged under

the act, "to ascertain and fix the Military Establishment of the United States," a sum not exceeding three thousand dollars: which sums shall be solely applied to the objects for which they are respectively appropriated.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid and discharged out of the surplus of revenue and income beyond the appropriations heretofore charged thereon, to the end of the present year.

Approved, March 3, 1797.

An Act to suspend in part the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar," and to grant relief in certain cases arising under the said act.

Be it enacted, &c., That so much of the act entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar," as respects the duties therein laid upon mills and implements employed in the manufacture of snuff, and the drawbacks therein allowed upon the exportation of snuff manufactured within the United States, be suspended from the passing of this act until the end of the next session of Congress.

SEC. 2. *And be it further enacted*, That in all cases of licenses granted under the said act, where, by failure of water, or other casualty occurring to the mill or mills, or to the implements, or to the proprietor or other person licensed, the use and benefit of such license has been lost, or considerably interrupted, and the duties thereon required or paid may be considered as peculiarly unequal and injurious, the Secretary of the Treasury, upon due representation and proof of such case, shall be and he hereby is authorized to cause to be refunded or remitted, such part of the duties paid or secured on such license, as shall appear just and reasonable under the circumstances of the case, and having regard to the loss, injury, or peculiar hardship sustained as aforesaid.

Approved, March 3, 1797.

An Act in addition to the act, entitled "An act to establish the Post Office and Post Roads within the United States."

Be it enacted, &c., That the following post roads be discontinued, namely: From Blue-hill, in Maine, to Penobscot, Frankfort, and Belfast; from Bardstown, in Kentucky, to Nashville, in Tennessee; from Taunton to Providence; from Bethlehem, by Reading, to Lancaster; from Elkton to Warwick; from Georgetown to Cheraw Court-house; from Bethlehem to Wilkesbarre; from Plymouth to Windsor; from Winton, by the bridge on Bennett's creek, to R. Mitchell's; from Mecklenburg to Halifax Court-house; from Richmond, by New Castle, to Aylett's Warehouse; from Morgantown, by Lincolntown, to Pinckney Court-house; from Springfield, by Northampton, Brattleborough and Charleston, by Windsor, in Vermont, to Hanover.

SEC. 2. *And be it further enacted*, That the following be established as post roads, namely: From Blue-hill, in Maine, through Castine, Penobscot, Buckston, Frankfort and Prospect, to Belfast; from Hallowell, in Maine, to Farmington, on Sandy river; from Portland, in Maine, by Falmouth, Gorham, Buxton and Standish, to Limerick; from Berwick, in Maine, through Lebenon, Shapleigh and Parsonfield, to Limerick; from Standish, by Flintstown, to Fryburg Academy; from Sandwich, by Tamworth and Conway, in New Hampshire, to Fryburg, in Massachusetts; from Portsmouth to Dover, in New Hampshire; from Newburyport to Haverhill; and from Haverhill, by Kingston, Exeter, Newmarket and Durham, to Dover; from Yarmouth, by Dennis, Harwich and Chatham, to Truro; from Worcester, in Massachusetts, by Petersham and Northfield, to Brattleborough, in Vermont; from Newport, in Rhode Island, through Taunton, Norton, Mansfield and Sharon, to Boston; from Boston, through Charlestown, Medford, Woburn, Billerica, Chelmsford and Tyngsborough, in Massachusetts, to Amherst, in New Hampshire; from Windsor, in Vermont, by Royalton, Randolph, Williamston and Montpelier, to Burlington; from New Haven, in Connecticut, by such route as the postmaster shall deem expedient, to Litchfield and Sheffield, in Massachusetts; from New York, by Whiteplains, Bedford, Frederickstown, Dover, Sharon, Sheffield, Stockbridge, Pittsfield and Williamston, to Bennington in Vermont; from Lansyngburg, in New York, by Waterford, Stillwater, Fort Edward, Whitehall-landing and Fairhaven, to Rutland, in Vermont; from New York to Hackensack, Paramus, New Antrim, thence to Chester and Goshen; from Lansyngburg, by Salem, Fairhaven, Vergennes and Bason harbor, to Plattsburg; from Plattsburg to Pliny Moore's, in the town of Champlain; from Schenectady, by Ballston Springs and Glen's bridge, to Sandyhill; from Old Fort Schuyler, in New York, by Cincinnatus, to Oxford Academy, on the Chenango; from Rome, in the State of New York, to Rotterdam, on the Oneida Lake; from Philadelphia to Tuckerton, in New Jersey; from Bristol, in Pennsylvania, to Burlington, in New Jersey; from Bethlehem, by Easton, to Wilkesbarre, in Pennsylvania; from Harrisburg upon the east side of the Susquehannah river, to Clark's ferry, at Petersburg, by Millerstown, Thompsontown, Mifflintown, Lewiston, and Huntingdon, to Alexandria; from thence by Centre-furnace and Bellefount, to Milesburg, on the Bald-eagle river, at the mouth of Spring creek; from thence by Aaronsburg, Mifflinsburg, Louisburg (Deerston) and Northumberland, to Sunbury; and from thence down the east side of the Susquehannah river, to Harrisburg; from Somerset, through Connelsville, to Uniontown, and from Bedford, in Pennsylvania, the mail shall be carried through Somerset, to Greensburg, after the expiration of the present contract for carrying the mail; from Baltimore, by Ellicot's lower mills, Montgomery Court-house, and Charlesburg, to Leesburg in Virginia; from Morgantown, in Virginia, to Clarksburg, in Harrison county; from Leesburg, by Middleburg, in Loudoun county, by Fauquier Court-house to

Culpeper Court-house; from Petersburg, by Sussex Court-house, and Southamptown Court-house, to South Quay; from Richmond, by Hanovertown, to Aylett's warehouse; from Todd's bridge to King and Queen Court-house; from Halifax Court-house, in Virginia, by Danville, to Caswell Court-house, in North Carolina; from Newburn to Beaufort and Swansborough, the mail to go alternately; and from Wilmington, in North Carolina, by Georgetown to Charleston, in South Carolina; from Jonesburg, in North Carolina, by Northwest-river bridge, Great bridge, and Kempsville, to Norfolk; from Elizabeth City, in North Carolina, by New Lebanon, to Northwest-river bridge; from Morgantown, by Rutherfordton, to Spartan Court-house, in South Carolina, and from Charlotte, by Lincolnton, to Iredell; from Bethania, in North Carolina, by Grayson Courthouse, to Wythe Court-house in Virginia; from Mecklenberg Court-house, to return by Lunenberg Court-house and Edmonds's store, to Goldson's; from Augusta, in Georgia, by Robison's, at the White Ponds and Gillett's mill, to Coosawatchie, in South Carolina; from Moffet's store, in Tennessee, to Danville, in Kentucky; from Knoxville, by Southwest Point, and Fort Blount, to Nashville; from Winton, by Windsor, to Edenton; from Murfreesborough, by South Quay, to Suffolk, in Virginia; from Fayetteville to Pittsburg, in Chatham county; from Nothingham to Lower Marlborough in Maryland; from Benedict to Chaptico, by Charlotte-hall Academy; from Allen's fresh, in Maryland, by Laidlor's ferry, to Port Conway, in Virginia; from Waynesborough to Louisville, by Georgetown to Rock-landing, in Georgia, from Kanondaigua, in the State of New York, to Niagara; from Suffield, in Connecticut, by Northampton, Brattleborough and Charlestown, by Windsor, in Vermont, to Hanover; from Springfield, by West Springfield, to Northampton; and that the route of the mail, from Easton, on the Eastern-shore of Maryland, to Vienna, shall be through Newmarket.

Sec. 3. *And be it further enacted*, That the Postmaster General be authorized to expend, for clerk-hire, a sum not exceeding five hundred dollars, in addition to the sum heretofore allowed; and that he be authorized to charge the United States with two hundred and seventy-one dollars and fifty-two cents, for the occasional hire of extra clerks, from the first of January to the thirty-first of December, one thousand seven hundred and ninety-six.

Sec. 4. *And be it further enacted*, That, from and after the passing of this act, every person who shall procure, aid, advise, or assist in the doing or perpetration of any of the crimes or acts forbidden to be done or perpetrated by the act, entitled "An act to establish the post office and post roads within the United States," shall be subject to the same punishments and penalties as the persons are subject, who shall actually do, or perpetrate any of the acts or crimes forbidden by the said act.

Sec. 5. *And be it further enacted*, That, from and after the thirty-first day of March of the present year, instead of the compensation heretofore allowed by law to the deputy postmasters, the Postmaster General be hereby authorized to allow to the deputy postmasters, respectively, such commission on the moneys arising from the postages of letters and packets, as shall be adequate to their respective services and expenses: *Provided*, That the said commission shall not exceed thirty per cent. on the first hundred dollars collected in one quarter, and twenty-five per cent. on a sum over one hundred, and not more than three hundred dollars; and twenty per cent. on any sum over four hundred and not exceeding two thousand dollars; and eight per cent. on any sum collected, being over two thousand four hundred dollars; except to the deputy postmasters who may be employed in receiving and despatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars in one quarter; and excepting, to the deputy postmasters, at offices where the mail is regularly to arrive between the hours of nine o'clock at night and five o'clock in the morning; whose commission on the first hundred dollars collected in one quarter, may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the deputy postmasters, respectively, a commission of fifty per cent. on the money arising from the postages of newspapers, magazines, and pamphlets; and to the deputy postmasters, whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the deputy postmaster himself: *Provided*, That the authority given by this section to the Postmaster General to regulate the commissions to be allowed to the deputy postmasters, shall continue in force until the thirty-first day of March, one thousand seven hundred and ninety-eight, and no longer: And that it shall be his duty to report to the said session, the respective commissions which he shall have allowed, by virtue of the authority herein given.

Sec. 6. *And be it further enacted*, That no newspapers shall be received by the deputy postmasters, to be conveyed by post, unless they are sufficiently dried and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers which are enclosed for subscribers, and the number for printers. The deputy postmasters shall form all newspapers deposited in their offices to be conveyed by post, into mails; and if any deputy postmaster shall open, or permit any mail of newspapers not directed to his office to be opened, he shall, on conviction thereof, forfeit for every such offence, a sum not exceeding twenty dollars; and any other person who shall open such mail of newspapers, on conviction thereof, shall forfeit a sum not exceeding twenty dollars for every such offence: *Provided*, That when mails are directed to places where no post office is kept, they may be opened at the post office most convenient to such place, and may also be opened where the direction is effaced.

Sec. 7. *And be it further enacted*, That this act shall not be construed to affect any existing contracts.

Sec. 8. *And be it further enacted*, That it shall be the duty of the Postmaster General, to report annually to Congress every post road which shall not, after the second year, from its establishment, have produced one-third of the expense of carrying the mail on the same.

Sec. 9. *And be it further enacted*, That all letters and packets to George Washington, now President of the United States, after the expiration of his term of office, and during his life, shall be received and conveyed by post free of postage.

Approved, March 3, 1797.

An Act to provide more effectually for the settlement of accounts between the United States and Receivers of public money.

Be it enacted, &c., That, when any revenue officer, or other person accountable for public money, shall neglect or refuse to pay into the Treasury the sum or balance reported to be due to the United States upon the adjustment of his account, it shall be the duty of the Comptroller, and he is, hereby, required to institute suit for the recovery of the same, adding to the sum stated to be due on such account the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per cent. per annum, from the time of receiving the money until it shall be repaid into the Treasury.

Sec. 2. *And be it further enacted*, That in every case of delinquency where suit has been or shall be instituted, a transcript from the books and proceedings of the Treasury, certified by the Register, and authenticated under the seal of the Department, shall be admitted as evidence, and the court trying the cause shall be thereupon authorized to grant judgment, and award execution accordingly. And all copies of bonds, contracts, or other papers relating to or connected with the settlement of any account between the United States and an individual, when certified by the Register to be true copies of the original on file, and authenticated under the seal of the Department, as aforesaid, may be annexed to such transcripts, and shall have equal validity and be entitled to the same degree of credit which would be due to the original papers, if produced and authenticated in court: *Provided*, That where suit is brought upon a bond, or other sealed instrument, and the defendant shall plead "*non est factum*," or upon motion to the court, such plea or motion being verified by the oath or affirmation of the defendant, it shall be lawful for the court to take the same into consideration, and (if it shall appear to be necessary for the attainment of justice) to require the production of the original bond, contract, or other paper specified in such affidavit.

Sec. 3. *And be it further enacted*, That where suit shall be instituted against any person or persons indebted to the United States, as aforesaid, it shall be the duty of the court where the same may be pending to grant judgment at the return term, upon motion, unless the defendant shall, in open court, (the United States attorney being present,) make oath or affirmation that he is equitably entitled to credits which had been, previous to the commencement of the suit, submitted to the consideration of the accounting officers of the Treasury and rejected; specifying each particular claim so rejected, in the affidavit, and that he cannot then come safely to trial. Oath or affirmation to this effect being made, subscribed, and filed, if the court be thereupon satisfied, a continuance until the next succeeding term may be granted, but not otherwise, unless as provided in the preceding section.

Sec. 4. *And be it further enacted*, That in suits between the United States and individuals, no claim for a credit shall be admitted upon trial but such as shall appear to have been presented to the accounting officers of the Treasury for their examination, and by them disallowed, in whole or in part, unless it shall be proved to the satisfaction of the court that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States or some unavoidable accident.

Sec. 5. *And be it further enacted*, That where any revenue officer, or other person hereafter becoming indebted to the United States, by bond or otherwise, shall become insolvent, or where the estate of any deceased debtor, in the hands of executors or administrators, shall be insufficient to pay all the debts due from the deceased, the debt due to the United States shall be first satisfied; and the priority hereby established shall be deemed to extend as well to cases in which a debtor, not having sufficient property to pay all his debts, shall make a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor, shall be attached by process of law, as to cases in which an act of legal bankruptcy shall be committed.

Sec. 6. *And be it further enacted*, That all writs of execution upon any judgment obtained for the use of the United States in any of the courts of the United States in one State, may run and be executed in any other State, or in any of the Territories of the United States, but shall be issued from, and made returnable to, the court where the judgment was obtained, any law to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That nothing in this act shall be construed to repeal, take away, or impair any legal remedy or remedies for the recovery of debts now due or hereafter to be due to the United States, in law or equity, from any person or persons whatsoever, which remedy or remedies might be used if this act was not in force.

Approved, March 3, 1797.

An Act authorizing an expenditure, and making an appropriation for the prosecution of the claims of certain citizens of the United States for property captured by the belligerant Powers.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to

advance, on account of the several prize causes before the Court of Admiralty and Court of Appeals, in England, a sum sufficient to defray the costs thereof, so far as the agents of the United States may have become sureties for the same. And that for defraying, during the year one thousand seven hundred and ninety-seven, that expense, and that which may be incurred in procuring from the Admiralty Courts of any of the belligerant Powers copies of papers relative to the property of American citizens captured by any of the said Powers, a sum not exceeding fifty thousand dollars, shall be, and hereby is, appropriated, in addition to the sums which, from the appropriations for intercourse with foreign nations, have been expended under the direction of the President of the United States in the prosecution of those claims; which sum shall be paid from any moneys which may be in the Treasury, not otherwise appropriated.

Sec. 2. *And be it further enacted*, That, from the money which has been, or which shall be received on any claim, as aforesaid, all costs in the prosecution therefor, which have been, or which shall be incurred by the United States, shall be taken and deducted, or otherwise refunded, and shall be accounted for by the agent or agents employed therein, under the direction of the President; which account, as far as may be then had, shall be submitted to Congress at their next session.

Approved, March 3, 1797.

An Act providing for certain buoys to be placed in and near the harbor of Boston.

Be it enacted, &c., That the Secretary of the Treasury be authorized and directed to cause to be placed in and near the harbor of Boston, in the State of Massachusetts, upon such rocks, ledges, or shoals, as the security of navigation there most requires to be distinguished, not exceeding six larger and ten smaller buoys, whereof the whole expense shall not exceed one thousand six hundred dollars.

Sec. 2. *And be it further enacted*, That a sum not exceeding one thousand six hundred dollars shall be, and hereby is, appropriated to defray the necessary expense of the said buoys, to be paid from the duties on imports and tonnage.

Approved, March 3, 1797.

An Act extending the time for receiving on loan the Domestic Debt of the United States.

Be it enacted, &c., That all the several provisions of the act, entitled "An act further extending the time for receiving on loan the Domestic Debt of the United States," passed the nineteenth day of February, one thousand seven hundred and ninety-six, be, and they are hereby, continued in force until the thirty-first day of December next, and no longer: *Provided*, That nothing herein contained shall be construed to extend to any evidence of Public Debt which may be barred by any act of limitation.

Approved, March 3, 1797.

An Act to revive and continue the act, passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to regulate the compensation of clerks."

Be it enacted, &c., That the act, entitled "An act to regulate the compensation of clerks," passed the thirtieth of May, one thousand seven hundred and ninety-six, be, and the same is hereby, revived and continued until the first day of January next.

Sec. 2. *And be it further enacted*, That the sum of one hundred dollars be allowed and paid to each of the principal and engrossing clerks in the office of the Secretary of the Senate, in addition to the sums allowed them by law, for the year one thousand seven hundred and ninety-six; and also, that the further sum of one hundred dollars to each of the principal and engrossing clerks employed by the Secretary of the Senate and the Clerk of the House of Representatives, be allowed and paid, for the year one thousand seven hundred and ninety-seven; also, the like sum to the sergeant-at-arms of the House of Representatives, and to each of the door-keepers and assistant door-keepers of the two Houses of Congress, in addition to the sums heretofore allowed by law.

Approved, March 3, 1797.

An Act concerning the Circuit Courts of the United States.

Be it enacted, &c., That, from and after the expiration of the present session of Congress, the times and places of holding the several Circuit Courts of the United States, in the present and each succeeding year, shall be as follows, to wit:

In the State of New York, at the city of New York, on the first days of April and September.

In Connecticut, at New Haven, on the thirteenth day of April, and at Hartford, on the seventeenth day of September.

In Vermont, at Windsor, on the first day of May, and at Rutland, on the third day of October.

In New Hampshire, at Portsmouth, on the nineteenth day of May, and at Exeter, on the second day of November.

In Massachusetts, at Boston, on the first day of June and twentieth day of October.

In Rhode Island, at Newport, on the fifteenth day of June, and at Providence, on the fifteenth day of November.

In New Jersey, at Trenton, on the first days of April and October.

In Pennsylvania, at Philadelphia, on the eleventh days of April and October.

In Delaware, at Newcastle, on the twenty-seventh day of June, and at Dover, on the twenty-seventh day of October.

In Maryland, at Annapolis, on the seventh day of May, and at Baltimore, on the seventh day day of November.

In Virginia, at Richmond, on the twenty-second days of May and November.

In Georgia, at Savannah, on the twentieth day of April, and Augusta, on the eighth day of November.

In South Carolina, at Charleston, on the sixth day of May and the twenty-fifth day of October.

In North Carolina, at Raleigh, on the first day of June and on the thirtieth day of November: *Provided*, That if any of these days shall happen on a Sunday, the court shall be held on the day following:

Sec. 2. *And be it further enacted*, That the fifth section of "An act for altering the times of holding the Circuit Courts in certain districts of the United States, and for other purposes," and the third, fourth, fifth, and sixth sections of "An act making certain alterations in the act for establishing the judicial, and altering the time and place of holding certain courts," be, and the same are hereby, repealed; and that the stated district courts of North Carolina shall, in future, be held at the town of Newbern.

Sec. 3. *And be it further enacted*, That all such process of the several district courts, within the said district, as, before the passing of this act, shall have issued, and all recognizances made, returnable to any of the said several district courts, and all suits and other proceedings that were continued and are depending therein, shall now be returned and held continued to the district court of the said State, to be holden at Newbern, on the first Monday in April next; and shall therein be tried, and otherwise proceeded on, according to law; and the dockets and records of the said several district courts shall be hereafter kept at Newbern, aforesaid. And to the end that suitors, witnesses, and all others concerned, may have notice of the alteration hereby made, the marshal of the said district of North Carolina is hereby required to make the same known, by proclamation, on or before the twenty-third day of the present month.

Sec. 4. *And be it further enacted*, That all proceedings and process depending in, or issuing out of any of the said courts, which are or may be made returnable to any other times and places appointed for holding the same than those above specified, shall be deemed legally returnable on the days and at the places above specified, and not otherwise. And all suits and other proceedings in any of the said courts, which stand continued to any other times and places than those above specified, shall be deemed continued to the times and places prescribed by this act, and no other.

Sec. 5. *Provided, and be it further enacted*, That if, in consequence of any alterations made by this act, it shall appear expedient to the district judge of any of the districts where such alterations are made as aforesaid, that a new venire should issue for the summoning of jurors to attend the Circuit Court of such district, which is to be first held after the present session of Congress, it shall be lawful for him to direct the clerk of the said Circuit Court to issue a venire accordingly for the summoning of such number of jurors as the said district judge shall think fit, and from such parts of the district as shall appear to him most suitable to the convenience of the people thereof, giving reasonable notice of the time and place of attendance.

Sec. 6. *And be it further enacted*, That, from and after the first day of September next, the present terms for holding the District Court in the Kentucky district shall cease, and thereafter the said court shall be holden on the second Monday in March, the third Monday in June and the third Monday in November annually.

Approved, March 3, 1797.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution, concerning the suability of States; if they have, to obtain the proper evidence thereof.

Approved, March 2, 1797.

Resolved, &c., That the five hundred copies of the laws of the United States, directed to be printed by the act, entitled "An act for the more general promulgation of the laws of the United States," and which were, by the said act, reserved for the future disposition of Congress, shall be distributed by the Secretary of State in the manner following: One set shall be delivered to George Washington, now President of the United States; to the President of the United States; to the Vice President of the United States, and to each of the members of the Senate and House of Representatives; six sets shall be delivered to the Secretary of the Senate, and twelve sets to the Clerk of the House of Representatives; one set shall be delivered to each of the Judges of the Supreme Court, to each of the Judges of the District Courts, and to each of the Marshals and Attorneys of each district; one set shall be delivered to the Secretary of State, to the Secretary of the Treasury, to the Secretary of War, to the Attorney General, to the Director of the Mint, to the Comptroller of the Treasury, to the Commissioner of the Revenue, to the Register, to the Auditor, to the Accountant of the War Department, and to the Postmaster General, and the Purveyor of Public Supplies; one set shall be delivered to the Governor and to the Secretary of the Territory Northwest of the Ohio, and to each of the Judges thereof; one set shall be delivered to each Collector, Naval Officer, and Surveyor, and to each Supervisor and Inspector of the Revenue in the United States.

Sec. 2. *And be it further enacted*, That in case of the death, resignation, or dismission from office of either of the officers before mentioned, excepting the President and Vice President of the United States, the members of the Senate and House of Representatives, and the Judges of the Supreme and District Courts, the said copies of the Laws of the United States, delivered to them as aforesaid, shall belong to their respective successors in the said offices.

Approved, March 3, 1797.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FIFTH CONGRESS.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

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AMERICA.

FIFTH CONGRESS.

COMPRISING THE PERIOD FROM MAY 15, 1797, TO MARCH 3, 1799, INCLUSIVE.

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WASHINGTON:

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1851.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, MAY 15, 1797.

The first session of the Fifth Congress, under the Constitution of Government of the United States, commenced at the city of Philadelphia, agreeably to the Proclamation of the PRESIDENT OF THE UNITED STATES, of the twenty-fifth day of March last, and the Senate accordingly assembled on this day, being

MONDAY, May 15, 1797.

PRESENT:

THOMAS JEFFERSON, Vice President of the United States and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

BENJAMIN GOODHUE, from Massachusetts;

THEODORE FOSTER and WILLIAM BRADFORD, from Rhode Island;

JAMES HILLHOUSE and URIAH TRACY, from Connecticut;

ISAAC TICHENOR, from Vermont;

JOHN LAURANCE, from New York;

WILLIAM BINGHAM, from Pennsylvania;

HENRY LATIMER, from Delaware;

JOHN E. HOWARD, from Maryland;

STEVENS T. MASON, from Virginia;

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;

JOHN HUNTER, from South Carolina;

JOSIAH TATTNALL, from Georgia.

The Senators whose names are subjoined produced their credentials on the 4th day of March last, and took their seats in the Senate, viz: Mr. FOSTER, Mr. GOODHUE, Mr. HILLHOUSE, Mr. HOWARD, Mr. LATIMER, Mr. MASON, Mr. ROSS, and Mr. TICHENOR.

WILLIAM COCKE, appointed a Senator by the State of Tennessee, produced his credentials, and the oath required by law being administered, he took his seat in the Senate.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that a quorum of the Senate is assembled.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have elected JONATHAN DAYTON their Speaker.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee on their part, together with such committee as the Senate may appoint, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Resolved, That the Senate do concur in the appointment of a joint committee, and that Messrs. LIVERMORE and LANGDON be the joint committee on the part of the Senate.

Mr. LIVERMORE reported, from the joint committee, that they had waited on the President of the United States, and had notified him that a quorum of the two Houses is assembled; and that the President of the United States acquainted the committee that he would meet the two Houses in the Representatives' Chamber at 12 o'clock to-morrow.

A message from the House of Representatives informed the Senate that the House have resolved that two Chaplains be appointed to Congress, for the present session, one by each House, who shall interchange weekly; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the said resolution; and,

Resolved, That they do concur therein, and that the Right Reverend Bishop WHITE be the Chaplain on the part of the Senate.

TUESDAY, May 16.

WILLIAM BLOUNT, from the State of Tennessee; THEODORE SEDGWICK, from the State of Massachusetts; and JOHN VINING, from the State of Delaware, severally attended.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the President of the United States shall be pleased to make to them. Whereupon,

The Senate repaired to the Chamber of the House of Representatives, for the purpose above expressed.

The Senate returned to their own Chamber and a copy of the Speech of the President of the United States, this day addressed to both Houses

of Congress, was read. (For which, see House Proceedings, *post.*)

Ordered, That Messrs. TRACY, LAURANCE, and LIVERMORE, be a committee to report the draught of an Address to the President of the United States, in answer to his Speech this day to both Houses of Congress.

It was further ordered that the Speech be printed for the use of the Senate.

Resolved, That each Senator be supplied, during the present session, with copies of three such newspapers, printed in any of the States, as he may choose; provided that the same are furnished at the rate of the usual annual charge for such papers.

WEDNESDAY, May 17.

RICHARD STOCKTON, from the State of New Jersey, attended.

The committee appointed yesterday not being ready to report, the Senate adjourned.

THURSDAY, May 18.

HENRY TAZEWELL, from the State of Virginia, attended.

A message from the House of Representatives informed the Senate that the House have proceeded to the choice of a Chaplain to Congress on their part, and the Rev. ASHBEL GREEN is duly elected.

Mr. TRACY, from the committee, reported the draught of an Address to the President of the United States, in answer to his Speech to both Houses of Congress, at the opening of the session; which was read.

Ordered, That it lie for consideration.

FRIDAY, May 19.

JOHN HENRY, from the State of Maryland, attended.

On motion, by Mr. TRACY,

Ordered, That the report of the committee, appointed to draught an Address, in answer to the Speech of the President of the United States at the opening of the session, be recommitted. And it was agreed that Messrs. HENRY and TAZEWELL be added to the committee.

The VICE PRESIDENT laid before the Senate a letter from the Secretary for the Department of State, communicating, by order of the President of the United States, sundry papers, No. 1 to 18, respecting the situation of affairs of the United States with France, Spain, and Holland; which papers were read.

Ordered, That they lie for consideration.

SATURDAY, May 20.

Mr. TRACY, from the committee to whom was recommitted the report of an Address in answer to the Speech of the President of the United States, to both Houses of Congress, at the opening of the session, reported sundry amendments; which were read.

On motion, that the report, as amended, be printed for the use of the Senate, it passed in the negative.

Ordered, That the consideration thereof be postponed until Monday next.

MONDAY, May 23.

JOHN BROWN, from the State of Kentucky, and JACOB READ, from the State of South Carolina, severally attended.

JOHN RUTHERFURD, appointed a Senator from the State of New Jersey, produced his credentials, which were read, and the oath required by law being administered to him, he took his seat in the Senate.

The Senate took into consideration the draught, reported by the committee, of an Address to the President of the United States, in answer to his Speech at the opening of the session, and having agreed to sundry amendments, adjourned.

TUESDAY, May 23.

The Senate resumed the consideration of the report of the committee of the draught of an Address, in answer to the Speech of the President of the United States to both Houses of Congress, at the opening of the session.

On motion, to expunge the following paragraph, to wit:

"We are happy, since our sentiments on the subject are in perfect unison with yours, in this public manner to declare, that the conduct of the Government has been just and impartial to foreign nations, and that those internal regulations, which have been established for the preservation of peace, are, in their nature, proper, and have been fairly executed:"

It was determined in the negative—yeas 11, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Henry, Hunter, Langdon, Martin, Mason, Tazewell, and Tattnall.

NAYS—Messrs. Bingham, Bradford, Foster, Goodhue, Hillhouse, Howard, Laurance, Latimer, Livermore, Read, Rutherfurd, Sedgwick, Stockton, Tichenor, and Tracy.

And the report being further amended, was adopted, as follows:

SIR: The Senate of the United States request you to accept their acknowledgments for the comprehensive and interesting detail you have given, in your Speech to both Houses of Congress, on the existing state of the Union.

While we regret the necessity of the present meeting of the Legislature, we wish to express our entire approbation of your conduct in convening it on this momentous occasion.

The superintendence of our national faith, honor, and dignity, being, in a great measure, constitutionally deposited with the Executive, we observe, with singular satisfaction, the vigilance, firmness, and promptitude, exhibited by you, in this critical state of our public affairs, and from thence derive an evidence and pledge of the rectitude and integrity of your administration. And we are sensible it is an object of primary importance, that each branch of the Government should adopt

a language and system of conduct, which shall be cool, just, and dispassionate; but firm, explicit, and decided.

We are equally desirous, with you, to preserve peace and friendship with all nations, and are happy to be informed, that neither the honor nor interests of the United States forbid advances for securing those desirable objects, by amicable negotiation with the French Republic. This method of adjusting national differences is not only the most mild, but the most rational and humane, and with Governments disposed to be just, can seldom fail of success, when fairly, candidly, and sincerely, used. If we have committed errors, and can be made sensible of them, we agree with you in opinion that we ought to correct them, and compensate the injuries which may have been consequent thereon; and we trust the French Republic will be actuated by the same just and benevolent principles of national policy.

We do, therefore, most sincerely approve of your determination to promote and accelerate an accommodation of our existing differences with that Republic, by negotiation, on terms compatible with the rights, duties, interests, and honor, of our nation. And you may rest assured of our most cordial co-operation, so far as it may become necessary, in this pursuit.

Peace and harmony with all nations is our sincere wish; but, such being the lot of humanity, that nations will not always reciprocate peaceable dispositions, it is our firm belief, that effectual measures of defence will tend to inspire that national self-respect and confidence at *home*, which is the unfailing source of respectability *abroad*, to check aggression, and prevent war.

While we are endeavoring to adjust our differences with the French Republic, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs, prove to us your vigilant care, in recommending to our attention effectual measures of defence.

Those which you recommend, whether they relate to external defence, by permitting our citizens to arm for the purpose of repelling aggressions on their commercial rights, and by providing sea convoys, or to internal defence, by increasing the establishments of artillery and cavalry, by forming a provisional army, by revising the militia laws, and fortifying, more completely, our ports and harbors, will meet our consideration, under the influence of the same just regard for the security, interest, and honor, of our country, which dictated your recommendation.

Practices so unnatural and iniquitous, as those you state, of our own citizens, converting their property and personal exertions into the means of annoying our trade, and injuring their fellow-citizens, deserve legal severity commensurate with their turpitude.

Although the Senate believe that the prosperity and happiness of our country does not depend on general and extensive political connexions with European nations, yet we can never lose sight of the propriety as well as necessity of enabling the Executive, by sufficient and liberal supplies, to maintain, and even extend, our foreign intercourse, as exigencies may require, reposing full confidence in the Executive, in whom the Constitution has placed the powers of negotiation.

We learn, with sincere concern, that attempts are in operation to alienate the affections of our fellow-citizens from their Government. Attempts so wicked, wherever they exist, cannot fail to excite our utmost abhorrence. A Government chosen by the people for their own safety and happiness, and calculated to secure both, cannot lose their affections, so long as its administration pursues the principle upon which it was erected. And your resolution to observe a conduct just and impartial to all nations, a sacred regard to our national engagements, and not to impair the rights of our Government, contains principles which cannot fail to secure to your administration the support of the National Legislature, to render abortive every attempt to excite dangerous jealousies among us, and to convince the world that our Government, and your administration of it, cannot be separated from the affectionate support of every good citizen. And the Senate cannot suffer the present occasion to pass, without thus publicly and solemnly expressing their attachment to the Constitution and Government of their country; and as they hold themselves responsible to their constituents, their consciences, and their God, it is their determination, by all their exertions, to repel every attempt to alienate the affections of the people from the Government, so highly injurious to the honor, safety, and independence of the United States.

We are happy, since our sentiments on the subject are in perfect unison with yours, in this public manner to declare, that we believe the conduct of the Government has been just and impartial to foreign nations, and that those internal regulations which have been established for the preservation of peace, are in their nature proper, and have been fairly executed.

And we are equally happy in possessing an entire confidence in your abilities and exertions in your station to maintain untarnished the honor, preserve the peace, and support the independence of our country; to acquire and establish which, in connexion with your fellow-citizens, has been the virtuous effort of a principal part of your life.

To aid you in these arduous and honorable exertions, as it is our duty, so it shall be our faithful endeavor. And we flatter ourselves, sir, that the proceedings of the present session of Congress will manifest to the world, that, although the United States love peace, they will be independent. That they are sincere in their declarations to be just to the French, and all other nations, and expect the same in return.

If a sense of justice, a love of moderation and peace, shall influence their councils, which we sincerely hope, we shall have just grounds to expect peace and amity between the United States and all nations will be preserved.

But if we are so unfortunate as to experience injuries from any foreign Power, and the ordinary methods by which differences are amicably adjusted between nations shall be rejected, the determination "not to surrender in any manner the rights of the Government" being so inseparably connected with the dignity, interest, and independence of our country, shall by us be steadily and inviolably supported.

THOMAS JEFFERSON,
Vice President of the United States, and President of the Senate.

Ordered, That the committee who prepared the Address wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. TRACY reported from the committee that they had waited on the President of the United States, and that he would receive the Address of the Senate to-morrow, at 12 o'clock, at his own house.

Resolved, That the Senate will, to-morrow, at

12 o'clock, wait on the President of the United States accordingly.

WEDNESDAY, May 24.

ELIJAH PAINE, from the State of Vermont, attended.

Agreeably to the resolution of yesterday, the Senate waited on the President of the United States, and the VICE PRESIDENT, in their name, presented the Address then agreed to.

To which the PRESIDENT made the following reply:

Mr. Vice President,
and Gentlemen of the Senate:

It would be an affectation in me to dissemble the pleasure I feel on receiving this kind Address.

My long experience of the wisdom, fortitude, and patriotism, of the Senate of the United States, enhances in my estimation the value of those obliging expressions of your approbation of my conduct, which are a generous reward for the past, and an affecting encouragement to constancy and perseverance in future.

Our sentiments appear to be so entirely in unison, that I cannot but believe them to be the rational result of the understandings and the natural feelings of the hearts of Americans in general, on contemplating the present state of the nation.

While such principles and affections prevail, they will form an indissoluble bond of union, and a sure pledge that our country has no essential injury to apprehend from any portentous appearances abroad. In a humble reliance on Divine Providence, we may rest assured, that, while we reiterate with sincerity our endeavors to accommodate all our differences with France, the independence of our country cannot be diminished, its dignity degraded, or its glory tarnished, by any nation or combination of nations, whether friends or enemies.

JOHN ADAMS.

The Senate returned to their own Chamber, and adjourned.

THURSDAY, May 25.

The Senate transacted no business to-day.

FRIDAY, May 26.

HUMPHREY MARSHALL, from the State of Kentucky, attended.

The Senate adjourned, without transacting any business, to Monday.

MONDAY, May 29.

JAMES ROSS, from the State of Pennsylvania, attended.

Mr. READ gave notice that he would, to-morrow, move for leave to bring in a bill to prevent the exportation of arms and ammunition from the United States, for a limited time.

On motion, by Mr. SEDGWICK,

Ordered, That so much of the President's Speech as relates to building and equipping, within the United States, cruisers to commit depredations on the commerce of the United States, and so much thereof as relates to citizens of the United States fitting out privateers, taking the command, or entering on board of them, and committing spoliations on the commerce of the United States, be referred to Messrs. LIVERMORE, LAURANCE, and READ, to consider and report thereon; and that the said committee be authorized to report by bill or bills, or otherwise.

On motion, by Mr. SEDGWICK,

Ordered, That so much of the President's Speech as relates to a revision of the laws for organizing, arming, and disciplining the militia be referred to Messrs. HOWARD, LATIMER, TICHENOR, FOSTER, and LAURANCE, to consider and report thereon; and that the said committee be authorized to report by bill or bills, or otherwise.

On motion, by Mr. SEDGWICK, that so much of the President's Speech as relates to the establishment of a permanent system of naval defence, and authorizing the arming of vessels the property of individuals, be referred to a select committee to consider and report; and that the said committee be authorized to report by bill or bills, or otherwise.

A motion was made that this motion be postponed until to-morrow; and it passed in the negative.

On motion, by Mr. TAZEWELL, that the words, "and authorizing the arming of vessels the property of individuals," be expunged, it was determined in the negative—yeas 11, nays 17, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Hunter, Langdon, Livermore, Martin, Mason, Tazewell, and Tattnall.

NAYS—Messrs. Bingham, Bradford, Goodhue, Hillhouse, Howard, Latimer, Laurance, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

And it was agreed that the original motion be referred to Messrs. GOODHUE, BINGHAM, BRADFORD, HENRY, and RUTHERFURD.

Ordered, That so much of the President's Speech as relates to providing means of additional defence, by an augmentation of the regular artillery and cavalry, and making arrangements for forming a provisional army, be referred to Messrs. TRACY, SEDGWICK, MARSHALL, ROSS, and VINING, to consider and report thereon to the Senate; and that the said commitee be authorized to report by bill or bills, or otherwise.

TUESDAY, May 30.

Conformable to notice given yesterday, Mr. READ had permission to introduce a bill prohibiting, for a limited time, the exportation of arms and ammunition; which bill was read a first time, and ordered to the second reading.

WEDNESDAY, May 31.

The bill prohibiting, for a limited time, the exportation of arms and ammunition, was read the second time, and referred to Messrs. READ, BROWN, and BLOODWORTH, to consider and report thereon to the Senate.

THURSDAY, June 1.

Mr. LIVERMORE, from the committee appointed for the purpose, reported a bill to prevent citizens of the United States privateering against nations in amity, or against citizens of the United States; which was read the first time, and ordered to the second reading.

FRIDAY, June 2.

Mr. READ, from the committee to whom was referred the bill prohibiting, for a limited time, the exportation of arms and ammunition, reported sundry amendments; which were read and adopted.

Ordered, That this bill pass to the third reading, as amended.

The bill to prevent citizens of the United States privateering against nations in amity, or against citizens of the United States, was read the second time, and ordered to the third reading.

The VICE PRESIDENT laid before the Senate a communication from the Treasurer of the United States, accompanying his specie account for the quarter ending the 31st of March last, together with his account of receipts and expenditures in the War Department, for the same period; which were read, and ordered to lie on the table.

MONDAY, June 5.

The bill prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof, was read the third time; and, being further amended,

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof."

The bill to prevent citizens of the United States privateering against nations in amity with, or against citizens of, the United States, was read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to prevent citizens of the United States privateering against nations in amity with, or against citizens of, the United States."

Mr. TRACY, from the committee to whom was referred so much of the President's Speech as relates to providing means of additional defence, by an augmentation of the regular artillery and cavalry, and making arrangements for forming a provisional army, reported a bill; which was read the first time, and ordered to the second reading.

TUESDAY, June 6.

Mr. LANGDON presented to the Senate the petition of Samuel Cutts and others, merchants, of the State of New Hampshire, praying compensation for certain spoliations committed on their property, in the prosecution of fair and legal commerce, by the armed vessels of foreign nations; which petition was read.

Ordered, That it lie on the table.

The bill for raising and organizing an additional corps of artillerists and engineers was read the second time, and ordered to the third reading.

Mr. TRACY, from the committee to whom was referred so much of the President's Speech as relates to providing means of additional defence, by an augmentation of the regular artillery and cavalry, and making arrangements for forming a provisional army, reported a bill; which was read the first time, and ordered to the second reading.

Mr. GOODHUE, from the committee to whom was referred so much of the President's Speech as relates to the establishment of a permanent system of naval defence, and authorizing the arming of vessels the property of individuals, reported a bill; which was read the first time, and ordered to the second reading.

WEDNESDAY, June 7.

The bill providing for the protection of the trade of the United States was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

The bill for raising and organizing an additional corps of artillerists and engineers was read the third time; and being further amended, on the final passage of the bill, it was determined in the affirmative—yeas 18, nays 8, as follows:

YEAS—Messrs. Bingham, Bloodworth, Goodhue, Hillhouse, Howard, Latimer, Lawrence, Livermore, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS—Messrs. Blount, Bradford, Cocke, Langdon, Martin, Mason, Tazewell, and Tattnall.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act for raising and organizing an additional corps of artillerists and engineers."

THURSDAY, June 8.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof," with amendments; in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill providing for the protection of the trade of the United States.

On motion, to strike out of the first section the following words:

"And also to procure, by purchase or otherwise, and cause to be fitted out, manned, and employed, a number of vessels, not exceeding nine, to carry not exceeding twenty guns each,"

It was determined in the negative—yeas 11, nays 8, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Hunter, Langdon, Livermore, Martin, Mason, Tazewell, and Tattnall.

NAYS—Messrs. Bradford, Foster, Goodhue, Henry,

Hillhouse, Howard, Latimer, Paine, Read, Ross, Rutherfurd, Tichenor, Tracy, and Vining.

Laurance, Marshall, Sedgwick, Stockton,

FRIDAY, June 9.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, sent from the Senate for concurrence, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof."

Ordered, That the amendments be referred to Messrs. ROSS, READ, and BROWN, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act to prevent citizens of the United States privateering against nations in amity with, or against citizens of, the United States," with amendments, in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill providing for the protection of the trade of the United States, and it was agreed to amend the third section to read as follows:

"SEC. 3. *And be it further enacted*, That the President of the United States may employ the said frigates, and the said vessels, to protect the ships and cargoes belonging solely to the citizens of the United States, and also the harbors and seacoast of the United States, in such manner, and under such regulations, as shall in no ways contravene either the laws of nations or any existing treaties between the United States and foreign nations."

On motion, further to amend the section, by striking out the words "and also," and, in lieu thereof, inserting "within," and in the following line, before the word "seacoast," to insert the words "on the," it was determined in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Cocke, Foster, Hillhouse, Hunter, Langdon, Livermore, Martin, Marshall, Mason, Tazewell, and Tattnall.

NAYS—Messrs. Bingham, Bradford, Brown, Goodhue, Henry, Latimer, Laurance, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, and Tracy.

On motion, to agree to the section as amended, it was determined in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Bingham, Bradford, Goodhue, Henry, Hillhouse, Latimer, Laurance, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, and Tracy.

NAYS—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Hunter, Langdon, Livermore, Martin, Marshall, Mason, Tazewell, and Tattnall.

Ordered, That the bill be recommitted.

Mr. ROSS, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof," reported, that the same be adopted, which report was read.

Resolved, That the Senate do concur in the said amendments.

Ordered, That Mr. TICHENOR be appointed a committee for enrolled bills, on the part of the Senate, jointly with such committee as may be appointed for that purpose on the part of the House of Representatives.

MONDAY, June 12.

Ordered, That the amendments of the House of Representatives to the bill, entitled "An act to prevent citizens of the United States privateering against nations in amity with, or against citizens of, the United States," be referred to the committee who originally reported the bill, to consider and report thereon to the Senate.

Mr. GOODHUE reported, from the committee to whom was referred the bill providing for the protection of the trade of the United States, and the report was read.

Ordered, That it be printed for the use of the Senate.

The bill for raising an additional corps of light dragoons was read the second time.

Ordered, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives, informed the Senate that the House concur in the resolution of the Senate, appointing a joint committee on enrolled bills, and have appointed a committee on their part.

TUESDAY, June 13.

Mr. LIVERMORE, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act to prevent citizens of the United States privateering against nations in amity with, or against citizens of the United States," reported that the same be adopted.

Resolved, That the Senate do concur in the said amendments.

The Senate proceeded to consider the report of the committee to whom was referred the bill providing for the protection of the trade of the United States.

On motion, to strike out the eighth section, as reported by the committee, as follows:

"Sec. 8. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized and empowered, should he deem it expedient, to cause to be procured, by purchase or otherwise, and to be fitted out, manned, and employed, a number of vessels, not exceeding nine, to carry not exceeding twenty guns each:"

It was determined in the negative—yeas 12, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Hunter, Langdon, Livermore, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Bradford, Goodhue, Henry, Hillhouse, Latimer, Laurance, Marshall, Paine, Read, Rutherfurd, Stockton, Tichenor, Tracy, and Vining.

And the report, being amended, was adopted.

On motion, it was agreed to expunge the second section of the original bill; and the other sections of the original bill being amended, it was ordered that it pass to the third reading as amended.

The Senate resumed the second reading of the bill for raising an additional corps of light dragoons; and, after progress, the further consideration thereof was postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate and

Gentlemen of the House of Representatives:

I have received information from the Commissioner, appointed on the part of the United States, pursuant to the third article of our treaty with Spain, that the running and marking of the boundary line, between the colonies of East and West Florida, and the territory of the United States, have been delayed by the officers of His Catholic Majesty; and that they have declared their intention to maintain his jurisdiction, and to suspend the withdrawing his troops from the military posts they occupy within the territory of the United States, until the two Governments shall, by negotiation, have settled the meaning of the second article, respecting the withdrawing of the troops, garrisons, or settlements, of either party, in the territory of the other; that is, whether, when the Spanish garrisons withdraw, they are to leave the works standing, or to demolish them; and, until, by an additional article to the treaty, the real property of the inhabitants shall be secured; and, likewise, until the Spanish officers are sure the Indians will be pacific. The two first questions, if to be determined by negotiation, might be made subjects of discussion for years, and as no limitation of time can be prescribed to the other, a certainty in the opinion of the Spanish officers that the Indians will be pacific, it will be impossible to suffer it to remain an obstacle to the fulfilment of the treaty on the part of Spain.

To remove the first difficulty, I have determined to leave it to the discretion of the officers of His Catholic Majesty, when they withdraw his troops from the forts within the territory of the United States, either to leave the works standing, or to demolish them; and to remove the second, I shall cause an assurance to be published, and to be particularly communicated to the Minister of His Catholic Majesty, and to the Governor of Louisiana, that the settlers or occupants of the lands in question, shall not be disturbed in their possessions by the troops of the United States; but, on the contrary, that they shall be protected in all their lawful claims; and to prevent or remove every doubt on this point, it merits the consideration of Congress, whether it will not be expedient, immediately, to pass a law, giving positive assurances to those inhabitants, who, by fair and regular grants, or by occupancy, have obtained legal titles or equitable claims to lands in that country, prior to the final ratification of the treaty between the United States and Spain, on the twenty-fifth of April, 1796.

This country is rendered peculiarly valuable by its inhabitants, who are represented to amount to nearly four thousand, generally well affected, and much attached to the United States, and zealous for the establishment of a government under their authority.

I, therefore, recommend to your consideration the expediency of erecting a government in the district of the Natchez, similar to that established for the territory northwest of the river Ohio, but with certain modifications, relative to titles or claims of land, whether of individuals or companies, or to claims of jurisdiction of any individual State.

JOHN ADAMS.

UNITED STATES, *June* 12, 1797.

The Message and papers were read, and ordered to lie for consideration.

WEDNESDAY, June 14.

Ordered, That the Message of the President of the United States, of the 12th instant, with the papers accompanying it, be referred to Messrs. TRACY, BROWN, and ROSS, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill for raising an additional corps of light dragoons; which was amended, and on the question to agree to the third reading of the bill, it was determined in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Bingham, Goodhue, Latimer, Laurance, Livermore, Marshall, Paine, Read, Rutherfurd, Sedgwick, Stockton, Tichenor, and Tracy.

NAYS—Messrs. Bloodworth, Blount, Bradford, Brown, Cocke, Foster, Henry, Hillhouse, Hunter, Langdon, Martin, Mason, Ross, Tattnall, and Tazewell.

So it was *Resolved*, That this bill do not pass.

THURSDAY, June 15.

The bill providing for the protection of the trade of the United States was read the third time; and, on the final passage of the bill, as amended, it was determined in the affirmative, yeas 16, nays 13, as follows:

YEAS—Messrs. Bingham, Bradford, Goodhue, Henry, Hillhouse, Latimer, Laurance, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Hunter, Langdon, Livermore, Marshall, Martin, Mason, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed, and that the title thereof be "An act providing for the protection of the trade of the United States."

Mr. GOODHUE notified the Senate that he should, to-morrow, ask leave to introduce a bill to prevent the arming of private ships, except in certain cases, and under certain regulations.

FRIDAY, June 16.

Agreeably to notice given yesterday, Mr. GOODHUE obtained leave to introduce a bill to prevent the arming of private ships, except in certain cases, and under certain regulations; which was read the first time, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to provide for the further defence of the ports and harbors of the United States;" in which they desire the concurrence of the Senate.

The bill was read the first and second time, and referred to Messrs. LAURANCE, HENRY, and READ, to consider and report thereon to the Senate.

SATURDAY, June 17.

The bill to prevent the arming of private ships, except in certain cases, and under certain regulations, was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed until Monday next.

MONDAY, June 19.

Mr. LAURANCE, from the committee to whom was referred the bill entitled "An act to provide for the further defence of the ports and harbors of the United States," reported that the bill pass without amendment.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act directing the appointment of agents, in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," and a bill entitled "An act in addition to an act entitled 'An act concerning the registering and recording of ships and vessels;'" in which they desire the concurrence of the Senate.

The bill last mentioned was read twice; and referred to Messrs. GOODHUE, BINGHAM, and LANGDON, to consider and report thereon to the Senate.

The bill first mentioned in the message was read, and ordered to the second reading.

The Senate resumed the second reading of the bill to prevent the arming of private ships, except in certain cases, and under certain regulations; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. TRACY, from the committee to whom was referred so much of the President's Speech as relates to providing means of additional defence, by an augmentation of the regular artillery and cavalry, and making arrangements for forming a provisional army, reported a bill, which was read the first time, and ordered to the second reading.

TUESDAY, June 20.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act directing a detachment from the militia of the United States;" in which they desire the concurrence of the Senate.

The bill was read twice, and referred to Messrs. LAURANCE, TAZEWELL, and BRADFORD, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing the appointment of agents, in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," was read the second time, and referred to Messrs. TAZEWELL, HENRY, and BROWN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the further defence of the ports and harbors of the United States," was read the third time.

On motion, to strike out the third section of the bill, as follows:

"SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, empowered to authorize any of the States, which were found indebted to the United States in a settlement of accounts between them and the respective States, to expend, under his direction, the sums respectively due from them, in fortifying their ports and harbors, and the sums, which may be so expended, shall be passed to the credit of the said States, on account of the balances found and reported by the commissioners for settling the accounts between the United States and the individual States, to be due from the said States to the United States: *Provided*, The said States shall and do cede to the United States the lands or places on which such fortifications shall be so erected, in cases where the lands are the property of such States:"

It was determined in the negative—yeas 9, nays 18, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Langdon, Marshall, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Bradford, Foster, Goodhue, Henry, Hillhouse, Hunter, Latimer, Laurance, Livermore, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tattnall, and Tracy.

Resolved, That this bill pass.

A message from the House of Representatives informed the Senate that the House do not concur in the bill, sent from the Senate, entitled "An act for raising and organizing an additional corps of artillerists and engineers."

A motion was made, to add, after the 14th rule, a new one, as follows:

"And when a motion shall be made for striking out any period, section, or clause, in a report, resolution, or bill, it shall always be in order to move any amendment or amendments of such period, section, or clause, and such amendment, or amendments, shall always be decided before the question on striking out is put."

And, after debate,

Ordered, That the further consideration thereof be postponed.

WEDNESDAY, June 21.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act directing a detachment from the militia of the United States," reported that the bill pass without amendment.

Ordered, That this bill pass to a third reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act entitled 'An act concerning the registering and recording of ships and vessels,'" reported sundry amendments; which were read and adopted.

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the second reading of the bill to prevent the arming of private ships, except in certain cases, and under certain regulations.

Ordered, That it be referred to Messrs. TRACY, TAZEWELL, GOODHUE, LIVERMORE, and BINGHAM, to consider and report thereon to the Senate.

The bill to enable the President of the United States, under certain restrictions, to raise a provisional army, was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

THURSDAY, June 22.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

Having sent the report and documents which accompany this Message to the House of Representatives, in compliance with their desire, expressed in their resolution of the tenth of this month, I think it proper to send duplicates to the Senate for their information.

JOHN ADAMS.

UNITED STATES, *June* 22, 1797.

The Message was read, and ordered to lie on the table.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing a detachment from the militia of the United States," was read the third time.

Resolved, that this bill pass.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships and vessels,'" was read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a resolution "That the President of the Senate, and the Speaker of the House of Representatives, be authorized to close the present session by adjourning their respective Houses on the twenty-eighth day of this month;" in which they desire the concurrence of the Senate.

The resolution was read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill to enable the President of the United States, under certain restrictions, to raise a provisional army; and, after debate,

The question was taken on the third reading of the bill; and it was determined in the negative—yeas 9, nays 17, as follows:

YEAS—Messrs. Goodhue, Laurance, Marshall, Read, Ross, Rutherfurd, Sedgwick, Tichenor, and Tracy.

NAYS—Messrs. Bloodworth, Blount, Bradford, Brown, Cocke, Foster, Hunter, Hillhouse, Howard, Langdon, Latimer, Livermore, Martin, Mason, Paine, Tattnall, and Tazewell.

So the bill was lost.

FRIDAY, June 23.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships and vessels."

Mr. TAZEWELL, from the committee to whom was referred the bill, entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," reported sundry amendments; which were read.

Ordered, That they be printed for the use of the Senate.

The Senate proceeded to consider the resolution of the House of Representatives for the adjournment of the two Houses of Congress on the 28th instant; and, after debate,

Ordered, That the further consideration thereof be postponed until Tuesday next.

Mr. READ notified the Senate that he should, to-morrow, request leave to introduce a bill empowering the President of the United States to lay, regulate, and revoke, embargoes, during the recess of Congress.

Mr. TRACY notified the Senate that he should, to-morrow, request leave to introduce a bill directing the period at which the next session of Congress shall commence.

The Senate proceeded to consider the motion made the 20th instant for an additional rule; and, it was agreed to postpone the consideration thereof until the next session of Congress.

SATURDAY, June 24.

The following confidential Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate and of the House of Representatives:

The Dey of Algiers has manifested a predilection for American built vessels, and, in consequence, has desired that two vessels might be constructed and equipped, as cruisers, according to the choice and taste of Captain O'Brien. The cost of two such vessels, built with live oak and cedar, and coppered, with guns and all other equipments complete, is estimated at forty-five thousand dollars. The expense of navigating them to Algiers may, perhaps, be compensated, by the freight of the stores with which they may be loaded on account of our stipulations by treaty with the Dey.

A compliance with the Dey's request appears to me to be of serious importance. He will repay the whole expense of building and equipping the two vessels; and as he has advanced the price of our peace with Tripoli, and become pledged for that of Tunis, the United States seem to be under peculiar obligations to provide this accommodation; and I trust that Congress will authorize the advance of money necessary for that purpose.

It also appears to be of importance to place at Algiers a person as Consul, in whose integrity and ability much confidence may be placed, to whom a considerable latitude of discretion should be allowed, for the

interest of the United States in relation to their commerce. That country is so remote as to render it impracticable for the Consul to ask and receive instructions in sudden emergencies. He may sometimes find it necessary to make instant engagements for money, or its equivalent, to prevent greater expenses or more serious evils. We can hardly hope to escape occasions of discontent proceeding from the Regency, or arising from the misconduct, or even the misfortunes, of our commercial vessels navigating in the Mediterranean sea; and unless the causes of discontent are speedily removed, the resentment of the Regency may be exerted with precipitation on our defenceless citizens, and their property, and thus occasion a tenfold expense to the United States. For these reasons it appears to me to be expedient to vest the Consul at Algiers with a degree of discretionary power, which can be requisite in no other situation. And to encourage a person deserving the public confidence to accept so expensive and responsible a situation, it appears indispensable to allow him a handsome salary. I should confer on such a Consul a superintending power over the Consulates for the States of Tunis and Tripoli, especially in respect to pecuniary engagements, which should not be made without his approbation

While the present salary of two thousand dollars a year appears adequate to the Consulates of Tunis and Tripoli, twice that sum probably will be requisite for Algiers.

JOHN ADAMS.

UNITED STATES, *June* 23, 1797.

Ordered, That it lie for consideration.

Agreeably to notice given yesterday, Mr. READ obtained permission to introduce a bill to authorize the President of the United States to lay, regulate, and revoke embargoes; which was read, and ordered to the second reading.

The Senate proceeded to consider the amendments reported by the committee to the bill, sent from the House of Representatives for concurrence, entitled "An act directing the appointment of agents, in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain;" which were in part adopted.

Ordered, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House ask a conference on the act passed the last session of Congress, entitled "An act to alter the time of the next meeting of Congress;" and have appointed a committee for the purpose on their part.

A message from the House of Representatives informed the Senate that the House concur in the bill, sent from the Senate, entitled "An act providing for the protection of the trade of the United States," with amendments; in which they desire the concurrence of the Senate.

Agreeably to notice given yesterday, Mr. TRACY obtained permission to introduce a bill ascertaining the time for the next meeting of Congress.

The amendments of the House of Representatives to the bill, entitled "An act providing for the protection of the trade of the United States," were read.

Ordered, That they be printed for the use of the Senate.

Mr. TRACY, from the committee to whom was referred the bill to prevent the arming of private ships, except in certain cases, and under certain regulations, reported sundry amendments; which were read.

Ordered, That they be printed for the use of the Senate.

MONDAY, June 26.

The bill to authorize the President of the United States to lay, regulate, and revoke embargoes, was read the second time.

On motion to expunge the first section of the bill, as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, authorized and empowered, whenever in his opinion the public safety shall so require, to lay an embargo on all ships and vessels in the ports of the United States; or upon the ships and vessels of the United States, or the ships and vessels of any foreign nation; or upon ships and vessels of the United States, or of any foreign nation, destined to any particular foreign ports or places, under such regulations as the circumstances of the case may require, and to continue or revoke the same whenever he shall think proper. And the President is hereby fully authorized to give all such orders to the officers of the United States as may be necessary to carry the same into full effect: *Provided*, The authority aforesaid shall not be exercised while the Congress of the United States shall be in session; and any embargo which may be laid by the President as aforesaid shall cease and determine in fifteen days from the actual meeting of Congress next after laying the same."

It was determined in the negative—yeas 12, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Bradford, Brown, Cocke, Henry, Langdon, Livermore, Martin, Mason, Tattnall and Tazewell.

NAYS—Messrs. Bingham, Foster, Goodhue, Hillhouse, Howard, Hunter, Latimer, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, and Tracy.

Ordered, That this bill pass to a third reading.

Agreeably to notice given on the 24th instant, Mr. TRACY had leave to introduce a bill to ascertain the time for the next meeting of Congress; which was read, and ordered to a second reading.

The resolution of the House of Representatives of the 24th instant, asking a conference on the act, entitled "An act to alter the time for the next meeting of Congress," was considered.

Resolved, That the Senate do not agree to the proposed conference.

The Senate proceeded to consider the amendments of the House of Representatives to the bill entitled "An act providing for the protection of the trade of the United States."

Resolved, That they agree to the amendments to the 2d, 4th, and 5th sections, and disagree to all the other amendments to the said bill.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing

the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," was read the third time; and, being further amended,

Resolved, That this bill pass with amendments.

TUESDAY, June 27.

The bill to ascertain the time for the next meeting of Congress was read the second time.

On motion, to insert "December," in place of "November," in the first enacting clause; it passed in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Bingham, Bradford, Brown, Henry, Howard, Hunter, Latimer, Mason, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tattnall, Tazewell, and Vining.

NAYS—Messrs. Bloodworth, Cocke, Foster, Goodhue, Hillhouse, Langdon, Livermore, Marshall, Martin, Paine, Tichenor, and Tracy.

And the bill being further amended,

Ordered, That it pass to a third reading.

The Senate proceeded to consider the resolution of the House of Representatives for an adjournment of Congress on the 28th instant, and it was agreed to amend the resolution, by inserting "the 3d of July" for the time of adjournment.

On motion, to agree to the resolution as amended, it passed in the negative.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain;"

They have passed a bill entitled, "An act laying duties on licenses for selling foreign wines and foreign distilled spirituous liquors by retail," and a bill entitled "An act to continue in force, for a limited time, the act, and sections of acts, therein mentioned;" in which bills they desire the concurrence of the Senate;

They insist on their amendments to the bill, entitled "An act providing for the protection of the trade of the United States," ask a conference thereon, and have appointed managers on their part.

The bills last brought from the House of Representatives were read and ordered to a second reading.

The Senate proceeded to the consideration of the resolution of the House of Representatives on their amendments to the bill entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain." Whereupon,

Resolved, That they do recede from their said amendments.

The Senate proceeded to consider the resolution of the House of Representatives asking a conference on the disagreeing votes of the two Houses on the bill entitled "An act providing for the protection of the trade of the United States."

Resolved, That they do agree to the proposed conference, and that Messrs. TAZEWELL and GOODHUE be managers at the same on the part of the Senate.

Mr. HUNTER presented the petition of Stephen Drayton, late a deputy quartermaster general in the American Army, praying for liquidation and payment of certain demands against the United States, therein mentioned; which was read.

Ordered, That it be referred to the Secretary for the Department of War, to consider and report thereon to the Senate at the next session of Congress.

The bill to authorize the President of the United States to lay, regulate, and revoke embargoes, was read the third time.

On the final passage of the bill, it was determined in the negative—yeas 12, nays 15, as follows:

YEAS—Messrs. Foster, Goodhue, Hillhouse, Howard, Hunter, Latimer, Read, Ross, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Bloodworth, Blount, Bradford, Brown, Cocke, Henry, Langdon, Livermore, Marshall, Martin, Mason, Paine, Tattnall, Tazewell, and Tichenor.

So it was *Resolved*, That this bill do not pass.

WEDNESDAY, June 28.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, the act, and sections of acts, therein mentioned," was read the second time, and referred to Messrs. TRACY, HENRY, and BLOODWORTH, to consider and report thereon to the Senate.

Mr. TAZEWELL reported from the committee appointed on the part of the Senate, to confer on the amendments to the bill, entitled "An act providing for the protection of the trade of the United States," that the committee could not agree to a report. Whereupon,

Resolved, That the Senate adhere to their disagreement to the amendment to the first amendment.

On motion, to recede from their disagreement to the amendment for adding three additional sections to the end of the bill, it was determined in the affirmative.

On motion, to amend the said amendment, a question of order was by the VICE PRESIDENT submitted to the Senate, to wit:

Is it in order, in the present case, for the Senate to recede from their disagreement to an amendment of the House of Representatives, and agree to the same with an amendment? And it was determined in the affirmative.

And on the question to agree to the said amendment to the amendment of the House of Representatives, it passed in the negative.

Resolved, That the Senate recede from their disagreement to all the amendments to the said bill, except the first.

The bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on licenses for selling foreign wines and

foreign distilled spirituous liquors by retail," was read the second time, and referred to Messrs. PAINE, ROSS, and GOODHUE, to consider and report thereon to the Senate.

The bill to ascertain the time for the next meeting of Congress was read the third time, and amended.

Ordered, That this bill pass; that it be engrossed; and that the title thereof be "An act to ascertain the time for the next meeting of Congress."

The Senate proceeded to consider the report of the committee, to whom was referred the bill to prevent the arming of private ships, except in certain cases, and under certain regulations; and, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, June 29.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, the act, and sections of acts, therein mentioned," reported that it pass without amendment.

Ordered, That this bill pass to the third reading.

A message from the House of Representatives informed the Senate that they recede from their first amendment disagreed to by the Senate to the bill entitled "An act providing for the protection of the trade of the United States."

The Senate resumed the consideration of the report of the committee to whom was referred the bill to prevent the arming of private ships, except in certain cases, and under certain regulations; and, having amended the report,

Ordered, That it be recommitted, together with the amendment thereto, to Messrs. MARSHALL, ROSS, and READ, to consider and report thereon to the Senate.

FRIDAY, June 30.

The VICE PRESIDENT laid before the Senate a letter from the Comptroller of the Treasury to the Secretary of the Senate, with the copy of a letter in answer to one from the Speaker of the House of Representatives, on the law providing compensation to the members of Congress; which was read.

Ordered, That they be referred to Messrs. READ, STOCKTON, and LIVERMORE, to consider and report thereon to the Senate, by bill or otherwise.

A message from the House of Representatives informed the Senate that the House concur in the bill, sent from the Senate, entitled "An act to ascertain the time for the next meeting of Congress," with amendments, in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, the act and sections of acts therein mentioned," was read the third time; and, being further amended,

Resolved, That this bill pass with amendments.

The Senate proceeded to consider the amendments of the House of Representatives to the bill entitled "An act to ascertain the time for the next meeting of Congress;" and,

Resolved, That they do concur therein.

Mr. READ, from the committee to whom was referred the letter from the Comptroller of the Treasury to the Secretary of the Senate, reported a bill for allowing full mileage to the members of the Senate and House of Representatives of the United States; which was read twice by unanimous consent, and ordered to the third reading.

Mr. TRACY, from the committee to whom was referred the Message of the President of the United States, of the 12th instant, reported a bill for confirming the titles to certain holders of lands in the southwestern part of the United States; which was read and ordered to the second reading.

Mr. TRACY further reported, from the committee last mentioned, on that part of the Message which recommends the expediency of erecting a government in the district of the Natchez, similar to that established for the territory northwest of the river Ohio, that the committee could come to no resolution.

SATURDAY, July 1.

JAMES GUNN, from the State of Georgia, attended.

The bill for confirming the titles to certain holders of lands in the southwestern part of the United States, was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed until Monday next.

A message from the House of Representatives informed the Senate that the House disagree to some, and agree to other, amendments of the Senate, with an amendment to, the bill, entitled "An act to continue in force, for a limited time, the act and sections of acts therein mentioned;"

They have passed a bill, entitled "An act for reviving and continuing suits and process in the Circuit Court for the district of North Carolina," in which they desire the concurrence of the Senate.

Mr. HILLHOUSE notified the Senate that he should, on Monday, ask leave to introduce a bill further to authorize the transfer of stock standing to the credit of certain States.

Mr. PAINE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on licenses for selling foreign wines and foreign distilled spirituous liquors by retail," reported sundry amendments, which were read.

Ordered, That they be printed for the use of the Senate.

The bill for allowing full mileage to the members of the Senate and House of Representatives of the United States, was read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act for allowing full mileage to the members of the Sen-

ate and House of Representatives of the United States."

The bill, sent from the House of Representatives for concurrence, entitled "An act for reviving and continuing suits and process in the Circuit Court for the district of North Carolina," was read the first time, and, by unanimous consent, the bill was read the second and third times.

Resolved, That this bill pass.

The Senate proceeded to consider the resolution of the House of Representatives on the amendments of the Senate to the bill, entitled "An act to continue in force, for a limited time, the act and sections of acts therein mentioned."

Resolved, That they do recede from their amendments disagreed to by the House of Representatives, and agree to their amendment to the amendment.

Mr. TRACY, from the committee to whom was referred the confidential Message of the President of the United States, of the 23d of June last, reported a bill, in addition to the law of the United States, concerning Consuls and Vice Consuls; which was read, and ordered to the second reading.

MONDAY, July 3.

Agreeably to notice given on the first instant, Mr. HILLHOUSE obtained leave to introduce a bill further to authorize the transfer of the stock standing to the credit of certain States; which was read, and by unanimous consent the bill was read the second time, and referred to Messrs. HILLHOUSE, LAURANCE, and TRACY, to consider and report thereon to the Senate.

The bill in addition to the law of the United States concerning Consuls and Vice Consuls, was read the second time, and by unanimous consent it was read the third time.

On motion that the compensation provided be three thousand, instead of four thousand dollars, it passed in the negative.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act, in addition to the law of the United States concerning Consuls and Vice Consuls."

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act laying duties on stamped vellum, parchment, and paper," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence, was read, and by unanimous consent the bill was read the second time, and referred to Messrs. ROSS, TRACY, and BINGHAM; to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate,

and House of Representatives:

The whole of the intelligence which has for some time past been received from abroad, the correspondence between this Government and the Ministers of the belligerent Powers residing here, and the advices from the officers of the United States, civil and military, upon the frontiers, all conspire to show, in a very strong light, the critical situation of our country. That Congress might be enabled to form a more perfect judgment of it, and of the measures necessary to be taken, I have directed the proper officers to prepare such collections of extracts from the public correspondence as might afford the clearest information. The reports made to me, from the Secretary of State and the Secretary of War, with a collection of documents from each of them, are now communicated to both Houses of Congress. I have desired that the Message, reports, and documents, may be considered as confidential, merely that the members of both Houses of Congress may be apprized of their contents before they should be made public. As soon as the two Houses shall have heard them, I shall submit to their discretion the publication of the whole or any such parts of them as they shall judge necessary or expedient for the public good.

JOHN ADAMS.

UNITED STATES, *July* 3, 1797.

The Message and papers were read.

On motion, the copy of a letter communicated with the Message was again read, in the hearing of Mr. BLOUNT, who was absent when it was read the first time: and who, on being requested to declare whether he was the author of this letter or not, observed, that he wrote a letter to Carey, but was unable to say whether the copy was a correct one or not, without recurrence to his papers; and desired that he might have until to-morrow to reply.

Ordered, That the Message and papers lie for consideration.

The Senate proceeded to consider the report of the committee on the bill entitled "An act laying duties on licenses for selling foreign wines and foreign distilled spirituous liquors by retail;" and, after debate,

Ordered, That the further consideration thereof be postponed.

TUESDAY, July 4.

The Senate proceeded to consider the Message of the President of the United States, of the third instant, with the papers therein referred to.

Mr. COCKE laid before the Senate a letter addressed to him, signed WILLIAM BLOUNT, purporting, that it was necessary for him, the said WILLIAM BLOUNT, to have further time for recurrence to his papers and other evidence to remove suspicion.

Resolved, That so much of the Message from the President of the United States, of the third instant, and the papers accompanying the same, as relates to a letter purporting to have been written by WILLIAM BLOUNT, a Senator from the State of Tennessee, be referred to a select committee, to consider and report what, in their opinion, it is proper for the Senate to do thereon; and that the said committee have power to send for persons, papers, and records, relating to the subject committed to them, and that Messrs. ROSS, STOCKTON, HENRY, SEDGWICK, and READ, be the committee.

Ordered, That the Senate be, for the present,

under an injunction of secrecy on the papers referred to in the above mentioned Message.

The Senate resumed the consideration of the amendments reported by the committee on the bill entitled "An act laying duties on licenses for selling foreign wines and foreign distilled spirituous liquors by retail;" which were adopted, and the bill was ordered to the third reading.

A message from the House of Representatives informed the Senate that they have passed a bill entitled "An act making additional appropriations for the support of Government for the year one thousand seven hundred and ninety-seven," in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, read the second time, and referred to Messrs. TRACY, GOODHUE, and LIVERMORE, to consider and report thereon to the Senate.

Mr. HILLHOUSE, from the committee to whom was referred the bill further to authorize the transfer of the stock standing to the credit of certain States, reported an amendment, which was read and adopted; and, by unanimous consent, it was read the third time.

Resolved, That this bill pass; and that it be engrossed; and that the title thereof be "An act to revive and continue in force, for a limited time, an act entitled "An act authorizing the transfer of the stock standing to the credit of certain States."

The Senate resumed the consideration of the report of the committee to whom was referred the bill to prevent the arming of private ships, except in certain cases, and under certain regulations.

On motion, to strike out the first section, reported by the committee, as an amendment, in the words following:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no private ship or vessel, belonging to, or registered in the name or names of, a citizen or citizens of the United States, which shall be armed, shall be cleared out, or permitted to depart from the United States: *Provided*, the foregoing prohibition shall not extend to any ship or vessel really and truly freighted and employed in the Mediterranean or African trade, or for a voyage beyond the Cape of Good Hope or Cape Horn, and armed as has been usual in those trades or voyages, for defence against unlawful violence."

It was determined in the affirmative, yeas 16—nays 12, as follows:

YEAS—Messrs. Bradford, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Martin, Paine, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS—Messrs. Bingham, Bloodworth, Brown, Cocke, Gunn, Henry, Howard, Hunter, Marshall, Read, Tattnall, and Tazewell.

Ordered, That the further consideration of this bill be postponed until the next session of Congress.

WEDNESDAY, July 5.

Mr. ROSS, from the committee on part of the Message of the President of the United States, of the 3d instant, made report; and the report was read.

Ordered, That the VICE PRESIDENT notify WILLIAM BLOUNT, Senator from the State of Tennessee, by letter, to attend the Senate.

The VICE PRESIDENT accordingly addressed to him the following letter, by the Doorkeeper:

SENATE CHAMBER, *July 5*, 1797.

SIR: You are hereby required to attend the Senate, in your place, without delay.

By order of the Senate;

TH. JEFFERSON.
President of the Senate.

WILLIAM BLOUNT, Esq.,
Senator from the State of Tennessee.

On motion that it be

"*Resolved*, That the letter said to have been written by William Blount, together with the several notes that passed between the Secretary of State and the British Minister, relative to the said letter, be printed for the use of the members"—

It was agreed that the consideration of this motion be postponed until to-morrow.

Ordered, That the injunction of secrecy respecting the Message of the President of the United States, of the 3d instant, and the papers accompanying the same, be taken off.

The VICE PRESIDENT acquainted the Senate that the Doorkeeper had returned his letter addressed agreeably to their order to WILLIAM BLOUNT, as on inquiry he could not be found.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on stamped vellum, parchment, and paper," reported that the bill pass without amendment; and it was agreed, by unanimous consent, that this bill pass to the third reading at this time.

On the final passage of the bill, the question was determined in the affirmative—yeas 20, nays 7, as follows:

YEAS—Messrs. Bingham, Bradford, Foster, Goodhue, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Stockton, Tichenor, Tracy, and Vining.

NAYS—Messrs. Bloodworth, Brown, Cocke, Hunter, Martin, Tattnall, and Tazewell.

So it was resolved that this bill pass.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making additional appropriations for the support of Government, for the year one thousand seven hundred and ninety-seven," reported an amendment, which was read and adopted; and the bill was ordered to the third reading as amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on licenses for selling foreign wines and foreign distilled spirituous liquors by retail," was read the third time, and, being further amended, it was resolved that this bill pass with amendments.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act authorizing a loan of money,"

in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. HILLHOUSE, READ, and GUNN, to consider and report thereon to the Senate.

The VICE PRESIDENT obtained leave of absence for the remainder of the session.

The Senate resumed the second reading of the bill for confirming the titles to certain holders of lands in the southwestern part of the United States; and, after debate, it was ordered that the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act laying an additional duty on salt imported into the United States, and for other purposes," in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. GOODHUE, BRADFORD, and BROWN, to consider and report thereon to the Senate.

THURSDAY, July 6.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and the Hon. WILLIAM BRADFORD was duly elected.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act laying an additional duty on salt imported into the United States, and for other purposes," reported that the bill pass.

The bill was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act making additional appropriations for the support of Government, for the year one thousand seven hundred and ninety-seven," was read the third time.

On motion, to strike out the sum of sixty thousand five hundred dollars, appropriated for the expense of foreign intercourse, for the purpose of inserting fifty-one thousand five hundred dollars, it was determined in the negative—yeas 10, nays 17, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Foster, Henry, Hunter, Martin, Tazewell, and Tattnall.

NAYS—Messrs. Bradford, Goodhue, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Rutherfurd, Sedgwick, Tichenor, Tracy, and Vining.

Resolved, That this bill pass with an amendment.

Mr. ROSS, from the committee to whom was referred that part of the President's Message of the 3d instant, which relates to a letter, purporting to have been written by WILLIAM BLOUNT, Esquire, together with the papers accompanying the same, made a farther report; which was read. Upon which,

Mr. BLOUNT read in his place a declaration, purporting that he should attend in his seat, from time to time, to answer to any allegations that might be brought against him.

Ordered, That the consideration of the report of the committee be postponed until 11 o'clock, to-morrow morning.

On motion, by Mr. BLOUNT, that he be heard by counsel on the subject-matter of this report—

A motion was made to postpone the consideration of this motion until to-morrow, and it passed in the negative.

Resolved, That Mr. BLOUNT be heard by counsel, not exceeding two, to-morrow morning, at 11 o'clock.

Ordered, That the Secretary furnish Mr. BLOUNT with attested copies of such papers as he may point out, respecting the subject this day reported on by the committee.

Mr. HILLHOUSE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing a loan of money," reported that the bill pass without amendment; and the bill was read the third time, and passed.

FRIDAY, July 7.

A message from the House of Representatives informed the Senate that the House have passed a resolution, that the President of the Senate, and the Speaker of the House of Representatives, be authorized to close the present session, by adjourning their respective Houses on Monday, the 10th day of this month; in which they desire the concurrence of the Senate.

The House of Representatives have passed a bill entitled "An act for the relief of Thomas Lewis," in which they desire the concurrence of the Senate.

Resolved, That the instructions to the committee to whom was referred that part of the President's Message, of the 3d instant, which relates to a letter, purporting to have been written by WILLIAM BLOUNT, Esq., together with the papers accompanying the same, be amended, by adding, after the word "records," the following words: "and particularly the papers of WILLIAM BLOUNT, Esquire."

Agreeably to the order of the day, the Senate proceeded to the consideration of the report of the above-mentioned committee, made yesterday.

On motion, that such printers as may request it, be accommodated with stands on the floor of the Senate, to enable them to take notes of their proceedings on the present occasion, it passed in the negative.

Mr. BLOUNT notified the Senate that Jared Ingersol and Alexander J. Dallas are the counsel he has employed, agreeably to the vote of the Senate passed yesterday.

The PRESIDENT requested of Mr. BLOUNT to declare, whether, or not, he was the author of a letter, a copy of which was communicated with the Message of the President of the United States, of the 3d instant.

Mr. BLOUNT declined to answer.

On motion, in consequence of the request of the counsel above-mentioned, that they have until Monday next to prepare themselves to show cause why the report of the committee should not be adopted: After debate, it was agreed that the question before the Senate be postponed, for the purpose of receiving a special message from the House of Representatives.

A message was received from the House of Representatives, by Mr. SITGREAVES, one of their members, in the words following:

"*Mr. President:* I am commanded, in the name of the House of Representatives, and of all the people of the United States, to impeach William Blount, a Senator of the United States, of high crimes and misdemeanors; and to acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles against him, and make good the same.

"I am further commanded to demand that the said William Blount be sequestered from his seat in the Senate; and that the Senate do take order for his appearance to answer the said impeachment."

A motion was made as follows:

"Pursuant to a message from the House of Representatives of the United States, by Samuel Sitgreaves, Esquire, a member of that House, that they, in their own name, and in the name of all the people of the United States, have impeached William Blount, a member of the Senate, of high crimes and misdemeanors, and that in due time they will exhibit articles against him, and make good the same; and they having demanded that the said William Blount be sequestered from his seat in this House; and that the Senate do take order for his appearance to answer to the said impeachment:

"*Resolved*, That the said William Blount be, and he hereby is, sequestered from his seat in the Senate, and that he be taken into custody of the Messenger of this House, until he shall enter into recognizance, himself in the sum of ——— dollars, with two sufficient sureties in the sum of ——— dollars each, to appear and answer such articles of impeachment as may be exhibited against him."

On motion, it was agreed to fill the first blank with twenty thousand, and the other blank with fifteen thousand.

A motion was then made to postpone the consideration of this motion until to-morrow, and it passed in the negative.

On motion, it was agreed to divide the motion, and that the question be taken on the words, "be, and he hereby is, sequestered from his seat in the Senate, and that he."

On motion, it was agreed to postpone the consideration of this division of the question until to-morrow.

And the resolution was adopted, as follows:

"Pursuant to a message from the House of Representatives of the United States by Samuel Sitgreaves, Esq., a member of that House, that they, in their own name, and in the name of all the people of the United States, have impeached William Blount, a member of the Senate, of high crimes and misdemeanors; and that, in due time, they will exhibit articles against him, and make good the same; and they having demanded that the said William Blount be sequestered from his seat in this House, and that the Senate take order for his appearance, to answer to the said impeachment:

"*Resolved*, That the said William Blount be taken into custody of the Messenger of this House, until he shall enter into recognizance, himself in the sum of twenty thousand dollars, with two sufficient sureties in the sum of fifteen thousand dollars each, to appear and answer such articles of impeachment as may be exhibited against him."

Whereupon Mr. BLOUNT named his sureties, and they were satisfactory to the Senate.

The PRESIDENT then named Mr. BLOUNT and his sureties, who arose while the recognizance was read, and being approved by the Senate, it was executed in their presence, in the form as follows:

"*Be it remembered*, That, on the seventh day of July, in the year of our Lord one thousand seven hundred and ninety-seven, personally appeared before the President *pro tempore*, and Senate of the United States, William Blount, Esq., Senator of the State of Tennessee, Thomas Blount, Esq., member of the House of Representatives of the United States, from the State of North Carolina, and Pierce Butler, Esq., of South Carolina, who severally acknowledged themselves to owe to the United States of America the following sums, that is to say: The said William Blount, the sum of twenty thousand dollars, and the said Thomas Blount and Pierce Butler, each, the sum of fifteen thousand dollars, to be levied on their respective goods and chattels, lands, and tenements, on the condition following, that is to say:

"*The condition* of the foregoing recognizance is such, that if the said William Blount shall appear before the Senate of the United States, to answer to certain charges of impeachment to be exhibited against him by the House of Representatives of the United States, and not depart therefrom without leave, that then the above recognizance shall cease to exist, otherwise be and remain in full force and virtue.

"Sealed and delivered in Senate of the United States, this seventh day of July, one thousand seven hundred and ninety-seven.

"WILLIAM BLOUNT, [L. S.]
"THOMAS BLOUNT, [L. S.]
"PIERCE BUTLER. [L. S.]

"Attest: SAMUEL A. OTIS, *Secretary of the Senate of the United States.*"

SATURDAY, July 8.

A message from the House of Representatives informed the Senate that the House agree to the amendment of the Senate to the bill entitled "An act making additional appropriations for the support of Government for the year one thousand seven hundred and ninety-seven," with an amendment; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to their amendment to the bill last mentioned; and concurred therein.

Ordered, That the Secretary of the Senate notify the House of Representatives that, in consequence of their message of yesterday, by the Honorable Mr. SITGREAVES, one of their members, they have caused WILLIAM BLOUNT to recognize, in the sum of twenty thousand dollars principal, with two sureties in the sum of fifteen thousand dollars each, to appear and answer to the impeachment mentioned in their message.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Lewis," was read the first time, and ordered to the second reading.

Mr. HUNTER laid before the Senate the petition of Phœbe Harwood, praying support in her advanced age and widowhood; her husband having deceased in imprisonment during the late war; and the petition was read.

Ordered, That it lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred that part of the President's Message which relates to a letter purporting to have been written by WILLIAM BLOUNT, Esq., together with the papers accompanying the same.

On motion, Mr. Justice SMITH was desired to attend and administer the oath to such witnesses as might be adduced.

On motion, Mr. MARTIN and Mr. COCKE, of the Senate, being sworn, severally testified, on inspection of the letter said to be written by Mr. BLOUNT, that it was his handwriting, they being acquainted therewith, and having seen him write.

The PRESIDENT then said:

"William Blount, Esq., you have now an opportunity, agreeably to the vote of Senate, in pursuance of your own request, by your counsel, to show cause, why the report of the committee should not be adopted."

Mr. BLOUNT was heard by his counsel, Mr. Ingersol and Mr. Dallas; and, after debate,

A motion was made to postpone the consideration of the report of the committee to the next session of Congress; and it was decided in the negative—yeas 7, nays 19, as follows:

YEAS—Messrs. Bloodworth, Brown, Cocke, Gunn, Martin, Tazewell, and Tattnall.

NAYS—Messrs. Bingham, Bradford, Foster, Goodhue, Henry, Hillhouse, Howard, Hunter, Latimer, Laurance, Livermore, Marshall, Read, Ross, Rutherfurd, Sedgwick, Tichenor, Tracy, and Vining.

On the question to agree to the report of the committee, as follows:

"The committee to whom was referred that part of the President's Message which relates to a letter purporting to have been written by William Blount, Esq., one of the Senators from the State of Tennessee, together with the papers accompanying the same, having had the same under their consideration, beg leave to make a further report:

"That Mr. Blount having declined an acknowledgment or denial of the letter imputed to him, and having failed to appear, to give any satisfactory explanation respecting it, your committee sent for the original letter, which accompanies this report, and it is in the following words:

'*Colonel King's Iron Works, April* 21, 1797.

'DEAR CAREY: I wished to have seen you before I returned to Philadelphia; but I am obliged to return to the session of Congress, which commences on the 15th of May.

'Among other things that I wished to have seen you about, was the business Captain Chesholm mentioned to the British Minister last winter at Philadelphia.

'I believe, but am not quite sure, that the plan then talked of will be attempted this fall; and if it is attempted, it will be in a much larger way than then talked of; and if the Indians act their part, I have no doubt but it will succeed. A man of consequence has gone to England about the business, and if he makes arrangements as he expects, I shall myself have a hand in the business, and probably shall be at the head of the business on the part of the British. You are, however, to understand, that it is not yet quite certain that the plan will be attempted; yet, you will do well to keep things in a proper train of action, in case it should be attempted, and to do so, will require all your management—I say require all your management, because you must take care, in whatever you say to Rogers, or any body else, not to let the plan be discovered by Hawkins, Dinsmore, Byers, or any other person in the interest of the United States or Spain.

'If I attempt this plan, I shall expect to have you, and all my Indian country and Indian friends, with me; but you are now in good business I hope, and you are not to risk the loss of it by saying anything that will hurt you, until you again hear from me. Where Captain Chesholm is I do not know; I left him in Philadelphia in March, and he frequently visited the Minister and spoke upon the subject; but I believe he will go into the Creek nation by way of South Carolina or Georgia. He gave out he was going to England, but I did not believe him. Among other things that you may safely do, will be to keep up my consequence with Watts, and the Creeks and Cherokees generally, and you must by no means say anything in favor of Hawkins, but, as often as you can, with safety to yourself, you may teach the Creeks to believe he is no better than he should be. Any power or consequence he gets, will be against our plan. Perhaps Rogers, who has no office to lose, is the best man to give out talks against Hawkins. Read the letter to Rogers, and if you think it best to send it to him, put a wafer in it, and forward it to him by a safe hand, or perhaps you had best send for him to come to you, and speak to him yourself respecting the state and prospect of things.

'I have advised you, in whatever you do, to take care of yourself. I have now to tell you to take care of me too; for a discovery of the plan would prevent the success and much injure all the parties concerned.

'It may be that the Commissioners may not run the line as the Indians expect or wish, and, in that case, it is probable the Indians may be taught to blame me for making the treaty. To such complaints against me, if such there are, it may be said by my friends, at proper times and places, that Doublehead confirmed the treaty with the President, at Philadelphia, and receives as much as 5,000 dollars a year, to be paid to the nation, over and above the first price: indeed, it may with truth be said, that, though I made the treaty, that I made it by the instructions of the President, and, in fact, it may with truth be said, that I was, by the President, instructed to purchase much more land than the Indians would agree to sell. This sort of talk will be throwing all the blame off me upon the late President, and as he is now out of office, it will be of no consequence how much the Indians blame him. Among other things that may be said for me is, that I was not at the running of the line, and that if I had been, it would have been run more to their satisfaction. In short, you understand the subject, and must take care to give out

the proper talks, to keep up my consequence with the Creeks and Cherokees. Can't Rogers contrive to get the Creeks to desire the President to take Hawkins out of the nation! for, if he stays in the Creek nation and gets the good will of the nation, he can and will do great injury to our plan. When you have read this letter over three times, then burn it. I shall be at Knoxville in July or August, when I will send for Watts, and give him the whiskey I promised him.

'I am, &c., WILLIAM BLOUNT.'

"Two Senators, now present in the Senate, have declared to the committee that they are well acquainted with the handwriting of Mr. Blount, and have no doubt that this letter was written by him. Your committee have examined many letters from Mr. Blount to the Secretary of War, a number of which are herewith submitted, as well as the letter addressed by Mr. Blount to Mr. Cook, his colleague in the Senate, and to this committee, respecting the business now under consideration; and find them all to be of the same handwriting with the letter in question. Mr. Blount has never denied this letter, but, on the other hand, when the copy transmitted to the Senate was read in his presence, on the 3d instant, he acknowledged in his place that he had written a letter to Carey, of which he had preserved a copy, but could not then decide whether the copy read was a true one. Your committee are therefore fully persuaded that the original letter now produced was written and sent to Carey by Mr. Blount. They also find that this man, Carey, to whom it was addressed, is, to the knowledge of Mr. Blount, in the pay and employment of the United States, as their interpreter to the Cherokee nation of Indians, and an assistant in the public factory at Tellico Blockhouse. That Hawkins, who is so often mentioned in this letter as a person who must be brought into suspicion among the Creeks, and if possible driven from his station, is the superintendent of Indian affairs for the United States among the Southern Indians; Dinsmore is agent for the United States in the Cherokee nation; and Byers, one of the agents in the public factory at Tellico Blockhouse.

"The plan hinted at in this extraordinary letter, to be executed under the auspices of the British, is so capable of different constructions and conjectures, that your committee at present forbear giving any decided opinion respecting it; except that to Mr. Blount's own mind, it appeared to be inconsistent with the interests of the United States and of Spain, and he was therefore anxious to conceal it from both. But, when they consider his attempts to seduce Carey from his duty, as a faithful interpreter, and to employ him as an engine to alienate the affections and confidence of the Indians, from the public officers of the United States residing among them; the measures he has proposed to excite a temper which must produce the recall or expulsion of our superintendent from the Creek nation; his insidious advice tending to the advancement of his own popularity and consequence, at the expense and hazard of the good opinion which the Indians entertain of this Government, and of the treaties subsisting between us and them, your committee have no doubt that Mr. Blount's conduct has been inconsistent with his public duty, renders him unworthy of a further continuance of his present public trust in this body, and amounts to a high misdemeanor. They, therefore, unanimously recommend to the Senate an adoption of the following resolution:

"*Resolved*, That William Blount, Esq., one of the Senators of the United States, having been guilty of a high misdemeanor, entirely inconsistent with his public trust and duty as a Senator, be, and he hereby is, expelled from the Senate of the United States."

The report was adopted—yeas 25, nay 1; as follows:

YEAS—Messrs. Bingham, Bloodworth, Bradford, Brown, Cocke, Foster, Goodhue, Gunn, Henry, Hillhouse, Howard, Hunter, Latimer, Laurance, Livermore, Martin, Marshall, Read, Ross, Rutherfurd, Sedgwick, Tattnall, Tichenor, Tracy, and Vining.

Mr. Tazewell voted in the negative.

So it was *Resolved*, That William Blount, Esq., one of the Senators of the United States, having been guilty of a high misdemeanor, entirely inconsistent with his public trust and duty as a Senator, be, and he hereby is, expelled from the Senate of the United States.

On this, Mr. BUTLER, in behalf of himself and Mr. THOMAS BLOUNT, the other surety, surrendered the person of WILLIAM BLOUNT, the principal, to the Senate, and requested to be discharged from their recognizance. Whereupon, it was

Ordered, That they be discharged from their recognizance, and that the Secretary enter an endorsement on the back of the bond as follows:

"And now, to wit, on this eighth day of July, 1797, the Honorable Thomas Blount and Pierce Bulter, Esq'rs., came into the Senate and surrendered William Blount, Esq., for whom they became bound yesterday."

On motion,

Resolved, That WILLIAM BLOUNT be taken into the custody of the Messenger of this House, until he shall enter into recognizance, himself in the sum of one thousand dollars, with two sufficient sureties, in the sum of five hundred dollars each; to appear and answer such articles of impeachment as may be exhibited against him by the House of Representatives, on Monday next.

The Senate proceeded to consider the resolution of the House of Representatives of the 7th instant, proposing an adjournment of the two Houses, on Monday the 10th instant; and concurred therein.

MONDAY, July 10.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Lewis," was read the second time, and on motion that the bill be now read the third time, it was objected to. So the bill was lost.

Mr. BINGHAM laid before the Senate the petition of William Montgomery, and others, remonstrating on the hardship of the "act laying duties on stamped vellum, parchment, and paper;" which was read, and ordered to lie on the table.

The Messenger of the Senate made the following return, on their order of the 8th instant:

"Agreeably to the order of the Senate, the within mentioned WILLIAM BLOUNT having entered into recognizance, I have returned the same into the office of the Secretary of the Senate."

Ordered, That the Secretary transmit to the Executive of the State of Tennessee an attested

copy of the proceedings of the Senate, on the report of the committee, of the sixth instant, for the expulsion of WILLIAM BLOUNT.

The Senate resumed the second reading of the bill for confirming the titles to certain holders of lands in the southwestern part of the United States; and, after debate,

Ordered, That the further consideration thereof be postponed until the next session of Congress.

On motion, it was

Ordered, That the Secretary lay before the President of the United States an attested copy of the proceedings of the Senate on his Message of the third instant, transmitting a letter, signed WILLIAM BLOUNT, directed to Mr. Carey.

Ordered, That it be entered on the Journal of the Senate, that WILLIAM BLOUNT failed making his appearance this day, agreeably to the recognizance entered into on the eighth instant.

Ordered, That Mr. TRACY and Mr. READ be a joint committee, on the part of the Senate, with such as the House of Representatives may appoint on their part, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee on their part to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Mr. TRACY reported, from the joint committee, that they had waited on the President of the United States, agreeably to order, who replied, that he had no further communication to make to Congress, except a respectful and affectionate farewell.

The PRESIDENT then adjourned the Senate without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, MONDAY, MAY 15, 1797.

In pursuance of the authority given by the Constitution, the PRESIDENT OF THE UNITED STATES, on the 25th day of March last, caused to be issued the Proclamation which follows:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas the Constitution of the United States of America provides that the President may, on extraordinary occasions, convene both Houses of Congress; and whereas an extraordinary occasion exists for convening Congress, and divers weighty matters claim their consideration, I have therefore thought it necessary to convene, and I do by these presents convene the Congress of the United States of America, at the City of Philadelphia, in the Commonwealth of Pennsylvania, on Monday the fifteenth day of May next, hereby requiring the Senators and Representatives in the Congress of the United States of America, and every of them, that, laying aside all other matters and cares, they then and there meet and assemble in Congress, in order to consult and determine on such measures as in their wisdom shall be deemed meet for the safety and welfare of the said United States.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the City of Philadelphia the [L. S.] twenty-fifth day of March, in the year of our Lord one thousand seven hundred and ninety-seven, and of the Independence of the United States of America the twenty-first.

JOHN ADAMS.

By the President:
TIMOTHY PICKERING,
Secretary of State.

MONDAY, May 15, 1797.

This being the day appointed by the Proclamation of the PRESIDENT OF THE UNITED STATES, of the 25th of March last, for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—ABIEL FOSTER and JONATHAN FREEMAN.

From Massachusetts—THEOPHILUS BRADBURY, DWIGHT FOSTER, NATHANIEL FREEMAN, jr., SAMUEL LYMAN, HARRISON GRAY OTIS, JOHN REED, SAMUEL SEWALL, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH BRADLEY VARNUM, and PELEG WADSWORTH.

From Rhode Island—CHRISTOPHER G. CHAMPLIN and ELISHA R. POTTER.

From Connecticut—JOSHUA COIT, SAMUEL W. DANA, JAMES DAVENPORT, CHAUNCEY GOODRICH, ROGER GRISWOLD, and NATHANIEL SMITH.

From Vermont—MATTHEW LYON.

From New York—DAVID BROOKS, JAMES COCHRAN, LUCAS ELMENDORPH, HENRY GLEN, JONATHAN N. HAVENS, HEZEKIAH L. HOSMER, EDWARD LIVINGSTON, JOHN E. VAN ALEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

From New Jersey—JONATHAN DAYTON, JAMES H. IMLAY, and MARK THOMPSON.

From Pennsylvania—DAVID BARD, JOHN CHAPMAN, GEORGE EGE, ALBERT GALLATIN, JOHN ANDRE HANNA, THOMAS HARTLEY, JOHN WILKES KITTERA, BLAIR M'CLENACHAN, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

From Maryland—GEORGE BAER, jr., WILLIAM CRAIK, JOHN DENNIS, GEORGE DENT, WILLIAM HINDMAN, WILLIAM MATTHEWS, and RICHARD SPRIGG, jr.

From Virginia—SAMUEL JORDAN CABELL, THOMAS CLAIBORNE, MATTHEW CLAY, JOHN CLOPTON, JOHN DAWSON, THOMAS EVANS, WILLIAM B. GILES, CARTER B. HARRISON, DAVID HOLMES, WALTER JONES, JAMES MACHIR, DANIEL MORGAN, ANTHONY NEW, JOHN NICHOLAS, ABRAM TRIGG, and ABRAHAM VENABLE.

From North Carolina—THOMAS BLOUNT, NATHAN BRYAN, JAMES GILLESPIE, WILLIAM BARRY GROVE, MATTHEW LOCKE, NATHANIEL MACON, RICHARD STANFORD, and ROBERT WILLIAMS.

From South Carolina—ROBERT GOODLOE HARPER, JOHN RUTLEDGE, jr., and WILLIAM SMITH, (of Charleston District.)

From Georgia—ABRAHAM BALDWIN and JOHN MILLEDGE.

And a quorum, consisting of a majority of the whole number, being present,

The House proceeded, by ballot, to the choice of a SPEAKER; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JONATHAN DAYTON, one of the Representatives for the State of New Jersey: whereupon,

Mr. Dayton was conducted to the Chair, from whence he made his acknowledgments to the House, as follows:

"Accept, gentlemen, my acknowledgments for the very flattering mark of approbation and confidence exhibited in this second call to the Chair, by a vote of this House.

"Permit me, most earnestly, to request of you a continuance of that assistance and support, which were, upon all occasions, during the two preceding sessions, very liberally afforded to me; and, without which, all my exertions to maintain the order, and expedite the business of the House, must be, in a great degree, unsuccessful."

ELECTION OF CLERK, &c.

The Speaker informed the House, that, according to former proceedings, the next business would be to proceed to the choice of a Clerk. He read one of the rules of the House, which says, that previous to the election of any officer, for whom others than members are eligible, a nomination shall be made. He left the House to decide whether a nomination ought to be made in this case.

Mr. Macon thought that a nomination ought to be made, and named John Beckley.

Mr. Giles thought this case came under the rule, and that it was proper a nomination should take place; because, if it were wished to choose a fresh person to the office, it would be necessary some inquiry should be made of the member who proposed him, with respect to his fitness and qualifications for the business; they ought also to hear from such member any objection which might lie against the person who now fills the office.

Mr. Thatcher said that no nomination had been made on former similar occasions.

Mr. W. Smith observed that the rules of a former House were not binding upon a new House, until that House had determined that they should be so. It had been the practice heretofore, on the meeting of a new Congress, that the rules of the former House should be binding on them, until otherwise determined; but, as no such vote had yet been passed, and as in a former instance there had been a previous nomination when a Clerk was to be chosen, he saw no reason for it in the present case. A similar attempt for a nomination was made at the time the last Clerk was chosen, but it did not obtain, nor could he discover why gentlemen should be so anxious for a nomination at present.

Mr. Williams said, as no vote had been passed for adhering to the former rules, they were not binding on the House. He thought it could make no difference in the event whether there was a nomination or not.

Mr. Claiborne was in favor of a nomination.

Mr. W. Smith thought the question before them was, whether they would then proceed to the choice of a Clerk or not. He asked what purpose could be answered by a nomination? If it were to inquire into the character of the person proposed, time would be necessary, whereas they must immediately proceed to the choice of a Clerk, as their business could not be recorded until he was appointed; besides, he doubted not gentlemen had already determined for whom they would vote, and therefore it would answer no purpose.

Mr. Macon allowed that no nomination was made at the last election of a Clerk, but he said a nomination was made for the Sergeant-at-Arms, and others, and he thought that the same step ought to be taken with respect to the choice of a Clerk.

Mr. Giles repeated his wish for a nomination, for the reasons he had before stated; but he was not very solicitous which of the methods was adopted.

Mr. Thatcher did not recollect that there had been any nomination on former occasions for a Clerk; but he thought it immaterial whether he was chosen to-day or to-morrow, since he believed the present Clerk would be considered in office until a new one should be chosen, and they were not, therefore, without a Clerk to record their proceedings.

The question being put for immediately going into the choice of a Clerk, it was carried; and the votes having been collected, the Speaker appointed Messrs. W. Smith and Livingston as tellers; when, having examined the votes, Mr. Smith reported that there were—

For Jonathan Williams Condy - - 41
For John Beckley - - - - 40

Mr. Condy being therefore elected, he was sent for, and soon after introduced, and took his seat at the Clerk's table.

Mr. W. Smith moved that Mr. Bradbury be appointed to administer the Constitutional oath to the Speaker; which was carried, and the oath administered accordingly.

The Speaker then proceeded to qualify all the members present, (viz: eighty-one,) by States, three or four at a time, who all took the following oath, (except two members, who being Quakers, took their affirmation:) "I —— do solemnly swear that I will support the Constitution of the United States."

The affirmation of office, and the affirmation to support the Constitution, was also administered to the Clerk.

It was then moved and carried, that a message be sent to the Senate, to inform them that a quorum of the House is assembled, and have chosen a Speaker.

A message was received from the Senate, informing the House that they had formed a quorum.

The House then proceeded to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper, when Joseph Wheaton was unanimously elected as Sergeant-at-Arms; Thomas Claxton as Doorkeeper; and Thomas Dunn as Assistant Doorkeeper.

Mr. Sitgreaves moved that a committee be appointed, jointly with such committee as may be appointed on the part of the Senate, to wait on the President, to inform him that quorums of both Houses are assembled, and ready to receive any communication which he may think proper

to make to them. Agreed to, and Messrs. Venable, Kittera, and Freeman, (Mass.,) were appointed a committee. Subsequently a message was received from the Senate, informing the House that they had concurred with the House in choosing a committee to wait upon the President, and had appointed Messrs. Livermore and Langdon on that committee.

Mr. Williams made the usual motion directing the Clerk to cause each member to be served daily with three of such of the daily papers of this city as he may choose.

Mr. Coit moved to amend the motion, by omitting the words *papers of this city*, in order that members might be at liberty to take any other papers; which was negatived, and the original motion carried.

Mr. Williams moved that a Committee of Elections should be chosen. The Speaker said that this motion was superseded by a standing rule of the House to the same effect. A motion was then made that a Committee of Election should be chosen; which was done, and Messrs. Coit, Varnum, Williams, Dent, Harrison, Hartley, and Baldwin, were appointed.

Mr. W. Smith moved that the Rules and Regulations of the late House of Representatives shall be deemed those of this House, until an alteration or revision shall take place. Carried, and ordered to be printed.

Mr. Sitgreaves moved that a committee be appointed to revise the Rules. Agreed to, and a committee of three appointed.

Mr. Venable, from the committee appointed to wait upon the President, reported that the President would meet the two Houses in that House to-morrow at twelve o'clock.

On motion, adjourned till to-morrow at eleven o'clock.

Tuesday, May 16.

Several other members, to wit: from New Jersey, James Schureman and Thomas Sinnickson; from Virginia, John Trigg; and from South Carolina, Thomas Sumpter, appeared, produced their credentials, were qualified, and took their seats in the House.

On motion,

Resolved, That two Chaplains of different denominations be appointed to Congress for the present session, one by each House, to interchange weekly.

CHAPLAINS TO THE SENATE.

A message from the Senate informed the House that they had appointed the Rev. Bishop White as their Chaplain, to interchange weekly with the Chaplain to be appointed by that House.

Mr. Sitgreaves wished that the choosing of a Chaplain for that House might be the order of the day for to-morrow.

Mr. Macon believed it was not necessary that any notice should be given for the purpose; it might be the order for any day on which the gentleman chose to bring forward the subject.

The Speaker said the notice was not necessary, but was not improper to be given.

PRESIDENT'S SPEECH.

It being near twelve o'clock, the Speaker observed, that it had been usual on similar occasions to the present, to send a message to the Senate, to inform them that the House is now ready to attend them in receiving the communication of the President, agreeably to his appointment: such a message was agreed to, and sent accordingly.

Soon after, the members of the Senate entered, and took the seats assigned them; and a little after twelve, the President of the United States entered, and took the Chair of the Speaker, (which he vacated on the entrance of the Senate, the President and Clerk of the Senate being placed on the right hand of the Chair, and the Speaker of the House of Representatives and the Clerk on the left.) After sitting a moment, he rose, and delivered the following Speech:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The personal inconveniences to the members of the Senate, and of the House of Representatives, in leaving their families and private affairs, at this season of the year, are so obvious, that I the more regret the extraordinary occasion which has rendered the convention of Congress indispensable.

It would have afforded me the highest satisfaction to have been able to congratulate you on a restoration of peace to the nations of Europe, whose animosities have endangered our tranquillity; but we have still abundant cause of gratitude to the Supreme Dispenser of national blessings, for general health and promising seasons; for domestic and social happiness; for the rapid progress and ample acquisitions of industry, through extensive territories; for civil, political, and religious liberty. While other States are desolated with foreign war, or convulsed with intestine divisions, the United States present the pleasing prospect of a nation governed by mild and equal laws, generally satisfied with the possession of their rights; neither envying the advantages nor fearing the power of other nations; solicitous only for the maintenance of order and justice, and the preservation of liberty; increasing daily in their attachment to a system of government, in proportion to their experience of its utility; yielding a ready and general obedience to laws flowing from the reason, and resting on the only solid foundation—the affections of the people.

It is with extreme regret that I shall be obliged to turn your thoughts to other circumstances, which admonish us that some of these felicities may not be lasting; but, if the tide of our prosperity is full, and a reflux commencing, a vigilant circumspection becomes us, that we may meet our reverses with fortitude, and extricate ourselves from their consequences with all the skill we possess, and all the efforts in our power.

In giving to Congress information of the state of the Union, and recommending to their consideration such measures as appear to me to be necessary or expedient, according to my Constitutional duty, the causes and the objects of the present extraordinary session will be explained.

After the President of the United States received information that the French Government had expressed

serious discontents at some proceedings of the Government of these States, said to affect the interests of France, he thought it expedient to send to that country a new Minister, fully instructed to enter on such amicable discussions and to give such candid explanations as might happily remove the discontents and suspicions of the French Government and vindicate the conduct of the United States. For this purpose he selected from among his fellow-citizens a character whose integrity, talents, experience, and services, had placed him in the rank of the most esteemed and respected in the nation. The direct object of his mission was expressed in his letter of credence to the French Republic, being "to maintain that good understanding which, from the commencement of the alliance, had subsisted between the two nations, and to efface unfavorable impressions; banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union;" and his instructions were to the same effect, "faithfully to represent the disposition of the Government and people of the United States, (their disposition being one;) to remove jealousies and obviate complaints, by showing that they were groundless; to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries and the real sentiments of his own."

A Minister thus specially commissioned, it was expected, would have proved the instrument of restoring mutual confidence between the two Republics; the first step of the French Government corresponded with that expectation. A few days before his arrival at Paris, the French Minister of Foreign Relations informed the American Minister, then resident at Paris, of the formalities to be observed by himself in taking leave, and by his successor preparatory to his reception. These formalities they observed; and on the ninth of December presented officially to the Minister of Foreign Relations, the one a copy of his letters of recall, the other a copy of his letters of credence. These were laid before the Executive Directory; two days afterwards, the Minister of Foreign Relations informed the recalled American Minister that the Executive Directory had determined not to receive another Minister Plenipotentiary from the United States until after the redress of grievances demanded of the American Government, and which the French Republic had a right to expect from it. The American Minister immediately endeavored to ascertain whether, by refusing to receive him, it was intended that he should retire from the territories of the French Republic, and verbal answers were given that such was the intention of the Directory. For his own justification he desired a written answer; but obtained none until towards the last of January; when receiving notice in writing to quit the territories of the Republic, he proceeded to Amsterdam, where he proposed to wait for instruction from this Government. During his residence at Paris, cards of hospitality were refused him, and he was threatened with being subjected to the jurisdiction of the Minister of Police, but with becoming firmness he insisted on the protection of the law of nations due to him as the known Minister of a foreign Power. You will derive further information from his despatches, which will be laid before you.

As it is often necessary that nations should treat, for the mutual advantage of their affairs, and especially to accommodate and terminate differences, and as they can treat only by Ministers, the right of embassy is well known, and established by the law and usage of nations; the refusal on the part of France to receive our Minister is then the denial of a right; but the refusal to hear him, until we have acceded to their demands, without discussion, and without investigation, is to treat us neither as allies, nor as friends, nor as a sovereign State.

With this conduct of the French Government, it will be proper to take into view the public audience given to the late Minister of the United States, on his taking leave of the Executive Directory. The Speech of the President discloses sentiments more alarming than the refusal of a Minister; because more dangerous to our independence and union; and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France, and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence; and regardless of national honor, character, and interest.

I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the American breast; it is my sincere desire, however, that it may be healed. It is my desire, and in this I presume I concur with you, and with our constituents, to preserve peace and friendship with all nations, and believing that neither the honor nor the interest of the United States absolutely forbid the repetition of advances for securing these desirable objects with France, I shall institute a fresh attempt at negotiation, and shall not fail to promote and accelerate an accommodation, on terms compatible with the rights, duties, interests, and honor of the nation. If we have committed errors, and these can be demonstrated, we shall be willing to correct them. If we have done injuries, we shall be willing, on conviction, to redress them; and equal measures of justice we have a right to expect from France and every other nation.

The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country; nevertheless, there is reason to believe that the Executive Directory passed a decree, on the second of March last, contravening, in part, the Treaty of Amity and Commerce, of one thousand seven hundred and seventy-eight, injurious to our lawful commerce, and endangering the lives of our citizens. A copy of this decree will be laid before you.

While we are endeavoring to adjust all our differences with France by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and general complexion of affairs, render it my indispensable duty to recommend to your consideration effectual measures of defence.

The commerce of the United States has become an

interesting object of attention, whether we consider it in relation to the wealth and finances, or the strength and resources of the nation. With a sea-coast of near two thousand miles in extent, opening a wide field for fisheries, navigation, and commerce, a great portion of our citizens naturally apply their industry and enterprise to these objects. Any serious and permanent injury to commerce, would not fail to produce the most embarrassing disorders; to prevent it from being undermined and destroyed, it is essential that it receive an adequate protection.

The Naval Establishment must occur to every man who considers the injuries committed on our commerce, the insults offered to our citizens, and the description of vessels by which these abuses have been practised. As the sufferings of our mercantile and seafaring citizens cannot be ascribed to the omission of duties demandable, considering the neutral situation of our country, they are to be attributed to the hope of impunity, arising from a supposed inability on our part to afford protection. To resist the consequences of such impressions on the minds of foreign nations, and to guard against the degradation and servility which they must finally stamp on the American character, is an important duty of Government.

A Naval power, next to the Militia, is the natural defence of the United States. The experience of the last war would be sufficient to show, that a moderate Naval force, such as would be easily within the present abilities of the Union, would have been sufficient to have baffled many formidable transportations of troops from one State to another, which were then practised. Our sea-coasts, from their great extent, are more easily annoyed and more easily defended by a Naval force than any other. With all the materials our country abounds; in skill, our naval architects and navigators are equal to any; and commanders and seamen will not be wanting.

But although the establishment of a permanent system of Naval defence appears to be requisite, I am sensible it cannot be formed so speedily and extensively as the present crisis demands. Hitherto I have thought proper to prevent the sailing of armed vessels, except on voyages to the East Indies, where general usage, and the danger from pirates, appeared to render permission proper; yet the restriction has originated solely from a wish to prevent collusions with the Powers at war, contravening the act of Congress of June, one thousand seven hundred and ninety-four, and not from any doubt entertained by me of the policy and propriety of permitting our vessels to employ means of defence, while engaged in a lawful foreign commerce. It remains for Congress to prescribe such regulations as will enable our seafaring citizens to defend themselves against violations of the law of nations; and, at the same time, restrain them from committing acts of hostility against the Powers at war. In addition to this voluntary provision for defence by individual citizens, it appears to me necessary to equip the frigates, and provide other vessels of inferior force to take under convoy such merchant vessels as shall remain unarmed.

The greater part of the cruisers whose depredations have been most injurious, have been built, and some of them partially equipped in the United States. Although an effectual remedy may be attended with difficulty, yet I have thought it my duty to present the subject generally to your consideration. If a mode can be devised by the wisdom of Congress to prevent the resources of the United States from being converted into the means of annoying our trade, a great evil will be prevented. With the same view I think it proper to mention that some of our citizens resident abroad have fitted out privateers, and others have voluntarily taken the command, or entered on board of them, and committed spoliations on the commerce of the United States. Such unnatural and iniquitous practices can be restrained only by severe punishments.

But besides a protection of commerce on the seas, I think it highly necessary to protect it at home, where it is collected in our most important ports. The distance of the United States from Europe, and the well known promptitude, ardor, and courage of the people, in defence of their country, happily diminish the probability of invasion: nevertheless, to guard against sudden and predatory incursions, the situation of some of our principal seaports demands your consideration; and as our country is vulnerable in other interests besides those of its commerce, you will seriously deliberate whether the means of general defence ought not to be increased by an addition to the regular artillery and cavalry, and by arrangements for forming a provisional army.

With the same view, and as a measure, which even in a time of universal peace ought not to be neglected, I recommend to your consideration a revision of the laws for organizing, arming, and disciplining the militia, to render that natural and safe defence of the country efficacious. Although it is very true, that we ought not to involve ourselves in the political system of Europe, but to keep ourselves always distinct and separate from it if we can, yet to effect this separation, early, punctual, and continual information of the current chain of events, and of the political projects in contemplation, is no less necessary than if we were directly concerned in them. It is necessary in order to the discovery of the efforts made to draw us into the vortex, in season to make preparations against them. However we may consider ourselves, the maritime and commercial Powers of the world will consider the United States of America as forming a weight, in that balance of power in Europe, which never can be forgotten or neglected. It would not only be against our interest, but it would be doing wrong to one half of Europe, at least, if we should voluntarily throw ourselves into either scale. It is a natural policy for a nation that studies to be neutral, to consult with other nations engaged in the same studies and pursuits. At the same time that measures ought to be pursued with this view, our treaties with Prussia and Sweden, one of which is expired, and the other near expiring, might be renewed.

Gentlemen of the House of Representatives:

It is particularly your province to consider the state of the public finances; and to adopt such measures respecting them as exigencies shall be found to require. The preservation of public credit, the regular extinguishment of the public debt, and a provision of funds to defray any extraordinary expenses, will of course call for your serious attention. Although the imposition of new burdens cannot be in itself agreeable, yet there is no ground to doubt that the American people will expect from you such measures as their actual engagements, their present security, and future interests demand.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The present situation of our country imposes an obligation on all the departments of Government to adopt an explicit and decided conduct. In my situation, an

exposition of the principles by which my administration will be governed ought not to be omitted.

It is impossible to conceal from ourselves or the world, what has been before observed, that endeavors have been employed to foster and establish a division between the Government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary; but to repel by decided and united councils insinuations so derogatory to the honor, and aggressions so dangerous to the Constitution, union, and even independence, of the nation, is an indispensable duty.

It must not be permitted to be doubted, whether the people of the United States will support the Government established by their voluntary consent, and appointed by their free choice, or whether by surrendering themselves to the direction of foreign and domestic factions, in opposition to their own Government, they will forfeit the honorable station they have hitherto maintained.

For myself, having never been indifferent to what concerned the interests of my country, devoted the best part of my life to obtain and support its independence, and constantly witnessed the patriotism, fidelity, and perseverance of my fellow-citizens, on the most trying occasions, it is not for me to hesitate or abandon a cause in which my heart has been so long engaged.

Convinced that the conduct of the Government has been just and impartial to foreign nations; that those internal regulations, which have been established by law for the preservation of peace, are in their nature proper, and that they have been fairly executed; nothing will ever be done by me to impair the national engagements, to innovate upon principles, which have been so deliberately and uprightly established, or to surrender in any manner the rights of the Government. To enable me to maintain this declaration, I rely upon God with entire confidence, on the firm and enlightened support of the National Legislature, and upon the virtue and patriotism of my fellow-citizens.

JOHN ADAMS.

Having concluded his Speech, after presenting a copy of it to the President of the Senate, and another to the Speaker of the House of Representatives, the President retired, as did also the members of the Senate; and the Speaker having resumed his Chair, he read the Speech: After which, on motion, it was ordered to be committed to a Committee of the Whole to-morrow.

Wednesday, May 17.

Several other members, to wit: from New Hampshire, William Gordon and Jeremiah Smith; from Pennsylvania, Andrew Gregg; appeared, produced their credentials, were qualified, and took their seats.

The House proceeded, by ballot, to the choice of a Chaplain. On counting the votes they were as follows:

Rev. Dr. Ashbel Green 60; Dr. Priestley 12; Rev. Mr. Carroll 2; Rev. Mr. Helmuth 1.

Dr. Green was consequently chosen.

THE PRESIDENT'S SPEECH.

The House then went into a Committee of the Whole, Mr. Dent, in the Chair, on the President's Speech. It was read by the Clerk.

Mr. Craik then moved a resolution, which, he observed, was merely a matter of form, as there had been one to the same effect, on every similar occasion. It was, "that it is the opinion of this committee, that a respectful Address should be presented to the President, in answer to his Speech to both Houses of Congress, containing assurances, that this House will take into consideration the various and important matters recommended to their consideration." The committee agreed to the resolution. They rose, and it immediately passed the House in the common form.

On motion, it was *Ordered*, That a committee be appointed to prepare an Answer to the Speech.

Mr. Venable, Mr. Kittera, Mr. Freeman, Mr. Rutledge, and Mr. Griswold, were nominated to report the Answer.

On motion, by Mr. Williams, the Speech was referred to the Committee of the Whole on the state of the Union.

Mr. Giles then moved to adjourn. The House accordingly rose at half past 12 o'clock.

Thursday, May 18.

COMMITTEE ON UNFINISHED BUSINESS.

Mr. Coit moved that a Standing Committee of Revisal and Unfinished Business be appointed.

Mr. Hartley hoped that such a committee would not be appointed, as, if all the unfinished business of last session were to be reported and acted upon, the session would be protracted to a length which he trusted was not the wish of the members of that House.

Mr. Corr observed, that the appointment of such a committee did not infer that the House would go into the consideration of all the unfinished business which might be reported; but there might be some subjects which would require attention, particularly any laws which might be about to expire.

Mr. Thatcher was opposed to the appointment of this committee; he was against attending to any private business; he wished only to attend to the important subject for which they had been called together. As to any laws being about to expire, he did not believe there were any, as all such were attended to last session.

Mr. Giles thought there was no necessity for this committee. He thought the question, however, of some importance, as the decision upon it would show whether the House intended to attend to ordinary business, or merely to that which would arise from the Speech of the President. For his part, he wished to get away as soon as possible, and, therefore, to confine their business to that subject upon which they were called to deliberate; and, though the Speech contained a variety of important objects, he hoped they should soon be able to get through them. He hoped, therefore, no business would be taken up until that was disposed of.

Mr. Sitgreaves said, the opposition to the appointment of this committee was totally without object. It should be recollected, he said, that the appointment of this committee was a part of the

Standing Rules of the House; unless it were appointed, therefore, there would be a contravention of a rule. [Mr. S. read the rule.] For his own part, he was not prepared to say with the gentleman from Massachusetts (Mr. Thatcher) that there were no laws which would expire before the next session of Congress. It was true, that these had been attended to last session; but it was also true, that laws which were passed for a limited time, were said to be for so long, "and until the end of the next session of Congress;" and this session, being an extraordinary one, might put a period to some of such laws. But, suppose this were not the case, what mischief, he asked, could the appointment of the committee effect? He could see none. It would, by reporting the unfinished business, and any expiring laws (if such there were) take the trouble of inquiry from the House; and, when the business was reported, any part of it might be taken up or not as the House should determine. It might, therefore, be of some advantage, but could be of no disadvantage, to appoint this committee.

Mr. Coit (after obtaining leave to speak a third time on the same subject) said, his principal object in the motion he had made, was to attend to expiring laws. The gentleman from Massachusetts was mistaken, when he asserted no law would expire before the next meeting of Congress. One he recollected; there might be others; it was a law passed May 6, 1796, relative to revenue cutters, which was to remain in force for one year, and from thence to the end of the next session of Congress; of course it would expire, if no provision was made to prevent it, with this session.

Mr. Thatcher withdrew his objection to the motion.

Mr. Giles did not know that the appointment of this committee would protract the session; but if gentlemen attended to the duties of this committee, they would find that, if the House were to attend to all the subjects upon which they were to report, it would of necessity occupy a considerable length of time. [He read what these were.] If, indeed, it were understood that this committee was only to extend to expiring laws, he should have no objection to its being appointed; but, should a general report be made, and the House act upon it, the session would be extended to a period beyond what any member contemplated.

Mr. Hartley hoped the committee would not be appointed, as he said there were from ninety to one hundred private cases on the list of unfinished business, to consider which would make a long session. If it were intended merely to inquire what laws were expiring, he would agree to it, but not otherwise. The rules which were before them, he said, were intended only for their ordinary annual sessions, and not to govern an extraordinary meeting like the present. If this committee were appointed, they might proceed to the appointment of a Committee of Claims. He hoped they should not decide any thing, before they had disposed of the President's Speech.

Mr. Nicholas hoped this business would be settled so as to meet the wishes of the House. He hoped a committee would be appointed and afterwards discharged from all other parts of their duty except what related to expiring laws.

The question being put, it was carried, there being 51 votes in favor of it; and a committee of three were appointed accordingly.

Mr. N. then moved that the committee be discharged from "examining and reporting, from the Journal of last session, all such matters as were then depending and undetermined; and also from revising the laws for the establishment of offices, and from reporting, from time to time, such provisions and expenses attending them as may appear to have become necessary."

Mr. Giles seconded the motion. The only objection which he had to this procedure was, that it was rather awkward first to appoint a committee, and then to discharge it from a great part of its duties; but having appointed the committee, he hoped this course would be taken, as gentlemen would recollect how easy it was to glide from one step of business to another, which was not at first intended, when so much lay before them.

Mr. Craik was not prepared to say that it would be improper to act upon any of the unfinished business of last session. He felt as strong a disposition to make the present session a short one as other gentlemen; but to enable them to do the business properly, he thought the best way would be to suffer this committee to take the whole of it before them, as it was not in the power of individual members to go over the Journal of last session, and say what was necessary to be gone into. Upon a view of the subject, there might be measures which it would be essential to have acted upon; and, after the report was made, the House would not be obliged to take up any thing which it did not think it necessary to do, and therefore no inconvenience could arise from it.

Mr. Swanwick said, whatever might be the decision of the House upon this question, there was one case which he thought in some degree connected with the subject of the President's Speech, which he wished to be considered. It was the case of North & Vesey, of Charleston, merchants, who prayed for the refunding of certain duties. There were circumstances in this case, he believed, which were infringements of existing treaties.

Mr. Giles said, if they gave way to business of this sort, they might expect to sit all the Summer, as every member had business entrusted to him which he thought of the first importance. He hoped they should attend only to the business upon which they were called.

Mr. Swanwick hoped, if the present motion were agreed to, an exception would be made in favor of the case he had mentioned.

The Speaker said the exception would not be in order.

Then, Mr. Swanwick added, he should vote against the motion, as he looked on this business of the first importance, and that whilst we were

attending to our own rights, we ought, in some degree, to respect those of other nations.

Mr. MACON said, it was of little consequence how the matter was determined, since, if the motion was carried, it would be in the power of any two members to bring forward any subject they pleased. He thought it would be best to determine to do no private business at all.

Mr. HARTLEY observed that if any private case were taken up, none deserved attention more than that of Mrs. Carmichael.

Mr. NICHOLAS knew that it was in the power of any two members to bring forward any private business, and, if they could persuade the House to do it, to have it decided; but he concluded, if this vote passed, all such attempts would be in vain.

Mr. THATCHER hoped the motion would prevail, as it was well known they had agreed to meet a month sooner than usual in their annual session, on account of the number of private cases undetermined; and, if they were to go into that business now, it would detain them in session six months.

Mr. MACON believed it would take less time to go on in the usual way, than to pass the present vote; for, he was convinced when the report should be made, the bulk of the business would deter the House from entering upon it.

The question was put and carried without a division.

Mr. SWANWICK said, since they had determined to take up no private business, he wished the House to resolve itself into a Committee of the Whole on the state of the Union, in order that they might take up the President's Speech.

Mr. GILES observed that this would be premature, since the President had promised them certain papers which were not received, and they had yet to determine upon an Answer to his Speech.

Mr. WILLIAMS said, perhaps the business would be best expedited by an adjournment, since it would allow the gentlemen on the committee appointed for the purpose, time to prepare an Answer to the Speech, and report it the earlier. He made a motion to that effect, which was carried.

FRIDAY, May 19.

RICHARD BRENT, from Virginia, appeared, produced his credentials, was qualified and took his seat.

Mr. COIT, from the Committee of Elections, made a report from the documents which they had received, of members entitled to their seats.

RULE OF THE HOUSE.

The SPEAKER observed that there was a rule of the House in these words: "No committee shall sit during the sitting of the House, without special leave." He thought it necessary to observe, that he had sent to the committee to whom it was referred to prepare an Answer to the President's Speech, to learn if they were ready to report. They returned for answer that, provided they had leave to sit, they should be able to report the Answer in half an hour.

On motion, leave was given.

DOCUMENTS REFERRED TO IN THE PRESIDENT'S SPEECH.

The SPEAKER informed the House that he had received a communication from the Department of State, containing sundry documents referred to by the President in his Speech to both Houses, numbered from 1 to 18. He proceeded to read No. 1, viz:

1. A letter from General Pinckney to the Secretary of State, dated Paris, December 20, 1796, giving an account of his arrival at Bordeaux; of his journey from thence to Paris, in which, from the badness of the roads, he broke three wheels of his carriage; of the ill treatment he received from M. Delacroix, &c. He remarks, that it is not surprising that the French Republic have refused to receive him, since they have dismissed no less than thirteen foreign Ministers; and since they have been led to believe by a late emigrant, that the United States was of no greater consequence to them than the Republics of Genoa or Geneva. He also mentions, that it seemed to be the opinion in France, that much depended on the election of the President, as one of the candidates was considered as the friend of England, the other as devoted to France. The people of France, he observes, have been greatly deceived, with respect to the United States, by misrepresentation, being led to believe that the people and Government have different views; but, adds he, any attempt to divide the people from the Government, ought to be to the people of the United States, the signal for rallying. Gen. Pinckney several times mentions Mr. Monroe in this letter with great respect; and says that before his arrival the Directory had been very cool towards him, but, since that time, they had renewed their civilities to him.

2. Is a report of Major General Mountflorence to General Pinckney, dated December 18, 1796, on the subject of American vessels brought prizes into the ports of France.

3. Extract of a letter from Gen. Pinckney to the Secretary of State, dated Paris, January 6, 1797, in which he mentions the distressed situation of American citizens, arriving in the ports of France, who were immediately thrown into prison, and could not be released, until an order was got from the American Minister, countersigned by the French Minister of Foreign Affairs; and no Minister being acknowledged there at present, no relief could be afforded. He, however, applied to M. Delacroix on their behalf, by means of the secretary, Major Rutledge, and got them attended to through the Minister of General Police. General Pinckney gives a further account of conversations which passed between his secretary and M. Delacroix, on the subject of his quitting Paris, in which he told him he must do so, or be liable to the operation of the police laws: but refused to commit his orders to writing. He mentions Barras's answer to Monroe's address as

a curious production; but says it was not particularly calculated as an answer to what was said by Mr. Monroe, as he had it prepared, and was unacquainted with what would be said by Mr. Monroe.

4. Extract of a letter from Gen. Pinckney to the Secretary of State, dated Amsterdam, February 18, informing him, that, having had official notice to quit the French Republic, he had gone to Amsterdam.

5. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 5, in which he observes, that before he left Paris, it was rumored that the Dutch were determined to treat American vessels in the same manner as the French had done. He now believes that the French wished them to do so, as he had lately received intelligence that the Dutch had objected to do this, alleging that it would be a great injury to them, as they should then lose their trade with this country, and if so, they would be deprived of furnishing that support to the French which they then gave them. France acquiesced because she saw it was her interest; and having 25,000 troops in Batavia, it was generally known that they could do what they pleased with that country. The General adds, with detestation, that there are American citizens who fit out privateers to cruise against the trade of this country.

6. Extract of a letter from Major General Mountflorence to General Pinckney, dated Paris, February 14, mentioning the capture of a vessel from Boston, and another from Baltimore, by an American citizen on board a privateer; adding, that American cizens of this class are continually wishing for more rigorous laws against American commerce.

7. Extract of a letter from the same to the same, dated Paris, February 21, giving an account of two more American vessels being brought into L'Orient by the same man, and of another vessel taken by a French privateer.

8. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 8, mentioning the capture of several American vessels; he also speaks of the disagreeableness of his situation; and was of opinion that the new third of the French Councils would determine whether this country and France were to remain at peace, or go to war. Though the former was desirable, he wished the measures of our Government to be firm.

9. Speech of Barras, President of the French Directory, on Mr. Monroe's recall.

10. The decree of the Executive Directory of March 2, relative to the seizure of American vessels.

11. Extract of a letter from John Quincy Adams, Esq., Minister Resident of the United States, near the Batavian Republic, to the Secretary of State, dated at the Hague, November 4, 1796, giving an account of the disposition of the people of that country towards this, which he states to be friendly; and this he attributes to its being their interest to be so. This country, he remarks, is the only quarter from which they receive regular payments. He adds, however, that they have no will in opposition to the French Government.

12. Extract of a letter from the Committee of Foreign Relations of the Batavian Republic, to the above Minister, dated September 27, 1796, making it appear very desirable that the United States should join them in their common cause against Great Britain, reminding him of the many services which they had rendered to this country.

13. Extract of a letter from John Quincy Adams in answer to the above, wherein he says he shall not omit to forward their letter to his Government.

14. Extract of a letter from John Quincy Adams to the Secretary of State, dated Hague, February 17, 1797, representing the French Republic as paying as little attention to other neutral Powers as to the United States. He alludes to their conduct towards Hamburg, Bremen, Copenhagen, &c.

15. Extract of a letter from Rufus King, Esq., to the Secretary of State, dated London, March 12, 1797, to the same effect.

16. A letter from the Minister of Spain, resident in Philadelphia, to the Secretary of State, dated May 6, 1797, complaining of the injurious operation of the British Treaty against Spain, in three respects, viz: as it destroys the doctrine of free ships making free goods; as it makes certain articles contraband of war, which, in former treaties, were not considered so; and as it gives to Great Britain a right to navigate the Mississippi, which that Minister insists belonged not to us to give, as it belonged wholly to Spain before it gave the right to the United States, by the late treaty, to navigate that river. He concludes his letter with saying, that the King of Spain is desirous of harmony between the two countries, and relies upon the equity of his complaints for satisfaction.

17. A letter from the Secretary of State to the Spanish Minister, in answer to the above; in which he acknowledges that the treaty lately concluded between the two countries had proved satisfactory to the United States, as it put an end to a dispute which had existed for many years respecting the navigation of the Mississippi, and also as it afforded satisfaction to our mercantile citizens for the capture of our ships and cargoes. All these, he allowed, were acts of substantial justice; but all the other stipulations were wholly voluntary, and perfectly reciprocal. With respect to the three articles of complaint respecting the British Treaty, he justified the stipulations as being just and consistent, and such as this country had a right to enter into.

18. A letter from General Pinckney to the Secretary of State, dated Paris, February 1, stating that the day after the arrival of the news of Buonaparte's successes in Italy, he received a letter from M. Delacroix, directing him to leave Paris. General Pinckney concludes this letter with observing, that the French seem to speak of this country as if it were indebted to them for

independence, and not to any exertions of our own. Our treaty with Great Britain is execrated; they wish us to have no connexion with that country; they wish to destroy the trade of Great Britain, and they look upon us as her best customer.

The whole of these documents having been read, on motion, they were committed to the Committee of the Whole on the state of the Union, and 500 copies ordered to be printed.

ANSWER TO PRESIDENT'S SPEECH.

Mr. Venable, from the committee to whom it was referred to prepare an Answer to the Speech of the President, reported one, which was twice read and referred to a Committee of the Whole.

On the Speaker inquiring for what day it should be made the order, Mr. W. Smith mentioned to-morrow; Mr. Nicholas, Monday.

Mr. Giles said the Answer could not be printed before to-morrow. As it was perhaps the most important Answer which was ever returned to a Speech since the commencement of the present Government, and therefore ought to be well considered, he thought Monday was as early as it ought to be taken up.

Mr. Livingston said there was another reason for delay. In the reading of the Answer, it appeared to him to go to the approbation of all the measures of the Executive in relation to foreign nations. If he were not wrong in this, it was of the utmost consequence that the papers which had just been read, should also be laid before them previous to its discussion, as they could not form an opinion on the subject until they had an opportunity of perusing these papers.

The question was carried for Monday.

CONTESTED ELECTION.

Mr. New presented the petition of Robert Rutherford, complaining of the undue election of General Morgan, (for the district which he formerly represented,) and praying for redress in the premises. Referred to the Committee of Elections.

Mr. W. Smith moved that, as the consideration of the Answer to the President's Speech was made the order for Monday, when this House adjourn, it might adjourn to that day. Agreed to, and adjourned.

Monday, May 22.

James A. Bayard, from Delaware, appeared, produced his credentials, was qualified, and took his seat.

ANSWER TO PRESIDENT'S SPEECH.

On motion, the House resolved itself into a Committee of the Whole, Mr. Dent in the Chair, on the Answer reported to the President's Speech, which was read by the Clerk, as follows:

The committee to whom it was referred to prepare an Answer to the Speech of the President of the United States, communicated to both Houses of Congress, on Tuesday, the 16th May, 1797, report the following:

To the President of the United States:

Sir: The interesting detail of those events which have rendered the convention of Congress at this time indispensable, (communicated in your Speech to both Houses,) has excited in us the strongest emotions. Whilst we regret the occasion, we cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called.

We have constantly hoped that the nations of Europe, whilst desolated by foreign wars, or convulsed by intestine divisions, would have left the United States to enjoy that peace and tranquillity to which the impartial conduct of our Government has entitled us; and it is now with extreme regret we find the measures of the French Republic tending to endanger a situation so desirable and interesting to our country.

Upon this occasion, we feel it our duty to express, in the most explicit manner, the sensations which the present crisis has excited, and to assure you of our zealous co-operation in those measures which may appear necessary for our security or peace.

Although the first and most ardent wish of our hearts is that peace may be maintained with the French Republic and with all the world, yet we can never surrender those rights which belong to us as a nation; and whilst we view with satisfaction the wisdom, dignity, and moderation, which have marked the measures of the Supreme Executive of our country, in its attempts to remove, by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its Minister. No attempts to wound our rights as a sovereign State will escape the notice of our constituents: they will be felt with indignation, and repelled with that decision which shall convince the world that we are not a degraded people; that we can never submit to the demands of a foreign Power without examination, and without discussion.

Knowing, as we do, the confidence reposed by the people of the United States in their Government, we cannot hesitate in expressing our indignation at the sentiments disclosed, by the President of the Executive Directory of France, in his Speech to the Minister of the United States. Such sentiments serve to discover the imperfect knowledge which France possesses of the real opinions of our constituents. An attempt to separate the people of the United States from their Government, is an attempt to separate them from themselves; and although foreigners who know not the genius of our country may have conceived the project, and foreign emissaries may attempt the execution, yet the united efforts of our fellow-citizens will convince the world of its impracticability.

Happy would it have been, if the transactions disclosed in your communication had never taken place, or that they could have been concealed. Sensibly, however, as we feel the wound which has been inflicted, we think with you, that neither the honor nor the interest of the United States forbid the repetition of advances for preserving peace; and we are happy to learn that fresh attempts at negotiation will be commenced; nor can we too strongly express our sincere desires that an accommodation may take place, on terms compatible with the rights, interest, and honor of our nation. Fully, however, impressed with the uncertainty of the result, we shall prepare to meet with fortitude any unfavorable events which may occur, and to extricate

ourselves from the consequences, with all the skill we possess, and all the efforts in our power. Believing with you that the conduct of the Government has been just and impartial to foreign nations; that the laws for the preservation of peace have been proper, and that they have been fairly executed, the Representatives of the People do not hesitate to declare that they will give their most cordial support to the execution of principles so deliberately and uprightly established.

The many interesting subjects which you have recommended to our consideration, and which are so strongly enforced by this momentous occasion, will receive every attention which their importance demands; and we trust, that by the decided and explicit conduct which will govern our deliberations, every insinuation will be repelled which is derogatory to the honor and independence of our country.

Permit us, in offering this Address, to express our satisfaction at your promotion to the first office in the Government, and our entire confidence that the preeminent talents and patriotism which have placed you in this distinguished situation, will enable you to discharge its various duties with satisfaction to yourself, and advantage to our common country.

The Clerk having finished reading the Answer, the Chairman proceeded to read it paragraph by paragraph. The three first paragraphs were read without anything being said upon them; but, upon the fourth being read—

Mr. Evans moved, that instead of "will be felt with *indignation*," should be inserted, "will be felt with *sensibility*," as a milder phrase; as he wished to avoid using expressions more harsh than was necessary.

Mr. Nicholas said, if his colleague would give him leave, he believed he had an amendment to offer, which would be proper to be offered before one he had moved, as he believed there was a rule in the House which forbids the striking out a clause after it had been amended; and if the amendment he should propose obtained, it might be necessary to strike out a part of that paragraph. It was his intention to move a new paragraph, to be inserted between the first and second. He believed it would be in order to do so.

The Chairman wished the proposition to be read.

Mr. Nicholas asked if it was not always in order to insert a new section.

The Chairman believed it was, provided it was not intended as a substitute for another.

Mr. Nicholas said he should candidly avow it to be his intention to insert several new sections. For the information of the committee, he would, therefore, read the whole, though he meant, at present, to move only one.

The following are the propositions which Mr. N. read in his place; the first of which was under consideration:

After the first section insert:

"Although we are actuated by the utmost solicitude for the maintenance of peace with the French Republic, and with all the world, the rejection of our Minister and the manner of dismissing him from the territories of France, have excited our warmest sensibility; and, if followed by similar measures, and a refusal of all negotiation on the subject of our mutual complaints, will put an end to every friendly relation between the two countries; but we flatter ourselves that the Government of France only intended to suspend the ordinary diplomatic intercourse, and to bring into operation those extraordinary agencies which are in common use between nations, and which are confined in their intention to the great causes of difference. We therefore receive with the utmost satisfaction, your information, that a fresh attempt at negotiation will be instituted; and we expect with confidence that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on the footing of other countries, by removing the inequalities which may have arisen in the operation of our respective treaties with them will produce an accommodation compatible with the engagements, rights, duties, and honor of the United States.

"We will consider the several subjects which you have recommended to our consideration, with the attention which their importance demand, and will zealously co-operate in those measures which shall appear necessary for our own security or peace.

"Whatever differences of opinion may have existed among the people of the United States, upon national subjects, we cannot believe that any serious expectation can be entertained of withdrawing the support of the people from their Constitutional agents, and we should hope that the recollection of the miseries which she herself has suffered from a like interference, would prevent any such attempt by the Republic of France; but we explicitly declare for ourselves and our constituents that such an attempt would meet our highest indignation, and we will repel every unjust demand on the United States by foreign countries; that we will ever consider the humiliation of the Government as the greatest personal disgrace."

Mr. W. Smith was of opinion that the amendment offered was wholly out of order, as it went entirely to change the form of the Answer; and, before it could be considered, would require to be printed.

Mr. Nicholas said, if the gentleman could inform him how he could have introduced it differently, he should be obliged to him. As to its being a substitute, every new matter introduced might be so termed. He did not know how a new section could be introduced, if there were any weight in the objections urged against the propriety of this.

Mr. Thatcher observed, the gentleman from Virginia had read three or four paragraphs, in the form of amendments. He presumed he did not mean to add these, without striking out some part of the report. He wished him to say what part he meant to strike out, that they might see how the Answer would stand when amended in the way he proposed. If they stood together, they would be inconsistent.

Mr. Giles presumed it was the object of the committee to bring into view a comparison of ideas in some shape or other, and he thought the amendment proposed was calculated to produce this effect. If he understood the Answer as reported, it was predicated upon the principle of approving all the measures which had been taken by the Executive with respect to France, whilst the amendment avoided giving that approbation. The simple question was, which of the two grounds the

House would take? He believed the best way of ascertaining this, would be to move to insert, and if the amendments were carried, to recommit the report, to be made conformable to them.

Mr. Gallatin said, when an amendment was carried which affected other parts of a composition, it was not usual to strike out, but to re-commit.

The Chairman having declared the motion to be in order,

Mr. Nicholas said, the present crisis was, in his mind, the most serious and important which this country had known since the declaration of its independence; and it would depend much, perhaps, upon the Answer which they were about to return to the Speech of the President, whether we were to witness a similar scene of havoc and distress to that which was not yet forgotten; such as had been passed through upon an important occasion, but such as could be entered upon only as a last resource. The situation in which we stood with respect to France called for the most judicious proceeding; it was his wish to heal the breach, which was already too wide, by temperate, rather than widen it by irritating measures. He hoped, on this occasion, they should get rid of that irritation which injury naturally produced in the mind. He declared he felt for the insult which had been offered to Mr. Pinckney; and he felt more for him, from the dignity with which he had borne it, which had proved him a proper character for the embassy. He was sorry that it should have been thought necessary by the French Republic to refuse to acknowledge him as the Minister of this country; but he did not think it right to suffer this first impression to influence their proceedings upon this business. If the insults offered were a sufficient cause for war, let the subject be examined by itself, separate from all others; but, if it be our wish to proceed with negotiation, he thought it wisest and best to adopt a firm but moderate tone.

As he before observed, he felt for the situation of the gentleman employed by this country; he thought it was a trying one, and did great honor to himself, and he deserved the thanks of his country for the good temper with which he had sustained it; but Mr. N. confessed the subject did not strike him with all the force with which it seemed to have impressed the mind of that respectable character. He did not consider the insult offered to Government as going further than the ill-treatment which our Minister had received. He believed that the circumstances, which appeared in the papers laid before them, in some degree accounted for the conduct of the French Government. It appears that at first the Directory were willing to receive Mr. Pinckney, but when they saw his credentials they refused to acknowledge him. This circumstance, he said, seemed to give a character to the transaction which explained its meaning.

It will be recollected, said Mr. N., that since the cause, or imagined cause (let it be one or the other) of complaint against this country, that there has been an intercourse between the two Governments on this subject. It was to be expected that if there had been any intention in Government to have come to an adjustment of the difference between the two countries, our Minister would have been clothed with some power of accommodation. Mr. N. supposed that when the French Directory agreed to receive him, this was their opinion; but upon seeing his letters of credence, they found no such power was given or intended. [He read the object of his mission from the President's Speech, viz: "faithfully to represent," &c.]

If these, he said, were all the objects expressed in his letters of credence—and if there had been more, the President would doubtless have informed them of it—the matter perfectly justified the character he had given of it.

He made these observations, because he thought, on an occasion like the present, the truth should be made to appear, and though an insult had been offered to this country, which could not fail to produce irritation, yet that irritation should stop short of the point where it would produce action, as he was certain any steps taken which might hazard the peace of the country, would not conduce to the welfare of its citizens.

There was a subject, he said, which seemed to have involved itself with this, and of which he should take some notice, viz: a charge against certain persons with being attached to the French cause. It might, perhaps, be the opinion of some members of that House, more particularly of strangers, that he was improperly influenced by party zeal in favor of the French, a zeal which it had been blazoned forth existed to an immoderate degree in this country. He had frequently heard insinuations of this sort, which he considered so groundless as to be worthy only of contempt; but when charges of this kind were made in the serious manner in which they were now brought forward, it was necessary to call for proof. Who, said he, is the man who has this proof? He knew of none. For his own part, he had no intercourse with the French but of the commonest kind. He wished those who possessed proofs of improper conduct of this kind, would come forward and show them—show who are the traitors of whom so much is said. He was not afraid of the impressions any such charges brought against him might make upon his constituents, or where he was known; indeed, he had not the arrogance to believe the charge was levelled against him, though he believed he was frequently charged with a too great attachment to the French cause.

When he first came into that House, he found the French embroiled with all their neighbors, who were endeavoring to tear them to pieces. He knew what had been the situation of this country when engaged in a similar cause, and was anxious for their success. Was there not cause for anxiety, when a nation, contending for the right of self-government, was thus attacked? Especially when it is well known, that if the Powers engaged against France had proved successful, this country would have been their next object. Had they not, he asked, the strongest proofs (even the declarations of one of their Governors) that it was the intention of England to declare war against America, in case of the successful termination of the war against France? It redounded to the honor of the citizens of this country, he said, that they had never shown a disposition to embark in the present European war.

He would mention another reason for his feeling so sensibly in favor of the French cause. It was because he found so much indifference to it in this part of the country. He shuddered for his own country when he found such a disposition prevailing in any part of its citizens. He could not calculate upon the effects. He could not account for it; especially when he found that a disposition unfriendly to Republican Government had arisen in the country. It was to counteract this disposition, that he opposed a contrary zeal, though he was not conscious of having been over zealous.

He could not help taking notice of some circumstances in the correspondence of Mr. Pinckney, because he believed they would be made use of to influence the public mind. He meant the allusion which was made to the state of politics in this country. Besides Mr. Pinckney's own opinion, he speaks of a late emigrant returned to France, who described this country as of no greater consequence than Geneva or Genoa. At first, he said, he supposed this to be one of those things which tended the same way with all the rest; but he believed this was not the case. He knew only of one emigrant who had returned to France, who was of considerable consequence. That emigrant, however, was not the associate of the friends of France in this country, but of those who were most opposed to it; so that whatever opinions he might have formed of this country, they were not gathered from the friends of the French. But he could not see any certain deduction which could be made from such an opinion.

He supposed that it would be said that great efforts had been used by the French faction in that opposition which had been made to particular measures which have had relation to that country; but if gentlemen attended to the business, it would be found that it was not in the power of gentlemen said to be in the French faction, to make any choice; they have merely decided on the subject before them. There was no choice to vote this way or that. Whatever appeared to them right in any measure, that they were obliged to do, and not because they had the power of doing it; for it was not always right for a majority, because they could carry a measure, to exert their power. Suppose, said he, in the present instance, there should be a majority in the House determined to carry a certain measure, though it should involve the nation in war, could he, because he was called a French patriot, give up his opinion and join in the vote? He could not. And if, by going into a measure of this kind, they produce division, they must not charge those who opposed their measures with it. Those who produced the division must answer it. He would not, if his life depended upon it, vote for a measure which he was convinced was a mischievous one. And he thought before gentlemen passed a vote which might eventually lead to war, they ought to make a solemn pause.

He confessed that he considered the answer reported to them, as going to decide the question of peace or war for this country. He thought it a thing of that sort which might have the worst possible effect, and could have no good effect. It may tend to irritate, to prevent any sort of inquiry or settlement taking place, but it cannot tend towards an adjustment of differences. Gentlemen could not suppose that a stormy threat, or the most violent declamation against that country, could have the effect in view. Does any gentleman believe, said he, that we are able to meet them in war? If not, why make such declarations as shall preclude further negotiation? We are condemning the French Government because they ask for redress, without listening to negotiation: yet we say to them, we are right; you have no cause to complain; all the departments of our Government have acted right. The President's Speech, which he said they were about to echo, declared the Government has been uniformly right, and that he would never violate the principles which had been acted upon.

What, said Mr. N., can be expected, if we all act upon this temper? Your declaration with respect to France will probably reach that country before any Envoy can be sent to endeavor to negotiate a settlement of differences; and when they see, that if negotiation fail, we are determined on war, would not that be the reason for them to take the advantage of us? And if our Envoy was to be sent out under instructions corresponding to the temper which seems to prevail, with an idea that all had been fair and right on our part, little success could be expected from the embassy. Why endeavor to frighten them, when we are the weakest Power? He did not mean to recommend humiliating measures; he would pledge himself not to submit to insult without redress; nor was any man more unwilling to make mean or improper concession than he; but the language of moderation and justice he preferred to a boasting manner. If injury or error had been committed on our part, he wished it to be corrected. He considered it to be for the honor, credit, and interest of this country, that the committee should go into a fair and full examination of the subject before them. He hoped, therefore, that examination would take place.

The difference, Mr. N. said, between the Address reported, and the proposition he had brought forward was this: the former approved all the measures of the Executive, and the latter recommended an inquiry relative to the operation of the British Treaty. It was this question upon which the committee would decide, and it was of importance, he said, that they should weigh the causes of difference between us and the French Republic, and not decide that we are right, without examination, because, if, after being brought to hostility, we are obliged to retract, it would show our former folly and wantonness.

Mr. N. said he would inquire into the rights of France as they respected three principal subjects, which were more particularly causes of complaint between the two countries. These were, the right of our vessels carrying English goods, the article respecting contraband goods, and that respecting the carrying of provisions. He knew no better way to determine how far we could support those articles of the British Treaty, than by extracting the arguments of our own Ministerial characters in support of these measures. With respect to the question of free ships making free goods, his impressions were very different from those of the Secretary of State. He says, with respect to the regulation of free ships making free goods, it is not changing a right under the law of nations; that it had never been pretended to be a right, and that our having agreed to it in one instance, and not in another, was no just cause of complaint by the French Government. He advocates this transaction in his letter to Mr. Adet last Winter. Mr. N. said, he knew not what was the origin of the law of nations upon the subject; he knew not how it came into existence; it had never been settled by any convention of nations. Perhaps, however, the point now under consideration came as near to a fixed principle, as any other of what are called the laws of nations ever did, as only one nation in Europe could be excepted from the general understanding of it. Mr. Pickering, he thought, seemed not to have given full force to this circumstance, but seemed to have weakened the evidence. [He referred to what Mr. Pickering had said upon the subject.] It was Mr. Pickering's idea, that the stipulation of free ships making free goods, was a mere temporary provision; that it was not an article in the law of nations, but a new principle introduced by the contracting parties. In order to prove this was not the case, Mr. N. referred to the provisions entered into by the armed neutrality of the north of Europe; to a treaty between France and Spain; to a note from the Court of Denmark; and to the declaration of the United States themselves on the subject.

In his mind, therefore, Mr. N. said, it became in some degree certain, that this stipulation was an article in the law of nations, and that an abandonment of it, as a neutral Power, was an abandonment of neutral ground.

But, said he, let us consider the circumstances under which this treaty was made; let us see whether it is the law of nations or not. It was the intention of the parties to make the law of nations as free as in their power; and if we choose to abandon the principle of free ships making free goods, shall we call upon France to do the same? This did not appear to be consistent with justice. Justice seemed to require an opposite course. If we could not maintain this stipulation with all the world, we are bound to allow France the same privilege which we allow to any other nation. It was not for the interest of this country to insist upon the fulfilment of hard treaties, to do which would be a greater loss than benefit. In the treaty with Great Britain, we had denied the right that free ships make free goods. It was not indeed wholly given up, but we agree that it shall be suspended during the present war. He thought this wrong, and asked if any country, who granted a privilege to one nation which they refused to another, could pretend to any firmness in their proceedings? He thought they could not.

With respect to contraband articles, he had little to say. It was asserted that the articles stipulated in the British Treaty as contraband, were made so by the law of nations. Where the doctrine was found he could not say. It had been quoted from *Vattel;* this authority might be correct; but he never found any two writers on this subject agree as to this article. In a late publication on the law of nations (*Marten's*) he found it directly asserted that naval stores were not contraband. But he said, if the contrary were the law of nations, they were bound to extend the same privilege to France which they gave to England: they could not have one rule for the one nation, and a different one for the other.

The 18th article of the British Treaty, respecting the carrying of provisions, always struck him as a very important one. It had heretofore been contended that this article did not go to any provisions except such as were carrying to besieged or blockaded places; but he believed the British had constantly made it a pretence for seizing provisions going to France. Indeed, if he was not mistaken, the British Minister had publicly declared in the House of Commons, that the provisions on board the vessels intended for the Quiberoon expedition had been supplied from what had been captured in American vessels.

Mr. N. contended that this was the opinion of the Executive of this country, as published in all the public papers, and of course known to the Government of France. In the letter of Mr. Jefferson to Mr. Pinckney in 1793, he declares that there is only one case in which provisions are contraband, and shows the necessity of a neutral nation observing the same rules towards all the Powers at war. But, in the present case, the right was ceded during the present war.

It was an unfortunate circumstance against the neutrality of this country, to find a doctrine so differently applied at different times. It was a strong proof of the progress of the passions. It might be considered as a fraudulent thing, in one instance, to give up a right for a compensation to ourselves.

But Mr. Pickering, in his observations upon this circumstance, says, that this stipulation is really a beneficial thing to France, it encourages mercantile adventures; but this Mr. N. denied, and said, that if it encouraged adventure, it would also increase the facility of captures.

In considering the tendency of the amendment which had been proposed, he had not spoken of the possible operation of agreeing to the Answer, as reported, especially when carried by a small majority of that House, and contrary to the wishes of a great part of the people of the United States. If the measure were carried by two, three, five, or ten votes, did gentlemen expect this would an-

swer their purpose? However the people may have the virtue to go with the decision of Government, he believed, in a measure thus carried, they would obey unwillingly. Yet how was this division in opinion to be avoided? He did not believe the conduct of the Executive of our Government had always been equal to the different Powers at war, and therefore could not say so. Indeed, he could not conceal his sentiments upon the business; they had been frequently expressed, and were he now to hold a different language, he might be justly branded with infamy.

Let something, then, said Mr. N., be brought forward which does not stare in the face the established opinions of many members of that House; but perhaps it may be thought of little consequence what are the opinions of those members; but he believed the people were not less divided in their opinions than the members of that House, and a measure so carried, he conceived, was not calculated to intimidate an enemy. He knew his constituents would go into the war if directed to do so, but they would exercise the opinion which the Constitution has placed in them, of displacing from their seats the men who had involved them in such difficulties. He knew that if a war were to take place, that the discontents of the people would increase every day. He knew they would abandon the delicacy and nicety of feeling which was now urged. He knew it was his duty to take as moderate ground as was consistent, because he knew the public opinion, though now irritated above it, would come down to it.

If it were of consequence that the people should enter unanimously into any hostile measure which eventually might be found necessary, (though he hoped and trusted it would not,) he thought that unanimity might be secured by agreeing to the proposition which he had moved.

In making concessions to England, it was not considered as disgraceful; what was now wished was, that England and France might be put upon the same footing with respect to this country. To do this was the only way in which unanimity could be obtained, and it appeared to him that there could be no serious objection to it.

It may be said, and probably will, that this proposition interferes with the business of the Executive, and that we ought not to dictate to him with respect to the proper steps to be taken. He was so well accustomed to the business of the House, that he knew gentlemen would entrench themselves under the pretended restrictions of the Constitution in this respect; but it was his opinion that the measure which he proposed was strictly Constitutional. The President was to negotiate, but it was the duty of the Legislature to deliberate on the proper measures to be taken. Government, he said, could never be carried on, except the Executive and Legislature were influenced by the same spirit. The President might go on for ever to negotiate, if he did it contrary to the views of the other branches of Government, without coming to any conclusion. It was absolutely necessary, therefore, that such a power should exist, and it was not possible that any danger should arise from it. And if a proposition of this kind was not agreed to, they had no evidence to suppose very conciliatory steps would be taken; they had reason, indeed, to suppose the contrary.

He was afraid he might be charged with going into irritating circumstances; but he did not expect, from the persons with whom the President might be supposed to advise, that very moderate steps would be taken. It was not to be supposed that they would abandon the opinions they had so strenuously maintained. He thought, therefore, it was the business of that House to say, that, in their opinion, it is proper that such steps would be taken.

Mr. N. concluded with observing that he had gone over the subject, he feared, not without being considered tedious by the committee; but he felt himself greatly interested in the present decision. He believed any additional irritation in their measures would place peace out of our reach. He believed, therefore, it was their business to avoid it. He believed it would be for the honor and happiness of the country to do so.

Mr. W. SMITH said, as the gentleman last up had taken a wide range of argument, he must excuse him if he confined himself, in his reply, to those parts of his observations only which appeared to him essentially to relate to the subject under consideration.

He believed the question was, whether they should alter the report in the manner proposed; that is, whether they should strike out words which expressed the sensibility of this House at the unprovoked insults offered by the French Republic to our Government and country, or adopt the gentleman's amendment, which he read.

If they agreed to this amendment, they must necessarily expect from the French Republic fresh insult and aggression; for it seemed to admit that hitherto no insult had been intended.

The amendment might be divided, Mr. S. said, into two parts. The first went to vindicate the French from any intentional insults towards this country; it even held out an idea that the Executive ought to offer some concessions to France, and even designated the kind of concession. He should, therefore, without taking notice of what the gentleman had said about the political parties of this country, or what he had said respecting himself personally, confine his observations to the points in question.

The first point was, whether the conduct of France was justifiable in rejecting our Minister, and sending him from the Republic in the manner they had done?

He thought the committee had abundant materials before them completely to refute the first proposition; and he was surprised, knowing that these documents were in the hands of every member, that the gentleman from Virginia could expect to impress their minds with the idea that no indignity whatever had been offered by the French Government to this country in that transaction.

Mr. S. said. that it appeared most clearly that the French Directory intended to treat this Go-

vernment with marked indignity; for though the gentleman from Virginia suggested an opinion that their refusal to receive Mr. Pinckney was owing altogether to his not being invested with extraordinary powers, this was evidently not the case, as the Directory had been well informed as to the character in which Mr. Pinckney came, before they received his letters of credence, as appears by the letter of M. Delacroix to Mr. Monroe, styling Mr. Pinckney his successor, and by other documents communicated by the President, (which he read.) There was no doubt, then, with respect to the Directory being well acquainted with the character in which Mr. Pinckney went to France, viz: as Minister Plenipotentiary or ordinary Minister; but, after keeping him in suspense near two months, on the day after the news arrived of Bonaparte's successes in Italy, he was ordered, by a peremptory mandate, in writing, to leave the French Republic. This mandate was accompanied by a circumstance which was certainly intended to convey an insult; it was addressed to him as an Anglo-American, a term, it is true, they sometimes used to distinguish the inhabitants of the United States from those of the West India Islands, but, in his opinion, here evidently designed as a term of reproach, as he believed no other similar instance could be mentioned. Upon this circumstance, however, he laid no stress, the other indignities which our Minister had received were too great to require any weight to be given to this circumstance.

But, says the gentleman from Virginia, after the Directory had seen his letters of credence, and discovered that he had no power to make concessions, they refused to acknowledge him. What would he have required his letters of credence to have said? Were they not "faithfully to represent the disposition of the Government and people of the United States, their disposition being one; to remove jealousies and obviate complaints, by showing that they were groundless; to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries, and the real sentiments of his own?"

What more than this could have been said in letters of credence? But, adds the gentleman, his instructions did not authorize him to make any concession, or to satisfy their complaints with respect to existing treaties. How does he know this? Will the gentleman undertake to say that his instructions do not give him this power? It certainly would not have been proper to have stated in his letters of credence what he was authorized to concede, or to exhibit to the French Government his instructions until it was known what they were disposed to do. We had complaints to make as well as they. They had committed spoliations upon our commerce to a great amount. Was it right, then, to say, instantly on his arrival, "I am come to offer you all these concessions," without knowing what they were disposed to offer in return? Will the gentleman undertake to say it would have been right to have communicated his private instructions to the Directory even before he was received? If we were a colony of France, indeed, it might have been expected that he would have laid not only his instructions, but have prostrated himself at the feet of the Directory. But, independent as we are, he trusted no gentleman would say this was proper in any man, much less was it to be expected from Mr. Pinckney. What were his private instructions was unknown. A thousand conjectures might be formed respecting them, but they were vague and uncertain.

This being the state of the transaction, he thought it clearly established that Mr. Pinckney was not refused because he bore the character of Minister Plenipotentiary, without extraordinary powers; the question then was, why was he sent away?

We all, said Mr. Smith, remember the complaints of Mr. Adet against our Government. It was not necessary to go into a minute recapitulation of them; it sufficed to say that they fell under the following heads: 1st, complaints of violation of our Commercial Treaty with France; 2d, of the treaty we had made with Great Britain; 3d, of the proceedings of our Federal Courts; and 4th, of the act of Congress of June, 1794, which act this House, after it had heard his complaints, had re-enacted without opposition the last session.

Now, what does Mr. Delacroix say on the arrival of Mr. Pinckney? He did not condescend to say it to himself; that would have been paying him too much respect: he did not say it to the Minister of the American Government, but to the recalled Minister, Mr. Monroe, to whom Mr. Delacroix writes a letter, declaring "that the Directory will not acknowledge nor receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it."

Now, what, Mr. S. asked, were the grievances contained in Mr. Adet's note, and to which the Directory here refer? They were very numerous; but they chiefly fell under the four heads he had mentioned. According then to this declaration of the French Government, what were we to do? We must, said he, annul the British Treaty; repeal the law of June, 1794, which was last session very unanimously re-enacted; and we must, by some proceeding or other, which he supposed even the ingenuity of the gentleman from Virginia would find it difficult to point out, annul the decrees of the Courts of the United States. Yet, though all this must be done before the Directory would condescend to receive our Minister, the gentleman did not believe any indignity whatever had been intended against this Government; and we must not express ourselves as if we thought or felt there had been any. It was, at the best, a mere matter of etiquette on the part of France; it was meant to convey no insult, no indignity; our Government had given offence by a failure of etiquette, and therefore to heal the breach, we must send an Envoy Extraordinary to make the necessary concessions, and all will go well.

With respect to the gentleman's second proposition, if it was proper to be discussed at all, it would have been more properly discussed in Committee of the Whole on the state of the Union, after proper notice and being printed. If the House cannot confide in the Executive that he will take the proper measures to heal the wound; if the House were convinced that the Executive were not disposed to do this, it might be then their duty to apply to him; but the President, in his Speech, had explicitly said, that it was his most sincere desire to restore harmony, and that, notwithstanding the indignities offered to our Minister and our Government, he did not think the honor and dignity of the country forbade farther advances towards negotiation. After so candid and free a declaration, he was surprised to hear his disposition in this respect thus called in question. For his part, Mr. S. said, he had not the least hesitation to believe that the Executive would go all lengths, consistent with the honor and dignity of the country, to restore harmony between the two Republics, because he was satisfied he had the interest of the country at heart, and he trusted that no gentleman, not even the gentleman from Virginia himself, would doubt this.

It had been argued that this country had not acted a proper part with respect to France. In order to show this, the member had adverted to three specific grounds of complaint arising out of the British Treaty.

The gentleman from Virginia had confined the complaints of the French Government to three articles of the British Treaty; though, if the committee referred to the letter of Mr. Delacroix, it would be found that they did not confine them within so narrow a compass. They complain, first, of the inexecution of treaties; there are several points of complaint relative to that head. 2d, complaints against the decrees of our Federal Courts; 3d, against the law of June, 1794; and 4th, against the treaty with Great Britain. Yet the gentleman confines himself altogether to the latter. And really he did not expect at this time of day, after the subject had been fully discussed, and determined, and the objections refuted over and over again, that any gentleman would have endeavored to revive and prove their complaints on this head well founded. The three articles were—1st, that free ships did not make free goods; 2d, the contraband article; and 3d, the provision article.

1. The stipulation with respect to neutral vessels not making neutral goods in the British Treaty, was not contrary to the law of nations; it only provided that the law of nations was to be carried into effect in the manner most convenient for the United States. But this doctrine, he said, was no new thing. It had been acknowledged most explicitly by Mr. Jefferson, Secretary of State, in July, 1793, and was so declared to the Minister of France; yet no objection was made to it until the British Treaty was ratified, though long previous thereto French property was captured on board our vessels. Mr. Jefferson, writing on this subject to the French Minister, said: "You have no shadow of complaint;" the thing was so perfectly clear and well understood by the law of nations. This happened so long ago as July or August, 1793. But two years afterwards, when the British Treaty was promulgated, the whole country was thrown into a flame by admitting this very same doctrine. France herself had always acted under this law of nations, when not restrained by treaty: in *Valin's* Ordinances of France this clearly appears. The armed neutrality was confined to the then existing war; Russia herself, the creator of the armed neutrality, entered into a compact with England, in 1793, expressly contravening its principles. The principle was then not established by our treaty with England; but such being the acknowledged law of of nations, it was merely stipulated that it should be exercised in the manner least injurious to us.

2. The next article of complaint was with respect to contraband goods. If gentlemen will consult the law of nations, they will find that the articles mentioned in the British Treaty are by the law of nations contraband articles. They will find that in all the treaties with Denmark and Sweden, Great Britain had made the same stipulation. Indeed, the gentleman had acknowledged that it was so stated by some writers on the law of nations; but he wished to derogate from the authority of those writers, in the same way as Mr. Genet, in his correspondence with Mr. Jefferson, had called them "worm-eaten folios and musty aphorisms;" to *Vattel* might be added *Valin's* Ordinances, a very respectable work in France. How, then, can the gentleman with truth say that we have deviated from the law of nations?

3. The last point which the gentleman took notice of was the provision article. There was no doubt that this Government would never allow provisions to be deemed contraband, except when going to a besieged or blockaded port. Though he made this declaration, yet it was but candid to acknowledge that this was stated by *Vattel* to be the law of nations. [He read an extract from *Vattel*.]

When this was stated by Lord Grenville to Mr. Pinckney, our then Minister in London, Mr. Pinckney acknowledged it to be so stated in *Vattel*, but very ingeniously argued that France could not be considered as in the situation mentioned in *Vattel*, since provisions were cheaper there than they were in England, and therefore the case did not apply. When our Envoy was sent to London, both parties were tenacious on this ground. Our Minister was unwilling to agree to this construction of the law of nations; but the British Minister insisted upon it, and if there had not been some compromise, the negotiation must have been broken off, and a war probably ensued. The result was, therefore, that, without admitting it to be the law of nations, it was agreed that where provisions were contraband by the law of nations, they should be paid for, but not confiscated, as the law of nations (admitting that construction) would have author-

ized. Therefore some advantage was secured to France, for if Great Britain had confiscated our vessels going to France with provisions, it would certainly have damped the ardor of our citizens employed in that commerce; but under this regulation our merchants were certain of being paid for their cargoes, whether they arrived in France or were carried into England. These were the three grounds of objection which the gentleman from Virginia had stated as grounds of complaint by the French against the British Treaty.

Before he went further, he would observe that, admitting (which he did not admit) that there had been solid grounds of objection against the British Treaty, before it was ratified, yet they ought now to be closed. It had received a full discussion at the time; it had been carried into effect, was become the law of the land, and was generally approved of by the country. Why, then, endeavor to stir up the feelings of the public against it by alleging it to be just cause of complaint? If the committee wanted any proof of the approbation which that instrument had received, he thought it might be gathered from the general approbation which had been given of the administration of the late President on his retirement from office, in doing which the people had doubtless taken into view the whole of his conduct. Nor did he think the people had shown any hostility to the treaty in their late election of members to that House. Indeed, he believed that the approbation which the treaty received increased in proportion as the subject came to be understood.

Admitting further, that the treaty had changed the existing state of things between Great Britain and France, by having granted commercial favors to Great Britain; by the 2d article of our treaty with France, the same favors would immediately attach to France, so that she could have no reason to complain on that ground. Indeed France had herself new modified the treaty between that country and this, and had taken to herself what she deemed to be the favors granted to Great Britain. [Mr. S. read the decree on this subject of 2d March last.]

Mr. S. said, he believed he had examined all the observations of the gentleman from Virginia, relative the treaty, which were essential to the subject under consideration. He did not wish to go much farther on the present occasion, because he agreed with him, that it was proper they should keep themselves as cool and calm as the nature of the case would admit; but he thought whilst so much deference was paid to the feelings of France, some respect ought to be paid to the feelings of America. He hoped the people of America would retain a proper respect and consideration for their national character; and however earnestly he wished that the differences subsisting between the two countries might be amicably settled, yet, he trusted that our national dignity would never be at so low an ebb, as to submit to the insults and indignities of any nation whatever. In saying this, he expressed his hearty wish to keep the door of negotiation with France unclosed; but at the same time he strongly recommended to take every necessary step to place us in a situation to defend ourselves, provided she should still persist in her haughty demeanor.

He trusted they would convince the French and every other nation, that they were determined to preserve the right of self-government, and that they were able to frustrate every attempt which should be made to influence our councils. That such attempts had been made he knew some gentlemen would deny, but to him it was evident that all the Ministers of France, who had resided in this country, had endeavored to obtain an undue influence over our affairs. It was now become a serious question whether we were to make concessions to France of the most humiliating nature, and thereby provoke future aggression, or act a firm and determined part in expressing our indignation at their insults, and resolving to resist them if they were persisted in.

He did not wish unnecessarily, he said, to excite indignation; but it was necessary, on this occasion, to take particular notice of the insulting speech of President Barras, in replying to Mr. Monroe's valedictory, a speech evidently calculated to separate the American people from their Government.

After the Directory knew that Mr. Monroe was no longer the Minister of this country, after he had presented his letters of recall, and Mr. Pinckney had presented his letters of credence—after the Minister of Foreign Affairs, M. Delacroix, had said that they considered America as having no Minister in France, the President of the Directory delivered the insulting speech above alluded to, in which he tells our late Minister, at a public audidence, in the presence of several foreign Ministers, to go home and tell his Government "that his country owes its liberty to France." We have never denied, said Mr. S., that we received great services from France; but was it not degrading to this country that their late Minister should be thus addressed? The address was throughout couched in terms studiously marked with indignities to this country, and an attempt to separate the people from the Government.

Notwithstanding all this, the gentleman from Virginia is wonderfully afraid of using language which might irritate France. Mr. S. wished France had not given just cause of irritation, but those who had read the correspondence which had been laid before them, for a few years past, must have seen reiterated insults to this country.

It was sufficient to call to their recollection the many indelicate and offensive expressions used by the various French Ministers, in their diplomatic letters. Indeed, were he inclined to aggravate the aggressions we had received, he might display a whole volume of Genet's abuse. He should, however, satisfy himself by presenting some elegant extracts from the letters of Citizen Adet. Mr. S. here quoted a number of offensive epithets and expressions such as "disguised under a cloak of neutrality," "the veil of dissimulation," "tyrannical and homicidal rage," "insidious proclamations of neutrality," "the chicanery of its courts," "presenting a poignard to cut the throat of its ally," "all submission to the will of England," "prostituting its neutrality," &c., &c.

Mr. S. said, as he knew indecent and harsh language always recoiled upon those who used it, he did not wish to adopt it; but, at the same time, it was due to ourselves to express our feelings with a proper degree of strength and spirit. He was not in the habit of quoting anything from M. Genet, but there was one expression of his which he thought contained good advice, "all this accommodation and humility, all this condescension attains no end."

After the gentleman from Virginia had dwelt sufficiently upon the danger of irritating the French, he had emphatically called upon us to recollect our "weakness." It might have been as well if he had left that to have been discovered from another quarter. He hoped we had sufficient confidence in the means of defence which we possessed, if driven to the last resort; and he believed if there was any one more certain way of provoking war than another, it was that of proclaiming our own weakness.

He hoped such a language would now be spoken as would make known to the French Government that the Government and people of this country were one, and that they would repel any attempt to gain an influence over our Councils and Government. The gentleman had said that there did not appear to be any design of this kind, and had endeavored to do away what was stated as the opinion in France, in General Pinckney's letter. He did not mean to rest this altogether upon the reports of an emigrant, whom General Pinckney mentions as having represented this country divided, and of no greater consequence than Genoa or Geneva, but he took the whole information into view. [He read the extract relative to this subject.]

It was evident, Mr. S. said, from this information from France, that an opinion had been industriously circulated there that the Government and people of this country were divided; that the Executive was corrupt and did not pursue the interests of the people; and that they might, by perseverance, overturn the Administration, and introduce a new order of things. Was not such an opinion of things, he asked, calculated to induce France to believe that she might make her own terms with us? It was well known what the French wished, and it was time to declare it plainly. His opinion was that they designed to ruin the commerce of Great Britain through us. This was evident. They talk of the British Treaty; but they suffered it to lie dormant for near twelve months, without complaining about it. Why were they silent till within a few weeks before the election of our President? Why did they commit spoliations upon our commerce long before the British Treaty was ever dreamt of? Their first decree, directing spoliations of our property, and the capture of our provision ships, was on the 9th of May, 1793, a month before the provision order of Great Britain, which was dated June 8, 1793: and why have they, from that time to this, been committing spoliations on our commerce? The British Treaty was published in Paris in August, 1795; a year after, in July, 1796, they determine to treat us in the same way that we suffer other nations to treat us, and this decree was not made known to our Government till the October following, a few weeks before the election of President.

But this was not all; the French had pursued similar measures towards all the other neutral Powers. Sweden, in consequence, had no Minister in their country, and was on the eve of a rupture. The intention of the French evidently was, to compel all the neutral Powers to destroy the commerce of Great Britain; but he trusted this country had more spirit than to suffer herself to be thus forced to give up her commerce with Great Britain; he trusted they would spurn any such idea.

Mr. S. hoped the observations which he had made would not be construed into a wish to see the United States and France involved in a war. He had no objection to such measures being taken for preserving peace between the two countries as should be consistent with national honor. It was a delicate thing for them to suggest what the Executive ought to do. It was out of their province to direct him. The Executive had various considerations to take into view. We had injuries to complain of against France, for the spoiliations committed upon our commerce. If the Executive conceive we have a right to redress, that subject will of course constitute a part of our Envoy's instructions. Would it then be proper, said he, for this House to interfere with the Executive, to obtrude its opinion and say, "you must give up this point; we take upon us (without any authority by the Constitution) to give *carte blanche* to France, without any indemnification or redress."

The gentleman says it is the object of the amendment on the table to recommend to the Executive to remove any inequalities in the treaties; that was alone sufficient to vote it out.

There had been no period since the Revolution which had so powerfully called on Americans for that fortitude and wisdom which they knew so well how to display in great and solemn emergencies. It was not his intention to offend any one by stating the question in such strong terms: but he was persuaded that when the present situation of our affairs with respect to France was well understood, it would be found that to acquiesce in her present demands was virtually and essentially to surrender our self-government and independence.

The independence of a nation, he observed, might be destroyed in various modes. Whether a preponderating influence was obtained in her councils by seduction, intrigue, or terror, or by a direct and open invasion of her territories, and consequent subjugation, was immaterial. Indeed it would be safer for us if a foreign Power were at once to attempt our subjugation by invasion; for, in that case, there could be but one opinion among Americans about a vigorous resistance; but the slow approaches to our subjection, by the

subtle artifices of intrigue and deception, were seldom discerned by the community at large, until their pestilential effects had taken such deep root as to be with difficulty extirpated. Was it saying too much, to assert that dictating to our Government, fomenting an insurrection in our bosom, influencing the most important election, demanding a violation of our engagements, the repeal of our laws, the annulling the decrees of our Courts of Justice, were not merely interferences with our Government, but in fact attempts to usurp it? The complaints of France respecting the British treaty were the pretext, but not the real cause of her aggressions. It was idle to wink out of sight the real causes. She wished (as he had before stated) to destroy the commerce of England, and the United States were to be the instrument of accomplishing it. The United States were to be coerced into such measures as would effect this great scheme. The same policy was pursued towards the Hanse Towns and Denmark. Had they made a British treaty? Were they answerable for the sins of our's? The review he had taken of the ground of controversy as to our treaty with England must have removed every impression unfavorable to our Government, and evinced the unceasing efforts of France to acquire an improper ascendancy over our councils, and direct them to the purposes of her own aggrandizement.

Whether or not our Government ought, on principles of amity and conciliation, to equalize our treaties between England and France, was a question of an Executive nature, and was not properly before the House. An offer of such equalization would undoubtedly depend on the disposition of France to make proper and suitable equivalents.

The gentleman from Virginia had cautioned the committee against alarming the pride of France—but, exclaimed Mr. S., has America no pride? Is her sensibility so debased by prejudice or benumbed by terror as to be thrown out of view on this occasion? I trust not; I trust that American pride still maintains an important influence over our deliberations; and desirous as I am to see it yield all that is due to the influence of policy, God forbid that it should ever be supplanted by an interested and servile tameness! He thought it became the dignity of the House to support the Executive in firm and manly language. He was persuaded that a decided conduct would be the most likely to discourage aggression and repetition of insult. He recommended, not a menacing but a firm countenance; not a bullying, but an undaunted attitude. This would convince the world we were not to be threatened out of our rights; whereas a timid supplicating posture could not fail to invite fresh insults and humiliation.

Mr. S. said, he valued unanimity as much as other gentlemen. He was sensible that it would be peculiarly important at this juncture. It would engage the confidence of the people and fortify the negotiation. It would convince the world, that however we might differ upon speculative points of administration, there was but one sentiment respecting our self-government. It would extinguish the hopes of those who attempted to keep alive a faction in the country; it would crush the expectations of those who wished to substitute a foreign influence for the constituted authorities of the nation. But it might still be purchased by too dear a sacrifice; and he would rather have only a bare majority for the report of the committee, than an unanimous vote for the amendment; so much did he reprobate its principles. He thought it of more importance that there should be an unanimity between all the departments of the Government, than an unanimity in the House, at the expense of its separating from the other branches of the Government; but if the amendment was agreed to, it must produce a separation from the President and Senate, and confirm the opinions fostered in France of a division existing between the Government and people. Much, therefore, as he cherished unanimity, he could not purchase it on this occasion by agreeing to a proposition of so dangerous a tendency.

Mr. S. concluded with requesting the committee seriously to ponder on the consequence of agreeing to the amendment. It spoke the same feeble language as the Address of the last session, the same timid reluctance to express our sense of injury, the same reliance on negotiation alone. If this was all that the gentlemen on the other side proposed doing at this extraordinary session, the calling of Congress would prove the most humiliating, the most calamitous measure that had ever been adopted. Better indeed had the members remained at their homes, and there in secret silence, mourned over the dishonor of their country, and smothered their resentments, than be collected in mass from all parts of the Union to be thus publicly exhibited as fellow-witnesses of their own shame and the indignities offered their country without the power or even the courage to resent them. But he could not believe it possible that the committee would pursue a course so pregnant with humiliation, and he confidently persuaded himself that as his country had always displayed its justice, so would all parts of the House unite on this occasion to convince the world that her fortitude and firmness were equal to her justice.

When Mr. SMITH had concluded, the committee rose and the House adjourned.

TUESDAY, May 23.

Two other members, to wit: from North Carolina, JOSEPH MCDOWELL, and from Virginia, JOSIAH PARKER, appeared, produced their credentials, were qualified, and took their seats.

ANSWER TO THE PRESIDENT'S SPEECH.

The House then went into a Committee of the Whole, Mr. DENT in the Chair, on the amendment of Mr. NICHOLAS to the report of the select committee, in answer to the President's Speech.

Mr. FREEMAN first rose, He observed, that in his observations on the subject before the committee, amid the conflicting opinions of gentlemen whom he respected, he did not mean to express his own either with confidence or with zeal. Though

one of the committee that had reported the Address, he could not approve it *in toto*. He had two principal objections to it. First, to that part which went to an unequivocal approbation of all the measures of the Executive respecting our foreign relations; and, secondly, to that part which contained expressions of resentment and indignation towards France. In framing an answer to the President, he conceived the committee should have refrained from expressing an unqualified approbation of all the measures of the Executive. To omit it would not imply censure. By introducing it, it forced all those who entertain even doubts of the propriety of any one Executive measure to vote against the Address.

The principal causes of the irritation on the part of France, insisted upon in the answer, were the rejection of our Minister, and the sentiments contained in the Speech of the President of the Directory to our late Minister. If gentlemen would look into the documents laid before the House by the President, he was confident they would find the true reason for the refusal to receive our Minister. He came only as an ordinary Minister, without any power to propose such modifications as might lead to an accommodation, and when the Directory discovered this from his credentials, they refused him. In answer to this, it had been urged that M. Delacroix, Minister of Foreign Affairs, from the first, well knew that Mr. Pinckney was only the successor to Mr. Monroe, and that his coming in that quality was not the reason why the French refused to receive him. Mr. F. referred to the documents which had been laid before the House on this subject, from which it appeared that the secretary of M. Delacroix had suggested a reason for the apparent change of opinion on the subject of receiving Mr. Pinckney. Suppose, the secretary observed, that M. Delacroix had made a mistake at first in the intentions of the Directory, was that mistake to be binding on the Directory?

Mr. F. put a case. Suppose a Minister came to this country, would he be considered as admitted to all the rights of a Minister upon delivering his credentials to the Secretary of State? He believed not.

He proceeded to argue, that the rejection of an ordinary Minister was not a breach of the law of nations, and consequently not a just cause of war. In support of this opinion he quoted *Vattel*, page 669. He considered Mr. Pinckney in the light of an ordinary Minister: he was sent to explain, cultivate harmony, &c., and without powers to settle existing differences. Mr. Monroe had resided for some years near the Republic, and had discussed and explained such points as gave umbrage; explanations were also received by the French from our Government, through their own Ministers here; but it appeared they were not satisfied with our explanations, and they wished for a Minister from us that should have sufficient power to adjust the matters in dispute amicably.

He did not wish to be understood to consider the conduct of the French as perfectly justifiable; but he could not conceive that it was such as to justify, on our part, irritating or violent measures. As to the Speech of the President of the Directory, he could not say much on it, he did not perfectly understand it. As far as he did, he considered it a childish gasconade, not to be imitated, and below resentment. [He read part of it.] It was certainly arrogant in him to say that we owed our liberty to their exertions. But if the French could derive any satisfaction from such vain boasting he had no objection to their enjoying it. There was another part of the Speech that had been considered as much more obnoxious. It was said to breathe a design to separate the people here from their Government. The part alluded to was no more than an expression of affection for the people; he could see nothing in this irritating or insulting; it was a mode of expression which they used as to themselves, and by which they wished to convey their affection for the whole nation. The term people, certainly included the Government, and could not with propriety, therefore, be said to separate the people from it.

It had been observed by a member from South Carolina, that the French had no business to know how far the powers of the Minister extended before they received him; that it would give them a great advantage in the negotiation if they were acquainted with his instructions. There would certainly be no propriety or reason, he observed, why they should be made acquainted with every particular in the instructions; but it was certainly not improper that they should know, before they received a Minister, of what nature his mission was, whether extraordinary, for the accommodation of differences, or only intended to maintain a friendly intercourse.

There was one circumstance mentioned in Mr. Pinckney's letter which had a tendency to remove the opinion that the rejection of Mr. Pinckney was intended as a mark of indignity. He states in one of his letters, that the Directory wished him gone, though they did not wish, it appeared, to take the measure of ordering him away, yet that they had, about that time time, sent off thirteen foreign Ministers. There might, he remarked, have been some reason of State that induced the French Government at this time to send away foreign Ministers; it was evident that the measure was not pointed against this country exclusively.

The member from South Carolina (Mr. SMITH) had taken pains to collect in one view a number of expressions to be found in one of the communications of the late French Minister here, to rouse the feelings of the House. The quotation had not been fairly made. Most of those offensive expressions had been used by Mr. Adet hypothetically, and the Minister concludes the sentence by expressing his conviction that they never can apply to this Government. But even if this nation had been insulted by a foreign agent, is this to excite our indignation against the country to which he belongs? A Governor of one of our States had been grossly insulted by the agent of a particular nation here; the insult was never proposed to be resented against the nation that sent him.

It had been said that the French had not complained of the British Treaty till more than a year after its ratification. The appropriations to carry that treaty into effect, he observed, were not made till June, and the letter of the French Minister was sent in November of the same year. But there are numerous documents to show that the complaints of the French were from an early date unceasingly addressed from their Minister here to our Government, and from their Government to our Minister in Paris.

It had been said, that the French had no right to complain of any favor granted to the British by the treaty, as the French of course participated in the right by virtue of their treaty with us. But, the Administration of this country did not admit this to be the case; they insist, on the contrary, that those parts of the British Treaty in the benefits of which the French claim a participation are not favors granted to Britain, but a recognition only of the law of nations on these points, from which the French have departed by their treaty with us, and that consequently they have no claim to such participation. Mr. F. read an extract from a letter of Mr. Pickering to show that the Government deny this right of participation to the French.

An idea had been thrown out by the gentleman from South Carolina, that the people generally approved of the British Treaty; he inferred it from the fate of the late elections. For his part he could see no great alteration to have been produced by the late elections; and if there had been it would not have been an evidence to his mind that the people approved of the British Treaty. He believed, for his part, that the opinions of a great majority of the people had been uniformly averse to it; and those who advocated it were by this time nearly sick of it. It was true a spirit was roused by the cry of war at the time the subject of appropriation was pending, that produced petitions, not approving however of the stipulations of the treaty, but asking that it might be carried into effect since it had reached so late a stage.

Another engine, he observed, had been wielded with singular dexterity. Much had been effected by the use, or rather abuse, of the terms federalist and anti-federalist, federalism and anti-federalism. When the Federal Constitution was submitted to the people, to approve it, and endeavor to procure its ratification, it was federalism. Afterwards, when the Government was organized and in operation, to approve every measure of the Executive and support every proposition from the Secretary of the Treasury, was federalism; and those who entertained even doubts of their propriety, though they had been instrumental in procuring the adoption of the Constitution, were called anti-federalists. In 1794 to be opposed to Madison's propositions, the resolution for the sequestration of British debts, and the resolution prohibiting all intercourse with Great Britain, was federalism. In 1796 it was federalism to advocate the British Treaty; and now he presumed that it would be federalism to support the report of the committee and high-toned measures with respect to France. In 1793 he acknowledged that federalism assumed a very different attitude from what it had on the present occasion; it was then the attitude of meekness, of humanity, and supplication. The men who exclusively styled themselves federalists, could only deplore with unavailing sighs the impotence of their country, and throw it upon the benevolence and magnanimity of the British Monarch. Their perturbed imaginations could even then see our cities sacked and burnt, and our citizens slaughtered. On the frontier they heard the war-whoop, and the groans of helpless women and children, the tortured victims of savage vengeance. Now we are at once risen from youth to manhood, and are ready to meet the haughty Republic of France animated with enthusiasm and flushed with victory. Mr. F. observed, that he rejoiced however that gentlemen adopted a bolder language on this than had been used on the former occasion. He felt his full shame in the national degradation of that moment. He was in favor of firm language; but he would distinguish between the language of manly firmness and that of childish petulance or ridiculous bombast.

It had been observed, Mr. Freeman said, by the member from South Carolina, that the French were guilty of the first aggression as to captures at sea. That their orders to take our provision vessels were dated in May, 1793, and that those of Britain were not issued till some time after. It would be recollected, however, he said, that before the French issued these orders, the British had entered on their plan of attempting to starve France, and had used our vessels unwarrantably for this purpose, by detaining in their ports some of our provision vessels bound to France; it would also be remembered that at this time the convention between Russia and Spain was in existence, and that the object of it was, according to the declaration of Lord Grenville to Mr. Pinckney, to detain neutral vessels bound to France with provisions. The decree of the French that had been alluded to was, he further remarked, expressly predicated on the order of the British for detaining in their ports provision vessels bound to France.

It was, however, very immaterial to determine what nation began these depredations on our commerce; it was the duty of the Legislature to resist them from whatever quarter they might come and to protect the property of American citizens.

He deprecated using in the Address about to be framed any irritating language; such was not the language of manly dignity, but of childish petulance. Perhaps nothing had proved more derogatory to the character of France than this bombast in some of her public acts. He wished not to imitate them.

Much had been said on the score of foreign influence in this country; he feared England and not France was most to be feared in this respect. He hoped there would be found, however, in the country, virtue enough to repel all foreign influence.

As to the amendment, he should vote for it, he said; he saw nothing in it exceptionable. It did not contain unqualified approbation of the measures of the Executive, nor any undignified expressions. If the amendment should not prevail, still the original report might be so amended as to induce him perhaps to vote for it. He hoped, however, a spirit of conciliation would obtain, and that unanimity might prevail on the occasion.

Mr. Griswold said, if he understood the state of the business, the question was, whether the committee would agree to the amendment proposed by the gentleman from Virginia? If it contained sentiments accordant to the feelings of the committee, it would of course be adopted; if not, it would doubtless be rejected.

He supposed it would form an objection to this amendment, if it were found to be inconsistent with the other parts of the report. He believed this to be the case; but he would not make objections to it on this ground. He would examine the paragraph itself, and see whether it contained sentiments in unison with those of the committee. He believed this would not be found to be the case, and that when the committee had taken a view of it, it would be rejected.

If he understood the proposition, it contained three distinct principles, viz:

1. To make a new apology for the conduct of the French Government towards this country.

2. That the House of Representatives shall interfere with and dictate to the Executive in respect to what concessions ought to be made to the French Republic.

3. It depends upon the spirit of conciliation on the part of France for an adjustment of the differences existing between the two Governments.

The apology, he said, was a new one, and one which the French had not thought of making for themselves; for they tell us, as it appears from Mr. Pinckney's letter to the Secretary of State, "they will not acknowledge or receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it." We say (or rather the gentleman from Virginia says in his amendment) they rejected our Minister because he had not power enough; therefore, for the apology now made for the French Government they were indebted to the ingenuity of the mover.

Now, said Mr. G., I do not wish that the House of Representatives should undertake to make apologies for the conduct of the French Government towards this. It was true they needed apology; but he did not think it was proper for us to make it for them. Further, as this apology was not made by themselves, but wholly different from their own assertions, it was not likely that they would fall into it. They say, "Permit us to sell our privateers in your ports; annul treaties and repeal laws, and then we will tell you on what terms we will receive Mr. Pinckney, and peace from you." After this declaration, he did not think it would be proper to attempt any new apology for them. He therefore supposed, that so far as this proposition offered a new apology for the French Republic, it could not meet with the approbation of the committee.

The next proposition contained in the amendment was, that the House of Representatives should interfere with the Executive power of this country, and dictate to it what sort of steps should be taken towards reconciling the French Government. He asked whether this was consonant to the principles of the Constitution? Whether the Constitution had not delegated the power of making treaties to other branches of the Government? He believed it had, and that therefore we had no right to dictate to the Executive what should or what should not be done with respect to present disputes with the French Government: On this ground, therefore, he considered it as improper.

In the next place, the amendment contained another proposition, viz: that we rely upon a spirit of conciliation on the part of France for an accommodation of differences. And, said Mr. G., do we really rely upon this? Have we such evidence as should incline us to rely upon it? Have the French Government expressed any inclination to settle the differences subsisting between them and us? The communications which were received from the Supreme Executive, do not bear this complexion. The communication from the French Minister to this Executive does not wear it. Our proclamations are called *insidious;* our Minister is insulted and rejected; and attempts are made to divide the people of this country from their Government. Is this conciliation? Does it not rather appear as if they intended to alienate the affections of the people from their Government, in order to effect their own views? He was convinced it did, and that they could not rely upon a spirit of conciliation in them. For his own part, he did not rely upon it; he relied upon this country being able to convince the world that we are not a divided people; that we will not willingly abandon our Government. When the French shall be convinced of this, they will not treat us with indignity. Therefore, he trusted, as the proposed amendment did not contain such sentiments as were likely to accord with the feelings of the committee, that it would be rejected.

As to entering into a lengthy discussion in behalf of different measures of Government, he did not think it necessary. If, indeed, there had been a motion made to strike out any part of the reported Answer, which went to an approbation of those measures, such a discussion might be indulged. As this was not the case, he should decline it.

Mr. Nicholas said he was very sorry that he should be again under the necessity of troubling the committee with an explanation of the proposition which he had submitted to their consideration.

They had been told by the gentleman last up that it had three objects, viz: to make a new apology for the French Government; to dictate what terms the Executive should use to restore a

good understanding between the two countries; and to say that we rely upon a spirit of conciliation on the part of France for an accommodation.

He believed the gentleman had wholly mistaken the proposition. In the first place, it contained no apology for the conduct of France. In this respect he had not gone farther than the report itself, or the President. On the contrary, it would be found that the proposition expressed the strongest disapprobation of the conduct of the French Government to our Minister; and went on to say that, if it were followed by similar measures, it would put an end to every friendly relation between the two countries. This showed a disposition for a restoration of a good understanding, if it could be had; if not, that all friendship would be at an end. Did not the gentleman wish this? Did he come here with his sword ready whetted for war? He hoped not; he trusted there was not a member in that House who did not wish to preserve the peace of the country, if it could be done. If this were not the case, or if no serious expectations of success were anticipated from a new Envoy, why send him? He trusted negotiations would be successful. He was seriously desirous of preserving the peace of the country; he did not leave home to attend his duty in that House for the purpose of declaring war, but of preserving peace, if possible.

That the proposition contains a kind of direction to the President, he allowed, which the gentleman might call dictating, if he pleased. He would ask what the President had done with respect to them? Had he not freely told them what he thought it was proper for them to do? If they were not, in return, to say what they thought was proper, and upon what terms they would, or would not, be reconciled to France, how could the Executive proceed with any certainty in his negotiation. Was not the power of war committed to him? [No! was heard from different quarters.] In effect, he said, it was so; for if they were not permitted to say to the Executive upon what terms they would wish differences adjusted, they must go to war, if such terms as himself proposed were not agreed to. Suppose, said he, he should proceed to negotiate with the French Republic, and should call Congress together some months hence, and inform them he had been unsuccessful, should they not then be at liberty to say, Try other modes? And if in such a case they had the liberty, why not exercise it now?

The third part, which the gentleman from Connecticut had given to his proposition, was not contained in it, viz: that we relied on a spirit of conciliation in France for accommodation. [He read that part of his proposition.] He did not say that there was a spirit of conciliation in that country upon which we could depend. He was sorry to say he could not even assure himself there was such a disposition in this; and if he had not an assurance of this disposition in his own country, he could not be supposed to rely upon it in France. If a mutual spirit of conciliation did exist (it was his intention to say) it would be a sufficient foundation for peace. This was his meaning, and he hoped it would not be perverted.

No member appearing inclined to rise, after Mr. Nicholas had sat down, there was a call for the question.

Mr. Giles said the subject under discussion was a very important one. It appeared to him, from various documents, that all the steps taken by the Executive had a view to an eventual appeal to arms, which it was his wish (as it was the wish of many in that House) to avoid. It was proper, therefore, that the clashing opinions should be discussed. If the proposition brought forward for this purpose was not sufficiently simple and explicit, he wished it might be made more so. For he believed the question to be, whether the committee be prepared to pass a vote, approving of the whole course of the conduct of the Executive, or whether France should be put upon the same ground with the other belligerent Powers. That she is at present upon the same footing, no gentleman had attempted to show. Gentlemen who wish to get rid of this ground, say this is a thing which should be left to the Executive. He thought it was, however, a proper subject for their discussion; for whatever power the Executive had with respect to making of treaties, that House had the means of checking that power. Suppose, said Mr. G., I were on this occasion called upon to tax my land, was it not necessary I should inquire into the subject, and endeavor to avoid a measure which would probably prove a serious drain upon the blood and treasure of the country? He was unwilling to have his land taxed for the purpose of supporting a war on this principle. It was evident that the French took one ground in this dispute, and the United States another, and whilst this continued to be the case, no negotiation would have any effect. Indeed, said he, it is war; and if the measure proposed was taken, we make war if we do not declare it.

He had merely thrown out these ideas; if no gentleman was prepared to go into the subject, he should move that the committee now rise, report progress, and ask leave to sit again.

Mr. W. Smith hoped the committee would not rise. He thought the best way of coming to an understanding of the proposition, was to discuss it. If it was not understood, it would be wrong to vote for it; but he believed it was well understood. He thought the gentleman from Connecticut (Mr. Griswold) had given a clear analysis of it. He hoped gentlemen would, therefore, either proceed in the discussion, or take a vote upon the question; for as they could not proceed with any other subject until this was disposed of, it would only be a waste of time for the committee now to rise.

Mr. Hartley commenced some observations on the amendment, when the Chairman informed him the motion before them was, whether the committee should rise.

Mr. Giles withdrew his motion.

Mr. Hartley said, gentlemen argued as if the adoption of the Answer, as reported, would be to

declare war. He thought no such thing. It was the wish of the friends of the report (at least it was his wish) to preserve the country in peace, but to place it in a state of defence; but he hoped it would not be taken for granted, that every proposition in the Speech of the President would be carried into effect. He hoped they should continue to discuss the question. At present he was decidedly against the amendment.

Mr. Baldwin said, he had taken the liberty to express his concern several years ago, that this custom of answering the President's Speech, which was but a mere piece of public ceremony, should call up and demand expressions of opinion on all the important business of the session, while the members were yet standing with their hats in their hands, in the attitude of receiving the communications, and had not yet read or opened the papers which were the ground of their being called together. It applied very strongly in this instance, as this was a new Congress, and a greater proportion than common of new members; he thought it an unfavorable attitude in which to be hurried into the very midst of things, and to anticipate business of such vast importance to the country, before they had time to attend to the information which had been submitted to them. He trusted some fit occasion would before long be found to disencumber themselves of a ceremony, new in this country, which tended only to evil and to increasing embarrassments. He observed that it was under the influence of these impressions, he had made it a rule to himself, for many sessions, to vote for those amendments and those propositions in the Address which were most delphic and ambiguous, and while they were respectful to the President, left the House unpledged and open to take up the business of the session as it presented itself in its ordinary course. It was on this ground he should vote for the amendment now under consideration.

He also noticed three particulars, in which he thought the proposed amendment preferable to the report of the committee. 1st. The report of the committee had in it twice repeated general and indefinite approbation of the measures of the Executive towards foreign nations, when it was well known that a majority of the House had, for four years past, been of a different opinion, and it must be supposed many of the present House were of a different opinion. He thought it well not to step out of their course to express any opinion on that subject, or to court opposition 2d. He thought the Address contained too many epithets and superlatives. It was a style of writing which well became youth and passion in some circumstances, more rarely the experience and gravity of advanced life, and very seldom reconcilable to the dignity of a public assembly. He also noticed "indignant," "indignity," and "indignation," repeated not less than three or four times in a dozen lines. He thought it would be found difficult, on trial, to remove these objections from the report, without proposing new sentences as the amendment had done. If it was thought the amendment was too low on the other extreme, the word *sensibility*, in the 5th line, might be changed into *indignation*, for once, and in several other places by the change of a word, it might be exactly graduated to the temper of the House. 3d. There was one thought in the amendment which he wished to be contained in the Address, which was not in the report of the committee, viz: the hope of success from sending an Envoy Extraordinary to treat specially on the grievances complained of, free ships making free goods, articles of contraband, &c., on the basis of strict equality to foreign nations. As to the objection that expressing this wish is dictating to the Executive on the subject of treaties, and therefore unconstitutional, he thought the objection had equal force against the whole Address, and all Answers to the President's Speeches, which are nothing but expressions of congratulation, or opinions, or wishes, on Executive measures.

Mr. Rutledge said, when the report of the committee should be before them, he should have some remarks to make upon it; but at present he should offer only a few observations upon the proposed amendment.

He said he had strong objections to the amendment; but one so strong that he need not urge any other: it was, that in agreeing to it they should dictate to the Executive, which he believed would be infringing upon the Executive power. As it was his peculiar duty to give instructions to Ministers, it would be improper in them to say what should be the instructions given to a Minister; but if it were not so, he should not vote for those of the gentleman from Virginia.

In the instructions of a Minister, it was usual to comprise a variety of propositions. Certain things were first to be proposed; if these could not be obtained, he was instructed to come forward with something else, and if this could not be got, he went on to his ultimatum. But, if the proposition of the gentleman from Virginia were to obtain, his instructions would be publicly known. In vain would it be for him to offer this or that, they will say the House of Representatives has directed you what to do, and we will not agree to anything else. This would be contrary to all diplomatic proceedings; for that reason he should be opposed to the House saying what should be his instructions. Indeed, if it were usual, he should be against it in this instance, as he believed it would encourage an extravagant demand. What, said he, have they said to our Minister—or rather to the person who was formerly our Minister, but who then had no power? They told him to go away; they had nothing to say to him; they would receive no more Ministers from the United States until their grievances were redressed. This country is charged with countenancing an inequality of treaties. The French have said, redress our grievances in a certain way. But, said Mr. R., if we do this, we shall put ourselves under the dominion of a foreign Power, and shall have to ask a foreign country what we shall do. This was a situation into which we must not fall without a struggle.

Though he was upon the committee, he had contributed very little to the composition of the Answer reported. He thought it, however, a proper Address; but he was willing that it might undergo any modification which should not alter the substance of it.

Mr. Sitgreaves said, though he had wished to have taken a little more time before he had troubled the committee with his observations; yet, as there now appeared an interval, he should take the opportunity of occupying it for a few minutes.

He should not answer the observations of the gentleman from Georgia, with respect to the style of the Answer reported; but he believed that those gentlemen who would look at it without a perverted vision, would not discover the faults in it which that gentleman had discovered. He thought it rather remarkable for the simplicity of its style than for a redundancy of epithet. He discovered more of the latter in the amendment than in the original report. It was true that the superlative was used in different places, but he thought it was used where it ought to be. He would not, however, detain the committee with matter so immaterial, but would proceed to what appeared to him of some consequence.

A stranger who had come into the House during this debate, and heard what had fallen from the mover of the proposed amendment, and from members who had followed him, would have supposed that, instead of an act of ordinary course being under discussion, they had been debating the question of a declaration of war against France.

He would declare, for himself at least, on the subject of war, that he agreed in certain of the sentiments of gentlemen on the other side of the House. A state of war was certainly a curse to any nation; to America it would be peculiarly a curse. It ought to be avoided by all possible means. It was not only impolitic, but madness, to run into war. But he thought there were two sides of the subject. He thought that peace was the greatest of all possible blessings; but he also thought that peace might be purchased too dearly, and war avoided at too great an expense. He thought peace might cost a greater value than money—our independence. This was no new sentiment in this country. It was thought that peace might be bought too dearly in the Revolutionary war; they then thought it better to be at war than to submit to the alternative evils. France also shows that she prefers a state of war—a war carried on at an unexampled expense of blood and treasure—to a state of peace with despotism. He thought, therefore, that we should hold a language of a firm and manly tone. To preserve peace by all honorable means, but not by dishonorable means. As he observed last session, on a similar occasion, we should cultivate peace with zeal and sincerity; but whenever our intention of doing so was publicly expressed, it ought to be accompanied with an opposite assertion of a determination, if our endeavors to maintain peace fail, that then every resource of the nation shall be called into existence in support of all that is dear to us. Such a declaration, at this time, was extremely proper. At present, he said, all the observations which had been made relative to war, were very premature. They might be brought into consideration, when any measure should be discussed which might lead to a war with France. Then would be the time to count the cost and the benefit. At present, he conceived, our only object was, to inquire what were the feelings which the conduct of France had created in our minds, and whether we were prepared to express those feelings.

Shall we, said he, from a fear of irritating the French Republic, in a communication with our own Executive, suppress our feelings, or what is worse, suppress the truth? For his own part, he saw nothing in the present business but an expression of feelings naturally excited by the occasion; nothing but a declaration of facts. This being the case, the question was, whether, from fear of irritating the French Government, they should suppress these feelings.

It would be well to consider what would be the consequence of this condescension. He did not think they were warranted in believing that they should put France in a better humor with us by this means. He was sure that gentlemen who were in the last Congress would recollect that the Answer to the Address was reported in very mild terms, from a spirit of accommodation in the committee who formed it, and that it was afterwards pruned in the House with care, yet there had been no amelioration of the disposition of the French towards this country. Instead of inducing them to behave better to us, had it not been with a knowledge of this that they have offered us fresh insult and indignity? Indeed, Mr. Pinckney suggests an idea that this moderation of ours may have been one of the operating causes of sending our Minister from their country. Besides, gentlemen have not pointed out the particular expressions which they consider as irritating in the report. For his own part, he thought the amendment might be considered as more irritating than the draught of the committee. What was the language of the amendment? [He read it.] He gave it as his opinion, that there was more of war and bullying in it than in the original report. It was true the threat it contained was accompanied by an *if*. Now, all the difference between the draught and the amendment was, that in the former, instead of using the *if*, they had at once expressed indignation at the insults offered to this country by the French Republic, and given assurances to the Executive that they would repel indignity with indignation.

But if this subject was to be considered, he would turn to a part of the gentleman's proposition, not indeed immediately before them, but which he had declared it his intention to bring forward, where he says, "we will repel all unjust demands on the United States by foreign countries; that we will ever consider the humiliation of the Government as the greatest personal disgrace." He was willing to act upon the gentleman's own principles. If we think there have

been any unjust demands upon the United States by foreign nations, it is then our duty to repel them. The question was therefore narrowed, and they had only to say whether the demands made by the French Government were just or unjust.

The gentleman from Virginia thought proper also to tell the committee, that majorities had pushed the House too far, and had expected minorities to sacrifice their opinions. The gentleman was very tenacious of his own opinion, and he trusted he would suffer others to be equally so of theirs. If that gentleman, said Mr. S., thinks the demands of France are not unjust, I think they are. They had been declared to be unjust in the most solemn manner; and, if the committee think they are so, it was the gentleman's own position that they should say so; and if they were unjust, they should be repelled, and the United States should look forward to that state of things when it shall be necessary to repel them.

He did not think it necessary to repeat his wishes for peace. He thought it possible for this Government to pursue a line of conduct which, while it secured our rights, would preserve us in peace.

He wished to take a little notice of what had fallen from the gentleman from Virginia, on the subject of sacrifice of opinion. He had already observed that he hoped that gentleman would allow the same liberty of sentiment to others which he claimed for himself. He would not stop here. After great public measures have been the object of deliberate discussion in other branches of the Government, and have been carried by a majority, he thought it the duty of a minority to acquiesce in the determination. Wherever the opinion of all comes to be known through the different channels from which they emanate, and where there must of course be a difference of opinion, the minority ought certainly to acquiesce in the determinations of the majority.

It was from this opinion that he was concerned to hear the past conduct of any branch of the Government censured. Whatever legitimate acts of Government were passed, they should be protected by the minority as well as the majority. They should be held sacred, and never blown upon by us." They should hold but one language in their support. Whatever difference of opinion might exist among themselves, this difference ought not to appear in their acts to foreign nations. We should speak, said he, in these cases, but as one people. Therefore, if the Answer to the President's Address be an instrument of which the French Republic must take notice, it should not appear to them that we have been at any time, or are now, divided in the sentiments which it contains: the acts of the Government are the acts of the country, and not a whisper should escape from us in opposition to them, when they have been concluded and carried into effect.

He wished the gentleman from Virginia had omitted his observations with respect to factions which may exist in this country, as there was no necessary connection between that subject and the one under consideration. It was one which ought to be kept out of view within these walls. It was to be regretted that the press was contaminated with this kind of rubbish; but when the gentleman had expressed his contempt for charges of this sort, he should have extended it to both sides of the House: for if French faction was cried out on one side, British faction, on the other, had for these four years been rung from New Hampshire to Georgia. He should have spared the committee these remarks, if the gentleman had not, perhaps unwillingly, in some degree added to the odium which was cast upon one side of the House, by saying that when he first came into the Government he found a general disposition against the French cause; and even against Republican government. [Mr. Nicholas denied having used this last expression.] Mr. S. said he so understood him. However, when he spoke of the existence of parties, he wished he had looked on both sides of the question.

But, said he, let us, on this occasion, confine ourselves to the real question now before us. We have been informed, said he, by the President, in his Speech to both Houses, of the conduct of the French towards this Government, and have since received the documents upon which this report was founded. He had not yet heard any gentleman justify the conduct of the French. He had heard, indeed, some attempts to palliate or apologise for it, but none to vindicate it. His ideas of these things were, that the French had not only injured us, but added insult to injury; and while he retained this belief, he could not help feeling indignation and resentment. The question before the House was not, Will we resent it? Our actions, better than our words, show our desires for peace. It was a desire in which we were too much interested, to be doubted; yet it was proper that this desire should be accompanied with expressions of our feelings on the occasion. What objections could there be to this? If we were sunk so low, if our fears of the French Republic are so great, that we dare not express what we feel, our situation was become really deplorable. He hoped this was not, nor ever would be the case. He hoped we should cultivate peace with sincerity, but with firmness. For if the French Republic is so terrible to us, that we must crouch and sink before her; if we hold our rights at her nod, let gentlemen say so. And if we are to give up ourselves to her, let it be an act of the Government; do not let us conceal under the appearance of spirit, actual submission. Nations, it was true, might be brought into such a situation as to be obliged to surrender some of their rights to other nations; but, when this is done, it should be done with some degree of character. Let it not be done as a confession of guilt. Let us, said he, however, surrender any thing, sooner than the fair fame of our country. He was not a military man, nor did he know how he should act upon such an occasion; but he knew what we ought to do. We ought, rather than submit to such indignity, to die in the last ditch. Why insinuate that the Government had been wrong? Was it not

enough to submit to injury; shall we not only receive the stripes, but kiss the rod that inflicts them?

But, said he, are we in this situation? Must we surrender any of our rights? He knew if we submitted to injury and insult, this would be the unavoidable consequence. He disdained any reliance on the generous magnanimity of the French Republic. He thought her conduct towards this country justified no such reliance.

He was of opinion we ought to take a firm and decided attitude on this occasion, and, at any rate, before we make a surrender of our rights, we ought to make a struggle to retain them.

Mr. S. said he had made these observations more with a desire to prevent any false representations of the views of the House from going abroad, than from a desire to throw much additional light upon the subject. For his own part, he saw nothing in the reported Answer that could either irritate or offend against decorum. We assert that we have not injured the French Republic, but, if she will injure us, we will defend ourselves. Thinking thus, he should be in favor of the original report, and against the amendment.

Mr. Otis observed, that he was so little accustomed to the mode of conducting a debate in that honorable House, that he hardly knew in what manner to apply his remarks to the subject before the committee. A specific motion had been laid on the table by the gentleman from Virginia, which reduced the true question before them to a narrow compass; but the mover, in discussing his own proposition, had enlarged upon subjects dear to his mind, and familiar to his recollection. In this circuit he had been ably followed by the gentleman from South Carolina, and others; so that the whole subject of the Address to the President, and the reply of the committee, was brought into view, with many considerations that did not belong to it. It was his design to have remained silent until the subject had been exhausted by other gentlemen, and if any remark of an important nature had been omitted, which was not likely to have been the case, he would have suggested such ideas as might have presented themselves to his mind; but a motion having been made for the committee to rise, he would then offer a few observations, not so much for the sake of illustrating the question, which had been done most successfully, but in order to declare his sentiments upon this important occasion. He so far agreed with the gentleman from Georgia, that he believed, upon ordinary occasions, an Answer to the President's Address should be calculated to preserve an harmonious intercourse between the different departments of Government, rather than to pledge either branch of the Legislature, collaterally, upon subjects that would come regularly under their consideration. But the present was not an ordinary occasion, and the situation of the country required that the Answer should not be a spiritless expression of civility, but a new edition of the Declaration of Independence. He expressed his regret that upon this question gentlemen should have wandered into a review of measures and subjects, so frequently examined, so deliberately settled, and which had a tendency to rekindle party animosity. If they would never acquiesce in the deliberate acts of the Government, because their personal sentiments had been adverse to them in the season of their discussion, there could be no end to controversy. For his part he conceived that all party distinctions ought now to cease; and that the House was now called by a warning voice, to destroy the idea of a geographical division of sentiment and interest existing among the people. His constituents and himself were disposed to regard the inhabitants of the Southern States as brothers, whose features were cast in the same mould, and who had waded through the same troubled waters to the shore of liberty and independence. He hoped that gentlemen would, in their turn, think the other part of the Union entitled to some consideration.

The Address of the President disclosed, for the contemplation of the committee, a narrative of facts, and of the existing causes of controversy between the French Republic and ourselves; the overtures for reconciliation, which were to be repeated by attempts to negotiate, and the measures of defence that might be proper, in case negotiation should fail. The injuries sustained by us were of a high and atrocious nature, consisting in the capture of our vessels, depredations upon the property and persons of our citizens, the indignity offered to our Minister; but what was more aggravating than the rest, was, the professed determination not to receive our Minister until the complaints of the French should be redressed, without explanation and without exception—until we should violate treaties, repeal laws, and do what the Constitution would not authorize, vacate solemn judgments of our courts of law. These injuries should not be concealed. He did not wish, however, to indulge in unnecessary expressions of indignation, but to state in plain and unequivocal terms the remonstrances of injured friendship. If any man doubted of the pernicious effects of the measures of the French nation, and of the actual state of our commerce, let him inquire of the ruined and unfortunate merchant, harassed with prosecutions on account of the revenue, which he so long and patiently toiled to support. If any doubted of its effects upon agriculture, let him inquire of the farmer whose produce is falling and will be exposed to perish in his barns. Where, said he, are your sailors? Listen to the passing gale of the ocean, and you will hear their groans issuing from French prison-ships. Such were the injuries, and such the requisitions of the French nation; and he defied the ingenuity of any gentleman to draw a comparison between the Directory and the British Parliament, in favor of the former; and insisted that the demands of Charles Delacroix were upon a parallel with those of Lord North. He enlarged upon the analogy of the circumstances attending the pretensions of the British Government to bind us, when we were colonies, and of the French to subjugate us, now we are free and independent States. He thought it expedient to cultivate the

same spirit of union, and to use the same firm and decided language. He regretted that questions should be agitated upon this occasion, which had been formerly the cause of party spirit and dissensions; and did not believe that the immortal men who framed the noted instrument which dissolved the charm of allegiance and shivered the fetters of tyranny, condescended to differ about verbal criticisms and nice expressions, through fear of giving offence; nor that it was incumbent upon the members of the committee to repress the assertion of their rights, or smother a just and dignified expression of their susceptibility of insult, because the French had been once our friends, or because the commencement of their revolution was a struggle for liberty. There was a time when he was animated with enthusiasm in favor of the French Revolution, and he cherished it, while civil liberty appeared to be the object; but he now considered that Revolution as completely achieved, and that the war was continued, not for liberty, but for conquest and aggrandizement, to which he did not believe it was the interest of this country to contribute.

The only precise objection which he recollected to a full declaration of our sense of injury, was the difference of the system, which, it was suggested, had been adopted by Government towards the British under similar circumstances of unjust aggression. But if it were true that this difference existed, it did not become those who thought the measures of Government wrong upon that occasion, to advocate a repetition of error. In his opinion, however, a difference of measures would be justifiable by a reflection upon the causes which induced the British depredations, and those to which the measures of the French may be assigned; and yet there was not in fact that variance between the plans recommended by the supporters of the late Executive, and adopted towards the British, and those which have been pursued, and are now defended, with respect to the French, which gentlemen were ready to imagine. He was contented to rest the first of these positions upon the facts, that the British were stimulated to annoy our commerce, through an apprehension that we were united against them, and the French, by a belief that we were divided in their favor. To undeceive them in these opposite prejudices, might have required, or at least justified, dissimilar modes of speaking and acting. Yet the language adopted, and the measures advocated, were nearly alike. To say nothing of the late instructions to Mr. Pinckney, the famous memorial of Mr. Jay to Lord Grenville, which has been the subject of so much calumny, was not couched in more conciliatory or unassuming terms than the Answer of the House of Representatives to the President's Speech at the last session. [He here read the Answer,] and yet it is intimated by our Minister, Mr. Pinckney, (a man, who, he hoped, was not meant to be included by the gentleman from Massachusetts in the description of those who were under British influence—a man of high and untarnished reputation and known attachment to his country,) that this very Answer was probably among the causes of the conduct of the French Directory. He then added some further observations, to prove, that when the country was menaced with British hostilities, measures of defence had been proposed by the friends to the Administration, comprising the equipment of a navy, fortifying the ports, and organizing the militia.

Having thus, as he contended, demonstrated the right and propriety of stating our complaints, he adverted to the next important subject contained in the Speech: "the resolution of the Executive still to persist in pacific means of negotiation," and was thus led to analyse the motion for amendment submitted to the committee. He sincerely approved of this intention of the Executive, and most earnestly wished that it might be attended with success: no man could more anxiously deprecate a war than himself, or was more impressed with a persuasion of its calamities; and he knew that his constituents were solicitous to avoid it by all honorable means. The preamble of this motion was not, in his view, objectionable; but to express the sentiment "that the French merely intended to suspend the ordinary, and bring into use the extraordinary means of intercourse with foreign nations," was decidedly against his judgment. Was it possible for any man of veracity to make this declaration? If this was really the sole object of the Directory, it would have justified the dismission of Mr. Monroe, equally with a refusal to receive Mr. Pinckney. A wish to suspend the ordinary intercourse would have been displayed in their conduct to the resident Minister; yet Mr. Monroe was not only permitted to reside in France in his public capacity for many months subsequent to the pretended grievances, but was told by the Directory, "that he parted with their regret." It was, therefore, a most absurd and humiliating apology which gentlemen were disposed to furnish to the French Directory; he believed they would smile at and disavow it, and thought it degrading to make, in their behalf, timid excuses, which they would disdain to accept. The only chance for a propitious issue by negotiation, depended upon permitting the Executive, the Constitutional depositary of this right, to exercise a free agency; and the subsequent clause of the motion, which dictated terms to the Executive in the removal of the inequalities of our treaties, was equally impolitic and injudicious. It was probable that the Executive would make the concession alluded to by the gentleman, if an equivalent could be obtained, by a compensation for our losses, and the security of our peace; but of this he must be the judge, and we should leave him free to grant it as a sacrifice made to the desire of peace, and not authorize the French to claim it as a right. If it was known beforehand that the Executive was bound, and that the Minister was instructed, to remove a pretended cause of grievance, without any stipulation for an equivalent, he would commence his overtures under manifest disadvantage. The Directory, secure of one pretension, would probably urge others. In

the present case, there was no reason to conclude that the grievance arising from "the inequality of existing treaties," which was the only one mentioned by the mover, was the principal source of our disagreement with the French, or that removing that alone would effect our object. Did he therefore mean to pinion the Executive down to that single concession? Or would he enlarge his motion, and direct the Executive to say that our laws should be repealed, and the judgments of our courts vacated? Was it wise or politic to publish to the world, at the outset of an embassy, the ultimate terms that were to be offered, and to send an Envoy with open orders to accede to every demand of the French nation? If he was to be despatched under these auspices, let him be decorated, not with the cap of liberty, upon which our former motto was "liberty or death," but substitute in its place "humiliation and submission to your will." He may then, perhaps, be admitted to the honors of a sitting.

Mr. O. then proceeded to the last division of his subject—the means of defence recommended in the Speech. It was, he said, unfair to connect with an approbation of such measures a disposition for hostilities with the French. War was the greatest of all possible calamities into which the pride of kings, or the ambition of rulers, could plunge and provoke an unoffending and neutral nation. He did not presume that any member in that House could derive a benefit from so deplorable a condition of society. But a small portion of them would probably go into the army; and of that portion, few could expect to make fortunes by their commissions. A desire of war was, therefore, entirely out of the question. He never understood that when controversies of a threatening aspect subsisted between nations, preparatory and defensive measures were construed into acts of hostility, or into a determination to make war. On the contrary, the usage of all nations sanctioned such a mode of conduct. He would not, however, resort to monarchies, or to great and formidable nations, for examples, but to the little Republican canton of Basle. That independent territory was exposed, like our own country, to the unfounded criminations and unmerited outrages of hostile and belligerent nations. But in reply to the requisitions of the French, it bravely insisted upon the right of remaining neuter, and announced its design of augmenting its military establishment for the protection and maintenance of its neutrality. Perhaps this canton may be compelled to depart from this system. Possibly it has no longer the power of exercising its own will; but it will not be pretended that this defensive conduct evinced on their part a willingness to be engaged in war. It was then a simple inquiry, whether, under the present aspect of our affairs, war might not be brought home to our doors, contrary to our wishes, and prior to a state of preparation? Gentlemen were willing to say, that if negotiation failed, there would be an end to every friendly relation between the two countries. Our posture then would be unfriendly; and who can say it will not fail? If a war with this country makes any part of the system of French aggrandizement, we should probably have it without the forms of consultation. Do gentlemen suppose that when negotiation shall have absolutely failed, the French will give us time to equip our vessels, fortify our ports, and burnish our arms, in order to show us fair play? Let gentlemen consider our defenceless situation in such circumstances; let them not pause until it shall be too late. The tide of conquest had deluged Europe; it might swell the great Atlantic and roll towards our shores, bringing upon its troubled surface the spirit of revolution, which might spread like a pestilence, possibly in the Southern States, and excite a war of the most dreadful kind, of slaves against their masters, and thereby endanger the existence of that Union so dear to his constituents, and the separation of which would be painful as the agonies of death. He concluded with many other observations, having for their object the preservation of the Union, the necessity of forming and displaying a national character, and a demonstration of the absurdity of supposing that the President of the United States, at this period of his life and reputation, could feel an interest in promoting a rupture between France and this country, by any measures he might adopt.

Mr. Giles said, that as the committee appeared divided on the Address, and as he had attended the discussion, he submitted to the consideration of members whether it would not be advisable, in order to produce a spirit of unanimity and cool deliberation, to recommit the report and send the amendment also to the committee with an addition of members. He wished the last gentlemen up had been more delicate on a subject that he had touched; if he infers that because one part of the members may think a rash measure just, that those who think differently must not exercise their judgments in thinking the contrary, he thought the gentleman had overstretched his reasoning. He was one of those who felt a strong apprehension of a war; he thought one means would be more likely than another to prevent it, and he was using that preventive measure because he thought it both just and honorable and wise. We all concur in our declarations at least of a love of peace; he was sorry to hear language which betrayed a very different disposition. He was for showing our ultimatum, and taking the consequences, but he would not agree to be either silly or insolent in the proceeding, because nothing was so unbecoming of a wise man, or a wise people, as anger or petulant irritation, when their happiness and that of millions was at stake. He wished the report to be recommitted, that we might proceed thus wisely, after we had determined well; and if the issue should disappoint our fair and just expectations, he should not be one of those that would ask others to support his opinions. He would stand by his country in the storm, and share its fate. Prove then, by a recommittal, that you do not aim at the triumph of a party. He therefore moved the recommittal.

Mr. Harper was against the recommitment.

He saw nothing that was effected, or could be effected by it. He never would submit to the terms of France. This is the last stand that we have to make. He never would agree that the two plans, viz: the report and amendment, were capable of concurring. They were like two lines diverging from the same point. To the common eye they seemed as if they were upon the same course; but the mathematical eye saw that they were growing farther and farther from each other. We have nothing to do but as we did in the Revolution—just to go through it. He could see no benefit arising from concession.

Mr. Brooks was against the amendment, for that and the report never would agree. To recommit was nothing but wasting precious time. If the amendment was lost, we might then bring in another; and so on till we finally met. It was too late in the day to go through the matter now. Refering to something which fell from Mr. Giles about American prospects of futurity, he asked whether the member had the power of divination?

Mr. Giles, in reply, said that, while we were so loudly denying ourselves to be a divided people, the very debate proved that we were so. The gentleman had charged him with assuming the power of divination, and at the same time assumed it to himself, by distinctly asserting that the report and amendment could never be made to agree. Mr. G. feared not, but it would be better to try. As for the waste of time, the select committee might be ready with their report by to-morrow morning. He had always been a friend to deliberation. He never knew any thing lost by it; though indeed the *fury* with which his proposal had been commented on, did not promise much good.

Mr. Dayton (the Speaker) said, that he hoped the motion of the gentleman from Virginia, which had for its object a recommitment of the Answer, would not prevail. It was certainly very desirable that the select committee, appointed in the first instance for the purpose, should have reported such a draught of an Answer as would have united in its favor all parts of the House. He was not the only one who had expected it. Disappointed, however, in such an expectation, they were forbidden to indulge a hope that any good could be derived from sending it back to a committee before one vote at least was taken, and the sense of the House thus far ascertained as to the style and tenor of their reply. If this proposition for amendment should succeed, then the business would be ripe for reference to a committee, who would take such amendment as their guide, and so modify the report as to render the whole correspondent with it. As to the motion more immediately under consideration, he could not give it his unqualified vote, more especially when it was considered and acknowledged to be in its operation a complete substitute. Candor, however, compelled him to declare that it contained one feature, and that too an important one, which attracted his attention, and would certainly have his approbation. There would, however, be a more proper place for introducing it than that proposed by the mover. Stripped of the more exceptionable matter with which it was then connected, it might very well be adopted as an amendment in one of the latter paragraphs of the report, and would not at all vary the principle, or be inconsistent with the general tenor of it.

At this point, the committee rose, and had leave to sit again.

And the House adjourned.

Wednesday, May 24.

William Smith, from Pinckney district, South Carolina; Samuel Smith, from Maryland; John Allen, from Connecticut; and William Findley, from Pennsylvania, appeared, produced their credentials, were qualified, and took their seats.

ANSWER TO PRESIDENT'S SPEECH.

The House again went into a Committee of the Whole on the Answer to the President's Speech, and Mr. Nicholas's amendment being under consideration,

Mr. Swanwick opened the debate. He lamented the loss of time which was generally experienced at the opening of every session in debating the Answer to the Speech of the President, when, perhaps, business of the first moment called for immediate attention. It was much to be wished that committees appointed for this purpose would confine themselves to the instructions which were given to them on the occasion, which were in general terms, viz: "to prepare a respectful Address, assuring the President that the House will take into their serious consideration the various important matters recommended to their attention." If Answers were drawn in general terms, conformably to these instructions, he thought very many of the embarrassments which they now experienced would be avoided, and every member would be left at liberty to pursue such measures as appeared to them right, when they came before him in the ordinary course of business unclogged by any creed which he might have been called to assent to before he had an opportunity of considering the subjects it contained. It also often occasioned much warmth in debate, and served to divide the House into two parties on the very threshold of their business. This could not possibly have any good effect, but the contrary; he should therefore be happy to see the practice simplified or abolished altogether.

The effect at present has been, that no sooner had the committee appointed to draught an Address made a report, than the gentleman from Virginia proposed a substitute, which, according to his idea, was more proper. A warm debate had taken place, and he believed that either might be adopted without effect, as they were merely a form of words leading to no conclusion. Suppose a majority of *one* was obtained on the report, what end would be produced? None; for it might be that the very persons who voted on this general question, might vote against particular subjects when they came under consideration; as every one would recollect the difficulties which had been experienced in getting three frigates

built, and this difficulty, he doubted not, would again occur. Since, however these two forms of an Answer were before them, and they were called upon to say which they would adopt, it might be proper to go into some consideration of the subject.

The difference between the two productions seemed to be, that the one reported seemed to express great indignity on account of the injuries received from the French Republic, and a determination to repel them; that produced by the gentleman from Virginia was of a more conciliatory tone, recommending to the President to begin his negotiation with placing the French Republic on the same ground with the other belligerent Powers; so that the difference was simply as it respected a few words.

What were the arguments in favor of the warm tone? They were told it would have a great effect on the French Republic, because if a spirited Answer were given to the President's Communication, signifying (as his colleague Mr. Strgreaves had strongly expressed it) that we were determined to *die in the last ditch*, it would strike them with terror. If he thought this effect could be really produced, it might be some inducement for him to agree to it.

Mr. S. remarked, that they were told by Mr. Pinckney, in his letter to the Secretary of State, that it was probable that two events had contributed to his dismissal from the French Republic, viz: one, the victories of Bonaparte in Italy, the other, the Addresses of the Senate and House of Representatives in answer to the Speech of the President at the last session. With respect to the Answers alluded to, no opinion could be formed from this assertion, because though that of the House of Representatives was tolerably moderate, yet that of the Senate was as warm as any thing could be produced. He read extracts from both, and compared them with each other, giving the credit, which, in his opinion, was due to the most moderate.

The first and most necessary step to be taken was, to put all the belligerent Powers upon the same footing, which could not be an offence to any. But it was said that to recommend this measure to the Executive, was to dictate to him; that it was carrying humility on the front of the Minister who should be employed. What! said Mr. S., would it be to carry humility in his front to say, "I come to place you on the same footing with the most favored nation?" It certainly could not; since it was the language of right reason, of justice.

As to dictating to the Executive, could it be called dictating when we merely express our opinion and advice to him, on points which he has himself laid before us; and, in order to deliberate on which we were thus unusually called together? Very low and debasing, indeed, must be the situation of this House, if they were to be muzzled and prevented from laying their sentiments before the Chief Magistrate of the Union! When treaties are made, we are told they are laws over which we have no power. If we dare not speak on the subject before they are made, is this House reduced merely to the odious task of laying taxes, without being allowed to exercise its sense on any other public measures connected with them? Why does the President communicate these things to us, if we are not allowed to express any sentiments about them? Why do the people elect their representatives all over this widely extended empire, if, when they are convened, they are not allowed the privilege of expressing their opinions on the dearest interests of their constituents? But is stated that this will create division among the branches of the Government, who ought always to act and think alike. Were this the case, there was no use to divide the Government, as our Constitution does, into three branches; they might all have been left in one, and then no accident of this kind would have happened; but the fact is, this very division of the branches was devised in order that they might operate as checks on each other. The people thought it better that a division of this kind should prevent acting at all, than that we should act hastily and unadvisedly. Thus when a law, after mature deliberation, passes this House as wise and good, the Senate were not obliged on this account to see it in the same light; they judge for themselves, and, if they see cause, reject it, and no complaint takes place on our part because they do so. In another Government, indeed that of England, all the branches have been contrived into the most perfect union, Kings, Lords, and Commons, all agree, but has the Government been the better for this? Happy had it been for that nation, had this not been the case. Many an unwise measure they have gone into, might then, fortunately for the nation, have been totally prevented.

But it has been said we ought to express the highest indignation at the conduct of France. Let us examine for a moment on what this is founded. Three grounds have been mentioned; the dismission of our Minister, the spoliations on our ships, and the interference with our Government, in attempting to divide the people from it. As to the first, the dismission of our Minister, said Mr. S., nobody can feel more sensibly than I do, this indignity; but it only leads me to regret, as I have often already expressed my regrets, at our sending so many diplomatic gentlemen to Europe. Wretched will be our case, if we are embroiled whenever these gentlemen shall be refused, or uncivilly treated. All history is full of instances of wars, founded on such points of etiquette as these, and they admonish us against employing embassies, as much as possible, to avoid these dangers from our foreign connexions. But it seems, the Directory, by Mr. Pinckney's letter, at the same time sent away thirteen other foreign Ministers; yet we do not hear that these nations went to war on this account. One of them was Sweden, a very powerful maritime nation, possessed of a considerable fleet; her Minister was dismissed; she contented herself with sending away the French Minister also, and here the dispute ended. But, surely allowance ought also to be made for the present revolutionary state of

France. If all things do not proceed there with the order they ought, it is perhaps because of their present warlike and revolutionary position, which cannot but mend every day, and should induce us to make some allowance for them.

As to the spoliations, they doubtless are also just causes of complaint from America; but while they are equally continued to this day by England, Spain, Holland, and France, we ought to go war with all these Powers, if we mean to attack any on this score; for surely the groans of our seamen, so emphatically heard by the gentleman up before me, from Massachusetts, are heard as distinctly from Cape Nichola Mole as from Cape Francois, and ought to rouse equal indignation, unless we have ears to hear injuries from one quarter only. He thought, indeed, it would evince our spirit to go to war with them all, and by that means retaliate upon each the injuries we have received from each. But nothing was said about the spoliations of the British. The British take property bound to France in pursuance of the treaty; and the French, taking advantage of the stipulation made in the British Treaty, that "free ships do not make free goods," take our property bound to English ports. So that this is the ground upon which all of our difficulties rest. Upon the admission to take, lies the evil; for, a French privateer meeting an American merchantman says to him, "You have English goods on board." He answers "no;" but the vessel is taken into a French port to undergo a trial, and in the mean time the engagements of the merchant become due, which being unable to meet, from this failure in the arrival of his vessels, he is ruined. The fact is, that while the war lasts, so will the spoliations, in spite of every thing we can do to the contrary; not because the nations at war are just, but because they are powerful, and use that power as suits their own interest, without reference to our grievances or complaints. For this there is no remedy but an embargo, since nothing short of this can prevent the captures complained of; and this remedy has been thought worse than the disease, since it puts a stop to all commerce and must tend to lower the prices of our produce. We must, therefore, he presumed, leave trade to regulate itself in this respect; although, it may be incidentally observed, that our European, and China, and East India trade have been hitherto preserved pretty free from violation. We have suffered most in the West Indies; but here, it is to be remarked, the French Republic have no decided power; their islands are governed by a provisional agency, who are obliged to keep the blacks and mulattoes in good humor in order to preserve those possessions, and who are so little under the control of France that they have frequently shipped back to them the Generals and Commissioners they have sent out to them. In the West Indies, in fact, all is plunder, the age of the buccaniers is revived, and even exceeded, and those who go thither must trust for safety only to their heels; for as to arming them, I doubt much whether we could prevent this being made a pretext of for fitting out more privateers from among ourselves, who, perhaps, according to their different interests, would, under pretext of defending commerce, only be committing spoliations on each other at sea. War might increase the quantity of depredations, but I doubt if, by this measure, we could safely repress or control them; sooner or later it must lead us to the calamity we all wish so ardently to avoid, the positive evils and misfortunes of war.

But it is stated that France wanted to divide the people from the Government, and to influence it unduly: and this has been compared to dividing us from ourselves; as if she wished to tear the arms from the shoulders, the legs from the thighs, or the head from the trunk. This is surely too absurd for any Government to have intended, and could never be expected to succeed, unless indeed measures were to be taken by the Government oppressive and injurious to the people; in which case we have often seen this effect produced in other countries, not so much however from foreign faction or influence as from domestic oppression or discontent. A general clamor was indeed raised against France, in Europe, as if she were the enemy of all social order and government; but the fact is, their Governments would never have been affected but in proportion as they were intrinsically bad and oppressive. In this country the people love the Government because they are happy; keep them so, keep them as free as possible from taxes, embark them in no unnecessary wars or troubles, and you need never fear the effects of any foreign influence on them. Alarms of this kind may do well for hungry pamphleteers and greedy scribblers, whose writings, it is to be lamented, are so greedily purchased and read among us, but never ought to be admitted within the limits of these walls; all the noise of British and French parties in this country being merely terms of abuse bandied about, and at best but empty nonsense.

But it is said our independence is menaced, and we must make a second edition of it. By whom is it invaded? Does France want to govern us? She would have but poor encouragement in this from the fate of her predecessor. Can England desire it? She makes more by us in the silent but productive operations of trade. Let us not then deceive ourselves by this empty declamation. If France finds fault, it is not at our laws or Constitutions as they relate to us at home; surely, if by any effects of them abroad they operate to her disadvantage, she has a right to complain, and we ought to inquire into the complaint, and if well founded, to redress it as far as in our power.

But a gentleman from Massachusetts apprehends the Atlantic will not be able to restrain the tide of French victories; that they will land and revolutionize the Southern States and free the negroes. I confess, said Mr. S., I have no apprehensions of this kind; but if we really have such ideas, how much the more careful ought we to be to avoid a war which has been so desolating to other nations, and especially now, when they are getting so tired of it and anxious to put an end to

it; for it is plain their exhausted resources must soon compel them to do this, and it would be an unlucky moment for us to get into the scrape as others were getting out of it.

It has been often observed that the people and the Government are one; but if the Representatives are compelled to divide even to carry an Answer by a majority of one or two votes, will this carry an idea of unanimity? Had we not better modify the Answer in such a way as may produce a more general acquiescence in it? This will give more true dignity to our proceedings, and give a proof that we are governed by reason more than passion, by the love of our country rather than by any other consideration.

Mr. Livingston said that, having listened to the gentlemen who had preceded him with the most respectful attention, and heard their ardent expressions of patriotism and the lively sense which they entertained of the true dignity of our Government, he should not attempt to follow them into a field which had been exhausted, but would leave it to the consideration of the committee and his country to determine upon his sentiments and the measures which he should suggest whether he was not equally disposed with others to promote the peace and honor, the happiness and security of his country and Government; he would leave it for his measures to speak for him; he would not be led away by any idle or extraneous vanity from objects so solemn and important; he should speak freely as became an American at a crisis so very pressing. First, then, he should notice the Address that was before the committee, and the amendment which had been proposed to be made to it; he was sorry to observe the manner in which they had been discussed. It had been considered, on one side, that to adopt any language in reply to the Address but that which has been laid before the committee in the report, would amount to a surrender of all our rights, privileges, and independence, as a nation, to France; on the other, it has been held that the differences between us and France are distorted, and that we should at least not shut up every avenue to negotiation by an obstinate and blind assertion of our own infallibility. If he believed, with those of the former opinion, that we should in any shape incur the stigma of degrading ourselves, or if he suspected even that we should sacrifice one right of our country or Government by an adoption of the amendment proposed, or he thought we should not endanger our national character and safety by the adoption of the report, he should most certainly reject the amendment and adopt the report; or if he believed, with the gentleman from Massachus'ts, (Mr. Otis,) that the demands of France now were any wise analogous to those of Great Britain on a former occasion, sooner than consent to a dereliction of independence and national character he would not stop short of the language of that report: but as he could not force his judgment to so outrageous a misconstruction, as he saw on the contrary numerous reasons to entertain a very different opinion, he would not consent to incur the perils and the errors in which that report would involve us; he could not consent to so hasty, so precipitate, and inconsiderate a step.

The question properly before the House at this time is, whether we shall continue to express so perfect a reliance on all the acts of our own Government; whether we shall say obstinately to France that there is no possible case in which our judgment could have been misled or mistaken in our conduct towards her; and, by determining to adhere to our former conduct, preclude every possibility to an amicable adjustment; or leave a reasonable opportunity open for an effectual discussion and adjustment of differences, wherever they may subsist.

The scope of the Speech of the President to both Houses, it must be confessed, goes to bind us to the former conduct; and it is too evident that the report, in strict coincidence with the sentiments of several, but not all its supporters, bears that same dangerous tendency. From which line of conduct are we to expect the most beneficent issue, to treat with a complaining Power by a determination to show that its complaints are groundless, or by examining the complaints and the evidence in amicable negotiation and deciding afterwards? Let us examine the complaints of France, and then determine whether they are all so frivolous as to excite irritation at the mere mention of them; unless we are so convinced, unless we are thoroughly satisfied that they are so, we cannot vote the Answer as it is reported. Should we discover in such an examination that some of our measures have been founded at least in mistake, would it then be proper to adopt the language of the Address? But should we persist under such a possibility of mistake, what do we risk? an evil much more fatal than the worst that could follow the most sober resolution which we can now adopt; we risk the alternative of abandoning it after a war in which we may be sufferers, and after we may have retarded the increasing prosperity of our country half an age. We have an example before us in a nation that was eager to snatch at a remote pretext for an assumed interference in her Government; we have seen that nation, among the most powerful and haughty in Europe, the most vain of her dignity, (real or unreal,) the most apt to interfere in the government of others; we have seen her enter into a war, and we have seen her driven to the lowest state of humiliation; we have seen her obliged to pursue the most abject means of solicitation to obtain a peace from that very nation whom she had irritated to a war; and we saw her more humiliated still, by the rejection of those propositions which she had made to obtain peace. Have we a better prospect than that nation? Are our means equal to hers? Are we, indeed, ready to embark in a war—with France, too—and present such a lesson to the world as America at war with France, after France has defeated the efforts of all the world? He again asked, have we the means? Let gentlemen who are willing to plunge us into that dilemma make the reply; but let not gentlemen indulge in so hateful a picture. But, although we

have no means, he was still against surrendering the honor of our country; fortunately, no such sacrifice is demanded, no such measure is necessary; and were we ten times more destitute even than we are, he should never submit to our national degradation, were there a Power so insolent as to expect it.

But let us examine whether we have not been subject to the common lot of human fallibility in our measures; let us, to whom peace is so desirable, from experience, from principle, and from our natural love of happiness, and to whom the risks of war would be attended with such incalculable disasters, inquire before we rush wantonly upon them, whether it is really clear that we have been uniformly right—whether we have not been sometimes wrong? Suppose it should be found that France has had some cause of complaint; that some of her claims are founded in reason; or even suppose that she only earnestly thought so, and that she would prove her sincerity, are we to shut our eyes and ears against an examination of these complaints; are we to leave no room for a fair and candid discussion, such as may convince whichever may be the mistaken party?

It was, he knew, a very ungracious, and often an unpopular task, to display the errors of our own Government; there was a national vanity, a vain and unmeaning pride, which sought to be bolstered up by frippery of words and acts of dissimulation. He knew that this empty and pernicious vanity often assumed the post and place of the true dignity of a country, and blinked contumely on him that was disposed to prefer the plain, frank, open path of integrity and truth. He would choose between these opposite passions of a nation, and preferring his duty to unmerited reproach, he would neither repress the sentiments of his mind, nor foster those which he conceived to be pregnant with ruin; he would glory more in promoting the justice of his country than in conducting her to the most brilliant triumphs in an unjust cause; he would, therefore, calmly examine whether France had just cause of complaint; and whether she had or not a just cause, he would assert that France might, without exciting indignation, think herself injured; that she might, was a sufficient reason with him for preferring the amendment, as it left an opening for rather amicable discussion and accommodation, rather than the report which had the opposite character.

In enumerating the complaints, it was very true that France had many which were not in themselves reasonable or well founded; but there were circumstances in which France was liable to mistake as well as ourselves. The objects presented themselves in a delusive or adverse form; and it was a subject rather of regret, which we should use as a warning to our own judgments, than a crime in her, if she acted in the same way that she should do when under the conviction and certainty of her rectitude, when she was unconscious of her error.

The first object of her complaint was the interference of our courts in prize causes. Was there no color of complaint on this subject? He did not mean to enter into any particulars of the cases that came before, or the decisions in, our courts; he only alluded to the 17th article of our treaty with France, upon which she grounded this subject of complaint:

"That it shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the Admiralty, or any of the Judges; nor shall prizes be arrested or seized when they come and enter the port of each party; nor shall the searchers or their officers of those places, search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail, at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prizes of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather, or the dangers of the sea, all proper means shall be vigorously used, that they go out and return from thence as soon as possible."

Every gentleman must see that the latitude of this article was indeed very wide, so wide that not even a searcher was permitted to go on board, nor an officer of our Admiralty entitled to a fee of duty, or any other of our judges. Ought we to be surprised that a nation imperfectly acquainted with the detail of our municipal regulations and official duties, should differ with us in the construction of this article, after our detention of their prizes? In the discussions that have taken place already on this article, the difference of interpretation is not at all suprising. They have said to your courts, "We allow their due jurisdiction, but as treaties are supreme laws, our prizes should not have been suffered to enter your courts. According to this article, you subject us to tedious delays, and involve us in litigious suits; but your Executive should have decided in a summary way, and not kept our armed ships idle and expensive to us." He would not say that in this construction France was right, or that our courts were wrong, far from it; all he wished the committee to consider was, whether France might not, without great violation of reasoning, conceive herself right, and accordingly claim of us such an explanation as might place us clear of any suspicion of designed wrong towards her in violation of that treaty.

The second complaint was our admission of vessels hostile to France, and that made prizes, into our ports, contrary to the last part of the same article; and France had also construed this one way, and our Executive another; but was a mistake a cause of hostility? Should the mistake be ours, would France be justifiable in hostility merely on account of the mistake? and should we be any more justifiable to risk hostility, rather than enter upon discussion?

Another cause of complaint was the conversion of our neutrality into an injurious hostility, by our indifferent sufference of the impressment of our seamen by Great Britain, by which her enemy became possessed of our force and employed them

against her, while we were on terms of the most intimate and friendly alliance, and they were embarked in a cause common with our own. They complain of this indifference very strongly, and it must be acknowledged that no open interference took place on our part upon that serious subject to ourselves, and important to us as a neutral nation, until the latter end of 1796; except a few lines from our Minister, Thomas Pinckney, in a letter to Lord Grenville, in the Summer of that year. From so long a silence on such a subject, was it surprising that France should entertain doubts of our disposition to preserve our neutrality? Was it surprising that she should consider that some hidden but unaccountable change had taken place in the attachments of the United States? Was it surprising, or a matter calling for hostility on our part, that she should consider this conduct, connected with the corresponding arrangements made with Great Britain, in a time of war, as pernicious to her?

Under the mean object of the British Treaty, which is one of the complaints of France, there are several subordinate parts. The first is that of the abandonment of that principle of the law of nations which secures the freedom of trade, by establishing the neutrality of goods carried in free ships. He would not dwell largely on the immense advantages which neutral nations—but above all others, our own—would derive from the complete and universal recognition of that just principle. But he would recommend it to the consideration of every candid and unbiassed man, whether France had not some ground to consider our proceedings on that subject as alarming to herself, when she had negotiated upon that valuable principle with us, when we had solemnly recognised it, and had carried the same principle repeatedly into negotiation with other Powers? Could France see us sacrifice the supreme advantages which our commerce would derive from its maintenance, and that too in the moment of her apparent adversity? Could she see this, and still be criminal for suspecting a cessation of that affection in our Government towards her which she was so indisputably entitled to expect—so contrary to our interests and the ties of treaties—and still be deemed hostile when she demands justice, equal justice at our hands?

But he should be told that the principle was not an universal one; that its recognition in the treaty of 1778 did not bind the United States from relinquishing it in any treaty with another nation. He would, by and by, examine the principle. Now, he would suffer it to be argued the contrary principle, that the right of seizure of enemy's property on neutral ships was the universal and received law. Was it the actually received law? Then, if it was, how came it to be made a part of that formal negotiation, and to constitute an article of the British Treaty? Why introduce it so unguardedly there, if it was already the universal and indisputable law? But we had even exceeded that law, for we had admitted the right to carry our ships into their ports merely on suspicion—a concession which was not even presumed to be authorized by any law or usage of civilized nations; a concession which neither went to profit ourselves, nor to ameliorate our condition as a neutral nation. If the principle even were fixed before, was it an evidence of our amity, of our tenacious regard for our own dignity, or of a seriously neutral disposition, to conclude these novel modifications, which went to fetter our commerce with the most perplexing shackles?

But let us inquire whether it is seriously the law of nations? And in making this inquiry, it is not from patched ideas, half quotations, or scraps of learned opinions, parcelled out and botched for convenience or subterfuge, that we must decide. If upon this examination we should find reason even to suspect our error, and that we have conceded any thing to Great Britain contrary to that law, it will be surely a substantial reason for our resorting to temperate and liberal negotiation. But on this he would not now dwell. The law of nations is founded on certain usages of nations, at various periods, and upon the stipulations of treaties of nations with each other. These laws were either partial or general, and the latter have been the subject of common claim among civilized nations. Now, in all that has been written on those laws, he knew of none which had received the common assent of all nations, or of nearly all, authorizing the seizure of enemy's property on free ships. The principle had been repeatedly urged, and, although it had been often evaded, it had never been disproved that a ship of a neutral nation should be as sacred as its territory. Wherever the flag of a neutral nation waves, that should be sacred, and goods seized on board a neutral ship is as much a violation of the universal law, as the seizure on the neutral land could be. Why is it that belligerent nations are precluded from seizure of the goods of an enemy in a neutral port? Because it would be a violation of the neutral rights. Do these rights depart from the citizens of free States upon their departure from their own ports? It is too absurd to expect any other but the plain reply. But if we cannot find the decision in the tomes of the civilian, let us look elsewhere: let us look into the treaties, and here we may obtain some satisfactory test upon which we may rest the question. Prior to the war of our Revolution, the treaties of European nations were a series of contradictory assertions and denials of known principles. The same principles were asserted in one treaty of the same nation, which were sacrificed to partial interests in another; the spirit of monopoly of trade corrupted the current of universal law; and local situation, a temporary stratagem, or an ambitious project, sealed what the other had negotiated. But in the midst of war, Europe saw arise a combination of neutral Powers, who were resolved to restore the law of nations to its primitive principles, from the intolerable abuse into which it had fallen; and they declared that principle, which no nation ought to deny.

Russia, finding that the depredations which the belligerent Powers were committing on her commerce, surpassed all bounds of justice, notified to

the other neutral Powers, in her first declaration, her purpose to ascertain and fix the principles which neutral nations ought to observe towards those at war, and reciprocally, and expresses herself thus: "She does this with the greater confidence, as she finds those principles founded on the primitive law of nations, which every one may have recourse to, and which the belligerent Powers cannot invalidate without violating the laws of neutrality, and disavowing maxims which they themselves have expressly adopted in different treaties and public engagements." He did not quote this as in itself conclusive authority, although the facts are irrefragable; but because every Power in Europe, great and small, weak and powerful—excepting only one—recognised and acknowledged it. But he should be told this is a private compact, and that the agreeing nations did not declare this ought to be the universal law of nations. Let those gentlemen answer me, is the principle inconsistent with reason and justice, is it unnatural, is it not the law of nations, is it not binding upon every nation who subscribed to or adopted it? Until gentlemen deny this, I shall fairly conclude that it is the true and genuine law of nations. But it will be said, there is one Power which did not agree to that convention, and therefore the agreement of all the rest is invalidated. Will this, indeed, be insisted upon? Is it because one haughty, overbearing, and oppressive nation, wishing to monopolize the trade and the power of the whole world, denies that law which alone could restrain her enormous avarice and tyranny? that this one nation, placed in the scale against all the other Powers of the world, peaceful and belligerent, and with justice and law, too, on their side, shall determine that the very law itself must become invalid?

But it is said, this declaration of the armed neutrality is only a temporary, and not a permanent compact, and we shall be told that this assertion is supported by an article of the Treaty of Neutrality itself. In arguing this objection, he felt a degree of uneasiness that he could not suppress; it had given much disquiet, because it very largely implicated the honor and character of our country. In a document published by the express authority of Government, professedly addressed to a public Minister then about to proceed on his mission, our Secretary of State published in the face of the United States and the whole world a letter which is to be the instruction of that Minister when in France, a mutilated half of an article of this treaty, in order to justify the measure of our concession to Great Britain. He had seen such bungling things attempted in courts of law in order to deceive an ignorant jury, or a more ignorant judge, but as an act of a national agent, of one of the principal officers of a Government, he believed the like was not to be found in the annals of the most vicious policy in any nation. In that letter the 9th article of the Armed Neutral Convention is thus quoted: "The Convention being concluded and agreed on for the time the present war shall last, shall serve as a basis to future engagements, which circumstances may render necessary, or on account of new naval wars which Europe may have the misfortune to be troubled with." And here the quotation is broken off short in the middle of the article. Was it to be supposed that our Minister of State could obtain only a mutilated copy of this important historical record! The article concludes with this weighty and important declaration, which our Secretary has entirely omitted: "These stipulations shall further be considered as permanent, and shall decide in all matters of commerce and navigation; and in short in every case where the rights of neutral nations are to be determined."

But a gentleman has told us this principle of the armed neutrality cannot be a true one; and why? truly because the same Empress of Russia, who was at the head of the Confederation, has, during the present war, entered into a treaty with that Power which formerly denied the principle, and had herself agreed to contravene it; and further, that Spain had acceded to that contravention. That this conduct of that Empress and of Spain is a melancholy proof of the capriciousness and instability of arbitrary councils and of nations, he was ready to confess; but he did not see upon what ground this partial dereliction of right principles should go to the universal establishment of wrong. France, in the convulsions of her Revolution, had alarmed all Europe; and Britain, always jealous of her power, but much more of that power under the influence of liberty, had entered into an engagement with Russia to starve France, and Spain accedes to this purpose; but under what circumstances? under the proclaimed avowal of the measure being adopted, because the Revolution of France was a new case; a flame had been lighted up, as they called it, which threatened to destroy all Europe; and to quench this flame they agree to overturn the law of nations, which, if obeyed or regarded, would counteract the designs of England and the wishes of Russia and Spain.

But we are told that our Government had receded from this principle on a former occasion, and had declared it in our correspondence with Genet; but he would ask any gentleman, does a date alter a principle? Do principles of right and wrong alter with the seasons or the years? If we abandoned it then or at this day, what is that to France? She tells us we have done it, and we acknowledge it is done; thus the question is then reduced to this point—have we done right? This question unfortunately does not rest with our partialities to decide; it not only rests upon the Powers of Europe, whom it may implicate or concern, but upon our own formal recognition and accession to the principles of the armed neutrality; nay, with the compliments expressed by our Government to the Empress of Russia for promoting it; upon our accepting of this principle, too, at a period in which we manifested that our love of justice was in perfect consonance with that love of liberty which then engaged us in our Revolution; upon our acceptance of it when it was calculated to operate most seriously to our disadvantage by depriving us of the supplies which could be thereby kept from us. It matters not then at what date, or

in what manner we relinquished it, if having formally received it we abandoned it to the disadvantage and injury of our allies and of other previously subsisting treaties. We have unquestionably done this evil, perhaps, from no malign disposition; but it was our duty, having committed the error, to rectify it. It had been argued, that we had been compelled to abandon the principle or go to war with Britain; and we had chosen it as the alternative. What! compelled? He would not discuss this unhappy argument; we have inflicted a wound on our commercial neutrality, but what is much worse on our national character, which he feared we should never recover.

Another stipulation is contained in the British Treaty relative to provisions, which admits the British, contrary to the law of nations, to seize upon our vessels going to France. It is said that this article does not admit any new principle, and that instead of being disadvantageous to France, she is put on a better footing than before! He would read the article. The first paragraph of the 13th article, after defining the new extension of what shall thereafter be deemed contraband, proceeds in the second thus:

"And whereas the difficulty of judging of the precise cases in which alone provisions and other articles not generally contraband may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise: it is further agreed that whenever any such articles so becoming contraband, according to the existing law of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified; and the captors, or in their default the Government, under whose authority they act, shall pay to the master, or owners, of such vessel, the full value of all articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to the detention."

Our treaty, in the subsequent paragraph, recapitulates the ordinary provision for the circumstances attending ships proceeding, through error or inattention, to blockaded ports; but in the above stipulations a new principle is forced into the law of nations by which we are to receive the full price of our articles and a reasonable mercantile profit; and after doing this we are told, that we place our ally in a better condition than she was before—that the power of her enemy to seize our ships, which are protected by the law of nations from seizure, having nothing contraband on board, when going to the ports of a belligerent Power not blockaded, is an advantage to that Power so deprived. We might admit what is not a fact, in the first instance, that provisions are contraband, and we accept compensation for our sacrifice of the universal law; we admit the inhuman and horrible principle, that one nation has a right to starve another at its discretion, and while thus conniving at, and profiting by the collusion, affect to be indignant when remonstrance or resentment flow from the injured nation; this is the sad and afflicting picture of error into which we have been blindly seduced! Of all the authors that have written on the law of nations, there is not one—no, not one—that supports the idea of provisions being liable to the description of contraband, in any case but in approaching a blockaded port; the only author indeed that mentions such a thing, even in the way of suggestion, is *Vattel*, who says, that possibly there may be a case where there is a reasonable hope of reducing a nation by want of provisions, they may be deemed contraband; but this is delivered as a mere suggestion, and, contrary to his usual diffuseness, he leaves it naked and unsupported by any one historical example or reference. But gentlemen say, we do not allow provisions to be contraband,—although *Vattel* has used this suggestion, we think the doctrine unsound. He would not dispute about opinions while he had facts, and he would say, while you have denied the doctrine you have allowed the practice; you not only do wrong there to France, but we have done it in the most offensive form; and irritated as she must be by the intrigues that have already torn her for so many years, the foreign machinations and the efforts to subjugate her by all the arts which perfidy could suggest, we should not be surprised if she should be reluctantly led to believe, that we had thus bartered our supplies to Britain, reckless of her ruin, and regardless of our treaties; I say she may be reluctantly led to believe this, since the error of our blindness or our weakness is visible as noon day.

But we are told that this stipulation is advantageous to France, as it holds out a temptation to mercantile adventurers from the certainty of payment in either event of a voyage; for his part he could not discover in the conduct of the negotiation nor in the treaty itself, any such intention on our part; but he could see in the sacrifice an effort, and he would ask any gentleman how far successful it had proved, to guard against British depredations; but he could see in the argument a weak effort to support a worse measure! But let us see what is the construction of our own Government upon this principle; it must be tested by other facts than its adoption or rejection in a treaty. Since the execution of the treaty our Executive has put a strong construction on this principle; but our Executive had also in a letter of instruction to Mr. Thomas Pinckney, expressed his sentiments equally pertinent but perspicuous; speaking of the order of the British Government for seizing provisions on neutral ships, the first article of which was in these words:

"That it shall be lawful to stop and retain all vessels loaded wholly or in part with corn, flour, or meal, bound to any port in France, or to any port occupied by the armies of France, and to send them to such port as shall be most convenient, in order that such corn, meal, or flour, may be purchased on behalf of his Majesty's Government, and the ships be released after such purchase, and after due allowance for freight, &c."

The Executive thus notices the order:

"This act, too, tends directly to draw us from that state of peace in which we are wishing to remain. It is an essential character of neutrality, to furnish no aids (not stipulated by treaty) to one party, which we

are not equally bound to furnish to another. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it would be a partiality which would lead to a war with France; and between restraining it ourselves and permitting her enemies to restrain it unrightfully, is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honorable ground could we otherwise explain it? Thus we should see ourselves plunged by this unauthorized act of Great Britain, into a war with which we meddle not, and which we wish to avoid, if justice to all parties, and from all parties, will enable us to avoid it."

Now, sir, if Government thought France would not be the dupe of an artifice then, what reason have we to believe that she will now? Let gentlemen who are eager for the report, reply and show wherein the distinction lies. In 1793, our Executive considered it as a cause of war only to permit the infraction of that law of nations, or the partial supply of one or other party with provisions; and are we to expect France, to whom we were at least under some ties of regard, not to say obligation, should tamely condescend not to notice our sacrifices thus made? Gentlemen could not be serious and expect it.

It had been asserted, with singular confidence, that France was the first aggressor in spoliation, and that the British Order of Council of June 1793, had been preceded by one from the French Government to the same purpose; he need not enter into a refutation of that assertion, the gentleman from Massachusetts (Mr. Freeman) had yesterday completely exposed the fallacy of that artifice. The French have, throughout the present war, been compelled in their own defence to follow the unusual measures adopted by Britain, and in this instance the order issued by the French Government expressly states the British order, in its preamble, as the sole and necessary cause of her adoption of similar measures in her own defence. But we have testimony still stronger, if any stronger were necessary; it is the declaration of Lord Grenville to Mr. T. Pinckney: "Lord Grenville on being asked, said Spain would pursue the same line of conduct; and upon its being objected, that even their late convention with Russia did not extend to this object, he answered, that though it was not expressly mentioned, it was fully understood by both parties to be within the intention of it."

And thus it is that gentlemen endeavor to elude the truth, and to descant upon subterfuge, where the peace and happiness of our country is at stake. That such a privilege or concession should be granted to Britain in a time of war, was remarkable enough to excite the jealousy of the French Government; but that it should be objected to extend the same privileges to France by negotiation, is more extraordinary still. We are told that *Vattel* is mistaken in his doctrine: he is, in one case, no authority to be relied on—he must be utterly abandoned; but in another his authority is sacred. All that has been said on the subject of this article will equally apply to the disregard of the neutrality of goods on neutral bottoms, as declared in the instrument of the armed neutrality. Having offered his free opinion on these several articles, he was willing now to declare as freely that there were many of the circumstances of complaint urged by the French Republic which they were not justified in carrying to the extent which they do; and it was on this account, in an especial manner, that he considered the amendment proposed to deserve the most decided support of the committee. He had little doubt of their being wrong—he had little doubt of their being open to conviction; and as they no doubt thought themselves as much in the right in these cases as they thought this Government in the wrong, it became us to use towards them a language suitable to that liberality which befits a wise and prudent nation. It becomes us to examine our own conduct, and not rely on our infallibility—to inquire dispassionately, and not rush into war before we have considered either the cause or the consequences. He appealed to every gentleman, which would be the conduct most consistent with true dignity, to obstinately persist in error at every risk of character and disaster, or to examine our conduct; and if we have erred, to acknowledge it manfully? She does not require our humiliation, as gentlemen declaim; and if she did, we should never submit to it. From a single stipulation into which we have entered with any nation we ought not and will not depart; she does not demand it; and therefore we ought to say to her, we will place you on a footing with every other nation; you have been mistaken in some matters, we have been mistaken in others; we will discuss them, and this unpleasant difference. Would this be abject—would this be humbling us in the dust—or would it be the most consistent with true dignity? Which is it more noble, to repair a fault, or to persist in error, even with success? But where are the means to secure success, even if we should persist? But this is a delicate subject; he would not dwell upon it. Let us inquire whether we have maintained that impartial conduct towards all nations which we ought to have done.

There are some of those things which, if not founded in right, might, without any violation of virtue, have operated more in favor of France than any other nation. Gentlemen would perceive that he alluded to our connexions with that people in trying times of our Revolution. He was one of those whose number appeared to be decreasing every day, that retained his reverence for old-fashioned notions. He considered gratitude as among the most amiable of the virtues; and he was so very dull of discrimination, compared with others, that he could not consider that as worthy of admiration in the individual, and of no existence in a nation. A sense of obligation he conceived to be a more rational principle of connexion between nations, as well as individuals, than any that could arise from the sense of sordid interests: the one was capable of permanently attaching the affections, the other was always contingent and precarious. We have seen nations actuated by the most inveterate and un-

quenchable hatred; we have seen them, after entering into Treaties of Amity and Commerce, suddenly roused by the spirit of avarice, and, disregarding all the most sacred engagements, plunged into the most remoreless war. When we see those passions, shall we say, the milder affections have no place in the human heart to counterbalance such horrid passions? Forbid it, Reason, and forbid it, Truth! He trusted if our Government had erred, becoming pains would be taken to remove the sense of injury. That there had been favors conferred on our nation, which should impel us to this act of natural justice, he could prove. What was the language of our Government when we sought and obtained the succors of France? When in our need, we breathed not a sound but eternal gratitude for disinterested favors—for benefits magnanimously bestowed? What was our language in the hour of peril, when the threatenings of all Europe rung in her ears? Was it necessary for us to assert, at the hour in which we stood no longer in need of her support, that, although we felt some gratitude in the hour of our distress, that we now felt it no longer? Was it preserving the dignity of our country, the honor of our Government, and the respectability of a virtuous and independent nation? No. He believed that such conduct had lessened us in the eyes of the world, and that it became us now to retrieve our character by the removal of that falsification of the national probity. Let us look to the declaration of our Government, that we may ascertain what we thought of the favors of France in former periods. Look into the Journals of Congress of the 6th of August, 1778, and there it will be found—

"That the treaties between His Most Christian Majesty and the United States of America so fully demonstrated his wisdom and magnanimity as to command the reverence of all nations. The virtuous citizens of America, in particular, can never forget his beneficent attention to their violated rights, nor cease to acknowledge the hand of a gracious Providence in raising them up so powerful and illustrious a friend."

He hoped this gratitude would never be forgotten or done away; he hoped we should never fly in the face of that Providence by such blasphemy, but that the same Power which it had raised up in our adversity, would be respected in our prosperity.

Have we respected ourselves in this unhappy case? What were the sentiments of our predecessors in 1783? On the 16th of April, that year, a committee was appointed, consisting of Mr. Madison, Mr. Ellsworth, and Mr. Hamilton, to report on the subject of the 5 per cent. impost, and among the inducements for its adoption by the States, they say—

"If other motives than those of justice could be requisite on this occasion, no nation could ever feel stronger; for there are debts to be paid to an ally, in the first place, who, to the exertions of his arms in support of our cause, has added the succors of his treasure; who, to his important loans, has added liberal donations; and whose loans themselves carry the impression of his magnanimity and friendship."

In December of the same year, upon the resignation of General Washington, Congress declare to him—

"You have persevered till the United States, aided by a magnanimous King and nation, have been enabled, under a just Providence, to close the war in freedom, safety, and independence."

And is it now, that, irritated by unworthy or odious bickerings, we shall take upon us to fly in the face of our history—of our living and immortal history—and attempt to unsay all this? Yes. A production communicated to us last session, from one of the departments of our Government, and published to America and all the world, treats all these solemn records as things founded on error and falsehood, or on hypocrisy. In that very publication we are told that the Minister of France, through whom America received those signal benefits and support, had descended to intrigue against those very liberties, upon the support of which so much had been expended, and such distinguished measures carried into decisive execution. We are taught there to believe (if folly itself could be so credulous) that France interfered, privately, to prevent what she made such efforts to secure! And this is the language by which France is to be persuaded of our love of justice, of our love of virtue, of our infallibility, of our regard for the dignity of our country, whose sentiments are one and the same with the Government!

Oh, said Mr. L., let me not pass over unnoticed that joy which I so well remember to have beamed on every countenance upon the inspiring tidings that France had joined her arms to ours in defence of our liberties—no, it can never be erased from my heart, in the gloomy horrors of desolation and an assassinating war. I could read by the light of those flames which consumed my paternal mansion, by the joy that sparkled in every eye, how great were the consequences of her union to America. I feel the revival of that animating joy kindle this moment in my bosom. I will forever cherish it in my heart of hearts, and I trust never to part with it till I shall part with every other sensation.

Yet, after all, sooner than sacrifice one right—one principle—or make one unjust concession to France, he would sooner sacrifice his life; but he would still sooner behave like a truly dignified man, and acknowledge his error, if he should appear to have committed one, than support the error, with the utmost certainty of success.

France, then, may certainly complain, without justly exciting that indignation at her presumption, which some gentlemen express. She is charged with the commission of various injuries; the dismission of our Minister; the commission of depredations on our commerce; with refusing to treat upon our disagreements, and an interference in our Government. Upon the first of these subjects he felt a sense of indignity as much as any man rise in his breast. He felt for the respectable person who had the painful task to encounter, but he would not argue largely on that subject at this time, since it involved a considera-

tion of all the predisposing causes of that dismission; he would leave it to be the subject of amicable explanation; for, disguise it how we would, if we hold the language of the President, to war we must go. He would maintain what had been already done in the way of treaty; but he would leave it to the House to determine between better language and war. Our sense of infallibility and our conduct were like the two principles of the Indian mythology—ever at war with each other, and ruin would follow the obstinacy that resists all deliberation. The man who should pretend to attempt a negotiation at Paris, after such language from the Legislature and the Executive, should bear the cap and bells to save him from any other imputation than that of being a maniac. He could not expect to negotiate after them.

But gentlemen affect to believe—either they must be very imperfectly informed on the subject, or they do not earnestly believe—that the dismission of our Minister was actually the violation of a right. Of what right? By what law of nations is the right established that one nation can insist on keeping a Minister in another, contrary to the will of that nation? He defied any man, however learned and however great, to point out the foundation of any such right. If, therefore, it is not a right, the denial to receive a Minister cannot be dispassionately considered as in itself an insult, although the circumstances attending it may be attended with marks of the most unpleasant disrespect; yet, even there, appearances are no more than the necessary consequences of the impressions made on the French Government, from the consideration of our conduct in the particulars before noticed, and a false light in which they have taken others; for, notwithstanding this marked expression of their resentment, if gentlemen will read the latter part of the Minister's letter, they will find him declare the sentiments of the Government: "I pray you to be persuaded, Citizen Minister, that this determination having become necessary," that is, necessary under their impressions of our conduct towards them, "allows to subsist between the French Republic and the American people the affection founded upon former benefits and reciprocal interests." But, say gentlemen, the Directory has said they "will not acknowledge nor receive another Minister Plenipotentiary from the United States until after the redress of the grievances demanded of the American Government, and which the French Government has a right to expect from it;" and from this article, which precedes that which I have before quoted, gentlemen conclude that no Minister whatever will be received until we have conceded to them all they shall please to ask.

He would not trouble the committee by further exposing absurdities so visible as the supposition of an exclusion of every kind of Minister, and all negotiation, because they declare they will not receive a Plenipotentiary Minister until those causes of complaint are removed. How are they, or how can they be put in the way of explanation or removal but by a Minister? Upon the subject of the complaints themselves, he had already expressed his opinion that many of them were frivolous and others unfounded. It was frivolous, for instance, in our eyes, to complain of the arrangement of the names of the several States of Europe in an Almanac; but would any gentleman say that no intercourse can take place until this and others of a like kind are redressed. He believed it would only be necessary to explain their absurdity to redress them effectually. But the French Republic does not go so far as gentlemen appear to wish she had gone. She does not say you must redress every thing we complain of, but all those which she had a right to expect from the American Republic. And is it not by discussion and investigation that the question must be decided what she has and has not a right to demand redress of? If there is a possibility of another construction, and that would lead to war, which of them ought we to adopt?

But it is said that Mr. Pinckney probably had power to negotiate upon all their complaints; he thought he had not; he had powers of this remarkable character, "to remove complaints by showing that they were groundless!" Is this the language of investigation, or of sturdy and fastidious pertinacity? Is it the language of conciliatory power? But what does Mr. Pinckney himself say on this subject?

"I am thoroughly convinced that the sentiments of America and its Government, for they are one, are misunderstood, and that I am not permitted even to attempt to explain them, or, in the terms of my letters of credence, endeavor to efface unfavorable impressions, to banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." "Devoted as I am to the liberty, prosperity, and independence of my own country, the freedom, happiness, and perfect establishment of the French Republic have always been dear to me, and to have been instrumental in cementing the good understanding which, from the commencement of their alliance, has subsisted between the two nations, would have been the height of my ambition. I most fervently pray that there may be a speedy and candid investigation of those points in which you differ from us, that affection may banish distrust, and that the alliance of the two Republics may be perpetual."

Had Mr. Pinckney been vested with any powers which would enable him to enter upon a candid investigation of the points of difference, would he have thus expressed a wish, instead of performing what he so much desired, and would have been his direct duty? No, his letters were those of an ordinary Minister—a mere successor to the power of his predecessor, and no more—and therefore another assertion that had been made, of their refusal to treat, was not a fact.

Another ground is, the depredations on our commerce. This must be confessed to be a great and just cause of offence, but is it a cause that can in itself, without applying to negotiation, justify a war? In this place he felt it incumbent on him to notice a singularity that the sense of dignity and love of justice should have so much occupied the mind of the President in regard to the French depredations, as to shut out all reflection, to sup-

press all indignation which, in the natural order of reasoning, might have been expected to be excited by the depredations of other nations. France alone appears capable of crimes; to her offences only are we awakened to the call of dignity, and roused to indignation; over others, a Lethean mist is drawn, and an irritation of the sense and feeling are tenderly avoided. Whence does this emphatic silence arise? Surely it does not proceed from any kindness to us at the hands of Britain. It cannot be concealed that Britain has committed enormous depredations on our commerce, not perhaps to the same extent in value as those of France; but surely, when the nation is called to consider its situation and to provide for its security, the depredations of Britain were worthy of the nice regards of national dignity and Executive protection. There is one species of atrocity practised by that nation which France has never been so much as accused of—the impressment of our seamen; our fellow-citizens have been forcibly taken on board British ships of war, and compelled to fight in a cause which they abhorred, against a nation to whom they bore the best grounded affection; nay, more, they have been compelled to assist in depredations on their own country. Another violence which France has never pretended to offer, is the declaration of unalienable allegiance, the seizure of vessels belonging to persons who have become citizens of these States since 1783, and confiscating them as good prizes. France has not done either of these acts of violence upon us, and yet we have heard of no remonstrance; we are not even told of the indignity, nor alarmed at the humiliation.

He would not impeach gentlemen's motives for their conduct in that House then any more than on former occasions; but at a time not long since, attempts were made to drive members from their right of opinion, by the terrors of impending war; while we exercised an undoubted right to reject a treaty acknowledged to be bad, and which none of us even now perhaps entirely approve. Apprehensions were excited and phantoms raised up to appal us from solemn and prudent deliberation; every terrific image was employed to display the horrors of war; the ocean was represented to us as foaming with the pressure of a thousand prows ready to disgorge upon our shores all the furies and passions of war; the earth was made to groan with the trampling of the hosts of cavalry, spreading desolation and blood far and wide; our woods were described as in one immense blaze, while the scalping-knives reeked in the blood of our simple husbandmen; the heavens were depicted as filled with prodigies and portentous omens, warning us of our impending danger; and hell itself was described as already yawning ready to receive and punish us for our prodigality and rashness in rousing up the resentments of an indignant nation! Was it not singular that all these chimeras should so soon vanish, and now we should be told by the same persons who conjured up these delusive threatenings to shake our opinions, that because we seek for peace and negotiation, we are betraying our country and laying it at the feet of a foreign nation? But if it was right and prudent at that time to avoid the remote chances of those horrors, so dismaying, at the immense sacrifices we made, is it not much more so now? He would beg gentlemen to contrast the consequences of the two chances of war, and to consider that the adoption of the Address, as it stands, without the amendment, most obviously leads to war.

He had already sufficiently proved that the alleged refusal to treat on the part of France was unfounded; there was yet one other cause of irritation of which we complained; it was the alleged interference of France between our people and the constituted authorities? What evidence have we of it? He would examine the foundation of this allegation in Mr. Pinckney's letter. He says:

"Those who regard us as being of some consequence, seem to have taken up an idea, that our Government acts upon principles opposed to the real sentiments of a large majority of our people, and they are willing to temporise until the event of the election of the President is known, thinking that if one public character is chosen, he will be attached to the interests of Great Britain, and that, if another character is elected, he will be devoted to the interests of France."

And he then proceeds to say, that they think more humbly of us than we deserve; they think "that we are regardless of our national character, honor, and interests," and subjoins these remarkable words: "To eradicate this ill conceived and unfounded opinion, will be a work of time and labor, so greatly have they been prejudiced by misrepresentation." So the opinions entertained by the people of France, and those acknowledged by our Minister, actually exist upon the basis of misrepresentation; do they form a just ground of war? The speech of Barras is considered as insulting, but will gentlemen say that speech is a just ground of war? He confessed the incivility and the unfounded nature of the assertions contained in that speech, but shall we go to war as some wicked nations have done to control and overturn opinion? Are we sure we could remove prejudice or convince the French nation, or an individual of that nation, of its error by a war? and what should we profit by the effort? That speech, insulting as it is, concludes with assurances of good will to the people of America. It is rather remarkable that the Representatives of the American people should entertain resentments because a foreign nation has expressed an affection for their constituents! The American people and the Government are one, sir, and it is impossible to divide them. The American people have demonstrated to the world their attachment to their Government by an unanimous obedience to many laws which they have not approved. As well might the Batavian Republic declare war against us for the aspersions cast upon it by Mr. Quincy Adams, our Minister Resident near the Republic. In his letter of the 4th November, 1796, to the Secretary of State, he says:

"The general disposition, even of the patriotic party in this country, favors cordially and sincerely the neutrality of the United States."

After stating his opinion why, he adds:

"But, at the same time, the patriotic party can have no avowed will different from that which may give satisfaction to the Government of France. They feel a dependence so absolute and irremovable upon their good will, that they will sacrifice every other inclination, and silence every other interest, when the pleasure of the French Government is signified to them, in such a manner as makes election necessary."

When a Minister of ours writes, and our Executive publishes, such a letter, and such insinuations as these, it should seem a most extraordinary example of inconsistency in us to take offence at the opinions of an agent of the Republic for a similar licentiousness; can we wonder when our Minister speaks thus contemptuously of a nation, that others should make use of a similar freedom with us?

But, admitting for a moment that an appeal had been actually made to the people of the United States, and even that an attempt had been made to obtain influence with the people, contradistinguished from the Government, would the Government have anything to fear from such attempts? Are the people so little acquainted with their own interests and means of happiness, or have the Government so much to apprehend from their measures, that they could have to fear an issue of such efforts? No! every appeal which you make to the people, the more you strengthen the hands of the Government; it is in perfect unison with the practice of all nations to prepossess the people with whom we are about to negotiate in our favor; it has been our own conduct repeatedly, and it ought to be our conduct now again. We ought, by the propriety and temper of language, and by the most sincere demonstrations of our regard for our engagements and neutrality, to remove the prejudices which the French people have been injuriously led to entertain concerning us. Our present President, when in the character of Minister in Holland, found the happy advantage which resulted from prepossessing that nation in our favor; it was by obtaining the good opinion of the people through the medium of letters written by him and published with his consent, that our Revolution derived such essential support, and our negotiations proved so successful; and who will attempt to rob him of the well merited praise due to his patriotic efforts on that important occasion?

It has been our uniform practice to make use of appeals to the people of other nations, and that distinguished from, and in opposition to, their several Governments. We appealed to the people of England, and to the people of Ireland, during our Revolution, and we went so far as to tell them of the injustice and oppression of their own Government, and to hope for their support. He had lately read, as a reason for our forbearance, that the people would take a decided part against hostile measures; he did not think this reason was founded on any facts or on any basis of declared and assured evidence, but in whatever light it might be viewed, it could not be considered as a reasonable ground for pursuing hostility or provoking it by hostile language. However serious some of the matters in difference between the two Republics may be, and many of them were obviously trifling, he thought the House should pause before they adopt expressions encouraging irritation and provoking open hostility. We should weigh the important question whether—if even all that is charged against France is true and unprovoked on our part—there is still a possibility that we may be compelled to concession, and to retract our charges. In suspending the balances of war we should not calculate upon a positive and inevitable preponderancy in our favor. But in the Address we are told to adopt strong language. If we adopt the language of the report we shall follow that rash counsel, and the issue no man could foresee. He would, therefore, prefer the amendment which disarrayed our measures of that fashion of words only suited to war. But the amendment was objected to, and upon very singular, and indeed upon contradictory grounds. Let us examine these objections. One gentleman said it was too humiliating, and another that it was incorrect; one opposed it because it said too little, another because it said too much; and again one because it was too mild, and another because it was too strong; but one of those gentlemen, after expending a volume of breath upon the violent consequences of the amendment, at length condescends to qualify its vehemence with an *if*—it is an useful particle, and he would say, with Shakspeare,

"Your *if* is a great peace-maker."

But the objection to this amendment is, that we interfere with the Executive declaration; and, by implication, that we propose three things: to apologise to France, dictate to the Executive, and rely on France.

To the first he would reply, that no apology is proposed, and even if it were, that such a step would be preferable to war. To the second he would compare the strong case of the King of Great Britain, who, although an hereditary monarch and possessed of the legal right to declare war, it is never done without previous notification, and without a thorough discussion and the delivery of advice from the Representative House, when deemed proper. Justly our Constitution does not preclude the Representatives of the American people from declaring their sentiments on a question involving their dearest interests. He did not think such arguments could be entertained in that House. He believed the President himself desired it; that he waited for our opinion, and that if we echoed his Speech we should not afford him that information which he sought. On the third point, a reliance upon France, he would not encounter it, because it was an airy nothing, having no foundation in the amendment.

Upon the whole, if we reply as is desired by the report of the committee, we put an end to negotiation, because it precludes all discussion, by insisting on the maintenance of all past errors. We

are therein positively declared to be incapable of mistake. Is it not then desirable to remove an obstacle fatal to negotiation, which decides, by anticipation, discussion on the complaints of France, and assumes the monopoly of wisdom and perfecting their rights of demanding redress to ourselves—is it not indispensably required by prudence and good sense that we should extricate whatever negotiator we may send, from a dilemma so clumsy and forbidding?

One gentleman has descanted upon the mild style of our Address of last session, and he sees, or thinks he sees—for it is second sight—in it the true cause of the dismission of our Minister from France; and he considers it as couched in terms even more humiliating than those of Mr. Jay's letter to Lord Grenville. He wished not to revive the painful remembrance of that humiliating letter, but he could not resist the imputation of the Address of last session, because if there was any humiliation in it, the odium must fall equally on the Senate, who had expressed ideas exactly correspondent. But although he could not agree with the gentleman in the humiliating comparison of the Address with the letter alluded to, he should still go so far as to acknowledge that he thought the language of the Address of last session tended to produce the effect the gentleman had assumed, but from a very different cause: it was the irritating language of both that produced it; and it was on that account above others that he was now compelled to prefer the amendment to the report, because the latter was dictated in the same irritating spirit.

A gentleman yesterday had asked where we were to look for our prosperity: was it in the ruined farmer, and merchant, the fall of produce and stagnation of trade? The fair inference from this question was, that our condition now was as bad as that of a state of war; it means this, or it means nothing. He would, therefore, ask that gentleman whether a war would raise the price of produce? Whether we should live as peaceably at home as we now do? Will a war protect our ships, enrich our merchants, increase our trade? Will a war produce any one effect that could enable us to benefit by the change? Every step towards irritation is a step towards war, and a war of the most ruinous nature, whose consequences were so various as to be incalculable. With all his efforts, however feeble in themselves, he would oppose it. He had uniformly opposed the measures which he long foresaw, and had at last led to this unfortunate crisis; but he yet relied on the virtue and magnanimity of his country that it would terminate favorably to our liberty, our happiness, and our natural alliances.

Mr. Coit thought a greater degree of importance had been given to the business under discussion than it was entitled to. He regretted, with other gentlemen who had spoken on this subject, that the House had got into this habit of answering the President's Speech; but, having got into it, they must get out of it as well as they could. If it was to be a political thing, it would be well to pass it with as much harmony as possible. For his own part he had no objection to the Answer reported. He could not concur in the opinion of the gentleman from Georgia, (Mr. Baldwin,) that it bore evident appearances of being the composition of a young man; he thought it a just and proper composition. But, though he approved the composition, he would not say it could not be amended; he thought it possible it might. Still he could not concur in the amendment of the gentleman from Virginia. Indeed he did not know the drift of it, or whether he meant to strike out all the remainder of the Address.

Whatever foundation there might be in the criticisms of the gentleman from Georgia, on the draught of the Answer reported, he thought the composition of the amendment was much more faulty; in some parts its meaning was doubtful, and in others very improper. He particularly objected to the passage, "but we flatter ourselves that the Government of France only intended to suspend the ordinary diplomatic intercourse, and to bring into operation those extraordinary agencies which are in common use between nations, and which are confined in their attention to the great causes of difference." He thought this was an idea which the House could not adopt. It appeared unfortunate that gentleman had taken this mode of amending the Address, by thus striking out in a tangent and making a new Address.

He would take the liberty of proposing, if he was in order, certain amendments, in lieu of those proposed, which he trusted would meet the wishes of the members of the committee; not that they would improve the Address as a composition, but probably make it worse, which was always the case when a production was the work of more than one hand. [Mr. Coit then went on to propose his amendments.]

Mr. C. apologised for troubling the committee with this dry business; but as he had done it from a wish to contribute towards a spirit of conciliation in the determination of the question, he trusted he should stand excused.

Mr. Harper believed these amendments could not come under consideration until that of the gentleman from Virginia was disposed of, by being adopted, rejected, or withdrawn.

This being the case, he wished to set the gentleman from New York right in three facts which he had stated. The first was what he had mentioned respecting the Secretary of State having suppressed a part of an article of the armed neutrality in his correspondence with one of our agents abroad; and, he said, if he were disposed to treat that gentleman as he had treated the Secretary of State, he should say the misstatement arose from ignorance or prejudice; but he would not say so. He referred the gentleman to the history of the armed neutrality, and to the letter of the Secretary of State, upon which, if he only bestowed common attention, he would find the Secretary was perfectly in the right, and he in the wrong. [He read the article.]

The next point was with respect to the letter written by our Minister from the Hague. The gentleman, he said, forgot that this letter was not

addressed to the Dutch nation, as the Speech of Barras was to the French nation, but a private communication to the Secretary of State, at a time when it would have been a breach of his duty not to have written it. When differences like these were overlooked, the committee would determine what degree of credit was due to the gentleman's assertions.

The next article which he should notice was an appeal which the gentleman spoke of as made to the people of Holland, when Minister there. Did the gentleman know what this appeal was? He would inform him. There was a little club in Holland who made it their business to inquire into literary, historical, and political subjects. Mr. Colquhoun, a member of the club, with whom Mr. Adams was acquainted, submitted some queries to Mr. Adams, to which he requested his answer; he answered them, and Mr. Colquhoun read the answer in the club: they requested it might be printed, and, on being applied to, Mr. Adams consented that it should be printed.

And these circumstances were to be the set-off against all the abuses which the French Ministers have shown this country. It occurred to him that there was another fact in which he was mistaken, as a proof of which he should produce the best authority: it would be under his own hand. He had said, that there were thousands of our seamen, who had been taken by the British, groaning in captivity in foreign countries. They all remembered with what a glow of patriotism that gentleman had brought forward the subject; he was placed at the head of the committee; and, after a long time had been taken for making inquiries on the subject, he made a report, viz: that forty-two American citizens had been impressed by the British; also twelve British subjects, twenty-six foreigners, and twenty-seven whose country was unknown. Yet the gentleman had so far forgotten himself as to state the number at thousands!

Mr. Livingston said he would much rather be charged with ignorance than with designedly publishing a falsehood. He again quoted the article which he still charged the Secretary of State with mutilating. It was not with the construction put upon it (though he thought it a wrong one) that he found fault, but with the misquotation, and he insisted upon it that it was as he had stated it.

The next object was Mr. Adams's letter from the Hague. He did not say this letter was unjustifiable, but referred to it only to show that it was a common thing for Ministers to give opinions of the political situation of the country in which they reside.

The third objection was a misstatement said to be made respecting the impressment of our seamen, which the gentleman from South Carolina proposed to correct from his (Mr. L's) own hand. When he first brought forward this proposition, he was told (he believed by the gentleman from South Carolina himself) that it was impossible to carry his project into execution. Notwithstanding the opposition of that gentleman and others, it was enacted into a law; and, in consequence, a committee was appointed last session to inquire into the operation of the law, and whether any amendment was necessary. He reported that very few collectors had made returns; only five or six had complied with the act. Yet, in the short time which had elapsed since the passing of the act, the number above mentioned had been impressed. No gentleman supposed, when he said there were thousands of seamen in captivity, that he meant to say there were two or three thousand men thus enslaved; he meant no more than that there were a great number. No return had been made from New York and other considerable places. The multitudes of men seized before the act passed were not reported, nor those who have been taken since. He thought, therefore, if forty men were impressed in six months, when the British knew that an act had been passed on the subject, it was but reasonable to believe that there were now thousands groaning in slavery. Mr. L., therefore, trusted that the committee would be convinced that what he had at first mentioned was now confirmed.

Mr. Coit's proposed amendments were then ordered to be printed for the use of the members.

The committee rose, and obtained leave to sit again.

Thursday, May 25.

The House went into a Committee of the Whole (Mr. Dent in the Chair) on the amendment of Mr. Nicholas to the report in answer to the President's Speech.

Mr. Giles rose. He said that he had always been against this form of giving Answers, since the time the practice first began; it was derived from the British House of Commons, which was a bad source for precedents. In that House, however, the Speech and the Answer were both known to be the work of the Minister, and treated with great freedom. Mr. G. thought that it would be better to direct the Committee of Rules and Orders of the House, to make one standing Answer, which would serve regularly for all Speeches. This would be an improper time for such a regulation, but though we could not now get rid of a bad habit, it was not necessary to vindicate it. He said, that Mr. Livingston had yesterday taken part of the ground which he intended to take. The question before the House amounted to this: shall we recommend it to the President to place all nations on a level as to commerce, and to remove the inequalities between them? To assist him in deciding this point, he would refer to facts and dates; and, as he did not wish to represent things in false colors, he would be glad to be corrected, if he should happen to go wrong. He would begin at the 1st of February, 1793, when England dismissed the French Minister, and the Republic, in consequence, declared war against her. On the 22d of April following, the President declared this country to be in a state of neutrality, and warned the citizens to observe it. At this time, about the 10th May, M. Genet landed and raised a considerable alarm by commencing

an improper correspondence with our citizens. Government from that time took a wrong impression, and acted under the idea of a dangerous French influence in this country. All this was a mistake. Genet was universally reprobated, unless by a few disorderly people, and Government from that trial should have learned to trust us. In consequence of the disturbance that Genet made, many societies entered into resolutions to support Government. Even the pulpit reviled Genet. If execration, disappointment, and contempt, could fill up the measure of punishment, he had it. From the arrival of Genet to that of Fauchet, some sentiments were kept alive, and some phrases that he would review. The *Friends of Order* and the *Disorganizers* were two of them. Then we had the reign of *moderation*, but of so frantic a kind, for the short time which it lasted, as to exercise the greatest of despotism over opinion. This *order*, *moderation*, and *disorganization*, were all gone and no more said about them. Among Mr. G.'s constituents, when notice came of the Western insurrection, they were all ready to march in support of Government; instead of calling themselves the friends of order, they proved that they were so. The country remained from this time in a tranquil state till the arrival of Mr. Jay's Treaty. On the 5th of December, 1793, a Message was received from the President, speaking of France in the most friendly terms. In spite of Genet's quarrel there was no misunderstanding with the Republic, and Mr. G. quoted this circumstance to prove that there was no serious difference till the arrival of Mr. Jay's Treaty. Mr. G. said that he would review what was in the mean time passing in Europe. During the Summer of 1793, Britain made no less than six treaties with different nations, and one stipulation in each of them was that the contracting parties should stop all provisions going to France, and force all other nations to do so. The first of these treaties was made with Russia, on the 20th of March, 1793; the second was with Spain; the third with Prussia; the fourth with the Emperor; the fifth with Portugal; and the last with the King of the two Sicilies. It was said that France preceded Britain in the order for stopping provisions. Britain did not publicly issue such orders until the 16th of June, 1793; but Britain had, in reality, adopted the practice long before. The French orders fluctuated; but, at one time, the United States were exempted from stoppage, when others were stopped. He then noticed the stoppage of provisions to the West Indies; the Orders of the 6th of November, 1793, and the 8th of January, 1794. In the very short interval between these two dates, France had gone on so fast that Britain found it better to ameliorate the condition of neutral States. During this time, England also made a truce for Portugal with Algiers, and this truce has cost us fifteen hundred thousand dollars, besides what it may cost hereafter. Timber had been promised to be cut for the Algerines, of a kind which this country could not furnish in due quality. Some of it was to be brought so far as from the Northwest branch of the Susquehannah. He would pass over Lord Dorchester's speech to the Indians, and the British soldiers and savages joining the tomahawk against our Western frontiers. He mentioned these things, merely to keep them in view. There was something, he said, which he could never think of without surprise. This was a conversation between Lord Grenville and Mr. Pinckney. It was related in a letter, dated the 9th of January, 1794, from Mr. Pinckney. It took notice of Lord Grenville telling Mr. Pinckney the desire which the British Government had of maintaining harmony with the United States, and their readiness to support the Government of this country against a dangerous Jacobin faction who wanted to overturn it. Mr. G. said, that this betrayed more interference on the part of Britain than there ever had been on the part of France. From this time our Government had taken a leaning towards Britain. French influence was only a sentiment which we felt for the sake of liberty, but which was sometimes conjured up as a chimera to serve certain purposes. The United States had a real interest in cherishing the sentiment, which never could be dangerous.

As for British influence, it was a matter much more substantial. That people speak the same language with us, are scattered from one end of the Continent to the other, intermarry with us, and have a very great commercial intercourse. Lord Grenville's proposition had led to Mr. Jay's Treaty. As to France trying to engage us in the war, any other nation in the world would be glad to do so. France had addressed the people of America, and was resisted: Britain had addressed our Government; and Mr. G. feared that the latter had not made so firm a stand. While Congress were taking proper measures to check the depredations, Mr. Jay, to the astonishment of mankind, was named Ambassador to England. The treaty was signed on the 19th of November, 1794. The instructions, Mr. G. had never seen, but if we may judge from the treaty itself, they were extremely full. For the making of such a treaty he had never heard a reason, nor had he ever been able to learn one good consequence likely to accrue from it. It had been called an instrument of peace, and its first effect was, that we were summoned to fight with France, Spain, and Holland. One of the articles was that free ships do not make free goods. This was highly injurious both to France and the United States; it implied a breach of the law of nations, because, before you can search for an enemy's goods you must stop neutral ships. This regulation could only be understood as operating against France. If we could not help the practice going on, we should at least have suffered it to stand as it was, without any countenance. All the principal articles of export from the United States were declared contraband, except tobacco, and, indeed, that might be included under the general title of provisions, as people would sometimes be in want of a chew. He spoke of this provision clause as infamous. He referred to Count Bernstoff, Minister of Denmark, who had kept his country in a more honorable

situation than perhaps any other in Europe had done during the present war. Mr. G. read the refusal of Count Bernstoff to comply with the British requisition to that effect. During the armed neutrality, the United States had owned that free bottoms should make free goods. Was there any reason since to alter our opinion? He would be glad to hear gentlemen answer if there was any. He had always said that the provision article was unjust to France, and yet on account of the British Treaty we are to plunge into a war before we know whether we are in the right or in the wrong. Gentlemen who had promoted the British Treaty now came forward to support it, but it would now be more manly to declare at once that we cannot do so. In Citizen Adet's complaints, many articles were unjust and trifling, but this was always the case in productions of that sort. Mr. G. then referred to the speech of Barras: he said that Britain still went on robbing and impressing American seamen. Mr. Harper had yesterday said that the impressments were few; but how were we to be certain of that? The men are not allowed to write to us, and Mr. Pinckney informs us that vast numbers of them are in French jails. He had always wondered at our having so few communications on this head from the Executive. A law had passed in this House and in the Senate upon this subject, without any information from that quarter. Gentlemen had allowed that it would be just enough to grant an equality of privileges to every foreign nation; but, Mr. Harper had objected, that if this were granted to France, she would still continue to demand. When she makes an unjust claim, said Mr. G., we should stop; he would not be for going any further. The French had not acted on vague claims; they take neutral and contraband articles; they take the ships, and when they find our seamen on board of British vessels, they threaten to treat them as pirates, and will not allow them to prove that they were impressed.

As for Mr. Pinckney's dismission, he would not say that it was right; he was sorry for it. He gave the gentleman great credit for his behavior; he had acquired as much reputation as, in such an exigency, it was possible to acquire. But Mr. Giles would not say that the dismission was entirely groundless. If he understood the Directory, their meaning was, not that they would receive no Minister; but that he must be vested with extraordinary powers. They still say, that they hope to keep up harmony with the people of America. This surely cannot be reckoned a declaration of hostility, since the people and Government were the same. Is not this House a part of the people? But though he believed that the Directory wished for an Ambassador Extraordinary, they did not say so, but left us to our own reflections. In this they were extremely right; for such an intimation would have been called dictating to the Government. A gentleman had said yesterday, that this report of an Address was a second Declaration of Independence. Mr. G. had often thought about a year ago, that such a declaration would be well timed, when the British Treaty took away so many of our sovereign rights; then was the time for such a step, and not now. Gentlemen had said, that we were not indebted to France—that she acted on selfish principles; but, said he, in private life are we not always better pleased with the services of a friend when they are at the same time consistent with his own interest? To deny that we had obligations to France, was to contradict our own feelings. He could bring no proof of them, but laying his hand upon his heart, and saying, that he felt them. And are we now to be told, by cold calculating arithmetic, that we owe them nothing? So much had been said about French influence in this country, that the story was now becoming ridiculous. For his own part, he had no communication or acquaintance with any Frenchman on earth. He did not understand that kind of chemical process by which individuals lost all their gratitude, when they got into Government. If the House had been asked to declare war, for that was the tendency of the Speech and report, against any other country but France, he did not believe that there would be one single vote for it. As for an appeal to the people, every thing which came from the press was so; Britain constantly admitted of such. We had seen performances of that kind, than which nothing could more exactly deserve the name; in fact, every newspaper essay was an appeal. Mr. Harper had told us yesterday of the present President, when Ambassador to Holland, having corresponded with a patriotic club, to whom he wrote letters, which were printed as an appeal to the people of Holland. [Mr. H. said, that they were only addressed to an individual.] But, said Mr. Giles, they desired him to ask leave from Mr. Adams to have them printed. Thus our President was corresponding with a democratic society.

Mr. Harper rose again. If Mr. Adams had ever done so, he never would have heard my approbation—they were only a literary society.

Mr. Giles appealed to gentlemen whether this made any alteration. There was a strange cabalistical charm in these words democratic societies. Mr. G. said, that all M. Genet's efforts only showed that there was no such thing in this country as a French influence. He compared the style of the Answer to the President's last Speech, with Mr. Jay's memorial to Lord Grenville; the one spoke of the resources of the country, the other of the virtues of the British King.

Mr. G. did not feel himself degraded by having brought forward that part of the Answer to the President's Speech of last session, which recommended the cultivation of peace. [Here Mr. W. Smith rose, and seemed to question whether Mr. G. had obtained the insertion of such a passage.] Mr. G. upon this read it, and it was in these words, "and by all honorable means to restore that peace and harmony with France and the United States;" and since Mr. S. would have the whole history of it, Mr. G. would further tell him, that he obtained the striking out of these words on the part of the Republic, and inserting

in their place the word *mutual*. Thus he had saved us from the presumption of saying that we were infallible. He could not help noticing again the very different ground taken in the present Address, wherein we rely on ourselves and our resources, and the memorial of Mr. Jay; wherein we rely on the magnanimity, &c., of the British King. A gentleman had spoken about the falling price of grain, and the bad effects of the French depredations on the farming interest. It was said last year, that the British Treaty would tend to keep the price of grain high; he was then an unbeliever in that doctrine; and since then wheat had fallen from two and an half and three dollars per bushel to a much lower price. Mr. G. was a farmer, and depended on his farm for his whole subsistence; he now sold his wheat for 7*s.* the bushel. At the time of discussing the Treaty a clamor was raised about peace, and what sort of peace has it proved to be? War with three nations in order to keep peace with one! Is not that the fact? We are told that Barras has insulted us. He owned it; but are we to go to war to dissipate the insult? Will the farmer or the merchant be the better for such a project? Will it produce any thing but greater taxes and lesser prices for produce? He hoped that we should not go to war under the idea of obtaining reimbursement. As for expressing our opinions with regard to the mode of negotiating, we had a right to do it, and it was a matter of policy to put all nations on an equal footing with respect to trade. France would think it equal to a declaration of war if this amendment was rejected. And here Mr. G. would stop for one moment to think of the consequences of the war. The first would be a more intimate connexion with Britain—a country convulsed both from without and within, and the credit of whose paper was now gone. Mr. G. said, that there was the greatest similitude between our conduct and that of Britain, before the war, towards France. On the other hand, the Republic, possessing immense resources, has millions of armed men, for whom she cannot find employment at home for many years to come. As to the effects of such a contest upon this country, they would be most destructive; and no one could tell the object for which we were to fight. The adoption of the report, as it stood, was equal to declaring war. The amendment merely recommended a point of good breeding. But yet, gentlemen would rather prefer a rupture. If France had not been the nation referred to, there would not have been one dissenting voice against it. Mr. G. said, it was no secret that the United States had not done justice to France. He concluded by making an apology for having taken up so much time of the committee, and sat down after having been up above three hours.

Mr. GALLATIN said, that the debate had been extended into so wide a field, that the object, which in his mind occupied the first place, was in some measure deprived of that full consideration which time and circumstances demanded. He thought those arguments which concerned the conduct of foreign nations towards each other might as well have been omitted altogether on the present occasion. The members of the committee may be made sensible of the irritation of such discussions, but he believed no one would pretend to say he was fully informed of foreign concerns, on either side, to decide upon their policy or impolicy. At the same time, it should be considered that our own situation, and the best policy to be pursued in that situation, are the only proper objects of our immediate attention, and those alone upon which we can pretend to be properly informed, or to decide with effect.

The question before the House was the amendment proposed by the gentleman from Virginia; and in considering that amendment, he would neither criticise upon terms, nor dispute about any of the nice delicacies of diction. These he considered of but very small consequence, indeed; and he cared not whether gentlemen should prefer "sensibility" to "indignation," or the contrary, so that the substantial ends of our deliberations shall be accomplished, and in a way the most conducive to our national honor and security. He did not pretend to censure gentlemen for the discursive manner in which they had debated on the amendment; he only fixed it as a rule for himself to adhere closely to it; and this he would do by offering such observations upon it as occurred to himself, and as arose from the remarks of other gentlemen; and he would notice the latter before the substantial facts.

It had been objected to the amendment that it was couched in language calculated rather to apologise for the conduct of France towards us, than to assert our injuries. The paragraph objected to was in these words:

"But we flatter ourselves that the Government of France intended only to propose the ordinary diplomatic intercourse, and to bring into operation those extraordinary agencies which are in common use between nations, and which are confined in their attention to the great objects of difference."

This is considered by some gentlemen as an apology for the dismission of our Minister. He would observe upon this objection very briefly; he would not inquire whether our Minister had ordinary or extraordinary powers; but he would consider that part of the amendment in that point of view in which there was no difference of opinion. We all agree that Mr. Pinckney has been dismissed, and no one has said that we should be, nor that we are, precluded from further negotiation. The Speech of the President, with the sentiments of every gentleman of the committee, are united. The amendment, then, appeared to him as an expression of that principle; and he believed that nothing more nor less than that opinion could be found in it.

Let us now remark upon the arguments against the other part of the amendment. A gentleman from South Carolina (Mr. SMITH) has told us, that possibly Mr. Pinckney had extraordinary powers, and, as he was dismissed, we should not agree in that amendment. While we agree in the principle of further negotiation, he could not discern the application of this objection. But

will it be said that Mr. Pinckney had extraordinary powers, and that he could not treat? Surely that would not be maintained. He would take upon him to assert that he had not extraordinary powers; because if he had, the President would either have told us he had, or furnished us with a copy of them; and, above all, because, had he such extraordinary powers, there would have been no alternative for us between submission and war.

Another gentleman (Mr. SITGREAVES) had said that he had no reliance on the magnanimity or the justice of France; that he would not trust to her as disposed to reconciliation; and yet the gentleman is disposed to support that part of the report which approves the purpose to negotiate. He believed that such declarations were not the best of all others to ensure, or even to promote, a spirit of reconciliation. If we were injured, we should not be the less so for a dispassionate representation of our injuries; and animosity is at the best of times an inauspicious temper to negotiate under. He believed, if we should be sincere on both sides, that our disputes would have an amicable termination, and if we mean to evince our sincerity that we ought to be unequivocal.

He would now take up what he deemed to be the substantial part of the Address. He thought it should contain, in one shape or another, a declaration of the disposition to place France on an equal footing with every other nation; and having found it in the amendment, it was with him an additional and powerful reason for supporting it. It says:

"We therefore receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted; and we expect with confidence that a mutual spirit of conciliation and disposition on the part of the United States, to place France on the footing of other countries, by removing the inequalities which have arisen in the operation of our respective treaties," &c.

In speaking of this part of the amendment, it may be necessary to notice an objection which had been made to the discussion of the subject in that House, upon the principle of the Constitution, that the President, with the advice and consent of the Senate, is alone competent and authorized to consider and determine upon foreign relations. Would gentlemen then say that this House is precluded from the free exercise of opinion on the most interesting concerns of the nation? Will they say that the Representatives of the people shall have no voice or deliberative weight in questions which go to decide whether peace shall be preserved, or war rendered inevitable? Until they do assert this, or at least until the Constitution declares it—for it is so far fortunate that the Constitution is much stronger than those gentlemen—until they declare this, in the face of the Constitution, it will be the duty of that House to disregard such far-stretched doctrines, and to deliberate fully. But supposing that the House should resolve to express an opinion in terms more strong, or as strong as they possibly could be expressed, and inform the President that we wished for peace on such and such terms, gentlemen must know that the President is not bound by the Constitution to adopt our counsel. We have the right to declare our opinion—he has the right to act; but if he acts contrary to the national opinion, it must be upon his own responsibility.

It is clear, therefore, that we do not interfere with his duties; we do not usurp his functions; and there can be very little reason to suspect that the President will step out of the line of his duties or depart from the plans which his wisdom has formed, in consequence of any vote which we may pass, if it appears to him in itself wrong. If gentlemen would indeed rest upon the authority of precedent, and that derived from foreign and dissimilar constitutions, it would not be difficult to cover the table with quotations from foreign Parliamentary proceedings directly in the teeth of their assumptions, and these, too, from bodies whose rights were not so extensive, whose constitutions were not so free as ours. Gentlemen who insist on foreign precedent, and upon British Parliamentary precedent too, appear not to know or forget that it was a vote of the British House of Commons which terminated the American war; and on a late, but less important, occasion, that it was a vote of the House of Commons that terminated the Russian armament, which was a case not very remote from a resemblance of the present state of our own affairs. But gentlemen, as if conscious of the futility of these assumptions, abandon them for another kind of argument. They say our expression of our opinion betrays a want of confidence in the Executive. This argument would do very well in countries where the Executive was every thing and the people nothing; or where deliberation was only a form and not an essence. But in our free Government he did not know which to admire, the strangeness or the incongruity of the doctrine. He thought that, so far from betraying a want of confidence, he was fully persuaded the President was then waiting anxiously for the opinion of that House, or, at least, to know the opinions of the people. His wishes are for peace; but he is also desirous of ascertaining how far he shall be supported in the negotiations which are to secure it; and this disposition, and this desire, are the necessary result of his situation. He would remind gentlemen that six, seven, or eight weeks have elapsed since the President received advice of the dismission of our Minister, and yet to this hour he has not taken any steps, beside the calling of the Legislature together, towards that negotiation. What does he say to us?—

"Believing neither the honor nor the interest of the United States absolutely forbid the repetition of advances for securing those desirable objects with France, I shall institute a fresh attempt at negotiation, and shall not fail to promote and accelerate an accommodation on terms compatible with the rights, duties, interest, and honor of the nation. If we have committed errors, and these can be demonstrated, we shall be willing to correct them. If we have done injuries, we shall be

willing, on conviction, to redress them, and equal measures of justice we have a right to expect from France and every other nation."

From this explicit declaration of the opinion and intentions of the Executive, he concluded that it was a principal object to obtain a precise knowledge of the feelings of the American people, and that cannot be done in any shape, with a greater likelihood of certainty, than in that House.

But a question has been indirectly made by gentlemen, whether it is proper to offer to place France on the same footing with other nations? This question had indeed been already so well answered that there was little left for him to add, and it might be resolved into the question, What is the law of nations? Because, if there is a precise law of nations, it belongs to all, and must be mutual. This has been discussed in the merits of the armed neutrality, which, whether it contained truly or not the fixed law of nations, was accepted as that permanent law by America in the midst of her Revolution, when it was above all other seasons the least her interest so to recognise it, and which, if there was a doubt, she would have been justified in acting upon to her own salvation and benefit. In like manner the Treaty of 1778 was concluded. But the gentleman from South Carolina (W. Smith) had insisted, and the Secretary of State, in his letter to Mr. Pinckney, had endeavored to argue, that it was not meant to be permanent. Their arguments had been already so pointedly refuted by a gentleman from New York, (Mr. Livingston,) that he had to add only one conclusive fact. The gentleman had asserted that the armed neutrality had ceased to operate upon the termination of the war. Now, if it should be found that one Power had entered into that coalition and recognised the principles thereof as a permanent law, the gentleman's conclusions fell at once to the ground. The gentleman had argued that the convention of armed neutrality was not to be permanent, and the Secretary of State had supported, or rather broached, the same opinion. What does that document itself declare? "These stipulations shall be further considered as *permanent*, and shall decide in *all matters* of commerce and navigation; and, in short, in *every case* where the rights of neutral nations are to be determined." To this article he would only add this plain fact, which he found recorded in the history of the armed neutrality, which had been quoted by gentlemen: That, in the year after the conclusion of the war, Portugal had formally acceded to that convention; its provisions concern shipping, and we see a maritime Power acceding to it in the tranquil moments of peace, and agreeing to it as the permanent law of nations; and it is upon our accession to the principle while we were ourselves at war, and when its acceptance was in opposition to our interest, but conformable to our love of justice, and upon our subsequent recognition of it as well in the one case of our treaty with France as with others, that we are now bound to put France upon an equal footing with those to whom we have since relinquished the principle. He did not know any treaties of other nations in which the same principle had not been recognised, unless it was in an instance mentioned of Russia having combined with England to do it away for the temporary end of starving France into a surrender, or, as was the fashionable expression, of blotting her out of the map of Europe. Denmark and Sweden indeed had in some measure given way to the necessity of the times by declaring that they would abide by none but generally received laws, and in this they no doubt acted with a prudence that could not be blamed; and it was right, under a pressure as urgent, that the United States had pursued a corresponding conduct; and, if right in these Powers, it could not be said to be wrong only in the case of France, who, being willing to maintain it, cannot find the other Powers ready or able to render the support mutual and general. But it had been said that America was not bound by her treaty with France not to make this relinquishment to Britain. As a foreign nation, unquestionably she had a right to treat as she pleased, and no other nation had a right to interfere in the acts of her sovereignty; but was it right to acknowledge it in opposition to the law of nations, and to grant it without an equivalent from the only nation that had before denied that law? It should have been the *sine qua non* in our negotiation with Britain—not of war, but a *sine qua non* of negotiation. It would have been our interest and our duty not to abandon the principle, even though our strength did not allow us to support the execution, and we should have left past depredations to have been amicably compensated, but asserted strenuously our security for the future. This is a real, effectual, and not such a fictitious security as we have now obtained. The mischiefs of an abandonment of the principle are to us of immense magnitude.

On the contraband article, the gentleman from South Carolina had found *Vattel*, who was every thing in all other cases, completely void of authority, although Great Britain agrees with *Vattel*. But how is France to be contemned for her maintenance of the doctrine against Britain? The only way to obviate the difficulty is by placing her on the same footing as France in this respect, and specially stipulating that the principle is not abandoned, but granted for a period coexistent to each of the Powers. This will be a lesser evil; but there is little to be derived from either party, and when two Powers are at war, when we are not able to enter into extensive hostility, we had better incur a disadvantage when there is no dishonor, than insist upon objects of subordinate value, which may be in more auspicious times retrieved.

It had been said we should not offer France an ultimatum. He had not heard one reason to show the bad consequences of such a step. He was for giving an ultimatum, and for this very plain reason: because every thing that could be known on this subject by either party was already perfectly understood; but more particularly because Mr. Pinckney informs us the people of France entertain an opinion that we are divided,

which, though true in some cases, would put us on such ground as to show that on the true national points we were united to a man. Those who oppose it on the ground of concession, would do well first to show that what we ought and are certainly willing to allow, can be so considered.

If this amendment should be rejected, or at least the spirit of it should not be adopted, can it be expected that gentlemen who formerly opposed and disapproved of the measures of administration will sacrifice their opinions, as has been insinuated they should? Can it be expected that after the clamor which has been raised with the obvious intention to overawe us—after the Executive has been put up as a kind of shield to stand between us and the truth, and to protect their arguments and irritating measures from animadversion; that we should not rather be the more alarmed for ourselves and more fixed to such measures as we are convinced are just? He had always spoken freely, and he would continue so to do, always preserving due respect for others.

Gentlemen in this discussion have taken a very wide scope indeed, and the gentleman from South Carolina in particular, who is usually very cool, had indulged himself in a poetical flight. He had indeed forgot himself, and launched into assertions for which there was not the least foundation. Speaking of the conduct of the several French Ministers, he had described Genet as making an appeal to the people; Fauchet as fomenting an insurrection, and Adet as insulting the Secretary. The particular point he meant to notice was the fomenting an insurrection. He was willing to allow that his constituents on that occasion had not behaved well; but it must be in the recollection of many gentlemen in that House, that the common cry and charge against them at the time was that they were going to join the British, and even the letter of Fauchet himself declares it to be the case. It is true he would not place much reliance on that man who could write on a subject one day, and sign a certificate to the contrary another; but he believed he was right in saying it was a poetical flight just made to round a period. He had found poetical occupations for his first and last personage, and it was necessary to find some business for this middle person; indeed this was rendered certain, for he had never heard of but one other authority for the flight, for it was never before asserted but by one *Phocion* and William Wilcocks.

The gentleman has, with the spirit of a legislator almost as sublime as his poetical character, told us that he should prefer carrying the question with only a majority of one or a casting vote, than not at all. A majority of what? Of the Representatives of the people?

Thus, then, it appears that this gentleman, who is at turns recommending unanimity and the union of the people, is indifferent about an equal division; content with the unanimity of the Government. So the Senate and Executive agree with a majority carried only by one, the gentleman cares not if the remaining half of the Representatives and their constituents differ upon the question to be decided! We are, then, who it is that really wishes to divide the Government from the people.

But he hoped that such adverse opinions would not prevail in that House. They were baleful to the very happiness of the country, and to the due credit of the Government. He hoped that a great majority would be found unanimous in shunning the rashness that would drive us to war. He hoped that there would not be found one man, *unless it was those who were eager after power or money*, who anticipated, in the desolations of war, the realization of riches by plunder, either as agents, contractors, or one or other of those train of wretches that hover like vultures in rear of battles—that none but such as these would be found eager to involve us in calamities which were too grievous to be yet forgotten among us, and too terrible to be encountered but in the last extremity.

Whatever may be our determination, he said, rash or weak men should not divert us from our sober purposes in the pursuit of measures calculated for accommodation and peace. We could not be too speedy in our decisions; the events on the other side of the Atlantic are so rapid as not to be within our reach or control. We do not know the events which have already taken place. He would not rely on the generosity of any nation in particular circumstances; and there is no knowing the extent to which success might lead men, under a mistaken impression of injury. We ought to lose no time. The haughtiness of France has overwhelmed nearly all Europe on land. What she may do next we know not. Whether she is just or unjust, we should at least not lose time in negotiation, and we ought the more steadily to do this, because there is no man in America, of what party he may be, who will not resist, if resistance is required; therefore, while the conflict is doubtful, we should determine our affairs; and, as the amendment appears to furnish the only grounds upon which negotiation is at all likely to be attended with the necessary effect of securing peace and independence, that ought to be preferred.

The amendment had been opposed on various other grounds: among the most curious, was that of the gentleman from South Carolina, (Mr. W. Smith.) He says either we have or we have not granted a favor to England in the provision article; and his inferences are, if we have not France cannot complain; but if we have, since she has, by her decree of the 2d March last, taken the same advantage to herself, she has no right to complain. Thus, according to that gentleman's logic, we have done France the kindest favors, whether we meant it or not. He would just observe, and the committee would not forget it, that this sort of argument did not belong to the supporters of the amendment. We say France has no right to assume these immunities; we do not allow it. We say, by virtue of the 2d article of our treaty with France, she cannot insist on it. But supposing we should agree in the gentleman's style, and say, either we are resolved to be at-

tached to Great Britain or were not; if we were, such arguments might be very properly used to cement that union; but if we were not, in the name of common sense, why object to the amendment? We who propose the amendment say the British Treaty exists; it is the law of the land, and we insist upon keeping it. We confess we have said it was a bad one, and so we say still; but we will not therefore go beyond it with you, France; we shall agree to make you equal, but no more. The gentlemen appeared to coincide in one particular: that was in their opinion of the British Treaty. They felt so sensibly alive to it that they dreaded even to touch it, and yet they insisted that it was universally popular, and that its popularity increased in proportion as it became more known. He would leave gentlemen unmolested in the solacing indulgence of that idea as long as they could persuade themselves into such a fantasy, but he would just suggest to gentlemen that there did not appear to him a likelihood of its gaining a considerable share of popularity on the Western frontier when the memorial of the Spanish Minister shall have found its way into that part of the United States.

It has been several times asserted, that all we can say or do on the affairs with France will be now perfectly useless, for she is determined to go to war with us at all events; and various reasons are assigned for this, among others that she resolved to make us break the British Treaty and to overturn the British trade. Gentlemen might have sufficient authority for the reasoning and they might not; indeed he would not argue it with them on this occasion. He would suppose it possible that France would sacrifice her interest with us to injure that trade which is the vital support of Britain, and commence a war with us on that account. But, if such is really the opinion of gentlemen, ought it not to be the first and most pressing motive with us to adopt measures likely to extricate us from such difficulties? But do gentlemen believe the fact? Do they, who give the President even more credit than he asked on so many occasions, doubt him on this, or have they better means of information on this subject? If they have, why has he not been made acquainted with it? But he still thinks we may negotiate, and consequently entertains no immediate apprehension of a war. This sentiment is expressed in his Speech, and it even makes a part of the report, and consequently those who support that part of the Answer, cannot with propriety oppose the same thing in the amendment.

It is also charged against the amendment that it concedes every thing and asserts nothing. Now, the impression which the amendment made on him was, that if any thing it took higher ground. We all agree as to an insult being given in the dismissal of our Minister; and in the amendment, while we leave open the ground for negotiation proposed by the President, we declare that a repetition of insult will put an end to every friendly relation; and after all, this firm language is said to be degrading!

Mr. W. Smith, begged leave to offer a short reply. He had been accused of indulging a poetical flight, but the gentleman who accused him appeared himself in that particular to have been indulging a poetical license. He had talked of concessions as if France had not spoliated. We are not about to conclude a treaty of concession, but to enter on negotiation for a treaty of stipulations for equivalents. If we are to usurp the treaty-making power in this House, he hoped we would not forget to do something for America. As to the poetical flight, he appealed to the recollection of gentlemen who had read Fauchet's letter, wherein he pathetically deplores the failure of the Western insurrection by a too early explosion. The gentleman says he is not disposed to make any concessions; but is it not evident that force exists? Does this not invite hostility if we must concede? Do we not admit by this what France seeks, and if she obtains one article of the British Treaty by threats, may we not expect to hear her demand all the other articles by similar means, and the repeal of the law of 1794, and all her other insulting demands? The gentleman had made another extraordinary discovery, that the President seeks our advice. He denied it. He gives us a narrative of the state of the Union, and he tells us he means to pursue negotiations. He calls you to defend your country against external attacks, and be prepared to repel them; but here we work whole days in discussing business that does not belong to us; and perhaps in this great revolutionary change of Constitution, while we are thus employed, the Senate may be doing our duty and debating the means of defence.

The committee now rose, and had leave to sit again.

Friday, May 26.

ANSWER TO THE PRESIDENT'S SPEECH.

The House went into Committee of the Whole, (Mr. Dent in the Chair,) on the amendment of the Answer to the President.

Mr. Dennis said, being unacquainted with the subject in a manner, and newly honored with a seat in the House, he thought it most prudent to observe silence hitherto, and should still have remained so, had he not observed the ground of some gentlemen's arguments, which had roused him to a sense of his duty. He, under that impression, came forward, not merely to examine many of the arguments introduced on this occasion, but to show his reasons why he could not vote in favor of the amendments now before the committee.

It appeared, from the turn the debate had taken, as though the question was, whether America should enter into a war or not; at least it would appear so to persons attending to the debate. Indeed, he said, he should not be at all surprised if at this moment wagon loads of petitions were on the road from all quarters to restrain this body from entering into a war with the French Republic. Was the question asked of a person who had not heard it, the answer

must naturally be war; whether we should now declare war against the French.

In the remarks he had to make, he could not flatter himself to be able to display the talents which some gentlemen had done; he must content himself with a few desultory observations, and endeavor to direct them as much to the point as possible. It had been the practice of some gentlemen to commence their harangue to the House on the impressions under which they came into the Government. Notwithstanding some observations which had been made on this subject by a gentleman, (Mr. Livingston,) though a new member, Mr. D. said, it would not be very extraordinary if he were to explain his impressions on first coming into the House; but he should not so take up the time of the committee; nor should he follow the other gentleman, (Mr. Freeman,) on the subject of federalism. He had no former errors to amend nor retractions to make; he came forward perfectly untrammelled, in which he was different from the gentleman who opened the debate, (Mr. Nicholas,) who said he came forward animated with zeal in behalf of the French nation, because of the powerful combination she had to cope with, and which attempted to rob her of her liberty; also on account of the indifference which seemed to pervade this country, not only to the cause of the French nation, but to Republicanism in general. I once, said Mr. D., had the same impressions; I once felt with enthusiasm the cause of the French, because her aim, her attempt was liberty. I rejoiced in her victories, and felt her troubles; so long as her aim was liberty, defending herself against aggression, I felt in her behalf; but now, in what a situation is she now? No longer the injured, the persecuted, but her victories have made her become the aggressor. No longer is the cause of freedom her aim, but interest, aggrandisement. With her change of conduct, it becomes obligatory for me to change from the approbation I formerly felt in her behalf. She now comes forward to regulate our concerns; I therefore can no longer espouse her cause, and must candidly declare myself perfectly untrammelled to any opinions except my own; not prejudiced in favor of any nation but my own, except their conduct demands that predilection. A greater national change scarce ever passed than that lately displayed by the French nation. Individuals may change from caprice and a thousand passions which attack the mind—this is not material; but, when we see a great and powerful nation changing—changing, from that glow of enthusiasm which has long been borne in the bosoms of Americans, what does it evince? It is a presumptive evidence that some great event has caused it. I come forward with no attachment but to my own Government; I think none so good. I will say that America, every thing in her, and belonging to her, in every respect, is superior to anything in any other country. This may be thought a narrow disposition, but I am not sure that to be more liberal would be to be more politically wise. I then come forward, not to vindicate the cause of France or Great Britain, nor to depreciate the one in violating the dignities of the other, but only to vindicate our own Government, because I think it has acted right. It seems curious to observe that, while all nations are employed in the admiration of our Constitution, our Government, and Administration, our own citizens are the only ones who express dissatisfaction at its form or its conduct. I do not mean to say that all that has been done on the part of the Government, has been critically right. I will not deny but it may have omitted to do what it ought to have done, or done in some cases what had been better let alone; but by the great mass of their transactions, they have assumed a situation as respectable as that of any other nation. The fiery ordeal we had to pass through, amidst conflicting nations, has been as successfully encountered by the conduct we pursued, as by any other path we could have chosen.

I cannot pretend to defend the violations committed by either of the belligerent Powers; they have both acted wrong, so much so as to impress the whole world that we cannot depend upon the "generosity" or "magnanimity" of either. But, the question is, have we sufficient cause to resent those insults? We all agree that an attempt to negotiate will most safely conduct us out of our present difficulties. We agree as to the object; but the manner to effect that object with honor to one nation is the point on which we are divided. An amicable adjustment of our differences, then, I take to be the unanimous wish, but, upon what terms? On a former occasion, it will be recollected that we adjusted a dispute with Great Britain by a treaty; an adjustment not inconsistent with the honor, advantage, or justice, of the nation, but consistent with all. This treaty received its proper ratification by every branch of the Government, and, I believe, is become generally popular; however, if it might not have met the acquiescence, it has the compliance of every one. Notwithstanding what some gentlemen would say upon the subject, I cannot believe, but, had not the prejudice against the British nation been so prevalent, that treaty would have been satisfactory to all; but, notwithstanding that, we have done it to our satisfaction, (I mean by a majority of the citizens,) although it might not be so in the sight of France. She says, by that act we have violated our antecedent treaty with her. Now, the question with us is, whether this assertion has foundation or not? I must say, I believe not. It was not a treaty, offensive and defensive, we made with her, nor to continue forever. This she well knew, else why did she not come forward and say to us, you are under obligation to join us against our enemies! No, they knew the contrary, and therefore could not exact it. We are ready to prove that none of the articles of the British Treaty does in the least contravene that with France.

But, it is observed by some gentlemen, that the article including contraband goods, "that free ships make free goods," is just cause of offence. I hope gentlemen will not be alarmed at my men-

tioning this alleged infraction, because I do not mean to enter into them. I think the gentleman from South Carolina (Mr. Smith) has fully and most masterly answered all the arguments of the other gentleman (Mr. Nicholas) on this subject, and even anticipated all the ideas advanced by the other gentlemen on the same point so fully, that it would be entirely unnecessary for me to enter into the discussion, as I believe it has been fully displayed to the satisfaction of the committee. I shall just observe, sir, on that part of the article referred to which relates to supplying belligerent Powers with provisions, on what has fallen from the gentleman from New York (Mr. Livingston.) He has put this in a very extraordinary position. Says the gentleman, we should have said to Great Britain, there are cases in which, by the law of nations, provisions are to become contraband. Now, every one knows this! The only doubt which can arise on this occasion will arise, not out of the law, but out of the fact. We always denied that provisions were liable to become contraband unless where one belligerent Power had a well-grounded hope to compel another to peace, or to make a garrison capitulate. Where there exists an appearance of this, provisions, and, I may say, every thing in existence, may become contraband. It depends, then, on facts or existing circumstances. Nations sometimes declare a port in a state of blockade when it is not; neutral nations have then a right to exercise their judgment on that point. So it was when Britain declared the whole French Republic in a state of blockade. We denied the fact, and did not consider ourselves bound by that declaration. But, the gentleman says, if this be the law of nations, why did we recognise it? I answer, he may recollect, nations recognising more simple facts than this when against the law of nations, too. It was recognised to make it more plain, for it is more important; if not, not only is the vessel taken, but a confiscation of the property. It might become nugatory and mischievous if not mentioned. It will appear, then, that we have granted no new right. We have stipulated that though these nations may take our provisions it shall not be without an ample consideration. This was altogether an article of our own, and if any nation found fault, it would be more reasonable to expect it would be Great Britain. This position goes to show that it was our interest, and not the particular injury of any nation, that this stipulation was made. But it has been said that we suffer our seamen to be impressed on board English ships, to the great injury of the French. I ask, in what manner have we suffered it? I will grant that the right of complaint is in us; I will grant that, if by partiality or connivance, we had suffered it, there would be just ground of alarm from the French. How have we suffered it? Because a strong nation took advantage of our weakness?

Another gentleman, who went copiously into the subject, says that we have surrendered the right of sequestration. I do not conceive this right when I am under a moral obligation to do it. It is not a surrender merely to say that we will not sequestrate.

The gentleman from Pennsylvania says, could we expect, while we were granting stipulations, that free ships should not make free goods, France would not act upon similar principles? I could not suppose that France would violate her treaty to us merely because it was her interest to do it. But here we complain of depredations committed upon a right predicated upon this supposition. I should not argue with any gentleman on the right of France to act upon the same principle with us, as we by treaty granted to Great Britain the liberty of doing.

The amendment now before us strikes me to present itself in three points of view, and to each of which I object. First, it ascribes all the misfortunes, depredations, and calamities, to the British Treaty, and exposes it in that view to the world. It has been sufficiently demonstrated by the gentleman from South Carolina, that if the British Treaty had never had existence, the grounds of complaint would have been the same, and that they have never been abandoned to the present time. The French Government informs us that those three complaints form but a small part of the long catalogue of crimes they can allege to our charge, and these, by the amendments we seem inclined to acknowledge. They also mention our Judicial and Legislative acts, and an infinite variety of others, which they say America has practised to her injury; and that, until these are removed, they will not come to terms of accommodation; and gentlemen here say they will grant it without even attempting to contradict the assertions. They certainly ought to wait the issue of negotiation, which the President has promised to pursue. But gentlemen seem to take it for granted that the President prevaricates; that he will not negotiate, although he has engaged to do it. They say the British Treaty is the sole cause of the grievance. But the French represent it as only one cause, and without the whole is removed they will not admit our Minister. We must, then, not only nullify the British Treaty, but we must instruct our judicial officers to remove their part of the grievance. We must permit the French to arm in our ports, to fight against nations with whom we are in amity; we are to bring war into our cities while our hands are tied; permit them to sell their prizes in our country, and by these means make enemies of those with whom we are now at peace, under their imperious command. They will take out of our harbors their enemies' ships, because their jurisdiction is paramount. We must give orders to all the Almanac printers in the United States to place their Minister's name first among the list of foreign Ministers. But I object to the amendment, also, upon another ground. It seems to me to create unnecessary apologies for the French, and because it expresses contradiction in itself. It goes further. It seems studiously to lay the whole blame upon our Government; it has followed up the blame cast upon us by the French, that we have not sent a Minister Extraordinary, with

proper functions, &c., and, having omitted to do this, our Government is chargeable. Many apologies have been brought forward by gentlemen to endeavor to clothe this conduct to appear fair; but, notwithstanding their display of oratorical ability on this point, I am not convinced. I only appeal to the feelings of this House on the rejection of our Minister. Gentlemen in general say that we ought not to go to war; that we ought rather to suffer indignity. If they had stopped here, if indignity had been all, and our dearest rights had not been involved, I should have found no difficulty in agreeing with them. With them, I will say that I am not for war.

The gentleman from Massachusetts (Mr. Freeman) has read a passage from *Vattel* to prove that they have only exercised their right, and he has said that Republics, in particular, have a right to send away foreign Ministers when they have nothing for them to do. But can the gentleman put his finger upon the place in the law of nations, or good manners, where any nation has rejected a foreign Minister without giving him an audience—refused a passport out of the State, and even thereafter, put him under the jurisdiction of the civil laws? I ask the gentleman, on this occasion, for I am at a loss to know, what could be the reason? Has Mr. Pinckney departed from his instructions? Gentlemen seem to talk about sending an extraordinary Minister to France. I am for it too. But what have we to do with that? It is better becoming us to leave that to the President. He may send Mr. Pinckney, with extraordinary powers, or any other Minister, but this will not satisfy the etiquette of the French. Their demands seem of such a mongrel kind that it is difficult to conceive them. I know no other way, from the least idea I have of their demands, than to call Mr. Pinckney on this side of the Atlantic, giving him the same power as before, but call him a Minister Extraordinary. This word "extraordinary" is a very extraordinary one indeed. This is an extraordinary enacting of Congress, on an extraordinary occasion, to send a Minister Extraordinary, and we, all this while, are, in a most extraordinary manner, exercising the powers in our intended directions to the President.

It is an opinion, sir, that, by offering to the French the same footing on which Great Britain is put by the treaty, they will abandon all their ground of complaint. Now, can this be supposed, when they say they have a "community of privileges?" That they claim, if we have granted privileges to Great Britain, they have a right to the same; therefore, what they can and will take as a matter of right, can be no grievance in our not granting it freely. But the gentleman from Pennsylvania thinks they recede from some ground of complaint; but what particular ground? Should we go to them and give up all into their hands with submission, and not say they have done wrong, and ask redress? Surely, we ought to do it, else where is our neutrality.

But the third which I mentioned is still more objectionable, because it is interfering with the Executive powers. I will not contend, though I do not doubt, that it is a violation of the Constitution, but confine it merely to the ground of prudence. What are we attempting to do? Why, to prove that there is not that unanimity in the Government which it has been supposed. It is to prove to the world that this body cannot trust the Executive with the power of negotiation, although he has declared he means to prosecute negotiation; yet gentlemen seem inclined not to believe him. They will say that he is about to involve the country in a war, and not prosecute any amicable adjustment with the French. If this is not evident, from the amendment, I am at a loss to know what is; and if not, from it, the observations of gentlemen prove the assertion.

According to an observation made, the Government is like a clock; that, if part does not do its duty, the other part will compel it. What does this evince? That if the President means hostility, the House will prevent it; that the House of Representatives take it for granted that the President has done wrong; that, contrary to his own inclination to do us justice, they will compel him; that the Representatives of the people being in favor of the French, and taking their part, will not regard their plunders and violation of right. While they say we are right, the French say, we will not regard the other parts; we will increase in our demands, while they are on our side.

Another gentleman from Pennsylvania says that he thinks the President waits for instructions from us. So, then, the President and Senate have not wisdom enough! Although I have heard of the House of Representatives monopolizing all the power, I never heard that they ever possessed all the wisdom of the three branches.

But it is asked, may we not express our opinions upon this occasion? I think we may as individuals, but not as a body; but if a body, not in this obligatory kind of manner.

There is another amendment which is not taken so much notice of as others. I have said the arguments of gentlemen seem to be predicated upon a supposition that the question is a declaration of war. It is easy to conceive that the greater part of the observations has been distant from the subject; and, while going on this, they might have talked forever, and not been nearer to a decision. Like a writer I have seen, who says, "where the tongue is let loose, in the frenzy of passion, it is the man, and not the subject, that is exhausted." I have heard but one opinion on this subject—I have heard war deprecated from every part of this House. No man is willing to go to war. The gentleman from Pennsylvania has asked if we would like to be taxed? whether the people would like to be plunged into an unnecessary war? I do not think the people would like taxes, and as much disapprove of war, and abominate an unnecessary one. We all want peace, but we differ about the means to preserve it. I believe the best way to preserve it is to let the Executive go on in its own way, in the act of negotiation, while we prepare means of defending our country; that, while we

are not willing to accede to any act of *offence*, we will prepare the most effectual means of *defence*. I ask, is there any reason to expect war? I believe not. But gentlemen say it is probable; it may be. I do not confide in any extraordinary negotiation; but, though I do not think it will be effectual, I am still willing to try it. My principal hopes centre in a change in the spirit and Legislature of the French Government. When they come to reflect on the indignities committed towards our Minister, and those of thirteen other nations, whom they have expelled, they will recall what they have done, and not from negotiation, nor our determination to defend our rights and honor.

I have been sorry to witness so much passion and partiality shown on both sides of the question. We did not come here to advocate the part of France or of Great Britain. It will be time enough to talk of that if a more ripe part of the subject should be presented. If gentlemen had not introduced the extensive arguments they have, and to no purpose, we should have been through the question before now.

I shall again mention that I am for providing a suitable defence, although I should not be willing to leave this city until the House had paid proper attention to the military, and put us on ground of defence. But in my measures with the French Republic, I would be for moderation, not only in words, but in action, which speaks louder, and not indulge that frenzy on either side which must naturally be attended with unpleasant effects. On the whole, I must express my disapprobation of the amendments.

Mr. Sewall claimed the indulgence of the committee for some observations, in which he should be as brief as possible on this interesting occasion. He had said interesting, without having in his mind the estimate of it which some gentlemen had expressed. He did not consider that the fate of the United States, as to peace or war with the French Republic, depended in any degree upon the present deliberation. He thought the present question, however, sufficiently interesting, when he considered that the determination of it would go far to show the disposition of the House of Representatives as to a provision for the defence of their country, when in actual danger from a foreign Power. He observed this extraordinary session of Congress to be occasioned by the dangers which threaten the United States on the side of France. The President had informed them that in consequence of the complaints of that Republic, and their outrageous depredations on the property of good citizens, a respectable Ambassador had been sent to them; that the object of his mission, as expressed in his letters of credence, had been "to maintain that good understanding, which, from the commencement of the alliance, had subsisted between the two nations; to efface unfavorable impressions; banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union;" and his instructions were to the same effect—"faithfully to represent the disposition of the Government and the people of the United States, their disposition being one; to remove jealousies, and obviate complaints, by showing that they were groundless; to restore that mutual confidence which has been so unfortunately and injuriously impaired, and to explain the relative interests of both countries, and the real sentiments of his own."

Yet this peaceable messenger has been rejected without a hearing; has been threatened and insulted, and has taken refuge in another country. The complaints of France have been long heard and understood; they have been answered by the Department of State of the United States, and the answer remains without reply; but she goes on with her depredations, and at length she has recalled her Minister, and driven away ours. Her open violation of the right of a neutral nation, not only secured to us by the common principles of the law of nations, but also by a solemn treaty, which France claims to hold in force against us, and the contemptuous dismission of our Minister, evince a hostile disposition on her part, and that our danger is imminent. At a moment like this, to find in this committee, among the immediate Representatives of the people, the advocates of the French, condemning the Government of the United States, and acquitting the French Government, or palliating and excusing those violences and insults, of which the circumstances are too prominent to be disguised, this will be proving to them and to the world, that we deserve the character of us which is said to be prevailing in France, and which too probably has encouraged their attack upon us; that we are indeed torn with factions, and that there is a division between the Government and the people of the United States. To him it appeared that a former transaction, rather than the business before the committee, had produced this debate. Those who were once opposed to the carrying into effect the British Treaty, arm themselves as renewing that subject, and lighten up the yet unextinguished fires of that transaction.

If anything can prevent the open hostility which is now feared to be approaching, or can assure the United States of a complete defence, it must be the unanimity of their councils, and the mutual and unabating confidence between the Government and the people.

Three of the gentlemen who have advocated the amendment, have gone into very labored arguments to prove that the complaints made by France against the United States ought first to be remedied, and they urge upon this House immediately to condemn the Government of the United States, and to acquit France.

This proneness to condemn on the one side, and this anxiety to excuse on the other, would, in the transactions of common life, mark the conduct of an enemy, and not of a friend—not even of an impartial judge. Indeed, if they had made good the charges upon which the condemnation is to be brought, they might be excused for their sincerity, whatever might be concluded of their patriotism; but when the charges are inconsistent, unfounded, and unjust, we are at a loss to say what are the motives of their conduct. It is far from being clear upon what grounds the Government of the United States is to stand convicted and self-condemned before the Directory of France; and the gentlemen who advocate their proceedings differ from each other as to the principles upon which they so readily condemn the Government of their own country. The gentleman from New York selects from among the French complaints, three charges, which he conceives to be entirely supported upon certain principles of the law of nations, and to admit of no excuse. The gentleman joins him in condemning the Government, but denies the principles upon which the gentleman from New York had proceeded, and has never conceived them to be a part of the law of nations. Another gentleman from Pennsylvania, with that caution and argument which distinguishes him, relies upon one only of the three charges, and upon this he thinks the Government would have been excusable, if there had been any necessity for a commercial treaty with Great Britain. He would proceed to a more particular examination of the three charges, but would first observe, that when the gentleman from New York could select only three of the many complaints of the French Republic as deserving attention, and had rejected all the others, though urged by them with equal seriousness and determination, it might naturally have occurred to him that these charges did not exhibit the real dangers of the French; that the real question between them and us, was not whether we had forfeited our neutrality by the articles of the British Treaty, of which she complains, any more than whether we had done her an injury by our law of 1794, or respecting the Consular convention, or any other instance of her numerous complaints, but the question is, whether the United States shall be involved and made a party with her in the European war, or whether our rights as a neutral nation shall be submitted to her, and we should violate, in conformity to her wishes, our treaty with Great Britain? In his opinion, it was that treaty which had excited the complaints of the French, but not as applied to any particular article of it. No, it was the treaty itself; and because the United States had thereby forfeited their neutral ground, and become more able to baffle the insidious designs of France for involving us in the European war. He would submit it to the committee, and to their own recollection, whether, from the coming of Mr. Genet, the French have not been incessantly endeavoring to drive us from our neutrality, and to engage us in the projects of war? Even the gentleman from Virginia, who so warmly advocates the French complaints, acknowledges this; but if it were not acknowledged, it would be impossible to resist the evidence which exists at this moment.

He conceived the charges to be examined were immaterial to the present question. He had thought that an Address to the President, in answer to his patriotic and animating Speech, might have rested upon the love of our country which must exist in the House of Representatives; that it would have been given spontaneously, and with one voice, showing that we were aware of the dangers which threaten us, and we thought only of the necessary defence.

Notwithstanding his opinion that the charges were irrelevant to the present question; yet, as they had been brought into view, they ought not now to be dismissed without an answer.

The first charge is, that by the article of the British Treaty the principle is admitted that free ships do not make free goods; and the gentleman from New York says that there is no amelioration of the effect of this principle, and that it is a surrender of our neutral rights; and he will have it that, by the law of nations, free ships make free goods, and defies the contrary to be shown. If there should be an examination of books of acknowledged authority in the purview of the law of nations, their decision would undoubtedly be against him. The law of nations may be considered in its origin as the law of nature, determined by the reason and common consent of mankind, and applied to the conduct of nations, who are to each other as individuals in a state of nature. If such a state may be supposed, the individuals in it are governed by their own natural reason and sympathy; and being without any common arbiter or judge, if an injury happens, it is revenged by force. And so among nations—injuries produce a state of war. Then each party in the war aims at conquest, for the purposes of securing dominion, by lessening the means and power, or by the destruction of its adversary. Hence is argued the right of every nation at war to possess itself of the goods and persons of the nation which has become an enemy. If we can suppose that one nation prosecuting hostilities against another has a right to destroy the persons of their enemy, we may readily allow the right of seizing their property, thereby to deprive them of the means of defence, and to reduce their power. If this may be considered as the general principle, it is for the gentleman to show the limitation and exception which he contends for, and to show some custom, convention, or rule, by which a neutral nation is allowed to protect the property of a nation at war from the rights of hostility and the power of its enemy. The armed neutrality is produced as a convention having that effect; and it is granted that, with regard to the nations who were parties to that convention, a different principle was thereby established, and became obligatory upon them; but it could not become the law to those nations who refused their consent and would not submit to it.

This is also an answer to the gentleman from Pennsylvania, who relied altogether upon the armed neutrality as constituting the law of nations; and he mentioned Great Britain as acquiescing in that convention. But in this he was mistaken, as between the United States and Great Britain: then the law of nations, in this particular, must be understood to have been that free ships do not make free goods; and, as a belliger-

ent Power has a right to seize the goods of its enemy wherever found, a neutral vessel cannot protect them, unless by force of some treaty to that effect. Indeed, the law was formerly carried to a much greater extent; for a neutral vessel, found in the possession of an enemy's goods, was formerly considered as infected, and was condemned, as well as the enemy's property on board. But the principle has been modified in this respect, and now it is argued that the enemy's property shall be prize, and that the neutral vessel shall go free.

Taking it then to be the law of nations, as far as it is generally established, that free ships do not make free goods, this article of the British Treaty affords to France no just cause of complaint. The value of the contrary principle to the commerce of the United States leaves no room to doubt the intents of their desire and endeavors to obtain it as an article of their Commercial Treaty with Great Britain. If their attempts were ineffectual, it would not be contended that the treaty ought to have been refused, or the hazard of war incurred for the sake of this principle. He observed, that the gentleman from Virginia had admitted the law of nations to be as stated by *Vattel*, and as now argued. But, says the gentlemen, though the principle is well established, yet the application of it is wrong; for, although an enemy's goods may be liable, yet it is a violation of a neutral right to enter a neutral vessel for the purposes of search or seizure. But the gentleman having admitted the principle, must yield also what is necessarily connected with it.

The gentleman from New York argued that, admitting it to be the law of nations, the United States should not have agreed to the list establishing it, because unnecessary, and it is made without any amelioration of the subjects. To this he answered, that there is something favorable to the United States in that stipulation. If a vessel is taken or captured on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the vessel is to be carried to the nearest port, and, after the case is decided, the vessel shall be liberated to proceed on her voyage. Besides, it has been long usual to introduce a stipulation to this effect, in commercial treaties, probably with some reference to what has been mentioned, as having been the most ancient rule in the case, and thereby to provide for the restoration of the neutral vessels and goods, which are not to be esteemed to be infected, or rendered liable to confiscation by the enemy's property found with them.

There remains another charge brought against the United States, and which is represented to be of a very heinous nature, indeed. The gentleman from Virginia had spoken of it as a stain in the annals of American history, which nothing can obliterate. It is said to be not only a stipulation unfavorable to France, but that we had contrived a mean pecuniary advantage to ourselves from a sacrifice of our interests.

To this he observed, that, if it is the existing law of nations that an hostile nation has the right of reducing its enemy, by preventing neutrals from carrying provisions into a blockaded port, then this article has given an advantage to the commerce of the United States, and is therefore favorable to the French nation. The risks of a voyage, in which supplies of that kind are undertaken to be carried, are materially lessened by this article. There can be no doubt that, in the case of a blockaded or invested port, provisions are liable to seizure; but, when our vessels are taken going to such place, the full value of the provisions, with a reasonable profit, freight, and damage, is to be paid. This, then, is an heinous offence, the disgrace of our country, which the gentleman endeavors to establish. He had argued that this article necessarily admits the practice of the English, which they claimed to maintain by the law of nations, and had pursued against the United States, but which they had never ceased to complain against—that is, the assumed right of forbidding the carriage of provisions to a large extent of territory, under pretence of some general invasion, or of the particular nature of the war, in which it was their design to reduce their enemy by famine; and this the gentleman from Virginia included, from a supposition that the case of blockade or investment is provided for by another article in a distinct manner from this. But there is no distinct provision of this kind; and what is said of vessels which happen to sail for a port belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, connects itself with the former part of the same article, and may be rather understood to limit the intention of the whole article, than to give a larger extent to the former part. It is plain, however, that the whole article supposes no other case than what arises under the existing law of nations, which, in the cases provided for by this article, was not precisely agreed to; and it is not denied that, under the practice of the English, not only the United States, but Denmark and other neutral nations had complained. And even in this view it is justifiable, as tending to lessen the evil, to encourage the commerce of provisions, and to avoid a war with Great Britain, which the severe exercise of her claim might excite; what, in the existing law of nations, must, in any case of capture, be determined by the courts of law having a maritime jurisdiction, and as the English practice of seizing provisions in the extensive manner contended for by them had never been before allowed, as it is not allowed by this act.

The letter of Mr. Pinckney on this subject, and which has been so triumphantly quoted as determining the law, does not deny the right of stopping provisions from going to a blockaded port, but denies the construction by which the English had endeavored to maintain their novel and unjustifiable practices; and it is of this Mr. Pinckney complains.

These complaints may be also fairly answered together by observing that if there had never been a treaty with Great Britain, and she had main-

tained the same conduct towards us as the treaty authorizes respecting nations with whom she is at war, the depredation to France would have been the same, and the only alternative to us must have been war, or a submission to the construction by Great Britain of the law of nations, and from which her superior force prevents an appeal. As to the increase of the list of articles deemed contraband of war, it was no violation of neutrality, even determining by the Convention of the Armed Neutrality. Here the evidence from that convention concludes against those who would establish this complaint. It ought to be understood that the declaration of the King of Denmark, making a part of that convention, relies upon his treaty with Great Britain, and which expresses and makes contraband the same lists which are enumerated in her treaty with the United States.

If there is a necessity of yielding to France, and giving up principles which are just and honorable for us to maintain, let it be done in the mode pointed out by the Constitution—by the means of discussion between the Minister of the Executive and the Directory of France. He thought it a matter of great importance to the United States that we should preserve those articles in our treaty with France, which give freedom to our commerce in time of war, and which limit the articles of contraband. To suspend our advantages during the present war in compliance with France, if she requires it, would be better than a total relinquishment. The close of this war may give an opportunity of discussing this subject more successfully than it could be done at this time. Perhaps the United States may obtain even from Great Britain to consider and agree to make goods free on board of free ships in all cases but those of actual blockade and investment; we may obtain from her to limit the articles of contraband. If it can be done, it is needless to say that our commerce will be greatly benefited, and in the periods of European war will very much increase. In any view, he asked, why surrender this part of the treaty with France without a reciprocal stipulation as to some articles which are disadvantageous to the United States? Why is this to be done out of the ordinary course, and by the direction of the House of Representatives, without the concurrence of the other departments of the Government? He here anticipated an argument which he had intended to offer in another place, and proceeded to show that the House could have no reason to hesitate in giving their confidence to the Executive, for there had been no remissness of endeavors for entering into a negotiation with France; on the contrary, it would appear from the highest authority that attempts had been made to negotiate, and that the negotiation had been directed to the very object of our present concern; and had there been on the part of France a disposition to accommodate, they might long have had satisfaction upon all the complaints which any of the committee have thought deserving of consideration. He then read from Mr. Pickering's letter to Mr. Adet, dated June 30, 1795, several passages to prove the eagerness which the Executive then discovered to Mr. Adet for a negotiation with France; and having contrasted the conduct of the Executive of the United States, in overlooking Mr. Adet's want of formal powers, with the conduct of the French Directory, who were supposed by their advocates to have driven Mr. Pinckney from France because he had not the character of a special Envoy, he proceeded to read some passages from a letter of Mr. Adet, stating objections to the British Treaty, and the reply of the Secretary in July, 1796; and upon these he argued the eagerness of the Executive of the United States to give France satisfaction on the subject of those complaints which Mr. Adet had offered as objections to the British Treaty. In fact, he was ready to allow that the advantages supposed to be secured to our commerce by the treaty with France, but which, in fact, we had never enjoyed, as France had instantly and openly violated the treaty in this respect, could not be retained unless all nations would submit to the same rule, or unless neutral nations should arm themselves in support of the rights of their neutrality; but, with the United States, the commercial advantages to be obtained would never compensate for the hazard and expense of arming. To concede these articles of the French Treaty, during the period of the present war, was a matter of no importance; but to retain them as a subject for discussion when peace should ensue, and with a view to their being generally adopted, appeared to him to be very important. To make the concession, as proposed by the amendment, was at once to lose our hopes of an equitable arrangement, which might prove so advantageous to the commerce of neutral nations. Suppose, said he, that the amendment before the committee is agreed to, and an Envoy Extraordinary is sent to Paris, carrying with him, not as concealed instructions, but openly, this direction of the House of Representatives to the Executive of the United States, what will the Executive Directory say? "Your Representatives have conceded to France this article of your treaty, and are desirous we should have a right to inflict upon you all the losses which you suffer at the hands of our Envoy." If this Envoy talked of entering into stipulations, they would tell him he had nothing to argue: "You have your instructions from the Representatives of the people—look to them." It would be in vain for him to urge his instructions from the President. They would answer him, "We know your Government; your Executive is separate from the people; it is an idea we have a long time entertained; now you see it verified. The House of Representatives, the immediate Representatives of the people, declare the fact."

I have endeavored to come to this conclusion, for, after all the violations of our neutrality, the depredations and spoliations on our commerce by both France and England have little to do with the question before us.

The question is, whether we will agree to such an Address as will show our disposition to defend our country in case peace cannot be maintained

with France. Whether the United States shall have peace or war with the French Republic, was, in his opinion, to depend upon events over which we have no control.

The French are not pointing their measures against the United States in particular, but they mean to compel all other neutral nations to abandon the British commerce. To this end they have coerced the Republic of Genoa. Their influence has been more direct still upon Geneva, whose Government they have overturned without any open war; they have annihilated the independence of the Dutch, and they lead as in strings the humbled Monarch of Spain. It is not the United States alone that is threatened: Denmark, Hamburg, and Bremen, have heard the mandates of the French Directory, and are required to withhold from any commerce with England. It depends, then, upon the power which France may have to execute these intentions, whether the United States shall be alike coerced.

Looking upon this country as involved in the general designs of France, we should provide for our defence before she shall suddenly overwhelm us, annihilate our Government, and reduce us again to the abject state of Colonies. If this cannot be done, we must abide the misery which we cannot avoid. Let us have it to say that we were not negligent in providing against the evil; that our nation did not meet its fate without a struggle; and that we did not at once join with France in producing the misfortunes of our country. Let us have it to say that we have fortified our harbors; that we animated our militia, and armed our shipping; but, after all, that we were forced to submit to events we could not control.

He believed that we had resources in ourselves, and that we should obtain the aid of foreign nations. It is not to be supposed that they will look on inattentive, or that they will be indisposed to join in alliance with any nation likely to be involved in their common calamity. If France has already divided many nations, and by that means overcome them—if she is still rushing on in her mad career, the time may come when all nations, seeing no end to her ambitious projects, will rise together to oppose her. Their united exertions may succeed against the overwhelming power of France, and secure to the nations their independence.

There is a hope that our danger may be prevented by various circumstances. France is yet in a revolutionary state; there are frequent changes in the French Government. A change of men may produce a change of measures, and the apprehension of driving us into a close foreign alliance may have considerable effect in preventing her from prosecuting any hostile intention she may entertain against us.

He did not mean to insinuate that any gentleman in the committee was in the smallest degree under the influence of France. He would attribute observations and arguments unaccountable to him to that sentiment of gratitude to France of which so much has been said.

He thought if we could relieve ourselves in the present crisis by our own exertions, we shall be more secure hereafter, we shall have less confidence in the kindness of France, and we shall become more secure, as we are convinced that our happiness depends alone upon ourselves, upon the love of our country, and the support of the Constitution, and a disposition to defend it against all encroachments from foreign influence or domestic faction.

If the Address to the President is viewed in this interesting light, we cannot hesitate to reject the amendments; we cannot hesitate to leave it to the proper constituted authorities to make the compromise, which we all desire with the French Republic.

He had been surprised to hear it said that the President's Speech was a declaration of war. Nothing can be more contrary to the truth. In what part is the sound of war? Is a recommendation to arm in our own defence a declaration of war? Is it a declaration of war to say we will defend our Government and ourselves? It might be understood that Americans are attached to their own institutions, and will defend them to the last.

The means of this defence recommended by the President are not now under consideration. There is no choice of measures in the report of the Select Committee; there is nothing intimated that implies such an idea. He understood the reported Address merely to express that we will undertake the defence of the country. If the subject had been thus considered, we had been spared from hearing accusations of the Executive, and a debate to settle the articles of a treaty. We ought to leave that business to the proper envoys, and attend to the necessary public defence, which, instead of plunging us into hostilities, is the best mode of avoiding them. A country well prepared for its defence is not likely to be attacked. Are these counsels of war? No, they are counsels of peace. He then read the principal passages of the Address, observing upon their propriety to the occasion, the necessity of declaring the indignation which every one must feel at the insults offered by the French Directory to the Government, and, as it ought to be understood, through them to the people of the United States, and upon the call we now had to vindicate, by a public declaration, the conduct of the Government in maintaining their neutrality, which he himself was of opinion had been perfectly impartial, and from which no one would accuse them of an intentional departure; and observed that the words of the Address which had been objected to as applicable to the Executive departments alone, evidently comprehended the whole Government; and, after some other observations upon the tenor of the Address, concluded with observing that gentlemen were very improperly anxious to provide for a negotiation with France, and to settle the terms, but for his part, he thought that, if we would promote the negotiation as well as prepare against an unfavorable event, our principal care should be to provide for the public defence.

Mr. Findley followed Mr. Sewall in favor of the amendment, and the sitting was closed by some additional observations of Mr. Otis, and some remarks upon them by Mr. Nicholas.

Saturday, May 27.

Two other members, to wit: from Kentucky, Thomas T. Davis; and from Massachusetts, Tompson J. Skinner, appeared, produced their credentials, and took their seats.

ANSWER TO PRESIDENT'S SPEECH.

The House again went into a Committee of the Whole on the Answer reported to the President's Address; when, Mr. Nicholas's amendment being under consideration, Mr. Bayard opened the debate against the amendment. Mr. Sheppard followed on the same side. Mr. Rutledge also again occupied the attention of the committee against the amendment, and in the course of his observations having noticed some remarks of Mr. Swanwick, he was replied to by him. Mr. Smith next occupied the floor in behalf of the amendment; afterwards Mr. Dana, who was opposed to the former part of it, which related to the rejection of our Minister, but in favor of that part which had reference to the placing France on the footing of other countries with respect to treaties, and with some small exceptions to the other parts. Mr. Dana having finished his observations, and it being the usual hour of adjournment, there seemed to be a pretty general wish to take the question, the call for it being very loud; when Mr. Harper rose, and wished to deliver his sentiments on the occasion. After he had spoken about half an hour, in opposition to the amendment, Mr. Otis informed the committee that he was sorry to say that the Speaker was indisposed, and suggested the propriety of the committee's rising, that the House might adjourn.

The motion was immediately put and carried, and the House adjourned.

Monday, May 29.

ANSWER TO PRESIDENT'S SPEECH.

The House again formed itself into a Committee of the Whole on the Answer reported to the President's Speech, and Mr. Nicholas's amendment being under consideration—

Mr. Harper resumed his observations against the amendment, as follows:

Mr. Chairman, at the time the interruption took place on Saturday, by the unfortunate indisposition of the Speaker, I had drawn near to the close of those observations, with which, at that time, I intended to trouble the committee. I shall now resume, as nearly as possible, the same train of remarks, and bring them to a conclusion as speedily as possible. As more time, however, is now afforded to me, I will take a range somewhat more extensive than I had prescribed to myself on the former day, endeavoring, at the same time, to avoid everything not strictly relative to the question on the amendment now under consideration.

[Mr. H. here observed, that he should go a little out of his way, in order to notice and refute some positions laid down by gentlemen in favor of the amendment, which, though wholly irrelevant to the present question, would have a tendency, if allowed to pass uncontradicted, to render the people discontented with the Government. Having concluded his remarks upon this subject, he proceeded thus:]

The scope and object of this amendment is to recommend it to the President, to offer certain concessions to France, in the negotiations which he has declared it his intention to commence. These concessions are understood to relate to the list of contraband, which is more extensive, as stated by the British Treaty, than in that with France; and to the right of taking enemies goods out of neutral ships, which Britain enjoys, and France, by her treaty with us, has given up. In these two points it is the scope and object of the amendment to recommend that the two nations should be placed on the same footing. Hence the amendment is to be considered under two points of view; first, the recommendation itself; and secondly, the thing recommended.

As to the recommendation itself, I ask, is it Constitutional? is it useful? is it politic?

With respect to its constitutionality, everybody knows that the power of negotiation is given wholly to the President by the Constitution, and that of making treaties to the President and Senate. Can the House of Representatives control or direct that power? Can it instruct the President in matters which the Constitution has entrusted solely and exclusively to his judgment? Shall it undertake to instruct him? will he be bound to obey those instructions? Should he think fit to pursue a different course, will the House be justified by the Constitution and their duty in withholding supplies, and in leaving the country without defence? Do gentlemen foresee the dilemma which they are preparing for themselves and for the House; a dilemma in which they must choose between pride and duty, between supporting the Executive in measures adopted against their advice, and leaving the country defenceless, at the mercy of all who may choose to assail it? What possible effect can this interference have, but to lay the foundations of a schism between the different departments of Government?

But admitting such a recommendation to be conformable to the Constitution, in what is it useful? Is it to dispose the Executive to treat? If so, it is useless, for he already has that disposition, and has strongly declared it in his Speech to both Houses. He has declared it as his resolution "to institute a fresh attempt at negotiation, and to promote and accelerate an accommodation, provided one can be made on terms compatible with the rights, duties, interests, and honor of the nation." He has declared that, if we have committed "errors, and these can be demonstrated, we shall be willing to correct them. If we have

done injuries, we shall be willing, on conviction, to redress them." Can there be a spirit more conciliatory; or would gentlemen wish to see the negotiations conducted on other principles?

Is it to give information to the Executive, to point out the course which the public good requires to be taken? But do gentlemen imagine that the Executive is ignorant of the public interest, or less acquainted with it than the House? Is it not notorious that bodies of this kind are always unfit for negotiation? Have not the people declared it, by placing that power in the hands of the President? Can gentlemen suppose that the House possesses, or can possess, all the information necessary, in forming an opinion about what ought to be given, and what ought to be required, in a negotiation with another nation? Can the House foresee all that may happen, to render this offer inexpedient, or useless, or unnecessary, to justify other offers, or to make demands necessary, instead of offers of any kind? What will become of the power of negotiation in the Executive, if the House is first to instruct him, and afterwards to censure him?

Some gentlemen have seemed to think that this amendment would give weight to the negotiation abroad; would strengthen the hands of the Executive, and place him on higher ground. But how is this effect to be produced? By showing, it is answered, that, in making this offer, all the branches of Government are united, and that the ground thus taken will be firmly supported. But must it not be perfectly evident that the best way of giving this impression is, to pursue a conduct and hold a language which will evince a perfect confidence in the Executive, and a determination to support him with the whole force and resources of the country? Then it is that the offers of the Executive will come with weight, when they come with evidence of union in the Government, and of mutual confidence among the various departments.

Some gentlemen have supported this amendment on the ground that it will give confidence to the people of this country in the Executive: and one gentleman from Virginia (Mr. Nicholas) has gone so far as to say, that the people of this country will not support the Government unless its measures are right. Admitting this opinion to be true, (and I am inclined to think it may be,) still it will remain to be inquired, by what means and on what standard the people would form their opinion of the propriety and wisdom of the measures pursued by their Government. Not certainly from the declarations of that gentleman or his friends; because there has not been one measure adopted by the Government since its formation which they have not opposed in the House and out of it, on which they have not set the stamp of their most decided censure; and yet, sir, we have seen all these measures supported and approved of by the people. We have seen the late President, who was in a peculiar manner the author of them, under whose auspices they were adopted and established, in spite of the most violent and persevering opposition from these very gentlemen—we have seen him surrounded with applause, with gratitude, and with thanks, from every quarter of the Union; we have seen the wisdom and firmness of his administration made one very principal ground of these thanks and applauses; and even in a former House of Representatives, where the principles of these gentlemen did so greatly preponderate, when they moved to strike out of an address to this great man a clause expressly approving his administration, as wise, firm, and greatly beneficial to his country, the motion was overruled by a very large majority; and when the address itself, containing this obnoxious clause, was put to the vote, it passed with only twelve nays. Yet gentlemen talk to us, as if they were the standard by which the people would measure the conduct of Government! Sir, the people are not truly estimated by those gentlemen. They are not the blind, ignorant herd which those gentlemen take them to be. They will do in future what they have always done heretofore—they will judge of the measures of Government by the measures themselves, and by the just confidence which they have long placed in those whom they have appointed to administer it; not by the opinions or invectives of this or that set of men, either on this floor or out of doors. Gentlemen ought to be admonished, by the frequent and always unsuccessful appeals which they have made to the people, to give up at length this vain chimera of being able to rule public opinion, with which they have so long suffered themselves to be deluded.

I hold, sir, in my hand a paper from that very quarter where gentlemen probably suppose, and not without appearance of reason, that their labors in the vineyard of opposition have been crowned with most success. It is an address from Mecklenburg county, in Virginia, to their Representative on this floor, and contains sentiments so just, so truly patriotic, and so applicable to the point of confidence in Government, that I cannot help reading it to the committee, though I am sensible it must have already attracted the notice of every individual. [Mr. H. then read the address.]

This paper, sir, affords a most consoling and honorable contrast to the speeches which have lately been heard on this floor. It contains sentiments which I have no doubt are reverberated from the hearts of every American in every part of the Union, and which prove how far the people, even that part of them on which these gentlemen have most particularly relied, are from sharing with them in their want of affection for the Government, and of confidence in its measures. There is nothing in this address to prove that the people in that part of the Union will refuse to support the Government, unless those gentlemen should inform them that its measures were right.

I also consider the recommendation contained in this amendment as extremely impolitic. Is it good policy to show the enemy your eagerness to treat, your eagerness to make concessions? Is it good policy to show to France that you have no

confidence in the Executive, in his wisdom, his information, his patriotic intentions, that you think it necessary to instruct and direct him? Is it good policy to send the Executive trammelled to France; to send him in a situation, where he must either yield to a part of her demands, or go against the recommendations of this House? Is this the way to give weight to his negotiations, or to lessen her demands? Is it true, that there is in this House a majority who do not confide in the Executive? I repeat the question, and I address it not to those gentlemen whose constant employment it has been for eight years past, in the House and out of it, to oppose the Executive and every measure which he was understood to favor, to declare their distrust of him, and endeavor to weaken that confidence so justly reposed in him by the people. I address not myself to these: I address myself to those gentlemen, and some such there no doubt are, who, entertaining just ideas of the Constitution, and reposing full confidence in the Executive, may, nevertheless, be inclined to favor this recommendation, because they think it a harmless thing. I could ask these gentlemen, whether there is a majority in this House who do not think the Executive worthy of confidence in the performance of his Constitutional functions? I could ask them whether they are willing to make this declaration, if they do not believe it? I could ask them whether, admitting it to be true, it would be prudent to tell France so? I would ask them what, beside such a declaration, France can see in this amendment? I answer, and they must, I think, join me in the answer, that she can see nothing else. She will see in it a proof and confirmation of her present opinion, that we are a divided people; that the people are divided from the Government, and the Government divided within itself. This will encourage her to press and heighten her demands; for, seeing us, as she will think, divided, she will remember one part of the Scripture, while she forgets all the rest, that "a house divided against itself cannot stand."

As I believe this recommendation to be unconstitutional, useless, and highly impolitic, I can never give my vote in its favor.

I will now ask gentlemen, who may think the recommendation not improper, whether the measure recommended is entitled to their support? Why should it be entitled to support? Either because it is necessary, or because it is useful; because it is demanded by justice, or recommended by good policy?

If the measure were really necessary, or useful, surely the Executive is as well apprized of that necessity and utility, as well qualified to judge about it, as the House of Representatives: and the thing will be as well done by him alone, and will have as much effect, as if the House were to join in it: the claims of justice can be as completely satisfied in one case as in the other; the ends of policy as completely attained. Though I myself have very little reliance on the usefulness of the measure, and no conviction of its necessity, still I, for one, am perfectly willing that it should be tried by the Executive, and perfectly willing that it should be effected, if the Executive think fit. Neither have I any doubt that it will be tried. The very debate in this House will inform the Executive of the propriety of trying it; and I have no doubt, moreover, that the Executive is disposed to make the attempt, to offer these advantages to France. I know nothing directly of the opinion of the Executive, but I know that those who are about the Executive have this opinion, and are disposed to make this offer to France; not perhaps in the unqualified and unconditional manner recommended by some gentlemen, but on terms consistent with the honor and interests of this country, and with which the public, when it comes to be informed of them, will be satisfied. I, therefore, even if I thought this measure not only useful but necessary, should still leave it most willingly to the President. But as there are gentlemen in the House, who may be inclined to favor the recommendation, from an opinion that the measure recommended is necessary or useful, I will address some considerations to them, by which they may, perhaps, be induced to doubt whether it is either the one or the other.

First, I ask them, how this measure, this concession to France, can be necessary? Do gentlemen contend that this country is too weak to defend her rights; that it must yield to the demands of a foreign Power, merely because those demands are made? I have not so understood them. Supple as their language has been, and submissive as their course of policy seems calculated to become, they have not yet bent thus low. But they have contended that this concession is necessary, because it is right; because justice requires it. And how does justice require it? Because, according to them, having yielded these rights to England by our treaty with her, impartial justice requires that we should yield them also to France.

This argument rests on the ground that Britain does not possess these rights by the law of nations, which point gentlemen have taken much pains, and made many elaborate dissertations, to establish. I shall not follow them through this long diplomatic discussion, which is much better suited to the Department of State, and has there been handled in a very masterly and satisfactory manner. I believe, that when the official paper on this subject, lately published from the Department of State, shall be read and compared with the speeches of gentlemen, very little doubt will remain on the point. I have another reason, too, for avoiding a dispute on the law of nations. Gentlemen seem disposed to treat the law, and the writers on it, with as little respect as the one and the other have received from the nation whose cause they advocate. One Minister of that nation, in this country, has declared those writers to be no better than worm-eaten volumes, whose contents he was happy to have forgotten. Another, at Genoa, declared that the French had taken up arms for the express purpose of subverting the law of nations. After this I should be almost afraid to cite writers on the law of nations, lest I should be told, "that they are worm-eaten

volumes." There is, however, one authority on this point, which perhaps may be acknowledged, and which I will therefore adduce. It is the marine code of France herself; from which it appears, that by the law of nations, and her own laws founded upon it, enemies' goods are liable to capture, in neutral ships.

Sir, it appears from *Valin*, vol. ii. page 250, that, on the 21st of October, 1744, the King of France published a regulation, "concerning prizes made at sea, and the navigation of neutral vessels in time of war." The first, second, third and fourth articles specify all the cases in which neutral ships in time of war may sail free from molestation. Then comes the fifth article, which is in these words: "If in any of the cases specified in the first, second, third and fourth articles of this regulation, there shall be found on board of the said neutral ships, to whatsoever nation they may belong, merchandise or effects, the property of His Majesty's enemies, such merchandise or effects shall be good prize, even though they be not the production of the enemies' country: but the ships shall be released." This regulation continued in force till the 26th of July, 1778, when the King of France, having engaged in the American war, (for the Treaty of Alliance was early in February, 1778,) found it his interest to relax from the principle, in hopes of prevailing on England to do so too. Accordingly on that day he published a regulation, by the first article of which, enemies' property, on board of neutral ships, is declared to be safe from capture by French armed vessels. The article, however, contains the following clause: "But His Majesty retains to himself a right to revoke the permission contained in the present article, should the enemy Powers fail to grant a similar permission within six months from the date hereof."

Hence it is clear, that France not only has asserted and long exercised this right, which she charges us with having conceded to England, but even possesses it at the present moment, and may exercise it, if she thinks fit, without violating the law of nations; she being only restrained in those cases, in which, as in ours, she has renounced it by treaties. All this appears from her own laws and public acts; for her relinquishment of this right in July 1778, having been merely conditional and dependent on a similar relinquishment by England, which has never taken place, may be at any moment revoked, and indeed has been; for, notwithstanding all her clamors against the English for exercising this right, it is very well known that she has constantly exercised it herself from the beginning of the present war.

It may, therefore, be expected that we shall not hereafter be told, by either France or her advocates, that the right to take enemies' goods in neutral vessels is not a right given by the law of nations.

It has, however, been contended that the law of nations, in this respect, has been altered by the Convention of the Armed Neutrality. I will not stop to refute this position, which has been so often and so completely exposed; still less will I undertake to prove what is in itself so perfectly obvious, that the Convention of the Armed Neutrality, being no more than a treaty, is confined, like all other treaties, to the parties who agree to it, and can in no manner affect the general rights of other States, under the general law of nations; but I will remark, that this objection about the armed neutrality, comes with a very bad grace from France; because France, when requested to accede to this Convention of the Armed Neutrality, expressly declined it. She declined it under pretence, that its principles were already established by her regulation of July, 1778. This regulation, however, as has been seen, was temporary and conditional, and left France at full liberty to adhere to the law of nations, or adopt the principles of the armed neutrality, as she might afterwards find convenient. She afterwards did refuse to accede, as appears by the authority of Mr. Gibbon; in one of whose letters to Lord Sheffield, dated September 11th, 1785, and published in the first volume of his miscellaneous works, page 6, there is found this passage: "The other day the French Ambassador mentioned, that the Empress of Russia had proposed to ratify the principles of the armed neutrality by a definitive treaty; but that the French had declared that they would neither propose nor accept an article so disagreeable to England."

This, sir, is a good comment on their former proceedings with respect to this right; and proves that they never meant to renounce it, though they were willing, for a short time and for a particular purpose, to suspend its exercise. It is true, that France afterwards, in the years 1786 and 1787, made a treaty with Russia, in which this right was finally relinquished. The same thing is done in her treaty with England in 1786. But her having so long retained it, and her very agreement at last to give it up, proves most incontestably that she believes herself to possess it, under the general law of nations.

A dispute has arisen, whether the Convention of the Armed Neutrality is permanent in its nature, or merely confined to the duration of the American war. I have been of the latter opinion myself, on the construction of the instrument itself, and of the acts which have grown out of it; and I shall not enter again into the discussion, which I believe to be wholly immaterial; because, whether this convention be permanent or temporary, still it is no more than a treaty, and can have no effect on the general law of nations. I will, however, correct a mistake into which a gentleman from Pennsylvania (Mr. Gallatin) has fallen on this subject. In order to prove that the Convention of the Armed Neutrality was permanent in its nature, that gentleman has asserted that Portugal acceded to it after the war. But the gentleman has forgot the dates. The accession of Portugal was signed at Petersburg, July, 1782, and ratified at Lisbon, September, 1782. The ratifications were exchanged on the 21st of January, 1783; whereas the provisional articles of peace were not signed till November 30th, 1782. The armistice for suspending hostilities took

place on the 20th of January, 1783, and the definitive treaty, by which the war was really ended, was not signed till September, 1783, many months after the accession of Portugal. That accession even preceded the provisional articles by some months; and yet the gentleman from Pennsylvania has told the committee that Portugal acceded after the war.

The gentleman, however, has given up the point, so strongly contended for by others on the same side of the House. He has admitted that we did not, by the treaty with England, concede to her the right respecting neutral bottoms; but he contends that we should have made no commercial treaty with her till she had relinquished that right. I will, however, ask that gentleman and the committee, whether it is not wise to obtain the modification of a right which operates unfavorably to us, when we cannot obtain its relinquishment? Is it not wise and lawful, since we cannot prevent this operation, to render it as little injurious as possible; to lessen its inconveniences when we cannot quite remove them? This is what the treaty has done; and surely we may do this without asking the permission of France, or giving her cause of offence.

From all this it must evidently appear, that we have not conceded this right to England, since she possessed it by the law of nations; and that we have done France no injury. Consequently, justice does not require us to concede it to her. The argument of necessity, of course, falls to the ground.

Will the argument of utility avail gentlemen any better? They contend, that if not necessary, it would at least be useful to make this concession to France; that if not demanded by justice, it is at least recommended by policy. If so, it may be done by the President without our assistance or advice, and the same good effects will still result from it. But why will it be useful? Will it be valuable to France? Does she want it? Will this concession satisfy her? These are questions which, in my opinion, deserve particular and serious consideration.

In the first place, I would ask how this right can be valuable to France? We are not carriers for Britain. For many nations, indeed, we are carriers, but not for Britain; which, on the contrary, is very considerably a carrier for us. Our produce is often found in her ships; her goods very seldom in ours. Consequently, the right to take British property on board of our ships, is a right of no value to France. Her interest, and a very powerful one it is, consists not in using the right herself, but in taking it away from England. It is not to seize English property in our ships that she is so anxious, but to make French property safe from being seized in them by the English. Could she once accomplish this point, her commerce would float safely in our ships, and England, being prohibited to touch it, would become infinitely less formidable to her. The navy of England would, in fact, become in a great degree useless to her, in a war against France, since it could not touch her commerce secured under our neutral flag; while France, having her commerce thus carried on for her, would be able to employ every ship and every sailor she possessed, in attacking and destroying the commerce and the navy of England. Thus that naval superiority which she so much dreads, and which enables England to counterbalance her power in Europe, would be stripped of all its effects and all its terrors. It is not, therefore, wonderful, that France should be so extremely anxious to deprive England of this right, or so ready to renounce it herself. It is of no use to her, and of infinite use, perhaps necessity, to England.

Accordingly it has been seen, that France, while perpetually urging us to resist the exercise of this right by England, and even quarrelling with us for not doing so, has never hinted the least desire to have it herself. She has not been slow or diffident, everybody knows, in demanding what she thinks useful to herself; and it may, therefore, be most safely concluded, that, since she has not demanded this, she thinks it of no use to her, and does not want it. To show us, indeed, how little she cares about it, she has taken it lately by a formal decree, and yet still continues to quarrel with us, and plunder us.

What reason, then, I would ask, is there for supposing that France will be satisfied by this concession? Does she limit her claims to this? Some gentlemen, particularly one from Maryland, (Mr. S. Smith,) has said so: but does she say so? Is that gentleman in the secret of her councils, or authorized to explain her pretensions? If so, let him show his credentials. If not, the House must take the liberty of judging, not from his assertions, but from the acts of France herself; from the official papers presented by her Ministers. Let the gentleman from Maryland read these papers. He will find in them a great many pretensions to which he will never submit, but not one word of this. That gentleman has said, that her decree of March 2d, wherein she takes these rights, which gentlemen are so anxious to have conceded to her, ought to overrule all her former acts, to be considered as her *ultimatum*, as the final declaration of her wishes, her claims, and her pretensions. If so, why continue to plunder and maltreat us since that decree? Why send away our Minister? Why refuse to receive another, unless all the grievances of which she has complained, and to the redress of which she thinks herself entitled, shall first be removed? Gentlemen have found in that phrase, "to the redress of which she is entitled," a wonderful restriction of all her demands, and a very conciliatory disposition. But who is to declare which are the complaints, to the redress of which she is entitled? Certainly she herself. And where is this country to look for the declaration? Certainly in the official acts of her Government directed to ours, and not in decrees passed long after, nor in the speeches of members on this floor. The first of these acts is M. Delacroix's summary, delivered to our Ministers at Paris, March 9th, 1796, and containing complaints against the whole British Treaty, against

the interference of our courts with French prizes, and against the construction, put by our Government on the laws of neutrality, and on some articles of the Treaty with France. Next comes the decree of July 4th, 1796, for enforcing these complaints. After that is M. Adet's fifth note of October 27th, 1796, communicating this decree; and last of all comes his manifesto, November 15th, 1796, in which all the former complaints made by himself, his predecessors, and M. Delacroix, are enlarged upon and enforced. On the 12th of December following, the Directory refused to receive our Minister, and declared that they would, in future, receive no Minister Plenipotentiary from us, till all the injuries, of which they had complained, were redressed. What are the complaints here referred to? Certainly those contained in the manifesto of M. Adet: for as the Directory had no doubt given him instructions, as to the manifesto and the time of publishing it, they must have known that it had been published, when they gave this answer to Gen. Pinckney; and to that manifesto, and the complaints contained in it, the answer no doubt refers. As to the decree of March 2d, which gentlemen say, ought to be considered as the *ultimatum* of France, it did not take place till two months afterwards: and to suppose that the Directory, in refusing to receive a Minister on account of grievances complained of, had reference to a complaint made two months after, would certainly be to charge them with a very singular absurdity.

I cannot, therefore, be persuaded that these concessions, so much relied on by gentlemen, will satisfy France, since it is certain that they form no part of her present demands, that she never has asked for them, and that they would be of little value to her, if she had them. This conclusion is greatly strengthened by the consideration, that although she had possessed herself of these rights by the decree of July 4th, 1796, and still more formally expressed by that of March 2d, 1797, she still continued to pillage and maltreat this country, under the pretext of other complaints; whereas, had these rights now proposed to be ceded to her, been the sole or the chief object of her desires, she would have ceased to complain and plunder, as soon as she had seized them.

I should be glad to hear what use is to be made of this conclusion: Is it to dissuade our Government from making the offer to France? No; I, for one, wish the offer to be made, and I have no doubt that it will be made, whether recommended by the House or not; but to dissuade the House from relying too much on the efficacy of this offer; to dissuade them from regarding this offer as in any degree an effectual mean of satisfying the demands of France, of checking her insolence, or of restraining her aggressions. To prevent them, if possible, from being led, by confidence so false, into a neglect of those decided and energetic measures of defence, on which the success of the negotiation must entirely depend. This idea, I believe, cannot be too much pressed upon the House. I conceive it to be of infinite importance in the present situation of our affairs. I am persuaded that our only hope of avoiding war or disgrace, lies in a strict and practical attention to it. In order to enforce the more effectually its importance, I conceive that it will be highly useful to inquire what the real wishes and objects of France are, as well as what they are not. In order to find out this, it will be proper to ask what has been the scope of her policy in this country? And what is the ground of her anger at the British Treaty? For my part, I have no doubt that the whole scope of the French policy towards this country has been to draw it into the war against England, and the tendency of the British Treaty to defeat this project, the whole ground of their animosity against that instrument. It is, in my opinion, a vain delusion to suppose that France has conceived this mighty resentment, and is committing these unheard of outrages, on account of this or that article of treaty, this or that advantage given to another nation, and withheld from her. It is the treaty itself which has given her offence; and its tendency to preserve peace between this country and Britain is the ground of that offence. If it should be asked, how this appears to have been the drift of France? I answer, that it appears, in the first place, by the instructions to Genet. These instructions have been given to the public by M. Genet himself, in order to justify his conduct in this country. They must still be fresh in the recollection of most persons; but as there may be some who have not particularly attended to them, or have forgotten their tenor, it will not be improper to cite some of the most remarkable passages. "The Executive Council (says M. Genet) are disposed to set on foot a negotiation on these foundations, (the overtures made by General Washington and Mr. Jefferson for a new treaty,) and they do not know but that such a treaty admits a latitude still more extensive, in becoming a national agreement, in which two great nations shall suspend" (this, sir, should have been translated unite,) "their commercial and political interests, and establish a mutual understanding, to befriend the empire of liberty wherever it can be embraced, and punish those Powers who still keep up an exclusive colonial and commercial system, by declaring that their vessels shall not be received in the ports of the contracting parties." Thus it appears that this treaty is not only to be a commercial, but also a political union: that we are to assist in extending French principles and French influence, under the name of guaranteeing the sovereignty of the people, and befriending the empire of liberty; and that, in order to accomplish this end, we are to shut our ports against all the Powers who maintain an exclusive commercial and colonial system; that is, against the English, Spaniards, Danes, and Dutch. This amounts in substance, and almost in name, to an alliance offensive and defensive with France.

Lest, however, her views should be misunderstood, she has gone on, in the instructions, to explain them in a manner still more clear and explicit. "As it is possible, however, (continues M. Genet,) that the false representations which

have been made to Congress of the state of our internal affairs, of the situation of our maritime force, of our finances, and especially of the storms with which we are threatened, may make her Ministers, in the negotiations which citizen Genet is instructed to open, adopt a timid and wavering conduct, the Executive Council charges him, in expectation that the American Government will finally determine to make a common cause with us, to take such steps as it will appear to him exigencies may require, to serve the cause of liberty and the freedom of the people." This passage, sir, assuredly can require no comment. In the supplementary instructions the system is more fully developed. And, indeed, the passage relative to the point under consideration is so conclusive, that I will cite it entire. These are the words: "The reciprocal guarantee of the possessions of the two nations, stipulated in the eleventh article of the treaty of 1778, can be established upon generous principles, which have been already pointed out, and shall equally be an essential clause in the new treaty, which is to be proposed." In order to understand this, it will be necessary to recollect that the treaty of 1778 was purely defensive; so that France could not claim the guarantee in a war, in which she should be the aggressor. As she was then preparing to attack England, against which she declared war within less than a month after these instructions were signed, this defensive guarantee would not answer her purpose. She therefore evidently wished to make it offensive and defensive. For had she meant to remain on the defensive herself, the defensive guarantee would have been sufficient, and she would have wanted no other. The instructions then proceed thus: "The Executive Council, in consequence, recommend it especially to citizen Genet to sound early the disposition of the American Government, and to make it (the guarantee) a condition *sine qua non* of their commerce with the West Indies, so essential to the United States. It nearly concerns the peace and prosperity of the French nation, that a people, whose resources increase beyond all calculation, and whom nature has placed so near our rich colonies, should become interested by their own engagements in the preservation of these islands. Citizen Genet will find the less difficulty in making the proposition relished in the United States, as the great trade which will be the reward of it will indemnify them in the end for the sacrifices which they may make in the outset; and the Americans cannot be ignorant of the great disproportion between their resources and those of the French Republic, and that for a long period the guarantee asked from them will be little more than nominal for them, while on our part it will be real, and we shall immediately put ourselves in a condition to fulfil it, by sending to the American ports a sufficient force to put them beyond insult, and to facilitate their communication with the islands and with France." Thus it manifestly appears that an alliance, offensive and defensive, in the war which she meditated against England, was to be formed with France; that the object of this alliance was to be the preservation of her islands, and commercial privileges its reward; that we were to make sacrifices in the outset, and be reimbursed by these privileges; and that a French fleet was to be sent to our coast, for our protection. In other words, we were to become the carriers and servants of France, and she was to defend us against England.

This point indeed is so clear, that it has been admitted by the greater part of those who possess any information on the subject. Many gentlemen, however, are of opinion that when Genet was recalled, this system was given up by France. But I ask these gentlemen, what was the real motive of Genet's recall? Was it to disavow his plans, or to satisfy our complaints? Certainly not. His violent and foolish proceedings, which counteracted the plan instead of promoting it, were no doubt intended to be censured, and there probably was a disposition to coax and flatter our Government, by the recall of this Minister, in order to prepare it better for that insidious policy, which was to be adopted by his successors. The true cause, however, of Genet's removal was the fall of the Brissotine party, to which he had belonged; and every person connected with or employed by which Robespierre had removed. Hence the Consuls in America, against whom we never had complained, were removed, as well as the Minister. But did the French Government disavow the instructions or the proceedings of M. Genet? Did his successors relinquish his claims and pretensions? Certainly not. On the contrary, they were all renewed and perpetually urged by those gentlemen, who never ceased to talk to us about efficacious measures against England, about a vigorous reaction. And in the manifesto published by one of them, (M. Adet,) the whole of Genet's measures were expressly revived, and all his complaints renewed and enforced. Even that appeal to the people, which he was disgraced for threatening, was actually made by this manifesto.

The policy of France to draw this country into the war, appears also, from the clamor raised by her and her partisans against the Proclamation of Neutrality. This clamor is fresh in the recollection of us all. Genet cried out against this proclamation; Fouchet indirectly complained of it, and Adet stigmatized it as insidious, perfidious, and "a cloak under which this country presented England with a poniard, to cut the throat of our ally." Societies passed resolutions against it; orators declaimed, and newspapers teemed with abuse. Whence all this, if the object had not been to engage us in the war? Had France, as she pretended, been desirous of our remaining in peace, whence all this rage at the measure, the only possible object of which was to preserve peace? That such was her object is moreover manifest from the measures themselves which she wished us to adopt; for it is impossible to suppose her Government ignorant of the direct and necessary tendency of these measures to bring us into a quarrel with England.

In the first place, she wished us to resist and repel the right, claimed and exercised by the Bri-

tish Government under the law of nations, of taking the property of their enemies on board of our ships. She constantly urged us, not only to deny this right, but to resist its exercise in an efficacious manner. But could she have imagined that England would yield this right to us? She knew that the English, when France, Spain, Holland, and the United States, were in arms against them alone, had refused to yield it, though pressed by the formidable combination of all the neutral Powers, with the Empress of Russia at their head: a combination supported, too, by the united maritime strength of Prussia, Sweden, and Denmark. She knew that, after the American war, Russia, whose treaty with England expired in 1786, and who, as a Power desirous of extending its navigation, was extremely desirous of this concession, had never been able to obtain it from England.

Sir, England has constantly refused it to the formidable fleet, the immense strength, the overbearing influence, and the wise and vigorous Government of the Empress of Russia. She has constantly refused it to the united solicitations of Sweden, and Denmark, and the Hanse towns; though she has carried on a very extensive and important commerce with all those nations. She has constantly refused it, in time of peace, to all of them. To France, indeed, she conceded it in 1780, because she gained great equivalents, and had no interest in withholding it from her, as she could never expect to be engaged in a war without having France for her enemy; and in that case the stipulation could not operate. But what did she say to those nations who might remain at peace, while she and France should be at war—such as the Russians, Swedes, Danes, and Hanse towns? She said, "I will never relinquish this right to you; because it would enable you to become the carriers of France, whenever she is at war with me; and she will thereby be enabled, in her turn, to employ all her ships and sailors in attacking my commerce, while hers will be safe under a neutral flag." In the year 1793, indeed, when Russia entered into the coalition against France, Britain made a temporary cession to her of this right, because the reason for which it had been withheld could not operate, while Russia as well as England was at war with France; but even then she would not entirely relinquish it. All this France perfectly well knew; and, knowing it, could she suppose that England would relinquish this right to us, who had not a single ship of war, when she had refused it to the vast force of the Armed Neutrality—that what she had refused to so many powerful nations she would yield to a people who, though possessing vast resources, could not call them into action without great injury to themselves, and much delay? that what she had refused in time of peace she would surrender in a war, where not only her success, but her very existence, depended on the support of her naval power—and surrender it, too, to that very nation, which, possessing the greatest number of ships and sailors, was most capable of exercising the right to her injury and destruction? No, France expected no such thing. She knew that England would not surrender the right; and when she so warmly and pertinaciously urged us to resist the exercise of it, she could have had no other view than to set the two countries to quarreling. England, she well knew, would not yield. Should we persist, a war must immediately take place.

The same, sir, will apply to the measures she wished us to adopt respecting the impressment of seamen in our ships. It is well known that England insists on a principle, by which all persons once her subjects always remain so, unless the right to their allegiance has been given up by the Government itself. This is the case with all persons born in the United States, or settled in them at the Treaty of Peace. From these she claims no allegiance. But such as have come here since the treaty she still considers as her subjects, and claims the right of treating them as such, whenever she finds them on her own territory, or on the high seas, the common territory of nations. Of this description there are numbers of sailors on board of our ships, and she claims a right to impress them. This right I do not mean to defend; I know that in its exercise it is liable to great abuse, and is particularly inconvenient to this country; but it is claimed and exercised by France herself, and by every other nation, as well as England. Yet France has constantly urged us to resist the exercise of it by England. We have done every thing in our power to induce England to renounce it, and, not succeeding in that, we have taken all proper steps to remedy and prevent its abuse. But this does not satisfy France; she urges us to resist the right itself. Why? Because she supposes that England will yield it? No, sir; no such thing. She well knows that England will not and cannot yield it with any regard to her own safety; it being of the last importance to her in a war like the present, where she has every thing staked on her maritime exertions, to prevent her seamen from passing from hers into neutral ships, where they get better wages, lighter duty, and are free from danger. France well knows, therefore, that England will not yield this right, and this is precisely the reason why she urges us to resist it; because such a resistance must immediately produce a quarrel between Great Britain and the United States.

The same spirit is visible in her other demands; all of which tend to the same point. She wished us to adopt a construction of the treaty that would have given her complete possession of our ports, and shut them to England. She would have armed vessels, and enlisted crews, in our country; she would have sold her prizes here; she would have taken the merchant ships of England on our shores, and in our very rivers; and our courts must not have interfered. No English ship of war could have entered our harbors, which she would not have expelled by simply affirming that it had made prize on her citizens, no matter whether lately or four years ago, whether in the East Indies, the West Indies, Africa, or Europe. Could she have imagined that England would see all this partiality, all these favors to its enemy, without anger and jealousy? Could she have imagined that bitter complaints, or irritating remonstrances, on the part of that country, would not take place? Certainly she could not. She knew that anger, jealousy, and irritation would necessarily be excited; she knew that a system which, under the name of neutrality, would have all the effect of an alliance with her, must produce resentment and remonstrance on the part of England, and that these, added to the ancient animosities not yet extinguished, but heightened on the contrary by recent injuries, must speedily end in hostility.

Sir, the plan of ambition and aggrandizement, pursued by France in Europe, affords additional proofs of her policy respecting this country. I have no doubt, that any gentleman, who will carefully examine the subject, will be convinced, that France deliberately attacked Austria as well as England, and of her own accord, and, in pursuance of a regular system of policy, lighted up the flames of the present war. I shall not, however, stop to examine that question, which would require a minute and tedious detail of facts, and is by no means essentially necessary in the present deliberation. Whether France began the war from projects of dominion, or was driven into it for the defence of her independence, is, in some degree, unimportant at present; since it is perfectly evident, and has indeed been admitted on all sides, that with whatever motives the war began, it has long since been a mere contest for power. In this contest, France, having detached Prussia from the alliance, enslaved Belgium, subjugated Holland, and obtained an absolute control over the Government and forces of Spain, found her progress resisted by nothing but the firm persevering courage of Austria on one side, and the vast maritime power of England on the other. Accordingly, she bent all her efforts to weaken and destroy these two Powers, and left nothing unattempted to divide them. She made continual efforts to induce the Turks to fall on the house of Austria on one side, and to arm Prussia against it on the other. She offered to divide its spoils with Prussia, in order to engage the avarice and ambition of that rival Power, by whose assistance she might break the strength of Austria, and then rule both, with the rest of Germany. As the fear of Russia has kept the King of Prussia in awe, and restrained his enterprises, she has left no stone unturned, to lull the new Emperor of Russia into security, and obtain his acquiescence. By thus raising up enemies against Austria on every side, and pressing upon it at the same time with her whole military force, she is attempting to compel it to relinquish a large part of its territories, and make a peace separate from England. But she constantly refuses either to give up her own conquests, or to make a peace in which both England and Austria should be included. The policy of this is obvious and important. Could she, after having stripped and weakened Austria, succeed in detaching it from England, she would be left free to turn her whole undivided force against that rival nation, so long the great object of her jealousy and hatred, and whose maritime superiority, it has been her policy, for a century, to reduce. In the meantime, she leaves nothing unattempted to accomplish this purpose; and knowing that the naval strength and pecuniary resources of the English depend on their trade, she resolves to assail their trade in all possible ways. Hence her former and recent attempts to exclude English vessels from every port. Hence her instructions to Genet to draw us into an alliance, one condition of which is to be the exclusion of English vessels from our ports. Hence her threats to Portugal of an invasion by Spain, unless English vessels are excluded from the Portuguese ports. Hence her recent attempts of the same kind on Denmark and the Hanse towns.

To the success of this project against the commerce and navy of England, the aid of the United States is of the highest importance, and is so considered by France. I have it from the highest authority, that the plan of a maritime coalition against England, was early formed by France; that to the completion of it the accession of the United States was alone wanting; and that that accession was requested and refused. The pretence of this coalition, was to reduce the exorbitant maritime power of England, and prevent her tyranny over the other commercial States. The object of it was, and the certain effect of it if successful would have been, to break down England; by which means France, who came next to her in naval power, would have been left to reign unrivalled and uncontrolled in her stead. The United States would have been the most important member of this coalition. The great number of their ships and sailors would have enabled them to become the carriers of France, while she should employ all her maritime resources in attacking England. Their privateers also would have struck a deadly blow at the English commerce; and the use of their resources and their ports to France would have given her a decided superiority in the West Indies, and obliged the English to send so great a force there, as greatly to weaken their operations everywhere else. Hence it is evident that France could have no ally so important to her, in the naval war against England, as the United States. Indeed, without their assistance, she could have no hopes of success in the West Indies. Accordingly she took steps to secure this assistance, as soon as she began to form her project against England, and has pursued them ever since with the most unwearied perseverance, and by every expedient of threats, promises, flatteries, fraud, and intrigue.

It being, as I conceive, perfectly manifest from all these considerations, that the plan of France has always been to draw us into the war, the House is furnished with a ready solution of her anger against the British Treaty, and a clue to all her present measures. It is evident, that her anger at the treaty has arisen entirely from its having defeated her plan of drawing us into the war; and it will readily appear, that the whole aim and object of her present measures are to

compel us to renounce it; to drive us into that quarrel with England, into which she has failed in her attempts to entice us. She must either mean this, or she must mean seriously to attack us, and drive us into a war against herself. To discover which of these is her real object, what is the true motive of her present measures, is of the utmost importance; because, till that is done, it will be difficult to determine in what manner those measures ought to be counteracted, which is the point immediately under consideration. I can never believe that it is the intention of France seriously to attack this country, or to drive it into a war against herself. She has too much to lose and too little to gain by such a contest, to have seriously resolved on it, or even to wish it. In her councils, I have observed great wickedness, but no folly; and it would be the extreme of folly in her to compel this country to become her enemy; especially in the present war, when we can throw so formidable a weight into the opposite scale. France well knows our power in that respect, and will not compel us to exert it. She well knows that we possess more ships and more seamen than any country upon earth except England alone. She well knows that our sailors are the most brave, skilful, and enterprising in the world, and, that by arming our vessels, our commerce would soon be made to float safe from privateers; while her fleets and large ships would be kept in awe by those of England. She knows that in the late war, the State of Massachsetts alone, with its privateers, took one-third of all the merchant ships of Great Britain; and that, though she had no commerce to be attacked, these maritime materials, greatly increased since that time, would enable us, if driven to the necessity, to create speedily a formidable marine, with which we could not only defend ourselves, but attack her possessions. She knows that we have a population not far short of six millions, and that the martial spirit which conducted us gloriously through the trying scenes of the late war, though dormant indeed, could not have been extinguished. She knows, that by co-operating with the English, (a co-operation which must result naturally from our being driven into the war,) by opening our harbors to their ships, permitting them to arm, refit, and victual in our ports, to recruit among our seamen and to employ our vessels as transports, we could give them a most decided preponderance in the American seas, under which her own colonies, and those of Spain and Holland, which she most justly considers as her own, must speedily fall. She knows, that in case of a war with us, Spain and Holland, who must be her allies, would be within our grasp. She knows that the Americans could and would lay hold of New Orleans and the Floridas, and that they are well acquainted with the road to Mexico; and she would dread that enterprising valor which formerly led them, through barren wilds and frozen mountains, to the walls of Quebec. She knows, in fine, that to drive this country into a war with her at the present juncture, would bring about that co-operation of means, and that union of interests and views between us and the English, which it has been the great object of her policy to prevent, and which she had undertaken two wars, in the course of half a century, for the sole and express purpose of breaking. It is, therefore, I think, impossible to conceive, that France means to drive or provoke us into war. Her object, in my opinion, must be altogether different. It must be to compel us to renounce the British Treaty, and renew all our differences with that nation, under circumstances of irritation which must speedily end in a rupture. What has led her to form this project? From whence could she derive hopes of success? She has been led to form it, in my opinion, from a persuasion, erroneous indeed, but favored by many appearances, that we are a weak, pusillanimous people, too much devoted to gain to regard our honor, too careful about our property to risk it in support of our rights, too much divided to exert our strength, too distrustful of our own Government to defend it, too much devoted to her to repel her aggressions at the risk of a quarrel, too much exasperated against England to consent to that co-operation, which must of necessity grow out of resistance to France. Various occurrences have combined to produce and confirm this persuasion, and the forbearance which our Government has exercised towards herself, is not the least of them. She has seen us submit with patience to the insults and outrages of three successive Ministers, for the very least of which, she would have sent the Minister of any nation out of her country, if not to the guillotine. The Minister of the Grand Duke of Tuscany, with whom France had recently concluded a treaty, learning that the daughter of Louis the Sixteenth was to be sent out of the country, requested permission to pay her a visit. This request to visit an unfortunate young lady, the near relation of his Sovereign, and whose tender age no less than her sex, her virtues, and her calamities, entitled her to respect, was answered by an order from the Directory to quit the territories of the Republic. His expression of a wish to show one mark of regard to virtuous misfortune and suffering innocence, was considered as an affront by the Government of France, and punished by the instant dismissal of the Minister. Accustomed to act thus herself, how can she impute our long suffering and forbearance, under the perpetual insolence and insults of her Ministers, to anything but weakness, pusillanimity, or a blind devotedness to herself? The conduct of gentlemen on this floor, too, has more and more confirmed her in this injurious opinion of us; has confirmed her in the erroneous persuasion, that there is a party in the very bosom of the Government devoted to her interests. I do not mean to charge gentlemen with acting under French influence. I am persuaded that, in the course they have taken, they believed themselves to be aiming at the good of their country, which they supposed might best be promoted in the manner recommended by them. But I would ask those gentlemen, and I solemnly call on them

to lay their hands on their hearts and answer me—I would ask them, whether the course of conduct which they have pursued is not calculated to impress France with a belief, that they are devoted to her interests and not to those of their own country? Whether the manner in which they have always connected the interests and wishes of France with their opposition to the measures of this Government does not necessarily tend to create and confirm this belief? When she saw them constantly making it a ground of opposition to measures, that they would be hurtful or displeasing to her; constantly supporting those plans which she was desirous of seeing adopted; constantly opposing all that she opposed; what could she infer, but that they were a party devoted to her views? As she knows their numbers and importance, and has these apparently strong reasons for relying on their attachment, what can she conclude, but that however unable they may be to direct the Government according to her wishes, they will be ready and able so to clog its operations as to prevent it from adopting or pursuing vigorous measures against her? She no doubt does believe, and there is evidence of the fact from the most respectable quarter, our Minister in that country, that she has nothing to do but press hard on the Government, in order to lay it, bound hand and foot, at the feet of this party, by means of which she might then govern the country. She is further confirmed in this belief by the conduct of the people of this country; by their warm partiality for her cause and her nation; by their enthusiastic exultation in her victories, and the fond, sympathising sorrow, with which they mourn her disasters. Mistaking the source of these generous emotions, she has seen in them nothing but the proof of a slavish devotedness to herself, which would render this people incapable of asserting their own rights, when it must be done at the risk of her displeasure. She does not know, nor can she be made to understand, that it is the cause of liberty in which she is thought to be struggling, that inspires this enthusiasm, and that, should she change her conduct, and abandon the principles which she professes, these generous well-wishers would be found among the firmest of her opposers. A similar mistake she committed with respect to England, and that mistake further confirmed her original error. She saw much resentment excited by the attacks and outrages of England, and she supposed that resentment to be deep-rooted and durable. She did not know, and could not conceive, that, when England had given up her injurious pretensions for the future, and agreed to make a fair and just compensation for the past, we should forget our resentments, and cherish sentiments of mutual and friendly intercourse. She supposed these resentments to be far more deeply rooted, more universal, and more permanent, than they really are, and relies on them as a certain means of preventing any union of interests and operations between us and England, however recommended by policy or even required by necessity.

In all these delusions she is confirmed by the conduct, the speeches, and the writings, of persons in this country, both our own citizens and hers; by the information and opinions of some of her citizens, who, having resided here, have carried home with them those erroneous opinions which foreigners generally form about countries they visit; and it is to be feared by the behaviour too of some of our citizens in her own country, who, forgetting the trust reposed in them, and the situations in which they were placed, allowed themselves to pursue a course of conduct and conversation calculated to confirm France in all her unfounded and injurious opinions respecting this country. Supposing, therefore, that the people of this country are unwilling to oppose her, and the Government unable; that we should prefer peace with submission, to the risk of war; that a strong party devoted to her will hang on the Government, and impede all its measures of reaction; and that, if she should place us by her aggressions in a situation where the choice should seem to lie between a war with England and a war with her, our hatred to England, joined to those other causes, would force us to take the former part of the alternative; she has resolved on the measures which she is now pursuing, and the object of which is to make us renounce the Treaty with England, and enter into a quarrel with that nation: in fine, to effect by force and aggressions, that which she had attempted in vain by four years of intriguing and insidious policy.

If such are her objects, how is she to be induced to renounce them? By trifling concessions of this, that, or the other article of a treaty; this, that or the other advantage in trade? No. It seems to me a delusion equally fatal and unaccountable, to suppose that she is to be thus satisfied: to suppose that, by these inconsiderable favors which she has not even asked for, she is to be bought off from a plan so great and important. It seems to me the most fatal and unaccountable delusion that can make gentlemen shut their eyes to this testimony of every nation, to this glare of light bursting in from every side; that can render them blind to the projects of France, to the herculean strides of her overtowering ambition, which so evidently aims at nothing less than the establishment of universal empire, or universal influence, and has fixed on this country as one of the instruments for accomplishing her plan.

It is against this dangerous delusion that I wish to warn the House and the country. I wish to warn them not to deceive themselves with the vain and fallacious expectation, that the concessions proposed by this amendment will satisfy the wishes or arrest the measures of France. Do I dissuade you from these concessions? Far from it; I wish them to be offered, and in the way the most likely to give weight to the offer. It is a bridge which I am willing to build, for the pride of France to retreat over; but what I wish to warn the House against, is the resting satisfied with building the bridge, to the neglect of those measures by which France may be induced to

march over it, after it shall be built. I wish to negotiate, and I even rely much on success; but the success of the negotiation must be secured on this floor. It must be secured by adopting firm language and energetic measures; measures which will convince France, that those opinions respecting this country, on which her system is founded, are wholly erroneous; that we are neither a weak, a pusillanimous, nor a divided people; that we are not disposed to barter honor for quiet, nor to save our money at the expense of our rights: which will convince her that we understood her projects, and are determined to oppose them, with all our resources, and at the hazard of all our possessions. This, I believe, is the way to insure success to the negotiation; and without this I shall consider it as a measure equally vain, weak, and delusive.

When France shall at length be convinced that we are firmly resolved to call forth all our resources, and exert all our strength to resist her encroachments and aggressions, she will soon desist from them. She need not be told what these resources are; she well knows their greatness and extent; she well knows that this country, if driven into a war, could soon become invulnerable to her attacks, and could throw a most formidable and preponderating weight into the scale of her adversary. She will not, therefore, drive us to this extremity, but will desist as soon as she finds us determined. I have already touched on our means of injuring France, and of repelling her attacks; and if those means were less than they are, still they might be rendered all-sufficient by resolution and courage. It is in these that the strength of nations consists, and not in fleets nor armies nor population nor money: in the "unconquerable will—the courage never to submit or yield." These are the true sources of national greatness; and, to use the words of a celebrated writer, "Where these means are not wanting, all others will be found or created." It was by these means that Holland, in the days of her glory, triumphed over the mighty power of Spain. It is by these, that in latter times, and in the course of the present war, the Swiss—a people not half so numerous as we, and possessing few of our advantages—have honorably maintained their neutrality amid the shock of surrounding States, and against the haughty aggressions of France herself. The Swiss have not been without their trials. They had given refuge to many French emigrants, whom their vengeful and implacable country had driven and pursued from State to State, and whom it wished to deprive of their last asylum in the mountains of Switzerland. The Swiss were required to drive them away, under the pretence that to afford them a retreat was contrary to the laws of neutrality. They at first temporized and evaded the demand: France insisted; and finding at length that evasion was useless, they assumed a firm attitude, and declared that, having afforded an asylum to those unfortunate exiles, which no law of neutrality forbade, they would protect them in it at every hazard. France, finding them thus resolved, gave up the attempt. This was effected by that determined courage which alone can make a nation great or respectable; and this effect has invariably been produced by the same cause in every age and every clime. It was this that made Rome the mistress of the world, and Athens the protectress of Greece. When was it that Rome attracted most strongly the admiration of mankind, and impressed the deepest sentiment of fear on the hearts of her enemies? It was when seventy thousand of her sons lay bleeding at Cannæ, and Hannibal, victorious over three Roman armies and twenty nations, was thundering at her gates. It was then that the young and heroic Scipio, having sworn on his sword, in the presence of the fathers of the country, not to despair of the Republic, marched forth at the head of a people firmly resolved to conquer or die; and that resolution insured them the victory. When did Athens appear the greatest and the most formidable? It was when giving up their houses and possessions to the flames of the enemy, and having transferred their wives, their children, their aged parents, and the symbols of their religion, on board of their fleet, they resolved to consider themselves as the Republic, and their ships as their country. It was then they struck that terrible blow, under which the greatness of Persia sunk and expired.

These means, sir, and many others, are in our power. Let us resolve to use them, and act so as to convince France that we have taken the resolution, and there is nothing to fear. This conviction will be to us instead of fleets and armies, and even more effectual. Seeing us thus prepared, she will not attack us. Then will she listen to our peaceable proposals; then will she accept the concessions we mean to offer. But should this offer not be thus supported; should it be attended by any circumstances from which she can discover weakness, distrust, or division, then will she reject it with derision and scorn. I view in the proposed amendment circumstances of this kind; and for that, among other reasons, shall vote against it. I shall vote against it, not because I am for war, but because I am for peace; and because I see in this amendment itself, and more especially in the course to which it points, the means of impeding, instead of promoting, our pacific endeavors. And let it be remembered, that when we give this vote, we vote not only on the peace of our country, but on (what is far more important) its rights and its honor.

Mr. Gallatin followed Mr. Harper, on the contrary side; and having noticed some remarks which fell from Mr. H., that gentleman rose to explain. The call for the "committee to rise," and for the "question," from different parts of the House, became very loud, when Mr. Giles rose, and said, the gentleman last up had thrown out insinuations of misconduct against (he supposed) one of our late public functionaries in France. Insinuations of a similar kind he had frequently heard out of doors, but he thought them unworthy of notice; but as the gentleman had thought proper to introduce the calumny in that House, and as he was a friend of his, and not here to answer for himself, he wished to know of the gentleman

whether it was to him he alluded; and, if it were, he called upon him for proof of his assertions. Mr. Harper replied, that he did allude to that gentleman, and would, at a proper time, produce evidence of what he had said.

The Chairman reminded the gentlemen that this conversation was out of order.

The confused call for the "committee to rise," and the "question," was again renewed; when the question for the committee to rise was put and negatived, there being only thirty in favor of it.

The question was then put on Mr. Nicholas's amendment—ayes 46, noes 52.

Mr. New moved that the House meet in future at 10 in the morning. The motion was negatived, there being only thirty-six in favor of it.

Tuesday, May 30.

John Fowler, from Kentucky, appeared, produced his credentials, was qualified, and took his seat.

ANSWER TO PRESIDENT'S SPEECH.

The House again resolved itself into a Committee of the Whole, on the Address reported in Answer to the Speech of the President of the United States; when

Mr. W. Smith inquired of the Chairman whether there was not an error in counting the votes on the question of yesterday.

The Chairman replied that there was. It arose, he supposed, from the number of strangers in the House, and their pressing too near the members. The true numbers were—for the amendment 46, against it 52. He requested strangers would not stand so near the members as to cause a similar mistake in future.

The Chairman proceeded to read the third and fourth paragraphs of the Address; when, having read the part which says, "although it is the first and most ardent wish of our hearts that peace may be maintained," &c.

Mr. Dayton (the Speaker) wished to introduce an amendment. He did not believe it ought to be "the first and most ardent wish." It had been well shown by the gentleman from Pennsylvania (Mr. Sitgreaves) that liberty was more dear than peace. He therefore moved to insert "earnest," instead of "first and most ardent." Carried.

Mr. Coit moved the amendment which he had already laid before the committee, after the word "world," in the 4th line of the 4th paragraph, to add, "and although we wish that Republic to stand on ground as favorable as any other nation, in their relation to the United States; yet," &c.

This motion, not being seconded, fell of course to the ground.

Mr. Williams proposed an amendment, intended as a substitute for the above, which was ordered to lie on the table. It proposed to put France on the same footing with other nations, professing that if she was not so, it was not owing to any partiality in favor of any other nation, and that in expressing this wish, the House did not mean to interfere with the powers of the Executive.

Mr. Williams also moved to insert, instead of "we can never surrender our rights," in the same paragraph, "we never will surrender." Carried.

Mr. Lyon moved to strike out, in the 7th line of the same paragraph, "wisdom, dignity, and moderation," and to insert in their place, "good intentions;" as he said he did not come there prepared to approve all the former acts of Government, but for other purposes.

Mr. W. Smith thought it would not show the wisdom and dignity of that House to agree to the amendment.

It was put and negatived, there being only 30 votes for it.

Mr. Coit said he thought that part of the 5th paragraph which related to the Executive Directory would be less exceptionable, and equally convey their disapprobation of such sentiments, if it were expressed more generally, and without any allusion to M. Barras. He proposed, therefore, to strike out from "at," in the 4th line of the 5th paragraph, to "United States," in the 6th line, and to insert, "any sentiments tending to derogate from that confidence; such sentiments, wherever entertained, serve to evince an imperfect knowledge of the real opinion of our constituents."

Mr. Giles seconded the motion, but wished it extended further, as he did not know what was meant by the expression, "to separate them from themselves."

Mr. W. Smith objected to the amendment of the gentleman from Connecticut, (Mr. Coit,) because it was hypothetical. He wished, as the fact was clearly established, to have a direct reference to the Speech of Barras, in their indignation at the sentiments. As the matter had appeared of sufficient importance to find a place in the President's Speech, he thought it was also worthy of their notice. He insisted upon its being an attempt to divide the people of this country from their Government, by speaking insultingly of the latter, and flattering the former. He did not exactly know what was meant by the "suggestion of our former tyrants," but he supposed it meant bribery, and that by "perfidious people," General Washington was included.

Mr. Nicholas was in favor of the amendment. He denied that "suggestion" could mean bribery, or that insidious persons could include General Washington. He hoped the gentleman would not thus make it his business to hunt up for insults. As to the expressions of Government and people, they were certainly one, and could not be divided. The American Government was the people of the United States; and if the remainder of this offensive Address was attended to, it would be seen that the French Government and French people were used as synonimous terms. He allowed that the Speech alluded to was one of the most foolish things he had ever seen, but he could find no serious cause of offence in it.

Mr. W. Smith said, that by the Government, the Executive only was meant. He was con-

vinced of this from the manner in which he had seen the word used in the French Government paper, entitled the *Redacteur*.

Mr. Corr believed, that whatever M. Barras had said, it was not worth their attention. We might defy France or Frenchmen to say worse of us than they themselves said. He did not himself know how far the Speech of Barras was an act of Government; for, said he, when we directed our Speaker to reprimand Randal and Whitney, the words he used upon the occasion were not an act of the House. On another occasion, when the House were about to receive the French flag, they could not call what was said by the Speaker on that occasion, an act of the House.

Mr. Williams said, if Mr. Pinckney's letter was an authentic paper, the Speech of Barras was likewise so; and if so, it was doubtless an indignity to Government. He did not think with the gentleman from Massachusetts, (Mr. Freeman,) that it was "childish gasconade." He believed it was intended as an insult to the Government of this country. As to the gratitude which had been said to belong to the French nation, for their assistance in the war, he thought their services were amply repaid by the separation of this country from Great Britain. Besides, he added, the French never came to the assistance of this country until they saw we were likely to be successful in our struggle.

Mr. Gordon said there could be no doubt of the authenticity of Barras's Speech, since it stood upon the same ground as the rest of the documents. It was a flagrant insult upon Government, in his opinion, and warranted all that had been said upon it, as it was doubtless an attempt to separate the people from the Government.

Mr. Thatcher said the question was, whether or not any notice should be taken of the insulting Speech of Barras. When, said he, the French flag was presented to this House, we were told we were not to stop to reason, but to express forthwith our feelings of affection. But now, when the most unexampled insult is offered us, such as one man would not receive from another, we are not to notice it at all, lest it should offend the French Republic. He knew of only one reason for passing it over in silence, and that, it was true, had some weight with him. That Barras spoke as the organ of the French nation, there could be no doubt; but he had his doubts whether he knew himself what he said. The Speech had strong marks of *delirium*, and he could not help believing that, when he delivered it, he was either *drunk* or *mad*. If the world went on for six thousand years to come, they would never again behold such a production.

Mr. McDowell was in favor of the amendment. He did not think himself bound, as had been insinuated by the gentleman from South Carolina, to echo all the sentiments in the President's Speech. He wished to have an opinion of his own. He agreed that Barras's Speech was an indignity to the United States. He felt it, and would express it; but he did not think this the proper time. He denied the justness of the construction put upon the Speech by the gentleman from South Carolina. He supposed by "perfidious persons," was meant the persons in this country, generally called the "British faction." He differed in opinion also with that gentleman on the subject of dividing the people and Government, and could not allow that the phrase "good people" was intended as an insult. He allowed it was going too far to say that we owed our liberty to France; but being in some respect true, it took off from the offence. He was sorry to see on one side of the House constant attempts made to excite the resentment of the people of this country against France. It was not necessary at present to raise such feelings. They were not about to unsheath the sword, and to say, "We conquer or die." What gentlemen could not effect by reason, they seemed inclined to effect in a different way. He did not think this fair conduct.

Mr. Venable supported the amendment. He did not think any of the objections made against it had much weight in them. He thought the mode of expressing our sense of the indignity shown to this country by the Speech in question, was judiciously chosen by the gentleman from Connecticut. It was most consistent with dignity. It was not wise in them to take notice of every harsh expression which might be used against this country in any foreign nation; for, if such were our conduct, foreign nations would have good ground of complaint against us, and on that floor the account would be settled. Nor did he think it very becoming or dignified in gentlemen in that House so to express themselves as to excite frequent risibility; nor was it very honorable to that Assembly. [Alluding to the gentleman from Massachusetts.]

Mr. Sitgreaves had no doubt of the Speech of Barras being an official paper, and that its object was to divide the people from the Government. If he proved this, he trusted the language of the report would be preserved. It would be allowed that Barras was the mouth of the Directory, and that the sentiments which he speaks, are not his own, but what were beforehand agreed upon. It was doubtless, therefore, a solemn official act. With respect to the observation of the gentleman from Virginia, that what he said respecting our Government was not applicable to the Executive, but to the people at large, he believed he was wholly mistaken; as the word Government, in the French language, constantly meant Executive, as was abundantly clear from the way in which it was used in Mr. Adet's notes. [He quoted a number of passages to prove his assertion.] It was generally used for the Executive in contradistinction to Congress, or any other of the constituted authorities. If it were clearly intended to convey an insult upon our Executive, (and there could be no doubt of it,) even the mover of the amendment could not think it unbecoming in that House to express themselves in the words of the Address.

Mr. Gallatin said whatever might be the insult intended by the Speech of the Executive Directory, he thought it best to notice it in general terms as it was the sentiment which was objectionable

and not the Government of France. But as so much had been said about Government and people, he would say, that an insult offered to the people could not be less offensive than one offered to the Government. He supposed they alluded to the British Treaty, which was as much the instrument of Congress as of the Executive, and of the people as either, since they very generally petitioned in favor of it. He then took notice of the perversions which the gentleman from South Carolina had put upon the words of Barras, and denied that there was the least ground for them, and said that the *Gazette of the United States* might as well be called a Government paper of this country, as the *Redacteur*, that of France. If, said Mr. G., it be our intention to declare war at once, then there might be some propriety in taking hold of every word which would bear to be construed into an insult, but if we wished for peace, it was unwise to do so. Besides, he said, this Speech was not communicated in an official manner, nor could it be so communicated. It was sent by Mr. Pinckney in a newspaper, from which the copy sent to them was translated, but the translation was not even authenticated, as usual. He did not dispute the fact, but it was a thing which they were not bound to notice; indeed, an error with respect to a name appeared on the face of the paper; and being delivered to Mr. Monroe who was no longer Minister, it could not be officially communicated. He therefore thought it was not worth their notice.

Mr. Otis thought it right to pay respect to what was recommended by the President. The question was whether they should notice the insult generally, or in reference to the Directory. He was in favor of the first; but as this was the only opportunity given in the Address of expressing their opinion of the conduct of the French Government, he wished the Address to stand as reported.

Mr. O. remarked upon Barras' Speech. He did not know what was meant by granting peace. When parties were at war, one granted the other peace; or sometimes a stronger Power suffered a weaker to be at peace. He supposed the French meant it in the latter sense towards this country. On condition that we respect her sovereignty! What was meant here? If it was sovereignty over their own nation, we had nothing to do with it; if it was any other, it must be the sovereignty they had over us. He concluded by remarking, that if there were any members in that House upon whom any imputation could rest of their being unduly attached to the French cause, he thought it a good opportunity to come forward and convince the world that the charges were unjust.

Mr. Livingston took notice of what had fallen from the gentleman last up, and showed the folly of adopting an irritating tone; as, if we charged a foreign Government with making use of one disrespectful expression, they would have no difficulty in retorting the complaint, as in the course of that debate, the gentleman from South Carolina (Mr. Harper) had called the King of Spain the humble vassal of France, and had not been sparing of his epithets to other Powers; and the gentleman from Massachusetts (Mr. Thatcher) had termed Barras drunk or mad. He also noticed the constructions put upon the words "granting peace," and "sovereignty," as very extravagant. The Speech, he allowed, was bad enough, but he saw no reason for torturing it in this manner.

Mr. Otis wished to know what he understood by the word sovereignty?

Mr. Livingston replied, that if he were to do that, he supposed he should be called the *Defender of Barras*, as he had already been termed the *Defender of France*. He would not, therefore, do it.

Mr. Giles said the gentleman from Massachusetts had called upon persons who might lie under imputation of being friends to France, to come forward, and show the imputation false. He informed that gentleman that he did not feel his reputation hurt by any imputation which he or any other person might throw upon him. He would rather the gentleman would convince them they were wrong, than call them names.

Mr. Otis explained. He declared he meant only to say that they had been unjustly charged with those imputations, and that such a conduct would show it.

Mr. W. Smith again urged the propriety of retaining the words in the Address as reported, as the amendment proposed had no reference to the President's Speech, as that referred to an official act; whereas the amendment had no relation to France, but would apply to the people of China, or the people of this country, as well as to those of France. He believed the discussion had been of some use, because it was now on all sides acknowledged that the Speech of Barras was an insult, which was not allowed at the beginning of the debate. He could only say that gentlemen died hard; to use the expression of his friend from Pennsylvania, (Mr. Sitgreaves,) they seem determined to *die in the last ditch*. The objections to the words of the present Address, were like the objections of *Thomas Paine* to the writings of Moses. He denied that there was any similarity between expressions used in debate in that House, and expressions used by an Executive authority. No notice, he said, ought to be taken of what fell from members in that House, whilst they were allowed to be in order; and if foreign Ministers attended to hear their debates, and heard things which they did not like, they ought not to take exceptions at it, since they came there uninvited, and it was their duty to say what appeared to them right at the time.

The question was put on the amendment, when there appeared 49 votes for it, and 49 against it. The Chairman declared it carried in the affirmative.

Mr. Evans proposed to have struck out the words "an attempt to separate them from themselves;" but Mr. Venable defending the propriety of the expression, he withdrew his motion.

Mr. Coit thought the first sentence in the sixth paragraph rather sunk the composition. He

wished to strike them out, and "however" in the fourth line, and add after the end of the next line, "by the transactions disclosed by your communications." Carried.

Mr. Dayton (the Speaker) said he had an amendment to propose. It was to strike out the words after "peace," in the eighth line in the sixth paragraph to the word "nation" in the fourteenth line, and to insert, "We therefore receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted, and we cherish the hope that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on grounds as favorable as other countries in their relation and connection with us, will produce an accommodation compatible with the engagements, rights, duties, and honor of our nation."

Mr. W. Smith thought this amendment the same in substance as that which had been negatived, and if so it was out of order.

Mr. Nicholas said the gentleman might satisfy himself it was not the same with his, as it would not give occasion to all the petty objections he had brought against it.

Mr. Dayton hoped the gentleman from South Carolina would take a more manly ground of opposition to his amendment than the one he had suggested. The amendment was not the same as the one rejected, it was not introduced in the same part of the Address, nor would it require to be recommitted, to be inserted. He would also find that some gentlemen would vote for this, who put their negative upon the other; if this would not satisfy the gentleman, he believed the Chairman would.

The Chairman declared the motion in order.

Mr. Thatcher called upon the mover to state in what this motion differed from that which was rejected.

Mr. Dayton said, that this motion contained a principle not found in the report of the committee, viz: to place France in as favorable a situation as other countries, hoping that this will be the means of accommodation. He wished this sentiment inserted in the letters of credence of the Envoy. Yet he wished he might not be charged with standing on forbidden ground. If this sentiment were not inserted in the Address, he should look upon it with perfect indifference. He would have proposed this amendment, if he had not met with a second. He was desirous of preserving peace with the French Republic upon any terms short of national disgrace. The gentleman from Massachusetts would see the difference between the two motions.

Mr. W. Smith spoke at considerable length against this amendment. He said nobody would object to putting France upon as good a footing as Great Britain, if she was not so, but he believed she was now in a better situation. and that therefore she would not consent to be placed on the same footing with Great Britain. He objected to it also, because it held out an idea that reconciliation could only be had through that House, and because it would be an interference with the Executive. He dwelt upon each of these objections at considerable length; and, upon his saying that it was possible if the Executive should think it right not to comply with the direction of the House, it might be made the ground of impeachment, Mr. Dayton interrupted him by insisting upon it that no such construction could be put upon his amendment. Mr. S. begged to differ in opinion, and continued his objections.

The call for the question, when Mr. Smith sat down, was very loud; but, on Mr. Allen wishing the committee to rise, that time might be given for an inquiry how far this motion would go, as he was not sure but some improper treaty might have been made, and if so, it would put France in the same situation, he moved for the committee to rise. It rose accordingly, and had leave to sit again.

Wednesday, May 31.

ANSWER TO THE PRESIDENT'S SPEECH.

The House again resolved itself into a Committee of the Whole on the Answer to the President's Speech, Mr. Dayton's amendment being under consideration.

Mr. Hartley was persuaded there was but one wish in the House with respect to peace, notwithstanding insinuations to the contrary; but he could not agree with the proposed amendment, as he wished the negotiation to be left wholly to the President. The treaty entered into with France provided for their being placed on the same footing with other nations, and wished that right to be recognised by negotiation, and he doubted not the President would do it; for as he must see that peace was the desire of all, he would take such steps as would be best calculated to lead to it. He was against encroachments on the Executive, as, if they once begun, there was no knowing where they could stop. He thought there was no danger of war; it would be a disagreeable thing for men who fought in the Revolutionary war, to be obliged to unsheath their sword against France; but he trusted, before they rose, means would be taken for putting the country into a state of defence.

Mr. Swanwick hoped the amendment would be adopted. The objections against it were of a curious nature. It was first said, if France was put upon the same footing with other nations, we should have an equivalent; they ought to pay for the spoliations committed on our property. Again: it was observed, that to offer them this, would be to put them in a worse situation than before, and that they would laugh at such a proposition. Mr. S. took a view of the advantages which France was said to enjoy, over other countries, with respect to bringing prizes into our ports, and showed that they no longer existed. He took notice of a fact related by Mr. W. Smith yesterday, respecting a French prize being brought into Charleston, and denied that there was any favor done to the French in the business, but the contrary. France, he said, suffered material

injury from the British Treaty, and there needed to be no apprehension of their refusing to be put on the same ground with other nations. He reprobated the idea of being denied the privilege of giving an opinion to the Executive, and said, there was no expression in the Answer which echoed to that in the Speech, with respect to a willingness to retract error, which the Senate had carefully reverberated. If gentlemen were sincere in their wishes for peace with France, he could not see how they could object to the amendment. Why say peace ought not to be made, except redress was received for spoliations? He had himself suffered very materially in this respect, as well as many of his constituents, and he felt, of course, as ardent a wish they should be paid for as other gentlemen; but he did not think it would be good policy to go to war, if satisfaction was refused. This would be probably to risk the loss of a pound for the sake of gaining a penny. Besides it might be, that when these claims came to be settled, France (like Britain with respect to Virginia debts) might bring charges against us, and settle the account. He was willing to leave that business to be settled by the Executive.

Mr. Craik observed, that the gentleman last up seemed perfectly willing to entrust one business with the Executive, whilst he was afraid to trust him with another. With respect to the ground of gentlemen being changed, he wished it might not appear so by any agreement to this amendment, which was exactly the same in effect as that which had been negatived. He expected the mover would have shown wherein it differed from the former, when called upon to do so by the gentleman from Massachusetts.

Mr. Dayton said, the member from Massachusetts would bear him witness that he did answer the inquiry.

Mr. Craik said, if it were so, he had been mistaken. He thought there was no difference between them. He wished to repel the insinuation that the opposers of the amendment were enemies of peace, and enemies of France, which was constantly insisted upon by gentlemen on the other side. He wished to show France the same justice as other nations; but he was not willing to insert the sentiment in this Address. Nor did he wish to go into the inquiry how far they were or were not at present on the same footing. He had the same objection against this amendment that he had against the one brought forward by the gentleman from Virginia, viz: that it was an unconstitutional interference with the Executive, and showed a want of confidence in that part of the Government, which was at present peculiarly improper to be shown. This consideration had been treated very lightly. It was true, that foreign politics had too much mixed in the political conduct of persons in this country; and he believed the distinguishing feature between the two parties was, that one wished to grasp all power in the House of Representatives, and the other to maintain the other branches of Government in the exercise of their constitutional powers. He thought this amendment was calculated to promote the views of the former. The same design of extending that power, had led them to decide the right to decide upon treaties, and to break treaties. He asked whether the power they were about to exercise was a Legislative or an Executive act? If it were intended, as doubtless it was, to influence the Executive, it was certainly of the latter kind, and therefore not their business. But it was said the Executive was anxious to receive this opinion. He found nothing of this sort in the Speech of the President, and he did not know upon what ground this assertion could be made. It was well known, Mr. C. said, that it was insinuated in France that the Government and the people of this country had different wills; it therefore became them to act in such a manner as to repel the charge; but if they agreed to the present amendment, the opinion would be strengthened.

Mr. C. concluded by observing, that although unanimity was very desirable upon a question of this sort, yet it was above all things to be avoided, if it were to be at the proposed sacrifice. The gentleman from Pennsylvania had called upon the committee to convince the French nation that there was no British influence in that House, but he hoped they should not show them at the same time that there was no American influence. He trusted they should not show to them that they were all Frenchmen; that they were divided from the Executive, and had no confidence in it; that the President was under British influence, and that he could not therefore be trusted. This would indeed be re-echoing the calumnies which had been raised against this country.

Mr. Dayton said, that the tedious length of debate, and unprofitable waste of time which the first amendment occasioned, had determined him to submit his proposition to the committee, and without troubling them with his comments, to leave it to its fate. The criticism which it had provoked from the gentleman from South Carolina would have justified him in departing from that determination, even if there had been no other inducement; but as several gentlemen had desired a modification of his motion, he rose more immediately to gratify them, as he found he could do it without affecting the principle.

Mr. D. here particularly pointed out the alteration which he consented to make in his amendment; which, being accordingly made and read by the Chairman,

Mr. D. said, that he trusted that all parts of the House were impressed with the importance of their being united at a time and upon an occasion so critical, when the eyes of a considerable part of Europe were turned upon them, and when they had been informed that their Address to the President, far from passing unnoticed, had probably already influenced the conduct of some of the European Powers towards the United States.

With this information before them, he hoped the gentlemen would not obstinately persist in maintaining their ground, without yielding in the least to each other, and in resisting all advances

towards accommodation, especially when it appeared that their difference was confined to words, or at most to forms, and that in substance they were almost all agreed. From all parts of the committee, a disposition had been avowed to place France on grounds as favorable as other countries, and not a wish had been uttered to the contrary, even by the gentleman from South Carolina, until yesterday. Believing himself that the United States were thus favorably disposed towards that Republic, and very much preferred an honorable accommodation to an unprofitable warfare with them, he had thought it his duty to offer an amendment avowing such principles. He had before said, and now repeated, that he was desirous of maintaining peace so long as it could be effected without the loss of independence, or national honor. He trusted that he should not be charged with a want of zeal in the cause, if he did not particularly answer the arguments, and follow the footsteps of those gentlemen, who had taken it upon themselves to arraign France like a culprit at their bar, and to compel the committee to sit, as it were, in judgment upon the conduct, the motives, and the designs of that Republic; not in relation to the United States, whose interests alone were confided to the care of their Representatives, but in respect to the nations of Europe, who had been leagued for her destruction, and with whose internal regulations and political connexions, that House had nothing to do. If truth had permitted, decency should have forbidden the members to address the nations of Europe, and to say to one nation—"You are enslaved;" to another, "You are oppressed;" to a third, "You are deceived, and your Monarch held in leading-strings by the French Republic under the semblance of friendship." Policy and decorum should equally have restrained gentlemen from such reflections at a time when representatives from those very nations were received and accredited as the Ministers of nations sovereign and independent as ourselves, and permitted, not only to reside in our metropolis, but to sit within these walls, and listen to our debates. If we were discussing the means of maintaining the balance of power in Europe, and were deliberating into which scale the United States should throw themselves as *make-weights*, then indeed such observations might be more pertinent and justifiable; but as the question really was, by what means the peace of this country should be honorably preserved, he could not see the propriety of such reasoning. He hoped he should not be accused of a want of spirit, if he did not assume the high tone of menace which some gentlemen had done; if he did not talk of war as a mere matter of pastime, or of conquering whole provinces, as if they had only to walk over and make them their own, or of buckling on the armor of hostility, and of *dying in the last ditch*.

He had conceived that this country might exhibit becoming firmness, without rushing into intemperance, and that they might show a proper spirit of resentment, without exhibiting the rage of a madman. Fortunately for them, it was not necessary that they should crouch as suppliants at the feet of a master, and hold out a *carte blanche*, to have inscribed on it the terms of the submission and peace; nor, on the other hand, to assume the posture of gladiators, and sound the trumpet of defiance. He, nevertheless, felt the full force of the indignity which had been offered us in the rejection of our Minister; and he owned that he could not calmly hear the French Republic addressing the United States in terms the most imperious, and saying: "This law you must repeal—these decisions you must rescind—those engagements you must annul—before we can have further communion or intercourse with you." Such language was unwarrantable and insulting. But he desired still, if possible, to conciliate rather than to make war; and a sense of gratitude, not yet extinguished in his breast, induced him to moderate his indignation, although it did not prevent his resisting such improper attempts to interfere in the Government. The recollection of what France had been to us in times the most critical, would incline him still to address her, and say: "You Frenchmen were our first, you have been our best, ally. You alone came forward to our assistance at a time when Great Britain not only threw us from her protection, but endeavored to reduce us to unconditional submission. When every other nation fled from our alliance, and all other people avoided any intercourse—treating us rather as rebels than as men struggling for our just rights—then you, people of France, (or, if gentleman prefer it, your Monarch)—strong in your strength, rich in your wealth, supported by your will—nobly held out a helping hand for our protection, and acknowledged our independence. Then was signed that compact which united your fate and interests with ours. But if owing to change of circumstances that treaty operates now to your injury, we will no longer hold you to its observance. That which you generously granted in 1778, as a pledge of friendship, we as liberally restore to you in 1797, when it is in your opinion unequal, and has become a source of disquiet to you. We agree that it should be cancelled. Our laws made for the preservation of our neutrality and peace we cannot repeal; the decisions of our courts we cannot rescind; our engagements with foreign Powers we cannot violate; but we freely consent to cancel that compact existing between us which prevents your participating in the favors granted to Great Britain in the treaty of 1794. This obstacle removed, the three articles of Mr. Jay's Treaty, namely, that of neutral ships not protecting enemy's property; that regulating what shall be contraband, and the provision article, can be extended to you."

This, Mr. D. said, was the language which he conceived to be most proper and dignified on the present occasion. He, however, resisted the construction which had been put upon the second article of the treaty of 1778, and had been the pretext for passing the decree of the 2d March, and by no means admitted that France could

claim those favors as a right. Although he could never consent to repeal the act of Congress of 1794, nor to violate, in the least, our engagements and treaties with other nations at the requisition of France, or any foreign Power, because the independence, the honor, and good faith of the United States forbade it; yet he should rejoice to learn that our Government would think proper to offer at the very commencement of the negotiations to annul the French Treaty, in which their Minister says they find only disadvantages. This, he believed, would be found the truest policy, also, in respect to all other nations whose treaties with us should, from change of circumstances, cease to be equal and reciprocal. They would otherwise be the sources of hostility rather than of friendship and good neighborhood.

The amendment which he offered to the Committee of the Whole had expressed a hope to that effect—that the disposition (which was not questioned) in our Government to place France on grounds as favorable as other countries, joined to a mutual spirit of conciliation, would produce an accommodation compatible with our engagements, rights, honor, and interests. If he had believed that such a disposition did not exist in this country, or that the expression of a hope that it would effect an accommodation could be fairly construed into an improper interference with the Executive authority, he should have been among the last to advocate a motion of such tendency; but as, on the contrary, it contained nothing in it dictatorial or imperative, and as the Speech of the President wanted them to give an opinion relatively to the contemplated negotiation, he was persuaded that it was not liable to any Constitutional objection, and that it might have a conciliatory effect.

After making these general remarks, Mr. D. said, it might be proper to take some notice of the objections of the gentleman from South Carolina, (Mr. SMITH,) which were in conflict with each other. He said "France would be offended at the proposal." If that were true, then, agreeable to the doctrine of his colleague, (Mr. HARPER,) it would inspire them with respect for us. But he added, also, that France would "laugh at the proposal." This was indicative of contempt, and Mr. D. did not see how they could look upon it with such opposite sensations at the same time. The same gentleman went on to say, that to place France on grounds as favorable as other countries, would be to put her on a worse footing than she then stood; and yet, in almost the next breath, he declared that the Representatives would betray the interests of their constituents, if they did not demand from that Republic some compensation in return for granting them such favors. These were inconsistencies which the gentleman must reconcile before he could be entitled to a more particular answer.

Mr. D. then took notice of what had been urged against his amendment, as improperly dictating to the Executive, and as a violation of the Constitution, and showed that it was neither the one nor the other. He concluded by saying, that such a sentiment might have an influence in preparing the way for the favorable reception of their negotiations, and prove the harbinger of peace between the two countries.

Mr. HARPER complained of some insinuations made by the gentleman last up, which he supposed alluded to him, particularly with respect to the terms "gladiator" and "madman." [Mr. D. replied that he did not mean them for him; but, if he chose to take them, the committee would judge of the justness of the application.]

He had no doubt that the President would do all that was wished by them to conciliate the French. He did not know but he would do more; nor was he sure that it would not be proper to do more than had yet been contemplated. He did not know but it would be necessary to deal with France as with Algiers. Such questions were questions of expediency, and the ultimatum should be given with care. It was difficult to say what the designs of the French were. He apprehended they wanted to involve us by degrees in a war with her enemy.

Mr. BALDWIN wished, since they must return an answer, that it should be done in the least mischievous way. He believed the majority of the committee was in favor of the principle of the amendment, and differed only about the manner of expressing it. The treaty of 1778 had long been considered as bearing hard upon the French, and propositions had been made for relaxing it, but they had been refused by our Executive. This conduct the House were called upon to approve; but they choose rather, by means of the amendment, to say, "you have done right hitherto, but, rather than hazard the peace of the country, we wish France to be put upon the same footing with other nations."

Mr. N. SMITH thought members had been more desirous of addressing the people out of doors, than confining themselves to the subject in debate. He insisted that to express a hope that the President would do a certain thing, was to coerce him to do it. He denied the Constitutional right to do this. He charged gentlemen with founding their arguments on the warring in the departments of Government. It was his opinion that Government could not go on except there was an union of design amongst the different parts of it. One branch of Government ought to say to the other, you have done wrong; but full faith should be given to each. The Answer to the Speech of the President should not introduce any new matter by way of advice, but respond only such sentiments as were addressed to them. He was against offering the advice proposed, because it was saying to France and to the world "We fear our President will not do right, except we direct him." It was said the President met with difficulty in his negotiation, which was owing to the slanders which had been spread in France, viz: that the Executive was all English and the people all French. On this account the French looked upon the Executive with a jealous eye. If the committee thought these things groundless, they should assure the French that the President is less

English, and they less French than have been represented, by expressing their confidence in him. But it was said, they should give their ultimatum; but that, if the amendment passed, he said, would not be the case, because the President would make what ultimatum he thought proper.

Mr. Sewall corrected the statement of the gentleman last up, by insisting that our Executive had entered into a negotiation, and did all in his power to form a new treaty, and that it was entirely owing to the French Minister that it was not completed. Mr. S. complained of the remarks which had fallen from the Speaker. If gentlemen were deemed in order by the Chair, he did not think that gentleman was authorized, when out of that situation, to pass his censures upon them. Although the agents of foreign countries were present, he said, they were not to be prevented by this circumstance from expressing their sentiments freely.

Mr. Brent was not surprised that the gentleman just sat down was displeased with the amendment. He had told the committee, on a former occasion, that he had no hopes of reconciliation; he stated that we had nothing to hope but from our own unanimity, and from the combination of foreign nations with us against the aggressions of the French. He did not, therefore, address himself to that gentleman, but to those who did not entertain so despicable an opinion of the French nation—to those who believed the irritation subsisting between the two countries might be put a stop to. To them he recommended the amendment as a concilatory measure. He then examined the different objections which had been urged against it; and insisted upon the right the House had at all times to express their difference of opinion from the other branches of Government, since the Government was made up of checks. He also advocated the right that they had to offer an opinion to the Executive upon important occasions, especially in a case in the event of which war might be involved.

Mr. W. Smith said the doctrine of checks held, as it respected laws which were passed by the three branches of Government, but had nothing to do with business that belonged only to one or two of the branches: for instance, that House had no right to check the President in duties which the Constitution has reposed in him. But the gentleman from New Jersey had introduced a new check—a check on the freedom of speech, when particular characters were present. He did not expect to have heard any such observation, particularly from the quarter from whence it came.

Mr. Dayton wished the gentleman to state what he had said fairly. Mr. D. repeated his expression.

Mr. W. Smith said members were not to be called to account for what fell from them on that floor, and he hoped a remark of the kind would never again be made. He was not at a loss to know the motive for all the anxiety which appeared for the passing of this amendment. The French had never asked for what was proposed to be granted to them; he would undertake to say they had refused it. Mr. S. showed, by the correspondence between Mr. Randolph and Mr. Adet, that there had been a perfect willingness on the part of our Executive to make alterations in the existing treaty with that nation, agreeably to their wishes, and that it was not owing to any thing on our part, that it was not done.

All that could be said for the present amendment was, that it was not quite so bad as the one negatived, for there was not a single word in this which altered the sense from the other. He repeated the propriety of making a stipulation for the payment of our twelve millions of loss by spoliations, which, if the French were not able to pay in money, they might pay in ships of war and frigates. He did not wish France to be put upon the same footing with other countries, because there were stipulations in some of our treaties which he should not like to see in a French treaty; for instance, in our treaty with Sweden, there was an article which had produced great inconvenience—he meant the embargo article. There was an article also in the treaty with Spain which, though it may not be injurious as it relates to that country, he should be very sorry to see inserted in a French treaty. By the 16th article of that treaty, the Spaniards were allowed to take great liberties with our vessels; when their ships of war, in want of provisions, meet any of our vessels, they are allowed to take out of them such necessaries as they stand in need of, for which they give a receipt, to be paid by their Government agents. This liberty he should not like to have given to French vessels, that they might take provisions from our vessels in exchange for a bit of paper. There was also an article in our treaty with Algiers, (the 12th,) which he would not have inserted in a French treaty, viz: "That a citizen found on board an American vessel having no passport, shall be considered as a lawful prize."

It was very extraordinary that gentlemen were continually calling the British Treaty a bad one, and still they wished the French to be put upon the same footing with the British. He would rather give them an equivalent in some other way. The gentleman from Pennsylvania had wished the committee to rally round the standard of peace, (by which he meant the amendment before them.) This put him in mind of the story of a recruiting sergeant, who was beating up for recruits when the Prince of Wales was a little boy, who, seeing some boys playing at marbles, in order to seduce them, said they would have nothing to do but to play at marbles with the Prince. He doubted not every member in that committee wished for peace; but he trusted they had too much discernment thus to be taken in.

Mr. Gallatin said, one of the observations made by the gentleman last up, he could not assent to; he did not believe they were all desirous of peace; for, if he must express his opinion, he did not believe that gentleman wished for peace. Mr. G. drew this conclusion from the variety of contradictory objections which he had urged

against the amendment. To prove that our Executive wished to have remedied the grievances complained of in the British Treaty, he had read letters which passed between the French Minister and the Secretary of State, in July, 1795.

These letters were written before the British Treaty was ratified by the President, and therefore it was not possible they could treat upon the articles contained in that treaty, especially as the powers given to Mr. Adet were given to him before the British Treaty was known. The transaction only showed, therefore, that our Executive was disposed to enter into a new Commercial Treaty with France, more reciprocal than that of 1778. But the offer to treat was made—with whom? With a man who had no power to treat, and he had not heard that the Executive had sent over to France any person empowered to treat with that Government.

But it was said this amendment was big with danger, as it would give to France certain provisions granted in treaties with other Powers, which it is not desirable she should have. An article in the Swedish Treaty was mentioned, but gentlemen should recollect that this was an article of reciprocity; we have the same right in a Swedish port that Swedes have in ours; and as we had heard great complaints about embargoes upon our vessels in French ports, if an article of this sort was agreed upon, it would be a great advantage to us. The next objectionable article was one in the Spanish Treaty, allowing ships of war in distress to take out provisions from our vessels, on giving a receipt. This, Mr. G. said, was allowed by the law of nations, if there had been no provision of the kind in the treaty, and only provided the manner of paying for what was taken. As to the Treaty with Algiers, he could see no connection between that and the treaties in question; yet, even in that treaty, free bottoms were allowed to make free goods. Besides, Mr. G. observed, this Address was to be sent to our Executive, who knew very well what was meant by the expressions used in this amendment. He charged gentlemen with endeavoring to raise the prejudice of members with respect to the treaty in question, in order to get them to rally round the standard of opposition to the amendment. He apologised for having so expressly charged the gentleman from South Carolina with not wishing for peace, but did not mean to retract the expression.

Mr. W. Smith said, he wished to relieve the gentleman from the uneasiness he seemed to feel from having made so direct a charge against him; but he would tell him, that he did not believe (though he had said so) that if the French were not satisfied with the terms offered in this amendment, he would be willing to go to war. And now he thought the account settled between them.

Mr. Coit said, that having brought forward a motion similar in its spirit to the one under consideration, which had not been seconded, and intending to vote against the present, it became necessary to give his reasons. He did not think it the same thing. The difference, it was true, was not very great, but was so great as to induce him not to give his vote for it. It consisted, he believed, in this—in Mr. C.'s amendments the words were "on ground as favorable;" in Mr. Dayton's, "on ground similar to." But he thought the expression ambiguous.

The question, on Mr. Dayton's amendment, was put and carried, there being for it 52, against it 47. The committee rose, and had leave to sit again.

Thursday, June 1.

ANSWER TO PRESIDENT'S SPEECH.

The House again resolved itself into a Committee of the Whole, on the reported Answer to the President's Speech; and the Chairman having read the remaining clauses, and no further amendment being suggested, a motion was made for the committee to rise, and report the Address, with the amendments; which was accordingly done.

The House then took up the amendments, which were read at the Clerk's table, and afterwards the Speaker proceeded to read them, and to take the sense of the House upon each.

The first and second were agreed to without opposition; but on the third being read, viz: the introduction of the following words into the Address—"any sentiments tending to derogate from that confidence; such sentiments, wherever entertained, serve to evince an imperfect knowledge of the opinions of our constituents,"

Mr. Sitgreaves called for the yeas and nays; which were taken, and stood—yeas 48, nays 46, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, Thomas Evans, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Ege, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Mathews, Daniel Morgan, Harrison G. Otis, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charles-

ten, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and John Williams.

The fourth amendment, which was of a trifling nature, was agreed to; but on the amendment introduced by Mr. Dayton being read, Mr. Williams proposed to add the word "justice" in one part of it; but

Mr. W. Smith said, he should propose an amendment, which he supposed would supersede the one moved by Mr. Williams. He wished, instead of directing the President to any particular measure, to make the expression general, which would remove most of the objections to the amendment. He wished to strike out all that followed the word "instituted," and insert "nor can we too strongly express our sincere desire that a mutual spirit of justice and accommodation may produce a conciliation compatible with the rights, duties, and honor of our nation."

Mr. Nicholas said, this amendment was either a substitute, or the same as the original motion, which had been decided yesterday.

The Speaker having read the motion, declared it to be out of order.

Mr. Sitgreaves said, if the motion just made was out of order, he should make one which he believed would be in order. It was to strike out all the words in the amendment of the Committee of the Whole from "conciliation" to the word "exist," and insert "justice and" before conciliation.

Mr. Giles said, that this proposition went to destroy the amendment altogether. If they were to strike out that part of it which went to the placing of France on the same footing with other nations, it would be inferred that they refused to place her in that situation, and would place her in a state of outlaw. He wished, if gentlemen meant this, they would declare it.

Mr. Harper thought the alarm of the gentleman last up perfectly groundless. Gentlemen had constantly declared that their reason for opposing the words to be struck out was an unwillingness to interfere with the Executive authority. They were not disposed to withhold from France what other gentlemen were disposed to give her; but they did not wish to give it to her in this way. If the present motion prevailed, the inference could not be that it was not the wish of the House to preserve peace; the Republic of France would very well understand it.

Mr. Cobb said, the warmth of the gentleman from Virginia had surprised him. He denied that France could draw any unfavorable inference from an agreement to the present proposition: for, said he, if the Lord's Prayer were inserted in our Journals, would the gentleman say it would be rejecting the Lord's Prayer to expunge it? He refused to vote for the amendment of the Committee of the Whole, because he conceived it was neither English nor common sense.

Mr. Venable said there was no occasion for warmth. He could suppose no other view in gentlemen bringing forward the motion, except that they thought the House would vote for it, without understanding the drift of it.

Mr. Sitgreaves did not know that the understanding of the House would be enlightened by the explanation which had been given to the motives of the friends of the motion. He felt perfectly indifferent as to the motives which might be attributed to him by certain persons. He meant this proposition to produce that conciliation which appeared to be the wish of every one. All were agreed that some concessions should be made to France; but there was a difference of opinion about the propriety of an interference with the Executive. He thought, if this amendment took place, it would produce the effect desired; because, if any inequality exists with respect to treaties, it would be removed by this general expression, as well as by a particular one. This was his intention. He did not know how members would vote on this occasion, but he trusted there were those who wished France to have justice done her, who were also desirous of not interfering with the business of the Executive. It was to meet the wishes of such gentlemen that he introduced this amendment. If this sentiment was not adopted, he should vote against any Answer to the Speech of the President which should contain the sentiment introduced by the amendment of the Committee of the Whole.

Mr. McDowell said, that after having discussed this question for nearly a fortnight, and they had come to a vote upon it, an attempt was now made to set aside that vote in an indirect way, instead of meeting it in an open manner. He should have been better pleased with gentlemen if they had employed a part of that time which they had occupied in talking about the powers of the Executive, in enlightening him with respect to the rights of that House. They had been told that they ought not to doubt the wisdom of the Executive—he would do what was right; but he believed the President waited for, and expected the opinion of that House.

Mr. Nicholas said, if he understood the amendment of the gentleman from Pennsylvania, the Constitutional principle, which had been so much talked of, would be as much infringed, if this passed, as if it stood in its present form. He saw no difference, as to the Executive, than this, that by an ambiguous, general expression, their meaning might not be understood.

Mr. Dana said, he was opposed to the amendment, for it might be necessary to make concessions to France, which justice did not require, but which the interest of our country might. Mr. D. said they were possessed of two descriptions of rights, viz: rights of sovereignty, and rights which were obtained by virtue of treaty. They proposed to say to the President in this Address, "we will never surrender our rights as a nation;" but he did not know that it would be for the good of the country that they should maintain all they possessed by treaty, and therefore he did not wish to insist upon it. And he considered this Address as pledging themselves to preserve all our other rights, which he thought it proper at this time to do, especially as they had been called upon by the President for the purpose. The object of this Address was, therefore, to assure the President how far he might rely upon them. But, if an amendment like that which was now proposed to be displaced, was not agreed to, the Executive might suppose the House pledged to do more than they intended to do. He thought the House had a Constitutional right thus to speak, because they had the right to declare war, which gave them this right.

Mr. Potter said, he voted against the amendment in Committee of the Whole, not because he did not wish to put France upon the same footing with other nations, but because he did not wish to give up the ground of recovering redress for the spoliations committed upon our commerce. The same reason would induce him to vote for striking out the words now proposed to be struck out. He thought there had been much unnecessary debate on this subject, about French party and English party. For his part, he should like such an Address best as should mortify both the most.

Mr. W. Smith repeated his reasons for opposing the amendment in Committee of the Whole, and was of opinion that the thing was not clearly understood even by its friends. The Committee of the Whole having, however, declared that France should be placed upon the same ground with other nations, he saw no reason for carrying the matter any further, by inserting it in the Address to be presented to the President. He thought the matter might very well rest here, and introduce the words "mutual spirit and justice" into the Address. If they must, however, suggest to the Executive, he did not think they ought to confine themselves to making concessions to France. Indeed it was contradictory to speak of mutual conciliation, and propose nothing to be done by France. If gentlemen insisted upon this amendment as passed yesterday, he should think it his duty to propose that France should be called upon to do justice, by inserting, "and a disposition on the part of France to redress the injuries committed against the United States."

Mr. S. Smith charged the gentleman last up with repeating the same observations over and over again. Mr. S. denied that the privilege of coming into our ports with their prizes was any longer serviceable to the French, since they were not permitted to sell them. Under these circumstances, he said, the French would not bring their prizes into our ports. Did Great Britain, he asked, keep her Treaty in this respect? No, she did not. It was true she did not bring her prizes into our sea-ports; but she brought them into our rivers and bays, and then sent them to Halifax. But, because the French had come upon our coast with some vessels of war, it had been accounted a very extraordinary thing—though the British ships of war are constantly on our coast. Indeed, he said, they had just taken the brig Liberty, from Philadelphia, and a schooner from Baltimore, (which he saw with pleasure set sail,) laden with some families, chiefly old women and children, who were returning home to Cape Francois, which were sent to Halifax. These vessels of the British keep possession of one of the mouths of our rivers, and yet we are not surprised at it because we are used to it, but because one or two vessels are taken by French privateers, we are greatly surprised.

He was far from justifying the conduct of the French; but he was not for making war upon them, on account of what they had done, because he believed the French Government would disavow many of the injuries which had been committed against us. He vindicated neither nation; both had injured our commerce and entrenched upon our rights. The British, said he, oblige our vessels passing in or out of the bay of the Chesapeake, to *douse their colors;* yet this nation lately made a treaty with us! This was not an agreeable thing to Americans, but they were obliged to submit to it. He mentioned these things to show that France was not singular in her aggressions towards this country.

Mr. Baldwin repeated his objections to the report, which he made yesterday, in order to show the propriety of disagreeing to strike out the words in question.

Mr. Otis did not think it necessary to go into a comparative view of the outrages committed against the commerce of this country by the British and French. He believed the House was tired of such repetitions. The gentleman from Maryland had told them that the British had taken a cargo of old women. The French army and conventions had been introduced amongst them by turns, and now the gentleman had brought forward the old women; whatever effect the former might have had upon their debates, he knew of none this cargo could produce. The question, he said, was now reduced to a narrow compass, viz: to a proposition to insert general words in the place of particular ones. Both were intended to have the same effect, and the object of the present amendment was to produce conciliation. It had been insinuated that gentlemen who voted for the amendment of yesterday could not vote for this; but he thought they might with propriety do it, and, by thus acting, escape the danger of encroaching on the duty of the Executive. It had been relied upon, that because the Legislature had power to declare war, *ergo*, this House has a right to decide upon what terms it will be willing to declare war. He did not think the Constitution ever intended such a dialogue to be held with the Executive; for the House of Representatives and Senate might disagree, and therefore it was a thing not to be anticipated. Though he was charged with being of the war party, yet he did not know that he should be willing to go to war, even if the present negotiation were to fail; indeed, he thought the particular proposition more threatening than any other. But it had been said that if the present motion passed, France would be in a state of outlaw. If such consequences could be seriously charged upon the passing of a motion of this kind, what situation, he asked, were we in? It seemed as if the cup of indignation must be filled to the brim.

Mr. Venable denied that the proposition now

moved was to the same effect as the one intended to be struck out. If it were so, indeed, he would ask why gentlemen were so anxious to have it passed? What did gentlemen mean by conciliation? He believed they meant this—Come over to our side. The gentleman last up had the other day said, let gentlemen descend from their pride and opinion, and come and rally round us. This was a peculiar kind of modesty which that gentleman seemed to possess, and he wished him to keep it.

Mr. DENNIS said, admitting that the words as they stand are not unconstitutional, he could not see why gentlemen should be so tenacious of them. It seemed as if they were distrustful of the Executive. They were told by the public prints that the President had appointed negotiators, men of character, who it could not be doubted would do their duty, and that they were actuated by a disposition to heal the differences between the French Republic and this country. He believed there was a majority in that House who wished to depend upon the Executive. He could only see one reason for the conduct of gentlemen on this occasion, and that was, that they were afraid the Executive would do right, and acquire too much reputation. They want it to appear to the world that it was they who delivered their country from the danger with which it was threatened. Much, he observed, had been said about the rights of that House; he did not mean to go into the subject, but he would ask whether, if the Executive should unnecessarily draw the country into war, would that House, when war was raging among us, refuse to appropriate money for carrying it on? They certainly would not. All would unite in repelling the danger.

Mr. GILES hoped that by this time gentlemen had got rid of their Constitutional scruples, as this proposition involved in it an interference with the Executive in an equal degree with that it was meant to supersede. It would also have an operation upon the next clause of the Address, which asserted that the conduct of Government has been just and impartial to foreign nations, which went as well to France, with respect to her treaties, as to other Governmental acts. This was the difference between the two propositions. Indeed, if it were only a substitute for the words struck out, there would be an objection on the threshold. The object was, were they willing to make some concession for the sake of peace? He would rather give up the spoliations than go to war. He would rather pay for them. But he trusted, if our negotiators proposed to do justice to France with respect to her treaties, this sacrifice would not be necessary. The gentleman from Maryland charged gentlemen with wishing to deprive the President of the reputation of accommodating the existing differences; but, he said, if they had any share of the reputation, they would also have a share of the responsibility for any concessions which it might be found necessary to make, which would attach to him. A curious idea had been started by the gentleman from South Carolina. He thought, having carried the question in a Committee of the Whole, that the matter had gone far enough. So that gentlemen having yesterday agreed to what they thought right, might to-day agree to what they believed to be wrong. He could not conceive that this kind of argument could operate upon the House.

Mr. GALLATIN had no objection to the word "justice" being introduced into the amendment, but not as a substitute for what was meant to be struck out. He looked upon the amendment as of two parts, the first to strike out the words relative to putting France upon a footing equal with other nations; the second, to introduce the sentiment that a mutual spirit of justice will produce accommodation. He was against the first part, and in favor of the other. The question to strike out was the main question reserved. He wished the yeas and nays to be taken upon it.

Mr. SITGREAVES could not suffer misrepresentation to pass unnoticed. It had been said that this amendment was connected with other parts of the Address, and that by agreeing to it, the House pledged themselves to support the existing treaty between this country and France. This he showed was not so. He also referred to what had been said by Mr. DANA on the subject of rights, from whom he disagreed. He insisted that this amendment had nothing to do with respect to approving any past measures of Government; all it was intended to do was, to conciliate the different opinions in the House on this subject.

Mr. GORDON said, it seemed to be insinuated no gentleman could be in favor of this amendment, except such as were averse to putting France on the same footing with other nations; but he would say, that though he wished France to be so placed, and though he felt as much gratitude for the assistance which France had afforded this country in the time of her need as any other gentleman, yet he was in favor of the motion to strike out, because he would avoid all appearance of any interference with the Executive; as he knew how easily opinions slided into advice, advice into precedent, and precedent into mischievous effects. He differed in opinion from the gentleman from Connecticut on the subject of rights, and the construction he put upon it.

Mr. NICHOLAS did not wish the present question to depend upon nice distinctions. He wished gentlemen to recollect that it was not the object of the amendment reported to make war, but to prevent war. That House, he insisted, had a right to say it will not declare war, except such and such things are done. They had the power of preventing war without consulting the Senate. They could say they would have peace.

The question for striking out was taken—yeas 49, nays 50, as follows:

YEAS—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, James Davenport, John Dennis, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William

Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Mathews, Daniel Morgan, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, James Schureman, Thompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumpter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. KITTERA wished to offer an amendment. It appeared to him that the expression of "mutual spirit of conciliation," was improper, as the passage of the Address now stood, without any thing being stipulated to be done on the part of France. He therefore proposed to add the following words, viz: "to compensate for any injury done to our neutral rights, and on the part of."

Mr. HARPER thought this proposition made bad worse. They had been contending for a long time against interfering with the Executive, and now they were about to extend that interference. For himself, the same motive which led him to oppose the former motion would lead him to oppose this, as he never could vote for a proposition of this sort.

Mr. KITTERA hoped the yeas and nays would be taken upon the question. He was against giving advice to the President as much as any one; but if they were to give it, he would make it as consistent as possible, and at the same time that attention was paid to concessions to France, he was not willing to forget our own citizens.

Mr. GILES said this proposition would serve to perplex the business instead of dissipating difficulties. We were to demand from France compensation for spoliations, or what? We will go to war, for that must be the consequence.

Mr. GALLATIN was in hopes this proposition would not have been brought before the House, for, if they voted in favor of this resolution, would it not be putting themselves in a situation of saying, if you do not allow compensation for these injuries, we will seek redress in another way; and if they voted against the resolution, it would appear as if they intended to abandon the claim. Being forced, however, to vote in one way or the other, he must vote against it. He was in favor of making certain concessions, because he conceived it to be for the interest of this country to do so. He should vote against the proposition, because, if the French refused to comply with the condition, war must be the consequence. He wished the question could be avoided, because he saw no benefit that could arise from a decision upon it.

Mr. BAYARD was surprised, that after it had been agreed that it should be recommended to the President to make certain concessions to France, that gentlemen should be opposed to any provision in favor of our own citizens. If the French, said he, complain of inequality with respect to treaties, how much more reason have our citizens to complain of the spoliations committed upon their commerce? He thought this amendment calculated to make a bad thing better.

Mr. VENABLE was apprehensive that a decision upon this question would be a real injury to the claimants; because, if any thing was done which would prevent an accommodation, these claims would stand on a worse footing than at present. He should be sorry to be obliged to vote upon the question, but, if he did vote, he must give his negative to it. There were two hazards to be run; if it were negatived, it would appear as if compensation was not expected, and if carried, and the French refused compliance, war would be the consequence.

Mr. NICHOLAS wished gentlemen to consider what a serious barrier they were putting in the way of the peace of the country—a clog, which, if persisted in, must lead to war. It was possible, he said, they might have carried their zeal too far, but what was it to effect? The peace of the country; whilst the zeal of their opponents led to war. He felt this question of so important a nature, and, in his opinion, so improper to be decided, that he should move the previous question upon it.

This motion being supported by five members, (according to the rules of the House,) the question now became, "Shall the main question now be put?"

Mr. HARPER said, if no other good could be effected by this motion, it had produced declarations in favor of the Executive from all sides of the House. He left it, however, to the ingenuity of gentlemen who voted in favor of the former proposition, to show why they voted against this. He noticed what had fallen from a gentleman from Virginia, with respect to supporting the Executive; he believed the best way of supporting the Executive was to leave him to himself.

Mr. GILES said, when gentlemen were themselves turning round, they were apt to believe all the world was doing so. He thought there would indeed be inconsistency for any member to be in favor of both propositions. He was in favor of peace, not because valuable to a foreign country, but because valuable to American citizens, and he thought the mode he and his friends had advocated was the only one to secure it. He believed the business of spoliations should be left to be settled by the President, in the best way he could do it.

Mr. Allen thought gentlemen seemed too much disposed to lay this country at the feet of France. If the Address were examined, it would be found that we only cherish a hope that France would compensate our wrongs. Surely, he said, this cannot give offence.

Mr. Gordon was in favor of peace, and still in favor of what gentlemen had called a war motion, and against what they called a peace motion.

Mr. Livingston was against the main question being put, because he was afraid, if it were put, it would be lost. He saw no impropriety in the motion; it would be no clog upon the negotiation, because it must be made a part of it. But the losing the amendment would have a bad effect; and he believed it would be lost, because if gentlemen acted consistently who voted against the former amendment, they must vote against this also.

Mr. Goodrich said, that as they had assumed the right of advising the President, he wished at least as much respect to be paid to the claims of our fellow-citizens as to those of the French Republic.

Mr. Sitgreaves saw the difficulty in which gentlemen were placed, which was, either to abandon the claims of their fellow-citizens, or their own views, and he had no doubt in saying that an endeavor to get rid of the question, was an endeavor to abandon those claims. As it was not an ultimatum, it would not be called a war proposition.

Mr. N. Smith said, the argument of the gentleman from New York was a singular one; because, if the previous question was carried, it would amount to a negative.

Mr. Brent defended the argument of the gentleman from New York.

Mr. Swanwick spoke at some length, as to the finesse which had been used on this occasion; as it appeared, he said, that it was the wish of gentlemen to carry this proposition for the sake only of defeating both, when the vote came to be taken on both together. If both propositions could be carried, he should be in favor of both; but he could not consent to vote for this, in order to give gentlemen an opportunity of defeating the other.

Mr. Venable again expressed his embarrassment.

Mr. W. Smith said as the hour of adjournment was arrived, and the debate did not appear to be exhausted, he moved to adjourn.

Friday, June 2.

ANSWER TO PRESIDENT'S SPEECH.

The House again took up the subject of the Answer to the President's Speech. The following amendment being under consideration, viz: "to compensate for any injury done to our neutral rights, and on the part of."

Mr. F. Williams expressed his concern that this motion had been brought forward at all. In order to extricate the House from the difficulty, he had proposed to insert the word "justice," which he believed would have had the desired effect. He did not think it was the business of that House to take into consideration the losses sustained by our merchants from the spoliations of the French; if they chose to run risks, they must take the consequences. But the question having been brought before the House, if it were negatived our merchants would have a claim upon Government for their losses. He wished, therefore, to have kept the subject out of sight, since our citizens would not like to be taxed to pay for these spoliations. It was the opinion of one part of the House, that the proposition for placing France on an equal footing with other nations would have the effect to preserve us in peace; he wished, therefore, that it should go out unclogged. He hoped the mover would withdraw his motion; he thought it would be a conciliatory step, and his proposition, he was of opinion, would answer every purpose.

Mr. Sewall would not have troubled the House on this question, but that part of his constituents being interested in the question, he felt himself called upon to make a few remarks upon it. If this motion had not been brought forward, he himself should have thought it his duty to have introduced something of the sort, since the former amendment was carried. He did not think with the gentleman last up, that the bare admitting of the question would pledge them to pay for the spoliations. He was of opinion that merchants carrying on trade, under the sanction of the Government, were entitled to protection, and to be shielded from insult every where; but he did not understand that this protection went to the making good of losses, but only to protect them with the public force in their defence. The injuries committed against them might, indeed, be so great as to be a just cause of war, or of a partial war of retaliation, or for a call upon the nation committing the injury for redress. It had been denied, when the former question was under consideration, that they were dictating any terms to the Executive. It was then said that they were only about to offer him their opinion; but now, when only a single article was to be added in behalf of our fellow-citizens, it is said to be an ultimatum. This was changing of ground, and brought the amendment, which he did not think very hurtful before, to give them the power of making peace or war in the country; they might force the Executive and Senate into a war against their inclination. The Constitution had provided otherwise: the Executive was to take measures for preserving peace. This was sufficient to show the absurdity of undertaking the business. If, said Mr. S., gentlemen refuse to consider the question, it will be adding insult to injury upon our fellow-citizens. A treaty without this stipulation would be absurd. Was the President to go on with the idea that the only suggestion in this Answer was the ground on which he was to go? If so, and he were to do any thing more, and war were to be the consequence, he would have to bear the opprobrium.

Gentlemen said they had no objection to this

amendment, provided it was not an ultimatum; he had no idea that it could be so considered. It was the more hazardous, since (as he before observed) he believed that no steps which they could take would secure peace. With respect to the consistency of members who voted against the former amendment, from Constitutional scruples, voting in favor of this, he always held it good, that when a measure was carried to their wishes, they ought to endeavor, in justice to themselves and their constituents, to prevent the thing from doing as little injury as possible; and, upon this ground, he should vote for the main question, and against the previous one.

Mr. Williams (after leave was obtained to speak a second time to a previous question, which was obtained by every member who spoke twice on this question) observed, that there seemed to be a difficulty in so amending the Address as to attend to the claims of their fellow-citizens, without appearing to impair their desire for peace. In order to promote conciliation in the House, he should move to recommit the Address and amendments to the Select Committee who prepared it, and, if he were successful, he should move to add some new members to it.

The motion was put and negatived, there being only 24 votes in favor of it.

Mr. S. Smith said that, in the language of Mr. Barras, they presented a novel spectacle to the world. They had been called together by the President to do some act, but they were wasting that time which should be employed in effectual measures—how? To get clear of what he could not tell how to get clear of, without a recommitment. The object of calling Congress together was to take into consideration the spoliations committed upon our commerce, and the indignities shown to our Minister. They had proofs of the latter fact, but none of the former. He had mentioned this the other day, when the Secretary of State was present, expecting that he would have remedied the deficiency. He would again say, when British spoliations were the subject of complaint, they had documents before them. At present they had none, for the representations made by Mr. Skipwith long ago, and which were in a train of settlement, could not now be the object, but something recent. He wished to know whether these were irregular depredations or regular captures. They had been told of certain claims of our merchants. He asked what they were. It was true that a number of merchants (and he amongst them) had contracted with M. Fauchet and others to deliver flour in France, and some of them had got paid and others not. Many of their vessels had been, it was true, improperly embargoed in French ports, for which they had claimed payment; whether it would be obtained or not he knew not. He trusted they were not to go to war to obtain this payment. He was persuaded that when the Treasury of France got into a better state than it was at present, that our merchants would be paid; but if war was to be gone into, there would be an end of payment. Americans had been in the habit of trading to what the French called Rebel ports, in the West Indies, and when the French took our vessels going to those ports, would it be right to go to war to get redress? No neutral Power was permitted to trade with this country when we were declared by Great Britain to be Rebels. Vessels taken in going to British islands, in the West Indies, would be looked upon as regular captures; but those captured in going to the Rebel ports, could not be expected to be compensated. He knew the French had taken vessels bound to these regular ports; but he also knew that their numbers were small, and that, instead of *twelve millions*, it might be found that there had not been to the amount of *half a million*, or a *million* at most, taken in this way. And, said he, shall we go to war to recover this? He trusted not, but that the same course would be followed which had been taken with respect to British spoliations. At that time a negotiator was sent over to Great Britain to settle the business (and a proper person he was, since it was always wise in such cases to send persons who are well known to have a friendly disposition for the nation with whom they go to treat.) He wondered that the Secretary of State should have left the gentleman from South Carolina to refer them to Mr. Skipwith's documents. The man who carried on trade from this country with British ports (which was mostly the case at Philadelphia and New York) was subject to French spoliations. He who traded to French ports was in like manner subject to the spoliations of the British. Both countries plundered us. [Mr. Harper wished to have interrupted Mr. Smith; but Mr. S. would not give way, he said, to a man who had told him, the other day, he knew what he was going to say better than he did before he uttered his words. Besides, he knew it was the practice in county courts to endeavor to confuse a speaker by interruption, but he had been too long in public life to be thus affected.]

The Speaker said, any member had a right to call another to order. Mr. Harper said he did not mean to call the gentleman to order. "Then," replied the Speaker, "You, sir, are out of order."

Mr. Smith proceeded. He said he had lately seen papers, which he meant to lay before the Secretary of State, from which he found that orders had been issued in April last, by Admiral Harvey and General Simcoe, for taking all American vessels bound for Hispaniola, and to carry them into Cape Nichola Mole. He had mentioned, on a former occasion, the manner in which Colonel Talbot had been treated by the British Admiral; the gentleman from South Carolina at that time apologised for his conduct, by saying Colonel Talbot had behaved improperly. He now informed that gentleman, that, so far from this, Colonel Talbot was not permitted to speak to the Admiral.

The indignity shown to our Minister, Mr. S. said, seemed to be more dwelt upon than the spoliations. But suppose, said he, we were to complain to the French Government, might not M. Delacroix say, "What injury has been done to

you? your Minister could not diplomatically be received, since our Minister had been recalled—you have merely mistaken an article in diplomatic proceedings." Suppose this were found to be the case: the complaint would then only be, "You did not show a sufficient degree of politeness to our Minister." The answer might be, "We told him he might remain among us subject to the same laws with other strangers." And surely, said Mr. S., we who are tenacious of our own laws, shall not refuse to respect those of other countries. He confessed he was no diplomatic man, but he supposed this might be the course such a complaint would take.

With respect to the previous question, it appeared to him when principles had been fully determined upon, and an attempt was made to set them aside, this was the best way of preventing the measure. If the gentlemen who supported the proposition would vote for the whole, when amended, he would also vote for it; if not, he would vote for the previous question; because he did not like tricking.

Mr. Harper was not surprised that the gentleman last up should have so far wandered from the subject; nobody who knew him would be surprised. From what he had said, he should have thought the motion before the House had been a call upon the Secretary of State for papers. The reason why the papers the gentleman mentioned were not before them, was, they had not been asked for. He looked with contempt upon what the gentleman had said about the practice of county courts; he thought it indicative of his want of sense and good manners.

Mr. Rutledge wished to make an observation, which, though not strictly in order, he trusted he should be permitted to make, as it was in reference to what had fallen from the gentleman last up.

The Speaker said he could not be permitted to proceed with remarks not in order.

Mr. W. Smith supposed, that as the gentleman from Maryland had been permitted to make his observations, a reply to them ought to be allowed.

The Speaker said, the remark of the gentleman from South Carolina was equally out of order. [He read the rule.] The gentleman having set out with saying what he should offer would not be in order, it was his duty to stop him. He should ask leave of the House for him to proceed. Leave was asked and given.

Mr. Rutledge observed, the gentleman had frequently called for documents with respect to spoliations. The gentleman could not have read the documents on the the table, without seeing Major Mountflorence's papers on that subject, which not only confirmed the taking of vessels, but also the resuscitation of an old law requiring the protection of seamen to be countersigned by the officers of Government. He should vote against the previous question; nor should he think he acted inconsistently in doing this. He disliked the thing; but he was for lessening the evil as much as he could, which was a common course in passing of bills. If the amendment was adopted, he should vote for the whole.

Mr. S. Smith answered, that he had noticed the documents which had been mentioned, when he was up the other day.

Mr. Craik thought there was no necessity for further proof of the spoliations committed upon our commerce by the French, than they had before them. He thought it right that the stipulation in favor of our citizens should be added, and that the attempt to get rid of it by the previous question was unfair, as a refusal to consider the subject would amount to a justification of the spoliations, and to a denial of the right of our citizens to satisfaction. He denied that there was any danger of a war in consequence of the French refusing to make the satisfaction here mentioned; nor could he conceive gentlemen need to be alarmed for the loss of the amendment when amended.

Mr. Nicholas said, it was his wish to offer France the concession already agreed upon, for the sake of peace, and at the same time to convince them that they had nothing to expect from any party in this country, (which it appeared they had been led to believe,) in support of any unjustifiable claim. The amendment which had been agreed to, he thought well calculated to produce this effect; as it declared what these Frenchmen, (as they have been stigmatised,) were willing to do; but now gentlemen came forward and wished to tack another proposition to this, viz., that compensation should be made for spoliations committed upon our citizens. It was not doubted that this was a proper subject of negotiation; but when they saw the zeal which was shown by the Executive in favor of our own claims, they did not suppose these would be forgotten; but they think it possible from the complexion of the Speech of the President, and the reported Answer to it, that it was possible the concession which they had introduced might not be attended to. They wished, therefore, as they believed the peace of the country depended upon it, to express their wishes on that subject; but if the subject of spoliations was introduced in the way proposed, it would be to say, "we will have satisfaction for spoliations, or we will not treat;" for, said he, it is either a *sine qua non*, or it is not; if it were, he apprehended war would be the consequence; if it were not, it could not be of any use, but would destroy the claims of the merchants. He denied that gentlemen averse to this proposition were averse to obtaining redress for the merchants; their object was peace, and they did not wish to clog the negotiation with any thing which might prevent a continuance of that blessing to our country. Mr. N. defended himself and those who voted with him from the charge of being friends of France. He believed they could challenge gentlemen on the other side to show that they had more reason to be attached to this country than they; he thought their fortunes were as stable, their domestic comforts as great, as were those of other gentlemen.

Mr. N. was proceeding on this subject, but was called to order.

Mr. Otis said, he was not deterred from giving

his opinion on this subject, from the high responsibility which was attached to it; he hoped that the previous question would not prevail, but that the main question would be put. If they were brought to a decision on this question, it was not the fault of gentlemen on his side. It appeared to him, there could only be three reasons for wishing to postpone a decision upon the main question; they were, that gentlemen were ready to abandon the spoliations altogether, or that it was inexpedient to enter into the discussion of them at present, or they were not prepared to enter upon it. With respect to the first, he could not believe any gentleman wished seriously to give up the claims. As to the second, he believed it would have been inexpedient, if they had not gone certain lengths; but, if they were to dictate to the President one set of terms, he wished to add something to them which would render them less exceptionable. But this was called a war proposition, a trammelling of the Executive. A war proposition! said Mr. O., to hope for a redress of wrongs! Was it ever criminal to express a hope? Hope, the consolation of the wretched—hope, which the malefactor at the bar may entertain without offending his judge! If this were the case, we were at the last extremity of humiliation. But it would trammel the Executive! If it were not a serious subject, said he, could any man help smiling, that those men, who had advocated the equality clause, should complain of this? If gentlemen, added Mr. O., will knock down the Executive, on one side and the other, it would be necessary for him to have a prop, at some future period, to support himself, either by means of corruption or by force. But, he believed, if they did not encroach upon his prerogatives, he would be able to support himself.

But gentlemen were unprepared to meet the question. Why unprepared? Because we want documents. But, added he, suppose there were no evidence, or that the fact was not true, where would be the danger of hoping redress? What member of the Executive Directory could complain of this? It would only be a vain hope, such as many of them were in the habit of indulging, and which he had never heard was insulting. But would the gentleman from Maryland go back to Baltimore, and say there were no documents? Were there not depredations committed, and at this hour committing, upon the property of his constituents? They would not permit him to doubt on the subject; they would say to him, Look at the tears of the widows and children; our injuries stare every one in the face; they are felt in the heart of every man.

Another reason for adding this clause is, he did not decide that compensation and concession should go hand in hand, but he would not decide the contrary; and if they were called upon to respond to one part of the Speech and not the other, they would be understood to say they should not go hand in hand; for, according to a legal maxim, "The designation of one thing was the exclusion of another." He believed it would be seen by this vote, therefore, who were the friends of the merchants and who were not. He denied that there was any *trap* intended by this question. He professed it his intention to vote for both propositions.

Mr. Gallatin said the question had assumed somewhat of a different shape since yesterday, as several gentlemen had expressed their intention of voting for both propositions. This would have induced him to vote for the amendment, for the sake of conciliation, if he had not strong objections to it. Therefore, when he stated his reasons for voting against the main question, he did it that they might be answered, if they were not well founded.

The gentlemen who supported this amendment said, Surely we can have no objection to express a *hope*. If no more was expressed, there could not be a single objection to it.

Gentlemen needed not to have told them there was no degradation in expressing a hope. If it was nothing more, it would be an unnecessary thing. But the amendment proposed not only hoped that such a disposition would exist, but it went on to say that that disposition would produce an accommodation. It was to this he objected. He considered it in the shape of an *ultimatum*. It was the *condition* of the hope that it would produce accommodation. If that disposition was not found on the part of France, there was no hope of accommodation. This appeared to him to be the literal meaning of the amendment. He might be mistaken; he wished a different construction could be given to it. Mr. G. mentioned several collateral reasons for believing that this was the construction intended to be given to it.

If, said Mr. G., this proposition was meant as an *ultimatum*, it would doubtless strengthen the hands of the Executive. If they were prepared to say, that except the French will pay the amount of the spoliations committed upon our commerce, we will go to war, it would have an effect. Being, however, a doubtful thing, was a sufficient reason for his voting in favor of the previous question. He denied that it was the same thing to say they would not take up the subject as to negative it, since to decline the consideration of it at present would not be to abandon it.

Mr. Dana said he was perfectly satisfied with the vote which he had given on the proposition for placing France on the same footing with other nations. He, notwithstanding, acknowledged the obligation he was under to those gentlemen who seemed to express solicitude at the dilemma in which they supposed those who voted for that question were now placed. However, the solicitude of gentlemen on this account was misapplied, as to himself, as he did not wish to evade a vote upon the main question. He should therefore vote against the previous question.

It had been said that if the proposition now proposed to be introduced was carried, it would be either pledging the House to go to war, or amount to a relinquishment of the claims of our merchants. If he thought it would pledge them to go to war, if not acceded to, he should be against it. The question having been brought up, if no decision

was had upon it, it might be supposed that the House did not consider that any injury had been done to our neutral rights. In case we were disposed to go to war, if this hope was not complied with, we should go on to state we should proceed to act accordingly against France. To suppose the expressing of the hope, in the way proposed, would be offensive to France, was perfectly humiliating. France, said he, has violated our neutral rights, and he hoped she would, at least, pay our merchants the amount of their losses; and he would have expressed this hope if the former amendment had not been agreed to. It was saying no more than that we hoped the French would be honest.

Mr. W. Smith thought it his duty, as representing a large commercial city, to express his sentiments on this occasion. He denied that the construction put upon the proposed amendment by Mr. Gallatin was a just one. It meant no more, he said, than to express a hope that the French would have a disposition to make the injuries done to our neutral rights a subject of negotiation. They had been often told of the justice and magnanimity of the French nation, (he believed, by that gentleman;) and he trusted they would not be so unjust, so atrocious, as, because we express a hope that they will do this, to make war upon us.

Mr. Gallatin interrupted Mr. S. to say that he had never made use of such sentiments; he had never spoken of the French making war upon us. He never said the expressing a *hope* would be an *ultimatum*. He made two propositions of the question, (which he explained as before.) He never said anything either about the justice or magnanimity of the French nation.

Mr. W. Smith said he would not interrupt the gentleman, because he expected he would confirm what he had asserted. Mr. S. said he was first endeavoring to show how it would operate with respect to France; because, if that nation was so great and just as she was reported to be, there would be no danger of war on her part; and he was going to show how far war was likely to take place on our part. In order to support his argument, the gentleman must show that we pledged ourselves to go to war. There was no such thing, and he denied that any such idea existed. No gentleman objected to negotiate; nay, it was known that a nomination had taken place above-stairs of negotiators.

They were now, Mr. S. said, doing the business of the other departments of Government; but, as it had been so determined, they must consider themselves as in their situation. He therefore supposed that House as forming a council to the President. He supposed that the President might be in the chair, and they were advising him how to act. He asked their opinion. In the first place, said he, we answer, you must concede to France the article respecting free ships, &c. Other gentlemen say, that is not all, you must speak of spoliations. They sit down, and begin to draw the articles of instruction for the negotiators. They first mention the concession with respect to the British Treaty; but, say other gentlemen, you must add a hope that payment will be made for spoliations; but they answer, no; you must not ask France for this, that would be an ultimatum. This, said Mr. S., would be our situation. He denied, however, that such a proposition was any more than expressing a hope that the spoliations would become a feature in the negotiation.

Gentlemen asked, why triumph in their dilemma? There was no doubt they were in one; they confessed it. And why? Because they did not wish to make this claim. Why did not they wish it? It was difficult to say; but they might conjecture; and he believed it was, that to agree to such a proposition, would be to say that there had been injuries done to this country by France. Do they wish to hold up an idea that France is justified in their spoliations? Do they think the conduct of our Executive has been such as to provoke them? He hoped not; though the conduct of some gentlemen seemed to imply it. It would be easy to show that this was not the case; and he had no doubt that when our Commissioners came to make a candid explanation of that conduct to the French Government, there would be a disposition on the part of France to make reparation.

But the gentleman from Maryland said there was not many regular captures; that the vessels taken were mostly going to rebel ports; if so, they would be the easier compensated.

Gentlemen allowed that the first part of the proposition was what it ought to be; but it was improper to say anything about spoliations. By this it appeared as if that House intended to *entrap* the Executive. Gentlemen say, if you demand compensation for spoliations, it will involve a war; yet they expect the Executive to make a demand on this head. Did not this hold out an idea that that House was for peace, and the Executive for war? He believed, though this was not expressly said, it had all along been insinuated. We will usurp the right of making a peace proposition; but we will throw the obloquy of the war proposition upon the Executive. We will hold out the olive branch; but the Executive shall brandish the sword!

Mr. S. referred to the measures of sequestration and a prohibition of commercial intercourse, which were proposed when British spoliations were complained of; but now, he said, they were not to express a hope for redress.

With respect to the fear of war, Mr. S. asked if France were to send an agent to make a requisition upon them, if the same arguments as were now used would not apply? Suppose, for instance, they should want five millions of dollars, and if not paid within a certain time war would be made upon us. It might be said, why shall we go to war about this? One campaign would cost more than all this. Would not such language as this encourage them to make a requisition upon us? If they discovered our utter want of spirit to resent wrongs, they might carry on a mockery of a negotiation, and in the meantime let loose their cruisers upon our commerce. In

countries where the French have armies, said Mr. S., they can do all this and more. They say you must raise us so many millions of money, and such a quantity of supplies, by such a day; you must do this, or take the consequence. If we were in their situation (which, thank God, we are not at present, whatever we may be,) we could not help complying.

Mr. McDowell spoke in favor of the previous question, and was replied to by Mr. Otis.

Mr. Brent declared his intention of voting in favor of the previous question, though he had expressed his intention yesterday of voting differently; but, since hearing the arguments of the gentleman from Pennsylvania, and having himself seriously considered the subject, he was determined to vote against now putting the main question.

Mr. Kittera said, he had kept his seat with difficulty when he heard gentlemen speak of this as an offensive proposition to France; he thought to cherish a doubt that they would do justice, would be more likely to insult that nation. Many professions, he said, had been made with respect to wishing the peace of the country to be preserved. Immediately representing people who enjoyed peace above everything else, it would be difficult to make them believe he was not as sincere in his professions for peace as any man. He believed his proposition did not tend to war but to peace. He thought the main question ought now to be put, as the proposition, carried without the amendment, would carry a strong implication that this Government was about to abandon the claims of her citizens.

Mr. R. Williams would make no apology for troubling the House as was common, as he conceived he had a right to express his thoughts on this and every other question presented to him. It was said that if the present motion was not adopted, it would be abandoning the rights of our fellow-citizens. This argument, he supposed, was used to frighten members into a vote which they did not wish to give. He considered the nation as bound to protect its citizens in the legal exercise of their business on the ocean; but, if any other nation injured them, they were to look to their own Government for redress, and not to the foreign nation. It was true, the Government had a right to look for satisfaction for the wrongs. He did not therefore consider this vote as in any degree injuring his fellow-citizens. They did not at present know the amount of the spoliations. It would be an after-consideration, if they should not be paid, whether we will pay them ourselves, or go to war. Mr. W. took notice of several arguments which had been used against putting the previous question; he particularly observed upon the singularity of what fell from Mr. Otis, that he believed the principle wrong, and that such encroachment upon the Executive would lead him to fortify himself by corruption or force; yet he would vote for it.

Mr. Potter hoped the previous question would not prevail. He trusted the Representatives of the American people were not prepared to give up the claims of their fellow-citizens, without even asking for a satisfaction of them.

And on the previous question, viz: "Shall the main question now be put?" it passed in the affirmative—yeas 51, nays 48, as follows:

Yeas—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Jonathan N. Havens, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford Thomas Sumter, John Swanwick, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The main question now recurring, that the House do agree to the amendment to the amendment,

Mr. Havens observed, that one part of the amendment was hypothetical, and the other positive. He wished both to be hypothetical; and moved, that instead of "injuries done to our neutral rights," it should read "injuries which may have been committed upon our neutral rights."

This amendment was agreed to without a division; and the main question being about to be put,

Mr Gallatin observed, that a majority having determined the question should be taken, he now considered it as his business to choose between two evils. He had considered this amendment as saying, that, except the French would compensate the spoliations they had committed upon our commerce, no accommodation could take place, and of course a war must ensue; but gentlemen who supported it, denied that it had any such construction, he should, therefore, take it in the sense they gave it, and vote for it, though he had rather no vote had been taken upon the occasion.

The question being put, it passed in the affirmative—yeas 78, nays 21, as follows:

Yeas—John Allen, George Baer, jr., James A. Bay-

ard, Theophilus Bradbury, Richard Brent, David Brooks, John Chapman, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dawson, John Dennis, George Ege, Lucas Elmendorph, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Anthony New, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Samuel J. Cabell, Joshua Coit, Thomas T. Davis, George Dent, John Fowler, William B. Giles, Andrew Gregg, Robert Goodloe Harper, Matthew Lyon, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, John Nicholas, Josiah Parker, Thomas Sumter, Abraham Venable, and Robert Williams.

And then the question being put, that the House do agree to the said fifth amendment of the Committee of the Whole, amended to read as follows:

"We therefore receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted, and we cherish the hope, that a mutual spirit of conciliation, and a disposition, on the part of France, to compensate for any injuries which may have been committed on our neutral rights, and on the part of the United States to place France on grounds similar to those of other countries, in their relation and connection with us, if any inequalities shall be found to exist, will produce an accommodation compatible with the engagements, rights, duties, and honor, of the United States:"

It was resolved in the affirmative—yeas 58, nays 41, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Richard Thomas, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, James Cochran, Joshua Coit, William Craik, James Davenport, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, William Matthews, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

The question being about to be put upon the Address as amended,

Mr. Livingston said, having had occasion to express his doubts about the propriety of the conduct of the Executive towards foreign nations, and not believing it had been "just and impartial," and not from the fear of offending any foreign nation, as had been insinuated, he was not willing to vote for an Address containing words so exceptionable.

Mr. Lyon moved to strike out the words "foreign nations."

Mr. Livingston said, he had other objections.

Mr. Gallatin wished to strike out the whole of the paragraph from the word "believing." His great objection to this paragraph, he said, was not to the clause which said, that the conduct of the Government had been "just and impartial to foreign nations;" for, although he could not say the Government had, in every instance, been just and impartial to foreign nations, yet, generally speaking, he believed it had been so. Though he did not approve of the conduct of the Executive, with respect to the British Treaty, yet he was not willing to attribute bad motives to them on that account; but the part he objected to, was that in which they pledged themselves that the laws were fairly executed; so far as it related to the Executive, he doubted not this was the case, but with respect to the subordinate departments of the Executive and the Judiciary, he could not give an opinion of this sort; but his chief objection was to the last sentence, in which they said "they did not hesitate to declare, that they would give their most cordial support to principles so deliberately and uprightly established." He did not know what principles, what support was meant.

Mr. W. Smith said, the word principles had reference to the laws they had passed. He did not think the paragraph exceptionable; one nearly similar was inserted in the Address of last session, and he thought it at this time peculiarly proper.

Mr. Otis thought, there was something more artful and insidious in this attempt than in any which had been made in the whole business, as it went to cast a censure not only on the Executive, but on all the Departments of Government.

Mr. Allen believed, there was American blood enough in the House to approve of this clause, and American accent enought to pronounce it.

And on the question being put, it passed in the negative—yeas 45, nays 53, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, Thomas T. Davis, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Daniel Morgan, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John E. Van Alen, Peleg Wadsworth, and John Williams.

The question was then taken on the Address as amended, and resolved in the affirmative—yeas 62, nays 36, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, David Bard, James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Albert Gallatin, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, John Milledge, Daniel Morgan, John Nicholas, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, William B. Giles, James Gillespie, Andrew Gregg, Jonathan N. Havens, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, Anthony New, Josiah Parker, Samuel Sitgreaves, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Resolved, That Mr. Speaker, attended by the House, do present the said Address; and that Mr. Venable, Mr. Kittera, and Mr. Nathaniel Freeman, jr., be a committee to wait on the President, to know when and where it will be convenient for him to receive the same,

And then the House adjourned.

Saturday, June 3,

A report was received from the Commissioners of the Federal City, which was ordered to be printed.

ANSWER TO THE PRESIDENT'S SPEECH.

Mr. Venable, from the committee appointed to wait on the President of the United States, to know when and where it will be convenient for him to receive the Address of this House, in answer to his Speech to both Houses of Congress, reported that the committee had, according to order, waited on the President, who signified to them that it would be convenient to him to receive the said Address, at twelve o'clock this day, at his own house.

Mr. Lyon said he yesterday voted against the appointment of a committee to wait upon the President to know when and where he would receive their Address, because he believed the President should always be ready to receive important communications. He wished to make a motion, which was, "that such members as do not choose to attend upon the President to present the Answer to his Speech, shall be excused." He wished to be understood. He thought the motion a reasonable one, because it proposed to leave them at liberty to do as they pleased. And by the rules he saw, he was obliged to attend, except sick, or leave of absence was obtained; now, as he hoped not to be sick, he wished to put himself out of the power of the Sergeant-at-Arms, if he did not attend. He had been told he might stay behind without being noticed; but this was not enough for him, as he was a timid man, and the House had the law on their side, as he recollected something of a reprimand which had been given to Mr. Whitney. [The Speaker reminded him it was out of order to censure the proceedings of the House on any former occasion.] He said he stood corrected, and proceeded.

He had spoken, he said, to both sides of the House (*as they were called*) on the subject. One side dissuaded him from his motion, and laughed at it; the other side did not wish to join him in it, because it would look like disrespect to the person lately elected, who was not a man of their choice; but he trusted our magnanimous President would, with the enlightened yeomanry of America, despise such a boyish piece of business. This, he said, was no new subject with him, he had long heard the folly of the wise made a mat-

ter of wonder in this respect. It was said this was not the time to abolish the custom; but this was the cant used against every kind of reform. No better time could ever arrive, he said, than this, which was the threshold of a new Presidency, at a time when the man elected to the office was beloved and revered by his fellow-citizens; he was as yet unused to vain adulation; he had spent a great part of his life amongst a people whose love of a plainness of manners forbids all pageantry; he would be glad to see the custom done away. Were he acting in his own personal character, he perhaps might conform to the idle usage, but acting as he was for eighty thousand people, every father of a family in his district would condemn him for such an act.

The gentleman from Connecticut yesterday hoped there would be American blood enough to carry the question. [The Speaker again reminded him that he was out of order to allude to what was done yesterday, and said the proper motion would be to rescind the rule.] He did not wish to rescind the rule, he said, only so much of it as obliged the House to attend. This, he said, was no trifling thing with him, he should have as great an objection to attend this business, as a Quaker would to make his obeisance to a magistrate. [The Speaker said he must move to rescind the rule, or that he himself be excused, no other motion was in order.] Then, he said, he must confine himself to the narrow ground of himself. He had no objection to gentlemen of *high blood* carrying this Address. He had no pretensions to *high blood*, though he thought he had as *good blood* as any of them, as he was born of a fine, hale, healthy woman. Before yesterday, he never heard of gentlemen boasting of their blood in that House. He could not say, it was true, that he was descended from the bastards of Oliver Cromwell, or his courtiers, or from the Puritans, who punished their horses for breaking the Sabbath, or from those who persecuted the Quakers or hanged the witches. He could, however, say that this was his country, because he had no other; and he owned a share of it, which he had bought by means of honest industry; he had fought for his country. In every day of trouble he had repaired to her standard, and had conquered under it. Conquest had led his country to independence, and being independent, he called no man's blood in question.

Mr. Blount said he had seconded the motion of the gentleman from Vermont, in order to give him an opportunity of stating his reasons for making it, and not from any desire to rescind the rule.

Mr. Dana observed that the House would not wish to do violence to the gentleman's feelings. It was true some of the most respectable men in the United States had waited upon the President in a similar way, yet, if the gentleman thought it would not comport with his own dignity to do it, he hoped he would be excused.

The motion was put, and carried unanimously.

The Speaker informed the House the hour was arrived at which the President had appointed to receive them.

Mr. Macon moved that the House do now adjourn. He should wait upon the President; but it seemed to be understood that members were obliged to go. He thought, however the power of the House might extend to bringing a member into the House, there was no power to carry him out.

The motion was negatived without a division.

The House then withdrew, and waited upon the President of the United States with the following Address:

To the President of the United States:

Sir, the interesting detail of those events which have rendered the convention of Congress, at this time, indispensable, (communicated in your Speech to both Houses,) has excited in us the strongest emotions. Whilst we regret the occasion, we cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called.

We have constantly hoped that the nations of Europe, whilst desolated by foreign wars, or convulsed by intestine divisions, would have left the United States to enjoy that peace and tranquillity to which the impartial conduct of our Government has entitled us; and it is now, with extreme regret, we find the measures of the French Republic tending to endanger a situation so desirable and interesting to our country.

Upon this occasion we feel it our duty to express, in the most explicit manner, the sensations which the present crisis has excited, and to assure you of our zealous co-operation in those measures which may appear necessary for our security or peace.

Although it is the earnest wish of our hearts that peace may be maintained with the French Republic, and with all the world, yet we will never surrender those rights which belong to us as a nation; and whilst we view with satisfaction the wisdom, dignity, and moderation, which have marked the measures of the supreme Executive of our country, in its attempts to remove, by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its Minister. No attempts to wound our rights as a sovereign State will escape the notice of our constituents; they will be felt with indignation, and repelled with that decision which shall convince the world that we are not a degraded people, that we can never submit to the demands of a foreign Power without examination and without discussion.

Knowing as we do the confidence reposed by the people of the United States in their Government, we cannot hesitate in expressing our indignation at any sentiments tending to derogate from that confidence. Such sentiments, wherever entertained, served to evince an imperfect knowledge of the opinions of our constituents. An attempt to separate the people of the United States from their Government, is an attempt to separate them from themselves; and although foreigners, who know not the genius of our country, may have conceived the project, and foreign emissaries may attempt the execution, yet the united efforts of our fellow-citizens will convince the world of its impracticability.

Sensibly as we feel the wound which has been inflicted by the transactions disclosed in your communications, yet we think with you, that neither the honor nor the interest of the United States forbid the repetition of advances for preserving peace. We, therefore, receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted; and we cherish the hope that a mutual spirit of conciliation, and a disposition on the part of France to compensate for any injuries which may have been committed upon our neutral rights; and, on the part of the United States, to place France on grounds similar to those of other countries in their relation and connection with us, if any inequalities shall be found to exist, will produce an accommodation compatible with the engagements, rights, duties, and honor of the United States. Fully, however, impressed with the uncertainty of the result, we shall prepare to meet with fortitude any unfavorable events which may occur, and to extricate ourselves from their consequences with all the skill we possess, and all the efforts in our power. Believing with you that the conduct of the Government has been just and impartial to foreign nations, that the laws for the preservation of peace have been proper, and that they have been fairly executed, the Representatives of the people do not hesitate to declare that they will give their most cordial support to the execution of principles so deliberately and uprightly established.

The many interesting subjects which you have recommended to our consideration, and which are so strongly enforced by this momentous occasion, will receive every attention which their importance demands; and we trust that by the decided and explicit conduct which will govern our deliberations, every insinuation will be repelled which is derogatory to the honor and independence of our country.

Permit us, in offering this Address, to express our satisfaction at your promotion to the first office in the Government, and our entire confidence that the preeminent talents and patriotism which have placed you in this distinguished situation, will enable you to discharge its various duties with satisfaction to yourself and advantage to our common country.

To which the President returned the following answer:

Mr. Speaker, and

Gentlemen of the House of Representatives:

I receive with great satisfaction your candid approbation of the convention of Congress; and thank you for your assurances that the interesting subjects recommended to your consideration shall receive the attention which their importance demands; and that your co-operation may be expected in those measures which may appear necessary for our security or peace.

The declaration of the Representatives of this nation of their satisfaction at my promotion to the first office in the Government, and of their confidence in my sincere endeavors to discharge the various duties of it, with advantage to our common country, have excited my most grateful sensibility.

I pray you, gentlemen, to believe, and to communicate such assurance to our constituents, that no event which I can foresee to be attainable by any exertions in the discharge of my duties, can afford me so much cordial satisfaction as to conduct a negotiation with the French Republic, to a removal of prejudices, a correction of errors, a dissipation of umbrages, an accommodation of all differences, and a restoration of harmony and affection, to the mutual satisfaction of both nations. And whenever the legitimate organs of intercourse shall be restored, and the real sentiments of the two Governments can be candidly communicated to each other, although strongly impressed with the necessity of collecting ourselves into a manly posture of defence, I nevertheless entertain an encouraging confidence that a mutual spirit of conciliation, a disposition to compensate injuries, and accommodate each other in all our relations and connections, will produce an agreement to a treaty consistent with the engagements, rights, duties, and honor, of both nations.

JOHN ADAMS.

United States, *June* 3, 1797.

The members having returned to the House, the Speaker again took the Chair, and having read the answer of the President,

Mr. W. Smith said the Speech of the President of the United States had been referred to the Committee of the Whole on the state of the Union. Before the House resolved itself into a Committee of the Whole on that subject, he wished the rule to be read, which respected the closing of the galleries. [It was read accordingly.] This rule says, that when any Message shall be received from the President which shall require secrecy, or when any member has any communication to make which, in his opinion, requires secrecy, the galleries shall be cleared.

Mr. W. S. gave notice that he had a communication to make which required secrecy, and begged the galleries might be cleared.

Mr. Nicholas hoped they should understand from the gentleman, whether it was any new information, or matter which grew out of the business before the House.

The Speaker said it was sufficient for the gentleman to declare his communication was of a secret nature, which required the galleries to be cleared, to have them cleared. The propriety of the measure would be afterwards judged of. The galleries were accordingly cleared, and remained closed till the House adjourned.

Monday, June 5.

The Journals of the proceedings of Saturday having been read,

Mr. Nicholas supposed there was an omission, as no mention was made of the resolutions which had been brought forward by the gentleman from South Carolina, after the doors had been closed; and which it had been determined were not of a nature to require secrecy.

Mr. W. Smith said the vote which had been taken only related to a part of what he had brought forward.

Mr. Nicholas said, he understood that the letter which he had produced was a private letter, and therefore it was not necessary to notice it.

Mr. Gallatin observed, that no distinction had been made. If the letter could be considered as part of the communication, it was also included in the vote, as it was simply that the communication did not require secrecy.

Mr. Macon thought the resolutions stood upon the same ground as that upon which a motion offered to the House, upon which no decision was made, which was never recorded until it was taken up.

Mr. Thatcher concurred in the opinion.

Mr. Nicholas was still of opinion an entry ought to have been made on the Journals, and moved to amend them.

The question was put, and there appearing 41 votes in favor of it, and 41 against it, the Speaker decided it in the negative.

DEFENSIVE MEASURES.

The House then resolved itself into a Committee of the Whole on the state of the Union, and the Speech of the President, at the opening of the session, having been read.

Mr. W. Smith said, he wished to lay upon the table a number of resolutions, which it appeared, if it should not be found advisable to carry the whole of them into effect, were at least worthy of discussion. He did not, however, at present, pledge himself to support the whole: they were as follow:

"1. *Resolved*, That further provision ought to be made by law, for fortifying the ports and harbors of the United States.

"2. *Resolved*, That further provision be made by law, for completing and manning the frigates United States, Constitution, and Constellation.

"3. *Resolved*, That provision be made by law, for procuring by purchase a further naval force, to consist of —— frigates of —— guns, and —— sloops of war of —— guns.

"4. *Resolved*, That provision be made by law, for empowering the President to employ the naval force of the United States, as convoys to protect the trade thereof.

"5. *Resolved*, That provision be made by law, for regulating the arming of the merchant vessels of the United States.

"6. *Resolved*, That the existing Military Establishment ought to be augmented by an addition of one regiment or corps of artillerists and engineers, and —— companies of dragoons.

"7. *Resolved*, That provision be made by law, for empowering the President to raise a provisional army, to consist of —— regiments of infantry, one regiment of artillery, and one regiment of dragoons, by commissioning the officers, and by volunteers or enlistments, whenever the circumstances of the country shall, in his opinion, render the said army necessary for the protection and defence of the United States: *Provided*, That neither the officers nor soldiers shall receive any pay or emoluments until called into actual service.

"8. *Resolved*, That provision be made by law, to authorize the President to borrow, on the credit of the United States, a sum not exceeding —— dollars, to defray the expense which may arise in providing for the defence and security of the United States.

"9. *Resolved*, That provision be made by law, to raise a revenue adequate to the reimbursement, within —— years, of such sum as may be borrowed, as aforesaid.

"10. *Resolved*, That provision be made by law, to prohibit, for a limited time, the exportation of arms, ammunition, and military and naval stores."

The resolutions having been read from the Chair,

Mr. W. Smith moved the first of them.

Mr. Macon wished the gentleman from South Carolina to inform the committee, whether he meant to repair all the fortifications which had heretofore been contemplated. Perhaps some might be necessary, but he thought, considering the present state of our finances, few of them ought to be attended to. Much of the money already expended on this subject had been thrown away. He particularly mentioned New York.

Mr. W. Smith thought the gentleman had been long enough a member of that House to know that, when they were about to settle the principle of a thing, it was not usual to go into details. If the resolution was agreed to, a committee would be appointed, who would report such fortifications as it appeared to them necessary to be attended to, with an estimate of expense, upon which the House would determine; or a sum of money might be voted, and leave it to the President to employ it as appeared to him best; but this was not the question, but merely whether a further sum of money should be voted for this object.

Mr. Thatcher thought they were not ripe for this subject, as they did not know what was the state of the different fortifications. He thought, as there were a number of propositions, in some degree connected, that it was desirable they should be printed; he therefore moved that the committee might rise, to give time for this to be done.

Mr. Giles wished the gentleman would reverse his propositions, and let the one for raising money come first. He did not know whether they were prepared to meet this expense. He did not mean to oppose the present motion; he supposed it would pass. But he thought they were about to be too precipitate in their measures. At a time when all Europe seemed to be tired of war, and about to make peace, we seemed to be disposed to rush into it. He did not believe that much good would be done by this system of fortification. He did not think the United States were more secure now, than before they had a single work of the kind. We have, said he, an extensive seacoast, and it was not to be expected that an enemy would choose to come to precisely the place where a fortification stands. It was his opinion that the interests of the country would be served, by letting this matter lie over till next session.

Mr. Williams observed, that the sense of the committee would be first taken upon the propriety of going into the measure; if there was a majority in favor it, (and he could not doubt it,) the matter would be referred to a select committee, who would make their report upon it.

Mr. S. Smith was in favor of going into this measure; for if the war continued in Europe, he thought it probable we might be drawn into it.

Mr. Swanwick should not be opposed to the present motion, because he agreed with the gentleman from Maryland, that whilst the war continued in Europe there was a probability of this country being drawn into the vortex. But he thought there was some weight, also, in the observation of the gentleman from Virginia, with respect to the ways and means; because, if, after they should agree to carry into effect certain measures, they should disagree about the means, their time would have been spent to no purpose.

The question was put and carried, there being 62 votes in favor of it.

Mr. W. Smith moved the second resolution.

Mr. Nicholas wished to know whether the provision already made for completing the three frigates was not sufficient?

Mr. W. Smith said, he had no information on the subject; he had inserted the word *completing* as well as *manning*, lest there should be any deficiency.

Mr. Otis was not prepared, in so rapid a way, to press resolutions of this importance, without having them printed, or time to deliberate upon them. If he voted for these resolutions, he should consider himself as pledged to carry them into effect. He therefore hoped the committee would rise.

Mr. Macon was opposed to this resolution. He did not believe that seamen could be got to man the vessels, as nearly four times the price was paid for seamen's wages that was paid when the law for building these vessels passed.

Mr. Rutledge was in favor of the committee's rising.

Mr. Nicholas had no objection to the committee's rising, if gentlemen wished it; if so, he hoped the resolution agreed to would be reported. He wished the principle of the different resolutions, however, to be settled in a Committee of the Whole.

Messrs. Craik, Claiborne, Varnum, and Coit, were in favor of the committee's rising.

Mr. Swanwick thought it would be best that a committee should be appointed to report on the business.

Mr. S. Smith saw no reason for the committee's rising, because, if gentlemen were not prepared to vote upon this resolution, they might go on to others. Though he should vote in favor of this proposition, he should not hold himself bound to vote ultimately for the bill, if he disliked it.

The motion for the committee to rise was withdrawn, and afterwards renewed by Mr. McDowell, who also withdrew it, on a suggestion from Mr. Livingston that the resolution would be less objectionable to run, "that a committee be appointed to inquire into the propriety of," &c., and, when a committee had the business referred to them, they could possess themselves of the necessary facts, and report them to the House.

Mr. Gallatin said, if the question was to determine the principle of manning the frigates, the resolution stood right as it was. But if it were not intended, by adopting this resolution, to commit any man, but only to say that they would take the business into consideration, and if found useful and necessary, and funds were attainable, they would carry it into effect, then the amendment of the gentleman from New York (Mr. Livingston) would be proper. As to the committee's rising, he could see no ground for it, as these propositions were not new—they had had them before them for three weeks in the Speech of the President. Of course, so far as related to the frigates, gentlemen must have formed an opinion; yet he agreed that it was desirable to see some documents on the subject, before a decided affirmative or negative was given. He was, therefore, in favor of the amendment for a committee to be appointed. He wished all those subjects which were of a doubtful nature to be then determined. On the other hand, those upon which members were ready to decide at once, either by an acceptance or rejection, might be voted upon in the form in which they were introduced.

Mr. Parker read the motion which was entered into last year, and thought it would be a good model for the present.

Mr. W. Smith was of a different opinion. He thought the committee should first decide the abstract principle. He thought it would be wrong to refer to a select committee a business in which every member was so intimately interested, and he doubted not gentlemen were ready to decide upon this abstract question. With regard to expense, he was of opinion that if the situation of the country required it, that should be no object. If gentlemen thought differently, they would of course negative the proposition. Any information on the subject could be got before the business was finished. He thought they should first say what were the necessary objects of expense, and then provide the money, which might be done by borrowing or by taxes. If there was a necessity for the expense, there was no doubt the money would be raised. If gentlemen were not prepared to discuss the subject, he had no objection to the committee's rising, and, in the House, the Secretary of War might be called upon for information.

Mr. Nicholas thought the question was not fairly presented. It was whether they should man the frigates. But when they were called upon to determine this, they should know when they would be ready to receive the men. The probability was that the frigates would not be ready to receive the men before the next session of Congress.

Mr. Dayton (the Speaker) was in favor of the original proposition. He wished to provide for manning all the frigates which could be got ready before the next session of Congress. He believed if they adopted this plan, unnecessary delay would be prevented.

Mr. Parker was ready to vote for the proposition of the gentleman from South Carolina. He believed the frigate in Philadelphia might be equipped, rigged, and manned, in three months. The only reason why he varied his motion was, that he might include the next proposition; but he believed it would be better for them to stand separate, as, before he voted for the additional vessels, he should wish to know how the means were to be got, and for what purpose they were to be used. The vessel at Boston, he said, would not be ready so soon, but it would be in readiness before the next meeting of Congress; that at Baltimore would be in readiness to receive her men in four months.

Mr. S. Smith said, the frigate building at Baltimore would be launched on the 4th of July, and the equipments were in greater forwardness than those for the frigate at Philadelphia.

Mr. Baldwin was against referring this proposition to a select committee. It would be desirable, indeed, to know what the cost of doing the business would be, but every one knew how little to be relied upon were estimates of this kind. He was ready to vote for manning the frigates; indeed, there was no question upon which he was so ready to say aye, as upon this.

The question was about to be put on Mr. Livingston's motion, when

Mr. Varnum said he thought the wording of the resolution improper, as the word "completing" would clash with the act of last session.

The question was put and negatived, 50 to 34.

Mr. Macon wished the frigates to be completed, but not manned, he therefore moved to strike out the words "and manning."

The question was put and negatived; there being only 24 votes in favor of it.

Mr. Giles moved to strike out the word "completing;" but, after some conversation, the motion was withdrawn, and the original resolution was carried.

The third proposition next came under consideration.

Mr. Nicholas hoped the gentleman who introduced this motion, would tell them for what purpose these additional vessels were wanted. He supposed this resolution to be connected with the next, and if so, he thought they should be considered together. What, he asked, were to be the instructions given to the commanders of these vessels? He thought it a very embarrassing business, and one that would certainly lead to war; nay, indeed, the thing seemed to be a war operation in itself.

Mr. W. Smith wished the gentleman had made his inquiries before. They would have come more properly when the frigates were under consideration, as the same objection would be against both; and the next resolution had no more connection with this than with that already agreed to. The gentleman seemed to have let go the opportunity of calling upon him; as, however, he did not wish to evade his call, (though he was not willing to say he would himself vote for the measure,) he would say that it appeared to him, from the present state of the commerce of this country, to be necessary to provide convoys for our vessels. These vessels might not, indeed, be employed as a regular convoy, but partly confined to the coasts and harbors. This was a separate question; or it might be left to the Executive to employ them as he might see proper. He was not, however, ready to give an opinion on the subject. He rose principally to remark upon what had fallen from the gentlaman last up, as to employing a convoy being an act of war. He owned he had not looked deep into the subject at present, but he recollected in our treaty with Sweden, there was a stipulation that when both Powers were neutral, they should protect each other's commerce.*

Mr. Giles thought this a very extraordinary measure. He called the attention of the committee to the critical situation of Europe, and thought, before they went into any expensive operations, they should wait the issue of the negotiation, especially as he supposed it was probable a full session might be necessary. It had been said that several of the ports in the West Indies were in a blockaded and rebellious state. He did not suppose it was the intention of the committee, by means of a convoy, to press a trade to those ports; this would be a certain means of provoking war. He thought they ought to make a pause; as it was probable that, in less than four months from this time they might again be in session; and, in the meanwhile, the affairs of Europe might have taken such a turn as to do away the necessity of going into hostile measures.

Mr. Nicholas expected the gentleman from South Carolina would have acknowledged that the two resolutions were connected. Indeed he must have intended those vessels to be employed in this way, or such a resolution would not have been introduced. With respect to Sweden's treaty for a reciprocal convoy, there was some ground for it, as there was a difference between the Northern Powers of Europe, as to the principle of free ships making free goods; but where there was no difference as to the principle, no such thing could take place.

Mr. Gallatin said the present resolution was certainly in some degree connected with the next. It was understood that the purchasing of frigates and sloops of war, was for the purpose of convoying our trade. Under the present circumstances of this country, he should be opposed to this proposition; not that he denied the right of neutral Powers to afford convoys to their merchant vessels; but, because under present circumstances it was impolitic to adopt the measure, not only for the reasons urged by the gentleman from Virginia, but on account of our situation with respect to France at the present moment. By our treaty with France, enemy's property was to be respected on board of American vessels, and certain articles used in the building of ships were not considered as contraband; the President would, of course, be obliged to give orders to have our vessels protected in this situation, and who could not see that this would be the source of war; and if the convoy were not to be employed to enforce

* The following is the article of our Treaty with Sweden, produced and read by Mr. W. Smith:

"If in any future war at sea, the contracting Powers resolve to remain neuter, and, as such, to observe the strictest neutrality, then it is agreed that if the merchant ships of either party should happen to be in a part of the sea where the ships of war of the same nation are not stationed, or if they are met on the high sea without being able to have recourse to their own convoys, in that case the commander of the ships of war of the other party, if required, shall, in good faith and sincerity, give them all necessary assistance, and, in such case, the ships of war and frigates of either of the Powers, shall protect and support the merchant ships of the other: Provided, nevertheless, that the ships claiming assistance are not engaged in any illicit commerce contrary to the principles of neutrality."

these two privileges, he did not see what use it could be of. He knew that depredations without number had been committed in the West Indies; but he was led to believe that this was done by pirates more than by any other vessels. But suppose it were practicable to distinguish between those vessels which were regularly, and those which were piratically taken; yet, he must confess, he would not be for running the risk of a rupture, by sending out armed vessels to contest the point, especially when we have reason to believe that these attacks are unauthorized by the French Government.

Mr. G. thought it would only be necessary to extend our navy in case of war, and were this unhappily to be our situation, vessels might easily be purchased without delay; but whilst we were at peace, he did not think the advantages which could be derived from a convoy, would be a sufficient inducement to go into the measure. Besides he was induced by another motive to give this proposition his negative. He knew the depredations upon our commerce had been great; but he did not look upon this loss as falling only upon merchants. There was not an individual who did not bear a part of it. For instance, if a merchant paid ten or fifteen per cent. additional upon his cargo, he will put a proportionably high price upon his commodities, which must eventually be paid by the consumer. Therefore, so far as an argument might be drawn from this circumstance, it became a question of expediency, and he thought it would be granted, that the loss to individuals would be less in this way than if they had to support a navy to protect our trade.

Mr. W. Smith acknowledged that there was considerable weight in the arguments of the gentleman from Pennsylvania, though he did not find sufficient weight in them to change his opinion of the propriety of the measure. The gentleman from Virginia had endeavored to show that, as there was no difference of opinion as to principle between France and this country, the regulations entered into with Sweden did not apply; whilst the gentleman from Pennsylvania had produced arguments to show that we were in that situation. With respect to the treaty articles in dispute, it would be an easy matter for the President to give the commanders of our vessels proper instructions on that head. And would any gentleman say it was not right to defend our vessels against pirates? Would not the French say, if they were applied to for redress, "You knew these were pirates; why did you not defend yourselves against them?" The expense, which seems so much to alarm gentlemen, should be put out of the question. The only question, said he, is, if your property is unjustly attacked, will you defend it?

But it was said the loss did not fall upon the merchant, but upon the consumer. Mr. S. asserted it fell upon the country; and so far from the expense of the proposed armament being equal to the loss sustained by captures, it would not, in his opinion, be a tenth part of the amount, for whatever the plunderers got this country lost. Mr. S. said he had made a rough calculation of what would be the expense of three frigates of 32 guns, and six sloops of war of 16 guns, and found it to be $926,000, including the equipment and manning for one year.

But, said Mr. S., does not the farmer suffer by these spoliations? He certainly does; for, if the merchant was obliged to pay an extravagant insurance, he would give the less for the farmer's produce; but, added he, the expense of the frigates will be no loss to the country, as, if they cost a million of dollars, the whole will be paid to our citizens; every article used in the building of these vessels being the produce of the United States.

But gentlemen complain of our impatience in the business; he thought the wrongs we had suffered sufficient to rouse our resentment. It was also said, that there was a probability of peace, and why go on with this expense? But he might as well say there was no probability of peace. One supposition would stand against the other. Indeed, who knew that the Czar of Russia would not join the coalition against France? A hope of peace, therefore, was not a sufficiently stable ground upon which to calculate. We must either interdict all trade, suffer merchant vessels to arm, or go into the measure proposed.

But it was said that France had declared certain British ports in the West Indies blockaded, and in a state of rebellion, and therefore we must not trade with them, but he did not know why our vessels should be subject to be taken, and our seamen to be hung, because they chose to make these declarations; declarations which he trusted this country never would acknowledge.

What, said Mr. S., will be the consequence of negotiating, without taking any measure of defence? It will put it in the power of France to make requisitions on us to any amount she pleases, she may spin out the negotiation by throwing difficulties in the way of it. She may take all our vessels, and when she has drained us of all our wealth, it will be said, *we must submit.* Where will then be your privateers? Your vessels are taken, and your seamen gone!

The gentleman from Pennsylvania admitted the right of neutral Powers to convoy their vessels; that gentleman put the matter upon the expediency of the thing, which was the true ground upon which he wished to have it discussed.

Mr. Giles said, the gentleman from South Carolina talked of defensive measures, but his plans were offensive. That gentleman had undertaken to doubt the right of France to declare her ports rebel ports. Was this defensive? Every nation had this right. It was not long since Great Britain exercised it against us. Yet, aided by a convoy, he wished to push our trade to these ports. This would not only be hazarding the peace of the country, but taking the direct road to war.

Besides, said Mr. G., could it be expected that six or ten frigates could convoy all our vessels? No; not a twentieth part of them. They could, therefore, be of little use, but might be the means of producing the greatest evil to the country.

Mr. Baldwin said, in all their determinations with respect to a naval force, however great the emergency, it had always been determined to build, rather than purchase vessels, and he saw no reason for departing from this mode in the present instance.

After some objections from Mr. W. Smith to the building plan, which he said would take three or four years to furnish the proposed vessels, whereas merchant vessels might be immediately purchased, which would answer the purpose of small frigates, the committee rose, reported the two resolutions, which the House took up and agreed to, and committees were appointed to report upon them by bills or otherwise.

A message was received from the Senate, with two bills which had passed that House, viz: a bill for prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof; and a bill to prevent citizens of the United States from privateering against nations in amity with, or against citizens of the United States; both which were twice read, and committed to a Committee of the Whole tomorrow.

Tuesday, June 6.

EXPORTATION OF ARMS, &c.

The Speaker having taken the Chair, Mr. W. Smith moved the order of the day on the bill from the Senate for preventing the exportation of arms and ammunition from the United States.

Mr. Nicholas hoped they would take up the unfinished business of yesterday, as having a priority of claim.

After a good deal of conversation on the subject, in the course of which each insisted upon the propriety of taking up the measure he advocated, as calling for the most immediate attention, the motion was put for taking up the unfinished business of yesterday, and negatived, there being 42 for it, and 48 against it. The speakers in favor of going into a Committee of the Whole were, Messrs. Nicholas, Varnum, S. Smith, Giles, Gallatin, Baldwin, and Livingston; those against it, and in favor of taking up the bill from the Senate in preference, Messrs. W. Smith, Rutledge, Sewall, Brooks, Otis, and Thatcher.

The motion for going into a Committee of the Whole on the state of the Union having been negatived—

Mr. W. Smith renewed his motion for taking up the bill from the Senate for preventing the exportation of arms and ammunition.

Mr. Livingston moved to strike out the words "one year," so as to confine the duration of the bill to the end of the next session of Congress; which motion, after some objections from Mr. W. Smith, on the ground of delay, as the bill was already engrossed, was carried, 43 to 40.

Mr. Lyon wished to strike out the words "cannons and bombs," as he thought if the exportation of these articles were prohibited, it would considerably injure the manufacturers of them, and there could be no doubt but a sufficient quantity might always be commanded for the use of the United States.

Mr. S. Smith thought this amendment of some importance, as he believed there was not more than one man in the State of Maryland that knew how to bore a cannon; and if he was taken from that employment by a law of this kind, it was probable, whenever the manufactory was resumed, he might not be found.

Mr. Lyon said, it was not altogether with the same view which the gentleman from Maryland had given of the subject that he had brought forward this motion. The New England States would produce one hundred men acquainted with the boring of cannon. Every furnace would be glad to be employed in this business; and as to the casting of balls and shells, there was nothing easier. The reason for which he wished these articles to be struck out was, because he did not wish these manufactories to be deprived of employment.

The motion was put and negatived.

Mr. Dayton (the Speaker) wished to make a motion, which he supposed might, in some degree, effect the end proposed by the gentleman from Vermont. It was to strike out "bombs and cannon balls." He did not think there need be any fear of the United States falling short of these, as the single State of New Jersey, or a single county of that State, would cast sufficient to supply the whole world.

Mr. Brooks inquired whether these were articles exported? If they were not, the mention of them could do no harm. Or, whether these articles and powder were not purchased for the use of the picaroons which were so troublesome to our trade?

Mr. Gordon thought if there was no greater advantage attending a regulation of this kind than that of depriving our enemies of these articles, which might be used against us, he thought the provision a good one.

Mr. Dayton believed that the operation of this provision would be the destruction of these manufactories. In answer to the gentleman from New York, he could inform him that many of these articles were exported from New Jersey, and from the town in which he lived; but if the exportation was stopped for any length of time, the furnaces would be turned to some other business; and, in six months from the passage of this act, there would be a greater scarcity of these articles than if the bill had not passed. An act of this kind might, indeed, carry an imposing air, and look as if we meant to take care of ourselves. If the bill were to pass, however, he should be glad to have it pass with this amendment.

Mr. S. Smith observed, that in a former law of this kind, bombs and cannon balls were not included. It was asked, who exported those articles, and for what purpose they were used? To say who exported them would not be right, as they were contraband, and he could not tell who used them, nor was it an object of their inquiry. Picaroons had no occasion for them, since they went along side vessels and boarded them. The

same argument which was used against exporting these articles might be used against the exportation of provisions.

Mr. W. Smith said, the bill was predicated upon being an injury to manufactures; nor did he know why they should make an exception in favor of one more than another, which would give just cause of complaint. The operation of the bill, since the amendment had been carried, would be of short duration. The object of it was two-fold, viz: to preserve these articles in the country, to be ready in case of emergency, and to keep them from foreign Powers, who might turn them against us. Though we had no occasion at present for cannon balls, we could not help looking forward to the time when they would be wanted; and though no bombs were at present used against us, yet the time might probably arrive when they might be so used, and it was politic to guard against the possibility of it.

Mr. Brooks said, though this law might operate an injury to manufacturers, yet he did not believe it would be so great as had been supposed, as the places where these were cast, were not wholly employed in this business, but cast also innumerable quantities of hollow ware, as well as metal in pigs; when they were not, therefore, employed in manufacturing articles for the destruction of mankind, they were employed in making such as were of use to them.

Mr. Nicholas said, this subject had taken a much more serious shape than it assumed when it was first introduced. It seemed as if it were not so much the intention of this law to regulate our own wants, as to prevent the supply of foreign Powers with warlike articles. This, he said, might be attended with serious inconveniences, since it would certainly operate principally against one of the belligerent Powers; and except we are prepared and determined upon war, we should be careful in provoking it. It was conceded that there was no probability of our wanting bombs or cannon balls, the operation of the law was of course intended against one of the belligerent Powers; for though both had an equal right at present to come here and purchase these articles, every one would see that France would be principally affected by the regulation. It would be little short of hostility, therefore, to say these articles should not be exported. Indeed, he feared there was more in this business than the committee understood; that they were taking a ground which could not be maintained, and which, pending on negotiation, ought not to be taken.

Mr. S. Smith said he believed that some of the manufacturers of cannon balls might be manufacturers of hollow ware; for he understood there was an action now pending on account of their having cast a parcel of cannon balls hollow, which had burst the cannon in which they were fired, and done other mischief.

Mr. Lyon believed the gentleman from New York was not well acquainted with the business. Hollow ware and pigs were not cast at the same furnace with bombs and cannon balls. Many furnaces worked with ore which, though not fit for pigs, &c., answered very well for cannon balls and bomb shells. In his district there were several of these manufactories which exported many of these articles into Canada. He trusted gentlemen would not have the same objection to sending them thither, that they had to sending them to French ports.

Mr. Thatcher thought this law could give no nation cause of complaint, because the articles were contraband, and it would perhaps have the good effect to prevent the loss of some of our vessels employed in carrying them.

Mr. Harper thought the objection of the gentleman from Virginia deserved some consideration. No measure of defence had been or seemingly could be mentioned, but it was said it might give offence to France. He asked how long we were to be deterred from taking such measures as should seem to be necessary, for fear of offending France? If we were not to take general measures for the protection of our citizens, because there might be a possibility France would not approve them, where was the humiliation to stop? He supposed we should next be told, that we must not fortify our ports, or arm our vessels, lest it should be offensive to France. He trusted that House would no longer hold so disgraceful a language, but that they should consult what would be for our own good, without reference to any foreign nation. Our Government, he observed, had not said it would never prohibit the exportation of arms and ammunition. The English had been permitted to purchase these articles, of which the French complained, and equal liberty was given to both nations; but this was no reason why both nations might not be prohibited from doing so, if it should be found expedient. And though he did not believe that all the advantages which were expected would be derived from this law, yet he should be in favor of it, not because it would not offend a foreign nation, but because it would be serviceable to ourselves; for, he said, if they were to go on in consulting the feelings of the French nation on what they did, if they saw us thus prostrate and feeble, they would soon take advantage of our timidity and folly. On the contrary he would show foreign nations that we were determined to regulate our own affairs in our own way, in the way of justice; for, if we went on in the present humiliating way, he should not be surprised at receiving a note from the French Minister, saying, that such and such a law must be repealed, as they were offensive to the French Directory.

Mr. Dayton, thinking himself alluded to by the gentleman who had preceded him, asked if he meant to insinuate that he was actuated by other motives than the good of this country? when Mr. Harper interrupted him by saying expressly, he had never intimated any such thing; his remarks being confined to the gentleman from Virginia.

Mr. Nicholas said he would tell the gentleman from South Carolina when he would cease to hear this clamor about offending foreign coun-

tries. It would be when he found a greater disposition in all the departments of Government for preserving the peace of this country; when he was convinced they had as great a desire to preserve this blessing as he had. He did not believe this was the case at present; and it was from this distrust that he suspected every measure which was brought before them. Was he not justified, he asked, in saying that a measure of this kind was calculated to remove peace from us, as it was a measure which would operate wholly (as he before stated) against the French? Mr. N. said he disdained to answer what the gentleman had said about fear. It could not be found in him; and he thought that gentleman was possessed of no small degree of assurance to fancy that he (Mr. N.) was less attached to the interests of this country than he himself was. He felt as sensibly for his country as any man, and therefore he could not help expressing his apprehensions of war from every step which gentlemen seemed inclined to take.

Mr. Brooks did not expect the argument to have taken this turn. There was nothing to prove that these articles were not as necessary for our safety as the other. It had been said they were cast in plenty in one part of the Union, but they might not be cast at all in other parts. He disclaimed all idea of considering how the measure would affect any other nation; he attended only to his own, and he believed they were at liberty to prohibit the exportation of any article whatever.

Mr. Gallatin said the gentleman who had just sat down had forgotten his own arguments. He charged others with having reference to foreign nations, in speaking to this question, when he and the gentleman from South Carolina were the first to introduce the mention of them; it was, therefore, not right in him to charge others with doing what he himself had done.

Mr. Brooks replied, that he had said nothing about foreign nations. It was true, he had supposed the picaroons, which had intercepted our West India vessels, might have been served with these articles; but gentlemen had denied that these were authorized by France.

Mr. Lyon would have no objection to join the gentleman last up in withholding these articles from the picaroons, if his constituents might be suffered to transport their manufactures down the lake to Canada.

Mr. Havens said, it appeared as if those gentlemen who opposed the amendment, believed we could monopolize all the bombs and cannon balls. He believed picaroons could get these things independent of us, and that we need be under no apprehension of wanting them ourselves.

Mr. Harper believed there was policy in preventing the exportation of implements of war which might be turned against us. He did not accuse the gentleman from Virginia with personal fear; he believed he was incapable of it; but he doubted whether his zeal for serving his own country would be so great as he professed, when the interest of another country happened to clash with that of his own.

Mr. Dayton referred to a former prohibition law, to show that cannon balls were not included in the list. He believed they might make the proposed prohibition without giving just cause of offence to any foreign nation, and, therefore, if they were offended we need not care; but if the only object was to preserve a larger quantity of these articles in this country, (as he had before observed,) the end would be defeated, as it would both discourage the manufacturing and the importation of them; but as it would have an appearance of an intention of defending ourselves against the unjust attempts of any foreign nation, if the amendment was agreed to, he should vote for the resolution; and if it were not, he had not determined to vote against it.

Mr. Williams wished this act to be conformable to that passed in 1794, which had been attended with good effects. He, therefore, moved that the amendment should be divided.

The question was divided accordingly, and the sense of the committee was first taken upon striking out the word "bomb-shells," which was negatived, there being 41 votes for it, and 45 against it. The question was then taken upon striking out the words "cannon balls," and carried, there being 52 votes in favor of it.

The committee then rose, and reported the bill as amended. It was taken up in the House, the amendments confirmed, and ordered to be engrossed for a third reading this day, which it afterwards received; but, from an objection as to the wording of the penal clause, the passing of it was postponed until to-morrow.

PREVENTION OF PRIVATEERING.

On motion of Mr. W. Smith, the House resolved itself into a Committee of the Whole on the bill from the Senate to prevent citizens of the United States privateering against nations in amity with, or against citizens of, the United States. After some conversation on this bill, particularly as to its operation, whether it should affect only American citizens concerned in armed vessels fitted out by private persons, or whether it should affect all citizens employed only in foreign service, or such as were employed only in foreign service in cruising against the vessels of the United States—upon which subjects there appeared a considerable variety of opinion—the bill was recommitted to a select committee of five members, in order to be put into a somewhat different form.

Wednesday, June 7.

Mr. Otis presented a petition from sundry merchants of Boston and Charlestown, trading to China and India, praying for a suspension, for a limited time, of certain duties imposed last session upon tea and upon white cotton goods, intended to take place from the first of July next, on the ground that it was the intention of the Legislature to exempt from the duty the cargoes of all vessels then on their voyages, alleging that their vessels required a longer time to make their voyages than vessels from other ports of the Union. Referred to a select committee of three members.

Mr. W. Smith moved that the House go into a Committee of the Whole on the bill for prohibiting, for a limited time, the exportation of arms and ammunition; which it accordingly did; and, after receiving sundry verbal amendments, suggested by Mr. Bayard, the committee rose, and the House agreed to them. The bill was ordered to be re-engrossed.

DEFENSIVE MEASURES.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the third resolution, relating to the purchase of additional armed vessels, having been read,

Mr. Sewall submitted it to the gentleman who brought forward these resolutions, whether it would not be better to postpone a determination upon the third and fourth resolutions, until the fifth was disposed of; because, if it were agreed to, it might have an effect upon the votes of gentlemen upon the other two, as they might be of opinion that, if the merchant vessels were armed, there would be no necessity for a convoy.

Mr. W. Smith had no objection to postpone the consideration of the third and fourth resolutions for the present, in order to take up the fifth.

Mr. Nicholas supposed this could not be done, except the gentleman chose to withdraw the third and fourth resolutions.

Mr. W. Smith said, it might be done by general consent.

Mr. Giles could not consent to depart from the plan of discussion laid down by the gentleman from South Carolina. For his part he should vote against the whole of the resolutions, and trusted a majority of the committee would do so; and he did not wish the decision to be delayed. He wished the country at large to know the sense of the committee upon them as soon as possible.

Mr. Otis could not see how it was material to gentlemen who intended to vote against the whole, in what order the resolutions were discussed; to those who were not decided it might be material. He was of opinion with his colleague, that it would be best to take them up in the way he proposed, and he thought it would be uncandid to object to the postponement. The Senate had already passed a law on the 3d and 4th, and those might as well be considered in their bill.

Mr. W. Smith said, he should adopt a mode which would not require the consent of gentlemen. He withdrew, for the present, the 3d and 4th resolutions.

The 5th, which was in the following words, having been read,

"*Resolved*, That provision be made, by law, for regulating the arming of merchant vessels of the United States,"

Mr. Swanwick inquired, with what view these vessels were to be provided? Against whom they were to be employed? and in what cases they were to defend themselves? The information which he might receive on these inquiries, he said, would have considerable weight in influencing his vote.

Mr. Harper said the detail would be brought forward in the bill; the principle was now only to be determined. He had not thought of all the modifications which might be given to it, though he had thought of many; but it would be best discussed in this general form. The gentlemen, if he thought proper, might introduce into the resolution any principle which he might wish to have inserted in it.

Mr. Williams said it was well known that a number of our merchantmen were arming in different ports of the Union, and it was, therefore, necessary to regulate this business, to prevent mischief being done. Gentlemen might differ in opinion with respect to the marine law or laws of nations on this subject; but all would wish, since vessels were arming, that they should be put under some restraint. When he voted for manning the frigates, he did it with a view to have them employed in the defence of our coasts, and not as a convoy. Our situation, he said, was truly critical, and he was undetermined how far it would be proper to arm the merchant vessels of the United States; but to prevent mischief, he wished the resolution might be agreed to, reserving to himself the right of voting ultimately for or against it. It might afterwards undergo such modifications as should be found necessary.

Mr. Livingston said the gentleman from Pennsylvania had very properly inquired what was the scope of the present resolution, and he expected some answer would have been given. The gentleman from South Carolina had said they must vote for the principle, and the detail would come of course. So that without knowing its object, whether it was defensive or offensive, they were called upon to agree to the principle. This deficiency had been supplied in some degree by the gentleman from New York. He says the merchants have undertaken to arm their vessels. He wished to know whence he derived his information? The only information before them was in the President's Speech, where he says he has forbidden such armament, except in the East India trade. He therefore supposed the fact not well founded. What, he asked, was intended to be done with these armed vessels? He said they must argue hypothetically. He supposed they were intended to protect our trade. He did not believe they were meant to operate offensively. But he would ask if this were the case, if it would not lead directly to war? since individuals would be left to determine the law of nations, and of course the peace of the country would be placed at their disposal; and all precautions, on the part of Government, would be in vain, since individuals, who might have an opposite interest to that of the Government, might be continually committing acts of hostility.

Who, said Mr. L., are our merchants? Were they all men in whom implicit confidence could be placed? Were they all Americans? He believed the generality of them might be well disposed towards the interests of this country; but if there were one man of a contrary spirit, the peace of the country would be at his disposal; for what

would avail all the instructions which were given, if one foreigner had the power to commit acts of hostility on a Power with whom we are at peace? and if Government were to disavow violations of this sort, yet a repetition of them would certainly involve the country in a war. And when it was considered what a number of English and French we had amongst us, who would wish to see this country take part in the present war, it would not be extraordinary if they should seize such an opportunity of provoking hostilities with one or the other Power. For his own part, he looked upon the measure in so serious a light, that he should not hesitate to say he should prefer a declaration of war to such a step, because it would be a dereliction of principle thus to commit into the hands, of they knew not whom, that most sacred trust, the preservation of the peace of the country; whereas, if war were to be declared, we should put ourselves into a state of defence accordingly. A measure of this kind, taken under the mask of peace, would be plunging a dagger into the vitals of the country, from which it would be a long time in recovering. Mr. L. concluded by remarking upon the extraordinary manner in which this business was conducted, and attributed the withdrawing of the third and fourth resolutions to a persuasion that they would have been negatived, if persisted in.

Mr. S. SMITH acknowledged that the present was a very delicate subject; but had not the President forbidden the arming of merchant vessels, he should have been of opinion that the merchant vessels of a neutral Power had always a right to arm for their own defence. But he believed it was necessary that something should be done. Merchants would arm their vessels from the right given to them by the law of nations, and, if not restrained, might go on to do acts which could not be justified. Though he believed merchants possessed the right of arming their vessels, yet, rather than do any thing which would involve the country in war, he believed they would desist from the practice, and bear the losses which they might, for the want of arms, suffer. He moved to strike out the word "regulating," and to insert in the place of it "restricting in certain cases."

Mr. SWANWICK believed it would be very difficult to devise any plan by which to regulate a power of this kind, since private interests were set to work to evade the law. There had always been great difficulty to prevent privateers from being fitted out in our ports, and it was known that many of the vessels employed against our trade in the West Indies, notwithstanding the precaution, had been fitted out in our own ports, and whenever permission was given to merchants to arm their vessels, that permission would be a cover for a variety of abuses. Besides, the arming of vessels, Mr. S. said, would be attended with an expense which no regular trade could support. If it were not for this, nations at war might carry on trade as well as neutral nations. He looked upon the advantages which the United States had derived from their trade, to be owing to their having carried it on without the necessity of arming; this provision, therefore, could have no other effect than to involve us in war. What, he asked, had been the conduct of other neutral nations? He did not believe Denmark, Sweden, or Venice, had carried guns on board their merchant vessels, though they had very considerable commerce. He believed the only proper protection for the trade of a nation was the armed force of the Government, which would always be under due regulations. For these reasons he should be opposed to the present measure.

Mr. GALLATIN said it seemed as if the motion of the gentleman from South Carolina was susceptible of any shape, since the amendment now incorporated into it seemed to have a different view from the original. At present he would state his objections to the principle of the resolution itself. The first inquiry was, whether the law of nations permitted the merchant vessels of neutral nations to arm? If they had not a right to permit it, whether they are not bound to prohibit it? He had examined the law of nations on this subject, and found no such authority, nor did the practice of modern times justify the practice. He took a view of the different stages of society, to show that whenever regular governments were established, the public defence was always placed in them, and it was their duty to protect individuals, since they did not give them leave to protect themselves.

Mr. G. said he knew of no exception but in cases of letters of marque and reprisal, and he did not know a single instance within the last century where these had been granted, but war had been the consequence, so repugnant were they to the present state of society. It was true, nations might be in such a state as to find it necessary to grant such a power; as when a nation with which it has to do is unable to support the common relations of intercourse. Two instances of this kind presented themselves, viz: The East India trade and the Mediterranean trade. In carrying on our trade with the East Indies, our vessels were met by those of a number of uncivilized Powers, upon whom no restraint could be had, so that no remedy was left to us, but immediate resistance. Nearly of the same nature was the situation of the Barbary Powers in the Mediterranean; and, although we enter into a treaty with them, we have not a perfect reliance upon their observing their engagements, our merchant vessels are therefore permitted to trade to those parts armed. He knew it might be said that, at present, the West Indies were in a similar situation. He believed, in some respects, they were; and this could be the only plea for adopting a measure like the present. If it were to be understood that there was to be an end of the negotiation with France, or that the privilege of arming would not be abandoned, it might be proper to authorize the arming of merchant vessels; but he believed, if it were considered that such a permission would be almost certain to involve us in war, it would appear to be much more wise to await the event of the negotiation with France; not that he was afraid of offending France by a measure of this

kind, but he was afraid of involving our country in a war.

Mr. G. observed that, when he said it was our duty to prohibit the fitting out of armed merchant vessels, he thought he owed it to our own security to do so; and as the President had told them that he had prohibited the fitting out of any such vessels until the will of Congress was known upon the subject, he saw no danger that could arise from vessels still remaining unarmed. And if there were any merchant vessels arming, he believed it would be the best for the Government to remain silent on the subject; for then, if merchants proceeded to acts of hostility, Government might disclaim the act, and they alone would have to answer for them.

Mr. G. concluded by saying, that this being a new subject, he should be glad to hear what could be said in favor of it, or of any historical fact which could throw light upon it.

Mr. COIT complained of the proposition when first introduced, and now amended, being very indefinite. He thought the provision should be made, but he wished the object to be defined. He could not say that he could so modify the resolution that he could himself vote for it; he had not made up his mind upon the subject as to what cases restrictions should be made; but, in order to take the sense of the committee, he would move an amendment, in order to bring the subject before them. It was to strike out "certain cases," and to insert at the end of the resolution "bound to the East Indies and to the Mediterranean."

Mr. HARPER proposed to amend the amendment by adding the word "West," after "East," so as to read "East and West Indies."

Mr. W. SMITH did not think it material whether West Indies was inserted, or the amendment rejected altogether. It was his wish that the committee should first have decided upon the abstract principle. Presuming it to be the existing law of this country that merchants have a right to arm their vessels, he wished to know whether it was their wish to interfere in regulating and restricting that right. He believed the modification of the subject might very well have been done in the bill. He would have risen before to have given his reason for this, had he not been prevented from doing so by gentlemen who had complained that he had not done it. He was in favor of the amendment to the amendment; but if it was not carried, he should be against the amendment. It would be in vain to take into consideration the East India and Mediterranean trade, when spoliations were principally committed in the West Indies, when, indeed, the object of the present meeting of Congress was principally to take into consideration the protection of the West India and European trade; he presumed, therefore, if they meant to do anything effectual, they should take into consideration the West India trade. Gentlemen were very ready, he said, to object to every plan brought forward, but they themselves proposed nothing. All they did was to hold out alarms of war, though every one expressed a desire for peace.

The gentleman from Pennsylvania (Mr. SWANWICK) had objected to the arming of merchant vessels because of the expense. He believed the merchants of the United States in general thought differently, though there might be some merchants in this city who would be averse to the measure. As to the expense, he believed the expense of fitting out the vessels would be more than saved in the insurance. But there was a further consideration—by this means the vessels and seamen would be preserved to the United States; whereas, if it were not adopted, we not only lose our vessels and men, but they go to strengthen the power of a nation which may use them against us. And unless France knows that this Government will afford protection to its vessels, we might expect that she would take advantage of our remissness, by spinning out the negotiation, and plundering our property.

Something had been said about the conduct of other neutral nations. He believed they had armed their merchantmen, though he did not pledge himself to prove it; but if this were not the case, they had fleets to convoy their trade. We, on the contrary, had no fleet, nor did gentlemen seem desirous that they should have any, since they have expressed their wishes that the frigates now building were burnt. He asked what was to become of the commerce of this country, if we refused to protect it? If we were to resort to an embargo, what would be the consequences? You would not, said he, suffer your vessels to lay up forever. After a time, they would be sent out again, and they would be taken again. In case of an embargo, what, he asked, would become of our seamen? They would wander about the country, discontented, and perishing for want. What would become of our produce? It would rot upon our wharves.

The gentleman from Pennsylvania (Mr. GALLATIN) had not said neutral nations had not a right to arm their merchant vessels, and he had no doubt, if he could have done it he would. Was it, then, right for us to sit still and see the property of our merchants spoliated? Was it not our duty to protect our commerce, our merchants, our revenue? If we were to suffer these to be laid waste, when that state of things arrived, which he believed was not far distant, in what a situation should we be! Nay, he believed that the conduct of gentlemen on that floor would have the effect to increase the demands of France upon us, by contrasting her means and our weakness.

The gentleman from Pennsylvania had justified our right to arm merchant vessels to the East Indies and the Mediterranean, but had introduced some nice distinctions to show that the same reason did not exist for arming our West India vessels; but he could see no reason for it in one case, which did not also exist in the other.

But he was surprised that that gentleman should have treated so cavalierly our good ally, the Dey of Algiers, who had behaved so very politely and generously to us. He thought much more respect was due to the Dey than to Victor Hugues, though that gentleman did not seem to speak of

him with equal respect. The Dey of Algiers had lent forty thousand dollars to our agent for the purpose of making a treaty with Tunis. Victor Hugues, on the contrary, took all that he could get from us.

Unless some means of protecting our vessels was determined upon, our coasting trade would be lost, since the picaroons had been off the Capes of the Delaware. And if they were to know that Congress had adjourned without doing anything for our protection against them, our coast would swarm with them.

But gentlemen were afraid, if our vessels went to the West Indies armed, war would be the consequence. He did not think so. He believed France considered all that part of the country as outlawed, and that it had little connexion with the Government of that country. Indeed, he knew it as a fact, that the French Minister had assured our Government, before he left Philadelphia, that the spoliations committed in the West Indies were unauthorized; and, therefore, if no means of defence were taken against them, we could have no ground upon which to expect redress from France.

But gentlemen said, why take these measures at present, since they may be looked upon as hostile, while our negotiation is pending? He believed, that after the present dispute should be adjusted with France, it would be necessary to arm our vessels trading to the West Indies, as he believed, for some years to come, these bucaniers of various colors would continue to infest those seas. And if this were the case, why ought they not to go into arming our vessels at present, when they were met for the purpose of taking effectual measures for the defence of our country?

Mr. S. Smith conceived that Congress were called together to adopt such measures as were best calculated to preserve the peace of the country, by means of negotiation, and to fix upon such means of defence as would not be injurious to the country. It was his opinion that the President was not authorized by law to prevent the vessels of merchants being armed; but the merchants of the United States would readily submit to any loss rather than go to war. He knew that this was the opinion of the Philadelphia merchants: he had seen many of them. Nor had he met with one native American who wished to go into this arming plan; they believe it would infringe our neutrality, and throw us into a war. When he came here, his mind was scarcely made up on the subject. He did not like to give up his right to defend his property; but he had found this to be the general opinion, and therefore he brought forward the amendment, which had been well amended by the gentleman from Connecticut. The gentleman from South Carolina had since added *West Indies*, and this brought them to an issue; for it was warmer no war.

If the latter amendment was agreed to, he should be for striking out the whole, leaving it general; because, with West Indies in it, it would be particularly pointed.

They had been told of the loss sustained by spoliations, and where it fell. He believed it fell upon the great body of the people of America, and that the fall in the price of produce had been occasioned principally by the British Admiral having forbidden the carrying our provisions to Hispaniola. The British fleet in the West Indies, he said, was supplied with provisions from Ireland, whilst the French depended upon this country for supplies; so that they were our best customers there.

The gentleman from South Carolina (Mr. W. Smith) supposed the cry of war would have no effect in the country; but let us refer back to the British Treaty, said he, when that gentleman was so loud in his cry. But that was a war with Great Britain, and not with France. At that time there was not a British tear which was not called forth by the appeals which were made on this ground. But, Mr. S. said, he did not then fear war, nor did he now, if they took prudent measures. The gentleman said his plan was to prevent war, and yet he proposed to go to fight and sink the vessels of a particular nation. This was a way for preserving peace peculiar to himself.

If merchant vessels were armed, they would serve the purpose of privateers, which might be used against our own vessels. This was a risk he did not choose to run. But it was a curious fact, that at the same time that we are proposing to permit the merchants to arm, they express a disinclination to it, because they love their country better than their own interest. But the gentleman had said the expense of insurance would be lessened by this arming. On the contrary, he (and he was an underwriter) should consider the risk greater from their having guns. Indeed, he found the insurance offices were all against the measure.

But the gentleman says, let the French know we are preparing. He trusted we should prepare a defence which could not offend any one. Let us do all we can to promote peace—let the negotiations go on. It would be a fine story, indeed, when a reconciliation was about to take place betwixt our negotiators and the French Government, that they should hear we were sinking her privateers at the West Indies! They would doubtless send them about their business.

The gentleman from South Carolina seemed to think it was right for our vessels to go into rebel ports in the West Indies, and had told them of our men being taken by Victor Hugues, considered as pirates, and hung. [Mr. W. Smith denied having said our citizens were hung.] Mr. S. read Victor Hugues's proclamation, (though he said he had no more respect for him than that gentleman, as he had lost 6,000 or 7,000 dollars by him,) and showed that those persons were only considered as traitors who sailed out of rebel ports, and not citizens of the United States. Nor were those ports considered as rebel ports which were taken by the English, (Cape Nichola Mole was one of those,) but merely those which were in a state of rebellion, to which, if we were determined to trade, it would certainly lead to war.

Mr. S. said he was surprised to hear the gentleman from South Carolina make one concession, viz: that the French Minister had assured our Government the captures made in the West

Indies were unauthorized; because, when he had asserted the same thing, on a former occasion, that gentleman denied it. Mr. S. insisted that the French trade carried on to the West Indies was a productive one, and that payments were in general made as punctual as in any other parts, and referred to Major Mountflorence's letter for an act of generosity never shown by the British; nay, he thought there was a better chance of getting money owing from France than there was of getting it for any spoliations committed by the British, and now under adjudication.

Mr. S. concluded by saying he had another reason for opposing this measure. Two-thirds of his constituents were farmers, and one-third citizens, and they enjoined him to do all in his power to keep this country out of war. He thought the rejection of this resolution as tending to this end, and therefore he opposed it.

Mr. Harper observed that it did not seem to him necessary for members to preface their observations in that House with accounts of themselves, or declarations about their motives; much less could it be necessary to talk about the motives of other people. He believed that gentlemen were, for the most part, far better known to others than to themselves; and, as for their motives, they would best be judged of by the nature and tendency of their actions. He would, therefore, content himself with stating his own reasons, and endeavoring to controvert those of gentlemen who opposed him, without saying anything about his motives or theirs.

He could have wished that other gentlemen had acted thus. They had, however, chosen to pursue a very different course. They had constantly and loudly attributed to him, and other gentlemen who thought with him, the very worst of motives—a desire to bring their country into war; and this in contradiction to their express and repeated disavowal of such intentions. When he, and gentlemen with whom he had agreed, had made the most solemn asseverations that it was their whole desire to preserve the peace of this country, in every manner consistent with its true interests, and that they advised certain measures because they, in the best of their judgment, thought them best calculated to produce this effect, they had been repeatedly told, though not always with the same rudeness, that they were not believed. The accusation of intending to draw the country into war had been extended to all who differed in sentiment with certain gentlemen, and every measure which they did not like was imputed to this intention. The charge had been extended to the Executive; and it had been said, both on that floor and elsewhere, that proofs of this hostile intention were to be found even in the pacific measures which he had resolved to pursue.

On this head, Mr. H. said, he did not know how gentlemen were to be cured of their incredulity. How did he know whether it was desirable that they should be cured? He certainly should take no further pains to do so. Of one thing, however, he could assure gentlemen: that the fear of their censure on his motives, or the desire of averting it, should never induce him, in any degree, to alter his conduct. It was the public good he sought; and the public esteem, in addition to his own, was the reward he desired. As to the good opinion of certain gentlemen, if it came in his way, he should not reject it; but he could not say that he would go out of his way to obtain it. If, therefore, it was an effect on him they meant to produce, they might spare themselves the trouble in future. If it was an effect on the public, still their labors would not affect him, for he was very willing to let his motives be laid before the public, on his own sincerity, weighed against the accusations of those gentlemen.

He had been led into these remarks, not only by the course constantly pursued by gentlemen in general, but by the assertion of the gentleman last up, from Maryland, (Mr. Smith)—that this motion, for excepting the West India trade from the prohibition to arm for defence, was a motion for peace or war! In this opinion he could not agree. He was persuaded, and he should endeavor to show, that the right of arming merchant ships for defence in the West India trade might be so regulated and restricted, as to become in no degree dangerous to the peace of this country.

He said, merchant ships had the right of arming for defence; for he took this to be a right inherent by the law of nations in every neutral State. He had not, he confessed, made researches into the law of nations on this point, but the general course of his reading had led to this conclusion. It was also confirmed by history, and the practice of neutral States, whose merchant ships did very frequently sail armed in time of war. It was a natural right to carry arms for defence, as much on the water as on the land. The offence lay in either case, not in the arming, but in the improper use of the arms. If a man on his journey should carry arms for his defence against robbers, this would be proper; but, should he use them to rob others, he becomes punishable as a felon. So it is at sea. The arms may be carried, and may be used properly. If used improperly, punishment ensues. This he had, morever, understood to be the result of the best legal opinions in this country, and, indeed, it had not been denied.

It must, however, be admitted that the abuse of this right was far more easy, and far more dangerous, at sea, than on land. It was, therefore, proper to lay it under much stronger restrictions, and some nations had thought fit to restrict it altogether. Whether we should do so in the present circumstances was the question. This question, he would repeat, was not about the giving of a right, but about the restricting or taking away entirely of one which already existed.

When this proposition was first brought forward by his colleague, it was presented in the most general and abstract form. It was "to regulate the arming of merchant ships for defence." Afterwards, by the consent of the mover, it had been expressed differently: "To restrict the arming of merchant ships for defence to particular

cases." A gentleman from Connecticut (Mr. Corr) had moved to amend it so as to read: "To restrict the arming of merchant ships," &c., "to the trade to the East Indies and the Mediterranean." It had then been moved to insert before the word "Indies" the words "and West," so as to make the proposition stand, "to restrict the arming of merchant ships," &c., "to the trade of the East and West Indies, and the Mediterranean." That was the motion then under discussion. The question was, whether merchants' ships engaged in the West India trade should be prevented entirely from arming for defence? And this the gentleman from Maryland had declared to be a question of peace or war.

But how, he would ask, was it a question of peace or war? Was it not practicable to leave the merchants possessed of this right, but under such regulations and restrictions as would take away the danger of abuse, or, if abuses should happen, would save the nation from responsibility, would take away cause of offence from other nations? He believed it was practicable, and he should now endeavor to show it. The question had now been presented to us in its abstract form. In this form it was proper first to discuss it. The modifications would come afterwards, when it should assume the form of a bill. Gentlemen had complained of this mode, and called for the modifications in the first instance; but they had themselves proved that this mode was proper. They had not only proved by the tenor of their opposition, that they meant to vote against the measure under any possible modification, but had expressly declared it. One gentleman from Virginia, (Mr. Giles,) had even declared that he would vote against every proposition on the table. Why, then, spend time in modifying a measure, which, however modified, gentlemen were resolved to oppose? The proper way was to see whether it could be carried in its general form, and let the modification come afterwards. Though, however, he thought it improper to propose any modification at present, he would tell gentlemen and endeavour to show the committee how, in his opinion, it might be modified so as to strip it of all its dangers.

There were, he said, three kinds of trade, as between us and France. There was one kind prohibited either by treaties or the law of nations; one kind in dispute, and one kind neither prohibited nor in dispute. To this last kind the right might be, and in his opinion ought to be restricted. These restrictions should be expressed in the law, and in precise instructions, and heavy penalties, under good security, should be exacted for the observance of these instructions. Thus, as the instructions would be confined wholly to a trade neither prohibited nor in dispute, they could not be complained of, and if they were infringed, it would not be the act of the nation. The nation would have only to disavow the act, and show the instructions whereby it was forbidden; it then became the private act of parties, for which they were punishable, but the nation not bound to answer. This must be admitted by all, especially by those gentlemen who contended that the French Government is not accountable for the hostile acts in the West Indies, though avowedly founded on one of their decrees, and done by their public and acknowledged agents. If, under these circumstances, the French Government be not answerable for these acts, because it has not especially authorized them, how, he would ask, could the American Government be accountable for acts done, not only without its authority, but against its express and public orders? For acts which, instead of being able to avow, should it think fit, as the French Government do with respect to the depredations in the West Indies, it would be bound to punish.

He would exemplify this general position as to the manner of modifying this measure, by some particular cases, not in order to point out all the modifications whereof it was susceptible, or to declare that he would support all that he should mention, but to show how it might be modified so as to remove every objection.

In the first place, Britain exercised the right of taking the goods of her enemies, if found on board of our ships. This France alleged was a right given to the English by our treaty with them, and that she also had become entitled to it. She therefore declared that she would take the goods of her enemies whenever she could find them in our ships. This point we do not concede; but neither do we mean to resist the right by force. We intend to negotiate, and perhaps to yield it, if found expedient. It would therefore be improper, and contrary to the spirit of this negotiation, to permit our vessels to arm in this trade; and consequently every vessel which shall take on board goods the property of the enemies of France, must be prevented from arming. Every vessel, before she arms, must give sufficient proof that she has no such goods on board, and sufficient security not to take them.

So also as to contraband, about which there is a point in dispute between us and France, which we mean to settle by negotiation. The French Treaty limits the contraband list. In the British, it is more extended, and the French declare that they will extend it in the same manner. Here is a dispute, which, like the former, we mean to settle, if possible, by negotiation. We must not, therefore, permit our citizens to contest it by arms, and accordingly, no vessel should be permitted to arm without proving that she had none of these articles on board, and giving security to take none. If she did so, it would be contrary to her instructions, and at her own risk. The bonds would be forfeited, the act disapproved, and the nation saved from all responsibility.

The same observations, he said, would apply to the case of a place blockaded or besieged. By the laws of nations, provisions could not be carried to a blockaded or besieged place. What would constitute a siege or blockade, was a question of the law of nations; but the existence of the siege or blockade must, in the first instance, be notified to neutrals by the party forming it. It could be known in no other manner; for the

neutrals must be unacquainted with the circumstances, and the besieged party would not testify against themselves. Indeed, access could not be had to them, and, of course, their opinion could not be known. The besiegers must therefore make the declaration in the first instance, and neutrals must believe it. Whether false or true, becomes afterwards a question in the Courts of Admiralty, or between the Governments; but for neutrals to dispute it in the first instance, at the mouths of their cannon, would be an act of hostility; therefore, if a French squadron should place itself before an English port in the West Indies, and declare it in a state of blockade, our armed ships must be instructed to abstain from any attempt to enter. Even if half a dozen French privateers were to station themselves off Portsmouth, and declare it in a state of blockade, our ships must not dispute the point or attempt to go in by force. If they do not think it blockaded, they may attempt to enter peaceably, if they please, and, when taken, dispute the point in the Courts of Admiralty, or leave it to the two Governments to be settled by negotiation; but they must be prevented from clearing out for such ports with arms, and forbidden, under strong penalties, to attempt to enter by force. Should they make such attempts, it is at their own risk, and not an act of the Government.

So also as to places declared to be in a state of rebellion. There are several ports in the West Indies which the French authority there has declared to be in this state. The truth of this declaration will be a matter of controversy when any of our vessels shall be taken in the attempt to enter those ports peaceably; but, in the meantime, they must not be allowed to attempt to enter by force. They must be prohibited in the same manner as if the place were declared by the commander of a squadron to be in a state of blockade. At least, Mr. H. said, this appeared to him to be proper, according to his present view of the point. He might hereafter think otherwise, for his mind was not fully made up. But the adoption of the proposition demands serious consideration; it was certainly practicable, and, if done, would save the Government from any responsibilty, and that was sufficient for the present purpose.

These modifications, Mr. H. said, and as many more as might be thought necessary, it would be practicable to introduce into a bill. The provisions of this bill would be digested into a set of instructions, and owners of vessels applying for permission to arm defensively, would be obliged to conform to the law, and to give large bonds with sufficient security for conforming to the instructions. Resolves, by way of indictment, might also be added for masters of vessels who should contravene the instructions. If they should still be contravened, the Government would have nothing to do but disavow the act, show the instructions, and say to the other nation, "punish these persons if you can catch them; they have disobeyed our orders, and if they come here we will punish them. In the meantime, we will forfeit these bonds." And thus all justifiable cause of offence would be taken away.

He said "justifiable cause of offence," because it was, and always would be, impossible to take away pretexts of war from a nation that has resolved on it. Such pretexts, it was well known from the history of all nations and ages, had never been wanting, when one Power was resolved to attack another. All that could be done by a State desirous of peace, was to avoid real cause of offence, justifiable cause of quarrel. This must be our conduct. We must avoid justifiable ground of complaint and offence; this would be done by the measures recommended, and we could do no more. If France were so determined on a quarrel as to attack us under so flimsy a pretence, she would find others were we to deprive her of this. War we should have, if war was her desire; and the only possible chance of avoiding it would be by letting her see that it was not her interest. Mr. H. was not afraid to pronounce the word war. He was neither afraid of the thing, nor alarmed at the sound; and he could conceive easily of circumstances in which all the interests of this country would call for war. Those circumstances he did not believe now to exist. He believed they might be averted, and that to adopt this measure, would strongly tend to produce that effect. Much had been said about a clamor of war which had on former occasions been raised. If such a clamor had been raised, the justice would be done him to acknowledge that he had never assisted it. He had never resorted to the alarm of war. It was an event which he had never apprehended, nor did he now apprehend it. It was an event always possible, and for which every country ought to be prepared, and this constant state of preparation was the best means of averting it, which was not to be done by temporising measures. A country which acts justly towards others and shows a desire of peace, and, at the same time, a resolution to defend itself, will always be the most safe from injury and aggression.

When Mr. H. sat down, there was a loud call for the committee to rise (it being past three) when Mr. Livingston rose, and hoped the question would be taken. The question was put for the committee to rise, and carried—42 to 40.

CORPS OF ARTILLERISTS, &c.

A bill was received from the Senate for raising and organizing an additional corps of artillerists and engineers, which was read the first time; when Mr. Macon moved that it be rejected, as he saw no necessity for increasing our army. The motion was opposed by Mr. W. Smith, who said the men would be wanted for supplying the garrisons; and in order to get rid of the question, he moved the House to adjourn. Carried.

Thursday, June 8.

EXPORTATION OF ARMS, &c.

The bill for preventing the exportation of arms and ammunition, was read the third time; when

Mr. LYON said, except the word "cannons" were struck out of it, he could not consent to vote for the passing of the bill.

Mr. W. SMITH called for the yeas and nays upon the passing of this bill, which were accordingly taken, and stood—yeas 74, nays 8, as follow:

YEAS—John Allen, George Baer, jun., Abraham Baldwin, David Bard, James A. Bayard, Thos. Blount, Theophilus Bradbury, David Brooks, Nathan Bryan, Samuel J. Cabell, John Chapman, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, James Cochran, Joshua Coit, William Craik, John Dawson, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Edward Livingston, Samuel Lyman, James Machir, Joseph McDowell, Daniel Morgan, Anthony New, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Joseph B. Varnum, John Williams, and Robert Williams.

NAYS—Lucas Elmendorph, William Findley, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, John Nicholas, and Abraham Venable.

PREVENTION OF PRIVATEERING.

Mr. W. SMITH, from the committee to whom was referred the bill for preventing the fitting out of privateers, made a report, which recommended an agreement to all the amendments of the Committee of the Whole, except one for prohibiting citizens from taking command, or entering on board of any vessel with an intent to cruise against vessels of the United States; instead of which, they recommended another to be enacted in a separate law, confining this bill entirely to private vessels.

The House went into a Committee of the Whole on this report, agreed to it, and afterwards took it up and agreed to it in the House, and the bill was ordered to be engrossed for a third reading.

Mr. W. SMITH moved, that a committee be appointed to prepare and report a bill to prohibit citizens of the United States from taking the command of, or entering on board, any ship of war of any foreign Power. A committee of three was accordingly appointed.

Mr. COIT believed, that some inconveniences arose from vessels which had been taken prizes from citizens of the United States, being again sold to citizens of this country, and from their obtaining fresh registers for them, as the doing of it appeared to be an additional inducement to captures. He therefore proposed a resolution to appoint a committee to consider the propriety of prohibiting the practice in future, which was agreed to, and a committee of three appointed.

CORPS OF ARTILLERISTS, &c.

Mr. W. SMITH moved that the House take up the bill which was under consideration yesterday when an adjournment took place, viz: the bill for raising an additional corps of artillerists and engineers; when

Mr. MACON said, he should not renew his motion for rejecting the bill, as it might consume more time than letting it take its course; but he did not think he showed any want of candor in wishing to get rid of it in that way. The gentleman from South Carolina talked as much about candor, and showed as little of it as any man in that House.

The bill was referred to a Committee of the Whole to-morrow.

Mr. LIVINGSTON said, it was well known that the Commissioners for settling the British debts were now organized and ready to proceed to business. It had been suggested that great evils might arise for want of an agent to check the claims of the British. He should, therefore, propose that such an agent be appointed. He laid a resolution upon the table, directing that provision be made by law for enabling the Executive to appoint an agent for this purpose.

DEFENSIVE MEASURES.

The House again resolved itself into a Committee of the Whole on the state of the Union, and the 5th resolution, viz: that respecting the arming of merchant vessels, with the amendments which had been yesterday offered, being under consideration—

Mr. OTIS said, it ought to be considered that they were not about to grant a privilege to our vessels to arm in their own defence, but to modify that right. He thought all discussions on the law of nations were secondary; for, if our own law did not forbid the practice, it was necessary something should be done to regulate it, and when the bill was brought in, gentlemen might direct their objections to such parts of it as they thought proper. There could be no doubt that the law of nations warranted the practice; but it might be our policy to put it under a stricter control than other nations had done, because all other commercial nations had fleets to protect their commerce. He spoke of the difference between carrying arms on board a vessel and of using them.

Mr. O. referred to a provision in the law of nations, which, if it did not positively acknowledge the right of merchant vessels of neutral nations to be armed, at least implied it. It was, that vessels of war have a right to examine merchant vessels, and, if they make any resistance, they shall be considered as lawful prize, which supposed them to be in a capacity to fight. It was acknowledged that this power might be abused; and therefore it was, that they proposed to restrict it in the most effectual manner. At present there was nothing to prevent the owner

of any vessel from arming it, from which great disorder might ensue, but the order of the Executive, which might be any day revoked. But these regulations were scrupulously to avoid cause of offence to any nation, and the improper conduct of the captain of any vessel would be disavowed. The only question was, which was the best way of doing this. All were agreed that the regulation would be proper to the East Indies and the Mediterranean, but there seemed some doubt as to the propriety of including the West Indies.

Mr. O. contended, that if the danger in the West India seas was as great from unauthorized cruisers as it was in the East India or Mediterranean seas (and he thought this had clearly appeared) the same regulation ought to be extended to that quarter. But it was said it might be the cause of war. He took it for granted such restrictions would be made in the law as would prevent any real pretext for war, and if the French were determined to act upon specious ones, they would not want them: and if they had them not, they could manufacture them, and nothing that we could do would prevent them from making war upon us.

Mr. O. denied that resentment could have all the effect ascribed to it, since it would only operate to any effect upon a few individuals; nor did he think the captains employed in the West India service would be less likely to consult the interest of their employers and of their country than those employed in the East India and Mediterranean trade. He denied also, that if a captain was so imprudent as to force a vessel into a rebel port, that it would be a cause of war, nor would the French Republic ever make it a pretext of offence. Indeed, if it were a fact that the unauthorized cruisers in the West Indies were in rebellion to the French Government, we should, in fact, be fighting their battles by fitting our vessels to oppose their unjustifiable attacks.

The gentleman from New York had objected to this proposition because it appeared naked. He thought this no objection, because the gentleman could take it out into the committee room and clothe it with his own ideas. The gentleman from Pennsylvania had said the expense would be an objection; but he might have known that no one would be forced into the regulation. But it was said the merchants were against arming their vessels. They were apt, he said, to suppose that because half a dozen persons with whom they conversed were of their opinion, that every body thought alike.

But suppose this was the opinion of some merchants, did not they expect there would be other measures taken for the protection of our trade? In order to put the matter upon a right footing, gentlemen should say to these merchants, "We will do nothing; we are willing that privateers should not only come off your Capes, but up to your city, and take your bank; (he did not know whether there would be any one found to welcome them;) we want to go home; the weather gets warm; our own affairs have need of our attention." But, added Mr. O., if the merchants are averse to this proposition, why do they not meet and declare their opinions? If they were to do this, it would have some weight with him.

Another gentleman had told them that the loss sustained by depredations upon our commerce did not wholly fall upon our merchants, but upon the public at large. That the gentleman from Pennsylvania should have supported a theoretical idea of this sort, would not have surprised him; but that a gentleman, who was himself a merchant, should have given countenance to it was extraordinary. If the merchants and insurers were to lose the whole of their capitals by these spoliations, would it be any satisfaction to them to be told that the farmers would also be affected by their losses? Or, if the matter was reversed, and a mildew should destroy the crops of a number of farmers, the misfortune would of course raise the price of grain, and the public would be affected by the misfortune; yet, the advance in price would be general, and the suffering would be confined to those who crops had been destroyed.

Seeing, then, said Mr. O., that our commerce is thus exposed, shall we desist from all prudent measures of protecting it? If we do, we shall be obliged to the mortifying alternative of putting our vessels under British convoys, or suffer them to be captured; and he believed if nothing was done for the protection of our trade, it would be found at the next session of Congress, that all the vessels which had arrived safe, would have been thus convoyed.

Mr. O. concluded by a complaint of the want of candor in charging gentlemen, who advocated this motion, with being advocates of war. He thought gentlemen had used language in the course of the debate that they would not have used out of doors. He feared the time was coming when they should be obliged to unite in the defence of their common country, and he thought it would be well to avoid all unreasonable provocation. But, if gentlemen were determined to say, because he advocated the arming of our merchant vessels, that he advocated a war proposition, and that it would produce war in six months, he could not help it. The public must judge between them.

Mr. VARNUM said the gentleman last up had taken much pains to show that the citizens of the United States had a right to arm their vessels, and to resist the attacks of foreign nations. If this were true, he was astonished the doctrine should have lain so long dormant. But he believed the right had not been considered to exist, and he believed it ought to exist. Though the President had forbidden the arming of merchant vessels, yet gentlemen asserted they had a right to do it. [Mr. OTIS interrupted Mr. VARNUM to read an extract from the President's Speech on the subject, where he says he did not doubt the policy and propriety of merchants arming their vessels.] Mr. V. said the President might not doubt the policy and propriety, and yet not be satisfied as to the legality of the measure. If individuals had this right, he hoped they should pass a law before

they rose, to prevent its exercise, as he doubted not if this plan was gone into that this country would soon be involved in the horrors of war.

Mr. V. wished to know what cause existed at present more than for four years past, for going into this measure. Gentlemen had brought forward many ideal depredations committed by the French Republic, of which no evidence had been attempted to be adduced. They had proof indeed of three or four vessels being taken into France in the report of Major Mountflorence, yet gentlemen exclaimed that our commerce was laid at the feet of France. If this were so, why did not the evidences lie before them? The cries of women and children, which had been the other day introduced, was no proof. He believed those cries had been produced by an overbearing spirit of speculation, in this country, more than by the depredations of any nation whatever. He saw nothing in the French Republic like a wish to injure the property of the citizens of the United States. Mr. V. then took notice of the decree which they had taken in respect to the British, and doubted not, when our negotiators should settle that business, that the present misunderstanding would be done away, and they would be convinced of our good wishes towards them. He did not wonder that the French should have been offended with this country. He thought they had cause for offence in the British Treaty; nor was he of opinion that our conduct towards them had been more friendly than to other nations, which he thought they had some reason to expect; not but that he applauded our Executive in taking such a part as was calculated to keep us out of the war. He believed it would have been a wise thing not to have entered into any treaty with either nation till the conclusion of the war.—[The Chairman reminded Mr. V. of the question.] He concluded with hoping we should wait the event of negotiation, without doing anything which might eventually lead to war.

Mr. Nicholas would not again have troubled the committee, had not the importance of the question appeared to him to require it. They were told that merchants had a right to arm their vessels, and a motion was made to sanction the arming of them to the West Indies, in addition to the East Indies and the Mediterranean, under certain restrictions. So that they were about to admit the right of the merchants to do the thing. It was necessary therefore to inquire, whether this was the practice of nations.

It was said that there was no law to prevent arming; yet the President had forbidden the arming of merchant vessels, except in certain cases, and he should not be willing to believe that he would do what he had no right to do. And surely no gentleman would contend that the President had the power to do, or not to do, according to his will. It was his business to execute the law, and not to make it. He believed there had been no hesitation, since the passing of the law in 1794, in believing that vessels arming in the ports of the United States were doing so with an intent to commit hostility. To suppose the contrary, would be to bring the Executive into a situation which he did not deserve.

The gentlemen declared it was their intention to suppress a natural right. He would not willingly dispute their intention, but he believed this was not the whole of it, because the gentleman from South Carolina had spoken of forcing our vessels into the rebel ports of the West Indies, than which no step could be taken which would sooner lead to a war. But gentlemen said that the law of nations countenanced this doctrine, and said it remained with them who opposed it to prove the contrary. The fact was, the law of nations was silent upon this point. But if it had been a beneficial thing, and conducive to the happiness of a country, would it not have been at some time acted upon, and noticed by the writers on the law of nations? And is not their silence pretty strong evidence that the right was never exercised? The reason of the case was strong against the practice, as, if unrestrained, it was acknowledged it would lead directly to war, as it would have a tendency to violate the rights of other nations; and if this would be the natural consequence of the measure unrestrained, he believed the same effects would be produced, notwithstanding any restraints which might be enacted to regulate the practice; and if they authorized a practice which produced evil, it would be the same as if they authorized the evil.

But gentlemen say this measure could give the French no real offence, and if they would act from specious ones, they would never be in want of them. Mr. N. said he did not want to remove specious pretences of offence, and, if this country gave no solid ones, he should never be heard to raise his voice in favor of France. But it was his opinion this proposition was pregnant with real offence.

The gentleman last up seemed to think that if the merchants were indisposed to the measure, then it would not be carried into effect, and of course could do no harm; but, though the generality of merchants might be opposed to it, yet there might be enough ready to enter into it to involve the country in mischief. For, when once this business was gone into, they could not say—thus far it shall go and no farther; nor would any bond which could be entered into be an effectual security for our peace.

He was surprised to hear the complaints of the gentleman last up, with respect to attributing improper motives to gentlemen, since he believed that gentleman had himself been as reprehensible in this respect as any other. Indeed, this very day he had spoken of the French coming up to our wharves, and intimated certain persons would be ready to receive them. He thought the admonition came ill from one who had been twice obliged to recant what he had said in this way.

Mr. N. concluded with hoping the amendment would be rejected; nor did he wish the resolution to be agreed to without it, since he believed if it passed that House, it would not pass the Senate, and if any law passed on the subject, he wished it to be so expressed as to do away the

supposition that the right in merchants to arm was acknowledged.

Mr. Swanwick said, that as the question was to insert the words West Indies in the resolution, it might not be amiss to make a few observations on that trade. Much had been said about the restrictions which should be laid on vessels going out, that they should carry no contraband articles or English or French property, and that therefore they could not be legally stopped; but, he asked, under what regulation vessels were to be put on their return? What documents could a vessel bring from any port in the West Indies? Every person who was acquainted with the West India trade knew that it was a continued source of distrust, lest the French or English should export their property under cover of American property; and, in either case, where the fact appeared, vessels were looked upon as good prizes. This collusion, he said, had been carried on in a variety of ways, some of which he explained. He knew of no method by which this could be prevented, and still he believed more vessels were taken coming from than going to the West Indies. Mr. S. saw no advantages from arming, because, he believed, we should not only lose our vessels, but also the arms on board; and these vessels would probably be made use of as privateers against our own trade.

But why, said Mr. S., is so much said about the French in this debate? This arming, he said, would operate principally against Great Britain, as a greater number of our vessels in the West Indies were taken by the British than by the French, because we had much more valuable trade with the French, Spanish, and Dutch Islands, than with the British. France would rather be pleased than offended at our determination to protect our trade, because the want of that protection had been one of their causes of complaint; and they would know that in a fortnight after we sent our armed vessels to sea they would be fighting with the British. So that this measure would be like a two-edged sword, and cut a contrary way from that which its movers and supporters intended.

It was asked how long we should submit to the degradation of our vessels being convoyed by the armed ships of Great Britain? He would answer, that these convoys were confined to their own ports, and did not extend to the French, Dutch, or Spanish ports. If the French had a sufficient force in that quarter, they might also convoy our vessels from thence.

When he spoke before on this question, he said the expense of this measure was of itself a sufficient objection to it; when it was answered that this was no objection, because if merchants did not find their account in it, they were not obliged to go into the measure. But it was not only on this account that he objected to the plan, but because it would give rise to collusions of the most dangerous kinds, and all regulations which could be thought of would be insufficient to prevent them.

It had been said, if this measure was not gone into, our coasting trade would be ruined. Was it then expected that French privateers would come and take our coasting vessels? If so, were our coasters to be armed? This he could hardly suppose, as no transportation could support the expense of such a measure, and if not, what became of the argument on this ground?

Mr. S. concluded by saying, he had shown that a regulation of the kind proposed could not effect its object, that our vessels would not be able to cope with the force they would meet with, and that it would lead to war. He believed we must determine upon one of two things, viz: either to continue our trade, as at present, by means of insurance, or give it up altogether. And this might be left to regulate itself; because, whilst the profits arising from it were sufficient to make it worth the attention of merchants, it would be carried on; when it was not, it would be declined.

Mr. Potter hoped the amendment would prevail, and that we should soon have the question, as he thought there had been more than enough said upon it. He was afraid no question would hereafter come up, but gentlemen would think it necessary to tell them all they knew about the law of nations, &c. Many gentlemen had complained of long speeches and personalities, and immediately made *still longer*, and been *more personal*. He could not say whether these long speeches were made to display members' own *vanity*, or from their opinion of the *ignorance* of the House.

Mr. Harper took notice of what had fallen from Mr. Swanwick on the subject of French and British spoliations. On a former occasion he had said that the depredations of the British were equal to those of the French; but now he told them they were much greater. Mr. H. said, he then called upon him for his proof, and he referred him to the insurance offices. He had accordingly applied to them; and though he had not yet got his information complete, such as it was, he would lay it before the committee.

From the Insurance Company of Pennsylvania, he found that since the 1st of January the French had taken four ships, five brigs, and three schooners, insured in that office, and the British only two brigs in the same time. From the North America Insurance his account was less complete, as it went back to the beginning of 1796, and ended with the end of it, when the spoliations of the French were not so great as they have been since. The total amount of British captures during that period was $99,274—of French, $271,000. But he believed, if the account was brought up to the present date, the French spoliations would be ten times the amount of the British. But of this he should be more certain to-morrow, as he was promised a statement of them at that time.

Mr. S. Smith said, if he understood the observations of the gentleman from Pennsylvania, it referred to captures of fair and honorable trade, and not to those made of vessels of the United States engaged in illicit intercourse. If, when the gentleman obtains his information from the insu-

rance offices, he will get them to state to what place vessels which were taken were bound, and with what they were laden, the committee could be able to understand what they were about. Philadelphia, he said, was particularly situated in this respect. One of the most respectable houses in the city was one upon whom Mr. Whigglesworth, the British agent, drew all his bills for produce, carried for the use of the British Government. This gave them an advantage over other parts of the Union, and hence it was that there were more depredations committed by the French upon vessels from Philadelphia than from any other port; but much of this trade was illegal, as it was carried on to ports where there were only a few British troops, and which were deemed by the French rebel ports. It was on this account that he had twice proposed a resolution to the House, but had not been able to pass it, to get a particular account of vessels taken, in going to the West Indies, since the 1st of October, 1796. This account from the insurance offices, he said, was not a fair one. Many vessels, he said, were captured, taken into British ports, and, after being put to great loss and inconvenience, released. These did not come within the view of the insurance office, though they were, probably, obliged to sell their cargoes at fifty per cent. under their value. Therefore, any account which could be got from insurance offices could not be relied upon.

Mr. S. said, he had this morning received letters from different captains in his employ to and from French ports, who had been carried into British ports, and obliged to sell their cargoes at a price by which he would lose fifty per cent. He learnt that the privateers state their orders to be, to take and carry into British ports all vessels bound to and from French ports. They state that nine American vessels were taken in this way, and carried into Cape Nichola Mole, and afterwards sent to Jamaica. These, he said, never came before an insurance office, because they were excepted against in the policy of insurance.

The gentleman from Massachusetts had said, why did not the merchants meet, and express their wishes on the subject. The merchants in Philadelphia, Mr. S. observed, consisted of English, French, and American, and so different were their feelings, that were they to meet, they probably would not agree to any declaration which could be formed.

Mr. S. read the proclamation of Victor Hugues, wherein he declares certain ports of the West Indies in a state of rebellion, and forbids trading to them. He thought this provision just, and if persons continued to trade to these ports, after this notice, they must take the consequence.

Mr. Champlin interrupted Mr. Smith to inquire whether Martinique was included in the rebel ports, because it had been taken by the British after a vigorous resistance. Though, he said, he was no merchant, his friends were engaged in commerce, and from them he had some knowledge on that subject. The gentleman from Pennsylvania had stated our commerce was stopped to the Havannah, whereas he knew that thirty or forty vessels which trade between Rhode Island and the Havannah had arrived safe. They had been searched, but, after examination, all of them had been dismissed.

Mr. S. Smith said Martinique was considered as a rebel port by Victor Hugues. It was true that Port Royal was bravely defended by French troops, but the island itself was given up to the British without resistance. But suppose that island was taken fairly, they were cautioned against trading there, and it would afterwards become a matter for discussion between the two Governments; and if it ought not to be considered as a rebel port, he trusted we should get redress for the property which had been taken in going there. The property of vessels bound to the regular ports of Great Britain, Victor Hugues caused to be sold, and the amount placed in the treasury.

Mr. Champlin again interrupted Mr. S. to say, that property thus taken was sold for one-tenth of its value, and the small sum of money for which it was sold was placed in their treasury—so that the whole value was detained from the owner.

Mr. S. Smith acknowledged that this was true. The goods were sold at vendue (perhaps unfairly) for what they would fetch. Mr. S. here mentioned the case of a ship of his taken by Victor Hugues, which had been misrepresented to his disadvantage. It was the ship Jane, chartered by him, the supercargo of which was cruelly treated, and placed in prison, from the idea that the vessel belonged to a Scotch merchant in Baltimore, of the same name with his supercargo; but, on the mistake being cleared up, and finding on the trial that the vessel belonged to a real American, who was in the habit of trading to French ports, and that she was bound to Martinique, and not to Guadaloupe, she was released. This account of the transaction was at the time fairly represented in the *American Daily Advertiser*, but, from some cause or other, had got represented to his disadvantage in other papers. He apologised to the committee for having troubled them with this fact; but, as it had been alluded to by several gentlemen in the course of the debate, he thought it necessary in his justification to state it.

Mr. Brooks said the committee had long been amused with matters no way connected with the subject under discussion. He should confine himself to it. That an individual had a right to arm his vessel for self-defence, was very clear. It was the practice not only of this, but of every other nation. The next consideration was, whether it was expedient at this time to go into the measure. Gentlemen had talked about what had been done on a former occasion, when another nation captured our vessels, which he thought had nothing to do with the present question. Heretofore our merchant vessels had been captured by vessels of considerable force; but of late the principal depredations committed upon our commerce were the acts of small vessels without authority. He thought it was therefore a question with the committee, whether they could not so modify the resolution as to lessen the evil, without any danger of offence to other nations. He thought they might. Attempts had been made to terrify them with the cry of war; and that they must not pursue that or the other plan, for fear of offending the French Republic or the British nation. He thought, when they were considering the best mode of defending our merchants against pirates and bucaniers, no nation had a right to take offence at them; and, if masters of vessels transgressed their orders, they must be accountable.

Mr. Giles reprobated the idea of masters of vessels being accountable, and of placing the peace of the United States at risk upon a merchant's bond. The gentleman might be very bold about war; he could not help saying he dreaded it. Why, he asked, did they all at once feel this ebullition? They had all the information last session which they had at present, except as to the insult offered to our Minister; yet he believed, if any man had come forward with a proposition like the present at that time, he would have been deemed a madman. And now commissioners are appointed to settle our differences, and they were about to lay the foundation for a thousand fresh disputes. He found himself much alarmed at this, because he knew this country had all to lose, and nothing to gain, by war; and nothing increased his apprehension more than the language of gentlemen on that floor. The proposed scheme, he said, was a visionary one, and pregnant with mischief. They all knew there were complicated difficulties with respect to the law of nations, and it would be the height of folly to arm our vessels to contest the point with any foreign Power.

Nor did Mr. G. think our present situation so calamitous as some gentlemen had affected to state it. He believed it was as good as it ever would be in any time of peace. The best criterion was the price of produce. Much mischief, it was true, had been occasioned by spoliations upon merchants' property at sea; but he believed much greater had been occasioned by wild speculations on land. And it was no wonder, that when individuals were out of humor from their losses, that extravagant measures should be thought of; but that they should be seriously urged in a legislative body, was surprising. He trusted there never would be a House of Representatives so lost to the interests of its country, as to agree to a measure like the present.

Mr. Gallatin said, that the question having been so frequently called for, he would not again have troubled the committee, had he not considered the present amendment to be of as great importance as any question that was likely to come before them during the present session. It was nothing less than to declare that our merchant vessels, armed in the West India trade, should be under certain restrictions. It had no relation to whether the right existed or not; but whether they should give the power, if it did not exist, or restrain it, if it did.

He meant to contend, that if the measure was adopted, it could not be productive of one single advantage, but that it would produce great evils, modify it as they pleased.

If the power of self-defence was employed against search or capture, it would transgress the law of nations. To prove that resistance to a search was ground of capture, he read passages from *Vattel* and *Marten*. If resistance could be used at all, then it must be to resist illegal search. This would depend upon Treaties of Commerce which might be in existence. By our treaties with France, Holland, and, he believed, Spain, the modes in which searches shall be made have been pointed out. No vessel of war was allowed to come nearer to our vessels than gun-shot, and were not to oblige our vessels to send out their boats, but were themselves to send their boat, with a certain number of men, on board.

If one of their vessels should attempt to search an American vessel contrary to these stipulations, it might be called an illegal search, and the provision of self-defence might be carried into effect, and in this case alone. And he wished to know whether any advantage was to be derived from being authorized to resist in such case? It might produce an engagement, but could never prevent a vessel being taken; because one of two things would happen—the privateer would either comply with the regulations, or go on to fight and take the vessel. He said it was not possible to prevent the vessel from being taken. The gentleman from South Carolina had pointed out a number of restrictions under which it would be proper to place vessels thus armed; but suppose the vessel to be in none of these situations, what was then to be done? Our vessels, he said, might be loaded with papers and regulations; the fact was, that we had no right to judge of the fact. We say no privateer has a right to take this vessel, because engaged in a legal trade; but, if a privateer, on inspecting the vessel's papers, suspects the contrary, he may take the vessel, and the cause must be tried in the admiralty court of the captor. To prove this, he referred to sundry documents.

This being the case, he did not see a single advantage to be derived from arming, for a privateer might not only deny the cargo to be a legal one, but that the vessel was American, as had been the case of a capture of a vessel going out from this port last year—[Mr. G. alluded to the ship Mount Vernon]—and as no suit had been instituted, he supposed the ground was a good one. Indeed, he was informed that the vessel and cargo was consigned by power of attorney to the consignee in England, to be delivered up on her arrival, and that a person on board was in possession of the consignment. If there were any other advantages to be derived from arming, he wished to hear it.

It was not, Mr. G. said from a fear of offending this or that Power, that he was against this regulation, but because it was calculated to draw us into hostility; because, if our vessels either resisted search or capture, it would certainly lead to war; it would not only lead to war, but it was war!

In addition to what had been said, it might be observed, that when the British exclusively committed depredations upon our commerce, nothing was said about arming our merchant vessels; and if they had done it, he believed it would have been considered as an infraction of the law of 1794. He, therefore, submitted it to the committee, whether a provision like the present would not be considered as an act of partiality. From this opinion, and that the measure would be immediate hostility, he should oppose it.

Mr. Harper charged the gentleman last up with building his superstructure upon a sandy foundation. He insisted that the power of carrying vessels into port on suspicion, was done away by treaty, and that if a vessel had a regular sea-letter and passports on board, there could be no plea for carrying her in. Mr. H. complained that many American vessels were taken by small privateers without any authority whatever. The Mount Vernon, he said, was taken by one of these, and there could be no ground of offence to any Government to resist the attacks of such marauders. The spoliations of 1794, and the present, were wholly different; and, therefore, there could be no ground for a charge of partiality. At that time our vessels were taken by large authorized privateers; now they were principally attacked and taken by small unauthorized vessels.

Mr. Gallatin maintained his ground, and denied that a show of regular papers was sufficient to secure a vessel.

Mr. W. Smith said, if the construction given to our treaties by the gentleman last up was a good one, it would go to nullify several articles in our treaties whose only tendency was to prevent vessels being carried into foreign ports as prizes, and therefore, as they were certainly meant to have some meaning, his construction could not be a good one.

The question was not whether we should authorize our vessels to arm to protect themselves; but whether, in the first place, our citizens have a natural right to arm and defend themselves, and if they have the right, whether the Legislature ought to restrict it, and in what cases. Though some gentlemen had denied this right to exist, no proof had been adduced in support of that opinion. The question then was, whether the right should be restricted in voyages to the West Indies as well as to the East Indies and Mediterranean.

There could be no doubt, Mr. S. said, that if a search was attempted in any way contrary to the mode directed by treaty, such search was illegal, and warranted resistance. That merchant vessels had a right to arm in their defence, in addition to their authorities, he had the opinion of the Attorney General of the United States, which he trusted would have due weight with the committee. [He read it; it was dated June 1.]

It was said this power was not exercised in 1794; but he said they were now only about to restrict a right which was then unrestrained. Indeed, the privateers which then took our vessels would have been more than an overmatch for any armed merchant vessel, whilst a merchant vessel would be equal to cope with any vessel which now annoyed our trade in the West Indies.

If merchant vessels armed at all, he thought there was as much necessity for it to the West Indies as to any other part. He contended that the construction put upon Victor Hugues's proclamation was a good one. He said he had examined into the practice of the neutral nations, and he found that Sweden was in the habit of arming her merchantmen.

He called the attention of gentlemen to the consequences of rejecting the present amendment. He believed, if the restrictions were confined to the East Indies and Mediterranean, that the bill would not pass the Senate, if it passed that House. The right of arming would then be sanctioned, and they would have determined not to restrain it. The consequence would be, that merchants would arm their vessels incompetently, go and trade with what were called rebel ports, which would cause bloodshed; their vessels would be taken and they would be hanged; whereas, if the restriction passed, the arming might be confined to large vessels, which would be able to defend themselves. He hoped, therefore, the principle would be agreed to.

Mr. Macon was surprised to hear the gentleman from South Carolina introduce the opinion of the Attorney General in the way he had done. That gentleman was to give his opinion when called upon by the House; but it was extremely irregular to introduce it in the way he had produced it, as given to an individual. He was opposed to the resolution, and said, if large bonds were to be taken, none but men of property could find the security, and it would of course destroy all the small vessels trading to the West Indies.

The call for the question was loud, and also for the committee to rise. The question for the committee to rise was put and negatived.

Mr. Williams said he was as desirous of taking the question as any one, but he wished to give his reasons for voting in favor of the amendment. He was far from thinking that the adoption of this resolution would amount to a declaration of war; if so, he should be the first to oppose it. The measure was recommended to them in the Speech of the President, and he wished to go into a consideration of it. He wished the principle to be agreed to, and referred to a special committee, that they might have a plan reported before them. But, in doing this, he should not consider himself as pledged to support the bill, except he approved of it.

The question was then taken on inserting the "West Indies," and negatived, there being 35 votes in favor of it, and against it 46. A motion was then made by Mr. Harper for the committee to rise, which was negatived, there being only 32 votes in favor of it. The question was then taken on the first amendment, to insert "East Indies and the Mediterranean," and carried, 41 to 40.

The question was about to be taken on the resolution as amended, when Mr. Dayton said he had an amendment to introduce, but that as it

was then past four o'clock, he should move that the committee rise. He would just say that his amendment was intended to change the principle of the resolution altogether; it was to strike out "restricting," and insert "authorizing under certain regulations." He could by no means agree to give his countenance to a resolution that should convey an idea that the merchants had a right to arm their vessels without the previous consent of the Legislature.

The committee then rose, and the House adjourned.

Friday, June 9.

Stephen Bullock, from Massachusetts, appeared, produced his credentials, was qualified, and took his seat.

The bill for preventing privateering was read the third time and passed.

RETURN OF ARMS, &c.

Mr. Blount proposed a resolution to the following effect:

"*Resolved*, That the President of the United States be requested to cause to be laid before this House a return of all the arms, ammunition, accoutrements, and other military stores, owned by the United States, specifying their condition, and the place or places of their deposite."

The resolution was taken up the next day and adopted.

DEFENSIVE MEASURES.

The House then resolved itself into a Committee of the Whole on the state of the Union; when, the fifth resolution being under consideration—

Mr. Dayton (the Speaker) rose to make the motion which he yesterday proposed to make. It was to strike out "restricting," and to insert "authorizing under certain regulations."

Mr. D. asked the committee if they had attended to the consequences which would follow the passing of a resolution like this, for restricting armed merchant vessels bound to the East Indies and Mediterranean? What would be the consequence, if this elementary proposition did not pass into a law? And if it was now carried, the bill, if the detail was not approved, might die in that House or the Senate. In that case, this proposition would be different from all other original abstract propositions, because it would go to establish the principle that merchants had a right to arm their vessels, to all parts of the world, if not restricted. And it even had been hinted by the gentleman from South Carolina, for what purpose he could not tell, that in the entering upon this discussion, the right to arm was in some degree admitted. This had excited some degree of alarm in his mind. He was willing that a committee should be appointed, and that a bill should be reported on the subject to authorize merchant vessels to arm under certain regulations. When that bill was before them, such restrictions might be introduced as should render it agreeable to the House; but he never could agree that a resolution should pass which should go to deny the right of the Executive to interfere in preventing vessels to arm under any circumstances. Members who were in favor of arming merchant vessels to all parts of the world, could not be against this proposition, because it could be so modified, if a majority should think it desirable; but he did not think it safe to establish the principle, that merchant vessels have a right to arm, without an act of the Legislature to sanction the practice. If this amendment was carried, a bill might be brought in accordingly; if not, he should give his decided negative to the resolution.

Mr. Dana thought this measure tended to arraign the conduct of Government. The President had not supposed it to be his duty to prevent armed merchant vessels from sailing to the East Indies and Mediterranean. The instructions given to the custom-houses seemed to be founded on the ground of a right to arm; but, if they went on the idea that the merchants had no right to arm without permission, it seemed as if they ought to have been prevented from arming.

Mr. Dayton showed the reverse of the position of the gentleman who had just sat down, to be true. He thought the restriction which the President had lately put upon arming vessels, was lawful and commendable.

Mr. Venable supported the amendment.

It was put and carried, there being fifty-one votes in favor of it.

An amendment to add the words, "and for restricting," was moved and carried.

Mr. Potter was against this resolution, because he thought to pass a resolution allowing our merchants to do what they already did, that is, to go armed to the East Indies and the Mediterranean, would be doing nothing.

Mr. W. Smith said he should vote for the amendment, because it would not take away the right of merchants to arm, if it already existed; it would, on the contrary, sanction it, in the same way as the inserting of a known law of nations in a treaty, sanctioned that law. It might also serve as the foundation of other useful regulations.

Mr. Otis believed this resolution would be a narrowing of the present ground; because he did not know that the word East Indies would include Africa. He thought it would be better to leave the resolution a blank. He moved to strike out the words which defined the places to which the regulations should extend.

The Chairman declared this motion not to be in order.

Mr. Dayton said, a division of the question might be called for in the House.

The question was then taken on the resolution as amended, and negatived; there being 37 for it, and 45 against it.

REQUISITION OF MILITIA, &c.

Mr. Blount proposed the following resolutions to the committee:

"*Resolved*, that provision ought to be made by law, for putting 80,000 militia of the United States, in equal proportions from the several States, in a state of requisition.

"*Resolved*, That provision ought to be made by law for procuring, by purchase or otherwise, ——— thousand stand of arms, with accoutrements complete, to be deposited in the several States, in proportion to the whole number of effective men in each."

DEFENSIVE MEASURES.

Mr. W. Smith said, he had waived a consideration of the third and fourth resolutions, in order to pass to the fifth, because he thought it was probable the committee would have determined upon arming our merchant vessels; and if so, it might have influenced the votes of members on those; but, as the committee had just decided against arming merchant vessels, he should propose another resolution to the committee. It was well known that the three frigates which had been agreed to be manned, would not be ready for sea for several months; in the mean time there might be occasion for some armed vessels; he should, therefore, submit to them the following resolution:

"*Resolved*, That it is the opinion of this committee, that the President of the United States ought to be authorized by law to provide a further naval force, whenever, in his opinion, the circumstances of the country shall require the same; and that ——— dollars be appropriated for that purpose."

The Chairman said the resolutions of the gentleman from North Carolina were first in order.

Mr. W. Smith said he had no objection to the proposition of the gentleman from North Carolina, as a part of a plan of defence, but he thought it also necessary to attend to the protection of our commerce.

Mr. Blount said, it was perfectly indifferent to him whether the gentlemen from South Carolina considered his plan as a part or the whole of a system. That gentleman had accused those who voted against his proposition, with being unwilling to place the country in a posture of defence. Now, he had voted against, and should continue to vote against, his proposition—but he was willing, notwithstanding (as he believed all those who voted with him were) to put the country in a state of defence. It was his opinion that internal defence only was necessary. He thought the system which he had proposed would be sufficient. When they had adopted this resolution, it might be considered whether any thing more was necessary. He had no idea of creating a naval force for defence; on the contrary, he believed it would be the means of plunging us into fresh difficulties. For this reason, if the resolution he had proposed were passed into a law, he should go home satisfied, with a belief that he had done all that was necessary. And he was convinced that his constituents would believe that he never wanted a disposition to defend his country when in danger.

Mr. W. Smith did not think these propositions could be of any use at present; they would be very proper in case an invasion was apprehended. He thought the principal object, at this time, was to defend our commerce, and thereby secure the revenue arising from it, either by an effectual naval armament, or by an embargo; and he thought he was correct in saying, in reference to this defence, that gentlemen opposed every thing, and proposed nothing. Gentlemen, he said, were very ready to propose things which would cost the public nothing: the militia measure proposed would cost no more than the passing of the law; but, if ever any expense was to be incurred, then all was opposition.

The commerce of the country could not be defended, without calling upon the people for revenue; and he thought those gentlemen who stepped forward to advocate such measures as involved expense, and which were consequently in some degree unpopular, deserved the gratitude of their constituents. He had never hesitated to do this, when he thought it necessary. He should not, however, object to the passing of this proposition; he only rose to say, he did not think it immediately necessary.

Mr. Thatcher objected to the phrase requisition. However fond that gentleman might be of the French phrases, he did not wish to imitate them in their expressions in our legislative acts. He had no objection to the holding such a number of men in readiness. He hoped the sentiment would be expressed in American language.

Mr. Blount supposed he should be told, because he used the word requisition in his resolutions, that he was one of the factious. He believed if the gentleman looked over the old Congressional proceedings, he would find that the demands made upon the States were called requisitions. He had, however, no objection to any other word which had the same meaning. He thought the objection a trifling one, and such as the gentleman ought to be ashamed of making.

Mr. Thatcher replied, that he did not often say any thing of which he was ashamed; that he had said nothing about French factions; but, it was an old saying, "That a guilty conscience needs no accuser."

Mr. Blount (with a good deal of warmth) said he should take from no man, with impunity, such language as that. [There was a loud call to order.]

Mr. Lyon said, perhaps, if the gentleman from Massachusetts could be persuaded that requisition was plain English, he might be satisfied.

Mr. W. Smith called for the reading of a similar resolution passed in 1794; which being read, and a wish expressed that the present might be made conformable to it, Mr. Blount gave his consent; and, after a few observations from Mr. Williams in favor of the resolution, though he denied that it could be carried into effect without expense, the resolution was agreed to.

The resolution respecting the arms was passed over for the present, until information should be received as to what quantity of arms Government have. Mr. B. wished to make up the quantity eighty thousand, and to have them distributed in the way proposed; but upon several gentlemen expressing opinions that there would not be a want of arms, he consented to postpone the resolution.

Mr. W. Smith called the attention of the committee to the resolution he had proposed respecting an additional naval armament.

Mr. Varnum could hardly suppose the gentleman serious in proposing this resolution, as the power of judging and determining of whatever related to the army or navy was assigned by the Constitution to the Legislature, and this being the case, they alone had the right to exercise it, and could not delegate it to another. If a further naval armament were to be provided, he trusted they should provide it, as he should not be willing to delegate the power (if it could be done) to any man, however great and good he might be.

Mr. W. Smith said, if the gentleman last up had not appeared very serious, he should not have supposed he had really been so. What was his argument? It was, that because Congress was empowered to provide a navy, yet they could not authorize the Executive to do it during the recess of Congress. As well might he say, that because that House had only the right to borrow money, they could not authorize the President to do the business for them. The authority, he took it, emanated from that House, but they could empower the President to act in their behalf. For, if the gentleman's construction was true, in whatever danger this country might be involved, the President could not call out the militia. Mr. S. mentioned several other instances in which this power was exercised by the President, and particularly the power of laying an embargo in the year 1794, during the recess of Congress; and this power, he said, must be given again, except some means for defending our commerce was determined upon; for he believed, when it should be known that there was no disposition in that House to defend our commerce, the picaroons would swarm upon our coasts. He wished to leave it to the Executive to procure a small number of merchant vessels, and convert them into vessels of war, to be placed either at the entrance of our rivers, or to cruise on our coast. If this were not done, our coasting trade would be cut up. What was then to be done, provided this should be the case, after the House shall have broken up? Was the President again to call them together to determine what was to be done? He trusted they did not wish this, and yet gentlemen came forward and desired to defeat the business at the threshold by a Constitutional scruple. Mr. S. concluded with reading an extract from a newspaper, giving an account of an armed American vessel having taught the picaroons civility, and from thence enforcing the necessity of arming.

Mr. Varnum defended the construction he had put upon the resolution, as the President was left to determine the propriety of the naval force.

Mr. Nicholas defended the construction of the gentleman from Massachusetts, though he acknowledged, in cases of necessity, the House had thought it prudent to delegate their powers to the Executive for special purposes. It became a question whether the necessity existed at present. If the gentleman from South Carolina thought there was danger to be apprehended on our coast, he should have no objection, provided it was confined to that particular object, to agree to the proposition.

Mr. W. Smith declared he had no other object in view, nor did the Speech of the President allude to anything more.

Mr. Nicholas then moved to add the words, "if circumstances hereafter arise which shall make it necessary for the defence of our seacoast."

Mr. Williams moved to add, "during the recess of Congress."

These amendments were agreed to.

Mr. McDowell said these modifications did not make the thing more acceptable to him. The President had told them this armament was necessary; but they had the facts before them, and he wished that they might themselves determine the propriety of the measure. The gentleman from South Carolina talked to them about great danger from picaroons; but he knew that gentleman had a great desire to increase our naval force. He doubted not the Executive had the same desire, because it would increase his power; but he did not wish that House to give the power out of its own hands.

Mr. Williams thought this resolution was calculated to meet the ideas of the gentleman, as its object was to save expense; for the power was only given to the Executive to be exercised in case of necessity. If this power were not to be thus placed, they would doubtless think it necessary to provide some additional vessels for the protection of our trade. In June, 1794, a similar measure to this was agreed to. If they could do the business themselves, he should wish it, because it was laying an unpleasant business upon the Executive.

Mr. Swanwick thought the force should be designated. The Senate had proceeded with a bill of this kind, in which the number of vessels was stated. He thought it would be best to see their bill before they proceeded. Mr. S. did not think the provision would be effectual, and he thought there was some weight in the objections to the transferring the power of that House into the hands of the Executive.

Mr. Harper observed it was not said that the present circumstances of the country required this armament, but that such a state might arise during the recess of Congress. If this state now existed, doubtless the House would go into the measure itself; but as it did not, (and there was at least a possibility it might,) he thought the measure a prudent one.

Mr. McDowell supported his opinion, and declared he did not think the coasting trade of sufficient importance to warrant so expensive a measure as that proposed.

Mr. Gallatin allowed that the modification of the resolution introduced by the gentleman from Virginia, had rendered the proposition much less exceptionable than it was before; but he was against it in any shape in which it could be brought before them. In the first place, the modification of the vessels being confined to the seacoast, was not a very clear idea. If it only meant to protect our neutrality within gunshot, or within nine miles

of the coast, he did not think the object would authorize the expense. The only purpose for which he could conceive these vessels were wanted, was to protect our commerce on the seacoast. If this were the case, they would be employed in fact, if not by name, as a convoy. He thought this was confirmed by the Speech of the President; and he believed the object was to protect our vessels from the attacks of other Powers. As to the protecting our commerce in this way, he would remind the committee of the point at issue. It was whether, (according to the opinion of many members in that House, supported by the Attorney General, and probably of the Executive,) if foreign cruisers attempted to carry in one of our vessels with a regular sea-letter on board, it was to be resisted. And it became a question whether that House meant to provide a naval armament for this purpose. He hoped not, since he feared the consequences.

But it was said, they were not about to provide the means, but only to authorize the President to carry the measure into effect, if necessity required; but, he said, there was every reason to fear, that if they agreed to this, the least change of circumstances would carry the measure into effect.

As to the advantages to be derived from this armament, he differed in opinion from the gentleman from South Carolina. He spoke of the West India picaroons infesting our coast. He did not believe this was probable. He believed they would find it their interest to remain in the West India seas. Some of the larger vessels, indeed, might come upon our coast; but these, it might be supposed, would not make captures, except there were some ground for it. If they were to attempt any other, our vessels would not have force to resist them. But, admitting that some few small vessels were to come upon the coast, yet the mischief arising from these would not be equal to the expense of the proposed armament. What the blank in the resolution was intended to be filled with, he could not tell; but it was well known that expenses of this sort always greatly exceeded the calculation. He reminded the committee of the state of our finances. Our revenue, he said, did not exceed our expenditure, and therefore every additional expense will be an additional burden on the people; and that after the year 1801, twelve hundred thousand dollars a year would have to be paid, for which no provision was yet made. He did not make these remarks as an objection to any necessary expense, because he believed the resources of the country were equal to any demand of that kind; but he thought it right to mention this, that such expenses as are not absolutely necessary may be avoided.

Mr. Nicholas said, it was his intention, in supporting the resolution, to go no further than to protect our vessels within the jurisdiction of the United States.

Mr. W. Smith was not surprised that the gentlemen from Pennsylvania and North Carolina did not feel the same alarm for the seacoast that he did. He felt considerable solicitude for his constituents, and he doubted not, if this resolution was agreed to, but the Executive would take proper means for defending it; and they need be under no apprehension that the President would go into the measure, except it were found absolutely necessary. He was surprised that, when the object was so expressly declared to be the protection of our coasts, the gentleman from Pennsylvania should have supposed it intended for quite a different purpose. The expense of this measure was objected against it, as was usual, when no better argument could be adduced. There could be no doubt the expense would be considerable; but what were they called together for, but to take measures for the defence of our country; and these must incur expense; but had they not, he asked, better expend a sum of money in defence, than lose millions of revenue? He trusted they had, since it would only be expending a small sum, to receive a larger in return.

But the gentleman from Pennsylvania had heard of no danger. He had not heard of picaroons coming within sight of our towns. Mr. S. mentioned an instance or two which had come to his knowledge.

Mr. S. concluded his observations with saying, that the objections of the gentleman from Pennsylvania to this measure were only the second edition of his objections to the building and equipping of the frigates; but, he believed, the sense of the country was against him; he believed they wished for some naval protection.

Mr. Giles said, the President had recommended particular measures for the consideration of the House of Representatives, and they were about to throw them back upon him.

Mr. G. observed that it was acknowledged no danger existed at present, but he went on what might take place hereafter. What, he asked, was this hereafter? How long does it exist? A Fall Session was contemplated in four months from the present time. What, then, could be the alarm which would justify the giving of this discretion, since, if the necessity should appear in a few days from this time, it could scarcely be supposed that vessels could be got ready armed much sooner than the frigates?

It was usual, when anything was said of the expense of a measure, to say that security was beyond expense; but they should inquire into this matter. It had been supposed that one-sixth of the revenue would be lost by these pirates, if no protection was given. Suppose this were the case, he asked whether the blank could be filled up with a less sum? So that we were submitting to a certain loss to prevent a precarious one. Mr. G. wished to wait the event of the negotiations, and let these dangerous measures alone.

But, say gentlemen, what were we called here for? He believed, for nothing. He had reflected upon the matter for ten days past, and could see no reason for this extraordinary call.

Mr. Brooks observed that the gentleman who had just sat down, according to his former assertion, opposed every measure brought before the committee. He thought there was no danger, though a majority of the committee, he trusted,

was of a different opinion; if not, he wished it might be declared, that they might all go home. But, as he believed it was generally supposed that it was necessary something should be done, he wished they might be permitted to proceed with their deliberations. According to that gentleman's account, four months was no time at all, yet he considered great changes as likely to take place in that time.

The gentleman from Pennsylvania supposed that the President would lay hold of the least change of circumstances for carrying this measure into effect; but if the necessity should appear, and no power was given, he would ask the gentleman what sort of a situation we should then be in? This put him in mind of a dialogue between a Hermit and Deist; the latter of whom, said to the former, "You are in a miserable state if there be no future world;" "but," replied the Hermit, "what will be yours, if there is?"

Mr. S. Smith felt disposed to support the motion, as he looked upon it as an entering wedge to an armed force for the protection of our commerce, but he doubted whether vessels could be immediately found to answer this purpose.

Mr. Swanwick said, this measure had been said to be upon the same foundation as the law of 1794, but he found the bill then passed was for providing galleys.

Mr. S. insisted that any vessels they could at present provide would be very inadequate to the defence of our coast, which was more infested by British than French vessels.

Mr. Craik condemned the idea of dwelling upon the expense of a measure of this kind, when the great object of defence was in view. He noticed what had been said about a million of revenue being lost by the spoliations, but, he remarked, if one million of revenue was lost, there was at least six millions' worth of property lost to the nation at the same time.

Mr. C. strenuously urged the necessity and propriety of entering into a measure of this kind.

Mr. Milledge wished the word "galleys" to be inserted instead of "naval force," as they were particularly calculated for the protection of the coast.

Mr. Parker suggested the propriety of adding, "or other vessels," which were the words of the law of 1794.

Mr. Nicholas hoped they should also define the situation in which the vessels should be employed, that it might be within the limits where there could be no right of capture.

Mr. W. Smith said, this was matter of detail which would be best settled in the bill.

Mr. Gallatin moved an amendment to confine the employment of the vessels within the jurisdiction of the United States, which he did not think a matter of detail, but of principle. He took the words of the old law, viz: "to be stationed within the United States."

Mr. W. Smith objected to this amendment. He thought there was ambiguity in the word "stationed," besides that, the detail, as he before stated, should have been left for the bill.

Mr. Nicholas believed the word was well understood; it brought the subject to the point upon which he gave it his support, and except this amendment was agreed to, he must decline voting for the resolution.

Mr. Parker thought the motion was narrowed too much, because vessels, in passing from one part of the Union to another, might have occasion to go further from the coast than nine miles. And though he did not wish the vessels to be employed as a convoy, yet he did not wish them to be confined within quite so narrow a compass, but they should give some countenance to our commerce.

Mr. Harper said, nothing would be more easy than to meet the object of the gentleman last up, in the bill. He was wholly opposed to the amendment, as if it were carried, a pirate might block up our trade, and these vessels would not have the liberty to drive him off. He condemned the great suspicion entertained of the conduct of the Executive.

Mr. Gallatin doubted not the Executive would do his duty, and he wished to do his. They had a question before them in which they seemed to be agreed; but he suspected, from the opposition shown to this amendment, (which brought the matter to a point,) they were not really agreed. The restriction, he said, would not prevent vessels from going out of the limits from one part of the Union to another.

Mr. W. Smith again spoke against this amendment.

Mr. Otis said he objected to the amendment, because it appeared repugnant to the powers placed in the President by the Constitution. If a naval force was raised, it would rest with the President how it should be employed, as he was commander-in-chief. The Legislature could say whether the vessels should be employed offensively or defensively, but to say at what precise place they were to be stationed, was interfering with the duty of the commander-in-chief; and though he would have no right to send these vessels to the West Indies, or as convoys, yet he might defend the seacoast as he pleased. The word "stationed" was indefinite. He thought it might be necessary to pursue the picaroons beyond the limits of the United States—if necessary to fight, it might be necessary to follow.

The question was taken on the committee's rising, which was not carried, there being 42 for it and 42 against it, and the Chairman voted in the negative. The question was then taken on Mr. Gallatin's amendment, and negatived, 49 to 38. The resolution was then put and carried, there being 51 votes for it.

Saturday, June 10.

DEPREDATIONS ON COMMERCE.

Mr. S. Smith offered a resolution to the House to the following effect:

"*Resolved*, That the President of the United States be requested to cause to be laid before this House a re-

port respecting depredations committed on the commerce of the United States since the 1st of October, 1796, specifying the names of the vessels taken, from whence and where bound, and, where it can be ascertained, the species of lading, and the value of the vessels and cargo, and by what Power taken, particularizing those which have been condemned, together with documents relative thereto."

The resolution was agreed to.

FORTIFICATIONS.

Mr. Blount said, as they were to be called upon to take the subject of fortifications under consideration, he wished to have some information on the subject, and proposed to the House, therefore, a resolution to the following effect:

"*Resolved*, That the Secretary of War be required to lay before this House a list of the fortifications of the United States, together with the number of troops in each; an account of the expense which attended the erecting of them, and what is yet necessary to their completion, and of the unexpended money appropriated for that purpose."

Mr. Livingston suggested the propriety of suffering this resolution to lie until the committee appointed on this subject made their report, as he believed some of the inquiries would be there answered, and that report would be made to-day.

Mr. Blount consented.

AGENT FOR BRITISH CLAIMS.

Mr. Livingston then called up the resolution which he had laid upon the table for appointing an agent to defend, before the Commissioners now sitting, the citizens of the United States against the claims made upon them by Great Britain, in pursuance of the late treaty.

Mr. W. Smith submitted to the consideration of the mover and the House, whether it would not be best to place this subject under the Attorney General. It might, in that case, be proper to afford him a sum of money to enable him to employ additional clerks for the purpose.

Mr. Livingston had no objection to modify the resolution in this way: "to appoint an agent to assist the Attorney General in the defence of," &c.

Mr. Macon said this might be a good proposition, but it did not strike him as necessary. He thought the Commissioners would be competent to do the business.

Mr. Goodrich thought the matter would be best referred to a select committee.

Mr. Livingston saw no use in referring the subject to a select committee, except it were to report a bill. When gentlemen reflected upon the nature of these debts, and the time at which they were contracted, they would see the opportunity afforded for collusion. He did not mean that an agent should be appointed to reside in Philadelphia, but a person who might be employed to investigate, in the best manner, the justice of the claims. The President might, perhaps, think it necessary to appoint a person near the place where the debts were contracted.

Mr. Nicholas thought this a more serious matter than was generally supposed, and that it would be found so, when the money came to be paid. He knew not whether two or three agents would not be necessary.

The resolution was referred to a select committee, to report by bill or otherwise.

FORTIFICATIONS.

Mr. Livingston, from the committee appointed on the subject of fortifications, reported sundry documents; together with a bill to provide for the fortifications of the ports and harbors of the United States, in which it is provided that the money necessary for carrying it into effect shall be borrowed of the Bank of the United States, or in such other way as shall be found best. The bill was twice read, and referred to a Committee of the Whole on Monday.

REQUISITION FOR MILITIA.

The House took up the resolution agreed to in the Committee of the Whole, yesterday, authorizing the President to call upon the Executives of the several States, to hold 80,000 militia in readiness, apportioned according to the number of white inhabitants in each State.

Mr. W. Smith wished one part of the resolution to be modified or omitted. He meant that part which directed the men to be apportioned according to the number of white inhabitants in each State. This, he said, might have an injurious effect; for, in case an invasion were to take place in a State where the white population was the weakest, the proportion of men detached would be so small as to be, in a great degree, useless; and in other States the number would be greater than there was any necessity for. For instance, if Georgia were to be the place of attack, (and if an invasion did take place, that was the most likely quarter for it,) where the white population is small, there would not be a sufficient number of men to afford any protection on the plan proposed. He thought if they fixed upon the proportion, the Constitutional estimation would be best, viz: to add to the white population three-fifths of the number of negroes. He moved to strike out the apportionment, in order to have the regulation to be inserted in the bill.

Mr. Macon did not think there was any weight in the objection of the gentleman last up; as, in case of invasion, the Executive of the State might call out more than the number here contemplated, or even the whole of the militia, until assistance could be got from the neighboring States. The resolution, being in the form of that agreed to on a former occasion, could not reasonably be objected to.

Mr. Thatcher inquired whether it had been customary to train blacks to arms?

Mr. W. Smith said he was not understood. He meant, that the number of whites to be detached should be in proportion to the number of whites, with three-fifths of the blacks added to the number.

Mr. Venable did not think there would be justice in such a regulation, as the duty would lie heavier upon States thinly inhabited, than upon

others. In case of invasion, he said, the neighboring States would be called upon.

Mr. McDowell said, that should the gentleman from South Carolina's proposition be agreed to, the duty would fall heavier upon any other part of the Union; besides, when so many whites were taken from home on this business, the rest would be exposed to the blacks. He trusted, therefore, he would not press it.

Mr. W. Smith wished only for the subject to be left open, that the apportionment might have been left to the President.

[He here read the form of an amendment which he would have proposed.]

He did not at present contemplate an invasion, though it might be necessary to adopt this cautionary measure. He withdrew his amendment.

The question was about to be put on the resolution, when

Mr. Varnum said he did not see any occasion for this resolution. He did not think they had any reason to suppose an invasion probable; but, if it should take place, there was sufficient power in the Executive of the different Governments to call out the militia. He did not know how the militia was regulated in other States; but, in the Eastern States, he knew they were always in readiness, and that twenty thousand men could be landed in a few days at any point, from Portsmouth to Rhode Island. This being the case, he did not think it necessary to make any detachment from them. It was true, an invasion might take place from France; but he thought it was as probable it might come from England—though he believed it was equally probable it might be from Nootka Sound.

It was said that this regulation would be no expense to the United States. It might be no expense to the Government, but it would be a serious expense to the people. He thought the situation of the United States very different now from what it was in 1794. The British were at that time not only taking our property at sea, but they had large provinces adjoining upon the United States, and could have brought large bodies of troops against us. It also appeared that they had hostile intentions against us. It appeared, from the proclamation of the Governor of Canada, that Great Britain meant to declare war; that the Indians were prepared to make attacks on our frontiers; and fortifications were erecting within our territory. In that case, it became prudent to have a detachment of militia in perfect readiness. But, said Mr. V., the situation of the United States is now very different. The nation with whom we have now a misunderstanding had no possessions adjoining upon us, and there was not much probability of troops being sent against us from France. He did not wish, therefore, to go into the present measure. It might be well to call upon the Secretary at War to know the condition in which the militia was in, in the different parts of the Union; but he did not think more was necessary.

Mr. Blount agreed with gentlemen in opinion, that they had no reason to expect any invasion. But it was well known that the President of the United States, in his Speech, had spoken of raising a provisional army; but, if he had not done this, he thought the measure now before them was at all times proper. The expense would depend upon the time at which the regulation was carried into effect. If the States did not call extraordinary sessions, no expense would be incurred. He believed we ought at all times to have a military force standing in readiness, which would at any time convince the world that we were not a divided people. The best defence, he said, was to be always prepared to meet the attacks of an enemy. When the measure was formerly gone into, he had as little apprehension of an invasion as at present; and if we had no misunderstanding with any nation, he should be in favor of it.

Mr. Thatcher believed it was true (as his colleague had stated) that the Massachusetts militia could at any time be called out, at a moment's warning; but if the militia in the Southern States were not in this readiness, he thought that it would be well that they should be put into such a state.

Mr. J. Williams thought it would be proper to have a select corps of militia in readiness; but he denied that this could be done without expense. The expense of the corps which he commanded, when called out in 1794, was very considerable. If the gentleman from Massachusetts thought there was no immediate necessity for the measure, he might move to have the power of making the call whenever the President should see it necessary.

The question was put on the resolution, and carried.

DEFENSIVE MEASURES.

The resolution reported by the Committee of the Whole, proposing to authorize the President to provide galleys, or other vessels, for the defence of our coast, was next taken up.

Mr. Giles wished to have it clearly ascertained what was to be the employment of these vessels. "Seacoast," he said, was an indefinite phrase, and liable to be misunderstood. He was decidedly against their being employed as a convoy. In order to make the meaning clear, he should move to strike out the words "for defending our seacoast," and insert "to be employed within the jurisdiction of the United States."

Mr. Rutledge supposed, if the resolution stood as it was reported, the vessels would be employed within the jurisdiction of the United States; but he thought it would be absurd to say these vessels should on no account pass the limits of the jurisdiction. The pirates would know this, and our cruisers would have the mortification of seeing our vessels taken or plundered, without having the power of affording them relief. Or, if one of these pirates were to come within the line, and be pursued by one of our vessels, though she might be on the point of taking her, yet she must not venture across the line. He did not wish these vessels to be employed as convoys, but he thought their destination might be safely left to the Executive, and had no notion of doing business by halves.

Mr. BROOKS said it appeared to him that this principle had been decided yesterday, and did not require further decision.

Mr. NICHOLAS supposed it was not from an apprehension that the Executive would not do his duty, that it was wished this business should be put into a definite form. No one, he believed, would put the same construction upon the amendment that the gentleman from South Carolina had done. It would not be supposed to be the intention of the supporters of this amendment, that these vessels should be prevented from crossing the line in pursuit of a picaroon which had come within the jurisdiction of the United States. Indeed the gentleman himself had concluded that such an idea would be absurd. To do away all objection, he proposed to insert the words, "for the defence of the seacoast within the jurisdiction of the United States," instead of Mr. GILES's amendment.

Mr. GILES thought the phrase "seacoast," indefinite. It might be supposed, perhaps, to extend to Bermuda.

Mr. W. SMITH said the gentleman last up had supposed the coast might be supposed to extend to Bermuda, yet our vessels were not to go beyond the jurisdiction of the United States for the defence of the coast. This, he said, involved a contradiction. He wished the gentleman to define what he meant by the jurisdiction of the United States; he believed it was not decided whether it extended three or nine miles. If it were even nine miles, he said, these vessels might sometimes be obliged to go beyond the line merely for the purpose of avoiding shoals. Why, then, confine them so very tightly? When the purpose was expressly for the defence of the coast, it could not be expected they would be employed in any other way. To employ them as convoys would be unlawful.

After several proposals for amending the resolution had been made, withdrawn, and succeeded by others, and a few observations from Mr. GALLATIN, who said there were three objects for which the vessels might be used, viz: to defend our territory and sovereignty, (which he wished;) to convoy our trade to foreign ports; or to repel the attacks of privateers out of our jurisdiction: the two last objects he declared it as his opinion would lead to war, and, therefore, he wished to avoid them—

Mr. SEWALL proposed the following: "to defend the seacoast of the United States, and to repel any hostility to their vessels and commerce within their jurisdiction."

Mr. R. WILLIAMS thought this amendment more objectionable than any other which had been proposed. The jurisdiction not being ascertained, disputes would of course be the consequence. He thought the resolution better without any of its amendments. He was disposed to defend our commerce wherever attacked but; if we had not the means to do this, he would not do anything which should seem to infer that we had not the wish to do it, by confining our defence of it within our own territory.

Mr. NICHOLAS was in favor of the amendment.

Mr. ALLEN thought the whole of the business trifling, and wished to postpone the subject until the bill came down from the Senate; or, if they did pass the resolution, they ought not to confine it within such narrow bounds. After alluding to the various amendments which had been proposed and opposed, which he called "catches at phraseology," he moved to postpone the subject until Monday.

Mr. S. SMITH agreed with the gentleman from Connecticut that the present was a trifling business, and he would agree to extend his motion till next session. It was a lilliputian concern. It was the British navy, he said, which kept possession of our coast, and what effect, he asked, would these small vessels have upon them? Some of our deserters had lately gone on board one of the British ships of war at Norfolk, and when they were demanded back, they were refused. And suppose, said he, one of these vessels had been there to have enforced the demand, could any one suppose it would have produced anything more than insult upon insult? They could not. He wished to leave these trifling subjects for the Senate, and to go on to substantial business; he meant the finances of the country.

Mr. BROOKS was in favor of coming to a decision at present, since the business had been fully discussed.

Mr. ALLEN wished it postponed till Monday; by that time he thought the House would have come to its senses.

Mr. GILES also thought the business trifling, and proposed to postpone it till the first Monday in November next.

Mr. HARPER said, if he was of opinion with the gentleman from Connecticut that the House would have more understanding on Monday than at present, he would agree to postpone the question to that time; but, he believed gentlemen must receive some lessons of experience before they could be convinced of their error. The arguments of the gentleman from Maryland went to this: if we cannot resist a British 74, we will not resist a French pirate. But Mr. H. trusted they should not be diverted by a jest from doing what he believed good sense and good policy required them to do.

Mr. S. SMITH said he did not mean to make a jest of the business, but merely to express his desire to go on to more important business.

Mr. THATCHER asked, if this business was postponed, whether, when the bill came from the Senate, they could not proceed with it?

The SPEAKER answering in the affirmative, Mr. GILES withdrew his motion.

Mr. SEWALL said the bill in the Senate had not the same object in view with this measure. It was, therefore, the intention to provide vessels as a convoy.

Mr. GILES believed it was not very orderly to refer to business doing in the Senate. He believed that bill was recommitted.

The question for postponing the business till Monday, was put and negatived. Mr. SEWALL's amendment was then put and carried without a division.

The question was then taken on the resolution as amended, and stood—yeas 68, nays 21, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, James A. Bayard, Theophilus Bradbury, David Brooks, Stephen Bullock, Samuel J. Cabell, Christopher G. Champlin, Matthew Clay, John Clopton, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, George Ege, Lucas Elmendorph, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Edward Livingston, Samuel Lyman, James Machir, William Mathews, Blair McClenachan, John Milledge, Daniel Morgan, John Nicholas, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, William Smith, of Pinckney District, Richard Stanford, John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Robert Williams.

NAYS—Thomas Blount, Richard Brent, Nathan Bryan, John Chapman, Thomas Claiborne, Joshua Coit, John Dawson, Nathaniel Freeman, jr., William B. Giles, Andrew Gregg, Roger Griswold, Jonathan N. Havens, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Joseph McDowell, Anthony New, Richard Sprigg, jr., Joseph B. Varnum, and Abraham Venable.

Committees were appointed to report bills in pursuance of two resolutions which had been agreed to.

REVISION OF MILITIA LAWS.

Mr. VARNUM said there was a subject of importance referred to in the President's Speech, which had not yet been touched upon—he meant the revision of the militia laws. In order to bring the business before the House, he moved a resolution for the appointment of a committee to report whether any and what alterations in them were necessary. Agreed to, and a committee appointed.

DEFENCE OF PORTS AND HARBORS.

Mr. LIVINGSTON, from the committee appointed for that purpose, reported a bill to provide for the further defence of the ports and harbors of the United States; which was twice read, and committed to a Committee of the Whole, on Monday next.

CORPS OF ARTILLERISTS, &c.

Mr. W. SMITH called for the order of the day, on the bill from the Senate for raising an additional corps of artillerists and engineers.

Mr. BLOUNT asked whether it was not necessary, when they were going into these expenses, to go into an inquiry on the subject of ways and means. He moved that a Committee of Ways and Means be appointed.

Mr. W. SMITH thought it better to proceed with the business in the way he proposed. Before they went into the subject of ways and means, he thought it was necessary they should know what money would be wanted, that they might provide accordingly; and they could not know this, until they had gone through the several measures which lay before them.

Mr. NICHOLAS said, if it was necessary to have additional revenue, it would be well to appoint a committee to be casting about as to the proper way of raising it. If the money were to be borrowed, they might be inquiring upon what terms it could be got. If they did not do this, when all the other business was done, they would have to wait until these inquiries were made.

Mr. GILES thought the bill for raising additional troops might be very well put off till next session. He did not believe there was any necessity at present for an increase of the military establishment. He thought this was the proper time for taking up the subject of the revenue, since they must either borrow or raise money by taxes, and he trusted a committee would now be appointed.

Mr. W. SMITH withdrew his motion, to give way to the appointment of a Committee of Ways and Means.

Mr. BLOUNT said money would certainly be wanted. It was presumed it might be borrowed, but no inquiry had been made on the subject. He was of opinion that the difficulties which would present themselves on this subject, would throw out of view a number of measures which he thought might very well be dispensed with.

Mr. J. WILLIAMS thought, if they appointed a Committee of Ways and Means, and were to go into the militia laws, they might sit all Summer. He hoped they should have gone on with the bill for raising men, and if they had rejected that, and declined furnishing convoys, and the measure of purchasing vessels for the defence of the coast was left to the discretion of the President, that a Committee of Ways and Means would not have been necessary.

A Committee of Ways and Means, consisting of seven members, (after fifteen and thirteen had been proposed,) was appointed.

MONDAY, June 12.

DEMSEY BURGES, from North Carolina, attended, produced his credentials, was qualified, and took his seat.

DEFENCE OF PORTS AND HARBORS.

The consideration of the bill for raising an additional corps of artillerists and engineers having been called for,

Mr. GILES hoped, before that subject was taken up, they should go into that of revenue. He proposed taking up the report of the committee on the fortification of our ports and harbors.

This was objected to by Mr. RUTLEDGE, and others, on the ground that two of the select committee (Messrs. LIVINGSTON and OTIS) appointed on that business were absent; but

The SPEAKER said that it did not appear from the Journals that any member was absent, except

Mr. Hartley, (and no member has a right to absent himself without leave;) so the House resolved itself into a Committee of the Whole on that subject; but after the bill and report had been read,

Mr. W. Smith, on the ground of the absence of the two members before alluded to, moved that the committee rise, and ask leave to sit again.

The question was put and negatived, 41 to 38.

Mr. Blount said it had been usual to limit the interest to be paid for money; he therefore moved that the words, after the sum proposed to be borrowed, be inserted, "at an interest not exceeding six per cent. per annum." Carried.

Mr. B. then moved the following further amendment: "Provided, that no part of the principal of any sum so borrowed shall be demandable, until the —— day of ——, 17—; although it shall be lawful to pay the same before that day, if the United States shall find it convenient to do so." It would be recollected, Mr. B. said, that they were called upon on a former occasion for the payment of money, when it was not convenient, and to do which they had been obliged to make considerable sacrifices. He thought, therefore, when they borrowed money in future, it would be proper to propose a given time for payment, so as to prevent their being called upon for payment before that time.

Mr. Williams did not think it necessary to clog the bill with so many provisions. He was of opinion it would be better to omit the stipulation allowing the money to be paid before a certain time, as he supposed the money would be got upon better terms, if the period was made certain.

Mr. Blount said he meant to fill the blank with a period at which he supposed it would be convenient to pay the money, which would be ascertained when the Committee of Ways and Means made a report. He wished any money which was borrowed, to be repaid as soon as possible; but he wished to prevent that inconvenience from any unexpected call for payment which had heretofore been experienced.

The question was put and carried, there being 46 for it.

The Chairman having read the clause which contained the blank of the sum to be appropriated,

Mr. W. Smith wished, as the House was very thin, and the report had only been laid upon the table this morning, that the question might not be taken on filling up the blank. He would rather the committee rise; but if it were otherwise determined, he should move to fill the blank with two hundred thousand dollars, the sum reported to be necessary.

Mr. Williams thought, that when the situation of the forts and harbors of the United States was considered, this sum would not be thought too much.

Mr. Varnum said, before they made a grant of this kind, they should know where the money was to come from. He believed there was no surplus of revenue. He therefore supposed that they should be called upon at the next session to lay a land tax, in order to pay the money. As he did not think there was much occasion for the expense, he should, therefore, oppose it.

Mr. Harper did not think the ground upon which the gentleman last up had put the business, was the just one. He thought the true point of placing the matter was, to inquire if the thing was necessary? The expense was a secondary consideration. If it were necessary, he looked upon it as their duty to provide the expense. Unless gentlemen could show, therefore, that there was no necessity for attending to our fortifications, he believed the expense would not be considered as an obstacle; for, if a community were unable to furnish the means for its own protection, it would be time to give up its sovereignty.

Mr. Macon did not think it necessary the bill should pass. At any rate he did not think it right to provide more money than would be wanted before the next session of Congress; and as there were yet $20,000 unexpended, he saw no occasion for filling up the blank with $200,000, as it would be embarrassing themselves to find money which would not be wanted.

Mr. Potter hoped the sum mentioned would not be agreed to. He was against the bill altogether; but, if it did pass, he wished that a much smaller sum might be appropriated. Mr. P. related the state of the harbor of Rhode Island, since they ceded the territory to the United States, (in nearly the same words as last session,) which was, that before the cession, they had some small works, but they had been taken down, and now they had none.

Mr. Dayton (the Speaker) wished the gentleman from South Carolina would withdraw his motion, to give way to an amendment which he wished to introduce. He mentioned that it was to insert, "Provided, that no part of the money herein appropriated, be expended upon fortifications, except in cases where the jurisdiction shall have been previously ceded to the United States."

Mr. W. Smith had no objection to the sense of the House being taken upon this proposition. He did not think, however, that it was now a question before the committee whether they would appropriate a sum of money for this purpose. This had been decided on the abstract proposition. The only question now was, what sum should be fixed upon; nor were former miscarriages now under consideration. If the public money had been misapplied in this respect, that was no reason why the fortifications should not now be attended to; no more than, because a man, in building a house, had committed some mistakes, he should in future be without shelter. Mr. S. said, when the arming of vessels was under consideration, gentlemen were all for internal regulation; and he trusted, since the repairing our forts and harbors was certainly of this description of defence, they would now support this measure. He supposed the sum he had now mentioned would be necessary; if gentlemen thought otherwise, they could produce their counter information. Mr. S. withdrew his motion for the present.

Mr. Dayton's motion having been read,

Mr. W. Smith said, if there had been any neglect of the Legislatures of any of the States to make cessions of the territory of their fortifications, he did not think, on that account, the people should be left exposed. That would be to punish the innocent for the guilty; and the result would be, that many of the seaports which have not sufficient influence in their Legislatures to procure the passing of an act of cession, would be liable to the insults of privateers, merely because the Legislature had not done what the citizens thought necessary. If all the Legislatures were at present in session, it might not be so pernicious, because they might make the cessions required; but it was known that the Legislatures were not now in session, and the danger was most to be apprehended in the course of the Summer.

Mr. Williams supposed this amendment as particularly pointed against the State of New York, because the Legislature of that State had not ceded the jurisidiction of their fortifications to the United States. It had been matter of considerable altercation in that State, and he believed its vicinity to the city of New York was the reason its territory had not been given up. The Legislature of New York, he said, did not meet till January, therefore, except something was now done, it would not be in time to have any effect. If the sum appropriated was in any respect adequate, Mr. W. said, a work would be commenced at the Narrows, which was certainly the only place upon which a fortification could be erected for the complete defence of that harbor. A good fortification there, he said, would be a general benefit to the United States, as four-fifteenths of the whole revenue of the Union was collected at that port. He thought it proper, therefore, in order to quiet the minds of so large a body of the community, that some attention should be paid to the fortifying of this port. Even if no interruption of the peace of the country was expected, it would be right to attend to this business. The sooner a fortification was begun at the Narrows, the better, and he trusted a handsome sum would be appropriated for the purpose. The benefits which must result from a well-constructed fortification at the Narrows, both to the Union and the State of New York, were obvious to all who were acquainted with its situation. He therefore hoped the amendment would not be agreed to.

Mr. Brooks said, his colleague had anticipated part of the observations which he intended to have made. He thought this was not a proper time to determine upon the amendment, as the money now proposed to be granted would only afford a small sum to each. If they were about to raise adequate fortifications in all parts of the United States, the propriety of having the jurisdictions ceded, might very properly come under consideration. Though the State of New York had not ceded the territory of the present fortification, he believed there would be no objection to ceding the Narrows, if a work should be erected there. But if they refused to cede the territory of the present fortifications, was it proper, he asked, to refuse to do anything until it was ceded? Because the Legislature would not consent to do this, would it be proper to expose the country to danger on that account? Surely not; for, if the left hand was cut off, the right would suffer also. The present fortification had been chiefly done by the State itself. More than $200,000 had been expended by them, and yet because the State had declined to surrender its jurisdiction over its territory, no further assistance was to be given. He asked, if there was any doubt that the State would refuse to admit the troops of the United States in case of danger? Certainly not; though it was most likely the garrisons would be manned by their own citizens for the protection of their harbor and independence. He hoped the amendment would be negatived.

Mr. S. Smith wished the amendment had not been moved, until it had been determined what sum should have been expended upon the whole of the fortifications. He did not know that he should vote for filling the blank with $200,000. He should not have objected to have voted for $100,000. In the report which had been made upon the subject, he had found some places very well taken care of, and others neglected. [Mr. Rutledge interrupted Mr. S. to say that the estimate was from the Secretary of War, and not from the committee.] Mr. S. thought it an extraordinary statement to come from the Secretary of War. Mr. S. spoke of the unfinished situation of the works at Baltimore. He thought the gentleman last up had used an extraordinary argument for preserving the fortifications in their own hands, viz: that it was necessary to preserve their independence. He hoped they had no intention of making it independent of other States. If any State wished for protection from the United States, they ought certainly to cede their fortifications to the General Government. Massachusetts had refused to cede one of their works, but they had also declined receiving public support to it. Indeed, the refusal on the part of New York brought something to his mind which he could not understand. We are one people, said he, and our protection should be one, and not such as to prove us a divided people. There seemed to be something in this which bespoke no good to the Union. This being his opinion, if the motion was not withdrawn, he should be obliged to vote for it.

Mr. Brooks explained.

Mr. Macon said, it seemed as if there never would be a proper time for determining the present question. This subject had frequently been before the House; and the apology for not coming to the decision was, that the Legislature was not in cession. He was always against giving any money until cession was made. He recollected when this subject was before under discussion, the gentleman from New Jersey had always said that the money would be thrown away which was laid out on the fortifications at New York, and that to be of any service works must be erected at the Narrows. It was then said it was impossible he should know better than the engineer; but it now came out that he was right. If New York, as gentlemen said, was the most important place of the Union, it was right the United States should

have the protection of it. He considered it to be the duty of the United States to protect all the States equally, and it was their duty to cede the jurisdiction of their fortifications to the General Government.

Mr. Allen said a few words in favor of the amendment.

Mr. Dayton believed the gentleman from New York when he said that State had no intention of separating from the Union; if they had he supposed they would not be permitted, at least not before they had paid their debt. But gentlemen say, will you coerce the Legislature to give you the jurisdiction of their fortifications? He said no. As the gentleman from North Carolina had stated, three years ago he had declared it as his opinion that all the money expended on those works would be thrown away, so far as they were intended as a defence against armed ships. They might, indeed, be of use to the city in preserving its peace and aiding its municipal regulations; but an armed vessel would always pass them with a fair wind and tide.

Mr. D. owned his amendment was intended to operate in part against New York; but if gentlemen would bring forward a plan for erecting a fortification at the Narrows, with a proposition to appropriate to that purpose the debt due from them to the United States, they should have his vote; but if they would do this for the works erected on the three islands, he would not give them his vote, because he believed it would be money thrown away.

What was the State of New York more than others? New Jersey had ceded the territory of a light-house, and Pennsylvania had ceded Mud Island. And except they would consent to do what others did, they could not expect the same advantages.

Mr. Brooks complained of what had fallen from the gentleman from New Jersey with respect to the debt of New York; he spoke of the territory of the light-house ceded by New Jersey as ten or fifteen miles of sand, which would not raise watermelons; and of this amendment as intended to sink the bill.

Mr. Havens said the gentleman from Maryland seemed to think there was something mysterious in the State of New York not having made the cession of their three islands. He did not think it so very difficult to be accounted for. They were warned from doing it, he said, from the manner in which other States had been used which had given up their jurisdictions to the United States. The cession not being made was made a pretence for not expending money, and when it was made, nothing was done. He thought the proposed sum might be granted, and the expending of it left with the President.

Mr. Thatcher was in favor of the amendment; and wished to know what other places besides New York there were which had not ceded the land upon which fortifications had been erected?

Mr. S. Smith believed there was no other place in the situation of New York.

Mr. Potter thought this a proper time for passing the amendment, and supposed the reason why some fortifications had not been ceded was, that more had been done for those that were not ceded than for those which were.

Mr. Williams said the works upon the three islands had cost from three to four hundred thousand dollars, twenty-three thousand only of which were furnished by the United States; the rest had been done by the State and citizens of New York, and, he believed, rather than cede the territory to the United States, they would pay back the money. And he doubted not, if a work was begun at the Narrows, that the State would join in the expense with the United States to erect it.

Mr. Giles was in favor of the amendment. When the State refused to give the right of jurisdiction to the United States, the protection which the United States would have owed it, reverted back to the State. It appeared by the report, he said, that the Secretary of War thought $90,000 more should be expended on the present works at New York.

Mr. Havens said the fortification at the Narrows could not be completed for less than two or three millions of dollars.

Mr. Bayard spoke in favor of the amendment.

Mr. Elmendorph went at considerable length into a defence of the conduct of New York, and said the United States lay under the greatest obligations to provide her with suitable protection.

Mr. W. Smith said this question had very improperly been made a State question; he complained also that Charleston had been placed upon the same ground with New York, though she was willing to cede the jurisdiction of her fortifications, and it was owing to a mistake in the Legislature that it had not already been done. He also excused the State of New York from delinquency, as he did not know that any offer had been made to purchase the land upon which the fortifications are built, which he said the Constitution pointed out as necessary.

Mr. Dayton took notice of what had fallen from the different members in opposition to his amendment; and said the light-house which had been ceded by New Jersey to the United States, was of greater importance to the State of New York than the fortifications on the three islands ever would be.

Mr. Gordon supported the opinion of Mr. Smith, in excusing New York from delinquency; and, after some observations against the amendment by Mr. Harper,

The question was put and carried, there being 63 for it.

The committee rose, and upon leave being asked to sit again,

Mr. W. Smith hoped leave would not be given; for since they had agreed to an amendment which would exclude Charleston and New York from any attention, he thought, as no other ports wanted it so much, there was no occasion to go into a Committee of the Whole again on the subject.

Mr. Williams was of the same opinion.

Mr. S. Smith said, because the States of New York and South Carolina had not done what they

ought to do, though the country was in danger, yet no other port must be attended to. This looked as if those gentlemen thought the defence of the Union depended wholly upon them.

Mr. Williams replied, that if the country were in danger, the whole should be fortified; but if not, (as seemed to be the opinions of gentlemen in refusing to do any thing towards securing two of as important harbors as any in the Union,) then there was no occasion for any.

After a few words from Mr. Blount and Mr. Potter, the question for leave to sit again was put and carried, there being 64 votes for it.

FLORIDA BOUNDARY LINE.

The following Message was received from the President of the United States:

Gentlemen of the Senate and

Gentlemen of the House of Representatives:

I have received information from the Commissioner, appointed on the part of the United States, pursuant to the third article of our treaty with Spain, that the running and marking of the boundary line, between the colonies of East and West Florida, and the territory of the United States, have been delayed by the officers of His Catholic Majesty; and that they have declared their intention to maintain his jurisdiction, and to suspend the withdrawing his troops from the military posts they occupy within the territory of the United States, until the two Governments shall, by negotiation, have settled the meaning of the second article, respecting the withdrawing of the troops, garrisons, or settlements, of either party, in the territory of the other; that is, whether, when the Spanish garrisons withdraw, they are to leave the works standing, or to demolish them; and, until, by an additional article to the treaty, the real property of the inhabitants shall be secured; and, likewise, until the Spanish officers are sure the Indians will be pacific. The two first questions, if to be determined by negotiation, might be made subjects of discussion for years, and as no limitation of time can be prescribed to the other, a certainty in the opinion of the Spanish officers that the Indians will be pacific, it will be impossible to suffer it to remain an obstacle to the fulfilment of the treaty on the part of Spain.

To remove the first difficulty, I have determined to leave it to the discretion of the officers of His Catholic Majesty, when they withdraw his troops from the forts within the territory of the United States, either to leave the works standing, or to demolish them; and to remove the second, I shall cause an assurance to be published, and to be particularly communicated to the Minister of His Catholic Majesty, and to the Governor of Louisiana, that the settlers or occupants of the lands in question, shall not be disturbed in their possessions by the troops of the United States; but, on the contrary, that they shall be protected in all their lawful claims; and to prevent or remove every doubt on this point, it merits the consideration of Congress, whether it will not be expedient, immediately, to pass a law, giving positive assurances to those inhabitants, who, by fair and regular grants, or by occupancy, have obtained legal titles or equitable claims to lands in that country, prior to the final ratification of the treaty between the United States and Spain, on the twenty-fifth of April, 1796.

This country is rendered peculiarly valuable by its inhabitants, who are represented to amount to nearly four thousand, generally well affected, and much attached to the United States, and zealous for the establishment of a government under their authority.

I, therefore, recommend to your consideration the expediency of erecting a government in the district of the Natchez, similar to that established for the territory northwest of the river Ohio, but with certain modifications, relative to titles or claims of land, whether of individuals or companies, or to claims of jurisdiction of any individual State.

JOHN ADAMS.

United States, *June* 12, 1797.

The Message and papers were referred to Mr. Baldwin, Mr. Sewall, Mr. Findlay, Mr. Schureman, and Mr. Harper, to report by bill, or otherwise.

Tuesday, June 13.

SUSPENSION OF DUTIES.

Mr. Otis, from the committee to whom was referred the memorial of certain merchants of the State of Massachusetts, reported a bill to suspend in part the operation of the act passed last session to raise certain sums of money by means of additional duties; which was twice read, and referred to a Committee of the Whole, to-morrow.

DEFENCE OF PORTS AND HARBORS.

The House having again resolved itself into a Committee of the Whole, on the report of a select committee on the subject of fortifications, and that part of the bill being under consideration which required the blank filling up,

Mr. Gallatin moved to fill up with fifty thousand dollars, as he did not believe a larger sum would be wanted before the next session, as they had concluded by the resolution of yesterday that no money should be expended upon places which had not previously made a cession of their territory to the United States.

Mr. W. Smith proposed to fill the blank with two hundred thousand dollars; for though the vote of yesterday had outlawed the States of New York and South Carolina, yet some provision might be made, before Congress rose, for allowing the President to make such repairs in the fortifications of the United States as the appearance of things should seem to require, (without reference to cession of territory,) and therefore he wished to have the blank filled with the sum he had mentioned.

This sum was supported by Messrs. Brooks and Hartley.

Mr. Allen wished the present motion suspended, to admit of one which he had to make. It was to re-consider the vote of yesterday on Mr. Dayton's amendment, and, in case it were rejected, to introduce two additional clauses to the bill: one to request the President to make application to the States which had not ceded the territory of their fortifications for a cession of it; the other enacting that, in case such cession should be refused, all farther assistance in fortification should cease.

Mr. Allen having himself voted for the amendment which he wished to reconsider, being seconded by a member in the same situation, and Mr.

Gallatin having withdrawn his motion, the proposition came under discussion, and a considerable debate (but very uninteresting, as it was merely a repetition of the arguments used yesterday) took place. The motion for reconsideration was supported by Messrs. W. Smith, Williams, Brook, Shepard, Goodrich, Sitgreaves, and Sewall. It was opposed by Messrs. S. Smith, Giles, Skinner, Potter, Swanwick, and Dayton.

In supporting this motion, Mr. Sitgreaves said, the extraordinary exigency of the occasion, called upon them to dispense with the amendment, though he allowed it to be just on general principles, this exigency was evinced, he said, by their being called together in an extraordinary manner; nor was there anything in the late accounts from Europe, which lessened the alarm. Indeed, in the course of a recent debate, it was asserted, that if France should make a separate peace with the Emperor, the situation of this country would become peculiarly critical, if the peace were not afterwards extended to Great Britain; and he believed this assertion was well founded.

In opposing it, Mr. S. Smith took notice of the expression which fell from Mr. W. Smith, of the States of New York and South Carolina being put into a state of outlawry by the amendment, which, he said, was a very extraordinary reflection upon that House, especially to come from one who was known to be so great a lover of order. The Speaker, in alluding to this circumstance, said he did not hear the expression, and that the gentleman from Maryland must be mistaken, as such an expression could not have escaped from a gentleman of such candor and urbanity of manners. If he had heard him make use of such an expression, he should have called upon him, both in that House and out of it. If he had made the declaration, he trusted he would be honest, candid, and just enough, to revoke it.

Mr. W. Smith took no notice of this remark, but the question for reconsidering the amendment was taken and lost, there being 43 votes for it, and 52 against it.

The question was then put upon filling the blank with 200,000 dollars, and negatived without a division.

The sense of the committee was next taken upon the sums of $100,000 and $80,000, both of which were negatived, there being only 38 votes in favor of each. It was then moved to fill the blank with $50,000.

Mr. Rutledge suggested it to the gentleman whether 60,000 dollars would not even be necessary, when he excluded from any provision the States of South Carolina, Georgia, Massachusetts, and New York.

Mr. Skinner observed, that only $4,000 had been estimated for the Eastern States.

Mr. Rutledge said, the reasons for this were, because the fortifications in those States were in much better repair than those in the Southern, and were less liable to attack.

Mr. Gallatin said, in moving 50,000 dollars he did not mean to be niggardly; he thought that sum, with the 20,000 dollars in hand, would be full as much as the Executive would want in three months, since they had only expended 3,000 dollars in the last three months.

Mr. Milledge spoke of the situation of Georgia. A cession had not been made, he said, of the territory on which their fort stood. It was the property of an individual, therefore, as they had not refused to make cession, they were entitled to protection.

Mr. Varnum hoped the blank would not be filled at all, as he did not believe we had any reason to apprehend an invasion; and if we had, the largest sum proposed to be appropriated would be as nothing when applied to make a complete fortification for the United States.

Mr. Otis confessed that he was not of opinion with gentlemen who thought, if there was not immediate danger, they might as well return home without doing any thing. He thought that we should show to the world that we were ready to place ourselves in a posture of defence; but if they were to vote only 50,000 dollars for the purpose of fortifying our harbors, it would be burlesquing the business, and we should become an object of ridicule to foreign nations.

It was generally brought as an argument against appropriating money, that it was lavished away; but it was now said, because the Executive had been economical in the expenditure of the money which had last session been appropriated, they would confine him to a small sum at present; on the contrary, he thought it ought to be evidence to them that whatever sum was now appropriated, would be taken care of in the same manner.

If this country, Mr. O. said, were in so low a situation, as not to be able to provide money for its defence, we had better call in France or some other Power, to take care of us; but he trusted they should show a very different spirit. He sincerely hoped peace would take place in Europe before they came together again, and that this country would no longer have cause of alarm; but this, he said, we were not sure of, and we ought not to stand with our arms a-kimbo, because a few dollars might be saved. He knew no part of this money was to be expended on Massachusetts, but when the interests of the whole were the object, he forgot local interest. Gentlemen who had all along said they would do nothing, would artfully gain their point, by the division of those who wished to put the nation into a state of defence, but who were divided on this occasion. The responsibility of such a conduct, however, should not be upon him.

Mr. Giles charged the gentleman last up with wandering from the subject. He thought, as well as others, 200,000 dollars a petty sum for the defence of the Union by means of fortifications; and if there were real danger, he would vote for much more. But he did not think this a proper kind of defence for the country; he was for defending it by means of the militia. The gentleman had advanced a most extraordinary reason for appropri-

ating a larger sum of money than contemplated; it was because the President had taken care of the last sum appropriated. It was the business of that House, he said, to take care of the money, and not to appropriate it in order that it might lie safely in the hands of the Executive. From the present situation of Europe, he believed the least done would be the best. If the gentleman thought the adoption of nominal means, which could possibly produce no good, would do the nation any credit, he differed from him in opinion.

Mr. Dayton (the Speaker) said he had voted for filling the blank with 100,000 dollars, and afterwards with 80,000 dollars, because he believed either of these sums might have been applied with advantage. If the gentleman from Massachusetts had been in the House yesterday, he would have spared some of his observations of to-day, which were more remarkable for warmth than for candor. Mr. D. defended his amendment, and said it had been a subject he had never lost sight of. And have I (exclaimed Mr. D.) declared I would do nothing? Have not I voted for every measure, calculated to put the country in a state of defence, except for arming the merchants' vessels? Every thing that was proper, he said, he was ready to do; but not to throw away $100,000 upon works which every one now acknowledged could never be of service to the United States. Was there any reason, he asked, for throwing away this money, because the country was in danger? He thought not, but the contrary; for, if that were the case, it behooved them to be careful to spend their money to the best advantage.

Mr. Otis explained, and declared he did not mean to allude to the gentleman from New Jersey.

Mr. W. Smith said, he had all along contended for the propriety of attending to the fortifying of New York, as well as Charleston, but as he had been unsuccessful in his endeavors with respect to New York, he should follow the example of the Emperor, and make a separate peace, by taking care of his own State. He therefore moved an additional section providing that an additional sum should be provided for fortifying the ports and harbors of South Carolina and Georgia.

A New York member proposed to add, "the Narrows in the port of New York."

After some few observations, in which Mr. Brooks said, if the gentleman from South Carolina followed the example of the Emperor, they must, like Great Britain, make the best of their situation, the question was put on this amendment, and negatived without a division.

Mr. W. Smith then went into a defence of his proposition, assuring the committee no objection would be made to granting a cession of the territory. He spoke of a considerable armament which was going on at St. Augustine, for what purpose was not known, though said to be from a strong expectation of an invasion from England; but that, whatever was the intention, all the arms and ammunition which could be purchased at Charleston, had been sent there, which had caused very considerable alarm in that city.

Mr. Brooks and Mr. Milledge spoke in favor of this measure, and Mr. Varnum against it; and after a pretty long speech from Mr. Rutledge, in which he advocated with great zeal the propriety of attending to the Southern States, as most exposed to danger, and also mentioned several instances in which the commerce of Charleston had been annoyed by means of French pirates, the question was put upon this new section, and carried, there being 54 votes in favor of it.

Mr. W. Smith moved to fill the blank with $40,000, which was carried, there being fifty votes in favor of it.

It was then moved that the committee rise and report the bill with the amendments; but on Mr. Dayton's saying he had another amendment to propose, the committee rose, had leave to sit again,

And the House adjourned.

Wednesday, June 14.

Mr. N. Smith, from the committee appointed for the purpose, reported a bill to prevent vessels taken by foreign Powers from ever after receiving new registers, except by the original owners, but, though possessed by citizens of the United States, be considered as vessels of a foreign Power.

Mr. Potter also reported a bill for authorizing the President, during the recess of Congress, to provide galleys or other vessels, for purposes therein mentioned.

Both these bills were twice read and committed to a Committee of the Whole to-morrow.

FORTIFICATIONS.

The House again resolved itself into a Committee of the Whole on the subject of Fortifications, when

Mr. Allen moved a clause to the bill to the following effect, viz: "to empower the President of the United States to authorize the Governor of the State of New York to expend a sum not exceeding ———, for the purpose of fortifying the forts and harbors of the State of New York, provided the sum so expended be placed to the credit of the said State on account of the balance found due from that State to the United States, and provided that the State cede the right of jurisdiction of the places upon which such fortifications shall be erected to the United States."

Mr. Brooks opposed the motion, as being particularly pointed at the State of New York.

Mr. Havens proposed an amendment to it, which was to make it apply generally to all the debtor States, instead of confining it to the State of New York alone.

Mr. Harper seconded the motion, and Mr. Allen consented to have it incorporated in his proposition.

Mr. Skinner advocated the motion, and denied that it operated in a partial manner upon the State of New York.

Mr. S. Smith was in favor of the motion. He wished the business of fortification to be gone into effectually, by securing every principal port in the Union, and not that small sums should be spent

here and there, which could produce no good effect. If he were Secretary of War, therefore, he should think it best to expend the whole $75,000 now proposed to be appropriated on the fortifications on Mud Island, as he did not think any particular exigency at present called for partial measures.

Mr. Williams agreed with the gentleman last up that attention ought to be paid to all the important ports of the United States, and of course he should be in favor of the amendment. He did not doubt but, rather than be continually stigmatized with being debtors, the State of New York would consent to lay out the assumed debt at the Narrows, though he believed they would not like the way in which the business had been done.

Mr. Brooks was opposed to the motion, as the debtor States would be deprived of all advantage from the $75,000 appropriated. He also insisted that the debt said to be due from the State of New York to the United States ought not to be drawn into the present discussion; but, if it were to be considered, it would be proper to let the subject stand alone. To do otherwise was making an odious distinction, to the disadvantage of New York.

Mr. Dayton (the Speaker) denied that the debtor States were deprived of any assistance from the sum already agreed to be appropriated generally. If the gentleman had read the first clause of the bill he had suffered his warmth to overcome his memory, as he must there see this was not the case. With respect to obtaining a cession of the three islands upon which the fortifications at New York were erected, he would not agree to appropriate twenty cents for that purpose; nor did he believe the State of New York would ever cede them.

Mr. D. said, it was yesterday observed that odious distinction was made with respect to New York, because she was not provided for; and now provision was made for her, gentlemen still talked of odious distinction. He did not know what gentlemen would be satisfied with.

Mr. D. said, living near New York as he did, he had had frequent opportunities of conversing with the people of that city on this subject, and so far from a proposition of this kind being considered as an insult to that State, he believed it would be highly gratifying to them. Nay, the Representatives of that State had assured him last session, in conversation, that if an offer like the present came from Congress, it would be well received. Every one of them said this, but they did not wish themselves to propose it, because it might be supposed they pledged the State to accept the offer, when they had no authority to do so. He had not heard an individual say it would not be well received, and he could see no ground for the present opposition.

Mr. Swanwick thought the amendment a good one. He believed the State of Pennsylvania would be glad to discharge their debt to the United States in this way.

Mr. Williams doubted not that the assertions of the gentleman from New Jersey might be just as to the citizens of New York city, but they were not so with respect to other parts of that State, and the representatives in the Legislature came chiefly from the west and north of New York.

Mr. Harper did not think it material to inquire into the dispositions of the people of the city or country of New York, on this occasion. The question was whether it was expedient to make the present proposition. He thought it was; for if it were acceded to on the part of New York, great good would be done; if not, no harm could be the consequence.

Mr. Brooks thought he knew the minds of his constituents better than the gentleman from New Jersey. He had been in the Legislature of New York for three years past, which he believed was the best possible situation for learning the political opinions of the State. He believed a proposition of this kind would not be well received; he called it an invidious distinction from their sister States; it was to say to them, "If you do not pay your debt (which we say is just, but which you dispute) you shall not be protected."

Mr. Dayton again charged the memory of the gentleman from New York with not being faithful, and justified his former assertion. When the blank came to be filled up he said he meant to propose it to be filled with the sum of $1,200,000, the debt assumed for the State of New York; but, if he believed a proposition of this kind would be considered as an insult to that State or people, he would be the last to support it.

Mr. Havens believed with the gentleman from New Jersey, that the proposition would not be considered as an insult, but he was doubtful whether it would be accepted, because there was a prevailing opinion in that State that the settlement between the States and the United States had not been fair, as it related to them, and that the western representation would oppose such an appropriation.

Mr. Elmendorph was against the amendment. The principle upon which the House had proceeded was general protection arising from a sense of danger, and that therefore those places which were weakest and most exposed had a primary claim upon their notice, without respect to cession or any other secondary object; but instead of this, the question seemed to be a contest between different parts of the Union and the State of New York. He did not himself think there was any occasion for extraordinary measures; but, as it had been otherwise concluded, he thought New York was entitled to equal attention with others, and ought not to be pointed at in the way proposed; for, said he, if the resolution passes, it will not insure the business being done, because the Legislature of New York might not agree to it. He therefore thought that the measure was an excommunication of that State from the general protection proposed.

Mr. Sitgreaves wished to offer a substitute to the section under consideration, which he had reason to believe would prove generally acceptable. It was to the following effect:

"*And be it further enacted,* That the President of

the United States be authorized to cause to be erected at the Narrows, such fortifications as he may deem necessary for the protection of the port and harbor of New York: *Provided,* That the expense thereof do not exceed ——— dollars.

"*And be it further enacted,* That the sum of $200,000, expended in erecting the present fortifications in that port, be passed to the credit of the balance found due from the State of New York to the United States; and that so much as shall remain of the said balance, shall be appropriated for the purpose of fortifying the Narrows as aforesaid."

Mr. Havens did not approve of this amendment. The assumed debt of the State of New York would by no means fortify the Narrows. After taking off $200,000 for the present fortifications, there would only remain one million, and he believed it would require three millions.

Mr. Harper thought this proposition much more hostile to the State of New York than the one it superseded, as the principle of the other was general, and this particular. He did not believe that the Narrows would be fortified either by the State of New York or the United States, at present. He thought a million of dollars might be laid out to much better purpose in the purchase of ships of war; for, if they were to go into a system of general fortification of the coast, one hundred millions of dollars would at least be necessary.

Mr. Allen supported the amendment.

Mr. Bayard was opposed to the amendment, because in favor of the bill, for he believed if the amendment was adopted, the bill would be lost. The amendment was pretended to be directed to one point, but was insidiously pointed to another. He thought it improper, when one subject was under debate, to introduce another totally different. He did not come prepared to-day to decide on the subject of the debtor States. A question of this importance ought not to be interwoven with any other. He adverted to what had taken place last session on the subject of these debts, and said, if the Senate had declined an agreement to a proposition so mild as that was, it could not be expected to concur in this, and, of course, the bill would be lost.

Mr. Nicholas said, if this amendment passed, the President would be authorized immediately to commence fortifications at the Narrows. He hoped, if they gave this authority, they should do it understandingly. If the proposition said anything, it said, "Go on and make your fortifications, and the sum expended shall be put to your credit." But, he said, whatever more was spent than the amount of the debt, the United States would have to pay. He should have voted for the former proposition, because he thought it would have served the State of New York, but he could not vote for this.

Mr. Sitgreaves acknowledged that if the construction put upon his proposition was a just one, he should himself abandon it; but he did not think the proposition was obligatory upon the President, provided the funds should fail. If he should deem it necessary to erect the fortifications in question, he was authorized, not required, to do so. He believed there was always such a connexion between the authorization and expense, as that when the fund failed the expense ceased. He supposed, therefore, that the President would first inquire whether the State of New York was willing thus to pay their balance, if not, he would not proceed with the works.

The gentleman from Delaware had said, it was his (Mr. S's.) intention to defeat the bill. He had voted in favor of fortifications; he had voted in favor of the highest sum proposed to be appropriated for that purpose.

[Mr. Bayard said he had only stated that the amendment would produce that effect.]

Mr. S. replied, he had not only said it was his design, but that it was an insidious design. He wished the coast to be effectually fortified; he did not know that our funds would not at present admit of it. The proposition had two objects in view, and he thought it would be a desirable thing to accomplish them. Indeed, he did not before to-day hear any objection to this measure.

Mr. S. referred to what Colonel Stevens had said in favor of this measure in the course of last session, and concluded with observing he had no particular fondness for the proposition, but had introduced it for the purpose of accommodation.

Mr. Van Alen opposed the amendment at considerable length. He said it was either necessary to put the ports and harbors of the United States in a state of defence, or it was not; if it was not, he did not wish it to be done; but if it was, he insisted upon its being the duty of the General Government to protect New York as well as other ports. But, to pursue the conduct proposed, was to say, "We have fortified other ports, you may fortify yourselves; you owe us money, do the business, and put it to account." If this were done, he believed they would have no more fortifications than they had at present; for it seemed to be determined New York must pay the debt said to be due, and he did not think they would be inclined to do it and have no security.

Mr. Havens again spoke against the amendment.

The question on the first part of Mr. Sitgreaves's proposition was taken, and negatived, there being only ten votes for it; the last fell, of course.

Mr. Harper then moved again the proposition of Mr. Allen, as amended by Mr. Havens; and the sense of the committee was taken upon the first part of it, which was carried, there being 56 votes in favor of it. The question was then taken on the latter part, and it was carried, there being 63 votes for it.

The committee rose, and the House were about to take up the amendments, when

Mr. Parker wished to report a bill for completing the frigates United States, Constitution, and Constellation.

Mr. Nicholas also reported a bill directing the appointment of agents in relation to the 6th article of the British Treaty.

Both these bills were twice read and committed to Committees of the Whole; the former for Monday, and the latter for to-morrow.

SUSPENSION OF DUTIES.

On motion of Mr. Otis, the House went into a Committee of the Whole, on the bill for suspending in part the operation of an act, passed last session, for raising a certain sum of money by additional duties. The committee rose without making any other than a verbal amendment; but a short debate took place in the House, and, on motion of Mr. Harper, the bill was rejected—48 to 42.

The propriety of passing this bill, intended to operate in favor of certain Massachusetts merchants, was supported by Messrs. Otis, Brooks, Champlin, and S. Smith, on the ground of its unequal operation, as it appeared that the cargoes of their vessels at this season, from being several months longer on their voyage, will be charged with the new duty, whilst those of all the other ports, from making shorter voyages, would not be charged with it. It was opposed by Messrs. Harper, Parker, and Coit, on the ground that it would be wrong to set a law aside from a complaint of this kind, as it would open the door to petitions without end, whenever in future the least inequality of a tax was experienced.

Thursday, June 15.

FORTIFICATIONS.

The House proceeded to consider the amendments agreed to in the Committee of the Whole, to the bill respecting fortifications.

The first amendment, which was to fill the blank, to be applied to fortifications generally, with $75,000, was agreed to—48 to 38.

The next amendment was the one introduced by Mr. Dayton, to prevent any money being applied to fortifications, the jurisdiction of which had not been ceded to the United States.

Mr. Brooks recapitulated his objection to this proposition.

Mr. Gallatin said he had voted for this amendment, because he conceived it to be founded on just principles; and, as he should now vote against it, it was necessary to give his reasons for doing so. He believed the principle just and proper to be used, whenever the United States should go into a general plan of fortifications. But, as this was only meant for a temporary provision against danger, he believed it would not be abided by, because the danger might be greatest, and the assistance wanted most, at a place which was not ceded. Besides, he believed there was not a single port in the United States which had ceded exclusive jurisdiction of their territory according to the Constitution; and, therefore, this provision would go to preclude the whole from relief, as every cession which had been made provided for a concurrent jurisdiction of the State. So far as it related to Pennsylvania, she would not be entitled to any support, because she not only reserved a concurrent jurisdiction, but provided that, if the cession was not accepted within one year, it would be void; and more than one year had now elapsed, and the cession was not accepted.

The question was put, and the amendment negatived, there being only 30 for it.

The next amendment was that limiting the interest of the money to be borrowed at six per cent.

Mr. W. Smith hoped they should not agree to this, but that they should agree to expunge what related to a loan. Other expenses would be incurred, and he thought it would be better to include the whole in one bill.

Mr. Gallatin believed there would be no occasion for a specific bill for a loan, as he believed the President had already sufficient power to borrow money, if it could be got, (alluding to the five millions of six per cent. stock agreed to last session.) He thought the present revenue would be sufficient, and that it was only necessary to give a power of borrowing on anticipation.

Mr. Swanwick was in favor of continuing the amendment, because the striking of it out would appear as if they meant not to limit the interest to six per cent. He condemned the practice of borrowing money upon all occasions. Whilst they were meditating schemes of defence, he thought they ought also to fix upon some mode of raising additional funds. He apprehended no good to the United States from this system of borrowing.

Mr. Harper denied that the present revenue could be relied on to meet the expenses contemplated by this bill, especially if they took into consideration an authorized expense of $100,000, respecting the trade with the Indians. He therefore thought it necessary to provide for them by a loan; for taxes could not be laid and collected in time to answer the exigency. In order to reimburse the loan, it would be necessary, of course, to provide taxes.

Mr. Swanwick was sorry to hear the gentleman last up advocating permanent loans.

Mr. Harper said, he did not mean permanent loans, but such as might be redeemable in a few years.

Mr. Swanwick said, this would nevertheless be an increase of stock, and, of course, of debt. An irredeemable debt would, indeed, be a very extraordinary thing for this country. He understood his colleague to mean that, whatever sum was borrowed, should be in anticipation of the revenue to be raised, which would answer the idea of the gentleman from South Carolina himself. By the method proposed of selling stock to pay borrowed money, whilst it appeared we were only paying six per cent., we were in fact paying nine or ten, because the stock was sold greatly below par. He hoped, therefore, they should provide, by taxes, for all the money they expended.

Mr. W. Smith accused the gentleman last up with wandering from the subject. The question was, whether it was necessary to say anything about a loan in this bill. There were two kinds of loan, one an anticipation of existing revenue, another where there was no revenue to meet the expense. The present bill contemplated the former. It was necessary to give the President power to borrow, because, if there was no surplus of revenue, the expense could not be met. He did not

object to the amendment because it limited the interest of money, but because, if the interest was agreed to, the appropriation clause could not afterwards be struck out. Before they rose, he trusted provision would be made for the payment of whatever might be borrowed, in four or five years. He had no expectation of money being borrowed in any other way than in anticipation of the revenue.

Mr. N. Smith objected to the interest of the money to be borrowed being limited to six per cent., as he believed it could not be borrowed at that rate, and it would be a mere farce to limit the interest at a price below that at which it could be got. If money was absolutely necessary, it must be got upon the best terms upon which it could be had. The President might certainly be trusted in a business of this sort, since no one could believe he would pay more interest than there was a necessity for paying.

Mr. Gallatin was not for confiding wholly to the President as to the interest to be paid for money. It was usual, he said, to limit the interest of all money to be borrowed.

Mr. Gallatin reminded the gentleman from South Carolina, of a saving in the last military appropriation of $150,000 less than the sum estimated, and contrary to that gentleman's wishes, which would considerably increase the surplus of revenue.

Mr. N. Smith mentioned a loan of a million of dollars for the Algerine business, which was authorized to be borrowed without limitation of interest.

Mr. Coit was in favor of dispensing with the borrowing clause.

Mr. Hartley spoke in favor of the limitation. He believed money might be got at six per cent. He should be unwilling to pay more, as it would increase the interest of money generally.

Mr. Brooks said the question was, not whether more than six per cent. should be paid for the interest of money, but whether the borrowing clause should be inserted at all.

Mr. Otis was of the same opinion. He thought it would be best to have a distinct bill for all the money wanted.

The question upon agreeing to the amendment, limiting the interest of the money, was negatived, there being 44 for it, and 50 against it.

The next amendment was the clause appropriating forty thousand dollars for the fortifications of South Carolina and Georgia.

Mr. Gallatin hoped this would be disagreed to, since the amendment limiting the general expenditure to such places as had ceded their jurisdiction, had been negatived.

Mr. W. Smith moved that the House resolve itself into a Committee of the Whole, in order to take the sense of the committee upon striking out the seventy-five thousand dollars, for the purpose of adding this sum of forty thousand dollars to it, since he supposed this clause would be negatived, because South Carolina and Georgia would now be included in the general appropriation.

Several members having expressed a wish that this motion might be withdrawn until the other amendments were gone through, Mr. S. withdrew it.

The provision was then negatived.

The amendment proposed by Mr. Allen and amended by Mr. Havens, empowering the President to authorize the State of New York to expend a certain sum upon their fortifications, which should be put to the credit of the balance due from that State to the United States, being under consideration,

Mr. Cochran proposed to add the following words, in order to cover the expense already incurred in the fortifications at New York, viz: "or which may have been expended by any State for the purpose aforesaid."

Mr. Gallatin had no objection to the two millions which New York owed the United States being expended upon their fortifications; but this amendment went to discharge the State of New York from the two hundred thousand dollars already expended, whether any more was expended or not.

This amendment was negatived without a division.

Mr. Harper proposed to add, after the State of New York, "under the direction of the President of the United States," as a security for the money being properly employed.

After a little conversation, this motion was carried without a division.

The question was then on the amendment as amended.

Mr. Macon was for rejecting the amendment.

Mr. McDowell was of the same opinion. He objected to the amendment on two grounds: he thought it wrong to call upon the debtor States in this indecent way for the payment of their balances; and he thought it also wrong to throw away so much money on fortifications, which, he said, could be of no use; for, though they might prevent an enemy from landing at the particular point where they were fixed, they could not prevent them from landing at some neighboring spot, and being landed, they would take possession of the fort, and turn the guns against ourselves.

Mr. Brooks opposed the passing of the amendment, and thought the only way of settling the business of the debts, would be by a conference with the State of New York.

Mr. Findley insisted upon it that the balances were settled, and could not now be questioned.

Mr. Baldwin gave his vote, in the Committee of the Whole, in favor of this, because he had been informed it would be acceptable to the State of New York. If he had thought such a proposition would be disgreeable to them, he would not have supported it. He believed, when passion subsided, this settlement between the States and the United States would be acknowledged to be a perfectly fair transaction. With respect to the latter part of the amendment, requiring the jurisdiction to be ceded, he should be opposed to it. He did not wish to insist upon an exclusive right. He was willing that States should go on with their Governments in their own way, without in-

terference, any farther than was necessary to keep peace amongst them and foreign nations.

Mr. Varnum said, it would take upwards of twenty millions of dollars to extend this plan of fortification throughout the United States; and there is no doubt, when it was done in one place, others would apply for the like attention. He was therefore opposed to it.

Mr. Bayard did not see why they should discriminate between one place and another; they struck out the clause respecting South Carolina and Georgia on this ground, and he trusted they should disagree to this. He objected to it, also, because it seemed to admit the State balances as justly due.

Mr. B. then went at considerable length into the manner of the settlement of the commissioners, denied that the debts were justly due, and hoped there would be a re-settlement. Gentlemen said they voted for this to oblige the debtor States. It was an odd way of obliging them, by voting for a measure which would destroy the existence of some of the States.

Mr. Harper observed that the gentleman's arguments would have been exactly in point, had the subject of the balances been under consideration.

Mr. Otis said he yesterday voted for the amendment. He was led to do so from the idea that he was conferring a favor upon the State of New York; but having since conversed with the Representatives from that State, he had been astonished to find they were generally against it. He should therefore decline doing them a favor in spite of themselves.

Mr. O. was about to follow Mr. Bayard in his observations; when

The Speaker said he had improperly suffered that gentleman to proceed, and could not admit a further deviation from order.

Mr. S. Smith spoke in favor of the amendment, and hoped the gentleman last up would not throw away his vote; for though some States might not choose to accept of the offer, others would.

Mr. McDowell again spoke against the motion.

Mr. Elmendorph wished the gentleman from Massachusetts not to take the ground of opposition he had taken. Since the amendment respecting jurisdiction had been negatived, he was in favor of this clause. He did not think an agreement to this proposition was a recognition of the debt, nor did he think any State's agreeing to it would commit others. He wished those States who thought themselves unjustly charged with these balances might have this opportunity of getting clear of them.

Mr. Van Alen opposed this amendment, and concluded with saying it was justice in the United States to fortify the port of New York, and it was equally justice in that State to pay the debt. He wished her to be called upon, but not in this way; it was treating her in a manner which she did not deserve.

The sense of the House was then taken upon the first part of the proposition, and determined in the affirmative—yeas 51, nays 44, as follows:

Yeas—John Allen, Abraham Baldwin, David Bard, Theophilus Bradbury, Richard Brent, Samuel J. Cabell, Christopher G. Champlin, John Clopton, Jas. Cochran, Joshua Coit, Samuel W. Dana, James Davenport, George Ege, Lucas Elmendorph, Thos. Evans, William Findley, Albert Gallatin, William B. Giles, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Samuel Lyman, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, John Reed, James Schureman, William Shepard, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, Samuel Smith, Richard Sprigg, jr., John Swanwick, Mark Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, Abraham Venable, and Peleg Wadsworth.

Nays—George Baer, jun., James A. Bayard, Thomas Blount, David Brooks, Nathan Bryan, Stephen Bullock, Thomas Claiborne, Matthew Clay, William Craik, Thomas T. Davis, John Dawson, John Dennis, George Dent, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Nathaniel Freeman, jun., James Gillespie, Henry Glen, William Gordon, Andrew Gregg, William Barry Grove, John A. Hanna, William Hindman, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Jos. McDowell, Harrison G. Otis, John Rutledge, jun., Samuel Sewall, Tompson J. Skinner, William Smith, of Charleston, William Smith, of Pinckney District, Richard Stanford, Thomas Sumter, Richard Thomas, John E. Van Alen, Joseph B. Varnum, and Robert Williams.

The question was now taken upon the latter part of the amendment, providing that exclusive jurisdiction should be placed in the United States.

Several propositions were offered for the amendment of this clause. It was proposed by Mr. Kittera that, where land was ceded by a State to the United States, or purchased by the United States of an individual, by the consent of the State, a concurrent jurisdiction should be had.

This motion was negatived, 43 to 40.

Mr. Elmendorph then proposed an amendment, omitting the words "by consent of the State," which was carried, there being 48 for it.

The amendment, as amended, was put and carried, there being 58 for it.

Mr. W. Smith then proposed to strike out the second section of the bill, in order to leave the loan to a future law.

Mr. Gallatin wished the gentleman to confine himself to the loan, and not to the appropriation.

Mr. Smith consented, and the motion was agreed to.

Mr. S. then moved that the House again resolve itself into a Committee of the Whole, in order to add the forty thousand dollars, proposed to be appropriated for South Carolina and Georgia, to the seventy-five thousand dollars for the general appropriation. He showed at length the justice of the measure.

Mr. Rutledge seconded the motion, and said he trusted the vote of the House would be consistent with that of the committee. The gentleman from Pennsylvania (Mr. Gallatin) had moved in the Committee of the whole House for a reduction of the sum recommended by the select committee, because Carolina and Georgia were to be excluded from a participation of the general appropriation, they not having ceded to the United States the jurisdiction of the territory where fortifications had been and were to be erected, and because special provision was to be made for fortifying those States. But the House having determined not to discriminate between the States which had ceded the jurisdiction of their territory and those which had not, and the clause in the bill which appropriated forty thousand dollars for fortifying Carolina and Georgia being expunged, he hoped the gentleman from Pennsylvania would not be so uncandid as to oppose the introduction of the sum which had been recommended by the committee. The reason he had assigned for reducing it being that a special provision would be made for fortifying the Southern States, and the clause which provided for their defence being destroyed, Mr. R. hoped the gentleman would not be so inconsistent as to limit the appropriation to seventy-five thousand dollars, but would now vote for one hundred and fifteen thousand; and thus, by adding the sum voted in the committee for fortifying the Southern States to the general appropriation, accord with the vote of the Committee of the whole House.

Mr. R. expressed his surprise that, after the lengthy debate which took place in the committee, in which he had detailed the defenceless state of Carolina and Georgia, that gentleman should now ask if $75,000 would not be a sufficient sum for all the purposes of defence and fortifications. He requested they would call to memory the observations which had been made yesterday by a gentleman from Maryland, (Mr. Smith,) whose military talents were well known by every member in the House, and to whose military services this country was greatly indebted. He had stated that $75,000 would not go far in fortifying our harbors. What the gentleman from North Carolina had observed respecting fortifications was true, as it related to internal defence; but for the defence of the coast, he knows they were of infinite service. He (Mr. McDowell) had been too actively engaged in our Revolutionary war not to know that fortifications had answered many valuable purposes. He knows that the Southern States were preserved, for several years, by a fortress in Carolina; he knows that Sir Peter Parker, with a large fleet, and Sir H. Clinton, with a formidable army, were, in 1796, baffled at Fort Moultrie, in their attempt to pass it, and compelled, after having attacked it most vigorously for twelve hours, to abandon their project of conquering the Southern States. True it is, that Fort Moultrie was afterwards taken, and the whole State overrun by the enemy; but the conquest was made by an irresistible force, after a very long and gallant defence.

Mr. R. thought 30,000 or 40,000 dollars, expended judiciously, would put Charleston in a complete state of defence. He admitted that vessels might pass a fort without receiving much injury, but contended, that whenever it was possible to have a cross-fire on them, few commanders would be so adventurous as to carry ships into such a perilous situation. He described the harbor of Charleston as being very capable of complete defence by fortifications. He said the Secretary of War contemplated fortifying an island opposite to Fort Johnson, and when that shall be done, vessels attempting to pass it will encounter a cross fire.

Mr. R, dwelt much on the necessity of fortifying the coast of the Southern States—described it as being very extensive, and having near it much wealth, and that of a very perishable nature. In all events, he said—even in that of our being certain a general peace will immediately take place—fortifications would be necessary in the South. Let whatever order of things obtain in Europe, the revolution had been so complete in the West Indies, everything which was venerable and respectable had been so entirely subverted, anarchy and disorder were so prevalent and extensive there, that for years to come we must expect to see our trade with those islands cut off by picaroons, and our coast infested by pirates.

He concluded with thanking the House for the attention with which it had honored his observations. He deemed it quite unnecessary to add to them, as it would be doing great injustice to the consistency and candor which distinguished the proceedings of the House, to suppose it would on this day give a vote in direct contradiction to that of yesterday. He was persuaded they would not, and that a large majority would rise in favor of appropriating $115,000.

Mr. Giles had no doubt of the situation of Charleston being as represented, but thought the $75,000, and the $20,000 in hand, would be equal to all that would be wanted before Congress met again.

Mr. Gallatin was of the same opinion. He did not think that one-half of the $100,000 would be spent, as only $140,000 had been expended from 1794 to 1797. He thought no more should be appropriated than was absolutely necessary; for, if they took into consideration the situation of Europe at present, there was every reason to expect a general peace would soon take place. He thought this probability so great as almost to do away all apprehension of danger to this country. But, because they were met together, gentlemen seemed disposed to do something. He was willing that that something should be done. He was therefore in favor of those measures which could do the least harm. He should vote for the bill in its present shape; but he should be against raising the additional troops proposed, as they would cost $400,000 a year—which would be guarding against an imaginary danger by introducing a real evil. He should be against recommitting this bill, because, if they went further, they should enter upon that plan which had been produced by a sense of danger, which he did not think now existed. That danger had lessened betwixt the time of calling Congress and their meeting, and had greatly lessened since.

Mr. Allen thought it was insanity to assert there was no danger to be apprehended from our present situation as to foreign nations. The dis-

satisfaction expressed by the Spanish Government, he called a scandalous, miserable pretext. He considered this nation as on the eve of war—spoke of the French surrounding us on all sides—nay, he said something about declaring war if the posts which they held were not given up. He hoped they should take vigorous measures of defence, and not separate until they laid a direct tax. Whatever the benevolent mind of the gentleman last up might think of the French nation, he could look upon them as nothing less than foes. [The Speaker reminded the gentleman of the question.] He concluded, in great warmth, with charges of ambition against the French nation.

Mr. Milledge and Mr. Shepard each spoke in favor of going into a Committee of the Whole.

The question for recommitting was carried—46 to 53. The House accordingly went into a Committee of the Whole, and agreed to make the sum $115,000 instead of $75,000—there being 46 votes for it and 42 against it.

The question was then taken on the passage of the bill, and decided in the affirmative—yeas 48, nays 41, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, James A. Bayard, Theophilus Bradbury, David Brooks, Demsey Burges, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Harrison G. Otis, Josiah Parker, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, William Smith, of Pinckney District, Richard Thomas, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Roger Griswold, Carter B. Harrison, Jonathan N. Havens, Walter Jones, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Elisha R. Potter, John Reed, Tompson J. Skinner, Richard Sprigg, jr., Richard Stanford, Thomas Sumpter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Friday, June 16.

DEFENCE OF PORTS AND HARBORS.

The bill to provide for the safety of the ports and harbors of the United States, was read the third time, and about to be passed, when

Mr. Williams observed that he should vote against the bill for the following reasons, viz: because it contained a clause adopting a principle which he conceived to be both unnecessary and unjust, which respects the State debts; because he did not believe the State of New York to be a debtor State; and because the adjustment of the expenses of the war had been made upon the most erroneous principles. Each State, he said, ought to have been charged with the requisitions of Congress made during the war, and the interest on any defalcation of payment in each requisition, and credited with the sums paid, and with such other supplies and payments as were purchased or paid, in conformity to acts of Congress; but every claim, such as expense of the expedition to Penobscot, the frigate South Carolina, and such as were admitted, ought to stand as a charge against the United States, and to be paid out of the common stock. [The Speaker reminded Mr. W. of the question.] Mr. W. said, if this objectionable clause could be modified so as to call on the debtor States for the sums assumed, and accredit States who had expended money on fortifications, he then should have hope of an accommodation, especially with the State of New York; he, therefore, moved for recommitting the bill, so as to have these objects embraced.

Mr. Brooks objected to the passing of the bill on the same ground, and supported the motion of his colleague.

The yeas and nays were then taken on the passage of the bill, and resulted—yeas 54, nays 35, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, James A. Bayard, Theophilus Bradbury, Demsey Burges, Christopher G. Champlin, William Craik, James Davenport, Thomas T. Davis, John Dennis, George Dent, George Ege, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, John Fowler, Albert Gallatin, James Gillespie, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, James H. Imlay, Walter Jones, John Wilkes Kittera, Samuel Lyman, James Machir, William Mathews, John Milledge, Daniel Morgan, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, and Peleg Wadsworth.

Nays—David Bard, Thomas Blount, David Brooks, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, James Cochran, Joshua Coit, John Dawson, Lucas Elmendoph, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Andrew Gregg, Jonathan N. Havens, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumpter, Abram Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

PROTECTION OF TRADE.

A bill from the Senate, for the protection of the trade of the United States, was twice read, and ordered to be committed to a Committee of the Whole on Monday. This bill goes into the detail as to the manning of the frigates, fix-

ing the pay, rations, &c., and also empowers the President to equip nine additional vessels, if he shall see necessary, not to carry more than twenty guns each, to be employed in the protection of our trade.

Mr. Varnum moved to have the consideration of this bill postponed till the first Monday in November, but was informed that his motion was not in order.

CORPS OF ARTILLERY, &c.

Mr. W. Smith moved the order of the day on the bill for raising an additional force of artillery.

Mr. Gallatin moved that the Committee of the Whole be discharged from a further consideration of this bill. He made this motion, he said, for the purpose of shortening the discussion; because, if it should be the opinion of a majority that it was not proper to go into into the consideration of this subject at present, there would be no use in going into a Committee of the Whole. He did not think it connected with the business upon which they were specially called. To carry it into effect would at least cost $300,000, and no adequate benefit would be derived from it.

Mr. Williams said, before he voted on this question, he should be glad to hear from the Secretary of War what was the present number of our troops, and where they were stationed. At present, he was of opinion that the men we had were sufficient, though he allowed it was necessary that time should be given for artillerists to learn their duty. He should vote for going into Committee of the Whole.

Mr. W. Smith objected to the motion, as, if carried, it would amount to a rejection of the bill. He was against it, because he conceived the bill to be necessary; and he thought it would appear to be so, from the argument of the gentleman himself, who brought forward this motion, as he had told them, when the subject of fortification was under consideration, that if $115,000 were appropriated, it would be necessary to have additional artillery to take care of the new forts; he should, therefore, to be consistent, withdraw his motion. The same gentleman had yesterday said, this corps would cost $400,000 a year; to-day he had said, three; but, Mr. S. said, he had a calculation, by which it appeared it would only cost $200,000.

The gentleman last up had wished for information as to the stationing of the present corps. He had in his hand a letter from the Secretary of War to the chairman of the select committee of the Senate, who reported this bill. [He read it; from which it appeared that there were 350 privates at different forts on the Atlantic, and the remainder on the Western frontier.] These 350 men were said to be necessary to keep the garrisons in repair, and that no part of the men on the Western frontier could be detached from thence, as it was probably their presence which prevented a war on the frontier from Tennessee to Georgia. To show the necessity of force on the frontier, Mr. S. read a letter and affidavits from Louisville, giving an account of a murder and other disorders committed by the Indians.

Before the late reduction, Mr. S. said, the number of the privates in our establishment was 4,980, and when the 832 additional men proposed to be raised, were added to the present establishment, it would be less by 1,132 men than it then was. He hoped, therefore, they would go into a Committee of the Whole, and finally agree to the bill, as he wished not only to have men now to keep the works in repair, but to use the guns if there should be occasion.

Mr. Nicholas observed, that two reasons were given by the Secretary of War for this additional corps; one was, that there were not men enough to keep the works in repair; the other was, that it was necessary to have men to use the guns, if necessary. With respect to the money voted yesterday for fortifications, he understood it was intended to be expended on the forts already built, and not that new ones should be built. When these forts were first erected, nothing more was contemplated than putting so many men into them as would be able to keep them in repair. They were built in populous parts of the country, and if they were attacked, the inhabitants would be ready to protect them. The militia of New York, Philadelphia, and Baltimore, he doubted not, in case of danger, would flock to defend their fortifications.

Mr. N. read a letter of the Secretary of War in January last, in which he mentioned that the fortifications were generally in a good state, except a few on which the ravages of time had made some inroads, and which would require $4,000 to repair. He thought this account and the present were at variance. He wished the Secretary of War had said (and if he meant to give information to the House, he ought to have said it) how many men were in this regiment; because, if it were full, 550 artillerists would be on the Western frontiers, which he could not believe were necessary. He believed the truth was, the regiment was not more than two-thirds full. Mr. N. denied that our establishment would be less by 1,132 men, if this corps was added; for though the establishment had appeared larger on paper, it had never, in fact, exceeded 3,000 or 3,500 men. He believed there had not been any actual reduction of men. Nor did he believe the gentleman from Pennsylvania was far wrong when he estimated the proposed new regiment at an expense of $400,000 per year, as the constant annual expense of the establishment was from twelve to fifteen hundred thousand dollars. When measures of this kind were proposed, they were persuaded they would cost nothing; but when they were gone into, the expense was found constantly to increase. He hoped they should not go into a Committee of the Whole.

Mr. Brooks thought it was first necessary to inquire whether these additional men were necessary. He thought the vote of yesterday conveyed some idea of danger, and if defence was necessary, it must be allowed that forts without artillerists would do no good; but gentlemen seemed to go upon an idea that there was no danger. He thought differently, and he believed a majority of

the House thought so. He denied that militiamen would be proper to be placed in these fortifications, and asked gentlemen how they could answer to their constituents, if they went away without doing anything, and an attack should be made upon our coast? He thought nothing had taken place in Europe which placed us in a better situation; but that we, on the contrary, should be doubly vigilant. He trusted they should not be lulled to sleep by fair representations. He was for going into a Committee of the Whole.

Mr. Varnum supposed the gentleman last up had received some new information, since he put his negative to the bill providing for the fortifying of our ports. What that information might be he could not tell. He had received none. The gentleman from South Carolina had, indeed, read some papers giving an account of a murder on the frontier by the Indians, and of a woman firing at them. But was this a sufficient reason for raising a fresh regiment of artillerists? He believed not. They sometimes heard of murders amongst civilized people, and there were modes of punishment without the aid of military force. He believed when the present regiment of artillerists was full, there would be men sufficient for every purpose. The measures of gentlemen, Mr. V. said, went to a destruction of national credit, by pushing every expensive object they could lay hold of. The United States had pledged themselves to make good engagements at certain periods; he thought those should be first satisfied, and then, if there were any surplus, gentlemen might, perhaps, be indulged in a favorite measure. If, indeed, there was any foundation for what had fallen from the gentleman from Connecticut, that we were on the eve of a war, then, instead of 900, it would be necessary to raise 150,000 men; or if we were to declare war upon France, in case she did certain things. He did not, however, believe that gentleman's doctrine.

It was time, Mr. V. said, that the sense of the people should be expressed to the President of the United States in favor of peace, that no irritable measures might be taken. He did not believe there was any danger of war, except from provocative measures on our part. Mr. V. concluded by saying, he hoped the bill would not be committed.

Mr. McDowell was against going into a Committee of the Whole, because additional men were unnecessary for the peace establishment; and if war was contemplated, they would be wholly inadequate. Militia, he said, were the proper defence of this country—he deprecated the idea of a standing army, which was the constant attendant upon despotic Governments.

Mr. Harper said, if the bill were to be rejected, he thought it ought first to undergo a discussion in a Committee of the Whole. Did the gentleman from Pennsylvania shrink from all examination of the principles of this bill? Or was it because he was unwilling his negative should stand against it? If he were not, he thought he ought not to endeavor, by a side-wind, to throw it out. Why, said Mr. H., was the bill passed for fortifying the ports of the United States, if men were not to be put in them? They would be useless, and their conduct would appear ludicrous and absurd. He could account for this mode of acting in gentlemen who had determined to do nothing for the defence of the country, but for gentlemen who voted for fortifying, he could not discover their consistency in being opposed to this measure.

Gentlemen could not be serious in supposing that the liberty of this country would be endangered by 900 additional men. In expressing an opinion of this kind, they showed a low opinion of their constituents. Gentlemen had frequently argued as if we were to hold our liberties at the will of the French nation, but he could not have supposed they would have expressed a fear of this kind.

But if there were danger, gentlemen said, the measure would not be effected. It could not be supposed that these men were to protect the country against invasion; no, they were to protect our seaports against the attacks of privateers and pirates. Some gentlemen say appearances are flattering, and that there is no apprehension of danger. The gentleman from Massachusetts said we were threatened with war, and submission could only secure us in peace; so that we were to lay ourselves at the mercy of an offended foreigner, and say, "We have been very wrong, and beg that you will spare us." He attributed all this to a wish to prevent measures of defence from being taken; for, in one way or other, every defensive operation was opposed. On the contrary, he wished to show a spirit to repel the injuries we have received, by putting arms into our hands, and saying, "We mean to do justice, but to repel attack;" nor could he see any cause of offence in a conduct of this kind.

Mr. Shepard said, if these men were not raised, many of the fortifications would be useless, and denied that putting our ports and harbors in a state of defence could give just cause of offence to the French. He said the plan of fortifications was originally laid out upon too large a scale, and would not allow that militia could be used to advantage in fortifications.

Mr. Giles did not believe that these men were raised with a view to any present danger, but that advantage had been taken of this season of alarm to increase our Military Establishment; he was, therefore, against it, because he believed the present establishment too large by one-half. Gentlemen, he said, had been charged with taking humiliating measures; but he thought it was more humiliating to take a measure of this kind, on the ground of danger, than to oppose it, from a conviction that it was meant to increase the peace establishment. The gentleman last up spoke like a hero; he trusted they should all act like heroes when danger was at hand; but at the distance he now thought it, he saw no use in the gentleman's vaunting.

If this bill passed, he said, there would be a necessity for going into a system of taxation. The $115,000 voted yesterday, he believed, might be got out of the present revenue; but if they went

any further, taxes must be laid to meet the expense.

Mr. Dana said, the question was, whether any part of the bill before them was proper to be adopted. He thought, as it was a bill of an important nature, and being sent to them from the Senate, they should at least go into a discussion of it. It had been said, this measure was intended for a peace establishment; if it were proper for a peace establishment, it could not be less proper for us in our present situation. But it was said to be inadequate to resist the attacks of a foreign nation; so that gentlemen would have no force, except an efficient one. He believed we had not more artillery in our Revolutionary war than we should have if this regiment was raised; and as the gentleman had given no reason why he thought half our present establishment would be sufficient, he would excuse him if he thought differently.

Mr. D. did not think the gentleman from Pennsylvania was warranted in his expectations, from the present situation of Europe. He thought the refusal to honor American passports was alarming.

Mr. Kittera said, when they first met, it was pretty generally believed that it was necessary to put the country in a state of defence. This bill went to that end. He had two reason for wishing the measure to be discussed; one was because the Senate had thought the business sufficiently important to pass a bill upon it.

Mr. S. Smith had not determined how he should vote upon this question. The present corps of artillery, he said, was raised when the country was threatened by Great Britain, when the Indians were at war with us, and when the Governor of Canada had given us reason to expect a war. It was then thought necessary to erect fortifications, and an additional regiment of artillery was raised, to what was already in being, which made a corps of nine hundred and ninety men. These were thought sufficient. Since that time, peace had been made with the Indians, and we have got possession of the posts from the British. These required a few artillerists. He wished the Secretary of War to show how many men were stationed at each of these posts. He believed the number which was said to be on the Atlantic frontier was sufficient to guard the forts, and artillery were always excused from labor. It had been said that militia could not be employed, because unskilled in the business, but he said the laborious part of artillery could be taught in a few days. For want of the information he had alluded to, he was a little at a loss in the business; but when the late President, (a military man,) had thought the present artillery sufficient for that season, he could not help believing they were for the present time.

With respect to American passports being annulled by France: there were vessels passing from different parts with counterfeit passports, which, by mistake, some of our Consuls might have countersigned. It did not relate to sea letters from this country.

An argument of the gentleman from South Carolina, (Mr. Harper,) was conclusive with him for not wishing to go into this subject. He stated there was only a surplus of thirty or forty thousand dollars of revenue, (though he was of a different opinion,) and this object would require at least three hundred thousand dollars.

Granting, however, the danger to be possible, which he did, he would ask whether the present measure was calculated to repel the danger? He believed not; but, on the contrary, that it was calculated to weaken the Union. The danger apprehended was war; but he did not believe that those who feared war, expected an invasion; and if not, the present measure was not calculated to meet the danger. To defend the seacoast, the inhabitants must man their forts, and upon their own exertions their safety must depend. He supposed, if war was made upon us, it would be in that part in which we were vulnerable. The attacks of any foreign Powers would be upon our trade. The United States were impregnable to the attack of any foreign nation; they had, ten or fifteen years ago, resisted those of a more powerful nation, with respect to naval force, than the one about which we were now alarmed; when the population was much less, and much less compact, and when the Government was very imperfect. He therefore looked upon any fear of an invasion as groundless; and if it were attacks upon our commerce which were apprehended a new regiment of artillery could have no effect. The operation of such attacks would fall upon our merchants and upon our revenue. Every additional expense, therefore, not calculated to repel the danger, diminishes our means for repelling it in the proper way, which would be by means of frigates, galleys, and vessels of every description.

Mr. Gallatin said, when he brought this motion before the House, it was not, as had been stated, to get rid of the subject by a side-wind. They had been three days upon a bill of small importance when compared with this, in proposing and rejecting amendments, and he thought it would save time to determine at once upon the principle of the bill. He justified the measure as parliamentary. If he could have conceived it would have occasioned so long a debate, he believed he should not have made it; and if there was any one man in the House who would say he had not made up his mind on the subject, he would withdraw his motion.

In relation to the principle of the bill, it had been observed that he said yesterday, that if the $115,000 were agreed to, this bill must also be agreed to. It was true he had read the letter of the Secretary of War on the subject, and predicted that if the sum was agreed to, it would be brought for an argument for agreeing to additional artillery; and the event showed that he was right.

With respect to our present situation from the late transactions in Europe, he should say nothing. It was mere matter of opinion, which operated differently on different minds, according to their habits of thinking, or perhaps their prejudices. Nothing could astonish him in this respect after what he had heard in this House.

He believed, with the the gentleman from Virginia, that this was not a war measure, but merely an attempt to increase the army establishment, which had always been a favorite object with those gentlemen who seemed to claim an exclusive right of supporting Government; and yet he knew nothing which weakened it more. He was not afraid of troops impairing the liberty of the people of the United States; but he believed nothing tended more to weaken the hands of Government than the want of money, and nothing consumed so much of it as large military establishments. That the Secretary of War should wish to increase the establishment he did not much wonder at; it was natural that he should do so; but his opinion ought not to guide them. Mr. G. concluded by saying, that if it were necessary to have this additional number of men for the purpose of having them trained in the artillery business, he had no objection, if the same number was lopped off the infantry.

Mr. Allen said, he should avail himself of the liberty the gentleman who had just sat down had offered; for he owned he was not ready to vote upon the question. He wished to have some information from the War Department, which he would move for, if the motion was withdrawn.

Mr. Gallatin withdrew his motion.

Mr. Allen proposed the following resolution, which was agreed to, after some few observations:

"*Resolved*, That the Secretary of the War Department be directed to lay before this House an account of the number of artillerists in actual service, and of the posts and places at which they are stationed."

Saturday, June 17.

A bill was reported forbidding citizens of the United States from entering into the service of any foreign Prince or State in a state of war, which was read twice and committed to a Committee of the Whole on Monday.

STAMP DUTIES.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill for laying a stamp duty on vellum, parchment, and paper, viz:

For a license to practice as a counsellor, attorney, &c., five dollars.

For every grant, or letters patent, four dollars.

For every exemplification or certified copy of letters-patent, two dollars.

For every receipt or discharge for any legacy of fifty dollars and not more than one hundred dollars, twenty-five cents; above one hundred and not more than five hundred dollars, fifty cents; and for every additional five hundred dollars, one dollar; but not to extend to legacies left to a wife, children, or grandchildren.

For every policy of insurance of vessels or goods from one district of the United States to another, twenty-five cents.

For every such policy of insurance to a foreign port, for a sum not exceeding five hundred dollars, twenty-five cents; if it exceeds five hundred dollars, one dollar.

For every exemplification, of what nature soever, fifty cents.

For every bond, bill, or note, (except the note of the chartered banks which may be now or hereafter in existence,) not exceeding one hundred dollars, ten cents; above one hundred dollars, and not exceeding five hundred dollars, twenty-five cents; above five hundred dollars, and not exceeding one thousand dollars, fifty cents; above one thousand dollars, seventy-five cents. (If payable within sixty days, they will be chargeable with only two-fifths of these duties.)

For every protest of a note, twenty-five cents.

For every letter of attorney, twenty-five cents.

For every certificate or debenture, for drawing back any duty on the re-shipping of goods, one dollar.

For every note or bill of lading, for goods from one district to another, within the United States, (not in the same State,) ten cents.

For ditto to a foreign port, twenty-five cents.

For every inventory or catalogue of furniture, goods, or effects, in any case required by law, (except in the case of distraining for rent, or an execution,) fifty cents.

For every certificate of a share or shares in the Bank of the United States, or other bank, ten cents.

The bill was twice read, and ordered to be committed to a Committee of the Whole on Monday.

DETACHMENT OF MILITIA.

Mr. McDowell, from the committee appointed for the purpose, reported a bill directing a detachment of the militia of the United States in the following proportions:

Tennessee	750
Georgia	1,510
South Carolina	4,530
North Carolina	7,550
Kentucky	1,510
Virginia	14,340
Maryland	6,040
Delaware	750
Pennsylvania	9,810
New Jersey	1,770
New York	7,550
Vermont	1,510
Connecticut	5,280
Rhode Island	1,510
Massachusetts	10,570
New Hampshire	3,020
Total	80,000

The bill was twice read, and committed to a Committee of the Whole on Monday.

PURCHASE OF ARMS.

Mr. Blount wished the House to go into a Committee of the Whole on the state of the Union, upon the resolution which he laid upon the table some days ago, authorizing the President to purchase a certain quantity of arms.

Mr. W. Smith suggested the propriety of referring the matter to a select committee, as there might be matter connected with the inquiry made, which might not be proper to be made public: an inquiry respecting the quantity of arms in the possession of the United States, and where lodged, was somewhat of a delicate nature. If it was referred to a select committee, they could determine upon the propriety of making the subject public.

It was agreed to be referred to a committee, and a committee of five was accordingly appointed.

SITE FOR NAVY-YARD, &c.

Mr. Harper laid two resolutions upon the table to the following effect:

"*Resolved*, That provision ought to be made to authorize the President of the United States to fix upon a proper place as a site for a naval yard for the use of the United States."

"*Resolved*, That provision ought to be made for enabling the President of the United States to secure a proper quantity of live oak for the purposes of ship building, with the land upon which the same is growing."

SHIPS' REGISTERS.

The House went into a Committee of the Whole on the bill restricting the registering of vessels in cases where they have been taken and purchased in the United States, by others than the former owners. The committee reported the bill without amendment, and it was engrossed for a third reading. It afterwards received its third reading, and passed.

AGENTS FOR BRITISH DEBTS.

The House went into a Committee of the Whole on the bill for appointing agents, under the direction of the Attorney General, for assisting to carry into effect the sixth article of the British Treaty, with respect to the British debts. A good deal of conversation took place as to the nature of these agents, the manner in which they should act, and what would be a proper compensation for them. At length it was agreed that the blank for a sum to enable the President to appoint such agents as he should see necessary, should be filled up with ten thousand dollars; that for a salary for the principal agents to reside at Philadelphia, two thousand dollars; and an additional salary of six hundred dollars to the Attorney General, on account of the extra business which this concern would lay upon him.

The committee rose, the House agreed to the amendments, and ordered the bill to be engrossed for a third reading on Monday.

DUTY ON SALT.

Mr. W. Smith, from the Committee of Ways and Means, reported the following resolution, viz:

"*Resolved*, That there be laid on salt imported into the United States, an additional duty of thirteen cents per bushel."

The resolution was twice read; and upon the question for Committee of the Whole being put, it was carried—there being 49 votes in favor of it. On Monday being named for the day on which to make it the order, Mr. Macon moved to make it the order for the first Monday in November; which was negatived, and Monday next agreed to.

ADJOURNMENT.

Mr. Gallatin laid the following resolution upon the table:

"*Resolved*, That the President of the Senate and the Speaker of the House of Representatives, be authorized to close the present session, by adjourning their respective Houses on the 24th of this month."

Monday, June 19.

A communication from the Department of War, enclosing a report in pursuance of the resolution of the House of the 16th instant, of the number of artillerists and engineers in the actual service of the United States, was read. It states the whole number of men to exceed eight hundred and seventy, but to fall short of nine hundred and ninety-two, the full complement. They are said to be stationed as follows:

At Oswego, Niagara, Detroit, Michilimackinac, Presqu'Isle, on the Mississippi, and in the S. W. Territory	438
At West Point	105
At New York	60
At Philadelphia and Mud Island	90
At Baltimore	59
At Norfolk	56
At a Fort in North Carolina	6
At Charleston	62
Total	876

This report was committed to the Committee of the Whole, to whom was committed the bill providing for an additional regiment of artillerists.

Mr. Parker moved that the Committee of the Whole be discharged from the further consideration of the bill respecting the manning of the frigates, and the bill from the Senate for the protection of the trade of the United States, in order that they might be referred to a select committee, to incorporate the different subjects together.

Several objections were urged to this proposition, and the sense of the House being first taken upon discharging the Committee of the Whole from the bill from the Senate, which was negatived, only 27 votes being in favor of it, Mr. P. declined taking the sense of the House on discharging the others.

The bill directing the appointment of agents for assisting in carrying into effect the 6th article of the British Treaty, was read the third time and passed.

COLLECTION OF INTERNAL REVENUE.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill to provide more effectually for the collection of certain internal revenue, which was twice read; but, on the motion being made for committing it to a Committee of the Whole on Monday next,

Mr. Gallatin moved that this bill be made the order of the day for the first Monday in November. He said it had been two years before the Committee of Ways and Means; and though the regulations might be good, yet they were mere petty details, (and he thought if there were time for it they might be made better,) without which they had done hitherto, and if they took this bill up, he knew of none which could be proposed, which they might not also enter upon with as much propriety. He wished to confine their attention to business immediately connected with the subject upon which they were called together.

Mr. W. Smith wished the gentleman had de-

ferred his motion till the bill had been printed. The gentleman himself had acknowledged that there were many valuable provisions in it, and the Secretary of the Treasury had informed him that many of them were necessary to secure a due collection of the revenue. Gentlemen must be convinced that an increase of revenue will be necessary; and if additional revenue could be raised by a modification of this kind, it would certainly be preferable to laying new duties. The gentleman from Pennsylvania, who was never very ready to lay a new tax, surely could not object to this.

Mr. GILES supposed the decision upon this question would determine whether they should go home soon, or sit there the whole Summer. As it was in no wise connected with the call of the present session, he trusted it would be postponed.

Mr. KITTERA did not know but it might be proper to postpone the business, but he hoped the bill would be printed.

Mr. BROOKS was against the postponement. He thought if it would be the means of raising revenue, it was closely connected with the business of the present session.

The question for a postponement was put and negatived, there being 41 votes for it, and 48 against it.

The bill was then committed for Wednesday next.

ADDITIONAL ARTILLERY.

Mr. GILES wished to go into a Committee of the Whole on the bill for raising an additional regiment of artillery; for though the report received this morning from the Secretary of War was not printed, being short, he thought that that could not form an objection; and he wished to see as soon as possible what the House meant to do.

Mr. W. SMITH opposed the motion. He trusted the subject would be deferred till to-morrow, that the report received this morning have time to be printed.

Mr. GILES withdrew his motion, and called up the report of the Committee of Ways and Means, proposing to lay an additional duty of 13 cents per bushel on salt imported.

DUTY ON SALT.

The House accordingly went into a Committee of the Whole on that subject, and the resolution having been read—

Mr. GALLATIN moved that the committee might rise.

Mr. LYON said he should be sorry if the committee were to rise without any objection being made to a proposition so unreasonable and unjust. A tax of this kind would bear particularly hard upon the country from whence he came; and that for every quarter dollar of duty which was paid, they should have three quarters of a dollar to pay when the salt reached them. He trusted it would not be carried.

Mr. WILLIAMS wished the gentleman had moved to make the proposed advance less than 13 cents. As there was no probability that a land tax would be laid, he should give his consent to this; if a land tax had been agreed to, he should have opposed a salt tax. He thought, however, 13 cents a bushel too much. It was calculated to raise 300,000 dollars. Every one allowed it was a safe tax. As far as salt was consumed by families, it was a poll tax; but as to what was consumed by cattle, it was a tax upon agriculture. What cost half a dollar at New York, cost where he lived, two and a half dollars. A common farmer, with about 100 acres of land, did not use less than 10 or 12 bushels of salt. He, therefore, paid five dollars tax upon a single article. Yet they were sometimes told farmers paid no taxes. He wished a part of this tax to be laid upon some other article. He moved, therefore, to strike out "thirteen cents," and insert "seven."

This motion not meeting with a second, the question was taken upon the resolution, and negatived—48 to 42.

The committee then rose, and the House took up the resolution and confirmed the negative—46 to 44.

DETACHMENT OF MILITIA.

The House then went into a Committee of the Whole on the bill directing a detachment from the militia of the United States.

Some observations were made as to the proportioning of men to each State, which it seems was made according to the number of white inhabitants and three-fifths of the blacks. This was objected to, and it was agreed to be left blank until the third reading of the bill.

Mr. WILLIAMS wished to make the calling out of this detachment discretionary with the President. He therefore moved to add, where the bill speaks of organizing 80,000 men, "if any subsequent measures shall, in his opinion, make it necessary during the recess of Congress."

The motion was put and negatived.

Mr. BLOUNT moved, instead of the words "as soon as may be," (which related to the calling out of the men,) "at such time as the President may think necessary."

Mr. SKINNER hoped this amendment would be agreed to. The expense of calling out this detachment in Massachusetts would not be less than $200,000; and he could not see any objection to leaving it to the President to judge of the propriety of putting the measure into execution.

The question was put and carried—41 to 30.

Mr. SEWALL said, though there might, in the opinion of the President, be a necessity for calling out a part of these men, there might not be occasion for calling out the whole. He, therefore, moved the following amendment, viz: "or of any less number, which, in his opinion, the service may require."

Mr. BLOUNT did not know the meaning of this motion, except it were an intention to save expense, which it would not effect, as, if the detachment must be made, 8,000 men would cost as much organizing as 80,000. He thought we ought at all times to have this portion of our militia ready for any call that could be made.

Mr. SEWALL said his intention was to save expense. In 1794 he knew a great expense had been incurred in Massachusetts, and it had been in proportion to the number of men employed.

Mr. WILLIAMS observed that 80,000 men would be about one tenth of the whole militia of the United States; but if only one twentieth part was wanted, little more than half the expense would be incurred.

Mr. LYON was so far from agreeing to the present amendment, that he should wish a clause inserted in the general militia law, always to have this number in readiness.

Mr. VARNUM thought a law detaching a portion of the militia would rather weaken than strengthen our force. If an enemy were to land at any point, though it might be the peculiar duty of the detachment to march to repel them, yet, as the small number of these men at any one place would probably be unequal to the repelling of an enemy, the whole body of the militia in that quarter would at once turn out. Indeed, the whole ought always to be ready to march at a moment's warning. Though no money would be taken from the Treasury in forming the contemplated detachment, it would, nevertheless, be attended with great expense. Men would not willingly turn out for four dollars a month, when they could get fifteen for common labor. The difference would, therefore, fall upon the State. If there was necessity for the measure, the case would be different, but he did not think there was any.

Mr. DAYTON (the Speaker) agreed with the gentleman from Massachusetts that the whole body of the militia ought to be held in readiness, and that the calling out of a detachment, instead of increasing our strength, would weaken it. He was in favor of this amendment, because it left it with the President to call out a smaller number. This detachment, he affirmed, would be attended with considerable expense. In New Jersey they would have to newly organize their corps, and to make different classifications of them. Men would be cast for by lot; there would be much loss of time, and considerable sums would be paid for substitutes. Mr. D. said he was opposed to the principle of the bill, but as this amendment would make it less objectionable, he should vote for it.

Mr. BLOUNT thought gentlemen did not seem to distinguish between calling men into service, and putting them into a state ready to obey a call.

Mr. S. SMITH was in favor of the principle of the bill. Wherever an enemy might land, (he spoke of an enemy landing, for though he did not believe there was any danger of the kind, yet they had been called together to provide against such an event,) he doubted not the militia would rise at once in a body; but they would go unprepared for staying out more than a few days. This detachment, which would be prepared for the field, would accordingly be ready to relieve them as soon as they could be got together. He thought this a good provision; but, if 80,000 men were thought too many, he should not object to its being made 40,000.

Mr. LYON was for letting the provision stand for 80,000 men. It was preposterous to talk of the danger of war, and at the same time think 80,000 men too many to be held in readiness to defend the country.

Mr. SHEPARD thought the provision a good one.

Mr. BLOUNT observed that it had been said that militiamen had only four dollars a month; a law was passed in 1795, he said, which raised their pay to $6 66.

Mr. HARTLEY was in faver of holding 80,000 men in readiness. This was done in 1794, and though he did not think we had now so much reason to apprehend danger, yet he would wish to be in a state of preparation. He had no objection to leaving the time of calling out the militia to the President, but not the number.

Mr. DAYTON said if the situation of things justified the call for 80,000 men, he should be the last to object to it; but he did not think it did. This act, he said, would operate unequally on different States. The gentleman from North Carolina had said it would be no inconvenience to his State; it would be very different in many other States. In New Jersey, as he had before stated, it would be felt very considerably. Men must have bounties, and their pay made equal to the price of labor. There would not only be required a new organization and classification, but also an inspection of arms and accoutrements. He believed all this would be done under this law, if it passed, in the State of New Jersey, whatever might be the expense and inconvenience it would put them to. If he thought there was any danger, he would not have objected to the measure. He did not, however, think we should have a war; and, if such an event were to take place, he did not think there was a probability of an invasion. Our situation in 1794, he said, was very different. We were then not only depredated upon by the British at sea, but Lord Dorchester had issued his warlike proclamation; the Indians were counted, and had their tomahawks in their hands uplifted, and ready to strike. Believing, therefore, the measure to be unnecessary, and that it would operate unequally, he should vote for this amendment, which would leave it with the President to detach such a number of men as he shall believe necessary.

Mr. MACON was sorry any amendment had taken place, since he could not now move to strike out the first section of the bill, in order to see whether the House meant to pass the bill at all; for he was of opinion with the gentleman from New Jersey, that there was no occasion for it. He was certain that this business could not be carried into effect without expense. And if an invasion were to take place, only a few of these men could be drawn into service.

The CHAIRMAN said that if the sense of the committee was wished to be had as to the propriety of passing the bill at all, it might be tried by moving that the committee rise.

Mr. WILLIAMS made that motion.

Mr. BLOUNT hoped the committee would not rise. When he offered the resolution to the House, he said he did not do it from the apprehension of danger, but because he thought it was necessary that such a number of men should always

be in readiness. There seemed, then, to be little difference of opinion, and he thought that the principle was at that time fairly tried.

Mr. Skinner hoped the committee would rise. It was well known that there was an alarm in the minds of the people with respect to war, and there could be no doubt, if this measure passed, it would be supposed there were serious apprehensions of war. Mr. S. again spoke of the expense. He had, besides, another objection to the passing of this bill. War had been apprehended by many. Officers and men were a good deal divided with respect to the relative situation of our country. If this bill pass, they will speculate upon measures; they will go into discussions which will neither tend to strengthen the Government, nor increase good neighborhood. He hoped it would not pass.

The question was put and negatived—40 to 29.

Mr. Lyon thought 80,000 men would be sufficient to oppose any force that would be brought against us.

The question was then taken on the amendment of Mr. Sewall, and negatived, there being only 29 for it.

Mr. Varnum moved to strike out the whole of the second section, which provided for "the officering of the militia out of the present militia officers, or others, at the option of the Constitutional authority in each State." Carried.

He also moved to strike out, as unnecessary, the fifth section, which requested the President "to call on the Executives of the several States to take the most effectual means that the whole of the militia, not comprised within the foregoing requisition, might be armed and equipped according to law." Carried.

The committee rose; the House agreed to the amendments, and the bill was ordered to be engrossed for a third reading to-morrow.

GALLEYS FOR COAST DEFENCE.

The House then went into Committee of the Whole on the bill authorizing the President of the United States, during the recess of Congress, to provide galleys, or other vessels, for certain purposes therein mentioned.

Mr. Giles wished some information as to the number of vessels to be employed, in order that the expense might in some degree be ascertained.

Mr. S. Smith said that the galleys were not to be purchased, and when they were got they were not fit to go to sea, but were suited merely to rivers and bays. Besides, if they were to be built, they could not be got ready before next April or May, at which time probably they might be unnecessary, or vessels of a different kind wanted. He expected the gentleman from Virginia (Mr. Parker, the chairman of the select committee) would have been prepared with a new section, in place of the galleys. He thought the frigates necessary; he thought tenders necessary. The new revenue cutters of the United States, he said, were ready for sea. They might be fitted out, manned, and put to sea in twenty days. This, he thought, would be the best plan. He had no confidence in galleys; they did not like to face a large gun. He had had some experience with them, and he knew this was the case.

Mr. Brooks thought the words "other vessels" would cover any other that might be thought preferable to galleys.

Mr. Parker moved to strike out the first section of the bill. He had no opinion of galleys, and as to other vessels, he did not think they could be got. He did not think that merchant vessels were fit for vessels of war, and it was more expense to make them so than they were worth when made. The Government had ten revenue cutters, and were they properly armed and manned they would answer the purpose of convoys for our merchant vessels, or for the protection of our coasts, better than any other. He had seen two of them in this port, and the other eight could soon be got. When the bill came before them for the general naval equipment, he would propose a section in the place of the one he wished to have struck out.

Mr. Sewall was against striking out. Though he agreed with gentlemen as to the cutters, he wished to give the President power to provide other vessels, if he should find it necessary.

Mr. Parker was willing to go as far as any man in putting the country in a state of defence; but he was convinced the object of this bill would not have the effect. Rather than purchase he should advise the working up of the materials on hand; and he believed there was as much timber as would build two more frigates. He would willingly agree to increase our naval force in a proper manner, but not in a way which would be of no use.

Mr. Hartley wished for the committee to rise, that the bill from the Senate might come under consideration before this vote was taken.

Mr. W. Smith hoped the committee would rise without taking a question.

Mr. S. Smith was opposed to the committee's rising. He thought this bill might be so amended as to answer the purpose, and if that could be done, he knew no reason why they should not do it.

Mr. Dayton hoped the committee would rise for the reasons mentioned by the gentleman from Virginia; and that they should proceed to build another frigate as well as to arm the revenue cutters for the protection of our commerce, if by the returns which were expected, it should be found their advantage to do so.

The committee rose, and had leave to sit again.

ORGANIZING THE MILITIA.

Mr. Varnum, from the committee appointed for the purpose, reported a bill for organizing and disciplining the militia of the United States; which having been twice read,

Mr. V. said this bill was almost *verbatim* with the bill which had been reported every session since the commencement of the Government, for a select corps of militia, and constantly rejected. Last session, after it had been rejected, a new bill was reported as an amendment to the militia bill. He hoped, therefore, though he was upon the committee, that the House would reject this bill, and take into consideration the other bill which he had mentioned.

Mr. Macon hoped the bill would not be rejected. Similar bills, it was true, had been reported; but this was the first bill that ever contained a principle which it contains, viz: a classification according to age. He thought it the best militia bill which had ever been brought before them.

Without taking a question, the House adjourned.

Tuesday, June 20.

The bill for making a detachment of the militia, was read the third time, and the blanks filled up, fixing the number of men which each State should furnish, on the basis of the number of white inhabitants, as follows:

Tennessee	806
Georgia	1,334
South Carolina	3,535
North Carolina	7,268
Kentucky	1,542
Virginia	11,150
Maryland	5,262
Delaware	1,168
Pennsylvania	10,696
New Jersey	4,286
New York	7,923
Connecticut	5,860
Rhode Island	1,626
Massachusetts	11,836
New Hampshire	3,558
Vermont	2,150
Total	80,000

Mr. W. Smith, from the Committee of Ways and Means, reported a bill laying a duty on licenses for the sale of wines by retail, and also foreign distilled spirits; which was twice read, and committed to a Committee of the Whole on Thursday.

ADDITIONAL ARTILLERY.

The House then resolved itself into a Committee of the Whole on the bill for raising an additional corps of artillery; when

Mr. S. Smith took a pretty extensive view of the subject, and noticing the men reported to be stationed at different places, insisted upon there being a sufficient number at every one, except at Wilmington, North Carolina. He wished the deficiency in the present regiment to be filled up, and then there might be a supply sent to Rhode Island, and any other place where they might be required.

Mr. Giles moved to strike out the first section of the bill. He thought the $300,000 proposed to be expended on this object might be better disposed of in another way.

Mr. W. Smith hoped the present motion would not prevail, as it was intended to destroy the bill. He thought the President and Secretary of War having recommended the measure, and one branch of the Legislature having passed a law upon the subject, they ought not to defeat the business in this way. He was surprised that the gentleman from Maryland should have been so decidedly opposed to it, since the other day he seemed undetermined on the subject. He had taken a view of the different posts, and declared them all well garrisoned, but he had taken no notice of places where there was not a single man. Mr. S. said it should be remembered that in the men calculated to be at each place, were included non-commissioned officers and musicians; stripped of these, he made the whole number 350 men. The posts at which no men were stationed were, he said, Portland, in Maine, Portsmouth, N. H., Gloucester, Salem, Newport, R. I., New London, and Point Petre, at Savannah.

The report of the Secretary of War, Mr. S. noticed, had represented these places as going to decay for want of being kept in repair. He noticed some objections urged against this measure on a former day. He denied that this could be called the skeleton of a regiment; it was nearly complete—as near as it could well be. None of the artillery on the frontier could be safely drawn away. Our situation there was critical; and to take any men away, while the Spaniards were increasing their force, would operate to our disadvantage in the minds of the Indians. Mr. S. denied that the expense would be so great as had been said. Our situation, he said, was neither peace nor war, but a sort of intermediate state, which was far from being safe, and which required them to prepare for war. If gentlemen had not been of this opinion, why increase our naval armament? He thought they contradicted themselves. He charged the gentleman from Maryland with having forgot the representation he had given on a former occasion with respect to the situation of the fortifications at Baltimore, which he then said were not sufficient to keep off the *cows*. [Mr. S. Smith said he spoke only of the want of a *fence*.] This measure had been charged with being an increase of our peace establishment, and that the bill being for five years countenanced this idea. He denied that this was the case; and if the period were thought too long, it might be shortened. Gentlemen had also said, that advantage was taken of the impulse of the moment to pass this bill. But by what, he asked, had this impulse been occasioned, but from an idea of the danger of a war? And he thought the fears of the nation ought to be calmed, by taking such measures as the present.

When an increase of the navy was under consideration, Mr. S. said, gentlemen exclaimed, leave trade to take care of itself, and let us attend to the internal defence of the country; but now, when they were preparing for that, the same men say we are about to employ upon this object what ought to be employed for the protection of commerce. Mr. S. said, it was an error to say no taxes would be wanted, if this bill did not pass. There would be money in that case wanting for manning the frigates, for arming the revenue cutters, for the diplomatic department, and for the expenses of this session (not less than sixty or seventy thousand

dollars would be needed for the last item only,) for the payment of the agents appointed for assisting to carry into effect the sixth article of the British Treaty, &c., &c. So that that argument had no weight. It was said these men were unnecessary, because the militia were the proper defence; but the President had not the power to call out the militia, except in cases of insurrection or invasion, so that an enemy might get possession of the posts before the militia were called out.

Mr. S. concluded by saying, there were about thirty forts on the seacoast, and that these men distributed amongst them would only give fourteen to each, which would not be sufficient to preserve the guns from rust; and, if this bill passed, there would only be forty-one for each fort. He submitted it to the committee, therefore, whether they ought to risk the safety of the country for the sake of 216,000 dollars? He trusted they would not.

Mr. Sheppard opposed the motion. He thought it necessary that men should be sent to those forts where there were none, to prevent them from going to ruin. Instead of the number proposed to be raised, he thought two companies would be sufficient. He did not think the country in a safe state, and wished to make it, in some degree, more so.

Mr. Baldwin observed that, since the adoption of the Federal Government, the history of the military establishment had, in his judgment, been the most expensive and unfortunate part of its history. It had commonly been so of all nations. He thought there was every inducement, from the experience of ourselves and others, to make as sparing a use of it as possible. The reasons hitherto assigned for a military establishment, in this country, have been a supposed unfriendly disposition in foreign nations, and of the vast Indian tribes who bordered on our frontiers. These had been for several years the cause of great anxiety and expense; they were all now happily removed by Treaties of Peace lately established. It was his opinion, that on that event there was little or no cause left for any military establishment at all. He had been one of a committee last year who recommended a reduction of it, particularly a total reduction of the cavalry; this recommendation did not fully prevail, but his opinion was still the same. The reasons now urged for regular troops must be considered principally of a permanent nature, and for a peace establishment; the enlistment now proposed is for five years, he hoped it would not prevail; he hoped the establishment would not be carried to any greater extent at this time. More money and more troops was apt to be an increasing passion, always attending large delegations of power; collect money to raise armies, and raise armies to collect money, has been a wheel of fortune to them, and a wheel of rack to their subjects. He hoped this country would form an exception, and show that some of the miseries of the world were not the inseparable condition of man. It was the professed object and principle of our Revolution; none of its friends can advocate a standing army. The special reasons urged, of their being necessary to keep peace with the Indian nations on the frontiers, or for the forts on the seacoast, he thought had not great force; the number or extent of the forts is not to be increased; in a finished state they would require fewer troops to man them. There had always been a frontier, and large nations of Indians bordering upon it, ever since the settlement of the country; there is, therefore, nothing new in our situation in that respect, to urge it more than formerly; that there should be some confusion and disorder from that cause had always appeared unavoidable, but regular troops had not been found by experience to be the most ready or most useful relief. He believed things must go on pretty much as they had, and that establishing the civil government was all that could be done in the case. He thought the fifty companies now in service would be sufficient for all purposes, and that the new regiment now proposed would be unnecessary.

Mr. Williams thought the report which they had received from the War Office did not go far enough. Besides the artillery, we had four battalions of infantry, which must be somewhere in garrison. He thought the present number of artillery was sufficient, being the same as in 1794, especially since artillery neither erected forts nor kept them in repair. He wished the 122 deficient men to be raised and sent to Georgia, and places east of New York. Indeed, it would appear extraordinary, if, after voting 150,000 dollars for fortifications, they should vote, at least 250,000 dollars for men to take care of them. He did not think it would be prudent at present to go into the measure, since he did not believe any danger was now to be apprehended, and as they did not know where the money was to come from. He did not wish to go on increasing the debt, and he saw little chance of raising fresh revenue. We had at present, he said, a greater proportion of artillery, than any other nation; having sixteen companies of artillery to thirty-two of infantry. If more troops were necessary, let such be raised as would be most useful. They had received a bill from the Senate for raising a provisional army; when that came before them, he should give it his vote.

Mr. Swanwick thought that, by raising these men, they would increase the danger which they wished to avoid. They apprehended an attack from a foreign nation, and to guard against any possible injury they were to go to expense, and by that means increase our national debt, from which he thought we had the greatest danger to fear, since they saw the difficulty attending the raising of any additional revenue. He called the attention of the House to a situation of things not much unlike our own. The French nation had many regiments on their seacoast, and had been long making great preparations, as if with a view of invading Great Britain. In consequence, the British have expended large sums in fortifying and putting the island in a good state of defence; and, though, perhaps, the French never seriously intended to invade that country, yet the appearance of it had probably occasioned greater embarrassment, from causing these great expenses, and the

consequent derangement in the finances of the country, than if an invasion had really taken place.

Mr. S. reprobated the idea of defending the country against an invasion by two regiments of artillery. The militia, he said, would be the proper defence in such a case; but, he trusted the commissioners appointed for the purpose would speedily settle all the differences between the two countries.

Mr. S. spoke of a very serious statement which they had received the other day from the Secretary of the Treasury, which did not seem to call for additional expense, but for additional revenue. It appeared by that document that there was due from the Government to the Bank of the United States, four millions seven hundred and fifty thousand dollars. Yet they were told these expenses must be gone into, and money borrowed, whatever the interest might be. In common life, he believed, if a man was pressed for money, it was accounted a prudent thing to retrench his expenses. He supposed the same rule ought to hold good with respect to Government.

But it was said, if these men were not raised, privateers would come into our ports, and insult our citizens. Had there been anything during the present European war, which could justify such an apprehension? He thought not. He did not know a single instance of insult, except that of the British Ambassador, at Rhode Island, because some officers were not released. As to any invasion taking place, he had no idea of it; but if it were to happen, militia would be the best defence, and no expense would be incurred, except there was a necessity; but if artillerists were raised, the expense would be certain.

Mr. Hartley was against striking out the first section; for, though he did not think 950 additional artillery were necessary, he thought there was a necessity for some, and also for an increase of the infantry. He thought 4,000 men necessary for a peace establishment, as it would be very inconvenient to march militia from one end of the Union to the other. He did not wish to go into excess, but he wished the force to be efficient. He knew there must be an increase of taxes; he was for a land tax, and wished to go immediately into it.

Mr. Brooks said, if he believed there was no danger, he should agree with gentlemen that there would be no occasion for these men; but thinking our situation in no degree improved by the late events in Europe, he should vote for raising the proposed regiment. The objection of expense would go against every measure. As there was no certainty of our Ambassadors being able to settle our dispute with France, they ought, he said, like "wise men, to foresee, and prevent the evil." He was afraid gentlemen were in a profound sleep, and would not wake till it was too late.

Mr. S. Smith said that the report from the Secretary of War had confirmed his opinion with respect to this measure. The gentleman from South Carolina had spoken of a number of forts which had been thought of in 1794, but which had since been given up. With respect to non-commissioned officers, which that gentleman seemed to think should be deducted from the number of men, they were the life of the artillery service, and the musicians were few. To show that the present number of men would be sufficient, he stated the following as being a proper number for each place, viz: West Point 60, New York 60, Mud Island 60, Baltimore 50, Norfolk 50, Wilmington, N. C. 30, Charleston 60, Savannah 30, Newport 60, Portland 30, Portsmouth 30, Point Petre (Georgia) 30, Western Posts 412—total 992.

Mr. S. accused the gentleman from South Carolina with winding and turning his arguments into every possible form; but he was certain, notwithstanding what the gentleman had said to the contrary, that the present men were equal to all the service they had to perform. He believed there were militia well trained to the use of artillery; there were two companies at Baltimore; one he had with him on the Western expedition; he believed the militia at Charleston was equally well trained. He wished the subject to be postponed till the next session.

Mr. Giles was not of opinion with the gentleman from South Carolina, that because the President and Secretary of War had recommended the raising of these men, they should adopt the plan; indeed the Senate proposed to raise only half of what the Secretary recommended. He trusted they should think for themselves.

Mr. G. did not think the strength of the country depended on 4,000 artillery; he looked upon military establishments as a sort of factitious strength, but upon the militia as the real strength of the nation. He thought the expense a serious object. It appeared our establishment had already cost us eight millions of dollars, and he could not see where they had done service to that amount; he therefore thought it a bad bargain.

The gentleman from New York had charged the House with being asleep. He believed that could not be the case, as it would be a difficult matter indeed *to sleep where he was*. It had been said additional revenue would be wanted, whether this bill passed or not. Suppose this were so, it was surely no reason for passing a bill which might be thought unnecessary.

Mr. Brooks explained.

Mr. Dayton did not know, till he heard the gentleman from New York say so, that new fortifications were contemplated; he thought the money appropriated was for completing those already begun.

With respect to the propriety of this measure, he had always been in the habit of distrusting his own judgment when it differed from that of the President and Senate; his first impressions were therefore in favor of the measure, but the more he had considered it, the more these impressions were effaced. Mr. D. said, if the subject was before them, he should rather be in favor of increasing the number of infantry than of the artillery. He thought the best way of making the increase would be, to add to each company one officer, two non-commissioned officers, and ten or twelve privates.

The gentleman from New York had said he should agree to the proposition, because he thought the country in danger. Mr. D. thought the better way would be, if this were really the case, to fill our arsenals with arms, our magazines with ammunition, and our treasury with money. He agreed with the gentleman from Maryland, that we had artillery enough for eight, ten, or twelve thousand men. Artillery, he said, could not do the service of infantry; their discipline was very different; they do not work upon fortifications, but merely guard the guns, &c. He wished they had a view of the infantry also; if they had not been sufficient, he should not have objected to the increasing of them; but he could see no propriety in increasing the artillery.

Mr. Hartley thought that the men to be raised might be made to serve as artillery or infantry, as they might be wanted. He believed half the number proposed would be sufficient.

Mr. Shepard was in favor of the plan suggested by the gentleman from New Jersey.

Mr. Potter hoped the section would be struck out. If the proposed addition to our artillery was meant as a peace establishment, they were not wanted; and if they were to be raised with a view to war, they would be incompetent. He thought forty men might be spared from Philadelphia, and fifty from West Point, for Rhode Island, which at present was entirely without any.

Mr. Elmendorph was in favor of striking out the section. He thought it was proper to inquire what was the natural defence of the country, and what were the measures proper to be taken for that purpose. He believed the object of the present bill had no relation to it. The best way would be to discharge our debt, in the next place to fortify, and provide sufficient arms and ammunition; the militia should also be well organized and disciplined; and they should attend to economy in the expenditure of public money.

The question for striking out the section was put and carried, there being 56 votes in favor of it.

The committee rose, and the House were about to take the question by yeas and nays, when

Mr. Gillespie wished to say why he should vote in favor of destroying this bill; it was because he believed there were men enough if properly distributed; and because they had only been allowed six men at Wilmington, though they were entitled to forty.

The question was then taken that the House do agree with the Committee of the Whole in their disagreement to the bill, and decided in the affirmative—yeas 57, nays 39, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, John Chapman, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Richard Thomas, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, James Machir, William Matthews, Harrison G. Otis, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

EXPATRIATION.

The House went into Committee on the bill to prevent the citizens of of the United States from entering into the service of any foreign Prince or State.

Mr. Havens thought time ought to be given for citizens in foreign countries to become acquainted with the act, before it took place.

Mr. Nicholas hoped the committee would rise, and that they should get rid of the present business. There were some delicate propositions in the bill which would require much discussion. He was doubtful whether the principle of the bill was right; if it were, he saw no necessity for passing it at present, as he did not think it probable that this act could take place before an end was put to the European war.

Messrs. Rutledge, W. Smith, Dayton, Brooks, Otis, and Kittera, spoke in favor of going into this measure, in order to prevent our citizens from entering on board foreign ships of war, and by that means preserve a strict neutrality; that when persons desire to expatriate themselves, and become citizens of another country, a line should be marked out by which they may do so; and in order to prevent the bill already passed to prevent our citizens from entering on board privateers, from becoming a *dead letter*, which it was said it would do, if this bill were not passed.

Mr. S. Smith was opposed to the bill. He wished our youth to have full liberty to go on board the ships of war of any foreign country, in order to gain experience in the art of war, that, if ever we should have occasion for them, they might be called home to defend their own country. He said there were at this time on board the British fleet, not less than one hundred of our youth, learning the art of war, who, perhaps, might be wanted on some future day to fight the very nation under whom they are training.

The committee rose without taking a question, and had leave to sit again.

And the House adjourned.

Wednesday, June 21.

EXPATRIATION.

The Speaker having informed the House that the unfinished business of yesterday, viz: the bill prohibiting citizens of the United States from entering into the military or naval service of any foreign Prince or State, had the priority,

Mr. Gallatin moved to have it postponed, in order to take up the bill respecting an additional naval armament. This motion was supported by Mr. Giles, and opposed by Mr. W. Smith, and negatived, 35 to 34.

The bill respecting foreign service was then taken up, and, on motion of Mr. Havens, it was agreed to leave the time for its taking place a blank.

Mr. Coit moved to strike out the sixth section, which was in the following words:

"And whereas, for the due execution of this and other laws tending to the security of the public welfare, it is expedient to define and ascertain the mode in which a citizen may dissolve the ties of citizenship, and become an alien:

"*Be it further enacted*, That the citizens of the United States, whether native or adopted, shall be deemed citizens thereof, until they relinquish that character in manner hereinafter provided, that is to say; whensoever any citizen of the United States shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by two or more witnesses, and by at least two of the subscribing witnesses proved before the supreme, superior, district, or circuit court, of some one of the States, or of the Territories northwest of the river Ohio, or before a circuit or district court of the United States, within the jurisdiction of which court he shall then be resident, or by open verbal declaration, made and recorded in either of the courts aforesaid, declare that he absolutely and entirely renounces all allegiance and fidelity to the United States, and to every of them, and shall forthwith depart out of the territorial limits thereof; every such person, from the time of his departure, if his renunciation, verbal or written as aforesaid, shall have been duly recorded before his departure, shall be considered expatriated, and forever thereafter be deemed an alien, in like manner and to all intents as if he had never been a citizen: *Provided always*, That he shall not enter into the military or naval service of a foreign nation, or become the owner or part owner of any foreign privateer or letter of marque, within one year of his departure from the said United States; and if any such person shall enter the military or naval service of a foreign nation, or become the owner or part owner of any privateer or letter of marque, within the space of one year from the time of his departure from the United States, he shall be liable to all the pains and penalties to which he would have been subject for the like conduct if he had continued a citizen."

Mr. Sewall hoped it would be struck out. In every country in the world where civil society was established, the citizens of that society owed a certain duty to their Government, which they could not readily get rid of; but they were about to establish a principle to put it in the power of the citizens of the United States, at their will, and without any pretence, to say they would be no longer subject to the Government; and this is at a moment of danger, when citizens of other countries might be called home from this country. He thought this would be extremely wrong; it would be giving an opportunity for insult to our courts and country, and he was sure no nation would show us so much complaisance in return.

Mr. Claiborne thought it no more binding for citizens born in the United States to continue citizens of the United States, than it was for a Roman Catholic or Protestant to continue of that opinion, when he arrived at years of maturity, and could judge for himself. He insisted upon it, men had a natural right to choose under what Government they would live; and they had no reason to fear our citizens leaving us whilst our Government was well executed. He did not wish citizens of the United States to be in the situation of subjects of Great Britain, who, though they had left the country forty years ago, were liable to be considered as subjects of that Government. He trusted the rights of man would not be thus infringed, but that they should allow the right of expatriation unclogged.

Mr. Sewall said, there was a great difference between the two cases which the gentleman had stated. A man born and educated in a country certainly owed it obligations, which were not to be shaken off the moment he chose to do so. The different societies of the world, he said, were like so many families independent of each other; and what family, he asked, would suffer any of its members to leave it and go into another when they pleased? He thought it unreasonable that it should be so.

Mr. W. Smith said, that the doctrine of perpetual allegiance was derived from Great Britain, and, though it might be good in theory, was not so in practice. They had departed from many doctrines derived from that country, and the time was come, he believed, for departing from this. The idea of a man being compelled to live in this country, contrary to his will, seemed to be repugnant to our ideas of liberty. He thought when a man was so disgusted with a country as to resolve to leave it, for the purpose of becoming a citizen of another country, he should be at liberty to do so on his complying with certain formalities, and should never again be re-admitted. It was upon this principle that this section is founded, and he thought it valuable.

Mr. S. thought this section essential, as it would be a means of preventing quarrels with foreign countries. For instance, if a citizen of this country took command of a French ship of war, and were to commit hostilities on the property of citizens of the United States, if he were taken he might allege that he was a citizen of the French Republic, and that Government might claim him as such; but if this bill passed, no man could cover himself under this pretence who had not complied with the requisitions in this act. He mentioned the case of Mr. Talbot.

Mr. S. said they held out inducements for persons to come to this country. We did not allow they owed allegiance to any other country after they had become citizens of this. To grant this would be a fatal doctrine to this country. It would

be to declare that, in case we were at war with another country, that country might recall persons from this, who formerly came from thence. Many persons of that description were amongst us. At present they enjoy all the benefit of our laws and vote at our elections; and yet, if this doctrine were admitted, these persons might be recalled as aliens; and if they were not recalled, they would be considered as qualified aliens, and not as real citizens.

This law, Mr. S. said, was necessary, as at present there was not sufficient energy in the Government to punish persons serving on board foreign ships of war. This bill would cure the evil, and give an opportunity for turbulent, discontented characters to leave the country forever. He believed it was the general opinion of the citizens of this country that they had the right to expatriate themselves, and he thought it was now a proper time to pass some regulations on this subject.

Mr. Sitgreaves thought this one of the most delicate and important subjects that ever came before Congress. He saw a number of difficulties but he thought they were not of a nature to discourage them from considering the bill. He trusted they should meet them with firmness.

The evil, he said, which gave rise to this bill was a great and growing one. In the first war which had taken place in Europe since our independence, they found this doctrine of expatriation, as claimed by our citizens, endangering our peace with a foreign nation, and if this principle were admitted he feared we should always be liable to similar embarrassments.

Mr. S. took notice of the different objections made to this section. He observed there seemed to be much doubt on the subject, which he thought ought to be removed by passing a law of this sort. He wished he could agree in the opinion that no citizen had a right to expatriate himself from this country. He thought it a doctrine essential to the peace of society. He wished it was generally recognised; but he believed the major opinion in this country was different; and, though not directly, it had in a great degree been recognised by the Executive and Judiciary in the cases of Hinfield and Talbot. He feared, therefore, it was too late for them to say the right did not exist. It was time, however, for Congress to declare an opinion on the subject. If the proposition in the bill was not a proper one, it should be made so.

In the State of Virginia this doctrine was legalized, and in the constitution of Pennsylvania it was strongly indicated, as it said "emigration should not be prohibited." It was a favorite idea of a republican Government not to forbid it. He did not agree with the principles of the clause in all its parts. He thought citizens ought not to be allowed to expatriate in time of war, as their assistance would be wanted at home. It was his intention to have moved an amendment allowing expatriation only in time of peace, and an express provision against it in time of war. He thought the doctrine of the gentleman from Maryland, viz: that our citizens ought to go into other countries to learn the art of war, was chimerical. When they had obtained rank and wealth in a foreign country, it would be in vain to call them back; they would not return. He hoped, therefore, the section would not be struck out, but that they should proceed to amend it.

Mr. N. Smith was sorry that the committee who reported this bill had thought it necessary to report the sixth and seventh sections. The doctrine of expatriation on one hand, and perpetual allegiance on the other, were subjects they had all heard much about; but expatriation, under limitation and restraint, was a new business. From its novelty it became doubtful. This being the case, he wished the subject had been deferred to an ordinary session; particularly as it appeared to be no more connected with other parts of the bill than with many other laws now extant. If we were to have a law on this subject, he should wish to have it in a separate bill. For his part, he could not see how the committee could suppose it to be a part of their duty to report these sections. If he had thought it had, he should not have voted for appointing a committee on the occasion.

Gentlemen advocating these clauses, say they would not allow of expatriation in time of war. He would go further and say he would not allow of it when there was a prospect of war, for it is idle to prohibit it in one case and not in the other. He then asked if this was not the very state in which we now were? If it were, why pass such a bill at this time, when it could not go into operation? He thought this a good reason for rejecting these clauses.

There was a mutual obligation, Mr. S. said, between a Government and all its citizens. The Government owed protection to its citizens, and citizens owed obedience to their Government. These duties were mutual and co-extensive; and they might as well say that Government could abandon its citizens when it pleased as that citizens could desert their Government when they pleased. Yet he would allow that Government might, on certain occasions, legalize expatriation, but not on the ground of a citizen's having a right to expatriate when he pleased. He should have no objection to take up the subject at a time when they could do justice to it, but he thought the present was not that time.

The question for striking out the 6th section was put and carried 45 to 41.

The 7th section, which was as follows, fell, of course:

"That all persons who shall exercise the right of expatriation, according to the laws of the United States, shall be and are hereby prohibited from becoming citizens of the United States forever thereafter."

Mr. Harper proposed an amendment, which was intended to introduce a new principle. As the bill now stood, no person could go into foreign service without incurring the penalties therein provided; but he believed there might be cases where it would be for the benefit of this country to allow persons to go into foreign service. He therefore wished to strike out the words "the limits of the same," to introduce those of "without having first obtained leave from the President of the United States."

Mr. Claiborne thought the powers of the President large enough, and did not wish to increase them, nor to lay additional duty upon him.

Mr. Venable did not think it necessary to entrust the President with such a power. He did not believe it was the practice of any country to grant a power of this kind, except in cases of officers, who, when they wished to go abroad, asked leave, because always liable to be called upon.

Mr. Dayton (the Speaker) moved to strike out the words moved to be stricken out by the gentleman from South Carolina, with the addition of the word "without." As the bill stood, he said, there was a provision against citizens who accepted and exercised a commission within or without the limits of the United States; but none against those who accepted it within, and exercised it without, the limits; or who accepted it without, and exercised it within, the limits. He was against lodging the power proposed in the President, for the reasons assigned by the gentleman from Virginia. Nor did he think it would be attended with advantage for our citizens to go abroad to learn what could not be learnt at home. He believed, in doing so, they would learn more vice than virtue, and bring home a greater portion of evil than good.

Mr. Swanwick was surprised that, after all that had been objected against our citizens entering into the service of foreign countries, gentlemen should bring forward a proposition to authorize the President to grant them leave to go into it when he shall think proper. This would be placing the President in a very delicate situation; because, if he allowed citizens to go to fight in one country, he must allow them to go into another, or there would be a breach of neutrality; and it would be an unpleasant thing to refuse applications of this kind. No advantage could be derived from this plan, equal to the disadvantages of thus placing the power. Indeed, he thought the proposition an argument against the bill itself.

After a few observations from Mr. Harper and Mr. Sewall, the question on the amendment of Mr. Dayton was negatived, 44 to 39.

Mr. Dayton hoped some remedy would be applied to the evil he had mentioned, and that they should not report so imperfect a bill.

Mr. Sewall suggested a way in which it might be remedied in the House.

The committee accordingly rose, and the House took up the amendments. Having come to that part for striking out the 6th and 7th sections,

Mr. Dent called for the yeas and nays, which were agreed to be taken.

Mr. Venable said, it seemed to be admitted that a right of expatriation existed in our citizens; and if so, he thought there should be some mode of exercising that right. He had no particular objection to the mode marked out in these clauses. It had been said this was not the proper time; but he thought it was, since it was in some degree connected with the present bill. The gentleman from Connecticut had stated allegiance and protection to be mutual. He did not think they were so, to the extent which he stated. This Government was not bound to protect citizens who went into foreign service, as in doing so they chose the protection of another Government.

Mr. Harper asked for an instance in which the Executive and Judiciary had countenanced the doctrine of expatriation.

Mr. Nicholas thought it would have been better to have avoided taking up this subject at present; but having taken it up, if the bill passed at all, he believed it had better pass with some such regulations as the present. As to the doctrine of perpetual allegiance, he did not think it could find many advocates in this country. It would, indeed, be dishonorable for us to hold out such a doctrine, after inviting people to come here in crowds from foreign countries. This doctrine, he said, would affect a third or fourth of the whole people of this country. He thought, therefore, the right of expatriation ought, at least, to be confined here, as an example to other countries.

Mr. W. Smith, in answer to his colleague, produced the case of Talbot, and the opinion given by the Secretary of State and the Judiciary Court, on that occasion, in favor of the right of expatriation.

Mr. Giles thought there could not be a doubt in the minds of Americans on the subject of expatriation. Indeed, he said, this was the foundation of our Revolution; for they were not now to be told they owed allegiance to a foreign country. It had not only been the ground of the Revolution, but all their acts had been predicated upon this principle. He referred to the act respecting the rights of naturalization, which makes every new citizen swear to support the Constitution of the United States, and to renounce all other allegiance.

Mr. Gallatin was opposed to these sections. With respect to expatriation, having himself exercised the right, he could not be supposed to be opposed to that right. Perpetual allegiance was too absurd a doctrine to find many advocates in this country. The question was not whether citizens had a right to expatriate, but whether they should in this law prescribe a mode of doing it. The right seemed to have been recognised by the Executive and Judiciary. He was against going into this business, because he thought it unnecessary. He believed the determination of who were citizens, and who were not, might be safely left with the Judiciary. He had also his doubts whether the United States had a right to regulate this matter, or whether it should not be left to the States, as the Constitution spoke of the citizens of the States. It was a doubtful matter, and ought to undergo a full discussion. The emigrants from this country to foreign countries were trifling; but from ten to twelve thousand of our citizens had gone to Canada, and upwards of five thousand beyond the Mississippi, four thousand of whom would be got back by the running of the lines. A number of these men hold lands in the United States; some have sold their lands and become citizens under another Government. This sub-

ject would, therefore, require considerable deliberation at a future day. He wished the amendment of the Committee of the Whole to be adopted.

Mr. Sitgreaves confirmed his former statement, with respect to the question of the right of expatriation having been settled by the Judiciary. In order to do this, he read a note from one of the counsel in the cases of Henfield and Talbot, giving an account of the opinions of the court on the occasion.

Mr. Sewall insisted upon the policy of preventing the renunciation of allegiance, without control. The Treaty of Peace with Great Britain, he said, had dissolved our allegiance to that country, and acknowledged our independence.

Mr. Giles believed the evil apprehended from individuals having the right to expatriate themselves when they pleased, was more imaginary than real. Only two citizens had taken advantage of that right in the State of Virginia, where it was allowed in all its extent, in twelve years. But if there were any citizens so detached from the Government as to wish to leave the country, he should wish them gone. To suppose this, would be to suppose a real division between the people and Government, which he did not believe had existence. It was said Great Britain did not allow the doctrine of expatriation; but, he said, she had not any naturalization law. He was in favor of excluding citizens who once expatriated themselves from ever returning to this country.

Mr. Thatcher did not think the principle was so important as it had been considered. The great emigrations which we every day saw in this country might quiet their apprehensions of many going from it. He did not think one man a year would take advantage of the expatriation clause for fifty years to come, which could be no great object, especially when it was considered that these would probably be the least valuable of our citizens.

Mr. Gordon was in favor of the amendment of the Committee of the Whole, though he could not say he had wholly made up his mind on the subject. He thought these sections important, and perfectly distinct from the bill; he therefore wished the consideration of this matter to be postponed to a period when they should have more leisure for the discussion.

Mr. Otis said, that when this bill was first reported, these clauses struck him unfavorably; but a little reflection had convinced him of the propriety of retaining them. The passing of this provision, he said, would not affect the Constitutional right with respect to expatriation, whatever it might be. This bill did not relate to persons emigrating into the Spanish or English territories, but to persons expatriating themselves, and engaging in the service of foreign countries.

The question on agreeing to the reports of the Committee of the Whole to reject the sixth and seventh sections of the bill was taken, and stood—yeas 34, nays 57, as follows:

Yeas—George Baer, Jr., David Bard, James A. Bayard, Theophilus Bradbury, Nathan Bryan, Samuel J. Cabell, James Cochran, Joshua Coit, William Craik, Thomas T. Davis, Dwight Foster, Jonathan Freeman, Albert Gallatin, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Matthew Locke, Matthew Lyon, Joseph McDowell, James Schureman, Samuel Sewall, Tompson J. Skinner, Nathaniel Smith, Richard Stanford, John Swanwick, Richard Thomas, Mark Thomson, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Nays—Abraham Baldwin, Thomas Blount, Richard Brent, David Brooks, Demsey Burges, John Chapman, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, William Findley, Abiel Foster, William B. Giles, James Gillespie, Henry Glen, Carter B. Harrison, Jonathan N. Havens, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Samuel Lyman, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Samuel Smith, William Smith, of Charleston, William Smith, of Pinckney district, Richard Sprigg, jr., Thomas Sumter, George Thatcher, Abram Trigg, John Trigg, John E. Van Alen, Abraham Venable, Peleg Wadsworth, and John Williams.

All the amendments having been gone through, Mr. S. Smith moved to postpone the further consideration of the bill till the first Monday in November.

This motion was supported by Messrs. Varnum, N. Smith, Baldwin, Goodrich, and Coit, as involving a question of too delicate and important a nature to be passed over in this hasty manner, and because there was no pressing necessity to go into the measure at present.

It was opposed by Messrs. Otis, Williams, W. Smith, and Craik, on the ground of the provision of the bill being necessary, and that to postpone the business, after so ample a discussion, would be undoing what they had been doing for two or three days.

The question for postponement was taken, and decided in the affirmative—yeas 52, nays 44, as follows:

Yeas—George Baer, Jr., Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, John Dawson, Lucas Elmendorph, William Findley, Dwight Foster, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A Hanna, Carter B. Harrison, Jonathan N. Havens, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Samuel Sewall, Tompson J. Skinner, Nathaniel Smith, Samuel Smith, William Smith, of Pinckney district, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—James A. Bayard, Theophilus Bradbury, David Brooks, Nathan Bryan, John Chapman, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glen, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

The bill being thus lost, Mr. W. Smith proposed a resolution to the House for appointing a committee to report a new bill without the two last clauses, which, it was evident, had been the cause of the negative given to the bill. As he supposed no opposition would be made to the bill so reported, it might be got through without loss of time.

After some conversation on a point of order, whether or not this resolution could be admitted, the Speaker declared it in order, but Mr. Coit wishing it to lie on the table till to-morrow, it lay accordingly.

Thursday, June 22.

EXPATRIATION.

Mr. W. Smith called up the resolution which he yesterday laid upon the table, for appointing a committee to bring in a bill for prohibiting citizens of the United States entering on board foreign ships of war, without the expatriating clauses.

This resolution was opposed by Messrs. Baldwin, Giles, and Venable, and supported by the mover and Mr. Harper. It was negatived—49 to 46.

DEPREDATIONS ON COMMERCE.

A Message was received from the President of the United States, of which the following is a copy, with the titles of the documents accompanying it:

Gentlemen of the House of Representatives:

Immediately after I had received your resolution of the 10th of June, requesting a report respecting the depredations committed on the commerce of the United States, since the first of October, 1796, specifying the names of the vessels taken, where bound to or from, species of lading, the value, when it can be ascertained, of the vessel and cargo taken, and by what Power captured, particularizing those which have been actually condemned, together with the proper documents to ascertain the same, I directed a collection to be made of all such information as should be found in the possession of the Government. In consequence of which, the Secretary of State has made the report and the collection of documents, which accompany this Message, and are now laid before the House of Representatives, in compliance with their desire.

JOHN ADAMS.

United States, *June* 22, 1797.

Report of the Secretary of State to the President of the United States, respecting the depredations committed on the commerce of the United States.—(See *Appendix.*)

1. Abstract of two cases of capture made by the British cruisers of vessels belonging to citizens of the United States since the first of October, 1796, and wherein documents have been received at the Department of State; also a copy of a memorandum filed by S. Smith, Esq., relating to captures made by the British of vessels in the property of which he was concerned. No documents accompany the two cases of capture above mentioned, they having been sent to London, in order that compensation might be obtained for the damages suffered.

2. A correct copy of the decree of the Executive Directory of March 2, 1797.

3. Copies of documents remaining in the Department of State, relative to American vessels captured or condemned by the French, since the first of October, 1796.

4. Extracts from communications from the Consuls of the United States, relative to depredations committed on the commerce of the United States by the French.

5. Schedule of the names of American vessels captured by the French, and of the circumstances attending them, extracted from the Philadelphia Gazette, and Gazette of the United States, and commencing with July, 1796.

6. Extract of a letter from Rufus King, Esq., Minister, &c., enclosing the protest of William Martin, master of the Cincinnatus, of Baltimore, relative to the torture inflicted on the said Martin by a French cruiser.

Mr. Giles moved that the above papers should be referred to a select committee, to print such as would be useful to the House.

This question was negatived—50 to 46, and a motion carried for printing the whole.

DAY OF ADJOURNMENT.

Mr. Giles called up the motion which had some days ago been laid on the table respecting an adjournment.

Mr. Gallatin wished to modify his motion, by making the proposed day of adjournment the 27th instead of the 24th instant.

Mr. Sitgreaves moved for the yeas and nays on the question.

Mr. Macon moved to make the day the 28th, which was consented to by the mover.

Mr. Dent proposed to make it the 30th.

The question was taken on adjourning on the 30th, and negatived—there being only 28 votes in favor of it.

The question on the resolution for the 28th was carried—yeas 51, nays 47, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Ege, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, John Reed, Tompson J. Skin-

ner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John W. Kittera, Samuel Lyman, James Machir, William Matthews, Harrison G. Otis, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

PROTECTION OF TRADE.

The House then went into Committee of the Whole on the bill from the Senate, providing for the protection of the trade of the United States.

The bill having been read, some observations took place respecting the fixing of the price of seamen's wages, instead of leaving it to the discretion of the President, but no question was taken, as it was suggested the other parts of the bill had better first be gone through.

Mr. Parker moved to strike out the following section of the bill, viz:

"That the President of the United States be, and he is hereby authorized and empowered, should he deem it expedient, to cause to be procured, by purchase or otherwise, and to be fitted out, manned, and employed, a number of vessels, not exceeding nine, to carry not exceeding twenty guns each."

Mr. P. thought, if the revenue cutters were armed, as had before been suggested, there would be no necessity for the vessels here proposed, which he did not think so well calculated for service as the cutters. They would carry 10 or 12 guns, and from 40 to 50 men, and would be able to cope with any small privateer on our coast or in the West Indies. He proposed to introduce a new clause for this purpose.

Mr. S. Smith thought the object of the gentleman last up might be attained by amending this clause. He was wholly in favor of the cutters, as they would not only serve as a defence for our coast, but as tenders to the frigates. Nine vessels, of 20 guns, he said, would require 674 seamen to man them, and the frigates would require 432 able and 300 ordinary seamen, which he did not believe would be very readily raised. Besides, vessels which would be purchased for this purpose would not be calculated for the service, not being sufficiently swift sailers, whilst these cutters would outsail most privateers, and half the seamen would be sufficient. They might be ready in a fortnight, whilst the others could not be fit for sea for three months.

Mr. Parker had thought of amending the bill in the way proposed, but he found some objections to that mode. It would be necessary that the cutters should be employed in the protection of our revenue, as well as to guard our coast; and on that account, he believed it would be better not to include them under the Naval Establishment, as they would not, in that case, be so much at the command of the Secretary of the Treasury.

The question was carried without a division; the clause following, which respected the officers and crew to be employed, fell of course.

Mr. Giles moved to strike out the following clause, for the purpose of inserting a similar one to that agreed to in the bill for the galleys, viz: to confine their use within the jurisdiction of the United States:

"That the President of the United States may employ the said frigates and the said vessels to protect the ships and cargoes belonging solely to citizens of the United States, and also the harbors and seacoast of the United States, in such manner and under such regulations as shall in no wise contravene either the law of nations or any existing treaties between the United States and foreign nations."

Mr. W. Smith hoped this amendment would not be agreed to. He believed it was never intended to confine the frigates within so narrow a sphere. He believed the latter part of the clause proposed to be struck out would prevent any mischief. The commanders of these vessels, he said, would be men of ability and character, well instructed as to their duty with respect to the law of nations. If the frigates were to be thus confined in their operations, they would be of no real use.

Mr. Giles wished to know to what other purpose, besides the protection of our coast, the gentleman wished to employ these vessels? It seemed to be thought the frigates could be of no use, except as convoys; but he denied that they were equal to that object, if it were agreed that they should be so employed. It was said the cutters to be employed were to act as tenders to the frigates; yet they were to be kept at home. It would, therefore, be curious to send the frigates abroad and keep the tenders at home. To employ the frigates in any other way than for the protection of our coast, would, in his opinion, hazard the peace of the country, without producing any good; for, if he were a merchant, (and he believed the merchants were generally of that opinion,) he would sooner send his vessel unprotected than with the proposed convoy.

Mr. Sitgreaves argued against the absurdity of confining the operations of our maritime force to the narrow limits proposed by the amendments. It was the object of the bill to defend our commerce from the unjust attacks of the belligerent Powers, and it surely would not be pretended that these attacks were confined to our coasts. To render the protection efficient, it should be coextensive with the danger; and should the frigates not be permitted to operate beyond the imaginary line which limits our maritime jurisdiction on the seacoast, it would frequently happen that they would be obliged to submit to the capture of their

convoys within the reach of their guns. It would be infinitely preferable to dismantle our ships of war and save the expense of their equipment, than to hold out to our trade an illusive protection, which would only lead them into danger. The picaroons, which infest the American seas, would sufficiently understand the restriction which is proposed, and would be rather incited by it than dismayed. He was, therefore, decidedly against the amendments; but neither did he like the clause as it stood in the bill. He did not comprehend the propriety of limiting the protection of the frigates to the case of "vessels and cargoes owned solely by American citizens." In some instances it ought not to be extended so far; in others, it ought to go further. Vessels and cargoes owned entirely by our citizens might be employed in a contraband trade, and ought not to be protected. Although this construction, perhaps, was corrected by the latter part of the clause, yet there was an opposite evil, which would necessarily arise from it in its present form. Ships owned by American citizens were entitled to the protection of the Government against French cruisers while engaged in a lawful trade, let their cargoes belong to whom they might. It is one stipulation of our Commercial Treaty with France, that free ships make free goods, and whatever might be the opinion of this House as to the expediency of relinquishing this stipulation by a new compact, yet until this could be effected in a course of negotiation, we cannot abandon the advantages it gives to our citizens. The rights growing out of treaty, are as much objects of protection as those arising from the law of nations, and he could never consent to such abandonment of them until the relations of the two countries in this respect should be legitimately changed. If the present amendments, therefore, should not prevail, it was his intention to move to substitute for the words, "ships and cargoes belonging solely to citizens of the United States," the expression, "the lawful commerce of the citizens of the United States."

Mr. Nicholas concluded the gentleman was not in the House when this subject was formerly under discussion, as he seemed to have stumbled upon all the objections, which were then abandoned. Those gentlemen who advocated convoys completely gave them up. [Mr. W. Smith denied that he ever gave them up.] Mr. N. believed he never did, on any other account than because every body about him gave them up, and a clause directly the reverse of his was agreed to. Mr. N. then went over the arguments which were gone into on a former occasion. He showed that this force was inadequate to the protection of our commerce, and that the natural consequence of resisting a search, or being taken into a foreign port, for trial on the ground of a cargo being *bona fide* neutral, would produce war. And should we, he asked, while a negotiation was pending, run the risk of again involving ourselves in difficulties? He trusted we should not. He denied that the effect of the amendment would be to confine the frigates within the jurisdiction of the United States, as the commerce within the jurisdiction might be defended by their going without it. He trusted the amendment would be agreed to.

Mr. Dayton (the Speaker) wished to strike out the section, and insert nothing. He was not prepared to say the frigates should or should not be employed as convoys; nor was he ready to say they should be confined within the jurisdiction of the United States. He was willing to leave this matter to the President of the United States, as commander-in-chief. He was sure that confidence would not be abused; and he believed he would have better opportunities than they had, of determining the best manner of employing them.

Mr. Parker seconded the motion. He thought it would be highly improper in them to dictate to the President how he should use these vessels. He wished that to rest on the broad basis of the President's responsibility.

Mr. W. Smith had no objection to the subject taking this course. As commander-in-chief, there was no doubt the President would employ this naval force in a manner, which, in his opinion, would be most conducive to the public good. If the negotiation failed, and there should be a necessity for employing it in a manner differently from what they at present contemplated, he would of course do so. Mr. S. took notice of what had fallen from Mr. Nicholas; he denied that what had been determined relative to the galleys, had any connexion with the frigates. He said, in our treaties with Holland and Sweden, convoys for our trade in time of peace were positively stipulated for, and the word of the commander of our convoy was always to be taken as to the description of our cargoes; therefore, the arguments of the gentleman fell to the ground when he said our vessels could not go out to sea without endangering our peace. It was true there was no such article in our treaty with France, but it was stipulated in what manner search should be made. The Swedish Treaty, he said, was made by Dr. Franklin, at Versailles, under the eye of the French Government. It was to be supposed, therefore, it met with their full approbation, especially as it had never been complained against.

Mr. Nicholas said, that there being stipulations of the kind mentioned by the gentleman last up, proved that no such right existed without a treaty; and as to the manner in which a search should be made being laid down, it was no security against the evil he dreaded. He denied the right of the President to apply the naval force of the United States to any object he pleased. When a force was raised for a particular object, he agreed that it was his business to direct the manner in which this force should be used; but to say he had the right to apply it at his discretion, was to make him master of the United States; if that were the case, he said, the powers of that House were gone. When they raised men for the protection of the frontier, would the President, he asked, send them to any other place? He insisted upon it that they had a right to say the vessels should be kept in the river Delaware, if they pleased; the President might afterwards direct their conduct. If a contrary doctrine were to prevail, if they did not give

up the right of declaring war, they gave up the power, which would inevitably lead to war.

Mr. Brooks did not apprehend any danger from leaving it in the power of the President to make use of the frigates as he pleased.

Mr. Gallatin said, that after having determined that the three frigates should be got ready for sea, it became necessary to say upon what business they should be employed. There might be different opinions on the subject, but it was necessary to define the object. If not, they had reason to apprehend, from his Speech, that the President would employ them as convoys. The difficulties attending such an employ had been shown when the subject of galleys was under consideration; they were so many that the peace of the country would be greatly endangered by such an employment of the frigates. The danger was greatly increased by the disputed article of our treaty with France, which the President would be under the necessity of enforcing.

In ordinary times, he said, the principle of the gentleman from New Jersey was a good one. If we had frigates in service, they were not from day to day to say how they should be employed; but, under our present circumstances, he thought the object ought to be defined, and that they ought to depart from the maxim laid down by that gentleman.

Mr. Sewall was in favor of striking out the clause. If the President were to be limited at all he should have no objection to limit him with respect to convoys, from the incompetency of three vessels to that end; but these frigates were to be considered as the public force, as the navy of the United States. It was true, it was a small one; but it was such as Congress had thought proper to raise, and put in the power of the President. And why should this power be limited? It seemed as if they supposed, from his natural disposition, or from some other cause, he would abuse it, by employing the vessels contrary to law, and thereby involve the country in war.

The Constitution, Mr. S. said, had defined him to be commander-in-chief of the navy, and having a navy the command of course devolved upon him. If those vessels were but for a particular purpose, they might designate their object, but they were begun in 1794, and the act gave the President authority to "equip and employ these vessels." If at that period, when, in the opinion of many gentlemen, there was a greater prospect of war than at present, no object was pointed out for the vessels, he did not see why any should now be pointed out. With respect to the disputed articles in the French Treaty, they had already expressed an opinion of the President, which, he doubted not, would have its effect.

Mr. Williams thought that, having given the President a discretionary power, in the first section of the bill, they ought not now to take it from him; because, if he did not see occasion to man the frigates, he would never do it; but if he did see occasion for manning them, they ought not to take from him the power of employing them as he pleased. He was, therefore, in favor of the motion of the gentleman from New Jersey.

Mr. Giles asked whether, to ascertain the object upon which these vessels should be employed was a Legislative or an Executive act? It was certainly legislative. They ought to say to the President—Here is the force, and there is the object. It was said, they had already given an opinion to the President, with respect to the disputed articles in the French Treaty; he now wished a law to be passed in conformity to that opinion.

He said, they were often charged with a want of confidence in the present President. He was free to own he had not much confidence in the President. His Speech, at the opening of the session, had destroyed all his confidence; but, however high their opinion might be of the Executive, they ought not to lodge improper powers in his hands.

Mr. Harper was in favor of the motion. He wished to provide force, and not to direct the use of it; he believed this was the object for which they were called together. He was willing to leave the use of this force to the President, because he could employ it in a manner only applicable to peace; to employ it otherwise would be a breach of his power. He, therefore, could not repel any violation of our rights by force, except previously authorized by Congress.

The gentleman from Virginia, Mr. Harper said, need not to have told them them that he had no confidence in the present Executive. He might have said in no Executive; for it was well known he never missed going out of the way to say rude things of the late President; but he did not believe this was the best way of discharging their duty. He believed the public cared little what his opinion of the President was; he thought they ought to do their duty, and leave the President to do his. Mr. H. denied that they had the right to direct the public force. If we were at war with Great Britain, they should have no right to say to the President, attack Canada or the Islands. The use of this force must be left to the President; if he abuses it, upon his own head would lie the responsibility, and not upon them.

Mr. S. Smith had not made up his mind on the subject. If the power of employing the frigates was wholly left with the President, though he had not the power of declaring war, yet he might so employ them as to lead to war, particularly with respect to the French Treaty articles. On the other hand, it seemed to be a poor employment for these frigates, after all the expense which they had cost, to keep them within the jurisdiction of the United States. They could not cruise there, indeed, without danger of running on the shoals. Understanding, as he did, that by voting for the striking out of this clause, he should not be precluded from voting for the amendment of the gentleman from Virginia; if he should conclude to do so, he should vote for striking out the section in question.

Mr. Macon proposed a clause similar in effect to that proposed by the gentleman from Virginia, to be inserted in place of one struck out, but the Chairman declared it not in order.

Mr. Dayton said, that those gentlemen who

were not prepared to vote for retaining the eleventh section, must be prepared to say these frigates shall be employed as convoys. It was to avoid this, that he had moved to strike it out. He again expressed his wish that the direction of this force might be left with the President.

Mr. Giles declared his intention of voting for striking out the section, and to risk the insertion of another afterwards.

The question for striking out was carried without a division.

Mr. Giles then moved to insert the section before proposed by Mr. Macon, to confine the use of our frigates to the protection of our coasts, and commerce within the jurisdiction of the United States.

Mr. Otis did not think that the object of the mover of this amendment would be obtained by it, since he believed vessels would be as much exposed to danger within as without the jurisdiction of the United States. He trusted they should leave this business to the President; for whatever personal objections gentlemen might have to him, (because he was not the man of their choice,) he believed the people at large would be willing he should have this power. Indeed, he thought whatever it might display of candor in gentlemen to say they had no confidence in the first officer of Government, it had very little of discretion in it. It was to destroy one of the objects of the session, which was to show to the world that we are not a divided people.

Mr. O. did not say that Congress had not a right to designate the object of this force; but he believed it would not be convenient; for, said he, suppose either of the Barbary States were to declare war against us, (and they all knew there was no certain reliance upon their observance of treaties,) should not the President have a right to send those vessels into the Mediterranean? Or, suppose we wanted to send an Ambassador to a foreign country, or despatches to our Minister residing there, shall we, said he, limit his power in this respect?

It seemed to be the object of gentlemen, Mr. O. said, to hang a dead weight upon every measure, to prevent any thing effectual from being done, that an idea might go abroad that the President had called them together unnecessarily. If gentlemen could succeed in this, the people might adopt their opinion, and believe that the President was unworthy of their good opinion.

He thought, when all the world was in arms, and we did not know how soon we might be involved in the calamity, it behooved us to be upon our guard, and to give the President such powers as should enable him to take proper measures of defence against any attack that might be made upon us.

Mr. Macon thought every thing which had been introduced about confidence or the want of it, in the President, was extremely irrelevant and improper. For gentlemen to charge others with a want of confidence in the President, because they happened to disagree in opinion, was extraordinary conduct. His reason for proposing the present amendment, was to prevent these vessels being sent to the Mediterranean or the West Indies. He read an extract from the law of 1794, to show that the object of the frigates was there designated to be against the Algerines. His object was now, that they should be employed on the coast, and no where else. If a provision of this kind was not agreed to, they knew, from his Speech, upon what business the President would employ them. He had given his opinion to the House with candor, and he wished the House to be equally explicit.

Mr. Gallatin observed, it seemed to be the opinion of the gentleman from Massachusetts, that if they defined the object upon which these vessels were to be employed, they should be chargeable with disrespect to the President. We have, or we have not a right, said Mr. G., to define the object. If we have not the right, we ought not to exercise it; but if we had the right, there could be no disrespect shown to the President, by an exercise of that right. It might be improper, but could not be disrespectful. If once such an argument as this were admitted, it would be introduced on every occasion when it would have weight. Indeed, the gentleman saw that such an assertion was likely to have its weight on this question, and therefore introduced it. He wished to know whether the clause from the Senate did not define the object? and if so, whether that body could be charged with wanting respect for the President?

The object of the frigates had never been defined, for a good reason; because they were never ordered to be manned till now. The gentleman from South Carolina had said they were not to be used for any hostile purposes whatever. He wished to know how they were then to be employed? He thought they would be somewhat expensive packet boats, to carry despatches abroad. He knew only of two purposes for which they could be used, that is, to be held in readiness in case of war, and in the mean time to be employed in some purpose or other, which he thought should be defined, and not left in doubt. He therefore hoped the amendment would be agreed to.

Mr. Dana said, admitting that they had a right to define the object of this armament, it was no reason why they should insist upon exercising it. He agreed that they had a right. He had no objection to leaving the business to the President, except that, if the vessels were employed in convoying our commerce, he should have wished to have shared the responsibility with him. He denied that the danger which had been predicted could arise from the disputed articles in the French Treaty, as the President had a right to give such instructions to the commanders on that subject, as he saw proper.

Mr. W. Smith thought the proposition vague, since it did not say the vessels should not be used in any other way. Gentlemen were begging the question, when they said, that if the business were left with the President, the consequence would be that the vessels would be employed as a convoy, since he did not believe they were equal to that object. It was his wish that the hands of the President should not be tied, and thought it extremely

imprudent at the present time to discover a want of confidence in the Executive.

Mr. Kittera had often seen that House attempt to take powers which did not belong to it. He thought this one of those cases. They had power to raise an army and navy, but the use of them lay with the President.

Mr. S. Smith said, they had been called together because the French had committed depredations on our commerce, and refused to receive our Minister. He took notice of the different acts which they had passed this session, till he came to this, which, in his opinion, if our vessels went out to sea, would lead to war, and therefore he wished to have them limited.

When our Commissioners arrive in France, said Mr. S., the French Directory will ask, "For what are you arming? Your Congress has been called together for the express purpose of taking measures against us;" they would add, "disarm, or we will not treat with you." He trusted they should not put it in the power of any branch of Government to plunge us in war. It had been said by the gentleman from South Carolina, that we were to force our way into the rebel ports in the West Indies; if so, war must be the consequence.

Mr. Brooks was surprised to hear a gentleman declare that we were brought to such a situation that we could not take up arms, in our own defence, without offending a foreign nation. He was the more affected at the declaration, because it came from an American soldier. "M. Barras, (says the gentleman,) will say to the Commissioners, 'Go home and lay down your arms, and we will then treat with you.'" He hoped the gentleman would retract this humiliating sentiment.

The question was put and negatived, 52 to 44.

The committee then rose and had leave to sit again.

Friday, June 23.

PROTECTION OF TRADE.

The House again went into a Committee of the Whole, on the bill providing for the protection of the trade of the United States; when

Mr. Venable renewed his motion to alter the sixth section of the bill, so as to fix the wages to be allowed to the petty officers, midshipmen, seamen, ordinary seamen, and marines, instead of leaving it to the President to fix them, on the ground of its being Legislative and not Executive business.

This motion was opposed, from the circumstance of wages being so fluctuating as to make it impossible to say now what would be a proper rate of wages to be given when the vessels were ready to receive their men; and as the sum was fixed not to exceed $15,000 dollars per month, no mischief could arise from leaving the business with the Executive.

The question was put and negatived—48 to 37.

Mr. Parker moved to add two new sections to the bill. The first was, "to authorize the President of the United States, if he deem it necessary, to increase the strength of the revenue cutters, so as that the number of men do not exceed —— to each, in order to defend the seacoast, and to repel any hostile vessels, and to protect the commerce of the United States within the jurisdiction thereof, having due regard to their duty in the protection of the revenue."

The second section provided "that the additional compensation allowed to the men employed in the revenue cutters, by an act of May 6, 1796, should be extended to the additional men proposed to be employed."

Mr. Nicholas wished, instead of the words, "if he deem it necessary," in the first clause, to introduce those used on a former occasion, when the galleys were under consideration, viz: "if circumstances shall hereafter arise, which, in his opinion, shall render it expedient."

Mr. W. Smith saw no difference between the two phrases, except that the one proposed was not so well expressed as the original. He wished the gentleman to say in what the difference consisted.

Mr. Nicholas said, that by the words as they now stood, they referred to the President what it was their business to determine for themselves. He wished to have an eye to any future occasion which might arise; but if the clause passed as it now appeared, the President might immediately go into the business.

Mr. Parker consented to adopt the words of Mr. Nicholas.

Mr. S. Smith and Mr. Parker introduced two or three small amendments, which related to the number of lieutenants, sergeants, corporals, &c., to be employed; which was agreed to.

The bill having been gone through with,

Mr. R. Williams proposed to amend the first section of the bill, by adding, after empowering the President, should he deem it necessary, to cause the frigates to be manned and employed, "Provided they shall not be employed as convoys."

Mr. Giles hoped this amendment would be agreed to. He wished to define the object for which these vessels should be employed, that there might be no misunderstanding on the subject. Mr. G. insisted that the French nation had a right to inquire of our Commissioners for what we were arming? And if this amendment were agreed to, it would be a sufficient answer.

Mr. W. Smith said, if this amendment were agreed to, it might go further than it was meant to go. The frigates might not be able to protect the trade of the United States at all. He did not suppose they would be employed in convoying our vessels to the West Indies; but if this provision passed, it would not be possible for them to protect our trade from the Capes of the Delaware to the Capes of Virginia.

Mr. S. differed in opinion from the gentleman last up, that the French nation had a right to take umbrage at our arming. When two nations were at peace, and one of them began to arm, it was customary to inquire what was the object of it; but when two nations had disputes to settle, and one of the nations had committed aggressions against the other, it was common for the injured nation to arm in her defence. And, if the French

nation refused so treat with our Commissioners until they answered inquiries respecting our arming, he believed they were determined upon war.

Mr. S. Smith said, if he understood the amendment to go to the length which the gentleman from South Carolina represented it to go, he should certainly be opposed to it; but he believed it only went to prevent the frigates from being employed as convoys to foreign ports. Merchants, he said, who carried on a fair course of trade, would not ask for convoys; they would wish to run the risk and go alone—for, if they went under the convoy, the probability would be, that from a number of vessels sailing together, they would glut any market to which they might go, and consequently lower the price of their cargoes. But merchants who wished to go into rebel ports, would wish to be convoyed, and the first convoy that went on such business, he was confident, would produce war.

Mr. S. justified the expression he made use of yesterday, with respect to the French making inquiry into the cause of our armament. Not that they could take any notice of our fortifications, or our military regulations; but when we were about to fit out a naval armament, it was a different thing, and the maritime Powers of the world had a right to inquire the cause of our arming. Our Commissioners, when they were asked, would say they knew not. The French would answer, Inquire; if it be against us, we shall know what to do; if not, let us know. To avoid this inquiry, he wished to designate the object.

Mr. Venable said, from what fell from the gentleman from South Carolina, he supposed he would be satisfied with a small amendment. That gentleman supposed that the present amendment would prevent the frigates from convoying our merchant vessels from one part of the Union to another. This might be remedied, by adding "to any foreign port or place."

Mr. R. Williams consented to make this a part of his amendment.

Mr. Brooks wished to know whether the frigates were to be prevented from taking any vessels bound to a foreign port under convoy at all, though she might be going out at the same time with vessels bound to different parts of the Union.

Mr. Potter hoped this amendment would obtain, as he did not believe these vessels would be equal to the convoying of our commerce. He hoped, before the session closed, they should pass an act for arming our merchantmen, which he believed would be the best protection that could be given to our commerce.

The question was put and carried—47 to 45.

Mr. Coit moved an additional section, "to confine the duration of this act for one year, and from thence to the end of the next session of Congress, and no longer."

Mr. Sitgreaves thought that the period for which the seamen and marines were engaged being only for one year, there needed no other limitation.

Mr. Coit was of a different opinion. It was true the men could not be engaged for a longer period than a year; but those engagements might be renewed from time to time. For his part he did not wish to a permanent naval establishment in this country. He would rather see the frigates at the wharves than see them go out to sea. He trusted a majority of the House would one day be of his opinion; and, if such a change of sentiment should take place, he wished to put it in their power to annul the establishment.

The question on this section was put, and there appeared to be 46 votes for it, and 46 against it, when the Chairman, Mr. Dent, according to the power given him by the rules of the House, declared the question was not carried.

The committee rose, and the House proceeded to consider the amendments. The first which came under consideration, was that for preventing the frigates from being used as convoys.

Mr. Sitgreaves hoped this amendment would not prevail. He was at a loss to account for the change of sentiment in the House since yesterday. He thought it was then the opinion that they ought to provide the force; and, when provided, leave it to the disposal of the Executive, and that, if he thought proper to employ the frigates in the protection of our commerce beyond the jurisdiction line, he should be authorized to do so. He yet entertained this opinion.

It was a little extraordinary, he said, that these gentlemen who had, on a former occasion, quoted the articles of the armed neutrality, should forget one of the most important; he meant that which sanctioned the right of convoying their trade in time of peace, to protect their neutrality against the aggressions of belligerent Powers, which doctrine had, by a solemn act of her Government, been acquiesced in by France. This being the case, and seeing that the President of the United States, in his Speech at the opening of the session, had declared his opinion, that vessels ought to be provided as a convoy to our commerce, and knowing no principle in the law of nations to the contrary, he was surprised the right should be called in question. He hoped no act of that House would justify such a sentiment.

Another glaring inconsistency. Gentlemen admitted that the frigates were to be employed for the protection and defence of our commerce; but, he asked, how this could be effected, if they were not to be employed in the way of convoys? He did not mean for a number of ships together, but for single vessels. But it was said that citizens who carried on an honest trade would not ask a convoy. How did this appear? Had no attack been made upon the fair commerce of this country? If there had been none such, he would allow that there was no necessity for a convoy or naval force; but, if there had been aggressions, they must have been upon the fair trade of this country, and persons employed in this trade were entitled to protection.

Why, he asked, were they always told of our commerce being forced into the rebel ports in the West Indies, and that war would be the consequence? Was it to be supposed that the President would wantonly go into this business? He

hoped they should do what the circumstances of the country required, and not profusely lavish money which could answer no good purpose, since the injuries committed within our jurisdiction, compared to those sustained on the high seas, were not worthy of being named. If any protection was given, therefore, it should be extended beyond the jurisdiction line.

But it was said that three frigates were incompetent to the protection of the trade of the United States; but they might be competent to protect a part of it; and if three frigates were not effectual, it was the duty of that House to provide such as would be effectual. But if this force would not be able to meet the naval power of any European country, it would be able to keep off privateers and picaroons, and therefore be of some service.

Mr. McDowell said, that if the gentleman last up had been present when the subject had before been under discussion, he would have spared his observations, as the principle of a convoy had been decided against by a large majority. Mr. McD. went over the arguments which had been several times repeated against the employing of convoys, and concluded with hoping the motion would pass.

Mr. Sitgreaves acknowledged he was absent when the subject of the galleys was under discussion; but he had been told that the principle had not been decided; but, suppose it had, his opinion was not to be influenced by a majority of that House, if he were convinced it was well founded.

Mr. Giles said, heretofore gentlemen had given up the idea of employing these vessels as a convoy, from their incompetency to that object; but now, the gentleman last up came forward and said, if they were not used for that purpose, they would be of no service at all. He allowed, with the gentleman, that we had a right thus to employ them, but he denied that it was expedient to do so. The President had committed himself on this head, and he thought they ought to give him an opportunity of retracting his opinion, by fixing the object for which the vessels should be employed.

Mr. Swanwick said, he felt himself called upon to give his reasons for voting against employing these frigates as a convoy to our trade. He looked upon the force as wholly inadequate. But it was said it might be brought to operate in part. He was, however, afraid that in attempting an object to which they were not equal, they might, in the West India seas, endanger the loss of the vessels themselves; for, when the privateers and cruisers in those seas learnt that we had frigates out, they would become more acrimonious than ever.

Mr. S. said, it could not be supposed that the present war in Europe would be of long duration, nor could it be expected that we should be competent, whilst it lasted, to give complete protection to our commerce; he thought, therefore, it would be much better to trust entirely to insurance than to risk these vessels as a convoy. And if the trade was not worth carrying on, after having paid the insurance, he would give it up. He wished to avoid taking any measure which might lead to war; for, if that were to take place, we should suffer infinitely more than we now suffered from any depredations committed upon our commerce. Our trade in the West Indies, he said, was in some degree protected by the rival interests of the contending Powers in those seas. They had heard (and he owned that it was with no pleasant sensation he heard it) that our vessels had sailed under British convoys in that quarter, so that the trade in some degree protected itself by the interests which it holds out to the parties.

If the frigates were to be employed as convoys, he did not believe the rates of insurance would at all be lowered; for he did not find that even the British, with all the force they had in the West Indies, could effectually protect their merchant vessels against the French privateers. Besides, he should look upon the loss of one of the frigates as a very unfortunate occurrence; it would cast a damp upon the germ of our navy, and would be a discouragement to the voting of any more money for that object. This he should most sensibly regret. The frigates might be of some use in the protection of our coasts and jurisdiction, without running any of the risks which he thought would be run in sending them out as convoys. Coming from a large commercial city, as he did, he should never be backward in his support of an effectual naval establishment; but for the present, he thought it best to keep the frigates about our coast.

Mr. W. Smith agreed with the gentleman from Rhode Island, that the arming of our merchant vessels would be a good defence for our commerce; but he thought there would be little chance of such a measure passing; he suggested to that gentleman, therefore, whether it would not be better to cleave to this. As to the amendment, he was doubtful of its meaning. Did it mean the frigates might be employed to convoy vessels bound to a foreign port, but not within a certain distance of those ports? or did it mean that they should not go further than three miles from the seacoast? He thought it very doubtful, and calculated to embarrass the Executive in his proceedings.

Mr. Rutledge was of opinion the vessels would be of no service, if not used as convoys. He denied that they could be used to advantage in the protection of our coast, since small vessels would run out of their way into the bays and rivers. This force might be of great service, he said, in convoying the trade of the United States to a certain latitude, and then returning. The papers of this city had informed them that the port of Charleston is now blockaded up by an English privateer; the citizens there, he said, were in agony, and had no relief. Would this be the case, he asked, if the frigates were afloat, and properly employed? He believed not. He was against small vessels being employed as convoys, but there would be a security in these vessels from the respectability of their commanders. If our frigates were to meet with those of the British nation, was it to be supposed they would insult each other? No; it was the rascals who commanded privateers who caused all the mischief. He was not afraid of the commanders of frigates.

Mr. R. thought it was wasting of time to be conjuring up new phantoms of danger. He thought they might safely rely upon the Executive, who had given them no cause for distrust. In seafaring language, he wished to *launch* him fairly, since they could not suppose that the liberties and interests of his country were not as dear to him as to them, and that he would not, therefore, put them in jeopardy.

Mr. N. Smith said, were the question to protect British property on board our vessels, or to say we would force a trade into the rebel ports in the West Indies, he should vote against it; but he understood the question to be no more than this, Will you suffer the Executive, when the vessels are in a state fit for use, to employ them as he shall think proper? When this was simply the question, he was so far from doubting, that he was astonished any one should doubt it; for, if Congress were to fix upon what the vessels should be employed, three or four months hence, perhaps, a different object would appear necessary. Mr. S. denied that there was any analogy between the galleys and frigates—the one was a temporary, and the other a permanent object. He also denied that the President would be obliged to enforce the observance of the French Treaty, if he thought there would be danger in doing it.

Mr. Nicholas contended that the frigates and other vessels came to them under one proposition, and arguments had been used to employ both as convoys; that principle, however, had been given up, but now it was said, if they would not risk the use of the frigates as convoys, they would be of no use. He asked the gentleman from South Carolina, what would be the consequence if one of our frigates were ready and could repair immediately to Charleston? Would the British privateer desist from examining the vessels going out and in? He supposed she would not, and if opposition were given to her, a battle and a war would be the consequence. Nor did he think there would be any security from the description of men employed on board our frigates; he apprehended more from them than he should do from men who had a less delicate sense of honor. He trusted this amendment would be confirmed, or he feared the consequences.

Mr. R. Williams felt himself called upon by what had fallen from the gentleman from Pennsylvania respecting his having changed his sentiments since yesterday. The amendments were totally different. But the gentleman said, it was an improper interference with an Executive right; if so, it was equally an interference with an Executive right to direct the use of the cutters. The amendment had been amended at the suggestion of the gentleman from South Carolina, but now he has found out he does not understand it. When he voted for manning the frigates, he did it with a view of defending our coasts; but now another and different object was assigned them. He was not so apprehensive of our commanders drawing us into war from their too high sense of honor; but he feared that would be the consequence from our situation as to treaties.

The question on agreeing to this amendment was decided in the affirmative—yeas 50, nays 48, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, John Chapman, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thos. Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jun., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, Geo. Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

The question was then taken on striking out the 8th and 9th sections, which provide for nine additional vessels of twenty guns each. It was decided in the affirmative—yeas 72, nays 25, as follows:

Yeas—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, John Chapman, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, Dwight Foster, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, David Holmes, Walter Jones, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, Jno. Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Swanwick, Mark Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, George Baer, jun., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, George Ege, Abiel Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Sitgreaves, William Smith, of Charleston, George Thatcher, Richard Thomas, John E. Van Alen, and Peleg Wadsworth.

Mr. Sitgreaves moved to strike out the words, "within the jurisdiction of the United States," and to leave to the President the employment of the cutters as he pleased.

This question was negatived—52 to 46, as follows:

Yeas—John Allen, George Baer, jun., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, John Rutledge, jun.; James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Wm. Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, John Chapman, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, John Reed, Tompson J. Skinner, Samuel Smith, Wm. Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

The question was then taken upon agreeing to the new additional sections relative to the revenue cutters. It was carried—82 to 14, as follows:

Yeas—George Baer, jun., Abraham Baldwin, David Bard, James A. Bayard, Theophilus Bradbury, David Brooks, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, James Cochran, William Craik, Samuel W. Dana, James Davenport, Thomas T. Davis, John Dennis, George Dent, George Ege, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Samuel Lyman, Matthew Lyon, James Machir, William Matthews, Blair McClenachan, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, of Charleston, Richard Sprigg, jun., John Swanwick, Geo. Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—John Allen, Thomas Blount, Joshua Coit, John Dawson, William B. Giles, Andrew Gregg, Matthew Locke, Nathaniel Macon, Joseph McDowell, Tompson J. Skinner, William Smith, of Pinckney District, Richard Stanford, Thomas Sumter, and Joseph B. Varnum.

Mr. Coit renewed his motion for adding a new section: "to confine the continuance of the act to one year, and from thence to the end of the next session of Congress.

Mr. C. said, if gentlemen wished to make the Naval Establishment permanent, he supposed that part of the bill which relates to the revenue cutters was only meant to be temporary.

Mr. W. Smith moved to amend the section by confining the limitation to the part relating to the revenue cutters.

Mr. Gallatin said, if this motion was carried, it would go to negative the other. If this bill passed without a limitation clause, it would not only give us a permanent Naval Establishment, but would be giving to the President forever a power which the Constitution alone placed in that House; viz: that of fixing the compensations of persons to be employed under this act. It was not now, therefore, a question of confidence, but of giving up a right which was a valuable part of the powers committed to them by the Constitution.

After a few observations from the mover, and Mr. Otis, in favor of the motion, and some objections to it from Messrs. Baldwin, Coit, and Gordon, it was negatived—55 to 40.

The amendment of Mr. Coit then recurred.

Mr. W. Smith moved to fill up the blank with five, four, three, and two years, which were lost by a considerable majority. The question was then taken on one year, and carried, there being 55 votes in favor of it.

The question was then taken on the section as amended.

This question was carried—53 to 43, as follows:

Yeas—Abraham Baldwin, David Bard. Thos. Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, John Dennis, George Ege, Lucas Elmendorph, Thomas Evans, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Wm. Gordon, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge,

Daniel Morgan, Anthony New, John Nicholas, Elisha R. Potter, John Reed, Tompson J. Skinner, Samuel Smith, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and John Williams.

Nays—John Allen, George Baer, jun., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, George Dent, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Harrison G. Otis, Josiah Parker, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, Geo. Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and Robert Williams.

The bill was ordered to be engrossed for a third reading to-morrow.

A confidential Message was received from the President of the United States, when the House was cleared, and the doors closed, for the purpose of reading and taking the proper order with the said communication.

Saturday, June 24.

Mr. Gallatin presented two petitions; one from persons in the vicinity of the Ohio, complaining of the deficiency in the quantity of land purchased from the United States; the other from upwards of 100 persons in the same quarter, complaining that they were not able to become purchasers at the United States sale from the conspiracy of speculators. Referred to the Secretary of the Treasury.

Mr. J. Smith, from the Committee of Revisal and Unfinished Business, made a report of expiring laws; the committee also expressed a doubt whether the act passed last session for fixing the next meeting of Congress on the first of November, was not superseded by the present extraordinary meeting.

A committee was appointed to report a bill on the subject of expiring laws, but

Mr. Sitgreaves thought it unnecessary to appoint a committee on the subject of the law for fixing the next meeting of Congress, as he did not think the present extra meeting could affect that law; since it was the province of the President to call extra sessions of Congress; but it was the business of Congress to fix the annual meetings, and that therefore the two powers could not be allowed to infringe upon each other.

Mr. W. Smith differed in opinion, and wished the report to lie upon the table, or a committee to be appointed to concur with the Senate.

A committee of conference was appointed.

PURCHASE OF ARMS.

Mr. Blount, from the committee appointed to report on the resolution proposing to purchase arms, reported it as their opinion that the subject should lie over till next session.

Mr. W. Smith thought the subject important, and wished the report to lie upon the table, which was agreed to.

PROTECTION OF TRADE.

The bill for providing for the protection of the commerce of the United States was read the third time, and the blank for filling up the number of men to be employed in the cutters, was filled up with thirty; on the question being about to be put on the passing of the bill,

Mr. Nicholas said some statements had been received from the War Department, and ordered to be printed. He had not seen a copy of them, but was informed there were yet wanting $197,000 to complete the frigates. He wished information on the subject.

Mr. Parker read an extract from the account which had been printed.

Mr. Nicholas wished to know how it happened that in four months so great a mistake could have occurred as to the expense of finishing these vessels. When the last appropriation of $170,000 was made, they were told that sum would be sufficient to make them fit to receive the men on board, but now they were called upon for $197,000 more. He thought this matter ought not to pass over without inquiry, as he did not like to be drawn from step to step to do what, if the whole matter had been seen at first, they might not have consented to. He trusted this was not intentionally done, but he owned it looked very suspicious.

Mr. Parker believed the estimate of last session was only to make the vessels ready to receive the guns on board, and did not include the guns.

Mr. Gallatin said, as he meant to vote against the passage of the bill, he would briefly state his reasons for doing so. He knew only of two arguments in favor of the bill; the first, that it was necessary during a time of peace to lay the foundation of a navy; the other was, that, the frigates being built, it would be proper to man them. As to the propriety of having a navy, he did not mean to go generally into the subject, but he would make a few observations as to our situation for engaging in an establishment of this kind. Suppose that navies were necessary in European nations, to increase their power or to protect their commerce, these considerations did not apply to our present circumstances. In order to prove this, it was only necessary to take a view of our revenue, and the expense of a fleet.

The amount of revenue, from the 1st of April, 1796, to the 1st of April, 1797, received into the Treasury, was $7,400,000—a sum which by far exceeded that of any former year; and he did not think that the permanent revenue of the United States could be well extended beyond that sum. For instance, he did not think that nine millions could be raised from the people without oppression. Indeed, by the best calculations on the quantity of circulating medium in the country, it was not allowed to exceed eight millions; and he did not believe that any nation could raise a larger sum in

taxes than was equal to the amount of their circulating specie.

He should therefore vote against this bill, because he did not believe we could raise revenue equal to the expense of supporting a fleet; for, although we had a large capital in hand, we had but a small quantity of circulating medium; and, from our scattered situation, that medium circulated much slower than in small compact countries; and it must be allowed that the quantity of revenue which could be raised depended on the amount of circulating medium.

In order to show what the expense of a Navy might be expected to be, Mr. G. made the following statement of the cost of our three frigates:

Amount appropriated in 1794 for the six frigates, grounded on a calculation then made by the committtee, of $2,588 per gun, including six months provision and three months pay - - - -		$688,888 82
The above sum was in 1796 appropriated to finish the three frigates, together with a sum before appropriated for galleys, of - -		80,000 00
In 1797 an additional sum was voted, of - - - - - -		172,000 00
To which, adding the sum voted for captains - - - -		10,000 00
Makes an aggregate of - -		$950,888 82
The sum now requisite to finish the frigates is stated as follows:		
Guns and military stores -	$94,809	
Hemp, to replace a quantity burnt - - -	16,250	
Labor and tradesmen's bills*	126,645	
	237,704	
Deduct the balance of unexpended appropriation -	40,068	
		197,636 00
Making altogether -		$1,148,524 82
Deduct materials on hand, valued at		135,074 48
Total cost of three frigates, as per present estimates and appropriations - - -		$1,014,450 34
Pay and subsistence for one year is stated, by estimate, at - -		$220,000 00
Which calculation is made on a supposition that the pay of warrant officers shall be $14 per month, and that the whole amount of pay of petty officers and crew shall be $10,156 a month; but, by the bill, the pay of warrant officers is $20 a month, and the whole amount of pay of petty officers and crew is $15,000 per month, which makes a yearly increase of - -		60,000 00
Making the yearly pay and subsistence for three frigates -		$280,000 00
Extraordinaries, including repairs, ammunition, &c. - - -		70,000 00
Total yearly expenditure - -		$350,000 00

* In March, 1795, $172,000 were said to be sufficient to complete the three frigates. In June, 1797, it is officially stated, that, exclusively of money requisite for guns and military stores, $126,645 are wanted for the same purpose, viz: that of completing the three frigates; therefore, no security that the sum now asked will be found sufficient.

This statement showed, Mr. G. said, that these frigates had cost about £2,000 sterling a gun, though the common calculation in Great Britain was only half that sum. If, from building the frigates, they turned to the expense of manning them, the same conclusion would be drawn. They found that the pay of an able-bodied seaman in the British navy had lately been raised from 26s. 6d. to 30s. sterling a month, which was $6 66⅔; but, by the present law, $15,000 a month were allowed for the pay of the petty officers, midshipmen, seamen, ordinary seamen, and marines, which averaged from 16 to 17 dollars a man.

When he heard gentlemen stating the advantages of the naval strength of Denmark and Sweden to those countries, he could not agree with them altogether, though he agreed they had some weight; but it was well known that the Grand Navy of Portugal had no weight whatever in the scale of the large navies of Europe; it did not even enable her to protect her trade: for, if either France or Great Britain had the superiority in the Mediterranean, she was under their control. He believed Denmark and Sweden had thirty sail of the line each, and he wished gentlemen to calculate how much it would cost us to have such a Navy. A fleet of a few vessels would not then be able to afford protection to our trade; and it was wholly out of our power to have a fleet equal to that of Denmark or Sweden.

Mr. G. went to the second argument used for passing this bill, viz: that the frigates being now built, it would be proper to arm them. He believed the bill to be as unexceptionable and harmless as they could make it, and the only objection he had to it was the expense. If we were to have war, the frigates being built, he should certainly think it necessary to man them; and if the bill went no farther than to enable the President to man them, in case of a war, he would vote for it; but it authorized the President to man them when he should think it expedient, and as he has told them that they and other vessels were now necessary, he doubted not he would proceed to man them immediately, which he thought would be incurring an unnecessary expense. For, if there were a declaration of war to-morrow, more men could be obtained in three weeks than there could be in a state of peace in three months. He therefore thought it would be proper to reject the bill, though he had no hopes it would be rejected. During the present session, he said, he had voted for a number of things which he did not think necessary, but which were not calculated to do any harm. He would gladly have done the same with respect to this; but he could not reconcile himself to the additional expense of half of a million of dollars for a purpose which could be of no use except in case of war.

Mr. Swanwick believed the expense of these frigates had been much greater than any future ones would be. When they were told they had cost £2,000 sterling a gun, it was evident there must have been great extravagance in the expense, as merchant vessels might be built as cheaply in this country as in any other. He supposed the extra expense had been owing to the want of some regular establishment to overlook the business, and because it had been undertaken at a time when other nations were at war, and of course when materials were very high. Sixteen thousand dollars worth of hemp had indeed been burnt by accident at Boston. As to the terms of seamen, though they might at first be high, when the service was known he doubted not they would fall.

But it was said a small naval force would be of no use to us. He thought it would be of great use, from our contiguity to the West Indies; as, in case of hostilities committed upon us, by any European Power, we might at once fall upon their rich possessions in that quarter. Our experience in this war, he said, had proved the use that such a fleet would be of to us. Indeed, the French had frequently charged us with not protecting our trade, and seemed to reprimand us for our weakness. And, when they heard of small row-boats taking our merchant vessels, did not every man wish for a small naval force to protect our trade? He trusted they did; and these vessels would be of great use in this way. Besides, Mr. S. said, can any gentleman believe that the European Powers will be able to keep up their present enormous naval establishments for any length of time? He did not believe they could. Mr. S. did not think because our circulating specie was not more than eight millions, that our taxes could not exceed that sum; as, besides specie, there was a large quantity of bank paper. Nobody would believe that the circulating specie of Great Britain amounted to twenty-five millions; yet their annual taxes were to that amount. In England he knew the use of a paper medium had been greatly abused; but the abuse of a thing could not argue against the use of it.

Mr. S. was firmly of opinion that, in the course of time, this country must become a great maritime Power; and he doubted not that, in time of general peace, armed ships would be built for half the price which they had cost.

He hoped, therefore, when his colleague had obtained his wish (in which he had willingly concurred with him) in restricting the use of the vessels, he would not now vote against the passage of the bill.

Mr. J. Williams said, he had always opposed the establishment of a navy, and was the question now whether or not we should commence a navy he should certainly be against it; but, as the frigates were so far advanced, he thought they ought to finish them, especially when they considered the present critical situation of our affairs; for, if a general peace did not take place in Europe, the war would probably become a maritime war, and we might be involved in it. But he was still of opinion that if we must go into an expensive naval establishment for the protection of our commerce, we had better have none. But, say gentlemen, where will you find revenue? He believed, though we had no armed force, a considerable commerce would still be carried on, and those who declined it would turn their attention to agriculture and manufactures, from which any deficiency of revenue would readily be supplied.

It was true, as had been stated, that they had been called upon from time to time for additional sums to complete these frigates, and he knew not when these calls would end.

Mr. W. went into a calculation of the expense of these vessels, and compared the situation of this country with Europe, and concluded that it would be our best policy to stand aloof from all foreign Powers. He would, however, go so far for the protection of our commerce as the building of six frigates; further he should not choose to go.

Mr. Giles was obliged to the gentleman last up for his speech against the present bill, though he meant to vote for it; he would rather, however, that he had *spoken* in favor, and *voted* against the bill. Mr. G. said he should vote against the passing of the bill, and for the reasons assigned by that gentleman. He thought a navy would be a great evil for this country. Our great interests lay in the soil; and if ever the vitals of the country were to be drawn together for the purpose of protecting our commerce on the sea, he should greatly lament it. He believed the despotism of nations kept pace with the ratio of expense of their Governments. He was sorry to say that he was more and more convinced that it was the constant aim of some gentlemen in that House to increase the expenses of our Government. The propriety of establishing a navy had scarcely ever been seriously considered; it was first begun under an alarm, and it had been continually carried on by the same means. Mr. G. adverted to the methods employed to raise men by pressing, in all countries where navies were established, and insisted that navies and press-gangs were inseparable; for, said he, the wages of seamen are now thirty dollars a month, and when men are wanted for the frigates the price will doubtless be increased, and the press-gang must be resorted to, or the navy must be abandoned.

Mr. Harper said, gentlemen seem to abandon their objections to this bill by admitting that there was no probability it would not pass. But why? Because a majority of the House either think the measure is proper in itself, or from the particular circumstances of this country. It was surely a singular instance of modesty in gentlemen, after this concession, to argue against the passing of the bill.

Mr. H. did not admit that these frigates were commenced from an idea of laying the founda-

tion of a large Navy Establishment, but from particular circumstances; and, said he, shall we, at a time when we are threatened with danger, abandon them? He trusted not; such conduct would be absurd in the extreme, and imply a character of imbecility which he hoped their councils would never deserve.

Mr. H. agreed that our Government depended upon the affections of the people for its support; but how were these affections to be gained? It was by protecting them with a dignified, enlarged, and confirmed policy. By these means the country would become strong; and if the people saw their Government, from the paltry idea of expense, abandon its rights, they would not care what became of it.

The principles of the gentleman from Pennsylvania would be correct if national rights, dignity, and honor, could be settled by counting-house calculations. If so, all Governments might be abandoned; no public measure could be carried into effect; since it could not be said of any that it produced as much money as it cost. But if they were useful in protecting the rights and liberties of the country, they were certainly more to be prized than money.

Mr. H. denied that navies in every country were supported by press-gangs: those of Holland, Sweden, Denmark, France, and Portugal, were supported without impressment; and in England a very small proportion of the men employed on board their fleet were impressed. It was only in sudden emergencies that this practice was resorted to. All that would be necessary in this country, would be to give somewhat higher wages than the British. He hoped, therefore, the bill would pass.

Mr. Allen said, he had some objection to the passing of the bill, but his objections were to the amendments which had been introduced into it, yet he did not know but he should vote for it. He thought there was a provision in the bill which went to prostrate this Government. He alluded to that part of it which directed the manner in which this force should be used. He considered this as a violation of the Constitution, besides carrying upon the face of it an idea that one of the branches of this Government could not be trusted with the exercise of its power. Was it possible, he asked, for a Government to exist, when this confidence was refused to one of its branches? What were the people of the United States, and abroad, to think of this? Would not the people of this country think it their duty to destroy a power which could not be trusted; and would not foreigners despise it? If seemed as if this were the intention of gentlemen.

Mr. A. also objected to the clause limiting the duration of this bill; since this went to say that they not only distrusted the other branches of the Government, but themselves. A thing which must in its nature be perpetual, was there limited. He deprecated the idea of expense being an objection to this measure. Our emancipation from the chains of Great Britain, he said, was attended with a great expense; but was it not believed that the liberty and independence of this country were of superior value to money? He trusted they were. He could only suppose, therefore, that men who objected against the expense, must themselves be sordid and avaricious. If these frigates had been provided four years ago, he believed all our present difficulties would have been prevented, and a sum vastly less than that of which we had been robbed would have done the business. Mr. A. denied that ships of war could now be built in England for £1,000 a gun; that was formerly the price, but they now cost £1,500 per gun.

Mr. A. concluded that it was not wonderful that men who had been opposed to every valuable measure which had been brought forward since the existence of the Government, should also be opposed to this.

Mr. Brooks said, he should vote for this bill, because he believed a naval force must sooner or later be the real defence of this country; because, if he were not in favor of a Naval Establishment, the frigates being so nearly completed, he should wish to complete them; and, because, upon a review of our situation, he could not think we were free from danger in respect to our foreign relations, and that though three frigates would not be an ample defence, they would be better than none.

Mr. Giles wished to make a remark or two upon what had fallen from the gentleman from Connecticut, though he by no means meant to follow him through all his ravings; he had charged this bill with being a violation of the Constitution, yet, in the next breath, said he should vote for it. He would remind that gentleman of his qualification oath, wherein he had sworn to support the Constitution. And were that man to be proclaimed a protector of the liberties of his country, exclaimed Mr. G., who shall first declare a measure to be unconstitutional, and still vote for it? The idea seemed absurd. Mr. G. defended what he had before said about all navies being supported, more or less, by means of impressment.

Mr. Nicholas had always been of opinion, that the expense of these frigates was a useless expense; he did not believe a case could happen, except within our own jurisdiction, where these vessels could be of advantage to us; but notwithstanding this was his opinion, he should vote for the passing of this bill, because he saw the sentiments of that House and the public were strongly in its favor, from a persuasion that the measure was necessary, and that the thing would be a continual topic of dispute until it was carried into effect.

He was willing, therefore, to let the vessels go to sea, believing that nothing short of actual experience would convince the supporters of this measure that it was useless, expensive, and injurious; and hoping that by one year's experience of the plaything, finding that money was of greater value than the frigates, all parties would concur in relinquishing it.

Mr. Sewall said, that the arguments which had been used against this bill for the protection of the trade of the United States, went to show that commerce was useless, and that the protection

of it would be expensive beyond any profit which could be derived from it; and some who voted for the passing of the bill, did it from the professed motive of giving the thing a trial, that it might afterwards be abandoned. Gentlemen who depended upon agriculture for every thing, he said, need not put themselves to the expense of protecting the commerce of the country; commerce was able to protect itself, if they would only suffer it to do so. Let those States which live by commerce be separated by the Confederacy. [Mr. Varnum wished to know whether this was in order.] Mr. S. went on. He had in his eye people who lived by commerce, and he could not understand that they lived by the mere good will of the Union. Let them, said he, be abandoned, but let it be done before they are reduced to poverty and wretchedness. Their collected industry and property were equal to their own protection, and let other parts of the Confederacy take care of themselves.

Mr. Macon thought the gentleman had better lay a resolution on the table to produce the effect he wished. This was such language as he had never before heard in that House.

The Speaker declared the gentleman had been wholly out of order.

Mr. Gallatin rose to observe, upon what had fallen from the gentleman from Massachusetts, when the Speaker interrupted him, saying, that all remarks upon what had fallen from that gentleman, would be equally out of order. Upon Mr. G.'s observing, he did not mean to say any thing upon the subject of a separation, he was suffered to proceed.

He said his opposition to this bill did not arise from a disinclination to protect commerce; he looked upon the interests of agriculture and commerce as intimately connected; but it was because he believed these frigates would not afford that protection which was expected from them.

The question was then taken on the passing of the bill, and decided in the affirmative—yeas 78, nays 25, as follows:

Yeas—John Allen, George Baer, jr., Theophilus Bradbury, David Brooks, Nathan Bryan, Demsey Burges, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, Thomas T. Davis, John Dennis, George Dent, George Ege, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Nathaniel Freeman, jr., James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Matthew Lyon, James Machir, William Matthews, John Milledge, Daniel Morgan, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, Richard Sprigg, jr., John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, John Dawson, Albert Gallatin, William B. Giles, Andrew Gregg, Jonathan N. Havens, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, of Pinckney District, Richard Stanford, Thomas Sumter, Joseph B. Varnum, and Abraham Venable.

The title was altered from "An act for the protection of the trade of the United States," to "An act providing a Naval Armament."

ADDITIONAL APPROPRIATIONS.

A communication from the Secretary of the Treasury was read. It calls for sundry additional appropriations to the amount of $559,572. It was referred to the Committee of Ways and Means, and ordered to be printed.

LAYING AN EMBARGO.

Mr. W. Smith said, in the year 1794, when this country had a misunderstanding with Great Britain, it was thought proper to invest the President with power to lay an embargo, if necessary, during the recess of Congress. He proposed to trust him with a similar power at present, and, for that purpose, proposed the following resolution:

"*Resolved*, That a committee be appointed to prepare and report a bill empowering the President of the United States to lay and revoke embargoes during the recess of Congress."

Ordered, To lie upon the table.

DUTIES ON WINES AND SPIRITS.

The House went into a Committee of the Whole on the bill for laying licenses upon retailers of foreign wines and spirits. The bill underwent some discussion as to the propriety of making the price of licenses the same to large and small venders, and as to the amount to be charged upon the licenses for retailing the different descriptions of wine.

The difference between the present bill and that now proposed, is, that by that now in force, one license is only taken for selling all sorts of wine and spirits; whereas, by the new bill, a separate license is to be taken out for every kind of foreign wine and spirits sold.

The committee rose, and had leave to sit again.

Monday, June 26.

Lewis R. Morris, from Vermont, and Lemuel Benton, from South Carolina, appeared, produced their credentials, were qualified, and took their seats.

DUTIES ON WINES AND SPIRITS.

The House resolved itself into a Committee of the Whole on the bill for laying a duty on licenses for selling foreign wines and spirits by retail. After some amendments of little importance, except a section to limit the duration of the act till the year 1801 may be considered as important, (on which

question some debate took place,) the committee rose and reported the bill with the amendments.

The House took up the amendments, when the amendment agreed to in the Committee of the Whole, to reduce the allowance to the collectors of the duties from five to two and a-half per cent., (the compensation made by the present law,) was negatived by the vote of the Speaker, there being 41 for it, and 41 against it.

The clause limiting the act to the year 1801 was carried, 41 to 38.

A proposition was renewed by Mr. Otis, which had been made by the Speaker in Committee of the Whole, to confine the licenses to four, instead of having one for each kind of wine and spirits, viz: one for all kinds of white wine, another for all kinds of red; one for foreign spirits distilled from the grape, and one for every other kind of foreign spirits. That for wine was negatived, 44 to 34; that for spirits, 42 to 37.

The bill was ordered to be engrossed.

SUNDRY BILLS.

A message was received from the Senate refusing a conference on the law fixing the next meeting of Congress in November.

The bill for continuing in force several acts about expiring, was read a first and second time, and ordered to be engrossed and read a third time to-morrow.

Mr. Varnum moved that the Members should make out their accounts, respectively, of the days they attended Congress, and of the days they were prevented by sickness; also of the distance to their respective homes. Laid on the table.

THE STAMP DUTY.

The House went into a Committee of the Whole on the bill for laying duties on stamped vellum, parchment, and paper; when, the first section being under consideration,

Mr. Kittera moved to add, "any certificates of naturalization —— dollars," as he thought foreigners, who were admitted to all the rights of citizens under this Government, could not be against paying a small tax on their admission to this right.

Mr. Macon thought this tax would fall very heavy upon persons who came into this country to live by their labor—many of whom were not able to pay their passage, but were indented by those who brought them for a number of years; and who, if this tax were paid, would have so much longer to serve.

Mr. Brooks did not see this objection, as such persons might labor all their lives without becoming naturalized.

Mr. Gordon said, that by the naturalization act, no foreigner could be admitted to the rights of a citizen until he had been five years in the country, and therefore the objections of the gentleman from North Carolina could not have any weight.

The amendment was carried.

Mr. Swanwick moved to strike out five dollars, and insert ten, for licenses to practise as a counsellor, attorney, &c. He thought, if these gentlemen were taxed at all, ten dollars would be as low a sum as they could well fix upon for the purpose.

Mr. Varnum thought the tax should be much higher, if imposed at all. He spoke of the high tax laid upon the professors of the law in Massachusetts.

The amendment was carried, there being 53 in favor of it.

Mr. Cochran wished the tax to extend to lawyers who practised in the State Courts, as well as to those who practised in the Courts of the United States.

Mr. Nicholas objected to this proposition. The lawyers, in some of the States, were already very highly taxed; besides, he doubted the right of the United States to tax the lawyers of the State Courts, as they were necessary in the State Governments.

Mr. Swanwick did not expect any objection could have been made to a tax so reasonable, especially when the bill proposed to tax merchants so heavily; they would not be able to turn themselves without a stamp, and surely the lucrative profession of the law could not think much of paying this low tax. It was said, indeed, that the merchant did not ultimately pay the duty, but the consumer; and he doubted not the lawyers would not fail to find out a way of making their clients pay the duty.

Mr. Dennis objected to this tax on the same ground with the gentleman from Virginia. If a tax of this kind, he said, were laid upon the lawyers of the State Courts, it might be extended to any other officer of the Government, and thereby annihilate the State Governments.

Mr. Livingston was in favor of the amendment, because he thought the State lawyers a fair object of taxation. He denied that it would be unconstitutional, or that it would operate hardly upon a particular class of men. It was not laid upon any particular class; but upon an instrument which, indeed, to exercise their professions, lawyers would be obliged to have; but it might as well be said that the tax upon rum and sugar would fall heavily upon the sellers of those articles, and that therefore no rum or sugar would be sold. The one tax fell upon the consumer, and the other upon the client. In the State of New York, Mr. L. said, the lawyers were not taxed at all.

Mr. McDowell said, when he seconded the motion for striking out "five" for the purpose of inserting "ten," he did not intend the tax to be extended to the practices in State Courts; nor did he think the Constitution would warrant such an extension of it.

Mr. Sitgreaves was in favor of the amendment; he wished to fix the principle. He thought that the State lawyers were a fair object of taxation, and that the profits of their business would very well bear it. But there was reason for making a distinction between the two cases. He thought there would be a hardship in extending the tax to practisers in county courts, as that would cause it to fall in some places very heavily. For instance, in Pennsylvania, there must be a separate admission into every court of every county; so that one man would probably have to pay

to the amount of from two to three hundred dollars on account of this tax. He hoped the motion would be postponed for the present, and modified. He would do it himself, if time were given.

The motion was withdrawn.

Mr. Sitgreaves said, he understood that deeds for the conveyance of lands would have been amongst the articles taxed. He thought such a tax would be an eligible one, and in order to learn what were the objections to it, he proposed to add to the bill, "any deed for the conveyance of real estate —— dollars."

Mr. R. Williams said, this proposition had been rejected in the Committee of Ways and Means, on the ground that such a tax would clash with the jurisdiction of the States. He had the same objection to this that he should have to laying a tax upon the State lawyers. To say a deed, which was legal by the laws of a State, could not be received in evidence, except it was stamped, would be tantamount to the repealing of a State law.

Mr. W. Smith said, this subject had been frequently under discussion, both in the Committee of Ways and Means, and in that House. On this occasion, the majority of the Committee of Ways and Means was against laying a tax on deeds. He was in the minority. There was a provision, Mr. S. said, which declared that no paper upon which a duty was imposed by this act should be admitted in evidence; but there was afterwards a clause which allowed them to be admitted, on payment of ten dollars over and above the duty thereupon payable. He thought the tax would be a very good and a very profitable one.

Mr. Coit thought this was a tax which should be gone into with great caution, since, if it were carried, it might be the means of losing the whole bill. He thought the bill would be better passed without this provision; and if it were found expedient, it might be added hereafter.

Mr. Giles was opposed to this amendment, as interfering with the Governments of the several States. All lands (except such as had been sold by the United States) were held from the States; and if this tax were to be agreed to, he believed the State Courts would not refuse to admit a deed in evidence which was not stamped. Nothing would give so much alarm to the States as a subject of this sort.

Mr. Sewall did not understand the distinction made between titles to land, and titles to money. He thought the objection made to a tax on a deed, might be made with equal propriety to a tax on a bond or a note. If they had a right to say these should not be received in evidence in a State Court, unless they were stamped, they had a right to say the same with respect to a deed. Except it could be shown that the farmer was less able to pay than the merchant, he thought no other objection had any weight.

Mr. R. Williams thought there was a great difference between a note of hand and a deed. The State had nothing to do with the former, but much with the latter; since every State held grants of its lands, and a man must show his title from the original grant, before his title could be said to be a good one. He did not doubt the people being able to pay the tax; it was the principle which he contended against, which, if carried into effect, would cause a clashing of the authorities of the two Governments. If the United States could lay a tax of this sort, they might lay a tax upon every commission issued by a State.

Mr. Nicholas did not see the smallest difference between the two cases which had been stated. And when they came to the 13th section, he should endeavor to prove that to say a piece of paper should not be received in evidence in a court, which was lawful to be received by the laws of the State, would be a violation of State sovereignty. He was not of opinion, with the gentleman from Connecticut, that they should take up the subject partially, rather than not pass the bill. He thought it best to consider a tax upon its broadest basis. It was not fair to exclude anything which stood upon the same ground. He wished the principle to be thus fairy tested. He should, therefore, vote for the tax on deeds.

Mr. Lyon hoped, that if this tax was agreed to, purchases of a small amount would be excluded.

Mr. Swanwick said there would doubtless be a difference made in the duty between large and small purchases. He also disagreed with the gentleman from Connecticut. The principle, he said, was either right or not; if it were right, it should be made general; if not, it ought not to be adopted.

The question was put, and negatived, 47 to 32.

On motion, the committee rose, and had leave to sit again.

PROTECTION OF TRADE.

A message from the Senate was received, informing that they had concurred in some of the amendments, and rejected others made by this House to the bill for the protection of the trade of the United States. It appears that they have nonconcurred in all the amendments which went to prohibit the purchase of twenty-gun ships, and restraining the frigates from being employed as convoys.

Tuesday, June 27.

DUTIES ON WINES AND SPIRITS.

The bill for laying licenses upon the retailers of foreign wine and spirits was read the third time, when—

Mr. Reed moved to recommit the bill, in order to reduce the sums to be paid for the licenses.

Mr. Varnum called for the yeas and nays upon its passage.

Mr. Skinner considered the bill as laying a tax upon the lower order of the people, to the exclusion of the rich. This was, in some degree, the case under the former bill, but much more so under this. It would destroy the business of thousands of individuals, as he doubted not one-half of the present retailers would decline the trade. He did not think the *seven* licenses would be so productive as the *one* was. It was a tax upon an occupation, and bore very unequally; since men who retailed an hundred hogsheads a year would pay no more for their

licenses than he who retailed but one. The price of the license, therefore, could not be added to the price of the article. If the duty were to be laid at so much a gallon, whether persons sold little or much, they would be upon the same footing. If one license had been directed to be taken out at the price of the whole seven, he believed it would have been more productive. He cited the example of Massachusetts to prove this. Considering the bill, therefore, as he did, to be oppressive, and that the situation of the country did not require it, he should vote against the passage of the bill.

The yeas and nays upon its passage were then taken, and stood—yeas 56, nays 27, as follows:

YEAS—John Allen, Thomas Blount, Theophilus Bradbury, David Brooks, John Chapman, Matthew Clay, James Cochran, Joshua Coit, James Davenport, John Dawson, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, John Milledge, Daniel Morgan, Lewis R. Morris, John Nicholas, Josiah Parker, Elisha R. Potter, John Rutledge, jr., Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, William Smith, of Pinckney District, Richard Stanford, Thomas Sumter, John Swanwick, George Thatcher, Richard Thomas, Abram Trigg, John Trigg, John E. Van Alen, Peleg Wadsworth, and Robert Williams.

NAYS—George Baer, jr., David Bard, Lemuel Benton, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, William Craik, Thomas T. Davis, Lucas Elmendorph, Nathaniel Freeman, jr., Jonathan N. Havens, Edward Livingston, Matthew Locke, Matthew Lyon, Blair McClenachan, Joseph McDowell, Anthony New, Harrison G. Otis, John Reed, Tompson J. Skinner, Richard Sprigg, jr., Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and John Williams.

The bill to continue in force the acts and sections of acts therein mentioned, was read the third time and passed.

The bill for appointing agents to carry into effect the 6th article of the British Treaty was received from the Senate, with amendments. They were, to strike out the Attorney General from the different parts of it, so as to make the agents appointed independent of him. They were taken up and disagreed to.

PROTECTION OF TRADE.

The bill yesterday received from the Senate for a Naval Armament, with their disagreement to all the amendments of any importance, was taken up, when—

Mr. NEW said he wished to get rid of this bill, and therefore moved that it be postponed till the first Monday in November.

Mr. W. SMITH did not expect that, after so much time had been spent upon this important bill, a measure of this kind would have been proposed. He called for the yeas and nays upon it.

Mr. NICHOLAS hoped they should go on to consider the amendments.

The question on postponing the consideration was taken, and decided—yeas 29, nays 61, as follows:

YEAS—David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, Andrew Gregg, Jonathan N. Havens, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, Wm. Smith, of Pinckney District, Richard Stanford, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

NAYS—John Allen, George Baer, jr., Abraham Baldwin, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, James Davenport, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, John Nicholas, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, Richard Sprigg, jr., John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Abraham Trigg, John Trigg, John E. Van Alen, Peleg Wadsworth, John Williams, and Robert Williams.

The amendments were then taken up, and the first being under consideration, viz: that prohibiting the frigates from being used as convoys—

Mr. W. SMITH moved to recede from this amendment. The motion was negatived—48 to 46.

Mr. NICHOLAS then moved to adhere.

This motion occasioned some debate, on the ground of propriety; as it appears the usual mode is, in such cases, for the House to insist; after which, a conference takes place: whereas an adherence precludes conference, as the Senate must then either recede, or the bill is lost.

The question was taken on adhering, by yeas and nays—46 to 50, as follows:

YEAS—David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Nathaniel Freeman, Jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

NAYS—John Allen, George Baer, jr., Abraham Baldwin, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel

W. Dana, James Davenport, John Dennis, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, John Williams, and Robert Williams.

The striking out of the eighth and ninth sections, which related to the providing of nine vessels of twenty guns each, came next under consideration.

Mr. W. SMITH hoped they should recede from this amendment, as circumstances might arise during the recess, which might require these vessels before the frigates could be got ready. There was a bill for providing galleys, but he was doubtful whether it would pass. He wished power, therefore, to be given to the President to equip these vessels. He believed merchant vessels might be purchased for the purpose, and that they would be necessary for the protection of our bays and rivers.

The motion was put and negatived; and motions to recede from all the other amendments shared the same fate.

A committee of three was appointed to confer with the Senate on the subject of their difference.

DUTIES ON STAMPS.

The House resolved itself into a Committee of the Whole on the bill laying duties on stamped vellum, parchment, and paper, when

Mr. NICHOLAS moved to strike out the clause exempting bank notes from duty, as he could see no reason why notes upon which a profit was made, should be exempted from duty more than others. He trusted all notes would be placed on the same footing.

Mr. W. SMITH hoped gentlemen did not mean, by moving to strike out this exemption, to destroy the bill. He thought the observation of the gentleman from Connecticut yesterday, against embarrassing the bill by doubtful objects, had weight. On this ground, though he was before of opinion deeds ought to have been inserted, he did not vote for inserting them. He trusted the gentleman had not fully considered the subject, and that when he did so, he would not persist in his motion.

Mr. NICHOLAS believed if the favorite object of every gentleman were to be exempted, there would be nothing left upon which to lay a tax. If to oppose this, were to defeat the bill, he meant to defeat it; as he wished the tax to go to all objects of the same kind. He had no idea of favoring one interest at the expense of another; he hoped, therefore, his amendment would be agreed to.

Mr. LYON expected the gentleman from South Carolina was about to have given some reasons why bank notes ought not to be taxed as well as others; but he was disappointed. He believed those who issued these notes got a good profit from them, and that it was, therefore, reasonable they should pay their proportion towards the support of Government.

Mr. W. SMITH thought the tax an improper one. Banks were taxed in another part of the bill, on the transfer of their shares. A tax on bank notes, he said, would introduce a vast deal of confusion throughout the country. As for himself he did not care any thing about it; but he believed, if it were agreed to, it would produce so many objections against the bill as to prevent its passing.

Mr. BROOKS was against stamping bank notes, as they were not stamped in any country whatever. Indeed they were different from other notes, as they were the representatives of specie; they might, therefore, as well stamp dollars or guineas. In short, the subject was too important and intricate to be gone into at this late period of the session.

Mr. VENABLE said, in proportion as the tax was general, it would be just. What was the object of the bill? It was to tax that right which an individual possesses in society, of transferring his property, and the evidences of it; it was also to tax him for the right he had of using his credit. Though the argument of the gentleman last up might appear specious, that a bank note was the representative of specie, it was not very solid; it was the representative of the credit of the bank, and circulated for its interest. An individual, if he had sufficient credit, might issue notes as well as a corporation; and, in that case, his notes would be charged with the duty, whilst those of a corporation would not. From whence, said Mr. V., is this reasoning drawn? It was drawn from the doctrine of favoritism—it was meant to favor the moneyed interest, which was already sufficiently encouraged by their incorporation. There seemed to be no objection to the principle; but merely to the convenience of the thing. If it could be shown that the tax would materially operate upon the circulation of bank notes, so as to injure the operation of money transactions, it might have some weight with him; but it was none, to say this bill must pass, and therefore let us avoid any thing in which there may be any difficulty. Such assertions went only to this, where you can tax the property of an individual, do it; but do not meddle with corporations, as this would be attended with some difficulty. He wished, if the bill passed, that it should operate equally.

Mr. COIT wished the gentleman from Virginia would withdraw his motion, until he took the sense of the committee upon one which he proposed to make, and which was calculated, if agreed to, to supersede the one he had made. He would state what it was. It was his opinion that small notes should be exempted from duty. He should propose, therefore, that there should be charged on all notes exceeding fifty dollars and not exceeding one hundred dollars, ten cents, and that all of less value should go free.

After a few remarks upon this motion, in which it was observed that it would defeat the bill entirely, as it would only be to make so many more

notes at fifty dollars, if the sum were larger, Mr. Corr consented that the fifty should be struck out and left blank; when the question was taken and negatived, there being only twenty-five votes for it.

Mr. Nicholas renewed his motion.

Mr. Sitgreaves hoped it would not prevail. It had been admitted that if it could be proved that the stamping of bank notes would embarrass their circulation, it would be a good objection to the tax. He believed he could easily show that it would not only impede their circulation, but depreciate their value. The tax would not certainly be made to operate upon notes already issued, but upon those issued after the act took place; so that it would be necessary that every citizen throughout the United States should be acquainted with the date of their law, which would do away all confidence in bank paper. The result of this uncertainty would be that the banks would have to call in all their outstanding notes, which would cause an immediate depreciation of their value. He trusted, therefore, that so objectionable a measure would not be entered upon.

Mr. Gallatin said he had had his doubts with respect to the propriety of stamping bank notes; he was not sure whether it might not have a dangerous effect on their circulation. On a further consideration of the subject, however, all his doubts had vanished. He now thought this amendment essential, just, and right. Indeed, when they proposed to lay a stamp duty upon all bills and notes, there appeared to be no good reason why the notes of any incorporation whatever should be excepted. He had heard only one objection; which was, that these notes differed essentially from others, because they were the real representatives of specie kept in the bank from whence they were issued. He could not see the distinction endeavored to be drawn. Private notes were always given for some consideration, whether for cash or other property, was of no consequence to them. Indeed, if they turned their attention to the nature of bank notes, they would be found to be a very fair object of taxation.

Where an individual gave his note, it was not likely that he would derive any profit from it; many of such notes were what was called "accommodation notes;" all were acknowledgments of debt, and therefore no proof of wealth; but bank notes were never issued except to produce a profit to the bank, therefore, to exempt them from duty, would be to exempt those which were best entitled to pay.

The only objection would be, any inconvenience which might take place to counterbalance the benefit to be derived from the tax. It had been supposed that a depreciation would take place in the value of the notes in consequence of this tax. In order to show that this was not probable, he supposed the tax would be laid.

Bank notes were issued and reissued; but when an individual gave a note, after it was paid, there was an end of it. Bank notes might be issued twenty times, or oftener; it was necessary, therefore, to tax them in a different way from other notes. He supposed the same provision might be adopted here as was adopted in England. They might be allowed to be issued for a certain number of years—say three. This would remedy every kind of inconvenience arising from reissuing. As to notes now in circulation, the way to prevent inconvenience would be to fix the time after which all notes should be renewed by stamped notes. The consequence would be, that all notes would, by degrees, be returned to the bank, and no difficulty would arise from doing so. Six or nine months might be allowed for this purpose. This was the way in which all the banks in England, except the Bank of England, were subject to the stamp duty; that bank, he believed, had paid a certain sum to be excused from the tax. Perhaps the same privilege might be allowed here.

In laying this tax, Mr. G. said, they should not tax the money transactions of banks equal to those of individuals. There were deposites made in banks for which no notes were issued, but which were merely entered upon the bank books. They discounted not only with those deposites, but with their notes, which was the reason why they made dividends of nine and ten per cent. The amount of deposites in the bank books was generally larger than the amount of notes in circulation. It was so with all the banks in Philadelphia, except it might be the Bank of the United States.

By laying a stamp duty, therefore, upon bank notes, they did not lay a tax upon all the money transactions of a bank; he believed not more than upon one third, or at most not more than one half of what they traded upon beyond their capital; for a bank he said did not touch its capital in any other way than in discounts. Their notes were issued upon the deposites from individuals; it would therefore be highly unjust to except these notes from the proposed duty.

As to what had been said about a duty being laid upon transfer of bank shares, that had nothing to do with the present question.

Mr. Nicholas noticed what had fallen from the gentleman from Pennsylvania on the subject of depreciation, and showed by the regulations under which the tax would be paid, that it could not take place.

Mr. Rutledge thought bank notes a proper object of taxation, and had not heard one good reason why they should be exempted from the proposed duty. The argument of his colleague (Mr. Smith,) that bank notes now in circulation would be affected, and their currency checked, he would answer, by observing that the duty could not operate upon notes now in circulation; it was not proposed to have them called in, but to have those stamped which shall be issued after a certain day. He did not think the weight and importance which generally attach to the observations of the gentleman from Pennsylvania (Mr. Sitgreaves) attach to those now offered by him. With respect to the circulation of bank notes being embarrassed by the necessity there would be for the people at large being acquainted with the date of the law, the objection would apply to private as well as bank notes. The people throughout the country must in-

form themselves, and the most ignorant will inform themselves of the date of the act; and, whenever a bank note or a private note shall be offered to them, they will always inquire if it was issued subsequent or previous to a certain day. The gentleman from New York (Mr. Brooks) was certainly incorrect in saying that "bank paper was not stamped in any country whatever." In Great Britain, Mr. R. said, the paper of all private banks is stamped; that of the Bank of England has been exempted from the stamp duty, by the bank having paid the Government a sum, in gross, by way of commutation. Although the moneyed interest has always been well and largely represented in England, yet bank notes are taxed there, and the circulation of them has not been embarrassed by this duty; on the contrary, the system of banking has been wonderfully extended throughout that kingdom. In every part of it bank notes are current; every town and village has its banks; they are as universal as their churches. Mr. R. asked, where would be the propriety of taxing notes issued by fifty individuals in their individual capacity, and exempting those issued by them when they associated, called themselves a Banking Company, and issued notes to three times the amount of their capital? The measure seemed to him unwise, and he was sure it would be unpopular. He could not conceive why people who had no other property than stock, which, in many instances, yielded an interest of fifteen per cent., should not contribute to the support of Government. A vast proportion of stockholders are foreigners, persons who do not contribute in any way to the support of Government, not even by personal services. He never would consent to exempt them from taxation, when we were burdening the active enterprising merchant and the industrious and hard-working farmer. He could not believe that a small duty laid on bank notes would embarrass the circulation of them, but he was persuaded it would prove an abundant source of revenue.

Mr. Swanwick. The greatest objection which the banks in England seemed to have to the tax, was, that it might ascertain the quantity of notes they had in circulation. In order to prevent this, the Bank of England commuted with Government for a certain sum; but the notes of all the private banks were stamped. He thought it reasonable that this kind of notes should be stamped as well as others, though he would have the tax low; for he saw no reason why merchants should pay, and bankers be excused from the duty, since great emolument was derived from these notes, by the consent of the community, and the community, in return, had a right to expect assistance from the banks.

Mr. W. Smith believed, if an original proposition had been brought forward to tax bank notes, it would have been thought a very serious thing, and they should have paused before they consented to the proposition. Gentlemen who advocated this proposition, allowed it would require many provisions to carry it into effect. What those provisions were he could not pretend to say. He thought bank notes had been too much confounded with notes of individuals, and they were quite different things. Those of individuals were mostly larger, the greatest part of bank notes were for five dollars. Notes of individuals, if not stamped, could not be received in evidence; but he did not know what must be the penalty on bank notes being issued without stamp. Besides, he said, to lay a duty upon the notes issued by the Bank of the United States would be a violation of its charter, for, by that charter, it was said, the notes of that bank should be received at the custom-house in payment of duties. It had been said a commutation might be allowed, but that would be equally contrary to the charter; besides, if such a thing were to be done, he did not know who could do it; it would not be the proper business of the President, and that House would have difficulty in saying what would be a proper sum to be paid for the purpose. He again feared the introduction of this principle would destroy the bill.

Mr. Corr did not think it was quite so clear a thing as some gentlemen seemed to think it, that bank notes ought to be stamped. He did not believe the analogy between the bank and private notes was so strong as had been represented. If the facts were as represented, that every bank note was to be considered as producing a profit to the banker, there would be good ground for the tax; but he was of opinion this was not the case. For instance, if the bank gave their note for one hundred dollars, it was equal evidence with the note of an individual, that they had received the value of one hundred dollars. But if they went further, it would be found the analogy did not hold. The note of the individual was at a certain date, but that of the banker was on demand; and they were every day liable to be called upon for the money of which the note was the representative; so that they were obliged to keep the money, or money at least to a great amount, ready to take up their notes whenever presented. Banks could not, therefore, be considered as receiving a profit on all the notes they issued; but only upon the difference between the amount of notes issued, and the cash they are obliged to keep by them to answer their demands. The analogy, therefore, did not hold; and, if bank notes were taxed, it must be upon a different principle from that on which the notes of individuals are taxed.

Mr. Potter was in favor of the amendment, and he trusted that gentlemen who were always ready to go into every species of expense, would not flinch when the object was to raise money. He had this morning voted for a bill laying additional tax on licenses, which he believed would be found in some degree oppressive, but he did it because he knew revenue was wanted. He hoped the gentleman from South Carolina would, on this occasion, concur in the proposed tax. He doubted not unexceptionable means might be devised for collecting it; if not, it might be given up.

Mr. Harper was against the amendment, not because he was satisfied bank notes were not a proper object of taxation, but because he did not wish to embarrass the bill with a subject which they had not time to consider.

Mr. Swanwick again spoke in favor of the tax.

Mr. Otis was against the amendment; not because he thought such a tax would be improper, but from the difficulties which would attend the carrying it into effect. Besides, he said, if the notes were to revert to the bank every two or three years, it would cause a run upon them for cash, instead of renewed notes, which might be very inconvenient.

Mr. Venable did not think the run upon the bank which the gentleman had mentioned could take place, as the notes would have to be renewed three years from the time issued, and all their notes would not be issued on one day. Mr. V. again insisted that this tax should be general; and if they had not time to make it so, it ought to be put off till they had. Not to include bankers would be to lay a tax upon the people whose complaints of its hardships could not be heard. He deprecated this as unjust.

Mr. Harper could not conceive that the great body of merchants and farmers throughout the United States were people who could not make their complaints heard, if they had them to make. The proprietors of banks, Mr. H. said, already paid taxes in a variety of shapes; many of them were merchants, and would, of course, pay the tax imposed on the notes of individuals.

Mr. Brooks was against going into a tax on bank notes at present, but denied that there would be any cause of complaint from the people on account of the taxes imposed by this bill. He wished to make a beginning with a stamp tax at present; it might not be completed these seven years. Gentlemen might as well go on and propose a tax on newspapers, which, whatever might be said against it, he believed might be laid without infringing the liberty of the press; but a thing of this kind would require a great deal of detail.

Mr. Claiborne was in favor of including bank notes; not to do this, he said, would be to catch *small fish*, and let the *large ones* pass.

Mr. Gallatin said that the provisions for laying this tax would be by no means difficult. Indeed, three-fourths of the bill was copied from the British statute, and that part respecting bank notes could be as easy copied as any other part. The observations respecting the charter of the Bank of the United States, were not deserving of a reply. There was only one of two things which could be done, either to tax bank notes, or to excuse all other notes from the tax.

Mr. Sitgreaves could not submit to hear that it was the intention of those who opposed this motion, to screen the moneyed interest of this country from paying a tax. He had no such views. He had no objection to tax the banks in proportion to the amount of their business; but he could not agree to its being done in this way. If gentlemen would estimate how much the stamp duty of a bank would produce to the United States, he would vote for a sum of this kind, by way of commutation. Charges could rarely be made against the side of the House with whom he generally acted, for not being willing to vote for revenue; a contrary charge was more frequently made. He trusted the amendment would not be agreed to; but that if the tax were laid, it would be by way of commutation.

The question was taken and carried, there being fifty-five votes in favor of it.

The committee rose and had leave to sit again.

The resolution respecting an adjournment was received from the Senate, and disagreed to. The disagreement being read, Mr. Giles moved the same resolution filled with Monday next; but Mr. Williams opposed it, and moved to adjourn.

Wednesday, June 28.

DUTIES ON STAMPS.

The House went into a Committee of the Whole, on the bill for laying duties on stamped vellum, parchment, and paper, Mr. Dent in the Chair; when, a duty on debentures being under consideration,

Mr. J. Williams observed that the duty on debentures was to be only one dollar, without discrimination. This he did not think right; there was only one per cent. paid on drawbacks, which was a loss to Government; so far as it respected the drawback on ad valorem duties there was no loss, but as it respected articles weighed, measured, or guaged, there was a loss to Government. As the time of the present session would not admit of an alteration in the present system of drawbacks, he would not bring it forward; but would do it at the next session, in which he was persuaded there might be a saving to our revenue of $300,000, and do every justice to all concerned. At present, he would content himself by augmenting the duties proposed by the bill. He therefore made the following motion, viz: for a debenture under $500, one dollar; for a debenture for $500, and under $2,000, two dollars; and for a debenture for $2,000 and upwards, three dollars.

This motion was opposed by Messrs. W. Smith and Coit, and supported by Mr. Swanwick. It was carried, 54 votes being in favor of it.

Mr. Lyon moved to strike out the exception respecting bonds or notes payable at or within sixty days, paying only two-fifths of the duty imposed on other bonds and notes.

Mr. Swanwick hoped this amendment would not prevail. The large cities, he said, had a large circulation in notes of this description, and if this exception were struck out, the law would fall too heavy on them. He thought the committee had done well in making the provision reported: he thought it was fair and equitable.

Mr. Lyon saw no reason why these notes should be favored more than others. He knew a stamp tax would go out with a bad name; if, however, it was made general, so that it might be productive, and bear equally upon all classes of men, he was willing to bear his part of the responsibility of the law.

Mr. R. Williams said, it was very difficult to introduce anything as an object of taxation which would not bear hard upon somebody. If this exception was not struck out, he said, the duty would be evaded in the country, as notes there

were given on demand, though a long credit was taken.

Mr. Venable did not think the exception would produce the effect supposed in the country. The provision was intended to favor *accommodation notes*, which were often renewed. He hoped it would stand.

Mr. J. Williams thought this motion deserved attention. He himself was in the habit of lending money, as were most men of property in the country, (for which, though, he never received more than legal interest,) on notes, which were always payable on demand. He believed, therefore, that if this exception stood, it would defeat the tax.

Mr. Blount said, this provision was intended to apply to city transactions; and he thought merchants in large cities, who had the advantages which banks gave them, could very well afford to pay it; as a person there, though of far inferior property, could raise one thousand dollars sooner than a merchant in the country, who was not near any such institution, could raise one hundred. It was true, that this tax would produce a large sum of money; but he thought, nevertheless, it would be a just tax.

Mr. Potter was opposed to the motion.

Mr. W. Smith said, as the bill now stood, the tax would fall pretty heavily on commercial men; as not only notes, but policies of insurance, debentures, &c., were taxed. He was of opinion they would, if the exception stood, pay four-fifths of the whole duty; but, if the provision was struck out, the law would operate very heavily upon a class of men who at present paid almost the whole of our revenue. In order to make their custom-house payments, they were obliged to renew their notes every sixty days, and it would bear very oppressively upon them, if they were for every renewal to pay a fresh tax. The gentleman from North Carolina had said, that merchants in cities could obtain money easier than merchants in the country could; but the gentleman should also recollect that they were at much greater expense in living.

Mr. Blount allowed that the merchants in large cities were the collectors of a great part of our present revenue, as they would also be under the proposed law; but he denied that they ultimately paid it. Mr. B. again spoke of the advantage which they possessed in being able to raise money by accommodation notes to pay duties, or for any other purpose. He was himself a merchant; but, having no bank near him, if he wanted a sum of money for a payment, he would be obliged to sacrifice property to raise it; whereas, a merchant in the city, who has any credit, (no matter what his property may be,) has only to draw one of these notes to raise it. He therefore thought that this description of persons, and this paper, could better afford to pay a tax than any other.

Mr. Otis believed, if gentlemen wished to destroy the bill, they could not take a more effectual way to do it. He was sure that many of the friends of the bill could not vote for it, if this exception was struck out. These notes, he said, were circulated in the place of money, and a tax upon them would be the same as a tax upon money. He believed the idea of the gentleman from North Carolina of the advantages derived from banks was too highly raised. He believed every man who got money of the banks paid seven and a half per cent. for it. This tax, he said, would operate as a discouragement to negotiations at banks, and be an additional tax upon them. They would now be taxed in three different ways, viz: on a transfer of bank shares, on their notes, and by this tax, which would discourage bank negotiations.

If, indeed, it were the object of gentlemen to destroy these institutions, he thought they were taking a direct way to do it. He hoped this was not their view, but that they acted thus from mistaken views. Suppose, said he, a note was not negotiable at the bank; in that case, he was told, as high a premium as thirty per cent. was paid for cash. The case was very different in the country; if money were to be obtained at all, no more than legal interest was paid for it. As the thing related to the Bank of the United States, it was peculiarly improper. That bank had always lent money to this Government on favorable terms. Indeed, they were in the habit of gaining forty thousand dollars a year by it; and that institution had lost fifty thousand dollars in stock sold to reimburse the loan made to the United States. To take any measure, therefore, to discourage this institution would be highly impolitic and improper.

Mr. Gallatin did not well understand how the Bank of the United States came to be brought into this discussion. Although Government had derived some advantage from that institution, it had also lost a great deal. If they spoke of the stock sold, they should take into view also the six per cent. stock, sold at a loss of ten or thirteen per cent.

He said, the duty on these notes, would not fall upon the bank, but upon individuals. If, indeed, the capital of the bank was so large as to be able to answer all the demands which could be made upon it in this way, that might be the case; but that was not so. The bank would have to pay the duty upon bank notes; but upon notes offered for discount, individuals must pay the duty.

The only question was, the quantum of duty. It was said, that it was not just that notes at sixty days should pay as much duty as those drawn at nine or twelve months. It was true that notes at sixty days were renewed five or six times a year; but these notes were mostly for large sums, upon which the duty was lower in proportion than upon small sums, of which the country notes at long dates chiefly consisted. He supposed nine-tenths of the latter were under fifty dollars, and nine-tenths of the sixty-day notes above one hundred dollars, so that this consideration would operate an equality of the tax.

Mr. Harper thought this motion objectionable upon a ground which had not been stated. The object of the bill was to tax such paper as was of no use; and it was evident that four-fifths of the

notes at sixty days, were not discounted, and therefore no advantage was derived from them. Where a man offers a note for discount, and gets the cash for it, it was reasonable that he should pay the tax; but where the note was not discounted, it would not be right to pay a tax; yet if all these notes were to be stamped, this would be the case. How, then, was the difficulty to be avoided? In no other way, he believed, but by making the duty low. You must, therefore, said he, endeavor to come at the proportion of notes discounted; and he believed this did not amount to more than three-fifths of the number issued, which was the estimate made in the bill.

He supposed the gentleman from North Carolina would not say that necessity and misfortune, which were precluded from any benefit from banks, should pay a tax; but those who derived an advantage from those institutions. He hoped, therefore, this provision would be retained.

Mr. H. denied that the Bank of the United States had been the cause of loss to the Government; but that the loss alluded to had been occasioned by a scarcity of money. The bank gained nothing by that loss.

The CHAIRMAN reminded Mr. HARPER of the question.

Mr. HARPER said he knew what the question was; and would take the opportunity of saying, that if any other person besides he who was delivering them were to judge upon the propriety or impropriety of arguments, there was an end of the freedom of debate.

The CHAIRMAN again called him to order, and he sat down, with saying, he would have order observed with rigor, but with impartiality.

Mr. ALLEN wished to consider the vote of yesterday, respecting bank notes. Some conversation took place on a point of order, which ended in a motion of Mr. N. SMITH, to strike out all that respected laying a duty on bonds and notes.

Mr. VENABLE said, there seemed to to be a variety of views on this subject in the House. Some were in favor of a stamp duty, others against it; some wished to go certain lengths, which were acknowledged to be just; but gentlemen got up and said, if such and such a provision were inserted, their friends would vote against it; so, say they, let us get a little, rather than lose the bill. This, he said, was not a fair way of meeting the subject. If the bill were carried into effect at all, he wished it to operate equally upon the whole community.

This stamp-tax was known to have taken a similar course at a former time. It was said, money could not be raised in any other way; yet, because a single item is introduced which they dislike, gentlemen turn round, and are willing to vote against the whole bill. If every thing inserted in the bill be not agreeable to them, they will not agree to pass the bill. Mr. V. said, he should introduce no amendment for the purpose of destroying the bill, but he should bring forward every subject which he thought necessary to render the bill just and equal.

Mr. ALLEN would agree, and he believed his friends would also agree, to limit the duration of this bill to the end of the next session; during which, they might pass a law including all the subjects gentlemen might think it necessary to propose.

Mr. N. SMITH said, his amendment went to destroy that part of the bill which proposed to lay a tax on bonds and notes. For himself, considering a stamp duty as a novelty and experiment, he thought it better to begin it upon those matters which did not relate to all the domestic transactions of the country, that the great bulk of the people might view it as an object at a distance, not operating upon them; but, if a tax were laid upon notes, it would affect every man in the community, and the bill would be at once impolitic and unpopular; whereas, the tax might be gradually introduced, and ultimately become a very productive branch of revenue.

This was not his only reason for making this motion. He wished to close this session as soon as possible, and he foresaw that if they extended the tax to bonds and notes, and whatever might, in consequence, be introduced, they should not be able to get through the bill in a month. He wished these subjects to be deferred till next session.

There was another reason, in his mind, which had frequently been hinted at. There were gentlemen who were friendly to a stamp-tax in any shape; and there were those who were inimical to it in any shape. The latter he foresaw would introduce every objectionable article into it, in order to defeat the bill. In this, the event had shown he was not mistaken. He wished a stamp act to go out at present in as simple a form as possible, so that they might build upon it hereafter, as occasion should require. And he would undertake to predict that the gentleman from Virginia (Mr. VENABLE) who expressed so much zeal on the occasion, and many others, would not vote for it at all, whatever amendment might be introduced into it. When this were the case, those of them who wished to get the bill through in some shape, should be careful how they shackled it. If bank notes were to be taxed, there would be no chance of passing the bill.

Mr. BLOUNT supposed he was one of those whom the gentleman last up predicted would vote against the bill in any shape; but, since revenue must be had, and he knew no other way of getting it, if the bill was made general and impartial he should vote for it. The motion now before the committee would take away the most profitable part of the bill. He had, indeed, wished that this bill might not have been brought forward; he should vote for it, provided it was made to operate equally; but he was against stealing upon the people with this tax. He wished them to know at once from whence the revenue was to be drawn.

Mr. SWANWICK said, the gentleman from Connecticut seemed to wish to tax a few objects, upon which might be grafted hereafter a large revenue. There was some force in his objections, but he thought there was more in the imperious necessity under which they were called upon for revenue. In order to have lessened the objections to

the clause laying a duty upon bank notes, he meant to have moved an amendment which should have given power to the Secretary of the Treasury, under the direction of the President of the United States, to compound with the banks for an annual sum proportioned to the amount of their dividends. He believed the proprietors of those institutions themselves would have too much patriotism to object to such a proposition. He trusted, at any rate, that they should agree to pass this bill in some form; indeed, he could not see how gentlemen could return home, after passing laws incurring expense, without providing the means of paying that expense.

Gentlemen from the country having preferred a stamp tax to a land tax, though he did not like it so well, since they had gone into the business, he hoped it would pass.

Mr. GORDON was in favor of simplifying the business.

Mr. COIT spoke on the same side of the question. He said a tax was proposed in the bill introduced in 1790, and rejected.

Mr. RUTLEDGE said, if the motion to strike out notes payable at sixty days, and shorter dates, had not been suspended, he should certainly have voted for it; but as the present sweeping motion proposed striking out the whole clause, in which are included notes of every description, and all kinds of specialties, he would be precluded from voting as he had intended. He could not see the propriety of exempting from the duty bonds, bank, and other notes, and bills of exchange. In his opinion, they would prove more fruitful articles of taxation than any contained in the bill, and a small duty upon them would give much revenue without injuring credit. He should have voted for exempting notes at short dates, (provided they had not been classed with all other specialties,) because if a duty is laid upon them, it will have a very partial operation, and affect almost exclusively the most important part of the community. It would be a tax upon the merchants, whose embarrassments he was not disposed to add to. They were now staggering under the difficulties occasioned by the circumstances which had rendered necessary this extraordinary convention of Congress. With much of their capital locked up in the West Indies, and unpaid bills to the amount of seven or eight millions of dollars, which were given on the French Government by its colonial agents for property taken by them at an arbitrary valuation, our merchants were soliciting relief from the banks. The banks anticipated the return of this property by discounting their notes, and he trusted the Government would not increase the embarrassments of this much injured class of its citizens by taxing the notes they offer to the banks, four-fifths of which, as had been observed by his colleague, were not discounted. Mr. R. said, he was yesterday of opinion, that it would be politic to tax bank notes; and, although most of his friends were of a different opinion, yet everything they had said only served to fortify his, and his vote of to-day would confirm that of yesterday.

Mr. SEWALL said he yesterday voted for a duty on bank notes, and he should to-day vote for this amendment. He thought, in the present circumstances of this country, it would be impolitic to tax credit. In a general point of view, it was the case in all new countries, that they were in want of a circulating medium of exchange. This was supplied by credit. The farmer in the Spring of the year was in want of seed, for which he obtained credit till the Fall, when his crops were disposed of. This credit they were about to tax, which would fall upon the man who gets the credit, and not upon him who gave it. But, though this kind of notes were struck out, he should be for taxing bank notes, upon which a profit was made.

Mr. GILES said, if this part of the bill was struck out, they might as well do away the whole, as what would remain would only operate upon lawyers and merchants, and he did not know why they should single out them from the rest of the community for a tax. The gentleman last up said, to tax notes would be to tax credit, which was in some degree true; but he believed few farmers could get credit on their notes, who would not be as soon trusted in an open account; but if not, he did not think a quarter of a dollar could be a great object to such persons. With respect to bank notes, he thought the gentleman perfectly correct. He thought there should not be any discriminations with respect to the time at which notes were drawn, but as to the amount. If the bill were passed in the skeleton form in which some gentlemen seemed to wish it, they should hereafter always have to contend against all the interest that could be made against inserting new objects. He wished the bill, if passed at all, to be productive; if it were so by being made general, he would vote for it, but not otherwise.

Mr. POTTER was in favor of the amendment. He yesterday voted for bank notes, because notes of a different kind were taxed, but he would now vote to do away the whole. He did it for another reason, because he wished the bill to pass with only a few articles; other species of paper might afterwards be added.

After a few words between Mr. N. SMITH and Mr. GALLATIN, the motion was put and negatived—57 to 42.

Mr. ALLEN then moved that the committee rise, in order that he might move the House to adjourn the consideration of the bill till the next session of Congress.

This motion was supported by the mover, Messrs. SITGREAVES and HAVENS, and opposed by Messrs. W. SMITH, SWANWICK, RUTLEDGE, and OTIS. It was negatived, there being only 16 votes for it.

Mr. LYON then renewed his motion to strike out the exception in favor of notes at 60 days.

The question was taken, and negatived—49 to 43.

Mr. HARPER moved an amendment to exclude from duty all notes of twenty dollars and under.

Mr. HAVENS supposed this would include bank notes below that sum also.

Mr. HARPER said he had not bank notes in

view, but small notes which were given in the country, and to stamp which would be found very troublesome. It would be a question with the committee, whether they would afterwards add a clause to preclude bank notes from this exception.

Mr. Swanwick was in favor of this exception. In England all notes under forty shillings were exempted from duty. With respect to bank notes, he meant to introduce, as he had intimated, a compounding clause to include them.

The question was carried without a division.

Mr. Otis moved to add, "foreign and inland bills of exchange;" which, after some conversation, was agreed to be expressed in the words of the English statutes, and carried, there being 74 votes in its favor.

Mr. Gallatin moved that, instead of all bank certificates being ten cents, that "all under $100 should be 10 cents, and all above $100, 25 cents." After some conversation, in the course of which it appeared that the shares of the Union Bank, at Boston, were only eight dollars each, it was added, "and for every share under twenty dollars, —— cents."

Mr. Giles moved for the committee to rise.

Mr. Gallatin wished, before the committee rose, to offer two amendments, which he meant to propose on the subject of bank notes. They were, first, "every note issued by any banks now established within the United States, or which may hereafter be incorporated by lawful authority, shall be subject to the following duties, viz: all notes not exceeding $50, three cents for every five dollars; for $50 and not exceeding $100, fifty cents; for $100 and not exceeding $500, one dollar; for all above $500, two dollars." His idea was that the stamp should be permanent; it was necessary, therefore, to have a higher duty on them than on common notes.

In order to remedy the difficulty with respect to notes at present in circulation, he meant to propose an amendment to the following effect, viz: "and if any person shall, after the —— day of ——, offer in payment any note issued by any bank, &c., on unstamped paper, he shall forfeit the sum of —— dollars." He said there was already a penalty for issuing a note without a stamp, of one hundred dollars, which he believed would be sufficient. And he thought these provisions, with the commutation clause proposed by Mr. Swanwick, would be sufficient regulations with respect to bank notes. The amendments were laid on the table.

The committee rose, and had leave to sit again.

PROTECTION OF TRADE, &c.

Mr. Parker, from the committee of conference with the Senate, on the amendments to the bill providing for a Naval Armament, reported that they had come to no agreement; and

A message from the Senate informed the House that they had receded from their disagreements to all the amendments of this House, except their disagreement to the first, which forbids the use of the frigates as convoys, and that they adhered to. Also, that they had passed a bill fixing the time of the next meeting of Congress.

Mr. Giles called up his resolution proposing an adjournment of the two Houses on Monday next; but, on the motion of Mr. W. Smith, its consideration was postponed till Saturday, there being 54 votes for it.

Mr. W. Smith, from the Committee of Ways and Means, reported a bill making additional appropriations for the support of Government for the year 1797, which was twice read, and committed for to-morrow.

Mr. W. Smith informed the House, that he had a report to make from the committee to whom was referred the confidential Message of the President of the United States, which would require the galleries to be cleared. They were cleared accordingly.

Thursday, June 29.

NEXT MEETING OF CONGRESS.

A bill was received from the Senate fixing the time of the next meeting of Congress, for the first Monday in December next. The bill was twice read, and committed for to-day.

The House accordingly went into a Committee of the Whole on the subject, and, after considerable debate as to the propriety of passing any law at all, (many members believing the former act to have existence, notwithstanding this present extra session,) and on the propriety of meeting at a later day than heretofore fixed, the bill was at length passed, for meeting on the second Tuesday in November, with a clause repealing the former act. We have before stated that doubts were entertained whether the act of the 3d of March last, for fixing the next (not the next annual) meeting of Congress, was not superseded by this extra meeting of Congress. In order to avoid any misunderstanding on the subject, this law was passed, though it did not appear to be generally believed that the act was necessary, and it met with considerable opposition, on the ground, that to allow this to be the case, would give the President the power to repeal a law, and to do away the provisions of the Constitution on this subject. The bill was ordered to be engrossed for a third reading to-day.

PROTECTION OF TRADE.

Mr. Parker called up the bill from the Senate relative to providing a Naval Armament, upon which there had been a conference of the two Houses. The Senate agreed to recede from their disagreement to all the amendments of the House except the first, which prohibited the frigates from being used as convoys.

Mr. P. hoped the House would recede from the amendment, rather than risk the loss of the bill. He had before given it as his opinion that it would be wrong to shackle the bill with such a clause, as he believed the President was the proper person to direct the use of this force; but it having been feared by many, from the President's Speech at

the opening of the session, that those frigates, if left to him, would be employed as convoys, he was willing to go all the lengths he had gone; but from the change of circumstances which had taken place, he could not suppose, if nothing had been said in that House on the subject, he would now use them as convoys. The nine vessels proposed by this bill to have been fitted out were relinquished; of course no vessels could be got ready as convoys for several months, when it might probably be too late to use them.

Mr. P. went at some length into arguments to prove that these vessels, with others which might be built, would be of vast service to the United States; and had we had them long ago, he said we should have been a happy, great, and not a degraded people. He concluded by comparing our number of merchant ships with that of Great Britain, and showed with what force she protected her commerce. He did not wish this country to follow her example altogether, but he was desirous that we should have such a force to throw into the scales of one of the belligerent Powers, in time of war, as should command respect for us.

Mr. Stanford trusted the House would not recede from their amendment. He would sooner have gone into the arming of merchantmen, and all the other plans recommended by the President, than leave these vessels to be used as convoys; since he believed that, if they were not confined to the seacoast, the peace of the country would be committed to citizens who were mostly carried away by an enthusiasm no way friendly to peace. To recede from this amendment, which had been adopted with so much caution and after so full a discussion, would manifest an instability which he never wished to see in that House. It would be to give the power to make a feeble warlike effort, which could not be supported.

The yeas and nays were then taken upon receding from this amendment, and decided in the affirmative—yeas 51, nays 47, as follows:

Yeas—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

CIRCUIT COURT, NORTH CAROLINA.

Mr. Blount said the Judge of the Circuit Court of North Carolina having, for the fourth time, neglected to hold a court in that State, it became necessary to pass a law to compel process. He proposed a resolution for the purpose of appointing a committee to prepare and report a bill for that purpose, which was agreed to, and a committee appointed.

DUTIES ON STAMPS.

The House went into a Committee of the Whole on the bill for imposing stamp duties, when the clause of Mr. Gallatin yesterday proposed to the committee, on the subject of bank notes, being under consideration,

Mr. Otis supposed that at least two-thirds of the whole amount of paper issued by the banks, returned and were re-issued every year, and thus the banks must pay tax upon two-thirds of their capital in the first year after the law passed, and which, according to a rough calculation, relation being had to the different denominations of notes, amount to nearly one per cent. on their capital. The tax ought to be levied upon such new notes only as should be issued hereafter; all that were now in existence were protected by the charter, and any law relating to them would be retrospective; and as one-fifth of the whole number of notes would be renewed every year, a tax upon them would be found to bear as hard as upon other notes and bills, which seldom comprised more than the fifth part of the transactions of an individual. It ought also to be considered, that the paper issued by the bank generally became worn and dirty, and incapable of receiving a stamp, so that in less than two years the whole amount of paper must be re-issued, and the entire tax assessed in the same period. This plan would also be inconsistent with that of a commutation, which had been proposed.

Mr. Dayton (the Speaker) did not think that this proposition precluded the provision of a commutation. He was in favor of taxing bank notes, but he wished also to hold out a commutation, and such a one as should induce all the banks to embrace it; for, if this were not the case, they would not be taxed equally, as the notes of banks did not bear a just proportion to the amount of their dividends. This clause would not, therefore, preclude the commutation, but render it proper, and a clause could be brought in excusing such banks from the duty as came into the proposed plan.

Mr. Gallatin said, his ideas corresponded exactly with those of the gentleman who had just

spoken. The scheme suggested by the gentleman from Massachusetts, of not taxing the notes at present in circulation, would excuse bank notes from all tax, as, according to his own account, only about one-fifth of the notes issued came in in the course of a year, so that it would be five years before a new tax could operate upon all their notes, and it was probable the bill might not pass for more than three or four. That gentleman supposed that bankers notes ought not to be charged more than others; if this were the case, they might be reckoned to run for four or five years, while those of individuals were at six and twelve months. The note of an individual, for fifty dollars, was to pay ten cents; he calculated a bank note, therefore, for a like sum, which he supposed, upon an average, to run four years, thirty cents.

With respect to the notes at present in circulation, Mr. G. said, they ought all to be called in before a certain time, and after that day no note should be negotiable which was not stamped.

The gentleman from Massachusetts was not correct when he said that this tax would amount to one per cent. upon the capital employed in banks. The calculation of the amount of the tax upon a bank which he had made, would amount to $10,000 a year, whereas one per cent. upon the capital of the Bank of the United States would amount to $200,000; but he said (as he had before stated) that the notes issued by a bank were not equal to its capital, or any thing like it. He could not, indeed, say what the amount of the notes of the Bank of the United States might be which were received for duty, from one end of the United States to the other; but he knew banks in general, in large cities, did not employ more than two-fifths of their capital in this way. He knew it to be a fact with respect to a bank of the largest property in the United States, except the bank of the United States. He thought of proposing the commutation to be one per cent. upon the amount of the dividend paid by each bank, which he supposed would be deemed a reasonable sum.

Mr. OTIS explained.

Mr. SEWALL thought the observation of the gentleman from Connecticut yesterday, as to the nature of bank notes, had weight. He agreed with him that they were very different from the notes of individuals, as they were always obliged to keep cash in readiness to take up their notes, while individuals, knowing exactly the time when the money for theirs would be wanted, could make use of it in the mean time. Therefore, if they taxed bank notes, they ought not to tax them in the same proportion with those of individuals at a certain date. Notes of individuals, under twenty dollars, were to be exempt from duty, while every note issued by a bank was proposed to be taxed.

Every banker's note of fifty dollars was to be charged with thirty cents, while those of individuals, which might run for two or three years, were charged only with ten cents. Every three or four years they would have to pay this sum. If a fair commutation were to be made, they should first fix the tax upon just principles.

Mr. NICHOLAS thought if there was no objection to the commutation, there could not reasonably be any made to the tax, because if the commutation were reasonable they would not choose to pay the tax; but, if they should choose to pay the tax, instead of the commutation, it would be evidence that the tax was too low.

Mr. W. SMITH did not see the force of the argument of the gentleman last up. As the commutation was to bear some proportion to the rates of duty, it became necessary to fix the rates upon a fair basis. If the rates were fixed too high, they ought to reduce them. He did not see the propriety of selecting moneyed corporations for the purpose of laying a high duty upon them. He moved to strike out the three cents for every five dollars, and leave it a blank.

Mr. DAYTON hoped this proposition would be agreed to, as by a vote upon the question in blank they would fix the principle whether or not bank notes were to be taxed, and the scale could be afterwards fixed. If there was the difference alleged between bank notes and the notes of individuals, it would be sufficiently considered in the commutation. He should not, indeed, be willing to agree to any scale without a commutation, for the reason he had before mentioned. For, said he, take the Bank of the United States and the Bank of North America, and the notes issued by them bear no sort of proportion to their respective capitals. If the tax were to be laid upon the notes issued, the Bank of the United States would pay a much larger sum than the other in duty.

Mr. GALLATIN observed that the gentleman from South Carolina had said they were about to select moneyed corporations as objects on which to lay a high duty. He had made a calculation to show that this was not the case, but that what was proposed was no more than just and reasonable, and that instead of the tax being one per cent. upon their capital, it was not more than one twentieth or one twenty-fifth part of one per cent.

He would state the facts, and beg gentlemen to correct him where he was mistaken. In the first place he would state the capital of all the banks of the United States at $20,000,000; the whole amount of bank notes at less than $8,000,000. He would divide these $8,000,000, one-half into notes under fifty dollars, and one-half above that sum, as follows:

$4,000,000 in notes under fifty dollars, which which would give about eighty thousand notes, (for though they would be of different sizes they paid in the same proportion,) at thirty cents - - - - - -	$24,000
$2,000,000 of one hundred dollars and upwards, at fifty cents - - -	10,000
$2,000,000 of three hundred dollars and upwards - - - - - -	4,000
	$38,000
Allow for mistakes - - - -	2,000
Which includes all the notes in circulation in the United States - -	$40,000

As to the principle of taxation itself, that bank notes of fifty dollars should pay thirty cents when notes of individuals only pay ten cents, justice requires the difference, on the same principle that notes of sixty days had been charged with only two-fifths of the duty charged upon others.

Mr. G. stated the following account of a bank in Philadelphia, whose capital was $2,000,000, and to which Government owed nothing; which, he said, would apply to every other bank in the same circumstances, with little variation:

To the original fund - - - -	$2,000,000
To deposites, about - - - -	900,000
To bank notes - - - - -	600,000
Total debts - - - -	$3,500,000
By notes discounted - - - -	$3,000,000
*By cash in vaults - - - -	500,000
Total credits - - -	$3,500,000

As banks were thus able to transact business to the amount of three millions of dollars, though their original fund was only two millions, he accounted for their sharing dividends of nine per cent. on their stock. It would be observed that the two millions capital were not touched for notes, and yet they were charged with selecting these bodies of men upon whom to lay a heavy tax.

Mr. G. concluded by saying he had no prejudice against banks. He knew they were liable to abuse, but, upon the whole, he believed them to be useful. He believed the scale he had formed was correct, but should withdraw it for the present, in order to give an opportunity of trying the principle.

Mr. SWANWICK proposed a tax upon the certificates of insurance companies, the same as upon certificates of bank shares, which was carried.

Mr. NICHOLAS moved to except from the patents charged with a duty, patents of lands granted for military services. Agreed to.

Mr. GALLATIN moved to add, "on any certificate of the debt of the United States, ten cents."

Mr. SWANWICK was sorry that his colleague had made this motion, as if it were carried it would certainly endanger the bill. He thought such a tax very doubtful in principle, and certainly very impolitic, as it represented a debtor laying a tax upon his own debt. It was also problematical whether it would not do more mischief than good. The difficulty of borrowing money was very well known, and it would certainly not assist the business to lay a tax upon the evidences of our debt.

The question was put and the motion negatived, 49 to 31.

Mr. SEWALL moved an exception in favor of "custom-house bonds and other bonds of public offices." which was agreed to.

Mr. SWANWICK brought forward his section for allowing the banks an opportunity of paying a certain sum annually, in place of a tax on their notes, according to the amount of their dividends, which, after undergoing some slight alterations, was agreed to.

The committee rose, and had leave to sit again.

FRIDAY, June 30.

DUTIES ON STAMPS.

The House resolved itself into a Committee of the Whole on the bill for laying stamp duties, and the section being under consideration which empowered all inspectors of the revenue, and all other officers of inspection, to stamp any vellum, parchment, or paper, which might be brought to them for that purpose—

Mr. GALLATIN observed, that he thought this the most dangerous clause in the bill, since it would be allowing two hundred men to stamp at pleasure, without having any check upon them. It could not be supposed that, out of so many men, who generally received a small sum for their services, some of them would not abuse a trust so unlimited, since there might appear the greatest probability that they might do it with impunity. Indeed, he should not be surprised if as much of the duty collected was kept back as came into the Treasury. He wished supervisors of the revenue only to be entrusted with this power. He made a motion to that effect.

Mr. W. SMITH did not know that it would be in their power wholly to guard against fraud. He believed, however, that the subordinate officers of our Government were as honest as those of any Government in the world. If they were to confine the issuing of these stamped papers to supervisors alone, persons would have to go an immense distance to get their papers, &c., stamped. If it were the intention of the law to require all stamps to be affixed by the Secretary of the Treasury in the first instance, then he might transmit them to every officer throughout the United States. He did not suppose this plan would be approved, but it would be desirable to have an officer employed in every neighborhood to stamp such paper &c., as should be taken to him. Mr. S. thought from the experience they had of the faithfulness of their officers, that they might be relied upon in this business, particularly as they would be obliged to take an oath on their entrance upon the duties, and another as to the truth of their accounts.

Mr. NICHOLAS thought they should make their impositions upon the people in such a way as that the money would be likely to reach the Treasury. If our people were honest, they ought not, he said, to throw temptations in their way to be otherwise. As to swearing a man to do his duty, he believed it to have little effect; and, as to swearing him after he had done it, it was a thing which he never heard of in any free country. It was requiring a man to be a witness against himself. He trusted, therefore, they should not agree to it. Mr. N. spoke of the connexion which this clause had with that which said unstamped paper should not

* This sum which amounted to one-third of the amount of the notes and deposites, was a general rule for regulating the quantity of cash kept to answer their current demands.

be received in evidence, which he should move to strike out when they came to it.

Mr. Harper thought it was unnecessary to lodge this power anywhere. He believed the best way of doing the business would be for the Secretary of the Treasury to have a proper quantity of every kind of stamps prepared, and sent to every part of the Union. The duty would be much better collected in this way than any other, and all liability to fraud would be done away. If only supervisors were to have stamps, persons might have to ride three hundred miles to get their paper stamped, which would do away the use of the provision altogether; but, if the power was in the Secretary of the Treasury only, stamps would be purchased like any other article of merchandise, and sold by every shopkeeper in the country. He therefore moved to strike out this section

Mr. Lyon apprehended, if ever a stamp act took place, that a measure like the one proposed by the gentleman last up would be attempted. Paper-makers and sellers in all parts of the country would be obliged to send their paper to Philadelphia to be stamped, or come thither to purchase their paper ready stamped. This was what the people in this business would not patiently submit to.

Mr. J. Williams thought the supervisors of the different States, being always men of character, for whom good security was also given, might very well be trusted with the power of stamping; but he should not like to see it further extended.

Mr. Claiborne said, if we are to have a stamp law, he thought paper, &c., should only be stamped at Philadelphia, and bought by every person who chose it as an article of merchandise. If the business were managed in any other way, it would be liable to great abuse.

Mr. Sewall observed, that if every inspector of the revenue were to be employed in stamping, fraud might certainly be expected; and if the business was wholly to be done at the seat of Government, though it might be the most productive way, it would be attended with much inconvenience to the great body of the people. Paper and parchment would have to be transported at an immense expense to every part of the country. He thought the motion for confining the stamping to supervisors was most likely to answer the purpose. They would know what kind of paper would be most wanted in their several States. He would also think it necessary to license some person in every town, who should be paid by Government for delivering out the stamps, so as to prevent any inducement to the making an improper charge.

Mr. W. Smith thought this a very important provision of the bill, and he could not agree with his colleague as to the propriety of striking it out.

Mr. Coit was opposed to the proposition of the gentleman from South Carolina, and also to that of the gentleman from Pennsylvania. Two objects were to be obtained, viz: to raise revenue, and to make the law as easy to the people as possible. The plan of stamping all at the seat of Government, he acknowledged, would be a secure way, but it would be inconvenient to the people; and he would rather err on the other side than on this. He thought the bill best as it stood, and he was influenced in his opinion by the practice hitherto resorted to. Every bill reported on the subject had gone upon this basis.

Mr. Harper said, if all the paper made use of in the country were to be stamped, there would be some ground for the observation of the gentleman from Vermont; but, when they considered that the quantity of paper stamped would not amount to one-hundreth part of the whole of what was sold in any section of the country, he thought the objection ought to have but little weight.

The question for striking out was put and negatived—46 to 31. The motion was then put for striking out the inspectors, which was carried.

Mr. W. Smith proposed to amend the section by adding, after "supervisors of the revenue," "and such inspectors of the revenue and other persons as the Secretary of the Treasury shall appoint for the purpose."

This motion was put and negatived, and the original one carried, confining the duty to the supervisors.

Mr. Gallatin proposed the proposition which he had announced his intention of bringing forward, viz: laying a penalty on any person offering a bank note in payment after a certain day, not duly stamped, except it should have been issued by a bank who had compounded for the duty in the manner directed by this act.

Mr. W. Smith said an individual who had a note of this kind might offend innocently, since he might not know which bank had compounded, and which had not.

Mr. Otis thought if the penalty was made to fall upon the person issuing the note at the bank, it would be better than to fall upon the person offering or receiving it in payment.

Mr. Gallatin said the idea of the gentleman from Massachusetts was a different provision from that he had offered. He meant to lay no penalty upon the issuing the paper, as it would be impossible to know at what time a note of an old date was re-issued; therefore, as no check could be put upon the re-issuing, he thought it best to provide against the circulation. As to the objection that an individual might unknowingly present a bank note of this description, this did not affect the principle of his amendment; as, in another part of the bill, (but not in this,) a provision might be inserted making it necessary for the Secretary of the Treasury to make known every composition which was made with the different banks.

Mr. Sewall said it was a strange thing to attack the banks in this indirect way, by which individuals would be criminated in consequence of the banks' misconduct. The effect would be immediately to call in all the notes of the different banks before the duty took place, for which they would be obliged to issue gold and silver. But, if, instead of this, the penalty were made to fall upon the person issuing any such note, this difficulty would not occur. His colleague had spoken of a plan of this kind. An officer of a bank, issuing an unstamped note, would be liable to be

informed of by any person who received such note from him, and, as he would be disinterested, it would not be likely that he would run the risk.

Mr. Gallatin interrupted Mr. S. to say that he was convinced the mode which he proposed was best; he therefore withdrew his motion, and requested the gentleman to prepare one conformably to the ideas which he had expressed.

Mr. W. Smith proposed a new section to the bill, laying fifty cents upon every pack of playing cards sold within the United States.

This amendment was opposed by Messrs. Gallatin, Coit, and Dayton, as introducing a new principle into the bill, as it had hitherto been wholly confined to taxes on transactions between man and man; but if this were introduced, they might go on to introduce other articles of manufacture, such as a tax on hats, leather, &c., as a duty on these might also be collected by means of stamps.

The mover and Mr. J. Williams spoke in favor of the tax, as being a proper object of taxation, easily to be come at, and would be very productive.

The question was put and negatived without a division.

Mr. Nicholas moved to strike out a clause which went to prevent any unstamped writing, upon which a duty was laid by this act, from being pleaded or given in evidence in any court, or admitted in any court to be available in law or equity, until it shall be stamped. He believed they had no right to any such thing. After a State had determined that such paper was good evidence, they had no right, he said, by any fiscal regulation, to say it should not be received in evidence, since they might as well do away any other arrangement of a State Government. He did not think the provision essential. He believed the same effect might be produced by means of a penalty; if it could, he saw no reason for taking the mode proposed, which might be embarrassing, and reduce the United States to a degrading situation. Suppose, said he, this law were to pass, and a State court should not consider themselves bound by it, he knew of no direct way in which it could be brought before the courts of the United States. Viewing it, as he did, in the light of an attack upon State sovereignty, he felt it his duty to oppose it.

Mr. W. Smith hoped this provision would not be struck out. He considered it as essential to the carrying of the law into execution. He did not understand the gentleman when he doubted whether the State courts were bound to carry into effect the laws of the United States. If they had a power to pass the law (and he supposed gentlemen would not be disposed to doubt that) they had the Constitutional power of carrying it into effect, the judges of each State being equally bound with the judges of the United States to carry their laws into effect. Mr. S. read a part of the Constitution to this end. He seemed to think, also, that if the judges of the State should refuse to carry the law into effect, there would be no means of drawing the subject into the Federal courts. He believed in the Judiciary act, there was a provision for bringing into the courts of the United States any cause in which the States shall give a decision contrary to the laws of the United States. He trusted, therefore, as he believed the provision was material, they should not part with it.

Mr. Venable observed that the gentleman last up had quoted one part of the Constitution and not another, which was applicable to the subject; wherein it speaks as having left certain powers in the Governments of the individual States. Amongst these was the power of regulating what concerned the property of individuals in the several States, which could not be infringed. It was never intended when the Constitution was adopted, that the Federal Government should interfere in any cause between individuals to say what papers should, and what should not, be received in evidence.

The Government of the United States had certainly a right to lay taxes; but it did follow that they should pursue any particular mode in doing this, but merely in an effectual way. In doing this, they ought not to infringe upon the sovereignty of any State. He thought a penalty would answer every purpose required.

Mr. Nicholas said the doctrine of gentlemen went to this, that State Governments were not to stand in the way of any measure which they wished to effect, and that they might prostrate them at pleasure. This, he conceived, was not the intention of the people at the time this Constitution was adopted. With respect to the State judges, he allowed that they were bound to support the Constitution and laws of the United States. They were also judges of the laws and Constitution of the United States. They will say you had no right to pass this law, and will not execute it for you. There had been frequent instances of this sort in the State to which he belonged. It was the same to say that the laws of any State were inconvenient, as to say this proposition was right. He was himself a judge in an inferior grade, and his conscience would justify him in resisting this law, because he thought it did what they had no right to do.

Mr. Thatcher said if the gentleman was a judge, (and he did not doubt it,) he was a singular judge—the only one, he trusted, whose conscience would compel him to say that this law, if passed, ought not to be executed. He was extremely at a loss to know, either as judge or legislator, how he conceived this law to destroy the sovereignty of the States. He supposed this law to come into court where that gentleman was not judge, and the Government would go on to execute their laws as usual, in all cases where they did not interfere with the laws of the United States.

Mr. Sewall thought this clause necessary. He did not wish the act to go into execution so that every person who did not comply with it should be looked on as criminal; he would rather be without the tax than this should be the case. There was no difficulty, he said, between the mode proposed for collecting of this tax and that

in practice for the collection of duties on imposts and excise. In the act for collecting the imposts, it was said that what was bona fide a man's property by the laws of his State, should not be so, except certain conditions were complied with. He alluded to goods imported from abroad, which must be entered at the custom-house of every port, and the duties paid, or secured to be paid, before he is permitted to take them from on board his vessel. The only difference between the two cases was, that in one goods were the object, and in the other money?

The stamp duty, Mr. S. said, might be properly compared to the excise, as there were much the same powers given for carrying it into effect. And if Congress thought this law necessary, and passed it, there could be no question in a State court whether the law was good or bad. It must be carried into execution. He thought the provision a good one, as it was a peaceable, easy mode of bringing the duty into the Treasury.

Mr. N. Smith said, when he first attended to this bill, the objections urged against this clause had some weight; but on attending to the subject, it appeared to him that there was not sufficient force in them to give his vote for the amendment. They had agreed in the revenue law, that a penalty might be inflicted, either of money or of any other property. And although this law seemed to operate in courts, yet its general operation was upon the writing. For to say no writing shall be admitted in evidence, except stamped, was to say the writing should in that case be void, and it amounted to no more than a forfeiture of the value of the writing in question, and therefore he saw no difference between the two cases. He confessed, however, that though the clause had no operation but upon the paper, it seemed to operate upon courts, and he would rather have it on the note; but, as he thought the thing was the same, he should vote for the clause as it stood.

Mr. Venable said the gentleman last up, himself having had doubts on the present question, could not be surprised that other gentlemen had doubts also. He was a little surprised to hear the gentleman from Massachusetts, (Mr. Sewall,) who mostly reasoned with great acuteness, bring up a subject relative to commerce, as it was well known that every thing relative to the regulating commerce belonged to the General Government. This was, therefore, a wholly different case. Mr. V. again went into arguments to show the propriety of expunging this clause.

Mr. Gallatin said, this question was one of the most delicate and difficult of decision. He had not himself made up his mind whether such a power was vested in the Constitution of the United States or not. He found that the judges of the individual States were bound to decide upon the law made in conformity to the Constitution of the United States. The question therefore reverted how far the law was in conformity to the Constitution. Mr. G. made several Constitutional observations on the subject, and concluded with remarking, that he meant to vote against this clause, because, though useful, he did not think it essentially necessary. He believed the law might be carried into effect by means of penalties, without having recourse to this mode. He supposed the whole amount of duty produced by this act would be about $100,000, and nine-tenths of the sum would be collected without dispute.

Mr. Otis thought the difference of opinion on this subject arose from confounding the jurisdiction of the State Courts, with the law upon which it was executed.

Mr. J. Williams said, that wherever there was a concurrent jurisdiction of the General and State Governments, the former was always paramount. He referred to the case of licenses imposed on spirits by the United States at a time when many of the States had already licenses of the same kind. No objections were made to that law, but fresh licenses were every where taken from the United States.

The question was put and negatived by 56 to 32.

The proposition of Mr. Gallatin for admitting of a composition from the banks in lieu of the tax, came next under consideration—the blank in which was moved to be filled with one per cent.; when

Mr. W. Smith said, if the gentleman from Pennsylvania was right in his calculation yesterday, the whole amount of duties arising from the banks would be $8,000 a year, and therefore they ought not to go farther in fixing the composition, whereas one per cent., according to the same statement, will produce more than double that sum; for, if the whole capital of the banks in the United States be twenty millions, and their average dividend ten per cent., that will produce two millions, which at one per cent. will give $20,000. He therefore moved, in order to bring the matter nearer to a fair equivalent, to strike out one per cent. and insert one-half per cent.

Mr. Nicholas said what the duty would produce was uncertain; they could with more correctness say, that one per cent. was a reasonable composition on the dividends, than what might be produced by the duty. He knew of no tax laid upon property that could be made for less than five per cent. to clear the expense of making it.

Mr. W. Smith thought they should first fix the rates to be paid on bank notes before they determined upon the composition.

Mr. Gallatin said, when the rates were before under consideration, the gentleman from South Carolina objected to it, because, if fixed too high, he said it would influence the composition. He therefore moved to have it struck out; but now, when a composition was under consideration, he turns round and says it would be better first to fix the rates. He thought one per cent. a reasonable composition, and that it would be best first to fix that.

Mr. Smith denied that he wanted first to fix the composition; it was his wish to strike out the rates, to reduce them, that he moved to leave the sum blank.

The question was put and carried, there being 54 votes in favor of it.

Mr. Gallatin then renewed his motion for fixing the scale of duty to be paid on bank notes. It was, on notes not exceeding fifty dollars, three cents for every five dollars; those not exceeding one hundred dollars, fifty cents; those above one hundred dollars, and not exceeding five hundred dollars, one dollar; for all above five hundred dollars, two dollars.

Mr. Dayton said there were many notes under five dollars, for which there was no provision.

Mr. Gallatin thought "the rate of" would have included the small ones; and, to dissipate every doubt on the subject, he moved to replace "three cents for every five dollars," with "three-fifths of a cent for every dollar."

Carried, 39 to 24.

Certificates of naturalization were agreed to at twenty dollars; bank shares under one hundred dollars at the rate of five cents for every hundred dollars.

Mr. Sewall proposed his amendment, providing that if, after the —— day of ——, any bank which shall not have compounded with Government, as directed by this act, shall issue any bank notes, &c., without a stamp, it shall forfeit a sum equal to the amount of the note so issued. Agreed to.

The committee rose and reported the bill with the amendments.

And the House adjourned.

Saturday, July 1.

The amendments of the Senate to the bill for continuing in force several acts and parts of acts, were taken up, one of them negatived, and another amended. The Senate afterwards sent the bill down, with the amendments concurred in.

The bill for continuing process in the Circuit Court in the State of North Carolina, was read the third time, and was about to be passed;

Mr. J. Williams wished to know what was the cause of the neglect of the Circuit Court Judges, which gave occasion for this bill.

Mr. Blount said, that he had received a letter from Georgetown, South Carolina, informing him that the cause of the omission was, that Judge Chase's horse had tired.

The bill was passed.

NATURALIZATION.

Mr. Brooks thought the present naturalization law allowed foreigners too soon to become citizens of the United States; he wished the law, therefore, to be revised, and proposed the following resolution:

"*Resolved*, That a committee be appointed to prepare and report a bill to amend the act establishing an uniform rule of naturalization."

Ordered, To lie on the table.

DUTIES ON STAMPS.

The House then took up the amendments reported by the Committee of the Whole, to the bill laying a stamp tax; when, the amendment being under consideration imposing a tax of twenty dollars on certificates of naturalization,

Mr. Swanwick said, this tax would operate, in some degree, as a poll tax, and he thought twenty dollars too considerable a sum for this purpose.

Mr. W. Smith said, the sum could not be altered but by recommitting the bill.

Mr. Gallatin believed the sum might be decreased, though it could not be increased in the House.

The Speaker confirmed the opinion that it would be in order to lessen the sum.

Mr. Swanwick then moved that the twenty dollars be reduced to four. In a subsequent part of the bill, four dollars were charged as a stamp upon any letters patent; and if this were thought sufficient for a thing of this kind, which would probably prove very lucrative to the party, he thought it would be quite enough for a foreigner to pay, when he took upon himself all the rights of a citizen. This tax might operate upon persons who might not have twenty dollars in the world. When they spoke the other day on the subject of rich moneyed corporations, it was hoped they should be moderate upon the tax imposed upon them; he trusted they should not be less so when the poor emigrant was concerned.

Mr. Sewall hoped the amendment would not be made. Every foreigner who came to this country had a full opportunity of getting a living without enjoying the rights of a citizen; and he knew not why he should become a citizen, if he did not think the privilege worth twenty dollars, and was willing to pay it.

Mr. Gordon gave it as a reason for not diminishing this sum, that foreigners might live here five years without being obliged to serve any public offices, such as constable, &c.

Mr. Brooks did not think this sum excessive. He would not have the rights of citizenship made too common. He had no objection to the admitting of foreigners into this country; but there were foreigners came here, fugitives from justice, and others, who never would be of any advantage to any country. These, for the small sum of twenty dollars, might become citizens; he would not have them admitted for less, as it would be necessary to have some security for the attachment of persons to the Government of this country; and such men as would be of advantage to the country would not think the sum too large.

Mr. Gallatin denied that the argument of the gentleman from New York would apply; and that a person's paying a sum of money would be no proof that he was well affected to the Government. A convict or a highwayman might possibly pay twenty dollars with greater ease than the worthiest man.

Mr. G. said, he objected to the sum of twenty dollars, because it would operate in a very improper manner. A single man might in a short time save the money necessary to purchase his citizenship; but he knew a great number of persons, who came to this country with large families, very valuable emigrants, and upon whom we had more security for their good behaviour than

upon single men, upon whom this tax would fall very heavy.

He objected to the tax, also, as related to the children of those persons. He knew a great number of emigrant families, with a number of children, whose heads were not at present citizens of this country; and these children, if their fathers should not be able or neglect to become a citizen, though they may have received their education here, and formed the strongest attachment to the Government and country, yet, before they become citizens, they will each of them have to pay twenty dollars. This would be extremely hard, and it would not only be hard, but it might become dangerous to the peace of the country; besides, that the property of every person not being a citizen would want that security which it would otherwise have. Nor did he conceive it would be perfectly safe to have one-fourth, if not one-third part of the inhabitants of a country living as foreigners in its bosom. These men, speaking the same language and having the same manners, after they had been in the country ten or fifteen years, would look upon the refusal to admit them to the common right of citizens, except upon the payment of twenty dollars, as unjust and oppressive. If so large a sum was charged, Mr. G. said, provision should be made in favor of the children of such fathers as should not themselves have been citizens. As four dollars might, perhaps, be thought too small a sum, he should move to strike out "twenty," and leave the sum blank.

Mr. Swanwick observed, that it had been urged in favor of this large sum that foreigners would not be obliged to become citizens, as they might get a living in the country without doing so. But was it not of advantage, he asked, that foreigners should become citizens, and not that a great part of the people of our country should be living amongst us without owing allegiance to our Government? But it was said these emigrants might be highwaymen, or men of bad character; but did not the naturalization law require that every person applying to be made a citizen should produce two witnesses to speak of their moral character? And surely, after a residence of five years, and a guard of this kind, there could not be any reason for such arguments. It should seem, from what was said on this occasion, that twenty dollars was to be the price upon which we were willing to admit the worst characters to the privilege of citizenship.

But it was said, that if this tax were not laid, the rights of citizenship would become too common. This was a doctrine contrary to any thing he had heard before on the subject. Since the year 1776, it had uniformly been the language of this country that we had in the Western world opened an asylum for emigrants from every country. This was our language: "Come and join us in the blessing we enjoy, in a country large and fertile, and under a Government founded upon the principles of liberty and justice." Were the inhabitants of this country all born in it? Certainly not—a great majority were foreigners; even in the Government itself there were many foreigners. And should we, because they came a little sooner, or had better fortune than others, say to their less fortunate brethren, "You shall not be admitted to the privilege of citizenship but on the payment of twenty dollars, though we received it without money and without price!" It was said, a man might soon earn twenty dollars to pay for this privilege; but supposing he could soon earn fifty dollars, he did not think that a good reason for laying this tax.

The gentleman from New Hampshire had alleged as a reason for this high tax, that foreigners were excused, before they became citizens, from sharing in the burdensome offices of the community; but he thought this was a reason for admitting foreigners earlier, in order to share such offices with our citizens. For it would be a curious thing if there should be occasion for the services of these men in defending the country, if they should refuse to turn out, because they had been refused admission to the participation of its immunities.

In a country like ours, he said, it was extremely impolitic to throw obstructions in the way of emigration. He was desirous that every attention should be paid to the moral character of emigrants before they were admitted as citizens, but he trusted they should not degrade the country in the eyes of foreign nations by putting so high a tax upon the privilege of citizenship. It would ill-suit the high tone which had been held abroad of the liberty of this country; nor did he think their constituents would be well pleased with such a tax.

If they compared this tax with other parts of the bill, it would be found much heavier than any other. A lawyer was to pay ten dollars upon the entrance of his lucrative profession, whilst a poor foreigner was to pay twenty dollars to be admitted as a citizen. In doing this, gentlemen seemed desirous only of having rich emigrants as citizens, whilst the poor wanderer, flying from the hearth-tax of Ireland, or from the oppressions of other countries, who would be vastly useful in the cultivation of our land and in every useful labor, would be in a great measure excluded from his rights in society.

Mr. Harper inquired if it would be in order to strike out the whole provision. Being told it would not, he said he should then be in favor of the present motion, and, if it were carried, vote against the whole. He did not think the subject had any connection with the present bill; nor was he of opinion that, to lay a tax of this kind, would be a means of securing to us better citizens than if there were no tax. He would have citizenship given without price, but he would require a longer residence than was required by the present naturalization law.

He did not agree with the gentleman last up on the propriety of inviting immigrations from all parts of the world. There was a moment of enthusiasm in this country, when this was thought to be right—when we were not satisfied with giving to immigrants every blessing which we had earned with our blood and treasure, but admitted

them instantly to the rights of citizenship. An experience of ten or fifteen years, he said, had convinced us we were wrong. They had done something to prevent the evil in future; but he thought they should do more. He should be willing that no man should become a citizen of this country but by birth; he would have all foreigners freely admitted, and he would admit their children to have a right to citizenship. He believed this would be a proper polity for this and every other country.

Mr. Swanwick withdrew his motion.

Mr. Macon opposed the tax altogether, as tending to injure the poor and industrious part of the immigrants to this country, which he looked upon as the most valuable.

Mr. Goodrich did not think it was in order to discuss the propriety or impropriety of encouraging immigration. The only question before them was, whether or no the certificate of citizenship was a proper object of taxation. He thought it was. It was not a sale of citizenship, as had been represented, but a stamp upon this kind of paper. He thought the argument of the gentleman from Pennsylvania, that, if a father neglected to become a citizen, all his children, before they could be citizens, would each have to pay twenty dollars, would be a tie upon parental affection for a father to do what his children would be so much benefited by.

Mr. Venable did not know that it was necessary to take a certificate when a person was naturalized, and thereby the duty might be evaded.

Mr. Craik doubted not, if this tax were laid, that if persons were not now obliged to take a certificate, such an obligation would be laid upon them. He voted in favor of twenty dollars; but, on reflection, he thought the sum too large. He believed the object proper for taxation, and should only view the subject in that light. It would not operate, he said, on men coming into this country only, but upon many persons already in it. He had been frequently witness to applications from men to become citizens, who had been in the country from the year 1783. Many of these, since the passing of the general naturalization law, had been naturalized under the State laws; and if it were determined that this naturalization was not effectual, they would have the ceremony again to go through under the law of the United States. It was very unsound policy, and he questioned the consistency of it, to make property a rule for a man's becoming a citizen. One of the rights of a citizen was voting at an election, and if it was necessary he should be possessed of a certificate of this kind before his vote could be admitted, it would be the same thing as to require him to be possessed of a certain proportion of property before he had a right to vote; in this view he thought the principle improper. He wished the gentleman from Pennsylvania had not withdrawn his motion, as he should be in favor of voting for a small sum.

Mr. Lyon was opposed to this amendment. It appeared to him injurious, cruel, and impolitic. It was injurious, because we had dealt out a different kind of language heretofore; we had told the world, that there was in this country a good spring of liberty, and invited all to come and drink of it. We had told them that the country was rich and fertile, and invited them to come and taste of our fruits; and he did not think it was right now to turn round to them and say, you shall not be admitted as citizens unless you pay twenty dollars. This looked like entering into a treaty offensive and defensive, with the Monarch of Britain, to prevent his subjects from leaving him and coming hither. He was almost led to suspect the thing was introduced on the suggestion of a certain foreign Minister.

The Speaker declared such suggestions to be wholly out of order.

Mr. Sewall said, though he wished this country to be an asylum for men of every other who chose to come to it, yet he did not wish to see foreigners our governors; and, indeed, if they were admitted as voters at our elections, they in some degree became the governors of our country. He wished, therefore, that a longer residence should be necessary, before a foreigner should become a citizen. He liked this amendment, because it made it necessary for a man to have a little property before he could be admitted. This was looked upon as necessary in every other country. Nor did he think the tax too large, as any man might afford to pay this sum after he had been five years in the country. It was well known that this game of citizenship had been played to the injury of the country. They had seen men to-day take the oath of allegiance and becoming citizens of the United States, and the next again become citizens of the French Republic, by entering on board their privateers.

Mr. R. Williams said, there was sufficient reason for disagreeing to this proposition, without considering the policy or impolicy of admitting foreigners to the rights of citizenship. The object of this bill, he said, was to lay a tax upon property, or the evidence of property, and he wished it to be confined to that object. This amendment was rather a tax upon liberty, than upon property, and therefore improper to be introduced into it. As to what was said by the gentleman from Massachusetts, on the subject of a foreigner being possessed of some property before he should be admitted as a citizen, such a consideration might be a good one, introduced in a proper place, but not here. He trusted, therefore, the amendment would not prevail. In place of twenty dollars he should not be willing to vote for a cent for this object, since he believed the principle to be wrong.

Mr. Thatcher said, gentlemen viewed only one side of the question; they constantly spoke of the twenty dollars, which they called an enormous sum; but they said nothing of the benefits which were to be received in return; they were to receive for that sum all the advantages which this country had obtained by much treasure and blood. He thought the doors of naturalization too wide. Too many foreigners emigrated hither; they were out of proportion to the natives; for he wished the American interest always to prevail over all for-

eign interest. He would much rather, therefore, that the certificate was forty dollars than twenty dollars.

Mr. J. Williams did not think this question was put upon its true ground. This bill was intended to raise funds towards paying off the national debt—the debt incurred while we were fighting for our liberty and independence; and shall those, said he, who come to partake of these advantages, pay nothing for it? If the country was not worth the tax imposed, foreigners would not come to it. If the tax were too high, it might be lowered; or, if too low, made higher. He was for having the law go into effect, as experience would enable them to make it more perfect. Any man who was industrious, he was certain, would never begrudge the payment of twenty dollars for this object—he would rather glory in it. The liberty of the country was rated very low indeed, when it was not thought to be worth twenty dollars.

Mr. Brooks was in favor of retaining the clause. Twenty dollars could not be said to be the price of naturalization, but merely as a stamp upon the certificates; nor was there any more impropriety in this, than laying a duty upon the admission of lawyers to exercise their profession.

Mr. McDowell was against the amendment. He looked upon it as a departure from the spirit of our Government, and derogatory to us as an enlightened nation. It had been remarked by gentlemen that we had fought and bled for our liberties. It was true, that we had fought for liberty, but, he trusted, we did not mean to confine it to ourselves, nor to sell it to others. On the contrary, people of other countries had been invited to come and partake with us our blessings—our laws had all gone to this; but now, after vast numbers were come, and others were coming, all at once, we propose to make sale of our privileges. This he could not agree to. It was not the wealthy, the high-bred, the well-born, that he wanted to emigrate to our country; it was a different class of men, viz: mechanics, farmers, and other industrious persons; it was men like those who were wanted to improve our country, and it would be very inconvenient for them to pay the sum proposed. If the country were small and full of people, instead of being immensely large and thinly populated, there might be some ground for the policy; but there was none at present.

Mr. Gallatin said, when he was up before, the question was, whether the tax should be reduced from twenty dollars to four; it was now whether there should be any. He considered this law merely as a revenue law by means of stamps; but it appeared from what had fallen from the gentleman from Massachusetts (Mr. Sewall) that the clause under consideration was not so much introduced for the purpose of revenue as for changing the law respecting naturalization. He conceived that law had nothing to do with the present question; indeed it would be impossible to take the necessary views of the subject, whilst they were considering the best way of raising a revenue by means of stamps. They had proposed to raise a revenue from certain papers in existence; but this proposition went to tax a paper which had no existence; for a new law must be passed, if this clause was agreed to, directing that these certificates shall be issued. The proper way of doing the business, would be to say, that no man should be admitted a citizen without paying twenty dollars. There would be no occasion for a stamp act to do this.

But if the clause before them were to be considered as intended to operate as a check upon naturalization, he did not think it a proper way of doing it. He did not think they ought to put a price upon the rights of citizenship. The gentleman from Massachusetts, (Mr. Thatcher,) said they were to consider the advantages received for the twenty dollars; so that, according to his idea, the value of citizenship would be worth twenty dollars, and, of course, that it would be too dear at fifty. He, on the contrary, thought the privileges of an American citizen invaluable to every one who was sensible of their importance, and that money could not be placed in competition with them.

Mr. G. justified the manners of the people of Pennsylvania; though that State had always encouraged emigration, even whilst under the British Government. Indeed, he said, the manners of Europe were the manners of this country. In the first constitution of Pennsylvania, every man who had resided one year in the State was entitled to citizenship. There was a time when this was also the policy of the United States. In order to prove this, he read the following passage from the Declaration of Independence:

"The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world."

And then, among other grievances, the Declaration states, that

"He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands."

If there was a certificate directed to be issued on a person's becoming a citizen of the United States, he should have no objection to lay a moderate duty upon it; and, if the object was revenue, he was certain a small sum would raise more than a larger. He should, therefore, renew the motion of his colleague, to reduce the twenty dollars to five dollars, that the sense of the House might be taken upon it; for, if a small sum was agreed upon, a great number of emigrants to this country since the year 1790, who having been made citizens by the Government of a State, believe themselves to be citizens, would renew the ceremony, according to the laws of the United States. There were from seven to eight thousand persons of this description in the State of Pennsylvania alone.

Mr. G. again spoke of the hardship under which a tax of twenty dollars would lay the poor man, and especially his children, who would be punished for the neglect, the poverty, or the death of their parent. He trusted, therefore, if a tax were laid upon these certificates, it would be a low one.

Mr. Williams moved to strike out five dollars, and insert ten dollars. He said that such persons as were not naturalized were still secured in the possession of their lands in the State of New York, by an annual law for that purpose; and, he doubted not, the same was done in the State of Pennsylvania, therefore that could be no objection to the tax.

Mr. Otis observed that the gentleman from Virginia had furnished a conclusive argument in favor of the proposed tax, for if a certificate of naturalization was not required by law, the duty would be optional, and consequently fair and equitable. He agreed that the present amendment was merely a question of revenue, but the policy of a tax was always a fair object of discussion, and it was therefore proper to consider the indirect and remote effects of the present bill upon the naturalization of foreigners. He denied the expediency of affording too great a facility to their admission among us. In the infancy of the country it was necessary to encourage emigration, and foreigners of all countries had been wisely invited and allowed to settle in our country. To the industry of emigrants many parts of the country were indebted for the most valuable improvements in agriculture and the arts, and he knew foreigners who were an honor to the United States, who had aided in forming their Constitutions, in fighting their battles, and who were not less meritorious citizens for not being born in the country. There were others in that House and other Legislatures who were entitled to the highest consideration and respect. He rejoiced in the advantages derived from persons of this description. They would not be affected by the present tax; but he was not anxious to give greater latitude to the laws of naturalization; on the contrary, he thought it wise to restrain that privilege. He did not believe it to be necessary to rely upon that source of population, but considered the native American germ to be amply sufficient for the production of such scions as were worth cultivation. He denied that the manners of Europe were the manners of this country. In that quarter of the world a revolution of manners, of the most formidable nature, threatened the subversion of all sound principle, of all social order; and a system of profligacy had swept off every vestige of whatever was most amiable and respectable in the eye of humanity. He trusted the case was different in this country. It was true that Virginia was indebted in a great measure for her prosperity to the industrious establishments formed by foreigners of various descriptions; but it should also be remembered that the foulest stain in the annals of that State was not to be imputed to natural-born citizens.

The amendment, he said, would not affect those men who had already lands in this country, nor the deserving part of those who might seek an asylum in it. Persons of that description would easily pay the tax; but it would tend to foreclose the mass of vicious and disorganizing characters who could not live peaceably at home, and who, after unfurling the standard of rebellion in their own countries, might come hither to revolutionize ours.

He felt every disposition to respect those honest and industrious people, whether Germans, Irishmen, or foreigners of whatever country, who had become citizens, and to fraternize with them while they remained obedient to the laws, and faithful to their adopted country; but he did not wish to invite hordes of wild Irishmen, nor the turbulent and disorderly of all parts of the world, to come here with a view to disturb our tranquillity, after having succeeded in the overthrow of their own Governments.

Mr. Potter was willing to agree to make the sum ten dollars, in order to shorten the business, though he did not think fifty too much.

Mr. Coit thought it unfortunate that they should, in this instance, have wandered from the object of the bill. He trusted when the friends of the bill, who were also friends of this measure, saw the difficulty which would attend the incorporating of the subject with it, they would give it up.

Mr. Baldwin was in favor of the smaller sum. He said this was a subject upon which it was always found difficult to legislate, as different parts of the country had very different ideas upon it. In the part of the country from whence he came, the people would not approve of such a tax. He believed there were parts of the country which would not object to a tax of one thousand dollars upon this object, but it was not so in other parts. All the prosperity of some States depended upon emigration, and to lay a heavy tax of this kind, would be to do violence to their feelings. When he heard different gentlemen express their opinions, he knew they were the opinions of the people from whence they came. If they were as well acquainted with the whole of the country as with fifty miles round their own homes, their sentiments would be different.

Mr. Sitgreaves thought this tax as justifiable and as much connected with the present bill as the tax upon lawyers, and that twenty dollars would be a reasonable sum.

The question for inserting ten dollars was then put and negatived, and then five was moved and carried, there being 56 in favor of it.

The question was then upon agreeing to the proposition as amended.

Mr. Swanwick spoke at length on this subject, and dwelt particularly on the hardships which the poorer part of emigrants would experience in paying this tax, and if they did not pay it, they would be living in the country as foreigners, and not as citizens of a free country.

Mr. Venable did not consider this as a tax which would fall equally upon all foreigners who became citizens, but partially upon those who might have occasion for certificates, and even duplicates of them.

The question on this proposition was taken, and stood—yeas 46, nays 42, as follows:

Yeas—John Allen, George Baer, jr., James A. Bayard, Theophilus Bradbury, David Brooks, Nathan Bryan, Christopher G. Champlin, Matthew Clay, James Cochran, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Joshua Coit, John Dawson, George Dent, Lucas Elmendorph, Thomas Evans, John Fowler, Albert Gallatin, James Gillespie, Robert Goodloe Harper, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Abraham Venable, and Robert Williams.

Mr. Bayard moved to strike out the exception in favor of patents for military lands, on the ground that they were mostly in the hands of speculators; but, after some conversation, his motion was negatived, (the yeas and nays being taken on it,) 71 to 12, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Thomas Blount, Theophilus Bradbury, Nathan Bryan, Demsey Burges, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dawson, John Dennis, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Albert Gallatin, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, Walter Jones, Edward Livingston, Samuel Lyman, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Lewis R. Morris, Anthony New, John Nicholas, Josiah Parker, Elisha R. Potter, John Rutledge, jr., Samuel Sewall, William Shepard, Tompson J. Skinner, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, William Smith, of Charleston, William Smith, of Pinckney district, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, Geo. Thatcher, Mark Thomson, Abram Trigg, John Trigg, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—James A. Bayard, David Brooks, Samuel J. Cabell, George Dent, Lucas Elmendorph, James Gillespie, Jonathan N. Havens, Matthew Locke, John Reed, Nathaniel Smith, John E. Van Alen, and Joseph B. Varnum.

Mr. Champlin moved to strike out "foreign bills of exchange" from any duty, owing to the embarrassment such a duty might occasion, from a foreign merchant not being able to say whether a bill was drawn upon a proper kind of stamp.

This motion was also negatived.

Upon the amendment of the Committee of the Whole to strike out the words "except notes issued by any bank," &c., it was carried—76 to 11, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, David Brooks, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, Samuel W. Dana, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thos. Evans, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Jonathan N. Havens, Wm. Hindman, David Holmes, Walter Jones, Matthew Locke, Samuel Lyman, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Tompson J. Skinner, Jeremiah Smith, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—James A. Bayard, Christopher G. Champlin, James Cochran, William Craik, Abiel Foster, Dwight Foster, Thomas Hartley, Hezekiah L. Hosmer, Samuel Sitgreaves, Nathaniel Smith, and William Smith, of Charleston.

Mr. Craik moved to strike out the whole of the clause relative to a duty on bonds, bills, and, notes; which was negatived, without a division.

Mr. Gallatin moved to strike out the clause which forbids the receiving of any paper not legally stamped, in any court of justice, in evidence; and the yeas and nays were taken upon it, and stood 37 to 40, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, John A. Hanna, Jonathan N. Havens, David Holmes, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, David Brooks, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Nath'l Freeman, jr., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold,

William B. Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, Samuel Lyman, James Machir, Harrison G. Otis, Elisha R. Potter, John Reed, Samuel Sewall, William Shepard, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, John Swanwick, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, and John Williams.

The bill was then ordered to be engrossed for a third reading on Monday. Adjourned.

Monday, July 3.

Mr. W. Smith proposed a resolution appropriating a sum of money for erecting jails in those States in which there are not sufficient ones at present for containing the prisoners of the United States.

This proposition was opposed on the ground of its being no way connected with the present session, and negatived, without a division.

The bill for laying a stamp duty was read a third time, and the blanks filled up, viz: that for fixing the time of the act taking effect, with the 31st day of December next; the fine and imprisonment for counterfeiting stamps, &c., with $1,000 and seven years imprisonment; and the time for which the duration of the act was limited, with five years.

The yeas and nays being taken on the passage of the bill, were—yeas 47, nays 41, as follows:

Yeas—John Allen, James A. Bayard, David Brooks, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, Geo. Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Christ'r G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

ADDITIONAL APPROPRIATIONS.

The House went into a Committee of the Whole on the bill making additional appropriations for the service of the year 1797; and the blanks of the bill were filled as follows:

1. For the compensations granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of two months -	$77,389 66
2. For the expenses of firewood, stationery, printing work, and all other contingent expenses of the two Houses of Congress -	6,500 00
3. For printing the laws of the present session - - - - -	1,050 00
4. For making good the allowance to clerks employed in the Department of State, agreeably to law - - - -	269 70
5. For the salary of an additional clerk in the Department of State, to perform the duties of an Accountant, and when not so employed, to do the ordinary services of a clerk - - - - -	800 00
6. For defraying the expenses of foreign intercourse, for the year one thousand seven hundred and ninety-seven, beyond the appropriations heretofore authorized by law -	60,500 00
7. For the salaries of two extra clerks in the office of the Accountant of the War Department - - - - -	800 00
8. For completing and equipping the frigates United States, Constitution, and Constellation - - - - -	300,000 00
9. For the pay and subsistence of the officers and crews of the said frigates -	100,000 00
10. For the extra expenses authorized by law during the present session in relation to the revenue cutters - - -	10,000 00
11. For the repairs and fabrication of arms and cannon carriages - -	39,000 00
12. For completing the six months pay and subsistence of the officers discharged under the act of the third March, one thousand seven hundred and ninety-seven -	2,580 00
13. For the Hospital Department -	5,000 00
14. For making good a deficiency arising from the balance of moneys of various appropriations being carried to the credit of the "Surplus Fund," in pursuance of the sixteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, viz: for erecting a light-house on the head land of Cape Hatteras, and a lighted beacon on Shell Castle island, in the harbour of Ocracock, in the State of North Carolina - - - - -	44,000 00
15. For enabling a remittance to the Commissioners of the Dutch loans at Amsterdam, in payment for a quantity of saltpetre -	17,031 89
16. For repaying the Bank of the United States a sum advanced upon certain Treasury bills drawn upon collectors of the revenue of the United States, in North Carolina	5,150 00
17. For the payment of the Commissioner of Loans for the State of Rhode Island, on account of two clerks who were employed in the year one thousand seven hundred and ninety-six - - - -	54 00
Total - - -	$570,125 25

The five first items were agreed to without objection. On Mr. W. Smith's proposing to fill the sixth item with the sum above stated—

Mr. NICHOLAS called for the reading of the particulars which composed this sum. They consisted of the salary and outfits of Ministers to France, to Prussia, and to the Barbary Powers. Mr. N. wished the sum mentioned for the Minister to Berlin, viz: $13,500, to be deducted from the $60,500, as he knew of no possible use that a Minister to Berlin could be of. He thought the present extension of foreign intercourse was far too great; he wished much to see it narrowed, and trusted it would be done at the next session, as the law on that subject would then expire. He wished, therefore, to reduce this sum, in order to show their wish to have the business of foreign intercourse circumscribed. He moved to fill the blank with $47,000.

Mr. HARPER thought it was too late for the gentleman to talk in this manner, because a sum of money had uniformly been appropriated for the purpose of foreign intercourse. It was extraordinary, therefore, that at this day, if there were no good reasons for it, that they should now be called upon to depart from their usual practice. He hoped it would not meet with the approbation of the House.

Mr. McDOWELL was opposed to voting any considerable sum for this purpose. It might have been proper heretofore; but he could see no reason at present for entering into treaties with nations with whom we neither had, nor could have any considerable connexion. He wished to pause before they agreed to this measure; because, if agreed to, he expected it would hereafter be produced as a reason why they should extend the subject still further.

Mr. NICHOLAS said, the gentleman from South Carolina seemed to have mistaken him. He did not propose to strike out anything which had heretofore been agreed to, but what related to a further extension of our foreign intercourse. Of the four Northern Powers, he thought it was least necessary to have any connexion with Prussia; she was in a situation to favor us less than any other Power. If a new treaty were entered into with Prussia, he supposed it would be next proposed to have one with Sweden, Denmark, and Russia, as we had a much greater commercial connexion with those Powers than with Prussia. As to their having once agreed to go into this subject of foreign intercourse, it was no reason for continuing it, after they were convinced the system was injurious to the welfare and happiness of this country.

Mr. W. SMITH said this motion involved in it a very delicate consideration. They were called upon to vote for a less sum than that estimated, upon the ground that the President had done wrong in sending a Minister to Berlin. His colleague was right, when he said this was running counter to established rule. He thought it would be contrary to the spirit of the Constitution, because the power of judging of the propriety of sending Ministers to foreign countries rested with the President and Senate; but this House, conceiving they had made an injudicious exercise of that right, say they will withhold the necessary appropriations; which, he said, would be exercising a power over that branch of Government in which the Constitution had alone placed the power of doing the business. It was his opinion that the President having sent a Minister to Berlin, they were as much bound to appropriate money to defray the expense, as they were bound to provide for the salary of the President, or of the Judges. Some gentlemen, however, thought, that such a situation might exist, as would justify the withholding of appropriations. Admitting that there might be such a situation, a question would arise, whether it should be done by withholding an appropriation, by impeachment, or by a vote of censure on the President. For, if that House were to arrest an appropriation, he supposed the Senate would not suffer the bill to pass without it, and, unless they came into the opinion of the Senate, no bill could pass.

He found himself embarrassed in discussing this question, because it was not their province to adduce reasons for sending a Minister to any particular place; but he thought, if it were desirable, we should have a Minister at any foreign Court, it was that of Prussia; and from the connexion which subsisted between that Monarch and the French Republic, he should have supposed that those gentlemen who wished so much to harmonize with the French Republic, would not have objected to the sending of a Minister there.

The treaty we formerly had with Prussia was expired, and he believed that Court had requested a renewal of it; the President had also recommended it in his Speech at the opening of the session; and there might exist reasons for it which were not proper to be laid before that House. He agreed that, *prima facie*, there appeared to be a greater propriety for us to enter into treaty with Denmark, Sweden, and Russia, than with Prussia. We had a treaty with Sweden about to expire; and it was not improbable that the gentleman sent to Berlin, might also be employed in making a treaty with Sweden. If gentlemen had intended to make the present serious opposition to the measure, he thought it would have been more candid to have given notice of the intention, that the gentleman might have been prepared to meet it.

Mr. GALLATIN said, it was rather singular that the chairman of the Committee of Ways and Means should be unprepared to meet any opposition to this measure, since he knew that several members of that committee were opposed to it, and he must therefore have expected that they would have moved to appropriate a less sum. But it appeared as if the gentleman wished to make a very serious question of what he considered as merely incidental, viz: whether they should vote so much money, or a less sum. He believed he should show it was of little importance.

In relation to the Constitution, it was merely said, that the President should have power to appoint Ministers, Ambassadors, &c., but, by the power to appoint Ministers, could never be meant that he had the power to send Ministers to all the Courts of Europe, and to all the principalities of Germany, and call upon that House only in an indirect way to agree to the appropriation. As to the power of appointing Ministers, it was a new

power given to the Executive by the present Constitution. The first Congress took up the subject; they might have said there should be four or six Ministers employed. They did not do this; but they declared that the salary of a Minister should not exceed nine thousand dollars, nor his outfit a similar sum, nor the whole annual expense forty thousand dollars. By this check they divided the power with the Executive; and if this power were not acted upon, it would have been absurd to have given it to them. He did not look upon the present question as by any means a Constitutional one. The President had appointed a Minister for Berlin, for reasons best known to himself; and the question between them was, whether the appointment was a proper one.

They had been yearly called upon for additional appropriations for this object: if they thought it necessary to check this spirit for foreign connexions, or were determined not to renew the law relative to foreign negotiations, it would be right to agree to the proposed reduction. As to impeachment or censure, they were out of the question. The President thought a Minister to the Court in question would be of some use; they thought differently, and that the money would be more valuable. Where was the cause of accusation? It was merely a difference of opinion.

Another collateral argument of the gentleman from South Carolina, related to what the Senate would do. He did not think it parliamentary to say the Senate would do this or that.

To enforce the propriety of sending a Minister to Berlin, the gentleman from South Carolina had suggested two reasons, viz: the recommendation of the President, and the propriety of renewing our treaty. He did not think a renewal of that treaty would be of any advantage to us; nor did he think any gentleman was anxious about it. By that treaty, the United States were prohibited from fitting out privateers in any case. But he thought that gentleman had used a strong argument against sending a Minister to Berlin. He did not know how far the gentleman was well informed, but if the object of the Minister was to prevail upon the King of Prussia to obtain an accommodation for us with France, he thought it would be the worst policy which could be adopted. Such an offer of mediation would not be likely to produce an accommodation. [Mr. S. said he had mentioned this merely as a suggestion of his own, without any authority.]

Another consideration, Mr. G. said, which induced him to be in favor of reducing the appropriation was, that the money was altogether unnecessary. He did not suppose the gentleman from South Carolina wished to appropriate for Ministers who had no existence, and the money now asked had been appropriated already in full. It was true it was appropriated for a Minister to be sent to Portugal; but none had been sent there, so that the money remained unexpended, and the same gentleman intended for the former embassy was now employed on this. The fact was, that their appropriations for foreign intercourse were not particularized, but made in gross. There was, therefore, a sufficient sum of money in hand, since the object had merely been changed.

Mr. J. WILLIAMS argued in favor of the larger sum, as it had been usual to appropriate money to pay the expense of any Minister which the President (according to the powers placed in him by the Constitution) thought it necessary to send abroad. He thought it might be attended with bad consequences to withhold the necessary appropriations for this purpose, especially when a Minister had already been appointed.

Mr. N. SMITH said, this was a subject which had agitated the House ever since the gentleman from Pennsylvania came into the Government; as it had been his constant endeavor to swallow up the Executive power in that House. For, certainly, if that House had the power to appropriate or not to appropriate, to destroy or support the appointment of a Minister, at their pleasure, it was certain that the Executive was no longer an independent branch of Government. Mr. S. said, as he wished to preserve the Government pure, he should always bear testimony against such a doctrine. He considered the Executive as the sole judge as to the propriety of appointing foreign Ministers; and, being sole judge, that House had no right to judge over his head, any more than over the head of the Judiciary; and whenever any one branch of Government shall presume to judge over the head of another, there will be an end to the purity of our system.

Mr. BALDWIN spoke of the ground upon which this business was originally settled. He said, they determined not to say to the President to what place a Minister should be sent, or what quality of Minister should be appointed, but they stipulated the quantity of money to be expended. At the time the sum was first enlarged, a particular urgency existed. He looked upon the extension of this power as unfortunate for this country, and he should be against its going further. The gentleman from Connecticut had, therefore, disturbed himself unnecessarily, when he thought this doctrine was of recent date; it was certainly as old as the Government.

Mr. THATCHER thought the gentleman last up was mistaken. He did not believe that by confining the expenditure, in respect to foreign negotiations, to $40,000, it was meant to trammel the powers of the President; but that that sum was granted because it was thought it would be sufficient for the purpose. He had no idea that they had a right to restrict the President in this respect.

Mr. SEWALL considered this question of so much importance that he could not refrain from delivering his opinion upon it. He insisted upon the Constitution being clear in placing the power in the Executive, and that the appointment of Ministers stood upon the same ground as the appointment of the Judges of the Federal Court. The question, he said, seemed to be come to this: Whether the President should obtain an appropriation from that House before he proceeded to appoint a Minister? A doctrine of this kind would be extremely inconvenient, since Congress

were only in session at certain periods, whereas it could not be said at what precise time it should be necessary to send a Minister to a foreign country. If the President should be guilty of excessive ill conduct, gentlemen would do well to come forward and say he had done wrong; but, even in that case, he should be doubtful whether that House would be justified in refusing an appropriation, as it would be necessary to punish the President in a different way; for, in refusing the necessary money, the person employed on the embassy would be punished, and not the President.

Mr. Gallatin wished the gentleman from Connecticut, instead of being angry, had attended to the fact which he had stated, viz: that the money asked for was already appropriated. He wished, also, that he had inquired into the fact, whether, at any time, they had appropriated for the expense of Ministers before they existed? If they were bound to appropriate, they were not bound to appropriate beyond what was before them. He did not believe that even the gentleman from Connecticut would subscribe to this doctrine.

As to what the gentleman had said relative to what had taken place since he came into that House, he was mistaken altogether. In addition to what had been said by the gentleman from Georgia, he would ask why the law of 1790 was limited for two years, if not meant to check the power of the President? If Congress had been of opinion that they were bound, they would have made a permanent appropriation as in relation to the public debt. If, because they differed in opinion, they were to charge each other with subverting the Government, there would be an end to business. He gave the Constitution a construction which he thought right; that gentleman, he supposed, did the same, and though, in his opinion, his doctrine brought all Legislative power into the hands of the Executive, yet he would not charge him with any other than good intentions.

With respect to the Judges of the Supreme Court, the President had the power only to appoint them, their number was fixed by the Legislature; so that there was a similar check in both cases. He thought the true ground was the expediency of the business.

Mr. Harper asked whether that House was possessed of all the information necessary to form a judgment of the propriety of this measure. Could they say with propriety, that a Minister ought not to be sent either to Lisbon or Berlin? And if the proposed sum were taken from the appropriation, one of these missions must be given up. Thus to control the power of the President, in his opinion, would be to destroy a provision of the Constitution, and bring the President into a very humiliating situation.

Mr. Nicholas said, if the appropriation of money was not vested in their hands for the purpose of exercising their judgment upon the propriety of expense, he could not see the use it was of; but he did believe they had the power of controlling what appeared to them improper expense, and that it was their duty to do so.

The question was put, for filling the blank with the larger sum, viz: $60,500, and carried, there being fifty votes in favor of it.

The 7th, 8th, 9th, 10th, 11th, and 12th items were agreed to without opposition.

On the $5,000 proposed for the hospital department, some debate took place. It was urged by Messrs. W. Smith and Otis, on the ground of its having been called for by the proper department, and that if it was not expended, the money would be safe in the Treasury.

It was opposed by Messrs. Gallatin, Varnum, and Macon, as, in their opinion, unnecessary. It was alleged that the expense of this department had never reached $7,000, and that $10,000 had been appropriated this year, which they thought must prove sufficient; if it were not, it might be supplied next session. Mr. Gallatin declared he had no faith in the estimates of the War Department with respect to the several heads of expense, as heretofore, when the appropriations were made general, and a surplus under one head was taken to supply deficiencies under another, the hospital department had been estimated at $30,000; though, by the return which had been made to them last session, it appeared that it scarcely ever exceeded $6,000. [It will be recollected that last session the appropriations for the Military Establishment were made special, so that in future every item of expense must be kept distinct.]

On the motion for striking out this item being put, it was negatived—45 to 33.

The question for filling the blank with $5,000, was carried—49 to 30.

The remainder of the items were agreed to, without debate. The committee rose, the House took them up, and agreed to them, and the bill was ordered to be engrossed for a third reading on Monday.

DUTY ON SALT.

Mr. Allen laid a resolution on the table, again proposing a duty of —— cents per bushel on salt; ordered to lie.

A confidential communication was received from the President of the United States, as follows:

Gentlemen of the Senate,
and House of Representatives:

The whole of the intelligence which has for some time past been received from abroad, the correspondence between this Government and the Ministers of the belligerent Powers residing here, and the advices from the officers of the United States, civil and military, upon the frontiers, all conspire to show, in a very strong light, the critical situation of our country. That Congress might be enabled to form a more perfect judgment of it, and of the measures necessary to be taken, I have directed the proper officers to prepare such collections of extracts from the public correspondence as might afford the clearest information. The reports made to me, from the Secretary of State and the Secretary of War, with a collection of documents from each of them, are now communicated to both Houses of Congress. I have desired that the Message, reports, and documents, may be considered as confidential, merely that the members of both Houses of Congress may be apprized of their contents before they should be made public. As soon as the two Houses shall have heard them, I shall submit to their discretion the publication of the whole or any such parts of them as they shall judge necessary or expedient for the public good.

JOHN ADAMS.

United States, *July* 3, 1797.

The said Message and papers were read, and ordered to be referred to Messrs. Sitgreaves, Baldwin, Dana, Dawson, and Hindman; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Ordered, That the said committee be instructed to report whether it will be proper to print any, and what part, of the said communication, for the use of the members.

Tuesday, July 4.

The bill from the Senate, allowing full mileage to the members of both Houses; the bill respecting Consuls and Vice Consuls; and the bill making additional appropriations for the year 1797, were read the third time and passed.

DUTY ON SALT.

Mr. Allen called up the resolution he yesterday laid upon the table, for laying an additional duty on salt.

Mr. Gallatin moved to postpone the consideration of this resolution until the second Monday in November.

Some debate took place on this question; and, when it came to be taken, the House was equally divided, there being 43 votes for the postponement, and 43 against it. The Speaker decided against the postponement, and the resolution was referred to a Committee of the Whole immediately.

The House accordingly resolved itself into a Committee of the Whole on this resolution; when

Mr. Allen moved the blank cents per bushel, be filled with twelve.

Mr. Swanwick wished the sum to be seven.

Mr. Allen consented to make it eight.

Mr. Sitgreaves hoped it would be twelve.

The question was first taken upon twelve, and negatived, there being only 30 votes for it. It was next taken upon eight, and carried, 47 to 42, and then upon the resolution as amended, and carried by the same numbers.

The committee rose, and the House took up the resolution.

After a few words from Mr. Lyon against the tax, and from Mr. Williams in favor of it,

Mr. W. Smith went at considerable length into a defence of the measure, in the course of which, he said, they had already agreed upon appropriations to the amount of $700,000 or $800,000, and were not certain of any revenue to meet the expenditure. The license act, he believed, might produce from $50,000 to $60,000 dollars, and the stamp act from $100,000 to $150,000, if they should be passed, but he considered this as doubtful. But if these laws were passed, this tax on salt was necessary to keep up the equilibrium of taxation; for the stamp act would almost exclusively fall upon commerce and large cities; this would principally be felt by the agricultural part of the Union; and, if it were not agreed to, they must have a land tax.

Mr. Shepard said, no tax would operate so equally as a salt tax, as every citizen must make use of it in a smaller or larger quantity.

Mr. Gallatin opposed this tax on the same ground which he heretofore opposed it, as oppressive to certain parts of the Union, and no way affecting others, and therefore wholly unequal, and particularly as it bore heavy on the poorer classes of society. He was against it also, because it was not proposed that the amount of this tax should go towards a reduction of the public debt, but merely to encourage expense in the Government; for he believed if they filled the Treasury with money, means would be found to expend it. Indeed, if the Treasury had not been at present in rather a low state, he believed they should have gone into most of the expensive measures proposed to them this session. He allowed the tax would be productive, as a tax upon bread, air, or any necessary of life, must be productive. If this tax, however, were to be agreed to, he should wish to make an amendment to the present proposition. At present the drawback allowed to the New England States, on account of salt used in the fisheries, amounted to about $90,000 a year, though by the statements it appeared there should only have been allowed $50,000. To rectify this, he proposed the following proviso to be added to the resolution, viz:

Provided, That the allowance now given upon vessels employed in the fisheries, shall not be increased.

This amendment was opposed by Messrs. Harper, Sewall, Dana, and Kittera, on the ground of its being an unfair way of introducing the proposition, as no one expected it; they were not prepared to meet it; the correctness of the statement was doubted; and, if it were correct, it was said, the proper way of doing the business would not be to pass the present law without a drawback, but to reduce the former drawback and make it less on this occasion.

The motion was supported by the mover, and Messrs. Venable and Livingston; but, after some discussion, Mr. Gallatin withdrew it, in order to give gentlemen time to make themselves acquainted with the fact he had stated; but he expressed his intention of renewing the proposition when the bill came in.

The question then returned upon the original resolution; when

Mr. Harper went at length into a defence of the measure, (in the course of which he charged Mr. Gallatin with being mistaken $12,000 as to the amount of the drawback allowed,) and insisted that it was a fair and proper tax, and that so small an advance upon the present duty could not operate oppressively upon any part of the community.

Mr. Nicholas followed in opposition. He

dwelt considerably on the unjust and unequal manner in which this tax would operate. He said he did not view this question as deciding merely whether an additional tax of eight cents should be laid upon salt; but whether that necessary of life should be called upon for every thing Government should want. He was in favor of a direct tax which should fall equally, though it might, in the origin, be attended with some considerable expense; but, if they went on raising partial sums in this way by indirect means, the expense of instituting a direct tax would always be an obstacle, and indirect taxes would always be had recourse to. He did not believe it to be absolutely necessary to provide a revenue this session, as he believed money might as well be borrowed without as with additional revenue, and, at the next session, the subject could be fully gone into.

Mr. Lyon spoke of the discontent which had always been shown in the part of the country from whence he came, which, he said, would be greatly increased by this addition. It was not only a duty of eight cents, every cent would be made four before the salt reached them. There was no kind of tax which his constituents would not sooner bear. It had been said that a land tax would cost twenty-five per cent. to collect it; but what was twenty-five compared with three hundred per cent.? Nor did he believe this tax would prevent a land tax. He believed they should go on taxing the people until they would be greatly dissatisfied. He would much rather a tax of eight cents was laid upon tea, which would produce an equal sum.

The question was taken by yeas and nays, and decided in the affirmative—47 to 41, as follows:

Yeas—John Allen, George Baer, jr., James A. Bayard, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, Joshua Coit, Wm. Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Chauncey Goodrich, Wm. Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, William Barry Grove, John A. Hanna, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

After the first call was finished, Mr. Blount came in, and said he was called out to the door, and, from the noise without doors, he had not heard his name called. His vote being refused to be admitted, he said he should then call the yeas and nays on the passing of the bill.

A committee was appointed to report a bill in pursuance of this resolution; and the House adjourned.

Wednesday, July 5.

A bill was reported for laying a duty upon salt, which was twice read, and ordered to be committed to a Committee of the Whole this day, after a motion was lost for postponing it till the second Monday in November, by 39 to 33.

AUTHORIZING A LOAN.

The House went into Committee of the Whole on the bill authorizing a loan of money; when

Mr. W. Smith moved to fill the blank in which was to be inserted the money to be borrowed with $800,000, which, he said, was about the amount of the appropriations of the present session.

Mr. Gallatin said, it was, perhaps, not very material as to the exact sum with which this blank was filled; but the appropriations of this session did not amount to that sum. One hundred and fifty thousand dollars had been appropriated for the fortifications, and the amount of the appropriation bill was $567,000, which made a little over $700,000; and there would certainly be a considerable overplus of revenue to meet, in part, this expense.

Mr. Harper denied that a surplus of revenue in the present year could be depended on. The revenue of 1796, indeed, had proved much more productive than was expected. The first quarter of 1797 had also been very productive; but the accounts were brought up no later, and, consequently, it was impossible to know what defalcations would take place in the three last quarters of this year, or how productive the whole revenue of it would be. Should it be as productive as that of 1796, there would, indeed, be a surplus above the appropriations of last session; but this was uncertain. The revenue of 1797 was, indeed, to arise from importations already made, and bonds now in the custom-house; but there might be great failure in the payment of those bonds. It was known how much the trading capital of this country, which stood pledged for the payment, had been diminished by late events—by the fall of prices last year, by the great amount of property detained abroad, and by the spoliations now going on. It was impossible to tell how great the spoliations would become, and to what degree all these causes united might render the merchants unable to pay their bonds—consequently, how productive the revenue of this year might be. He hoped there would be a great surplus; but it was quite uncertain; and, in this uncertainty, he thought it wise so to extend the power of borrowing as to cover any possible deficiency. This could not, in his opinion, be done with less

than $800,000, which might be wanted; and if it was not, would not be borrowed.

Mr. W. Smith said, besides the two items mentioned by the gentleman from Pennsylvania, there was $10,000 or $15,000 appropriated for agents under the British Treaty. There was also another article which might be agreed to in the course of the session, which should be included in the loan. There could be no inconvenience from giving authority to borrow a larger sum than required, as it would be drawn only as it was wanted, and the interest charged only from the time the money was got. The surplus of revenue, as his colleague had stated, was very precarious; $600,000 might be sufficient, but of that there was no certainty.

Mr. Gallatin did not know why gentlemen should wish to increase this sum beyond the appropriations of this session, as there was already authority in the Commissioners of the Sinking Fund to borrow more money than they could get. He believed the excess of revenue would be sufficient, as last year there was an increase of $700,000, and this year there would not be a less sum. He wished to have the blank filled with the amount of the appropriations, viz: $697,000.

Mr. Williams was in favor of the larger sum.

The question for filling the blank with $800,000 was put and carried—43 to 34.

The committee rose, and the bill was ordered to be engrossed for a third reading this day, which it afterwards received, and passed.

DUTY ON SALT.

The House went into Committee of the Whole on the bill for laying an additional duty on salt; when

Mr. Gallatin moved to strike out all that related to the allowing of a drawback to vessels employed in the fishing trade, on the ground that he yesterday stated, viz: that the allowance at present made was too large by $40,000 a year, taking the year 1794 for his data; but it appeared that in the year 1795 there was a deficiency in that trade, owing principally, it was supposed, to the great demand for seamen in the merchant service. He, therefore, would take the calculation of the gentleman from South Carolina, (Mr. Harper,) made yesterday, and, instead of calling the amount of drawback allowed $90,000, he would state it to be $78,000; and even then, he said, the drawback at present allowed would exceed by two thousand dollars the drawback to which they would be entitled, if the present duty took place.

He spoke generally against the tax as oppressive to the back country; but if the gentleman from Massachusetts, and others, were determined to increase the tax, he should wish their part of the country to pay their share of it.

This motion was supported by Messrs. Venable, Nicholas, Clay, McDowell, and Macon.

It was opposed by Messrs. Sewall, Otis, Harper, Coit, Brooks, Kittera, J. Williams, and Dayton.

The calculation of the quantity of salt estimated to be necessary to be used for a quintal of fish, (one bushel,) was said to be stated too low; that the sum allowed was not only meant as a drawback of the duty, but also as a bounty on the fishing trade—as being a nursery for seamen, and serving as a kind of naval militia for the United States.

If it should appear, however, that the present allowance was too great, (which, by some gentlemen in favor of this motion, which was in blank, seemed to be acknowledged,) a less allowance might be make in this bill; but they could not consent to the bill passing without a drawback.

The question for striking out the clause was taken, and negatived—49 to 41.

Mr. Coit moved to fill the blank with 50 per cent., instead of 66⅔, which was the drawback allowed by the present law.

Mr. Hartley thought this sum too high.

Mr. Williams moved 33⅓ per cent., which was carried without a division.

Mr. Nicholas moved a limitation clause, to continue the act in force for two years, and from thence to the end of the next session of Congress.

This motion was carried—42 to 39.

The committee rose, and the House agreed to the amendments. The yeas and nays were called upon the limitation clause, and were taken, and stood—yeas 47, nays 43, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, John Chapman, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, Thomas Evans, John Fowler, Albert Gallatin, James Gillespie, John A. Hanna, Thomas Hartley, Jonathan N. Havens, David Holmes, Walter Jones, John Wilkes Kittera, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Swanwick, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, George Baer, jun., James A. Bayard, David Brooks, Stephen Bullock, Demsey Burges, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, George Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

The bill was ordered to be engrossed for a third reading this day; and before the House rose, it received it, and passed. The yeas and nays on its passage stood 45 to 40, as follows:

Yeas—John Allen, James A. Bayard, David Brooks, Stephen Bullock, John Chapman, Christopher G. Champlin, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, John Swanwick, George Thatcher, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Wm. B. Grove, John A. Hanna, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, of Pinckney District, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

TRANSFER OF STOCK.

A bill was received from the Senate for continuing in force an act to revive and continue in force an act authorizing the transfer of stock standing to the credit of certain States; which was read the first, second, and third time and passed.

COLLECTION OF INTERNAL REVENUE.

Mr. W. Smith called for the order of the day on the bill regulating the collection of certain internal revenues.

Mr. Nicholas wished this bill to be postponed until next session, as it was not of any immediate importance, and he wished that they should by all means finish their business in the course of this week.

Mr. Macon moved that the Committee of the Whole be discharged from further consideration of the subject.

This motion was carried, there being 46 votes in favor of it.

Mr. Sitgreaves, from the committee to whom was referred the Message from the President of the United States, of the third instant, made a report, in part, which he delivered in at the Clerk's table, where the same was twice read, and agreed to by the House, as follows:

"That, in their opinion, it will be proper to print the whole of the said communication, with the documents accompanying it, for the use of the members."

Resolved, That the injunction of secrecy upon the members of this House, as far as relates to the said Message, be taken off.

Thursday, July 6.

The bill making further appropriations for the year 1797, was received from the Senate, with an amendment proposing to add a clause to it of forty-five thousand dollars on account of our treaties with the Mediterranean Powers. It was referred to the Committee of the Whole to whom was referred the confidential communication of the President with respect to Algerine business.

Mr. Sprigg presented a memorial from Major Lewis, extra aid-de-camp to General Wayne, for pay for his services in that capacity. After some opposition it was referred to a select committee to report by bill or otherwise; and, before the House rose, a bill was reported, and committed for to-morrow.

IMPEACHMENT OF WM. BLOUNT.

Mr. Sitgreaves, from the committee to whom was referred the confidential communication of Monday last, reported the following resolution, viz:

"*Resolved*, That William Blount, a Senator of the United States, from the State of Tennessee, be impeached for high crimes and misdemeanors."

This resolution was twice read and committed for this day.

A motion was made by Mr. W. Smith, for going immediately into a Committee of the Whole on this business; but it was withdrawn in order to take up the amendments of the Senate to the bill laying additional licenses on the retailers of

FOREIGN WINES AND SPIRITS.

The principal amendments of the Senate were to extend the licenses to domestic wines and spirits, as well as to those of foreign manufacture.

The amendments of the Senate were supported by Messrs. J. Williams, Sewall, Skinner, and Varnum, on the ground of making the duty fall more equally, as at present, it was asserted, that some States paid far more than others. Mr. Williams in particular asserted, that the State of New York paid one-fifth of the whole.

The amendments were opposed by Messrs. Gallatin, Hartley, Kittera, Venable, Dayton, Dennis, Coit, and Craik, as oppressive to the small farmers of this country, who had just been taxed by an additional duty on salt, and as tending to destroy all those small distilleries that distilled for sale from ten to twenty gallons a year.

After considerable discussion, a motion was made for the committee to rise, which was carried by the casting vote of the Chairman, (Mr. Dent.) And on leave being asked for the committee to sit again, it was refused—52 to 31.

The further consideration of the subject was then postponed until the second Monday in November.

IMPEACHMENT OF WM. BLOUNT.

On motion of Mr. Sitgreaves, the House resolved itself into a Committee of the Whole on the resolution reported for impeaching William Blount; when

Mr. Sitgreaves said, if there were no objections to the proposition, he hoped the committee would rise and report it; or, if any information should be wanted on the subject, he should endeavor to give

the committee all that he had it in his power to give.

Mr. Skinner said, he had doubts in his mind whether the House had any right to interfere in the business.

Mr. Sitgreaves observed, that when the communication was first made to the President of the United States, it appeared so evident to him that the occasion called for some active steps being taken, that he immediately took the opinions of the Attorney General, Mr. Rawle, and Mr. Lewis, to whom he proposed certain questions. A copy of the opinion which they returned to him had been transmitted to the committee. It stated that the above gentlemen had considered the letter of William Blount, and the several questions proposed thereon, and answered:

1. That the letter is evidence of a crime.
2. That the crime was of the denomination of a misdemeanor.
3. That William Blount, being a Senator, is liable to impeachment for the said crime before the Senate.

It was in conformity to this opinion, that the President of the United States, thought himself bound to communicate the letter to the House of Representatives, and leave it for them to act upon the occasion. If the opinion of these high law characters was correct, there could be no doubt of the part which they ought to take. For his own part, he had not been able to see why the members of the Senate were not as fair objects of impeachment as any other officers of Government. He believed, upon a candid review of the Constitution, it would be seen that there was no restriction upon the right of impeachment. There was a restriction upon the punishment to be inflicted, but not upon the right. He would not pretend to say the right might not, however, be circumscribed in some respects. He believed a Senator could not be impeached for any thing he might do as a legislator; though this should be understood with limitation; for, if corruption could be proved upon him, it would be fair ground of impeachment, though, acting in the ordinary course of legislation he could not be called to account for his conduct out of the House. He believed, that in a Government like ours, the right of impeachment was a very valuable right. It was a sort of process calculated to reach State offenders, not otherwise amenable to punishment; and there was no fear that in this country this power would be abused, as in another country, to serve the purposes of a Minister or a party, as both the body which makes the accusations, and the court which decides upon the charge, are the real representatives of the people, the one immediately, and the other mediately.

In England, Mr. S. said, this trial by impeachment had been carried beyond official cases. He instanced the famous trial of Doctor Sacheverell, who was impeached for preaching a libellous sermon. It was well known that this cause divided the kingdom, and that the first talents were called in to the aid of the Doctor.

The Senate, Mr. S. said, was peculiarly constructed. Its powers were of a complicated nature; they were Legislative, Executive, and Judicial. In consequence of their Executive powers, they had possession of all the secrets of the Executive. The officer who was charged in this case, he said, had particular relation to this part of the functions of the Senate; for, having this participation in the secrets of Government, it was a particular breach of official duty, when a Senator attempted to seduce an officer of the United States from his duty.

So also when a Senator of the United States shall endeavor to deprive the Government of his country, or its agents, of the confidence of a foreign nation; when he shall endeavor, by seductive arts, to lead a foreign nation to commit hostilities on his country, it was certainly such a violation of his duty as would warrant an impeachment. Mr. S. said, these were the considerations which had induced the committee to make the report they had made; it was for the House to act upon it as they saw proper.

Mr. Nicholas had his doubts with respect to the Constitutional right of the House on the subject. He thought the committee had neglected something which ought to have been done. They ought to have had some satisfaction with respect to the truth of the charge; they were not to act upon mere suspicion. This was his first impression on the subject; but he had yet made little inquiry on the matter; he thought, however, before they declared a man in any degree guilty, they should have evidence before them.

It did not appear to him that a member of the Legislature could be termed an officer of Government; for so far as a Senator had to do with the Executive, his character was merely that of an adviser, and he doubted therefore, whether he could, in giving his opinion, be liable to prosecution; nor did he think his crime of corrupting an officer was the greater because he was a Senator.

Mr. N. declared, however, that he was as ready to act upon the business as any person in the House, and gave as much credit to the charge. He wished to probe the business to the bottom. He thought they should inquire whether there was not another person equally culpable with William Blount—he meant the British Minister.

He suggested the propriety of deferring the whole business till next session, as he did not see any advantage that would be derived from determining upon it at present, except it were by making an example of the offender. He supposed there would be no danger of his escaping; and if he were to escape, he did not know that it would make any considerable difference, as the only punishment which could be inflicted upon him would be a disqualification from office.

Mr. Gallatin said this subject was altogether new to him. He never had turned his mind to the Constitutional question with relation to impeachment before this morning. Of course, what he should say, would be more in the shape of queries than of any thing else, as he had not formed any decisive opinion upon it. He was not, therefore, ready to vote upon the subject, but

merely wished to submit his doubts to the committee.

It had struck him, upon a cursory view of the Constitution, that whatever might have been the extent to which impeachment was carried in England, by our Constitution impeachment in this country must be limited to the officers of Government alone. He had derived this idea from the two following clauses in the Constitution, viz:

"The President, Vice President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

"Judgment in cases of impeachment shall not extend further than to a removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law."

It appeared from these clauses, that wherever an officer of Government committed an offence upon which a judgment of impeachment should be had, he was also liable to indictment according to law, as the extent of the punishment from an impeachment was a removal from office, and a disqualification to hold in future any office of honor, trust, or profit, in the United States. He did not think the case of Dr. Sacheverell in point. It was his opinion, that, by the Constitution, officers of the Government only were intended to be impeached, and not members of the Legislature.

His colleague had given it as his opinion, that a member of that House might be impeached for his vote, if bribery could be proved, though the Constitution expressly declares that no member shall be questioned out of the House for any thing he may do in his character as a legislator. He supposed this clause was meant to prevent any interference of the Executive; but if a man were to be called in question for a vote, though not for a speech, the privilege which he had always understood that they enjoyed, would be greatly narrowed. It appeared to him that the appropriate punishment for offences committed within those walls was expulsion; and that impeachment could not apply to them.

An argument had been adduced in favor of impeachment of a Senator, from that body having free access to the Executive records. This assertion was not correct; as he recollected a case in which the Senate applied to the President for certain papers, which, if they had had free access to his record, they would not have had occasion to have requested. He also recollected that the request was only granted in part. He believed indeed that some Senators, as well as some members of the House, might, by special favor of the Secretary of State, have access to this record; but he believed it might be refused to the members of either House.

It was said this offence was the seduction of an officer of the Government. He knew nothing of the offence; but he saw no reason why the offence should be greater because committed by a Senator. He knew not whether this Carey, an Indian interpreter, was an officer nominated by the President, and approved by the Senate. He knew nothing of the fact. It was therefore necessary to have some further information on the subject.

With relation to the letter itself, it was of a very serious nature; so serious, that though he conceived it scarcely ripe for Legislative inquiry, he thought it called for strict Executive inquiry. He thought they should know something of the fact that the letter was William Blount's. It was nothing less than a conspiracy between a number of men, in the United States, and the British Government. He said a number of men, because the letter mentions a Captain Chesholm, who held correspondence with the British Minister at Philadelphia last Winter, so that at least two officers of Government were acquainted with the plan. [He read an extract from the letter.]

It appeared, therefore, that a most serious plan had been laid, in which Captain Chesholm was a partner, and made the instrument to confer with the British Minister; that a man of some consequence was gone to England, and that the design was an attack upon the Spaniards in America; so that the plan, if carried into effect, must involve us in a war with that nation. This plan, Mr. G. said, had been suspected by the Spanish Minister at Philadelphia, who had addressed our Executive more than once upon the subject; and also by the Ministers of France and Spain at Charleston, who, in order to meet the attack, had purchased all the arms and ammunition they could meet with, and sent them to Augustine. How far the Legislature should go into the business, or whether it should be left to the Executive, he did not know. At first, he thought the subject wholly of an Executive nature.

Mr. G. observed that what he had delivered were mere cursory thoughts. He wished to hear the subject discussed, as he should attend more to the arguments of gentlemen in that House than to the opinions of legal authority. As to the legality of the question, they were certainly better judges than himself; but as the power of impeachment was committed to that House, they certainly ought to judge for themselves. He mentioned this because he thought the answer of these legal gentlemen very curious, viz: "that the letter was evidence of a crime; that this crime was a misdemeanor; and that it is liable to impeachment." When the President asked advice what he should do, the answer seemed to be a direction to that House what they should do; and this was advice unasked. Perhaps, however, the answer given to them was only partial. He wished, if it could be done with propriety, that the business might be postponed till the next session. He understood that the gentleman was supposed to have taken his seat in the Senate to-day. As to expelling him from his seat, that might be done now, and when that was done it would prevent him from doing any further harm. The disqualification might take place at the next session as well as at the present.

Mr. Dana said, the first impressions upon his

mind were, that a Senator was not impeachable, but, upon further inquiry, he had found reason to doubt his opinion.

He asked whether a power could be impeached for any offence which was not a violation of official duty. He thought this was clear by the Constitution. A judge was certainly a civil officer, yet, if he were guilty of treason against the United States "by levying war against them, or adhering to their enemies, giving them aid and comfort," though this would be no breach of official duty, he might certainly be impeached for the offence.

Another inquiry was, whether members of the Legislature were officers in the sense of the Constitution. This was an inquiry of great importance.

The right of impeachment seemed to be a right clearly political; it was a right in Government to protect itself by displacing from its councils men who were faithless and unworthy. Taken in this view, the reason of the thing seemed strongly to apply to the members of the Legislature.

With respect to a legislator being a civil officer, he would ask whether, if a man was displaced from a civil office, he would be eligible to be elected as a member of the Legislature? This would be an absurd conclusion, unless it should be said that to be elected to such a situation was to be in a place of neither honor, trust, or profit.

Another clause of the Constitution said, "that no title of nobility shall be granted, and no person holding any office of profit or trust shall accept of any present, emolument, office, or title of any kind whatever from any King, Prince, or foreign State." And it was not meant to be said that, though our officers were not to be allowed to receive emoluments, &c., the members of the Legislature were not forbidden to do it. This would be strange doctrine.

He would submit to the committee what he conceived to be their duty. He thought the House should be fully satisfied of the fact; but if there was any doubt as to the flagrancy of the offence, or the liability of the person to be thus tried, these doubts should be left to the decision of the Senate, as the proper constituted authority. As to the inquiry relative to facts, the committee did not conceive that that inquiry ought to extend to a foreign Minister. They had nothing to do with him. He did not come within their cognizance.

Mr. D. thought there could be no doubt as to the fact of the letter being really Mr. Blount's, as several persons in the House could prove his handwriting. It was necessary first to enter into this general resolution. Afterwards specific articles of impeachment could be prepared.

Mr. Sitgreaves said, it was observable that no gentleman had ventured to do any more than express his doubts, both as to the fact and the law on this occasion. With respect to the fact he did not expect any doubt. He believed that any gentleman at all conversant with that branch of law learning which relates to impeachment, must know that impeachments have always been founded on official documents, or upon circumstances of notoriety, and not upon facts found as before a grand jury. In this instance they had received the letter of Mr. Blount sufficiently authenticated in the communication of the President.

He was sorry that the measures which the Executive had taken in this business should have been censured, even by insinuation. Mr. S. said he had read the opinion of high law authority which had been obtained by the Executive. When he did this he thought he was giving proof of the honorable motives of the Executive. Information had been given to the Executive which, on the first blush, showed designs against the peace of the United States. It was the duty of the President to preserve the peace of the United States. It was natural and right for him, therefore, to take the opinion of those persons who were best qualified to direct him what course would be best to be pursued. These gentlemen had given it as their opinion that the proper way of proceeding would be by impeachment, and, in effect, that the President had no more to do with it, but that it should be turned over to the proper branch of the Government. In consequence, the President communicated more to the House than he had done to the Senate, as the original letter of William Blount was sent to them as evidence upon which they were to found their charge. The President did not direct them to impeach, but he had laid before them the facts, with the opinion of the law officers.

Mr. S. conceived that the conduct of the President had been strictly proper. He would pass on to the Constitutional doubts which had been expressed. It was acknowledged that there was no restriction upon the right of impeachment; but his colleague thought that something like a restriction might be gathered from the fourth clause of the second article of the Constitution, which he had quoted. It was to be observed that this article was found in that part of the Constitution which related only to the Executive Department of the Government. This, he took it, was a good reason why this rule should not be taken as a rule in the present case; but there was another clause which spoke of disqualifying persons from ever filling any office in future, which was a greater power than that under the Executive Department. If the construction which his colleague had put upon the Constitution with respect to impeachment was the true one, an officer of the Government could not be brought to trial after he had resigned, as he could not then be removed from office.

His colleague had produced another article of the Constitution which limited the punishment under an impeachment. This, Mr. S. said, was meant to guard against any disgraceful excess of Governmental vengeance or party venom, because it went on to say that if the offence was within ordinary crimes it might be prosecuted and punished in the same way as if an impeachment had not taken place.

Impeachment was then to be considered as for

the purposes of the State, distinguished from the general purposes of society. If it had been intended that the power of impeachment should be limited in the manner supposed by his colleague and the gentleman from Virginia, it would have been so expressed, as in the constitution of Pennsylvania; they had spoken on this subject in a way not to be mistaken, as they expressly said who were liable to impeachment, and what offences should be impeachable. And if it had been the intention of the Constitution of the United States that officers of the Government only should be impeached, it would doubtless have been so expressed. But was not the present case that of an officer charged with an offence directly connected with his office, and with the official confidence entrusted to him? When it was particularly his duty to appoint to office, it was surely a peculiarly aggravated offence to seduce an officer or to turn friends into enemies. What was a Senator if he was not an officer of the Government? The President, who was himself a branch of the Government, was allowed to be an officer of the Government, and surely a member of one of the branches must also be an officer.

As to the form of proceeding necessary to be taken on this occasion, he would state what the opinion of the committee was as to this matter. They supposed it would be first proper for that House to determine that the gentleman in question should be impeached. This being done, that a member of that House should go to the bar of the Senate and impeach the person, in the name of the House and of the people of the United States, and state that the House of Representatives will proceed to draw out specific articles of charge against him. According to the case, they require that he shall be sequestered from his seat, be committed, or be held to bail. When this is done, a committee will be appointed to draw articles of impeachment.

The reason, Mr. S. said, why some steps should be taken at present was, that means should be taken to secure the person of the offender, either by confinement or by bail, since it was the opinion of the law officers of Government that he could not be arrested by ordinary process. He could not be arrested by the Senate; they could send for him (as he understood they had done) by the Sergeant-at-Arms, to take his seat in the House; but when the House adjourned, they had no further power over him, until an impeachment was made against him.

Gentlemen said there was no danger of escape. If it were not improper to state what had taken place out of doors, it might be said that there had already been an attempt at an escape. Besides, if no investigation were now to take place, how were they to come to a knowledge of the plot which gentlemen seemed so desirous to come to a knowledge of? When they had determined to make the impeachment, and an oral declaration was made of it to the Senate, when they were ready to go home, they might go, and exhibit the charges at the next session, when they should have leisure fully to consider the subject.

Mr. Rutledge had no doubt in his mind on the subject; but he thought it necessary that the handwriting of Mr. Blount should be proved. He had himself attended the trial of an impeachment which had excited the attention of the world, (he alluded to the trial of Mr. Hastings,) and the order of proceeding was as had been stated. He moved that evidence be taken of the handwriting.

The Chairman suggested the propriety of having the business done in the House.

Mr. Brooks said, he should not have spoken on the occasion, if he had not heard gentlemen express wishes to have the present subject postponed. For his part, he could not tell how gentlemen would be able to acquit themselves to their own consciences and to their constituents, if they should refuse to stay a day or two to do this business.

Mr. Venable said, that as this was a new case, and would be referred to as a precedent, they should attend to the form of their proceedings. He thought the first step should be to prove the letter. If the committee could not do it, he should wish the committee to rise, that it might be done in the House. He did not think their determination should be postponed; but that if an impeachment was to be entered upon, that it should now be done. He had no doubt of the truth of the letter; but he wished it to be duly proved, as hereafter a case might occur in which such a letter might be a forgery.

Mr. Nicholas said, that some gentlemen had spoken upon this question as if there were persons upon the committee who wished to exculpate the person charged. [Mr. Sitgreaves declared, if he was alluded to, he had no such intention.] Mr. N. thought he intimated something of the kind, when he said, gentlemen ventured to say, &c. No member of that committee, he trusted, would wish to screen the offender, and he believed no person less than he who was most nearly connected with him, (meaning his brother, Mr. Thomas Blount.) Mr. N. thought it was not sufficient that the President had sent them a letter, which he believed to be in the handwriting of William Blount. If they were to take this for granted, they gave their power of judging over to the President.

Mr. N. said, he had merely inquired what would be the consequences of a postponement to the next session. He did not think it could produce any bad effect, as, if the offender were to escape, the final punishment did not require the presence of the man. Mr. N. again expressed his doubt about the constitutionality of the proceeding.

Mr. Dayton (the Speaker) said he held in his hand a letter which he had received from the President of the United States, inscribed as an original letter of William Blount, to be preserved with care. If any member of the committee will say that he believes the writing to be the writing of William Blount, it might save the trouble of the committee's rising for the purpose of having the fact ascertained in the House.

Mr. Harper thought the committee were as

well satisfied as to the fact now, as they could be when the handwriting was proved; but he denied that the committee had the power of taking evidence of this kind. He moved for the committee to rise, either to examine the evidence, or to adjourn.

Mr. Gallatin wished the committee to rise; but, before it rose, he wished to mention two or three ideas, upon which he should wish to have satisfaction when the committee sat again.

So far as relates to the Constitutional question, the gentleman from Connecticut (Mr. Dana) had removed a part of his doubts; therefore what he should mention would not relate to that point.

If he understood his colleague rightly, when speaking of the opinion of gentlemen of the law, he said that their opinion was, not only that William Blount was liable to an impeachment, but that the proper mode of prosecuting him was by impeachment. He had since looked at the opinion, and did not find it so; but that he was liable to impeachment. In the next place, he understood him to say, that Mr. Blount was not amenable to orderly process. He wished to know whether this idea was well founded, and whether the only mode in which he could be prosecuted was by impeachment. He wished to know this, that he might regulate his proceedings accordingly. He wished the business to be gone into as fully as possible; and he trusted that this mode of impeachment was not thrown upon them in order to prevent the bringing of the subject before a court of justice, and by that means suppress the inquiry which he wished to prosecute. He thought an investigation of the plot was of far greater consequence than the impeachment and disqualification of an individual. If the prosecution and the inquiry were to go on together, it would be well; but he wished to know whether, if they entered upon the impeachment, it was the design to drop every other mode of proceeding.

Mr. McDowell hoped the committee would not rise for the purpose of proving the handwriting of Mr. Blount. He was acquainted with his writing, and believed it to be his. As he had this belief, he wished to come to a determination as soon as possible. He thought the design a very criminal one, as it went not only to destroy the peace and happiness of this country, but also of others. He trusted, therefore, that they should take such steps as should prevent foreign Ministers in future from engaging persons to carry into effect views of this kind.

Mr. Harper wished the committee to rise. If the gentleman from Pennsylvania had known anything of the law, he must have known that the courts of justice were wholly inadequate to the inquiries he had mentioned. He did not believe this offence was punishable in any other way than by impeachment. Mr. H. said, it was at present unnecessary to say anything about any other persons being implicated in this business; he believed gentlemen might as well spare their insinuations until they were better acquainted with the subject. He believed when they had read the papers, gentlemen would be convinced the charges brought against the British Minister were unfounded.

Mr. Brooks wished to know whether they could proceed to impeach a man, if he were not present.

Mr. Dana said, when this subject was under debate with closed doors, the Secretary of State was present, and when it was doubted whether the publication of these papers might impede the prosecution of an inquiry into the business, they were informed by him that such steps were taken as that the publication of the papers could not have a bad effect.

The committee rose, and obtained leave to sit again.

It was proposed that the Speaker should proceed to take evidence as to the handwriting of the letter of William Blount.

The Speaker suggested the propriety of calling in a magistrate, as he had no power to administer an oath, except in the case of qualifying the members of that House.

Mr. Lyon moved that the Speaker be authorized to administer an oath on this occasion.

The question was put and negatived—53 to 29.

Judge Keene in the meantime coming into the House, a motion was made and carried, that he be requested to administer the oath to Messrs. Macon, McDowell, Grove, and Baldwin; which was accordingly done, and they gave their testimony as to the reality of the handwriting. They were all agreed that the letter was his.

The House then adjourned.

Friday, July 7.

Mr. Dwight Foster moved a resolution for an adjournment on Monday.

Mr. Havens moved to amend the resolution by inserting Saturday.

This amendment, after some conversation, was negatived—50 to 23, and the original motion was carried without a division.

The bill for the relief of Major Thomas Lewis was taken up in Committee of the Whole, received its third reading, and subsequently passed.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves moved to go into a Committee of the Whole on the report of the committee on the confidential communication of the President of the United States, on Monday last.

The Speaker said, before the House went into a Committee of the Whole on this subject, he would read a letter which he had just received. He then read a letter from Thomas Blount, a member of the House, from the State of North Carolina, as follows:

Mr. Speaker: If it were possible for me to express my feelings on this occasion, it would be unnecessary. Every gentleman who has a brother, and especially a brother whom he has long loved with the warmest brotherly affection, and believed to be both patriotic and virtuous, can easily conceive that they are painful in the extreme; yet, painful as they are, a consciousness that I am not, nor cannot myself be implicated in this or any

other charge of improper conduct towards my country, has enabled me to hear with fortitude everything that has been said, and would, if it were necessary, enable me to vote in the case of my brother, now before the House, in the same manner that I should think it right to vote in the case of any other man under similar circumstances. I am, however, aware that any vote I could give on this question might be considered as proceeding, on the one hand from partiality, or on the other from fear or some other unworthy motive. I must, therefore, being too much affected to rely on my power of utterance to express this in my place, request you to ask the favor of the House to excuse me from giving any vote upon this question. THOMAS BLOUNT.

Mr. BLOUNT was accordingly excused.

The House then went into a Committee of the Whole on the resolution yesterday reported, proposing an impeachment of WILLIAM BLOUNT, when it was agreed to without debate or division. The House then took up the resolution and also agreed to it in the same way.

Mr. SITGREAVES moved,

"That a member go to the Senate, and, at the bar of that House, impeach William Blount, in the name of this House and of all the people of the United States; and to inform them that they will, in due time, exhibit articles of impeachment against him, and make good the same."

Mr. GALLATIN said he was not well acquainted with the business, but he did not think it would be right to go on and impeach at once, before they saw what articles of impeachment were to be preferred. He thought it would be best first to appoint a committee to prepare the articles of impeachment and present them to the Senate, at the same time that they sent them their determination to impeach.

Mr. SITGREAVES said that the mode which he proposed was the same which was practised in the case of Mr. Hastings. Mr. Burke went up to the House of Lords and impeached him in words similar to those now proposed to be used. Some time afterwards, the articles of impeachment having been drawn, Mr. Burke again went up to the House of Lords and exhibited them. Mr. S. spoke also of a work lately published, in continuation of Judge Blackstone's Commentaries, which had a chapter on Parliamentary impeachment, and pointed out this as the proper mode of procedure. He had also looked into the proceedings on the trial of the Earl of Macclesfield, and found the same course was taken. It was true that in the case of a public officer of the State of Pennsylvania, which perhaps his colleague might have in his eye, the articles of impeachment were exhibited at the same time that the impeachment was made.

Mr. S. thought, however, that there was a good reason for not doing more at this time. If a committee were to be appointed to prepare the specific charges against Mr. BLOUNT, it would create considerable delay, and it would be proper that immediate measures should be taken, in order to secure the person of Mr. BLOUNT. Besides, at present, the only evidence of this mysterious business was the letter of Mr. BLOUNT. Measures were taken to procure further evidence, but it could not be got till some time hence. When this was got it might considerably develop the plot. At present, everything was conjecture. In every point of view, therefore, he thought it would be best to observe the usual mode of proceeding in similar cases.

Mr. GALLATIN said, if his memory was right, all the specific charges brought against Warren Hastings, were first agreed to by the House of Commons, before impeachment was made.

There was one thing, however, fell from his colleague, which would seem to make the mode proposed desirable. Mr. G. said he had considered the question which had been agreed to as a mere question of form, and that they should have gone on to exhibit articles of impeachment; but it appeared, from what had fallen from his colleague, that the articles of impeachment were not intended to be exhibited till next session. If this were the case, he thought it was perfectly right in wishing to present the impeachment in general terms. Till now he thought it had been the intention to have gone further.

Mr. HARPER believed it would not be proper for the House to stop in the present stage of their proceeding. He thought the proper mode of doing the business was that recommended by Mr. SITGREAVES. Having come to a resolution to impeach, the Senate should be immediately informed thereof, as they then could take measures accordingly. It was not necessary at the same time to exhibit the particular charges. They might afterwards determine whether they would exhibit the specific articles of charge during this session or at the next. He thought the charges might now be made, and if any additional facts appeared before the next session, which might make additional charges necessary, they might then be made.

Mr. SITGREAVES believed his colleague might be right with respect to what took place on the trial of Mr. Hastings. He had not the particulars of the Parliamentary proceedings on that business before him. He had those in the case of the Earl of Macclesfield, which were as he had stated. All that he contended for was, that having taken the resolution to impeach, it became necessary, of course, that the resolution should be communicated to the Senate. In no instance had the articles of impeachment attended the oral communication. After it had been made, the House could determine whether the specific articles should be drawn now or at the next session.

Mr. GORDON said there might be different modes adopted in cases where the persons accused were not members of the Legislature. In the case of Lord Stafford, he recollected, that in half an hour after the vote passed resolving to impeach him, he was taken into execution.

The question was put and carried, without a division.

Mr. SITGREAVES proposed also the following:

"That the said member do demand that the said William Blount be sequestered from his seat in the Senate, and that they take order for his appearance to answer to the charges which shall be exhibited against him."

Mr. VENABLE thought they had gone far enough, and that they should leave it to the Senate to take such measures as they should think proper with respect to displacing their member from his seat. If the resolution were, however, adopted, he wished the word *suspended* might be used rather than *sequestered*.

Mr. SITGREAVES thought the word synonymous. He had used *sequestered* because he found the word used in the books.

Mr. HARPER thought the motion right in substance; for though the Senate had the power of displacing their member from his seat, yet the taking order for his appearance to answer the charges brought against him, should be done from the application of the prosecutor, as in ordinary cases.

Mr. SEWALL thought that each House was the best judge of the conduct of its own members, and to require the sequestration of Mr. BLOUNT from his seat was not necessary. He believed the Senate were at that moment taking measures for expelling him from his seat; any interference of theirs on that subject was therefore wholly unnecessary.

Mr. NICHOLAS was of opinion that in following too closely the practice of Great Britain with respect to impeachment, they should be led astray, as the punishment consequent upon the conviction of an offender was very different in the two countries. In Britain, an offence might reach the life of a person, whereas in this country, the extent of the punishment was removal from office, and disqualification for the future. For his own part, therefore, he did not see any occasion for confinement of the person, except it were necessary to examine him by interrogatory.

Mr. HARPER said it was certainly necessary to secure the person of the offender, otherwise he could not be brought to trial; since it was a maxim, never to be departed from, that a person could not be tried in his absence.

Mr. SITGREAVES was of the same opinion.

Mr. VENABLE agreed with Mr. NICHOLAS that the difference of punishment consequent upon trials by impeachment was not sufficiently attended to. He did not think that the doctrine was founded, that a man could not be tried in his absence. It would be an unfortunate conclusion, that effectual process could not be had against a man because he was absent.

Mr. KITTERA said the gentleman last up was certainly mistaken in saying that a man might be tried in his absence. He thought it would be best to pursue the usual mode on similar occasions.

Mr. GORDON insisted upon the right which that House had to require the Senate to sequestrate Mr. BLOUNT from his seat, and that they should hold him to answer the charges to be exhibited against him. If this were not the case, an offender might go on to execute his purposes to the great injury of the country, before he was expelled from his seat or held to bail.

Mr. SEWALL had no idea that it was necessary to sequester Mr. BLOUNT from his seat, in order to hold him to appear to the charges to be exhibited against him; though he conceived it necessary to hold him to bail, as no trial could take place, except he were present.

This proposition was put and carried—41 to 30.

Mr. SITGREAVES was appointed to wait upon the Senate to carry into effect the above proposition.

The SPEAKER read a note which he had received from a member of the Senate, informing him that seats were prepared for the reception of the members of that House, in case they chose to attend the business then before the Senate, [which was the question for expelling Mr. BLOUNT from his seat, opposed by the counsel of Mr. BLOUNT, viz: Messrs. Dallas and Ingersoll.]

Mr. DENT moved that when the House adjourns it adjourn till two o'clock. Agreed; and the House adjourned about twelve o'clock, and attended the Senate.

At two o'clock the House resumed its sitting; and after Mr. SITGREAVES had made a report of his commission to the Senate, the House resolved itself into a Committee of the Whole on Algerine business, and the galleries were closed for the remainder of the sitting.

SATURDAY, July 8.

A message was received from the Senate, informing the House that they had agreed to their amendment to the appropriation bill; and that they had, in consequence of their impeachment of WILLIAM BLOUNT, a Senator of the United States, proceeded to hold him to bail to appear to the charges to be exhibited against him, himself in $20,000 and two sureties each in $15,000.

On motion of Mr. MACON, the Committee of the Whole, to whom was referred the bill authorizing the President of the United States, during the recess of Congress, to provide armed galleys, was discharged.

Mr. HARPER said it would be recollected that he had laid two resolutions on the table relative to the securing of live oak timber, &c. From the press of business which had been continually before the House, he had not had an opportunity of calling them up; and the session being now too far advanced to do it, he gave notice that he should bring forward the subject early in the next session.

LAWS IN THE GERMAN LANGUAGE.

Mr. HOLMES said that he thought it necessary, in order to enforce a general compliance with the laws of the United States, that they should be printed in the German language, as well as in the English, since there were very many inhabitants of this country who could read no other. He therefore proposed a resolution to the following effect:

"*Resolved by the Senate and House of Representatives of the United States*, That a number of copies of the laws of this session, not exceeding eight thousand

copies, shall be printed in the German language, and distributed by the Secretary of State amongst the Executives of the several States, for the information of the German inhabitants of each State respectively."

Mr. Lyon thought it would be proper to pass a resolution of this kind. He did not know what number might be necessary. He also thought that some measures should be taken for a general publication of their laws in the English language; at present, it was merely by chance if the people in his district came to a knowledge of them. He thought all laws of general import should be inserted in every newspaper throughout the Union.

Mr. Cort said if they were to promulge their laws in the German language, it would be necessary that they should all become critically acquainted with it, for if they were to authorize any translation, great mischiefs might arise from its not being correct.

Mr. Gallatin said that the weight of the objection urged by the gentleman last up, had always been thought sufficient in the Legislature of Pennsylvania, in which State there was a greater proportion of Germans than in any other. There was also another objection to the measure. If it were to be passed, it must be accompanied with an appropriation law, which the advanced state of the session would not admit.

The resolution was put and negatived.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves proposed the following resolution to the House:

"*Resolved*, That a committee be appointed to prepare and report articles of impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors; and that the same committee have power to sit during the recess of Congress, and to send for persons, papers, and records."

Mr. Gallatin wished a division of the resolution at the word "misdemeanors."

The first part was then put and carried.

Mr. Gallatin desired the determination on the second part to be postponed till Monday. It was a new subject, and he wished a little time to consider of it. The committee, he supposed, could in the mean time be appointed.

Mr. Brooks inquired whether the latter part of the resolution, for sending for "persons, papers, and records," should not be connected with the first part of the resolution?

Mr. Venable said, the gentleman last up might be accommodated by adding the words in question; and if, before they adjourned, it was found necessary that the committee should have power to sit during the recess, that power should be given to them.

Mr. Sitgreaves did not think it would be proper to pass one part of the resolution without the other. The House had resolved to adjourn on Monday, and there was little doubt that the other branch of the Legislature would agree to it. If the committee should be appointed to report articles of impeachment at this session, it would be found that it would require more time than he believed Congress would be inclined to give to it; for, if prepared, they must also be exhibited; and, if exhibited, the Senate would think it necessary to proceed to act upon them. In his view of the subject, great advantage might arise from the committee's having leisure to pursue inquiry into the plan, so as to develope the mischief during the recess of Congress.

Mr. Venable said, the object of gentlemen seemed to be mistaken. They wished merely to have a little time to consider of the subject. He had doubts whether it was within the power of the House to authorize a committee to sit during the recess.

Mr. Sitgreaves did not wish to hurry the business.

Mr. Rutledge had no objection to deferring the vote till Monday; but he thought it absolutely necessary to empower the committee to sit during the recess. This was according to British precedent. It was the plan, also, upon which two different impeachments had been conducted in the State of South Carolina. He thought the reason in this case very strong; the object was not only to bring the charge home to the person impeached, but to bring forward all the persons concerned in this plot. Indeed, the articles of impeachment must be founded, in a great measure, on information which was to be discovered by this investigation. He trusted, therefore, that this power would be given.

Mr. Gallatin said he was in no want of precedent on this occasion. He was a member of a committee of impeachment in the State of Pennsylvania, where similar measures were adopted; but he was of opinion that this business had been already too much hurried, and that some of the steps taken would have been better taken, if there had been more time. He wished, therefore, to consider upon this proposition till Monday. Gentlemen who brought forward the measure were doubtless ready to vote for it; but he trusted they would allow others a little time.

Mr. McDowell wished a committee to be immediately appointed, and the charges made; because there might be at present persons in the city who could not be examined during the recess of Congress.

The words "to send for persons, papers, and records" were added to the former part of the resolution, and the latter part was postponed until Monday.

Messrs. Sitgreaves, Baldwin, Dawson, Dana, and Harper, were appointed a committee for preparing the articles of impeachment.

LIVE OAK TIMBER LANDS.

Mr. Harper said, that though he did not intend to bring forward the subject of purchasing timber, and providing naval yards, this session, he wished the House to consider a resolution which he thought would be proper in the mean time. He offered one to the following effect:

"*Resolved*, That the President of the United States be requested to procure and cause to be laid before this House, early in the next session, information respecting such land furnished with live oak timber as may be purchased for the use of the United States; and also of such timber as may be purchased without the land; and also respecting proper sites for naval yards, and to state the probable expense of such land and timber, and of proper sites for naval yards."

This resolution was supported by the mover and Mr. Swanwick, and opposed by Messrs. Macon, J. Williams, and McDowell; and without taking a question, the House being very thin, a motion was made and carried about one o'clock to adjourn.

Monday, July 10.

Mr. Bayard, of Delaware, was appointed on the select committee of the House of Representatives, to prepare articles of impeachment against Mr. Blount, in the place of Mr. Dana, from Connecticut, who declined serving.

A message was received from the Senate, informing the House what had been done with respect to Governor Blount; that they had agreed to their resolution for an adjournment of the two Houses this day; and that they had postponed the consideration of the bill for the relief of Major Lewis till next session.

The proceedings of the Senate, in relation to the impeachment of William Blount, were read in the words following:

"In Senate, *July* 8, 1797.

"*Resolved*, That William Blount, Esquire, one of the Senators of the United States, having been guilty of a high misdemeanor, entirely inconsistent with his public trust and duty as a Senator, be, and he hereby is, expelled from the Senate of the United States.

"On this, Mr. Butler, in behalf of himself, and of Mr. Thomas Blount, the other surety, surrendered the person of William Blount, the principal, to the Senate, and requested to be discharged from their recognizance.

"On motion,

"*Resolved*, That William Blount be taken into custody of the Messenger of this House, until he shall enter into recognizance, himself in the sum of one thousand dollars, with two sufficient sureties in the sum of five hundred dollars each, to appear and answer to such articles of impeachment as may be exhibited against him by the House of Representatives on Monday next.

"Attest: SAMUEL A. OTIS, *Secretary*."

Ordered, That the said proceedings of the Senate do lie on the table.

On motion of Mr. Dent, a committee was appointed to wait upon the President of the United States, in conjunction with a like committee from the Senate, to inform him the two Houses were about to adjourn. The committee waited upon the President accordingly, and reported his acquiescence, and his good wishes for the safe arrival of the Members at their several homes.

On motion of Mr. Sitgreaves, the resolution entered into some time ago, calling upon the President for an account of the quantity of arms in the possession of the United States, and at what place they were lodged, was suspended.

Mr. S. said, he wished to make a report upon a subject which would require the galleries to be cleared. He, therefore, moved that they be cleared, and the doors were closed for the remainder of the sitting, at the conclusion of which the House adjourned till the second Monday in November next.

[From the process issued by the Committee of Impeachment of the House of Representatives, it appears that the resolutions of the House, under which the committee acts, are as follows:

Resolved, That a committee be appointed to prepare and report articles of impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors; and that the said committee have power to send for persons, papers, and records.

Resolved, That the committee appointed to prepare and report articles of impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors, be authorized to sit during the recess of Congress.

Resolved, That the said committee be instructed to inquire, and by all lawful means to discover, the whole nature and extent of the offence whereof the said William Blount stands impeached, and who are the parties and associates therein.]

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, NOVEMBER 13, 1797.

MONDAY, November 13, 1797.

The second session of the fifth Congress of the United States commenced this day, at the city of Philadelphia, conformably to law; and the Senate assembled accordingly in their Chamber.

PRESENT:

SAMUEL LIVERMORE, from New Hampshire;
THEODORE FOSTER, from Rhode Island;
URIAH TRACY, from Connecticut;
ELIJAH PAINE, from Vermont;
WILLIAM BINGHAM, from Pennsylvania;
HUMPHREY MARSHALL, from Kentucky;
ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;
JACOB READ, from South Carolina.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 14.

JOHN LAURANCE, from the State of New York, and HENRY LATIMER, from the State of Delaware, severally attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

WEDNESDAY, November 15.

BENJAMIN GOODHUE, from the State of Massachusetts, attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

THURSDAY, November 16.

The Senate assembled, and the number of members present not being sufficient to constitute a quorum, the Senate adjourned.

FRIDAY, November 17.

JOHN LANGDON, from the State of New Hampshire, attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

SATURDAY, November 18.

No quorum being present, the Senate adjourned.

MONDAY, November 20.

JAMES GUNN, from the State of Georgia, attended.

No quorum being present, adjourned.

TUESDAY, November 21.

RAY GREENE, appointed a Senator by the State of Rhode Island, in the place of William Bradford, resigned, produced his credentials.

RICHARD STOCKTON, from the State of New Jersey, attended.

No quorum being present, the Senate adjourned.

WEDNESDAY, November 22.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides; and JACOB READ was duly elected.

JOSEPH ANDERSON, appointed a Senator by the State of Tennessee, for the remainder of the term which the late Senator WILLIAM BLOUNT had drawn, and was entitled to have served, had he not been expelled, produced his credentials; which were read.

NATHANIEL CHIPMAN, appointed a Senator by the State of Vermont, in the place of Isaac Tichenor, elected Governor, produced his credentials; which were read.

The credentials of RAY GREENE were read.

ANDREW JACKSON, appointed a Senator, by the State of Tennessee, produced his credentials; which were read.

The oath required by law was administered by the PRESIDENT, to Messrs. ANDERSON, CHIPMAN, GREENE, and JACKSON, they having severally taken their seats in the Senate.

A message from the House of Representatives informed the Senate, that a quorum of the House is assembled, and ready to proceed to business.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the

Senate is assembled, and are ready to proceed to business; and that, in the absence of the VICE PRESIDENT, they have elected JACOB READ, President of the Senate *pro tempore*.

Resolved, That each Senator be supplied, during the present session, with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

A message from the House of Representatives informed the Senate, that the House have appointed a joint committee on their part, together with such committee as the Senate may appoint, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Resolved, That the Senate do concur in the appointment of a joint committee, and that Messrs. BINGHAM and TRACY be the committee on the part of the Senate.

Resolved, That two Chaplains be appointed to Congress for the present session, one by each House, who shall interchange weekly; and that the Right Rev. Bishop WHITE be Chaplain on the part of the Senate.

Mr. BINGHAM reported, from the joint committee, that they had waited on the President of the United States, and had notified him that a quorum of the two Houses is assembled; and that the President of the United States acquainted the committee that he would meet the two Houses, in the Representatives' Chamber, at 12 o'clock to-morrow.

THURSDAY, November 23.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the President of the United States shall please to make them.

The Senate then repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate returned to their own Chamber, and a copy of the Speech of the President of the United States, this day addressed to both Houses of Congress, was read. [For which see proceedings in Ho. of Reps.]

Ordered, That Messrs. STOCKTON, LAURANCE, and LIVERMORE, be a committee to report the draught of an Address to the President of the United States, in answer to his Speech, this day, to both Houses of Congress; and that the Speech be printed for the use of the Senate.

FRIDAY, November 24.

A message from the House of Representatives informed the Senate, that the House have agreed to so much of the resolution of the Senate, of the 22d instant, relative to the appointment of Chaplains, as is contained in the words following, to wit:

"*Resolved*, That two Chaplains be appointed to Congress for the present session, one by each House, who shall interchange weekly."

"The House have proceeded, by ballot, to the appointment of a Chaplain on their part; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. ASHBEL GREEN."

SATURDAY, November 25.

Mr. STOCKTON, from the committee, reported the draught of an Address to the President of the United States, in answer to his Speech to both Houses of Congress, at the opening of the session; which was read.

On motion, that a number of copies be printed, under an injunction that no more should be struck off than may be necessary for the use of the Senate, it passed in the negative.

Ordered, That the Secretary furnish such Senators as request it, with copies of this report.

MONDAY, November 27.

HENRY TAZEWELL, from the State of Virginia, attended.

The Senate resumed the consideration of the report of the committee, of the draught of an Address in answer to the Speech of the President of the United States, to both Houses of Congress, at the opening of the session; which, being read in paragraphs, and amended, was adopted, as follows:

To the President of the United States:

SIR: The communications you thought proper to make in your Speech to both Houses of Congress on the opening of their present session, afford additional proofs of the attention, integrity, and firmness, which have always marked your official character.

We cannot but approve of the measures you had taken to ascertain the state and decline of the contagious sickness which has so lately afflicted the city of Philadelphia, and the pleasing circumstance that Congress is now assembled at that place, without hazard to the health of its members, evinces the propriety of your having postponed a determination to convene the National Legislature at another place. We shall take into consideration the law of 1794 on this subject, and will readily concur in any amendment which may be deemed expedient.

It would have given us much pleasure to have received your congratulations on the re-establishment of peace in Europe, and the restoration of security to the persons and property of our citizens from injustice and violence at sea. But, though these events, so desirable to our country and the world, have not taken place, yet we have abundant cause of gratitude to the Great Disposer of human events for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvement; and, above all, for a rational spirit of civil and religious liberty, and a calm, but steady determination to support our sovereignty against all open and secret attacks.

We learn, with satisfaction, that our Envoys Extraordinary to the French Republic had safely arrived in Europe, and were proceeding to the scene of negotiation; and, whatever may be the result of the mission, we are perfectly satisfied that nothing on your part has been omitted, which could, in any way, conduce to a successful conclusion of the negotiation, upon terms compatible with the safety, honor, and interest, of the United States; and we are fully convinced that, in the mean time, a manifestation of that unanimity and energy of which the people of the United States have given such memorable proofs, and a proper exertion of those resources of national defence, which we possess, will essentially contribute to the preservation of peace and the attainment of justice.

We think, sir, with you, that the commerce of the United States is essential to the growth, comfort, and prosperity of our country; and that the faith of society is pledged for the preservation of the rights of commercial and seafaring, no less than of other citizens. And even if our negotiation with France should terminate favorably, and the war in Europe cease, yet the state of society, which unhappily prevails in so great a portion of the world, and the experience of past times, under better circumstances, unite in warning us that a commerce so extensive, and which holds out so many temptations to lawless plunderers, can never be safe without protection; and we hold ourselves obliged, by every tie of duty which binds us to our constituents, to promote and concur in such measures of marine defence, as may convince our merchants and seamen that their rights are not sacrificed, nor their injuries forgotten.

We regret, that, notwithstanding the clear and explicit terms of the treaty between the United States and His Catholic Majesty, the Spanish garrisons are not yet withdrawn from our territory, nor the running of the boundary line commenced. The United States have been faithful in the performance of their obligations to Spain, and had reason to expect a compliance equally prompt on the part of that Power. We still, however, indulge the hope that the convincing answers, which have been given to the objections stated by the Spanish officers, to the immediate execution of the treaty, will have their proper effect; and that this treaty, so mutually beneficial to the contracting parties, will be finally observed with good faith. We therefore entirely approve of your determination to continue in readiness to receive the posts, and to run the line of partition between our territory and that of the King of Spain.

Attempts to alienate the affections of the Indians; to form them into a confederacy, and to excite them to actual hostility against the United States, whether made by foreign agents, or by others, are so injurious to our interests at large, and so inhuman with respect to our citizens inhabiting the adjacent territory, as to deserve the most exemplary punishment; and we will cheerfully afford our aid in framing a law, which may prescribe a punishment adequate to the commission of crimes so heinous.

The several objects you have pointed out to the attention of the Legislature, whether they regard our internal or external relations, shall receive from us that consideration which they merit; and we will readily concur in all such measures as may be necessary, either to enable us to fulfil our engagements at home, or to cause ourselves to be respected abroad. And, at this portentous period, when the Powers of Europe, with whom we are connected by treaty or commerce, are in so critical a situation, and when the conduct of some of those Powers towards the United States are so hostile and menacing, the several branches of the Government are, in our opinion, called upon, with peculiar importunity, to unite, and, by union, not only to devise and carry those measures on which the safety and prosperity of our country depend, but also to undeceive those nations who, regarding us as a weak and divided people, have pursued systems of aggression inconsistent with a state of peace between independent nations. And, sir, we beg leave to assure you, that we derive a singular consolation from the reflection that, at such a time, the Executive part of our Government has been committed to your hands, for, in your integrity, talents, and firmness, we place the most entire confidence.

JACOB READ,
President of the Senate pro tempore.

Ordered, That the committee who prepared the Address wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

On motion, *Ordered*, That Messrs. TRACY, BINGHAM, and GREENE, be a committee, to inquire what business remained unfinished at the close of the last session of Congress, which, in their opinion, is proper for the Senate to take into consideration the present session, and, also, what laws will expire before the next session of Congress, and report thereon to the Senate.

TUESDAY, November 28.

Mr. STOCKTON reported, from the committee, that they had waited on the President of the United States, and that he would receive the Address of the Senate this day at 12 o'clock, at his own house.

The Senate accordingly waited on the PRESIDENT OF THE UNITED STATES, and the PRESIDENT *pro tempore*, in their name, presented the Address agreed to yesterday.

To which the PRESIDENT made the following Reply:

Gentlemen of the Senate:

I thank you for this Address.

When, after the most laborious investigation, and serious reflection, without partial considerations, or personal motives, measures have been adopted or recommended, I can receive no higher testimony of their rectitude, than the approbation of an assembly, so independent, patriotic, and enlightened, as the Senate of the United States.

Nothing has afforded me more entire satisfaction, than the coincidence of your judgment with mine, in the opinion of the essential importance of our commerce, and the absolute necessity of a maritime defence. What is it, that has drawn to Europe the superfluous riches of the three other quarters of the globe, but a marine? What is it that has drained the wealth of Europe itself into the coffers of two or three of its principal commercial Powers, but a marine!

The world has furnished no example of a flourishing commerce, without a maritime protection; and a moderate knowledge of man and his history will convince any one, that no such prodigy ever can arise. A mer-

cantile marine and a military marine must grow up together; one cannot long exist without the other.

JOHN ADAMS.

UNITED STATES, *November 28*, 1797.

The Senate returned to their own Chamber, and adjourned.

WEDNESDAY, November 29.

The PRESIDENT laid before the Senate the memorial and address of the people called Quakers, from their yearly meeting, held in Philadelphia, in the year 1797, requesting the attention of Congress to the oppressed state of the African race, and the general prevalence of vice and immorality; and the same was read and ordered to lie on the table.

Ordered, That Messrs. GOODHUE, LAURANCE, TRACY, BINGHAM, and GUNN, be a committee to take into consideration that part of the President's Speech, which recommends some measures being adopted for the security and protection of the commerce of the United States; and to report thereon by bill or otherwise.

Mr. GUNN presented the representation and remonstrance of the Legislature of Georgia, against the hardships and danger to which the citizens of the said State are exposed, by the operation of an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," and in consequence of certain treaties entered into by the United States with certain Indian tribes; and the same was read and ordered to lie for consideration.

Ordered, That Messrs. BLOODWORTH, LANGDON, and ANDERSON, be a committee to consider and report, by bill or otherwise, on that part of the President's Speech that relates to the amendment of the law of 1794, respecting the convening of Congress, in case of contagious sickness.

THURSDAY, November 30.

Mr. TRACY, from the committee appointed to inquire what business remained unfinished at the close of the last session of Congress, reported in part, and asked leave for the committee to sit again.

Ordered, That the memorial and address of the people called Quakers, presented yesterday, be withdrawn.

FRIDAY, December 1.

JAMES HILLHOUSE, from the State of Connecticut, attended.

The Senate proceeded to consider the report of the committee, appointed to inquire what business remained unfinished at the close of the last session of Congress; and the report being amended, was adopted. Whereupon,

Ordered, That Messrs. TRACY, GUNN, and PAINE, be a committee to take into consideration the subject of a bill, passed in March last, by the House of Representatives, "directing the Secretary of War to place certain persons on the pension list," and which was postponed by the Senate to this session, and report thereon.

MONDAY, December 4.

Mr. ANDERSON presented the petition and memorial of the Legislature of the State of Tennessee, against the extension of the boundary line between the United States and the Cherokee Indians, by Benjamin Hawkins, Andrew Pickens, and James Winchester, commissioners on behalf of the United States; which was read.

Ordered, That it be referred to Messrs. ANDERSON, LAURANCE, and TRACY, to consider and report thereon to the Senate.

The PRESIDENT laid before the Senate the following communication:

"The Commissioners of the Sinking Fund respectfully report to Congress:

"That the measures which have been authorized by the Board, subsequent to their last reports of the 16th of December, 1796, and 25th of January, 1797, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 30th of November, 1797, and in the proceedings of the accounting officers therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

"On behalf of the Board,

"JACOB READ,

"*President of the Senate pro tempore.*

"*December* 4, 1797."

The report and papers were read, and ordered to be printed for the use of the Senate.

TUESDAY, December 5.

Mr. HILLHOUSE laid before the Senate the petition of William Imlay, loan officer of the State of Connecticut, praying the payment of his account for extra clerk hire, occasioned by the additional duties of his office; which was read.

Ordered, That it be referred to the Secretary of the Department of the Treasury to consider and report thereon to the Senate.

Mr. TRACY, from the committee appointed to inquire what business remained unfinished at the close of the last session of Congress, made a further report; which was read, and ordered to lie on the table.

WEDNESDAY, December 6.

Mr. BLOODWORTH reported, from the committee to whom was referred that part of the President's Speech which relates to the amendment of the law of 1794, respecting the convening of Congress, in case of contagious sickness; and the report was read, and ordered to lie on the table.

The Senate proceeded to consider the report of the committee, appointed to inquire what business remained unfinished at the close of the last session of Congress.

Ordered, That the report be printed for the use of the Senate.

THURSDAY, December 7.

The PRESIDENT laid before the Senate a letter from S. Meredith, Treasurer of the United States, with his account of receipts and expenditures, in the Treasury Department, for the quarter ending the 30th of June, as also those in the War Department, ending the 30th June and 30th of September last, the same having passed the offices; which were read, and ordered to lie for consideration.

Mr. BLOODWORTH gave notice, that he should to-morrow ask leave to bring in a bill to declare the consent of Congress to certain acts of the State of North Carolina, establishing a health office and harbor-master for the port of Wilmington.

FRIDAY, December 8.

Conformably to notice given yesterday, Mr. BLOODWORTH had leave to bring in a bill to declare the consent of Congress to certain acts of the State of North Carolina, providing for a health officer and harbor-master in the port of Wilmington in that State; which bill was read the first time, and ordered to a second reading.

Ordered, That the petition and memorial of the Legislature of the State of Tennessee be printed for the use of the Senate.

MONDAY, December 11.

THEODORE SEDGWICK, from the State of Massachusetts, attended.

The bill to declare the consent of Congress, to certain acts of the State of North Carolina, providing for a health officer and harbor-master in the port of Wilmington, in that State, was read the second time.

Ordered, That it be referred to Messrs. LAURANCE, BINGHAM, and PAINE, to consider and report thereon to the Senate.

TUESDAY, December 12.

Mr. HUNTER presented the memorial of the owners and lessees of wharves in the city of Charleston and State of South Carolina, stating the injurious operation of the revenue laws, in the mode of weighing goods on which duties are collected under the authority of the United States, and praying relief; and the petition was read, and ordered to lie on the table.

WEDNESDAY, December 13.

THOMAS JEFFERSON, Vice President of the United States and President of the Senate, attended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to postpone, for a limited time, the commencement of the duties imposed by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read a second time.

Ordered, That this bill pass to a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I lay before you the copy of a letter from the Judges of the Supreme Court of the United States, representing the inconvenience arising from altering the time of holding the Circuit Court for the State of Delaware, from April to June; and desiring that the existing law may be altered, by restoring the Spring session of the Circuit Court in Delaware to the twenty-seventh of April.

JOHN ADAMS.

UNITED STATES, *December* 13, 1797.

The Message was read, and ordered to lie for consideration.

Ordered, That Mr. GREENE be appointed a Committee for Enrolled Bills, on the part of the Senate, jointly with such committee as may be appointed, for that purpose, on the part of the House of Representatives.

THURSDAY, December 14.

The bill, sent from the House of Representatives for concurrence, entitled "An act to postpone, for a limited time, the commencement of the duties imposed by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," was read the third time.

Resolved, That this bill pass.

On motion, that this resolution be reconsidered, it passed in the negative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the representatives of William Carmichael, deceased," in which they desire the concurrence of the Senate.

The bill was read, and it was, by unanimous consent, read the second time.

Ordered, That it be referred to Messrs. TRACY, LANGDON, and GREENE, to consider and report thereon to the Senate.

FRIDAY, December 15.

On motion, that a committee be appointed to revise the Judiciary system of the United States, and to report whether any, and what, alterations or amendments are necessary in the same; it was agreed that the consideration of this motion be postponed until Monday next.

MONDAY, December 18.

The VICE PRESIDENT communicated the report of the Secretary for the Department of the Treasury, on the petition of William Imlay; which was read.

Ordered, That the report and petition be referred to Messrs. TRACY, HILLHOUSE, and MARTIN, to consider and report thereon to the Senate, by bill or otherwise.

Ordered, That the consideration of the motion

made on the 15th instant, to revise the Judiciary system, be postponed.

TUESDAY, December 19.

Ordered, That the consideration of the motion made on the 15th instant, to revise the Judiciary system, be further postponed.

WEDNESDAY, December 20.

Mr. TRACY, from the committee to whom was referred the report of the Secretary for the Department of the Treasury, on the petition of William Imlay, together with the said petition, reported a bill for his relief; which was read, and ordered to the second reading.

On motion, to take into consideration the motion, made on the 15th instant, respecting the Judiciary system, it was agreed that the consideration thereof be postponed until Tuesday next.

THURSDAY, December 21.

The bill for the relief of William Imlay was read the second time, and ordered to the third reading.

The VICE PRESIDENT communicated a letter from Samuel Meredith, Treasurer of the United States, with his accounts of receipts and expenditures in the Treasury Department, for the quarter ending the 30th of April last; which were read.

Ordered, That they lie for consideration.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act suspending, for a limited time, the second section of an act, entitled 'An act regulating foreign coins, and for other purposes;" and a bill, entitled "An act for the relief of North and Vesey, of Charleston, South Carolina;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to the second reading.

FRIDAY, December 22.

JOHN E. HOWARD, from the State of Maryland, attended.

The bill for the relief of William Imlay was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act entitled 'An act regulating foreign coins, and for other purposes,'" was read the second time.

Ordered, That it be referred to Messrs. SEDGWICK, ANDERSON, and TRACY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of North and Vesey, of Charleston, South Carolina," was read the second time.

Ordered, That it be referred to Messrs. GOODHUE, HUNTER, and BINGHAM, to consider and report thereon to the Senate.

SATURDAY, December 23.

The Senate assembled, but transacted no business.

MONDAY, December 25.

No business was done in the Senate to-day.

TUESDAY, December 26.

Conformably to the order of the day, the Senate proceeded to consider the motion made the 15th instant, respecting the Judiciary system.

Ordered, That it be referred to Messrs. READ, LAURANCE, LIVERMORE, SEDGWICK, and TRACY, to consider and report thereon to the Senate.

WEDNESDAY, December 27.

The Senate spent the day in the consideration of Executive business.

THURSDAY, December 28.

JOHN BROWN, from the State of Kentucky, attended.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of North and Vesey, of Charleston, South Carolina," reported an amendment; which was read and adopted; and, the bill being further amended,

Ordered, That it pass to the third reading, as amended.

Mr. READ presented the memorial of the merchants of the city of Charleston, in the State of South Carolina, stating the injurious operation of the revenue laws, in the mode of weighing goods on which duties are collected, under the authority of the United States, and praying relief; and the memorial was read, and ordered to lie on the table.

FRIDAY, December 29.

STEPHENS THOMPSON MASON, from the State of Virginia, attended.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of North and Vesey, of Charleston, South Carolina," was read the third time, and passed.

On motion, that it be

"*Resolved*, That the Secretary of the Senate be, and he is hereby, authorized and directed to make an equal compensation to James Mathers, the Doorkeeper of the Senate, and Cornelius Maxwell, his assistant, to that which has been allowed to the Doorkeeper of the House of Representatives, and his assistant, by a resolution of the said House, of July the 10th, 1797, and to defray the same out of any moneys appropriated by law to pay the contingent expenses of the Senate:"

It was agreed that this motion lie on the table.

MONDAY, January 1, 1798.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

In compliance with the desire of the two Houses of Congress, expressed in their resolution of the 2d of March, 1797, that some speedy and effectual means might be adopted of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution, concerning the stability of States, and, if they have, to obtain proper evidences; measures have been taken, and information and evidences obtained, the particulars of which will appear in the report from the Secretary of State, made by my direction, on the 28th day of this month, and now presented to the two Houses for their consideration.

JOHN ADAMS.

UNITED STATES, *December* 30, 1797.

The Message and papers therein referred to were read, and ordered to lie for consideration.

Ordered, That the motion, made on the 29th instant, respecting an additional compensation to the Doorkeeper and Assistant Doorkeeper of the Senate, be withdrawn.

Mr. GOODHUE notified the Senate that he should, to-morrow, move for leave to bring in a bill providing for further compensation to the Doorkeeper and Assistant Doorkeeper of the Senate.

TUESDAY, January 2.

Mr. SEDGWICK, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act entitled 'An act regulating foreign coins, and for other purposes,'" reported amendments; which were read, and ordered to lie for consideration.

Agreeably to notice given yesterday, Mr. GOODHUE had liberty to bring in a bill for allowing a compensation to the Doorkeeper of the Senate and his assistant, for their services during the late extraordinary session of Congress; and the bill was read, and ordered to the second reading.

WEDNESDAY, January 3.

Mr. STOCKTON presented the petition of George Turner, stating that he has purchased a tract of land of John Cleves Symmes, and praying confirmation of his title; and the petition was read.

Ordered, That it be referred to Messrs. STOCKTON, BROWN, and LANGDON, to consider and report thereon to the Senate.

The bill for allowing a compensation to the Doorkeeper of the Senate and his assistant, for their services during the late extraordinary session of Congress, was read the second time, and ordered to the third reading.

Mr. JACKSON gave notice that he should to-morrow ask leave to bring in a bill to extend to the district of Tennessee the exception contained in the seventieth section of the act entitled "An act to provide more effectually for the collection of the duties imposed by law, on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels."

THURSDAY, January 4.

The bill for allowing a compensation to the Doorkeeper of the Senate and his assistant, for their services during the late extraordinary session of Congress, was read the third time, and it was amended by striking out the word "extraordinary."

Resolved, That this bill pass.

Mr. TRACY presented the petition of Joseph Nourse, Register of the Treasury, praying additional compensation for his services; which was read and ordered to lie.

Conformable to notice given yesterday, Mr. JACKSON had leave to bring in a bill to extend to the district of Tennessee the exception contained in the seventieth section of the act entitled "An act to provide more effectually for the collection of the duties imposed by law, on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels;" which bill was read, and ordered to the second reading.

FRIDAY, January 5.

The bill to extend to the district of Tennessee the exception contained in the seventieth section of the act entitled "An act to provide more effectually for the collection of the duties imposed by law, on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels," was read the second time, and referred to Messrs. JACKSON, GOODHUE, and PAINE, to consider and report thereon to the Senate.

Ordered, That the petition of Joseph Nourse, Register of the Treasury, praying additional compensation for his services, be referred to Messrs. TRACY, BLOODWORTH, and HUNTER, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT of the UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The Secretary for the Department of War, on the thirtieth day of December last, made a representation to me of the situation of affairs in his office, which I now transmit to the Senate and House of Representatives, and recommend to their consideration and decision.

JOHN ADAMS.

UNITED STATES, *January* 5, 1798.

The Message and representation were read, and ordered to lie for consideration.

MONDAY, January 8.

JAMES ROSS, from the State of Pennsylvania, attended.

A message from the House of Representatives

informed the Senate that the House had passed a bill entitled "An act making certain partial appropriations for the year one thousand seven hundred and ninety-eight;" a bill entitled "An act authorizing the payment of certain sums of money to the daughters of the late Count de Grasse;" a bill entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko;" and a bill entitled "An act to amend the several acts for laying duties on spirits distilled within the United States, and on stills;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to the second reading.

And, by unanimous consent, the first bill mentioned was read the second time, and referred to Messrs. GOODHUE, BROWN, and MASON, to consider and report thereon to the Senate.

By unanimous consent, the bill second mentioned was read the second time, and referred to Messrs. LIVERMORE, HILLHOUSE, and TRACY, to consider and report thereon to the Senate.

By unanimous consent, the third bill mentioned was read the second time, and referred to Messrs. SEDGWICK, ANDERSON, and HOWARD, to consider and report thereon to the Senate.

And, by unanimous consent, the bill last mentioned was read the second time, and referred to Messrs. ROSS, GOODHUE, and HUNTER, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act entitled 'An act regulating foreign coins, and for other purposes;'" and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

The following Message was received from the PRESIDENT of the UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I have now an opportunity of transmitting to Congress a report of the Secretary of State, with a copy of an Act of the Legislature of the State of Kentucky, consenting to the ratification of the amendment of the Constitution of the United States, proposed by Congress in their resolution of the second day of December, 1792, relative to the suability of States. This amendment having been adopted by three-fourths of the several States, may now be declared to be a part of the Constitution of the United States.

JOHN ADAMS.

UNITED STATES, *January* 8, 1798.

The Message and papers were read and ordered to lie on file.

TUESDAY, January 9.

The VICE PRESIDENT laid before the Senate a report from the Secretary of the Department of Treasury, of the goods, wares, and merchandise, imported into the United States during the year prior to the first day of October, 1796, exhibiting the quantities or value of the said goods, wares, or merchandise, and the foreign countries from which imported. Also a statement of the tonnage of vessels entered in the ports of the United States during the period aforesaid; which was read.

Ordered, That the report lie for consideration.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act entitled 'An act regulating foreign coins, and for other purposes.'"

On motion to postpone the further consideration of this bill until this day month, it was negatived, and, after debate, it was ordered that the bill be recommitted.

A motion was made to amend the 19th rule for doing business in the Senate, by subjoining—

"And, on motion of any member, there shall be a call of the Senate at the expiration of one hour after that to which the House stood adjourned, whether there be a quorum or not; and, in case there is not a quorum on such call, the members present may, if they think proper, request the attendance of absentees who are in the town or neighborhood where the Senate are convened. And, on the next day, if a quorum shall not be present, the members present shall have authority to send for any absent member, whether he be in the town where the Senate have convened, or not, by any person by them authorized, requesting his attendance, at the expense of such member, unless he shall make such excuse for non-attendance as shall, by the Senate, be judged sufficient."

And it was agreed that the consideration of this motion be referred to Messrs. TRACY, ANDERSON, LIVERMORE, GOODHUE, and PAINE, to report thereon to the Senate.

WEDNESDAY, January 10.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making certain partial appropriations for the year one thousand seven hundred and ninety-eight," reported the bill without amendment; which report was adopted.

Ordered, That this bill pass to a third reading.

Mr. SEDGWICK, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of William Carmichael, deceased," reported the bill without amendment; which report was adopted, and the bill was ordered to a third reading.

THURSDAY, January 11.

JAMES LLOYD, appointed a Senator by the State of Maryland, in the place of John Henry, elected Governor of said State, produced his credentials; and, the oath required by law being administered, he took his seat in the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the representatives of William Carmichael, deceased," was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko," was read the third time, and, being amended by striking out the words, "eighty-nine," and inserting in lieu thereof, "ninety-three," near the end of the bill, it was

Resolved, That this bill pass as amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act making certain partial appropriations for the year one thousand seven hundred and ninety-eight," was read a third time and passed.

Mr. SEDGWICK, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act, entitled 'An act regulating foreign coins, and for other purposes,'" reported amendments; which were read.

Ordered, That they lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act for the relief of John Frank," and a bill entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses;" in which bills they desire the concurrence of the Senate.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the payment of certain sums of money to the daughters of the late Count de Grasse," reported the bill without amendment.

On motion to amend the bill, it passed in the negative.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill be now read a third time.

On the question to concur with the House of Representatives in this bill, it was determined in the affirmative—yeas 20, nays 4, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Chipman, Foster, Greene, Gunn, Howard, Hunter, Jackson, Langdon, Latimer, Livermore, Lloyd, Martin, Mason, Paine, Read, Ross, and Sedgwick.

NAYS—Messrs. Goodhue, Hillhouse, Marshall, and Tracy.

So it was *Resolved*, That this bill pass.

FRIDAY, January 12.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Frank," was read, and, by unanimous consent, it was read a second time, and referred to Messrs. GOODHUE, HOWARD, and TRACY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," was read, and, by unanimous consent, it was read a second time.

Ordered, That it be referred to Messrs. LIVERMORE, PAINE, and CHIPMAN, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was recommitted the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act, entitled 'An act regulating foreign coins, and for other purposes;'" and the report was adopted, and the bill was amended accordingly.

On the question to agree to the third reading of the bill, as amended, it passed in the negative.

On motion, by one of the majority, to reconsider the last question—

A motion was made to postpone the question of reconsideration to the second Monday in February, and it was determined in the negative.

Whereupon it was agreed to reconsider the last vote on the bill, and that the bill be considered as still in its second reading.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko;" they have passed a bill, entitled "An act directing the Secretary of War to place certain persons on the pension list;" in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence, was read, and ordered to the second reading.

On motion, by Mr. TRACY, that a committee be appointed to take into consideration the subject of accepting a deed of cession of the jurisdiction of certain territory from the State of Connecticut, and to report by bill or otherwise, it was agreed that this motion should lie for consideration.

MONDAY, January 15.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," reported an amendment, which was adopted.

Ordered, That this bill pass to the third reading, as amended.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer of the United States, with his account of receipts and

expenditures in the War Department, for the quarter ending the 30th of December last; which was read, and ordered to lie on the table.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Frank," reported the bill without amendment; and, by unanimous consent, it was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing the Secretary of War to place certain persons on the pension list," was read the second time, and referred to the committee appointed the 1st of December last, "to take into consideration the subject of a bill passed in March last, by the House of Representatives, directing the Secretary of War to place certain persons on the pension list," and which was postponed by the Senate to this session, to consider and report thereon to the Senate.

Ordered, That a certificate of the judges of the district court for the district of Maryland, in favor of John Coats, be referred to the same committee, to consider and report thereon to the Senate.

Mr. TRACY reported, from the committee to whom was referred the petition of Joseph Nourse, Register of the Treasury; and the report was read, and ordered to lie for consideration.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to the amendment of the Senate to the bill, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko;" whereupon,

Resolved, That they do insist on their said amendment.

Ordered, That the motion made on the 12th instant, on the subject of accepting a deed of cession of the jurisdiction of certain territory from the State of Connecticut, be referred to Messrs. ROSS, LLOYD, READ, SEDGWICK, and BROWN, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act, entitled 'An act regulating foreign coins, and for other purposes," and, after debate,

Ordered, That the further consideration thereof be postponed.

TUESDAY, January 16.

The bill, sent from the House of Representatives for concurrence, entitled an "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," was read the third time.

Resolved, That this bill pass with an amendment.

The Senate took into consideration the report of the committee to whom was referred the petition of Joseph Nourse, Register of the Treasury; and, after debate, it was agreed that the report should be recommitted.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the amendment of the Senate to the bill, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko," and ask a conference thereon, and have appointed managers at the same on their part;

They have passed a bill, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," in which they desire the concurrence of the Senate.

The Senate proceeded to consider the resolution of the House of Representatives on the conference mentioned in the message.

Resolved, That they do agree thereto, and that Messrs. TRACY and ROSS be managers at the same on the part of the Senate.

The bill sent from the House of Representatives for concurrence was read, and ordered to the second reading.

The Senate resumed the consideration of the bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act, entitled 'An act regulating foreign coins, and for other purposes;" and

On the question to agree to the third reading of the bill, it passed in the affirmative—yeas 19, nays 7, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Foster, Gunn, Hillhouse, Howard, Hunter, Jackson, Langdon, Latimer, Livermore, Lloyd, Marshall, Martin, Mason, Paine, and Tazewell.

NAYS—Messrs. Chipman, Goodhue, Greene, Read, Ross, Sedgwick, and Tracy.

So it was *Resolved*, That this bill pass to the third reading.

Mr. GREENE notified the Senate that he should, to-morrow, ask leave to bring in a bill to repeal the act, passed the last session of Congress, entitled "An act laying duties on stamped vellum, parchment, and paper."

WEDNESDAY, January 17.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," was read the second time, and referred to Messrs. MARTIN, PAINE, and SEDGWICK, to consider and report thereon to the Senate.

Mr. TRACY, from the managers at the conference on the amendment to the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko," made a report. Whereupon,

Resolved, That the Senate adhere to their amendment to the bill last mentioned.

The bill, sent from the House of Representatives for concurrence, entitled "An act suspending, for a limited time, the second section of an act entitled "An act regulating foreign coins, and for other purposes," was read the third time.

On motion, by Mr. MARSHALL, that the bill be further amended, by expunging all that is contained from the word "suspended," line fourth, inclusive, and inserting, in lieu thereof, "repealed," it passed in the negative.

And the bill being further amended, by adding the words "silver and gold" before the word "coins," in the amendment—

On the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 17, nays 19, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Foster, Gunn, Hillhouse, Howard, Hunter, Jackson, Langdon, Livermore, Marshall, Martin, Mason, Paine, and Tazewell.

NAYS—Messrs. Chipman, Goodhue, Greene, Latimer, Lloyd, Read, Ross, Sedgwick, and Tracy.

So it was *Resolved*, That this bill pass with amendments.

A motion was made, by Mr. PAINE, as follows:

"*Resolved*, That a committee be appointed to inquire whether any, and what, territory, lying to the southward and westward of the State of Georgia, belongs to the United States, and to report a plan for governing the same; and that the said committee be empowered to report by bill or otherwise."

Ordered, That this motion lie for consideration.

A message from the House of Representatives informed the Senate, that the House recede from their disagreement to the amendment of the Senate to the bill, entitled "An act providing for the payment of the interest on a certificate due to General Kosciusko."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The situation of affairs between the United States and the Cherokee Indians having evinced the expediency of a treaty with that nation, for the promotion of justice to them, as well as of the interests and convenience of our citizens, I have nominated, and, by and with the advice and consent of the Senate, appointed Commissioners to hold conferences, and conclude a treaty, as early as the season of the year and the convenience of the parties will admit.

As we know very well, by experience, such negotiations cannot be carried on without considerable expenses, I recommend to your consideration the propriety of making an appropriation, at this time, for defraying such as may be necessary for holding and concluding a treaty.

That you may form your judgments with greater facility, I shall direct the proper officer to lay before you an estimate of such articles and expenses as may be thought indispensable.

JOHN ADAMS.

UNITED STATES, *January* 17, 1798.

The Message was read, and ordered to lie for consideration.

Conformable to notice given yesterday, Mr. GREENE requested leave to bring in a bill to repeal the act, passed the last session of Congress, entitled "An act laying duties on stamped vellum, parchment, and paper;" and, after debate, the Senate adjourned.

THURSDAY, January 18.

The Senate resumed the consideration of the motion made yesterday by Mr. GREENE, requesting leave to bring in a bill to repeal the act, passed the last session of Congress, entitled "An act laying duties on stamped vellum, parchment, and paper."

On the question to agree to the motion, it was determined in the negative—yeas 11, nays 15, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Foster, Greene, Jackson, Langdon, Livermore, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Goodhue, Gunn, Hillhouse, Howard, Hunter, Latimer, Lloyd, Marshall, Paine, Read, Ross, Sedgwick, and Tracy.

Mr. ROSS laid before the Senate the memorial of Thomas Hutchins, praying compensation for the sufferings and services of his late father, Thomas Hutchins, Geographer General to the United States; and the petition was read, and ordered to lie for consideration.

The Senate proceeded to consider the motion made yesterday, relative to territory lying to the southward and westward of the State of Georgia; and it was agreed to adopt the first part of the motion, divided as far as the words "United States."

On motion, by Mr. TAZEWELL, to amend the last clause, to be read as follows:

"And in case the committee shall be of opinion that any territory therein belongs to the United States, to report the most expedient method of quieting any opposite title thereto:"

It passed in the negative.

Resolved, That a committee be appointed to inquire whether any, and what, territory, lying to the southward and westward of the State of Georgia, belongs to the United States, and to report a plan for governing the same, if any there be; and that the said committee be empowered to report by bill or otherwise.

Ordered, That the above motion, as amended, together with the representation and remonstrance of the Legislature of the State of Georgia, be referred to Messrs. ROSS, PAINE, READ, TAZEWELL, and GUNN, to consider and report thereon to the Senate.

FRIDAY, January 19.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to amend the several acts for laying duties on spirits distilled within the United States, and on stills," reported an amendment; which was read and ordered to lie for consideration.

Mr. SEDGWICK presented the petition of Solomon Blodget, a wounded soldier, praying to be placed on the list of invalid pensioners; and the

petition was read, and referred to the committee to whom was referred, on the 15th instant, the bill entitled "An act directing the Secretary of War to place certain persons on the pension list," to consider and report thereon to the Senate.

Mr. FOSTER presented the petition of Jonathan Davenport, a wounded soldier, praying an increase of his pension; and the petition was read, and referred to the committee last mentioned.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

A representation has been made to me, by the Judge of the Pennsylvania district of the United States, of certain inconveniences and disagreeable circumstances, which have occurred in the execution of the law passed on the 28th day of May, 1796, entitled "An act for the relief of persons imprisoned for debt," as well as of certain doubts which have been raised concerning its construction; this representation, together with a report of the Attorney General on the same subject, I now transmit to Congress, for their consideration, that if any amendments or explanation of that law may be thought advisable, they may be adopted.

JOHN ADAMS.

UNITED STATES, *January* 18, 1798.

The Message and papers were read.

Ordered, That they be referred to the committee appointed on the 26th December last, on the motion of 15th of December, for revising the judiciary system, to consider and report thereon to the Senate.

Mr. MARSHALL gave notice that he should, on Monday, ask leave to bring in a bill regulating certain proceedings in cases of impeachment.

MONDAY, January 22.

JOSIAH TATTNALL, from the State of Georgia, attended.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to amend the several acts for laying duties on spirits distilled within the United States, and on stills;" and the amendment reported being adopted,

Ordered, That this bill pass to the third reading as amended.

Conformable to notice given on the 19th instant, Mr. MARSHALL requested and obtained leave to bring in a bill regulating certain proceedings in case of impeachment; which bill was read, and ordered to the second reading.

TUESDAY, January 23.

The bill regulating certain proceedings in cases of impeachment was read the second time, and referred to Messrs. MARSHALL, TAZEWELL, TRACY, ROSS, and LIVERMORE, to consider and report thereon to the Senate.

Ordered, That Mr. ROSS be added to the committee appointed on the petition of George Turner.

Mr. FOSTER laid before the Senate the memorial of a number of the inhabitants of the town of Providence, in the State of Rhode Island, stating the expediency of erecting a light-house on Eaton's Neck, on Long Island, in the State of New York; and the memorial was read.

Ordered, That it be referred to the Secretary for the Department of Treasury, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend the several acts for laying duties on spirits distilled within the United States, and on stills," was read the third time.

On motion, by Mr. ANDERSON, to restore the second section, as follows:

"*And be it further enacted*, That, from and after the 30th day of June next, it shall be lawful for all owners of any still, or stills, to make his or their election, to take out a license for one week, at the rate of four cents per gallon, on the capacity of such still or stills, including the heads thereof, under such rules and regulations as licenses are now granted."

It was determined in the negative—yeas 9, nays 15, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Jackson, Langdon, Marshall, Martin, Tattnall, and Tazewell.

NAYS—Messrs. Chipman, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Hunter, Latimer, Livermore, Paine, Read, Ross, Sedgwick, and Tracy.

So it was *Resolved*, That this bill pass with the amendment.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

At the commencement of this session of Congress, I proposed, in the course of it, to communicate to both Houses further information concerning the situation of our affairs in the territories of the United States situated on the Mississippi river, and in its neighborhood; our intercourse with the Indian nations, our relations with the Spanish Government, and conduct of their officers and agents. This information will be found in a report of the Secretary of State, and the documents attending it, which I now present to the Senate and House of Representatives.

JOHN ADAMS.

UNITED STATES, *January* 23, 1798.

The Message and papers were read.

Ordered, That they be referred to the committee, appointed the 18th instant, on the motion made by Mr. PAINE, to whom was also referred the remonstrance of the Legislature of the State of Georgia, to consider and report thereon to the Senate.

WEDNESDAY, January 24.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act to amend the several acts for laying duties on spirits distilled within the United States, and on stills."

The Senate took into consideration their amendment disagreed to by the House of Representatives; and

On motion, that the Senate adhere to their said amendment, it was determined in the affirmative—yeas 16, nays 9, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Lloyd, Paine, Read, Ross, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Hunter, Langdon, Marshall, Martin, Mason, Tattnall, and Tazewell.

So it was *Resolved*, That the Senate adhere to their said amendment.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act directing the Secretary of War to place certain persons on the pension list," reported an amendment; which was read and adopted.

Ordered, That this bill pass to the third reading as amended.

Mr. MARSHALL made a motion, that the Senate agree to the following resolutions, which he read in his place:

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring*, That the following articles be proposed to the Legislatures of the several States as amendments to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said Constitution, viz:

"1. The Electors of President, and Vice President, in giving their votes, shall respectively distinguish the person whom they desire to be President, from the one they desire to be Vice President, by annexing the words 'President,' or 'Vice President,' as the case may require, to the proper name of the person voted for.

"2. The Electors, aforesaid, shall enclose the very ballots by them given in the election, together with the list of the votes by them made and transmitted to the President of the Senate.

"3. Should any contest arise relative to any vote for President, the same shall be determined by the Senate; or, should any contest arise relative to any vote for Vice President, the same shall be determined by the House of Representatives.

"4. Should no one person, voted for as Vice President, have a majority of the whole number of Electors in his favor, then the Senate shall elect the Vice President among those voted for as Vice President."

Ordered, That the motion lie for consideration.

THURSDAY, January 25.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing the Secretary of War to place certain persons on the pension list," was read the third time.

Resolved, That this bill pass with an amendment.

The Senate took into consideration the motion made yesterday, respecting amendments to the Constitution of the United States.

On motion, that the consideration thereof be postponed until the second Tuesday in February, it was agreed to strike out of the motion for postponement the words "until the second Tuesday in February;" and,

On motion, it was agreed to amend the motion for postponement, by inserting after the word "postponed" these words: "until the first day of June next."

On motion, to agree to the motion for postponement as amended, it was determined in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Brown, Foster, Goodhue, Greene, Gunn, Hillhouse, Hunter, Lloyd, Martin, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Chipman, Howard, Jackson, Langdon, Latimer, Livermore, Marshall, Mason, Paine, and Tazewell.

So it was *Resolved*, That the consideration of the original motion be postponed until the first day of June next.

FRIDAY, January 26.

No business of importance was transacted in the Senate to-day.

MONDAY, January 29.

No business was done of any importance in the Senate to-day.

TUESDAY, January 30.

Ordered, That Messrs. LIVERMORE, ROSS, and TRACY, be a committee to report to the Senate a form of proceeding in cases of impeachment.

Mr. MARTIN, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," reported amendments; which were read.

Ordered, That they lie for consideration.

Mr. ROSS presented the petition of Joseph Rittenhouse, stating that he is a prisoner at the suit of the United States, and, having surrendered his property, prays to be liberated; and the petition was read and laid on the table.

WEDNESDAY, January 31.

The VICE PRESIDENT laid before the Senate the resolution of the Legislature of the State of Delaware, by which it appears that they have appointed JOSHUA CLAYTON a Senator of the United States, in the place of JOHN VINING, resigned; and the resolution was read.

Ordered, That it lie on file.

Mr. STOCKTON, from the committee to whom was referred the petition of George Turner, praying confirmation of his title to a tract of land purchased of John Cleves Symmes, asked and obtained leave to report by bill; and the bill was read, and ordered to the second reading.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" and, having agreed thereto,

Ordered, That the further consideration of the bill be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, "entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee, or North Carolina;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Mr. LIVERMORE, from the committee to whom the subject was referred, reported a form of proceeding in cases of impeachment; and the report was read.

Ordered, That it lie for consideration.

THURSDAY, February 1.

The bill, sent from the House of Representatives for concurrence, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee, or North Carolina," was read the second time.

Ordered, That it be referred to Messrs. HILLHOUSE, PAINE, and SEDGWICK, to consider and report thereon to the Senate.

The bill to authorize the sale of certain lands between the Great and Little Miami rivers, in the territory of the United States northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers, was read the second time.

Ordered, That the further consideration thereof be postponed.

Mr. BROWN laid before the Senate the petition of Stephen Monnot and others, inhabitants of Galliopolis, praying for a grant of land to them, respectively; which petition, together with the papers referred to therein, were read.

Ordered, That they lie on the table.

Mr. MASON presented the petition of Joseph Jamison, and others, inhabitants near the Sciota river, praying that the Surveyor General may be authorized to lay out a tract of land thirty miles square, on the banks of the said river; and the petition was read.

Ordered, That it lie on the table.

Mr. MARSHALL, from the committee to whom was referred the bill regulating certain proceedings in cases of impeachment, reported amendments; which were read.

Ordered, That they lie for consideration.

The Senate took into consideration the report of the committee on the mode of proceeding in cases of impeachment; and, after debate, the Senate adjourned.

FRIDAY, February 2.

JOHN SLOSS HOBART, appointed a Senator by the State of New York, in the place of Philip Schuyler, resigned, produced his credentials, and, the oath required by law being administered, he took his seat in the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased;" in which they desire the concurrence of the Senate.

A Message was received from the President of the United States.

The Senate resumed the consideration of the report of the committee on the mode of proceeding in cases of impeachment; which having been amended, it was, in part, adopted.

SATURDAY, February 3.

The Message yesterday received from the PRESIDENT OF THE UNITED STATES was read, as follows:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received from our Minister in London two Acts of the Parliament of Great Britain, one passed on the 4th of July, 1797, entitled "An act for carrying into execution the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States of America;" the other, passed on the 19th day of July, 1797, entitled "An act for regulating the trade to be carried on with the British possessions in India, by the ships of nations in amity with His Majesty." These Acts have such connexions with the commercial and political interests of the United States, that it is proper they should be communicated to Congress. I have accordingly transmitted copies of them with this Message.

JOHN ADAMS.

UNITED STATES, *February* 2, 1798.

The Message and papers referred to were ordered to lie for consideration.

Ordered, That the petition of certain inhabitants of Galliopolis, laid before the Senate on the 1st instant, be referred to Messrs. BROWN, BLOODWORTH, and LANGDON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased," was read the first time, and ordered to the second reading.

The Senate resumed the consideration of the report of the committee on the mode of proceeding in cases of impeachment.

On motion, it was agreed, that the report be recommitted to Messrs. HILLHOUSE, READ, and PAINE, to consider and report thereon to the Senate.

MONDAY, February 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased," was read the second time, and referred to Messrs. TRACY, PAINE, and GOODHUE, to consider and report thereon to the Senate.

Mr. HILLHOUSE, from the committee to whom was committed the report on the mode of proceeding in cases of impeachment, made a report; which was read and adopted; and

"*Resolved*, That the Doorkeeper of the Senate be, and he is hereby, invested with the authority of Sergeant-at-Arms, to hold said office during the pleasure of the Senate, whose duty it shall be to execute the commands of the Senate, from time to time, and all such process as shall be directed to him by the President of the Senate.

"*Resolved*, That, for regulating the proceedings of the Senate, in cases of impeachment, the following rule be adopted, viz:

"When the House of Representatives, or managers by them appointed for that purpose, shall attend the Senate to present articles of impeachment, the President of the Senate shall cause proclamation to be made in the form following, viz:

"All persons are commanded to keep silence while the Senate of the United States are receiving articles of impeachment against —— ——, on pain of imprisonment.

"And shall then signify to the managers that the Senate are ready to receive the articles of impeachment; which, having been read by one of the managers, shall be received by the Secretary; and the managers shall thereupon be informed by the President that the Senate will take proper order on the subject, of which due notice will be given to the House of Representatives.

"After which the Secretary shall read said articles of impeachment, and enter the same on the Journals of the Senate."

The following Message was received from the PRESIDENT OF THE UNITED STATES; which was read:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received a letter from his Excellency Charles Pinckney, Esq., Governor of the State of South Carolina, dated the 22d October, 1797, enclosing a number of depositions and witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer belonging to Cape Francois, or Monte Christo, called the Vertitude or Fortitude, and commanded by a person of the name of Jordan or Jourdain, and particularly upon an English merchant ship named the Oracabissa, which he first plundered and then burned, with the rest of her cargo, of great value, within the territory of the United States, in the harbor of Charleston, on the 17th of October last. Copies of which letter and depositions, and also of several other depositions relative to the same subject, received from the Collector of Charleston, are herewith communicated.

Whenever the channel of diplomatical communication between the United States and France shall be opened, I shall demand satisfaction for the insult and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States and such foreigners as have a right to enjoy their peace, and the protection of their laws, within their limits, in that as well as some other harbors which are equally exposed.

JOHN ADAMS.

UNITED STATES, *February* 5, 1798.

Ordered, That the Message and papers referred to lie for consideration.

Mr. HILLHOUSE, from the committee last mentioned, made a further report; which was read.

Ordered, That it lie for consideration.

The Senate resumed the second reading of the bill to authorize the sale of certain lands between the Great and Little Miami rivers, in the territory of the United States northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers; and the bill being amended,

Ordered, That it pass to the third reading.

TUESDAY, February 6.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of Treasury, on the expediency of erecting a light-house on Eaton's Neck, on Long Island, in the State of New York; which was read.

Ordered, That it be referred to Messrs. GREENE, HOBART, and LANGDON, to consider and report thereon, by bill or otherwise.

The papers referred to in the Message of the President of the United States, of the 5th instant, were read.

Ordered, That they be referred to the committee appointed the 29th of November last, on that part of the Speech of the President of the United States respecting measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

The bill to authorize the sale of certain lands between the Great and Little Miami rivers, in the territory of the United States northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers, was read the third time.

Ordered, That it be recommitted to the committee who reported the bill.

Mr. STOCKTON, from the committee to whom was referred the bill last mentioned, reported that it pass without amendment.

Ordered, That the further consideration of this bill be postponed until to-morrow.

WEDNESDAY, February 7.

A message from the House of Representatives informed the Senate that the House have resolved that articles agreed by the House to be exhibited by them, in the name of themselves and of all the people of the United States, against WILLIAM BLOUNT, in maintenance of their impeachment against him for high crimes and misdemeanors, be carried to the Senate by the managers, Messrs. SITGREAVES, BAYARD, HARPER, GORDON, PINCKNEY, DANA, SEWALL, HOSMER, DENNIS, EVANS, and IMLEY, appointed to conduct the said impeachment.

On motion,

Resolved, That the Senate will, at twelve o'clock this day, be ready to receive articles of impeachment against WILLIAM BLOUNT, late a Senator of the United States from the State of Tennessee, to be presented by the managers appointed by the House of Representatives.

A message was announced from the House of Representatives, by the above-mentioned mana-

gers, who, being introduced, Mr. SITGREAVES, their Chairman, addressed the Senate as follows:

Mr. VICE PRESIDENT: The House of Representatives having agreed upon articles, in maintenance of their impeachment against William Blount, for high crimes and misdemeanors, and having appointed on their part managers of the said impeachment, the managers have now the honor to attend the Senate, for the purpose of exhibiting the said articles.

The VICE PRESIDENT then ordered the Sergeant-at-Arms to proclaim silence, after which he notified the managers that the Senate was ready to hear the articles of impeachment. Whereupon,

The Chairman of the Managers read the articles of impeachment, and they were received from him at the bar by the Sergeant-at-Arms, and laid on the table.

The VICE PRESIDENT then informed the managers that the Senate would take proper order on the subject of the impeachment, of which due notice should be given to the House of Representatives.

The Secretary then read the articles of impeachment, in the following words:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and of all the people of the United States, against William Blount, in maintenance of their impeachment against him for high crimes and misdemeanors.

ARTICLE 1. That, whereas the United States, in the months of February, March, April, May, and June, in the year of our Lord one thousand seven hundred and ninety seven, and for many years then past, were at peace with His Catholic Majesty, the King of Spain; and whereas, during the months aforesaid, His said Catholic Majesty and the King of Great Britain were at war with each other; yet the said William Blount, on or about the months aforesaid, then being a Senator of the United States, and well knowing the premises, but disregarding the duties and obligations of his high station, and designing and intending to disturb the peace and tranquillity of the United States, and to violate and infringe the neutrality thereof, did conspire, and contrive to create, promote, and set on foot, within the jurisdiction and territory of the United States, and to conduct and carry on from thence, a military hostile expedition against the territories and dominions of His said Catholic Majesty in the Floridas and Louisiana, or a part thereof, for the purpose of wresting the same from His Catholic Majesty, and of conquering the same for the King of Great Britain, with whom His said Catholic Majesty was then at war as aforesaid, contrary to the duty of his trust and station as a Senator of the United States, in violation of the obligations of neutrality, and against the laws of the United States, and the peace and interests thereof.

ARTICLE 2. That, whereas, on the twenty-seventh day of October, in the year of our Lord one thousand seven hundred and ninety-five, a Treaty of Friendship, Limits, and Navigation, had been made and concluded between the United States and His Catholic Majesty, by the fifth article whereof it is stipulated and agreed, "that the two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers, which, by the preceding articles, form the boundaries of the two Floridas: And the better to obtain this effect, both parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian nations living within their boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last mentioned Indians to commence hostilities against the subjects of His Catholic Majesty or his Indians, in any manner whatever:" Yet, the said William Blount, on or about the months of February, March, April, May, and June, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, and that the United States were then at peace with His said Catholic Majesty, and that His Catholic Majesty was at war with the King of Great Britain, but disregarding the duties of his high station, and the stipulations of the said treaty, and the obligations of neutrality, did conspire and contrive to excite the Creek and Cherokee nations of Indians, then inhabiting within the territorial boundary of the United States, to commence hostilities against the subjects and possessions of His Catholic Majesty, in the Floridas and Louisiana, for the purpose of reducing the same to the dominion of the King of Great Britain, with whom His Catholic Majesty was then at war as aforesaid: contrary to the duty of his trust and station as a Senator of the United States, in violation of the said Treaty of Friendship, Limits, and Navigation, and of the obligations of neutrality, and against the laws of the United States, and the peace and interests thereof.

ARTICLE 3. That, whereas, by the ordinances and acts of Congress for regulating trade and intercourse with the Indian tribes, and for preserving peace on the frontiers, it has been made lawful for the President of the United States, in order to secure the continuance of the friendship of the said Indian tribes, to appoint such persons, from time to time, as temporary agents, to reside among the Indians, as he shall think fit; and whereas, in pursuance of the said authority, the President of the United States, on or about the eighth day of September, in the year of our Lord one thousand seven hundred and ninety-six, did appoint Benjamin Hawkins, to be principal temporary agent for Indian affairs, within the Indian nations south of the river Ohio, and north of the territorial line of the United States; and whereas the said Benjamin Hawkins accepted the said appointment, and on the 21st day of April, in the year of our Lord one thousand seven hundred and ninety-seven, and for a long time before and afterwards, did exercise the functions, powers and duties attached to the same; yet, the said Wm. Blount, on or about the said twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, did, in the prosecution of his criminal designs and of his conspiracies aforesaid, and the more effectually to accomplish his intention of exciting the Creek and Cherokee nations of Indians to commence hostilities against the subjects of His Catholic Majesty, further conspire and contrive to alienate and divert the confidence of the said Indian tribes or nations from the said Benjamin Hawkins, the principal temporary agent aforesaid, and to diminish, impair, and destroy the influence of the said Benjamin Hawkins with the said Indian tribes, and their friendly intercourse and understanding with him, contrary to the duty of his trust and station as a Senator of the United States,

and against the ordinances and laws of the United States, and the peace and interests thereof.

ARTICLE 4. That, whereas, by the ordinances and acts of Congress aforesaid, it is made lawful for the President of the United States to establish trading houses at such places and posts on the western and southern frontiers, or in the Indian country, as he shall judge most convenient, for the purpose of carrying on a liberal trade with the several Indian nations within the limits of the United States, and to appoint an agent at each trading house established as aforesaid, with such clerks and assistants as may be necessary for the execution of the said acts: And, whereas, by a treaty, made and concluded on the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, between the United States and the Cherokee nation of Indians, inhabiting within the limits of the United States, it is stipulated and agreed, that "the United States will send such, and so many persons to reside in said nation, as they may judge proper, not exceeding four, who shall qualify themselves to act as interpreters." And whereas the President of the United States, as well in pursuance of the authorities in this article mentioned, as of the acts of Congress referred to in the third article, did appoint James Carey to be interpreter for the United States to the said Cherokee nation of Indians, and assistant at the public trading house established at the Tellico blockhouse, in the State of Tennessee: And whereas the said James Carey did accept the said appointments, and on the twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, and for a long time before and afterwards, did exercise the functions, and duties attached to the same; yet, the said William Blount, on or about the said twenty-first day of April, in the year last aforesaid, then being a Senator of the United States, and well knowing the premises, did, in prosecution of his criminal designs, and in furtherance of his conspiracies aforesaid, conspire and contrive to seduce the said James Carey from the duty and trust of his said appointments, and to engage the said James Carey to assist in the promotion and execution of his said criminal intentions and conspiracies aforesaid, contrary to the duty of his trust and station as a Senator of the United States, and against the laws and treaties of the United States, and the peace and interests thereof.

ARTICLE 5. That whereas certain tribes or nations of Indians inhabit within the territorial limits of the United States, between whom, or many of them, and the settlements of the United States, certain boundary lines have, by successive treaties, been stipulated and agreed upon, to separate the lands and possessions of the said Indians from the lands and possessions of the United States, and the citizens thereof: And whereas, particularly, by the treaty in the last article mentioned to have been made with the Cherokee nation, on the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, the boundary line between the United States and the said Cherokee nation was agreed and defined; and it was further stipulated, that the same should be ascertained and marked plainly by three persons appointed on the part of the United States, and three Cherokees on the part of their nation: And whereas, by another treaty made with the said Cherokee nation, on the twenty-sixth day of June, in the year of our Lord one thousand seven hundred and ninety-four, the said hereinbefore recited treaty, of the second day of July, in the year of our Lord one thousand seven hundred and ninety one, was confirmed and established; and it was mutually agreed that the said boundary line should be actually ascertained and marked in the manner prescribed by the said last mentioned treaty: And whereas, in pursuance of the said treaties, commissioners were duly nominated and appointed, on the part of the United States, to ascertain and mark the said boundary line; yet, the said William Blount, on or about the twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, in further prosecution of his said criminal designs, and of his conspiracies aforesaid, and the more effectually to accomplish his intention of exciting the said Indians to commence hostilities against the subjects of His Catholic Majesty, did further conspire and contrive to diminish and impair the confidence of the said Cherokee nation in the Government of the United States, and to create and foment discontents and disaffection among the said Indians towards the Government of the United States, in relation to the ascertainment and marking of the said boundary line, contrary to the duty of his trust and station as a Senator of the United States, and against the peace and interests thereof.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter, any further articles, or other accusation, or impeachment, against the said William Blount, and also of replying to his answers, which he shall make unto the said articles, or any of them, and of offering proof to all and every the aforesaid articles, and to all and every other articles of impeachment, or accusation, which shall be exhibited by them, as the case shall require, do demand that the said William Blount may be put to answer the said crimes and misdemeanors, and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as are agreeable to law and justice.

Signed by order and in behalf of the House.

JONATHAN DAYTON, *Speaker.*

Attest, JONATHAN W. CONDY, *Clerk.*

Ordered, That the report of the committee, made on the 5th instant, respecting the mode of administering the oaths in cases of impeachment, be the order of the day for to-morrow.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" and having agreed to sundry amendments, the Senate proceeded to the consideration of Executive business.

THURSDAY, February 8.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia, and, having adopted the report,

Ordered, That this bill pass to the third reading as amended.

Mr. ROSS, from the committee to whom was referred the consideration of a deed of cession of

the jurisdiction of certain territory, from the State of Connecticut, made a report; which was read, and ordered to lie on the table.

The Senate proceeded to consider the report of the committee, made on the 5th instant, respecting the mode of administering the oaths in cases of impeachment; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

FRIDAY, February 9.

The Senate resumed the consideration of the report of the committee, made on the 5th instant, respecting the mode of administering the oaths in cases of impeachment,

On motion to postpone the consideration thereof, it was determined in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Foster, Jackson, Langdon, Marshall, Martin, Mason, and Tazewell.

NAYS — Messrs. Bingham, Chipman, Goodhue, Greene, Hillhouse, Hobart, Howard, Hunter, Latimer, Livermore, Lloyd, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

On motion that the report be amended, by adding thereto these words: "and that a bill be brought in conformable thereto," it was determined in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Foster, Jackson, Langdon, Marshall, and Mason.

NAYS — Messrs. Bingham, Chipman, Goodhue, Greene, Hillhouse, Hobart, Howard, Hunter, Latimer, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, Tazewell, and Tracy.

On motion to agree to the report of the committee, it was determined in the affirmative—yeas 22, nays 6, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Hobart, Howard, Hunter, Latimer, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, Tazewell, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Jackson, Langdon, Marshall, and Mason.

So it was *Resolved*, That the oath or affirmation required by the Constitution of the United States to be administered to the Senate, when sitting for the trial of impeachment, shall be in the form following, viz:

"I, A B, solemnly swear, (or affirm, as the case may be,) that in all things appertaining to the trial of the impeachment of —— ——, I will do impartial justice, according to law."

Which oath or affirmation shall be administered by the Secretary to the President of the Senate, and by the President to each member of the Senate.

MONDAY, February 12.

Mr. GREENE, from the committee to whom was referred the report of the Secretary for the Department of the Treasury, on the expediency of erecting a light-house on Eaton's Neck on, Long Island, in the State of New York, reported a bill on the subject; which was read, and ordered to the second reading.

A letter from Governor Wood, of the State of Virginia, to the Secretary of the Senate, with a resolution of the Legislature of that State, ratifying an amendment to the Constitution of the United States, respecting the suability of States, were laid before the Senate, and read.

Ordered, That they lie on file.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," was read the third time.

Resolved, That this bill pass with amendments.

The consideration of the bill to authorize the sale of certain lands between the Great and Little Miami rivers, in the territory of the United States southwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers, was resumed.

Resolved, That this bill pass, that it be engrossed, and the title thereof be "An act to authorize the sale of certain lands between the Great and Little Miami rivers, in the territory of the United States northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In obedience to the law, I now present to both Houses of Congress my annual account of expenditures from the contingent fund during the year 1797, by which it appears that, on the first day of January last, there remained in the Treasury a balance of fifteen thousand four hundred and ninety-four dollars and twenty-four cents, subject to future dispositions of Government.

JOHN ADAMS.

UNITED STATES, *February* 12, 1798.

The Message and documents therein referred to were read, and ordered to lie on the table.

Mr. HILLHOUSE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee or North Carolina," reported amendments; which were read.

Ordered, That they lie for consideration.

Mr. BINGHAM presented the petition of Philip Wilson, praying compensation for the loss of a ship and cargo destroyed by Admiral Digby, after the peace was concluded between the United States and His Britannic Majesty; which, with a statement therein referred to, were read.

Ordered, That they lie on the table.

Mr. ROSS presented the petition of John Edgar and William Morrison, on behalf of the inhabitants of the Illinois, praying permission to lay out certain donation lands on the waters of Kaskaskia creek; which was read, and referred to Messrs. ROSS, BROWN, and LIVERMORE, to consider and report thereon to the Senate.

On motion, that the bill regulating certain proceedings in cases of impeachment be the order of the day for Wednesday next;

A motion was made to amend the motion, and that it be the order of the day for the second Monday in June next; which last motion was determined in the negative—yeas 5, nays 22, as follows:

YEAS—Messrs. Bingham, Livermore, Read, Ross, and Sedgwick.

NAYS—Messrs. Anderson, Bloodworth, Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Hobart, Howard, Hunter, Jackson, Langdon, Latimer, Llyod, Marshall, Martin, Mason, Paine, Tattnall, Tazewell, and Tracy.

And the original motion was agreed to.

TUESDAY, February 13.

A motion was made by Mr. GOODHUE, that it be

"*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to obtain from the collectors of the customs of the principal collection districts of the United States, an account, exhibiting the number and tonnage of the vessels, and the estimated value of their cargoes, that have been captured or detained since the first day of January, 1796, from their respective districts, by or under the authority of foreign nations, distinguishing the vessels captured or detained by each nation; and that the said Secretary lay the result of the information so obtained, as soon as may be, before the Senate."

And it was agreed that this motion lie for consideration.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee or North Carolina;" and, after debate,

Ordered, That the further consideration thereof be postponed.

The bill to erect a light-house on Eaton's Neck, in the State of New York, and place beacons and buoys in the Sound, between the city of New York, in said State, and Newport, in the State of Rhode Island, and in the harbors of those places, was read the second time.

Ordered, That it be committed to the committee who reported the bill.

WEDNESDAY, February 14.

The Senate proceeded to consider the motion made yesterday by Mr. GOODHUE, which was adopted; and

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to obtain from the collectors of the customs of the principal collection districts of the United States, an account exhibiting the number and tonnage of the vessels, and the estimated value of their cargoes, that have been captured or detained since the first day of January, 1796, from their respective districts, by or under the authority of foreign nations, distinguishing the vessels captured or detained by each nation; and that the said Secretary lay the result of the information so obtained, as soon as may be, before the Senate.

A motion was made by Mr. READ, that it be

Resolved, That the duty or trust imposed by the Constitution of the United States, on a Senator of the United States, is not of such a nature as to render a Senator impeachable, or subject to any examination or trial for crimes or offences alleged to have been committed against the laws and peace of the United States, other than any citizen of the United States not a member of either House of Congress, and not holding any office under the said States:"

And it was agreed that this motion lie for consideration.

Ordered, That the committee appointed the 30th of January last, to report a form of proceeding in cases of impeachment, be discharged.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-eight, and for other purposes:" in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill regulating certain proceedings in cases of impeachment; and, after progress, it was agreed that the further consideration thereof be postponed.

THURSDAY, February 15.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-eight, and for other purposes," was read, and ordered to the second reading.

A motion was made, by Mr. LIVERMORE, that a committee be appointed to consider and report what measures ought to be adopted by the Senate, relative to the articles of impeachment exhibited by the House of Representatives against WILLIAM BLOUNT; and it was agreed that this motion lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States, and the officer commanding the troops of the United States;" in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee or North Carolina," and adopted sundry of the amendments reported.

On motion, to agree to part of the report of the committee, in the words following:

"Nothing in this act contained shall be construed to admit an obligation on the part of the United States to extinguish, for the benefit of any State or individual citizen, Indian claims to any lands lying within the territory of the United States;"

It passed in the affirmative—yeas 16, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Langdon, Livermore, Lloyd, Paine, Read, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Gunn, Hunter, Jackson, Marshall, Martin, Mason, Tattnall, and Tazewell.

Ordered, That this bill pass to the third reading, as amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States, and the officer commanding the troops of the United States," was read the first time, and ordered to the second reading.

FRIDAY, February 16.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-eight, and for other purposes," was read the second time, and referred to Messrs. ROSS, HILLHOUSE, and GOODHUE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States, and the officer commanding the troops of the United States," was read the second time, and referred to Messrs. TAZEWELL, LIVERMORE, and LLOYD, to consider the subject of franking letters generally, and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee or North Carolina," was read the third time.

On motion, it was agreed to amend the bill, to be read as follows: "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians."

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William Alexander;" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill regulating certain proceedings in cases of impeachment; and, after debate, the Senate adjourned.

MONDAY, February 19.

JOSHUA CLAYTON, appointed a Senator by the Legislature of the State of Delaware, in the place of John Vining, resigned, produced his credentials, which were read, and, the oath required by law being administered, he took his seat in the Senate.

The bill, sent from the House of Representatives for concurrence, entitled, "An act for the relief of William Alexander," was read, and ordered to the second reading.

Ordered, That the petition of Philip Wilson be referred to the Secretary for the Department of State, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill regulating certain proceedings in cases of impeachment.

On motion, by Mr. TAZEWELL, to amend the amendment reported to the third section, by inserting "and a jury shall be summoned for the trial thereof, in the manner and under the directions hereinafter prescribed," it passed in the negative—yeas 3; nays 26, as follows:

YEAS—Messrs. Jackson, Mason, and Tazewell.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Hobart, Howard, Hunter, Langdon, Livermore, Lloyd, Marshall, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

TUESDAY, February 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of William Alexander," was read the second time, and referred to Messrs. ROSS, TRACY, and CLAYTON, to consider and report thereon to the Senate.

Mr. Ross laid before the Senate the petition of Ralph Matson and others; also, the petition of Benjamin Reed, inhabitants of Vincennes, in the Territory northwest of the river Ohio, praying confirmation of certain grants of land therein mentioned; which petitions were severally read.

Ordered, That they be severally referred to the committee appointed on the 12th instant, to whom was referred the petition of John Edgar and William Morrison, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill regulating certain proceedings in cases of impeachment.

And having agreed to so much of the amendment reported by the committee as proposed to strike out the 4th section of the bill, and proceeding to the question for inserting, agreeably to the residue of the said amendment, the following words, to wit:

"SEC. 4. After the word 'enacted,' in the first line, strike out the rest of the section, and insert 'that when the Senate shall have received an impeachment, a day shall be assigned for trial, and a fit person appointed by the Senate to execute its process when ordered. And it shall be the duty of the Secretary of

the Senate to make out a summons for the party impeached to appear on the day of trial; which summons shall contain a transcript of the impeachment, with its appendages, and which, being approved by the Senate, shall be signed by the President thereof; the Secretary shall also make out subpœnas for the witnesses whose attendance shall be required, which, being approved by the Senate, shall be signed by the President; those for witnesses against the party impeached shall be delivered to the managers, those for witnesses in favor of the impeached party to himself or agent when demanded; and all process from the Senate shall be executed by its own officers, or by the marshal of the district within which the execution is to be done, and in the manner specified in such process; which shall be by leaving a copy with the party subpœnaed, or at his or her last place of residence; which execution shall be shown in the return of the process: The Senate may, nevertheless, for cause to them appearing, order, by proclamation, the party impeached to appear on the day of trial, and after process executed, or proclamation made, should the party fail to appear, the Senate may notwithstanding proceed to trial and judgment:"

It was determined in the negative—yeas 6, nays 18, as follows:

YEAS—Messrs. Anderson, Bloodworth, Langdon, Marshall, Martin, and Mason.

NAYS—Messrs. Bingham, Brown, Chipman, Clayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Hobart, Howard, Hunter, Livermore, Read, Ross, Sedgwick, Stockton, and Tracy.

The Senate having agreed to so much of the amendment reported by the committee, as proposed to strike out the sixth section of the bill, and proceeding to the question for inserting, agreeably to the residue of the said amendment, the following words to wit:

"SEC. 6. After the word 'enacted,' in the first line, strike out the rest of the section, and insert 'that, on the day fixed for trial of an impeachment, and before the same be taken up for hearing, the Secretary of the Senate shall administer to the President of the Senate, and to each Senator present, and afterwards to such others as shall come in, the following oath or affirmation, to wit: 'I, A B, do solemnly swear, (or affirm, as the case may be,) that, in all things appertaining to the trial of the impeachment of C D, I will do impartial justice, according to law, and my best judgment.' The Senate shall then proceed on the trial according to such rules as they may have established for such occasion; but may adjourn the trial from time to time, for cause to them appearing. The party impeached, after trial, shall be acquitted or convicted; and, upon conviction, the Senate shall pronounce judgment according to law:"

It was determined in the negative—yeas 7, nays 18, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Foster, Langdon, Marshall, and Mason.

NAYS—Messrs. Bingham, Chipman, Clayton, Goodhue, Greene, Gunn, Hillhouse, Howard, Hobart, Hunter, Latimer, Livermore, Martin, Read, Ross, Sedgwick, Stockton, and Tracy.

On the question to agree to the third reading of the bill, it passed in the negative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

In obedience to the law of the United States of the 3d March, 1797, entitled "An act authorizing an expenditure, and making an appropriation, for the prosecution of the claims of certain citizens of the United States for property captured by the belligerent Powers," I submit to Congress the account exhibited to me by the Secretary of State, with his report of the 17th of this month.

JOHN ADAMS.

UNITED STATES, *February* 20, 1798.

The Message and papers therein referred to were read, and ordered to lie on the table.

The Senate proceeded to consider the motion made on the 15th instant by Mr. LIVERMORE.

Whereupon, *Ordered*, That Messrs. LIVERMORE, ROSS, and STOCKTON, be a committee to consider and report what measures ought to be adopted by the Senate, relative to the articles of impeachment exhibited by the House of Representatives against WILLIAM BLOUNT.

WEDNESDAY, February 21.

Mr. ROSS, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act for the relief of William Alexander," reported the bill without amendment; and the report was adopted.

Ordered, That this bill pass to a third reading.

The Senate proceeded to consider the motion made on the 14th instant, by Mr. READ, respecting the impeachment of a Senator of the United States. Whereupon—

On motion by Mr. SEDGWICK,

Ordered, That the said motion be referred to the committee appointed on the 20th instant, to report the measures proper to be adopted relative to the articles of impeachment against WILLIAM BLOUNT, with instruction to take the same into consideration, and report their opinion as to any amendment thereof, (in point of form only,) and at what time it will be proper to consider the subject thereof.

THURSDAY, February 22.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of William Alexander," was read the third time and passed.

A message from the House of Representatives informed the Senate that they agree to all the amendments of the Senate to the bill, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty with the Indians claiming lands in the State of Tennessee or North Carolina," with an amendment to their fifth amendment, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendment in the bill last mentioned, and resolved that they do concur therein.

Ordered, That the consideration of the report of the committee to whom was referred the consideration of a deed of cession of the jurisdiction

of a certain territory, from the State of Connecticut, be the order of the day for Monday next.

Mr. LIVERMORE, from the committee to whom it was referred to report the proper measures to be adopted relative to the articles of impeachment against WILLIAM BLOUNT; and to whom was also referred the resolution relative to the impeachment of a Senator of the United States, reported in part; and the report was read, and ordered to lie for consideration.

FRIDAY, February 23.

Mr. ROSS, from the committee to whom it was referred to inquire whether any, and what, territory, lying to the southward and westward of the State of Georgia belongs to the United States; and to whom was also referred the petition and remonstrance of the Legislature of the State of Georgia, reported a bill; which was read and ordered to a second reading.

The Senate proceeded to consider the report of the committee appointed to consider the proper measures to be adopted relative to the articles of impeachment against WILLIAM BLOUNT; and to whom was also referred the resolution relative to the impeachment of a Senator of the United States; which report was read and amended, and ordered to be recommitted.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The enclosed memorial from the Commissioners appointed under an act of the United States, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," representing the situation and circumstances of the city of Washington, I take this opportunity to present to both Houses of the Legislature, and recommend to their consideration. Alexander White, Esq., one of those Commissioners, is now in this city, and will be able to give to Congress, or any of their committees, any explanation or further information which the subject may require.

JOHN ADAMS.

UNITED STATES, *February* 23, 1798.

The Message and memorial therein referred to were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to provide for the widows and orphans of certain deceased officers, in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. TAZEWELL, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States and the officer commanding the troops of the United States," reported that the bill pass without amendment.

Ordered, That the consideration thereof be postponed.

MONDAY, February 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain deceased officers," was read the second time.

Ordered, That it be referred to Messrs. LIVERMORE, PAINE, and TRACY, to consider and report thereon to the Senate.

The bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a Government in the Mississippi Territory, was read the second time.

Ordered, That the consideration of this bill be the order of the day for Wednesday next.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States and the officer commanding the troops of the United States," and ordered that it pass to a third reading.

The Senate then went into the consideration of Executive business.

TUESDAY, February 27.

The bill, sent from the House of Representatives for concurrence, entitled "An act granting the right of sending and receiving letters and packets by post, free of postage, to the Attorney General of the United States and the officer commanding the troops of the United States," was read the third time; and, on the question of agreeing to its final passage, it was determined in the negative.

Mr. BROWN, from the committee appointed on the 3d instant to consider the petition of Stephen Monot and others, inhabitants of Galliopolis, reported the following resolution:

"*Resolved*, That the said petitioners, who, by unavoidable absence, or other cause, have been prevented from obtaining their proportion of the land appropriated for the relief of the inhabitants of Galliopolis, by act of Congress passed on the 3d March, 1795, be allowed each —— acres of land, to be laid out in the territory northwest of the river Ohio, adjoining to the lands described and set apart in the said act."

And the resolution was agreed to.

Ordered, That it be referred to the committee who made the report, with instructions to bring in a bill accordingly.

Mr. LIVERMORE, from the committee appointed to consider the proper measures to be adopted relative to the articles of impeachment againt William Blount; and to whom was also referred the resolution relative to the impeachment of a Senator of the United States, reported in part, and the report was read and amended; and, after debate, it was ordered that the further consideration thereof be postponed.

WEDNESDAY, February 28.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to repeal the act, entitled 'An act laying duties on stamped vellum, parchment, and paper;" and a bill entitled "An act for the erection of a light-house, and placing buoys at the several places therein mentioned;" in which they desire the concurrence of the Senate.

The bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a Government in the Mississippi Territory, was read the second time; and, after debate, it was ordered that the further consideration thereof be postponed.

The bill last mentioned in the message of this day was read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal the act, entitled 'An act laying duties on stamped vellum, parchment, and paper,' was read; and, on the question to agree to the second reading of this bill, it passed in the negative.

THURSDAY, March 1.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the erection of a light-house, and placing buoys at the several places therein mentioned," was read the second time.

Ordered, That it be referred to the committee appointed on the 13th February last, to whom was referred the bill providing for the erection of a light-house on Eaton's Neck, in the State of New York, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee appointed to prepare rules of proceeding in the case of the impeachment of WILLIAM BLOUNT; which, being amended, is as follows:

"The committee to whom was recommitted the report of the committee appointed to prepare rules of proceeding in the case of the impeachment against William Blount, report, in part, that a writ of summons issue, directed to the said William Blount, in the form following:

"*United States of America, ss.*

"The Senate of the United States of America to William Blount, late a Senator of the United States for the State of Tennessee, greeting: Whereas the House of Representatives of the United States of America did, on the 7th day of July last past, in their own name, and in the name of all the people of the United States, impeach you, the said William Blount, of high crimes and misdemeanors before the Senate of the United States: And whereas the said House of Representatives did, on the 7th day of February, of the present year, exhibit to the Senate, their articles of impeachment against you, the said William Blount, charging you with high crimes and misdemeanors, therein specially set forth, (a true copy of which articles of impeachment is annexed to this writ,) and did demand that you, the said William Blount, should be put to answer the said crimes and misdemeanors; and that such proceedings, examinations, trials, and judgments, might be thereupon had, as are agreeable to law and justice—You, the said William Blount, are therefore summoned to be and appear before the Senate of the United States of America, at their Chamber, in the city of Philadelphia, in the State of Pennsylvania, on the third Monday of December next, at the hour of eleven of that day, then and there to answer the said articles of impeachment, and then and there to abide by, obey, and perform, such orders and judgments as the Senate of the United States shall make in the premises, according to the Constitution and laws of the said United States. And hereof you are in nowise to fail. Witness, the Honorable Thomas Jefferson, Esq., Vice President of the United States of America, and President of the Senate thereof, at the city of Philadelphia, the first day of March, in the year of our Lord 1798, and of the independence of the United States the twenty-second."

"Which summons shall be signed by the Secretary of the Senate.

"That the said summons shall be served on the said William Blount by the Sergeant-at-Arms of this House, or a special messenger, who shall leave a true copy of the writ and the articles annexed with the said William Blount, if he can be found, showing him the original; or at the usual place of residence of the said William Blount, if he cannot be found. Which messenger shall make return of the writ of summons, and of his proceedings in virtue thereof, to the Senate, on the appearance-day therein mentioned.

"And that a message be sent to the House of Representatives, giving information that the Senate have directed the said writ to be issued, and of the day mentoned therein for the appearance of the said William Blount."

On motion to agree to the report of the committee, as amended, it was determined in the affirmative—yeas 22, nays 5, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Hobart, Hunter, Langdon, Latimer, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, Tazewell, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Jackson, Marshall, and Mason.

So the report was adopted.

Resolved, That the Secretary of the Senate do issue the summons hereinbefore directed, and that service thereof be made sixty days at the least before the return day mentioned in the said writ of summons.

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain deceased officers," reported the bill without amendment.

The Senate resumed the second reading of the bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a Government in the Mississippi Territory.

On motion, by Mr. TATTNALL, that the first clause of the third section of the bill, which now stands in these words:

"*Be it further enacted*, That all that tract of country bounded on the west by the Mississippi"—

Be amended to read as follows:

"*Be it further enacted*, That, as soon as the consent of the State of Georgia shall be obtained, by cession or otherwise, all that tract of country bounded on the west by the Mississippi"—

It passed in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Anderson, Bloodworth, Gunn, Jackson, Langdon, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Hobart, Hunter, Latimer, Livermore, Lloyd, Marshall, Martin, Paine, Read, Ross, Sedgwick, Stockton, and Tracy.

FRIDAY, March 2.

The Senate resumed the consideration of the bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a Government in the Mississippi Territory; and, having agreed to sundry amendments, it was ordered that this bill pass to the third reading.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain deceased officers; and, after debate, it was ordered that this bill pass to a third reading.

MONDAY, March 5.

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the erection of a light-house, and placing buoys at the several places therein mentioned," reported an amendment, which was read, and ordered to lie for consideration.

The bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a Government in the Mississippi Territory, was read the third time; and, on the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 20, nays 8, as follows:

YEAS—Messrs. Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Greene, Hobart, Hunter, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, Paine, Ross, Sedgwick, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Goodhue, Gunn, Hillhouse, Jackson, Langdon, Mason, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory."

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain deceased officers," was read the third time.

Ordered, That the question on the final passage of this bill be postponed until to-morrow.

The VICE PRESIDENT laid before the Senate a letter from the Secretary for the Department of Treasury, transmitting a statement of goods, wares, and merchandise, exported from the United States during one year, prior to the 1st of October, 1797, prepared in pursuance of the resolution of the Senate, passed on the 5th of February, 1796; and noting that the foreign goods, wares, and merchandise, included in this statement, are estimated at about twenty-seven millions of dollars; and the letter was read.

Ordered, That the letter, together with the return, be printed for the use of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The first despatches from our Envoys Extraordinary, since their arrival at Paris, were received at the Secretary of State's office at a late hour the last evening. They are all in a character which will require some days to be deciphered, except the last, which is dated the 8th of January, 1798. The contents of this letter are of so much importance to be immediately made known to Congress and to the public, especially to the mercantile part of our fellow-citizens, that I have thought it my duty to communicate them to both Houses without loss of time.

JOHN ADAMS.

UNITED STATES, *March* 5, 1798.

The Message and paper therein referred to were read, and ordered to lie for consideration.

TUESDAY, March 6.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing the means of intercourse between the United States and foreign nations;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate resumed the consideration of the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain deceased officers."

On motion, by Mr. SEDGWICK, to expunge the words, "and of the militia," it was determined in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Anderson, Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hobart, Latimer, Livermore, Lloyd, Marshall, Paine, Sedgwick, and Tracy.

NAYS—Messrs. Bloodworth, Brown, Gunn, Hunter, Jackson, Langdon, Laurance, Martin, Mason, Ross, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass with an amendment.

Mr. ROSS, from the committee to whom was referred the petitions of Benjamin Reed and others, inhabitants of Post Vincennes; also, the petition of J. Edgar and William Morrison, on behalf of the inhabitants of the Illinois, reported:

"That there being no correct statement of the measures taken in consequence of the resolutions and laws of Congress, confirming titles, and authorizing the grants of bounties, in lands, to certain settlers at Post Vincennes, and in the Illinois country, the committee have not been able to obtain sufficient information to guide them in reporting either for or against the petitions; but, in order that a fair and full explanation of these claims may be had, the committee recommend to the Senate the following resolution:

"*Resolved*, That the petition of sundry inhabitants of Post Vincennes, the petition of J. Edgar and William Morrison, on behalf of the inhabitants of the Illinois, and the petition of Benjamin Reed, be referred to the Governor of the Territory northwest of the river Ohio, who is hereby requested to report to the Senate, on the first Monday in December next, a correct and full statement of what has been done in pursuance of the resolves of Congress of the 20th June, and 29th August, 1788; and of the act of Congress of the 3d of March, 1791, entitled 'An act for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the Territory northwest of the Ohio, and for confirming them in their possessions,' and whether any of the ancient rights, settlements, or improvements, of the inhabitants, are included within the tracts allotted for satisfying bounties allowed to the old settlers."

The report, having been read, was adopted.

Mr. TRACY laid before the Senate the memorials of Joseph Ball and others, holders of bills of credit, emitted in pursuance of a resolution of Congress of the 18th of March, 1780, praying that the subject may be taken into consideration; which memorials were read.

Ordered, That they severally lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the erection of a light-house, and placing buoys at the several places therein mentioned," and agreed to amend the bill accordingly; and, the bill being further amended, it was agreed, by unanimous consent, that the bill be now read the third time.

Resolved, That this bill pass with amendments.

A motion was made, by Mr. MASON, that it be

"*Resolved*, That a committee be appointed to consider and report upon the expediency of erecting a light-house upon Old Point Comfort, in Virginia, and of erecting a beacon on Tybee island, in the State of Georgia, and fixing buoys at the mouth of Savannah river; and that they be authorized to report by bill or otherwise."

Ordered, That this motion lie for consideration.

On motion, it was agreed that the committee to whom was referred the bill providing for the erection of a light-house on Eaton's Neck, in the State of New York, be discharged.

WEDNESDAY, March 7.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing the means of intercourse between the United States and foreign nations," was read a second time.

Ordered, That it be referred to the committee, appointed the 16th of February, to consider the bill entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-eight, and for other purposes," to report thereon to the Senate.

Mr. BROWN, from the committee to whom was referred the petition of sundry inhabitants of Galliopolis, reported a bill to authorize a grant of lands to Stephen Monot and others, inhabitants of Galliopolis, therein named; which was read, and ordered to a second reading.

The Senate resumed the consideration of the report of the committee to whom was referred a deed of cession of the jurisdiction of certain territory from the State of Connecticut; and, after debate,

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill entitled "An act to provide for the widows and orphans of certain deceased officers." They have passed a bill entitled "An act to amend the act entitled 'An act laying duties on stamped vellum, parchment, and paper," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to the amendment of the Senate to the bill entitled "An act to provide for the widows and orphans of certain deceased officers."

A motion was made, by Mr. BLOODWORTH, that the Senate recede from their amendment to the bill; and, after debate, it was agreed that the further consideration thereof be postponed.

THURSDAY, March 8.

The bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on stamped vellum, parchment, and paper," was read a second time, and referred to Messrs. BINGHAM, GOODHUE, and MARTIN, to consider and report thereon to the Senate.

On motion, by Mr. READ,

Ordered, That the committee appointed the 26th December last, to revise the Judiciary system of the United States, be instructed to report by bill.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to continue in force, for a limited time, an act entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, for the appointment of a health officer;'" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the motion made yesterday to recede from their amendment disagreed to by the House of Representatives to the bill entitled "An act to provide for the widows and orphans of certain deceased officers."

On motion, by Mr. PAINE, that the consideration thereof be postponed until the second Monday in December next, it passed in the negative—yeas 14, nays 15, as follows:

YEAS—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Langdon, Latimer, Livermore, Lloyd, Marshall, Paine, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Bingham, Bloodworth,

Brown, Gunn, Hobart, Hunter, Jackson, Laurance, Martin, Mason, Read, Ross, Tattnall, and Tazewell.

On the question to agree to the original motion, it was determined in the affirmative—yeas 16, nays 13, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Gunn, Hobart, Hunter, Jackson, Langdon, Laurance, Martin, Mason, Read, Ross, Tattnall, and Tazewell.

NAYS—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Livermore, Lloyd, Marshall, Paine, Sedgwick, and Tracy.

So it was *Resolved*, That the Senate recede from the amendment disagreed to by the House of Representatives to this bill.

On motion, by Mr. MASON,

Resolved, That the Secretary of the Treasury be requested to report to the Senate as to the necessity of erecting a light-house on Old Point Comfort, in Virginia, and establishing a beacon on Tybee Island, in the State of Georgia, and fixing buoys at the mouth of Savannah river; with an estimate of the expense respectively attending the same.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-eight, and for other purposes," reported that the bill pass without amendment.

The bill, last sent up from the House of Representatives, was read, and ordered to a second reading.

The bill to authorize a grant of lands to Stephen Monot and others, inhabitants of Galliopolis, therein named, was read a second time; and, after debate, on motion, it was agreed that the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other, amendments of the Senate to the bill entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia."

FRIDAY, March 9.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-eight, and for other purposes;" and, the report being adopted,

Ordered, That this bill pass to a third reading.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing the means of intercourse between the United States and foreign nations," reported the bill without amendment; and it was agreed that the consideration thereof be postponed.

The Senate proceeded to consider the resolution of the House of Representatives, agreeing to some, and disagreeing to other, amendments of the Senate to the bill entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia."

Resolved, That the Senate do insist on their amendments, disagreed to by the House of Representatives, to the bill above mentioned.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act limiting the time within which claims against the United States, for credits on the books of the Treasury, may be presented for allowance;" a bill, entitled "An act declaring the consent of Congress to an act of the Commonwealth of Massachusetts;" and a bill, entitled "An act for the relief of Sylvanus Crowell;" in which they desire the concurrence of the Senate.

The three bills last mentioned were severally read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed 28th day of December, one thousand seven hundred and ninety-three, for the appointment of a health officer," was read the second time.

Ordered, That the further consideration thereof be postponed.

MONDAY, March 12.

The bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to an act of the Commonwealth of Massachusetts," was read the second time, and referred to Messrs. GOODHUE, TRACY, and BLOODWORTH, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Crowell," was read the second time, and referred to Messrs. GREENE, GOODHUE, and TRACY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act limiting the time within which claims against the United States, for credits on the books of the Treasury, may be presented for allowance," was read the second time, and referred to Messrs. BINGHAM, TRACY, and SEDGWICK, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing the means of intercourse between the United States and foreign nations;" which was adopted.

Ordered, That this bill pass to a third reading.

The bill, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-eight, and for other purposes," was read the third time.

On motion, by Mr. ANDERSON, that the following clause be struck out from the bill, to wit:

"For the expense incurred by the committee of the

House of Representatives on the impeachment of William Blount, for the compensation of the members, and for incidental charges, as estimated by the chairman of the committee, two thousand six hundred and twenty-six dollars."

It was determined in the negative—yeas 7, nays 18, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hillhouse, Jackson, Marshall, and Tracy.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hobart, Hunter, Langdon, Laurance, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, and Tazewell.

TUESDAY, March 13.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act laying duties on stamped vellum, parchment, and paper,'" reported an amendment; which was read and disagreed to.

And, after agreeing to an amendment, the bill was ordered to the third reading.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to sundry amendments of the Senate to the bill, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," desire a conference on the subject matter thereof, and have appointed managers at the same on their part.

The Senate proceeded to consider the resolution of the House of Representatives, asking a conference on the amendments to the bill last mentioned; and,

Resolved, That they do agree to the proposed conference, and that Messrs. SEDGWICK and TRACY be managers at the same, on the part of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing the means of intercourse between the United States and foreign nations," was read the third time.

On motion, by Mr. TAZEWELL, to expunge the third section of the bill, as follows:

"*And be it further enacted*, That, for defraying the expenses of intercourse between the United States and foreign nations, during the year one thousand seven hundred and ninety-eight, there be further appropriated, in addition to the aforesaid sum of forty thousand dollars, and out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of twenty-eight thousand six hundred and fifty dollars."

It was determined in the negative—yeas 5, nays 22, as follows:

YEAS—Messrs. Anderson, Brown, Jackson, Langdon, and Tazewell.

NAYS—Messrs. Bingham, Bloodworth, Chipman, Foster, Goodhue, Greene, Hillhouse, Hobart, Hunter, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

So it was *Resolved*, That this bill pass.

The Senate resumed the second reading of the bill to authorize a grant of lands to Stephen Monot and others, inhabitants of Galliopolis, therein named.

Ordered, That this bill pass to a third reading.

WEDNESDAY, March 14.

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Crowell," reported the bill without amendment, and it was ordered to the third reading.

Ordered, That the memorials of Joseph Ball and others, holders of bills of credit emitted in pursuance of a resolution of Congress of the 18th of March, 1780, be referred to Messrs. TRACY, GREENE, and ROSS, to consider and report thereon to the Senate.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to an act of the Commonwealth of Massachusetts," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. MARSHALL laid before the Senate the memorial of Margaret Lapsley, praying the renewal of lost certificates therein mentioned; and the petition was read, and referred to Messrs MARSHALL, TRACY, and ANDERSON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act laying duties on stamped vellum, parchment, and paper,'" was read the third time.

Resolved, That this bill pass with an amendment.

The bill to authorize a grant of lands to Stephen Monot and others, inhabitants of Galliopolis, therein named, was read the third time.

On the final passage of the bill, it was determined in the affirmative—yeas 17, nays 9, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Chipman, Foster, Hunter, Jackson, Langdon, Laurance, Livermore, Marshall, Martin, Read, Sedgwick, Tattnall, and Tazewell.

NAYS—Messrs. Greene, Hillhouse, Hobart, Latimer, Lloyd, Paine, Ross, Stockton, and Tracy.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be, "An act to authorize a grant of lands to Stephen Monot and others, inhabitants of Galliopolis, therein named."

The Senate then went into the consideration of Executive business.

THURSDAY, March 15.

The bill, sent from the House of Representatives for concurrence, entitled "An act declaring

the consent of Congress to an act of the Commonwealth of Massachusetts," was read the third time.

Ordered, That the further consideration thereof be postponed until Monday next.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Crowell," was read the third time, and passed.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased," reported the bill without amendment; and, after debate,

Ordered, That the further consideration thereof be postponed.

FRIDAY, March 16.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased;" and, after debate,

Ordered, That this bill pass to a third reading.

MONDAY, March 19.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The despatches from the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message to both Houses of Congress, of the fifth instant, have been examined and maturely considered.

While I feel a satisfaction in informing you that their exertions, for the adjustment of the differences between the two nations, have been sincere and unremitted, it is incumbent on me to declare, that I perceive no ground of expectation that the objects of their mission can be accomplished, on terms compatible with the safety, the honor, or the essential interests of the nation.

This result cannot, with justice, be attributed to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests, for the preservation of peace. Knowing it to be my duty, and believing it to be your wish, as well as that of the great body of the people, to avoid, by all reasonable concessions, any participation in the contentions of Europe, the powers vested in our Envoys were commensurate with a liberal and pacific policy, and that high confidence which might justly be reposed in the abilities, patriotism, and integrity, of the characters to whom the negotiation was committed. After a careful review of the whole subject, with the aid of all the information I have received, I can discern nothing which could have insured or contributed to success, that has been omitted on my part, and nothing further which can be attempted, consistently with maxims for which our country has contended at every hazard, and which constitute the basis of our national sovereignty.

Under these circumstances, I cannot forbear to reiterate the recommendations which have been formerly made, and to exhort you to adopt, with promptitude, decision, and unanimity, such measures as the ample resources of the country afford, for the protection of our seafaring and commercial citizens; for the defence of any exposed portions of our territory; for replenishing our arsenals, establishing foundries and military manufactures; and to provide such efficient revenue, as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce.

The present state of things is so essentially different from that in which instructions were given to the collectors to restrain vessels of the United States from sailing in an armed condition, that the principle on which those orders were issued has ceased to exist. I therefore deem it proper to inform Congress, that I no longer conceive myself justifiable in continuing them, unless in particular cases, where there may be reasonable ground of suspicion that such vessels are intended to be employed contrary to law.

In all your proceedings, it will be important to manifest a zeal, a vigor, and concert, in defence of the national rights, proportioned to the danger with which they are threatened.

JOHN ADAMS.

UNITED STATES, *March* 19, 1798.

The Message was read, and referred to the committee appointed on the 29th November last, who have under consideration that part of the Speech of the President of the United States, at the commencement of the session, which relates to the protection of commerce, to consider and report thereon to the Senate.

Mr. TRACY, from the committee to whom was referred the petition of Jonathan Davenport, an invalid pensioner, made report, and the report was read.

Ordered, That it lie for consideration.

Mr. MARSHALL, from the committee to whom was referred the petition of Margaret Lapsley, reported a state of facts, and that it be

Resolved, That a bill be brought in for the relief of the legal representative of Samuel Lapsley, deceased,

Which report was adopted; and,

Ordered, That it be recommitted, with an instruction to the committee to bring in a bill accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for an additional appropriation to provide and support a Naval Armament," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of the legal representatives of Thomas Clark, deceased," was read the third time.

On the final passage of this bill, it was determined in the negative—yeas 10, nays 14, as follows:

YEAS—Messrs. Anderson, Bloodworth, Greene, Hunter, Jackson, Langdon, Martin, Read, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Laurance, Livermore, Marshall, Paine, Ross, Sedgwick, Stockton, and Tracy.

So it was *Resolved*, That this bill do not pass.

Mr. MARSHALL, from the committee appointed for the purpose, reported a bill for the relief of the legal representative of Samuel Lapsley, deceased, which was read, and ordered to the second reading.

Mr. READ, from the committee appointed to revise the Judiciary system of the United States, reported a bill on that subject, which was read, and ordered to the second reading.

TUESDAY, March 20.

Mr. GOODHUE, from the committee appointed 29th November last, on that part of the Speech of the President of the United States which respects the protection of commerce, and to whom was also referred the Message of the President of the United States of the 19th instant, reported so far as to bring in a bill to enable the President of the United States to purchase or lease one or more foundries; which bill was read, and ordered to the second reading.

A motion was made, by Mr. ANDERSON, as follows:

Resolved, That the President of the United States be requested to lay before the Senate the instructions given to the American Commissioners at Paris; and, also, all communications which he hath received from them relative to the object of their mission.

It was agreed, that this motion lie until to-morrow for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for an additional appropriation to provide and support a Naval Armament," was read the second time, and ordered to the third reading.

The bill for the relief of the legal representative of Samuel Lapsley, deceased, was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed.

The Senate resumed the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to an act of the Commonwealth of Massachusetts."

On the final passage of this bill, it was determined in the affirmative—yeas 15, nays 9, as follows:

YEAS—Messrs. Bingham, Bloodworth, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hunter, Laurance, Lloyd, Martin, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Jackson, Langdon, Livermore, Marshall, Paine, Read, Sedgwick, and Tazewell.

So it was *Resolved*, That this bill pass.

Mr. LAURANCE notified the Senate that he should, to-morrow, ask leave to bring in a bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States."

WEDNESDAY, March 21.

Mr. GOODHUE presented the petition of William Gray, junior, and others, merchants of Salem, in the Commonwealth of Massachusetts, stating, that they are subject to an unequal payment of the duties on certain merchandise imported from India, arising from the construction of the revenue laws by the Collector for the district of Salem and Beverly; and praying Congress to take their case into consideration; and the petition was read.

Ordered, That it be referred to the Secretary for the Department of Treasury, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force the act, entitled 'An act prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof;" in which they desire the concurrence of the Senate.

The bill to enable the President of the United States to purchase or lease one or more foundries, was read the second time, and ordered to the third reading.

The VICE PRESIDENT laid before the Senate a letter from the Secretary for the Department of Treasury, with the abstract required by the fourth section of the act, entitled "An act relative to the compensations of certain officers employed in the collection of the duties of impost and tonnage," passed February 14, 1795.

The letter was read, and ordered to lie on file.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington," was read the second time, and referred to Messrs. LLOYD, TAZEWELL, SEDGWICK, STOCKTON, and GOODHUE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for an additional appropriation to provide and support a Naval Armament," was read the third time and passed.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force for a limited time an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer," and having agreed to an amendment,

Ordered, That the bill pass to the third reading as amended.

The bill last brought from the House of Representatives for concurrence was read, and ordered to the second reading.

Conformable to notice given yesterday, Mr. LAURANCE obtained leave to bring in a bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States;" which was read, and ordered to the second reading.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer of the United States, with his account of receipts and expenditures in the Treasury Department, for the quarter ending the 30th of December last; which were read.

Ordered, That they lie on the table.

THURSDAY, March 22.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force the act, entitled 'An act prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof,'" was read the second time, and referred to Messrs. SEDGWICK, PAINE, and TAZEWELL, to consider and report thereon to the Senate.

The bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States was read the second time, and referred to Messrs. LAURANCE, STOCKTON, and ROSS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force for a limited time an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer,'" was read the third time; and the title thereof having been amended,

Resolved, That this bill pass with amendments.

The Senate resumed the second reading of the bill for the relief of the legal representative of Samuel Lapsley, deceased; and, having agreed to an amendment, it was ordered to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter the time for making entry of stills, and for other purposes;" a bill, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes;" a bill, entitled "An act to continue in force for a limited time a part of an act, entitled 'An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas;'" and a bill, entitled "An act to continue in force the fifth section of an act, entitled 'An act in addition to the act, entitled 'An act to establish the Post Office and post roads within the United States;'" in which they desire the concurrence of the Senate.

The bills were read, and ordered that they severally pass to the second reading.

The bill to enable the President of the United States to purchase or lease one or more foundries was read the third time; and, being amended, on the final passage of this bill, it was determined in the affirmative—yeas 24, nays 3, as follows:

YEAS—Messrs. Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hobart, Hunter, Langdon, Latimer, Laurance, Lloyd, Marshall, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Jackson, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to enable the President of the United States to purchase or take on lease one or more foundries."

The Senate proceeded to consider the report of the committee to whom was referred the petition of Jonathan Davenport, an invalid, "that the prayer of the petitioner is not reasonable;" and the report was agreed to.

Ordered, That the petitioner have leave to withdraw his petition.

FRIDAY, March 23.

The bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes," was read the second time, and referred to Messrs. BLOODWORTH, BINGHAM, and TRACY, to consider and report thereon to the Senate.

Mr. SEDGWICK, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force the act, entitled 'An act prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof,'" reported an amendment; which was adopted, and the bill was ordered to the third reading, as amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force the fifth section of an act, entitled 'An act in addition to the act, entitled 'An act to establish the Post Office and post roads within the United States,'" was read the second time, and ordered to the third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force for a limited time a part of an act, entitled 'An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas,'" was read the second time, and referred to Messrs. PAINE, MARSHALL, and ROSS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes," was read the second time, and referred to the committee last named, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that they have passed a bill,

entitled "An act making an appropriation for the payment of a balance found due to the legal representatives of William Carmichael, deceased," in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The bill for the relief of the legal representative of Samuel Lapsley, deceased, was read the third time and passed.

Mr. GOODHUE, from the committee appointed on the 29th of November last, on that part of the Speech of the President of the United States which respects the protection of commerce; and to whom was also referred the Message of the President of the United States of the 19th instant, reported, so far as to bring in a bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes; which bill was read, and ordered to the second reading.

Mr. TRACY, from the committee to whom was recommitted the petition of Joseph Nourse, Register of the Treasury, made report, which was read, amended, and adopted, as follows:

That the petitioner asks an increase of compensation and an allowance for expenses he has been obliged to incur, in the years 1793 and 1797, by removing out of Philadelphia when it was visited with the epidemic fever.

The committee find Mr. Nourse has served the United States many years, with faithfulness and ability, and, on the score of merit, claims every attention from Government which justice and policy can dictate.

They further find, that, on the 11th September, 1789, the officers in the Treasury Department were by law placed on the following establishment, viz:

Secretary of the Treasury	$3,500	per ann.
Comptroller	2,000	do.
Treasurer	2,000	do.
Auditor	1,500	do.
Register	1,250	do.

On the 8th of May, 1792, an additional compensation was made to certain of those officers, as follows, viz:

Comptroller	$400	per ann.
Auditor	400	do.
Treasurer	400	do.
Register	500	do.

And, on the 2d of March, 1793, the following additions, viz:

Comptroller	$250	per ann.
Auditor	500	do.
Register	250	do.

Which establishes the salaries now received by the officers in the Treasury Department, as follows, viz:

Secretary of the Treasury	$3,500	per ann.
Comptroller	2,650	do.
Auditor	2,400	do.
Treasurer	2,400	do.
Register	2,000	do.

The committee are of opinion that the salaries of these and many other officers of the United States are small, when considered in reference to their services and necessary expenditures; but, as their commission will not authorize them to report on the subject of salaries generally, they are of opinion Mr. Nourse's compensation, when compared with that of other officers in the Treasury Department, is as high as relative justice will permit; especially when compared with the salary of the Secretary of the Treasury, which has not been increased since its first establishment in 1789.

The committee further find, that additional duties have been imposed on this petitioner, and likewise on all the other officers in the Treasury Department; but they are not convinced that the additional duties imposed on the Register, when compared with those imposed on other officers, are such as in equity to entitle the petitioner to a separate increase of compensation. They are, therefore, of opinion that the first request in the petition, to wit, that for an increase of salary, ought not to be granted.

On the second request, to wit, that for his expenses in removing from Philadelphia to avoid the epidemic fever, the committee find Mr. Nourse was obliged to incur considerable expense in removing his family from this city in 1793 and 1797, to avoid the fever, which at those periods was prevalent, and that he attended to the duties of his office under disadvantages and extra expense. This part of the petitioner's request the committee are of opinion is reasonable, and therefore present for the consideration of the Senate the following resolution, to wit:

Resolved, That a committee be appointed to bring in a bill, allowing Joseph Nourse, Register of the Treasury, the sum of —— dollars, out of any unappropriated money in the Treasury, to indemnify him for the extra expense he incurred in removing his family from Philadelphia in the years 1793 and 1797, to avoid the epidemic fever, and the extra expense incurred by him in attending to the business of his office during the same period.

Ordered, That the report be recommitted, with instructions to the committee to bring in a bill accordingly.

MONDAY, March 26.

The VICE PRESIDENT laid before the Senate a letter, with a return from Charles Burrall, Assistant Postmaster General, conformable to "An act in addition to the act, entitled 'An act to establish the Post Office and post roads within the United States;'" which were read.

Ordered, That they lie for consideration.

Mr. PAINE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, a part of an act, entitled 'An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas,'" reported the bill without amendment.

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for the payment of a balance found due to the legal representatives of William Carmichael, deceased," was read the second time, and referred to Messrs. TRACY, LANGDON, and BLOODWORTH, to consider and report thereon to the Senate.

The bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes, was read the second time.

Ordered, That the further consideration thereof be postponed until to-morrow.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force the fifth section of an act, entitled 'An act in addition to the act, entitled 'An act to establish the Post Office and post roads within the United States,'" was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force the act entitled 'An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof,'" was read the third time.

Resolved, That this bill pass with amendments.

The bill to alter and amend the act entitled "An act to establish the Judicial Courts of the United States," was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

A motion was made, by Mr. MARSHALL, that the Senate enter into the following resolutions:

"*Resolved*, That it is expedient to lay an embargo for a limited time, on all ships and vessels owned wholly or in part by citizens of the United States, other than ships or vessels employed solely in the fisheries or coasting trade; and that these be regulated in their respective voyages consistent with their safety and a state of neutrality.

"*Resolved*, That it is expedient to complete the fortifications of the ports and harbors of the United States, and effectually to garrison the same.

"*Resolved*, That it is expedient to raise a provisional army, to be employed, when necessary, for internal security and defence.

"*Resolved*, That it is expedient to provide for supplying any deficiency existing or arising in the arms and military stores of the United States; and

"*Resolved*, That the foregoing resolutions be referred to the committee to whom was referred the President's Message of the 19th instant, as instructions to the said committee to prepare and report bills corresponding with the said resolutions, and in the same order in which they stand."

The resolutions were read, and ordered to lie for consideration.

TUESDAY, March 27.

The Senate proceeded to consider the motion made yesterday, by Mr. MARSHALL, that sundry resolutions be adopted, relative to an embargo and other subjects therein mentioned; and

On the question to agree to the first resolution, viz:

"*Resolved*, That it is expedient to lay an embargo, for a limited time, on all ships and vessels owned wholly or in part by citizens of the United States, other than ships and vessels employed solely in the fisheries or coasting trade; and that these be regulated in their respective voyages consistent with their safety and a state of neutrality:"

It passed in the negative—yeas 5, nays 22, as follows:

YEAS—Messrs. Anderson, Bloodworth, Jackson, Marshall, and Tazewell.

NAYS—Messrs. Bingham, Brown, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hobart, Hunter, Langdon, Latimer, Laurance, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

The other resolutions contained in the motion were postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, sent from the Senate for concurrence, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory," with amendments; in which they desire the concurrence of the Senate.

WEDNESDAY, March 28.

Mr. LAURANCE, from the committee to whom was referred the bill supplementary to an act entitled "An act to establish the Judicial Courts of the United States," reported an amendment; which was read and ordered to lie for consideration.

The Senate resumed the second reading of the bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes; and, after progress,

Ordered, That the further consideration thereof be postponed.

Mr. SEDGWICK reported from the managers at the conference on the bill entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" and the report was read, and ordered to lie for consideration.

Mr. LLOYD, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington," reported the bill without amendment.

Ordered, That it lie for consideration.

THURSDAY, March 29.

The Senate proceeded to consider the report of the managers appointed to confer on the amendments to the bill entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" which report was adopted. Whereupon,

Resolved, That the Senate do adhere to their ninth, tenth, and eleventh amendments to the said bill.

Resolved, That they do recede from their twelfth amendment, so far as respects striking out the words agreed by the report to be struck out, and insist on so much of their twelfth amendment as contains the first proviso to the eighth section, to wit: "Provided, That, in considering what compensation ought to be made by virtue of this act, all grants which may have been made by

the United States or individual States, shall be considered either in whole or in part, as the case may be, a satisfaction to those who may have received the same."

Mr. BLOODWORTH, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes," reported amendments, which were read.

Ordered, That the report lie for consideration.

The Senate proceeded to consider the amendments of the House of Representatives to the bill entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory;" and,

Resolved, That they concur in the amendments.

The Senate resumed the second reading of the bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes; and, after progress, the Senate adjourned.

FRIDAY, March 30.

The Senate resumed the second reading of the bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes.

On motion, by Mr. TAZEWELL, to amend the sixth section, which now stands—

"*And be it further enacted*, That all commissioned armed vessels of the United States, sailing as convoys, shall be governed in their conduct towards foreign armed ships, by the provisions and stipulations of treaties respectively subsisting with such foreign nations, and where none such exist, by the principles of the general law of nations:"

By adding these words, "as applicable to a state of neutrality."

It was determined in the negative—yeas 10, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Jackson, Langdon, Marshall, Martin, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hobart, Latimer, Laurance, Livermore, Paine, Read, Ross, Sedgwick, and Tracy.

And the bill having been amended, it was ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, a part of an act entitled 'An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas,'" was read a third time.

Resolved, That this bill pass.

A message from the House of Representatives informed the Senate that the House recede from their disagreement to the ninth, tenth, and eleventh amendments, adhered to by the Senate, to the bill entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" and also recede from their disagreement to the twelfth amendment to the said bill, so far as to agree to the first proviso to the ninth section, amended as follows: "Provided, That, in considering what compensation ought to be made by virtue of this act, all grants, except military grants, which may have been made by the United States or individual States, shall be considered at the just value thereof, at the time the same were made respectively, either in whole or in part, as the case may be, a satisfaction to those who may have received the same."

The Senate proceeded to consider the resolutions of the House of Representatives, receding from their disagreement to sundry amendments to the bill, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia." Whereupon,

Resolved, That the Senate recede from their twelfth amendment to the said bill, so far as to agree to the first proviso in the ninth section, amended agreeably to the report of the conferees thereon.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes;" and the report being agreed to, and the bill amended accordingly,

Ordered, That it pass to a third reading as amended.

MONDAY, April 2.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington."

Ordered, That the consideration thereof be postponed until Wednesday next.

The Senate took into consideration the report of the committee to whom was referred the bill, supplementary to the act entitled "An act to establish the Judicial Courts of the United States;" and, after debate,

Ordered, That the further consideration thereof be postponed.

The bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes, was taken into consideration.

Ordered, That the third reading of this bill be postponed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes," was read a third time.

Resolved, That this bill pass with amendments.

On motion, by Mr. BINGHAM,

"That a committee be appointed to take into consid-

eration the propriety of instituting a separate Executive department, for the purpose of superintending and regulating the various objects connected with the Naval Establishment of the United States;"

It was agreed that this motion lie for consideration.

TUESDAY, April 3.

The Senate took into consideration the motion made on the 20th March, that the President of the United States be requested to lay before the Senate the instructions given to the American Commissioners at Paris; and, after debate, it was agreed that the further consideration thereof be postponed.

The Senate took into consideration the motion made yesterday, that a committee be appointed relative to the propriety of instituting a separate Executive department, in respect to the Naval Establishment; and the motion being amended, was adopted, and,

Ordered, That Messrs. BINGHAM, TAZEWELL, and GOODHUE, be a committee to take into consideration the propriety of instituting an Executive department, for the purpose of superintending and regulating the various objects connected with the Naval Establishment of the United States.

The bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes, was read the third time.

On motion, by Mr. BINGHAM, to amend the bill, by inserting at the end thereof a new section, as follows:

"*And be it further enacted*, That the President of the United States be, and he is hereby, authorized, if he should deem it necessary, to cause to be built, for the protection of the United States, a number of vessels, not exceeding ten, to be fitted, manned, armed, and equipped as galleys; the officers and men in the service of which vessels to be on the same pay, receive the same subsistence and emoluments, and be appointed in the same manner, as is hereinbefore provided for; which vessels shall be stationed in such places, and be employed in such manner as the President of the United States may direct."

Ordered, That it lie for consideration; and, on motion, it was agreed that the further consideration of the bill be postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit to both Houses those instructions to, and despatches from, the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message of the nineteenth of March last, omitting only some names, and a few expressions descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

UNITED STATES, *April* 3, 1798.

The galleries being cleared, the Message and documents were read.

Ordered, That they lie for consideration.

WEDNESDAY, April 4.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing an expenditure, and making an appropriation for the reimbursement of moneys advanced by the Consuls of the United States, in certain cases," in which they desire the concurrence of the Senate.

The Senate took into consideration the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington;" and, after debate,

Ordered, That the further consideration thereof be postponed.

A motion was made by Mr. GOODHUE,

"That the Message of the President of the United States, of the 3d instant, together with the papers therein referred to, be printed for the use of the Senate;"

And, after debate, the Senate adjourned.

THURSDAY, April 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation for the reimbursement of moneys advanced by the Consuls of the United States, in certain cases," was read, and ordered to the second reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington;" and, after debate, it was agreed that the further consideration thereof be postponed.

A motion was made, by Mr. PAINE,

"That a committee be appointed to prepare a respectful Address, to be presented by the Senate to the President of the United States, thanking him for his communications of the third instant, and expressing the high satisfaction the Senate have received from the liberal and fair manner in which he has directed the attempt at negotiation with the French Republic by our Envoys Extraordinary; and regretting the want of success which has hitherto attended his fair and honorable advances toward a reconciliation with that Republic; declaring, also, the unanimous determination of the Senate to repel every attempt of foreign Powers to impair the independence of this country:"

And, it was agreed that the motion lie for consideration.

On motion, by Mr. GOODHUE,

Ordered, That five hundred copies of the Message of the President of the United States, of the 3d instant, together with despatches from the Envoys to the French Republic, accompanying the same, be published for the use of the Senate.

On motion, by Mr. LLOYD, that the instructions to the Envoys Extraordinary to the French Republic, be also printed; it was agreed that this motion be postponed.

SATURDAY, April 7.

No business of importance was transacted in the Senate to-day.

MONDAY, April 9.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington;" which, having amended,

On the question to agree to the third reading of the bill as amended, it was determined in the affirmative—yeas 18, nays 9, as follows:

YEAS—Messrs. Bloodworth, Brown, Chipman, Foster, Greene, Hillhouse, Howard, Hunter, Jackson, Langdon, Lloyd, Marshall, Martin, Paine, Read, Tattnall, Tazewell, and Tracy.

NAYS—Messrs. Bingham, Clayton, Goodhue, Hobart, Laurance, Livermore, Ross, Sedgwick, and Stockton.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize certain officers and other persons to administer oaths;" also, a bill, entitled "An act declaring the consent of Congress to two acts of the State of North Carolina, therein mentioned;" in which they desire the concurrence of the Senate. They desire a conference on the proceedings of the Senate of the 1st March last, relative to the impeachment of WILLIAM BLOUNT, and have appointed managers at the same on their part.

The bills last mentioned were read, and ordered that they severally pass to the second reading.

The Senate took into consideration the resolution of the House of Representatives, desiring a conference on the proceedings of the Senate of 1st March last, respecting the impeachment of WILLIAM BLOUNT. Whereupon,

Resolved, That they do agree to the proposed conference, and that Messrs. ROSS and LIVERMORE be managers at the same on the part of the Senate.

The Senate resumed the third reading of the bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes; and Mr. BINGHAM having withdrawn his motion, made the 3d instant, to amend the bill, by adding a new section to the end thereof—on the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 20, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Hobart, Howard, Hunter, Laurance, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Jackson, Langdon, Livermore, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes."

Mr. TRACY, from the committee appointed for the purpose, reported a bill for the relief of Joseph Nourse; which was read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation for the reimbursement of moneys advanced by the Consuls of the United States, in certain cases," was read the second time.

Ordered, That this bill pass to a third reading.

Mr. BINGHAM presented the petition of John Vaughan, merchant, praying allowance for loss sustained by the deposit of certain quantities of bullion in the Mint of the United States, in consequence of intervening regulations; which petition was read.

Ordered, That it lie on the table.

The galleries being cleared, a motion was made by Mr. LLOYD:

"That the instructions to the Envoys Extraordinary to the French Republic, referred to in the Message of the President of the United States of the 3d instant, be printed for the use of the Senate."

Whereupon, Mr. HUNTER moved the previous question, to wit: Shall the main question be now put? And it was determined in the affirmative—yeas 15, nays 11, as follows:

YEAS—Messrs. Bloodworth, Chipman, Clayton, Goodhue, Greene, Hillhouse, Hobart, Jackson, Langdon, Laurance, Lloyd, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Brown, Howard, Hunter, Livermore, Martin, Paine, Read, Tattnall, and Tazewell.

And, on the main question, it was determined in the affirmative—yeas 16, nays 10, as follows:

YEAS—Messrs. Anderson, Bloodworth, Chipman, Clayton, Goodhue, Greene, Hillhouse, Hobart, Jackson, Langdon, Laurance, Lloyd, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Bingham, Brown, Howard, Hunter, Livermore, Martin, Paine, Read, Tattnall, and Tazewell.

So it was *Resolved*, That five hundred copies of the instructions to the Envoys Extraordinary to the French Republic, referred to in the Message of the President of the United States of the 3d instant, be printed for the use of the Senate.

TUESDAY, April 10.

The bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to two acts of the State

of North Carolina therein mentioned," was read the second time, and referred to Messrs. MARTIN, BINGHAM, and TAZEWELL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize certain officers and other persons to administer oaths," was read the second time, and referred to Messrs. SEDGWICK, ANDERSON, and READ, to consider and report thereon to the Senate.

The bill for the relief of Joseph Nourse was read the second time, and the blank filled up.

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington," was read the third time, and, after debate,

Ordered, That it be recommitted to Messrs. LLOYD, ROSS, and MARSHALL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing an expenditure, and making an appropriation for the reimbursement of moneys advanced by the Consuls of the United States, in certain cases," was read the third time and passed.

WEDNESDAY, April 11.

The bill for the relief of Joseph Nourse was read the third time and passed.

Mr. LLOYD, from the committee to whom was recommitted the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington," reported the bill further amended; which was read.

Ordered, That it lie for consideration.

Mr. BINGHAM, from the committee to whom was referred the expediency of constituting the Executive Department for superintending and regulating the various objects connected with the Naval Establishment, obtained leave to report by bill; which bill was read, and ordered to the second reading.

THURSDAY, April 12.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entited "An act making an appropriation for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington;" which report, having been amended, was adopted, and the bill was amended accordingly.

On the question to agree to the final passage of the bill as amended, it was determined in the affirmative—yeas 17, nays 6, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Chipman, Greene, Hillhouse, Howard, Jackson, Langdon, Livermore, Lloyd, Martin, Paine, Read, Tattnall, Tazewell, and Tracy.

NAYS—Messrs. Bingham, Clayton, Goodhue, Laurance, Sedgwick, and Stockton.

Resolved, That this bill pass with amendments.

The bill to establish an Executive department, to be denominated the Department of the Navy, was read the second time.

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act providing for the further defence of the ports and harbors of the United States;" and a bill, entitled "An act for the relief of sick and disabled seamen;" in which they desire the concurrence of the Senate.

The bill first mentioned was read, and it was, by unanimous consent, read the second time.

Ordered, That it be referred to the committee appointed the 29th of November last, on that part of the Speech of the President of the United States, which respects measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

The bill last mentioned in the Message was read, and ordered to the second reading.

FRIDAY, April 13.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of sick and disabled seamen," was read the second time, and referred to Messrs. GOODHUE, LANGDON, and READ, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill to to establish an Executive department, to be denominated the Department of the Navy; and, having agreed to sundry amendments,

Ordered, That it pass to a third reading.

Mr. MARTIN, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to two acts of the State of North Carolina therein mentioned," reported an amendment; which was read.

Ordered, That it lie for consideration.

Mr. GOODHUE, from the committee appointed the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce of the United States, reported, in part, a bill authorizing the President of the United States to raise a provisional army; which was read, and ordered to the second reading.

Mr. GREENE laid before the Senate a memorial of the merchants and others, of the town of Providence, in the State of Rhode Island, praying an extension of the Providence district, as it relates to the entry and clearance of vessels, which was read.

Ordered, That it be referred to the Secretary

for the Department of the Treasury, to consider and report thereon to the Senate.

MONDAY, April 16.

The VICE PRESIDENT communicated a letter from JOHN SLOSS HOBART, resigning his seat in the Senate, in consequence of his appointment to be Judge of the New York district; which letter was read.

Ordered, That the VICE PRESIDENT be requested to notify the Executive of the State of New York that JOHN SLOSS HOBART hath accepted the appointment of Judge of the New York district, and that his seat in the Senate is of course vacated.

Mr. ROSS, from the managers appointed to confer with those appointed by the House of Representatives, on the proceedings of the Senate of the 1st of March last, respecting the impeachment of William Blount, made report; which was read; whereupon,

Resolved, That it is not, at this time, expedient to alter the return day of the summons directed to be issued to William Blount, so as to make it returnable in the present session of Congress as requested by the managers of the House of Representatives, there being no certainty that it will continue long enough to afford reasonable time for a proper service and return of this process.

Mr. STOCKTON presented the address of the inhabitants of the town of Newark, in the State of New Jersey, stating their apprehension of great evils that may result from the arming of private merchant ships; and, also, from the establishment of a public naval force; and the address was read.

The bill to establish an Executive department, to be denominated the Department of the Navy, was read the third time.

A motion, by Mr. MARSHALL, to amend the bill, by adding the following section:

"*And be it enacted*, That this act shall continue in force for one year, and from thence to the end of the next session of Congress thereafter;"

And, on motion by Mr. PAINE, it was agreed to amend the motion, as follows:

"*And be it enacted*, That this act shall continue in force for four years, and from thence to the end of the next session of Congress thereafter."

And, on the question to agree to the motion, as amended, it was determined in the negative—yeas 10, nays 15, as follows:

YEAS—Messrs. Bloodworth, Brown, Hunter, Langdon, Marshall, Martin, Mason, Paine, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Laurance, Livermore, Lloyd, Read, Ross, Sedgwick, Stockton, and Tracy.

And, on the final passage of the bill, it was determined in the affirmative—yeas 19, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Hunter, Laurance, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Bloodworth, Brown, Langdon, Marshall, Mason, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to establish an Executive department, to be denominated the Department of the Navy."

The Senate took into consideration the amendment reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to two acts of the State of North Carolina, therein mentioned; and, having amended the report,

On the question to adopt it, as amended, it was determined in the negative.

On the question to agree to the third reading of the bill, it passed in the negative.

TUESDAY, April 17.

The bill authorizing the President of the United States to raise a provisional army was read the second time.

Ordered, That it be recommitted to the committee who brought in the bill.

A motion was made, by Mr. BROWN, as follows:

"*Resolved*, That a committee be appointed to inquire whether any, and what, amendments are necessary to an act entitled 'An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river,' and to report by bill or otherwise;"

Which was read and adopted; and,

Ordered, That Messrs. BROWN, ROSS, and STOCKTON, be the committee.

On motion, by Mr. ROSS,

Resolved, That the Secretary of the Treasury be requested to report to the Senate what progress has been made by the Surveyor General in laying off, and preparing for sale, the lands directed to be surveyed and sold by an act of Congress, passed the 18th of May, 1796, entitled "An act providing for the sale of lands of the United States in the territory northwest of the Ohio, and above the mouth of Kentucky river:" And also whether any, and what, progress has been made by the Surveyor General in surveying the lands allotted for the satisfaction of military bounties, by the act of Congress, passed the first of June, 1796, and entitled "An act regulating the grants of lands appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen."

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to provide an additional regiment of artillerists and engineers," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

WEDNESDAY, April 18.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide an additional regiment of artillerists and engineers," was read the second time.

Ordered, That it be referred to the committee appointed on the 29th of November last, on that part of the Speech of the President of the United States, which respects measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

Mr. READ laid before the Senate the memorial of Laurance Manning, stating that a certain John Herd, without power or authority from him, drew a military commutation certificate from Mr. Howell's office, the property of the memorialist; and praying relief.

Ordered, That it lie on the table.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes;" and a bill entitled "An act for erecting light-houses, and placing buoys and stakes, at the places therein mentioned," in which they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate resumed the second reading of the bill to alter and amend the act entitled "An act to establish the Judicial Courts of the United States;" and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

Mr. GOODHUE, from the committee to whom was referred the bill authorizing the President of the United States to raise a provisional army, reported amendments; which were read.

Ordered, That they lie for consideration.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for the payment of a balance found due to the legal representatives of William Carmichael, deceased," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

THURSDAY, April 19.

The bill, sent from the House of Representatives for concurrence, entitled "An act to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes," was read the second time.

Ordered, That it be referred to the committee appointed the 29th November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for erecting light-houses, and placing buoys and stakes, at the places therein mentioned," was read the second time.

Ordered, That it be referred to Messrs. GREENE, LIVERMORE, and GOODHUE, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill authorizing the President of the United States to raise a provisional army; and, on the question to agree to the third reading of the bill, it was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Anderson, Bingham, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Read, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Bloodworth, Brown, Langdon, Martin, Mason, Tattnall, and Tazewell.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for the payment of a balance found due to the legal representatives of William Carmichael, deceased," was read the third time.

Resolved, That this bill pass.

FRIDAY, April 20.

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for erecting light-houses, and placing buoys and stakes, at the places therein mentioned," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. SEDGWICK, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to authorize certain officers and other persons to administer oaths," reported the bill with an amendment; and the report was adopted, and the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended.

The bill authorizing the President of the United States to raise a provisional army, was read the third time.

On motion, by Mr. MARSHALL, that the bill be recommitted generally; it was agreed that the final question on the passage of this bill be postponed until Monday next.

Mr. GOODHUE, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to provide an additional regiment of artillerists and engineers," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. ROSS, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes," reported amendments; which were read, and ordered to lie for consideration.

Ordered, That Messrs. MARSHALL, SEDGWICK, and LIVERMORE, be a committee to inquire into the expediency of altering the terms for holding the Courts of the United States in the districts of Kentucky, Tennessee, and Maine; also, of making provision in cases where the Judges of the said Courts have been counsel, or shall be interested in any case depending before them; also, of authorizing appeals from judgments rendered in the said

Courts, holden for the districts aforesaid; and, also, of making alterations necessary to the administration of justice, in the said District Courts, in relation to the State laws or Courts; and to report by bill or otherwise.

The Senate resumed the consideration of the report of the committee to whom was referred the bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States."

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

MONDAY, April 23.

Mr. STOCKTON presented the address of a large and respectable meeting of citizens, inhabitants of the townships of Windsor and Montgomery, and the towns of Princeton and Kingston, in the State of New Jersey, signed Enos Kelsey, chairman, expressing their unshaken and entire confidence in the wisdom and integrity of the Executive of the United States, and pledging their lives and fortunes, and sacred honor, in support of the Constitution, and such measures of defence as the Government may find expedient to adopt, in this critical and threatening aspect of public affairs; and the address was read.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate for concurrence, entitled "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes," with amendments, in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide an additional regiment of artillerists and engineers," was read the third time.

On motion, by Mr. MASON, to amend the bill, by limiting the establishment to three instead of five, years: it passed in the negative.

Resolved, That this bill pass.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes."

On motion, by Mr. TAZEWELL, to postpone the consideration of the amendments to this bill until the next session of Congress: it was determined in the negative—yeas 5, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Langdon, Mason, and Tazewell.

NAYS—Messrs. Bingham, Clayton, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Marshall, Martin, Read, Ross, Sedgwick, Stockton, Tattnall, and Tracy.

On motion, by Mr. ROSS, it was agreed to postpone the consideration of the first, and to consider the other, amendments; and the second amendment was agreed to.

And, on the question to agree to the third amendment, which was to strike out the fifth section, the votes being equal, the VICE PRESIDENT determined the question in the negative.

On motion, by Mr. STOCKTON,

Ordered, That the further consideration of the amendments be postponed until to-morrow.

The Senate resumed the third reading of the bill authorizing the President of the United States to raise a provisional army.

On motion, to fill the blank in the tenth section, so as that the proviso be read as follows:

"*And provided, also*, That no enlistment shall take place by virtue of this act after three years from the passing thereof:"

It was determined in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Bingham, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Marshall, Read, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Langdon, Martin, Mason, Tattnall, and Tazewell.

On the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Bingham, Clayton, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Read, Ross Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Langdon, Martin, Mason, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed, and that the title thereof be "An act authorizing the President of the United States to raise a provisional army."

TUESDAY, April 24.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize certain officers and other persons to administer oaths," was read the third time.

Resolved, That this bill pass with an amendment.

The bill, sent from the House of Representatives for concurrence, entitled "An act for erecting light-houses, and placing buoys and stakes, at the places therein mentioned," was read the third time.

Resolved, That this bill pass.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes."

On motion, by Mr. READ, it was determined to reconsider the vote of yesterday, by which the third amendment was disagreed to.

On the question to agree to said third amendment, which is to strike out of the bill the following section:

"Sec. 5. *And be it further enacted*, That no merchant vessel bound from a port of the United States, and destined to any place that is besieged, blockaded, or invested, shall be taken under the protection and convoy of any public armed vessel; nor unless satisfactory evidence is produced to the Collector, previous to her departure, that the vessel and cargo are *bona fide* the

property of a citizen or citizens of the United States; and if bound to the ports of one of the belligerent Powers, that no goods, wares, or merchandise, contraband by the general law of nations, or by any treaty to which the United States are a party, are laden on board the same. Duplicate certificates to this effect, ascertaining the nature and quality of the cargo, shall be furnished by the Collector of the district where the cargo was laden, one of which shall be delivered to the commanding officer of the convoy, and the other retained by the captain of the merchant vessel. And in cases where merchant vessels of the United States are to be taken under convoy, bound from foreign ports, certificates of the same nature, including the same provisions, shall be delivered to the commander of the convoy; and if no Consul shall be resident at such port, then certificates containing evidence of a like nature, attested by two witnesses, and taken before a judge, magistrate, or notary public, shall be procured."

It was determined in the affirmative—yeas 12, nays 9, as follows:

YEAS—Messrs. Clayton, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Read, Ross, Sedgwick, and Tracy.

NAYS—Messrs. Bingham, Bloodworth, Brown, Langdon, Livermore, Marshall, Martin, Mason, and Tazewell.

On the question to agree to the fourth amendment, which is, to strike out of the bill the following section:

"Sec. 6. *And be it further enacted*, That all commissioned armed vessels of the United States shall be governed in their conduct towards foreign armed vessels by the provisions and stipulations of treaties respectively subsisting with foreign nations, and by the principles of the general law of nations:"

It was determined in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Clayton, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Marshall, Read, Ross, Sedgwick, and Tracy.

NAYS—Messrs. Bingham, Bloodworth, Brown, Langdon, Livermore, Martin, Mason, and Tazewell.

Whereupon, *Resolved*, That the Senate do agree to all the amendments of the said bill.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Obadiah Brown;" and a bill, entitled "An act for the relief of Reuben Smith and Nathan Strong, and of Peter Aupoix;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate took into consideration the report of the committee on the bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes;" and, the report having been adopted, the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended.

WEDNESDAY, April 25.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Reuben Smith and Nathan Strong, and of Peter Aupoix," was read the second time, and referred to Messrs. TRACY, LIVERMORE, and GREENE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Obadiah Brown," was read the second time, and referred to Messrs. GREENE, LIVERMORE, and SEDGWICK, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes," was read the third time as amended; and the question on its final passage postponed until to-morrow.

Mr. GOODHUE, from the committee appointed the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce of the United States, reported, in part, a bill to authorize the President of the United States to cause to be purchased or built, a number of small vessels to be equipped as galleys, or otherwise; which bill was read.

Ordered, That it pass to a second reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to the act providing for the further protection of the ports and harbors of the United States," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

Mr. BROWN, from the committee appointed to inquire whether any, and what, amendments are necessary to an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," reported a bill to amend the same; which was read, and ordered to a second reading.

A motion was made by Mr. HILLHOUSE,

"That a committee be appointed to consider whether any, and what, provision ought to be made by law, for removing from the territory of the United States such aliens born, not entitled by the Constitution and laws thereof to the rights of citizenship, as may be dangerous to its peace and safety; and providing for returns to be made of all aliens that shall be landed from any vessel which shall arrive in any of the ports of the United States; and that permits be granted to such as shall be suffered to reside therein; and to report by bill or otherwise."

Ordered, That this motion lie for consideration.

The Senate resumed the second reading of the bill to alter and amend the act entitled "An act to establish the Judicial Courts of the United States;" and, after debate,

Ordered, That the further consideration thereof be postponed until the next session of Congress.

THURSDAY, April 26.

The bill to amend an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," was read the second time.

Ordered, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House of Representatives disagree to the amendments of the Senate to the bill entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes."

The Senate took into consideration the motion made yesterday respecting such aliens, resident in the United States, as may be dangerous to its peace and safety; and, having amended the motion, by expunging the word "born," after the word "aliens," in the first instance, it was adopted; and

Ordered, That Messrs. LIVERMORE, HILLHOUSE, READ, SEDGWICK, and LAURANCE, be the committee for the purposes therein mentioned.

Mr. BINGHAM presented the address and memorial of the citizens of Philadelphia, the district of Southwark, and the Northern Liberties, expressive of their "perfect and grateful approbation of the conduct heretofore pursued by the Executive Department," to preserve peace with foreign nations and the neutral position of the United States, their confidence in the wisdom and patriotism of every branch of the Government, and pledging themselves firmly to support every measure which may hereafter be thought necessary to secure the Constitution, freedom, and independence, of the United States; and,

On motion by Mr. LIVERMORE, a large and respectable committee of the said citizens being admitted on the floor of the House, the address was read.

Ordered, That it lie on the table.

The Senate took into consideration their amendments disagreed to by the House of Representatives to the bill entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes."

Resolved, That they do insist on their amendments to the said bill.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes," reported the bill without amendment.

The bill authorizing the President of the United States to cause to be purchased or built, a number of small vessels to be equipped as galleys, or otherwise, was read the second time.

Ordered, That this bill pass to a third reading.

On motion, by Mr. MARSHALL,

"That, instead of the three existing circuits, the several districts of the United States be divided and arranged into four circuits, to wit: The districts of New Hampshire, Massachusetts, Connecticut, Rhode Island, and Vermont, shall compose one circuit, and be called the first circuit; the districts of New York, New Jersey, Pennsylvania, Delaware, and Maryland, shall compose one circuit, and be called the second circuit; the districts of Virginia, North Carolina, Kentucky, and Tennessee, shall compose one circuit, and be called the third circuit; and the districts of South Carolina and Georgia shall compose one circuit, and be called the fourth circuit: that two associate justices be appointed, in addition to the present number; and that two justices be assigned to each circuit, to hold the circuit courts therein semi-annually, except in the districts of Kentucky and Tennessee, where they shall be held annually."

Ordered, That this motion lie for consideration.

The VICE PRESIDENT communicated a letter from Thomas Pinckney, late Minister Plenipotentiary of the United States to His Catholic Majesty, requesting the direction of Congress in respect to the acceptance of the customary present from that Government, and also of one from His Britannic Majesty, made in conformity to the usage of those Powers respectively, to a foreign Minister, on negotiating a treaty; and the letter was read.

Ordered, That it lie for consideration.

FRIDAY, April 27.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to an act providing for the further protection of the ports and harbors of the United States," was read a third time and passed.

The bill to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise, was read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise."

On motion by Mr. MARSHALL,

Resolved, That no motion shall be deemed in order, to admit any person or persons whatever within the doors of the Senate Chamber, to present any petition, memorial, or address, or to hear any such read.

On motion by Mr. TAZEWELL, that it be

"*Resolved*, That it be a standing rule of this House that no member of the Senate ought to receive or give any visit to any foreign agent or ambassador, or any other person that avows himself to be a public agent or ambassador for a foreign country, without the leave and consent of the Senate"—

It was determined in the negative—yeas 6, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Langdon, Mason, and Tazewell.

NAYS—Messrs. Bingham, Clayton, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Martin, Read, Sedgwick, Tattnall, and Tracy.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act making appropriations for the Military Establishment for the year 1798, and for other purposes," in which they desire the concurrence of the Senate.

Mr. HOWARD presented the resolutions of a numerous and respectable meeting of the citizens of Georgetown, held the 21st day of April, instant, signed Lloyd Beall, chairman, expressive of their entire approbation of the conduct of the Executive, in respect to the instructions to our Ministers to the French Republic, and of the strongest confidence in the wisdom, virtue, and patriotism, of the constituted authorities of their country; which resolutions were read.

The bill last brought from the House of Representatives for concurrence was read, and ordered to the second reading.

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Obadiah Brown," reported the bill without amendment; and, the report being agreed to—

Ordered, That this bill pass to a third reading.

The Senate took into consideration the bill, sent from the House of Representatives for concurrence, entitled "An act to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes."

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making an entry of stills, and for other purposes," was resumed; and, after debate, the Senate adjourned.

MONDAY, April 30.

Mr. STOCKTON presented the address and memorial of the citizens of Newark; also, the resolutions of the citizens of the county of Monmouth, in the State of New Jersey, approbating the conduct of the Government in the endeavors to effect a good understanding with the French Republic, and expressing their determination, to the utmost of their ability, to support all such measures for the protection and vindication of the rights, liberty, and independence, of the United States, as may be recommended or enacted; and they were severally read.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military Establishment for the year 1798, and for other purposes," was read the second time, and referred to Messrs. TRACY, STOCKTON, and GREENE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to enable the President of the United States to procure cannon, arms, and amunition, and for other purposes," was read the third time and passed.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act directing the payment of a detachment of militia, for services performed in the year one thousand seven hundred and ninety-four, under Major James Ore," in which they desire the concurrence of the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes;" and, after debate—

Ordered, That the further consideration thereof be postponed.

The bill last brought from the House of Representatives for concurrence was read, and it was, by unanimous consent, read the second time.

Ordered, That it be referred to Messrs. TRACY, ANDERSON, and LATIMER, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Obadiah Brown," was read the third time and passed.

Ordered, That the petition of Laurance Manning be referred to Messrs. READ, HOWARD, and SEDGWICK, to consider and report thereon to the Senate.

Ordered, That the letter of Thomas Pinckney, late Minister Plenipotentiary, to negotiate a treaty with His Catholic Majesty, communicated to the Senate the 26th instant, be referred to Messrs. SEDGWICK, READ, and BINGHAM, to consider and report thereon to the Senate.

Mr. TRACY notified the Senate that he should, to-morrow, ask leave to introduce a bill to amend the act, entitled "An act to amend and repeal, in part, the act entitled 'An act to ascertain and fix the Military Establishment of the United States."

TUESDAY, May 1.

Mr. STOCKTON presented the address of a numerous and respectable meeting of the citizens of the city and township of Trenton and its vicinity, in the State of New Jersey, signed Isaac Smith, chairman; highly approbating the conduct of the Executive, in respect to the negotiation with the French Republic, and expressive of their assurances of support to every branch of the Government in such measures as may be adopted for the security of the freedom, independence, and defence of our country; which address was read.

Mr. SEDGWICK, from the Committee to whom was referred the letter of Thomas Pinckney, late Minister Plenipotentiary to negotiate a treaty with His Catholic Majesty, communicated to the Senate the 26th of April last, made report, which was read and considered; and, after debate thereon, the Senate adjourned.

WEDNESDAY, May 2.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to continue in force a part of an act therein mentioned," in which they desire the concurrence of the Senate.

Agreeably to notice given on the 30th of April last, Mr. TRACY obtained leave to bring in a bill to amend the act entitled "An act to amend and repeal, in part, the act entitled 'An act to ascertain and fix the Military Establishment of the

United States;" and the bill was read and ordered to the second reading.

The Senate resumed the consideration of the report of the committee authorizing Thomas Pinckney, late Envoy Extraordinary to the King of Spain, and Minister Plenipotentiary to the King of Great Britain, to receive the customary presents to foreign Ministers at those Courts.

On the question to agree to the first resolution reported, to wit:

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That Congress doth consent that Thomas Pinckney, Esq., who, as Envoy Extraordinary of the United States, negotiated the Treaty of Friendship, Limits, and Navigation, between the United States and the King of Spain, may receive from the said King such present as it is customary for His Catholic Majesty to make to such persons as negotiate treaties with him:"

It passed in the affirmative—yeas 17, nays 5, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Clayton, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Martin, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Brown, Langdon, Marshall, Mason, and Tazewell.

And the other resolution reported was agreed to, in the words following:

And be it further resolved, That Congress doth consent that the said Thomas Pinckney, Esq., lately Minister Plenipotentiary from the United States to the King of Great Britain, may receive from the said King such present as it is customary for His Britannic Majesty to make to Ministers Plenipotentiary on taking leave of him.

The motion made on the 26th of April last, for changing the three existing circuits of the United States into four circuits, was resumed and agreed to; and,

Ordered, That it be referred to the committee appointed the 20th of April last, "to inquire into the expediency of altering the terms for holding the courts of the United States in the districts of Kentucky, Tennessee, and Maine;" which committee are instructed to bring in a bill accordingly.

THURSDAY, May 3.

Mr. LAURANCE presented the address of a number of respectable citizens of New York, signed by Jacob Morton and others, their committee, expressive of their high esteem of the wisdom and moderation of the Chief Magistrate of the United States, in conducting the late negotiation with the French Republic, and of his unshaken firmness and patriotism; also, assuring Congress of their determination to support, at all hazards, such measures as may be deemed necessary to maintain the honor, freedom, and independence of their country; and the address was read.

Mr. MASON presented the resolutions of a numerous meeting of the citizens of Alexandria, signed John Fitzgerald, chairman, approbating the wise and patriotic measures of the Executive in the late negotiation with the French Republic, and pledging their cheerful and prompt compliance in support of the Administration.

The VICE PRESIDENT laid before the Senate a report from the Secretary for the Department of Treasury, on the state of the Western lands; in conformity to the order of Senate of the 17th of April last.

Ordered, That this report, together with the bill to amend an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," be referred to Messrs. BROWN, STOCKTON, and MASON; who are also instructed to take into consideration the petition of James Jamison and others, inhabitants on the Sciota river, presented to the Senate on the first of February last, to consider and report thereon.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act directing the payment of a detachment of militia for services performed in the year one thousand seven hundred and ninety-four, under Major James Ore," reported the bill with an amendment; which was considered and adopted.

Ordered, That this bill pass to the third reading as amended.

The bill to amend the act, entitled "An act to amend and repeal, in part, the act entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the second time, and referred to Messrs. TRACY, HOWARD, and ANDERSON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force a part of an act therein mentioned," was read the second time.

Ordered, That this bill pass to a third reading.

Mr. HOWARD presented the address and memorial of the citizens of Baltimore, and Baltimore county, applauding the wise and liberal measures of the Government, for the adjustment of differences and the restoration of harmony between the United States and the French Republic, and expressive of their determination to support the constituted authorities of their country; and the address was read.

Mr. H. presented, also, the address of a number of the inhabitants of Harford county, in the State of Maryland, signed Samuel Hughes, chairman, declaring much satisfaction in the measures taken by the Executive of the United States, for the accommodation of the unhappy differences subsisting between this country and the French Republic, and their determination firmly to support, in all situations, their independence, and the Government of their choice.

FRIDAY, May 4.

Mr. LIVERMORE, from the committee to whom was referred the motion made on the 25th of April last, on the subject, reported a bill concern-

ing aliens; which was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to Congress copies of all the communications from our Envoys Extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses. JOHN ADAMS.

UNITED STATES, May 4, 1798.

The Message and communications were read.

Ordered, That five hundred copies of the Message and communications be printed for the use of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing the payment of a detachment of militia, for services performed in the year one thousand seven hundred and ninety-four, under Major James Ore," was read the third time.

Resolved, That this bill pass with an amendment.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force a part of an act therein mentioned," was read the third time; and,

On motion, it was agreed to amend the title of the bill, by expunging the words "therein mentioned," and inserting, in their place these words: "respecting the compensation to the officers and mariners of the revenue cutters."

Resolved, That this bill pass as amended.

A message from the House of Representatives informed the Senate, that the House adhere to their disagreement to the amendments of the Senate to the bill, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes."

A message from the House of Representatives informed the Senate, that the House disagree to the resolutions, sent from the Senate for concurrence, authorizing Thomas Pinckney, late Envoy Extraordinary to the King of Spain, and Minister Plenipotentiary to the King of Great Britain, to receive the customary presents to foreign Ministers at those Courts.

MONDAY, May 7.

The Senate took into consideration the resolution of the House of Representatives, adhering to their disagreement to the amendments of the Senate to the bill, entitled "An act to revive and continue in force the act respecting the compensation of clerks, and for other purposes." Whereupon,

Resolved, That they do recede from their amendments to the said bill.

TUESDAY, May 8.

The bill concerning aliens was read the second time; and, after debate,

Ordered, That the further consideration thereof be postponed.

Mr. MARSHALL, from the committee to whom was referred the motion made the 26th of April last, for changing the three existing circuits of the United States into four circuits, reported a bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States;" which was read, and ordered to the second reading.

THURSDAY, May 10.

Mr. STOCKTON presented the resolutions of a very respectable number of the citizens of New Brunswick and its vicinity, in the State of New Jersey, signed John Neilson, chairman, expressive of their warmest approbation of the prudent, firm, and temperate policy adopted and pursued by the President of the United States, with respect to our foreign relations, and particularly to those of the French Republic, and declaring that they will, with promptitude, ardor, and constancy, support every Governmental measure for the defence of our country, and for maintaining the national honor, rights, and independence; and the resolutions were read.

The Senate resumed the second reading of the bill concerning aliens.

On motion to strike out of the first section the following words, to wit: "under the hand and seal of such person or persons as the President of the United States shall appoint to grant the same," and to substitute these words, "agreeably to the form prescribed in this act, duly authenticated by some court of the United States, or of some particular State, which courts are severally authorized and required to grant the said permits, upon the application of the party, conformably to the provisions of this act;" and it was agreed to divide the question, so far as it extends to striking out the words first recited; and

The division passed in the negative—yeas 9, nays 12, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Marshall, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Foster, Goodhue, Greene, Hillhouse, Howard, Laurance, Livermore, Lloyd, Read, Stockton, and Tracy.

Ordered, That the further consideration of the bill be postponed.

Mr. LLOYD presented the address of a respectable number of the citizens of Elkton and its vicinity, in Cecil county, in the State of Maryland, expressive of their approbation of the conduct of the Executive of the United States in his endeavors to adjust the existing differences with the French Republic, and of their resolution zealously to give their support to the Government in such measures as may be adopted for the defence of the honor, dignity, and commercial rights of the nation; and the address was read.

FRIDAY, May 11.

Mr. GOODHUE presented the address of the inhabitants of the town of Salem, in the Commonwealth of Massachusetts, declaring their full satisfaction in the measures taken by the supreme Executive for accommodating the differences subsisting with the French Republic, and their determination, depending on the patronage of the Most High, at every hazard, to support the Government of their choice, and the measures that may be adopted; and the address was read.

Mr. BINGHAM presented the memorial of the judges, grand jury, and sheriff, of the county of Bucks, in the State of Pennsylvania, expressing their entire approbation of the measures of the supreme Executive in endeavoring to effect an accommodation of the existing differences with, and to obtain redress for the repeated and accumulated injuries sustained from, the French Republic; and pledging themselves, with the assistance of Heaven, to their children and their country, by all the ties which can bind the affection and fidelity of man, to resist, with firmness, every invasion of their rights, and to transmit to their posterity, sacred and inviolate, the freedom, honor, and independence, of their country; and the memorial was read.

The bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States," was read the second time.

Resolved, That the consideration thereof be postponed.

The Senate resumed the second reading of the bill concerning aliens; and, after debate, the further consideration thereof was postponed.

Mr. MASON presented the resolutions of the inhabitants of Fairfax county, in the State of Virginia, highly approving the conduct of the supreme Executive of the United States, and particularly in endeavoring to restore the good understanding formerly subsisting between the United States and the French Republic; and pledging themselves in support of measures for the defence of the country and the protection of its commerce; and the address was read.

Mr. LIVERMORE presented the address of a number of the inhabitants of the town of Portsmouth, in the State of New Hampshire, pledging to the supreme Executive and to Congress the most determined and unequivocal support in maintaining measures that have been or may be adopted for the interest, honor, and independence of the United States; and the address was read.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer, with his account of receipts and expenditures in the War Department, for the quarter ending 31st of March last; which were read.

Ordered, That they lie for consideration.

MONDAY, May 14.

Mr. TRACY, from the committee to whom was referred the bill to amend the act, entitled "An act to amend and repeal in part the act, entitled 'An act to ascertain and fix the Military Establishment of the United States," reported the bill without amendment.

Resolved, That this bill pass to the third reading.

Mr. GOODHUE presented the address of the citizens of the town of Gloucester, in the Commonwealth of Massachusetts, approbating the conduct of the supreme Executive, avowing their determination to support the Constitution, and, at the risk of their lives and fortunes, to preserve inviolate the rights and liberties of the country; and the address was read.

Mr. HOWARD presented an address, to the same effect, from a numerous and respectable meeting of the inhabitants of Upper Marlborough and its vicinity, in Prince George's county, in the State of Maryland; and the address was read.

The Senate resumed the second reading of the bill concerning aliens; and, after debate,

Resolved, That the further consideration thereof be postponed.

The Senate resumed the second reading of the bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States; and, after debate, it was agreed that the further consideration thereof be postponed until to-morrow.

TUESDAY, May 15.

On motion, by Mr. LIVERMORE,

Resolved, That the Secretary of the Senate be directed to write to all such Senators as are absent without leave, or whose leave of absence has expired, requesting their immediate attendance.

The bill to amend the act, entitled "An act to repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States," was read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to amend the act, entitled "An act to amend and repeal, in part, the act, entitled 'An act to ascertain and fix the Military Establishment of the United States."

Mr. STOCKTON presented the address of a numerous and respectable meeting of the citizens of Upper Freehold, in the county of Monmouth, and those in its vicinity, from the counties of Burlington and Middlesex, in the State of New Jersey, signed Robert Montgomery, chairman, expressive of their gratitude and thanks for the firm, moderate, and unshaken patriotism of the President of the United States, and of their acquiescence in every measure which the National Legislature shall in their wisdom adopt; and the address was read.

Mr. LIVERMORE presented the address of one hundred and sixteen inhabitants of Dover, in the State of New Hampshire, to the same effect; and the address was read.

The Senate resumed the second reading of the bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States; and, having agreed to sundry amendments,

Resolved, That this bill pass to a third reading.

WEDNESDAY, May 16.

The bill to alter and extend the provisions of

the act, entitled "An act to establish the Judicial Courts of the United States," was read the third time; and, after debate,

Ordered, That it be recommitted to the committee who brought in the bill, and that Messrs. ANDERSON, MARTIN, and TAZEWELL, be added to the committee.

Mr. STOCKTON presented the address of the people of Gloucester county, in the State of New Jersey, signed Franklin Davenport, chairman, and unanimously agreed to; expressive of their unshaken and undiminished confidence in the Executive and Congress of the United States, and, engaging, under the protecting arm of Providential aid, cheerfully to sustain the honorable task of defending, supporting, and maintaining, the dignity, freedom, and independence, of their country; and the address was read.

The Senate resumed the second reading of the bill concerning aliens; and, after debate, it was agreed that the further consideration thereof be postponed.

THURSDAY, May 17.

Mr. MARTIN presented the address of a full and respectable meeting of the inhabitants of the town of Newbern, in the State of North Carolina, signed Richard Dobbs Spaight, and others, their committee, expressive of their entire confidence in the Government of the United States, their warm approbation of its measures, and their perfect concurrence in its views; and the address was read.

The Senate resumed the second reading of the bill concerning aliens; and, after progress,

Adjourned.

FRIDAY, May 18.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act authorizing the President of the United States to raise a provisional army," with amendments, in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill concerning aliens; and, after progress,

Ordered, That the further consideration thereof be postponed until Monday next.

Mr. GOODHUE, from the committee appointed the 29th of November last, to consider that part of the Message of the President of the United States which respects the protection of commerce, further reported a bill on that subject; which was read, and ordered to the second reading.

Mr. MARSHALL presented the petition of Robert Campbell, by his agent, William Lytle, praying the interposition of Congress to vest in him, and his heirs, a certain tract of land therein mentioned; and the petition was read.

Ordered, That it be referred to Messrs. MARSHALL, BROWN, and CHIPMAN, to consider and report thereon to the Senate.

MONDAY, May 21.

WILLIAM NORTH, appointed a Senator by the Executive of the State of New York, in place of John Sloss Hobart, resigned, produced his credentials, and, the oath required by law, being administered to him, he took his seat in the Senate.

The Senate took into consideration the amendments of the House of Representatives to the bill, sent from the Senate for concurrence, entitled "An act authorizing the President of the United States to raise a provisional army;" and,

Ordered, That they be referred to the committee, appointed the 29th of November last, who reported the bill, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act for the relief of Thomas Lewis;" and a bill, entitled "An act respecting Loan Office and final settlement certificates, indents of interest, and the unfunded or registered debt credited in the books of the Treasury;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to the second reading.

Ordered, That Mr. LIVERMORE be of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of sick and disabled seamen," in place of Mr. LANGDON, absent with leave.

Mr. STOCKTON presented the resolution of the mayor, deputy mayor, recorder, aldermen, and common council, of the borough of Elizabeth, in the county of Essex, and State of New Jersey, with the unanimous address of seven hundred inhabitants of said borough, certified by Elias Dayton, mayor, expressive of their warmest approbation of the Executive of the United States, for his instructions to our Envoys at Paris, of their indignation at the injurious conduct of the French Republic towards the United States, and pledging themselves, by the blessing of God, to aid their country against the machinations of its enemies, and in support of the national councils; and the address was read.

The bill more effectually to protect the commerce and coasts of the United States, was read the second time; and, after agreeing to an amendment,

The Senate went into Executive business, and adjourned.

TUESDAY, May 22.

Mr. READ presented the resolutions and address of the city of Charleston, in the State of South Carolina, expressive of their perfect satisfaction in the appointment, (by the Executive of the United States,) of a solemn embassy, to endeavor to remove all differences with the French Republic, and making a full, solemn, and explicit declaration of their sincere attachment to the Constitution and Government, and their fixed resolution to maintain and support them, against all foreign encroachments and domination, at the hazard of their lives and fortunes; and the communications were read.

Mr. BINGHAM presented the address and memorial of the citizens of the county of Alleghany, in the State of Pennsylvania; and

Mr. HOWARD presented the resolution of a respectable meeting of the citizens of the town of Liberty and its vicinity, in the upper part of District No. 3, in Frederick county, and State of Maryland, each expressive of similar sentiments; which were severally read.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Thomas Lewis," was read the second time, and referred to Messrs. TRACY, BROWN, and HOWARD, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act respecting Loan Office and final settlement certificates, indents of interest, and the unfunded or registered debt, credited in the books of the Treasury," was read the second time, and referred to Messrs. BINGHAM, CHIPMAN, and TRACY, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act supplementary to, and to amend the act entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject;" in which they desire the concurrence of the Senate.

Mr. GOODHUE, from the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act authorizing the President of the United States to raise a provisional army," reported them without amendment.

On motion by Mr. MARSHALL, to amend the first clause of the last section, contained in the amendments, so that it read as follows:

"*And be it further enacted*, That the private soldiers who are, and who shall be, enlisted and employed in the service of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests, for any debt or contract, created or entered into subsequent to his or their enlistment;"

It was determined in the negative—yeas 7, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Marshall, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Howard, Hunter, Latimer, Livermore, Lloyd, North, Read, Stockton, Tattnall, and Tracy.

And the report was adopted, and

Resolved, That the Senate do concur in the amendments.

Mr. MARSHALL, from the committee to whom was referred the bill to alter and extend the provision of the act entitled "An act to establish the Judicial Courts of the United States," reported amendments.

The bill last brought from the House of Representatives was read, and ordered to the second reading.

The Senate resumed the second reading of the bill more effectually to protect the commerce and coasts of the United States; and agreed to a further amendment.

Resolved, That it pass to a third reading.

WEDNESDAY, May 23.

Mr. MARSHALL reported, from the committee appointed to consider the petition of Robert Campbell, by his agent William Lytle, that the committee can find no evidence which will entitle the said Campbell to a grant for the lands therein referred to, upon the conditions stated in his said petition, the warrant specified in the Surveyor's additional certificate not corresponding with the certificate of survey; and therefore report that the said Robert Campbell have leave to withdraw his said petition.

And the report was adopted.

Mr. GOODHUE presented the address of the inhabitants of the town of Lynn, in the Commonwealth of Massachusetts, expressive of their approbation of the conduct of the Executive of the United States, particularly in respect to the negotiation with the French Republic; and pledging themselves to support the energetic measures of our magistrates, in the defence of the liberties of their country; and the address was read.

Mr. LLOYD presented the address of five hundred citizens of Kent county, in the State of Maryland; also, the address of two hundred and fifty inhabitants of the said county, approbating the measures of Government, and pledging their support; and the addresses were severally read.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to, and to amend the act entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," was read the second time, and referred to Messrs. BINGHAM, STOCKTON, and TAZEWELL, to consider and report thereon to the Senate.

Mr. BROWN, from the committee appointed the 3d instant, on the petition of Joseph Jamison and others, of Sciota river, and to whom was also referred the bill to amend an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio," reported the bill amended.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes;" and the bill entitled "An act allowing an additional compensation to the Accountant of the War Department, for the year one thousand seven hundred and ninety-eight."

The bills last mentioned were read, and ordered to the second reading.

The bill more effectually to protect the commerce and coasts of the United States, was read the third time.

On motion, by Mr. MARTIN, to expunge the preamble, which is as follows:

"Whereas armed vessels belonging to the Republic of France and citizens thereof, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations and treaties between the United States and the French nation:"

It passed in the negative—yeas 7, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Hunter, Marshall, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Brown, Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Livermore, Lloyd, North, Paine, Read, Stockton, Tattnall, and Tracy.

On motion, by Mr. ANDERSON, "that the bill be postponed until we have certain accounts of the total failure of negotiation between the United States and the French Republic;" it passed in the negative—yeas 7, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Marshall, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Livermore, Lloyd, North, Paine, Read, Stockton, Tattnall, and Tracy.

On motion to agree to the final passage of the bill, it was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Livermore, Lloyd, North, Paine, Read, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Marshall, Martin, Mason, and Tazewell.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act more effectually to protect the commerce and coasts of the United States."

Mr. LLOYD presented the address of a respectable meeting of the citizens of Queen Ann's county, in the State of Maryland, expressive of their entire approbation of the measures of the Supreme Executive, and pledging their lives and fortunes to defend their country and its Government; and the address was read.

The report made yesterday from the committee to whom was referred the bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States," was read.

Ordered, That it lie for consideration.

THURSDAY, May 24.

The Senate took into consideration the amendments reported yesterday by the committee to whom was referred the bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States," and having agreed to the report, the bill was amended accordingly, and the further consideration thereof postponed.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," was read the second time, and referred to Messrs. MASON, STOCKTON, and TRACY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act allowing an additional compensation to the Accountant of the War Department, for the year one thousand seven hundred and ninety-eight," was read the second time, and referred to Messrs. NORTH, TRACY, and HUNTER, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill concerning aliens; and, after debate, the further consideration thereof was postponed.

FRIDAY, May 25.

The Senate resumed the third reading of the bill to alter and extend the provisions of the act, entitled "An act to establish the Judicial Courts of the United States."

On motion, by Mr. ANDERSON, it was agreed to reconsider the sixth section reported by the committee; and, on the question to agree thereto, in the following words:

"Sec. 6. *And be it further enacted*, That the first section of the act, entitled 'An act in addition to the act, entitled 'An act to establish the judicial courts of the United States,' be, and the same is hereby, repealed:"

It was determined in the negative—yeas 5, nays 19, as follows:

YEAS—Messrs. Livermore, Lloyd, Mason, North, and Tazewell.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Laurance, Marshall, Martin, Paine, Read, Stockton, Tattnall, and Tracy.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to alter and extend the provisions of the act, entitled 'An act to establish the Judicial Courts of the United States."

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to the second reading.

The Senate resumed the second reading of the bill concerning aliens.

On motion, to agree to the 7th section of the bill, amended as follows:

"Sec. 7. *And be it further enacted*, That every master or commander of any ship or vessel which shall come into any port of the United States, shall immediately, on his arrival, make report in writing to the collector or other chief officer of the customs in such port

of all aliens, if any, on board his vessel, specifying their names, age, place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation, and a description of their persons, as far as he shall be informed thereof. And, on failure, every such master or commander shall forfeit and pay —— dollars; for the payment whereof, in default of the master or commander, such vessel shall also be holden, and may by such collector, or other officer of the customs, be detained. And it shall be the duty of such collector, or other officer of the customs, to transmit forthwith to the officer of the Department of State, true copies of all such returns."

It was determined in the affirmative—yeas 22, nays 1, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Laurance, Lloyd, Marshall, Martin, Mason, North, Paine, Reed, Stockton, Tattnall, Tazewell, and Tracy.

NAY—Mr. Livermore.

Ordered, That the further consideration of the bill be postponed.

MONDAY, May 28.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the relief of persons imprisoned for debts due to the United States;" and a bill, entitled "An act supplementary to an act, entitled "An act for the relief of persons imprisoned for debt;" in which they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," was read the second time, and referred to Messrs. HILLHOUSE, STOCKTON, and TAZEWELL, to consider and report thereon to the Senate.

Mr. LLOYD presented the resolutions and address of a respectable number of the citizens of the lower end of Frederick county, in the State of Maryland, signed Andrew Scriver, chairman; also, the resolutions of a large number of citizens, assembled in the court-house in Somerset county, in the said State, signed John Doane, chairman, approving the conduct of the supreme Executive of the United States, particularly in regard to his measures respecting an accommodation of the subsisting difference with the French Republic; and pledging their lives and fortunes in the defence of their country, and in the support of its Government; and the resolutions and address were read.

The Senate resumed the second reading of the bill concerning aliens.

On motion, by Mr. MARSHALL, to amend the 8th section, to be read as follows:

"SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to have removed out of the territory thereof any alien who may or shall be imprisoned, under this act, for speaking, writing, or printing, contrary to the provisions thereof, any thing herein to the contrary notwithstanding:"

It was determined in the negative—yeas 8, nays 14, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Marshall, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, and Tracy.

On motion, by Mr. LIVERMORE, to expunge the 8th section of the bill, it was determined in the negative—yeas 10, nays 13, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Livermore, Marshall, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Laurance, Lloyd, North, Paine, Read, Stockton, and Tracy.

On motion, by Mr. MASON, to expunge the 9th section, which is as follows:

"Sec. 9. *And be it further enacted*, That it shall be lawful for the President of the United States to send or remove, out of the territory thereof, all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the Government thereof; such alien having obtained a permit, agreeably to the provisions of this act, notwithstanding:"

It was determined in the negative—yeas 10, nays 13, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Livermore, Marshall, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Laurance, Lloyd, North, Paine, Read, Stockton, and Tracy.

On motion, by Mr. MARSHALL, to amend the bill, by adding to the end of the 9th section as follows, to wit:

"And whenever the President of the United States shall cause any alien to be removed out of the United States, the facts on which the order of removal are founded, together with the order itself, and specifying the manner and time of removal, with the place where the party shall be left, shall be entered in a well-bound book, to be kept in the office of the Secretary of the Department of State, for the inspection of Congress; and such order shall be executed by such persons as shall be named therein:"

It passed in the negative—yeas 10, nays 13, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Hunter, Livermore, Marshall, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Laurance, Lloyd, North, Paine, Read, Stockton, and Tracy.

TUESDAY, May 29.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing

for the relief of persons imprisoned for debts due to the United States," was read the second time, and referred to Messrs. LAURANCE, LIVERMORE, and CHIPMAN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to an act, entitled 'An act for the relief of persons imprisoned for debt'" was read the second time, and referred to the last-mentioned committee, to consider and report thereon to the Senate.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "an act making appropriations for the Military Establishment for the year one thousand seven hundred and ninety-eight, and for other purposes," reported the bill with amendments; which were read.

Resolved, That they lie for consideration.

The Senate resumed the second reading of the bill concerning aliens.

A motion was made, by Mr. LAURANCE, to amend the 11th section of the bill, by adding as follows:

"*And provided, also*, That nothing in this act contained shall be construed to affect any person, being an alien, who came within the United States for the purpose of becoming a citizen thereof, and who has made the declaration, and renounced his allegiance and fidelity, in the manner, and according to the provisions in an act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject;' or may make the same, and renounce his allegiance and fidelity, according to the provision contained in the said act, within —— days after passing of this act."

Whereupon, a motion was made by Mr. STOCKTON, to amend the amendment, by striking out therefrom the words following:

"Or may make the same, and renounce his allegiance and fidelity, according to the provision contained in the said act, within —— days after passing of this act."

And the motion to amend the amendment passed in the affirmative—yeas 14, nays 10, as follows:

YEAS—Messrs. Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Livermore, Lloyd, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Brown, Laurance, Marshall, Martin, Mason, Tattnall, and Tazewell.

On the question to agree to the amendment, as amended, it passed in the affirmative—yeas 20, nays 4, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Hillhouse, Hunter, Latimer, Laurance, Livermore, Marshall, Martin, Mason, North, Stockton, Tattnall, Tazewell, and Tracy.

NAYS—Messrs. Goodhue, Lloyd, Paine, and Read.

And several other amendments being agreed to,

Resolved, That the further consideration of the bill be postponed.

WEDNESDAY, May 30.

The VICE PRESIDENT communicated a letter signed Samuel Meredith, with his account of receipts and expenditures in the Treasury Department for the quarter ending the 31st of March last; and the letter was read.

Resolved, That the letter and account lie on the table.

Mr. CHIPMAN presented the address of the mayor, aldermen, common council, and freemen, of the city of Vergennes, in the county of Addison, and State of Vermont, signed by Roswel Hopkins, mayor, and by the aldermen, common council, and a great number of freemen of the said city, declaring "their unequivocal approbation and applause of the conduct of the supreme Executive of the United States; particularly in respect to the measures for accommodating the subsisting differences with the French Republic; their confidence in the united councils of our country, and, under the guidance of the Supreme Disposer of events, pledging their lives and fortunes to the last mite, to defend it against any nation on earth, which, with sacrilegious finger, shall dare touch the holy ark of our national rights;" and the address was read.

The Senate resumed the second reading of the bill concerning aliens.

On motion, by Mr. LAURANCE, to subjoin the following to the end of the 11th section:

"*And provided*, That nothing in this act contained shall be construed to contravene any provision of any treaty subsisting between the United States and any foreign nation;"

It was determined in the affirmative—yeas 12, nays 12, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Hunter, Laurance, Livermore, Marshall, Martin, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Lloyd, North, Paine, Read, Stockton, and Tracy.

The VICE PRESIDENT determined the question in the affirmative.

On motion, to agree to the eleventh section as amended—

A motion was made, by Mr. LIVERMORE, and it was agreed to divide the section as follows:

"SEC. 11. *And be it further enacted*, That in case any person ordered or adjudged to be transported, shall be found at large within the United States, after sentence of transportation pronounced, such alien shall be imprisoned and kept to hard labor for and during life;"

And, on the question to agree to this division, it was determined in the affirmative—yeas 16, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Laurance, Lloyd, North, Paine, Read, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Anderson, Brown, Livermore, Marshall, Mason, and Tazewell.

And, after agreeing to other amendments,

Resolved, That the further consideration of the bill be postponed.

THURSDAY, May 31.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the relief of persons imprisoned for debts due to the United States," reported the bill without amendment.

Mr. L., from the same committee, to whom was also referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to an act, entitled 'An act for the relief of persons imprisoned for debt," reported amendments; which were read.

Mr. HILLHOUSE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," reported amendments, which were considered and agreed to; and,

Resolved, That this bill pass to the third reading, as amended.

The Senate resumed the second reading of the bill concerning aliens.

A motion was made, by Mr. BINGHAM, to restore the words yesterday agreed to be struck out from the eleventh section, to wit: "nor to any alien merchant conforming to such regulations as the President of the United States shall prescribe;" and,

On motion, by Mr. LIVERMORE, it was agreed to divide the question as follows: "nor to any alien merchant;" and this division passed in the affirmative—yeas 14, nays 10, as follows:

YEAS—Messrs. Anderson, Bingham, Brown, Foster, Hunter, Latimer, Laurance, Livermore, Marshall, Martin, Mason, Read, Tattnall, and Tazewell.

NAYS—Messrs. Bloodworth, Chipman, Clayton, Goodhue, Hillhouse, Lloyd, North, Paine, Stockton, and Tracy.

And on motion to agree to the other division of the question, to wit: "conforming to such regulations as the President of the United States shall prescribe," it was determined in the negative—yeas 10, nays 14, as follows:

YEAS—Messrs. Bingham, Foster, Goodhue, Hillhouse, Latimer, Laurance, Lloyd, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Chipman, Clayton, Hunter, Livermore, Marshall, Martin, Mason, North, Paine, Tattnall, and Tazewell.

On motion to reconsider the first division of the question last agreed to, it passed in the negative.

FRIDAY, June 1.

Mr. NORTH presented the resolutions and address of a numerous meeting of the inhabitants of the city of Schenectady, in the State of New York, signed John Sanders, chairman, declarative of their warm and unequivocal approbation of the measures adopted by the Government to maintain a state of neutrality with the belligerent Powers of Europe; and pledging their lives and fortunes to support the laws and the liberties of their country; and the address was read.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," was read the third time.

Ordered, That it be recommitted to the committee who brought in the report; together with the bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes," to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act for establishing and organizing a battalion of infantry, to be called the Marine Corps;" and a bill entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof;" in which they desire the concurrence of the Senate.

The bills were read and ordered to the second reading.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the relief of persons imprisoned for debts due to the United States."

Resolved, That this bill pass to a third reading.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to an act entitled 'An act for the relief of persons imprisoned for debt;" which being adopted, the bill was amended accordingly.

Resolved, That this bill pass to a third reading, as amended.

The Senate resumed the second reading of the bill concerning aliens.

Ordered, That it be recommitted to the committee who brought in the bill, to consider and report thereon to the Senate, and that Mr. BINGHAM be of the committee, in place of Mr. SEDGWICK, absent on account of the ill state of his health.

The Senate took into consideration the report of the committee to whom was referred the petition of Joseph Jamison, of Scioto river, and others, and to whom was also referred the bill to amend an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio and above the mouth of Kentucky river; and, after debate,

Resolved, That the further consideration thereof be postponed.

MONDAY, June 4.

Mr. LLOYD presented the address of a respectable meeting of the inhabitants of Montgomery county, in the State of Maryland, signed Jeremiah Crabb, chairman; also, the resolutions of a number of respectable inhabitants of the county of Washington, in the said State, declaring their approbation of the conduct of the Executive of

the United States, and, in confidence on that beneficent Providence whose interpositions in our favor have often been displayed, pledging their lives and fortunes in the defence of the Constitution and Government of their country; and the address and resolutions were read.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the relief of persons imprisoned for debts due to the United States," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to an act entitled 'An act for the relief of persons imprisoned for debt,'" was read the third time.

Resolved, That this bill pass with amendments.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act respecting Loan Office and final settlement certificates, indents of interest, and the unfunded or registered debt, credited in the books of the Treasury," reported amendments, which were read, adopted, and the bill was amended accordingly.

Resolved, That this bill pass to the third reading, as amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read the second time.

Ordered, That it be referred to Mr. GOODHUE and others, to whom was referred, on the 29th of November last, that part of the President's Speech on measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for establishing and organizing a battalion of infantry, to be called the Marine Corps," was read the second time, and referred to Messrs. TRACY, NORTH, and LLOYD, to report thereon to the Senate.

Mr. LIVERMORE, from the committee to whom was referred the bill respecting aliens, reported the bill with an amendment; which was read.

Ordered, That it lie for consideration.

On motion, by Mr. MARTIN,

Resolved, That the Senate will attend the funeral of Colonel NATHAN BRYAN, late a member of the House of Representatives of the United States, at nine o'clock to-morrow morning.

TUESDAY, June 5.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I now transmit to both Houses the communications from our Envoys at Paris, received since the last, which have been presented by me to Congress.

JOHN ADAMS.

UNITED STATES, *June 5, 1798.*

The Message and communications were read.

Ordered, That five hundred copies thereof be printed for the use of the Senate.

Mr. LAURANCE notified the Senate that he should, to-morrow, move for leave to bring in a bill to punish frauds committed on the Bank of the United States.

The Senate took into consideration the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military Establishment for the year one thousand seven hundred and ninety-eight, and for other purposes."

On motion to agree to amend the first amendment reported to the bill, to be read as follows: "The sum of ——— (including the sum of two hundred thousand dollars already appropriated on account,) be, and hereby is, appropriated;" and it was determined in the affirmative—yeas 20, nays 2, as follows:

YEAS—Messrs. Anderson, Bloodworth, Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, North, Paine, Read, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Mason and Tazewell.

And, having agreed to further amendments reported by the committee,

Ordered, That this bill pass to the third reading as amended.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," reported the bill amended.

The bill, sent from the House of Representatives for concurrence, entitled "An act respecting Loan Office and final settlement certificates, indents of interest, and the unfunded or registered debt credited in the books of the Treasury," was read the third time.

Resolved, That this bill pass with an amendment.

WEDNESDAY, June 6.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the Military Establishment for the year one thousand seven hundred and ninety-eight, and for other purposes," was read the third time.

Resolved, That this bill pass with amendments.

Mr. GOODHUE, from the committee appointed the 29th November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce of the United States, reported a bill authorizing the President of the United States to accept of any armed vessel, offered for the use of the United States; which bill was read, and ordered to the second reading.

The Senate took into consideration the report of the committee, to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof;" which report being disagreed to, and an amendment, on motion, being adopted,

Resolved, That this bill pass to the third reading, as amended.

The Senate took into consideration the report of the committee, to whom was referred the bill concerning aliens; and, after debate,

Ordered, That the further consideration thereof be postponed.

THURSDAY, June 7.

The bill authorizing the President of the United States to accept of any armed vessels, offered for the use of the United States, was read the second time.

On motion, it was agreed, that the consideration thereof be postponed.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act for the relief of John Vaughan," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read the third time; and, being further amended,

On the final passage of the bill, it was determined in the affirmative—yeas 18, nays 4, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Brown, Marshall, Mason, and Tazewell.

So it was *Resolved*, That this bill pass with amendments.

Mr. LAURANCE, agreeably to notice on the 5th instant, obtained leave to bring in a bill to punish frauds committed on the Bank of the United States; which was read and ordered to the second reading.

The Senate resumed the consideration of the report of the committee to whom was referred the bill concerning aliens; and the report being amended, was agreed to; and the bill was amended accordingly.

On motion, by Mr. TAZEWELL, further to amend the bill, by adding the following words to the end of the third section, reported by the committee, to wit:

"*Provided*, That nothing in this act contained, shall be construed to contravene any provision of any treaty subsisting between the United States and any foreign nation:"

It was determined in the negative—yeas 5, nays 16, as follows:

YEAS—Messrs. Anderson, Brown, Mason, Tattnall, and Tazewell.

NAYS—Messrs. Chipman, Clayton, Foster, Goodhue, Hillhouse, Hunter, Latimer, Laurance, Livermore, Marshall, Martin, North, Paine, Read, Stockton, and Tracy.

Resolved, That this bill pass to a third reading.

Mr. HILLHOUSE, from the committee to whom was recommitted the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," reported the bill further amended; and the report was adopted.

Resolved, That this bill pass with amendments.

Mr. HILLHOUSE, from the committee, to whom was also recommitted the bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes," reported the bill without further amendment.

A motion was made, by Mr. MASON,

"That a committee be appointed to inquire whether, and when, it may be proper to close the present session of Congress; and also into the propriety of altering the time for the next annual meeting of Congress."

And it was agreed that this motion lie for consideration.

FRIDAY, June 8.

The Senate took into consideration the motion made yesterday, relative to closing the present session of Congress; which, being amended, was agreed to, as follows:

Ordered, That Messrs. TRACY, LAURANCE, GOODHUE, STOCKTON, and PAINE, be a committee to inquire what business, of a public nature, may require the attention of Congress, before its adjournment, and when it may be proper to close the present session of Congress; and also into the propriety of altering the time for the next annual meeting of Congress, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts," in which they desire the concurrence of the Senate. They agree to the amendments of the Senate to the bill, entitled "An act making appropriations for the Military Establishment, for the year one thousand seven hundred and ninety-eight, and for other purposes;" with an amendment to the eighth amendment, in which they desire the concurrence of the Senate.

Mr. TRACY, from the committee to whom was referred the motion to amend the Rules for conducting business in the Senate, reported an addition to the 19th rule; which was read.

Ordered, That it lie for consideration.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to, and to amend the act, entitled 'An act to establish an uniform rule of naturali-

zation, and to repeal the act heretofore passed on that subject," reported the bill amended; which amendment was read.

Ordered, That it lie for consideration.

The Senate took into consideration the amendment of the House of Representatives, to the eighth amendment of the Senate, to the bill, entitled "An act making appropriations for the Military Establishment, for the year one thousand seven hundred and ninety-eight, and for other purposes."

Resolved, That they do agree to the said amendment to the amendment.

The bill concerning aliens was read the third time; and,

On motion, by Mr. MASON, the second clause of the first section reported by the committee was amended, to be read as follows:

"Which order shall be served on such alien, by delivering him a copy thereof, or leaving the same at his usual abode."

On motion by Mr. MARSHALL, to amend the second clause, in the first section of the bill as reported by the committee, to be read, as follows:

"Which order shall also express the cause of removal;"

And it was determined in the negative—yeas 6, nays 17, as follows:

YEAS—Messrs. Anderson, Bloodworth, Marshall, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Brown, Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Lloyd, North, Paine, Read, Stockton, Tattnall, and Tracy.

On the final passage of the bill, the question was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Marshall, Mason, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act concerning aliens."

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Vaughan," was read the second time, and ordered, that it be referred to Messrs. BINGHAM, TRACY, and PAINE, to consider and report thereon to the Senate.

The bill last sent from the House of Representatives for concurrence was read, and ordered to the second reading.

The bill to punish frauds committed on the Bank of the United States, was read the second time, and referred to Messrs. LAURANCE, STOCKTON, and TAZEWELL, to consider and report thereon to the Senate.

The Senate resumed the consideration of the bill authorizing the President of the United States to accept of any armed vessel offered for the use of the United States.

Ordered, That it be referred to the committee appointed the 29th of November last on that part of the Speech of the President of the United States, which respects measures for the security and protection of the commerce of the United States, to consider and report thereon to the Senate.

Mr. NORTH, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act allowing an additional compensation to the Accountant of the War Department, for the year one thousand seven hundred and ninety-eight," reported the bill without amendment; and, after debate,

Ordered, That the further consideration thereof be postponed,

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of making entry of stills, and for other purposes;" was resumed.

Resolved, That this bill pass with amendments.

MONDAY, June 11.

The bill, sent from the House of Representatives for concurrence, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts," was read the second time, and referred to Messrs. TRACY, LIVERMORE, and STOCKTON, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to and to amend the act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject;" and the report being agreed to, the bill was amended accordingly.

Resolved, That this bill pass to the third reading, as amended.

A message from the House of Representatives informed the Senate that the House have agreed to the amendments of the Senate to the bill, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," with an amendment, in which they desire the concurrence of the Senate. They have appointed a committee to inquire whether, and when, it may be proper to close the present session of Congress; and, also, into the propriety of altering the time for the next annual meeting of Congress; and have instructed them to confer thereon with a committee which they desire may be appointed on the part of the Senate for the purpose.

The Senate took into consideration the resolution of the House of Representatives, appointing a committee to consider and confer on the proper time at which the present session may be closed.

Resolved, That they do agree to the conference desired by the House of Representatives on the first resolution, and that Messrs. TRACY, LAURANCE, GOODHUE, STOCKTON, and PAINE, the

committee of the Senate, who were appointed on the 8th instant, for the purpose of a like inquiry, be managers of the said conference on the part of the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill to amend an act, entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river;" and the report being disagreed to,

Resolved, That this bill pass to a third reading.

The Senate took into consideration the report of the committee to whom was referred the motion to amend the rules for conducting business in the Senate.

Resolved, That the consideration thereof be postponed.

TUESDAY, June 12.

Mr. GOODHUE, from the committee to whom was referred the bill authorizing the President of the United States to accept of any armed vessel offered for the use of the United States, reported an amendment, which was read.

Ordered, That it lie for consideration.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act allowing an additional compensation to the Accountant of the War Department. for the year one thousand seven hundred and ninety-eight." And,

Resolved, That the further consideration thereof be postponed until the next session of Congress.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to and to amend the act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," was read the third time.

On motion, by Mr. ANDERSON, to reduce the term of residence necessary to qualify an alien to become a citizen, by striking out "fourteen years" and inserting in the place thereof "seven years," it was agreed that the motion should be divided, and that the question should be taken on striking out; and this part of the motion was determined in the negative—yeas 10, nays 11, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Foster, Marshall, Martin, Mason, North, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Paine, Read, Stockton, and Tracy.

On motion, by Mr. ANDERSON, to strike out these words, section 1st, line 3d: "the United States or of any State," and insert in lieu thereof, "any one of the United States;" it was agreed that the motion should be divided, and that the question should be taken on striking out; and this part of the motion was determined in the negative—yeas 8, nays 13, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Marshall, Mason, North, Tattnall, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Martin, Paine, Read, Stockton, and Tracy.

And the bill being further amended, the question on the final passage thereof was determined in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Martin, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Marshall, Mason, North, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass with amendments.

Mr. LAURANCE, from the committee to whom was referred the bill to punish frauds committed on the Bank of the United States, reported the bill with amendments; which were read.

Ordered, That they lie for consideration.

A motion was made, by Mr. HILLHOUSE, "that a committee be appointed to consider whether any and what addition ought to be made to the compensation allowed by law to the officers of Government, whose official duties require them to reside at the seat of Government;" and the motion was read.

Ordered, That it lie for consideration.

The bill to amend an act entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," was considered, and, on motion by Mr. FOSTER, it was agreed that the further consideration thereof be postponed until Monday next.

WEDNESDAY, June 13.

Mr. MASON, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," reported the bill with amendments.

Ordered, That they lie for consideration.

The Senate took into consideration the report of the committee to whom was referred the bill authorizing the President of the United States to accept of any armed vessels offered for the use of the United States.

On motion, by Mr. ANDERSON, to add at the end of the second section reported by the committee—

"*And provided, also*, That no vessel offered on loan, shall be accepted at a higher rate of interest (where interest shall be demanded) than six per cent. per annum upon the principal, which shall be reimbursed at the pleasure of the Government of the United States;"

It passed in the negative—yeas 10, nays 12, as follows:

YEAS—Messrs. Anderson, Brown, Howard, Langdon, Marshall, Martin, Mason, North, Paine, and Tattnall.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Read, Stockton, and Tracy.

On motion, by Mr. MASON, to add to the end of the second section, "nor of greater force than —— guns to each;" it passed in the negative—yeas 8, nays 15, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Langdon, Marshall, Martin, Mason, and Tattnall.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, North, Paine, Read, Stockton, and Tracy.

On the question to agree to the second section of the bill reported by the committee, amended as follows:

"SEC. 2. *And be it further enacted*, That it shall be lawful for the President, and he is hereby authorized, to receive, for the use of the United States, any vessel, armed or suitable to be armed, that may hereafter be built within the United States, and owned by any citizen or citizens of the United States, which may be offered to him, on such terms as he may deem beneficial to the public interest; which vessels shall be in addition to those heretofore provided by any law of the United States: *Provided*, That the vessels to be received by virtue of this section shall not exceed twelve in number, nor be of less force than twenty guns, nine pounders, each vessel;"

It passed in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bloodworth, Brown, Langdon, Marshall, Mason, and Tattnall.

And other amendments, reported by the committee, being agreed to, the bill was amended accordingly.

Resolved, That this bill pass to a third reading as amended.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves, within the United States;" a bill, entitled "An act to amend the act entitled 'An act providing a naval armament;'" and the act entitled "An act to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys or otherwise;" and a bill entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations;" in which bills they desire the concurrence of the Senate.

THURSDAY, June 14.

The bills yesterday brought from the House of Representatives for concurrence, were read, and ordered to a second reading.

The bill authorizing the President of the United States to accept of any armed vessels offered for the use of the United States, was read a third time; and the question on the final passage of this bill was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Anderson, Brown, Langdon, Marshall, Mason, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act authorizing the President of the United States to accept and receive vessels armed, or suitable to be armed, for the use of the United States, in addition to those heretofore provided."

Mr. GOODHUE, from the committee appointed on the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce of the United States, reported a bill in addition to the act more effectually to protect the commerce and coasts of the United States; which was read, and ordered to a second reading.

The Senate took into consideration the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes;" and, after debate,

Resolved, That the further consideration thereof be postponed.

Mr. TRACY, from the joint committee appointed to inquire whether, and when, it may be proper to close the present session of Congress; and, also, into the propriety of altering the time for the next annual meeting of Congress, made report; which was read.

Ordered, That it lie for consideration.

FRIDAY, June 15.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act providing a Naval Armament,' and the act, entitled "An act to authorize the President of the United States to cause to be purchased, or built, a number of small vessels, to be equipped as galleys, or otherwise;" was read the second time.

Ordered, That it be referred to the committee appointed on the 29th of November last, on that part of the Speech of the President of the United States which relates to measures for the security and protection of the commerce of the United States, to consider and report hereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," was read the second time, and referred to the last mentioned committee, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the valuation of lands and dwelling-

houses, and the enumeration of slaves within the United States," was read the second time, and referred to Messrs. READ, PAINE, STOCKTON, LATIMER, and HILLHOUSE, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House disagree to the first, and concur in the other amendment of the Senate, with an amendment to the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States;" they have passed a bill, entitled "An act providing arms for the militia throughout the United States;" in which they desire the concurrence of the Senate.

The bill, in addition to the act more effectually to protect the commerce and coasts of the United States, was read the second time.

Resolved, That this bill pass to a third reading.

The bill last brought from the House of Representatives for concurrence was read, and ordered to the second reading.

Mr. LLOYD notified the Senate that he should, to-morrow, ask leave to bring in a bill to allow to the Secretary of the Navy the privilege of franking letters.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Vaughan," reported the bill without amendment.

Resolved, That the consideration thereof be postponed.

MONDAY, June 18.

Mr. LANGDON presented the memorial of the inhabitants of the town of Portsmouth, in the State of New Hampshire, signed by Daniel Rindge and others, stating the exposed situation of their port, and praying that measures may be taken for its immediate defence; and the petition was read.

Ordered, That it be referred to the Secretary for the Department of War, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to, and to amend the act, entitled 'An act authorizing the President of the States to raise a provisional army;'" in which they desire the concurrence of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate and

Gentlemen of the House of Representatives:

I now transmit to Congress the despatch No. 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office on Thursday, the fourteenth day of this month.

JOHN ADAMS.

UNITED STATES, *June* 18, 1798.

The Message and despatch were read.

Ordered, That five hundred copies thereof be printed for the use of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to the second reading.

Mr. BINGHAM presented the address of a numerous meeting of the inhabitants of the borough and county of Bedford, in the State of Pennsylvania, signed Hugh Barclay, chairman; and

Mr. HOWARD presented the address of a respectable meeting of the inhabitants of the upper part of Montgomery county, in the State of Maryland, signed Aneas Campbell, chairman, stating, respectively, their approbation of the conduct of the Executive and Legislative branches of Government, and pledging their support; and the addresses were severally read.

The bill, in addition to the act more effectually to protect the commerce and coasts of the United States, was read the third time.

The final passage of the bill, as amended, was determined in the affirmative—yeas 15, nays 3, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Laurance, Livermore, Lloyd, Marshall, Martin, North, Paine, Read, and Tracy.

NAYS—Messrs. Langdon, Tattnall, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act in addition to the act more effectually to protect the commerce and coasts of the United States."

The bill, sent from the House of Representatives for concurrence, entitled "An act providing arms for the militia throughout the United States," was read the second time, and referred to Messrs. NORTH, CHIPMAN, and HOWARD, to consider and report thereon to the Senate.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act providing a Naval Armament;'" and the act, entitled "An act to authorize the President of the United States to cause to be purchased, or built, a number of small vessels, to be equipped as galleys, or otherwise;" reported the bill without amendment.

Resolved, That this bill pass to a third reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," reported the bill amended; and the amendments were read.

Ordered, That they lie for consideration.

The Senate took into consideration the resolutions of the House of Representatives on the amendment of the Senate to the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States."

Resolved, That they insist on their first amendment disagreed to by the House of Representatives, and disagree to the other amendments of the House of Representatives to the amendments of the Senate, ask a conference on the disagreeing votes of the two Houses, and that Messrs. HILL-

HOUSE and PAINE be managers at the conference on the part of the Senate.

Conformably to notice given on the 15th instant, Mr. LLOYD had leave to bring in a bill to allow to the Secretary of the Navy the privilege of franking letters; which bill was read, and ordered to the second reading.

TUESDAY, June 19.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of sick and disabled seamen, reported the bill amended; and the amendments were read.

Ordered, That they lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act to amend the act, entitled 'An act providing a Naval Armament;" and the act, entitled 'An act to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise," was read the third time; and the final passage of the bill was determined in the affirmative—yeas 20, nays 2, as follows:

YEAS—Messrs. Brown, Chipman, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, Mason, North, Paine, Read, Stockton, Tattnall, and Tracy.

NAYS—Messrs. Bloodworth and Tazewell.

Resolved, That this bill pass.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to, and to amend the act entitled "An act authorizing the President of the United States to raise a provisional army," was read the second time, and amended.

Resolved, That this bill pass to a third reading, as amended.

A message from the House of Representatives informed the Senate that they insist on their amendments to the amendments of the Senate to the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," and agree to the proposed conference thereon, and have appointed managers at the same on their part. They have passed a "Resolution authorizing the printing and distributing, throughout the United States, a certain number of copies of the instructions to, and despatches from, the Envoys Extraordinary and Ministers Plenipotentiary to the French Republic;" in which they desire the concurrence of the Senate.

The resolution was read.

Resolved, That the consideration thereof be postponed.

The amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," were agreed to; and the bill was amended accordingly.

Resolved, That this bill pass to a third reading as amended.

The bill to extend the privilege of franking letters and packets to the Secretary of the Navy was read a second time.

Resolved, That this bill pass to a third reading.

WEDNESDAY, June 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to, and to amend the act, entitled 'An act authorizing the President of the United States to raise a provisional army," was read a third time; and, on motion, the amendment made yesterday to the bill was considered; and the final passage of the bill was determined in the affirmative—yeas 16, nays 5, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Bloodworth, Brown, Langdon, Mason, and Tattnall.

So it was resolved that this bill pass.

The bill, sent from the House of Representatives for concuerence, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," was read a third time; and the final passage of the bill, as amended, was determined in the affirmative—yeas 16, nays 3, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Brown, Langdon, and Mason.

So it was resolved that this bill pass, as amended.

The bill to extend the privilege of franking letters and packets to the Secretary of the Navy was read a third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act to extend the privilege of franking letters and packets to the Secretary of the Navy."

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of sick and disabled seamen;" and, after debate.

Resolved, That the further consideration thereof be postponed.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of John Vaughan," and, after debate,

Ordered, That it be recommitted, and that the committee be instructed to report a state of facts.

The resolution, yesterday sent from the House of Representatives for concurrence, providing that the instructions to, and despatches from, the Envoys to the French Republic, be printed, was considered; and

Resolved, That the Senate do concur therein.

Mr. BINGHAM presented the memorial of Thos. M'Kean and others, praying that measures may be taken to encourage the printing of the Journals

of Congress; and the memorial was read, and ordered to lie on the table.

The Senate resumed the consideration of the bill, sent from the House of Representatives for concurrence, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes;" and, after debate,

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

THURSDAY, June 21.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," reported amendments, which were read; and,

Ordered, That they lie for consideration.

The Senate took into consideration the amendment reported by the committee to whom was referred the bill to punish frauds committed on the Bank of the United States.

On the question to agree to the report, in the words following: "At the end of the bill add, nor more than —— years, or shall be imprisoned not exceeding —— years, and fined not exceeding —— dollars," it was determined in the affirmative—yeas 19, nays 1, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Marshall, Martin, Mason, North, Paine, Read, Stockton, Tazewell, and Tracy.

NAY—Mr. Lloyd.

On motion, that this bill pass to the third reading, it was determined in the affirmative—yeas 14, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Brown, Langdon, Livermore, Martin, Mason, and Tazewell.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

While I congratulate you on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter received by him from Mr. Gerry, the only one of the three who has not received his *congé*. This letter, together with another, from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will show the situation in which he remains; his intentions and prospects.

I presume that, before this time, he has received fresh instructions, (a copy of which accompanies this message,) to consent to no loans, and, therefore, the negotiation may be considered at an end.

I will never send another Minister to France without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

UNITED STATES, *June* 21, 1798.

The Message and documents were read.

Resolved, That five hundred copies thereof be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for the expenses incident to the new regiment of artillerists and engineers, during the year one thousand seven hundred and ninety-eight;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. GOODHUE, from the committee appointed the 29th of November last, on that part of the Speech of the President of the United States, which respects the security and protection of commerce, reported a bill, declaring void the treaties between the United States and the French Republic; which was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House concur in the bill, passed in the Senate, entitled "An act concerning aliens," with amendments; in which they desire concurrence.

The amendments were read, and ordered to lie for consideration.

FRIDAY, June 22.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for the expenses incident to the new regiment of artillerists and engineers, during the year one thousand seven hundred and ninety-eight," was read the second time.

Ordered, That it be referred to Messrs. TRACY, NORTH, and HOWARD, to consider and report thereon to the Senate.

The Senate took into consideration the amendments of the House of Representatives to the bill, sent from the Senate, entitled "An act concerning aliens."

Resolved, That they do concur in the amendments.

The bill to declare the treaties between the United States and the Republic of France void, and of no effect, was read the second time.

Resolved, That the further consideration thereof be postponed.

The bill to punish frauds committed on the Bank of the United States was read the third time, and, being amended, the question on the final passage of the bill was determined in the affirmative—yeas 15, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, Marshall, North, Paine, Read, Stockton, and Tracy.

NAYS—Messrs. Brown, Langdon, Livermore, Martin, Mason, and Tazewell.

So it was *Resolved*, That this bill pass; that it

be engrossed; and that the title thereof be "An act to punish frauds committed on the Bank of the United States."

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;" which were agreed to.

Resolved, That this bill be recommitted to the committee who reported the amendments.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled an "Act to authorize the defence of the merchant vessels of the United States against French depredations," with amendments; in which they desire the concurrence of the Senate.

SATURDAY, June 23.

The Senate took into consideration the amendments of the House of Representatives to the amendments of the Senate to the bill, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations."

Resolved, That they do concur therein.

A message from the House of Representatives informed the Senate that they have passed a resolution authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the 9th day of July next: in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill to declare the treaties between the United States and the Republic of France void and of no effect.

On motion to agree to the enacting clause, in the words following:

"SEC. 1. *Be it therefore enacted, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Treaty of Amity and Commerce, and the Treaty of Alliance, between the United States and the French Government, concluded on the 6th day of February, one thousand seven hundred and seventy-eight, and the Consular Convention between the same parties, concluded on the fourteenth of November, one thousand seven hundred and eighty-eight, under existing circumstances, ought to be, and are hereby declared, void and of no effect, and shall no longer be binding on the Government and citizens of the United States:"

It was determined in the affirmative—yeas 16, nays 3, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Sedgwick, and Tracy.

NAYS—Messrs. Brown, Langdon, and Mason.

On motion, by Mr. MARTIN, that the further consideration of this bill be postponed to the next session of Congress, it passed in the negative—yeas 5, nays 13, as follows:

YEAS—Messrs. Brown, Langdon, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Laurance, Lloyd, North, Paine, Read, Sedgwick, and Tracy.

On the passage of the bill to the third reading, the question was determined in the affirmative—yeas 13, nays 5, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Laurance, Lloyd, North, Paine, Read, Sedgwick, and Tracy.

NAYS—Messrs. Brown, Langdon, Martin, Mason, and Tazewell.

So it was *Resolved*, That this bill be read the third time.

Mr. LLOYD notified the Senate that he should, on Monday next, ask leave to bring in a bill to define more particularly the crime of treason, and to define and punish the crime of sedition.

MONDAY, June 25.

The bill to declare the treaties between the United States and the Republic of France void and of no effect, was read the third time; and the final passage of the bill was determined in the affirmative—yeas 14, nays 5, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Laurance, Livermore, Lloyd, North, Paine, Read, Sedgwick, and Tracy.

NAYS—Messrs. Brown, Langdon, Martin, Mason, and Tazewell.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act to declare the treaties between the United States and the Republic of France void and of no effect."

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for the expenses incident to the new regiment of artillerists and engineers during the year one thousand seven hundred and ninety-eight," reported the bill amended; which was read and adopted.

Resolved, That this bill pass to the third reading, as amended.

Mr. READ, from the committee to whom was recommitted the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," reported that the bill pass without any additional amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the enumeration of the inhabitants of the United States;" and a bill, entitled "An act supplementary to the act entitled 'An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes;" in which bills they desire the concurrence of the Senate. They have passed the bill, sent from the Senate for concurrence, entitled "An act in addition to the act more effectually to protect the commerce and

coasts of the United States," with amendments; in which they desire the concurrence of the Senate.

The bills last brought up from the House of Representatives for concurrence were read, and ordered to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act in addition to the act more effectually to protect the commerce and coasts of the United States," were read.

Resolved, That they be referred to the committee who originally brought in the bill, to consider and report thereon to the Senate.

Mr. READ presented the resolutions of the inhabitants of Georgetown, in the State of South Carolina, declarative of their confidence in, and approbation of, the measures of Government, and pledging their lives and fortunes in the defence of the rights of their country; and the resolutions were read.

The Senate took into consideration the resolution of the House of Representatives of the 23d instant, authorizing an adjournment of Congress.

Resolved, That the further consideration thereof be postponed until Tuesday the 3d of July next.

The Senate took into consideration the report of the committee to whom was referred the motion to amend the rules for conducting business in the Senate, which was agreed to. Whereupon,

Resolved, That the following be added to the 19th rule:

"And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons, by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the Senate, when a quorum is convened, shall judge sufficient; and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of Senate, at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned."

A message from the House of Representatives informed the Senate that the House agree to all the amendments of the Senate to the bill, entitled "An act to alter the time of making entry of stills, and for other purposes," except to the last, to which they disagree.

The Senate resumed the consideration of the report of the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;" and, after progress,

Ordered, That the further consideration thereof be postponed.

TUESDAY, June 26.

Agreeably to notice yesterday, Mr. LLOYD moved for leave to bring in a bill to define, more particularly, the crime of treason, and to define and punish the crime of sedition.

On motion, by Mr. LIVERMORE, to refer this motion to a committee, it was determined in the negative—yeas 4, nays 17, as follows:

YEAS—Messrs. Bingham, Langdon, Livermore, and Lloyd.

NAYS—Messrs. Anderson, Brown, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Martin, Mason, Paine, Read, Sedgwick, Stockton, Tazewell, and Tracy.

On the question for leave to bring in the bill, it was determined in the affirmative—yeas 14, nays 8, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Brown, Langdon, Livermore, Martin, Mason, and Tazewell.

So the bill was brought in, and read the first time.

On the question to agree to the second reading of the bill, it was determined in the affirmative—yeas 14, nays 8, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Brown, Langdon, Livermore, Martin, Mason, and Tazewell.

So it was *Resolved*, That this bill pass to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act respecting alien enemies;" and a bill, entitled "An act to enable the President of the United States to borrow money for the public service;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act making an appropriation for the expenses incident to the new regiment of artillerists and engineers, during the year one thousand seven hundred and ninety-eight," was read the third time.

Resolved, That this bill pass with an amendment.

Mr. GOODHUE, from the committee to whom was referred the amendments of the House of Representatives to the bill entitled "An act in addition to the act more effectually to protect the commerce and coasts of the United States," reported that the amendments be adopted.

Resolved, That the Senate do concur in the amendments to the bill last mentioned.

The bill, sent from the House of Representatives, entitled "An act supplementary to the act entitled 'An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes,'" was read the second time.

Ordered, That it be referred to the committee appointed the 29th of November last, on that part of the Speech of the President of the United States respecting measures for the security and

protection of the commerce of the United States, to consider and report thereon to the Senate.

Mr. NORTH, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing arms for the militia throughout the United States," reported the bill without amendment.

The bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," was read the second time, and referred to Messrs. READ, LAURANCE, PAINE, TRACY, and BINGHAM, to consider and report thereon to the Senate.

On request, the VICE PRESIDENT was excused from attendance in Senate for the remainder of the session.

WEDNESDAY, June 27.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and THEODORE SEDGWICK was duly elected.

The bill to define more particularly the crime of treason, and to define and punish the crime of sedition, was read the second time.

On motion, that this bill be committed, it passed in the affirmative—yeas 15, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Brown, Langdon, Livermore, Martin, and Mason.

Ordered, That this bill be referred to Messrs. LLOYD, TRACY, STOCKTON, CHIPMAN, and READ, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act authorizing the grant and conveyance of a certain lot of ground to Elie Williams;" in which they desire the concurrence of the Senate.

The bill last brought up from the House of Representatives was read, and ordered to the second reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to the act entitled 'An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes," reported the bill without amendment; which was agreed to.

Resolved, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to enable the President of the United States to borrow money for the public service," was read the second time, and referred to Messrs. STOCKTON, TRACY, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act respecting alien enemies," was read the second time.

Ordered, That it be referred to Mr. LLOYD, and others, the committee appointed on the bill to define more particularly the crime of treason, and to define and punish the crime of sedition, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;" and, after progress,

Ordered, That the further consideration thereof be postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I have received a letter from his Excellency Thomas Mifflin, Governor of Pennsylvania, enclosing some documents, which I judge it my duty to lay before Congress without loss of time.

As my opinion coincides entirely with that of his Excellency the Governor, I recommend the subject to the consideration of both Houses of Congress, whose authority alone appears to me adequate to the occasion.

JOHN ADAMS.

UNITED STATES, *June* 27, 1798.

The Message and papers therein referred to were read.

Ordered, That they be committed to Messrs. BINGHAM, STOCKTON, and READ, to report thereon by bill or otherwise.

THURSDAY, June 28.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the grant and conveyance of a certain lot of ground to Elie Williams," was read the second time, and referred to Messrs. BROWN, PAINE, and TRACY, to consider and report thereon to the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill sent from the House of Representatives, entitled "An act limiting the time within which claims against the United States for credits on the books of the Treasury, may be presented for allowance," reported the bill without amendment.

The bill, sent from the House of Representatives for concurrence, entitled "An act supplementary to the act, entitled 'An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes," was read the third time, and amended.

On the question to agree to the final passage of the bill as amended, it was determined in the affirmative—yeas 17, nays 4, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Langdon, Mason, and Tazewell.

Resolved, That this bill pass with amendments.

Mr. BINGHAM, from the committee to whom

was referred the Message of the President of the United States, of the 27th instant, and the papers accompanying the same, reported a bill to authorize the President to prevent and regulate the landing of French passengers and other persons, who may arrive within the ports of the United States, from foreign places; which bill was read, and, by unanimous consent, it was read the second time.

Resolved, That this bill pass to a third reading.

FRIDAY, June 29.

The Senate took into consideration the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act providing arms for the militia throughout the United States;" and, having adopted the report,

Resolved, That this bill pass to a third reading.

The bill to authorize the President to prevent and regulate the landing of French passengers, and other persons, who may arrive within the United States from foreign places, was read the third time.

On motion, to amend the proviso to the fourth section to read as follows:

"*Provided* That nothing in this act shall be construed to prohibit the migration or importation of such persons as any State may think proper by law to admit, nor to such persons whose admission may be prohibited by the respective States:"

It was determined in the negative—yeas 3, nays 17, as follows:

YEAS—Messrs. Anderson, Mason, and Tazewell.

NAYS—Messrs. Bingham, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Sedgwick, Stockton, and Tracy.

On motion, by Mr. MASON, to strike out these words from the preamble:

"The peculiar circumstances of the United States, in relation to the Republic of France, and the citizens thereof, require that, whilst the United States have afforded hospitality and protection to Frenchmen who have sought an asylum in this country, they should, on the other hand, guard against the arrival and admission of such evil disposed persons as, by their machinations, may endanger the internal safety and tranquillity of the country;" in order to insert the following words: "It is represented that, on the evacuation of Port au Prince by the British troops, a number of French white men and negroes were put on board of vessels bound to the United States, some of which have arrived, and others may be shortly expected, and it is deemed dangerous to admit indiscriminately such persons into the United States:"

It was agreed to divide the motion, and that the words should be struck out; and, on the question to agree to the substitute, it was determined in the negative—yeas 10, nays 10, as follows:

YEAS—Messrs. Anderson, Bingham, Langdon, Laurance, Livermore, Martin, Mason, North, Read, and Tazewell.

NAYS—Messrs. Foster, Goodhue, Hillhouse, Howard, Latimer, Lloyd, Paine, Sedgwick, Stockton, and Tracy.

So the amendment was lost.

And the bill being further amended, by striking out the remainder of the preamble,

Resolved, That the consideration of this bill be postponed until to-morrow.

SATURDAY, June 30.

The Senate resumed the third reading of the bill to authorize the President to prevent or regulate the landing of French passengers, and other persons, who may arrive within the ports of the United States from foreign places.

On motion, by Mr. MARTIN, one of the majority in favor of the exception yesterday agreed to, namely, "except children under the age of twelve years, and women, in cases especially authorized by the President," that it be reconsidered, it was determined in the negative—yeas 6, nays 15, as follows:

YEAS—Messrs. Hillhouse, Howard, Lloyd, Martin, and Read.

NAYS—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Langdon, Latimer, Laurance, Livermore, North, Paine, Sedgwick, Stockton, Tazewell, and Tracy.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to authorize the President to prevent or regulate the landing of French passengers, and other persons, who may arrive within the ports of the United States from foreign places."

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States."

On motion, by Mr. PAINE, to agree to the following amendment to the proviso in the eighth section, "And all uncultivated lands, except such as make part or parcel of a farm, and except wood lots, used or reserved for the purposes of fuel, fencing, lumber, or building:"

It was determined in the negative—yeas 10, nays 11, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Goodhue, Latimer, Laurance, Livermore, Paine, Sedgwick, and Stockton.

NAYS—Messrs. Foster, Hillhouse, Howard, Langdon, Lloyd, Martin, Mason, North, Read, Tazewell, and Tracy.

On motion, by one of the majority, to reconsider and restore the following words, struck out from the end of the proviso to the eighth section: "or which, at the time of making the said valuation or enumeration, shall not have been assessed for, nor be then held liable to, taxation under the laws of the State wherein the same is, or may be, situated or possessed, shall be exempted from the aforesaid valuation and enumeration:"

It was determined in the negative—yeas 6, nays 14, as follows:

YEAS—Messrs. Bingham, Foster, Howard, Latimer, Laurance, and North.

NAYS—Messrs. Brown, Chipman, Goodhue, Hillhouse, Langdon, Livermore, Lloyd, Martin, Mason, Paine, Read, Sedgwick, Tazewell, and Tracy.

On motion, by Mr. MASON, to add the following words to the end of the eighth section: "except such as, from fixed infirmity or bodily disability, may be incapable of labor:"

It was determined in the affirmative—yeas 11, nays 8, as follows:

YEAS—Messrs. Howard, Langdon, Latimer, Livermore, Lloyd, Martin, Mason, Paine, Read, Sedgwick, and Tazewell.

NAYS—Messrs. Bingham, Brown, Foster, Goodhue, Hillhouse, Laurance, North, and Tracy.

On motion, by Mr. BROWN, to strike out of that part of the eighth section which respects the enumeration of slaves these words, "above the age of twelve, and under the age of fifty, years:"

It was determined in the negative—yeas 10, nays 11, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Goodhue, Hillhouse, Latimer, Laurance, Lloyd, North, and Sedgwick.

NAYS—Messrs. Foster, Howard, Langdon, Livermore, Martin, Mason, Paine, Read, Stockton, Tazewell, and Tracy.

The report of the committee having been agreed to, and the bill amended accordingly,

Resolved, That it pass to the third reading as amended.

Mr. HILLHOUSE, from the managers on the part of the Senate, appointed to confer with the managers on the part of the House of Representatives, on the disagreeing votes of the two Houses on the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," made report, which was read.

Ordered, That it lie for consideration.

Mr. TRACY notified the Senate that he should, on Monday next, ask leave to bring in a bill to alter and amend the act making alterations and amendments in the Treasury and War Departments, and to alter and amend the act entitled "An act to establish the office of Purveyor of Public Supplies."

MONDAY, July 2.

JOHN RUTHERFURD, from the State of New Jersey, attended.

The Senate took into consideration the resolution of the House of Representatives disagreeing to their amendment to the bill, entitled "An act to alter the time of making entry of stills, and for other purposes."

Resolved, That they do insist on their said amendment, and ask a conference thereon, and that Messrs. HILLHOUSE and PAINE be the managers at the same on the part of the Senate.

Mr. HILLHOUSE reported, from the managers on the part of the Senate appointed to confer with the managers on the part of the House of Representatives on the differing votes of the two Houses on the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States:" Whereupon,

Resolved, That the Senate do recede from their first amendment, and insist on their disagreement to the amendments of the House of Representatives to the second amendment of the Senate.

Mr. LLOYD, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting alien enemies," reported the bill with amendments, which were adopted, and the bill was amended accordingly.

Resolved, That this bill pass to the third reading as amended.

Mr. LLOYD, from the committee to whom was referred the bill to define more particularly the crime of treason, and to define and punish the crime of sedition, reported amendments; which were read.

Ordered, That they lie for consideration.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to lay and collect a direct tax within the United States," in which they desire the concurrence of the Senate.

The bill was read, and it was, by unanimous consent, read the second time.

Ordered, That it be referred to Messrs. STOCKTON, LAURANCE, READ, BINGHAM, and LATIMER, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," was read the third time.

On motion, to restore these words in the provision for the valuations of lands and town lots, struck out of the eighth section, line 21st, to wit: "might be sold for immediate payment," it was determined in the negative—yeas 8, nays 14, as follows:

YEAS—Messrs. Bingham, Brown, Howard, Latimer, Laurance, Livermore, North, and Tazewell.

NAYS—Messrs. Chipman, Foster, Goodhue, Hillhouse, Langdon, Lloyd, Martin, Mason, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

On motion, by Mr. LAURANCE, to agree to the following amendment in the proviso to the eighth section: "and all uncultivated lands, except such as make a part or parcel of a farm, and except wood lots used or reserved for the purposes of fuel, fencing, lumber, or building," it was determined in the negative—yeas 10, nays 12, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Latimer, Laurance, Livermore, Paine, Rutherfurd, Sedgwick, and Stockton.

NAYS—Messrs. Foster, Goodhue, Hillhouse, Howard, Langdon, Lloyd, Martin, Mason, North, Read, Tazewell, and Tracy.

On motion, by Mr. READ, the following amendment was agreed to: after "same," in the 7th line of second section, "in default of taking which oath or affirmation before entering on the discharge of the duties aforesaid, the party failing shall forfeit and pay two hundred dollars for the use of the United States, to be recovered in any court, having competent jurisdiction, with cost of suit."

On motion, by Mr. LAURANCE, to strike out of the provision, for the enumeration of slaves, these words, "above the age of twelve, and under the age of fifty years, it was determined in the negative—yeas 11, nays 11, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Goodhue, Hillhouse, Latimer, Laurance, Lloyd, North, Rutherfurd, and Sedgwick.

NAYS—Messrs. Foster, Howard, Langdon, Livermore, Martin, Mason, Paine, Read, Stockton, Tazewell, and Tracy.

So the motion was lost.

The question, on the final passage of the bill, was unanimously determined in the affirmative—yeas 22, as follows:

YEAS—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Martin, Mason, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, Tazewell, and Tracy.

Resolved, That this bill pass with amendments.

TUESDAY, July 3.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the establishing and organizing a battalion of infantry, to be called the Marine Corps," reported amendments, which were read.

Ordered, That they lie for consideration.

The Senate resumed the consideration of the report of the committee to whom was referred the bill to define more particularly the crime of treason, and to define and punish the crime of sedition; and, having agreed to the report, the bill was amended accordingly; and the question to agree to the third reading of the bill, as amended, was determined in the affirmative—yeas 18, nays 5, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Brown, Langdon, Mason, and Tazewell.

The bill, sent from the House of Representatives, entitled "An act providing arms for the militia throughout the United States," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act further to protect the commerce of the United States," in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Mr. GOODHUE, and others, appointed the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of the commerce thereof, to consider and report thereon to the Senate.

Agreeably to the order of the day, the Senate took into consideration the resolution sent from the House of Representatives for the adjournment of Congress on the 9th instant.

Resolved, That the consideration thereof be postponed until Saturday next.

A message from the House of Representatives informed the Senate that the House agree to the proposed conference on the bill entitled "An act to alter the time of making entry of stills, and for other purposes," and have appointed managers at the same on their part. They disagree to the report of the conferees on the bill entitled "An act providing for the more effectual collection of certain internal revenues of the United States," and adhere to their amendments to the said bill.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

The bill, sent from the House of Representatives, entitled "An act respecting alien enemies," was read the third time.

Resolved, That this bill pass with amendments.

The bill, sent from the House of Representatives, entitled "An act limiting the time within which claims against the United States for credits on the books of the Treasury may be presented for allowance," was read the third time, and amended.

On the question to agree to the final passage of the bill as amended, it was determined in the affirmative—yeas 15, nays 6, as follows:

YEAS—Messrs. Brown, Chipman, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Livermore, Martin, Paine, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Bingham, Laurance, Mason, North, Read, and Tazewell.

Resolved, That this bill pass with an amendment.

A message from the House of Representatives informed the Senate that the House agree to all the amendments of the Senate to the bill, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," except to strike out so much of the proviso to the 8th section as is contained in these words:

"Shall be exempted from the aforesaid valuation and enumeration:"

to which they do not agree.

The Senate proceeded to consider the amendment disagreed to by the House of Representatives to the bill last mentioned. Whereupon,

Resolved, That they do recede from their said amendment.

WEDNESDAY, July 4.

Agreeably to notice given on the 30th June last, Mr. TRACY had leave to bring in a bill to alter and amend the "Act making alterations and amendments in the Treasury and War Departments, and to alter and amend the act, entitled 'An act to establish the office of Purveyor of Public Supplies;" which was read, and ordered to the second reading.

The bill to define more particularly the crime

of treason, and to define and punish the crime of sedition, was read the third time.

On motion to expunge the following words from the second section reported as an amendment:

"Or shall, in manner aforesaid, traduce or defame the President of the United States, or any Court or Judge thereof, by declarations, tending to criminate their motives in any official transaction;"

It was determined in the negative—yeas 8, nays 15, as follows:

YEAS—Messrs. Anderson, Brown, Howard, Langdon, Martin, Mason, North, and Tazewell.

NAYS—Messrs. Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

On motion to expunge the whole of the second section reported by the committee, in the words following:

"SEC. 2. *And be it further enacted*, That if any person shall, by any libellous or scandalous writing, printing, publishing, or speaking, traduce or defame the Legislature of the United States, by seditious or inflammatory declarations, or expressions, with intent to create a belief in the citizens thereof, that the said Legislature, in enacting any law, was induced thereto by motives hostile to the Constitution, or liberties and happiness of the people thereof; or shall, in manner aforesaid, traduce or defame the President of the United States, or any Court or Judge thereof, by declarations tending to criminate their motives, in any official transaction; the person so offending, and thereof convicted, before any Court of the United States having jurisdiction thereof, shall be punished by a fine, not exceeding two thousand dollars, and by imprisonment, not exceeding two years:"

It was determined in the negative—yeas 6, nays 18, as follows:

YEAS—Messrs. Anderson, Brown, Howard, Langdon, Mason, and Tazewell.

NAYS—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

The question on the final passage of the bill was determined in the affirmative—yeas 18, nays 6, as follows:

YEAS—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States."

THURSDAY, July 5.

A motion was made that the Secretary of the Senate pay to Hugh McKinley, for his labor and attendance on the Senate, one dollar per day, during the time he has been, or may be, thus employed the present session; to be paid out of the money appropriated for the contingent expenses of the two Houses of Congress; and it was agreed that the motion should lie for consideration.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act further to protect the commerce of the United States," reported the bill without amendment; and the report was adopted.

Resolved, That this bill pass to a third reading.

The amendments reported by the committee, to whom was referred the bill sent from the House of Representatives, entitled "An act for the establishing and organizing a battalion of infantry to be called the Marine Corps," were considered and agreed to, and the bill was amended accordingly.

Resolved, That this bill pass to the third reading as amended.

Mr. STOCKTON, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to lay and collect a direct tax within the United States," reported the bill amended.

Ordered, That the amendments lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act for erecting a lighthouse and beacon, and placing buoys, at the places therein mentioned;" in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. GOODHUE, GREENE, and MARTIN, to consider and report thereon to the Senate.

The bill to alter and amend the act making alterations and amendments in the Treasury and War Departments, and to alter and amend the act, entitled "An act to establish the office of Purveyor of Public Supplies," was read the second time, and amended.

Resolved, That this bill pass to the third reading as amended.

The bill to amend an act, entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," was read the third time.

And the question to agree to the final passage of the bill, was determined in the affirmative—yeas 13, nays 9, as follows:

YEAS—Messrs. Anderson, Brown, Chipman, Foster, Hillhouse, Howard, Langdon, Laurance, Martin, North, Paine, Rutherfurd, and Stockton.

NAYS—Messrs. Clayton, Goodhue, Greene, Livermore, Lloyd, Mason, Read, Sedgwick, and Tracy.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to amend an act, entitled 'An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river."

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act for the relief of sick and disabled seamen."

Resolved, That the further consideration of this bill be postponed until to-morrow.

FRIDAY, July 6.

The motion made yesterday, respecting the compensation to Hugh McKinley, for services, was considered; whereupon,

Resolved, That the Secretary of the Senate pay to Hugh McKinley, for his labor and attendance on the Senate, one dollar per day, during the time he has been, or may be, thus employed the present session; to be paid out of the money appropriated for the contingent expenses of the two Houses of Congress.

The bill, sent from the House of Representatives, entitled "An act for establishing and organizing a battalion of infantry, to be called the Marine Corps," was read the third time, and amended.

Resolved, That this bill pass with amendments.

The bill, sent from the House of Representatives, entitled "An act further to protect the commerce of the United States," was read the third time; and the question to agree to the final passage of the bill was determined in the affirmative—yeas 18, nays 4, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Brown, Langdon, and Tazewell.

The bill to alter and amend the act making alterations and amendments in the Treasury and War Departments, and to alter and amend the act, entitled "An act to establish the office of Purveyor of Public Supplies," was read the third time; and, the title being amended,

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act establishing the office of Accountant in the Department of the Navy, and to alter and amend the act, entitled 'An act to establish the office of Purveyor of Public Supplies."

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts," reported the bill with amendments; which were read.

Ordered, That they lie for consideration.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to lay and collect a direct tax within the United States."

On motion to agree to part of the report of the committee, which is to amend that clause of the second section which now stands, "upon every dwelling-house which, with the out-houses appurtenant thereto, and the lot whereon the same are erected, not exceeding two acres in any case, shall be valued, in manner aforesaid, at more than one hundred and not more than five hundred dollars," by striking out the words "at more than one hundred and not more than five hundred dollars," it passed in the affirmative—yeas 13, nays 10, as follows:

YEAS—Messrs. Anderson, Bingham, Clayton, Greene, Howard, Langdon, Latimer, Laurance, Martin, North, Read, Rutherfurd, and Tazewell.

NAYS—Messrs. Brown, Chipman, Foster, Goodhue, Hillhouse, Livermore, Paine, Sedgwick, Stockton, and Tracy.

The consideration of the bill at this time was then postponed.

SATURDAY, July 7.

Mr. LIVERMORE, by unanimous consent, obtained leave to bring in a bill to alter the time for the next meeting of Congress; and the bill was read; and, by unanimous consent, the bill was read the second time.

Ordered, That it be referred to Messrs. LIVERMORE, STOCKTON, and BINGHAM, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate, that the House concur in the bill, sent from the Senate, entitled "An act to declare the treaties between the United States and the Republic of France void and of no effect," with amendments; in which they desire the concurrence of the Senate.

The Senate took into consideration the amendments to the bill last mentioned.

Resolved, That they do concur therein.

Mr. STOCKTON, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service," reported the bill with amendments; which were read.

Ordered, That they lie for consideration.

A motion was made by Mr. GOODHUE, as followeth:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring*, That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, and, when ratified by three-fourths of the said Legislatures, to be valid, to all intents and purposes, as part of the said Constitution, viz:

"That (in addition to the other qualifications prescribed by the said Constitution) no person shall be eligible as President or Vice President of the United States, nor shall any person be a Senator or Representative in the Congress of the United States, except a natural born citizen, or unless he shall have been a resident in the United States at the time of the declaration of independence, and shall have continued either to reside within the same or to be employed in its service from that period to the time of his election."

Ordered, That this motion lie for consideration.

The Senate took into consideration the amendments reported by the committee to whom was

referred the bill, sent from the House of Representatives, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts;" and the amendments were adopted. And it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act establishing an annual salary for the surveyor of the port of Gloucester;" and a bill, entitled "An act to make a further appropriation for the additional naval armament;" in which they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to the second reading.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, entitled "An act to make a further appropriation for the additional naval armament," be now read the second time.

Ordered, That it be referred to Messrs. TRACY, GOODHUE, and RUTHERFURD, to consider and report thereon to the Senate.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to lay and collect a direct tax within the United States."

On motion, to add to the second section the amendment reported by the committee, amended as follows:

"Except such lands as, at the time of making the said valuation or enumeration, shall not have been assessed for, nor be then held liable to, taxation, for State purposes, under the laws of the State wherein the same is, or may be, situated or possessed:"

It was determined in the negative—yeas 9, nays 12, as follows:

YEAS—Messrs. Anderson, Bingham, Foster, Goodhue, Howard, Laurance, Mason, North, and Rutherfurd.

NAYS—Messrs. Brown, Clayton, Greene, Hillhouse, Langdon, Livermore, Martin, Paine, Sedgwick, Stockton, Tazewell, and Tracy.

On motion, by Mr. GREENE, to strike out the word "and," in the 5th line of the second section, and insert, after "slaves," in the same line, "and other personal property;" it was determined in the negative—yeas 6, nays 16, as follows:

YEAS—Messrs. Brown, Greene, Langdon, Laurance, Livermore, and North.

NAYS—Messrs. Anderson, Bingham, Chipman, Clayton, Foster, Goodhue, Hillhouse, Howard, Martin, Mason, Paine, Read, Sedgwick, Stockton, Tazewell, and Tracy.

And the bill having been further amended, it was ordered to the third reading, as amended.

The Senate resumed the consideration of the resolution of the House of Representatives, on the subject of adjournment.

Resolved, That it be postponed until Monday next.

MONDAY, July 9.

Mr. LIVERMORE, from the committee to whom was referred the bill to alter the time for the next meeting of Congress, reported that the bill pass without amendment; and the report was adopted. And it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time; and the blank was filled with "the first Monday in November next."

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act to alter the time for the next meeting of Congress."

Mr. GOODHUE, from the committee appointed the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of commerce, reported a bill for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States; which was read, and ordered to the second reading.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service."

On motion, by Mr. BINGHAM, to strike out these words: "All such sums of money as, before the end of the next session of Congress may, in his judgment, be necessary," and to substitute the following: "A sum not exceeding —— dollars."

It was determined in the affirmative—yeas 11, nays 9, as follows:

YEAS—Messrs. Anderson, Bingham, Chipman, Clayton, Greene, Langdon, Laurance, Martin, North, Rutherfurd, and Tazewell.

NAYS—Messrs. Foster, Goodhue, Hillhouse, Howard, Livermore, Paine, Sedgwick, Stockton, and Tracy.

And having agreed to the amendments reported by the committee, the bill was ordered to the third reading as amended.

The bill, sent from the House of Representatives, entitled "An act establishing an annual salary for the surveyor of the port of Gloucester," was read the second time, and ordered to the third reading.

A message from the House of Representatives informed the Senate, that the House concur in the amendments of the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually, the settlement of their accounts," with amendments, in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act to augment the Army of the United States, and for other purposes," in which they desire the concurrence of the Senate.

The bill last brought up from the House of

Representatives was read, and ordered to the second reading.

The Senate took into consideration the amendments of the House of Representatives to the amendments of the Senate, to the bill, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts."

Resolved, That they do agree to the said amendment to their amendments.

The Senate resumed the consideration of the resolution of the House of Representatives for adjourning the two Houses of Congress on the 9th instant.

Resolved, That they do concur therein, so amended as that Congress may adjourn on the 16th instant.

The bill, sent from the House of Representatives, entitled "An act to lay and collect a direct tax within the United States," was read the third time; and the bill being further amended,

Resolved, That it pass with amendments.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Thomas Lewis," reported the bill without amendment.

On the question to agree to the third reading of this bill, it passed in the negative.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for erecting a light-house and a beacon, and placing buoys, at the places therein named," reported the bill without amendment.

Resolved, That this bill pass to a third reading.

Mr. BINGHAM, from the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," made a report; which was read.

Ordered, That the report, together with a statement of the case, signed Elias Boudinot, Director of the Mint, be printed for the use of the Senate.

TUESDAY, July 10.

The bill for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States, was read the second time and amended.

Resolved, That this bill pass pass to the third reading as amended.

The bill, sent from the House of Representatives, entitled "An act to augment the Army of the United States, and for other purposes," was read the second time.

Ordered, That it be referred to the committee appointed the 29th of November last, on that part of the Speech of the President of the United States which respects measures for the security and protection of commerce, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service," was read the third time.

On motion to strike out, from the 1st section of the bill, lines six and and seven, the following words: "And upon such terms and conditions as he shall judge most advantageous for the United States;" and insert, in lieu thereof, the following: "at a rate of interest not exceeding six per cent. per annum:"

It was determined in the negative—yeas 9, nays 14, as follows:

YEAS—Messrs. Anderson, Brown, Langdon, Livermore, Martin, Mason, North, Paine, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

On motion to strike out the amendment agreed to yesterday, as follows: "Which sums of money may be borrowed on contracts to remain fixed and irredeemable for a term not exceeding twenty-five years:"

It was determined in the affirmative—yeas 19, nays 4, as follows:

YEAS—Messrs. Anderson, Brown, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Langdon, Latimer, Laurance, Livermore, Martin, Mason, North, Paine, Rutherfurd, Sedgwick, and Tazewell.

NAYS—Messrs. Bingham, Read, Stockton, and Tracy.

On motion, to expunge the words yesterday agreed to in the 1st section, to wit: "a sum not exceeding —— dollars," and to restore the words of the original bill, as follows: "all such sums of money as, before the end of the next session of Congress, may, in his judgment, be necessary:"

It was determined in the negative—yeas 11, nays 11, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Hillhouse, Latimer, Livermore, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Clayton, Greene, Langdon, Laurance, Martin, Mason, Rutherfurd, and Tazewell.

So the motion was lost.

And having filled up the blank, limiting the sum to be borrowed, with "five millions of dollars;"

Resolved, That this bill pass with amendments.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act to make a further appropriation for the additional naval armament," reported amendments; which were read,

Ordered, That they lie for consideration.

WEDNESDAY, July 11.

The bill for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States, was read the third time; and the final passage of the bill was determined in the affirmative—yeas 16, nays 4, as follows:

YEAS—Messrs. Anderson, Bingham, Chipman, Good-

hue, Greene, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Brown, Langdon, Mason, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States."

The bill, sent from the House of Representatives, entitled "An act establishing an annual salary for the surveyor of the port of Gloucester," was read a third time and passed.

The bill, sent from the House of Representatives, entitled "An act for erecting a light-house and beacon, and placing buoys, at the places therein mentioned," was read a third time.

Resolved, That the further consideration thereof be postponed until to-morrow.

A message from the House of Representatives informed the Senate that they concur in the first, and disagree to the second amendment of the Senate to the bill entitled "An act to enable the President of the United States to borrow money for the public service." They concur in the bill entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States," with amendments; in which they desire the concurrence of the Senate.

The Senate took into consideration the resolution of the House of Representatives, disagreeing to their second amendment to the bill entitled "An act to enable the President of the United States to borrow money for the public service."

Resolved, That they do insist on their amendment, ask a conference thereon, and that Messrs. TRACY and BINGHAM be managers at the same on the part of the Senate.

The Senate took into consideration the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to make a further appropriation for the additional naval armament;" which, being adopted, and the bill amended accordingly,

Resolved, That this bill pass to a third reading as amended.

The amendments of the House of Representatives to the bill entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States," were read and ordered to lie for consideration.

Ordered, That the memorial of Thomas McKean and others, respecting the publication of the Journals of Congress, be referred to Messrs. BINGHAM, LATIMER, and LIVERMORE, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan;" and, after debate,

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House agree to the conference on the amendment to the bill entitled "An act to enable the President of the United States to borrow money for the public service," and have appointed managers at the same on their part. They have passed a bill entitled "An act to suspend, for a further time, the duties upon the manufacture of snuff within the United States, and the drawbacks upon the exportation thereof;" in which they desire the concurrence of the Senate. They concur in some, and agree to other, amendments of the Senate to the bill entitled "An act to lay and collect a direct tax within the United States," with amendments; in which amendments they desire the concurrence of the Senate.

The Senate took into consideration the resolutions of the House of Representatives on the amendments of the Senate to the bill entitled "An act to lay and collect a direct tax within the United States."

On motion to insist on their amendment to section second, line sixth, to strike out the words "at more than one hundred, and not more than five hundred dollars," it passed in the negative—yeas 9, nays 12, as follows:

YEAS—Messrs. Anderson, Bingham, Latimer, Laurance, Martin, Mason, Read, Rutherfurd, and Tazewell.

NAYS—Messrs. Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Livermore, North, Paine, Sedgwick, Stockton, and Tracy.

On motion to recede from the amendment last recited, it was determined in the affirmative—yeas 13, nays 8, as follows:

YEAS—Messrs. Brown, Chipman, Foster, Goodhue, Greene, Hillhouse, Livermore, North, Paine, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Latimer, Laurance, Martin, Mason, Read and Tazewell.

So it was *Resolved*, That the Senate do recede from all their amendments disagreed to by the House of Representatives, and do disagree to their amendment of the twelfth amendment of the Senate.

A message from the House of Representatives informed the Senate that the House do not concur in the bill, sent from the Senate, entitled "An act to alter the time for the next meeting of Congress." They have passed a bill, entitled "An act in further addition to the act, entitled 'An act to establish the Judicial Courts of the United States;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act to suspend for a further time the duties upon the manufacture of snuff within the United States, and the drawback upon the exportation thereof," was read and ordered to the second reading.

THURSDAY, July 12.

The bill, sent from the House of Representatives, entitled "An act to suspend for a further time the duties upon the manufacture of snuff within the United States, and the drawback upon the exportation thereof," was read the second time.

Resolved, That this bill pass to a third reading.

The bill, sent from the House of Representatives, entitled "An act in further addition to the act, entitled 'An act to establish the Judicial Courts of the United States," was read the second time.

Resolved, That the bill pass to a third reading.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States."

On motion, by Mr. MARTIN, to amend the amendment of the House of Representatives, by striking out these words: "or bring them, or either of them, into contempt or disrepute, or to excite against them, or either or any of them, the hatred of the good people of the United States," it passed in the negative—yeas 5, nays 17, as follows:

YEAS—Messrs. Anderson, Brown, Martin, Mason, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

On motion, by Mr. MASON, to amend the last amendment of the House of Representatives, by striking out "during the time it shall be in force," and inserting, "which prosecution shall have been commenced during the continuance of the act," it passed in the negative—yeas 5, nays 17, as follows:

YEAS—Messrs. Anderson, Brown, Martin, Mason and Tazewell.

NAYS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

So it was *Resolved*, That the Senate do concur in the amendments of the House of Representatives to this bill.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to augment the Army of the United States, and for other purposes," reported amendments; which were read, agreed to, and the bill was amended accordingly.

Resolved, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act establishing the office of Accountant in the Department of the Navy, and to alter and amend the act, entitled 'An act to establish the office of Purveyor of Public Supplies," with amendments, in which they desire the concurrence of the Senate. They recede from their amendment to the twelfth amendment of the Senate on the bill, entitled "An act to lay and collect a direct tax within the United States." They adhere to their disagreement to the last amendment insisted on by the Senate to the bill, entitled "An act to alter the time of making entry of stills, and for other purposes." The House of Representatives have passed a bill, entitled "An act making certain additional appropriations for the year one thousand seven hundred and ninety-eight;" in which they desire the concurrence of the Senate.

Ordered, That the Secretary of the Senate lay before the President of the United States an attested copy of the joint resolution authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the 16th instant.

The amendment of the House of Representatives to the bill, entitled "An act establishing the office of Accountant in the Department of the Navy, and to alter and amend the act, entitled 'An act to establish the office of Purveyor of Public Supplies," was read.

Ordered, That it lie for consideration.

The resolution of the House of Representatives, adhering to their disagreement to the last amendment insisted on by the Senate to the bill, entitled "An act to alter the time of making entry of stills, and for other purposes," was considered.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

The Senate resumed the third reading of the bill, entitled "An act making further appropriations for the additional Naval Armament;" and the question on the final passage of the bill, as amended, was determined in the affirmative—yeas 13, nays 3, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherfurd, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Mason, and Tazewell.

So it was *Resolved*, That this bill do pass as amended.

The bill, sent from the House of Representatives, entitled "An act making certain additional appropriations for the year one thousand seven hundred and ninety-eight," was read the first time, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. TRACY, BINGHAM, and FOSTER, to consider and report thereon to the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives, entitled "An act for erecting a light-house and beacon, and placing buoys at the places therein mentioned;" and, after debate, the further consideration thereof was postponed.

FRIDAY, July 13.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," reported the bill without amendment.

On motion, by Mr. LIVERMORE, to postpone the further consideration of this bill to the next session of Congress, it was determined in the affirmative—yeas 11, nays 7, as follows:

YEAS—Messrs. Bingham, Chipman, Goodhue, Hillhouse, Laurance, Livermore, North, Paine, Read, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Clayton, Foster, Greene, Latimer, Mason, and Tazewell.

So it was *Resolved*, That the further consideration of this bill be postponed until the next session of Congress.

Mr. LIVERMORE notified the Senate that he should, to-morrow, ask leave to bring in a bill to alter the time for the next meeting of Congress.

Mr. BINGHAM, from the committee to whom was referred the petition of Thomas McKean and others, made report; which was read.

Ordered, That it lie for consideration.

The bill, sent from the House of Representatives, entitled "An act to augment the Army of the United States, and for other purposes," was read the third time; and the question on the final passage of the bill, as amended, was determined in the affirmative—yeas 15, nays 2, as follows:

YEAS—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Laurance, Livermore, Martin, North, Paine, Read, Sedgwick, and Tracy.

NAYS—Messrs. Mason and Tazewell.

So it was *Resolved*, That this bill do pass with amendments.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

A resolution of both Houses of Congress, authorizing an adjournment on Monday, the 16th of this month, has been laid before me. Sensible of the severity of the service in so long a session, it is with great reluctance that I find myself obliged to offer any consideration which may operate against the inclinations of the members; but certain measures of Executive authority which will require the consideration of the Senate, and which cannot be matured, in all probability, before Monday or Tuesday, oblige me to request of the Senate that they would continue their session until Wednesday or Thursday. JOHN ADAMS.

UNITED STATES, *July* 13, 1798.

The Message was read, and ordered to lie for consideration.

Mr. TRACY reported, from the managers appointed to confer on the amendments of the Senate to the bill, sent from the House of Representatives, entitled "An act to enable the President of the United States to borrow money for the public service," that the Senate recede from their proposed amendment, which was to strike out the proviso to the first section of the act; and to amend said proviso as follows, viz: Strike out after the word "borrowed," to the end of the proviso, and insert these words: "at any time after the expiration of fifteen years from the date of such loan;" and the report was adopted. Whereupon,

Resolved, That the Senate do accordingly recede from their amendment disagreed to by the House of Representatives on the said bill.

The bill, sent from the House of Representatives, entitled "An act in further addition to the act entitled 'An act to establish the Judicial Courts of the United States,'" was read the third time, and passed.

The Senate took into consideration the amendments of the House of Representatives to the bill entitled "An act establishing the office of Accountant in the Department of the Navy, and to alter and amend the act entitled 'An act to establish the office of Purveyor of Public Supplies.'"

Ordered, That they be referred to Messrs. TRACY, BINGHAM, and CHIPMAN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to suspend, for a further time, the duties upon the manufacture of snuff within the United States, and the drawbacks upon the exportation thereof," was read the third time, and passed.

The bill, sent from the House of Representatives, entitled "An act for erecting a light-house and beacon, and for placing buoys at the places therein mentioned," was read the third time; and, being further amended,

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to alter the time of making entry of stills;" and a bill entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States;" in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act to alter the time of making entry of stills," was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. PAINE, HILLHOUSE, and BROWN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," was read, and ordered to the second reading.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan;" and, having amended the bill, the question to agree to the third reading was determined in the affirmative—yeas 15, nays 4, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Greene, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherfurd, Tazewell, and Tracy.

NAYS—Messrs. Anderson, Brown, Clayton, and Mason.

Mr. CHIPMAN reported from the committee, that they had examined and found duly enrolled, the bill, entitled "An act to lay and collect a direct tax within the United States."

A message from the House of Representatives informed the Senate that the House do not concur in the bill, sent from the Senate, entitled "An act for encouraging the capture of French armed vessels by armed ships or vessels owned by a citizen or citizens of the United States.

SATURDAY, July 14.

Agreeably to notice given yesterday, Mr. LIVERMORE obtained leave to bring in a bill to alter the time for the next session of Congress; which was read, and ordered to the second reading.

On motion, by Mr. READ, that the 13th rule, for doing business in the Senate, which prohibits the second reading of a bill on the same day, be suspended for the remainder of the session, it was determined in the affirmative—yeas 13, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Read, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Brown, Martin, Mason, Rutherfurd, and Tazewell.

The bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," was read the second time.

On motion, that the further consideration thereof be postponed until the next session of Congress, it was determined in the negative—yeas 7, nays 14, as follows:

YEAS—Messrs. Goodhue, Hillhouse, Martin, Paine, Sedgwick, Tazewell, and Tracy.

NAYS—Messrs. Anderson, Bingham, Brown, Chipman, Foster, Greene, Howard, Latimer, Laurance, Livermore, Mason, North, Read, and Rutherfurd.

Ordered, That this bill be referred to Messrs. LAURANCE, BINGHAM, and LIVERMORE, to consider and report thereon to the Senate.

The Senate took into consideration the report of the committee on the petition of Thomas McKean and others, respecting the Journals of Congress proposed to be published by Richard Folwell. Whereupon,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and Clerk of the House of Representatives be authorized and directed to subscribe, on such terms as they may deem eligible, for the use of the Senate and House of Representatives, for four hundred copies of the Journals of Congress, which are proposed to be published by Richard Folwell.

On motion, the bill to alter the time for the next meeting of Congress was read the second time.

Resolved, That this bill do not pass to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making certain appropriations, and to authorize the President to obtain a loan on the credit of the direct tax; also, a bill, entitled "An act further to amend the act, entitled 'An act laying duties on stamped vellum, parchment, and paper;" in which bills they desire the concurrence of the Senate. They concur in the amendments of the Senate to the bill, entitled "An act to augment the Army of the United States, and for other purposes," with an amendment, in which they desire the concurrence of the Senate. They agree to some and disagree to other amendments of the Senate to the bill, entitled "An act to make a further appropriation for the additional Naval Armament." They recede from their disagreement to the amendments of the Senate to the bill, entitled "An act to enable the President of the United States to borrow money for the public service," so far as to concur therein, agreeably to the modification made by the committee of conference, and adopted by the Senate. They agree to some, and disagree to other, of the amendments of the Senate to the bill, entitled "An act for erecting a light-house and beacon, and placing buoys, at the places therein mentioned."

The Senate resumed the consideration of the report of the committee, to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of sick and disabled seamen; and, the same being adopted, the bill was read the third time.

Resolved, That this bill pass with amendments.

The Senate took into consideration their amendment, disagreed to by the House of Representatives, to the bill, entitled "An act for erecting a light-house and beacon, and placing buoys, at the places therein mentioned."

Resolved, That they do recede therefrom.

On motion, to reconsider the question thereon, and to agree to the third reading of the bill to alter the time for the next meeting of Congress, it was determined in the negative—yeas 10, nays 10, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Greene, Hillhouse, Laurance, Livermore, Martin, Read, and Tracy.

NAYS—Messrs. Anderson, Bingham, Brown, Howard, Latimer, Mason, North, Rutherfurd, Sedgwick, and Tazewell.

So the question was lost.

The Senate took into consideration the amendment of the House of Representatives to their amendment to the sixth section of the bill entitled "An act to augment the Army of the United States, and for other purposes."

Resolved, That the Senate agree to the said amendment with amendments.

A message from the House of Representatives informed the Senate that they have passed a bill entitled "An act allowing an additional compensation to the Doorkeeper and Assistant Doorkeeper of the House of Representatives, for their services during the present session of Congress;" in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act making certain appropriations, and to authorize the President to obtain a loan on the credit of the direct tax," was read a first and second time.

Ordered, That it be referred to the committee, appointed the 12th instant, on the bill entitled "An act making certain additional appropriations for the year one thousand seven hundred and ninety-eight," to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for allowing an additional compensation to the Doorkeeper and Assistant Doorkeeper of the House of Representatives, for their services during the present session of Congress," was read.

On motion, the bill was read a second and third time, and amended.

Resolved, That this bill pass with amendments.

The Senate took into consideration their amendments, disagreed to by the House of Representatives, to the bill entitled "An act to make a further appropriation for the additional naval armament."

Resolved, That they do recede from their said amendments, disagreed to by the House of Representatives.

The bill, sent from the House of Representatives, entitled "An act further to amend the act entitled 'An act laying duties on stamped vellum, parchment and paper,'" was read the first and second time, and referred to Messrs. GOODHUE, READ, and LAURANCE, to consider and report thereon to the Senate.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," reported the bill without amendment; and the report was adopted.

Resolved, That this bill pass to a third reading.

On motion, by Mr. BINGHAM, that the twelfth rule for doing business in the Senate, which prohibits the reading of a bill on the same day in which it is announced, be suspended for the residue of the session, it passed in the affirmative—yeas 11, nays 8, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Read, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Brown, Howard, Livermore, Martin, Mason, North, and Tazewell.

So it was *Resolved*, That the twelfth rule for doing business in the Senate be suspended during the present session.

On motion, Mr. BINGHAM had leave to bring in a bill to amend the act entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof;" which was read the first and second time, and referred to Messrs. BINGHAM, LAURANCE, and GOODHUE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of John Vaughan," was read the third time.

On motion, that the further consideration of this bill be postponed to the next session of Congress, it passed in the negative—yeas 10, nays 10, as follows:

YEAS—Messrs. Anderson, Brown, Goodhue, Hillhouse, Howard, Latimer, Livermore, Mason, North, and Tazewell.

NAYS—Messrs. Bingham, Chipman, Foster, Greene, Laurance, Martin, Read, Rutherfurd, Sedgwick, and Tracy.

So the motion was lost.

The question on the final passage of the bill was determined in the negative—yeas 10, nays 10, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Greene, Laurance, Martin, Read, Rutherfurd, Sedgwick, and Tracy.

NAYS—Messrs. Anderson, Brown, Goodhue, Hillhouse, Howard, Latimer, Livermore, Mason, North, and Tazewell.

So the bill was lost.

A message from the House of Representatives informed the Senate that they have passed a bill entitled "An act for allowing an additional compensation to the principal and the two engrossing clerks in the office of the Clerk of the House of Representatives, for their services during the present session of Congress;" in which they desire the concurrence of the Senate.

Ordered, That the Message of the President of the United States, of the 13th instant, be referred to Messrs. LAURANCE, READ, and TRACY, to consider and report thereon to the Senate.

MONDAY, July 16.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act further to amend the act entitled 'An act laying duties on stamped vellum, parchment, and paper,'" reported amendments; which were read.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

Mr. BINGHAM, from the committee to whom was referred the bill to amend the act entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," reported amendments; which were read and adopted.

Resolved, That this bill pass to a third reading as amended.

Mr. TRACY, from the committee to whom was referred the amendments of the House of Representatives to the bill entitled "An act establishing the office of Accountant in the Department of the Navy, and to alter and amend the act entitled 'An act to establish the office of Purveyor of Public Supplies,'" reported amendments to the amendments.

Resolved, That the Senate do agree to the first amendment, and to the amendment to the title.

Resolved, That they do disagree to the first of the two new sections, and agree to the last new section, with an amendment, to wit: in the last line but one, strike out the word "sixty," and insert in lieu thereof the word "ninety."

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making certain appropriations, and to authorize the President to obtain a loan on the credit of the direct tax," reported

the bill without amendment; and the report was adopted.

The bill was then read a third time and passed.

The petition of John Messing, exhibiting his claim to a certain tract of land in the State of New Hampshire, was presented and read.

Ordered, That this petition lie on file.

The bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," was read a third time.

On motion to postpone the consideration of this bill until the next session of Congress, it was determined in the negative—yeas 8, nays 11, as follows:

YEAS—Messrs. Anderson, Brown, Goodhue, Hillhouse, Martin, Sedgwick, Tazewell, and Tracy.

NAYS—Messrs. Bingham, Chipman, Foster, Greene, Howard, Latimer, Laurance, Livermore, North, Read, and Rutherfurd.

On motion to strike out these words from section first, lines seventh and eighth, "or in the purchase of arms for the militia of such State;" it passed in the negative.

On motion, by Mr. BROWN, to strike out, from section first, lines ninth and tenth, these words: "or to the sum assumed by the United States in the debt of such State;" it was determined in the negative—yeas 6, nays 13, as follows:

YEAS—Messrs. Anderson, Brown, Foster, Greene, Hillhouse, and Tazewell.

NAYS—Messrs Bingham, Chipman, Goodhue, Howard, Latimer, Laurance, Livermore, Martin, North, Read, Rutherfurd, Sedgwick, and Tracy.

The final passage of the bill was determined in the negative—yeas 9, nays 10, as follows:

YEAS—Messrs. Bingham, Chipman, Howard, Latimer, Laurance, Livermore, North, Read, and Rutherfurd.

NAYS—Messrs. Anderson, Brown, Foster, Goodhue, Greene, Hillhouse, Martin, Sedgwick, Tazewell, and Tracy.

So it was *Resolved*, That this bill do not pass.

The bill, sent from the House of Representatives, entitled "An act for allowing an additional compensation to the principal and the two engrossing clerks in the office of the Clerk of the House of Representatives, for their services during the present session of Congress," was read.

On motion, the bill was read a second and third time; and, being amended,

Resolved, That this bill pass with amendments.

The bill to amend the act entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," was read a third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to amend the act entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof."

Mr. BROWN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing the grant and conveyance of a certain lot of ground to Elie Williams," reported the bill without amendment; which report was adopted.

The bill was then read a third time and passed.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making certain additional appropriations for the year one thousand seven hundred and ninety-eight," reported the bill without amendment.

The bill was then read the third time, and passed.

Resolved, That the bill, sent from the House of Representatives, entitled "An act to alter the time of making entry of stills," be postponed until the next session of Congress; also, that the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Reuben Smith and Nathan Strong, and of Peter Aupoix," be discharged from the consideration thereof, and that the bill be postponed until the next session of Congress.

Ordered, That the report of the committee on the cession of a tract of land by the State of Connecticut to the United States, be postponed to the next session of Congress.

Mr. LAURANCE, from the committee to whom was referred the Message of the President of the United States of the 13th instant, made report; which was read.

Ordered, That it lie for consideration.

A message from the House of Representatives informed the Senate that the House concur in the bill, sent from the Senate, entitled "An act to amend the act, entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," with an amendment, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendment of the House of Representatives to the bill last mentioned.

Resolved, That they do not concur in the said amendment.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the bill, sent from the Senate, entitled "An act to amend the act, entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof;" ask a conference thereon, and have appointed managers at the same on their part.

The Senate took into consideration the resolution of the House of Representatives insisting on their amendment to the bill, entitled "An act to amend the act, entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," and asking a conference on the disagreeing votes of the two Houses.

Resolved, That they do agree to the proposed conference, and that Messrs. BINGHAM and GOODHUE be managers at the same on the part of the Senate.

Mr. BINGHAM, from the committee of confer-

ence, on the bill, entitled "An act to amend the act, entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," made a report. Whereupon,

Resolved, That the Senate do recede from their disagreement to the amendment of the House of Representatives, so far as agree thereto with an amendment.

A message from the House of Representatives informed the Senate, that the House recede from their amendment to the bill, entitled "An act to amend the act, entitled 'An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," so far as to agree thereto with the amendment of the Senate to their amendment.

Resolved, That John Vaughan have leave to withdraw his papers.

The Senate took into consideration the report of the committee to whom was referred the Message of the President of the United States of the 13th instant, and which is as follows:

"That as, in the opinion of the President, certain measures of Executive authority will require the consideration of the Senate, and which could not be matured before Monday or Tuesday, it is the opinion of the committee, that the Senate should adjourn in their Executive capacity to meet to-morrow at the Senate Chamber, at ten o'clock in the forenoon, on Executive business."

And the report was adopted.

A message from the House of Representatives informed the Senate, that the House have appointed a joint committee on their part to wait on the President of the United States, and notify him, that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn; and desire the appointment of a committee on the part of the Senate.

The Senate took into consideration this resolution of the House of Representatives.

Resolved, That they do concur therein, and that Messrs. CHIPMAN and GREENE be the committee on the part of the Senate.

Mr. CHIPMAN reported, from the joint committee, that they had waited on the President of the United States, who informed them that he had nothing further to communicate to Congress, except what might result from the last enrolled bill now under his consideration.

Ordered, That the Secretary acquaint the House of Representatives therewith; and that the Senate, having finished the Legislative business before them, are about to adjourn.

A message from the House of Representatives informed the Senate, that the House having finished the business before them, are about to adjourn to the first Monday in December next.

The Senate then went into the consideration of Executive business—after which,

The PRESIDENT declared the Senate, so far as respects its Legislative functions, adjourned to the time by the Constitution prescribed; and, in its Executive capacity, until to-morrow morning at ten o'clock.

EXECUTIVE SESSION.

TUESDAY, July 17, 1798.

Agreeably to the adjournment of yesterday, as stated at large in the Legislative proceedings, the Senate assembled.

PRESENT:

THEODORE SEDGWICK, President *pro tempore*, from the State of Massachusetts;
BENJAMIN GOODHUE, from Massachusetts;
NATHANIEL CHIPMAN, from Vermont;
JAMES HILLARY and URIAH TRACY, from Connecticut;
THEODORE FOSTER and RAY GREENE, from Rhode Island;
JOHN LAURANCE and WILLIAM NORTH, from New York;
JOHN RUTHERFURD, from New Jersey;
WILLIAM BINGHAM, from Pennsylvania;
HENRY LATIMER, from Delaware;
JOHN E. HOWARD, from Maryland;
HENRY TAZEWELL, from Virginia;
JOHN BROWN, from Kentucky;
JOSEPH ANDERSON, from Tennessee;
ALEXANDER MARTIN, from North Carolina;
JACOB READ, from South Carolina.

Ordered, That the following summons, directed to the Senators of the United States, respectively, be entered on the Journals:

The President of the United States to ——, *Senator for the State of* ——.

Certain matters touching the public good, requiring that the session of the Senate, for Executive business, should be continued, and that the members thereof should convene on Tuesday, the 17th day of July, inst., you are desired to attend at the Senate Chamber, in Philadelphia, on that day, at ten o'clock in the forenoon, then and there to receive and deliberate on such communications as shall be made to you on my part.

JOHN ADAMS.

UNITED STATES, *July* 16, 1798.

The Senate took into consideration the nominations of the Commissioners, under an act of Congress, passed in the present session, to provide for the valuation of lands and houses, and for the enumeration of slaves, as contained in the Message of the President of the United States, of the 16th instant. Whereupon,

Resolved, That they do advise and consent to the appointments, agreeably to the nominations, respectively.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate took into consideration the Message of the President of the United States, of the 16th instant, and the nominations contained therein, of Jonathan Dayton and William Ward Burrows, respectively, to office.

Resolved, That the consideration of the nomination of Jonathan Dayton be postponed.

Resolved, That the Senate do advise and consent to the appointment of William Ward Burrows, agreeably to the nomination.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the nomination of "Daniel McNeal, to be a captain in the navy, to take rank from the 5th of June, 1798," as contained in the Message of the President of the United States, of the 13th instant.

Mr. NORTH, from the committee appointed to consider this Message, made a report:

"That it appeared from a conversation which the committee had with the President, that he considered that part of his communication, which relates to Captain Neal's taking rank from the 5th of June last, merely as a memorandum. That he was exclusively invested with the power of settling the rank of officers, on their receiving appointments from the Senate; and that the insertion of the time from which Captain Neal is to take rank, is not binding on, or of consequence to the Senate, and therefore may, or may not, be acted upon by that body, or inserted in their Journals, at their pleasure."

On motion to divide the question on the nomination of Daniel McNeal, to the word "navy," inclusive;

The question of order was called for, which was by the President submitted to the Senate, who determined that the divison of it is in order.

And, on motion to agree to the first division of the question, as above stated, it was determined in the affirmative.

On motion, to agree to the subsequent division of the question, to wit: "to take rank from the 5th of June, 1798;" it was determined in the negative.

Resolved, That the Senate do advise and consent to the appointment of "Daniel McNeal, to be a captain in the navy."

Ordered, That the Secretary lay this resolution before the President of the United States.

On motion, to advise and consent to the appointment of "Thomas Williams, of Virginia, also to be a captain in the navy," agreeably to the nomination of the 13th instant it was determined in the affirmative.

Resolved, That the Senate do advise and consent to the appointment of Thomas Williams, of Virginia, to be a captain in the navy.

Ordered, That the Secretary lay this resolution before the President of the United States.

WEDNESDAY, July 18.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

Believing that the letter received this morning from General Washington, will give high satisfaction to the Senate, I transmit them a copy of it, and congratulate them and the public on this great event—the General's acceptance of his appointment as Lieutenant General and Commander-in-Chief of the Army.

JOHN ADAMS.

UNITED STATES, *July* 17, 1798.

MOUNT VERNON, *July* 13, 1798.

DEAR SIR: I had the honor, on the evening of the 11th instant, to receive from the hands of the Secretary of War, your favor of the 7th, announcing that you had, with the advice and consent of the Senate, appointed me "Lieutenant General and Commander-in-Chief of all the armies raised or to be raised for the service of the United States.

I cannot express how greatly affected I am at this new proof of public confidence, and the highly flattering manner in which you have been pleased to make the communication; at the same time I must not conceal from you my earnest wish that the choice had fallen upon a man less declined in years, and better qualified to encounter the usual vicissitudes of war.

You know, sir, what calculation I had made relative to the probable course of events on my retiring from office, and the determination I had consoled myself with, of closing the remnant of my days in my present peaceful abode; you will, therefore, be at no loss to conceive and appreciate the sensations I must have experienced to bring my mind to any conclusion that would pledge me, at so late a period of life, to leave scenes I sincerely love, to enter upon the boundless field of public action, incessant trouble, and high responsibility.

It was not possible for me to remain ignorant of, or indifferent to, recent transactions. The conduct of the Directory of France towards our country; their insidious hostility to its Government; their various practices to withdraw the affections of the people from it; the evident tendency of their acts and those of their agents to countenance and invigorate opposition; their disregard of solemn treaties and the laws of nations; their war upon our defenceless commerce; their treatment of our ministers of peace; and their demands, amounting to tribute; could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your Administration. They ought to inspire universal confidence; and will, no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis.

Satisfied, therefore, that you have sincerely wished and endeavored to avert war, and exhausted, to the last drop, the cup of reconciliation, we can with pure hearts appeal to Heaven for the justice of our cause, and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favored the people of these United States.

Thinking in this manner, and feeling how incumbent it is upon every person, of every description, to contribute at all times to his country's welfare, and especially in a moment like the present, when every thing we hold dear and sacred is so seriously threatened, I have finally determined to accept the commission of Commander-in-Chief of the Armies of the United States; with the reserve only that I shall not be called into the field until the Army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances.

In making this reservation, I beg it to be understood, that I do not mean to withhold any assistance to arrange and organize the Army, which you may think I can afford. I take the liberty also to mention, that I must decline having my acceptance considered as drawing after it any immediate charge upon the public, or that I can receive any emoluments annexed to the ap-

pointment, before entering into a situation to incur expense.

The Secretary of War being anxious to return to the seat of Government, I have detained him no longer than was necessary to a full communication upon the several points he had in charge.

With very great respect and consideration, I have the honor to be, dear sir, your most obedient and humble servant,

G. WASHINGTON.

JOHN ADAMS, *President of the United States.*

The Message and letter were read, and five hundred copies thereof ordered to be printed for the use of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I nominate Alexander Hamilton, of New York, to be Inspector General of the Army, with the rank of Major General.

Charles Cotesworth Pinckney, of South Carolina, to be a Major General.

Henry Knox, of Massachusetts, to be a Major General.

Henry Lee, of Virginia, to be a Major General of the Provisional Army.

Edward Hand, of Pennsylvania, to be a Major General of the Provisional Army.

John Brooks, of Massachusetts, to be a Brigadier General.

William Washington, of South Caroline, to be a Brigadier General.

Jonathan Dayton, of New Jersey, to be a Brigadier General.

William Stevens Smith, of New York, to be Adjutant General, with the rank of Brigadier General.

Ebenezer Huntington, of Connecticut, to be a Brigadier General of the Provisional Army.

Anthony Walton White, to be a Brigadier General of the Provisional Army.

William Richison Davie, of North Carolina, to be a Brigadier General of the Provisional Army.

John Sevier, of Tennessee, to be a Brigadier General of the Provisional Army.

James Craik, of Virginia, to be Physician General of the Army.

JOHN ADAMS.

JULY 18, 1798.

The Message was read, and ordered to lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I nominate William Winder, of Maryland, to be Accountant of the Navy.

JOHN ADAMS.

JULY 18, 1798.

The Message was read, and ordered to lie for consideration.

THURSDAY, July 19.

The Senate took into consideration the Message of the President of the United States, of the 18th instant, and the nomination contained therein, of William Winder, to office. Whereupon,

Resolved, That they do advise and consent to the appointment, agreeably to the nomination.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate took into consideration the Message of the President of the United States, of the 18th instant, and the nominations contained therein, of Alexander Hamilton, and others, to military appointments. Whereupon,

Resolved, That they do advise and consent to the appointments, agreeably to the nominations, respectively; except to that of William Stevens Smith, of New York, to be Adjutant General, with the rank of Brigadier General, to which they do not advise and consent.

Ordered, That the Secretary lay this resolution before the President of the United States.

Ordered, That Mr. BINGHAM and Mr. LAURANCE be a committee to wait on the President of the United States, and notify him, that, having finished the Executive business before them, they are ready to adjourn, unless he may have any further matters for their consideration.

Mr. BINGHAM reported, from the committee last mentioned, that the President of the United States informed them that he had a further communication to make to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I nominate William North, of New York, to be Adjutant General of the Army, with the rank of Brigadier General.

JOHN ADAMS.

UNITED STATES, *July* 19, 1798.

The Message was read.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the said nomination be now considered. Whereupon.

Resolved, That they do advise and consent to the appointment, agreeably to the nomination.

Ordered, That the Secretary lay this resolution before the President of the United States. Whereupon,

The President adjourned the Senate to the first Monday in December next, to meet in this place.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, MONDAY, NOVEMBER 13, 1797.

MONDAY, November 13, 1797.

This being the day appointed by law for the meeting of Congress, the House of Representatives assembled in their Chamber, and the following members answered to their names, to wit:

From New Hampshire.—ABIEL FOSTER.

From Massachusetts.—STEPHEN BULLOCK, SAMUEL LYMAN, JOHN REED, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

From Connecticut.—JOHN ALLEN, JOSHUA COIT, ROGER GRISWOLD, and NATHANIEL SMITH.

From New York.—LUCAS ELMENDORPH, HENRY GLEN, JONATHAN N. HAVENS, HEZEKIAH L. HOSMER, JOHN E. VAN ALEN, and JOHN WILLIAMS.

From New Jersey.—JONATHAN DAYTON, (Speaker,) and THOMAS SINNICKSON.

From Pennsylvania.—JOHN CHAPMAN, ALBERT GALLATIN, THOMAS HARTLEY, and JOHN SWANWICK.

From Maryland.—GEORGE BAER, junior, WILLIAM CRAIK, GEORGE DENT, and RICHARD SPRIGG, junior.

From Virginia.—JOHN DAWSON, D. HOLMES, JAMES MACHIR, DANIEL MORGAN, and ANTHONY NEW.

North Carolina.—MATTHEW LOCKE, NATHANIEL MACON, and RICHARD STANFORD.

South Carolina.—ROBERT GOODLOE HARPER, and JOHN RUTLEDGE, junior.

Several new members, to wit: ISAAC PARKER, from Massachusetts; THOMAS TILLINGHAST, returned to serve as a member of this House, for the State of Rhode Island, in the room of Elisha R. Potter, who has resigned his seat; and WILLIAM EDMOND, returned to serve in this House, as a member for Connecticut, in the room of James Davenport, deceased, appeared, produced their credentials, and took their seats in the House.

But a quorum of the whole number not being present, the House adjourned until to-morrow morning, eleven o'clock.

TUESDAY, November 14.

Several other members, to wit: from Massachusetts, HARRISON G. OTIS; from Rhode Island, CHRISTOPHER G. CHAMPLIN; from Connecticut, SAMUEL W. DANA and CHAUNCEY GOODRICH; from Vermont, MATTHEW LYON; from Pennsylvania, BLAIR MCCLENACHAN and RICHARD THOMAS; from Delaware, JAMES A. BAYARD; from Virginia, RICHARD BRENT; from North Carolina, ROBERT WILLIAMS; from South Carolina, WILLIAM SMITH; and from Georgia, ABRAHAM BALDWIN, appeared, and took their seats in the House.

But a quorum of the whole number not being present, the House adjourned until to-morrow morning, eleven o'clock.

WEDNESDAY, November 15.

Several other members, to wit: from New Jersey, JAMES H. IMLAY; from Pennsylvania, WILLIAM FINDLEY; and from Maryland, WILLIAM HINDMAN, appeared, and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present, the oath to support the Constitution of the United States was administered, by Mr. SPEAKER, to the following new members, to wit:

ISAAC PARKER, THOMAS TILLINGHAST, and WILLIAM EDMOND, who took their seats in the House on Monday last.

A message was then sent to the Senate, to inform them that a quorum of the House is assembled, and were ready to proceed to business.

On motion, *Ordered*, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers, such as the members, respectively, shall choose, to be delivered at their lodgings; provided they do not exceed the price at which subscribers are furnished with them.

Ordered, That a Committee of Revisal and Unfinished Business be appointed, pursuant to the Standing Rules and Orders of the House:

And a committee was appointed, of Mr. MACON, Mr. LYMAN, and Mr. HAVENS.

And then the House adjourned until to-morrow morning, eleven o'clock.

THURSDAY, November 16.

Several other members, to wit: from Vermont LEWIS R. MORRIS; from New York, JAMES COCHRAN, and EDWARD LIVINGSTON; from Virginia, MATTHEW CLAY, THOMAS EVANS, WALTER JONES, ABRAM TRIGG, and JOHN TRIGG; and from North Carolina, WILLIAM BARRY GROVE, appeared, and took their seats in the House.

And then the House adjourned until to-morrow morning, eleven o'clock.

FRIDAY, November 17.

Two other members, to wit: from New Jersey, MARK THOMSON; and from Pennsylvania, JOHN A. HANNA, appeared, and took their seats in the House.

Ordered, That a Committee of Elections be appointed, pursuant to the Standing Rules and Orders of the House:

And a committee was appointed, of Mr. COIT, Mr. VARNUM, Mr. JOHN WILLIAMS, Mr. HARTLEY, Mr. DENT, Mr. BALDWIN, and Mr. EVANS.

And then the House adjourned until Monday morning, eleven o'clock.

MONDAY, November 20.

Several other members, to wit: from New Hampshire, JONATHAN FREEMAN and WILLIAM GORDON; from New Jersey, JAMES SCHUREMAN; from Maryland, WILLIAM MATTHEWS; and from Virginia, ABRAHAM VENABLE, appeared, and took their seats in the House.

The House did not form a quorum for some time after the SPEAKER had taken the Chair; when it was formed,

Mr. MACON, from the Committee of Revisal and Unfinished Business, made a report in part; which being read, was ordered to be printed for the use of the members.

The House having sat for a considerable time without business, and the SPEAKER having declared there was none before it,

Mr. NEW said, as he understood there was not yet a quorum in the Senate, he should move that the House adjourn.

The motion was carried, and the House adjourned accordingly.

TUESDAY November 21.

Several other members, to wit: from Massachusetts, DWIGHT FOSTER; from New York, PHILIP VAN CORTLANDT; and from Virginia, CARTER B. HARRISON, appeared, and took their seats in the House.

Mr. COIT, from the Committee of Elections, made a report that the newly returned members were entitled to their seats.

Mr. HARPER said, as he understood the late Committee of Claims was not now in existence, he should move for the appointment of such a committee.

The motion was carried, and a committee of seven members were appointed, viz: Messrs. DWIGHT FOSTER, COIT, THOMSON, HANNA, BAER, JONES, and STANFORD.

Mr. LIVINGSTON moved that a Committee of Commerce and Manufactures be also appointed.

The motion was agreed to, and a committee of seven members appointed, viz: Messrs. LIVINGSTON, CHAMPLIN, GRISWOLD, SCHUREMAN, SWANWICK, GROVE, and DENT.

After the reception and disposition of several private memorials, the House adjourned.

WEDNESDAY, November 22.

Two other members, to wit: from Pennsylvania, DAVID BARD, and SAMUEL SITGREAVES, appeared and took their seats.

A message was received from the Senate informing the House that the Senate had formed a quorum, and that they had elected Mr. READ as President *pro tem.*

Mr. WILLIAMS moved that a committee be appointed, jointly with one to be appointed by the Senate, to wait on the President of the United States, to inform him that quorums of both Houses are assembled, and are ready to receive any communications which he may think proper to make to them.

The motion was agreed to, and Messrs. OTIS, RUTLEDGE, and DAWSON, were appointed a committee for the purpose.

A message was received from the Senate informing the House that they concurred with them in the appointment of a committee to wait on the President, and that they had appointed Messrs. BINGHAM and TRACY, a committee on their part.

Subsequently, the committee reported that they had performed the service, and that the President had signified that he would meet both Houses in the Representatives' Chamber to-morrow at 12 o'clock.

CUSTOM-HOUSE REGULATIONS.

Mr. RUTLEDGE presented a memorial from the merchants of Charleston, complaining of the operation of the law for the regulation of the custom-house at that place, by which the collector is to cause to be weighed by his own officers, all goods and wares imported, which were heretofore weighed by the proprietors of the wharves, who kept persons for the purpose, and which added considerably to the value of the private property of the individuals owning the said wharves. They state this grievance to have put them to great inconvenience, and pray for redress. Referred to the Secretary of the Treasury.

ENCOURAGEMENT OF THE ARTS.

Mr. COIT observed that there were, in his opinion, some inconsistencies in the act for the encouragement and protection of the useful arts. By this act, any person swearing that he is the inventor of any improvement, and paying the expense of the patent, may obtain one; and if any person infringes it, he has his remedy by suing him. The general scope of the act did not go to define who was the real inventor; this was left to be determined. In the former act on this subject, certain of the Heads of Departments were to determine whether any object proposed for a patent was really a new invention. In looking further into the act he found two clauses which he thought inconsistent with the general tenor of the law, [these he read,] and therefore moved that a committee be appointed to inquire whether any, and if any, what alterations are necessary to be made in the said act. Agreed to, and a committee of three members appointed.

BENJAMIN WELLS.

Mr. FINDLEY presented the memorial of Benjamin Wells, collector of revenue for the fourth survey of the district of Pennsylvania, who states that, in the years 1791, 1792, 1793, and 1794, and particularly in the last year, he had been greatly obstructed in the performance of his duty by persons opposed to the laws which he had to execute, by which he had experienced considerable loss and injury. He acknowledges having received from the commissioners, in pursuance of the act passed on this subject, upwards of eight hundred dollars, but this sum being inadequate to his compensation, he prays for further relief.

Mr. F. moved that this memorial, being a singular case, and the petitioner being in town waiting the issue of his application, should be referred to a select committee. This motion was seconded by Mr. HARTLEY, and opposed by Messrs. CORR and MACON, who were of opinion that the subject would come properly under the cognizance of the Committee of Claims, and that it was desirable, in order to preserve a uniformity in their proceedings, to have this and all other claims, referred to the standing committee. Mr. MACON therefore moved that this petition should be referred to the Committee of Claims; but, at the request of Mr. HARTLEY, both motions were withdrawn, and the petition was ordered to lie on the table.

Mr. FINDLEY gave notice he should call it up to-morrow.

UNFINISHED BUSINESS.

On motion of Mr. HARPER, the report of the Committee of Revisal and Unfinished Business was taken up, and the following resolution having been read, was agreed to:

"*Resolved*, That all petitions depending and undecided upon at the second session of the fourth Congress, and at the last session, ought to be taken up and acted upon by the House, as the same may be called for by any member, or upon the application of the individual claimant or petitioner."

Mr. HARPER then observed, that amongst the unfinished business, there was a report on the petition of Henry Hill, which was favorable to the petitioner. He wished, as the business had been long before the House, to have it early decided upon, and would move, therefore, that it be committed to a Committee of the Whole House. Agreed to, and made the order for Monday.

Mr. LIVINGSTON said, amongst the unfinished business, he found a bill for the relief of refugees from Canada and Nova Scotia. He wished it to be referred to a Committee of the Whole. Agreed to, and made the order for Monday.

Mr. HARPER observed, that towards the close of the last session, a very distressing case was brought before the House, and postponed for want of time; he meant that of Antonia Carmichael, widow of William Carmichael. He moved that the report be referred to a Committee of the Whole. Agreed to, and made the order for Tuesday.

Mr. LIVINGSTON said, there was a report of a select committee on the operation of the act for the relief and protection of American seamen, which included the subject of an establishment of a marine hospital, and other important matters. He wished this subject referred to a Committee of the Whole. Agreed to, and made the order for Tuesday.

Several other reports were moved for, and similarly disposed of.

Mr. VENABLE thought it not right that business which was perfectly new to many members should be thus referred to Committees of the Whole. He did not think the resolution of the Committee of Revisal and Unfinished Business went so far. He thought that it meant only that the petitions and reports should be taken up and read, and then disposed of as the House should think proper.

The SPEAKER decided that the order taken was agreeable to the reported resolution of the Committee of Revisal and Unfinished Business, which had been agreed to.

A message was received from the Senate informing the House that they had agreed to a resolution for the appointment of two Chaplains, one for each House, to interchange weekly; and that they had appointed on their part the Right Reverend Bishop WHITE.

THURSDAY, November 23.

Two new members, to wit: WILLIAM C. C. CLAIBORNE, from the State of Tennessee; and THOMAS PINCKNEY, returned to serve as a member of this House for the State of South Carolina, in the room of William Smith, appointed Minister Plenipotentiary of the United States to the Court of Lisbon, appeared, produced their credentials, and took their seats in the House; the oath to support the Constitution of the United States being first administered to them by Mr. SPEAKER, according to law.

Two other members, to wit: from Virginia, THOMAS CLAIBORNE and JOHN CLOPTON, appeared, and took their seats in the House.

PRESIDENT'S SPEECH.

The hour of twelve being near at hand, the SPEAKER announced it, and a message was sent to the Senate to inform them that they were met, and ready to receive the communications of the President of the United States, agreeably to his appointment.

The members of the Senate attended accordingly, and about a quarter after twelve the PRESIDENT OF THE UNITED STATES (after visiting the Senate Chamber) entered the House, accompanied by his Secretary and the Heads of Departments, and, being seated, rose and delivered the following Address:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I was for some time apprehensive that it would be necessary, on account of the contagious sickness which afflicted the city of Philadelphia, to convene the National Legislature at some other place. This measure it was desirable to avoid, because it would occasion much public inconvenience, and a considerable public expense, and add to the calamities of the in-

habitants of this city, whose sufferings must have excited the sympathy of all their fellow-citizens. Therefore, after taking measures to ascertain the state and decline of the sickness, I postponed my determination, having hopes, now happily realized, that, without hazard to the lives or health of the members, Congress might assemble at this place, where it was next by law to meet. I submit, however, to your consideration, whether a power to postpone the meeting of Congress, without passing the time fixed by the Constitution, upon such occasions, would not be a useful amendment to the law of one thousand seven hundred and ninety-four.

Although I cannot yet congratulate you on the re-establishment of peace in Europe, and the restoration of security to the persons and properties of our citizens from injustice and violence at sea, we have nevertheless abundant cause of gratitude to the Source of Benevolence and Influence, for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvements; and, above all, for a rational spirit of civil and religious liberty, and a calm, but steady determination to support our sovereignty, as well as our moral and religious principles, against all open and secret attacks.

Our Envoys Extraordinary to the French Republic embarked, one in July, the other early in August, to join their colleague in Holland. I have received intelligence of the arrival of both of them in Holland, from whence they all proceeded on their journey to Paris, within a few days of the nineteenth of September. Whatever may be the result of this mission, I trust that nothing will have been omitted on my part, to conduct the negotiation to a successful conclusion, on such equitable terms as may be compatible with the safety, honor, and interests of the United States. Nothing, in the meantime, will contribute so much to the preservation of peace, and the attainment of justice, as a manifestation of that energy and unanimity of which, on many former occasions, the people of the United States have given such memorable proofs, and the exertion of those resources for national defence, which a beneficent Providence has kindly placed within their power.

It may be confidently asserted, that nothing has occurred since the adjournment of Congress, which renders inexpedient those precautionary measures recommended by me to the consideration of the two Houses, at the opening of your late extraordinary session. If that system was then prudent, it is more so now, as increasing depredations strengthen the reasons for its adoption.

Indeed, whatever may be the issue of the negotiation with France, and whether the war in Europe is or is not to continue, I hold it most certain that perfect tranquillity and order will not soon be obtained. The state of society has so long been disturbed; the sense of moral and religious obligations so much weakened; public faith and national honor have been so impaired; respect to treaties has been so diminished, and the law of nations has lost so much of its force; while pride, ambition, avarice, and violence, have been so long unrestrained, there remains no reasonable ground on which to raise an expectation, that a commerce, without protection or defence, will not be plundered.

The commerce of the United States is essential, if not to their existence, at least to their comfort, their growth, prosperity, and happiness. The genius, character, and habits of the people are highly commercial; their cities have been founded, and exist, upon commerce; our agriculture, fisheries, arts, and manufactures, are connected with and depend upon it; in short, commerce has made this country what it is, and it cannot be destroyed or neglected without involving the people in poverty and distress; great numbers are directly and solely supported by navigation—the faith of society is pledged for the preservation of the rights of commercial, and seafaring, no less than of the other citizens. Under this view of our affairs, I should hold myself guilty of a neglect of duty, if I forebore to recommend that we should make every exertion to protect our commerce, and to place our country in a suitable posture of defence, as the only sure means of preserving both.

I have entertained an expectation, that it would have been in my power, at the opening of this session, to have communicated to you the agreeable information of the due execution of our treaty with His Catholic Majesty, respecting the withdrawing of his troops from our territory, and the demarkation of the line of limits; but by the latest authentic intelligence, Spanish garrisons were still continued within the limits of our country, and the running of the boundary line had not been commenced. These circumstances are the more to be regretted, as they cannot fail to affect the Indians in a manner injurious to the United States; still, however, indulging the hope that the answers which have been given, will remove the objections offered by the Spanish officers to the immediate execution of the treaty, I have judged it proper that we should continue in readiness to receive the posts, and to run the line of limits. Further information on this subject will be communicated in the course of the session.

In connection with the unpleasant state of things on our western frontier, it is proper for me to mention the attempts of foreign agents to alienate the affections of the Indian nations, and to excite them to actual hostilities against the United States; great activity has been exerted by these persons, who have insinuated themselves among the Indian tribes, residing within the territory of the United States, to influence them, to transfer their affections and force to a foreign nation, to form them into a confederacy, and prepare them for war, against the United States.

Although measures have been taken to counteract these infractions of our rights, to prevent Indian hostilities, and to preserve their attachment to the United States, it is my duty to observe, that, to give a better effect to these measures, and to obviate the consequences of a repetition of such practices, a law, providing adequate punishment for such offences, may be necessary.

The Commissioners appointed under the fifth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, to ascertain the river, which was truly intended, under the name of the river St. Croix, mentioned in the Treaty of Peace, met at Passamaquoddy Bay in October, 1796, and viewed the mouths of the rivers in question, and the adjacent shores and islands; and being of opinion, that actual surveys of both rivers to their sources, were necessary, gave the agents of the two nations instructions for that purpose, and adjourned to meet at Boston in August: they met; but the surveys, requiring more time than had been supposed, and not being then completed, the Commissioners again adjourned to meet at Providence, in the State of Rhode Island, in June next, when we may expect a final examination and decision.

The Commissioners appointed in pursuance of the sixth article of the treaty, met at Philadelphia in May last, to examine the claims of British subjects, for debts contracted before the peace, and still remaining due to them, from citizens or inhabitants of the United States. Various causes have hitherto prevented any determinations; but the business is now resumed, and doubtless will be prosecuted without interruption.

Several decisions on the claims of the citizens of the United States, for losses, and damages, sustained by reason of irregular and illegal captures, or condemnations, of their vessels or other property, have been made by the Commissioners in London, conformably to the seventh article of the treaty; the sums awarded by the Commissioners have been paid by the British Government; a considerable number of other claims, where costs and damages, and not captured property, were the only objects in question, have been decided by arbitration, and the sums awarded to the citizens of the United States have also been paid.

The Commissioners appointed agreeably to the 21st article of our Treaty with Spain, met at Philadelphia in the Summer past, to examine and decide on the claims of our citizens for losses they have sustained in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty, during the late war between Spain and France; their sittings have been interrupted, but are now resumed.

The United States being obligated to make compensation for the losses and damages sustained by British subjects, upon the award of the Commissioners acting under the sixth article of the Treaty with Great Britain, and for the losses and damages sustained by British subjects, by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the United States, and brought into their ports, or taken by vessels originally armed in ports of the United States, upon the awards of the Commissioners acting under the seventh article of the same treaty, it is necessary that provision be made for fulfilling these obligations.

The numerous captures of American vessels by cruisers of the French Republic, and of some by those of Spain, have occasioned considerable expenses, in making and supporting the claims of our citizens before their tribunals. The sums required for this purpose have, in divers instances, been disbursed by the Consuls of the United States; by means of the same captures, great numbers of our seamen have been thrown ashore in foreign countries, destitute of all means of subsistence, and the sick in particular have been exposed to grievous suffering.

The Consuls have, in these cases also, advanced moneys for their relief; for these advances they reasonably expect reimbursements from the United States. The Consular act relative to seamen requires revision and amendment; the provisions for their support in foreign countries, and for their return, are found to be inadequate, and ineffectual. Another provision seems necessary to be added to the Consular act; some foreign vessels have been discovered sailing under the flag of the United States, and with forged papers. It seldom happens that the Consuls can detect this deception, because they have no authority to demand an inspection of the registers and sea-letters.

Gentlemen of the House of Representatives:

It is my duty to recommend to your serious consideration those objects which, by the Constitution, are placed particularly within your sphere—the national debt and taxes.

Since the decay of the feudal system, by which the public defence was provided for, chiefly at the expense of individuals, a system of loans has been introduced. And as no nation can raise, within the year, by taxes, sufficient sums for its defence, and military operations in time of war, the sums loaned and debts contracted have necessarily become the subjects of what have been called funding systems. The consequences arising from the continued accumulation of public debts in other countries, ought to admonish us to be careful to prevent their growth in our own. The national defence must be provided for as well as the support of Government; but both should be accomplished, as much as possible, by immediate taxes, and as little as possible by loans. The estimates for the services for the ensuing year will, by my direction, be laid before you.

Gentlemen of the Senate and

Gentlemen of the House of Representatives:

We are met together at a most interesting period; the situations of the principal Powers of Europe are singular and portentous: connected with some by treaties and with all by commerce, no important event there can be indifferent to us; such circumstances call with peculiar importunity, not less for a disposition to unite in all those measures on which the honor, safety, and prosperity of our country depend, than for all the exertions of wisdom and firmness.

In all such measures you may rely on my zealous and hearty concurrence.

JOHN ADAMS.

UNITED STATES, *November* 23, 1797.

Having concluded his Speech, and delivered copies of it to the President *pro tem.* of the Senate, and to the Speaker of the House of Representatives, the PRESIDENT retired, the SPEAKER resumed the Chair, and the House being come to order, he, as usual, read the Speech from the Chair. This being done, on motion, it was referred to a Committee of the Whole House, and made the order for to-morrow. It was ordered also to be printed.

CHAPLAIN TO THE HOUSE.

Mr. WILLIAMS observed it was not usual to attend to much business on the day the Speech was delivered; but he should wish that they might take up the resolution of the Senate respecting the appointment of Chaplains.

The motion was agreed to, and the resolve of the Senate having been read,

Mr. MACON objected to the form of it. If they were to agree to a resolution of this kind, he hoped it would be in the usual form. The Senate, without their concurrence to the resolution, had proceeded to elect a Chaplain, which was contrary to former practice. They ought first, he said, to have known that this House would agree to have Chaplains before they had proceeded to an election. He called for the reading of the former resolution.

Mr. WILLIAMS did not think the variation material.

Mr. VENABLE wished to have the question divided, as the resolution and election were two distinct things. He therefore moved to strike out the latter part.

Mr. DWIGHT FOSTER saw no necessity for striking out any part of the resolution. It might very well be divided. He therefore moved that the

sense of the House might first be taken on the former part.

Mr. Venable consented, and the first part was agreed to.

Mr. Williams then moved that the House proceed to the election of a Chaplain. Agreed to.

The Speaker informing the House that a previous nomination was necessary,

Mr. Williams nominated the Rev. Ashbel Green.

The Sergeant-at-Arms was directed to collect the ballots, and Messrs. Griswold and N. Smith were appointed tellers.

The votes being examined, Mr. Griswold reported the result to be:

For Dr. Green	54
For Dr. Priestley	6
For Dr. Blair	3
For General Williams	1
For Mr. Ustick	1

Dr. Green was of course declared duly elected.

After reading a few private petitions which were referred to the Committee of Claims, the House adjourned.

Friday, November 24.

ADDRESS TO THE PRESIDENT.

Mr. Harper moved that the House form itself into a Committee of the Whole on the Speech of the President of the United States.

The motion was agreed to, and Mr. Dent was called to the Chair. The Speech having been read by the Chairman,

Mr. Harper and Mr. Lyon rose together. The Chairman determining the former to have the precedence,

Mr. Harper observed that it had been usual for the House to present an Address in answer to the communications of the President. He said he had in his hand the resolution which had heretofore been adopted, which he should submit to the consideration of the committee. It was to the following effect:

"*Resolved*, That a respectful Address be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress at the commencement of the present session, containing assurances that the House will take into consideration the various and important matters recommended to their attention."

Mr. Lyon said he was opposed to a resolution of this kind. He had risen to have made a different one, but the preference had been given to the gentleman from South Carolina. He wished to get rid of a debate of ten or fourteen days about the wording of an Answer to the President's Speech. He had it in contemplation to have returned an Answer directly from the House, by appointing a committee to inform the President they were ready to go on with their business; as he wished also to get rid of the troublesome and greatly derided custom of turning out *en masse* to wait upon the President. If he were in order, he would read what he intended to have moved.

The Chairman declaring it would be in order to read the proposition in his place, Mr. Lyon read as follows:

Resolved, As the opinion of this committee, that the various subjects submitted to the consideration of Congress by the President of the United States, in his Speech to both Houses at the commencement of the present session, ought to be taken into full and mature consideration by this House, and proceeded on with that due attention and despatch which their respective importance and a just regard to the public interest may demand; and that a committee of —— members be appointed to wait on the President, and in the name of the House respectfully to assure him of its ready co-operation with the other Departments of Government, in all such measures as may be deemed advisable for the public good, and to promote the peace, happiness, and welfare of the United States."

Mr. Harper supposed it was not necessary to use any arguments to show the propriety of adopting the same resolution which had hitherto been thought proper. He believed the occasions for innovation should be evident and strong, before they were resorted to. He had never heard any reason, in private or in public, for departing from the rule which had been laid down by their predecessors. With respect to the propriety of this mode of proceeding, if it should be called in question, he doubted not that there were members present who would show that it was proper, and had been adopted after serious consideration; but the mode proposed having been the constant practice since the adoption of the present Government, was a sufficient reason for continuing it. The gentleman from Vermont had said, "it was a very troublesome and much derided ceremony." With respect to its being troublesome, that was the fault of gentlemen who were opposed to the measure. They might make objections to every sentiment in an Answer, and by that means produce a long debate; otherwise the business would not be a troublesome one. As to its being a derided ceremony, he knew gentlemen who had caused themselves to be subjects of derision by their attempts to deride it; but whether those attempts had redounded to their own honor, or made them appear ridiculous, he left every one to decide.

Mr. Otis inquired whether the resolution of the gentleman who had just sat down was in order.

The Chairman replied, that the motion of the gentleman from South Carolina must first be decided upon.

It was then put and carried by 52 votes in the affirmative.

The committee then rose and reported the resolution. The House took it up; when

Mr. Havens called for the yeas and nays; which having been agreed to,

Mr. Venable said, the yeas and nays having been determined to be taken, as he intended to vote in the negative, he thought it necessary to give his reasons for doing so. He did not wish to enter into a long discussion on the subject at present. It was well known, that the mode of proceeding in answering the Address, had occasioned considerable embarrassment in the House.

It was not out of any disrespect to the Chief Magistrate that he was opposed to it. The gentleman from South Carolina had said, that except inconveniences had grown out of the practice, it ought not to be altered. If the gentleman would stand on this ground, he would pardon his vote. It was not from a wish to innovate, that he wished the custom departed from, but because it had been found to be attended with real inconveniences. It was well known that heretofore two or three weeks had been consumed in debating upon an answer to the Speech, which he thought an unnecessary waste of time, and delay of public business. This he thought a serious evil, and a sufficient reason for departing from the former precedent, which was established at a time when this inconvenience was not seen. He was, therefore, willing to change it.

Mr. Lyon said, it did not argue much for the age we live in, that they were to follow customs, merely because they had been established, which was all the reason the gentleman from South Carolina had given for adopting his resolution. He thought the gentleman last up had shown sufficient ground for departing from the old practice. He himself had attended to every argument he had heard in that House and out of it on the subject, in its favor, and he did not think them of any weight. He should wish to hear the reasons which gave rise to it. It was his opinion that they ought not to be bound by precedent, but every day endeavor to do better than they did the last.

The question was put, and decided in the affirmative—yeas 57, nays 20, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, James A. Bayard, Stephen Bullock, John Chapman, Thomas Claiborne, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Edward Livingston, Samuel Lyman, James Machir, William Mathews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Richard Sprigg, jr., John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Joseph B. Varnum, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—David Bard, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, Albert Gallatin, Carter B. Harrison, Jonathan N. Havens, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Anthony New, William Smith, Richard Stanford, Abraham Trigg, John Trigg, Philip Van Cortlandt, and Abraham Venable.

Mr. Lyon said, the House had now determined upon an Address. He would move what he thought would be the proper form. [He then read the substance of his resolution.]

The Speaker said it was not now in order to say what the Address should be. The gentleman might, after the committee was appointed, make his motion by way of instruction to the committee; or, when the Address should be reported, he might move his as a substitute.

Mr. Lyon questioned the opinion of the Speaker as to his being out of order.

The Speaker declared he was so; if the gentleman still thought otherwise, he might appeal to the House.

Mr. Lyon submitted, and a committee of five was appointed to draught an Answer, viz: Messrs. Otis, Dawson, Rutledge, Bayard, and Baldwin.

COLLECTION OF INTERNAL REVENUE.

Mr. Harper said, amongst the unfinished business of last session, there was a bill for the more effectual collection of certain internal revenues. He wished it to be committed to a Committee of the Whole.

Mr. Gallatin said it was unusual to go into the consideration of a bill which originated in a former session, in this summary way.

The Speaker said he was about to observe, that the resolution of the Committee of Revisal and Unfinished Business, which had been agreed to, did not comprise bills; they must of course be proceeded with according to the rule of the House on that subject, which he read.

Mr. Harper consented, and withdrew his motion.

FOREIGN COINS.

Mr. Venable moved that a committee be appointed to consider whether any and what alterations are necessary in the law for regulating foreign coins. He said very considerable loss had been experienced in different parts of the country by foreign coins, particularly by French crowns, and he thought some regulation on this subject was immediately necessary.

Mr. Macon and Mr. Harrison spoke of the necessity of the measure, and a committee of three was appointed.

BENJAMIN WELLS.

Mr. Findley moved that the petition of Benjamin Wells, collector in the western part of Pennsylvania, for further redress for injury sustained by the insurrection, presented the other day, be referred to a select committee.

Mr. Macon objected to its being sent to a special committee, on the same ground as when it was presented.

Mr. Hartley spoke in favor of a select committee, on account of the singularity of the case, and went into the merits of the claim.

Mr. Sitgreaves wished it on account of despatch, as the petitioner was waiting.

Mr. Coit acknowledged that select committees were generally more favorable to claims than the standing committee, but he did not think this ought to make them depart from their usual practice, particularly as the rule of the House was express on this head. [He read it.]

Mr. Gallatin was in favor of a select com-

mittee, as the petition involved the question whether any further relief ought to be granted to persons of this description. He did not wish this because he was in favor of further recompense, for he and the people in his part of the country thought there had been already more than sufficient granted. He wished the question, however, to come into discussion, and to have a decision; and as the Committee of Claims uniformly throw out all claims which were not founded upon some law, they would certainly throw out this, as it asked a favor, rather than demanded a right; he was in favor of its going to a select committee.

The question was put on reference to the Committee of Claims, and carried—38 to 37.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. Harper said, he should lay upon the table some resolutions respecting the mode of taking evidence in contested elections. It would be recollected, he said, that the House had experienced great inconvenience for want of some fixed mode of taking evidence in such cases. Persons had been obliged to attend here for instructions, they had gone back to take the evidence, and before they could return the session probably had closed. To remedy this inconvenience, it had been thought some permanent mode might be adopted so as to prevent these double journeys and consequent expenses. The motion which he now submitted was brought forward in the session before last, but postponed for want of time.

The resolutions were as follows:

"*Resolved*, That the method of taking evidence to be adduced in the trial of contested elections for this House, shall hereafter be as follows:

"*First*. The party intending to contest an election shall give notice of such intention to the person returned. If it be an election in the usual course, this notice shall be given at least —— weeks before the time when the said person is to take his seat; if not in the usual course, but to fill a vacancy, then the notice shall be given within —— days after the persons appointed to hold the election shall have made known, publicly, the state of the poll. The notice shall be delivered in writing, at the usual residence of the person returned; and if he be absent, shall be left there open.

"*Secondly*. That the party intending to take examinations shall then apply to some justice or judge of the courts of the United States, or some chancellor, justice, or judge of a supreme, superior, or county court, or court of common pleas, of any State; or some mayor or chief magistrate of a town or city, and shall obtain a notification, under his hand and seal, directed to the opposite party, and requiring him to attend by himself, or his attorney, duly authorized, and cross-examine the witnesses. This notification shall state the time and place of examination, and the names of the witnesses; and it shall be served on the opposite party, or his attorney, duly authorized, as either may be nearest to such place; provided either is within one hundred miles of it, for attendance. After receiving the notification, one day, exclusive of Sundays, shall be allowed for every twenty miles.

"*Thirdly*. In all cases where either party shall give notice to the other of his having appointed an attorney for the purpose aforesaid, it shall be necessary to serve the above mentioned notification on the attorney.

"*Fourthly*. Every person deposing shall make oath or affirmation to testify the whole truth, and shall subscribe the testimony by him or her given; which shall be reduced to writing only by the magistrate taking the deposition, or by the deponent, in his presence. The deposition so taken, together with the certificate of the notices and proof of the service of them, shall be sealed up by the magistrate who took it, and transmitted to the Speaker of the House.

"*Resolved*, That the examination of witnesses, taken in this manner, and no other, shall hereafter be admitted on trials of contested elections.

"*Resolved*, That copies of any papers recorded in any office of record, provided those copies be attested under the hand and seal of the recording officer, shall be admitted at all such trials, in the same manner as the original would be, if produced. In like manner, copies of any other papers of a public nature, and remaining in the possession of a public officer, shall be admitted, when attested under the hand and seal of that officer.

"*Resolved*, That —— copies of these resolutions shall be forwarded forthwith to the Executive of every State, with a request that they will cause the managers of every election, in their respective States, to be furnished with at least one copy."

The resolutions were committed to a Committee of the Whole for Wednesday.

The House then adjourned till Monday next.

Monday, November 27.

A new member, to wit: Bailey Bartlett, returned to serve in this House as a member for Massachusetts, in the place of Theophilus Bradbury, who has resigned his seat, appeared, produced his credentials, and took his seat in the House; the oath to support the Constitution of the United States being first administered to him by Mr. Speaker, according to law.

Several other members, to wit: from Massachusetts, Samuel Sewall; from New York, David Brooks; from Maryland, John Dennis; from Virginia, John Nicholas and Josiah Parker; and from North Carolina, Thomas Blount, appeared and took their seats in the House.

REPORT ON CLAIMS.

Mr. Dwight Foster, from the Committee of Claims, presented a report, which stated that the committee having examined the files and Journals of the second session of the fourth Congress, found sundry petitions and memorials referred to the Committee of Claims, which, for want of time, had not been reported upon; and that some of the petitioners being now attending to learn the issue of their applications, they proposed a resolution for the adoption of the House to the following effect:

"*Resolved*, That all claims which, during the second session of the fourth Congress, were referred to the Committee of Claims, and not by them reported upon, be, and the same are hereby, referred to the Committee of Claims, to be by them reported upon agreeably to the rules of the House."

The resolution was agreed to.

The Speaker observed, that there had been an

order made last week contrary to the rules of the House, by committing a bill to a Committee of the Whole, which had originated at a former session, without introducing it in the way directed by the rules. It would be necessary, therefore, to discharge the committee from the committal.

Mr. Livingston accordingly moved that the Committee of the Whole, to whom was referred the bill relative to refugees from Canada and Nova Scotia, be discharged from the consideration. Agreed to.

Mr. Williams then moved that a committee be appointed to prepare and bring in a bill for that purpose. Agreed to, and a committee of three appointed.

RULES OF THE HOUSE.

Mr. Livingston observed, at the beginning of the first session of the last Congress, a committee was appointed to prepare and report standing rules for the regulation of the House. He moved that such a committee be now appointed.

Mr. Harper thought, on consideration, the gentleman would find this motion to be unnecessary. They had been in the habit, it was true, of heretofore appointing a committee to report a new set of rules; but he believed it would be allowed that the usefulness of rules depended in some degree upon their permanency. He thought they were changed too often, without good reason, which produced an uncertainty in the conducting of business. He saw no inconvenience which would attend the adoption of the present rules. He thought them sufficient; and if any gentleman wished to introduce any new rule, or to change an old one, he might do it by way of motion.

Mr. Livingston said, the usual course was to appoint a committee to report a set of rules; and in the mean time the old ones were declared binding. With respect to the present rules, he had discovered several inconveniences. He would mention one, which was that requiring all bills to be introduced in the same way, though they had undergone discussion at a former session; the inconvenience of which had just been seen, and which he thought a dilatory practice. The idea of the gentleman from South Carolina that they ought not to change their rules, he did not think deserved all the weight which he gave it. Every House, by the Constitution, was to be the judge of its own rules, and the adopting those of a former House was merely a temporary expedient. If the House, however, should not think proper to go into a revision of the old rules, he should move such alterations in them as appeared to him necessary.

Mr. Harper replied, if the inconvenience which had been mentioned had existence, it might be removed by a particular motion; but he was doubtful whether the thing complained of was an inconvenience. He believed they were seldom too slow in passing laws; the contrary was more frequently the case. The more formalities required, and the greater number of aspects in which a law was seen, the more likely it would be to be good. If a gentleman, wishing to introduce a bill, had drawn it up well, he would have no difficulty in persuading a committee to report it; if not, it was better that it should be amended before its introduction. He believed, therefore, that they had better go on in their usual way, and avoid innovation.

Mr. Gallatin said, as this motion was in conformity to the constant practice of the House, he could not see with what propriety it could be called an innovation.

Mr. Sitgreaves believed the rules of the last House were already the rules of this, by a resolution of last session.

The motion was put and negatived—37 to 32.

UNIFORM MILITIA SYSTEM.

Mr. Williams said, it was generally allowed that the present militia laws were not only very expensive in their execution, but very inadequate in their effects. The subject had before been under consideration; but, for want of time, was passed over. He, therefore, proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to report whether any and what amendments are necessary to the act providing an uniform militia system throughout the United States."

Agreed to, and a committee of five appointed.

ADDRESS TO THE PRESIDENT.

Mr. Otis, from the committee appointed to draught an Address in answer to the Speech of the President of the United States, reported the following, which was twice read, and referred to a Committee of the Whole for to-morrow:

Sir: While our sympathy is excited by the recent sufferings of the citizens of Philadelphia, we participate in the satisfaction which you are pleased to express, that the duration of the late calamity was so limited, as to render unnecessary the expense and inconvenience that would have been incident to the convention of Congress in another place: and we shall readily attend to every useful amendment of the law which contemplates the event of contagious sickness at the seat of Government.

In lamenting the increase of the injuries offered to the persons and property of our citizens at sea, we gratefully acknowledge the continuance of interior tranquillity, and the attendant blessings of which you remind us, as alleviations of these fatal effects of injustice and violence.

Whatever may be the result of the mission to the French Republic, your early and uniform attachment to the interest of our country; your important services in the struggle for its independence, and your unceasing exertions for its welfare, afford no room to doubt of the sincerity of your efforts to conduct the negotiation to a successful conclusion, on such terms as may be compatible with the safety, honor, and interest of the United States. We have also a firm reliance upon the energy and unanimity of the people of these States, in the assertion of their rights, and on their determination to exert, upon all proper occasions, their ample resources in providing for the national defence.

The importance of commerce, and its beneficial influence upon agriculture, arts, and manufactures, have been verified in the growth and prosperity of our country. It is essentially connected with the other great interests of the community. They must flourish and

decline together; and while the extension of our navigation and trade naturally excites the jealousy, and tempts the avarice of other nations, we are firmly persuaded, that the numerous and deserving class of citizens engaged in these pursuits, and dependent on them for their subsistence, has a strong and indisputable claim to our support and protection.

The delay of the Spanish officers to fulfil the treaty existing with His Catholic Majesty is a source of deep regret. We learn, however, with satisfaction, that you still indulge hopes of removing the objections which have been made to its execution, and that you have continued in readiness to receive the posts. Disposed to perform, with fidelity, our national engagements, we shall insist upon the same justice from others which we exercise towards them.

Our abhorrence cannot be too strongly expressed of the intrigues of foreign agents to alienate the affections of the Indian nations, and to rouse them to acts of hostility against the United States. No means in our power should be omitted of providing for the suppression of such cruel practices, and for the adequate punishment of their atrocious authors.

Upon the other interesting subjects noticed in your Address, we shall bestow the requisite attention. To preserve inviolate the public faith, by providing for the due execution of our treaties; to indemnify those who may have just claims to retribution upon the United States for expenses incurred in defending the property and relieving the necessities of our unfortunate fellow-citizens; to guard against evasions of the laws intended to secure advantages to the navigation of our own vessels; and especially, to prevent, by all possible means, an unnecessary accumulation of the public debt, are duties which we shall endeavor to keep in view, and discharge with assiduity.

We regard, with great anxiety, the singular and portentous situation of the principal Powers of Europe. It was to be devoutly wished that the United States, remote from this seat of war and discord; unambitious of conquest; respecting the rights of other nations; and desirous, merely, to avail themselves of their natural resources, might be permitted to behold the scenes which desolate that quarter of the globe with only those sympathetic emotions which are natural to the lovers of peace and friends of the human race. But we are led by events to associate with these feelings a sense of the dangers which menace our security and peace. We rely upon your assurances of a zealous and hearty concurrence in such measures as may be necessary to avert these dangers; and nothing on our part shall be wanting to repel them, which the honor, safety, and prosperity of our country may require.

Mr. HARPER said, that in pursuance of the notice which he had given, he now rose to move a resolution to the following effect:

"*Resolved*, That a committee be appointed to prepare and report a bill for providing an uniform system of bankruptcy throughout the United States."

Mr. H. added, that it was unnecessary, he supposed, to enlarge upon the usefulness of such a law. That the passing of it would be attended with difficulties, he was ready to allow; but, as these could only be properly judged of when the bill was reported, he trusted no objection would be made to the appointment of the proposed committee.

Mr. COIT would have no objection to agreeing to the resolution, if the mover would consent to a small alteration in its form. He wished, therefore, that the committee should be appointed "to inquire whether such a law be expedient."

Mr. HARPER said, if it was the intention of the gentleman to transfer the power of judging the expediency of the measure from the House to a select committee, he should certainly object to it. He believed the resolution would be best in its present form.

Mr. LIVINGSTON said, there were two courses to be taken in the introducing of bills. The gentleman from South Carolina had chosen that which directed the appointment of a committee to report a bill. He might have adopted the mode proposed by the gentleman from Connecticut; but there could be no question as to the propriety of the present motion.

Mr. BALDWIN observed that the way in which the gentleman from Connecticut might obtain his end, would be, by moving to commit the motion.

Mr. COIT accordingly moved that the motion be committed.

Mr. BALDWIN added, that the objections to this mode of proceeding, which might be urged in ordinary cases, were not applicable in this; because the committee appointed would see the several solemn decisions which had heretofore been had on this subject, and would calculate whether it would be worth their while to go over the same ground which had heretofore been trodden with so little success. If he recollected right, the late colleague of the present mover in the business introduced the measure in the first session of Congress under the present Government; but it was attended with so many difficulties, that the gentleman himself was discouraged from proceeding with it. Almost every Congress since have had the subject before them. He believed that not less than five or six bills had gone out the same course. Our country, he said, was so extensive, and our interests so various, that no system of bankruptcy, he believed, could be formed to suit all its parties. If, indeed, the committee, after revising the several bills heretofore rejected, could suggest any new provisions which might appear to obviate former objections, or if there should appear to them to be any new circumstances in the present situation of the country which should even call for the law with its former deficiencies, they will of course report a bill. If the contrary should be the course, they will report it as their opinion.

The motion was agreed to, and a committee of five was appointed, viz: Messrs. HARPER, COIT, NICHOLAS, SITGREAVES, and BALDWIN.

TUESDAY, November 28.

SAMUEL SMITH, from Maryland, appeared and took his seat.

Mr. OTIS presented the petition of Deborah Gannett, praying compensation for her services as a soldier in the Revolutionary war, under the name of Robert Shirtcliff; stating that she is able to produce certificates, not only of her having served, but also of having been wounded. Referred to the Committee of Claims.

ADDRESS TO THE PRESIDENT.

Mr. COIT moved for the order of the day on the reported Answer to the President's Speech.

The motion being agreed to, the House accordingly resolved itself into a Committee of the Whole upon that subject, and the Address having been read through by the Chairman, it was again read by paragraphs. The first four were read, without any objection being offered to them. The fifth being gone through,

Mr. PINCKNEY said, he had to propose a small alteration to this clause: he wished to make the latter part of it a little less harsh. Instead of saying, "we shall insist upon the same justice from others," &c., he thought it would have the same effect, and the terms would be less objectionable, if the passage ran thus: "Nothing shall be wanting on our part to obtain the same justice from others," &c. The expression used, he said, might be perfectly justifiable, but, if we could obtain what we wished without the possibility of giving offence, he thought that mode ought to be preferred. It was on this account that he wished the phraseology to be changed.

Mr. VENABLE would suggest an amendment, which he thought would produce the effect wished by the gentleman last up, without changing the phraseology so much as he had proposed. The way in which this might be done, would be by striking out the word "insist," and inserting that of *expect*.

Mr. PINCKNEY did not think this amendment would produce the effect he wished. Expectation, he said, might be entertained, without making an effort to obtain the object. We had already *expected* a long time, without effort. He wished to express the same firmness which the committee intended by their report, but, at the same time, to avoid anything like harshness. If the effect of the proposed substitute had appeared to be the same, he should have been sorry to have cavilled about words.

Mr. RUTLEDGE said, as a member of the committee who reported the Address, he did not feel tenacious as to the wording of it. At first, he thought with his colleague, who proposed the amendment, that the word *insist* was rather harsh; but, upon a little reflection, his objections to the phrase were removed. Indeed, he thought the proposed amendment would make the passage stronger than it was in the original. They might insist, he said, in argument; looking upon the treaty as a good one, they might insist upon its execution; but if it were not to be effected without going to war, they might afterwards relinquish it. The amendment he thought more forcible. It said "nothing shall be wanting to obtain," &c.; which would be to say, we look upon the treaty as a good one, and nothing shall be wanting on our part to obtain its fulfilment. The words might even be considered to say, that we are determined to have the treaty carried into effect, though war should be the price of the determination.

Mr. VENABLE said, it was an objection to the proposed amendment, that the same phraseology occurred in the last paragraph. He thought, therefore, it would be best to change the words in the way he had suggested; for, though the word *expect* was less harsh, he thought it equally forcible with *insist*.

Mr. BAYARD was in favor of the amendment of the gentleman from South Carolina; and if the same phraseology had been proposed in the select committee, he should there have supported it. He did not think the substitute which had been proposed by the gentleman from Virginia would produce the effect intended by the gentleman from South Carolina. It was the intention of the committee who reported the Address, to say something on the subject; but the proposed substitute said nothing. As to the objection of the gentleman, on account of the same phraseology occurring in another part of the Address, there would be no difficulty in rectifying that, so as to produce that variety which the gentleman seemed so desirous of having.

Mr. DAYTON (the Speaker) approved of the amendment of the gentleman from South Carolina, but not from the reasons which that gentleman had urged in support of it, but for those which his colleague had produced against it; not because it was more smooth, but because it contained more of decision and firmness. He thought, in this respect, this country had been trifled with, and any opinion expressed by them upon this subject ought to be done with a firmness of tone.

Mr. LIVINGSTON said, as gentlemen thought it necessary to give the reasons of their vote upon this occasion, he would just mention his. If it were intended to be inferred by the phraseology used upon this occasion, (as some gentlemen seemed to suppose,) that they were disposed to go to war in support of the Executive in their construction of the negotiation with Spain, he was not prepared to say this for his constituents. He did not think the subject was sufficiently matured to give this decision. He considered the proposition as a general one, and preferred the amendment of the gentleman from South Carolina to the original. He did not, indeed, think it materially different, until he heard the objections urged against it by a gentleman who was upon the committee, (Mr. RUTLEDGE.) He had said they might *insist* in argument. How insist in argument? What had the House to do with argument? Were they to carry on the treaty? No. All the *insisting* they could show must be by *acts*, and not by *argument*.

The question on Mr. PINCKNEY'S amendment was put and carried, there being sixty-two members in the affirmative.

The remainder of the Address was then gone through, without further observation.

Mr. HARPER inquired, whether it would now be in order to go back to the first paragraph. On the Chairman's informing him it would, he said he thought there was an expression in the latter part of that paragraph which would require alteration. He meant that part which spoke of the law which contemplates contagious sickness at the seat of

Government. He supposed the committee meant to recommend such a law, as he believed there was not a law of that kind at present in existence. He therefore moved to strike out the words which had this reference.

Mr. Otis said, his friend from South Carolina had overlooked the law in question, which was passed in 1794, in consequence of the contagious sickness which had been experienced in this city the preceding year, and which gave to the President of the United States the power of convening Congress in any other place.

Mr. Harper acknowledged his mistake, and that his proposed amendment was therefore unnecessary.

Mr. H. said, he wished to propose an alteration in the phraseology of the fourth clause. It did not appear to him to be very polite, to talk to other nations about their jealousy and avarice; and whatever might be the latitude proper to be taken in private debate, when the House expressed itself publicly, he thought all unnecessary harshness should be avoided. He wished, therefore, to strike out some words, and introduce others, so that the passage, instead of reading as at present, might be thus expressed: "And while the extension of our navigation and trade may excite jealousy and tempt avarice, we are," &c.

Mr. Bayard was opposed to this amendment. He did not think the phraseology could give umbrage to any nation whatever, since no nation could apply the phrase to itself. If the gentleman would consider the paragraph, he would find, that it was not said that any particular nation was jealous or avaricious; but merely, if any nation were possessed of jealousy and avarice, our navigation and trade would naturally excite their jealousy and tempt their avarice. Any general sentiment might as well be objected to as this. When it was said that the riches of one man tempt the avarice of others, it could not be inferred that any particular men were pointed at.

Mr. Harper did not think the amendment of very great importance, though of sufficient to be adopted. He did not think any nation could justly take the expression to itself, or that they could with propriety be offended with it; but he thought it better to avoid all harsh expressions. He thought a proper degree of spirit, and even of anger and revenge, might be shown, without unbecoming expressions; not that he meant to say the expression in question was unbecoming, but he thought it harsh. He was also of opinion that the discrimination of his friend, on the subject of jealousy and avarice, was more nice than solid.

The question was taken on Mr. Harper's amendment, and negatived—47 to 33.

The committee then rose, and reported the Address with one amendment. The House took it up, and agreed to the amendment.

Mr. Bayard then moved an amendment, to correct the phraseology of the last paragraph, so as not to clash with the amendment; but the Speaker informing him the amendment could not be introduced without a recommittal, the Address was agreed to without further amendment.

Mr. Otis moved that the Speaker, attended by the House, shall present the said Address to the President of the United States; and that a committee be appointed to wait upon the President to know when and where it will be convenient for him to receive the same. Agreed to.

ANTONIA CARMICHAEL.

Mr. Harper moved that the House resolve itself into a Committee of the Whole, on the report of the Secretary of State, on the memorial of Antonia Carmichael, widow of William Carmichael, deceased; which being agreed to, the House resolved itself into a committee accordingly, and the report was read from the Chair.

It appears that the late William Carmichael, (formerly a delegate in Congress from Maryland,) was appointed Secretary of Legation to Mr. Jay, Minister Plenipotentiary for negotiating a treaty with the King of Spain, in September, 1779; that the commissions to the Secretaries to such Ministers, at that time, directed that, in case of the death of the Minister, or necessary absence, they are to take charge of all public affairs in his hands, and to reside at such Court; that, on the 4th October, 1779, Congress resolved that each of the Ministers Plenipotentiary be allowed at the rate of £2,500 sterling per annum, and each of their Secretaries at the rate of £1,000, in full for their expenses respectively; that Mr. Jay was called from Spain to Paris in May, 1782, to assist in the negotiation of peace, leaving the business of his mission in Spain to Mr. Carmichael; that he continued at the Court of Spain until he received a formal appointment in April, 1790, of Chargé des Affaires, under the new Government of the United States. Hence it follows that Mr. Carmichael was entitled not only to the salary of £1,000 sterling as Secretary, but to such other allowances as were proper to be made to a Chargé des Affaires, or Minister of the United States at a foreign Court; for though the salaries were said to be in full for their services and expenses, yet it was usual to make other allowances for contingent expenses; that, at the Court of Spain, foreign Ministers were obliged to attend the Court at their five different places of residence, at each of which he was under the necessity of hiring a house; the Secretary of State therefore reports that the following extraordinary expenses in Mr. Carmichael's account shall be allowed:

1782 to '89.	1.	Presents to porters and other servants of the Ministers of State, &c. eight years, at 1,840 reals of vellon a year,	14,720 00
Do. do.	2.	Expenses of presentation at Court -	3,680 00
Do. do.	3.	Expenses of illuminations, 7 years -	6,028 17
Do. do.	4.	For postage of letters, 8 years - -	26,103 00
Do. do.	5.	Presents to letter-carriers, 8 years, at the King's country seats	1,562 06
Do. do.	6.	Expenses of paper, quills, ink, &c. 8 y'rs	10,870 00
1782 to '89.	7.	Expenses of copying different papers, 8 y'rs	9,686 00
Do. do.	8.	Expenses of a journey from Madrid to Paris, and back to Madrid,	16,010 00
Do. do.	9.	For house-rent at the Scitos (country residence of the King) at Aranjuez, La Grange, L'Escurial, and Le Pardo, 8 years -	76,515 19
			165,175 36
Equal, at 26 reals to a dollar, to -			$6,358 76

A concurrence with this report was advocated by Messrs. Harper, Hartley, Pinckney, Sprigg, Gallatin, Bayard, Craik, and T. Claiborne, on the ground of equity and humanity. It was opposed by Messrs. Williams, Macon, and Coit; they wished for further time and information on the subject, and for that purpose Mr. Williams moved that the committee rise, in order that it might be discharged from a further consideration of the subject; and that the subject might be referred to the Committee of Claims. It was urged by the friends of the report that further information could not be had than was contained in the report, and that the principle might as well now be decided upon as at any distant period; that it being a case founded on equity and not on law, it was not a proper subject to be referred to the Committee of Claims. They urged, also, that a delay of justice was in this, as in most other cases, a denial of it; that the estates of the widow were mortgaged, and had been kept from sale from the hope of receiving what she petitioned for from Congress. At length the motion for the committee to rise was put and negatived, there being only seven votes in favor of it. A resolution was then agreed to, authorizing the accounting officers of the Treasury to settle the account, and a committee appointed to bring in a bill.

ADDRESS TO THE PRESIDENT.

Mr. Otis, from the committee appointed to wait upon the President, to know when and where it would be convenient for him to receive the Address in answer to his Speech, reported that they had attended to that service, and that it would be convenient for him to receive it at his house to-morrow at twelve o'clock.

Wednesday, November 29.

CONTESTED ELECTION.

Mr. Coit observed that the memorial of Robert Rutherford, complaining of an undue election, was before the Committee of Elections at the last session, but no report was made upon it. He moved, therefore, that it be now referred to the present Committee of Elections. Agreed to.

Mr. Harper moved for the order of the day on his resolution regulating the mode of taking evidence in cases of contested elections; but, upon Mr. Coit wishing the consideration to lie over till to-morrow, he consented.

ADDRESS TO THE PRESIDENT.

Mr. Lyon said, when the motion was proposed yesterday on the subject of waiting upon the President, he should have opposed it, only that he did not wish to deprive some gentlemen of the gratification of attending the ceremony; and now he hoped those gentlemen would consent to gratify him by agreeing to a similar resolution to that of last session, excusing him from an attendance upon the occasion.

Mr. Sitgreaves said, that notwithstanding the precedent of last session, he should be opposed to indulging the gentleman from Vermont in his request. When a resolution passed that House, it was entitled to the obedience of all the members; and except the gentleman could assign some better reason than he had heard for the indulgence, he trusted he would not be excused from complying with the order.

Mr. Lyon hoped he should be excused from repeating the reasons which he had last session given for his motion.

Mr. Macon observed, that whether the resolution was agreed to or not, the gentleman might doubtless remain behind if he chose, as he had no idea that the House could compel members to go about parading the streets of Philadelphia. The gentleman might have conscientious scruples, and if the ceremony were meant to be respectful to the President, members should attend it freely, or not at all. He should wish, therefore, that gentlemen disinclined to do the service, would not join it.

Mr. Thatcher saw no reason for excusing the gentleman from Vermont from his duty for a few minutes. If he had business, and chose to ask leave for a few days, he doubted not it would be granted; but when he wished to be excused from attending upon a business of importance, he thought very special reasons should be given for the indulgence.

Mr. Williams wished the gentleman would withdraw his motion, as it was trifling with the resolutions of the House to excuse any member from a compliance with them. He hoped the gentleman would not persevere in his singularity, though it might be the wish of some of his constituents, against the will of so large a majority of the House.

Mr. Otis hoped the motion would not prevail. He presumed no gentleman there was particularly anxious for the society of the gentleman from Vermont on this occasion. No doubt he would grace the procession, but it would be sufficiently long without him, and if he chose to remain behind, he need be under no apprehensions of being called to account for his conduct. It was not becoming the dignity of the House to pass the resolution in question. It appeared to him that the gentleman was in full health and spirits, and every way fit for business; and as the House had resolved the thing should be done, he had no idea of admitting the protest of an individual upon their Journals against the measure.

Mr. N. Smith knew the gentleman from Vermont had obtained leave of absence upon a simi-

lar occasion last session; but he believed the motion passed without consideration. It was unexpectedly made, and by some as unexpectedly carried. Whenever gentlemen gave a reasonable excuse for an absence from the duties of the House, they were constantly consented to; but when a gentleman came forward to ask for the indulgence, without giving any reasons for telling the House they had acted like fools, he could not consent to his being excused. If the gentleman were unable to attend; if there were any difficulty in the way of his attendance, aside from the want of a disposition to do it, he should not object to the indulgence. Mr. S. said he could not agree with the gentleman from North Carolina (Mr. Macon) that no gentleman was obliged to attend upon this ceremony. For his part he always considered a minority as bound by the vote of a majority, and the majority had passed a vote that the House should attend the Speaker in presenting the Address; not that A, B, and C should do it, but that the House of Representatives should attend; and he believed it to be as much the duty of every member to form a House for this purpose as for any other. He believed, notwithstanding, that if any gentleman remained behind, he would not be called to account for his conduct; but he was of opinion that a motion like the present ought to be considered as an indignity offered to the House, and they ought to decline acting upon it. Being of this opinion, he should move the previous question.

Mr. Gallatin said he should be in favor of the previous question, but not for the reasons assigned by the mover of it, but for those offered by the gentleman from North Carolina, (Mr. Macon,) viz: because he did not believe there existed any power in that House to compel any member to wait upon the President with the Address; therefore it would be improper to grant an indulgence to a member from doing what there was no obligation upon him to do. He did not recollect the words of the resolution which had been agreed to. [The Speaker repeated them. They were, "that the Speaker, attended by the House of Representatives, shall wait upon the President, &c."] This, Mr. G. said, must be understood in a qualified sense, as the House of Representatives had no existence out of those walls. When the Speaker presented the Address, the House was not present; they could not debate nor do any act as a House. The Address was, therefore, strictly speaking, presented by the Speaker, followed by the members of the House of Representatives—as he did not conceive the House had any power without the walls of the House. They could, indeed, appoint committees to do business out of doors, but could not call out the members as a body. Upon this ground he was, therefore, in favor of the previous question.

Mr. Lyon said, understanding the matter in the light in which it had been placed by the gentleman from Pennsylvania, he would withdraw his motion.

The Speaker said the main question was not now under debate, and could not be withdrawn until the previous question was disposed of. He inquired if the mover were willing to withdraw it.

Mr. Harper hoped not. He should vote in favor of it, not for the reason offered by the gentleman from Pennsylvania, but that the House might express its sense of such a motion.

Mr. Venable inquired if there were no way of getting rid of the previous question?

The Speaker said he conceived not.

Mr. Macon asked whether it would not be in order to commit, or postpone it to a certain day?

Mr. Thatcher thought he had known instances where the previous question had been called for and not taken.

The Speaker replied, then it must have been withdrawn.

The previous question was then put in these words, "Shall the main question now be put?" and it was carried unanimously.

REFERENCE OF PETITIONS, &c.

Mr. Livingston, from the Committee of Commerce and Manufactures, presented a resolution to the following effect:

"*Resolved*, That all memorials and petitions, which, during the second session of the fourth Congress were referred to the Committee of Commerce and Manufactures, and not reported upon, be and the same are hereby referred to the said committee for their consideration and report."

The resolution was agreed to.

ADDRESS TO THE PRESIDENT.

The Speaker announced the arrival of the hour which the President of the United States had appointed to receive the Address of the House in answer to his Speech; and the Speaker, attended by the members, accordingly waited upon the President, at his house, and presented to him the Address: to which the President made the following reply:

Gentlemen of the House of Representatives:

I receive this Address from the House of Representatives of the United States with peculiar interest.

Your approbation of the meeting of Congress in this city, and of those other measures of the Executive authority of Government communicated in my Address to both Houses, at the opening of the session, afford me great satisfaction, as the strongest desire of my heart is to give satisfaction to the people and their representatives by a faithful discharge of my duty.

The confidence you express in the sincerity of my endeavors, and the unanimity of the people, does me much honor, and gives me great joy.

I rejoice in that harmony which appears in the sentiments of all the branches of the Government, on the importance of our commerce and our obligations to defend it, as well as in all other subjects recommended to your consideration, and sincerely congratulate you and our fellow-citizens at large on this appearance, so auspicious to the honor, interest, and happiness of the nation. JOHN ADAMS.

United States, *November* 29, 1797.

The Speaker and members then returned to the House, and order being obtained, the Speaker, as

usual, read the Answer of the President from the Chair; after which,

Mr. Harper said it had been usual, where Legislative measures were recommended in the Speech of the President of the United States, to refer such parts to select committees. He therefore moved that the House resolve itself into a Committee of the Whole on the state of the Union, in order to take into consideration the Speech of the President.

The Speaker said the Speech had not yet been committed to that committee.

Mr. Harper moved that it be so committed; which being agreed to, he moved that the House now resolve itself into a Committee of the Whole on the state of the Union; which was done accordingly, Mr. Dent in the Chair.

Mr. Harper then proposed six resolutions for adoption, to the following effect; which he proposed to be referred to select committees.

1. *Resolved*, That so much of the Speech of the President of the United States as relates to power being given to the President to postpone the meeting of Congress, in certain cases, be referred to a select committee to report by bill or otherwise.

2. That so much as relates to the protection of commerce, be referred, &c.

3. That so much as relates to the attempts of foreign agents to alienate the affections of the Indian nations, and to excite them to actual hostilities against the United States, be referred, &c.

4. That so much as relates to a provision for the fulfilment of the sixth article of the Treaty between the United States and Great Britain, be referred, &c.

5. That so much as relates to the reimbursement of certain advances made by the Consuls of the United States, be referred, &c.

6. That so much as relates to the revision and amendment, in certain particulars, of the act relative to Consuls, be referred, &c.

The two first resolutions were agreed to without objection. On reading the third,

Mr. Nicholas said, he did not think they were ripe for going into this business. It was usual when the President alluded to facts in his Speech, which he proposed, in the course of the session, to give further information upon, to wait for that information before they proceeded to act upon them. He thought this would be best in the present case.

Mr. Harper did not recollect that the President referred to any particular documents on this subject. If a committee were appointed, they would of course inquire into the facts, and report accordingly.

Mr. Nicholas said, the mover himself seemed to be aware that the committee would be at a loss for facts, and they would have to apply to the President for them. He thought it would be more respectful to wait for the communications, which would of course be made to the House, than to employ the committee to make the inquiry.

Mr. Harper said the President had told them, as a fact, that such attempts had been made. [Mr. H. read an extract from the Speech.] To postpone the appointment of a committee, therefore, in order to wait for further communications, would be to say they did not believe the fact. Before the President had made the assertion, he would doubtless be well assured of the truth of it. But he would observe, that if no such attempts had been made, they were not unlikely to be made, and the law recommended on that ground was very desirable. It was well known that the ordinary course of law will not go into that territory; there must be a distinct and particular legislative power for the purpose. Admitting, therefore, that the President had been misinformed, the law could do no harm, but might prevent the evils complained of.

Mr. Sitgreaves observed, that the gentleman from Virginia (Mr. Nicholas) was very correct in saying that it was usual to wait for the promised communications of the Executive department, before they proceeded to act upon any business recommended by the Speech; but it must also be recollected, that the style of this resolution was different from that heretofore used. It was customary to say on these occasions, "Resolved, that it is expedient to do so and so," which they could not do, until evidence was before them; but this committee being differently formed, there was not that necessity, and when the communication was made, it would of course be referred to the committee now proposed to be appointed.

Mr. Dayton (the Speaker) said, that the law recommended by the President of the United States to be passed, was to give better effect to the measures already taken to counteract the attempts of foreign agents upon the Indian nations. Before a law could be passed to give effect to those measures, it was necessary, therefore, they should be laid before them; and, if a committee were now appointed, they would, of course, have to look back to the House for information.

Mr. Baldwin thought there was another reason for deferring the business. He thought there was a law intimately connected with this subject which expired in the Spring (of which they should have notice from the Committee of Revisal, if it was so) and of which this provision might make a part. He saw no inconvenience which could arise from letting this subject lie over for a time.

Mr. Macon said, if the gentleman from South Carolina would consent to let this matter be passed over, the House might proceed upon those objects upon which there seemed little difference of opinion.

Mr. Brooks saw no impropriety in referring the business to a select committee; for, if it were referred, it did not follow that they were obliged immediately to act upon it. The crime, he said, was identified. If the committee were appointed, and the President had communications to make upon the subject, it would have a tendency to procure more early information than might otherwise be obtained. He thought this resolution as proper for commitment as any other.

The question for agreeing to the resolution was put and carried—44 to 43.

The remainder of the resolutions were agreed to, the committee rose, and the House took them up.

The three first resolutions were agreed to in the House without debate. On the fourth being read,

Mr. Sitgreaves said that this resolution ought to go to the Committee of Ways and Means, as coming directly within their province; but at present, he believed, no such committee had been appointed.

Mr. Harper thought it might with propriety be referred to a select committee, as it embraced other objects besides providing money.

Mr. Venable was of opinion it would be best to postpone this matter to a distant day. He did not know that any decision had yet taken place, and therefore there was no necessity for the resolution at present.

Mr. Sitgreaves was not willing to agree to a postponement to a distant day; but thought it would be best referred to the Committee of Ways and Means, as it was necessary they should have the whole of the demands against the country before them. He moved, therefore, for a postponement to this day two weeks. Agreed to.

The two remaining resolutions being agreed to, and the latter referred to the Committee of the Whole, to whom was referred the act relative to American seamen,

Mr. Sitgreaves observed, there was a very important matter in the Speech yet untouched. He therefore proposed the following resolution:

Resolved, That so much of the Speech as relates to foreign vessels, sailing under forged American papers, be referred to the Committee of Commerce and Manufactures.

Agreed to.

RELIEF TO AMERICAN SEAMEN.

Mr. Livingston moved for the order of the day on the report of the committee appointed to inquire into the operation of the act for the relief and protection of American seamen; which being agreed to, the House resolved itself into a Committee of the Whole, and the report having been read, three resolutions were agreed to, viz: one directing the Secretary of State to lay before the House an abstract of all the returns made to him by the collectors of the several ports, and such accounts as he may have received from our agents in foreign ports; another for allowing —— cents per day to every sick seaman in a foreign port, and a sum for their transportation home; and another directing that a certain deduction shall be made from the wages of seamen, for the maintaining of the sick and disabled, and for the support of a hospital.

The House concurred in the resolutions, and appointed a committee for carrying them into effect.

NORTH AND VESEY.

The House then resolved itself into a Committee of the Whole, on the report on the petition of North and Vesey.

This petition was presented during the last Winter session, and then reported upon. The petitioners state, that they were agents for the French privateer schooner Leo, Captain Harmand; that the said privateer sent into the port of Charleston, an English prize ship called the Amity, with a cargo consisting of sugar and rum, which was duly entered in the custom-house, on the 7th of April 1795; that they proceeded, on the twelfth of the same month, to the sale of the cargo, when they were prohibited from selling by a libel issued from the Court of Admiralty; that, on the 21st of the month, an injunction was granted by the District Court to stop the sale altogether, as contrary to the treaty concluded with Great Britain; that the said ship Amity being in a leaky condition, they obtained permission from the collector to land the cargo; that, by a survey afterwards held on the ship, she was condemned as not seaworthy. In consequence, application was made at the custom-house, for leave to re-export the cargo in neutral bottoms, as French property, which permission was at first refused, but afterwards granted; but that, in the meantime, by the fire which laid waste a great part of Charleston, on the 13th of June last, fifty-two hogsheads and two tierces of sugar, were totally consumed; whereupon the collector ordered the rum, part of the cargo of the ship Amity, to be sold to secure the duties on the sugar thus consumed by fire. The petitioners pray for relief by a restoration of the duties thus collected from them.

The Committee of Commrcee and Manufactures are of opinion that this case must be considered as one for which no provision had been made by law, but as analogous to that of wreck; that the cargo was supposed to be landed only in consequence of the alleged disability of the ship, and that as no sale of the cargo could be made within the United States, no duties ever could have been collected from it; so that the destruction of the sugar by fire, not having altered the original ground on which they were suffered to be landed, to wit: merely in transitu, until the ship could be repaired or the goods re-exported, the duties ought to be refunded. Whereupon, they recommended to the House to adopt the following resolution:

"*Resolved*, That a committee be appointed to bring in a bill to grant relief to the petitioners, according to the prayer of their petition."

The above resolution was agreed to, with a trifling alteration. The House took it up, agreed to it, and appointed a committee to bring in a bill.

Mr. Dent, on application, was excused from serving on the Committee of Commerce and Manufactures, (being already upon two other committees,) and Mr. S. Smith was appointed in his place.

Thursday, November 30.

Tompson J. Skinner, from Massachusetts, appeared, and took his seat.

Mr. Baldwin presented a remonstrance from the Legislature of Georgia, complaining of the law regulating the intercourse of the United States with the Indian tribes, and also of the operation of existing treaties. Referred to a select committee of three members.

MEMORIAL OF QUAKERS.

Mr. Gallatin presented the following memorial of certain citizens, called Quakers, in the name

of the annual meeting of that body, lately held in Philadelphia.

To the Senate and House of Representatives of the United States, in Congress assembled:

The memorial and address of the people called Quakers, from their yearly meeting held in Philadelphia, by adjournments from the 25th of the 9th month, to the 29th of the same, inclusive, 1797, respectfully sheweth:

That, being convened, at this our annual solemnity, for the promotion of the cause of truth and righteousness, we have been favored to experience religious weight to attend our minds, and an anxious desire to follow after those things which make for peace; among other investigations the oppressed state of our brethren of the African race has been brought into view, and particularly the circumstances of one hundred and thirty-four in North Carolina, and many others whose cases have not so fully come to our knowledge, who were set free by members of our religious society, and again reduced into cruel bondage, under the authority of existing or retrospective laws; husbands and wives, and children, separated, one from another; which, we apprehend to be an abominable tragedy, and with other acts, of a similar nature, practised in other States, has a tendency to bring down the judgments of a righteous God upon our land.

This city and neighborhood, and some other parts, have been visited with an awful calamity, which ought to excite an inquiry in the cause and endeavors to do away those things which occasion the heavy clouds that hang over us. It is easy with the Almighty to bring down the loftiness of men by diversified judgments, and to make them fear the rod and Him that hath appointed it.

We wish to revive in your view the solemn engagement of Congress, made in the year one thousand seven hundred and seventy-four, as follows:

"And, therefore, we do for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate, under the sacred ties of virtue, honor, and love of our country, as follows:

"Article 2. We will neither import nor purchase any slaves imported after the first day of December next, after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it.

"Article 3. And will discountenance and discourage every species of extravagance and dissipation, especially horse-racing, and all kinds of gaming, cock fighting, exhibitions of shows, plays, and other expensive diversions and entertainments."

This was a solemn league and covenant, made with the Almighty in an hour of distress, and He is now calling upon you to perform and fulfil it; but how has this solemn covenant been contravened by the wrongs and cruelties practised upon the poor African race, the increase of dissipation and luxury, and the countenance and encouragement given to play-houses, and other vain amusements! And how grossly is the Almighty affronted on the day of the celebration of Independence! What rioting and drunkenness, chambering and wantonness! to the great grief of sober inhabitants, and the disgrace of our national character.

National evils produce national judgments; we therefore fervently pray the Governor of the Universe may enlighten your understandings and influence your minds, so as to engage you to use every exertion in your power, to have these things redressed.

With sincere desires for your happiness here and hereafter, and that, when you come to close this life, you may individually be able to appeal as a Ruler did formerly: "Remember now, O Lord, I beseech thee, how I have walked before thee, in truth and with a perfect heart, and have done that which is good in thy sight."

We remain your friends and fellow-citizens.
Signed in and on behalf of the said meeting, by
JONATHAN EVANS,
Clerk to the meeting this year.

The memorial having been read by the Clerk,

Mr. Gallatin moved that it be read a second time.

Mr. Harper hoped not. This was not the first, second, or third time, that the House had been troubled with similar applications, which had a tendency to stir up a class of persons to inflict calamities which would be of greater consequence than any evils which were at present suffered; and this, and every other Legislature, ought to set their faces against remonstrances complaining of what it was utterly impossible to alter.

Mr. Thatcher hoped the petition would have a second reading, and be committed. It appeared to him that this would be the regular way of getting rid of the difficulty which was apprehended. The gentleman who had just sat down said, that this was not the first, second, or third time, that the House had been troubled with similar petitions. This, he said, was natural. If any number of persons considered themselves aggrieved, it was not likely they should leave off petitioning, until the House should act upon their petition. He thought this was what they ought to do. If the Quakers thought themselves aggrieved, it was their duty to present their petition, not only three, five, or seven times, but seventy times, until it was attended to. Gentlemen, therefore, who wished not to be troubled again, ought to be in favor of a second reading and reference. At present, they did not know what the particular grievance complained of was, nor whether it could or could not be remedied. He believed that one of the subjects of complaint had a reference to a matter complained of in a memorial presented at the last session. respecting some dark-complexioned citizens of North Carolina, who were injured by the operation of an act of the United States called the Fugitive Act; but as it was the wish of the House not to enter upon any business of a private nature at that time, the petition was ordered to lie on the table. It appeared, therefore, highly proper that this petition should be referred, as was customary, to a committee, that this grievance might be remedied.

Mr. Lyon said it appeared to him that the gentleman from South Carolina (Mr. Harper) had not attended to the subject-matter of the petition, or he would not have objected to its being read a second time. There was a grievance complained of, which certainly ought to be remedied, viz: that a certain number of black persons who had been set at liberty by their masters, were now held in

slavery, contrary to right. He thought this ought to be inquired into.

Mr. Rutledge should not be opposed to the second reading and reference of this memorial, if he thought the strong censure they deserved would be the report of a committee. This censure, he thought, this body of men ought to have; a set of men who attempt to seduce the servants of gentlemen travelling to the seat of Government, who were incessantly importuning Congress to interfere in a business with which the Constitution had said they had no concern. If he was sure this conduct would be reprobated, he would cheerfully vote for a reference of the present petition; but not believing this would be the case, he should be for its laying on the table, or under the table, that they might not only have done with the business for to-day, but finally. At a time when some nations were witnesses of the most barbarous and horrid scenes, these petitioners are endeavoring to incite a class of persons to the commission of similar enormities. He thought the matter of the greatest importance, and that the reference ought by no means to be made. A gentleman before him (Mr. Lyon) had said that they had certainly something to do with the detention of freemen in slavery. If the fact were as stated, (which he doubted,) redress ought to be sought by means of a court of justice, and not by petitioning that House.

Mr. Swanwick was sorry to see so much heat produced by the introduction of this petition. He himself could see no reason why the petition should not be dealt with in the ordinary way. If the petitioners asked for any thing which it was not in the power of the House to grant, it would be of course refused; but this was no reason why their petition should not be treated with ordinary respect. In this memorial, he said, sundry things were complained of; not only slavery, but several other grievances. For instance, play-houses were complained of, whether justly or not, he was not about to decide. With respect to the grievance mentioned in North Carolina, something perhaps might be done to remedy it, without affecting the property which gentlemen seemed so much alarmed about. He could not suppose there was a disposition in the House to violate the property of any man; there was certainly as strong a disposition in the Middle States as in the Southern, to hold inviolable the right of property; nor could he see any reasonable ground for throwing this petition under the table. If these people were wrong in their understanding of this subject, it would be best to appoint a committee to set them right. He was sorry to hear gentlemen charge so respectable a body of men in that House with attempting to seduce and debauch their servants; for, if this were the case, redress could doubtless be had in a court of justice. The uncommon warmth which was shown on the occasion would lead persons to believe that gentlemen were afraid of having the matter looked into, as this was generally the temper resorted to when argument was wanting. He hoped the memorial would be dealt with in the usual way.

Mr. Gallatin said it was the practice of the House, whenever a memorial was presented, to have it read a first and a second time, and then to commit it, unless it were expressed in such indecent terms as to induce the House to reject it, or upon a subject upon which petitions had been lately rejected by a large majority of the House. In no other case were petitions rejected without examination and without discussion. He said without examination and without discussion, because it was impossible, upon a single reading of a petition, to be able to form a sound judgment upon it. Indeed, seeing the way in which the gentleman from South Carolina (Mr. Rutledge) had treated the subject, no cool examination could be expected at present; in the moment of passion it would be best not to decide, but to send the petition to a committee. What was the objection to this mode of proceeding? It was that the subject would shake a certain kind of property. How so? A petition that reminds us of the fate of certain blacks in this country, which did not refer to slaves, but to free men. This petition was to shake property! In the same manner it might be said that the law of Pennsylvania for the gradual abolition of slavery had also a tendency to destroy that property; or that the legislative decision of the State of Massachusetts that there shall be no slaves under their Government, would have that effect. But it was said the characters of the petitioners was such as they ought to brand with the mark of disapprobation.

In support of this charge, it was alleged that they were not satisfied with petitioning, but they attempted to debauch and seduce servants—to rob gentlemen of their property. He did not know to what the gentleman who made this assertion alluded; but he believed, if the matter was fairly stated, whatever may have been done in the State of Pennsylvania, has been no more than an endeavor to carry into full effect the laws of the State, which say, that "all men are free when they set their foot within the State," excepting only the servants of Members of Congress. As to the moral character of this body of people, though a number of their principles were different from those which he professed, he believed it could not be said, with truth, that they were friends to any kind of disorder; and he was surprised to hear gentleman suppose that they could or would do any thing which would throw into disorder any part of the Union. On the contrary, he believed them to be good friends of order. Mr. G. said he wished to have avoided a discussion of the merits of the memorial; but when they were told it was improper to do any thing on the subject, it became necessary. He knew it was in their power to do something. They might lay a duty of ten dollars a head on the importation of slaves; he knew a memorial had been presented at a former session respecting the kidnapping of negroes, which had been favorably reported upon. Finally, the present memorial did not apply only to the blacks, but to other objects. With respect to plays, they had a motion last session before them for laying a tax upon them, which had a reference to the subject. By committing this memorial, they should give no decision. If the committee reported they could do nothing in the business, and the House agreed to the report, the matter would be closed in a much more respectful way than by throwing the petition under the table.

Mr. Sewall said, the gentleman last up had stated two cases in which petitions had been received without a commitment. He might have added a third, more applicable to the present memorial. This was when a petition was upon matter over which this House had no cognizance, especially if it were of such a nature as to excite disagreeable sensations in one part of the House, who were concerned in property which was already held under circumstances sufficiently disagreeable. In such cases, they ought at once to reject the memorial, as it would be mispending time to commit it. If, for instance, a petition should be presented, complaining that a person had refused to discharge an obligation to another, it would be at once acknowledged that the House could not enforce the obligation; but application must be made to a court of justice. So in this case; the petitioners complain of a law of North Carolina. This House, he said, could not change that law. If any thing was done there contrary to right, the courts of that State, as well as those of the United States, were open to afford redress. It was their business, and not the business of that House. They did not come there to act upon subjects agreeable to their feelings, but upon such as the Constitution had placed in their hands.

The gentleman from Pennsylvania had said they might impose a tax of ten dollars upon the importation of every slave. Would this, he asked, relieve the petitioners? No. If they could prevent the kidnapping of negroes, it was well; but nothing was aimed at of this sort in this petition. He recollected a former instance of this kind, but the issue of the business showed that nothing could be done without injuring the public more than individuals would be benefited. The petition alluded to stage plays. With what view? To revenue? No; but to a correction of them with respect to morals. It was not within their province to do this, but under the power of the State Governments. If they were taken up for the sake of revenue, they did not come within the purview of this petition, but of the Committee of Ways and Means. Upon the whole, as he considered this as a dangerous business, and that they could do nothing to gratify the feelings of the petitioners, he would not wish to treat the application with contempt, but let it lie on the table.

Mr. Macon said, there was not a gentleman in North Carolina who did not wish there were no blacks in the country. It was a misfortune—he considered it as a curse; but there was no way of getting rid of them. Instead of peace-makers, he looked upon the Quakers as war-makers, as they were continually endeavoring in the Southern States to stir up insurrections amongst the negroes. It was unconstitutional, he said, in these men to desire the House to do what they had no power to do; as well might they ask the President of the United States to come and take the Speaker's chair. There was a law in North Carolina, he said, which forbade any person from holding either a black or white person as a slave after he had been set at liberty. The one hundred and thirty-four negroes alluded to in the petion, he knew nothing of. In the war, he said, the Quakers in their State were generally Tories. They began to set free their negroes, when the State passed a law that they should not set them free. If these people were dissatisfied with the law, they had nothing to do but transport their negroes into Pennsylvania, where, the gentleman from that State had told them, they would be immediately free. This subject had already been before the House, but they declined doing any thing in it. It was extraordinary that these people should come, session after session, with their petitions on this subject. They had put play-houses into their memorial; but they had nothing to do with them. In this State, he believed, the Legislature had passed a law authorizing them. It was altogether a matter of State policy. The whole petition was, indeed, unnecessary. The only object seemed to be to sow dissension. A petition could not come there touching any subject on which they had power to act, which he should not be in favor of committing; but this thing being wrong in itself, it was needless to commit it, as no single purpose could be answered by it.

Mr. Allen was in favor of a second reading and committal. He did not know that no good could arise from such a proceeding. He wished time to consider the matter. He had another reason against getting rid of this business. When the debate upon this question came to be faithfully reported, it might be said that the society of Quakers had been found guilty of such foul conduct, that their petition to the House had been *thrown under the table.* Another reason. Last Summer, along with other strangers, he went to see the new jail of the city, where he was shown a man who had been a manumitted slave; but after being free twenty years, he was apprehended under the fugitive law, and was there imprisoned. If this were so, it was necessary that this law should be revised. He hoped, therefore, the petition might be committed, and that this evil might be remedied. At all events, he trusted the petition would not be rejected, as it would be highly disrespectful to a society of men revered by every man who set a value upon virtue and integrity.

Mr. Livingston said, if he could believe that the persons who presented this petition were of the description which they had been represented; that they endeavored to raise insurrections in one part of the country, and practised robbery in another, he should not be inclined to pay much respect to them. But he did not believe these charges; he believed them indiscriminately made and unfounded. It was possible that a member of this community, as well as of any other, might be of this description; but, as against the body, he knew the charges were unworthily made. He was

acquainted with many of these persons in those States where they were most numerous, and he was certain they did not deserve the character given them. Therefore, as the matter respected the petitioners, the petition ought not to be thrown under the table. Let us now, said he, examine the request, and see whether it be so improper and impracticable as to make us say, on its first reading, we have heard enough. What do they ask? They say a certain number of citizens are deprived of what belongs to them; and can we say we will not grant relief? No, said he, we cannot, before the business is inquired into, as it would be acting unlike the Legislature of a great nation. If they said this application was so improper as not to be committed, what did they say to their predecessors who sat in that House a few months ago, who not only received an application of a similar kind, but a committee reported in its favor. They said universal emancipation is not in our power, but the evil is one for which a partial remedy may be provided. The want of time only prevented its being acted upon. This was a subject upon which they might at least debate; he could not say whether they could afford a remedy or not. His impressions were they could not, but he would not say they never could. He did not think they should do the duty which he was sent there to do, by saying so, which was to follow the dictates of a sober judgment, after facts were fairly and fully stated. He thought it best to follow the usual course, by appointing a committee, who would examine the matter and report what was best to be done, which the House could agree to or not, as they saw proper. He thought it would be for the advantage of those States most interested in the question, that it should be fully discussed and impassionately decided upon; for, so long as the petitions of these persons were neglected or treated with contempt, so long would they conceive they were unjustly treated, and continue their applications for redress.

Mr. L. said there were a number of general reflections contained in the memorial, upon the growth of vice and immorality, to the suppression of which he did not see that the power of Congress extended. They particularly pointed at the establishment of play-houses; but it might be remarked that these gentlemen, so averse to the establishment of play-houses, have not written their memorial without borrowing language from them, as they term the evil which they speak of "a terrible tragedy."

Mr. Isaac Parker was of opinion with the gentleman from Pennsylvania, (Mr. Gallatin,) with respect to the disposal of petitions. But it appeared to him that the subject-matter of all petitions should be within the view and authority of the House; if not, to refer them would certainly be a waste of time. He had attended to the petition, and he did not think there was a single object upon which it was in their power to act. Nothing was prayed for. The petitioners speak of the slave trade, and, in general terms, of the immorality of the times, as injurious to the state of society; and wish some means may be taken to prevent the growth of them. To refer a petition of this sort, therefore, to a committee would answer no purpose. He did not think they were more obliged to take up the business than if they had read the address in a newspaper.

Mr. Bayard said it might be inferred, from the anxiety and warmth of gentlemen, that the question before them was, whether slavery should or should not be abolished. The present was, however, very remote from such a question, as it was merely whether a memorial should be read a second time. The contents of this memorial, he said, were right or wrong, reasonable or unreasonable; if right, it was proper it should go to a committee; and if wrong, if so clearly absurd as it had been represented, where would be the evil of a reference for a report thereon? He did not like things to be decided in the moment of passion, but from the fullest consideration. In some countries they knew persons accused of crimes were condemned without a hearing, but there could be but one sentiment as to the injustice of such a proceeding. There could be no objection, therefore, upon general principles, to the reference of this petition. But it was said it was not to be sent, because of the general habits of this society. He believed there was no body of men more respectable; they were obedient, and contributed cheerfully to the support of Government; and, either politically or civilly speaking, as few crimes could be imputed to that body as to any other.

This memorial, he said, had been treated as coming from an Abolition Society—it was a memorial of the General Meeting of the people called Quakers; and if only out of respect to that body, it ought to be referred. But it was said it did not contain matter upon which the House could act. Gentlemen seemed not to have attended to the subject-matter of the petition. He did not believe that the House had the power to manumit slaves, but he believed there was not a word in the petition which had a reference to slavery. The petitioners state, indeed, that a number of negroes, not slaves, for negroes may be free, had been taken again into slavery, after they had been freed by their masters. He wished to know whether the House had not jurisdiction over this matter? He was warranted by the Constitution in saying they had, because that instrument says that no State shall make *ex post facto* laws. It belonged to that House, therefore, to see that the Constitution was respected, as it could not be expected from the justice of the individual States, that they would repeal such laws. It rested, therefore, with the Government of the United States to do it. Mr. B. read the clause of the Constitution touching this matter, and concluded by reminding the House that this was not an ultimate decision, but merely a reference.

Mr. Josiah Parker said he was always inclined to lend a favorable ear to petitioners of every kind but when memorial was presented to the House contrary to the nature of the Government, he should consent to its lying on the table or under it. No one, he said, could say they had a right to legislate respecting the proceedings of any individual State; they, therefore, had no power to decide on the conduct of the citizens of North Carolina in the matter complained of. Petitions had frequently come from Quakers and others on this subject; whereas this Government had nothing to do with negro slavery, except that they might lay a tax upon the importation of slaves. He recollected, when the subject was brought before the House in the first Congress held at New York, wishing to put a stop to the slave trade as much as possible, being a friend of liberty, he took every step in his power, and brought forward a proposition for laying a tax of ten dollars upon every slave imported. It was not agreed to; but there was only one State (Georgia) in which the importation of slaves was admitted. Since the establishment of this Government, Mr. P. said, the situation of slaves was much ameliorated, and any interference now might have the effect to make their masters more severe. He knew of no part of the Constitution which gave them power over horse-racing and cock-fighting, nor could they interfere with respect to play-houses; and where they had no right to legislate, they had no right to speak at all. As the session had begun harmoniously, he hoped that harmony would not be broken in upon by such applications as the present. Mr. P. produced a precedent from the Journals of 1792, where a memorial of Warner Mifflin, a Quaker, after being read, was ordered to lie on the table, and two days afterwards returned to the memorialist.

Mr. Nicholas felt as much as other gentlemen from the Southern States on the subject of the present petition, but his feelings did not produce the same effects. He was not afraid of an interference from the United States with their property, nor of any investigations or discussions respecting it. He believed it would be to the honor of people holding property in slaves, that the business should be looked into. He thought such an inquiry would rather secure than injure their property. He did not think it was the interest of slaveholders to cover improper practices. He was satisfied, that in the part of the country where he lived, there was no disposition to protect injuries—no disposition to reject an inquiry, or to refuse to understand a complaint. They had been told that the state of the negroes, whose cases were mentioned in the memorial, might be produced by the fugitive law; they had before heard that this law had operated mischievously. It ought, therefore, to be inquired into. On inquiry, Mr. N. said, it would not be found the fault of the Southern States that slavery was tolerated, but their misfortune; but to liberate their slaves at once, would be to act like madmen; it would be to injure all parts of the United States as well as those who possess slaves. It was their duty, however, to remedy evils; they were unfortunately placed in a situation which obliged them to hold slaves, but they did not wish to extend the mischief. He should, indeed, be sorry if his possessing property of this kind, obliged him to cover the violation of another man's right; if this were the case, he should think it necessary that his property should be taken from him. He did not think it necessary, and he doubted not, if a fair investigation took place, that this kind of property would be brought into the situation in which every man of sense would place it. He was firmly of an opinion, that to appear to be afraid of an inquiry would do more harm to this property than a fair investigation. He trusted, therefore, the petition would be committed.

Mr. Blount hoped this memorial would not be committed. As this was not the first time the society of Quakers had come forward with petitions to the House, seemingly with no other view than to fix an odium on the State of North Carolina, he thought it his duty positively to contradict a fact stated in this memorial. It was stated that 134 persons, set free from slavery in North Carolina, had been since enslaved by cruel retrospective, or *ex post facto* laws; they alleged that certain members of their society had done what no person was permitted to do. Mr. B. read part of a law of North Carolina, stating "that no negro or mulatto slave shall be set free, except for meritorious services, acknowledged by a license of the court; and when any person shall be set free contrary to this law, he may be seized and sold as a slave," &c. He also read a clause from another law, passed afterwards, stating that several persons having set at liberty their slaves contrary to law, and persons having taken up and sold them, are doubtful of the validity of the sale, and that this law is passed to do away all doubts of such validity. Mr. B. said these extracts proved the assertion untrue.

Mr. Gordon lamented that this discussion had taken place, as it was certain that wherever interest is concerned, some degree of warmth will be produced; and when a petition was brought forward which might affect the property of many gentlemen in this House, and their constituents, it could not be expected they would hear it with the same calmness with persons wholly unconcerned about it. All that had been advanced in favor of the second reading of the petition was, the respectability of the persons presenting it, the opinion that would be entertained of the petitioners, if their petition was not referred, and the merits of the petition itself.

With respect to the persons of the petitioners, he felt inclined to do them every justice; but he did not think this any reason for acting upon their memorial, unless some good consequence could arise from it, any more than if they were the vilest persons on earth. As to the opinion that might be entertained out of doors, as the petition was not examined, he was not afraid that the citizens of the United States would believe that the House could be so far lost to its duty as not to look into a question of this kind, but that it would be conceived, if rejected, that they had nothing to do with it. The other reason, the only material one, was to the merits of the petition. The gentleman from Delaware, (Mr. Bayard,) who had examined the business with much coolness and ability, had stated that a certain *ex post facto* law of North Carolina had occasioned grievances. Admitting

there was such a law, what could the House do? Could they declare a law of North Carolina null and void? There would be no utility in this; but if there was a law in North Carolina that violated the Constitution, there was a clear remedy in the law which organizes the Judicial department of the United States, in which it is said, if any law of an individual State interferes with a law of the United States, a person has a right to take advantage of the law of the United States. There was no necessity, therefore, to call upon Congress for a remedy against this law. Indeed, he saw nothing in this memorial which called for their interference, and he was therefore against a reference, as a further discussion of it would only produce uneasiness in certain parts of the United States, without producing any good.

Mr. Rutledge observed, that notwithstanding all that had been said, considering the present extraordinary state of the West India Islands and of Europe, he should insist that "sufficient for the day is the evil thereof," and that they ought to shut their door against any thing which had a tendency to produce the like confusion in this country. If this were not done, the confidence of a great part of the Union in the General Government would be weakened. In the Southern States, where most of their property consisted of slaves, and where the rest was of no value without them, there was already a prejudice existing that the Northern and Eastern States were inimical to this kind of property, though they were bound by the Constitution from an interference with it; but when they heard of the House giving countenance to a petition like the present, it would increase their uneasiness. He referred to what had fallen from the gentleman from Delaware respecting *ex post facto* law, and thought a court of justice the proper tribunal to settle that business. Mr. R. said he was indisposed, notwithstanding the high panegyrics which had been passed upon the body of Quakers, to withdraw the censures he had cast upon them. The gentleman from New York had doubted the charges which he had produced, and said such things could never be attempted by the body. It was true, they did not come in a body into his lodging to seduce his servant, but individuals did it. But why, he asked, do these men come here in a body? Because they believe that their presence will give more weight to their petition; so that they appeared in bodies, or as individuals, to answer their purposes. Gentlemen had charged the opposers of the petition with heat; he thought there was as much heat on one side as the other.

Mr. Edmond did not believe there was any real ground of irritation in the question; as no gentleman could suppose they were about to do any thing which was either unconstitutional, or which would affect their property. Whether the persons who presented the memorial are virtuous or vicious, was of no consequence, since justice was due to both classes of men. They had brought a petition before them, and they ought to consider it. It was addressed to their honesty or justice; if the facts were claims upon their honesty or justice they should be attended to; and not only attended to, but, if possible, relief granted. It was stated that there were a number of persons held in bondage who were justly entitled to liberty.

This fact called for examination; and a question arose, if it were established, whether that House could afford redress. A gentleman from North Carolina (Mr. Blount) had stated that the fact was not true; it was certainly, therefore, worth while to be inquired into. Another gentleman had said, if the fact were as stated, they had no power to act; and a third was of opinion that, by the Constitution, redress might be afforded. This diversity of opinion showed the necessity of an investigation of the subject, in order to determine the jurisdiction of the House. He wished it for another reason. It had been stated, that if this petition were attended to, it would open a door to faction and mischief. Can it have this effect? These people bring forward a petition stating a number of facts; they certainly do not come forward for the mere design of exciting disorder in any quarter. If the House say they will throw their petition under the table, would not such treatment give the factious some ground of clamor by which to sow dissension? But if, on the contrary, they coolly looked into the petition, and reported thereon, would it not stop the mouths of these people? It certainly would; since they could not then say common justice was refused to the petitioners. Again: having once investigated the subject fully, if petitions of a similar kind should hereafter come forward, it would be reasonably said, this matter has already been taken up and fully decided upon; and, therefore, we will not again go into it. Until this was done, the factious would doubtless have cause of complaint.

Mr. Blount said, several gentlemen who had spoken on this subject seemed to express themselves as if they believed there was no punishment for individuals reducing to slavery persons who had been manumitted. He read an extract from a law, passed in 1779, in North Carolina, by which the punishment of death is awarded against such an offence.

Mr. Macon read the proceedings of the House on the petition respecting the kidnapping of negroes, in order to show that the gentleman from New York (Mr. Livingston) had misstated the issue of that business. The last report on the subject was that it would be best to leave the regulation of the subject to the Legislatures of the several States. Mr. M. allowed that his reflections upon the whole body of Quakers were too general, and he had no hesitation in retracting them; but he believed a number of them were guilty of the charges brought against them by the gentleman from South Carolina.

Mr. Thatcher said, if, when the motion was first made, he had been against it, from what had fallen from gentlemen on the subject, he should now be in favor of it; for, notwithstanding they opposed the second reading of the petition, they were filing off in squads to read it, and ready to fight for a sight of it. He believed, therefore, they had some reasons for opposing the second reading,

which did not appear. He referred to what had been said by the gentleman from North Carolina, as to the fact stated in the petition, and said that, notwithstanding the laws which he had read, the fact might be true; but that this very doubt about the fact was an additional reason for going into the inquiry.

Gentlemen had said, however good and virtuous the petitioners might be, it ought to have no effect upon the petition; if this were true, he hoped when they were represented as the worst of men, that representation was not meant to influence their decision on the question. Mr. T. could not conceive for what purpose they were carried to Europe, to witness the scenes which had taken place there for the last ten years. Was this, he asked, the state of society? If he thought so, if it had the faintest resemblance of what was taking place there, he would fly from it to the uttermost parts of the earth, and there make his habitation. Mr. T. wished an inquiry to take place; there was a part of the United States in which slavery was tolerated—some of the members from those parts thought it not right; there were other parts of the Union which disclaimed it. These two opposing principles were like two opposite powers in mechanism, which produced rest; but, the more frequently the subject was looked into, the more mitigated would be its effects.

Mr. Bayard went into a justification of what he had before advanced with respect to its being within the jurisdiction of the House to afford a remedy with respect to the *ex post facto* law complained of, and insisted that, without some such interference, persons might be in a situation in which they could get no redress. Mr. B. concluded by saying, that gentlemen knew little of human nature, who thought to silence these petitioners by contemptuous treatment, and alluded to the indulgence which had been shown them with respect to taking of oaths.

Mr. S. Smith wished for an explanation on the subject of *ex post facto* law. He thought the Constitution of the United States could have no power over laws passed before it existed. He was of opinion this petition ought to be referred, as it was presented in a respectful form, and by a respectable body of men—a body of men so respectable that their word was equal to the oath of other men. He thought, also, that a fair and candid decision would prevent future similar applications. Because some few men had attempted to delude the servants of gentlemen, it ought not to be the ground of a reflection upon the whole body.

The gentleman from Pennsylvania had said that the manumission law of that State had done no harm to property of this kind; that he denied; he believed it had made many of the slaves in the neighboring States unhappy in their situations, and had given their masters considerable uneasiness.

Mr. Venable would not have risen, had it not been that he wished to correct a mistaken notion of disrespect that was attached to ordering a petition to lie upon the table. When a petition was received and read, and no matter found in it upon which the House could act, the proper mode of disposing of it was to order it to lie on the table, where every member could have recourse to it, and could call it up whenever he pleased. This was not disrespectful, and it would give members a better opportunity of becoming acquainted with it than a second reading, which the gentleman from Massachusetts (notwithstanding his attempt at wit on the subject) knew was merely a matter of form, the first words only being repeated. With respect to the society from whence the petition came, he respected them as much as any other society in the United States; but, if they presented a petition upon which the House could not act, he should be for its lying upon the table.

Mr. Gordon defended what he had before asserted with respect to the law organizing the Judiciary system being equal to the redress of any grievance arising from a State law, in opposition to the gentleman from Delaware. He read the law at length.

The question was taken for the second reading of the petition, and carried—53 votes being in the affirmative.

Mr. Gallatin moved that it be referred to a select committee.

Mr. Coit wished it to be referred to the Committee of the Whole, to whom was referred the petition on the subject of kidnapping negroes, &c.

Mr. Rutledge thought a select committee would be best, as stage-plays, cock-fighting, horse-racing, and other evils, would, of course, be considered.

The question for reference to a select committee was put and carried—59 members being in the affirmative.

Five members being agreed upon to form the committee, the Speaker named Messrs. Sitgreaves, Nicholas, Dana, Schureman, and S. Smith, for the purpose.

The House adjourned.

Friday, December 1.

A new member, to wit: Joseph Heister, returned to serve in this House as a member for the State of Pennsylvania, in the room of George Ege, who has resigned his seat, appeared, produced his credentials, and took his seat in the House.

Several other members, to wit: from Pennsylvania, Andrew Gregg; from Kentucky, Thomas T. Davis; and from North Carolina, Nathan Bryan, and Demsey Burges, appeared and took their seats in the House.

The Clerk then informed the House that he had heard from a member of the Senate that the Speaker was indisposed; so much so, that he was not able to communicate his indisposition to the House in writing.

Mr. Dent said, this being the case, he should move that the orders for this day be further postponed till Monday; which motion being agreed

to, the Clerk, on motion, adjourned the House till Monday morning, at 11 o'clock.

Monday, December 4.

Thomas Sumter, from South Carolina, appeared and took his seat.

Mr. Coit, from the Committee of Elections, reported on the memorial of Robert Rutherford, complaining of the undue election of General Morgan, that they had examined the proofs adduced, and that they were wholly insufficient to support the allegations contained in his memorial.

Mr. C. moved that the House concur with the report; but, upon the request of Messrs. J. Parker and T. Claiborne, it was committed to a Committee of the Whole for Thursday.

REMISSION OF DUTIES.

Mr. Livingston, from the Committee of Commerce and Manufactures, made reports on the petitions of John C. Normand and Henry Sherriot, who prayed for the remission of duties on wine destroyed by fire. The report stated that there was no doubt of the fact being as set forth; but that the House had of late years rejected all such applications, not only as inequitable, but on the ground of its being impossible to guard against imposition, and therefore, referring to former decisions, determine the prayer of the petitioners could not be granted.

Mr. L. also made a report on the petition of Frederick Cyrus, praying to have the management of a mining scheme; stating that as the committee knew of no such plan, and the House had no power to make the appointment, the prayer of the petition could not be granted.

The House concurred in these reports.

PUBLICATION OF DEBATES.

Mr. Dwight Foster presented the petition of Thomas Carpenter, stating that he was the editor of the *American Senator*, published during the session of Congress ending in March last; that, at the commencement of that session, he presented a memorial to the House, praying its support of his work; that the House had declined supporting it as a body, but receiving individual assurances of support from many of the members, he had been induced to engage in the work; but the event had proved unfavorable to him. He hoped now, therefore, that he should be recompensed, by the House engaging to take three copies for each member of the work he proposed to publish this session, (provided he met with the support he prayed for,) which, computing the session at eighteen weeks, he supposed would not amount to more than $2,250.

Mr. D. Foster moved that this petition be referred to a select committee.

Mr. Coit objected to a reference. The House, he said, had so often determined to have nothing to do with the publication of the debates, that he thought it time to have done with the subject. He hoped, therefore, the petition might lie upon the table.

Mr. Foster and Mr. Thatcher spoke in favor of the committal; and the motion was put and carried, and a committee of three members appointed to report thereon.

DUTY ON STILLS.

Mr. T. Claiborne presented a petition from sundry citizens of the State of Virginia, complaining of being aggrieved by the act laying a duty upon stills, and praying relief.

Mr. C. was doubtful as to what committee this petition ought to go. He thought it best to go to the Committee of Ways and Means; but, on being informed no such committee was at present in existence, and Mr. Harrison wishing the subject to go to a select committee, he consented. Mr. New thought it would be best to appoint a committee to inquire what amendments were necessary to the act. Mr. J. Parker was in favor of a Committee of Ways and Means; and Mr. Nicholas moved that a Committee of Ways and Means be appointed.

A Committee of Ways and Means was accordingly appointed, and consisted of the following members, viz: Messrs. Harper, Gallatin, Griswold, Blount, Hosmer, Craik, Brent, A. Foster, Sewall, Morris, Davis, Sinnickson, W. C. Claiborne, Bayard, Champlin, and Baldwin.

The petition was referred to this committee.

TENNESSEE BOUNDARY.

Mr. W. C. Claiborne presented the remonstrance and petition of the Legislature of the State of Tennessee, complaining of the extension of the boundary of the United States into the Cherokee country; of the proclamation of Colonel Butler, requiring all persons settled upon the land included in the boundary, within a very short space, and at an inclement season, to remove therefrom, by which nearly 3,000 persons had been greatly distressed; of the conduct of Mr. Hawkins, &c., and praying relief. Referred to a select committee.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves said, he was prepared to make a report from the committee appointed at the last session, to sit during the recess, for the purpose of collecting evidence, and substantiating charges against William Blount, a Senator of the United States, impeached of high crimes and misdemeanors; but as that committee was appointed and received its instructions with closed galleries, he supposed, except the injunction of secrecy were taken off, it would be necessary that the galleries should be closed whilst the report was made; though the committee were of opinion there was not any thing in the report which ought not to be made public. He therefore moved that the report should be received in the usual way.

The Speaker read the rule of the House on the subject, and said he did not think any motion necessary, if the committee were of opinion secrecy was not necessary.

Mr. Thatcher thought it was necessary that the injunction of secrecy ought to be taken off before the report was made.

Mr. Sitgreaves made a motion to that effect, which was carried. He then presented the report, which the Clerk proceeded to read. [The report and documents will be found entire in the *Appendix*.]

The committee state soon after their appointment they received a trunk from J. Ross, Esq., containing sundry papers belonging to William Blount, which had been seized by order of the Senate. From these papers they made a selection, and returned the remainder to William Blount. A violent presumption arose from the perusal of the papers, that Nicholas Romayne, of the city of New York, was intimately connected with Mr. Blount; the committee conceived it to be their duty therefore to prevent the escape of N. Romayne, by securing his person and papers, and issued a writ for that purpose, the execution of which they placed in the hands of the Secretary of State, who made Captain W. Eaton messenger on the occasion. On the 12th of July, the messenger returned with Nicholas Romayne and a number of his papers, (such of which as are material are reported.) Having finished his examination, N. Romayne gave security for his appearance before the Senate on the trial of W. Blount.

A letter, signed James Grant, found amongst W. Blount's papers, and the letter from the latter to James Carey, made it necessary to secure their persons and papers; Major T. Lewis was employed to do the business. He was also to bring along with him John Rogers. In the interim, the committee received the examination of James Carey, taken at Tellico Blockhouse. On the 25th September, Major Lewis arrived at Germantown, with Grant, Rogers, and Carey. These persons were examined, and Major Grant gave bond for his appearance before the Senate.

To complete the series of correspondence between Mr. Blount and Mr. Romayne, the letter No. 9 seemed to be wanting. On the 13th of July it was received by the Secretary of State, under an anonymous cover, in a foreign language.

Having heard of Captain Chisholm having sailed from Philadelphia, in a vessel belonging to Mr. William Davy, they sent for Mr. Davy and examined him; his examination led to the examination of George Lesher and others.

The committee mention that the Chevalier Yrujo called upon them and made a communication which implicated a person of the name of Mitchel. They immediately wrote to Major Lewis on the subject; he received their letter, but could not find the person. A second communication was made by the Chevalier on the subject.

After stating a number of other circumstances, the committee conclude their report by regretting that they have not been able to obtain more complete information on the subject, but assure the House that nothing in their power has been wanting to obtain it.

The report being gone through, Mr. Sitgreaves said the reading of the documents referred to would take up much time of the House, and as it was desirable that they should be printed for the use of the members as soon as possible, he should wish the reading might be dispensed with, and that the usual vote of printing might be agreed to.

Mr. Gallatin hoped the papers might be read, as the report consisted chiefly of a reference to them.

The reading of the documents was then entered upon as follow:

No. 1. A letter from William Blount to Dr. Romayne.
2. Do. from Dr. Romayne to W. Blount.
3. Do. from Dr. Romayne to W. Blount.
4. Do. from W. Blount to Dr. Romayne.
5. Do. from Dr. Romayne to W. Blount.
6. Do. from Dr. Romayne to W. Blount.
7. Do. from W. Blount to Dr. Romayne.
8. Do. from Dr. Romayne to W. Blount.
9. Do. from Dr. Romayne to W. Blount.

Mr. Sitgreaves (who read this part of the papers) mentioned that the above was the letter enclosed to the Secretary of State, anonymously, in a foreign language, signed "*An Eternal Enemy to Foreign Influence.*"

Mr. Thatcher inquired in what language the anonymous letter was written.

Mr. Dawson thought it necessary to state, lest because this letter was written in the Spanish language, it should give rise to groundless suspicions, that the committee had the strongest proof that it was written by an American gentleman.

10. Do. from Dr. Romayne to W. Blount.
11. Do. from John Chisholm to W. Blount, from Chisholm to Col. McKey, and from Chisholm to John Rogers.
12. Do. from Dr. Romayne to W. Blount.
13. Do. from Dr. Romayne to W. Blount.
14. Do. from W. Blount to James Carey.
15. Do. from W. Blount to John Rogers.
16. Do. from W. Blount to James Carey.
17. Do. from W. Blount to Major Wiley.
18. Do. from Robert Liston to Dr. Romayne.
19. Do. from James Grant to W. Blount.
20. Do. from Dr. Romayne to W. Blount.
21. Do. from Dr. Romayne to W. Blount.
22. Do. from Dr. Romayne to W. Blount.
23. Do. from James Grant to W. Blount.
24. Do. from W. Blount to Dr. Romayne.
25. Do. from W. Blount to Dr. Romayne.
26. Do. from Dr. Romayne to W. Blount.
27. A writing found among the papers of Dr. Romayne, and acknowledged by him to be an unfinished letter to W. Blount.
28. A paper, endorsed by Judge Turner, containing an account of different military posts.
29. W. Blount's circular letter, after his impeachment.
30. The deposition of Dr. Romayne before the committee. The deponent states that he had been acquainted with Mr. Blount since 1782; that he became acquainted with Chisholm whilst in treaty with Mr. Blount in land speculations; sometime after the deponent intended going to London to sell land, but the falling in price of property prevented him; that Governor Blount was to have procured a law passed in Tennessee to enable

aliens to hold land; the deponent spoke of the different letters which had passed between W. Blount and himself on the subject of Louisiana, which the former regretted the English did not possess, and spoke of going to England on the business; he regretted the Floridas did not belong to the United States. It was understood between them that it was most favorable for Louisiana to belong to the Spaniards, but that the English had much better have it than the French; they agreed that it was necessary to sound certain persons in Philadelphia on the subject, as well as in Virginia and the Southern States; spoke of his conversation to Blount about going to England, but that Mr. Blount neglecting to answer his letters, he gave up the project.

After this evidence, follows the cross-examination of the committee. The letters which passed between W. Blount and N. Romayne bear date from February to May, and are chiefly on the project of going to England, on the business of Louisiana. Mr. R. frequently speaks with great confidence of success, and often introduces in his letters the critical situation of the European Powers, and the improbability of peace.

31. Next follows the examination of Mr. William Davy, of this city, which relates to the sailing of Chisholm in the brig John Henderson, which he chartered, and which cleared out for Hamburgh, but was bound for London, on the 20th of March; that his passage was taken and paid for by R. Liston, by means of Mr. Thornton; Mr. D. repeats conversation which took place between them as to his business; that Chisholm was to command a squadron against Pensacola, and a variety of other circumstances. Mr. D. also mentions several interviews with Mr. Liston on the business. He also produced a letter from his brother in London, mentioning Chisholm having endeavored to get money from him; but before he gave him any, he applied to Lord Grenville's office, to know if he had got money from thence, and finding they had supplied him largely, he declined letting him have any.

32. Evidence of George Lesher relates to Chisholm's being at his house with a party of Indians; of his conversation about going to Europe, and of his business there; that, whilst he was at his house, he was arrested for $400, and that he told him he was obliged to sacrifice a note of Mr. Bond's for $500, at a loss of five or six dollars in the 100, to satisfy the demand.

33. The examination of William Bell refutes what is said about sacrificing the note of $500, as he states that he gave Chisholm credit, from time to time, and that the note of $400 was not paid at all.

34. A letter from the Secretary of State to the committee, stating what had passed between him and the British Minister, in which, amongst other things, it is asserted that Mr. Liston gave Mr. Chisholm no money at all; that he only paid his passage to the owner, and gave him an order for £20 on his banker in London.

35. A note from Mr. Liston to the Secretary of State.

36. Lord Grenville's note to Mr. Liston, in which the British Government declines to accede to the proposals made to them respecting the Floridas, &c.

37. Evidence of Elisha B. Hopkins with respect to conversation held with Chisholm.

38. Dr. Charles Buxton's examination relates to conversation between him and Dr. Romayne.

39. John Franklin was examined with respect to Chisholm being at Lester's at the same time with him; spoke of his conversation respecting Louisiana and the Floridas, W. Blount, and the British Minister.

40. James Carey and John Rogers's evidence went to the same effect.

The reading of the papers having continued for more than two hours, and it being three o'clock, Mr. Dent said, as he observed there were yet several more papers to read, he should move the House to adjourn. The motion was carried—39 to 31.

Tuesday, December 5.

Mr. Harper, from the committee appointed to prepare and report a bill for the relief of Antonia Carmichael, reported a bill, which was twice read, and ordered to be committed to-morrow.

Mr. Otis presented a petition from Isaac Stevens, late a prisoner at Algiers, which states the hardships the petitioner had experienced; that, during his long absence from family and home, his property had been made away with, his wife had been obliged to go out to service, his children had been dispersed, his own health had been impaired, and that he was now obliged to subsist upon charity. He prays for some aid which may soothe the decline of his life. Referred to the Committee of Commerce and Manufactures.

Mr. W. Claiborne presented the petition of James Grant, of Knoxville, stating, that in pursuance of a process issued by a committee of that House, he and his papers were seized on the 28th of last July; that he was in custody 65 days, at the expiration of which he was discharged, at the distance of 700 miles from his own home, from whence he had been dragged by military force, to the great neglect of his business. He prays to be placed, at least, in as good a situation as he was found. He reckons 20 days for his return home, which, added to 65, makes 85, and hopes he shall be allowed five dollars a day; for, as he has been guilty of no offence, he trusts he shall go unpunished. Referred to the Committee of Claims.

STAMP DUTIES.

Mr. D. Foster observed, that in looking into the laws of last session, he found that the act laying a stamp duty throughout the United States was to take place on the first of next month. As he understood that it would be impossible for the act to take place at that time, as the necessary preparations could not be effected in the interim, he should move that a committee be appointed to inquire whether any and what alterations are necessary to be made in that act.

The Speaker submitted to the gentleman whether this subject did not properly come under the duty of the Committee of Ways and Means.

Mr. Foster believed it might, and would therefore alter his motion to, "Resolved, That the Committee of Ways and Means be instructed to inquire whether any," &c.

Mr. Macon had no objection to the motion, except that he thought it unnecessary, as he believed it was the duty of the Committee of Ways and Means to act upon the subject, without any special direction.

Mr. Foster said it was desirable that something should be done in the business immediately, as notice must be given in all the papers of any alteration which may be made in the act.

The motion was put and carried.

PENSIONERS.

Mr. D. Foster said, that a bill passed that House in the session ending in March last, but was postponed by the Senate, for placing certain persons on the pension list. He moved that that bill, with the reports on the subject, be referred to the Committee of Claims.

The Speaker said the reports might be referred, but the House knew nothing of such a bill being acted upon at a former session.

Mr. Foster moved that the reports of the Secretary of War on the subject might be referred. Agreed to.

IMPEACHMENT OF WILLIAM BLOUNT.

The Clerk now proceeded to read the remainder of the documents referred to in the report of the committee on the subject of W. Blount's conspiracy.

The next paper which came of course was the depositon of James Grant, commonly called Major Grant. His evidence consisted principally of conversation which had passed between him and W. Blount. He stated that he met with him in Washington county, Virginia, on the 28th April; that they spoke on the subject of running the line between the United States and the Indians, and he seemed to wish to avoid any responsibility with respect to the Indian treaty; that W. Blount mentioned his pecuniary embarrassments, but that he said he had a plan on foot which he expected would effectually relieve him. He said Chisholm and the Indian chiefs had been with the British Minister at Philadelphia, and that Chisholm had a plan in the handwriting of the British Minister, which, if it succeeded, W. Blount said he should have it in his power to serve all his friends; that he seemed to place great reliance upon Rogers and Carey, and upon their influence with the Indians. He mentioned that an armament was to be sent from England, which was to be co-operated with on the land side by him at the head of the Indians.

The deponent also speaks of having received letters from Colonel King, about the 15th of June, from W. Blount for Carey, which he delivered, and mentions the conversation which passed between them.

Mr. Sitgreaves took the chair of the Clerk and said, the document was a paper communicated to the committee by the Chevalier de Yrujo, in French. The committee had not, he said, any formal translation of it, but he would read it in English as perfectly as he was able—which he proceeded to do. It was the communication of a citizen, (Mitchell,) who states that there had been enrolled by an English agent in the Western country, 1,000 persons, for the purpose of attacking certain Spanish posts, and to go against Louisiana and the Floridas; that Chisholm had a list of 1,500 Tories who were engaged to take up arms in favor of England; that there were formed on the Lakes 500 regular troops, 700 Canadian militia, and 200 savages, to attack Fort Louis; that Chisholm had provided six pieces of cannon, the same which was procured for citizen Genet; that the rendezvous was to be at Knoxville the 1st of July; and that, after Chisholm had reported the business to the British Minister, he would set out for England, to lay the project before the British Government, and command money and vessels for carrying it into effect. The Chevalier also gave to the committee a letter which Mitchell had received from Chisholm. It was a request that Mitchell and Craig would be in Tennessee in July; with an assurance that they might rely upon everything which he had said.

The next papers were the evidence of John Phillips Ripley and Thomas Odiorne, who were brought forward by the Chevalier de Yrujo.

J. P. Ripley states that he is a citizen of New Hampshire; that he was educated with Captain Eaton at Yale College; that Captain Eaton had told him that several letters were found in the possession of Dr. Romayne, which proved the British Minister to be concerned in the enterprise contemplated by Governor Blount; that these letters offered rewards to any person who would engage in the service, and that they were discovered under some rubbish; that many of Dr. Romayne's papers were destroyed; that Captain Eaton had told him that Colonel Pickering had reprimanded him for having mentioned anything respecting these letters, and had said that Great Britain was now the only friend we had; that he saw a letter which Captain Eaton had written to Colonel Pickering on the subject. On examination by the committee, Ripley asserted that he believed that Great Britain was at the bottom of the conspiracy.

Thomas Odiorne deposed, that he was also at college with Captain Eaton, and that Captain Eaton had told him nearly the same circumstances which J. P. Ripley deposes to have heard from him. He also says, he saw the letter which the captain had written to Colonel Pickering, as an apology for having mentioned anything respecting the letters found in possession of Dr. Romayne.

Next follows the evidence of William Eaton, taken at Springfield, before Judge Lyman. He states that Philip Ripley was his cotemporary at college and that he had since been acquainted with him at Philadelphia; but that he does not know much about Odiorne. Some time after his return from New York, he recollects to have told Ripley that four or five original letters of William

Blount were found in Dr. Romayne's possession, at the discovery of one of which he felt a good deal embarrassed. The deponent also told the said Ripley that Mr. Pickering was displeased with him for having mentioned anything about these letters, until the matter was laid before the committee; but the deponent denies that he ever told Ripley, or that Mr. Pickering ever said to him, "that Great Britain was now the only friend we had." The deponent believes he might have given it as his opinion, that the British Minister would have encouraged the plan if it had been feasible; that he had delivered every article respecting the conspiracy of Mr. Blount, which had come into his hands, to the committee of inquiry. Captain Eaton also spoke of a French engineer having been into all the seaports of the United States, in order to make plans of, and observations respecting them.

The next paper was a communication from the Chevalier de Yrujo, consisting of an original letter from General Clark, of Georgia, to —— Murphy, Esq., Consul of His Catholic Majesty there, in answer to an application made to him on the subject of the conspiracy, in which he states, "that the peculiar nature of the proposition made to him by the British, prevents him from giving that satisfaction which is required; an application, he says, had been made to him through a channel which bound him to silence; he was asked whether $10,000 would induce him to join the British, but that he had rejected the offer with disdain."

Mr. Sitgreaves said, that all the documents which were of any importance, had now been read; what remained were not worth occupying the time of the House to read them. If it were wished, however, they might be gone through.

The Speaker said, that would be determined on a motion being made for printing.

Mr. Otis moved that the report and documents be printed.

Mr. Dawson said, there were two depositions of James Carey, one before the district judge, and another before the committee; as one only had been read, and they did not wholly agree, he trusted that both would be printed.

Mr. Sitgreaves said, certainly, all the papers will be printed.

Mr. Dawson observed, that Mr. Byers had given evidence, which, though not on oath, he thought entitled to credit, and ought to be printed, as it corroborated the evidence of Carey.

Mr. Sitgreaves said, it had been usual, upon extraordinary and important occasions, to order printed more copies of papers than the usual number; he thought this one of those occasions, and moved that six hundred copies might be printed, as he supposed the additional expense would be inconsiderable.

The motion was agreed to, and the report and documents were ordered to lie on the table.

DEFERRED DEBT.

Mr. Nicholas said, it appeared to him that when an important object was to be accomplished, and such as the House could form an opinion upon, it was proper to express their sense upon the subject to the committee appointed to consider it, lest they might act, from their own opinion, upon a contrary basis, and afterwards have what they had done reversed by the House. He thought this course necessary with regard to the Deferred Debt. He wished the attention of the House to be now turned to this object, as it would be recollected that this session would probably be the only opportunity they would have of a fair and full discussion of it, as the next session will necessarily be a short one, and the following one will be too near the period at which resources will be wanted, to have the desired effect. This was, therefore, the time for making the proper provision, which was absolutely necessary, except they were to encroach upon funds destined for other objects. He, therefore, proposed to the House a resolution to the following effect.

"*Resolved*, That the Committee of Ways and Means be instructed to prepare and report a plan for raising a sum which shall be equal to satisfy the demands which will be made upon the Government in the year 1801, on account of the Deferred Debt."

The Speaker was of opinion that it was necessary, if not to move, at least to have the proposed resolution discussed in Committee of the Whole. [He read the rule.]

Mr. Nicholas thought the rule had reference to a specific tax. He could refer to a precedent, where the course recommended by the Speaker was not taken. It was the resolution requiring the Secretary of the Treasury to prepare and report a plan for laying a direct tax.

The Speaker was doubtful whether the resolutions proposing to instruct the Committee of Ways and Means took it out of the rule.

Mr. Coit hoped the resolution would lie upon the table till to-morrow; which was agreed to.

HENRY HILL.

Mr. Harper called for the order of the day on the report of the Committee of Claims on the petition of Henry Hill, which was agreed to, and the House accordingly went into a Committee of the Whole on the subject, Mr. Dent in the Chair.

This subject has been frequently before the House, in different shapes, and has occupied much of its time. The petitioner, Henry Hill, is the administrator of Mr. Miller, the administrator of Mr. Banks, whose name has been often before the House, particularly in the settlement of the claim of the widow of General Greene. It appears, from an investigation of facts, that the United States, in their account with John Banks, have a double credit for the same sum of $9,768, it being credited to them in the quartermaster's department, and also reserved out of the balance due to John Banks, on his contract account; and, it being an established rule at the Treasury, not to open accounts for a new settlement, which have once been adjusted by the proper officers, the Treasury Department have refused to resettle this account. Mr. Hill prays for this balance. The Committee of Claims are of opinion, that it would be improper for them to determine who are the actual or equitable representatives of John Banks, so far as respects this balance; the right of the claimants, in case of controversy, may receive a judicial determination. It is sufficient that the balance be placed to the credit of the person to whom it belonged on the 31st of December, 1783, when the sum was retained out of Banks's payment. That committee, therefore, submit the following resolution to the consideration of the House:

"*Resolved*, That the accounting officers of the Treasury cause the sum of $9,768 81, charged to the contract account of John Banks, on the 31st of December, 1783, to be credited to the said John Banks; and that the sum so credited, to be charged to the account of such other person as, in their opinion, shall be justly chargeable therewith."

Mr. Harper, Mr. D. Foster, and Mr. Findley, urged an agreement to this resolution.

Mr. Coit proposed to amend it, by adding a clause to the following effect:

"And that they charge the account of the said John Banks with the money paid by the United States to the executors of General Greene, on account of debts of the said John Banks, or John Banks & Co., bailed or secured by said General Greene."

After considerable discussion, Mr. Otis moved that the committee rise, in order to have the subject recommitted, that further facts may be stated. This motion produced also considerable debate. At length the committee rose, and being refused to sit again, a motion was made to recommit the report to the Committee of Claims; when Mr. O. moved an instruction to the committee to the following effect:

"To report a statement of facts relative to the demand which the United States may have upon the balance in question, on account of indemnifying the estate of General Greene, as surety for the said Banks."

This instruction to the committee, after some debate, was agreed to.

Wednesday, December 6.

Mr. Dent presented a memorial from sundry inhabitants of St. Mary's county, in the State of Maryland, stating, that by the late regulations made in the establishment of the post-roads, they were deprived of the opportunity of receiving newspapers as usual; which, as they have a direct tendency to promote an increase of knowledge, they consider as being deprived of a blessing, and pray for an extension of the road, that the evil they complain of may be remedied. Referred to a select committee.

Mr. D. Foster said, he was instructed by the Committee of Claims, to ask leave of the House to be discharged from the further consideration of the petition of Mr. Maury, Consul of the United States at Liverpool, in order that it might be referred to the committee appointed to take into consideration that part of the President's Speech which related to the Consuls of the United States. Agreed to, and the petition referred in the way proposed.

CONTINENTAL SECURITIES.

Mr. Reed presented the petition of Simeon Dunbar, stating that he possesses Continental securities; that he never heard of the act of limitation before the limit was expired, and prays that they may, notwithstanding, be funded.

A motion to refer this petition to the Committee of Claims occasioned some debate upon the propriety of reference of a petition, which acknowledged the claim to be barred by law: it was, however, at length agreed to; when

Mr. Williams said, he believed there were many just claims undischarged, owing entirely to the ignorance of the persons holding the securities with respect to the law of limitation; for persons living on the frontier of the country who were probably the best entitled to compensation, had no means of becoming acquainted with the laws. He, therefore, proposed the following resolution:

"*Resolved*, That a committee be appointed to inquire into the expediency or inexpediency of designating certain claims to be excepted from the operation of the act of limitation, and that they report by bill or otherwise."

Mr. D. Foster said, that a motion of this kind had been made in the last Winter session, and the Committee of Claims, on the 24th of February, had made a lengthy report thereupon, which, for want of time, had not been acted upon, and which was mentioned in the report of unfinished business. He supposed, if the gentleman moved this report to be committed to a Committee of the Whole, his object would be attained.

After a number of desultory observations, this motion was put and carried, and made the order of the day for Friday.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. Harper then called for the order of the day on certain resolutions which he had offered to the consideration of the House on the subject of taking evidence in cases of contested elections.

The motion was agreed to, and the House accordingly resolved itself into a Committee of the Whole on that subject—Mr. Dent in the Chair. The resolutions were as follow:

"*Resolved*, That the method of taking evidence to be adduced, in the trial of contested elections, for this House, shall, hereafter be as follows:

"1. The party intending to contest an election shall give notice of such intention to the person returned. If it be an election in the usual course, this notice shall be given at least —— weeks before the time when the said person is to take his seat; if not in the usual course, but to fill a vacancy, then the notice shall be given within —— days after the person appointed to hold the election shall have made known publicly the state of the poll. The notice shall be delivered in writing, at the usual residence of the person returned; and if he be absent, shall be left there open.

"2. That the party intending to take examinations, shall then apply to some justice or judge of the Courts of the United States, or some chancellor, justice or judge of a supreme, superior, or county court, or court of common pleas, of any State, or some mayor or chief magistrate of a town or city, and shall obtain

a notification, under his hand and seal, directed to the opposite party, and requiring him to attend by himself, or his attorney duly authorized, and cross-examine the witnesses. This notification shall state the time and place of examination, and the names of the witnesses; and it shall be served on the opposite party, or his attorney duly authorized, or either may be nearest to such place; provided either is within one hundred miles of it. For attendance, after receiving the notification, one day exclusive of Sundays, shall be allowed for every twenty miles.

"3dly. In all cases where either party shall give notice to the other of his having appointed an attorney for the purpose aforesaid, it shall be necessary to serve the above-mentioned notification on the attorney.

"4thly. Every person deposing, shall make oath or affirmation to testify the whole truth, and shall subscribe the testimony by him or her given; which shall be reduced to writing only by the magistrate taking the deposition, or by the deponent, in his presence. The deposition, so taken, together with a certificate of the notices, and proof of the services of them, shall be sealed up by the magistrate who took it, and transmitted to the Speaker of the House.

"*Resolved*, That the examination of witnesses taken in this manner and no other, shall hereafter be admitted on trial of contested elections.

"*Resolved*, That copies of any papers recorded in any office of records, provided those copies be attested under the hand and seal of the recording officer, shall be admitted at all such trials, in the same manner as the originals would be, if produced. In like manner copies of any other papers of a public nature, and remaining in the possession of a public officer, shall be admitted when attested under the hand and seal of that officer.

"*Resolved*, That —— copies of these resolutions shall be forwarded forthwith to the Executive of every State, with a request that they will cause the managers of every election in their respective States, to be furnished with at least one copy."

Mr. Hosmer moved to amend the first resolution by adding, after the word "election," in the eighth line, "or to canvass the votes." Agreed to.

Mr. Sitgreaves did not understand the object which the mover of these resolutions had in view. He knew not whether he meant to confine the operation of his rule to the present House of Representatives only, or to all future Houses. From the language of the first resolution he judged the latter was his intention. As it was his opinion, therefore, that any attempt of theirs to bind future Houses would be perfectly nugatory, he should move to strike out the words from, "If it be," to "given," (in the first clause.) This resolution will then confine the operation of the rule to the elections which may take place during the fifth Congress. By the Constitution every House was to judge of the elections and returns of its own members. It was not in the power of any House to prescribe rules for a succeeding one, for this reason the rules which governed a preceding House were always revised by the succeeding one. If they were to prescribe rules which were to be binding on future Houses, it could only be done by an act of the whole Legislature, which would certainly be exceptionable, as it would give to the President and Senate a power over the rules for governing their proceedings, which, by the Constitution, they were alone the judges of. He thought his ideas on this subject correct; if they were, he doubted not the motion which he had made would be agreed to.

Mr. Harper said, if the idea of the gentleman last up was correct, his motion would doubtless be acceded to, though he did not go far enough, because, in that case he should have moved to have struck out the whole clause; because, if the rules proposed were not to have a permanent effect, they would be perfectly nugatory. But he apprehended his friend had not attended to a distinction which he thought a plain one. It was this: the power to establish rules for the taking of evidence, and that of judging of the evidence after it was taken. This House could not say it would admit members under such and such disqualifications, but an agreement to the mode of taking evidence was very different from the qualifications themselves. It was essentially necessary that Legislative and Judicial powers should be kept distinct, yet it was not thought an interference with the Judicial authority for the Legislature to direct the mode of taking evidence in certain cases. Nothing could be more clear than this distinction. It could not be said, therefore, that because the whole Legislature directed the mode of taking evidence in cases of contested election, that the President and Senate interfered with the Constitutional direction that every House should be the judge of its own rules. He was of opinion that a law was necessary, and a law of a permanent nature, to which he could see no reasonable objection. He allowed that it would be unconstitutional for the President or Senate to interfere with their rules or elections, but when they came to make a law which was to operate upon the whole community, their interference was necessary and proper. If these ideas were sound, and he thought they were, the proposed amendment would be rejected.

Mr. N. Smith said the motion now before them was founded upon an idea that permanent rules could not be made for taking evidence in cases of contested elections. He had frequently heard it said that rules could not be made to be binding any longer than whilst the House existed which formed them. For himself he never conceived this opinion to be correct. That it was highly important that permanent regulations should be made on the subject in question, every one must admit. It became of importance, therefore, to know whether it had the power of making them. When he spoke of permanent rules he would not be understood to mean that any rules should be longer permanent than until the time came when the House of Representatives should wish to rescind them.

The idea which led to the conclusion of the gentleman from Pennsylvania was this: that every new Congress occasioned a new House of Representatives; that whenever the members were newly elected there was a new House of Representatives. He did not believe this doctrine to be correct. The House of Representatives, in his opinion, always existed; and there was no period

at which it could be said there was not a House of Representatives in being. He never believed it was broken in pieces once in two years; for when the time of one set of members expired, that of another set commenced; so that it was the nature of a corporation, which always existed. He did not think there had been four Houses of Representatives since the commencement of the present Government, but that the whole had been one uninterrupted House. He thought this was the view which the Constitution gave of the subject, as it spoke of it always as a permanent body. In the same way the President and Senate were permanent. If this were not the case, and every election made a new House, there was a time when the Senate was only two-thirds of a Senate (when one-third went out of office.) This idea, therefore, could not be right. There was no difficulty, therefore, in forming permanent rules, since they were made to govern the House and not the individual members. With respect to those things which each branch of Government had the power of doing for itself, each could establish its own rules; but what related to the whole Government must be the act of the whole. The gentleman from Pennsylvania had said that each House had the power of judging of its own elections. This, he apprehended, did not refer to different Houses of Representatives, but to the House of Representatives and the Senate, as each House was always considered by the Constitution as a permanent body. He was, therefore, opposed to the amendment.

Mr. Nicholas believed this was a subject in which they should never advance far enough to come to a decision. Very long and very plausible arguments might be adduced on both sides of the question, which would produce different effects on those who heard them; but, he thought the question before them might be acted upon, without coming to a question on that point. He supposed, if any case of contested election came before the House, and the evidence was taken in such a way as to ascertain the truth, they should be at liberty to proceed to the examination of the case; and, therefore, all that was wanting, was to call in the power of the General Legislature to authorize the attendance of witnesses to deliver their testimony. Let that testimony be taken upon established and acknowledged rules, which satisfy every man's mind, and it will carry conviction with it, that it is proper. The necessity of adopting some mode of this kind was evident, as it was a great grievance that persons disputing elections had to come there to learn the mode of doing it, before they could proceed to take evidence. Indeed, it was putting the power of sending members to that House in the hands of returning officers. He had no doubt that the Constitution gave them power to make a law on the subject; if necessary the necessity of the case would show the reasonableness of it; but he did not know that a law was requisite; he thought a rule of the House to the effect he had mentioned, would cure the evil complained of.

Mr. Sewall believed, that the great difficulty on the subject, arose from in the form which it presented itself, which had introduced the question, whether that House was a perpetual body, or not. He must confess that he differed in opinion altogether from the gentleman from Connecticut, (Mr. N. Smith,) that this House was a perpetual body. He thought the Constitution had shown, that though there was always a House of Representatives, yet, that every House had only two years duration; but, he believed, in determining the real object of this motion, there was no necessity for coming to a decision on this point.

Mr. S. objected to the first resolution, on account of the notice required to be given, which, in some cases, would prevent an undue election from being disputed, because the subject was not taken up agreeably to the direction of this rule, as to time; so that, whether the proposed regulation was to be effected by a rule or a law, he thought the first resolution ought to be rejected. With respect to the other parts of the resolutions, some regulations were certainly necessary, both as to elections, and as to all other matters of controversy which may come before the House; because, if some mode were adopted for taking evidence, facts might be brought before the House, which could never otherwise come. As it respected elections, they knew it had happened in one instance and might happen in many, that a person had held a seat in that House for a whole session, who was not entitled to it. He saw no difficulty in passing an act prescribing the mode of taking affidavits to be laid before the two Houses of Congress. He should venture to move that the committee rise, with the intention of discharging it from a further consideration of the subject, and to propose that a committee be appointed to inquire into the expediency or inexpediency of prescribing a mode for taking evidence generally, for the purpose of laying before Congress.

Mr. Harper said, if the gentleman who had just sat down had no other reason than that which he had assigned for making his motion, he thought, on consideration, he would not himself think it necessary. His whole objection to the resolutions seemed to be, to the notice required to be given. Here was no intention, he said, of precluding evidence after the time specified. The sole object was, that testimony taken in this way, and no other, should be admitted. Persons wishing to have the time extended, might still take the evidence in this way. If there were a doubt on the subject, an additional clause might be introduced to this effect. Whether the mode he had proposed was the best which could be adopted, he could not say. If gentlemen knew a better, he wished them to propose it, and let it be considered; but, surely, because gentlemen think some better mode may be devised, this was not a sufficient reason for discharging the Committee of the Whole from a further consideration of the subject.

Mr. Gordon was in favor of the committee's rising, because he did not think the resolution would have any effect, if carried. He was of opinion with the gentleman from Pennsylvania,

(Mr. Sitgreaves,) that they could not pass a rule to bind a future House, though he thought a law might be passed to do away the inconvenience complained of. These inconveniences arose from there being no law obliging witnesses to give their depositions in the cases mentioned. If such a law were passed, all that was complained of would be done away.

Mr. Harper said, if the House could not pass any law upon the subject to have effect, then it was idle to talk about it. One word upon the committee's rising. Was it proper he asked, after the present subject had been printed before the House two years, merely because gentlemen had not given themselves the trouble to look into it, and not because the thing is improper, but because they have not prepared their objections or amendments, to have it sent to a new committee? He thought not. If gentlemen wished a day or two to consider the subject, he had no objection to give it, but he hoped the Committee of the Whole would not be discharged.

Mr. Sitgreaves supposed that the question being for the committee to rise, it would be improper to go into the merits of the subject. He rose only to give an additional reason why the committee ought to rise. If the House passed anything either in form of a law, or a resolution, the provisions necessary must embrace such a variety of detail as could not be settled in a Committee of the Whole, as they should be entered into with great caution and deliberation. Indeed, the mode of procedure adopted on this occasion, inverted the usual order of things. The detail of business was always settled in select committees, and not in Committees of the Whole.

The motion for the committee's rising was put and carried; and upon leave being asked to sit again, it was refused.

Two motions were then made; one by Mr. Nicholas, for referring the resolutions to a select committee; another by Mr. Sewall, for appointing a committee to inquire into the expediency of passing a law regulating the taking of evidence generally. The former was withdrawn to make way for the latter, but renewed by Mr. Rutledge; and, in order to do away some objections which were urged against this mode of proceeding, Mr. Harper proposed to amend the motion by adding this direction to the committee viz: "to take the subject matter itself under consideration, and report their opinion generally to the House." Agreed to, and a committee of five members appointed.

THOMAS CARPENTER.

Mr. Harper, from the committee to whom was referred the memorial of Thomas Carpenter, praying for the support of the House to his "American Senator," reported it as the opinion of the committee that no encouragement could, with propriety, be given to the said work, and that the memorialist have leave to withdraw his memorial.

Mr. H. moved that this report be referred to a Committee of the Whole; but, on the motion being objected to as unnecessary, it was withdrawn, and the report was concurred in by the House.

POST OFFICES, &c.

Mr. Cochran proposed a resolution to the following effect:

Resolved, That a committee be appointed to inquire whether any, and what, amendments are necessary in the law establishing post offices and post roads."

Some objections were made to this motion by Mr. Thatcher, on the ground of the law having so lately passed, that it could scarcely be told what would be its operations; but, upon Mr. Cochran's representing that he did not wish to go into a revision of the act generally, but merely to propose the opening of some new roads in a populous part of this State, the motion was agreed to, forty-seven votes being in its favor.

Thursday, December 7.

CONTESTED ELECTION.

Mr. Coit moved for the order of the day, on the report of the Committee of Elections, on the memorial of Robert Rutherford, which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. Dent in the Chair. The report stated that the proofs which had been adduced by the petitioner in support of his allegations against the election of Mr. Morgan, were insufficient.

On motion being made to concur,

Mr. Macon said he did not know whether the petitioner was present or not. It was usual, he said, to place a chair for petitioners in such cases, to give them an opportunity of being heard in support of their memorials. If Mr. Rutherford were present, he hoped the usual course would be taken.

Mr. Coit had no objection to the proposed formality, though he believed the petitioner was not present.

Mr. Macon said, as he was informed the petitioner was not in the House, there was no need of providing him a chair.

The committee rose, and the House concurred in the report.

AMY DARDIN.

Mr. T. Claiborne said, that during the last Winter, a report had been made by the Committee of Claims, on the petition of Amy Dardin, unfavorable to the petitioner, which, after full discussion, had been disagreed to by the House; and on the 24th of February a motion for appointing a committee to bring in a bill for her relief was made and committed to a Committee of the Whole, but for want of time had not been acted upon. He now wished to bring the matter before the House, and for that purpose moved that a committee be appointed to bring in a bill for the relief of Amy Dardin.

This motion met with opposition. It will, perhaps, be recollected that this, though a strong claim, in point of justice, is directly in the face of the Limitation Act. Messrs. Macon, Sitgreaves, and Harper, wished the matter to go again to the Committee of Claims, as many members now in the House were unacquainted with the merits of

the claim; and the latter gentleman, because he thought the House had been surprised into a decision, contrary to fifty other determinations on similar questions, which ought now to be reversed.

Mr. Claiborne opposed this course, and trusted the House would again be influenced by the justice of the claim, to act as they had heretofore done, by passing a bill for the relief of the petitioner.

Mr. Gallatin thought it would be best to commit the business to the same Committee of the Whole to which they had yesterday referred a report of the Committee of Claims on the subject of excepting a certain description of claims from the operation of that act.

The business was, however, closed by Mr. Claiborne's withdrawing his motion for the present.

JOSHUA ASHBRIDGE.

Mr. Sitgreaves presented the petition of Israel Jones, in behalf of Joshua Ashbridge, praying for a settlement for supplies furnished the United States during the war. Mr. S. said, though this claim appeared to be barred by the Statute of Limitation, yet there was a circumstance attending it which he supposed would operate in its favor. Application is made in due season for settlement, but it is prevented by the want of certain formalities. Referred to the Committee of Claims.

DEFERRED DEBT.

Mr. Nicholas called up for decision the resolution which he lately laid on the table, directing the Committee of Ways and Means to report a plan for raising a sufficient revenue to meet the Deferred Debt, which becomes payable in the year 1801.

The resolution was put and carried—43 to 24.

Mr. Lyon said, as this resolution had been agreed to, he would propose another in some respect connected with it. It appeared to him proper, at the time they were directing the Committee of Ways and Means to report a plan for raising revenue, to turn their attention to retrenching unnecessary expenses. He therefore proposed the following motion for the adoption of the House:

"*Resolved*, That the Committee of Ways and Means be instructed to inquire whether any, and, if any, what retrenchments may, with propriety, be made in the public expenditure."

Mr. Williams thought the best way of disposing of all such resolutions as the present, was to refer them to the Committee of the Whole on the state of the Union, where they might receive full discussion. He meant to have made this observation before the last motion passed. He was by no means opposed to the resolution, but was of opinion this would be the best reference it could have. He suggested the propriety of the resolution lying upon the table till to-morrow. Agreed to.

ANTONIA CARMICHAEL.

Mr. Harper called for the order of the day on the bill which had been reported for the relief of Mrs. Carmichael, which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. Dent in the Chair; when, the bill having been read,

Mr. Allen moved to introduce a clause for the allowance of interest upon the sum proposed to be granted to the widow, from the time at which the application was made to Government for payment, on the ground of the heirs of Mr. Carmichael having been obliged to mortgage his estates to their full value, for the want of the money which was now allowed to be justly their due; it was only reasonable, therefore, he said, that they should receive an interest equal to that which they had been obliged to pay.

This motion was supported by Messrs. Harper, S. Smith, Sewall, and Rutledge, and opposed by Messrs. Varnum, J. Williams, Gordon, Coit, and Edmond, on the ground of its being unprecedented; as it might lead to applications from persons who had already been differently dealt with; that the claim not being a legal, but an equitable claim, and somewhat of a doubtful nature in the minds of some gentlemen, the petitioner ought to be satisfied with receiving the sum proposed to be allowed, particularly since it was not by any means certain that so large a sum had been expended by her late husband, in his capacity as Chargé des Affaires, and when it was recollected how many just and legal claims of our own citizens were every day abandoned. Mr. Williams touched at the necessity there was of curtailing the expenses of our diplomatic department; and it was suggested by Mr. Gordon, that if the House were to set up a precedent of this kind, it might give encouragement to persons who had claims upon Government, of a doubtful nature, to hold them back (knowing, if they were allowed at all, they should have an interest allowed also upon their demand,) until a convenient time should present itself, at which, perhaps, it might not be possible to bring forward the objections which might have been produced at an earlier period.

This debate continued for some time, when Mr. Macon objected to the bill as not being conformable to the instructions given to the committee who brought it in. The resolution of the House authorized the officers of the Treasury to settle the account. If the bill, he said, had been thus draughted, and Mr. Franklin, Mr. Laurens, and others, had been allowed interest, the Treasury Department would also have allowed it in this case. It was not usual for that House to settle accounts, but to authorize the proper department to do it. He therefore moved for the committee to rise. This opinion and motion were supported by Messrs. Coit, Edmond, Venable, and Matthews; and were opposed by Messrs. Gallatin, Harper, and Craik. Mr. G. maintained that the bill, though not strictly conformable to the letter, was agreeable to the spirit of the resolution of the House; that this case differed from those where

the precise sum due could be ascertained at the Treasury; here there was a discretion to be exercised, as to the amount of the sum to be allowed, and he thought it better to be exercised by the House, than the officers of the Treasury.

Mr. Craik believed, if no express sum was agreed upon, no relief would be granted, as the account could not, in that case, be adjusted by the accounting officers of the Treasury.

The motion for the committee to rise, in order to have the bill recommitted, was at length put and carried—43 to 38. Leave was refused to sit again, and the bill was recommitted to the committee who reported it.

A communication was received from the Treasury Department, containing an account of the receipts and expenditures at the Treasury, for the quarter ending the 30th of June and the 30th of September; which were ordered to be printed.

Mr. Harper moved that this communication be referred to the Committee of Ways and Means; but this reference being stated to be unusual, as the subject was before the Committee of Ways and Means, he withdrew the motion.

Friday, December 8.

RETRENCHMENT.

Mr. Thatcher observed that, yesterday, there had been a resolution laid upon the table by the gentleman from Vermont (Mr. Lyon) which he thought ought to be disposed of. It proposed a retrenchment of the unnecessary expenses of Government. Mr. T. said, he had observed that a resolution of this kind was always brought forward in the session preceding an election. He did not wish, however, that the proposition should lie longer on the table. If it were true that the expenses of Government were excessive, they ought immediately to set about retrenching them; and if it were not true, the sooner they told the people so, by rejecting the motion, the better.

The question for agreeing to the resolution was put and negatived—33 to 30.

Just as the Speaker was counting the votes, Mr. Lyon entered, and said, had he been present when the question was put, he should have called the yeas and nays upon it.

WINE AND SPIRIT LICENSES.

Mr. Coit moved a resolution to the following effect:

Resolved, That the Committee of Ways and Means be instructed to inquire whether any, and, if any, what alterations are proper to be made in the act for laying a tax upon licenses for retailing wine and spirits, and that they report by bill or otherwise.

Mr. Coit said that, as the law stood at present, licenses were taken for a year from the time at which they were granted, be that time when it might, so that they were constantly becoming due. He wished to have this inconvenience remedied, by putting the law upon the same footing with the carriage tax, the licenses under which all became due at one time; as, when a license was taken, it was taken so as to fall due at the time fixed.

The motion was agreed to.

THE MINT.

Mr. Williams said, he found in the report of the Committee of Revisal and Unfinished Business, the report of a select committee on a letter from the Secretary of State, enclosing a report of the Director of the Mint, suggesting the expediency of some alteration in its establishment, to render it less expensive to the public; and as he wished to render that establishment less expensive, he moved that the letter and report be referred to a Committee of the whole House. Agreed to, for Wednesday.

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. Harper said, that the committee to whom it was referred to report a bill for establishing a uniform system of bankruptcy, conceiving this subject so be of such general concern, embracing so great a variety of interests, and a question in which the mercantile affairs of the community were so deeply involved, that they had wished him to request an augmentation of the committee.

The motion was agreed to, and eleven members were added to the committee, comprising a member from each State.

No business being before the House, it adjourned till Monday.

Monday, December 11.

Two other members, to wit: James Gillespie and Joseph McDowell, from the State of North Carolina, appeared and took their seats.

The Speaker announced a communication from the Treasury Department, which he delivered to the Clerk to be read. It contained a report and estimate of the appropriations which will be necessary for the service of the year 1798, and also an account of the receipts and expenditures of the year preceding the 1st of October, 1797. Ordered to be printed, and referred to the Committee of Ways and Means.

Mr. Macon, from the Committee of Revisal and Unfinished Business, reported the laws which will expire before the next meeting of Congress. Referred to a Committee of the Whole.

The Speaker communicated a report from the Secretary of the Treasury on the memorial of Robert Hazlehurst and others, merchants of Charleston, South Carolina, complaining of the operation of the act directing all goods and wares imported from abroad to be weighed and gauged by an officer of the custom-house, stating that this direction injured the private property of individuals who had heretofore had this privilege. The Secretary recommended that no law should be passed on the subject, but that the matter in dispute between the custom-house and individuals should be brought to a legal decision. Ordered to lie on the table.

STAMP DUTIES.

Mr. Harper, from the Committee of Ways and

Means, reported that that committee had taken into consideration the resolution of the House respecting the stamp act, and had directed him to report in part. The report states that, as the Secretary of the Treasury had found it impossible to provide the necessary machinery, dies, &c., for carrying the act into effect at the time proposed, (the 1st of January next,) he had omitted to give the notice which was directed to be given in each State three months previous to its taking place; that, finding it will not be safe to fix the period at which the duty shall take place earlier than the 1st of July next, they recommend a law to be passed to that effect. They mention that some other alterations had been suggested as necessary, but they thought it best to leave these for future consideration, as it would be proper to pass this act as soon as possible. The report was read a second time, and referred to a Committee of the Whole to-morrow.

FOREIGN SILVER COIN.

Mr. Venable, from the committee to whom it was referred, to inquire whether any, and what, alterations were necessary in the law respecting silver coin, reported it as their opinion that a law should be passed authorizing and requiring collectors of revenue to receive foreign silver coin, other than Spanish dollars and parts thereof, at the rates at which they were received before the 15th day of October last, for two years, and from thence to the end of the next session of Congress; and to suspend so much of the act as relates to foreign gold coin for the like time.

On motion to agree to the report, (as it was said to be in consonance with a circular letter which had been sent to the collectors from the Treasury Department,) it was moved to be postponed, by Mr. Sitgreaves, to Wednesday. Agreed to.

PROTECTION OF COMMERCE, &c.

Mr. Sewall, from the committee to whom was referred that part of the Speech of the President of the United States which related to the measures necessary to be taken for the protection of commerce and the defence of the country, stated that that committee had requested him to ask the same leave for them to report by bill or otherwise, which had been given to all the other committees appointed at the same time.

Mr. Nicholas thought the nature of this resolution fully justified the deviation which had been observed in the forming of the resolution appointing this committee. It appeared to him better to have the subject in the form of a report than a bill, in order that it might receive full discussion.

Mr. Sewall said, it was not possible that the committee could bring forward any thing upon which the House would not have full power to act; and if they were allowed to report by bill, it would considerably lessen their labor, which was the principal object of the motion.

Mr. Nicholas was not desirous of imposing unnecessary difficulty or trouble upon any committee; but if the business was so important, it was an additional argument for the House not only to examine the subject, but the details. It was the practice of the House to have all important business first in the form of a report, which gave time for discussion and reflection, and he thought an innovation upon the usual order of proceeding in this respect might have a bad effect. He wished, before any project should be brought before them in a bill, they might discuss its principles.

Mr. Pinckney said, the leave now asked was no more than had been allowed to all the other committees to take into consideration parts of the President's Speech. He thought, if a bill was reported, every opportunity would be given to obtain information on the subject, as sufficient time might be allowed between the several readings, and they could better explain the nature of the regulations with respect to the duty of collectors at the several ports by a bill than by a report. He hoped, therefore, as much trouble would be saved by this mode of procedure, that the request of the committee would be complied with.

Mr. Harper said, the reason why the form of this resolution differed from the other was, because it was of a very extensive nature, no less than to take into consideration the measures proper to be taken for the protection of our commerce and the defence of our country, which was supposed would require previous elucidation by a report, before specific measures were brought forward in the form of a bill. He had, however, no objections to comply with the request of the committee, as he believed they might be safely trusted with the discretion required. Indeed, it was not contemplated, he believed, when the committee was appointed, that any thing respecting collectors or collecting of duties, would have come within its purview; but as they had thought otherwise, he hoped the liberty they asked would be granted.

Mr. S. Smith said, nothing had been said about collecting duties, but of the duty of collectors with respect to the law of 1794.

Mr. Gallatin would be glad to have further information on this subject. He wished to know whether what was meant to be brought forward respecting the conduct of collectors was mere matter of detail, or whether it involved any new principle; if it were the former, he should not object to the mode proposed; but if not, he should be against deviating from the usual mode of procedure.

Mr. Sewall said, the purpose which the committee had in view was to determine the question respecting the arming of merchant vessels. Before the last meeting of Congress, it would be recollected that the President of the United States had issued orders to prevent the arming of merchant vessels, except in certain cases. The committee were doubtful whether there existed any authority in the President to issue those orders, the execution of which had been opposed in various parts of the United States. This subject had been under the consideration of the committee, and they thought it more expedient to report in detail the regulations necessary, in the form of a bill, than to report in any other form. If the House wished the business to be done otherwise,

they would, of course, refuse a compliance with the request.

Mr. VENABLE said, from the statements which had been made it appeared that the committee had had two subjects under consideration, one of which had been referred to them, and the other not, as if they wished to blend them together, and to bring in a bill at their discretion. The committee was appointed to report what means would be the best to be taken for the protection of our commerce; but the subject which they had brought before the House was, whether the revenue officers of the United States had performed their duty in respect to an existing law; which was a distinct thing, and entirely out of the reference which had been made to them. If the revenue officers had acted improperly, it was a subject necessary to be inquired into, on information being received through a proper channel. The attention of the committee ought to be confined to the business referred to them, and they should report accordingly. He was opposed to the motion, since it was wholly contrary to the practice of the House to go into details before they had settled the principle upon which they were about to act.

Mr. GALLATIN believed, when this committee was appointed, it was not intended that it should have the power of reporting by bill. The business of the other six committees appointed at the same time, and to whom this power was given, were wholly different from this. [He read the different resolutions.] The principle of the objects upon which these committees were appointed to act had already been more or less settled in the House; but what was the business of this committee? It was no less than to report the measures proper to be taken for the protection of our commerce and the defence of our country. The President, in his Speech, had spoken at large on these subjects. [Mr. GALLATIN read an extract from the Address of the President.] This reference, he said, embraced all the objects which had engaged the attention of Congress during their extraordinary session; it did not only include arming of vessels, but also the raising of armies, building of a navy, erecting of arsenals, &c.; that so far from giving this committee further power, he thought the power already given them was too great, and that the subject should first have been discussed in a Committee of the Whole on the state of the Union. When principles of this importance were to be established, the business should be settled in the House. He should, therefore, be wholly opposed to granting the liberty required.

Mr. RUTLEDGE did not think the committee had exceeded their powers in taking this subject under their consideration. They had nothing to do with the revenue officers; they would, of course, show that the provisions already made respecting the arming of merchant vessels had proved inadequate. Orders, it was well known, had been issued by the President of the United States to prevent the arming of vessels; but, in many instances, these orders had been protested against. The President had said merchants should not arm their vessels; the merchants had said the President had no authority to forbid them. He thought this business should be looked into and adjusted, and he did not see upon what ground gentlemen could charge the committee with bringing forward *projects*. [Mr. NICHOLAS here interrupted Mr. R., and said he had no particular meaning in using the word *project*.] Mr. R. said if there were any *project* in hand he was unacquainted with it. He had not been in the House long enough to know whether the practice of reporting by bill was novel; but he believed it was not.

Mr. SITGREAVES said, the intent of the appointment of select committees was, that they should produce facts and lay them before the House in a collected view; they might properly be called *the pioneers of discussion*. The best mode of doing this, committees themselves must be the best judges of. Some subjects would be best presented in the abstract; others would require to be detailed. Suppose two cases, said he, before a committee—the one a proposition for private, the other for public arming. If the committee should propose the building of more vessels at the public expense, this would be unconnected with any detail; it would be a single question, and would require no light from the committee; but, if the subject was a private armament, a plan would require to be detailed before a judgment could be given upon it, as it would be proper to be permitted or restricted according to circumstances. The committee, said he, on this account, ask to have the power to present the present business in such a view as to give the House the best means of determining on their proposition. The request ought, therefore, to be complied with, since they are the best judges of the proper mode of presenting the subject, as they alone are fully possessed of the facts respecting it.

Mr. N. SMITH was surprised that any gentleman should be opposed to giving the committee leave to report by bill; because, in doing this, they would not possibly do any harm, though they might give themselves unnecessary trouble. The gentleman from Pennsylvania [Mr. GALLATIN] seemed to think the principle could not be discussed when the subject was in the form of a bill; but this was not the case. It was true that the principle of a question was frequently determined before a bill was brought in; but it might just as well be done afterwards, and if the principle were objected to, the committee would, of course, have lost their labor. He thought when a committee were willing to risk this trouble, the House could have no reasonable objection to it. It might be, as had been represented by the gentleman last up, that the principle of a subject could not be judged of without the detail; when a committee foresaw this it was certainly their duty to report in detail.

Mr. THATCHER did not understand the ground upon which this motion was opposed. It was certainly no new practice. The plan for establishing a new militia system had been reported in a bill as an illustration of the report. He hoped the

committee would be allowed to report their detail in a bill.

Mr. J. WILLIAMS was opposed to a report by bill. The powers granted to this committee, he said, were very extensive. He wished to see the principle reported, which would be discussed and adopted, and a bill ordered to be brought in or rejected, as was thought proper. The Committee of Ways and Means had the subject of revenue generally referred to them; they gave their opinion, from time to time, as to the best mode of raising revenue, but they had no general power given them to report by bill. He hoped the same course would be observed by this committee.

Mr. NICHOLAS (having obtained leave to rise the third time) said this question was important, not only as it related to the business before the House, but with respect to their general proceedings. The gentleman from Massachusetts (Mr. THATCHER) had spoke of a bill accompanying a report, in the case of the militia system, as an illustration of it. If this would satisfy the committee, they could do this in the present case. He was surprised that the gentleman from Pennsylvania (Mr. SITGREAVES) should not consider this as an abstract question. At the last session it had been considered as an abstract question, and rejected. And could any gentleman say, that at this time when our connexion with the world is much happier than it was six months ago, this question ought not to be considered abstractedly? What, said he, should we have thought of the committee, if they had asked for leave to bring in a bill to build ships of the line; to erect fortifications; to raise armies, &c.? Would these propositions have been considered as mere matters of form? On the contrary, would not the House have revolted at such a proceeding? They certainly would. They would have thought it proper, first, to have inquired whether our means were adequate to effect these schemes. Yet they were, all at once, asked for this power, by the present proposition. In the last session, the House proceeded very differently, A resolution was laid upon the table, and committed to a Committee of the Whole, and there fully discussed, and solemnly rejected; but they were now inclined to treat the business with more levity. He trusted, however, the House would not consent to this mode of proceeding.

Mr. OTIS said the present motion was opposed on account of its novelty, though he believed the novelty would more properly attach to the opposition. He believed there never had been an instance, whether the subject was of great importance, or otherwise, in which, when a request like the present had been made that it had been refused. Was it then right, because such a proposition was made, to speak of the movers of it, as if they were about to propose the building of a naval force, or the ranging of armies in battle array? He thought not, and insisted upon the propriety of the proposed privilege being allowed, which he believed, so far from being used improperly, would be the means of keeping out of view the abstract question of arming, which was not necessary at present to be touched.

Mr. ISAAC PARKER was in favor of granting the leave asked for, as it appeared to him to have been the practice of the House.

Mr. VARNUM insisted upon it that it had never been the practice of the House to take up great national questions, until the principle had been decided upon in Committee of the Whole. It had been said, that leave had never been refused in a similar case, but he believed that it had never been asked. It was well known there was a great difference of opinion in the House on the subject of arming. The President had again recommended to them all the measures with respect to that business that he had before suggested, and they were about to give the power to a committee to report bills upon all of them. It had been said by a gentleman before him that the President had done wrong in forbidding the arming of vessels.

Mr. RUTLEDGE denied having so expressed himself; he had said that the merchants had said so.

Mr. VARNUM observed it was insinuated that the President had been wrong in issuing the order; and if a bill was brought in on the subject he supposed the conduct of the President would be impeached by it. He trusted, therefore, that this business would not originate in the form of a bill.

Mr. DANA was ready to give the gentleman last up due credit for his solicitude with respect to the President of the United States; but he could not be ignorant that the law was doubtful as to its construction, and it was proper that this doubt should be removed; and would it, he asked, be any imputation on the conduct of the President to pass a law to say what was the true construction of the former law? Certainly not. Mr. D. referred to what had fallen from Mr. NICHOLAS in objection to the business being introduced by a bill. There was no doubt, but, if that were the case, that gentleman's ingenuity could introduce something to produce a discussion of sufficient length, as it would be recollected, that he had furnished a debate of three weeks, by a single proposition to amend an answer to the President's Address at the last session. He was confident, that as the committee had asked for leave to report by bill, it ought to be allowed, and denied that the present was an abstract question.

Mr. GALLATIN allowed that it had not been the practice of the House to grant the power to report by bill when it was asked; but he knew of no instance where a committee, appointed for general purposes, had asked this leave. They had several standing committees; but they never came forward at the beginning of a session to ask leave to report by bill. He had already said, that he thought this committee improper, and he repeated, that at no time did he recollect business of so important and general a nature being referred to a select committee. The proper reference would have been to the Committee of the Whole on the state of the Union. As this committee had been appointed, he should not now, however, move to have it discharged. If it were wished to report a bill on the specific subject mentioned, if the mo-

tion was so expressed, he should not object to it. In regard to the general proposition, he did not wish to see it at present discussed. He believed the fate of the present negotiation must decide the opinion of the House on this subject. If it terminated as they all hoped, the subject of arming would naturally drop; but if not, and the depredations on our commerce were continued, there would be no difference of opinion about arming our merchant vessels, at least, if not of going further. He wished, therefore, that this subject might not at present come under discussion.

Mr. Thatcher again spoke at considerable length in favor of the motion.

Mr. Findley was opposed to this mode of proceeding. It was cutting off a part of their deliberations on important matters, and he should be sorry to see the ordinary mode of doing business in this respect changed.

Mr. New called for the yeas and nays. Agreed to.

Mr. S. Smith was certain, that if the committee had foreseen that this motion could have produced so long a debate, it would not have been made. They thought it the best way of bringing the business before the House. He was indifferent as to which way it was done. Before the last session, the President had issued orders to prevent the sailing of any armed vessels, except to the East Indies. Congress took up the subject, and it seemed to be admitted, on all sides, that there was a natural right of defence in merchants to prevent their vessels being taken. The subject of the President's order was taken into consideration; and he believed it was generally allowed that the President was not authorized by law to issue this order. This being the general opinion, it was conceived by merchants that they might, as heretofore, arm their vessels in their own defence. Some ships, however, in attempting to clear out, were stopped by the collectors. A new order was issued by the President, which gave a further privilege of arming vessels to the coast of Africa. Injurious consequences had arisen from this. He knew a vessel which sailed from the United States to the coast of Africa, armed for gold dust and ivory, which was attacked by a British armed vessel; but, instead of being taken, she took the British vessel. The consequence was, the captain was prosecuted for piracy and thrown into jail. This, Mr. S. said, was a breach of neutrality, which called for a law to prevent it. The committee thought they could effect the business in the best manner by a bill, and therefore asked leave to bring it in. Mr. S. was of opinion, that merchants had a right to arm their vessels, and he thought this right was countenanced by the act for prohibiting the exportation of arms, as arms on board of merchant vessels, for the purposes of defence, were excepted from the operation of the act.

Mr. Venable had no objection to allow a bill to be brought in upon a particular subject; but could not agree to the leave being general.

Mr. Sitgreaves, Mr. Gallatin, Mr. Otis, and Mr. Varnum, each made a few observations as to this mode of proceeding.

Mr. Pinckney said, much had been observed as to precedent. He did not know what had been the practice, but he believed it was within the power of the House to agree to the motion, which he thought desirable. He took notice of and answered the objections to this mode of acting. By bringing in a bill, they should prevent the abstract question from being agitated. In general, he thought, the House should avoid abstract questions, as many errors arose from this mode of acting. Besides, if the question was reported abstractedly, it might not be clearly understood, and in consequence rejected. The gentleman from Pennsylvania had said, he wished the question of arming to be kept out of sight at present, lest it might have an effect upon our negotiations with France. He was as anxious as any man that these should succeed; but he feared that their not agitating this question at this time, might have a greater effect to hinder the success of the negotiation than anything else.

It was generally understood, and it was his opinion, that every citizen had a right to arm his vessels for self-defence; but not to make depredations upon the vessels of foreign Powers. If merchants arm their vessels, therefore, and commit the excesses which have been mentioned, they may have a greater effect upon the negotiation than any regulation which they might enter into.

Mr. Sewall (having obtained leave) said, he rose rather to explain his proposition, than to support it. It had been so changed, and had such a formidable appearance given to it, that he scarcely knew it for his own. It had been called a proposition which might commit the peace of the nation, though it only asked leave to report a bill. He did not consider all the objections which had been urged against the proposition, as originating in a distrust of the committee; it would grieve him to think so; but from what gentlemen believed to be the intention of the committee. It was said they meant to report a bill to provide an extraordinary army, to build vessels of war, &c. But was it not evident, he said, that the gentlemen who opposed this motion, were the same who opposed every defensive measure on a former occasion? He doubted not it was. Gentlemen who wished to defeat the proposition, said it proposed hostile preparations, whilst those who supported it, believed it to relate to mere domestic regulation. The bill the committee wished to introduce was neither a power to arm, nor a restriction from arming; something between both—something which affects the power of custom-house officers. Surely, then, it was not deserving of all the harsh epithets given to it. The reason for wishing to bring in a bill, Mr. S. again repeated, was the difficulty which the committee found in reporting satisfactorily in any other way.

The question was taken by yeas and nays as follow—45 to 45; the Speaker voting in the affirmative, the question was carried:

Yeas—Jonathan Dayton, (Speaker,) John Allen, George Baer, jun., Bailey Bartlett, David Brooks, Stephen Bullock, Christopher G. Champlin, Jas. Cochran, Wm. Craik, S. W. Dana, John Dennis, Wm. Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Berry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, junior, James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, George Thatcher, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Nathan Bryan, Demsey Burges, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Mark Tompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

The House then adjourned.

Tuesday, December 12.

Mr. Shepard presented the petition of Giles Wolcott, late a captain in the army, praying for recompense for losses sustained in the service.

Mr. Lyon moved to have this petition referred to a select committee, as he found the Committee of Claims were determined to reject every claim, however just, if barred by the act of limitation; and as he knew, though this claim was barred, that the petitioner was deservedly entitled to compensation.

This motion not being seconded, Mr. Shepard moved to have the petition referred to the Committee of Claims. Agreed to.

STAMP DUTIES.

Mr. Harper called for the order of the day, on the bill for postponing the commencement of the act for laying a stamp duty; which being agreed to, the House resolved itself into a Committee of the Whole on this bill, Mr. Dent in the Chair.

The bill having been read,

Mr. Lyon moved to expunge the word "June" and insert "January;" but, on the Chairman informing him it would not be in order, he changed his motion to the inserting of the 31st of December, 1798, instead of the 30th of June, 1798.

Mr. Williams believed the necessity of a postponement of the commencement of this act was occasioned by the sickness which had lately afflicted this city, as that rendered it impossible to get the necessary preparations for carrying it into effect executed. The object which he supposed the gentleman had in view, would be better attained if he deferred it until the bill was introduced for making the alterations which had been suggested as necessary. A resolution had been sent to the Committee of Ways and Means, directing them to report a plan for raising a sufficient revenue to meet the demands which would be made upon Government in the year 1801. If this plan should include a land tax, he should wish that the stamp duty might not take place, as he voted for it only on the ground of its preventing the necessity of a land tax; but until this was ascertained, he should be in favor of the stamp tax.

[The Chairman reminded Mr. W. that the question was not whether the stamp act should be repealed, but whether its operation should be suspended for a limited time.]

Mr. W. said, if the amendment proposed were agreed to, he should consider it in the same light as a repeal of the law.

Mr. Brooks said, the sole object of the bill before them was, to give time to the Secretary of the Treasury to prepare the necessary stamped paper before the act took effect. What were the views of the gentleman who proposed the amendment he could not say. Perhaps he would himself explain why he wished the act to be suspended for a year, which was nearly one-fourth of its whole duration, and would, of course, sacrifice nearly that proportion of the revenue expected from it.

Mr. Lyon said, one reason with him was, he had his doubts whether the time proposed for the suspension, would be sufficient for Government to make the necessary preparations. The time which had been given was said to be too short; he wished now to give time enough. The late sickness in this city was alleged as an apology for not having the necessary preparations in readiness. He thought this a poor excuse; because, if the people of this city were sick, the whole country was not so. He had another reason for his motion. He wished the people to have time to get ready to receive a stamp tax. It was a tax every where odious to the people of the United States, and absolute necessity could only reconcile it to them.

The question upon agreeing to this amendment was put and negatived, Mr. Lyon only rising in favor of it.

Mr. Coit then moved to strike out, as unnecessary, the second section of the bill, which had a reference to the time for which the law should have existence.

Mr. Harper wished the section not to be struck out, but amended. The object was to prevent the six months which would be lost by the suspension from being deducted from the existence of the act.

Mr. Macon thought the whole bill might have been comprised in a few words, as in former acts of suspension, by saying that the operation of such an act is suspended till such a time.

The motion for striking out was put, and carried; the committee rose, the House took up and agreed to the amendment, and the bill was ordered to be engrossed for a third reading to-morrow.

SAMUEL ABBOT.

Mr. Macon moved that the Committee of the Whole be discharged from the further consideration of the report of the Committee of Claims on the petitions of Samuel Abbot, and others. The

Committee of Claims had recommended that provision by law should be made for the relief of these petitioners, whose claims are for arrears of pay, &c., due for services during the war, whose accounts were liquidated, and certificates granted; but they allege that they never received them, by reason of the default of the agents of the regiments to which they belonged. The committee adds, that great caution on the part of the officers of the Treasury will be necessary to prevent abuses. Mr. M. wished, therefore, that this report might be again recommitted, in order that the Committee of Claims might say what the checks were which would prevent imposition, as he could not see any that would be effectual.

Messrs. D. Foster and Sheppard were opposed to the motion, and thought the House ought to interfere in behalf of the petitioners to do them justice, and that it would be doing nothing to recommit the report, until the House had decided whether they would or would not agree to this principle.

The motion for discharging the Committee of the Whole was put and negatived.

ACTS OF LIMITATION.

Mr. Gallatin called for the order of the day on the report of the Committee of Claims, to whom it was referred to inquire into and report on the expediency or inexpediency of designating certain claims against the United States to be excepted from the operation of the acts of limitation; which being agreed to, the House accordingly resolved itself into a Committee of the Whole on the subject, Mr. Dent in the Chair. The report was read, as follows:

The Committee of Claims, who were "instructed to inquire into, and report on, the expediency or inexpediency of designating certain claims against the United States, to be excepted from the operation of the acts of limitation," report:

That, in obedience to the orders of the House, they have made all the inquiries which to them appear necessary; that they have attentively and deliberately considered the subject referred to them, and are of opinion that it would not be expedient to designate any species of claims against the United States, which are now affected by the acts of limitation, to be excepted from the operation of those acts.

In considering this subject, a review of the situation of the United States, as respected their finances, during the period when most of the demands originated, was requisite. It was also necessary to ascertain what measures had been adopted by Congress, both under the old and under the present Government, to bring all the demands against the States to a liquidation and settlement.

It will be recollected, that, at the commencement of the war, the United States were destitute of money; and, during a long period of years afterwards, were obliged to rely principally on credit, for carrying on all their important operations.

Having, at that time, no settled National Government, a regular system for conducting public business, especially money transactions, depending on credit, was not to be expected.

Great numbers of individuals were necessarily invested with the powers of binding the public by their contracts. Almost every officer of the Army, whether in the Commissary's Department or otherwise, in different stages of the war, had it in his power to contract debts legally or equitably binding upon the United States. We find Congress, at various times, during the war, endeavoring to make arrangements which should prevent an undue use of the powers vested in individuals, and the dangerous consequences to which the Government was thereby necessarily exposed. The acts of the 5th of March, 1779, and of the 23d of August, 1780, were calculated to limit the public responsibility in such cases. After the peace, and under the old Government, periods were prescribed, within which claims of certain descriptions, and finally all unliquidated claims, were to be exhibited for settlement, or to be forever thereafter barred.

It must be acknowledged by all, that during those periods every provision which could rationally have been expected was made for the accommodation of individuals having claims against the public, to enable them to obtain proper settlements of their demands. The Journals of Congress under the Confederation will abundantly justify this remark.

Commissioners were appointed, with special or general powers, to settle the claims of individuals in all the departments; and, in every instance, the powers given were plenary and explicit. Sufficient time was given for every one to obtain information and pursue his remedy; and ample opportunity was given for all to substantiate their claims, or, at least, to present abstracts of them, which would have prevented their being foreclosed by the acts designed eventually to operate upon them. The cases cannot be numerous, in which the want of opportunity to bring forward claims can be justly pleaded as an excuse for the omission.

By the act of the 17th of March, 1785, all persons having unliquidated claims against the United States were required, within twelve months, to exhibit particular abstracts of such claims, to some of the Commissioners in the State in which they respectively resided, who were sent and empowered to settle accounts against the United States, under the penalty or condition that accounts not so presented, should be thereafter settled only at the Treasury.

By another act of Congress, of the same year, viz: November 2d, 1785, all persons having claims for services performed in the military department, were directed to exhibit the same for liquidation to the Commissioners of Army Accounts, on or before the first day of August, then ensuing. By that act it was expressly resolved, that all claims, under the description above mentioned, which might be exhibited after that period, should be forever thereafter precluded from adjustment and allowance.

And it was provided, by the act of July 23d, 1787, that all persons having unliquidated claims against the United States, pertaining to the late Commissaries', Quartermaster's, Hospital, Clothier's, or Marine Department, should exhibit particular abstracts of such claims to the proper Commissioner appointed to settle the accounts of those departments, within eight months from the date of the said act; and all persons having other unliquidated claims against the United States, were to exhibit particular abstracts thereof to the Comptroller of the Treasury of the United States, within one year from the date thereof; and all accounts not exhibited as aforesaid, were to be precluded from settlement or allowance.

These regulations were adopted by Congress under the old Government. Great care was taken to have

them extensively published, so that every individual who was interested might be informed of their existence and operation.

Under the present Constitution there has not been wanting a disposition to relieve certain individuals whose claims were considered as peculiarly meritorious, which had been affected by the acts above recited.

With this view, in March, 1792, two several acts of Congress were passed, suspending for two years the operation of the resolutions of Congress of November 2d, 1785, and July 27th, 1787, so far as they had barred or might be construed to bar the claims of the widow or orphans of any officer of the late army, to the seven years half pay of such officer; or the claims of any officer, soldier, artificer, sailor, and marine, of the Army of the United States, for personal services rendered to the United States in the military or naval departments.

In consequence of these suspensions, many claims were exhibited, and allowed against the Government. There is reason to apprehend, in some instances, the public were defrauded for want of proper pre-existing checks and evidences of payments being made. This suspension continued for the term of two years, which was till March, 1794. In the mean time, viz: on the 12th of February, 1793, the act "relative to claims against the United States, not barred by any act of limitation, and which had not been already adjusted," was passed by Congress, after a serious and attentive consideration of the subject.

By that law it was provided, "that all claims upon the United States for services or supplies, or for other cause, matter, or thing, furnished or done, previous to the 4th day of March, 1789, whether founded upon certificates, written documents from public officers, or otherwise, which had not already been barred by any act of limitation, and which should not be presented at the Treasury before the first day of May, 1794, should forever after be barred and precluded from settlement or allowance." But this was not to be construed as affecting Loan Office certificates, certificates of final settlements, indents of interest, balances entered in the books of the Register of the Treasury, registered certificates, foreign loans, or certificates issued under the act making provision for the public debt of the United States.

One other act, passed the 3d day of March, 1795, provided that Loan Office certificates, final settlements, and indents of interest, then outstanding, should be presented at the office of the Auditor of the Treasury on or before the first day of January, in the present year, 1797, or be forever after barred or precluded from settlement or allowance.

The summary contains a general view of the principal acts of limitation, by which claims against the public have been affected.

From an attentive consideration of them, and of the circumstances under which they were enacted, the committee are fully impressed with an opinion that it would not be expedient to suspend their operation.

Some remarks extracted from a report heretofore made to Congress, are subjoined by the committee, as pertinent to the subject.

It was essential to the public administration that the extent of just demands upon the Government should be, within a reasonable period, definitely ascertained. It was essential to public safety and to right, in relation to the whole community, that all unsettled claims should be made known within a time when there were yet means of proper investigation, and after which the public responsibility should terminate, and the possibility of charging the Government by collusive and fictitious contracts, should be at an end.

The justice as well as policy of acts of limitation, under such circumstances, cannot be doubted.

The situation of no country ever presented a more clear necessity for, or a more competent justification of, precautions of that nature. And all the reasons for adopting them operate to recommend unusual caution in departing from them, with the additional force of this circumstance, that the subsequent lapse of time has increased the difficulties of a due examination.

The accounts of a considerable number of officers, who had it in their power to bind the public by their contracts, and who were entrusted with large sums of money for fulfilling their engagements, remain unsettled. Some of those persons are dead; others have absconded; the business has been conducted by others with so little order as to put it out of their power to render a proper statement of their transactions. The books and papers of others, who had extensive trusts, have been destroyed, so as to preclude the possibility of settlement. Hence it must appear that the Government would, in a great number of cases, be destitute of the means of repelling unfounded and even satisfied claims, for want of documents and vouchers, which only could have resulted from a due settlement with those officers, and from the possession of their books and papers.

It might be inferred without proof, and it has appeared in the course of business at the Treasury, that it was a practice with certain public officers, on obtaining supplies, to give receipts and certificates for them, and when they made payments, either partially or totally, to take distinct receipts from the parties without either endorsing the payment upon the original vouchers or requiring a surrender of them.

Hence it would often happen that parties could produce satisfactory vouchers of their having performed services and furnished supplies, for which, though satisfaction may have been made, the evidences of it would not be in the possession of the Government. And hence, from relaxations of the limitation acts, there would be great danger that much more injustice would be done to the United States than justice to individuals.

The principles of self-defence, therefore, require and justify an adherence to those acts generally; and there are not any particular species of claims, which, in view of the committee, ought to be exempted from their operation.

Those which have been most frequently referred to by some members of the House, are such claims as include the arrearages of pay and other emoluments to officers and soldiers of the late army, &c.

Pursuant to an order of the House at the first session of the present Congress, a report was made to them, having special reference to this subject. It was considered in Committee of the Whole, and agreed to by the House on the fifth day of February, 1796. To that report and the documents accompanying the same, the committee ask leave to refer the House, and respectfully submit the whole subject to their consideration.

Mr. D. Foster said the report itself had stated the reasons of the committee for making it, so fully, that he thought it unnecessary to do more than move that the House concur with it.

Mr. Gallatin observed that this report went upon two principles: first, that sufficient time had been given for claimants to come in, and that

therefore, it was always the fault of themselves, if their claims were not allowed; the other was, the danger of fraud that would attend the settlement of unliquidated accounts from the want of proper checks. Taking it for granted that the Committee of the Whole would concur in the report, he should make a motion to except a class of claims which did not come within the operation of these objections, to the possessors of which due notice had not been given of their being barred, and which were already liquidated. The description which he alluded to were Loan Office certificates, final settlements, and indents of interest. It was to be observed that on the 12th of February, 1793, an act was passed relative to claims, which required them to be presented at the Treasury before the first of May, 1794, or they would be forever barred, but these descriptions of claims were excepted. Public notice was given of this act, so that the country might become well acquainted with it. But an act had been passed on the third of March, 1795, making further provision for the support of public credit, and the reduction of the public debt, which was a long act, relating to different objects respecting the public debt; but, in the middle of this act there was a section inserted requiring all Loan Office certificates, final settlements, and indents of interest, to be funded within two years. This act was foreign to the subject, and there was nothing in it to lead to a supposition that such an article would be found in it; nor had the law been published in the newspapers, or any means taken to acquaint the holders of this property with it. He could not, therefore, conceive that it was consistent with public credit or good faith to pass a limitation law in such a way. He therefore hoped the law would be suspended so as to give due notice to the holders of this species of paper that it was intended to be barred. He knew there were strong objections against suspending acts of limitations on account of frauds and forgeries; but he did not think these of sufficient weight to prevent justice from being done to this class of public creditors. The provision barring these claims was little known. He himself knew nothing of it until he had occasion to take a general view of all the revenue laws of the United States, when he met with it in the middle of the act he had mentioned. He was himself wholly disinterested in the business, as he did not know an individual who was possessed of a certificate of this kind. How many there were he knew not, or how much danger there might be in the suspension he could not tell; but he was struck with the injustice of thus barring this description of claims. He, therefore, proposed the following resolution for the adoption of the committee:

"*Resolved*, That so much of an act, entitled an making further provision for supporting Public Credit, and for reducing the Public Debt, passed March 3, 1795, as bars from settlement, after a limited time, Loan Office certificates, final settlements, and indents of interest, be suspended for a limited time."

Mr. N. Smith allowed that the gentleman from Pennsylvania had shown to his satisfaction that it would have been much more proper to have had the law in question in a distinct act, than in the act in which it had been introduced; and he regretted that gentlemen had not been sufficiently awake, when the law passed, to have prevented the evil, as it had passed the House since he was a member of it. But, at this time, it presented to his mind a different question. This species of paper is now dead by law. To pass an act to revive and bring it again into existence, was a very different thing from acting originally right. That gentleman had, however, not noticed the impropriety at that time, which he lamented; but could not consent to its being revived at this day, which would be to encourage a spirit of speculation that would deprive the real holders of the certificates from any benefit, and throw money into the hands of persons no way entitled to it. Here, said he, is a species of paper destroyed by an act of limitation, not by a separate act, but by a clause of an act on a different subject. The consequence would be, that designing, evil speculators who may perhaps have interest enough to procure a repeal of this law, by an application to Congress, will buy up this paper for a mere trifle from persons believing it to have been destroyed by law. The moment this question was agitated the speculation would have a beginning. He did not know that it had already commenced, but before the proposition got to the Senate, he doubted not that hundreds of persons would be purchasing this paper from individuals who believed it to be of no value. He was, therefore, opposed to the resolution.

Mr. Brooks could not agree with the gentleman who had just sat down. He seconded the motion because he thought it at once clear and reasonable. He was himself no way interested in it. These claims had been as much settled as they could be, and he thought the law for barring them had not been made sufficiently public. Instead of giving light to the people from the house-top, they had placed their light under a bushel. With reference to the danger to be apprehended from impositions, he did not think it great, as the books which were kept at the public offices were calculated to prevent frauds by marginal checks, &c. Indeed, this subject was so plain and obvious, that he doubted not the proposition would be adopted by a large majority of the committee.

Mr. Dayton (the Speaker) said the gentleman who spoke last had anticipated most of what he had intended to offer on the subject. He was going to remark that this particular description of debt did not fall within the reasoning of the Committee of Claims on the limitation acts, and that the possessors of it could have no expectation of its being barred. In addition to the marginal checks of the office books mentioned by the gentleman from New York, there was also a check-letter in the books and on the certificates, which rendered forgery almost impossible. What brought this particularly to his notice was, three weeks before he came from home, a poor soldier applied to him with one of these certificates, and another one week before he set out, to get something for them. He told them they were barred: They were surprised. They said they were given to them at

the conclusion of the war; that they were to have received their pay from month to month during their service, but that nothing had been given to them till the end of the war, when they received these certificates. They had applied for five or six years together for payment; but growing weary of unsuccessful application, they laid their certificates aside. They hear, at length, they may be funded, but when they apply they are told their application is a few weeks too late. Was it possible, he asked, that a majority of that committee could agree to a report which, without this resolution, went to bar these men of their claims? Their accounts had been settled, their names were on the muster-roll, and every regulation had been attended to; yet, by a law which had been passed, but known to a few only, these certificates were precluded from benefit. He trusted this report would not be sanctioned. If gentlemen were afraid of speculation, the proposed suspension might only be in favor of the real holders of certificates who had themselves served or furnished supplies. He should be satisfied with this.

The gentleman from Connecticut (Mr. Smith) lamented that the law had been passed in the way which had been mentioned. He joined him in the lamentation, and he hoped that gentleman would join with those who wished to provide relief to these meritorious men—men who were not in a situation to get any information with respect to the law which barred their claim, and who depended upon their daily labor for support.

Mr. Allen said, the gentleman last up had given them certain information as to the checks kept in the books of the public offices, with a view, he supposed, of influencing their votes. He wished to know whether in those books there was an account of the sum due to these claimants? [Mr. Brooks answered there was.] Mr. A. said he should not then be against the resolution, but he should wish to confine the benefit intended to be given to the original holders, and not to give it to speculators. He thought the case of these people hard; but could not subscribe to the idea that because the law had not been published in a certain way, it ought not to be enforced; since no man could be supposed to be ignorant of the law. He moved to add these words to the resolution, "in certain cases."

Mr. Dana said, that when a man was prosecuted for a breach of the law, he could not plead an ignorance of it; but this did not apply to the present case. The law in question was little known; it could not even be found in the index of their laws. He himself did not know there was such a law, until after it had taken effect, and then he had good reason to know it. Last Winter a certificate was given to him to be funded; but owing to his being obliged to stop on the road some time, from the dislocation of a limb, he did not arrive till a few days after the claim was barred by the law in question. If the members, then, of that House were ignorant of the law, how could they expect that persons holding these certificates should be acquainted with it? He had also called at the office of the Commissioner of Loans, where he was directed to the Treasury Department, but received no information at that office that the claim was barred. This being the case, he trusted the committee would not refuse to do an act of acknowledged justice. As to the amount of these claims, they were not ignorant of that; from the accounts of the Secretary of the Treasury, it was $1,124,000. And to prove that there was any danger from forgery, it would be necessary to produce instances of this kind of fraud. The evil of speculation would be prevented by the proposed modification. He trusted, therefore, as it was called for by every principle of justice, the resolution would be acceded to.

Mr. Reed was in favor of the amendment, and hoped the resolution would be agreed to. He had presented a petition the other day praying that some provision of this kind might be made. He held in his hand the original acknowledgment of the debt, upon which interest had been paid. The certificate was first sent to him to be funded; but, finding it barred, the owner of it had petitioned for relief.

Mr. Coit hoped the amendment would not prevail, as it would run counter to all former laws on this subject; and he trusted they should not now depart from the principle heretofore adopted. He was, however, in favor of the resolution itself. He was a friend of statutes of limitation; but he would have them fairly made. The law in question could not be sufficiently known.

Mr. T. Claiborne called for the reading of the section of the law which related to this subject. If they were to do anything in the business, he should be for doing complete justice. [The law was read.]

Mr. Allen had little respect for persons who had obtained the possession of these certificates by speculation. He wished only to relieve the original holders; but if this were not guarded against, the evils which his colleague (Mr. Smith) had foretold, would certainly take place. It had been said that there had been no instances of forgery; he mentioned one with which he was well acquainted.

Mr. Elmendorph trusted that the gentleman who proposed the amendment would withdraw it, when he was informed that it was the practice to issue Loan Office tickets in the names of others than the real owners. He mentioned one instance, and knew it was a common thing.

Mr. Isaac Parker was in favor of the resolution of the gentleman from Pennsylvania; but he would rather not pass it than it should pass with the amendment. He wished not only original holders, but all others, to have the benefit of the proposed suspension. The certificates, he said, were originally negotiable, and he saw no reason for depriving them of that quality. It was true that, in this case, the money might go into the pockets of a set of men who were not very popular in this country; but this could not be avoided. All limitation laws were contrary to justice; but, in all cases where it was expedient to pass them, care ought to be taken that no class of men in

particular should be affected by them. It has been objected to this resolution that if it passed, it would open a door to frauds, and chiefly serve speculators; but it could not be said that it would place the original holders in a worse situation than they are at present, but in a better. He hoped, therefore, the resolution would pass, without the amendment.

Mr. S. Smith said, this subject had been so frequently agitated in Congress, and the doctrine of *discrimination* so constantly decided against, that he wondered it should, at this period, be renewed. It was fully tried at the time of commencing the funding system. Every person possessing a certificate, before the claim was barred, had the same right to have it funded, and he saw no reason why they should now make a distinction. He was in favor of the resolution, and should have no objection to any modification of it which would tend to prevent speculation.

Mr. Brooks called the attention of the committee to what had fallen from his colleague, (Mr. Elmendorph,) with respect to these certificates being issued to others than the real owners, for this reason—because the public faith was pledged to pay the amount to the bearer. It was impossible, he said, for them to guard against frauds between individuals; and any regulation they could make in this respect, would only be an encouragement to perjury.

Mr. Thatcher said that, during the last and present session, he had certificates sent on to him to be funded, by his constituents, telling him, they heard the country was about to pay its debts. He told them, in answer, that they had said, that, by law, they would pay nothing at all. This his friends thought a hard matter; since they were possessed of acknowledgments of debt, which Government had solemnly promised to pay. This was, however, their situation. He was therefore clearly of opinion, that these people ought to be paid; but there had been a hue and cry raised by the gentleman from Connecticut, against speculators. He did not think this description of men had done the millionth part of the injury ascribed to them. He believed they were in the situation of a certain other personage; for he was for giving the "Devil his due;" but he thought the old gentleman himself was often highly injured, by having more laid to his charge than he was guilty of. He thought these same speculators had done more good to the public, than Congress had done in passing the law in question. He wished their conduct was fully and fairly examined; he thought it would bear examination. Gentlemen say that, since last January (when these claims were barred) these speculators had been buying up this paper from the holders for a mere trifle. Suppose, said he, this were true, and they had given an original holder 4*s.* in the pound for what he believed to be of no value. Where was the criminality of this? Was he injuring the holder? As well might it be said, that a man who visits another in prison, and gives him meat to eat, does him an injury, because he does it with an expectation that Heaven will reward him. Connecticut, he said, was the last quarter from whence he should have expected such a doctrine. If it were right and just that original holders should receive that which they have had promised them, he thought those who had risked the purchase of them, in the face of a law of the United States, out of mere compassion and benevolence to the holder, were entitled to more. The only ground upon which speculators could build a hope was, that Congress, having passed an injurious law, would one day be brought to a sense of shame for having done so, and do justice. To punish these men, therefore, for entertaining this hope, would be to punish virtue with a vengeance. These odious characters, speculators, it must be allowed, he said, have some good qualities; for, if they have not constantly fed these claimants on Government, they have, at least kept them from starving. He should, therefore, be opposed to the amendment.

The question on the amendment was put and negatived, there being ten votes only in favor of it.

Mr. J. Williams said, he should vote for the resolution, though he thought it did not go far enough. The holders of these kinds of certificates had been informed, that the act of limitation did not reach them; they therefore supposed their claims would never be barred. This being the case, he thought they should agree to this resolution, and leave the holders at liberty to fund them, since they had evidently been ignorant of the passing of the law respecting them.

Mr. Baldwin thought some of the arguments on the subject went too far. The truth was, they had not sufficient checks to guard against frauds. They had for twelve or fourteen years been endeavoring to guard against them. If the resolution passed, which, perhaps, it ought, the suspension should be for a short time; for, though the public were able to guard against fraud, individuals would be continually exposed to deceptions, if this property were suffered to be long afloat.

Mr. Edmond said that, notwithstanding all the observations which had been made on this subject, he could not vote in favor of the resolution before them. He had heard no argument sufficient to induce him to set aside an act of limitation. They were to presume that this law was made after due deliberation. Why, then, repeal it? Because it was said there were certain poor soldiers, and others, possessed of certificates which were barred by this act. It was extremely easy to paint the situation of such persons in glowing colors. But when they had passed an act of limitation, they were not to set it aside for particular cases. This would defeat the idea of limitation. They must, therefore, consider all persons in the same situation; whether a person was an original holder, or had purchased his certificate, was immaterial. The statute had equally barred them. Had circumstances, since the passing of the act, changed? No; the only reason which bore any color was, that the law had not been sufficiently promulged. If there had been a neglect on this head, those who had been guilty of the neglect should redress it. Was it not made as other laws were made, and promulged in the same way? But it is said

to be incorporated in a lengthy act, embracing a number of other articles, and no reference was made to it in the margin; but it was comprised in the laws of a single session, making a small volume, and had been promulged in the same way in which penal acts which affect the lives of individuals were promulged. However the subject might be reasoned upon, it was said that the fact was, that the law was little known. It was said, there were members in the House who were not acquainted with this law. Was this, he asked, an extraordinary thing? No one supposed that every member in the House was acquainted with every law of the United States. The soldier who, probably, could neither read nor write was not supposed to look after the laws which were passed every session; no, the members of the Legislature, when they return home, take the laws with them, and give the information to their neighbors. If they were not thus published, it was owing to a culpable neglect. From all these considerations, he thought the law should be preserved.

Mr. Brooks said, it was an extraordinary doctrine to say that, though the members of the Legislature were unacquainted with a law, yet, that individuals, who did not look into a book once in seven years, should be perfectly acquainted with it. What would the people of the United States think of this? It had not the semblance of justice.

Mr. Macon said, on the principles of equity, the statutes of limitation might be looked upon as injurious; but as no law had ever been passed with more notoriety than the one in question, he could not have believed, if gentlemen had not themselves declared it, that it should not have been known to them. It was founded upon the only report which the Secretary of the Treasury ever sent to that House unasked for, and it underwent as much debate as any other law of the United States. These claims, Mr. M. said, could stand in no better situation than those of persons who had not been in the way of getting their claims settled. Where both had performed services, both had the same equitable claim: books were the testimony in both cases. If it were necessary, therefore, to take these claims out of the statute, it was equally necessary to repeal all the statutes of limitation at once. Mr. M. mentioned an instance of fraud which took place in Rhode Island, by a small sum being altered to a larger in a certificate, upon which the interest had been several times paid before it was discovered. It was impossible, he said, to guard against frauds; but he knew very well that whenever the claims of a soldier came up, the humanity and philanthropy of the House were called upon to afford relief; but no difference ought to be made in favor of one class of claimants more than another. There had been a number of hard cases which had been decided against, from their being barred, and if they opened the door at all, it should be opened generally.

Mr. Gallatin said, he should not have offered anything more on the subject, but for what had fallen from the two gentlemen last up. There was an essential difference, he said, between these claims and others; it was this, these were liquidated, the others were unliquidated. In the latter there were open accounts at the Treasury, and if they were not settled in a given time, it was not possible to check them. That time had therefore been limited, but, with respect to liquidated claims, the same order had not been taken. They were accounts settled, which never could be expected to be barred, as the certificate was a sort of negotiable note from the Government. If this had not been the view of the Legislature, why except these claims from the acts of limitation? It was clear, therefore, that they stood on quite different ground from the description of claims alluded to. And let it not be said, added Mr. G., that the holders of the certificates ought to be acquainted with the law which affects these claims. If the United States owe a debt which they do not mean to pay, except presented before a certain day for settlement, it was their duty so to promulgate the law as that it should be generally known. Much had been said on the score of speculation. He thought the great zeal which was now shown against speculators ought to have been brought into action at an earlier period. Ten years ago the idea of discrimination had been discarded, and he thought it too late to introduce it now.

The gentleman from Connecticut (Mr. Smith) had said, it was the duty of members who were present at the passage of the law of 1795 to have opposed it at the time. If the gentleman alluded to him, he was mistaken, as he was not a member of the House at the time the act passed. Gentlemen who had spoken against speculation had confounded two things together, viz: persons who had purchased these evidences of debt of individuals for a trifle, and those who had received them in a regular way. It would be perfectly unjust to put the latter upon a worse footing than original holders. If it were meant only to affect the former, (if the bill could be so modified,) he should not object to it, though he believed great difficulty would attend the insertion of such a provision. He hoped the measure would be adopted in its present form.

Mr. Allen wished the committee would rise, and have leave to sit again. He wanted this matter developed. There seemed something behind which did not appear. It was impossible that a million of dollars of this description of debt could lie in the hands of original holders. This subject had only been introduced this morning, and he thought it was not well understood. He wished to have a little time for consideration. He thought, also, that a new system of morals had been introduced on the occasion, which ought to be examined.

Mr. Brooks and Mr. Thatcher were opposed to the committee rising.

Mr. McDowell was in favor of it, so that gentlemen who wished to speak on the subject might have an opportunity; and that their feelings, which had been worked upon by highly coloring the sufferings of poor soldiers, might have time to cool. He feared the certificates in question were chiefly in the hands of other persons.

Mr. Coit had no objection to the committee

rising. The sum which had been stated as the amount of the class of claims under consideration was not correct; that sum included a number of claims of a different kind.

Mr. Gallatin was perfectly willing that the committee should rise; but not from the insinuations thrown out by the gentleman from Connecticut, (Mr. Allen,) that the motion was wished to be hurried through the House, or that there was something behind which did not appear. Having declared he did not know a person who had one of these certificates, and not having had any desire for the motion to pass to-day, of course the insinuation could have no foundation as it respected him, though he had introduced the business, and he should be justified in taking no notice of it.

Mr. Allen said, what he meant was, that certain owners of public paper of the United States had determined not to accept of the terms offered by the Government, but to have shilling for shilling, and that this suspension was intended more to relieve persons of this description than poor, original holders.

The question on the committee's rising was put and carried. The committee had leave to sit again.

Mr. Harper, from the committee to whom was recommitted the bill for the relief of the representatives of William Carmichael, deceased, reported a new bill, which was twice read, and committed for to-morrow.

Wednesday, December 13.

John Wilkes Kittera, from Pennsylvania, appeared and took his seat in the House.

The bill for suspending the act laying a duty upon stamped vellum, parchment, and paper, until the 30th of June next, was read the third time and passed.

ACTS OF LIMITATION.

According to order, the unfinished business of yesterday came before the House; when

Mr. Allen moved that the Committee of the Whole be discharged from a further consideration of the report of the Committee of Claims on the expediency or inexpediency of excepting certain claims from the operation of the limitation acts, in order that the report might be referred to the Secretary of the Treasury. His reasons for making this motion were stated to be, that further information might be obtained with respect to the risk there would be in making the proposed exception, and also with relation to the manner in which the law barring the claims proposed to be excepted had been published.

On being informed by the Speaker, that it would not be in order to discharge the Committee of the Whole to refer the report of a select committee to one of the Heads of Department, but that the Committee of the Whole might be discharged, on the further consideration of the report postponed, with a view of calling upon any department for information, Mr. A. adopted the latter mode, and moved that the consideration be postponed till Monday week.

After a few observations from Messrs. Brooks, Gordon, Goodrich, and Gallatin, which were chiefly in favour of the postponement, the motion was agreed to.

CIRCUIT COURT OF DELAWARE.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I lay before you the copy of a letter from the Judges of the Supreme Court of the United States, representing the inconvenience arising from altering the time of holding the Circuit Court for the State of Delaware, from April to June; and desiring that the existing law may be altered, by restoring the Spring session of the Circuit Court in Delaware to the twenty-seventh of April.

JOHN ADAMS.

United States, *December* 13, 1797.

The said Message was read, and, together with the letter referred to therein, ordered to lie on the table.

ANTONIA CARMICHAEL.

Mr. Harper moved the order of the day on the bill for the relief of the representatives of William Carmichael, deceased; which being agreed to, the House resolved itself into a Committee of the Whole on the subject, and the bill having been read,

Mr. Venable moved to strike out the following words in the act: "and also in full for any demand on account of an outfit for him on his appointment as Chargé d'Affairs, on the 20th day of April, 1790." He thought these words a surplusage, and might do mischief in future settlements. It had not been customary for the United States to allow outfits to officers of this grade, and therefore improper to refer to such an allowance. This motion was supported by Messrs. Nicholas, Rutledge, and Elmendorph.

It was opposed by Messrs. Harper, Gallatin, and Pinckney, on the ground that a claim having been made for the allowance of an outfit, it was necessary, in order to prevent that claim from being hereafter renewed, to have a clause of this kind in the act.

It appears, that by an act passed in July, 1790, Chargés d'Affairs, as well as Ministers Plenipotentiary, are now entitled to an outfit of not more than one year's salary; but Mr. Carmichael having left this country in the character of Secretary of Legation to Mr. Jay, in the year 1782, and had the expenses of his voyage and establishment in a foreign country (for which purposes Mr. Pinckney said the outfit was allowed,) it had not been thought right he should be allowed for an outfit. A difficulty occurred in this business, whether Mr. Carmichael should be considered as Chargé d'Affairs from the year 1782, when he entered upon the duties of that character, or from 1790, when he received his new commission. If he had been considered in this character from the latter period only, it was said he would have been entitled to an outfit; but then he would not have been entitled to full pay as Chargé d'Affairs from the time he entered upon the duties of the office, nor to the extraordinary charges which were claimed. The committee reported the bill, therefore, agreeably to the report of the Secretary of State, allowing him full pay and extraordinary expenses, but rejecting the claim for an outfit.

The amendment, after a considerable debate, was put and carried—47 to 35.

Mr. Venable then moved to strike out the second section of the bill, which authorized the accounting officers of the Treasury to allow to the representatives of the deceased, at the rate of $4,444 44 annually, from the 20th of May, 1782, to the 20th of April, 1790. He thought the extraordinary expenses which had been agreed to be allowed, of $8,258, would be a sufficient compensation for his extra services as Chargé d'Affairs, without any additional salary, as his salary as Secretary would be paid at the Treasury, without any special act for the purpose.

The motion was supported by Messrs. Coit and Williams, and opposed by Messrs. Harper, Gallatin, S. Smith, and Brooks. It was put and negatived, there being only 24 votes in its favor.

Mr. Allen renewed the motion which he had made when the report on this subject was under consideration, to allow an interest of six per cent. per annum upon the amount which should appear to be due, from the time at which application was made for payment, until the money was paid.

This motion was immediately negatived without a division.

The committee rose, the House agreed to the amendment, and the bill was ordered to be engrossed for a third reading to-morrow.

FOREIGN COINS.

The House resolved itself into a Committee of the Whole on the report of a select committee appointed to inquire whether any and what alterations are necessary in the law, entitled "An act for regulating Foreign Coins, and for other purposes."

The report of the committee was read as follows:

"That it appears, from the best information they can obtain, that very little of the silver coin of the United States has circulated at any considerable distance from the Mint, especially in the interior parts of the country."

"That, by the operation of the law which provided that at the expiration of three years after the coinage of gold and silver should commence at the Mint, all foreign coins, except Spanish milled dollars, and the parts of such dollars, should cease to be a legal tender, considerable embarrassments have been produced, and many losses sustained, as a very considerable quantity of foreign silver coins other than Spanish milled dollars, was, at that time, in circulation.

"Your committee also find, that, by the operation of the said act, all foreign gold coin will cease to be a legal tender after the thirty-first day of July next; that a great quantity of it is now in circulation, and must necessarily continue so until that period arrives, as it will be scarcely possible for the Mint, on its present establishment, to coin a sufficient quantity to replace it.

"Your committee are, therefore, of opinion that provision ought to be made by law, authorising and requiring the collectors of the revenue to receive, in discharge of all demands of the United States, foreign silver coins other than Spanish milled dollars and parts of such dollars, at the rates and under the regulations by which they were receivable before the 15th day of October last; that this regulation should continue for two years, and until the end of the next session of Congress thereafter; and that so much of the said act as relates to the circulation of foreign gold coins, be suspended for the like time."

Mr. Gallatin wished to know from the committee why the distinction had been made between foreign gold and silver coins? why they had not recommended the act to be suspended with respect to silver as well as gold? He could not see any reason why crowns should not be a legal tender for payments in general, as well as to collectors of revenue.

Mr. Sitgreaves rose to propose another question to the committee. His colleague had supposed the distinction which had been made between foreign gold and silver coin, was in favor of the gold, and would limit the circulation of the silver coin. He should rather suppose the distinction was the other way, and he should like to be informed what had induced the committee to recommend a suspension of the laws respecting foreign gold coin. They knew the silver coin circulated by tale, the gold by weight; the value of the latter had actually diminished by various means, such as sweating, plugging, clipping, &c., so that there was no method of ascertaining, with precision, the value of gold coin, without weighing it; and persons not in mercantile habits, and who were not possessed of a pair of scales, were at a loss to know its value. The inference he drew, therefore, was, that the sooner they could get the gold coin out of circulation the better, and the quantity was so small that no great inconvenience would ensue from such a measure. With respect to the silver coin, the provision recommended would, he believed, occasion but little inconvenience. But, instead of suspending the act as it related to gold coin, he thought they ought to accelerate the period of throwing that coin altogether out of circulation.

Mr. Venable, (the chairman of the committee,) in answer to the two gentlemen from Pennsylvania, said, that the distinction which the committee had made between foreign gold and silver coin, was founded on this consideration, that the law relative to silver had already been carried into effect, and the consequences which would be produced by the provision recommended, were now felt; and it was supposed that this restriction would be a means of bringing the foreign silver sooner into the Mint; as, if it were not allowed to be a legal tender for any thing but duties, its circulation would, in a great degree, be confined to the seaports, and when the United States got it into possession they would send it to the Mint, and it would be re-issued in our own coin. With respect to gold coin, though there was little of it in circulation near the banks, there was a great deal

of it in remote parts of the country where there were no banks; so much, that it would be impossible to bring it to the Mint to have it reissued, without sustaining great loss, and without being almost totally deprived, in the meantime, of a circulating medium. And though foreign gold coin was subject to the injuries which had been mentioned, our own gold coin was equally subject to them. Few of the coins of the United States, he said, had found their way into the interior of the country; indeed, so rare were they, that when they were met with they were preserved with as much care as if they were curious medals.

Mr. J. Williams approved of the report. In the northern parts of the State of New York, and the northern and western parts of Vermont, considerable trade was carried on with Canada, from whence they received gold coin in payment; and if the law respecting foreign gold coin was not suspended, there would be no circulating medium in that part of the country, as they had no paper, but all payments were made in dollars, crowns, guineas, and half joes. As to a coin from the Mint of this country, it was with them quite a curiosity.

Mr. Nicholas was not satisfied with the reason which his colleague [Mr. Venable] had given for not going further into this business. He seemed to think that the law for prohibiting the circulation of foreign coin had already been felt as it respected silver. He believed the first shock had only been experienced. He did not see any advantage to be derived from the regulation proposed. It went to lessen the value of a certain kind of property, in order to enforce it into the Mint of the United States; but, until it could be shown that such a measure would be of some advantage to the community, he did not think that House would be justified in adopting it. It would be said by the people, and with propriety too, that they had established a Mint, but could not work it without defrauding them of their property. He had always thought the establishment useless, and in order to make it otherwise, a plan was now contemplated to rob the people of their property. If the same regulations were to be adopted with respect to gold, which were recommended with respect to silver, the inhabitants of the interior part of the country would be wronged of ten per cent. of their moneyed capitals, as at present the French crown would pass there for no more than a dollar. He knew many who retained this kind of property in their hands because they would not submit to the loss. He saw no reason for prohibiting this kind of coin; he believed it to be as good as any which could be given them in exchange for it; as a proof of this the banks of this city received it at its original value. The same observations would hold good with respect to gold coin. He thought it much better that gold coin should pass according to its weight, than they should pass sanguinary laws to punish persons for reducing its value. He wished, therefore, that the whole law might be suspended, as, if the regulations proposed were adopted, it would injure one party of the people for no other reason than because gentlemen were determined to persevere in what he deemed always an error—the support of a national Mint.

Mr. Chapman said, the arguments of the gentleman last up did not go to the present question, but to whether we should have a Mint or not. Mr. C. said, when he first saw the law for prohibiting the circulation of foreign coin, he thought unfavorably of it; but, from the information he had received on the subject, he now thought differently, and believed, if the plan proposed by the committee was agreed to, it would remove any objections to its operation. He thought the reasons which had been assigned for the regulations were good. With repect to the effect it would have on the Mint, as French crowns were to be received in payment by Government, they would doubtless be recoined; banks would also receive French crowns, or parts thereof, their operations would go on as usual, and the value of this species of coin would not be lessened. The act incorporating the Bank of the United States had declared that the notes of that bank should be received in payment by the officers of the United States for duties, which had given a circulation to that paper more extensive than any other, which would of course have a tendency to lessen the evils complained of. He was well satisfied with this report; but, if any amendment could be made to it, which could make it more acceptable to other gentlemen, and equally favorable to the Mint, he should not object to it.

Mr. Nicholas asked whether it would be in order to move to insert a resolution to the report.

The Chairman answering in the affirmative.

Mr. Nicholas said, to agree to the report, as it stood, would be to set one part of the people to speculate upon another; as, in those parts of the Union where little was paid to the custom-house, a French crown would pay for no more than a dollar, and it would be the business of persons living in seaports, to purchase them at a reduced value, which would be giving a different value to coin in different parts of the country, and be an unjust tax upon a large portion of the people.

Mr. Harper agreed with the gentleman who had just taken his seat, that if the coin of the United States was no better than that which they wished to stop the circulation of, everything which had been done in the establishment of a Mint was wrong. This point had often been discussed. It was agitated when the Mint was first established, and it was decided that the coin to be issued from the Mint would be better than the coin then in circulation; not because a particular piece of gold was of more value to an individual, but because it was better for a nation to have a coin of its own. It was on this ground that the expense of the establishment was justified. Therefore, the gentleman was begging the question upon a subject which had been long decided. He was far from being of the opinion of the gentleman from Virginia, that the proposed regulation would reduce the value of foreign coin ten per cent., for, if a French crown passed for one hundred and ten cents in the seaports, it would soon have the same

value all over the United States; and if the attempt to purchase them at an undervalue were to be tried, it would be found that a competition would produce their real value. But though there might not be much duty paid in some parts of the country, there were everywhere storekeepers who had dealings with the merchants in the seaports, and who would be glad to receive them in payment for their goods. He allowed some little inconvenience might arise in thus endeavoring to promote the circulation of our own coin; but if the business was postponed, the same evil would always occur. He hoped, therefore, that the regulation, with respect to silver coin, recommended by the committee, would be agreed to. As to foreign gold coin, he should wish that to be put upon the same footing, which would bring it into the Mint, and it would be returned into circulation in a new shape. But the committee had reported a fact which, if well founded, was of importance, viz: "that it was scarcely possible for the Mint to recoin this money so fast as it should be brought in." If this were so, they must either not call it in, go on in enlarging the Mint, or have no Mint at all. But he did not take the fact as stated. He believed there was no want of mechanical force in the Mint.

Mr. Venable interrupted Mr. H. to say, the committee did not mean that the Mint had not the necessary mechanical force; but that they could not get sufficient bullion for the occasion.

Mr. Champlin wished to have the liberty of asking the Chair whether the question was not susceptible of division. If it were, he thought it would greatly shorten the debate to divide it.

The Chairman answered, that the question might be divided.

Mr. Harper thought of making a motion to that effect. The information which the gentleman from Virginia had given was sufficient. If there had been a physical incapacity in the Mint to have coined a sufficiency of money, there would, indeed, have been a real difficulty; but if bullion only was wanted, the only means to supply it would be to call in the foreign gold coin. He hoped, therefore, that the regulation with respect to silver would be agreed to, and that the gold coin might be put on the same footing.

Mr. Venable proposed that the former part of the report should be first agreed to, relative to silver coin.

Mr. Gallatin understood that the gentleman from Virginia (Mr. Nicholas) was in order.

The Chairman said he had mentioned his intention of moving a resolution, but had not handed it to the Chair.

Mr. Nicholas said, that understanding his motion was in order, he should make it. He would first state one fact, which would be sufficient to answer all the reasoning of the gentlemen from South Carolina and Rhode Island, (Mr. Harper and Mr. Champlin.) Though, in the large cities, bank notes were equal to every purpose as a circulating medium, in the country, where he lived, they passed at a depreciation only. This resolution was to the following effect:

"*Resolved*, That so much of the act, relative to silver coin, &c., as goes to restrain the circulation of foreign coin, be suspended for a limited time."

Mr. Gallatin was in favor of this resolution. He did not think the proposition of the committee went far enough. It did not follow, as the gentleman from South Carolina had stated, that because a French crown passed in a seaport for 110 cents, that it would soon pass everywhere for that sum. The moment it was said a French crown should be payable only for certain purposes, that moment it became an article of merchandise, which would rise and fall according to the demand there might be for it. This was the case with all foreign coins, in every country where they did not pass a legal tender. If there were any weight in the argument of the gentleman from South Carolina, that because the collectors would receive crowns at 110 cents, they would always be worth it, it might be carried further, and said, that because this coin has this value in any other country, it cannot depreciate here. It appeared, therefore, that though the provision recommended would remedy the evil, in some degree, it would not remedy it altogether; and that where there was not a demand for this species of coin, it would depreciate in its value. Mr. G. said, it was clear we had not more circulating medium in the country than was necessary for the purposes of commerce, and that, therefore, the withdrawing any part of it would be an evil. It was necessary, therefore, to inquire whether any good would arise from such a measure, to counterbalance the evil. The gentlemen from Rhode Island and South Carolina said, it was necessary to the existence of the Mint. What were the advantages to be derived from the Mint? They were told, that the great object was to have a coin of our own. This observation could not apply to foreign silver coin, because the law declared that Spanish dollars should circulate as usual, which acknowledged that we stood in need of foreign coin for a circulating medium, and that our Mint was insufficient for the purpose. But, in relation to the Mint itself, it was said, the proposed measure would force the foreign coins into the Mint. He wished to know how this could be effected. How could directing the collectors to receive this coin force it into the Mint? Was it supposed, that the moment the banks, or the revenue officers receive crowns, they will carry them to the Mint? How had it happened, that, in receiving seven millions of revenue from the custom-houses, that more of this coin had not heretofore been sent to the Mint? And could it now be supposed that they would be compelled to take this coin to the Mint? In relation to gold coin, the gentleman from South Carolina had said, that the only way of getting it into the Mint was to say it should not be a legal tender. But why thus force the people to take this species of coin to the Mint? It was clear it could not be the interest of Government to have a Mint, if it were not the interest of the people; and if they saw it to be their interest, they would take their foreign coin there without being forced to do it. But, said he, if you suppress all foreign coin, you will do it con-

trary to the will and interest of the people; and if this were the only means by which Government could establish their Mint, he thought the institution would never become a very popular one.

Mr. Harper interrupted Mr. G. He did not say that this was the only way in which the Mint could be supported. He said it was one effectual method.

Mr. Gallatin continued his observations. When the Mint was first established, it was said, that in three years from its commencement, there would be such a quantity of our own coin in circulation as would supersede the necessity of foreign gold or silver coin. Experience had shown, however, that the friends of the establishment were mistaken. There was not now a sufficient quantity; but they were told, notwithstanding, that all foreign coin, except Spanish dollars, and parts thereof, should be called in. He hoped not. If, when they came to consider the Mint establishment, it should appear to be necessary to take such a step, he trusted they should take such measures as would be effectual, without putting any class of people to loss. Until the Mint were established upon a footing which should render it equal to the supply of a sufficiency of coin for the use of the country, he hoped they should leave the foreign coins upon their present footing.

On motion, the committee rose, reported progress, and had leave to sit again.

Thursday, December 14.

A communication was received from the Secretary of the Treasury, on the subject of the loan made for the use of the city of Washington, in the District of Columbia, which was read and ordered to be printed.

The bill for the relief of the representatives of William Carmichael, deceased, was read the third time and passed.

Mr. Harper called the recollection of the House to the bill which was passed last session by that House for the relief of Major Thomas Lewis, but which was not acted upon by the Senate, owing to its being sent up the last day of the session, and moved that a committee be appointed to bring in a new bill; but, on the chairman of the Committee of Claims informing the House that Major Lewis's petition was at present before them, the motion was withdrawn.

Mr. Sewall said, there had been an omission in the act regulating the compensation allowed to officers employed in the collection of duties on impost and tonnage, passed last session, which affected a collector in the State of Massachusetts; he therefore moved that a committee be appointed to inquire whether any and what alterations were necessary therein, and that they report by bill or otherwise. Agreed to.

OUTSTANDING CERTIFICATES.

Mr. Allen moved a resolution to the following effect:

Resolved, That the Secretary of the Treasury be directed to report to the House an account of the Loan Office certificates, final settlements, and indents of interest not registered, and now outstanding; and, also, such matters as relate to the expediency or inexpediency of extending for a limited time the 14th section of the act for making further provision for public credit, and for the redemption of the public debt.

Mr. Gallatin called for a division of this question. It was yesterday decided, he said, that it would not be in order to refer the report of a select committee to the Secretary of the Treasury, and he thought it would be equally improper to send for his opinion as to the expediency of extending the act in question. If the gentleman would modify his motion so as to call for whatever information he pleased, he should not object to it.

Mr. Brooks spoke to the same effect.

Mr. Allen did not think his resolution called for the opinion of the Secretary of the Treasury; he meant it to call only for information on the subject.

Separate questions were taken upon the two parts of the resolution, and both were carried without a division.

FOREIGN COINS.

The House again resolved itself into a Committee of the Whole on the report of the select committee on the subject of foreign coins; when, Mr. Nicholas's proposition for suspending altogether the operation of the act for checking the circulation of foreign gold and silver coin being under consideration—

Mr. Sitgreaves said, he had mentioned yesterday, that there was, in his opinion, an obvious distinction between the cases of gold and silver foreign coins; and, all the reflection he had since given to the subject, had confirmed him in the conviction which he then expressed. He moved, therefore, to amend the resolution under consideration, by adding, after the word "foreign," the word "silver," which would have the effect of confining the suspension of the act in favor of silver, and leave the act of 1794 to operate on gold coin. If, said Mr. S., the design of the Mint had been only to gratify the pride of sovereignty, the object would have been inconsiderable and unworthy the expense of supporting it; but it was established for other and far more important ends. It was, that the Government might have a control over its circulating medium, which was essential, in order to prevent its debasement by alloy and fraud. This debasement was chiefly applied to copper and gold coin, but not so much to silver. He saw no reason, therefore, why foreign silver coin, which had long been current in this country, should be forced out of circulation into the Mint; they were of the same use and value of any which might be reissued; but it was very different with respect to copper and gold coin, which was subject to be debased in so many different ways, and which could not be prevented, until we had a sufficiency of our own coin, which would be under our own direction and control. Let the stoppage of French crowns take place when it might, it would be attended with some inconvenience; yet that period must arrive, if the Mint were to be supported. But he conceived these inconveniences would be felt in a very

small degree with respect to gold coin. The Proclamation of the President of the United States, which notified that foreign coin would cease to be a legal tender after a certain day, made in October, 1796, related to both gold and silver coin; but the notice respecting gold coin, was much farther removed than that of silver; it was not to go out of circulation till July next; whereas the silver coin had already gone out of circulation, except that it were payable at the banks, and to the revenue officers. It was, therefore, much more in the power of persons holding gold coin, to get it out of their hands before the time arrived. The quantity of gold coin in circulation, compared with the whole circulating medium he said, was very small, and therefore but little inconvenience could arise from its circulation being stopped; and on account of the portability of gold coin, it would be much easier transported to the seat of Government. But the most important consideration was, the present mutilated state of foreign gold coin, which rendered it impossible for those who were not well acquainted with the detail of business, to guard against frauds. In the State of Pennsylvania, not one man in five hundred was in possession of a pair of gold scales; and, without them, it was impossible to ascertain whether gold was weight or not; and there were still fewer persons, if they had scales, who knew the real value of gold coin when it was deficient in weight. This great evil in the Middle States, whatever might be the case to the Eastward and Southward, convinced him, that the sooner foreign gold coin was thrown out of circulation, the better. But it was yesterday said, that when our gold coin should get into circulation, it would be equally subject to debasement: and, therefore, that it would be impossible to pass it by tale. He would not say, that, in the course of time, this might not take place; but on the outside, trade and intercourse would be considerably facilitated, by having a proper medium of our own; and when our gold coin should become corrupted, by clipping, &c., it would only have to be returned to the Mint to be recoined. These considerations had induced him to make his motion.

Mr. J. Williams was against this amendment. The observations of the gentleman were favorable to the cities, but not to the extreme parts of the Union. Suppose it were practicable or necessary to call in the foreign gold coin, where would the Mint find bullion to replace it? The difficulty was, the want of bullion; and if they prohibited the circulation of gold coin, they should prevent its increase. And, even if they had sufficient bullion, he thought the works of the Mint too contracted to coin a sufficiency for all the purposes of the United States, and he did not think it would be right to extend them; since, if a nation were to have its Mint, it should be at the seat of Government, which, in two years, was to be removed from its present situation. As to the present establishment, it had been attended with considerable expense, without affording any benefit, except to this city. Our own gold, the gentleman said, would not for a long time be either clipped or sweated; but when it was, it might be returned to the Mint to be recoined; so that there would be a constant routine of sweating, clipping, and coining. But the gentleman said, it was impossible to prevent imposition in receiving the gold coin now in circulation, as few persons were possessed of gold scales; he was certainly misinformed in this respect, as few persons who were in the habit of receiving any considerable sum of money, were without gold scales, or ignorant of the value of gold. Why, then, compel people to send this coin to the Mint? Was it because they were shortly to be called upon for further sums of money to support the establishment, and gentlemen wished to give it the appearance of usefulness? With whatever view it might be done, he certainly could not agree to it.

Mr. Pinckney was in favor of the resolution of the gentleman from Virginia, without the proposed amendment. He was against agreeing to the report of the committee, because it would either produce no effect, or an injurious one. Gentlemen differed in opinion as to the effect; some supposed it would depreciate the coin; others thought it would produce no such effect. To him this was immaterial. If it did not tend to depreciate the coin, it would have no effect to force it into the Mint; therefore, the arguments of gentlemen went too far. And, if it did tend to depreciate the coin, it would have a very injurious effect. He did not say this because he was against the establishment of the Mint; he believed with the gentleman from Pennsylvania (Mr. Sitgreaves) that it might be productive of good; but he did not think this the proper way to support it.

Mr. Otis rose, with some regret, and a good deal of diffidence, on this question, because his opinion differed from both the gentlemen who had just delivered theirs. He was equally opposed to the amendments of the gentlemen from Pennsylvania and Virginia, and in favor of the original report. He considered both the amendments as having a tendency to undermine the Mint establishment; if that of the gentleman from Virginia were agreed to, that institution would have but a short duration; and whatever credit may be due to the ingenuity of that gentleman, and others who support his motion, for this indirect attempt to destroy it, he thought it behooved gentlemen who wished well to that institution, and considered it as connected with the national prosperity, to pause before they gave a vote which should go to this effect. If the Mint were found to be an inconvenient establishment, and the expense of it greater than the convenience, let a proposition be brought forward, and let the question be fairly met, and not endeavor to effect its overthrow in the way proposed. In order to elucidate his assertion, that this proposition would destroy the Mint, he would inquire how the Mint was to be supported? It could not be supported with sufficient bullion, except by means of the foreign coin now in circulation. Bullion was not imported in large quantities into this country. In looking into a report on the subject, he found the quantity of bullion imported was small. Government had no power to traffic in it,

and our merchants did not often import it; therefore foreign coin was the only aliment with which the Mint could be fed. And if the business of calling in this coin were postponed for two years, no argument would then exist for stopping the circulation which did not now apply; they should then be told that the expense of recoining would exceed the utility of the measure. It had been said that the measures recommended by the report would not have the effect of throwing foreign coin into the Mint, since, though nearly seven millions of revenue were received from the custom-house, little of this coin had been sent there heretofore. This, Mr. O. said, could not be expected when there was no restraint laid upon the banks to do it. Besides, dollars had been in great demand for the London and East India markets, and the banks had found it necessary to keep back their dollars, and pay out their crowns. Hereafter this reason might not exist, and Government might make their deposites on condition that the foreign coin should be sent to the Mint. With respect to the inconveniences which would be felt by the people, he did not think they would be so great as had been represented. And upon whom, he asked, would these difficulties fall? Not upon the poorer classes of the people; they had already experienced the inconvenience; for, if they possessed a few crowns when the proclamation was issued, they had been obliged to part with them, and had suffered by their depreciation. It would then be those people who had bought them up, who would be benefited, provided the act were to be suspended; but if it were not suspended, and the crowns were payable at their full value in the seaports, they never could be depreciated more than one or two per cent. in any other part of the country. He hoped, therefore, the report would be agreed to.

Mr. Nicholas said he never yet voted against the Mint, and he did not know why the gentleman who had just sat down should have deemed him inimical to the establishment, except from the reason of the thing, and because he was not, like himself, a slave to whatever had been established. It was said his proposition was an attack upon the Mint; if it were, he did not want a greater concession to prove the establishment useless. When the law for establishing the Mint was passed, it was expected the coin of the United States would have insinuated itself into circulation, and stopped that of foreign coin. If this had happened, it would have been of small consequence to the people to have had it put out of circulation; but, on the contrary, the quantity of our own coin was found to be small, and that if the circulation of foreign coin be stopped, the country would be distressed for a circulating medium. He therefore wished to suspend the law. Was this to attack the Mint? If the Mint could not exist without imposing upon the people, they acknowledged it could not exist. And where, he asked, would be the advantage, if all the foreign coin in the country were to be transferred into the Mint? It had been allowed by the gentleman from Massachusetts that dollars were an article of export; would not, then, the dollars of our own coining, equally with the Spanish dollars, be sent out of the country? And, in return, our merchants would bring back foreign coin, so that all the coin in the country would become an article of merchandise. If Government could procure bullion on moderate terms, and put sufficient coin into circulation, it would be a different thing; but it would never do to take from the people the coin they now used without having others to supply them with. Mr. N. denied that people could go to custom-houses and exchange their crowns for dollars; crowns would be received there for duty only. And he begged gentlemen to consider what would be the expense of sending this coin to the Mint to be recoined. There would be the carriage and insurance, and it would at least be six months in returning—the interest upon which would be a dead loss.

Mr. S. Smith never conceived the establishment of a Mint in the country would injure the people so much as it appeared it would do, in the view of this business. He did not see how the difficulty was to be removed. If the report of the committee were to be agreed to, crowns would be received by shopkeepers at a dollar; they would bring them down to the seaports and pay them to the merchants at one hundred and ten cents, and the merchants would pay them at the custom-house. But how were the crowns to get from the different collectors into the Mint? Would the United States undertake to bring them there? In most of the cities there were banks, and the money was paid by the collector into the bank, and the Treasury drew upon the bank for the amount. How, then, were the crowns to get into the Mint? If the Treasury had a sufficiency of new coin to replace the foreign coin, the business might be effected, but not otherwise, as all commerce must of course stop, and the price of produce immediately fall, if deprived of a circulating medium. For instance, would the Bank of Baltimore be at the expense of sending their French crowns to the Mint, and wait till they could receive new dollars in exchange? No man would believe this. Banks were always pushed for money, and dare not part with their circulating medium. With respect to crowns, it was not of so much importance as the gold coin; if that were to be called in, he did not know what the banks would do; they could not wait till it was recoined; they were rather borrowers than lenders of money. He knew of no bank out of the city of Philadelphia which could send their foreign coin to the Mint to be recoined, and wait its return. He did not know that they could. The Mint, he said, was slow in its movements. He knew an instance where a bank sent several thousand dollars worth of bullion to be recoined, and they lay out of their property for six or seven months. He supposed it might now be more expeditious; but it would doubtless be too slow for the wants of the banks. Suppose, said he, the plan could be carried into effect, and the circulating medium was wholly our own coin and Spanish dollars, what would be the consequence? It would be this: Our own dollars, being of equal fineness with the Spanish, would be exported in

common with them to the London and East India markets; and since it was known that foreign coin was not current here, merchants would import as little of it as they could avoid, so that our circulating medium would soon be exhausted. He should, therefore, be in favor of the amendment of the gentleman from Virginia.

Mr. Sewall said, the present question was not whether the circulation of foreign coins should be prohibited altogether, but whether that circulation should be a partial one. Some gentlemen seemed to think nothing ought to be done with respect to gold coin; but all were of opinion it would be necessary to allow at least a partial payment of silver coin; and some of gold coin. For his own part, he was unwilling to postpone the difficulty which must be encountered, and which had already been felt in a great degree, whenever a partial stoppage should be put to the circulation of foreign coin. If the law were to be suspended for two years, as some gentlemen wished, he did not think we should be much better prepared to carry it into effect than at present. He did not think it possible to supply the Mint of the United States with bullion in any other way than by preventing the circulation of foreign coin. We were not in possession of mines abroad, nor did we import much bullion; but our commerce led us to import a considerable quantity of foreign coin, and foreign coin of a greater value in the country from whence it was imported than it was when it arrived here; which was owing to the exportation of coin being forbidden in those countries, and there was no way of importing it but by concealing it. On this account, a four-pistole piece, which in Bilboa was worth sixteen dollars, was here worth no more than fifteen and a quarter; yet a merchant will bring this gold coin at this loss, rather than bring dollars, which, being so much more bulky, would be liable to be discovered, and risk the loss of ship and cargo. If foreign gold coin were out of circulation altogether, he did not think much inconvenience would be experienced; it was not current by tale, the weighing of it was attended with much trouble, and he thought it might very well be dispensed with. And though it would not be received as a legal tender, this would take little from its value; for a person would always be able to pay a pound of gold for what it was really worth, and whilst the Mint was in being, there would always be a ready market for it. With respect to silver it was different. It passed for more than its real value. A crown, or dollar, though diminished in weight, and consequently in value, would pay for a crown or a dollar. If the circulation of foreign silver was altogether stopped, the loss sustained by individuals would be great; but, on the other hand, it was necessary to supply the Mint, and it was proper to stop the circulation of all foreign silver coin, except dollars and parts thereof, which would not be attended with any great inconvenience as crowns and parts thereof bore but a small proportion of the foreign silver in circulation. Indeed, the inconvenience had already taken place. In the part from whence he came, the circulation of crowns had stopped, except as dollars, and they were paid without any great hesitation by the persons who had them at that rate. But he did not think we were wholly prepared to meet this inconvenience. He, therefore, thought it would be right to agree to the report of the committee, which allowed them to be received at the custom-house, which would, in a great measure, remedy the evil arising from their being declared not to be a legal tender in other cases. Gentlemen had observed that the country would be more affected by this regulation than the cities; but, as it had been before stated, if a crown was worth 110 cents in one place, it would not be worth much less in any other. The inconvenience would be of short duration, as the crowns would all flow to those parts where they were received current. This observation had been opposed by a fact that bank bills in the interior of the country pass at a depreciated rate; but he thought that the analogy would not hold. If a person had five crowns, and was obliged to expend one of them, before he had an opportunity of getting the full value for them, he would lose only a few cents; but, in a bank note of five dollars, if he wanted to make use of a dollar, he would suffer a loss upon the whole note. He hoped the report would be agreed to.

Mr. Havens thought the report of the committee was somewhat inconsistent, as it proposed crowns, &c., should pass at their full value at the custom-house, yet expecting them to depreciate, and by that means get to the bank. Besides, their not being a legal tender will not depreciate them; for it was not one payment in ten thousand in which it was necessary to make a legal tender; it was seldom that a creditor was compelled to receive a debt; creditors were everywhere ready to receive their money generally before their debtors were ready to pay. Bank notes were not a legal tender in any part of the United States, yet there was no difficulty in passing them. If a creditor were offered current money, he would not care anything about its not being a legal tender; but if a legal tender were required, it would be an easy matter to procure money which was legal for that which was current. The inconvenience which had been complained of, from the depreciation of crowns, arose from the alarm which the proclamation on the subject had occasioned; but when that alarm ceased, which it soon would do, crowns would pay as usual. He was warranted in this supposition by the law respecting copper coin, which forbade any copper coin, except cents and half cents, from being circulated, on pain of being forfeited, besides ten dollars as a penalty; yet, notwithstanding base copper coin was everywhere in circulation. He referred to another law of a similar nature. It is clear, therefore, that coin would not be forced into the Mint, except its value was depreciated, which must be effected, not only by saying it shall not be a legal tender, but by making it penal to offer it in payment. Besides, if it would have the effect to force the foreign coin into the custom-house, it would never get into the Mint. The coin collected at Boston and other distant

distant ports, did not come to Philadelphia; but, suppose the law fixed the matter so, that such coin should come into the Treasury of the United States, it would not be difficult to show that it would be impossible for Government to put it into the Mint to be recoined. He was warranted in this conclusion by the law regulating foreign coin. That act declared, that all foreign gold and silver coin, except Spanish dollars and parts thereof, received by Government, should not be reissued, but sent to the Mint, to be recoined; yet this law had not been complied with. Mr. H. said, he was on a committee, respecting the Mint last year, and he inquired of the Secretary of the Treasury why this law had not gone into effect, and he was given for answer, that the Mint was in such a situation that it could not give any security that the coin sent there would be recoined in any reasonable time. Indeed, from what he said, he inferred that Government wanted the money so much, that it could not be spared to go to the Mint. To agree to the report, would have the appearance of giving support to the Mint; but it would not be really doing any such thing. This was his idea. But if this coin were to go to the Mint, where would be the advantage? He could not see any. He believed, therefore, the best way would be to suspend the operation of the act restraining the circulation of foreign coin, and leave the Mint upon its present footing, until something effectual could be done for its support.

Mr. Baldwin said, in determining upon the question before them, it was not necessary to examine the principles upon which the Mint was established. Supposing all the principles, and the effects supposed to be produced right, the only thing was, they were expected to have been produced sooner than it was now found they were. He could not agree to the motion of the gentleman from Pennsylvania. He thought they should extend the time of withdrawing foreign coin from circulation for a year or two longer. Nor would he have it supposed, from this wish, that he was hostile to the Mint; he originally voted for it, and was not now convinced it would not prove eventually advantageous to the country. To give further time for the maturing of this subject, was doing no more than they were obliged frequently to do in other matters under this Government. They were scarcely aware how slowly the laws passed over so extensive a country as ours. He believed the law proposing to stop the circulation of certain species of foreign coin had done some good; but he believed it would have a bad effect, if it were to take place in the ensuing Summer. He did not believe that a Mint establishment had ever before been contemplated for so extensive a country as the United States. In most countries where mints were established, there was, he said, a great mercantile centre, which acted like the human body, to circulate the medium of commerce. In this country, the case was different. Some parts of the United States, he said, were almost as much connected with other countries as they were with other parts of our own. In Great Britain for instance, when the coin got debased, it was always transmitted to London to be recoined, and new coin could always be received in its stead. But, said he, we must be contented to move more slowly. In some instances, where mints had been established, there was not so much bank paper in circulation as in this country, which had been a means of retarding our progress. He was not, however, for giving up the object, because their expectations had been, in some degree, deceived. He did not think the Mint could ever be supported by foreign coin alone; it would be necessary to be supplied with bullion also. Gentlemen had said, the effects of our coin had not been felt at all. They had certainly been felt considerably in some parts. Some valuable plate had, of late, been brought to the Mint from foreign countries, more, perhaps, than would be brought in future. But he hoped further time would be given before foreign coin was attempted to be withdrawn from circulation.

Mr. R. Williams was in favor of postponing the operation of the law, though he could not see so distinctly as other gentlemen the difference between the report of the committee and the proposition of the gentleman from Virginia. The committee say French crowns, &c., shall be received for revenue, but shall not be a common tender. If the report had made them a tender for all payments under the Federal Government, he thought the report would have been of equal extent with the amendment; as he supposed Congress had not the power of saying what should, or should not, be a tender in the several States. He thought he was warranted in this assertion by the Constitution, in the eighth section of the first article of which it was said, "Congress shall have the power to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;" and, in the tenth section of the same article, where it speaks of what the individual States shall not do, it says, "no State shall coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts." From these two passages of the Constitution, it was evident that the individual States might make a tender of what coin they pleased, provided they did it according to the value fixed upon it by Congress. So that the difficulty would not be so great as had been imagined, if the law was not postponed, though he thought it ought to be, as it had not been sufficiently notified. Another reason with him for wishing for a postponement was, that, if further time were given, the different States would make their tender laws conformable to those of the United States; if not, they would keep up their present laws, and there would be a clashing between them. He professed himself a friend of the Mint establishment, as he supposed the principles upon which it was founded were laudable and proper; but he was against carrying any law into effect which would injure the people of the United States.

Mr. Gallatin said, he felt no kind of aversion to the Mint establishment itself; he wished to see it well supported with bullion, and of importance to the United States; but he felt some aversion to

the expenses of the establishment, without any benefit being produced from it. So far as this went, the gentleman from Massachusetts (Mr. Otis) might apply his observation to him of "being an enemy to the Mint;" yet he thought that gentleman was mistaken in thinking the present question was so closely connected with the existence of the Mint. He believed, if there were means of making the Mint establishment beneficial, they were not those proposed by that gentleman. There were two subjects before the committee; the one to suspend the act altogether, the other to leave it to operate on gold coin only. He believed a single view of the quantity of gold coin issued from the Mint since its establishment, would show the latter to be an improper measure. The whole amount of gold coined at the Mint on the 30th of September, 1796, was only the value of one hundred and forty-nine thousand four hundred and forty-five dollars.

When the laws relative to the suspension of the circulation of foreign coins were passed, it was on the idea that, at the time the provisions were to take effect, there would be a sufficiency of our own coin to supply its place. It was clear this was not the case; and he did not see how a person could be charged with enmity to the Mint, because he was disposed to allow further time for its operations. It could not be expected, he said, under present circumstances, that much foreign coin should be brought to the Mint, until it were depreciated; therefore, unless the amendment of his colleague went to depreciate it, they could not suppose it would go to the Mint. He drew this conclusion from what had already taken place; for out of ten thousand ounces of gold which had been received at the Mint, not more than one thousand three hundred were in coin. Except, therefore, foreign coin was reduced to the value of bullion, it would not go to the Mint, and it would certainly be unjust to reduce it whilst it remained in the hands of the people. In relation to foreign silver coin, a difference of opinion existed whether the law should be wholly or partially suspended as it related to it. In the first place it might be observed, that the proportion which French crowns bore to the whole amount of foreign silver coin in circulation was very small, and therefore no great advantage could be derived to the United States from throwing them out of circulation. But, said he, suppose all the French crowns in the United States were now in the Mint, and were to be recoined into dollars, where would be the advantage? He did not understand that the object of the Mint was merely to put a certain impression upon money, but that we might preserve a proper control over our circulating medium, so as to keep it pure. Suppose the proportion of French crowns to dollars were as ten to one, would not the effect be, that nine-tenths of our circulating medium would still be in foreign coin? Where, then, would be the advantage? If the French crowns were debased, there would be some reason for calling them in, but not otherwise. It might be said, it would give employment to the Mint; but it would be employment without advantage, which could not be desired. But it had been shown by the gentleman from Maryland, that, if the French crowns were in the banks, it would be impossible to get them to the Mint, from the expense of transportation, and the loss which would be occasioned by the absence of the coin from their coffers. There was, in his opinion, a much easier way of replenishing the Mint, without encountering any of the difficulties which would attend the forcing out of circulation foreign coin; it was by making an appropriation of one hundred thousand dollars for the purchase of bullion, and this was the only way in which it could be effectually done. But this was not all; suppose all the foreign coin in circulation recoined into dollars, what would be the effect? They would be exported by our merchants equally with Spanish dollars; whereas, whilst the silver remained in crowns, they were suffered to remain. Mr. G. said he had already observed, he was opposed to the Mint only, if no advantages could be derived from it; and if, after going into the business as far as possible, it was found the establishment could not be of any use, it certainly would be better to get rid of it. But whatever his opinion on this subject might be, it was unconnected with the present question. The report of the committee on the subject of the Mint, recommended an appropriation of money, which was certainly the cheapest way of supporting it. When that report came under consideration, the question would arise whether the establishment was useful, or whether it should be abandoned. He hoped the amendment of his colleague would be rejected, and that of the gentleman from Virginia agreed to.

Mr. Otis rose in reply, in the course of which he denied that our own dollars would be more subject to exportation than French crowns.

Mr. Brooks wished the committee might rise, in order to give time for consideration.

The question for rising was put and negatived—47 to 33.

Mr. Macon said, it seemed to be the object of the friends of the Mint to force the foreign coin into the banks, and from thence into the Mint; but they seemed to have lost sight of those parts of the country where there were no banks. There was no bank, he said, from Alexandria to Charleston, which embraced at least one-fifth part of the whole Union, yet nothing was said about this part of the country. Unless the law was postponed, great inconveniences would be experienced in those parts of the country, as there were more crowns in circulation than had been supposed. As to what coin had been issued from the Mint, it was a mere trifle; it was scarcely equal to the expenses of Government, in the civil and military departments, for six months.

The question on the amendment proposed by Mr. Sitgreaves being put, it was negatived without a division.

Mr. Nicholas's amendment then recurring for consideration—

Mr. Varnum thought it would be the best to move to suspend the operation of the second sec-

tion of the act, as he had some doubts as to the propriety of the expression used in the resolution.

Mr. Nicholas acquiesced; and the question being put, it was carried without a division.

The committee then rose, the House agreed to the amendment, and a bill was ordered to be reported.

Friday, December 15.

A new member, to wit: Peleg Sprague, from New Hampshire, in place of Jeremiah Smith, resigned, appeared, produced his credentials, was qualified, and took his seat.

Mr. Wadsworth, from the committee to whom was referred that part of the President's Speech which relates to the postponing of the meeting of Congress, in certain cases, reported a bill, which was twice read, and committed for Monday.

Mr. Harper, from the committee to whom was referred certain resolutions relative to the mode of taking evidence in cases of contested elections, made a report recommending a law to be passed on the subject; which was twice read and committed for Monday.

The Speaker having read over the orders of the day, and no subject being called, Mr. Dent moved that the House adjourn, and the House adjourned to Monday.

Monday, December 18.

On motion of Mr. Harper, the House resolved itself into a Committee of the Whole on certain resolutions which were lately reported, prescribing the mode of taking evidence in cases of contested elections. They were agreed to both in Committee of the Whole, and in the House, without debate, and a bill directed to be brought in accordingly.

Mr. Venable, from the committee to whom was referred the resolution for suspending the second section of the act for regulating foreign coin, and for other purposes, reported a bill, which was twice read and committed for to-morrow.

MEETING OF CONGRESS.

Mr. Wadsworth moved the order of the day on the bill authorizing the President of the United States to postpone the meeting of Congress in certain cases. The House accordingly went into a Committee of the Whole on the subject, and, after making a verbal amendment, the committee rose, and the House agreed to it; when

Mr. Gallatin moved a provision to the following effect:

"*Provided*, That the day to which the meeting shall be postponed shall not exceed thirty days from the day to which Congress stood adjourned."

Mr. Harper could not see any good effect which this amendment was calculated to produce. If the gentleman were of opinion that it would not be safe to trust the President of the United States with the power of postponing the meeting of Congress, in case of contagious sickness, or other calamity, the safest way would be to reject the bill; but the present motion, he thought, showed great hostility, and the highest disrespect to the President of the United States.

Mr. Gallatin said, it was very extraordinary that, upon an amendment to a bill vesting a power in the President of the United States, which was not given to him by the Constitution, because he did not wish to invest him with the power, without limitation, he should be charged with a want of confidence and a want of respect. He supposed, that so far as related to confidence, they were bound to give the President just so much as the Constitution required, and no more. Confidence beyond this he did not very well understand. As to the motion's containing a want of respect to the President, that charge was still less applicable. Respect, he said, could only be personal, and could, of course, only apply to the present President; whereas the bill under consideration did not relate to him only, but to all the future Presidents of the United States. How the argument of disrespect to men not yet in existence could apply, he was at a loss to know. But, he said, it was no uncommon thing, whenever gentlemen differed in opinion on any subject touching another branch of the Government, however harmless that opinion might be, to be charged with a want of confidence and respect towards it. He should, however, never be deterred from acting as he thought right by such arguments.

Mr. G. referred to that part of the Constitution where it is said that "neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting;" and also to that where power is given to the President "to convene both Houses, or either of them, on extraordinary occasions; and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he may think proper." It was clear, therefore, that the two Houses had the exclusive power to adjourn to whatever time they pleased, only that in case of disagreement the President had the power to adjourn them; but this bill went to vest the power in the President of fixing another period of meeting than that agreed upon by the two Houses. This, he said, was a delicate subject, and he thought they ought not, upon so slight a view as the present bill had received, to part with a power, without some limit, which the Constitution had placed in their hands. What was the ground, he asked, upon which the bill was founded? The President had suggested, in his Speech, the propriety of giving him the power, in case of similar returns of contagious sickness, to postpone the meeting of Congress. It had been suggested that in the month of November the President had had doubts whether he should convene Congress in another place, in conformity to the power vested in him for that purpose; but that if he had had the power to have convened them a few days later, he would have done it. The limited power which he proposed to give would enable the President, in any future emergency, to do this; and if, from contagious sickness, invasion,

or any other cause, a longer postponement should appear to be necessary, he thought it would be better that Congress should be convened at some other place, than that such a postponement should take place. He did not think the President asked for more than this; and, so far from being disrespectful, he thought it the only way in which the bill could be agreed to.

Mr. Harper admitted that if no other case were contemplated by this bill than the one lately experienced, the proposed limit might be admitted as harmless, as, by the Constitution, Congress must have been in session about the beginning of December, and thirty days would not have elapsed from the second Monday in November to the period fixed by the Constitution for the meeting of Congress. He trusted, however, they should not pass a law without an object. Suppose, said he, Congress stood adjourned to the first of July or first of August, and a contagious disorder should break out, or an enemy invade the city, a few days before either of these periods, might it not be desirable that the President should have the power of postponing the meeting for longer than thirty days? If such a disorder were to break out in June, could it be supposed that it would subside in July, when it was clear to every one that nothing but frost will put an end to the contagion? This amendment, therefore, where it could be acted upon at all, would be mischievous, and in other cases perfectly nugatory. As to respect and confidence, he did not mean that they should be induced by them to do an improper thing. But if it were proper to place the power in question in the hands of the President, he would not have it so placed as to be nugatory and foolish. The gentleman had found out that respect could only be personal, though all mankind had agreed that respect might be paid to officers separate from persons. He never supposed that the law would be particularly disrespectful to the present President, but it seemed to show too great a jealousy of the Executive Department. The gentleman seemed to think the difficulty would be removed by the President's having the power to convene Congress at a different place, but he did not consider what expense and trouble would attend a removal of all the machinery of Government. He could not suppose that if the proposed power were placed in the hands of the President, that he would postpone Congress for a longer period at any time than was necessary. His own credit would be a sufficient guard against this. The gentleman from Pennsylvania himself could scarcely believe that it would not.

Mr. Swanwick said, that when Congress adjourned to any other day than that fixed by the Constitution, they had doubtless some reason for doing so. If this were the case, why should they put it in the power of the President to frustrate their views? But the expense of removing the Government had been objected against. This could not be allowed to be so great an evil as the parting with the power which had been vested in them of fixing their own time of meeting. He thought the motion of his colleague to limit the postponement to thirty days would be quite sufficient, if such power was necessary at all, though he thought that of convening Congress at any other place was sufficient to guard against the contingencies which had been mentioned.

Mr. Nicholas believed gentlemen could not figure to themselves a case where, if a postponement were proper, thirty days would not be a sufficient time. The Constitution said they should meet once a year, but that the two Houses should have power to adjourn themselves to any time they thought proper; and if they agreed to meet in July or August, as the gentleman from South Carolina had supposed, was it proper that the President of the United States should have the power of preventing them? He would agree that in all likelihood his respect for his own character and his responsibility would, in general, prevent him from making an improper use of this power; yet it still was a power vested in the Legislature, and it should be recollected that in placing the different powers of the Government, there had always been a jealousy over the Executive. He could well suppose that cases might exist where the wishes of a President to do right might be counteracted by interest. It was possible that the President and Legislature might have different views, and it might be extremely important to him, to effect his purposes, to have the power of postponing the meeting of Congress. If these different cases were within the view of the framers of the Constitution when they arranged the several powers of the Government, they ought to be touched with a delicate hand. The law before them was meant to operate principally against any future contagious sickness. To give the power of postponing Congress for five or six months, would be an improper power. Nothing that he had seen of the present Government could lead him to suppose that such a situation of things as that which he had mentioned should ever take place, by a disagreement in the different branches; but he believed the distribution of powers had been made with a view to these differences. He, therefore, hoped the power would be limited.

Mr. Thatcher did not know that the House could be engaged on a subject of less importance than the present amendment; for if they looked back upon all the adjournments which had taken place since the commencement of the Government, there had been only one or two cases in which the amendment could have operated; and it was not probable that in fifty years to come there would be another. He supposed a number of cases in which the amendment would either have no effect or a bad one. He hoped, therefore, it would be disagreed to.

Mr. Wadsworth could see no good effect which the amendment could produce, as the time was already limited by the Constitutional day; and thinking it unnecessary he should be opposed to it.

The question upon the amendment was put, and negatived—45 to 44.

The question now being on engrossing the bill for a third reading,

Mr. N. Smith said he did not at present see the propriety of passing this bill. Perhaps gentlemen in favor of it could satisfactorily explain its principles. They had not been explained, and, until they were, he should not be willing to vote for it. The Constitution, he said, provided that there should be one session in a year, commencing the first Monday in December. The bill before them provided that whenever an earlier period of meeting should be fixed by law, that the President should have the power to postpone the meeting, provided that the postponement did not go beyond the Constitutional day. Now he supposed there could not be a meeting of Congress before the Constitutional day, except by an express law. If this were the case, it followed that whenever the Legislature should pass a law for an earlier meeting, they could at the same time provide for any difficulty which might arise. The President might be authorized to delay the meeting, in case of necessity, to the Constitutional day or any other. But why pass a general law to provide for the inconveniences which may possibly grow out of some future law? He had heard of Legislatures providing for difficulties arising from laws which they had passed, but never for such as might be supposed would grow out of future laws, the passage of which was wholly uncertain.

As well might they sit down and provide for inconveniences which may grow out of a law laying a land tax, since that law may pass, and some gentlemen may wish and expect it will pass. He thought, however, it would be time enough to provide for the difficulties arising under it after it was passed. He might be told that the law, notwithstanding the objection he had brought against it, would do no harm; but this was not a sufficient reason for him to vote for it: before he did this, he must believe it would do good.

The question on engrossing was put and negatived—58 to 32. Of course the bill was lost.

EDWARD ST. LOE LIVERMORE.

Mr. A. Foster called for the order of the day on the report of the Committee of Claims on the petition of Edward St. Loe Livermore, which being agreed to, the House went into a Committee of the Whole on the subject.

It appears that from the singular situation of the Judge of the district of New Hampshire, on the third of April, 1794, Congress were induced to pass an act, whereby the duties enjoined the district Judges, by the act, "to regulate the claims to invalid pensions," were transferred, as far as related to the district of New Hampshire, to the Attorney of the said district, whose duty it was thereby made to perform the same.

The object of this petition is to obtain compensation for the discharge of the said duties, and as duties have been required and performed under the laws of the United States, by the petitioner, the committee conceived he was entitled to a reasonable compensation, and submitted a resolution to the House, authorizing the accounting officers of the Treasury to settle his account.

This report occasioned some debate. It was supported as reasonable by Messrs. D. and A. Foster, Gordon, and Brooks, and opposed by Messrs. Nicholas and Coit, on the ground, that no expense was ever contemplated to be incurred by the business in question, and that if they allowed a compensation in this case, they might expect application from all the officers of the United States, whenever any new duty was laid upon them by laws subsequent to their appointment.

The report was negatived—43 to 31, and the House concurred in the votes.

FOREIGN COINS.

Mr. Sitgreaves said, the House had made a subject the order of the day for to-morrow, upon which he did not think they had sufficient information; he meant the bill relative to foreign coins. The last report which had been received from the Director of the Mint was in 1796, and all the calculations which had been made in the course of the late debate were founded upon that report, and not upon the present actual state of that establishment. He should, therefore, propose a resolution to the following effect:

"*Resolved*, That the Director of the Mint be directed to report to this House a statement of all the bullion deposited in the Mint since his last report, and an account of gold and silver coin issued from the Mint in the same period; distinguishing in the statement of deposites, the foreign coin from the bullion."

Mr. Nicholas had no objection to this motion, if it were not meant to postpone the consideration of the bill which the gentleman had alluded to; as any postponement of that business would have the effect, which some gentlemen had said was already produced, of doing all the mischief which the act, if not repealed, was calculated to produce. He could see no effect which this report could produce as to the bill in question.

Mr. Sitgreaves said, the gentleman from Virginia misapprehended his intention, if he supposed he meant to delay for a single moment the business he alluded to. If he had any such intentions, he would have taken a direct mode of effecting his purpose: he left it to others to pursue their ends by indirect means. He wished only to correct the statements which had been made on the subject, collected from an old report; which might be done and sent to the House by to-morrow morning.

The resolution, as above, was adopted.

SIXTH ARTICLE BRITISH TREATY.

On motion of Mr. Sitgreaves, the resolution referring that part of the President's Speech which has a reference to a provision for the expenses of carrying into effect the sixth article of the treaty with Great Britain, to a committee, was referred to the Committee of Ways and Means.

Tuesday, December 19.

THE MINT.

The Speaker informed the House, that he had received a letter from the Director of the Mint, enclosing a report, in pursuance to the order of

the House passed yesterday. This report states that it is not deemed prudent to take into the Mint more bullion than can be worked in one mass, when it comes from any of the banks of the city, from whence it can be had in a very short time when wanted; that deposites are now waiting till such as are in hand are finished; that it is expected the banks of this city and of New York will make deposites for about $300,000, in French crowns, but that these deposites are kept back until prior ones are paid off; that when there is sufficient bullion in the Mint to keep one press striking, this will be done at the rate of from $18,000 to $20,000 weekly. The gold coin increases in amount according to its additional value. It is stated that the gold bullion deposited in the Mint since the 29th November, 1796, (the time at which the last report was made,) to the 18th instant, was 5,997 oz. 15 dwt. 9 gr., value $106,626 95. The quantity of silver bullion deposited, during the same period, has been 42.151 oz. 8 gr., value $48,635 76. The quantity of silver coin issued since the last report, is stated to have been $12,546, 3,918 half dollars, 252 quarter dollars, 25,261 dimes, 44,527 half dimes; amounting in the whole to $19,320 45. That there were nearly ready for delivery in the Mint $34,000 in silver coins. It is also stated that the quantity of gold coin issued, during the same period, has been 9,177 eagles, 6,406 half eagles, 1,756 quarter eagles; equal to the value of $128,190.

Mr. T. Claiborne moved the usual order for printing this report.

Mr. Nicholas had no objection to the report being printed, that it might be taken into consideration when the subject of the Mint should come before the House; but hoped it would be suffered to lie on the table until the bill, with which some gentlemen had supposed it to be connected, should be passed, in order that it might be referred to whilst on the table by those who wished it; as he trusted they should not delay the consideration of the bill relative to foreign coin until this report should be printed.

Mr. Thatcher could not see the use of printing the report, after the subject to which it alluded was disposed of. This would be like executing a man and then trying him. The printing of these papers, he supposed, could not delay the business more than twenty-four hours, or forty-eight at most. He thought, therefore, it would be much better that they should be printed, than that the Clerk should be frequently called upon to read them, or that the members should collect themselves in clubs, as on a former occasion, [meaning the Quaker's petition,] to read them in different parts of the House.

The motion for printing was put and carried.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. Harper, from the committee appointed to prepare and report a bill prescribing the mode of taking evidence in cases of contested elections, and to compel the attendance of witnesses, reported a bill accordingly; which was twice read, and committed for Monday.

LICENSES ON STILLS.

Mr. Harper called for the order of the day on the report of the Committee of Ways and Means, on the petition of William Tomlinson and others, citizens of the State of Virginia; which being agreed to, the House resolved itself into a Committee of the Whole accordingly.

The petition states that, in consequence of the construction put by the Treasury Department on the acts for laying duties on spirits distilled within the United States and on stills, persons desirous of obtaining licenses for distilling, pursuant to the act of the 3d of March, 1797, on that subject, are required to make their election as to the length of time to which the license shall extend, and the time of its commencement in the month of June, the time fixed by law for making entry of stills. From hence they allege that great inconveniences result to distillers, inasmuch as it is impossible to foresee, so early as June, what quantity of fruit or grain the year will afford; and, consequently, for the owners of stills to judge when, and for what length of time they ought to take out their licenses.

This construction, the committee find, has been adopted by the Treasury Department, and they conceive that it has been properly adopted; but though they conceive the construction put on the act of May, 1797, by the Treasury Department, to be strictly legal, they are, nevertheless, of opinion that, for the reason set forth by the petitioners, it must, in its effect, prove highly inconvenient and detrimental both to individuals and the public. And they have the satisfaction to find that the Secretary of the Treasury, with whom they thought it proper to confer on the subject, agrees with them in opinion as to the expediency of altering the law so as to permit owners of stills, having duly entered them, to make their election, both as to the time and the extent of their licenses, at whatever period may suit them best. In pursuance of these ideas, the committee beg leave to present, for the consideration of the House, the following resolution:

"*Resolved*, That it is expedient so to amend the several acts respecting duties on spirits distilled within the United States and on stills, as to permit owners of stills, duly entered, to make their election at any time of the year, both as to the time of taking out licenses pursuant to the said acts, or any of them, and as to the period to which such licenses shall extend; and that the committee have leave to bring in a bill accordingly."

Mr. Gallatin proposed an amendment to the report. Besides the duty paid on licenses taken out for a shorter time than a year, there was a duty of fifty-four cents per gallon paid by those who chose to enter by the year. This duty was no other than a license by the year, though not so called. The proposed resolution would not reach licenses by the year, though he thought it ought, as persons taking out a license for a year were as much at a loss to know, in the month of June, whether their crops would enable them to distil for so long a time as to make it their inter-

est to do so, as those who took licenses out for a shorter period. The consequence was, that, in the part of the country from whence he came, scarcely any person ventured to take out a license for the year, but ran the risk of taking out a license for a shorter period. This was inconvenient, as it probably left their stills for several months unemployed, and had an effect to injure the revenue. He hoped, therefore, the report would be extended to yearly licenses, as well as to those for a shorter period.

Mr. Harper seconded this amendment. He said it would have been introduced into the report if the committee had thought themselves at liberty to do so; but as the petition referred to them did not complain of this part of the act, they did not think themselves authorized to touch it.

The motion was agreed to, the committee rose, the House agreed to the amendment, and a bill was directed to be brought in accordingly.

ANNA WELSH.

Mr. Corr called for the order of the day on the report of the Committee of Claims on the petition of Anna Welsh; which motion being agreed to, the House resolved itself into a Committee of the Whole on the subject.

The petitioner asks for an allowance of the seven years' half pay promised to the widows and orphans of certain officers killed in the service of the United States during the late war. It appears that Mrs. Welsh's husband was a captain of marines; that he served on the expedition to Penobscot, and was there slain; but the resolutions of Congress promising seven years' half pay to the officers who fell in the service, did not extend to the widows of officers of the Navy; the petitioner, as executrix to the last will and testament of her brother, George Hurlbut, deceased, further asks for an allowance of the commutation and land warrants, to which she apprehends she is entitled, on the principle that her brother continued in service till the end of the war. That gentleman was a captain in Sheldon's light dragoons; he was wounded by the enemy, in the performance of his duty, at Tarrytown, in the Summer of 1781, and languished of his wounds until the 8th of May, 1783, when he died. By the act of Congress of the 21st of October, 1780, half-pay for life was promised to the officers of the Army who should continue in the service to the end of the war. This was afterwards, on the 22d March, 1783, commuted for five years' full pay. If Captain Hurlbut lived to the end of the war, he was entitled to commutation, and, in his right, the petitioner, as executrix of his will and legatee, would be entitled, otherwise not. The question, then, arising is, when did the war end? or, in other words, was there an end of the war before the 8th of May, 1783, the day of Captain Hurlbut's death? On the solution of this question rests the claim of the petitioner for commutation, it being placed on the ground of contract only. The provisional articles of peace between the United States and Great Britain were signed November 30, 1782, and the treaty between France and Great Britain, on which the efficacy of those articles was conditioned, upon the 20th of January, 1763.

The first information Congress appeared to have had of them, was on the 24th March, 1783, when the armed vessels cruising under commissions from the United States were recalled. On the 11th April, 1783, a cessation of hostilities was ordered by proclamation of Congress. On the 23d of April, Congress, by their resolution of that date, declared their opinion that "the time of the men engaged to serve during the war, does not expire until the ratification of the definitive treaty of peace."

By the acts of May 26, June 11, August 9, and September 26, 1783, Congress directed parts of the Army to be furloughed, and, by their proclamation on the 18th October in the same year, they discharged absolutely, after the 3d of November then ensuing, such part of the Federal Armies as had been furloughed by the several acts aforesaid. On the 25th of November New York was evacuated by the British troops. The definitive treaty of peace was, in fact, signed on the 3d September, 1783, but not received by Congress till about the middle of January, 1784. In the settlements made for pay, &c., by the commissioners of Congress with the officers and men engaged to serve during the war, and furloughed as aforesaid, the 3d day of November, the day when the troops were discharged by proclamation, has been regarded as the end of the war, and they have been settled with, and paid to that accordingly.

The committee state, had they found no resolution of Congress which seemed to have determined the question when the war ended, they might have been induced to fix on a period antecedent to the death of Captain Hurlburt, and consequently have been of opinion that the petitioner was entitled to relief; but as Congress seem to have fixed on a later period, by their resolution of the 23d April, and by continuing in service the troops engaged to serve during the war, and paying the officers and men till the 3d of November, 1783, as they were liable till that time to be called into service, and, in case of disobedience, would have been subjected to the penalties of the Rules and Articles of War; and as the House of Representatives under the present Government rejected a petition for commutation, founded on principles exactly similar with the present, by the administrator to the estate of Major Torrey, who died in September, 1783, the committee conceive they are not at liberty to contradict authority and precedent, so respectable: They therefore report, that the prayer of the petition of the said Anna Welsh ought not to be granted.

Mr. D. Foster said, the case was so fully stated in the report, that he believed it would be unnecessary to say anything more than that Mrs. Welsh had obtained the land warrant to which she was entitled, from the War Office.

This report was opposed by Messrs. Corr, Brooks, and Dayton, who insisted upon the widow being entitled to her claim of commutation on account of the services of her brother, as the

war must be considered as terminated when the preliminaries of peace were signed, which was previous to his death, and if contrary decisions had been made, it was time they were reversed. In confirmation of what was asserted of the deserts of Captain Hurlbut, a letter and certificate of General Washington were produced, which spoke of him in the highest possible terms.

The report was supported, on the ground of precedent, by Messrs. Dwight Foster, Macon, and Nicholas.

It was finally negatived, there being only 21 votes for it.

Mr. Corr then moved a resolution to the following effect, which, after a few observations, was agreed to.

Resolved, That provision ought to be made by law for allowing to the legal representatives of George Hurlbut, a captain in the service of the United States, the commutation to which he is entitled.

The committee rose, and the House agreed to the resolution, and ordered a bill to be brought in accordingly.

NORTH AND VESEY.

On motion of Mr. Pinckney, the House went into a Committee of the Whole, on the bill for the relief of North and Vesey, of Charleston; when, Mr. Corr moving to amend the bill, by having the allowance to be made ascertained by the proper officers, instead of saying what it would be, Mr. Swanwick called for the reading of the petition, as he believed there was annexed to it a certificate from the collector of the port, of the quantity of sugar consumed; but the Clerk not being able readily to find the petition, a motion was made for the committee to rise and report progress; which being agreed to, the committee had leave to sit again.

Wednesday, December 20.

Mr. Macon was persuaded that it would be of advantage to the revenue, as well as agreeable to citizens in the habit of distilling, if persons were allowed to take out licenses for a single week. He therefore proposed a resolution directing the Committee of Ways and Means to report on the expediency of such a measure, by bill or otherwise. Agreed to.

The House resolved itself into a Committee of the Whole, on the bill for the relief of North and Vesey, of Charleston; and, the petition having been read, the amendment proposed yesterday by Mr. Corr, to leave it to the collector of the port to ascertain the quantity of sugar destroyed, was agreed to—48 to 12; the committee rose, the House concurred, and the bill was ordered to be engrossed for a third reading to-morrow.

Mr. D. Foster reported a bill for the relief of the representatives of Captain George Hurlbut; which was twice read, and committed for to-morrow.

INVALID PENSIONERS.

Mr. Harper moved a resolution to the following effect:

Resolved, That a committee be appointed to inquire whether any, and, if any, what amendments are necessary to be made in the act relative to invalid pensioners, and to report by bill or otherwise.

Mr. H. said, it must be recollected that frequent application had been made to the House by persons who had been wounded in the war, for pension, who would have been duly entitled to it, and to whom the House wished to have granted it, had not their claims been barred by the law of the 28th of February, 1795, with which the petitioners were generally unacquainted. Some of these cases had appeared to be so hard that, in one or two instances, the House had been induced to dispense with the law. He thought, therefore, it was proper that the law should be reconsidered.

Mr. J. Parker seconded the motion. He knew of several instances where persons were justly entitled to pensions, who had never heard of the act of 1795, until their claims were rejected; whilst others, perhaps less dependent, were in possession of pensions. He hoped they should not longer deny the justice which was due to the veteran wounded soldier.

Mr. Macon believed that, as all subjects of this kind were constantly referred to the Committee of Claims, they were, of course, better acquainted with the business than any other committee would be likely to be, he therefore moved to have this resolution referred to that committee.

This motion was supported by Messrs. Corr and Nicholas, and opposed by Messrs. S. Smith, Parker, Harper, Brooks, and Swanwick. It was however, finally carried, there being 51 votes in favor of it.

FOREIGN COINS.

Mr. Nicholas called for the order of the day on the bill suspending the second section of the act regulating foreign coins; which motion being agreed to, the House went into a Committee of the Whole on the subject.

Mr. Sitgreaves wished to propose an amendment to the bill, so as to make it conformable to the report of the select committee; but as he believed it would be difficult to incorporate such an amendment into the bill, without recommitting it, he should move for the committee to rise, with a view of afterwards moving a recommittal of the bill. He would not recur to the arguments used on a former occasion, in support of his motion. He wished to give the foreign coin in question a partial currency, which should give it a natural current towards the Mint. A number of calculations had been made on this subject, when formerly under discussion, drawn from an old report from the Mint, which were very inapplicable to the present state of that establishment.

By the report of 1796, it appeared that a greater proportion of silver than of gold coin had been issued; but by this report the gold coin was nearly double since that time. It appeared also by the report of 1796 that the proportion of coins deposited, compared with ingots and other bullion, was very small; whereas, by the present report, it would appear that three-fourths of the whole amount of

the deposites in gold had been made in coin, and two-thirds of the silver. This report would also show that the gentleman from Maryland (Mr. S. Smith) was not correct in his remark when he said no bank in the United States would part with their foreign coin for the purpose of recoining, as not only three-fourths of the gold deposited had been in coin, but it was almost exclusively from the Bank of the United States. A great proportion of the silver coin deposited had also come from the banks; and the Director informed them that in the banks of New York and this city there were the value of $300,000 in crowns, ready to be sent into the Mint. These statements furnished great reason for doubting the justness of the inferences drawn by gentlemen in the former debate, and gave additional weight to all the arguments in support of the report of the select committee. It appeared by the reports that there had been issued from the Mint of the United States coins to the value of $774,000. He had never seen any estimate of the whole amount of the circulating medium which would be necessary in this country for all its commercial concerns, nor did he know upon what data such an estimate ought to be made; but when they saw the amount of the coin issued, and recollected the immense quantity of Spanish dollars in circulation, as well as bank paper, bottomed upon actual specie in the coffers of the banks, there could be little doubt that there was a sufficient quantity of circulating medium for all the purposes of commerce, though the act of 1793 were now to go fully into operation, without even the partial suspension recommended by the select committee. The only evil which would result would be the loss which might be sustained by the holders of this species of coin; but even if the law were suspended for two years, as proposed, the same evil would, in a great degree, then recur. Gentlemen greatly miscalculated, he said, when they supposed that in the mean time the foreign coin would by degrees be brought into the Mint. Indeed, they say it cannot be spared from different parts of the country; and if so, it cannot be expected to come into the Mint, without a legitimate force to bring it there. A partial suspension would produce this effect; and whilst this coin was received by the collectors, as usual, it could not diminish greatly in its value. Indeed, he was of opinion that it would be best to keep the law as it stood, and leave any regulation which might be necessary to the Executive of the United States, who had already ordered it to be received in the way proposed by the select committee, and who would be the best judge of the regulations from time to time necessary. With respect to the foreign gold coin, as the law prohibiting that as a tender did not take place for some months, the holders of it might get it out of their hands before its value was diminished; and as to silver, he believed the injury was already done. If the act of 1793 were therefore suspended, it would give the crowns a new value, and at the end of two years the same objection would be again urged, and the Mint in the mean time would be without support. He thought it was proper, on this occasion, that those who wished to suspend the law, should come out with respect to the Mint. He thought it best to go to the whole subject now, and let the act of 1793 stand or fall with the Mint. He moved that the committee rise for the purpose he had mentioned.

Mr. S. Smith was not much surprised at what had fallen from the gentleman from Pennsylvania, as he was desirous of carrying his point. It would be a very convenient thing, at this time, for the city of Philadelphia to get as much of the money of the United States as possible into it. It would do away that scarcity of money so heavily complained of. But he did not think the gentleman had succeeded in his attempt to correct the statement formerly made by him. He did not say that the banks of this city might not send coin to the Mint, but that no bank at a distance, for instance at New York or Baltimore, would do it, as they always stood in need of their coin for the supply of their customers. And he was warranted in this opinion by the report before them, as not a single bank out of Philadelphia had deposited a shilling in the Mint. And what, he asked, had the banks in Philadelphia done? He had merely doubted whether they would be able to spare their coin to send to the Mint; and he found himself warranted in the doubt by the report. It was true the Bank of the United States had sent a considerable quantity of coin to the Mint. This was a different thing from banks in general. They had always from 100 to $300,000 of Government deposites, ready for the exigencies of Government; and he thought it judicious of the Secretary of the Treasury always to have such a sum of money at command; but they might surely spare a part of this money to be recoined. With respect to the silver, when they found the French crowns called out of circulation, they deposited them in the Mint, because they might as well be in the Mint as to lie dead in their vaults. Not one of the other banks had deposited one shilling in gold; but the banks of North America and Pennsylvania had sent in some silver, because it was as well there as in their coffers. But what has been the consequence of this stoppage of foreign coin? It has brought French crowns from all parts of the Union to the banks of Philadelphia. This was, as he before observed, a convenient thing for Philadelphia, but not for those who wished to carry on trade in other parts of the Union. The gentleman had said that the Executive had given orders for French crowns to be received by our collectors at one hundred and ten cents; but how, he asked, were they to be got to Philadelphia? Were they to be transported at the public expense? If they were, and he knew of no other way, it would not amount to a trifling sum. But would it not be doing an essential injury to the citizens to take away from them their cash, without sending any other in its place? It certainly would. If it were to be called in, new coin should be previously issued to take its place. If what he advanced bore hard upon the Mint of the United States, he could not help it; he thought the Mint founded in folly. This was not the

opinion of the gentleman from Pennsylvania; it might be the interest of his State to support the Mint, but he did not think it was the interest of the Union. Mr. S. conceived another consequence, if the law respecting gold coin was not suspended. Merchants were as desirous of exporting gold coin as silver, and there was as great a difficulty in procuring it when it was wanted; but if its circulation were to be stopped, instead of holding it back, the banks would push it upon every body, and it would be mostly exported. And how, he asked, was it to be got back? Nobody had said any thing on the subject but the gentleman from Massachusetts, (Mr. Sewall.) He said that doubloons, or four-pistole pieces, were imported at a loss of three-fourths of a dollar, and that these would continue to be imported. He did not know but small fishing vessels might be in the habit of thus dealing; but merchants, in any extensive business, made remittances to London, where doubloons were at their full value, and drew bills upon London, or sent the doubloons to the French West Indies, where they were worth the full sixteen dollars, and got articles in return which afforded a good profit. They were in the habit of importing gold from Lisbon, when the exchange was against them; but there was a profit upon this gold of six grains upon a half joe. This was one of the inducements for importing gold; but it would be no longer an inducement, if they were to be no longer payable. Gold would therefore be no longer imported. If the Mint were to be supported, the plan of making an appropriation for the purchase of bullion was the only one which was at all feasible. He should of course be against the committee's rising to recommit the bill.

Mr. Sitgreaves wished to set the gentleman last up right as to matter of fact. He had said, no deposites had been made from a distance; but, if he attended to the report of the Director, he would find that he expected about $300,000 from the banks of this city and New York; and he was informed that $250,000 thereof were to come from New York as soon as the Mint was ready to receive them, and a guard was provided.

Mr. S. Smith said, he supposed these were crowns whose circulation was stopped.

Mr. Swanwick observed that it sometimes happened that Legislatures passed improper laws. When they did so, they generally tended to correct themselves. What was the fact respecting the law in question? A law had been passed declaring that French crowns should not be a lawful tender after a certain period. That period was passed; but the Secretary of the Treasury, in contradiction of it, had directed the officers of the customs to receive them as usual. Was not this an acknowledgment that the law was improper and inconvenient? It would be well, he said, to take a view of the situation of our commerce, with respect to the circulating medium. The main object in the institution of the Bank of the United States was to give a general currency to its paper, that it might take the place of coin in a great degree; but they had been told by the gentleman from Virginia, (Mr. Nicholas,) that, though these notes were a lawful tender in all payments to the United States, they were not current in the interior of the country. The chief circulating medium of the country was, notwithstanding this, paper. Merchants, in paying their duties, generally gave a check on their banker; therefore, though our revenue produce seven millions a year, but a small part of that sum is paid in cash. What, then, was the use of foreign coin? It was not wanted so much for a circulating medium at home, as for exportation. Much of it was sent to the East Indies and to Great Britain; and, though some gentlemen had said a gold coin of the United States was so scarce an article in the interior of the country, that when it was met with it was hoarded as a pocket-piece, he had been lately informed by a gentleman from London that he had seen a large quantity of our eagles in a goldsmith's shop there, for the purpose of melting down: so rapidly, said he, do our eagles *take their flight*. Foreign coin being therefore necessary to pay the commercial balance due from us to foreign countries, it would certainly be imprudent to call it in. Mr. S. was opposed to the power being vested in the Executive to regulate the business of making foreign coin payable, or not payable, at his pleasure. If the Mint establishment were to be supported, it must be done, he said, out of the revenue received: a small sum would do it. But why force individuals to bring their crowns into the Mint? What advantage would there be in it? Could any one say this new money would stay at home? They could not; and, therefore, where he could see no advantage, he was not for putting any class of people to inconvenience. It were best, he believed, to let the business of foreign coin remain without restraint.

Mr. Sewall said, the reasonings of some gentlemen upon this subject were so different from his, that he was almost led to doubt the conviction of his own mind. The gentleman from Maryland had referred to what he had said on a former occasion respecting four-pistole pieces, and observed that a few small fishing vessels might carry on their trade in the way mentioned, but that merchants in larger concerns did not. It was true, the fact he alluded to was the way in which vessels that went with fish from the port from which he came did their business at Bilboa. The gentleman said the business could be better done in London. He certainly must have been ignorant of the subject, or he must have known, that, in the present state of warfare amongst the European Powers, remittances from Bilboa to London could not be made; and when they were made, it was at a loss of from 15 to 25 per cent. He believed the dollar of Spain was worth 40*d.* sterling, but it had been down as low as 28*d.*, and was mostly at 36*d.*; whereas the loss sustained on the importation of gold was less than five per cent.; so that it was much better to receive gold than make remittances from Spain to London. Sometimes, however, the traders agree to lose from 15 to 25 per cent. by drawing on London, when they have an article which will afford an extraordinary profit. Taking the subject at large, he did not think so many difficulties would attend the suffering of

the law to take effect as had been predicted. At present, he said, we gave a sanction to foreign coin which was not given in any other country. The question was not whether they should say foreign coin should not be received at all, but whether, by our law, a man shall be obliged to receive it; which would be giving full credit to the coin of a foreign Goverment, over which we have no control, and which may, of course, contain more alloy than it ought. At present, he said, our collectors received French crowns: banks would do the same. Gentlemen said this showed the inexpediency of the law. He thought it showed the inexpediency of disputing about the matter; and if there would be no inconvenience attending the law going into effect, it would certainly be more honorable to Government that our citizens should not be forced to receive foreign coin in payment. If the business were left in the way the Executive had put it, the foreign coin, without producing any inconvenience, would take its course towards the Bank of the United States; for money did not need to be hauled along, it flowed like water through the country. Gentlemen had said that copper circulated in direct contradiction to the law; and, so far as it was necessary, the foreign coins in question would have a currency; but it was not necessary to force them into payment. He believed the new coin of the French Republic contained more alloy, and was of less value than those of the Monarchy; yet gentlemen would have all received. He hoped the motion would be agreed to, as he saw no good in postponing the business for two years.

Mr. Nicholas said the observations on this subject had generally admitted that there would be a loss attendant on the calling in of the foreign coin in question; but the gentleman last up had endeavored to prove that it was the intention of gentlemen, in favor of suspending the act, to force foreign coin to be received. It was astonishing that the gentleman could so far impose upon himself as to believe it possible to impose such an opinion upon the House. The laws had heretofore said they should be received; they did not wish to add to them. He believed they were not now to decide whether they would have our own impression upon all the money in circulation, but whether they should be justified in taking money out of the hands of citizens at a less value than that for which they received it. They had been told that the suspension of this act would be an intrenchment upon the Mint law; that it would strike at the existence of the Mint; and that if the business were postponed, the same objection would arise at the end of the time to which the laws were suspended. The crisis now arrived, he said, was never in view when the law was passed; the Mint law had not been carried into effect; it directed that all foreign coin which came into the Treasury should be sent to the Mint and recoined. What would have been the consequence of this? If it were ever possible to fill the country with our own coin, it would now have been filled. But, instead of this law being complied with, not a shilling had been sent to the Mint from the Treasury. The consequence was, a coin of the United States could not be seen, at least in the interior of the country. He averred he never did see an eagle pass in any current commercial transaction. He believed it impossible to keep a circulation of this kind for any length of time; for the balance of foreign trade being against us, it must go to pay that balance. Mr. N. said he had attended to the report which they had received on this subject, and to the observations of the gentleman from Pennsylvania that it ought to produce a different result in the committee. He had nothing but the gentleman's word for it. So far as he could understand the report, he did not find this Mint operative, or able to do the work which gentlemen wished to give it. That it had done last year less than ever, and if it gets the $300,000 which are expected, upon the highest calculation of what it can do, (and not what it has done,) it will require seventeen weeks to recoin them. What would be the effect, then, if all the foreign coin were to come in? The banks would, of course, have the preference, and the other must wait until the Mint was ready to receive it, without benefit to the owners. Was this reasonable? And were gentlemen to be indulged in their plaything at the expense of the people? Mr. N. said gentlemen forced the Mint into discussion. They say it is necessary for its existence that this law should be in force. They were constantly told that all the mischief which could arise from the stoppage of the silver coin had already taken place. His knowledge was the reverse. When he left home, the circulation had stopped, but persons holding crowns declined parting with them at a loss, relying on something being done for their relief. As to what the Executive had done, in ordering French crowns to be received at the custom-houses, it would afford no adequate remedy. It was perhaps a very proper step for the Executive to take, though he did not know by what authority it was done; yet gentlemen wished to have the sole regulation of the business. He was far from being of this opinion. But, say gentlemen, if this suspension were to take place for two years, the same inconvenience would return. This, Mr. N. said, would depend upon circumstances. If gentlemen were determined to support the Mint, there were other ways of doing it, without taxing any particular part of the people. If not, it might be put down altogether. It was not tied about their necks like a millstone to sink them. He trusted if it were found an useless and unprofitable establishment, that it would be relinquished. One result, Mr. N. said, he drew from the Director's report, which was that, whilst there were to the amount of $300,000 in French crowns in this city and New York, the quantity in circulation could not be so inconsiderable as some gentlemen seemed to insinuate. It confirmed his opinion that the amount throughout the United States was a serious one. He hoped the committee would not rise for the purpose proposed.

Mr. Venable said it would be remembered that the gentleman from Pennsylvania, (Mr. Sitgreaves,) was on a former day opposed to the report of the committee, though he now wished to favor it, notwithstanding his arguments were against it. He himself was one of the committee, and should have been satisfied with the report. Mr. V. thought the gentleman had used a curious sort of argument. He had said he had no data upon which to calculate what would be a sufficient circulating medium for this country; yet he was certain there must now be sufficient coin to prevent any inconvenience from the stoppage of foreign coin. He did not think it safe to act upon such arguments as these. He said he was not much acquainted with commerce; but some gentlemen had gone upon ideas which were very different from those impressed upon his mind. The gentleman from Massachusetts had said that the only way to support the Mint was to depreciate the foreign coin; but this could not last long, for if it were depreciated, that depreciation would put a stop to its importation. Before he saw the report, Mr. V. said he supposed the operations of the Mint had been greater than they proved to be. He was now satisfied that nothing would do but a suspension of the law relative to foreign coin, as the Mint could not supply the circulation. In three years the Mint had coined $700,000. They were now indeed promised $300,000 from the banks. If, therefore, the Mint increased in its operations, the country would be in a better state for dispensing with the circulation of foreign coin two years hence than it was at present. Had the Mint answered the expectations formed of it when the Mint law passed, there would not now have been any occasion for the proposed suspension. It was said that as the officers of the Customs and the banks received French crowns, there could not be much loss upon them; but the banks receiving them was a voluntary act, and they might depreciate or appreciate them at their own pleasure. This was not the situation in which the country ought to be with respect to the circulating medium. The people wished to have the business regulated by law, that they might have some certainty in their money transactions.

Mr. S. Smith said the gentleman from Massachusetts had charged him with ignorance in the observations he had made with respect to the mode of transacting business between this country and Bilboa; and though he was ready to confess he might, in some respects, be deemed ignorant on many subjects which came before that House, yet he did not think the term applicable on the present occasion. The gentleman had asserted that there was no way of importing coin from that country but by smuggling; but the true way of importing coin was to pay eight per cent. for the danger, five per cent. premium, and to sustain a further loss of five per cent., making in the whole eighteen per cent. The gentleman had stated that at present it was impossible to make remittances by way of London, and that when they were made, they were attended with a charge of from fifteen to twenty per cent. The gentleman had also stated the Spanish dollar to be as low as twenty-eight pence, but this was owing to a paper currency in Spain, which had reduced the price from forty-eight to twenty-eight. The extent of loss, at this time, of remittances of that kind, was from ten to twelve and a half per cent. And so far from the gentleman being correct in saying that no remittances could at this time be made, it was the common course of business—as, though it could not be made directly to London, it was done through Hamburg, in the same way as remittances from Holland to London were made through Bremen. With respect to the report before them, the Director said they could coin from $18,000 to $20,000 per week. Let us see, said he, what has been done. The last deposite was $29,000, from the Bank of North America, made there three weeks ago, and yet it was not finished. This varies from the report of the Director. Supposing, however, that the Mint is capable of coining $15,000 a week, it would take a year and a quarter to coin a million of dollars.

Mr. Sitgreaves said, that the gentleman from Virginia (Mr. Nicholas) had insinuated that his motion ought not to be carried, because he was, on a former occasion, opposed to the report, though now in favor of it. He did not oppose it altogether, but only as it related to gold coin; he then tried the opinion of the committee with respect to gold coin; he wished now to try it with respect to silver, and to see whether they were not of opinion that the measures recommended by the Executive would not prove sufficient to answer every purpose. He had also noticed what he had said with respect to the circulating medium of the country. Because he had said he did not know the amount of the circulating medium, yet from the amount coined, and the dollars and paper in circulation, he believed no inconvenience could be sustained from the stoppage of French crowns, he had called it an extraordinary argument. It was not one of those things upon which any certainty could be had. He might with as much propriety say it was sufficient, as that gentleman should say the contrary. It was their opinion. But the gentleman remarked, that the sum now said to be ready to be deposited in the Mint, was nearly half the amount of what had hitherto been coined. This was a fact, Mr. S. said, which ought to be a strong inducement with them to take the course he advocated; for, said he, what is the reason so little has hitherto been done? Did it not appear from the report of the Director of the Mint that it was owing to errors in the law which prevented deposites from being made? And had not these representations been uniformly disregarded? It had, therefore, been for want of bullion alone that the Mint had not done more work. The former Director had told them that the Mint was equal to the coining the value of three millions of dollars of gold and silver coin in a year; the present Director told them from $18,000 to $20,000 a week in silver, which was about a million a year, and gold in proportion. Hence it was clear that the capacity of the Mint was equal to the issuing of three millions a year; so that it was not incapacity, but error, which prevented a sufficiency of coin from coming from the Mint.

The act for stopping foreign coin had already, in some degree, as they learnt from the report before them, corrected the error.

Gentlemen had suggested another mode of supporting the Mint by appropriation. He had heard nobody deny that this would not be proper; but he wished the law to remain in aid of any appropriation which might be made.

Mr. S. concluded with remarking, that he had inquired of one of the bank directors the reason why so great a proportion of gold coin had been sent to the Mint? and he told him it was owing to the gold being in so mutilated a state that they could not put it off to their customers.

Mr. Gallatin said, after what had fallen from the gentleman from Virginia, (Mr. Nicholas,) he did not expect to have heard the arguments made use of by his colleague; after it had been stated that the law of 1793, which required the Secretary of the Treasury to send to the Mint all the foreign coin which came into his hand had not been complied with, he was astonished he should talk to them of the errors of the system as to deposites. It was said there were good reasons for this breach of the law. He did not doubt this, because they knew the law had not been carried into effect. The reason why it had not, was not now under discussion; but let it not be said that it was owing to a great part of the revenue being paid in paper, because it was known that cash was always demandable for that paper. He did not mean to throw blame upon the department in the business, any farther than this: that, as it was their duty to carry the laws into effect, when they found it inconvenient to do so, they ought to state the inconvenience, in order that the law might be reconsidered. It was complained of that no appropriation had been made for the purchase of bullion; there would have been no necessity for this, had the law been carried into effect, as all the money in the Treasury was appropriated for the purpose by the law directing it to be recoined.

The gentleman from Massachusetts (Mr. Sewall) complained that the law, making foreign coin legal tender, forced the people of the United States to receive a foreign coin which might not be of sufficient purity, and upon which they might suffer a loss. Mr. G. said, the gentleman was mistaken as to fact, as no loss of this kind could be sustained, until the President issued a proclamation, declaring that a certain coin was of less value than it ought to be. The present question was not, as that gentleman had stated it, whether they should give currency to foreign coin or not; but it was whether they should take foreign coin out of circulation before they got their own into circulation. The law consisted of two parts: the one was, directing that all money which came into the Treasury should be recoined; the other, that at a certain period foreign coin should be called out of circulation. But the first part not having been carried into effect, it was highly reasonable the operation of the second should be suspended. Mr. G. did not think the report of the Director of the Mint made any change in question. If any inference could be drawn from it, it was that the banks having sent a considerable quantity of foreign coin to be recoined, they may probably continue to do so, though the act be suspended. With respect to the deposites promised from the banks of New York and this city, he did not think they were of any consequence in the business, as they did not affect the main argument. He said it should be the interest of the holders of French crowns to take them to the Mint, or not; if it were their interest, they would do it without any "legitimate force," as his colleague had termed it; if not, they ought not to do it at a loss. He should, therefore, vote against the committee's rising for the purpose mentioned.

Mr. Sewall thought it incumbent upon him, before the question was taken, to state that he did not apply the term "ignorance" to the gentleman from Maryland, generally, but merely as to the particular circumstance of which he spoke; nor should he have used the phrase, if another had occurred to him. Mr. S. also took some notice of what had been said by Mr. Gallatin, respecting the proclamation of the President being necessary, before any loss could be sustained by foreign coin containing too much alloy; but a proclamation of this kind would occasion as great difficulty, as suffering the law in question to continue in effect.

The question for the committee's rising, in order to recommit the bill, was put and negatived, there being only 27 votes in its favor.

The question was then carried without division for rising and reporting the bill.

The House having resumed, Mr. Sitgreaves called for the yeas and nays on the question of the bill's going to to a third reading. Agreed to.

Mr. Champlin said, as he intended to vote against this bill, and as several gentlemen opposed to it had taken very different grounds of opposition, he rose with a view of merely stating the grounds upon which he should give his vote. He was as sensible as any member of the House of the evils and inconveniences resulting from a certain part of the act relative to the Mint; and if they could not be remedied in any other way than the one contemplated by the bill now proposed, he should certainly assent to it. But he was convinced that the provision contained in this bill to remedy those evils was both improper and unnecessary: improper, as it would operate to the ruin of the Mint; and unnecessary, as the select committee, to whom this subject was referred, originally reported a proposition which, if adopted, would put an end to all the difficulties consequent upon the operation of the act in question, as it now stood. He hoped, therefore, that the bill would be negatived, and the original report of the select committee be again resorted to and adopted.

The question being put upon the bill's going to a third reading, the yeas and nays were taken, and stood 68 to 25, as follow:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, William Edmond, Lucas Elmendorph, Thomas Evans, William Findley, Jonathan Freeman, Albert Gallatin, James Gillespie, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, Samuel Lyman, Jas. Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., William Shepard, Tompson J. Skinner, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Swanwick, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—George Baer, jun., Bailey Bartlett, David Brooks, Christopher G. Champlin, William Craik, John Dennis, Abiel Foster, Dwight Foster, Henry Glen, William Gordon, William Hindman, James H. Imlay, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Samuel Sewall, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

The bill was accordingly ordered to be engrossed for a third reading to-morrow.

TENNESSEE LAND TITLES.

Mr. Pinckney, from the committee to whom was referred the remonstrance and petition of the Legislature of the State of Tennessee, made a report recommending that a sum of money should be granted by Congress, and placed in the hands of the President of the United States, for the relief of such citizens of Tennessee as have titles to land by virtue of the cession act of North Carolina, and who have been deprived of them by the carrying into effect the late treaty with the Indian claim, or in such other manner as the President of the United States shall think proper, for the relief of the said citizens.

This report was twice read, and committed for Monday.

Thursday, December 24.

Mr. Allen proposed a resolution to the following effect; which was agreed to:

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary to be made in the act establishing the Judiciary Department, and that they report by bill or otherwise.

AMY DARDIN.

Mr. T. Claiborne moved that the report of the Committee of Claims, on the petition of Amy Dardin, be referred to a Committee of the Whole.

The Speaker said, that the report having been negatived at a former session, and a bill brought in for her relief, but not decided upon, the proper motion would be, to appoint a committee to bring in a bill.

Mr. Claiborne made that motion, which Mr. Coit moved to be referred to the Committee of Claims, in order that they might report the facts relative to the case, which were not generally known.

Mr. Claiborne objected to this; and

Mr. Baldwin suggesting the propriety of committing it to the same Committee of the Whole, to whom were referred the subject of considering the expediency of excepting certain claims from the operation of the limitation acts, this course was adopted.

The bill for the relief of North and Vesey, of Charleston, was read the third time and passed; as was also

The bill for suspending the second section of the act for regulating foreign coins, and for other purposes.

Two and three years were proposed for filling the blank for the duration of the suspension; the latter, moved by Mr. Gallatin, was carried.

The Speaker informed the House that he had received a communication from the Treasury Department, enclosing the accounts of the Treasurer for the quarter ending the 30th of September; which was ordered to be printed.

CAPTAIN HURLBUT.

Mr. Coit called for the order of the day, on the bill for the relief of Capt. Hurlbut; which being acceded to, the House went into a Committee of the Whole on the subject, and reported the bill without amendment. The House took it up, when

Mr. Nicholas hoped the bill would not be engrossed, but recommitted to a select committee, in order that a bill might be reported on the subject generally, as, if relief were to be offered at all, he hoped it would not be confined to one case.

Mr. Williams seconded the motion.

Mr. Coit said, as there was no probability that there could be many cases of this kind, he saw no reason for passing a general law on the subject. He had only heard of one other case.

Mr. Nicholas said, that though gentlemen might amongst themselves have concluded that the Revolutionary war ended in January, 1783, yet he believed the representatives of persons who served during all the actual war till the year 1781, and died before 1783, would suppose they had ground for making application, except the House came to some express declaration on the subject. For his part, he saw no difference between the case of a man who died at one time or the other; he thought the war continued so long as the enemy's armies remained in the country.

Mr. Brooks was in favor of the motion; for though there might be but few instances of this kind; he wished them all to be put upon the same footing. The enemy evacuated New York, he said, on the 25th of November; he was present at the time; but the Army had been generally discharged on the 3d of November. He supposed a variety of considerations had induced Congress to determine the war as closed at the time they had fixed.

Mr. Gordon was in favor of the motion. The gentleman from Connecticut had founded the claim of Captain Hurlbut on his contract, and

had therfore had recourse to fixing the period of the termination of the war at a different time than that fixed by Congress. When they were about to declare the determination of a former Congress wrong, he thought they should do it expressly, and not by implication; and he trusted the gentleman from Connecticut was not afraid of being called upon to do justice in other cases, which stood upon the same ground with the present.

Mr. A. Foster said, this construction of the termination of the war would embrace more cases than was imagined; he supposed it would extend to soldiers as well as officers, who died after that period.

Mr. Nicholas's motion was put, and carried.

Mr. Varnum moved to amend the motion, by including soldiers who died after the signing the preliminary articles of peace, as entitled to the gratuity of eight dollars, which was allowed to those who served to the close of the war. Agreed to.

LOUIS LE GUEN.

Mr. Coit moved for the order of the day on the report of the Committee of Commerce and Manufactures on the petition of Pierre Joseph Flamend, in behalf of Louis Le Guen; which being agreed to, the House resolved itself into a Committee of the Whole on the subject.

The petitioner states that, on the 16th of September, 1795, William Macarty, Esq., the Consul of the United States at the Isle of France, there shipped on board the brigantine Mary, Captain Robertson, of Philadelphia, twelve casks of indigo, consigned to George Latimer, Esq., of Philadelphia, owner of the said brigantine, who was desired to deliver the same to the shipper's orders; that the said indigo arrived here in January, 1796; was duly entered at the custom-house, and the duties paid by George Latimer, Esq., who stored the same, waiting for orders to whom to deliver the same; and that these orders were delayed by accidents of the sea, from arriving till within the last fortnight, when Louis Le Guen received the same, and applied for the indigo to Mr. Latimer, who delivered the same, and confirmed on oath all the facts, above stated, as far as they relate to him; but by the delay of the arrival of the letters of advice and bills of lading, the time had elapsed in which the indigo might be exported and entitled to drawback; wherefore the petitioner prays for an extension of the time to export the said indigo, with the usual allowance of drawback on exportation. The Committee of Commerce and Manufactures were of opinion that, as the loss of time arose only by the distance of the Isle of France, and accidents to letters, and not by any fault in the petitioner; and as there was no probability of any precedent of this kind frequently occurring, they thought it but just and reasonable the prayer of the petitioner should be granted; and therefore recommend the House to come to the following resolution:

Resolved, That a committee be appointed to bring in a bill in pursuance of the prayer of the petitioner.

Mr. Swanwick moved that the committee concur with the report.

This motion called forth considerable debate. It was opposed by Messrs. Coit, Gallatin, J. Williams, Allen, Gordon, and Edmond, on the ground of its proving a dangerous precedent, as many cases might occur that would induce merchants to keep their goods past the twelve months allowed by law, before they exported them; that no accident had occurred in the business; that Mr. Le Guen, at the time of shipping the goods, knew the risk he would run of losing the drawback; that he chose between two evils, and rather than risk the sending advices in the same vessel with his goods, (which would have proved them to be French property,) he chose the lesser evil of risking the loss of the drawback; that if persons chose to run those risks, the Government had nothing to do with it, and it ought to have no operation upon our laws; but if subjects of the belligerent Powers chose to put their property on board our vessels, under the American mantle, they ought not to expect the additional advantage of a suspension of our laws in their favor. Mr. Allen, in particular, cast a severe censure upon our Consul in the Isle of France for having connived at this deception; and that to grant the prayer of the petition would be a scandalous partiality in favor of one of the belligerent Powers.

The motion was supported by Messrs. Swanwick, Livingston, S. Smith, J. Parker, Pinckney, and Brooks, on the ground that there had been no omission on the part of Mr. Le Guen; that it had been owing to the accidents of the sea, that advice was not received in due time; that it was never intended that goods not consumed in this country should pay the duty; that in England, whose practices in this respect we have copied, a business of this kind would have been rectified by their board of trade, without bringing the matter before the Legislature: that it would have been a mark of great folly to have sent any papers by the vessels which conveyed the property, which would have proved it to have been French, knowing as the party did, that French property on board our vessels was liable to be taken by the English; that so far from there being any moral turpitude in thus carrying the property of persons, subjects of any of the belligerent Powers, it was a very profitable branch of our trade, and that the Consul at the Isle of France was perfectly justifiable in consigning the goods as he had done.

Mr. Pinckney was of a different opinion as to the conduct of the Consul. He thought it decidedly wrong that he should have had anything to do in the business, though he justified our thus carrying the property of the subjects of the belligerent Powers; that no American vessel would receive property on board belonging to any belligerent Power, which should be entered as such; that in allowing the prayer of the petition, Government would show no more partiality to any belligerent Power than was shown daily in allowing foreigners a drawback on goods exported; and that to deny the prayer of the petition would

be such a dereliction of justice, as it was trusted that the House would never consent to.

The committee rose without taking a vote on the subject, and had leave to sit again.

Friday, December 22.

A bill from the Senate for the relief of William Imlay, Commissioner of Loans for the State of Connecticut, was twice read and referred to the Committee of Claims.

GENERAL KOSCIUSKO.

Mr. Dawson wished to call the attention of the House to a subject, which, he doubted not, would interest the feelings of every member. The subject he alluded to was the situation of General Kosciusko. It was a fact well known to every man in this country, it was a fact known to the world, that this brave man entered into the service of the United States, at an early period of our Revolutionary war. When this service was ended, he received from the Government a certificate of what was due to him. He returned to Poland, his native country; there, animated by the same spirit which had led him to take a part in our struggle for independence, he endeavored to overthrow the existing tyranny, and to introduce in its place liberty and independence. For some time his attempt seemed likely to be crowned with success; but, on the fatal 10th of October, 1794, overpowered by numbers, he was defeated and taken prisoner. Covered with wounds and with glory, he was conducted to the prison of Petersburg. When he was released from thence, he immediately set out to this country, here to spend the remainder of his life. He was now within this city; but, from the wounds he had received in his arduous but unsuccessful conflict, he was unable to walk, or to attend to any business. The unfortunate day on which he was taken prisoner, he lost his all, and with it the certificate of the services rendered to the United States. He was unable, therefore, to obtain a settlement of his account at the Treasury. To set aside all difficulty in the matter, Mr. D. proposed to offer a resolution to the consideration of the House; and as it was justice only which he sought for this brave man, he doubted not that a spirit of justice would insure its adoption. It was to the following effect:

"*Resolved*, That a committee be appointed to inquire and report whether any, and, if any, what provisions are necessary, to obtain payment of the claim of Gen. Kosciusko on the United States."

Mr. J. Parker seconded the motion. He hoped the resolution would be agreed to, and that immediate attention would be paid to the unfortunate gentleman, as he believed, except he made use of the grant made to him by the Emperor of Russia, which, he believed, he was disinclined to do, for considering his predecessor as the chief cause of his own misfortunes, and those of his country, he did not wish to be under obligations to him. The certificate given to the General on his departure from hence, was for $12,800, upon which he had received only one year's interest. He hoped, therefore, as he had the misfortune to lose his certificate, at the time he was taken prisoner, that the House would take such measures as should enable him to receive the amount of his certificate, with the interest due thereon.

Mr. Coit moved that the resolution should be committed to the Committee of Claims, but afterwards changed his motion so as to make that committee the committee to inquire and report, instead of a select committee. He professed to have no other object in these motions than that this claim should take the same course with other claims.

The motion was supported by Messrs. Allen, J. Williams, Macon, and Edmond. It was opposed by Messrs. J. Parker, Livingston, Gallatin, Brooks, Nicholas, Harper, Sheperd, Otis, Pinckney, Swanwick, S. Smith, T. Claiborne, and McDowell.

The motion for a reference to the Committee of Claims was lost—59 to 33.

Mr. Pinckney said, that as this claim was different from most others which came before that House, and having himself had something to do in the business, he would state to the House what he knew of it. Previous to General Kosciusko's return to Poland, whilst he was in Germany, he applied to the Polish Ambassador in London, by letter, requesting him to make application to the American Minister there for payment of a part of the money due to him from the United States. The mode of transacting this business was this: The interest arising from the certificate granted to the General, was made payable in Paris; but from the change which took place in the French Government, the General did not know how to receive it there, which was the reason of his making application, through the Polish Minister to him (Mr. P.) in London. Mr. P. wrote to the American Minister in Paris for an order on the bankers of the United States in Holland, but having in the meantime received a letter from Gen. Kosciusko, requesting the money to be sent for him to Ratisbon or Leipsic, he (Mr. P.) sent an order to Amsterdam, requesting the bankers there to transmit the money either to Ratisbon or Leipsic, as the exchange should be most advantageous. In the interim General Kosciusko returned to Poland, and he supposed he then had no time to attend to this business. He never heard any more upon the subject until he saw the General in Philadelphia, when he found this money had not been received by him; so that he supposed it yet lay in the hands of the Leipsic or Ratisbon banker.

Finding this to be the case, Mr. P. immediately wrote to the banker at Amsterdam, requesting him to redraw the money, and to transmit it here for the General's use. But, as he might, in the meantime, stand in need of it, it might be proper in the United States to anticipate its return, by settling the acount with the General. He hoped in whatever way this business was effected, it would be in such a way as not to wound the

feelings of a man who had deserved so well of this country.

On a suggestion of Mr. Sitgreaves, instead of appointing a committee, the Secretary of the Treasury was directed to make a report what "Legislative provision was necessary, &c."

This motion was carried by 49 to 40; but whatever difference of opinion there was in the House, as to the mode of doing the business, there seemed to be but one sentiment, as to the propriety of complying with the spirit of the resolution.

COUNT DE GRASSE.

Mr. Livingston said, it would be seen by the report of the unfinished business, that a bill passed that House in February last, for the relief and protection of American seamen, but not being acted upon by the Senate, he found it would be necessary to bring forward the business anew in the House of Representatives. He should, therefore, move that a committee be appointed to bring in a bill for this purpose on Tuesday next. Whilst he was up, Mr. L. said he should present a petition from the daughters of the late Count de Grasse. The petitioners state their funds as exhausted, principally by paying debts contracted before the grant of Congress, and not having yet received any returns from the estate left them in Port-de-Paix, they pray for the further assistance of Congress, until they can get possession of their patrimony. After the report of a committee on their former application, Mr. L. moved that this petition be referred to a select committee.

Mr. Corr moved to have it referred to the Committee of Claims. This motion was negatived—there being only 22 votes in favor of it; the motion for a reference to a select committee was then carried without a division. A committee of five was appointed.

LOUIS LE GUEN.

The order of the day being called for on the report of the Committee of Commerce and Manufactures on the petition of Louis Le Guen, the House went into a committee on that subject; and, after some observations from Mr. Coit against the report, and by Mr. Swanwick in favor of it, the question was taken, and the report in favor of the petitioner negatived—there being only 22 members for it.

The House being resumed, on the motion being put for a concurrence with the Committee of the Whole in their disagreement to the report, Mr. J. Parker called for the yeas and nays upon the question; but as one-fifth of the members present did not rise in favor of the motion, (which is necessary according to the rules of the House,) it was lost. The motion to concur was then carried—38 votes being in favor of it.

Tuesday, December 26.

Mr. Livingston, agreeably to the notice he had formerly given, moved that a committee be appointed to bring in a bill for the relief and protection of American seamen; which was agreed to.

A report from the Committee of Claims, directed to consider the bill for the relief of William Imlay, sent from the Senate, was made, recommending an agreement to the same; the report, being read a second time, was referred, together with the petition and bill, to a Committee of the Whole on Thursday next.

EVIDENCE IN CONTESTED ELECTIONS.

On motion of Mr. Harper, the House resolved itself into a Committee of the Whole, Mr. John Wilkes Kittera in the Chair, on the bill directing the mode of taking evidence in the cases of contested elections; and, after some time spent in considering the same, during which the bill received sundry amendments—among others was a clause to limit the duration of the law till the end of the first session of the sixth Congress. This clause was moved by Mr. Havens, and seconded by Mr. Sitgreaves; it was opposed by Mr. Harper as destructive to the object of the bill. Mr. Nicholas saw no injury that could result from it, but believed it to be the only mode of reconciling a majority to the bill—

At length the committee rose and reported progress.

PROTECTION OF COMMERCE.

Mr. Sewall reported, from the committee appointed on that part of the President's Speech relating to the protection of commerce, that it was proper to regulate the arming of merchant ships by a Legislative provision instead of an Executive one; this report was accompanied by circulars from the former Secretary of War, and the present Secretary of the Treasury, treating on the same subject; and by a bill, as a supplement to the act of June, 1794, providing punishment for fitting out ships of war or naval armaments.

These papers were ordered to be printed, and the bill having been read a second time, and agreed to be referred to a Committee of the Whole, a motion was made by Mr. Nicholas to make it the order of the day for the first Monday in February next; other days were named, viz: Monday and Thursday next.

The question was taken on the most distant day and carried—40 members rising in favor of it, and 37 against it.

Mr. Shepard said he had voted for the most distant day under a mistake, as he conceived the motion to be for the first Monday in January; he wished the vote might be reconsidered.

The Speaker informed that such a motion must be seconded by a member who voted in the majority, or it could not be put.

Mr. Morgan, who had voted on the same side with Mr. Shepard, and wished to give the latter an opportunity of voting according to his intention, seconded the motion.

Mr. Pinckney said, if the question were to be reconsidered, he should wish to hear the reasons why gentlemen wished the subject to be so long postponed. He thought the provisions in this bill were much better than those which at present regulated the arming of vessels; he wished, therefore, that the business might not be so long deferred.

Mr. Otis hoped the vote would be reconsidered. He thought a much less time would be sufficient for gentlemen to investigate this subject. He wished that the business might be coolly examined, and that such measures might be adopted, with respect to the arming of our merchant vessels, as the good of the country required; and not, when a subject of as great magnitude as any which might be discussed during the session, was brought before the House, that the consideration of it should be postponed, by a silent vote, for four weeks. He thought such a measure very extraordinary, and pregnant with humility and disgrace to the country, at a time when our suffering commerce called aloud for protection. Whether they would protect it or not, is a question which should be fairly considered and determined upon; but, when a proposition was brought forward, which had a view to this subject, by what latent fear, he asked, were gentlemen palsied, that such a measure should be thus procrastinated? He invoked the Genius of the Country to rescue the Union from the disgrace which hung over it; that at a time when the commerce of the country, which had so greatly contributed to its prosperity, lay prostrate, and a bill was reported which had in view its protection, a motion should be agreed to to postpone the consideration of it for four or five weeks. He hoped gentlemen would not persist in thus acting; he wished as long a time to be given as was necessary for considering the subject, but not that it should be laid behind the curtain, on account of any fears which gentlemen were unwilling to disclose.

Mr. Harper trusted his friend from Massachusetts, when he informed the House he should be against reconsidering the question, would not impute his conduct to *fear*. He voted for making this subject the order of the day for the first Monday in February, not because he felt any *fear*, but he did it, and he should do it again, because the bill brought into view a subject, for the discussion of which they were not prepared. Why not prepared? Because, at the last session, they had negatived, contrary to his opinion of what ought to to have been done, the defensive measures then proposed; for he then thought, and continued to think, that it would have been well to have followed up pacific steps by energetic measures of defence. He did all he could to induce the House to be of this opinion, but he was not successful; and as it had been resolved to leave the state of things as they found them, he meant to adhere to this resolution until he heard from our negotiators. Whenever the time should come for this country to take measures of defence, he trusted his friend from Massachusetts would not find him behind hand; if there was a necessity for repelling force by force, he believed there would not be much difference of opinion in the House on the subject, at least he should be found ready so to determine. But he thought it would be well to postpone the further consideration of this bill till the period proposed. If intelligence, in the meantime, were received from our negotiators, they could call it up sooner by a vote of the House. Mr. H. said, when he gave his vote, he understood the time to be the first Monday in January; but he was well satisfied to let the business stand as it was.

Mr. Rutledge did not think the reasons which his colleague had given for his vote were so weighty as those upon which he generally acted. He represented this as a hostile measure. For his part, he did not view it in that light, but merely as a measure of precaution. He believed the merchants had a right to arm, and he believed they would arm; and he thought it right for Congress to say they should arm, only under certain restrictions; and he did not think that a majority of that House, from hearing the bill once read, could be prepared to say the restrictions therein contained were improper or incompetent, and that the bill was incapable of being modified in such a way as to effect the end proposed. All that was asked for was discussion. If, when it came to be examined, the bill could not be so modified as to answer the purpose—or, if it should be thought that war would be the probable consequence of its adoption, then let it be rejected. But why, exclaimed Mr. R., in the name of civility, of politeness, of prudence, may it not be admitted to a discussion? He had not long had a seat in that House, but it was the first time he had seen a subject so disposed of by a silent vote. His colleague had said the subject, notwithstanding the postponement, could at any time be called up by a vote of the House; he also knew that if an earlier day were fixed upon, it would always be postponed, and this was a much more usual course of acting. The delay was proposed, it was said, that we might, in the meantime, hear from our commissioners. He thought so long a delay unnecessary on this account. He expected to hear from them daily and hourly. The first easterly wind might waft their despatches to hand. Besides, if they went on to mature the business, and the negotiation should terminate in such a way as to prevent the necessity of defensive measures, no mischief would have been done; but if the negotiation should have a different termination, and they did not go on with this business, so much time would have been lost. He had little doubt, from the very prompt mode of negotiation practised in France, that the issue of our negotiation would be long unknown; he wished, however, their usual promptness might not take place, and that we might not receive quite so early intelligence. But, exclaimed Mr. R., is this a declaration of war? No; though it might appear to be so, from the strong *fears* of some gentlemen. If the proposition were to go to war to-morrow, those *fears* could not be stronger; though, in reality, the question was no more than to arm merchant vessels against pirates; a measure quite as safe as arming persons for their defence, when going into a back country, against Indians or others who might attack them. The House had been told some days ago, by a gentleman from Maryland. (Mr. S. Smith,) whose opinions on commercial subjects had always great weight, that some of his constituents had insist-

ed upon their right to arm, that they had armed, and they heard the consequence. It was the wish of the friends of this bill to prevent these consequences in future. He hoped, therefore, the question would be reconsidered.

Mr. Brooks thought the day mentioned too distant. It was five full weeks from yesterday. He perfectly agreed in sentiment with the gentleman who had just sat down, and would not, therefore, repeat what he had said. He was sorry to find any alarm raised upon reading a bill, purporting to be a supplement to a former act, as to the manner of arming private vessels against lawless bucaniers. Why postpone the consideration of this subject, until we hear from our negotiators; since, if a peace in Europe were to take place to-morrow, some such measure would be necessary, as our seas would continue to be infested with these marauders? He was under no apprehensions of a hasty decision on this subject. If the question was whether the bill should pass, there might be some ground for alarm; but to be alarmed in the present stage of the business, appeared as if they were afraid of doing anything which would have a tendency to involve the country in war; but he would not, from this fear, postpone a business with which no foreign nation had anything to do. He was, therefore, for reconsidering the question.

Mr. McDowell was not a little surprised to hear gentlemen so warm on the present question, attributing *fear* to others, and bestowing all patriotism upon themselves. He did not know how it could have happened that *fear* could have so immediately got possession of a majority of the House on this occasion; nor did he know how the gentleman from Massachusetts (Mr. Otis) had come by the information that *fear* was the impelling motive. Had he been as anxious to be heard, and as capable of speaking, as that gentleman, he probably should not have given a silent vote on the occasion; but he would inform that gentleman that many who voted in the majority on this occasion, were incapable of acting from *fear*. This question had been discussed at the last session; it was then determined not to authorize any arming which should endanger the peace of the country. Negotiators had been appointed; this negotiation was now pending, and taking up a subject of this sort might have an unfavorable effect upon it. It was, therefore, clear to him that they had better postpone the discussion, until they heard from France, which he did not expect to do so soon as the gentleman from South Carolina (Mr. Rutledge) expected.

Mr. Isaac Parker said it was not the usual course of business to postpone the discussion of a bill to a distant day, except it were with a view of defeating it. A question then arose, what could be the reason of this postponement? The gentleman from North Carolina, last up, had condescended to answer this question, by saying that it was from the wish not to affect our present negotiation. This certainly could not be the case; and he thought, on the contrary, that this was the best possible time for taking up this or any other step which had relation to the defence of our country. If they were not to pass a law for the defence of our citizens because a negotiation was pending with a foreign country, the honor and independence of the country were gone, and they might as well cease to make laws at all. The pending negotiation would be successful or unsuccessful. If successful, a law of this kind would be necessary, as it was not intended for the protection of our commerce against any particular nation, but as a system of defence against the pirates of all nations. But suppose the negotiation prove unsuccessful; when we know this, said he, it will be too late to take the measure proposed; and our commerce will be wholly unprotected, and exposed to the depredations of the French or any other country. He hoped, therefore, the question would be reconsidered.

Mr. Hartley was not for precipitating a measure of so much importance as this was; but he thought the proposed postponement too distant. He agreed with the gentleman last up, that they had a right to make the proposed regulation, without having respect to any foreign nation. The commercial interests of this country seemed to call for some measure of this kind. He hoped, therefore, the question would be reconsidered, and that they should make the bill the order of the day for the second Monday in January.

Mr. Nicholas said it was easy to discover, by the manner in which gentlemen took up this business, that there was more in it than they were ready to acknowledge. He understood it to be neither more nor less than the question which was argued at the last session, and then negatived. If he were not mistaken in this, it was for him to invoke the genius of America—to call down the guardian angel of peace—to invoke its aid against the designs which gentlemen seemed to have on the present occasion. It was his opinion that a business of this sort, moved at the present day, was ten times as objectionable, and had an appearance ten times as suspicious, as when formerly rejected. Were he not justified, then, in wishing this question not to be agitated, when our situation was no way more suited to such a measure than when formerly discussed? To go into a measure of this kind, at this time, would reflect upon the instability of our councils, and be disgraceful to them. What was to be inferred, he asked, from a desire to go into the business of arming at present? He hoped, and trusted, and believed, that there was no disposition in that House to throw obstacles in the way of the negotiation, so as to defeat it; if he could conceive any such intention to exist, he should think such a measure as was now proposed calculated to produce the effect. To discuss this subject, and authorize the arming of our vessels, would be to set adrift the passions of society, and the consequences could not fail to be mischievous. The details of the bill confirmed him in this opinion; the regulations were mere cobwebs, and would, by no means, be equal to the preventing of abuses. It would be placing the peace of the country in the hands of every man who owned a ship. If, then, there were nothing

new in our situation, nothing which made a change of policy necessary, why go into this subject? Did not gentlemen recollect that heat which had been produced by the discussion on a former occasion? If they did, why did they wish to anticipate the question? It could only tend to destroy that harmony which would be so desirable in case of this country being obliged to have recourse to the *dernier resort*. But they had been told, that if some regulations were not entered into, great mischief might be expected from merchants arming without restriction, and a single instance of abuse had been mentioned. This was all, he believed, which could be produced, and he did not think, therefore, the peace of the country would be much hazarded from this source. He could see no evil that could arise from letting the business remain upon its present footing for a month or two longer. He believed the necessity spoken of for going into this measure as merely *ideal*, and that it would have no effect but that of inflaming the minds of the people for war. As to what had fallen from the gentleman from Massachusetts, (Mr. Otis,) in his appeal to the Genius of the Country, &c., he considered it merely as a touch of the *mock heroic*. He thought the milder Genii should only be resorted to. The only Genius which he wished to appeal to, was the Genius of Peace. We were not, he said, ripe for war. Our plans had hitherto been pacific, and he did not wish at present to change them. He hoped, therefore, the vote taken would not be revoked.

Mr. Sewall was in favor of reconsidering the question; not that he wished to have the business crowded upon the House. He had no objection to a fortnight, or longer, being given. Gentlemen, in their observations on this subject, had recurred to the proceedings of last Congress, which had nothing to do with the present question; and argued as if there were a law forbidding merchants to arm their vessels; whereas there was no such thing, because he never could consider Executive directions as law. It was true the President of the United States had forbidden the arming of vessels, except for the East India and African trade; but there were no regulations to prevent impositions in this respect, and nothing was more easy than for vessels to clear out for these places, and go to others; and if they did so, they were subject at present to no forfeiture. It was proper, therefore, that Congress should come to some determination on the subject, and say whether merchants had a right to arm or not, and under what restrictions; as, at present, the whole burden was improperly thrown upon the President. Whilst the business remained upon its present footing, circumstances might arise which would be very unpleasant. For instance, if a merchant were to sue a Collector for carrying into effect the orders of the Executive, it would be impossible for any Judge to found a decision upon those orders.

Nothing, Mr. S. said, could be gathered from the proceedings of last Congress, as the present bill was intended merely to regulate a right which the merchants already possessed, of arming their vessels, so as to prevent hostile aggressions. There was nothing in this measure which could give offence to our masters, even if we were colonies of France or of Great Britain. All that was intended was a defence against pirates, whom no country would own; for, if a restitution was asked for on account of losses sustained by them, it would be said by France or Great Britain, "we know them not; you ought to defend yourselves against them." As to the observation of the gentleman from Virginia, that our merchants would continue to acquiesce in the present state of things, it might be so; but he thought they had a just claim upon the United States. He believed they were generally unwilling to arm, except under the regulations of the United States; but they ought not to take advantage of this acquiescence, and say to them, without concern, "you would go to sea, and run your risks as usual." Under these disadvantages he did did not think they should. As to our present situation with respect to France, he did not think it ought to be alluded to, as the proposed regulations, as had before been observed, were not intended to operate against them, or any other nation, but against the piracies committed by order of Victor Hugues, or any other marauder, who may set up his authority in that part of the world. So desirous were the merchants of having a defence against this description of vessels, that since they could not carry out real guns, they have lately resorted to the carrying of wooden guns, that they might at least have the appearance of defence upon their vessels. He thought, to be obliged to have recourse to this practice, was derogatory to the honor of the nation.

Mr. Dana said, it was not very liberal to ascribe to the committee, who reported this bill, motives which they themselves did not avow. If he did not mistake the gentleman from Virginia, (Mr. Nicholas,) he had said that this bill was calculated to mislead the passions of our citizens, and prepare them for war. The committee had not stated any thing of this kind; they had stated an evil to exist, and proposed a remedy. The depredations which had been committed upon our commerce by pirates, unauthorized by any Government, were notorious; and that we had a right to defend ourselves against them, was admitted on all hands; but there was a necessity for the interference of Congress in the business, and, for this purpose, the present bill was reported. The measures proposed had been spoken of as measures of hostility; they were no such thing; he would not adopt any measures now that he would not adopt in a state of profound peace, and the present bill was no more than a part of our general system for the regulation of the conduct of our merchants. Mr. D. alluded to the orders which had been issued by the late and present President in relation to the subject of arming, and showed the necessity there was for an interference of Congress. He did not think this question was decided at the last session. But it was said that this subject would interfere with the negotiations now carrying on with the French Republic. What were the principles laid down by France with respect to this country?

They say "they will respect treaties when it is their interest to do so." He, therefore, supposed it would be as much for the interest of France to be at peace with us if our vessels were armed, as if they were not. There was another principle—they will "respect our rights when we know how to make them respected." Could this regulation, therefore, weaken that respect? He thought not. To postpone the question, from such a motive, would be humiliating. It would be saying we dare not take any measures of defence against the marauders on our coast, lest we should give offence to a foreign Power. He hoped they should not be thus influenced.

Mr. THATCHER said, he did not rise to invoke the Genius of America, or any other Genius. He did not believe in any genii. He wished to call the attention of the House to the question, which he thought they had forgotten; for, he believed any one coming into the House, in the course of the debate, might have guessed for forty years and not found it out. The question was, whether the former vote should be reconsidered. It was immaterial whether a passion for France, or any other strong passion, had overruled reason, and influenced the vote. It was sufficient that two or three persons had stated themselves as mistaken in their vote, to wish the question to be reconsidered. If this was the question, he did not see what they had to do with the war in Europe, or with the negotiations carrying on with France; but as it had been the practice to abandon the question, and raise other subjects, he would take the liberty of following the example which had been set, by remarking upon what had been said. [The SPEAKER signified to Mr. T. that, in doing so, he would be out of order, and having expressed his intentions, the deviation could not be admitted.] Mr. T., however, continued to make some observations on what had fallen from the gentleman from North Carolina, (Mr. MCDOWELL,) as to the proposed measure having effect upon the negotiators. This he showed to be next to impossible, as we were expecting to hear from our negotiators every day, and they could not hear of the proceedings of Congress on this subject for two months to come. The question, said he, is to arm against rovers and pirates, and surely gentlemen would not say that the *Terrible* Republic were a set of rovers and pirates; but they must say so, if they said this bill was against them. He believed France respected itself too much to say this was intended against her. The gentleman from Virginia (Mr. NICHOLAS) had said, there was no change in the situation of things since last session; but he believed there was this change, as it respected commerce: we were now more assured than ever, that the chief of the depredations committed upon our commerce were committed by unauthorized marauders. Mr. T. concluded by reading an extract from the President's Speech, as conveying his sentiments with respect to the disadjusted affairs of Europe, the general want of morality and religion, and the consequent uncertainty of permanent peace.

Mr. BALDWIN said, if the original question had now been, whether the consideration of this subject should be postponed for three or four weeks, he should have felt himself indifferent as to the issue. But it was with regret he saw the question brought back for consideration. The gentleman last up had spoken of three gentlemen having been mistaken, and wishing to change their votes. He heard of but one—the gentleman who seconded the motion—and he did it only that the mover might have an opportunity of voting as he wished. He did not think, therefore, that this was a sufficient ground for a reconsideration of the vote which had been taken. When the House voted upon a question without argument, it must be supposed they voted from conviction. A motion for the reconsidering of a subject was not a favorite motion; since a repetition of such motions would make it next to impossible to proceed with the public business. The question of arming or not arming, he said, would yet come before them in a variety of shapes, before the bill could be matured, so that there was no necessity of arresting it in its present stage. He himself expected that when the first Monday in February was moved, some of the committee, who reported the bill, would have proposed a shorter time; but, when they did not, he supposed they thus argued: "We have considered the subject for four or five weeks; we will give other gentlemen the same time." And he believed, if they so judged, it was the best course which could be taken; for the longer the time given for considering and maturing the subject, the greater probability there would be of coming to a speedy and proper decision.

Mr. J. WILLIAMS was in favor of reconsidering the vote. The act of 1794, he said, had been differently construed, and the sooner Congress determined the true construction the better. To put off the subject for five weeks would occasion considerable loss to the merchants, as they did not know what events might arise. If the subject was not acted upon till the first Monday in February, it would be the first of March before the act was passed, and the first of April before it could be known at the extreme parts of the Union. He himself was undetermined whether it was right to authorize merchants to arm or not, but he did not wish the question so long postponed, he wished to have it discussed.

Mr. N. SMITH said, as the reasons which influenced his vote had not been stated by any other member, he would take the liberty of stating them. He should vote against the reconsideration, though he agreed with gentlemen who were in favor of the bill. He thought the measure a perfectly neutral one, and such as no foreign nation had a right to take umbrage at; but those gentlemen must agree with him, that it was not likely the measure should be silently adopted, or without a lengthy and full discussion. It was idle to say that, because the measure was only intended to operate against pirates, there was no occasion to introduce any foreign nation into the discussion. It was certain that, whenever the subject was discussed, our situation with respect to foreign Pow-

ers would certainly form a part of the debate, and this it was he dreaded. He believed it might do much mischief. He therefore differed with those gentlemen who wished to get into the discussion, and who did not seem to want an immediate decision; he should have no objection to the decision, but he wished, for the present, to avoid the discussion. Before the session closed, he should think it necessary to decide upon a measure of this kind; but he wished to see further before the business was entered upon; he was, therefore, against reconsidering the question.

Mr. OTIS replied to some remarks which had been made upon what fell from him, and justified what he had before said, and the warmth which he felt on the occasion, as natural. He concluded by observing, that it was necessary to cheer the spirits of the people by a measure of this kind; to raise the expectations of the merchants, and not to drive commerce, which came mourning into that House, to despair; but, if their hands were to be tied, and no protection was to be given to trade, the merchants should be informed of their determination as soon as possible; and told that, though they draw from them millions of dollars a year in support of the revenue, yet they will not attend to their grievances until within a few weeks of the close of the session, when, perhaps, sufficient time will not remain to carry any measure which may be proposed, into a law.

Mr. PINCKNEY said, as he was not a member of the House during the last session, he hoped he should be excused in wishing to enter into an earlier discussion of this question than other gentlemen seemed to wish. But though he was not in the House at the last session, he had observed the proceedings of it; and though some of the motions for arming were negatived, there were others of a defensive nature agreed to; such as the holding in readiness 80,000 militia, the appropriation for repairing the forts and harbors, &c., which were not thought, at the time, to be at all offensive to any foreign nation; and he was of opinion with those gentlemen who believed that a law authorizing our merchants to arm their vessels, could not afford any foreign nation just cause of offence.

He was not surprised that his colleague (Mr. HARPER) should be of a different opinion, because he did not think so favorably of that nation, as many other gentlemen did; but he was surprised to hear gentlemen who thought more favorably of that nation, consider the measure as operating wholly against them. Surely means of self-defence could not be means of offence. Nor could gentlemen say that the French nation was the only nation which committed offences upon our trade. He had heard it said that another nation had lately captured an equal, if not a greater number of our vessels, than they had done. Besides, as the measure was intended more against unlawful plunderers, than regular seizures, he could not conceive how it could be supposed to give offence to any particular nation, or affect any existing negotiation. The only point to be determined, then, was when the bill should be committed. He thought the gentleman from Virginia (Mr. NICHOLAS) had carried his idea too far, when he said, because this country was not prepared for war, they ought not to discuss this question. He thought there were certain times when every free nation ought to be prepared for war. He meant when the measure of injuries had arrived at such a pitch that it could not be longer borne. In such a case, a nation ought to meet the calamities of war, rather than to submit to further oppressions. If the proposed measure, therefore, put us in a better state for war, it was a recommendation of it, as strength and not weakness was the best preservative against war; as, if a people were prepared for war, nations would be careful how they insulted them.

He wished, therefore, to put this country into that situation as soon as possible. To postpone the question so long a time as had been proposed would be a very unusual measure. It would look like a wish to get rid of it altogether. Whatever might be the issue of the negotiation, he said, we ought to put ourselves in some posture of defence for our trade; for, whether there were peace or war in Europe, there could be no objection to the arming of our merchantmen in the way proposed. He hoped, therefore, the discussion would not be postponed longer than the second Monday in January.

Mr. ALLEN observed, that it had been asserted that there had been no change in our political situation since the last session. There was one, he said. It could not then be determined whether the decree of March the 2d was really genuine, or whether the letter of Merlin to our Consul was really authorized by the Government of that country. Now the facts could not be doubted. Mr. A. said, it had been intimated that the friends of this measure would be glad to frustrate the negotiation with France. He did not believe any such intention was harbored in the House. The postponement proposed, instead of being four weeks, as it had been called, he said, would be forty-one days.

Mr. HARPER again explained the reasons of his vote. He differed from the gentleman last up, with respect to the reality of the papers he mentioned. He believed they were last session generally believed to be genuine.

Mr. S. SMITH said, had he been present when the former vote was taken, he should have been opposed to the discussion being postponed to so distant a day; but as the House had come to a decision on the subject, he should vote against the question's being reconsidered. He did not consider the bill before them as giving the merchants the privilege to arm their vessels, but as restricting vessels armed from doing mischief.

He insisted upon it, that merchants had a right to arm by law, notwithstanding the Proclamation of the President, which, he was bold to say, he considered as illegal.

The question for a reconsideration of the former vote, (which was carried, 40 to 37,) was negatived—44 to 38.

So the question was left, and this business is the order of the day for the first Monday in February next.

Wednesday, December 27.

Samuel Jordan Cabell, from the State of Virginia, appeared and took his seat.

Mr. Coit from the committee appointed to prepare and report a bill for the relief of such officers and soldiers as served during the war, and died between March and November, 1783, made a report; which was twice read, and committed for Monday.

On motion, the House again resolved itself into a Committee of the Whole, Mr. Kittera in the Chair, on the bill prescribing the mode of taking evidences in cases of contested elections; and, after a desultory debate, and agreeing to several amendments, the committee rose, and reported the bill with the amendments. The House took them up, and, after agreeing to them, and making some others, the bill was recommitted to the select committee who reported it.

TENCH COXE.

The Speaker informed the House that he had received a letter which he was requested to lay before the House; he accordingly handed it to the Clerk to be read.

The letter is as follows:

Walnut Street, *December* 26.

Sir: Though I am not certain of obtaining the object of the respectful request which I have the honor to submit to the House of Representatives, yet I am unable to resist the weighty considerations which impel me to the measure.

The President has thought proper to inform me that my services as Commissioner of the Revenue are no longer required. He has exercised a power committed to him by law, and I am therefore no longer in the public service of the United States.

Whatever may be my sensibilities and impressions in regard to the proceedings of the nature of an investigation and hearing which the case demanded, I have no desire to present myself to the House on the ground of complaint.

It is, however, my earnest wish that some arrangement may be found practicable by which my official conduct may undergo a thorough scrutiny.

Should it be found on consideration, that a form of procedure is proper and practicable, which will bring into view all the transactions of the several years during which I administered my late office of Commissioner of the Revenue, in the Department of the Treasury of the United States, I beg leave to assure the House, that I shall be prepared to enter immediately upon such measures as the form and nature of the business shall be thought by them to require.

With great respect, I have the honor to be, sir, your most obedient servant,

TENCH COXE.

To the Speaker *of the House of Representatives.*

The letter was ordered to lie on the table.

COUNT DE GRASSE.

Mr. Livingston, from the committee to whom was referred the petition of the daughters of the late Count de Grasse, made a report, which stated that the sum heretofore allowed by Congress was intended only as a temporary provision, until the events of the war should permit them to take possession of an estate in St. Domingo; that the facts formerly stated showed that the most important services were rendered to the United States by their father, from motives the most honorable, under the greatest responsibility, and at a risk the most hazardous that could be encountered by an officer of rank and reputation; that, with a recollection of these services, it would consist neither with the honor nor justice of the United States to refuse an adequate provision for the orphan children of the man who rendered them. The committee, therefore, recommend that a certain sum should be granted to each of them, annually, for their lives. The report was twice read, and committed for Monday.

Mr. L. also reported a bill for the relief of refugees from the British provinces of Canada and Nova Scotia; which was twice read, and committed for Tuesday.

Thursday, December 28.

GEN. KOSCIUSKO.

The Speaker laid before the House a letter and report from the Secretary of the Treasury, in pursuance of a resolution of the House of the 23d instant, relative to the claim of General Kosciusko. The report states, that the accounts of the General were settled at the Treasury in 1784, when a certificate was issued to him for $12,280 49, bearing an interest of six per cent. from the 1st of January, 1784, which was stipulated by a resolution in February following, in common with the interest due to all the foreign officers, to be paid annually at Paris; that in May, 1792, moneys were granted by Congress to discharge the principal and interest of these debts, at which time it was supposed that all the officers had received their interest to the 1st of January, 1789; but it now appears by the banker's account at Paris, that no interest had been received by General Kosciusko for four years, viz: from 1785 to 1788. Sufficient funds to pay the interest from 1789 to 1792, were, in 1792, placed in Amsterdam, subject to the disposal of our Minister at Paris; that by his direction a bill for the amount was remitted to Mr. Pinckney in London; but, pursuant to the direction of General Kosciusko, Mr. Pinckney wrote to the banker at Amsterdam to remit the amount to Leipsic or Dresden. That in September, 1792, a notification was published, that provision had been made for paying the principal of the debt due to foreign officers, on application at the Treasury, after the 15th of October following, and that the interest upon their demands would cease after the last day of December in that year. That though the certificate issued to the General is stated by him to have been lost or destroyed, yet the powers of the officers of the Treasury are competent to the payment of $12,280 54, the principal, and $2,947 33 interest, for the years from 1785 to 1788, on receiving a bond of indemnification from the General; but that they cannot advance the interest supposed to have been remitted to Leipsic or Dresden, though payment will be immediately made for any sum which may be hereafter re-

drawn, and credited to the United States at Amsterdam; nor is it in the power of the Treasury to allow any interest on said principal since the 1st January, 1793.

On motion of Mr. Dawson, this report was referred to a Committee of the Whole for Monday.

LAND TITLES IN TENNESSEE.

Mr. W. Claiborne moved for the order of the day on the report upon the remonstrance and petition of the Legislature of Tennessee.

Mr. Coit hoped the subject might be deferred till to-morrow, as there was a fact referred to in the report which he wished to have some information upon.

Upon the question being put, the motion was, however, carried, and the House accordingly resolved itself into a Committee of the Whole on the subject, when the following report of the committee was read:

"That, on investigating the causes of complaint contained in the said remonstrance and petition, it appears that, according to the boundary line between the Cherokee tribe of Indians and the inhabitants of the said State, which was extended by the Commissioners of the United States pursuant to the Treaty of Holston, in the course of the last Summer, the settlements and habitations of a considerable number of the citizens of the said State, which heretofore were supposed to be on lands to which the Indian claim was, by that treaty, extinguished, appear to be within the Indian territory. That these inhabitants had been induced to believe that the lands which they occupied were not within the Indian boundary, in consequence of the late Governor of the Southwestern Territory having, in pursuance of directions from the Executive of the United States, caused a temporary line to be extended by Commissioners appointed for the purpose, by which line the settlements above mentioned were included within the land assigned to the territory southwest of the Ohio (now the State of Tennessee.)

The committee likewise find that there are divers other citizens of the said State who occupy lands unquestionably within the Indian territory, as designated by the said treaty; which lands they possess by virtue of titles derived from the State of North Carolina previous to the cession of that territory, by the said State, to the General Government; one condition of which cession was, that "all entries made by, or grants to all and every person or persons whatsoever, agreeably to law, and within the limits thereby intended to be ceded to the United States, should have the same force and effect as if such cession had not been made; and that all and every right of occupancy and pre-emption, and every other right reserved by any act or acts to persons settled on and occupying lands within the limits of the lands thereby intended to be ceded as aforesaid, should continue to be in full force, in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States.

The committee also are informed, that, by the operation of the law passed on the 19th day of May, 1796, for regulating the intercourse with the Indian tribes—which law has been carried into execution since the extension of the last line—those citizens of the State of Tennessee have been compelled to abandon their habitations, and with their wives and their children, were, by the latest accounts from that country, encamped in the woods within the Tennessee line.

The committee therefore, in consideration of the premises, recommend, for the adoption of the House, the following resolution:

Resolved, That the sum of —— dollars be appropriated for the relief of such citizens of the State of Tennessee as have rights to lands within the said State, by virtue of the cession out of the State of North Carolina, and have made actual settlements thereon, and who have been deprived of the possession of the said lands by the operation of the act for regulating the intercourse with the Indian tribes: the said sum to be subject to the order of the President of the United States, to be expended under his direction, either in extinguishing the Indian claim to the above-described lands, in case he shall deem it expedient to hold a treaty for that purpose; or to be disposed of in such other manner as he shall deem best calculated to afford the persons herein described a temporary relief.

Mr. Coit said, the fact upon which he wanted information was respecting the temporary line which was said to have been run. He wished to know what evidence the committee had before them on this subject.

Mr. Pinckney (the chairman of the select committee) said, that the testimony which they had received on this subject was from the member from that district, which was corroborated by that of a member of the Senate from that State, who said he had his information from the Governor of the Southwestern Territory himself. This circumstance was not particularly noticed in the application made to the Secretary of War; only general information was called for, and he was silent as to this point.

Mr. Coit thought official information ought to have been had.

Mr. W. Claiborne said, he had applied to the Secretary of War on this subject, and received for answer from him, that his general report to the committee of the Senate contained all the information proper to be communicated. When, therefore, he found this information was not contained in the report, he supposed it was such as he did think proper to communicate. The fact, he said, was well known in the State of Tennessee, and it was a generally-received opinion that the line had been extended by direction of the President. He himself was in habits of intimacy with the Commissioners, and he had more than once heard the fact from them. He believed gentlemen from North Carolina and Virginia were also acquainted with it. He did not, however, believe this fact essential. If it were a truth that there were citizens in the State of Tennessee who had been forced to abandon possessions fairly obtained from the State of North Carolina, it was sufficient to warrant any measure which should be calculated to afford them immediate and adequate relief.

Mr. Pinckney was in hopes the testimony upon which the committee had acted, would have proved satisfactory to the gentleman from Connecticut, but he seemed to think they ought to have had official documents. If that gentleman had attended to the report of the Secretary of War,

he would have seen that any further application by them for information would have been improper, as the Secretary there declares the business to be "of a nature exclusively Executive," and that he there gave as much information on the subject as he thought necessary. If the evidence upon which the committee had acted was not sufficient, the House would of course call for such other as they might think proper.

Mr. Macon had no objection to any other information being obtained. It might be, however, that the information communicated by the member of the Senate was official, as one of those gentlemen had been an official character.

Mr. Pinckney said the member of the Senate whom he had alluded to, was Mr. Jackson.

Mr. Blount had no doubt but the information required might be obtained from the Secretary of War; and if the committee were to rise, he should make a motion to that effect. He had himself been told that the line in question was run by the commissioners themselves; and he had been shown, by a gentleman who attended the running of it, the direction it took. How it happened that the Secretary of War had not mentioned it, he was at a loss to know.

Mr. Dayton (the Speaker) moved that the committee rise, in order to obtain the information required. It appeared to him that they had been premature in going into a Committee of the Whole. He recollected something of the line of experiment being run, and of the Indians being dissatisfied with it. He understood, also, that in consequence of the dissatisfaction of the Indians, there was an additional allowance made to them. Of this, however, he was not very certain.

Mr. N. Smith hoped the committee would rise, in order that the information wanted might be obtained from the Secretary of War. He did not believe that the line of experiment was run by the Executive, because he did not think the Executive would direct any other line to be run than such as was prescribed by treaty. At the same time, he would not be understood to discredit the information given. Gentlemen did not say they knew the fact themselves, but that it was generally *understood* to be so. There were many things said to be *understood* in that quarter, with respect to which the people ought to be undeceived. He believed this to be one of those things. He did not believe the Secretary of War had declined giving information as to this point, because it interfered with Executive business, as it was merely to know whether a certain thing had been done by Executive authority or not. There were many things in the remonstrance and petition, with which the Executive conceived the Legislature had nothing to do; but, as to the point in question, there could be no objection to giving the information required.

Mr. Harper had no objection to the committee's rising for this information, though he did not want it, because, he thought there was sufficient reason for adopting the resolution. The fact of the people's being in the distressed situation mentioned in the report, was a good reason for agreeing to it, though it should appear that the Executive did not give orders for the running of the temporary line.

Mr. Pinckney had no objection to the motion, though he did not think it necessary. It was clear the line was run by order of the Governor of the Southwestern Territory, and whether he had orders from the Executive to do it, was to him immaterial, as the people who were in possession of the land, supposed, of course, that the Governor was authorized to do what he did.

Mr. Nicholas did not think it material, in the present question, whether or not the Governor had authority of the United States for what he did. It could not be expected that the people should call upon the Governor to show the authority by which he acted. It was the same thing to the people, whether he was or was not duly authorized.

Mr. McDowell did not think the information required would be of any use. There could be no doubt the line of experiment was run by order of the Governor, agreeably to the directions of the Executive. It was also well known that *Double-head*, and a party of Indians, came down to Philadelphia, to make their complaints with respect to it, and that five thousand dollars had been given to them by way of satisfaction. The persons who were now driven into the woods, and suffering the inclemencies of the season, had settled upon the land from which they were driven, under express titles from the State of North Carolina, previous to the period of running this line. The only question was, whether the people had a right to settle where they had done, and whether the United States had a right to remove them. He believed the distresses of these people called for immediate relief, and that justice and policy required that it should be granted.

Mr. N. Smith thought it was of importance to know whether a fact, which had been reported by the committee, was well founded or not; and that it would be very wrong to send out to to the world as true, a thing which was not true. But it also appeared to him an important fact in the investigation of this subject. If the people had any claim upon the United States, it was in consequence of the United States having led them into a mistake; but if others had led them into it, it was to them they ought to look for redress. He would agree that, whatever the Governor of the Southwestern Territory had done in the line of his duty, the United States were bound by it; but the running of this line, except he were ordered to do it, was not a part of his duty, and they were not, therefore, bound by it.

Mr. S. said, he rose principally to correct an assertion which had been made, that these persons had a claim upon the United States, from having titles to their lands from the State of North Carolina. It would be found that they did not claim protection on this ground. There were two descriptions of claims; one from persons who had a grant from North Carolina; the other from persons who went on to a spot of ground, because they believed it to be the property of the United States, from a certain temporary line which had been run, and who were now, when the permanent line was run, obliged to remove. The latter had no real claim to the land they occupied.

Mr. Goodrich was in favor of the committee rising, that the wished-for information might be obtained. Great respect was, doubtless, due to the testimony of the gentlemen from Tennessee; but, if it should appear that no orders had been given by the Executive for the running of the temporary line, it would show that an officer of the Government had proclaimed that for a fact, which was not so. He therefore thought the fact ought to be ascertained.

Mr. W. Claiborne said, he had just seen a Senator who had been to the War Department, and who had informed him that he had seen the letter of the Secretary of War to the Governor of the Southwestern Territory, directing him to run the line of experiment, and also the Governor's answer, wherein he spoke of the business having been done. He gave this information, in order to do away the suspicions which gentlemen seemed to have of the truth of the testimony which had been given to the select committee on this subject.

The motion for the committee's rising was put and carried—it rose and had leave to sit again.

Mr. Blount then proposed a resolution for the adoption of the House, calling upon the Secretary of War for such information as he may be possessed of relative to the running of the temporary line; which was agreed to.

Friday, December 29.

The bill for the relief of North and Vesey, of Charleston, was received from the Senate, with amendments; which were read, and referred to the Committee on Commerce and Manufactures.

COMFORT SANDS AND OTHERS.

On motion of Mr. D. Foster, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Comfort Sands and others; and, all the papers relative to the subject having been read by the Clerk, the following resolution, reported by the Committee of Claims was agreed to, without debate, viz:

"*Resolved*, That the accounting officers of the Treasury be, and they are hereby, authorized and empowered, upon application of the parties, to examine and decide upon the validity of a certain award or report, made by Isaac Roosevelt, William Malcolm, Elbridge Gerry, and Henry Remsen, (four of the referees nominated for the purpose,) between the United States and Comfort Sands and others, his copartners, (contractors for furnishing supplies to the troops during the late war,) and that in making their decision upon the said award or report, the said officers of the Treasury shall be governed by principles similar to those which would prevail in a controversy concerning it at law; and if, in the opinion of the accounting officers aforesaid, the said award or report ought to be binding and obligatory against the United States, then, and in such case, but not otherwise, the said Comfort Sands and others, his said copartners, shall be entitled to have their said claim against the United States, as on the said award, allowed and settled at the Treasury in the usual manner, and shall be paid the amount of the claim, so to be allowed, out of any moneys which may be in the Treasury, not otherwise appropriated."

The committee rose, reported the resolution, and the House took it up; when

Mr. Nicholas objected to agreeing to the report.

Mr. Gallatin moved that the subject be recommitted for a report of facts on the subject.

The state of this long contested question appears to be as follows:

The petitioners, some time in the year 1782, contracted with the Superintendent of the Finances for the supply of rations for the use of the garrison of West Point, and its dependencies; and also for the use of the main army; that, beforethe expiration of the term of their contract, it was deemed proper and necessary by the said superintendant, that the business of supply should be withdrawn from them, and placed in other hands; a claim indemnified for damages and losses, alleged to have been sustained, was made on the part of the contractors; in consequence of which, several resolutions were passed by Congress, that four of the referees appointed by, and in pursuance of, the said resolutions, in the year 1787, made an award or report expressive of their decision or opinion, that the United States ought to pay to the said contractors the sum of $40,297 90; that the award or report was, by Congress, referred for examination to a committee, who reported in favor of its being confirmed, but that report was afterwards committed to another committee, who never, as far as can be traced, made any report; neither has there been any decision of Congress on the subject; that the reasons which induced the reference to a second committee do not appear; that application having been made to the accounting officers of the Treasury, for a determination of the said award, it has been concluded that they were not competent to the same, without the special authority of the Legislature.

The principal arguments used by Messrs. Gallatin and Nicholas were, that this claim was altogether novel, being grounded upon damages sustained, and not upon actual supplies furnished; that no allowance of this kind had ever been made before; that if once they were to establish a principle that wherever damages had been sustained in money transactions with Government, recompense should be made, they would open a wide door for business, as there was scarcely any person, who had dealings with Government during the war, that would not be able to make a claim of this kind from the then embarrassed state of the Treasury; that the claim being of a novel kind, its merits ought to be well examined before it was allowed; that there was nothing in the claim which would render it admissible, were it not for the report or award; that this award, in their opinion, was intended as nothing more than an inquiry as to facts, which was to be laid before Congress, and decided upon by them; that, there-

fore, the report before them was improper, as it referred business to the accounting officers of the Treasury, to which they were incompetent, and which ought to be settled in that House. But this was very different from awards made between individuals where both parties pledged themselves to abide the consequences. Nor was there an instance to be produced in which Congress had thus authorized an award. That though one of the resolutions, entered into by them, authorized the referees "to decide certain controversies between the United States and the contractors, yet it concluded with "and report their opinion thereupon;" that the conduct of Congress itself showed that this reference was not meant as a final award; that if it had, instead of referring the report first to one committee, and then to another, they would have at once appropriated the money, and not committed it for further inquiry. But, allowing that the award could be considered in the same light as an award between individuals, still it would be proper to examine the ground upon which the award was founded.

Messrs. J. Parker and Findley were in favor of the motion for a recommittal, in order that the House might be in full possession of facts in a business which had been agitated ever since they were in Congress, and which had always been considered as a very doubtful case.

The report was supported by Messrs. Harper, Sprague, Brooks, Coit, J. Williams, Bayard, Livingston, Goodrich, Otis, and Gordon, on these grounds, viz: That the course pursued in this case was similar to that which is usual in the submission of controversies between individuals to arbitration; that there was a mutual election and consent in the appointment of the persons who were to make the investigation; that they expressly denominate referees; that they acted under oath; that the proper officer, representing the Government, was empowered to employ counsel, if necessary; that the referees are authorized by the first resolution to determine what damages, if any, were sustained by the contractors, and, by this last resolution, their duty or business is designated to be to "decide certain controversies" between the United States and the contractors; that these characteristics, and the general spirit of the transaction, appear to denote that the report of the referees in the case ought to be considered as equivalent to an award between individuals possessing the same validity, and equally open to exceptions; that, as to the provision made by the several resolutions, that the referees should report their opinion to Congress, this, it is conceived, could only have been intended to reserve to Congress a right of reviewing the award on the same principles, *bona fide*, as would prevail in a court of justice; that the observations of gentlemen opposed to this claim were such as might have been properly urged, when the question for appointing arbitrators was before the old Congress, but that they were very ill-timed now; and that the argument of the case having been a very long time before Congress, was a strong reason for agreeing to the report, that justice might at length be done to the claimants.

The question for recommitting the report was put and negatived—48 to 29.

The report was then agreed to without a division, and the Committee of Claims ordered to bring in a bill accordingly.

Mr. D. Foster moved that when the House adjourn, it adjourn to Monday.

Mr. Harper proposed Tuesday.

The question on the most distant day was taken and negatived—42 to 31, and then the first motion was agreed to without a division.

COMMISSIONER OF THE REVENUE.

Mr. J. Williams said that at the time the office of Commissioner of the Revenue was appointed, he doubted not it might be necessary; but at present he thought the business of that office might be very well done in the Treasury Department, and if it could, it would occasion a considerable saving in the expenses of Government, as he found his salary was $2,400; that $2,700 had been allowed for clerks, $250 for messenger, &c., $400 for stationery, besides office rent, &c., making in the whole upwards of $6,000. He, therefore, proposed a resolution to the following effect:

"*Resolved*, That the Committee of Revisal and Unfinished Business be directed to inquire and report whether any, and, if any, what alterations are necessary in the act making alterations in the Treasury and War Departments, so far as it respects the office of Commissioner of the Revenue, and report their opinion as to the expediency or inexpediency of abolishing the office of Commissioner of the Revenue."

Ordered to lie on the table.

CIRCUIT COURT IN DELAWARE.

Mr. Bayard moved that the letter of the Judges, sent to the House by the President of the United States, requesting an alteration in the time of holding the Circuit Courts in the State of Delaware, be referred to a select committee; which, being agreed to, he presented remonstrances from the Chancellor and sundry citizens of the State of Delaware, against the above suggested alteration; which were referred to the same committee.

Monday, January 1, 1798.

AMENDMENT TO THE CONSTITUTION.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

In compliance with the desire of the two Houses of Congress, expressed in their resolution of the second day of March, one thousand seven hundred and ninety-seven, that some speedy and effectual means might be adopted of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution, concerning the suability of States; and, if they have, to obtain the proper evidences: measures have been taken, and information and evidences

obtained, the particulars of which will appear in the report from the Secretary of State, made by my direction, on the twenty-eighth day of this month, and now presented to the two Houses for their consideration.

JOHN ADAMS.

United States, *December* 30, 1797.

Mr. J. Williams, from the committee appointed to report, by bill or otherwise, whether any, and what, amendments are necessary to the act for establishing an uniform militia throughout the United States, reported a bill to provide for organizing, arming, and disciplining the militia of the United States; which was twice read, and committed for Monday next.

Mr. D. Foster, from the Committee of Claims, reported a bill for the relief of Comfort Sands, and others; which was twice read, and committed for Friday.

DEBT OF THE UNITED STATES.

Mr. Van Alen thought the Government, for some time past, had been at a greater expense than was necessary in paying, by means of the Commissioners of Loans, the interest upon the domestic debt of the United States. He thought the business might be equally as well done, at a much less expense, by either contracting with the banks in the different States, or authorizing the collectors of the revenue to pay it. In order to bring the subject under the view of the House, he proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, alterations are necessary in the act making provision for the debt of the United States."

Agreed to, and a committee of three appointed.

APPROPRIATIONS FOR 1798.

Mr. Harper, from the Committee of Ways and Means, to whom was referred the estimate of the Secretary of the Treasury, of the 8th ultimo, of what would be necessary for the services of the year 1798, made a report in part—which stated that former appropriations had proved deficient, and that if a partial appropriation was not made before the regular appropriations were gone into, the public service might suffer. The deficiencies were stated to be in the Quartermaster's and Indian Departments, &c., in the subsistence of the Army, and also in the appropriations for the naval service. They proposed, however, to defer any appropriation for the latter object, until they received statements on the subject from the proper department. The report also stated that the Secretary of the Treasury had informed the committee that two awards had been made, under the 6th article of the British Treaty, against the United States, amounting to $24,921, which became payable in October last, but which had not yet been paid for want of funds; and that other awards have been, or are soon expected to be, made, for upwards of $27,000. The committee, therefore, propose that the House grant $100,000 for the deficiencies in the appropriations, (exclusive of the deficiency of the naval service,) and $52,000 to meet the awards under the British Treaty.

UNIFORM BANKRUPTCY.

Mr. Harper, from the committee to whom was referred a resolution proposing the appointment of a committee to prepare and report a bill for establishing an uniform system of bankruptcy, made a report containing the reasons which induced the committee to believe it expedient for the House to adopt the resolution.

The report having been read a second time, and Mr. H. moving it to be committed:

Mr. Coit said, he believed there was some mistake in this business, as—though he was of the committee appointed to consider the subject—he had never heard of this report before, and he did not believe it had been submitted to the committee.

Mr. Harper said it had not,

Mr. Nicholas wished, then, the report might be recommitted. He was not himself much in favor of committees detailing the reasons upon which they acted, as he thought it served to swell their Journal and Printers' bill, without use; but if reasons were to be detailed, he wished they might be the reasons of the committee, and not of the chairman. He was one of the committee, and had heard nothing of this report before he had now heard it read.

Mr. Harper did not know why the gentleman from Virginia had so strong an objection to reasons being given for conduct; if he did not choose to guide his conduct by reason, why object to other gentlemen being indulged with this privilege? As to the manner of making reports by committees, he believed it was usual, when the principle of a report was settled, to leave the manner of making it to the chairman. But the gentleman's objections, he suspected, were not to the reasons for the report, but to the report itself, to which they were altogether opposed. For his part, he could see no ground of objection to the report; when the committee determined to recommend the adoption of the resolution, he thought it was more proper and more respectful to the House to report the reasons upon which their opinion was founded, than merely to give an opinion without support. And were these reasons, he asked, never to be presented, except every gentleman on a committee agreed to them? If those gentlemen upon the committee who were in favor of the report would say the reasons now assigned were not such as they approved, he also would vote for a recommittal; but, if they were satisfied with them, he could see no reason for recommitting the report because it did not satisfy gentlemen opposed to the business altogether.

Mr. Nicholas said, if he had objected to this report because it did not contain his own reasons, the gentleman from South Carolina would have had some ground for what he had advanced. But this was not the case. He objected to it because it contained the gentleman's own reasons, and not those of the committee; and though, as the gentleman had stated, he was opposed to the report, yet he had a right to expect to be consulted respecting any reasons which were reported by that committee. He was not a little surprised that

the gentleman should insist upon his right to assign reasons for that House, when he must recollect upon how many occasions his reasons had failed of producing conviction; he was sure it was not the intention of the committee to give the gentleman power to pledge them to anything he might choose to write; and he thought it was time to stop this mode of reporting. The House expected committees would report facts—they did not expect their detailed reasons. This had always been the course of business; and if it were to be departed from, and reasons were to be given, they ought to be those of the committee, and not those of the chairman only.

Mr. CORT said, he was as willing as any gentleman to submit to the opinion of a majority, but he was as unwilling as any man to submit to any act which was not the act of a majority. He thought the gentleman was mistaken, when he said it was the practice of committees to authorize their chairmen to make their reports, when once they had agreed to the principle of them. The gentleman, it was true, was much more in the habit of being at the head of committees than he, and was more likely to be acquainted with the usual course of this kind of business; but, if it were the practice, he thought it extremely improper. If, indeed, the report had simply been that the committee were of opinion a bill ought to be reported, no objection could have been made to the chairman's having so reported; but when lengthy reasons were to be given, though they might be very agreeable to the gentleman himself, they might not be so to the committee. It was true that he was opposed to the report itself, but this was not the ground upon which he now acted.

Mr. GALLATIN said he was not a member of this committee, and therefore wholly disinterested in the business. The report seemed to be objected to on two grounds; the one, because reasons for the report were given at all; and the other because they were the reasons of the chairman himself and not of the committee. The first did not strike him as being forcible. He thought it ought to be left to the discretion of a committee whether they will report the reasons for their determination or not. With respect to the latter objection, he agreed altogether with the gentlemen from Virginia and Connecticut, and so far from its being the custom for a chairman to report for a committee what reasons he may think proper, he believed he was entirely mistaken. He never knew an instance of the report of a committee being presented to the House before it was first laid before the committee itself; for though gentlemen be in a minority they ought certainly to be consulted with respect to any reasons which may be stated as influencing the committee, otherwise the reasons of the majority may be placed in the strongest light, and those of the minority cast into the shade. Therefore, if anything more than a simple resolution were reported, the report should always be laid before the committee before it be presented to the House.

Mr. THATCHER was proceeding to make some observations on the subject; when

Mr. HARPER said—seeing the business was likely to run into a debate—he would withdraw the report.

Which, upon Mr. NICHOLAS's withdrawing his motion for a recommitment, was allowed.

TUESDAY, January 2.

JOHN FOWLER, from the State of Kentucky, appeared and took his seat.

Mr. HARPER, from the Committee of Ways and Means, reported a bill for amending the several acts for laying a duty upon spirits distilled within the United States, and upon stills; which was twice read, and committed for to-morrow.

Mr. D. FOSTER, from the Committee of Claims, made a report on the petition of Sarah Alexander, widow of Gen. Stirling, praying for certain lands which she claims as due to her late husband; the report was against the petitioner, and was referred to the same Committee of the Whole to whom was referred the bill for the relief of the Representatives of certain deceased officers and soldiers.

GENERAL KOSCIUSKO.

Mr. DAWSON moved the order of the day on the report of the Secretary of the Treasury on the claim of Gen. Kosciusko; which motion being acceded to, the House resolved itself into a Committee of the Whole, Mr. KITTERA in the Chair, and the report having been read,

Mr. DAWSON said, when he had the honor of presenting this business to the House, he hoped the proposition he then submitted would have been agreed to in that way, which, in his opinion, would have been most honorable to the United States, and most agreeable to the person concerned. In this hope he had been disappointed; but, though they differed as to the mode of doing the business, there was but one opinion as to the business itself. He had now a resolution to submit to the consideration of the House, which he trusted would meet with no opposition. It would be found, by the report of the Secretary of the Treasury, that the accounting officers were ready to pay to General Kosciusko $12,280 principal, and $2,947 interest, from 1785 to 1788. To recover those two sums, therefore, there would have been no occasion for application to that House. It also states, that a bill had been remitted to our Minister at London, for the interest from 1789 to 1792, but which money was afterwards, by direction of the General, ordered to be remitted to Leipsic or Dresden; but it did not appear that this order had been complied with. It was clear, however, it was never received by him, nor had he given any person a right to receive it. He hoped, therefore, as the money lay at Amsterdam, Leipsic or Dresden, and could at any time be got by the United States, there would be no objection to pay the General that sum at this time. It was further stated in the report, that in September, 1792, a notification was published, informing all the foreign officers that provision was made at the Treasury for the payment of the principal of their debts, and that the interest thereon would

therefore cease after the last day of December in that year. Upon examination he did not find that this arrangement was founded upon any law; it was, therefore, a regulation agreed upon by the Treasury Department, and ought not to operate to the injury of persons who were ignorant of it. It was well known, that, from the peculiar situation of General Kosciusko at the time, that he could not hear of it; and the truth was, he never did hear of it until he arrived in this city. He hoped, therefore, there would be no objection to the payment of the amount of the certificates, with interest to the present time. To effect this purpose, he proposed the following resolution:

"*Resolved*, That it is the opinion of this committee, that the Secretary of the Treasury be authorized and directed to pay to General Kosciusko, the interest of six per cent. per annum, on $12,280 54, the amount of the certificate received by him from the United States, and now lost, from the 1st of January, 1789, to the 31st day of December, 1797."

This resolution was opposed by Messrs. MACON, CORT, and J. WILLIAMS. They were opposed to interest being paid up to the present time, and wished, if any provision were made for paying interest beyond the time fixed by the notification of the Treasury, that the regulation should be a general one, and extend to all other foreign officers. They were also against paying the interest, which had been transmitted to Paris for General Kosciusko's use, and which, by his direction, was afterwards remitted to Leipsic or Dresden, as it most probably lay there, and would be paid to his order without their interference.

The motion was advocated by Messrs. VENABLE, PINCKNEY, J. PARKER, HARPER, GALLATIN, and T. CLAIBORNE, and was finally agreed to without a division.

The committee rose, the House took it up, agreed to it, and referred it to a select committee to report a bill accordingly.

APPROPRIATIONS FOR 1798.

Mr. HARPER called for the order of the day on the report of the Committee of Ways and Means, to whom was referred a letter and report of the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year 1798; which motion being acceded to, the House resolved itself into a Committee of the Whole on the subject, and the following report was read:

"It appears from the letter of the Secretary of the Treasury that the former appropriations for several objects have proved deficient, and that before a general estimate of deficiencies can be prepared and acted upon by the House, the public service may be in danger of suffering, unless aided by a partial appropriation on account. These deficiencies occur in the following appropriations, which were made by the acts of March 3d, 1797, viz: First, of $300,000 for the Quartermaster's and Indian Departments, the defensive protection of the frontiers, bounties, and all contingencies of the War Department. Secondly, of $292,678 for the subsistence of the army; for which two objects the Secretary of the Treasury supposes that a partial appropriation of $200,000 on account will be sufficient.

"Partial appropriations of this nature have been customary, and the committee perceive no objection to that now requested.

"It also appears, by the above mentioned letter, that there is a deficiency in the former appropriations for the naval service, for which a partial appropriation, on account, may also be necessary; but the committee deem it proper to be furnished with the particular statements respecting this deficiency, before they report on this head. These statements will probably be received in a few days.

"The Secretary of the Treasury further states that two awards, under the seventh article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, have been made in favor of British subjects whose property was captured within the jurisdiction of the United States, or by vessels fitted out there. These two awards amount to $24,921 81, and became payable in October last, but have not been paid for want of an appropriation. Other awards may soon be made, and indeed may have actually taken place; for the punctual discharge of which it is proper to provide. For this object the Secretary supposes that a further sum of $27,078 19 will be sufficient, making in the whole an amount of $52,000, which the committee are of opinion that it will be expedient to appropriate for the discharge of these awards. They therefore submit the following resolutions, viz:

"*Resolved*, That the sum of one hundred thousand dollars be appropriated, on account, for the expenses during the year 1798, of the Quartermaster and Indian Departments, defensive protection of the frontiers, bounties, and contingent expenses, of the War Department; and a like sum, on account, for the subsistence, during the said year, of the officers, non-commissioned officers, and privates, of the Army of the United States.

"*Resolved*, That the sum of fifty-two thousand dollars be appropriated for the payment of awards made, and to be made, under the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, in favor of British subjects whose property has been captured within the jurisdiction of the United States, or by vessels armed or fitted out therein.'

Mr. HARPER said that since he made the report which had just been read, he had adverted to the rules of the House, and found that it was necessary that all appropriations for money should be first proposed in a Committee of the Whole. He wished the Chairman, therefore, to read the resolutions as blank, and he would afterwards move to fill them up with the sums with which they were at present filled.

This was done, and both the resolutions were agreed to, without debate. The House rose, agreed to them, and they were referred to the Committee of Ways and Means, to report a bill accordingly.

COUNT DE GRASSE.

Mr. LIVINGSTON called for the order of the day on the report of the committee on the petition of the daughters of Count de Grasse, which being agreed to, the House resolved itself into a Committee of the Whole, and the report on this, and that on their former petition having been read, the resolution reported, which proposed to allow to each of the daughters —— dollars annually, for life, came under consideration.

Mr. L. moved to fill the blank with $500.

Mr. Williams thought the resolution ought to have been agreed to before the blank was filled up. He intended to vote against the resolution itself. It was true that Count de Grasse was of great service to this country; and it was also true that the House had already acknowledged those services by the grant formerly made to his daughters. If they were to grant what was now asked for, he supposed they should be applied to again and again. There might be daughters of other foreign officers whose estates were gone, as well as these, and if they were to grant pensions for life to these petitioners, they must also do it to them, if they applied for it. And were there not, he asked, daughters of our own meritorious officers who were become, as it were, a town charge? Were they to take up these cases also? He was sorry for the situation of the petitioners; but whilst the daughters of our own officers were probably suffering for want of the pay justly due for their fathers' services, he could not agree to a second appropriation for them. He wished Government to be just before it was generous. They should be careful how they extended their charity, and be well convinced that the objects of it were deserving. Industry, frugality, and economy, should be looked after as well as charity. Nobody knew how the money which had been granted had been expended. He recollected when the widow of Colonel Butler (who died in the service) applied to the House for relief, it was denied her. He wished the House to be uniform in its grants. The acts of limitation had cut off the claims of many of our valuable officers and soldiers, and whilst they were unsatisfied, he thought they ought not to be too lavish in their grants to foreigners. He admitted the Count de Grasse had done service to our cause; but he was under the command of another country, who, he believed, was not influenced altogether by our interest; they had an interest of their own; they wished to separate this country from Great Britain. Upon the whole, having once relieved the petitioners, he thought they ought to be satisfied until we had attended to the wants of our own citizens.

The question was put and negatived—45 to 32.

Mr. Dayton (the Speaker) proposed to fill the blank with $400.

This motion was negatived, there only being 33 votes in favor of it.

Mr. Isaac Parker moved $300.

Mr. Nicholas said he was at a loss to know how to act in this question. He thought the select committee had gone to work in the most objectionable mode. The application was for temporary relief; but the committee, without any reason which he could see, proposed a pension for life. Why this was done, he could not tell; there was nothing in the circumstances which made it necessary, and therefore he thought it a wanton act in the committee so to report. He wished to reject the proposition in this shape; nor was he prepared to say he should agree to it in any other. He thought they were outstepping the bounds of their authority, in thus disposing of the public money.

Mr. Harper moved to strike out the words "during life," and insert, "until they shall receive possession of their property." He owned he felt the weight of the objections of the gentleman who had just sat down on this point; all that could be desired was, that these young ladies should receive a maintenance until they became possessed of their paternal estate. He could not admit, however, of the doctrine laid down from another quarter. In the first place, was it a just principle, because we could not reward all who served us, that we should reward none? That because acts of limitations had barred the claims of many of our citizens, all others who had claims upon our justice or benevolence should be rejected? He hoped this sentiment would not be agreed to; and if any person who had served the United States were entitled to remuneration, he challenged any gentleman to point out one who had a greater claim upon us than the family of Count de Grasse. No individual had ever had it in his power to render to the United States so singular a service as this man. Mr. H. here took an animated view of the conduct of the Count in remaining with his fleet in this country, at a very critical period of the war, beyond the time allowed him, which produced one of the most brilliant events of the war, the capture of Yorktown and a British army, and which he did at the risk of everything which is dear to a soldier, his commission and honor.

Let, said Mr. H., the trifling pittance proposed to be given to Count de Grasse's daughters, be compared with the expense which a protraction of the war for two years would have cost, which was the lowest computation which could be made of the service? Laying aside the loss of lives and misery, which must have been the certain consequences, the expense alone could not be estimated at less than twenty millions of dollars! Yet they were haggling about 50 or $100 for the distressed daughters of this man! And when they were about to put bread into their mouths, gentlemen objected to it because they did not know how the former grant had been expended. Would it comport with propriety or delicacy, Mr. H. asked, to heighten what the petitioners must feel under their misfortunes by instituting an inquiry of this kind? Should they require their daily accounts, and say, here was a dollar misspent, and there a dollar might have been saved? If there were any gentleman who wished this, he did not envy him his feelings. He was, however, ready to answer the inquiry. They had incurred a debt in their passage to this country: they were turned out of a convent, their father dead, and their brother an exile, they were left to seek their bread in a foreign country. They obtained credit on their estate in St. Domingo for their passage, and until they received the grant of Congress, they subsisted upon this credit. Strangers as they were, unacquainted with the language and customs of the country, was it too much to suppose that they had expended in four years, in paying their debts and in their subsistence, the $4,000 which had been granted to them? He thought not. He believed every economy had been used;

and the fact was, they were now in want, and were indebted to private benevolence for support. Mr. H. trusted, that as they had, on a former occasion, granted them a sum of money for subsistence, they should not, whilst their necessities continued, withhold from them what was proper for their decent support. He wished the amendment he had proposed to be adopted, as when they became possessed of their paternal estate, they would be enabled to pay back what they had received from Congress.

Mr. Sewall suggested to the gentleman who had just sat down, whether it would not be better to amend the resolution by inserting the following words instead of what he had offered, viz: "during their necessary residence respectively within the United States."

Mr. Harper consented.

Mr. Hartley did not like either of the amendments, as they were indefinite. He did not know who was to judge of the necessity of the residence, and it would be difficult to ascertain when they became possessed of their estate. He would rather grant the petitioners something for life, or for a certain period. On a former occasion they made an allowance to Baron Steuben for life, after he had been, in a great degree, requitted for his services. Mr. H. dwelt upon the importance of the service rendered by Count de Grasse, in extending his stay beyond his orders, and contrasted it with the conduct of d'Estaing, who refused to comply with a like request; the consequences of which produced mischievous effects to the United States. He hoped, therefore, an allowance would be agreed to for five or seven years.

Mr. Brooks believed the committee differed more as to the manner of doing the business than on the question itself. He thought there were few members in the House who would refuse aid to the petitioners in one way or the other. Mr. B. moved to insert five years, or to leave the time a blank for which the grant should be made. He moved the latter.

Mr. Rutledge seconded the motion. He was as much disposed as any gentleman to give relief to the petitioners, and he liked the present shape of the resolution much better than any other which had been presented. He did not wish the allowance to be for life, nor whilst their residence should be deemed necessary. He looked upon the services of the Count de Grasse as of great consequence to this country, and that the situation of his daughters called for relief. But he could not subscribe to the doctrine of his colleague, that he had rendered more important services in the war than any other man. To assert this, he thought, was not doing justice to our own citizens. He believed he could mention a dozen men who had rendered as important services as he; but in mentioning one he might give offence to others, equally deserving, and he did not wish to hurt the feelings of any of our brave fellow-citizens. Nor did he admit that the services of the Count were voluntary; the report showed that they were very earnestly solicited. He was, however, in favor of providing for the young ladies. He thought the services of the father were such as claimed the attention of the House to their situation.

Mr. Sewall liked his own proposition better than the substitute; but as he wished to afford relief to the petitioners in some way, he would withdraw his motion to make room for it.

Mr. Williams offered some remarks upon what had fallen from the gentleman from South Carolina [Mr. Harper] with respect to his tender feelings; and concluded with observing, if it were a loan only which was wanted, the proposition should be so expressed.

Mr. Bayard did not understand that what the gentleman from South Carolina [Mr. Harper] had said went to disparage the services of any officer of the United States. He thought the warmth and enthusiasm with which that gentleman plead the cause of the memorialists was highly honorable to him. He did not understand the services of the Count de Grasse to stand upon the same footing with those of our own citizens; for, though their services were not sufficiently compensated, yet they received something, but he or his family never received anything by way of compensation, except what had been allowed to his daughters. If, therefore, he were to be put upon the same footing with our own citizens, his family would be entitled to make a larger demand than any allowance they were proposing to make them.

Mr. Livingston apprehended it was very immaterial whether the resolution was agreed to in a limited way, or for life; in either case, he had a strong conviction on his mind that the justice and humanity of the country would never suffer these ladies to want whilst they remained in it. Mr. L. severely censured what had fallen from his colleague [Mr. Williams] and charged him with a want of feeling to all claims, though he objected to this, because the demands of our own citizens were unattended to. He added, that his constituents would not thank him for this penuriousness. Some gentlemen had objected to the proposition from Constitutional scruples, thinking the Constitution did not authorize them to extend a grant to this case. These gentlemen were entitled to more respect. He paid due deference to their opinions; but he felicitated himself that these objections had no weight with him. He acted from those warm principles of benevolence which he hoped always to preserve. When the Constitution of the United States was framed, it was intended for the general good; and in this was included the power to reward services which have a claim upon our justice and humanity: for though these services might not be reduced to a demand in pounds, shillings, and pence, yet if they were such as required attention from national generosity and national justice, they ought to be heard, and such were the services, all must allow, of Count de Grasse.

Mr. L. urged the importance of these services to the United States, and asked whether the House would deny the poor pittance proposed to be given, when these were considered. He deprecated the idea of granting anything to the

petitioners on the ground of *charity*. The resolution did not propose this. It proposed a grant in consideration of important services. This ground was honorable, that pitiful. He should be ashamed to ask charity for the petitioners; he asked *justice:* he believed they were not disposed to ask *charity*. Mr. L. concluded by justifying the committee in making the report they had made, as the only one which, in their opinion, would be equal to the adequate relief of the petitioners.

Mr. Harper rose to justify himself against a charge of disparaging the merits of our own brave officers. He did not expect, when it was well known that no man had ever shown a greater regard for this class of citizens than he had done, that such a sentiment should for a moment have been harbored by any gentleman in that House. But he did say, and would again say, that no single individual had it in his power to do so important an act for the United States, as the Count de Grasse had done, though he knew there were thousands, and tens of thousands of our citizens, who would be ready to do it, if they were placed in the same situation.

Mr. Williams answered the remarks of his colleague, (Mr. Livingston,) and denied that he had ever been backward in attending to the claims of his fellow-citizens; he had always been ready to do them full justice. As to his constituents not thanking him for objecting to this claim, he thought they would be better satisfied with his conduct than if he were to commence a system of *pensions*.

Mr. Sheppard did not think any gentleman would have objected to the proposed allowance. No one officer, he said, ever did such important services for the United States as the Count de Grasse; and he was certain that no officer in the army would feel hurt at what had fallen from the gentleman from South Carolina on the subject. They would be glad to hear of our own officers and soldiers being fully compensated; but if this could not be done, they would be glad to find foreigners more fortunate. He hoped the resolution would pass; if not, they should appear odious, not only to their own country, but to every other.

After a few words from Mr. Hartley and Mr. T. Claiborne, in favor of the resolution, the question was put and carried, without a division.

The committee rose, the House took up the resolution, (the time and sum both being blank,) and agreed to it, 57 votes being in its favor. It was referred to the select committe to bring in a bill.

CITIZENS ENTERING FOREIGN SERVICE.

Mr. Harper said, that at the last session there was a bill brought forward for prohibiting citizens of the United States from entering into the military or naval service of any foreign Prince or State, which was agreed to in that House, but finally postponed. As the same reason existed for the bill now as existed then, he wished to have it again brought before the House, and for that purpose proposed a resolution for the appointment of a committee to report such a bill.

Wednesday, January 3.

Mr. Thatcher presented a petition from John Breadley and other deputy postmasters, in the State of Massachusetts, stating that when they received their authority, and gave bonds for the due performance of their office, it was understood that they were not to be accountable for the loss of bank notes, or other valuble papers which passed through their offices, but that a legal decision had lately taken place which had determined that the post offices were liable for all such losses; which determination, it was apprehended, would subject them to be speculated upon by designing persons, who might allege they had sent notes, &c., by the post, which never had been sent. They pray, therefore, that when the Post Office law shall come under consideration, a clause may be inserted in it declaratory of the law in this respect.

Referred to the Committee on Post Offices and Post Roads.

Mr. Harper, from the Committee of Ways and Means, to whom was referred a resolution on the expediency of admitting licences for distilling spirits to be taken for a week, reported it as the opinion of that committee that the proposition ought not to be adopted. The report was twice read, and referred to the same Committee of the Whole to whom was referred the bill relative to the duty on spirits.

Mr. Dawson reported a bill to provide for the payment of the interest of a certificate given by the United States to General Kosciusko, which was twice read and committed for to-morrow.

UNIFORM BANKRUPTCY.

Mr. Harper, from the committee appointed to consider the subject of a bankrupt law, was directed by the committee to present the report, which he laid before the House the day before yesterday. It was in the following words:

"The committee to whom was referred the following resolution, '*Resolved*, That a committee be appointed to prepare and report a bill for establishing an uniform system of bankruptcy throughout the United States,' having taken the matter into consideration, beg leave to submit the following report:

"In so complicated, and, as respects this country, so new a subject, as a system of bankruptcy, it must be expected that many difficulties will occur, that many objections will arise, and that many doubts will be entertained, as to the possibility, and even as to the advantages, of such an establishment. Such doubts and difficulties have presented themselves forcibly to the committee, even in this preliminary stage of the business; but, without undertaking to decide how far it may be practicable to surmount them, they conceive that the attempt ought to be made. They are of opinion that this institution is greatly desired by the mercantile part of the community, on which it is calculated more peculiarly to operate; and they can see no reason to doubt of its beneficial effects in the support of mercantile credit, the prevention of fraud, the restraint of imprudent and destructive speculation, and the relief of honest industry, reduced to distress by the vicissitudes of trade, provided it can be adopted under such modifications as may obviate the objections, and prevent the abuses, whereto it is supposed to be liable.

"Whether this can be accomplished is, in the opinion of the committee, to be ascertained only by the introduction and full discussion of a bill, where every provision may be brought into view, and all those details presented by which the benefits of such an institution are to be resulted, and its inconveniences avoided. When the difficulties attending this measure shall have been fairly encountered, should they be found insurmountable, the public, it is presumed, having the reasons of the decision fully before them, will acquiesce in it with more cheerfulness. The States, too, in that case, knowing that Congress have considered the subject, and found it impracticable, on a scale so extensive as the whole Union, will no longer be prevented, by expectations from that quarter, from attempting local establishments for themselves.

"The committee are, therefore, of opinion that it is expedient to adopt the aforesaid resolution."

The report having been read, Mr. Harper moved that it have a second reading for the purpose of being concurred in; which motion being carried, 43 to 27, and the House having concurred in the report, a committee of five members was appointed to report a bill accordingly.

APPROPRIATIONS FOR 1798.

Mr. Harper, from the committee of Ways and Means, reported a bill for making certain, partial appropriations for the service of the year 1798, and for other purposes; which was twice read, and ordered to be committed to a Committee of the Whole to-day.

On motion, the House immediately resolved itself into a Committee of the Whole on this bill, Mr. Kittera in the Chair; when, the bill having been read,

Mr. Varnum wished to be informed as to the captures which had been made from the British, within the waters of the United States. He thought there could not be many of this description.

Mr. Harper said, if the gentleman would turn to the letter of the Secretary of the Treasury on this subject, he would find that two awards of this description had already been made, amounting to $24,921, and that others were expected to be made, or might now be made, which would require the remainder of the sum proposed to be granted. The number of vessels which came under this article he never understood to be great; he never heard of more than four or five.

Mr. Varnum did not feel willing to appropriate a larger sum than was necessary to meet the awards already made. It would be time enough to appropriate for other awards when they were made.

Mr. Harper read an extract from the letter of the Secretary of the Treasury on this subject. The vessels already awarded for were, he said, the Jane, and the Lovely Lass; the remainder of the sum was by estimate. When the other awards would be made was uncertain; they might be already made, or they might not be made for a few weeks; but, whenever they were determined, it was proper there should be money in the Treasury to meet the demand; and, if it were not wanted, it would of course go to the surplus fund.

The committee rose and reported the bill. The House took it up; when

Mr. Varnum moved to strike out the sum of $32,000, in order to insert $24,921, the amount of the awards made.

Mr. Lyon seconded the motion.

Mr. Coit said, that the mode proposed by the bill was the orderly course of doing business, which was, to have money in the Treasury to meet demands against the Government as they became due. With respect to the $24,921 already due, the ordinary mode had been departed from, as the awards were made in October last, but were not paid for want of money. He presumed gentlemen did not wish to introduce a new system in the money transactions of Government; if not, they would agree to the bill as reported.

Mr. Bayard said, if they meant to preserve the good faith of the nation, it was necessary to make the appropriation proposed by the bill. To show this, Mr. B. read an extract from the British Treaty, in which it was stipulated that "the amount of the awards should be paid at the time and places specified." But if money were not appropriated for the purpose, this could not be done.

Mr. Varnum replied that, if it should be necessary to appropriate this money during the present session, it was not necessary to prepare it in this bill. He wished it to appear in the general appropriation bill.

Mr. Kittera said, that the same reasoning would apply in respect to the $100,000 proposed to supply the deficiencies in former appropriations; as, though that sum was wanted for the service of the year 1798, it was not all wanted immediately, though it might be necessary before the general appropriation could be made.

Mr. Lyon said, that if he had the same information with respect to the $100,000 which he had relative to the other sums, he should be equally opposed to it. He hoped the $24,921 would be agreed to, and that they should not have much more money to pay on this account.

The motion for striking out was put, and negatived, there being only 23 votes in favor of it.

The bill was ordered to be engrossed for a third reading to-morrow.

DUTIES ON DISTILLED SPIRITS.

Mr. Harper moved the order of the day on the bill to amend the several acts for laying a duty on spirits distilled within the United States, and on stills; which motion being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. Kittera in the Chair. The bill having been read,

Mr. Macon said, that the report of the Committee of Ways and Means, on the proposition for allowing distillers to take licenses for a week, having been referred to that committee, if it were taken up at all, this was the proper time. He should, therefore, propose an additional section to the bill, to embrace this object.

Mr. M. accordingly presented a section to allow of weekly licenses.

This motion produced a considerable debate

It was opposed by Messrs. SEWALL, GRISWOLD, GALLATIN, GORDON, and BROOKS, on the ground that the duty now paid upon spirits distilled from fruit (which description of distillers this regulation was avowedly intended to accommodate) was not equal to that paid by distillers of grain, as the duty on spirits distilled from fruit was not more than two and a half cents per gallon, whilst that on spirits distilled from grain paid seven cents; and, if the amendments were agreed to, this inequality would be increased—for persons who took a license for a week, by preparing their materials beforehand, and working night and day, would finish their business within that time, which otherwise would have required a fortnight; by which means the duty would be reduced from six cents per gallon, on the capacity of their stills, to four; that it would increase the temptation to fraud, as that temptation was strong, or the contrary, in proportion to the length of time for which a license was taken; as a person taking a license for a fortnight, by working his still one day past the time specified in his license would gain half a cent a gallon on the capacity of his still, whilst he who took out a license for six months would only gain half that sum. If licenses for a week were allowed, the temptation would therefore be increased; that such a regulation would greatly augment the duties of excise officers, without rendering any material advantages to individuals—since, if the owner of a still of fifty gallons took out a license for a fortnight, when a week might have served, he would only pay a dollar more than he would have paid for a week; that when this scale of duties was made, reference was had to the situation of persons who would be obliged to take out a license for a fortnight, though they might not have fruit to employ a still more than a few days, and a rate proportionably low adopted; that the same reasons which were urged for allowing licenses for a week might be urged for allowing one for two days; that, though there might be some inconveniences experienced by the distillers of fruit, (as it was not doubted there might be in other parts of the law,) yet, as it was only just got into operation, it would not be right to enter into the proposed regulation, but defer it to the period when it would most probably be necessary to go into a review of the whole law.

The motion was supported by Messrs. MACON, HARRISON, HARPER, J. PARKER, NICHOLAS, VENABLE, R. WILLIAMS, NEW, DENNIS, T. CLAIBORNE, and CLAY. It was asserted that the law as it now stood excluded four out of five of the owners of orchards in the Southern States from distilling their early fruit at all; that their peaches ripened hastily, and as hastily rotted, if not made use of. Persons who had only fruit to employ their stills for three or four days, sooner than take a license for a fortnight, suffered their fruit to rot; and to allow licenses for a week would produce a considerable augmentation of the revenue, since those persons only would take such a license, who, if that privilege were not allowed, would not take out a license at all, or such as had occasion to distil a few days longer after their two weeks' license was expired. It was unjust to require a man, who had only a small orchard, and occasion to use a still but a few days, to pay a much higher duty upon his brandy than his more opulent neighbor. It was not so inconsiderable an object as gentlemen supposed, since it had not reference to one license only—farmers in the Southern States having occasion to take out separate licenses for their early, their middle, and their latter fruits; and this regulation would not open a door to fraud, as was supposed. It was an undeserved imputation upon the characters of persons concerned in this business, to suppose they could be tempted to defraud the revenue for the sake of half a cent per gallon upon what they could distil in a day. The penalties consequent upon fraud, if the virtue of the persons concerned could not be relied upon, were sufficient to guard against them; and, if they were not, it could not be expected, as some gentlemen seemed to suppose, that the excise officers should overlook the conduct of every distiller. If they were to be so inspected and scourged, an attempt to defraud the revenue could scarcely be blamed; and, except it were the intention of gentlemen to crush this domestic manufacture, no reasonable objection could be urged against the proposition. The objections which had been urged proved the ignorance of gentlemen in respect to this branch of business; for, though the excise officers would have some trouble in issuing licenses, it was believed they would be well satisfied to encounter it, since their profits were in proportion to the quantity of spirits distilled; and though this law had been but a short time in being, the last season, having been a scarce fruit season, had given a good opportunity of trying it. As the application for this amendment was seconded by the whole of the Southern country, it was entitled to respect, and ought not to be branded with being a fraudulent design upon the revenue.

In the course of the debate, Mr. GALLATIN called upon gentlemen acquainted with the subject, to say what was the quantity of spirits which could be distilled from peaches in a week by a still of the capacity of thirty, forty, or fifty gallons, with a view to show that this species of spirits paid less at present than spirits distilled from grain.

Mr. CLAY answered this inquiry, by saying, that a still of fifty gallons would distil from five to seven gallons of brandy a day. If the weather was wet, and the peaches rotted quickly, not more than five; but when the weather was dry, and the peaches sound, seven gallons might be produced.

The question on the amendment was at length put and carried—45 to 37.

Mr. DENNIS said, he wished to try another principle in this bill. The law at present required an annual entry of stills, whether they were used or not, which occasioned persons frequently to ride twenty or thirty miles to make the entry, when they had no intention to make use of their still; and not unfrequently, from not meeting with the officers at home, this journey was taken two or three times over. Indeed, he believed, more penalties had been incurred on account of this regulation than any other, and he looked upon it as a useless regulation. When a still was once entered, he thought it was sufficient, and no future entry ought to be required, except when a still was about to be made use of, or when it was transferred into other hands. Mr. D. proposed a section to this effect; but, after some objections to the introduction of so important a provision into this bill, (which, before it could be decided upon would require considerable discussion,) by Messrs. HARTLEY, GALLATIN and HARPER, he agreed to withdraw it for the present.

It having been agreed to fill the blank of the sum per gallon to be paid on the capacity of a still, when a license was taken for a week, with *four cents*, the committee rose; the House took up the amendments, agreed to them, and the bill was ordered to be engrossed for a third reading to-morrow.

THURSDAY, January 4.

Mr. HARPER reported a bill prescribing the mode of taking evidence in cases of contested elections, and to compel the attendance of witnesses; which was twice read, and committed for Monday.

A message was received from the Senate, communicating a bill for allowing compensation to the Doorkeeper of the Senate, and his assistant, for the last session of Congress. This bill was twice read, and committed for to-morrow.

The bill for making certain partial appropriations for the service of the year 1798; was read the third time and passed.

Also, the bill to amend the several acts for laying a duty on spirits distilled within the United States, and on stills.

Mr. J. WILLIAMS called up for decision the resolution which he laid upon the table the other day, proposing the appointment of a committee to consider whether the office of Commissioner of the Revenue might not now be dispensed with. The resolution was agreed to, and a committee appointed.

Mr. DAWSON moved the order of the day on the bill providing for the payment of the interest on a certificate due to General Kosciusko; which being agreed to, the House went into a Committee of the Whole on the subject; and, after reading the bill, rose and reported it. It was ordered to be read a third time to-morrow.

Mr. HARPER called up for decision a resolution which he laid upon the table the day before yesterday, proposing the appointment of a committee to bring in a bill to prohibit citizens of the United States from entering into the military or naval service of any foreign Prince or State.

The resolution was carried—46 to 22, and a committee of three appointed.

Mr. LIVINGSTON reported a bill authorizing the payment of certain sums of money to the daughters of the late Count de Grasse; which was twice read, and committed for to morrow.

Mr. SPRIGG said, that by a law of Congress passed in 1789, the regulation of pilots was left to individual States. Much inconvenience had arisen on this account from the clashing laws of different States, particularly from those of Virginia and Maryland, which caused considerable embarrassment in the Chesapeake and Potomac. To remove this evil, or at least to call the attention of the House to this subject, he proposed a resolution to the following effect:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency or inexpediency of making further provision in the law for the regulation of pilots, and that they report by bill or otherwise."

The resolution was agreed to.

WILLIAM BELL.

Mr. LIVINGSTON, from the Committee on Commerce and Manufactures, made a report on the petition of William Bell, at present imprisoned in this city for the nonpayment of a custom-house bond. The committee report unfavorably in this case. They had some doubts as to the law passed in 1796, for the relief of persons confined for debt, whether it were intended to operate in favor of persons imprisoned at the suit of the United States. They accordingly addressed the Attorney General upon the subject, who was of opinion it did. Some legal decisions having, as the committee understood, been differently made, they thought it best, at present, not to recommend any explanatory law, but to decline affording any relief to the petitioner, and wait the issue of a determination of the Supreme Court; as, if that decision should be in favor of this class of debtors, there would be no occasion for the interference of the Legislature; if not, an explanatory act might afterwards be passed.

After a few observations from Messrs. LIVINGSTON, MACON, and NICHOLAS, the report was committed for Monday.

THE MINT.

Mr. HARPER moved that the Committee of the Whole be discharged from a further consideration of the letter from the Secretary of State, enclosing a report of the Director of the Mint, suggesting the expediency of some alterations in its establishment, to render it less expensive to the public, and more accommodating to depositors, in order that it might be referred to the Committee of Ways and Means. As he supposed it was intended to appropriate a sum of money for the purpose of purchasing bullion, it was proper the subject should go to that committee.

Mr. NICHOLAS wished, before anything was done in the matter, to know the issue of the bill at present pending relative to foreign coin. If it should be disagreed to, and the circulation of foreign coin were to be stopped, he supposed there would be no necessity for appropriating money for the purchase of bullion.

Mr. HARPER thought that, notwithstanding the bill which the gentleman alluded to, was not yet decided upon, he saw no reason why the course he proposed should not be taken, since the Committee of Ways and Means could in the mean time be

turning its attention to the subject, without reporting upon it, until the bill now in its passage, was decided upon.

Mr. Gallatin did not think it proper that this subject should go to the Committee of Ways and Means at present. The House ought first to decide whether they will make an appropriation for this object. If they so determined, the resolution would, of course, be referred to the Committee of Ways and Means. It was proper, also, that an inquiry should be made, (which, he understood, it was the intention of a gentleman to bring forward,) why the Treasury Department had not carried the former law into execution, which required all foreign coin, except Spanish dollars and parts thereof, which came into their hands, to be recoined before it was reissued. Mr. G. said, there would be the same propriety in sending a proposition for raising of an army to the Committee of Ways and Means, as there would be in sending the letter and report in question.

Mr. Harper knew the House must determine whether any appropriation should be made for the object in question; but it was for the Committee of Ways and Means to say how the business could best be done, and whether there was money enough in the Treasury for the purpose, or whether a tax would be necessary to effect it. But, if the subject were discussed before any report was had from the Committee of Ways and Means, it would be used as a strong argument against the measure, that there would be need of additional taxes to meet the appropriation.

Mr. J. Williams wished, before they took any step in this matter, to know the fate of the bill in the Senate, with respect to foreign coin.

This motion was put and negatived, without a division.

Mr. Havens submitted a resolution to the following effect:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House such information as it is in his power to give respecting the execution of the third section of the act to regulate foreign coin, and for other purposes, passed February 9, 1793, and which directs that all foreign gold and silver coin, except Spanish dollars and parts thereof, which shall be received in payment by the United States, after the coining of gold and silver coin shall begin at the Mint of the United States, shall, previous to its being reissued into circulation, be coined anew; and if this part of the law has not been executed, to explain the causes which prevent its execution."

Some objections were made to this resolution.

A motion was made by Mr. Kittera to amend it, by striking out all which follows "February 9, 1793;" but, after a few desultory remarks upon this motion, it was superseded by one made by Mr. Gordon to postpone the question till to-morrow; which was carried.

CANADIAN REFUGEES.

On motion of Mr. J. Williams, the House resolved itself into a Committee of the Whole on the bill for the relief of Nova Scotia and Canadian refugees. The bill was read, and several amendments introduced into it; the principal of which were, one to reduce the age of persons entitled to land from eighteen to fourteen years at the time of their entering the territory of the United States; the other, to extend the allowance to female as well as male refugees, who were of that age at the time of their emigration. At length the committee rose, and asked leave to sit again; but leave was refused by the House, and the bill was recommitted, in order to make it conformable to the amendments.

Friday, January 5.

The bill for the payment of interest on a certificate due to General Kosciusko, was read the third time and passed.

EXPERIMENTAL LINES.

The Speaker laid before the House a letter and report from the Secretary of War, in pursuance of a resolution of the House of the 28th ult., relative to the running of the line of experiment from Clinch river to the Chilhowee mountain, by order of the Governor of the Territory of the United States south of the Ohio; which was read.

Mr. N. Smith moved the usual order of printing.

Mr. W. Claiborne hoped the motion would not be agreed to, as it would unnecessarily protract the business. Though the report was very long, most of it was irrelevant to the inquiry which had been made, which only was to know whether the line of experiment was run by the authority of the United States. This fact, he said, must appear at once evident, and the House was as well prepared to discuss the subject as they could be when their report was printed. He hoped, therefore, further delay would not take place with respect to the situation of these distressed and injured people—a situation which must be lamented by all who could feel for deep distress.

After a few other observations, (and being informed by the Clerk, on inquiry, that the report might be printed by Monday,) the motion was agreed to, and the report was referred to the Committee of the Whole, to whom was referred the remonstrance and petition of the State of Tennessee.

INCREASE OF CLERKS.

A Message was received from the President of the United States, enclosing a report from the Secretary of War, of the 30th December, stating that the five clerks at present employed in the War Office, to whom were paid the following annual salaries, viz: $1,200, $900, two $770, and one $400, were insufficient to do the present business, and wishing a larger appropriation, to enable him to increase the number. Referred to the Committee of Revisal and Unfinished Business.

FOREIGN COINS.

Mr. Havens called up the resolution which he yesterday laid upon the table, respecting the execution of the act relative to foreign coins; which motion being agreed to,

Mr. Kittera renewed his motion for striking

out all the words following the date; which was carried—46 to 39.

The motion being on agreeing to the resolution as amended,

Mr. Otis said, since the latter part of the resolution had been agreed to be stricken out, he had no great objection to it; but he wished to know the object of the gentleman in bringing it forward. It appeared to him calculated to have no effect, except to cast a reflection upon the Treasury Department.

Mr. Havens said, the object which he had in view was to show that one of the most important clauses of the law in question had not been executed. That law directed, that as soon as the Mint commenced its operations, all the foreign coins received at the Treasury should pass through the Mint. No doubt could be had that the law had not been executed in this respect, and he had no doubt that it could not be executed; and if it could not, the House ought to repeal it. There were other parts of the law which were not executed, and therefore it ought to be revised and amended. Mr. H. denied having any intention of reflecting upon the Treasury Department; his only object was to obtain information.

Mr. Rutledge looked upon the measure as harmless, but unnecessary, and therefore he should oppose it. He believed it had been shown, in a former debate, that the Treasury had been straitened for money; that it could not comply with the terms of the act, except the Secretary had suffered the creditors of Government to wait for their money until it could be recoined, which, in his opinion, he wisely determined not to do.

Mr. Venable said he was upon the committee appointed to report upon the subject of foreign coin. At that time, he found it necessary to make some inquiry of the Secretary of the Treasury, how it had happened that the law in question had not been carried into effect. The reasons given, were those assigned by the gentleman who had just sat down. He believed there was another reason. The money received in all the out-ports was not sent to the Treasury in cash, but in notes. Very little cash, he believed, came into the Treasury. It was true, the paper received would command cash from the banks; and if it could have been got in time from the Mint, it might have been so obtained and sent there. If official information on this point were wished, it could certainly be got; but he thought if anything was done, it would be better to revise the business generally.

Mr. Nicholas said, there was a proposition committed to a Committee of the whole House for providing for what was intended to have been produced by means of this law. It was supposed that this law would have produced bullion enough, and that the quantity of coin issued from the Mint would have reduced the circulation of foreign coins to a mere trifle. The House had been told it had not been convenient for the Secretary of the Treasury to send foreign coin to the Mint; but it was not known to a certainty why this had not been done—whether it was from the tardiness of the Mint, or from the inability of the Treasury. No one could say whether this law could be carried into effect in future. The only way in which this could be ascertained was by the inquiry proposed.

Mr. Gallatin believed, if the gentlemen who objected to this resolution would recur to the situation of this business, they would withdraw their opposition. The report of the committee appointed on the subject of the Mint last year, not having been acted upon, had been referred to a Committee of the Whole this session, and might any day be called up for consideration. That report proposed the passage of a resolution appropriating —— dollars for the purchase of bullion. This resolution was predicated upon a supposition that the act in question had not and could not be carried into effect. But the reason assigned for this supposition was now removed, as it was founded upon the ground of the President not having issued his proclamation to determine the time when the coining at the Mint should begin. That proclamation had now been issued, and he wished to know whether there was yet a necessity for an appropriation; he wished to know how far the law had been executed, what had prevented its execution, and whether in future it could be executed. If it were found, by the information which should be received, that hereafter all the foreign coin which comes into the Treasury may be sent into the Mint, there would be no necessity for an appropriation; but if this regulation could not be carried into effect, the law ought to be repealed, and an appropriation made.

Mr. Otis said, the reasons which had been given in favor of adopting this resolution were, in his opinion, reasons against it. Though he believed the law never could be literally executed, he believed it had been virtually executed. It was allowed, that before the report of last session, there was sufficient reason for not carrying the law into effect; and since that time, it appeared by the Mint report, that upwards of $50,000 had been sent to the Mint from the Bank of the United States, which he supposed was a larger proportion of the cash received by the Treasury in crowns, and, of course, proved that the act had been executed since that time. He believed the law could not be literally executed, because the notes of the Bank of the United States were made a tender for all money due the Government; and it was well known that all money transactions, particularly where there were banks, were mostly carried on in notes. It might be said, these notes were representatives of specie, and that specie might be got for them; but if Government were always to call upon the Bank of the United States for specie for their notes, where would be the use of making them a legal tender? But if the bank were to be called upon for specie, when they knew it were intended to send crowns to the Mint, they would make payment in dollars. Upon the whole, as there seemed to be some contrariety between this law and the bank law making the paper of the United States a lawful tender, it would be best to refer the business to a select committee to have it properly digested, and not single out this particular, so as to cast a reflection upon the Treasury Department.

Mr. NICHOLAS said he had before declared he had no intention of casting a censure upon the Treasury Department. The gentleman asserted that the law had been virtually executed, for two reasons: first, because the revenues being chiefly paid in bank paper, it had nothing to operate upon. This was a strange way of executing the law. The gentleman would admit, if one arrangement in a law interfered with another, it must wait revisal. If the manner of conducting business at the bank put it out of the power of the Treasury to execute the law, it might be necessary to enter into some stipulation as to the proportion of French crowns which they should refund to the Government, in consideration of the deposites which were made with them. The gentleman's other argument was a very extraordinary one, that, because the Bank of the United States had sent the value of $50,000 in French crowns to the Mint on its own account, the law had been virtually executed. But, even supposing these crowns could be considered as coming from the Treasury, he wished to know what would be the future operation of the law, which information the resolution was calculated to produce.

Mr. KITTERA said the latter part of the resolution having been done away, which to him was very objectionable, he should not oppose the remainder. If any gentleman wished for information from any Department of the Government to enable him to legislate upon a question, he should never be against it. He believed their laws would be more consistent, if more frequent calls were made.

The motion was put and carried without a division.

COUNT DE GRASSE.

Mr. LIVINGSTON called for the order of the day on the bill for granting an annuity to the daughters of the late Count de Grasse; which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. DENT in the Chair; and, after a number of desultory observations, the blanks were filled up, viz: the time for which the annuities should continue was fixed at five years, and the sum per annum to be allowed at $500 each. The first question was determined by a considerable majority, there being 57 votes in favor of it; the latter was carried—46 to 38.

The committee then rose and reported the amendments. They were all agreed to without a division, except the sum to be allowed per annum. When that question was put,

Mr. J. WILLIAMS hoped it would not be agreed to. When the subject was before under discussion, the question on $500 and $400 had been negatived. $500 a year for the four daughters for five years, he said, would be $10,000. He thought this a very serious sum. He again adverted to the situation of many of our own citizens, and called for the yeas and nays upon the question.

Mr. HARPER asked whether, if when the Count de Grasse was solicited to remain with the fleet under his command in the Chesapeake, at his own risk and responsibility, he had asked as a condition that on some future day $10,000 should be granted to his daughters, would it not have been complied with, if it had been ten times that sum? And ought his descendants to be more hardly dealt with because their father had the generosity and magnanimity not to make the demand? He trusted not.

After some observations in favor of concurring with the Committee of the Whole in their vote, by Messrs. THATCHER, BROOKS, LIVINGSTON, and GORDON; and against it by Messrs. VARNUM, McDOWELL, and MACON—the former of whom said that the clergy, in his part of the country, had not more than three hundred and thirty dollars a year; and the latter gentleman produced three cases of our own citizens who had lost their lives in the service of the United States, whose families had been much more hardly dealt with, viz: the family of a Lieutenant Colonel, who had four hundred and fifty dollars a year granted them; that of a Major, three hundred dollars a year; and that of the Marshal of Georgia, whose family had a grant of two thousand dollars—the yeas and nays were taken, as follows:

YEAS—John Allen, David Bard, James A. Bayard, David Brooks, John Chapman, James Cochran, John Dawson, John Dennis, Thomas Evans, Abiel Foster, Albert Gallatin, William Gordon, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Joseph Heister, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, James Machir, Blair McClenachan, Daniel Morgan, Lewis R. Morris, Isaac Parker, Thomas Pinckney, John Rutledge, jr., Samuel Sewall, William Shepard, Thomas Sinnickson, Tompson J. Skinner, Nathaniel Smith, George Thatcher, Richard Thomas, John E. Van Alen, Philip Van Cortlandt, and Peleg Wadsworth—40.

NAYS—George Baer, jr., Abraham Baldwin, Bailey Bartlett, Thomas Blount, Stephen Bullock, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Joshua Coit, Samuel W. Dana, George Dent, Jonathan Freeman, James Gillespie, Chauncey Goodrich, Andrew Gregg, Roger Griswold, John A. Hanna, Jonathan N. Havens, David Holmes, Matthew Locke, Samuel Lyman, Matthew Lyon, Nathaniel Macon, Joseph McDowell, Anthony New, Harrison G. Otis, John Reed, James Schureman, William Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams—43.

The question for allowing five hundred dollars a year being negatived, four hundred was proposed and carried—46 to 34.

The question being on the bill being engrossed for a third reading, Mr. BLOUNT called for the yeas and nays upon it. It was carried—55 to 25, as follows:

YEAS—John Allen, David Bard, Bailey Bartlett, James A. Bayard, David Brooks, John Chapman, Thomas Claiborne, James Cochran, John Dawson, John Dennis, Thomas Evans, Abiel Foster, Jonathan Freeman, Albert Gallatin, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison,

Thomas Hartley, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, Samuel Lyman, James Machir, Blair McClenachan, JosephMc Dowell, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Tompson J. Skinner, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Peleg Wadsworth.

NAYS—George Baer, jr., Thomas Blount, Stephen Bullock, Demsey Burges, Samuel J. Cabell, William Charles Cole Claiborne, Matthew Clay, John Clopton, Joshua Coit, Samuel W. Dana, George Dent, James Gillespie, Andrew Gregg, Jonathan N. Havens, Matthew Lyon, Nathaniel Macon, Anthony New, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, John Williams, and Robert Williams.

MONDAY, January 8.

AMENDMENT OF THE CONSTITUTION.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I have now an opportunity of transmitting to Congress a report of the Secretary of State, with a copy of an Act of the Legislature of the State of Kentucky, consenting to the ratification of the amendment of the Constitution of the United States, proposed by Congress in their resolution of the second day of December, 1793, relative to the suability of States. This amendment having been adopted by three-fourths of the several States, may now be declared to be a part of the Constitution of the United States.

JOHN ADAMS.

UNITED STATES, *January* 8, 1798.

The bill authorizing the payment of certain sums of money to the daughters of the late Count de Grasse, was read a third time and passed—41 to 24.

Mr. LIVINGSTON reported a bill in addition to the act for the relief and protection of American seamen; which was twice read and committed for Wednesday.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. McDOWELL wished to call the attention of the House to a subject which he thought it was time to take under consideration—he meant the subject of William Blount's impeachment. A report had been made several weeks ago, which had laid upon the table without any order being taken upon it. The conduct of Mr. Blount, as well as of the British Minister, and others implicated with him, had much agitated the public mind. He had anxiously waited in expectation of the committee coming forward with articles of impeachment, which the House had pledged itself to exhibit to the Senate; but, as they did not seem disposed to enter upon the business, he wished to call upon them by a resolution. He proposed the following:

"*Resolved*, That the committee appointed to prepare articles of impeachment against William Blount, a Senator of the United States, impeached of high crimes and misdemeanors by this House, with authority to sit during the recess of Congress, be directed to report said articles."

Mr. HARPER hoped this resolution would lie upon the table. The chairman of the committee, (Mr. SITGREAVES,) it was well known, had obtained leave of absence for ten days. When he returned, the report, he believed, would shortly be made.

Mr. DAWSON could not object to this resolution. No one was more anxious than he to have the business brought forward. One of the committee (Mr. HARPER) had given the true reason of the delay. Before the chairman obtained leave of absence, he himself had frequently applied to him to call the committee together; but a variety of other business had prevented him from doing so. At this time another member of the committee (Mr. BAYARD) was absent. Only three members of the committee were in the House; the House must, therefore, either add fresh members to the committee, or wait the return of those who were absent.

Mr. McDOWELL was aware of the absence of the chairman of the committee, and had waited till the period for which he had asked leave was expired, before he brought forward this motion; but having been informed that he had been frequently applied to to bring forward the report, and as he had delayed to do so, he thought it proper to take this step in order to hasten the business.

Mr. N. SMITH was surprised that, after the gentleman, who moved this resolution, had consented to the leave of absence for the chairman of the committee, he should have brought forward his motion. If he had intended to bring forward this proposition he ought to have refused him leave of absence.

Mr. McDOWELL said, he had no other view in making his motion than of bringing the subject before the House; but if the gentleman from Connecticut would examine the Journal, he would find that five or six days had passed since the period was expired for which leave had been obtained for the chairman of the committee; and if gentlemen chose to absent themselves from their duty, it was no reason why the public business should be delayed.

Mr. THATCHER called for the reading of the Journal, by which it appeared that Mr. SITGREAVES obtained leave of absence on the 26th ultimo for ten days.

The resolution was ordered to lie on the table.

RELIEF OF OFFICERS AND SOLDIERS.

Mr. CORT moved the order of the day on the bill for the relief of the legal representatives of certain deceased officers and soldiers; which being agreed to, the House went into a Committee of the Whole on the subject, when the bill was read as follows:

"*Be it enacted, &c.*, That the representatives of such officers and soldiers of the Army of the United States

so died after the twenty-fourth day of March, in the year one thousand seven hundred and eighty-three, and before the third day of November in the same year, shall be entitled to all the emoluments to which the said officers and soldiers would respectively have been entitled if they had lived to the end of the war between the United States and Great Britain; and that the accounting officers of the Treasury be, and they are hereby, authorized and directed to allow the claims of such representatives, on application and proof made within the term of —— years from the passing of this act."

Mr. Blount said he never could see any reason why the representatives of soldiers who died in the service, should not have the same commutation of lands as those who were slain by the enemy, since the loss was the same to their surviving friends. He had before attempted to introduce this principle into our laws, and though he had been unsuccessful, he wished again to take the sense of the Committee of the Whole upon it, and proposed an amendment to that effect.

The motion was opposed, as being in itself of a questionable nature, but more particularly as being unconnected with the present bill, which, it was said, went merely to determine the time at which the war ought to be considered at an end. The motion was at length negatived, there being only 7 votes for it.

Mr. Pinckney moved to strike out the 24th of March, and to insert the 11th of April, the day on which hostilities ceased, and which he considered as the proper termination of the war. He could not see with what reason the 3d of November had been fixed upon; it was indeed the day upon which Congress discharged the Army, but it could not be considered as the day on which the war terminated.

Mr. Livingston called for a division of the question; first to agree to strike out, and then to insert.

Mr. Dwight Foster seconded this motion. He was not convinced that it was necessary to interfere in this business at all, as he was not certain whether more injury would not be done to the community, than would overbalance any benefit which might accrue to individuals by the proposed measure. This bill, he believed, was intended to relieve two individuals whose petitions had been before them. He presumed there might be several others in the same situation. The case of Mrs. Alexander, whose husband (Major General Stirling) died in 1783, had lately been before the House. The provisional articles of peace were signed in November preceding. The accounts of the officers and soldiers of the Army were settled up the 3d of November, 1783; but there were a number of cases of persons dying and leaving widows and orphans, between the period of signing the provisional articles and that period, who had received, agreeably to the provision in such cases, seven years' half pay. But, if this bill were adopted, these widows and orphans might, many of them, again come forward and claim a commutation of land. He did not suppose it was the intention of the House to invite all these accounts for a fresh settlement; if it were, he should wish an earlier period to be fixed upon than that proposed.

Mr. Evans proposed to strike out all the bill after the enacting clause, which he considered as somewhat contradictory, in order to introduce words which went expressly to declare the period of the termination of the war.

Mr. Gallatin was opposed to this motion. He considered the war as terminating either on the day on which the provisional articles were signed, or the day on which the definitive treaty was executed. The preliminary articles were signed on the 20th of January, 1783; but if the committee inserted this day, it would not answer the purpose of the petitioners, who prayed for commutation, as that was not provided until the 22d of March, 1783, and of course officers dying before that time could not be entitled to it, but to half pension. What day, then, should be fixed? It would be improper to fix any time, he said, as the conclusion of the war; the committee might agree upon any period for the compensation of our citizens. But did nothing else, he asked, depend upon Congress fixing a period at which the war ended? Such a determination would very materially affect the provisions of the treaty of 1783. It was not our interest to determine the war ended at an earlier period than had been acted upon. He thought the 24th of March the best time that could be fixed upon, in relation to our own Army, as it was the day on which Congress received the first intimation that peace existed.

Mr. Allen moved that the committee rise, and ask leave to sit again, in order to obtain further information on this subject.

Mr. Varnum was opposed to this motion; he thought the question might as well be decided now as hereafter. He did not think it prudent, when Congress had decided any important question, to agitate it anew, except there was some good reason for it. Congress had determined the war to close on the 3d of November. He thought the war could not be considered as closed until the definitive treaty was signed. He should, therefore, be against the bill altogether, as he thought Congress might as well fix upon any other day for the termination of the war as the 24th of March or the 11th of April. He did not know but there would be as much justice to include persons who died after the provisional articles were signed, or indeed all who died in the service, as to include the persons proposed to be covered by this bill.

Mr. Macon seconded the motion; because when leave was asked to sit again, the sense of the House could be taken whether leave would be granted for a further consideration of the business. The end of the war had been determined by a competent authority; by that authority which had enlisted the soldiers and commissioned the officers. This day was the third of November. If this bill passed, it would prove an opening wedge to all the old settlements. The petition upon which this business was brought forward, he allowed, was a hard case; but after a decision had been acted upon for fourteen years, he did not

think it would be proper for them to say Congress had been mistaken in this important matter.

After a few observations from Messrs. Coit, Dayton, and Otis, against the motion (in the course of which it was asserted that Congress never made any declaration as to the termination of the war, but that the 3d of November was merely the day on which the army was disbanded) and a few words from Mr. Livingston in favor of it, the question for the committee's rising was carried—there being 47 votes for it. And the motion for leave to sit again was carried 42 to 30.

LIMITATION ACTS, &c.

A report was received from the Secretary of the Treasury, on the subject of excepting certain claims from the operation of the limitation acts, in consequence of a resolution of the House of the 14th ult., which was referred to the Committee of the Whole on the subject.

Another report was also received from the same department, including statements of goods, wares, and merchandise, imported into the United States, for two years, from the 1st of October, 1794, in pursuance of a resolution of the House of the 3d of March last.

WHARF OWNERS, &c.

Mr. Livingston, from the Committee of Commerce and Manufactures, made a report on the petitions of the wharf-holders, &c., of Charleston, stating that the committee had found that the practice of wharf-owners employing persons to weigh goods, had been a great inconvenience both to the importing merchant and revenue officer; that in their opinion the claim of the wharf-holders was unreasonable in itself, and subversive of regularity, but as sufficient means were taken to prevent any further interruption of business, they suppose no interference of the Legislature was necessary.

The consideration of the report was postponed till to-morrow.

Tuesday, January 9.

Mr. Livingston, from the Committee of Commerce and Manufactures, to whom was committed the amendments of the Senate to the bill for the relief of North and Vesey, reported it, as the opinion of the committee, that they ought to be agreed to, and the report was concurred in.

Mr. D. Foster, from the Committee of Claims, reported a bill directing the Secretary of War to place certain persons on the pension list, which was twice read and committed for to-morrow.

Mr. Dennis proposed the following resolution for the adoption of the House:

"*Resolved*, That the Committee of Ways and Means be directed to inquire whether any, and, if any, what alterations are necessary in the several acts imposing a duty on spirits distilled within the United States, and on stills, so far as relates to the entry of stills, and that they be authorized to report by bill or otherwise."

TENNESSEE LAND TITLES.

Mr. W. Claiborne called for the order of the day on the report on the petition and remonstrance of the Legislature of Tennessee, which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. Dent in the Chair, and the report having been read, the following resolution was under consideration:

"*Resolved*, That the sum of —— dollars be appropriated for the relief of such citizens of the State of Tennessee as have rights to lands within the said State, by virtue of the cession out of the State of North Carolina, and have made actual settlements thereon, and who have been deprived of the possession of the said lands by the operation of the act for regulating the intercourse with the Indian tribes. The said sum to be subject to the order of the President of the United States, to be expended under his direction, either in extinguishing the Indian claim to the above described lands, in case he shall deem it expedient to hold a treaty for that purpose, or to be disposed of in such other manner as he shall deem best calculated to afford the persons herein described a temporary relief."

Mr. W. Claiborne moved to strike out all the words of the resolution after the word "for," in second line, and to insert "the extinction of the Indian claim to all or any part of the land within the limits of the State of Tennessee, in case the President of the United States shall think it expedient to hold a treaty for that purpose."

Mr. Venable hoped this motion would not be agreed to, and that the mover of it would not persist in it, as it might hazard the relief proposed to be given to the distressed citizens of Tennessee. He did not believe the House would consent to appropriate so large a sum as would be necessary to accomplish the object contemplated by his amendment. He was disposed to afford relief to the persons whose cases had been presented to the House, as he thought they had been hardly and unjustly used; but he was not disposed to go further at present.

Mr. McDowell seconded the motion, because, if it were necessary to hold a treaty with the Indians at all, the expense might not probably be much increased by extending it to other objects. He wished, therefore, that the Commissioners employed to negotiate a treaty should have it in their power, if they found the Indians disposed to enter upon the business, to treat with respect to other lands in which many citizens of Tennessee, of North and South Carolina, and other States, were deeply interested; whose lands, which many of them had earned by their hard services in the war, lay in that State, and the United States had stepped in, by the late treaty, and said they could not enjoy them. He was clear, from the articles of Confederation, and from the laws of the United States, that these people were entitled to justice, as well as those who had been driven by violence from the possession of their property.

Mr. Rutledge was of opinion, that, unconnected with the situation of the unhappy people who had been driven from their possessions, he thought this motion perfectly proper. He formed this

opinion from a reference to the Journals of the House. He had been induced, from applications made to him by citizens holding lands in that country, to examine into this subject. In looking over the acts of North Carolina, 1783, he found that State opened a land office for the redemption of certain claims for military and other services, by grants of land in their territory southwest of the Ohio. Afterwards, when North Carolina became one of the United States, she made a grant of this territory to the United States, upon certain conditions, one of which was, that the grants already made should not be altered or impaired; and yet, by the Treaty of Holston, the United States had, in violation of this contract, guarantied this land to the Cherokee Indians. If this were not a correct statement, he begged to be corrected; and if it were, it was a direct violation of the treaty with North Carolina. In private life, there would be a remedy at law for such a departure from contract; but, in this case, there was no remedy but by appealing to the justice of the Legislature of the Union. This appeal had been made, and he hoped it would not be in vain. The people of Tennessee say, either restore us to the situation in which we were, or return to us our money, with interest. What has been the proceedings of Congress on this business? The House of Representatives had formerly agreed that the certificates of the persons entitled to these lands should be funded, and interest allowed upon them; and that hereafter, when a treaty should be made with the Indians, they might receive their lands, on repaying their money. Another House of Representatives came to a similar resolution, but the Senate not concurring, the business fell to the ground.

But the gentleman from Virginia said this was an improper time to go into the business. He did not think so. If a treaty were to be held, he thought it ought to be extended to all the owners of land in this situation, as well as to that held by actual settlers. The difference of expense to the United States would be a mere *bagatelle;* besides, Government would be repaid with usurious interest by the sale of the land which would be obtained by a general treaty; whereas, if this were not the case, the expense of treaty would be lost. And if this course were not taken, the persons who had a property in this land would never fail to call upon Congress until their complaints were redressed.

Mr. Otis was not disposed to go into the merits of the claims which had been advocated by his friend from South Carolina. He was one of the committee who made the report, and had no objection to its being now agreed to, though he thought it would be more advisable to postpone the business for a few days, as he was informed that the President of the United States had nominated Commissioners for the holding of a treaty with the Indians for the extinguishment of the Indian claim to the lands in question, which nomination was before the Senate, and would probably be agreed to; and when the House was acquainted with the powers given to these Commissioners, they would know better how to act in the business. Besides, he thought it improper to do anything which should appear like an interference with business that belonged to the Executive Department. He thought, therefore, the original report ought to be agreed to, or that the committee should rise, and ask leave to sit again.

Mr. Macon was glad to hear that the President had nominated Commissioners for holding a treaty with the Indians on this subject, and he hoped the committee would proceed to appropriate money to enable him to effect the business. This, he said, would be no new thing, and it would be going hand in hand with the President, and enable him the sooner to carry his benevolent views into operation. In 1793, Congress appropriated a sum of money for treating with the Northwestern Indians, before they had any intimation from the President on the subject. He thought the amendment proposed preferable to the resolution reported, as it left the President to treat as he thought proper in the business.

Mr. Nicholas did not see much difference between the resolutions. The one reported was advisory, as well as the amendment. The first, indeed, went on to say the President might afford temporary relief to the persons who had been removed from their lands; but if it were thought improper, as he thought it was, to recommend a temporary relief to be given to these persons, who had been driven from their property, it was right to omit that part of it. He said, to object to the amendment, as being an interference with the Executive authority, was an unauthorized refinement. It was not asked, nor expected, that money should be distributed amongst these people by way of charity; they were deprived of their property, and they claimed a restoration of it. If the proposed resolution were agreed to, the President would still be at perfect liberty to act as he pleased. Indeed, the President having appointed Commissioners for holding a treaty, it would be acting in conformity with him thus to act.

Mr. N. concluded by reminding the House of the consequences which might arise from neglecting to attend to the just claims of persons who were so far removed from the seat of Government, and who had it in their power to do serious mischief to the United States.

The Chairman said, on recurring to the rules of the House, he found the amendment proposed was not in order, as it was a substitute for the original motion. The question was, therefore, upon the resolution as reported.

Mr. Goodrich hoped the committee would rise, in order that the report might be recommitted. The resolution reported had in view the temporary relief of the sufferings of the people who had been driven from their lands, and to empower the President of the United States, at his discretion, to extinguish the Indian title. But the member from Tennessee, who must be supposed to be best acquainted with the interests of his constituents, had now brought forward a more extensive proposition, which embraced the idea of an extinguishment of the Indian title to all the land of

Tennessee. He did not think the committee were ready to adopt so general a proposition, without further information. Besides, he thought the ground of this business was materially changed by the President's having named Commissioners to hold a treaty with the Indians; it would be best, therefore, to wait for a communication from the President on the subject, before the committee proceeded further. He would not have made this motion, if he had thought it would have occasioned a delay injurious to the petitioners; but, as the gentleman from Tennessee himself had given up the idea of affording temporary relief, he trusted a delay of a few days could have no bad effects.

Mr. W. Claiborne hoped the committee would not rise. The Chairman having decided his amendment to be out of order, the reason for making the motion no longer existed, as there was no new proposition before the House; the proposition which was now before the committee had been pending five weeks—a proposition which, he was persuaded, every member in the House must be well acquainted with, since not to think so would be to think them indifferent to the claims of their fellow-citizens, whom they represented equally with himself, who came there by their suffrages. If his amendment had not been declared out of order, he should have delivered some sentiments upon it, which would have shown that he did not intend to bring the subject before the House by surprise, but that he was actuated by the most honorable motives—by a wish to do justice, not only to the persons whose distressed situation had been laid before the committee, but to all those citizens of North Carolina, Tennessee, and other parts of the United States, who had a legal right to land which, by the Treaty of Holston, had been ceded to the Indians. But, by the decision of the Chairman, he was prevented from doing this, and obliged to confine his observations to the motion for the committee to rise. He trusted this motion would be disagreed to. The necessities of the people calling for relief, were pressing. For months past distress had reigned on the frontier of Tennessee, and several hundred families, who, before an armed force drove them off, were in the peaceful possession of their land, and enjoying in happy sufficiency the fruits of their own industry, have been forced at this inclement season to seek an asylum wherever they could find it; some had been so fortunate as to get into houses, but the greater part had been obliged to take shelter in the woods, with their wives and little ones.

Where was humanity, if that House were disposed to procrastinate a decision? He should say that virtue had lost its customary feeling, if it were not interested in behalf of these citizens. The committee had heard, from a respectable quarter, that the President of the United States had taken up this business. He hoped the information was correct; if so, it redounded to the honor of our Chief Magistrate, and showed that he felt for the distresses of these citizens; and since he proposed to negotiate a treaty with the Indians, the sooner an appropriation was made the sooner would the grievances complained of be removed. He hoped, therefore, the gentleman would withdraw his motion. With respect to his proposition, which had been declared out of order, he could, if he should see proper, bring it forward separately.

The debate on the question for the committee to rise, occupied the whole of the remainder of the sitting; but, as the merits of the question were, according to order, precluded by it from discussion, (though they were not always kept out of sight,) we do not think it necessary to go into a detail of the arguments which were used for and against the motion. The advocates of the question were Messrs. N. Smith, Brooks, R. Williams, I. Parker, and Otis; against it, Messrs. Venable, McDowell, Nicholas, Gallatin, Macon, J. Williams, Harper, and Rutledge. At length the motion was carried without a division; and on leave being asked to sit again, after some debate, it was also granted without a division.

Wednesday, January 10.

Mr. Macon, desirous of accommodating gentlemen who wished a delay, and in order to obtain greater unanimity upon it, moved that the unfinished business of yesterday, relative to the petition and remonstrance of the State of Tennessee, be postponed till Friday. Agreed to.

Mr. McDowell gave notice that he should, tomorrow, call up for decision the resolution which he laid upon the table the day before yesterday, calling for a report of the articles of impeachment to be exhibited against W. Blount.

Mr. Livingston, from the committee to whom was recommitted the bill for the relief of the refugees from Canada and Nova Scotia, reported a new bill; which was twice read, and committed for Friday.

Mr. D. Foster, in pursuance of the order of the House of yesterday, after agreeing to the report of the Committee of Claims in favor of John Frank, who was captured by the Indians a few hours after being discharged from the service of the United States, reported a bill allowing him the same compensation as if he had been captured whilst he was in the service of the United States; which was twice read, and committed for to-day.

The House went into a committee on this bill, reported it without amendment, and ordered it to be engrossed for a third reading to-morrow.

Mr. Harper said, that it was found that the provisions of the act passed on the 8th of May, 1792, for regulating the process in the courts of the United States, and for providing compensations for the officers of the said courts, and for jurors and witnesses, were inadequate, particularly as they related to the compensation of the marshals; he therefore moved a resolution for the appointment of a committee to inquire and report by bill or otherwise what alterations are necessary in the said act. Agreed to.

APPROPRIATIONS FOR 1798.

Mr. Harper, from the Committee of Ways and Means, made an additional report on the subject

of appropriations, and proposed a resolution to the following effect:

"*Resolved*, That there be appropriated on account towards defraying the expense of finishing the frigates United States, Constitution, and Constellation, the sum of —— dollars."

Read a second time, and committed for to-morrow.

EVIDENCE IN CONTESTED ELECTIONS.

Mr. Harper called for the order of the day on the bill for prescribing a mode of taking evidence in cases of contested elections, and for compelling the attendance of witnesses; which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. Dent in the Chair, and, after agreeing to several amendments, the committee rose, and the House having concurred in them, the bill was ordered to be engrossed for a third reading to-morrow.

COMPENSATION OF DOORKEEPERS.

Mr. D. Foster moved the order of the day on the bill from the Senate for allowing a compensation to the Doorkeeper of the Senate and his assistant during the late session of Congress; which being agreed to, the House went into a Committee of the Whole on the subject, when an amendment was proposed by Mr. Harper, to allow the Sergeant-at-Arms of the House of Representatives an additional compensation of $260 for his two last years' service, which it was alleged would only bring his compensation to the same which was allowed to the Doorkeeper of that House. Some objections, however, being offered against this amendment, in order to afford time for an inquiry into the fact of the difference spoken of between the allowances made to the Doorkeeper and Sergeant-at-Arms, the committee rose, and had leave to sit again.

Thursday, January 11.

The bill for the relief of John Frank, and the bill for prescribing the mode of taking evidences in cases of contested elections, and to compel the attendance of witnesses, were read the third time, and passed.

A report was received from the Secretary of the Treasury, in pursuance of the resolution of the House of the 5th instant, calling upon him for an account of the execution of the Mint law. He states, that receipts and payments on account of Government were made at the Bank of the United States; that moneys received at a distance were paid in bills; that the bank directors had a common interest in all the specie deposited, but that they were always willing to co-operate in the wishes of the Government, and would have at any time advanced a reasonable quantity of foreign coin for the Mint; but in the years 1795 and 1796, the amount of foreign coin other than Spanish was very inconsiderable, and if it had been otherwise, the situation of the Treasury at that time would not admit of suffering very considerable sums to lie at the Mint; but that since the Proclamation of the President of the United States was issued, the quantity of French crowns had very much increased at the banks, and that in future, according to the present regulations, there would be no doubt but the Mint would be supplied with a sufficient quantity of bullion from these sources. Referred to the Committee of the Whole to whom was referred the report on the subject of the Mint.

Mr. Macon, from the Committee on Revisal and Unfinished Business, moved that the expiring laws relative to the suspension of the duty on snuff and tobacco, foreign intercourse, and to the collection of internal duties, be referred to the Committee of Ways and Means. Agreed to.

On motion of Mr. Gallatin, the act respecting the regulation of the compensation of clerks was referred to the same committee.

Mr. Tillinghast presented a resolution of the Legislature of Rhode Island, directing the Representatives in Congress from that State, to use their efforts to obtain a repeal of the stamp act, and to get passed an act to provide a uniform system of weights and measures throughout the United States. The resolve having been read, in conformity to the latter part of it, Mr. T. moved a resolution for the appointment of a committee to report a plan for fixing a standard of weights and measures; which was ordered to lie on the table.

Mr. Goodrich presented a petition from certain paper-makers of Connecticut, praying for a higher duty to be laid on paper imported, as an encouragement to the manufacture of paper in this country. Referred to the Committee of Commerce and Manufactures.

On motion of Mr. Dwight Foster, the unfinished business of yesterday was postponed, in order to take up the bill directing certain persons to be placed upon the pension list. The House went into a committee on this subject, and, after agreeing to two or three amendments, rose; the House concurred in them, and the bill was ordered to be read a third time to-morrow.

Mr. Cochran proposed the following resolution:

"*Resolved*, That the Committee on Commerce and Manufactures be directed to inquire into the propriety of allowing a drawback on goods exported to the British provinces, in Canada, by way of the Lakes, and report their opinion thereon."

Mr. Livingston proposed the following:

Resolved, That a committee be appointed to inquire into the expenditures of the moneys heretofore appropriated for the Naval Armament, and report their opinion thereon to the House."

Ordered, To lie on the table.

IMPEACHMENT OF WM. BLOUNT.

Mr. McDowell rose to call up, agreeably to notice, the resolution which he laid upon the table on Monday, calling upon the committee appointed on the subject of William Blount's impeachment, to report the articles of impeachment.

Mr. Nicholas said, he wished as much as the gentleman from North Carolina, to bring forward the subject in question; but, as it was probable the chairman of that committee who, of course, was better acquainted with the subject than any other member, would return in a day or two, he thought it would be best to wait until that time.

Mr. Harper said, he was authorized to say the chairman of that committee, would be in his place on Monday morning. He had been detained by the court, which was now sitting at Easton.

Mr. McDowell said, his wish was to bring forward the subject as soon as possible. As it had been said the chairman would return on Monday, he should withdraw his motion.

NAVAL APPROPRIATION.

Mr. Harper moved that the unfinished business should be further postponed to take up the report of the Committee of Ways and Means, which was referred to a Committee of the Whole, proposing a partial appropriation for the Naval Department; which being agreed to, the House resolved itself into a Committee of the Whole on that subject; when, the resolution having been read,

Mr. Harper said, he found a different phraseology had been used on former occasions; he therefore moved that the word "finishing" be struck out, and that the words "of completing and equipping" be inserted in their place. Carried.

Mr. J. Williams wished the committee to lay before the House any statements which they might have on this subject.

Mr. Harper said, the Committee of Ways and Means had not, as yet, received a complete estimate from the proper department. They had a statement of the sum remaining unexpended of the former appropriation, amounting to $20,501, and that which was supposed as likely to be wanted for all the frigates was estimated at $151,298; but, at present, he did not mean to propose a large appropriation. The estimates of what would be necessary were preparing and would shortly be laid before the House; but, as the Secretary of the Treasury had stated that a certain sum was necessary to be appropriated immediately, he proposed to fill the blank with $20,000, which, he supposed, would be sufficient, until the estimates which were preparing were laid before the House.

Mr. J. Williams said, when he called for the estimates, he expected to have learnt how the former appropriation had been expended, and to have received a statement of what was yet to be done, that some judgment might have been formed as to the sum necessary to be appropriated. The Committee of Ways and Means might have ground upon which to form an opinion; but, he thought, whatever documents they might be possessed of ought to be laid before the House, that they might also form an opinion upon the subject.

Mr. Nicholas begged that, if any estimates had been received from the Secretary of the Treasury, they might be laid upon the table for the information of the House.

Mr. Gallatin said, there was no information from the Secretary of the Treasury before the Committee of Ways and Means. It was possible the chairman might have received some communication on the subject.

Mr. Harper observed, that the gentleman who had just sat down was not quite correct, as, when the Committee of Ways and Means agreed to the resolution now under consideration, the five papers which he then held in his hand were before them, and they were convinced that the facts were as there stated. To withhold the proposed appropriation, would be to suspend the business of completing the frigates. Mr. H. read the heads of the statements, and then gave them in at the Clerk's table, where they were again read. It appears, from these, that the sums wanting are as follow:

For completing the frigate	Constitution	$26,275
Do. do.	Constellation	22,319
Do. do.	United States	23,557
For military stores for all the frigates		75,759
For arms and accoutrements for the marines		3,376
		151,286
Remaining of the last appropriations		20,501
Yet wanting		130,785

Mr. Nicholas said, if there were any debts outstanding, it would be proper to make an appropriation to pay them; but, by the papers which had been read, it did not appear that there was any immediate necessity for an appropriation, and as this was the case, he should not consent to any appropriation until the account called for at the last session was laid before the House; nor should he be in favor of any further appropriation until some opinion was passed as to the mismanagement of this business. He said mismanagement, because, in three several instances, the House had been told that the sum appropriated at each would be sufficient to complete and put the vessels to sea. This strange proceeding, he thought, furnished the clearest evidence that the management had been wrong, and they might as well throw the money of the public into the sea at once, as appropriate it to an object to which there seemed to be no end. Not seeing any immediate occasion for the money, he, therefore, moved for the committee to rise, in order to give time for the receipt of the estimates in question.

Mr. Gallatin said, when he was up before, he had declared that no statement had come before the Committee of Ways and Means from the Treasury Department; in which assertion he was correct. The only papers laid before that committee were five papers furnished, he supposed, by the naval constructor. That committee had no estimate before them from which they could draw any just conclusion. He agreed with the gentleman from South Carolina, that one fact appeared, viz: that more money would be wanted. This was gathered from the letter of the Secretary of the Treasury; but beyond that they had

nothing upon which to act. The question was, therefore, whether the committee ought now to make an appropriation, or wait until the proper estimate was received. If the papers alluded to were examined, it would be found there was no date to any of them, except to one, which was dated Boston, November 30. It could not be ascertained, therefore, whether or not the $151,000 were wanting beyond the money last appropriated. Indeed, it was altogether impossible to form any correct idea from these papers, of the sum wanted, or whether it was immediately necessary to make an appropriation. These papers might be correct, but they were not official. But there was another paper which might be relied upon, stating that, on the first of January, there was a balance remaining of the last appropriation of $20,501, and that no money had been expended since. This paper was not laid before the Committee of Ways and Means; if it had been he doubted not the same conclusion would have been drawn from it that was now drawn, viz: that no inconvenience could be sustained by postponing the appropriation for a week or two, until the proper estimates should be laid before the House. Mr. G. concluded by saying, that he agreed with the gentleman from Virginia, that there appeared on the face of the laws on this subject a suspicion that there had been some mismanagement in the expenditure of the money which had been appropriated. From what cause this had arisen—whether from our inexperience in the business, or from a culpable misapplication of the money, he could not say, but it was proper to stop and look into what had been done, before they went on to appropriate more money.

Mr. Harper replied, that whether the money which had been appropriated to this object, had been properly or improperly expended, was not now the question. The expense of these vessels had always been an argument with certain gentlemen against completing them. With respect to what had fallen from the gentleman from Pennsylvania, (Mr. Gallatin,) he admitted all that was necessary to show the propriety of the present appropriation, since he admitted that there was sufficient evidence before the committee to show that more money was wanted to finish the frigates. He thought it was, therefore, quibbling to object to it, because certain estimates were not before them. When the Secretary of the Treasury told the House more money would be wanted, was it supposed that he overlooked the balance in hand? But how, it might be asked, when this balance remained in hand on the 1st of January, could the appropriation in question be immediately wanted? Because, he answered, bills might have been incurred which it was necessary to pay. The whole question, he said, resolved itself into this, Whether the completion of the vessels should be suspended until an inquiry could be made into the expenditure of the money already appropriated? He did not wonder to hear that this was the wish of gentlemen who had always thought it their duty to oppose the building of the frigates; but he should think it extraordinary, indeed, if that part of the House who wished the vessels to be finished, should concur in that opinion. Mr. H. was ready to acknowledge that these vessels had cost by far too much money. He did not know from what cause this had happened; he believed it had been partly from the novelty of the undertaking; from the materials having been selected from the most durable and costly; from the detached situation of the vessels; and from a variety of other causes. But, from whatever causes the extraordinary expense had arisen, gentlemen were prepared to meet the inquiry; but, in the meantime, he trusted the business would be suffered to proceed. Out of $150,000, which were estimated as necessary to complete the vessels, only $20,000 were asked, which, he trusted, there would be no further objection to appropriate.

Mr. Livingston said, he was one of those who had constantly voted for such a Navy as he thought the protection of the commerce of the country required, and the nation could afford; but the continual disappointment which he had experienced on this score, and the excessive expense which had been incurred, had considerably lessened his zeal. The question was, whether the committee would now make an appropriation on account, or wait until they received an estimate from the proper departments; and, believing as he did, that the balance of the last appropriation now in hand was sufficient for any immediate demand, he should be in favor of the committee's rising. Indeed, he believed the facility with which the House had gone into appropriations of this kind, had encouraged the lavish expenditure of the money; and, after the committee shall have risen, if no other member did it, he should propose the appointment of a committee to inquire into the expenditure of the money which had been appropriated to this object. How the money had been expended was a secret to that House, but it was a secret which ought to be laid open. Great obloquy had been thrown upon the persons through whose hands this money had passed; if they were not deserving of it, the obloquy ought to be removed; if it were deserved, it ought to be fixed. He believed, if it were seen that this money would not be appropriated until the estimate in question was received, the House would not be long without it.

Mr. Sewall was surprised to hear the gentleman last up speak of the facility with which money had been voted for the frigates; he believed gentlemen who had been witness to the manner in which the appropriations for this object had been made, would not say they had been made with *facility*. He had only been present at one of these questions, but he knew of no question which had been treated as this had been treated. A vote was passed the other day, without debate, for an appropriation on account of the Military Establishment. How far this establishment was a favorite with the House, in preference to the Naval Establishment, he could not tell. Facility in granting this money might, upon the gentleman's doctrine, be an inducement to unnecessary expense in the Military Establishment.

Indeed, in order to prevent a lavish expenditure of money, it would be necessary to go into a warm debate upon every subject of expense which came before the House. Mr. S. believed this appropriation stood upon the same ground with that for the Military Establishment. The Secretary of the Treasury had recommended both, but had given no estimate for either. Yet gentlemen insist upon having an estimate before they agree to the appropriation in question. Did gentlemen mean to say, that if the money had not been expended agreeably to their wishes, that the United States were to lose all the money hitherto expended upon the frigates—that they were to be thrown away, or burnt? If their argument meant anything, it meant that. He would take it for granted, that, upon an examination of the accounts, the money had been improperly expended; that the officers had dealt unfairly; that the money had been *thrown into the sea*, as the gentleman from Virginia was pleased to suppose; he did not suppose, that, even in this case, gentlemen would wish all that had been expended to be thrown away. Gentlemen were now contending against a small appropriation on account: but if the appropriations were not made, might not Government suffer very considerable loss by the work standing still, from a refusal of the workmen to labor without pay? But, if the money were appropriated, it would remain in the Treasury if it were not wanted, therefore no injury could arise to the United States from the appropriation; but considerable loss might be sustained by the want of money to carry on the work. Mr. S. concluded by saying, he considered a Naval Armament as necessary to the dignity and national character of the United States. He wished, therefore, that every necessary appropriation should be made, at the same time that an inquiry should be instituted into the past expenditure. It was astonishing to him how so much money could have been expended in this business, and that so many errors could have been made in the estimates which had from time to time been made; but, when it was considered that the business of building armed vessels of this kind was wholly new to us, and that the prices of the various articles made use of had been greatly augmented, it was not so strange that mistakes had occurred. But whatever these might have been, or whatever blame may have been incurred, as it was still necessary to complete the work, he trusted the appropriation would be agreed to.

Mr. Nicholas said, gentlemen seemed to take it for granted that the question, whether the frigates should be finished, was before the committee. For the sake of the frigates, he thought they ought not so to consider it. If the committee were satisfied, from experience, that this business had been carried on at an enormous expense, was it not necessary to look into the matter? Were Congress to support the dignity of the country by giving away the people's money—not, perhaps, for their use, but for some other purpose? Every man must be astonished at the expenses which had been incurred, and was it not proper to inquire how this had happened? Gentlemen say, if the money were not wanted, it would be in the Treasury, and no disadvantage be sustained. But this was as much as to say, that everything should be given which was asked for by any of the departments. If they were all concurring in the same object of finishing the frigates, the mode proposed would be the shortest.

The gentleman from New York was right when he said the money for this object had been granted with facility; for, though there had been a contest about the usefulness of the frigates, there had been none about the estimates themselves. If the House had been told last Winter, that $600,000 had been wanting to complete the frigates, instead of $200,000, he believed it would have astonished every one, and an inquiry would have been instituted into this subject; but this had not been done, the House had been drawn on from time to time, and from time to time deceived in the business; for all that had been said about inexperience, high price of articles, &c., had no weight. Mr. N. concluded by declaring he was not acting as an enemy of the frigates, but as a friend of the public, whose money, in this instance, had been squandered beyond all example.

Mr. Rutledge said, the reason given by gentlemen for postponing this subject was, that the appropriations already made had been enormous; but he would just ask them one question—suppose the money heretofore appropriated had been misspent, would they now refuse to appropriate a further sum? All that was wanted, he said, to complete the frigates, was $36,000, and only $20,000 were now asked for. But gentlemen say no, we will first institute an inquiry into the expenditure of the money already appropriated. He had no objection to this inquiry, but he would in the meantime appropriate the money.

Mr. J. Williams replied to the inquiry of the gentleman who had just sat down, that though past sums had been misspent, he would consent to appropriate more, but not to be spent in the same way. Mr. W. went over the various sums which had been from time to time called for, and concluded by saying that he would not consent to vote for more, until he saw how what had been appropriated had been expended, or except he knew the business was at a stand for want of money.

Mr. Sewall read the letter of the Secretary of the Treasury, wherein he says an appropriation on account of the Naval Department will be necessary.

Mr. Gallatin said, when he was up before, he had stated that it had never been the practice of the House to grant money unless an estimate was laid before them to show that it was necessary. This had been called a quibble by one gentleman, and another had quoted an instance wherein the House had acted differently. But the gentleman from Massachusetts (Mr. Sewall) was mistaken in this respect. It was true that the Secretary of the Treasury did ask for an appropriation for the deficiencies in the Military Establishment; but it was not true that the House granted

it. The House had agreed to an appropriation. For what? For the deficiencies? No. They have agreed for an appropriation towards the expenses of 1798, for which they have an estimate before them. Until the Secretary of the Treasury laid an estimate before the House, except the necessity was very urgent indeed, (which he did not believe in the present case it was,) he should decline any appropriation. As an individual he was ready to acknowledge he was against building the frigates; but did gentlemen suppose that he was weak enough to believe that by making an opposition to a partial appropriation, he could defeat that object, against a large majority of the House? No. He believed there would be a very considerable majority ready to vote for any sum which might be wanted for the frigates, though he might vote differently. But he thought there was another object worth contending for, which was, not to vote money because an officer of a department calls for it, however much that officer may be entitled to the confidence of the House.

If this practice was once gone into, it would create endless mischief. Mr. G. said, the different conclusions which gentlemen had drawn on the subject, were sufficient to show that the committee were not prepared to come to a vote on the question, as one gentleman declared that $130,000 were wanting to complete the frigates, and another insisted that only $36,000 were necessary! For his part he did not know, but from what the Secretary of the Treasury had said, that any money at all was wanting for that purpose. When the estimate was laid before the House, he should not object to a partial appropriation before the inquiry was gone into; but at present he could not consent to it.

Mr. Harper said, as several gentlemen, who had expressed their intention of voting for this appropriation, when the estimates should be laid before the House, though now they objected to it, and as no great inconvenience, he trusted, would arise from the delay of three or four days, he would join in voting for the committee to rise.

Mr. Sewall produced a statement of the Secretary of War, lately made to the House, wherein he states that there is a deficiency of $36,000 for the completion of the frigates. He thought this sufficient ground for the appropriation, and regretted that the gentleman from South Carolina had concluded to vote for the committee's rising. Mr. S. referred to what had fallen from Mr. Gallatin, and said the only difference between the two cases of Naval and Military Establishments was, that we did not build frigates *by the year*.

Mr. Pinckney said, if he thought voting for this appropriation would preclude an inquiry into past expenditures, and by that means to put the business upon a better footing in future, he should by no means vote for it. But he did not believe this. However, if gentlemen wished the subject to lie over for two or three days, he had no objection; but if it were their intention to postpone an appropriation until an inquiry into former expenses were gone into, he should have serious objections to it. It had been admitted on all hands that the frigates had been an expensive business; but a further delay would make them more so. He thought the Treasury might be safely trusted with this money, and the inquiry could, in the mean time, be going on.

The question for the committee to rise was put and carried—45 to 35.

Friday, January 12.

Mr. Cochran called up the resolution which he laid yesterday upon the table, for directing the Committee of Commerce and Manufactures to inquire into the expediency of allowing a drawback on goods exported to Canada, by way of the Lakes, which was agreed to, and a committee appointed.

Mr. Macon, from the Committee of Revisal and Unfinished Business, moved that that part of their report which related to the expiring of an act declaring the concurrence of Congress to the appointment of an health officer by the State of Maryland, be referred to the Committee of Commerce and Manufactures.

Mr. Harrison presented a petition from a number of citizens and freeholders of the counties of Southampton, Sussex, and Prince George, in Virginia, praying a repeal of the stamp act, and for certain alterations in the law laying a duty on spirits and on stills. Mr. H. observed, that as the House had anticipated the wishes of his constituents, in relation to the spirit tax, by the bill which had lately passed, there would be an impropriety in referring that part of the petition; but so much of it as related to the stamp act, he moved to refer to the Committee of Ways and Means. Agreed to.

The bill directing the Secretary of War to place certain persons on the pension list, was read the third time and passed.

Mr. Evans said that the Attorney General was put to a very great expense in paying the postage of packets and letters which passed to and from him in his official capacity. This had been particularly felt in the packets and letters which he had received in relation to the fifth article of the British Treaty, which had amounted to several hundred dollars. To relieve this officer from this inconvenience, Mr. E. proposed a resolution to the following effect:

"*Resolved*, That all the letters and packets to or from the Attorney General of the United States, shall be conveyed, free of postage, under like restrictions with letters or packets passing to and from the other Heads of Department."

Referred to the Committee on Post Offices and Post Roads.

The amendment of the Senate to the bill authorizing the payment of interest on a certificate due to General Kosciusko, was taken up. This amendment went to strike out that part of the interest which had been directed by the General to be remitted from Amsterdam to Leipsic or Dresden. After some discussion, this amendment was disagreed to—46 to 41.

Mr. Tillinghast called up his resolution respecting the fixing of an uniform plan of weights and measures, which was agreed to, and a committee of seven members appointed.

RELIEF TO OFFICERS AND SOLDIERS.

A motion for postponing the unfinished business of yesterday having been made and carried, the House resolved itself into a Committee of the Whole on the bill for the relief of the representatives of certain deceased officers and soldiers, Mr. Dent in the Chair, which, after considerable discussion—which chiefly turned upon the propriety or impropriety of changing the period which had heretofore been considered as terminating the war, in the course of which different periods were proposed—was agreed to with one amendment, determining that such officers and soldiers as lived till the 24th of March, 1783, should be entitled to the same allowance as if they had lived till the 3d of November, in the same year, (the time at which Congress disbanded the Army.) The committee rose, and the House concurred in the amendment; but, upon the question's being put for the bill's passing to a third reading, it was negatived, there being only 26 votes in favor of it. Of course the bill was lost.

COMPENSATION TO DOORKEEPERS.

On motion, of Mr. Harper, the House again went into a Committee of the Whole on the bill from the Senate allowing a compensation to the Doorkeeper of the Senate and his assistant during the extraordinary session; when the amendment proposing to add to the bill a provision in favor of a compensation to the Sergeant-at-Arms of the House of Representatives of $260, being under consideration, Mr. H. moved to amend the amendment by striking out 260, and inserting $252, which he proved, from a statement which he read, would bring his allowance to the same amount which had been paid to the Doorkeeper, calculating from the commencement of the year 1794. This motion was opposed on the ground that four dollars a day, (which was the allowance made by law,) during his attendance upon duty, was sufficient pay for the Sergeant-at-Arms; that the Doorkeeper's allowance was a salary of $500 per annum, for an annual attendance, to which, on account of extraordinary services, or from the dearness of living, some temporary grants had been made, the chief of which (and which principally produced the difference spoken of) was $250 allowed to the present Doorkeeper in 1794, when assistant to Mr. Dally, on account of his having done nearly the whole of the duty during that session. The amendment was on one hand urged as an improper tack to the bill from the Senate, and on the other it was advocated as necessary to put an end to what was thought to be an improper practice, viz: the granting of additional allowances to Doorkeepers and others on the last day of a session, upon a simple resolution of the House, without enacting a law for the purpose. The amendment was finally negatived, there being only 23 votes for it. The bill was then agreed to, and ordered to be read a third time on Monday.

Mr. Tillinghast gave notice, that on Monday, he should bring forward a resolution for the appointment of a committee to bring in a bill for the repeal of the law imposing a duty upon stamped vellum, parchment, and paper.

Monday, January 15.

Lemuel Benton, from the State of South Carolina, appeared and took his seat.

The bill from the Senate to compensate their Doorkeeper and his assistant, was read the third time and passed.

The Speaker laid before the House a communication from the Treasury Department, enclosing the accounts of the Treasurer of the receipts and expenditures of the United States for the quarter ending on the 30th of December last, which were ordered to be printed.

Mr. Harper, from the Committee of Ways and Means, to whom was referred the estimates necessary for the service of the year 1798, reported a bill providing for the expenses of the civil department of Government for the year 1798, which was twice read and referred to a Committee of the Whole for Wednesday.

Mr. H. also reported, from the same committee, a bill providing for the means of intercourse between the United States and foreign nations, which was committed for Thursday.

REPEAL OF THE STAMP ACT.

Mr. Tillinghast, agreeably to the notice he gave on Friday last, proposed a resolution for the adoption of the House, to the following effect:

Resolved, That a committee be appointed to bring in a bill for the purpose of repealing the act of Congress, passed the last session, levying a duty on stamped vellum, parchment, and paper.

Mr. J. Williams wished this resolution might be so altered as to go to the Committee of Ways and Means, who, having the subject of revenue generally under consideration, were, of course, the best judges as to the propriety of repealing the act in question. But, before the resolution was referred, he wished to amend it by adding, "also the act laying an additional duty on salt imported into the United States." His reason for wishing the resolution to be thus amended was, that when the stamp act had been agreed to, a proposition (which had before been rejected) was brought forward, towards the close of the session, when many of the members were gone home, for laying an additional duty on salt, which it was said was necessary to stand against the stamp tax, which would fall principally upon the commercial and moneyed part of our citizens. If, therefore, a repeal of the stamp act, which chiefly affected those interests, was to come under consideration, he wished the salt tax, which principally affected the agricultural interest, also to be considered, and that both should be referred to the Committee of Ways and Means together, that

they might report upon the whole subject at the same time.

The Speaker declared the motion for a reference to be first in order.

Mr. Harper hoped the resolution would not be agreed to, as he held a report in his hand on the petition from Virginia, praying for a repeal of the stamp act, which, of course, involved the subject of the resolution.

Mr. Rutledge trusted the resolution would not be agreed to. He believed it was of more importance than it seemed to be considered by the House; as it did not propose to appoint a committee to inquire into the expediency of repealing the law in question, but for the special purpose of reporting a bill for the repeal of the law. Had the former mode been adopted, he should not have objected to it.

The Speaker observed that the motion was to refer the resolution to the Committee of Ways and Means, who would of course report upon the expediency of the measure proposed.

Mr. Dent proposed to postpone the further consideration of the resolution until to-morrow, when it could be referred to the same Committee of the Whole, to whom were referred the report which the chairman of the Committee of Ways and Means had said he was prepared to make on this subject, and then both applications would come under consideration at the same time.

After some little consideration on the subject, which went chiefly to show, that, as the petition from Virginia was to the same purpose with this resolution, the report of the Committee of Ways and Means upon it must be the same which would be made upon this resolution if referred to them, this motion was carried.

Mr. Harper, from the Committee of Ways and Means, made the report (which had been alluded to) on the petition of certain freeholders of Somerset, Sussex, and Prince George, in Virginia, praying for a repeal of the stamp act. The report stated, that, in the opinion of the Committee of Ways and Means, it would be inexpedient to repeal the said act, and that therefore the petitioners have leave to withdraw their petition. This report was referred to a Committee of the Whole, and made the order for Monday next.

EXPENDITURE FOR NAVAL SERVICE.

Mr. Livingston called up for consideration and decision the resolution which he laid upon the table a few days ago, for the appointment of a committee of inquiry into the expenditure of money which had been appropriated for the naval service.

The House having agreed to take up this business—

Mr. Harper said, he believed that the appointment of such a committee was very unusual, without having some ground stated to the House for the proceeding. A vote of this kind would imply a censure upon the conduct of our public officers, which certainly ought not to be done hastily, or without first having, at least, some ground of suspicion laid before them upon which to act. The House had not yet received the statements which had been called for relative to this business; they were directed to be laid before the House in the last week in January, and might, therefore, be soon expected.

[Several gentlemen said it was the first, and not the last week in January, in which the accounts had been ordered to be laid before the House.]

Mr. H. said the delay, he supposed, had been occasioned by the officers having been obliged to remove from the city during the fever. He had, however, been informed that these statements would be ready in a few days. And would it not be extraordinary, he asked, if, before they received these statements, they were to appoint a committee of inquiry? He thought it would. He believed the officers of this department of Government were very desirous of the inquiry taking place; but this was not a sufficient reason for the House to proceed in the business without having first some ground to suppose the money had been misapplied, and this he believed could not be ascertained until the expected statements were before the House. When these were looked into, it was possible the House might be satisfied with respect to the expenditure of the money, and it would, therefore, be improper to appoint a committee to inquire into a matter which might so shortly appear satisfactory. If, on the other hand, these accounts should not be satisfactory, he would readily concur in the appointment of a committee of inquiry.

Mr. J. Williams said, the gentleman from South Carolina ought to recollect that the inquiry was produced by a further appropriation being called for. It might be best to defer the inquiry until the accounts which had been called for were laid before the House; and he should have been satisfied with the business taking that course, if a further appropriation had not been called for in the meantime. But when they are called upon to appropriate a further sum of money for any object, it was natural to inquire what was become of that already voted; and the only way of doing this was to appoint a committee who would look into all the different statements which had from time to time been laid before the House, and those which might shortly be communicated, and state their opinion thereon to the House. He thought those gentlemen who were most friendly to the frigates ought not to oppose the appointment of a committee; because, if it should appear that the money had been justly expended, there would be little objection to a further appropriation.

Mr. Livingston said, from the full discussion of this subject, which, though incidentally produced, had taken place on a former occasion, he did not think it would either have been becoming or necessary to have again stated the reasons which gave rise to this resolution, especially as he felt an aversion to say anything which might be unnecessary, or which might tire those who heard him. Mr. L. said, that he had before observed that the patience of the House had been worn out by the repeated applications which had

been made for money for this object; that the expense had exceeded all belief; that the most extended imagination could not have conceived an amount like that which Congress had from time to time been blindly led to appropriate. But the proposition was objected to, because it would cast an odium upon our officers. This he was perfectly indifferent about. Whatever might be the private opinion he had of the characters of these officers, however incapable he might believe them of doing wrong, or of acting corruptly, yet, when his duty called upon him to make an inquiry into the expenditure of public money, he was deaf to all considerations of a private nature. But, in this case, he did not see the necessity for this remark. The House had been told (he believed by the gentleman from South Carolina himself) that the extraordinary expense had been occasioned by our inexperience in business of this kind, by the high price of labor, materials, &c. If this were the case, the result of the inquiry would be honorable to those concerned, and highly satisfactory to the House. It was a proceeding which our public officers ought to wish for; nay, gentlemen say they do wish for it.

But, Mr. L. said, it had been alleged, that the statements ordered a year ago to be laid before the House during the first week in this month, should be waited for before any inquiry took place. He would reply, if these officers had not, in the meantime, called upon the House for a fresh supply of money, this inquiry would not have been thought of. Besides, the accounts asked for last year would not give the satisfaction required. The request only extended to all the expenditures previous to the 1st of January, 1797. The House would wish to know what had been expended since, and they had no reason to expect further information than was asked for. Mr. L. said every member who was present at the time must remember that whenever the House had been applied to for further appropriations, they had been told that the frigates would be ready for sea at such and such a time; and that they would then bear our flag triumphantly over the ocean. And yet, though the House had been four or five times deceived by these representations, they were told there were no ground for inquiry. For his part, he should consider himself as neglecting his duty were he not to call for this inquiry immediately; for, if the House were to wait a week for the statements called for, they might wait another for their being printed; they might then be found to be deficient, fresh statements might be necessary, and the session might expire without effecting the wished-for inquiry. He thought all parts of the House ought to favor the inquiry; for, he believed, if it should appear that frigates could not be built for less than $500,000 a piece, the project of a navy ought to be given up; but if, on the other hand, difficulties and expenses had occurred in the commencement of this business, which would not return, and that frigates may in future be built for half the sum, (which was his opinion,) there would be some encouragement to proceed in the business.

Mr. Sewall was sorry that the gentleman from South Carolina (Mr. Harper) had given the occasion, and that the gentleman last up had so eagerly seized it, to thwart any measures which might be necessary for the general defence, by ridiculing the resources of the country. The present, he said, was a time of danger and apprehension, and thus to talk of the resources of the United States added to the apprehension and the danger. The gentleman from South Carolina had said, that to pass this resolution would be to pass an odium upon our public officers. He did not think so. He thought an inquiry of this kind at all times proper where there was any doubt as to the expenditure of money. He agreed with the gentleman from New York, that the inquiry (if it had a favorable issue, which he did not doubt) would forward the design of providing a navy; as it would appear that the extraordinary expenses had been such as it would not be necessary to incur in future. He was, therefore, sorry to hear the gentleman from New York first up (Mr. Williams) say he should be disinclined to vote any further appropriation until he saw how the last had been expended. However improvidently the money already appropriated had been expended, yet, in order to secure what had been voted, and to keep the work in progress, they ought to vote a further sum, as soon as wanted, whether the statement called for were received or not.

Mr. Livingston desired to know wherein he had attempted to ridicule the resources of this country? The gentleman from Massachusetts must excuse him when he asserted he had never made a more hasty or unfounded charge. If he had either ridiculed the resources, or thwarted any measures for the general defence of the United States, it must have arisen from a weak judgment, and not from any intention of doing so. But he was certain nothing which had fallen from him could be so construed.

Mr. Sewall acquitted the gentleman from New York of any intention of lowering the appearance of the resources of this country; but he appealed to the House whether he had not spoken of this fleet with a degree of ridicule, when he represented it as governing the ocean. It appeared so to him at least.

Mr. Harper again insisted upon the impropriety of going into this measure, from reasons similar to those which he had already given.

Mr. Gallatin said, that the ground taken by the gentleman from South Carolina (Mr. Harper) would prevent any inquiry whatever; for he stated that the House ought not to pass the present resolution because certain statements had not been received, and because to pass it would be to imply a censure on our officers. So that on this ground no inquiry could be gone into without statements, as the House could not obtain statements without passing a resolution, that resolution would be construed into a censure, and therefore ought not to be passed. This Mr. G. thought a very improper doctrine. It would never be in the power of the House to decide upon the propriety of statements by barely having them laid

upon the table. The proper mode was to appoint a committee to inquire into the subject, and an appointment of this kind never ought to be construed into a censure upon any one.

He agreed with the gentleman from Massachusetts, that the proposed inquiry might favor the extension of the Navy establishment, if the extraordinary expense should appear to have been temporary and unavoidable; but he owned this was not his only object in wishing for the inquiry. He could not help drawing conclusions from the information which he received; and the conclusions which he had drawn from this information was, that either the officers who had made the different statements with respect to the expense of finishing the frigates, which had been laid before the House, had either deceived them, or the expenditure of the money had been mismanaged. He might be mistaken, as this was only conjecture. He wished the inquiry to take place, therefore, that this suspicion which he entertained, might be removed or confirmed.

Mr. G. stated the different estimates which had been made to the House. In 1794, he said, they were told that $688,000 would be sufficient to build six frigates. In 1796, they were informed there had been a mistake in the matter, but that with $80,000 more three would be finished. In January, 1797, the House was again called upon for $172,000; in July, in the same year, for $200,000, and now for $150,000 more. Such calculations, he thought, wholly unaccountable.

Mr. G. concluded by saying, that he agreed with the gentleman from Massachusetts that it was wrong to ridicule the resources of the United States; but that gentleman must agree with him, that it was of importance that the public should be well informed as to the expenditure of public money, that a judgment might be formed whether our resources were properly applied, or whether they were employed upon objects which could never be of any real utility to the country, or upon objects which might tend to weaken, rather than to strengthen us.

This inquiry, he expected, would, in some degree, give a decision to this question, as it would show whether the great expense which had been incurred, was unavoidable in a business of this kind, or whether it had been owing to temporary causes only. It could not be wrong, Mr. G. said, at any time to explain to the people of the United States what their resources are; this could do no harm, but good; it was of the first importance that, in this respect, as well as others, the truth should appear. He hoped, therefore, the resolution would be agreed to.

Mr. Dana was in favor of the inquiry, for some of the reasons which had been assigned by the gentleman who was last up; and he should not have spoken upon the subject, had he not thought the remarks which had fallen from the gentlemen from New York and Pennsylvania upon our public officers deserving of notice. He did not know that it was necessary for the gentleman from Pennsylvania to mention his suspicions that our officers had deceived the House of Representatives in their statements, which he acknowledged was founded only upon conjecture. He had observed several other insinuations which must be painful to our officers. He could have wished that no objection had been made to this inquiry though, perhaps, it might have a good effect, since it had given gentlemen an opportunity of speaking their own eulogy, which would, doubtless, more than compensate any pain which their suspicion might give to deserving officers.

Mr. Venable wished something to be said in this resolution as to the time which had been consumed in building the frigates, as well as to the expense incurred. He therefore moved to amend the resolution, by adding "also the causes which have produced the delay in finishing the same."

The motion was agreed to, without a division, and a committee of five appointed.

CANADIAN REFUGEES.

On motion of Mr. Williams, the House again resolved itself into a Committee of the Whole on the bill for the relief of the refugees from Canada and Nova Scotia. The bill underwent several amendments, the chief of which was, the striking out the clause which provided for all persons, whether male or female, who were fourteen years of age when they emigrated, and substituting in its place, "all heads of families, and other male persons above the age of 21 years," and "all persons who were members of families when they came into the United States, but who afterwards entered into their service." The quantity of land apportioned to the first class of persons, viz: those who lost and suffered most, was not to exceed two thousand acres; to those of the last, three hundred acres. The bill was finally agreed to, and passed to a third reading, which it is to have to-morrow.

A message was received from the Senate informing the House that they insisted upon their amendment to the bill for paying the interest due to General Kosciusko.

The House took up the last bill, and insisted upon their disagreement to the Senate's amendment. A committee of conference was appointed.

Tuesday, January 16.

Mr. Griswold, from the committee to whom was referred the memorial of John Spafford and others, who wished to be allowed to purchase land of the United States on different terms from those prescribed by law, reported against the object of the petition, declaring it to be their opinion, that the Government could not dispose of land in any other mode than such as was by law directed, and that individual applications for the purchase of land could not be admitted. The House concurred in the report.

The bill for the relief of British refugees from Canada and Nova Scotia, was read the third time and passed.

Mr. Gregg proposed a resolution to the following effect:

"*Resolved*, That the Committee of Claims be directed to inquire into the expediency of extending the act passed in June, 1794, entitled an act in addition to an act for making further provision for the protection of the frontiers of the United States, so far as it relates to the affording of relief to the widows and children of officers and soldiers who were killed in an action with the Indians Northwest of the Ohio, and report their opinion thereon."

The resolution was agreed to.

EXPENSE OF INDIAN TREATIES.

Mr. Macon wished to propose a resolution for the adoption of the House, for the purpose of having it referred to the same Committee of the Whole to whom was referred the report on the petition and remonstrance of the State of Tennessee. It was to the following effect:

"*Resolved*, That the sum of —— dollars ought to be appropriated for the purpose of defraying the expense which may be incurred in forming any treaty or treaties which the President of the United States may deem it expedient to hold with the Indians claiming lands within the State of Tennessee."

Mr. Macon said, he was induced to make this motion at this time, because, when a similar proposition was offered in the Committee of the Whole, it was deemed to be out of order. But it as was now well known that the President had appointed Commissioners for holding a treaty, he believed it would be best to make an appropriation in the usual way, to enable him to carry it into effect.

The motion was agreed to.

IMPEACHMENT OF WM. BLOUNT.

Mr. McDowell rose to call up the resolution which he had laid upon the table a week ago, respecting the impeachment of William Blount, and which had been deferred, from the assurance which had been made to the House that the chairman of the committee appointed on that subject, would be in his place yesterday. Finding that this was not the case, he renewed his motion.

Mr. Harper said that he understood, at the time he said so, that the chairman of the committee would be in his place yesterday. He, yesterday, however, saw a gentleman from Easton, who had conversed with that gentleman on Saturday, and he informed him he should set out from home on Monday morning; so that he expected him in town this day.

Mr. Bayard could not discover the motive of the gentleman from North Carolina in pressing so closely this business; for his part he could see no public good which could be derived from accelerating it in the manner proposed. When the business was first brought forward, he was kept from the House by indisposition, and therefore had not an opportunity of speaking to it. It was well known that the business of drawing the articles of impeachment belonged to the chairman. That they were not drawn earlier, he believed was owing to the peculiar situation of the person to be impeached. He was held to bail by the Senate under the penal sum of $2,000; and it was well understood that when the articles of impeachment should be exhibited against him in the Senate, he would not appear; and, except he did appear at that time, it would be impossible for the House to proceed with the impeachment. This view of the subject had created a lukewarmness in the committee. Had they been impressed with the idea that the business could have been prosecuted with success, he believed the articles of impeachment would have been produced at an earlier period of the session; but, as they considered the further proceeding in the business as a mere matter of form, they had been the less anxious about it. Under this view of the subject, and as the chairman would most likely return in a day or two, he submitted to the gentleman from North Carolina and to the House, whether it would be proper to press the business at this time.

Mr. Nicholas hoped the reason which had been assigned by the gentleman from Delaware would be sufficient to induce the mover of the proposition not to press its decision; but he was surprised to hear the reasons which had been assigned for not bringing forward the articles of impeachment sooner. It seemed that that gentleman supposed that the measures which had been taken by the House, and upon which the select committee had been appointed to act during the recess of Congress, was a mere matter of form, and would come to nothing. He believed it was a novel thing for a committee to contravene the views of the House in their appointment, and to determine the non-importance of the business entrusted to them. He believed the practice to be as singular as the doctrine was unfounded; for, if it were possible to impeach Mr. Blount at all, it could be done whether he was present or not; but, as the chairman was shortly expected, he hoped the business would not at present be proceeded with.

Mr. McDowell would not agree to any further delay. It was not his wish to precipitate any business through the House; but he thought it was high time that the articles of impeachment, directed to be reported, were before them. He spoke of the promptness with which the House had acted at the commencement of this business. No sooner, he said, was Mr. Blount's letter laid before them than he was impeached, and a committee appointed to sit during the recess, with power to send for persons and papers. That committee had made a report, but no further step had yet been taken. What were the motives of the committee he could not tell; they perhaps thought they had done their duty. It was said the chairman would be in the House to-morrow; if so, the committee would have his assistance; if not, they might have a member added to their committee, if they wished it. He thought the House were bound to the country to proceed with the business, and that they were incurring censure every hour which they neglected it. He wished the sense of the House to be taken upon his motion.

Mr. T. Claiborne said the House would not have appointed a committee to sit during the recess of Congress, if they had not conceived the business upon which they were employed was very important. It was to inquire whether there were no other persons implicated in the charge

which was brought against W. Blount. The House supposed, if he were culpable, he was not alone so, but there were more egregious offenders than he; and when he gave his consent for the committee to sit during the recess, it was with a view of their inquiring who those persons were. The report which had been made to the House implicated several persons, as concerned with W. Blount, and he wished it to appear whether the stain which was thus thrown upon their characters ought to be fixed or removed; and as there were persons upon the committee equally capable with the chairman to make the desired report, he hoped it would be no longer delayed.

Mr. Dawson rose to remark upon what fell from his colleague, (Mr. Nicholas.) He supposed the gentleman from Delaware only gave it as his opinion, or that of some members of his committee, that Mr. Blount could not be impeached in his absence. The subject was a novel one, and he had not fully made up his opinion upon it; but his present impressions were, that an impeachment which did not go to affect the life or limbs of a man might be carried on in his absence. The contrary, he believed, was the opinion of the chairman and of the gentleman from Delaware, but not of the committee.

Mr. R. Williams said if there were no reason to expect the chairman of the committee soon, he should be in favor of taking up the business at present; but, when they were assured he would return in a day or two, he thought no ill consequence could arise from the short delay. The House had decided that the impeachment should be proceeded with, and he did not suppose that the object of the House was to be frustrated by any ineffectual measures of the Senate to secure the person of Mr. Blount. As to the business being hastened from a desire of proceeding against any other person, he saw no reason for this; as the documents were before the House, such a proceeding might as well be had now as when the articles of impeachment were reported.

Mr. Nicholas moved to postpone the decision of this question till Thursday. If the chairman did not return in the mean time, he supposed there would be no objection to the appointment of another member in his place.

This motion was agreed to.

TENNESSEE LAND TITLES.

On motion of Mr. W. Claiborne, the House again resolved itself into a Committee of the Whole on the report of a select committee on the petition and remonstrance of the Legislature of the State of Tennessee. The resolution reported having been read,

Mr. Macon moved to postpone the consideration of the resolution reported, in order to take up the one which he had brought forward this morning, and which had been referred to this committee, as being more conformable to the usual mode of appropriating to enable the President to effect any treaty intended to be held.

This motion occasioned a very warm debate, in the course of which several disputes took place on the subject of order. Indeed, several members (amongst whom was the Speaker) thought the debate altogether out of order, as they considered the last resolution proposed as a substitute for the former, to admit of which is contrary to a standing rule of the House. The Chairman, however, having declared the motion for postponement to be in order, the debate upon it was continued for about two hours, when the question was taken and negatived—44 to 41. The advocates for the postponement were Messrs. Macon, W. Claiborne, Gallatin, Rutledge, and R. Williams; those opposed to it were Messrs. N. Smith, Brooks, J. Parker, Harper, J. Williams, and Thatcher. The committee rose, and had leave to sit again.

PROTECTION OF COMMERCE.

Mr. Sewall, from the committee appointed to take into consideration that part of the President's Speech which relates to the protection of commerce and the defence of the country, made a further report. The committee state that further appropriations are necessary for the completion of the frigates; for an account of which they refer to the documents from the proper departments, which accompany their report. They also state that only two of the revenue cutters are fit to be armed and equipped in the manner directed by Congress, viz: one on the Virginia station, and one in the Delaware; that the former only had been armed for want of being able to procure the necessary cannon. The committee report four resolutions for the adoption of the House.

The first, for the sum of —— dollars, for completing and equipping for sea the three frigates.

The second, for the sum of —— dollars, for the pay and subsistence, for the term of one year, of the officers and crew on board the said frigates, and —— dollars for ammunition, &c.

The third, to authorize the President to procure, whenever in his opinion the situation of the country shall require it, not exceeding —— vessels, suitable to be employed for the protection of our sea coasts, and to cause the same to be armed and equipped on the same terms as are directed for the naval armament; and that there be appropriated not exceeding —— dollars for the purpose.

The fourth, proposes to authorize the President to establish, in the same eligible situation, a foundry, to be employed in the casting of cannon for the use of Government, and that —— dollars be appropriated for the purchase of a necessary building and materials, and to defray other expenses attending the establishment.

The documents from the War Department accompanying this report, agree with the estimates produced the other day, when the subject of an appropriation for the frigates was under consideration, as far as they relate to the finishing of the frigates, except that the balance remaining unexpended of the last appropriation, then stated at $20,501, is now stated at $35,454. This difference reduces the estimate to $115,833. In addition to this sum there is also an estimate for the pay and subsistence of the officers and crew for a year,

&c., which brings the total sum wanted to $396,212.

This report was committed for Monday next.

Wednesday, January 17.

COMMISSIONER OF THE REVENUE.

Mr. Macon, from the Committee of Revisal and Unfinished Business, made a report on the motion, referred to them on the 4th instant, respecting the abolition of the office of Commissioner of the Revenue, which stated it as their opinion that it would be inexpedient to abolish that office.

The report having been read a second time,

Mr. Macon moved that the House concur; but Mr. J. Williams moving that it be committed, the sense of the House was taken upon the question, and it was negatived.

Mr. Macon then renewed his motion to concur. He said that the committee were unanimous in their opinion that this office was necessary. It was the duty of the Commissioner of the Revenue to superintend the duties collected from impost and tonnage, and from internal revenue. He had also to examine all the accounts settled by the Auditor. The light-houses, beacons, and public pier, were under his direction. He had also to assist in preparing statements for the two Houses of Congress, and a good deal of other miscellaneous business, as the Secretary of the Treasury had the power of giving him such business as he thought proper. He had also to correspond with all the supervisors of the different States on the subject of internal revenue, which correspondence was very considerable. He did not think there would be any economy in putting more business upon any department than it would well perform; and if this office were abolished, the business of it must be done by another. It might be said that by adding the clerks employed in this office to another of the Treasury offices, the business might be as well done; but he conceived the expense thus saved, which could not be more than seven hundred dollars a year, as a principal clerk must be employed, would be equal to the loss of responsibility which the public had in the Commissioner of the Revenue. Mr. M. thought to object to an office of this sort was straining at a gnat. He was as great a friend of curtailing the expenses of Government, as any member; but there were other expenses which carried off the money of Government, and which ought to be lessened. This office he believed to be necessary.

Mr. Findley hoped the report would be agreed to. The original intention of this office was to be a check upon the other officers of the Treasury Department. He did not wish it, therefore, to be abolished; but, at another time he trusted that the business of it would be revived. If the House were disposed to take away all checks of this kind, they might go on and abolish the office of Comptroller General and others. He was not disposed to give up these checks.

Mr. J. Williams was of opinion that all the business done by that officer might be done by an additional clerk in the Comptroller's office. He did not think the responsibility of this office was so great as represented, as he was under the direction of the Secretary of the Treasury. By such a regulation, he believed one-third of the expense now incurred would be saved; and though other gentlemen might not think a saving of three or four thousand dollars a year an object, he was of a different opinion.

The report was concurred in.

TREATY WITH THE CHEROKEES.

A Message was received from the President of the United States, as follows:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The situation of affairs between the United States and the Cherokee Indians having evinced the expediency of a treaty with that nation, for the promotion of justice to them, as well as of the interests and convenience of our citizens, I have nominated, and, by and with the advice and consent of the Senate, appointed Commissioners to hold conferences, and conclude a treaty, as early as the season of the year and the convenience of the parties will admit.

As we know very well, by experience, such negotiations cannot be carried on without considerable expenses, I recommend to your consideration the propriety of making an appropriation, at this time, for defraying such as may be necessary for holding and concluding a treaty.

That you may form your judgments with greater facility, I shall direct the proper officer to lay before you an estimate of such articles and expenses as may be thought indispensable.

JOHN ADAMS.

United States, *January* 17, 1798.

Mr. N. Smith moved that this Message be referred to the Committee of Ways and Means.

Mr. Harper did not see the propriety of this reference; he thought it would be best to go to the Committee of the Whole, who had the report of the select committee upon the petition and remonstrance of the Legislature of Tennessee under consideration.

Mr. N. Smith could see no reason why a different course should be observed with respect to this business, than was observed with respect to any other which related to appropriations; and the usual way was to refer all such subjects to the Committee of Ways and Means. The present, he said, was mere Executive business. The President of the United States had communicated to the House his intention of holding a treaty, and requested an appropriation. It was, therefore, a proper subject to be acted upon by the Committee of Ways and Means; and when it was so referred, he should move to discharge the Committee of the Whole from the further consideration of the business which related to this treaty. The House had already spent considerable time upon it to no purpose, merely because it was improper for them to have entered upon it at all.

Mr. J. Williams believed it was usual for all Messages from the President of the United States to be referred to the Committee of the Whole on the state of the Union. He wished this Message to take that course, and when the promised esti

mates were received, they could be referred to the same committee.

Mr. T. Claiborne approved of the course recommended by the gentleman from South Carolina.

Mr. Thatcher thought no reference was necessary until the estimates were received.

Mr. Nicholas did not understand what the gentleman from Connecticut meant by saying that this was wholly Executive business. He did not believe, because the President had told the House that he was about to hold a treaty, that the money must be granted, and that the House had no choice whether they would appropriate it or not. From what had already been said upon the subject, he doubted not there was a pretty general disposition to grant the money; but it was not proper that the Message should be sent to the Committee of Ways and Means, as if an appropriation was a thing of course; to do this, would be to act at the *command* of the President of the United States; whereas that House could only act upon the full exercise of its discretion. He therefore moved that the Message be referred to the Committee of the Whole, which had already this subject under consideration.

Mr. Harper was of opinion with the gentleman from Connecticut to a certain extent. If the expense to be appropriated for was of a nature that might be dispensed with, or not, it might be proper to send the Message to the Committee of Ways and Means for their report thereon as to its expediency; but the present was an expense that could not be avoided, and he did not see what the Committee of Ways and Means could do upon the subject.

Mr. Gallatin believed the gentleman from Connecticut had not considered this subject with his usual correctness. That gentleman had said that the Message before them ought to go to the Committee of Ways and Means, and that an appropriation should follow as a thing of course. It must be known that this was contrary to the practice of that House, or of any former Legislature of the United States. On the contrary, it was usual, first to anthorize an expense, and in the next place to appropriate; and in no case had the business been reversed. If the Message were referred to the Committee of Ways and Means, all they could do, would be to bring it back to the House, and ask for an authority for the expense. He believed the gentleman from Connecticut had been led into this mistake by considering the Message announcing the intention of the President to hold a treaty as a treaty made; and had that been the case, according to that gentleman's known opinion, he would consider the House as bound to make the necessary appropriation; but he desired him to recollect that no treaty was yet made; and, therefore, that that doctrine could not apply in the present case. The Message might, indeed, be referred to a select committee, that an opinion might be reported whether the expense ought to be authorized; but, as the subject had already been before the House, and there was a difference of opinion as to the mode of effecting the business, there seemed to be but one sentiment, that something ought to be done. He thought it best to refer the Message to the Committee of the Whole, where he supposed there would be no objection to the granting of a sum of money for the purpose in view.

Mr. N. Smith did not know that it was a matter of much importance whether the Message was referred to the Committee of the Whole, or the Committee of Ways and Means; but he was not yet convinced that it ought not to go to the Committee of Ways and Means in preference to the Committee of the Whole. The gentleman from South Carolina (Mr. Harper) did not know that there was anything that the Committee of Ways and Means could do in the business. He thought there were many facts which it was necessary to inquire into; such as, what would be the probable expense of the Commissioners, of convening the Indians, &c.—matters of fact which might be readily ascertained by that committee, but which could not be determined in the Committee of the Whole. That this was the ordinary course of doing business could not be denied. The President had informed the House he was about to hold a treaty, (whether with a foreign Power, or with the Indians, was of no consequence,) and that certain sums of mopey would be necessary; and he believed no gentleman could point out an instance where this had been done, that the Message had not been referred to the Committee of Ways and Means, to make an estimate of the expense which would be probably incurred. But the gentleman from Pennsylvania had said it was first necessary to pass a law to authorize the expense; but, if he could prove that the expense was already authorized, that gentleman must allow that the Message ought now to go to the Committee of Ways and Means. Was it a fact, Mr. S. asked, that a law was necessary to authorize an expense which the Executive saw necessary to incur? He said not. The Constitution had authorized it; for the Constitution had given to the President the power of holding treaties. For the Executive, therefore, to appoint Commissioners for the holding of a treaty was a sufficient authority for the expense, without any law. Was there a single treaty which had been held between this country and foreign nations, or between this country and Indian tribes, which had been previously authorized by law? There was not: the Constitution had placed this authority in the Executive, without the concurrence of that House. To suppose the contrary, would be to suspose that the President had been acting without law in appointing Commissioners to hold a treaty. The truth was, however, that he had as much power to do what he had done, as he had power to do anything, and that that House had nothing to do but appropriate the money.

Mr. Rutledge did not believe it was necessary or proper for that House to authorize the President to hold a treaty; but if it were necessary for him to hold a treaty, the concurrence of that House was necessary to enable him to do it, as it could not be done without money. It was requisite, therefore, to pass a bill, not to authorize the President to hold a treaty, but to enable him to do it. It was best, therefore, for the communication first to go to the Committee of the Whole, and afterwards to the Committee of Ways and Means, in order for them to say where the money could be got. There was something in this case which pointed out this mode as peculiarly proper, as there seemed to be a disposition in the House, if the treaty should not succeed agreeably to the wishes of the President, to afford temporary relief to the persons now suffering from being driven from their land. The gentleman from Connecticut had said, that the Committee of Ways and Means could report an estimate of the probable expense which would be incurred in holding the treaty; but if he attended to the Message of the President, he would find that this estimate was to be laid before the House by the proper department, so that there was no necessity of a reference to any committee for that purpose.

The motion for a reference to the Committee of the Whole was carried, without a division.

The unfinished business of yesterday, relative to the Tennessee claimants, being next in order,

Mr. W. Claiborne moved that it be postponed till Monday next. Agreed to.

WILLIAM ALEXANDER.

On motion of Mr. Gregg, the House went into a Committee of the Whole on the report of the Committee of Claims on the petititon of William Alexander, surveyor of Army lands. After reading a number of papers relative to the subject, the report, which went to authorize the Treasury to settle the accounts of the petitioner, was agreed to, the committee rose, the House concurred, and a bill was directed to be brought in accordingly.

GENERAL KOSCIUSKO.

Mr. Pinckney, from the committee appointed to confer with the Senate on the disagreement between the two Houses on the bill for the payment of interest to General Kosciusko, reported, that finding the business could be settled in a manner equally advantageous to the General, by agreeing to the amendment of the Senate, as by the mode originally proposed, the committee recommended it to the House to recede from their disagreement to the Senate's amendment.

The recommendation was concurred in by the House.

The House then took up and agreed to the Senate's amendment to the bill prescribing the mode of taking evidence in cases of contested elections.

CIVIL APPROPRIATIONS FOR 1798.

On motion of Mr. Harper, the House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means for providing for the expenses of the civil department for the year 1798, and the blanks being filled (except in a few cases, in which they were left in blank) according to the estimate which had been laid before the House, the committee rose, the House concurred, and the bill was ordered to be reported accordingly.

REPRINTING JOURNALS.

Mr. Sitgreaves wished to call the attention of the House to a subject which he thought worthy of notice. Several of the Journals of the old Congress, held under the Confederation, were now out of print, and had become so scarce that gentlemen elected to serve in Congress, and who were entitled to them, were not able to obtain them. These volumes, he said, contained many ordinances and resolves which were still the laws of the land, and copies of which ought to be multiplied. The same observations would apply to many reports of Heads of Departments and committees, made under the present Government, the only copies of which were to be found in the Clerk's office, or in the libraries of members who had been careful in preserving them. He thought it of importance, therefore, that copies of these should be multiplied and preserved. For both these purposes, he proposed a resolution to the following effect, which was agreed to, and a committee of three appointed:

"*Resolved*, That a committee be appointed to consider and report upon the expediency of reprinting, at the public expense, such volumes of the Journals of Congress, under the old Confederation, and such reports of the Heads of Departments and committees of both Houses of Congress, as are out of print, or are thought to be necessary to the due understanding of the acts of Government."

Mr. Sitgreaves said, it was of equal importance to guard against this evil in future. This might be done by altering the present mode of keeping the Journals of the House. Every member, he said, must now see that the Journals were, in a great degree, useless records, which contained no sort of valuable information, except to members, and to them only during the session; but, for substantial information, they were absolutely useless, and not worth the expense of printing. He, therefore, moved the following, which was agreed to.

"*Resolved*, That the same committee be instructed to consider and report upon the expediency of altering the form of keeping the Journals of this House."

Mr. S. observed, there was another subject worthy of some consideration, which was in some degree connected with these. It was this: There were two Messages from the President of the United States relative to the ratification of the amendments to the Constitution, which were now become a part of the Constitution, upon which no order had been taken. It was proper that some notification should be made of these amendments having become the law of the land. Which was the best mode of doing this, he did not know; but, in order that something should be done in the business, he moved that they be referred to a select committee; which was agreed to.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves said, he understood, from what he had seen in the newspapers, and from what he had heard since his return, that considerable impatience had been shown in a part of the House, in his absence, for the report of articles of impeachment against William Blount. He suppos-

ed it was not necessary he should now go into a statement of the reasons which had led to the delay—though, if it were necessary, he doubted not he could explain the subject to the full conviction of every member. He only rose, however, to say that, in the course of two or three days, he should make the report.

Thursday, January 18.

The Speaker laid before the House a communication from the Secretary of War, enclosing an estimate of the appropriations necessary for holding a treaty with the Cherokee Indians, which was in substance as follows:

For three commissioners, ninety days, at eight dollars per day - - -	$2,160
Incidental expenses of do. - - -	360
Secretary, at four dollars per day -	360
Rations of two thousand Indians - -	15,000
Presents to the Indians - - -	5,000
Stores for the commissioners - -	2,000
Incidental expenses - - -	1,200
	25.880

This statement was referred to the Committee of the Whole to whom was referred the former Message of the President on this subject.

Mr. Tillinghast called up his resolution respecting a repeal of the stamp act, which was referred to the same Committee of the Whole to whom was referred the report of the Committee of Ways and Means on this subject.

Mr. Sitgreaves, from the committee appointed on the subject of W. Blount's conspiracy, made a supplementary report, containing the deposition of Abraham Holden, of New York, which seemed to imply that I. P. Ripley (whose evidence related to what he had heard Captain Eaton say) had been supplied with money by the Spanish Minister, whilst he lived in New York, when he was in needy circumstances. He told the deponent that he had received two hundred dollars from him, and was to have more. The report was ordered to be printed.

Mr. Findley presented the petition of Clement Biddle, of this city, in behalf of sundry Europeans, possessed of certificates of the debt of the United States, which were barred by the section of the act making provision for the public debt, which he prays may be excepted from its operation, as the persons holding the claims had no knowledge of the law. Referred to the Committee of the Whole to whom was referred the subject of considering the propriety of excepting certain claims from the operation of the limitation acts.

PERSONS IMPRISONED FOR DEBT.

The following Message, with the papers to which they refer, was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

A representation has been made to me, by the Judge of the Pennsylvania district of the United States, of certain inconveniences and disagreeable circumstances, which have occurred in the execution of the law passed on the 28th day of May, 1786, entitled "An act for the relief of persons imprisoned for debt," as well as of certain doubts which have been raised concerning its construction; this representation, together with a report of the Attorney General on the same subject, I now transmit to Congress, for their consideration, that if any amendments or explanations of that law may be thought advisable, they may be adopted.

JOHN ADAMS.

United States, *January* 18, 1798.

This Message, with the papers accompanying it, was referred to the same Committee of the Whole to whom was referred the report on the petition of William Bell.

FOREIGN INTERCOURSE.

On motion of Mr. Harper, the House resolved itself a Committee of the Whole on the bill providing the means of intercourse between the United States and foreign nations, Mr. Dent in the Chair. The bill was read as follows

Sec. 1. *Be it enacted, &c.*, That the President of the United States shall be, and he hereby is, authorized to draw from the Treasury of the United States a sum not exceeding $——— annually, to be paid out of the moneys arising from the duties on imports and tonnage, for the support of such persons as he shall commission to serve the United States in foreign parts, and for the expense incident to the business in which they may be employed: *Provided*, That, exclusive of an outfit, which shall in no case exceed the amount of one year's full salary to the Minister Plenipotentiary, or Chargé des Affaires, to whom the same may be allowed, the President shall not allow to any Minister a greater sum than $——— per annum, as a compensation for all his personal services and expenses; nor a greater sum for the same than $4,500 per annum to a Chargé des Affaires; nor a greater sum for the same than $1,350 per annum to the Secretary of any Minister.

Sec. 2. That in all cases where any sum or sums of money have issued, or shall hereafter issue, from the Treasury, for the purposes of intercourse or treaty, with foreign nations, in pursuance of any law, the President shall be, and he is hereby, authorized to cause the same to be duly settled annually with the accounting officers of the Treasury, in manner following, that is to say—by causing the same to be accounted for, specifically, in all instances, wherein the expenditure thereof may, in his judgment, be made public, and by making a certificate or certificates of the amount of such expenditures as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

Sec. 3. That for defraying the expenses of intercourse between the United States and foreign nations, during the year one thousand seven hundred and ninety-eight, there be further appropriated, in addition to the aforesaid sum of $———, and out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $———.

Sec. 4. That the act passed on the first day of July, in the year one thousand seven hundred and ninety, entitled "An act providing the means of intercourse between the United States and foreign nations," and the act passed on the ninth day of February, in the year one thousand seven hundred and ninety-three, entitled "An act to continue in force for a limited time, and amend the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,'" shall be, and they hereby are, repealed.

Sec. 5. That this act shall be and remain in force for and during the term of two years, and from thence until the end of the next session of Congress thereafter, and no longer.

Mr. Nicholas inquired with what sums the blanks in the bill were to be filled.

Mr. Harper said he proposed to fill the first with $40,000, and the last with $28,650.

Mr. Nicholas conceived this to be a good time for the House to attempt to bring back the establishment of the diplomatic corps to the footing on which it was settled at the commencement of the Government, and continued down till the year 1796; and to prevent in future the probable increase which he apprehended from the recent examples, he thought it necessary to take a view of this subject, not only from the increase of expense, but from a variety of other considerations. It is not the manner in which a Government is constituted which makes its operations easy and certain. But the execution of the powers of the Government itself is more to be considered than the nature of its formation; for I do believe there is a tendency in all Governments like ours to produce a union and consolidation of all its parts into the Executive department; and that the limitation and connexion of the parts with each other, as settled in the Constitution, would be destroyed by the influence I have mentioned, unless there is a constant operation on the part of the Legislature to resist this overwhelming power. I think we have the most convincing proofs that a representative Government can be made the most oppressive and burdensome, and yet preserve all the forms which are given to it by a Constitution; and the Legislature shall appear to act upon its own discretion, whilst that discretion shall have ceased to exist. Where the Executive has an influence over the Legislature, and the Government is a representative one, the Executive is capable of carrying its views into effect in a manner superior to what can be accomplished even in the most despotic monarchy; the mischief will be carried further in the former case than in the latter, because the people will be more inclined to submit to the decisions of a Government of its own choosing than to one which rules them by hereditary right; monarchs cannot carry their oppressions so far, without resistance, as republics. Under this general view of the subject, he conceived it to be the duty of a Legislature to guard cautiously its own independence, and to limit, as far as consistent with the general welfare, the influence of Executive patronage. With respect to our own Government, although he did not insist that the evil had already taken place, he conceived it to be a duty they owed to themselves and their constituents, as well to secure liberty as to perpetuate the Constitution itself, that the President, who had the power of making appointments, should be kept from extending this power beyond what the nature and wants of the Government absolutely required; and he thought, unless better reasons were assigned than any which had heretofore been offered, that the Legislature ought to reduce the diplomatic establishment to what it had heretofore been. This arrangement, besides having the beneficial influence he had mentioned, would also tend to retrench the expenses of the Government, now become an article of considerable importance.

He would, in order to elucidate his argument, suppose that that kind of Executive patronage he had mentioned had now extended its influence into the Legislature, and that in consequence of a thirst for office majorities were formed in both branches of Congress devoted to the views of the Executive, by which the Executive could hold on with the Legislature a regular and concurrent course to effect any object however hostile to the public good that the President might think proper to pursue; where, he asked, would be the check? in what branch of the Government would you look for it? Was it to the Senate? The majority of that House under this supposition could effect no check. Will you look to the House of Representatives? The majority are humble expectants of offices; here then, also, you are disappointed! Where, then, will you find anything capable of controlling this overbearing influence? It must be in small and feeble minorities, who, by their opposition and attention to the interests of the people against arbitrary power, may rouse the people to a sense of their danger, and force the public sentiment to be respected; this he conceived would be the only check. But this check, he believed, could only with great difficulty and inconvenience be brought into action. It would be difficult, because the people would be inclined to approve the proceeding of a majority on the fundamental principle of Republicanism; because, on account of the vast extension of our country, the individuals of a minority could not be generally known, and without being known, their motives for opposition could not be justly appreciated; nor without being known could they attract the attention of those who form the representation.

It appears, also, to be proper to guard against Executive patronage on account of the small numbers of the Representatives; if the offices are increased in only a small degree, they become so many additional temptations, and the chance of an appointment increases in a two-fold ratio to the increase of the number.

He conceived that this extension of influence of one branch of the Government over another was strictly guarded by the Constitution, which was framed on the principle of checks and balances—of departments acting and controlling each other; but he was sorry to see the idea of patronage drawn into a closer compass than it had formerly been, as it increased the evil. He was sorry for it, because it tended to manifest a circumstance which had been sought to be concealed. Every insinuation that there was a division between the Government and the people

had been repelled as an insidious and malignant design; but the Administration, by acting on a new principle, which he was too well assured was the fact, had established the idea that there was a division between it and a considerable portion of the people. The evidence of this fact had been long shown, and he feared the operation of circumstances of this nature on the public mind.

He said he had clear and satisfactory proof that no man was hereafter to be admitted into the Administration, or other departments of the Government, unless he was willing to sacrifice all independent political opinions and bend at the shrine of Executive wisdom. He believed the Administration did not hesitate to make the open avowal, that no person should be initiated into the mystery of their affairs unless he would give a test of his belief in Executive infallibility. If this was the case, and he believed it was, it became another cogent reason why the Legislature should show itself attentive to limit a patronage which was to be exercised in this way; and which cut off from the Administration at one stroke all those who did not join in their confession of faith; but this reason was strengthened when we draw into our view the appointments that have been made of foreign Ministers taken out of the Legislative body itself. It does present a most formidable aspect to the liberties of this country, when we see the most lucrative offices, the most tempting and most honorable—offices with the greatest attraction—filled by draughts from the Legislative body, and there, too, of one particular class, and that class the believers of the new doctrine, a thing entirely unknown to the principles upon which the Constitution is formed; he repeated that it was a subject of alarm, and ought to excite attention, that the diplomatic corps was filled by draughts from Congress.

He gave it as his opinion on our foreign intercourse, that the United States would be benefited by having no Ministers at all. He did not think that we could be benefited by any sort of compact these foreign agents could form for us, for we only bound ourselves by any treaty we entered into, as we are totally incapable of enforcing the execution of the stipulations made by other nations by any offensive measures. It might be thought necessary to make commercial arrangements with some European Powers; but, he asked, if they had the force to make a foreign country conform to its engagements? No gentleman would say that they had; therefore such regulations only tended to entangle ourselves, without rendering commerce any efficient aid. He would, therefore, leave our commerce to seek its own markets totally disembarrassed. All the protection we could furnish it with, consisted in officers of another grade than those mentioned in this bill: Consuls who should reside in the seaports, and not Ministers Plenipotentiary residing in the interior.

He did not intend by the motion he was about to make, that the whole diplomatic establishment should be destroyed at this time, but merely to reduce it to what it had been before the late increase. With this view he proposed to alter the bill so as to direct that there should be appropriated $9,000 for a Minister Plenipotentiary at London, and $9,000 more for another near the French Republic, and that the President be left at liberty to reduce the Ministers Plenipotentiary at Berlin, Madrid, and Lisbon, to Ministers resident, which would diminish their salaries one-half—a resident Minister being of a lower grade has only $4,500 per annum. He then went into a detail of the proceedings of the first Congress, in order to show that it was admitted on all sides by that body, that the Constitution vested the power of specifying and limiting the salaries of foreign Ministers and Consuls; he read the speeches of Mr. Lawrence, Mr. Sherman, Mr. W. Smith of South Carolina, Mr. Sedgwick, Mr. Huntington, and several others, from the Congressional Register, by which it appeared, that there was but one opinion on their powers under the Constitution; and showed from hence, that the only reason why the House did not undertake to enumerate and fix the salaries of foreign Ministers in detail, arose merely from the want of information as to the places where they should be fixed, and the sum necessary to cover their expenses. As his construction corresponded with that of the gentlemen who fixed the principles upon which the Government was put in motion, he was encouraged to expect his motion would succeed, seeing that the House had now had sufficient experience to enable them to say what were the regulations proper to be made.

He also showed that he was supported in his construction by the President himself in his late application to extend the appropriation to cover the appointment to Berlin, which would not have been requisite had the House not possessed a discretionary power on the subject. He concluded by professing it to be his intention to let the appropriation continue to the Ministers at Berlin, Spain, and Portugal, until they had either completed the business in hand, or till the President had given them notice that the Legislature did not mean to support them in the manner they had heretofore been maintained. He deemed it proper to curtail the expenses of this department as soon as possible, but not sooner than convenient. He commented upon the necessity of having a Minister Plenipotentiary at Berlin, by saying we had little or no commercial intercourse with that nation, and if the Executive had sent one there on such pretence, it would perhaps become soon necessary to send Ministers Plenipotentiary to two or three other northern Courts, though we have but a very inconsiderable commerce with them; yet, inconsiderable as it was, it was more than we had with Prussia. If the House were to retrench at this time it would manifest their intention to resist any further demands, and put an end to a growing evil.

Mr. Harper supposed it would be remembered by all those gentlemen who had attended to the business of Congress for several years past, that the doctrine of the gentleman from Virginia was by no means new. The subject of foreign intercourse was never taken up, without that gentleman, or some other who agreed with him in sentiment, advancing these opinions; they never failed to speak of the danger to be apprehended from Executive influence, from its power to appoint foreign Ministers; that foreign intercourse was unnecessary; that our public affairs abroad were not to be attended to, and that commerce ought to be given up, or left to shift for itself. Nor was this a doctrine confined to this country, or this age. Whenever a set of gentlemen in any country found their views opposed by the measures of Government, they became vexed, and attributed the proceedings of those who differed from them in opinion to any motive rather than the public good. The desire of Executive favor, or Executive offices, was an usual charge, and it was at this day well understood. It would also be remembered, that whenever the subject of foreign intercourse had been discussed, though these objections had been constantly made to it, they had been as constantly disregarded by the Congress of the United States. The good sense of the country had weighed these objections in the balance, and declared them wanting; and he trusted the same fate would now meet them as heretofore.

That the House might judge more accurately on this subject, he would advert to the course heretofore taken. But, before he did this, he would observe, that the motion of the gentleman, instead of bringing the business back to the state in which it stood in the year 1790, would be a direct innovation upon that institution, and, according to his doctrine, the best way of correcting change would be to introduce it; for the present bill was a copy of the original act, which had been acted upon from the year 1790 to the present time. But, instead of leaving the business as placed by Congress at that time, the gentleman from Virginia wished it changed. Why was this to be done? Because it was found that the President, after seven years' experience, had found no necessity of making any difference in the allowance to Ministers at different Courts, and therefore the House ought to make the change. This was reasoning from effects to causes with a witness to it. No contradiction was more palpable. But it was said, there was danger from the Executive influence—danger of legislators being bribed by the hopes or promises of foreign appointments.

These objections had been urged on former occasions. When the appropriation was made for a Minister to Berlin, the gentleman from Virginia then made a *stand*, as he terms it. He then told the House the appointment was unecessary; but, notwithstanding, the money was appropriated.

The House was not afraid of Executive influence. If this appointment had been improper, that was the proper time to have prevented the extension of our foreign intercourse; but, after a full discussion, the extension was deemed proper. What versatility—what foolishness—what childish capriciousness, would it appear, if, in a few months after the solemn sanction of the House was given to it, it was to be withdrawn, and that without any additional light on the subject. He trusted that the House would not be induced, from the unfounded suspicions of any gentleman, thus to act.

In aid of the $40,000 per annum, originally granted for this purpose, Mr. H. said, various supplementary appropriations had been made. First, a sum of $20,000, then a sum of $23,000, and, in March last, 17,000, and, in addition to this, $14,000 for a particular appointment. The House had, therefore, not only deemed it expedient to continue the original act, but to make additional appropriations from year to year. He thought the good sense of the country had never been more firmly shown than on this subject. But now a new course was to be taken, and all former proceedings declared to have been wrong. But it was said this country had no need of foreign Ministers, and that commerce might be left to itself. He did not believe the House would think so. Did not the United States trade with all the nations of the earth? How, then, were it possible to do without accredited agents to attend to our concerns in foreign countries? Were we to give up our commerce? There were gentlemen, he knew, who would answer, Yes. They would tell the House, commerce was a bad thing, and that it rather ought to be outlawed, than protected. But was this the sense of the country? Was it the sense of that House? Would they discard the property of that class of citizens who depended upon it, for their support and their wealth? Or would they be ready to forfeit the revenue arising from it? Mr. H. said he had often heard of the dangerous nature of foreign intercourse; but it was the discovery of a few men who believed that everything which had been done by this Government had been radically wrong. He trusted, however, the House would adhere to what it had so frequently sanctioned, and that the proposed amendment would not be agreed to.

Mr. Allen said, that by the bill before the committee they were brought to consider what provision should be made for the Ministers of the United States abroad. He wished the gentleman from Virginia had produced facts to the committee which, by being considered, might have been acted upon; and when he had proposed to have Ministers Plenipotentiary at two Courts only, it would have been well if he had shown why there should be Ministers of that description there, and not at other Courts; or why we should have any Ministers abroad at all; but after listening to him with attention, he had been able to hear nothing from him but general declamation. What he intended for arguments, he thought illy applied to a Government like this. He had strongly warned the House against Executive patronage. He spoke of the different departments of Government as distinct bodies, having different interests; as if the Executive was forming a patronage against which it was important for that House to guard. He thought language of this kind very improper. He believed it might

have a bad effect out of doors, when the people heard of the Executive being thus charged. Instead of making these charges, he wished the gentleman had said, "Come now, and let us reason together." This would have been preferable to calling of hard names, to speaking of the lust of dominion and of patronage; as if one branch of the Government was in danger of being swallowed up by the other. The gentleman had declared that republican Governments might become more burdensome and corrupt than any other, as if the people of the United States were to be informed that this Government was progressing towards that point—towards a point which would bear it down! This language struck him the more, as he doubted not it would be faithfully reported. A combination of all the branches of Government was spoken of, against which there was no security but in feeble minorities. Did the gentleman mean to insinuate that majorities in republican Governments were not to be trusted, but that all virtue was in minorities—the enlightened few, who were to be the guides of the people?

Mr. A. said, the gentleman from Virginia had told the House that Executive patronage was exclusively confined to those who came up to the standard of Executive infallibility. This assertion was to spread over the United States as a fact. But were any proofs offered to support these charges? No. Yet these charges would go out to the world, and would tend to weaken the confidence of the people in the Government, and they would of course conclude, that such a Government ought not to be supported, but demolished. Was there any peculiar propriety, he asked, in introducing language of this kind at this juncture, when they were every moment in expectation of hearing news that might be very disagreeable, and require a union of every citizen in the country? Was this a time to say that Government was not to be trusted? He could have wished, instead of making these charges, the gentleman had reasoned upon the subject, that such measures might have been taken as true wisdom and love of country should have dictated. But when gentlemen spoke of Government departing from the principles upon which it was instituted, who that believed this, would respect it? But he had himself even heard native Americans who had not been poisoned by any foreign influence whatever, declare that such a Government as ours could not stand, that it must be overthrown. He believed that these opinions were produced by such declarations as those that they had heard to-day, and such as if "this law be passed, it will not be carried into effect by the courts of the States," which was language used on a former occasion.

Mr. A. concluded by saying, the committee were told that our foreign intercourse ought not to be continued. He confessed that this country had reason to wish that foreign intercourse, so far as it related to importing intriguing foreigners, had long ago ceased. He believed there were persons within that House who thought the Government ought to be overset, and that it could not and ought not to be supported, and who believed that the most effectual way of destroying it was to destroy the confidence of the people in the individuals who administer it. He wished the House to assume the true American character.

Mr. Nicholas assured the gentleman just sat down, that he might say what he pleased of him, he was at liberty to proclaim him in what character it pleased; it would not affect him in the least. With respect to the charge he brought against him for insinuating, without authority, that a preference was given by the Executive to persons professing certain opinions, he did not make the charge without authority. It was the avowed declaration of men who considered themselves as guides of the President, that this was the case. He acknowledged it was to be lamented that, at a time when it might be necessary to join in a common cause, that such sentiments should be declared; but if gentlemen will divide the country into parties, it was a business of their own and not his. What he said was true.

Mr. Gallatin believed that there was a number of people in the United States—people otherwise enlightened, and who, upon all common subjects, possessed sound understandings—who were fully convinced that there was a faction existing within the United States, and even within the walls of that House, who wished to demolish the Government; and he further believed that this opinion was supported by such declarations as had been made by the gentleman from Connecticut. He should be sorry that such a belief should be considered as dangerous to the safety of the community. Nor could he consider the determination of the Executive to employ only such persons as are of the same political opinions with themselves, as of such a nature as to produce fatal consequences, and that Government, on that account, was unworthy of confidence. He believed that such a line of conduct must flow from the present state of parties in America, divided as the people were upon many important occasions. To say, therefore, that the Executive employed persons of consonant political opinions to its own, was not to say the Government did not deserve confidence. But if the committee turned their attention to the amendment proposed, it only went to declare that Ministers to London and Paris should not have a salary of more than $9,000 a year; and that Ministers to other parts of Europe should not have more than $4,500. In support of this amendment, it was said that this was the ground upon which this Government first fixed the business of foreign intercourse. He believed this statement correct. Until the year 1796, there was no Minister Plenipotentiary except at Paris and London; at other places there were no higher grades than Ministers Resident. Hence the committee might be led to argue the propriety of bringing back our foreign political intercourse to what it was before that period. He said foreign political intercourse; because he thought the gentleman from South Carolina (Mr. Harper) had blended two subjects together, viz: foreign commercial intercourse. and foreign political intercourse. He did not believe it was the opinion of any gentleman in that House that commerce ought to be left to shift for itself, unattended to. He believed it was well understood that our commerce in foreign countries was attended to by our Consuls, and not by our Ministers Plenipotentiary; and Consuls would exist, if we had no Ministers at all. Therefore, all that gentleman's arguments, which tended to show that the amendment would affect our commercial intercourse, had no foundation whatever.

Returning to the question of foreign political intercourse: Was it proper to bring it back to what it was eighteen months ago? And, before he proceeded further, he would observe that, though the gentleman from South Carolina had been tolerably correct in his statement of the business, he was mistaken in one point, in which he would set him right. He had stated that the first additional appropriation was $20,000; but this sum was not appropriated for foreign intercourse, but for defraying the expense of the suits of our merchants in London. On the first of January, 1796, there remained a balance of unexpended appropriation for this object, of $30,000. To that day no extraordinary appropriation had been made; the whole allowance was $40,000 a year, which was found to be more than sufficient. On the 28th of May, 1796, an estimate was sent by the President of the United States, stating the sums already appropriated for foreign intercourse, and that $23,500 were yet wanting, in order to change the establishment, which had till that day existed, by sending Ministers Plenipotentiary to Madrid and Lisbon, instead of Ministers Resident. This estimate, he just stated, was received on the 28th of May, and the law received the signature of the President on the first of June, so that it could not have received a very full discussion (being passed just as the session was about to close) and he thought there was good reason for examining the thing again. The next appropriation was made in the second session of the fourth Congress. In that session, he allowed, the additional appropriation was passed after full discussion. It was made upon an estimate stating $17,900 wanted; and, during last session, an appropriation was made for a Minister to Berlin, of $13,500.

The committee had been told that it would evince great versatility if they were all at once to change what had already been done. But it must be recollected, that when the change in the system was first made, it underwent little discussion; and he would venture to say, that our business abroad was as well done from the year 1786 to 1796, as it had been done since. As the question was whether a larger or a smaller sum of money should be appropriated, he would call upon gentlemen in favor of the larger sum, to show what benefit was derived from Madrid and Lisbon by the change; what necessity there was for a Minister at Berlin, and what good was to be derived from giving a larger salary than $4,500. The gentleman from Connecticut had said, why send a Minister Plenipotentiary to London or Paris, any more than the other Courts? This was done at first, and the mover, he supposed, wished not to innovate upon the law as originally passed.

But they were told it was improper, upon this floor, to say anything about patronage, and that all arguments of that kind are well understood, and are by no means novel in their nature; that such complaints are made under all forms of Government by discontented people out of office. To say that these complaints are well understood, was the same as to say that the ground upon which they complained was also well understood: it was to acknowledge, that persons who were in the favor of the Executive had some advantages which persons in the other party desired or envied. To admit of one position, was to admit of the other. But, if no particular advantage was to be derived from Governmental patronage, then the cause of jealousy, according to this doctrine, must cease.

But it was said, it would be weak and foolish to change what had been already established in respect to foreign Ministers. But had nothing, he asked, taken place since the House sanctioned the principle, which had a tendency to bring the effects which might be produced by patronage to a closer view? Had gentlemen forgotten that a member, the most active upon that floor, especially in all financial business, came (if not with a commission in his pocket, at least with the full prospect of it) to support the estimate out of which his salary and outfit were to be paid? He would ask, when such a fact was seen to take place, whether it might not be believed that such an influence as had been spoken of might not exist? Mr. G. wished it not to be supposed that he meant to make a personal attack upon any one; he only meant to infer that persons in such a situation were liable to be improperly influenced. He would not pretend to say that the evil was of great magnitude; he believed not. He believed, upon the whole, our Government was in a great degree pure. Patronage was not very extensive, nor had it any material effect upon the Legislature, or any other part of the Government; yet, he should suppose our Government to be liable to abuse in this way. By the nature of the Government, the different powers were divided. The power of giving offices was placed in the Executive—an influence which neither of the other branches possessed; and if too large grants of money were made, it might give to that power an improper weight.

Our Government, he said, was in its childhood; and if this patronage had any existence, it could not of course be as yet alarming. But he desired gentlemen to look at all Governments where this power was placed in the Executive, and see if the greatest evil of the Government was not the excessive influence of that department. Did not this corruption exist in the Government which was constituted most similarly to ours, to such a degree as to have become a part of the system itself, and without which, it is said, the Government could not go on? Was it not, therefore. prudent to keep a watchful eye in this respect? He did not, however, speak against the power itself; it was necessary to be placed somewhere. The Constitution

had placed it in the Executive. If the same power had been placed in the Legislature, he believed they would have been more corrupt than the Executive. He thought, therefore, the trust was wisely placed in the Executive; and though it was right to keep grants of money within proper bounds, in order to prevent the abuse of power, yet it was proper to grant all that was necessary.

Mr. G. concluded, by saying, that if he thought it was proper that our political intercourse should be extended, he should not support the amendment; but as the conviction was strong upon his mind that our foreign political intercourse had at least been as expensive as it ought to be; that it was owing, in a great degree, to our political intercourse with foreign nations, that our present critical situation was produced; that this intercourse produced more evil than good to us; that he wished to bring the business back to the state in which it stood in 1796. If the wisdom of future Legislatures shall think proper to abolish the establishment of foreign political intercourse altogether, it must be left to them to decide. He himself thought it would be going too far to do so at present. He believed, situated as we were, it was necessary to have some political intercourse; but he believed it would be best, by degrees, to decline it altogether. In answer to the gentleman from Connecticut, with respect to majorities being always right, he said he himself was sometimes in a majority, and sometimes in a minority; and at the time he was speaking, he did not know in which he might be; but it might be, though he were in a minority, and must of course be bound by the majority, that he might be convinced that his opinion had been correct.

Mr. SITGREAVES said it was much to be regretted, that when gentlemen thought it necessary to introduce their opinions to the consideration of the House, they should suppose themselves justified in taking a latitude remotely and unnecessarily connected with the subject under consideration. These sort of remarks could not be permitted to go without reply; and, in consequence, the debates of the Legislature appeared as if they were intended more to influence the public mind than the minds of gentlemen in that House on the decision of the question before them. He did not think the observations without their application on the present occasion. If the gentleman who made the motion before the committee had confined himself to the proposition of the propriety of appointing Ministers Plenipotentiary to certain Courts, it would have been decided by this time; but he had thought proper to go into a declamation on the fatal effects of Executive patronage, and of the particular uses made of it in this Government. He asked if any gentleman could dispassionately say that this had any connexion with the subject before the committee. If the gentleman's observations were taken in their broadest extent, they went to say that the patronage of the Executive was dangerous to the liberties of the people of this country; they went to defeat and dishonor a power created by the Constitution of the country. If the gentleman meant anything, therefore, (and he supposed he had some meaning in what he said,) he could mean no more than this, that it was improper in the Executive to appoint improper persons to public offices in the Government. This proposition was self-evident, and there could be no disagreement upon it, and no general observations on the ruinous effect of patronage were necessary. No man was disposed to say, that if the Executive power were unlimited, it might not be abused, and all knew that it was wrong to appoint improper persons to public offices; but the true application of the argument used on this occasion appeared to be, that the appointments made by the Executive were made with the single view of increasing Executive influence, and that, consequently, the motives of the Executive were impure. This position had not, most assuredly, been supported by the introduction of any fact; but the declamation was as broad, and as little specific, as the charge itself. It had also been observed, that it had become an avowed principle in the Government to exclude from public offices all those who were of a different opinion from the Executive. He knew not upon what foundation this assertion was made, and it was very immaterial, whether true or not. For himself, he had no objection to declare it to be his opinion, that wherever the administrators of the Government had deviated from a rule of this kind, they had done so to their sorrow and to their loss; and the experience of Government in this respect had produced a sad and awful lesson, which would doubtless have its effect in future.

But, was it for that House to inquire into these things? He believed not. The Constitution and laws of the country had made certain offices necessary, and left it to the Executive to fill them as he pleased; and was it for that House to attempt to control this discretion? If it were executed to the injury of the people, the Constitution had pointed out the remedy to be by impeachment. But where was the crime, the offence, or the impropriety, of the conduct ascribed to the Executive, if it had been adopted? Would gentlemen say that the Executive ought to appoint persons to office who professed an opinion contrary to its own? Did gentlemen suppose that there was such a want of integrity in this department of Government, that it adopted a political opinion which it did not believe to be right? And, if it were believed to act from principle, would it be prudent or right to admit to a participation in the execution of the important duties of Government persons whose sentiments were not in unison with those of the Executive, and who could only create discord and confusion, where nothing but harmony and union ought to prevail? If the Executive acted upon just principles, it would endeavor to give singleness of design to its operations, and it could only do this by admitting persons into the Government who thought with it. This would be a right, prudent, and honorable conduct; and where it had been deviated from (as he had before observed) Government had received an awful lesson for its future conduct.

But why deviate into this wide field of specu-

lation? The single question before the committee was, whether an appropriation should be made in support of our present diplomatic establishment. In arguing on this question, gentlemen set out with saying that at the origin of this Government a certain diplomatic establishment was necessary, and that there had been no occasion to change it; and, if it had been changed, it was now the time to correct it; and they called upon gentlemen to show what necessity there had been for the change. To that call it was sufficient to answer, and it was an answer which must be given, that they did not know. They had no means of knowing; the Constitution had not placed those means in their hands. For whatever control that House might assume to itself over the Executive, it must be admitted that a right judgment on this subject could not be formed by them, as the information necessary to this judgment was not upon the files of that House. All the diplomatic agents corresponded with the Executive alone, and that branch of Government only could form a correct judgment upon diplomatic agencies. Suppose they were, in their turn, to ask gentlemen why was not the present establishment necessary? Were they prepared to give a well-grounded opinion on the subject? He believed they could not. And the burden of proof lay upon them, because they were endeavoring to destroy an existing establishment without knowing the reasons which had induced the change.

It had been said by his colleague that the power of appointing officers vested in the Executive was liable to abuse, and he had referred to the late appointment of the gentleman from South Carolina, whilst a member of that House, as a proof it. Mr. S. asked if there was anything in the Constitution which forbade the President from appointing members of the Legislature to Executive offices? and, on the contrary, if it had not been the constant practice to do so? If the Constitutionality of the practice could not be called in question, the abuse of its execution could only be blamed. In the particular instance alluded to, his colleague had not supposed the Executive had been actuated by any improper motives in the appointment, but only that the fact showed the power was liable to be abused. Unquestionably this and every other power might be abused, but if the power was Constitutionally used, it could not be found fault with except it were abused. Where could the Executive look for fit persons to fill diplomatic offices, if he were not to choose them from the legislators, whose situation evinced that they possessed the confidence of their constituents, and in which they had had an opportunity of showing that they possessed abilities for such an appointment, such as would do honor to themselves, and such as were calculated to procure advantages for their country?

The question whether that House had the power to interfere with the Executive authority, by withholding appropriations, had been fully discussed in a former Congress, and the opinion of the country was not now to be fixed on this subject. For that part of the House who thought the Constitution had not vested them with the authority of controlling the Executive, it was sufficient to say that the Executive had thought it necessary to introduce the change in the diplomatic department, which was complained of, and that they felt themselves bound to carry his determination into effect; but those who think that the House of Representatives may control the Executive in this respect, will of course act accordingly.

Mr. BALDWIN said he perceived there was a real difference of opinion between the gentleman last up and himself. The gentleman supposed the diplomatic establishment was fixed by the Executive, and the Legislature had nothing to do with it but to provide the money. Every person must see, even from a cursory view of the Constitution, that this was designed to be a Government of departments, Legislative, Executive, and Judicial, to be kept distinct as far as possible. It was the business of the Legislature to establish offices by law: it was the business of the Executive to fill those offices. It would appear, from tracing back the law, now proposed to be continued, that it originated in this manner. He had not been notified of the subject as being likely to be called up to-day, and was not prepared to be as particular as he could wish as to facts. He had endeavored to refresh his recollection since it had been under discussion, and he found that it originated from the Speech of the President at the opening of the second session of the first Congress, in which he said, "that the interests of the United States required that our intercourse with other nations should be facilitated by such provisions as will enable me to fulfil my duty in that respect; and to this end, that the compensations to be made to the persons who may be employed, should, according to the nature of their appointments, be defined by law." This part of the Speech was referred to a committee, and from that originated this law. Want of information, at that early time in the Government, prevented their being as particular as they wished. They fixed a sum to each grade, and a sum beyond which the whole amount should not extend; limited the law to a short period, that it might be open to be corrected by experience. The present motion, if he had understood it, proposed now to be a little more particular in the establishment, by fixing the sum for particular places—to do the very thing then recommended by the President. The same has always been the intention of every succeeding Congress, which was the reason why they continued it only for short periods, leaving it open to such amendments as should be suggested by experience. These ideas of the offices being first to be established by law, appeared not only to be the sense of the former President and of each succeeding Congress, as he had stated, but appeared also to be the opinion of the present President. At the last session he thought that a higher grade of office was necessary at Algiers: this he stated in a Message to Congress—that as there were great expenditures of money on that coast, he thought it necessary that an establishment should be made which would enable him to appoint a

very confidential person, on whom the other officers there should be dependent, and who should control their proceedings and expenditures. Congress concurred in this opinion, passed a law for the establishment of the office, and then the Executive appointed the officer. For these reasons he considered the question within their proper powers, and fairly open to their deliberation.

He was always sorry to hear of the hostility of the departments of the Government, and of how much harm they could do if they were hostile to each other. They are designed, and have every inducement to cultivate harmony, and not hostility; and, in the harmonious exercise of their powers, they control each other; there can be no great danger of excessive patronage in appointments to office, if the office must be first established by law. If he had not misunderstood the gentleman last up, he had expressed some belief and approbation of the Executive's having a political system as to legislation, and rewarding and punishing friends and enemies of that political system. To be sure it was by the Constitution made the duty of the President to lay information before the Legislature and to recommend measures. When he has done this, he has done his duty; but to conceive that there is a general system of legislation always existing in the Executive, which is to be regarded as a standard; or that the Executive and Judiciary Departments of the Government are to be considered as floating round on the small and frequently casual majorities and minorities which will for ever take place in representative Legislatures, was sapping the very principles and foundation of a Government of departments like ours. If a law happened to be made by the wrong side, it would have had but a bad chance with the Executive or at the seat of judgment. There were old Republics in this country. He believed their Executives or Judiciaries had rarely taken part, or been carried round on the thousand storms with which they had been agitated. He could not persuade himself that he had understood the gentleman as expressing an approbation of it, as he thought it was stated by him. [Mr. Sitgreaves said he had certainly been misunderstood.] Mr. Baldwin said he therefore considered the question a fair one, and a question which was always expected to be made at the different times when this act has been continued by short limitations; it was even an old question, and always considered a very important one, before the present Government was formed. At the close of the Revolutionary war, the disposition of forming many treaties, and having extensive diplomatic connexions with European Powers, was carried even further than it has been since. It was among their first national acts, and discovered marks of youth and inexperience; a few years convinced them that they had gone too far, that this country had little to expect from treaties and much to lose, and that many diplomatic connexions were more frequently the cause of perplexity and embarrassment, than of any national advantage. The Congress under the articles of Confederation were extricating themselves from that policy as fast as possible; as these expired in course, they were careful not to renew them. For several of the last years of that Congress he well recollected that clusters of candidates for these appointments, supported by powerful interests and connexions, were uniformly resisted; and, if he mistook not, when this Government came into operation, this country had but one Minister in Europe. The conviction on this subject was so strong, and experience had so fully settled it as the true policy, that it remained immoveable for some time after organizing the present Government. All appropriations for foreign Ministers were refused at the first session, as far as he recollected. At the second session it was urged, in the Speech of the President, as before stated, and enforced by more particular explanations to individuals, as designed to be for temporary purposes, respecting the Northern forts and the property that was withheld. Under these explanations a law passed, as before explained. It was true this policy had been of late, in some measure, departed from. He thought experience had already been useful to them in this course also, and ought to administer caution to them in seeking to intermingle in European politics. Ambassadors and Ministers cannot be entirely indifferent to the characters and events with which they are constantly surrounded; the share they take is very apt to be exchanged between the countries to which they belong. He did not wish to be too particular on that point; he was persuaded facts enough presented themselves to the recollection of every member to confirm his remark. It might be said that on this also we have an awful lesson. If evil had been experienced from this cause, he hoped it would operate as a reason to endeavor to diminish it. He thought it not unreasonable for the House to interpose their restraining power as to granting money, and the more particular establishment of the officers, and thus aid the other departments of the Government in bringing back, by degrees, this part of our policy to its former principles, so well sanctioned by experience. Whether the present motion was well timed, or whether it was best to give it another short limitation before we went into a definite establishment, was another question, on which he was willing to hear more remarks. Informed as he was at present, he should vote for the motion, and thought they might make some amendments to the former bill, already suggested by experience, and which would be useful.

The committee rose, and had leave to sit again.

Friday, January 19.

Mr. D. Foster reported a bill for the relief of William Alexander, which was twice read, and committed for Monday.

FOREIGN INTERCOURSE.

The House again resolved itself into a Committee of the Whole on the bill providing the means of foreign intercourse, when

Mr. Pinckney rose. He understood the amendment was intended to confine our Ministers Plenipotentiary to London and Paris, and that no higher grade than Ministers Resident should be employed in any other country. He was opposed to this change at this time, and to the mode proposed of doing the business, if the time were seasonable. It was proper that at this juncture our Ministers should remain as they were, as it was prudent to derive all the influence and advantage we could from the situation of our agents in Europe, who would not only be enabled to communicate more correct information from thence, than could be derived from any other source, but who could also explain the motives and objects of this Government, and by that means remove any unfavorable impressions which may be attempted to be given with respect to this country; and thereby put our business in the best train for securing the neutral standing which we have taken. He was against it for another reason. To change the diplomatic intercourse in the way proposed, would be forcing upon the Executive a measure contrary to its wishes. It would also be affording testimony to the charge heretofore made, that there was a division in the Government and in the people—a situation in which many wished to see us. He should be sorry to afford the appearance of one department of Government having forced upon another a change of measures of which they are the competent judges, and upon which they have acted. As it was well known that there was a very intimate connexion between Spain and Holland, and the country with whom we have at present a misunderstanding, he should be unwilling to deprive this country of the advantages to be derived from having Ministers at those places; besides, if our Ministers were to be recalled from thence, it would be considered as an extraordinary proceeding; and might be construed as intended to be hostile to them. Whatever influence Spain or Holland may have in the councils of the country which he had alluded to, by continuing our Ministers there, it was probable that weight would operate in our favor. There was an additional reason with respect to Spain. It was well known that we had points yet to settle with that country. Our treaty with that Power was not yet carried into effect, and negotiations might at this time be going on in relation to it, which might be frustrated by the recall of our Ministers.

With respect to the grade of Ministers proper to be employed in different countries, we must not consult on this subject our own ideas alone, but pay some respect to the light in which this business is seen in other countries. From a fact within his own knowledge, he knew of what consequence these forms were looked upon in the Court of Spain. When they wished to finish a treaty which was begun with this country, they desired it might be done by a Minister of a higher grade than the one resident there. It was on this requisition that an Envoy Extraordinary was sent. There was considerable etiquette in this business, which it would not be proper altogether to neglect. It was necessary when a Minister Plenipotentiary was sent to a country, for that country to return a Minister of the same grade. Besides to go into the proposed measure at this time, would exhibit a degree of instability in our councils which would have an unfavorable appearance to foreign countries. If peace were restored in Europe, and we had no difference to settle there, he should agree with the gentleman from Virginia, and with the opinion of the old Congress, that it would be well to keep no foreign Ministers in Europe. All commercial regulations might be as well carried on by Consuls as by Ministers; and if any differences should arise between this country and any of the European Governments, special Envoys might be sent to settle them, as heretofore; for when the situation of this country was considered, it would appear to be for our interest to have as little political connexion with Europe as possible, and therefore Ministers could be of no use, but might do mischief. Gentlemen of different opinions in that House, must see that we have had Ministers in foreign countries who have done no good, and that foreign Ministers have been sent to this country who have done harm. He, therefore, thought that the gentleman from Virginia was right in principle; but he thought the time improper, and he did not approve of the mode proposed to be adopted. He should wish that the subject should be brought forward by way of an original motion, and receive all the discussion which the rules of the House will admit of.

Mr. P. concluded by observing, that he had avoided touching upon what gave color to the debate of yesterday. It was with concern he heard such topics introduced. It must be lamented by every friend to the country, as tending to destroy that harmony and good will which was at all times proper and desirable, but at this time peculiarly so, when all our efforts ought to be joined to avoid the calamities of war; but when, if these calamities could not be avoided, we ought to stand shoulder to shoulder, and oppose every Power who was determined to impose upon us. So strongly was this impressed upon his mind, that he thought every means should be taken to harmonize and conciliate. The best way to effect this harmony, in his opinion, was to avoid in debate all personalties, and those subjects which tend to heat the passions, and which, instead of elucidating, embarrass investigations; for there was no chance for rational inquiry, when full vent was given to resentments and anger. Mr. P. asked pardon for this digression and sat down.

Mr. Nicholas wished to explain his intentions in bringing forward this amendment. He believed the gentleman last up would find they nearly corresponded with his own. He had no idea of putting an immediate veto upon the Ministers at present employed. He considered this bill, though passed with a limitation, as a permanent system, and a subsequent clause of the bill would enable the committee to fix the time at which the salaries of Ministers should cease. His wish was to put a limit to this extension of Executive power. He reminded the gentleman

from South Carolina that Holland was not concerned in this bill, as we had only a Minister Resident there. If the subject were further dilated upon, he should offer some further remarks upon it.

Mr. N. SMITH was surprised to hear the gentleman last up consider that as a permanent provision which was limited to a duration of two years. This law was merely temporary in its nature, and if he only contemplated some future regulations in our foreign intercourse, his amendment was not now necessary. However competent it was for the Legislature to settle the salary of Ministers, it was clear the Legislature had no power, by the Constitution, either to determine the number of foreign Ministers to be employed, where they should be sent, or what should be their grade. Under the general power of making treaties, vested in the President, he had the power of sending Ministers where he pleased; also in the power entrusted to him of executing the law (not only the municipal law, but the law of nations) it was necessary he should have this power.

In a word, all foreign relations were in the hands of the Executive; all our foreign intercourse was to him, and from him. Of course, he was the only judge of what was proper in this business. This being the case, it should seem as if that House had nothing to do with respect to the propriety of sending a Minister to Berlin, or in relation to other grades of Ministers, though they had the power of fixing their salaries. But it was contended by the gentleman from Georgia and others, that, by regulating these salaries, the Legislature had the power of preventing the extension of their establishment. This brought up an old question; but it was a very important one, and he did not regret that it was frequently drawn into discussion. He thought the great landmarks of our Constitution could not be too well understood. He did not mean, however, to extend his observations on this subject. It was said, this was a Government of departments and checks, and of course, that the Legislature ought to check the Executive in its operations. That this was a Government of departments and checks, to a certain extent, he should readily allow; but that it was so to the extent which had been represented, he did deny. Our Government was divided into three departments; the Legislative, Executive, and Judicial; each of these had checks and balances in its own department. The President was checked by the Senate; the Legislature was checked by the President and Senate; the Judiciary was checked by having certain appeals, writs of error, &c. So far from one department checking the other, it was necessary that all the parts should act in unison like a clock, and the moment one part declined to act, the Government could not proceed. It was not in the power of the Legislature to reverse the decision of the lowest court, and should it then be said that they could judge over the head of the Executive? This remark was applicable to all the departments. No one department was a favorite of the Constitution. Every act of a department ought to be considered as well done. This being the case, whenever the President had appointed a Minister, and done it constitutionally, when he informed the Legislature thereof, they might do anything and everything but doubt the propriety of establishing the Minister.

But it was said, that this power in the Executive would give him an influence over the Legislature, and this it was said was improper. It would seem to be a sufficient answer to say, "Thus is the Constitution"; and, if it gave this influence, it was because the framers of the Constitution intended it should give it. And it was worthy of remark, that gentlemen who advocated the doctrine of the Legislature's having a control over the Executive, did not do it from a literal construction of the Constitution. That gentlemen believed the Executive had too much power, he could readily conceive, and this operated as an excuse for their conduct; but they ought to bring forward a proposition for an amendment of the Constitution, and let it be fully argued, and not put a forced construction upon the very letter of it.

If there was any danger of Executive patronage, the Legislature could take it away by lowering the salaries allowed to Ministers, though he believed they had been calculated as being merely sufficient for a maintenance, and therefore could not hold out any strong temptation. But it was said, that the Executive had already made an ill use of the power, and that he was now making an ill use of it, by selecting those persons for offices who joined with him in political opinion. That he had, and would continue to select characters of this description, he could readily admit; that he had determined to do it, he knew nothing of; but that he ought to do it, he was clear. Did gentlemen mean to contend, that it was proper for a foreign Minister to act in unison with a party in opposition to the Executive Government? If they meant this, they carried their doctrine of checks further than he expected. Would they say that an Executive agent should harbor sentiments in his breast different from those he avowed? Did they say, that it was proper for an Executive agent to initiate a foreign Minister in certain mysteries—not to say using means to thwart the Executive measures? Or that it was proper for an Executive agent, whilst pursuing Executive business, to indulge himself in certain precious confessions? Gentlemen did not mean this. If they were to take a view of our present situation, it would be seen that it was difficult to be supported even by absolute Governments. Belligerent Powers are always jealous of a preference being shown to their adversary. In a free Government it was more so, as every individual was left at liberty to indulge in speculative opinions, and some were so unnatural as to take the part of a foreign nation in opposition to their own. In this situation it was impossible that a foreign Minister of different opinion from the Executive should harmonize and act heart and hand with its views, and do all in his power to quell suspicion. On the contrary, he will raise ideas of expectation in foreign nations, which, when they find themselves disappointed in, will produce dissatisfaction of the worst kind; and this he will do, instead of explaining the acts of Government, and recommending the measures of the Executive as right and proper.

Mr. S. said, whilst he admitted that the President had appointed, and he hoped would appoint, to office men who were of the same political sentiments with him, and, of course, interested in the success of the measures of the Government, he did not believe that the President had ever appointed a man from the Legislature with a view of extending his patronage; nor would he admit that any legislator had ever been influenced in his vote by the expectation of such an appointment. The gentleman from Virginia seemed to suppose that the present majority in the Legislature was produced by what he called Executive patronage. When gentlemen supposed this, he asked whether their own heart was the standard by which they judged?

When the gentleman from Pennsylvania indulged his suspicions respecting the honorable gentleman from South Carolina, who had been appointed Minister at Lisbon, if he did not draw his conclusions from this source, he did not know from whence he drew them. Where was the proof that things so paltry in their nature as the salaries allowed to these appointments, should influence the conduct of members of that House? There were none; they were the dreaming conjectures of his own imagination. But if the Constitution authorized that House to determine on this question, they ought not to determine upon it in the dark. If they were to take upon them Executive duties, they should call for all the papers and information relative to the subject.

Suppose it had been originally wrong to establish a Minister at Berlin; yet gentlemen themselves allowed that when a treaty was made and ratified, it became the law of the land. This Minister was sent to Berlin to negotiate a treaty; what was the state of the business they did not know. Were gentlemen inclined to break down these establishments, and show foreign Courts that there was so little stability in our councils, that in one session we appropriate for a Minister, and in the next refuse to continue the appropriation? He trusted this would not be the conduct of this Legislature.

Mr. HARPER observed, that, if gentlemen who support this motion had confined themselves to the question, and to those considerations on which its decision had usually turned—had they contented themselves with attempting to show that the diplomatic establishment was unnecessary in general, or inexpedient at this particular juncture—he should have deemed it unnecessary, and even improper, to add any remarks to those which he had yesterday submitted to the committee, having then urged those considerations which he regarded as the most important in deciding this question. But gentlemen had taken a wider range. Not content with insisting that the present diplomatic establishment is unnecessary or improper in itself, they had made a formal attempt to fix a Legislative censure on the conduct of the Executive, and had added to this a personal attack, of a most illiberal and unfounded nature, on a gentleman formerly a member of the House, but now holding a diplomatic employment. He said, unfounded and illiberal, because the fact alleged against that gentleman—and which went to charge him with having given a vote in an important case, with a view of promoting his private interest—was not supported, or pretended to be supported, by any kind of proof; and because no person of a liberal or delicate mind would advance a charge of that magnitude, especially against an absent man, without the most substantial evidence.

For these reasons, Mr. H. said, he should make some additional observations on what had fallen from gentlemen in this stage of the debate, and chiefly with a view to refute (which he should do in the most undeniable manner) the accusation so ungenerously made against his former colleague; a refutation which he was the more inclined to undertake, because that gentleman was three thousand miles distant, and could not defend himself. But before he went into that refutation, Mr. H. said, he would advert to some of those things having the appearance of argument, which had been advanced by gentlemen in favor of the motion since he rose before. As to all the idle declamation about Executive influence, the danger of corruption, and the increase of patronage, on which the changes had now been rung, and which had been the constant topic of harangues in all Governments constituted like ours, from the days of James I. till the present moment, he considered them as unworthy of answer or regard; neither now, nor heretofore, were they intended as arguments, but were thrown out merely *ad captandum vulgus*. They had hitherto produced no effect in this country, and he was not afraid of their producing any; because the description of people who might be denominated *vulgus* was very inconsiderable in number here, and the good sense of the great mass had always enabled them properly to appreciate, and, of course, wholly to disregard, clamors of this kind. He should, therefore, now pass them by, as he had always done before, without an answer; but on those few positions, which approached towards argument, he should bestow some few remarks.

One of these had been advanced by the gentleman from Pennsylvania, (Mr. GALLATIN,) who had made it the basis of almost all his other observations. It was this: that our political relations were distinct from our commercial relations; which last were managed by Consuls, not by Ministers; and that as Consuls would still be employed, although the Ministers should be discontinued, our commercial interests would not suffer or be neglected.

But was that gentleman yet to learn, amidst all the research of which the House so often heard the boast—was he yet to learn that almost all our political relations, and the whole of those which were still the subject of dispute, grew out of com-

merce? Was he yet to learn that our present dispute with one of the great European Powers grew wholly out of commercial relations? Was he yet to learn that the dispute which we lately settled with another great Power was, in a great measure, of a commercial nature? It was a fact, Mr. H. said, which surely must be known to the gentleman from Pennsylvania, that we now have no differences with any nation, nor even any interfering interests, which are not commercial. We had formerly a dispute about boundary with Great Britain, and another with Spain, but both had been settled. All our treaties, moreover, except in these two instances, were founded on commercial interests; and commercial interests were the only points by which we touched other nations—were the only sources from whence our political intercourse with them could flow. And yet the gentleman from Pennsylvania had affirmed that our political intercourse was distinct from our commercial relations!

These commercial relations, he had further affirmed, were managed by Consuls, from whence he had attempted to establish the inference that Ministers were unnecessary. Did the gentleman from Pennsylvania believe this himself, or did he hope to make the committee believe it? Or did the assertion proceed from that bold reliance on the ignorance or carelessness of others, whereof that gentleman had given so many proofs? Our Consuls, that gentleman must well know, were circumscribed in their sphere and their powers. They were confined to particular towns; were, in very many instances, foreigners—enjoyed no salary, (except those to the Barbary Powers,) and possessed no public or diplomatic character. Their functions, too, were no less confined: the relief of the private wants, and some assistance in the private affairs, of mariners and merchants, at the respective places of their Consulates. But those great and general interests of commerce, which form the basis of treaties, and are among the most important objects of national intercourse, and of the law of nations, are wholly above the reach of Consuls, and wholly confined to those public agents whom we call Ministers, and who alone possess the means, by their character, by their situation, and by their intercourse with the Governments to which they are sent, of regulating, superintending, and preserving those interests. Did not the gentleman from Pennsylvania know this? He did know it; and yet he asserted that our political and commercial relations were wholly distinct, that the latter were managed by Consuls, and that for the preservation of our commercial interests and rights Ministers were not necessary. These assertions, on the slightest examination, vanished into air, and left nothing to be wondered at but the boldness wherewith they were made.

If commercial interests, therefore, Mr. H. said, were the basis of all our political intercourse, was it proper to discontinue our Ministers? Was this a time to leave our commerce to itself in the various countries where it was carried on, or even to weaken our means of supporting and protecting it? Was our situation now less critical than heretofore, our commerce and our rights less threatened, or had we less need of the confidence and good will of other nations? Was it of less importance to us now that the justice of our cause should be well understood, the principles of our conduct clearly explained, the foundation of our claims fully laid open, than when these Ministers were appointed? When we were on the eve, perhaps, of a struggle for our national independence, was it a time to cast censures on the Executive, to weaken its hands, and to sow dissension in the Government? When the time, perhaps, was on the point of arriving when we must resist encroachments or yield up our rights, was that a moment to diminish our chance of having those rights well understood and generally acknowledged? He believed not. If there were gentlemen who wish to disgrace this Government, to deliver up this country, bound hand and foot, to foreign sway, to see us crouch beneath a foreign Power, confess that we have been wrong, and tread back our steps; if there were such gentlemen, it would be perfectly consistent in them to vote for a measure the natural effect of which was to weaken the Government, divide the country, and impair our standing among foreign nations in a moment of crisis: but if there were no persons of this description, which he fondly hoped; if, as he firmly believed, a large majority of that House was determined to exert the whole force of the country in defence of its rights sooner than yield them up, they, he trusted, would agree with him in opinion, that we ought now, above all other times, to stand strong in the good opinion of foreign Powers, that our foreign intercourse was more important to us now than ever before, and that sound policy forbid its diminution.

And yet, Mr. H. said, this is the moment, it is in this critical situation of our affairs, that the patriotism of gentlemen calls on them to refuse the appropriations heretofore granted for the support of our Ministers abroad! This is the moment in which they choose to say to the world, "the Executive cannot be trusted; he has employed useless Ministers, has expended the public money improperly, and we, no longer able to confide in him, will withhold that provision which the House has repeatedly sanctioned, and which it renewed and enlarged no longer ago than June last!" Whence this change of conduct? How has the Executive become less worthy of confidence than he was in June? Is it because he has adopted a course of measures less tame and supple towards a foreign nation than gentlemen desired? If this were the motive, he believed it would neither be avowed by gentlemen themselves, nor borne by the country; and yet what other could be assigned?

Mr. H. then took notice of the remarks which had fallen from Mr. Gallatin, yesterday, with respect to the manner in which the different appropriations for foreign intercourse had been made, and supported his former statement by a particular reference to the accounts and the proceedings of the House.

Mr. H. said, he would now advert to another

position advanced by the gentleman from Pennsylvania, (Mr. Gallatin,) and founded on a total misrepresentation of what he, Mr. H., had stated when he first spoke upon this question. He should hardly have thought it conceivable that the gentleman from Pennsylvania, after a sentiment had been uttered in debate by a person whom he wished to oppose, should immediately rise and wholly misrepresent it to suit his own purpose, had he not seen so many instances of the boldness wherewith that gentleman relied on the inattention or the credulity of the House. That gentleman, on the present occasion, had represented him as having attributed the opposition to Executive measures in that House to the anger which gentlemen felt at the disappointment of their hopes of obtaining offices; and he had then gone on to infer that the hope of obtaining offices must also influence the conduct of those members who usually supported the measures of the Executive; since, if disappointment in the pursuit of office could produce opposition, it was equally fair to attribute a contrary conduct in other members to the hope of succeeding in this pursuit. But Mr. H. affirmed that he had said no such thing; that he had never attributed the opposition to this motive. He had indeed said, that the suspicions of gentlemen, and their clamors about Executive influence, patronage, and corruption, proceeded from disappointment, but not from disappointment of this kind. Ambitious statesmen, he said, did not wish for office, but power; they did not wish to hold posts themselves, but to direct those who did hold them; to see their own system adopted, their own advice followed, and the affairs of the country conducted in the way which they approved. This was their aim, and this the scope and end of all their exertions. While men should continue to think differently on matters of opinion, there would always be a number of persons who would disapprove the manner in which public affairs, or any other affairs, were conducted. These persons, in Governments like ours, would gradually form themselves into a party, and their opinions would assume the shape of a political system, different from that actually adopted. These two systems would be in a perpetual state of conflict, and the supporters of that which might happen to be vanquished, would feel mortification and chagrin. These feelings would become more and more violent in proportion as their defeats were more frequent, and on questions to which they annexed greater importance; and hence proceeded, and always would proceed, those heart-burnings and jealousies, those little suspicions which gave themselves vent in declamations against the opposite system and its supporters, against Executive influence, against patronage and corruption, and whereby the party which could not rule was prompted to suspect and arraign the motives which actuated the authors of their defeat. Such were the passions and such the feelings to which he attributed the opposition of gentlemen and their little unfounded suspicions: to a love of power, not to a love of place; to disappointment in their attempts to bring their own system and their own principles into action, not to the pursuit of office. In some countries, indeed, office conferred power, and was therefore sought by ambitious men as a means of obtaining power. Office there gave patronage, authority, and influence, and was therefore eagerly pursued. But in this country, he said, the case was different. Offices here gave a scanty maintenance, much labor, and no patronage or influence, and, therefore, ambitious politicians did not desire them. That House was the place for such men to appear. There and there alone they had a conspicuous theatre for the display of their talents; there and there alone could they acquire fame, popularity, and political importance; there and there alone could they make a strong impression on the country and the Government, give weight to their own opinions, and force their own system into activity. There, of course, they would desire to remain and not to undertake offices, which, though respectable, were not brilliant, imposed much labor, but conferred neither splendor nor authority.

It was not, therefore, to the disappointment of gentlemen in the pursuit of those objects, Mr. H. said, that he attributed their conduct, but to the usual operations of party spirit which arose out of the constitution of our nature, combined with the form of our Government; and of which he did not complain. He not only knew that it must exist while men should be made as they are, but he believed that it ought to exist. While opposite parties in the Government struggled for preeminence, they were like persons engaged in an exhibition before the public, who are obliged to display superior merit and superior excellence in order to gain the prize. The public is the judge, the two parties are the combatants, and that party which possesses power must employ it properly, must conduct the Government wisely, in order to insure public approbation, and retain their power. In this contention, while the two parties draw different ways, a middle course is produced generally conformable to public good. Party spirit, therefore, and the contentions to which it gave rise, neither alarmed nor displeased him. It might, indeed, sometimes run into excess, and produce mischief, as the wind may sometimes be converted into a storm, or fire give rise to a conflagration; but its general effects, like those of the great elements of nature, he had no doubt, were beneficial.

There was another topic, Mr. H. said, which, though, in his mind, wholly unconnected with the subject, had been introduced into the debate, and much insisted on, and therefore he did not think it ought to pass without remark. It had been said, he knew not on what authority, that a resolution had been formed by the Executive to employ, in official stations, none but those who were known to approve the political system adopted by the Administration; and this had been represented as a most alarming and a most reprehensible determination. For his part, Mr. H. said, he knew nothing of the determination made by the Executive on this head; but he had no hesi-

tation in saying, that he hoped and wished to see this resolution adopted and adhered to. He wished it even more than he hoped it; for there had not been, in his opinion, sufficiently strong indications of such a resolution in the conduct of the Executive heretofore. He once thought that a contrary conduct might be safely, and even beneficially pursued; but recent and very strong experience had convinced him of his mistake. He hoped this experience had produced the same effect on the Executive, which had received awful warning of late; and by pursuing, in some instances, a contrary course, had brought on itself the most serious and alarming embarrassments. The Executive was, no doubt, liable to error, and, he believed, had erred; and he hoped the solemn warning which experience had given it, would induce it to correct this error in time to come.

But what did this supposed determination, at which gentlemen expressed such alarm, amount to? Simply to this—that the Executive, in conducting those concerns of the Government wherewith it is exclusively charged, and for the management of which it is solely responsible, should employ such persons as subordinate agents, as were known to agree with him in opinion about the right mode of conducting them. Was this anything so extraordinary? Was it not practised by every man of common understanding in the management of his own private affairs? Let me ask the gentleman from Virginia, (Mr. Nicholas,) whether he does not himself constantly act upon this principle? Were he about to employ an overseer, would he take one who differed wholly from him in his opinions about agriculture and the management of his farm? who thought that tobacco ought to be planted in the Fall, and wheat in the Spring? Or, would he choose a person whose ideas on these subjects he believed to be correct, and knew to agree with those principles about the truth of which he himself had no doubt? Would he not be the more cautious in this respect, in proportion as the farm to be managed was more distant from his own residence, and, of course, the conduct of the agent less subject to his superintendence and control? If he did not act thus, he would depart most widely from his usual prudence, and might think himself fortunate if he sustained no greater loss than that of his crop.

And shall the President of the United States, in conducting the affairs of this Union, neglect those plain and ordinary maxims of prudence, which every man observes in his private affairs? The Executive is charged with the foreign relations of the country, and with the whole execution of all its laws. The greatest differences of opinion that exist among us, arise from these relations. The Executive has adopted a certain system as to the manner in which they ought to be conducted. This system is disliked and opposed by one set of men, while another description approves and supports it. The whole question is, whether the subordinate agents, who are to execute this system under the orders of the President, shall be chosen from among those who like it, or those who think it radically wrong, and have never omitted any opportunity of attempting to change it? To choose from the latter, would be to say, that those persons who are most opposed to a measure are, for that reason, the best qualified to give it effect.

A gentleman from Georgia, Mr. H. said, has talked much of the Executive having a party in legislation; and has asked, what becomes of our Government of departments, and whether the Executive could refuse to execute a law because he did not think it a good one? Let me ask that gentleman, (Mr. Baldwin,) who spoke of a party in legislation, or doubted about the obligation of the Executive to execute a law, whether approved by it or not. Does not that gentleman know that there are Executive functions distinct from Legislative functions, and that the President is charged with the former, as well as the Legislature with the latter? It is not, perhaps, surprising, considering the degree of animation, not to say passion, to which the gentleman had worked himself up, that he should overlook a distinction so obvious as that between Legislative and Executive functions; but will he not acknowledge that the President, being solely charged with one, is solely responsible for it to the House, the country, and his conscience, while the Legislature is solely responsible for the other. And, in conducting those affairs, for which he is solely responsible, must not the President have a system? Or would the gentleman from Georgia wish the Executive department to be conducted without system? If he must have a system, from whence is he to derive it; from his own judgment, or from the direction of others? Surely, from the former source. Will not differences of opinion exist respecting this system, which some will approve, while it is considered as most improper by others? No doubt, this will be the case. From which class, then, must the President take his agents, in the execution of this system, those confidential agents with whom he is to advise, by whose eyes he must often see, with whose hands he must often work, and to whose fidelity and discretion he must often trust in remote situations, beyond his superintendence and control? Shall he take them from the approvers or opposers of the system? When he has a thing to be done, shall he employ those to do it who think it right and beneficial, or those who think it wrong and mischievous? Shall he expose himself to the danger of having his orders disobeyed or neglected by an agent, who, though charged with their execution, may choose to set up his own wisdom above that of his employers, and to dispense with that which they have considered as indispensable? Shall he expose himself to the danger of having his plans, however necessary in his own judgment, counteracted by an ignorant or presumptuous agent, who thinks them hurtful, and chooses to act according to his own opinions instead of his instructions? Should he thus act, and thus expose himself and the great interests wherewith he is charged, he would cease to deserve either the respect of individuals or the confidence of the country.

But it may be alleged, continued Mr. H. that

the integrity of an agent will be a sufficient security for his acting according to his instructions, though contrary to his own private opinions. It may sometimes be so, but the risk is great, and recent experience does not authorize the experiment. Even were it otherwise, still, when you employ a person to execute measures which he does not approve, you take away one of the best and strongest securities for his due performance; you deprive yourself of his zeal, of his heart, of his enthusiasm, which are not only the surest guards of fidelity, but the most powerful means of success.

If the Executive, therefore, has a system in the conduct of those affairs wherewith it is charged, and to say that it has not is to charge it with folly, it must either be dishonest or conceive that system to be proper; and, conceiving it to be proper, it is its duty to use the most effectual means for carrying it into effect. One of the most efficacious of these means is, to make use of men who, otherwise qualified, believe the system to be right. Such men, consequently, and such alone, ought to be employed; and hence it follows, that for the Executive to neglect this, the determination to do which gentlemen charge against it as an impropriety and even a crime, would be at best an act of folly, if not the breach of a sacred obligation.

Mr. H. then proceeded to remark on what had been advanced yesterday by the gentleman from Pennsylvania, (Mr. Gallatin,) respecting the Minister at Lisbon. That gentleman has charged my former colleague with having voted for an appropriation for a new office, in order to make room for his own appointment to a vacancy thus created. He says, that my late colleague, when the Minister at Lisbon was to be sent to Berlin, came into the House, not indeed with a commission in his pocket, but certainly with a knowledge that he was himself to fill the vacant place at Lisbon, and voted for the Berlin appropriation. Did the gentleman advert to the extent of this charge? I am willing to hope that he did not; for then he would not have advanced it, especially in so positive a manner, without some sort of proof. No such proof could have been produced. I take upon myself to declare that none such exists. By recurring to the Journals of the Senate, it will appear that the nomination of a Minister to Lisbon was made on the 6th of July; the Journals of this House will show that the Berlin appropriation was voted on the 3d of July. I have authority for saying that the first intimation which my late colleague received of his intended nomination was the day before the nomination took place, that is, on the 5th, two days after that appropriation was made, for which he is charged with having voted in order to make room for himself. When he gave this vote, he might have expected the appointment; but he had no more right to expect it than any other man. He did not know that he would be appointed, nor was he applied to on the subject till after the Berlin appropriation had been voted. It would have been highly improper to apply to him before, and it is very improbable in itself, that the application was made until after the appropriation for Berlin; for, although the President had resolved to send the Minister from Lisbon to Berlin, he could not execute this intention without a vote of money; and to apply to a gentleman to accept the vacancy before that took place, and, of course, before it was certain that there would be a vacancy, would certainly have been a very strange conduct.

Thus much I have thought it necessary to state, said Mr. H., and I will add one observation, addressed to the gentleman from Pennsylvania. It is this: that he ought to take warning from this occasion not to make it necessary in future to defend persons in their absence against attacks, which, being wholly unfounded, candor, no less than delicacy and generous sentiments, ought to have prevented.

As to the general policy of the present motion, as connected with the foreign relations of this country, Mr. H. said that he would add two or three remarks on that subject, and then conclude.

The motion went, he said, to reduce the appointments and salaries of three Ministers: those to Madrid, Lisbon, and Berlin; and in support of the motion, it was alleged that the last of these Ministers was entirely unnecessary, and that the other two had been improperly, because unnecessarily, raised from Ministers Resident to Ministers Plenipotentiary. To him it was a sufficient answer to these allegations to say, that the President had thought otherwise; because, the President, being charged by the Constitution with the foreign relations of the country, must be invested with the means necessary for conducting them with effect; and was infinitely better qualified, by his situation, to judge what those means were, and how they ought to be used, than the House can pretend to be. One of these means was the appointment of foreign Ministers, which was expressly vested in the President by the Constitution. When the President, therefore, had thought fit to appoint foreign Ministers, or to alter their grades, he had exercised a Constitutional power, and it did not lie with the House of Representatives to object or judge. To him, therefore, Mr. H. said, it was a sufficient answer to all those objections, to say that the President had thought otherwise. To others, who might hold different opinions from him on this subject, he thought it was a sufficient answer to be told that the House of Representatives, as well as the President, had thought differently, and had sanctioned the changes which he had thought proper to make in this respect, by voting money to carry them into effect. This the House had done expressly in all the three cases contemplated by the present motion. The Ministers to Madrid and Lisbon had been raised from Residents to Plenipotentiaries in May, 1796, at which time, and also in March, 1797, the House had voted the additional sums made necessary by these changes, and had thereby sanctioned the changes themselves. The embassy to Berlin was resolved on in June, 1797, and the House then sanctioned the measure, by giving the requisite appropriation. Surely it might have been ex-

pected that the strongest advocates for Legislative control and Legislative sanction, would be satisfied by this repeated approbation of the House; but no, gentlemen were not to be so satisfied. They still contended that it was proper to inquire into the use and the reason of these changes, and demanded why they had been made, what circumstances rendered them necessary, and what good they had produced? Though he protested against the right of the House to make these inquiries, more especially at this time, after the measures had been so formally and so repeatedly sanctioned, he nevertheless had no objection to inform gentlemen what, in his opinion, had been the occasion and the benefits of two of these appointments, those to Madrid and Lisbon. As to the embassy to Berlin, the reasons and advantages of it had been so fully explained in the Summer session, that nothing seemed necessary to be added to the remarks made by some other gentlemen on that subject in the course of the present debate.

It could not, he said, be forgotten by gentlemen, that in the beginning of 1796, or a little previous to that period, we settled very much to our own satisfaction, a long standing and disagreeable dispute with the Government of Spain. The treaty whereby this settlement was effected, placed the two nations on a footing of amity, and secured to us objects of very great importance to an extensive and interesting part of the Union. The final attainment, however, of these objects, and the due execution of the treaty, must depend very much on the continuance of a good understanding between the two Governments. Spain, after keeping only Commissioners and Chargés des Affaires here for a considerable time, had sent us a Minister Plenipotentiary, and in the intercourse between Governments it was a usual and an expected civility to return a Minister of the same grade that was received. This compliment Spain expected, and however inconsiderable these matters may appear to us, we know that great importance is annexed to them by Courts. We must deal with people as we find them, and where we have an interest to cultivate their good will, we must conform to their prejudices and fashions, instead of ridiculing or disregarding them. As Spain had made an advance by sending us a Minister Plenipotentiary, and expected a return of the compliment, would it have been wise for the paltry sum of $4,500, the difference between the two appointments, to disappoint and disgust a Power which we had so great an interest to conciliate? He believed not; the President had thought not; the House on two or three former occasions had thought not; and he hoped that the same opinion would now influence its decision.

As to Portugal, the reasons in favor of the change had been equally strong. We had first a Minister Resident at that Court; it had sent us a Minister of the same grade, who was afterwards changed into a Minister Plenipotentiary, and had been received as such by our Government. Portugal not only had a right to expect, according to the ceremonial established among nations, that we should send her a Minister of the same grade, but she did expect it, and even made a request to that effect. Had we no interest to cultivate with Portugal, that we ought to have disappointed her in this respect, and run the risk of disgusting this friendly Power? Our direct commerce indeed was not very great with her, but a very important and interesting branch of our trade was liable to be deeply affected by her measures. She was the Power which was usually at war with the Algerines, and had frequently kept them blocked up in the Straits, whereby all our commerce to that quarter of the world—a commerce for the security of which we had sacrificed nearly one million and a half of dollars—was rendered safe from their depredations. Was it a small object, then, to be on good terms with a Power which held so effectual a check over those formidable pirates? Ought this good understanding to have been endangered by withholding an accustomed mark of respect, which she expected, and of which she had set the example? And for what object do gentlemen contend that this risk ought to have been incurred; this good understanding endangered? For $4,500. Was this the wisdom of legislators, or was it the foolish, versatile conduct of angry and petulant children?

Upon the whole, he said, considering the length of time that this establishment had continued; the solemnity with which it had been so repeatedly sanctioned by Congress; the critical nature of our present situation; the importance of preserving all our means of good understanding with friendly Powers; the versatile conduct which would arise from the present motion, to do away establishments so lately approved by this very Congress; and the mischievous tendency of fixing that censure on the Executive, in the present crisis, which was the direct tendency, and even the avowed object of the present motion; he could not for a moment suppose that it would be adopted by the House.

Mr. Livingston said, had he not seconded the motion of the gentleman from Virginia, he knew not that he should have troubled the committee with his sentiments on this occasion. He thought the reasons which had been adduced by the gentleman from Virginia, for the adoption of his motion were forcible. He had stated, that in all Governments, where the Executive and Legislative powers were placed in different bodies, there was a constant tendency to an increase of Executive patronage by means of the power to appoint to office. He did not expect that so plain a position would have been attempted to be controverted. Not that the gentleman wished to get rid of this patronage, or that the power should be placed anywhere else, but merely to prevent its increasing and becoming mischievous. He stated, from proof which had produced conviction on his own mind, that there was a determination in the Executive of this country to increase that patronage, by confining its appointment to office to men of a certain political opinion. He was sorry to hear his friend make this declaration, because, however well he might himself have

been convinced of the fact, he was apprehensive the same conviction could not be produced on the minds of other gentlemen; he confessed it did not produce conviction on his mind. But what had been heard from gentlemen in opposition to this motion? The doctrine had been avowed. The people of the United States had lived to hear, that it was right in the Executive to promote none to office but of its own party. Or, if not party, clothe the thing in what words gentlemen pleased, it came to the same meaning. This was at once declaring, that the Executive of the United States had a party, and that there was a party in opposition to the Executive, who were not deserving of the favor of Government.

Mr. L. wished to examine this doctrine. Was it contended that it was becoming in Government to determine that men of a particular opinion only should receive the rewards which it had to bestow? For he denied that these offices were matters of paltry consideration. With respect to salary, he acknowledged the object was not great; but inasmuch as these offices were proofs of public confidence, they were high rewards. If this doctrine were to be admitted, before the President could appoint any person to office, he must hold an inquisition upon his political opinion, and require proofs of his having always acted in a certain way. If this were to be done, the President of the United States would sink from the exalted situation of the head of a free people to the miserable leader of a party. This was one effect; but there were others. It was supposed, in his selection for office, the President would seek for virtue and talents. But if the doctrine of gentlemen were to prevail, if men of this description were not to be found of a certain opinion, men must be chosen devoid of talents and of virtue.

Mr. L. would not believe, therefore, notwithstanding gentlemen had avowed it to be the case, that the Executive had come to any such determination. He believed that those gentlemen thought it would be right for him to do so; but he could not believe that the President of the United States joined them in opinion. Nay, he had his own declaration that he did not; for, in the address which he delivered on his inauguration, which might be considered as his political creed, he expressly declared, that in appointments to office, he would seek for virtuous men of all parties. And why not? Was virtue confined to men of a certain political or religious opinion? He trusted not: and whatever might be the private opinion of any person appointed to office, if he counteracted the instructions which were given to him, he stepped beyond the limits of his duty, he outstepped the laws; and, thank God, we have laws that will punish offences, whether they arise from ambition, corruption, or any other source!

But, as he had already said, he did not believe this; for another, and a very serious consequence, might arise from it. Let us imagine it possible, said he, (and pray God the imagination may never be realized!) that, at some future time, the United States should have a President, who had a predilection for a particular form of Government; who might think that the standard which he had formed in his own mind was the standard of perfection, and who would, therefore, cause all his measures to bend that way. Suppose, for instance, he should think that no form of Government was so fit for this country as a monarchical one—that nothing short of hereditary distinctions could give security and stability to Government; if this were his opinion, he would, of course, confine his appointments to persons who subscribed to this sentiment. The consequence of which would be, the Government would be undermined, before the people were aware of the design. If such ever should be the situation of this country, he trusted there would be republican virtue sufficient to frustrate and overturn the design; but it could not be done without a convulsion, and this country knew sufficiently well the miseries attending such an event, to authorize every possible caution which could be taken to prevent so great a calamity.

But gentlemen had spoken of the Executive being warned, by awful experience, from appointing persons to office of a certain opinion. The meaning of this insinuation could not be mistaken. Every one knew who was meant as well as if the gentleman had been named. Yet those who made the allusion were so sensibly alive to every reflection on character, that the House had been entertained for half an hour in the defence of a character which had never been attacked; as when his friend from Pennsylvania mentioned the gentleman lately appointed to Portugal, it was only to show the possible effect to be produced by Executive patronage, for he immediately exonerated that gentleman from acting from improper motives. Mr. L. acknowledged that the lesson which gentlemen alluded to, was an awful and important one, and ought to be taken as an exemplification of the mischievous doctrine now contended for. For, said he, whence has arisen our present dispute with a certain foreign nation, but from an adherence to the principles which gentlemen recommended? Whilst that gentleman was in office, our affairs in that country bore a very different aspect from what they bore after he was recalled. Let gentlemen think of this, and consider whether it did not afford an awful lesson for the future government of the Executive? He thought it did, and he hoped it was a lesson which would have its due effect upon the United States.

But, to turn to the amendment. It was objected to because it went to alter what was already established. Such arguments as these had little weight on his mind. He was never disposed to continue any measure longer than it was useful. Gentlemen were called upon to show what good had been produced by the change which took place eighteen months ago. This they declined, and called upon the advocates of this amendment to show what good would be produced, if it were to take effect. He believed it would produce much good. In the first place, it would lessen Executive influence; and though he did not wish wholly

to destroy this influence—for he had some respect to his oath, and he had some degree of admiration yet remaining for that instrument called the Constitution, and some remembrance left of the efforts which he used to get it adopted—yet he would not increase it. Did necessity require that we should have all the Ministers Plenipotentiary we now have, and those we soon shall have, if these are continued? Gentlemen told the committee they did not know the reasons which influenced the Executive; that, therefore, this business must be left to that department, and that all the Legislature had to do, was to appropriate for all the Ministers it might choose to appoint. This question had, however, been contrarily determined at a former session, after a discussion which could leave no doubt upon the mind of any one. Mr. L. said he would mention another evil, which he trusted would make some impression upon the House—that was the expense of the Ministers in question, which, as he believed it was unnecessary, ought to be avoided; for, though the gentleman last up had said something about the advantages to be derived from Portugal, he never heard of any to be derived from Prussia. Indeed, experience showed, that though we had gone on increasing our diplomatic agents, no good thing had ever been produced by them, except the Spanish Treaty, which was of real advantage to the country; some other things had been done by them, which, he believed, had been far better undone. Indeed, the gentleman from South Carolina, (Mr. Pinckney,) than whom no one could be better able to give an opinion on the subject, declared that, in his opinion, our diplomatic connexions had been injurious to this country, and that they ought to be got rid of as soon as convenient; though, he added, he did not think this a proper time, or that this was the best mode of doing the business. He thought this declaration ought to have great weight.

Mr. Dana said he found, that if this amendment took place, it would produce a saving of $4,500 a year to three Ministers, which would be $13,500 a year in the whole. Yet the gentleman last up even considered this saving as worthy of the debate which had taken place. In a pecuniary point of view, he supposed the debate itself would cost more money. But with respect to economy, this was vulgar lopping, and a miserable attempt at public economy. Public economy was not to be thus attained, but by introducing order and system into our affairs, and by employing talents in our public offices. But it was said our liberties were in danger from an extension of Executive patronage. This, he allowed, was an admirable theme for popular declamation, and perhaps might produce the effect which the mover and supporters of the business wished. The gentleman from Virginia spoke of the liberties of the people as depending upon the minorities in Congress, and that the preservation of the Constitution was owing to them—at least he so understood the gentleman; he would correct him if he was wrong. [Mr. Nicholas restated what he had said.] Mr. Dana continued, though the gentleman had not said expressly so, he seemed to wish this to be the understanding of what he said; and he considered this as a key to the whole debate. This motion and this debate were intended to attract public attention. If the gentleman thought this was the way to preserve the liberties of the people, he was certainly right in adopting this mode; but he was sorry that for this purpose the committee should be reduced to mere puppets, since the speeches which were made on this occasion were addressed more to the stenographers and the galleries than to the Chair or to the members present. Admitting that this was the view in which the business was brought forward, he doubted not it would be fully answered.

But what did the arguments of gentlemen, with respect to Executive patronage, prove? Everything and nothing. Could an office be made without increasing Executive patronage? It certainly could not; and, therefore, to prevent this patronage every office under the Government ought to be annihilated. But the Constitution had declared the Executive was to appoint to office. The framers of it knew this would give the Executive some power, but they gave it notwithstanding. He might upon the same ground object to the superior talents of the mover of this amendment, which gave him so great an influence in this House, as being incompatible with the equality upon which the members of that body stood, and propose some process by which they might be reduced to the common standard. He did not think the argument applied specifically to anything.

The next argument was the danger to be apprehended from a concurrence in opinion between the different branches of the Government, as the different departments were intended to be checks upon each other. For his own part he apprehended no danger from this source. It was not probable that they would agree in measures that were wrong, but that they would agree in those which were right. But, according to the doctrine of some gentlemen, the Government was made up of hostility and mutual rivalry between its different branches; and that when the two Houses and the President concurred in any measure, mischief was to be the consequence. This idea of Government, on the contrary, was, that when the different branches concurred, the things which they did were right; and that when they did not concur, that something was wrong. He did not believe there was any danger to be apprehended from the influence of Executive patronage on the members of the Legislature. Indeed, considering the obloquy which patriotism thought it necessary to cast upon public officers, he did not think their situations were enviable. How many candidates for Ministers Plenipotentiary could the gentleman from Virginia point to in that House? If he knew one, it was more than he did. Another argument was, that diplomatic agents were not necessary for commercial purposes, but that Consuls were sufficient for this business. Commercial concerns between individuals could doubtless be so settled, but when questions came into view of

a national kind, Ministers were necessary to settle them. He had not the hardihood to say none such would take place.

But as an argument against the amendment: The persons now in office were sent to Europe under an idea of remaining there for some time, and had arranged their affairs accordingly. As it respected the present gentlemen in office, the measure would, therefore, be unjust, for it could not be supposed that they would continue to hold their offices when their salaries were reduced one-half. Besides, etiquette required that we should have the same grade of Ministers abroad that foreign Courts had here.

He concluded by observing that he forbore to follow gentlemen into observations wholly unconnected with the question before them. The present state of Europe, he said, forbade the proposed reduction of our Ministers, as there probably never was a time when trifling causes produced greater events, or when the talents of Ministers abroad might be more useful to this country.

Mr. Gallatin said the committee had been told, in the course of the debate, by some gentlemen, that this attempt to reduce the number of our Ministers was unconstitutional; by others, that it was inexpedient; and even some gentlemen, who agreed to the general expediency of the measure, believed it would be attended with inconvenience from our present foreign relations.

In relation to the Constitutionality of the thing, he did not believe, whatever doctrine was supported with respect to treaties, that upon this occasion the committee should be told that they were interfering with the Constitutional power vested in the President. It was true that he had the general power of appointing Ambassadors, but it was not less true that the Legislature had the sole and exclusive power to provide for all the expenses of the Union. Hence arose the idea of ours being a Government of departments, so formed as to be a check upon each other. But the gentleman from Connecticut (Mr. N. Smith) said there was no such thing as a check of departments; that each was distinct; and, though each had checks within itself, none of them checked the other. And to illustrate his position, he introduced the simile of a clock, at the same time that he told them that the Executive Department was the main-spring which put the clock in motion, whilst Mr. G. supposed he meant that the other branches were merely the hands, which moved as they were directed. But if there was any act which could not be done but by all the branches, each had its share in deciding upon the propriety of it. When a treaty was made it had been argued that that House had nothing to do but to carry it into effect; but here it was said that the House were bound to provide for every Ambassador appointed; and if, by withholding salaries, they obliged the President to send Ministers Resident, where he wished to send Ministers Plenipotentiary, they would act inconsistently with the Constitution. Though gentlemen might make speeches on this subject, they must know that where the Legislature had a right to act, it had a right to deliberate and to use its discretion. That it was better for the interest of the nation that the departments should act in union, he allowed, and also that it was right to give that support to the Executive which the dignity and happiness of the nation required.

With respect to the expediency of this amendment, he would ask whether anything had been said to show that the extension of our foreign political connexions would conduce to the greater happiness of the United States? Our present critical situation was not owing, as had been stated by the gentleman from South Carolina, (Mr. Harper,) to our commercial intercourse, but from the operation of treaties and our political connexions. No truth was more strongly impressed upon his mind than that the extension of our political intercourse with foreign nations was highly dangerous to us. And when the gentleman from Connecticut (Mr. Dana) charged those who advocated this amendment with addressing the galleries and the people out of doors, rather than the members of the committee, Mr. G. supposed he believed the public opinion was with them, and that it was this conviction which produced the declaration. He said he thought the gentleman right, and that the people would read their speeches, attend to the subject, and decide with them against increasing our diplomatic intercourse. Could it be said that any good had arisen from this source? It was true treaties had been made, but no treaty had been made since the adoption of the present Government, by Ministers Resident at any Court at the time. If any benefits were derived to the country from the British Treaty, they must be attributed to the Envoy Extraordinary, and not to our Minister at that Court. And when our treaty with Spain was concluded, it was necessary to send a Minister Resident at another Court to do the business. Since our treaties were always made by special Envoys, what advantage could it be to have numerous Ministers Plenipotentiary in Europe? In the present critical situation of that country, agitated as it was to the centre, was it not to be apprehended that our Ministers would participate, in some degree, in the party spirit which there abounded, and rank themselves on one side or the other, which would have a tendency to draw this country into a vortex from which we were so happily separated by the Atlantic? We were the only nation, he said, who possessed a Government, on a firm foundation, in which civil and religious liberty was fully recognised; we, therefore, enjoyed what the people of Europe were seeking after. We have nothing to wish, except to remain in our present situation. Why, then, should we hazard the being involved in European broils? He had before stated that Consuls were equal to every commercial regulation, and he had heard nothing to change his opinion. Seeing, therefore, that these diplomatic agents were rather dangerous than useful, he thought it time to put a stop to their increase. It might be said that in this opinion he differed from the Executive. He felt the weight of this re-

mark, and it was with some diffidence that he expressed it; but it was his opinion, and therefore he could not withhold it. Whether the President had any information which led him to a different opinion, he could not tell; he could only act from what he knew, and he should not be deterred from forming an opinion because another department of the Government might possess information which he had not. He should follow his own opinion, unbiassed by any authority.

But it was said, though it might be proper to diminish our foreign intercourse, it was improper to do it at present. He agreed it would be wrong to do it violently. He believed that was not the intention of the mover of this amendment; but he could see no objection to saying, at this time, when the extension should cease. With respect to the gentlemen now abroad, they knew when they accepted their offices, they were liable to two events, viz: to the recall of the President, and to a refusal of the Legislature to renew the law relative to foreign intercourse, when it expired. It would, therefore, be no act of injustice to them to agree to the amendment.

Gentlemen considered the saving of a few thousand dollars a year a paltry economy, and that it was necessary to appoint men of talents fully competent to offices of this kind. He agreed, that competent persons ought to be appointed; but Ministers Resident, at a salary of $4,500 a year, were possessed of the same powers with Ministers Plenipotentiary; the only difference between them, was in their style of living. To lower the salaries, therefore, would not diminish the competition for these offices. He did not know that the one salary would command higher talents than the other; nor did he suppose that, when our Ministers Resident at Portugal and Holland were clothed with the commissions of Ministers Plenipotentiary at Madrid and Berlin, and, of course, their salaries doubled, that their talents received the same proportion of increase.

Mr. G. insisted that his former statement, with respect to the appropriations for this object, was right, notwithstanding what had been asserted by the gentleman from South Carolina, to the contrary.

But the advocates of this motion had been charged with improperly drawing into view the subject of Executive patronage, and when speaking upon this subject, he himself had been charged with making an "illiberal and unfounded charge." That what he said might be incorrect, was probable, from the information given by the gentleman from South Carolina; but that what he said was illiberal and unfounded, he denied.

Mr. G. said, it was true, that the sum of money proposed to be saved by this amendment was not large. Gentlemen might, if they pleased, call it a *paltry saving;* but having first established the fact, that these officers were not only unnecessary, but dangerous, though the saving was not large, it ought to be made. But it was said that our Government was so pure, so untainted, that the patronage, which was wished to be guarded against, can have no effect in this country; and the gentleman from Connecticut had said, the charge could have no ground, except he had taken his (Mr. G.'s) own heart for a standard. He believed that the observations on this subject had nothing to do with either of their hearts. He should not expect much credit to be given to any declarations which he might make on that floor as to the purity of his motives. Indeed, he took it to be his duty to state his reasons for or against any question which came before the House, and after delivering them in the best manner he was able, to leave them to have the effect they deserved. He thought the gentleman's remark, therefore, unworthy of notice; but he again called upon the committee to consult the history of all other nations, whose Governments were, in any degree, similar to ours; and it would be seen that an undue extension of Executive patronage had been the destruction of them all. But was there no reason to guard against this patronage upon the gentleman's own ground? There certainly was; for, according to their doctrine, the power of the Executive was unbounded in its nature, and without check, as they say the President has a right to appoint as many Ministers as he pleases, and the Legislature is bound to provide for their salaries. When such a doctrine was avowed, was it not right, he asked, to state all the consequences to which it led? He thought it was.

Again, he would ask, whether the experience of this Government had not shown, that this patronage, so far as it related to the Legislature, was more dangerous than any other? In the last four years, five Ministers had been sent to Europe, four of whom had been taken from the Legislature of the United States—one, he believed, after the period for which he was elected was expired. Combine with this fact, that it is the duty of the Executive to choose men for office only from those whose opinions are consonant to its own, and look at the situation of members of Congress. They see written, in legible characters, "there is no hope of being appointed to office, except your opinions be in conformity to that of the Executive of the United States."

If, said Mr. G., in the youth of our country and Government, we do not feel the effect of this kind of influence, as it had been experienced in other countries, it is owing solely to that cause, and he would venture to say there was no other Legislature in existence upon which such a fact would not make some impression; and if it did not make any here at present, were they to suppose that this country was so much more favored by Providence than others, that the same effects might not, in process of time, be produced here by similar causes as in other nations? And ought they not to guard against it in time? He thought prudence directed them to do so.

With respect to the illiberal and unfounded charge which it had been said he had made—when the gentleman from South Carolina had stated, that, since the appointment of an Ambassador to Berlin, nothing had taken place which could induce us to change our views, he, in answer, stated, that there were other reasons; and

then, not as if he were making any new discovery, asked if such a fact were not recollected; but, at the same time, acquitted the gentleman alluded to of acting under undue impressions. Indeed, he knew that gentleman's opinion so well on matters of this kind, that he was certain he would have voted the money, whoever might have been appointed. But he drew the conclusion that he knew the fact, that he was to be appointed to the office at the time. If that was an illiberal conclusion, he was guilty; but when a man supported an appropriation to-day, and three days after was appointed to the office contemplated by it, it was difficult to suppose he knew nothing of it at the time. The gentleman from South Carolina had said it appeared from the Journals that he did not know of it; but he supposed, notwithstanding, that more than three days were necessary for the arrangement of such a business. But it was supposed he meant to make an illiberal attack upon that gentleman; the truth was, he did not mean the attack against the person appointed, but against the person making the appointment. He conceived the appointment improper; but he expressed himself as delicately as he was able. Now, he was put upon this head, he must go further. He found in the Constitution the following clause: "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office, under the authority of the United States, which shall have been created, or the emoluments of which shall have been increased, during such time." And here he would ask gentlemen who thought Executive patronage ought not to be feared, why the framers of the Constitution inserted a clause of this kind, if they had not *feared* this patronage? It was to this clause of the Constitution, and to nothing else, that he had reference, in the allusion which he had made; and though the appointment might not be expressly against the letter of the Constitution, it was certainly against its *spirit*.

He would make only an additional remark in relation to expediency. It had been said, that to pass this amendment in our present situation with foreign countries, would tend to show an existing division between the Executive of the United States and the people. This argument might be brought at all times, as the occasions were not unfrequent in which the several branches of Government differed in opinion; nor was this to be lamented; it was natural, and what could not be avoided. But it was said that those foreign Governments with whom we were connected might take umbrage at a measure of this kind; and that when foreign countries sent Ministers of a certain grade to us, we were bound by the forms of etiquette to return to them Ministers of the same rank. To do this would be to do something more than what the President of the United States might require them to do; it was obliging the Legislature to follow, not only the will of the President, but the whims and caprices of every foreign nation who chose, from what reason nobody could tell, to send Ministerial characters to this country. To support an expense of this kind, he believed, would be making a little too free with the Treasury of the United States.

Gentlemen who supported this amendment had been charged with using declamation; yet, said he, those who thus charge us, tell the committee that we are persons who wish this country tamely to submit to the will of a foreign nation! He would ask whether or not this was declamation? He asked what connexion submitting to the will of a foreign nation had with this amendment? and what kind of difference it could make in the termination of our present negotiation, or on our conduct hereafter, whether this amendment passed or not? He could see none; and when gentlemen were told they made speeches to catch the ears of the populace, or vulgar, he thought they might with propriety reply, that nothing which had fallen from them was more calculated for this purpose than what fell from the gentleman from South Carolina (Mr. Harper.)

Mr. N. Smith denied that he had compared the Executive to the main-spring of a clock, and restated what he had said respecting the different branches of Government being independent of each other.

The committee rose, and had leave to sit again.

Monday, January 22.

John Milledge, from the State of Georgia, appeared and took his seat.

IMPEACHMENT OF WM. BLOUNT.

Mr. Sitgreaves, from the committee appointed on the subject of W. Blount's conspiracy, reported two letters which had been received by the committee—one from the Chevalier d'Yrujo, denying that he had at any time given or promised any money or other reward to John Phillips Ripley, as stated in the deposition of Abraham Holden. He acknowledges that whilst he was in New York, that Ripley was arrested for debt, and that from his having spoken well of his character to Mr. Stoughton, the Spanish Consul there, that gentleman became bail for him. The letter from Mr. Ripley is confirmative of this statement. Both were ordered to be printed.

FOREIGN INTERCOURSE.

The House having again resolved itself into a Committee of the Whole, on the bill providing the means of foreign intercourse, and Mr. Nicholas's amendment being under consideration,

Mr. Griswold said, if, instead of reducing the number of our foreign Ministers Plenipotentiary, it had been the intention of the present amendment to make an inquiry into the reasonableness of the salaries at present allowed to our foreign agents, he should most cheerfully have gone into the investigation, as he believed it was a subject upon which the House had a full right to legislate; but when he heard gentlemen declare that this was not their object, but that it was their intention to check a power which the Constitution had placed in the Executive, the motion would meet his decided negative.

The ground which gentleman had taken went

to declare, that though the Constitution had said that the President, with the advice of the Senate, should appoint Ambassadors and other public Ministers, the gentleman from Virginia, and others, say that he should not do this; that they will tie up his hands so as to put it out of his power to execute this provision of the Constitution. So that in this question, the people of the United States and the Constitution were on one side, and the gentleman from Virginia and his friends on the other. For himself he had no difficulty in deciding where such were the parties.

If past experience had not taught the House that attempts were frequently made to invade the Constitutional powers of the Executive, such a motion as the present would produce surprise; but, as former attempts of this kind had not only been made, but repelled, as they ought, he trusted the same issue would take place on the present occasion.

Gentlemen had stated our Constitution as filled with balances and checks, and that different departments were intended to check each other. He allowed that each had checks within itself; but if the departments were to check each other, the Government could not proceed; and however this doctrine might be discussed with metaphysical subtlety, its tendency was to stop the wheels of Government. He hoped this doctrine of checks, which had been introduced into the House by the gentleman from Pennsylvania, (Mr. Gallatin,) would not extend itself in this country, as it contained more mischiefs than Pandora's box. But suppose, for the sake of discussion, this doctrine were admitted, and that that House had a right to check the Executive in the exercise of its Constitutional powers, would it be proper to exercise it on the present occasion? Was it, even in the most peaceable times, proper to curtail our diplomatic corps, since our commerce spreads to all parts of the world, and disputes must necessarily arise, which could be removed only by the interference of our Ministers? Gentlemen alleged that this could be done by Consuls; it struck him not. Who were these Consuls? Men of respectability, undoubtedly; but mere moneyed men, pursuing private objects for the purposes of gain, who possessed neither leisure nor ability to manage a business of this kind. Diplomatic agents, he said, were uniformly employed in all countries, except, indeed, in Turkey, or in the tyrannical States of Barbary—States which he trusted gentlemen would not produce for the United States to imitate. If even it should be proper in such a state of things, would it be proper at this time? Was the present a state of tranquillity and peace? Were our affairs going on well? Was not Europe convulsed to the centre? Did not every day produce a revolution or a massacre? And were we unconnected with Europe? Did not our commerce carry us there, and was not our capital there? Yet our diplomatic agents are to be discontinued, and our commerce left to shift for itself, and in case of disputes no explanations could be had. The business was to be dropped at once; and what was worse, it was to be done because the Legislature placed no confidence in the Executive of the Government—because one department of Government was opposed to the other, which had the appearance of a nation fighting against itself. Were gentlemen desirous that such a picture of our situation should cross the Atlantic? He thought no gentlemen could say this would be acting prudently.

But, notwithstanding these considerations, gentlemen still say this motion ought to be agreed to, because the Executive is already possessed of immense patronage, which is spreading its influence through every department, and has become so alarming as to make it necessary to sacrifice every consideration in order to have it lessened. When he heard language of this kind, he could scarcely refrain from smiling. What, he asked, was this alarming influence? It could not be doubted that in some Governments where the appointments were numerous, and where the Executive was a permanent establishment, immense influence might be acquired. But what was the situation of our Executive? It was true, it had the power of appointing to office; but the offices were not very desirable, and the execution of some of them was attended with obloquy and reproach; besides, the duration of our Executive was limited to a four-years lease. And yet gentlemen charge the Executive with being possessed of an influence which they foretell will be the destruction of Government. Such opinions he could only consider as mere chimeras of the brain, supported upon no rational ground.

But gentlemen went further, and said that this power had actually been abused, as the Executive, in his appointments to office, had respect to the opinions of those whom he chose. He confessed that he had thought, from some appointments which had been made, that the President had not adopted the determination which some gentleman were of opinion he had, though he acknowledged it was a determination which every real friend of the Government must wish to see adopted. Could it be believed, that the President would not have some respect to the opinions of the men he employed? Gentlemen could not believe this. What! employ men whose very opinions and principles led to disorder!—to appoint men to office for the purpose of preserving order and peace, whose very opinions lead to disorganization and confusion! Was this to be done? He thought not; and if the determination of attending to the opinions of men appointed had not been adopted, it ought to be adopted. Indeed, he had been led to believe, that there was a class of men in this country, who, from the sober conviction of their minds, being convinced that most of the measures of Government were wrong, had determined not to accept of any office under it, and, by that means, assist in its execution; but if he rightly understood the gentleman from Georgia, (Mr. Baldwin,) he supposed he had been deceived in this respect, as he seemed to say, that they were not only willing, but desirous, of accepting offices under Government. He could not have believed this, as it supposed a baseness of character which he had

hoped did not exist in the United States. What! were gentlemen who had been uniformly opposed to every measure of Government, now ready to step in and take part in the execution of that Government? Were they willing to become the justifiers of those measures which they have heretofore uniformly declared to be wrong? He had hitherto respected this class of men, because he believed they acted from conviction; but if they were about to add hypocrisy to their other crimes, it was a proof of their total want of integrity. Indeed, for a man to say Administration was right, when he believed it wrong, was to prove that he had *no conscience*. He thought, therefore, it was highly proper to choose men only into office who would act from principle.

He concluded, therefore, upon every ground, that the motion was wrong. Mr. G. said that he could not sit down without noticing some sentiments which fell from the gentleman from Virginia, which wore a serious aspect, and seemed to aim at the very existence of our Government. That gentleman began his speech by telling the House that all representative Republics naturally tended to corruption, and that Republics were capable of attaining to more tyranny than Monarchy, and to more oppression than Despotism. [Mr. Nicholas explained what he had said.] Mr. G. insisted upon being correct in his statement; but he said the gentleman did not stop here. The remedy for these evils, he said, was only in feeble minorities—in short, that the few were to be set against the many. This was denouncing Republics with a vengeance—it went to the very foundation of our Government. It was a doctrine which he never expected to hear in that House; it was a doctrine which went to say that no Representative Republic ought to exist. But, he firmly believed, that instead of depending upon minorities, the people of this country would always depend upon majorities, whom, he doubted not, would continue to preserve things as they ought to be. That the few ought to be attended to, in preference to the many, was a doctrine which might suit Aristocracies, but it would not do for this country. He did not see how this observation was connected with the gentleman's motion; but he thought it was an attack which ought not to pass unnoticed, which must be his apology for the digression which he had made in these remarks.

Mr. Bayard began his observations by remarking, that the gentleman from Virginia had said that it was not his design that his motion should have an immediate effect upon the Ministers at present employed. If the gentleman was sincere in his avowal, it was clear that he did not understand his own motion; for, whatever amendment was introduced into the third section, which the gentleman had intimated might be so amended as to give the regulation a distant operation, as it only related to the sum of money to be appropriated, it would not enable the President to employ a Minister Plenipotentiary, besides those at London and Paris, at a higher salary than $4,500.

Some gentlemen have said, it was idle to talk about this House having the power to appropriate, without having the power at the same time to use their discretion. He contended that the power of appointing Ministers was vested in the President, and the House had no right to believe he would abuse this power. It had been supposed by the gentleman from Pennsylvania, that he might appoint an indefinite number of Ministers; and were the House, in that case, he asked, blindly to appropriate for them? This question was predicated upon an abuse of power, whilst the Constitution supposed it would be executed with fidelity. Suppose he were to state the question in an opposite light. Let it be imagined that this country has a misunderstanding with some foreign Power, and that the Executive should appoint a Minister, but the House, in the plenitude of its powers, should refuse an appropriation. What might be the consequence? Would not the House have contravened the Constitution, by taking from the President the power which by it is placed in him? It certainly would. So that this supposition of the abuse of power would go to the destruction of all authority. The Legislature was bound to appropriate for the salary of the Chief Justice of the United States, and though the President might appoint a *chimney-sweeper* to the office, they would still be bound. The Constitution had trusted the President, as well as it had trusted that House. Indeed it was not conceivable that the House could act upon the subject of foreign Ministers. Our interests with foreign countries came wholly under the jurisdiction of the Executive. The duties of that House related to the internal affairs of the country; but what related to foreign countries and foreign agents was vested in the Executive department. The President was responsible for the manner in which this business was conducted. He was bound to communicate, from time to time, our situation with foreign Powers; and if plans were carried on abroad for dividing or subjecting us, if he were not to make due communication of the design, he would be answerable for the neglect.

But, without determining the point, how far it was Constitutional for the House to interfere in the present business, it certainly would not be prudent to do so at present. Ambassadors had been called "honorable spies" to watch the operations of foreign Governments, in order to inform their own Government of every proceeding likely to affect it; and, surely, if ever there were an occasion which called for such spies, it was the present, when we saw every principle of ancient order overthrown, and principles of disorder and villany introduced which were never known in ancient establishments. Was it not seen that those countries which were most powerful were dismembering and dividing those which were weak; and, in order to settle terms of peace, no scruple was made to cede an independent Government and country, as a balance in the treaty. Nay, he did not know but at this moment foreign Powers might be negotiating for a division of these very States!—as a make-weight in some adjustment of belligerent differences. He trusted, therefore, our Ministers would not be at present

recalled; for, though they might not be able to dive into the secrets of foreign cabinets, they would doubtless communicate such information as would be useful, and there was no probability of their doing any harm.

But gentlemen wished, instead of multiplying our foreign connexions, that we should recall every foreign agent at present employed; if even this were the wish of this country, did it follow that it would be the interest of the Powers of Europe to follow the example? If we refused to send them Ministers, they would send theirs to this country, and the danger in this business did not arise from our Ministers going abroad, but from foreign Ministers coming here. And if foreign agents were sent here, it was certainly policy, for the sake of information, and for the cultivation of harmony and friendship, that we should return the compliment.

But gentlemen said these appointments ought not to be made, because they increased Executive patronage. In addition to what had been said on this subject, he would remark, that, so far from these appointments multiplying the friends of the President, he believed they increased his enemies; for, by serving one person in an appointment, he alienated the affections of twenty others by disappointments.

Gentlemen had talked much about checks. He believed they were sincere when they wished the Executive to be checked; he believed they would check and countercheck him until they stopped the wheels of Government; and when he was manacled, and laid at the mercy of the House, they would be satisfied. For his part, he thought the Executive the most weak and infirm branch of the Government; and that, if anything were to be feared, it was from its weakness. It was not a Constitutional idea that this House should check the Executive, but that the President should have the power to check the Legislature. For what reason? Because the Executive power was defined; its prerogatives are all specified; it could not act improperly, without the act being palpable to all the world. But the limits of the House of Representatives were undefined. The Constitution checked the President, but it was necessary for the President to check that House, for gentlemen could not suppose that a popular body like that of the House should be immaculate, and that no *esprit du corps* would ever lead it to do business which did not properly belong to it. It was the nature of such a body to be more ambitious than an Executive defined as ours was. The people of the United States, therefore, had more to fear from that House than from the President of the United States. The President had it not in his power to do much mischief, but it was in the power of that House to destroy the Constitution.

Gentlemen had compared the patronage of this Executive with the patronage of the Executive of the English Government. As well might they compare Calvin Philips to the Irish Giant. In this country, what was the power of this patronage? An army of three or four thousand men, a navy of three frigates, a number of Collectors and Supervisors, whose salaries were sufficient to furnish their daily bread. What was the case in England? An army almost without number, a navy incalculable, a church patronage unlimited, an order of nobility without number—sources which furnished objects of temptation to almost every individual; besides, the civil list of a million a year! But what had the President of the United States? About as much as would furnish his firewood and table! Yet these two situations had been compared with each other. But, notwithstanding the immense patronage of the English Government, if the principle of equal representation were introduced into their House of Commons, he believed, notwithstanding all the power of the Executive, they would lop off prerogative after prerogative, till, though there might remain the features, the substance of monarchy would be gone.

Gentlemen who advocated this amendment seemed to do it because men of a certain opinion were appointed to office; as if they were to say, "We know our principles are such, that we have no chance of being appointed; therefore, we will not suffer the President to appoint anybody else." The gentleman from Georgia had expressed great surprise on hearing this principle avowed. But he asked whether this was not a principle of the first authority in this country? It was the principle upon which the sovereign people themselves acted. Did they ever choose Representatives of a different opinion from themselves? He believed no one would say they did. If he, or the gentleman who differed from him, held different opinions from those they held, they should not appear in their present situations. The President was, therefore, justified in acting in the same way; and if he had ever deviated from it, the deviation had convinced him of his error; and, profiting by this experience, he trusted a similar conduct would be avoided in future.

Something had been said about the Constitutionality of the appointment of our present Minister to Portugal. The gentleman from Pennsylvania had supposed that, when the gentleman who was appointed advocated the appropriation, he knew that he was to be employed. He believed it had been incontrovertibly shown that this was not the case; but the gentleman had since said that he did not mean to cast blame upon him, but upon the President. Mr. B. denied that the President had acted unconstitutionally, as had been insinuated; and he thought, when it was known with what delicacy the President had acted, in refusing to accept of the house which had been built for him by the State of Pennsylvania, a charge of this kind ought not to have been brought, without better ground for it. The office which the gentleman from South Carolina had accepted was not created by the appropriation—it existed long before. Nor was it created by any law, but by the President. Nor was the salary increased, as the salary of a Minister Plenipotentiary was long ago settled. But, though it was not within the letter of the Constitution, the

gentleman said it was within its spirit; but he did not know how that gentleman's sagacity found a spirit not expressed in the Constitution.

Mr. Dennis rose with diffidence on this subject, after it had been so ably discussed; but he thought there was a point of view in which it had not yet been placed. The question naturally divided itself into two parts: the first relative to the powers of this House; the second, admitting the powers of the House, as to the expediency of the measure. This measure might be again subdivided. The power contended for, was not a mere negative power of control, but a creative power, as it went to fix the grade and number of Ministers to be employed. He believed it was necessary that the supporters of this amendment should prove the power of this House to assist in the appointment of Ministers, and in the fixing of their grade; to show also that the President could, in no case, proceed to nominate a Minister, before a bill had first gone through the Legislature making the necessary appropriation. If they could not establish this, a great part of their argument would fall to the ground. Amongst all the novelties of the present day, he did not think this the least. He believed the doctrine was founded in error, that it had never before been advanced, and that it was contradicted by every act of Government. If this doctrine was well founded, why did not gentlemen come forward at the last session, when appropriating for the expense of an Embassy to France, and say there should be one, two, or three, Ministers employed? Indeed, if they believed the President had no right to proceed in this business without the concurrence of this House, why not institute an impeachment against the President for outstepping the bounds of his power?

It was supposed there existed the same right in this House to regulate the number and grade of Ministers, as to regulate the number of Judges; but it was quite a different thing. Regulating the number of Judges was a strictly Legislative act; but the appointment of foreign Ministers was as strictly Executive. If this were not so, and the House were to act upon the subject, it would be necessary for them to be possessed of all the information which could be had on the subject.

It was asked, if there were no case in which the Legislature could refuse an appropriation when it was required by the President? It was sufficient for him to say that the case before them could not be of that description. He believed cases might exist, in which a refusal would be justified; but it would be one of those glaring cases which would at once appear. Such a case, as in the Judiciary Department, when juries determine damages to be so enormously high or low, as to induce the Judges to intercede for a new trial.

Mr. D. took notice of what had fallen from Mr. Gallatin, as to the possible abuse of this power of the Executive, and replied to it; and alleged that the reasonings in support of the amendment went more to an annihilation of the diplomatic corps than to a reduction of it. He also touched upon the distinctions which had been made between political and commercial agents, and supposed Consuls insufficient to answer all the necessary purposes of commerce.

The gentleman from Virginia had urged the propriety of the adoption of this amendment, from the fear of the Executive branch of the Government swallowing up the rest. If he believed any danger from the abuse of this Government, he should expect it to arise from this House, and not from the President. He should be warranted in this opinion from what had been seen in this Government, and by the experience of other nations. His inferences from facts and history were different from those drawn by other gentlemen. The annihilation of liberty had always been occasioned by encroachments of the popular branch of Government. The English Government, for instance, had originated in a monarchy and aristocracy. It had at first no democracy in it. It was, however, by degrees introduced; and in their revolution, monarchy and aristocracy were annihilated, and the Government became a Government of five hundred and fifty-eight despots. The next important era in the history of that nation was about the termination of the American war. At that time the monarchy became unpopular; the democratic branch became noisy and clamorous, and wished to annihilate the Government. Their power was so great that the King was obliged to turn out his Ministers, and an appropriation was refused for the ordinary expenses of Government. To such a height was the opposition carried, that there were four different administrations in two years. It became necessary for the Crown to be subservient to the views of the House of Commons, and Mr. Fox and his adherents were admitted into office; yet they were discontented, and the King was obliged to dissolve the Parliament. Before the new election, the spirit of the nation, however, so favored the monarch, that sixty of the most violent members were thrown out of the House, and to this violent disposition of the Commons was it chiefly to be attributed that the Crown now enjoys so much power over the other branches of Government. He did not know but bribery and corruption had had something to do in the business; but he mentioned these circumstances to show that the change which had taken place in that country had been chiefly owing to an imprudent democratic spirit. He thought it ought to operate as a warning to this House, never to assume powers unauthorized by the Constitution; as every encroachment of this kind, when it was unsuccessful, never failed to strengthen that power which it meant to crush.

If, said Mr. D., the Executive of this country possesses more influence than he ought, it does not arise from patronage, but from the spirit of finding fault with Executive measures so frequent in this House, and from the turbulent spirit which had, from time to time, been shown. The ratification of the British Treaty occasioned a partial disapprobation of Executive measures, as any movement which Government could have made at that time would have done; as what would have

been pleasing to one set of men would have been displeasing to another. But he believed that this House refusing afterwards to appropriate money to carry it into effect, produced greater unpopularity towards it than had before been produced towards the Executive, and it excited an alarm that the House of Representatives was about to swallow up the powers of the other departments of Government. An election having since taken place, this circumstance, it was probable, had produced a majority in both Houses generally in favor of Executive measures.

Mr. D. concluded by saying he did not agree with the gentleman from Virginia that republican Governments were more subject to patronage and corruption than any other. Mr. D. took a view of the patronage of the British Government, and spoke of the permanent nature of their Executive; but the acts of our Government, he said, were perpetually before the people; the periodical reversion of power into their hands enables them to mould the Government to their will; and though some particular branch of it might be unpopular for a time, it could not long remain so; and he knew of no mode of corrupting the Government whilst the people remained incorrupt. He was of a very different opinion from the gentleman from Virginia, in respect to the present situation of the Government of this country. His idea was that the people of the United States had come to an enlightened understanding of their duty; but, if there should be any danger of shaking the Government, he believed it would arise from this House, and from no other department. But, he believed, the dangers which were now conjured up were rather the dreams of a disordered imagination, or the crudities of indigested political opinions, than produced by any real cause; he hoped, therefore, the motion would not be agreed to.

Mr. Brent did not intend to have taken any part in the debate on this subject, but he had been induced to rise from the manner in which every one who favored this amendment had been spoken of; from which, and the anathemas which had been pronounced against them, he thought it behooved every member in favor of the amendment to come forward and express his opinion.

The objections urged against the amendment, he believed, might almost be confined to two, namely, the incompetency of the House to make the regulation and the inexpediency of the measure.

With respect to the first, he acknowledged, he did believe it would have been impossible for those who were the most strenuous for the advance of Executive power to have made an exception; but, contrary to his expectation, it had been made. They were told that the President of the United States only knew whether it was proper to send Ministers abroad, and that whenever he made an appointment it was a duty necessarily attached to this House to make an appropriation, and that they should violate their Constitutional duty if they exercised any discretion upon the subject. He thought the debate which took place when the subject of foreign intercourse first originated, extracts from which had been read by his colleague, would have satisfied every gentleman as to the understanding then had upon the matter, as they were the sentiments of men who had always been in favor of extending the Executive power as far as it could be pushed. He asked whether it was not a subject of serious regret to every man who wished to preserve the Government in due execution, that the doctrine every where acknowledged a few years ago, should now be deemed unconstitutional, and that those who advocate it should be charged with a desire of prostrating the Government, and with being disorganizers and friends to confusion.

It was from this source he apprehended danger more than from any other. But, for the sake of argument, he would admit that the opinion of gentlemen on this subject was correct, that when the President has determined upon the appointment of foreign Ministers, it is an indispensable obligation on Congress to make some appropriation. Yet it did not follow that this amendment in any degree violated this principle. None of those opposed to this amendment have contended that an obligation to make an appropriation prohibited the power of discriminating the quantity of it. If this were true, they would find by the amendment that Ministers to Portugal, Prussia, and Spain, may yet remain as they are, provided they are satisfied with the salary of $4,500, which, it is thought, will be sufficient for any business to be done at those Courts. Upon the principle, therefore, of those Constitutional heroes there was no violation of their doctrine.

The doctrine of checks and balances which had been laid down by the gentleman from Pennsylvania, had been called novel, and calculated to stop the wheels of Government. Another gentleman had told the committee that those who advocate this doctrine meant nothing less than the total overthrow and destruction of the Government. He believed it might, with great propriety, be retorted upon this gentleman, that those who treat this doctrine as novel are the gentlemen who go for the overturning and destruction of the Government. For himself, he considered this doctrine as a vital principle; not as introduced by the gentleman from Pennsylvania, but as a thing which may be found in every feature of the Constitution. But it was a memorable circumstance, illustrated in the speech of the gentleman from Connecticut, that when gentlemen endeavored to prove an unfounded doctrine, one part of their argument frustrated another. This remark applied to the doctrine of checks and balances; for, though they deny the doctrine, yet they say there is no rational apprehension of danger from the power of the President, confined as it is by the appropriations of this House. Thus, while they are rejecting the doctrine of checks, and spurning at those who support it, when it suits their argument they themselves acknowledge it.

It was true, when the power of the President was considered on a rational ground of construction, there was no serious cause of alarm; but

when they found novel Constitutional doctrines introduced by those who consider themselves as patrons of Executive influence, and doctrines which formerly universally obtained now exploded, there was serious ground of apprehension.

It was asked whether, if it was proper at all to reduce our foreign Ministers, it was proper at this time, considering the state of this country and of Europe? The remark that this is not the proper time was constantly suggested whenever a reform was proposed in any country, and dreadful phantoms were constantly conjured up to maintain institutions which could not be otherwise supported. Why was the present moment more inauspicious than any other? Admitting the tumultuous situation of Europe to be as described, was there any danger from withdrawing our Ministers from Portugal and Prussia? Or, if we were in hostility with them, what effect could it have on the United States? Both were destitute of any means of injuring each other, as much so as two men would be who were bound hand and foot. Ministers were proposed to be retained at London and Paris, and, if it would accommodate gentlemen, he should have no objection to agree to a Minister Plenipotentiary to Spain, though he saw no occasion for it. He was no friend to diplomatic characters abroad. He believed foreign Ministers had been the curse of modern nations for many years.

A subject of a very delicate nature had been involved in this. It had been remarked by his colleague, and had been acknowledged with signs of exultation from another quarter, that there existed a disposition in the Executive to choose to office men of a particular political opinion; none but those devoted to the Administration, and ready to justify every measure it has ever taken. Instead of denying the charge, gentlemen rejoice in the truth of it, and declare it has never been departed from but the Government has had cause to regret the departure. The gentleman from Connecticut went further. Would not the President, said he, be guilty of inconsistency to admit any gentleman into the Government who had been opposed to the measures of the Executive? "What! (exclaimed he) admit men who are disorganizers; men whose opinions are calculated to produce confusion and to overthrow the Government!" And would that gentleman seriously and solemnly, before this assembly, undertake to anathematize, as hostile to every thing valuable in society, all those who think unfavorably of some of the measures of the Administration? If he did, Mr. B. believed the world at large would give him credit for the goodness of his heart! The world at large knew that many of the patriotic and distinguished citizens of the United States, from the most amiable motives which can actuate the human heart, dissented from the views of the Executive; many who are as much devoted to, if not infinitely more so, and admirers of the Constitution, as those who make their boast of being so.

Would that gentleman tell the committee, for instance, that if one of the legal characters of this country, eminently distinguished in every duty, either public or private, should unfortunately be of opinion, from the experience of his best judgment, that some of the measures of the Administration have been unfavorable to the true interests of the country, that he is therefore disqualified from occupying a legal seat under Government? Did he suppose he ought to be driven from his situation because some demagogue, ready to sing hallelujah to every object of Government, was ready to receive it, and the other be pointed at with scorn and reproach? Yet this was the consequence that must continually follow the adoption of such a conduct by the Administration; and, therefore, though he had heard it reiterated that such was the line of conduct adopted, he should require still stronger reasons to believe the fact. If he did believe it he should believe there was a strong disposition in the Administration to foment divisions among the people of the United States, to incense one part of the citizens against the other, that, perhaps, when they were brought into that situation, and fury and madness reigned, they might attain ends which they knew never could be attained whilst they remained under the influence of reason. Until unequivocal evidence of a fact so alarming in its nature was adduced; until "proof strong as holy writ" appeared, he would not, therefore, believe it.

The committee had been told that the Executive had never departed from his line of conduct but he had had serious cause to lament it. The allusion was well understood. Our affairs had called an eminent character from abroad. If the Executive of the United States had had serious cause to regret having once employed this character, that it should be formed of such materials as to regret it, gave him concern. He believed the true interest of the country would wish him yet in that station. He believed we were indebted to him for the peace we now enjoyed; and, so far from regretting his having been in office, he felicitated the country in having had such a character employed at the important moment in which he served the United States.

The gentleman from Connecticut had proceeded to say, that no man who did not approve of the measures of the Executive could conscientiously accept of any office under Government. He differed in this, as he did in most other things with that gentleman. He thought the instance he had adduced was an exception; and he would produce others. Might not a man honestly accept of a miltary office; a collector of duties; or almost any other office under Government, though his political opinions differed from that of the Executive?

His colleague had been very severely animadverted upon for stating representative republican Governments as tending towards an adhesion of parts, and, by that means, towards corruption. He had imagined, from his acquaintance with that gentleman, that he would never have been charged with a want of attachment to a republican Government, and a fair construction of what

he had advanced, would go to support that opinion. His wish was to preserve the Government in purity, and nothing more.

Mr. B. concluded his observations by a remark upon what fell from the gentleman from Delaware, (Mr. Bayard,) respecting the President's power of nominating to office making him more enemies than friends. He thought him entitled to all the celebrity of a new discovery; but, before he sat down, he seemed to contravene this opinion, by stating it as the cause of the great power of the King of England, that he had so very extensive an appointment to office! He left the gentleman to reconcile two opinions so opposite.

The committee rose, and had leave to sit again.

Thursday, January 23.

A message was received from the Senate informing the House that they had passed the bill to amend the several acts for laying a duty on spirits and on stills, with amendments.

Mr. Harper, from the Committee of Ways and Means, reported a bill making appropriation for the service of the year 1798, which was twice read and committed.

The amendments of the Senate to the bill for suspending the act relative to foreign silver coin, were agreed to.

PERSONS IMPRISONED FOR DEBT.

Mr. Sitgreaves moved that the Committee of the Whole, to whom had been referred the Message of the President of the United States, and the report of the Attorney General, relative to the law for the relief of persons imprisoned for debt, be discharged from the further consideration of them, in order that they might be referred to a select committee, which he should move to be appointed, to inquire whether any and what alterations are necessary in that law. Both motions were agreed to, and a committee of three appointed.

RELATIONS WITH SPAIN.

The following Message was received from the President of the United States:

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

At the commencement of this session of Congress, I proposed, in the course of it, to communicate to both Houses, further information concerning the situation of our affairs in the Territories of the United States situated on the Mississippi river, and its neighborhood; our intercourse with the Indian nations; our relations with the Spanish Government, and the conduct of their officers and agents. This information will be found in a report of the Secretary of State, and the documents accompanying it, which I now present to the Senate and House of Representatives.

JOHN ADAMS.

United States, *January* 23, 1798.

FOREIGN INTERCOURSE.

The House having again resolved itself into a Committee of the Whole on the bill providing the means of foreign intercourse, and Mr. Nicholas's amendment being under consideration,

Mr. Findley believed, if the amendment under consideration had been argued only upon its proper ground, its expediency, he should not have troubled the House with any observations upon it; but this ground had been widely departed from. The arguments of gentlemen who supported it, had not only been misapprehended and misstated, but they themselves had been charged with the worst intentions. He had sat a whole session of Congress, and had not heard so many misrepresentations, and so much play upon words, as he had heard in this debate. Though he did not possess the eloquence and delivery of other gentlemen, he would, at least, endeavor to set them an example of candor.

It might have been fairly argued, whether it was now expedient to narrow the extent of our diplomatic corps. This of itself would have afforded a pretty large field of discussion, and upon this ground, he supposed, the question would be finally decided. Indeed, all questions which came before the House were determined upon the principle of expediency. That the present question stands on this ground, was acknowledged by gentlemen on both sides of the House; for it had been admitted, by those opposed to the amendment, that if the President were to appoint a large number of Ministers, (a hundred had been mentioned,) the House would be justified in refusing an appropriation.

The gentleman from Connecticut (Mr. Griswold) had said, that the Constitution declared that the President should have the power of appointing to office; but that the supporters of this amendment declared the contrary. This was misrepresentation. The question was not, who should be appointed, but what offices should be retained; and he always understood it to be the proper business of the Legislature to institute offices, and to fix the salaries of the persons who should fill them, but no further. The Constitution gave to the President the power of "appointing Ambassadors, other public Ministers, and Consuls, Judges of the Supreme Court, and all other officers of the United States, which shall be established by law." There seemed to be a distinction between officers appointed by the Constitution, and officers appointed by law. Foreign Ministers and Judges were officers appointed by the Constitution; but did the Executive ever appoint a Judge before his office and salary were appointed by the Legislature? no more than he would proceed to appoint military officers or Ambassadors, whose offices were not fixed by law. But it was yesterday said that Congress had nothing to do with foreign intercourse, and that they had no right to investigate it. He was surprised to hear this. Was not the power of declaring war placed in Congress? And was this power no way connected with our intercourse with foreign nations? And if the power of declaring war was in Congress, were not those powers also placed there which should enable them to judge upon the propriety of such a measure? They certainly were, since it was not, expected that power should be exercised blindly.

But the committee was told, if they exercised this power, that they should "stop the wheels of Government"—a favorite expression of a favorite author.* How was this to be done? If the doctrines of the gentlemen opposed to this amendment were to prevail, they would, at least, *stop the wheels of this House.* But it was stated to be the intention of those who advocated this amendment, to check and counter-check the Government, until they stopped it altogether. This was a novel declaration. He believed the doctrine of checks, as had been stated, had been imported, because he did not believe the Aborigines knew anything of it; but if the Governments of this country were traced to their source, it would be found to be interwoven in them all. The patronage occasioned by appointments to office had always been a serious question in forming both State Governments and the General Government. In some States power was divided between the Legislature and the Executive; in other States, the jealousy which existed in this respect had placed the power in the Legislature. Were it necessary for him to give an opinion on the subject, he should have no hesitation in declaring, that this power was improper to be placed in a Legislature; and that by placing it there, in endeavoring to avoid one evil, they laid the foundation for a greater.

When the Constitution of the United States was under consideration, it was well known to those members of the committee who were present at that time, (and some he saw,) that this was an important question. It was thrown into different shapes, until at last it was adopted, as it appeared in the Constitution. This regulation was adopted upon principle, and was not a mere arbitrary thing. The power of appointing to office was brought down by placing a part of it in the Legislature. It was further restrained by prohibiting any member of the Legislature from enjoying, during the period for which he was elected, any office which should have been created, or the emoluments of which should have been increased, during that time. Thus, holding up to view the avenues by which corruption was most likely to enter.

But they had been told the President was a check upon the Legislature, the Senate upon the President and House of Representatives; but that the House of Representatives had no check upon the Executive. If this was the nature of our Government, he must own he was ignorant of it, though it was well known he had been pretty conversant with it since it had an existence. He believed it was not without reason that the sole power of originating money-bills was placed in the House of Representatives, which was an actual check: he was early led to this opinion. When the Constitution was under consideration, this was asserted by men well acquainted with the subject as an effectual check; though it was also predicted that the day might arrive, though it was thought to be very far distant, when it might be considered otherwise. But he was sorry to find that day was now come, so much sooner than it had been predicted.

In the year 1796, our diplomatic intercourse was first enlarged. He then voted for it, not because he was convinced it was necessary, but because he had not an opportunity of knowing it was not necessary; and he therefore trusted to the Executive judgment—not that he considered himself as a mere *machine*, and that he was bound to appropriate because the President had sent an estimate to the House. This doctrine was not then avowed; if it had been, he believed it would have startled the House. He voted for it as a temporary measure; and he did not think, if the appropriation was now withheld, that the House could be charged with entering into the Executive chair, and with doing Executive business. In order to keep the subject completely within the power of Congress, the law had been passed only for two years, upon the same principle that the law was passed with respect to a standing army. He therefore submitted it to gentlemen to determine which was the new doctrine, that in support of the amendment, or that produced against it.

In order to support the necessity of Ministers abroad, gentlemen had stated it to be their business to watch the proceedings of foreign Courts. That this might have been the case, he had no doubt; but he believed we had no proof of this watchfulness of late. He feared they were more frequently employed in forming plots, with which they had no business. We had a Minister at a certain Court, he said, and though an order was issued which placed our commerce upon a most dangerous footing, yet we never heard of it, until we heard of its execution. Upon the whole, he believed Ministers Resident were equal to any business we had to do in foreign countries, and a salary of $4,500 had never been complained of as being too low. As to what gentlemen had said about other nations sending Ministers to this country, and that, therefore, we ought to return Ministers of the same grade to them, this could not be a governing principle with this country. We had to consider our own advantage, and let foreign nations attend to theirs.

But it was observed, that no branch of Government was to be supposed capable of abusing its powers. This was contradicted by the Constitution, for it had guarded against this abuse in the Executive. Gentlemen spoke of this amendment as calculated to injure the President; he did not see how that could be. Refusing to appropriate money for any object which he was of opinion ought to be effected, could be doing him no injury; if it were, he had been much injured during the Summer session, as Congress had declined to act upon several subjects which he had recommended to them.

The gentleman from Delaware, (Mr. Bayard,) in speaking of the inconsiderable nature of the patronage of our Executive, to show there was no danger to be apprehended from an extension of it, compared it to the patronage of the Crown of England, the extensive source of which he did not consider as dangerous, but as necessary to preserve the

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*Peter Porcupine.

monarchy. To hear this doctrine on this floor astonished him, as well as the use made of it. Here, he stated, the patronage was not dangerous. Why? because a greater was necessary to the Monarch in Great Britain to preserve his power; and, he supposed, as a necessary consequence, therefore, it was necessary here, *to promote a monarchy!* Gentlemen delighted to dwell on this theme, and to prove that all danger was to be apprehended from popular Governments. It was his opinion that it was necessary, in order to preserve republican purity in our Government, to guard against the extension of Executive patronage. He might call to his aid, to prove this, the history and experience of all ages and nations, which would show that republican Governments, corrupted, were worse than monarchies. Mr. F. then took a view of the different popular Governments which had formerly existed in Europe, and showed that the spirit of despotism in the Executive had wholly destroyed and absorbed the popular branches.

Ungenerous allusions, the tendency of which he did not understand, had been made against persons from foreign countries. It had been the constant policy of this country to admit as citizens, after a certain period, persons from all countries. Our Constitution and laws admit of no distinction of citizens. Why, then, was it now thought to be dishonorable not to have been born in this country? If this principle had been introduced sooner, he should have been saved some trouble; for he, though born in a foreign country, had been elected by the citizens of this country to transact their Legislative business for many years, and he did not think that they ever conceived their Representative would have heard it insinuated in this House, that he ought not, on that account, to be considered upon the same ground with other members. Lest this sentiment should not have had its force, it was repeated, stating, that our danger did not arise from foreign correspondence, but from the importation of foreigners. He did not know what all this meant, except it were to destroy the harmony existing between the citizens of the Union, who were of all countries. But in connexion with this, something had been said which seemed to show the aim of gentlemen. These persons were called enemies of Government, and were charged with making attempts to overset it, and even this amendment was stated as being intended to have this effect. He asked whether such charges were addressed to the reason of that committee? The friends of the amendment had been charged with addressing the people out of doors; but surely nothing was better calculated than such charges to catch the public ear. But surely, if there were any attempt existing to overturn the Government, it was a crime of a very high nature, and ought not to be passed over.

The gentleman from Maryland (Mr. Dennis) had said something about an attempt to overturn the Government, by this House, when the British Treaty was under consideration. He knew there was an attempt made to give a new sense to the Constitution; an attempt was made to pass a vote in its favor upon principle, instead of expediency, and by doing so, to declare the House had no discretion in appropriating to carry into effect a treaty; if that point had been carried, it would have been oversetting a well established Constitutional principle, but it was not carried.

Mr. F. acknowledged it were only a few men who made use of this violent kind of language, and he knew their characters. They were chiefly men who had been accustomed to make harangues in county courts, where such liberties were usually taken.

Mr. Isaac Parker apologized for rising in so late a stage of the debate, especially as he did not know that he should offer anything which was new upon the subject before them; but he thought it necessary to state his opinion upon some things which fell from the gentleman from Virginia.

He considered this amendment merely as a text thrown out for political discussion, the ground of which had been considerably changed. Indeed it was no uncommon thing when gentlemen found their measures meet with greater opposition than they expected, to endeavor to give them a different aspect. The gentleman from Virginia, (Mr. Brent,) yesterday, confined the object of the motion to a narrower ground, and exhibited it in a less formidable shape than that in which it had before appeared. The mover of the amendment set out with declaring it to be his intention to bring back our diplomatic intercourse to what it was in the year 1796; but there was no principle in that law similar to this amendment. There was nothing there but an appropriation of money, without any reference to the grade of Ministers to be employed.

But the gentleman wished to limit the patronage of the Executive without bringing any proof that this power had been abused; but having no ground of this kind to go upon, the gentleman had invented a number of theories of his own, unsanctioned by experience. He stated that the form of a Government was of little consequence. For his part, he thought the people of this country were well assured of the importance of a republican form of Government so construed as to preserve its purity; but now they were told everything depended solely upon the *execution* of a Government.

In support of this principle, the gentleman had asserted that Executive patronage was more dangerous in republican Governments than in monarchical ones. If this were true, he was misinformed by history. There were few Governments in the world which partook of the republican form; he knew of none but those of this country, Great Britain, and the present Government in France. All the other Governments with which he was acquainted, were either monarchies with some small check, or civil despotisms. All reforms which had taken place in the European Governments had been produced by representative bodies. He instanced the Revolution in France, which he stated as being produced by the King's convoking a representative assembly for the purpose of extricating himself from his difficulties. But the gentleman from Virginia, Mr. P. stated, had said that the liberties of the people of England were in greater danger than if they had no representative body; but he believed the reform of that Government from an absolute to a limited monarchy, had been occasioned by the people. So soon as representatives of the people were admitted into the Government, the reform begun, and continued until it became much more beneficial to the people than it had before been.

Mr. P. wished to examine into the fact whether republican Governments were not preferable to any other. He believed that this country was indebted for its independence to the republican Governments of the individual States. If it had not been for them, he believed, these States would still have been a colony under Great Britain. But, by the people having the privilege of electing enlightened citizens into their Legislatures, who were aware of the disadvantages under which the country labored from being subject to a foreign Power, this disadvantage was shown to the people, and it produced a spirit favorable to independence. He had therefore adopted a different opinion from that avowed by the gentleman from Virginia; he believed a republican Government, the best possible Government for securing the liberties of a country. He believed there might be abuses in republican Governments, as well as others; but no fact had been adduced to show that abuses existed in our Government; nay the gentleman from Pennsylvania (Mr. Gallatin) acknowledged—and he was glad to hear the acknowledgment—that our Government was as yet tolerably pure. Why, then, go into measures to prevent mischiefs, which are unlikely to take place? But, it was said these mischiefs were to arise from the power of the President to appoint to office. It was true, the President had this power, but it was also true that the Senate participated with him in that power; so that if any patronage attended it, it was divided between the two departments, and it could not be supposed that the Senate, composed of gentlemen of the first talents, from the different parts of the Union, would be likely to misuse this power. They were a check upon the President, and there was no need of any other.

But danger was apprehended from the President's appointing to office only men of opinions consonant to his own. He thought the arguments of gentlemen had been somewhat misstated on this ground. He had heard no gentleman contend, that if there should be a vacancy in an office, and a person of ability and integrity presented himself for it, though he might entertain some opinions different from those of the Executive, or might think some of the members of the Administration had been wrong, that, on that ground merely, he should be rejected. If they did, he should not join them. His opinion was, however, that if there were a set of gentlemen averse to every measure of Government, to whom it was sufficient to know that a business was recommended by the Executive for them to condemn it, that these gentlemen ought not to be appointed to office, as it might be supposed that such persons would rather retard than assist in the execution of the measures of Government. For instance, suppose there were some citizens in the country (and he had heard there were) who declared that the excise law, or carriage tax, were unconstitutional or improper, would it be prudent or right to appoint persons of this description to collect those taxes? Certainly not; they would create an opposition to the Government by rendering those laws obnoxious.

But it was said, this preference for men of certain opinions, if the business of foreign Ministers was continued, might have an improper influence upon the members of the Legislature. He thought few gentlemen in Congress were capable of being operated upon by an expectation of appointments to office; besides, if the President were to act consistently with the principles which gentlemen attributed to him, he would not choose gentlemen from thence who were active in support of Executive measures; he would rather wish to retain them in their present situation.

To those gentlemen who thought Consuls were equal to every business which we had to settle abroad, he would say, that the duty of Consuls was well known and defined by our laws; it only related to individuals of this country who might have occasion to go to foreign countries, and who might require assistance from them. There was no instance, he believed, of any representation being made from one Government to another, by means of Consuls. If it were necessary to have any such representation made, it was proper, therefore, to leave the business in the hands of the President and Senate, who would best determine to what place Ministers ought to be sent, and what should be their grade. He should, therefore, vote against the amendment; and although some gentlemen might vote in favor of it, thinking it did not interfere with the Constitutional powers of the Executive, yet it was his opinion, if it were voted for upon the ground stated by the mover of it, it would infringe upon those powers, more especially as the gentleman himself had declared that, though he did not mean at present to attempt an overturning of the whole diplomatic corps, he meant to do it at some future period.

The committee rose and had leave to sit again.

Wednesday, January 24.

DUTY ON SPIRITS AND STILLS.

The amendment of the Senate to the bill for amending the several acts laying a duty upon spirits and stills, was taken up and disagreed to. Before the House rose, the bill was returned from the Senate, with their resolution to adhere to their amendment. This amendment was to strike out the provision which allowed licenses to be taken out for a week.

FOREIGN INTERCOURSE.

The House again resolved itself into a Committee of the Whole on the bill providing the means of foreign intercourse; and, Mr. Nicholas's amendment being under consideration—

Mr. Craik said, he did not know that what he should offer might be thought of much importance by the committee, but he thought the importance of the subject a sufficient apology for offering his sentiments upon the occasion. Having been kept from the House by indisposition when the gentleman from Virginia introduced his motion to the House, he had been indebted to the reports which had been given of his sentiments in the papers for his knowledge of them. As that gentleman had, on a late occasion, given it as a reason for postponing the subject which respected the arming of merchant vessels, that the question would have a tendency to destroy that harmony and unanimity which was so desirable to be at this crisis preserved, he should have supposed the same motive would have led him to have postponed this measure to a period when unanimity and harmony might have been of less consequence, as no principle could have been brought into discussion which was capable of producing more heat and party spirit than the present. He was not surprised, however, that this gentleman had seized with such avidity an opportunity of bringing forward a motion which, in its consequences, struck at the very existence of Government, nor did he complain that he had chosen to criminate all those who opposed the motion as being unfriendly to the purity of Republican Government. He was one of those who believed, from a view of the state of parties in this country, that little could be obtained by concession, he had, therefore, resolved never to give way from any such motive in future, when he thought it was important to carry any measure into effect. He was not surprised at this measure, because it was only a continued link of that chain of opposition which had commenced with the present Government; and, notwithstanding the ingenuity of the gentleman from Pennsylvania, (Mr. Findley,) he considered the question as containing an important principle, and a principle which had frequently received the negative of that House. It was this: Whether the House of Representatives should be established in the right, which some gentlemen claimed, of exercising, upon all occasions, an unlimited discretion, when called upon to appropriate money, on the acts of the Executive; which was, in fact, whether that House should take all the powers of the Government into its own hands.

It had been said, that the doctrines which had been avowed on this occasion proved that there were two parties in that House and in the country. He believed it; and though the declaration might alarm some gentlemen, so long as he had a seat in that House, he should boast of being one of a party; for those who denied the existence of parties, must shut their eyes and ears to every thing they heard and saw. And if the fact be so, why deny it? It was no secret out of the walls of this House, and it was necessary the declaration should be made that the evil might be cured. The people were not now to be informed that there were parties existing in that House; but there was a truth of which they ought to be informed, viz: that there was a party which was systematized.

It might be inquired, how this evil is to be remedied? It could not be cured in that House; but it was their duty to inform the people that such was the situation of things, and the remedy lay with them. When they saw the evil, the cure could easily be effected by means of their elections.

But the gentleman from Pennsylvania (Mr. Gallatin) thought the people were with him and his friends in opinion. If he meant to include him and his constituents, and the opinion was well founded, he acknowledged his unfitness to represent them, because he could never give the doctrine of those gentlemen his sanction; but he did not believe in the assertion, and had no objection to make the appeal. If, indeed, he could believe that the people gave credit to all the imputations and criminations made on that floor and elsewhere, not only upon this question, but upon many others, he might be led to believe that their opinion was as stated; but he had a better opinion of the people of the United States than to believe that this was the case.

Mr. C. said, he meant not to excite unnecessary alarm; but it must be allowed that such a crisis of affairs might not be far distant as might call for all the resolution and energy of the country. At such a period, was it not desirable that the Executive should meet with the full support and confidence of the people? It surely was; but he did not think the present measure calculated to produce this effect.

The first instance in which it had been attempted to establish the principle now contended for was when an appropriation for carrying the British Treaty into effect was under consideration; and notwithstanding the gentleman from Pennsylvania (Mr. Findley) had said that the question was then decided upon the expediency of the measure, and not upon principle, yet, so far as his recollection served him, the contrary was the case. [Mr. F. again repeated his opinion.] Mr. C. said, that without dwelling upon this point, he would refer to others. That House had endeavored to destroy the Mint establishment by refusing an appropriation, which would have had the effect to repeal a law which it required the whole Legislature to pass, and which, in the usual course, would require a majority of both Houses to repeal. The same attempts had been repeatedly made in respect to the frigates; it had also been tried in reducing the Military Establishment. But, notwithstanding these repeated attempts had failed of success, a motion was now brought forward, the effect of which was to destroy our system of diplomatic intercourse (which had been established by the Executive, he doubted not with due consideration) by withholding an appropriation. If ever the House of Representatives should be successful in establishing their right thus to check the operation of the Executive department, then he should consider that all the departments of Government were brought to their feet. Away, then, with the independence so much boasted of in the different departments of Government! Where, then, would be the ground of our stability, our security,

or our confidence? In vain would it be to look to the Senate or to the Executive; they would be prostrated at the magnetic touch of the House of Representatives.

Every effort had been called forth on former occasions in support of this untenable doctrine; the most artful arguments had been addressed to the members of the House, as it was well known that there was always a natural propensity in public bodies rather to increase than to diminish their powers. Attempts on such occasions were also made to enlist the people on their side by raising jealousies against the different departments, by showing that it was possible they might have objects in view which were incompatible with the public interest, so as almost to induce a belief that whatever could be taken from the other branches of Government, and added to the House of Representatives, would be so much gained by the people. And when gentlemen opposed these encroachments, they were represented as being supporters of Executive measures to the disadvantage of the people. But the true reason was, because these men were firmly attached to the Government as established, and determined to preserve its balance and harmony, and to protect the whole, by giving to each its proper power; because they were determined to oppose every change in the Government not introduced in a Constitutional manner. But whenever a controversy arose between that House and the other departments of Government, it was always represented that the House of Representatives was the peculiar guardian and protector of the people, and that the powers placed in the other departments were perpetually liable to abuse; and, because this was the case, they ought not therefore to be trusted. He believed the people too well understood the nature of our Government to be thus imposed upon. He believed they were not now to be informed that all power emanated from them, and that wherever it was placed by the Constitution, the possessor of it was responsible to them for its execution. He believed they looked upon the Executive department with as favorable an eye as upon any other department of the Government. He did not believe they had created any office, and filled it with men of their own choice, to be an object of jealousy and fear; nor did he believe that they meant that House to be a Court of Inquisition, to sit in judgment upon, or to define all the acts of the other departments of Government. He believed the people saw they had other checks less liable to be abused—they saw them in the departments themselves. In the Executive department, the people had a security in the manner and period of his election—in the persuasion that he cannot have interests different from those of the great mass of the people—in the high responsibility of his station—in his liableness to punishment for misconduct—and in the consideration that he must either be a native American or have been a citizen prior to the adoption of the present Government.

Mr. C. said he had often thought it would be worth while to inquire what would be the effect produced upon a stranger who should enter the House in the midst of a debate like the present, when gentlemen gave vent to the most indiscriminate censure of the Executive, and of all those who supported him, and when they represented the patronage of the Executive as likely to overwhelm the Government. Would he not consider the Presidential Chair as filled by some foreign despotic Viceroy, unlimited in his power—a man of no respectability or fellow-feeling? But what would his surprise be when informed of the character and situation of the man against whom all these charges were brought!

Much had been said about Executive patronage; but he believed the observations were too ridiculous to merit serious consideration. They might serve to frighten weak minds, or alarm children, but on men of common sense they could produce no effect. Nor did he believe there was weight sufficient in anything which had been offered in support of this amendment to create an opposition to the Executive, which would ultimately destroy the Government. It would destroy it, because no department of Government could resist the House of Representatives in such an opposition. When, therefore, it arrives at that point, it will have arrived to that crisis of tyranny predicted by the mover of the amendment. There would then be a new Government; and from such a Government and such a tyranny he prayed Heaven to protect him.

Shall gentlemen, then, who oppose measures which would lead to this tyranny be branded as heroes of the Executive, as partisans laboring to extend Executive influence? Should men possessed of the first talents in the country be charged in their conduct with looking forward to offices under Government? And notwithstanding the jesuitical explanation which had been given to the amendment by the gentleman from Pennsylvania, (Mr. Findley,) of the effect it was intended to produce, there was no doubt it was meant to affect the present state of our diplomatic agents; if not, there was no reason for its introduction at this time. Nor had he any doubt that the charge of influence was meant to apply to the present Legislature, or why talk about gentlemen coming to the House with commissions in their pockets?

But were the loaves and fishes placed in the hands of the Executive worthy of all this jealousy? He thought the President must have the power of working miracles, as of old, before more should fall to the share of any public officer than was necessary for a bare subsistence. Then why was this alarm of patronage created? He saw nothing in this bill but what was perfectly harmless. Why, then, was the House of Representatives placed in battle array against the Executive? Had the Executive abused the power placed in him, or employed it unwisely? No one had said he had abused his power, and they were not placed in a situation to judge how wisely or unwisely he had employed it.

But it was said, that the House had a right to legislate upon this question, and that it would be wise and proper to destroy the whole diplomatic corps; if so, they had an equal right to determine

they would not break off this foreign intercourse, to say what the establishment should be, how many Ministers should be employed, what should be their grade, and where they should be sent; because, once establish the right to deliberate at all upon the subject, and they might go all lengths upon it. But, if the House were to declare the President had acted unwisely, or wrong, in appointing the Ministers which had been appointed, he supposed he must come to the bar of the House to defend himself, and give the reasons upon which he had acted.

Mr. C. considered the power to refuse an appropriation, and the Constitutional right to do it, as different things. Perhaps gentlemen founded their arguments on power. He knew it was in the power of the departments to destroy each other, but he denied that they had a Constitutional right to do so. They had the power to refuse to appropriate for the salary of the President himself, or for the Judges; but no one could say the House would act rightly in doing it.

He did not think it necessary to undertake a defence of the conduct of the President for having determined to make choice of men to office of a certain opinion; he believed the determination was dictated by common prudence. Nor did he believe that the time would ever arrive when the President would be driven to the alternative of choosing men devoid of talents and of virtue, or from men of a different description; nor did he believe that he would appoint demagogues to office who sing hallelujah to any measure of the Executive.

Nor did he think the gentleman from Virginia (Mr. Brent) very fortunate in speaking of the embassy of a certain Minister whom he supposed had been alluded to, when it was said the Government had always reason to regret a departure from the rule of choosing men of a certain opinion to office. He might concede all that gentleman advanced in his favor, and not pass any panegyric upon him. He might admit that our present situation with the French Republic was due to the efforts of that gentleman, as he believed it was such as every friend of the welfare and happiness of the country would wish to see greatly changed.

Mr. C. then took notice of the doctrine of checks advanced by Mr. Brent, and declared it calculated to produce hostility and warfare between the different departments of Government; and if it were correct, he should agree with his colleague that republican Governments have, of all others, the most direct tendency to anarchy and despotism.

The gentleman last up, from Pennsylvania, had complained loudly of abuse and harsh language, and that the advocates of the amendment had been charged with intention of overturning the Government; yet that very gentleman had said there were those who called the Executive the Government, and charged gentlemen with having learned their abuse in county courts. He believed there were other schools of this kind, or he should have been at a loss to know whence other gentlemen had acquired their knowledge.

Mr. C. denied that the power to declare war, placed in the House of Representatives, gave them any right to interfere in the business of foreign intercourse. He called the doctrine of checks, which was contended for, a fifth wheel in the Government, which was calculated to overturn it.

Mr. C. concluded his observations by referring to a debate, which took place in the first session of Congress, on a bill providing for the expense of an Indian treaty, on a motion, which was carried, to strike out the number of Commissioners to be employed. This motion was made by Mr. Sedgwick, and, he said, seconded by Mr. Madison, on the ground of its being an improper interference with the Executive duty. He quoted this to prove that it was an early construction of the Constitution, that it was wholly Executive business to determine the number and grade of agents to be employed abroad.

Mr. Findley explained.

Mr. W. C. Claiborne wished to offer a few reasons for his vote on this question; but as there were not more than twenty minutes to come before the hour of adjournment, to appease any impatience which the committee might feel at his rising at so late an hour, he would assure them he would not exceed that hour.

He was clear that the House had a right to restrict our diplomatic appointments, so far as related to the appropriation of money; and he was convinced that the good of the country required an exertion of that right on the present occasion.

He was convinced also that that part of the Constitution which had placed the care of the Treasury in the hands of the House of Representatives, had greatly recommended it to the people of the United States; and, if ever that valuable deposite was parted with, the affection of the citizens towards the Government will be greatly lessened; and he further believed that if it were one of the political tenets of the gentleman who had just sat down, (and his arguments declared it to be so,) that the doors of the Treasury, so far as relates to foreign intercourse, shall always be opened at the will of the Executive, that this very honorable gentleman and his adherents would not long be the favorite politicians of America. But candor impelled him to declare that the saving of a few thousand dollars was not his chief motive in supporting this amendment; he considered it of infinitely more importance as a check to the growth of our foreign political connexions—connexions which he had for several years viewed as dangerous to the welfare of this country.

Situated as the United States are, at a great distance from the transatlantic world, unambitious of conquests, and blessed with a Government formed by the people, and highly pleasing to a large majority of them, what, said he, have we to do with the politics of Europe?—with that continual confusion and warfare occasioned by the constant desire to preserve the balance of power so necessary for the existence of small nations, surrounded as they are by more powerful nations? These were evils which called for the sympathy of the finest feelings of humanity for distress; but

they were events with which we, as a nation, had nothing to do. It was our concern to preserve harmony with all nations; to follow the peaceful pursuits of our agriculture; to afford to our unoffending commerce such a protection as we are enabled to do, without oppressing our agriculture; but to keep aloof from the intrigues and designs of European Princes, as well as Republics.

With this view of the subject, he saw no necessity for this extensive political intercourse. He believed it was of no use. Was it found that when England determined to despoil our commerce, that it was in the power of one of our Ministers there to prevent it? Or, if other maritime Powers were disposed to do the same, could our Ministers avert the evil? He believed not. But had not our foreign political connexions been attended with serious evils? To what was our present critical situation owing, but to this? What, more than this, tended to produce quarrels with foreign Governments, and of course to endanger our tranquillity at home? He appealed to every experienced man whether we had anything more to fear than this.

But, were there no further mischiefs to be apprehended from this policy? Would not foreign politics be introduced, which might bring about a change of sentiments and views in the country? Was this desirable in America? Or, would it not rather prove the bane of its liberty? Among the things most to be dreaded was, however, the introduction of a foreign interest into our councils. And ought we not, he asked, to close every door to its entrance, as a necessary precaution to secure our freedom and happiness? He was of opinion that this was the truest policy which America could pursue.

The committee had been told that this was not the proper time to retrench our diplomatic corps. But the same gentleman had stated Europe as convulsed to its centre; as disregarding the law of nations; where, they state, villany as reigning triumphant, and where the principles of morality and virtue had but few supporters. If this were true, surely no time was more proper than the present to reduce our present establishment; for, if the times were so iniquitous, what possible good could honest American Ministers render to their country from a residence in those countries?

The committee had also been told by the gentleman from Delaware, that so great was the thirst for conquest in those countries, that, for aught he knew, a compact might now be making to enslave America; and he adduced this as a reason for continuing what he called our honorable spies abroad. In a little circle of one of the cantons of Switzerland, on a question like this, such a suggestion might be entitled to some little weight; but, upon this floor, it was not surely worthy of consideration. For, let it be remarked, that an immense ocean separates the United States from those countries, and a late attempt to enslave America had produced, to use a hacknied phrase, an *awful lesson* to the world how future attempts of this kind were made.

For his own part he was surprised that this motion had been so much opposed. Provision was made for the two great belligerent countries, and there seemed to be no objection to a Minister Plenipotentiary being sent to Spain. With respect to other Powers, he saw no occasion for our sending Ministers to them.

The observations of the gentleman from Georgia had had considerable weight on his mind. That gentleman had, from experience, informed the committee what took place under the Confederation. In the infancy of our national Government, the policy of sending Ministers to foreign Courts was much gone into; but he told them experience soon evinced that it was a dangerous policy, and at the origin of the present Government they were almost wholly discontinued. This was the wisdom of experience, which he greatly relied upon.

The gentleman from Maryland, who had just sat down, complained of abuse from gentlemen favoring this amendment; though he believed everything of this kind had come from the opposite quarter. He asked who it was that told the committee "that there were persons within these walls, whose object was to overthrow the Government?" And here he would remark, that when the observation was made, the persons charged should have been pointed out; as, making the observation, without pointing out the persons, was an illiberal and ungenerous general reflection. Who was it that said that the present question was, "the Government and the people on one side, and the gentleman from Virginia and his friends on the other?"

Did that member suppose that the favorers of the amendment were less independent in their sentiments, and less the friends of the American people, than he was? When he looked round that committee, among the friends of the amendment, he saw men who ranked high in the estimation of the American people; whose characters were well known; and it would be heard with astonishment that a doubt injurious to them had ever been entertained in this House. Mr. C. said he believed the time he had allotted to himself was expired, and sat down.

The committee rose and had leave to sit again.

Thursday, January 25.

Nathaniel Freeman, Jr., from the State of Massachusetts, appeared and took his seat.

The Speaker laid before the House a report from the Secretary of the Treasury, in pursuance of a resolution of the House of the 2d of February last, with a plan for regulating the duties on imposts and tonnage; which was referred to the Committee of Commerce and Manufactures.

The amendment of the Senate to the bill for amending the several acts relative to the duties on spirits and on stills, which they had adhered to, (and, of course, excluded any conference, which is usual in cases of disagreement,) was taken up, and the former disagreement of the House to it was receded from.

Mr. Clopton presented the petition of sundry

persons of the State of Virginia, stating that the quantity of coal in that country was inconceivably great, and praying national encouragement to their collieries. Referred to the Committee of Commerce and Manufactures.

A message was received from the Senate, informing the House that they had passed the bill for placing certain persons on the pension list, with amendments. The House took them up, and referred them and the bill to the Committee of Claims.

LAND TITLES IN TENNESSEE.

On motion of Mr. W. C. Claiborne, the unfinished business of yesterday was postponed, and the House went into a Committee of the Whole on the report of a select committee on the memorial of the Legislature of Tennessee, together with the Message of the President relative to that subject, Mr. Kittera in the Chair; when the resolution reported by the committee having been first negatived, the committee passed that formerly introduced by Mr. Macon, first filling up the blank with the amount of the estimate sent to the House by order of the President, viz: with $25,880, for the purpose of holding a treaty with the Indians. The committee then rose, and the House being resumed, Mr. Macon moved to postpone the consideration of the disagreement of the Committee of the Whole to the report of the select committee, which contemplated, in addition to the treaty, some relief being afforded to the persons who had been driven off their lands, to the second Monday in February; which motion being carried, the resolution agreed to by the Committee of the Whole was concurred in by the House, and a committee appointed to bring in a bill accordingly.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves, from the committee appointed to prepare articles of impeachment against William Blount, reported the said articles. They were five in number. The first charged the said William Blount with intending to carry into effect an hostile expedition in favor of the English against the Spanish possessions of Louisiana and Florida; the second, with attempts to engage the Creek and Cherokee Indians in the said expedition; the third, with having alienated the affections of the said Indians from Ben. Hawkins, an agent of the United States among the Indians, the better to answer his said purposes, the fourth, with having seduced James Carey, an interpreter of the United States among the Indians, for the purpose of assisting in his criminal intentions; and the fifth, with having attempted to diminish the confidence of the Cherokee Indians in relation to the boundary line, which had been run in consequence of the treaty which had been held between the United States and the said Indians. This resolution was committed for Monday,

FOREIGN INTERCOURSE.

The House then again resolved itself into a Committee of the Whole on the bill providing the means of intercourse with foreign nations; when the amendment, which has for several days been under consideration, having been read, no gentleman rising, the Chairman was about to put the question upon it, when

Mr. Nicholas rose.—Expecting some other gentleman would have opened the debate, he said he had not held himself in readiness to enter upon a reply which he felt himself called upon to make to a number of observations which had been brought forward on the present occasion.

He had been represented, in the course of the debate, as being in favor of monarchical Governments, rather than republics, and as saying that republics were more dangerous to liberty than any other sort of Government. The gentleman from Massachusetts had astonished him, when he declared that he had begun his speech, on introducing the motion to the House, by stating that republics were more liable to corruption, and more unfavorable to liberty, than despotic monarchies. He could not have supposed that such a position could have entered into any person's mind, and he was sorry to think any member should have deemed it necessary to go into arguments to prove the superiority of a republican over a monarchical Government. He was surprised that arguments like these should be brought forward in answer to anything which fell from him; because, if there were a man on earth exclusively devoted to republican Governments, it was he—for he would fly from a monarchical Government as far as the earth would give limits.

The gentleman from Massachusetts (Mr. Parker) had stated that the republican spirit had continually overturned monarchies. He knew it; and he would find nothing in his sentiments which stated that republics were more liable to corruption than monarchies; but that republics were liable to be destroyed by an excess of influence in the Executive, he believed—and he said so again.

He was not so much surprised that the gentleman from Connecticut should have availed himself of the opportunity of making a declaration in favor of republican Government, by misrepresenting what he had said, as hitherto he had given no substantial proofs of his attachment to it. He said "by misrepresenting," because he had stated him as saying that every thing was to depend upon feeble minorities, in opposition to majorities. The words "feeble minorities" could not be so distorted. What he had said was, that it would not be in the power of a feeble minority to attract the public mind to the danger by which the Government should be threatened, in case of the corruption which he predicted as possible to exist. It was to this appeal to the public mind—to the sentiments of the people over their misguided Representatives, which he considered as the safeguard of a republic, to which he alluded. That gentleman had no apprehension from feeble minorities; but he feared the sense of the people would be awakened to the abuses of power in the department he had alluded to; for it was the theory of gentlemen opposed to this amendment that it was not right to disturb the departments of Government; and that the people ought not to

trouble themselves about the execution of its measures.

A colleague of that gentleman's (Mr. Dana) had charged him with addressing the galleries, rather than the members of the committee. Upon this subject he wished to be understood. A clamor of this kind had frequently been raised. He was ready to confess that he wished what he said not to be confined within those walls, but to go beyond them, and produce an effect upon the public mind; and if the doors of the House were to be shut, and there was no chance of his sentiments going abroad, his seat should be vacated to the first person who would accept of it.

But it was said that what had fallen from him with respect to the liability of corruption to creep into republican Governments, was a serious attack upon the republican system itself; but he believed those gentlemen who were continually flattering the system, and thereby depriving the people of a proper caution, were greater enemies to this system of Government than those who advised caution against undue encroachments upon it.

Gentlemen had said that the effect of this amendment could not be what he declared it to be, to operate at a distant time, and not immediately. The gentleman from Delaware had said this could not be the case unless a new clause were to be introduced. This he knew, but there would be no difficulty in it. This difficulty had arisen from a want of candor in the drawer of the bill. Gentlemen concur in considering this provision as for a permanent establishment, though the latter appropriation was introduced merely as a temporary provision. It was originally so introduced; but having been repeatedly sanctioned, as the gentleman from South Carolina (Mr. Harper) had declared it had, it ought now to have been considered equally permanent with the other.

It would be understood, Mr. N. supposed, by many persons who heard of this debate, that there was a party in that House who were dissatisfied at not being likely to get any office under Government, and that therefore they were determined to obstruct Governmental measures as much as possible. Insinuations of this kind had been made, and they would not fail of gaining credit with some people. His motive was entirely misunderstood. When he complained of the President confining his appointments to office to men of his own opinion, it was not because he wanted office either for himself or his friends, but because he believed the measure would produce serious mischief to the public. Nor was it of any change of principle that he complained, because he believed it was no new practice; but it was because it held out an improper temptation. It said, in effect, come and act with us and you will be entitled to office.

The gentleman from South Carolina had acquitted the supporters of this amendment of wanting the offices for themselves; he called them paltry, and unworthy of acceptance. He stated their ambition as going farther. Nothing would serve them but popular applause, and to have the direction of public sentiment. He considered this House as a theatre upon which members acted for public applause. For his own part, he did not think he possessed a talent for public speaking; but if the House was to be considered as a public theatre, he thought that gentleman himself would make the most conspicuous figure upon the stage.

But the gentleman added that this clamor of opposition had existed in other countries, and would continue to exist. It had existed, he said, in England many years; and this, he supposed, was to reconcile this country to it. The same predictions with respect to the excessive patronage of the Executive, Mr. N. said, had been made in that country, but disregarded. And he recommended that they should now be disregarded; meaning, he supposed, that the people of this country would be contented to be in the same situation with the people of England. But if there was something in the situation of that country which every unprejudiced man must think would have been better avoided, and which would have been avoided if the clamor which the gentleman says is common to all countries, had been attended to in due time, this was an argument which ought to induce the people of the United States to attend in time to this clamor. Not that all clamor was to be attended to; but he doubted not that the people would be able to discriminate between that which ought and that which ought not to be attended to.

Mr. N. considered the subject of this bill as one of the most important that could come before the Legislature, for he attributed all our misfortunes to this source. He thought we ought to have no political connexion with Europe, but be considered, in relation to that continent, as mere buyers and venders of their manufactures. With respect to this Government, the power contended for, which would empower the Executive to send Ministers to every Court in Europe, was every thing. Read the Constitution and see what was committed to it, and what would be its power, if this doctrine were to prevail. It would be the screw which would raise or sink the Government at its pleasure. Was the declaration of war an important trust? And would it not be in the power of the Executive, if the ground contended for was established, to bring the country into such a situation as to oblige Congress to declare war? At present, there were few people who did not trace our situation to causes growing out of our diplomatic establishment. There was a difference of opinion, it was true, as to the conduct of the Executive. Some thought it perfectly unblameable and proper; others declare it not only to be improper in itself, but intended to bring the country to the situation we are in. It was not important for him to inquire into this business; it was enough to show that the President had at any time the power of producing this effect when he pleased, and whether it was done by design or accident, it was the same thing to the country. Perhaps the actors in the business were the only persons who did not attribute our misfortunes to this source.

He believed we were placed in such a situation as always to be liable to be thus involved from our commercial connexions. The commerce of this country would always create a partiality for Great Britain; the extensive credits which were obtained from them, and the continued extension of that trade, would constantly operate that way. It would, therefore, require considerable caution to prevent too close a political connexion being formed with that country.

But it was said there was no danger, and that in this question the Constitution and the people were on one side, and the faction, or the supporters of this amendment, on the other. If this were true, he owned they ought to stop here; but he understood the Constitution as speaking a very different language, and he thought that gentlemen produced this doctrine merely by construction, in opposition to the plain meaning of the instrument. The Constitution provided for the appointment of Ministers by the President, but it only gave him the power partially, because their salaries were fixed by Congress; that part of the Constitution which declares that no money shall be taken from the Treasury but by law, was an effectual check upon that power. Language could not be plainer. Those who advocated a contrary doctrine, did not adduce their arguments from the Constitution. They barely asserted that it was so, and that those who would not believe it were disorganizers. Most of the gentlemen opposed to the amendment had insisted that the Executive had the power of checking the Legislature, but that it was not the intention of the Constitution that the Legislature should check the Executive. This stood upon no better ground than "it is so because it is so."

The gentleman from Delaware had said that that House had no check upon the Executive, because his powers were defined, and theirs were not. The question was, what is the definition of the Executive power? They were endeavoring to ascertain what it was, and whether that House was not a check upon it, by having the power to refuse appropriations. But the gentleman had said that the House could not refuse to appropriate for the salary of the President or Chief Justice. Surely nothing could evince the weakness of gentlemen's arguments more than the introduction of such as these. Every one knew the House could not refuse to appropriate for the salaries mentioned, for this good reason, because the Constitution forbade them. He thought that the reverse conclusion was the just one; that when power was taken away in particular instances, it was left in the general.

He thought it was necessary that the extent of gentlemen's doctrine should be understood. The Constitution says, no money shall be taken from the Treasury but by law; but gentlemen say, the President has power to appoint foreign Ministers, and to call upon the House for appropriations. They have before told the House he had the power to make treaties, and that when made they could not refuse appropriations to carry them into effect. So that he not only had the power to appoint Ministers and make treaties, but to command the Treasury to open at his will. Suppose the President and the Senate were to make a treaty offensive and defensive (and they could make a treaty of this kind as well as any other) would not Congress be driven into war by force? So that not only the keys of the Treasury were taken from them, but the power of determining the important question of war, if these doctrines respecting the power of the Executive were well founded.

This theory of gentlemen deserved serious attention. They tell the committee that each department of Government has a check within itself, but that they have no check upon each other. How this theory was to be supported he could not tell, except the different departments were never to touch each other in the exercise of their functions; or, when one approached the other, that other was to give way? How was the check of departments to be avoided? He could not understand it. It was well known that the Legislative, Executive, and Judicial departments of Government ran into each other. The partition between them, if any at all, was extremely thin, and would not prevent their coming in contact.

But if it were possible that the doctrine should be correct, what would it lead to? The departments of Government were not to check each other. Why not? One of the reasons assigned was, because they have not the means of information in their hand, and therefore could not judge of what was proper to be done by their co-departments. All agree that the power of the Executive may be abused; if so, he asked where was the check against that abuse? If not vested in that House, in the power to grant or refuse appropriations as they see proper, where was the check? Was it in the people? Had they more information with respect to our foreign relations, or were they in other respects better calculated to determine the abuse than that House? Or did these gentlemen impress it upon their constituents as a duty to exercise this kind of guardianship over the Executive? If this were inquired into, he believed that gentlemen used the same kind of soporifics at home as were used in that House. "All your interests are safe; nothing can be done amiss in Government without some department discovering the mischief." As he believed, therefore, the people were not directed to be upon the watch, and as they had not better information with respect to Executive measures than that House, he saw no reason for transferring the business to them. Nor could the people correct the evil by election, as they had not the knowledge of facts upon which it was necessary to act.

Was it true, Mr. N. asked, according to the practice of the Government, that the departments had no check upon each other? Did not the Judiciary consider the acts of the Executive and Legislature? Certainly they did. There were instances in which the judges had decided upon the Constitution and laws of the country, and in one instance, he believed they had determined for them, and in another against them.

Was it not proper, then, to go into theory on this subject, and inquire into the propriety of a power of this kind being vested in the Legislature? For, if it were not so placed, it was seen that the Executive could take money from the Treasury whether it could be spared or not. Would this be consistent with economy, with order in Government, or order in finances? And if the House had a right to come at an end in one way, he believed gentlemen would not say they could not come at it in another, for he acknowledged that all the departments must get out of their sphere; and, if gentlemen allowed the power of the House to determine upon salaries, they must also allow the right of the House to interfere in the business of foreign Ministers; and if they could not show the use of the limitation against the direct interference of the House, they would not say it existed. If the House had not the power of refusing appropriations of this kind, the Executive would not only be able to command appropriations, but taxation; because, if there were not money in the Treasury, it must be raised to answer the demands.

But, it was said, there was no need of checking the Executive, because the Senate was a check upon it. This was no check with respect to the office, it only related to the person appointed, and here the power was equally divided between them, and each were equally interested. The only difference was, that there were more wills to consult in the Senate. But it was said the doctrine which he advocated was novel, and imported. He thought he had obviated this objection by producing the debate which took place at the first establishment of the diplomatic corps; and he referred to the opinion of a gentleman who lived at a time when party had not appeared to influence the opinions of men, who said that it was competent for Congress to say whither Ministers should be sent, and whither they should not be sent. And he could say for himself and his countrymen, (for he never heard a different opinion in Virginia,) that he never had an idea that the House had not this power, and therefore had it not to learn from any other country. But the gentleman from Maryland said yesterday, that the doctrine was not only novel but that it had been decided against in three or four instances. In the British Treaty, the House decided against the power to refuse an appropriation. If sixty-seven members, who voted on the occasion, did not understand their votes, that might be the case; but he believed that would not be insisted upon. The gentleman was equally unfortunate in the other instances he adduced, as in none of them had the question been decided against.

But it was said, if even the House had the power, it ought not now to exercise it, because the necessary information being lodged with the Executive, they could not form a proper judgment upon it. He believed, however, the House had a right to all information which related to subjects upon which they were called to act. But the committee had sufficient knowledge on the subject to determine there could be no connexion between this country and Prussia to render a Minister necessary there; for no gentleman had even conjectured an use for such a character at that Court. He agreed that it was the duty of the President to carry on the details of foreign correspondence where the Legislature determined to have Ministers, but he did not believe his power extended beyond this. But with respect to information, even the body who were called upon to concur in the appointment of Ministers, had no more than that House. The mere nomination was sent to the Senate without anything more than the general reasons for the measure.

The gentleman from Delaware gave a clue to the construction of the Constitution, which he did not mean to attach to the gentleman himself. He said that the Executive department was one which required support, in order to preserve it; because the hereditary Chief Magistrate of Great Britain, with all the patronage he possesses, would not be able to stand against the House of Commons if it were not for the members of venal boroughs. This doctrine was a little strange, and when he heard gentlemen hold such high notions of Executive power, if the strict letter of the Constitution would not support the doctrine he contended for, he should be induced to stretch it a little, were it necessary to counteract what appeared to him so repugnant to the spirit of a republican Government.

He was told that he had introduced very unnecessary topics into this debate, and that the increase of power and patronage in the President, had nothing to do in this question; but gentlemen must allow, that if he sincerely thought, that the power of determining what foreign Ministers should be employed was in that House, and he saw them employed where they could be of no possible use, was he not justified in bringing forward the discussion? But it was said the power was so small as to be unworthy of notice; but he supposed, so far as the appointment to office was gone into without necessity, it was for the purpose of patronage. It was said, however, that this patronage was not sufficient to ground an alarm upon. Were they then to wait until the mischief was done? It would be too late when the system was completely matured to check it. It could only be done at its commencement; and when gentlemen saw that one of the objects of Government had invariably been to increase offices and salaries, there was sufficient cause for alarm. But it was further said, that if there was danger out of the walls of that House, there was none in the Legislature. He did not mean to insinuate that majorities were produced by influence. He trusted if measures were brought forward which were inimical to the public good, they would be rejected as they had heretofore been. He believed, however, that this business of foreign intercourse, were it continued, might become dangerously influential on the Legislature itself, as they had seen, from what had already taken place, that persons for these appointments were to be selected from men of a certain opinion in that body.

But no injury, it was asserted, could arise from

Executive influence, unless the office was permanent. An Executive, upon a four years' lease, could do no harm. Mr. N. did not know that being in office only four years prevented him from using his influence during that time; and in proportion to that influence would be his efforts to retain his situation. He was not saying that these things had really happened, but that they might be reasonably expected to take place. The committee were told, however, that ambition was only a Legislative property. He thought he had made concession enough, when he had said that Legislatures might make encroachments in this way. He believed history would uniformly show, that Executives had never failed to aim at an increase of their power.

When he was up before, one of the reasons which he gave, for restraining the diplomatic intercourse, was, that men only of particular political opinion were appointed to office. Many of the gentlemen who opposed this motion, had acknowledged the fact, and were afraid only that it might not always be observed. If this were the case, the appointment to office could operate only to corrupt the public opinion, and influence the elections of the country. [Mr. DANA desired to know to what extent he considered the Executive determination to go?] Mr. N. replied, that he understood that no man was to be entrusted with an office who had found fault with Executive measures. This had been several times declared; though, it was true, the gentleman from Massachusetts had endeavored to soften the business by supposing that certain offices would be excepted. Mr. N. said he would inquire into the operation of this determination. The gentleman from Pennsylvania (Mr. STORE AVES) said it was perfectly just, as the President must think himself right. He agreed that this principle should go as far as it could; but the gentleman must acknowledge that it was not a Constitutional idea that the President must be right. The Constitution provided that he should be elected every four years, in order that the people might judge whether he had acted right or wrong; for the English doctrine, "that the King can do no wrong," was not adopted in this country. Upon the principle of the President being always right, it had been said that he ought not to appoint Ministers whose opinions would militate against their duty. But he might differ with the gentleman with respect to the extent of this opinion. He did not himself know that it was necessary, at a time when we were desirous of peace, to have a Secretary of State whose manifestoes were calculated only for the eve of a war, and who seemed to be hurrying on, as if it were considered that he possessed most merit who was most active in promoting a war. He agreed, that when a person's opinions disqualified him from duly executing an office, that the President would act right in not appointing such an one; but he understood the determination to extend to all offices, which was proscribing one-half of the people of America merely because they have thought some of the Executive measures wrong. Such a resolution was equally unjust and illiberal, since it was not necessary that a Collector, a military officer, &c., in order duly to perform his duty, should have an opinion directly corresponding with that of the Chief Magistrate of the United States. If this principle were to be carried into the Judiciary, could a man, whom Government called a disorganizer, expect to find justice in a court formed of such materials?

If gentlemen think that the President of the United States cannot support his office, without a patronage similar to that of the King of England, they are right in wishing for an extension of this influence; but he could not agree to yield it, because he had sworn not to do it. The example of England ought to be a sufficient warning to the people of this country, how they suffer their Executive to become corrupted; for the abuses of that country would never have been borne to this day, had not the people been deceived into a belief that they had a share in their Government, by representation, which, in fact, they had not.

Mr. N. said he was sorry to be under the necessity of replying to some reflections which had been cast upon our late Minister in France. Gentlemen had not stated that business fairly. It was necessary, at the time this gentleman was sent to France, to send a man of his political character. This conduct was forced upon the Executive. He believed an offer of the embassy was made to one gentleman who refused it, assigning for a reason to his friends that he was convinced that whoever accepted of the office must be made a sacrifice of, as he would be recalled whenever the situation of things should be such as to allow of it. He was sorry, when our late Minister to France had laid before the public all the official documents which had passed between him and the two Governments, that gentlemen should think it necessary to cast their censure upon him. The public, who was in possession of his book, would, however, judge for themselves. But, if a declaration was to be made on this subject, he declared it as his opinion that peace with the French Republic might have been secured, but that the Executive had done all in its power to cast it from us. With respect to insinuations which had been thrown out against the private character of that gentleman, he should not notice them; but if any charge could be brought against him, let it be publicly made, and he had no doubt it would be answered.

He would not have detained the committee longer, Mr. N. said, but if he did not lay before them some additional observations, they would not be in full possession of his sentiments on this subject. It was necessary, in order to judge of the present situation of the country, to be informed of what had thrown the present existing influence into the hands of the Executive, and what was the means of preserving it. In doing this, he felt it his duty to touch upon a subject which some gentlemen might think lay out of his way. But if he could show that there existed a description of persons in this country attached by interest to the Executive, who formed a kind of standing army more powerful than if they had guns in their

hands, by being spread over the community, it would afford one of the strongest reasons for guarding against Executive patronage. He should, therefore, make a few remarks on the origin of party in this country.

In speaking of the public debt, he trusted it would not be thought that he had any intention of shaking its credit. He had been five years in Congress, and never advocated anything which had this tendency; but he must speak of the creation of that debt. And when the political character of the fiscal operator was considered, it was probable that the scheme was intended to produce a party in the United States who would support the Executive at all events. For this purpose all Government paper was funded at its nominal value; and this was done so that it could be purchased up for a mere trifle, before the people could hear of the provision, so that the class of men referred to, in a moment made immense fortunes. And let any gentleman say whether any of this band of speculators have ever abandoned the support of the Executive. Never; they were as perfectly bound and disciplined as an army. These men yet continued their speculations upon the barren rocks of the country. With respect to the effect which this system of speculation produced on morality, it was well ascertained; with respect to its effect on politics, they were uniform—many had abandoned their former opinions for those of the band with whom they are connected.

He should refer to another accumulation of strength which stands on the same ground. Another class of men are lifted from obloquy, and are in favor of the party in Government; these were the disaffected men in the Revolution of our country. Look around and point to a man in that class who does not join in support of Executive measures. These men felt an attachment to this Government, from their hatred to the old. He did not blame them for being friends of this Government. He was himself a friend to it, and if it were now to be adopted, he should be in favor of it. But as soon as there appeared danger of a rupture with France, these men became patriots of their country. Then it was that they formed a conspicuous part of the Government party, who were not ashamed to associate with them. This was an accumulation of strength to the Executive unknown in the Constitution, and tended to destroy the balance of Government.

He introduced this class of men to notice, because the committee had heard much about American character and American sentiment. The character and sentiment which would grow out of this mass, he did not think would be very honorable to America. He introduced it for another reason; because, when gentlemen found a man who owed his birth to another country, who thought differently from them, they load him with obloquy and reproach merely because he was a foreigner. When this remark was applied to a particular gentleman in that House, he could not help feeling some degree of indignation at the charge. He knew that gentleman himself felt all the contempt for such charges which they deserved; he was also convinced that those charges arose from a jealousy of the superior talents of that gentleman, which every day became more conspicuous in that House; but, in behalf of the public, Mr. N. said he felt resentment for the injury done to one of its Representatives. Let gentlemen who proclaim this member to be a foreigner, proclaim also that he is a foreigner of twenty years standing; that he came into this country a boy, and that by his own labor and industry in it, he had got his fortune; let them proclaim also that he came from a country which was then engaged in a contest with that nation, which he was now charged with having a partiality for. Let them talk of this, and that gentleman may defy any influence which may be produced against him by the charge of being a foreigner. And if gentlemen chose to insinuate (as they frequently did) that this member was improperly concerned in an unfortunate occurrence in our country, let them consult his publication on the subject, and they will have a fair opportunity of being acquainted with facts which will do away every slander against him. Mr. N. said he felt it necessary to say what he had done with respect to his friend from Pennsylvania. If he had not done it, and had sat silently to hear the slanders so frequently thrown out against him, he should have felt himself an accessary in the shameful illiberality.

Mr. N. concluded by saying, that from the sentiments which had fallen from the gentleman from South Carolina, (Mr. PINCKNEY)—and being convinced with him—that foreign Ministers were rather dangerous than serviceable, he would on some future occasion (as he himself did not long expect to have a seat in that House) bring forward a motion for doing away all our foreign intercourse. His present object was, however, what he had stated it to be. He hoped he should not now be considered as an enemy to Republicanism. He might be charged with introducing a motion which might be mischievous. He did not intend it to have any such effect. He believed this was the proper time to do the business. He was convinced there was no danger of an invasion of this country; if there were, he believed every man in the country (he would speak for himself at least) would be ready to resist it. With respect to aggression, he might not be so ready to attack it as some other gentlemen; but nothing could be entertained by him when put in competition with the security and independence of his country.

The committee now rose, and had leave to sit again.

FRIDAY, January 26.

Mr. D. FOSTER, from the Committee of Claims, made a report on the amendment of the Senate to the bill for placing certain persons on the pension list, an agreement to which was recommended to the House, and concurred in.

APPROPRIATION FOR INDIAN TREATY.

Mr. PINCKNEY reported a bill making an appropriation of a sum of money to defray the expense

of holding a treaty with the Indians claiming land in the State of Tennessee, which was committed.

The House resolved itself into a Committee of the Whole upon it; but, on motion of Mr. GALLATIN, who wished to introduce a section, which he had not yet prepared, for fixing the salary of the Commissioners, the committee rose, and had leave to sit again.

FOREIGN INTERCOURSE.

The House having again resolved itself into a Committee of the Whole, on the bill providing the means of foreign intercourse, and Mr. NICHOLAS's amendment being under consideration—

Mr. GOODRICH observed that it had been contended by gentlemen supporting the amendment, that it was competent for this House to fix our diplomatic establishment, as to the number and grade of our public Ministers. On the first of these questions he should not make many remarks. It was at all times difficult to speak upon it with precision, and to bring our ideas to a closeness of reasoning which should be clearly understood. It was a theory, too, upon which gentlemen rather formed their opinion from the political sentiments with which they had been accustomed to consider the Executive power, than from fair investigation and argument. The claim on the part of the supporters of the amendment was drawn from these sources, viz: from the power of that House to create offices, or, if not found here, in the exercise of its power of appropriating money, or in the fixing of salaries.

With respect to the first, the office of foreign Minister was created by the Constitution itself, and the power of appointment was placed in the President; and, if he were not much mistaken, when the question of appropriation was formerly under discussion, it was not pretended that that House had any right to inquire into the expediency or necessity of a treaty. He knew that this power of instituting offices had been advocated by many. It had, however, only been glanced at in the course of the debate—the ground of appropriation having been principally depended upon.

It was worthy the attention of the committee, (and the fact was disputed by no one,) that the power of receiving foreign Ministers was vested solely in the President; and this being the case, it could scarcely be imagined that the right of fixing the diplomatic intercourse was in the House, so as directly or indirectly to interfere with the power placed in the Executive of receiving foreign Ministers.

Few, if any, of the members of the committee would, however, decide upon the question on this ground. But the right of determining on the number and grade of Ministers by means of the power of withholding appropriations had been insisted upon. Here, all that could be said had already been said. The nomination lay with the President, with the advice of the Senate, and it was the duty of the House to appropriate. The appointment and service created a debt which it was obligatory on the House to pay; they were under a moral obligation to pay it.

But it was said, if the end could not be attained by refusing an appropriation, it could certainly be effected by the power of the House to fix salaries. It was not contended that the House had not a right, with a view to economy, to fix the salaries of our diplomatic agents. But upon what ground could these salaries be fixed? If it were upon any other than upon a principle of equitable and honorable reward, it would be *dirty* economy; it would be descending to do, by chicanery and subterfuge, what the House could not effect in any other way, and would be doing what the Constitution could never have intended. He should, however, dismiss this subject, and he should do it the more cheerfully, as there were other grounds upon which the question might be placed, which would not meet with so decided an opposition in the minds of many gentlemen.

It must have occurred to every member of the committee, that the bill was limited to two years in its duration. The nature of the amendment was limitation upon limitation, by curtailing a part of our diplomatic intercourse. Was this done on the ground of saving expense? This was disavowed, as it was seen to be a matter of small moment. Indeed, it was doubtful with him whether anything would be saved or not; as it was certain that our Ministers Plenipotentiary would not accept of the offices of Ministers Resident with half their present salary; of course, fresh persons would be appointed, and the expense of fresh outfits incurred. Mr. G. also complained, on the same ground as before stated, of the injustice of recalling our present Ministers. He also thought it bad policy; as, where a Government like ours wanted all the virtue and talents of its citizens for public offices, it would be found difficult to obtain them, if so much uncertainty was given to the duration of offices, which had all the appearance of permanency. It would besides derange our affairs abroad, very much embarrass the business of the Executive, and would be looked upon as a wanton interference with the views of that department, which it might mar and lay prostrate.

But, it was said, that these Ministers were unnecessary at the Courts to which they were sent. In answer to this he should allege, as had already been alleged, the House did not possess information sufficient to determine this point, and it might be unsafe to be communicated to them. But was there no reason for having a Minister Plenipotentiary in Spain? No gentleman would say so. And was there no reason for such an agent at Lisbon? Was not this the centre of communication with respect to our affairs with the Barbary Powers? But what use, it was asked, could a Minister at Berlin render to this country? At a time when the affairs of Europe are disturbed as at present, when our situation with France is such that no Ministers of ours will be received in that country, reasons of a very important nature may suggest themselves, why an able and faithful Minister should be placed at the Court of Prussia. But arguments of a more general nature were introduced in favor of the amendment.

It was said to be the interest of this country to annul all our foreign political intercourse. He did not deny, that separated as we are from Europe, that it might be for the interest and happiness of this country to have no connexion with European Powers. They might, he said, speculate upon this subject; but they had not the power to decide upon it; for political intercourse did not depend upon our sending Ministers abroad. It might be carried on by foreign Ministers sent here; and the Constitution (as he had before stated) showed they could not prevent this, as it expressly made it the duty of the President to receive foreign Ministers; and, in this case, there would be no call upon the House for the establishment and support of Ministers, as they would be supported by their own country; and though it was true that foreign Ministers were not usually sent to a country without a return of men of the same grade to the country from which they were sent, yet he introduced this position to show that it was not in the power of the House to say whether this country should have foreign political intercourse or not.

But if the committee must speculate upon this question, there were other considerations which would lead them to an opinion that it would be proper to abandon all foreign political connexions. It was a sentiment advocated by the gentleman from Pennsylvania, that we ought to have no political foreign relations. That gentleman prided himself on being of peculiar sentiments, but on this occasion he was not so. It had long been the sentiment of this country. It was a sentiment introduced into all our treaties but one, and it would be found in the Farewell Address of the late President of the United States. Mr. G. presumed, therefore, when our diplomatic intercourse was established by the late President, (and he established it as it is,) he felt the force of this sentiment as strongly as the gentleman from Pennsylvania. But though the gentleman from South Carolina, (Mr. PINCKNEY,) who had himself been employed abroad, had given it as his opinion that this country would be better without Ministers abroad, yet, though he acknowledged the weight of this authority, when he found the late President, who had the best opportunity of forming a judgment upon the subject from sage experience, had appointed these Ministers, he was led to doubt, though he was sensible some evils had arisen from foreign Ministers residing in this country, as well as from our Ministers abroad, whether they might not be too hasty in deciding upon this national question. Admitting that it was not for the interest of this country to have any foreign political relations, he asked gentlemen what they meant by this? They must mean that sort of compact with foreign nations which was called a treaty of alliance defensive and offensive. With a foreign relation of this kind we have nothing to do, and he hoped never should have. But what connexion was there between this subject and the present amendment? Because we determined to have no political relation with foreign countries, were we to have no political agents? Surely we ought, since they may be the means of preventing the necessity of these political foreign relations.

But before it was determined whether it would be proper to have any political foreign intercourse, he would inquire what was the effect produced by foreign Ministers in our country, and by ours when abroad? He acknowledged that produced by Ministers sent to this country was not a very agreeable one; it was not such an one as to encourage us or to flatter us. But from what cause had this arisen? It arose out of the state of the times, from the situation of public sentiment in this country. If anything could leave a doubt on this subject, it would be the effect of the diplomatic agents in this country. He had doubted whether it was expedient to admit them; for although these public agents ought only to have corresponded with the President of the United States, yet, when they were thwarted in their views, they had constantly made their appeals to the people. Nor would he except the Ministers of the two great European rival Powers; the conduct of all had been far different from what it ought to have been, and, instead of supporting the dignified characters of diplomatic agents, asserting the interests of their own country, and conciliating the favor and affection of ours, they have departed from this line of conduct, and, observing the existence of two parties in this country, they have endeavored to operate upon the people. But it was true we had no reason to object to foreign Ministers on this ground, as the good sense of the people had uniformly resisted their address, and all their projects had been frustrated.

But what effects, he asked, had our agents produced abroad? Undoubtedly their instructions have uniformly been to represent to foreign countries the interests and views of our own. And was it not to be supposed that persons going from this country to foreign countries would feel an attachment to their own, and that they would make the most of its interests? Calculating from what we know of human nature, this must be the case. It was true, a Minister might conduct himself so as to injure instead of serving the country by which he was employed. He might raise expectations which his country could never gratify. He might propose to afford a foreign nation such a succor as his country could not supply. If this were to be done, it would be regretted; but because an institution might possibly be abused, it was no argument for its being annihilated.

Suppose, said he, our foreign intercourse were to be broken up, what would be the consequence? We must then, when we have any business to settle with a foreign nation, employ Envoys Extraordinary, which would be employing men of a higher grade of character, and if public Ministers were to be considered as full of mischief, might be attended with greater evils than the grade we now employ. But it was said the business of the country with foreign nations might be managed by Consuls; but, as had been observed, these characters were not admitted at foreign Courts, if

they were in other respects fit for the business, which he did not believe they were. Besides, if no accredited agents were employed between foreign nations, spies and emissaries would take their place; as Governments would be informed, in one way or other, of what was going on in every country with which they had any connexion.

And, if a resolution were taken in this country to have no diplomatic agents abroad, in what a situation would the Executive of this country be placed? He is entrusted with the foreign relations of the country, but he would have no foreign Minister. He must, therefore, descend to the same low means with other nations, and depend upon spies for information; and when he got this information it would not be from authority, and therefore such as he could not communicate to the Legislature. Gentlemen, he supposed, would not be willing to put the business upon this footing. He acknowledged that the employment of foreign Ministers was attended with some inconveniences; but it was seen there were evils on both sides, and it was for Government to balance between them. But it was said these Ministers would join the political parties of the countries to which they were sent. On the contrary, he should suppose they would carry with them the feelings of their own country, and communicate them; but if this were to be dreaded, would it not be most likely to happen in the two countries that were exempted from this amendment? For where, he asked, were the points on which the great affairs of the nations of Europe turn but in London and Paris? If there were danger of this kind, it must, therefore, be at those places.

But it was said that wars were generally produced by Foreign Ministers. That this may have been the case in some instances, he did not doubt; but, speaking in general, it was attributing too great effects to too trifling causes. The causes of war, he said, were in the passions and animosities of nations. Our own country had been agitated in a manner which could scarcely have been imagined, from its remote situation, by its partiality for one nation and its enmity to another. When contemplating this subject, therefore, the committee ought not too hastily to decide. The intention of foreign intercourse was to promote peace and amity; it had long been the practice of the civilized world. If some of our Ministers had caught the passions of the country to which they were sent, and we had not been wholly able to avert the storm which seems to threaten us—a storm which appears to be bearing away all the ancient land-marks of the earth—yet, he believed, upon the whole, that our foreign Ministers had done great and permanent good to this country.

But, instead of bringing forward a subject of this kind at this time, the Legislature ought to be united in support of the Executive of the country; for, from whatever cause our misfortunes arise—whether from our own misconduct, or the unreasonable domination of a foreign Power—they did not originate under the present Administration, and, therefore, the difficult situation in which our Chief Magistrate was placed required all the support which the Legislature could give him. If the gentleman who moved this amendment had, however, introduced it unaccompanied with the reflections which he had made use of, it might have been a subject well worthy of consideration. This he had not thought proper to do. Topics of a singular nature had been brought forward. It had been said that all republican Governments had a tendency towards despotic power; that the power of appointment to office placed in the President had been basely prostituted; that the doctrine of favoritism had been introduced, and persons of a particular character were only appointed to office, and that this determination was likely to produce, or had produced, dangerous operations on the talents and abilities of the Legislature. When charges of so serious a nature were brought forward, it became necessary to repel them. He was sensible the subject was painful. The weapons of self-justification, and justification of Government, became, in some measure, weapons of attack, and few had the judgment to use them rightly. If the charges were true, what were the constituted authorities of the country? The accusation impeaches the purity of the Executive, the purity of the House of Representatives, and lays prostrate all the authorities of the country; and, instead of securing to them that love and respect which every friend of his country must wish them to possess, they must become objects of abhorrence.

But the gentleman from Virginia declares this is a theatre, on which he will speak, and that this is a subject upon which he will dwell; from this House an alarm is to be communicated to the people out of doors. This is a temple from which is to be preached, not the moral virtues of peace, charity, and brotherly love, which are preached from other temples, but the subject is to be the purity of the gentleman's own conduct, the orthodoxy of his own political faith and opinions, and the political heresies and political corruptions of his opponents.

He thought this must be a subject of regret to the gentleman's friends; for, when this habit of preaching was once begun, the love of it would increase, and though he preached in the most elegant and harmonious manner, the virtues of his friends would die in the melody of his accents. For, it will be asked, what occasion is there for this preaching? Is political sense and virtue of that nature that it seeks thus to be extolled? Sterling worth retires; it does not become its own trumpeter. It will not, therefore, be a subject of regret to his opponents; for, if he preaches much, and in the manner in which he preached yesterday, he will do them but little harm. The subject, when often dwelt upon, will have no weight or credit. There had been much preaching of this kind, both in Church and State. It might, for a time, do temporary mischief; but its effects were transient. He would, therefore, have dropped the subject, had not the slander of this gentleman been too much supported by others.

It was said to be the tendency of all Government

to come to despotism; that, true it was, our Government was tolerably pure; it had dabbled in corruption, but dabbled but little. And by whom was this said? For the name that said this ought to be a proud name indeed; it ought to be distinguished not only by brilliant public services, but for a peculiar disinterestedness of character; to have something around it which effectually shielded it from suspicion. By whom, then, has it been said? What arrogant and proud pretence led men to speak in this manner? What had entitled them to this high tone? Eminent talents all knew they possessed; but did mere eminence of talents entitle men to this right? He asked how these talents had been employed? In great and national service? In fixing the independence and freedom of the country? Have they aided in establishing the great outlines and measures of Government? Have they assisted in building up the Government, with special interest to the happiness of the country? They do not pretend this. Not that they have done anything for the happiness of the country, but in opposition to it. It would be invidious to enter into a comparison between the two characters. But let the gentlemen go to the page of history, and what do they find there? Had the mere declaimer against Government and its abuses an enviable rank on that page? No. Let me not, said Mr. G., be misunderstood. Immortal honor is due, and will be given, to men who have resisted the acts of tyranny and oppression. Such a man was *Hampden;* such a man was *Sidney.* But a mere declaimer ranked not with these men; nor did he rank with those who have been the benefactors of mankind by establishing eminent civil institutions. Yet, in that House, gentlemen claimed as a right, upon this mere ground, to speak, and when they pleased, of the abuses and corruptions of Government.

Mr. G. asked what were these abuses? They were said to arise from Executive patronage. Let the gentleman from Virginia go to his State, and the gentleman from Pennsylvania to his. Either was an extent of country which, in the Old World, would form an empire. What were the officers under the Executive? A single Judge in the Judiciary Department, a Marshal, and a few Deputies, a Supervisor, and some Collectors. And though this is an epitome of the whole of our country, yet, in the view of the gentlemen who support this amendment, this patronage is alarming and destructive!

Let the gentleman from Pennsylvania look at the supreme Executive of that State, and he would find a much more numerous list of officers; and, if not of a grade so high, yet of a grade at least equally capable of oppression. And was it a subject of popular declamation that the Governor of that State was bearing down the Government by means of his patronage? No. The subject was not heard in the Legislature of that State—the cry and clamor was only here.

But it was said, that this patronage or power of appointment had been basely prostituted, by selecting eminent characters from that House for office. He asked gentlemen how many men had been chosen from the Legislature for office, since the commencement of Government? But few, indeed. He asked, further, if there was anything in the Constitution which declared that members of the Legislature should not be appointed to office? and, if not, how it happened that at this period they were growing wiser than the framers of our Constitution, with respect to human nature? If the doctrine of gentlemen was true, which was to prevent this patronage, no officer ought to be appointed from the Legislature. Would this cure the evil? If human nature be so corrupt as they think it is, have not the members of the Legislature friends? And if they were capable of being influenced by these appointments, the influence might be as strong if their friends were appointed. This doctrine, therefore, not only went to ostracise the members of the Legislature, but their families and friends.

But it was said, the doctrine of favoritism had been adopted, and that only one description of men was appointed to office. He thought there was a great want of order in gentlemen who first brought forward this subject. It was a subject upon which it was difficult and indelicate to speak. The doctrine had been allowed without authority, for the President of the United States had not allowed that he had formed any such determination as was attributed to him; but if he had determined to select to office only those persons who had evinced, by their manners, an attachment to the Constitution of their country, and to those measures which had been sanctioned by the Legislature and himself, he thought he had adopted a right principle. He did not think the President had resolved to appoint no man to office except he were of his own political sentiments, though he might have determined not to make choice of any man who had manifested uniform opposition to all the measures of Government. He asked what measure had been taken by the Executive which had not been sanctioned by all the constituted authorities, and, in a less formal manner, by the people themselves, and in some cases, by votes of the State Legislatures?

But, he asked, against whom these charges of venality and corruption were made? They were brought against the Executive of this country. And what was this Executive? Gentlemen seemed to consider it as a sort of leviathan or monster, which was always to be goaded and probed with a thousand wounds for its venal propensities; though, for some of its good qualities, it must be kept alive, though in torture and pain.

The duties of the Executive were to preserve the powers of the country, to vindicate its rights, to protect its sovereignty, to execute the public will expressed through the laws. Rob it of one of these powers and you destroy the most valuable part of the Government; depress it, and you only do it for a short time. It will rise in the affections and favor of the people, with new life and vigor. Indeed, these attempts against the Executive were calculated to produce a much more strong and powerful Executive than we now have.

But against whom were these charges brought? They were levelled at the Executive power. But against whom were they personally brought? Were they intended against the late President, or the present? Both were implicated in the accusation. He would not attempt to sketch the whole praises of the former; but he would mention a few traits of his character, which must repel these charges. They would go to his disinterestedness, and show that he had never been actuated by a love of power.

For his disinterestedness, it was enough to say, that he had spent forty years in the public service without reward, and in doing it, he had diminished an ample fortune. With respect to his love of power, it was enough to say, that he had twice retired from the most elevated station to the walks of private life—there he hoped he would long live surrounded with comforts unalloyed by the enmity of any man.

With respect to the present Chief Magistrate, he asked whether there was anything in the life of this man, which had shown a deviation from strict and honorable conduct, in his way to promotion and office? His honor and his offices were of the hard-earned kind. He had never gone into devious paths to seek for them. He had acquired his elevated station by doing his duty in a firm and independent manner.

Here nothing looked like a love of power. He would next ask gentlemen against whom their attacks were made in that House? For, they may say what they please, the American people would never admit of a charge of corruption where no corruption exists. They might say they did not mean to include in their charge gentlemen who had acted with the President; but their charge was that the patronage of the President had found its way into that House, and produced majorities there. He regretted that a sentiment so degrading to the American character had been advanced by a citizen of this country. The way to produce worth was not to place men in a degraded state. If it were wished to form an assembly of vile men, tell them they are made of such kind of stuff that they must become so. If they looked into history this sentiment would be confirmed.

What was it that made the Roman character? Was it not a high sense of public and private virtue? Yes; it was this that carried that country to its greatness. But here our citizens were said to be composed of such corruptible materials, that they cannot withstand the temptations held out to them by our offices; whilst there, every thing tended to elevate human nature, and it was this which led to Roman greatness. Different principles and different manners were now adopted; and what was the character of the people who now inhabited the clime formerly possessed by the ancient Romans? Behold the modern Italian, dark, cunning, and mischievous.

These charges were, then, founded in slander, and ought to be repelled. His colleague had been astonished from whence these suspicions came, and charged them upon the gentleman's own heart. His friend was mistaken; there were no such materials there. None were to be found there so base. The charge must have proceeded from a distempered mind, produced, perhaps, by being foiled in a favorite choice of an Executive Magistrate; or from a concurrence of circumstances which had thrown over the gentleman's mind a cloud of suspicion and jealousy.

But it was said that the only saviour of the country now consisted of a feeble minority, which was to stem the torrent of corruption. It was true, and it was to be regretted, that there was party in this country. Not that he would be understood that the most strict scrutiny into public measures was a blameable conduct; on the contrary, he believed it was for the happiness of the country that public measures should be scrutinized; but an organized spirit of party was always dangerous in a country.

In speaking upon this subject, it must occur to every member that it was not a party over a particular district of country which was spoken of; it could not escape the patriotic mind, that this party was spread over the whole Union. This being the case, the subject assumed an importance very different from what would be the case were it a subject of mere private discontent.

Mr. G. addressed himself to gentlemen who acknowledged themselves in a minority, and he did it with that degree of earnestness which the situation of our country demanded. We were at this time, said he, in a state of anxiety; we were apprehensive of an eventful crisis, when all the patriotic virtues, if not the active energies of the country, will be necessary. He asked whether, at a time when Government could hardly move upon its wheels; when we were surrounded with difficulties; when our affairs in the western country were in a very critical state; when the business of the Legislature was full of perplexity; it was proper to add to all this, a still more difficult and perplexing state of things? If this opposition were determined to obstruct the measures of Government, how was it to move? For he did not pretend to say that the opposition was confined to the gentlemen in that House; he supposed they fairly represented the sense of their constituents. In this state of things, how was Government to proceed? If gentlemen would come forward and say expressly what they wanted, if their discontents were well founded, they might be removed. But, on this occasion, all that had been said had been mere general clamor. The gentleman from Virginia complained of the funding system, of this and of that; but he did not now expect to reverse these systems; and, therefore, he could not think it was either prudent or patriotic, in the present state of things, to introduce them. Had it not a tendency to increase our divisions, and did gentlemen expect that the country could rise above these evils? When every support of Government was necessary, was this the time to sow discontents? These were serious questions. Mr. G. said he would go further, and say, if there was anything which he could do, and it were proposed how it could be effected, for producing harmony in the House, he would do every thing but rob the Government of its powers. He could not consider this amendment as a single, unconnected measure; it was connected with others, and intended to clog the wheels of Government.

The gentleman from Virginia had said that this country ought only to be considered as a vender of its produce and purchaser of what was brought to it. Did he suppose that such an assertion would produce content? Did he suppose, for instance, that the State of Massachusetts would destroy all its vessels, and revert back to a state of society long since passed?

Notwithstanding the charges which had been brought against the Government, its friends had a source of satisfaction in the good sense of their countrymen; he believed they would adopt a firm and decisive language; and he doubted not they would recollect and be persuaded of the truth of the maxim, that "united we stand, but divided we fall."

Mr. SEWALL, after a few prefatory remarks, observed that the gentleman from Virginia had avowed that his amendment, and the manner in which he had introduced it, was an attack upon the Executive of the United States. The occasion of the attack, or the propriety of it at this moment, he left him to justify to his constituents and to the people of the United States. He seemed to despise what might be said by gentlemen here. He avowed he did not speak so much to the Representatives of the people of the United States within these walls, as to the people without them, whom he wished to bring to consider the danger of their present situation, and to induce them to join him in measures unfavorable to the happiness and prosperity of the country.

It would be difficult to go over all the observations of the gentleman, and to answer them singly. Such a procedure would not fail to tire the committee. He would, therefore, bring them into a sort of arrangement or division. And the first thing which he should notice was, what he called his *violent attack*—an attack upon the principles which the gentleman acknowledged had no connexion with the question, with a design of raising discontents in the people of the United States against their Executive—not with respect to this question, but with respect to the danger to be apprehended from Executive patronage in general. This he called a violent attack, because it was not produced by anything under the view of the committee. He did not mean, however, to account for this conduct, but to make some observations upon it.

In another point of view he considered what had fallen from the gentleman from Virginia as a civil attack upon the Executive authority, attempting to deny certain rights as belonging to the Executive, by assuming an authority unknown in the practice of the House, and unknown to the Constitution.

In the first place he would refer to what he had said. He called upon the people of the United States to confederate with him against the Executive. He was not contented with this appeal; he had endeavored to raise an interested passion, not in the people at large, but in those who may have been disappointed in their applications for offices to the President, and to all those who have partialities elsewhere, to consider the Executive of the United States in a degraded point of light, from having joined a certain party, and from having determined to choose no person to office but persons of a certain opinion; thereby degrading the Executive of the United States, by representing him as the *head of a party*.

He called another part of the people to come around him, from a consideration of their liberties being in danger, from the excess of patronage in the Executive; to these classes might also be added the mere seekers for office. In this manner were the people of the United States to be arrayed and marshalled out, and in this manner this Constitution, and these laws, were to be endangered, by an attack, which appeared as if it were intended to be the forerunner of a more serious attack from abroad.

Nor was the gentleman contented by drawing around him all the discontented of the community, but he also made an attempt upon that part of the people who were generally in favor of Executive measures, by saying they were flatterers, mere devotees of the Executive, and seekers for office, as in fact already corrupted. In this manner was the Executive to see not only the discontented part of the people, but his friends arrayed against him. In the latter attempt, the gentleman would fail. He believed there were those who could support charges of this nature—who could console themselves with having done their duty, by having supported the laws and Constitution of their country, and defy and despise his representations.

And here he would observe that the gentleman threw strong censure upon those who are certainly the most deserving part of the community—those who are contented with the measures of the Executive—satisfied with the measures of the General Government. Mr. S. believed persons of this description to be in the natural state of society—that state which the Constitution supposes; yet these were called upon to renounce their confidence in the Executive. Surely, said he, we might retort upon gentlemen, by saying that those who oppose the measures of the Executive, who take the part of a foreign country against their own, are in an unnatural and criminal state. They might say we will avoid you; your conduct is already disagreeable to us; the Executive avoids you, and we approve his conduct; you are disreputable to society; you are the enemies of Government. But he would avoid allegations of this sort. He was convinced that there were few people in the United States—he hoped none in that House—who would answer to this charge. He hoped none were guilty of it; but it was hard upon gentlemen who were in favor of Constitutional measures, that they should be called upon to defend themselves against charges of this kind.

Gentlemen who professed themselves satisfied with the measures of the Government here, were charged with the want of attention to the interests

of the people, because they did not alarm their constituents, on their return home, on the subject of Government abuses; because they did not do this, they were charged with administering *soporifics* at home.

Some few parts of the gentleman's observations deserved more particular examination; and first, with respect to the danger arising from the power of appointing to office being placed in the Executive. On this occasion the excessive patronage of the Executive of the British Government was brought before the committee, and they were bid to beware of our Executive becoming like it. This charge was a vague one, as it would be difficult to show that there was any resemblance between the two Executives. The thing which gentlemen considered as of no weight—he meant the short period for which our Executive was elected, and that of England being permanent—he thought of material importance. Our Executive had no power but for four years, during which period he was liable to be impeached by that House for any flagrant abuse of duty; in which case he would be tried by the Senate, and acquitted or found guilty. In a Constitution like this, therefore, what need was there for all this alarm about Executive power? If there existed abuses in the Executive department, why not bring forward an impeachment at once? But the truth was, no proof of abuse existed. He trusted he should not be considered as wanting in respect to the people, if he considered them as an improper tribunal to be appealed to on this occasion. If abuse existed, he had pointed out the Constitutional way of having it rectified. He was further of opinion that any attempt to misinform the people on this subject, was a sort of treason against the peaceful enjoyment by the people of their liberty. It was necessary, therefore, that the people should be well assured of the truth of such a charge; for, if it had the effect which he had mentioned, and was not founded in fact, he should consider the man who made it, as a traitor to the people.

Liberty, he said, was security; destroy security, therefore, and you destroy liberty. He did not mean to attribute any intention of this kind to the gentleman from Virginia. He was only endeavoring to point out to him the extreme impropriety of the manner in which he had supported his proposition.

It was allowed that the Government was as liable to be destroyed by anarchy, as from excessive patronage in the Executive. It was upon the Executive we depended for the execution of the laws, and for general protection. It was in fact the eyes of the community. The Constitution had characterized his office; it was a part, and the cement of our Union. Would any single man in that House claim to himself that confidence from the people of the United States which the Executive had? They came from different districts, impressed with local views and interests, which they could not avoid, though it was the duty of every member to consider himself as the representative of the whole Union; but the President of the United States was elected by the whole, to preside over the whole, and his future reward would depend upon the manner in which he filled the office at present, and the people would always be inclined to show him respect and regard, and would be slow in believing that he would do anything contrary to the interest of the United States.

He would refer to the particular charges which had been alleged against the Executive. He had been charged with having recommended a mission to Prussia, when there was no occasion for it. They were necessarily uninformed on this point. The gentleman from Virginia, indeed, had supposed that they had a right to bid the Executive to lay before them the motives for his conduct; but he believed he could not find any such authority in the Constitution. The power of appointing Ministers was in the Executive, and if he had nominated, and the Senate approved, there existed no Constitutional authority to call him to account, except manifest abuse appeared; and if this were the case, he had already pointed out the mode of redress. It was extremely hard upon gentlemen who wished to defend the Executive, to be obliged to say they were as ignorant with respect to its motives, as those who complained of it. It was a sufficient answer, however, to say, that the business was not within the care of this House.

The Executive had been charged with making appointments to office from the Legislature, with a view to influencing the members to a certain line of conduct. Particular reference had been had to foreign Ministers, and it had been said only one had been appointed but who had been taken from the Legislature. It was said that four others had been taken from the Legislature, the appointment to which might have had an influence upon it; if it could possibly have had any, it must have been so small as to be below calculation. Mr. S. enumerated all the Ministers we have in Europe, and whence they were appointed; the result of which enumeration was, that the influence complained of could not have produced any effect, except in the case of the Minister at Lisbon (Mr. W. SMITH.) It was true he was in the Legislature, and likely to remain in it; but, if gentlemen recurred to that gentleman's character, and his uniform support of Government, no one would suppose that his conduct was influenced by the expectation of his appointment. But are those members of the Legislature, who are in a natural state, the only commendable state in society, to be those who are to be suspected of being improperly influenced by the appointments to office, merely because the Executive declines appointing men to office who are in continual opposition to Government? If gentlemen possessing opinions of the latter kind, were suddenly to change them, there would, indeed, be some ground to suspect an improper influence. But there was no instance in which this would apply.

But it was considered as criminal in the Executive to appoint to important offices those men only who are friendly to the measures of Government. A gentleman from Virginia (Mr. BRENT) some days ago, mentioned several offices, to which it would be improper to confine appointments in the

way proposed, but he carefully avoided mentioning the offices which had been under consideration. It must be recollected that the Executive is answerable for any measures which may be taken with respect to any foreign country, and it was not to be expected that he would choose those to do his business, who were averse to Executive measures. He knew of one instance only in which this had occurred, and he recollected that, in that instance, the gentleman had himself boasted that he obtained from the Executive a declaration conformably to his views, before he would undertake the office. How far this was true, or whether the gentleman deceived himself, he could not tell. He supposed the latter was the case. He was, however, appointed to a mission, which, after he had undertaken it, he thought proper to neglect.

The Executive had also been attacked with respect to his choice of a Secretary of State, and his fair and honorable vindication of the Government of this country against an insidious Power, who had endeavored to excite an alarm against the people of this country, which might have endangered our independence and happiness—who had reduced us to a degraded state by depredating upon our commerce, which had produced a loss incalculable—was called a manifesto equal to a declaration of war. This attack, he was convinced, would have little weight.

Mr. S. then went into a disquisition on the construction of the Constitution with respect to appropriating money, and denied that the House had a right to refuse an appropriation for foreign Ministers, when called upon by the President, as it was a moral obligation, which they were bound to obey. He believed the bill had better be rejected than that this amendment should take place; for, if not passed at all, the President would be relieved from his responsibility; but, if it passed with the amendment, it would deprive him of the free exercise of his authority.

The committee rose, and had leave to sit again.

MONDAY, January 29.

MEMORIAL OF THE QUAKERS.

Mr. SITGREAVES, from the committee to whom was referred the memorial and address of the people called Quakers, from their yearly meeting held in Philadelphia, in November last, made a report, stating, that as the above memorial was expressed only in general terms, the committee applied to the memorialists, desiring them to exhibit the precise grievances which they wished to have redressed; that, in consequence of this request, the committee received certain documents from them; after which the memorialists were invited to a conference, in order to suggest a remedy to the evils which they complained of; and, after several consultations, the committee state it to be clearly their opinion, that the facts referred to are exclusively of judicial cognizance, that therefore it is not competent for the Legislature to do anything in the business, and recommended that the memorialists have leave to withdraw their memorial.

Mr. S. moved that the report be read a second time, for the purpose of being concurred in.

Mr. THATCHER hoped the report would be committed. As several applications had been made to the Legislature by this body of people for redress of a similar kind prayed for in this memorial, in order, therefore, to give them full satisfaction, and thereby prevent future applications, he hoped the determination made upon it might be done in the most solemn manner.

Mr. SITGREAVES hoped this course would be taken. He wished the memorialists to be fully satisfied with the proceedings taken on their application.

Mr. T. CLAIBORNE was also of this opinion.

Mr. MCDOWELL could not conceive the object of the gentleman who moved this report to be committed, except it were to pay a compliment to the memorialists. He was opposed to paying this compliment. He thought the manner in which they had so frequently come forward to attempt to disturb the peace of society, and to arraign the conduct of State Governments, was not entitled to it. He hoped, therefore, the report would not be referred.

The question was put, and there appeared to be 35 for the committing the report, and 35 against it; the Speaker determined in the affirmative, and the question was carried.

RELIEF OF WIDOWS, &c.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the resolution requiring a report on the propriety of extending the act passed June 7, 1794, for making further provision for the more effectual protection of the frontiers of the United States, and for the relief of widows and children of officers killed in the service, reported it as their opinion, that it ought to be extended to the widows and children of such as were killed in the war with the Indians. Committed for to-morrow.

LOSSES RECOVERED UNDER BRITISH TREATY.

Mr. S. SMITH presented the following resolution:

"*Resolved*, That the President be requested to direct the proper officer to lay before this House a statement of the losses recovered by citizens of the United States under the treaty made with Great Britain, specifying those cases which have been actually decided upon by the Court of Appeal."

Ordered to lie on the table.

COUNTERVAILING DUTIES.

Mr. JOSIAH PARKER also presented the following:

"*Resolved*, That the President of the United States be requested to direct the proper officer to lay before this House a copy of the Act of the British Government countervailing the duties on tonnage laid on foreign ships and vessels by the United States, and goods, wares, and merchandise, imported therein."

Ordered to lie on the table.

LAND TITLES IN TENNESSEE.

The House again resolved itself into a Committee of the Whole on the bill enabling the Presi-

dent to hold a treaty with the Indians claiming lands in the State of Tennessee. Mr. Gallatin proposed an amendment fixing the pay of the Commissioners at eight dollars a day, exclusive of their expenses; which was agreed to. And, on motion of Mr. McDowell, the words "or North Carolina," were moved to be added after the word Tennessee, so as to enable the President to treat for any land belonging to the Indians within that State. The motion was agreed to by 43 to 16. The House agreed to the amendments, and the bill was ordered to be read a third time to-morrow.

IMPEACHMENT OF WM. BLOUNT.

Mr. Sitgreaves moved that the unfinished business relative to foreign intercourse should be postponed, in order to take up the articles of impeachment reported against William Blount.

Mr. Harper hoped the unfinished business would not be postponed for this purpose, as he wished it first to be disposed of.

Mr. Sitgreaves said, he made this motion because of the impatience which had been heretofore shown to go into the business, and because he believed it would not require much time. He also thought it would be proper to exhibit the articles to the Senate at as early a period as possible, as there would be certain preliminary questions to be decided before the impeachment could be proceeded with—he alluded to the impeachability of a Senator, which he understood the Senate meant to dispute. If the Senate determined that one of their body is not impeachable, the business would be at an end. This question would be entered upon after the articles were exhibited. He hoped, therefore, the House would take up the subject. By this time, as the evidence had been long in the hands of the members, the subject must be well understood. It would be seen that the articles were predicated upon the single letter of William Blount to James Carey, which was communicated to the House by the President of the United States.

Mr. McDowell supported the motion.

Mr. Macon was opposed to it, wishing the unfinished business first to be gone through.

Mr. Sprigg was in favor of the motion. A doubt had arisen whether the trial would go on in the absence of the person impeached. If this should prove to be the case, it would be necessary to send a messenger to Tennessee, and wait his return. The sooner, therefore, the business could be gone into the better.

Mr. Thatcher thought there was no necessity immediately to proceed to consider the articles in question, as he found by a bill before him that the Senate considered it necessary to pass a bill before they entered upon the business, prescribing the mode of proceeding in cases of impeachment.

Mr. Gordon thought the remark of the gentleman last up was not entitled to any weight; if it were, the Senate might prevent the impeachment altogether. He thought the observation of the gentleman from Maryland (Mr. Sprigg) was worthy of consideration. The preliminary question might (and he believed would) be made whether a Senator was impeachable. If the Senate decided one of their body was not impeachable, the business would be at an end; if not, it might be necessary to issue process to call the person impeached before them, and it might be necessary to protract their session, for the purpose of finishing the business; as, after it was gone into, it would not be proper to leave it in an unfinished state.

Mr. Coit wished the articles not to be taken up to-day, as they were only laid upon the table this morning, and he had scarcely time to read them.

Mr. Harper did not think the business would come to any earlier termination by going into the articles to-day, as a committee of the House would have to go to the Senate to argue the point of impeachability with them.

Mr. Sitgreaves thought differently; for, though the managers on the part of the House must be heard in the Senate, before the question of impeachability was decided, yet the Senate could not proceed on the subject before the articles were exhibited. Besides, if the matter of fact came to be tried, it would be necessary for several witnesses to be summoned from the State of Tennessee, in addition to the evidence already obtained. It would not be proper, therefore, to delay an exhibition of the articles.

The question for postponing the unfinished business was put and carried—42 to 41.

The House then resolved itself into a Committee of the Whole on the articles of impeachment reported against William Blount, Mr. Dent in the Chair; when they were read, as follows:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and of all the people of the United States, against William Blount, in maintenance of their impeachment against him for high crimes and misdemeanors.

Article 1. That, whereas the United States, in the months of February, March, April, May, and June, in the year of our Lord one thousand seven hundred and ninety-seven, and for many years then past, were at peace with His Catholic Majesty, the King of Spain; and whereas, during the months aforesaid, His said Catholic Majesty and the King of Great Britain were at war with each other; yet the said William Blount, on or about the months aforesaid, then being a Senator of the United States, and well knowing the premises, but disregarding the duties and obligations of his high station, and designing and intending to disturb the peace and tranquillity of the United States, and to violate and infringe the neutrality thereof, did conspire, and contrive to create, promote, and set on foot, within the jurisdiction and territory of the United States, and to conduct and carry on from thence, a military hostile expedition against the territories and dominions of His said Catholic Majesty in the Floridas and Louisiana, or a part thereof, for the purpose of wresting the same from His Catholic Majesty, and of conquering the same for the King of Great Britain, with whom His said Catholic Majesty was then at war as aforesaid, contrary to the duty of his trust and station as a Senator of the United States, in violation of the obligations of neutrality, and against the laws of the United States, and the peace and interests thereof.

Article 2. That, whereas, on the twenty-seventh day of October, in the year of our Lord one thousand seven hundred and ninety-five, a Treaty of Friendship, Limits, and Navigation, had been made and concluded between the United States and His Catholic Majesty, by the fifth article whereof it is stipulated and agreed, "that the two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers, which, by the preceding articles, form the boundaries of the two Floridas: and the better to obtain this effect, both parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian nations living within their boundary, so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of his Catholic Majesty or his Indians, in any manner whatever:" Yet, the said William Blount, on or about the months of February, March, April, May, and June, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, and that the United States were then at peace with His said Catholic Majesty, and that His Catholic Majesty was at war with the King of Great Britain, but disregarding the duties of his high station, and the stipulations of the said treaty, and the obligations of neutrality, did conspire and contrive to excite the Creek and Cherokee nations of Indians, then inhabiting within the territorial boundary of the United States, to commence hostilities against the subjects and possessions of His Catholic Majesty, in the Floridas and Louisiana, for the purpose of reducing the same to the dominion of the King of Great Britain, with whom His Catholic Majesty was then at war as aforesaid: contrary to the duty of his trust and station as a Senator of the United States, in violation of the said Treaty of Friendship, Limits, and Navigation, and of the obligations of neutrality, and against the laws of the United States, and the peace and interests thereof.

Article 3. That, whereas, by the ordinances and acts of Congress for regulating trade and intercourse with the Indian tribes, and for preserving peace on the frontiers, it has been made lawful for the President of the United States, in order to secure the continuance of the friendship of the said Indian tribes, to appoint such persons, from time to time, as temporary agents, to reside among the Indians, as he shall think fit; and whereas, in pursuance of the said authority, the President of the United States, on or about the eighth day of September, in the year of our Lord one thousand seven hundred and ninety-six, did appoint Benjamin Hawkins, to be principal temporary agent for Indian affairs, within the Indian nations south of the river Ohio, and north of the territorial line of the United States; and whereas the said Benjamin Hawkins accepted the said appointment, and on the 21st day of April, in the year of our Lord one thousand seven hundred and ninety-seven, and for a long time before and afterwards, did exercise the functions, powers, and duties attached to the same; yet, the said Wm. Blount, on or about the said twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, did, in the prosecution of his criminal designs and of his conspiracies aforesaid, and the more effectually to accomplish his intention of exciting the Creek and Cherokee nations of Indians to commence hostilities against the subjects of His Catholic Majesty, further conspire and contrive to alienate and divert the confidence of the said Indian tribes or nations from the said Benjamin Hawkins, the principal temporary agent aforesaid, and to diminish, impair, and destroy the influence of the said Benjamin Hawkins with the said Indian tribes, and their friendly intercourse and understanding with him, contrary to the duty of his trust and station as a Senator of the United States, and the peace and interests thereof.

Article 4. That, whereas, by the ordinances and acts of Congress aforesaid, it is made lawful for the President of the United States to establish trading houses at such places and posts on the western and southern frontiers, or in the Indian country, as he shall judge most convenient, for the purpose of carrying on a liberal trade with the several Indian nations within the limits of the United States, and to appoint an agent at each trading house established as aforesaid, with such clerks and assistants as may be necessary for the execution of the said acts: And, whereas, by a treaty, made and concluded on the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, between the United States and the Cherokee nation of Indians, inhabiting within the limits of the United States, it is stipulated and agreed, that "the United States will send such, and so many persons to reside in said nation, as they may judge proper, not exceeding four, who shall qualify themselves to act as interpreters." And whereas the President of the United States, as well in pursuance of the authorities in this article mentioned, as of the acts of Congress referred to in the third article, did appoint James Carey to be interpreter for the United States to the said Cherokee nation of Indians, and assist at the public trading house established at the Tellico blockhouse, in the State of Tennessee: And whereas the said James Carey did accept the said appointments, and on the twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, and for a long time before and afterwards, did exercise the functions and duties attached to the same; yet, the said William Blount, on or about the said twenty-first day of April, in the year last aforesaid, then being a Senator of the United States, and well knowing the premises, did, in prosecution of his criminal designs, and in furtherance of his conspiracies aforesaid, conspire and contrive to seduce the said James Carey from the duty and trust of his said appointments, and to engage the said James Carey to assist in the promotion and execution of his said criminal intentions and conspiracies aforesaid, contrary to the duty of his trust and station as a Senator of the United States, and against the laws and treaties of the United States, and the peace and interests thereof.

Article 5. That whereas certain tribes or nations of Indians inhabit within the territorial limits of the United States, between whom, or many of them, and the settlements of the United States, certain boundary lines have, by successive treaties, been stipulated and agreed upon, to separate the lands and possessions of the said Indians from the lands and possessions of the United States, and the citizens thereof: And whereas, particularly, by the treaty in the last article mentioned to have been made with the Cherokee na-

tion, on the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, the boundary line between the United States and the Cherokee nation was agreed and defined; and it was further stipulated, that the same should be ascertained and marked plainly by three persons appointed on the part of the United States, and three Cherokees on the part of their nation; and whereas, by another treaty, made with the said Cherokee nation, on the 26th day of June, in the year of our Lord one thousand seven hundred and ninety-four, the said herein before recited treaty of the second day of July, in the year of our Lord one thousand seven hundred and ninety-one, was confirmed and established, and it was mutually agreed that the said boundary line should be actually ascertained and marked in the manner prescribed by the said last mentioned treaty; and whereas, in pursuance of the said treaties, Commissioners were duly nominated and appointed on the part of the United States, to ascertain and mark the said boundary line; yet the said William Blount, on or about the twenty-first day of April, in the year of our Lord one thousand seven hundred and ninety-seven, then being a Senator of the United States, and well knowing the premises, in further prosecution of his said criminal designs and of his conspiracies aforesaid, and the more effectually to accomplish his intention of exciting the said Indians to commence hostilities against the subjects of His Catholic Majesty, did further conspire and contrive to diminish and impair the confidence of the said Cherokee nation in the Government of the United States, and to create and foment discontents and disaffection amongst the said Indians towards the Government of the United States, in relation to the ascertainment and making of the said boundary line, contrary to the duty and trust of his station as a Senator of the United States, and against the peace and interests thereof.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any further articles, or other accusation or impeachment against the said William Blount, and also of replying to his answers which he shall make unto the said articles, or any of them, and of offering proof to all and every the aforesaid articles, and to all and every other articles, impeachment or accusation, which shall be exhibited by them, as the case shall require, to demand that the said William Blount may be put to answer the said crimes and misdemeanors, and that such proceedings, examinations, trials, and judgments, may be thereupon had and given as are agreeable to law and justice.

The articles having been agreed to, without amendment, (except a mere verbal one,) the committee rose, and the House having also agreed to them,

Mr. Sitgreaves moved that managers be appointed on the part of the House for the purpose of conducting the impeachment.

Which being agreed to,

The Speaker inquired of what number they should consist?

Mr. Sitgreaves answered eleven.

Mr. Thatcher five.

Mr. Sitgreaves hoped the number he had mentioned would be agreed to; the business being new, and of a very important and delicate nature, he thought the managers ought not to be less than eleven.

Mr. Thatcher withdrew his motion, and eleven was agreed to be the number.

Mr. Sitgreaves moved that the managers go to the Senate with the articles of impeachment.

Mr. Venable wished to know how the managers were to be appointed.

Mr. Sitgreaves said, with respect to the manner of appointing managers, he left it to the discretion of the House. The British House of Commons appointed their managers of impeachment by ballot, as they did all their large committees. In that House a different course was taken with respect to committees; they were always appointed by the Speaker, except specially ordered otherwise. The former committee on this business was appointed by the Speaker. He was not disposed to deviate from the usual practice. If, however, any gentleman wished to move that they be appointed by ballot, such a motion, he supposed, would be in order.

Mr. Venable did not think the House had any rule on the subject. The rule for appointing committees did not apply to the present case, which was perfectly new. He thought, therefore, that a vote of the House ought to determine in what manner the managers should be appointed. He had no objection to the Speaker's appointing them, if the House should so determine.

Mr. Thatcher did not think there was any difference between these managers and other committees of the House, and, therefore, could see no objection to choosing them in the usual mode.

The Speaker read the rule, and said managers of conferences with the Senate were chosen in the same way.

Mr. Gallatin thought the rule directing the appointment of committees did not apply in the present case. It was true that managers of conferences of the Senate were thus chosen; but he thought there was an essential difference between the two cases. Managers of conferences reported to the House similarly with committees, and in fact they were a committee, though called by a different name. But managers of an impeachment on the part of that House, appeared to him to be quite a different thing. They were not to make a report to the House which might be affirmed or negatived; they were the representatives of the House, and what they did would be final. Under this impression, in order to take the sense of the House upon the business, he moved that the managers be elected by ballot.

This motion was carried without a division, and the members were proceeding to prepare their ballots, when

Mr. Isaac Parker said, as he was not prepared to give his vote, not being sufficiently acquainted with the members to know who were the most fit to be managers, he should move that the appointment of managers be postponed till to-morrow; which motion was carried.

LUCY CLARK.

The House then, after a further vote to postpone the unfinished business, resolved itself into a Committee of the Whole on the report of the

Committee of Claims on the petition of Lucy Clark, who prayed for the reimbursement of the sum of £32 10*s.* 9*d.*, Virginia currency, with interest from the 14th of August, 1787—being the amount of money she alleges she has been obliged to pay on a judgment and execution against her, founded on a bond executed by her husband in his life-time, for the hire of a negro man, employed by him in public service.

The Committee of Claims reported in her favor, and, after some little opposition, the Committee of the Whole concurred in the report. The House rose, agreed to it, and a bill was ordered to be brought in accordingly.

Tuesday, January 30.

The bill appropriating money for holding a treaty with the Indians claiming land in the States of Tennessee or North Carolina, was read the third time and passed.

IMPEACHMENT OF WM. BLOUNT.

Mr. Sitgreaves said, as it was yesterday stated that the rules of the House respecting the appointment of committees did not apply to the present case, it would be well for the House to settle a question, before it proceeded to the election of managers of the impeachment, which might arise in the business, viz: whether a majority or a plurality or votes were to make a choice. He therefore proposed the following resolution, which was agreed to by the House:

"*Resolved*, That in the ballot for managers on the part of this House, of the impeachment against William Blount, a majority of the whole number of members present shall make a choice; that if more than eleven members shall have a majority, eleven of the highest shall be chosen; and if any two or more members have a majority of votes, and shall be equal in number, the same shall be decided by a new ballot."

The Sergeant-at-Arms proceeded to collect the ballots, which being done, the Speaker appointed Messrs. D. Foster and Jones, as tellers.

Having examined the votes, which took up nearly two hours, Mr. D. Foster reported, that the tellers had performed the business assigned them, and found the whole number of votes to be ninety-one, and that consequently forty-six made a choice, and that the following nine gentlemen, and no more, were elected, viz:

Mr. Sitgreaves - - -	76 votes.
Mr. Bayard - - - -	69 "
Mr. Harper - - -	65 "
Mr. Gordon - - -	62 "
Mr. Pinckney - - -	53 "
Mr. Dana - - - -	52 "
Mr. Baldwin - - -	48 "
Mr. Sewall - - -	46 "
Mr. Hosmer - - -	46 "

Mr. Baldwin said that, perceiving some of the committee which had formerly acted on this business, did not possess so much confidence as others, he should beg the House to excuse him from serving as one of the managers of the impeachment.

Mr. Brooks thought it was curious that, after having obtained a majority of votes, the gentleman from Georgia should complain of not having the confidence of the House. Did the gentleman expect to have received the whole 91 votes? Except a better reason was given, he hoped the gentleman would not be excused from serving. He was astonished to hear the reason which had been given. Did the gentleman wish the voice of feeble minorities to show confidence instead of majorities? If so, his wish would not, he believed, be the wish of the House.

Mr. Baldwin said, the gentleman from New York had misunderstood him. He did not say that he did not possess the confidence of the House; but that some members of the committee appeared not to possess so much of the confidence of the House, as others.

Mr. Thatcher asked the number of votes which the gentleman from Georgia had received. On being informed, he hoped the gentleman would withdraw his motion, since he would see that none of the committee possessed the entire confidence of the House.

Mr. Baldwin said he had stated the reasons of his request, and hoped the sense of the House would be taken upon it.

Mr. Pinckney hoped the question would not be taken. If any question could have come before the House, on which members should have divested themselves of all ideas of party, this was such an one. He trusted there was a general wish in the House to sift the matter to the bottom. If he understood the gentleman from Georgia, his objection did not arise from his not having had more votes, but because another member of the committee (Mr. Dawson) was not elected. If this was his objection, at this period, it was not complete. The House had yet a further ballot to make, and the gentleman alluded to might be elected; and, then, consistent with his own feelings, he might serve. Mr. P. said he was himself unwell, and not in the House when the ballots were collected, or he certainly should have voted for all the members of the committee.

Mr. Baldwin persisted in his motion, which was carried, there being 48 votes for it.

A new ballot then took place for three additional members. The votes having been collected, the tellers counted them as before, and reported that the whole number of votes was 91; but that no member had a higher number of votes than 37, and consequently that no election had taken place. Messrs. Dawson, Dennis, Gordon, and Gallatin, had the highest number of votes.

Mr. Gordon moved that the choice of the three remaining managers should be postponed till to-morrow.

Mr. Gallatin hoped not.

Mr. Sewall wished the business to be postponed, as by to-morrow gentlemen might reconcile their differences of opinion on the subject. He wished it also, because he had a subject to lay before the House, which he thought of importance to be settled before they separated.

Mr. Macon was yesterday in favor of adjournment; but experience had convinced him he was

wrong. He hoped the business would be proceeded with.

The motion was negatived—55 to 35.

A fresh ballot was then proceeded with, which, upon the votes being examined, proved, as before, a nullity, no member having a majority of votes.

Mr. HARPER hoped any further proceeding upon this subject be postponed till to-morrow, that gentlemen might have an opportunity of understanding each other.

The motion was carried, there being 48 votes in favor of it.

Mr. SEWALL rose to bring forward the business which he had mentioned; when

A motion was made to adjourn, which was negatived, there being only thirteen votes in favor of it.

BREACH OF PRIVILEGE.

Mr. SEWALL then said, he believed the business which he had to lay before the House would require secrecy, as it was a subject which would considerably affect the feelings of the members of the House. He therefore moved that the galleries might be cleared; which was accordingly done, excepting the members and Clerk.

Mr. SEWALL then stated, that he had been informed, in a manner which left no doubt of the truth of the fact, that, in the presence of the House whilst sitting, MATTHEW LYON, a member from the State of Vermont, did this day commit a violent attack and gross indecency upon the person of ROGER GRISWOLD, another member of this House; and, in order to bring the subject before the House, that he had prepared a resolution, which he read in his place, and delivered in at the Clerk's table. A question was then taken in the following words: Does the matter so communicated require secrecy?

This motion passed unanimously in the negative, and the galleries were opened.

The House then proceeded to consider the motion made by the member from Massachusetts, which was read, as follows:

"*Resolved*, That Matthew Lyon, a member of this House, for a violent attack and gross indecency committed upon the person of Roger Griswold, another member, in the presence of this House, whilst sitting, be, for this disorderly behaviour, expelled therefrom."

It was moved that this resolution be referred to a committee to be denominated a Committee of Privileges, with instructions to inquire into the whole matter of the said resolution, and to report the same with their opinion thereon to the House.

The question was taken by yeas and nays, and decided in the affirmative, 49 to 44, as follows:

YEAS—George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Chauncey Goodrich, William Gordon, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

NAYS—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Ordered, That Messrs. PINCKNEY, VENABLE, KITTERA, ISAAC PARKER, R. WILLIAMS, COCHRAN, and DENT, be a committee for the purpose.

A motion was then made that the House come to the following resolution:

"*Resolved*, That this House will consider it a high breach of privilege if either of the members shall enter into any personal contest until a decision of the House shall be had thereon."

A motion was made to add the following words to the end thereof:

"And that the said Matthew Lyon be considered in the custody of the Sergeant-at-Arms until the further order of the House."

The yeas and nays were taken upon this question and decided in the negative—29 to 62, as follows:

YEAS—Bailey Bartlett, James A. Bayard, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Thomas Hartley, William Hindman, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Isaac Parker, Thomas Pinckney, John Rutledge, jr., Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, and Peleg Wadsworth.

NAYS—George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, David Brooks, Nathan Bryan, Stephen Bullock, Demsey Burges, Samuel J. Cabell, Christopher G. Champlin, John Chapman, Thomas Claiborne, Wm. Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler, Jonathan Freeman, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, Matthew Locke, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Lewis R. Morris, Anthony New, John Nicholas, Josiah Parker, Thos. Sinnickson, Tompson J. Skinner, Samuel Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, John E. Van Alen, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

This motion being negatived, the sense of the House was then taken upon the main question, as originally offered, and it was carried. The House adjourned about 8 o'clock in the evening.

WEDNESDAY, January 31.

After the Journal was read this morning,

Mr. D. FOSTER reported a bill for the relief of Lucy Clark, which was twice read, and committed for to-morrow.

The SPEAKER desired members to prepare their ballots for the election of the three managers of the impeachment against William Blount, which remained to be elected.

Mr. PINCKNEY hoped the House would now adjourn, in order that the Committee of Privileges might proceed in the business which had been committed to them, as it was desirable that it should be disposed of as soon as possible.

The motion for adjournment was put and negatived—45 to 33.

The House then proceeded to the election of the three managers, and the votes having been collected, Messrs. D. FOSTER and JONES were again appointed tellers; and having counted the votes, reported as follows:

That the whole number of votes was ninety, and that therefore 46 made a choice; that Mr. DENNIS had 61, Mr. EVANS 61, Mr. IMLAY 60; and that of course they were duly elected.

Mr. MACON, from the Committee of Revisal and Unfinished Business, made a report on the subject of salaries of the clerks employed in the public offices, which was committed for to-morrow.

The motion for adjournment was again renewed and carried.

THURSDAY, February 1.

Mr. S. SMITH called up the resolution which he laid upon the table some days ago, calling upon the President of the United States for a statement of the losses recovered under the British Treaty, which was agreed to.

On motion of Mr. HARRISON, the House went into a Committee of the Whole on the bill for the relief of Lucy Clark; which having been agreed to, the committee rose, the House confirmed the report of the Committee of the Whole, and the bill was ordered to be engrossed for a third reading to-morrow.

Mr. T. CLAIBORNE moved that the Committee of the Whole, to whom was referred a report on the subject of exempting certain claims from the operation of the limitation acts, be discharged from the consideration of the petition of Amy Dardin, in order that it might be taken up separately. The motion was negatived—39 to 30.

The SPEAKER informed the House that he had received a letter from Dr. Redman, President of the College of Physicians of Philadelphia, accompanying the proceedings of that body relative to the prevention of the introduction and spreading of contagious diseases, which had this morning been laid before the members. It was read and ordered to lie upon the table.

BREACH OF PRIVILEGE.

Mr. VENABLE said, he was directed by the Committee of Privileges to inform the House, that the Chairman of that committee (Mr. PINCKNEY) was yesterday taken ill, and was unable to attend to the business referred to them; that the committee had this morning received a note from Mr. P. stating, that he was still too much indisposed to attend to business; they, therefore, wished him to ask for the appointment of another member in his place.

The motion being agreed to, the SPEAKER nominated Mr. RUTLEDGE.

Mr. VENABLE then added, that he was also requested to ask leave of the House to sit during the session. Leave was granted.

OLIVER POLLOCK.

The SPEAKER having informed the House that the business first in order was the bill providing the means of intercourse with foreign nations,

Mr. GREGG moved that this subject be postponed, for the purpose of taking up the report of the Committee of Claims on the petition of Oliver Pollock. He was induced to make this motion, as he presumed the House would not be inclined to proceed on the subject of foreign intercourse at present, having given leave to the Committee of Privileges to sit during the session.

Mr. GALLATIN proposed that the subject of foreign intercourse be postponed till to-morrow.

Mr. THATCHER said, as it was possible the Committee of Privileges might not report to-morrow, he would move that the business in question be postponed till Monday. Agreed to.

Mr. GREGG then renewed his motion for taking up the report of the Committee of Claims on the petition of Oliver Pollock; which being agreed to,

The House then resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Oliver Pollock, Mr. BALDWIN in the Chair.

The report was read: After stating a variety of charges for services done the United States, which the committee think ought not to be allowed, it is recommended that the petitioner should be allowed $3,000 for his expenses whilst detained at Havana, on account of debts owing on account of the United States, and $1,740 which are said to have been paid to Thomas Peterson, for his detention at New Orleans, as a hostage on account of the said debts. After some debate, the Committee of the Whole agreed to the following resolution, reported by the Committee of Claims—59 to 30:

"*Resolved*, That the accounting officers of the Treasury be directed to settle the account of Oliver Pollock, and allow him the sum of $4,740, with the inte-

rest from the time of payment, which shall be considered in full of all claims of the petitioner upon the Treasury of the United States.'

The committee then rose, the House agreed to the resolution without a division, and the Committee of Claims was directed to report a bill accordingly.

BREACH OF PRIVILEGE.

The Speaker informed the House that he had received a letter from a member from Vermont, which he was requested to lay before them.

Mr. Rutledge thought, that in all cases, when letters were sent to the Speaker to be laid before the House, it would be proper for him to state the substance of such communications before they are read, otherwise improper matters might be brought before them.

The Speaker allowed that the suggestion was a proper one, and proceeded to state the contents of the letter in his hand; which having done, the reading of it was called for, and it was read as follows:

To the Speaker of the House of Representatives:

Sir: As the attention of the House of Representatives has been called to my conduct in a dispute with Mr. Griswold, on a suggestion of its being a violation of the order of the House, and the respect due to it from all its members, I feel it incumbent on me to obviate the imputation of intentional disrespect. Permit me, sir, through you, to assure the House of Representatives that I feel as much as any of its members the necessity of preserving the utmost decorum in its proceedings; that I am incapable of an intentional violation of its rules; and that, if, in the present instance, I am chargeable with a disregard of them, it is owing wholly to my ignorance of their extent, and that the House of Representatives claimed any superintendence over its members when not formally constituted, and when they are not engaged in actual business. If I have been mistaken in my understanding on this subject, I beg the House to believe that my fault has been without intention, and that I am very sorry that I have deserved its censure. I am, sir, your obedient servant,

MATTHEW LYON.

February 1, 1798.

The reading of the letter having been gone through, a member proposed that it should lie on the table, when

Mr. Macon said, that as it was an acknowledgment of improper conduct, he thought it ought to be entered upon the Journals.

Mr. Nicholas moved that the letter be referred to the committee who have this subject under consideration. Gentlemen would recollect, he said, that, on a former occasion, when an offence of the same nature was committed, a letter written by the offending member was not only referred, but was also deemed a sufficient apology to the House. He did not know that this would be the case in the present instance; but that it might be, was evinced by the case to which he alluded. He hoped, therefore, it would be referred. Agreed to.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Harper said, that in the report of the committee appointed to prepare articles of impeachment against William Blount, made on the 4th of December last, there was a letter which was communicated to the committee by the Spanish Minister, from General Clark, of Savannah, to the Spanish Consul at Charleston, in which it was stated that certain proposals had been made to him, hostile to the interests of the United States. The committee thought this subject was worthy of further investigation; but, as the House of Representatives was now sitting, they did not think it proper to incur any expense in the business without an order of the House for the purpose. To effect this, he had prepared a resolution authorizing the committee to make the investigation; which he read, and delivered in at the Clerk's table.

Mr. Varnum wished to know whether there was now any such committee in existence as the gentleman from South Carolina spoke of.

The Speaker answered there was not; they had finished the business committed to them, and of course were discharged.

Mr. Harper said if that were so, he would let the resolution lie upon the table for the present, and, at another opportunity, move for the appointment of a new committee.

Friday, February 2.

The Speaker reminded the House that it was necessary to appoint a committee to wait upon the President of the United States, with the resolution which was yesterday agreed to.

Mr. S. Smith accordingly moved that a committee be appointed; which motion was agreed to, and Mr. S. Smith and Mr. Champlin were named.

NATCHEZ MEMORIAL.

Mr. W. C. Claiborne presented a memorial from the inhabitants of the Natchez District, praying Congress to turn its attention to that quarter, to sanction the grants of land which had been made by Spain, notwithstanding any former British grants, and also that they would furnish them with a provisional Government. They state their numbers to be about 5,000, and half that number of negroes; that their produce is chiefly cotton and indigo, which they cannot cultivate to advantage without slaves.

This petition, together with the Messages of the President of the 3d of June, 1797, and of the 23d of January last, which had relation to this subject, were referred to a select committee.

ACTS OF GREAT BRITAIN.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received from our Minister in London two Acts of the Parliament of Great Britain, one passed on the 4th of July, 1797, entitled "An act for carrying into execution the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States of America;" the other, passed on the 19th day of July, 1797, entitled "An act for regulating the trade to be carried on with the British possessions in India, by the ships of nations in amity with His Majesty." These Acts have such connexions with the commercial and political interests of the United States, that it is proper they should be communicated to Congress. I have accordingly transmitted copies of them with this Message.

JOHN ADAMS.

United States, *February* 2, 1798.

The said Message was read, and, together with the acts accompanying the same, ordered to be referred to the Committee of Commerce and Manufactures.

BREACH OF PRIVILEGE.

Mr. Venable, from the Committee of Privileges, made the following report:

The Committee of Privileges, to whom was referred a resolution on the 30th of January, charging Matthew Lyon with disorderly behaviour, with instructions to inquire into the whole matter thereof, and to report the same, with their opinion thereon, to the House, having examined several witnesses on oath touching the subject, report: That, during the sitting of the House of Representatives on the 30th day of January, 1798, the tellers of the House being engaged in counting the ballots for Managers of the impeachment against William Blount, the Speaker had left his Chair, and many members their seats, as is usual on such occasions; the Speaker was sitting in one of the member's seats, next to the bar of the House, and several members near him, of whom Mr. Griswold was one.

Mr. Lyon was standing without the bar of the House, leaning on the same, and holding a conversation with the Speaker. He spoke loud enough to be heard by all those who were near him, as if he intended to be heard by them. The subject of his conversation was, the conduct of the Representatives of the State of Connecticut, (of whom Mr. Griswold was one.) Mr. Lyon declared that they acted in opposition to the interests and opinion of nine-tenths of their constituents; that they were pursuing their own private views, without regarding the interests of the people; that they were seeking offices, which they were willing to accept, whether yielding $9,000 or $1,000. He further observed that the people of that State were blinded or deceived by those Representatives; that they were permitted to see but one side of the question in politics, being lulled asleep by the opiates which the members from that State administered to them; with other expressions equally tending to derogate from the political integrity of the Representatives of Connecticut.

On Mr. Lyon's observing, that if he should go into Connecticut, and manage a press there six months, although the people of that State were not fond of revolutionary principles, he could effect a revolution, and turn out the present Representatives—Mr. Griswold replied to those remarks, and, amongst other things, said, "If you go into Connecticut, you had better wear your wooden sword," or words to that effect, alluding to Mr. Lyon's having been cashiered in the army.

Mr. Lyon did not notice the allusion at this time, but continued the conversation on the same subject. Mr. Griswold then left his seat, and stood next to Mr. Lyon, leaning on the bar, being outside the same.

On Mr. Lyon's saying he knew the people of Connecticut well, having lived among them many years—that he had frequent occasion to fight them in his own district, and that he never failed to convince them—Mr. Griswold asked, if he fought them with his wooden sword, on which Mr. Lyon spat in his face.

The Committee having attentively considered the foregoing state of facts, and having heard Mr. Lyon in his defence, are of opinion that his conduct in this transaction was highly indecorous, and unworthy of a member of this House.

They, therefore, recommend the adoption of the resolution submitted to their consideration by the House, in the words following, to wit:

"*Resolved*, That Matthew Lyon, a member of this House, for a violent attack and gross indecency, committed upon the person of Roger Griswold, another member, in the presence of the House while sitting, be for this disorderly behaviour expelled therefrom."

The report having been read,

Mr. Lyon said, he did not think the evidence was stated in its full extent in this report. He wished, therefore, before the House proceeded in the business, they would hear the evidence themselves.

Mr. Harper inquired of the Speaker whether that was the usual mode of proceeding?

The Speaker said, it was necessary first to take up the report for a second reading.

Mr. Macon observed that this was a very delicate and a very serious question, as it related to one of the members of that House, and as it respected the dignity of the House itself. He hoped, therefore, the report would be printed, that some time would be given to consider it, and that the House would themselves hear the testimony. The punishment which the report proposed was equal to death itself. He hoped, therefore, it would not be acted upon hastily, but made the order of the day for Monday.

Mr. Harper did not wish to press the business in an improper manner, as it was certainly of great importance to a member of that House, to the House itself, and to the dignity of the country. It was usual to have all reports of any consequence printed, and a day or two given for consideration. He was not himself desirous of delay, as he was at present ready to vote upon the question; but, if other members wished it, he should not object to the motion proposed by the gentleman from North Carolina.

Mr. Nicholas took it for granted, that, whenever this subject came up, the House would think it necessary to go into an examination of the witnesses themselves, and not rely upon the manner in which their testimony had struck others. He thought it would be best, therefore, whilst the report was printing, to go on in the examination of witnesses.

The question for postponing till Monday was put and carried.

Mr. Nicholas said, he had no objection to wait for the printing of the report, before the House proceeded to examine the witnesses, but he should not waive the right of having them re-examined before the House.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Harper renewed his motion for inquiring into the subject of the letter written by General Clark, of Georgia, to the Spanish Consul at

Charleston, on the subject of some proposals hostile to the interests of the United States, which had been made to him, by moving the appointment of a committee for the purpose, instead of referring the subject to a committee lately in being, appointed to prepare articles of impeachment against William Blount; which, after some few observations, was agreed to, and the same gentlemen which formed the old committee were appointed on this.

Mr. Sitgreaves moved that the managers appointed to conduct the impeachment against William Blount carry the said articles to the Senate. Agreed to.

The House went into Committee of the Whole on the bill for the relief of Comfort Sands, and others, and having gone through it, they rose, and the bill was recommitted.

Monday, February 5.

Mr. D. Foster reported a bill for the relief of Oliver Pollock, which was committed for Wednesday.

LOSSES RECOVERED UNDER THE BRITISH TREATY.

Mr. S. Smith, from the committee appointed to wait on the President of the United States, with the resolution of this House of the first instant, relative to the losses recovered by the citizens of the United States, under the treaty with Great Britain, and to the cases which have actually been decided on in the Courts of Appeals under that Government, reported that the committee had, according to order, performed that service; and that the President signified to them that he would direct the proper officer to prepare a statement or statements, in pursuance of the said resolution, which he should cause to be laid before the House.

FRENCH OUTRAGES.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received a letter from his Excellency Charles Pinckney, Esq., Governor of the State of South Carolina, dated the 22d October, 1797, enclosing a number of depositions and witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer belonging to Cape Francois, or Monte Christo, called the Vertitude or Fortitude, and commanded by a person of the name of Jordon or Jourdain, and particularly upon an English merchant ship named the Orcabissa, which he first plundered and then burned, with the rest of her cargo, of great value, within the territory of the United States, in the harbor of Charleston, on the 17th of October last. Copies of which letter and depositions, and also of several other depositions relative to the same subject, received from the Collector of Charleston, are herewith communicated.

Whenever the channel of diplomatical communication between the United States and France shall be opened, I shall demand satisfaction for the insult and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States and such foreigners as have a right to enjoy their peace, and the protection of their laws, within their limits, in that as well as some other harbors which are equally exposed. JOHN ADAMS.

United States, *February* 5, 1798.

This Message, with the documents accompanying it, was referred to the committee for considering on proper measures for the protection and defence of the country.

BREACH OF PRIVILEGE.

Mr. Sewall moved the House to take up the report of the Committee of Privileges, in order that it might be committed to a Committee of the Whole.

Mr. R. Williams wished to know whether evidence could be heard in a Committee of the Whole.

The Speaker said, the House might authorize the Committee of the Whole to hear evidence.

Mr. Sewall moved the report to be committed. If gentlemen wished evidence to be heard before the committee, they would, of course, make an addition to his motion. For his own part he thought it unnecessary.

Mr. Nicholas had no objection to evidence being heard before a Committee of the Whole, except that it might involve the subject in some embarrassment; as it was possible that a majority of the committee might come to a decision which, according to the Constitution, it would require two-thirds of the House to confirm. He saw no reason for going into a committee, except that the Speaker would have to give his testimony; but he did not see why the Speaker might not give his testimony from his seat, as well as from any other place. By going into a committee, the subject would take up longer time than it otherwise would do, as they should have twice to go over the same ground.

Mr. R. Williams was in favor of hearing the evidence before the committee.

Mr. Thatcher was not of opinion, with the gentleman from Virginia, that this matter should be run over as soon as possible. He thought it of infinite importance, as it respected the dignity of the House and the people at large, and he hoped it would go through every form of the House.

The question for a commitment was put and carried, and it was made the order for this day.

Mr. Nicholas then moved that the Committee of the Whole be authorized to examine testimony, and called for the yeas and nays upon the question; which being agreed upon, they were taken, and, so little opposition was there to this mode of proceeding, that the question was carried, 88 to 4. The negatives were Messrs. Gordon, Sewall, Sitgreaves, and Thatcher.

Mr. D. Foster moved that the committee should be authorized to report the whole of the

evidence, as he thought it was important it should be entered upon the Journals. Carried.

The House then resolved itself into a Committee of the Whole, Mr. Dent in the Chair, on this subject.

Mr. Thatcher said it would be necessary that a Judge should attend to administer an oath to the members who should be called upon to give their testimony.

The Chairman informed the committee that the Judge of the District Court was in the House.

Judge Peters was accordingly called upon.

Mr. Rutledge desired an oath might be administered to the Speaker, Messrs. S. Smith, Brooks, Hosmer, Coit, Dana, Goodrich, and Champlin; which was accordingly done.

Mr. Rutledge said, if there should be occasion, he should also call upon Judge Chipman, a Senator from Vermont, as an evidence.

Mr. Chipman was, towards the close of the sitting, also sworn.

Some conversation took place as to the best mode of taking the evidence, whether, as it was to be reported to the House, it should be received from the witnesses in writing, leaving them to be questioned afterwards by the members of the committee, or whether it should be given *viva voce*, deliberately, and taken down by the Clerk. The latter mode was at length adopted, and the Speaker proceeded to give his testimony.

[The whole of the testimony taken in this case, revised by the members themselves, and given in at the Clerk's table, on the 12th February, will be found in the proceedings of that day.]

The examination of the Speaker being ended, Mr. S. Smith, from Maryland, and Mr. Brooks, from New York, gave their evidence to the committee.

The evidence of these gentlemen being finished, the committee rose, and had leave to sit again.

Thursday, February 6.

Mr. Macon thought the experience of yesterday had proved, that the mode adopted in the examination of witnesses on the subject of the report of the Committee of Privileges, was not the best. In his opinion the course adopted in the affair of Whitney and Randal would be far preferable. He therefore proposed the following motion:

"*Resolved*, That when the House are examining the report of the Committee of Privileges of the 2d instant, every question propounded to a member by a witness, shall be reduced to writing, and a motion made that the same be put by the Speaker."

This motion, after a few observations, was negatived—53 to 32.

The Speaker laid before the House a report of the Secretary of the Treasury, in pursuance of the references which had been made to him on the subject of a light-house, prayed for on Eaton's Neck, near the harbor of Newport, Rhode Island, and with respect to certain buoys to be placed in the said harbor. He recommends the measure, and states that a sum not exceeding 10,500 dollars will be necessary for the former object, and a sum not exceeding 2,500 dollars for the latter. This report was referred to the Committee of Commerce and Manufactures, with instructions to report by bill or otherwise.

Mr. Harper, from the Committee of Ways and Means, made a report on the petitions of Francis M'Donald, and others, messengers in the Departments of State, Treasury and War, recommending an addition to their salaries of one hundred dollars, making the salary allowed to each 350 dollars in the whole. Referred to the Committee of the Whole to whom has been referred the bill making appropriations for the support of Government for the year 1798.

Mr. Sitgreaves, from the managers appointed to conduct the impeachment against William Blount, said, he was directed to inform the House that, in consequence of official arrangements made for the purpose, the managers would exhibit the articles of impeachment to the Senate, to-morrow at 12 o'clock.

BREACH OF PRIVILEGE.

The House then again resolved itself into a Committee of the Whole on the report of the Committee of Privileges, on the dispute between Mr. Lyon and Mr. Griswold, Mr. Dent in the Chair; when Mr. Hosmer, from New York proceeded to give his evidence which differed a little, as far as it went, from that delivered by the Speaker.

Mr. Dana was next called upon. Mr. D. said his feelings were pretty strongly interested in the business before the House; and as there were other gentlemen more particularly acquainted with the transaction, for reasons which were satisfactory to himself, he would rather be excused from giving an account of the business, except it should be deemed necessary. He said he had given his testimony before the Committee of Privileges, and it had occasioned some unpleasant remarks. He had, therefore, no desire to place himself in the same situation again, and hoped he should be excused.

After some few observations from different members, the sense of the committee was taken on the subject, and it was against his being excused.

Mr. Dana, from Connecticut, then gave his evidence. It differed principally from that of the other members, in giving an account of the conversation which passed between him and Mr. Lyon before the Speaker came up to them, and cautioned them to be cool. This conversation, it seems, arose from Mr. Williams, of New-York, having told Mr. Dana that Mr. Lyon had said to him. "that the representatives from Connecticut would all be turned out, if they voted against Mr. Nicholas's amendment." Mr. Dana questioned Mr. Lyon on the subject; and Mr. Lyon replied that he had not said so, but "that they would all be turned out, if they carried their point," which was afterwards explained to be, "that the President should have power to appoint men to offices

where the appointments were not authorized by law." The warmth which the Speaker interrupted, was principally occasioned by the one denying and the other maintaining that this was the object of Mr. Nicholas's motion.

Mr. Coit, from Connecticut, was next called upon. His evidence was less full and particular than any of the preceding, as he professed he took but little notice of the conversation which he heard passing.

Judge Chipman, a Senator from Vermont, was next examined. His evidence principally went to prove the manner in which he had heard the *wooden sword*, and the cashiering of Mr. Lyon, spoken of in the State of Vermont, and the manner in which Mr. Lyon bore it. He referred particularly to two conversations which took place in companies where he was present with Mr. Lyon, and the subject was introduced. In the first of which he had introduced it without giving any offence; in the other he stated that Mr. Lyon said "that he should take no notice of anything which should be said upon the subject in that part of the country; but that if any one should insult him with it at Philadelphia, it should not pass with impunity."

Mr. Goodrich, from Connecticut, now rose to state what he knew of the subject. His testimony related to what passed between Mr. Lyon, Mr. Otis, Mr. Champlin, and himself, in the stage from New York to this city, which had relation principally to Mr. Lyon's having been cashiered, and his having worn the *wooden sword*, which he himself had, in a great degree, voluntarily given them an account of.

Mr. Champlin, from Rhode Island, was next called upon; but, upon his declaring that his evidence was exactly to the same effect with that just delivered by Mr. Goodrich, he did not think it necessary to take up the time of the committee with delivering it, and hoped he should be excused. The committee excused him.

Mr. Lyon understood General Sumter, from South Carolina, could give some information to the committee; he requested, therefore, he might be sworn.

Mr. Sumter declared he knew nothing of the business, except what he had heard from Mr. Lyon soon after the affair happened.

After some observations, however, Mr. Sumter was sworn, and proceeded to give a narrative of what Mr. Lyon had said to him; when he was interrupted by Mr. Bayard, who declared his evidence incompetent; as it was not only hearsay evidence, but came from one of the parties. It was argued, on the other hand, by Messrs. Nicholas and Gallatin, that as it had been doubted whether Mr. Lyon had heard Mr. Griswold when he first mentioned the wooden sword, the evidence of Mr. Sumter would go to show that he did, as Mr. Lyon told him so, immediately after the affair happened.

It was at length agreed that that precise question should be put to Mr. Sumter, viz: "Whether Mr. Lyon told him that he heard Mr. Griswold address him twice on the subject of the wooden sword?" which Mr. Sumter answered in the affirmative.

The Speaker inquired of Mr. Sumter if he knew the moment at which the insult was committed, and how long a time elapsed between that and the period at which Mr. Lyon had spoken to him on the subject?

Mr. Sumter declared that he did not know precisely the time at which the insult was offered; but that he believed from the agitation of Mr. Lyon it was just before he spoke to him on the subject.

The Speaker again asked him whether he knew Mr. Lyon did or did not, or could or could not, have spoken to any other member, before he spoke to him?

Mr. Sumter declared he could not be certain of this.

At the request of Mr. Lyon, General Varnum was sworn, but a motion being made for the committee to rise, no question was put to him.

The Speaker said, before the committee rose, he would wish to mention what he thought deserved notice. He thought it improper that persons attending in the House to take notes of what passed there, should publish the evidence of members in an imperfect manner, before they had had an opportunity of correcting it. With respect to his own testimony, in some instances, it had been misrepresented, and in one instance he was made to utter nonsense. He mentioned this, that the same liberty might not again be taken.

The committee rose, and had leave to sit again.

On the House being resumed,

Mr. S. Smith hoped some notice would be taken of what had fallen from the Speaker in Committee of the Whole, with respect to the publication of the evidence of members before they had had an opportunity of correcting it.

Mr. Brooks thought a regulation of this kind would be extremely proper.

The Speaker said, until the House should make an order on the subject, he did himself prohibit the publication of any evidence in future, until it should be corrected by the members themselves, and that a failure in the compliance with this order would be considered as an abuse of the indulgence given to persons attending upon the floor of the House to take notes of their proceedings.

Wednesday, February 7.

William B. Giles, from the State of Virginia, appeared and took his seat.

Ordered, That a message be sent to the Senate, to inform them that this House have appointed managers on their part, to conduct the impeachment against William Blount, and have also directed the said managers to carry to the Senate the articles agreed upon by the House, to be exhibited in maintenance of their impeachment against the said William Blount; and that the Clerk of this House do go with the said message.

Mr. Thatcher, from the Committee on Post Offices and Post Roads, to whom was referred a resolution of the 12th of January, proposing that

the Attorney General should have the privilege of receiving and sending letters and packets, free of postage, moved that that committee have leave to report on this subject, by bill or otherwise. Agreed to.

IMPEACHMENT OF WILLIAM BLOUNT.

The order of the day being called for,

Mr. Sitgreaves said it would be recollected that he had yesterday given notice that the managers appointed to conduct the impeachment against William Blount, would to-day, at twelve o'clock, exhibit the said articles before the Senate. As the time was near at hand, and as it was usual on all solemn occasions like this, for the House to give sanction to its managers by an attendance at the time, he thought it would be better that the House should not resolve itself into a Committee of the Whole, until this business was done. It might be expected a message would shortly be received from the Senate on the subject.

After some conversation on the subject, it was resolved to go on with the order of the day, until the message from the Senate should be received.

BREACH OF PRIVILEGE.

The House accordingly again resolved itself into a Committee of the Whole on the report of the Committee of Privileges, Mr. Dent in the Chair; when

Mr. Dana rose and complained that the printers, notwithstanding the prohibitions of the Speaker of yesterday, continued to report the evidence delivered before the committee, before it had been corrected by the members themselves. He said it had been represented that he had said the only cause of heat between him and Mr. Lyon had been the amendment of the gentleman from Virginia on the question respecting foreign intercourse; whereas he had stated there was other conversation which tended to irritate him, though, it was true, he did not say what that conversation was. He would now, however, state some of the particulars. Mr. D. was proceeding, when it was proposed that what the member had to add to his evidence should be delivered to the committee in writing.

Immediately after this proposition was made a message was announced from the Senate, informing the House that the Senate would be ready to receive the articles of impeachment against William Blount, at twelve o'clock.

The hour being near at hand, the committee rose, and the House adjourned for half an hour.

IMPEACHMENT OF WM. BLOUNT.

The managers of the impeachment, accompanied by some of the members of the House, accordingly went up to the Senate for the purpose of exhibiting the articles of impeachment against William Blount; when, being introduced, Mr. Sitgreaves made known their mission by an address to the President of the Senate; after which, the President having said the Senate were ready to receive the articles of impeachment; and the Sergeant-at-Arms having proclaimed silence, the other managers having taken the seats appointed them, Mr. S. proceeded to read the articles of impeachment; which, having finished, the President of the Senate returned for answer words to the following effect:

"Gentlemen, managers on the part of the House of Representatives: The Senate will take such order on the articles of impeachment which you have exhibited before them as shall seem to them proper; of which due notice will be given to the House of Representatives."

Upon which the managers and members attending then retired.

The House of Representatives then resumed their meeting; when Mr. T. Claiborne introduced a motion for providing Senators, who should at any time attend the debates of the House, seats on the right and left of the Speaker. After some observations, this motion was postponed till the 3d of March, 1799.

MILITARY AND NAVAL EXPENSES.

The Speaker laid before the House a communication from the Treasury Department, enclosing a report and sundry statements of expenditures in the military and naval departments, in consequence of three resolutions of the 3d of March, 1797, which were ordered to be printed; those which had relation to the Naval Department were referred to the committee appointed to inquire into the expenditure of money in that department, and those which related to the military establishment were referred to the Committee of Ways and Means.

BREACH OF PRIVILEGE.

The House then again resolved itself into a Committee of the Whole on the report of the Committee of Privileges; when Mr. Varnum was called upon to give his testimony.

The evidence of Mr. Varnum being gone through, and Mr. Van Cortlandt having been sworn, the Chairman desired to know if any other evidence was intended to be called; if it was, it would be well to have the gentlemen named whilst the Judge of the District Court was present.

Mr. Lyon said, if any gentlemen of the committee were present at the conversation which passed between him and the Speaker, he should wish them to be sworn. He believed Mr. Harper and Mr. Cochran were present.

Mr. Stanford said he also was present.

The oath was in consequence administered to Messrs. Harper, Cochran, and Stanford.

The committee then rose, and had leave to sit again.

Thursday, February 8.

Mr. Bayard, from the committee appointed to prepare and report an uniform system of bankruptcy, reported a bill, which was committed for Monday week.

BREACH OF PRIVILEGE.

The House again went into a Committee of the Whole on the report of the Committee of

Privileges; when Mr. Van Cortlandt was called upon to give an account of what he knew of the subject.

Mr. Van Cortlandt said he knew nothing about the business except what he had learnt from Mr. Lyon since the affray happened.

Mr. Gordon observed that as the gentleman (Mr. Brooks) who wished his colleague to be sworn was not then in the House, he hoped the other gentleman who had been sworn would be examined.

Mr. Lyon said, the reason which had induced him to request some gentlemen to be sworn, who were present at the conversation between him and the Speaker, was, that he did not think it had been related to his advantage; but he had since thought it was unnecessary to examine them. If the committee wished their examination, he should not oppose it, but he had then no desire to have it.

Mr. Brooks having come into the House, he said, what he wished his colleague to prove was, that this was not the first time Mr. Lyon had had fracas with members of a Legislature.

Mr. Lyon said, gentlemen wished to blow hot and blow cold. At one time it was said he received affronts with impunity, and at others that he was very irritable. He supposed the committee were already clear he was irritable enough; if not, he was ready to confess it.

Mr. Harper did not think this sort of testimony proper, as it would be introducing particular facts to impeach a man's character which he was not prepared to meet, which was not admitted in any court of justice.

The testimony of Mr. Van Cortlandt was not heard.

The Clerk then proceeded to read over all the evidence which had been given to the committee; in the course of which some additional questions were put and answered.

The reading of the evidence by the Clerk being finished, and all the questions put upon it which occurred to gentlemen,

The Chairman read over the resolution which had been reported by the Committee of Privileges, for the adoption of the House; which was in the following words:

"*Resolved*, That Matthew Lyon, a member of this House, for a violent attack and gross indecency committed upon the person of Roger Griswold, another member, in the presence of the House while sitting, be, for this disorderly behaviour, expelled therefrom."

Mr. Lyon then rose, and spoke as follows:

Mr. Chairman: I feel myself extraordinarily circumstanced, and accidentally drawn into a very serious situation, merely by my ignorance of the House of Representatives being likely to take cognizance of an affair that happened when the members of the House were at their amusement and recreation; when every one was doing that which was right in his own eyes. How much I was supported in this opinion by the conduct of the Speaker, every gentleman may see by his testimony. He sat in a chair within the bar facing me as I stood without it. He spoke to me of my country, and the conduct of some people there concerning the stamp act; it appears I turned the conversation towards Connecticut; it appears I had four or five other gentlemen's wit and raillery to bear, and this in the hearing of the Speaker. Does this look like the House being sitting?

How could I imagine this House was sitting, when the Speaker suffered me to be interrupted when speaking to him, by the remarks and jokes of four or five gentlemen?

How could I imagine the House was sitting, when the Speaker was joking me about an embassy to Kamtschatka among the fur tribe?

How could I imagine the House was sitting, when I heard, and knew the Speaker heard, Mr. Griswold insult me, without checking him?

How could I imagine the House to be sitting, when the Speaker suffered Mr. Griswold to proceed a second time with the most provoking insolence?

Had the House been sitting, I should not have been called on by Mr. Dana, with respect to something Mr. Williams had said; consequently I should not have entered into a conversation about Connecticut; the Speaker would not have spoken to me of Vermont, and I should not again have turned the subject to Connecticut, and Mr. Griswold would have postponed his premeditated insult—premeditated, I say, because it has been proved that he had notice of my feelings and my determination on this subject.

Is it proper to say the House was sitting, while half the members were standing round the table, while two-thirds of the other half were walking round the bar, the Speaker engaged in jocular conversation, and the few who remained in their seats, either in private conversation or writing letters?

But, Mr. Chairman, it seems, by the course this business has taken in the committee, that I am to be criminated for holding an indelicate or impolite conversation within the hearing of the gentlemen from Connecticut. Every one knows there are two different opinions entertained in this country with respect to the management of the Government, and every one who knows me, knows that I am very free in speaking my opinion on these subjects. There are many, and I believe some in this House, who know something of the rough, illiberal manner in which I have been treated in the New England newspapers, on account of my political opinions; and I believe there are many persons in this House who are well acquainted with the kind of politeness which the gentlemen from Connecticut make use of towards their opponents; and some are acquainted with the share of politeness which those gentlemen deserve from me.

If the House are at a loss on this subject, they will, I hope, recur to the language made use of by Mr. Coit and Mr. Dana, in their testimony; and the House, I believe, will recollect a speech from a gentleman who sits behind me, in which he told the committee twice or three times that I was no gentleman.

Again, I say, Mr. Chairman, I am very extraordinarily situated. Evidence has been introduced into this House to induce the members to believe that I left Colonel Warner's regiment with dishonor; that I am a person of disrepute; that I have been in the habit of receiving insult with impunity. Here I am, three hundred and fifty miles from home, and from the evidence who are able to show the contrary. Had I a reasonable opportunity. I could prove, by the Lieutenant Colonel, who is now General Safford, and several other officers of that regiment, that when I left it, I left it with the regret of much the greater part of the officers and all the soldiers—I mention the Lieutenant Colonel because Colonel Warner is not living. My certificate of having settled my accounts, which is at home, would prove my having done my duty well.

I could prove my having taken my musket and marched to the lines every day, during the siege of Burgoyne. I should not have mentioned this circumstance, had not the Speaker mentioned his having done so when Paymaster.

I could also prove, that when an officer offered me an insult, I chastised him before the officers of that regiment.

[Mr. Champlin asked whether the gentleman said he had chastised an officer, or would chastise him?

Mr. Lyon answered that he had chastised him.]

I could prove that I took the commission in Colonel Warner's regiment when I was driven from my plantation by Burgoyne's invasion; that I resigned my appointment, and left the regiment for the care of my family, for preferment, for honor, for superior office, and to serve the people of the State of Vermont.

I could prove, had I opportunity, that I was immediately appointed Deputy Secretary of the State, Paymaster of the troops of Vermont, assistant to the Treasurer, assistant to the Commissioner of Loans, and Captain of the Militia, besides being called on to act as private Secretary to the Governor.

I could also prove that within two years from the time of that resignation, I was appointed Secretary to the Governor and Council, a Member of the Legislature, Clerk of the House of Assembly, one of a Committee for the Collection and Revision of the Laws, and to a number of other offices under the authority of that State, besides a considerable number of offices in the municipal establishment of the town in which I lived, as well as my promotion to the command of a regiment, and all this before I formed a connexion with one of the most respectable families in that State. I could prove also, that I have been a member of the Legislature of Vermont, except two years, ever since; that I have been appointed to many other offices in which I did not think proper to serve, such as Auditor of the Treasurer's Accounts, and Judge of the County where I live.

By these things, and my standing in this House, I could prove that I have always been respected in the country I represent, and where I have lived these twenty-four years.

The free electors of my district have given me a preference to a gentleman of very great respectability, one who has served six years with unimpeachable fidelity in this House, and is now Chief Justice of the State of Vermont; yet evidence has been adduced in order to show that I am a person of disrepute.

As to my being in the habit of receiving insult with impunity—for which it seems Mr. Chipman's testimony was introduced—were I allowed to call testimony from Vermont, I could very easily prove so much on this head, as, perhaps, to prove, in the minds of some gentlemen, that respectability which, in every other respect, attaches to my character. Among other things, I could prove that the gentleman from Vermont who was called to give testimony against me, has, with the politeness peculiar to a certain country which I will not now name, insulted me and received due chastisement from me for it.

Mr. Harper called to order. The gentleman from Vermont had already spoken very improperly of witnesses, and he now spoke in a very reprehensible way of Mr. Chipman. He hoped he would be admonished.

Mr. Otis differed in opinion from the gentleman from South Carolina. If the gentleman thought it would be of service to him to inform the committee that he had chastised an officer in the face of his regiment, or beaten a Judge of the Supreme Court, he was right in stating the circumstances.

Mr. Harper said, if he wished to see the gentleman disgrace himself, and the House, he should not object to this mode of proceeding; but he did not.

Mr. Lyon. It would be folly in me to state anything to this committee, that I cannot prove. Nor should I have mentioned that circumstance, had I not been charged with receiving injuries with impunity. I never did receive injuries with impunity; nor did I come here to do so. I would sooner leave the world. Mr. L. then proceeded:

Were I to be allowed time to bring forward testimony from Vermont, I could prove that my character, as a man of spirit, stands on such ground in my country, that I had no need to defend it, by entering into a squabble with such a Chief Justice in court time.

If the proof of these things be considered of importance, I hope I shall be allowed time to send to Vermont to obtain it—for my own part, I cannot so consider it. I must think that the House of Representatives ought never to have taken up the matter of the difference between Mr. Griswold and myself, circumstanced as it was; and that if the House thought otherwise, the due submission to their authority, which I have always stood ready to pay, and the sorrow which I have expressed, and am continually expressing, for my misapprehension, might serve as some mitigation of an offence against the dignity of this House, which I never could have knowingly been guilty of.

Mr. Champlin rose and said, it was expressly declared by the Constitution, "that each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and,

with the concurrence of two-thirds, expel a member," and he thought they were called upon to exercise this Constitutional power of expulsion in the present instance, by the respect due not only to themselves as legislators, but to their constituents; and as they valued the reputation of the National Legislature, both at home and abroad, as they regarded the *American* character, uninfluenced by the spirit of party, without taking into view the relative characters of the person who offered, and the person who received, the insult, without attending to the infinite distance there was between the *one* and the *other*—they were bound to give their votes, upon the present occasion, under the influence only of an high sense of duty and of honor. And under these impressions, he said, he had attentively and impartially considered all the circumstances of the present case, as they had appeared in evidence; and he found it was fully proved that an offence of a gross and injurious nature had been committed by the member from Vermont, (Mr. Lyon,) against the person of the member from Connecticut, (Mr. Griswold;) that the conversation which produced the altercation between them, originated with the member from Vermont; that it was a violent and groundless attack upon the public character of the member from Connecticut; inasmuch as he was represented to be regardless of the public good, and actuated entirely by selfish, sordid views; that this indecent attack upon his political integrity was repelled by a retort, that the occasion fully justified; that in consequence of this retort, the member from Vermont committed, within those walls, and whilst the House was sitting, the gross indecency stated by the Committee of Privileges, and of which the very Speaker of the House was an eyewitness; and that the member from Connecticut, whose cheek glowed with indignation, and whose arm was nerved by the desire of vengeance, recollecting the place in which he stood, and the respect due from him to that House, repressed his resentment. Mr. C. then observed, that the passions of some men, had their feelings been thus outraged by the member from Vermont, would have made him expiate the injury upon the spot. For the outrage committed by him bid defiance to order and decorum, tended to degrade the members of that House from the rank of men, and to reduce them to a level with the meanest reptile that crawled upon the earth. He was therefore compelled to declare, that, in his opinion, nothing short of a vote that would deprive the member from Vermont of a seat in it, could vindicate the honor of that House, which had been deeply wounded through one of its members. He was aware, he said, that the punishment of expulsion was a severe one. And there was no *man*, who had the feelings appropriate to *that character*, and whose mind was formed of common materials, but would be deeply affected by it. It must fix a stain upon the man who suffered it, for a gross and scandalous offence, that the waters of the ocean could not wash away. It should, however, be recollected that it was no further disgraceful, than as an unquestionable evidence of the gross indecency that gave occasion to it. And if a sacred regard to justice, to the representative character they sustained, and to their own honor, required that they should inflict that punishment upon a member of that House, they ought not to start at the effects of it. For if the member from Vermont should be compelled to return to his constituents, loaded with the opprobrium necessarily attached, in the present instance, to the punishment contemplated, they would have only to regret the disgraceful circumstance, the painful necessity, that had led to it. They would have discharged their duties, and the honor and dignity of the House would be preserved.

Mr. S. Smith said, he did not wish to enter into a discussion of the subject before them. The committee had heard the evidence upon this subject very fully, and he doubted not every one was in full possession of the facts relative to it, and competent to come to a decision. To go into a discussion of the subject, therefore, would only be an unnecessary consumption of time, as it would not, he apprehended, change the opinion of any one. He hoped, therefore, the question would be taken without debate.

Mr. R. Williams did not mean to introduce a debate upon this subject, but merely to state the reasons which had induced him in the select committee, and which would induce him in this committee, and in the House, to vote against this report. He was as fully impressed as any gentleman with the necessity of preserving the dignity and honor of the House, and perfectly agreed with gentlemen as to the propriety of an attention to order and decorum in all their proceedings. But it appeared to him that there was a previous consideration necessary.

It was necessary first to consider how far the powers of the House extended with respect to punishing its members, and whether certain acts should be considered as done in the House or out of it. When these general principles were settled, it would be easily ascertained how far this power would extend in the present case. He was of opinion that the powers of the House should be cautiously extended. This, he thought, would be the opinion of every member of the committee, when they considered the nature and principles upon which our laws were founded, amongst which it is a principal feature that the makers of a law shall not have the execution of it; another is, that all offences shall be declared by law, before any person shall be charged with committing them. The laws are published, and judges are bound down by rule, and every man knows the law; but how is it in the present case? The House of Representatives is the injured party, the members are the judges, the jurors, and the executioners. He did not mention this because he thought the power of punishing its members was improperly placed in their own body; he mentioned it only to show that the power was liable to abuse from giving too much way to passion in their proceedings.

Having made these remarks, he would state

why he thought the House had not the power to expel the member from Vermont. He did not believe that a member of the Legislature could be expelled for any act done out of the House, except it rendered him infamous. Mere lewdness, and breaches of morality committed out of the House, the House could not take cognizance of. A member, out of the House, may do things which may render him very disagreeable society, yet he may come into the House and behave very orderly. His constituents might have known, when they elected him, that he was subject to such behaviour, yet they might have sufficient confidence in him as a representative on that floor; but if any member acted so as to disturb the peace and order of the House, they had, doubtless, a right to turn him out.

Having mentioned what he conceived to be the powers of the House, he would consider whether the act done by the member from Vermont could be considered as done in the House, or in violation of its rules. If he could persuade himself that it was done when the House was in order, in violation of its rules, he should have no hesitation in saying that the member ought to be expelled; since he should take no notice of the offensive words which had been mentioned in justification, for though this circumstance might have considerable weight with some gentlemen, it would have none with him. In the rules for the regulation of the proceedings of the House, it was declared that, whenever the House meets, the Speaker should take the Chair at the hour to which the House adjourned. But where, he asked, was the Speaker, when the act complained of was committed, and what was the situation of the House at the time? He did not mean to say that the Speaker or any other member was not doing his duty, but to show that the House was not in order. The Speaker had left his seat, and was in that of another member; and the members were passing to and from different parts of the House. So that if even it could be considered in such a situation as that the rules of the House would apply to it, some allowance ought to be made to members who might think differently. But certainly no motion could have been stated to the House in this situation.

If the House had been organized, the Speaker could not have suffered such conversation as has been stated to have taken place before him. A breach of order, in such a situation of things, therefore, could not deserve expulsion. Besides, this transaction happened without the bar of the House, which, according to the practice which had existed since he had a seat there, was never considered as within the House, as no member who was standing there, when any question was taken, was permitted to vote. And he thought there was a great difference between a disorderly act done in the House and one done out of it. Two members walking without the bar of the House might insult each other in a variety of ways without disturbing the business of the House, and, in such a case, he did not think they would be liable to be expelled. If this were so, it might be said members could not walk together; he did not see this, for though he would not agree to an expulsion in such a case, he should think it proper to punish the offender.

Mr. W. thought the Constitution was clear on this subject. A bare majority may punish a member but the Constitution has declared that two-thirds of the members present are necessary to expel a member. The power of expulsion is the highest punishment the House can inflict; indeed, it is a punishment which not only goes to the person and character of the member himself, but it also affects all the citizens of a large district of country—his constituents. Being, therefore, so serious a power, as he before stated, it ought not to be extended. The House had no power over members out of the House. If two members were to quarrel and insult each other out of the House, the House could take no cognizance of the affair, except on a complaint made, and, in that case, the offender could not be expelled but might be punished. Suppose, for instance, a member of the House and an individual who is not a member were to quarrel out of the House, could the member come to the House and complain of the individual who is not a member? Certainly not, since the House had no power over that individual. Nor would a member be protected from arrest and process, were he to commit any violent act out of the House which should make him liable to such a process. He mentioned these instances to show that the House had not a right to extend their privileges, but only to protect them.

These were the reasons, Mr. W. said, which induced him to think the member from Vermont ought not to be expelled; not because he approved of his conduct, or that the insult which he states to have been offered to him, as warranting the improper manner in which he resented it; not because the House had not the power to expel its members, but because it was not in such a situation at the time as to authorize an expulsion for the offence, and that, therefore, the person offending did not know that any such consequence as an expulsion could be the punishment to which he was liable. But, though he was against an expulsion, he should be in favor of such a punishment as the House would have deemed proper, if the offence had been committed without the walls of the House.

Mr. W. said, there was another circumstance which ought to be noticed. No application was made for the punishment of this offence by the person offended; but it was taken up as a breach of the order of the House.

Mr. New hoped the question would be taken without further debate, as sufficient time had already been spent upon this subject.

Mr. Harper believed the considerations upon which the vote now about to be taken, presented themselves in such strong colors to the minds of the members of this committee (and they would also shortly appear so to the minds of the whole country) that it could not be necessary to go into a lengthy discussion on the testimony which had been given; nor was it necessary to go into an

answer to what had fallen from the gentleman from North Carolina. Nothing more was wanted on the present occasion, than to call the recollection of the committee to the following, which he took to be the leading circumstances of the case.

First, that a personal outrage of the very grossest and most indecent nature has been committed by one member of the House upon another—an outrage which would not have been tolerated in any tavern in the country; a person committing which, would have been turned out of any company, however little entitled to be called polite or genteel; in no society could it have happened without drawing down upon it the contempt of every one present. This outrage was committed in the presence of the House, and in the face of its deliberations. This had been denied, and upon this ground the defence is rested. But, he asked if the House had not been called to order by the Speaker; and, if it had, whether it had been adjourned? It certainly had been called to order, and had not been adjourned, and was therefore in session, since it could not get out of that state, without an adjournment; and though it is true that the Speaker had left his Chair, yet any member might have called him to it, and introduced any motion to the House. Besides, he asked whether counting the ballots for managers of the impeachment of Mr. Blount, was not the business of the House? Or was it not the business of the House to read communications from the President, or the heads of Departments? It certainly was; yet it was very common, during the reading of such communications, for the Speaker to leave his Chair, and members to leave their seats. If the members of the House were to be protected whilst they were engaged in one kind of business, and not in another, it would be proper to make a discrimination on the subject, and to say what is the kind of business in the transaction of which its members shall be protected.

But it was said, this affray happened without the bar, and that the cognizance of the House did not extend there. If this were the case, any disorder might be committed with impunity in the lobby or galleries. Did not gentlemen, who have been used to attending Courts of Justice, know that the power of such courts extended without as well as within the bar? Is one spot upon this floor more the House than the other? Certainly not. For if the opposite doctrine were true, no member would be liable to be expelled, except he were to come into the seat of a member and give him a blow.

But it was said the Speaker ought to have called the members to order who were conversing in the disorderly manner which had been stated, and because he failed to do so, it was said to be a proof that he did not consider the House in order. But if the Speaker had forgotten that the House was in session, or if he had done wrong in leaving his seat (which he by no means thought) these circumstances did not put the House out of session; for, if one member were to knock another down, and the Speaker did not call to order, since the House once formed cannot be dissolved without a formal vote, the House would not be less in session than if the strictest order had been kept.

Mr. H. said he should, like the gentleman from North Carolina, omit noticing the provocation said to be given to the gentleman from Vermont. He believed that was out of the question, because, if the act complained of had been in consequence of a blow received, he would have had both the gentlemen expelled; or if the gentleman from Connecticut had given way to his feelings, and struck the member from Vermont to his feet, in return for the insult he had received, in that case he should have been for involving both in one sentence; for, if this rule was once departed from, and provocation was to be set up as an apology for outrage, every person would be left to judge in his own cause as to the sufficiency of provocation. The distinction between words and a personal attack, is a distinction well understood. No language could be sufficiently provoking to warrant a blow. In well-bred society, when a man receives an affront, does he knock down the person giving it? No. He represses his feelings, and takes another time and place to obtain justice; and except the members of that House were to conduct themselves in this manner, they laid prostrate the barriers which protected decency of conduct among them. He could not therefore believe, that any possible provocation could either justify or mitigate the act of the gentleman from Vermont. Indeed, if the provocation was to be looked into, it would be found to be all on the other side.

From these considerations, he was so convinced of the propriety of agreeing to the resolution before the committee, that he was surprised how any person could doubt a moment on the subject. Indeed, if the circumstance had happened without, instead of within the walls of the House, he should have thought it right to have expelled the offender, as he held it to be one of those actions which render a man unworthy of a seat in that House.

A call for the question was made.

Mr. Nicholas said, he was willing to have taken the question upon this subject without debate; but it would be very improper, indeed, to suffer the observations which had been made to pass without notice. As it was too late in the day to enter upon a reply, he moved that the committee might rise.

The committee rose, and had leave to sit again.

The House having resumed, Mr. Sitgreaves moved that the evidence which had been given to the committee be printed. Agreed to.

Friday, February 9.

The Speaker laid before the House a communication from the Secretary of the Treasury, enclosing a statement of the amount of drawbacks paid on dutiable articles for the year 1796, agreeably to a resolution of the House of the 3d March, 1797, which was ordered to be printed.

Mr. Thatcher reported a bill granting the right to the Attorney General of the United States of sending and receiving letters and packets, free of postage, which was committed for Monday.

Mr. Livingston, from the Committee of Commerce and Manufactures, made a report on the petition of sundry proprietors and workers of coal mines, in the State of Virginia, who prayed for a prohibition of the importation of coals, or an increase of duty, on the ground that their mines are sufficient for the consumption of the United States. The committee report, that as coal is every day becoming more an article of the first necessity, they do not think it would be right to comply with the prayer of the petition, especially as the duty paid on exportation in England is equal to the first cost of the coal, and a duty of five cents a bushel is already paid on its importation into this country. Committed for Monday.

BREACH OF PRIVILEGE.

Mr. Harper said, he was under the necessity of performing a very disagreeable duty. It was a duty, however, which he found himself bound to perform, since no other member had thought proper to undertake it. It must be recollected by many members of that House, that the member from Vermont, whose very extraordinary conduct has been for some time the subject of discussion, yesterday, at the conclusion of his defence, made use of an expression so outrageous, so gross, and indecent, that no gentleman yet had been able to repeat it*; and if this expression could have been buried in silence, he, for one, should have been in favor of its being so buried; but, unfortunately, this could not be the case, it had not only been heard by many of the members, but by many strangers; and he was authorized to say, it was about to appear in one of the public gazettes of this city. As it could not, therefore, be kept from public view, it was necessary to take such notice of it as it deserved. Before he made it the subject of a resolution, he should move "that the Chairman of the Committee of the Whole, who heard it, be requested to state precisely, in writing, the expression, and the time, place, and manner, in which it was uttered." He did not wish to put the gentleman to the painful task of repeating it. He wished only that he should state it in writing.

Mr. Dent said, it would not be in his power to state the precise expression, as he did not hear the first part of the sentence. It was true he heard the offensive term.

Mr. Harper hoped he would state the offensive term, and the time and manner of using it.

The question for requesting the Chairman to put the offensive expression to writing, was carried, 42 to 41.

Mr. Dent accordingly presented the offensive words to the Chair; which, without being read, was referred to the Committee of the Whole to whom was referred the report of the Committee of Privileges. The question for this reference was carried by the casting vote of the Speaker, there being 43 votes for it, and 43 votes against it.

The House then again resolved itself into a Committee of the Whole on the report of the Committee of Privileges; when

Mr. Morris rose to state, that what his colleague (Mr. Lyon) had said yesterday, with respect to his having chastised Mr. Chipman for improper conduct, must have been unfounded, as that gentleman had a character as respectable for propriety of conduct as for talents. He had also been in actual service during the war, and could not be considered as devoid of courage. He was confident, therefore, that the assertion could not be supported.

Mr. Shepard said, the member from Vermont had been guilty of an indecency for which he ought to be expelled from his seat. The offence was such as would not be suffered in any civil company. It was an offence without provocation; for the first offence was committed by him on the member from Connecticut, in saying that the members from that State sought their own interest at the expense of the public good. He was surprised that any gentleman would defend such a man. But the offence was attempted to be mitigated by saying that the House was not in session. He believed the House was as much in session as it ever was, as one-half of the members at least were in their seats; and the offence being committed within the walls of the House, the member ought certainly to be expelled. If the House will not expel a member for an offence so gross, what would the world say of them? They would be called *beasts* and not gentlemen. But it was said that the constituents of the member from Vermont would be injured by the member's expulsion; so far from it, he doubted not nineteen-twentieths of the people of his district would say he was deserving of expulsion. Was a man, who could be guilty of such behaviour as is complained of, fit for a legislator? Certainly not; no well-bred, well-disposed man could keep company with him. The gentleman acknowledged that it was his common practice to scourge every one who offends him. It was not necessary, therefore, to send to Vermont to inquire his character there. For his own part, he could not consent to sit with him. If he must be a legislator, it should be in a part of the world where all decisions were made by *spitting* and *scratching*. He was sure no gentleman or modest man could plead in behalf of such a man. He hoped the member from Vermont would be expelled, without spending much time upon the subject. He was sure this ought to be done, if they had any regard to their own dignity, or the dignity of the country.

Mr. Nicholas was always desirous of the approbation of the gentleman who had just sat down, because he believed he always acted from the best motives. He hoped that gentleman would also have allowed that others might act from principle as well as himself. He could not refrain,

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* The expression alluded to was understood to be something like this: "I did not come here to have my —— kicked by every body."

however, from doing what he conceived to be his duty, whatever might be the motives which gentlemen chose to attribute to his conduct. But, whatever his opinion might be of the measures proposed to be taken in consequence of the offence under consideration, with respect to the offence itself, he condemned it as much as any other gentleman, as indecent and improper.

Mr. N. felt it necessary to make some observations on this subject, because the report of the Committee of Privileges does not state facts as they are; he supposed it had been composed hastily, as it certainly does not correspond with the impression which the evidence makes. The gentleman who introduced the resolution, like a good lawyer, has made the case broad enough to support it. He has evidently given way to the impression of the moment, as the evidence certainly does not support the allegations therein contained. [Mr. N. read the resolution.] He said he could not agree to this resolution, because he denied that the House was sitting, or that the offence was done in view of the House. He should make some observations on the testimony, and show wherein it differed from the report of the committee. He needed no witness to prove the state of the House at the time this transaction took place; it was fully in the recollection of every gentleman. Not one of them, except the two members appointed to count the ballots, was attending to public business, and very few, indeed, who were not out of order. The area of the House was full of squads, carrying on conversation without restraint. One article of testimony was strong as to this fact. The attention of the gentleman from Maryland (Mr. S. Smith) was drawn to the conversation holding around the fire behind him by a loud laugh. There could be no doubt, therefore, that the House was not engaged in business, was not in order, was not in a situation to be disturbed by any transaction of this kind. Indeed, he did not understand, from what had fallen from the gentleman from South Carolina, that he thought it was. His argument was, that the Speaker, having once taken the Chair, called the House to order, and the Journals having been read, the rules of the House knew of no mode by which it could be disorganized without an adjournment.

Suppose this position was true, what results? Why, that it was their business to have been in order, and not that they were so; for, whilst the Speaker was out of his Chair, whilst members were out of their places, and violating the rules of order, no one could say that the House was in session, or that it could claim respect from others as a Legislative body. Was it possible, therefore, for men, who were not doing what the rules of the House required them to do, to call upon other members to keep the rules inviolate? But, Mr. N. said, he did not admit the principle, that the business of the House can never be suspended until an actual adjournment takes place. At the time when this transaction happened, the House had authorized two of its members to do a business which actually prevented the ordinary business of the House from going on. For, he asked, if a motion could have been made whilst these members were counting the ballots? Upon another occasion, after the ballots were collected, a motion was made to adjourn, but it was declared to be out of order. The Speaker gave no reason for this opinion; but it was obviously because tellers were employed to count the votes, and had not yet made their report; and would gentlemen say that another motion would have been better received, or have been acted upon so as to have prevented these gentlemen from doing their business? Certainly not. There could not, then, have been a motion made. What, then, was the state of the House? Were members obliged to keep their seats, though they could not be called upon to do any business? They could not be considered as inspectors of the conduct of gentlemen appointed to count the ballots, their distance prevented them from having any such cognizance. Here was a situation, then, when the members of the House were discharged from any duty for two hours, and during this period, the transaction which is now the subject of inquiry, took place. Members might have gone where they pleased; all that was required of them was, to be ready to receive the report when the tellers were ready to make it. Suppose a great part of the members had left the House, and when they returned, had been told of this quarrel. It must have been said, your rules consider the House as in session, though you were absent, and the quarrel having happened, it must be stated as happening in the view of the House whilst sitting. How, said he, must the resolution be formed, so as to declare the fact in such a case? It must be, "Resolved, that Mr. Lyon, for a gross indecency and insult committed, &c., at the time when the rules say the House ought to have been sitting, but when, in fact, the House was not in order, nor the members in the House," &c. And was it not a strong presumption against this resolution, when recourse must be had to such an extraordinary form to make it consistent? Or could gentlemen say, when the resolution before the committee went abroad, that the House was in actual session at the time? They could not. He recollected one circumstance which peculiarly marked the situation of the House. Near the time when the offence now under consideration was committed, one of the Senators was sitting in his chair writing a letter. He did not himself think the House in session at the time, and should have thought himself as much at liberty as if the House had not been called to order at all. In order to justify the resolution before the committee, the fiction of the rules had been set up against fact. Mr. N. said he should not notice the offence at all as done out of the House, because the resolution confines the act as an offence against the House whilst sitting. He did not say this because he was afraid of meeting the subject on that ground, but because it was foreign to the present question.

The gentleman from South Carolina yesterday made some observations on this subject. He told the committee, and they had been told the same

before, that the situation in which the House was at the time this affray happened was the same as when the Speaker leaves the Chair, during the reading of long communications. Could any one impose upon himself so as to believe this? Was it not the duty of members to attend to the reading of all papers presented to them? Whereas they were not obliged to attend to members employed in counting ballots. Since gentlemen deemed this so clear a case, it was astonishing, he said, that they should rely upon so poor an argument as this. To constitute the crime of which the member from Vermont stood charged, it should clearly appear that the act was done with an intention to break the rules of the House. But, if gentlemen were not satisfied with his statements to prove that the House was not in order at the time, they must certainly allow that there was sufficient reason, from a view of the situation of things at the time, to impose upon a member unacquainted with the rules of the House. The member from Vermont had but lately got his seat in the House, and, of course, was not well acquainted with its rules; and seeing the members of the House in the situation they were, the Speaker himself holding conversation with him, and, though not encouraging him in it, yet, by asking questions, pushing him further into it than he otherwise would probably have gone—the Speaker calling upon him and another gentleman in conversation, "to take care, or they should want seconds." When this was the situation of things, might it not have imposed upon any member in the House? Could it be considered that the Speaker thought the rules of the House were likely to be violated when he thus spoke?

Mr. N. did not pretend to say that this conduct of the Speaker was not conformably to the rules of the House; but he believed it was intended as a private admonition, and not as an order of the Speaker of the House.

In taking notice of the circumstances under which this business happened, he did not mean to justify or apologize for the conversation of the member from Vermont. He did not consider it either decent or justifiable; but he thought there was a justification arising out of the passions of this gentleman, which could not be lost sight of.

Before he went to this circumstance, Mr. N. said he would state that the report of the Committee of Privileges did not agree with the facts as they had been stated to the Committee of the Whole. It is stated in that report that "the Speaker was sitting in one of the member's seats, and Mr. Griswold near him; that Mr. Lyon was standing without the bar of the House, speaking loud enough to be heard, and that the subject was the State of Connecticut." It was of importance that this statement should be correct, as it would appear as the act of the House. By it, it would appear that, though the conversation of Mr. Lyon respecting Connecticut was not addressed to Mr. Griswold, the thing was tantamount, as he was present. The Committee of the Whole would recollect that this was not the case. It was established in proof that the conversation had continued for some time between the Speaker and Mr. Lyon before Mr. Griswold was present; and none of the other Connecticut members were near enough to be considered as the objects of it. He would go further, and say that it was not in proof what part of the conversation of Mr. Lyon Mr. Griswold heard. The most offensive part of the discourse was the beginning of it, which it was pretty evident Mr. Griswold did not hear. Mr. Lyon began by saying that the members from Connecticut were seeking offices at the expense of the public good; but not one of the witnesses could say that Mr. Griswold heard this—one of them, indeed, thought so, but was not certain. There was strong presumptive evidence that Mr. G. was not within hearing of this conversation, as none of the three different observations which he made to Mr. Lyon referred to the most offensive part of it.

When Mr. G. asked Mr. Lyon "if he fought the people of Connecticut with a wooden sword?" it referred to that part of his conversation when he said he had to fight the people of Connecticut when they came into his district. When Mr. G. said, "You would not convince the meanest hostler," it evidently applied to that part where he said, if he were to go into the State of Connecticut, he could change the sentiments of the people; and when he added, "You could not effect your purpose, if you took with you your wooden sword," it had relation to the same part of Mr. Lyon's conversation. Though, it must be allowed, this conversation was arrogant on the part of the member from Vermont, yet no evidence went to show that Mr. G. heard the most offensive part of it, as it was clear no part of what he said had reference to it; and, if he did hear it, there was still less probability that Mr. L. knew that he was within hearing.

Mr. N. said, he would consider the effect which Mr. Griswold's attack was likely to produce upon Mr. Lyon. It appeared that, for some purpose or other, which he pretended not to know, Mr. Lyon's history was to be raked up for twenty years past. A transaction, which at that distance of time took place, had been introduced with a view of sinking him in public estimation. The first time this painful circumstance was mentioned to Mr. Lyon, he refused to take notice of it; but the gentleman from Connecticut laid hold of him, which was tantamount to saying, "you shall listen to what I have to say," and repeated the sarcasm.

Mr. N. said he did not know, (because he hated questions of privilege, and thought they ought always to be avoided, except pressed by necessity, from their incompetency to decide upon them,) what ought to have been the conduct of the gentleman from Vermont on this occasion. But let gentleman throw this member to what distance they please from them, they must allow him to possess some feelings in common with themselves. They could not suppose he would be willing to resign a character and standing which had been obtained at the price of long service. And though gentlemen may consider themselves as vastly

more enlightened and respectable than the member from Vermont, they cannot expect he is devoid of every principle of self-love. Could any gentleman have forborne to take notice of an insult of the kind which was offered to him? It was impossible. He did not pretend to say that the particular act with which the gentleman from Vermont resented the affront was the most proper; he did not know what would have been proper. He did not know in what way such an insult should have been treated.

Gentleman would probably say he ought to have forborne noticing the sarcasm. But did not gentlemen know that there was a circumstance in this member's situation which rendered it a peculiar one? If he had had recourse to the usual mode of settling differences would it not have been said to him, "No; you have been cashiered—you are infamous—I will not meet you as a gentleman?" In what way, then, could this member have shown to the world that, if he had once failed in his duty, he was ready now to show that he was no coward, and that he had been injured and abused in the former transaction? He asked whether, being placed in such a situation, there was not some allowance to be made for acting in the manner he did. Nor did Mr. N. think the mode which Mr. Griswold had taken to repel any thing which the gentleman from Vermont had said against the Representatives from Connecticut was the best calculated for the purpose.

If, then, there was an extenuation of the conduct of Mr. Lyon, either from the situation of the House at the time, from his being inexperienced with respect to the rules of the House, or from his peculiarity of situation as to the stigma which had been revived upon his character with respect to his courage, he did not think it was a case which called for the severest punishment which could be inflicted. If the highest punishment were to be inflicted in this case, what would gentlemen do where a man should render himself infamous; when a man should be found so defective of moral principle as to be wholly unfit to hold his situation? To act consistently, he thought, they should allow of some grade in the nature of offences.

Mr. N. concluded by noticing an observation from gentlemen advocating the motion, cautioning gentlemen against being influenced by a spirit of party in the present decision. He thought such observations would be best omitted, as they would operate equally on both sides.

Mr. Otis said, he was one of those who had a sincere wish that the question before the committee could have been decided without debate, and that the world might not have been informed that there could exist a difference of opinion in coming to a decision on this question. For his own part, he should have thought that the standard of propriety and moral decency, the finger of sentiment, would have pointed out a direct course on this occasion; which, if it were not taken, he was convinced, when gentlemen were called to serious reflection upon it, they would see that they had been instrumental in sealing the infamy of the National Legislature; for the present question, he said, was not a question between the gentleman from Connecticut and the gentleman from Vermont, but between the House of Representatives and one of its members, who had broken down the barriers of decorum which it had set up for its government. It was a question between the people of the United States, whose sovereignty had been insulted, and the delinquent; between the whole Union and the State of Connecticut, an integral part of that Union, against a war of outrage and indecorum springing from ungovernable passion. Every member was, therefore, called upon to make one common effort to prevent their common infamy.

In considering this question he would challenge any one to show so shameful an act of assault and battery, committed without provocation, at any former period, or in any country. It would be in vain to look to any of the States of Europe, agitated and convulsed as they are, for such an offence. No man conversant with the history of the Six Nations, or with that of any other savage tribe, could point out an instance of outrage so monstrous and so abominable. It was conduct which could not be suffered in a brothel or in a den of robbers! Every American heart would grow sick at the recital of it. He did not mean, however, to attempt an aggravation of the offence; but it was an offence which had deeply affected him; he thought of it by day, and when upon his pillow he had not forgotten it.

What was said in defence of the member from Vermont? No attempt had been made to justify his conduct; yet some gentlemen had brought forward circumstances of extenuation. What were they? It was said some provocation was given, and that some allowance ought to be made on account of the situation of the House at the time.

With respect to the provocation, he would not now inquire whether any provocation could justify the offence which had been committed; but on examination into the facts it would be found that the provocation was on the part of the gentleman from Vermont, as his was an accusation founded in error, while that of the gentleman from Connecticut was founded in truth, as the story of the wooden sword, arising out of the gentleman from Vermont having been cashiered and disgraced from the army, was not denied, while what had been said with respect to the Representatives from Connecticut acting contrary to the sense of their constituents was founded in falsehood. These were charges made aloud, and which the gentleman from Connecticut, if he did not hear them, might have heard as well as not. And shall it be said that members of this House, who quit the comforts of home, the pleasing society of friends, and honorable employments, to serve their country, shall be told that their motives are venal; that they are actuated by a wish to obtain offices in which they might starve in splendor, and in which they could be abused with impunity? Yet this was said by the gentleman from Vermont; so that the provocation came from him, and, instead of

seeking here for extenuation, nothing but aggravation was found.

With respect to the situation of the House at the time, gentlemen who have recourse to this circumstance must sanction one of two positions, namely, that the House was not in session, or that the members of the House were to be protected while in certain kinds of business and not in others. With respect to the House not being in session, could it be said that, after it had been regularly formed, it could be dissolved without a vote for the purpose? Should it be said that while the Speaker was in his Chair members were safe, but if he stepped out of it club-law should immediately commence; that they were to be protected on this side and not on that side of the bar; that this side was a sanctuary, but that that was a bear-garden; that in their seats they were safe, but if they walked out of them they were liable to be cudgelled! Surely not; these mistakes arose from a misunderstanding of the rules under which they acted. They were intended to prevent offences from being committed; and was it not as likely that offences would take place after the Speaker had left his Chair as while he was in it? It could hardly be supposed that while the Speaker was in his Chair, and every member in his seat, that any violence would happen. It could not be expected that even the member from Vermont would go and spit in a member's face or knock him down while he was sitting in his place. It was when members were outside of the bar, when they were not under so much restraint as at other times, that the rules of the House were most liable to be infringed; and members were surely protected as much as if they were in their seats.

The gentleman from Virginia had stated that a great part of the members were without the bar of the House; but was no respect due to those who were within it? They were certainly not instrumental to the disorder. Would the people have any confidence in their Representatives, if they had nothing to do but go out of the bar to fight? This was a distinction which he never expected to have been set up, and it certainly arose from a prejudiced view of the subject. He believed the American people had already anticipated their decision, and it could only be in one way that the House and the country could be saved from indelible infamy.

The same gentleman said that all the members might have left the House. If this had been the case, or if a greater part had left it, he supposed the Speaker would have said there was not a quorum, and the business could not have proceeded. Mr. O. said he did not mean to go into the subject of privileges, though he did not, like the gentleman from Virginia, hate that or any other subject, the discussion of which was properly before them. He thought, however, that the conduct of the member from Vermont in saying that if the members from Connecticut were to vote against a certain motion, which was then the order of the day, they would be turned out of their places, was a direct attempt to control the freedom of debate; the gentleman came seeking from Connecticut, where, he said, he had ascertained the sentiments of the people, and undertook to intimidate and abuse the members from that State. Was it not clear that such conduct had a tendency to provoke recrimination? And if it were admitted, it must be evident they had nothing to expect but disorder, bloodshed, and murder; if gentlemen decided reasonably, they must decide that there never could be a greater outrage than this, committed with so little provocation. The resolution reported by the Committee of Privileges was a proper one, and to agree to it, was the only way in which they could purge the House of its pollution. If this was not done, it could not be expected that this would be the last affray which would take place in the presence of that assembly; if not done, the people would lose their confidence in their representatives; and if not done, he, for one, should feel the honor of a seat in that House as greatly diminished and overshadowed—as falling, as declining. Indeed, the only satisfactory mode would be, to send the member from Vermont back to his constituents; which would show to the world that a conduct like this could never receive the sanction of the American people. If this mode were not adopted, it would be better for the House to expunge its rules, and trust to their own forbearance for the observance of order; or they had better adjourn and leave the public business undone, to have no rules at all, than to suffer them to be thus grossly violated with impunity.

Mr. Rutledge was not, like some other gentlemen, for giving a silent vote on this occasion. He was not a little surprised to hear the gentleman from Maryland (General Smith) wish to pass a matter over in silence which cast so indelible a stain upon the character of the Legislature of the United States. It was strange that a period of twenty years should have so cooled the blood of a hero, as to induce him to sit and give a silent vote on an offence which prostrated the dignity and honor of his country! Mr. R. said, he must own, that he had not the philosophy of that gentleman, but should express, in strong terms, the abhorrence which he felt for the gross indecency. He hoped they should expel the member who had thus offended; he was persuaded, from what he saw in the House, that he would not be expelled unanimously, but he trusted the vote would be carried by more than two-thirds of the members present. He would wish, however, the citizens of America, from Georgia to New Hampshire, to know, that, unused to public speaking as he was, he could not sit still on this occasion, when the House of Representatives was attempted to be turned into a mere bear-garden.

It appeared to him that the gentleman from Virginia had spoken to-day because he stood in order to speak. Yesterday he did not wish the vote to be taken until he had delivered his sentiments. He wished that gentleman had felt as much for the dignity of the country, as he did for the gentleman from Vermont; if so, the committee would not have had to listen to his up-hill speech. The gentleman would excuse him for

using this term, as his observations were inaccurate, and he had recurred to things as facts which were not so.

The gentleman had undertaken to say the House was not in session, without attempting to prove it. In confirmation of this opinion, he said that a Senator sat in his (Mr. N.'s) seat during the counting of the ballots, and wrote a letter. This, Mr. R. asserted, was untrue. Whilst the Senator was standing without the bar, he was requested by a member from Pennsylvania to frank a letter. He was invited to take a seat for the purpose. He declined, saying, "your House is in session." On being assured there would be no impropriety in the thing, he went to a desk and wrote the address of a letter as requested, and then retired.

Mr. Findley said that the fact was as had just been stated, except that when the gentleman of the Senate was desired to write the frank, he did not object to it, from an idea of the House being in session. For his own part, Mr. F. said, he did not so consider it, or he should not have thought of asking the gentleman to have taken a seat within the bar of the House.

Mr. Nicholas could only say he saw the gentleman writing there. The gentleman from South Carolina might be assured he did not mean to state as fact what was not so.

Mr. Rutledge said it was not unusual for the gentleman from Virginia to deny the intention of misrepresentation. With respect to the situation of the House at the time this affray happened, Mr. R. acknowledged that it was not in good order, though it was in session. But the gentleman from Virginia said no motion could have been made. He would also say that no motion could be made whilst he was speaking, nor whilst the House was engaged in any other business. There was no way of getting out of session, but by adjournment; so that instead of its being a fiction to say the House was in session, it was certainly a fiction to say it was not so.

He thought with his friend from Massachusetts that this was not to be considered as an offence against the gentleman from Connecticut, but as an offence against the nation; and except the resolution before them was agreed to, what would be the situation of our Ministers and citizens abroad? They would be asked whether it was a fact that one of the members of our National Legislature spit in the face of another? They must acknowledge the fact; but he hoped they would also have it in their power to say, "but the offensive member was immediately expelled."

The gentleman from Virginia concluded his observations with a wish that everything of a party nature might be kept out of view. Mr. R. said this might be desirable; but he also thought it was necessary to look at the business fully. He wished gentlemen to see the thing in this light; for if members were permitted to commit offences with impunity, it would put a minority completely in the power of a majority, and buoy up the latter to a height which would be very inconvenient to a minority. He therefore thought that though a difference of political opinion had drawn a strong line of distinction between them, in order to restore the House to its former purity, they ought to unite their force in expelling the member from Vermont from his seat.

Mr. R. having sat down, the call for the question was very loud.

Mr. Sitgreaves said, before the question was taken, he wished to make some observations upon it. He was one of those who had felt, from the first moment in which he was informed of this occurrence, until the present time, as a member of that body, a very strong sense of humiliation, arising from the fact itself, committed in the face of the House, and from the manner in which the inquiry into the business had been conducted.

On the evening of the day on which this offence was committed, he had said, what he never should repent having said, "that he was at that moment prepared to give the vote which is now called for." He still believed, that to have expelled the member from Vermont before the House separated, would have been the most proper step which could have been taken for preserving the honor of the House, and for expiating the offence. The major opinion was, however, different. Though the offence was committed before their eyes, it was agreed that a committee should be appointed to examine the evidence. They did so, and reported the result. Yet, after this, it had been determined to re-hear the evidence before a Committee of the Whole; so that they had been obliged to expend the time of the House and the public money, in re-hearing a business which had already been sufficiently heard, and they are now called to give a vote upon the resolution originally reported.

The gentlemen who have spoken against the resolution, have made no apology for the fact itself. They have acknowledged the act was indecent, outrageous, and improper; but they availed themselves of circumstances to get rid of the consequences of this confession. Though he owned this admission gave strength to the resolution, yet he was sorry it had been admitted, if gentlemen still opposed the propriety of the resolution; and he hoped, when the fact was admitted, the committee would not have been compelled to listen to any thing in extenuation of an act so gross and indecent.

Mr. S. said, he would consider the arguments which had been adduced to get rid of the consequences which followed an admission of the fact. He confessed he had heard it insinuated, in the course of the examination of the witnesses, that the House was not in order when this offence was committed; yet he hardly expected it would have been seriously maintained. It had been constantly asked whether the House was not in session, from the Speaker's taking the Chair till the vote of adjournment; it was impossible to disorganize the House without a vote of adjournment; and all the pretexts which have been used to get rid of this position, are, to use the argument of the honorable gentleman from Virginia, *fictions* contrary to fact. It was said the House was not engaged in business. Was this true?

Were not two members of the House appointed as tellers to count the ballots for managers, and were they not counting the votes? Was not the House engaged in business when a member was speaking? Surely it was. And was it not also engaged in business when the Clerk was reading papers? It certainly was; and, at the time when this affray happened, the House was as much engaged in the ordinary business of the sitting, as at this, or any other moment. It was said the House was not in order, because the Speaker was not in the Chair. The Speaker is not in the Chair now, nor was he when lengthy communications were received. But, it was also said, that many members were out of their seats. But some were in their places; and could not the House be in session unless all the members were in their places? At this moment, he said, I see groups around the fires, and would it be said that the House was not now in order? It was impossible to show that these indulgences, which members availed themselves of, decomposed the House. It was not in the nature of things that the House could be dissolved in such a way.

But, it was also stated, that the member from Vermont and the member from Connecticut were on the outside of the bar, This was an endeavor to substitute a sort of fiction to get rid of the rules of the House. But could it be supposed, that a member without the bar was less subject to the rules, than when in his seat? Should disorder be admitted because it was without the bar? Gentlemen had created this distinction; but no one had said that an offence committed without the bar would not be punishable; and if it were liable to punishment at all, he saw no reason why it should not be liable to the highest punishment.

Mr. S. was inclined to believe that though these nice distinctions were urged, they were not much relied upon; because, though gentlemen used them, they had recourse to others; and if these had been well-founded, they would have been sufficient.

Is was said, that the member from Vermont could not have put up with an insult like that offered by the member from Connecticut, and that the impossibility of putting up with it was a sufficient extenuation of his crime. He had all along thought that whenever anything was said of the provocation which produced the act complained of, they wandered from the proper path. He believed no anterior circumstance had anything to do with the judgment which the House ought to pass upon this offence. Provocation might make some difference between the parties themselves, but it had nothing to do with the business as it respected that House. If provocation was to be admitted, in extenuation of a crime, no offence could be committed that would not find an apology. If a man's passions and ungovernable nature was to be an extenuation, crimes of the blackest nature would be thus apologized for. But it was agreed, in every society, from the convivial meeting to the Legislature, that some rules were necessary for their government, and when these rules were once fixed, it was necessary for the preservation of order, that they should be observed. If the gentleman from Vermont conceived himself injured, he ought to have taken another time for resenting it. If a number of gentlemen meet together, and an insult is given which is past being tolerated, and which calls for satisfaction and atonement, will any one say that the proper way of obtaining these, would be to interrupt the harmony of the company in which the individuals are assembled? Do not those who call themselves gentlemen suppress their indignation, and seek other means of obtaining satisfaction—means which shall not affect the peace and order of society? Is it not one of the essential rules of the laws of our country, that no man shall be permitted, by giving way to his own private passions, to disturb the order of society? And the same rule ought certainly to be observed in that House more especially.

But will gentlemen say it was impossible for the gentleman from Vermont to postpone an atonement for the offence which he supposed was committed against him? Will gentlemen seriously say this, when the member from Connecticut, who received a much greater insult, was able to preserve the respect due from an individual to the whole Representatives of the people of the United States? Could any man suppose that the feelings of the gentleman from Connecticut were less sensitive than the feelings of the gentleman from Vermont? Would any man call in question his spirit or ability? Do not all who know him, know that his courage, strength, and spirit, enabled him to take instantaneous revenge, had not his respect for the House prevented him from doing so?

But, if they were to inquire into this provocation, the result would be as unfavorable as the principle itself. If an inquiry was instituted at all, it must be carried to its source; and it would be found that the member from Vermont was the aggressor; it would be found that he was in the habit of provoking insult.

It was in proof that he had called in question the integrity of the members from Connecticut. The whole subject of his conversation with the Speaker, was an uninterrupted series of reflections, the most scandalous and untrue, upon the whole delegation from Connecticut; and the person who was guilty of the first provocation was guilty of the whole.

When gentlemen admit that the provocation which the gentleman from Vermont received, as some extenuation of his fault, they must also admit the same for the provocation received by the gentleman from Connecticut; so that when gentlemen find the first and last offence committed by the member from Vermont, an inference is drawn which is irresistible.

For himself, he thought the indecorum which the gentleman from Vermont had been guilty of towards the representatives of Connecticut, would, of itself, have justified his expulsion from the House. He considered the spitting in the member's face as a personal offence; but the others were wounds upon the better part, the moral

spirit of those gentlemen; so that the first offence was the most aggravated of the two.

It was impossible, Mr. S. said, to state a case more clear than that the resolution before the committee ought to be adopted. But was this all? It was not. It was necessary to call the attention of the committee to the statement made by the Chairman, of the grossly indecent words made use of by the member from Vermont, in the close of his defence yesterday. When the member was lying under the reproach of the House, for violating the rules of decorum, for violating the respect which he owed to the House, when on his trial for this very fact, he introduced an indecency of expression, which cannot be overlooked, as if he bid defiance to the House, and were determined to add offence to offence. This alone, as well as his former act, was sufficient to have justified an immediate expulsion. He believed a body properly tenacious of its own honor would have come to a vote of this kind; but the longer the inquiry was prolonged, the more they invited his outrages. He wished, therefore, to add this latter offence to the former, in order to show the full ground of the member's expulsion, since this latter offence was of too gross a nature to be lost sight of. He moved to add the following words to the resolution: "And for a gross indecency of language in his defence before this House."

This offence, Mr. S. said, did not pass outside the bar, or whilst votes were counting, nor was it provoked. If there were gentlemen in the House, therefore, who wished this man still to remain amongst them, let them take the responsibility upon themselves.

There was one circumstance more which had not been noticed, which was the impropriety of depriving the member of his seat, and his district of a representative. It would be more honorable to the district, as men and as citizens, to believe they would rejoice in showing their sense of the misconduct of their member, by returning another. In acting thus, they should be giving the district an opportunity of wiping away the stain which in some degree attached to them for an offence done by their representative. When he was sent back to his constituents, they would dispose of him as they thought proper; if they approve his conduct, they will send him again; if not, they will send another member in his place, less likely to contaminate the body to which he is sent.

Some objections were offered to this amendment by Messrs. R. Williams, and Gallatin. They said, if the expressions complained of were considered as a contempt of court, they ought to have been punished immediately as such; but if they were brought forward as a part of the charge against the member from Vermont, he ought to be heard in his behalf, as on the former charge.

After the amendment had been supported by Messrs. Sewall, Brooks, and Harper.

Mr. Coit trusted when he declared it to be his intention to vote against this amendment, he should not be thought to be an advocate of Mr. Lyon, or of his indecent language. In the course of his defence, he had made use of several expressions highly improper to be used by a member of that House; but they marked the character of the man. He was unwilling, however, to take hold of these circumstances against him, but would give them all the weight they deserved. He presumed the particular expression alluded to fell from the member inadvertently, and was not intended to offend the decorum and order of the House. He therefore thought, notwithstanding the opinion which he had of the man, that it would be more consistent with the candor and dignity of the House, not to notice it.

Mr. Dayton (the Speaker) said, that, in his opinion, the gentleman who had just sat down, had said more in defence of the member from Vermont, than he had himself uttered, or than had been said for him by the gentlemen from North Carolina and Virginia. He had given sanction to the plea of the member from Vermont, who said he did not know that he was violating the rules of the House—*he did it through inadvertence!* Was this a plea to be made for this man? Before, said he, we knew what we had to expect, and that it was necessary to walk with *dirks* or *daggers* for our defence against him; now we know, that when he rises to speak, the ears of all must be stopped, or offended, with his gross indecencies. He hoped therefore, that the gentleman from Connecticut would allow this charge to be added to the resolution. Neither the gentleman from North Carolina, nor the gentleman from Virginia, attempted to defend his conduct. Already it may have been noticed (he at least had noticed it) that the chairs in the line in which the member from Vermont sits, have, in a great measure, been vacated. He hoped, therefore, the committee would agree in bringing forward this last indecency, and join it to the other charge, as it was such as would not be allowed in any *grog-shop* in the country.

Mr. Coit said, he should withdraw his opposition to the proposed amendment, so soon as he was convinced he was wrong; sooner he must not be expected to do it. There was a great difference between words and actions. Every man's experience must tell him that words sometimes drop inadvertently. This might have been the case with the member from Vermont, and he still thought it would be better to pass over this expression.

Mr. Kittera said the expression could not be uttered inadvertently, as the member read his defence.

Mr. S. Smith did not believe that the expression alluded to was read. What the gentleman read, was delivered in a tone of voice which every one could hear; but what he said as he sat down, was uttered in a lower voice, and he did not hear it. He had read his speech that morning in the papers, in which there was no such expression. He wished to repeat to the gentleman from South Carolina (Mr. Rutledge,) who had given him a *philippic*, that his reason for wishing to take a vote upon this question without debate, was no other than to spare a further expense

of time upon a business, which, he thought, had already occupied too much.

After a few other observations, the question was put on the amendment and carried—48 to 43.

The question on the resolution as amended was about to be put, when

Mr. Gallatin said he knew how late in the day it was, and therefore his remarks should not be long; but as he considered there was a point of view in which the subject had not been placed, he wished to say a few words before the question was taken.

Of the fact itself he had no remarks to make; the evidence was direct, and all could draw their inferences from it. Nor did he consider it very material whether the insult arose from provocation or not, because he did not think that any provocation could justify an indecency of that nature.

But it appeared to him that gentlemen who expressed so much sensibility on the occasion, had confined themselves wholly to the indecency committed within the walls of the House, without taking any notice of the nature of the punishment proposed to be inflicted. It was on that part of the subject, and on that alone, he meant to make some observations.

Our Government, he said, was a Government by representation. The people of the United States had not vested power with a sparing hand; they had given all power out of their hands, but they had guarded against the abuse of it. They had said this power shall not be exercised but by persons appointed by ourselves. This being the case, said Mr. G., we, the representatives of the people, have only a limited power over individual representatives in our body. It is true the Constitution has given us the power of expulsion, but under as much caution as power could be given. It is guarded by making it necessary to have a vote of two-thirds of the members present—the same caution which was laid upon the Senate with respect to treaties. He conceived that the power of expulsion had not been given for the purpose of indulging our sensibility; for the purpose of impairing the principle of representation, but for the purpose of enforcing that principle; and two cases might exist in which the power of expulsion, lodged in that House, might be considered as a safeguard to the principle of representation. These two cases were, when the House discovered a person to be disqualified by some infamous conduct from voting, and when a member pertinaciously interrupted and prevented public business from being carried on.

As to the first case, he could not suppose that any man would ever be sent to that House who had been guilty of any crime that would disqualify him from holding his seat, if the people who sent him knew it at the time; but if any such crime should be afterwards committed, or be discovered to have been heretofore committed, then the House has a right to expel and send such a member back to his constituents. The present case, every one will allow, does not fall within this rule. The charge against the member from Vermont is a gross indecency, which shows a want of manners—a want of good breeding. There could be no doubt the act was highly indecent; but it did not show a corruption of heart. It may disqualify him from associating with some gentlemen on this floor; but, said Mr. G., we do not come here to associate as individuals, but to deliberate upon legislative subjects in our representative capacity. We may, if we please, associate together, or we may let it alone. He did not think himself compelled to associate with any member of this House whose society he did not like.

This was not then one of those cases which discovered a corruption of heart, that would disqualify a man from giving a vote on a legislative subject, though it might show the person to be disqualified for polite society. He would go on to the other case, which was said to be a good reason for expulsion. He allowed that cases might exist, in which a man might so far persist in interrupting the business of that House, by his disorderly behaviour, as to render it necessary, in order that the business might proceed, that he should be expelled. This led him to inquire whether this was the case under consideration, and whether the business of the House had been interrupted by the act in question.

When he put questions to the witnesses in relation to the order of the House, at the time the act complained of took place, he did it not with a view of lessening the offence itself. He did not mean to inquire whether the member from Vermont had committed a less degree of indecency, because the House was in one situation, than it would have been if it had been in another; but his object was to show, that the public business had not been interrupted, and that the House was in a situation in which it could not have been interrupted. It was true the Speaker had, in the morning, taken the Chair, and the House had not adjourned; but it must also be allowed, that the House was not at that time organized. What was the business before the House? A committee of two members were counting the votes for managers of an impeachment. Were they interrupted; or could they be interrupted by an incident of this kind? He was sure they were not interrupted. If, then, the public business was not interrupted, and if the fact was not of that nature which showed a corruption of heart, he did not think it would be proper to expel the member from Vermont.

He saw, indeed, that it was unpleasant for some gentlemen to sit in the House with the member from Vermont. He allowed it was an evil; but what is the evil, he asked, on the other side? It is this: They all knew that a new election could not take place in the State of Vermont for several weeks. He remembered, from the contested election which was formerly before the House from that State, that twelve days notice is requisite before writs can be issued; a certain time would be required to bring the votes to the Governor; the necessary notice, a new election, ascertaining the return, the notification to the member elected, and the time necessary for his journey hither,

would take up many weeks; and by the laws of that State, if there be not a majority on the first vote, a new election will be necessary; so that it may be pretty certainly said, that if the present member was expelled, one-half of the State of Vermont would be deprived of a representation on that floor for the remainder of the session. And shall we, said Mr. G., in order to gratify our sensibilities, deprive one-half of that State, for a number of weeks, and perhaps for the whole session, of its representation? He was not willing to do so, and therefore should vote against the resolution.

He knew that other gentlemen on that floor had as great regard for the principle of representation as he; therefore, he supposed, they had considered this subject already, and made up their minds upon it. When he stated these reasons he did not doubt they had weight upon the minds of other gentlemen. For his part, however, he was more apprehensive of depriving Vermont of its representation, than of any other consideration arising from the subject.

He thought gentlemen had laid too much stress on this indecency, as it affected the Legislature of the United States. However disagreeable the act was in itself, he did not think because a member sent there by the people of Vermont does an improper act, that it could attach disgrace and indelible infamy to the House itself, nor did he see how it could affect any other person besides the member from Vermont himself.

There seemed to be a great desire, very loudly expressed, that the question should be taken before the committee rose; but Mr. Sewall and Mr. Rutledge, both appearing to have a desire to speak on the subject, and it being near four o'clock, the committee rose and had leave to sit again.

Just before the committee rose, the Chairman informed the committee he had received a letter from Mr. Chipman, of the Senate, in consequence of what had fallen from Mr. Lyon, in his defence of yesterday. The letter was requested to be read, and was as follows:

Sir: I feel it my duty, in this public manner, to vindicate myself against an unwarranted attack on my character, by Mr. Lyon, yesterday, in the House of Representatives. I learn that he there asserted that he had once chastised me publicly for an affront which I had given him. This assertion of Mr. Lyon is without foundation; it is false. Nor can I conjecture to what circumstance Mr. Lyon could have alluded, unless it might be a ludicrous transaction, which took place at Westminster, in the State of Vermont, in the beginning of the year 1780, the circumstances of which I beg leave to relate: The Legislature of Vermont were in session at that place; Mr. Lyon attended as a member; I attended on business. The House of Representatives requested me, though not a member, to examine and report my opinion concerning certain debts due from persons whose estates had been confiscated. I had made a report accordingly, at some part of which Mr. Lyon took offence. One morning Mr. Lyon called at Mr. Bradley's room, in which I was then doing business. No person was in the room but Mr. Bradley, Mr. Lyon, and myself. Mr. Bradley and I sat writing at the opposite sides of the table; Mr. Lyon took a seat by the table at the side of Mr. Bradley, and entered into a conversation upon the subject of the report above mentioned. He soon discovered himself to be somewhat irritated, and in a very rude and pointed manner declared that no man who had a spark of honesty could have reported as I had done. Attacked in this rude manner, I retorted, in a passion, that he was an ignorant Irish puppy.

Mr. Lyon rose in a violent passion, grasped at my hair, that was turned back with a comb, which he broke in the grasp. I was at that moment mending a pen; I instantly rose, intending to revenge the insult with the knife in my hand; but Mr. Bradley had seized Mr. Lyon from behind, round the arms, and drew him back a little; upon which, Mr. Lyon, bearing himself in Mr. Bradley's arms, threw his feet upon the table to kick across. The awkward appearance of Mr. Lyon at this moment, and the grimaces of his countenance, provoked me to laugh. I dropt the penknife, seized Mr. Lyon's feet, and, in this manner, with the help of Mr. Bradley, who still kept his hold, carried him across the room, and laid him on his back in a corner. Mr. Bradley and I returned to our seats, laughing very merrily at the scene. In the meantime, Mr. Lyon rose from his corner, stood a short time in apparent agitation, and without uttering a word. At length he turned upon his heel, with these expressions: "Damn it, I will not be mad"—forced a laugh, and left the room. Nothing ever afterwards passed between Mr. Lyon and myself upon this subject. I therefore repeat, that Mr. Lyon's assertion is wholly without foundation.

I ask pardon for the trouble I have given the House upon this business.

And am, with respect, &c.,

NATHANIEL CHIPMAN.

The Chairman of the Committee upon the report of the Committee of Privileges.

Monday, February 12.

BREACH OF PRIVILEGE.

The House having resolved itself into a Committee of the Whole on the report of the Committee of Privileges, Mr. Dent in the Chair,

Mr. Rutledge denied that any similar outrage had ever been committed in that House like the present, though the gentleman from Virginia had spoken of something analogous. It was true, a challenge had been sent by a member of the Senate to a member of that House; but this was not at all comparable to the present offence. Mr. R. thought the punishment by expulsion was the only punishment which could be adopted, as nothing short of it would be effectual.

Mr. Findley said, the question before the committee was a question of *indecency*, and not of *crime;* and he wished, for the sake of decency, so much had not been said upon it. In forming the Constitution there had been a distinction made between punishment and expulsion. Expulsion was evidently the highest punishment which the House could inflict, but no one could say indecency was the highest crime. He never understood, either at the time the Constitution was formed, or since, that expulsion was intended to be applied to anything but crimes—for what would be a subject of impeachment in other bodies

where impeachments could be brought. This was not, therefore, an opinion formed upon the spur of the occasion. Mr. F. said, he knew of an instance of this kind, which happened in another Legislative body, upon which a committee was appointed to consider it; but they never made a report, but held their decision *in terrorem* over the offending member. He thought, if a similar course had been taken in this matter, it would have been preferable to spending so much time in debate upon it.

Mr. Sewall rose to reply to what fell from Mr. Gallatin on Friday, with respect to the two cases which he pointed out, as coming under the rule for expulsion, and referred to the law of Parliament in England to show that this doctrine was ill founded. He said no district of country ought to have it in its power to send a man among them as a legislator for the United States, who should be hateful to two-thirds of the House. The Constitution had defined no particular cases in which the power of expulsion should be exercised; the House was therefore left at liberty to use it according to its discretion. And, if it were to be abused, instead of punishment, it might become the highest honor to the person expelled, as, if the House were become so corrupt as to expel a person without just cause, it might awaken the people to a sense of the necessity of changing their representatives.

Mr. S. said, it was a new doctrine that the business of the House should actually be interrupted, before a person should be deemed an offender against its rules. It was necessary to look at the consequence of actions, and refer to what might have been the case if Mr. Griswold had resented the affront upon the spot.

Mr. S. spoke of the importance of this decision as a precedent; and of the danger to be apprehended from the conduct of Mr. Lyon in future, if the present outrage was suffered to pass without exemplary punishment, and that it would be necessary to come armed to the House, in order to guard themselves against him.

Mr. Shepard spoke again upon this subject. If the member from Vermont were not expelled, he supposed it would break up the present session, without doing any business; that it would divide the States against each other, and finally end in a civil war.

Mr. Pinckney said, in order to insure perfect freedom of debate, it was necessary to repress every personal violence in the first instance. In considering this question, he considered it as fixing a rule for their government in future; and he thought, if it were so considered, (and no reference had to the dispute which had produced the discussion,) there would be a pretty unanimous opinion that an offence of this kind ought to be punished by expulsion. He thought a member thus violently offending the rules of the House, should be immediately deprived of the power of the people in that House; and it was on this ground that he moved for the immediate commitment of the member from Vermont to the care of the Sergeant-at-Arms, when the offence was first made known to the House, not only for the security of his person, but for immediate punishment. As the Constitution gave the House a power to expel a member for disorderly conduct, he thought this case came clearly within the rule. In some cases of offence there might appear mitigating circumstances, but there were none in this. The conduct of the member since the transaction was committed had been such as to convince the House that he felt no compunction for what he had done.

Mr. Livingston rose to entreat gentlemen, as they valued the respectability of the House, the good opinion of their constituents, and the public Treasury, that they would suffer this business to come to a conclusion. Their constituents, he was certain, had long been tired of the discussion. Nearly twenty days, which had cost as many thousand dollars to the country, had been consumed in this business. Gentlemen rose to express their abhorrence of abuse in abusive terms, and their hatred of indecent acts with indecency. The simple question before the House was, what degree of punishment was proper to be inflicted upon the member from Vermont. [The Chairman informed Mr. L. he was mistaken in saying twenty days had been consumed in this business; it had been before the House only fourteen.] Mr. L. said it was in a fair way for being twenty.

Mr. Coit was sorry to hurt the feelings of the gentleman last up by saying anything on the subject, but having been considered as an advocate of Mr. Lyon, he would make a few observations upon the subject. He did not himself think that this vote ought to have been taken without discussion. If, indeed, it had only been necessary to have inquired how does this man generally vote? then no discussion was necessary; but he could not consider that this was the only inquiry necessary to be made. With respect to the fact, nothing need be said; every one allowed it to be brutal, indecent, and unmannerly. The Constitution gave the House the power of expulsion for disorderly conduct. It had been said, this disorder must be committed within the House; but he found nothing of this sort in the Constitution. He had no doubt himself that the House was in session at the time. It had been attempted to show that there was a provocation for the offence; but an inquiry into this matter turned wholly against the gentleman from Vermont, as his previous abuse of the whole representation of Connecticut was a sufficient ground for the retort which was drawn from his colleague. It appeared, therefore, to him, that to retain amongst them a man of this description was to retain a man who would produce nothing but disorder and confusion in their proceedings. His letter of apology did not say that this was a transaction of heat, and that he was sorry for it, but that he was sorry the House had thought it necessary to take cognizance of it; and his defence before the Committee of the Whole was far from being contrite; it was, indeed, an attack upon the witnesses, in order to invalidate their testimony. He hoped the resolution would be agreed to.

Mr. R. Williams rose and took notice of the

different arguments urged in favor of the amendment. He denied that the committee ought to consider the consequences to which an act might possibly lead; if so, an assault would of course be punished equally with murder, as it might possibly lead to it. He did not think the House ought to interfere any further, than to preserve order and decorum in its proceedings. If a member of the House committed a crime, he was answerable to the laws equally with any other man. Upon the whole, he considered the proposed punishment as disproportionate to the offence, and should therefore move an amendment. Mr. W. then moved to amend the resolution reported, by striking out the words, "be for this disorderly behaviour expelled," and insert in their place, "is highly censurable, and that he be reprimanded by the Speaker, in the presence of this House."

Mr. Dayton (the Speaker) said the length of the present debate had been complained of; but who, he asked, had first broke silence after the gentleman from Massachusetts (Mr. Thatcher) had expressed his wish that the vote might be taken without debate? It was the gentleman who had just sat down; and now he had given the committee another speech, and introduced a proposition calculated to produce further discussion. He wishes the gentleman from Vermont to be reprimanded by the Speaker. What could the Speaker say to him? He could only say, You have done an act which would disgrace a blackguard; come and take your seat in the House. You have insulted us with words which show your defiance of us, but come and sit with us, and be our brother legislator.

Were these proper words to be addressed to the member? The Speaker would sooner address him in words of *thunder* which should drive him from his presence. Mr. D. then took notice of what fell from the gentleman from New-York with respect to the length of the present debate, which he thought fully justified by the importance of the subject, and concluded by saying, that if there should be found a majority in this House in favor of the amendment, he should be ashamed of having a seat in it.

Mr. Nicholas hoped the committee would not be prevented from doing what it thought proper, because there might be a difference between the private opinion of the Speaker, and what he might be called upon to do in his capacity as Speaker.

Mr. R. Williams denied that he was the first who began the debate.

Mr. Dayton repeated that he was the first who broke silence after the gentleman from Massachusetts had wished the vote to be taken without debate.

Mr. R. Williams said that it would appear, from the manner in which the gentleman had said he broke the silence, that he had begun the debate, which he did not. Mr. W. said, he was more strongly convinced than ever of the impropriety of extending the power of expulsion, since he had heard the passionate expressions of the gentleman from New Jersey. Was this the language of a *Judge*? He would not only pass the law upon the offender, but he would do it with thunder and vengeance! In his opinion, Mr. W. said, nothing could tend more to disgrace the councils of America than such heated language as this. It was sufficient to induce the people to say, "We have too much liberty—too much freedom of speech; our Government is bad"—and to be ready to lay hold of any other that is offered to them. A sentiment of this kind tended more to destroy the Government than anything he had heard. Gentlemen talked of heat in debate; but where did it come from? Not from the gentlemen in opinion with him, must be evident to every one. Whatever opinion might be held of his amendment, he thought it proper, and therefore made it; nor did he think it liberal in any man to treat it as it had been treated. Was it right to be told by a member, because he had moved an amendment like the present, that he should be *ashamed* to sit with him? Was this what the public expected to hear in its Legislative councils? He believed not. He thought it would do no credit to him who uttered the sentiment.

Mr. Dayton said that the gentleman from North Carolina had misstated what he had said in several instances; but he did not think it worth while to set him right—it would be a waste of time and words. There was one thing he would notice, he called him a judge. Was he not in Committee of the Whole on this subject? Was he more a judge than that gentleman? [Mr. W. offered to explain.] Mr. D. said that gentleman had already four times explained himself. If he had anything more to say to that gentleman, it would be a little more pointed. He should say what he pleased, and if he chose he might call upon him in the House or out of the House, (privileges aside.) [A loud cry for order was heard.] Mr. D. said he knew when he was in order.

The Chairman declared such language improper.

Mr. Dayton concluded by justifying what he had said as to the impropriety of the Speaker reprimanding the member from Vermont, as the language of a majority, he was assured, would direct him thus to speak, and he could not be expected to use the sentiments of a minority in his reprimand. He had stated the matter in a strong light, to show the impropriety of the measure; and he meant to appeal to the breast of every honorable gentleman whether the members of that House would consent to sit in amity with such a man.

Mr. Goodrich thought to have given a silent vote on this subject; but when a proposition like the present was brought forth, he could not refrain from delivering his sentiments upon it. Mr. G. complained of the slanderous manner in which he and his colleagues had been treated by the gentleman from Vermont. Every one allowed that some punishment was proper for the offences of this member—they differed only as to the proportion. For his part, he thought nothing short of expulsion would be sufficient; for it was evident, from his conduct, that a reprimand would not be considered by him as any punishment at all. He

knew not how to account for the strange manner in which he had conducted himself since he committed the insult upon his colleague, except, indeed, he was persuaded that, to do what he will, it was not in the power of the House to expel him; that his friends would support him. If this were his opinion, he hoped he would find himself mistaken.

Mr. Harper was strongly opposed to the amendment. He was sorry to see gentlemen determined to support the member from Vermont, at all events, rather than lose a vote on favorite political questions. The reprimand proposed, he was confident, would have no effect upon them; besides, it was a punishment of the lightest kind which the House could inflict, and by no means proportioned to the highest possible outrage. He corresponded in sentiment with the gentleman from New Jersey with respect to this amendment, and if it were approved by a majority, he should feel ashamed and degraded at belonging to that House. If this were the case, every man who had any regard for his character, would make his escape from the polluted habitation, as such a vote would attach disgrace and infamy to the House, because it was an old and true adage, "He who does not repel vile acts, participates in their infamy."

Mr. Sitgreaves said, if this amendment prevailed, (and he trusted it would not,) it could only be upon one or two considerations; both of which had been suggested in the course of the debate, viz: the supposed want of power in the House to expel a member for an offence of this kind, or that the punishment is not proper for the offence.

Mr. S. went into a variety of arguments to prove that both these objections were ill-founded; examined the different theories which had been laid down as applicable to the power of expulsion given by the Constitution, endeavored to prove that the offence under consideration was of the highest magnitude, and that, therefore, it ought to be punished with the highest punishment which the House has the power of inflicting—which is expulsion. A mere reprimand, he said, was by no means a proper punishment; it was applied to offences of the lowest kind merely. These being his views on the subject, he should vote against the amendment; and if it were to prevail, he would also vote against the resolution itself; for, so far from such a measure securing them from future injuries, it would only encourage them. He would, therefore, have nothing to do with it, but leave every gentleman to protect his own honor. It will then be necessary for them not only to bring learning and information to Congress, but also a sufficient degree of strength and courage, or if deficient in strength, arms for their defence. With respect to the length of this discussion, it was wholly owing to that part of the House who declined to act upon the business immediately, but who chose to have the subject referred to a committee, and afterwards to have the evidence before a Committee of the Whole, and not to those who have always been ready to adopt the most prompt measures.

Mr. Gallatin said he should not have risen again on this subject, if it had not been to explain some things which he had before said, and which had been misrepresented. After explaining these, Mr. G. went on to state that no act of disorder done in the House ought to be noticed farther than the decorum of the House required, as the laws were ready to take cognizance of injuries committed on members as well as on those who are not members. He quoted the Constitution to show that this was the intention of it. Indeed, he did not believe any gentleman on that floor would say he wanted protection; they could generally protect themselves; and if not, the law would protect them as it protected others. But it was said offences which had a tendency to disturb their proceedings ought to be punished. This he allowed, but he would punish them in a less degree. Mr. G. referred to the case which has already been mentioned of a challenge sent by a member of the Senate to a member of that House. That business, he said, was referred to a committee, but the parties having written letters of apology, exactly in tenor with that of Mr. Lyon, they were deemed sufficient, yet the letter of Mr. Lyon is spoken of as aggravating his crime. Mr. G. did not think that a vote of censure and a reprimand by the Speaker was a slight punishment. It was said no act of offence had ever been committed like this, nor did he think any punishment had ever been inflicted by this Government so severe as a vote of censure by the House. Because the member from Vermont had not received so polite an education as other gentlemen, it was supposed this punishment would not greatly affect him; but he supposed he was not wholly dead to every feeling, and unless he was composed of different materials from other men, such a punishment must be considered as a very serious one. He should, therefore, vote for the amendment. Mr. G. added that what Mr. Lyon had said respecting the Representatives of Connecticut was spoken as if it made part of the charge against him; as this was not the case, he thought any observations on that head would be better omitted.

Mr. Dana condemned the wish that had been expressed for passing a silent vote upon this subject, and particularly the conduct of the gentleman from Maryland (Mr. S. Smith) for having expressed such a wish. He said it appeared as if gentlemen had determined to vote against the expulsion of the member from Vermont, and were afraid of hearing anything which might convince them that they had done wrong in so determining; or were the gentleman from Virginia and others, who were so ready to speak to the public on other occasions, afraid to do so on this, from a conviction of the weakness of their cause? Mr. D. took notice of the cases stated by the gentleman from Pennsylvania, to whose manners he paid a compliment at the expense of his logic, and spoke of the necessity of preserving decency and dignity of manners in all public bodies. The member from Vermont had indeed been very free in his remarks upon Connecticut; but to have merited the hatred of the gentleman from Vermont was

by no means disgraceful. He should wrong the State of his nativity, he should wrong his colleagues and himself, were he to undertake a formal refutation of this calumny. The citizens of Connecticut will disdain the idea of being enlightened by that member's knowledge, or of being revolutionized by his power, as they will repel with indignation any imputation against their Representatives in Congress—Representatives who were born and educated amongst them, and whom, in consequence of their good opinion of them, they have appointed, by their unsolicited suffrages, to do their national business. Had the assertion no other currency than the member from Vermont's word, he should not have noticed it; but as it appeared upon the Journal, and had gone out to the world, he thought it necessary to say what he had said on this subject. But for these calumnies, it was probable that the outrage on Mr. Griswold would not have been committed; but what could be a more serious charge against another than to be told, "You have betrayed your trust?" This was what gave all the keenness to the epithet of coward, when applied to an officer. Mr. D. said he did not mean to cast any blame upon gentlemen who differed from him in opinion; nor would he envy any gentleman the pleasure they would have in the company of the gentleman from Vermont; if they chose to associate with such a *kennel of filth*, let them do so; let them press him to their heart, and salute him as their brother, they may do it without envy; let them be designated as the companions of Mr. Lyon, by being pointed at, by "There goes the member of Congress who voted to have Matthew Lyon as a companion!" If they felt themselves invulnerable to such a reproach, he acknowledged he had not attained to that degree of insensibility. He himself would put him away, as citizens removed *impurities* and *filth* from their docks and wharves.

Mr. S. Smith thought, as he had determined to say nothing upon this subject, that he should not have received the censure of any one. He had conversed with several gentlemen on both sides the question, and he thought, in order to avoid a lengthy discussion, which could have no effect but produce heat, it would be best to take a silent vote on the question. The gentleman who had just sat down had called upon him as a military man. He did not come here as a military man, but as a legislator. It seemed as if gentlemen were determined to make him speak on this subject; if he had wished to do so, they would not have been able to have kept him silent. He thought the gentleman last up had made a speech to little purpose. If military opinions were wanted, two military gentlemen had already given their opinions. If, twenty years ago, he had been asked an opinion, he supposed he should have given such an one as the gentleman from Connecticut would not have liked to hear.

Mr. Dana did not wish the gentleman to give his opinion, and hoped he would excuse him for having given his, though he desired him not to do it.

The question on the amendment was put and negatived—52 to 44.

Mr. Morris said, before the vote was taken on the resolution for expulsion, he wished to say a few words. There was no doubt but that the conduct of his colleague had been highly insulting to the House, and that he deserved expulsion. He also believed that the people of Vermont would resent this conduct, which dishonored the character of the citizens of that State; and he thought it was the duty of that House to give the people an opportunity of showing their disapprobation of a conduct so gross and indecent.

The question on the resolution was put and carried—51 to 43.

The committee then rose, and reported the amendment to the resolution, together with the evidence which had been taken before them. The House took up the amendment (relative to the offensive words in the defence) and agreed to it—49 to 46.

Mr. R. Williams then renewed his amendment for confining the punishment to reprimand.

Mr. Brooks hoped, if the House did not agree to the highest punishment, they would not agree to the lowest which they could inflict. He did not suppose the member from Vermont would look upon this as a punishment; and if no other was to be ordered, the House would never get rid of his offences.

Mr. Macon said, it was observable there were two opinions in the House; one for expulsion, the other for a reprimand. He did not think the offence was such as would authorize an expulsion. He said there had been as many illiberal expressions in the course of this debate as he had ever heard. Gentlemen had talked of party doing this, and party doing the other, whilst they themselves are the first to mention it. He hoped they would have kept these things out of the sight of the world. If gentlemen of one description voted one way, those of another voted a contrary way. As for the punishment of being reprimanded in the face of the House, which would be entered upon the Journal, he thought it a very serious one, and he would almost as soon be hanged at once. He hoped, therefore, the punishment would be thought at least equal to the offence.

The question was then taken by yeas and nays, and the amendment was negatived—52 to 44.

The question was next taken upon the resolution for expulsion, by yeas and nays, and carried—yeas 52, nays 44, as follows:

Yeas—George Baer, jr., Bailey Bartlett, Jas. A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Wm Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, Wm. Findley, John Fowler, Nathaniel Freeman, jun.; Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Walter Jones, Edw. Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The Constitution requiring two-thirds of the members present to carry a vote of expulsion, the motion was declared by the Speaker *not carried*.

The following is the testimony taken in the foregoing case, as delivered in at the Clerk's table:

The Speaker, Jonathan Dayton, Esq., one of the Representatives from the State of New Jersey, being duly sworn, this fifth day of February, one thousand seven hundred and ninety-eight, before the Committee of the Whole House, to whom was committed the report of the Committee of Privileges of the second instant, proposing the following resolution for the adoption of the House, to wit: "*Resolved*, That Matthew Lyon, a member of this House, for a violent attack, and gross indecency, committed upon the person of Roger Griswold, another member, in the presence of the House while sitting, be, for this disorderly behaviour, expelled therefrom," by the Honorable Richard Peters, Esq., Judge of the District Court of the United States, for the District of Pennsylvania, to declare the truth, the whole truth, and nothing but the truth, touching the subject matter of the report, so referred to the said committee, deposed as follows:

When the ballots of the House for managers of the impeachment against Mr. Blount were brought to the table to be counted, and the committee who were named as tellers were actually engaged in that business, I walked forth from the Chair, without adjourning the House, in order to take a little exercise about the room, as had not unfrequently been the case in reading lengthy communications. I placed myself by the side of a member from New York, and in the chair usually occupied by Mr. Dana, when I soon heard some expressions rather warmer than usual at the fire, behind me, and turning, observed that they passed between Mr. Lyon, of Vermont, and Mr. Dana, of Connecticut. I addressed myself immediately to them, and said, "Gentlemen, keep yourselves cool;" and afterwards added, "if you proceed much further, you will want seconds." Upon this, Mr. Lyon addressed himself to me, and said, among other things, that he had, in his own mind, designated the embassy to Cayenne for Mr. Dana; upon which, in order to give a turn of pleasantry to the conversation, I asked Mr. Lyon whether he had reserved for himself the mission to Kamtschatka, among the furred tribes. Upon my asking whether he was meant by the "Lyon of Fairhaven," charged in the public papers with being active to incite the people in his district to hold meetings, and to clamor against the stamp act, he replied that he supposed he was the person meant, but that this charge, as well as many others of a like nature, made against him, was unfounded. After a few other remarks, Mr. Lyon began some animadversions upon the temper of the people of Connecticut, and the conduct of their Representatives in Congress. He said he had good reason to know and declare, that the members from that State were acting in direct opposition to the opinions of nine-tenths of their constituents; that, regardless of the public good, they were seeking their own private interests; that their object was to obtain offices for themselves; that if they could not obtain the most lucrative, they would not refuse those which were less so, (mentioning two sums, which I think were nine thousand dollars and one thousand dollars;) that he, Mr. Lyon, had a good right to know the people of Connecticut, for he had to fight with them in his own district. Upon this Mr. Griswold, who was sitting in Mr. Harper's seat, asked whether he had fought them with *a* wooden sword, or with *his* wooden sword. Mr. Lyon either not hearing this question, or affecting not to have heard it, continued his remarks to me, and added, that when the Connecticut people came into his district on visits to their relations, they came with strong prejudices against him and his politics; but, after conversing with them freely, he had always succeeded in bringing them over to his side; that if he should go into that State and talk with the people, he could open their eyes, and effect an entire change there. Upon which, Mr. Griswold laying his hand gently upon Mr. Lyon's arm, in order to attract his attention, said, "if you were to enter into Connecticut for the purpose you mention, you could not alter the opinion of the meanest hostler." Mr. Lyon replied that he knew better; he knew the people of Connecticut well; that he had no doubt that, if he were to remove thither, and establish or direct a press there for six, nine or twelve months, he could effect a revolution there, and induce them to turn out all their present members. Upon my observing that this afforded another instance of the influence which men's wishes had over their belief; and upon my asking, if this were true, how he could account for the people of Connecticut having uniformly selected for their Representatives, ever since the commencement of the present Government, gentlemen of the same political principles; he answered, that they (the Representatives) had blinded the eyes of their constituents—were constantly administering opiates to them, and would only permit one side of the question to be made known. Mr. Lyon further added, that he thought, upon the whole, that there was one, and only one, of the delegation which he might spare, and allow to come again; that he had serious thoughts of moving into the State, and fighting them on their own ground. Upon which Mr. Griswold repeated the substance of a former question, and asked, whether, when he should come, he would take with him his wooden sword. Upon which followed the indecency which has given rise to this reference.

The said deponent being interrogated by Matthew Lyon, Esquire, and other members of the House, further deposed as follows:

As Mr. Lyon leaned on the bar, near me, and spoke louder than was necessary for me to hear, I concluded it was intended by him to be heard by those who were near.

The conversation was carried on with good humor;

Mr. Griswold, when he spoke, certainly had a smile on his countenance.

At the first conversation between Mr. Dana and Mr. Lyon, something had been said on the opposition to the stamp act in Vermont, and a meeting therein, on that subject.

I believe the words spoken by Mr. Lyon did not allude to any vote of the members of Connecticut on any particular question, but generally to their political conduct.

Mr. Lyon said that the people of Connecticut were deceived by their Representatives, who were constantly administering opiates to them, and it was only afterwards, on my asking why those persons were sent as Representatives, that he replied, the people were permitted to hear but one side.

I take it that Mr. Lyon, although not in warmth, intended that his assertions should be believed by those who heard him.

After Mr. Griswold had received the insult, I saw him draw back his arm, and expected a blow would be given; afterwards, I saw from his countenance, that he had changed his mind, and he then wiped his face.

The conversation appeared to be conducted in good humor.

The conversation respecting Connecticut came voluntarily from Mr. Lyon, and unsuggested by anybody else.

Mr. Lyon received my question as to the mission to Kamtschatka, in a pleasant way. In another part of the conversation, Mr. Lyon was comparing the information of the people of his district with that of the people of Connecticut, alluding to the light he had conveyed among them. Mr. Brooks observed that the extraordinary light appeared from the extraordinary *luminary* they sent to represent them.

I did not hear a syllable from any member of Connecticut, of insult or remark on the conduct of the people of Vermont.

Mr. Griswold, in laying his hand on Mr. Lyon, did it gently, and apparently for the purpose of calling his attention merely.

The Speaker, at the time of the conversation, knew that the wooden sword had relation to Mr. Lyon's having been cashiered in the army. I knew it from a previous conversation with Mr. Lyon, and my having been in the army at Canada, at the time. The only reason for my supposing that Mr. Lyon did not hear what Mr. Griswold said, was, that it produced no change in Mr. Lyon's countenance, though spoken loud enough for him to hear; and I heard the words distinctly. Mr. Lyon and myself were at equal distance from Mr. Griswold. I did not observe the cause of Mr. Griswold's leaving his chair and going to Mr. Lyon, but on turning round, I perceived him then listening to Mr. Lyon. During the conversation between Mr. Griswold and Mr. Lyon, I did not observe any collection of members round the fire—Mr. Dana was passing and re-passing before the fire.

Mr. Lyon seemed to insinuate that there was somebody influencing the printers, who permitted them to publish only on one side.

I had a conversation with Mr. Lyon some days before, at the fire, in the House. A gentleman from New York being present, with others, (Mr. Cochran, Mr. Hosmer, and Mr. Harper,) asked him what was the meaning of a newspaper paragraph, viz: "that he had outgrown two things." He said it alluded to his having been cashiered at Ticonderoga. I asked if he was one of those who had been cashiered with infamy, for deserting an advanced post? He said he was; but attempted to show he was not so culpable as the rest. Said I, "did you know you were execrated by the whole army?" He said he did. I then asked whether he was in company with the officer who came to General Gates's headquarters, and reported the desertion of the men, and whom the General called a d——d scoundrel and coward, and ordered to be put under guard; upon which Mr. Lyon replied that he himself was the very officer, but that he told General Gates, that, being an officer, he might be arrested, but was not to be put under guard. In the same conversation I observed that application had been made to the Commander-in-Chief for leave to turn out the drums and fifes of the army, to beat a certain disgraceful march, upon the departure of those officers from the garrison, who, it was said, had persuaded their men to desert; and that I recollected their beating the march upon the heights of Ticonderoga.

Upon being questioned by one of the gentlemen standing in the circle, whether it was a part of the sentence of the Court Martial that the cashiered should wear wooden swords, I answered that I had not heard it to be a part of the sentence in this case, nor ever in any other.

Mr. Lyon appeared always, to me, to be willing to attend to inquiries respecting this business, and to give a calm reply.

The Paymasters, although only Staff officers, ranked as Captains in the line. It was only that in case of insults from any of the men that they might put them under arrest; but when they went into action they placed themselves in the ranks. They would take command in case all the officers of a garrison were killed, in preference to a Sergeant, but not of any commissioned officer. A person under disgrace, as a coward, would not be associated with by the officers of the army, or permitted to hold a Staff commission for any length of time. I never heard in the army that Mr. Lyon had received any new appointment after his disgrace, but only since, from him, and also then heard he was not allowed long to remain in it. But I did not stay in the army until the retreat.

Mr. Lyon, when cashiered, was in the rank of a subaltern, as I understood.

The said deponent, being further interrogated on the eighth day of February, one thousand seven hundred and ninety-eight, on his oath aforesaid, answered to the several interrogatories so put to him, as follows, to wit:

Question. Did you observe Mr. Griswold in Mr. Harper's chair, when the conversation commenced between Mr. Lyon and yourself?

A. I do not recollect to have seen him at the first instant, but did see him there during the earlier part of the conversation.

Q. Did you see Mr. Griswold until about the time he put the first question to Mr. Lyon about the wooden sword?

A. About the time.

Q. Can you say with certainty what part of the conversation with Mr. Lyon Mr. Griswold heard?

A. I cannot.

Q. Was it the first time when Mr. Griswold made the observation of the wooden sword, that he laid his hand on Mr. Lyon's arm?

A. It was not, but at the second time, and I recollect his first laying his hand there, when he made the observation as to Mr. Lyon not being able to change the opinion of the meanest hostler.

SAMUEL SMITH, Esq., one of the Representatives from the State of Maryland, being duly sworn, as aforesaid, on the fifth day of February, one thousand seven hundred and ninety-eight, deposed as follows:

On the day on which the ballot was taken for the choice of managers on the part of this House, to conduct the impeachment against William Blount, the Speaker being out of the Chair, the members out of their places, engaged in common conversation, and the committee counting the ballots—having taken my letters from the box, returning to my seat, I passed Mr. Lyon, who was engaged in a jesting conversation with other members, such as gentlemen frequently amuse themselves with, when the House is not in actual business. While reading my letters, that kind of amusing conversation continued, and I think I heard some person, but whom I knew not, mention an expected opposition to the stamp act, in the State of Vermont, tell Mr. Lyon, (one of its Representatives,) that petitions against it were expected, and asked him, jestingly, whether he brought any such with him. Not thinking the conversation interesting, my attention was particularly directed to my letters, when I heard Mr. Lyon directing his conversation to the Speaker, who sat in the seat behind me, generally occupied by Mr. Dana; Mr. Griswold in that of Mr. Harper; there being between them only two chairs, occupied by Mr. Hosmer and Mr. Brooks. Mr. Lyon, leaning on the outside of the bar, seemed to be giving the Speaker an account of the political sentiments of the people of Connecticut, nine-tenths of whom he declared were of different sentiments from their Representatives; that they only wanted their eyes to be opened, and they would change the whole delegation. The Speaker said, jestingly, you would spare one? To which Mr. Lyon, in the same style, answered yes, for he goes nearest the sentiments of the people of any of them. He said he had to fight with the Connecticut men, when they came into his district to see their relations, and although they censured his politics at first, yet they always were convinced, on hearing his reasons. Mr. Griswold then said something which created a loud laugh, which I did not hear, but which I have since understood, related to the wooden sword. I turned, and observed that Mr. Lyon still continued his conversation, directed to the Speaker, and in the same style of jocularity—indeed, all the gentlemen appeared to be in perfect good humor, and to consider the conversation as amusing—in the course of which, Mr. Lyon, remarking on what had been said in debate by two or three gentlemen of Connecticut, respecting the nine thousand dollars paid to Ministers Plenipotentiary, being such an insignificant thing as to be scarcely worth accepting, said that he knew better; that whether the salary was one thousand or nine thousand dollars, it would be always acceptable—private interest being more their view than public good—observing that he knew the people of Connecticut well, having lived there formerly, and having lately passed through that State. Mr. Brooks, of New York, then asked if he had passed through his district? Mr. Lyon said he had passed through certain towns. Mr. Brooks remarked, you were in the back-ground there, as you frequently are. Mr. Lyon having remarked that, for want of proper information being received in Connecticut, he considered the knowledge of the people of his own district as superior. To which, Mr. Brooks jestingly replied that they had shown it by the great luminary they had sent. Which stroke of wit was received pleasantly by Mr. Lyon, as it appears to have been intended.

Mr. Griswold had removed outside of the bar to where Mr. Lyon stood. At this time, having left my seat with intention to leave the House, I leaned on the bar next to Mr. Lyon, and fronting Mr. Griswold. Mr. Lyon having observed, (still directing himself to the Speaker) that, could he have the same opportunity of explanation that he had in his own district, he did not doubt he could change the opinion of the people in Connecticut; Mr. Griswold then said, "If you, Mr. Lyon, should go into Connecticut, you could not change the opinion of the meanest hostler in the State." To which Mr. Lyon then said, "That may be your opinion, but I think differently, and if I was to go into Connecticut, I am sure I could produce the effect I have mentioned." Mr. Griswold then said, "Colonel Lyon, when you go into Connecticut, you had better take with you the wooden sword that was attached to you at the camp at ———." On which Mr. Lyon spit in Mr. Griswold's face, who coolly took his handkerchief out of his pocket, and wiped his face. Believing that the quarrel would go no further, I left the House.

DAVID BROOKS, Esq., one of the Representatives from the State of New York, being duly sworn, as aforesaid, on the fifth day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

At the time which has been mentioned, I was sitting in my seat, and the Speaker in Mr. Dana's. I had heard a part of the conversation which passed between Mr. Lyon and Mr. Dana. The subject of the conversation, as well as I recollect, was the amendment of the gentleman from Virginia, to the bill for regulating foreign intercourse. The conversation was loud, and the Speaker spoke to them as he has stated. Mr. Dana then broke off the conversation, and went away and walked backwards and forwards in the passage. The Speaker then entered into conversation with Mr. Lyon. About this time Mr. Griswold came and sat himself in Mr. Harper's seat. Mr. Lyon, speaking of the conduct of the members from Connecticut, stated that, on his passage home or back, he passed through part of the State, and heard the opinion of the people. Said that nine-tenths of the people of Connecticut differed in sentiments with their Representatives in the House; that the members from the State did not fairly represent the sentiments of their constituents; that they were seeking their own interest; they were looking for offices; it was immaterial what salaries were annexed, whether nine thousand or one thousand dollars, they thought either worthy of their attention; he had lived many years in the State of Connecticut, and was well acquainted with the disposition of the people. He had occasion, frequently, in his own district, to contend with them, when they came there upon visits to their relations, and had often convinced them they were wrong. He had no doubt that, if he were to set up a press in Connecticut, he could turn out all the present Representatives. I did not hear the exception of one, as mentioned by others—it appeared to be all done in a bragging, bantering manner. I then asked if he had not been in my district? He said he had, but there was nothing to be done there; meaning they were incorrigible, and not to be convinced. He then compared the situation of the people of the two States, as to information, and said the people in his district were far the most enlightened. I

then made the observation stated by the gentleman examined before me.

When he talked of contending, or fighting with the people of Connecticut, Mr. Griswold asked, if he had not better take his wooden sword. I thought he did not hear it, as I looked at him, thinking it a pressing question, and he did not change countenance, but continued his conversation with the Speaker. Mr. Griswold then said, he does not hear me, or I said he does not hear you—I do not recollect which. Mr. Griswold afterwards went on the outside of the bar, and standing by Mr. Lyon, laid his hand on his arm, and said You could not change the opinion of a single hostler in the State of Connecticut. Mr. Lyon then talked of setting up a press in Connecticut, and fighting them on their own ground. Mr. Griswold then said, you will fight them with your wooden sword. Mr. Lyon then spit in his face. Upon this, Mr. Griswold stepped back with his right foot, looked steadily at Mr. Lyon, and stiffened his arm, as if going to strike. Mr. Dana then observed, they would consider of this matter; and I said, this is not the place; there is a time and place for everything. Mr. Griswold then wiped his face with his handkerchief, and went out with his colleague. I think the Speaker immediately rose from the chair he had been in, as, on looking round, I saw the chair empty.

I have not been so particular as I might have been, if Mr. Speaker had not stated the facts so fully and correctly, in his testimony, from which mine only differs, as a part differs from the whole.

The said deponent being interrogated by several members, answered to the interrogatories so put to him, as follows, to wit:

Question. Did Mr. Lyon say that the printers deceived the people.

A. He said the Representatives deceived the people, blinded or hoodwinked them, and administered opiates to them. That in Connecticut, it was permitted only to publish one side of the question.

Q. Did Mr. Griswold appear to be angry, or in good humor, in this conversation?

A. Mr. Griswold spoke with his usual easiness and good humor.

Q. Do you suppose the publications about the wooden sword, were calculated to throw disgrace on the member from Vermont?

A. I cannot consider them in any favorable light—they must certainly be reckoned disgraceful.

The said deponent being further interrogated by the said Matthew Lyon, and other members, on the eighth day of February, one thousand seven hundred and ninety-eight, answered to the several interrogatories so put to him, as follows, to wit:

Question. Had not Mr. Griswold joined the group and taken the seat of Mr. Harper, next to the seat occupied by you, before Mr. Lyon made the observations relative to the Representatives from the State of Connecticut, mentioned in your deposition?

A. I think he had. I recollect, perfectly, that it was in an early stage of the conversation that Mr. Griswold took that seat, and he must have heard a principal part of the conversation. I believe Mr. Griswold took the seat of Mr. Harper, immediately after Mr. Dana left off conversation with Mr. Lyon.

Q. Did he take this seat time enough to hear the observations of Mr. Lyon, with respect to the Representatives from Connecticut seeking offices, and pursuing their own interests regardless of the public good?

A. It appears to me he did. I have no doubt he did.

Q. Have you any reason to suppose that Mr. Lyon saw Mr. Griswold in Mr. Harper's seat, previous to his observation respecting the wooden sword?

A. I do not know that he did. When I directed my discourse to Mr. Lyon, he turned to me, and Mr. Griswold was sitting at my left hand.

Q. Have you any particular recollection of Mr. Griswold's being in your seat, till about the time when he made the first observation respecting the wooden sword?

A. He was in the seat some time before that observation was made by him. I cannot possibly say how long.

Q. Was it not apparent to you, from the course of the conversation, that the sarcasm used by Mr. Griswold, respecting the wooden sword, was by way of retort to Mr. Lyon's observation with respect to the Representatives of the people of Connecticut?

A. It appears to me that it was. Mr. Lyon, in speaking of the people of Connecticut, said he would fight them on their own ground, and I think what was said of the wooden sword, was a retort to the observation.

Hezekiah L. Hosmer, Esq., one of the Representatives from the State of New York, being duly sworn as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows:

During the canvassing of the votes for managers the Speaker left the Chair and seated himself by my side, in the seat usually occupied by Mr. Dana, of Connecticut. We heard a conversation carried on with some warmth between Mr. Dana, of Connecticut, and Mr. Lyon, of Vermont. The Speaker spoke to them, and checked them, and they immediately separated. Mr. Lyon then came to the bar, leaned on it, and a conversation took place between him and the Speaker. It commenced, as nearly as I can recollect, with something relative to the stamp act, but I cannot recollect what. Mr. Lyon mentioned that, in the course of his journey hither or home, he had passed through part of Connecticut, and conversed with some of the people, and found their sentiments opposite to those of their Representatives in this House. Some general conversation then took place, in which we all took a part, but it was of little consequence, and it is not forcibly impressed on my mind. Mr. Lyon then, addressing himself to the Speaker, and speaking of the conduct of the members of Connecticut, said he believed that nine-tenths of the people of Connecticut differed from the sentiments advanced by the Representatives of that State on this floor; they were pursuing their own interest; that they were influenced by a desire to obtain offices, and it was immaterial how lucrative those offices were; that they would be equally influenced by an office of one thousand dollars as one of nine thousand dollars. On the Speaker's asking him how the people came to send such Representatives as they had from the establishment of the Constitution, he said that the Representatives blinded the eyes of their constituents, and it was only necessary for the people to be informed to induce them to oppose them. If he were to remove into Connecticut and set on foot a printing press, he had no doubt he could bring about a revolution in the sentiments of the people. He was well acquainted with the people of Connecticut, as the first part of his life in this country had been passed in that State. Several persons from Connecticut had been in Vermont to visit their

friends; that he had attacked them in that quarter, and convinced them their opinions were erroneous. At this time Mr. Griswold was sitting in the seat usually occupied by Mr. Harper, and Mr. Griswold said something, which I cannot precisely recollect, about his fighting them with his wooden sword. Mr. Lyon appeared to pay no attention to the remark, and, I thought at the time, did not hear it. Immediately after this Mr. Griswold quitted his seat and went behind the bar. I left mine nearly at the same time, and did not see the insult which is said to have been offered. This is generally all that I know relative to this affair. I was present at the commencement only of the dispute, and they are only generally facts which have impressed themselves on my mind. I attended to the examination of the Speaker yesterday, and could agree generally with him in the statement, though my recollection is not so particular.

The said deponent being interrogated by Matthew Lyon, and other members of the House, further deposed as follows:

I did not hear any observation from the members from Connecticut respecting the people of Vermont.

The conversation from Mr. Lyon respecting the people of Connecticut was not connected; questions were asked, and some observations were made by the Speaker, which perhaps induced Mr. Lyon to say more than he originally intended.

I do not suppose there was any thing said which could provoke Mr. Lyon, and he appeared to be desirous of impressing the observations with respect to the members from Connecticut, as true, upon all who heard him.

The said deponent being further interrogated, on his oath aforesaid, on the eighth day of February, one thousand seven hundred and ninety-eight, answered to the several interrogatories so put to him, as follows:

Question. Do you recollect the time when Mr. Griswold moved from his own seat to that of Mr. Harper?

Answer. I do not recollect the time when Mr. Griswold came to Mr. Harper's seat. It was, however, soon after Mr. Lyon took his station behind the bar, and during the general conversation which had taken place between us all.

Q. Have you any certain recollection of Mr. Griswold's being present until about the time he made the observation respecting the wooden sword?

A. I recollect having seen Mr. Griswold in the seat before that time; how long I cannot say, as I do not recollect seeing him seat himself there.

Q. Did you see Mr. Griswold in the seat soon enough to have heard the observations of Mr. Lyon respecting the conduct of the members of Connecticut?

A. I believe I did. I recollect looking round two or three times to see what effect Mr. Lyon's observations had upon Mr. Griswold.

Q. Have you any reason to suppose that Mr. Lyon noticed Mr. Griswold to be in Mr. Harper's seat previous to what Mr. Griswold said about the wooden sword?

A. I never heard any thing till this morning to raise a doubt of it in my mind. I have no recollection of any particular conversation between Mr. Griswold and Mr. Lyon, previous to the question of Mr. Griswold.

Q. Do you doubt it now?

A. I cannot say I do.

Samuel W. Dana, one of the Representatives from the State of Connecticut, being duly sworn, as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows:

On Tuesday of last week, during the examination of the ballots for managers of the impeachment against William Blount, I had left my seat and was standing before the fire, near the eastern door of the hall, when Mr. Williams, of the State of New York, entered into conversation with me, and mentioned that Mr. Lyon, who had lately returned from Vermont, had been saying that "the Representatives of Connecticut would all be turned out if they voted against Mr. Nicholas's amendment." Very soon after this the member from Vermont came to the place where we were, and, in Mr. Williams's presence, I asked him if he had said what had been mentioned to me. His answer, as precisely as I can recollect, was in these words, "I did not say so; but that you would all be turned out if you carried the point you wished to carry." I then asked what that point was; and his answer represented it as being "that the President should appoint to offices where no such appointments were authorized by law." I told him, "that was not the question on Mr. Nicholas's amendment." He answered, "it is;" and I replied, "it is not." There was a variety of further conversation, all of which I do not particularly recollect. I think that I remarked on the improbability of his being acquainted with the people of Connecticut better than their Representatives. I remember that, in the course of this conversation, he spoke of the disagreeable reception which we might expect on returning to Connecticut, and made other observations of an irritating nature. I felt some disdain at what he said; and, as his conversation was by no means pleasing to me, I believe that my irritation was manifest from the manner in which I answered him. The Speaker being near, and, addressing us with an air of civility, interposed the caution which he has mentioned. After this nothing further passed between myself and the member from Vermont. My reflection told me to have no more conversation with him. As we separated from each other, I walked from the place, and took no further part in any of his conversation.

Not long after, as I passed within the bar, by the seat which Mr. Harper usually occupies, I observed my colleague, Mr. Griswold, sitting in that seat. I mentioned to him the substance of my conversation with the member from Vermont, and observed that I had felt some irritation, although, on reflection, I was rather ashamed of myself, for being irritated at what that member could say.

Afterwards, walking without the bar, I saw the member from Vermont leaning on the bar, in conversation with the Speaker and other gentlemen in their seats. Mr. Griswold was then standing near him. I heard the member from Vermont speaking of the Representatives from Connecticut as being in pursuit of their own interest, without regarding that of the public. I also heard him mention a particular mission as proper for one of them. To this, however, I gave but little attention, and made no reply, for the observations were addressed to others, and I desired no further acquaintance with the member from Vermont.

A very short time before the commission of the outrage now under consideration I stepped within the bar, and stood near the end of the desk which is in front of the seat usually occupied by myself, the Speaker being then in that seat. From the tenor of the conversation

I judged that the member from Vermont had been speaking of his ability to effect some great object in Connecticut; when Mr. Griswold replied, according to my present recollection, to this effect: "You could not, if you should go into Connecticut with your wooden sword and candle;" alluding, as I then apprehended, to a report in circulation which, as also that of the sword, I knew to have been heard by Mr. Griswold and by the member from Vermont. On this the member from Vermont spit in Mr. Griswold's face.

Considering the observations of some gentlemen of the committee, perhaps, in justice to the member from Vermont, I ought to mention that, while Mr. Griswold was in Mr. Harper's seat, I was in the passage leading from the eastern door of the hall to the Speaker's table, and conversed for a short time with Mr. Griswold and Mr. Brooks, when I was informed that Mr. Griswold had spoken to the member from Vermont, and alluded to the report of the wooden sword. On inquiring what answer was made to this by the member from Vermont, Mr. Griswold observed that he believed it was not heard by the member from Vermont, as he made no answer to it. This was before the conversation which immediately preceded the personal outrage offered to Mr. Griswold, and, I think, at a different time from any which I have before mentioned.

At the present time, nothing further occurs to my recollection as material to the inquiry before the committee.

On his being asked, What was the conduct of Mr. Griswold after the outrage committed by the member from Vermont?

The said deponent answered: I was then standing where I could look my colleague, Mr. Griswold, fully in the face. I marked him particularly; for I then felt particularly interested in his conduct, and determining how I should conduct myself. Mr. Griswold turned towards the member from Vermont, fixed his eye upon him, and was slowly drawing back his right arm in a constrained manner, when, from his change of countenance and the cast of his eye, I apprehended that my colleague recollected where he was; he then took out his handkerchief and wiped his face. I stepped to him, touched his arm, and said, "this must be considered of." I also heard the caution mentioned by Mr. Brooks. Mr Griswold made no reply. I proposed to him to walk out of the hall; he assented, and we both immediately left the hall.

The said deponent, upon a further examination on the 7th of February, one thousand seven hundred and ninety-eight, further deposed, on his oath aforesaid, as follows:

There has been published an incorrect account of part of the testimony which I delivered yesterday before the Committee of the Whole; I, therefore, owe it to myself to observe, that, on Tuesday of last week, in his conversation with me, the member from Vermont made various observations relative to the conduct in Congress of the Representatives from Connecticut, and, among other observations respecting them, spoke to the following import: that they would vote their own damnation; that they would be spurned at on their return home; and that he would be damned if he wanted to talk with me. Such language provoked from me an answer, which, I presume, attracted the notice of the Speaker.

In my testimony, yesterday, I used some general expressions referring to this part of the conversation; but I did not mention the particulars, because I did not consider them material to the inquiry, and I did not wish to repeat, in public, such improper language as having been spoken by a member of this House.

I arose to state these particulars in my own vindication; but, since a gentleman from Massachusetts, on hearing the present statement, has said that he considers these circumstances as of some importance, they are now testified before the present committee.

Joshua Coit, Esq., one of the Representatives from the State of Connecticut, being duly sworn, as aforesaid, on the sixth day of February, one thousand seven hundred and ninety eight, deposed as follows, to wit:

I was not present when the incident which is the subject of inquiry before the committee took place, and do not know that anything within my knowledge can throw any light upon it. A few moments before, I was passing from my seat out of the bar where Mr. Lyon was standing. He was addressing a kind of ranting braggart conversation to the Speaker, respecting the State of Connecticut; whether I had noticed this conversation before I left my seat, I do not recollect; my recollection is probably the more imperfect on the subject, from the circumstance that I had heard a similar conversation from Mr. Lyon a little while before, at one of the fire-places, before the House formed. As I was passing, or before I left my seat, I cannot with certainty tell which, some observation was addressed particularly to me, with allusion to the subject of the conversation, either by the Speaker or Mr. Lyon. Mr. Lyon at the time was stating a comparative view of the number of votes given for a Representative in the State of Connecticut, with the number of votes given for himself in the State of Vermont; and I put some questions to him respecting his knowledge of the mode of voting in Connecticut. The answer not leading to anything interesting, I passed on to the south part of the House. I recollect, as I passed, my colleague, Mr. Griswold, was sitting in the seat occupied by Mr. Harper, or standing behind it.

Being interrogated by one of the members of the House, he further deposed, in answer to the said interrogatory, as follows, to wit:

Question. What was the tenor, and what were the particulars of the conversation which the witness heard from the member from Vermont respecting the Connecticut representation, in the morning, before the House was formed?

Answer. I mentioned the terms ranting and braggart, as relative to the conversation I heard. I used these terms, not with a view of saying anything which should appear to bear uncomfortably on the member from Vermont. Were I disposed to say anything uncivil to him, this would be a very improper time and place. I used the terms only for my own justification—my justification, in not remembering more of the conversation than other gentlemen present appear to have done; although, from the subject, it would seem that I should have paid attention, have felt it, and remembered it. Had I heard such conversation from any other person, it is probable I should; but I had been used to paying very little attention to anything I heard from Mr. Lyon. As to the conversation in the morning, I can recollect no particulars. It was generally to the effect that the sentiments of the people in Connecticut were different from what they were represented here. I do not recollect that anything particular, in that conversation, was applied to the conduct of the members of Connecticut.

Chauncey Goodrich, Esq., one of the Representatives from the State of Connecticut, being duly sworn, as

aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

The only information I have on the subject, relates to a conversation with Mr. Lyon, relative to his having been cashiered in the Army. I came from New York to this place, this session, in a stage taken by Mr. Champlin, together with him, Mr. Otis, and Mr. Lyon. We were the only persons in the stage for a considerable part of the way. I had had but little personal acquaintance with Mr. Lyon before this time. Mr. Lyon, on the way, seemed to be disposed to give us the history of his life. It was filled up, according to the account he gave us, with many singular and ludicrous anecdotes The ludicrous anecdotes that he told of himself, in a jocular manner, produced from the gentlemen with him, a kind of pleasantry, if not something more, towards Mr. Lyon. I mention these circumstances, for the purpose of introducing, in a proper manner, to the committee, the account he gave us with respect to his being cashiered. How it was introduced, whether entirely voluntary on his part, or induced by remarks from some one of the company, I have not a perfect recollection. I think, however, either immediately, or some time before Mr. Lyon adverted to the subject, something was said of Mr. Lyon's having been in the Army; I cannot be very minute in the account he gave. I recollect his saying that allusions to his being cashiered had been in the public papers—that it was a matter of great mortification—that he could not bear to hear of the affair—that it happened when he was young. He said that he was a subaltern officer of a corps stationed on the frontier, at a great distance from the main Army, and without support—that the officers and men were uneasy, and discontented with their situation—that they considered it as being too exposed—that he, at a certain time, was out with a party of the men—that, when he returned, he found the corps to which he belonged either had abandoned, or were abandoning, (I cannot say certainly which,) their post—that they went to some distance, where they made a halt—that he endeavored to persuade them to return—they refused—the officers insisted that he should go to headquarters to General Gates, and make a representation of their situation—he went—upon being introduced to General Gates, and introducing the subject, General Gates damned him for a coward, and ordered that he should go into the custody of a guard—that he, Mr. Lyon, insisted on his rights, as an officer, not to be put under guard. That the Adjutant General, or an aid of General Gates, said something on the subject, and Mr. Lyon was finally arrested, tried with the rest of the officers, by a court martial, and sentenced to be cashiered from the Army. He said the charge was, that the officers, as they themselves could not without disgrace and punishment abandon the post, had excited the men to run away. He further said, as it respected himself, that the charge and the sentence were unjust. I think Mr. Otis asked him if he had worn a wooden sword. He said not. Mr. Champlin, if I am not mistaken, made this remark, that if he saw it in poetry, he should consider it as being a figurative expression for being cashiered. Mr. Lyon told us he had wiped off this stain—that he had held an office in the Army, if I do not mis-recollect, of a Paymaster. I think he mentioned, however, that he did not continue long as a Paymaster, owing to some other person having been appointed, with whom he had a dispute about it; yet in that dispute, while in the Army, the circumstance of his being cashiered had not been mentioned to his dishonor—that he had been appointed, and for many years commanded as Colonel, a regiment of militia in Vermont. I recollect nothing further of importance to the present inquiry. I have had little or no conversation with Mr. Lyon since that time.

On being interrogated by one of the members, he further deposed, as follows, to wit:

I do not recollect having mentioned this conversation to Mr. Griswold, my colleague, though I have to others, not considering it as confidential.

Christopher G. Champlin, Esq., one of the Representatives from the State of Rhode Island, being duly sworn, as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

I have attentively considered the evidence given to the Committee of the Whole, by Mr. Goodrich, and to the best of my recollection, it is correct.

Nathaniel Chipman, Esq., one of the members of the Senate of the United States, from the State of Vermont, being duly sworn, as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

I do not know that I ever heard any conversation in presence of Mr. Lyon, relative to his having been cashiered, until the last Summer. I had before heard it, as a subject of conversation in Vermont. Soon after Mr. Lyon returned from the last session of Congress, he was at Rutland; about that time there appeared in the Weekly Museum, a parody on his speech, in the last session of Congress, on the subject of waiting on the President with the Address. I was in company with Mr. Lyon and two or three others, and I asked him whether he did not, at the time, expect that what he had said, would bring up the subject of a wooden sword. He replied that nothing was there said, which could give any one a right to bring up that business, for he had expressed himself guardedly, on purpose to avoid anything of that kind; that he had not mentioned anything of his having fought or been a soldier; but that he had been at his post, or stood firm at his post during the war. I replied, that amounted to the same thing; to say that a man stood firm at his post, was saying he was a soldier. He immediately observed, with seeming anxiety, that he was not to blame in the affair for which he had been cashiered. I then repeated to him how the circumstances of the affair had been related by a person who belonged to the corps; who had said, that in the Summer of one thousand seven hundred and seventy-six, being stationed somewhere near Onion river, at Jericho, I believe, the officers thought themselves in a very dangerous situation, and first suggested it to the soldiers under their command; they suggested that they (the officers) could not desert the post, without subjecting themselves to disgrace or punishment, but that the soldiers might mutiny and march off. In that case the officers would not be obliged to tarry without men. That the soldiers marched off, and that the officers followed them. Mr. Lyon observed that it was true so far as it related to the commanding officer, and one or more of the others, and that he had himself opposed, as soon as he learned what was intended, any such proceeding; but that he was over-ruled, and finally went off with the rest. Mr. Lyon related this matter more particularly than I have done; but I suppose it is not necessary to enter into a minute detail. He then mentioned the circumstance of his arrest at Ticonderoga, and some

circumstances relating to the trial. He did not mention the particulars of the sentence of the court martial, nor did I ask him. He further said that the next year, (in the year one thousand seven hundred and seventy-seven) General St. Clair, who commanded in the Northern Department, had reversed the sentence of the court martial. The circumstance, relative to the business, I had before heard, and therefore made no inquiry of Mr. Lyon, respecting it, that I recollect. The conversation above mentioned, with other similar conversations, passed between Colonel Lyon, myself, and two other Judges of the Supreme Court, (a session of which was, at the time, held at Rutland,) and some gentlemen of the bar, at our private quarters, in the course of the two or three days which Colonel Lyon then spent at Rutland. One evening there was a number of people together; a Mr. Smith, if I recollect right, was conversing upon the subject, with Mr. Lyon. What occasioned the observation, I cannot say, but Colonel Lyon observed, that he should take no notice of anything that should be said upon that subject, referring to the former subject of conversation in that part of the country; but that, if any one at Philadelphia, or if any member of Congress (I cannot recollect the precise expression he made use of) should insult him with it, or pretend to mention it to him, it should not pass with impunity—or expressions conveying the same idea.

On being interrogated by Matthew Lyon, Esquire, and other members of the House, he further deposed:

Mr. Lyon, I take it, has had a Colonel's commission in the Militia—I think in one thousand seven hundred and eighty-one. It was during the time of a dispute between Vermont and New York, as to their jurisdiction. The neighborhood of Colonel Lyon's regiment, which was Abingdon, where he then lived, was about seventy miles from where he was cashiered. He now lives, and ever since one thousand seven hundred and eighty-three or one thousand seven hundred and eighty-four, has lived, about twenty-five or thirty miles from that place, (Ticonderoga.) Militia field officers in Vermont, I believe, at that time, were appointed by the militia of the several regiments.

I did not discover, that my question, with respect to the wooden sword, was taken by Mr. Lyon as an affront, but Mr. Lyon discovered an anxiety to clear himself of censure.

In the conversation I mentioned above, between Mr. Lyon and myself, my expression was: If he did not expect that this ridiculous speech in Congress, relative to the Address, would bring up the wooden sword? The first time I saw him was in one thousand seven hundred and seventy-five. I did not then reside in that country. In one thousand seven hundred and seventy-nine, I went to reside there, and soon became acquainted with Mr. Lyon.

I cannot say what reasons Mr. Lyon gave for not resenting a mentioning of the wooden sword, in Vermont.

I cannot say whether the story of the wooden sword arose from a figurative expression, or was literally true. I first heard the story previous to one thousand seven hundred and seventy-nine, and before my acquaintance with Mr. Lyon.

Mr. Lyon and I have never been much in habits of political friendship. If I remember rightly, I mentioned in Philadelphia, the conversation with Mr. Lyon, as above related, in a company one evening; I cannot say with certainty, but I believe Mr. Griswold was present. I think it probable I have also related the conversation which I had with Mr. Lyon at Rutland, more than once in this city, but not out of the house where I reside—to my present recollection.

Thomas Sumter, Esq., one of the Representatives from the State of South Carolina, being duly sworn, as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, and interrogated by several members of the House, answered upon his said oath, to the interrogatories so put to him, as follows, to wit:

Question. Did Mr. Lyon come across the House to where you were at the fire, immediately after the dispute, and say that he had twice heard Mr. Griswold use the expression respecting the wooden sword?

Answer. Mr. Lyon did come to the fire, on the right of the Speaker's chair, where I was, and say, that he heard Mr. Griswold use the expression; but that he did not then attend to it, but turned from him, and took no notice of it; and that Mr. Griswold touched him on the arm and repeated it.

Q. Do you know the precise length of time between the termination of the dispute and Mr. Lyon's so coming to you and making the observations, as before stated?

A. I do not know the precise time, but suppose it to have been but a short time, from the state of agitation in which Mr. Lyon appeared.

Q. Do you know that he might not have spoken to some member, before he so came to you at the fire?

A. I do not know that Mr. Lyon had spoken to any member between the termination of the dispute, and his coming to the fire.

Q. Do you know the precise time when the dispute took place?

A. I did not know anything of it, till Mr. Lyon came to me.

Joseph B. Varnum, Esq., one of the Representatives from the State of Massachusetts, being duly sworn, as aforesaid, on the seventh day of February, one thousand seven hundred and ninety-eight, deposed as follows:

I do not know the precise time when the *fracas* took place, and cannot therefore exactly tell how long it was before I saw Mr. Lyon. On the day on which the House were balloting for managers of the impeachment of William Blount, the ballots being collected, and the tellers counting them, I was standing at the fire in the west part of the House, in company with other gentlemen—the Speaker having left his chair, and the members generally their seats. Mr. Lyon came up to the exterior of the circle round the fire, and observed, that he imagined there would be a bustle—that he had spit in Griswold's face. I observed to him that I was exceedingly sorry for it, and asked him how a thing of the kind could possibly take place. Mr. Lyon then told me the circumstances which he said provoked him to do the act.

On being interrogated by Matthew Lyon, Esquire, and other members of the House, the said deponent answered to the interrogatories so put to him, as follows, to wit:

Question. Were there any circumstances which induced you to believe that Mr. Lyon came to you at the fire, immediately after the affray took place?

Answer. Yes.

Q. Did you hear Mr. Thatcher mention the dispute before you heard it elsewhere?

A. No.

Q. What were the circumstances which induced you to believe that Mr. Lyon came to you at the fire immediately after the affray?

A. When Mr. Lyon came up to the fire, he appeared to be in a considerable agitation of mind. The information I first received of the affray having taken place, was from Mr. Lyon. Pretty soon after Mr. Lyon and I had ceased conversation on the subject, some other gentlemen observed, that Mr. Griswold had armed himself, or had gone out to arm himself; and, shortly after, I saw Mr. Griswold come in with a stick. These, with the observations which Mr. Lyon made to me at that time, and which the Committee of the Whole have not thought proper for me to relate, were the circumstances which induced me to believe that Mr. Lyon came to me at the fire immediately after the affray took place?

Q. Did Mr. Lyon tell you that he heard Mr. Griswold twice use the expression respecting the wooden sword?

A. Yes.

The following narrative was given by Mr. Lyon, in the course of his defence, before the Committee of Privileges, on Thursday, the 1st of February:

Gentlemen of the Committee:

After having heard so much about the "wooden sword," an expression, the repetition and application of which in an indignant manner has caused you this present trouble, I hope you'll indulge me with a patient hearing to a short narrative of the circumstance which awakens my feelings, and utterly disables me from bearing such reflections.

After living ten years in Connecticut, from my fifteenth to twenty-fifth year, I removed to a new settlement in Vermont, then called New Hampshire Grants, about thirty miles from Ticonderoga. On the first attempt of the British Government to enslave this country, I joined with about twenty other young men to form a minute company, and to learn military exercise; we made proficiency, and, on the first news of actual warfare, we hastened to join Ethan Allen, in taking Ticonderoga, Crown Point, and St. John's. I continued in that service without pay or prospect of it, until the Connecticut forces came on to keep the forts; when I returned home to take care of my affairs, which had suffered in my absence. In the same Summer, 1775, the militia were organized, and I was appointed Adjutant to my regiment.

In 1776, after the retreat from Canada, Colonel Seth Warner, being out of employ, applied to the Commander-in-Chief in the Northern department, for some defence for the frontier of New Hampshire Grants, which became exposed by the retreat of the army. The General recommended to the Committee of the New Hampshire Grants, of which I was a member, to nominate the commissioned officers for six companies, and he promised to commission them, and that they should be entitled to Continental pay. In one of those companies I received a commission as a second lieutenant. I set about enlisting my men, and immediately obtained my quota, and, at my own expense, marched them to the rendezvous at Pitsford, about twenty miles southeast from Ticonderoga, which, by this time, had become head-quarters. At the rendezvous I found the Captain and First Lieutenant of my company had raised no men, and that there were but two companies, and a part of another, besides mine, raised, and that Colonel Warner, who was expected to have commanded our six companies, had received a commission and orders from Congress for raising a regiment on the Continental establishment during the war, and that, in his endeavors to raise his regiment, the raising of our companies was wholly impeded. Finding the business falling into supineness, I applied to the General to discharge me and my men, in order that I might join Warner's regiment. The General at once agreed to discharge and pay me and my men, and ordered me to make up my pay roll for the purpose. But, at this juncture, application was made to the General by some people who had bought the crops of the Whigs, and who had removed from Onion river; and he was induced to order our party to march to Jericho, and take post at a certain house on the north side of Onion river, at least sixty miles in advance of the army, towards Canada—from whence the army had retreated, and about the same distance from any body of inhabitants; and the General, instead of discharging, ordered me to join one of the other companies.

The idea of the people, and of the Committee of the New Hampshire Grants, was that these six companies, if they had all been raised, would have been stationed somewhere near Middlebury, which is opposite Crown Point, and about twelve miles east therefrom, and near forty miles southward of the places appointed by the General.

The commanding officer wrote to the General, representing the situation of the country, and the impossibility of our being of any service at Onion river, as all the well affected people were moved away. This letter was either neglected or answered with a fresh order for marching. The order was obeyed; but the soldiers considered themselves sacrificed to the interest of those persons who bought the crops for a trifle, and wanted to get our party there to eat them at the public expense. I opposed those murmurs with all the arguments in my power.

I used frequently to urge with them, that the absolute government of the army must be with the General; he could not be omniscient, and we ought to submit with cheerfulness and hope for the best. In this situation our little garrison, which contained about sixty men, besides invalids, were alarmed by the Indians taking some persons from a house about a mile distant. Consternation prevailed. I immmediately called for volunteers, and with about twenty men went to the house where the prisoners had been taken—from thence took a circuit in the woods round the garrison, in order to see if there were any party or appearances of the enemy. Finding none, I returned and obtained leave to take about five and twenty of the best men, and pursue the enemy towards the Lakes, where we supposed they had gone. I had proceeded about two miles, when two runners from the commanding officer brought me positive orders to return, with intelligence that a subaltern officer had returned from a scout to the Lake Champlain, about twelve miles distant, where he saw five or six hundred Indians.

On my return, I found the soldiers more than ever anxious about their situation. They complained bitterly of the orders which bound them to the north side of Onion river, more than twenty poles wide, at that time not fordable, and but a single small canoe to cross with. I endeavored to encourage them with assurances that we could withstand any number of Indians in our log house and a hovel or two which stood near; and, after a battle, if we should find the enemy too troublesome, we might retreat with honor. I urged them to their duty as soldiers and patriots. Every preparation was made to repel the attack which was expected from

the enemy that night. Being fatigued, and off duty, I had laid down to rest, with my fusee in my arms. About nine o'clock in the evening, I heard a violent bustle, with a cry of "Turn out! turn out!" I turned out, and inquired where the enemy were discovered! and was answered, "No where." The soldiers were paraded, and I found by what was said by the sergeants that they were about to march off and cross the river. I expostulated with them, long and earnestly, pointing out the dishonor which such an action would reflect on their country. I urged them to stay the event of a battle; and I spoke the truth when I assured them that I preferred death in battle to the dishonor of quitting our post.

All entreaties were ineffectual; they declared they had been abused—there was no chance for their lives there, and they marched off for the south side of the river. A sergeant returned with some soldiers, and called upon the officers to cross the river. As they were going to take the canoe to the other side, they insisted on our going, and threatened violence if we refused. The other officers, which were two Captains and one Lieutenant, seemed willing to go, and I did not think it my duty to resist alone.

In the morning, the soldiers offered to return to subordination, if the commanding officer would lead them to a small block fort at Newhaven, about thirty miles to the southward. The officers held a consultation;—in this I refused to do anything but go back to the station we were ordered to maintain. We were at this place joined by a Lieutenant and a few men, who had gone to the mill near Crown Point to get wheat ground, and I was sent express to head-quarters, to carry letters and inform the General of what had happened; but some of the wheat speculators had arrived before me, and so exasperated the General that, when I arrived, he was enraged to the highest pitch: he swore we should all be hanged, and ordered me under arrest. Within a few days, the other officers and some of the soldiers were brought into head-quarters. We had a trial, by a court martial, appointed by the exasperated General, who now swore we should all be broke. I proved every thing with respect to myself that is here stated, (the persons are yet alive by whom I proved it, and are ready to repeat it,) notwithstanding which, I was included in the general sentence of cashiering; nor did even the Lieutenant who was absent at the mill escape the awful condemnation. The soldiers were sentenced to corporeal punishment, but, on General Carlton's coming down to attack Ticonderoga, they were liberated.

The mortification of being cashiered, and that very undeservedly, without any other aggravation, was, I believe, quite to the extent of my power to bear; had any indignant ceremony been to be performed, they would not have had my company at it, as the implements of death were in my power.

The General sent for us to his own house, and there, in a mild manner, communicated to us the sentence—no one present I believe but his aid; and we took our own time and manner of quitting Ticonderoga. I have always understood he reversed the sentence.

Perhaps my spirit would not have been able to have borne up under this affliction had not all my acquaintances acquitted me of every color of misbehaviour; nor did the bitterest enemy ever seriously, between he and me, before the present insult, call my courage or my conduct in that instance in question. Twenty-one years have elapsed since the unfortunate affair, during which it has slept in oblivion, until party rage and party newspapers tore open the wound in my breast.

To pursue the narrative: General St. Clair, who presided at the Court Martial, which condemned me, in the Summer succeeding that misfortune, recommended me to Gen. Schuyler, informing him (as I supposed) of my ill usage and of my subsequent services, and obtained for me a commission of Paymaster to a Continental regiment commanded by Colonel Seth Warner, which commission entitled me to the rank of Captain. In this I was again unfortunately led into trouble, as the officers of the regiment had, previous to my appointment, petitioned Congress for the restoration of the former Paymaster, who had been cashiered, and was the son of a Congressman of Connecticut.

Notwithstanding the coldness this created towards me, and the consequent bickerings, no officer ever thought proper to mention to me the unhappy affair of the preceding Summer. In this regiment I served at the capture of Burgoyne; and the succeeding Spring, when my family could return to my plantation, from which Burgoyne's invasion had drove them, at the solicitation of Governor Chittenden, and many other friends, I resigned at a time when the officers of the regiment, almost all, had become reconciled, and wished my stay. Immediately on my resignation I was appointed Captain in the militia, and to several civil offices under the authority of the State of Vermont, which had newly formed a constitution and set up government.

In the year 1778, I was appointed a member of the Legislature, in which station I served my country ever since, save two years, until my appointment to Congress. I held a station in the militia, until the command of the regiment I lived in, with a full Colonel's commission, was given to me. I moved to where I now reside about the close of the war, and I have had no concern with military matters, nor been a candidate for any military appointment since.

Thus circumstanced, gentlemen of the committee, I must appeal to your own feelings, whether it belonged to me to receive with impunity the aggravated insult offered me by that young gentleman, Mr. Griswold. The station I now hold points out to you the propriety of giving full credit to the plain story I now tell you, especially as it is corroborated by evidence. The proper testimony to support this narrative I will procure and lay before the public as soon as the situation of the evidences will admit.

I shall conclude with making some observations on the testimony, all of which corroborates that I was standing without the bar conversing with the Speaker, who sat on an outside chair; the subject I believe it is apparent was Mr. Nicholas's motion. I did not like the opposition given to it by the Connecticut members. I insisted they did not act according to the sense and understanding of the people of that State. This led to saying many other things; though my discourse was directed to the Speaker, it appears I had the wit and raillery of five or six gentlemen from New York and Connecticut to withstand and reply to; it appears that I supported it with good humor.

It appears, also, by the testimony, that Mr. Griswold, in Mr. Harper's seat, gave me a most cutting insult. The Speaker, who I was in conversation with, heard it as well as some others; they testify that I did not appear to hear it. Why not hear it as well as they? For no other reason than to keep up the prevailing good humor.

But Mr. Griswold not satisfied with the insult already given, says to one of the witnesses, "He does not hear me," and removes and intrudes himself to my side, pulls me by the arm to call my attention, and then more particularly and more deliberately repeats the insult, knowing it to be the most provoking abuse that one gentleman could possibly offer another.

Under all these circumstances, I cannot but entertain the fullest assurance that I stand justified for the repulse of that deliberate insult offered me by Mr. Griswold, in the view of the Committee of the House of Representatives, and of every man of honor or feeling who shall ever hear the story.

Tuesday, February 13.

A message was received from the Senate, informing the House that they had passed a bill for the sale of lands in the Northwestern Territory; and that they had also passed the bill for the relief of the refugees from Canada and Nova Scotia, with amendments.

Mr. Coit reported a bill in addition to an act for promoting the progress of the useful arts; which was committed for Monday next.

The Speaker laid before the House a letter which had been received by the Clerk from the Legislature of the State of Virginia, enclosing an authorized copy of their agreement to the amendment proposed to the Constitution respecting the suability of States. Ordered to lie on the table.

FOREIGN CONSULS.

Mr. Otis, from the committee to whom was referred that part of the President's Speech which has relation to foreign Consuls, directed him to ask leave to be discharged from the consideration of that subject, in order that it might be referred to the Committee of the Whole, to whom has been referred the bill providing for the expenses of Government for the year 1798, as an item could be introduced into that bill without going through the formalities of a bill for that purpose.

This motion was opposed by Messrs. Gallatin and Nicholas, as they were not certain that the expenses alluded to were authorized by law; and if they were not, it would be proper to authorize the expenses before they appropriated money to pay them.

The motion was put and negatived—37 to 33.

EXECUTIVE CONTINGENT FUND.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

In obedience to the law, I now present to both Houses of Congress my annual account of expenditures from the contingent fund during the year 1797, by which it appears that, on the first day of January last, there remained in the Treasury a balance of fifteen thousand four hundred and ninety-four dollars and twenty-four cents, subject to future dispositions of Government.

JOHN ADAMS.

United States, *February* 12, 1798.

The Message and statement were ordered to lie on the table.

APPROPRIATIONS FOR 1798.

The Speaker said, the business first in order was the unfinished business of the bill providing for our intercourse with foreign nations.

Mr. Gallatin moved to postpone the unfinished business, for the purpose of taking up the bill making appropriations for the support of Government for the year 1798, as Government was at present drawing money by way of anticipation. There was also a report of the Committee of Claims, on the subject of excepting certain claims from the operation of the limitation act, which he thought it would be well soon to act upon, as the delay of it might induce speculations which it would be better to prevent.

After some few objections to a postponement of the unfinished business, it was at length agreed to postpone it for the purpose of taking up the appropriation bill.

The House accordingly resolved itself into a Committee of the Whole on the bill appropriating for the support of Government for the year 1798, (Mr. Dent in the Chair;) and after having agreed to the various items therein contained, with little or no debate, the committee rose, and the House concurred in the amendments which had been agreed to in the Committee of the Whole, and the bill was ordered to be engrossed for a third reading.

QUAKERS' MEMORIAL.

Mr. Sitgreaves hoped the House would go into a Committee of the Whole on the report of a select committee on the memorial of the people called Quakers.

Mr. Rutledge wished this subject might be deferred till to-morrow, as he thought it would be proper to introduce an amendment into the report, which he was not at that time prepared to make.

Mr. Sitgreaves consented.

RULES OF THE HOUSE.

Mr. Coit thought it was desirable to introduce an amendment to the standing rules and orders of the House. For this purpose, he proposed the following resolution:

"*Resolved*, That the following be added to the standing rules and orders of this House: 'That no question shall be taken up for reconsideration when there shall be a smaller number of members present than were present when the original vote was passed.'"

Agreed to, and referred to a committee of five members.

OLIVER POLLOCK.

Mr. D. Foster called for the order of the day on the bill for the relief of Oliver Pollock; which, being agreed to,

The House resolved itself into a Committee of the Whole on this bill, and, after some debate, it was negatived—35 to 24.

The committee rose, when a motion was made to postpone the further consideration of this bill; which motion not appearing to be very acceptable, another motion was made to adjourn, which was carried by the casting vote of the Speaker—there being 37 to 37.

Wednesday, February 14.

The bill making appropriations for the support of Government for the year 1798, and for other purposes, was read the third time and passed.

The amendments of the Senate to the bill for the relief of the refugees from Canada and Nova Scotia were taken up and referred to a select committee.

Mr. Otis, from the committee to whom was referred that part of the Speech of the President of the United States which relates to the reimbursement of certain advances made by Consuls in foreign countries, made a report, stating that it was supposed $30,000 would be sufficient for this object, and recommended the adoption of a resolution for effecting the measure, which was committed for Friday.

Mr. Harper, from the Committee of Ways and Means, who had been instructed to inquire whether any and what alterations are necessary in the law respecting the entry of stills, was directed to make a report on the subject. The report was accompanied by a bill making an alteration in the manner of making the entry of stills, by doing away with the annual entry after the 1st of July next, and requiring, that after a still has been once entered, it shall be again entered only in case of removal. This report and bill were committed for Monday.

Mr. Harper, from the same committee, to whom it had been referred to inquire whether any and what alterations are necessary in the act laying a duty on stamped vellum, parchment, and paper, was directed to make a further report, recommending that a deduction of 7½ per cent. should be allowed to all purchasers of stamps (except collectors of revenue) above the value of twenty dollars, and that a certain deduction should be retained by the collectors of the impost duty, from drawbacks on goods exported, instead of the stamp duty proposed to be laid, which it was stated would fall very unequally, according to the scale proposed in the law. A bill was reported, at the same time, making these alterations in the law. The report and bill were committed for Monday.

Mr. Harper proposed to add the following regulation to the standing rules and orders of the House, viz:

"*Resolved*, That the standing rules and orders of the House be amended by inserting after the rules respecting motions for adjournment, 'Provided, that no motion for adjournment shall be received, except by unanimous consent, whilst any other motion is pending.'"

Ordered to lie on the table.

The bill from the Senate for the sale of land between the Great and Little Miami, in the territory northwest of the river Ohio, was also taken up and committed for Monday.

Mr. Nicholas wished, as in some degree connected with this subject, to present a petition from a number of persons settled near the mouth of the Kentucky river, who wished to purchase the same, which would be proper to be referred to the same committee. He wished also to move an instruction to the committee, to inquire what progress has been made in carrying the act into effect for the sale of land northwest of the river Ohio, and whether any amendments are necessary in the said act, particularly as to the price of the land. He believed there was little probability of the land selling at the price which had been fixed, and persons who might become purchasers if the price was reasonable, were now moving off to the Spanish Territory. He thought it would be well to prevent this, and therefore moved this instruction. It was agreed to.

QUAKERS' MEMORIAL.

Mr. Sitgreaves moved the order of the day on the report of a select committee on the memorial of the people called Quakers; which motion being agreed to, the House went into a Committee of the Whole on the subject, Mr. Dent in the Chair. The report having been read as follows:

"That, inasmuch as the said memorial and address presents, in general terms only, certain subjects to the consideration of the Legislature, without containing any definite state of facts, or any specific application for its interposition, the memorialists were desired to exhibit a particular view of the grievances of which they complained, in order that the attention of the House might be directed to precise objects, and that it might be better discerned whether the complaints of the memorialists were of a nature to justify Legislative interference:

"That, in consequence of this request, the memorialists laid before the committee the representation and documents which accompany this report:

"That, on the subject of this representation, the memorialists were invited to confer with the committee, and were solicited to suggest the remedy which they conceived it to be in the power of Congress to apply to the case, as stated by them:

"That the committee, after several conferences with the memorialists, and an attentive consideration of the subject, are very clearly of opinion that the facts disclosed in the said representation are exclusively of judicial cognizance; and that it is not competent to the Legislative authority of Congress to do any act in relation to the matter thereof:

"Wherefore the committee recommend the following resolution:

"*Resolved*, That the memorialists have leave to withdraw the said memorial and address."

Mr. Thatcher could not say that he was perfectly satisfied with the report of the committee in all its parts. He wished the business disposed of without coming to any decisive resolution upon it, so as either to approve or disapprove of it. He was not ready to say that the facts disclosed in that memorial were exclusively of judicial cognizance, and that the Legislature of the Union was incompetent to do anything in it. It might, however, be true, but it was not clear to him. He would rather that the subject should not now be acted upon: he would, therefore, propose an amendment to the report, which might conclude the business without coming to any resolution upon it, which had been the course heretofore taken with similar applications. He moved, therefore, to strike out the resolution giving the petitioners leave to withdraw their petition; and if his motion was agreed to, he should wish the committee to rise, and that the House would not act further upon it at present.

Mr. Rutledge said, he, as well as the gentleman from Massachusetts, was dissatisfied with the report of the select committee. He thought the report ought to have stated that the peace of certain States in the Union had been much disturbed by applications of this kind. He had prepared a resolution to this effect, which he would read in his place. It was as follows:

"*Resolved*, That part of the memorial of the people called Quakers has a tendency to disturb the tranquillity of some of the States of the Union; that this House is not competent to act upon it, and therefore they have leave to withdraw their memorial."

There could be little difference of opinion on the assertion that the internal tranquillity of several States had been disturbed by these applications; and he believed there would be no difficulty in obtaining a majority of the House to declare it; as if the Representatives of three or four States were to rise and declare the fact, it must have sufficient weight to carry a declaration of this kind. He had, however, mentioned the matter to some of his friends, and found it was not very agreeable to them, as they wished to get rid of the business without debate. But if the present motion were to obtain, he should afterwards bring forward this resolution.

The Chairman declared the motion of the gentleman from Massachusetts out of order.

The question on the resolution, as reported, was put and carried, there being 74 votes in the affirmative. The committee then rose, and the House concurred in the report.

FRANKING PRIVILEGE.

On motion of Mr. Thatcher, the House went into a Committee of the Whole on the bill granting the right of franking to the Attorney General.

Mr. Harper moved to amend the bill by adding, "and the officer commanding the troops of the United States," which was agreed to.

The committee rose, the House agreed to the amendment, and the bill was ordered to be engrossed for a third reading.

RELIEF OF WIDOWS AND ORPHANS.

On motion of Mr. Gregg, the House went into a Committee of the Whole on the report of the Committee of Claims on the subject of making provision for the widows and orphan children of the officers of the Army of the United States, who were killed in an action with the Indians, in the territory northwest of the Ohio, on the 4th of November, 1791. The report was favorable.

Mr. Davis moved to amend the report by adding "militia officers." He thought it was only reasonable that an allowance should be made to the widows and orphans of militia officers, as well as to those of the officers of the Army. The Kentucky militia were out on that expedition, and several officers were killed.

Mr. D. Foster proposed to make the provision general, and to go back to the 4th of March, 1789. Some objections were urged to this amendment, as it was apprehended, from its comprehensiveness, it might endanger the passage of the bill, as the Senate had rejected a former bill of this kind. The committee rose without coming to any decision, and had leave to sit again.

Thursday, February 15.

FRACAS IN THE HOUSE.

[About a quarter past eleven o'clock, after prayers, whilst the Speaker was in his Chair, and many members in their places, but before the House had been called to order, and before the Journal had been read, Mr. Griswold entered the House, and observing Mr. Lyon in his place (who was writing) he went up to him with a pretty strong walking stick in his hand, with which he immediately began to beat him with great violence. Mr. G.'s approach was observed by Mr. Lyon, but before he could get from behind his desk he had received some severe blows. As soon as he got on the floor of the House he endeavored to lay hold of Mr. G. (having no stick or weapon in his hand) but he was prevented from doing so by Mr. G.'s falling back, and the continual blows with which he was assailed. At length getting behind the Speaker's chair, Mr. L. snatched up the tongs from the fire; the combatants then closed and came down together upon the floor, Mr. G. being uppermost. The members in the House, who till now seemed to look on with amazement at the scene, without an attempt to put an end to it, got round the parties, and separated them, but not before Mr. L. had aimed a blow at Mr. G.'s head with the tongs, but which he parried off. The Speaker was now called upon to desire the members to take their seats, and form the House. Whilst this was doing, the two enraged members met again without the bar, and but for the doorkeeper and some gentlemen present, would have renewed the combat. Order having been obtained (at least as much as it was possible to obtain from the agitated state of the House) the Clerk proceeded to read the Journal, and the business of the day was entered upon. It continued till one o'clock, when from the perturbation which was naturally occasioned by such a scene, and it being evident that business was very little attended to by a great part of the House, a motion for an adjournment was made and carried. It will be seen that no notice was taken of this proceeding in the course of the sitting.]

The bill granting the right of franking letters to the Attorney General and the officer commanding the troops of the United States, was read the third time and passed.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Claims, on the subject of extending the provisions allowed to the widows and orphans of certain officers of the Army of the United States, to the widows and orphans of those who were killed in action with the Indians in the Territory northwest of the Ohio, on the 4th of November, 1791; when the proposition made yesterday for

extending the provision to the widows and orphans of all officers who have died in the service, which are not at present provided for, was agreed to.

The committee rose, the House concurred in the amendment, and the Committee of Claims was directed to bring in a bill accordingly.

Mr. Livingston said, the delegates from the State of New York had received instructions from the Legislature of that State, to use their endeavors to get removed a difficulty which existed in a suit now pending, in which there was a clashing of jurisdiction between the States of New York and Connecticut. In order to remove this difficulty, and others of a similar nature, in future, he proposed a resolution to the following effect:

"*Resolved*, That provision ought to be made, by law, allowing the trial of all cases in which one or more States may be interested, by a jury to be taken from a State not interested in such suit or suits."

Which was ordered to lie on the table.

The Speaker announced that the unfinished business of the bill providing the means of foreign intercourse, was first in order.

Mr. Dent moved to postpone the consideration of that subject until Monday, as, from the appearance of the House, he did not think it would be proper to go into so important a subject at present.

After a few other observations, the question for postponement was carried 48 to 34.

Mr. Livingston, from the Committe of Commerce and Manufactures, reported a bill for the relief of Sylvanus Crowell; which was committed for Monday.

The same gentleman, from the same committee, also made a report on the petitions of Reuben Smith and Nathan Strong, who pray to be allowed the bounty and drawback on a quantity of beef, pork, and cotton goods exported, which had been regularly inspected, but, upon the exportation of which, the necessary bond had not been given, nor the oath prescribed taken.

The committee state that this neglect does not appear to have taken place from any improper motive, and, therefore, recommend that the relief prayed for may be granted. Committed for Monday.

RELIEF OF AMERICAN SEAMEN.

On motion of Mr. Livingston, the House went into a Committee of the Whole on the bill in addition to the act for the relief and protection of American seamen; when, after Mr. L. had introduced an amendment, requiring masters of vessels to give bond to bring back, or give a due account of all the sailors they take out on their voyages, the committee rose; but some objections being offered to this amendment in the House, the consideration of it was postponed, and it was ordered to be printed.

Mr. D. Foster then moved to adjourn.

Mr. Dawson wished the motion for adjournment to be withdrawn until he offered a resolution to the House.

The motion for adjournment was persisted in, and negatived, there being only 23 votes in favor of it.

AMENDMENT OF RULES.

Mr. Dawson then proposed a resolution to the following effect, which he wished to be referred to the committee appointed to consider upon the propriety of making certain amendments in the Standing Rules and Orders of the House:

"*Resolved*, That the Standing Rules and Orders of this House be amended, by adding to them a provision, that persons attending this House to take down its debates and proceedings, for the purpose of publication, shall be permitted to take their places within the bar of the House."

The Speaker said, he would state to the House that this was now the case, except as to one person, who had abused the privilege, and insulted the Speaker of the House.

The resolution was ordered to lie upon the table.

Friday, February 16.

CASE OF GRISWOLD AND LYON.

Immediately upon the Journals having been read,

Mr. Davis, of Kentucky, rose and proposed the following resolution for the adoption of the House:

"*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, for violent and disorderly behaviour committed in the House, be expelled therefrom."

Mr. Nicholas hoped the resolution would be permitted to lie on the table.

Mr. Davis saw no reason for delaying a decision upon this resolution. He thought the conduct of these gentlemen had been so grossly violent, and so notorious to most of the members of the House, that there need be no hesitation in deciding upon it. If gentlemen wished, however, to take the same course which had been adopted on a former occasion, he should not object to it, though he thought it unnecessary. It was needless, now to say anything as to the necessity of preserving the dignity and honor of that House; enough had already been said, and he thought pertinently said, on a former occasion on this subject. And as he believed neither the dignity, the honor, or peace of that House could be preserved whilst these members remained in it, he hoped the House would be unanimous in voting their expulsion.

Mr. Thatcher did not see why the innocent should be punished with the guilty. The gentleman who brought forward this proposition, he supposed, did not wish this. From what he saw of the affray, he did not think Mr. Lyon deserved to be punished for the part he acted. He certainly received a severe beating, but he appeared to be passive from the beginning to the end; and he did not think Mr. Lyon ought to be expelled because he was beaten. As to any investigation of what happened yesterday, he did not think it necessary, as most of the members of that House

were eye-witnesses to the fact. But the gentleman said there would be no peace until these members were expelled. He did not know from what he drew his conclusions. What was done yesterday was done before the House was in session; and it had already been determined that acts of violence committed without the bar, during a session of the House, are not causes of expulsion. He did not know, therefore, how gentlemen would support the doctrine that a member ought to be expelled for an act of violence done before the House was in session. It might be necessary, however, to investigate other facts connected with these.

Mr. J. Parker seconded the motion for the expulsion of these members, because he believed there would be no peace in the House until they were expelled. He was sorry the gentleman from Massachusetts should have said he saw nothing but what was passive on the part of Mr. Lyon. He himself saw more, and that gentleman must have seen it if he had his eyes about him. He said, that after the offending members had been separated Mr. Lyon met Mr. Griswold without the bar of the House and began to belabor him with his cane, when they were again separated. The attack of yesterday, Mr. P. said, at a time when the House ought to have been in session though it had not come to order, would fix an indelible stain upon it; and if these members were not expelled, no member could consider himself as safe in his seat. Such a transaction would certainly lower that House in the estimation of their constituents. He had even heard this morning, as he came to the Hall, persons in the street call out, "There is nothing to do in Congress to-day—there's no fighting going on!" In order to get rid of these reproaches, he hoped all parties would unite in expelling these members. If their constituents chose to send them back, he hoped no member would associate with or take notice of them. And if a vote of expulsion should be agreed upon, he would afterwards move to expunge from the Journals all the entries relative to these disgraceful proceedings.

Mr. Nicholas wished the motion to lie upon the table for the present, because he was not himself prepared to decide upon the subject; he wished, also, that whenever the motion was taken up, gentlemen might come with their minds determined upon it, so that a long debate might not be necessary. He therefore moved to postpone the consideration of this resolution to Monday.

Mr. Gordon wished to know what part of the resolution the gentleman from Virginia was not ready to act upon?

Mr. Nicholas did not understand the drift of the gentleman's question. If he meant to ask whether he (Mr. N.) disapproved of the vote which he had already given, he would answer him *he did not*.

Mr. J. Williams said he should approve of the motion for postponement, if it were made for to-morrow, instead of Monday; and he hoped the business would not only be taken up to-morrow, but be concluded before they rose. He had sat with great patience during the late debate, but he should be opposed to going into any further lengthy proceedings on so disagreeable a subject, which would prevent them from doing the business of the nation, for which they were sent.

Mr. Nicholas had no objection to make the question the order for to-morrow, if the House met.

Mr. Thatcher observed, that he had before said that he had seen nothing on the part of Mr. Lyon, in the affray of yesterday, which ought to subject him to expulsion; but the gentleman from Virginia (Mr. Parker) said, that if he (Mr. T.) had had his eyes about him, he might have seen something for which he ought to be expelled. If, indeed, he had *eyes behind* he might have seen what he alluded to; but this not being the case, he did not see it. As far as the business respects Mr. Lyon, some inquiry might be necessary, as all he saw was, that Mr. Lyon suffered much, without any offence on his part. He thought, therefore, the business should be gone into, as on a former occasion, and that they ought to examine the subject with candor, and then they should doubtless decide upon it with propriety.

Mr. Sitgreaves was against the postponement, in order that a different course might be taken. He knew nothing in this case which distinguished it from a late case, and therefore could not see why the same course ought not to be pursued as was then pursued. He should therefore vote against a postponement, in order that the resolution might be referred to the Committee of Privileges.

Mr. Harper inquired whether such a motion would not supersede a motion for postponement.

The Speaker said, it would.

Mr. Harper then made the motion.

Mr. Gallatin asked whether he understood the Speaker rightly, that a motion for a reference to a committee superseded a motion for postponement?

The Speaker said, it did.

Mr. Nicholas asked whether it would not then be in order to postpone the consideration of the subject?

The Speaker answered, it would.

Mr. Nicholas renewed the motion for a postponement till to-morrow.

Mr. Harper, believing that it would be proper to refer this resolution to a committee, as before, especially as some of the facts did not pass within the view of the House, he should vote against the postponement—not because he wished to avoid a vote on the question; for, if it should be the opinion of the House that it ought not to go to a committee, he was perfectly ready to give a vote upon the question; but he thought it better that the business should have this course. With respect to any discussion being necessary upon this subject, he perhaps might think it necessary to make some observations upon it, when the question came before the House for decision; for, though some gentlemen might be endued with the happy faculty of doing everything in an instant, he could not boast of possessing that faculty. But, even if he were not desirous of discussion for his own infor-

mation, he wished it for the information of the public; and, notwithstanding all that the House had heard about a waste of public money and public time, he believed they should best serve the public by suffering the business to take the usual course.

The motion for a postponement was put and negatived.

Mr. Sitgreaves then moved that the resolution be referred to the Committee of Privileges.

Mr. Harper moved that the committee have leave to sit during the session of the House.

Mr. Thatcher thought, as it was probable a number of members might be wanted to give evidence, the House had better adjourn, as on a former occasion, as it would not be proper to go on with business when so many members were absent.

Mr. T. Claiborne hoped leave would not be granted for the committee to sit immediately. He wished them coolly to deliberate upon the business, which they could scarcely be expected to do, when their passions were so strongly affected as they must be at present.

The question for leave to sit during the session was put and carried—46 to 35.

Mr. Harper moved that the committee be instructed to report to the House the evidence in writing, upon which they shall found their report.

Mr. Kittera thought the facts were so notorious that there was no necessity for this instruction.

Mr. Harper said if his friend from Pennsylvania could say that every body would be satisfied with the report of the committee without the evidence, he would not insist upon this motion. But if the evidence was not reported, how could he say that all the witnesses might not again be called before the House? It was his wish to prevent this.

Mr. J. Williams said there was a considerable difference between this transaction and the one lately under consideration. He thought in this case it would probably save much trouble to report the evidence.

Mr. Brooks said it must be recollected that the gentleman from Virginia was not satisfied with the former report. He wished to hear the witnesses themselves; and if the evidence was to be reported, he did not suppose it would be satisfactory.

Mr. Nicholas seconded the motion, because it would be likely to shorten the business; but if, when the testimony came to be reported, there was any obscurity in it, he should feel it necessary to ask the witnesses questions by way of elucidation, as every man who was called upon as a judge, should be in full possession of every fact relative to the subject.

Mr. Brooks said the gentleman who had just sat down, would have no difficulty in pointing out some obscurity, in order to furnish an apology for rehearing of the witnesses.

Mr. Kittera said if to report the evidence would prevent the necessity of hearing the witnesses in the House, he should not object to it; but he believed this would not be the case.

Mr. Venable was before of opinion that it would have been best for witnesses to have delivered their evidence in writing. He hoped that course would now be taken, and then there would be no difficulty in reporting it to the House; and if it should be found necessary, in order to elucidate any part of it, to put any questions to the witnesses in the House, the business would be greatly facilitated and shortened by the evidence being reported.

The question was put and carried.

ENCOURAGEMENT TO COTTON GOODS.

Mr. Livingston said he wished to propose a resolution for the adoption of the House, which had in view the encouragement of a manufacture which was much increasing in the United States, and might become of considerable national importance. It was to the following effect:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire whether any provision be expedient for encouraging the printing of white cotton goods, in the United States, and report their opinion thereon to the House."

The resolution was agreed to.

STATE JURISDICTION.

Mr. Livingston called up for consideration the resolution, which he yesterday laid upon the table, on the subject of the clashing jurisdiction of States; when it was determined to be referred to a committee of seven members.

COLLECTION OF DUTIES.

Mr. S. Smith said that a letter and report of the Secretary of the Treasury, on the subject of regulating the collection of the duties arising from impost and tonnage, had been referred to the Committee of Commerce and Manufactures; but as it was necessary to obtain local information from parts of the Union from whence none of the members of the committee came, they wished, for this particular purpose, to have some members added, so that they might have the benefit of a member from every State in the Union.

After a few observations, it was agreed that the Committee of Commerce and Manufactures should be discharged from the further consideration of this subject, and that it should be referred to a committee of sixteen members.

CASE OF GRISWOLD AND LYON.

Mr. Otis believed that something further was necessary to be done in respect to the unfortunate business, which had already engaged the attention of the House. From what had happened in the view of the House, it appears that the parties are in the habit of conflicting with each other; and except they are restrained by some authority which shall be sufficiently imposing upon them, further violence may be expected. In order, therefore, to secure this House from future violations of its dignity and order, he proposed the following resolution for adoption:

"*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, be respectively required by the Speaker to pledge their words to this House, that they will not commit any act of violence upon each other during this session; and that if either refuse to make such engagements, the party refusing shall be committed to the custody of the Sergeant-at-Arms, until he shall comply with this obligation."

Mr. Sewall understood a motion had been agreed to in relation to the affair of yesterday, which might produce an expulsion of the members in question. He thought it would be better, therefore, to alter the wording of the resolution, and instead of "during this session," say "during the continuance of the examination of the business before the House."

Mr. Sitgreaves did not think any alterations were necessary. An expulsion of the members was a possible, but not a necessary result. If an expulsion does not take place, the resolution will remain in operation for the remainder of the session, which would be proper; and, if an expulsion took place, its operation would fall of course.

Mr. J. Williams thought it best to pass the resolution as it stood. If a similar resolution had been entered into on a former occasion, it would probably have prevented what had now taken place.

Mr. R. Williams called for the reading of the resolution which was passed on a former occasion. [It was read. It stated "that any personal contest between the members, before the House had come to a decision upon the business, would be considered as a high breach of privileges."] Mr. W. thought this resolution went as far as the House had a right to go. The resolution proposed by the gentleman from Massachusetts, went farther, he thought, than they had power to go. It went to imprison one or both of the parties, if he or they refused to comply with a request of the House. He had his doubts whether that House had the Constitutional power to imprison a man for a crime, as the law only would do this. He thought a resolution similar to that adopted on a former occasion, would be sufficient at present; and if the mover did not think proper so to alter it, he would himself move an amendment for this purpose.

Mr. Otis flattered himself that his object would have met with the concurrence of all sides of the House, believing that all wished to prevent future violations of order and peace. With respect to the doubts of the gentleman from North Carolina, his politics seemed to be altogether a system of *doubts*. If this system was common, it would be extremely difficult to progress with business at all. He believed, on the present occasion, these doubts were groundless. When an act of violence was done in the view of the members of the House, they had certainly the power to obtain some security against a repetition of such violence. If this was not done, the presumption was, the business of the session might be continually interrupted; and had they not the right of securing the peaceful exercise of their legislative functions for the remainder of the session? He thought this could not be seriously doubted. With respect to the former resolution, if he had been in his place, he should have suggested its impropriety; for, by it, it seemed to be implied that, after the question was decided, though they could not do it before, the members in question would be at liberty to commit any act of violence they pleased upon each other. They had seen the consequence. He hoped, therefore, the House would restrain these gentlemen in such a manner as that it may not be in their power again to interrupt their proceedings.

Mr. R. Williams defended his opinion, and insisted upon his right to deliver it; nor should he ask any gentleman to explain to him the oath he had taken to support the Constitution of the United States. When gentlemen violated the rules of the House, the House had a right to punish them; but he was doubtful whether they had the power to imprison a member if he refused to say yes, to a question which should be put to him.

Mr. Sewall presumed, that that House had the same right which every Court possessed, of preserving its order by imprisonment of offenders; and it was incident to this authority to restrain persons likely to commit these offences. It was necessary, for the future security of the House, for these gentlemen to say, they will not again assault each other. This was a means of preventing, and not of punishing, offences. He had no objection to the resolution, therefore, on the ground of power, but he had some doubt as to the propriety of the expression. For, said he, suppose these gentlemen are expelled, and Mr. G. afterwards assaults Mr. L. the former might consider himself bound by his promise to the Speaker, and forbear to defend himself. To correct this impropriety of expression, he moved to strike out the words "during this session," and insert "whilst members of this House."

Mr. Otis consented to this amendment.

Mr. Sitgreaves wished the mover to assent to another alteration in the phraseology of his motion. Acts might, perhaps, be committed which would not be called acts of violence, though very offensive. He wished the same words used as formerly, viz: "personal contest with each other."

Mr. Nicholas had no objection to the general object of this resolution; but the amendment of the gentleman from Massachusetts went to govern members during the recess of Congress. He supposed this was going further than gentlemen themselves intended. He thought a resolution like the former, which should extend during the present session, would answer every purpose. He did not see any necessity to inflict penalties before a breach of order was committed.

Mr. Venable said, the idea of the gentleman from Massachusetts (Mr. Sewall) was not correct, when he supposed an obligation entered into at this time, would be binding when a person ceased to be a member of that House. All obligations which members owe to the House, are dissolved when they cease to be members; nor was it in the power of the House to extend the force of the resolution beyond the present session. He should not object to its having that extent. He thought it only reasonable, in order to obtain a prospect of future peace in their deliberations, that these gentlemen should declare that they will not enter into

any further personal contest during the session. He moved, therefore, again to alter the resolution to read, "during the session."

Mr. Otis hoped the amendment would be made, he had too readily consented to the former alteration.

The question was then taken on the resolution, and carried by a large majority, there being 73 votes in favor of it.

The Speaker asked, whether it was the pleasure of the House that the Sergeant-at-Arms should be sent for Mr. Lyon?

Mr. Sitgreaves said it might not be convenient for Mr. Lyon to attend the House; he asked whether the resolution might not be sent to him, and his answer be received in writing?

Mr. Nicholas supposed, that if both gentlemen prepared a declaration in writing, and presented it to-morrow, it would answer the purpose.

Mr. Harper replied, the mischief intended to be guarded against might in the mean time be done.

Mr. Gallatin said, he had just been called out by a member of the House, who had asked him whether he thought it would be proper for Mr. Lyon to attend the House. He supposed, therefore, if the Sergeant-at-Arms was sent for him, he would immediately attend.

Mr. Harper hoped the Sergeant-at-Arms would be sent.

The Speaker said, as soon as the Clerk had made a copy of the resolution, the Sergeant-at-Arms would wait upon Mr. Lyon with it.

Mr. Lyon having entered,

The Speaker said, the members from Vermont and Connecticut being now in their places, he should proceed to read the resolution which had been entered into by the House. [He then read the resolution.]

As soon as it was finished reading,

Mr. Griswold rose and said, he should not hesitate to enter into the proposed engagement.

Mr. Lyon also rose and said, he was ready, as it was the wish of the House, to agree to the proposition.

The Speaker said, then you do accordingly agree to this proposition?

Both answered, "I do agree."

AMENDMENT OF THE RULES, &c.

Mr. Harper called up his proposed amendment to the Standing Rules of the House, respecting motions for adjournment; which was referred to the committee which has been appointed on the subject of the Rules.

Mr. J. Williams moved that the House go into a Committee of the Whole on the bill for disciplining and organizing the Militia of the United States; but, the sense of the House being taken, there appeared only 14 members for it.

Mr. W. then said, as there appeared no business before the House, he would move an adjournment, in order that the Committee of Privileges might attend to the business referred to them. Agreed to.

The bill for the relief of William Alexander, was read the third time and passed.

The bill appropriating money for holding a treaty with the Indians in the State of Tennessee, was received from the Senate with amendments; which were read and referred to a select committee.

Monday, February 19.

A message was received from the President of the United States, enclosing a report from the Secretary of State, with an account of the losses recovered for captures on behalf of citizens of the United States, under the treaty made with Great Britain; which was ordered to be printed.

The bill providing for the widows and orphans of certain deceased officers, was read the third time, and passed.

Mr. Gregg presented a petition from Jeremiah Hall and others, praying that a tract of land—six miles square, near the Scioto river, in the Northwestern Territory—may be laid off in a certain manner, and that payments may be received for it by instalments. Referred to the committee to whom has been referred an inquiry into the law for disposing of this land.

RULES OF THE HOUSE.

Mr. Dent, from the committee to whom was referred two propositions for amending the standing rules of the House, reported it as the opinion of the committee, that that which goes to prevent the reconsideration of a vote when there are fewer members present than when it originally passed, ought to be adopted; but that the one which would prevent a motion for adjournment from being in order, when another motion was before the House, ought not to be agreed to.

Mr. Nicholas wished this report to be committed to a Committee of the Whole. He was not ready to vote upon it; to say that no number of members less than had agreed to a certain proposition was competent to agree to another, and of course that a majority of the House could not do the business of the House.

The report was accordingly committed.

REPORTING THE DEBATES.

Mr. Dawson wished the resolution which he had laid upon the table, on the subject of admitting persons who attended the House for the purpose of taking an account of its debates and proceedings within the bar of the House, to be taken up and referred to the same Committee of the Whole.

The resolution was accordingly read.

Mr. Sitgreaves thought it would be more eligible that this proposition for amending the rules should have the same course as others, especially as, from the information of the Speaker, it appeared that the object of the resolution was in practice, with the exception of one individual note-taker, who had abused the privilege, and insulted the Speaker and the authority of the House. It was proper, therefore, that the fact should be stated, so as that the House might act upon it.

Mr. Dawson had no objection to the reference the gentleman from Pennsylvania had pointed out; it was his opinion, however, that the other would have been the more direct course.

It was accordingly referred to a select committee.

PIERS AT NEWCASTLE, DELAWARE.

Mr. Hartley presented the petition of a number of merchants, traders, and others, of Philadelphia, praying that some new piers may be erected at Newcastle, and that the old ones may be repaired.

Some difference of opinion arising as to the proper reference of this petition, Messrs. Hartley and Livingston being in favor of a reference to the Committee of Commerce and Manufactures, and Messrs. Sitgreaves, Gallatin, and Kittera, for a reference to the Secretary of the Treasury, Mr. Coit suggested the propriety of its lying on the table till to-morrow, as he recollected the Secretary of the Treasury had already made a report upon the subject, which was referred to the Committee of Commerce and Manufactures, but he did not know whether or not that committee had reported. He wished time to inquire. Agreed to.

Mr. Thatcher said, that on the 20th of January, 1793, a petition was presented from Tobias Lord, and others, praying leave to erect a pier in Kennebunk river, that an act had been passed authorizing the erection of said pier, under such regulations as should be determined by a law of the State. He had now received the law which had been passed, which he had laid before the House. The law, and papers accompanying it, were referred to the Committee of Commerce and Manufactures.

NORTHWESTERN LANDS.

Mr. Davis said a petition had been this morning presented, and he had had others sent to him to present on the subject of the Northwestern Territory lands. He thought something might be done on this business, which would not only answer the wishes of settlers, but might also be beneficial to the United States. For this purpose he proposed a resolution, which he wished to be referred to the committee appointed on this subject, proposing certain advantages to settlers in that Territory; which was agreed to.

ACT OF LIMITATION.

Mr. Gallatin moved that the unfinished business should be postponed, in order to take up the report of the Committee of Claims on the expediency or inexpediency of excepting certain claims from the operation of the act of limitation; which, being agreed to, the House resolved itself into a Committee of the Whole on that subject; and agreed to a resolution proposing to suspend, for a limited time, the law barring Loan Office certificates, final settlements, and indents of interest; and also to a resolution in the form recommended by the Secretary of the Treasury, viz:

"*Resolved*, That a time be limited by law, after which credits on the books of the Treasury for transactions during the late war, which, according to the course of the Treasury, have hitherto been discharged by issuing certificates of registered debt, shall be barred and declared void, unless claimed by the proper creditors, or their legal representatives."

AMY DARDIN.

Upon motion of Mr. T. Claiborne, the following resolution was agreed to—45 to 40:

"*Resolved*, That a committee be appointed to bring in a bill for the relief of Amy Dardin."

[This claim has been long before Congress, and been several times the subject of discussion. It is for the value of the famous horse Romulus, the property of the husband of the petitioner, pressed into the service of the United States during the war. The case of the widow is evidently a hard one, and this is the second time a vote has been obtained in her favor, which has afterwards been reversed.]

The committee rose, reported their agreement to the three resolutions, and had leave to sit again. The House took up the two first, agreed to them, and directed the Committee of Claims to bring in a bill or bills accordingly. When the third resolution came to be considered, the yeas and nays were called for, and its adoption was strongly opposed by Messrs. Harper, Nicholas, and Bayard, on the ground of its throwing open a door to every claim which had heretofore been determined as barred, as cutting up by the root all the acts of limitation; that it was also setting aside these laws in the most objectionable way, by inviting every person, who had an unsatisfied claim, to petition Congress for relief, which would of course engage much of their time. If the acts were to be set aside, it would be much better and less expensive therefore to authorize the proper department to settle these claims, than that the time of the House should be engaged in investigating and settling them.

On the other hand, its adoption was advocated by Messrs. Gallatin and T. Claiborne. This was stated as a hard case; that this determination would not open the acts of limitation to any but such as Congress might deem extremely hard cases; that it would give the Treasury no power whatever to settle any claim: the power, therefore, could not be abused, except they themselves abused it; that whatever policy there might be in acts of limitation, they were certainly liable to strong objections; they knew they were honorably indebted a sum of money, but they determine not to pay it, merely because the paying it might render the accounts at the Treasury less simple, or because they would be liable to pay more than is convenient. This policy might be justifiable, but it bore very hard upon individual sufferers. It was argued, therefore, that without opening the acts generally, when a strong, unequivocal claim was presented, which was in the hands of the original holder, and where, of course, there could be no possibility of fraud, relief might and ought to be granted.

Mr. J. Williams was an enemy to acts of limitation, as he thought a debt once due must always

be due until paid; but he would either have them opened generally, or not at all.

The yeas and nays upon agreeing to this proposition for setting aside the act of limitation in this case were taken, and decided, yeas 35, nays 55, as follow:

Yeas—David Bard, Lemuel Benton, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, William Barry Grove, Carter B. Harrison, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Rutledge, jr., William Smith, Richard Sprigg, jr., Thomas Sumter, Abraham Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Thomas Blount, David Brooks, Nathan Bryan, Stephen Bullock, Dempsey Burges, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Jonathan N. Havens, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Nathaniel Macon, Wm. Mathews, Daniel Morgan, Lewis R. Morris, John Nicholas, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Peleg Sprague, Richard Stanford, George Thatcher, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Mr. Harper then proposed the following resolution, which was agreed to:

Resolved, That the prayer of the petition of Amy Dardin ought not to be granted.

CAPTURED OR DETAINED VESSELS.

Mr. S. Smith proposed a resolution to the following effect:

"*Resolved*, That the Secretary of the Treasury be directed to obtain from the Collectors of the Customs in the principal districts of the United States a statement of the vessels captured or detained, by or under the authority of any foreign nation, since the 1st of July, 1795, expressing in separate columns the names of the vessels, the captains' names, the number of tons each vessel carried, of what their cargoes consisted, and an estimate of the value thereof, by what nation captured, whither bound, and whither from; and that he lay, as soon as may be, the same before the House of Representatives."

Mr. Isaac Parker had no objection to this resolution if the word "principal" was omitted.

Mr. Smith agreed to the alteration, and the resolution was ordered to lie on the table.

Tuesday, February 20.

A Message was received from the President of the United States, with an account of the expenditure of certain sums appropriated on the 3d of March last, for prosecuting claims against the belligerent nations that have spoliated upon our commerce; which was ordered to be printed.

On motion of Mr. Harper, the House then resolved itself into a Committee of the Whole on the bill for altering the manner of entering stills, and, after some debate on the subject, the committee rose and had leave to sit again.

The House then went into Committee of the Whole on the bill providing for the support of the widows and orphans of certain deceased officers, and having agreed to it without amendment, the committee rose and reported accordingly. The bill was then ordered to be engrossed for a third reading to-morrow.

The House took up the report of the Committee of the Whole on the bill for the relief of Oliver Pollock, and, after some debate upon it, concurred in the report, (which was a disagreement to the bill for his relief,) 49 to 33.

On motion of Mr. D. Foster, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims, on the expediency or inexpediency of excepting certain claims from the operation of acts of limitation, and, after concurring in the unfavorable report of the Committee of Claims on the petition of Johannes E. Lot, the committee rose (these decisions which had taken place having included the principles of all the references made to the Committee of the Whole) and had not leave to sit again.

CASE OF GRISWOLD AND LYON.

Mr. Venable, from the Committee of Privileges, laid the following report upon the table, together with the evidence relative thereto:

The Committee of Privileges, to whom was referred a resolution in the following words: "*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, for violent and disorderly behaviour committed in the House, be expelled therefrom," with instructions to report the evidence in writing, have, according to the orders of the House, proceeded to take the evidence, which they herewith report; and they report further, that it is their opinion that the said resolution ought to be disagreed to.

No 1.

Mr. Sitgreaves's Testimony.

Having been requested by the Committee of Privileges to communicate my recollection of the affair which occurred between Mr. Griswold and Mr. Lyon on Thursday last, I depose as follows: I do not recollect to have observed at what time either Mr. Griswold or Mr. Lyon came into the House, nor did I see the commencement of the fracas; I was in my seat, engaged in writing, when my attention was excited by the sound or report of a heavy blow; I looked to the quarter from whence the sound seemed to proceed, and saw Mr. Lyon on his feet, in the place where he usually sits, and Mr. Griswold in the area, in front of him, beating him over the head and shoulders, with a cane or walking stick; Mr. Lyon appeared to be endeavouring at once to evade the blows, and to extricate himself from the chairs and desks of the row in which he stood; he soon was in the area, and Mr. Griswold continued to beat him, keeping him at such a distance that the blows could take effect, until Mr. Lyon

turned and fled behind the partition, in the rear of the Speaker's chair, whither he was pursued by Mr. Griswold, still beating him; as I remained in my place, they were for a moment out of my sight, which was intercepted by the partition, but they almost immediately appeared again, Mr. Lyon holding in his hand the tongs, which he grasped by one leg; Mr. Griswold seized with his left hand the arm by which Mr. Lyon held the tongs, and closed in with him, and shortly afterwards I saw them come to the ground together, Mr. Lyon falling under Mr. Griswold. I then left my place; the members gathered round them, and they continued on the floor for a few moments, Mr. Lyon being still under Mr. Griswold, until they were parted by one member separating their arms and shoulders, while two others seized, each, one of Mr. Griswold's legs, and in that manner dragged him off. When they were separated I went to Mr. Griswold, and observing that he had not his cane, advised him to get it again, lest he should be assailed by Mr. Lyon, who was now on his feet. Mr. Griswold desired the assistant doorkeeper to find his cane, and then went, at my instance, to take a draught of water; my attention was then diverted from them for a short time, until it was again excited, by a new alarm in the lobby, at the south end of the hall; on looking toward that quarter, I saw both Mr. Griswold and Mr. Lyon in the lobby, but at the distance of six or eight feet from each other; Mr. Lyon held a cane in his hand; and as I hastened towards that end of the room, I was met by the assistant doorkeeper, who handed me Mr. Griswold's cane, and, appearing unwilling to interpose, requested me to give it to him; I did so, and Mr. Griswold immediately advanced, apparently to renew the attack on Mr. Lyon, when the Speaker called the House to order, upon which Mr. Griswold directly relinquished his design, turned round and went to his seat, as I did to mine.

S. SITGREAVES.

Sworn and subscribed, the 17th February, 1798.
Coram: Reynold Keen.

No. 2.

Mr. Sprague's Testimony.

I, Peleg Sprague, depose, that on Thursday morning, February 15th, 1798, I was in Congress Hall, before the usual hour of meeting; that after prayers were read, I saw Roger Griswold come into the hall, with a hickory stick in his hand; he came near to the fire-place, behind the Speaker's chair, hung up his cloak, and (I think) set his stick by it, and placed himself in the seat usually occupied by Mr. Dennis, or Mr. Evans, and employed himself in reading some letters; soon after I saw Matthew Lyon come into the hall with a stick or cane in his hand; he went directly to his place, put his stick behind his chair, and sat down; after sitting a short time, I observed him to cast his eyes earnestly at Mr. Griswold, then he directed his attention to some papers before him, on his table, and seemed to be revising and folding them; I looked at both alternately, and thought that Mr. Griswold eyed Lyon, but did not intend any person should observe it; while Mr. Lyon was examining his papers as aforesaid, I saw Mr. Griswold rise from his seat and advance towards Lyon with his usual pace, having his stick in his hand; I believe that Lyon did not see Mr. Griswold, until he was within reach of him; Griswold immediately struck Lyon over the shoulders, with the little end of the cane, or hickory, aforesaid; it seemed to me, that when Griswold first struck, Lyon was partly raised, or in the attitude of rising hastily; Griswold repeated the blows until Lyon got clear of the seats; then Lyon advanced toward Griswold, as if to close in with him; Griswold retreated, as if to avoid it, still repeating the blows, until they got to the fire-place, behind the Speaker's chair; then Lyon took up the tongs, and they both closed; Griswold threw Lyon on the floor, and fell upon him. I then went away, and saw no more of the affray. I do not recollect that I heard one word pass between them during the whole time. And further the deponent saith not.

PELEG SPRAGUE.

Sworn and subscribed, the 17th February, 1798.
Coram: Reynold Keen.

No 3.

Mr. W. C. C. Claiborne's Testimony.

Saturday, 17th February.

On Thursday last, after prayers had been delivered, the Speaker (I believe) in his chair, but the House not called to order, I was standing near to the letter-box, and (I think) reading a letter, when my attention was taken off, by a loud cry of "part them;" upon changing my position, I saw Mr. Griswold and Mr. Lyon engaged near to the Clerk's seat, the former with a large walking stick, which he, apparently, used with all his force, and the latter making his defence, by holding up his arms (without any weapon at that period) and endeavoring to close in with his antagonist. Soon afterwards the combatants fell upon the floor, near the stove, to the left of the Speaker's chair, when I ran foward and assisted in parting them. I remember seeing a member of the House take from Mr. Lyon a pair of fire-tongs, after he had fallen on the floor, I did not observe the commencement of the fracas, nor did I notice the attack which is said afterwards to have been made by Mr. Lyon on Mr. Griswold, outside of the bar.

W. C. C. CLAIBORNE.

Sworn and subscribed, the 17th February, 1798.
Coram: Reynold Keen.

No. 4.

Mr. Imlay's Testimony.

James H. Imlay, being requested by the Committee of Privileges to communicate his recollection of the affair between Mr. Lyon and Mr. Griswold, says, that he came to the hall on Thursday morning the 15th instant, a few minutes after eleven o'clock; found Mr. Griswold in the hall, sitting in the chair usually occupied by Mr. Hindman, apparently engaged in reading a letter. Mr. Lyon came into the hall about three minutes after this deponent, with a cane in his hand, and took the seat he usually occupies, or the next to it on the north side. After casting his eyes around the hall for a few seconds, he appeared to be employed in looking over some papers lying on his desk. During this time, which perhaps might have been the space of between three and four minutes, Mr. Griswold continued reading his letter. At length he appeared to have finished the reading, and was about folding it up, when he discovered Mr. Lyon. At this time this deponent was standing within a yard, or thereabouts, of Mr. Griswold, who immediately on observing Mr. Lyon walked to the recess under the window on the north side of the Speaker's chair, where he had placed his cane; taking this in his hand, he walked to the opposite side of the hall, directly in front of the Speaker's seat, to the place where the member from Vermont was sitting, and when in front of Mr. Lyon struck him with his cane. Mr.

Lyon appeared to discover Mr. Griswold about the instant his arm was raised to strike, and at the utterance of some expression by Mr. Griswold, which this deponent did not distinctly hear, but supposed to be "you rascal." Mr. Lyon, when he received the blow, appeared to be in the act of rising. Mr. Griswold repeated his blow. Mr. Lyon rose, came out from his seat without his cane, advanced towards Mr. Griswold, as if with an endeavour to close in with him, which Mr. G. avoided by striking him or pushing him off with his left hand, and repeated his blows with his cane, as often as ten or eleven times, sometimes striking on the head, and sometimes over the shoulders. Mr. Lyon appeared now to desist from attempting to close in with Mr. Griswold, and endeavored to gain the northwest side or corner of the Speaker's seat. This he did, Mr. Griswold repeating his blows. Mr. Lyon being now near the stove, on the same side of the chair as just mentioned, seized the tongs standing by the stove. Mr. Griswold, then immediatly closed with him, and after a short scuffle, or contest, Mr. Lyon was thrown by Mr. Griswold, who fell with him, and with one hand endeavored to prevent Mr. Lyon from using the tongs to his injury, and with the other struck him once or twice in the face. They were then separated by the interference of several members. What happened without the bar, at the west end of the hall, this deponent did not see.

J. H. IMLAY.

Sworn and subscribed, the 17th February, 1798.
Coram: REYNOLD KEEN.

No. 5.

Mr. James Gillespie's Testimony.

James Gillespie being sworn, saith, that on Thursday morning the 15th instant, he came into the House of Representatives after prayers, and the Speaker had taken the chair; that whilst he was warming himself at the fire next on the right of the door, he saw Matthew Lyon, the member from Vermont, come to the letter bag, and was putting in some letters, as he, this deponent, passed him going into the House; that he also saw Roger Griswold sitting in a chair a small distance from the Speaker's seat, with a large walking-stick standing near him; that I went immediately to the alphabet and made search for my letters, and as I turned to my seat to read them, I heard a noise of blows, &c.; on looking that way, I saw Roger Griswold strike Matthew Lyon, who was in his place near the centre of the front desk opposite to the Speaker's seat, where he was then sitting; that as Mr. Lyon was getting round the desk he received two or three blows, and on attempting to close in with Mr. Griswold, he, Mr. Lyon, received several severe strokes with the stick from Mr. Griswold. That the deponent conceiving, from the complexion of the affair, that it was a preconcerted plan, did not interfere, but asked the Speaker to call to order, which he declined, although the call was loud from different parts of the House. That as Mr. Lyon advanced on Mr. Griswold, he retreated back towards the window near the Speaker's seat, by which Mr. Lyon became possessed of a pair of tongs and struck at Mr. Griswold, on which Mr. Griswold closed with him, and they fell, and in a little time were parted. That Mr. Lyon expressed disapprobation at being parted, and said, as he was rising, I wish I had been let alone awhile. That the deponent recollects that, as he turned to his seat, he saw Mr. Sewall, from Massachusetts; and on he, the deponent, expressing his disapprobation of such conduct, Mr. Sewall replied it was right, for we ought to have done them justice, and expelled Mr. Lyon; to which I answered, take to yourselves all the justice and credit that appertains to it; and went and read my letters, and heard no more for some time; when, looking up, I saw Mr. Sitgreaves going out of the south passage, with a walking stick, I believe, for Mr. Griswold; and then, and not before, the House was called to order, when this deponent thinks it was more than half past eleven o'clock.

JAMES GILLESPIE.

Sworn and subscribed, the 17th February, 1798.
Coram: REYNOLD KEEN.

Questions by Mr. Sewall.

Question. Did not the conversation you suppose to have happened with me, take place when you was, and I appeared to be, agitated with the confusion of the scene?

Answer. It was. I returned to my desk to read my letters from the first scene, and I presume somewhat agitated.

Question. Are you in any degree positive of the words you state to have heard from me?

Answer. To the best of my recollection, these were the words used, or they were words to the same effect.

No. 6.

Mr. Shepard's Testimony.

On Thursday morning last, I went into the Hall a little before eleven o'clock. After prayers were over, Mr. Griswold came into the hall, with a cane in his hand. He went and set his cane up near the window by the northwest part of the hall, and sat down near the end of the seat next the floor, and took out a letter (as I supposed) and went to reading it. Whilst he was reading, soon after, Mr. Lyon came into the House with a cane in his hand, went and took his seat, and went to writing, setting his cane beside him. I looked at Mr. Griswold, and thought that he did not see or observe Mr. Lyon. I then turned my eye off from them, and spoke to a gentleman who was a stranger to them both, and said that they were both now in the House; turned my face towards them, and saw Mr. Griswold then with his cane up, before Mr. Lyon, and he struck him a blow across his (Mr. Lyon's) shoulder. Mr. Lyon appeared to be about half way between sitting and standing. Mr. Griswold repeated the blow. Mr. Lyon soon got out on the floor of the hall, and made several attempts to get hold of Mr. Griswold, but failed in his attempts, as Mr. Griswold kept out of his reach, and continued the blows until Mr. Lyon retreated behind the Speaker's chair. The members then huddled round them so thick that I saw no more of the transaction, until they were separated; after which, Mr. Griswold came across the floor of the hall, and went through the passage by the door at which we enter the hall, and went without the bar to the southeast end of the hall, and drank some water. When standing near the place where the water is kept, without anything in his hand, Mr. Lyon came through the floor of the hall, with his cane in his hand, and came without the bar. I thought Mr. Griswold did not see him, until Mr. Lyon had his hand up to strike him, when he sprang, as I thought, to get out of the reach of his stick, but Mr. Lyon struck Mr. Griswold on his arm and shoulder, as I thought, slightly. Mr. Griswold then turned upon Mr. Lyon, when the doorkeeper sprang in between them. The Speaker then called the House to order, Mr. Griswold turned and went into his seat, and Mr. Lyon took

a chair, and sat by the water and washed himself, and remained there until after the House was adjourned.

WM. SHEPARD.

Sworn and subscribed, the 17th of February, 1798.
Coram: REYNOLD KEEN.

No. 7.

Mr. Havens's Testimony.

The hour at which the House were to meet, according to their adjournment on the preceding day, was eleven o'clock in the forenoon, and I went into the hall a little before this hour. Some short time after eleven o'clock, the House attended on prayer. After this was over, I was walking in the south end of the hall without the bar, and saw Mr. Lyon come in, with his cloak on, and go to his seat, which is the fourth from the end of that front row of seats which is on the left side of the passage leading up to the Speaker's chair. I saw him pull off his cloak and take his seat, and perceived that he had a small cane in his hand, which he either put between his legs, or leaned against a chair beside him, in such manner that the end of it was under the long desk that was before him. After he sat down, he appeared to be engaged either in writing or in reading the papers that were before him. It was then about half past eleven, and the Speaker was sitting in his chair, but had not called the House to order; and I then saw Mr. Griswold coming from the north end of the hall across the area in front of the Speaker's chair, with a large yellow hickory cane in his hand. Although I was looking that way, as I was walking, I did not notice him much until he came within about six or eight feet of Mr. Lyon. He was then walking across the floor in a sidelong manner towards Mr. Lyon, and Mr. Lyon was sitting with his face down, looking on his papers, and, as I presume, did not perceive the approach of Mr. Griswold; and, if my memory serves me right, I think he was sitting with his hat on. As soon as Mr. Griswold had come in front of Mr. Lyon, he struck him with all his force over his head and shoulders, with the smallest end of his cane, repeating his blows as fast as possible. Mr. Lyon, I think, received three blows in this posture, before he rose to disengage himself from the desk that was before him, and the chairs that were on each side of him. He appeared to be then trying to recover his cane which was under his desk, but could not do it by reason of the violence of Mr. Griswold's blows over his head and shoulders. He then rose from his seat, and got out at the end of the desk, defending himself with his arms against the blows of Mr. Griswold, and then rushed towards Mr. Griswold, and Mr. Griswold retreated towards the front of the Speaker's chair, and endeavored to keep Mr. Lyon at a distance from him, that he might strike him more conveniently with his cane. There was no person sitting on the same row of seats with Mr. Lyon when this assault began. The Speaker was in his chair; and as soon as the assault commenced, I expected he would cry out "order," with a loud voice, but he did not. I was induced to suppose this, because I always understood that the rule of the House gave the Speaker a right to call the members to order after the hour to which the House stood adjourned, although there might not be a sufficient number of members present to proceed to business.

Mr. Lyon then retreated round the Clerk's table, the right hand of the Speaker's chair, and Mr. Griswold still pursued him. They then went into the narrow passage which is between the wall of the House and the Speaker's chair, and I then heard a rattling noise as if it were made with a pair of tongs, but could not see the parties because the Speaker's chair was in the way, and I was myself then passing in front of the chair to come up to the parties engaged, as they might go through the passage on the left-hand side of the chair. As soon as they had got through the passage, Mr. G. either pushed Mr. L. down on his back in the northwest corner of the area by his own strength, or Mr. L. stumbled backwards over some chairs that stood in his way. From the situation in which I stood I could not well perceive how this happened, but I saw Mr. L. on the floor with Mr. G.'s head and shoulders on his breast, and Mr. G.'s legs were directed towards me as I came from the other end of the room. Mr. L. was then endeavoring to disengage himself from Mr. G., and had raised himself partly up, and I then perceived that he had a black eye. I then seized hold of Mr. G.'s left leg to pull him away from M. L., and another member, whom I afterwards noticed to be my colleague, Mr. Elmendorph, seized at the same time hold of Mr. G.'s right leg with the same view. As soon as we had done this, Mr. Speaker cried out to me and said, "That is not a proper way to take hold of him." I asked him why? He replied, "You ought to take hold of him by the shoulders." I said it would not hurt him to pull him a foot or two on the carpet. We then in this manner pulled Mr. G. from off Mr. L., and by this time a number of other members had gathered round, and the affray appeared to be over. I then walked back to the south end of the hall, to the place where I stood when the assault began. Mr. G. then passed by me, and went to the easternmost shelf on which water stands for the use of the members, and was drinking when Mr. L. passed by me with his small cane in his hand, and went to the same shelf to drink with Mr. G. As soon as Mr. L. had drunk a little, he looked up, and perceiving that it was Mr. G., who stood close by him, he said, "Is it you?" and struck at him with his cane, and hit him on his left shoulder or cheek. I observed that Mr. L.'s blow was but a feeble one, and Mr. G. then retreated from him six or eight feet, and I then noticed that Mr. G. had no cane in his hand. I then saw Mr. Sitgreaves run to the southeast corner of the room and get a large hickory cane, and passing by Mr. L. with a good deal of animation in his countenance, he put the cane in Mr. G.'s hand. Mr. L. then put himself in a posture of defence, and said "Come on." I then cried out "Order!" and Mr. Thomson, from New Jersey, then stepping up, and looking me full in the face said, "What is the matter?" I replied, I would have no more fighting here. Mr. G. then retired, and Mr. Speaker called the house to order, and so the affray ended.

JONATHAN N. HAVENS.

Sworn and subscribed the 17th of February, 1789.
Coram: REYNOLD KEEN.

No. 8.

Mr. Gordon's Testimony.

I, WILLIAM GORDON, do testify and say, that on the morning of the 15th of February instant, about the hour of eleven, I went to the hall of the House of Representatives. Very soon after I had entered, I observed that Mr. Griswold came in with a cane in his hand. In the course of a few minutes afterwards, Mr. Lyon also came into the House, and immediately went and placed himself in the seat which he has usually

occupied, nearly opposite to the chair of the Speaker. He had in his hand a cane, which, as he seated himself, he placed behind him. On seeing him, I immediately threw my eyes upon Mr. Griswold, but could not discover that he saw or took notice of him. At this time the Speaker was in his chair and writing, as is usually the case at that hour of the day, but the House had not come nor had it been called to order. Few members, comparatively speaking, were within the bar. In the course of a very few minutes after Mr. L. had seated himself, I saw Mr. G. with his cane in his hand, advancing from the floor to the left of the chair of the Speaker, with a very quick and strong step towards Mr. L. As he advanced he raised his cane, and uttered an exclamation of "Rascal!" or "Scoundrel!" or of the like import. Before Mr. G. reached him, Mr. L., according to the best of my recollection, had partly risen up, from which I conclude he had discovered Mr. G. approaching him. As soon as Mr. G. was within such a distance from Mr. L. as to reach him with effect, he instantly applied his cane with great force to his back and shoulders. As soon as Mr. L. was able to effect it, he made his way from the seats into the floor on the inner side of the seats, then quickly advanced towards Mr. G. apparently with intent either to catch hold of his cane or to close with him. Mr. G. seemed to be aware of his intentions, stepping backwards in such a manner as to keep Mr. L. at a proper distance for the use of his cane, rapidly applying it to his back and shoulders. As soon as Mr. L. had got to the line of the passage behind the Speaker's chair, he instantly attempted to escape that way to the opposite side of the House. Mr. G. pursuing him, gave him three or four blows across the back. At this time I observed Mr. L. turning, it appearing to me that he was prevented from passing any further in that direction by the crowd that was advancing towards the scene of action. After he turned he seized the tongs by the fireside, and Mr. G. then being very near to him, struck him with them. Mr. G. laid hold of them, and they immediately closed in with each other. After a short struggle Mr. G. threw Mr. L. on the floor, and fell upon him. They laid some little time in this situation, Mr. G. attempting to disentangle himself from the grasp of Mr. L. in order to pursue his chastisement further, and had nearly effected it and placed himself in a situation proper for that purpose, when two or three persons laid hold of him, and drew him off from Mr. L. While down, he gave Mr. L. one blow in the face, and wrested the tongs from his hands. When separated, I saw Mr. G. go towards the outside of the bar, I suppose with a view to take some water. Shortly afterwards I saw Mr. L. making towards that part of the House where Mr. G. was. He approached Mr. G., who was standing at the entrance of the bar, and struck him with a cane. Mr. G.'s cane was instantly handed him, and he was making again towards Mr. L., when there was a loud call to order for the first time; this was instantly repeated by the Speaker. I laid hold of Mr. G., sundry persons threw themselves between him and Mr. L., and Mr. G. instantly retired and took his seat.

WILLIAM GORDON.

The foregoing sworn to and subscribed, the 17th of February, 1798. *Coram:* Reynold Keen.

No. 9.

Mr. Elmendorph's Testimony.

On Thursday morning last, having been engaged in writing in my room until I thought it very late, I entered the House of Representatives with some surprise, at not finding it engaged in business. The Speaker sat (I think) writing in his chair, as I crossed the floor to the letter box; and, on returning to my seat, I saw Mr. Lyon in his seat, in the posture of writing, or reading, papers lying on his desk before him, having his hat on, and not appearing to perceive me to pass him, although very near him. From my seat—which is the second in the third row, almost directly behind his, which is the middle seat in the front row—I observed him in the same posture immediately before I heard the first blow of a cane; upon hearing which, I observed him still sitting, with one arm in the position of covering his head and warding off blows, and the other in feeling, as I thought, for a cane on the floor, beside or before him. I saw Mr. Griswold at this time on the open floor directly before him, beating him with all the strength and dexterity apparently in his power, with a cane of the stoutest kind of American made hickory, and repeating his blows as fast as I thought he could make them. Under this pressure, Mr. Lyon, in a defenceless state, made out of his seat side-ways, being hemmed in before and behind by the desks and seats, so that it was wholly out of his power to escape a single blow, or to interrupt Mr. Griswold in the act of beating him. Immediately, I myself, for one, rose in my seat, and loudly and repeatedly called out to the Chair for order. I heard the same call from different parts of the House; but I did not observe or hear any effort from the Speaker to restore it, or any personal attempt by any one near to interfere and prevent the attack. On the contrary, I think I distinctly heard the Speaker reply that the House had not yet been called to order, as a reason for not interfering at all. As soon as Mr. Lyon had got out of the row of seats, he made towards Mr. Griswold, and made every effort to close with him, as it appeared to me. Mr. Griswold, on his part, avoided this, by holding him off with his left arm, stepping back, and continuing to beat Mr. Lyon with his cane, as before, until in this way they both got to the fireplace, to the left of the Speaker's chair. I then heard the noise of the tongs, and immediately after saw them have hold of each other, and Mr. Griswold's cane falling out of his hand. Soon after they both fell, having hold of each other, Mr. Griswold partly upon Mr. Lyon. At this time I got to the place where they were engaged, and called out to part them. I heard the same cry from behind the Chair, and I also heard the opposite cry from others, not to part them. Mr. Havens and myself each took hold of Mr. Griswold's legs, and, I think, together, drew him off from Mr. Lyon. At the same time, I think, I saw others have hold of Mr. Lyon. When the Speaker observed Mr. Havens and myself taking hold of Mr Griswold, he, with apparent warmth, as if thereby to prevent our interfering, called out, in substance, as nearly as I can recollect, "What! take hold of a man by the legs!—that is no way to take hold of him." Notwithstanding, I persevered, and, I think, Mr. Havens assisted me, in drawing Mr. Griswold apart from Mr. Lyon. Mr. Lyon went direct from that place to his seat, where he got a small cane, and went from thence south of the bar, where I saw him and Mr. Griswold soon after meeting, and Mr. Lyon making up to him—Mr. Griswold retiring from Mr. Lyon, and Mr. Lyon making a blow at him with his cane, which Mr. Griswold, I think, received on his arm or shoulder.

The loud cry of "order" from all parts of the House, and from the Chair, here put an end to the affray.

Mr. Griswold's cane was here delivered to him by Mr. Sitgreaves, I think, just as he stepped within the bar, which he took from thence, I think, direct to his seat—Mr. Lyon remained without the bar; and thus the affray ended, and the House proceeded to business.

LUCAS ELMENDORPH.

Sworn and subscribed the 17th of February, 1798. *Coram:* Reynold Keen.

No. 10.

Mr. Stanford's Testimony.

When the riot commenced in the Hall of Congress, on the morning of the 15th instant, between Mr. Griswold and Mr. Lyon, it was about twenty or thirty minutes after eleven o'clock. Prayers were over, but the House not yet called to order. Sitting in my chair, I was attentively reading some letters I had just received. In an instant, the sudden bustle arrested my notice. Not having observed either of the parties enter the Hall, I then saw Mr. Griswold on the area of the floor, with an apparently heavy stick, making a blow (perhaps not the first) at Mr. Lyon, who was between his desk and chair, in an half rising position. This blow, I think, he received on his left arm or shoulder, and a second as he was disengaging himself from among the desks and chairs. Once possessing the floor, he essayed to join Mr. Griswold, who evaded him by a retrograde step, and a third blow, which fell upon Mr. Lyon's head, his hat being off. Then beating back a little to the left of the Speaker's desk as Mr. Griswold approached, repeating his strokes, Mr. Lyon again attempted to close in with him, but failed, and made suddenly behind the Speaker's desk, which, with the crowding members, for a moment intercepted my view. Then instantly again I saw Mr. Lyon with a pair of tongs elevated for a stroke at Mr. Griswold, which seemed to be somehow parried, so as not to be fully made. A collision, I think, of the stick, tongs and persons now took place—Mr. Griswold about this time lost his stick: thus clung, they came down together. The fall, I rather think, I did not see, from the intervening members; but, when down, they appeared to be grappled about the head and shoulders, and Mr. Griswold rather uppermost. The confusion of the House was great, and the cry of "Part them" pretty general. Thus, while some gentlemen were disentangling their hands, others had Mr. Griswold by the legs, and were pulling him away, which was effected.

The Speaker, standing on the steps of his desk, said that it was either unfair or ungentlemanly to take a man thus by the legs. General McDowell then observed, that he (the Speaker) had acted his part in the business; and the Speaker asking what he said, General McDowell repeated his observation, and the Speaker answered, what could he do, the House was not called to order, he could not help the event. The General replied, he supposed he could not.

The parties having been separated and left at large, they casually met again after a small space, at the south water-stand without the bar, when Mr. Lyon, as soon as he appeared to discover who it was, raised his stick, which he had got hold off in the interval, and struck Mr. Griswold on the shoulder or arm. The stroke was quite light, being hastily made, and with a stick not very large. Mr. Griswold then beat back to the entrance of the bar, where some one, I think Mr. Sitgreaves, ran, and met him with a similar or the same stick, which he had lost in the first rencontre. Mr. Lyon, also, after striking, stepped back from the water-stand, elevated his stick, and stood in an attitude of defence. Now it was that the Speaker called to order, and no other conflict ensued. Mr. Griswold presently returned to his seat, and Mr. Lyon remained at the water-stand.

The above detail is as correct as my memory serves me to give of so unexpected a fracas within the walls of the House.

R. STANFORD.

Sworn to and subscribed the 17th of February, 1798. *Coram:* Reynold Keen.

On a motion to read the report a second time being made,

Mr. Venable said, that one of the select committee (Mr. Rutledge, who was to-day indisposed,) had requested that the business might not be taken up to-day, but that it might be deferred till to-morrow.

Mr. Sitgreaves suggested the propriety of printing the evidence in the meantime, which would prevent any delay in the business.

Mr. Kittera thought this unnecessary, as the fact to be ascertained had been done in the face of so great a part of the House, it would be an unnecessary expense to print the evidence.

Mr. Sitgreaves said, as it had been thought necessary to take the evidence, it would surely be proper that every member should have it before him.

Mr. McDowell allowed that the disorder which this evidence went to substantiate was pretty well known in the House; yet he hoped the papers would be printed.

Mr. Harper said, though many members were unfortunately present when the affair occurred to which the evidence referred, many, however, were not in the House, and those who would wish to see the evidence; he himself was not present, and wished to see it. He hoped therefore it would be printed.

The motion for printing was put and carried.

FOREIGN INTERCOURSE.

Mr. Harper then moved to postpone the unfinished business relative to foreign intercourse until Monday next, as he wished it to be deferred until the report of the Committee of Privileges was decided upon.

Mr. Gordon would agree to the postponement, if the gentleman from South Carolina would alter his motion to Thursday, instead of Monday.

Mr. Harper consented, and the postponement was agreed to.

Wednesday, February 21.

TREATY WITH INDIANS.

Mr. Venable, from the committee to whom was referred the amendments of the Senate to the bill appropriating a sum of money for holding a treaty with the Indians, respecting their title to lands in the State of Tennessee or North Carolina, made a report, recommending an agree-

ment to all the amendments, except one, to which they recommended a disagreement. The amendments agreed to related to striking out the States of Tennessee and North Carolina, leaving the direction to the President of the United States, in general terms, to hold such treaty or treaties with the Indians (without mentioning any particular tribe) as he shall think proper. The amendment which the committee recommended to be dissented from, was in the following words:

"*Provided*, Nothing contained in this act shall be construed to admit an obligation on the part of the United States to extinguish for the benefit of any State, or individual citizen, Indian claims to any lands lying within the territory of the United States."

This amendment produced a debate which lasted the greater part of the sitting. It was opposed by Messrs. W. Claiborne, Nicholas, Venable, S. Smith, R. Williams, McDowell, Gallatin, and Macon, on the ground of its being a new thing to introduce such a clause into a bill of this kind; that the bill was complete without it; and that to agree to this amendment, would amount to a denial of the claim against the United States of the petitioners from the State of Tennessee and others, to an extinguishment of the Indian title to their lands, which they were satisfied was well founded, and a denial of which would be equally unjust and impolitic; that it would be best to let this question remain untouched for the present, leaving it to the President to act as he shall see proper; as, if the petitioners and others had a claim, the amendment proposed could not take it away; it could, therefore, have no other effect than a bad one, as it might, and it was believed would, be considered as a declaration against all persons who had claims of this kind against the United States; that the persons who would be affected by such a declaration were very numerous; that those who had been driven from off their lands in the State of Tennessee, and who had, in consequence, experienced the greatest distress, might be induced, from a despair of redress to go over to the Spanish territory, or insist upon holding their lands in defiance of the late treaty with the Cherokee Indians; the former alternative was by no means desirable, but the latter might involve the United States in a war with the Indians.

This amendment of the Senate was advocated by Messrs. Sitgreaves, N. Smith, Harper, Sewall, Gordon, Otis, and Dana, as necessary to establish the principle upon which the law was passed. The business originated, they stated, upon a memorial from the inhabitants of Tennessee, whose claims for redress against the United States had always been advocated upon the ground of *justice;* whereas it was believed that the present bill had been agreed to upon the ground of *policy*, by the greater part of those who voted for it. It was necessary, therefore, to introduce a clause of this kind, to show upon what ground the law did pass, otherwise it might hereafter be insisted that the law was predicated upon a conviction of the justice of the claims of these citizens upon the United States, which, it was presumed, the House was neither prepared, at present, to admit or deny. They wished to leave this question undecided, and denied that this clause which was introduced for that purpose, could be construed as a declaration against the right of the claimants to redress from the Government of the United States. It was intended, and could only be so considered, as a saving clause against consequences which might be attempted to be drawn from the law, and which it was not intended to provide for.

The yeas and nays being called for upon the question of concurring with the select committee in their disagreement to this amendment from the Senate, they were taken as follows, and stood—yeas 46, nays 48:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, William C. C. Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Isaac Parker, John Rutledge, jun., Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

The report of the select committee having been negatived, the question was now upon agreeing to the amendment itself.

Mr. Bayard moved to amend the amendment, by striking out the word *territory*, and inserting the words, "*limits of the United States;*" which motion was carried—47 to 41.

The question on the amendment was then put and carried—47 to 46.

VESSELS CAPTURED OR DETAINED.

Mr. S. Smith called up for decision the resolution which he laid upon the table the other day, for obtaining from the Collectors of the several ports of the United States a statement of vessels captured or detained by foreign nations, belonging to the United States, since the first of July, 1795.

Mr. J. Williams doubted whether the Collectors could give the information required.

Mr. S. Smith believed they could. The Senate, he said, had adopted a resolution of a similar purport with this, but he did not think it sufficiently particular, which was the reason of his introducing this.

Mr. Gordon did not see any necessity for adopting this resolution, since the Senate had already passed one of a similar tendency.

Mr. Thatcher was in favor of the resolution; but did not think it went far enough back.

Mr. J. Williams moved to strike out the first July, 1795, in order to insert "Since the ratification of the British Treaty."

Mr. S. Smith thought the first of July, 1795, a proper period; but if the gentleman from Massachusetts would bring forward a proposition to have a statement from the commencement of the European war, he should not object to it. Many attempts had heretofore been made to obtain a correct list of captures, but it had never been effected. The last session an imperfect account was laid before the House collected from newspapers; he believed the course now proposed would produce more satisfaction than had yet been obtained on this head.

Mr. Thatcher moved that the statement should commence from the first of October, 1792, when neutral vessels were first stopped in the ports of England, a period which was a few months previous to the breaking out of the war between France and England.

Mr. S. Smith consented to this alteration.

Mr. Harper moved to strike out the 1st of October, 1792, for the purpose of inserting "from the ratification of the British Treaty." He did not see why the House should ask for a long story of captures since the year 1792. The object required was a simple one, and lay within a much narrower compass. It was merely to obtain a comparative statement of captures made by France and England within a certain period. To take the account so far back, would only serve to retard the inquiry, without being of any real use.

The question was put on this amendment and negatived, there being only 23 votes in favor of it.

The question then recurred on the resolution as amended by Mr. Thatcher's proposition.

Mr. Allen moved to add, "and for what cause." He did not know that the proposed inquiry could be of any other use than to satisfy curiosity; but, if any part of it could be of use, he thought it would be well to have the causes of capture assigned.

Mr. Otis hoped this amendment would not obtain, as it would be very puzzling, indeed, to know for what cause our vessels had been despoiled and captured.

Mr. J. Williams said, if it were possible to distinguish between fair and illicit traders, among the captures, he should be glad; but he feared this object could not be accomplished.

Mr. Sitgreaves remarked, that though the Collectors could not in all cases give an answer to this inquiry, they might in some. Indeed, he did not know that they could give the other information required any more than this, as he knew no mode by which they could get possession of it. If they could not answer this inquiry, it would be easy for them to say so. He hoped, therefore, it would be agreed to.

The motion was put and negatived, there being only 26 votes in favor of it.

The question was taken on the resolution, and carried, there being 58 votes in favor of it.

Thursday, February 22.

The usual time of calling the House to order being arrived, the Clerk desired members to take their seats; which being done,

Mr. Kittera said, the Speaker had desired him to inform the House that he was so much indisposed as to be unable to attend the House today. Mr. K. suggested the propriety, therefore, of adjourning the orders of to-day till to-morrow.

Mr. J. Williams did not see a necessity for this. He thought the House might informally go into a Committee of the Whole on the report of the Committee of Privileges. He had seen this course taken in other Legislative bodies, and as it would be the means of saving a day, he hoped this mode would now be adopted.

Mr. Thatcher hoped gentlemen would not consent to go on with business in an informal manner, since it was evident they were sufficiently informal with all their forms.

Mr. Harrison inquired if there was any probability that the Speaker would be able to attend the House to-morrow. If not, he should be for choosing a temporary Speaker.

Mr. Kittera said, the indisposition of the Speaker was occasioned by a severe headache, to which he was subject; that it generally continued for six of eight hours, and afterwards he was perfectly well.

The question for postponement of the orders of the day till to-morrow was then put by the Clerk, and carried; and then the House adjourned till to-morrow.

Friday, February 23.

The bill providing for the widows and orphans of certain deceased officers, was read the third time, and passed.

REVENUE STATEMENTS.

A communication was laid before the House by the Speaker, from the Secretary of the Treasury, enclosing sundry documents prepared by the late Commissioner of the Revenue, in consequence of a resolution of the House of the 6th of January, 1798, requiring to be laid before the House every session, within ten days after its meeting, a statement of the nett produce of the Internal Revenues, the salaries of the Collectors, &c., for the year preceding. The Secretary apologizes for not having made the communication sooner. It was ordered to be printed.

CITY OF WASHINGTON.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The enclosed memorial from the Commissioners appointed under an act of the United States, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," representing the situation and circumstances of the city of Washington, I take this opportunity to present to both Houses of the Legislature, and recommend to their consideration. Alexander White, Esq., one of those Commissioners, is now in this city, and will be able to give to Congress, or any of their committees, any explanation or further information which the subject may require.

JOHN ADAMS.

United States, *February* 23, 1798.

The Message and the memorial accompanying it (which prays further assistance from Congress in behalf of the Federal City) were ordered to be printed, and were referred to a committee of the following gentlemen, viz: Messrs. Craik, Sitgreaves, Brent, Stanford, Varnum, Allen, and Sumter.

CASE OF GRISWOLD AND LYON.

The House proceeded to consider the report of the Committee of Privileges, of the twentieth instant; and the same being again read in the words following, to wit:

The Committee of Privileges, to whom was referred a resolution in the following words, to wit: "*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, for riotous and disorderly behaviour, committed in the House, be expelled therefrom," with instructions to report the evidence in writing, have, according to the order of the House, proceeded to take the evidence, which they herewith report; and they report further, that it is their opinion that the said resolution be disagreed to.

Mr. Davis said he hoped the House would disagree to the report of their Committee of Privileges; after this was done, the resolution could be altered in such a manner as gentlemen might think proper.

Mr. Dent called for the yeas and nays. Agreed to be taken.

Mr. Sitgreaves said there were many considerations which should incline the House to come to a decision upon the present business without entering into any unnecessary discussion; and there were others which should lead them to avoid coming to an immediate decision. He should, therefore, move that the further consideration of this subject be postponed until the 4th of March, 1799.

Mr. Nicholas called for the yeas and nays upon this question; which being agreed to, were taken, and stood—yeas 38, nays 53, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, Samuel W. Dana, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, junior, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and John Williams.

Nays—George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, William Craik, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, Thomas Evans, William Findley, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and Robert Williams.

The motion for postponement being lost, the question on agreeing to the report of the committee recurred.

Mr. Bayard believed it would not be in order to call for a division of the question. The resolution implicated two persons, which he thought improper. If the report of the committee was, however, disagreed to, he supposed it would then be in order to move for a division of the question. He should, therefore, vote against the report as he wished the cases to be separately considered, as they stood on distinct ground, and were not attended with the same circumstances; and, reasoning from analogy, he knew of no instance in a Court of Justice, where two persons had ever been included in the same charge when their crimes were different. If the situation of both these gentlemen had been the same, there might have been propriety in coupling them together; but as this was not the case, he was opposed to taking an opinion upon both together.

Mr. McDowell thought it would be proper to take the same course in this business as was taken in a former case. He moved, therefore, that the report be read a second time, for the purpose of committing it to a Committee of the whole House.

Mr. Gordon was opposed to this mode of proceeding. Every one knew the question, and were as well prepared to decide upon it now, as they would be after going into a committee upon it.

Mr. Giles thought it would comport more with the dignity of the House to decide this business without going into a Committee of the Whole, as he believed every one had made up his mind upon it. If gentlemen intended by the course heretofore taken to raise the dignity of the House, he thought they had deceived themselves; for he believed the House was never in a less dignified attitude than during that discussion.

Mr. McDowell thought the mode he had pointed out necessary, for the sake of uniformity; but, as other gentlemen seemed to think it unnecessary, he would withdraw his motion.

Mr. R. Williams wished to know whether it would be in order to amend the report of the Committee of Privileges, or to suggest the propriety of disagreeing to it, for the purpose of substituting a different punishment from that proposed, viz: that the offending members should be reprimanded by the Speaker in the presence of the House? He believed that a punishment of this kind would satisfy many gentlemen who did not wish to expel the members, but who, at the same time, did not wish they should go unpunished.

The Speaker said that motion would be in order after the report of the committee was decided upon.

Mr. Gallatin remarked, that if the report was agreed to, the resolution for an expulsion would of course be negatived, and then any other proposition would be in order; and, on the other hand, if the report was disagreed to, the resolution would be before them, and open to amendment. Mr. G. said he rose to make an observation upon what fell from the gentleman from Delaware (Mr. Bayard.) That gentleman had said he would vote against the report, because he wished to distinguish between the two members. The reason which he gave, though he might have good reasons for his vote, did not appear to him to be correct. That gentleman seemed to suppose that the facts for which the two members were to be expelled, were facts committed at different times, and of a different nature; whereas the facts for which both were proposed to be expelled, were offences of the same nature, and committed on the same day. What related to the previous conduct of the member from Vermont, was not now under consideration. In order to have that conduct before them, it would be necessary that a reconsideration of it should be moved by a member who voted against that member's expulsion, and seconded by another member who voted on the same side of the question. The argument of the gentleman from Delaware, therefore, did not apply. He said, he should himself vote in favor of the report of the Committee of Privileges. He was against expelling either of the gentlemen.

Mr. Dana agreed with the gentleman last up, in his conclusions; but he did not seem rightly to have understood the argument of the gentleman from Delaware. If the gentleman from Pennsylvania was acquainted with legal principles, with established principles relative to punishment, he must know that no persons can be charged jointly with an offence, except jointly guilty, and except they had mutually agreed to commit the offence. The resolution, in its present form, therefore, offended against established maxims of propriety.

Mr. Bayard said, the statement of the gentleman from Pennsylvania was not correct. He had stated that the offences of the two members were the same in circumstances, and committed at the same time. He apprehended the two cases were very distinct; as, by the depositions before the House, it appeared that the offence of the member from Connecticut was committed *before* the House was called to order, and that the offence of the member from Vermont was committed *after* the House was called to order. The argument most depended upon in a former case, against the expulsion of the member from Vermont, was that which insisted that the act of violence complained of being committed when the House was not in session, was not a cause of expulsion. If this argument had weight at that time, it ought also to have weight in the present case. It would, therefore, be the height of injustice to blend the two cases together; since there might be cause for expelling one member and not the other.

The Speaker observed that everything which had been said with respect to a division of the question was out of order, as it could not be divided. He would also remark, in order to shorten the debate, that the House was not called to order when the stroke was made by the member from Vermont, upon the member from Connecticut without the bar of the House.

Mr. Harper asked, if the report of the committee should not be agreed to, whether the resolution might not then be agreed to?

The Speaker replied, it could not be divided; but a separate resolution might be brought forward.

The question on agreeing to the report of the committee, which recommended a disagreement to the resolution for an expulsion of the two members was then taken, and stood—yeas 73, nays 21, as follows:

Yeas—John Allen, Abraham Baldwin, Bailey Bartlett, Richard Brent, David Brooks, Stephen Bullock, Samuel J. Cabell, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, Joshua Coit, Samuel W. Dana, John Dawson, Lucas Elmendorph, William Findley, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, William B. Giles, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, John A. Hanna, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Edward Livingston, Matthew Locke, Samuel Lyman, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Tompson J. Skinner, Nathaniel Smith, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John E. Van Alen, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—George Baer, jr., David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Demsey Burges, William Craik, Thomas T. Davis, George Dent, Thomas Evans, William Barry Grove, Robert Goodloe Harper, Joseph Heister, David Holmes, John Wilkes Kittera, James Machir, William Matthews, Thomas Tillinghast, John Trigg, and Peleg Wadsworth.

The resolution for an expulsion having been disagreed to,

Mr. R. Williams proposed a resolution in the following words:

"*Resolved*, That Roger Griswold and Matthew Lyon, for riotous and disorderly behaviour in this House, are highly censurable, and that they be reprimanded by the Speaker in the presence of this House."

Mr. Harper moved the previous question upon this resolution. He did it, he said, upon this ground. The House had just decided, and they had lately decided in another instance, that disorderly conduct shall not be punished by expulsion; and it was his opinion that no less punishment than expulsion ought to be inflicted, as he was unwilling to diminish the reprehensive power of the House, by inflicting what he thought inadequate punishment for offences of this nature. If there were any gentlemen who thought this conduct excusable, and that it ought not to be punished, they would, of course, vote in favor of the previous question; and those who thought with him, that both ought to be expelled, would also vote in favor of it.

Mr. Nicholas called for the yeas and nays upon this question. Agreed to be taken.

Mr. Gallatin said, by the gentleman from South Carolina having moved the previous question, he had excluded any discussion upon the merits of the main question. Mr. G. wished some reasons might be given why the main question ought not to be put. Those given by the gentleman from South Carolina were applicable to the resolution itself: they were reasons why he should vote against the resolution, but they did not strike him as reasons why the question should not at all be taken.

The previous question was then put in this form: "Shall the main question (viz: the resolution for reprimanding the offending members) now be put?" And the yeas and nays were taken, and stood—yeas 47, nays 48, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dennsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jun., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

RELIEF TO AMERICAN SEAMEN.

Mr. Livingston then moved the order of the day on the report of the Committee of the Whole on the bill for the relief and protection of American seamen; when the amendment requiring masters of vessels to give bond for the return of their seamen, or to render a proper account of them, came again under discussion, but some difference of opinion arising upon the propriety of the clause, a motion was made to recommit the bill to a Committee of the Whole, which was carried, and it was made the order of the day for Monday.

Monday, February 26.

Mr. Thatcher, from the Committee on Post Offices and Post Roads, made a report on the petition of certain deputy postmasters, who prayed that a declaration might be made of the law respecting their liability for bank notes, &c., which pass through their hands. The committee recommend that this subject should be left, for the present, to the decision of the courts of law. Ordered to lie on the table.

Mr. Dent, from the committee to whom was referred the resolution proposing that persons attending the House for the purpose of reporting the debates, should be admitted to take their places within the bar of the House, reported it as the opinion of the committee that the resolution ought to be rejected. This report was referred to the Committee of the Whole, to whom has been referred other propositions for amending the standing rules of the House.

Mr. Harper, from the Committee of Ways and Means, instructed to inquire whether any, and, if any, what alterations were necessary in the act laying a duty on licenses for the sale of wines and foreign spirits by retail, reported it as their opinion that it will not be expedient to make any alteration therein at the present time. Concurred in.

Mr. N. Smith, from the committee to whom it was referred to inquire into the propriety of making any alteration in the insolvent law, reported it to be their opinion that the law ought to be so altered and amended as to extend to persons imprisoned in civil causes at the suit of the United States. Committed for to morrow.

DUTY ON CARRIAGES.

Mr. Harper, from the Committee of Ways and Means, stated that the committee had received certain information on the subject of the carriage duty, which led them to believe an alteration would be necessary in the law. This opinion was founded on a letter from the Supervisor of South Carolina, who stated that one of the Collectors in his district, from a failure of due payment, had to ride forty miles to collect two dollars; for which

service, according to the penalty by law of 25 per cent. on persons neglecting to pay their duty at the proper office, he only received half a dollar; and that except some alteration was made in the law, no Collector would hold an office which subjected him to such service. The committee, therefore, proposed to alter the penalty of 25 per cent. to 50 per cent., and reported the following resolution to the House for adoption.

"*Resolved*, That the Committee of Ways and Means have leave to bring in a bill for amending the act for laying a duty on carriages for the conveyance of persons."

An agreement to this resolution was objected to. It was observed that the Committee of Ways and Means ought to have stated the reason which induced them to believe an alteration was necessary in the law; that a single instance of complaint was not sufficient to induce a change; that, though in this particular case the officer had to ride forty miles to collect the duty in question, few similar cases could be produced where such a journey would be necessary for the collection of so small a sum; and that it would be imprudent to double the penalty upon the whole United States, because of a few cases of this sort.

A motion was first made to commit this resolution to a Committee of the Whole, which was negatived—41 to 38.

EXAMINATION OF WITNESSES.

Mr. Kittera said, as some inconvenience had lately been experienced in the examination of witnesses before the House and its committees, he would propose a resolution, in order to remove this inconvenience in future. It was to the following effect:

"*Resolved*, That a committee be appointed to inquire into the propriety of authorizing the President of the Senate, the Speaker of the House of Representatives, or the Chairman of a Committee of the Whole, or the Chairman of a committee of either House, to administer an oath or affirmation in any case under investigation, in which an oath or affirmation may be necessary, and that they report by bill or otherwise."

The motion was agreed to, and a committee of three appointed.

STAMP DUTIES.

Mr. Harper moved that the unfinished business be postponed, in order to take up the bill proposing an alteration in the law imposing certain stamp duties, as it was necessary to come to an early decision upon that subject, three months' public notice should be given before the time at which the law was to take effect. The Secretary of the Treasury, he said, was also at this time making out instructions for the Supervisors, and waited the passing of the law in question, before he could complete them. As there had been a proposition for a repeal of the law referred to the same Committee of the Whole, he supposed it would be necessary first to dispose of that before they could, with propriety, go on to make alterations in the law itself. He hoped, therefore, this business would be gone into.

The motion was put and carried; and the House accordingly resolved itself into a Committee of the Whole on this subject, when the report of the Committee of Ways and Means on the petition from citizens of Southampton, Sussex, and Prince George, in Virginia, who prayed for a repeal of the law, having been read, which stated that it would be inexpedient to repeal the same,

Mr. Harrison called for the reading of the petition itself; which was read accordingly.

The question was then put, without debate, upon agreeing to the report of the Committee of Ways and Means; which was negatived—47 to 37.

Mr. Tillinghast then called for a decision upon the resolution, which he proposed for the adoption of the House, which had also been referred to the same Committee of the Whole. It was in the following words:

"*Resolved*, That a committee be appointed to bring in a bill to repeal the act for laying a duty on stamped vellum, parchment, and paper."

This question was taken, also without debate, and carried—49 to 36.

The committee then rose, and the House took up the report. The first vote was concurred in, and the yeas and nays were called upon the last.

Mr. Harper moved to amend the resolution by inserting, instead of "a committee be appointed," the Committee of Ways and Means be directed, &c. Agreed to.

Mr. Coit said, he had not the vanity to suppose that anything which he could say could alter the vote which had just been taken. He rather rose to call forth observations from others. This act had passed last session by a considerable majority; and he could not conceive any change that had taken place since that time which should occasion this change in the opinion of the House. There was no appearance in the revenues of the House to authorize it. It was true, slight disaffections had appeared in some parts of the country, with this law; but these, he believed, were of little consequence. As he knew of no better way of raising money than by a tax of this kind, he was unwilling to part with it.

Mr. J. Williams said, when he gave his vote for a stamp tax, he did it to avoid a direct tax; but as he understood a land tax was still intended to be brought forward, he should be for repealing the stamp tax; if he did not, he believed they should have both a stamp tax and a direct tax, which he by no means wished.

Mr. Harper wished the gentleman last up had reserved his vote until he saw that a land tax would be brought forward. He had not heard such a thing suggested this session; it was generally believed that such a tax would be unnecessary. The stamp tax was last session understood to be a substitute for a land tax; but if gentlemen now thought a land tax would be preferable, they might be acting consistently in voting for the present repeal. By a moderate degree of attention to the revenues of this country, it would be seen that, with the aid of the proposed duty on

stamps, every purpose of the Government would be answered, and they would be enabled to pay off the foreign debt, as the instalments became due. But this could not be done without the stamp tax; and if this law was to be repealed, a land tax must be the consequence. Some gentlemen, he knew, earnestly wished it; but those who thought with him, that a land tax should only be resorted to in case of war; that it ought to be a dernier resort; that it must always be very unequal, be attended with great expense and difficulty, would certainly not be acting consistently to vote for this repeal. If this country were to be engaged in war, other resources would be necessary; but, whilst at peace, he would pledge himself that our present resources, with the stamp tax, would not only be equal to all the current expenses of Government, but also equal to the extinguishment of every debt of the country, and to the building a navy by degrees, as circumstances should require; but if this law was dispensed with, which it was supposed would produce at least $250,000 a year, we should not be able to accomplish these objects; our funds will be found insufficient, and resort must be had either to an increase of our impost duties, or to a land tax. The question was between a land tax and a stamp duty; and he was willing for the people of the United States to determine who studied their convenience most, they who favored a stamp tax, or they who favored a land tax. He knew there were certain gentlemen in that House who seemed to make a direct tax an article of their creed, as the Quakers make the abolition of slavery an article of theirs. He was willing they should abide the consequences of such a system; he preferred a stamp tax. If gentlemen were not prepared to vote upon this question until they see a statement of the revenue, of course its decision had better be deferred; but if they are ready to vote upon it, and to dispense with a revenue of from $200,000 to $400,000 a year, it was more than he wished to do. For the present, he believed the stamp act might be dispensed with; but, in the year 1801, there would be an additional sum of $1,200,000 a year wanted to meet the instalments of our foreign debt, which must be provided for.

Mr. S. SMITH was glad to find that the gentleman from South Carolina is now convinced that the revenue of the United States is fully competent to meet all its expenses. He believed the gentleman was much mistaken when he spoke of the stamp duties as being likely to produce $400,000; he believed $100,000 was the extent of what could be expected from that source. The House had been frequently told that the internal duties on spirits would produce $400,000, whereas the last return, he believed, was $178,000. It was wrong thus to deceive by unfounded estimations. The gentleman from South Carolina, and others who voted with him, had heretofore stated the impost duties at five millions, but it now appeared that those who had estimated them at upwards of six millions were right in their calculations. In 1796, they amounted to nearly eight millions; so that this difference between their calculation and the real amount, would be sufficient to meet the demands which Government would have to provide for in the year 1801. He had always been of opinion that the revenues of the United States would not decline, but go on increasing; experience had justified this opinion. Since the year 1796 additional impost duties had been laid, and and it was not yet known how much these would produce; but he believed it would be sufficient to enable Government to meet the instalments of foreign debt as they became due; and, if so, it would certainly be desirable to do away a tax which was odious to the people in general, and would be oppressive to a certain description of persons in the United States. When the stamp law was passed, to prevent its being generally offensive, the duties had been confined principally to instruments used by merchants. Upon the single article of a bill of lading, 50 cents duty was laid, though in England it was only 6 pence. Believing the present revenue to be sufficient for every purpose, he hoped the repeal would take place. Indeed, the gentleman from South Carolina believed, with the stamp tax, it would be sufficient for every purpose, and equal to the building of a navy; he must allow, therefore, that it would be sufficient, if the navy was left out of the question. When the Legislature determined upon building a navy, he would join that gentleman in providing the means of effecting it; but, until that was done, he saw no necessity for providing for that object.

Mr. CHAMPLIN said he should vote in favor of the repeal; but he should not do it from any popular odium which might be affixed to the name of stamp tax. This tax certainly bore no affinity to the stamp tax proposed to be laid upon this country by Great Britain, without our consent. It was not the tax itself to which the people were at that time opposed, but to the principle upon which it was founded. In proof of this it would be recollected that a duty on tea met with the same opposition. Mr. C. said he had not changed his opinion on this subject; he voted against the bill imposing this tax in every stage. He did not know that a bill imposing a stamp duty, however framed, should be imposed; but the present law would bear very hard upon the merchants of the United States, who were the insurers of our revenue. It was for this reason, and not because it was a stamp tax, that he was opposed to it. He found out of sixteen or eighteen instruments proposed to be stamped, thirteen of them particularly applied to merchants, so that three-fourths or four-fifths of the whole duty to be collected would be received from this source; and as he could not conceive that it was the wish of that House to oppress any particular class of citizens, he trusted the law would be repealed.

Mr. CRAIK did not rise to go into the merits of the stamp act, nor to charge the gentleman from Rhode Island with having changed his opinion. The fact was, that a very considerable change had taken place in the opinions of that House since the last session; nor had he heard of any

thing which could have induced the change. He supposed it arose from a want of information. The only good reason which he had heard for the repeal was, that our revenues were fully equal to our expenses. If this ground could be supported it would go to the rejection of any tax whatever, and would be a sufficient reason for repealing the law in question; but before the House decided this question they ought to have better information before them than they had at present. The Committee of Ways and Means had not yet reported a view of the revenue, and the expenses to be met; he, therefore, thought it would be proper to wait for this statement; for, if it should turn out that additional revenue is necessary, and that if the stamp act should not be carried into effect some other tax must be levied, it would alter the state of the case. He therefore moved to postpone the decision of this question until this day three weeks, by which time the House would have received all necessary information on the subject.

Mr. TILLINGHAST hoped the Committee of Ways and Means would be instructed to bring in a bill. If gentlemen wanted further information they might, in the mean time, obtain it, especially as the bill, when reported, might be made the order for a distant day.

Mr. GALLATIN said, if the gentleman who made the motion for postponement had had the information before him which was before the House when the stamp act passed, he would not have made it, because it was not in the power of the Committee of Ways and Means to give any information beyond what was before the House. If gentlemen had attended to the statements which had been laid before them, they must be as well acquainted with the situation of the revenue, as the Committee of Ways and Means. Everything beyond these statements, he said, was conjecture, and every member might form his own. Being precluded, by the motion for a postponement, from entering into the merits of the question, he should be obliged to confine his remarks to a narrow compass. The stamp act, Mr. G. said, was passed for five years, and for what, he asked, was its produce appropriated? It would be well recollected that the President of the United States was authorized to borrow $800,000 to defray the extraordinary expenses of the measure agreed upon during the Summer session. The amount produced by the stamp act was solely appropriated to the replacing of this loan; but that loan had not been, nor could it be, carried into effect. The money could not be borrowed, so that no provision was necessary for the refunding it. With respect to the current revenue, Mr. G. said, the House had full information before them. About $1,100,000 of the principal debt of the United States has been paid out of the current revenue, exclusively of what has been paid out of the bank stock. In December, 1797, the balance of cash in the Treasury was about $1,900,000. When the Committee of Ways and Means make their report, they will make their statement exact, but this was as near the amount as was necessary to be ascertained, to decide the present question. So that the same reason which induced gentlemen to vote for a stamp act last year, might now induce them to vote for its repeal. If the question for postponement was lost, Mr. G. said, he would offer some observations upon the merits of the main question.

Mr. J. WILLIAMS hoped the motion for postponement would be agreed to. He thought it desirable that the House should have some information with respect to our situation with the Powers of Europe, before this question was decided, as, till that was received, no one could estimate what expenses might be necessary to be incurred. He hoped no extraordinary expenses would be necessary; but it might be otherwise. If the subject was postponed, other sources of revenue might come before them. He expected a report shortly on the subject of drawbacks. Last year the amount paid under this head was $4,874,050. From this a handsome sum might be raised without having recourse to stamp duties. He hoped the Committee of Ways and Means would, in the meantime, report on the resolution referred to them relative to the system of direct taxes, and he trusted the report would be against it. If at the end of three weeks this stamp tax should appear unnecessary, there could be no difference of opinion as to the propriety of a repeal of it. If, however, more revenue was to be raised, he would be in favor of a stamp duty in preference to a land tax.

Mr. SITGREAVES was against the motion for postponement. The House had lately been familiarised to calculations on the saving of expense, in order to prevent unnecessary debate. He thought the House was now running into a debate which would have no good end. It was well known that a proposition, originating in the same quarter with this (State of Rhode Island) had been before the other branch of the Legislature, and had been negatived by so large a majority, as to make it necessary to spend much time in debating the subject in that House. [A call to order.] Mr. S. did not wish to say anything disorderly; but there could be no doubt, from the decision he had noticed, that the business would receive its *coup de grace* in the Sentate.

Mr. HARPER was not of opinion that this motion ought to be rejected. No doubt there was information enough to convince gentlemen that the resolution ought to be rejected; but it appeared by the vote which had been taken, that the information laid before gentlemen had not been sufficiently attended to, and he thought there were other statements which would have a powerful influence on this question. He denied that the stamp act was exclusively appropriated for the refunding of the $800,000 to be borrowed by the President. In contemplation of what event was this stamp duty laid? It would be recollected that it was to provide for that expense which would be consequent on a situation of things into which we might be drawn by our unadjusted differences with a foreign Power. The Congress met at their extraordinary session under a strong impression that this event would take place; and

though the determination of the question was postponed by sending a mission, yet they deemed it wise to resort to a revenue to meet an expense which might result. Let gentlemen ask one further question. Has the probability of the necessity of great expenses diminished since that period? So far as we know, every appearance grew more inauspicious. Those very Envoys with whom it was said France could not refuse to treat, because they went specially empowered, we know were six weeks in Paris before any notice was taken of them. Hostilities upon our commerce are yet continued. It was well known that changes had taken place in the French Government, which had cut off all hope of reconciliation. At that time there was a party in power favorable to this country; but they had been expelled, and the whole of the powers of the Government are now in the hands of persons the most hostile to this country. Can it be said, then, that the danger of our situation is diminished, or the necessity of providing for a possible expense lessened? And unless gentlemen were determined, when the clouds grow blacker and blacker, and thunder is every moment expected to break upon our country, to diminish our means of protection and defence, he could not see upon what ground they could take away this source of revenue.

The Speaker reminded Mr. H. of the question.

Mr. Harper could not allow that the House had all the information which might be given on this subject. The extent of the appropriations for the present year was not known. All the sums necessary had not yet been voted. There was a great difference of opinion as to the extent of some measures. Large sums were necessary for arms, magazines, fortification, frigates, revenue cutters, &c., and until it could be determined how much was to be expended upon these objects, it could not be ascertained what revenue would be necessary. It was well known that our situation with respect to France grew hourly more uncertain; and until we knew what was to be the issue of this business, was it prudent to throw out so large an item from our revenue? Might we not have occasion to go much further in fortifications; to raise troops—an additional regiment of artillery—to call into actual service a considerable part of the 80,000 militia, which had been ordered to be held in readiness, and to equip galleys for the protection of our coasts, &c.? When gentlemen considered these things, he trusted they would, at least, give time for considering this vote. Knowing what had taken place in another branch of the Legislature, he did not anticipate the vote which had been given, especially when it must be known that the only effect which such a vote could have, would be to increase the discontents which may already exist in some parts of the country against this law. He hoped the decision would be postponed.

Mr. S. Smith believed the gentleman last up did not anticipate the vote which had been given, or he would not have pressed the subject upon the House.

Mr. Coit was in favor of the postponement, in order that the Committee of Ways and Means might, in the mean time, make a report on the subject of the revenue.

Mr. Macon thought there was no necessity for postponing a question which had been six weeks before the House. He thought much extrinsic matter had been introduced into the discussion. He did not know what this question had to do with the French Government or our resistance; if it were necessary, there was no doubt we should be ready to resist oppression. The true reason for wishing the postponement was, gentlemen expected to be in a majority, and they had found themselves in a minority; as to information, gentlemen did not want it for themselves, but for others, who voted for the repeal, and who neither asked for it nor wanted it. This was only the first stage of the business, and there would be no want of opportunity for gentlemen to discuss the subject as much as they pleased before the bill passed. It was said the law passed by a considerable majority; but, since that time, gentlemen had been with their constituents, and had leisure to reflect upon the subject, and might now see reason to change their vote. He had no doubt of the present revenue being equal to the expenditure, and when more was wanted, it would be time to provide it; and if more were wanted, he thought a more eligible mode might be hit upon than a stamp tax.

Mr. Sewall was in favor of the postponement. If he were certain the revenue to be provided by this law was not wanted, he should be in favor of the repeal; but he was not prepared to change his opinion until he had more information on the subject. He thought the friends of a repeal ought to be for the postponement, in order to give time for gentlemen to be convinced of the fact that this revenue is unnecessary. In that case the repeal would pass almost unanimously. To say this tax is unpopular, is idle and foolish. It was true the people in some parts had got a whim of this sort, and they speak of this law in the same way as of the British stamp tax, though it is quite a different thing. A majority of that House voting for a repeal must have a tendency to increase that discontent which has already appeared against the law; and if the Senate should continue to act as they have done, such a vote would tend to cast an odium upon them as the cause of retaining an act which they do not like. He hoped the postponement would be agreed to, particularly as the gentleman from New York had asked for information on the subject.

Mr. T. Claiborne was against the postponement. If we remained at peace we did not want this tax; and if we were to be engaged in war, it would be worse than nothing, as it would only serve to vex the people, when all ought to be unanimous in the common cause. The people in my country abhor it; it is as obnoxious to them as poison.

Mr. Gallatin said, with respect to the information wanted by the gentleman from New York, he had already enough to vote for a repeal of the bill, and if the question of postponement was lost, he doubted not he would again vote for a repeal.

He observed that when this subject was called up, the gentleman from South Carolina stated the necessity of going into it immediately on account of the three months' notice necessary to be given before the law takes effect. So that if a postponement of three weeks were to take place, it would be impossible the law could pass in time; to carry this motion, therefore, would be a rejection of the question. Mr. G. insisted upon his former statement being correct with respect to the money to be raised by the stamp act being intended to repay the loan of $800,000. If it had been intended to meet the expenses of a foreign war, the House would certainly not have stopped with a stamp and salt tax; they would have gone on to have raised something equal to the demands which must have come against the Government in such a result. But it was said, the situation of European affairs is become still more alarming. He believed it was impossible for them to say whether our situation with respect to European Powers is worse or better than it was in the Summer, as they had no information upon which to depend, and still less did they know whether the event of the expulsion of certain members of the Government would tend to promote a general peace (which he believed would insure our own) or lengthen the war, and consequently endanger our peace. It was possible that, during the present session of Congress, the situation of the country may be such as to induce the House to raise a much larger revenue than we have at present; but this was no reason for the House now to go into raising revenue which is not wanted. Indeed, it would be an additional reason for repealing the act, as he conceived it would be proper, in our present situation, not only to consult the interests of the people, but their prejudices. The gentleman from Massachusetts called them *whims*. Let them be so. In the present situation of the country, however mistaken were their ideas, to know it was their opinion that the act should be repealed, would be a strong reason with him for voting its repeal. If he were to consult his own opinion, he believed there were other acts more oppressive than the stamp act would be; but in all cases of taxation he was willing to sacrifice his own opinion to the public opinion. It was the duty of the House to endeavor to correct the public opinion where they thought it wrong; but at present, he believed it would be best, in a good degree, to consult it; as the act was sufficient to create disgust to the Government without being very effectual.

The Speaker reminded Mr. G. of the question.

Mr. Gallatin then remarked, that though a vote had been taken in favor of continuing the tax in the other branch of the Legislature, that vote, on a future day, might, from a conviction of its impropriety, be reversed. What had been said about a land tax he looked upon as a mere threat, as he did not suppose any such question would come before the House at the present session.

Mr. Varnum called for the yeas and nays upon this question. Agreed to.

Mr. N. Smith said, the gentleman from Pennsylvania had told the House that the gentleman from New York had already voted for the repeal, and that he doubted not he would do so again, and that therefore he had no need of information. Should they, then, force gentlemen to vote before they were prepared? He always thought it was their business to inform and be informed, and come to a temperate result; and when this was come to, the opinion of the majority was the political standard. But, instead of this, the gentleman from Pennsylvania made himself the political standard; as if a member was not prepared to vote, he would force him to vote unprepared. This was not an opinion which he could subscribe to. Mr. S. said, he asked for a postponement on his own account. He was one of those who, if convinced that our present revenue will meet our present expenses, and that our revenue will not decrease, nor our expenses increase, and that there will be a surplus remaining to meet the demands which will be made upon us in 1801, he would most heartily vote for the repeal. And if this were the ground upon which gentlemen voted the repeal, instead of a bare majority, they would have a unanimous vote. But could any one say, that our present revenue is equal to our present expense? Could any one say that our revenue will not decrease, or our expenses increase? Surely they cannot, when there is so much uncertainty with respect to our foreign relations; when we know not what a day may bring forth; when we cannot tell but that such depredations may be committed upon our commerce as may greatly decrease our revenues, and that necessary preparations for our defence may vastly increase our expenses. Was this, then, a situation for repealing a law for raising revenue? He thought not; he hoped, therefore, the question would be postponed, and in the mean time, it was probable some information would be received on the subject of our foreign relations. But it was said, this act was unpopular, and because of our dangerous situation, the opinions of the people ought to be consulted, whether well or ill founded. No man would sooner consult the opinions of the people than he, when they were founded with deliberation; but it was dangerous in the extreme to meet the opinions of the people when prematurely formed. What did the petition which had been received say? It did not say the act was unpopular, but that it was copied from an act of a foreign nation, and that it was an act which had given offence when attempted to be imposed by a foreign country. These were reasons which no gentleman would urge for the repeal, and he was convinced when the enlightened people of America came to examine the subject, that this tax would be as agreeable to them as any other tax. It would be found that not only the British, but the French nation had a tax of this kind, and that it was a popular tax wherever it was adopted.

Mr. J. Williams had seldom known objections made to the postponement of a subject so important as the present. If the gentleman from Pennsylvania thought by this means to secure his vote, he would vote against him, and he was seldom in

the habit of voting with him. The arguments of gentlemen against the postponement were so contradictory that he thought when they came to review them they would themselves be in favor of the motion. It was said by the gentleman from Pennsylvania that it was necessary to give way to popular opinion. If this argument had not heretofore been used, the resources of the country would have been applied to some years ago, and our debt paid off. Gentlemen themselves confess that the people who complain against the stamp law have no cause to complain against it, as it is not calculated to affect them. The yeomanry of the country, therefore, only wanted time to consider it, in order to be reconciled to the stamp law; they would always act right, when time was given them for reflection; and their good sense would teach them, on cool reflection, that they would be benefited by the act, provided a repeal, would produce a land tax.

Mr. Giles said, the subject had been called up by the Chairman of the Committee of Ways and Means himself, so that he must have conceived the House ready to vote upon it. One of the questions, indeed, reported by the Committee of the Whole, had already been decided; but when the second was about to be taken, the yeas and nays were called, and previous information was said to be necessary. If information was really wanted, there would be time enough to obtain it, before the bill passed; it was futile, he said, to put off the decision upon the limb of a proposition which had already been acted upon. Mr. G. denied that this stamp act had anything to do with our foreign relations; indeed, when the Chairman of the Committee of Ways and Means first rose, he did not consider it. He was himself upon the Committee of Ways and Means when this law was agreed upon; but he never heard such a thing suggested. If war was apprehended, and this tax was meant to furnish a part of the expense, he desired gentlemen to look at its insignificancy to such an object. Indeed, he believed if such a state were to take place, this tax would do more harm by the dissatisfaction which it would excite against Government, than the money it would raise would do good; but he was certain it had never been considered in any other light than as a peace arrangement.

A motion was made for adjournment, and negatived—57 to 38.

Mr. Sitgreaves said, as the gentleman from Virginia seemed pleased with the noticing acts of inconsistency, he would furnish him with another; for, though he had spoken against the postponement, he should vote in favor of it. He should do this for three reasons; first, as the reason which he gave for believing that a lengthy discussion was unnecessary, had been declared out of order, he supposed it would be out of order to act upon it; the second was because gentlemen appeared afraid of a postponement; and the third was, because the yeas and nays were called, and when that was the case, he wished to appear on the same row with his friends.

The question on the postponement for three weeks, was then taken and negatived—yeas 41, nays 52, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, David Brooks, John Chapman, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, Samuel J. Cabell, Christopher G. Champlin, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. Allen then moved an adjournment, which was negatived—49 to 43.

Mr. Gordon moved the postponement of the question for a week.

Mr. Brooks called for the yeas and nays upon this question, which was decided to be so taken by 18 members rising; which were decided to be one-fifth of the whole number present.

The yeas and nays were then taken, and were the same as before, except that Messrs. Bullock, Gillespie, and Grove, who voted in the negative of the last question, voted in the affirmative of this, which made the numbers stand 49 to 44.

Mr. Sitgreaves again moved an adjournment, which was negatived—43 votes being only in its favor.

Mr. Gordon then went into some observations against the repeal. He did not think, because the law was obnoxious to a few people, that it ought to be repealed; nor did he think, because some gentlemen stated the law as operating unequally, was a good reason for repealing it. A conviction of this kind ought to lead gentlemen to endeavor to make the law more equal, and not to repeal it. He acknowledged that he had not made due use of the information within his power; for he was not sufficiently informed to vote upon the subject, and therefore he wished to have it postponed. He begged gentlemen to consider in what view they would hold up Congress to the world, if they made and unmade laws in this way. No dependence could be placed upon the consistency of their proceedings; every law that was at all displeasing to any part of the community, would be constantly expected to be repealed. He should, at present, be compelled to vote against the repeal, though if time were given for an inquiry into the subject, he might vote in favor of it.

Mr. Sprague said the subject had been before the House for six weeks, which he thought was sufficient time for members to have made themselves acquainted with the subject. He should vote for the repeal, from the evidence which had been laid before him of the sufficiency of our revenue for our expenses, and that the stamp tax was unnecessary. It was upon this ground that he voted.

Mr. Allen again moved an adjournment, which was negatived, there being only 30 votes for it.

Mr. Coit spoke against the repeal. He considered the question as a choice between a stamp and a land tax, and in this point of view he thought it important.

Mr. Thatcher was afraid that a reason would operate in the repeal of this law, which was derogatory to the Legislature of the United States—which was, a prejudice against the *sound* of stamp act; for all acknowledged that this law bore no resemblance to the case which had given rise to the hatred of a stamp act. This plea of prejudice had frequently been brought before the House. He recollected that in the year 1789, when it was proposed to lay a duty on goods imported, a gentleman from Georgia entertained the House a long time with urging this plea on behalf of his constituents, against a duty on gunpowder, as the people of Georgia were fond of the diversion of shooting rice birds; but that prejudice was overcome, the law was passed, and it was found a good one. No sooner was an excise proposed, than the House was again told of this prejudice; but it was now admitted that the tax was a good one, and the prejudice was overcome. About four years ago, an additional duty was proposed upon the importation of iron ware; when it was objected that there was a strong prejudice in favor of imported hoes and axes. All these prejudices had, in their turn, died away; and he hoped the present would be permitted to have its exit in the same way. As to the law operating principally upon merchants, bankers, hucksters, &c., he was glad of it; he wished all taxes principally to operate upon them, because they could most easily furnish the money to pay them. As to the reason given for the repeal, that our revenue was sufficient for every demand against it, he was not assured of this. He wished to retain this law until he saw the issue of our present situation.

Another question was taken for adjournment, and negatived, there being only 32 votes for it.

Mr. Harper then moved for a postponement till to-morrow. He did not make this motion with a view of obtaining a different vote, but because the discussion had come on unexpectedly; for, though he himself had called up the subject, he did not expect a debate upon it. He thought the pressure for the question had been in this case unprecedented.

Mr. Giles said there had been already attempts enough to get rid of the question. He hoped this would meet with the same fate with the others.

Mr. Allen spoke in favor of the postponement. He pledged his honor that he wanted information on the subject.

Mr. Dana urged the propriety of the postponement, as this question went to decide the principle.

Mr. Sitgreaves hoped this postponement would take place, that if gentlemen were refused an opportunity to think upon the subject, they might at least have an opportunity to speak upon it. It was a thing unprecedented in that House, when a member declared he wanted information, or wished to deliver his sentiments upon a question, to refuse a postponement of its decision. He asked whether this request was not peculiarly reasonable on the present occasion? Some gentlemen had stated that their reasons for voting for the repeal of this law was because it was unpopular. Was it reasonable, therefore, to put these gentlemen in a situation of opposing popular opinions, without giving them leave to express the grounds upon which they acted? He complained of this sort of treatment. He should certainly vote against the repeal; he did not himself want information; he had no hesitation on his mind with respect to his vote; but he had a desire to explain the reasons upon which he acted.

Mr. Varnum said the gentleman last up complained without ground. He and those who voted with him did not want time or information in the morning. It was only since they found they were in a minority that this want was discovered.

Mr. Champlin had no objection to a postponement of the decision until to-morrow.

Mr. Nicholas could not consent to a postponement of this question, because the means used to put off the decision had been unprecedented. The reasons given for it by the gentleman from Pennsylvania, could not prevail with any one. He confesses he does not want information; and he will have full opportunity to give his opinion to the public before the bill passes. With respect to gentlemen not being prepared, he thought it a curious thing. They were prepared to vote until the yeas and nays were called for, but when these were called they wanted information.

Mr. Brooks spoke in favor of the postponement, and condemned the want of candor in gentlemen persisting to take the question before gentlemen were prepared to vote. Was this conduct, he asked, intended to give encouragement to the setting up of *Whiskey* and *Liberty poles?* It looked like it. [The Speaker called to order.]

Mr. S. Smith asked who prevented gentlemen from giving their reasons upon this subject? Had not they themselves prevented the main question being brought into view by continual motions to postpone and to adjourn? Most assuredly they had. If they had gone into a discussion of the merits of the question at first, three hours might have been spent in the discussion.

After several other observations, the question for a postpostment till to-morrow was taken and negatived—46 to 41.

The question was then taken by yeas and nays on agreeing to the following resolution:

"*Resolved*, That the Committee of Ways and Means be instructed to report a bill to repeal the act laying a duty on stamped vellum, parchment, and paper."

And it was carried 52 to 36, as follows:

Yeas—George Baer, jun., Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Christopher G. Champlin, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Thompson J. Skinner, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, Bailey Bartlett, David Brooks, Stephen Bullock, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, Samuel Lyman, James Machir, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jun., Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

And then the House adjourned.

Tuesday, February 27.

Mr. Harper, from the Committee of Ways and Means, reported a bill to repeal the stamp act, which was committed for to-morrow.

Mr. Livingston moved a postponement of the unfinished business, in order to go into a Committee of the Whole on the bill for erecting a light-house and placing buoys in several places therein mentioned; which being agreed to, the House resolved itself into a committee accordingly on the said bill, and having filled the blank intended to contain the sum appropriated with $13,250, (namely, $10,500 for the light-house on Eaton's Neck, $2,500 for buoys at New York and Newport, and $250 for Nantucket,) rose, and the bill was ordered to be engrossed for a third reading.

Mr. Livingston, from the committee to whom was referred the amendments of the Senate to the bill for the relief of refugees from Canada and Nova Scotia, reported their opinion on the same, which, together with the bill and amendments, were committed for to-morrow.

FOREIGN INTERCOURSE.

The House then resolved itself into a Committee of the Whole on the bill providing the means of foreign intercourse, when Mr. Nicholas's amendment for curtailing that establishment being under consideration—

Mr. Havens observed, that when this subject was formerly under consideration, the grounds upon which the present amendment had been supported were, the danger arising from an extension of our foreign intercourse, from considerations of economy, and to prevent undue influence; on the other hand, it was opposed on Constitutional ground. It was said, that House had no right to interfere in the business, as it was wholly an Executive concern.

On all questions of this kind, Mr. H. said, the Constitution of the United States was constantly brought into view; upon which different opinions were now entertained from what were entertained at the time of its adoption. He always understood that this Government was intended not only to have all the advantages of a republican Government, but, being elective, all the advantages which arise from a proper distribution of power. This principle of a distribution of powers was derived from the Government of Great Britain, as it was theoretically described by *Blackstone*, not from what it is in practice. His description of that Government (which he read) showed that every department of it was a check upon the other. *De Lolme*, though a panegyrist of the British Government, agreed in the same opinion; for though he describes the Kingly power as raising armies and equipping fleets, yet he allows it to be liable to be checked by the people. Here the doctrine maintained was, that the President of the United States can appoint to office, and that that House had no right to refuse an appropriation, which was wholly subversive of what he understood to be the original principles of the Government. Mr. H. said, he did not contend for any power in the House of Representatives which did not equally apply to the Senate; and, if this doctrine was not allowed, there would not be the least check upon the President by the Senate or the House of Representatives, as the concurrent power of the Senate with the Executive only went to the choice of men in the appointments to office.

The President has a right to appoint as many Ambassadors as he pleases, without check or control. This power in the President and Senate could compel that House to raise any sum of money whatever. They might make a treaty granting a subsidy to a foreign nation, and that House would be bound to pay it. They might also borrow money, and might bring the House into such a situation as to oblige it to declare war, to raise armies, support a navy, &c., contrary to their convictions of right. But when the House makes an appropriation of money, the President has the power to put his veto upon it; and, if he can do this, how is it that the two Houses cannot exercise their discretion in appropriating for Ambassadors, or for treaties? Whenever an appropriation of money is called for, they ought certainly to consider for what purpose it is wanted, and whether some more important object does not require previous attention.

It was said the House were as much bound to appropriate for the salary of Ambassadors as for the salary of the President or the Judges. When gentlemen reasoned thus, they appeared to consider the diplomatic corps as a part of the Government; whereas the Government could go on very well without them. And even with respect to the officers of Government, if the money was wanted for more important services, such as for the immediate defence of the country, they must go unpaid for a time. He, therefore, concluded that each branch of Government, namely, the President, Senate, and House of Representatives, had each a discretion in the appropriation of money.

There was another consideration which operated upon his mind, to convince him that this was the only construction which could be put upon the Constitution. A considerable degree of discretion was left to the President in the execution of laws, and it was always in his power to abuse that discretion by beginning a measure upon such a scale of expense as to oblige Congress to go further than they intended; and, except the two Houses had the power of exercising their discretion in checking any such abuse, there was no way of preventing it. There was a singular exemplication of this fact, he said, in the English Government, in the Minister's having expended vast sums of money, without the consent of Parliament. He mentioned several instances, the two last of which were during the war with this country, and in the year 1796. In the former instance, he stated that the Minister expended thirty-eight millions with the consent of Parliament, and twenty-eight millions without it; and, in the latter, fifty millions with the consent of Parliament, and forty-nine millions without it. And, excepting the Legislature had a right to refuse to appropriate in such cases, there was no way of preventing abuses.

He believed the House would recollect a conduct in some degree similar to this in our Government. He alluded to that of the frigates; since they were begun upon a plan which obliged the House to consent to much larger appropriations than they at first intended. If it were necessary, other instances might be adduced of the same kind.

Gentlemen who supported this extraordinary power in the Executive, argue in the same way with the supporters of the extravagant Executive power of Charles I. in the case of Mr. Hampden, with respect to ship money. It was at that time asserted that the King, having a right to declare war, had a right to demand the service of any man's person, and, consequently, to demand his money. But this doctrine was now everywhere acknowledged to be the most arbitrary.

He thought the British Government afforded another lesson of instruction. After their Revolution in 1688, it was well known that the Government adopted a funding system. When this took place the House of Commons ceased to have any control over the expenditure of public money. In consequence, the public debt had increased beyond what could be conceived. Mr. H. read *Sir John Sinclair's* account of this increase, and observed that the present amount of that debt, exclusive of the last loan to the Emperor, is 410 millions. If the House of Commons had had a proper check upon the Administration, there would probably have been no debt at all.

Government might be considered as forming two distinctions, viz: payers and receivers of money; and it was the perfection of all the State Governments in this country, that both had a right to judge of the expediency of the expenditure of money, and particularly the payers. If this check did not exist, no Government would long continue.

Much had been said about supporting Government. Some gentlemen called themselves *supporters* of Government, and others they termed *destroyers* of Government, *disorganizers*, &c. When gentlemen spoke of supporters of Government, they meant, he believed, supporters of the Executive branch of Government; so that a person acquiescing in every measure of the Executive was a supporter of Government; whilst those who disapproved of any Executive measure, were destroyers of Government. This doctrine alone was sufficient to destroy the idea of the Government's consisting of several branches, and to blend all the powers of the Government in the Executive. In this case, the Government of this country could not long remain a free Republic, but would become an Elective Monarchy, and the whole power of the Government would be in one man's hands. He could not conceive that the people of the United States could think this a proper ground upon which this Government ought to rest. It was self-evident to him that our Government ought to consist of three branches, the President, the Senate, and the House of Representatives; and when that House has determined not to do a thing, the Government has determined not to do it, and so of the other branches.

The same observation would apply to a phrase which they had frequently heard, and which had been introduced in the course of this debate, by a gentleman from Connecticut, of *stopping the wheels of Government*. To put a stop to any Executive measure was to stop the wheels of Government; and to keep them *properly running* was to offer no control over whatever the President recommends. If this was not the meaning of the phrase, he should be glad to know what it was. For his part, he believed the perfection of Government consisted in what these gentlemen called stopping the wheels, and when that House, or the Senate, determined they would not go into any expense, they speak the voice of the people.

It had been remarked that the House had the physical power to refuse a grant of money when called upon by the President; but that members were under a moral obligation to grant it. This was saying we can do a thing, but we ought not to do it. He believed it was proper for members to do whatever they conceived was for the public good.

When the subject of patronage was first men-

tioned by the mover of this amendment, he was persuaded he only meant to introduce the subject on general ground. The idea, as he understood him, was, that all nations and societies were liable to depart from original principles, to corrupt their Governments, and in the end to subvert them; and that, in this country, we were subject to an improper connexion of the different departments. That it was necessary to guard against this, if an appearance of such a connexion should at any time appear. He thought this was so obvious that it would be acknowledged by every one that we were equally liable with other nations to this corruption. With respect to what had been said respecting appointments to office being confined to men of particular sentiments, it had been acknowledged by some gentlemen to have been observed in the choice of men in the diplomatic corps; but others had acknowledged that the regulation was a general one.

Was it not evident, Mr. H. asked, that in other countries, original principles of Government were departed from? That there was an incessant desire after wealth, honor, and power? He never heard of a Monarchy which did not suppose itself under the necessity of creating a sort of Government party, who had the disposal of large sums of money, which they could distribute among persons who were subservient to their purposes. He believed this disposition had prevailed in all ages of the world, and had been the cause of most of the wars and calamities which had ravaged the earth. It must be evident to every one that peace, independence, and equality, must constitute the happiness of every country; but it was notorious that the leading men in most countries had been opposed to these, for their own ends. *Beccaria*, he said, in his Essay on Crimes and Punishments, had laid it down as a certain principle, that there were in every society such a class of men. In England, perhaps, this was more evident than in any other nation. A set of men appeared early in that country to render the Executive power a Government of despotism. The doctrines of passive obedience and the divine right of Kings, continued to be asserted for one whole reign. After the Revolution, the funding system was set on foot, which bound men to the Executive by interest; in fact, persons were hired to support a certain system of measures. It must appear evident that the great cause of keeping that country continually engaged in war, had been the host of placemen and pensioners contained in the two Houses of Parliament, who were always inclined to support measures in which they found the greatest interest. The Treasury must be considered as the head of the body politic; and whatever party got into power, they pursued the same course—a course which had now brought that nation to the verge of bankruptcy and ruin.

If this was the constant course in other countries, was not this country, he asked, equally liable to the same evils? He believed it was. He did not say that the evil had gone far; but he thought it was proper that we should be on our guard against any doctrine which may have a tendency to make one branch of the Government depend on the other.

This spirit of grasping at wealth and power had been so great, that it had even attached itself to religious opinions. When the Christian religion was first preached, it was of a democratic spirit; and afterwards it became aristocratic, and then monarchic. When, therefore, this lust after power had been so general, it could not be said that this country was not liable to the same vices and errors.

This consideration was also worthy of attention. Men of the best private character had been supporters of these corrupt systems. It seemed, therefore, as if there should be some line of distinction between private character and political conduct. Though a man may possess the greatest private integrity, he may still support such principles as may lead to arbitrary power. There could be no doubt that those persons who maintained the divine right of Kings were many of them men of the greatest integrity; but their doctrines were not the less mischievous on that account. In the same way it might be reasoned with respect to the United States. Men may be induced to support opinions which have a tendency to subvert the Government, by placing all power in the hands of the Executive, and make the Government a sort of four years' monarchy. Yet, these men may be men of the greatest integrity, and even patriotic, according to their views of patriotism; but if others believe their opinions have this tendency, it is their duty to represent them to the people of the United States, leaving them to decide the point.

Mr. H. concluded by observing, he had heard no reason suggested for a Minister at Berlin; nor could he see any use for one at the Hague. He was of opinion that Vienna would be a more fit place for the residence of a Minister than Berlin. We have no commerce with that country; and if we had any wish to intermeddle in the subject of the balance of power in Europe, we might as well send embassies to the Emperors of Germany and Russia. But he believed we had no business with this balance or power. He thought it was possible so to manage our affairs as to have nothing to do with any of them. Nor did he think we had anything to fear on the subject of invasion; if there was any danger, it must be from England, by way of Canada. Besides, if we were to have any serious difference with France, he knew of no use our Ambassadors could be of. It might, perhaps, be necessary to have Ambassadors at London, Paris, and perhaps Spain and Portugal; if others were necessary at any time, special agents could be sent. He hoped, therefore, the amendment would be agreed to, as he thought it was a proper time to make a retrenchment in the expenses of this department of Government; and, however small the saving might seem, it was of consequence to make every saving possible, which he wished to be applied to the discharge of the public debt.

Mr. Williams, of New York, said, that though the present subject had already taken up much

time, as he considered the question of importance; and, as its decision was connected with a Constitutional question, he must be permitted to make a few observations upon it. When the amendment was first introduced, he did not see the object to which it led so distinctly as he now saw it. If the object of the gentleman from Virginia had been to bring back the foreign intercourse to the same situation in which it stood in 1796, he would have passed over the first section of the bill and gone on to the third, because the first is the same as that of the bill passed in 1790. But his object had since appeared to be a total annihilation of our foreign intercourse. He wished to do this, he said, to save expense; but the only Constitutional ground upon which the House could interfere in this business, was as it related to salaries; if these had been found too high, he should have no objection to lower them. If the gentleman had thought that two years was too long a time to enact this law, he might have moved an alteration in that respect; but he could not consent to doing away the intercourse altogether, as it would not only be rendering our affairs abroad totally inactive, but be arrogating to ourselves a power which the Constitution had placed in another department.

This was the same Constitutional question, in a different garb, that was agitated six or seven weeks on the British Treaty, and which had also occupied three weeks of the last session; so that, instead of saving any expense, this debate alone would cost more than the foreign Ministers that gentlemen wished to dispense with. Besides, the present situation of things was ill calculated for the introduction of such a question, which served only to produce a warmth which tended to obstruct the business of the House.

He complained that the gentleman from Georgia had, in his warmth, drawn conclusions from the President's Speech in the year 1790, which could not be maintained. [Mr. W. read the extract alluded to.] The same gentleman had remarked, that he was for doing away the hostility which existed between the different departments of Government; but, Mr. W. asked, what harmony could exist if the President appointed an officer, the Senate concurred in the choice, and that House refused to appropriate for his salary? If this check was to be exercised, it would also be acted upon in the Senate, and might give them the power, by lowering the pay of members, to prevent any but men of property from accepting of seats in that House. Six shillings a day were only allowed to the members of the House of Commons in England, and, he asked, if the Senate should reduce, by their check, the pay of members to that sum, whether any man of moderate circumstances could attend the duty of that House? This, then, said he, would prevent the mediocrity from sending the members of their choice, as no one could attend except those whose private fortunes would admit of it, and this would cause our Representatives to be the same as the House of Commons, and an aristocracy would be produced.

When the Executive informed the House, seven or eight months ago, that he was about to renew treaties with Sweden and Prussia, money was appropriated for a Minister for that purpose without opposition; but it was said he was now to be recalled. He would suppose that one of the gentlemen who advocated this amendment had been chosen on this embassy, and he had arranged his business at home, and taken his station abroad, would he have liked to have been thus recalled? No; he would have said Government was unstable, and not to be depended upon.

But it was said by the proposer of the amendment that he was devoted to a republican Government; but, to use the language of the good book, "by their works ye shall know them." If gentlemen can produce proofs of their attachment to the republican cause, they will be credited. But the gentleman from Virginia had talked of "feeble minorities" governing, which was not consonant to a republican system. The minority he considered as a spark of fire, which, if not put out, might consume the whole fabric. But the yeomanry of the country, who were the most virtuous and stable men in the community, had been the only check on this subject; it was they who had, by their adherence to the support of good order, saved the Government from ruin. They are not like the inhabitants of large cities, who are as changeable as the wind.

Much had been said about the political sentiments of the Executive, and of his choosing officers of the same opinion with himself. He was perfectly justified in doing this to a certain degree, and that he did not attend to these circumstances in all these appointments was evident from one which had taken place in a department of considerable trust during the present session; but that all the heads of departments and the diplomatic corps should agree in political opinion with him is certainly proper, in order to carry on the business of Government with harmony; otherwise, said he, there would be a continual jarring, and the good book says, "a house divided against itself cannot stand."

His colleague (Mr. Havens) had just now said, if the opinion, which the opposers of this amendment held, prevailed, everything must be done according to the will of the Executive. If he had interfered with their Legislative business, said Mr. W., this observation might have been just. If the Executive wanted a person to regulate our commerce in foreign countries, would he choose one who had always been opposed to commerce of every kind? Such a choice would be wholly inconsistent. The conduct of the President, in this respect, was similar to what was adopted every day in that House in the appointment of committees, who were always chosen from men who were supposed to be acquainted with the business on which they were to act. Mr. W. denied that an appointment to office produced any influence, as he knew from what had taken place in his own State, the Governor of which was similarly circumstanced in that respect with the President of the United States.

Where one person was served, twenty were disappointed, and he knew that the Governor of his State had nearly lost his election from the offence he had given in the election of a sheriff in the year 1789.

But gentlemen had said that we had no occasion for Ministers to foreign Courts; that we ought to be considered merely as buyers and venders of European manufactures. If this were true, no Minister would be wanted. Were we, then, to do nothing with our surplus agricultural produce, with our fish, &c.? When he thought on this subject, he was surprised at the conduct of some of the representatives of large cities. As he was a representative of farmers, he might say that no foreign Minister was necessary; but when he reflected that by giving encouragement to commerce, a competition was produced in the market which enhanced the price of produce, he saw the propriety of that encouragement; because, when the farmers brought their produce to market for sale, the greater the competition between our merchants and foreign merchants, the greater chance of obtaining a ready sale and a higher price.

But it was said the President might abuse the power that was placed in him; but this was to suppose the people had been so foolish as to elect a man to this office who was unfit to be trusted. Indeed, all the observations of gentlemen on this head were founded on a supposition that the President and Senate had views and interests different from those of their constituents. If the President did act contrary to his duty, he was liable to impeachment; and if the Constitution wanted amending, it might be amended. Indeed, amendments had been proposed in the Legislature of Virginia and negatived, but he saw the proposition was again renewed, proposing to alter the Constitution with respect to the treaty-making power, agreeably to the sentiments of the representatives from that quarter; which was a tacit acknowledgment that the Constitution does not support those opinions at present. Let us, said he, be contented with the powers given us by the people—the will of the people should be his guide; and when the people thought proper to alter the Constitution, he would be satisfied; but he would not take power from the people which they thought proper to withhold.

But it was said, our commerce produced a partiality for Great Britain. If this were so, what then? If our merchants choose to go to Great Britain in preference to other countries, ought the Legislature to prevent them? If they were partial to Great Britain, he supposed it was because they found it their interest to go there. The Virginians, two years ago, sold their horses to Great Britain, because they gave them a good price for them, and the members in that House were dressed from top to toe in English manufactures, because they believed them better than any other; and as the Virginians were permitted to sell their horses at the best market, he hoped that he, as a farmer, might be permitted to sell the produce of his farm where he could get the most for it, and in the way he thought best. With respect to the appointment to office, when the General Convention met for settling the Constitution, they had considerable difficulty in this respect; but as it had been agreed that the small States should be represented in the Senate by as many members as the large States, and retain their sovereignty, it was thought the power of appointing to office, and the power to make treaties, would be best lodged there. The small States having had this indulgence, could never agree to concede the doctrine now contended for, as to the power of the House of Representatives, because it would be doing away that solemn compact entered into between the large and small States at the forming the present Constitution. Besides, if this doctrine was adopted, the Government could not operate at all. Suppose the foreign intercourse was done away, and after the rising of the present session, the Directory of France should so far come to their senses as to be willing to do us justice, by making restitution for the spoliations committed on our commerce, and paying our citizens what they had promised them, a new treaty would be necessary—for our present treaty is done away if we choose that it should be so, as they have broken it; as, by the law of nations, if a treaty is entered into between two nations, and one breaks any part thereof, the other is not bound unless it chooses. But the President would be unable to appoint a Minister until an appropriation was made, and Congress must be called together for the purpose of making it; and if a majority of that House were opposed to such a treaty, the President could not negotiate it. Thus the principles of the Constitution would be changed, and rendered inactive.

The objection which he now made had been realized in the State of New York. The year after the Constitution was adopted, two members were to be sent to the Senate of the United States, when, from a difference of opinion between the two branches of the Legislature of that State, as to the men to be elected, no choice was made until a new election of the Legislature took place, when both branches being of the same political opinion, the Senators were appointed. Besides, this mode would create an enormous expense, because, in every case where a Minister was wanted, the whole Congress must be called together, and when so called, a majority of the House of Representatives might not agree that a treaty was necessary, and refuse an appropriation, or they might withhold an appropriation, unless the President would nominate such a person as the majority thought proper. Besides, four States would rule the other twelve, because the States of Virginia, North Carolina, Pennsylvania, and Massachusetts, had a majority of members. Again, said Mr. W., from the observations of the gentlemen in favor of the amendment, they themselves would not agree to any one object, for one wanted a Minister, and of such a grade, to this, and the other to that Court, and another quite different.

Though much had been said relative to our late Minister at Paris, he should not have touched

upon it, but from what had fallen from the gentleman from Virginia, who had said that peace might have been secured to this country, but that it had been cast from us by sacrificing that Minister. If he were sacrificed, he sacrificed himself. If he could not have done the business in which he was to be employed in an acceptable way to Government, he ought to have refused the mission, as it was said another gentleman had done. He believed that the Executive, in the whole of the business with France, had acted in the most determined manner to preserve our neutrality, and at the same time our friendship with the French nation. But if they took a view of the conduct of the agents of the French Government which had been sent here, it would be matter of surprise that we had been able to keep out of war. The Government and people of the United States had assisted France in every way they could, though they were frequently charged with ingratitude to that country. Mr. W. asked when gentlemen spoke of the party which supported the Executive, whether they did not think the party raised against him by means of these French agents and their friends had not been fifty times stronger than that occasioned by the funding system and the return of disaffected persons during our Revolution? He believed they did. Let gentlemen attend to what the sacrificed Minister had done whilst in Paris, or rather to what he had not done. Had any compensation been obtained for injuries done to our commerce long before the British Treaty was formed; or, for the mischiefs done at Bourdeaux in 1793 and 1794? What had been done to redress the singular and forced sales of cargoes for non-performance of contracts, &c.? He had heard nothing that he had done to redress these grievances. But the gentleman from Virginia had said, that he was sorry his friend had published the communications which had passed between him and their Government. Mr. W. believed that the gentleman alluded to, and his friends, would have reason to be sorry that this book had been published. That publication evidently showed that he had gone farther than he was empowered to do. However, the book and the remarks made and to be made thereon were before the people; they are the tribunal; with them he would leave it, as they were the proper judges, and would judge rightly.

The gentleman from Virginia had determined to preach to the people, but the people ought to hear both sides of the question, and if he preached on one side, the other ought not to be withheld from them. This preaching was commenced two years ago, and gentlemen had preached themselves from a majority of 62 to 37 (which they had in calling for papers from the President in respect to the British Treaty) to a majority of 53 to 45 against them, which was the division at the commencement of the last session, on a vote in answer to the President's Speech, approving of his conduct. This change had been produced by the election which had taken place in the meantime.

Having touched upon the conduct of our Minister at Paris, he would contrast with it the conduct of our Minister at London. This gentleman, he said, had been of the greatest possible advantage to this country. When any of the commercial agents applied to him, instead of writing to the Judge Advocate General a diplomatic letter, he waited himself upon the Judge; and, in one decision alone, he had obtained for damages and freight, for one house in this city, £2,750 sterling. He had also obtained the passing of a law to indemnify neutral claims of spoliation, and upwards of $3,500,000 were appropriated for that purpose. And seeing that the Court of Admiralty there was inclined to procrastinate our business, he had obtained by his perseverance a promise that the Court would sit again in November last. So that it may be fairly said, that our Minister in London has been the means of saving to the citizens of this country more than all the diplomatic expense to which it had been put; and though this money does not immediately go into the Treasury, yet it is the means of enriching our country.

Mr. W. denied that Consuls do the business of Ministers, as nothing was paid them for their services. He also took a view of the large sums paid to British Consuls at their factories in foreign countries; one Consul, said he, at Elsinore, had more income than all our foreign Ministers. Besides, Consuls must dance attendance at foreign Courts, and they cannot do this unless they are paid; and at some Courts they would not be permitted to do business—and, if they were, Ministers would do more at one visit than fifty visits of Consuls; therefore, there could be no saving of expense, but greater delays occasioned, and, in the end, the business would not be done.

But it had been said that the Executive had greatly raised his influence by the law funding the domestic debt of the United States. This act passed the 4th of August, 1790, when nine-tenths of the paper allowed to be funded was out of the hands of original owners; so that, if it occasioned any speculation, it was a speculation upon speculators. If the Executive had meant to have increased his influence by this measure, he would have recommended the measure when this species of property was in the hands of a number, rather than when engrossed by a few. Besides, those called speculators are about equally divided for and against the Executive. He knew that much had been said about this and other subjects in Congress about that time, which the people called "manœuvering." Much was said about the "Penobscot expedition," the "South Carolina frigate," the temporary and permanent "seat of Government," &c. The effect of which, to the State of New York, had been a loss of the seat of Government, and a supposed heavy debt. With all which, however, he knew nothing that the Executive had to do in the business; but he knew the debt was an unjust charge against the State of New York, and he hoped would never again be called for. The next class which had been spoken of as increasing the influence of the Executive was the disaffected in the cause of the Revolution—those who were attached to the Government under which they lived, and refused to

join in opposing it. This was a high trait in their character, and they yet preserved it; and they are now firmly attached to the present Government.

These, then, were the supporters of Government—he wished to know who were its opposers? When the Government first went into execution, the people were nearly divided for and against it. Persons, however, crowded from every quarter to be appointed to office under it; so that ten applications were made for one office, and those persons who had been disappointed had ever since remained the opposers of Government, and he doubted not the present amendment was produced by the same cause.

Soon after this, followed the French Revolution, when our citizens employed in the carrying trade brought the rich produce of the island of St. Domingo into this country; but as the French would not admit of this in time of peace, the English now disputed that right, and because our Executive had refused to interfere, but was determined to preserve our neutrality, it had raised up a powerful party against him. At the commencement of the Government, three-fourths of the inhabitants of the large cities were in favor of the new Government; and those of the country, nearly in the same proportion against it. But after the revolution which he had mentioned had taken place, the inhabitants of the large commercial cities became opposed to the Executive; and when the yeomanry saw this, and that it was the object of the Executive to preserve the peace of the country, they became united in its support. Their love for order and liberty, religious as well as civil, made them the firm supporters of it, under the protecting hand of Providence.

But the gentleman from Pennsylvania (Mr. Gallatin) had declared, "The people are with us." This and the "feeble minorities" was the source, he believed, from whence sprung all our difficulties. Who told the French nation in 1793 that the people of this country were "with them?" Who encouraged the Ministers of France in this country to make their appeals to the people? Were these the friends and supporters of Government? If the Ministers of this country had acted in France as those of that country had acted here, would they not have been long since guillotined, and that without the shadow of a trial? And would those Ministers ever have acted as they did, if they had not known there was a party in this country who approved of their measures?

The British, observing this favorable disposition of the people of this country towards France, determined to take time by the forelock, and issued the order which had been so much complained of for capturing our vessels; so that this country had lost five or six millions of dollars from the cry of "feeble minorities," and "the people are with us." But when the English saw that the Executive was firm, and could not be driven from its neutrality, but would go to war with them unless they desisted, they forebore, and made overtures for compensating the injuries they had done us, and are now making payments therefor.

It had been said that the Executive was driving Spain into a war, by its firmness of conduct; but this had not been the case, the Executive had spoken a firm American language, and they had heard it; and, if the same tone had been observed toward France, that country must long since have heard it. But the cry of "the people are with us" had done the mischief.

Mr. W. said, he was informed, and believed it to be true, that a company of persons had fitted out four privateers, which had captured sixty-one of our vessels, and only three of the English. By these means, the honest merchant, who would not be seen in carrying contraband goods, had been ruined, and innumerable failures had been the consequence. The farmers had credited the merchants with their produce, until the return cargo arrived; but, alas! it had been captured; so that in numerous instances the farmer had lost all, which by the sweat of the brow had been raised, in order to fulfil his contracts. These failures had filled the courts of law with suits for breaches of contracts, and been the ruin of numbers, so that our prisons are filled with debtors, and the money gone out of the country. The "feeble minorities," and "the people are with us," have been the reason why the resources of our country were not called for seven or eight years ago; and, if called for then, our debt might have been paid, and luxury and dissipation prevented, which have outrun our population.

The yeomanry of this country, Mr. W. said wished the French nation success in the establishment of their Government; they wished to be at peace with them and all the world, and they would be heavily drawn into a war with any country.

The gentleman who brought forward this amendment had concluded his observations with what he was glad to hear—that, if there was a necessity, he would turn out in defence of his country. He hoped every true American would do so. But he did not believe any nation would have the hardihood to attack us. We had a million of men, who, possessed of the spirit of 1776, would come down like a torrent against any attack which might be made upon the country.

The retrenchment of our expenses was certainly a desirable object; but the support of our Government, and the maintenance of its rights and privileges, were of still higher importance. Let us reason together, and act as guardians of the people ought to do. Let us coolly and deliberately reflect on our situation as a nation, and forget any misunderstanding which we have allowed to harbor in our breast. When party distractions are wrought to an extreme height, when jealousies and suspicions universally pervade not only ourselves but the community, however interesting the subject, however necessary the duty, it will be a difficult task to arrest either our own or the public attention by an impartial inquiry into the true interests of the country; for, when the mind is heated, it is not in a state to listen to the dictates of reason. And when we shall have traced the wisdom which directed, the firmness which effected, the Revolution, and seen that we

have been preserved hitherto from being drawn into a war, we must acknowledge that gratitude is due to Providence for his kind interposition in behalf of this happy country.

The committee now rose, and had leave to sit again.

Wednesday, February 28.

The bill for erecting a light-house, and placing certain buoys in places therein mentioned, was read the third time and passed.

Mr. Livingston, from the Committee of Commerce and Manufactures, reported a bill for the relief of sick and disabled seamen, and a bill declaring the consent of Congress to an act of the State of Massachusetts, in respect to certain piers; which were committed to Committees of the Whole.

Mr. Van Alen, from the committee appointed to inquire whether any, and what, alterations are necessary in the law providing for the payment of the public debt, made a report, which was committed for to-morrow.

REPEAL OF STAMP ACT.

Mr. Harper moved that the unfinished business might be postponed for the purpose of taking up the bill for repealing the Stamp Act, as, if it were to be repealed, the sooner it was known the better, that the expensive preparations which were going on for carrying it into effect might be stopped; and, if it were to go into effect, the sooner it was so determined the better.

The question was carried, and the House accordingly went into a Committee of the Whole on this bill, and reported it without debate or amendment. The House took it up, and on the question's being put for passing the bill to a third reading,

Mr. I. Parker called for the yeas and nays; but, upon its being suggested by Mr. Harper and Mr. Sitgreaves that it would be best to take them on the passing of the bill, the motion was withdrawn.

Mr. Lyon renewed it.

The question was put for taking the question by yeas and nays, but 16 members only appearing in favor of it, (which were not one-fifth of the number present, which is necessary,) it was not carried.

Mr. Harper moved that the bill be read a third time to-day, for the reasons he had mentioned. Had gentlemen who were in favor of the repeal permitted a discussion of the subject before the principle was settled, he should have been glad to have delivered his sentiments upon it. For this purpose he had desired a delay of twenty-four hours; but the request was refused. This having been the case, he should not now, since the principle had been decided, go into any observations against the measure. He hoped, therefore, the bill would be read a third time immediately.

Mr. Baldwin proposed that this bill should be read the third time to-morrow.

The question was taken on the most distant day, and negatived—51 to 40.

The question for reading the bill a third time to-day was carried.

It was accordingly read the third time, and the question on its passage was taken by yeas and nays, and stood yeas 51, nays 42, as follows:

Yeas—George Baer, jun., Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, Wm. B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abraham Trigg, John Trigg, Jos. B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Geo. Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Mr. Lyman came in after his name was called, and wished to have his name inserted against the repeal, but, not being in the House to answer to his name, this was not allowed.

Before the House rose, a message was received from the Senate, informing them that the Senate had resolved that the bill for repealing the Stamp Act *should not pass*.

FOREIGN INTERCOURSE.

The House then again resolved itself into a Committee of the Whole on the bill providing the means of intercourse with foreign nations.

Mr. Coit said, that he had been surprised at the length of the present discussion: but his surprise abated, when he recollected that it had been customary for gentlemen at every session to go into a philippic against the Executive and Executive measures. The usual occasion had been the Answer to the President's Speech; but as this session had gone off smoothly, without anything of this kind, it seemed as if the present motion had been intended for the purpose.

In the course of the present debate, both the bill and the amendment had almost been lost sight of. Indeed, so foreign had the debate been from the subject, that he had thought of moving to have the speech of the gentleman from Virginia printed and laid upon the table, as that seemed to have been the subject of discussion.

Mr. C. said, he would make a few observations on the bill and the proposed amendment, and then take some notice of what appeared to be foreign to the subject.

This bill, Mr. C. said, was in the same style as the former law; the section to which the amendment was offered, was exactly in the same words. The amendment proposed that Ministers at London and Paris should have the same salary as heretofore, and that all others should not have more than half the sum. Perhaps the style and expenses of living might be lower at other Courts; if so, it ought to have been so stated; but nothing had been said on this subject. The style of the bill was of a kind which he did not approve. It was desirable that the salaries of all officers should be fixed by law; but as, when this law passed, it was not known what would be a proper distinction to make in the salaries of Ministers to different places, it was left to the discretion of the President, limiting him as to the extent. It was unpleasant for the President to allow a less sum to one Minister than he allowed to another; and the consequence had been that all had been allowed the highest sum allowed by law; but as he supposed the same reasons existed which caused the law to be passed in this way at first, he saw no reason for altering it.

There could be no doubt as to the power of the House to fix the salaries of Ministers; and if there were sufficient reasons why the Ministers at Paris and London should have larger salaries than those at other Courts, no Constitutional question could arise as to the power of the House to come to such a decision.

But the gentleman from Virginia seemed to have an object which was not the ostensible one as he supported his amendment by arguments perfectly inapplicable to it. The object seemed to be to prevent the sending of Ministers of a certain grade to any but the Courts of London and Paris. Granting that the House had the power of determining this question, they would not do it without information. The gentleman from Virginia, the gentleman from Tennessee, and others, say that we have no need of a Minister at Berlin. What authority they had for the assertion he knew not; he supposed the President had more complete knowledge on the subject than they, and he has said the contrary by the appointment. It was, indeed, idle to speak upon a subject on which they neither had nor could have sufficient information.

It appeared to him that the gentleman from Virginia had not attended to a material part of the Constitution. Much had been said about the checks which one department of Government had over another; but there was one consideration not attended to. By the Constitution, it appeared that the several departments originated from the same source—they were all equally the agents of the people. One department had a right to challenge the same confidence from their constituents as the other—no one had the exclusive confidence of the people. And if there were not a mutual confidence between the different branches of Government, nothing but wrangling and disorder would be the consequence.

If the President of the United States was possessed of patronage, that House did not give it to him, nor could they take it away. Whether the people had given him too much, or too little, was no question before them. As to the discretion of appointing to office, it was a delicate subject, and he wished it had not been touched; but, as it had been handled, and talked about, it might as well be talked about freely. He had been so unaccustomed to anything like a political creed, that he had never thought any was adopted by the Executive. But he found it was too true that certain opinions were held in this country, which made it necessary for the President to inquire into the opinions of persons who were to take part in the execution of Government. Certain opinions had been broached as held by many persons of this country; he did not know, however, that they were held by any. He would state what the opinions were to which he alluded. Mr. C. then read the following extract, [which, it will be recollected, is from a letter said to be written by a person high in office in this Government to Mr. Mazzei, at Madrid:]

"That our political situation is prodigiously changed since a few years past. That instead of that noble love of liberty, and that republican Government, which carried us through the dangers of the war, an Anglo, Monarchico, Aristocratic party has arisen—their avowed object being to impose upon us the substance, as they have already given us the form of the British Government. That nevertheless the principal body of our citizens remain faithful to republican principles; all our proprietors of lands being friendly to those principles, as also the mass of men of talents.

"That the Republicans in the United States have against them, the Executive and the Judicial power—all the officers of Government—all who are seeking offices—all timid men, who prefer the calm of Despotism to the tempestuous sea of Liberty—the British merchants, and the Americans, who trade on British capitals—the speculators—persons interested in the bank and the public funds.

"That these establishments were invented with views of corruption, and to assimilate us to the British model in its corrupt parts.

"That it would give an honest man a fever to hear of the apostates, who have embraced these heresies; that they are men who were Solomons in council and Sampsons in combat, but whose hair has been cut off by the whore of England.

"That these men wished to wrest from the people of America that liberty which they have obtained by so much labor and peril; but that the Republicans would preserve it.

"That the mass of weight and riches in the Republicans is so powerful, that they have nothing to fear from any attempt against them by force.

"That it is sufficient that they guard themselves, and that they break the Lilliputian ties by which these conspirators have bound them in the first slumbers which succeeded their labors.

"That, in short, it is sufficient that the Republicans arrest the progress of that system of ingratitude and injustice towards France, which these conspirators have

been pursuing, with a view to alienate the people of America from France, and to bring them under British influence."

Far be it from me, said Mr. C., to charge sentiments of this kind to any gentleman of this House; he had hoped there had been none such in America. But the evidence was too strong that a sort of political enthusiasm existed, which seemed to take to itself exclusive republicanism; which embraced sentiments too much like those which he had cited. He would ask the gentleman from Virginia whether, if the President of the United States supposed there were persons who entertained sentiments like these, he ought to appoint such persons to office? That gentleman must candidly answer, No. It would argue extreme folly to do so, as nothing but treason and insurrection would be the consequence of such opinions. For, if the present Government be hostile to the interests of the country, and be planning away its liberties, it would certainly be the duty of every honest citizen to use his efforts to destroy it. He hoped, however, these sentiments were not harbored by any; he should have pleasure in hearing the gentleman from Virginia disavow them. But certainly if the President of the United States believed that such sentiments were held, he was fully justified in determining not to appoint to office persons holding them.

Mr. S. SMITH rose to move an amendment to the amendment of the gentleman from Virginia, which he hoped he would consent to, viz: to add Spain as a place to which Ministers sent should have a salary of $9,000.

[Mr. NICHOLAS was not in his place, and therefore could not consent to this amendment. It of course became the subject of debate.]

Mr. J. WILLIAMS supposed gentlemen opposed to the original amendment would also be opposed to this.

Mr. HARPER said there could not be a more nugatory amendment than this. Nobody would object, he supposed, to a Minister Plenipotentiary for Spain; but it was to the interfering in the business at all that the objection lay, as it went to abridge the power of the President.

Mr. S. SMITH said the amendment which he had proposed, was a simple amendment to the bill, without having any reference to the right of the President.

Mr. LIVINGSTON said the gentleman from South Carolina had forgotten the object of his colleague, (Mr. PINCKNEY,) who had said he wished to get rid of our foreign Ministers as soon as possible, and his great objection to the present amendment was, that by it the Minister Plenipotentiary was withdrawn from Spain. If the amendment of the gentleman from Maryland was carried, therefore, it would remove that objection; and the vote of that gentleman in favor of the proposed reduction would be of considerable consequence.

Mr. RUTLEDGE said the gentleman last up had misstated the sentiments of his colleague. His colleague had, for some time, been too much indisposed to attend his duty in the House; but he had told him that his sentiments on this subject had been much misrepresented. He believed his colleague had said, that, in orderly times, it would be well to lessen our foreign connexions—not that he would do so at all events; and in order to show the impropriety of the amendment of the gentleman from Virginia, he instanced Spain, with whom, he said, it was probable negotiations might now be carrying on, and that therefore to recall our Minister from thence might be attended with bad consequences.

Mr. LIVINGSTON replied he had understood Mr. PINCKNEY to say what he had stated.

Mr. DAYTON (the Speaker) said if the gentleman from Maryland had offered an amendment to the first or second speech of the gentleman from Virginia, it might have been proper, as he thought them liable to amendment in many parts. As to the bill itself, or the amendment, they had long been out of sight. It was not the letter of the amendment, but its spirit that was objected to; but if he was to decide at all, he would certainly dispense with this complimentary interference with the nation mentioned, sooner than with any other; but if any new amendment was brought forward, he hoped it would be to the *speech*, and not the bill.

Mr. OTIS was opposed to this amendment, on principle; but he could not say, with the gentleman last up, that he should be less inclined to compliment Spain with a Minister Plenipotentiary than any other; but as this was no business of theirs, he hoped the amendment would be rejected.

Mr. NICHOLAS (having come in) said he had no objection to the admission of this amendment to his motion, if it would accommodate any gentleman of the committee.

The amendment was, of course, admitted.

Mr. S. SMITH said he understood the gentleman from South Carolina (Mr. PINCKNEY) as saying, that in time of profound peace it would be proper to withdraw all our foreign intercourse, as it could do little good, and might do much harm. If he was of the same opinion with that gentleman, that there would ever be an inclination in this Government to do away all our foreign intercourse, he should not be desirous of carrying this amendment; but as this was not the case, he wished to put the business upon a stable foundation, by fixing the salaries of our Ministers, as was the case in the Governments of Europe. The President had $40,000 appropriated for foreign intercourse, leaving it to him to give Ministers what he pleased, so that it did not exceed the sums specified in the act. The consequence was, that, though the expense and style of living was very different in different countries, he allowed to all the highest sum. He wished, therefore, that at the Courts of London, Paris, and Madrid, our Ministers should receive such an allowance as should enable them to live in the style which was necessary there; but he believed a much less allowance would be sufficient at the Courts of Berlin and Lisbon. He believed one-half the sum would there be sufficient. A regulation of this kind would relieve the President from his

present situation, in which he found it unpleasant to make any discrimination between Ministers sent to different countries.

If the present discussion had been confined to the law itself, the question might have been determined long since; but the gentleman from Virginia had introduced other subjects, and it had been found necessary to reply to them. His colleague (Mr. Craik) said that gentleman might say they were speaking to the galleries, or not; he maintained they all spoke to the public, and that the public would determine whose sentiments were right. His colleague was, however, mistaken in one thing, viz: that the Executive had a right to make treaties and appoint Ministers, and that that House had no right to consider the propriety of appropriating for them; and in saying that this question had been several times decided in this way, particularly in the case of the British Treaty and the frigates. He had voted for both these measures; but he never believed that the Executive could appoint as many Ministers or negotiate as many treaties as he pleased, and that that House would be bound to carry them into effect. He knew he had a right to do both; but if he went to an excess in either, that House had a right to check him, by withholding appropriations, and would do it. There never had been a solitary fact to prove the contrary, but there had been several votes to establish the principle which he contended for. Upon the call for papers in the discussion on the British Treaty, which was a question involving the right of the House to inquire into the propriety of the measure, the question was carried—62 to 37. But in order that this might not be mistaken hereafter, the House came to another resolution, in which it was expressly stated, that, though the House claimed no agency in the making of treaties, that they had a right to judge of the expediency or inexpediency of carrying them into effect, which was carried by 57 to 35. And when the treaty itself was determined to be carried into effect, it was expressly upon the expediency of the measure. If gentlemen were not satisfied of this right from the Constitution, he trusted they would allow that these votes had put the matter beyond doubt.

Thus much to show that his colleague had been mistaken on this point. Gentlemen, Mr. S. said, were sent to that House to do their duty; and it was not to be supposed, because they had the power of stopping the wheels of Government, that they would do so; for, however they might differ in opinion on the subjects which came before them, they would certainly agree in supporting the Government. Indeed, not one instance could be adduced, in which this discretionary power had been abused.

His colleague had said that party did exist both in that House and out of it. He agreed with him, and said it was right, when a man went with a party, to avow it.

Gentlemen had complained that members spoke to the galleries, and to their constituents, and not to the members within those walls; yet they themselves did the same. For what else, he asked, could be intended when gentlemen charged others with being disorganizers and with intentions of overturning the Government? When they said this, they did not believe it; but they believed it would please their constituents to hear that they had thus said. But could it for a moment be credited, that men of property would come there to set the Government afloat, and by that means render insecure property of every kind? These reflections were meant to apply to the Southern States, and he believed particularly to Virginia; but let gentlemen show one insurrection or violent opposition to any measure of Government in that quarter. They could not do it; for, though the people in the State of Virginia were generally opposed to the excise law, yet, when it had passed, the opposition ceased; and he believed there was not a State in the Union, besides that, in which that law was honestly carried into effect.

When the insurrection against the excise law took place in this State, the citizens of which quarter of the United States turned out more readily than those of the State of Virginia, armed and accoutred by that State, to quell the disorder? Yet they were called disorganizers. He did not believe there was a man in that House, nor ten men in the United States, who would part with the present Government; and it was extraordinary that men who were most opposed to the adoption of it, were now the first to call those who had invariably been friends to it, disorganizers. He himself was not afraid of these reflections—they never touched him; but he thought they were dishonorable to the Legislature of the Union.

Gentlemen were in the habit of speaking to the galleries, of imported doctrines, referring to a gentleman in that House, whose abilities they feared. What could they mean by such insinuations, if not to please their constituents? He himself had thought, that though a man was not a native of this country, if he went through the Revolution, he was an American as much as a native, as he was one from the commencement of our independence; and, before that time, they were all British subjects. Besides, this argument cuts both ways, as there were gentlemen in the House of this description of very different opinions.

Mr. S. believed, heretofore, that all the citizens of the United States were equally entitled to the favors of the Executive. He had believed that no respect had been paid to men of any particular opinion; but they had now been told, both out of doors and in that House, that all persons who did not think precisely with the Executive, were to be excluded from office. If this was a fact, the patronage consequent upon appointments to office might be improperly applied. He hoped this was not so, and that the President was better informed with respect to his duty, and could not believe what gentlemen had so confidently asserted, as he saw men in office who had always been friends of the Federal Government, as well as those who opposed its adoption.

Mr. S. concluded by saying, that gentlemen were fond of calling themselves the supporters of Government, but he wished them to be convinced

that men who differed from them in opinion were equally its friends and supporters with them.

Mr. Imlay said he felt considerable reluctance in offering his sentiments to the committee on the subject now under discussion, at this late stage of the debate. So fully and ably, indeed, had the merits of the present question been discussed, that little remained for him to say which could have claim to meet attention from the committee. He would, however, solicit their indulgence for a few minutes, while he made some general remarks on one point on which the gentleman from Virginia, who brought forward the amendment now under debate, appeared most to rely for its support, and then subjoin a few observations on the Constitutionality of the amendment proposed. The point on which he proposed to remark, was that of Executive patronage. The danger to be apprehended from the exercise of this patronage by the Executive—of his acquiring an influence and control which would be mischievous and dangerous in the extreme to the freedom and independence of this branch of the Government, if not to the existence of the Government itself. In his apprehension, fears of this kind were quite imaginary; from the nature and constitution of our Government. Taking into consideration the various and opposing interests and passions on which the laws of the General Government had to operate, in the opinion of enlightened and unprejudiced men, there could be no question but that the Executive branch of the Government was decidedly the weakest, and that branch of the Government the most susceptible of innovation and encroachment. Of this sentiment were many of the most patriotic and enlightened statesmen of this country, at the formation and adoption of the general Constitution. For himself he had no hesitation to declare, and gentlemen might call it a clue, or key, or what they pleased, that there was more cause of apprehension for the safety of the Government from the weakness and inefficiency of the Executive branch of it, than from any powers or privileges possessed by that power, which were dangerous and alarming. The history of the Government was in support of that opinion; and the sentiment which, on this subject, had been hazarded with much diffidence, was now confirmed by experience itself.

In his opinion it would be extremely difficult to name one solitary instance in which, on the part of the Executive, there had been an attempt to interfere with the powers of this branch of the Government. But, he asked, were there no cases in which, on the part of this House, attempts had been made to encroach on the Constitutional powers of the Executive? The famous call for papers, and the attempt to withhold the necessary appropriations for carrying into effect a certain treaty, were within the recollection of all; the usurpation of the right to instruct the President on the subject of instructions to our Commissioners in the late negotiation with France; the attempt to direct and control the Executive in the use and employment of the frigates, were of recent date; and the present and daring attempt to regulate and restrain the President on a point as clearly and as exclusively Executive as that of nominating to office, would not soon be forgotten.

Will gentlemen have the hardihood to say that these were not attempts to encroach on the Constitutional powers of the Executive? That they were mere essays to restrain and keep that power within its proper sphere? He presumed not. He should be more surprised at a denial of this kind, than at the existence of the fact. That such attempts had been made, and would be again made, he had no doubt. They sprang, in a degree, from the nature and principle of our Government; they had their existence also, in part, in the tempers and passions of men. In such a Government, then, which afforded either real or imaginary occasions for operations of this kind, attempts similar to the present must be expected to be made; they should be watched with a jealous eye; they should be resisted with firmness and decision. But what, he would ask, were the powers possessed and exercised by this branch, and the Executive branch of the Government? Were they equally influential? Were they equally powerful? Had they equal right in the scale of the Government? He thought not. On examination, he was much inclined to believe it would be found that the weight of influence and power were decidedly on the part of this House; and that experience and observation would justify the remark, that the Legislative branch of Government was frequently attempting encroachments on the other branches, and usurpation of all power to itself.

It was a remark, he said, which was not without claim to attention, that danger did not unfrequently assail us from a quarter from which it was the least expected. Much should he be disappointed, if this did not eventually prove to be the situation of gentlemen on the other side of the question. They appeared to him, on this occasion, to direct their fears to the wrong quarter. Gentlemen professed to believe that their fears for the safety and preservation of the Government arose from the subtle and accumulating nature of Executive influence and patronage; but they were not aware of the danger of Legislative usurpations, and of the evil consequences which would result therefrom. Gentlemen, on this occasion, would permit him to say, that they should be jealous of the purity of their own motives, and of their own conduct; that they should examine both with candor, with sincerity, and with inflexible impartiality. They should consider, that already does this House possess power and influence superior to any other, if not to all the branches of the Government; and that it is the nature, the disposition, the essential and inherent quality of power, thus possessed by a body of men, to reach after still greater power—nay, to usurp and attract all power to itself. Apprehensions of the danger of Executive influence seemed to have had a powerful operation on the framers of the General, and of most of our State, Constitutions. With them it seems to have been a primary object to guard against the *abuse*, but even against the *use*, of anything like

Executive patronage. Apprehensions of this kind may perhaps be ascribed, in some degree, to the dread of hereditary power and prerogative, as possessed by the Supreme Magistrate of that country from which we may be said, in some measure, to have taken our form of Government. In such a Government there may, indeed, be just cause for fears and apprehensions of that kind. But great was the difference between the Constitution of that country and the Constitution of the country in which we have the happiness to live; and great and manifest, in his judgment, were the superior influence and powers which the popular branch of this, and perhaps of all Republican Governments, possess over their Executives.

He proposed briefly to examine this point. The Executive branch of the Constitution was limited, with much care, in the extent and duration of its powers. Its powers were specified—simple in their nature, and circumscribed within narrow limits; and its operations watched with a cautious and jealous eye. A high responsibility was attached to all its measures; with a salary barely adequate to its support; without emolument and without prerogative; remotely situated from the great mass of the people, and possessing their confidence and respect, in no small degree, from the recollection of former services, eminent virtue, and distinguished talents; and all these imperfect and limited privileges or prerogatives (if such they may be called) holden, as had been well observed, on the short and precarious tenure of a four years' lease.

On the other hand, the powers possessed and exercised by that House, were exercised by that branch of the Government which emanated immediately from the people themselves, with all their passions, interests, localities, prejudices, and jealousies. More powerful in point of numbers than the other branch of the Government; highly respected for its wisdom and talents; capable of acting with system and reason in the accomplishment of all its measures; its powers more numerous and extensive, and those but imperfectly limited and defined; with but little (at any rate a very divided) responsibility attached to any of its measures; and with full power to raise money, and a claim to the right of appropriation in all cases;—with all these superior and eminently powerful advantages in favor of this branch of the Government, what cause was there for all this alarm about Executive influence—all this clamor about the danger of Executive patronage? For himself, he could see none. Gentlemen, he said, could not be serious in their fears on this subject: they appeared to him to be quite imaginary. We did not wish to be guilty of uncharitable or illiberal suspicions on this occasion: gentlemen had disclaimed all mischievous and improper motives. He was happy they had so done: he hoped they were sincere.

Mr. I. said, if he were correct in this view of the subject, (and he trusted he was,) gentlemen might quiet their fears as to the danger of this branch of the Government, from any undue influence to which it may be exposed on the ground of Executive patronage. On the other hand, the danger to be apprehended for the safety and preservation of the Government in its purity and perfection, in his opinion, arose from the temper and disposition manifested on the part of this House to encroach on the Constitutional powers of the Executive. He believed this to be the nature and tendency of the Government, and that the history of both ancient and modern Republics was in confirmation of this opinion.

Without travelling into ancient history in search of cases in support of this general position, he said he would content himself with referring to two or three cases which related to, and happened within, our own country, and therefore more to his purpose. The first case to which he referred, was the proceedings of the Legislature of the State from which he had the honor to come. While he professed himself perfectly happy and contented as a citizen of that State, and had the highest respect for the virtue and integrity of its Legislature, yet he believed instances might be recurred to, in which the popular branch of that Legislature had stepped beyond its Constitutional limits, and encroached on the powers of the other departments of Government. He wished not to be understood as ascribing this to any mischievous and improper motives, but to the nature, disposition, and tendency of that and of all Governments similarly constituted. The next case to which he referred, was the proceedings of the Council of Censors for the State of Pennsylvania, for the years 1783 and 1784.

The authority which he next read on this point, was from Mr. Jefferson's Notes on the State of Virginia.

Mr. I. then proceeded to consider the amendment in a Constitutional point of view. He said it was not his intention to go into a minute and extensive examination of the constitutionality of the amendment now under discussion; he should make only a few plain and obvious remarks, which have occurred to him in reflecting on this subject, and which have fully convinced his mind that it was the duty of Congress and of this House to make the appropriation in question. Gentlemen had denied this duty and obligation on the House to make the appropriations for the support of foreign Ministers, legally appointed by the President, as they had formerly denied the same obligation for carrying into effect a treaty constitutionally made.

If gentlemen on this occasion, as was well observed, had directed their remarks to an inquiry whether the compensation allowed by law to foreign Ministers was not too great—was not extravagant—he should have concurred with them in the inquiry; but when they contend for the right to appropriate or not, he could not agree with them.

There are but three clauses in the whole Constitution which relate to this point; one is the second clause of the second section of the second article—where the right of making treaties and appointing foreign Ministers is as exclusively vested in the President with the concurrence of

the Senate, or two-thirds, as the right of originating money-bills is in the House of Representatives.

The next clause to which he referred, was the last of the eighth section of the first article; in which, after enumerating the various powers of Congress—such as levying taxes, declaring war, &c.—it was added, "that they should make all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

This was not intended as a summary of the former prerogatives, but as an additional grant of every authority necessary for giving them full effect. For example, besides the right of levying taxes and imposts, it grants Congress the right of determining taxable inhabitants, establishing collectors, revenue cutters, &c. Having declared war, it gave the right of regulating the levy of troops, and establishing arsenals and magazines. But the clause adds, likewise, the power of carrying into effect all other powers vested by the Constitution in any department or officer of the Government. For instance, by this clause Congress is empowered and explicitly required to enable the Judiciary (which is one department of the Government) to give effect to their decisions and judgments, constitutionally made; to enable the Executive, also, (which is another department or officer,) to carry into operation treaties that have been ratified, and to make provision for supporting those foreign Ministers and agents, which have been Constitutionally appointed.

Gentlemen had contended that the power to carry into effect the legal acts of the Executive, implies the power of refusing to give them effect. This construction was evidently contrary to the design and spirit of the clause. Let us, said he, take an example from among the powers vested in the Legislature, by which to illustrate it.

If Congress have determined to levy a certain tax, which by the Constitution it has a right to do, then, by this clause, it has the farther power of doing every thing necessary to collect that tax with certainty, to bring it into the Treasury, and to prevent any part of the people from contravening it. Will gentlemen pretend that, having determined to levy the tax, they may neglect the means of giving efficiency to the law; and that the power given in this clause is a power to act or not to act in the case? That is, to trifle with its own laws? No, the power in question implies an obligation to give effect to the law by every requisite subsidiary law.

As that clause has relation to the legal acts of the Executive as well as those of the Legislative, it equally and evidently implies an obligation to make the necessary subsidiary laws and appropriations for acts of the Executive also. It cannot imply a power to defeat the acts of the Executive any more than of the Legislature—for both are expressed under the same terms—but simply a power which, by the mode of expression, involves an obligation to give complete effect to both. It supposes the duty of giving effect to the Constitutional rights and powers of the different branches of the Government, and then confers the authority requisite for the purpose.

The only other clause in the Constitution which appeared to him to be any way connected with this subject is the 6th clause of the 9th section of the 1st article; the provision contained in this clause was intended to guard against fraud, and the embezzlement of the public money; to operate as a check on the respective branches of the Government and its several officers, and to prevent money being drawn from the Treasury for any other than authorized objects, and with the greatest notoriety, the solemnity of a law.

It was either on this clause of the Constitution, or on the abstract principle, that gentlemen had predicated a sort of logic which, in his apprehension, was extremely fallacious and deceptive. It had been contended that the framing of a law by which money shall be drawn from the Treasury implied deliberation, that deliberation implied discretion, and discretion the power of refusing. This was a chain of inferences the most unfounded, and if admitted would draw all the powers of Government, as well as its money concerns, into the vortex of the House of Representatives.

Here, he said, he would ask a question or two. The salaries of the Justices of the Supreme Court of the United States—was not Congress under a moral obligation, and by law obliged to make the necessary appropriations for an adequate support? Does our discretion permit us to refuse this? If it does, then may we render that department completely dependent on ourselves, and usurp the Judiciary power. Have we the right to refuse appropriations for more than two foreign Ministers, and to say that all our other foreign agents shall be Consuls? If we have, then on the same principle we may refuse to have any Ministers at all; we may refuse to appropriate unless they are appointed to such Courts as shall be agreeable to a majority of this House; we may refuse to appropriate unless the persons appointed are the particular men whom we shall approve. That is, we may render the President's right of appointing nugatory; we may engross this power in our own hands; we may recall Ministers, or appoint them at the will and pleasure of the strongest party in this House.

This principle, indeed, brings within our ambitious grasp every power of the Executive, which requires one farthing of money to carry it into effect, however sacredly it may have been trusted to the President by the Constitution. There is not an authority belonging to the Executive department which we may not usurp on this ground of construction; and he had before shown that we may, in the same manner, render the Judiciary entirely dependent on this branch of the Government; and the whole powers of Government may be thus engulphed in this House, and produce a tyranny, which we endeavor to avoid by a separation of the departments.

If gentlemen really think that this would be for the interest of the people, he would infinitely

rather see them come forward in an open and candid manner, and endeavor to obtain an explicit modification of that part of the Constitution, than be continually attempting to covet unwarrantable extensions of Representative power under the false and dangerous constructions which make that instrument speak any language. If we pretend to be governed by the Constitution, let us submit to it according to its plain and obvious meaning, and not be forever deceived and abused by fallacious and distorted interpretations.

Let us remember that our Constitution is among the wisest and best the world has ever known. That to support and preserve this Constitution was the sacred deposite committed to our care; that the present is a period of innovation, discord, and revolution. Let us, therefore, be cautious how we construe and innovate upon any part of that system. Rather let us wait for a more calm and settled state of things than at present seems to exist.

Mr. Macon had no doubts as to the Constitutionality of the present question. The same clause of the Constitution which gave the President power to appoint Judges gave him power to appoint foreign Ministers; and he believed he had the same right to say to what place a Minister should be sent that he had to say where a court should be held.

It had been observed, Mr. M. said, that there was a party in that House who wished to infringe and prostrate the Executive rights; but it had been clearly shown that there had never been such an attempt made.

The time was said to be improper for making the proposed regulation; it appeared to him expressly contrary. From the 4th of July, 1776, all the foreign Ministers who had been in this country, had done more harm than ours had done good in foreign countries. As early as the year 1785, the inconvenience had been felt. But it was said to be a matter of politeness, and if foreign Governments sent Ministers here, we must also send Ministers to them. He wished to get clear of this business; but he believed we had sent Ministers to countries from whence none had been returned, so that that rule was not a general one.

It had been said, speeches were made from one side of the House to the galleries. He believed that both sides had done the same, for gentlemen allowed they did not expect to make converts in that House, and therefore they must have spoken to the public.

A subject had been introduced which he thought ought not to have been mentioned in that House—he meant the conduct which it was said the President had adopted of appointing to office persons of one opinion only. This might be attended with great inconvenience. Suppose the President and Vice President were, at any time, of different political opinions; if the former were to die, the latter, if this system was to be acted upon, must turn out all persons in office, which would certainly appear an extraordinary measure.

It was said that the gentleman from Virginia, and those who supported the amendment, wished to violate the Constitution and overthrow the Government. This charge was principally made against members of the Southern States, than in which, he would venture to say, the laws of the United States had no where been better executed; for, though their members in that House had generally been in a minority, no instance of opposition to the laws had ever occurred; and in case of a dissolution of the Government, they would certainly have nothing to gain, but would most probably, in any convulsion, be the greatest losers. Why, then, were these arguments brought here? Was it to impress it upon the minds of citizens of other parts of the United States that they were fond of Government; that they wished to live in disorder? There was no truth to support the charge. Some gentlemen had charged them with wishing to stop the wheels of Government, whilst others had spoken of them as wishing to add a fifth wheel to it; so that one supposed them to stop its course, and the other to make its movements too rapid. They had nothing which looked like disorganization in their part of the country. Even their newspapers were silent on that head; he wished he could say as much for papers in another part of the Union. It was clear, if any part of the country had a right to complain, it would be the Southern States, as many of the laws had borne hardly upon them, and none of them afforded them any advantage.

But it was observed, that if our foreign Ministers were done away, we should have secret spies. He believed we had now not only public, but secret spies. It was not long since they had a report before them which showed that we had had a secret spy in a public Minister who had engaged in a plan which might have involved this country in war, had it not been timely discovered. He hoped, however, every department of Government had exerted themselves to develope this mysterious business.

It was said, that it was probable this motion had its origin in a disappointment which gentlemen felt in the election of President. He did not believe that this had had any effect; and during the late Presidency an attempt was made to retrench the present expenditure. As well might he say, what had fallen from the gentleman from Connecticut (Mr Goodrich) was intended to injure the Vice President.

Mr. M. would not boast of what the Southern States had done; but he would say what they had not done; they had not been the promoters of banks, funding and excise systems, stamp acts, &c.

Mr. M. said, he thought an observation made by the gentleman from New York, yesterday, went wholly against his own doctrine, viz: that appointments to office made ten enemies to one friend. He believed the contrary was the truth, and that the Governor of the State of New York had remained a long time in office principally from the support which that patronage gave him. The same gentleman was equally unfortunate in his reference to the amendment proposed by the Legislature of Virginia to the Constitution, as the words of that amendment were that the House of Representatives *have* and *ought to have* the power in question. [Mr. Williams said he alluded to the amendment proposed two years ago, which was differently expressed.]

Mr. M. did not know what gentlemen meant when they spoke of the usurpations of that House over the other branches of the Government; such a remark could only be intended to impose upon the people out of doors.

Mr. M. said, the question was a simple one. It was whether that House would undertake to regulate the salaries of foreign Ministers. The right of doing this could not be doubted; for though he did not believe that the House had a right to say to what places Ministers should be sent, and what should be their grade, he did believe that they had a right to say that so much salary should be given to Ministers at one place and so much at another; and this was proper, since the different style of living in different places, made four thousand five hundred dollars at one Court, equal to nine thousand at another. He hoped, therefore, the resolution would be adopted.

Mr. Thatcher agreed with the gentleman who had just sat down, that much unnecessary matter had been introduced into the present debate. He believed it must have struck every one, that most of the topics which had been discussed related little to the bill itself. He was of opinion that the mover of the amendment, himself, thought it of little importance, because the law would expire at the end of two years, and he had frequently said, he did not wish his proposed regulation to take immediate effect, so that the time between the law's taking effect, and its expiration, could not make the object of much consequence. The gentleman had, therefore, considered this amendment merely as an occasion to reprehend whatever he disliked. Mr. T. said, he should make a few observations upon what the gentleman declared he had in view in bringing forward the amendment, viz: to bring the diplomatic establishment to what it was from the year 1790 to 1796, when it was departed from, and to prevent an increase of our foreign Ministers.

Mr. T. adverted to the law of 1790, of which he said that the present bill was nearly a transcript; that there was nothing in this bill to alter the foreign intercourse establishment (if it were deserving of the name of an establishment;) for if a larger sum of money was granted for the War or Treasury Departments in one year than had been granted in another, it would not be said that the establishments were departed from. In 1794, a million of dollars were granted for foreign intercourse; but this was no departure from the diplomatic establishment. In 1796, other sums were granted, but none of these grants either added to or diminished from the power of the President. The only feature in the law of 1790, which could constitute anything like a diplomatic establishment, was the fixing of the salaries, which the present bill did not go to alter. It was the amendment which proposed to alter the salaries; therefore, if there was any departure from the establishment, it was in the amendment.

Mr. T. said, it had not been shown to his satisfaction that a less sum was necessary to be paid to a Minister at Berlin or Lisbon, than at the other Courts. The other view of the mover was, to cut off the whole of the diplomatic establishment. He thought this had no connexion with the amendment. If the gentleman from Virginia was desirous of effecting this, he ought to have brought forward a distinct proposition for the purpose, independent of this bill, and then every one would have had the object before them stripped of disguise.

A much greater latitude of debate had been taken than was necessary, if nothing had been in view more than the intention of the Constitution in this respect. It was allowed that neither the House of Representatives nor the Senate had a right to nominate Ministers; the patronage would, therefore, be increased if that House obtained the controlling power contended for. That one department of Government should interfere with the business of another was a doctrine so well understood, that there was no occasion to dilate upon it. [Mr. T. read the direction of the Constitution in this respect.] He denied that the same clause of the Constitution gave the President power to appoint public Ministers and Judges. Gentlemen confounded two parts of the Constitution together; the appointment of Judges depended upon a previous law, but no previous law was necessary for the appointment of Ministers.

But, it was said, if this power of appointing Ministers was possessed by the President, without control, it would swallow up all the other powers of the Government; and historical facts had been adduced to show that other nations had lost their liberty by excessive influence of their Executives. The House had been told in what way England, and all the European Powers, except one, had been deprived of their liberty. Except in one instance, this assertion had been contradicted by fact; the instance he excepted was France. He wished, instead of speaking generally, the gentleman from New York (Mr. Havens) had placed his finger upon any one instance, to have supported his position. Mr. T. then took a view of the manner in which Athens and Rome had fallen. The overthrow of the latter, he said, had been accomplished by mobs (something of which had been seen in this country,) a kind of democratic societies, by demagogues getting the rabble about them, and then getting on the backs of the fools, rode the Government down. He spoke also of the downfall of Greece, and added, that there were things in this country which much resembled the situation of that, and if a stop was not put to them, we should soon experience a similar fate. Nothing was more easy than to assert that liberty had always been destroyed by an excess of power in the Executives of Governments; but he believed it had more frequently been destroyed by democratic mobs, by the erection of whiskey poles and liberty poles, and by discontented Representatives going home to their constituents, and setting them against the Government.

It could not be denied, that the power of appointing to office might be abused; but to prevent an abuse of power, they ought not to take away the power itself. But it was asked whether, if the President were to appoint an hundred Ministers, the House would be bound to appropriate for them. In such an extreme case, it seemed to be supposed that the point must be conceded, and an interference must be had. But he would ask gentlemen a question, in his turn: When will the President appoint a hundred Ministers, or any number which the people of the United States will not allow to be proper? He would answer this question himself, because he knew they could not. It would be when the people at large shall have been stirred up by means of whiskey and liberty poles, and have become so intoxicated and corrupt, as to elect a man for President like themselves, who should abuse the power placed in him. But this was too extraordinary a state of things ever to exist in this country.

But it was said, What! cannot this House appropriate, or refuse to appropriate, as it should see proper? Can it not deliberate? In some cases, he said, the House was no more at liberty to refuse to appropriate than a man was at liberty to commit a crime. Wherever an office was created by the Constitution, or by law, the House was not at liberty to refuse an adequate compensation to the persons who filled those offices. In certain cases, the House might repeal a law fixing salaries, or for appointing officers; but whilst the law existed, these officers must be paid. Mr. T. illustrated his position by a number of instances.

If it was the opinion of the President, therefore, that it was proper to have Ministers in every Court in Europe, he ought to send them, and the House could not refuse to appropriate for their salaries. It would be *usurpation* to do so.

It was only necessary to notice one short sentence of the gentleman from Virginia, to show that if that House had the power of controlling the appointment to office, the patronage annexed to these appointments would be increased a hundred fold. "If it would accommodate any gentleman, he had no objection to making the provision for a Minister Plenipotentiary to Spain." This language was, "You want a Minister in Spain; if you will consent that the House take the power of regulating this matter into its own hands, I will agree to a Minister being sent there." So that another gentleman might ask for another somewhere else, and so on, which would be granted on certain conditions. Every one must see to what this would lead.

But it had been said, that our public agents were mostly taken from the Legislature, and that the draughts from thence had been *alarming*. What, he asked, was the fact? At London we have had three Ministers, two of whom were never in the Legislature; in France five, one of whom had only been a Legislative character, and he did not come within the view of the gentleman who made the assertion, because he was opposed to the view of the Executive; at the Hague we have had only Mr. Adams, who was never in the Legislature; and now Mr. Murray, who, he believed, was appointed about three days before his time in Congress expired, but who had three months before signified his intention of declining any further service in Congress; we have had two Ministers in Spain, neither of whom were taken from the Legislature; in Portugal two, one of whom had been in the Legislature; and one at Berlin, which is Mr. Adams. So that out of fifteen foreign Ministers, only four had been Legislative characters; one of whom did not come within the description alluded to, and another was appointed within a day or two of the expiration of his service. He did not think this a very alarming view; and he thanked God that the assertion had been made in a place where it could be controverted.

When Mr. Thatcher had concluded, the committee rose, had leave to sit again, and the House adjourned.

Thursday, March 1.

Mr. Livingston reported a bill to continue in force, for a limited time, an act declaring the assent of Congress to an act of Maryland, for the appointment of a health officer; which was committed for to-morrow.

Mr. Bayard reported a bill supplementary to the act for establishing the Judicial Courts of the United States; which was committed for Monday.

Mr. D. Foster reported a bill limiting the time within which claims for credit on the books of the Treasury may be presented for allowance; which was committed for to-morrow.

FOREIGN INTERCOURSE.

The House then again resolved itself into a Committee of the Whole, on the bill providing the means of intercourse with foreign nations: Mr. Nicholas's amendment being under consideration; when

Mr. T. Claiborne, after some apology for doing so, proceeded to read some observations on the question before the committee. He first stated that, considering that the present appropriation was demanded, as a matter of right by the Executive, to allow of which would be giving him an unconstitutional control over the Legislature, he could not consent to it.

Conceiving, as he did, that the House had a Constitutional right to make appropriations, and separated as we were from European nations, and having sufficient sources of happiness within ourselves, he was in favor of the present amendment, which went to curtail our foreign intercourse. He believed the less diplomatic intercourse we had the better, and that it was our interest to cultivate peace and harmony among ourselves, and with all the world.

If the doctrines now contended for were to prevail, there would be no power in this House over the purse of the nation; it would merely be the means of collecting taxes, and could not refuse any appropriation of money which the Executive might call for.

After examining the Constitution, and showing that this doctrine had no support there, he took notice of some interrogatories which had been put by a gentleman from Connecticut, (Mr. Goodrich.) What, exclaimed that gentleman, have these disorganizers done?

Mr. C., in answer to this question, went into an enumeration of the services which the Southern States had performed, particularly what the State of Virginia had done, in the course of the Revolutionary war, in order to procure this Constitution; and then took notice of what they had done and were still doing, in support of it. They submitted, he said, to all the regulations under it, particularly to excise and stamp laws, which were obnoxious to republican Governments, nor did they complain of the impost duties, though they bore hard upon them. When an insurrection took place in the State of Pennsylvania, they were the first to march to quell it. No rebellious person had ever dared to show his head in his disorganizing State. They had been much injured in the settlement of their accounts for supplies furnished during the war, in some cases not having been compensated for one-hundredth part of the injuries which had been done, and in some not a thousandth part.

Mr. C. would ask, in his turn, what those friends of order (the Eastern States) had done in support of the Constitution? They had, he knew, been the means of procuring for the country a British treaty, which was likely to involve us in war, and they were now endeavoring to make all the branches of Government dependent upon the Executive. He did not thank them for such support.

As to what had been said about addressing the galleries, and the people out of doors, he believed it was perfectly right that the people should be well informed of what they, their representatives, were doing, except they were to be looked upon as a senseless herd, of whom it was not necessary to take any notice. He wished there were no motives in the House less pure than these. For his part, he respected the sovereignty of the people, and wished to remain no longer in that House than whilst he spoke their sense.

The gentleman from Connecticut had spoken in high terms of the late President. He had himself a high opinion of that gentleman, and so had his constituents. It was true, they disapproved of some things that he had done, and were sorry that he had done them. As to the gentleman who now fills the Presidential chair, he viewed him as a great and good man; but he believed all men to be fallible. When he did things which ought, in his opinion, to be approved, he should approve them; and when he acted contrarily, he should condemn them. He believed that, in his State, there were neither prejudices against, nor in favor of, either the late or present President.

But the gentleman from Connecticut, to whom he had alluded, called for *union*. This was a pleasing word; but it appeared to him as if some gentlemen wished rather to shake the Union to its centre. His own mind, however, acquitted him of anything that had not in view the good of the people. He wished to preserve the harmony of the Union; he would hazard everything to preserve it, because he believed that, "united we stand, but divided we fall."

If gentlemen would withhold their ill-natured sarcasms, members might unite to do the business of the Union for which they were sent. He admonished them to talk no more of factious disorganizers, feeble minorities, democratic clubs, &c., if they wished for union and concord; but that they did wish this, with him was doubtful. If they do not, however, said he, let them speak out, and then they will be understood. Such charges, every one knew, were unfounded, and being so, they could not be expected to be borne with temper. No rebellious head had ever been raised south of the Potomac. If a rebellious rascal was to appear there, he would not be suffered to live. He knew this to be the case in the quarter he had mentioned, and he believed the same might be said of the States of Maryland and Delaware; and though the people of the Southern States had been loaded with all the foul epithets which could be imagined, he believed they would be found the props of the Constitution. For his own part, he would sacrifice his life to preserve it.

When Mr. C. had taken his seat—

Mr. Gallatin rose, and addressed the Chair as follows:

Mr. Chairman: The amendment proposed to this bill fixes the salary of Ministers employed at foreign Courts, not according to the grade of those Ministers as has heretofore been the case, but according to the Courts to which they may be sent. Its object is to reduce the diplomatic establishment nearly to what it was before May, 1796, by confining the salary of $9,000 a year to the Ministers at London, Paris, and Madrid, and allowing only $4,500 to all others. The shape of the bill precludes an amendment more simple in its nature, and by which the same object would have been attained. The present permanent establishment, which the framers of the bill mean to support, requires an annual appropriation of $64,000; and yet $24,000 of that sum are thrown into a separate section, as a temporary grant for the present year, thereby preventing us from proposing a reduction in the sum which is openly asked for the support of the permanent establishment.

Before we are permitted to enter into the merits of the question, we are arrested in the threshhold of discussion by Constitutional objections. It is not, indeed, insisted that the amendment itself is unconstitutional; it is not denied that the Legislature has a right to fix the salaries of public Ministers; but the reduction of the establishment is supposed, in its operation and tendency, to affect the legitimate authority of the President. We are charged with a design of subverting by our doctrine the principles of the Constitution, and we are thus drawn, in an incidental manner, into a previous discussion of a Constitutional question.

The 2d section of the 2d article of the Constitution, among other things, provides, that "the President shall nominate, and by and with the

advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." The first inference attempted to be drawn from the clause is, not only that the appointment of Ministers is exclusively vested in the Executive, which position is self-evident, but that an unlimited number of officers, of Ambassadors, and other diplomatic agents, is created by the Constitution itself, and that the President, in appointing, only fills those pre-existing offices. It appears to me that it would be more correct to say, that the possible existence of those officers is recognised by that section, but that the office of Minister to any foreign Court, where we have not had any before, is created by the President making the appointment. And it may even be thought doubtful whether a law may not be necessary to create the office before an appointment takes place. This clause recognises the existence of Judges of the Supreme Court, as well as that of foreign Ministers, and gives the same unlimited power of appointment in both cases to the Executive. Nay, the case of Judges is stronger than that of Ministers; for upon these the Constitution is silent in every other part, whilst not only it is here declared that Judges of the Supreme Court, as well as public Ministers, may exist, but the 3d article of the Constitution positively enacts that there shall be a Supreme Court, and fixes its jurisdiction. Yet it has not been contended that the office of Judges of the Supreme Court was created by the Constitution, or could be created by the mere appointment of the President, without the previous authorization of a law. It has not been contended that the President had, by the Constitution, the power of appointing any unlimited number of those Judges, to be fixed by his own discretion. On the contrary, a law had passed defining their number, before any appointment took place; and it is not insisted that the Executive can appoint more than six, as fixed by that law. Had that power, contended for in relation to public Ministers, existed in the case of Judges, that part of the law which declares that there shall be six Judges, and no more, must be unconstitutional, as we have no right by law, and even with the consent of the President, to divest him of any of his Constitutional authorities. Still, it is not my intention to lay any stress upon this argument; some nice discrimination may perhaps be drawn between the two offices; a different construction has heretofore prevailed in the case of Ministers; and it is not necessary, in order to prove the constitutionality of our doctrine, to contend for the construction of this section. I would not, therefore, have made these preliminary observations had it not been to show that the power of the Executive to appoint Ministers without the previous sanction of a law, from which it is attempted to derive by implication the right of controlling the Legislature in the exercise of its own Constitutional powers, is itself of a doubtful nature, and can only be admitted by a very liberal construction of that clause of the Constitution.

On the other hand, the Constitution has expressly and exclusively vested in Congress the power of raising, granting, and directing the application of money. The 8th section of the 1st article declares, that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, and to borrow money on the credit of the United States." The 1st section emphatically states, that "All legislative powers herein granted shall be vested in a Congress;" and the 9th section provides, that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law."

We say that Congress, having the sole power of granting money, are judges of the propriety or impropriety of making a grant, and that they have a right to exercise their discretion therein; whilst those who oppose the amendment upon Constitutional grounds, contend that the power of creating the office of public Ministers, vested in the President, imposes an obligation upon Congress to provide an adequate compensation for as many as he shall think fit to appoint. We say that the power of granting money for any purposes whatever belongs solely to the Legislature, in which it is literally vested by the Constitution. They insist that that power in this instance attaches, by implication, to the President, and that Congress are bound to make provision, without having a right to exercise their own discretion.

In order to establish this doctrine, it is asserted that, by our Constitution, each department may have checks within itself, but has none upon the others; that each department is self-independent, has its own share of powers, and moves uncontrolled within its sphere; that, therefore, whenever a certain authority is, by the Constitution, vested in any one department, it must possess the means to carry that authority into effect, and that the other departments are bound to lend their assistance for that purpose.

Those positions will not stand the test of investigation. Whenever the powers vested in any one department are sufficient to complete a certain act, that department is independent of all the others, and it would be an unconstitutional attempt in any of the others to try to control it. But whenever the powers have been so distributed between two departments, in relation to another certain act, that neither of the two can complete the act by virtue of its own powers, then each department is controlled by the other, not in relation to the operation of its appropriate powers, but in relation to the act itself. Each department, in that case, may go as far as its own authority will permit, but no further. The refusal of the other department to exercise its powers in relation to that act, in the same direction, and in concurrence with the first department, is no abridgement of the legitimate powers of the first. It is the Constitution which, in that case, abridges the powers of both, and which has rendered the concurrence of both necessary for the completion of the act. If either of the departments, in that

case, after having exercised its own authority towards the completion of the act, shall pretend to have a right to force the powers of the other in the same direction, so as to have the act completed against, or without its voluntary consent, it is that department which abridges the legitimate exercise of the powers of the other. Thus, in the instance before us, the President may appoint as many public Ministers as he thinks fit, and if he can send them to their intended mission without the assistance of any act of the Legislature; if he can, as in the case of Consuls, find men who will serve without a salary, he has a right to do it, and thus to act uncontrolled by the Legislature; because, in this supposed instance, his own authority is sufficient to carry into effect his intentions. But further than that he cannot go; for the Constitution, in no part, gives him any power to force the Legislature to grant the money which may be necessary to pay the Ministers. In the same manner the Legislature have a right to appropriate a sum of money for the purpose of paying twenty public Ministers, if they shall, in their judgment, think so many necessary. But further than that they cannot go; they cannot force the President to appoint twenty Ministers, if he does not think them necessary. In this instance the act is placed partly under the jurisdiction of the Executive, and partly under that of the Legislature—under the jurisdiction of the Executive so far as relates to the creation of the office and to the appointment—under the jurisdiction of the Legislature so far as relates to granting the money—and the concurrence of both departments is necessary to complete the act.

The contrary doctrine leads to a palpable absurdity, for if it be true that any department, having expressed its will in relation to an act upon which it can operate but partially, binds the other departments to lend their assistance, in order that its will may be completely carried into effect; it follows that whenever two departments shall differ in opinion as to a certain act, we shall have two different wills acting in contrary directions, and each, however, binding the other respectively; that is to say, that there is a necessity that the act should, at the same time, be done in two different ways, or in some instances, that it should, at the same time, be done and not be done. But the fact is, that the true doctrine of those gentlemen, though not openly avowed on the present occasion, is not, that each department may act uncontrolled in the exercise of its own appropriate powers; but that they have two standards, one of which they apply to the Executive, and another by which they measure the powers of the Legislature; and that, in their opinion, the powers of the Executive are paramount, and must limit and control those of the Legislature, whenever they happen to move in the same sphere, whenever the execution of an act depends upon the concurrence of both.

This doctrine is as novel as it is absurd. We have always been taught to believe, that, in all mixed Governments, and especially in our own, the different departments mutually operated as checks one upon the other. It is a principle incident to the very nature of those Governments; it is a principle which flows from the distribution and separation of Legislative and Executive powers, by which the same act, in many instances, instead of belonging exclusively to either, falls under the discretionary and partial authority of both; it is a principle of all our State constitutions; it is a principle of the Constitution under which we now act; it is a principle recognised by every author who wrote on the subject; it is a principle fully established by the theory and practice of the Government of that country from which we derive our political institutions. In Great Britain the power of declaring war is vested in the King; but the power of granting supplies, in order to support the war, is vested in Parliament. It has never been contended there that Parliament were bound by the act of the King in granting money for that purpose; it is, on the contrary, fully understood that a concurrence of opinion is necessary before a war can be carried into effect; that the two departments, in that respect, control and check each other, and that war is never declared by the King, unless he can depend on the support of Parliament.

When it is found that the Constitution has distributed the powers in a manner different from that contended for, although there is no clause which directs that Congress shall be bound to appropriate money in order to carry into effect any of the Executive powers, some gentlemen, recurring to metaphysical subtleties, and abandoning the literal and plain sense of the Constitution, say that, although we have a Constitutional power, we have not a moral right to act according to our own discretion, but are under a moral obligation in this instance to grant the money. It is evident that where the Constitution has lodged the power, there exists the right of acting, and the right of discretion. Congress is, upon all occasions, under a moral obligation to act according to justice and propriety. We do not claim the absurd privilege of acting without sufficient motives, but we wish every proper motive to have its due weight. The opinion of the Executive, and, where he has a partial power, the application of that power to a certain object, will ever operate as powerful motives upon our deliberations. I wish it to have its full weight; but I feel averse to a doctrine which would place us under the sole control of a single force impelling us in a certain direction, to the exclusion of all the other motives of action which should also influence us.

The last clause of the 8th section of the 1st article of the Constitution, which declares that "Congress *shall have power* to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof," was introduced yesterday in order to prove that Congress were bound to pass the laws necessary to carry into execution any of the powers vested by the Constitution in the Pre-

sident. But it is evident that this clause gives a power and does not impose a duty; it does not say that Congress *shall make laws*, but *shall have power to make laws*—that is to say, shall exercise their own discretion. This clause, contrasted with the language of the Constitution in another part, affords an additional proof in support of our arguments.

It cannot have escaped observation that the doctrine of some gentlemen on this floor would, by transferring to the Executive the power of determining the amount of an appropriation, give him a Legislative power, the power of doing what is within the province of a law, the power of fixing the rule by which a certain act is to be executed; whilst the Legislature, being bound to carry into effect the intention of the President, would, in that instance, be transformed into an Executive power. That such was not the intent of the Constitution appears from its not using, in the last mentioned clause, the same mode of expression which is applied to mere Executive duties. The 3d section of the 2d article directs that "the President shall take care that the laws be faithfully executed." Here no discretion is left. The Constitution does not here say that the President shall have power to execute the laws; but, by the phraseology, he is bound to have them executed. When, therefore, the Constitution means to impose a duty, it is sufficiently explicit, and positively directs the act to be done; and we may safely conclude, that where it gives no such discretion, where it empowers instead of commanding, the reason is that it meant to leave a discretion.

It is also objected that Congress cannot, in every case, exercise that discretion we contend for, as those clauses of the Constitution which provide "that the President and Judges shall receive, for their services, a compensation, which shall not be diminished, &c.," would be defeated, by the refusal of the Legislature to appropriate for that purpose.

The Constitution recognises the existence of public Ministers as well as that of the President and Judges. It goes no farther on the subject of Ministers; but declares that the President and Judges shall have salaries, &c. Had the framers of the Constitution also intended that Congress should be bound to make provision for Ministers, they would have introduced a similar clause in respect to them. The Constitution is explicit in one case, and declares that salaries shall be given; it is silent in the other, and does not declare that salaries shall be given. The objection, therefore, cannot reach farther than the specific case upon which it is grounded. Permit me to add, that, in respect to the President and Judges, the discretionary power of the Legislature to grant money is limited only by the Constitution, and is not transferred to any other department. For the number of those officers being determined, in respect to the President by the Constitution, and in respect to the Judges by *law*, the amount of money necessary for their support, which must be in proportion to their number, is fixed in the first instance by the Legislature, and not by the Executive. The limitation of the Legislative power does not go farther there, than to bind subsequent Legislatures for a certain time by the acts of former ones. But, in respect to public Ministers, should the doctrine, against which we contend, prevail—as their number would be fixed, not by the Legislature, but by the President—the amount of money necessary for their support would also depend upon him; and the power of granting money, in that instance, would be transferred from the Legislature to the Executive.

Some gentlemen, embarrassed by the clause respecting appropriations, have attempted to diminish its force by correcting it with the following one, which directs the publication of the accounts of receipts and expenditures of the public money, and by representing it as a mere matter of form. It is strange, indeed, that an attempt should be made to represent appropriation clauses in the Constitution as mere matters of form, as nominal provisions, whilst the only security against standing armies, contained in the Constitution, consists in the clause which provides that "no appropriation of money to raise and support armies shall be longer than two years." But the ingenuity of those gentlemen cannot erase the obnoxious clause; and so long as it shall remain a part of the Constitution, so long shall it be necessary that a law be passed before any money can be drawn from the Treasury, to be applied only in such manner, to such extent, and for such purposes, as shall have been ascertained previously by law. It is this clause which completes the power vested in Congress over money. And it should be well understood that the doctrine for which we contend is that Constitutional principle which gives to the Legislature an exclusive authority of raising and granting money—an authority which our opponents wish to place, in several instances, (the present one, and that of treaties,) in the hands of the Executive, allowing him thereby to raise and to expend money without the control of Congress. I say to raise money—for it is immaterial to me whether he does it directly, or whether the Legislature are bound to do it according to his discretion.

In this investigation, I have confined myself strictly to the Constitutional question, wishing to ascertain what the Constitution was, and not what it should be. Before I make any observations on the tendency and consequences of the two opposite constructions, I wish to make some on the merits of the amendment itself.

We conceive that the effect of the amendment will be to prevent an extension of our political connexions with foreign nations, at the same time that it will reduce an expenditure of money, which, if unnecessary, may be applied to give an undue influence to the Executive, through the means of patronage, even over the Legislature. But we do not believe that this amendment will injure our commercial intercourse with those nations, or cause any prejudice to our commercial interests.

The commercial intercourse between nations is

regulated by the law of nations, by the municipal laws of the respective countries, and by treaties of commerce. The application of those different laws to individual cases, the protection of individuals against acts of oppression not consonant with those laws, the protection of our seamen and of our citizens trading to foreign countries, fall within the province of those agents known by the name of Consuls. Consuls are appointed for that specific purpose; we have them in all countries with which we trade, whether we have there public Ministers or not; they protect our commerce as effectually at Hamburg, in Denmark, or Sweden, where we have no diplomatic characters, as it is protected in Spain, or Holland, where we have Ministers. It is only when we wish to obtain a change in the regulations provided by the acknowledged law of nations, or by the municipal laws of the country, that public Ministers are necessary, as they alone can negotiate with a foreign Government, as they alone can form treaties of commerce. But it is only the application of laws and treaties to individual cases which requires a continual attention and a permanent residence. The extraordinary occasions on which it may be necessary to negotiate treaties may be provided for by special missions, by extraordinary Envoys; and it is worthy of remark that the two only treaties which have yet been made, under the present Constitution, with foreign nations, those with Great Britain and Spain, have both been formed by extraordinary Envoys, (Mr. Jay and Mr. Pinckney,) although we had at that time public Ministers at those two Courts. The proposed amendment affects only the permanent diplomatic establishment; it applies neither to Consuls, nor to such extraordinary missions as circumstances may render necessary.

It must be acknowledged, however, that it is not improbable that the extension of our diplomatic establishment may tend to increase the number of our commercial treaties beyond those which might result from extraordinary missions. But is this a desirable object? It would, indeed, be extremely advantageous to obtain from all nations such general alterations in the law of nations as would secure the freedom of the seas, and effectually protect the flag of neutral Powers against the danger of capture or detention, in all possible cases. But have we ever yet formed a commercial treaty, in which those provisions were not connected with some commercial restrictions of a different nature, and which did not even contain some causes of a political nature? I will go farther, and I will ask whether we have derived any commercial advantage from the commercial treaties we have heretofore made? Let me remind gentlemen on this floor with the situation of our commerce before the organization of this Government. The treaties of commerce we had at that time with France, Holland, Sweden, and Prussia, had not prevented its depression. And to what cause must we ascribe the vigor it had acquired before the present European war? Not to commercial treaties; for we had formed no new ones. To the want of a General Government, having a power of making general commercial regulations, was due the languid situation of our trade; and its revival was owing to the adoption of that Government, to our own regulations, to ourselves, and not to the compact made with foreign nations.

The restrictions which we had laid upon ourselves, by our commercial treaties, have been attended with political consequences fatal to our tranquillity. We had made two treaties with France—one of alliance, avowedly of a political nature, another of commerce unconnected with the first. I need not remind the House of the difficulties in which we have been involved by several clauses of the Commercial Treaty. The articles relative to the admission of prizes of one nation into our ports, and of the exclusion of those of another, were the cause of long and critical diplomatic discussions. We have now extended to the other belligerent Power the same clauses, with a reservation of our prior engagements, but to the exclusion of nations with whom we had no treaties, and have not thereby lessened our difficulties.

But, I will again ask, what commercial advantage have we derived from our commercial treaty with France, which we would not have enjoyed without that treaty? Have we derived any from the commercial part of our treaty with Great Britain? Is our commerce with that nation on a better footing than it was without the treaty? I do not mean to allude to the conventional part of that treaty, by which our differences were arranged. I do not mean to allude to the political consequences of that treaty: they are foreign to the present discussion. I speak only of commercial advantages. All we know on that subject is contained in the two acts of Parliament communicated to us by the President. It results from them that England has opened the East India trade to us under the restrictions provided by the treaty, and to all neutral nations without those restrictions. Whether she means to include us in the general provision, which relates to all neutral nations, or to keep us under the treaty restrictions, I will not pretend to say, and is not material to the present question. But it is evident that we are placed, by the treaty, in a worse commercia situation, in respect to the East Indies, than we were in fact before the treaty, or than we might be by the sole effect of the municipal laws of Great Britain. It also appears, by that act of Parliament, that England has laid a countervailing duty on our imports there in American vessels. This they had a right to do without the treaty; but they had not attempted to do it until the treaty took place, because we had till then the natural right of defeating that measure, by our own regulations here. We have abandoned that right by the treaty: we have, in order to obtain some supposed commercial advantages, laid a restriction upon our natural power of making our own general commercial regulations. This act of Parliament, however, is the only effect, in relation to commerce, which has yet resulted from the treaty. What its consequences upon our trade may be, I cannot judge; but it places us precisely in the

situation in which we were before the year 1789, when we had no efficient General Government, when we could not make commercial regulations of a general nature. If the commercial part of our former treaties had not been attended with any beneficial consequences; if, on the contrary, it has involved us in a critical situation, we may be permitted to doubt whether commercial treaties are not as likely to check as to protect our commerce.

It is not denied that an extension of our political connexions with Europe would be injurious to us; but it is said that our having no Ministers in foreign countries will not prevent foreign nations sending their Ministers here, and that our Ministers abroad will not increase our political foreign connexions. I do not mean to make any personal allusions to the conduct of our Ministers in Europe; but we may judge from past events, we may judge from the conduct of foreign Ministers here, that diplomatic characters are not likely to be inactive. From the nature of their appointment, from the nature of man, we know that they will try to acquire importance with their own Government and credit to themselves; they are placed in a dangerous vortex, and they will all, more or less, according to circumstances and to their personal character, take a part in the political intrigues or quarrels of Europe. They will attempt to do something; they will attempt to involve us in the political vortex of Europe; they will try to make for us new connexions, or to break ancient connexions.

Whether foreign nations, with whom we have no public Ministers, will send Ministers here, cannot be absolutely foretold; but we know that it is not usual. At all events it cannot be wise to invite a greater number of foreign Ministers here, by extending our diplomatic establishment to countries where we have not heretofore sent Ministers. The amendment under consideration has no tendency to annihilate that establishment, but it will effectually check its extension. If our Ministers abroad are necessary for the protection of our commerce, or on account of our political situation in respect to the belligerent Powers, this amendment will not withdraw their compensation. Its avowed object, its only possible effect, is to reduce the establishment to what it was in 1796, when we had no Minister at Berlin, and when our Minister at Lisbon, with a salary of $4,500, rendered us the same services as if he had had $9,000.

But we are told that this is not the time to make a reduction; that our situation in respect to Europe forbids it; and that our differing in opinion with the President on this subject, will prove us to be a divided people. I am much afraid, that if now is not the time, it will be with this reform, as with all others, it will never be time. To evince to European nations that we wish not to mix in their political sphere of action; that we are not desirous of forming political connexions; that we will not interfere, especially at this time, with their political interests, is, in my opinion, the best mode in our power to prevent their interfering with us, and the most likely to produce a termination of our present dispute. Nor can I conceive how our expressing, on this ground, a difference of opinion with the Executive, will tend to prove that we are are not united on the subject of self-defence. But I believe that now is the time to express our opinion, because the object of the extension of our diplomatic establishment having been explained to us by the President, it is our duty, if we think the object contemplated to be dangerous, not to be silent upon this occasion. Our information is derived from the following paragraph of the President's Speech at the opening of the last extraordinary session of Congress:

"Although it is very true that we ought not to involve ourselves in the political system of Europe, but to keep ourselves always distinct and separate from it, if we can; yet, to effect this separation, early, punctual, and continual information of the current chain of events, and of the political projects in contemplation, is no less necessary than if we were directly concerned in them. It is necessary, in order to the discovery of the efforts made to draw us into the vortex, in season to make preparations against them. However we may consider ourselves, the maritime and commercial Powers of the world will consider the United States of America as forming a weight in that balance of power in Europe which never can be forgotten or neglected. It would not only be against our interest, but it would be doing wrong to one half of Europe at least, if we should voluntarily throw ourselves into either scale. It is a natural policy for a nation that studies to be neutral, to consult with other nations engaged in the same studies and pursuits. At the same time that measures ought to be pursued with this view, our Treaties with Prussia and Sweden, one of which is expired, and the other near expiring, might be renewed."

Permit me, before I proceed to make any remarks upon that part of the President's Speech, to contrast the sentiments contained in the late President's Address to the People, on his retiring from office:

"The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop."

"Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities."

"Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient Government, the period is not far off when we may defy material injury from external annoyance. Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice? It is our true policy to steer clear of permanent alliances with any portion of the foreign

world, so far, I mean, as we are now at liberty to do it. Let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise to extend them."

Supported by this authority, may I hope to escape the censure of arrogance, if, on this occasion, I dare express an opinion in some degree opposed to the very respectable authority of the President of the United States.

The object of both the late and the present President is perfectly the same; it is that we may not be involved in the political system of Europe, that we may not be drawn into the vortex. But they do not seem altogether to agree on the means by which to obtain that object.

The President of the United States conceives that it is a natural policy for us to consult with other nations engaged in the same studies and pursuits, and that measures ought to be pursued with this view. The late President thinks it unwise, by interweaving our destiny with Europe, to entangle our peace—unwise to implicate ourselves by artificial ties—unwise and unnecessary to extend our engagements. His opinion is emphatically expressed by these words: "Here let us stop."

As to that balance of power in Europe, which never can be forgotten or neglected, it is a system which, so far as it relates to Europe itself, it is not necessary for us to discuss. And yet, without examining all the useless wars to which it has served as a cause or a pretence, we must recollect, at what late period the British Ministry wanted to involve the British nation in a war with Russia for the purpose of preserving that balance, which might, in their opinion, be affected by the transfer of Oczackow, situated as it is in a remote corner of the Black Sea, from the hordes of Tartars which rule Turkey, to the Tartar hordes which inhabit Russia. But, however interesting that balance may be to Europe, how does it concern us? We may lament the fate of Poland and Venice, and I never can myself see, without regret, independent nations blotted from the map of the world. But their destiny does not affect us in the least. We have no interest whatever in that balance, and by us it should be altogether forgotten and neglected. If we ever think that we have an interest in it, shall we not be induced to throw our weight in the scale; shall we not involve ourselves in the destinies and the wars of Europe? If we act on our own ground, is it likely that other nations will ever consider us as forming a weight in their balance?

But, if we adopt the policy to consult with other nations—if measures are to be pursued with that view—if we are to form new foreign political connexions, how can we hope to escape being unavoidably drawn into the vortex? It was, after having thus communicated his intention, it was in pursuance of that plan, that the President thought fit to send a Minister to Berlin. With Prussia we have no commerce. Had commerce been the object of that embassy, Sweden, Denmark, the Hanse towns, or Italy, would have been preferred. The mission is avowedly and evidently of a political nature; and if we are to consult and to form connexions with nations who may, in our opinion, be engaged in similar pursuits with ourselves; if Prussia is considered as such, with what nation in Europe may we not, and shall we not, according to circumstances consult, concert measures, and form political arrangements? It is from this view of the subject that I have been induced, however reluctantly, fully to state all the reasons which impress upon my mind conviction of the importance of the present amendment, of the importance of checking at this time, and in its birth, a system which tends to increase our political connexions with Europe.

So much has already been said on the subject of patronage, or the danger which might hereafter result from an influence obtained through those means over the Legislature, and on the system said to be adopted by the Administration, to exclude from every description of office men who do not subscribe to a certain political creed, that I think it useless to add any observations on that subject. As, however, the patronage now vested by law in the Executive has been stated as very insignificant, I will merely state its real extent.

It consists in appointment to offices and in the disposal of public moneys by contracts. The annual pay of the officers in the different departments—of the Treasury, of State, and of War—and all the subordinate offices, of Loans, Mint, &c., of the officers in the Northwest Territory, of the Attorney General, Surveyor General, Indian agents, diplomatic characters, agents for the protection of seamen, agents and commissioners appointed by virtue of certain treaties; in fine, the pay of all civil officers, whose appointment depends upon the Executive or some branch of the Administration, including therein all the clerks, but excluding the Judiciary department, added to the pay and emoluments of the commissioned officers of the Army and Navy, forms an aggregate of about $420,000. The salary and other emoluments of the officers employed in the collection of the impost and of the internal revenues, including therein postmasters, amount to about $430,000. These two sums amount together to $850,000 yearly, received by officers who derive their appointment from the Executive.

The amount of moneys disposed of by contracts, and it is well known that lucrative contracts may be made a powerful engine of influence; that amount, calculated on some objects upon an average of three years, and including those relative to the Mint, to the printing of the several offices, to the printing of the laws, for the transportation of the mail, for supplying the provisions, clothing, horses, medicines, cannons, arms of the Army, for Indian goods, and all the immense details of the Quartermaster's department; for building and furnishing all the supplies of the Navy; for building light-houses, and for several other contingent expenses exceeds $1,200,000 a year.

The aggregate of the two sums exceeds two millions of dollars, a sum by no means despicable, when compared with our population and wealth, when compared with a revenue which, till this

year, never exceeded seven million of dollars. After having stated these considerations, which appear to me immediately applicable to the present discussion, I would not encroach any longer on the patience of the committee, had not some gentlemen brought into view a number of topics of a more general nature, in which it may not be altogether useless to follow them.

The first position they assume is, that there is a natural tendency in the Legislative department to encroach upon the Executive, and they attempt to prove by historical facts, that, in all countries, where a Republican form of Government ever existed, the Executive has in fact been swallowed up by the Legislature. The instance of the Greek Republics and their subversion by Philip of Macedon, and that of Rome, have been chiefly insisted upon. Both are altogether inapplicable to the American Constitution. The question is not, whether Governments, constructed on different principles from ours, have been destroyed by the effect of those principles, but whether the history of those similar to our own will support the assertion.

The small Greek Republics, Athens especially, were governed directly and immediately by the people themselves. In Rome, where the Constitution, though imperfectly, was better balanced, the popular branch of Government was also an assembly of the whole people of the city; and when their virtues and their manners, which could alone support such a system, had been corrupted by the spoils of a conquered world; when the dregs of every other town of Italy, admitted to the rights of citizenship, had resorted to a corrupt metropolis; when a few citizens, enriched by the treasures of Asia, had it in their power to bribe that mixed mass, which alone, and without being controlled by the other parts of an extensive empire, disposed of every office of honor or power; when these offices thus obtained placed ambitious leaders at the head of the standing armies, which constituted at that time, the sole military force of the nation; we cannot be at a loss to discover the causes of the civil wars and contests for power which terminated in the establishment of despotism.

These instances are inapplicable to our own situation, because those Governments essentially differed from that of America in this, that the Legislative power was there lodged in the people residing in a single city, and that it is here vested in the Representatives of the whole people. *There* not only was there no proper or precise distribution of powers, but *there* also the people themselves had the authority of deliberating and of enacting laws, and *here* they have only that of electing the persons who are to make laws for them. All that can be proved by this is, that power ought to be vested in the body of the people. But because the heterogeneous mass which constituted the body of citizens in Rome, abused the power they had, ought we to conclude that the people of America will abuse the power they have not? Or that, because a Government, where the principle of representation was unknown, was destroyed by the corruption of the people, and the ambition of their demagogues, the representative Government of the United States will be destroyed by the Representatives themselves? The history of those ancient republics may indeed teach us to cherish that principle of representation, which is the leading feature of our Constitution, and the safeguard of our liberties. It may teach us another lesson, applicable to all times and to all men—that money accumulated in the hands of a single man, or of a few, may be applied with success to the destruction of any Government. The foreign gold of Philip gave the last blow to the expiring liberty of Athens. And the same engine in the hands of the citizens of Rome was not attended with less fatal effects.

But if we turn our attention from a view of obscure antiquity to modern Europe, how shall the assertion be supported, that, in representative Governments, the Legislature usually swallows up the Executive? History tells us that, three centuries ago, representative forms of government existed throughout Europe, in which the representatives of the people, or a part of the people, had more or less power and influence, according to the various circumstances under which they respectively arose. But if we look at the present situation of that country, such at least as it was before the French Revolution, where can we discover traces of those institutions? What has become of the Cortes of Spain? Of the States General of France? Of the Diets of Denmark? Everywhere we find the Executive in possession of Legislative, of absolute powers. The glimmerings of liberty, which for a moment shone in Europe, were owing to the decay of the feudal system. When the princes were deprived of the personal services of their vassals, and of the revenues derived from their ancient domains; when industry and commerce rendered money the principal engine of power, those popular assemblies which had the till then unimportant right of raising taxes and granting supplies, arose at once into consequence. And as the Executive, either by force, or by fraud, or by the folly of the people themselves, succeeded in wresting that power from them, they fell again into misuse or insignificance.

The fate of the European Republics would lead us to similar conclusions. Venice, the greater part of Switzerland and Holland, would show us the Legislative powers equally merging into the Executive, and a self-created council or hereditary Stadtholder, usurping by artifice the legitimate authority of representative bodies. Almost every vestige of liberty was erased from the continent of Europe; and it is to England that we are indebted for the preservation of those principles which form the basis of our Constitution.

It is from England that we have borrowed our political institutions. Taught by her example, we have improved them and adapted them to our own situation; but her history is still that which is most applicable to ourselves; for, notwithstanding the happy modifications which we have introduced, the great outlines of representation and

distribution of powers are the same, and notwithstanding the strong distinguishing features, there has never existed a Government more similar upon the whole to our own than that of that country.

Some gentlemen, leaving out of view that period in the British history which should naturally attract our attention, have attempted to draw from the events of the reign of Charles the First, a proof of their favorite doctrine, the danger to be apprehended from the encroachment of the Legislature. They have forgotten that those events were not the effect of the slow progress of an established Government, but the result of an unsettled Constitution. The precise boundaries of power were not ascertained; Parliament contended for the acquirement of rights which had been usurped or enjoyed by the Kings. In its beginning, the contest was between the King in his own right, and Parliament in the right of the people. Convulsions, a civil war, a revolution ensued. But the position, which we controvert, is not that the people or a popular assembly may, by a convulsion, wrest from the Executive powers originally obtained by fraud or violence. It is that, when a representative Government, with properly distributed powers, is once established, the Legislature will finally encroach upon the Executive. This position cannot be illustrated by the events of Charles's reign; but that period, which extends from the revolution of 1688 to the present reign, after the Constitution had been ascertained and settled, is that to which we must recur as immediately applicable to our own situation.

It is during that period that a progressive patronage, and a systematic, corrupting influence have sunk Parliament to a nominal representation, a mere machine, the convenience used by Government for the purpose of raising up supplies; the medium through which the Executive reaches with ease the purse of the people. And now, when the farce of obtaining even the nominal consent of Parliament is sufficiently understood, the Ministry dispense with the ceremony, and have carried so far their contempt for that body, that the sum spent during the last year, without the consent, exceeds the amount spent with the consent of Parliament. The Executive there have acquired the unlimited and uncontrolled power of raising and expending money, and the House of Commons is under a moral obligation of making the necessary appropriations.

But, is it to be apprehended, from the structure of our own Constitution, that the Executive will be destroyed by the Legislature? The Legislative powers, vested in Congress, seem to have been given under such efficient checks, as should remove any fears of that nature. They are not given to a single popular branch, but to two distinct bodies. The consent of both is necessary to do any act, and one of them, elected not immediately by the people, but through the medium of State Legislatures, is, at the same time, united with the Executive in the exercise of its most important powers, that of appointing to offices, and that of making treaties. Thus no encroachment can be made upon the Executive powers, without the consent of the Senate; and this body never will give their assent to any act, which, by weakening the Executive, would necessarily diminish their own authority. But should ever such an act pass both Houses of Congress, it must not be forgotten that the Constitution has vested the President with a modified negative. That negative, already twice exercised, was, on both occasions, effectual; and it is an absurd supposition that, at any time, the President should not be supported by at least one-third of the two branches of the Legislature, against any unconstitutional attempt to deprive him of his legitimate authority.

To these Constitutional barriers, may be adduced, in respect to any supposed encroachments of this House, the greater degree of permanency in the Senate and President, and the systematic line of conduct which a single magistrate, whose powers are always in action, and a permanent body, who, like the Senate, are only renewed by thirds, are enabled to pursue; contrasted with the insulated efforts of this House, liable to a total renovation every two years, and composed of members occasionally in session, but dispersed through this extensive country the greater part of the year. Nor should the gentlemen who attach so great a degree of influence to the supposed popularity of this House, forget, that to us belongs the most obnoxious share of Government, that of laying taxes, whilst the Executive enjoys the more grateful employment of the individual application of the public money.

The object of our Constitution has been to divide and distribute the powers between the several branches of Government. With that distribution, and with the share allotted to us, we are fully satisfied. We only wish to preserve the equilibrium intended by the Constitution. The Constitutional right which is the subject of this discussion is of a negative kind. By its exercise we may prevent, but we cannot act; nor is there any power claimed by us which does not equally attach to the Senate, and lay us under their control. In this instance we ask only that the powers which the Constitution has separated, may not be blended; that the power of raising and granting money may remain inviolate in the Legislature, and that of appointing to offices, or even in the case of public Ministers, of creating offices, in the Executive. But the doctrine introduced by some gentlemen tends, in its immediate effects, to blend those powers, and, by vesting that Legislative authority which they represent as so formidable, in the same hands where the Executive power is lodged, to overset every barrier and to destroy the most fundamental principles of our Constitution.

In the same manner, as in this instance, they insist that we are bound to appropriate, they, in the case of treaties, also claim for the Executive a power of abridging the Constitutional authority of Congress of raising and granting money, and vest in that department what they take from this. Nor do they stop there. The most important

powers entrusted to Congress, exclusively of that over money, consist in regulating commerce, raising armies, providing a navy, and declaring war. And all these are swept away, and transferred to the Executive, by the construction put upon the treaty-making power, which rests on the same foundation with that which is now claimed. The Executive has the power of appointing public Ministers, of making commercial treaties, of making subsidiary treaties, and of making treaties of alliance, offensive and defensive. The same principle which should bind us in one case, binds us in every other. If we are under a moral obligation to lend our assistance, in order to carry into effect the Constitutional powers of the Executive; if we have no discretion left in the exercise of our own; if it be not true, that when an act, in order to be completed, requires the concurrence of two departments, each department has an equal right to give or to refuse its assent; if in the instance of public Ministers, we are bound to appropriate; if in the instance of commercial treaties, we are bound to repeal or to make commercial regulations, in conformity with the provisions of the treaties, the inference is unavoidable, that where the Executive has formed a subsidiary treaty, we are also bound, without any discretion being left to us, to appropriate the sums of money necessary to pay the subsidy, to raise the required number of auxiliary troops, and to provide the stipulated number of ships of war; that where a treaty of alliance offensive has been made, we are under a moral obligation to make war. Thus would the important powers entrusted to Congress by the Constitution be reduced to those of coining money, passing penal laws, granting patents, and establishing post-roads. The rule of constuction which, in one instance, vests in the Executive the power of granting money, or any other Legislative authority, makes the transfer in all the cases I have enumerated. Any construction which shall except a single case, shall restore our discretion in all.

Can any fatal consequences attend the full exercise of the Constitutional discretion of Congress, in granting money? Its general effect must be to diminish the expenditure of public money. By restraining it, you take away the most efficient check, provided by the Constitution, to control and to keep within proper bounds that expenditure. Thus, applied to the present amendment, the exercise of that discretion may prevent too large a sum of money being applied to the support of foreign Ministers. It never can be used to increase that sum. Thus it may prevent an appropriation for the payment of a subsidy to a foreign nation; it may prevent an extension of our political foreign connexions; it may prevent the raising of troops, or the equipping of a fleet; it may prevent a war. But it never can create an expenditure of money, an army, a navy, a war, which, upon the ground of the doctrine supported by our opponents, would not equally take place. The checks intended to prevent those evils, and their inseparable attendants, taxation and public debts, cannot be too strong. For it is the natural tendency of Governments, and, I will add, it is the natural tendency of every Administration, and of every Executive, to increase the rate of expenditure beyond the necessary demands, and the real abilities of the nation. It is here, indeed, that we may appeal to the history of other countries: it is here that it will afford us instructive lessons, applicable to all times, and to every form of Government.

Wherever the Executive have acquired an uncontrolled command over the purse of the people, prodigality, wars, excessive taxes, and ever progressing debts, have unavoidably ensued. Not to speak of Spain and Holland, weakened by those causes; not to speak of France, whose example is still more awful, the fate of England is sufficient to warn us against the dangers of that system.*

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* The Funding System of Great Britain, like that of the United States, originated during the war which resulted from their Revolution (that of 1688) and established their liberty.

In 1701, at the conclusion of the reign of William III. after the end of the Revolutionary war of Great Britain, and before they had been involved in any new contests, the debt of that country amounted to £16,394,702, equal to $72,865,342. At that time the revenue of that nation was £3,895,205, equal to $17,312,022.

On the first of January, 1796, the debt of the United States (after deducting the stock of the Bank held by the United States and the sums redeemed by the Sinking Fund) amounted to $79,811,187, and the revenue for the year ending on the 30th September, 1796, amounted to $6,665,685.

Thus the apprehension of a fate similar to that of Great Britain cannot be looked upon as unfounded, when we find that our debt at the end of our own Revolutionary war, of the war which gave the first birth to that debt, exceeds by seven millions of dollars that contracted by England during the war which also created their debt; at the same time that the population and resources of that country, at that time, were more than double, and their revenue almost treble of our own. The present situation of Great Britain is as follows:

Total amount of the debt contracted before 1788 -	£255,789,237
Funded and unfunded debt, contracted during the present war - - - - - -	177,778,275
	433,567,512
Deduct Stock purchased by Com. Sinking Fund -	23,334,200
Due in 1797 - - - - -	410,233,312

And if to that sum be added the Imperial Loan, and the enormous expenses attending the latter part of 1797, and the beginning of 1798, estimating the same in proportion to the expenses of the war establishment for 1796, viz: (£32,837,994, of which £14,952,776 were expended with, and £17,885,218 without the previous consent of Parliament,) the sum of 450 millions sterling, cannot much exceed the present amount of the public debt.

The amount of annual taxes is as follows:

Nett amount of land tax - - -	£1,950,000
Malt ditto - - - - - -	600,000
Customs - - - - - - -	4,000,000
Excise - - - - - - -	6,800,000
Stamps - - - - - - -	1,300,000
Miscellaneous - - - - - -	1,800,000
	16,450,000
Nett produce of taxes imposed in 1793, 1794, 1795	2,400,000
Ditto of ditto in 1796 and 1797 - - -	3,700,000
Nett revenue in 1797 - - - - -	22,550,000
Expenses of collection of all taxes laid before the present war, bounties, &c. - - - -	2,350,000
Total of taxes, exclusively of charges of collection on new taxes - - - - - -	24,850,000

Those taxes which, therefore, exceed twenty-five million sterling fall short of the expense of the peace establisment by a sum of £2,900,000.

For the permanent expenses are—	
Interest and charges on funded debt -	£15,800,000
Ditto on unfunded debt - - - -	2,700,000
Peace establishment, navy and army -	5,650,000
Civil list - - - - - - -	900,000
	24,750,000
From which deducting the nett revenue -	22,550,000
Leaves a deficiency of - - - - -	£2,200,000

Which last sum, added to the 1,200,000*l.* annually appropriated for the sinking fund, makes an annual deficiency of near three millions and a half sterling. The additional tripled assessed taxes, estimated at seven millions sterling, are not included in the above account.

We need not be astonished at that immense increase of debts and taxes, when we find that since the Revolution of 1688 to 1797, the war expenses of Great Britain have exceeded 614 millions and a half sterling, viz: for the navy 244,380,665*l.* before, and 44,926,965*l.* during the present war, in all 289,307,640*l.*, and for the army and ordnance 270,272,512*l.* before, and 55,001,765*l.* during the present war, in all 325,274,277. And to these sums should be added, 500 millions sterling, paid during the same period, for interest, charges and principal of the debt, (viz: 390 millions before, and 110 millions since the year 1788,) making the enormous aggregate of 1,100 millions sterling, consumed in the wars of about a century.

In vain did the insular situation of that nation preserve it from foreign invasions; in vain did she alone, among the great Powers of Europe, enjoy the advantages of laws which protected property and encouraged industry; in vain did her agriculture arrive to a superior degree of perfection; in vain did she obtain the commerce of the world; in vain were the treasures of India poured in her bosom; in vain did the industry of her inhabitants, and the incalculable effects of machinery, raise her manufactures to their unrivalled present state; in vain did she enjoy a century of uninterrupted and unparalleled prosperity. The folly and extravagance of Government have kept pace with all the efforts of industry, with every improvement of the individuals. The whole surplus of the labor of the industrious part of the community has been destroyed by expensive wars; or, if any part escaped annihilation, it was what was plundered by the direct or indirect agents of Government, and was applied to the accumulation of wealth in the few unproductive consumers. And now she stands on the brink of ruin, overburthened by a debt of four hundred and fifty millions sterling, and by taxes amounting to twenty-five millions sterling a year, and yet insufficient to support her peace establishment.

Can we hope for a greater prosperity—for a more fortunate concurrence of circumstances? Have we any security that we shall be preserved from those evils? And yet, this is the system which flows from the doctrine which would wrest from the Legislature their exclusive control over the expenditure of money; that would vest in the Executive, in certain specific but widely extended cases, the power of raising and applying money. It is the system which seeks for support in the influence of patronage, by increasing the number of offices, and avowing a determination to distribute them exclusively as rewards, amongst men of a certain description. It is the system which entangles us in new political connexions, raises standing armies, builds navies, squanders the public money, swells the public debt, and multiplies the burdens of the people.

Shall we be told that the frequent elections of the Executive are a sufficient safeguard against every danger? Doubtless they are, provided we are not altogether lost to ourselves. They afford us that remedy to which hereditary Governments cannot resort. But should we, on that account, suppose that we are not open to danger? No one can set a higher value on the benefits resulting from an elective Government than myself. But let us never forget that the forms of a Constitution afford us security, only as they preserve us from abuses, and that they will become useless, whenever they shall be applied to cover, protect, and defend abuses.

May we not be alarmed, when we hear the gentleman from Delaware, (Mr. Bayard) in accents of regret, telling us that our Executive is the most weak, the infirm branch of Government, and that danger is to be apprehended from its weakness; contrasting the scanty provision and insignificant patronage of our Executive, with the immense army, the incalculable navy, the church patronage, the nobility-creating power and the civil list of the monarch of Great Britain? And concluding, by delivering an opinion that, notwithstanding all those sources of corrupting influence, the House of Commons, were the venal boroughs abolished, would lop off every prerogative of the Crown, till, though the features of monarchy might remain, the substance would be gone.

A Government, which loses the substance, however it may retain the features of monarchy, is in substance a Republic; and the least idea of that gentleman is only, that a pure representation and monarchy are incompatible. But in his opinion, provided an equal representation is established, monarchy is destroyed, and a substantial Republic may exist, notwithstanding an accumulation of power and influence equal to those possessed at present by the King of England. And, when this follows his declaration of the dangers to be feared from the weakness and infirmity of our Executive, are we not irresistibly forced to infer, that he thinks that the introduction of armies, navies, patronage and civil list, are necessary to strengthen our Executive, and would not injure the principle of our Constitution?

To such doctrines avowed on this floor, to such systems as the plan of Government which the late Secretary of the Treasury (Mr. Hamilton,) had proposed in the Convention, may perhaps be ascribed that belief in a part of the community, the belief, which was yesterday represented as highly criminal, that there exists in America a Monarchico, Aristocratic Faction, who would wish to impose upon us the substance of the British Government.

I have allowed myself to make this last observation, only in reply to the gentleman who read the paper I alluded to. It is painful to recriminate, I wish denunciations to be avoided, and I am not in the habit of ascribing improper motives to gentlemen on the other side of the question. Never shall I erect myself into a High Priest of the Constitution, assuming the keys of political salvation and damning without mercy whomsoever differs with me in opinion. But what tone is assumed, in respect to us, by some gentlemen on this floor?

If we complain of the prodigality of a branch of the Administration, or wish to control it by refusing to appropriate all the money which is asked, we are stigmatized as disorganizers; if we oppose the growth of systems of taxation, we are charged with a design of subverting the Constitu-

tion and of making a revolution; if we attempt to check the extension of our political connexions with European nations, we are branded with the epithet of Jacobins. Revolutions and Jacobinism do not flow from that line of policy we wish to see adopted. They belong, they exclusively belong, to the system we resist; they are its last stage, the last page in the book of the history of Governments under its influence. It is after centuries of extravagance, vice, and oppression, that the people make revolutions, and it is then, it is during the general convulsion that ensues, that the dregs of the nation rise to the surface, and overwhelm in a common ruin both the oppressors and the deliverers of the people.

Are gentlemen serious in their fears? Do they, from us, apprehend revolutions, plunder, and massacre? Have we not an equal stake with themselves? I speak not of myself; but I will ask, what benefit could those men, who are commonly called Jacobins, derive from a convulsion? Have they less property? Have they less to lose or more to hope from a change? If you think us deprived of common integrity, you might at least allow us some share of common sense. But if no confidence is to be placed in ourselves, some might be put in the people of America and in their situation. In a country, where a scattered population covers an extensive territory; where the means of subsistence are easy; where the dangerous class which constitutes an European mob does not exist; where actual oppression is yet unknown, the people who enjoy those advantages, who enjoy a better Government and more happiness than any other nation of the globe, are not the people ready for a revolution. Nor should it be forgotten that those parts of the Union that are commonly charged with a design of oversetting the Constitution are those which, on account of their peculiar situation, or account of the unhappy race of men they contain, would be exposed to the most dangerous convulsion by an internal revolution.

But the evils we wish to prevent are precisely those which attach to a nation in our situation; they are such as are easily engrafted in the body politic in its infancy; not calculated in their origin to create much alarm, and supported by a powerful number of men who derive an immediate benefit from them, and to whom they are the means of acquiring wealth and power.

Still, in the same style of denunciation, by whom, it is triumphantly asked, by whom are those charges made? By men who have rendered services to their country? A Hampden or a Sidney alone have a right to assume the language of opposition. Was I to answer in the name of those gentlemen, with whom I generally agree in political principles, a recapitulation of their services would easily repel this attack. Was I to answer as an individual, I would say that I can claim no right of that kind; I derive none from birth, none from personal merit, none from personal services. But, as a Representative of the people, I feel it a right, and no less a duty than a right, to resist, upon every occasion, those systems which, if adopted, must, in my opinion, prove fatal to America. Should I ever, from any personal considerations, think myself unauthorized to exercise that right, I would tell my constituents, Resume your trust; send as your Representative a man who, to the same zeal and to the same principles, may unite those qualifications which I want, and which will enable him to fulfil his trust. And, notwithstanding the partiality they have heretofore evinced in my favor, they would find no difficulty in supplying my place.

But by what strange fatality did the gentleman from Connecticut (Mr. Goodrich) mention Hampden and Sidney? Surely his evil genius must have suggested the names; for, in the long list of English patriots, no two could be more applicable to the present discussion.

Whenever we hear of Hampden, we must recollect that event in his life which has immortalized his name. The doctrine of the Crown, in the case of ship-money, the doctrine against which Hampden made his noble stand was, that the King being, by his constitutional authority, entrusted with the defence of the country, was the sole judge of the danger and of the necessity of the measures proper to be adopted; that he must possess the means necessary to carry into effect his constitutional powers; that he had a right to fix the sum of money necessary for that purpose; and that he might by a tax raise that money from the people. It is true that it is not attempted here to claim this last power for the Executive. Hampden's trial has settled this point. But in all its other parts the doctrine of ship-money and the modern doctrine supported on this occasion are the same, the object the same, the arguments on which they are grounded the same. It is still the power of raising and applying money claimed by, or for the Executive, in certain cases, with the only difference that Charles the First exercised it by levying a tax without the consent of Parliament, and that here it is to be carried into effect by depriving the Legislature of the right of withholding their consent through the means of a moral obligation imposed upon them.

Sidney has left in his writings a still more permanent monument of his talents. Permit me, since his name has been mentioned, to trouble the committee with a quotation from that work, written against the divine right of Kings, which brought him to the block.

"Men are naturally propense to corruption, and if he whose will and interest it is to corrupt them, be furnished with the means, he will never fail to do it. Power, honors, riches, and the pleasures that attend them, are the baits by which men are drawn to prefer a personal interest before the public good; and the number of those who covet them is so great, that he who abounds in them will be able to gain so many to his service as shall be able to subdue the rest. 'Tis hard to find a tyranny in the world that has not been introduced this way; for no man, by his own strength, could ever subdue a multitude; none could ever bring many to be subservient to his ill designs but by the rewards they received or hoped. By this means Cæsar accomplished his work, and overthrew the liberty of

his country, and with it all that was then good in the world. They who were corrupted in their minds, desired to put all the power and riches into his hands, that he might distribute them to such as served him.

"They speak of employing the revenue in keeping the King's house, and look upon it as a property to be spent as he thinks convenient—which is no less than to cast it into a pit, of which no man ever knew the bottom. That which is given one day is squandered away the next. The people are always oppressed with impositions to foment the vices of the Court. These daily increasing, they grow insatiable, and the miserable nations are compelled to hard labor in order to satiate those lusts that tend to their own ruin.

"The base, slavish, and so often subdued Asia, by the basest of men revenged the defeats it had received from the bravest; and by infusing into them a delight in pomp and luxury, in a short time rendered the strongest and bravest of nations the weakest and basest. I wish our own experience did not too plainly manifest, that these evils were never more prevalent than in our days, when the luxury, majestic pomp, and absolute power of a neighboring King must be supported by an abundance of riches torn out of the bowels of his subjects, which renders them in the best country in the world, and at a time when the Crown most flourishes, the poorest and most miserable of all the nations under the sun. We too well know who are most apt to learn from them, and by what means and steps they endeavor to lead us into the like misery. But the bird is safe when the snare is discovered, and if we are not abandoned by God to destruction, we shall never be brought to consent to the settling of that pomp, which is against the practice of all virtuous people, and has brought all the nations that have been taken with it into the ruin that is intended for us."

The gentleman from Connecticut, (Mr. Goodrich,) actuated by the purest motives, has invited us to state our grievances, and to meet on some ground of reconciliation. To operate at once a reconciliation of parties, inflamed as they now are, is perhaps impracticable, but we may not be altogether unsuccessful in establishing at present some principles, which may hereafter produce that desirable object. Yet had I no other hearers but the gentleman of Maryland to my left (Mr. Craik) and the gentleman who spoke last from New York, (Mr. Williams,) I would not make any observation on that point.

The first of those gentlemen going upon the ground of an organization of parties, avows an intention of opposing party by party. He looks upon us as incorrigible. He declares that his observations are not addressed to the House, but to his constituents, and I believe it is the first time that a gentleman told the House that he meant to use them only as a medium through which to make an electioneering speech. When that gentleman made that declaration, I could not think him in earnest, and I waited with impatience for arguments, or something that approached towards arguments; but half an hour of patient hearing convinced me of his sincerity and of my mistake. Whilst he remains blinded by such rooted prejudices, no observations of mine could, I am sure, produce any effect upon him.

The gentleman from New York, in the extraordinary history of parties he gave us, seems to have described the fluctuations of his own mind rather than those of other men, and he appears to have laid a claim to a knowledge of the motives of all parties, because he had, by turns, been acquainted with all. A great portion of his speech was employed in proving the unconstitutionality of refusing an appropriation for the purpose of carrying into effect the powers of the President, or an existing law. The first attempt of the kind which I witnessed, was that made, two years ago, to withhold the appropriations for the support of the Mint established by law. That gentleman cannot have forgotten who made the motion for that purpose, and by whom it was most strenuously supported? I need not address that gentleman on the subject of a reconciliation of parties. He may safely be trusted on that point to himself. His own good sense and the next vibration will, doubtless, bring him back to support our principles. Whatever difference of sentiment may exist between us on a variety of topics, there is a ground on which we must certainly meet, on which, throughout the United States, there can be, there is but one opinion. The importance, the necessity of preserving the Union, are too universally acknowledged to require any comments at this time. The Constitution, which binds us together, cannot, in my opinion, be made an instrument to sow divisions of a fatal nature. If it met with strong opposition when it first made its appearance, the objections have long been buried in oblivion, and it is a fact that they have never since been made the instrument of opposition. Nor do I apprehend any real danger from the geographical situation of the different States. The natural bonds of union, which result from their mutual wants and from their relative situation, will forever counteract the effect of the slight diversity of interests which may exist.

Without recurring to any abstract discussion, has not experience taught us, that the two important subjects of division have heretofore been, money systems and foreign politics? May we not, with truth, ascribe to those two causes, the party spirit which now rages in America? Is there any real danger to be apprehended from any other quarter? And if we are satisfied that the systems of debt and taxation, which have been so obnoxious to us, shall be permitted to subsist without any attempt on our part to disturb them; if we are satisfied that our subsisting compacts with foreign nations, however dangerous some of them may have appeared to us, shall remain inviolate, will the gentlemen with whom it is our misfortune to differ, agree, that those money systems, those foreign connexions, shall not be extended beyond their present state? We ask not for the redress of past grievances, but, with the late President we exclaim, "Here let us stop."

May we not hope that a fixed determination to prevent the increase of the national expenditure, and, so far as our present engagements will permit, to detach ourselves from any connexion with European politics, will tend to reconcile parties, and that our united efforts may then prove not

altogether unsuccessful in promoting the happiness of America, and conciliating the affections of every part of the Union?

When Mr. Gallatin had concluded, the Committee rose, and had leave to sit again.

Friday, March 2.

IMPEACHMENT OF WM. BLOUNT.

The following message was received from the Senate, by Mr. Otis, their Secretary:

Mr. Speaker: I am directed to communicate to this House certain proceedings of the Senate, relative to the impeachment against William Blount, late a Senator of the United States, for the State of Tennessee.

The said proceedings of the Senate were read, in the words following, to wit:

"Congress of the United States,
"*In Senate, March* 1, 1798.

"Mr. Livermore, from the committee to whom was recommitted the report of the committee appointed to prepare rules of proceedings in the case of the impeachment against William Blount, reported, in part, that a writ of summons issue, directed to the said William Blount, in the form following:

"*United States of America, ss.*

"The Senate of the United States of America, to William Blount, late a Senator of the United States, for the State of Tennessee, greeting: Whereas, the House of Representatives of the United States of America, did, on the seventh day of July last past, in their own name, and in the name of all the People of the United States, impeach you, the said William Blount, of high crimes and misdemeanors, before the Senate of the United States: And whereas the said House of Representatives did, on the seventh day of February, of the present year, exhibit to the Senate their articles of impeachment against you, the said William Blount, charging you with the high crimes and misdemeanors therein specially set forth, (a true copy of which articles of impeachment is annexed to this writ;) and did demand that you, the said William Blount, should be put to answer the said crimes and misdemeanors; and that such proceedings, examinations, trials, and judgments, might be thereupon had, as are agreeable to law and justice—You, the said William Blount, are therefore summoned to be and appear before the Senate of the United States of America, at their chamber, in the city of Philadelphia, in the State of Pennsylvania, on the third Monday of December next, at the hour of eleven of that day, then and there to answer the said articles of impeachment, and then and there to abide by, obey, and perform, such orders and judgments as the Senate of the United States shall make in the premises, according to the Constitution and Laws of the said United States. And hereof you are in no wise to fail. Witness, the Honorable Thomas Jefferson, Esq., Vice President of the United States of America, and President of the Senate thereof, at the city of Philadelphia, the first day of March, in the year of our Lord one thousand seven hundred and ninety-eight, and of the Independence of the United States the twenty-second.

"Which summons shall be signed by the Secretary of the Senate.

"That the said summons shall be served on the said William Blount by the Sergeant-at-Arms of this House, or a special messenger, who shall leave a true copy of the writ, and the articles annexed, with the said William Blount, if he can be found, shewing him the original; or at the usual place of residence of the said William Blount, if he cannot be found. Which messenger shall make return of the writ of summons, and of his proceedings in virtue thereof, to the Senate, on the appearance day therein mentioned.

"And that a message be sent to the House of Representatives, giving information that the Senate have directed the said writ to be issued, and of the day mentioned therein for the appearance of the said William Blount.

"And the report was adopted.

"On motion,

"*Resolved*, That the Secretary do issue the summons hereinbefore directed, and that service thereof be made sixty days, at the least, before the return day mentioned in the said writ of summons.

"Extract from the Journals of the Senate.

"Attest, SAM. A. OTIS, *Secretary.*"

Mr. Sitgreaves believed it would be proper to take some step in this business, in order to get an alteration of the day mentioned in the writ. It must be known, he said, that the day of the return of the summons could not be the day of the trial. Previous to the trial, Mr. Blount must be called upon to answer to the impeachment, and a day could not be assigned for the trial before issue was joined. The distance between the two periods must be considerable. because, until a day was appointed for trial, subpœnas could not be issued for the attendence of witnesses who were at a great distance.

The next session must of course be a short one, as the powers of the House will expire on the 3d of March, and will scarcely allow time for serving the process upon the witnesses, and to procure their attendance. It would, therefore, be desirable that Mr. Blount should be required to appear before the Senate during the present session. He did not know how the demand from this House ought to be made for the appointment of an earlier day in the summons; but he thought it would be well to commit the message to a select committee; which committee, if the House thought proper, might be the managers of the impeachment.

Mr. D. Foster hoped this course would be taken.

Mr. Nicholas had no objection to the message being referred to the managers; but he wished to enlarge the instruction to the committee beyond a mere reference. He doubted whether it would not be proper that some permanent law should be passed for regulating this business. If the court which was to try the impeachment had the power of fixing all the rules of trial, the business might be so much retarded as to render the prosecution useless. He wished the committee, therefore, to be instructed to report the propriety of passing a law for regulating the manner of proceeding in the trial of impeachment.

Mr. Sitgreaves had no objection to regulating the proceedings by law. He thought it important that this should be the case. But whether the delay which would be occasioned by preparing the details of a bill of this kind would not too much protract the business, he submitted to the House. Besides, he believed there was a bill before the Senate for this purpose, which, of course, they might expect to have before them in the course of the session.

Mr. Nicholas thought it would be wrong to proceed in the business without a law.

Mr. Sitgreaves consented to the instruction being added, and the reference was made accordingly.

FOREIGN INTERCOURSE.

The House then again resolved itself into a Committee of the Whole on the bill providing the means of intercourse with foreign nations, Mr. Nicholas's amendment being under consideration; when

Mr. Otis rose and spoke as follows: Having been absent during a very elaborate and protracted discussion of the present amendment, and having observed that all arguments pertinent to the subject had been long since exhausted, he had been gratified by the belief that the occasion would not require him to express an opinion. But gentlemen not appearing to be content, even with the very ample examination already bestowed on this question, without reviewing and copiously enlarging upon it, he would claim the indulgence of the committee in listening to a few observations on his part, though he was apprehensive that his powers of utterance in the present state of his health would not enable him to do justice either to the subject or to himself.

The objects of this amendment were ostensible and real. The ostensible motive is to reduce the salaries of two of our foreign Ministers, at Lisbon and Berlin; but various real motives, and of a contrary and inconsistent nature, were assigned by gentlemen who supported it. Some avowed that it was a preparatory measure to the discontinuance of the whole system of foreign intercourse; others confessed the probability that this intercourse, to a certain extent, would always be indispensable, but that it might be reduced, and the destination of the Ministers fixed by the House; others again contended for the right of specifying the amount of their salaries; but all must agree that one real object was to try the strength of parties; and another, to sanction the practice of an annual invective against the Executive, and to confirm their right to interfere with his measures.

Strange as were some of the arguments used by gentlemen, he should think there had been more color for them, upon an original proposition to establish or to extend our foreign intercourse, though in that case he should contend that they were not warranted by the Constitution; but this question was not upon the creation of a new establishment, it was upon changing one which already exists. The date and duration of its existence are immaterial; the debate and deliberation which accompanies its adoption were also unimportant. It was to him a new doctrine, that laws must be repealed and systems unsettled, on the ground that principles had not undergone a sufficient discussion. Should this doctrine of surprise be suffered to prevail, there would be no stability in our laws, and no consistency in our conduct. When an act has passed the Legislature without debate, the presumption is that its expediency was too evident to be disputed; and he who would effect a repeal of such an act, like a plaintiff in error, should be precluded from any objections that might have been urged against the original process, and be confined to a demonstration of experimental mischiefs. In the present instance, however, he was not restricted to this ground—the appropriation for the Minister at Berlin was the subject of debate at the last session; and though no opposition was made to the appropriation for the advanced grade of the Ministers to Lisbon and Madrid, yet the principle on which it was granted provoked a controversy which engaged all the abilities and ingenuity of both parties. This last appropriation was made on the 1st of June, 1796, pursuant to the President's Message of May 28, in that year; but, in the same month of May, the House had decided in favor of the appropriation for the British Treaty, after a debate that continued many weeks, and which involved the same principle. It was, indeed, a curious argument of the gentleman from Maryland, (Mr. S. Smith,) that the vote of the majority upon the call for papers, showed the opinion of the House with respect to the right of refusing an appropriation. The contrary inference was certainly more just, from the decision upon the main question, on which some of that same majority voted in favor of granting the money, and did actually grant it. He should, therefore, persist in his assertion, that the friends to the amendment ought to have demonstrated the inconveniences resulting from our foreign intercourse with Lisbon and Berlin, instead of descanting upon the dangers attendant on Executive patronage; for, if these inconveniences were seriously alarming, and if they had a right to interpose, the Ministers ought to be recalled, be the patronage ever so inconsiderable; but, if advantages had resulted from their mission, they ought to be continued without regard to the patronage; and if it were uncertain whether they would promote the public welfare or not, time should be allowed to them to make the experiment under the direction of the proper department. In this first and most proper view of the question, he would inquire what evils had arisen from the present establishment of our foreign intercourse? The answer was plain and conclusive. None from our intercourse with Lisbon and Berlin, the only countries implicated in the amendment; we were in perfect harmony with them. Great Britain, Spain, and France, are the three countries from which our embarrassments have arisen, and these, in the two first instances, cannot be imputed to our stationary Ministers, or our treaties; and in the last, gentlemen themselves will be unwilling to admit that the public interest has suffered injury. The British depredations had never, as he understood, been imputed to our treaty with France; it was more natural to ascribe them to a

spirit of violence and injustice, which is too common to powerful nations engaged in war, and to apprehensions of our making a common cause with France—apprehensions that were unfortunately countenanced by the conduct of French Ministers and citizens, by the enthusiasm of clubs, by the equipment of privateers, by civic feasts, and by loud and unequivocal demonstrations of joy upon every fortunate event that befel their arms, which rebounded from one extreme of the continent to the other.

If from Great Britain we went to Spain, it would not be pretended that our late misunderstanding with that nation was to be imputed to our Ministers residing there, but entirely to her Ministers and officers in this country.

With respect to the agency of our late Minister to the French Republic, in our present controversy, he was aware that a great difference of opinion prevailed. There were those who believed that he had betrayed the interests of his country, and that he was either the dupe or the tool of that nation; that he had bad designs or weak nerves; that he was dazzled by the splendor of their victories, or cajoled by the ardor of the fraternal embrace; that he suppressed communications which it was his duty to have made, and contracted obligations which he was not authorized to fulfil. There were those who thought that the disclosure of his instructions was not only injurious to his country, but a measure for which a Minister in Europe would be hooted by all parties, and in France would lose his head; that it was a measure which even the most unjust accusation should not have prompted, and for which injured innocence could claim no excuse. But there are others who contend that he has acted a part becoming the Minister of a free country, that a Republic should have no secrets, except such as might be disclosed to our magnanimous ally, with the confidence that a lover whispers his tale in the ear of his mistress. It was of no moment which of these opinions he espoused. Gentlemen who supported the amendment did not believe in the former. But if his private sentiments were required, he was ready to profess his sincere persuasion that our difficulties with France were not to be imputed to any one man, but to a desperate and misguided party, existing in the bosom of our own country, who were in league with other bad citizens resident in France, and with the French nation; and he had no doubt that regular information and instructions were conveyed from this country to influence the measures of the Directory, and impede our attempts to negotiate with success.

The British Treaty was not the cause of the measures adopted by the French in relation to our commerce, but an apology for those measures. They had captured our vessels and laid embargoes upon them prior to the ratification of that instrument; nor was this treaty deemed a justification of their conduct until many months after they were acquainted with its contents.

But we are challenged to show any advantages gained by our treaties and intercourse with foreign nations. He thought it easy to specify many, and to show the probability of others, which might still be expected: And

First. France still continued to manifest a disposition so hostile and injurious, that he could not rely at present upon any instance in our connexion with that nation to aid his general position.

Secondly, Great Britain. He did not feel it incumbent on him to become the encomiast of the British Treaty, nor was he to be deterred from expressing his opinion upon it, through fear of giving offence to its warm and numerous adversaries. Had the provisions of that treaty been more beneficial to the country, had we been able to make a treaty to suit our own wishes and circumstances, he should have been more happy, but this was to say nothing that would not apply to every treaty. But, had no advantages resulted from that compact? Had we not obtained the Western posts? Has not at least a partial compensation been made for the spoliations upon our commerce? Is it not probable that we have been saved from a war with that nation, whose powerful navy would have proved more formidable to our commerce than the whole force of any other nation? Or, if gentlemen now believe that we should not have been at open war, will they maintain that the British depredations would not have swept off the greater part of our navigation? On the contrary, we have gained three years time, in the course of which our commerce has prospered under all disadvantages, and in the last of which our revenue has increased by nearly two millions of dollars. These advantages were not slight or contemptible; but a more important acquisition had been secured by means of that treaty. It has been instrumental in correcting our unfriendly prejudices against one nation, and our blind admiration and affection for another. It has restored the equilibrium of sober judgment. It has given scope for the American character to unfold itself, and taught us the value of our own rights, in preference to those of any other nation.

Thirdly, Spain. He believed that the advantages secured to us by the Spanish Treaty had never been doubted or denied. It had been said that, for this we are indebted to an Envoy Extraordinary, and not a stationary Minister; but who can say, that the talents and address of his respectable friend from South Carolina (who was not then in his place) could have accomplished this object with the same facility, had not the good will of the Spanish cabinet been conciliated by familiar discussions of the controverted points with our Minister Resident? Or who will pretend that our interest does not require us to preserve the beneficial relations of that treaty, at the expense of supporting a Minister constantly at that Court? This is now contemplated by the amendment, as new-modelled, but the arguments originally applied against this establishment in common with others.

Fourthly, Portugal. Lisbon is the observatory from which we must watch the variable aspects of the Barbary Powers, and protect our increasing commerce to the Mediterranean; by our connexion with that country, we had procured the advantage of pacifying those Powers. She also accord-

ed an asylum to our vessels in time of war with those States, and not unfrequently the protection of a convoy.

Fifthly, Prussia. What employment can we have for a Minister at Berlin? He would mention some of the useful provisions to be found in our treaty with Prussia—it stipulates to grant convoy in certain cases; it contains no list of contraband articles; it agrees that the effects of our merchants dying in that country shall not be confiscated. And this treaty, in common with the treaty with Sweden, recognises the great and important principle that "free bottoms make free goods," a principle which is allowed to be of the highest importance to the commerce of the country, and the dereliction of which in another case, had drawn forth the heaviest censures. But other reasons for renewing these treaties had been assigned by the President, in his Message at the last session, which he considered deserving the highest attention. But the gentleman from Pennsylvania (Mr. Gallatin) had asserted that this Message was at variance with the Valedictory Address of the late President, and, to prove his assertion, he had grossly perverted the meaning of the Message. The President had never intimated that we should interfere in the adjustment of the political balance of Europe; but that caution was proper to prevent our being thrown into the scale of either of the European Powers. A sentiment perfectly in unison with the whole tenor of the Address, and with the system of his predecessor, in whose time the grade of the Minister at Lisbon was advanced, and whose advice was, that in extending our commercial connexions, we should beware of political compacts.

It is for the public to decide upon the motives of that gentleman, in attempting to prove the existence of a different policy under the late and present Administration.

The same gentleman had allowed that it might be necessary to maintain Ministers at all the Courts with which we have commercial treaties, but that Consuls are adequate to all purposes in other countries. We have treaties of commerce, or of friendship, with all the countries to which we have sent Ministers, except only with Russia, (the treaty with which has lately expired, and ought to be renewed,) and Portugal, where the gentleman himself would not seriously contend that a Consul would be competent to the business. It is well known that Consuls are intended merely to accommodate private disputes, and are not under the protection of the law of nations. Whenever they receive credentials for transacting public business, they are Ministers and not Consuls.

But, say gentlemen, Ministers Resident, or Ministers with reduced salaries, will be adequate to the management of our affairs at Lisbon and Berlin. He wished to know from what source the gentleman from Maryland derived this information? Did he correspond with the Prince of Peace, or the Cardinals or grandees of those countries? Or did he acquire his knowledge from the captains of his own vessels or any of the passengers? He wished, at least, for more precise information on this subject, and thought the change ought not to be made upon slight suggestions, or on account of personal prejudices against either of the persons now in office; he added that Ministers Resident were going out of fashion. Holland alone gave commissions of that grade. The lowest diplomatic rank now usual, is that of Ministers Plenipotentiary; and if we mean to preserve any foreign intercourse, it must be done by such agents as are accredited at the Courts near which they reside, who can have ready access to the fountains of power in those countries, and be placed on a footing in rank and consequence with their associates.

The project of totally abolishing our foreign intercourse, he considered as perfectly chimerical, and when a resolution should be offered to that effect, it should be accompanied by a proposal to encompass our seaboard by a magic circle, and to build a Chinese wall on our frontier. We are a member of the great family of nations, and our comfort and convenience require, no less than the genius of our people, an extensive commercial intercourse with other countries; and this gives rise to rights, regulations, and controversies which must be explained and adjusted by such Ministers as, by the customs of those countries, have a claim to attention and respect. It has already been shown that our Ministers sent for the purposes of commerce, and of acquiring information, would not increase our political connexions with Europe; but, said the gentleman from Pennsylvania, "it is natural for man to act in whatever sphere he is placed, and if they cannot do good, they will do harm;" Mr. O. believed that this principle might be more applicable to individuals in a Legislature, where responsibility was divided, than to a public and responsible Minister.

Mr. O. contended that this view of the question was sufficient to satisfy the calm and dispassionate inquiries of those who limited their right to interfere with this power of the Executive to cases of actual abuse. It would be satisfactory to say to those, point out the abuse, and we will unite with you in devising a remedy; and where they failed to do this, it would be more than satisfactory to assume the burden of proof, and demonstrate that the authority has been exercised for the public advantage. But there are other men whose enjoyment of the present is always clouded by a gloomy anticipation of the future, and who are never contented with the most ample measure of present liberty and security; but brood over the histories of Kings and the oppressions of arbitrary power, until their imaginations are heated by day and their visions disturbed by night, by the spectre of tyranny stalking over their country: "Whence and what art thou, execrable shape?" is the question proposed by their startled fancy to every proposition and measure of the Executive. This jealousy is uncomfortable to themselves, and inconvenient to those with whom they are called to act, but it is sincere; it therefore deserves to be reasoned with, to be pitied and forgiven. There are also other men, much less innocent, who real-

ly feel no such jealousy, but who expect to promote their views by an apparently noble and patriotic affectation of it. These are the exclusive guardians of the public welfare, the sentinels who forewarn us of future danger, the political quacks who acknowledge the body politic to be in perfect health, but at the same time foretell its untimely dissolution, unless they are permitted to surfeit it with their nostrums, and to bleed and blister it into long life. These men make a loud outcry against all influence which they do not share, and all patronage under which they do not bask. Now, between these two descriptions, these overheated believers and hypocritical professors, it is extremely difficult to distinguish. They utter their lamentations in the same language, and they avail themselves of the same occasions. In times of alarm and danger, when the public mind is agitated, when the storm approaches and men grow anxious for the safety of their families and their country, these two orders of men are ever found to talk loudest and increase the existing ferment. He had no doubt that some men of this latter description had insinuated themselves into every Legislature but the present. If he supposed that any of them were in that House, he should deem all argument lost upon them. He should merely say to them, "Gentlemen, go on with your speeches; they are the same in substance that were made two thousand years ago. Show me a well assorted library, or even a set of the Parliamentary Debates, and I will find you an hundred models of such speeches. They are the same which banished from Greece her best and most virtuous citizens, which filled Rome with proscriptions and bloodshed; which excited revolutions in England, and turned Paris into a charnel-house; which have done some mischief in our town meetings and State-house yards, but which, upon the sober sense and cool reflection of the American people, produce no impression that is deep or visible." He should say to them, "you declaim against corruption, and profess views of alleviating the burdens of the people—so did the tribunes of the Roman people and all the race of reformers from their times to the present. This was the language of Oliver Cromwell, who was once a leader of a feeble minority; it was the language of Sidney, whose book the gentleman from Pennsylvania has read, and who, after writing the fine things in that book, has left an equivocal character, and has been charged by the pen of history with receiving bribes from the French. It is the same language that is used in the British House of Commons by Sheridan and Fox, possibly with good intentions; and it was the favorite theme of Marat and Robespierre, in the French Convention, who certainly had the very worst intentions. Perhaps your meaning is perfectly honest; but no faith is due to professions; we must adhere to the old standard of truth, 'by their works shall ye know them.'"

But, upon the presumption, that there are some in that House who are seriously alarmed upon the subject of Executive patronage, and who prophesy future danger from that source, he begged leave to ask for a precise definition of the meaning of those words. Do these gentlemen mean by patronage, the right vested in the President by the Constitution of nominating to certain offices? Surely not; for this would be an insidious reproach upon the Constitution itself. Do they then mean the natural influence acquired by a fair exercise of that power? They will not allow this to be their meaning; for the influence to a certain extent being the inevitable consequence of the right, an objection to one is an objection to the other, and both again are objections to the Constitution. The only obnoxious meaning which, in his view, could be applied to Executive patronage, was an undue influence arising from an improper and unconstitutional exercise of that power, and this could happen but in two modes, either by the appointment of improper characters, or by making the appointments too numerous. With respect to the characters of the persons appointed, it was not suggested by any gentleman that the President, with the advice of the Senate, had not a Constitutional discretion; it was not contended that the authority of the House extended to that point; no person had yet openly avowed this design of breaking down all the barriers of the Constitution, of opening all the flood-gates of innovation; if any gentleman would hazard such a pretension, he must be prepared to order the President and Senate to take their seats in this House. Had, then, the appointments been too numerous? He had attempted to show that our connexion with other countries required them all; but if he had failed to convince gentlemen of this truth, it would not follow that the Executive was solely culpable on this score; for, upon their principles, the House could have refused an appropriation in the first instance, and they were, therefore, self-convicted as accessaries before the fact. Further, the amendment would not diminish the number, or the patronage. The present Ministers might, indeed, resign, and the vacant offices might gain over, or confirm two other proselytes to Administration.

But we are directed to take precautions against the future abuse of powers that are at present used with wisdom and moderation. So, then, we must do evil that good may come of it. This may be agreeable to the modern theories of political justice. We must, also, bind our successors, and legislate for the next generation. This was not consonant to the modern theories of the rights of man. Gentlemen must be careful, lest their favorite authors betray them into contradictory theses. Did not the framers of the Constitution foresee that all its powers were liable to abuse? Did they attempt to change the nature of the human passions? No; they were content to furnish the departments with checks sufficient to prevent instant danger, and to remedy actual abuse; but they never intended that they should speculate beforehand upon the mischief which they might respectively do each other. To anticipate such cases, was to amend the Constitution; and if gentlemen could be indulged, there would be no end to the passion for amendment, every seam in the

Constitution would be unripped, every ornament lopped off, new cloth would be added to the old garment, and the rent would be made worse.

Again, said Mr. O., it is edifying and amusing to remark the great uneasiness entertained by gentlemen at the danger of the Executive power, and the composure with which they regard the powers in their own hands; it was another proof of the control of prejudice over the imagination. The gentleman from Pennsylvania, according to the humor of the moment, might imagine a period in which the Executive should arrogate all the powers of that House, and make treaties and raise armies without their consent. On the contrary, with a less violent effort of the imagination, he could suppose, that, at some future day, there might exist within the walls of that House a furious and inveterate party, whose ruling passion should be an invincible hatred of a wise and virtuous Administration; a party opposed to every measure calculated to raise the drooping honor of their country; a party infatuated by the politics of another nation, and indifferent to the degradation of their own; a party forever active to embarrass and divide the people, and always inventing means to distract the public councils, and to sever the Union. But as there was room for imagination, there might be some for hope; he therefore invited that gentleman to hope for, and to join in, promoting a better state of affairs; and to place before his view the picture of an Administration full of energy; a Legislature harmoniously moving within its appropriate sphere; looking to their Government with confidence and affection in trying exigencies; a Government organizing, by prompt and vigorous operations, the resources of the country for the protection of its liberties; beloved and prosperous at home, respected and feared abroad. This was the prospect on which he delighted to dwell; this was the hope he sometimes cherished at his heart.

Let us, said he, descend from the regions of imagination, and reason from analogy and facts. He believed the position to be sound and tenable, that in a Government constituted like ours, the danger of an unjust assumption of power was on the side of the popular branch, and did not arise from the Executive—and for this opinion, he would submit a few obvious reasons. In the first place, a House of Representatives has stronger inducements to extend its powers. The love of power, he would suppose equal in all men; and this fondness arises, not merely from the pleasure of possessing it, but from the satisfaction of displaying what we possess. The ordinary business of legislation is a remote operation, the execution of the laws is a direct operation. In the latter, the hand that moves is more visible, more feared, more respected; and as men affect power, not only for the sake of strength, but ostentation, a House of Representatives is not likely to be insensible to this charm. On the other hand, the Executive possessing this advantage under the Constitution, has no motive to enlarge the bounds of his authority.

Again, a House of Representatives would generally possess a greater share of the confidence of the people. Its members, chosen from the body of the people, are presumed to be actuated by the same feelings and interests with their constituents; and in doubtful cases, they have the daily advantage of pleading their own causes before the tribunal of the public, while the Executive is heard only in formal messages and addresses. This advantage inspires them, in the third place, with greater confidence in themselves, and, their responsibility being divided, bold pretensions are advanced by individuals, the merits of which, if successful, they claim for themselves, while the discredit of a bad experiment is divided among their companions. One other reason had been often mentioned, to which he would slightly allude, though it was very important and conclusive: the greater facility of extending the legislative power, by reason of its general and comprehensive character. The power of the popular branch was, in this respect, like a river which sometimes overflows and sometimes undermines its banks; while that of the Legislature might be compared to a lake whose margin was defined, and which never rose above a certain level.

The gentleman from Pennsylvania had ventured an assertion repugnant to this doctrine, and had assigned two reasons that should render the popular branch less able to usurp an excess of power than the Executive department. It had not the *esprit de corps*; and the privilege of imposing taxes was odious in its nature. He utterly denied the fact, that no *esprit de corps* existed in such bodies as that House. On the contrary, it was always clear and undeniable. Did not that spirit exist in the British House of Commons; and was there not another House in which a party was seen obedient to the very *wink* of its *corporals*? There was not more weight in the other objections; for those members of a House of Representatives who were most ambitious of popularity and influence, had the address to be in a minority upon all questions of taxation, and to escape the odium attached to the imposition of public burdens.

He would not follow gentlemen who had preceded him in their illustration of this doctrine, by examples taken from the Republics of Greece and Rome. It was true, as the gentleman from Pennsylvania had asserted, that no great resemblance could be found between those States where the principle of representation was unknown, and a representative Government constituted like ours. But the comparison might become just, when a House of Representatives should engross the whole power of the country. Representation was the greatest improvement in the science of government, when modified and divided into different departments; but he could see no difference between a single House of Representatives and the *Comitia* of Rome, or the popular assemblies of Athens, except as the former would unite greater abilities and address, faction might seize its prey with greater certainty.

But if the resemblance did not hold between ancient and modern Republics, there was still less

between our Government and the feudal Government of Europe. He would however quote one or two examples from history, which he thought applicable to this position. In the time of Charles the First of England, the Parliament conceived the design of reducing the undue influence of the Crown. They began with abolishing the more odious and oppressive prerogatives; but did they content themselves with a wise and necessary reform? No, the work of reformation was taken from the hands of those who began it, and was prosecuted by one set of fanatics succeeding another, until the constitution was subverted, the monarch was brought to the scaffold, and the Government fell first into the hands of the Parliament, who were deprived of it by Cromwell; and after the people had groaned for years under the despotism of this patriotic and republican reformer, they called in their young king, who became more arbitrary than his father; and so disgusted were all ranks of men with the abuses of usurpation, that though some concessions favorable to liberty were obtained at the accession of the Prince of Orange, yet the Crown has acquired an influence which is now truly overbearing; but which could not, perhaps, be reduced with safety to the country.

But why do we refuse to go for instruction to France? Is it from motives of policy that we decline to moralize upon the scenes which have happened in our time? Or does not the instance apply? It is well known, that a very large majority of the first National Convention consisted of men whose intentions were very distant from a destruction of the regal power. They intended to limit that power within wholesome bounds, and to reform the great and enormous abuses of the old Government. They attempted to frame a constitution, after deciding in favor of a legislature with one branch, which destroyed the hope and possibility of a constitution, and when the wretched instrument that was called by that name was produced, and the only good feature which it contained was, the negative given to the King; the legislative body, intoxicated with power, and impelled by its furious leaders, compelled the monarch to renounce it. This sacrifice was soon sealed with his blood? Popular leaders then squabbled for the supreme power; the people looked on with horror. Robespierre prevailed; the same Robespierre who had so often ranted against corruption and waste of public money. I draw a veil over the mournful, well known scenes that followed. It is sufficient, that the people, flying for refuge from anarchy back to despotism, have permitted the Executive Directory to take all the powers of the nation into their hands, to hold the prize, to command the Army, and to dispose of the lives of the citizens. It is, therefore, for our common interest, to extend the powers of the House with the greatest caution, otherwise precedent will follow precedent, one innovation will lead to another, and when the peoplesee their Executive prostrate, they may come in to his protection, and furnish him with means of supporting himself that would be truly formidable.

Mr. O. observed that he should have attempted to show that these Legislative encroachments had sometimes happened in our own country; but the gentleman from New Jersey (Mr. Imlay) had read the authority on which he meant to rely. It was Mr. Jefferson's Notes on Virginia. He would, however, take occasion to read another passage to another point. When the gentleman from Maryland (Mr. Smith) was pleased to compliment the Virginia members with the puff direct, he did not know but that some invidious reflections had been made upon that State. The design, however, was understood by him, when he perceived that a gentleman from Virginia (Mr. T. Claiborne) by a *rider* annexed to his written speech, returned the compliment to the people of Maryland. For his part, he thought it highly improper to criminate the designs of the people of any one State. He presumed the people of Virginia were like other people, and with some of their Representatives it was his pride and his pleasure to think and to act. There were others from whom he differed in politics, and whose measures and opinions of Government he believed to be pernicious and unsound. But for them he found an apology in that book. Mr. O. then read the passage in Jefferson's Notes, page 194, where it is hinted that the Government of Virginia is an *elective despotism;* and a passage, page 195, to this effect: "that the direction of the Executive during the whole time of their session has become habitual and familiar." It was, therefore, natural for gentlemen educated in those habits of dictating to their Executive upon all occasions to form erroneous ideas of Government and of the Federal Constitution. Mr. Jefferson has indeed remarked, in the same book, that this conduct of the Legislature of Virginia "proceeded from the best intentions, and that they were misled by art and design in others." He did not mean to dispute upon the subject of their intentions, but their measures he could never approve.

After so much had been said upon the subject of Executive patronage, Mr. O. would add but a few observations. The patronage of the Executive was fairly presumed to be the patronage of the people. When a man, after rendering the most important services to his country for a series of years, is elected at an important crisis of national affairs to the high office of President of these States, his political opinions, in general, and his sentiments upon the existing state of affairs, must have been known to the people by whom he was elected. It must also have been foreseen that he would pursue such a system of administration, and by the aid of such means and agents, as would be best calculated to give efficacy to his own sentiments and system. His system, therefore, may be considered as sanctioned by the previous assent of the majority of the people. His Constitutional patronage is the patronage of that majority, and to increase that majority, by all fair means, is to increase the chance of public tranquillity. It is an important duty, that should be judiciously exercised, and not an offence to be disavowed.

The gentleman from Pennsylvania, as a proof of the patronage already enjoyed by the Executive, had exhibited an aggregate amount of the salaries of the public officers and contractors in the United States. But a large proportion of these officers were not appointed by the Executive, nor did they feel any dependence upon him. In many instances they would be found among the most zealous opposers of his measures, and enlisted under the banners of his adversaries. Numbers of them, appointed by the heads of departments, were unknown to the President, and feeling morally sure of retaining their offices, except in cases of gross misbehaviour, they were often led, by the violence of opposition, to prepare for a change of men and measures, and to be more solicitous for the favor of members in that House, who might attempt to raise or diminish their salaries, than of the Executive himself.

After so much had been said respecting the Constitutional right of the House to refuse an appropriation, Mr. O. observed that he should add but a few remarks. To prevent confusion on this subject, it might be well to state the points in which both sides of the House were agreed, and those in which they dissented. It was not denied that the President had the right of nominating public Ministers; nor had it been contended that the House possessed the right of fixing their salaries; the doctrine of his friends was merely that the appointment of a Minister imposed a moral obligation to give a reasonable salary, and that being once determined, it was unjust to reduce it without the best reasons. It was doubted by the gentleman from Pennsylvania, whether the office of Minister was created by the Constitution, and whether it was not competent for this House to fix the destination of a Minister, and it was asserted by him that in all cases the House had an authority to refuse every appropriation. On these last points they were at issue. To explain the reason of his doubt respecting the right of the President to designate the Courts to which the Ministers should be sent, that gentleman had relied that the same clause in the Constitution which gives the power of appointing Ministers to the Executive, also gives that of appointing Judges of the Supreme Court, which he never pretended to exercise until the number of Judges had been ascertained by law. In this argument he hardly appeared to be serious; but he would answer, that the same Constitution provides that "a Supreme Court shall be established by law," and it has no existence until created by law. A Court is a jurisdiction committed to one or more persons; the jurisdiction is constituted by a law, which describes the number of persons to whom it shall be committed; the Executive then appoints those who are to exercise this legal jurisdiction. In case of foreign Ministers, if their destination must be established by the Legislature, the objects of their mission must also be understood and ratified by the same authority, or it must be exercised without discretion; and the whole power of negotiation would thus be attracted as incident to the other.

It was further urged by the same gentleman, that in all cases the House might refuse to appropriate; otherwise the Executive might absorb all the powers of the Legislature, might form treaties of alliance, maintain an Army and Navy, and expend all the public treasure.

Let us consider, on the other hand, the consequence of that gentleman's doctrine. Every appointment made by the Executive becomes a nullity, unless ratified by that House; in the face of the Constitution which excludes them, and confines this duty to the President, with the advice of the Senate.

It was owing to the apparent contradictions arising from a theoretical view of Constitutions like ours, that they were pronounced to be impracticable by some of the best writers of antiquity. And these abstract questions and extreme cases were not calculated to reconcile the minds of our citizens to our excellent form of Government. It is a plain and conclusive reply, by which all such objections are obviated, that the Constitution is not predicated upon a presumed abuse of power by any department; but on the more reasonable confidence that each will perform its duty within its own sphere with sincerity, that division of sentiment will yield to reason and explanation, and that extreme cases are not likely to happen.

One word in relation to the motives of gentlemen, and he would finish his observations, which, he was admonished, by his voice and feelings, had been too much extended. Why, said gentlemen, do you charge us with designs to subvert the Constitution? Have we not our share of wealth and of power? He was not one of those who had imputed such designs to gentlemen; nor would he pretend to say whether the part of the Union represented by those gentlemen was rich or generally involved in debt. But he would say, that wealth was not always a security for public or private virtue. Was not the Duke of Orleans rich? Was not his income equal to the revenue of a kingdom? But he was not satisfied with his elevated rank or princely fortune; he conspired with others, men high in station, who possessed both riches and their share of power, and promoted a revolution, which, like a whirlwind, swept them off into swift destruction. It is not easy to discern, and therefore not always necessary to impeach, the motives of men. When, therefore, a gentleman exclaims, we want no revolution, we wish for no change, we wish to keep things quiet, he was not authorized to dispute the assurance, and say it was not true.

But when, in the same breath, he heard insinuations comparing the President of the United States to Charles I., and the mild exercise of a Constitutional power to the odious claim of *ship-money*, in that reign; and when he heard further, the opposition to the present bill compared to an opposition to that odious measure, he would not say that he discredited the professions of gentlemen; God only knew their hearts, but their language was full of danger.

The gentleman from Pennsylvania had concluded with an invitation to his friends to unite with him in two objects—in preventing the increase of

foreign influence, and in diminishing the expenditure of the public money. He would meet that gentleman; and, if he and his friends would discover a real disposition to join in measures to prevent the increase of foreign influence, he should almost be inclined to secure that advantage, by consenting, for himself, that they should dispose of the money upon their own plans.

When Mr. Otis had concluded,

Mr. Harper rose.—It was my wish and my hope, Mr. Chairman, when this subject was again called up, some days ago, after an intermission of three weeks or more, that we should at length be permitted to come to a decision without further debate, on a question which had so long occupied the attention of the House, and already, perhaps, exhausted the patience of the public. I, and those with whom I think on this occasion, were willing, for the sake of an early decision, to pass by, unanswered, many things which, though susceptible, in our opinion, of an easy refutation, were calculated to make an impression to our disadvantage. We were even content to leave unnoticed the violent philippic of the gentleman from Virginia, (Mr. Nicholas,) who introduced this motion, and who, in support of it, has allowed himself so great a latitude of invective against its opposers and their adherents. We, therefore, repeatedly called for the question, and did all in our power to close a debate in which such immoderate use had already been made of the indulgence of the House.

But it did not seem good to the gentleman from Pennsylvania, (Mr. Gallatin.) He, yesterday, pronounced a discourse of three hours and a half long, in which he repeated assertions formerly refuted, and made them the ground of a long train of reasoning; and advanced many new positions equally untenable, but equally capable, if left undetected and unexposed, of misleading the mind. These assertions, which the gentleman from Pennsylvania has not attempted to prove, though they are the ground-work of all his reasonings, were advanced with a boldness which nothing but a belief that he was to remain unanswered, could have produced. His speech, when prepared in his closet, was evidently intended for a concluding speech; and hence he has laid down positions which he knew to be unfounded, with a boldness whereof even he himself has heretofore exhibited no example. On these positions, he has built a gigantic structure of argument to support the present motion; a structure which, like a vast edifice resting on loose blocks, must fall and crumble in the dust, as soon as some person shall take the trouble to discover and knock away its frail and temporary props.

It is for this purpose, that I now rise once more to trespass on the indulgence of the committee. The loose blocks which support this edifice I mean to knock away; an operation which requires neither strength nor skill, which may be performed by any person who stands near enough to discover the defect; and then it will be seen with what speedy ruin a structure so large, and appearing so solid, when viewed from a distance, will tumble to the earth.

Though called up, however, Mr. Chairman, by the assertions of the gentleman from Pennsylvania, I shall not confine myself wholly to them, but shall incidentally notice such observations of other gentlemen as may appear reducible to any head of argument. There are some parts of the last speech of the gentleman from Virginia, (Mr. Nicholas,) on which, though they appear to have no necessary connexion with the subject, I cannot omit to make some animadversions. Those I shall, in the first place, submit to the committee, and then proceed to other and more important parts of the discussion.

The gentleman from Virginia, (Mr. Nicholas,) perhaps, foreseeing that ample retribution of praise which he has since received, employed a considerable part of his last speech in a most pompous panegyric on his friend from Pennsylvania, (Mr. Gallatin.) Had he stopped here, Mr. Chairman; had he contented himself with extolling the virtues and talents of his friend and political associate, even at the expense of every body else, I should have been disposed to pass it by unnoticed. The gentleman from Virginia, no doubt, entertains this exalted opinion of his friend from Pennsylvania, and I should never deny him the right, or begrudge him the pleasure of expressing it; nor have I any disposition to detract from the merit of the gentleman from Pennsylvania, or diminish the reputation which he may be supposed to possess. But the gentleman from Virginia did not stop here. Not content with extolling his friend above all that is great and distinguished in the country, he went on to impute the worst of motives, the most base and contemptible passions, to those who do not partake in his enthusiastic admiration. He told us that frequent attacks were made, in this House, on the gentleman from Pennsylvania, and that those attacks, proceeding from envy of his superior talents, were a tacit acknowledgment of that pre-eminence of ability, which every day's debate rendered more and more conspicuous.

Mr. Chairman, I might, I know, be excused from taking any part of this observation to myself personally; for it will be remembered that I have made none of those attacks which are spoken of on the gentleman from Pennsylvania. Perhaps this has been because I have, for my part, never felt that superiority, never perceived that pre-eminence, from which the attacks are supposed to proceed. That the gentleman from Pennsylvania has merit nobody will deny, and nobody can be less disposed to deny it than me; but I confess that I have never observed that superiority over many other members of this House, much less over all, whereby the gentleman from Virginia has been so much dazzled. And I would remind that gentleman, that all greatness is by comparison, and that the comparison, in cases of this kind, is generally made, not between a man and his antagonists, but between him and his associates. Even a rush-light may seem a resplendent luminary, when compared to a glow-worm; and in a dark room, the smallest spark becomes bright and distinguished. I would submit it to the gentleman from Virginia whether he has not committed some mistake of this kind. Amidst the thick gloom that is observed to rest on a certain description of persons, a certain class of political opinions in this country, I will not say in this House, is it to be wondered at, if the glimmerings of sense and capacity which are sometimes emitted from that quarter by the gentleman from Pennsylvania, should dazzle the eyes of his associates? But they must not judge of the eyes of the community by their own eyes, nor conclude that the brightness of the sun is to be found in those flashes of light which, undiscernable amidst the full blaze of day, are indebted for all their apparent resplendency to the blackness of that night from whose bosom they are sent forth. Let me advise the gentleman from Virginia, Mr. Chairman, to forbear his panegyrics. They produce no effect on the decision of the American public, before which the gentleman from Pennsylvania, with his associates, and his opponents, stands to be judged. This judgment will be formed on better premises than the panegyrics or the invectives pronounced in this House. It will place the gentleman from Pennsylvania, and those who appear with him on the political scene, in their true positions; it will not only be impartial, but final and conclusive; and to it all of us, whatever we may think or say of ourselves, or of each other, must implicitly submit.

The gentleman from Virginia, having paid this large tribute of flattery to his friend from Pennsylvania, who, to do him justice, has not been unmindful of the proper retribution, went on to select from among his political associates another object of enthusiastic adulation, whom he has extolled in terms still more extravagant, and with allusions still more offensive. I mean, sir, the late Minister to France; and as I shall have occasion to make some observations, of no very startling nature, on the conduct of that gentleman, I beg leave to remark, in the first place, that for anything which I may say here, I shall not claim the protection of my seat, or shelter myself under its privileges.

The gentleman from Virginia has represented the talents and accomplishments of this person, the late Minister to France, as so pre-eminently superior, not only to the distinguished character (General Pinckney) who was sent to succeed him, but to every other character in this country, to any person who might have been sent, his qualifications as so extraordinary, his services as so great, and his conduct as so exemplary, that his recall could be considered in no other light, than, as the act of an *assassin*. Yes, Mr. Chairman, the gentleman from Virginia has declared that the recall of the late Minister to France, was the act of an *assassin*. And who is this assassin? It is Washington: for by Washington, this Minister was recalled; and for this exercise of his Constitutional powers as President, he is branded by the gentleman from Virginia with the name of *assassin*.

Mr. Chairman, were I to give way to the feelings which naturally arise in the breast of an American, at hearing the epithet *assassin* affixed to the name of Washington, I should apply expressions to the gentleman from Virginia little suitable to the dignity of this place, and little consonant with the respect which I entertain for his personal character. But I will repress them; and instead of giving vent to a just and natural indignation, I will content myself with repelling this rude, this unlooked-for attack upon the administration of this Government, and its late venerable and illustrious Chief.

This I am fortunately enabled to do, in a manner the most easy and complete; for the late Minister to France has written a book. "*O that mine enemy might write a book!*" was the affecting exclamation of a virtuous and suffering man of old, unjustly accused, but conscious of rectitude, and wishing ardently for an opportunity of confounding his accusers out of their own mouths! "*Oh that mine enemy might write a book!*" ought also to be the exclamation of the American Government; which, to use the expression of its late illustrious Chief, "requires nothing but a knowledge of the truth to justify its measures, and cannot but be desirous of having this truth frankly and fully displayed." The American Government has been more fortunate than Job. His enemies wisely confined themselves to the strongholds of dark, vague, and general abuse. They practised the "*Ambiguas in vulgum spargere voces*" of the poet, and wisely avoided the open field of facts and specific accusations. But not so the late Minister to France. Prompted by that restless vanity for which demagogues of an inferior order are always remarkable, he has rashly and foolishly challenged his enemy to combat on the open plain of dates and facts, and has written a book. In this book is to be found the most complete justification of the Executive for his recall, in every respect, except that it was so long delayed; for the most singular display of incapacity, unfaithfulness and presumption, of neglect of orders, forgetfulness of the dignity, rights, and interests of his own country, and servile devotedness to the Government of the country to which he was sent, that can be found in the history of diplomacy. By this book, it appears that the late Minister to France took every occasion of thwarting the views of the Government by which he was sent, that he forebore to do much that he was ordered, and did much that he was expressly forbidden; that he, in all cases, set up his own judgment above the judgement of his Government; that he assured France, "that this country was ready to submit to any violation of its rights, to any infractions of its treaties which she might think fit to practise, and that, if she thought these violations and infractions advantageous to herself, she ought to persist in them, for in that case, we should not only submit, but acquiesce with cheerfulness and pleasure:" that he made a direct attempt to render this country tributary to France, in order to gain her assistance for accomplishing, by force, objects which our Government was then striving to accomplish, and actually did accomplish, by amicable negotiation: that he did everything, in his power, to involve this country in a war against England,

pursuant to the wishes and policy of France, and directly contrary, not only to what he knew to be the desire and determination of our Government, but to the express letter of his instructions. All this, Mr. Chairman, appears from this book; and it is but a small part of the catalogue which might be presented. The book lies before me; its disgusting pages I will not open to the House; the members, no doubt, have perused it, and to their own recollection I refer for the truth of all that I have advanced. The late Minister to France stands self-convicted of everything short of selling his country for a price. Of this I do not accuse him, but nothing else, which his incapacity permitted him to do, has he left undone.

And this, Mr. Chairman, is the man, for recalling whom the epithet of assassin is applied to the name of Washington!

[Mr. Nicholas explained, by saying, that he had said that after the full disclosure of the conduct of Mr. Monroe, he was sorry to find that gentlemen thought it necessary to make insinuations against him; but that since gentlemen made it necessary to give an opinion on the subject, he had no hesitation in declaring that, in his opinion, the publication had proved that it was in the power of the Executive to have preserved peace with France, but that they had wantonly thrown it from us. He had said that he was convinced that the discovery was a very unpleasant one to gentlemen who had advocated certain measures; but he thought it could not be condemned after the attacks made on that gentleman; and that the effect was like the wounds of the assassin, who finds his enemy unexpectedly prepared.]

I do not think (continued Mr. Harper) that the gentleman from Virginia has made the matter better by his explanation. It appears, by that very explanation, that he did apply the term *assassin* to General Washington for having recalled the late Minister to France; a term which, some years ago, surely could not have been expected ever to be applied to that name within the United States, much less within these walls.

I must beg leave, Mr. Chairman, to conclude these remarks with the declaration wherewith I began them, that I do not intend to shelter myself under the privileges of my place for anything that I have said on this subject. If the remarks which I have made on his friend should appear harsh to the gentleman from Virginia, let him recollect that he himself provoked and gave occasion for them, by declaring that General Washington had acted the part of an *assassin*.

Having disposed, Mr. Chairman, of this part of the subject, I will next advert to the Constitutional ground taken by the gentleman from Pennsylvania (Mr. Gallatin.) That gentlemen prefaced his observations by declaring that the amendment under consideration went no further than to reduce the salaries of certain Ministers Plenipotentiary from $9,000 to $4,500; but, unfortunately, he forgot his tenet before he arrived at the middle of his speech, for he soon confessed that the object of the amendment was to restrain and control the Executive in the exercise of the power of appointing foreign Ministers, which is vested in it by the Constitution; and, having made this acknowledgment, so contradictory to his first position, the gentleman from Pennsylvania proceeded to show, by the utmost exertion of his powers, that it was right and proper for the House thus to interfere, thus to control the Executive, and to use its power over appropriations for effecting that purpose. Indeed, the gentleman from Virginia, (Mr. Nicholas,) at the outset of the business, expressly stated this to be the sole object of his amendment. With a candor and openness characteristic of his usual conduct he avowed that his object was not to save money, but to restrict the President in the exercise of this power. He told us that the diplomatic corps had been improperly increased; that the number of Ministers had been improperly extended; that there was danger of a further extension, whereby a dangerous Executive influence in the House was likely to be produced; and that it was right for the House to interfere, prevent this extension, and bring back the establishment to its original limits. This he stated to be the object of his amendment. Hence, then, Mr. Chairman, it is manifest, not only from the arguments of the gentleman from Pennsylvania, but from the express declaration of the mover of this amendment himself, that the question now agitated is a question of power, and not a question of money. It is manifestly not a question to know whether a Minister Plenipotentiary shall have this, that, or the other salary, but whether this House shall direct the President where he shall appoint Ministers Plenipotentiary, where Ministers Resident, and where no Ministers at all. The question goes this whole length; for if the House say, as the amendment declares it can and ought, that no Minister Plenipotentiary is necessary at Lisbon or Berlin, it can say, with the same propriety, and on the same principle, that no Minister Plenipotentiary is necessary at London, Paris, or Madrid, or that no Minister is necessary anywhere.

That such is the object of the amendment, that the question between us is a question of power, and not of money, is further evident from the mode of argument whereby the amendment is supported. Gentlemen do not pretend that nine thousand dollars is too much for a Minister Plenipotentiary at Lisbon, or Berlin—on that ground we should cheerfully meet them, and agree to a reduction of the salary, if it should appear to be too high; but they tell us, and attempt to prove, that there is no need of a Minister Plenipotentiary at Lisbon, or Berlin. In answer we allege, that, by the Constitution, the President and Senate are solely authorized to judge where Ministers of this, that, or the other grade ought to be employed, and that this House has nothing to do with the business but to fix their salaries, which it is bound to do in a suitable manner. This gentlemen deny; and thus the question of power, the sole question which has been agitated, or is considered of any importance, arises between us.

I say "the only question which is considered as important;" because the supporters of the amendment have laid no stress whatsoever on the question of expense. They have, on the contrary, shown themselves ready to abandon it, for the sake of gaining the least additional chance of support in the great question, the question of power. This is manifest from the motion of the gentleman from Maryland, (Mr. S. Smith,) which was immediately agreed to by the mover of the amendment. By the amendment, as first proposed, Ministers Plenipotentiary were to be allowed only at London and Paris. The gentleman from Maryland proposed to allow one at Madrid also, because he had observed that the impropriety of recalling our Minister from that Court had been particularly insisted on by some who opposed the amendment. The gentleman from Virginia immediately consented to modify his amendment, so as to locate a Minister Plenipotentiary at Madrid. From which it would appear most evidently, if we did not know it before, that gentlemen care not how many Ministers Plenipotentiary there are, nor how much money is spent in maintaining them, provided the House of Representatives can obtain the power of controlling and directing the appointment. It is to obtain this power, and not to save public money, that gentlemen struggle; and, provided the principle can but be established, they are content to have as many Ministers Plenipotentiary as anybody pleases; for they know that the principle may be as completely established in the case of one Minister, as by turning out the whole diplomatic corps.

And, notwithstanding all this, the gentleman from Pennsylvania (Mr. Gallatin) tells us that this is merely a question about salaries, a question of saving nine thousand dollars, and wonders how it could lead to a controversy about the Constitutional powers of the President and the House! This proves that the gentleman from Pennsylvania intended his speech for a concluding speech, or that he entertains a most contemptuous opinion of the understanding of the House.

I shall, therefore, Mr. Chairman, consider this amendment as having for its object, and its sole object, too, the establishment of this principle: "that the House of Representatives, by its power over appropriations, has a right to control and direct the Executive in the appointment of foreign Ministers." I shall treat the question which arises upon this amendment as a question of power between this House and the President and Senate, and I shall endeavor to show that the amendment, if carried, would be a direct breach of the Constitution, an alarming usurpation by this branch on the Constitutional powers of the Executive Department.

The supporters of this amendment, avowing its object to be the establishment of a control over the appointment of foreign Ministers, contend that this House have a right to exercise that control, and rely on that part of the Constitution which provides that "no money shall be issued from the Treasury without an appropriation by law." As this House, say gentlemen, must concur in passing all laws, it follows that it may refuse its assent to appropriations. In judging whether it will give or refuse this assent, it must be guided solely by its own discretion, by its own opinion about the necessity or utility of the object for which an appropriation is wanted. If it should think this object unnecessary, or hurtful, it is bound in duty to withhold the appropriation. Consequently, it may refuse to appropriate for a Minister to Lisbon, Berlin, or any other place, if it should think such Minister, though appointed by the President and Senate, unnecessary or injurious. This I take to be a fair state of the argument.

But gentlemen, while they lay such stress upon this part of the Constitution, seem entirely to forget another part—that part which provides that "the President, by and with the advice and consent of the Senate, shall appoint foreign Ministers and Consuls." It will, however, be admitted that these two parts of the Constitution are equally authoritative, and must both have effect; that the whole instrument, like all other instruments, must be taken together, and so construed that none of its provisions may be defeated or rendered nugatory. These two powers, therefore—the power of appointment by the President and the Senate, and the power of appropriation in the House, must be reconciled to each other—must be made to act as mutual helps, not as mutual obstructions. How is this to be done? Certainly not by admitting the doctrine of this amendment, which would utterly destroy one of the powers—would give the House an absolute control over the appointment of Ministers, and reduce the President and Senate to the mere power of making a nomination, which the House might refuse or agree to, according to its good pleasure. This is the plain and necessary consequence of admitting the principle, contended for in support of this amendment, that the House, when called on to appropriate for an officer, legally appointed, may, in the first place, inquire whether the appointment is necessary.

Some other way of reconciling these powers must, therefore, be found out; and which is it? We contend, Mr. Chairman, that it is thus: An office must first be authorized by law; for nobody pretends that the President and Senate can create offices. When the office is thus authorized, the President and Senate exercise their power of appointment, and fill the office. The House of Representatives then exercises its Constitutional power over appropriations, by providing an adequate compensation for the officer. In the exercise of this power, they cannot inquire whether the office was necessary or not; for that has already been determined by the law which authorized it. Neither can they inquire whether the office was properly filled; for that would be to invade the powers of the President and Senate, to whom, by the Constitution, the right of choosing the officer is exclusively referred. What, then, is their power, and into what may they inquire? They may inquire what is a proper and adequate compensation for such an officer. They may fix the amount of his salary; and, in fixing it, they must be guided by a proper discretion, by a sense of duty, by the nature of the office, the circumstances of the country, and the public service.

Thus the Constitution would be reconciled, and each department would act within its proper sphere. The President and Senate could make no appointment till the office should be authorized by law; consequently there would be no danger of abuse. When they had made the appointment, they could not fix the amount of salary, or order the money to be paid out of the Treasury—another guard against the danger of abuse. When the appointment should be duly made, the House, on the other hand, would be bound to provide an adequate salary, and could not, by refusing it, defeat the law and the appointment, because they might think the one unnecessary, or the other unwise, and this principle would be a guard against any abuse of the powers of the House, would prevent it from invading the province of the other departments, and subverting the principles of the Constitution.

Had gentlemen confined themselves within these limits—had they carried their inquiries no farther than to the adequacy of this or that salary—this debate would never have existed. We should have met them on the ground of sufficiency of salaries, without any reference to Constitutional points, or contention about Constitutional powers. But this was not their conduct. They expressly declared, not that the salaries were too high, and ought to be reduced, but that the appointments themselves were unnecessary, and ought to be abridged; and thus they drove us into the Constitutional question, and compelled us to defend the Executive powers against their attacks in this House.

But, say gentlemen, is the House always bound to appropriate? If the President should appoint an hundred Ministers Plenipotentiary, must the House, without inquiry, give money to support them all? What guard would there then be, they exclaim, against an enormous and abusive extension of the diplomatic establishment?

To this I answer, Mr. Chairman, in the first place, that we have a security in the responsibility of the President. He is elected by the people, and elected every four years. All these appointments, though sanctioned by the Senate, must originate with him, and therefore he is particularly, and almost solely, responsible. His character is at stake. He is a single actor on a most conspicuous theatre, and all eyes are upon him. He is watched with all the jealousy which, in this country particularly, is entertained of Executive power. He is watched by the gentlemen themselves who support this amendment, and who are sufficiently prone to find fault with him and abuse him, even when he acts properly. This he well knows, and consequently will take care to do nothing which may strengthen their hands by giving them ground for censure. Should he act improperly, make foolish or unnecessary appointments, he must disgust his friends and supporters, forfeit the public esteem, and lose his election. He may be even turned out by impeachment before the time for a new election arrives. These, I apprehend, are sufficient securities against wanton misconduct.

I answer, in the next place, that if the President should think fit to abuse his powers, it is his own concern, and no business of this House, unless indeed, we choose to impeach him. We are sent here by the people to exercise our own powers, and not to watch over the President, who equally with us derives his powers from the people, and is amenable to them and not to this House for the exercise of those powers. We may, indeed, as individuals, censure his conduct, as we may that of any member on this floor, and endeavor to prevent the people from re-electing him; but, as a body, we have nothing to do with him or his conduct but impeach him. If he proposes measures to us which we do not approve, we may reject them, in the same manner as he may reject bills which we send up to him; but we have no more right to prevent him, either directly or indirectly, from making such appointments as he pleases than he has to prevent us from passing such votes or resolutions as we please. The interference in one case is equally unconstitutional with the other. It has, indeed, become fashionable with some gentlemen on this floor, to consider this House as "the people," and to speak and act as if the people had delegated to us their general superintending power over the other departments; but this doctrine is unknown to the Constitution, to the utter subversion of which it directly leads. It directly leads to that concentration of powers in one popular body, which it was the main object of the Constitution to prevent, and which it was and is the main object of those gentlemen to introduce; that concentration whereto this amendment is considered and intended, by its supporters, as an introductory step.

I answer, in the last place, Mr. Chairman, that if the President should appoint an hundred Ministers Plenipotentiary, or commit any other such wanton and foolish abuse of his power, it would be an extreme case, which would speak for itself, and dictate the line of conduct which this House and the country ought to pursue. But we never can legislate on extreme cases. They must be left to suggest and provide their own remedies when they occur. Suppose two-thirds of both Houses, under the influence of some unaccountable madness, should pass a law, in spite of the President, for building fifty ships of the line, to be given to France in order to augment her Navy, or for any other violent purpose, how ought the President and the country to act? I do not know; these would be extreme cases, and they would carry their own evidence and the indication of their own remedies with them. We may as well suppose extreme cases of one kind as of another, and however our own self-love may induce us to think that there is less danger from us than from the President and Senate, and that power, however dangerous in their hands, is perfectly safe as soon as it comes into ours, the Constitution, and the framers of it, judged otherwise, and they judged rightly. It is infinitely more dangerous in our hands when uncontrolled, because we have less personal responsibility, and are far more liable to the influence of passion. When, therefore, these extreme cases occur, we will act accordingly, and

should they obviously require the breach of a law, the necessity will be universally felt and acknowledged, and we must break it. All that I contend for is, that the present is not an extreme case, and that these appointments being authorized by law, a law must be broken before we can defeat the appointments, according to the avowed object of this amendment. I contend that when we undertake to defeat these appointments we must consider them as authorized by law, as much as the appointment of a Judge or a Secretary of the Treasury, and must inquire whether the motives are sufficiently urgent, the case sufficiently extreme, to induce the necessity of breaking a law. This is denied by gentlemen who support the amendment. They contend that these appointments of foreign Ministers are not to be considered as completely authorized by law, and consequently that the House may withhold the appropriation without breaking any law. This is the very point in dispute, and to this point I shall direct such remaining observations as seem necessary to be made on the Constitutional question.

The question then is, Mr. Chairman, from what source is the office of Minister Plenipotentiary, or any other foreign Minister derived? The officer, we well know, must be appointed by the President and Senate; but the office and the officer are distinct things; and before an officer can be appointed an office must exist, unless gentlemen are disposed to admit, what I certainly am not, that the President and Senate can create offices. The gentleman from Pennsylvania, (Mr. Gallatin,) well aware that if the office of foreign Minister could be considered as legally existing previous to the appointment by the President and Senate, and independently of it, the conclusion that we contend for would irresistibly follow, has denied this position; has denied that the office of foreign Minister becomes a complete and legal office as soon as the officer is appointed by the President and Senate.

[Mr. Gallatin explained. He had asserted, he said, the very contrary; and had admitted, though he considered it as a disputable point, that the office was like that of a Judge, and became complete on the appointment by the President. But he had denied that the House was bound to appropriate for the officer.]

Mr. Harper continued. I know, Mr. Chairman, what the gentleman denied and what he admitted; and it appears, by his explanation, that I was right in my first statement. The gentleman contended, and that was the leading point in his argument, that the office of foreign Minister was derived from the appointment of the President; and why did he contend for this? Because he knows that the President cannot erect offices; and, consequently, if the office of foreign Minister had no other origin than the appointment of the President, it could not be considered as a legally existing and complete office until this House had concurred in it. This was the scope and object of the gentleman's argument, and hence his solicitude to establish the position, that the office of foreign Minister originates in the appointment of the President. He said, indeed, that he would admit these offices to be analogous to those of judges; but he immediately denied it again, by denying that the House was bound by any law to appropriate for these offices, as they evidently are for judges; and in denying this he denied everything. The gentleman admitted in form but denied in substance, and contended for principles directly at war with his seeming admission. These are complete offices, according to the gentleman, but they were derived from no legal authority, nor is the House bound by any law to appropriate for their support. That is, they are legal and they are not legal; they are offices and they are not offices; and that is the amount of the gentleman's admission and of his explanation. Thus he told the House, on a former occasion, that he did not dispute the power of the President and Senate to make treaties; he only contended that those treaties, when made, were not binding till the House had concurred in them by granting appropriations: in other words, that the President and Senate could *make* treaties, which, however, though *made*, were in fact not treaties till ratified by the House; that is, that there might be treaties, which were not treaties. This was the substance and amount of that gentleman's reasoning on a former occasion; and it exceedingly resembles his present argument, as just now explained by himself.

The question, therefore, between the gentleman from Pennsylvania and us, is whether the office of foreign Minister be derived from the appointment of the President and Senate, concurred in by this House; or whether it must be traced to a higher origin, and considered as completely existing before the appointment takes place, in the same manner as the office of Secretary of the Treasury, or of State, which completely existed as soon as the law was passed establishing those departments, and before any officer was appointed? We contend for the latter doctrine, and the gentleman from Pennsylvania for the former. If he be right, it follows that the appointment is incomplete until this House gives its sanction; for we well know that the President and Senate cannot of themselves create an office. If we be right, it follows that as soon as an appointment is made to fill this office, this House is legally bound to supply an adequate salary, in the same manner as for any other office created by law.

There are two modes, Mr. Chairman, by which an office may exist; either by law, or by the Constitution; and from one or the other of these sources the office of foreign Minister must be derived. It is not derived from the Constitution, like the office of President, Vice President, or Speaker of the House: for the Constitution speaks of it as already in existence. The Constitution does not say there shall be foreign Ministers, and then go on to direct how they shall be appointed, as in the case of President; but, considering the office as already existing, it merely directs how it shall be filled. "The President (it says) by and with the advice and consent of the Senate, shall appoint foreign Ministers and Consuls." Unless,

then, gentlemen are disposed to deny that there were foreign Ministers previous to the Constitution, they cannot contend that the office of foreign Minister is derived from the Constitution. It must, therefore, be derived from the law.

But from what law? Not from any act of Congress; for we know there is no such act. Congress has never done anything more than to fix salaries for foreign Ministers, and vote money to pay them; and besides, the Constitution, which is previous to all acts of Congress, recognises the office of foreign Minister as already existing, and directs in what manner the appointments to fill it shall be made. From what law, then, is this office derived? Mr. Chairman, it is derived from the law of nations.

In every civilized state there are two sorts of law, derived from two distinct sources; the municipal law and the law of nations. The law of nations, deriving its origin and its force from the consent of nations themselves, mutually given to each other, is independent of their municipal laws, which have relation to their own internal affairs, and depend upon the acts of their respective Governments. The municipal laws of the United States consist in our acts of Congress, and are derived from the authority given by the Constitution. The law of nations, as it respects us, has a higher origin, and became binding on us from the moment when we erected ourselves into an independent State, and entered into the pale of civilized nations. We then gave our consent to that law, when we began to send and receive Ambassadors and to form treaties with other Powers. This law, then, became binding on us by our own consent and our own acts; and this law establishes the office, regulates the duties, and defines the privileges of foreign Ministers. That office, consequently, was established among us as soon as we submitted ourselves to the law of nations. Accordingly we had foreign Ministers before we had a President, before we had a Congress, and before we had a Constitution. Even before the first articles of Confederation were entered into, we considered this office as existing; for those articles do not establish the office, but merely declare how it shall be filled, by whom foreign Ministers shall be sent, by whom they shall be appointed.

The gentleman from Pennsylvania, indeed, has told us that the office of foreign Minister originated in the appointment of the President and Senate. But where did that gentleman learn that the President and Senate can create or originate offices? He has said that the office becomes complete when sanctioned by an appropriation in this House. But all offices, not existing by the Constitution, must be created by law; and where did he learn that this House could concur in a law by any other means than by having a bill before them and passing it with the usual forms? Where did he learn that this House could, in this indirect way, by voting a sum of money, legalize an act not otherwise legal, and give the force of a law to what otherwise would not be a law? The gentleman has neither learned this in the Constitution, nor in the proceedings of the House; but though we know not where he learned it, we are well apprized of the purpose for which he introduced it here. That purpose I have already explained.

It being manifest, then, Mr. Chairman, that the office of foreign Minister is established by the law of nations, it only remains to inquire whether that law is complete and binding. Can there be a doubt that it is so, within its proper sphere? Do not our Courts of Justice acknowledge its existence, and yield to its authority as to all objects on which it is calculated to act? Is any aid required from acts of Congress or other municipal laws, in order to give it efficacy? Certainly not. These two kinds of law, the law of nations, and the municipal law, are each supreme in their respective spheres. They operate, indeed, upon different objects, and are executed in different modes; but each is complete in its operation. From hence it results that an office existing by the law of nations, has an existence as completely legal, as one which exists by act of Congress; that the office of foreign Minister is as much a legal office, exists as much by the laws of this country, as the office of Chief Justice, or Secretary of State; and that when one of these offices is filled by the appointment of the President and Senate, the House is under as complete a legal obligation to provide an adequate salary for it as for the other. This House can no more say this, that, or the other Minister Plenipotentiary is unnecessary, and we will not provide for him, than it can say a Chief Justice or a Secretary of State is unnecessary, and we will not provide for him. It would as much be guilty of a violation of law in one case as in the other.

But, Mr. Chairman, if these conclusions and the premises whereon they are founded should be erroneous, if the doctrines of the gentleman from Pennsylvania should be correct, still this amendment cannot be supported. It is in direct contradiction with the principles whereon its supporters rely, and is refuted by the very arguments adduced to defend it.

What is the doctrine of the gentleman from Pennsylvania? That the office of foreign Minister originates with the appointment of the President, and becomes completely established when this House has sanctioned it by an appropriation. I state this to be his doctrine, though he did not lay it down in these express words. This is the substance, for otherwise he must admit, in direct contradiction to his whole argument, that the office not only originates, as he says, but also becomes complete, by the appointment of the President and Senate: in other words, that the President and Senate can create offices. When the gentleman from Pennsylvania, therefore, told us that, although the office of foreign Minister originates with the appointment of the President and Senate, yet the House is not bound to appropriate a proper salary, as he admits it to be bound in case of an office erected by law—the office of Chief Justice, for instance—he told us, in substance, that this office, though originating with the appointment of the President and Senate, remained *inchoate*, did not become a complete and legal office, till sanctioned by an appropriation in this

House. This, Mr. Chairman, is the true doctrine of the gentleman from Pennsylvania; and it is precisely analogous to his doctrine of *inchoate treaties*, about which we heard so much on a former occasion. His doctrine about treaties was this: that a treaty, though made by the President and Senate, is but an *inchoate* act, till completed by the assent and sanction of this House. The House, he said, was in nowise bound to give this assent; but when it should be given, the treaty would then become complete. Accordingly, after this House had assented to the British Treaty, by passing an appropriation for carrying it into effect, the gentleman told us that the treaty was complete, and had become as much the act of this House as of the President and Senate. This position he has repeated more than once; and in the debates on the President's Speech, during the Summer session, he laid it down in the most emphatic manner. I presume, Mr. Chairman, that an "inchoate office" is like an inchoate treaty, and may become perfect in the same manner. The gentleman admits, nay contends, that what he calls an inchoate treaty, becomes perfect and binding, to all intents and purposes, on this House and everybody else, as soon as the House gives it its sanction by an appropriation. Hence it irresistibly follows that this inchoate office of foreign Minister—this office originating, according to the gentleman from Pennsylvania, in the appointment of the President and Senate, but not binding on the House, and therefore not complete—must become complete and binding from the moment when it receives the sanction of the House. If not, it never can be complete and binding—must always remain an inchoate thing, which would be a most manifest absurdity.

If, therefore, the sanction of the House can legalize and complete the office of foreign Minister, which originates in the appointment of the President, this sanction has already been given, and these offices of Minister Plenipotentiary to Lisbon and Berlin, which it is the object of this amendment to destroy, have already been legalized and completed by the assent of this House. They are, consequently, at this time, according to the principles of gentlemen themselves, completely legal offices—as much so as those of President, Chief Justice, or Secretary of State; and these gentlemen, in attempting to destroy them, by withholding an appropriation, are guilty of as direct, and as great an infraction of the law and the Constitution, as if they were to attempt to drive the President of the United States from his office, by refusing the annual appropriation for the payment of his salary. An office must either be legal or not legal. If legal, it is equally binding in whatever mode it become so, whether by the law of nations, an act of Congress, or the appointment of the President and Senate, sanctioned by this House. And there exists the same obligation on this House to provide an adequate salary in one case as in the other.

Will gentlemen ask when these offices of Minister Plenipotentiary to Lisbon and Berlin received the sanction of this House? Lest they should have forgotten, I will tell them. The first received it in May, 1796, and the second from this present Congress, in June, 1797. It will appear, by a reference to the files of the House, that on the 28th May, 1796, the President of the United States sent a Message to the House, informing it that he had appointed Ministers Plenipotentiary to Madrid and Lisbon, instead of Ministers Resident, and that this augmentation of the grade would require an additional appropriation. In consequence of this Message, a bill was passed on the 5th June following, by which the necessary appropriation was made. Thus, the office of Minister Plenipotentiary to Lisbon received the express sanction of this House.

Surely we cannot have forgotten what passed in this House last June, during the first session of this Congress. We were informed by the estimates from the Department of State, that $13,500 would be wanted for the salary and outfit of a Minister Plenipotentiary to Berlin. A bill was brought in containing this appropriation. The appropriation was opposed, but after full discussion it was carried by a great majority, and the bill passed. Thus, the office of Minister Plenipotentiary to Berlin received the express sanction of this present House of Representatives.

If these offices, therefore, were *inchoate* before, according to the doctrine of the gentleman from Pennsylvania, they became complete, on his own principles, as soon as these appropriations were consented to by this House; for he has told us, over and over, that an *inchoate* treaty becomes complete as soon as this House gives its assent by an act of appropriation; and by the whole tenor, and the very terms of his argument, he places an *inchoate* treaty and an *inchoate* office on the same footing; consequently, he is now bound to appropriate for this office as much as he admits himself to be bound to appropriate any sums which may still be wanted for carrying into effect a treaty once sanctioned by this House. And yet that gentleman, and those who agree with him on the present occasion, are content, for the sake of effecting their favorite object, the establishment of a control over Executive appointments, to act in direct opposition to their own principles—in manifest inconsistency with those very doctrines for which, on former occasions, they have so strenuously contended! The truth is, that they shape their doctrines to the purposes of the moment, and abandon them, without difficulty, when those purposes require it. When they had resolved to defeat the British Treaty in this House, they introduced the doctrine of *inchoate*. They alleged that the House was under no obligation to carry a treaty into effect, because it was only an *inchoate* act till sanctioned by this House; but they admitted, in the most explicit manner, (and made it a part of their doctrine of *inchoate*,) that when this House had given its sanction, the treaty became complete and obligatory. Now, that their object is to turn certain Ministers Plenipotentiary out of office, and to establish a precedent of the control of this House over the Executive, in the exercise of its Constitutional functions, they discard their favorite doc-

trine of *inchoate* which is no longer adequate to the purpose. They go further, and contend that the House, by its power over appropriations, has a right to control all the acts; to stop all the movements of the other departments; that it may withhold appropriations, in all cases, according to its own good pleasure or caprice, which the gentlemen dignify with the name of discretion. There cannot be a doubt that the doctrine now contended for would enable this House to drive the Secretaries, the Judges, and even the President, from office, by withholding the appropriation for their salaries, if ever they should become personally obnoxious to a majority of this House. The step from the present doctrines to that point would be far shorter than from *inchoate* to the present doctrines; and the right of encroachment being once established, there will be nothing to set bounds to it but the good pleasure of the House. I have heard it avowed, Mr. Chairman, that the affairs of this country can never prosper until all the present Heads of Departments shall be driven from office; and I have no doubt that the means of effecting that purpose (so desirable to these gentlemen) are intended to be furnished by this amendment. Should it prevail, it will establish a precedent that may easily be extended to that or any other object; and have we reason to believe, from what we now see and have witnessed on former occasions, that the extension will not be attempted?

Let not gentlemen, therefore, Mr. Chairman, accuse us of too much jealousy, when we zealously oppose these attempts, and charge them with supporting principles which lead to the utter overthrow of the Constitution. I view their principles in that light; and in this view I am fully confirmed by the most mature reflection, not only on the consequences of those principles, but on the manner in which they have been introduced and supported here.

But, say gentlemen, what interest can we have to subvert the Constitution? Why should we harbor designs of overthrowing the Government, and introducing anarchy and confusion? Have we not as much at stake, as much to lose, as you? Have we not equally concurred in the establishment of this Government? And what inducement can we have to wish for its destruction?

Since gentlemen, Mr. Chairman, make this appeal to their motives, I must be permitted to offer a few observations on that subject, before I dilate, as it is my intention to do, on the object and tendency of their political system.

As to motives, Mr. Chairman, I have no difficulty in declaring that I believe the far greater part of these gentlemen to be actuated by the purest motives. I do not say all; because I am not bound to answer for the motives of all. There are some among them of whose motives I know nothing; but far the greater part of those who support the system whereof this amendment is a leading member are actuated, in my opinion, by motives as pure, I will not say as my own, because, perhaps, those gentlemen may deny me the merit of pure motives, but as those of the best and purest men in this country; and, if I could find security against the consequences of men's actions in the uprightness of their intentions, I never should apprehend harm from these gentlemen. But, Mr. Chairman, does history, experience, or common sense, inform us that such security can be found? Do we not confine lunatics, and keep knives and razors out of the hands of children? Why? Not because we are afraid of their intentions, but of their actions; because we are justly apprehensive of their doing mischief without intending it. Is there a description of people on earth, who have inspired the world with a firmer confidence in their good intentions than the Quakers? And yet we dread the consequences of some of their attempts. This society, so virtuous, so praiseworthy, and whose institutions are formed on principles so beneficial and benevolent, have, however, adopted it as part of their creed, have made it a tenet of their religion, that personal slavery ought to be abolished; and they go forward with unwearied perseverance to the accomplishment of this object, without regard to risks or consequences. In vain do we tell them that their attempts, if successful, must render the Southern States a new St. Domingo—a mournful scene of massacre, pillage, and conflagration—must end in the common destruction of the blacks and whites, the slaves and their masters. In vain do we hold up to their view the recent and neighboring example of the French Islands, where similar maxims have reduced the most flourishing and beautiful provinces to one great slaughter-pen—have everywhere mingled the blood and bones of the wretched inhabitants with the ashes of their dwellings. They answer, that they have no intention to produce these consequences, and do not apprehend them; that it is their duty to proceed, and that the consequences are with God. Suppose the agents and missionaries of this society, whom we see so often attending this House, should address themselves to the gentleman from Virginia who moved this amendment, or to his friend from North Carolina, (Mr. MACON)—who claim so much indulgence for their system on the score of their good intentions—and should say: "We have the best possible intentions; nothing can be more pure than our motives. We mean, no doubt, to free all your slaves, but good, not evil, will result from the measure. We can have no interest to produce massacres, plunder, and conflagration, throughout your country; and you ought, therefore, to be perfectly easy as to the consequences of our attempts." Those gentlemen might believe all this, and, no doubt, would believe it as firmly as I believe them when they make similar protestations; but would they think it sufficient reason for indulging the Quakers in their wishes, or sufficient security against the consequences of their system? I believe not. I believe those gentlemen would act like men of sense, and would say to the Quakers: "We have no doubts about the purity of your motives; but while we remain persuaded, as we now are, that your plans, however well-intentioned, lead to the most direful calamities, not only to us and our families and our country, but also to the objects

of your care, we shall oppose them with all our might." This would, no doubt, be the language of the gentlemen, and it would be the language of good sense; and this same language I now address to them.

In fact, Mr. Chairman, does not history teach us there is nothing more common than for men to do mischief when they mean to do good? Did the Lafayettes, the Rochefoucaulds, the Liancourts, the Lameths, and the Clermonts, of France, when they first taught the doctrines of insurrection, and stirred up the mob to resist the Government, intend to pull down ruin on their country, their families, and themselves? Did they intend to procure their own death or banishment, and the confiscation of their estates; to send to the guillotine hundreds of thousands of the best citizens, including their own families and friends, to drench the whole country in blood, and transfer the most absolute power into the hands of the vilest of mankind? Certainly they had no such intentions; and yet we find that these consequences did result from their measures; France and the world have groaned and are groaning under these consequences; nor are they less real, or less deplorable, because their authors intended to do good and not mischief. Fanatics never, or very rarely indeed, intend to do mischief; and yet all experience proves that no description of men is half so mischievous. They rush blindly on, without reflection or hesitation, and aim directly at the accomplishment of their designs, without being delayed or turned aside by any considerations of the result.

This, Mr. Chairman, is the nature, the peculiar characteristic of all fanatics, whether religious or political. It hurries on its votaries with an impetuous and inconsiderate fury, which renders them equally deaf to the voice of reason, and blind to the consequences of their actions. Thus the Quakers rush forward to the liberation of the blacks; thus the falsely-named philanthropists of France involved the French colonies in flames and slaughter; and thus a set of political fanatics, in the same country, in pursuit of their wild and visionary theories, put arms into the hands of the mob, taught the populace the doctrine and practice of insurrection, overthrew the Government, and were themselves, with their families, their fortunes, and their country, crushed under its ruins. Their fanaticism impelled them to pull down a stupendous fabric, the work of fourteen centuries; which by its fall spread death and devastation over the whole extent of the finest country on earth.

With these awful examples before us, shall we trust fanatic men with power by reason of their upright motives; or sit regardless of the consequences of their actions, because we are convinced that their intentions are pure? So far otherwise, Mr. Chairman, that, in my opinion, their honesty is an additional reason for dreading them. Of your cool, calculating, political knaves, I am never afraid. Such men are not apt to be much trusted, and, moreover, they never do mischief but when there is something to be gained by it. They never do mischief for mischief's sake; and being, for the most part, men of sense and reflection, you may generally convince them that their own interest lies in avoiding mischief. But it is the sincere, the honest fanatic whom I dread, and whom I think myself bound to restrain, as I would confine a maniac. His honesty, his zeal, and his good character, enable him to inspire confidence and gain proselytes: the consciousness of upright intentions renders him as bold as he is blind. He rushes directly forward, without looking to the right hand or the left; pulls down all that stands in his way, regardless on whom it may fall; destroys a country, in order to make it free; inflicts unheard-of calamities on the present generation, for the happiness of posterity; and makes experiments on Governments and nations, with the *sang froid* of an anatomist dissecting the body of a malefactor. These are the men of whom I am afraid, and whom I think it my duty, at all times and places, to withstand: men whose projects and experiments have brought ruin on other countries, and will bring it on this, unless they are resisted and restrained by the sober and reflecting part of the community.

After all, Mr. Chairman, I am not much afraid of these men. There was indeed a time when their efforts might have been formidable; because that frenzy of revolution which seemed to have been poured out upon the earth like a vial of wrath, which had passed upon mankind like a plague, did once extend its dreadful influence to this country, where, in a greater or less degree, it infected every description of people, and made them eager for change and ripe for revolution. But it has passed away never to return. Fortunately, before the disease had risen to its height here, time was given for observing its terrible effects elsewhere; and the American people, profiting by example, and aided by the peculiar happiness of their situation, first resisted, and have finally subdued this dreadful malady, the love of revolution.

In this, I repeat again, they have been aided no less by their own happy situation, than by the mournful experience of other countries. For revolutions, Mr. Chairman, are brought about in all countries by three descriptions of men; philosophers, jacobins, and *sans-culottes*. They exist in all countries, and accordingly in all countries are to be found the materials of revolution; but they exist in different proportions, and according as these proportions are great or less in any country, so is the danger of revolution wherewith it is threatened.

The philosophers are the pioneers of revolution. They advance always in front, and prepare the way, by preaching infidelity, and weakening the respect of the people for ancient institutions. They are, for the most part, fanatics, of virtuous lives, and not unfrequently, of specious talents. They have always, according to the expression of an ancient writer, "*Satis eloquentia, parum sapientia;*" eloquence enough, but very little sense. They declaim with warmth on the miseries of mankind, the abuses of government, and the vices of rulers; all of which they engage to remove,

provided their theories should once be adopted. They talk of the perfectibility of man, of the dignity of his nature; and entirely forgetting what he is, declaim perpetually about what he should be. Thus they allure and seduce the visionary, the superficial, and the unthinking part of mankind. They are for the most part honest, always zealous, and always plausible, whereby they become exceedingly formidable. Of the three classes employed in the work of revolution, they are infinitely the most to be dreaded; for, until they have shaken the foundations of order, and infused a spirit of discontent and innovation into the community, neither the jacobins nor the *sans-culottes* can produce any considerable effect. The army cannot find entrance until these forerunners have corrupted the garrison to open the gates. Of these men we, in this country, have enough and more than enough.

Of Jacobins we also have plenty. They follow close in the train of the philosophers, and profit by all their labours. This class is composed of that daring, ambitious, and unprincipled set of men, who, possessing much courage, considerable talents, but no character, are unable to obtain power, the object of all their designs, by regular means, and, therefore, perpetually attempt to seize it by violence. Tyrants when in power, and demagogues when out, they lay in wait for every opportunity of seizing on the Government, *per fas aut nefas*, and for this purpose use all implements which come to their hands, neglect no means which promise success. Unable to enter at the door of the sheep-fold, they climb in at the windows, and devour the flock. Although they use the assistance of the philosophers in gaining entrance, they dread their honesty, their zeal, and their influence with the public, and accordingly the first use they make of power when they can obtain it, is to destroy the philosophers themselves.

As the philosophers are the pioneers, these men are the generals of the army of revolution; but both pioneers and generals are useless without an army; and, fortunately, the army does not exist in this country.

This army is composed of the *sans-culottes*, that class of idle, indigent, and profligate persons, who so greatly abound in the populous countries of Europe, especially the large towns; and, being destitute of everything, having no home, no families, no regular means of subsistence, feel no attachment to the established order, which they are always ready to join in subverting, when they find any one to pay them for their assistance. These were the men, who, in the pay of a wealthy Jacobin, and under the guidance of fanatic philosophers, overturned all order and Government in France, and will overturn it in every other country where they exist in great numbers, and are not opposed with great force and unceasing vigilance.

But, fortunately for America, there are few *sans-culottes* among her inhabitants, very few indeed. Except some small portions of rabble in a few towns, the character is unknown among us; and hence our safety. Our people are all, or very nearly all, proprietors of land, spread over a vast extent of country, where they live in ease and freedom; strangers alike to oppression and want. Those who reside in the largest towns are possessed of property, have homes, families, and regular plantations, and among such a people the principles of *sans-culottes* never did and never will make much progress. If a new Duke of Orleans were here, with a Mirabeau for his privy-counsellor, and an annual revenue of three hundred thousand guineas to supply the means of corruption, he could not raise a mob sufficient to drive this body from their seats, or over-awe their deliberations. We have Jacobins in plenty, and philosophers not a few; but while we are free from *sans-culottes*, and it is probable that the nature of our Government and the abundance of untilled land in our country will secure us from them for ages, we need not apprehend great danger. We ought, no doubt, to watch and withstand the enterprises of the pioneers and generals; but while they remain without troops they are not much to be dreaded.

Having made these observations on the purity of gentlemen's motives, observations which were due not only to candor and truth, but to the respect I feel for their personal characters, I hold myself at full liberty to explain the tendency of the present amendment, and of that system of policy whereof it is a part; and I mean not to impute any ill intentions to gentlemen when I declare, and attempt to prove, that this tendency is to the utter subversion of the present Government. It is my firm and most deliberate opinion, that the amendment now under consideration, and the principles of that system to which it belongs, lead directly to the introduction of anarchy and revolution in this country, and if not steadily opposed, must sooner or later produce that effect. This opinion it is my purpose to support by the observations which I am about to offer; and it is by a full conviction of its truth that I have been induced to consider it as a most sacred duty, to combat the system at all times, and by all the means in my power.

The gentleman from Pennsylvania (Mr. Gallatin) has denied this to be the tendency of his system, and contends that our principles, not his, lead to revolution and anarchy. Revolution and anarchy, he tells us, in emphatic language, are the results of a system of expense, of war, of oppression, and of arbitrary sway; the last leaf of that book in which are written the excesses of tyranny. I agree fully with the gentleman in this position; but there is another question anterior to this, which he has omitted to discuss. It is by what means tyranny, by what means the excesses of arbitrary Government, are most likely to be produced? This question I propose to discuss with the gentleman from Pennsylvania; I mean to compare his system, his principles, with ours, and to inquire which of the two is most likely to introduce arbitrary Government into this country. And I hope to convince, not that gentleman himself, but the House, that if ever arbitrary Government should exist here, it must owe

its existence to the system of policy which that gentleman supports.

How, let me ask, Mr. Chairman, have the Governments of other countries been converted from free into arbitrary Governments? By one of two ways; either a military chief, possessing little political authority, but hereditary, and having at his disposal the military force of the State, has availed himself of the frequent wars, whereby neighboring States are so frequently afflicted, has augmented that military force, and finally employed it in extending and confirming his own authority; or, in States where no military chief of this description existed, popular leaders, possessed of talents, and actuated by an inordinate ambition, have formed a strong party among the people, have invaded and finally subverted the authority of the Government, and erected to themselves an absolute dominion. Every State that has lost its liberty since the foundation of the world to the present day, except in cases of conquest by a foreign Power, has lost it by one or the other of these two methods. The first is the natural death of free monarchies, the second of free republics; and both ancient and modern history furnishes many examples of both. It was by the first that all the feudal States were converted into absolute monarchies except England and Poland, the former of which was protected, by its insular situation, from the necessity, and also from the consequences, of a great military power in the hands of its chief, and thus preserved its liberties, while in the latter powerful individuals retained the military force in their own hands, divided it among themselves, kept their chief in subjection, and at length, by their feuds and civil broils, destroyed the strength of the State, and delivered it over to be subdued and divided by the neighboring Powers. It was by the concentration and exercise of military force in the hands of an hereditary chief, that the Cortes of Spain were broken under Ximines, and the States General of France under Richelieu and Mazarin. It was thus that the great princes of Germany became absolute in their respective dominions, and that the Russian despotism was founded on the ruins of feudal aristocracy.

This danger, however, does not exist in popular Governments. They have no great military chief, of hereditary power, who, disposing absolutely of the public force, may use it for the extension of his own authority; and of all republics that ever have existed, none ever was so little threatened with danger from that quarter as ours. It is needless to dwell on the reasons of this peculiar advantage, for they are obvious to every one. When republics fall, they fall by other means; by gradual inroads on the principles of their Governments; by popular encroachments on regular authority; by the concentration of their powers in some popular body, where artful, able, and aspiring demagogues, obtain sway, and establish arbitrary power under the name of the people. This is the quarter from which all popular Governments have been assailed, for the most part with success; and from which ours will be successfully assailed should the principles of the gentleman from Pennsylvania ever be adopted. Thus fell Rome under the power of Cæsar; thus fell the Republic of England under the power of Cromwell; and thus will fall the United States under some future Cæsar or Cromwell, unless a steady opposition be given to the system of the gentleman from Pennsylvania, whereof this amendment, let it be repeated, forms a part.

When the examples of the ancient Republics was adduced by my friend from Massachusetts, (Mr. Thatcher,) the gentleman from Pennsylvania denied it to be applicable, because the Governments of those Republics were different from ours. I know, Mr. Chairman, that the Government of our country is different from that of Athens or Rome, and I wish to keep it so. That is the object of all my exertions—of all my zealous opposition to motions like the present. To make our Government like those of Athens or Rome, is, in my apprehension, the object and tendency of the system advocated by the gentleman from Pennsylvania. How is this to be effected? By inducing this House, sometimes under this and sometimes under that plausible pretence, to establish precedents of encroachments on the other departments; to practise on these precedents, and extend them further and further, until at length all power shall be concentrated in this House, and exercised according to the good pleasure of those members who can obtain influence here. In Athens, all power was concentrated in the hands of one body, and it was abused at the pleasure of those who, by their eloquence, their wealth, or by any other means, could obtain the confidence and influence the determinations of that body. In Rome, the case was somewhat different; but even there, for the want of a well-fixed balance in her Government, the mass of the people gradually usurped all power, and transferred it to their favorites or their purchasers. By pursuing the principles of the gentleman from Pennsylvania, the same effect must be produced here. This House first begins the attack on the President; it controls his appointments, directs his measures, gives him orders under the name of advice, and if he refuses to obey them, withholds all the supplies for the service of the Government. All this is justified under the gentleman's doctrine of appropriations. A favorable moment is seized for laying the corner-stone—for fixing the principle—and plausible pretexts are adduced. A treaty is made, and a popular clamor is excited against it. Advantage is taken of this clamor to refuse an appropriation for carrying the treaty into effect, and thus a precedent of interfering in treaties is attempted to be established. A foreign Minister is appointed, the reasons for whose appointment are capable of being obscured or misrepresented. The occasion is seized to deny an appropriation; and, under the pretence of saving public money, and preventing the expense of an useless appointment, an attempt is made to acquire a control over the appointments of officers. These points being carried, the precedents are soon drawn into practice, and further enterprizes are undertaken in due season. Every

success gives further strength and boldness for new assaults; the cannon of every bastion that is taken is immediately turned on the remaining works; and, finally, the President is reduced to the condition of the chief officer of this House, and the Heads of Departments become the first clerks of its committees.

The President being demolished, the party proceeds with new vigor and greater forces to attack the Senate, which, deprived of the support of the Executive, is speedily overthrown. The House says to the Senate, "Unless you conform to our will, we lay our hands on the purse-strings, and stop the wheels of Government. Should a contest ensue, we are sure to be uppermost; for we are the immediate representatives of the people; we adore the people; nay, we are the people themselves. Therefore, beware of a contest in which you have everything to lose, and we are certain of gaining."

The Senate, enfeebled and dismayed, yields by degrees to these powerful arguments, and this House remains victorious with all power in its hands. It proceeds to appoint a Committee of Exterior Relations, a Committee of Interior Relations, a Committee of Justice, a Committee of Finance, and so on, and a new French Convention arises to view, where principles are set at naught, caprice is law, and the whim of the moment disposes of all public and private rights. Then follow confiscations and banishments, and the long train of tyrannical excesses ever attendant on popular bodies in whose hands the whole powers of Government have been concentrated, from the assemblies of the people at Athens, and the *Comitia* at Rome, down to the Rump Parliament of England and the French Convention. Then will the member who shall possess the most art, the greatest eloquence, and the most daring spirit of enterprise, speedily form a party, by means of which he will enslave the House and rule the country. Should there be several of equal or nearly equal strength, they will first divide the power among themselves; but their union will be fallacious and short. They will be employed in attempting to circumvent or undermine each other; divisions will soon arise and mortal quarrels will ensue; till at length the rest will sink beneath the overbearing genius of one, and he will establish his dominion uncontrolled. This is the liberty which gentlemen, should their schemes succeed, will, sooner or later, bestow on the country; the liberty of a few bold, able, ambitious men, to do what they please, and of the rest of the community to obey them. This, Mr. Chairman, may be very pleasant liberty for those who are to be possessed of power; but for me, and the rest of the community, it has no charms; and I shall, therefore, omit no opportunity of resisting its first and most distant approaches.

Should any one object that this state of things must be extremely distant, I beg him to recollect how short a space intervened between the throne of Louis the Sixteenth and the scaffold on which he bled; between the absolute power of Neckar and the despotism of Marat; between the splendid fortune of so many distinguished families and the dungeon or the guillotine. Governments like ours, Mr. Chairman, may be compared to the planetary system, whose preservation depends entirely on the exact preservation of its balance. The exact balance between the centrifugal force and the power of gravitation, retains the planets in their orbits; but should some angel of destruction push them out of those orbits, though in ever so small a degree, the balance is lost; one power gains what is taken from the other; and these immense bodies, whose beautiful and regular play furnishes the greatest wonder of creation, fly out, and are lost in boundless space, or rush to the sun with increasing and incalculable velocity, and there are mingled in one mighty ruin. Should the gentleman from Pennsylvania succeed in his present attempt, he becomes the angel of destruction to our beautiful Constitution. He destroys the happy balance of its powers; and the approximation of the different departments, though slow and gradual at first, would become more rapid as it advanced, and speedily produce that concentration of power in this House, which seems to be the object of all that gentleman's labors and cares.

It is this view of the subject, Mr. Chairman, that stimulates me to oppose this amendment with the utmost perseverance and zeal; not that I apprehend great mischief from this particular measure, could it be viewed singly and by itself; but that I regard it as a part of a system wholly incompatible with the existence of this Government, or the happiness of this country. I regard the gentleman from Pennsylvania and his friends, in the light of an enemy who has commenced a siege against the fortress of the Constitution. He proceeds at first by cautious steps, and endeavors to make a lodgment by surprise in some strong and advantageous outwork, from whence he may direct a more efficacious attack against the citadel itself. On this advanced ground, in this outwork, I hold it wise to resist him; convinced as I am that success here would be the prelude to a bolder and more dangerous assault, and that all the guns which he can now command will immediately be turned upon our remaining fortifications.

I must now be allowed, Mr. Chairman, to say a few words as to the expediency of this measure—as to the utility of foreign Ministers. To one side of the House, to myself and those with whom I usually act, it is sufficient to say that the President has thought fit to appoint foreign Ministers; for we are convinced that the right of judging on this subject has been given exclusively to him and the Senate by the people of this country, and that when he and the Senate have thought fit to exercise this right by appointing a Minister to this or that place, or of this or that grade, nothing is left for this House but to provide an adequate salary. But other gentlemen hold a different opinion, and contend that we may not only inquire how much the salary ought to be, but also whether the appointment itself be necessary. To gentlemen who sincerely hold this opinion I address my remaining observations.

The gentleman from Pennsylvania (Mr. Gallatin) has asserted that Ministers have nothing

to do with the interests of commerce except to make commercial treaties; while the care of seeing those treaties duly executed, and the commercial rights of individuals properly protected, belongs to Consuls. Hence he infers that foreign Ministers are useless, because we have no need to form more commercial connexions, and ought to have no political connexion, with foreign nations. In order to prove that we ought to make no more commercial treaties he contends that we have received much more harm than good from those already made. This is the whole amount of this part of the gentleman's argument, which includes two-thirds of his long and ingenious speech; and it is wholly built on the assertion that "commercial interests are managed by Consuls, while Ministers have nothing to do with commerce except the making of treaties for its regulation." This assertion has been already refuted, and the gentleman from Pennsylvania, though he has made it the ground-work of his whole reasoning, has not attempted to prove it. For this he had very good reasons; for he well knows it to be wholly unfounded; and therefore he has contented himself with asserting it, and taking it for granted. I say he well knows it to be unfounded, because that gentleman is well read in the law of nations, the writers on which, as well as its maxims and doctrines, we often see him adduce with much dexterity and learning when they suit his purpose. Now, Mr. Chairman, I may, I think, venture to affirm that there is no student in any college, who has read the indexes of some elementary books on the law of nations, but knows that it is the peculiar business of Ministers, not only to make commercial treaties, but to watch over their execution, and to take care that the commercial rights of their country, under the law of nations as well as under treaties, are preserved inviolate. This is a business with which Consuls never interfere, and to which they are wholly inadequate; not only from the nature and powers of their appointment, but also from their local circumstances and situation. All this the gentleman from Pennsylvania well knows; and yet he has asserted that every thing respecting the interests of our commerce in foreign countries, except the formation of commercial treaties, can be, and is, transacted by Consuls, without the interference of Ministers. This assertion is the loose block whereon, for want of a better foundation, he has rested the whole edifice of his reasonings; and this block I mean to knock away. A very slight stroke will be sufficient for the purpose.

In what manner, Mr. Chairman, is the observance of a treaty of commerce with any country to be enforced? In what manner are infractions of such a treaty or of the laws of nations, to be prevented or redressed? Is it not by applications to the Government of that country—by representations, by remonstances, by negotiations? The gentleman from Pennsylvania will not answer in the negative. I know he will not. By whom then, and where, are these applications to be made, these representations, these remonstrances, to be presented, these negotiations to be carried on? Must it be at the seat of Government, by agents residing there; or at the seaports of the countries where the Consuls reside? If the former, these agents will be Ministers. You may call them by a different name, but the thing will be the same; for a public agent of one country, charged with the management of its affairs, and residing at the seat of Government of another, is the very definition of a foreign Minister, by whatever name you may think fit to call him. As these transactions are, from their very nature, to be with the Government itself, let us see whether they could possibly be managed by Consuls.

In the first place, Consuls, by the established law and usage of nations, have no public official character, and cannot be admitted to any intercourse whatever with the Governments of the countries where they reside. We may, if we please, exclaim against this usage, and call it absurd and foolish; but it is the established usage of nations, and while it remains so we must conform to it. Suppose, therefore, that any injury should be done to the commerce of our citizens by French privateers, for instance, or French municipalities, in contravention of our treaty, or against the law of nations, but under color of certain acts of the French Government. Could redress be obtained by means of Consuls? So far from it, that it could not even be applied for, since the Consuls could have no access to the Government. And yet the gentleman from Pennsylvania tells us that the interests of our commerce in foreign countries can be managed by Consuls!

In the next place our Consuls in foreign countries are, for the most part, natives of the countries where they reside. With a very few exceptions, they are mere private merchants; and, except in the single case of the Consuls to the Barbary Powers, who, according to the established usage, are a species of Ministers, they receive no salaries. Are men of this description adequate to the protection of our commercial interests? Can they be expected to possess the requisite knowledge for conducting affairs of this kind, or the requisite influence or weight of character? Will they abandon their own private affairs to attend at a remote capital, and solicit the restitution of vessels, the revocation of injurious orders, or indemnification for improper seizures? If they were qualified for this business, and willing to undertake it, they certainly would not do so at their own expense. When our Consul at Bordeaux, Nantes, or Marseilles, for instance, should be applied to on any business which would require an application to the French Government, would he go to Paris and remain there to finish the business at his own expense? Certainly not. We must pay him, not only his expenses, but a compensation for his time and trouble. As these applications would frequently occur, he could not go specially for each one, but must remain always there, and we must give him a salary sufficient to induce him to do so. He would then be a Minister in fact, and in expense. He would want nothing of the character but the name, and the capacity of usefulness. This is the establishment which the

gentleman from Pennsylvania wishes to substitute in the place of our present diplomatic appointments. The Consuls, in order to perform the duties, which he says ought to be assigned to them, must be turned into Ministers, equally expensive with the present corps, but far less efficacious.

In the third place, we should have a multitude of these new-fashioned Consul Ministers, for we have a variety of Consuls in each of the great maritime nations of Europe. There is one in every considerable trading town. In France, for instance, we have six or seven; perhaps a much greater number. Each of these, upon the plan of the gentleman from Pennsylvania, must reside at Paris; for it would be impossible for them to be perpetually running backward and forward between their respective seaports and Paris, as often as any affair might occur requiring an application to the Government. If any gentleman should doubt of this, let him look at the list now on the table, of between four and five hundred American vessels carried into the different ports of France, or detained there, contrary to the Treaty, and redress for the capture and detention of which must be obtained, if obtained at all, from the French Government by means of either a Minister or of Consuls. The Consuls, therefore, if they are to do the business, must all reside at Paris; and, instead of one Minister, we should have nine or ten; perhaps a greater number. These observations will apply, with a greater or less degree of force, to every other country with which we have a considerable commerce. And yet the gentleman from Pennsylvania tells us that our commercial relations ought to be left to Consuls!

Having seen, Mr. Chairman, what the duty of Consuls is not, let us now inquire, for a moment, what it is. We shall find them very necessary agents, though wholly inadequate to the business usually committed to Ministers.

In the first place, it is their duty to settle disputes which may arise between seafaring people of their own nation, arriving in the foreign ports where they respectively reside. These disputes, we know, are apt to arise between the masters and crews of ships; and these the Consuls are usually empowered to terminate in a manner less tedious and expensive than could be done by the local laws of the country.

In the next place, they are to assist seafaring people of their own country, who may happen to have any disputes with the people of the place; they are to make advances to them when in distress, and to procure redress for them in all cases where it can be afforded by the local authorities of their respective ports.

And lastly, they are to act as agents between the people of their country and the Minister; to inform him of cases which require his interference with the Government, and to facilitate to the sufferers the means of applying to him. They are to be his agents in all the seaports; while he is the general and immediate agent of his country with the Government. They are to keep him informed of all the cases, which occur in their respective ports, of violations of treaties or of neutral rights; so that he may be enabled to take the proper steps for obtaining redress.

The duties of these agents, whom we call Consuls, are, therefore, distinct from those of a Minister, so necessary in themselves, and so incapable of being performed except by persons residing in the seaports, that were all the present Consuls, according to the plan of the gentleman from Pennsylvania, to be immediately sent to the capitals, and converted into Ministers under a new name, their place must instantly be supplied by other agents, whom, perhaps, the gentleman would not choose to call Consuls, but who must be invested with the same powers and perform the same duties. Such is the wise and notable scheme of the gentleman from Pennsylvania; and thus it is he is to rid us of the expense of Ministers!

Let me be permitted, Mr. Chairman, to propose another question to the gentleman from Pennsylvania. If Ministers have nothing to do with commercial relations except making treaties of commerce, how comes it to pass that the gentleman is willing for us to have Ministers of the highest grade with those two nations with whom we have treaties of commerce, and where, according to him, Ministers can have nothing to do?—I mean France and England; with both of which nations we have commercial treaties, and where the gentleman consents to our retaining Ministers Plenipotentiary. To be consistent with himself, he ought to attempt the recall of these two Ministers, by refusing an appropriation for their salaries, and to leave untouched those of Lisbon and Berlin, who may possibly have something to do. But this is not the gentleman's object. He has another; which is to establish the principle of controlling the Executive in the exercise of this part of his Constitutional functions, and thus effect a breach in the intrenchments of the Constitution; and he will pardon me for considering this doctrine, about which he has discoursed so much, and with such ingenuity, as a mere pretext to cover his attack.

So much, Mr. Chairman, for the utility of Ministers in general, who appear to me essentially necessary, not merely for making commercial treaties, but for protecting the rights of our citizens in foreign countries, according to treaties where there are any, and under the law of nations, where there are none.

But gentlemen point particularly to the mission to Berlin, and triumphantly demand what benefit is to be expected from sending a Minister to Berlin? What have we to do, say gentlemen, with the King of Prussia, or the politics of Germany? To me, Mr. Chairman, let me repeat it, it is enough that the President has judged it proper to send a Minister to Berlin; for to him and the Senate, in my belief, and not to this House, has the Constitution confided the right to decide on this subject. But to gentlemen who are not satisfied with this answer, I will give another, and one which, I promise myself, they will find satisfactory. Have gentlemen, who object to this motion, adverted to the peculiar situation of Europe at this moment? Have they adverted to our own peculiar situation? We have a most disagreeable dispute with the French Republic. France has made peace with the Emperor; and a Congress is now sitting, if not already terminated, to settle the affairs of Germany, and adjust the balance of Europe. In this Congress interests of the utmost magnitude in themselves, and in the highest degree important to France, are to be discussed; no less than to determine whether France shall extend her borders to the Rhine, or be restricted to the Meuse; whether more than two millions of souls, formerly subjects of the German empire, shall become citizens of the French Republic. In this Congress the King of Prussia is mediator; a youthful monarch, enterprising, warlike, and ambitious, at the head of three hundred thousand of the finest troops in Europe, and with a treasury replenished by four years of peace, while the coffers of his neighbors are in a most exhausted condition. With these advantages, joined to his local position, he holds in his hands the balance of France and Germany. Prepared to strike in every direction, he is dreaded and courted by all parties; and especially by France, who feels that after Austria, now exhausted and desirous of repose, he is the only Power capable of checking her ambitious designs. Hence she has the greatest possible interest to soothe and conciliate him. This monarch possesses all the finest ports in the Baltic, and a great extent of maritime territory. His predecessor, the great Frederick, sensible that commerce alone can supply money, the sinews of military strength, always felt the greatest solicitude to render his States commercial; and one of the means by which he hoped to effect this purpose, was to form connexions with commercial nations. This was the spirit of his Government, and became a standing maxim in his system of policy. Accordingly, having discovered that the United States must speedily become a great commercial nation, he was among the first to form a treaty of commerce with us.

Is there not reason to expect that the same views may be entertained by his successor now on the throne? And was it not wise to do every thing in our power for keeping up a good understanding with a monarch who has it in his power to serve us so essentially? How is this to be done? By sending a Minister to his Court, renewing our treaty with him which is about to expire, and holding out to him the prospect of commercial arrangements, not injurious to us, but perhaps highly desirable to him, and sufficient to procure his good offices and interference in the adjustment of our differences with France. Would this interference be unavailing? I apprehend not; for France has too much interest in keeping well with this monarch to refuse attention to his mediation. His interference, if he should choose to interfere seriously, would, on the contrary, be more efficacious, in all probability, than fifty ships of the line.

I do not know, Mr. Chairman, that this interference will be obtained, or ought much to be expected; but I am fully persuaded that it was wise to use the means, to send the Minister, and make the attempt; from which I have no idea that we ought to have been deterred by the paltry consideration of saving nine or ten thousand dollars.

But gentlemen constantly repeat that we ought to have no political connexions with the nations of Europe. This is about as wise as to say a man ought never to have a fever. A fever, no doubt, is a very bad thing, and political connexions may also be bad things; but we already have them, and the question is not whether they are good or bad, but how we shall get rid of them. We not only have political connexions, but disputes of a most disagreeable nature, growing out of those connexions. This is attested by all the papers on the table, by various acts of the House, and, more strongly still, by the universal capture and condemnation of our property. It is vain and foolish, therefore, to repeat continually that we ought not to have foreign connexions; but our business is to inquire how they may be best got rid of. How is this to be done? I answer, by settling our present differences, and avoiding new ones. Unless gentlemen mean to submit, and if they do, I have nothing to say to them, having already had opportunities, on former occasions, to say all that seemed necessary on that subject. Unless they now mean to submit, I repeat, that the only method of getting rid of those foreign connexions, about which they so loudly exclaim, is to settle our present differences in the best manner we can, and avoid new ones. For this purpose we must employ Ministers; and none could be more wisely employed than the one to Berlin.

This diplomatic intercourse, therefore, about which gentlemen raise so great an outcry, is perfectly consistent with a wish to get rid, as fast as we can, of foreign connexions; and if gentlemen were sincere in that wish, it appears to me that, instead of opposing these appointments, they would applaud and support them. Gentlemen must excuse me if I say I do not think them sincere; that, in my opinion, foreign relations are merely a stalking-horse, behind which they advance to attack the Administration, and the system of policy which it has adopted. To foreign relations and foreign intercourse, in my opinion, gentlemen have no objection, provided those relations can be such as they wish, and conducted in the manner which they desire. It is against the nature of these connexions, and not to foreign connexions in themselves, that the hostility of gentlemen is directed. For the proof of this position, I appeal to the history of the measures pursued by those gentlemen since the commencement of this Government.

I ask gentlemen, Mr. Chairman, who think with me that the present attempt ought to be resisted, whether they can separate it from that system of measures which its supporters have so zealously and perseveringly pursued since the commencement of the war between France and England? I cannot. I am compelled to view it in connexion with that system, and it is this connexion which makes me dread it. Viewing it in this connexion, the time which is chosen for making the attempt is, to me, its most alarming feature. This extension of foreign intercourse, which

is made the pretext for the present attempt, is not a measure of this day. It was adopted in May, 1796, and that was the time for opposing it, if the reasons for the opposition were really such as gentlemen allege. But no opposition, or at least none of any consequence, was made at that time. I have looked over the debate which took place on that occasion, and I find that, although some objections were made, they rested on a ground wholly different from that now taken. They were confined to the expediency of the measure; but not one word was said of the danger of Executive influence, or the necessity of checking Executive patronage. Among others, I was most struck by the observations of a gentleman from Pennsylvania, (Mr. FINDLEY,) which agree precisely with our present doctrines, and appear to me so solid and important, that I cannot forbear presenting them to the committee. They are found in the debate of May 30, 1796, on the extension of foreign intercourse, and in these words:

"Mr. Findley said that he had voted against this measure, in the Committee of the Whole, and he thought he was right in doing so; but he was now of opinion, that except the House had information sufficient to convince them that the appropriation was necessary, they ought to grant it. He wished as much as any one to save the money of the public, but he believed our Government was, in some degree, obliged to conform to European practices. If we had Ministers Plenipotentiary at one Court, he did not know where to draw the line. He believed they should do best in leaving the Executive to settle this matter."

The committee, Mr. Chairman, will doubtless be struck, as I have been, with the contrast between these sentiments and those which the same gentleman, and those with whom he acts, have expressed on the present occasion. The gentleman, no doubt, has good reasons for his change of opinion, but as I do not know them, I must seek for them in the change of our situation. I should be sorry to say, or believe, that it is to be found there; but the appearance of the thing to my mind is so singular, and so alarming, that I cannot conceal it. At that time we had no dispute with France; now we have. At that time the French Government had not declared us to be a people divided from our Government; now it has. At that time we were not on the eve of a conflict in which it was to be proved whether the people of this country shall be governed by France, or themselves; now it is to be feared that we are. In this awful, this momentous situation of our country; when we know that France, in her hostile measures, proceeds on the persuasion that our people are divided from our Government, and this House against the Executive; when we see measures here introduced and prosecuted with unequalled zeal, whose plain and direct tendency is to set this House at war against the Executive; to degrade the President, and hold him up to public view as the enemy of liberty, and unworthy of confidence; can we avoid observing how exactly these attempts are calculated to promote the views of France? Can we avoid the impression of a concert with those on the other side of the water, the impression that gentlemen are playing into the hands of a foreign Government, which is pursuing every hostile measure against this country? This impression I wish to resist; but I fear that the public mind will not resist it; nor can I easily resist it, when I advert to that system of alliance with France and war against England, which was at an early period imported into this country, and has been ever since pursued with so much activity and perseverance in this House.

When I say this system of alliance and war was *imported* into this country, I have no allusion to any member of this House. I have no doubt that it was imported by a member of this Government, but not of this House; and it was a part of the system adopted by the revolutionists of France, when they resolved to wage war against all their neighbors, especially England, for the purpose of subverting the Government of their own country, and gratifying their own personal ambition. This war, we know, was resolved on long before it was declared; and it was then determined that the United States should engage in it on the part of France. A regular scheme was concerted, according to every appearance, for drawing them into it. The missionary arrived, who was to convert us to this new faith; and this missionary was a citizen of our own, who was recalled from a public employment in that country, to fill a high official station here.* Not long after, a French Minister was sent over to second his efforts, and he came furnished with ample instructions, and fortified with ample means of seduction.

Before this Minister arrived, accounts reached us that the war between England and France was commenced. As we had extensive and important relations, both of a commercial and political nature, with these two nations, it immediately became a question of the greatest importance and solicitude, how we should act in this critical situation. In the deliberations which took place on this subject, in the cabinet of the Executive, two very opposite opinions immediately appeared; one for war on the side of France, and the other for a firm neutrality: and there were two men† at that time in the councils of the President, who supported these two opinions. The advocate of the war system did not venture openly to oppose the system of neutrality, which he knew to be the

* For avoiding mistakes, I declare, that in this and the succeeding passages, I allude to the present Vice President of the United States, whom I consider as the author and secret mover of this system of war against England, and alliance offensive and defensive with France—a system which, far from being abandoned, is, in my opinion, now pushed with more zeal than ever, by the same party. Hence all their efforts to keep the country disarmed, to deprive the Government of the public confidence, and to compel it, by those means, to break anew with England, in obedience to the orders of France. For when this breach is once made, they know that a war must be the next step, and then the alliance with France, or rather subjection to her under the name of an alliance, follows of course; and these gentlemen would rule the country under the orders of a French Minister, as is now actually the case in Holland. I consider the letter to Mazzei, and Genet's charge about "a language official and a language confidential," joined to the general tenor of this gentleman's conduct, and the book of his friend, Mr. Monroe, as full proofs that my opinion is well founded.

† These two men were Jefferson and Hamilton. The first was for war, the second for neutrality.

wish of the country. To have opposed it openly; to have declared, in plain terms, that we ought not to remain neutral, but to engage in the war, with finances so deranged, a Government so imperfectly established, and a condition of affairs so unsettled, would, as he well knew, have disgusted and alarmed the people, and ruined the project. He therefore acted with more art and address. He labored to the utmost to induce the President not to decide, himself, upon the question of neutrality, but to convene Congress, and refer the decision to them. Why? Because it was known that a popular body, like Congress, was infinitely more susceptible of enthusiasm, more easily wrought on by management and intrigue, more obnoxious to the influence of popular clamor, mobs, and venal presses, than the cool, deliberative councils of the President. It was also known that in case of a reference to Congress, the neutral system would lose the aid of its author's talents, who was precluded, by his official station, for a seat in that body. To this point then the author of the war system directed his whole force. He labored to convince the President that it did not belong to him to decide the question of neutrality, but to Congress, to whom the Constitution required it to be referred; and in this effort, it is well known that he was aided, to the utmost, by that description of people who have, since that time, omitted no opportunity in their power of hurrying us into a war against England.

Fortunately, however, the President saw and avoided the snare. His sound judgment, and penetrating discernment, enabled him to perceive all the hazards of such a reference; his good sense prevented him from entertaining a doubt about his Constitutional power to decide this question; and his firmness enabled him to make and support the decision. The Proclamation of Neutrality accordingly appeared.

It no sooner made its appearance, than the war party and their chief raised an outcry against it from one end of the continent to the other. The French Minister, (Genet,) who arrived soon after, remonstrated; the popular societies formed under his auspices, published resolutions; and the venal presses, the principal of which* was under the immediate direction of the author of the war system, poured forth abuse against the Proclamation of Neutrality, the Minister who advised it, and the President by whom it was issued. In short, Mr. Chairman, no expedient which disappointed intrigue and an artful, enraged spirit of party could devise, was omitted for raising a universal popular indignation against this proclamation of neutrality, and for preparing Congress to condemn and reverse it. The changes were rung from town to town, from State to State, and from one end of the Union to the other, on pusillanimity, on national degradation, on ingratitude to France, on servile submission to England. And this proclamation was furiously assailed with the very same weapons which we have since employed against the British Treaty, which was justly considered as a part of the same system of neutrality. The efforts of the friends of war, and their chief, were, however, unavailing. The people of America, indeed felt a warm, an almost enthusiastic, partiality for France, whom they considered as contending for liberty, and on this partiality the party founded strong hopes of success. But the good sense of the people enabled them to discern that, whatever might be their wishes for the success of France, the interest of their own country lay in preserving peace; and they gave, throughout the Union, the most unequivocal proofs of approbation to the proclamation of neutrality. When Congress met, this sentiment had become so strong and universal that the war party did not dare to oppose it. The proclamation was approved of by Congress, and the party and their chief once more had a hook put into their nose.

Though a second time disappointed, they did not, however, lose courage, nor abandon their schemes. But, as a system of neutrality had now been adopted, it was too late to talk of war; and the next step, therefore, was to explain this neutrality in such a manner as would render it, in effect, an alliance with France, and a state of hostility against England. This was attempted accordingly; but, as the author of the war system held an official station under the Executive, he could not openly appear in it. The French Minister came forward, and advanced the pretensions, which it was the part of the other personage to second and support in the President's Council. A right was claimed on the part of France to arm, fit, and commission ships of war in our ports; to exclude British ships of war under pretences which would have applied to every possible case; to enlist crews among our citizens; to raise armies in our country; and to preclude our courts of justice from all cognizance of prizes taken and brought in by vessels acting under French commissions. It was contended on the part of France that we ought to resist, by force, the right claimed by England, and clearly acknowledged by the law of nations, to take the goods of her enemies when found on board of our neutral vessels. It requires no discernment, Mr. Chairman, to see that these pretensions, had they been agreed to, would have placed the direction of our affairs in the hands of France, and must instantly have induced a state of war between us and England. This was well understood by the war party; and, therefore, as everybody recollects, they aided and supported the French Minister to the utmost of their power. These pretensions, indeed, were repelled by the President, who adopted a system wholly different—a system of national independence and fair neutrality; but it was well known to have been adopted contrary to the opinion, and in spite of the efforts, of the chief of this party. When it was adopted, he did indeed defend it, in his official character; but he has taken care to declare* his abhorrence of it, and the French Minister did

* The National Gazette, whose editor, Philip Freneau, was a confidential clerk of Mr. Jefferson. This paper was the vehicle of all the most violent attacks against the Proclamation of Neutrality.

* In the letter to Mazzei, where he stigmatizes this very system, as a system of ingratitude and injustice to France

not fail to accuse him of duplicity for having written officially in its defence.†

While officially defended by their chief, the party themselves assailed it with the most persevering violence. The haranguers exclaimed, the self-created societies resolved, the presses devoted to the party teemed with abuse; and that, in particular, which was under the immediate direction of the chief, poured forth one continued torrent of virulent invective. Afraid to attack the head of the Executive department himself, whose tried virtue, whose splendid services, whose great and well-earned popularity, could not fail to rouse the public indignation against any who might impeach the purity of his conduct, all the shafts were levelled at the counsellor by whose advice the system was supposed to have been adopted, and by whose talents it was ably supported. It was everywhere declared, and everywhere most industriously propagated, that this person had enslaved the mind of the President, and misled his judgment. Everywhere, by every press, and every club, was this person branded as a speculator, as a thief, a plunderer of the public Treasury, which was under his superintendence—a wretch, in the pay of England; in fine, the most profligate of traitors, the most dangerous of public enemies. These calumnies, asserted within these walls, circulated by members of this House, were industriously wafted from State to State, for the purpose of overwhelming with obloquy and public hatred the author and prop of the neutral system, as an essential step towards the destruction of the system itself.

When the public mind was thought to be sufficiently prepared, a direct attack was made on him in this House, for the purpose of driving him from his office, so that the President, deprived of his counsels, might the more easily be brought to concur in the designs of the war party and of France. The charges, before circulated in a vague and indirect form, were reduced to specific accusations, and brought before this House, as the grounds of a vote of impeachment. But, although the party had met with some success while they confined themselves to their stronghold, to the "*ambiguas in vulgum spargere voces*," which I mentioned in the beginning of my observations, yet, when they ventured to fight on the open plain of fact and proof, they were totally routed; when their vague calumnies assumed the shape of resolutions, they were easily refuted. Every charge was repelled by a vast majority of this House; and the wise and virtuous statesman, to whom his country is so much indebted, rising triumphant from the contest, established his fame and his system on a basis more solid than ever—like some mighty oak, whose roots are more strongly fixed, and new vigor added to its growth, by those storms which seem to threaten its overthrow.

Thus the war party were again discomfitted; and, in spite of all their efforts, aided by the efforts of the French Minister, a system of fair and impartial neutrality, calculated to preserve justice to all, and keep peace with all, was completely established.

Though beaten, however, Mr. Chairman, they were not subdued; nor could they be induced to relinquish their favorite object of war and alliance. They waited for a more favorable opportunity of renewing the attack, and that opportunity the unjust aggressions of England on our trade too soon supplied. These aggressions, joined to the remembrance of our former contest with that Power, and the resentments remaining from her former injuries, raised a flame of indignation throughout the country, which, pervading all classes and distinctions of people, prepared the public mind for measures of hostility. The occasion was seized by the war party, and used with an activity and zeal which gave them the fairest prospects of success. The attempts were not direct; because in that case the people might have been brought to reflect. The great object, then, as before, was war against England, and alliance with France; but not one word was said about war or alliance, words which might have created alarm, and given rise to hesitation. But measures were proposed whose direct and inevitable tendency was to widen the breach with England, and inflame the two countries more and more against each other. These measures assumed various shapes, to suit the feelings and catch the passions of particular individuals, or classes of men, and were urged with unremitting zeal and indefatigable industry. Sometimes commercial restrictions on the trade of England were attempted; sometimes the intercourse between the two countries was to be cut off; and sometimes confiscation and sequestration were resorted to. Many of our best citizens, and the firmest friends to peace and neutrality, were impelled by the warmth of the moment, and the insinuations of this party, to favor, and even to propose or advocate, these measures; and nothing was omitted to raise a storm of popular resentment and public odium against all those who had the firmness to withstand them. To speak of negotiation was branded as pusillanimity; to speak of attempts at amicable adjustment, was pronounced to be little short of treason. Gentlemen, for their opposition to these hostile measures, were stigmatized on this floor as the agents of England; mobs were hired to burn them in effigy in various towns in the Union; the presses devoted to the war party assailed them with continued volleys of calumny; their names were coupled with every disgraceful epithet, with every vile accusation, in the toasts of clubs and the resolutions of societies; and, finally, by all these means, aided by the continued aggressions of England, an universal flame was excited in the country, and the party saw itself approach rapidly to the moment of its triumph over the system of peace and neutrality.

When the country was thus on the point of rushing down the precipice, the President of the United States, destined so often to become its saviour, again stretched out his paternal hand, and

† See Genet's letter to Mr. Jefferson, of September 18, 1793—pages 70 and 73, of the printed correspondence.

prevented the fall. Interposing the powers of his office and his immense personal popularity, between the Legislature and the gulf, at the very brink of which it had almost arrived, he arrested its career, and afforded the country time to recover from its delirium. He sent an Envoy Extraordinary to make one further attempt at an amicable adjustment of our differences with England, before we should resolve to terminate them by the sword; and by this step he again broke the measures of the war party.

Their rage was proportioned to their disappointment, and it hurried them into the most furious invectives against the President, against the Envoy, and against all who were understood to favor the measure. Everybody remembers, Mr. Chairman, how they accused this Envoy of being a tool of the British Ministry, an enemy to liberty, and even an opposer of the independence of this country. Everybody remembers what clamors were raised about the unconstitutionality of his appointment; how the clubs toasted, the orators harangued, and the societies resolved. Every body remembers how all the presses under the influence of this party loudly alleged that the friends of the negotiation were a faction devoted to England, and that the President of the United States, by sending the Envoy, had placed himself at the head of this faction. Every one remembers how the leaders of this party did not refrain from repeating these accusations within the walls of this House, and even on this floor. It was in vain that the friends of the measure, and of peace, spoke to them in language like this: "Let this attempt at negotiation be made, and if it fails, we will join you in war. Should England refuse to do us justice, when thus peaceably applied to, we will join you in every measure of compulsion. We consider this as the last effort at negotiation; and so the President has announced it in his Message for nominating the Envoy." No! these gentlemen, now so peaceable, when France repels with contempt two successive efforts at negotiation, and meets all our advances by new measures of hostility, could then be satisfied with nothing less than immediate measures of coercion and irritation against England. A single attempt to negotiate they reprobated as pusillanimity, and the very idea of a compromise they treated as a surrender of the rights and honor of the country. When the Envoy arrived, and presented a memorial, stating all our claims, and urging satisfaction, but urging it in the usual forms of diplomatic civility, these forms were converted into a cause of accusation; a most violent outcry was raised against this civility by the very gentlemen who now proclaim their unbounded, and even enthusiastic approbation of the conduct of the late Minister to France, who, in his first address to the Government of that Republic, assured it solemnly and publicly that this country was ready to submit, and to submit cheerfully, to any infractions of its treaties or violation of its rights, which France might think it for her own advantage to commit! Whence this strange inconsistency, but from an eager desire of war against England, and a blind servile devotedness to France? And will gentlemen, after all this, deny that the whole scope of the measures, the whole drift of the system of their party, has been war against England and alliance with France?*

The Envoy, however, continued to negotiate, and at length concluded a treaty, whereby ancient difficulties were adjusted, and the foundation laid for amity in future. No sooner did this treaty arrive in the country than every artifice was used to inflame the public mind, and excite against it the popular prejudices. Nothing was omitted to defeat it in the Senate, and when ratified by that body, it was attacked by every coffee-house politician of the party before it was published, by all their presses, and by the resolutions of all the clubs. When made public, the most unheard of means were used to overwhelm it with general odium, to raise an universal cry against it, and deter the President from giving it his sanction. In every town mobs were assembled under the more respectable name of town meetings; those of a different opinion were silenced by clamor, intimidated by threats, or actually driven away by violence; and all opposition or discussion being thus prevented, these assemblages of ignorant and illiterate men were prevailed upon to vote by acclamation for resolutions which they were incapable of understanding, and could not even hear.

Thus the appearance of a formidable popular rising in various parts of the continent was exhibited, and the frenzy caught. It spread wider and wider, and, aided by various auxiliary passions, drew into its vortex great masses of the best and most well-intentioned citizens. The country again seemed on the point of rushing down the precipice; but fortunately its guardian genius yet presided over its affairs. The President of the United States again placed himself in the breach, and received on his buckler all the strokes aimed at the happiness of the country. He spoke to the people; they heard the voice of their father; they listened and became calm. He ratified the treaty, and the people said, "It is done, and must it not be supported? He has done it, and is it not right?" They listened, and were appeased; they read, and were convinced; they discovered their first errors, acknowledged and renounced them.

But not so the party whose object was war against England at all events. They saw in this treaty the death of their hopes, the final frustration of all their projects; for this treaty took away all cause of quarrel between the two countries, and they resolved to make one grand effort for its destruction; which being accomplished, all the ancient disputes would be reinstated with new aggravation, and a rupture would be rendered by so much the more certain, as there could be no faith in any new accommodation. To this object they bent their whole force, and this House was the place for the attack. When the treaty came before this House to be carried into effect,

* See Mr. Monroe's book, pages 10, 24, and 35, where this declaration is acknowledged and justified.

doctrines new to the Constitution, and incompatible with its existence, were introduced in order to destroy it. The treaty-making power was attempted to be rendered subject to the control of this House, as the power of appointing foreign Ministers is now attempted to be rendered subject. The treaty was attacked through the sides of the Constitution; a war was sought by the overthrow of our Government and the violation of our plighted faith. But a firm resistance was given to these attempts. Enlightened discussions spread the truth before the eyes of the people. Warned by the errors into which they had before been drawn, and roused by the magnitude of the danger, they rose in their might, and the party was dismayed; they spoke and it trembled; they put forth their hand and touched it, and it sunk to the earth.

Thus, again, Mr. Chairman, were the projects of the gentlemen confounded. Thus again were they prevented from effecting their purpose, so much desired, of driving this country into a war with England and the fraternal embraces of France.

The remaining history is known. The French, under pretexts so frivolous that not one gentleman on this floor had been found hardy enough to defend them, have quarrelled with us on account of this treaty, because, by terminating our differences with England, it cuts off all hope of our being drawn into the war against her. In this quarrel, France, proceeding avowedly on the ground of our being a divided people, opposed to our own Government, and attached to her, repels all our amicable advances, meets them with new injuries, and declares that before she will listen to us, we must tread back all our steps, reverse our whole system of policy, break our treaty with England, and admit her own construction of her treaty with us. In this critical and alarming situation of affairs, the same description of persons, the same individuals even, who have so perseveringly attempted to bring us into a war against England according to the views of France, who have so uniformly, and with so much zeal, supported all the pretensions of France, now come forward and make a direct attack on the Executive, the tendency of which necessarily is to divide it from this House, when there is the utmost need of union, and withdraw from it the confidence of the people, when that confidence is most essential. What is this but a continuation of the same system? And can we be blamed for seeing in this attempt a new effort to throw this country into the arms of France, by rendering the Government unable to resist her; by forcing it, from weakness, to submit to her mandates; to break, in obedience to them, its treaty with England, and substitute, in its place, an alliance offensive and defensive with her?

If this be not the object of gentlemen—if it be not their intention thus to serve their country by reducing it to the situation of Holland—how are we to reconcile their present with their former conduct; their eagerness for hostile measures formerly, with their tame submissive spirit now; their zealous opposition to everything like negotiation formerly, with their equally zealous opposition to everything like resistance now? If this be not their system, then all I can say about their present measures, contrasted with those pursued by them on a former occasion, about their former eagerness for alliance with one foreign nation and war with another, contrasted with their present declamations against all sorts of foreign connexions or intercourse, is to exclaim, in the eloquent language of the gentleman from Pennsylvania, that those measures form the last leaf of that book wherein are written the inconsistencies of party.

Whether this system of war and alliance, this system of fraternity with France, such as the Dutch now enjoy, and hostility, under her orders, against all her enemies; this system, so steadily pursued, but so often defeated, shall now at length begin to triumph, I consider as the question now to be decided. It is now to be decided whether an important step shall be taken towards compelling our Government, through debility, to submit implicitly to France, towards laying this country, bound hand and foot, at the feet of that haughty, domineering nation. To take this step, to commence the triumph of the fraternal system, I take to be the object, as I know it to be the tendency, of the inroad on the Executive power attempted by this amendment. Hence it is that I oppose it with the warmest zeal and with all my might; and if my opposition shall contribute in the smallest degree to its defeat, I shall neither regret the time I have occupied, nor apologize for the trouble I have given to the committee.

At the conclusion of Mr. HARPER's speech the question was called for; but on motion to rise and ask leave to sit again, it was carried by 50 members rising.

MONDAY, MARCH 5.

ENCOURAGEMENT OF FINE ARTS.

Mr. DWIGHT FOSTER observed, that he thought it proper that attention should be paid to the encouragement of the fine arts, and particularly to the arts of designing and engraving, which had already made considerable progress in this country. The proper way of doing this, he supposed would be to secure to artists a property in their works. In order to bring this business before the House, he proposed a resolution for appointing a committee to inquire into the propriety of passing an act for this purpose, which was agreed to, and a committee of three appointed.

RELATIONS WITH FRANCE.

The following Message, with the documents accompanying it, were received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The first despatches from our Envoys Extraordinary, since their arrival at Paris, were received at the Secretary of State's office, at a late hour the last evening. They are all in a character which will require some days to be decyphered, except the last, which is dated the 8th of

January, 1798. The contents of this letter are of so much importance to be immediately made known to Congress, and to the public, especially to the mercantile part of our fellow-citizens, that I have thought it my duty to communicate them to both Houses without loss of time.

JOHN ADAMS.

UNITED STATES, *March 5th*, 1798.

PARIS, *January* 8, 1798.

DEAR SIR: We embrace an unexpected opportunity to send you the "Redacteur," of the fifth instant, containing the Message of the Directory to the Council of Five Hundred, urging the necessity of a law to declare as good prize all neutral ships having on board merchandises and commodities, the production of England, or of the English possessions, that the flag, as they term it, may no longer cover the property. And declaring further that the ports of France, except in case of distress, shall be shut against all neutral ships, which, in the course of their voyage, shall have touched at an English port. A Commission has been appointed to report on the Message, and it is expected that a decree will be passed in conformity to it.

Nothing new has occurred since our last, in date of the twenty-fourth ultimo. We can only repeat that there exists no hope of our being officially received by this Government, or that the objects of our mission will be in any way accomplished.

We have the honour to be, with great respect, your most obedient servants,

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

TIMOTHY PICKERING, Esq.

[TRANSLATION.]

Message of the Executive Directory to the Council of Five Hundred, of the 15th Nivose, 6th year, (4th January, 1798.)

Citizen Representatives: To-day, the 15th Nivose, and at the very hour at which the Executive Directory addresses this Message to you, the municipal administrators, the justices of the peace, the commissaries of the Directory, and the supervisors of the customs, are proceeding, in all the chief places of the departments, and in all the principal communes of the Republic, to seize the English merchandise now in France, or introduced upon its territory in contravention of the law of the 10th Brumaire, 5th year (October 31, 1796.)

Such is the first act by which, when peace is given to the Continent, the war declared a long time since against England is about to assume its genuine character. The French will not suffer a Power, which strives to found its prosperity upon the misfortune of other nations, to raise its commerce upon the ruin of that of other people, and which, aspiring to the domination of the seas, wishes to introduce, every where, articles of its own manufacture, and to receive nothing from foreign industry, any longer to enjoy the fruit of its culpable speculations.

The English Government has kept in pay, during the war, the coalesced forces, with the produce of her manufactories. It has violated all the principles of the law of nations, in order to shackle the relations of neutral Powers: it has caused to be seized the provisions, grain, and commodities, which it supposed to be destined for France: it has declared contraband everything which it thought useful to the Republic: it desired to starve it. All the citizens demand vengeance upon it.

When it had to fear the capture of vessels sailing under its flag, it corrupted foreign Captains to induce them to take on board their vessels English merchandise, and thus to introduce it, by cunning, by fraud or otherwise, into foreign States, and especially into the French Republic.

The neutral Powers should have perceived, that, by this conduct, their merchants took a part in the war, and that they lent assistance to one of the belligerent Powers. We serve a party, as well when we procure for him the means of augmenting his forces, as when we unite ourselves to those which he has. The neutral Powers should have perceived, that England, by stopping the vessels of other Powers, laden in their respective ports, and destined for France, by permitting articles coming from her own manufactories alone to circulate, aimed at an extensive commerce, and that it would be necessary to seek reparation for such an attempt.

The ordinance of the marine and the regulation of 1794, have declared to be good prize, the vessels and their cargoes in which is found English merchandise belonging to enemies. These provisions should be extended. The interest of Europe demands it.

The Directory thinks it urgent and necessary to pass a law declaring that the condition of vessels in what concerns their quality of neutral or enemy, shall be determined by their cargo, and that the cargo shall be no longer covered by the flag; in consequence, that every vessel found at sea, having on board English merchandise and commodities, as her cargo, in whole or in part, shall be declared to be good prize, whosoever may be the proprietor of these commodities or merchandise; which shall be reputed contraband for this cause alone, that they come from England or her possessions.

It would be useful to declare at the same time, that, except in the case of distress, the ports of the Republic shall be shut to all foreign vessels, which, in the course of the voyage, shall have entered those of England.

The Executive Directory requests you, Citizen Representatives, to adopt these measures. No neutral or allied Power can mistake their object, nor complain of them, unless it be already delivered up to England. The infallible effect of the measure is to enhance the value of the product of their soil and of their industry, to increase the prosperity of their commerce, to repel every thing that comes from England, and essentially to influence the conclusion of the war.

Such are the motives which induce the Executive Directory to invite you, Citizen Representatives, to take the object of this Message into the most prompt consideration.

P. BARRAS, *President.*
LAGARDE, *Sec. Gen.*

This Message, was ordered to be printed, and committed to a Committee of the Whole on the state of the Union.

FOREIGN INTERCOURSE.

The House again resolved itself into a Committee of the Whole, on the bill to provide the means of intercourse with foreign nations; when

Mr. REED rose and spoke as follows: The subject before the committee, I believe; is perhaps generally considered as nearly or quite exhausted. Nothing very new or important is further expect-

ed: however, resolving, so far as possible, to avoid repeating those arguments and observations which have already, in the opinion of some, been too often repeated, I feel disposed to make a few remarks.

The object of the amendment under consideration, as I understand it, is to control, or restrain the operations of the Executive Department, with respect to Ministers appointed to officiate at foreign Courts; and this restraint of Executive power is to be effected by reducing the sum, or by appropriating a less sum than hath been heretofore appropriated for that purpose.

The gentleman who brought forward this amendment, and they who have joined with him in the support of it, do not pretend to accuse the President of having violated his Constitutional trust, nor have they adduced any proof to show that the character of persons appointed to the office of Ambassadors is such, or the number so great, as really to endanger the Constitution or the rights and liberties of our country. The pretence is a fear or apprehension of abuse in future, which, in my estimation, is very far from being a reason sufficient to justify the measure in contemplation. Certainly the President is exclusively authorized by the Constitution to nominate Consuls and Ambassadors, and, with the advice and consent of the Senate, has an exclusive power to appoint them. What reason have we to think that this duty has not been or will not be discharged faithfully and properly? What reason have we to imagine that if the superintendency and direction of this business were taken into our own hands, it would then be transacted with more fidelity, with more propriety, and safety to our constituents? Have we more information upon this subject? are we more capable of judging rightly with respect to the number, the character, and the grade, of foreign Ministers? Or, is there a greater degree of responsibility and integrity attached to our station than to the Executive Department? These things will not be pretended. I am ready to acknowledge myself deficient in point of suitable information upon this subject, nevertheless, it does appear to me reasonable to suppose, considering the present peculiar state of Europe, our relations and connexions with the European nations, that the number of Ambassadors employed abroad is not too large, nor their grade too high, to manage well the difficult and interesting affairs of our national intercourse.

Responsibility is evidently a very important and distinguishing characteristic in a representative Government; and, it must be evident to every one that the President of the United States, in this respect, is placed in a different situation from the House of Representatives. It is, perhaps, a difficult thing to render so numerous a body as the House of Representatives sufficiently responsible. If a majority, or less number of individuals, should at any time be guilty of improper conduct in their Legislative capacity, the blame might be divided among themselves, or possibly be shifted from themselves to other members; so that the people at large could not easily ascertain who the persons really blameable were; besides, members who belong to the House of Representatives are chosen by districts, or by the State they represent.

The circle which they more immediately represent, and to which they are more particularly responsible, is comparatively small, whereas the President is chosen by the United States. He represents the whole Union, and to the whole Union he is accountable and responsible. His responsibility to God and men is of the most serious and solemn nature; his obligations to the faithful and proper discharge of duty are the greatest and motives the strongest conceivable; and, for my own part, I am unwilling to diminish that responsibility, which is, in some sense, our national security and safeguard, by controlling or restraining a power which, I am not suspicious, has ever been abused.

I am sensible it has been insinuated that our political intercourse is too extensive. That this intercourse always has and ever will prove disadvantageous; but, perhaps, these suggestions are without sufficient foundation. We might have been subjected to much greater evils without, and for the want of this intercourse with foreign nations, than we have suffered in consequence of it.

Political as well as commercial intercourse with other nations may possibly be carried to such excess as to operate disadvantageously; and, when not carried to excess, it may be the means of vitiating and injuring some individuals, and, perhaps, some particular places, but the community at large, I apprehend, will be benefited.

All nations have their improvements and virtues as well as imperfections and vices; a suitable degree of mutual intercourse would, therefore, in all probability, be of mutual advantage. In this way we as a nation may be rendered more respectable abroad; and I am persuaded that the more our foreign Ministers, and also the more the people of this country in general, see and know of other nations, of their manners and customs, of the nature and operations of their Governments, the more highly they will eventually esteem and admire their own.

In America free representative Governments exist, and we hope their existence will be perpetual. This extensive Continent, placed at so great a distance from other Continents, and discovered in so late a period of time, is favorable to the cause of liberty; it has proved an asylum for the oppressed and persecuted of other nations; and, from our political as well as commercial intercourse with other nations and Governments, they as well as we may be essentially improved and benefited.

Gentlemen in favor of the amendment now before the committee have urged its importance and the necessity of its being adopted at this time, in order to check, as they pretend, a very dangerous patronage arising from the exercise of Executive power, in appointing foreign Agents and Ambassadors. To me the suspicion appears totally unfounded. I can discover no alarming prospect of this kind. Corruption is not congenial to our

Government, nor is it requisite to support and render popular any part of its administration. Our State Governments preclude the necessity of many offices in the General Government. These offices are, comparatively, but few, and none of them very lucrative. No person, in or out of office, can reasonably expect to secure any real and lasting popularity by corrupting others, or by being himself corrupted.

If our Government had been founded in usurpation and upon arbitrary and oppressive principles, then it might have needed a variety of vicious measures for its establishment; then we might expect that the administrators would address themselves to the passions, to the avarice, and ambition of its subjects; then every species of artifice and intrigue, political and religious tests, with hereditary and exclusive privileges, might be necessary for the support of the Administration.

But the Constitution and Government of the United States need none of these means for its support. Formed by a free and enlightened people upon the noble basis of equal rights and privileges, it can only be supported by just and equitable laws, fairly and impartially executed. The President in his appointments cannot be supposed under the influence of favoritism. Every motive will induce him to have a proper regard, not only to abilities and information, but also to real and substantial merit and integrity of character. I apprehend we have no reason to doubt but that such men will be appointed by the Executive to the several offices, as, in their honest judgment, are best qualified and disposed to discharge the respective duties with the greatest propriety and most general acceptance to the people.

Under these and similar impressions the object of the amendment apppears to me not only unnecessary, but improper, and accordingly contrary to the intention and spirit of the Constitution. We find no violation of Constitutional trust in the Executive; no flagrant abuse of power is pretended; no instance of improper conduct which can, in the least degree, justify the measure in contemplation.

The method which gentlemen who advocate the measure propose for restraining the exercise of Executive power is, by reducing the sum heretofore appropriated for the support of foreign Ministers. In considering this proposition, a Constitutional question has been brought into view, different opinions have been advanced, and these opinions have been variously expressed. I feel, therefore, disposed to express my own opinion also, and in my own way, on this occasion, with respect to the doctrine of appropriations.

The Constitution says, no appropriation of money shall be made but by law. An appropriation is a law, or act of the Legislature, appropriating a sum of money for some particular purpose. A legislative act is, in its nature, voluntary and deliberative. Every member of the Legislature possesses the right of deliberating and deciding for himself.

It is acknowledged by all that the Legislature has what is termed the physical power of making or of refusing to make appropriations; but in certain cases, and in the present case, some pretend this House has not the moral power to refuse, or to appropriate a less sum than has been heretofore appropriated for the like purpose. If by moral power is here meant the right of doing a wrong and improper action, certainly no individual, or body of men, can possess this right in any case whatsoever. There is no dispute here, and for myself I believe it would be wrong and highly improper and inexpedient to reduce the sum proposed to be appropriated, according to the object of the amendment. But, if by moral power be meant the right of judging when and how the physical power ought to be exercised, (and I think this must be the meaning, if it means anything,) the right undoubtedly belongs to the Legislature. The Constitution has no where said the Legislature shall not exercise this power, nor has the Constitution said the right of exercising this power shall be vested in any other department of the Government.

In this view of the subject I do consider the Constitutional power of appropriating money as a sacred trust committed by the people of the United States to the discretion of the Legislative branch of Government. This power or trust is not to be wantonly abused and trifled with, but exercised according to the principles of justice and good faith—of sound wisdom and policy. In the exercise of this power there will sometimes be a difference of opinion among the members of the Legislature, but it is to be presumed that a majority will decide rightly, and legislate with propriety.

I am sensible it may be objected that this power might be so exercised as to frustrate the most important Executive measures, and even stop the wheels of Government. It may also be said that if the Senate should refuse to concur with the House of Representatives, or the House of Representatives refuse to concur with the Senate, in making and repealing laws, then there would be an end of legislation, and the wheels of Government be entirely stopped.

The same unhappy effects would ensue if the Executive department should interfere with the Legislative, or refuse to discharge its particular duties.

But these evils are not predicated upon a Constitutional existence of power; they are predicated upon a presupposed possible abuse of power. Such abuses, I conceive, ought not to be thus anticipated. If they ever should arise, then will be the proper time to correct them; and, in the mean while, each branch of the Government should lay aside unreasonable jealousies, and have a suitable confidence in all the other branches.

Each department of the Government is equally important, and equally dear to the people of the United States; and their mutual co-operation is necessary to the public welfare.

The President and members of Congress are all chosen by the people. The Government is theirs, and in their hands, as clay is in the hands of the potter, and we must hope and expect that

they will mould and fashion both the legislation and administration, according to the true import and meaning of that most excellent Constitution which they have framed and adopted by mutual consent, and for mutual benefit, and which they still admire and revere as the only sure palladium of their dearest rights, liberties, and privileges.

Mr. Claiborne (of Tennessee) rose to offer a few remarks upon the question under debate, but more particularly to reply to some observations which had fallen from the gentleman from South Carolina (Mr. Harper.) And, notwithstanding the exhausted state of the patience of the committee, since it was his intention to occupy their time but a little while, he hoped to be favored with their kind indulgence and attention.

Some weeks ago, early in the investigation of the present subject, he had expressed an opinion favorable to the proposed amendment, and he had heard no reason to authorize a change of that opinion.

It was true that the opposition had been violent and uniform; that the most splendid eloquence had been called forth to defeat the amendment; and gentlemen, abandoning a plain system of reasoning which might tend to convince the mind, had vied with each other in exhibiting talents for declamation, and, indulging themselves in the visionary fields of fancy, had brought to the view of the committee a number of imaginary evils, well calculated to alarm timid men, and to communicate uneasiness to the people.

Thus we found that, while the gentleman from New York (Mr. Williams) feared the success of the amendment, lest it might overthrow the Government and destroy the Union, the gentlemen from South Carolina (Mr. Harper) wished its rejection, lest it should be accompanied with all the horrors of anarchy, and throw us completely into the arms of France.

Mr. C. begged leave to call the attention of the committee to the amendment itself, and he would ask whether such dangers could be rationally apprehended from its adoption? The simple question was, whether all our foreign Ministers should receive equal salaries with those residing at London, Paris, and Madrid. Is there not strong reason for a discrimination? Have we not been told that the Courts of France, Spain, and England are the most expensive in Europe, and that in Portugal and Prussia Ministers can move with dignity, and live in affluence and ease, on much smaller salaries than those residing among the first mentioned Powers? Has this information been denied, or has an attempt been made to confute it?

But, say gentlemen, we have not a Constitutional right to adopt the amendment; that the office of Minister is created at the will of the President, and we are bound to appropriate. To avoid an unnecessary discussion, he would concede this point. But did it follow that a Minister having been created, and his salary fixed, it could not be lessened during his continuance in office? Yet this doctrine was maintained by some members, and the gentleman from South Carolina promised to establish its authenticity so clearly that all the arguments of the worthy member from Pennsylvania (Mr. Gallatin) should fall to the ground and be of no weight. But, sir, how was this promise complied with? Why, we were told that the Ministers having been appointed, and their salaries fixed, it would be as unconstitutional to lessen them as it would be to diminish the compensation of a federal Judge And shall this assertion alone induce the committee to embrace an opinion that will not stand the test of the smallest inquiry. We all know, said he, that the Constitution prohibits the diminution of a Judge's salary during his continuance in office; but as to the compensation of Ministers, it was silent; hence the inference is fairly deducible that it is left to Congress to fix, heighten, or lessen that compensation at their discretion. But it is unnecessary to dwell longer on this point. The arguments of the gentleman from Pennsylvania (Mr. Gallatin) appear to me conclusive, and remain unanswered.

But we are told, adopt the amendment and our Ministers will retire. This event would give to him no regret—not that he disliked the characters employed—they were all honorable men, and their return to America would be a valuable acquisition. But Mr. C. was opposed to this diplomatic policy; he feared it would draw closer our foreign connexions, and extend our foreign political intercourse, which, in his opinion, foreboded much evil to our common country.

France, says the gentleman from South Carolina, commenced her intrigues in America at the organization of the present Government, and he would add, that England began her career about the same period. France, we were told, had acquired a powerful party in America, and that even within the walls of this House she had her votaries, whose zeal for her cause induced them to lose sight of the interest of their own country. If this was the fact it was unknown to him; but he would say, there was some ground to fear that there were men in the United States so much attached to the interest and policy of England as to be willing to entwine the fate of America with the destinies of that tottering and corrupted monarchy. For his part, he disclaimed and despised all foreign influence, and the great wish of his heart was to see it exiled from our country; the first step towards it was, to reduce our diplomatic establishment, and, by degrees, to do it away altogether.

But, says the gentleman from South Carolina, Ministers are the guardians of our commerce; without them Consuls would be of no use, since they are unknown to the Courts of Europe. I believe, said Mr. C., this statement is not strictly accurate. The foreign Consuls in America, before they acted in their offices, produced their credentials to our Executive, and were acknowledged. He believed a similar usage prevailed among other nations. The Consul General from France was well known in the United States, and it appears that our Consul General is known to the French Directory, and if my information be true, that

gentleman has rendered our commercial interests considerable service.

It had been asked, Where was the necessity of having a Minister at Berlin? and the member from South Carolina has given us the answer. He tells us "that the present Prussian monarch is young, enterprising, warlike, ambitious, and just grasping the most brilliant sceptre in Europe; that he held the balance of power in his hands; that he held it with a treasury replenished by four years of peace, and with three hundred thousand of the finest troops in Europe." All this might be true, and it might further be conceded, that these troops would, the first opportunity, retrieve the disgrace which the *sans-culottes* of France had brought upon them. But all this proved not the propriety of America's forming a connexion with him. She had nothing to fear, either from his power or ambition, unless she courts his favor.

Let this monarch preside at the Congress of Radstadt; let him prove the pacificator of Europe, and put an end to a war which has so much thinned the ranks of mankind; but for myself, I would wish him to lose sight of the interest of America. The friendship of Kings too often proves the bane of Republics. He said he was not well versed in history, but he would ask the learned member from South Carolina if numberless instances did not present themselves to his mind, where the friendship of Kings ultimately proved the ruin of Republics?

In tracing the historic page of ancient times, it will be found that some of the little Grecian States, when in imminent danger, had solicited the friendship of Philip, King of Macedon. He gave it; but what was the consequence? He acquired an influence in their councils which enabled him to triumph over liberty and enslave the people, and the last remains of dignity sunk in the Grecian world.

But we are told, the Prussian monarch has possessions on the Baltic, and wishes his commerce extended; and shall America make any sacrifices to gratify him in this wish? Have our merchants heretofore had any trade with this Power, and do gentlemen wish to force it? With regard to the commerce of America, he was of opinion, it was too soon in our history to see it splendid, or to turn our attention solely to its welfare.

Agriculture is the leading interest of our country, and requires our primary care. Agriculture is the favorite pursuit of man; and so long as extensive and fertile tracts of land remain unoccupied in America, so long will her citizens prefer a livelihood from the peaceful cultivation of the soil to an uncertain subsistence on the ocean.

It is necessity that occasions commerce to unfurl her sails. Thus we find, that while the flag of England is displayed in every quarter of the globe, the colors of France are seldom seen. The insular situation and contracted limits of the former, drive her citizens upon the ocean for support, while the extensive and fertile dominions of the latter afford for her inhabitants subsistence at home.

The gentleman from South Carolina, although he acquits the friends of the amendment of the motive, declares that their doctrine would overthrow the Government and introduce tyranny. What is this dangerous doctrine, so much dreaded, so pregnant with evil? It is only this: we claim a share in the care of the public purse; we see an impropriety in giving to all our foreign Ministers equal salaries, and some members are of opinion, of which number I am one, that an extensive foreign political intercourse is inimical to the interests of America. And can such doctrine lead to the destruction of the Government, supported as it is by the strongest bulwark—the hearts of the people? It is impossible! A doctrine, too, which flows from the Constitution, and confides to the Representatives of the people a power to limit the disbursement at the Treasury Department; a power that is safely committed, since, from the great responsibility attached to the Representatives, no abuse can be apprehended. This doctrine never could endanger the Government.

The committee were told by the worthy member from South Carolina, that political, like religious fanaticism, is equally destructive to the happiness of the people, and he cautioned gentlemen against the adoption of the present amendment. And had that the appearance of fanaticism? Certainly not. Why, then, were such observations heard? Are they made to alarm the citizens, and to excite their suspicions against the gentlemen who support the amendment?

France, says the gentleman, affords an awful example of the danger of fanaticism. There, a monarchy that had lasted for fourteen centuries, was hauled to pieces in a moment, and the nobles and the priests perished in its ruins; and, in pathetic terms, he exclaims, "The brilliant throne of Louis was not far distant from the place where he bled, and the splendid administration of Neckar was soon followed by the reign of Marat." How could these observations apply to the present question? But having been made, his respect for the gentleman led him to notice them. And does my friend really lament the downfall of a monarchy that held a brave people in servitude and chains for fourteen centuries; where not only human rights, but human life, were sacrificed at the pleasure of the monarch? And does he lament the ruin of a splendid administration, which enabled the Court, the nobles, and the favorite few, to revel in luxury on the hard earnings of the yeomanry of the country; which filched from the industrious citizen one-half the produce of his labor? If such be his disposition, and such his sentiments, all that I can say is, I envy not his feelings, and thank Heaven my partiality for the human family is too great not to rejoice at the liberation of thirty millions of people from so galling a yoke of bondage.

Fanaticism, says the member, once reigned in America; but he felicitated himself and his country that its reign was over. If the gentleman alluded to the spirit of 1776, Mr. C. believed he was mistaken; that spirit still existed, and if a time should come when liberty was in danger, it would burst forth in all its glory.

Mr. C. then called the attention of the committee to a country in Europe where history afforded a valuable lesson on the present subject. Switzerland, although in the neighborhood of European Princes, maintained no Ministers at their Courts; she neither courted their favor nor feared their power, and while this independency of conduct freed her from the disputes of Europe, Switzerland was respected by every nation.

Mr. C. said he might be told that the situation of Switzerland is dissimilar to America; that her riches consisted in a few sheep feeding in her valleys, and a few cattle grazing on her mountains; and as to commerce, she had none. But Switzerland had enjoyed the blessings of liberty and peace for several centuries, and where so much happiness dwells, the policy observed is entitled to remembrance, and worthy to be pursued.

Gentlemen tell us that attempts are continually making in this House to usurp the powers of the Executive. He was not a witness to them. It appeared to him that they too frequently delegated their powers. Look to the laws, and see the increase of influence and power in the hands of the Executive. It was this he feared. The power of the Representatives was safely placed, and ought to be held sacred, for, as he had before remarked, their responsibility was too great to apprehend serious danger.

Mr. C. said, if ever this Government should be shaken, the attack would come from the Executive and Senate, combined against the popular branch. Mr. C. wished not to be understood as wanting a confidence in the present Executive; the reverse was the fact; but if a period should arrive when a bold, intriguing, ambitious man, panting for uncontrolled sway, should work himself into the Presidential Chair, and two-thirds of the Senate be found wicked enough to favor his views—by means of the treaty-making power—the Government of America may be overturned, and her liberties lost forever.

Mr. R. Williams (of N. C.) said, although it had become very fashionable for gentlemen to apologize for delivering their opinions at this late stage of the debate, he should make none, but only say he should not have troubled the committee with any observations had it not been for the turn which the debate had taken, and the Constitutional principle which gentlemen on both sides seem to contend would be settled by the decision of this question, viz: whether that House had a right to withhold or control appropriations for foreign Ministers. He said, lest it should be thought that he meant to concede the principle, that it had not the right, he felt it a duty which he owed to his own opinion, as well as the interest of those whom he had the honor to represent, to state the reasons on which he should give his vote. From the best considerations which he had been able to give the question before the committee, he thought the proposed amendment ought not to obtain. It appeared to him to be a measure calculated in its effects, and from the manner in which it had been brought forward and argued, more to sound the disposition of that Legislature and the public at large, as to our own Government, and particularly its administration, than to produce any real good, or to avert any impending danger. And in proportion to this conviction on his mind should he feel himself at liberty to give his opinion, independently of any insinuations as to the purity or impurity of motives, which were so often the favorite theme of declamation on that floor.

With this view, he said, he would endeavor to direct such observations as he might make on the occasion, on a supposition that every member of that committee was actuated by similar motives—the good and welfare of his country; and that the differences of opinion which had taken place were merely as to the mode and manner of obtaining this great end, and were more the result of our free Government, and the independent and liberal manner in which they had a right to discuss all subjects which came before them, than from any improper motives. To suppose any thing short of this, he said, would be to suppose the people themselves did not know their own interest, or that gentlemen had forfeited that responsibility which they owe to their constituents, or have taken up opinions and principles hostile and foreign from those under which they were elected. He thought it much more proper to draw conclusions from arguments themselves, that might be admitted in support of any measure, as the true way to understand its merits and know the line of conduct to be pursued, than to be seeking after motives, which can only end in conjecture, and tend to confound and embarrass, rather than elucidate. He said it was in his opinion a thing to be lamented, that for some time past, not only since he had the honor of a seat in that Legislature, but before, scarcely one subject of importance had come before it, but immediately the doctrine of confidence and the independent rights of the Executive, or some department of Government, was introduced, as though we had no Constitution at all—or, if one, that they possessed a very imperfect knowledge of it. Some gentlemen contending as though they have unlimited confidence in the Executive, and therefore willing to cede almost all power; and that the Executive has no check. On the contrary, others seem disposed not to give up that which may be necessary, or heretofore in practice; both of which were on the extreme, and ought not to be countenanced. Thus one extreme begets another. That we ought to have confidence in every department of our Government, to a certain degree, he said, was right, and what the people intended in the formation of the Constitution. It is not the officer, said he, individually, whom we ought to regard, but the office or department. Thus he would have as much confidence in one Executive as another, in one officer as another, in their official character, and if they violated the duties and trust reposed in them by the Constitution and laws, punish them accordingly.

It is not, said he, that a thing has been done this or that way, or by one or the other of the departments of Government, which proves that it

is alone right to be done that way; for there are many things which may be done by either of two of the departments of Government, and yet be constitutionally right; this, he said, showed the mutual confidence which was intended to subsist between the different departments of Government, by which they might work together with that political union and harmony, so essentially necessary to promote the general good and welfare of the country, and happiness of its citizens. He said the people had placed confidence in every department of their Government, up to which he conceived it to be his duty to act, otherwise he should violate the fundamental principles of the Government, and the Constitutional rights of the people, which he was sworn, as a citizen, and a representative, to support.

Mr. W. said, these were his sentiments as to confidence in the different departments of the Government; and he hoped they would not be imputed to him as one of those who was willing to ascribe implicit perfection and infallibility in the administration of the Government, or sing hallelujahs to the Executive, as some gentlemen had been pleased to say. He did not believe the rights and liberties of the people were so endangered from their own Government as to be mourned over in that manner. He believed the Government competent to render them great as a nation, and happy as a people; and the only danger which he saw and apprehended was from meddling with European and foreign politics. He said, he had very early made up his opinion as to the proposed amendment; but the arguments and principles which some gentlemen had advanced against it, had almost induced him to abandon that opinion; but when he considered it would be wrong to sacrifice an opinion which he knew to be formed on pure motives, and in which not only himself and those he had the honor to represent, but the public in general were interested, he should not suffer any arguments foreign to the merits of the question, and which had been advanced merely for the purpose of crimination, to have any influence on his mind. He said, without any intention to dictate to gentlemen what observations they ought to make on any subject brought before that House, he would say he was sorry to hear the gentleman from Virginia (Mr. Nicholas) take the ground which he did, because he thought it extremely impolitic, at this critical juncture of our affairs, unless the occasion was more urgent. But, he said, it had been seized on with such avidity, and commented on with such severity and crimination, as almost to make that mild which otherwise, and at first, would not have appeared so, and had gone further to prove the truth of some observations which had been made relative to the existence of a certain fact, which he was yet disposed not to believe, than anything since said in support of it. He meant Executive patronage. He said it was certainly more proper to show the impropriety of any measure, by reason and argument, than by crimination; for, in proportion to the violence of the attack would the resistance be, and the exertion to persevere, though wrong, when reason would have a contrary effect, and in that proportion do you shut the door against conviction, and put reason at defiance. But this appeared to be the design of some, particularly the member from Maryland, (Mr. Craik.) who said he had no hopes of a reconciliation of sentiments in that House, and that it was necessary now to make a firm and decisive stand against a party within these walls, who wished to overturn the Government; to prove which he rummaged up the votes on all the important acts of that branch of the Legislature, or laws that have passed, and at once proscribes the minorities. The member from South Carolina (Mr. Harper) had pursued the same line of conduct, and gone on to abuse and censure private as well as public characters, and was not content to confine his objects of abuse to this country, but leaps over the Atlantic and does the same there, and attacks foreign Governments. He asked, is this what the people expect to hear in their federal Legislature? Is this what we are sent together for? Does such conduct comport with the character and genius of American liberty and independence?

Mr. W. said, having made these general remarks, he would proceed to consider the amendment, in the two-fold point of view on which it had been argued: The Constitutionality and expediency. As to the first, he had no doubt but that this House had a right to restrict or withhold appropriations for foreign Ministers, and to exercise a discretion in all such cases; but that discretion ought to be exercised so as not to be a virtual violation of the Constitution: Such as to refuse to pay the President, a Judge, or other officer necessary to constitute any of the departments of Government, or to defray the expenses of the year 1798. There were cases in which this House was morally bound to appropriate. It had been said, that that House was as much bound to appropriate for foreign intercourse as for the Judiciary. He conceived the cases quite different. The Judiciary was one of the grand departments of the Government, as much so as the Legislative or Executive, and only different in its creation and duties. The people create the Legislative and Executive, and call on them to create the Judiciary; therefore, any act by either to defeat it would be a virtual violation of the Constitution.

He said, foreign Ministers were not necessary to constitute any one of the departments of the Government; it was as complete without as with them; they are only to be employed as may be expedient.

If we do not choose to have them, we may refuse, and our Government may still go on. But it was quite different as to Judges. There is no analogy in the cases. If we had no Judiciary, our Government could not go on; the people would have no tribunal to determine their rights, liberties, or property. The case of an appropriation for a treaty was also mentioned; that, he said, differed from the present case. By the sixth article of the Constitution, a treaty, when ratified by the President and Senate, is declared to be

the supreme law of the land, and the Judges in every State bound thereby. Here a law may be made independent of this branch of the Legislature, except as to the first act, that of appropriation to enable the President to form a treaty, which the Constitution gives this House a discretion in; and having made the appropriation, it had exercised all the power given by the Constitution, unless a treaty should be made to carry on or declare war, which expressly belongs to this House. But all these were extreme cases, and ought not to be supposed, because it was impossible to give power that might not be abused. He said, after a treaty was ratified, he then thought the obligations of that House to appropriate might be assimilated to that for a Judge. To show more clearly that that House was morally bound to appropriate for a treaty Constitutionally made, he would state a case. Suppose a treaty made, which required no money to carry it into effect, or did not require any for several years; how was that House to check its operation, or prevent the Judges from being bound by it, as by the Constitution they are? Or will gentlemen say, this House can only check such as require money, and not those which require none; and that after a treaty has been in operation for several years, this House can stop it? This certainly would be the effect of such a construction of the Constitution.

But it is said, for this House to refuse to appropriate for Ministers, when appointed, would be to check the other departments of Government. It might as well be said the other departments have no right to check this. Such a construction goes to do away the intended checks of the departments of Government on each other, and tends to destroy all confidence and render them independent in all their acts. He said our Government ought not to be construed as though one department was intended to destroy the other, but to aid and check it. The member from Delaware, (Mr. Bayard,) in advocating the principle of the Executive's selecting men of certain politics to office, had talked of administering the Government by conscience; he believed such would be a new-fangled Administration; he thought the Constitution ought to be the conscience of every administrator of the Government. Mr. W. said, the bill, without the proposed amendment, was the same in principle as that first passed in the year 1790, and continued ever since; though there had been an increase of money granted, the principle was the same; where Ministers should be sent, and their grade was left to the Executive, the check which that House reserved to itself was as to the quantum of appropriation, which he thought would ever prove a sufficient one against abuse, for the Executive could make use of no more money than was given him. He said, this was one of the things which might be done either by this House, or given to the President, as was most expedient. It had been heretofore left to him, and he saw no reason for a change at this time. But some gentlemen seem very unwilling to allow that this House has the power to contract appropriations; they say there is always a tendency in the popular branch of the Government to encroach on the Executive. To prove which they go into Europe; England and France are particularly mentioned. He thought there was no necessity; nor was it policy to quote examples from those countries, to know how to administer our own Government. As to England, he said, the people have no power or liberty but what has been dealt out to them by mere acts of sovereign grace and prerogative mercy, but their Government is different. As to France, it is and has been for ten years in a state of revolution. He said the sources of power, and the means of obtaining it in this country and England, were quite different. Here it was in the people; there in the Crown. Here power was freely given to the Executive by the people; there it was taken from them by usurpation, which keeps up a constant jealousy between the governing and the governed; the one constantly on its guard, under a conviction of being in possession of what it has no right to; whilst the other is taking all advantages to regain what was forced from it. In this country no such jealousy exists, because all power is with the people, except what they have freely given up. He said, this principle would hold good in private life; for if the property or liberty of an individual was forced from him, he would never be contented at seeing another, or the one who had taken it from him, enjoy it, but would be constantly striving to get it back. These remarks he meant to apply as well to those who seemed to fear Executive power, as to those who feared the powers of that House. The member from New Jersey, (Mr. Imlay,) as well as some others, had said this branch of the Government ought not to check the Executive. Mr. W. said, that this was not a correct opinion; to prove which he read a clause from Mr. Adams's defence of the American Constitution, which says, "That each of the three branches of the Government must be, in its turn, both master and servant, governing and being governed by turns." He said, although he had no great partiality for the politics contained in that author, yet he read it in order to show that even those who contended for a much stronger Executive than ours did not deny that each branch was to be a check on the other.

Mr. W. said, the gentleman from South Carolina (Mr. Harper) charged all those who advocate the powers of the House as being ignorant of the effects of the measures they advocate, and compares their speeches to those of Fox and Sheridan in the English Parliament. The gentleman ought to recollect that with as much propriety might his be compared to those of *Pitt & Co.* And is that an Administration which he would wish to take place in this country?—a system which had kept the nation one-half of its time involved in war—which had drenched the world with blood; a system which had involved the nation in a debt which all the world could scarcely pay, and which had reduced one-half of the people to a state of poverty and want, whilst it raised the other to a state of luxury and dissipation.

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passed - - - - - 22
amended by the House - - - 27
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appointed - - - - - 30
their report - - - - 30
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passed - - - - - 526
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reported - - - - - 582
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DEBATES AND PROCEEDINGS

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CONGRESS OF THE UNITED STATES;

WITH

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FIFTH CONGRESS.

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Mr. W. said, having offered such reasons as were convincing to him, that the House had the Constitutional right to withhold and control appropriations for foreign intercourse, he would proceed to make a few observations as to the expediency of the amendment under consideration, and state why he thought it inexpedient at this time, which alone induced him to vote against it.

He said, there were reasons which operated strongly on his mind to show the inexpediency of the amendment, which at any other time, and under any other circumstances, would not.

Our situation with foreign nations was at this time a critical one; we were already viewed by them as a divided people, and he thought it a very improper time to be wrangling about our own Government.

He said there was a further reason which he would mention. A change had lately taken place in the Executive of this country, in the election of whom other nations had extended their views, in a manner improper for him to mention at this time; that, on this question, the people of this country were very equally divided. To attempt such a restriction on the Executive, at the first ordinary session of Congress after that change, would appear as if done in consequence of it, or the choice, especially when we advert to the reasons given by the mover of the amendment, (Mr. NICHOLAS.) All which, he said, would tend to keep up the opinion of our being a divided people, and appear as though we were not disposed to be reconciled to the acts of the majority, which he supposed the good sense of the people of this country would always dictate as the first principles of their Government. He said, one of the objects of this amendment, as expressed by the mover, is to make a stand against Executive influence; and this was paraphrased by saying, "There is a tendency in all Governments like ours to a union and consolidation of all its parts into the Executive, to the destruction of the rest." He said, he did not think this was the nature and tendency of such a Government as ours, for the reasons which he had before mentioned. He said the mover had also stated, "an opposition was necessary to be kept up, in order to rouse the people to a sense of their danger, and cause the public mind to be respected." This would be to declare our Government a Government of political warfare and opposition, instead of peace and harmony; and this, he said, would be the way to verify another principle, stated by the member from Virginia, "that a representative Government may become more expensive and burdensome than a monarchy or despotism." Mr. W. said, that a free representative Government might be necessarily more expensive than a monarchical or despotic one, he would admit, but not more burdensome. In the former the people have all power, in the latter very little or none. In a representative, the powers of the Government were distributed into the hands of many; it of course created a number of offices and officers, all of whom must be paid something. But this is what the people choose to pay to secure their liberties, being jealous of trusting too much power in the hands of any one man or body of men. In the latter character of Governments it is quite the reverse.

Mr. W. said, as to Executive patronage, and the selection of men only of certain politics to office, he did not see how the proposed amendment would remedy that. But he could not believe the existence of the fact; it was too base in principle, and too absurd in practice. If such should be the case, every change in the Executive, if of different politics, ought to produce an official revolution. He said, it had been stated that the President, by patronage, might form majorities in the Legislature, from which he would draw his diplomatic corps, and carry his schemes. If this should be carried on to any tolerable extent, he believed the President would soon find himself in a minority. But the amendment would not remedy that either; it did not propose to restrict the Executive as to Ministers Resident, and an abuse of power might be exercised in them as well as in Ministers Plenipotentiary. Mr. W. said, our Government was a Government of experience; it supposed wrong to be done, and, when it did take place, it ought not always to be attributed to improper or base motives. Every department was liable to do wrong. The people knew they had the power to alter their Constitution, when its defects appeared; the modes of doing this were easy and various. He said he was no friend to foreign diplomatic intercourse, and he wished to get clear of it in the most advisable manner, and at the proper time. If the amendment was adopted, it could have no effect for one year, and he was willing to pass the law as usual, and limit it to one year, which would answer every purpose. He was not, he said, for high or extravagant salaries to officers. He would not say, as some gentlemen had said, that expense was no object; for with him it was. Mr. W. concluded by observing, that he believed most of our foreign intercourse and treaties had been a disadvantage to us; for, if no other way, they were constantly interfering with the ordinary objects of legislation in that House; as of late, scarcely any subject could come before them, but some treaty or other was brought into view; and if they never were to have done arguing about them, he thought it might be as well not have any. He hoped the amendment would not prevail; he should vote against it, because he thought it unnecessary and inexpedient at this time.

When Mr. WILLIAMS had taken his seat,

Mr. BAYARD rose, and spoke as follows:

Mr. Chairman, I shall not follow the example of the gentleman who has just sat down, (Mr. R. WILLIAMS,) in assigning reasons against the vote which I design to give, but shall content myself in stating and maintaining the grounds upon which I am opposed to the amendment under consideration. I had thought and still believe that the principles upon which gentlemen differ are well understood. We do not deny the power of this House in the appropriation of money, nor the discretion which they may Constitutionally exercise in fixing the proper amount of salary for a Minister Plenipotentiary, or for any other officer

employed by the Government. On the other hand, gentlemen who differ from us do not contend that $9,000 per annum is too great a salary for a Minister Plenipotentiary, but they say that no Minister is necessary at Berlin or Lisbon, and that therefore they will not appropriate for their support. If this House has not a right to judge of the grade of Ministers, or the places at which it is proper to employ them, no reason will remain for our refusing to appropriate in the manner contemplated by the bill in its original shape.

The first question, therefore, which naturally presents itself in this discussion is, whether the power of fixing the number and grade of foreign Ministers belongs in any degree to this House, or exclusively to the Executive.

By the Constitution, the right of receiving foreign Ministers is given to the President, nor is there any pretence under which this House can claim a share of that right or its incidents. The obligation to appoint foreign Ministers may frequently arise from the communications they make to the Power which receives them. The powers, therefore, of appointing and receiving seem to me co-relative, and essentially belong to the same branch of Government.

But the power of appointing is as expressly given to the President as the power of receiving Ministers. As Ministers, however, cannot be employed abroad without money being appropriated for their support, as money cannot be appropriated but by law, it is therefore said we may inquire into the propriety of the appointments before we appropriate.

Now, sir, I apprehend whenever an office, created by the Constitution or by law, is legally filled by the President, that we are bound to provide a reasonable compensation for the officer. The gentleman from Pennsylvania, however, has told us that the office of foreign Minister is created by the President, and does not exist under the Constitution. This is one of those bold assertions which we so often hear from that quarter, and intended to impose upon the easy credulity of a part of the House. I ask the gentleman whether the power of creating offices is of an Executive nature? And, if not, I beg him to point out to me the clause in the Constitution which in any case gives such a power to the President. But, in order to oppose the assertion, I will beg leave to refer to the provision of the Constitution on the subject.

[Mr. B. here read the following passage from the 2d section of the 2d article of the Constitution: "He," the President, "shall nominate, and, by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."]

By this clause it explicitly appears that the power of appointment extends only to offices provided by the Constitution or which afterwards should be established by law. The place of Minister, then, is an office created by the Constitution. But it is contended by this gentleman that Ministers stand upon the same ground with Judges of the Supreme Court, and, as we had limited the number of the latter, so we have a right to restrain the number of the former. Now, sir, by referring again to the Constitution, I apprehend I can show that the cases stand on different grounds, and that there is a power given to us to interfere in the case of Judges, which does not belong to us in the case of Ministers.

[Mr. B. here cited the 3d article of the Constitution, section 1st, as follows: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish."]

It appears from this clause that a Supreme Court is provided, but the mode of its establishment is expressly left to Congress. Beside, it is evident from the Constitution that the framers of it frequently referred to things as known. As when they provide in criminal cases that the trial shall be by jury, it was understood that the jury should consist of twelve men, and a verdict be the unanimous opinion of the whole. And so in the case of the Supreme Court, that the number of Judges could not be indefinite, and of consequence must be limited by Congress. This is certainly not the case as to foreign Ministers. Their number can be no more limited than the number of foreign Powers. By lessening the number of independent nations (which is a work going on very fast) the Constitutional power of the President on this subject will be restrained.

If the doctrine be well founded that this House has a right to refuse to appropriate for the salary of foreign Ministers, I ask gentlemen to reconcile it with their admission that no such right to refuse exists in the case of the President or Judges. A distinction has been attempted. It is said that, in the case of these officers, the Constitution has provided that their compensation shall not be diminished during their continuance in office. But it strongly appears to me, and I do insist, that by conceding that in the case of the President and Judges, we are bound to appropriate, the whole argument on the other side is given up; because it allows that, notwithstanding we have an express power on the subject of appropriation, that yet there are cases in which that power must be passively exercised without the use of the discretion which it is strongly contended essentially belongs to it. And now, sir, as to the distinction between Judges and Ministers, I beg leave to remark that, in the case of Judges, the provision of the Constitution goes only to the quantum of the salary, and prohibits the diminution of it during their continuance in office. But as to the principle that a reasonable compensation shall be allowed, the cases stand on the same footing. The only difference is, that in the case of the Judge we have not the power of saying the salary is too great, but we are bound to appropriate to the last farthing; whereas, in the case of a Minister, we have the right at all times of reducing the amount of his pay. I believe, sir, it can hardly be denied, that

when the framers of the Constitution created an office, or gave a power to create one, and directed the office to be filled by the President, that they contemplated a reasonable compensation being provided for the officer. It was a thing so well understood, that it would have been folly to have expressed it, as great folly as to have provided that it should be the duty of the Judges to expound the law. And, therefore, I hold that, in the case of Ministers and all other officers legally appointed, this House is bound to concur in an appropriation for a reasonable compensation.

In order to maintain their ground, gentlemen on the other side have descanted largely on the subject of checks, and persuaded themselves that the right to refuse an appropriation in the present case sprung from the general spirit of the Constitution, which designed that one branch of the Government should operate as a check upon another.

The doctrine, as contended for, has emphatically been styled an imported doctrine; but I hope it will not be smuggled into this House without inspection and examination. The cases of checks to be derived from the Constitution, I apprehend, may be classed under three heads:

1. Where an express power is given to one branch to control the operations of another.

2. Where a branch of the Government exceeds its powers, and

3. Where a general power is given to one branch and a substantive power, included within the terms of it, given to another.

Thus, in the first case, in the Legislature the Senate is a check upon this House and this House upon the Senate, and the President upon both; in the Executive, the Senate on the President, as to treaties and appointments; and, in the Judiciary, one Court upon another. Upon the second head, a case mentioned by the gentleman from Virginia, and much relied on, furnishes a striking example. Even the Judges, the gentleman said, are a check upon the Legislature. This arises from the nature of the Legislature, the powers of which are limited. If the Legislature transgress the bounds of their authority, their acts are void, and neither the people nor the Judges are bound by them. So if the President should commission, after an appointment non-concurred in by the Senate, the commission would be void. And in all cases where an act is done without power, a check may be found wherever we please to look for it. The third case which has been mentioned, is, where the general power of one branch is controlled by a particular power given to another branch. To this head may be assigned another case much relied on by the gentleman from Virginia. The case I refer to, is that of a treaty made by the President having war for its object. Now, as the exclusive power to declare war is vested in Congress, I have no hesitation in saying, the President has not the power to make a treaty of offensive and defensive alliance. For though such a power may be embraced in the general terms giving the power to make treaties, yet, as the right to declare war is distinctly given to Congress, it must operate as an exception to the general treaty-making power.

These are the cases of legitimate checks which occur to me. But, as to the wild doctrine which has been contended for, that, wherever one branch of the Government possesses any degree of power, a discretion necessarily accompanies the exercise of it, nothing, I conceive, can be more dangerous, or have a more direct tendency to disorganization. If the principle were asserted by each branch, the operations of the Government must cease. The President might say he was not bound blindly to execute laws which he conceived to be absurd or impolitic. We create offices, he refuses to fill them; we appropriate money, he refuses to apply it; we declare war, he refuses to carry it on, because, consulting his own judgment, he conceived our measures to be unwise, and that it would be better for the country to check us, by refusing the aid of his Constitutional power to carry our schemes into effect. I beg leave to put a case which comes up to the strongest point of the argument on the other side.

Suppose Congress declare war? This can be done by a majority of both Houses. The President participates the power of appropriating money. Now, suppose war actually declared by a power competent, and expressly allowed to judge of its expediency, and the President, afterwards conceiving the war to be unjust or the declaration premature, refuses to concur in an appropriation to support it? In such case, we should be Constitutionally at war, and Constitutionally restrained from carrying it on.

Such are the absurdities which flow from the imported doctrine of checks. Consequences which tend to paralyze the powers of the Constitution, and effectually to stop the wheels of Government.

I have no doubt, sir, for my own part, that this House has any right to interfere, upon the principle of the amendment; but I will, notwithstanding, consider the expediency of the measure it contemplates.

It has been contended by the gentleman from Pennsylvania, that it would be better for this country to renounce all foreign intercourse. This, I conceive, is going far beyond any point of discussion before the committee. The amendment is not designed to abolish foreign intercourse. It supposes three Ministers Plenipotentiary, and as many Ministers Resident and Consuls as the President shall think proper to appoint. Indeed, it affects only the grade of the Ministers at Lisbon and Berlin.

Sir, I could have wished to avoid any imputation upon the motives which produced the present amendment. But, it strikes me as singular that gentlemen should be satisfied with restraining its operation to two characters, and that such mighty efforts should be made to accomplish an object attended with so little saving to the Treasury, and at best equivocal, as they must acknowledge, as to its operation abroad. I cannot well account for what I have seen, but in recollecting that the Minister at Lisbon was formerly a distinguished member of this House, whose eminent talents having been employed in the support of Government, has rendered him obnoxious to the friends of the

amendment; and that the Minister at Berlin is the son of the present President of the United States, a man as much hated by one party as venerated by the other. I should have been willing to have discarded any suspicions which these recollections occasioned, had I been able to discover any plausible reason at this time for introducing and so strongly maintaining the amendment.

Gentlemen have talked of annihilating foreign intercourse. Do they call to their minds our seacoast of 1,700 miles? Do they remember the commercial temper and habits of the people? Do they recollect how many imported articles, though perhaps once luxuries, are now become necessaries of life? Do they calculate the portion of our food and raiment which is brought across the ocean? Can they sit down to a meal in a day, or examine the clothes on their backs, without being sensible of the strength of our foreign connexions? I beg gentlemen, after having duly appreciated these considerations, to tell whether they seriously imagine that any force in the Government could break our connexion with foreign countries. I believe, for my part, that while the ocean is navigable, that our people will be commercial, and that foreign connexions cannot be prevented. The only question which seems to me to exist is, whether, as there will be intercourse with foreign countries, it does not admit of beneficial regulations from the interference of Government.

The gentleman from Pennsylvania has considered this subject under two heads, commercial and political, and has endeavored to show, that our connexions with Europe, commercial or political, do not require a diplomatic establishment.

Commercial intercourse, he continues, might be as well regulated and protected by the employment of Consuls as of Ministers. Very little consideration, I apprehend, will satisfy gentlemen, that Consuls are inadequate to the protection of the commerce of a great country. Consuls are little more than private mercantile agents. They are frequently the subjects of the country in which they are stationed, subject to its laws, as well in civil as in criminal cases, not privileged, and scarcely noticed by the law of nations, and representing, in no degree, the country which employs them. I will then ask, if Consuls are competent to insist upon the rights of the nation, or its citizens, or to remonstrate against their wrongs? Whether they could demand, or are so likely to obtain justice, as if they were clothed with a representative capacity of the country? Beside, let me tell the gentleman, that if our establishment abroad were reduced to Consuls, in effect they would only have foreign Ministers under new names, for they would soon be employed for political, as well as commercial purposes. It would end in their exercising the powers of Ministers, without their responsibility.

The gentleman from Pennsylvania has said, that the only use of Ministers is to form treaties. This is certainly not true. I conceive that a Government is bound to extend its care and protection to its citizens abroad as well as at home. One purpose, therefore, of Ministers is, to secure to our citizens in foreign countries the rights which they derive from treaties or the law of nations. They are designed also to watch the actions of foreign Governments, and to discover their schemes, and to give notice to their own Government of anything which may threaten the peace or safety of their country. They are again the organ of communication between Governments, by which explanations are demanded, and by which accidental differences may frequently be avoided without the extremity of war.

When the gentleman from Pennsylvania spoke of our political connexions, he spoke of those arising from treaties. He conceived that we had no occasion for treaties with foreign countries, and, consequently, Ministers were not wanted to frame them. Upon this ground I will now meet him. It seems to have escaped the observation of the gentleman and his friends, that we have a choice only of one of two grounds, upon which we will stand in relation to Europe. The one is the treaty, the other the law of nations. If we will not subject ourselves to treaties, we must still be bound by the law of nations. To me it appears much more rational, that nations should agree on the terms upon which their intercourse shall be conducted, than to leave it to the determination of a law derived from authorities uncertain, ambiguous, and contradictory. Treaties are designed to supply the defects and explain the doubts of the law. They dispense with a rule injurious, perhaps, to both countries, and introduce a regulation equally beneficial to each party. If disputes arise in the construction of treaties, which are expressed with all the caution of studied language, how much more contention is to be expected upon the law of nations—a law consisting in loose customs, arising from the dicta of authors whose opinions were warped by the peculiar interests of their country—a law, the general principles of which may be perverted to justify every act of power however flagitious?

The gentleman from Pennsylvania, in order to support his position on this subject, has cast his eyes upon our treaties, and selected those parts which he thought he could reprobate with the most success. And the subject was probably introduced for the purpose of giving him an opportunity of doing so.

I am not, however, alarmed at meeting the gentleman upon this ground, and inquiring into the advantages and evils which have resulted from treaties which we have formed.

The gentleman has not given himself the trouble of adverting to any treaty, or to any one article in a treaty, by which the country has been benefited. It has served his purpose to exhibit the dark side of the picture.

The gentleman has even complained of the treaty with France, and spoke of the disputes which the construction of it has involved us in. Nothing could astonish me more than that that gentleman and his friends should complain of this treaty. I cannot help pitying the short memory which allows them to forget the language they held on a former occasion, removed from us but

by a small interval of time. At the last session of this Congress we were told, by those gentlemen, that it was to our treaty with France that we owed the liberty and independence of our country, and we were strongly reminded of the debt of gratitude which remained unpaid. Will those gentlemen now tell us that the evils which resulted from that very treaty overbalanced its advantages? If so, we are to be grateful when we have been more injured than benefited.

I shall not be repelled by any popular prejudice from saying, that advantages have been derived from the British Treaty. I consider the war from which that treaty preserved us of an importance incalculable. A war which must have annihilated our commerce, desolated our seaport towns, ruined our finances, while it increased our debt, depressed the value of our produce and of the labor of our citizens; and, multiplying the burdens of the Government, while it diminished the ability of the people to support it, might have ended in the loss of our Constitution, and of our unity and independence as a nation. No sacrifice which we have made, can be put in the scale against the evils which we have escaped. That every treaty will be composed of concession as well as of acquisition, every reasonable man will expect. It cannot be supposed that a powerful nation will grant anything and ask nothing in return.

[Mr. Gallatin explained, by saying that nothing which he said had any relation to our treaty of alliance with France, but merely to commercial treaties.]

Mr. B. I understood the gentleman to say that he was averse from all foreign intercourse, and, generally, that our treaties had been injurious to the country. But even if his strictures were confined to commercial treaties, yet, as the question regards generally our foreign connexions, it is proper that political advantages derived from our treaties should be taken into consideration. I have spoken of one benefit which might be attributed to the treaty with Great Britain. I will mention another. That treaty has given us possession of the western posts, which for years have been so cruel a thorn in our side, which have cost us so many millions of dollars, and so much blood. Again, the treaty has provided for our mercantile brethren a compensation in case of illegal capture of their property by British vessels during the present war, and reinstated families that otherwise would have been irreparably ruined.

One provision in the treaty is a striking instance of the necessity of treaties. It has made provision that our northern boundary shall be amicably fixed by ascertaining the true river St. Croix. Had we been left to the law of nations to fix this boundary, as each country would have insisted on its pretensions, force must have settled the controversy.

I will next ask whether the country has derived no advantage from the Spanish Treaty? Whether nothing was gained by the surrender of several armed posts, the establishment of our southern boundary, the cession of a large territory, and the acquisition of the free navigation of the Mississippi? And I particularly beg gentlemen to point out the evils which balance the benefits of this treaty.

It is plain to me that foreign intercourse cannot be prevented, and equally plain that treaties necessarily arise out of that intercourse. But at this moment, of all others, I conceive that the amendment to the bill, which goes to restrain the appointment of Ministers Plenipotentiary to London, Paris, and Madrid, is peculiarly improper. Sir, the Message of this day, laid on the table, from the President, informs us of the dangerous state of our country. It informs us, also, that the interests of other neutral nations are implicated in the injustice of the decree which is about to pass the French Councils. We have suffered and are suffering aggressions, from a Power undoubtedly formidable, which menace the peace and safety of the country. We have been driven to the brink of war, and should the mighty Republic (which God forbid!) force us to hostilities, I hope we shall have sense enough to increase our strength by an alliance with those neutral nations, with whom it may be found that we have a common interest. I trust that the spirit of the country is not so broken by the humiliations to which we have already submitted, and that the passion for wealth has not so far extinguished every nobler feeling, that we are prepared tamely to submit our necks to the yoke, and barter the liberty and independence of the country for a state of peace as inglorious as it is insecure.

The gentleman from Pennsylvania, in his argument against foreign intercourse, alleged that we had nothing to do with the balance of power in Europe. I believe, sir, I can refer the committee to cases which will satisfy both sides of the House that we are intimately connected with that balance. I will call to the recollection of gentlemen opposed to me that period of the war when the Duke of Brunswick was marching to Paris, when the rebels were successful in La Vendee, when Toulon was in possession of the combined Powers, when victory seemed to have declared for the allied Princes, and fate to have numbered the days of the Republic, and ask them whether they were not then sensible of the balance of power in Europe being destroyed? Was there a gentleman among them who did not attribute the aggressions of England to the depression of the power of France? But when the fortune of war changed—the Duke of Brunswick retreated, Toulon recaptured, the Netherlands subdued, Holland invaded—to this change have they not said it was owing that the famous decree of November, 1792, was revoked, and that the storm which was gathering round us was dispersed?

At that time, in what manner did the Republic behave towards us? Did they recall their own Ministers, or banish ours? Did they invent pretences to destroy our commerce? On the contrary, did they not invite us to draw closer the bands of alliance? But, sir, since the full tide of prosperity has risen in favor of France; since she has added millions of men to her population, and of

money to her revenue; since she has humbled the Crowns of half the Potentates of Europe, and rendered many of them her tributaries; since she has found herself able to break the pillars of Governments which had lasted for centuries, and to erect new States upon their ruins; since, in fine, she has perceived that there is no weight in Europe to balance her power, has not this country felt the effect of the mighty change?

Gentlemen cannot deny that the system which England formerly pursued, France has since adopted, with circumstances of increased aggravation. When I regard the facts which a short period of time has presented to our eyes, I am astonished that any one should assert that we have nothing to do with the balance of power in Europe.

I will now call the attention of the committee to some points introduced into the discussion, which were principal grounds of argument with the gentleman who moved the amendment, but which have lost much of their importance in the course of the debate.

The first was Executive patronage. This was attacked upon two principles. 1. That it had increased, and ought to be diminished. 2. That it had been, and was designed to be, abused.

I hope it will be remembered that the attempt on the present occasion is not to add to the patronage of the President, but to take from the Executive a power which it is not denied belongs to him under the Constitution. The gentleman from Pennsylvania not only admitted that a power to fill the office belonged to the President, but asserted that the President had power to create the office itself; so that the question is as to preserving, and not as to increasing, the Constitutional power of the Executive.

The same gentleman has been pleased to say, that, when I expressed an opinion that the Executive was the weakest branch of Government, it was with "regret;" and thence came to an easy conclusion, that it was my design to promote Monarchy in this country. I am at a loss to know how that gentlemen discovered my feelings when I delivered the opinion. But it was necessary to his purpose to attribute those feelings to me, and that gentleman has no weak delicacy, as to the means, when he has a purpose to accomplish. I did, indeed, say that the Executive was the weakest branch of the Government, and this I repeat; but I neither said it with joy nor sorrow, but stated it as a fact. I did not say that the Executive was *too weak*, nor expressed any wish that its power should be increased. Suppose I should say, that the Pope is the weakest Potentate in Europe—would it follow from thence that I wished the territories of his Holiness extended, or his power enlarged to a balance with that of the mighty Republic? Or, if I affirmed, of the two sexes, that the female was the weakest, is it to be concluded that I regret that woman is not as strong as man? I believe the Executive is at the mercy of this House; that, if the House were united, and resolved to bind the hands of the Executive, no resistance could prevent them; but I do not apprehend that any effort of Executive authority could make an impression on the rights of this House. Nay, it is even observable that "feeble minorities" can shake the foundations of Executive authority, though supported by a majority of the House.

Another gentleman from Pennsylvania (Mr. Findley) had also thought proper to infer, from the comparison I made between the patronage of our Executive and that of the Crown of Great Britain, that I was desirous of seeing the patronage of the President increased to the magnitude of that of the English King.

It is not a little surprising that this gentleman, who professed himself the model of candor and moderation in the opening of his speech, should suffer himself to be guilty of so gross a misrepresentation. The true inference from my argument is directly the reverse of the one which has been made. I observed, that, notwithstanding all the patronage which the King of England derived from the nobility, the church, the army, navy, civil list, &c., that the Monarchy could not be preserved, if the principle of equal representation were introduced into the House of Commons. I have no objection to use the obnoxious expression attributed to me, that, if the venal boroughs were abolished, there would soon be an end of the Monarchy.

I do not believe there is a man of sense on the other side of the House of a different opinion. But this opinion is perfectly consistent with a wish to see the Monarchy destroyed. It is an opinion simply upon the operation of certain causes, and their tendency to produce certain effects, which has no connexion with the wishes of the person who forms it.

I am very ready to confess that I am not one of those enthusiasts whose insatiable thirst for liberty allows them to wish the desolation of a country, and the massacre of its inhabitants, in order to establish in it a new form of government. If the English love their Monarch, I have no objection to their living under Monarchy. It is enough for me that I live in a Republic; and, if the people of England will suffer us to live in peace, under the Government of our choice, we cannot be justified in wishing to see the throats of half the nation cut, and their property plundered, in order that a Government may be there established more conformable to our taste.

As to myself, I have no interest out of the country, nor in a form of Government different from what we possess. I was bred during the Revolutionary war, and my first impressions were republican. No man can have less motive to wish a monarchical Government; and, being completely satisfied with the existing Government, I am disposed to repel every innovation upon it, from whatever quarter it comes.

But, sir, is it for those gentlemen who were born under monarchical or corrupt Governments of Europe, whose necks were early broke to the yoke, whose germ of republicanism is engrafted on a monarchical stock, to bring forward the charge of aristocracy. I think, if the sincerity of their apostacy is not questioned, it becomes them to be

silent as to others. I trust, however, that the people of the United States have sense enough to judge men, not by their professions of faith, but by their actions.

I confess, sir, I am so far from dreading Executive patronage, that I do not believe that any power which can be given to the President will render him dangerous to this House, while it is composed of Representatives equally and freely chosen by the people. Not that I suppose that a President is exempt from ambition, or indifferent as to power; but, while the people have the power of purging this House every two years, and regard it as themselves, there is no patronage which can corrupt it, nor Executive power which can threaten it. Give to the Executive every officer of the Government, and every man whom they can influence, and what is the weight in the scale against the body of the people?

The charge of aristocracy brought against me, and those with whom I act, I look upon as a spectre conjured up to alarm timid imaginations. If, indeed, the charge had been made against the other side of the House, there might be some ground to believe it; against men born in a land of slavery, whose cradles had been rocked by slaves, and who had been habituated from infancy to trample on the rights of man. Sir, when I look around this hall and observe how parties are composed; when I see some men who come from a land of real equality, many of whom have been educated in laborious employments, and none of whom can boast of but a few paternal acres, and find that they are called aristocrats, while, on the other hand, men who can count in their train a hundred slaves, whose large domains, like feudal baronies, are peopled with the humblest vassals, are styled democrats, I am astonished that the weakest of mankind can be imposed on by such an abuse of words. I know that this is a delicate subject, and wished to have avoided it; but when I see these high-priests of liberty so zealously proclaiming freedom on one hand while on the other they are rivetting the chains of slavery, I cannot forbear tearing aside the veil which conceals the truth from the world.

The gentleman from Pennsylvania has amused us by descanting on the histories of Greece and Rome, and assigning causes of the downfall of those republics. These are discussions which, for my part, I conceive had better be left to the schools and lyceums; but, since the subject has been introduced, I beg leave simply to remark the admission of the gentleman that those republics were destroyed, not by Executive encroachments, but by the licentiousness of the people. This is an admission of everything in dispute on the subject, because it proves that the people were the instruments made use of to destroy republics. Were I an enemy to the free Government of my country, I should not seek to subvert it by supporting, or in attempting, by artful constructions of the Constitution, to increase, the Executive power. If a project of this kind could be finally successful, it would require centuries to accomplish it. No, sir, I would adopt the means which have produced the effect before. The people would be the instrument I should make use of. I would address myself to their prejudices, their follies, and their passions. I would tell them that the Government was corrupt; that it was a faction under the influence, or in the pay of a foreign Power. I would tell them that their interests were neglected and despised, that hence they were burdened with grievous excise laws and odious stamp acts. I would call upon them to erect liberty poles and refuse obedience to a Government which was administered by an aristocratic junto. And could I be successful in these artful calumnies, and, deluding a well-meaning people, excite them to insurrection and rebellion against the laws, I might hope to see one of the best Governments in the world torn to pieces, and a wretched people burying their liberties in its ruins.

From ancient history we were brought to that of modern Europe, and were told that, except in England, from which we have received the germ of liberty, every semblance of representation has been swallowed up in the Executive power.

But I will ask the gentleman whether the Cortes of Spain, or the Parliaments and Councils of which he spoke, represented the people, or were not connected in interest with the higher classes of society alone? Those shadows of representation were destroyed because the people, deriving no benefit from them, had no motive to support them. But in England, where the body of the people were represented, though imperfectly, the popular branch grew up in the very shade of despotism. This vital principle of liberty survived the tyranny of Henry VIII. and the power of Elizabeth. It soon gave a weight to the Commons which balanced the power of the Crown. English history strongly proves the principle for which I contend, that the branch of Government connected in interest with the people, and supported by them, has nothing to fear from Executive power.

Is there any instance in English history of the House of Commons being abolished by the Crown? And, on the contrary, have you not seen the Commons able to subvert the Throne and Nobility, to extort, at times, from the King his most precious prerogatives, and at all times to force on him Ministers of their choice, or from him those who were his favorites? The very corruption which the gentleman spoke of proved the weakness of the Crown and the strength of the Commons. It was not on the army, the navy, or the nobility the Crown could rely; it was obliged to purchase the support of the Commons. It was a purchase made upon the same principle of weakness that we pay for the peace we enjoy with the western savages or the Barbary Powers.

But the gentleman has gone so far as to contend that, from the nature of their respective duties, this House is more liable to incur popular odium than the Executive. That being obliged to impose taxes, often of an obnoxious kind, we are peculiarly exposed to the resentment of the people. In making this remark the gentleman certainly forgot that, though we lay the taxes, it is

the Executive that collects them. And that it was not so much the letter of a tax law which was offensive to the people, as the hand of the tax gatherer which compelled them to pay. I apprehend, however, that the observation is wholly unfounded. The connexion between this House and the people is too intimate, a common interest binds them too closely together, to suffer the remark of the gentleman to be verified. I can conceive it more than possible that individuals of this body may lose their popularity by voting for measures to which their constituents are averse; but, in reprobating the conduct of a part of the House who acted against their wishes, their affections will accumulate in favor of those whose conduct was conformable to their sentiments. When the Senate ratified the British Treaty, they were not in consequence less popular as a body. For, though a majority, perhaps, were burnt in effigy, yet the virtuous ten acquired all the favor which they lost.

The gentleman has laboriously provided for us an account of the amount of Executive patronage. The fees of every deputy's deputy are collected in the estimate, in order to increase the dimensions of the phantom. The salaries, compensations, and fees to persons in the service of the Government are stated to amount to $850,000. This, to be sure, is a frightful sum distributed over such an immense country. But the fact is that this money is laboriously earned. No services are so badly paid for as those which are rendered to the public. The system which we are pursuing will starve all talents and merit out of the Government.

I believe that several offices are held from patriotic principles alone. I believe that a favor is done the Government by every man of talents who accepts an office, and I am convinced that no man can turn his abilities and industry to less account than in accepting of places which the Government is disposed to give him. The contracts of the Government have been stated at $1,300,000. But the gentleman has cautiously concealed the idea of equivalent received by the Government. Supposing a profit of 5 per cent. to the contractor, the amount of this branch of patronage does not exceed $65,000. And this is to compensate an advance of capital and personal service. I believe it may be safely affirmed that our Government derives little influence from this source.

An abuse of Executive power has been loudly complained of in a determination attributed to the President to appoint none to office who do not profess his political creed. That the President has determined to employ no more the enemies of the Government, I think very probable. Men perpetually opposed to the Administration, who indiscriminately condemn every measure adopted, who insidiously labor to alienate the affections of the people from the Government, who, absorbed in a fanatical attachment to a foreign country, have lost all regard for their own, I conceive are properly avoided as objects of public trust and confidence.

The President, on this subject, will act on a principle from which the people never depart. In choosing the electors who appointed him, did they not exact, where they had not a perfect knowledge, a declaration of the political creed of the candidate? Does not every election bear witness that the principle is ever adhered to by the people? And I will ask gentlemen, if any officer appointed by the President were left to the choice of the people, if his politics would not be the first object of their attention, and an invincible objection if different from their own? But, sir, there is no reason to suppose that the principle is carried to the extent, so warmly fancied by a gentleman from Virginia, (Mr. Brent,) "that the Executive will employ no one who will not sing hallelujahs to every Executive object." No, sir, I should presume that the determination of the President reached only to those whose patriotism consisted in denouncing their own Government and applauding a foreign one; who celebrated, with fêtes and songs, successes which exalted another country upon the humiliation of their own; and who, pursuing a phantom which they call liberty, forget that they possess all the freedom which rational men could wish, and are willing to subvert everything which is valuable in society, in order to establish a system under which everything possibly might be hoped for, but nothing certainly could be enjoyed.

I hope I shall be excused for saying a word as to the reflections, it has been said, we have cast upon the foreigners who are members of the House. I certainly am not one of those who would deny the rights of hospitality to any foreigners who shall please to come among us. I do not know that I have any objection to their acquiring the rights of citizenship; but I must be allowed to say, that, in my opinion, no man who was born in a foreign country can love America equally with a native American. I do believe there is such a thing as a love of our native soil, and a man who can discard a love for the land which gave him birth, will never have much affection for the country which adopts him. However, if, in looking round this House I could discover a solitary proof against my position, I might be led to doubt it; but I am sorry to say that my observations on this floor have confirmed the opinion.

The gentleman from Pennsylvania concluded, with telling us, that he had but two objects in view—the one to destroy foreign intercourse, the other to save money. As to the first, were it possible, I might join with him; and, as to the last, I believe I perfectly understand the gentleman. It was a fine declaration to tickle the ears of his constituents; I should certainly offend those of mine were I to deliver a different sentiment. But still we differ on this head. I believe the gentleman so sincere in what he said, so well disposed to act up to it, that he would readily agree, not only to save money, but to spend no money at all. I believe he would agree to lock the doors of the Treasury, and to throw the keys into the ocean. I believe he would consent to starve every man

out of office; and then, I believe, the consequence would be, that the wheels of Government would be stopped.

For my part, though I value money, I certainly value the liberty and independence of the country more; and as I believe that those objects cannot be better secured than by supporting the best Government in the world, and as I know that that Government cannot be supported without the expenditure of money, I shall certainly never be so far carried away by the passion of saving as to refuse an appropriation of money required for any necessary purpose of Government, and especially in a case where I cannot refuse without violating the Constitution.

At the conclusion of Mr. Bayard's speech, the question was loudly called for.

Mr. Brent rose, and was about commencing some observations in reply to Mr. Bayard, when the cry of "the question" was still continued. He sat down, and some conversation took place for and against the committee's rising; but on Mr. B.'s saying he did not wish the committee to rise on his account, the question for rising was put and negatived.

The question was then put upon Mr. Nicholas's amendment, and negatived—52 to 48.

A motion was then made for the committee to rise and ask leave to sit again, which was negatived.

The bill was proceeded with.

Mr. S. Smith moved to strike out certain words, and to insert others to this effect:

"That the President of the United States shall not allow to any Minister Plenipotentiary to France, Great Britain, or Spain, more than $9,000 per annum, nor to any other Minister Plenipotentiary more than $6,000."

This amendment was negatived, there being only 48 votes in its favor.

The blanks in the bill were next to be filled; the first, which was the permanent allowance, was filled with $40,000; the next, which was an extraordinary appropriation for this year, with $28,650. Before the latter sum was agreed upon,

Mr. Livingston inquired whether the sum of between two and three thousand dollars, which he thought had been lavished away, said to be expended on persons taking leave from this country, was included in the incidental expenses which were contained under this head? He thought such an expenditure of money forbidden by the Constitution.

Mr. Harper believed the incidental expenses mentioned in the estimate were expenses of our Ministers abroad.

Mr. Nicholas understood that three Secretaries were allowed the mission at present in France. He thought this was as novel as it was unnecessary; as he believed one Secretary was sufficient for the whole. The United States had employed a number of missions at different times, but never allowed more than one Secretary to each. He had thought the law would not have warranted the practice; but on examining it, he supposed it did.

Mr. Harper said, every Minister employed was entitled to a Secretary, the President had accordingly appointed one to each, and he could not see upon what ground, the House could object to appropriating for their salaries.

Mr. Nicholas answered, that as the law admitted of it, he should not object to the appropriation: but he should move an amendment to prevent more than one Secretary to a mission in future.

The committee then rose and reported the bill with the amendments; which being taken up in the House and agreed to, Mr. Nicholas renewed his amendment to limit the salaries of Ministers Plenipotentiary to London, Paris, and Madrid, to nine thousand dollars a year, and all others to four thousand five hundred dollars, and called the yeas and nays upon it, which were taken and resulted, yeas 48, nays 52, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

Nays—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, John Williams, and Robert Williams.

Mr. S. Smith then renewed his motion for limiting the salaries of Ministers to London, Paris, and Madrid, to nine thousand dollars, and others to six thousand dollars, and called the yeas and nays upon it, which were taken, and were exactly the same as upon the former question.

Mr. Nicholas then made his motion to confine future missions to one Secretary, which was negatived—50 to 45.

The bill was then ordered to be engrossed for a third reading to-morrow.

Tuesday, March 6.

The bill providing the means of intercourse with foreign nations, was read the third time and passed.

The Speaker laid before the House a communication from the Secretary of the Treasury, enclos-

ing a statement of the exports of the United States from October 1, 1796, to September 30, 1797, which was ordered to be printed.

A message was received from the Senate, with a bill which had originated in that House, for the amicable settlement of the claims of Georgia, and for the establishment of a Government in the Mississippi Territory, which was read, and referred to the same committee to whom has been referred the subject of the Natchez country.

Mr. Sitgreaves moved, that the Committee of the Whole on the state of the Union be discharged from the further consideration of the Message of the President of the United States, of yesterday, with the documents accompanying it, and that they be referred to the select committee to consider the means for the protection and defence of the country, as they had already measures relative to this subject under consideration. Agreed to.

Mr. Livingston moved the order of the day on the bill supplementary to the act for establishing the Judiciary of the United States; but, after some objections from the members from Connecticut, (the bill is intended to provide for a trial now pending between citizens of the States of New York and Connecticut, by allowing a jury to be taken from a State uninterested in the cause) the subject was postponed for a week.

Another message was received from the Senate, informing the House that they have passed the bill for erecting a light-house and certain buoys; and also the bill for the relief of the widows and orphans of certain deceased officers and soldiers, both with amendments.

STAMP DUTIES.

The House then resolved itself into a Committee of the Whole on the bill supplementary to the act for laying a duty on stamped vellum, parchment, and paper, and the clause for allowing — per cent. on purchases of stamps to the value of — dollars being under consideration.

Mr. Harper proposed to fill the last blank with twenty dollars.

Mr. J. Williams suggested the propriety of making the sum ten or twelve dollars, instead of twenty.

Mr. Harper thought that any person purchasing stamps for the purpose of retailing them, would not wish to do it to a less amount than twenty dollars. It was the sum the Secretary of the Treasury recommended.

Mr. Thatcher was in favour of ten dollars.

Mr. Blount would propose a motion, which he supposed would supersede the present; it was to strike out the first section of the bill, as he did not approve of the principle of it.

The question was put and negatived.

The sense of the committee was then taken on filling the blank with twenty dollars, and negatived, there being only twenty-two votes for it.

Fifteen and ten were then proposed.

Mr. Blount said, to allow this discount was to lower the duty, and he could not see why those who purchased a small quantity, ought not to have the same allowance with those who purchased a larger.

The question on fifteen was negatived; and it was then taken on ten, and carried, there being fifty-six votes in its favor.

Mr. Harper moved to fill the blank fixing the amount of the discount at seven and a half.

Mr. Blount thought two and a half would be sufficient.

Mr. Otis was in favor of seven and a half.

Mr. Matthews proposed ten per cent.

Mr. Bayard was of opinion that ten ought to be fixed upon at first, in order to induce persons to purchase, and by that means get the stamps well distributed. The discount might afterwards be lowered. He believed, that in England ten per cent. was originally allowed; it had since been reduced to five.

Mr. J. Williams was opposed to ten. He supposed merchants, and others using any considerable quantity of stamps, would always take advantage of this discount. He thought seven and a half would be sufficient.

Mr. Blount said, it had been observed that a large discount would facilitate the distribution of stamps. To do this, he supposed was the duty of the Secretary of the Treasury and the Supervisors. He wished to know whether there was anything in this bill, or the law, to prevent stamps from being sold at a higher rate than the law directed?

Mr. Harper replied, that, by the law, the Secretary of the Treasury was directed to cause the stamps to be distributed and sold all over the country, at the price fixed by law, and no more, without any charge for paper. And persons being appointed all over the country to sell them at this price, (for the trouble of doing which they were to have an allowance not exceeding five per cent.) a competition would be produced between them and persons who bought them on their own account, which would be a security against a higher price being demanded, than the real price of the stamp. Mr. H. thought ten per cent. too much, and that seven and a half would be a proper allowance.

The question for filling the blank with ten was negatived, there being only 19 votes in favor of it.

"Seven and one-half," and "five," were then mentioned.

Mr. Gordon thought that five per cent. would be sufficient, which, with other expenses attending the business, would produce a deduction of at least ten per cent. from the amount of the duty.

Mr. A. Foster said, it ought to be recollected, that, by allowing this discount, more money would be brought into the Treasury than the bare amount of stamps really used would amount to, as not only those made use of, but those on hand would be paid for.

Mr. Lyon would be willing to allow ten per cent. if he was assured that stamps would not be sold at a higher rate than that at which they are stamped; but he thought there was no security against this.

Mr. Macon differed in opinion from gentlemen who thought this per centage would operate an injury to persons who used but few stamps, and consequently could not avail themselves of the

discount. He believed they would be most benefited by it, as shopkeepers would be induced to keep them for the sake of the profit; for if they could only be had of supervisors and collectors, persons in the country would, upon an average, have to ride twenty miles for a stamp whenever they had occasion to use one.

Mr. Sewall said, it ought to be considered that persons purchasing a quantity of stamps, took upon themselves the risk of paying for what they might not use or dispose of. Besides, losses might be sustained by persons entrusted to sell stamps by commission, but none could be had from purchasers, as cash was to be paid at all times for them.

Mr. S. Smith said, that he was in favor of repealing the law altogether; but as this could not be done, he wished to make it as palatable as he could. Nothing would render it more odious than to make it difficult for the people to obtain the stamps. He hoped, therefore, a sufficient profit would be allowed to induce storekeepers in general to keep them.

The motion for filling the blank with seven and one-half was carried without a division.

The clause for repealing that part of the law which laid a stamp duty upon debentures, (which was found would operate very unequally) and enacting in its stead that ——— per cent. should be retained in addition to the one per cent. now retained on drawbacks.

Mr. Harper moved to fill the blanks with three-fifths, which would produce a sum equal to that proposed to be raised by the stamp duty.

Mr. S. Smith hoped the blank would be with one quarter, which, upon the debentures of last year, would produce the sum of $10,000. This would be a direct tax upon the merchants, which they could not get repaid from their customers. He had also doubts as to the principle. Besides, it might be forgot, a few years hence, that this was a compromise for a stamp duty, and these instruments might hereafter be taxed.

Mr. Harper had no objection to one quarter. The committee thought it a high duty; but they believed it right to say what would be equal to the stamp tax proposed.

Mr. J. Williams renewed the motion for two-fifths. The amount of drawbacks allowed exceeded one-third of all the revenue. He had an intention of bringing this subject of drawbacks before the House on some other occasion, in order to have some alteration introduced into it. He thought two-fifths ought to be agreed to.

Mr. Sewall said, he had also his doubts as to the propriety of taxing debentures, as it was well known they were given to secure the drawback upon goods re-exported. The export business is of great importance, and as to the present drawbacks amounting to one-third of the revenue, this was of no consequence, since the duty on goods imported are intended to be paid by the consumer, and not by the merchant. At present one per cent. of the duty is retained, which more than pays all the expenses attending the collection of the impost duty. Two-fifths per cent. would be more than the proportion which had been observed in taxing of notes. He hoped one-quarter per cent. would be agreed to.

Mr. J. Williams said, that though the one per cent. retained on drawbacks paid the expense of collecting the duties as far as the per centage on the ad valorem amount, it did not pay also for weighing, measuring, and gauging. He had made some calculations on this subject, but he had not them now before him. He thought this drawback a great advantage given to merchants, and he was not for lowering the proposed duty.

Mr. Lyon observed, that he had opposed the stamp tax here, but he had endeavored to make it the best of it to his constituents—who disliked it exceedingly—by telling them that it would fall heaviest on the merchants; but if this article was to be lowered, this apology would be done away.

Mr. Coit was in favor of the quarter per cent.

Mr. J. Williams moved that the committee might rise; but after some observations he withdrew his motion.

Mr. S. Smith said, the gentleman from New York seemed to be much concerned as to the drawback allowed on goods re-exported. The two last years left to the revenue at one per cent. an average of $40,000 per annum. One quarter per cent. additional would produce $10,000 more. The whole estimate of duty to be produced by stamps was $100,000; so that upon one single article alone one-tenth part of the amount was to be raised; yet gentlemen wished to increase this sum by $6,000, though out of eighteen articles upon which a stamp duty was imposed, thirteen of them fell exclusively upon the merchants. The gentleman from New York needed not to be afraid of the landed interest; there was scarcely anything in the act which could affect them. But that gentleman was opposed to the bill, and he wished to make it as odious as possible. Mr. S. said his policy was different; since it must pass, he wished it to be as unexceptionable as possible, as he had now no idea that the stamp law would ever be repealed.

Mr. Blount said, the Committee of Ways and Means had no intention of lowering the duty; they only wished to equalize it. It was calculated to produce upwards of $13,000 as the law now stands, and the present proposition of an additional deduction of two-fifths would produce upwards of $12,000. He hoped, therefore, two-fifths would be agreed to.

The question on two-fifths was put and negatived, there being only twelve votes for it. One quarter was then carried without a division.

Mr. S. Smith then moved to add an additional section to the bill to this effect:

"That no note, other than bank notes, made payable at or within 60 days from the date thereof, shall be liable to any stamp or duty; and no bill of lading liable to pay more than ten cents, anything in the said act to the contrary notwithstanding."

Mr. Sewall said, that the part of the law which this clause went to repeal, imposed a duty upon a set of men who could not reimburse it. The duties laid upon merchants were generally

considered as refunded to them by the public; but in this case no such reimbursement could take place. Our merchants had been greatly injured, it is well known, by the spoliations committed upon our commerce by the French, and many of them are consequently under considerable embarrassments, and being under the necessity of continuing their contracts from time to time, would be obliged to pay a high duty upon renewing their notes. This would add to the hardships they already suffer. As to bills of lading, he always thought the duty excessive, and hoped the amendment would be agreed to.

Mr. Champlin complained that merchants and bankers (who are often the same persons) are taxed in a three-fold degree. Many of them are stockholders, and their certificates pay a duty; bank notes are also taxed, and if they borrow money they pay a duty on their notes or bonds.

Mr. S. Smith believed it would be proper to divide the question.

It was accordingly divided, and the former part was under consideration, when

Mr. Harper said, the gentleman from Rhode Island seemed to confound a bank as an institution with the individuals who compose that institution. Individuals may doubtless pay taxes in three or thirty different ways; but he could not see the force of this observation. With respect to the motion itself, he believed it ought not to be adopted. He could not see why notes at 60 days should not pay a duty, though he did see why they ought not to pay so high a duty as others, which was the reason why the distinction had been made in their favor. The merchants were the mere payers of this duty, as they would charge it upon their merchandise in the same way as they charged other duties and expenses. He saw no reason why the alteration should be made with respect to bills of lading.

Mr. S. Smith observed that it was very difficult to convince theoretical gentlemen of their errors. Practical men will tell you that it is impossible to charge these duties to their customers. There was a duty charged on instruments which admitted lawyers to practice; he wished to know how they could be charged to their clients? When this subject was originally before the Committee of Ways and Means, after well considering the subject, sixty days notes were excluded; but when the bill came into a Committee of the Whole, gentlemen, desirous of defeating the bill, introduced such things into it as might have a tendency to damn it, and this was the reason why sixty days notes were introduced. These notes, he said, did not come under the design of other bonds and notes. They were now become the passing medium of this country. To tax them was the same as to tax every dollar that went through his hands, as all purchases and sales were made by notes of this description. Mr. S. said he was aware of the difficulty of impressing a body like this, in which there is so little commercial interest, with the impropriety and hardship of a measure of this kind. And as insignificant as some gentlemen might think this duty, he could inform the committee that one merchant in Baltimore had gone into a calculation of what the stamp duty would stand him in, and he supposed it would be at last 800 dollars; and a house in Philadelphia had informed him that their stamp duties would amount to 1,200 dollars, of which they would never be able to get a cent from their customers.

Mr. Harper could not help congratulating the House upon this information. He hoped there would be many persons of the description which the gentleman from Maryland had mentioned. If so, this tax would prove an extensive source of revenue. With respect to the lawyers, he believed they might be safely trusted to get back whatever they paid.

After Mr. Champlin had said a few words in reply to Mr. Harper, the question was taken on each part of the section separately, and negatived.

Mr. J. Williams then moved an additional section, to exclude from duty all bonds, bills, and notes under $50; which was negatived without debate.

The committee then rose, the House agreed to the amendments, and the bill was ordered to be engrossed for a third reading to-morrow.

Wednesday, March 7.

The bill to amend the act for laying a duty on stamped vellum, parchment, and paper, was read the third time and passed.

A bill was reported for continuing in force the law for prohibiting for a limited time the exportation of arms and ammunition, and committed for to-morrow.

The amendments of the Senate to the bill for erecting a light-house on Eaton's Neck, and for placing certain buoys in the places therein mentioned, were taken up and agreed to.

Mr. J. Parker stated that (owing to his late indisposition) he was not in the House when the bill for erecting a light-house on Eaton's Neck was passed; but as he had received instructions from the merchants of Norfolk to endeavor to get a light-house erected on Old Point Comfort, in Virginia, he should propose a resolution which would direct the Committee of Commerce and Manufactures to inquire into the expediency of erecting such a light-house. He accordingly presented a resolution to that effect; which was agreed to.

RELIEF OF WIDOWS AND ORPHANS.

The House took up the amendment from the Senate to the bill providing relief for the widows and orphans of certain deceased officers and soldiers, which proposed to strike out that part which relates to the widows and orphans of militia officers.

Mr. D. Foster hoped this amendment would be concurred in, as the part proposed to be struck out introduced a new principle; and if it were not concurred in the bill would probably be lost.

Mr. W. Claiborne said, the services of our militia officers were certainly as valuable to the country as those of the regular army, and justice

and policy required that the same attention should be paid to their widows and orphans. In case of danger, he supposed the militia of the country were principally to be relied upon, and he thought it would not be good policy to reject a provision intended for the relief of widows and orphans of militia officers, in case they should fall in the defence of their country. He would rather the bill was rejected altogether than that partial justice should thus be done; but he hoped, if the amendment was disagreed to, and a conference took place between the two Houses, the Senate would recede from this amendment.

Mr. Harper did not think the amendment ought to be concurred in from a fear of losing the bill, because, if the Senate persisted in their amendment, the House could afterwards determine whether they would agree to it or lose the bill.

Mr. Gordon was in favor of the amendment from the Senate. He thought there was a strong reason why relief should be given to the family of an officer in the army in preference to an officer in the militia. When a man went into the army he gave up all other business, and, of course, if he fell in his country's service, his widow and children were left destitute. It was not so with the militia.

Mr. T. Claiborne thought this an extraordinary reason for agreeing to the amendment; for though militia men were not constantly in service, they were frequently called upon at a time when to leave their plantations was attended with great loss and inconvenience; and if the officers of the army were in constant employ, they also received constant and good pay.

Mr. Findley wished as much as any man that widows and orphans of militia officers should be provided for, but because he could not obtain relief for them, he should not wish to deny it to other unfortunate families.

Mr. Cort said, it was his opinion, that the widows and orphans of deceased militia officers ought to be provided for, but the present bill was not the proper place of doing it, as this bill was intended only to make more complete a former law, which did not contain anything respecting militia officers. If this was a general provision, the clause in favor of militia officers might have been proper.

Mr. Lyon could not concur in the amendment of the Senate. Jealousies already existed among the people that the Federal Government had a preference for a standing army, to the discouragement of the militia, and to concur in the amendment would strengthen those jealousies. The militia officers, he said, are as respectable a set of men as any in the community, and ought not to be offended. He would rather lose the bill altogether than strike out the militia officers.

The Senate's amendment was disagreed to.

HEALTH OFFICER FOR MARYLAND.

The House went into a Committee of the Whole on the bill to continue in force the law declaring the consent of Congress to the law appointing a health officer for the State of Maryland. The bill was agreed to without debate or amendment, and ordered to be read a third time to-morrow.

IMPRISONMENT FOR DEBT.

Mr. N. Smith called for the order of the day on the report on the subject of making some alterations in the execution of the law for the relief of persons imprisoned for debt; which being agreed to, the House resolved itself into a Committee of the Whole on that subject, and the report was read as follows:

"The committee appointed to inquire into the expediency of making alterations in the act for the relief of persons imprisoned for debt, beg leave to report: That, in their opinion, the said act ought to be so amended as to extend its provisions, in express terms, to persons imprisoned in civil causes at the suit of the United States; also, that the several District Judges ought to be authorized to issue their warrants, commanding the jailers to bring the prisoners before them, at such time and place as they shall think proper to appoint, for the purpose of executing the business assigned them by the said act. And in case of prisoners confined in the cities of Philadelphia, New York, Boston, Baltimore, and Charleston, the Judges ought to be empowered to appoint two commissioners to do the business, under the said act, when it shall be inconvenient for the Judges to attend on the said business, by reason of other judicial duties, absence, sickness, or inability. Your committee are also of opinion that provision ought to be made by law, for the support of poor prisoners during their confinement, previous to taking the oath provided for them by the said act."

On motion, the report was amended by striking out Philadelphia, New York, &c., making the provision general.

Mr. Livingston observed, that he supposed this report would go further than was intended. When this business was first introduced, on the petition of William Bell, the Committee of Commerce and Manufactures reported to the House that one of two courses might be taken, either to give relief specially to the petitioner, or admit the principle now recommended. The objections they had to the latter course were strongly fortified by the letter of the Attorney General of the United States, who was strongly of opinion, that though the United States were not specially named, they were bound by this act. What then, would be the effect of the doctrine arising out of an adoption of this report? It would be, that in cases where the United States are not named, they are not bound, directly contrary to the opinion of the Attorney General. If it did not establish that opinion, it would, however, have a tendency to establish it, though this House had not at all examined the opinion. Indeed, the opinion of the Attorney General of this State was directly different. The Committee of Commerce and Manufactures thought, therefore, that it would be best that a determination should first be had in the Supreme Court, upon which the Legislature might act; but that any previous proceeding would not have the certainty which such decisions ought to have.

Mr. N. Smith said, it was true there was a dif-

ference of opinion in respect to the Insolvent Law, as it respects debtors of the United States. The District Judge of this State is of opinion that the United States are not bound, except mentioned by name. In consequence of this opinion of the District Judge, several debtors have long been confined in jail, though it is agreed on all hands they are worth nothing. It was true, he said, the Attorney General of the United States is of a different opinion, and the District Attorney concurred with him. Mr. S. said he was himself of opinion that the United States were bound by law, whether expressly named or not; but as this difference of opinion was the means of keeping their persons in prison, he thought it best to extend the provision. Nor did he believe, that in doing this, the House would implicitly adopt the doctrine of the District Judge. This would depend upon the wording of the bill. It might be expressed in the preamble of the bill, that the law was passed to clear up doubts, &c., which would avoid such a conclusion.

The report was agreed to, and the committee was directed to report a bill accordingly.

USEFUL ARTS.

On motion of Mr. Corr, the House went into a Committee of the Whole on the bill in addition to, and alteration of, an act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose. This bill proposes to repeal the ninth and tenth sections of the present law, and to add a section inflicting a penalty on any person who shall make, use, devise, or sell anything, the exclusive right of which has been secured by patent.

Some debate took place as to the propriety of striking out the ninth and tenth sections of the present law, which provide for a reference to arbitrators, when two or more persons apply to the Secretary of the Treasury for patents for the same invention, and for redress in case of any person obtaining a patent for an invention to which he is not entitled. Mr. Gordon moved to strike out the first section. After some debate, Messrs. Gordon and Sewall being in favor of retaining the ninth and tenth sections, and Messrs. Corr and Livingston for repealing them, the question for striking out the first section was negatived—35 to 30.

Mr. Livingston then moved an additional section allowing the legal representatives of any person, entitled to a patent, to obtain it; which was agreed to.

The committee then rose, and the House took up the amendments and agreed to them.

Mr. Gordon again moved to strike out the first section, and Mr. Sewall called the yeas and nays upon the question; but as one-fifth of the members did not rise in favor of this motion, it was not carried.

Mr. Sewall then stated that he had no particular wish to have the yeas and nays taken; he wished only to call the attention of members to the question.

The question for striking out the first section was then put and carried—37 to 33.

The bill was recommitted to the select committee, and two members added.

Thursday, March 8.

The bill to continue in force, for a limited time, an act declaring the consent of Congress to the act of Maryland appointing a health officer, was read the third time and passed.

On motion of Mr. Livingston, the House resolved itself into a Committee of the Whole on the report of the select committee on the amendments of the Senate to the bill for the relief of refugees from Canada and Nova Scotia, and the report having been agreed to, the committee rose, and the bill was re-committed to a select committee.

ENTRY OF STILLS.

Mr. Dennis moved that the Committee of the Whole, to whom was referred the bill to alter the manner of making entries of stills, be discharged from a further consideration of the subject, and that the following resolution be referred to the Committee of Ways and Means:

"*Resolved*, That the Committee of Ways and Means be instructed to report a bill altering the time of entering stills from the month of June to the months of August and September."

Mr. D. said his reasons for making this motion were these: He found the Secretary of the Treasury had objections to the doing away the annual entry of stills, as he looked upon the regulation as essential to the security of the collection of the revenue, and to a due control over the collectors. Mr. D. found the Committee of Ways and Means had differed in opinion from the Secretary of the Treasury, and had reported a bill, which had been found to contain provisions more objectionable than the annual entry. As he believed it would be impossible to do away the annual entry, he wished to make such alterations in it, as should make it less objectionable. He believed this would be effected by altering the time of making the entry, in the manner proposed by the resolution which he had offered to the House, as in those months distillers had occasion to take out their licenses, and they could make the entry required at the same time.

Mr. Macon suggested whether it would not be more agreeable to the usual manner of proceeding, to re-commit the bill to the Committee of Ways and Means, with an instruction to report in the way proposed.

Mr. Harper seconded the motion to commit the bill; because he was convinced that no plan for abandoning the annual entry could be adopted, without introducing regulations which would be more inconvenient than the entry itself. He thought it would be proper, therefore, to inquire whether a different period might not be adopted, which would be more convenient to distillers for making the entry; as the Secretary of the Treasury was of opinion that if a different time for every different district in the United States was fixed upon, if it should be found more accommodating to individuals, it would not be attended with any

material inconvenience in the collection of the duty.

Mr. Dennis had no objection to this course being taken, and the bill was re-committed to the Committee of Ways and Means, with instructions generally, to report a new bill.

CITY OF WASHINGTON.

Mr. Craik, from the committee to whom was referred the Message of the President of the United States, enclosing the memorial of the Commissioners appointed under the act for establishing the temporary and permanent seat of Government of the United States, representing the situation of the city of Washington, and requesting Legislative assistance, reported a resolution for the adoption of the House, appropriating $200,000 for the completion of the buildings now carrying on in the city of Washington, provided that not more than one-third thereof be expended in any one year. Referred to a Committee of the Whole on Monday.

SUNDRY BILLS.

The House severally resolved itself into Committees of the Whole, on the following bills:

The act declaring the assent of Congress to an act of the State of Massachusetts, for keeping in repair a pier in Kennebunk river;

The bill limiting the time within which claims against the United States for credits on their books shall be made; and

The bill for the relief of Sylvanus Crowell.

All which bills were agreed to in Committees of the Whole, and in the House, without debate, and were ordered to be engrossed for a third reading to-morrow.

SICK AND DISABLED SEAMEN.

On motion of Mr. Livingston, the House resolved itself into a Committee of the Whole on the bill for the relief of sick and disabled seamen; when, after some conversation on the subject of the Marine Hospital, proposed to be established by this bill, as to the best manner of securing a support of it from the whole body of sailors of the United States, a proposition was adopted, enacting, "that every owner or master of a vessel arriving from a foreign port into any port of the United States, shall, before the vessel is permitted to be entered, pay —— cents per month during their voyage, for every man whom he has on board his vessel, which he shall be authorized to retain out of their wages." The committee then rose, and the bill was re-committed to the select committee, to make it conformable to this principle.

PROTECTION OF COMMERCE.

Mr. Sewall, from the committee to whom was referred so much of the President's Speech as relates to the protection of our commerce and the defence of our country, and also the Message of the President of Monday last, reported in part as follows:

That, considering the increasing dangers which threaten the peace and security of the United States, and to which their extensive seacoast, and their domestic as well as foreign commerce, are alarmingly exposed, the necessary provisions of a maritime defence ought to receive the earnest and immediate attention of Congress; and especially, recommend a concurrence without delay in the resolutions now before the House of Representatives, reported to them on the 12th day of January last.*

The committee further report, that a considerable sum remains unexpended of the sums heretofore appropriated for fortifying the ports and harbors of the United States, as appears by the statement from the Department of War, exhibited herewith: and that, in the opinion of the committee, a further appropriation, and a more vigorous regard to this important object, has become immediately necessary.

They further report, that in the view which, on several occasions, this committee have taken of the subject of providing a naval armament, they have not failed to observe the apparently enormous expenses, and unaccountable delays, which have attended every attempt of this kind. It has appeared to them that a better economy might be introduced in this branch of the public expenditure, by establishing, in the War Department, some efficient officer who should be employed in the immediate superintendence of the naval concerns of the United States.

The Department of War, as at present established, is unsuitable to this purpose, especially considering its stationary situation, and how much it is occupied by numerous cares of a nature very different.

On these subjects, they recommend the following resolutions to be adopted, viz:

Resolved, That the sum of ——, in addition to the sum of —— remaining unexpended of former appropriations, be appropriated to fortifying the ports and harbors of the United States.

Resolved, That there be established in the Department of War, a Commissioner of Marine, who shall have charge of the construction, equipment, and supplies of the public vessels of the United States, and all other matters relating to their naval concerns, which shall be entrusted to him, according to law.

War Office, *Feb.* 27, 1798.

Sir: The Committee to whom was referred "so much of the President's Speech as relates to the protection of commerce and the defence of the country," desire to know the amount of the money expended since the last session of Congress on the maritime fortifications, and whether, in the opinion of the Secretary at War, any further appropriation is required for the same object. The following information and remarks, are therefore respectfully submitted:

That there remained unexpended of the preceding appropriation for maritime fortifications, on the 6th June, 1797 - - - - - $22,065 58

Appropriations of June, 23, 1797 - 115,000 00

$137,065 58

* The purport of these resolutions was as follows, viz:

The first recommends the appropriation of the sum of —— dollars for completing and equipping for sea the three frigates.

The second, for the sum of —— dollars for the pay and subsistence, for the term of one year, of the officers and crews on board the said frigates, and —— dollars for ammunition, &c.

The third, to authorize the President to procure, whenever in his opinion the situation of the country shall require it, not exceeding —— vessels, suitable to be employed for the protection of our seacoasts, and to cause the same to be armed and equipped, on the same terms as are directed for the naval armament, and that there be appropriated, not exceeding —— dollars for the purpose.

The fourth proposes to authorize the President to establish, in some eligible situation, a foundry, to be employed in casting of cannon for the use of Government, and that —— dollars be appropriated for the purchase of a necessary building and materials, and to defray other expenses attending the establishment.

That of this sum there has been expended, viz:

At Mud Island - - - -	$33,640 87
Baltimore - - - - -	188 93
Charleston - - - - -	9,978 00
Port-mouth, N. H., (balance of account) - - - - -	488 46
Newbern, (on account of balance) -	800 00
Norfolk, (balance of account) -	266 50
St. Mary's, Georgia, (do) - -	4,016 89
	39,381 65
Balance unexpended Feb. 27, 1797 -	97,683 93
	$137,065 58

The committee will perceive that the principal sum expended since the last session has been upon Fort Mifflin, in the State of Pennsylvania. This fortress, from several considerations, seemed entitled to particular attention. The ground on which it stands, and necessary to it, has been ceded to the United States. The works, as far as they have been erected, were composed of good materials, and put together in such a manner as to promise long duration and utility. An experiment had likewise shown where the works were most vulnerable, and that this fortress may be rendered competent with certain auxiliary works, to afford essential protection to an important commercial city, against the operations of a powerful naval armament. It has therefore been deemed proper, under the trust committed to me by the President, to contemplate completing this fortress as expeditiously as possible.

The Secretary has suggested, on a former reference, that to derive real advantage from any considerable expenditure of money for completing the seaboard fortresses, the military establishment should be such, as to admit of their being occupied by garrisons equal to keeping them in a tenable situation, and to the preservation of their stores and artillery. It is certain, that this cannot be done by militia, unless when called into actual service, and that no part of the regular force employed on the western frontiers can be transferred from thence for such purposes, without endangering the peace of the Union, and opening the way, in that quarter, to the immediate execution of projects and enterprises, contrary to law and treaties, and subversive of all order and government. It is but too evident also that the course of things and circumstances, peculiar to the frontiers, shuts out any well founded expectation that we have approached near to the time when the military force may be safely diminished or withdrawn.

Independent, therefore, of considerations resulting from our present situation, with respect to foreign nations, it would appear necessary and proper, that the seaboard fortifications should be generally improved, and this defence of our country rendered respectable, and also that the Army should be proportionably augmented. A regard to ultimate economy will require, that such of the fortifications as may be always important to the general defence, should be constructed, like Fort Mifflin, of the most durable materials.

It may be proper to mention, that, besides the want of men to garrison these forts, there is another difficulty which it is desirable should be removed. But few of the States have made cessions of land, on which forts have been or ought to be erected for the protection of their harbors, a circumstance calculated to impede such undertakings, and embarrass the intentions of Government to provide for their defence. Neither is it known to the Secretary that any of the States which were found indebted to the United States, on a settlement of the accounts between them and the respective States, have thought of availing themselves of the 3d section of the "act to provide for the further defence of the ports and harbors of the United States," passed the 23d June, 1797.*

The committee will perceive, that many good causes have prevented a greater expenditure of the appropriations, and that while these continue to exist, they must interrupt the completion of our maritime defence by fortifications. With respect to the last inquiry of the committee, a full consideration of all circumstances, induces the Secretary to an opinion that a further appropriation should be made, to be in readiness, and commensurate to meet such a state of things, as may require our ports and harbors to be promptly and completely fortified, whether proper sites be ceded or not by the States more immediately concerned. With great respect, I am, sir, your most obedient servant,

JAMES M'HENRY.

SAML. SEWALL, Esq. Chairman
of the Committee, &c.

The report having been read, a motion was made to refer it to the same Committee of the Whole to whom has been referred a former report on this subject.

Mr. HARPER believed it would be most proper to refer all these subjects to the Committee of the Whole on the state of the Union, as this was a committee which had always a preference to all others. He therefore moved to discharge the Committee of the Whole who had heretofore had this business under consideration, in order to refer the whole to a Committee of the Whole on the state of the Union.

Agreed to, and referred accordingly.

FRIDAY, March 9.

A message was received from the Senate informing the House that they had receded from their amendment to the bill providing relief for the widows and orphans of certain deceased officers. This was a proposition to strike out "militia officers;" which being receded from, relief will now be granted to the widows and orphans of militia officers.

The following bills were read the third time, and passed, viz:

The bill declaring the assent of Congress to an act of the Commonwealth of Massachusetts;

The bill limiting the time within which claims against the United States for credits on the books of the Treasury shall be presented for allowance; which was fixed for the 1st of March, 1799; and

The bill for the relief of Sylvanus Crowell.

Mr. GILLESPIE proposed a resolution for instructing the Committee of Commerce and Manufactures to inquire into the expediency of passing a law declaring the assent of Congress to the appointment of a health officer at Wilmington, in North Carolina, and to report by bill or otherwise; which was agreed to.

Another message was received from the Senate informing the House that they insisted upon their amendment, which had been disagreed to by this House, to the bill for the relief of refugees from Canada and Nova Scotia.

* "*And be it further enacted*, That the President of the United States be, and he is hereby, empowered to authorize any of the States which were found indebted to the United States, on a settlement of the accounts between them and the respective States, to expend, under his direction, the sums respectively due from them in fortifying their ports and harbors; and the sums which may be so expended shall be passed to the credit of the said States, on account of the balances found and reported by the commissioners for settling the accounts between the United States and the individual States, to be due from the said States to the United States: *Provided*, The said States shall and do cede to the United States the lands and places on which such fortifications shall be so erected, in cases where the lands are the property of such States."

HENRY HILL.

On motion of Mr. HARPER the House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Henry Hill, and the several reports thereon; when the following resolution came under consideration:

"*Resolved*, That the accounting officers of the Treasury cause the sum of $9,768 81 cents, charged to the contract account of John Banks, on the 31st day of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to the accounts of such other person as in their opinion shall be justly chargeable therewith; and that they charge the said contract account with all such sums as have been paid by the United States, to indemnify the estate of General Greene for debts by him paid or secured to be paid of the said John Banks, or of John Banks and Company."

The question was divided, and the sense of the committee was taken upon the first part, ending with the words "chargeable therewith," and carried without a division.

After a long debate on the subject, in which the claim of Henry Hill was advocated by Messrs. HARPER and OTIS, and opposed by Messrs. COIT, DANA, NICHOLAS, VENABLE, J. WILLIAMS, and SPRAGUE, the latter part of the resolution was agreed to, there being 64 members in favor of it.

MONDAY, March 12.

Mr. BALDWIN, from the committee to whom was referred the bill from the Senate, providing for the amicable settlement of the limits of Georgia, reported the bill without amendment. It was committed to a Committee of the Whole for to-morrow.

Mr. CHAMPLIN presented a petition from the inhabitants of Warren in Rhode Island, praying that the Warren river may be staked out at the expense of the United States. Referred to the Committee of Commerce and Manufactures, with power to report by bill or otherwise.

HOLDERS OF BILLS OF CREDIT.

On motion of Mr. D. FOSTER, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred the memorials and petitions of Joseph Ball, and others, holders of bills of credit, emitted in pursuance of a resolution of Congress of the 18th of March, 1780. The report was read as follows:

That a statement of the case of the holders of bills of this description is contained in a report of the accounting officers of the Treasury, made on the 24th day of December, 1795, in pursuance of an act entitled "An act relative to claims against the United States not barred by any act of limitation and which have not been already adjusted," in the words following, to wit:

"Class 3. The claims of this last are founded on bills of credit, commonly called bills of the new emission, issued on the funds of individual States, pursuant to an act of Congress of the 18th of March, 1780. The following clause of the said act shows in what event the United States were to become answerable for the payment of these bills, 'that the said new bills issue on the funds of individual States for that purpose established, and be signed by persons appointed by them, and that the faith of the United States be also pledged for the payment of the said bills in case any State on whose funds they shall be emitted, should, by the events of war, be rendered incapable of redeeming them.'

"The interest accruing on them was to have been paid by the United States annually if called for, in bills of exchange on Europe, and the amount charged to the States respectively. It does not appear, however, that any such payments were made.

"It is understood that the several States concerned have passed laws for the redemption of their respective portions of this money, and it is presumable that the far greater part thereof has been redeemed accordingly. The bills for which payment is now claimed are chiefly of those issued by the States of New Hampshire, Massachusetts, and Rhode Island.

"This species of paper has never been considered as forming any part of the debt of the United States."

In the various arrangements which have been made since the establishment of the present Government, relative to the debt of the United States, no provision has ever been made for these bills; they appear from the face of them to be evidences of debt against the States individually who had issued them, and could not be provided for by the United States, without raising a charge against those States; and it was reasonably to be presumed that the States concerned would make such provision as the justice and equity of the case required.

The Secretary of the Treasury in his report of the 16th of January, 1795, recommended that such of these bills as had been exhibited at the Treasury, in pursuance of the act, entitled "An act relative to claims against the United States, not barred by an act of limitation, and which had not been already adjusted," amounting to the sum of $90,574, should be provided for by taking the principal sum of them, without interest, on loan at five per centum, payable quarter-yearly, redeemable at the pleasure of the United States, and payable in thirty years, he remarks:

"That the resolutions of Congress and the endorsement upon these bills engage the absolute promise of the United States for the payment of the interest, indefinitely, and their eventual guarantee of the principal, in case any State on whose funds the bills should be emitted should, by the events of war, be rendered incapable to redeem them; which is in effect, though not in form, an absolute guarantee of the principal; for the United States are bound to pay the interest, perpetually, till that is discharged.

"Good faith demands that the United States should supply the omissions of the States which issued the bills,

by providing themselves at least for the interest upon them; but it is not so easy to pronounce on what terms they ought to be provided for.

"On their face, and according to the unrevoked resolutions of Congress, they are of specie value equal to their nominal amount, bearing five per cent. interest.

"But it is known that they were issued by different States, at different inferior values, fixed by previous laws.

"The true nature of the contract, therefore, and the true equity of the case, are, from these circumstances, involved in some question."

The proposition of the Secretary on this subject was not adopted by Congress.

It is a notorious fact that these bills sunk in the same vortex of depreciation with the old Continental bills; and while they continued to circulate, were generally in the ratio of forty of the old for one of the new.

This unfortunate depreciation, which operated upon all the paper money, notes, and certificates, issued during the war, necessitated the United States to adopt principles relative to them which cannot apply in cases of ordinary contract. The States, individually, have assumed similar principles, and, in making provision for the bills in question, in some instances, have considered them as a depreciated currency.

The committee are informed that all the States who issued bills of this description, have already made provision for their redemption, either at their nominal amount, or at a certain ratio of depreciation, except the State of Rhode Island; and they think it fairly to be presumed that the States have made as liberal a provision as the nature of the case demanded.

The United States have once made allowances to the several States, in settlement of their accounts for the supplies for which those bills were issued. Should they make any further provision, they must consider the several States indebted to them for the amount of such provisions.

From an attentive consideration of all the circumstances of this case, (which the committee have endeavored fully to examine and present to the view of the House,) they are of opinion that it will not be expedient for Congress to make any provision for the payment of said bills. They therefore recommend that the petitioners, respectively, have leave to withdraw their petitions.

The report was advocated by Messrs. Coit, Macon, Nicholas, Gordon, and Gallatin; and was opposed by Messrs. D. Foster, Sewall, Livingston, Otis, J. Williams, and Dayton.

The latter gentleman thought the report of the committee was incomplete, as it did not appear sufficiently to have distinguished between the principal and the interest of these bills. He agreed with the committee with respect to the principal, but was of opinion the United States were bound to pay the interest, and that, as the States which had neglected to make due provision for these bills were creditor States with the United States, any sum which Congress should agree to pay might be justly set off against what was due to them. He hoped, therefore, the report would be recommitted, and a distinction made between the principal and interest.

After some conversation on this subject, in which it was stated that there would be no end gained by a recommittal, and if the report was not sufficiently explicit, it might be made so, the question on agreeing to the report was put and carried—there being 62 votes for it.

The committee then rose, and the House took up the report; which, after being amended by adding, after the word "bills," *or any interest thereon*, it was agreed to—there being 52 votes in its favor.

COMMERCE AND NAVIGATION.

Mr. Livingston said, he was instructed by the Committee of Commerce and Manufactures to ask for the appointment of a member upon that committee in the place of Mr. Swanwick, whose ill state of health did not permit him to attend the House. Agreed to; and Mr. Otis was appointed.

Mr. L. added, that he wished to ask an explanation of the House respecting an important subject. Two acts of the British Parliament had been referred, generally, to the Committee of Commerce and Manufactures, and there had been some doubts in the committee as to the proper course to be taken. Some members thought the object of the reference must have been for them to state facts relative to their operation, or to report what measures may be necessary to be taken in consequence of their operation, which would seriously affect the commerce and navigation of the United States. In order to determine this point, he proposed the following resolution for the adoption of the House:

"*Resolved*, That the Committee of Commerce and Manufactures be instructed to examine the two acts of the British Parliament referred to them, and report the operation thereof on the commerce and navigation of the United States."

On motion of Mr. Otis, it was ordered to lie on the table.

Tuesday, March 13.

Mr. Livingston observed, that the Senate having insisted on their amendments to the bill affording relief to the refugees from Canada and Nova Scotia, he wished a committee of conference to be appointed to confer with the Senate.

The Speaker said, it was first necessary for the House to determine that they would not recede from their disagreement to their amendments.

The sense of the House was accordingly taken, and having determined to insist on their disagreement, a committee of conference was appointed; to which the Senate subsequently announced their agreement.

The Speaker laid before the House a communication from the Secretary of the Treasury, enclosing a report on the petition of the Portland Marine Society, who pray for certain buoys to be placed in Portland harbor. The report is favorable, recommending the placing of six buoys in the said harbor, the expense of which is estimated at $400. The report was referred to the Committee of Commerce and Manufactures, with instructions to report by bill or otherwise.

RELATIONS WITH FRANCE.

Mr. Sewall wished the House to go into a Committee of the Whole on the state of the Union,

in order to take into consideration the resolutions which had been referred thereto.

Mr. Nicholas hoped the House would not go into a Committee of the Whole on the state of the Union to-day, as they had some reason to expect further information from the President of the United States, with respect to our dispute with France. The letter communicated from our Commissioners refers to other letters. It says, "we see no better prospect of our being received than when we wrote last." He wished to have the information to which this letter refers; since, if it was true that all negotiation was at an end with the French Government, it was proper the information should be laid before the Legislature. He hoped, therefore, the House would wait for a day or two to see whether or not further information would be sent to the House on this subject.

Mr. Sewall said, that the House were already informed, that, in the opinion of the Commissioners, all prospect of negotiation with the French Government had ceased; but, as further communications on the subject might be expected, the select committee did not wish the House at present to go into any new measures, but merely to go into a consideration of the resolutions reported in January last, which might be done without any further information from the President. He supposed the information which had been sent to the House was intended to hasten their proceedings in taking measures for the protection of our commerce and the defence of the country; and if no information at all had been received from France, he supposed the House would have thought it necessary to have gone into the defensive measures proposed, though they might, in that case, have driven it till towards the close of the session.

Mr. Harper said, if he could be of opinion that all the members of this House were satisfied as to the necessity of going at present into the measures proposed, he should be ready to go into a Committee of the Whole on the state of the Union. He himself thought there was information sufficient in the communication which had been received to authorize the House in immediately acting upon the business; but as he doubted whether other gentlemen were of this opinion, and as more might be expected, he wished to wait for it, as it might produce greater unanimity as to the necessity of the measures which it might be thought proper to take.

Mr. Dana said, though the Commissioners had written a folio before, the letter which had been laid before the House was the result of the whole, as they tell the President they have abandoned all hope of an accommodation. And he thought we were brought to that situation in which we must say whether we will take any means for the preservation of our rights and liberties, or submit to the depredations and insults committed upon us by a foreign Power.

Mr. J. Williams hoped the House would wait for the further information which might be expected from the President, as it was desirable that when the House went into this subject, they should do so with as much unanimity as possible.

Mr. Nicholas justified what he had before observed with respect to the letter of our Commissioners, which, he said, contained no facts, but referred to their former communications, and again urged the impropriety of going into the business at present.

Mr. Rutledge could not agree with the gentleman from Virginia that the letter of our Commissioners contained no facts. He thought it contained a most important, a very mournful fact. It stated that the representatives of this country had been four months in Paris soliciting for an audience, and could not have it. What, he asked, had the House to do with the previous information? The result was known, viz: that our Commissioners would not be received, and that was sufficient. Besides, what gentlemen were now called upon to do was no more than was intended to have been done some time ago, but was postponed for the purpose of obtaining some information as to the expenditures which had already taken place with respect to the frigates. Whether any further information was received on the subject of our dispute with France or not, gentlemen would certainly think it necessary to equip and man the frigates, and to have some vessels for the protection of our coasts. Why then should not the business be in a state of progression? For though the President had said he would make a further communication on this subject, he might not think it wise to do so at present. Besides, it is well known that continual depredations are committed upon our vessels on our coasts, and the Governor of South Carolina had lately informed the Executive that a vessel had been destroyed by a pirate in the harbor of Charleston. If the House were not unanimous in taking measures of defence, when such was the state of things, he feared they never would be unanimous on measures of this kind. The eyes of the American people were placed upon Congress, and impatiently waiting to see what measures would be taken by them. Post after post was expected to gratify this anxiety; and should it now be said that Congress was waiting for further information before they would agree to go into a Committee of the Whole on the subject of defensive measures? Something more, he thought, was necessary, and something more was expected from them by the public.

Mr. Hartley said, the House might safely go into a Committee of the Whole on the state of the Union. A resolution for equipping the frigates was the first in order, and he supposed there would be no objection to taking up that subject. The purchasing of vessels would be another consideration. He believed the people were much surprised at the delay which had taken place in this business. When we had a dispute with Great Britain, he said, an Envoy Extraordinary was sent to that country, and our differences were accommodated; but the French refuse to receive our Commissioners, which is a proof that they must despise this country, and he feared it would

be necessary to take very strong measures before Congress rose. At present, he supposed, there would be no objection to the taking of measures for the protection of our coast.

Mr. Otis.—If he was disposed on any occasion to examine the motives of gentlemen, he should say that it appeared to him they were desirous of inventing apologies for prolonging the state of degradation to which the country was reduced. This seemed to be the tendency of their objections. It had always occurred to him that it would have been wise and politic to have considered what our situation required, without a particular reference to any foreign country, and to have adopted such measures for our defence as necessity, and a respect for our national honor, required, without appearing to point them against any one nation. He was still of the same opinion. Certain defensive measures may be agreed upon, without forcing into view our situation with respect to any other nation, and without any occasion to assume a hostile appearance. Considering the subject in this light, what are the resolutions proposed to be considered? A proposition for finishing the frigates, an appropriation of a sum of money for a foundry, (of which no commercial nation ought to be destitute,) and another for improving our fortifications. Two of these measures, he said, had long since been sanctioned by the House, and they were all necessary for the protection of our commerce, which was now in danger of being utterly destroyed. The city of Philadelphia alone, within the last sixty days, had lost half a million of dollars. The measures now proposed were merely defensive, and had already undergone discussion; but little difference of opinion could exist upon the propriety of principles which had been settled and agreed upon. It would be time enough to expatiate upon the subject of our Commissioners to France when new measures shall be brought forward, originating in the failure of their mission. As to the wishes of his friends from South Carolina and New York, for unanimity, he confessed he did not contemplate any great unanimity with respect to all the measures that would be necessary to be pursued in the present crisis. He believed it would be incumbent on those who considered the nation as placed in a dangerous situation to advocate such measures as shall appear to them necessary, whatever might be the conduct or sentiments of others; and however sincerely he might wish for the event, he saw nothing which encouraged him to expect unanimity in their determinations. He believed, therefore, gentlemen must dispense with this advantage, and do what was requisite for our national defence and honor—they must do their duty and leave the event to Providence.

Mr. Pinckney could not agree with the gentleman who had just sat down, in throwing any imputation upon gentlemen who wished to protract the consideration of the business proposed.

Mr. Otis explained by saying that he had expressly stated that *if on any occasion* he thought it justifiable to investigate the motives of gentlemen, he should be inclined to do it at present.

Mr. P. could have wished that he had omitted that part of his observations which might bear that construction. Allusions of this kind were best kept out of sight. He believed all had the same views. All, he believed, wished to avoid war. He was sure this was the desire of both sides of the House. Unfortunately they differed in the means best to be pursued for preserving peace. Some gentlemen think it is wisest to be prepared for the worst. He was of the latter opinion; but he believed that the motives of gentlemen who differed from him in opinion were equally pure with his own. Perfect unanimity as to the means to be pursued, could scarcely be expected; but, he believed there was perfect unanimity both in that House, and throughout the country, in a wish to avoid war. With respect to the question before the House, it did not go to the point which gentlemen apprehended. It went only to the providing of the means of protection at home; and the reason why this subject was now brought forward, he believed, was owing to the unusual unanimity which had appeared in the select committee as to the propriety of the measure. The consideration of any other measures which might be necessary in consequence of our dispute with France, such as arming our merchantmen, an embargo, or convoys, would be postponed until it was seen whether any farther information would be received from the President. Mr. P. said, it appeared to the committee that there was, at least, a probability that this country might be involved in war; and they thought we ought not to exhibit the extraordinary spectacle of remaining, notwithstanding this apprehension, in a state of unpreparedness. Under this idea, Mr. P. thought there was no necessity for postponing the measure, and hoped gentlemen would, therefore, see the propriety of going into a Committee of the Whole at present. If there was a difference of opinion as to the propriety of entering upon any particular subject, it might be postponed; but he supposed there would be certain measures upon which there would be a pretty general agreement.

Mr. Giles did not suppose a few days delay would make any difference in the present business. So far as self-defence would go, he was as ready to act as any member in the House; but there were different ideas of self-defence. It was his idea that it could not be carried beyond our coast—where, however, he did not expect any assault. But defence there was always proper. It had been said that there was little probability that any unanimity could take place as to the measures necessary to be taken. He asked the gentleman from Massachusetts (Mr. Otis) whether his hypothetical way of treating the subject, and those who differed from him in opinion, was calculated to produce unanimity? Mr. G. said he differed in opinion from the gentleman from South Carolina, (Mr. Pinckney). He did not believe that all the members of that House were in favor of peace. He believed some of them were in favor of war. He had formed this opinion from a variety of declarations which he

had heard in that House, and from the variety of measures which had been proposed. No gentleman could satisfy his mind that he was in favor of peace, when he took arms in his hands to go to war. He believed that there was not only a part of this House, but a part of Government, determined on war. He was himself for peace; and gentlemen might ascribe to him what motives they pleased. On the other hand, those in favor of war, at all events, would take the responsibility of that measure. If, then, there was a *war motive*, and a *peace motive*, it was vain to expect unanimity. He had some reason for objecting to this measure under this view. He considered the present propositions as intended to afford a defence beyond the limits of the United States, as a part of that system which had a direct tendency to involve us in war. It was said this was only the commencement of a system, and it was this system which gave him most alarm.

But it was said, there is great impatience in the public to know what Congress intend to do. If this is the case, this impatience, he said, ought not to be indulged. He did not wish to be hurried into measures by any such suggestion. He believed if there is an impatience in the public, it is in favor of peace, and produced by the fears of war.

Mr. G. asked whether the House had all the necessary information before them. The gentleman from South Carolina (Mr. Rutledge) informed the House that our Commissioners had not had an audience. He did not know the technical meaning of the word *audience*. He supposed they had addressed themselves to the Minister of Foreign Affairs; but, perhaps, after some objections as to their power, they may not have been received. The gentleman says the letter of our Commissioners exhibits a lamentable fact. This is true; but is it not necessary to know what led to it? Ought not the House to be in possession of a history of the proceedings? It surely ought. Suppose those Commissioners were not possessed of proper powers, could it be expected they would be received? When the House knew the ground upon which our Ministers had been refused, they would be able to speak upon the subject.

He would mention another circumstance, in which he, for once, coincided in opinion with the gentleman from Massachusetts, viz: that the House ought to take up the subject without reference to any foreign Power, and merely as it respects our commerce. But had they, he asked, all the information which they could wish on this subject? He believed not. There were two acts of the British Parliament which were more alarming even than the decree of the French Directory. The French had made an attack upon our neutral rights; that was, however, temporary, but the other was fixed. And the real injustice to be apprehended was infinitely greater from the British statutes, than from the decree of the Directory.

And before he sat down, he would remark, that though those acts passed in July last, and it might be presumed that our Minister would not be dilatory in transmitting them, so that they must have been received in August or September, yet they were not till lately laid before the House, and that after a proposition was brought forward to call for them. They have since been referred to the Committee of Commerce and Manufactures, and they will not report, and the chairman has laid a resolution upon the table for the purpose of producing a report.

Mr. Harper said, it was not unusual for the gentleman from Virginia to display his ignorance of facts. If it was, it would appear wonderful that he should be ignorant that these acts had long since been before the public in the newspapers.

Mr. Giles did not suppose that the gentleman from South Carolina would get much from his *polite* method of expressing himself. He knew it was usual for him to suppose he had a monopoly of knowledge; but he did not suppose his telling an enlightened assembly this, could produce any effect in his favor. He could only say he had not seen these acts in any newspaper, though he was in the habit of seeing a great number of papers. He should be glad to see them there; and he should have sent them for publication, only that he waited for the committee's report upon them.

Mr. G. concluded by saying, he disdained what might be said by any one as to his motives; for they must possess more ingenuity than he to discover any interest which he could have separate from the interest of the country, especially as it related to the landed interest of the country.

Mr. S. Smith said, he understood it was the wish of the chairman of the Committee for the Protection of Commerce and the Defence of the Country, to call up the resolution for completing and equipping the frigates, and that for the fortifications, and not the one for the purchase of additional vessels.

Mr. Sewall said, he should not insist upon any other, if it should not meet with the wishes of the committee.

Mr. S. Smith was in favor of going into a Committee of the Whole on the frigates and the fortifications. He supposed the chairman of the committee would be able to give the necessary information with respect to the frigates; but with respect to the other matters referred to the same committee, he did not think the House had sufficient information upon which to act. As to the two acts of the British Parliament which had been mentioned, he believed they would be more injurious to the commerce and navigation of the United States than the *arrêts* of the French Directory; though, perhaps, some means might be taken to get clear of them. He thought it proper that this subject should be before the Committee of the Whole on the state of the Union. As to the publication of these acts, he himself had seen one of them published so long ago as last August. Immediately upon his coming to Congress, he proposed to have called for them. He

made a verbal call, and they were promised, but they were not received till five or six weeks afterwards, in the way which had been stated.

Mr. Champlin said, there was no difference of opinion in the Committee of Commerce and Manufactures as to these acts being in strict conformity to the treaty; the only difference was with respect to reporting a remedy to the evils arising from them.

The Speaker complained that gentlemen did not confine themselves to the question. What was the opinion of the Committee of Commerce and Manufactures, with respect to the British acts, had nothing to do with the present question.

Mr. J. Parker thought the House ought to go into a Committee of the Whole on the state of the Union, in order to take up the resolution with respect to the frigates. In the present critical state of our country, he thought it was necessary they should be finished, in order to defend our commerce against the pirates of one nation as well as those of another; for he wished to oppose the unjust attacks of all. Officers, he said, were appointed for the frigates, and they were in a state of readiness. The one at Baltimore is ready to bend her sails, and might be got into the ocean in four or five weeks. He hoped, therefore, the House would go into this business; though the other subjects, he thought, would be best deferred until the House had further information.

Mr. Harper had not the least objection to going into a Committee of the Whole, for the purpose of voting a sum of money for completing and equipping the frigates. It was to any new measures which might be necessary with respect to a foreign nation that he alluded; and, though he felt prepared to go into any of the measures proposed, and much stronger ones, yet he saw there were gentlemen who wished to have farther information before they acted. And when they had the history of the business before them, they would, probably, be convinced of the propriety of joining to carry into effect the measures proposed. If a few votes could be gained by this delay, he was desirous of obtaining them, and he believed the House would arrive at the end of the business as soon as if they were now to go into it.

Mr. H. justified the Executive against the charge of delay in not communicating the British acts, and said they were well known to the merchants of the country, as their correspondents in England took care to give them every interesting information.

With respect to the question of war or peace, he would state his opinion. The gentleman from Virginia had said that he did not believe his colleague, when he said he was in favor of peace. As to himself, he had several times acknowledged that, if gentlemen meant by peace that we should submit to the insults of a foreign Power, he was not for peace; though he wished to preserve it, and would do all he could to preserve it, if we could obtain redress for our grievances. But if nothing was left to us, but either to submit or go to war, he certainly would be for going to war. He believed that this was the sentiment of the American people, which would be re-echoed from all parts of the Union. He believed that state of things was arrived when this country must either submit or resist. He was willing, however, that a delay should take place for the communication which might be expected from the President.

Mr. Livingston said, until this moment, he had determined to give his vote in favor of going into a Committee on the state of the Union, for the purpose of voting a sum to equip and man the frigates, believing that that measure would have no relation to any foreign nation; but when he heard gentlemen say they were prepared for war, and that the period *was arrived* for it, he dreaded to put arms in their hands, lest they should be made ill use of. If, from a knowledge of the late despatches, the gentleman last up is convinced that all negotiation will be ineffectual, [Mr. Harper said he had no other knowledge than other gentlemen on this subject,] and that a declaration of war must take place; with such impressions, he wished to keep back arms. For, since these sentiments were avowed on this floor, how did he know but the Executive might concur in the opinion?

[The Speaker said, it was not in order to allude to the opinion of the Executive.]

He believed if these means of offence or defence were put in the hands of the Executive, that, provided he concurred in opinion with these gentlemen, they would be employed in bringing the country into a war, as they think the only means of preserving the honor and safety of the nation lies in war. Knowing this, and willing for peace, would it not be insanity to put arms into their hands? He believed it would, and he could not in his conscience do it.

Mr. Otis was ready to declare his opinion, that, in the present situation of this country, this House ought daily to resolve itself into a Committee of the Whole on the state of the Union, whether they were likely to adopt any particular resolution, or not. Surrounded as we are by danger, agitated by alarm, insulted abroad, and divided at home, the House ought constantly to show to the people that the anxious cares with which they are at this time oppressed rest also upon the minds of the members of that House, and that they are desirous of inquiring with constant solicitude whether they could, or could not, do anything to serve their country. Yet, notwithstanding this perilous, unprovided state of the nation, he was sorry to find gentlemen studious to avoid all measures upon which the peace, the liberty, and the happiness of the country depend.

With respect to the gentleman from Virginia: To those who recollected the asperity with which he generally chose to express his opinions; to those who remembered the temper which he discovered the last session, it would not be a subject of surprise that he should have discharged for the first time those "phials of wrath," which he has been engaged in filling from that time to the present, in a bold, ungraceful, and, in his opinion, disgraceful assertion, that not only gentlemen in that House, but the Executive of the United

States, were desirous of war. The attack was unkind, cruel, and outrageous.

The gentleman had proceeded to remark that he generally differed from him in opinion. Mr. O. said that to proclaim this fact was to do him honor; and that, in the same proportion that his political sentiments approached to those of that gentleman, they would approximate a vortex of prejudices and errors, and recede from those which he had been taught to consider most nearly connected with the happiness of his country; and that whatever personal respect they might entertain for each other, he hoped they should continue to differ upon political topics.

The gentleman had blamed him for imputing sentiments to him which he afterwards acknowledged. They were, that gentlemen were anxious to find motives of delay against providing the means of protecting our commerce. This he had avowed, by saying he was in favor of defending the country by land, but not by sea. But, said Mr. O., we can defend ourselves by sea; and the people of America will defend themselves by sea, as well as by land; and when declarations are made which are calculated to palsy the efforts of the people, they ought to be repelled. And, if that gentleman, or some others, were determined not to take measures for the defence of our commerce, he hoped there would be found a large majority in that House who would do it. He would himself sooner lose his right hand than it should not be done; indeed, if gentlemen should decide that commerce should not be protected, the country would not long be worth the pains of defence; it would become disunited, and there would be an end of its propriety.

If the gentleman from Virginia wished him to declare whom he thought in favor of war, and whose measures led to it, he would say it was those who constantly impeached the Executive authority—who uttered sentiments which had a tendency to dispirit the people, and lead them to believe they could not be defended, and that commerce was not worthy of protection. These measures, he said, led to war—not to foreign war—but to civil war; a war of friend against friend, and State against State.

Mr. O. thought it extremely improper, at this time, to introduce anything relative to the future operation of the two acts of the British Parliament, which were referred to a different committee, and of course would come under a separate consideration. What was the object of this allusion? It was intended to show that we had as much cause of complaint against one country as against another, and that therefore we ought to sit patiently down under the outrages of all; that we should tamely suffer ourselves to be divided and parcelled out, and become the humble slaves of a foreign Power. Before this would be suffered, he trusted the spirit of the people of America, which had heretofore been displayed, would be called out in defence of their injured country.

In regard to what had fallen from the gentleman from New York, (Mr. Livingston,) Mr. O. had a respect for his private character, and hoped he would see the impropriety of changing his mind, even admitting that one gentleman had said the crisis had arrived when it would be necessary to submit or go to war. This opinion could be no reason for voting against his former opinion. Indeed, he believed his friend from South Carolina was misrepresented. He understood the sentiment to be that which every American ought to repeat, "that when the crisis arrived, rather than sacrifice the liberty and independence of this country, we ought to go to war." He hoped, therefore, the House would go into a Committee of the Whole without delay.

Mr. Giles said the gentleman last up had said some things in relation to him which he found it necessary to notice, and for which he did expect he would have been called to order. He had charged him with using disgraceful expressions. This was a charge which neither that gentleman nor any other dare make in any other place. [A loud call to order.]

The Speaker declared it in vain that he endeavored to confine gentlemen to order. Almost every member who had spoken had transgressed in this respect.

Mr. Dana observed, that the gentleman from Virginia had objected to going into a Committee of the Whole because the two acts of the British Parliament were not before that committee, and referred to what had taken place in another committee. [The Speaker observed that everything which had been said in relation to these acts, with respect to the opinion of another committee, was out of order.] Mr. D. added that he had seen these acts published before he came to Congress this session, and he thought it extraordinary that any gentleman should wait for the opinion of a committee upon a subject before he formed his own. Mr. D. said the question was not whether the House would adopt any of the resolutions, but whether they would agree to discuss them.

Mr. Kittera said, the House had already spent half the day in debating whether they would go into a Committee of the Whole, and he hoped further time would not be spent on the subject. He thought the best way of avoiding war was to be prepared for it. He wished, therefore, to enter upon the business and proceed with it.

Mr. Gallatin did not believe too much time could be spent upon this subject, if it was thought to lead to war measures. The variety of subjects which had been referred to this Committee of the Whole, had given rise to a number of observations on these different matters. The Chairman of the Committee for the Protection of Commerce and the Defence of the Country had declared that, out of these subjects, he only meant to call up what related to equipping the frigates, to the establishment of a foundry, and to the purchase of a number of vessels in aid of the frigates.

Exclusively of these, there were other subjects referred to the same Committee of the Whole; one of them relates to our fortifications, another to the establishment of a Commissioner of Marine, and another to the arming of merchant vessels. He considered some of these subjects as uncon-

nected with our relations to any foreign nation, so far as relates to any change which may have taken place since the last session; but with respect to any proposition which was rejected at the last session, or any new proposition which may have been produced on the ground of a change of our situation, he was not ready at present to act upon it. And it would be recollected that not only the arming of merchant vessels, but the proposition for the purchase of vessels, was rejected at the last session.

Mr. G. agreed that a change in our situation had, in a certain degree, taken place since the last session; he agreed this change was of importance; it consisted in the intelligence received from our Envoys Extraordinary that they had not been officially received by the Government of France, though they had remained in that country about three months. The question was, whether that intimation in itself is sufficient to induce Congress to adopt new measures, or to take up such as were rejected at the last session. To him there was not sufficient reason for this purpose, because he expected further information upon the subject; and unless the House knew, not only that our Ministers had not been received, but why they had not been received, whether it was from the want of powers, or any other circumstance not known to us, it was difficult to say what measures ought to be taken.

Another reason was, that though our Ministers themselves inform the Executive that they have not been received, nor have any hopes of it, or that the objects of their mission will be accomplished, they still remain in Paris; and so long as they remain there, however feeble the hope, they have some hope of being received, or they would leave the place, as it must be unpleasant to them to sacrifice their feelings by remaining there any longer than the occasion requires. So long as we had not information that they had left the country he did not think any new measures ought to be gone into, or measures which, in their tendency, must lead to war. When he said this, he did not mean to say anything against taking measures of self-defence. We ought to take every measure of this kind; but, unfortunately, however easy this was to be done on land, it could not be carried to sea without danger of war. Such is the nature of self-defence at sea that if it be carried out of our own jurisdiction it is intimately connected with offensive operations.

Thus, with respect to the arming of merchantmen, by putting arms into the hands of individuals, it might lead to war, while it was intended only for self-defence against attack. Indeed, such is the law of nations with respect to the searching of vessels, that it is difficult to distinguish between lawful and unlawful searches. Other gentlemen, who believe it possible to guard against this danger, and who wish for a defence at sea, not only wish the measure now to be adopted, but they wished it at a former session. The same reason, however, which led the House to reject this measure heretofore would lead them to oppose taking it up at this time.

It remained to be considered whether it would be proper to go into a committee on those measures which were agreed to at the last session, but which now required further appropriations. There were two such measures, namely, the frigates and fortifications. With respect to the fortifications, he was always willing to appropriate as much as was necessary for this object. No difference ever took place on this subject, except as to the amount to be appropriated. He should, therefore, have no objection to this measure; but it was not necessary to be gone into at present; it will do to be considered at any time during this session, as there remains a balance of $90,000 unexpended of the last appropriation.

The only measure which seems necessary to be gone into at present is the frigates. The objection made to this measure had been that the Executive might employ the frigates in an improper manner. This apprehension he supposed to be grounded upon the first section of the act of last session, which gives the President the right of employing them without restriction. If it was their opinion that the President would employ the frigates in a manner dangerous to the peace of the country, it would be a good argument against appropriating the money; and it would be within the recollection of members that the sense of the House had been twice taken in favor of restricting the use of the frigates; but, through fear of losing the bill, the point was given up. Though, however, he was at that time against the President's having the discretion to use the frigates as he pleased, he was not now afraid of their being employed improperly. He had always opposed the building of the frigates in every stage, because he thought the expense attending them would be greater than the advantage to be derived from them, but he did not wish now to oppose the motion for going into a committee on this subject.

With respect to the question of war, Mr. G. did not believe any gentleman could wish for it as an abstract good. He believed every one thought it an evil; but he believed there were gentlemen in the House who would be willing to go to war for causes which others did not think justifiable. He did not know, indeed, but when they come to go into the subject that they might all agree; but he believed this was the distinction to be drawn between the different opinions of different gentlemen.

Two other reasons might, perhaps, be alleged why the House should not go into a committee on this subject; the one was, because the subject had been postponed for an inquiry into the subject of former expenses, and the committee of inquiry have not reported. For his own part, he believed there had been much extravagance in the expenditure; but, as no report had been made, and as it could not be soon expected, he believed those gentlemen who wished to see the frigates equipped, had better proceed in the business without this report. The other reason was, that he thought the House had not sufficient information relative to the pay and subsistence of the Navy. When

the account was formerly laid before the House, the rations were charged twenty cents, they were now charged twenty-eight cents, and it was well known that there had been no advance in the price of provisions to warrant the addition. And though he had been unsuccessful in his attempts to prevent the building of the frigates, since they are built and must go into service, he should wish to keep down the expense as much as he could with propriety do it. He had, therefore, no objection to go into a committee on the resolution for completing and equipping the frigates, though he should at present be opposed to do so with respect to that providing for the pay of the crew, as he wished for further information on the subject, and as there were yet $90,000 of the former appropriation unexpended.

Mr. Sewall said, when he first proposed to go into a Committee of the Whole on the state of the Union, he suggested that his principal object was to provide for the completing and equipping the frigates, and he thought it was sufficient, according to the rules of the House, to mention one object as a reason for going into a Committee on the state of the Union. He thought this debate had, therefore, been of a very unusual nature.

Mr. Nicholas had no objection to go into a Committee of the Whole, to take up the subject of the frigates. His objection was to the going into other measures which had been suggested by the Chairman when he made his motion, such as purchasing vessels, &c.

The question for going into a Committee of the Whole was put and carried, there being 64 votes for it; when the resolutions for completing, equipping, and manning the frigates, and then for the pay of the crews, &c., were agreed to, and a bill was directed to be reported accordingly.

THE JUDICIARY.

The House, then, on motion of Mr. Livingston, went into a Committee of the Whole on the bill supplementary to the act for establishing the Judicial Courts of the United States; but not having gone through the bill the committee rose, and had leave to sit again.

Wednesday, March 14.

Mr. N. Smith, from the committee appointed for that purpose, reported a bill supplementary to, and in alteration of, the act for the relief of persons imprisoned for debt. Committed for to-morrow.

Mr. Sewall, from the committee appointed for that purpose, presented a bill for an additional appropriation to provide and support a Naval Armament; which was read twice, and committed for to-morrow.

The House again resolved itself into a Committee of the Whole on the bill supplementary to the act for establishing the Judicial Courts of the United States; when, after undergoing some amendments, it was agreed to; and, the committee having risen, the bill was ordered to be engrossed for a third reading to-morrow.

A message was received from the Senate informing the House that they had passed the bill making alterations in the law imposing a duty on stamped vellum, parchment, and paper, with an amendment; which was concurred in by the House.

They also sent a bill to the House for granting certain land to Stephen Monro, and others, at Galliopolis, in the Northwestern Territory; which was twice read and referred to the Committee on the subject of Northwestern Territory land.

CITY OF WASHINGTON.

Mr. Craik moved that the House go into a Committee of the Whole on the report of the committee to whom was referred, on the 23d ult., the Message from the President of the United States, enclosing a memorial from the Commissioners appointed under the act for establishing the temporary and permanent seat of the Government of the United States; which motion being agreed to, the House went into a Committee of the Whole on the subject, and the memorial and report having been read, the following resolution was under consideration:

"*Resolved*, That two hundred thousand dollars be appropriated for completing the buildings requisite for the Government of the United States, at the city of Washington, to be subject to the draughts of the President of the United States, for the time being, not exceeding one-third of the said sum in any one year."

After some observations by Mr. J. Williams against agreeing to this resolution, on the ground that it was never expected that Congress was to be at any expense in erecting the public buildings; but that the States of Maryland and Virginia who had ceded the land for the purpose of the city, had engaged to provide them, and except they did provide them, Congress was not obliged to remove there at the time appointed,

Mr. Gordon proposed an amendment, to strike out $200,000, and insert "$66,666," as it was stated that only one-third part of the $200,000 were to be expended in any one year.

This amendment occasioned considerable debate, and was at length negatived, there being only 22 votes for it. The resolution itself was then carried, by 58 members voting in its favor; and a committee was appointed to bring in a bill accordingly.

The resolution was advocated by Messrs. Nicholas, Thatcher, Rutledge, S. Smith, Harper, Craik, and T. Claiborne, and opposed by Messrs. Livingston, Varnum, and J. Williams.

Thursday, March 15.

Mr. Craik reported a bill making an appropriation for completing the buildings necessary for the accommodation of the Government at the city of Washington; which was committed for to-morrow.

THE JUDICIARY.

The bill supplementary to the act establishing the Judicial Courts of the United States, was read the third time, and the yeas and nays were called on

the question of passing. [This bill originated upon a resolution brought forward by a member from New York, (Mr. Livingston,) in order to provide for the trial of causes in which two States are concerned, in the next adjoining State, in order to obtain an impartial trial. What gave immediate cause to the bill was a case which is now pending between the States of New York and Connecticut.] After considerable debate, the yeas and nays were taken, and stood 29 to 58, as follows:

Yeas—James A. Bayard, David Brooks, Christopher G. Champlin, Matthew Clay, James Cochran, George Dent, Lucas Elmendorph, Henry Glen, Robert Goodloe Harper, David Holmes, Hezekiah L. Hosmer, Walter Jones, Matthew Lyon, John Nicholas, Harrison G. Otis, Isaac Parker, Josiah Parker, John Rutledge, jr., Samuel Sewall, Tompson J. Skinner, Peleg Sprague, Richard Spright, jr., Thomas Tillinghast, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, and John Williams.

Nays—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burgess, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, William Craik, Samuel W. Dana, John Dawson, John Dennis, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Thomas Hartley, Joseph Heister, William Hindman, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Nathaniel Macon, Blair McClenachan, John Milledge, Lewis R. Morris, Anthony New, James Schureman, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, William Smith, Richard Stanford, Thomas Sumter, Richard Thomas, Abraham Venable, Peleg Wadsworth, and Robert Williams.

Friday, March 16.

Mr. Macon, from the Committee of Revisal and Unfinished Business, made a further report, stating that a part of the law respecting post offices and post roads, would expire before the next session of Congress. This report was referred to the committee on the subject of post offices and post roads, to report by bill or otherwise.

NAVAL ARMAMENT.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill making an additional appropriation to provide and support a Naval Armament; when, the bill having been read,

Mr. S. moved to fill the blank appropriating money for the pay and subsistence, for the term of one year, of the officers and crews, with $216,679. Some objections had been made to the price at which the rations had been fixed, when the subject was formerly before the House. He had, in consequence, made inquiries on the subject, and had been informed that twenty-eight cents per ration was the lowest price at which they could be obtained.

Mr. Gallatin asked whether the gentleman's inquiry had extended to the price paid for the rations to the troops stationed in the forts, other than those on the frontiers. The contract for these would be the best data for the price to be allowed in this case.

Mr. Sewall did not think it necessary to make this inquiry.

The question was put and carried.

Mr. Sewall then moved to fill the blank to defray the wear, losses, expenditure of ammunition, and other contingent expenses, with $63,700.

Mr. Gallatin said the estimate before him for contingent expenses was $60,000. There were $3,700 for other specific purposes, viz: for the salaries of clerks, and for the rent of the naval yards at different places. He thought it would be best to distinguish between contingent expenses and salaries, and also whether the clerks were authorized by law, or whether they were established by this bill. If the offices were already established, the salary should be provided by law; if not, the law should first be passed to establish the offices.

Mr. Sewall said that while there remained on hand materials which had been purchased for the use of the frigates at New York, Portsmouth, and Norfolk, it would be necessary to have persons there to take care of them. He supposed the clerks were authorized by law.

Mr. Gallatin said if the clerks were authorized by law, their salaries would be included in the ordinary appropriations. He therefore moved to fill the blank with $60,000, as the items which were mentioned separately, could not properly be included under the head of repairs and contingent expenses of the naval armament, as this related to the frigates only, and not to the taking care of any materials on hand.

Mr. J. Parker hoped this motion would be agreed to, and the other withdrawn. The clerks employed at the places which had been mentioned, might at present be necessary; but he thought some provision ought to be made with respect to the disposal of these materials, in order to do away the necessity of employing persons to take care of them.

Mr. Sewall withdrew his motion, and that for filling the blank with $60,000 was carried.

Mr. Gallatin then moved to add the following words: "also that a sum not exceeding $2,200, to pay the salary of persons having charge of the naval yards at New York, Portsmouth, and Norfolk, and the rents of the same;" which motion was carried.

Mr. Varnum moved to strike out the words "for sea, with all convenient speed." He thought these words were a direction to the President to send the frigates to sea, at any rate, with all convenient speed, though the occasion for doing this might depend upon some future consideration.

Mr. Isaac Parker said the only natural construction of these words was, as to the manner in which the vessels were to be equipped. It did not follow that when they were equipped they would be sent to sea, except there was a necessity for it.

Mr. J. Williams thought the words immaterial. If they would produce any effect in accelerating the business, he thought they ought to be retained, as all allowed it had heretofore been sufficiently tardy.

Mr. Gallatin said the law of last session went no further than to direct the vessels to be "manned and employed;" whereas this bill, though only making an additional appropriation to enable the President to carry the former law into effect, seemed to go further. It appeared to direct that they should "be equipped for sea with all convenient speed," while the former law left it to the discretion of the President to employ them as he pleased. If it were wished that the business should be left on its former footing, these words might with propriety be struck out; because, after the money was appropriated, the President might use what speed he pleased in equipping the vessels.

Mr. Harper said it would seem that the gentleman from Pennsylvania did not know the difference between preparing the vessels for sea, and employing them after they are prepared. He was persuaded, however, he did know the difference. Though that House had not the power to direct how the vessels should be employed, yet they could direct them to be prepared with all convenient speed. It was the business of that House to prepare, and of the President to employ; but the object of this motion went to show that they were both the same thing. Much complaint had been made, and justly, at the great delay which had taken place in this business, and he could now see no objection, therefore, to directing them to be equipped with all convenient speed. When they were equipped, the President would use them in such a way as the state of the country shall require. If the Legislature chose to put the country in a state of war, the vessels would be employed accordingly; or if it remained in peace, their employment would accord with such a state. He hoped, therefore, the words would be retained.

Mr. Sewall said, the same words were contained in the resolution upon which the bill was founded, and in the act of 1796 a similar expression was used. He thought the gentleman from Pennsylvania had not sufficiently attended to the distinct appropriations contained in the bill.

Mr. Dayton (the Speaker) said, the law of last session went further than it was contemplated by this bill to go. The words "equip for sea, with all convenient speed," related only to the manner in which the vessels were to be equipped, as it was well known that equipping for sea and equipping for guard-ships (which was the sole purpose for which some gentlemen had wished them to be employed) was wholly different. The law of the last session went to say they should be manned and *employed*; which he believed, with the gentleman from South Carolina, was an unnecessary and improper direction, as the President of the United States, being the Commander-in-Chief, was the only proper judge of the manner of employing them.

Mr. Thatcher did not think that directing the vessels to be equipped with all convenient speed indicated any great haste, but the contrary.

Mr. Varnum said, gentlemen had on former occasions, been very tenacious of giving the President directions how he should act. He was unwilling to do it on the present occasion; and he thought if these words were struck out, no one would understand that the frigates were to be fitted out as *guard-ships*. But if the bill was agreed to as it now stood, he was of opinion that it would appear to their constituents that the Legislature believed the crisis had arrived at which it was necessary to send out frigates to sea against a foreign nation. If this period had arrived, he wished it to be declared openly, and not in any sideway manner. Such a clause was very unusual in an appropriation bill.

Mr. Gallatin believed it was perfectly true, as stated by the gentleman from Massachusetts, that words of this kind were never inserted when an appropriation only was wanted. In the law of 1796, he admitted that similar words were used, and there they were proper, because that was a law for the construction and equipment of the frigates; but in all the subsequent laws, which were merely appropriation laws, no such words had been used. This was a bill to grant a sum of money, and it was not intended to say that the money should be granted with all convenient speed. He believed, since they were to be equipped, the sooner they were done the better; but he did not think it proper to insert such a clause in an appropriation bill.

Mr. Bayard thought the gentleman from Pennsylvania made a nice distinction without a difference. He admitted, that if the bill was for constructing the frigates, such words might be proper, but that in an appropriation bill they were improper. He saw no difference between the two cases; and if it was the wish of the House to have the frigates equipped speedily, it was certainly not improper to say so. In his opinion, the situation of the country required that every exertion should be made in the business.

The question was then taken on striking out the words, "with all convenient speed," (the mover having agreed to exclude the words, "for sea" from this motion,) and was negatived—47 to 38.

The committee then rose, the House agreed to the amendments, and the bill was ordered to be engrossed for a third reading. Monday and to-day were mentioned for the third reading. The sense of the House was first taken on the most distant day, and negatived—43 to 42. It was accordingly ordered to be read a third time this day. Before the House rose, it received its third reading and passed—there being 57 votes in its favor.

Mr. J. Parker proposed a resolution to the House, directing the committee which had been appointed to inquire into the expenditure of the money heretofore appropriated for a naval armament, and into the cause of delay which had taken place, to inquire and report what materials remain on hand which will not be wanted for the three frigates now nearly finished, designating what the articles are, and where they are; and also what materials have been disposed of; which was agreed to.

IMPRISONMENT FOR DEBT.

On motion of Mr. N. Smith, the House went into a Committee of the Whole on the bill supplementary to, and in alteration of, the act for the relief of persons imprisoned for debt; when, the bill having been read,

Mr. J. Williams moved to strike out the first section of the bill. He was persuaded that if this bill passed it would be very injurious to the revenue, and in the end prejudicial to the fair trader; for, if such a law had been in being the last year, Government would have lost half a million of money; and if such losses were sustained, it would lead to the passing of laws which would be injurious to commerce. It became the House to be cautious, therefore, in making alterations which might so materially affect the revenues of the Union; especially, as the debentures given by the custom-house must be allowed, whether the duties are paid or not.

This motion was negatived, without a division.

After the bill had undergone several amendments, one of which was to provide that the benefit of this law shall not extend to persons imprisoned for debt due for money by them received for or on account of the United States, the committee rose, and had leave to sit again.

Monday, March 19.

RELATIONS WITH FRANCE.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

The despatches from the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message to both Houses of Congress, of the fifth instant, have been examined and maturely considered.

While I feel a satisfaction in informing you that their exertions for the adjustment of the differences between the two nations have been sincere and unremitted, it is incumbent on me to declare that I perceive no ground of expectation that the objects of their mission can be accomplished on terms compatible with the safety, honor, or the essential interests of the nation.

This result cannot, with justice, be attributed to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests, for the preservation of peace. Knowing it to be my duty, and believing it to be your wish, as well as that of the great body of the people, to avoid, by all reasonable concessions, any participation in the contentions of Europe, the powers vested in our Envoys were commensurate with a liberal and pacific policy, and that high confidence which might justly be reposed in the patriotism, abilities, and integrity, of the characters to whom the negotiation was committed. After a careful review of the whole subject, with the aid of all the information I have received, I can discern nothing which could have insured or contributed to success that has been omitted on my part; and nothing further which can be attempted, consistently with maxims for which our country has contended, at every hazard, and which constitute the basis of our national sovereignty.

Under these circumstances, I cannot forbear to reiterate the recommendations which have been formerly made, and to exhort you to adopt with promptitude, decision, and unanimity, such measures as the ample resources of the country afford, for the protection of our commercial and seafaring citizens; for the defence of any exposed portions of our territory; for replenishing our arsenals, establishing foundries and military manufactures; and to provide such efficient revenue as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce.

The present state of things is so essentially different from that in which instructions were given to collectors to restrain vessels of the United States from sailing in an armed condition, that the principle on which those orders were issued has ceased to exist. I therefore deem it proper to inform Congress that I no longer conceive myself justifiable in continuing them, unless in particular cases, where there may be reasonable ground of suspicion that such vessels are intended to be employed contrary to law.

In all your proceedings it will be important to manifest a zeal, vigor, and concert, in defence of the national rights, proportioned to the danger with which they are threatened.

JOHN ADAMS.

United States, *March* 19, 1798.

This Message was refered to the Committee of the Whole on the state of the Union.

INSOLVENT DEBTORS.

The House again resolved itself into a Committee of the Whole on the bill supplementary to, and in alteration of, the act for the relief of persons imprisoned for debt; and, after some discussion, the committee rose, and the bill was recommitted to a select committee.

CITY OF WASHINGTON.

On motion of Mr. Craik, the House went into a Committee of the Whole on the bill making an appropriation for completing the buildings necessary for the accommodation of the Government at the city of Washington. The bill having been read,

Mr. Gallatin moved to strike out the words, "for completing the buildings," in order to insert the same words which were used in the original act for establishing the permanent seat of Government, viz: "for providing suitable buildings for the Government of the United States." His object in this amendment was, not to give any sanction to the buildings now going on for Government in the city of Washington, and oblige the Commissioners, under the direction of the President of the United States, to proceed in finishing them, however improper they may deem them for the purpose. He wished, on the contrary, to leave the Commissioners and the President at full liberty, either to go on with the present buildings, or to prepare others upon a more suitable and economical plan.

Mr. Craik had no objection to this amendment, and it was accordingly carried.

The committee rose, and the bill was ordered to be read a third time to morrow.

RELIEF TO NON-COMMISSIONED OFFICERS AND SOLDIERS.

On motion of Mr. D. Foster, the House resolved itself into a Committee of the Whole on the report of the Committe of Claims, to whom was referred the petitions of Samuel Abbot and others, John Bennet, in behalf of himself and Abraham Sutton; Samuel Edy, Francis Guillow, Thomas Roche, Lemuel Snow, Joshua Whitney, by Timothy Winn, his agent, and Thomas Wells. The report was read, as follows:

"The object of these petitioners is to obtain from the public the arrears of pay, &c., due them for their services during the last war. Their accounts were duly and properly liquidated; certificates for their respective balances were issued by the proper commissioner, and deposited in the hands of the regimental agents, pursuant to an act of Congress of the third day of November, 1783. But the petitioners allege that they never received their certificates, by reason of the default of the agents of the regiments to which they respectively belonged.

"The committee having been instructed to report on this subject, generally, have not confined their inquiries to the special merits of the individual claims, but have considered it with a view to all similarly circumstanced, and alike unfortunate.

"By the establishment for the Army, made by Congress on the 27th of May, 1778, it was directed, 'that the paymaster of a regiment be chosen by the officers of the regiment out of the captains or subalterns, and that the officers should risk their pay in their hands.' Every officer being thus interested in the ability and integrity of the agent, as well on his own account as on account of the soldiers, was an inspector of the conduct of the paymaster. The choice was generally good; there were but few well-grounded complaints against the persons appointed; and for those, prompt, and probably judicious remedies, were administered by courts martial.

"At the end of the war it became expedient to disband the Army, whom the United States could not then pay, without even delivering to the individuals the evidences of the debts respectively due to them for their services. Accordingly, on the third of November, 1783, Congress resolved, 'that the Paymaster General deposit in the hands of regimental agents the certificates for the arrears of pay due to the officers and soldiers of their respective lines, to be by them delivered to the individuals to whom they belonged, or deposited, for their benefit, as the supreme Executive of the State to which the respective agents belonged should direct.

"The last-mentioned resolution is silent as to the mode of electing regimental agents. In pursuance of a general order, the agents were appointed by a majority of the officers of each regiment, as in the case of the regimental paymasters. They were therefore to be considered as the legal representatives of the commissioned officers: but the non-commissioned officers and privates neither voted, nor were they consulted in the choice; they could not of course equitably be made answerable for the fidelity of the said agents. Some of those agents proved unfaithful to their trusts, and some of the non-commissioned officers and privates have thereby been prevented from receiving their just dues.

"The question now results, whether the public are not, upon the principles of equity and justice, under obligation to make good to the non-commissioned officers and privates who have suffered by the defaults of the said regimental agents, the arrears of their wages, &c., to which they are entitled.

"From the nature of the contract between the United States and the soldiers who engaged in the service; from the circumstance of the election of the paymaster having, by act of Congress, been vested exclusively in the officers; and from the express declaration that the officers should risk their pay in the hands of the paymasters, and from the circumstance of the same mode having been observed in the election of the agents whose deficiencies are complained of, it seems but reasonable to infer, that the soldiery, who were excluded from any participation in the election of either the paymaster or agent, were not considered as liable to be affected by their delinquencies.

"Upon an attentive and deliberate consideration of the subject, the committee cannot find any just principle upon which the public, without just payment, can be exonerated from the obligation to provide for that suffering class of citizens; they are therefore of opinion that provision should be made by law to afford relief. Great caution on the part of the officers of the Treasury to prevent abuses would undoubtedly be requisite. It is the opinion of the committee, that such caution might be exercised, and such checks provided, as would prevent any great danger of imposition. They therefore submit for the consideration of the House the following resolutions:

"*Resolved*, That provision ought to be made by law for the relief of such non-commissioned officers and soldiers *of the late Continental Army, as have not received their certificates from the regimental agents, to whom the same were delivered, pursuant to the act of Congress of the third day of November*, 1783.

"*Resolved*, That the officers of the Treasury be authorized to issue registered certificates for such sums as shall be ascertained to be justly due to any non-commissioned officers and soldiers who, by default of the regimental agent, were prevented from receiving their certificates, issued as aforesaid."

After some debate, and having amended the first resolution by striking out the words printed in italic, and inserting, "whose certificates of pay were delivered to the regimental agents, pursuant to the act of Congress of the 3d of November, 1783, which shall appear to have been embezzled by those agents, and who, in consequence, remain unpaid," the committee rose, and reported the amendment. The House agreed to the amendment. After some objections to the resolution, it was negatived—47 to 32.

This report was supported by Messrs. D. Foster, Otis, Sewall, Shepard, Skinner, and Varnum; and opposed by Messrs. Dayton, Gallatin, and Macon.

Mr. Harper, from the Committee of Ways and Means, made the following reports, viz:

An unfavorable report on the petition of the Sergeant-at-Arms and Doorkeeper for an increase of salary; and on a petition from the distillers of Providence, Rhode Island, praying for an increase of duty on foreign spirits; both of which were concurred in by the House.

Mr. H. also reported the three following bills, viz: for continuing in force the 13th section of the act making certain regulations in the collection of internal duties; for reviving and continuing in force an act respecting the compensation of clerks;

and a bill altering the time of making entries of stills. All which were committed for to-morrow.

Mr. Thatcher reported a bill to continue in force the 5th section of the act respecting post offices and post roads, which was also committed for to-morrow.

Tuesday, March 20.

The bill appropriating a sum of money for providing suitable buildings for the Government at the city of Washington was read the third time and passed.

FOREIGN CONSULS.

On motion of Mr. Otis, the House resolved itself into a Committee of the Whole on the report of the committee to whom was referred the subject of our foreign Consuls abroad; which, having been read, and a resolution being under consideration for appropriating —— dollars to reimburse advances for the relief of sick and disabled seamen,

Mr. Otis moved to fill the blank with $30,000, which was the sum which the Secretary of State had estimated necessary.

Mr. Gallatin rose to move an amendment to this resolution. It appeared, he said, from the Speech of the President of the United States; by the letter of the Secretary of State to the committee, and by different letters enclosed therein, that the resolution before the committee would not be adequate to the end proposed to be effected. Two objects were contemplated. The Secretary of State mentions that there have been advances made by our Consuls in making and supporting the claims of our citizens on account of captures. The Secretary of State had said that $30,000 would cover these advances at present, for both objects, whereas only one was inserted in the resolution; and it was evident the committee do not mean to report another resolution for the other object, since the Chairman proposed to fill the blank with the whole sum estimated for both purposes.

The resolution was objectionable in another point of view. It will appear, by recurring to the President's Speech, and to sundry letters accompaning this report, from our agents abroad, that the reason why sick and disabled seamen cannot be relieved is, not because sufficient money has not been appropriated for the purpose, but because the compensation allowed by law is not sufficient. It is only twelve cents a day. If, therefore, $30,000 were to be appropriated for this purpose, the object would not be answered, without an authority to allow sick and disabled seamen more than 12 cents a day. He would therefore move an amendment which should make the resolution read as follows. It only went to the relief of seamen. As he supposed gentlemen had another object in view, it would be necessary to have a separate resolution for that object. He submitted the following:

"*Resolved*, That the Secretary of State be authorized, under the direction of the President of the United States, to reimburse such reasonable advances as may have been made, or shall during the present year be made, by Consuls of the United States in foreign countries, for the relief of sick and disabled seamen, beyond the sums for that purpose allowed by law, and that —— dollars be appropriated for the same."

Mr. Otis said, he would lay another resolution on the table, to answer the other purpose contemplated. The resolution had been submitted generally; but both objects were intended to be included in the bill, when brought in. He therefore proposed to fill the blank in the resolution which had been agreed to with half the sum, viz: $15,000.

Mr. Gordon thought it would be best to incorporate both objects in the same resolution, as the estimate had been made upon both, and it was impossible for the committee to determine how much would be wanted for each object.

Mr. Gallatin observed, the resolution might be agreed to in blank, and filled up in the bill. Mr. G. said, it appeared that the Consuls had, in some instances, advanced money on account of the claims of our citizens, which it would be necessary for Government to reimburse. He understood, however, that merchants and owners of vessels usually reimbursed the money expended by our Consuls in making and enforcing their claims, and that all which was required of Government was to advance the money. Before any appropriation was made for this object, it would be necessary to authorize the expense, which might be done at the same time that the appropriation was made. Mr. G. proposed the following resolution:

"*Resolved*, That the President of the United States be authorized to reimburse certain advances made by the Consuls of the United States in supporting the claims of our citizens before the tribunals of foreign countries, and that the sum of —— dollars be appropriated for the same."

This resolution was also agreed to, and a committee appointed to bring in a bill accordingly.

ACCOUNTS OF WILLIAM CARMICHAEL.

Mr. Harper said, he had received information from the Secretary of the Treasury, that the accounts of the late William Carmichael, Chargé d'Affaires of Spain, had been examined, and that there was found a balance due to his representatives of $9,664 14 cents. He, therefore, proposed the following resolution to the House, which he wished to be committed to a Committee of the Whole:

"*Resolved*, That —— dollars be appropriated for the balance found due to William Carmichael, late Chargé d'Affaires at the Court of Spain."

The House accordingly went into a Committee of the Whole on this subject, and after having filled the blank with the sum above mentioned, rose, and, the House having concurred in the amendment, a bill was ordered to be brought in accordingly.

EXPORTATION OF ARMS, &c.

The House, on motion of Mr. Hartley, resolved itself into a Committee of the Whole on the bill for continuing in force the act prohibiting for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof.

No amendment being proposed the committee rose, and the bill was ordered to be engrossed for a third reading to-morrow.

SETTLEMENT OF LIMITS WITH GEORGIA.

On motion of Mr. Harper the House then resolved itself into a Committee of the Whole on the bill for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory.

Mr. Milledge moved to strike out the words "or under," in the last line but one of the first section, as no person had any legal claim upon any part of that Territory, and the retaining them would seem to sanction claims which had been declared not to exist, and would be offensive to the State of Georgia. Two different claims had been pretended, but they had been declared by the Legislature to be null and void, and he, as a Representative of that State, declared there was no claim upon it.

Mr. Harper was opposed to striking out these words. Whether the claims of certain individuals upon this territory were well or ill-founded, was not now the question, their validity must be determined in a Court of Justice. That there did exist claims, in which a great number of persons were interested, was well known; and the question was, whether, when the United States were about to make an amicable settlement with the State of Georgia, it would not be good policy to hold out also an accommodation with those persons? Nor could he believe that the State of Georgia could take offence at this. The United States come forward to the State of Georgia, and say, you have a claim to a large territory, to part of which we lay claim, to other parts we have none, but we know that certain individuals have claims upon it. It is the desire of the United States to put an end to this dispute. Should we agree with you for the cession of this territory, and be placed in your situation, then we shall have on our hands the litigation with the persons who claim upon you, and will settle the business with them as well as we can. This, he said, could have no other appearance than that the Government of the United States were desirous of accommodating a difference which might not otherwise be easily settled. A negotiation would, of course, take place between the United States and Georgia. That State could not be expected to cede this territory without an adequate compensation, and when they had obtained this, our settling any difference with persons who lay claim to a part of this territory could not affect that State, and the retaining of these words would show to the persons claiming, that though the United States would not allow their claim, they were willing to refer it to amicable settlement. A very powerful part of Georgia, said he, are interested in these claims. Sales have been made, or alleged to be made, to a number of companies, which included a great variety of characters and interests, considerable for their number and for their activity. How will this clause operate upon that class of men? The State of Georgia, we know, has denied their right. They say the act by which the sale was made was obtained by fraud, and was unconstitutional. These men, therefore, have no hope while Georgia possesses this territory; but if the United States hold out in this act the idea of an amicable settlement with them, would they not be enlisted in behalf of the cession, and this by two words in the bill before the committee? Mr. H. said he had no interest in these claims. There was a period in which he had an interest in them, but when there was a prospect in the year 1795 of the business coming before Congress, he gave up his right to them.

Mr. Venable was in favor of the amendment. It was of much greater importance than the gentleman from South Carolina seemed to think it. He asked whether gentlemen were prepared to appropriate a sum of money to satisfy these Georgia purchasers, which would not be less than half a million of dollars. Nay, he supposed it would be considerable more, as part of the land had been sold out by the original purchasers, and considerable advances made, all which, he supposed, it was the intention of the bill to refund. The individuals having declined to take back the half million of dollars which they had paid for the land, choosing rather to risk the whole than give up their claim, it may be expected they will be high in their demands. Believing that these words were introduced with a view of indemnifying the purchasers of these lands, he thought it important that they should be struck out. He believed, besides, that it would never be a profitable thing for the United States to go into the purchase of back lands. They must calculate upon a certain loss in any such speculation. The expenses attending the sales, the difficulty of collecting money, insolvencies, &c., were considerations sufficient to deter the Government from engaging in such a business. Besides, if this amendment was agreed to, and Georgia made a cession of this territory to the United States, the claims of individuals would stand on the same ground as before the cession. If their claim was good, it would still remain so; and if not good at present, it ought never to be good. He hoped, therefore, the amendment would obtain.

Mr. Nicholas could scarcely believe that there could be a serious intention in any part of the committee to give the proposed power to the Commissioners to be appointed under this law, viz: to bind the United States to any amount, not only to the State of Georgia, but to individual claimants on this territory. And is it, said he, a business of this magnitude that engages so little the attention of the committee? If this was the object of the bill, it was one of the most important questions upon which he had ever been called to act; but he could scarcely think the subject could be of such magnitude, when he recollected what the gentleman from South Carolina had stated was the advantage to be derived to the United States from entering into this engagement; it was that these persons would use their influence with the State of Georgia to make the surrender. It was a little

remarkable that, for so little, the gentleman should be inclined to give so much. Indeed, instead of this gaining any advantage to the United States, the gentleman from Georgia had stated that even to glance at these claims would be offensive to that State. Before this power was given to the Commissioners the committee ought to be ready to appropriate at least a million of dollars for the purpose. He thought it would be very imprudent to embark in any such speculation, and thereby pledge themselves to provide money to any amount which it may please these commissioners to stipulate for. We have, said he, land enough already, and need not purchase more; especially as we find a slow sale for what we have. If the jurisdiction was wanted, let it be stipulated for separately, and not think of going to purchase an immense territory, one-half of which we have a claim to already, while we have several millions of acres more than we know what to do with.

Mr. Milledge said it was the wish of the people of Georgia that a cession of the dominion and soil of this territory should be made to the United States, and the Legislature of that State are ready to meet the United States on the business; but if these words were retained they would prove an obstacle in the way of the cession of either the territory or jurisdiction, as the Legislature were determined to set their face against these pretended purchasers. Indeed, two of the individual purchasers are now contesting with each other; and, therefore, for the United States to interfere, would only be to involve them in difficulties and lawsuits; for the purchase is not only denied by the State of Georgia, but the individual purchasers themselves are denying to each other the legality of their purchases.

Mr. Baldwin said, the committee would recollect the manner in which this subject came under consideration, by means of the Message from the President, who recommended that the right of soil and jurisdiction of this territory should be obtained, and when this was done, that the United States ought to establish a temporary government there. No notice was taken by him of any interfering claims. The present motion was intended, and he thought it best, to confine their attention to the objects recommended by the President. The other question would of course be left open. If the United States meant to go back to all the rights of the Natchez country, they might go back to the right of Great Britain, afterwards to that of Spain, and of different companies of individuals. He thought it best to confine the object of the bill. When a temporary government is established, and an amicable adjustment has taken place between the United States and Georgia, it will then remain a question with the United States, whether it will be best to settle the interfering claims by a general power given to Commissioners, or to leave them to be settled by the judicial power. He hoped, therefore, the words would be struck out.

Mr. Harper fully concurred in opinion with gentlemen, that the other objects of the bill were more important to be obtained than the object which these words were intended to obtain. A cession of the right of jurisdiction alone would be desirable, if no other cession could be obtained, as such a cession and the establishment of a temporary government, would remove all the serious difficulties now experienced; but notwithstanding this, he believed the bill would be better as it stands than with the words struck out. This was, however, mere matter of opinion, and if the amendment was carried, he should still be in favor of the bill. If the amendment was carried, he knew the rights of those who claimed part of this territory would be as firm under the United States as they are now under Georgia, and we shall afterwards be at liberty to make an accommodation with them. But he thought it would be best now to make the attempt by connecting the two objects together. As to the fears of the gentleman from Virginia with respect to the extent of this bill, and as to the abuse which might be made of the power placed in the President and Commissioners, the same abuse might take place if this amendment was carried. They might then agree to give the State of Georgia ten millions of dollars by treaty for the territory in question. But because the power might be abused, that could not be admitted as an argument against giving it. Could it be supposed that the owners of this land were such favorites of the Executive that they will agree to give them a very extravagant price for property which we can do without? He thought no fear was necessary on this head, as the President would be sensible such a step would excite general censure. But was there no other way of settling these claims but by paying large sums of money? He conceived there was, and that they might be adjusted by a division of the land, as there could be no doubt these persons would be glad to relinquish one-half or two-thirds of the country for an undisputed title to the rest. But the gentleman from Virginia seemed to think we had land enough, and that we made no advantage of what we have. He said he knew we had obtained $50,000 from the sale of our land, and that individuals are still anxious to purchase, though not at the price at which it is fixed. But the United States are desirous of getting possession of this territory, not so much on account of the value of the land as for other purposes, and particularly for the establishment of a government at the Natchez. He wished, therefore, to retain the words.

After a few observations from Mr. Findley, in favor of the amendment, the question was taken and carried, there being 59 votes in its favor.

Mr. Nicholas was not satisfied that the President and these Commissioners should have it in their power to pledge the United States to pay any sum of money they pleased. He would confide as much in the present President as any other, but his opinion might differ from the opinion of Congress as to the value of this territory to the United States, and it would be parting with a power which they ought to retain. He, therefore, moved to add to the end of the first section, "provided that the said Commissioners shall not

be authorized to bind the United States to pay any sum of money."

Mr. Harper apprehended the gentleman from Virginia must be in jest. Such a provision would make the bill wholly nugatory, as the Commissioners would not be able to come to any contract with the State of Georgia. He hoped the Commissioners, under the control of the President, would be trusted to transact this business, or if the President was not to be trusted, somebody else; but he did not wish the three Commissioners to be sent to Georgia with their fingers in their mouths. He could not conceive a more nugatory or idle message.

Mr. Milledge hoped this amendment would be rejected, as it would destroy the intent of the bill if carried. The country to be negotiated for, is an amazing tract of country of sixty or seventy millions of acres of land, as valuable as any in the world, which the State of Georgia could not be expected to surrender, or to yield the jurisdiction of it, without an equivalent. He hoped the Commissioners would be invested with full powers.

Mr. Nicholas assured the gentleman from South Carolina he was very serious in making his amendment; and if it would produce the effect stated by him and the gentleman from Georgia, he was ready to say the bill ought to be rejected. The gentleman from Georgia had stated that Congress were about to authorize Commissioners to purchase sixty or seventy millions of acres of the best land in the world. To bind the United States to pay for a purchase of this kind, would be an act of madness. Where was the money to be got? The President may act with discretion, yet he may think it his duty to give an equivalent for this land. The gentleman from South Carolina seemed not to mind where the power of acting on this business was placed, so that it was not in the House of Representatives, where, according to that gentleman's opinion, power could not be safely lodged. He trusted, however, the committee possessed sufficient prudence not to act upon this business until they had it more clearly before them.

Mr. Gallatin observed, that the first section of this bill had two objects; the first goes to the amicable settlement of limits, as to that part of this country to which the United States lay claim. In this respect unlimited power is given to the Commissioners and the President. That part would not, therefore, be affected by this amendment. The next object goes to a relinquishment on the part of Georgia of the whole or any part of the territory, both as to jurisdiction and soil, to which the United States have no claim. Though it may be good policy to obtain a cession of this part of the country, yet it is not immediately necessary, since the Commissioners will be at liberty to treat fully as to that part of the country to which the United States have a claim. The amendment only went to say that no contract which involved the payment of money should be valid until sanctioned by Congress. He thought this a proper provision. This power of binding the United States to the payment of money in this concern, is not refused to the President from an idea that he will abuse the power, but because it is a business which belongs to Congress and not to him. As he has not the raising and providing of money, he is not so good a judge as Congress of what can be spared for any object. All cessions had heretofore been made in this way; those of Virginia and Connecticut under the old Government, and that of North Carolina under the present. All these cessions were accepted by Congress, yet these States did not decline to make their cessions conditionally; nor would Georgia. He wished the bill to pass; but except it contained some principle similar to this, he should vote against it.

Mr. Venable proposed an amendment which he thought was better calculated for the purpose intended than the one under consideration, which Mr. Nicholas would have consented to have admitted in place of his, but it was declared by the Chair not to be in order.

Mr. Harper explained what he had said about trusting the power of negotiating in other hands than the Executive. The gentleman from Pennsylvania, he said, had discovered that the first section of the bill had two objects. It had; but he believed that gentleman had mistaken them both. The first, he stated, was to settle the limits between the United States and Georgia; and both of the gentlemen from Virginia who had spoken on this subject had repeated the same expression. From this, it would appear that the United States have a claim upon that country which the State of Georgia allows; whereas she does not allow us to have a single inch of land in that State. Therefore, all parts of the bill went to the same object, which was to obtain a cession of the territory, and jurisdiction both of what we claim, (and which she does not allow,) and what we do not claim; and this could not be obtained in any other way than by either giving Georgia a sum of money for the cession, or by taking it by the strong hand of force. This bill is, therefore, no more a bill for settling limits, than it is a bill for building ten frigates. Our interfering claim would certainly be considered in the adjustment of the price, though it was not allowed by Georgia to exist. That part to which we have no claim, would, of course, be fixed at a higher rate, and the President may or may not agree to purchase it. The gentleman from Pennsylvania had stated, this was no new doctrine, as Congress had always confirmed the cessions which had been made by the different States; but there was no need of a contract in those cessions, as they were all made without a price, as a sacrifice for the good of the Union. It was said that the Commissioners might do every thing but pay the money; but this was every thing, and except they had the power of completing their bargain, there would be no use in sending them.

Mr. J. Williams supposed, from the title of the bill, it was a bill for an amicable settlement of limits with Georgia; but, by the observations of the gentleman from South Carolina, it appeared it was to provide for the purchase of Georgia

lands. He did not feel willing to go to purchase lands of any State. If it were intended to settle a dispute about a boundary line, he should be in favor of it; but he could not think of empowering Commissioners to purchase sixty million acres of land. It was to be lamented, he said, that the State of Georgia had not long ago made a cession of that part of her territory to which the United States are entitled; but now they tell us if we want land we must purchase it. He was not for doing this. If it was theirs, let them hold it. If jurisdiction of a part of her territory was wanted for a provisional Government, he thought that State ought to come forward as others had done and make a cession of it, without price. He had no objection to the appointing Commissioners to inquire upon what terms the land could be got; but he would go no further. He hoped the amendment would be agreed to.

Mr. Dayton (the Speaker) rose to make an amendment which he hoped would be agreed to by the gentleman from Virginia in place of his, as it would effect his object, and he thought be preferable to the one he had offered. It was to make the latter part of the first section, after the word "South Carolina," read, "and also to receive any proposals for a relinquishment or cession of the whole or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof."

This amendment was agreed to.

Mr. Milledge moved to amend the 3d section of the bill, respecting the erecting of a temporary Government, by adding these words, "as soon as the consent of the Legislature of Georgia shall be obtained."

Mr. Harper was opposed to this amendment, the effect of which, he said, would be to make this Government depend upon the settlement of its litigation with Georgia before a temporary Government could be established at the Natchez, where there are between four and five thousand souls, without government, as it is supposed the Spaniards have withdrawn themselves from the posts which they have so long held there contrary to treaty, and these people are at the distance of six hundred miles from the ordinary jurisdiction of the Government of Georgia, which distance is a continued desert, in which are several nations of Indians. It cannot be expected, therefore, that the State of Georgia will or can extend her Government thither. So that one of our most valuable frontiers will be left in an unprotected and disorderly state. The inhabitants have sent forward a memorial praying for a Government, and there is the most satisfactory evidence that a Government is necessary. Whether they shall have one or not, ought not, therefore, to depend upon the State of Georgia.

Mr. Nicholas said, it appeared to him that this bill was contradictory in itself, as it states we will not impair the jurisdiction of Georgia, at the same time that it proposes to establish a Government within her territory. The gentleman from South Carolina had shown that it would be very inconvenient for the Government of Georgia to hold this jurisdiction; but he supposed if the United States sent a Government there before they adjusted their difference with Georgia, that State would not look very cordially upon the transaction, and it would of course embarrass that adjustment. He hoped the State of Georgia would not be divested of her territory by the strong hand of power.

Mr. Dayton wished the committee would rise, as this was too important a question to be decided when there was scarcely a quorum of members in the House. But he would say, that cases might exist, which would not only justify the United States in establishing a Government in the quarter alluded to without the consent of Georgia, but even within the ordinary jurisdiction of a State.

The committee rose; and upon leave being asked to sit again,

Mr. Gallatin hoped it would not be given, as he wished the bill to be recommitted to the select committee in order to obtain some information which he understood was before the Senate, with respect to the title which the United States have to certain parts of the territory in question, as he wished before they proceeded to establish a Government at the Natchez to know something as to the title which they had to it.

Mr. Harper thought there was no necessity to recommit the bill to accomplish this object, as the gentleman might go to the Senate and obtain the information he wished from thence. He believed they had nothing more than a copy of an extract which he had himself taken of an official copy of a grant given of West Florida by the British Government in the year 1770, which was now in the hands of a gentleman of New York who was Secretary to the Governor—the original of which he supposed was in the office of Trade and Plantations in London.

The question for leave to sit again was negatived by 43 to 36; and the bill was recommitted to the select committee for the purpose of obtaining certain information on the subject, relative to the title of the United States to a part of that territory.

Wednesday, March 21.

Mr. Dennis presented a petition from the inhabitants of Dorchester county, Maryland, praying for an alteration in the post road, and the establishing of a post office at Cambridge.

Mr. Gallatin wished to propose a resolution to the House on the same subject, viz: to direct the Committee on Post Offices and Post Roads to inquire into the propriety of establishing a post road from Pittsburg to Presqu'Isle. He had no petition from that part of the country; nor was it on account of the new and extensive settlement which had recently taken place in that quarter that he proposed it; but because it is the shortest route from our garrisons there to the seat of Government, and it will be much cheaper to Government to establish a post road, than to be at the frequent expense of expresses. Agreed to.

The bill for continuing in force the act for prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof, was read the third time, and passed.

Mr. Harper, from the Committee of Ways and Means, reported a bill making an appropriation for the payment of a balance found due to the legal representatives of William Carmichael, deceased; which was committed for to-morrow.

SUNDRY BILLS.

The House severally resolved itself into a Committee of the Whole on the following bills, viz:

The bill altering the time of entering stills, and for other purposes. [The time of entering was fixed from the first day of July to the last day of October, instead of from the last day of December to the first of March, which was struck out.]

The bill to continue in force the act for regulating the compensation of clerks, and for other purposes. [In this bill was introduced a clause making an additional allowance to the engrossing clerks of the Senate and House of Representatives, and to the Sergeant-at-Arms and Doorkeepers.]

The bill to continue in force, for a limited time, part of an act therein mentioned. [This clause authorized the President to make additional compensation to the collectors of the internal revenue, so as that the addition shall not exceed one-third of their ordinary allowance.]

These bills were severally agreed to, and ordered to be engrossed for a third reading to-morrow.

STANDING RULES.

On motion, the House resolved itself into a Committee of the Whole on the report of a select committee to whom was referred three several motions for amending the standing rules of the House, Mr. Kittera in the Chair. The first of these motions was, to direct that no question should be taken for the reconsideration of any vote when a less number were present than when the original vote was passed. The second, proposed that no motion for adjournment should be received, unless by unanimous consent, whilst another motion was pending. The third, proposed that persons attending the House for the purpose of taking down the debates and proceedings should be permitted to take their places within the bar of the House.

The select committee recommended that the first should be adopted, and the two last disagreed to.

After a few observations, the report of the select committee on the first was disagreed to, and of course the proposition was negatived.

Mr. Nicholas moved that the committee should rise. He hoped this subject would not be acted upon at present. He believed his colleague, (Mr. Dawson,) who brought it forward, had waived the calling of it up from an idea that the discussion of it might produce some personal irritation. He hoped, therefore, it would be postponed until the public business which was before the House was disposed of.

Mr. Dayton (the Speaker) did not know what the gentleman meant by personal irritation. He hoped he would explain himself.

Mr. Nicholas replied, that the gentleman from New Jersey must recollect the manner in which he expressed himself when this proposition was brought forward. He required it to be committed, and made a declaration which showed that he himself considered his conduct as connected with it. When the importance of a faithful report of the proceedings of that House was considered, it must be allowed that it was of consequence that persons attending for the purpose of taking notes should be as independent as possible.

If, however, no gentleman considered his own feelings as concerned, he should have no disposition to waive the subject; but as he did not expect it would have been entered upon to-day, he hoped the committee would rise, and let it be taken up at an early period.

Mr. Allen hoped the committee would not rise until some information was given as to the method of doing this business. It was understood by the people abroad that the debates were published by the Clerk of the House, and authorized by the House. He wished the public might be undeceived on this point. He had seen persons in the House who appeared to take down the proceedings; but he wished to know how they came there. He thought the public had been abused by accounts of debates which had been published, and he wished the Clerk to be exonerated from any blame in the business.

Mr. Dawson hoped the committee would rise, for the reasons which had been mentioned. When he first offered this resolution to the House, he declared he had no particular person in view. He thought it founded on propriety and sound reason, and therefore he proposed it.

Mr. Gordon hoped the committee would not rise. He was himself ready to vote upon the question. He did not wish by any means to give the sanction of the House to any debates which might be published. He did not think the question of that importance which the gentleman from Virginia seemed to attach to it.

Mr. Dayton hoped that a decision might be had without delay, especially as the gentleman from Virginia (Mr. Nicholas) had given the business a turn and direction which the mover of the proposition himself had disavowed. He knew that the proposition would produce this effect, but he did not suppose the gentleman would have avowed, on this floor, that this question was to be connected with a late decision of the Speaker. If gentlemen intended this, why did they not do it in an open, candid, and manly manner, by an appeal from the decision of the Chair at the time? If the motion was intended to reinstate a man upon the floor whom the Speaker had discharged from it, he wished it now to be decided, and not to lie till the end of the session, to be called up or not, at the will of the mover, in

order to have it ascertained whether the Speaker had acted properly or otherwise.

Mr. Brooks saw no reason why the committee should rise. The gentleman from Virginia said the subject was important; if so, it ought now to be decided upon.

Mr. Nicholas thought what he had said might have satisfied the gentleman from New Jersey as to his intentions. As he did not bring forward the motion, he could not be justly charged with any design in the business. It must be evident to every one that the gentleman himself connected this question with a late decision. He wished it was not so connected. He thought the regulation proposed absolutely necessary, in order to secure a just and fair report of their proceedings. He should have no objection to take up the business to-morrow; but if the question for the committee to rise was lost, he should then make some observations upon the subject.

Mr. McDowell hoped the committee would rise. It was of importance that the debates should be taken accurately and fully, and he wished it to be ascertained whether a member had a right to introduce a person on the floor of the House, or whether the Speaker only could do it.

Mr. Harper was in favor of the committee's rising, not because he thought the question important, but because he thought it unimportant; and if the committee rose, he should move to postpone the further consideration of it to a distant day; for however unimportant he thought it, he perceived other gentlemen thought differently, and he supposed intended to produce a long debate upon it, and this he wished to avoid, in order to proceed with the business of the public.

The question for rising was then put and carried—44 to 36.

The committee rose accordingly, and, on leave being asked for the committee to sit again,

Mr. Harper hoped leave would not be granted, as he wished a postponement of the consideration to take place.

Mr. Otis hoped leave would not be given to sit again upon this subject. He did not know that any inconvenience had been pointed out as arising from the present mode of managing the business. All those who wished to come on to the floor of the House to take the debates had been permitted, except in some special cases. If this was the general practice, where could be the necessity for this rule? If any particular case of complaint existed, they ought to consider it by itself, and not adopt a general rule which might never again apply, in order to provide for it. There was no way of avoiding personality in this matter. It would always be a question between the individual who had been rejected and the House; for if the House adopted a general rule, and persons admitted behaved amiss, it would still be a question whether the Speaker had not the power to order them away. This determination, therefore, would produce no effect, except gentlemen wished to bring up every subject which could irritate the minds of members, and thereby prevent the public business from being done.

Mr. Nicholas said he believed it was impossible for the gentleman from Massachusetts to make a speech without some insinuations as to the motives of others. If it had ever been possible for him to have done so, he might have done it on the present occasion, when it had been wished to defer the consideration in order to avoid irritation. He would tell the gentleman what he wished to be done. It was not to ascertain whether the Speaker had done his duty heretofore, but whether the power of discharging short-hand writers from the House should be vested in the Speaker. With respect to the reports which were given of their debates, he supposed gentlemen were not always satisfied with them, but they were nevertheless valuable information to the public; and if it was important that this information should be published, it was to be considered whether the persons who attended the House to take notes should depend on the will of the Speaker, or upon a majority of the House, for the privilege. [The Speaker did not think this discussion proper while he was in the Chair.] Mr. N. said he did not wish to enter into the discussion. If it was the desire of the gentleman from South Carolina to postpone the consideration for a few weeks, he should agree to it; but he hoped the subject would not be got rid of without discussion in a Committee of the Whole, when the Speaker, who felt himself interested in it, might have an opportunity of speaking on the subject.

Mr. Rutledge said, if anything had taken place which, in the opinion of the gentleman from Virginia, made it necessary to act upon the subject of stenographers, it would be well for him to lay a resolution upon the table upon which the House might act. If there were nothing which made it necessary, it would be unwise to act upon it. The gentleman spoke as if there was no stenographer in the House. When the people saw this they would naturally ask, to whom then are we indebted for the debates which we daily read? Why, said Mr. R., is this subject introduced? It was generally believed that this resolution had reference to a particular act, which occurred a few days previous to its being brought forward. But the mover declares that he had not that transaction in view. If this was the case; if there was no complaint against the conduct of the Speaker, and every day's debate appears faithfully reported in the papers, what necessity was there, he asked, for this provision? If the gentleman from Virginia missed a favorite stenographer, and wished to see him reinstated, it would be well to bring forward a resolution to that effect. But, said he, while I see a stenographer taking down the words I am now speaking, and when I find our proceedings regularly laid before the public, I can see no necessity for any general regulation on the subject. But it was said that it was necessary to be determined whether the Speaker should have the power of driving stenographers from the House. If there be any circumstance which renders this determination necessary, let it be brought forward; then the House will know upon what ground they acted. If this was a true state of the

case he thought it would be highly improper to go into a consideration of this subject at all, as it would be giving a sanction to the proceedings of this House, which would be very inconvenient and improper. And if the mover (whose property it was) had no objection to let the motion lie, why should his colleague wish it to be considered?

Mr. Nicholas said, he had no right to expect the gentleman from South Carolina would listen to what he said; if he had, however, he might have saved his remarks. He had stated that it was not his desire to inquire into a particular case; yet that case had made it necessary to have a new rule. It was not intended to inquire into the conduct of the officer of the House, but to provide for the future. Mr. N. thought the gentleman from South Carolina understood the business of the House better than to say the resolution was the property of any one; it was the property of the House. With respect to the effect it would have, if agreed to, he was much mistaken. It could not be supposed to sanction the debate of any man. The resolution was passed before it was known who would come to take the debates; it could not, therefore, sanction any publication of debates. He was sensible, from the nature of the business, that there must be inaccuracies in reports of their proceedings; but they were nevertheless valuable to the public, and the House ought to render the reporters as independent and eligible as they could be. It was a business which was attended with great labor and fatigue, and required talents of a peculiar kind. He wished them therefore to be placed upon the best footing on which they could be put, and every encouragement given to them short of pledging the House for the accuracy of their reports.

Mr. Macon was in hopes as this question had not been debated in the Committee of the Whole, it would not have been debated in the House. If it was the intention of the House to give leave to the committee to sit again, it would be best to make the subject the order for some distant day.

Mr. Sewall said, the gentleman from Virginia argued as if there was no rule existing on this subject. The Speaker had every power for preserving the order of the House which was not expressly provided for by rule, and could, of course, give leave to any person whom he thought proper to attend on the floor to take down the debates; but it was now wished that every person who called himself a stenographer should be admitted, without respect to decency of character or appearance; and if any person of this sacred character should attend, whom the Speaker thinks improper, the question must be taken before he can be discharged. So that a stenographer was to have an advantage over every other citizen, and to be independent of the Speaker. They were to be exalted even above the members themselves; for members were subject to the order of the Speaker. If, at present, any stenographer thought himself injured by being denied the right which others enjoyed, he might petition the House for redress, and, if he had been improperly treated, he would regain his situation in the face of the Speaker; but as they were permitted, under the good will of the Speaker, to come upon the floor of the House while they conducted themselves properly, he thought they had every privilege which they could desire; he therefore hoped no provision would be made on the subject, and the committee be refused leave to sit again.

Mr. Gallatin observed, that the report of the select committee went to reject the rule proposing to admit persons who attended to take the debates, within a certain place within the House, which is open to everybody. For his part he never understood what was the rule on this subject. He knew that the galleries were open for strangers, and he knew there was a certain boundary which divided the gallery from the House. And he always understood that every individual in the galleries, as well as the members of the House, were under the inspection of the Speaker, so far as relates to decency and propriety of conduct; not only to call members to order, but to correct any disorder in the galleries, or to turn any person out of them. But there had been a distinction assumed which he did not understand, viz: that out of the galleries, and without the bar of the House, is a place in which strangers may come, and may not come; He understood that a member or the Speaker might introduce any person there. But he wished to have this matter ascertained, and to know whether any stranger may be admitted, how, and how excluded. He did not wish to restrict the authority of the Speaker within these walls; but he did not see the propriety of turning out any person that was not debarred admission by the rules of the House. He knew that the Speaker had a right to turn out any person that misbehaved himself; but if he were to have the power of excluding others, he wished to have it ascertained by rule; for if he himself were to introduce a gentleman on this floor, and the Speaker was, for some reason, to turn him out, he should not feel pleasantly. [The Speaker thought these observations improper while he was in the Chair.]

Mr. G. said he did not allude to any particular person, or to any particular Speaker. He spoke generally, and wished to ascertain whether it was not better to provide by a rule whether certain powers were in the Speaker, or in the House; and he was going to say that this was a question which might be settled without irritation. And it was because the Speaker was in the Chair, that he took a case which could not exist. He thought it best to take up the subject on a general ground, and to fix these regulations by rule, rather than leave them as they now are. If it was thought proper to vest this power in the Speaker, let it be so; or, if any provision was made in favor of note-takers, which, of course, would be for the interest of members, as it gave them a better opportunity of hearing and taking down the debates, they ought to do so. He said, he avoided taking any notice of the resolution with respect to debate-takers, as the question was on leave being given to the committee to sit again. Mr. G. said, before he sat down, he would notice one observation which he thought very extraordinary. It was,

that the people generally believed the Clerk of the House reported the debates, and that it was done under the sanction of the House. He himself lived in a very remote part of the Union, where the people had not access to such ample information as in other parts, but he never heard such an opinion uttered. The people at large pretty well understood that the debates are taken by persons who attended, for their own use, which were correct, or otherwise, in proportion as a speaker is perspicuous or not, or according as they hear and understand, or as they possess the ability to make the report. He hoped the committee would have leave to sit again, and that the question would be debated on a future day, when he trusted it would be discussed on general ground.

Mr. Otis said, it appeared to him, that the gentleman from Pennsylvania had assigned reasons why some general rule ought to be established with respect to the admission of strangers; but he saw nothing of that kind contemplated by the resolution, therefore it could not embrace the objects he had in view. It was confined to stenographers merely, with respect to whom he saw no necessity of making any rule. They attended when they pleased, in the House. If any had been injured from a denial of this privilege, and that injury was shown to the House, it might be good ground for making a rule upon the subject. With respect to what had fallen from the gentleman from Virginia as to his habit of using irritating expressions; he believed it would be the best way of preventing irritation to take no notice of them; he would only say, that he believed the gentleman's own irritability gave rise to the remark, and not anything he had said.

Mr. Dawson observed, the arguments of gentlemen showed the propriety of the committee's having leave to sit again. He should not, at present, reply to what had been said, because he thought the debate on this subject ought to take place in a Committee of the Whole. He would agree with the gentleman from South Carolina to take up the subject about the middle of April. If this was declined, gentlemen would force them into a discussion at present.

Mr. Lyon hoped the committee would have leave to sit again, and that the further consideration would not be deferred to the time mentioned. He thought it of great importance that the proceedings of the House should be faithfully reported. When he first took his seat in the House, there were six persons who attended to take down notes; now, he said, there is only one, and if he should be taken sick, or stay away from any cause, the public would be unacquainted with the proceedings of the House.

Mr. Bayard observed, that the gentleman from Pennsylvania had told the House a number of things he did not know; among these was the ground upon which the Speaker had a right to turn out strangers from the lobby of the House. Mr. B. was surprised that gentleman who knew so much, should be ignorant of this. There was scarcely a member in the House, he had thought, who did not know that the House was divided into different parts; one of which was for the members, and another for strangers. The part assigned to members was the floor and the lobby; and the galleries for those who chose to attend their proceedings. With respect to the lobby, the Speaker, as the general conservator of peace and order in the House, had the same charge over it, as over other parts of the House. If any person, who is not a member, were to take a member's seat, the Speaker would undoubtedly turn him out, and he had the same right to order any person out of the lobby. But the gentleman said there was no rule upon the subject. Nor could there be any; for though gentlemen sometimes introduced their friends into the lobby of the House, which was a thing of courtesy, they certainly had no right to do so.

With respect to the general principle, whether this power belonged to the Speaker or not, he was astonished that this should have been doubted, as it is a power so subordinate to others placed in that officer; and he could not account for the doubt without reference to another circumstance. Was he not an officer of great consequence, both as to his integrity and intelligence? Was not the power he possesses of calling any member to order, of appointing all committees, &c., of a far higher magnitude? And when he had these powers, could it be doubted that he had the power of discharging persons from the lobby of the House, and of preventing their being reinstated? Besides, let the worst use of this power be supposed. Suppose the Speaker to be so far forgetful of propriety and duty, as to order a stenographer out of the House without sufficient cause. Every order which the Speaker makes, is subject to the control of the House; and provided the person so turned out, complains by petition to the House, there could be no doubt but the order would be reversed, and the person reinstated. If the rule proposed were adopted, a majority of the House could do no more than they might now do. There was, however, too much reason to believe that this rule was intended to apply to a particular case; as, however, he was not sensible of any inconvenience from the present mode of doing business, he was not willing to change it, until he saw some evil arising from it. If gentlemen knew of any, they would of course produce it.

Mr. J. Williams observed, that two of three gentlemen had said, they did not know how stenographers were introduced into this House. It was not long since the House was engaged on this subject on account of an application from a stenographer from Virginia. A committee reported in favor of making this person an officer of the House to take the debates, but a majority of the House determined it was better to let the business stand upon its old footing, without the sanction of the House; he thought, therefore, gentlemen could not be ignorant on this subject. Mr. W. said he should notice an expression of the member from Vermont, who said that he did not wish the business to be postponed to a distant day, because it was proper the public should know what is done in this House. Did not that gentleman know that the proceedings of every day were regularly published? And will any gentleman say they are partially given? He believed not; he heard no complaint from either side of the House. He believed the business was as accurately done, as the nature of it would admit of; and when there were half a dozen note-takers, he had observed, and if that member had read, he would have observed, that the most of them copied the debates written by the stenographer now before him. He thought, therefore, there was no necessity for any change in the business. He wished for the greatest publicity possible, and that the people might not only know what they *said*, but also what they *did*.

Mr. Gallatin replied to the observations of Mr. Bayard, by stating, that he was acquainted with the rules of the House as they had been agreed to, and were before them, but ignorant of any other rule which was not contained there. He wished all their rules to be explicit.

Mr. Gordon hoped the committee would not have leave to sit again. He had heard no reasons to convince him that the committee ought not to be discharged from a farther consideration of the subject. All the arguments which had been offered went to the general ground of admitting strangers on the floor of the House, whereas the resolution before the House was confined to stenographers. He wished no regulation on this subject. The gentleman from Pennsylvania had said that if he were to bring a gentleman within the walls, and he were to be turned out, he should be very much hurt; he would venture to say, that if he introduced none but gentlemen, he would never have his feelings thus hurt.

Mr. Hartley hoped the Committee of the Whole would not be discharged, but have leave to sit again at a future day. The Speaker, he remarked, was in a very awkward situation in the discussion; he wished him to be at liberty to answer any insinuation which might be made against his conduct.

The Speaker thought it his duty to say, that he had heard no personal insinuation towards himself; if he had, he should not ask the House to go into a Committee of the Whole to get clear of them.

Mr. Lyon denied having insinuated that the debates were at present improperly reported; he thought the business well done. All he had said was, that there were formerly six reporters, and now only one; and he wished the regulation to be adopted, lest that one should be driven away, by the same power which had sent off the others.

The Speaker said the remark of the member from Vermont was very improper and indecent.

The question for leave to sit again was negatived—46 to 40.

Mr. N. Smith proposed to postpone the farther consideration of this subject to the 4th of March next.

Mr. Harper was opposed to this motion; it was not his object to give the *go-by* to this question. He had no desire to avoid it. He was satisfied that whenever the business was gone into, the report of the select committee would be agreed to. He hoped, therefore, the third Monday in April would be preferred.

Mr. Brooks would have no objection to discuss this business, if it had not already been discussed. He was in favor of the 4th of March, as he perceived the gentleman from Pennsylvania wished to introduce several regulations into the discussion, as to the admission of strangers, &c.

Mr. Nicholas said, he had avoided as much as possible entering into this discussion at present. He had asserted the necessity of a rule of this kind, in order to set the note-takers upon a more respectable footing than at present.

Mr. Gallatin made some remarks against the postponement.

Mr. Rutledge said he supposed that it was perfectly well understood that short-hand writers were admitted on the floor through the Speaker's indulgence, because it was a privilege not granted to the rest of our fellow-citizens, who were admitted into the galleries and lobby only, and that as by the rules he had authority to order any stranger to be turned out for disorderly conduct, or both galleries and lobbies to be cleared entirely in case of more general disorder, or where he could not distinguish and single out the unruly individual, so he had believed that no one doubted his authority to revoke the indulgence thus granted to stenographers.

He requested, however, that the Speaker, although in the Chair, would do the doubting gentleman from Pennsylvania the favor to state in what manner this business had been conducted, in order to dispel the debate of that member, or of any other who entertained them; although Mr. Rutledge declared that he for himself had none, and was satisfied.

The Speaker rose from the Chair, and said that he felt very much disposed to gratify the gentleman from South Carolina in any request he might think proper to make, but that in this instance it would be useless, because he was sure that the gentleman from Pennsylvania, (Mr. Gallatin,) notwithstanding his affectation of ignorance, knew perfectly well, through whose indulgence, and under what restrictions, short-hand writers were admitted on the floor of the House, and on what footing they stood there. The Speaker added, that as he had himself told this, long since, to that very member, it was consequently very certain that he did not seriously entertain the doubts he had expressed, but that they were suggested rather with a design to catch the popular ear, than with an expectation or wish that they should be dispelled.

Mr. Gallatin said, he understood that it was under the courtesy of the Speaker that persons were admitted on the floor of the House to take the debates, and all his observations went to show that the business would be better placed on a different footing. If this was speaking to catch the *popular ear*, he had so spoken. With respect to the special use alluded to, he well knew that the power exercised by the Speaker had been exercised once before during the last session; but, be-

fore that time, he did not know that he had the power of discharging a stenographer from the House; and he had always since thought it was improper that he should have it.

Mr. N. Smith made his motion, because he thought the question had been sufficiently discussed, and because he thought it too trifling a business to engage the attention of the House at this time.

The question for the postponement was taken by yeas and nays, when there appeared 44 for it and 44 against it, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, Wm. Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The numbers being equal, the Speaker said, as this was a question upon which he could not vote without a positive order of the House, the question was not carried.

A motion was then made to adjourn, which was lost, there being only 24 votes for it.

Mr. Hartley moved to postpone the question until the first Monday in May. This was also negatived—46 to 38.

The question was then taken on agreeing to the report of the select committee to disagree to the resolution; which was agreed to, 50 to 36, as follows:

Yeas—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Nathaniel Smith, Peleg Sprague, Geo. Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, David Holmes, Walter Jones, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Thursday, March 22.

The following engrossed bills were read the third time, and passed, viz:

The bill for continuing in force part of an act therein mentioned. [The title of this bill was amended, by adding the title of the act the part of which is hereby continued, viz: The act making further provision for securing and collecting duties on foreign distilled spirits, wines, and teas.]

The bill to alter the time of entering stills, and for other purposes.

The bill to continue in force the 5th section of the act establishing post offices and post roads; and—

The bill to revive and continue in force the act regulating the compensation of clerks, and for other purposes.

Mr. Baldwin, from the committee to whom was referred the bill from the Senate for accommodating a settlement of limits with the State of Georgia, and for erecting a Government in the Mississippi Territory, reported the bill without any amendment, with some additional information. Committed to a Committee of the Whole for to-morrow.

The House, on motion of Mr. Harper, went into a Committee of the Whole on the bill making an appropriation for a balance found due to the representatives of William Carmichael; which, being agreed to, was ordered to be engrossed for a third reading.

A message was received from the Senate, informing the House that they had passed the bill declaring the assent of Congress to an act of the State of Maryland, appointing an health officer, with an amendment.

Another message was received from the Senate, informing the House that they had passed a bill to enable the President of the United States to purchase, or take on lease, one or more foundries, for which $100,000 are proposed to be appropriated. Referred to the Committee for the Protection of Commerce and the Defence of the Country.

STANDING RULES.

The House proceeded to consider the report of the committee of the nineteenth of February last, to whom were referred the motions of the thirteenth and fourteenth of the same month, for adding certain rules to the Standing Rules and Orders of the House: Whereupon,

The first part thereof, to which the Committee of the Whole House, yesterday, reported their disagreement, being read at the Clerk's table, in the words following, to wit:

"The committee appointed on a motion of the thirteenth instant, for an addition to the Standing Rules and Orders of the House,

"Report, as their opinion, that the House ought to agree to the same, in the words following, viz:

"*Resolved*, That no question for reconsideration shall be taken, when there is a smaller number of members present than were present when the original vote proposed to be considered was taken."

The question was put, that the House do agree with the Committee of the Whole House in their disagreement to the said first part of the report, and resolved in the affirmative.

The latter part of the said report, to which the Committee of the Whole House, yesterday, reported their agreement, being read, in the words following, to wit:

"The committee further report that the motion of the fourteenth instant, to wit:

"*Resolved*, That the Standing Rules and Orders of this House be amended, by inserting, after the Rule respecting motions for adjournment, the following proviso: 'That no motion for adjournment shall be received, unless by unanimous consent, while another motion is depending,' ought, in their opinion, to be disagreed to by the House."

The question was taken, that the House do agree with the Committee of the Whole House in their agreement to the said latter part of the report, and resolved in the affirmative.

Friday, March 23.

The bill, making an appropriation for the balance found due to the legal representatives of William Carmichael, deceased, was read the third time, and passed.

Mr. Otis, from the committee to whom was referred so much of the President's Speech as related to Consuls, reported a bill, which was read, and committed for Tuesday.

The amendment of the Senate to the bill for declaring the assent of Congress to an act of the State of Maryland for the appointment of a health officer was concurred in.

JOSIAH FLAGG.

Mr. Otis presented the petition of the widow of Josiah Flagg, a Colonel in the State troops of Rhode Island, praying for compensation for the services of her late husband, which, being read, he moved to have committed to the Committee of Claims.

This reference was opposed by the chairman of the Committee of Claims, (Mr. D. Foster.) He stated that Colonel Flagg ought to have been, if he was not, paid by the State of Rhode Island; that a number of applications of this kind had been made to Congress, and uniformly rejected. The total of these claims, he believed, would amount to several thousand dollars, and the accounts of the several States who employed these troops had already been adjusted between the General Government and the State Governments. Ordered to lie on the table.

PAYMENT OF UNFUNDED DEBT.

Mr. D. Foster proposed the following resolution for the adoption of the House, which was agreed to:

"*Resolved*, That the Committee of Claims be instructed to inquire whether any, and what, further provision ought to be made relative to the payment or reimbursements of the unfunded or registered debt, now credited in the books of the Treasury, and relative to Loan Office and final settlement certificates; and that the said committee be empowered to report by bill or otherwise."

PURCHASE OF FOUNDRIES.

Mr. Sewall, from the Committee for the Protection of Commerce and the Defence of the Country, reported the bill from the Senate authorizing the President to purchase one or more foundries, with an opinion that it ought to be adopted without amendment. The bill was committed for Monday.

GEORGIA LIMITS.

Mr. J. Williams called for the order of the day on the bill for organizing and disciplining the militia of the United States.

Mr. Gallatin thought it better that the House should again go into a Committee of the Whole on the bill for an amicable settlement of limits with Georgia, and for the erection of a Government in the Mississippi Territory, as that subject had already undergone some discussion, and the bill had been reported with the information to obtain which it had been committed.

The latter business was preferred, and the House accordingly went into a Committee of the Whole on the subject; when Mr. Milledge's amendment being under consideration, for adding to the section for appointing a provisional Government in the Natchez country, "after the consent of the Legislature of Georgia shall have been obtained,"

Mr. Milledge observed, that the select committee had now reported all the documents on which the United States claimed a right to this territory. As to the title of Georgia, he should not enter into an inquiry as to that. He would only remark, that the State of Georgia was as tenacious of her rights as any State in the Union. But he thought it would not be improper to examine the pretended claim of the United States to this country. Looking into the Journals of the Senate, he found that on the 3d of March, 1795, a resolution was passed directing the Attorney General to inquire into and make a report on the subject of the title of the United States to land in Georgia. No doubt the Attorney General not only examined the records of the State of Georgia, but those of the United States, and obtained all the information which he was able to do in the United States; but not finding sufficient ground

upon which to found a title, he applied to Mr. Bayard, our Commissioner in London, who obtained a certificate on the subject from a Mr. Chalmers, Secretary to the Board of Trade and Plantations. Twelve months after he was directed to do so, the Attorney General made a report on the subject; but none of the documents which he reported went to establish the claim of the United States; nor anything which tends to show that a cession of West Florida was ever made. But he now found among the papers got from the Senate, a letter, addressed to Mr. Reed of the Senate, from Mr. Livingston of New York, informing him that he encloses an extract from the instructions given by the King of Great Britain to Governor Chester. But Mr. Livingston was not known as an official character; and this document was neither official nor certified. Yet this is the ground upon which the United States claim this tract of country. Before the General Government proceeded to erect a temporary Government, it ought to have better information with respect to the nature of its claim; for, to attempt to establish a government without the consent of Georgia, he thought would be stepping beyond the Constitution, two clauses of which he quoted. He hoped the general powers placed in Congress for the defence of the country would not be resorted to in order to sanction the proceeding. It was said that the inhabitants of the district of country alluded to were in a situation which called for immediate attention. He allowed that it would be proper to pay early attention to them; but he thought, inconvenient as it might be, the erecting of a government might be deferred until the consent of the Legislature of Georgia could be obtained. It ought to be remembered that the State of Georgia is a member of the Union, and that it is her interest to make the cession, and he had no doubt she would do so. The convention of that State meet in May, and if application was made to them, he had no doubt the Legislature would be called together, and consent might be obtained by the month of July. He was confident the State of Georgia is desirous of promoting the interests of the United States, and that she is firmly attached to the Government; all its regulations had been constantly carried into effect there; and her consent to the establishment of a provisional government being obtained, every difficulty would be obviated.

Mr. HARPER did not feel any anxiety to question the desire of the State of Georgia to promote the interests of the United States, and he was glad to be informed by her Representative, that she was so well disposed to the General Government, to which assertion he gave the fullest credit. He, therefore, should not oppose the motion of the gentleman on the ground that the State of Georgia would be likely to throw any obstacles in the way of the proposed temporary government; and he should be far from supposing, that, by the erection of such a government, the United States would assume an extra-judicial right to the territory. He was of opinion that the United States possessed the right to it, and that the most undeniable evidence of the right existed; but that evidence was not now before the House, and if it were, they were not the proper body to decide the question. He believed the amendment ought to be rejected on the ground of policy. The bill went to provide a temporary government, but contained an express clause that the establishment of this government shall not affect the rights of Georgia with respect to her right of the jurisdiction or soil of this territory—consequently, the fears of the gentleman are groundless in this respect. What, then, is the nature of the amendment? It is to prevent the erection of a temporary government in a district of country containing upwards of 5,000 souls, lying far beyond the ordinary jurisdiction of any State, with an immense wilderness intervening, in which are two nations of Indians, and in the neighborhood of the territory of a foreign nation, with whom, though we are at present at peace, when we recollect the connexion subsisting between that nation and another with whom we have differences of a serious nature, we cannot reckon upon as lasting. Yet this remote and vulnerable corner of the Union is to be left defenceless for an indefinite period of time, lest we should possibly give umbrage to the State of Georgia, by providing a temporary government there before the dispute on the subject of limits is settled. And whatever may be the good disposition of Georgia towards the United States, it would require considerable time to obtain the consent proposed. Their Legislature do not meet till next Winter. It was true, as had been stated, that their convention met in May, and they might, if they thought proper, call an extraordinary meeting of the Legislature; but this could not be relied upon. Besides, he saw no necessity for so much punctilio in this case, for if any State were to suffer a part of its territory, within its ordinary jurisdiction, to lie in a defenceless state, the General Government would be warranted in stepping in to defend it, and certainly they might do it in a case like the present, where no jurisdiction is exercised. And if this was not done, the petition of these people set forth, that however unwilling they should be to do so, they should be obliged to pass over to the Spanish dominions.

Mr. H. said, he did not wish to have touched upon the question of right; but as the gentleman from Georgia had said we had none, he felt himself obliged to say a few words upon that point. He allowed the committee had not before them evidence of the right which would be admissible in a court of law; but though it were not such as would be admitted in a court of law, had it therefore no weight? It was at least equal to what was every day received by the committees of the House. The question was, whether the papers before them afforded reason to believe that legal evidence of the title did exist? It was a copy of a commission and instructions given by the King of Great Britain to Governor Chester, of West Florida, in the year 1770, furnished by the gentleman who was Secretary to the Governor at the time, and whose duty it was to keep

the records of that Government. But the gentleman from Georgia said, search had been made in the offices of the British Government for the original, of which this paper was a copy, and it could not be found. But this was no proof it did not exist. If it does exist, legal evidence may be obtained from it, and this paper shows that the Natchez country was included within the territory of West Florida, and that it ceased in the year 1770 to be a part of Georgia. He believed, however, this question ought not now to be acted upon; but that from necessity, and the exigencies of the case, a temporary government ought immediately to be provided for this district of country, and afterwards settle the point of right with Georgia by negotiation; and if it was found in the end that the United States had no title to it, the Government which had been established could be withdrawn.

But it was stated that the Legislature of Georgia would readily consent that the United States should become possessed of this country. But what were the terms upon which they proposed to cede it? They required, as one of the conditions, a million and a half of dollars in six per cent. stock, and as another (which was infinitely harder, since it might not be in our power to comply with it, as it depended upon the will of the Indians) that the United States will guarantee the relinquishment of the Indian claim to the land on the east side of the Chatahoochee, within a certain number of years. There is little hope, therefore, that the State of Georgia will propose any terms to which the United States can agree, as it had been seen that the Legislature of that State had rejected a bill by a great majority, which proposed the price to be one million of dollars, with the other condition. Of course it would be very imprudent to rest the establishment of a government in this quarter upon an agreement to terms like these.

Besides, the amendment would affect the right claimed by the United States. To wait for this consent would be tantamount to confessing we had no right, and arm Georgia with a strong weapon against us in the final settlement.

Mr. H. contended that there was nothing in the Constitution which could prevent the proposed measure, since it was absolutely necessary to preserve the people from falling into anarchy, and to prevent a foreign Government from putting arms into their hands. It was also a quarter of the Union which it was necessary to preserve, if we wished to secure the free navigation of the Mississippi, which we had lately obtained by the Spanish Treaty; for if this country were invaded by the Indians, or involved in civil war, we could not have the benefit of the navigation of that river. He hoped, therefore, when so many considerations were opposed to it, the amendment would be disagreed to.

Mr. NICHOLAS understood, from the gentleman from South Carolina, that it was not intended to insist upon the title of the United States to the territory in question; and if they were not ripe to decide that the land is the property of the United States, he thought they ought not to establish a government there without paying some respect to the rights of Georgia, by obtaining her consent, as it might prevent that amicable settlement of which we had at present the prospect. If that State set the value upon the land which had been mentioned, would it not excite the utmost jealousy in that country to take forcible possession of it? To do this would certainly be to establish an influence in favor of the United States, which would be fatal to the claim of Georgia. No argument had been adduced to show the right of the United States to this territory, but merely to show the convenience of the measure. The gentleman from South Carolina might as well say that a certain district in Virginia is not so well governed as it might be, and, as the people would be happier under the Government of the United States, propose to take possession of it. But it was said Georgia had not begun to govern this territory. Neither have the United States. She may, for aught we know, be preparing to do it now. He thought there was not a shadow of pretence for taking the course proposed, without first consulting the Legislature of Georgia. He hoped the amendment would be agreed to.

Mr. J. WILLIAMS said it appeared to him, that if this amendment were to prevail, the bill might as well be voted out altogether. The bill had two objects, viz: a settlement of limits, and the fixing of a temporary government. It was clear to him, from the papers before the committee, that the United States had a clear title to the country in question, and, if this was not the case, there was a saving clause in favor of the Georgia claim. He thought that State ought to be happy at the idea of the United States fixing a government there, as it would assist them in their defence against the Indians. If gentlemen turned to the acts of Congress, it would be found what a vast expense the United States had heretofore been put to in defending the frontier of that country. He thought that State had been dealt with in a very favorable manner. It was not long since $100,000 were paid to their militia for defending their frontier. He complimented the gentleman from Georgia for having advocated so ably the cause of his State. But he thought that State ought to come forward and show what title she had to the country. It had been ceded to the United States by the Spanish Treaty, and the inhabitants there had a claim upon the General Government for protection, and surely if the State of Georgia forever refused to give its consent to a government being established there, they were not forever to be without government. The people there had petitioned Congress for a government, of which doubtless the State of Georgia was acquainted; and they ought to come forward in the business. Their silence proved to him that they had no title to that country. Mr. W. referred to the manner in which other cessions had been made to the Union, and said he thought Georgia ought to rejoice at the proposed establishment, as it would not only be benefiting that State, but the Union at large.

Mr. Macon said if the bill was intended to be conformable to the title, the amendment ought certainly to be agreed to; as, if the United States undertook to establish a government at the Natchez, without the consent of Georgia, it could not be said to be amicably done. This, he said, was neither the proper time nor place of deciding to whom this territory belongs. The great object ought to be to get a government there, and not to talk about what had been done for Georgia. And if the consent of Georgia could be obtained previous to the establishment of this government, it was certainly desirable that it should be obtained. This would not injure the claim of either. When this was done, some mode might be agreed upon by which the dispute as present subsisting, might be settled. This course would prevent any difficulties, and the consent might be obtained by the time the government could take effect.

Mr. Otis said if the object of the present bill could be obtained in a mode which would preserve the rights of all parties as they at present stand, such a course would be preferable to that which should appear to relinquish the right of one of the parties. It struck him that this might be effected by the bill as it now stands. The United States assumed their right to the land, yet they do not say they mean to turn a deaf ear to the claim of Georgia. But, if the amendment were adopted, it would go to relinquish the title of the United States, and this, he thought, would be an excess of complaisance to the State of Georgia. The only plausible reason given in favor of the amendment was, that if the bill passed without it, it would give offence to, and excite jealousy in, the State of Georgia. But how? Because Congress passes an act to settle the interfering claims, and directs the appointment of commissioners to give them a compensation for what we might take without it? Or, because we say we will enter upon the territory, to which we always laid claims, in order to preserve peace and order among the inhabitants, and to secure it against the attack of the Indians or of a foreign Power? Gentlemen seem to take it for granted that Georgia has possession of this territory; whereas those who oppose the amendment, contend it is a vacant possession, and that we have a right to take possession of it, to hold it, not until an army is raised to take it from us, but until the legal question of right shall be decided. And it could not be said that there was anything offensive in this. If a man, for instance, were to enter upon a piece of land, and say he would never give it up until he was driven from it, it would certainly be an act of violence; but if he enter upon it only to take care of it, until a legal decision can be had as to his right, such an act was perfectly justifiable; and this was intended in the present case.

Mr. Kittera hoped, if the bill passed at all, it would be without the amendment. This territory was never yet governed either by the United States or Georgia, but had been ceded to the United States by Spain, in our late treaty with that Power, and we ought to retain possession of it until the title to it was clear. In this view of the subject, he could not see how the State of Georgia could take offence at our holding the territory until the existing dispute was settled.

Mr. Baldwin said it was to be regretted, as this was the last instance in which this question of cession could be presented to Congress, that the situation of the persons settled upon this territory was such as should seem to constrain gentlemen to depart from the course of their former proceedings on this subject. He was fully impressed with the situation of that people; but he thought little delay would be occasioned by the proposed application to the State of Georgia; nor would that consent weaken, as had been suggested, the title of the United States. Or, if there was any force in the objection, it might be guarded against by adding a few words in the section which speaks of preserving the claim of Georgia as it now stands.

Mr. B. said, gentlemen who had turned their attention to the map, would find that the territory in question is situate at the southwest corner of the United States; the southern boundary is latitude 31, and the western boundary the Mississippi, which is also the boundary of the United States. Its extent is about 280 miles north and south, and coming this way, about 400 miles. That part upon which this bill is bottomed, is little more than one-third part of the whole of that territory. The United States now reckon latitude 32½ as the boundary of Georgia; but in the treaty, and till very lately, it was always reckoned to be 31, which is also the boundary of the United States. This was, at any rate, a new discovery—the official documents in support of which he had not seen. It was now supposed that West Florida extends to latitude 32½, and not to 31, which is one degree and a half more than formerly supposed. If this were so, he wondered it had never before been discovered by England or Spain. Why was the boundary of the United States always fixed at 31? He feared, that since it became our interest to extend the boundary, we had suffered that interest to color our judgment. The instructions drawn out for our Minister by a former Secretary of State were, "you are to contend for latitude 31." The ground upon which he had stated this, Mr. B. thought irresistible, and it was thought we might risk a war upon it. Besides, this bill would not cure the evil for which it was intended. There might be inhabitants still further north; this bill provides only for such as are settled within what had been called the Province of West Florida. Mr. B. said, he had never seen the documents which authorized this extension. He had, indeed, seen the remarks of Mr. Chalmers, who, he believed, was Secretary to the Board of Trade and Plantations in London; but he believed he had drawn what he had said from the same document which was now reported, viz: the extract from the copy of the instructions said to have been given to Governor Chester; but the order of King and Council for extending it, the Attorney General says, in page 11th of his report, is not to be found.

Gentlemen had said, why does not the State of Georgia manifest a disposition to make some arrangements respecting the territory in question. They had done so. After the Revolutionary war in 1783 or 1784, when there was an expectation that the forts would have been evacuated, they laid out a county there, and all the titles were declared good, and where there was no other title occupancy was declared to be sufficient, and warrants were to be issued accordingly. When he first came to attend his duty in Congress, the Minister from Spain arrived about the same time, when he put in the claim of Spain to this territory, which prevented anything further from being done; and as soon as it was found that the arrangements made by Georgia gave umbrage to the Spanish Government, they were given up.

In the year 1788, the State of Georgia passed an act for making the cession of this territory to the United States. This act Congress referred to a committee, which reported that Government ought not to accept of the cession on the terms proposed. He believed the same disposition to make the cession which always had existed, now existed. He believed the disposition of the Government of Georgia was as favorable to the interests of the United States as that of any other State. He did not rise to speak their praises; but he could not sit to hear them blamed without notice.

If the proposed Government was proceeded with without the consent of Georgia, it would be a dereliction of principle. He thought some sort of regulation might be made among the people for their own government, until Georgia was applied to. This was not a new case. There had been great settlements in several parts of the country long before any Government was provided for them. Mr. B. said, he did not mean to undervalue the claim of the United States; they had always a claim in every case of cession, but he hoped, except there was an absolute necessity for it, the usual course of proceeding would not be departed from.

Mr. Gordon said, the gentleman from Georgia complained that a different course was proposed now to be taken than had been adopted heretofore. In answer to this, it was sufficient to say, that where the circumstances of cases differed, different courses were necessary. With respect to the merits of the bill, he thought it stood right at present. The situation of the people in the district alluded to, was such as required immediate attention. If gentlemen were not convinced of this, he saw no necessity for going into the business before the subsisting dispute between Georgia and the United States was settled. He believed, however, there was no doubt of the fact; and surely the gentleman from Georgia would not wish that these people should live under a military government for any length of time. Being satisfied of this point, he wished the bill to pass without the amendment, as that might defeat altogether the purpose of the bill. The claim of Georgia he looked upon at least as doubtful; and as he considered the United States as bound to protect all its citizens, he thought they would not be justified in returning these people for answer, "we cannot attend to your wants until we have settled our dispute with Georgia." Georgia might refuse to negotiate the subject, and by that means protract the business in a manner which would be very inconvenient, and perhaps drive the people under another Government. Besides, if Georgia should refuse its consent to the establishment of a Government in that quarter, it would, nevertheless, be proper to establish one. The United States, Mr. G. said, came into possession of this territory by treaty. But suppose it was now in possession of a foreign Power, would Georgia attempt to drive them from it? Certainly not. It would amount to the making of war on a foreign Power. Suppose Georgia had a title to this territory, had not the United States the power of depriving Georgia of it? Suppose, in their treaty with Spain, the United States had surrendered to Spain one-half of this land, or the whole of it, Georgia would have been bound by such an act; and having got this territory by treaty, they had certainly a right to establish a provisional Government over it, until the dispute, as to the title, was settled.

The question of this amendment was put and negatived by 46 to 34.

Mr. Thatcher rose and said, he should make a motion, touching the rights of man, by moving to strike out the excepting clause in the 3d section of the bill. [It appears that in the ordinance establishing a Government in the Northwestern Territory, slavery is expressly forbidden, and this section of the bill directs that a Government similar in all respects to that established in the Northwestern Territory shall be established in the Mississippi Territory, except that slavery shall not be forbidden.]

Mr. Harper did not believe his friend's motion would be a proper mode of supporting the rights of man. In the Northwestern Territory the regulation forbidding slavery was a very proper one, as the people inhabiting that part of the country were from parts where slavery did not prevail, and they had of course no slaves amongst them; but in the Mississippi Territory it would be very improper to make such a regulation, as that species of property already exists, and persons emigrating there from the Southern States would carry with them property of this kind. To agree to such a proposition would, therefore, be a decree of banishment to all the persons settled there, and of exclusion to all those intending to go there. He believed it could not, therefore, be carried into effect, as it struck at the habits and customs of the people.

Mr. Varnum did not know that the gentleman from South Carolina wished to promote the rights of man. His observations showed, at least, that he did not wish to support the rights of all men; for where there was a disposition to retain a part of our species in slavery, there could not be a proper respect for the rights of mankind. It was true that this kind of property is held in the Southern States, because they cannot, consistent

with the safety of the people of those States, liberate them, on account of their very great numbers. But they considered it as a great burden to be obliged to hold them. He hoped, therefore, Congress would have so much respect for the rights of humanity as not to legalize the existence of slavery any farther than it at present exists. He believed the gentleman from South Caroline was mistaken in saying that such a regulation would oblige all the inhabitants settled in this territory to remove. The provision need only extend to the forbidding of slaves being taken there. What, said he, is the situation of the Northwestern Territory at this time? Land there is worth more than in some of the old settled States; and he believed this high price of land, and prosperous condition of the country, was entirely owing to the absence of slavery. And if the Southern States could get clear of their slaves, the price of their land would immediately double. At any rate, he hoped the United States would prevent an increase of this calamity; for he looked upon the practice of holding blacks in slavery in this country to be equally criminal with that of the Algerines carrying our citizens into slavery.

Mr. Rutledge wished the gentleman from Massachusetts would withdraw his motion, not from any apprehension he had that it would obtain; but he hoped that he would not indulge himself and others in uttering philippics against a practice with which his and their philosophy is at war. He submitted to the gentleman's candor whether it was proper, on every occasion, to do this—to bring forward the Southern States in an odious light, or to give his neighbor and colleague an opportunity of bringing them forward, and comparing them with Algerines! He thought propriety and decency towards other members required that such language should be checked. He believed, if his friend from Massachusetts had recollected that the most angry debate which had taken place during this session was occasioned by a motion on this subject, he would not have brought forward the present question. One gentleman says, you call these men property; another, you hold these men in chains; a third, you violate the rights of man! And are not these men property? Do not the people in this territory hold them as such? Did they not hold them under the Spanish Government? And must we thus address these people: "We have made a treaty which puts you under the mild Government of the United States, but we must take from you your property; or, rather, we must set your blacks at liberty to cut your throats. The rights of man was the watch-word of the day, and Congress have determined that you shall not possess this property. They cannot as yet do slavery away altogether—the day is not yet arrived; but they have determined it shall not exist in the Mississippi Territory."

These, said Mr. R., are not mere speculative opinions. They lead to more mischief than gentlemen are aware of; and he trusted if the gentleman from Massachusetts could be convinced that the discussion of such questions as the present did much mischief in certain parts of the Union, he would not bring them forward. He hoped he would withdraw the present motion.

Mr. Gordon thought that when the gentleman from Massachusetts recollected that, by the establishment of this Government, the United States do not establish their exclusive right to this territory, he would consent to withdraw his amendment, as that went to say that we had the absolute right of jurisdiction, and were determined to exercise it; and in making a difference between the ground on which property was held there from that on which it was held in Georgia, they would militate against the 5th section of the bill.

Mr. Otis hoped his colleague would not withdraw his motion; and the reason why he wished this was, that an opportunity might be given to gentlemen who came from the same part of the Union with him to manifest that it is not their disposition to interfere with the Southern States as to the species of property in question. With respect to the existence of slavery, the House had often heard gentlemen, who are owners of slaves, declare that it is not their fortune, but their misfortune that they possess them, but who still keep them, and claim the right of managing them as they think proper. He thought it was not the business of those who had nothing to do with that kind of property to interfere with that right; and he really wished that the gentlemen who held slaves might not be deprived of the means of keeping them in order.

If the amendment prevailed, it would declare that no slavery should exist in the Natchez country. This would not only be a sentence of banishment, but of war. An immediate insurrection would probably take place, and the inhabitants would not be suffered to retire in peace, but be massacred on the spot. By permitting slavery in this district of country, the number of slaves would not be increased—as if emigrants from South Carolina or Georgia were to remove into this country they would take their slaves with them; and he could see nothing in this which could affect the philanthropy of his friend. The Northwestern Territory is inhabited by a description of persons who have not been accustomed to hold slaves, and therefore the restriction is agreeable to them; but the territory in question will be settled by people from the Southern States, who cannot cultivate the ground without slaves. He hoped, however, the motion would be persisted in, and negatived by a large majority.

Mr. D. Foster hoped, if the motion was not withdrawn, that a long debate might not be had upon it.

Mr. Thatcher said he should not withdraw his motion, and the more it was opposed, believing his cause to be good, the more obstinate he should be in its support.

Mr. Giles wished to suggest a single idea. The present motion was brought forward from the avowed motive of furthering the rights of man. He did not know whether the tendency of it was calculated to ameliorate the condition of the class of men alluded to; he believed not. On the contrary, it was his opinion, that if the slaves of the Southern States were permitted to go into this Western country, by lessening the number in those States, and spreading them over a large surface of country, there would be a greater probability of ameliorating their condition, which could never be done whilst they were crowded together as they now are in the Southern States.

Mr. Hartley said, he had himself intended to have brought forward an amendment similar to the present, but, on inquiry, he found so many difficulties in the way, that he was obliged to abandon it. He found it would interfere with, and be a serious attack upon, the property of that country. He was sorry it was not in the power of Congress to gratify the wishes of philanthropists in this respect, by doing away slavery altogether; but this could not be done at present, and as he believed the present amendment, if carried, would be attended with bad effects, he should vote against it.

Mr. Gallatin said, if he saw any of the great inconveniences which were foretold as likely to arise from this amendment, he should certainly vote against it. He should be extremely averse to the adoption of any principle which should either directly or indirectly lead to the production of any commotion or insurgency in any State where there is a great number of slaves. He did not see how any such effect could be produced by the present motion; for, notwithstanding what had fallen from the gentleman from South Carolina, it did not appear to him how a regulation with respect to another Territory can affect the peace, tranquillity, or property of any other State. How the forbidding of slavery in the Mississippi Territory could produce a worse effect than the same regulation in the Northwestern Territory, or in Pennsylvania, or in several other States. The amendment, therefore, could not be opposed on that ground; it must be on some other. Ought it to be rejected on the ground of jurisdiction? Certainly not. The United States intend to exercise jurisdiction over that Territory, and was there any more reason for excepting this jurisdiction than any other? If we establish this Government we expect it to be permanent; and if we believe it is not conducive to the happiness of any people, but the contrary, to legalize slavery, when we are about to form a Constitution for a Territory, its establishment ought to be prevented. But, if this amendment is rejected, we establish slavery for the country, not only during its temporary Government, but for all the time it is a State; for, by the constant admission of slaves, the number will increase to a certain degree, and when the Territory shall become a State, the interest of the holders will be such as to procure a Constitution which shall admit of slavery, and it will be thereby made permanent. Having determined slavery was bad policy for the Northwestern Territory, he saw no reason for a contrary determination with respect to this Territory.

There was, then, only one solitary objection to the amendment, and that might easily be obviated. It was with respect to the situation of the people already settled there who are possessed of slaves. It would be extremely impolitic and unjust to declare by ordinance that the people settled there, either under the British, Spanish, or Georgia Governments, should be deprived of this kind of property; and if this was the effect of the amendment, he would vote against it. Such a regulation would be attended with the worst of consequences; but other words may be easily introduced to guarantee the property of the persons already settled there.

By the laws of the different States, Mr. G. said, the importation of slaves is forbidden; but if this amendment does not obtain, he knew not how slaves could be prevented from being introduced by way of New Orleans, by persons who are not citizens of the United States. He hoped, therefore, the amendment would be agreed to.

Mr. Nicholas believed it not only to be the interest of the Southern States, but of the United States, that this motion should be rejected. They were to legislate for the whole of the Union, and ought to consult the happiness of the whole. It was not for them to attempt to make a particular spot of country more happy than all the rest. If it was a misfortune to the Southern States to be overwhelmed with this kind of property, he asked if it would not be doing service not only to them but to the whole Union, to open this Western country, and by that means spread the blacks over a large space, so that in time it might be safe to carry into effect the plan which certain philanthropists have so much at heart, and to which he had no objection, if it could be effected, viz: the emancipation of this class of men? And when this country shall have become sufficiently populous to become a State, and the Legislature wishes to discountenance slavery, the increase of slaves may be prevented, and such means taken to get rid of slavery altogether, perhaps in conjunction with other parts of the United States, who by that time may be in such a situation as to admit of it, as shall appear prudent and proper.

Mr. Thatcher was of an opinion directly opposite to the gentleman who had just sat down. Indeed, they seldom did agree in sentiment; to-day they differed very widely. He believed the true interest and happiness of the United States would be promoted by agreeing to this amendment; because its tendency was to prevent the increase of an evil which was acknowledged by the very gentlemen themselves who are owners of slaves. Indeed the gentleman from Virginia (Mr. Nicholas) had frequently declared in that House, that slavery was an evil of great magnitude. In this respect they agreed in opinion; for he considered the existence of slavery in the United States as the greatest of evils, an evil in direct hostility to the principles of our Government; and he believed the Government had the right to take all due measures to diminish and destroy the evil, although in doing it they might injure the property of some individuals; for he never could be brought to believe that an individual can have a right in anything which goes to the destruction of our Government, viz: that he can have a right in a wrong.

A property in slaves is founded in wrong, and never can be right. He believed Government must of necessity put a stop to this evil, and the sooner they entered upon the business the better.

Mr. T. said, he honestly confessed he did not like to hear much said in that House about the rights of man; because of late there had been much quackery as to these rights. But, because these rights had been abused, it did not follow that man has no rights. Where legislators are freely chosen by the people, and frequently renewed; where a law cannot be passed without affecting the interests of the persons who pass it, these rights cannot greatly be abused; but, when we take upon us to legislate for men against their will, it is proper enough to say something about the rights of man, and to remind others, who are frequently heard speaking of these rights, that by nature these enslaved men are entitled to rights; and on that account it was, when he made this motion, that he said he would make a motion touching the rights of man.

The reasons offered against the amendment by the gentlemen from Virginia, were a little singular. He contended that certain States were overflowing with slaves, and if not colonized by opening this wide tract of country to them, they would not be able to keep or manage them. He always thought that colonizing these people tended to increase the race far beyond what it would be when penned closely together.

Mr. Giles explained, by saying, that he had said nothing about decreasing the number of blacks, but of spreading them over a larger surface of country.

Mr. Thatcher said, he understood the gentleman's argument perfectly, though he did not seem to understand it himself. The gentleman wished to take the blacks away from places where they are huddled up together, and spread them over this territory; they wished to get rid of them, and to plague others with them. But they had them, and if they determined to keep them, he wished only they should be plagued with them.

We are, said Mr. T. about to establish a government for a new country. Ours originated from, and was founded on the rights of man, upon which ground we mean to protect it, and could there be any propriety in emanating a government from ours, in which slavery is not only tolerated, but sanctioned by law? Certainly not.

It was used as an argument against this amendment that this territory would be peopled by emigrants from the Southern States, who cannot work for themselves; and on that account they must have slaves to work for them. If this be true, it makes the people of the Southern States only fit to superintend slaves. The language of this is, that these people cannot subsist, except they have slaves to work for them.

For the reason he had stated, he hoped the amendment would be agreed to; but if gentlemen thought those who at present hold slaves in the Territory should be protected in them, he should not be opposed to their holding them for a limited period.

The question was put and negatived, there being only 12 votes in its favor.

Adjourned till Monday.

Monday, March 26.

The Speaker laid before the House a communication from the Treasury Department enclosing an account of the receipts and expenditures of the United States for the year 1796, five hundred copies of which the communication stated would be deposited with the Clerk of the House; ordered to lie on the table.

DEFENCE OF NEW YORK HARBOR.

Mr. Smith presented the memorial of the New York Chamber of Commerce, stating that the present critical and inauspicious state of this country had excited general concern, which concern had been much increased by the late official communication from the President of the United States; that this state of things called for the best measures of defence which could be taken; that the present defenceless state of the harbor of New York is such as to invite hostility, and that a place of such consequence to the Union ought to be put into a strong posture of defence; they, therefore, pray that their fortifications may be completed, and furnished with artillery and military stores; referred to the Committee for the Protection of Commerce and Defence of the Country.

PUBLISHING STATE SECRETS.

Mr. Kittera presented a petition from inhabitants of the county of Huntingdon, in New Jersey, stating that they viewed with concern a defect in the laws of the United States, which suffered persons employed by the United States, after they were discharged from office, to publish with impunity the secrets of Government, and praying that measures may be adopted to prevent this evil in future; referred to a select committee of three members. This reference was carried—39 to 37.

INVALID PENSIONERS.

Mr. D. Foster, from the Committee of Claims, to whom was referred a motion to inquire whether any, and, if any, what alterations are necessary in the acts for the relief of invalid pensioners, made a report on the subject, containing a variety of reasons to show that, on the ground of justice and policy, it is not expedient to make any alterations in the existing laws on that subject. The report was committed.

PROTECTION OF THE COAST.

Mr. Sewall, from the Committee on Commerce and Protection, to whom was referred the Message of the President of the United States, relative to the depredations committed upon a vessel in the harbor of Charleston, reported that there could be no doubt of the facts being as stated, and that it was another instance to prove the necessity of taking measures for the protection of our coast. They, therefore, report a resolution authorizing the President to build and equip —— galleys, or floating batteries, for that purpose;

which was referred to the Committee of the Whole on the state of the Union.

GEORGIA LIMITS.

The House again resolved itself into a Committee of the Whole on the bill for an amicable settlement of limits with the State of Georgia; when, after striking out the words "claiming under it," in the fifth section, and adding two new sections, the committee rose, the House concurred in the amendments, and the bill was ordered to be read a third time to-morrow.

One of the sections was moved by Mr. Milledge, and was in the following words:

"That, from and after the establishment of the said government, the people of the aforesaid territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages, granted to the people of the territory of the United States northwest of the river Ohio, in and by the aforesaid ordinance of the 13th day of July, in the year 1787, in as full and ample manner as the same are possessed and enjoyed by the people of the said last-mentioned territory."

The other, moved by Mr. Harper, was to the following effect:

"That, from and after the establishment of the aforesaid government, it shall not be lawful for any person to import or bring into the said territory, from any part or place without the limits of the United States, any slave or slaves, on pain of forfeiting three hundred dollars for every slave so brought, one-half to the United States, and the other half to the person who shall sue for the same; and every person so imported shall be entitled to and receive his or her freedom."

When this section was proposed, Mr. Thatcher moved to strike out the words "without the limits of the United States," so as to have made it unlawful to have brought any slave there; but the motion was not seconded.

MILITARY APPROPRIATIONS.

Mr. Sewall wished the House to go into a Committee of the Whole on the bill from the Senate to authorize the President to purchase one or more foundries. It was well known that the United States were very deficient in cannon, which could not be got, he believed, in a better way than by giving the President the power proposed.

Mr. Harper wished the gentleman from Massachusetts to suffer his motion to give way to one which he proposed to make, for going into a Committee of the Whole on the report of the Committee of Ways and Means, relative to the appropriations for the Military Establishment, as there was at present a number of officers in the city, waiting for their pay, which they could not receive until the appropriations were made, as the $100,000, which were appropriated on account, had been already expended.

Mr. Giles hoped the House would go into a Committee of the Whole on the state of the Union generally. The House had received a Message from the President a week ago, of a very alarming nature, which he thought it was time to notice. He was himself extremely anxious to know what it was the object of gentlemen to do in this business.

Mr. Gallatin said, if there was an immediate occasion for making appropriations for the Military Establishment, he should not oppose the motion of the gentleman from South Carolina; but on the first of January there was a very considerable balance unexpended, and therefore he believed it was not necessary to take up the subject at present.

Mr. Sewall thought that if there was no balance in hand, there could be no difficulty in paying the officers, in confidence that an appropriation would be made. It was immediately necessary to attend to the subject of procuring cannon, as the frigates could not go to sea until they were got. He did not know that they could immediately be furnished by the means proposed, but he supposed it would be necessary to adopt such a measure in order to secure, not only the present, but future supplies. As to going into a Committee of the Whole on the state of the Union, he did not know that there was any immediate necessity for that. He did not know that it was intended to take up any particular subject which had been referred to that committee. He hoped they should first take up one proposition, and then another, until the whole were agreed to. But he thought it first proper to take up the bill from the Senate, which was referred to a separate committee.

Mr. T. Claiborne said, if a number of officers were waiting in the city for their pay, he hoped the business of appropriation would be gone into, as to keep them in the city on expense was to diminish their pay. As to the foundries, he thought it was time enough to take up the subject. He himself should be decidedly opposed to the measure.

Mr. Baldwin understood that a motion to go into a Committee of the Whole on the state of the Union had preference of every other.

The Speaker said it had, but he did not hear the motion seconded.

Mr. Baldwin said he seconded the motion. He thought the House had acted very properly on this occasion. He was pleased that they did not, immediately upon receiving the President's Message, hurry into the subject, but that they had taken time to reflect upon it. He was sure, however, nothing he could say could show more forcibly than the Message itself, its importance to the interests and happiness of the United States. He thought it was now desirable to go into the business as calmly as possible, and begin to exchange their sentiments upon it. It is a subject on which the citizens of the United States are at this time deeply engaged, but they justly look up to their Representatives as having the best information on the subject, to learn what is to be the issue of their deliberations. He wished their anxiety to be in some measure relieved by an entrance being made upon the discussion. He confessed he had never witnessed a period which called so loudly for attention, as the present. He could not remove the subject from his mind; he not only thought of it when in that House, but when he lay on his bed,

his thoughts were still engaged upon it. Indeed, no man who had the good of his country at heart, could help being deeply affected by the present situation of things. He hoped, therefore, the House would resolve itself into a Committee of the Whole on the state of the Union.

Mr. Otis said it was well known that he had been uniformly of opinion that the House ought, from day to day, to go into a Committee of the Whole on the state of the Union, and he was gratified in hearing the same sentiments from others. He thought the subject ought not to be delayed. The motion was, however, unexpected from the gentleman who brought it forward. He could not say he was prepared to go into the subject to-day. As there seemed, however, a great desire, from what had fallen from the gentleman from Georgia, (every sentiment of which he concurred in,) to go into this business, he should be willing to-morrow to enter upon it, when he hoped they should go into it with one heart and one consent. As the appropriations for the Military Department were pretty much a matter of course, he hoped that business would be got through to-day. With respect to the motion of his colleague, (Mr. Sewall,) to go into the subject which he proposes, would be in fact to go into a Committee of the Whole on the state of the Union, as it is intimately connected with the subjects referred to that committee.

Mr. Harper trusted the gentleman from Georgia would give him credit when he assured the House he had as great a desire to go into a Committee of the Whole on the state of the Union as that gentleman or any other; but whilst he felt this desire, he also knew that it was necessary to pass the annual and usual appropriations for the Military Establishment. As to the surplus which the gentleman from Pennsylvania had mentioned as unexpended on the first of January, that had been paid for the services of 1797. He hoped, therefore, the motion for going into a Committee of the Whole on the state of the Union would be withdrawn until this business was gone through; afterwards he should be one of the last persons to object to it. Indeed, he rejoiced to find that gentlemen now felt that anxiety on account of the situation of this country which every good citizen could not help feeling.

Mr. J. Parker hoped the military appropriations would be proceeded with, otherwise it would be impossible to comply with that law, which says the pay of the Army shall never be two months in arrears. Nobody would be more ready than he to go into a Committee of the Whole on the state of the Union. He hoped the House might do this to-morrow.

Mr. Macon concurred in opinion with the gentleman who had just sat down.

Mr. Giles had no particular objection to the business lying over till to-morrow. But when the President sent his Message, it was to be expected some notice would be taken of it. From the best judgment he could give it, it involved the question of peace or war to this country, and he thought gentlemen must be prepared to say which of the two States they wished. With respect to the congratulations of gentlemen, that others seemed now sensible of the perilous situation of our country, he confessed his fears had long been awakened in this respect. All, he believed, were impressed with the critical situation in which we stand, but there is a difference of opinion as to the means of extricating ourselves. He had always been in favor of every necessary measure for the defence of our country; but opposed to all extravagant measures. He should still act in the same way.

The other motions being withdrawn, the House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means on the appropriations necessary for the Military Establishment for the present year, when the blanks were filled with the sums estimated to be necessary by the Secretary of War, until the article of subsistence came under consideration; when

Mr. Gallatin moved to strike out 25 cents per ration, for the purpose of inserting 20 cents, which was the price charged last year, and provisions were rather fallen than risen in price. Indeed, it was observable, that the rations had every year been advanced a few cents. In 1795 they were charged only 15 cents; last year, 20 cents, and now 25.

Mr. Harper believed rations might be got at 20 cents; but it was necessary for the contractors to deposite six months' provision in advance in the different posts, which occasioned a considerable expense; and besides this, it was customary for friendly Indians to visit all the posts, and whenever they did so, it was necessary to entertain them. He supposed the additional five cents were to make up for these two circumstances. It would remain with the committee whether they would allow the additional five cents, or hereafter make good deficiencies, as they found it necessary to do for last year.

Mr. Gallatin said, that there would be no need to take into account the six months' advance of provisions, as that was included in the deficiencies which were now to be provided for; and if a greater number of rations was wanted, it should be expressed, and not add to the price of the rations. And if rations were to be provided for the Indians, they ought to be put under a distinct head, and not under the head of subsistence for the officers of the army. In 1797, indeed, there was under the head of the Indian Department, 100,000 rations at 20 cents, which was the proper way of placing the business. If rations could be got at 20 cents, and they were charged 25, the overplus would not go to the purposes which had been mentioned; but the officers, who received money instead of rations, would receive 25 cents instead of 20.

Mr. Harper consented to the price being fixed at 20 cents, and after a few observations from Mr. J. Williams in favor of 20 cents, and of having the allowance for the Indians mentioned separately, the motion was put and carried.

It was proposed to appropriate $3,000 for three

additional temporary agents to trade with the Indians.

Mr. Gallatin moved to strike out this article. He thought there was as many agents already as were useful; besides, the law confined the expense in this respect to $15,000, so that if these additional agents were to be provided, it must be by a supplementary law.

Mr. Harper said, whether two additional agents are necessary or not, is mere matter of opinion, and he was inclined to take the opinion of the President and Secretary of War, before that of the gentleman from Pennsylvania. Mr. H. insisted upon the President's right to appoint more agents, if he thought them necessary.

The motion to strike out was carried—34 to 29.

Mr. Harper moved an additional item of 100,000 rations at ten cents, under the head of the Indian Department, for the use of the Indians who visit the posts, which was negatived—28 to 27.

The item of $169,000 for cannon and arms, was agreed to be omitted, and considered in the bill which relates to the purchasing of foundries.

Mr. Harper then proposed two additional items to make good the deficiencies of last year, which were agreed to in blank.

The committee then rose, and the House took up the amendments reported by the committee. All were agreed to until the Quartermaster's Department came under consideration, when

Mr. Gallatin moved to strike out $200,000, for the purpose of inserting $150,000. A great part of this expense was incurred in transporting our troops from one place to another, and now they were stationed, he thought the sum he had mentioned would be very ample. Indeed, he should not have been in favor of so large a sum, only that some vessels would be necessary to be built on the Lakes.

Mr. Harper said, this appropriation was included last year along with the Indian Department, defensive protection, bounties, &c., for which $300,000 were appropriated, and they found there was a deficiency of $50,000. He could not say under what head this deficiency arose, but it was chiefly under that of Quartermaster's Department. As the estimate was $200,000, he hoped that sum would be agreed to, as the Secretary of War was more likely to know what was necessary than any gentleman in that House could be.

Mr. Gallatin contended, that on a comparison with the expenses of former years, the sum he proposed was quite large enough. The deficiency of last year of $50,000, which the gentleman had mentioned, ought not to have taken place. The Secretary of War was not justified in expending more in these contingencies than was appropriated, (except in case of necessity,) otherwise the Secretary of War, and not Congress, regulated the expenditure of money. It would be necessary to inquire into this business, and except some pressing necessity could be shown for going beyond the appropriation, he should consider the Secretary of War as highly blameable for having done so, as the appropriation is the only check which the Legislature has over the contingent expenses.

Mr. J. Williams agreed with the gentleman from Pennsylvania that the expenses of the Quartermaster's Department ought not to be so large now, that our troops are stationary, as heretofore; but he thought these objections ought to have been made in Committee of the Whole; and if there existed doubts as to the justness of the accounts in this business, the report had better be recommitted until they were examined, as the two gentlemen of the Committee of Ways and Means seemed to differ so widely.

It being past the usual hour for adjournment, a motion was made to adjourn, and carried—so the question on this point was not taken.

Tuesday, March 27.

The bill from the Senate for an amicable settlement of limits with the State of Georgia, was passed with amendments.

Mr. Sewall moved for the order of the day on the bill from the Senate to authorize the President to purchase one or more foundries.

EMBEZZLEMENT OF WAGES.

Mr. D. Foster, from the Committee of Claims, proposed a resolution to the House to the following effect, which was ordered to lie on the table:

Resolved, That the accounting officers of the Treasury be, and they are hereby, directed to adjust and settle the accounts for wages of those non-commissioned officers and soldiers in the late 4th Massachusetts regiment on the continental establishment, whose certificates were delivered to agents in pursuance of an act of Congress, and which shall be found to have been embezzled by them, and who consequently remain unpaid for their services; and all such sums which shall be allowed to such officers and soldiers shall be charged to the account of the agents by whom they were embezzled.

EXCHANGE NEWSPAPERS.

The Speaker laid before the House a report of the Assistant Postmaster General on the petition of the printers of the Baltimore newspapers. The report states that the irregularities complained of are much exaggerated; that there were a few instances of delay during the winter, on account of the obstructed state of the ferry over the Susquehannah, for which the contractors have notwithstanding been called to account. The report also states that the great number of exchange papers which pass between the printers of newspapers is very troublesome; it mentions that there are fifteen newspapers printed in this city, the printers of which receive 1,000 papers in a week, and supposing Philadelphia to receive one-ninth part of all the exchange papers which pass through the post office, it makes the number about 9,000 a week, many of which it is believed are of little use, and are never read by the printers who receive them. The report suggests, therefore, the propriety of either withdrawing this privilege altogether, or limiting the number of papers to be

received by any one printer. Referred to the Committee on Post Offices and Post Roads.

MILITARY APPROPRIATIONS.

The House took up the unfinished business of yesterday relative to the appropriations for the Military Establishment; and Mr. Gallatin's motion for striking out $200,000, for the purpose of inserting $150,000, for the expenses in the Quartermaster's Department, coming under consideration, after some observations on the subject, the sum was agreed to be left in blank.

The resolutions were referred to the Committee of Ways and Means to bring in a bill accordingly.

RELATIONS WITH FRANCE.

Mr. Baldwin hoped the House would now resolve itself into a Committee of the Whole on the state of the Union.

After a few observations from Mr. Sewall against, and from Mr. Nicholas in favor of going into the business of the Union, the House resolved itself into a Committee of the Whole on that subject, Mr. Dent in the Chair; when the President's Message of the 19th instant having been read,

Mr. Sprigg rose and observed, that every subject which came before the Committee of the Whole on the state of the Union must necessarily be important; but he believed there never was any more so than that which was presented to them by the Message of the President which had been read. Separated as we are from Europe by an immense ocean, it were to be wished that we were equally separated from its political concerns, and that we should have to do with them no further than what relates to commerce. This, unhappily, had not been the case, and there now existed painful differences between this country and the French Republic. The Message which had just been read was an evidence of this. In this situation of things, it appeared necessary that the House should declare whether this country was to have peace or war. This was a subject in which the best interests of the Union were deeply concerned, and he hoped the business would be met fully and fairly. The President had informed the House that the present state of things is changed from what it was when he prohibited the arming of merchant vessels, and that therefore he had withdrawn that prohibition. Whether the order formerly issued by the President for this purpose was in conformity to the spirit or letter of the law, was not of importance now to inquire; the effect had been beneficial, and in the same proportion as the prohibition had been beneficial would be the evils of withdrawing it. In order to ascertain the sense of the committee upon what measures may be proper to be taken in the present crisis, he should offer the following resolutions to their consideration:

Resolved, That it is the opinion of this committee, that under existing circumstances, it is not expedient for the United States to resort to war against the French Republic.

Resolved, &c., That provision ought to be made by law for restricting the arming of merchant vessels, except in cases in which the practice was heretofore permitted.

Resolved, &c., That adequate provision shall be made by law for the protection of our seacoast, and for the internal defence of the country.

The first resolution being taken up,

Mr. Harper supposed there would be an unanimous vote on this resolution. He never heard a sentiment contrary to it. He was willing to declare that it was not at present expedient to go to war with any nation.

Mr. Sitgreaves said that, for himself, he could not agree to the proposed resolution. He did not mean, by this disagreement, to express an opinion that, at this moment, it was expedient to go to war with the French Republic; but he thought the formal declaration of the contrary sentiment was highly improper. The present is a period of menace and of danger, of injury and outrage, and whatever might be the expediency of the actual crisis, yet he had no hesitation to avow his belief that the time is not far distant when war must be resorted to, or the national honor and interest be abandoned. The conduct of France was calculated to excite or justify no other expectation; and under such circumstances, with such prospects, he could by no means consent to a formal declaration of non-resistance. Besides, it is contrary to the usual and ordinary course of Legislative proceeding, to pass mere negative resolutions. The power of declaring war being vested in the Congress, so long as the Congress shall forbear to declare war, it is a sufficient expression of their sentiment that such a declaration would be inexpedient: it is the only proper expression of such a sentiment; and it can be no more right to resolve that we will not resort to war, than it would be to pass an act to declare that it would be inexpedient to make a law for the regulation of bankruptcy or any other municipal concern. However desirable, therefore, he admitted unanimity to be, at a time like the present, he found it impossible to agree to the resolution.

Mr. Baldwin did not agree with the gentleman last up; he thought the resolution proper and free from exception. We were, he said, twenty-three years ago, when we were about beginning the war with Great Britain, in a situation similar to the present; but we were then without many advantages which we now have. We were then without any common tie, except what arose from common interest. No means existed of holding conference together, but nature pointed out the course to be taken, and representatives from different parts of the country were travelling at the same moment to hold council together, and to speak their sentiments. The gentleman who has just taken his seat apprehends war must be the consequence of our present situation.

Mr. B. said this was the first time that the question of declaring war had ever presented itself, and upon which, he believed, there might be a difference of opinion as to the exercise of that power. He did not mean to say wantonly that our Constitution is imperfect; but every society which has a written Constitution must have recourse to

it for direction. It would be improper therefore to inquire what agency the Legislature ought to have in the declaring of war; whether it is not proper that all the circumstances relative to such a state should be before them. He did not believe it was intended that this House should merely be the instrument to give the sound of war; the subject seemed to be placed wholly in the hands of the Legislature. This was the understanding of the country when there was no Government in existence, and he believed this was the meaning of the Constitution. The country is now every where agitating this question of peace or war, and he trusted they would not be left to grope their way in the dark on this important question. The President had informed the House that all hopes of a negotiation were at an end. He was willing to take the information as it was given, without going into the Cabinet of the Executive, and to take measures accordingly. But when some persons declare that the present state of things is already a state of war; that the country is going on in it; that the die is cast, and that we have nothing to do but to go on with it as well as we can, if the House does not believe this to be a true position, this resolution ought to be agreed to, which went to say that the House does not consider the present a state of war, but a state of peace.

Mr. Otis said, if the gentleman who made the motion would consent to use the Constitutional words on this occasion, he apprehended there would be no difference of opinion. He meant that instead of saying "to resort to war," to say "to declare war."

Mr. Sprigg said, the resolution which he had proposed had not been the work of a moment, and he did not feel disposed to make the alterations proposed.

Mr. Otis added, then he should propose to strike out the words "resort to," and insert "declare," as he was of opinion with the gentleman from Pennsylvania, (Mr. Sitgreaves,) that the only subjects fit for discussion were active measures, and that it was not regular to declare when they would not do a thing.

Mr. Pinckney was desirous of settling this motion by the previous question; but he was informed by the Chair that such a motion would not be in order in a Committee of the Whole.

Mr. Dayton (the Speaker) said, that he hoped his friend from Massachusetts would withdraw the motion he had just offered, in order to make room for one he had to offer, which would render the first resolution more general, more innocent, and yet equally or more efficacious, and would test the sincerity of the advocates of that resolution as to their professed anxiety for the maintenance of peace. Upon Mr. Otis withdrawing his motion, Mr. D. moved to strike out the words "against the French Republic," and declared that although he deemed the whole resolution unnecessary, and considered it as not naturally growing out of the President's Message, which did not call upon us to declare or make war, yet, as it must be the intention of the mover, or of some other member, to follow it up with like declarations in relation to all other nations with whom the United States had any intercourse, provided they acted consistently, he thought it better to make the resolution a general one, even if it should be afterwards negatived. He, for himself, was as ready to say that, under existing circumstances, it was as expedient for the United States to go to war with any other nation as with the French Republic. He saw no reason why that particular Power should be singled out in the manner proposed; and as he was for cultivating peace, not with one only, but with all the nations of the world, he was willing so to declare his disposition, if any declaration was proper on the occasion. It was also to be observed, that it could not with propriety be objected against the amendment that there was no other nation with whom we were in danger of entering into hostility, for the tables of the House had been loaded with communications relative to the encroachments and unreasonable demands of another country, which had occasioned an apprehension that the United States would be driven to the necessity of a war in order to obtain possession of its own territory. If, therefore, gentlemen were anxious to cultivate harmony with the French only, then the resolution, as first moved, was proper for their adoption; but if the preservation of peace with all was their real object, then he trusted that the amendment could not with propriety be rejected by those gentlemen who had introduced and advocated a proposition the utility of which, under any modification, he owned for himself he could not discern, although he was willing to render it as unexceptionable as possible before it was decided upon.

Mr. Sprigg informed the gentleman from New Jersey that the reason why the French Republic was inserted in the resolution was because it was founded on the Message of the President, which related solely to the French Republic. For his part, he was not desirous of war with any Power on earth.

Mr. Harper seconded the motion of the gentleman from New Jersey, because he thought it would be better in that shape. He had no particular objection to the resolution as proposed, only that he thought it a resolution about nothing; but as it might gratify the mover and some others, he should not object to it. He was not himself disposed for war, but for peace, while peace could be preserved. But he never said, and would not say, that war was the worst thing which could happen to this country; he thought submission to the aggressions of a foreign Power infinitely worse. If gentlemen meant, by agreeing to this resolution, to prevent the country from being put into a state of defence; if they meant by it to effect an entering wedge to submission, he trusted they would find themselves mistaken; for though he believed the true interest of the country lay in peace, yet he was not disposed to recede from any measures which he thought proper through fear of war. Or did gentlemen intend, by this question of peace or war, to enlist the popular prejudices in favor of

peace, in order to prevent proper measures being taken for the defence of the country? If this was their view he should be the first to strip off the disguise. He trusted this was not the case, as he saw it connected with another resolution which proposed the taking of measures for the defence of the country. The question at present, said Mr. H., is not a question of war, but of defence; and no two questions are more distinct. If gentlemen confound these two questions, and are determined to take no measures of defence lest they should lead to war, let them say so. He believed, however, the distinction was well understood by the American people.

Mr. Giles believed this the proper time to declare whether the country should remain in peace or go to war. He thought the resolution proper as it stood, because founded on the Message of the President, in which the French Republic is only named. There was a part of that Message, he said, which, in his opinion, amounted to a declaration of war. The President tells the House, "that the situation of things is materially changed since he issued his order to prevent the arming of merchant vessels." As far as he understood the situation of the United States at that time, it was a state of neutrality. If that state is changed, and the present is not a state of neutrality, he wished to know what it is. He knew only of two states, a state of neutrality and a state of war; he knew of no mongrel state between them. Therefore, if the President of the United States could declare war, we are now in war. Believing, however, that Congress had alone the power to declare war, he thought it time to declare what the state of the nation is. He did not know whether the object might not be answered by the resolution being general, as he was and always had been (notwithstanding insinuations to the contrary) against war with any nation upon the earth. He looked upon it as the greatest calamity which could befal any nation; and whatever may be the phantoms raised in perspective of national honor and glory in such a state, they will, in the end, all prove fallacious. He believed no nation ought to go to war except when attacked; and this kind of war he should be as ready to meet as any one. Mr. G. said, gentlemen were continually speaking of the degraded state of the nation, when their own measures had led to it. [Mr. Harper denied that he had ever said the nation was in a degraded state.] Mr. G. was not sure that he had said it, but he believed he had frequently heard it. He believed we were in a state which required the utmost vigor; but he thought every measure should be avoided which might involve the country in war. For if we were to go to war with the French at present, he knew not what ever could take place which could produce peace; it must be a war of extermination. Mr. G. did not know that the present question was very important; but believing it strictly conformable to the Message of the President, he should be in favor of it as it stood, and against the amendment.

Mr. Nicholas considered this amendment as defeating the resolution. Was there nothing, he asked, which called for a declaration of the kind proposed? Was it not clear to every one that the country was going fast into a state of war, and (in the words of Mr. Sitgreaves) was it not to be expected? Ought not the Legislature, then, (who alone have the power of declaring war,) to determine the state of the country, and say whether they mean to go immediately to war or not? He thought the necessity of the resolution was sufficiently evident, by the motion which had been made to change the words from "resort to war," to declare war; in the one case the mischief was met, whilst the other meant nothing. And if gentlemen were ready to say we were not prepared to declare war, and at the same time were not ready to say it is not expedient to resort to war, it proved that they thought war might be made without being declared. He asked, whether gentlemen did not believe the Executive had taken measures which would lead to war? And that if he were at liberty to act upon a change of circumstances between this country and others, Congress were not brought into a situation in which they had no choice? Many discussions had heretofore taken place on the Constitution, but he had never heard it doubted that Congress had the power over the progress of what led to war, as well as the power of declaring war; but if the President could take the measures which he had taken, with respect to arming merchant vessels, he, and not Congress, had the power of making war. He asked whether, when report went so far as to speak of an alliance, offensive and defensive, with a foreign country, it was not time to come to a declaration on the subject? Suppose such an alliance was formed, would it not be said that Congress are bound to carry it into effect? He knew it would, though he should resist the doctrine. Mr. N. said, he should be as unwilling to submit to any foreign country as the gentleman from South Carolina; but he could not, like that gentleman, say he was not afraid of war. I am, said he, afraid of it. This country affords me all the happiness I can wish or hope for, and I know war will be destructive to it. What was the difference between himself and that gentleman in this respect, he could not tell; it was to him surprising that any gentleman should be without fear as to the mischiefs of war. He was of opinion that the step taken by the President, with respect to merchant vessels, went to declare that we rested our cause on arms, which was not calculated to produce any good effect in our favor. He hoped the amendment would not be agreed to; if it was, he should vote against the resolution itself; and he did not think the gentleman from New Jersey, when he read the Message of the President, could think there was as much danger of a war with any other country as with the French Republic.

Mr. Brooks agreed with the gentleman who brought forward this resolution, so far as it declares we are not prepared to resort to war. He believed no nation or man who had common understanding could be fond of war. The people of this country have yet the recollection of the

fatal effects of the late war. But there are two kinds of war, offensive and defensive. He wished gentlemen to distinguish between them; for though he was ready to declare against offensive war, and to submit to small injuries rather than make defensive war, yet he was not willing to say he should not be ready to defend his country against the attack of any foreign Power whatever. He hoped he should be believed in this declaration, as he had formerly been employed in the defence of it; and if gentlemen meant that though foreign nations attempt to invade our territory, and to reduce us again to the colonies of a foreign Power, they would not repel them, he could not join them in opinion. And though he should vote for the resolution as moved to be amended, he should feel himself at perfect liberty to defend his country in case of attack. He wondered the gentleman from Virginia should object to vote for the resolution, because it was general, as it included the French Republic as well as all other nations.

Mr. Rutledge trusted the sentiments which the gentleman from New York had expressed would govern the committee; and that all were ready to say, that though we value the blessings of peace, yet we are ready to resist insult and injury from whatever quarter they come. He hoped this would be the conduct of this country; and notwithstanding much had been heard about British parties and French parties, that all would unite in this determination. This being his opinion, he should vote for the amendment; and he hoped gentlemen would be satisfied with this declaration, and that no more would be heard of a party in the House in favor of war. Though he meant to vote for the resolution he thought it unnecessary; but in these days of jealousy and suspicion, if he were not to vote for it, he should expect to be told he was in favor of war.

Gentlemen asked whether war is not approaching? And whether the Executive is not hastening it? To the latter question he would answer in the negative; with respect to the other, he could not answer, as it depended on France, and so versatile and uncertain is everything in that country, that no dependence can be had upon it. Mr. R. said, at the last session, when we had no intercourse with France, he thought it necessary we should have it: that intercourse had proved ineffectual; and though he sincerely wished for peace, yet he saw something in the conduct of France which almost precluded the hope.

The gentleman from Virginia had said, that this country had frequently been stated as in a degraded state. He did not recollect to have made the declaration, but this was his opinion. When our national rights had been violated; when our commerce had been depredated; when the vessels of belligerent Powers, which had sought an asylum in our waters, had been plundered and burnt, he thought it necessary to go into measures of defence. He thought our frigates ought not to have remained at the wharves; that our extensive seacoast, on which is much wealth, should not be unprotected; he thought our seaports, the principal depôts of our revenue, ought to have been fortified. He joined his friends in their attempts to have carried these measures, and, when they failed, he could not help thinking his country was in a degraded state, and that she had lost the spirit which animated her in the year 1775. He hoped, however, that now, when France had gone to the lengths which she has gone to, that there would have been only one sentiment as to the propriety of the measures formerly proposed. But though he thought the nation in a degraded state, he was not in favor of war. He believed the citizens of this country were not for it. He believed the Government was averse to war; and that no part of it was more so than the Executive. War would be a loss to this country; and to no individual more than the Executive. He is no warrior, and, consequently, war has no laurels in store for him.

The gentleman from Virginia has spoken of war as having something dazzling in perspective; something which flattered pride and ambition. But did the gentleman suppose that a war with France could be flattering to pride or ambition? It could not; it would be a war of prudence; we must shut ourselves up, and act on the defensive, and say, "when reason returns, when an ebb shall take place in the affairs of France, when her flow of victories shall be over, she will do us justice." In the meantime, we must defend ourselves. Mr. R. repeated, that he did not believe any man in that House could wish for war; when he looked around him and saw gentlemen whose wounds are yet sore from former service; when he saw them voting for measures of defence, he could not believe, nor could any believe, that they wished to plunge the country in war. It would sooner be believed that gentlemen who made the charges were mistaken.

Mr. Sewall was opposed to the proposition as it now stood, and hoped it would be amended. What effect it would then have, he left those to judge who introduced it. Mr. S. said, he and those who, on all questions of defence, had voted with him, had been endeavoring for some time to go into some measures of that kind; and to determine whether these measures should be confined to our own limits or be extended to the ocean. These measures ought now to be decided upon, as this is a moment in which our commerce is depredated upon in a most unprecedented manner. We are now, said he, called upon to consider the hazards of our situation. [Mr. S. then quoted a part of the President's Message, as to the situation of our affairs in France, and as to the decree which was proposed respecting the taking of English goods on board of neutral vessels, and the carrying of which was declared to make neutral vessels good prizes.] This last regulation, Mr. S. said, was a direct violation of the law of nations, and amounted to a declaration of war on the part of France against this country. But, instead of making any defence, gentlemen call upon the committee to declare we are not disposed to resort to war against the French Republic; so that,

after we have been injured and abused, and denied the common rights of humanity, we are not to complain, but make a declaration that we will not go to war. Was, then, he asked, a question of war a card of politeness? Did a nation ever make a declaration that it was not at war? It could not say so, except it were in so degraded a state that it had no rights capable of injury. To say we are not at war was to say no more than it is light when the sun shines; but to call upon the committee to say so at this time, was to degrade the nation from its independence, and below its character. The present state of things, Mr. S. said, ought to be considered as a state of war, not declared by us, but against us, by the French Republic; and if we want spirit to defend ourselves, let us not say so. We may refrain from acting, but let us not say we receive injuries with thankfulness. But this proposition goes still further. In a moment of public danger, it goes to divide and separate this House from the President of the United States. The gentleman from Virginia had well explained this resolution, when he said it was intended to interrupt the views of the President of the United States. That gentleman considered the Message of the President as a declaration of war, and this resolution was to be in contradiction to it. If this was the sense in which it was to be understood, it was false in point of fact; for the President had neither declared war nor called upon Congress to declare war; no such sentiment could be found in the Message. To agree to the proposition as it stands, would be to give countenance to the assertion of the French Government, that we are a people divided from our Government; but, taking it with the amendment, he looked upon it as a harmless thing. Mr. S. concluded, by saying, that he considered the conduct of France in the light of war. How far we would resent it, was the question; whether offensively or defensively. He was in favor of defensive measures, as we are not equal to offensive measures, (he wished to God we were.) It was our weakness, and the division which had appeared in our councils, that had invited these attacks. He trusted they should now unite and repel them.

Mr. GALLATIN said, before the speech of the gentleman who had just sat down, he could not discover what was the meaning of the amendment, to strike out the words "against the French Republic," as, when the House were in a Committee of the Whole on the state of the Union for considering the late Message of the President, the resolution was perfectly consonant. Besides, we have no danger to apprehend from any other Power, since our dispute is settled with Spain. The intention of the amendment was evidently to render the resolution as unmeaning as possible.

Every gentleman who had spoken on this subject, had agreed that war is not a desirable object for the United States. He gave them credit for the assertion. But this was not the question; but whether we are prepared to resort to war under existing circumstances. It is a question of fact. Mr. G. took notice of the different modes which had been attempted to defeat the resolution; but, though the present amendment were agreed to, he should still vote in favor of the resolution; for it would be effectual, in some degree, as it could only apply to the French nation, though it was not so expressed.

Mr. G. believed the United States had arrived at a crisis at which a stand ought to be made, in which it was necessary for Congress to say whether they will resort to war, or preserve peace. He was led to this conclusion from a review of the conduct of France, and of the late message of the President.

In respect to France, we know, that some time ago, she declared our treaty with her to be at an end; though not in words, the result was to deprive us of the advantages derived from that treaty. In the next place, she dismissed our Minister Plenipotentiary. Under these circumstances, the President called the extraordinary session of Congress, and when met together, after having related the reasons which induced this call, he concluded with saying, "that it was his sincere desire to preserve peace and friendship with all nations, and believing that neither the honor nor the interest of the United States absolutely forbade the repetition of advances for securing these desirable objects, he should not fail to promote and accelerate an accommodation," &c. The President accordingly sent Envoys to France, and the result of the embassy was given to Congress in the last Message, which was now under consideration, in which he says, "the object of the mission cannot be accomplished on terms compatible with the safety, honor, or the essential interests of the nation." The people of the United States are therefore informed, that negotiations are at an end, and that we cannot obtain redress for wrongs, but may expect a continuation of captures, in consequence of the decree which it was supposed was passed, for seizing all neutral vessels with British property, manufactures, or produce, on board. Mr. G. said he differed in opinion from the gentleman last up, that this was a declaration of war. He allowed it would be justifiable ground of war for this country, and that, on this account, it was necessary to agree to, or reject the present proposition, in order to determine the ground intended to be taken. For, though there may be justifiable cause for war, if it is not our interest to go to war, the resolution will be agreed to.

There was another reason why this resolution ought to be now decided, which arose from the conduct of our Executive. He has declared that a change of circumstances has taken place which has occasioned him to withdraw his order forbidding merchant vessels to arm; which amounts to this, that he now permits vessels of the United States to use means of defence against any attack which may be made upon them. Mr. G. thought it necessary, therefore, to declare, whether we were to pursue measures of war or peace. Before measures are taken which will lead to war, the House ought to decide whether it is their intention at present to go war.

The gentleman from New York had spoken of

the difference between offensive and defensive war. This related to the motives, more than to the manner, of carrying on war; because when war is once entered into, though it may be at first defensive, it cannot remain so. It would be ridiculous, for instance, to say, that our frigates should prevent our vessels from being taken; but that they should not take French privateers.

But it was said, if the resolution was agreed to, it would confirm the opinion which had been held that Congress and the Executive were divided in opinion. The gentleman from Massachusetts (Mr. SEWALL) told the House that the question was war or peace; that the conduct of France was a declaration of war, yet, as the President had not called upon Congress to go to war, they ought not to declare that it is not expedient to resort to war. But if it be assumed as a principle, which that gentleman asserts, that the conduct of the French is a declaration of war, and the President has told us we are in war, the resolution could not be improper. Or if his other principle be assumed, that the information of the President does not amount to war, then an agreement to the resolution would show that Congress concurred with him in opinion, that it is not proper at present to resort to war. So that in both cases, the resolution is proper.

Mr. G. said he was precluded by the amendment from going into the merits of the resolution. His arguments went to show the propriety of agreeing to it in one way or other. Nor did he mean to take any notice of what had been said about a division of opinion in our councils having invited the insults and injuries which France had committed against this country. If he were to do this, he must have recourse to recrimination, which he did not wish. He wished rather to take a serious view of our present situation, and either meet it by war, or by measures which shall avoid war. On both sides are difficulties; but the difficulties and inconveniences of both ought to be weighed, and the least taken; and, having determined, measures ought to be pursued accordingly. He did not wish to adopt the resolution as proposed to be amended, and then go on and act directly contrary to it. He thought it best to meet the resolution at once, and say whether we are determined on war or peace. If we go to war, we must expect to meet all the expense and evils of such a state; and if we remain at peace, we must, in a certain degree, *submit*. He meant to say, that we must submit to have a number of our vessels taken. But whether we shall have more taken in adopting one course than the other, he left to gentlemen to determine. He thought the submission he had mentioned, very different from the submission which had been spoken of by the gentleman from South Carolina, and others.

Mr. G. concluded, by observing, that the conduct of France must tend to destroy that influence which gentlemen had so often complained of as existing in this country. Indeed, he was convinced that at the commencement of her revolution there was a great enthusiasm amongst our citizens in favor of her cause, which naturally arose from their having been engaged in a similar contest; but he believed these feelings had been greatly diminished by her late conduct towards this country. He thought, therefore, that whether we engaged in war, or remained in a state of peace, much need not be apprehended from the influence of France in our councils. The business had come to a mere matter of calculation, as to what course will be best to be taken for the interest and happiness of the country. If he could separate defensive from offensive war at sea, he should be in favor of it; but he could not make the distinction, and therefore he should be in favor of pursuing measures of peace.

Several persons rose, but, being about three o'clock, a motion was made for the committee to rise, which was negatived—46 to 44.

Mr. DANA did not conceive that the construction of language given by the gentleman from Pennsylvania, was to be taken as true, without examination. He trusted not. The gentleman stated the question to be peace or war; he could not conceive it to be such. It was unfortunate that, in this important crisis, the House should be engaged, like a set of rhetoricians, in disputing the meaning of words. Indeed, the decision on the present motion, he thought wholly unimportant.

The gentlemen last up had said there was no distinction between offensive and defensive war, and that he was, therefore, opposed to either. Mr. D. thought the distinction clear; offensive war, is when an attack is made upon another; and defensive, when a nation has recourse to war, merely for self defence. But there was another state of things which could not have the name of war, which was to have recourse to measures of defence; to be prepared in cases of attack. It was clear, by the law of nations, that to prepare for defence, was not to commit hostility. To say that to take measure of defence, is hostility, was a new definition, and it was the mighty discovery of the gentlemen from Pennsylvania.

Did gentlemen mean that if we should make use of force against lawless violence, it is war? If not, what did all that had been said amount to? He thought the proposition perfectly nugatory.

But the gentleman said, that his friend from Massachusetts had said, that France had already declared war against us, and that, therefore, we must resort to war. For his part, he did not know what gentlemen meant by resorting to war. If they had adopted terms which had any legal meaning, he could have understood them, but the present might mean everything, or nothing. If it meant anything, it meant taking active measures against France in the first instance. He was not only ready to say he would not consent to do this with respect to France, but with respect to every other nation.

The gentleman from Pennsylvania, and two gentlemen from Virginia, had said, that the Message of the President amounted to a declaration that we were now in war. This idea he thought was stated very incorrectly. They did not seem to have understood the meaning of the language of

the President. The state of things which existed at the time orders were issued to prevent the arming of merchant vessels was essentially different from the present; then there was an evident disposition in the owners of the vessels to cruise against a foreign belligerent nation, and the order was issued to prevent attack and plunder; but the desire to arm at present is for the purpose of defence merely, and not to cruise or plunder. There is a law forbidding vessels to arm for the purpose of cruising; but none forbidding merchants to arm in their own defence. This was the fair construction, he believed, of the meaning of the President.

Mr. Otis observed, that the opposers of this amendment could assign no better reason for declaring a desire to keep peace with the French Republic, to the exclusion of other nations, than their own construction of the President's last Message, which they considered as directed against that Republic only; but the House having resolved itself into a Committee of the Whole on the state of the Union, the resolution on the table had no greater relation to that Message than to any former Speech or Message, or to the affairs of the Union at large. If it was intended as an answer to the Message, it should be moved in that form; but unless it was in a particular manner connected with it, the public could not connect it more naturally with this Message than the Speech delivered at the opening of the session. The House had been heretofore informed, that France was not the only country with which a rupture was to be apprehended. Spain might be considered, until lately, as having actually invaded our territory; and though the presumption at present was, that the causes of contention with that country were removed, yet they were not officially informed of that fact, and without such information it was not less proper to express their desire of maintaining peace with Spain than with other countries. Again, gentlemen had often intimated that a war with France would involve us in a war with the nations in alliance with her. It was therefore inexpedient to show a contempt or indifference for them, by leaving them out of our pacific manifesto.

He considered the Message in a different view from many gentlemen. But admitting, for the sake of argument, that the President had declared an opinion upon the facts stated by him, that war was inevitable; gentlemen must consider the fact to be true; if they doubted it, they ought to demand information. How would this resolution then stand? In reply to assurances that negotiation had failed; that our Commissioners were treated with neglect and contempt; that letters of marque and reprisal were issued against our vessels; and that the most hostile appearances were discernible on the part of France; it was proposed to declare, that with them, and them only, it was inexpedient to resort to war. Such a proposal would hardly be found in the annals of the most humble and degraded nation.

He disapproved of the resolution, though he should vote for the amendment, and would not, on the present occasion, follow gentlemen who had gone at large into the merits of the resolution. Upon the extent of the defensive measures proposed by gentlemen, his feelings inclined him to enlarge; but this discussion would be more pertinent upon some other question. He would merely hint, that actual invasion might not be the worst calamity to this country. He could conceive of a partial invasion of our territory that would be much less injurious, and attended with much less loss than the total ruin of our commerce.

The call for the committee to rise being repeated,

Mr. N. Smith hoped gentlemen would be satisfied to take the question, which he thought very unimportant. The time consumed in discussing it was, however, important, as other concerns called for attention. He knew there were gentlemen who chose rather to address the people of the United States than to legislate. He thought it better to legislate, than to preach to the people. He looked upon the present resolution as a text from which it was intended to alarm the people with respect to war, and he wished not to indulge gentlemen in their design. He wished the question to be taken for another reason. It was suggested by the gentleman from Virginia, that the Message of the President was considered by the people as a declaration of war, and that reports were in circulation, that a treaty, offensive and defensive, was concluded with Great Britain. After this, he would call the attention of the committee to the resolution, which was, in effect, to say, we must interfere, or war will be brought upon the country. Did not this go to sanction a report which was as false and malignant as even jacobinism could invent? It did; and he hoped, they would not so far sanction the report, as to let the motion lie before them undecided.

Mr. Dayton hoped the committee would rise. The gentleman last up began with saying the proposition was of no importance; but, before he sat down, showed that he thought differently. Mr. D. thought it was of importance that the committee should come to a right decision upon it, and say whether it ought to be agreed to in general terms, or rejected.

Mr. N. Smith explained.

Mr. J. Williams thought the question trifling, and hoped a decision would be had upon it.

Mr. Giles said, the question was a question of peace or war, and yet gentlemen call it trifling. He did not mean to alarm the people of the United States, but he wished them to understand their situation. He acknowledged he was himself much alarmed. Gentlemen were willing to engage in defensive, but not in offensive war; but when war was once begun it would not be in the power of the United States to keep it within the character of defensive war. Indeed the gentlemen from Massachusetts, when he spoke of defensive war, confessed our inability for offensive war, and uttered a prayer to the Supreme Being that we were able to engage offensively; and where, he asked, with such sentiments, is the difference between offensive and defensive war? He could see none; he deprecated war of every kind.

Mr. J. Williams hoped the question would be taken. As he before stated, he thought it trifling, and the debate upon it only calculated to alarm the people, which seemed to be the object of gentlemen. If the question was not taken before they adjourned, much debate would be had, and much time spent to very little purpose. He thought it very extraordinary, as no one was found to bring forward a resolution to declare war, that a gentleman would introduce a resolution of its being inexpedient so to do. He was persuaded that this negative mode of proceeding was calculated to draw on a debate, to set the people against the Executive. Time, he said, was precious; they had sat near five months and done but little, much remained to be done, and as all had declared their aversion to a war, the people should be undeceived. He had himself seen gentlemen write upon the late Message of the President, for the purpose of sending to their constituents, "*A war message against France.*"

Mr. Macon wished the gentleman would name who had thus written.

A call of order took place: and a motion was made for the committee to rise, and carried.

Wednesday, March 28.

Mr. McDowell said, a bill from the Senate to authorize the President of the United States to purchase one or more foundries had been referred to a Committee of the Whole, and might be expected shortly to come under consideration. As he had not sufficient information on this subject to enable him to vote understandingly upon the bill, he wished to call upon the proper officer for an account of cannon purchased since the year 1794, in order to ascertain the necessity or propriety of passing the proposed law. He therefore proposed the following resolution to the House:

"*Resolved*, That the President of the United States be requested to cause the proper officer to lay before this House the number of cannon which may have been purchased for the use of the frigates, the revenue cutters, and fortifications, since the first of January, 1794, with the size of the cannon; and stating what proportion of them were cast within the United States, at what foundries, and an account of the prices paid for each size."

This resolution was agreed to, and Messrs. McDowell and W. C. Claiborne appointed a committee to wait upon the President therewith.

Mr. Gallatin observed, that when the appropriations for the military department were yesterday under consideration, several sums were left blank, for the want of information. He proposed resolutions to the following effect, in order to obtain that information, which were agreed to:

"*Resolved*, That the Secretary of War be directed to lay before this House a statement, in detail, of the expenditure of the money appropriated for the subsistence of the Army, for the Quartermaster's and Indian departments, bounties, defensive protection of the frontiers, and of all contingent expenses in the War Department in the year 1797, from whence result the deficiencies by him stated in his estimate, amounting to the several sums of $114,165 and $50,000; and that he include in the same statement an estimate of the number of rations issued during that year to the Indians at the several posts, &c.

"Also, an estimate of the probable appropriation necessary for the Quartermaster's department for the present year.

"Also, a statement of the several existing contracts made for the subsistence of the Army."

RELATIONS WITH FRANCE.

The House again resolved itself into a Committee of the Whole on the state of the Union, when the amendment to the first of Mr. Sprague's propositions, as to the inexpediency, under existing circumstances, of resorting to war against the French Republic, being under consideration; which amendment is to strike out the words, "French Republic,"

Mr. Pinckney rose and said, he was in favor of the amendment, because it tended to make what he thought an improper proposition, in some degree, nugatory; for he believed to agree to the resolution without it, would be prejudicial to the interest and welfare of the country, as he did not think the period had arrived which called for a decision on measures of war or peace. If such a declaration had been necessary, he should have expected it to come from gentlemen in favor of a war, declaring, that it is expedient to go to war, as it was a very uncommon thing to declare we will not do a thing. His strongest reason against coming to this resolution, however, was, that at this period the House had not sufficient information concerning the whole of this business, to enable them to form a correct judgment upon it. The President told the House, indeed, that he had little hope of a favorable termination of the negotiation, but they knew nothing of the train of the negotiation, or of the circumstances attending it. They knew that our Commissioners had not been received; but they had not sufficient information as to the manner in which they had been treated, to enable them to come to the decision proposed.

The gentleman who proposed the resolution, said it was time to come forward and declare whether we will have peace or war. Would to God, said Mr. P., it was in our power, by any such declaration, to avert war, or maintain peace; but he believed this did not depend upon any declaration of ours. In questions of war there were always two parties, one of whom was generally the aggressor, and the other generally passive. In the present case, he considered this country as the passive party, and, therefore, any declaration on our part would have little effect. We know that individuals or nations induced to pursue measures from interest or passion, are not easily diverted from their purpose. If the French are actuated by either of these motives, no declaration of ours will prevent the calamity. Such a proposition would rather accelerate than prevent the evil. If our declarations could have availed, they have not been wanting. From the first period of a misunderstanding between the two countries, declarations have been made deprecating war in general terms, but particularly with that nation. A Minister Plenipotentiary had been sent to explain the views of this Government, and to remove any

jealousies which might exist, and to make such specific propositions as were thought necessary; but our Minister was rejected without a hearing. The next measure was, to send special Commissioners, in order to settle our differences and avert the calamity of war. We have, therefore, made sufficient declarations of our pacific intentions. Indeed, he thought too much had been rested on these declarations, as nothing had been done for our defence. When we looked at our seaports, and saw their defenceless condition, he thought it evident sufficient attention had not been paid to them, knowing that war might, at least, be a possible event.

But the gentleman from Virginia (Mr. Giles) says the affairs of the country are extremely changed, and that this is the time for making a stand, and this opinion he draws from the President's Message. He thought it was well observed yesterday by the gentleman from Connecticut (Mr. Dana) that the change which the President spoke of might relate to the change of disposition in the persons owning merchant vessels as to their views in arming them. Mr. P. thought there was another reason why the declaration did not go the length which had been stated. In the course of a war the conduct of a belligerent Power to neutral nations is apt to change. At the beginning of a war, neutral trade is not so much preyed upon as it afterwards comes to be. In the beginning of the present war, we saw no declaration from Denmark and Sweden as to the course they intended to take with respect to their neutral trade; but when spoliations were committed upon it, the Governments of those countries came forward and said: "Affairs are now changed, we think it necessary to convoy our vessels, and to give them the protection to which they are entitled by treaty." This conduct was never looked upon as a cause of war; on the contrary, those countries remain at peace, and are likely to remain so. Therefore a change in defensive measures did not bring the matter to the point which the gentleman from Virginia supposed.

This resolution differed exceedingly from anything which took place when we had a misunderstanding with England in 1794. At that time, when England issued her extraordinary Order of the 4th of November, and our commerce was depredated upon, measures were spoken of for countervailing the injuries which our citizens experienced, but no proposition like the present was produced. We are now aggrieved and injured in a most extraordinary manner, but we say we will not go to war. On a former occasion he had heard of a variety of restrictive regulations, proposed with a view of restraining the injuries committed upon us, and to bring Great Britain to reason; and he did expect something similar would have been proposed on the present occasion, but nothing of the kind had appeared. It was true we had not so great hold of the French nation as of the British, in this respect, but we had some; and he believed measures might be taken which would induce the nation to hear reason. But, instead of this, it was proposed that we should say, we have been injured and aggrieved; but we will not oppose you, we will not go to war with you.

The gentleman from Virginia (Mr. Nicholas) seemed to rest the greater part of his arguments upon the power of the House to make war, or to declare peace. Mr. P. agreed that this was Legislative power, and not Executive, and he was for this House exercising that power; but, as he had alredy stated, they had not at present sufficient information on that subject. But that gentleman seemed to charge the Executive with all the evils of our present situation. Upon this subject he concurred in opinion with the gentleman from Pennsylvania (Mr. Gallatin) that it was unnecessary to inquire from whence our present situation arose, or to go into recrimination. This could only create heat, and keep up that idea of division which had been industriously spread, and at a time when the Legislature ought to do all in its power to extinguish it. [Mr. Nicholas explained. He had said he would not go into an inquiry as to the conduct of this Government with respect to France; but if any measures of ours had produced the breach, they must be those of the Executive, because the Legislature has had nothing to do with them. He would assure the gentleman from South Carolina he should not take the lead in any such inquiry, but keep out of view, as much as possible, past transactions.] Mr. P. was glad to hear this explanation. He himself believed the measures of the Executive had been calculated to promote peace; but it was not necessary to go into that subject.

The gentleman from Pennsylvania (Mr. Gallatin) had gone further than perhaps the resolution on the table would warrant. He says, the adoption of this resolution will go to prevent the taking of any measures which may, in their tendency, lead to war. If gentlemen meant by this, that it was to prevent any measures being taken for the protection of our commerce, the adoption of the resolution would not only declare that we will not go to war, but that we will not take any measures for the defence of our property. It appeared to him that that gentleman had himself given the best reasons for modifying this resolution, so as to make it as little mischievous as possible. For he had told the committee that France had set at naught her treaty with us; but though they have done this, said Mr. P., they have endeavored to justify their depredations, by insisting that, according to that treaty, it was necessary for vessels to carry a *role d'equipage*. Mr. P. added, there was another Order of the French Government which was so contrary to right, so cruel in its consequences, so degrading to this country, and so inhuman in its tendency, that he could not avoid noticing it. It was the decree which declares that every American citizen found on board the privateer of an enemy, shall be considered and treated as a pirate. They pretended to found this Order on our treaty with Great Britain; but he wished gentlemen who thought it justifiable, to turn to that treaty, and see whether there was anything there which countenanced so violent a measure. But this is not all, the gentleman

from Pennsylvania allowed that a decree had lately been passed which violates all the laws of neutral nations, viz: that if the property, manufactures, or produce, of an enemy be found on board a neutral vessel, it shall be good prize. Our Ministers, also, who were commissioned to conciliate, and even to make concessions, though they had been in Paris three months, cap in hand, had not been able to get a hearing. Under all these grievances, what, said he, are we called upon to do? He should not have been surprised if some one, fired with the injuries we have received, had brought forward a proposition for war. But, instead of this, smarting as we are under injuries, our commerce bleeding at every pore, and our country deeply humiliated, we are called upon to say: You have done everything to injure, insult, and degrade us, but we have deserved it; we will do nothing to oppose you. Though God and nature have given us power we will not go to war with you, neither on the present occasion, nor on any other, whatever injury you may commit upon us.

Was there anything in our situation, which called for this declaration? He thought not. The gentleman (Mr. Giles) says he would not go to war, except in case of invasion. He apprehended this neither a wise nor a safe policy. He believed it was necessary the calamities of war must be resorted to. If injury upon injury is heaped upon us, we shall be brought into a situation in which it will be necessary to annoy our enemy. He did not say that point was yet come; but it will be necessary, prudent, and wise, to take measures to prevent the enemy coming to our door. Because, if prepared, we should, as on a former occasion, be enabled to intercept any troops which may be sent against us. But he regretted to see so different a spirit animating our citizens now, from that which animated them in our Revolutionary struggle. We did not then prevent our vessels from arming in self-defence. Though we then deprecated war, we made preparations to meet it, if it should be necessary. Though the extent of the injury was not then so great as at present; when all the usurpation attempted upon us, was a regulation of taxation—a two-penny duty upon tea—yet it caused a ferment and spirit which was effectual at that time, and which spirit, he trusted, was not now extinguished. Indeed, he was convinced, that if gentlemen in favor of the proposition could see our situation in the same light in which he and others saw it, they would be in favor of as strong measures as any of them. The country from whence these gentlemen generally come, had shown its determined opposition to oppression from whatever quarter it came. He wished, therefore, they could see the oppressions of the Government whose conduct he had been reviewing, in the same light which he did.

However humiliating our conduct might be, he repeated, it would have no effect upon that nation. He did not wish to animadvert upon the conduct of any country; but there was one instance of the treatment which the French Republic has exhibited to an independent State, which he could not help noticing. It was in respect to Venice, which would show, that no humiliation, no concession, would avert the calamity which threatens us, if the rulers of the country are determined upon war. If he was not misinformed, the circumstances of the case were as follow: The Venetians were at peace, and endeavoring to pursue a line of neutrality. A tumult arose in one of their towns, and the populace did, in a barbarous and most unjustifiable manner, massacre a number of French soldiers. This was an injury which called for and deserved atonement. A retaliation took place fully commensurate with the crime. The Venetians made every concession in their power. But the French commander was not satisfied, he took vengeance upon them by overturning their Government—a Government which had stood the test of five hundred years. He should have supposed that the French would now have been satisfied; but the matter did not stop here. The Government being overturned, the people were promised a free Government, and an amelioration of their condition. They were proceeding in the establishment of a Government; but, when the treaty came to be made between the French Republic and the Emperor, he supposed it was thought to be for the interest of that Republic to sacrifice a part of this territory, and to give it up to the Emperor, to take a part to themselves, and to annex another part to the Cisalpine Republic. This was done; and he believed the very part which had committed the offence against the French Government, had been rewarded by being joined to a free Government.

This division of the Venetian territory was not the work of a young officer, elated by victory and conquest, or enraged by the treatment which his soldiers had received. The French Directory had come forward, and, by their decree, had applauded the whole conduct of their General in the most unqualified terms, particularly as to Venice and Genoa. He would not take up the time of the committee by citing the conduct of the French towards the latter Republic. The case of Venice was sufficient to show how little was to be expected from a humiliating conduct.

Mr. P. hoped he had shown sufficient reason why this resolution ought not to be agreed to, at least in its original form. He hoped they should go on making defence in the way proposed by a second resolution; and agree to such restrictions, with respect to the arming of merchant vessels, as should seem proper.

Mr. Giles thought the gentleman who had just sat down had been less correct in his statements than he usually was. He would allude particularly to one instance. That gentleman says, whatever aggressions and insults may be heaped upon us, the supporters of the resolution will not go to war. The proposition held a directly contrary language. It says: "That, under present circumstances, the United States deem it advisable to remain in a state of peace." [Mr. Pinckney said the reason why he had made this remark was, that yesterday the gentleman himself had said, he should not be for going to war, unless the country was invaded. He, therefore, connected the reso

lution and this declaration together.] Mr. G. said, he still repeated the same thing; that we ought not to resort to war beyond the limits of the United States. But he drew a contrary inference from this, from that which that gentleman had drawn, because he had accompanied the declaration with another, that he was perfectly ready to prepare to that extent for defence. He would explain the grounds of this opinion. Within our own limits we are capable of making something like exertion, and there, he believed, exertions might be made to advantage. Indeed, one of the propositions, which is connected with the present, goes to this purpose, and therefore with what propriety could the gentleman say, he and those who were of his opinion were not for preparing for defence till the enemy is at the door? Nor could he see anything like humiliation in this. Nay, he was convinced, if we carried our preparations for defence beyond our own limits, instead of gaining glory or honor, we shall meet with nothing but disgrace, as we are not prepared to make a defence at sea. Indeed, the moment we get beyond our jurisdictional line, defence will become offence, because there will be no evidence by which it can be ascertained by whom the attack commenced. It would, therefore, be unwise to permit ourselves to be placed in this situation. If any object was to be effected by going out to sea, it must be the protection of our commerce with Great Britain; but it was known that the two acts of the British Parliament which took place in January last, if peace continues, may take that trade, in a great measure from us. He did not think, therefore, that this was a sufficient object for which to incur so much risk.

At present, said Mr. G. there is a pretty general opinion in the country (and he thought there was much ground for the opinion) that there is a disposition in a part of this House, and in part of the Government, for war; and he thought it was proper to come to a declaration upon the subject. This would not only have a good effect upon our own citizens, but it would convince European Powers, that though we were preparing for defence, we were not preparing for war.

Mr. G. said, he was not satisfied with the construction which the gentleman from Connecticut (Mr. Dana) had given to that part of the Message which speaks of our situation being changed. He did not believe the President had any reference to the dispositions of the people, but to the state of things generally.

The apprehension of war had already begun to produce disagreeable effects in his part of the country. He had received information that produce had fallen in price, and that the sale was very dull. He was of opinion, therefore, that the proposed declaration, if agreed to, would appease the minds of the people. It was said it would have no good effect upon the Executive Directory. He did not know that it would. But it could have no bad effect; and it might have a good one, for he did not think that body quite so abandoned as some gentlemen thought them.

The gentleman last up had spoken of the partition of Venice. He himself saw it with concern; but where was the difference in crime between the French Republic and the Emperor? Each took a part. But what was all this to the United States? Were they to go to war to avenge this partition? We heard nothing of this kind some years ago, when a partition of Poland took place. For his own part, he wished to leave the Powers of Europe to themselves, and to draw ourselves within our own boundary, where we should be fully equal to our defence against any Power on earth.

Mr. Dayton (the Speaker) said, that most of the arguments of the gentleman from Virginia, (Mr. Giles,) who spoke last, were most conclusive in favor of the amendment, although it appeared to be his intention to vote against it. That member had deprecated war as the greatest of calamities, and spoke of peace as the first of blessings; and yet all this warmth of declamation in favor of pacific measures had resolved itself into an anxiety to maintain it with one nation only. As to the objection that the amendment was not immediately connected with the Message of the President, Mr. D. remarked that not that communication only, but the "state of the Union" was under consideration, and it was upon this broad ground alone that the resolution could have been introduced, for it did not naturally arise out of the Message, which had not proposed to Congress to declare war, nor to act offensively in any respect.

In attempting to render that resolution, by amendments, less objectionable, he would not be understood as approving it; for, although the sentiment was just, although the position was true, yet nothing could be more idle than to employ ourselves in lengthy discussions of what it might be inexpedient to do, at a time when all sides of the House agreed that we ought to deliberate on what ought to be done for the defence of the country.

How could that committee, acting as they were under the most solemn commission that could be given to a Committee of the whole House, justify their employing their time in going the round of resolutions upon what is inexpedient to be done? This resolution, if agreed to, and a thousand others of the same negative kind, would furnish no ground for legislation; and to legislate, and not to draw up and adopt certain political creeds and doctrines, was the business which they were sent here to perform.

Mr. D. called the attention of gentlemen to the Message of the President, which they had particularly quoted, and asked whether that communication did not call upon Congress to consider what measures were expedient to be adopted for "protecting our sea-faring and commercial citizens, for defending any exposed portions of our territory, for replenishing our arsenals, for establishing foundries and military manufactures, and for providing such efficient revenues as will be necessary to defray extra expenses." He repeated the inquiry, whether these important objects and means of defence were not more proper for their

deliberations, and more conformable to their duty as legislators, than the discussion and adoption of the resolution on the table, which amounted to nothing if carried, except to fix censure by strong implication against the first Magistrate of the Union?

If the advocates of the resolution persist in opposition to the amendment, he should be irresistibly led to suppose that not an earnestness to maintain peace, as was professed, but a desire to have it understood that the President was in favor of war, and that he was contemplating actual hostility on the part of this country against the Republic, and that the House of Representatives was putting a veto by this act upon such intention, was the real object of those gentlemen.

Mr. D. concluded with saying, that they who loved peace with all the world, must vote for the amendment; but those who regarded it only towards the French Republic would be right in adhering to the original proposition.

Mr. Shepard said, the resolution before the committee seemed to carry with it an idea that the Message of the President was a declaration of war, and that this was to destroy its effect, and to prevent them, if war should be necessary, from taking proper measures of defence. He was not for going to war; but for taking every measure to keep out of it. In order to effect this, he wished to prepare for defence, which he considered as the best security against war. He insisted upon our right to do this, regardless of any foreign nation. He would not only fortify our ports, but have armed vessels to defend our coasts, and hold our militia in requisition. He had heard the Message of the President called a declaration of war; but, for his part, all he had heard of war was from gentlemen who are so loudly opposed to it, as if they were the only men in the country who had any value for its peace and happiness. Was any part of this alarm made by men who fought eight years for the independence of the country? No such thing; they wished the country to remain in peace; but they wished it also to be prepared for war. He was opposed to the resolution; but, if it must pass, he should wish it to pass with the amendment.

Mr. Harper.—When this resolution was first proposed, it appeared to him to be one of those nugatory measures which might either be agreed to or rejected, without producing any effect; and, until he saw the resistance which was given to the amendment, he remained of the same opinion; but now he found it was to say to the French nation, "you may commit against us injury after injury, and insult after insult, we never will resist you."

If this were not the intention, why resist the amendment? Taking this to be the intention, he should bestow some observations upon it. Gentlemen preached about peace. They cry, "peace, peace," as if we, holding the scale of the world, had the power to preserve it. Do not gentlemen know that peace or war is not in our power? They do know it, and that all in our power is to resist, or submit. Was not the clamor which was heard about peace, in so many words, saying, you must submit, not only to what injuries you have received, but to what you may hereafter receive? Was not every advance, on our part, for an adjustment of differences met with new injuries and new insults? It would not be denied. If peace was all that gentlemen wanted, they would take the resolution in general terms, as proposed to be amended; but their opposing it shows that they have no objection to hostility, if it be not against the French nation—he would not say whose servants they were desirous of being, but against those whom they dread they are afraid to lift up their finger. And this was the spirit of peace which they wished to preserve—a spirit which he deemed vile submission—a spirit which was afraid to complain, and which met every new insult without murmur.

Mr. H. rejoiced that this amendment was made, because it had unmasked the intentions of the mover and supporters of the original proposition. They were now obliged to avow, it is not peace with all the world which we want, but peace with France—a servile and abject submission to one nation; a nation, in behalf of whom they have heretofore been eager of war; for, notwithstanding all their cries at present for peace, peace, when there is no peace, they have on a former occasion been equally zealous for war. All their efforts were then used to involve this country in war, upon the side of the French Republic; but now, when measures of resistance are called for—not against France, but to prevent her from wounding her enemy through our sides—their cry is turned from war to peace. This he repeated, and, if they denied it, he would refer to written accounts of their discourses at that time, which would prove that they had sought war against England, and an alliance, offensive and defensive, with the French Republic. At that time, he and those who generally vote with him, desired peace; and it required all their skill and firmness to preserve it, and much obloquy was thrown upon them on account of their exertions. The ground which he and his friends then took, was—let us first try negotiation; if that fail, we will then join you in the war. But these gentlemen were, at that time, all in favor of war measures in the first instance. Whence now this change of spirit? What has become of the spirit of 1794, when it was said to be disgraceful to negotiate, and that it would be base to surrender the independence of our country to a foreign Power? He wished he could see the breasts of gentlemen now glow with the patriotism which then animated them; but, instead of this, what do we see? A spirit of the most abject kind; a spirit that would leave all our property unprotected beyond the limits of our territory, so that our commerce, from which is derived five-sixths of our revenue, is to be abandoned, lest, in defending it, we should give offence to the French Republic.

The committee were now told it would be time enough to prepare for war when an invasion of our country was attempted. And why were they told this? Because such an event is not likely to

take place. Gentlemen know that all the hostility which France wished to commit against this country may be done by destroying our commerce. But they are disposed to surrender this part of our rights, rather than resist; and what security had we that, if the country were invaded, these gentlemen would then resist? He apprehended that the same spirit which led them now to submit, would continue to actuate them.

Last year gentlemen were opposed to doing anything which should alter the state of things. If this negotiation, said they, fail, we will then join you in active measures. But now, when that time is come, they tell us we must still sink lower, and become more degraded. We are to be contented, not only to see our ships captured, our property destroyed, our sailors led in chains, our revenue annihilated, but we must see the army of the enemy attempt to land, before we will resist.

Mr. H. said he would bring his proofs, to show that those gentlemen who are now so loud in their calls for peace, were heretofore the supporters of a war system. For this purpose, he adduced Mr. Monroe's view of the conduct of the Executive of the United States, which, he said, was a publication which had met with the most unbounded and enthusiastic applauses from all the party; and he read from it an extract of a letter from Mr. Monroe to our Secretary of State, dated Paris, September 10, 1796, pages 209 and 210 of the book, in which he states it to be his opinion, "that if a suitable attempt be made to engage the aid of the French Government in support of our claims upon England, it may be accomplished; and that to secure success, it will be necessary to take the posts and invade Canada."

Would any man, said Mr. H., who shall read this passage, say that the system of these gentlemen is a peace system? And besides this proposition for taking the posts and invading Canada, the same gentleman proposes an advance to France of five millions of dollars. Yet these are the gentlemen who now are willing to say to France, "We will not fight you; we give you license to do us all the injury you please. You may fit out half a dozen frigates, which will be able to block up our ports; and we give you this notice that you may effect your purpose with little expense, and not prepare a large fleet for the purpose."

The gentleman from Virginia, (Mr. Giles,) whose zeal for keeping this country in an absolutely defenceless state, has surpassed all the zeal he ever before displayed, except that which he had shown on a former occasion for bringing us into war, has told us that peace is the best thing we can have; and that it would be knight-errantry to attempt to defend our property at sea. After our Ministers have been sent off, and a decree passed which must destroy our commerce, and which had been already allowed to be just cause of war, this was the language of that gentleman on the present occasion. To show this gentleman's consistency, and because his language was at that time so spirited, so American, and carried with it so much force and energy, he could not forbear reading an extract from his speech on the 28th of March, 1794, upon Mr. Dayton's motion to sequestrate British debts. The question was not then whether we should arm for our defence, but whether we should make an attempt at negotiation. The arguments of the gentleman were, it is true, somewhat misplaced, though they were nevertheless patriotic and admirable; and he could not account for the strange contrast of his present sentiments on any other ground than that he believed the true interest of this country was only to be effected by a treaty of alliance with France and war with her enemy. Gentlemen who were on a former occasion in favor of spirited measures in defence of our rights, and were on this occasion the same, are consistent; though their arguments might not altogether be properly timed, yet they were radically right.

Mr. H. then proceeded to read and comment upon Mr. Giles's speech on Mr. Dayton's motion, contrasting all along the sentiments he then delivered, which were in favor of the most spirited measures against England, with his present opinions with respect to France; in doing which he paid the highest possible encomiums to the talents and style of the gentleman from Virginia.

After finishing this contrast, Mr. H. spoke of the propriety with which his colleague had introduced the account of the treatment which Venice had received from the French Republic. Yet gentlemen had asked whether this was a cause of war for us? The circumstance, they well knew, was introduced merely to show the effect which a tame, submissive conduct was likely to produce; but they had chosen to give it this turn, in order to avoid the point which it contained.

Mr. H. said, he would bring another example to the view of the committee. He meant that of Switzerland. Attempt after attempt had been made by France on the independence of that country. After going a variety of lengths, they effected their purpose of driving from thence that unfortunate class of men, the emigrants, who had been persecuted by those who had usurped all authority in France, and who sought the rights of hospitality amongst them. New aggressions were made; they took possession of a part of the Swiss territory, and displaced their magistrates. Seeing that every submission invited fresh insult, they united, hand in hand, took up arms, and reinstated the magistrates who had been displaced, and resolved to live free or die. What was the consequence of this spirited conduct? The French withdrew from their territory, disavowed the measures of their General, and declared that they desired nothing more than to leave the Swiss in full possession of their rights.

Let us, said Mr. H., take warning by this energetic example of the Swiss. Let us now begin to resist. Let us declare that we wish to preserve peace with all the world; that we allow that peace is good, but that we believe independence is better; that peace is desirable, but not at any

price—and then France will relinquish her aggressions.

At this point the committee rose and had leave to sit again.

Thursday, March 29.

Mr. Josiah Parker presented the petition of the merchants of Norfolk, praying for a lighthouse to be erected on Old Point Comfort, together with a copy of an act of the Legislature of Virginia, ceding two acres of land for the purpose. Referred to the Committee of Commerce and Manufactures.

RELATIONS WITH FRANCE.

The House again resolved itself into a Committee of the Whole on the state of the Union, and the amendment to the first resolution moved by Mr. Sprigg, as to the inexpediency, under existing circumstances, of resorting to war against the French Republic, which amendment is, to strike out the words "French Republic," being under consideration,

Mr. Giles rose. It would be recollected, he said, that yesterday an attack had been made upon him, as indecent in its manner as it was in itself novel and unprecedented. He had been eight years in Congress, but he never before heard so direct and personal an attack. He was pleased, however, that it had been made, and only regretted that his state of health was such as, he feared, would not suffer him to go so fully into a refutation of the charges which had been brought against him as he could wish. He should, however, state such circumstances as would not only disprove the facts alleged against him, but also prove that the reverse of them was true. In doing which, he begged to be corrected if he should misstate anything.

The gentleman from South Carolina (Mr. Harper) had said "that it had been the object of himself and his associates, but particularly of himself, since the year 1794, to go to war with Great Britain, if possible, and to enter into a treaty of alliance, offensive and defensive, with France." This charge he declared to be entirely void of truth. He knew that slanders of this kind had been circulated in an artful manner through the United States from that time to the present, but he never before heard the charge publicly made. Being made, he would refute it, though it had been the foundation of two long speeches of that gentleman; for, whenever slander assumes an erect front, it is dissipated by the first ray of truth which meets it.

He trusted he should prove, by a reference to the debate which had already been quoted, and to others, that he had never been in favor of a war with Great Britain; and as to an alliance, offensive and defensive, with France, he never heard such a proposition in private conversation, and it will be allowed that no such proposition was ever publicly made.

The inconsistency of his conduct had been spoken of. The gentleman from South Carolina said it was unaccountable to him how the author of such animated sentiments as were delivered by him, (Mr. G.,) in 1794, could now utter sentiments so groveling and pitiful as those heard from him. He wished the gentleman had selected the passages to which he alluded, as he himself was unconscious of any difference between those which he then delivered and his present sentiments. From the year 1794 to the present period, he had uniformly declared it to be his opinion "that war is justifiable only in case of self-defence."

If boldness of assertion and dogmatism of expression would have availed, the gentleman from South Carolina must have been victorious; but he would beg to turn the attention of the committee to facts. That gentleman had first introduced the book of Mr. Monroe, the sentiments of which, he said, certain gentlemen, by their approbation of it, had adopted as their own. Mr. G. said he had read the book, and had found a great deal to commend in it, and little to condemn. Human nature was liable to err. If the gentlemen himself were to review his own political history, he doubted whether it would be found to be always consistent. There might have been errors in Mr. Monroe's Ministry, but he believed they would be found to be as few as ever attended a negotiation which was encompassed with so many difficulties.

What, he asked, was the letter which the gentleman read from his book? It was a letter dated December 5, 1794. This was not a letter from Mr. Monroe to his associates, but to the Secretary of State; and, if any conspiracy was intended, General Washington and his Secretaries must have been the conspirators. He saw nothing more in this letter than a suggestion of what might be done if the Government thought proper. Mr. G. stated the situation of things at that time. In the Autumn of 1794 the President laid before Congress a communication stating that nothing further could be done between this country and Great Britain by way of negotiation, and what remained to be done was left to Congress. There never was so threatening a state of affairs between Great Britain and this country, since the Revolution, as at that period. At the time, therefore, when Mr. Monroe wrote the letter in question, he could not possibly know the state of affairs here, or whether they would come to an amicable settlement, and it was right in him, and it would have been criminal not to have done it, to state what it was likely might be done by France in our favor in case of extremities. He would only add one further remark, as he should have occasion to defend himself more than Mr. Monroe, which was, that he was at least as honorable a character as any of his calumniators; that while he was in France he effected much good, and that since he came away we had experienced much injury. If gentlemen would examine the state of things when he first went to France, what our situation was when he came away, and what it is now, he thought this would appear evident.

The gentleman from South Carolina, doubtless,

after examining all the remarks he could find of his, had brought forward a debate which took place in 1794. To follow the gentleman would be a disagreeable task; but as it would serve to elucidate a truth which it was necessary to unfold, he should undertake it, and show that, instead of these remarks being in favor of war, they were founded in the most zealous wish for peace. Mr. G. proceeded to read his remarks on Mr. Dayton's motion for a sequestration of British debts, which, as the mover would recollect, he said, was a mere arrestation of British debts, which was proposed as a preventive of war, by holding in our hands what was within our power, as a pledge for the good behaviour of that country, in order to preserve peace. Mr. G. stated the situation of things to be different from that which Mr. Harper had represented it to be, as the Legislature had no knowledge of any negotiation being set on foot with Great Britain at that time. This debate took place on the 28th of March, when they had been informed by the President that nothing further could be done by him, and the negotiation was not heard from until the 19th of April following. A part of the system proposed was an embargo, and another a suspension of intercourse with Great Britain. This bill passed this House, but was negatived in the Senate, by the casting vote of the Vice President, who is now the President of the United States; and if this bill had been carried into a law, the other regulation for arresting the British debts would evidently have been a proper measure.

Mr. G. continued to read a number of extracts from the speeches to illustrate his position, which he interspersed with the following remarks, namely: that instead of being in favor of war, he had always wished that we might keep in peace and unconnected with any foreign Power. He hoped this was at present a pretty unanimous opinion, and that we should not look out for any aid from foreign Powers. He believed the people of the United States were not ready to go to war; if they were, he should consider them as fools; but he was convinced they would never go to war for the sake of a few individuals. No people could wish for a military despotism, and this must be the consequence of a war. He had been charged, he said, with a peculiar enmity against Great Britain; but even after it was known, in 1792, that the treaties of Pilnitz and Pavia were entered into for the starving of France, at a time when the enthusiasm for the cause of France was at its highest pitch in this country, he was willing, on account of a violation of our neutral rights by France, which took place in consequence of those treaties, (as he showed from the debates at that time,) to lay hold of such part of the debt due from this country to that, as should cover the injuries committed. Did this, he asked, look like partiality in favor of one nation more than another?

To confirm what he had said with respect to his continued opposition to war, Mr. G. had next recourse to a debate on the subject of providing a naval armament, against which, he said, he had always voted, as he looked upon the existence of a navy and the discharge of a public debt as incompatible things; for no nation that ever went into the establishment of a navy, ever did or ever will discharge their public debt; and therefore, though we might experience some evils for want of a navy, we should meet with none so great as the saddling of ourselves, and all posterity, with a debt proportioned to the number of our battleships. When he found the law for building the frigates would pass, he stated it as his consolation that the trees from which the frigates were to be built were still growing, and, as it would of course take much time to get them ready, it would give us a chance of preserving peace. His apprehension at that time was, that if we soon got the frigates to sea we should be involved in the war in favor of France.

Mr. G. next had recourse to the debate on the British Treaty; at which time, he said, the cry of war was resounding from one end of the Union to the other, though, in his opinion, there never was a period when there was less prospect of a war with Great Britain than at that time. After noticing several observations made on that occasion, Mr. G. observed, that yesterday the gentleman from South Carolina said, "what security have we that these gentlemen will go to the extent that they say they are ready to go?" Who, said Mr. G., are "we?" Who is authorized to put that question to an independent citizen of the United States? Had not he, and those with whom he acted, as much at stake as that gentleman and his associates? In many respects he was unwilling to compare himself with that gentleman and his friends; but in this respect he was not afraid to do it. Have that gentleman and his associates a greater claim to patriotism than others? If they have let them show it. Or have they greater domestic inducements to value their happiness in the country? He believed not. He could say for himself that he had never adopted a short way of getting wealth, nor had anything to do with notes and banks; he owed no man anything which he could not pay on demand; he had been placed in a moderate sphere of life, and did not desire wealth. Whence, said he, arises the clamor for hostile measures—for resistance? Not from our independent yeomanry, nor from men who are the most deeply interested in the welfare of our country, or surrounded with domestic comforts, but from men of a different description—from speculators, and men who have few attachments to it.

Mr. G. did not believe that we stood upon such unequivocal ground with respect to France as we formerly stood upon with respect to Great Britain. This had long been his opinion; and though we have heavy complaints to make against France, they were not without just complaints against us, arising principally from the operation of the British Treaty, that fatal instrument to the United States.

Mr. G. read some of the articles of the treaty, and his former remarks thereon, and denied that there was any well-founded apprehension of war

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at the time it was under discussion. He also noticed the assertion which had frequently been made, of the French Directory receiving lessons from this country, which, he said, was too absurd to be believed.

Though he thought France had just ground of complaint against this country, he did not mean to justify her conduct towards us. He thought she ought to have received our Ministers; and, if they had not agreed, to have taken such measures as they thought proper. But this is supposing our Ministers clothed with sufficient powers; if they were not, there would be some ground of justification for their conduct. The President of the United States is in the possession of information which would satisfy the Congress and the people in this respect, but he has thought proper to withhold it, and therefore he alone is responsible. There was one circumstance, he said, very unaccountable in this business. The President informed the House that he had received certain papers, and says, "I have considered these papers; I have deliberated upon them; I have not sent them to you, but require you to act upon them; I call upon you to take energetic measures, and request you will provide sufficient revenue." The House has been thus obliged to take up the subject in the dark. Is this, said he, a desirable state for the Legislature to be placed in? Is it not rather a degraded state? He thought it was; and when party rags shall subside, and it shall be seen that the Executive is pursuing hostile measures, and keeping back all information from Congress, this conduct would be deemed extraordinary. He was far from saying the Executive had not done what was proper. He could not say so, because he had seen no evidence upon which to form a judgment; but it left a strong impression on his mind that something was not correct, which was the reason the expected papers were not sent.

The first Speech of the present President, he said, contained some sentiments on the subject of the balance of power, which he was far from approving. He states "that whether the United States will, or not, the Powers of Europe will consider them as constituting a part of the balance of power. Mr. G. did not know whether this was a fact or not, but if it were, he thought we ought not to have submitted to have been so considered without opposition. But the President takes it for granted, and proceeds to act upon it. Knowing the political sentiments of the President, he thought this a dangerous doctrine in his hands. Mr. G. said he never believed there was anything like a real balance of power in Europe; it was a mere imaginary thing, and he thought there could not be a more ridiculous figure drawn than that of a President of the United States attempting to adjust the balance of power in Europe.

Mr. G. quoted a paragraph from the last Speech of the President, speaking of the disadjusted state of Europe, which he thought very improperly applied to France, at a time he did not know whether our Ministers were received or not.

He also again referred to what the President says in his late Message with respect to the change of circumstances, which he still thinks he meant to apply to a change from neutrality on the country to something like war. And in these circumstances, said he, are the people of the United States to be led on from step to step, until they are irrecoverably involved in war? And are the people to be told that this is a trifling question? When all the country is in commotion, and when the people are preparing their petitions for peace, (which he thought very proper,) he was not willing to proceed until the present question was decided.

He would suggest another idea. He had heard a variety of observations from different quarters, that, at a period not very far distant from the present, a more intimate connexion between this country and Great Britain than at present exists, is likely to take place. And yet gentlemen are perpetually crying, What! give up your independence! Do you prefer peace to independence? He would answer, No; for independence he should be ready at all times to make war. But are we, said he, called upon to fight for speculative independence, and, at the same time, willing to commit our real independence to the mercy of another nation? Where, he asked, is the difference between depending upon the French or British nation? Except, indeed, (as he believed was the speculative opinions of some gentlemen,) there was an intention of assimilating the British and American Governments.

Gentlemen talked of newspapers. He would say a word on that subject. There are two papers, said he, printed in this city, which not only breathe defensive, but offensive war of the worst kind. One of these papers, he believed, was particularly countenanced by the Government; the other was printed by an infamous scoundrel, a British subject—a paper which he was sorry to find too much countenanced. This paper not only breathes war, but exterminating war. And this paper, issued from a British press, spreads its baneful sentiments throughout the country. He proclaimed this fact; and he should think himself a traitor to his country, not to proclaim it.

Mr. G. next noticed the impeachment of W. Blount, late a Senator of the United States. It is known, said he, that the British Minister here, actually gave money to an American citizen, paid his passage, and sent him to Europe, to know whether his Court would concur in the plan of an invasion of the Spanish territory, for being engaged in which Mr. Blount has been impeached. Could any one deny the fact? They could not; it had been given in evidence before the committee. There might be many other facts connected with this, but he confined himself to what appeared in evidence. This person, who was sent to England, was the confidential agent of the British Minister here. [Mr. Harper said that was not true. Mr. Giles called for the reading of Mr. Davy's evidence on the subject of the impeachment, which was read accordingly; when it appeared that the expression there used was confidential person.] Mr. G. believed a confidential person was a confidential agent. He was about to remark that these circumstances had appeared to

him to indicate something more than was before the House at present. He could not help recollecting how different was the conduct of this Government towards the Minister of another country, when he had been guilty of misconduct. Was there not an instant demand to his Court to have him recalled? And the demand was proper and right, and he could not account for a contrary conduct in the other case which he had mentioned.

Mr. G. would say a few words as to the effect which the late French decree would be likely to produce upon this country. The committee had been told, by the gentleman from South Carolina, that it would effectually destroy our revenue. He believed he was mistaken in this. To France and to those nations who may be supposed to be under her influence, we last year exported to the amount of $36,000,000, and to Great Britain $8,000,000; two-thirds of which are re-exported to the countries above mentioned.

Against whom, then, are we to arm? Against those who receive $36,000,000, for the protection of the $8,000,000, two-thirds of which are re-exported. How, he asked, would this operate? Would the decree stop the importation of British goods? No, it might lessen them, but would not stop them, as the British would become, in some measure, their own carriers; and, as their vessels paid a higher duty in our ports than our own, it is probable our revenue would not be greatly lessened. It was possible, however, that there might be some abuse of the decree in carrying it into execution.

He was as much opposed to the decree of the Executive Directory as any man, but not so much on account of any loss we shall sustain from it, as from its being an attack upon our neutral rights, which he preferred to money. The British Treaty had authorized two acts that took place in January last, which will transfer the carrying trade from American to British vessels; but those acts will not affect our vessels going to France, Spain, or Holland. He supposed, therefore, that our commerce would not be very materially injured by the French Decree. He did not know but it would even be upon a better footing than at present, as there would be more security for it. At any rate, no rash measures ought to be taken, until we see how the decree is to be executed.

No one could say what farther measures were contemplated by the French Government; but the resolution on the table only went to say, that at this day we are not disposed to resort to war. He wished to make a distinction. It was said by gentlemen that those who are not willing to resort to war are unwilling to prepare for it; he was and always had been willing to put the country in a state of preparation, according to the extent of our means.

The gentleman from South Carolina had yesterday spoken of the great importance of the British fleet. He did not mean now to make any comparison between the fleets of Great Britain and France. With respect to the British fleet, he looked upon it as ruinous to the country, and predicted, that if the present fleet survives two years, the nation sinks. It is impossible it should proceed much farther. Gentlemen may say this has long been foretold; but there never was before a time when this was so evident. What, said he, are the British now supported by? By the body of merchants. The bank is gone, and probably will never recover itself. It is of little consequence whether France invades England or not, England must fall. On the other hand, the population of France is thirty millions; she has the finest country in Europe; her military skill is great, and she is possessed of most of the fortifications of Europe. And are we to engage in the carnage of the human species, at this late day, against that country? He hoped not. Besides, suppose we were to join England in the war, and be successful, would she not have an interest in the destruction of our commerce at the termination of the war? She certainly would; and though she may now see a current in her favor in the United States, and propose measures which may appear flattering, yet her disposition to favor this country would not outlive her interest.

Perhaps gentlemen may say, what will you do if France carries her injuries farther? "I would, said he, draw ourselves within ourselves. I would sooner (though I do not pledge myself to do it) indemnify our commercial citizens than go to war. I am now, and always have been, for peace."

He trusted the gentleman from South Carolina was, by this time, pretty well satisfied as to the inaccuracy of his statement. Before gentlemen make charges of inconsistency against others, they should be sure that they themselves stand firm in that respect. That gentleman ought to have looked back upon his own conduct in 1792 and 1793. He had been informed that that gentleman was at that time a member of an affiliated society of Jacobins. [Mr. Harper said it was not true.] He believed, however, all the gentlemen who knew him at that time would do him the credit to say, that he was one of the most eloquent declaimers of that day in favor of the rights of man. But his inconsistency had even appeared within these two days. When the present proposition was first laid on the table, he rejoiced that there was a prospect of all uniting in manifesting a disposition for peace; but the next day he used arguments which went to the destruction of the resolution.

The gentleman from Massachusetts (Gen. Sheppard) had made a remark which he must notice; it was, that he assumed to dictate to others what was proper to be done. Of this he was not justly chargeable. That gentleman told the committee he was a warrior; he venerated him as such—he was a warrior in a glorious cause; but whilst he venerated him as a soldier, he had to regret the political prejudices under which he labored, which could suffer him to attribute a motive of that kind to him. The gentleman from New York (Mr. Brooks) had also told the committee he had also been in service in the Revolution. This he did not know before he heard it from the gentleman himself. But he had since been told he was engaged in the honorable and humane employment of clothier to the army. [Mr. Brooks said, he had the honor of taking up arms in defence of his country, which he carried until he was taken prisoner. He was a prisoner eighteen months, and when he was set at liberty he found his vacancy was not preserved for him. He then served his country in a different line, and he believed in a manner which entitled him to at least as much merit as he had assumed. He believed that providing the army with clothing was an essential part of the service; but, (said he, with great warmth,) if the gentleman doubts my being a soldier, I am here to answer him. [A loud cry of order, and Mr. B. sat down.]

Mr. G. said, he had received this information from one of the gentleman's friends. He made the inquiry, because he did not know what services he had performed; and he assured him the information which he had received had tended to raise, rather than sink him in his estimation; but he was not alarmed at being told he was a soldier,

It had been said of the resolution before the committee, that by stating we are not ready to resort to war against the French Republic, that it might be implied we are ready to go to war with some other nation. That this idea might be done away, if gentlemen will permit the words "against the French Republic" to remain. If the mover would give his consent, he should have no objection to add the words, "or any other nation."

Mr. Harper hoped, as he had been particularly alluded to by the gentleman who had just sat down, he should not be considered as trespassing on the patience of the committee in an unreasonable manner, if he made a few remarks in reply, though he did not mean to do it generally, as he perceived others had undertaken to do that, whom he was conscious were better able to do it than himself. He was called up merely by the gentleman's personal observations.

In the first place, he was charged with great indecency in bringing forward and commenting upon the gentleman's own speech. He left it to the committee to determine with what propriety this complaint came from a person who has omitted no opportunity of attributing the worst of motives, not only to gentlemen in that House, but to others out of it; neither age, character, nor absence, have preserved gentlemen from his censure; from a person who has always indulged himself in the most violent philippics against the Executive of the United States, and all who concurred in his measures; from a person who, when gentlemen declare they are for peace, says he does not believe them; from a person who has continually charged all those with inconsistency who differed in opinion from him, not by examining their conduct, but by making insinuations against them as to their debts, or to the way in which they may have acquired money, or by following them to their youth, before they became members of this House? He thought the gentleman ought to attend to the old, but just adage, "He who lives in a glass house ought not to be the first to throw stones." If there could be a man more regardless than that gentleman of all the rules of decorum in debate, he had never heard him.

As to the charge of inconsistency in his conduct, it had often been made in private, and as often contradicted; but as it is now brought into public view, he would say a few words on that point.

It was said, that in 1791 and 1792 he was a member of a Jacobin society, and a warm declaimer in favor of the rights of man. What was said respecting his being a member of a Jacobin society, is one of those falsehoods of party, which, though known to be unfounded, is still reported.

The fact, Mr. H. said, was this, which he never concealed: In the year 1791, there were instituted in Charleston, a variety of clubs, (there were several before that time;) of many of these, being a young practitioner of the law, and desirous of extending his acquaintance, and procuring business, he was a member. Among these was a society called a Patriotic Society. It was composed of French and American citizens; and he and seven or eight other young practitioners became members, and attended one or two evenings; but, finding it composed of persons from whose society much improvement could not be expected, they never went afterwards; and so anti-jacobinic was their conduct considered, that they merited and received an expulsion from the society.

As to being a declaimer in favor of the rights of man in 1791 and 1792, he owned he partook of that enthusiasm which at that time raged in America, because he was deceived. He then believed the French had been unjustifiably attacked, but he now found that they were the first assailants. He then believed that the treaties of Pilnitz* and Pavia, of which they had heard so much, were realities; but he now found them contemptible forgeries. With respect to other parts of the French Revolution, he then believed that the principal actors in it were virtuous patriots, but he had since discovered that they were a set of worthless scoundrels and mad-headed enthusiasts, who, in endeavoring to reduce their fallacious schemes to practice, have introduced more calamities into the world than ages of good government will be able to cure.

Mr. H. said, he never was a declaimer in favor of what gentlemen meant by the rights of man. He held them and their author in merited contempt. The pretended factitious rights of man to which gentlemen referred, were the rights of a few noisy demagogues over the rights of the people. Though he always believed this, he did not know it so well, in 1791 and 1792, as he knew it in 1794, and since. And, therefore, he was not a declaimer in favor of what the gentlemen mean by the rights of man, but he was a warm admirer

* The speaker here alludes to the paper called "the second treaty of Pilnitz," which he declares to be a forgery. The first treaty of Pilnitz was a mere conditional agreement between the Emperor and the King of Prussia, that if either of them should be attacked by France, they would unite to repel the attack. This treaty they avowed; and when, on the acceptance of the new Constitution by the King of France, better prospects of a peaceable conduct on the part of that nation were entertained, they suspended this treaty by a formal declaration.

of the French Revolution, when he thought the object was the establishment of the true rights of man; but, since he discovered that this was neither the object nor would it be the effect, instead of viewing that Revolution as a blessing to the world, which he once thought it, he now viewed it as the greatest curse that ever afflicted mankind; as a phial of wrath from Heaven, the bitterest that ever was poured out upon the earth.

There was a certain species of the rights of man of which he had always been the defender, in favor of which his voice would always be heard. He had, in a well-known instance, advocated the rights of his fellow-citizens in the best manner he was able, and in a manner which had obtained for him their thanks and their remembrance. How he conducted that defence was well known to some of his colleagues in that House.

Mr. H. denied that he had been inconsistent with respect to the proposition before the committee. He then noticed what had fallen from Mr. Giles with respect to the decree of the French Directory not being so inimical to this country as it had been supposed to be. Mr. H. charged Mr. G. with being much mistaken in supposing that only the amount of eight millions of dollars was exported to Great Britain and her dominions, or that thirty-six millions of dollars were exported to France, and to countries connected with her. Out of the fifty-one millions exported from this country during last year, it appeared by the statement before them that eight millions five hundred thousand were sent to Great Britain, nine millions to the Hanse towns; to France and her dominions eleven millions. But, he asked, if the gentleman from Virginia knew the reason why this amount to France appeared so large? If not, he would tell him. All the produce shipped for the British West Indies in 1797, was almost constantly cleared out for French ports, in order to avoid the effects of the plundering decrees of the French West Indies, and this was the reason why six or seven millions appeared under this head, which ought to appear under another. But the gentlemen seemed to suppose that all which did not go to Great Britain went to France, and countries connected with her. At least twenty millions, out of fifty-one millions, went to countries over whom France had no power; and, when to these were added what was sent to Great Britain, and six or seven millions were deducted on the ground he had mentioned, the gentleman would find the balance was not very considerable.

Mr. H. said he should not notice what the gentleman had chose to say respecting the British Minister, except as to the improper manner in which he had called a confidential person a confidential agent of the Minister, and to say that he could not see any analogy between this case and that of the French Minister, who fitted out privateers and levied troops in our country without permission from the President of the United States.

The gentleman from Virginia had entered fully, not only into a justification of himself but of his friends. How far he has acquitted himself and them from the weighty charges which he had exhibited, he was not the proper person to judge; he left the public to determine. He must, however, beg leave to correct him in one of his facts. He informed the committee that the letter of Mr. Monroe, which had been quoted, was written in December, 1794, whereas it was dated Paris, September 10, 1795, long after that Minister had been officially informed by our Minister in London, that the British Treaty was concluded and signed; yet this letter recommends the taking of the posts, the invasion of Canada, and the cutting up of the British commerce by privateers. He did not say that this letter was a proof of conspiracy, but of a system of policy which was very contrary to a peace system.

But the gentleman says, he (Mr. G.) never proposed war against Great Britain. He knew it. The gentleman always spoke of peace, but pursued measures which led to war. He did not speak of war when he recommended sequestrations, confiscations, &c., because he loved peace. He did not talk of war; but, whilst he and his friends opposed measures of defence, they were in favor of every measure which led to war. While they were irritating a nation to war, they opposed the building of the frigates. He could not say what were the views of gentlemen in doing this, but he would say what appearance it had on his mind, when he was far removed from the seat of Government. He thought it seemed as if gentlemen believed it would be well to get to war, and then rely upon their favorite nation for support.

Mr. Brooks again complained of the insinuation which Mr. Giles had thrown out against him, which he said was not called for by any circumstances under consideration.

Mr. Giles assured him he mentioned the fact alluded to out of no disrespect to him. With respect to the date of Mr. Monroe's letter, he had been deceived by a leaf being folded down at the letter, the date of which he had mentioned. The gentleman had said that he had attributed improper motives to the President of the United States. This he denied. He had said, he took measures which he did not approve, and he hoped a difference of opinion from any man would not be imputed to him as a crime. With respect to the explanation which the gentleman had given of his own conduct, he was glad to hear it. It was to obtain this explanation that he mentioned the reports which he had heard. Mr. G. renewed the assertion, that he and his friends always had been willing to put the nation in a state of defence. As to the frigates, he gloried in his vote against them; but with respect to the use of them, the gentleman was mistaken. They were intended to be sent against the Algerines only.

Mr. S. Smith said a few words as to the statements which had been made with respect to the amount of our exports to different countries. That made by the gentleman from Virginia was correct, except that some deduction ought to be made from the 36 millions on account of the Hanse towns.

Mr. Nicholas made some remarks as to the

date of Mr. Monroe's letter. Though the date was as stated by the gentleman from South Carolina, he still maintained that Mr. Monroe could not have known whether or not the Senate had ratified the British Treaty. Mr. N. hoped the committee would rise, and that he should be permitted to show the consequences of a war with France at this time. He said yesterday he should have been willing to have overlooked the past, and to have taken the best mode of getting out of our present situation; but when gentlemen say that all has been done by this Government that could have been done, he should consider it as treason to his country not to show, that the present misunderstanding with the French Republic was founded in our own misconduct. Not that we were wrong in saying we will not bear the treatment of the French since; for though he thought we gave the first offence, yet he was not for bearing the chastisement of any country.

After a few words between Mr. Dayton and Mr. Nicholas, as to the object of the amendment, the committee rose, and the House adjourned.

Friday, March 30.

Mr. Otis presented a petition from the freeholders and others, of Roxbury, in the State of Massachusetts, stating, that they hear with concern, that liberty is intended to be given to merchants to arm their vessels for self-defence, knowing that masters of vessels consist of a great variety of character; that among them there are men of violent passions, and that the distance between putting arms into a man's hands and the commencement of hostility may be very short, they deprecate the idea of the peace and happiness of this country being placed on so uncertain a foundation as the pride, caprice, or passion of the master of a merchant vessel. They pray, therefore, that vessels of this description may not be permitted to arm. Referred to the Committee of the Whole on the state of the Union.

Mr. Harper, from the Committee of Ways and Means, reported a bill making appropriations for the Military Establishment for the year 1798, which was committed for Monday.

The amendments from the Senate to the bill for the relief of refugees from Canada and Nova Scotia, as agreed to by the committee of conference, were agreed to by the House.

RELATIONS WITH FRANCE.

Mr. Allen observed, that when the President of the United States sent his first Message to the House, announcing the receipt of despatches from our Commissioners in Paris, he stated that it would take some time to decipher the despatches which he had received. Some days afterwards, on the 19th instant, he sent another Message informing the House, "that it was incumbent on him to declare that he saw no ground of expectation that the object of their mission could be accomplished on terms compatible with the safety, honor, or the essential interests of the nation."

It had been observed, in the course of the debate in the Committee of the Whole on the state of the Union, and not in the most candid and proper manner, that the papers received from our Commissioners ought to have been laid before the House, and the President had been charged with withholding them. He supposed gentlemen would have been satisfied, and he was, with the information which the President had already communicated, that our Commissioners are not received, and that France refuses to hear us. But, though he was himself satisfied with the information he had at present, he believed there were many gentlemen in the House who wished for more, because there is a paper printed in this city which is continually insinuating that there is something in these despatches which, if they were made known, would show that the conduct of the Executive has been improper; because he found that paper often speaking the language of gentlemen in this House, and which spoke it, he believed, on this occasion; and because, if this is not true, he wished the people to be undeceived; or if true, that he and those who thought with him, that no such blame existed, might be convinced of their error; he proposed the following resolution, to which he hoped there would be no objection:

Resolved, That the President of the United States be requested to communicate to this House the despatches from the Envoys Extraordinary of the United States to the French Republic, mentioned in his Message of the 19th instant, *or such parts thereof as considerations of public safety and interest, in his opinion, may permit.*

Mr. S. Smith said, he should have no objection to the resolution if the latter part of it was struck out. If the President thought it necessary that any part of the correspondence ought to be kept secret, he would, as is usual in such cases, inform the House that this was the case, and the galleries would accordingly be cleared. The communication would then probably be referred to a select committee, and such parts of it published as might appear proper.

Mr. Allen observed, that there might be parts of this correspondence which it would not be proper to communicate to this House, even confidentially. If this was not the case, the President could still communicate such part of the correspondence in confidence as he may think proper. He wished to leave the President to act according to his discretion. Without some portion of this discretion being allowed him the Government could not proceed.

Mr. Giles said, no part of the correspondence ought to be kept from Congress. He was not himself satisfied as to the sincerity of the proceedings of the Executive of the United States towards France; he wished, therefore, not only to have the correspondence of our Ministers, but the instructions which were given to them. Mr. G. defended what he had yesterday said about the President and these papers, and hoped if the House called for the papers at all, they would call for all the papers, and the instructions upon which our Ministers acted.

Mr. Livingston moved to amend the resolution by striking out all the words after the 19th instant, and insert after the words "this House" "the instructions to and." This was not a time, Mr. L. said, to stand upon trifling punctilios, which might be proper upon ordinary occasions. They were now called upon to say whether the country should be preserved in peace or go to war; yet the correspondence, which ought to convince the House of the propriety of acting in this or that way, is withheld. How could they say to their constituents, without this information, all has been done that could be done to preserve the country in peace, but war was inevitable? And if war is rushed into headlong, without due consideration, and consequently without ascertaining whether it is just or not, can it be expected that the wishes and aids of the people will be heartily engaged in such a war? They certainly would not.

It would be no answer to say that our negotiation with a foreign Power would by this means be exposed. The communication might be made with closed doors, and no one could suppose anything would be exposed by the members of the Legislature which the good of the country requires to be kept secret. But gentlemen wish this House to repose the strictest confidence in one branch of the Government, at the same time that they say no confidence can be placed in the integrity of this House. [Mr. Allen exclaimed, who said it?] Mr. L. replied, that this was a fair inference from what had been said.

The latter part of the resolution proposed to transfer a right to the President which it ought itself to exercise, as to judging of what it was proper to publish in consideration of the public safety and interest. If this power was given to the President, he might withhold such parts of the papers as might prevent a correct judgment being formed upon them. He was not himself disposed to cede to the President the right which he was sent there to exercise for his constituents, of judging of so important a question as a question of peace or war. He could not basely surrender this right. If the papers were called for at all, he hoped the whole would be called for, in order that the House might form that sound and temperate judgment for which the present crisis so loudly calls, and for which the people of the United States so anxiously look. Indeed, to pass the resolution unamended, would, in his opinion, be a shameful dereliction of their rights.

Mr. Bayard thought the propriety of this call upon the President was extremely doubtful, and as it regarded the instructions given to our Ministers, wholly improper. With respect to the communication of the despatches, it was wholly a matter of Executive discretion to judge whether it would be proper to communicate them or not. He was one of those who had so much confidence in the Executive as to trust to his candor, understanding, and integrity, to determine upon the propriety of what he should send to or withhold from this House. At a time when it is not known that our negotiation with France is closed, it would be extremely imprudent to have the instructions of our Ministers laid before this House; as what was sent here, notwithstanding any vote of secrecy, would not long be kept secret. It would soon be in Europe, and might do us essential injury, by disclosing our ultimatum to France, and by showing it also to the world. It was in vain, Mr. B. said, to suppose that one hundred men could keep a secret for any length of time, however important it might be. To elucidate that assertion, he referred to the divulging the secret of the British Treaty by a Senator.

But the gentleman from Virginia (Mr. Giles) has no confidence in the Government of this country with respect to its negotiation with France; and in order to try the sincerity of the Executive, he wishes for the papers. Does the gentleman by this mean to give the lie to the Executive? Because in his Message he has told the House that he has given power to our Ministers to settle our disputes with the French Republic, and to "make all reasonable concessions." What more does the gentleman wish? Does he wish unreasonable concessions to be made? Surely he does not. Did anything appear in the conduct of the French Directory to show that our Ministers were not possessed of ample powers? No; the Directory never knew anything about their powers, at least so far as any official communications had been received on the subject. There could not, therefore, be any ground upon which the gentleman could rest his suspicions. He hoped, therefore, the amendment would be negatived.

Two or three gentlemen were on the floor together.

The Speaker said, the amendment to insert "the instructions to and," would come first under consideration.

Mr. Harper said, he did not mean at this time to enter into the merits of the present question. It was important, and presented itself in a new light to the House. The original motion he was ready to have voted for; he did not know whether he might not vote for this. But he wished time to consider of it. He therefore moved the further consideration of this question be postponed till Monday.

Mr. Allen had no objection to the postponement, except the mover of the amendment would permit it to be amended by a modification of this sort: "Such parts of those communications as were communicated to the French Government."

The question for postponement was put and carried—47 to 41.

The order of the day was then called for.

Mr. Allen hoped, since the consideration of his proposition had been postponed, the House would not resolve itself into a Committee of the Whole on the state of the Union until this information was received. The debate of yesterday, he thought, would do no good, as it served only to alarm the public mind; and he expected if the House went into a Committee to-day, the time would be spent as unprofitably.

Mr. Brooks seconded the motion, as the information called for would certainly throw light upon the subject; and though he had himself sufficient

information to enable him to vote upon the question, many gentlemen, in the course of debate, had made a great hue and cry after these papers, he hoped, therefore, they would be called for.

Mr. Nicholas always thought it proper to ask for further information on this subject; but as he had been told that when it was received it would be final as to our affairs with France, and tantamount to war, he thought it better to decide the question whether we are ready to go to war or not first. He wished this, also, to prevent the consequences which are now taking place from a general impression in the country, from the late Message of the President, that we must be involved in war. In consequence of this persuasion, he had received information that produce has fallen one-fourth in price. He wished, therefore, to come to a vote as soon as possible that should decide the question of peace or war. It was upon this ground that he did not call for the papers, and upon this ground he hoped they should proceed with the business. Delay may give time for measures to be taken which shall stab the peace of the country—which may go beyond the powers of the Legislature to arrest their progress—if the business of the Union was to be suspended until the call was made, and, if it be favorably answered, until the communications are printed. He hoped, therefore, this delay would not take place.

Mr. Baldwin said, if gentlemen could reconcile it to their own minds to let this important business lie over from day to day, it was more than he could do. He was surprised to find at first some reluctance to go into a Committee of the Whole on the state of the Union; and he was now surprised that there was any reluctance to proceed with the business. He would not indulge suspicions as to motives; but he begged them to believe that he could not help expressing his anxiety at the prospect of of any delay in coming to a decision on the question which had already undergone some discussion. He had never seen the affairs of this country on such a dangerous precipice as at present, and not to act, but let things alone, and the country will soon be in war, and then we must defend ourselves as well as we can. At least, this was his view of the matter. But, if the business be pursued at present, though we find France has behaved towards us so as to give us a just ground for war, yet, if we wish to avoid war, this is the time to prevent it. The subject is at present before the House in the way which the President thought proper to place it; and if a call is made for papers, it is well known that he will not be obliged to send them. The information which they had he himself supposes correct, as the President had given it upon his responsibility; he was, therefore, ready to vote upon the question before the Committee of the Whole. He believed there was a disposition in the country for peace, and against the arming of merchant vessels. He believed that by taking pointed and decisive measures, they had on a former occasion kept the country out of war; he hoped they would be able to do it on the present occasion. He should not object to calling for the papers, but wished not to protract the business.

Mr. Gordon was surprised to hear gentlemen say the House was called upon to act upon the opinion of the President; there is certainly something more before the House. He could not account for the opposition made to a postponement except it was, that when the information was obtained gentlemen were apprehensive they could not hold the language they now hold, as almost every gentleman who had spoken upon the subject had complained that sufficient information was not before them. If this information was unnecessary, then the resolution ought to have been negatived at once; but, having been postponed, he thought it would be improper to proceed with the question before the Committee of the Whole until it was received. He saw no reason, therefore, for going into a Committee of the Whole on the state of the Union, except to give the gentleman from Virginia (Mr. Nicholas) an opportunity of doing what he has proposed to do, viz: to show to the world that our Government has acted improperly towards France; but such was his opinion of that gentleman's perseverance, that if he did not get an opportunity of doing this to-day, he would take another opportunity of doing it, and therefore it was not necessary to go into a committee for the purpose of receiving his speech; and he could not see what else it could be desired, except it was that gentlemen wished still to hold out to the people the idea that there is a considerable part of this House, with the President as their head, for war, though the charge was altogether denied.

But the gentleman from Virginia says, that the late Message of the President has so agitated the public mind that, believing war is approaching, produce has fallen one-fourth in price. If the fact was as stated, he did not believe it had been the Message of the President which had produced it, but the decree of the French Directory, as the Message contained nothing like war. He thought the insinuation injurious to the President, and to those who thought with him, and who were opposed to war, but who, nevertheless, will not vote for the resolution before the Committee of the Whole, because they do not feel themselves called upon to decide the question of peace or war at present.

Mr. Dana was against the postponement, not because he thought the Message of the President had caused the fall of produce—because the Message would certainly have had no such effect, had it not been accompanied by a decree of the French Directory, which went to let loose all the French corsairs upon all neutral vessels, and to exclude them from French ports. This, he believed it was, which had produced the effect spoken of. But he did not think, if the resolution before the Committee of the Whole was adopted, that it would raise the price of produce. Indeed, he did not think it would produce any effect. He considered it as an unmeaning thing; and a person voting for it, might with propriety go into every

measure proposed for the defence of the country. It was one of those vague propositions upon which gentlemen may say what they please, and he looked upon it as introduced with that view. And since they must submit to hear the speeches of gentlemen upon the occasion, he wished the business to be going on. The gentleman from Virginia told the committee yesterday that he would give them a speech to-day, wherein he would show that this country had been to blame in respect to France, in which, he doubted not, they should be entertained with many severe philippics against the Executive; all these speeches, calculated to raise a clamor in the country, must be submitted to. He wished, therefore, to go from day to day into a Committee of the Whole, until gentlemen had exhausted themselves, and then the business of the nation might be proceeded with.

Mr. BROOKS said, for the same reason which his friend from Connecticut gave for going into the order of the day, he wished to avoid it; because he hoped, if till Monday was given for the gentleman to consider upon the matter, he would give up his speech.

Mr. GALLATIN.—In whatever he had said in the Committee of the Whole on the state of the Union, he had made no allusion to the papers a call for which had been proposed. If he understood the objections urged to going into a Committee of the Whole on the state of the Union, it was, that the House ought to wait until these papers were before them. So far as related to himself, this was unnecessary, for he had not complained of any want on this head. Not because he did not desire to have the information, if it could be obtained, but because he thought it best, under the present situation of the country, first to decide whether we will remain in peace or go to war. For if it had first been determined to call for further information, how did he know that it would be given, or, if given, whether it would not be in a mutilated state, rather than which he would choose to act without it upon the Message of the President alone; and, according to the opinion of the gentleman from Delaware, (Mr. BAYARD,) the House ought not to ask for any papers whatever from the Executive. He thought the information contained in the Message of the President was sufficient to decide the question at present before the Committee of the Whole, as he there states that he has no ground to hope for a happy issue to our mission. This is not matter of opinion; but, coming from the President to the Legislature, is matter of fact; and when he says so, it must be understood that he is not willing that any further negotiation should take place; and that all the reasonable concessions having been made that can be made, there is an end of the negotiation. It was true, when these concessions were made known, it was possible that he might differ in opinion from the President as to their reasonableness; but this House has no control over the President in this respect. Therefore, the information which he has given to the House is sufficient for them; and they ought now to say whether they will go to war or remain in peace.

The gentleman from Connecticut (Mr. DANA) has supposed that the resolution before the Committee of the Whole is vague and inexplicit—merely a thing for declamation and speeches, and that it ought, therefore, to be disposed of as soon as possible. He was himself also in favor of getting through with it as soon as possible; but it was extraordinary that that gentleman should complain of its being vague, and yet endeavor to make it more so, by wishing to see it amended as proposed. As to the speeches which had been made upon this occasion, they were not properly produced by the motion before the committee, and could not be charged upon the supporters of it. The only argments offered in favor of it, (which had been in some degree restrained by the amendment,) were to show that it is not expedient to go to war at this time.

Mr. G. could not see how the information proposed to be called for, could influence the vote on the question before the committee. If any gentleman could show this, he would not object to the postponement. The mover acknowledged he did not want the information for himself; it was only to remove any clamor which might be used in debate, or which might appear in the papers.

It was true, Mr. G. said, however obnoxious the fact might be to some gentlemen, that the Message of the President had produced the effect which had been mentioned; it had upon his mind the effect of a declaration of war. He did not say that it really was so, but the effect produced upon him, was a belief that, if something was not done by the Legislature to prevent it, the consequence would be war. This conviction he felt from the moment the Message was read. He understood the same effect was produced on others. And though he was not certain about the fact of the fall which had been said to have taken place in the price of produce, yet, if it were so, it was not produced by the decree of the Directory, for that accompanied the first Message of the President, and it was the last which had the effect spoken of.

The effect produced by the decree of the Directory, said Mr. G., we know. It can be ascertained by the variation it has produced in the price of insurance. He understood the difference which had been made by that decree in the insurance of vessels from London to this country was five per cent.

Mr. G. thought it important that an early decision should be given to the question before the committee, that the people of the United States might know what they had to expect, and in order to remove the idea which everywhere prevails, that we shall be in a war in a very short time. It is upon this idea, said he, that the insurance offices refuse to insure vessels in French ports; not on account of the decree of the Directory, but from the Message of the President; and it was with a view of removing this impression, he believed, that the resolution was laid upon the table.

Mr. LIVINGSTON said there appeared to be two objections to going into a Committee of the Whole on the state of the Union. Some think

the proposition before it is of too trifling a nature to consume time; others, that it is of so great magnitude, that they wish to gain further information, and to have time to consider it. The first class of gentlemen, he thought, treated a subject, confessedly of great importance, with too much levity. Gentlemen say you do us wrong when you place the question before the committee in the light of a peace or war question. We have no idea of going to war. This was the language of the gentleman from New Hampshire, (Mr. GORDON,) particularly. Had that gentleman forgotten what had been said by his eloquent friend from Massachusetts, (Mr. SEWALL,) who sits beside him? That gentleman had declared, not that war might be expected, but that war exists! Was it unreasonable, after such a declaration, to come to a resolution which says that it is not expedient to resort to war at this time? He thought the welfare of the country required it. But the gentleman from Massachusetts did not stop here. Though, he said, a defensive war was all he wished for, under our present circumstances, yet he invoked the Supreme Being, and wished we were in a situation to carry on an offensive war. Yes, exclaimed Mr. L., the God of Peace was invoked in favor of war; the God of Mercy was called upon to favor a war of vengeance; and yet gentlemen wished to throw an odium upon those who come forward with a proposition for peace!

Mr. L. said he wished as much as any member for further information, before the House proceeded in active measures; but he was far from being certain that complete information could be obtained. He believed great opposition would be made to the call; in the next place, if called for, he believed the information would not be sent: he supposed this from a former refusal made on the ground of Executive authority. He deprecated the decision; but he believed, as precedent would authorize it, it would be made.

Mr. RUTLEDGE thought gentlemen went much too far on this occasion, in anticipating not only what would be the proceedings of this House, but also of the President. He rose immediately after the gentleman from Georgia, (Mr. BALDWIN.) That gentleman's argument went against a postponement generally, but not against a postponement till Monday. That gentleman was surprised that gentlemen should wish for a postponement; he was one of those who excited his surprise; he was in favor of the postponement of this question because the last had been postponed. He thought the motion for a call of papers ought to have been passed; but not having passed it, he wished it to pass before the House went into committee on the proposition which had undergone some discussion, especially as he did not believe the delay would postpone the final decision upon it. If gentlemen would agree to pass over the first proposition, and go on to the next, which relates to measures for the defence of the country, he should be as ready as them to go into a Committee of the Whole on the state of the Union. He doubted not the gentleman from Virginia was anxious to deliver the speech which he had promised to the committee. [Mr. NICHOLAS informed the gentleman he would hear no speech from him to-day.] Mr. R. hoped then he would not object to the postponement. The gentleman from Pennsylvania said he wanted no information; nor did he himself want it. He had received a letter from France, which convinced him of the perilous situation in which we stood with that country. He had seen the French decree, and he had seen a Gazette which had informed him that the Message of the Directory was passed unanimously by the Council of Five Hundred; but he supposed some other gentlemen had not sufficient information, or else it would not have been called for; and surely gentlemen would not call such to vote upon what they deemed to be a question of war or peace, without it.

Gentlemen had said that the Message of the President had produced a belief that we shall be involved in war, and that produce had fallen accordingly. He did not believe the fall was owing to the Message, but that it was the effect of the decree; and asked whether the President would not have been criminal, if he had suffered the despatches to have slept a night upon his table? He certainly would; the communication was indispensable.

Mr. SEWALL was sorry to differ in opinion from his friend from South Carolina. He was himself against the postponement. This difference, he supposed, arose from that gentleman's yielding to the assertion of gentlemen, that the question before the Committee of the Whole is a question of war or peace, which he himself did not. He never considered the question in that light. It comes in as a bar to any measures being taken for the defence of our country, or from getting into business which really concerns the state of the Union. What were the motives of gentlemen for bringing it thus in, he could not tell. The readiness of gentlemen to come to a decision upon the question without further information, proves that they do not consider it as a question of war and peace. It cannot be doubted, that if the Legislature was called upon to declare war against any nation, they would have a right to expect that every fact relative to that nation should be laid before them.

The gentleman from New York, Mr. S. said, had thought fit to allude to him as appealing to the God of Mercy to support us in a vindictive war. Punishment, Mr. S. said, was sometimes the truest mercy; and if the United States could inflict punishment on France, it might be mercy to that country. And could any American citizen consider the sufferings which the French Republic had brought upon our merchants, our seamen, and upon our country generally, without calling upon the God of Mercy to enable us to inflict punishment upon that country? When gentlemen say (and none seem to deny it) that France has given this country just cause of war, will they not say France has given us just cause of vengeance? And is there, said he, a patriot in this House, who acknowledges France has given us just cause of war, and who does not wish to inflict that war upon that country in the severest and fullest manner? It was impossible to prevent the

wish. He could not himself forbear making use of the expression with which the gentleman found fault; he could not refrain from calling upon God to enable us to avenge our wrongs.

Gentlemen are perfectly ready, without knowing how our Envoys have been treated, to declare in favor of peace. Mr. S. noticed what had been said about the Message of the President having caused the fall in the price of produce, and called upon gentlemen to point out that part of it which was calculated to produce that effect. This fall of produce, he said, was only one of the consequences arising from the wrongs which France has inflicted on this country. If she had received our Envoys, no such thing would have happened; and could the President be blamed, because he communicated the enormities of the French Republic to Congress? Certainly he ought not. The whole mischief ought to be ascribed to the offenders.

Mr. J. Williams was against the postponement. He had always been of opinion that the discussion of the proposition which had engaged the House for some days would have mischievous effects on the country. He wished, instead of discussing this question, they had proceeded to measures which went to placing the country in a state of defence. The reduction of the price of produce he ascribed more to the apprehension of an embargo than anything else, and, the Senate having decided against that measure, he supposed the alarm would cease. He thought it had been the object of gentlemen to alarm the country, and to induce the people to believe that the Executive and a part of this House are in favor of war, and that they only are for peace.

Mr. T. Claiborne said, if the debate continued much longer, the postponement would take place, not from the force of gentlemen's arguments, but from the length of them, as it would soon be time to adjourn.

Mr. R. Williams moved to adjourn; which was carried.

And the House adjourned till Monday.

Monday, April 2.

Mr. Varnum presented a petition from the inhabitants of Milton, in Massachusetts, stating their alarm at the idea of the peace of the United States being placed in the hands of men who may not be very friendly disposed towards the interests of this country, viz: the masters of merchant vessels, many of whom were formerly British subjects, and who, though they have been naturalized in this country, still retain all their English prejudices against the French, and may exercise them in a manner which may lead us to war, the declaration of which they wish to remain in the power of Congress. They also regret the misunderstanding which at present subsists between this country and France, and trust that every means will be taken to adjust it, without having recourse to war, which must wholly destroy our commerce, and throw the weight of supporting such a state upon the farmers and landed interests. Referred to the Committee of the Whole on the state of the Union.

RELATIONS WITH FRANCE.

Mr. Allen called up for decision the resolution for certain papers from the President of the United States, (the consideration of which was postponed on Friday until this day,) which having been read—Mr. A. said, he would agree to the amendments proposed, provided the mover would allow the same exception to be used that had been proposed on a former occasion, viz: "excepting such parts of said papers as any existing negotiation may render improper to be disclosed."

Mr. Nicholas did not think it would be right, in the present situation of things—when we are told by the President that the negotiation with the French Republic is at an end, and that there is no chance of an accommodation taking place between the two countries—to agree to any exception of this kind. Called upon to act in this desperate state of things, he thought it would not be right for any part of the papers which had led to it to be withheld from Congress. The President having thought fit to declare that all negotiation is at an end, and that he is without hope of an accommodation, it could not be thought proper that the Legislature should be called upon to act upon less information than that upon which the President himself had acted. He thought the Constitution must have intended this, when it placed the power of declaring war in their hands; to suppose the contrary, would be to suppose an absurdity. With respect to the probability of any part of the papers interfering with any existing negotiation, he could not conceive that possible; at any rate, he thought it of greater consequence to act rightly in this case, than to have reference to any improbable circumstance of that kind. He hoped the gentleman would agree to withdraw the exception which he had proposed, as to retain it would defeat the call, by making it liable to all the objections which were made to the former exception. Indeed, notwithstanding he wished very much for the information called for, he should vote against the resolution, if the exception was retained. He therefore moved to strike it out.

Mr. Allen did not know why the gentleman from Virginia should wish a different form of a resolution from that proposed on a former occasion. He could see no reason but this: he did not believe gentlemen wished to see these papers before the House. When the resolution alluded to was adopted, two years ago, it was not known that any negotiation was on foot; and, though the President had told the House two weeks ago that all negotiation was at an end, it might not be so now. But suppose there was nothing upon which this part of the resolution could act, it could do no harm. He would not, however, give gentlemen an opportunity of voting against the resolution. He would withdraw his amendment; because he believed the President would be authorized to retain such parts of the papers as he may think it improper to communicate; he believed his Constitutional power gave him all the right to

do this, and that, therefore, it was immaterial whether the resolution contained any exception, or not.

Mr. S. Smith called for the yeas and nays, to convince the gentleman of his error with respect to there being no desire for the papers.

Mr. Hartley wished the qualification of the resolution had not been withdrawn. He thought it proper. He had also his doubts whether the House could Constitutionally call for the instructions given to our Ministers. Mr. H. moved, therefore, to amend the resolution by re-adding the exception just withdrawn.

Mr. Nicholas observed, in reply to the gentleman from Connecticut, that, if our situation with France is changed since the President's last communication, it would be ground for a new Message. But the House could not act upon anything so uncertain; they could act only upon the idea of things being now in the same situation as when the President sent his last Message.

Mr. Harper said, when this question was brought forward on Friday, he moved the further consideration of it until to-day. Upon reflecting, however, upon what he thought a Constitutional question, it appeared to him that no such Constitutional question was involved in the present resolution. The present call for papers, he said, stood upon a very different ground from that made when the British Treaty was under consideration; the objections, of course, against that call would not apply in the present case, as the papers now called for were wanted to throw light upon a subject confessedly within the Constitutional powers of the House. He therefore held the call not only to be Constitutional, but expedient. Nor could he see any ground for the amendment: if the House had a Constitutional right to ask for information, they had a right to ask for the whole information, and the President would judge how far he could, with propriety, comply with the call. But, since the House did not know that the communication of any of these papers would be improper, the whole ought to be called for; and, if the President should think it proper to retain a part, he would doubtless give sufficient reasons to the House for doing so. On a former occasion, when it was moved to modify the resolution calling for papers in the way now proposed, the motion was rejected, because it went to alter the principle contended for; and he believed the same reason would lead to a rejection of the present motion.

If he believed there was any Constitutional question in this motion for papers, he should vote against it; but, believing the contrary, he should vote in favor of it—not because he wanted the information, as it was sufficient for him that the President told the House that the negotiation was at an end, and that our Ministers were refused an audience, to induce him to go into every measure of defence proposed; but as other gentlemen wished it, he hoped the resolution would be agreed to without amendment.

The question on the amendment was negatived without a division.

The question then returned upon the resolution, in the following words:

"*Resolved*, That the President of the United States be requested to communicate to this House, the instructions to, and despatches from, the Envoys Extraordinary of the United States to the French Republic, mentioned in the Message of the 19th instant."

Mr. Otis said, before the question was taken, he would state his intention of voting against the resolution, not from any doubts of the Constitutional right of the House to call for the information, nor from an indisposition to gratify those gentlemen who want the information, but being satisfied in his own mind that the facts stated in the Message are true, and that the Commissioners who were sent to France were empowered, not only to settle our differences with that country, but to make reasonable concessions, even where the injury was on their side; and the President having declared it to be his opinion that there is no hope of success from that mission, he wished for nothing further to convince him of the propriety of going into the different defensive measures proposed. If he had, indeed, conceived that the question of war or peace was before the House, he might have wished its decision to be delayed until every fact relative to the negotiation had been before them; but, as he did not conceive that any such measure had been started, but only that such defensive measures should be taken as a much less degree of danger than at present existed would authorize, he was not willing to take any share of the responsibility as to the inconveniences and evils which may result from publishing the correspondence in question. If the disclosure should endanger the safety of our Commissioners, or operate as a discouragement to the future free communications of our agents abroad, he should wish to steer clear of any blame on the occasion.

Mr. Gallatin observed, that the same reasons, or nearly so, which have been mentioned by the gentleman from Massachusetts, as inducing him to vote against the resolution, would induce him (Mr. G.) to vote for it. He had already stated that, viewing the question in the light he did, he did not want further information to enable him to decide upon it. He concluded the statement made by the President is correct; that it is true that there is no hope of accommodation with the French Republic, and that all negotiation is at an end; and, taking this as a ground upon which to act, he was willing to act upon it to the best of his judgment. Mr. G. said, he considered part of the measures proposed, to be measures of war, though gentlemen called them measures of defence; but, when the subject should be gone into, he would prove them to be those of war; and that the measure adopted by the President in relation to arming merchant vessels, is a war measure. On this ground he was ready to vote against any such acts, and in favor of anything which tended to counteract their effect.

But, said Mr. G., if there are gentlemen on this floor who conceive that, in addition to the information which has been given to the House, the despatches will give to them more irritating matter

than they have yet had, which may have a tendency to change the opinions of those who, like him, are in favor of peace measures, he had no objection to their being communicated. He did not expect, however, that anything of this kind would change his opinion. The House had had enough of this matter last session, and in the late communications; but, on his mind, these would produce no effect as to the question of peace or war. It is true, as hinted by the gentleman last up, that some inconveniences may arise from the despatches being communicated, as it may prevent diplomatic characters from expressing themselves freely in future; but the President of the United States was not afraid of this, as during the last session he had communicated information of this kind, without being applied to for it. But if, after having examined the despatches, he is convinced it will be highly injurious to the public welfare, or endanger the safety of our Commissioners, or prevent the happy issue of our negotiation, to communicate the information, he will either give it, or state his reasons for withholding it to the House.

The question was then taken, and decided in the affirmative—yeas 65, nays 27, as follows:

Yeas—John Allen, George Baer, junior, Abraham Baldwin, David Bard, Bailey Bartlett, James A. Bayard, Thomas Blount, Richard Brent, David Brooks, Nathan Bryan, Dennsey Burgess, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, William Craik, John Dawson, John Dennis, George Dent, Lucas Elmendorph, William Findley, Nathaniel Freeman, jr., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Thomas Pinckney, John Rutledge, jr., Tompson J. Skinner, Samuel Smith, William Smith, Peleg Sprague, Richard Spragg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—Stephen Bullock, Joshua Coit, Samuel W. Dana, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, Jas. Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, George Thatcher, Mark Thomson, Thomas Tillinghast, and John E. Van Alen.

Messrs. Allen and Hanna were appointed a committee to wait upon the President with the said resolution.

Mr. Kittera reported a bill for authorizing certain officers to administer oaths; which was committed for to-morrow.

DEFENCE OF NEW YORK HARBOR.

Mr. Sewall, from the Committee for the Protection of Commerce and the Defence of the Country, made a report on the memorial of the Chamber of Commerce of New York, on the subject of the insecure state of the harbor of that port. The report states, that Congress had this subject under consideration at the last session, and provided that any State should be authorized to expend any such sum upon their fortifications as they should deem proper, not exceeding the sum of which such State was found indebted to the United States in the settlement of the accounts between the States and the United States. This proposition having been wholly neglected by the State of New York, and no cession having been made of the soil, the committee recommended, after stating that it will be proper to include a sum for purchasing cannon and ammunition for the said fortifications, the following resolution:

"*Resolved*, That a bill be reported to repeal the provision of cession in the act providing for the further defence of the ports and harbors of the United States, and provide in lieu thereof that the fortifications which shall be erected and allowed for by the United States pursuant to that act, shall become the property of the United States; also to provide that any State which shall accept of the proposal made by the said act, and proceed to finish any fortification heretofore commenced, and which by the President of the United States shall be judged of use in the defence of any port or harbor, or in making any additional fortifications, under his direction, shall be allowed, in the manner proposed by the said act, as well for all previous expenditures made since March 20, 1794, as for the expenses which shall be made pursuant to the said proposal, not exceeding the balance in which such State respectively has been found indebted to the United States."

The report was committed to the Committee of the Whole on the state of the Union.

FOREIGN CONSULS.

On motion of Mr. Otis, the House went into a Committee of the Whole on the bill appropriating a sum of money for defraying expenses incurred by our Consuls and Vice Consuls; and, after filling the sum appropriated with $30,000, the committee rose, and the bill was ordered to be engrossed.

FRENCH RELATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union; when, after a suggestion from Mr. Pinckney, that it would be best to pass over the first resolution and go on to the others; and some observations from Mr. N. Smith against passing over the first resolution, and in favor of coming to an immediate vote upon it, as being of no consequence, and deciding nothing, a motion was made by Mr. Harper for the committee to rise, in order that the business might be postponed until the information or an answer from the President on the subject should be received; which was carried, and the committee rose accordingly.

Mr. Allen informed the House that the committee appointed to wait upon the President with

the resolution which had been agreed to, had performed that service, and he had informed them that he would take the matter under consideration, and do what the public safety should seem to require.

ORGANIZING THE MILITIA.

The order of the day was next called for on the bill for organizing and disciplining the militia of the United States, and the House went into a Committee of the Whole on this subject; when the first section, which provides for the establishment of a select corps, having been read, a motion was made by Mr. Varnum to strike it out, in order to try the principle of the bill. This motion was advocated by Messrs. Varnum, Nicholas, and W. C. Claiborne; and opposed by Messrs. J. Williams, Macon, Sheppard, S. Smith, Harper, Brooks, and Dayton. No question was taken. The committee had leave to sit again.

Tuesday, April 3.

Mr. Harrison reported a bill providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and for repealing certain parts of acts therein mentioned, and for other purposes; which was committed for to-morrow.

SURVEY OF NORTHWESTERN LANDS.

The Speaker laid before the House a letter from Rufus Putnam, Surveyor General, stating the difficulty and impractability of running north and south lines, according to the true meridian, in the survey of the Northwestern Territory lands, and suggesting the propriety of repealing that part of the law, and requiring, instead thereof, that all instruments used in the said survey be adjusted to one meridian. Referred to the committee on the subject of Northwestern Territory lands.

MEMORIAL ON PUBLIC AFFAIRS.

Mr. Gallatin presented the following memorial from forty members of the General Assembly of the Commonwealth of Pennsylvania, viz:

To the Congress of the United States:

The Memorial of the subscribers, members of the General Assembly of the Commonwealth of Pennsylvania, respectfully sheweth:

That your memorialists, faithfully attentive to the prosperity and happiness of their constituents, cannot contemplate the present crisis in the affairs of the United States, without feeling the strongest solicitude, by every honorable means, to avert the horrors of the war which threatens: and, although they claim no other influence on your deliberations and transactions than that to which they are entitled in common with all their fellow-citizens, they are persuaded that the public confidence reposed in them will at once justify the expression of their sentiments, and insure a liberal interpretation of the motives which actuate them in addressing those sentiments to your honorable body.

That your memorialists will not, on this occasion, take a retrospective view of the events of the American Revolution, in order to awaken a sense of gratitude for former services, nor advert to the peculiar character of European war, in order to mitigate the feelings of resentment for recent injuries on the part of France; but regarding only the existing state of their country, its policy, its interests, and its independence, every principle of patriotism impels them, not merely to deprecate a public annunciation of hostilities, but firmly to discountenance every measure which tends to inflame the spirit of animosity, and to dissolve the bond of amity with that Republic.

That, whether your memorialists contemplate the independent resources of the Union, or the aid to be derived from a foreign alliance—the principles of a Republican system, or the means of gratifying the best wish of their constituents—they are alike impressed with the importance of pursuing a conciliatory and pacific course. They perceive, indeed, no glory, no benefit, to be attained for their country, through the medium of a war, that can compensate for the stagnation of commerce, the suspension of agriculture, the effusion of blood, the waste of treasure, the desolation of property, and the depravation of morals, which are its inseparable concomitants; while the issue of the European contest must either leave the United States without an efficient friend, or fatally associate them with the rival of their commerce, and the enemy of Republicanism.

That your memorialists, under these general impressions, submit the subject with great anxiety, but with great deference, to the consideration of your honorable body, trusting that your wisdom, co-operating with the wisdom of other departments of the Government, will be competent to the preservation of peace, without the sacrifice of any essential right, or the violation of any important trust. But, above all, your memorialists earnestly hope, that while the constituted authorities shall deem it unjust or inexpedient to engage in a public war, the neutrality and peace of the nation may not be put at hazard by authorizing private citizens to arm and equip, under any pretence, the vessels of the United States.

William Maclay, M. Leib, Samuel Maclay, P. Muhlenberg, John Moore, Balfer Geehr, Chas. Shoemaker, John Coningham, N. B. Boileau, P. Frailey, David Krause, Isaac Van Horn, Aaron Lyle, Jacob Painter, Abraham Horn, W. Sterrett, Samuel Snyder, Thomas Mewhorter, W. Linnard, W. Hoge, Isaac Weaver, jr., Manuel Eyre, John Smilie, James Harris, John Rea, Wm. Findlay, John Wright, Abraham Hendricks, J. Bonnett, Isaac Worrell, Robert Philson, Robert Whitehill, A. Baird, John Hamilton, John Starbird, Christopher Lower, J. Kean, Samuel Dale, J. Brandon, G. Wilson.

Mr. Gallatin moved that this petition be referred to the Committee of the Whole on the state of the Union.

Mr. Allen was stating some objections to the petition on account of its purporting to be from members of the Legislature of Pennsylvania; he thought no more weight was due to this petition than would be due to a petition from forty other individuals; when

A Message was announced from the President of the United States. It was in the following words:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

In compliance with the request of the House of Representatives, expressed in their resolution of the 2d of this month, I transmit to both Houses the instructions to

and despatches from the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message of the 10th of March last, omitting only some names, and a few expressions descriptive of the persons.

I request that they may be considered in confidence until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time, I submit them to your wisdom.

JOHN ADAMS.

United States, *April* 3, 1798.

The above Message having been read, the galleries and House were cleared of strangers, and the House was occupied in reading the papers accompanying until past three o'clock, when they adjourned, without making any order respecting them.

Wednesday, April 4.

The bill authorizing an expenditure and making an appropriation for the reimbursement of money advanced by the Consuls of the United States in foreign countries, was read the third time and passed.

Mr. Livingston reported a bill declaring the assent of Congress to two acts of the State of North Carolina, therein mentioned, which was twice read and committed.

STATEMENTS OF TONNAGE.

Mr. Otis proposed a resolution to the House, calling upon the Secretary of the Treasury for a statement of the shipping belonging to the different districts of the United States; when,

Mr. Gallatin observing that it would be best to adopt a similar resolution to the one formerly agreed upon, including foreign as well as domestic shipping, the following was agreed to:

"*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement, exhibiting the tonnage of shipping belonging to the several districts of the United States at the last period for which an account can be prepared, distinguishing the registered from the enrolled and licensed tonnage; also, a comparative statement of the tonnage of vessels employed in the trade between the United States and foreign countries, from January 1, 1795, to the latest period at which an account can be made up, distinguishing the foreign from the domestic tonnage."

RELATIONS WITH FRANCE.

Mr. Kittera wished the House to take up the bill which he reported on Monday, respecting the authorizing certain officers to administer oaths.

Mr. Allen hoped the galleries would be cleared, in order that they might again go into the consideration of the confidential communication from the President of yesterday.

Mr. Gallatin supposed, as that business would not occupy much time, it would be best if deferred till the close of the sitting, and in the mean time go on with other business.

Mr. Allen said, he wished to take up the confidential business, as he supposed the papers would be made public, and he was desirous that it should be decided upon as early as possible.

Mr. Gallatin said, if that was the gentleman's intention, he had no objection.

The galleries were cleared accordingly; and the whole of the sitting was occupied with this business, without coming to a decision.

Thursday, April 5.

Mr. D. Foster, from the Committee of Claims, made a report on the petition of sundry citizens of the western counties of Pennsylvania, who pray for compensation for losses and damages sustained from the army and militia in the Western insurrection, in 1794. The report states, that if supplies were furnished by the petitioners, and regular vouchers are furnished, their accounts will be settled by the proper department; but if the losses complained of were not of this kind, they must be considered like other sufferings consequent on a state of warfare, for which this Government never made any allowances. This report was committed for Monday.

RELATIONS WITH FRANCE.

On motion of Mr. Dent, the House resolved to resume the consideration of the confidential communications lately received from the President, and the galleries and House were of course cleared of strangers. The doors were closed till past four o'clock, when an adjournment took place, before any decision had been come to with respect to the publication of the communications.

Friday, April 6.

Mr. Livingston, from the committee to whom was recommitted the bill for the relief of sick and disabled seamen, reported a new bill, conformable to the amendments heretofore adopted; which was committed for Monday.

The same gentleman, from the Committee on Commerce and Manufactures, reported a bill for erecting a light-house and placing buoys at the places therein mentioned, which was committed for Monday. This bill contemplates the erection of a light-house at Old Point Comfort, in Virginia, the placing of buoys in Portland harbor, and the staking out of Warren river.

The House severally resolved itself into a Committee of the Whole on the bill declaring the assent of Congress to two acts of the State of North Carolina therein mentioned, and the bill authorizing certain officers to prescribe oaths; which were reported without amendment, and ordered to be engrossed for a third reading on Monday.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Sitgreaves, on behalf of the managers of the impeachment against William Blount, to whom were referred certain proceedings of the Senate, of the first of March, reported it as their opinion that it would be expedient for the House to adopt the following resolutions:

"*Resolved*, That a conference be desired with the Senate on the subject of their resolution of the first of March last, relative to the impeachment of William Blount, and that the managers appointed to conduct the

said impeachment be the managers for this House at the proposed conference.

"*Resolved*, That the managers of this House do request, at the said conference, that the Senate will appoint a day, during the present session of Congress, for the return of the summons directed by their resolution of the first of March aforesaid, to be issued to the said William Blount."

The resolutions were agreed to.

STATEMENTS OF TONNAGE.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanying two statements exhibiting the tonnage of shipping belonging to the several districts of the United States, at the close of the year 1796; also, a comparative view of the tonnage of all vessels which paid duties in the ports of the United States each year, from 1790 to 1796, inclusively; distinguishing, generally, the employments of the vessels of the United States and the tonnage of vessels belonging to different foreign nations, in pursuance of a resolution of the 4th instant; which was ordered to be printed.

RELATIONS WITH FRANCE.

Mr. Macon moved that the House again resume the consideration of the confidential communication from the President; which motion being agreed to, the galleries were accordingly cleared.

After the doors had been closed about an hour and a half, they were opened; when

Mr. Bayard moved that 1,200 copies of the despatches from our Commissioners in Paris, which were lately communicated by the President of the United States to Congress, be printed for the use of the members, which would furnish each about twelve copies for the purpose of transmitting to his constituents.

Mr. S. Smith moved to amend the resolution, by adding after the words "Congress," "and ordered by the Senate to be published."

Mr. Dent thought such an amendment would be very improper, as the House had no official knowledge of what the Senate had done with respect to these despatches.

Mr. Nicholas wished to know whether this resolution for printing was in order, as it was in effect the same with that on the propriety of publishing the papers decided, whilst the doors were closed, to be postponed till Monday.

The Speaker said a distinction had heretofore been made between "printing" and "publishing." He recollected this distinction was acted upon in the confidential business relative to the Algerine Treaty.

Mr. Gallatin could not see any distinction between "publishing" and "printing 1200 copies" of the despatches in question, especially as gentlemen state them to be wanted for the purpose of sending to their constituents. He should be in favor of printing for the members' own use, as was done in the case alluded to by the Speaker, but not for publication, as that motion had already been postponed till Monday.

Mr. Brooks was surprised, when the injunction was taken off, that gentlemen should still be opposed to the printing of these papers. Any person might now print them; and it was proper, whatever differences of opinion had been expressed as to their publication heretofore, that they should now be made as public as possible. If gentlemen are afraid of making them public, and wish to confine them in the dark, or to Philadelphia alone, they act rightly in opposing the printing; but he hoped the motion would be carried.

Mr. T. Claiborne moved a postponement of the question, which was negatived—42 to 32.

Mr. Blount always thought it improper to print more copies of any papers than were necessary for the use of the members in conducting the business of the House. When members wish to send papers to their constituents, they can purchase what number of copies they please; for if he were to have 12 copies laid upon his desk, he should have occasion to purchase 20 or 30 more, for the purpose of sufficiently communicating the matter to his constituents.

The question on Mr. Smith's amendment was put and negatived.

Mr. Brooks did not see why members should be put to this expense of purchasing what it would be for the public good to circulate. He therefore moved for 2,000.

Mr. Thatcher seconded the motion, in order to oblige the gentleman from North Carolina (Mr. Blount.)

Mr. Harper was in favor of the 2,000, and if any one would move for 3,000, he should be in favor of it, as he should wish to send a good number to his constituents.

Mr. Shepard hoped less than 2,000 would not be printed.

Mr. Hartley thought, after the motion for publication had been postponed till Monday, gentlemen ought to have been satisfied with having the usual number of copies printed.

Mr. Gallatin said when he was up before he had made some observations on the distinction which the Speaker had stated as subsisting between printing and publishing; but it appeared as if the gentleman from New York (Mr. Brooks) had neither attended to what he had said, nor to what fell from the Chair, when he made a kind of reply. If he had, he would have seen that those observations did not go to the question of publishing or not; but to the point of order. It would be recollected that the publication of these papers had been opposed, not because they wished to prevent their publication, because they knew, though not officially, that the Senate had ordered 500 copies to be printed; but it had been opposed, because gentlemen did not wish to take upon themselves the responsibility of the publication. The question was therefore postponed till Monday. Mr. G. said his objection to this motion was, because he considered it to be the same motion which had been postponed, only in a different form. If this motion should be postponed on Monday, after the Senate have published the correspondence, he should not object to it. A large majority (of which he was one) were opposed to

the publication of these papers, not on the ground of any effect they would produce on the citizens of this country, but from an idea that they ought not to be published before we knew the final issue of our negotiation. He believed that every gentleman who opposed the publication, would have wished it, if the publication could have been confined to our own citizens. He thought it improper, therefore, that a contrary motive should be attributed to them.

Mr. Brooks explained.

Mr. Findley said the distinction was very clear between printing a paper in confidence and printing it for the purpose of sending to their constituents.

Mr. J. Williams said, since they had taken off the secrecy from the consideration of the subject before them, he thought it mattered little whether 500 or 2,000 copies of the papers were printed; but if as many were to be printed as each member wanted for his constituents, at least 3,000 would be wanted, as he represented at least 30 towns, and he could not send less than one to each. As to the expense, he believed an hour's debate would cost more than the whole 3,000 copies.

Mr. McDowell said, this question was the same as that which had been postponed till Monday. He was sorry the motion for postponement was carried, because the same thing is now attempted to be done indirectly, which could not be effected in a direct way. He supposed on Monday the House would receive from the Senate the usual number of copies; he hoped, therefore, the House would adjourn, as there was no immediate occasion for printing.

The usual motion for adjourning till Monday being first decided, the motion for adjournment was put and negatived—44 to 37.

Mr. Lyon was in favor of the largest number; and if he followed the rule of the gentleman from New York, he might wish for 7,000, as he represented 70 towns. But his principal reason for voting for the largest number was, because he thought the papers so trifling and unimportant, that no printer would risk the printing of them in a pamphlet; and it would take a small weekly paper, such as was printed in his district, two months to print them, if nothing else were inserted.

Mr. Macon said, in endeavoring to give so much information, they would give none; for if the number proposed to be sent were to be forwarded, he should expect to hear of the mail being broken down. He hoped the usual number only would be printed. He had no objection to the publication; but he did not expect the question would have been brought forward to-day.

Mr. Otis inquired whether the gentleman from Vermont had not said these papers were so trifling and unimportant that no printer would undertake to print them.

Mr. Lyon repeated what he had said.

Mr. Giles moved to adjourn. The motion was negatived, 43 to 36.

Mr. Champlin was astonished at the opposition made to the publication of the despatches. [The Speaker reminded Mr. C. that the question was as to the number to be printed.] He was surprised that any objection should be made as to the number, especially as the additional expense could be no object. He thought it proper they should speedily be published, in order to do away the false impressions which erroneous publications may have produced. He did not understand how gentlemen could reconcile their wish for publicity with their opposition to the proposed publication.

The question was then taken on the motion to print 3,000 copies, and negatived, there being only 14 in the affirmative; then on 2,000, and negatived, 42 to 38.

Mr. Tillinghast moved for an adjournment, which was negatived, 27 only voting in the affirmative.

The question then recurred on printing 1,200.

Mr. Macon moved to strike out 1,200 and insert the usual number; which, after some observations from Mr. Bayard in favor of 1,200 copies, was negatived.

The question was then taken and the motion to print 1,200 adopted.

Monday, April 9.

The bill declaring the assent of Congress to two acts of the State of North Carolina, and the bill to authorize certain officers and other persons to administer oaths, were read the third time and passed.

FORTIFICATIONS.

Mr. S. Smith wished the House to go into a Committee of the Whole on the state of the Union, in order to take into consideration the fortification of our ports and harbors.

The motion was put and carried, and the House accordingly resolved itself into a Committee of the Whole on the state of the Union, Mr. Dent in the Chair; when, the Chairman having read over the different subjects which had been referred to that committee,

Mr. Allen hoped the committee would first come to a decision upon the first resolution of the gentleman from Maryland, (Mr. Sprigg,) which had already undergone considerable discussion.

Mr. Matthews moved a postponement of that resolution.

Mr. Sprigg seconded the motion.

Mr. Allen hoped it would not be postponed. He wished to hear some reason why such a resolution should still lie on the table, as while it lay there it would seem as if there was an intention of hereafter calling it up. He hoped, therefore, if it were not withdrawn, a decision would be had upon it. The design in bringing it forward was evident; but he trusted there was no gentleman of the committee who now wished to pass such a resolution; and he hoped, if it was not withdrawn, it would be rejected.

Mr. Harper differed in opinion with the gentleman from Connecticut. He saw no advantage that could arise from rejecting the resolution, any

more than from carrying it; but great inconvenience might arise from a long discussion of it. If the resolution had been called up by its friends, he should have used his endeavors to have defeated it; but as the supporters of it were willing to let it lie, he thought those who had always deemed it an improper question ought not to object to it.

Mr. Sewall believed, that if the gentleman from Connecticut recollected that this proposition was not made in the House, but in Committee of the Whole, and therefore could not go upon the Journal, he would consent to its lying. If the gentleman from Maryland (Mr. Sprigg) would think fit to withdraw his resolution, it might be well; if not, a postponement might be well.

Mr. J. Williams hoped this proposition would be suffered to lie over, and that nothing would be said about this or anything else that could produce heat in the committee; but that they might go on with harmony in the business of the Union, losing sight of all misunderstandings which had taken place either in or out of doors.

Mr. J. Parker wished the proposition to be postponed, because he believed if it was postponed it would never be called up again. He hoped, therefore, the gentleman from Connecticut would suffer the subject to pass, that the committee might proceed in measures which are necessary for the defence of the country, and upon which, he trusted, there would be but little difference of opinion.

Mr. Nicholas hoped the resolution would be postponed, or got rid of some other way. When it was brought forward he thought it perfectly proper, and he also thought the effect then intended to be produced by it now proper. But as he supposed there were other ways in which the friends of peace might express their opinion, and as he apprehended a further discussion of the proposition, after the publication of our late despatches from France, might give rise to an idea that the supporters of it were willing to remain at peace even upon the terms proposed by the French Minister of Foreign Relations, (which he was sure was not the case,) he wished the subject to be put aside, either by being postponed or withdrawn. He was as much as ever against taking measures which might lead to hostility, but he trusted other opportunities would occur of showing this disposition without a further discussion of the proposition in question.

The motion for postponement was put and carried.

Mr. Sewall then moved that the committee go into the consideration of a resolution reported on the 8th of March, for appropriating a sum of money for fortifying the ports and harbors of the United States.

It was accordingly read.

Mr. Macon desired to know to what extent it was wished to carry these fortifications.

Mr. Sewall thought it best to leave this business, in some measure, to the discretion of the President of the United States, and for this purpose he proposed to amend the resolution by adding the following words: "And that the President of the United States be authorized to make such additional and other fortifications as the common defence may seem to require."

Mr. Macon was apprehensive that all the money expended on this object would be thrown away. It had heretofore been successfully shown that the most expensive works of this kind in the United States were wholly useless from their improper situation. Besides, he did not think fortifications were found of much use in the late war. He knew of only two instances in which effectual resistance was made by them. It would be seen that in Europe fortifications were now less attended to than they had heretofore been. Indeed, he believed if the United States were to go into an expensive scale of fortifications, the revenues of the country would not be equal to it, and he thought money might be much more advantageously expended.

Mr. S. Smith admitted that some of the fortifications of the Union might have been improperly placed, but could not agree with the gentleman from North Carolina as to their inutility. At the last session, Mr. S. said, there remained an unexpended balance of $22,000 for this object, and Congress then appropriated $115,000. But a small part of this money, he observed, had been expended. The reason which the Secretary of War gives for this is, that he did not think it proper to expend more because we had not men to fill the fortifications when they should be ready to receive them. He wished the Secretary of War had not exercised this opinion, but had laid out the money as directed. The select committee, he said, had taken into view the several places to which it would be proper to attend, which he supposed would be enumerated when a bill was brought in. The sum which it was supposed would be wanted, in addition to the money already in hand, was estimated at $115,000. The amendment was intended to empower the President to erect a post on the Chesapeake, which, he believed, from the account given of the situation by gentlemen from that quarter would be very proper.

The question on the amendment was put and carried.

Mr. Dayton (the Speaker) approved of the resolution, but hoped when the select committee reported a bill they would be prepared to give some information as to two points; first, as to the cession of the jurisdiction of the places whereon forts are to be erected, to the United States; and, secondly, as to the instances in which the States have purchased the soil without the previous consent of the State to which it belonged. He was by no means prepared, at present, to consent to the laying out of any money on fortifications, the prior cession of the jurisdiction of which had not been made to the United States. He did not know but he might eventually be obliged to waive this objection, but he hoped this information would be given.

Mr. J. Williams supposed it would be proper to instruct the committee to the effect which the

gentleman from New Jersey had stated, if he wished them to report in the way he had mentioned. But he did not think this was a time to inquire into this subject, but to fortify the coast in those places where it is most vulnerable, independent of any other consideration.

The resolution was put and carried, there being 71 members in its favor.

Mr. Sewall said, it was proper that Congress should come to some determination with respect to the fortifications in the port of New York, as the Legislature of that State is now sitting, and when they know the determination of Congress they can act accordingly. He called up, therefore, for consideration, the report of the Committee for the Protection of Commerce and the Defence of the Country on the memorial of the New York Chamber of Commerce.

The report having been read, the resolution recommended was agreed to.

The committee rose and reported the resolutions, which being agreed to, a bill was directed to be brought in accordingly.

RELIEF FOR SEAMEN.

On motion of Mr. Livingston, the House went into a Committee of the Whole on the bill for the relief of sick and disabled seamen, and, after adopting some amendments, the bill was agreed to, and ordered to be read a third time to-morrow. [This bill proposes the payment of twenty cents a month by every seaman in the United States towards the support of hospitals for sick and disabled seamen.]

INVALID PENSIONERS.

Mr. D. Foster called up for decision the report of the Committee of Claims on a resolution directing them to inquire into the expediency of amending the laws respecting invalid pensioners; which was accordingly read and concurred in. It was against any alterations in the existing laws.

NATIONAL DEFENCES.

Mr. Sewall, from the Committee for the Protection of Commerce and the Defence of the Country, made a further report, as follows:

That it is expedient to authorize the President of the United States to erect fortifications in such ports and places near the seacoast as, in his judgment, shall be requisite and advantageous for the common defence.

That a considerable addition is requisite to be made to the corps of artillerists and engineers already established, to be employed in the several fortifications which have been and which shall be erected on or near the seacoast.

That a large supply of cannon, arms, and ammunition is necessary to be immediately provided for the service of the United States.

An addition to a resolve heretofore reported, and under the consideration of the House, will effect the first mentioned object.

For the others, the committee recommend the following resolutions:

Resolved, That the President of the United States be authorized to raise and establish ——— companies of artillerists and engineers, in addition to the present establishment.

Resolved, That the sum of ——— dollars be appropriated by law for the purchase of cannon, arms, and ammunition for the service of the United States.

The report was referred to the Committee of the Whole on the state of the Union.

REUBEN SMITH AND NATHAN STRONG.

On motion of Mr. Livingston, the House went into a Committee of the Whole on a favorable report on the petitions of Reuben Smith and Nathan Strong, which being agreed to, the committee rose, and a bill was ordered to be brought in accordingly.

Tuesday, April 10.

Mr. Sewall reported a bill supplementary to the act for the protection of the ports and harbors of the United States, which was committed for to-morrow.

A message was received from the Senate, informing the House that the Senate had passed a bill for providing an additional armament for the protection of the trade of the United States, and for other purposes, to which they ask the concurrence of the House; and that they have agreed to a conference on the subject of W. Blount's impeachment.

The bill from the Senate, providing an additional armament (viz: a number of vessels not exceeding sixteen of 22 guns each, for which it is proposed to appropriate $950,000) was twice read and committed to a Committee of the Whole on the state of the Union.

RELATIONS WITH FRANCE.

Mr. Gordon said, as he understood the Senate had ordered a number of copies to be printed of the instructions given by the Executive to our Envoys Extraordinary to the French Republic, he should move that 600 copies of these instructions be printed for the use of the members of this House.

The Speaker said, that previous to the receiving of such a motion, it would be necessary to clear the galleries and House of strangers, as all the proceedings on that subject had been had, and must continue to be had, with closed doors, until the injunction of secrecy was taken off.

The motion was not persisted in.

ORGANIZING THE MILITIA.

The House next went into a Committee of the Whole on the bill for organizing, disciplining, and arming the militia of the United States; when Mr. Varnum's motion for striking out the first section of the bill, which provides for a select and a reserved corps; the former to consist of all young men from 18 to 24, the latter from 24 to 40.

The motion for striking out the section was made to try the principle as to a select corps, and was supported by Messrs. Varnum, W. C. Claiborne, Nicholas, Gallatin, Findley, and Skinner. It was urged by them, that to introduce the proposed system would be wholly to derange the present establishment, which, though it was not perfect, was capable of being improved and

made to answer every purpose of an efficient militia. In proof of this it was stated, that the militia in the Eastern States was in perfect order and discipline, and that being the case in those States, it might also be the same in others, if like means were taken. If the same laws were passed by the United States for the regulation of the whole militia, as at present existed in the Eastern States, and if the militia officers were everywhere equally attentive to their duty, the militia might generally be in equally good order. That the plan proposed was only known in theory; that, though it might answer well in a thickly settled country, it would be attended with many and great inconveniences in spare settlements, as to get 100 young men together to exercise, would take in a circuit of 20 miles; besides, that the sending out a large number of young men together, without persons of more advanced years, as a check upon them, would have a bad effect upon their morals; and to take young men away from their business, which they might be just commencing, for ten or twelve days at a time, would ruin them. Nor was it believed that young men could be so well disciplined, or kept together, as if they were interspersed with persons of greater age and solidity.

Mr. J. Williams stated the expense attending the present system as far beyond what it is generally thought to be, and considerably more than the system proposed would be. He supposes there are now about 600,000 men enrolled, who at least spend six days of a year in the militia service, which, if reckoned at a dollar per day (including expenses) amounts to $3,600,000 per annum. By the bill now proposed, it is supposed the select corps will consist of about 150,000 men, who are to be employed twelve days in a year. The reserved corps, about 350,000 men, is to be called out only one day in the year—so that the difference of expense in favor of the new system, would at least be $1,275,000. Besides, the present system exonerates one-fifth of the people from the service, by exceptions in favor of officers of various kinds, which he deemed unequal and unjust. In fine, that the present system is burdensome, at the same time that it is inadequate to the defence of the country, and, if not amended, would be the means of introducing into this country what is the bane of all free Governments—*a standing army*.

The new system was supported by Messrs. S. Smith, Shepard, Dayton, Macon, Brooks, Pinckney, and Harper, as affording at all times an active, efficient militia, of at least 150,000 men, which would place the country at all times in security, as no foreign Power would ever think of attacking a country which could call out this force; that the young men having been actively engaged in discipline from 18 to 24, would after that time to the age of 40, form a reserved corps, ready to be called upon in cases of emergency. That the disciplining of these young men would keep the officers in exercise, and they would learn how to take care of men when they were out in service, which was a consideration of first importance; that young men would train much better together than if fathers and sons were in the same ranks, and being clothed in uniform, they would become ambitious of excelling in military duty. That this plan would be more economical than the present, and would make fewer exceptions from service; and it was a plan which had been warmly recommended by the first military man in this country, the late President of the United States, and would render a standing army in the country wholly unnecessary.

The motion for striking out the first section was lost—45 to 31; when the committee rose and had leave to sit again.

SICK AND DISABLED SEAMEN.

The bill for the relief of sick and disabled seamen (which provides that every seaman belonging to the United States shall pay twenty cents a month out of his wages for the relief of sailors in distress, and for the erecting of hospitals) having been read the third time, and the question on passing being put,

Mr. Sewall said, he was unwilling to say any thing against this bill; but the passing of it would be attended with many inconveniences and objections, which ought to be mentioned. He allowed the objections principally applied to the part of the Union from whence he came, where provision is already made for sick and disabled persons of every description, sailors as well as others, with which every person in the community is charged. Seamen in that quarter, therefore, now pay their full proportion of money for public charity; and if they were again to be called upon by this act, they would be made to pay in two different ways for the same object, without any advantage to themselves, because they are already entitled to relief in case of sickness or disability. But if this was not the case, he doubted the propriety of taxing seamen only for the support of what ought to be considered as a public charity. He thought the laws of reason and charity called upon the public at large in support of unfortunate men of this description, and that the burden ought not exclusively to be laid upon them. We have no common feeling with these men; the tax will fall upon no member of this House, but will be exclusively drawn from the earnings of a small part of the community, who, in all probability, will receive no advantages from it for fifty years to come, as large and splendid buildings must first be erected, in order to exhibit to the world a specimen of public charity. Nothing of this kind was to be seen in his part of the country; but this class of persons nevertheless were provided for. Neither native or foreigner was there sick without care and relief being afforded him. It was difficult, therefore, to conceive upon what reasonable ground the seamen of his State could be called upon to contribute to a fund of this kind. The only reason which had been assigned was, that the New England seamen frequently visited the Southern States, where, if they were taken sick, there was no provision for their relief. He hoped those States would provide relief for such unfortunate persons; if not, sailors must go there as they go into foreign countries.

Much reliance, Mr. S. said, had been laid on the example of England, where it was said similar establishments existed. But those establishments were begun by the grants of individuals, and a particular class of seamen—those employed in the navy merely contributed to their current expenses; so that the two cases were very different. He hoped, therefore, the bill would not pass.

Mr. Pinckney was sorry to differ from his friend from Massachusetts on this subject. He had hoped the objections which he had before stated to the principle of this bill would, by this time, have been removed. The gentleman had before stated, that his principal objection to this bill arose from there being already provision made in the Eastern States for the relief of sick and disabled seamen. It was then stated in reply, that provided the law did bear a little hard upon that State, from their known federal disposition, it was hoped, as it would operate a general benefit to the Union, it would not be objected to. But it was then shown, and he would repeat it, that the law could not bear hard upon them. If there is a provision at present made in Massachusetts for persons of this description, it must be a burden upon the people there; and if, after the passing of this law, that burden be removed, it would certainly be beneficial to the citizens of that State in general, though it may be a tax upon the seamen.

The gentleman from Massachusetts had also spoken against the general utility of the measure. He said it was taxing a particular description of men for a general object. On the contrary, he thought it only reasonable and equitable that these persons should pay for the benefit which they were themselves to receive, and that it would be neither just nor fair for other persons to pay it. But he believed if the subject was further looked into, it would be found that the seamen would not pay the tax themselves, as it would come to be considered as wages, and by that means become a general tax, as the merchant who would have to pay it would lay it upon his merchandise.

But the gentleman says, this tax is to be appropriated to the building of large and splendid hospitals. As far as he had considered the bill, he understood that the erection of hospitals was only a secondary object. Relief to distress is the first thing to be attended to, and if, after affording this relief, the tax produces a sufficient surplus, it is to be employed in the erection of suitable—not large and splendid—buildings, as hospitals.

The gentleman had also said, that the seamen of the Eastern States must rely upon provisions made for them by the Southern States in case of sickness, &c.; or, if no such provision was made, they must take the same chance as when they go into foreign countries. This observation does not apply, as the United States have made provision for their sick and disabled seamen in foreign countries by means of Consuls, which it is contemplated to make more efficient than it has heretofore been; but this is not the case in Southern States. Seamen who are sick and disabled there have only to rely upon private charity for support; and surely the Eastern States, which furnish at least three-fifths of the seamen of the United States, are interested in providing some more certain support for their unfortunate citizens. All those circumstances considered, he trusted the bill would pass.

Mr. Livingston said, the objections to this bill had arisen from two sources: its inequality as to different parts of the Union, and its inequality as to the persons upon whom it was to operate. On the first point, he thought such satisfactory answers had been given as must have proved effectual. He was sorry it had not had that effect; but notwithstanding the pertinacious opposition which this bill has received from the gentleman last up, he doubted not it would pass by a large majority. The inequality said to arise in its operation in different parts of the Union was owing to provision having already been made in some States for the relief of sick and disabled seamen. But how, he asked, would this provision injure that part of the United States? Did not the gentleman see that the President had the power to appropriate money for the temporary relief of seamen in the first instance? Of course, he would reimburse to the State of Massachusetts, or any other State, any sums of money expended for this purpose. The provision which the gentleman speaks of as being made for this description of persons, he supposed, was the common town charities, which, if they were to be reimbursed, the inequality which had been spoken of would appear to be only imaginary. But if the inequality had existed, when the gentleman had seen the extreme utility of such a provision in other parts of the Union, he should have hoped he would have waived his objection.

In the city which he represented, Mr. L. said, they had also a provision of this kind. At Charleston, and, he believed, at Philadelphia, similar support was afforded to persons of this description. In New York, there were generally 300 sick and disabled seamen relieved in the course of a year, and he supposed an equal number might receive support from the institutions of the two other cities he had mentioned. Besides, the persons upon whom this inequality was stated to fall, ought not to make any violent objection to it, as they were themselves in the habit of receiving some small advantages from the Union, which ought to prevent a murmur at a provision like the present. They receive, said he, $76,000 annually in bounties on their fishing vessels, though the duty on the salt used in curing their fish, which this bounty was given to countervail, does not amount to more than $30,000. Indeed, he did not believe the people themselves would object to the tax in question. If he knew anything of the careless, honest nature of this class of men, they would not object to so trifling a sum as twenty cents a month for so valuable an object. A sailor, said he, is concerned only for the present, and is incapable of thinking of, or inattentive to, future welfare; he is, therefore, a proper object for the care of Government, and whilst he can provide an asylum for infirmity or old age, by the sacrifices of a few gills of rum, he will not scruple to do it.

But it was said this benefit could not accrue to

sailors, for a number of years, as magnificent buildings must be first erected. Surely the gentleman from Massachusetts did not attend to the provisions of this bill, or else he wished to produce a false impression upon the committee. Nor was it customary for the gentleman to express his doubts about the Executive misusing any power placed in his hands. Surely he could not suppose that the President would expend the money raised by virtue of this act for the relief of distress, in the erection of magnificent buildings. For his own part, he could not believe any such thing: he believed the money would be properly applied, and no more be heard of the miseries of this class of men: And if any surplus remained, it would be expended in a frugal way, so as to conduce to the happiness and comfort of this class of men, and to the honor of the nation.

Mr. Sewall did not think the gentleman from New York had treated him or his observations with much candor. That gentleman, said he, claims to himself a great deal of benevolence and charity to the sailors of the United States. He is the father of this bill, which considers these men as incapable of taking care of themselves, and calls upon them to subscribe for their own support in case of sickness or inability, without taking a farthing from the pocket of the United States, or from the gentleman himself. The gentleman spoke of charity; he thought his charity equal to that gentleman's. [Mr. Livingston said, he was far from speaking of his own charity.] Mr. S. said, he was himself arguing against his own interest; for it had been said by the gentleman from New York, that in case this bill passed into a law, persons who had been heretofore called upon to support this class of men, would, in future, be excused from this charge; whereas, if it did not pass, he should be charged with this tax as at present. But he contended, that as the sailors of Massachusetts could not be excused from paying the town taxes, it was hard they should be called upon again to pay for the support of their own body. Yet, for doing this, he was charged with pertinacity and a want of benevolence towards this class of men. Mr. S. believed he had a greater respect for seamen than that gentleman, and it was his opinion, that the sailors were able to take care of themselves without the assistance of the gentleman from New York.

Besides, said Mr. S., this bill proposes the erection of public hospitals, (however economically they may be built,) not merely for the seamen of the United States, but for the seamen of foreign nations; so that the sailors of this country—a class of men who have nothing to spare—are also called upon and forced to support a public charity for foreigners; for out of one hundred citizens of the United States who pay to this fund, perhaps not one would receive any benefit from it. If there had been previous benefactions to a considerable amount for this object, as had been the case in other countries, and these contributions were wanted only for current expenses, the thing would have been different.

But the gentleman from New York represents the people of Massachusetts as receiving great advantages from a bounty on fish exported, which was intended to reimburse the duty on salt used in their business of curing fish; and he had calculated this advantage far beyond what it really is. But admitting that they receive something more than the amount of the duty paid on their salt, it must be allowed that it went to the encouragement of a set of men at all times valuable to the United States, but particularly so at this time. But was this any argument why he should not oppose this tax? Would it be proper for him to answer to these men, when they complained of this tax, "You are taxed, it is true, for the support of foreigners, to uphold a public charity for the United States, who will have the honor of taking care of seamen; but you ought to be satisfied, because the General Government allows you a bounty on the exportation of your fish." He believed not. And he believed the gentleman from New York had as little real care for seamen as he had for the fisheries of the United States.

Mr. S. said he would next notice some observations of the gentleman from South Carolina, (Mr. Pinckney,) which partook of something like argument. That gentleman said the sailors ought to pay the tax, because they were to receive the benefit arising from it. But he had before stated that the seamen of New England do not want this provision, and why tax them for what they do not want? The sailors there would be averse to being removed from their homes and friends, to a hospital at a distance. It was said this establishment would afford similar relief to that provided for our sailors in foreign countries. He thought it very different, as that was provided at the public expense, and this was to be raised from the sailors themselves. He believed the sailors of New England would sooner take their chance abroad, than pay this tax for foreigners. Besides, the fishermen never go into the Southern States; they are employed exclusively in fishing and exporting their fish.

Besides, this tax would have an effect to drive our seamen out of the country. The tax would fall upon the merchant, and be deducted from their wages. It would also fall heaviest upon those seamen who have families and are fixed in the country. A foreigner could afford a small deduction from his wages; but a native seaman, with a family, could not afford it.

As it respects the federalism of the thing, he was in favor of every measure which went to establish harmony between different parts of the country; but he had no idea of taxing a single order of men on this account.

Mr. S. Smith believed, with the gentleman last up, that this would be a tax upon the merchants, as the sailors must have sufficient to support them. He did not believe the fishermen could complain; for, though the gentleman stated that the bounty allowed upon the exportation of fish was only meant as a drawback of the duty paid upon the salt used in salting the fish for exportation, every man must be convinced that it far exceeds that amount, as he believed the sum allowed

was greater than the whole sum paid by that State for the salt duty. [The Speaker asked whether these observations applied to the question?] If they did not, Mr. S. wished gentlemen who had preceded him on the same subject, had been interrupted. The Southern States, Mr. S. continued, were as able to keep their seamen from perishing as the Eastern; but this was a measure which would redound to the honor of the United States. No sailor, he was certain, would grudge to pay twenty cents out of twenty dollars for so excellent a purpose. The tax would eventually fall upon the merchant or landlord; but he believed upon the landlord, as they generally got the surplus of the sailor's money.

Mr. J. Parker was sorry the gentleman from Massachusetts could not consider all the seamen of the United States as standing upon the same ground. That gentleman was mistaken when he said the bill went to provide for the support of foreigners; it had no such view; it provided only for the relief of our own citizens. And, in our present situation, when the country is threatened with war, what encouragement was there for men to enter on board our vessels, if there were no asylum for them, in case they were sick or wounded? It would be wise and politic, in his opinion, to begin measures which must place these persons in a better situation than at present. The British sailor looked up to Greenwich Hospital as an asylum when all his toils are over; and perhaps it may be owing, in some measure, to this circumstance, that the British sailors are so valiant a set of men. He hoped, therefore, the sailors of this country would not be left to the doubtful benevolence of others; but that, by passing this bill, a permanent relief might be afforded them in case of sickness, disability, or old age.

Mr. Varnum said it had been observed that this bill would relieve the citizens of Massachusetts from taxes in support of this class of men. It might in some respect do this, but it would not excuse sailors themselves from paying to the support of others, equally with their fellow-citizens. He did not know but that the United States have the power to make the proposed regulation; but he thought it was a business which more particularly concerned the Legislatures of the individual States. If the United States, indeed, thought this class of men of so much more importance than any other, the people at large, he thought, ought to be called upon to support them in distress; and if hospitals are to be supported for this purpose, the public ought to support them, and not the sailors themselves.

Mr. V. did not know how the gentleman who used it, understood the term *federalism;* but if he meant that federalism which was supported by the Constitution, he did not know how he would reconcile it with that clause of it which says "that no capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration directed to be taken."

Mr. V. did not think that this kind of tax was consistent with federal principles; for it might as well be said, because the State of Massachusetts is possessed of some particular advantages over other States, every citizen of that State shall pay a poll tax of ten dollars a year for the benefit of the Union, as that the sailors of that State should be called upon to support an establishment in which they will be but little interested.

Mr. Gallatin said this was a case of very new impression to him, which perhaps might be one of the reasons why he felt disposed to vote against the bill. Until he saw some positive good as likely to arise from any measure, he was always inclined rather to vote against it than for it. This bill assumed a principle for its foundation, the truth of which he was not acquainted with, viz: that the seamen of the United States are not able to provide for themselves, and, therefore, that it is necessary to provide a sum for their relief, in case of sickness or disability. He had not seen this distinction between them and other classes of citizens, and, therefore, believed them to be capable of taking care of themselves. He knew there were, in all communities, a number of men who were not sufficiently provident to lay by money to afford relief in sickness, or to make old age comfortable; but he did not know that there was a greater number of this description of persons among seamen than among others.

Institutions of the kind recommended in this bill might be used in other countries where there was a distinction between sailors and other citizens, but, in the United States, he had not been able to discover any material distinction between them and other classes of men. How far marine hospitals had been useful in Europe, he could not tell; he knew there many rotten public institutions of hospitals, &c., there, which were established for good purposes at first, but which are now become worse than useless. But, supposing the institution to be a good one, he thought it better to leave the business as at present, and suffer this class of people to provide for themselves, or to be provided for in the same way in which other poor and sick or disabled persons are supported.

There was one part of the bill which he said he could not consent to vote for, viz: that part which directs the erection of buildings, as he was convinced that persons of every description may be better relieved by being dispersed through the country, than in being placed in a hospital. He was opposed also to the manner in which the fund is proposed to be raised. If he was inclined to provide relief for sailors, as a distinct class of citizens, he was against providing a fund for the purpose by a tax upon labor, which would, in all respects, be a capitation tax. Gentlemen might argue as they pleased about the tax falling upon merchants, it was impossible to say upon whom a tax upon labor would fall. In some instances it would fall upon the sailors themselves; and in some of these it would be paid by the merchants themselves, and in others, by the community.

Mr. G. did not understand that there was any distinct provision for seamen in the Eastern States; they were provided for in common with other citizens; and, as it was allowed they furnished two-thirds of the seamen of the United States, and as the Representatives from that quarter knew what kind of relief the sailor liked best, he thought it right to consult their wishes upon the subject. If they are satisfied to support their seamen in the way they do, he did not know why a tax of this kind should be raised for their relief.

Mr. G. said, he should have been glad to have known something as to the effect this law would produce in this city. It was well known the member from it, who would have been possessed of every information on the subject, had been a long time sick and unable to attend to his duty, in this House. Seeing the Representatives from New York, Baltimore, and Charleston, in favor of it, and the Eastern States against it, and not knowing the wishes of the people of Philadelphia with respect to the measure, he should wish for time to obtain some information upon the subject; he therefore moved to postpone the question on the passage of this bill for two days, in order that he and his colleagues might make some inquiries on the subject.

Mr. Hartley seconded the motion.

Mr. Livingston had no objection to the postponement, especially as the gentleman from Pennsylvania had expressed his intention of voting against the bill if passed at present, and because he knew the effect of inquiry would be favorable to the bill, as he believed this city was much in the same situation with the city of New York.

The question for a postponement was put and carried.

Wednesday, April 11.

Mr. Gordon renewed his motion to take off the injunction of secrecy from the members of this House with respect to the instructions of the Executive to our Envoys to the French Republic, and hoped the House and galleries would be cleared of strangers for the purpose.

Mr. Nicholas did not think it necessary to take up this business. He saw the instructions were printed by the Senate, and laid on their desks, and as the printers had inserted the whole of the despatches in one paper, he supposed the instructions would be published in the same way, and if so, there was no necessity for any further publication of them.

The motion for taking up this matter was put, and negatived—33 to 30.

Mr. Harper laid a resolution on the table, proposing the appointment in the War Department, and subordinate thereto, of an officer for the immediate superintendence and construction of fortifications.

Mr. Sewall laid before the House a letter from the Secretary of War, enclosing certain communications on the subject of the defence of the country; which were referred to the Committee of the Whole on the state of the Union.

A message was received from the Senate informing the House that they had passed a bill for the relief of Joseph Nourse, to which they request concurrence.

DEFENCE OF PORTS AND HARBORS.

The House resolved itself into a Committee of the Whole on the state of the Union, Mr. Dent in the Chair, for the purpose of taking into consideration the bill supplementary to the act providing for the further defence of the ports and harbors of the United States. The Chairman having gone through the bill, and repeated the first section, in which was a blank for the sum to be appropriated,

Mr. S. Smith said, as the chairman of the committee who reported the bill (Mr. Sewall) was not in his place, he should propose to fill the blank with two hundred thousand dollars.

When speaking on this subject before, he had said that $150,000 (and not $115,000, as he found he had been understood to say) had been estimated as necessary; but in order to leave a surplus in the hands of the President, he believed it would be proper to fill the blank with the sum he had named. But, as he now saw the chairman in his place, he would probably state what the estimate was.

Mr. Sewall seconded the motion for filling the blank with $200,000. The estimate which the committee had made, he stated to be as follows:

At Boston, where no money has heretofore been expended by the United States, which is therefore without defence, though as likely to be struck at by an enemy as any port in the Union - - - -	$50,000
At Newport, where some provision has already been made - - - -	30,000
At New York, where some fortifications are already erected, a further sum is necessary for Governor's Island, on which the United States have expended about $13,000 -	50,000
At Baltimore, where some money has been expended, but it has been represented to the committee that the fortifications are insufficient and ill-placed - - - -	30,000
At Norfolk, for establishing a new fortification on Old Point Comfort, and Fort Nelson -	30,000
At Charleston, on the fortifications there -	40,000
At Savannah and St. Mary's in Georgia -	15,000
	235,000

In this sum, Mr. S. said, were included several sums contained in a former estimate; of which a balance of $90,000 remain unexpended. Deduct this sum from the above, and there will remain $145,000 to be provided for; but, in consideration of the general authority placed in the President, the committee concluded to recommend an appropriation of $200,000.

Mr. Blount observed, that there was no estimate, in the statement which had been made, for the fortifications in North Carolina; and, from the proceedings had in this business heretofore, he was convinced of the propriety of designating the different places at which money should be expended, and the amount for each, confining the appropriation to such as would be likely to answer some valuable purpose. He therefore moved that the committee rise, and if this motion was carried, he

should then move to recommit the bill, for the purpose of accomplishing what he had mentioned.

Mr. Sewall was proceeding to reply to Mr. Blount, when—

The Chairman said, he found that this bill had not been referred to the Committee of the Whole on the state of the Union, but to an ordinary Committee of the Whole.

A motion was accordingly made, and carried, for the committee to rise. The House being resumed,

Mr. Blount moved that the Committee of the Whole, to whom had been referred the bill supplementary to the act providing for the further defence of the ports and harbors of the United States, be discharged, and that the bill be recommitted to the select committee, to be reported in the specific way in which he had already mentioned. Formerly, when a bill of this kind was passed, an estimate similar to the present was furnished, and it was proposed to erect a fort at Ocracoke, in North Carolina, of eight guns, and a sum of money was appropriated accordingly. But a fort of double this strength was commenced, and, instead of a barrack for fifty men, one was begun which would contain five hundred; so that the whole sum of money appropriated was expended in forming the outlines of the work. A fort of eight guns would answer a valuable purpose at this place, and, as he did not expect it would be attended to without it was expressly mentioned, he hoped the bill would be recommitted.

Mr. Sewall said, the committee had attempted to form a bill in this way, but they found so many difficulties in it, as to induce them to adopt the present plan, and give the Executive full discretion in this business. If there was a want of attention to any particular place, on application to the President, the defect would doubtless be remedied. It was impossible to ascertain, without actual inspection, what was necessary to be expended at the different places; it was therefore thought to be best to leave the business with the Executive.

Mr. McDowell was in favor of the committee being discharged, for the purpose mentioned. He thought it might be as well ascertained from the members of this House what would be necessary to complete the different fortifications, as in any other way. It appeared extraordinary to him that North Carolina had been wholly unattended to.

Mr. Otis thought it very improper for members to come forward to point out to the world the weak and most vulnerable parts of the Union; he believed the business might be safely trusted in the hands of the President. If war were to take place, and the President was to be restricted in the way proposed, after the money appropriated was expended, the enemy would know he could go no further. He could imagine a contingency to happen, three weeks after Congress had risen, which should make it necessary to expend all the money appropriated at one place. The present, he said, ought not to be considered merely as the fortification of a peace establishment; but the President should have power to oppose danger wherever it may threaten. If the State of North Carolina had been neglected, he had no doubt, on application to the President, it would be attended to.

Mr. Brooks would just add, that they had no documents to enable them to judge what was necessary to be done at different places. It was true, the committee had made an estimate, but it had been done without any certainty. Nothing could be done without a survey. The Executive would doubtless take care to have this made, and do what was necessary in the business.

Mr. S. Smith said, the subject had been considered in the select committee, upon the ground stated by the gentleman from North Carolina, and he was originally in favor of this mode; but, upon considering the subject, he found it would be attended with many difficulties, without producing all the benefits he had contemplated, he therefore gave way. The last session, the Secretary of War made a report, mentioning the different places at which money was wanted to complete fortifications, the whole amount of which was $200,000. New York was omitted from the estimate, and $145,000 were appropriated. Having got the money, it was to be supposed the Secretary of War would have proceeded with the business; but a few of the places had only been attended to, and very trifling sums expended. The reasons he gave for not having expended more were, that he had asked for an additional regiment of artillery, which not being given, there would not be sufficient men to place in them. How far he was right in acting thus, he must himself answer. But it was proper, at a time when war, if not unavoidable, is at least very probable, to place the power and responsibility in the hands of the President, and leave it to him to see that the Secretary of War does his duty. He was willing to give him two hundred thousand dollars for this purpose.

Mr. Venable thought the object of the gentleman from North Carolina might be answered by designating the places at which money should be expended, without mentioning the sum—leaving it to the President to expend what sums he thinks proper, and to fortify such other places as he may judge necessary.

Mr. Baldwin said, there was not the same difficulty in regard to fortification now as when it was gone into. At that time many persons were of opinion with the chairman of the present committee that the money would be best appropriated in gross; but it was determined otherwise, and Commissioners were sent to different parts of the United States for the purpose of making surveys and reports. In some places they recommended permanent works, and in others works of a less substantial kind. As these reports could readily be referred to, except as to the new fortifications proposed, it would, perhaps, be best to follow the course heretofore taken, as, though it would be attended with a little more trouble, it would take a considerable burden from the President.

Mr. Sewall said a few words in reply, which were answered by Mr. Baldwin.

Mr. J. Williams was fully satisfied the bill ought not to be recommitted, for the reasons stated by the gentleman from Maryland, (Mr. S. Smith.) The President would be better able to learn where it would be proper to lay out money on this subject than that House could; for, if they were to go into the business, one State would wish this place to be fortified, and another that; but the President would expend the money where it was really wanted, and, if the Southern States were to be threatened, it might be necessary to spend the greatest part of it there.

Mr. Macon was in favor of the motion; or, if the different places were enumerated, he should move to strike out New York, as it had been shown heretofore that the fortifications which are erecting there will be useless, and that the money expended upon them will be thrown away. He was supported in this opinion, also, by the report of an engineer at the last session.

Mr. Grove was for the committee's being discharged. It appeared to him that the select committee had wanted information with respect to the country from which he came. They had a coast of four hundred miles, on which was much wealth, and on which were places of considerable consequence, more particularly Wilmington and Georgetown, which had not a gun to protect them against any privateer that might come against them. The money which had already been expended was wholly useless; and, if the people in that quarter see Congress is determined to do nothing for them, they will be under the necessity to do something for themselves.

He was astonished that no attention had been paid to this coast, as an enemy might in two hours sail from the ocean, and put arms into the hands of at least five thousand men, who might be ready to receive them. He could produce letters to show that the people in that quarter consider themselves in a very dangerous situation. He hoped, therefore the bill would be recommitted, and that this part of the country would be looked at. He was willing to vote for every measure of defence which might be thought necessary; but he could not sit silent and see the State from whence he came wholly neglected.

Mr. Livingston said, the reason which the gentleman from North Carolina (Mr. Macon) had assigned for wishing the bill to be recommitted, viz: that he might have an opportunity of striking out the port of New York, convinced him of the propriety of not recommitting it. Mr. L. gave reasons why it was proper to attend to the port of New York. With respect to the ground assigned for a recommittal by the gentleman last up, he would recollect that the select committee estimated that there would be a balance of fifty-five thousand dollars to expend on such places as the President should think proper; and, if he should be applied to, there could be no doubt but the coast of North Carolina, which he had spoken of, would be attended to. If the committee were in possession of sufficient information for the purpose, he should himself be in favor of specific appropriations; but he was convinced they were not.

Mr. Hartley was opposed to the motion for discharging the committee, as it would be attended with a loss of time, and cause a great deal of unnecessary debate; for, as the gentleman from North Carolina (Mr. Macon) is against the whole bill, it might be supposed he would oppose every place that was mentioned for fortification. He believed New York ought to be attended to, and he doubted not the object wished by the other gentleman from North Carolina (Mr. Grove) would be effected by the present bill. He thought it proper that discretion should be left with the President in this business, as it might be necessary to erect forts at places which were not at present contemplated.

Mr. Brooks was convinced of the impropriety of committing the bill, from the reason assigned by his colleague. The business, he said, would be best left with the President, who would conduct it without those local prejudices which would not fail to show themselves, if the members of that House were to undertake to designate the places.

Mr. Pinckney rose to justify or excuse the select committee for not having inserted in their estimate that part of the coast which had been spoken of by the gentleman from North Carolina (Mr. Grove.) It would be necessary to explain the views of the committee on that subject. The committee to whom this subject was referred, is not only a committee for taking into consideration fortifications, but also the general defence of the United States. They were not forgetful of that part of the country which has been mentioned; but they did not think fortifications the best kind of defence for it. They contemplated the employment of galleys on that coast, which would be better calculated for defending it against privateers, than fortifications would be. They thought fortifications useless, except for the protection of large cities, to prevent them from being bombarded or laid under contribution; but for the general protection of the coast, a moving defence, which is able to pass in shallow water, will be found much preferable.

With respect to New York, he believed it necessary to pay immediate attention to it. Considerable sums had been expended on the works there, and to leave them in their present state, would only be to hold out a lure to an enemy to take possession of them, and, by that means, get command of one of the first cities in the Union.

As to Ocracoke, in North Carolina, it may be, and he doubted not it was, a proper place for a fortification; but if gentlemen will consider that there is already an unexpended sum of $20,000, part of which was appropriated for that object, there is no necessity for recommitting the bill to have that place inserted.

The committee, he said, had reported a proposition for a marine defence, and a bill has been received from the Senate for the same object; and they had no doubt but the President would provide fortifications at such other places as

might be thought proper, which the committee had not included in their estimate.

Mr. Gallatin said, he did not understand that the motion of the gentleman from North Carolina was intended to destroy the bill, but merely that certain specific appropriations should be made, instead of leaving the business altogether to the President. He was himself in favor of this motion; and he was so because he was in favor of the bill. He wished money not only to be appropriated, but actually applied; for experience had taught the House that when money was appropriated in the loose manner proposed by this bill, it had not been expended. His idea was that the money should be appropriated, and that not only the President should have the power of applying it, but be directed to see that such and such places be fortified, and appropriate such and such sums for the purpose. In doing this, he did not wish to enumerate any more than the principal places which had been named by the chairman of the select committee. In addition to this, he wished a sum to be appropriated to be expended on such ports as may not be mentioned, but which it may hereafter be found necessary by the President to fortify, or to make good any deficiencies in the appropriations which are specified. If the appropriations were not made in this specific way, he asked what security the House had that the objects proposed would be accomplished? He believed they had none. The Secretary of War told the House that the money appropriated at the last session was not applied for two reasons: one was, because Congress had not provided an additional regiment of artillery; the other was, because a condition had been made that the States should first make cession of the jurisdiction of the ground whereon fortifications were erected, and that the cession had not been made. The House has removed the latter obstacle, though no additional artillery is yet provided. If the business was left to the discretion of the Secretary of War, perhaps he might, at the next session, assign some other reason for not having applied the money to the objects for which it was appropriated. In the present instance he would be bold to say that the House had acted right, and the Secretary of War wrong. He last session wanted an additional regiment of artillery; which it was now seen were not wanted; whereas, if he had expended the money as directed, our fortifications would have been in a better situation than they now are. Knowing this had been the case heretofore, Mr. G. thought that the House, whose duty it was to provide for the defence of the country, ought not only to appropriate the money for the purpose, but direct it to be applied to particular objects.

Mr. G. was sorry to hear any local objections to this bill. The gentleman from North Carolina had expressed his desire to have the bill recommitted, that he might have an opportunity of striking out New York. To attain this object a recommitment was not necessary. It might be done by striking out the last section of the bill. He mentioned this, because the gentleman from New York had opposed the recommitment on that ground.

As an individual, it was his opinion that the State of New York ought to have ceded the place on which her fortifications are erected, in the same way as Pennsylvania and other States had done. He also thought that State ought to have taken measures to have paid the balance which they owe to the United States. In both points he blamed them; but in the present situation of the country, wishing every vulnerable place to be fortified, and as it was for the interest and safety of the Union that that port should be fortified, he certainly wished it to be attended to. He would go as far as any gentleman in fortifying the ports and harbors of the United States. He was willing to appropriate $200,000 for the purpose; and he should be equally ready to appropriate for providing such gun-boats or floating batteries as may be thought necessary for the protection of the coast.

His colleague said he was opposed to the recommitment, because it would occasion delay. He would remind him that that could not be the case, as there were now $90,000 of an unexpended appropriation, and the commitment would not occasion a delay of more than a day or two.

Mr. J. Williams was against discharging the Committee of the Whole, and he thought if the gentleman who had just sat down would review his arguments, he would be so too. He complained that the money which had been appropriated was not expended. Why, if the money was specifically appropriated, it would not be expended, if the officers thought it unnecessary. The gentleman from North Carolina, who was opposed to all fortifications, he should not notice; the observations of his colleague as to 300 or 400 miles of coast being unprotected, would be an argument for increasing the appropriation. He was sorry to hear the gentleman last up complaining of a certain State for not having paid her debts, and making cession of the jurisdiction of her fortifications, as he said Pennsylvania had done. But, he asked whether the gentleman could compare the importance of one site with that of another? As to paying of debt, he hoped Pennsylvania would pay her own, before her Representatives called upon others to pay theirs.

Mr. Macon spoke again in favor of the motion, and as to the inutility of the fortifications at New York.

Mr. Bryan was in favor of the motion, and spoke of the importance of fortifying Ocracoke.

Mr. Rutledge was glad to find, however averse gentlemen had been heretofore to fortifications, that they were now pretty generally impressed with the propriety of the measure. Being himself in favor of it, he should be against discharging the Committee of the Whole. He wished the business to be gone into immediately; and except there was an engineer in every delegation, it would be in vain for the House to attempt to say what was proper to be done at every place, or what would be the expense of doing it. He believed it would be best to leave the matter with the President, who would employ engineers to point out the fittest places to be fortified, and estimate the expense. He did not wonder that the feelings of his friend from North Carolina should be roused by the unprotected state of his country: but as he had been informed that a floating defence was contemplated, he hoped his apprehensions would be delayed.

Much blame, Mr. R. said, had been thrown upon the Secretary of War, for not having expended all the money appropriated at the last session. He believed this subject was not properly before the House at present; but he recollected that it had been stated to the House that fortifications were mouldering to decay for want of men to take care of them, yet no men were provided, and he saw no use in laying out money without the places were afterwards taken care of.

Mr. Grove repeated his solicitude for the coast of North Carolina.

Mr. Thatcher did not regret that the money appropriated at the last session was not expended; he should be glad to find at the next session that there had been no occasion to expend the money now appropriated. He was unwilling to recommit the bill for the purpose mentioned. There were ports in Massachusetts which he could name, which required attention, at least as much as those of North Carolina; but he was willing to leave the expenditure of the money to the judgment of the President.

The motion for discharging the Committee of the Whole was put and negatived.

The House then resolved itself into a Committee of the Whole on this bill; when

Mr. Blount moved to amend the first section by inserting all the places which had been inserted in the original law.

This motion was advocated by Messrs. Blount, Gallatin, Milledge, and McDowell, and opposed by Messrs. Sewall, Gordon, Pinckney, Dayton, and Brooks. It was negatived without a division.

In the course of the observations on this amendment, it was said to be improper for members to be pointing out the most weak and vulnerable parts of the coast, at a time when we have every reason to expect a war. In answer to this, Mr. Blount said, that it was well known that all parts of our coast are weak; and that no secret of this kind could be revealed to France, as a survey of our coast had been made by citizens of that country, who were probably now in France.

Mr. Sewall moved to fill up the blank in the bill with $200,000.

Mr. S. Smith thought, since the debate which had taken place, that $250,000 would be necessary, as several places had been mentioned which had not been considered by the committee.

After some observations in favor of $250,000, by Mr. Harper and Mr. S. Smith, and against it by Mr. Sewall and Mr. Macon, the question on the largest sum was carried, there being fifty members in favor of it.

Mr. Blount moved to insert three ports in North Carolina by name. The motion was negatived, there being only 13 votes in favor of it.

The bill being gone through, the committee rose, and the House entered upon the consideration of the bill; when,

Mr. Gallatin made a motion similar to the first made by Mr. Blount in Committee of the Whole, for enumerating the places at which the money appropriated should be expended, leaving the President the power of expending such sums at other places as he should think proper.

After some debate, of no great importance, the question was taken, and decided in the negative—yeas 32, nays 54, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Demsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Dawson, William Findley, John Fowler, Albert Gallatin, Andrew Gregg, William Barry Grove, Jonathan N. Havens, David Hohnes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, John Nicholas, Tompson J. Skinner, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, and Robert Williams.

Nays—John Allen, George Beer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Edward Livingston, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, John Reed, John Rutledge, junior, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, William Smith, Peleg Sprague, George Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

Thursday, April 12.

The bill supplementary to the act providing for the further defence of the ports and harbors of the United States, was read the third time, and passed.

The bill for the relief of sick and disabled seamen, after considerable opposition from Messrs. Sewall, Otis, and Reed, was passed, 59 votes being in its favor.

The bill making an appropriation for the Government buildings in the city of Washington, was received from the Senate, with amendments, and referred to a select committee.

ADDITIONAL ARTILLERY, &c.

Mr. S. Smith moved to go into a Committee of the Whole on the state of the Union, in order to take up the resolution for providing additional companies of artillery and engineers, and cannon, arms, and ammunition.

The House resolved itself into a Committee of the Whole on the state of the Union accordingly, Mr. Dent in the Chair, when the resolution providing for ——— companies of artillery and engineers having been read,

Mr. Sewall said, the committee had thought that eight or nine additional companies might be sufficient; but he believed that it would be necessary to have more than one lieutenant colonel as an actual attack might be made in one part, and another might be expected in a different quarter, or a field officer might be wanted to command a militia party. Besides, eight or nine companies will not afford a sufficient number of men, as the present fortifications will need more than 400 additional men, and it was proposed by the appropriation of yesterday that more should be erected. The Secretary of War was of opinion that a whole regiment in addition was necessary, and he was of the same opinion. He therefore moved to strike out the word "companies," for the purpose of inserting "a regiment."

Mr. Nicholas wished to know whether the committee had any information with respect to the present regiment, as to where the men were stationed, and whether the regiment is complete.

Mr. Macon did not think it would be proper to add any more field officers. The full number of men might be raised without an additional field officer. The men would be placed in the different fortifications, where there could be little occasion for field officers.

Mr. Sewall said, he would give the gentleman from Virginia the information he had asked for, by reading a letter which he had received from the Secretary of War. From this letter it appears that the whole number of non-commissioned officers and men, at present, is 952, but that there is a deficiency of about 250. The different places at which the men were stationed were enumerated.

Mr. Hartley was in favor of the amendment. He hoped we should not have war; but if we had, he believed additional field officers would be necessary. To have a complete additional regiment would encourage young men to enter into it, who would not go into an old corps. He believed if a new regiment was raised, it might be as respectable a corps as any in existence; but if the additional companies were added to the old regiment, it would become unwieldy, and unlike any other body in the world. One-half of these men would be wanted in the field, and therefore two lieutenant colonels would be very necessary.

Mr. Nicholas understood the chairman of the select committee to say that eight companies would be sufficient; so that, if the present regiment was filled up, there would be little more than one hundred men wanting. But it seemed a number of the men were wanted for the western frontier. He was certain, that when these men were first raised, no idea was then entertained of employing them on that frontier. He could see no use for them there, except they were employed instead of other men; and if so, it was an improper disposition of them. It was giving to the Secretary of War the power to extend the number of the men, in order to employ them differently from what they were intended. He hoped they should not proceed to form another skeleton of a regiment, for field officers would not be employed, if made. In the last war, to the Southward, there was scarcely ever more than a captain's command. Indeed, he considered field officers as of little more use in the field than in garrison duty, and therefore wholly unnecessary. When the present regiment was first organized, one lieutenant colonel was objected to; but it was said this regiment was to operate as a kind of military school, and on that ground it was agreed to. He supposed the great depôts of commerce would have been attended to; but he did not think it was necessary to go to the extent in preparations for war which gentlemen contemplated. He hoped they would not give way so far to their wishes on this subject, without inquiring into our ability to support the expense. He believed the greatest want by and by would be the want of money, and that, therefore, no estimate should be made larger than necessary.

Mr. Smith said, the present corps of artillerists and engineers consists of one lieutenant colonel, four majors, and sixteen companies of 62 men each, making 992 men, exclusive of the officers. Whether they are complete or not, he did not know. Men are constantly going out, and there have been some desertions. This corps has not been found sufficient for the western frontier and the Atlantic forts. The gentleman from Virginia had said, there was no occasion for artillery on the western frontier, as that service was not contemplated when the regiment was formed. On reflection, that gentleman must allow that they are necessary at Detroit, in the neighborhood of the British posts, at Niagara, Michilimackinac, and at Walnut Hills and the Natchez. That gentleman is also of opinion that field officers are not necessary in service. He was himself of a different opinion, and spoke of the manner in which they would be necessary. The chairman of the select committee has stated that it was the opinion of the committee that nine additional companies would have been sufficient. He did himself think these would have been sufficient; but reflecting further upon the subject, he believed 16 companies would not be too many. Our posts on the Spanish frontier must be substantially garrisoned, as they are far removed from any militia, except what may be formed from the people resident there.

It must be in the view of every gentleman, that we are about to be involved in war. It is more than probable. If this is the case, and he believed it was, we must have more artillery than is necessary to guard our posts. We must have sufficient besides for an army of 20,000 men. He, therefore, thought a complete regiment would be necessary.

An objection was made by the gentleman from Virginia on the ground of expense. This was no time to talk of expense. We must provide means of defence. This is our duty, and it is the duty of the people cheerfully to pay the expense. His object had always been to preserve the country in peace. He had constantly reprobated every measure which could lead to war. During the extraordinary session, he opposed the increase of our artillery or naval armament. He went heartily into the appropriation for the defence of our ports

and harbors; into the expense of equipping and manning our frigates, and that of two vessels of ten and twelve guns, for the purpose of protecting our coasts and ports. The House had been told that everything had been done with respect to the frigates with as much expedition as possible. This they must believe. They were also told that the cutters could not be put to sea for want of cannon. This must be believed also, but he was sorry to believe it. The present was, however, a very different appearance of things from that which presented itself during the extraordinary session. The documents which had been laid before the House show that war is almost inevitable; that it is not in our option to say, there shall be no war. It is in the option of another nation, which appears to be irritated with us, whether justly or unjustly, he should not inquire. It appears that peace is no longer within our grasp. Believing this, he would do all in his power, not only by his voice, but by all the means which nature and his own industry had given him, to support his country. Whilst he conceived it to be in our power to preserve peace, he was desirous of taking every measure to preserve it; but now, when he saw war approaching, he would meet it, and no man should be found more ready than he to defend his country. He would give the regiment of artillery now asked for, because he believed it necessary. He believed more cavalry would be wanted in the Southern country, though in the part from whence he came they were not wanted. He would also give them.

Though the question, Mr. S. said, was only for an addition to the corps of artillery, it involved in some degree the defence of the Union generally, and would warrant his saying what he thought necessary to say on this subject. Money, he allowed, was the great essential. With money everything was easy. We have, said he, within ourselves every means of defence, and recourse must be had to them. The Committee of Ways and Means have the subject of revenue before them. They will report a plan, which will not, perhaps, bring money immediately into the Treasury; but, in the present situation of things, anticipations might easily be got from the moneyed men of the country.

Mr. S. concluded, by saying he had gone further into the subject than, according to the rules of order, he ought to have gone; but trusted he should be excused, from having dwelt upon a question which would but too much interest us, he apprehended, in a short time.

Mr. Macon expected the gentleman last up would have spoken to the question, and shown the use of additional field officers. He did not wish to lavish money away, as, if we were to be engaged in war, we should have occasion for all that could be got. He had no doubt the moneyed men in this country would do as much as the moneyed men in any other. But as he could see no occasion, and none had been shown, for ten field officers in the artillery, he should oppose the present motion.

Mr. Pinckney said, it must give real pleasure to every true friend of his country, to find the unanimity which exists in this House for supporting every measure which may be deemed necessary for the defence of our country; and when they differed, it was merely about this or that mode of carrying into effect the plans proposed. He considered it to be the object of the gentleman from North Carolina, to be economical on this head, that we might have better means for effecting some other measures. But if the gentleman considered the amount of this economy as extending only to a few officers, he would scarcely think it worth contending for.

According to the establishment of the United States, they had no separate corps of engineers. The engineers and artillerists are connected together, and the field officers are the most proper persons to be employed as engineers, and therefore he conceived the additional officers would be necessary. Besides, these officers being experienced men, will be ready to take command in case of any sudden attack. Indeed, when the vast extent of our coast and frontier is considered, it must be acknowledged it would be bad economy to have too small a number of officers.

Mr. Shepard said, if it were likely we should go to war, it would be absolutely necessary to agree to the amendment. He doubted not men of knowledge and experience would be appointed as officers, two or three of whom would have to be employed as engineers to overlook the works at the different fortifications, by which means the United States would save more money than their pay would amount to.

Mr. J. Williams should be in favor of an additional Lieutenant Commandant and four Majors, if our artillery were to be doubled, as the officers, who would doubtless be men of science, would be capable of acting as engineers, and ready in some cases to command the militia in case of a war.

Mr. Gallatin. If the object of this amendment had been solely to decide that there should be field officers according to the additional companies of artillery to be raised, he did not know that he should have troubled the committee upon the subject, as he did not pretend to be well acquainted with military matters, but sixteen companies were now proposed to be raised, in lieu of eight, which the select committee thought sufficient.

Upon this ground, it was difficult to decide this question. The chairman of the committee read a letter which had been written to him by the Secretary of War, which contained information on the subject, but as this letter had not been laid before the House and printed, as was customary in such cases, reference could not be had to it. When the House had been applied to for additional troops, it was customary for them to have before them an account of the present establishment, where stationed, and for what purpose the addition was wanted. Nothing of this kind was now before them; they had been told in a vague manner, that having appropriated largely for fortifications additional artillery would be wanted. He hoped when a bill was reported, this information would be given to the House.

It had been said by the gentleman from Maryland, that we are on the eve of a war. He agreed that the probability of a war is greater than it has been at any former period. He would not make any remarks on what has drawn us into this situation. But, among the causes, he would beg leave to mention the publication of the late despatches from our Envoys in France, ordered by the Senate. [The Chairman said this remark was not in order.] Mr. G. said, the gentleman from Maryland had grounded all his arguments upon the present alarming situation of the country, and he meant to state only, that the publication of these papers had destroyed the hope which he before entertained of a reconciliation. [A cry of order.] Mr. G. wished to know what was in order. He supposed if it was not in order to speak of what had led to the present situation of things, he should be at liberty to state in what the danger of this country exists. He conceived that the great danger with which a war threatens this country, is as it respects the capital of the nation, and the revenues of the United States. The greatest mischief would arise from the capture of our vessels, and, in the next, from being deprived of the ability to pay the revenues of the United States. The revenues would be immediately diminished by captures, and also from a want of ability in our merchants to pay. These he looked upon as the greatest evils to be apprehended from a war, and therefore he contended that it was the duty of the House to be cautious how they expended money unnecessarily.

If the effect of a war will be to decrease our revenue, every object of expense should be avoided, which is not essentially necessary; and it was possible, on further information, he might be convinced that it was proper to increase the artillery corps sixteen companies, instead of eight, as first stated; but, at present, he did not think them necessary.

Is there, said Mr. G., any person on this floor seriously afraid of an invasion? He was sure he was not. Because the enemy we may have to contend with, is weak in every point which relates to invasion. She has a weak navy; her means of transport are small; the immense sea which divides us is a security against it; but the greatest security is, our own power and resources, and the conviction that an attack upon this country can be no object with that. Their object will be plunder, and that will be carried on by attacking our vessels. There was, therefore, no real danger of invasion by an army; but he allowed it to be possible that a few ships might come and lay some of our towns on the coast under contribution, or plunder our harbors. Against this he was willing to provide. If, in the event of war, it shall be necessary to have an army of 20,000 men, then an additional number of artillery may be necessary; but as he considered the defence contemplated went no further than the protection of our harbors against the depredations of any few vessels which might attack them, he did not think it necessary to go as far as was proposed with respect to the artillery.

What, he inquired, was the additional number of artillery asked? Some say sixteen companies; others eight. We have sixteen at present. Where are they employed? Four in the harbors, and twelve on the western frontier. He asked what use twelve companies were on the frontier? A few at Niagara and Detroit must be necessary. Perhaps four companies. But he held in his hand the reasons which the Secretary of War had given for placing them there. It was not to preserve the frontier from Indian invasion. But in order to preserve the peace of the Union, to preserve order and good government among our own citizens. [Mr. G. read an extract from a report of the Secretary to this effect.] On this ground, Mr. G. said, he had an opinion of his own. Without being a military man, (which he was not,) he might say, an army is not necessary to keep the people from subverting order and good government. He conceived it was not the intention of Congress to place these men there when they were first raised. He thought, therefore, that eight companies might be withdrawn from the western frontier without inconvenience, and placed on the seaboard.

We ought, at this time, he said, to husband our resources as well as we can, and not go into any expense which can be avoided. He should, therefore, vote against the amendment; for if ever sixteen companies are necessary on the seacoast, eight might be drawn, as he had stated, from the frontier.

He had heard it twice repeated (once yesterday and again to-day) that we must first provide for the effectual defence of the country, and then look out for money. He believed it would be found extremely inconvenient to pursue this mode. On the contrary, he thought it would be wise to take a view of our resources first; and if it is found they are extensive, and equal to any purpose proposed, then let all be done; but first to go into every expense, and then inquire whether resources could be had, he did not think the most prudent plan. He believed it would be well to look into our means, and then select such objects of expense as would be of the greatest service to us.

He should wish that the resolution might be agreed to under the idea of eight companies; and before a bill was reported, other objects could be taken into consideration, and the Committee of Ways and Means might, in the meantime, make a report on the situation of our means, when the House would be better able to determine, than at present, what would be the fittest to be done.

Mr. G. said, he should vote against the amendment, not because he was against additional field officers, because he was not a judge of the subject, but because he thought sixteen additional companies unnecessary; because the committee had a number of objects before them, and neither knowing the extent to which they meant to go, nor the extent of our means, therefore, he should vote against it.

Mr. Brooks agreed with the gentleman who had just sat down, that he was not a good judge of what relates to military matters; and he thought, by this time, the committee must be of opinion that he was a very indifferent judge of the whole

subject on which he had spoken. He had said that four companies of artillery are sufficient for the whole frontier. If the gentleman had taken a range from the lakes to the Mississippi, and viewed our numerous posts there, he would not have ventured the position. He had pretended to say that the Secretary of War had given it as his opinion that there was no occasion for artillery on the frontier, except to preserve order among our own citizens; but he could not think this was said generally with respect to all the posts. The gentleman has, on the other hand, represented the nation with whom we are likely to be at war as a weak people, from whom no danger is to be apprehended; yet he should not wonder, if, before the session rises, he should speak of them in a most formidable shape. Our inland towns he represented as in no danger, and, therefore, that the artillery proposed are not necessary; but if he took a view of our coast from Maine to Georgia, he thought it must convince him that employment might be found for fifteen or sixteen companies of artillery.

But the gentleman says, we are not to consider our danger, but first to sit down and count the cost. He thought the gentleman begun at the wrong end of the business. If he had been in the country at the commencement of our Revolution, he would not have thought this the proper course of proceeding. We then determined to defend ourselves and preserve our independence, whatever was the cost: and he believed this would be the best course to be pursued on the present occasion, and not calculate what the people can afford to pay, or what they will be willing to pay, and if this be not sufficient, sit down and suffer ourselves to be devoured. On the contrary, he thought it best first to determine whether it is proper to defend ourselves from invasion, and having determined this, go on to say what are the necessary preparations to be made, and after these are decided upon, then sit down and look out for the ways and means; and not fold our hands and cry out there is a lion in the streets, and we shall be devoured, without making an effort to defend ourselves. This doctrine, he could assure the gentleman, will not pass current in this country.

As to what the gentleman had said with respect to the publication of the papers, his intention was easily to be discovered. [A call of order.] Mr. B. concluded with saying, he was sorry any gentleman should have thought it necessary to alarm the people, by telling them we have not resources wherewith to defend ourselves. He hoped such an alarm, however, would neither spread far nor wide.

Mr. Dayton (the Speaker) said, that the speech of the member from Pennsylvania, (Mr. Gallatin,) in opposition to the amendment for increasing the corps of artillerists and engineers, must be considered as the exhibition of another leaf of that favorite book, in which was written the system of his uniform opposition to all the measures of our Administration. It was, in other words, the second part of that sort of manœuvre, or skilful management, which was first attempted in the case of the foreign intercourse bill; when, under the semblance of introducing an economical reform, his real object was to accomplish other and more important changes. It could not be so soon forgotten how that gentleman, in the recent instance alluded to, professing no other design than to regulate the compensations of foreign Ministers, did aim, in effect, by that indirect though certain means, to define and designate as well the number as the respective grades of our foreign agents, and thereby virtually to place himself in the Presidential chair. Possessing the same temper, and persevering in the same views, the gentleman, although then defeated, was not discouraged from again attempting to carry his point, under the like plausible professions of anxiety for economical arrangements. When an additional number of troops is called for, in order to man our fortifications along the seaboard, or indeed to prevent them from falling into decay, he does not deny that they are wanted for this purpose, and that those which are stationed at the fortifications in our ports and harbors are inadequate, but boldly takes it upon himself to decide and declare, that treble the number which are necessary are posted along our interior frontier, and that they ought to be recalled to the seacoast. Could such language and conduct, Mr. D. asked, be otherwise considered by those who viewed it in its certain effects, than as another attempt to usurp the place and duties of the Chief Magistrate, and to wrest from him, or what was equally unconstitutional, to participate with him, one of the most important attributes of the office, that of Commander-in-Chief of the Army? The member from Pennsylvania knew well that by defeating the proposition for adding to the number of troops, they would compel the President to withdraw those now in service from the stations where he, whom the Constitution has made exclusively the judge, had thought that the common defence and general welfare required them to be stationed. The member had, indeed, in words as plain as he could speak, (though, perhaps, inadvertently, because inconsistent with the profession of having a single view to economy,) declared unequivocally, that such was the very object which he aimed at. It was not possible, Mr. D. said, that a majority of that committee should be found to countenance an opposition which went in effect to say, let this fortrees be dismantled, let that post be abandoned, let the interior frontier be stripped of its defence, and let the House of Representatives in future direct the movements and several stations of the troops. However well qualified the gentleman from Pennsylvania might be to regulate and direct those things, and to perform the duties of the Commander-in-Chief, yet it was very certain that the people had not called him to that station, nor confided to him that trust, and that in his legislative capacity as Representative, he could not be warranted in his attempt to exercise it.

As to the objection against the amendment upon the principle that sixteen companies must compose a regiment, and that they would be more than had been suggested by the committee to be

necessary, Mr. D. would remark, that by adopting it the House did not decide upon the number of the addition to be made.

The question was merely whether another regiment should be raised, and when the bill should be brought in, pursuant to the resolution, it would then be the proper time to decide whether it should consist of three or four battalions, that is, of twelve or fifteen companies. He acknowledged that, under his present impression, he should prefer the former, but he did not wish to decide that question now, because it was desirable to gain more information than they were now possessed of, or than the select committee was prepared to give them. Many advantages would accrue from organizing them in a separate regiment, and the additional expense would be no more than that of the Lieutenant Colonel, for the companies to be raised must be classed in battalions, and Majors of course be appointed to command them.

Mr. Gallatin believed he was as good a judge as the gentleman from New Jersey could be of the purposes for which he had been elected. He believed he was the sole judge of the line of conduct which it was proper for him to adopt, and of the extent of his duty; and he could not conceive that he had not a right to take into consideration the present disposition of the troops of the United States, in order to ascertain how far it was necessary to increase their number. He thought the objection which had been made extraordinary, especially as it appears from the report of the Secretary of War that he expected the House would take the matter into consideration, and therefore states the reasons why no reliance can be had upon troops on the frontier. He well knew that the President of the United States, and the Secretary of War under him, had the disposition of the troops of the United States; but he also knew that if more were asked for, for any particular service, and Congress did not agree to provide so many as were asked, the consequence would be that men would be drawn from quarters where they were of least use, and placed in others where necessity called for them.

As to the observations of the gentleman from New York, (Mr. Brooks,) he did not know whether they required any answer. He allowed that gentleman might be a better judge of military affairs than him, but when he spoke of artillery as being necessary on the frontier, he thought he made no display of military knowledge. It was well known, that from 1789 to 1794, we had only four companies of artillery. It is true that we have now got possession of the posts on the Lakes; but this could not be considered as a removal of our frontier.

The gentleman from New York had said that his (Mr. G.'s) mode of arguing would not obtain—that he proposed submission because of the expense which would attend defence—that he wished to alarm the people of the United States by an insinuation that we did not possess the means of defending ourselves. Was it to alarm the people of the United States that he said he did not believe we had reason to expect an invasion, from the strength and resources of our country, and from the weakness of the enemy? It was his wish that our danger, our real situation, should be known without exaggeration on either side. He had himself considered our situation, and it appeared to him that the most we had to apprehend was from our money resources. If in 1776 there was an immediate danger of invasion, he knew very well it was not a time to consider of expense; but when war is made upon our money resources, he thought it right to take these into consideration, and not cripple ourselves in that part which will be most exposed. Is it not true, said he, that our revenue is chiefly derived from imposts? And will not war greatly derange that revenue? And is it not proper to consider that at the time we are about to make large expenditures of money in defensive measures? If an individual was to act in the way recommended by the gentleman from New York, his conduct would not be much admired. He acknowledged there might be times when expenses might be a subordinate consideration; but he believed our present danger principally threatened our property and the destruction of our revenue. It was proper, therefore, to let our measures and resources go hand in hand, and it was on this ground that he should vote against the amendment.

He might be excused if he was actuated in some degree by the difficulty always attendant in the reducing of an establishment when once gone into. Causes which gave way to establishments may cease, and establishments continue. He need only refer to our present Military and Naval Establishments, which were raised for different purposes from those for which they are now maintained.

The question on the amendment was put and carried, there being 55 votes in favor of it.

The resolution, as amended, was put and carried, there being 61 votes for it.

Mr. Sewall then called up the resolution reported at the same time with the above, for the purpose of purchasing arms, ammunition, and cannon, which he moved to amend by giving the President power, in case he found any difficulty in purchasing cannon or arms, to purchase or rent foundries or armories.

Some opposition was given to this amendment, and the consideration of it was postponed until the information which some days ago was called for on this subject from the Executive was received.

The committee rose and reported the resolution agreed to, and a bill was ordered to be brought in accordingly.

The Speaker laid before the House a report from the Secretary of War on the subject of cannon and arms, (above alluded to;) which were referred to the Committee of the Whole on the state of the Union.

Friday, April 13.

Mr. Bayard, from the managers of the impeachment against William Blount, who were appointed to confer with the Senate on the subject of their resolution, made a report, which was ordered to lie on the table.

Mr. Sewall, from the committee appointed, reported a bill to provide an additional regiment of artillerists and engineers; which was twice read and committed.

The Speaker laid before the House a report of the Secretary of the Treasury, on a memorial of sundry merchants of this city, praying for the erection of certain piers in the river Delaware. The report states it to be the opinion of the Secretary of the Treasury, that it will be expedient to provide for the erection of the said piers, and recommends an appropriation of a sum of money for the purpose; committed for Monday.

CITY OF WASHINGTON.

Mr. Craik, from the committee to whom was referred the amendments of the Senate to the bill providing an appropriation for completing the necessary buildings in the city of Washington, reported it as their opinion, that the amendments ought to be agreed to. The report was committed to a Committee of the Whole, and being made the order for this day, the House resolved itself into a Committee of the Whole on that subject. The Senate had struck out all the bill, except the enacting clause, and inserted in its place a provision for a loan of 100,000 dollars, which, together with the 200,000 dollars which have already been obtained on loan under the authority of the law in which Congress guarantees a loan for the city of Washington, make up the 300,000 dollars there authorized to be borrowed. The original bill, as sent from this House, proposed a grant of 200,000 dollars; but the chairman of the select committee (Mr. Craik) said, as he believed this was all that could be got at this time, he hoped the amendment would be agreed to. It was agreed to accordingly.

PRIVATE ARMED VESSELS.

Mr. Varnum presented a petition from the freeholders and others of the town of Cambridge, in the State of Massachusetts, stating their alarm on account of the privilege given to merchants to arm their vessels, (which they look upon as tantamount to war,) as they believe stronger reasons than ever now exist for restraining their arming; that they anxiously wish for peace, believing that we have nothing to hope from war, but dishonor and disgrace; that they hope no idea of false honor will prevent such measures being taken as shall preserve peace, and by that means most certainly promote the public welfare.

Mr. Varnum moved that this petition be referred to the Committee of the Whole on the state of the Union.

Mr. Dana said he did not hear the petition distinctly, but he thought there were some things in it which were not very proper to be contained in a petition, and which rendered it improper to be referred.

The question was put, and it was referred—38 to 35.

PURCHASE OF FOUNDRIES.

Mr. Sewall moved, that the Committee of the Whole, to whom was referred the bill from the Senate authorizing the President to purchase one or more foundries, be discharged from the further consideration of it, and that it be referred to the Committee of the Whole on the state of the Union; which being carried, he then moved, that the House go into a Committee of the Whole on the state of the Union, which was done accordingly; and the committee proceeded to consider the resolution which was yesterday under discussion, for appropriating a sum of money for the purchase of cannon, arms, and ammunition, and the amendment proposed by Mr. Sewall to empower the President, in case other means should fail in any considerable degree, to purchase or hire foundries, or armories, which shall be employed in manufacturing the same for the use of the United States.

This amendment was supported by Messrs. Sewall, Brooks, Otis, Dana, Gordon, Harper, Dayton, J. Williams, Rutledge, Allen, Hartley, and Pinckney, on the ground of its being necessary to provide for a supply of cannon and arms at all events; that though they allowed it would be best to purchase whilst that could be done, yet there being but few places in the United States where cannon of a large calibre, in particular, could be cast, the proprietors of these works might unite together and refuse to contract for a supply of cannon, except upon very exorbitant terms; or it was possible they might be influenced by a foreign country not to furnish a supply, and, if such should be the case, an appropriation of money could not procure cannon, and it would be proper and necessary that the President should have power to hire or purchase foundries, and to employ persons to work them on our own account.

It was opposed by Messrs. Livingston, Gallatin, Macon, Nicholas, McDowell, Lyon, and T. Claiborne, from a conviction that cannon could be purchased to any extent; that if this power was given they doubted not the project of casting our own cannon would be immediately gone into, which, from past experience, they had every reason to believe, would be expensive beyond measure, without answering any good purpose; and so far from securing a supply, they thought it would be likely to prevent it, as when the founders see the President has a power to purchase, they may refuse to contract, from the hope of making a good bargain in the sale of their works.

The question on the amendment was put and carried, there being fifty votes in favor of it.

The resolution was then carried without a division; the committee rose, and a bill was ordered to be brought in accordingly.

PIERRE AUPOIX.

On a motion of Mr. Livingston, the House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures on the petition of Pierre Aupoix, who prays for a drawback on goods exporte

which was refused to be paid him by the Collector of New York, on the ground of his having omitted to take the oath (during the time of a former collector) not to re-land the goods in the United States, though he had complied with every other requisite, and it was an omission of the collector, that he did not do this. The report was favorable, and was concurred in, after some debate. The committee rose, and the House having confirmed the decision, a bill was directed to be brought in accordingly. Adj'd till Monday.

In the course of the sitting, Mr. Harper gave the following notice:

Mr. Speaker: Before the House goes into the order of the day, I wish to give notice of a motion which, at some time before the end of this session, I have resolved to submit to this House. It is for the reprimand, at the bar of the House, of one of its members, for the most vile and unfounded slanders against sundry members of this House. These slanders are contained in a letter which I have read in the public prints of this city, and which contains all that malice and falsehood could suggest for the purpose of defaming the members of this House, and of the Government, and of destroying their reputation. I allude, Sir, to a letter under the signature of William Findley, which has appeared in the public prints, and the writing of which, by that person, can, as I am well assured, be proved by the most unexceptionable testimony. Nothing, Sir, but my unwillingness to interrupt the important business of the public at this crisis of our affairs, prevents me from immediately submitting this motion; and I will add, that I should never have troubled the House on the subject of this person's conduct, did not that age, which he dishonors, render him an unfit subject for personal chastisement.

Mr. Findley wished to know whether a member had a right to attack another member in this manner. If he saw the letter which had been alluded to, he could tell whether it was his or not. Any letter of his, he believed, would speak for itself.

Mr. Gallatin wished to be informed by the Speaker whether it was in order for a member to rise in his place, under pretence of his giving notice of his intention of making a motion, and thus abuse another member in the House, saying he would chastise him, and so on. If the gentleman has a motion to make, why not make it without this?

The Speaker replied that a member had a right to give notice of any motion which he intended to make; but, in the opinion of the Chair, the gentleman from South Carolina had gone farther in doing it, than order and decorum would justify.

Nothing further passed on this subject.

Monday, April 16.

ADDITIONAL ARTILLERY.

After the presentation of a large number of petions, from different parts of the country, against the measure of arming merchant vessels, and all other measures which may have a tendency to involve the nation in war, the House went into Committee of the Whole on the bill providing an additional regiment of artillery and engineers.

Mr. Sewall moved to fill the blank, left for the period for which men should be enlisted, with five years.

Mr. Nicholas had no idea we should have occasion for these men for five years.

Mr. Dayton (the Speaker) said they might be wanted for five years. If they were, there would be a considerable saving in enlisting them for that time, as men would as readily be got for that period as for a shorter.

Mr. Nicholas was unwilling that the men should be enlisted for so long a period; and, if no one else did it, he should move a limitation clause to the bill.

Mr. Lyon did not think citizens would be fond of enlisting for five years. He thought three years long enough.

Mr. Gallatin called for the reading of the act which directs that men shall be enlisted for five years, as he found in the original law they were to be engaged only for three years. [The law of 1776 was accordingly read.]

Mr. Sewall wished the words in this case to be the same as in the former law, viz: "for five years, unless sooner discharged."

The question was put and carried, there being 60 votes for it.

Mr. Sewall moved to fill the blank for the number of battalions, with three, as he believed three would be sufficient.

Mr. J. Williams thought two additional battalions would be sufficient, as that would make in the whole twenty-four companies, or 1,488 men, and, in that case, another lieutenant colonel commandant might be had.

The question for three battalions was put and carried—47 to 30.

The bill being gone through,

Mr. Gallatin said he wished to move an amendment in the first section. In the year 1793, when the law was passed for raising three regiments of infantry, two provisions were inserted in it to prevent their being kept longer in service than the occasion for which they were engaged required. The first was, "Provided, that the said three regiments shall be discharged so soon as the United States shall be at peace with the Indian tribes." The other provision gave to the President a power to forbear the enlisting of men, and of discharging them whenever, in his opinion, the state of things ceased to make them necessary. In order to effect the same purpose which these provisions had in view, viz: a discharge of the men when the occasion which calls them into existence ceases to exist, he proposed the following amendment: "Provided, that the said regiment shall be discharged as soon as the differences now existing between the United States and the French Republic shall have been adjusted." Those gentlemen who wished this regiment to be made a part of our permanent establishment, would of course vote against this

amendment; but those who wished it to cease when the present alarm ceases, will certainly vote in favor of it.

Mr. Hartley did not think it would be right to agree to this amendment; for if we were to be involved in war, it might not be with one nation only. He should be willing to agree to the latter provision, which his colleague had mentioned, viz: that the President will forbear to raise men, or discharge them, when he thinks proper. He saw no reason for being so pointed, as we had not at present declared war against the French Republic.

Mr. Sewall thought this amendment pointed and improper. The gentleman from Pennsylvania would not have Congress say that these men were raised to act against the French Republic. If the French were to attack us, they would, to be sure, be employed against them. But this amendment supposed the end of a state of things which is not yet begun. He had no objection to adopt the provision which the gentleman last up had mentioned.

Mr. S. Smith said he should be candid with the gentleman from Pennsylvania. He meant to vote for this corps, under the idea of voting $250,000 for the purpose of erecting and completing fortifications, in which it would be proper to keep a sufficient number of men, which he believed would require most of the men now contemplated, in addition to those already in existence. At Boston, he said, where there are none at present, one company will be wanted; at Rhode Island, New York, and Mud Island, each an additional company; at Ocracoke, in North Carolina, at Old Point Comfort, in Virginia, and at three forts on the Mississippi, each a company. He should, therefore, vote for this regiment under a prospect of its being a permanent corps. It was a corps which would require men of education as officers; and what inducement, he asked, would there be for men of this description to enter into it, if they were liable to be discharged from the service at the end of six months?

Mr. Nicholas hoped the amendment proposed would not be disagreed to upon the ground stated by the gentleman last up, which he thought a little singular. If the force contemplated was adequate for a time of war, the same could not be necessary in time of peace. The reason which would continue in force this regiment, after the occasion ceased for which it was formed, would hold for keeping up any other force which it may be found necessary to raise. At a time when measures are about to be taken, which will call for all the resources which the country can furnish, they ought to look to a period when they will have an end. He believed the expense of a war would be one of its greatest evils.

Mr. Dayton said, if the gentleman from Virginia had shown that this additional regiment would be sufficient in case of war, his argument might have had some weight; but not having shown this, nor been able to show it, his argument failed. He was not himself prepared to say that this regiment ought to be a part of our permanent establishment, though he believed some of the men at least would be wanted to occupy the proposed new fortifications, and the posts which we had received from England and Spain. But he objected to the amendment particularly on this ground, and it astonished him that a sentiment of the kind should have come from the quarter from which this came. If anything in the proceedings of our Government could amount to a declaration of hostility against France, it would be found in this amendment. He hoped the committee would not agree to any proposition that looked that way. Hostility with that country was very probable; but shall we, said he, by a vote of this kind, declare that we are raising troops to be employed hostilely against France? He trusted no such thing would be done.

Mr. Nicholas was not particular as to the manner in which the limitation was introduced, provided the existence of this corps was subject to a limit. He did not believe there was any occasion for the scruple which had been mentioned with respect to France, since it was well known that all the measures which were now taken were to provide against the possible issue of a war with that country. He did not believe it could be said they were about to declare war, because they were about raising a regiment of artillery. He wished the law to be limited, because he did not desire to put it in the power of the President to continue this corps longer than was necessary. He should also wish to give the President power to discharge the men sooner than the time mentioned, if he should think it prudent to do so. He did not mean to say that a clause of this kind was absolutely necessary; for, though it had been denied by some gentlemen that the Legislature have a right to disband a part of the Army, by withholding the supplies, he was of a different opinion. But he saw no reason why they should tie their hands on this subject, and give the power to the other branches of the Government to keep these men in force contrary to the wishes of that House. If it were necessary that they should be continued in force, after the expiration of the limitation, there can be no doubt but there will be a disposition in Congress to re-enact the law.

Mr. J. Williams said, it was true that a bill had passed that House, appropriating $250,000 to be expended on fortifications; but that bill has not become a law, and therefore could not be acted upon. He was against making this regiment a permanent one, because he thought three battalions too many. The whole number of officers and men will be 1,902, which, in time of peace, will be too large an establishment, and far beyond what would be a due proportion to our infantry. If there had been only two battalions, he should have agreed to their being permanent. He should not object to a clause giving the President the power of discharging the men, whenever he shall be of opinion the circumstances of the country no longer require them to be kept on foot.

Mr. Gallatin said, when he proposed his amendment, he stated that he had an intention of introducing another, giving the President the power to disband the men at an earlier period, if

he should think it proper. The gentleman from Maryland, (Mr. S. Smith,) thinking this corps proper as a part of our permanent establishment, and the gentleman from New Jersey, (Mr. Dayton,) though not positively necessary, yet in a great measure so, for our new fortifications and the British and Spanish posts, might be expected to oppose this proposition; but it would be recollected, that, when the law passed fixing the Military Establishment, Congress knew of the two treaties by which these posts were surrendered.

With respect to the form of the amendment, he believed, at a time when all our official reports were founded on the ground of our existing disputes with France, the present proposition could not add any degree of irritation to their proceedings. It did not say that we would go to war; but merely that the event was possible. He had, however, no objection to a modification of his proposition. He should be satisfied to say, "as soon as the differences between the United States and foreign nations shall be adjusted." But as we have no differences with any other nation besides France, he could see no objection to using the same words which were used in the law to which he had referred; and, also, in the law for building the frigates, which was to cease whenever we should be at peace with the Mediterranean Powers.

Mr. Pinckney believed the gentleman from Pennsylvania did not advert to one material circumstance of difference between our present situation, and those in which we were in respect to the Indians, and the Mediterranean Powers. We were at war with the Indians; and, though no declaration of war had been made against us by the Algerines, they were making war upon us. No delicacy of expression was there necessary; but, in the present case, he believed it was best to avoid all expressions which might admit of an unfavorable interpretation.

But, since this question had been agitated, he was of opinion this regiment ought to make a part of our permanent corps; and, when we shall return to a peace establishment, a deduction might be made from our infantry. He believed our militia (especially if organized upon the plan which had been proposed) would be equal to every purpose of defence; but this would not be the case with respect to our artillery and engineers. A degree of education and study was necessary in that corps, which was not required in any other.

Mr. Nicholas submitted to gentlemen, if such an alteration was proper to be made in our Military Establishment, whether this was a proper time to make it? When immediate danger calls for an increase of force, he did not think it a proper time to talk of increasing our permanent peace establishment. Besides, in order to secure the disbanding of a part of our infantry, in the way suggested by the gentleman from South Carolina, he should wish to preserve the power of the House over this corps. He thought whatever additional force was now raised should be made commensurate only with the occasion which calls for the increase, without taking into view an increase of our standing army in future. He hoped some limitation would be given to the law; and he wished the gentleman from Pennsylvania would withdraw his amendment, and suffer to be introduced a limitation clause instead of it, which would not be liable to the objections which had been urged against his amendment.

Mr. Gallatin wished the gentleman last up would specify the limitation which he meant to propose.

Mr. Nicholas replied, that he meant to limit the law to one year, and from thence to the end of the next session of Congress; after which it might be continued, if Congress thought proper.

Mr. Gallatin agreed to accept this amendment as a substitute for his.

Mr. Shepard was in favor of making this regiment a part of our permanent system, as it would serve as a sort of military school, and greatly promote a knowledge of military tactics. In the beginning of last war, there was a greater failure for want of men of this description than any other. If any part of the army were to be reduced, he should be in favor of reducing the infantry, rather than the artillery.

Mr. Hartley was a little surprised that an amendment of this kind should be so strongly urged by gentlemen who insist upon the power of controlling the Military Establishment by means of appropriation. He himself believed the House possessed this power, and therefore thought gentlemen very unreasonable in thus pushing this amendment. The present establishment had always been considered as very scanty; as originally passed, it was so much so, that the President put his veto upon the law. He was not an advocate for large establishments, but he wished to leave the power with the President of keeping these men in service for five years, if he shall see proper. It was true that, by way of accommodation, a clause of the kind mentioned by his colleague had been introduced into the law for establishing a naval armament, which had been very embarrassing. He hoped no limitation would be agreed to in this case.

Mr. Macon said, this question did not go to settle the question whether or not this regiment should form a part of the permanent establishment; because, at the expiration of the limitation, Congress would again have the subject in their power.

Mr. Gallatin.—In respect to the ideas of some gentlemen, that it would be better to discharge a part of our infantry, and increase our artillery, for our permanent establishment, this certainly was not the proper time to settle that question. It was decided when the law fixing the present establishment was passed; and if gentlemen were desirous of reviewing that establishment, he should not object to it; but the present question was to provide an additional force, and not to settle that establishment.

In relation to the powers of the House with respect to appropriation, it was well known, that whenever that question came up, it occasioned

much debate; but if the law was limited in its duration, the question of the propriety of continuing the men in service would return at the expiration of the term, and it could then be best determined. He was not willing to leave it wholly in the power of the President to keep these men, nor to disband them. How did he know that the President might not be of opinion, with the gentlemen from Maryland and South Carolina, that they ought to form a part of our permanent corps. As the power of raising and maintaining armies is placed in Congress by the Constitution, he wished to keep it there, and therefore, when they raised a temporary army, they had a right, and they ought to limit its duration.

As to any bad consequences having arisen from the restricting clause in the law providing a naval armament, he did not believe that any had taken place. The only effect which it had produced was, that, instead of six frigates, we have only three, and those most in favor of a naval armament, he believed, would be glad that we have no more; as it is now seen that these vessels are not the best calculated for protecting our commerce; for no one now proposes to build three other frigates, but a bill had been received from the Senate, proposing the building 16 vessels of a less size. The Secretary of War had, indeed, proposed some ships of the line, but no new frigates. Upon the whole, he could see no objection to the amendment, except it arose from a desire of making this regiment a part of the permanent establishment.

Mr. Harper was perfectly disposed to say, that he did desire to make this regiment a part of the permanent establishment; but he was not so wedded to that idea as not to accept of it upon the limited plan. He wished to see a military spirit in this country; to have a military school, and a corps constantly existing, in which officers may always be found fit to command troops. He wished that, if we should at any time hereafter be overtaken with difficulties, as we now are, that we might not be without officers as well as without troops to defend our country. It was with this view that he wished to see this regiment a part of our establishment. For can we expect to look forward to times of permanent peace? Can we expect to be exempt from the lot of all other nations? Our present circumstances ought to admonish us to the contrary. We may expect, in common with other nations, times of difficulty and times of exertion, and we ought to be provided to meet them when they shall arrive. It was wise for all nations to cherish the means of defence, which cannot be raised in a moment. If an army or revenue were wanted, they could at any time be raised; but good officers and military science could not be created without much previous application, by practice, and a course of study. These are the most valuable set of men which a nation can possess, except it be wise legislators. It contributes greatly to the safety of a country when it is known that such a class of men exists to any considerable degree. He did not think the object would be completely attained by this establishment; but it would increase our means of accomplishing it. He should, therefore, be opposed to the amendment.

Mr. R. Williams was in favor of the amendment. He had attended to the arguments of gentlemen opposed to it, and found they were generally grounded on the propriety of keeping this regiment as a part of the permanent establishment, as it would be necessary for the purpose of teaching discipline and the arts of war. He was as willing as any member of the committee to have an institution of this kind; but not to effect it in this indirect way. He did not think it necessary to have a military school to consist of 15 or 1600 men. If this law passed, he should conceive himself bound to make appropriations for the payment of the men for the whole period for which they were enlisted, as he thought the men would have a just claim upon Government for that period.

Mr. Dayton observed, that if the amendment prevailed on the doctrine which the gentleman last up had advanced, he must still conceive himself to be bound to pay the men for five years, though the law instituting the corps should be passed only for two. In this case the men would have been engaged and received a bounty to serve for five years, yet a clause of duration is fixed to the law; and, for himself, he believed that notwithstanding the limitation inserted in the law, the men having engaged to serve the United States for five years, would be bound by that engagement, and there will be no way of preventing it, except by a pretty highhanded act, and an appropriation was refused to pay them. So that, at the end of two years, the law will cease, and the greater part of these men may be wanted to complete the regiment now in existence; though they are yet bound to serve the United States for three years to come, they could not be transferred into the other corps.

If gentlemen were determined at any time to reduce the establishment without a limitation of this kind, they could withhold an appropriation, or pass an act for disbanding a part of it; but surely gentlemen did not wish this House to possess all power on this subject. Upon the ground of the gentleman from Pennsylvania, the present corps of artillerists and engineers are sufficient for a peace establishment; if so, why put it out of the power of Government to keep them perfect? He was willing to give to the President the power of disbanding this additional regiment when he shall believe the safety of the country will admit of it; but he was unwilling to restrict the law in the way proposed.

Mr. Livingston hoped the gentleman from New Jersey would permit him to remind him of a part of the bill which he seemed to have overlooked, when he stated the men as positively engaged for five years. The words in the bill to which he alluded are, *unless sooner discharged*. For his own part he was not fully convinced that this regiment was not necessary to be made a part of our permanent establishment. His opinion was rather inclined that way; but he was extremely

sorry, on this occasion, to find a question raised on which there is doubtless a contrariety of opinion, and which requires more deliberate consideration than they were now disposed to give it. Whilst the House were employed in providing measures against the dangers which threaten us, such a question is not only unnecessary, but it tends to destroy that unanimity, and the appearance of it, which it is so necessary to exhibit to the world on this occasion. But it was said that this regiment was to be a school of military discipline for future times. If this was intended, he did not think the term of five years sufficiently long; and whenever leisure and the circumstances of the country will admit of it, he should be ready to go as far into an establishment of this kind as any other gentleman; but at present he did not wish to lose sight of the immediate business before them, viz: the defence of the country. If the amendment was agreed to, it went only to put future Legislatures in the same situation in which they themselves stood, of determining what was proper to be done; and he was against tying up the hands of future Legislatures; he wished them to possess the same discretion which they themselves possessed. Gentlemen say that this establishment might be reduced by withholding the appropriation; though he believed this, yet he looked upon it as a violent remedy which never ought to be resorted to but in extreme cases.

Mr. R. Williams thought this was one of those questions which might have been legislated upon, merely upon the ground of expediency. As to what the gentleman from New Jersey has said about his (Mr. W.'s) not obtaining his object, if the amendment was agreed to, he was mistaken; and he believed men were seldom taken in when they acted with their eyes open. If the amendment was adopted, men could then say, they were engaged so serve for five years, as the language of the law would be, "we engage you for five years, if we want you so long; if not, you will be discharged sooner."

Mr. S. Smith believed all the purposes which gentlemen wished to effect might be obtained by the bill as it now stands, as it was in the power of Congress to disband any part of the Army when they please; they could newly organize the system, and reduce it when they thought proper; but, as he had before stated, he believed this regiment would always be proper; he wished, therefore, to put it upon such a footing, as to induce proper characters to accept employment in it, which if it were to have only a two years' existence, could not be done. It was not an easy matter, he said, to get gentlemen to go into a corps intended to defend our ports and harbors. He was desirous, therefore, of putting the business on a permanent footing. We have been constantly afraid of having too large an establishment, and this fear has produced the most expensive means of raising forces when wanted. If gentlemen would consent to the establishment of an efficient militia system, a less military force would be necessary; but they will not do this; they are always in favor of temporary measures. He wished, on the contrary, to possess a permanent defence, without depending upon the enthusiasm of the moment for it, when it is necessary.

Mr. Josiah Parker thought the amendment of little consequence. Whatever they might now do, would have no effect in giving permanency to our Military Establishment; because, according to the Constitution, that could have no longer a duration than two years.

Mr. Gordon could not vote for the amendment, because he thought it involved in it a strong absurdity, and would produce consequences which had not been avowed. He believed that the legal construction of the act would be, if the amendment were agreed to, that the whole regiment would be discharged at the end of two years. For the President would receive all the power which he had on this subject from this law, and the law would not warrant an engagement for longer than two years.

Mr. Otis said, if this amendment prevailed it would have a mischievous effect, not only upon the corps intended to be raised, but upon those already in being, as it might be supposed that the officers in the present corps would be candidates for a higher grade in the new corps; but, if the new corps were only to be a temporary body, they would not be induced to leave a permanency to enter into a temporary corps, and the regiment would therefore be filled with young officers, who would be placed over the heads of experienced men in the present corps. In this case, the old officers would resign, disgusted, and we should have inexperienced officers in the whole corps. It was important, therefore, that both corps be placed upon the same footing.

Mr. Varnum observed, that his colleague had supposed that the officers in the present corps would be candidates for offices in the new corps; but that they would be unwilling to make the exchange, if they were liable to be discharged at the end of two years; yet, he afterwards stated, that if young men were appointed over them, they would resign. There appeared to be an inconsistency in this, because, if they were very desirous of holding their situations, such a circumstance would not make them resign; and if they were not so desirous of holding their situations, they would not be prevented from accepting of offices in the new corps from the chance of their being disbanded at the end of two years. If he were of opinion that this new regiment was necessary to be made a part of our peace establishment, he should also be opposed to the amendment; but he did not. He knew it had been the wish of some gentlemen to keep up skeletons of regiments, in order to have officers; but he did not think it would be very advantageous to the United States to retain officers in this way. He could not see what military knowledge officers were to acquire by being in pay, except they were in a situation of acquiring knowledge from experience. He could not conceive either that any gentleman would consent to the discharge of any part of our infantry, on account of this additional regiment of artillery; but such an idea might assist them

in carrying their point. He could not see why gentlemen should distrust the conduct of this House two years hence; and if they were not distrusted no evil could arise from the present amendment. No act could be passed without the concurrence of all the branches of Government, and he thought no act ought to be continued in force contrary to that concurrence.

Mr. Nicholas said, every gentleman who had opposed this amendment, had acknowledged that it would place the law upon a different footing from that upon which it would stand without it. As to the want of security in the situation of officers, he could tell the gentleman from Massachusetts how he might increase that security: It might be done by telling them they should never be discharged; but he trusted, when gentlemen saw that this opportunity was seized for doing what could not be done at a time when no danger threatened us, they would be jealous of their right over military establishments. With respect to the difficulty suggested by the gentleman from New Jersey, he would say that, when there was a disinclination to do a thing, any apology, however weak, might be resorted to. The men would certainly be engaged for five years, and if the United States had occasion for them, would be obliged to serve for that time, either in the new corps, or in the corps now in existence. And when gentlemen say this regiment is necessary for a peace establishment, he would ask them, whether they could wish that we had had the expense of them for years past? He believed they could not regret the saving of this expense.

Mr. T. Claiborne thought the bill without the amendment would be an oblique violation of the Constitution; at least, the arguments which had been used in support of it were of this kind. For though the Constitution says that no appropriation shall be made for a Military Establishment for more than two years, yet this bill was to lay Congress under an obligation of engaging men for five years. As he could see no reason for doubting that future legislators would act rightly, he should vote for the amendment.

The question was put on the amendment, and negatived—45 to 35.

The committee rose, and Mr. Nicholas renewed his motion in the House, and called the yeas and nays upon it; which were taken, and stood—yeas 36, nays 45, as follows:

Yeas—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Stephen Bullock, Demsey Burges, Thomas Claiborne, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, Albert Gallatin, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Nays—John Allen, Bailey Bartlett, David Brooks, Christopher G. Champlin, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hendrick L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Mark Thomson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

The bill was ordered to be engrossed for a third reading to-morrow.

A message was received from the Senate, informing the House that they had passed a bill for creating, in the Executive department, an establishment called the Department of the Navy; and that they have agreed to a resolution, in the words following, to wit:

"*Resolved*, That it is not, at this time, expedient to alter the return day of the summons directed to William Blount, so as to make it returnable at the present session of Congress, as requested by the managers of the House of Representatives; there being no certainty that this session will continue long enough to afford reasonable time for a proper service and return of this process."

The said resolution was read, and ordered to lie on the table.

The Speaker laid before the House a report from the Secretary of War, in pursuance of a resolution of the House of the 28th ultimo, accounting for the deficiencies stated to have arisen in the appropriations of last year in the Military Department; which was referred to the Committee of the Whole, to whom was referred the bill making appropriations for the Military Establishment for the year 1798.

Mr. Sewall reported a bill to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes; which was twice read, and committed to the Committee of the Whole on the state of the Union.

Tuesday, April 17.

Mr. D. Foster, from the Committee of Claims, made a report on sundry petitions for an increase and alterations in respect to pensions, many of which had heretofore been decided upon; and the House having determined that as full provisions have been made in respect to pensioners as it is expedient to make, this report states that the several petitions ought not to be granted. Ordered to lie on the table.

Mr. Livingston from the Committee of Commerce and Manufactures, reported a bill for the relief of Reuben Smith, Nathan Strong, and Pierre Aupoix; which was committed for to-morrow.

ADDITIONAL ARTILLERY, &c.

The bill providing an additional regiment of artillery and engineers was read the third time; when

Mr. McDowell moved to have it recommitted.

He did not wish to vote against the bill; but if it passed in its present form, both he and many others would do so, from an idea that this regiment was intended to form a part of our permanent establishment. He also thought the number of men proposed to be raised was greater than was necessary for occupying our fortifications. He hoped, therefore, the bill would be recommitted, in order to undergo some revision.

The motion was negatived, there being only 26 votes for it.

The question on the passage of the bill was then put and carried.

NATURALIZATION OF FOREIGNERS.

Mr. Coit said, from the present situation of things, he apprehended some alterations would be necessary in the present law for the naturalization of foreigners. He therefore proposed a resolution, to the following effect:

"*Resolved*, That the committee appointed for the protection of commerce and the defence of our country, be directed to inquire and report whether it be not expedient to suspend or to amend the act establishing an uniform rule of naturalization."

Some objection being made to the wording of this resolution, it was ordered to lie upon the table till to-morrow.

LIGHT-HOUSE AT POINT COMFORT.

On motion of Mr. Livingston, the House went into a Committee of the Whole on the bill for erecting a light-house on Old Point Comfort, in Virginia, and for placing certain buoys and stakes therein mentioned; when the blank for containing the sum of money to be appropriated being filled with $3,050 the committee rose, and the bill was ordered to be engrossed for a third reading to-morrow.

PURCHASE OF CANNON, &c.

The House being in Committee of the Whole on the state of the Union,

Mr. Sewall called up the bill to enable the President to procure cannon, arms, and ammunition; which having been read, he moved to fill the blank left for the sum to be appropriated for the purchase of cannon, small arms, ammunition, and military stores, with $1,200,000; which, he stated, was agreeable to the estimate of the Secretary of War.

Mr. Otis thought this an enormous sum. He wished the chairman of the committee to explain the items of which it was composed.

Mr. Sewall owned the appropriation appeared a large one, but $600,000 of it were for 50,000 stand of arms, calculated at $12 each, which he believed would be at as low a price as they could be got for. If imported, they would cost less; but if manufactured here, more. The Secretary of War also recommends the purchase of 1,300 cannon. He did not know that the whole of these would be immediately necessary, but they would be wanted in the course of a year, or a year and a half. The ammunition and military stores, in which were included powder, ball, tents, &c., were estimated at $200,000, which he believed would not be too much.

Mr. J. Williams thought the sum far too large. He believed there were at present very large quantities of arms and cannon in the arsenals of the United States; and though it be admitted that the fortifications and vessels will require a great number of cannon, yet 1,300 would be too many. He should be willing to appropriate a sufficient sum, but not more. He knew the Secretary of War had made a calculation to a very extensive amount, but he wished to make his own calculations. He had done so, and was of opinion that $60,000 would be as large a sum as would be expended before Congress met again. From having been on a committee on the subject of arms heretofore, he knew something of their amount. The militia to the Eastward was generally well armed, though to the Southward this was not the case. If 20,000 stand of arms could be got, he thought they would be sufficient; and he believed they might be purchased for a much less sum than had been mentioned. Some of the brigades which he commanded had purchased a very good quality at nine dollars a stand, and where they were got he believed more might be had.

Mr. Otis said, if a small part of this sum could be saved till next session it would be well. Every $100,000 which could now be saved was of consequence. Twelve dollars appeared to him to be a great price for a musket. He could not think so many cannon as had been named would be wanted. Instead of $1,200,000, he hoped $1,000,000 would be agreed to. He could not think that more would be wanted before the next meeting of Congress.

Mr. Sewall said, a stand of arms was not to be estimated by the price of a musket. Several other articles were included. He was informed by the Secretary of War that they could not be manufactured here for less than fourteen or fifteen dollars, though they could be imported for less, but the importation would be attended with uncertainty. There would be no necessity, Mr. S. said, for retaining the whole sum proposed to be appropriated in the Treasury, and whatever price the arms were estimated at, it would not be given except it were necessary. He wished the appropriation to be liberal, as it was necessary the country should be provided with arms, whatever might be the expense.

Mr. Harper did not wish to treat slightly the arguments of the gentlemen who conceive that the present situation of affairs does not require so large an appropriation as is proposed for the purchase of arms and ammunition, though he could not concur with them in opinion. Gentlemen speak of cannon and arms, but say nothing of military stores. Arms and cannon, it was well known, were of no use without these; and to procure them it will require considerable time and arrangements. They must be either created at home or purchased from abroad, and the latter would always be precarious. With respect to the quantity of cannon, he could not say that thirteen hundred would be necessary; nor would he

say they would not be necessary. Would gentlemen recollect what thirteen hundred cannon were on a coast of two thousand miles in extent, and for all the military operations for which they might be wanted; and not only on the coast, and for military operations, but also in the vessels proposed to be constructed or purchased for the protection of our trade and commerce. With respect to the number of small arms, how could any one say what number would be wanted? Was it not one of the most deplorable circumstances attending our Army? And ought they not to provide against future exigencies as well as the present? In vain would it be for us to raise revenue or troops, without arms, and if they were to be waited for till the time for using them had arrived, the price of obtaining them at present would be as a drop in the bucket compared with the consequences resulting from a want of them. The expense ought, therefore, to be met without hesitation.

Gentlemen had spoken of arming the militia, which alone, he supposed, consisted of eight hundred thousand men; or, if a select corps was agreed to, they would consist of 130,000. And of what use would the organizing of our militia be, if arms were not put in their hands? Could any man say we should not have occasion to call out 50,000 or 60,000 militia men? It would be wanton to say so at a time when we are threatened with enemies from without and within; when we may be assailed from the west, from the south, and from the east. When all these circumstances are taken into view, he trusted the committee would not act upon a short-sighted policy, but make ample provision, which could not be done, he was persuaded, by appropriating a less sum than had been proposed.

Mr. McDowell could not agree in opinion with the gentleman last up. He had attended to the statement made by the chairman of the select committee, but he could not believe it was necessary to appropriate so large an amount as he had proposed, though he wished to appropriate amply. Gentlemen who act under the impression that war is unavoidable will consequently wish for greater preparations than those who think differently. The gentleman who had just taken his seat was for providing for all possible cases, from without or within. He thought thirteen hundred cannon necessary, as, amongst other things, they would be wanted for the additional vessels contemplated to be built or purchased. He believed he made this calculation rather too early. He hoped that measure would not be gone into. When gentlemen supposed every possible (not probable) evil to happen to us, they might incur enormous expenses which were unnecessary. For his own part, he did not think we had much to apprehend from any enemy, either from without or within; but if we were attacked he had no fears as to the event. He hoped, however, they should not lavish away money unnecessarily, as he was sensible heavy taxes must be resorted to in support of these expenses. Speaking of cannon and small arms, gentlemen did not take into view what we have at present on hand. It is well known we have many of both, and that our militia are generally armed. He hoped, therefore, a small sum would be agreed to.

Mr. Sewall discovered that he had made a mistake in the adding of the different items together. Making the deduction on this account, and taking off something from the number of the cannon which had been mentioned, he believed a million of dollars would be sufficient. He therefore proposed to fill the blank with that sum.

Mr. S. Smith said, if men were always to calculate the expense of war before it was gone into, he believed wars would seldom occur. He was of opinion that the quantity of cannon which had been named was not too great. The vessels proposed to be built or purchased will require between three and four hundred cannon, the fortifications would also require a great many, and it would be necessary to have a stock on hand, to replace such as might be taken or destroyed. Fifty thousand stand of small arms, in addition to what we have, could not be too many. Yet it may not be necessary to provide for all these at this time. He did not believe that the Secretary of War could possibly expend a million of dollars before the 1st of January next, and no more need now be appropriated than could be expended before that time. He believed $800,000 would be full as much as could be expended before that time, and if a million was negatived he should move that sum.

Mr. Gordon was of opinion, with the gentleman from Maryland, that a less sum than a million of dollars would be a sufficient appropriation for the present. He thought a thousand cannon and thirty thousand stand of arms would be a very ample provision. If an invasion should take place during the recess of Congress, they would of course be again immediately called together, and before that time the money now appropriated could not be expended. If what he had mentioned should be thought sufficient, that, with the $200,000 for ammunition, &c., would amount to $890,000. He should, therefore, be in favor of $900,000.

Mr. Shepard was for doing everything necessary; but it appeared to him they were about to appropriate for a greater number of cannon and small arms than ever could be necessary. He thought a thousand cannon and twenty thousand stand of arms would be sufficient. He should, therefore, be in favor of the $800,000. They ought, he said, to consider a little how the money was to be obtained, before so large an appropriation was made. He believed the arms he had mentioned, in addition to what we have, would enable us to fight any enemy that could ever come against us.

Mr. Macon wished the bill had been differently drawn up, and a separate appropriation had been made for each of the items mentioned. He should have wished also to have known the number of fortifications, and the number of cannon they would require, as it would be useless to have fortifications without cannon. He believed it would be well (as the gentleman last up had sug-

gested) to look at the expense of this business as they proceeded. It had been said on a former day, first take every measure necessary, and then provide for the expense; but he was glad to find that gentlemen had now changed their opinions, and had begun to look at the expense. He should be for reducing the number of cannon and increasing that of small arms.

Mr. Rutledge said, no gentleman was more sensible of the perilous situation of the country than he; but he thought this million rather an extensive calculation. The number of cannon not only appeared to him large, but the size, also, seemed extraordinarily large. He observed the estimate contained 100 thirty-two pounders. No vessels that we have or are likely to have, except the frigates, could carry cannon of this size, and they are already provided for. He did not think our fortifications required 32-pounders.

He saw in this estimate an item which he thought ought not to come within their calculation, which was $200,000 for copper and sheathing. In making this estimate, the Secretary of War had several ships of the line and twenty smaller vessels in view, which it was probable would not be agreed to; at least he should be against them. He thought what was necessary ought to be done, regardless of expense; but he was against incurring any unnecessary expense. He thought $800,000 would be sufficient.

Mr. Dana hoped a million of dollars would not be appropriated for this object. He should not hesitate at any expense if it were necessary to repel immediate danger; but because danger threatens, they ought not to make appropriations which would show that they did not think coolly upon the business. He did not believe it would be of any advantage to make a larger appropriation than could be expended within the year, because funds must be provided for every expense which is gone into; and if more than was necessary was appropriated in this instance, it would only serve to cripple us in other measures, particularly with respect to our maritime defence; and as he thought this of consequence, he should wish to lessen the present appropriation. The gentleman from Maryland had proposed $800,000, but he should think $700,000 would be sufficient.

Mr. Harper again urged the necessity of making an appropriation for at least a million. He was sorry that $1,200,000 had been given up. He spoke particularly of the great want of arms in the Southern States. He allowed the Eastern States were better provided; but if an enemy were to attack us, it was not, he said, to be expected they would take the bull by the horns, and attack the Eastern States. On the contrary, they would seek out and attack the weakest parts. In Georgia, South and North Carolina, and Tennessee, the people were almost wholly without muskets. In the district which he represented, he believed there were not ten muskets. The people of this country, he was confident, would defend it against the attack of any enemy; but they could not do it without arms. Gentlemen might talk of the expense, but the question was, whether the people will pay this expense to their own Government for protection, or suffer a foreign army to collect ten times the amount from them? Gentlemen talked of resources; they must know we have ample resources untouched. He himself knew the people could and would pay to the amount of three or four millions in direct taxes, if necessary. The immediate expenses may be discharged by loans; and taxes may be raised for the discharge of them and their interest. He hoped, therefore, the House would not be deterred from incurring necessary expenses from an idea that the money cannot be raised.

Mr. Lyon wished to go as far as any member with respect to muskets, as he believed in the district which he represented they had not sufficient arms for their portion of the 80,000 militia ordered to be held in requisition; but he had no wish to appropriate largely for the purchase of foundries and cannon. Vermont alone, he said, wanted 20,000 stand of arms. Indeed, they had had that quantity ordered; but they were taken and carried into England. He wished the appropriations could be made separate. Until he saw the progress of the bill, he should be in favor of a million, in order to secure an ample supply of small arms.

Mr. Varnum said, if this country was determined, at all events, to go to war, different provisions were necessary from what would be necessary if they were determined to avoid war if possible. He himself had seen nothing in the conduct of a foreign country which led him to expect a declaration of war from them. He believed we had nothing to fear on this head, except what arose from measures which had been taken here. Those gentlemen who think a war unavoidable, will be willing to go into measures that those who are of a different opinion wish to avoid. Mr. V. referred to what had fallen from Mr. Harper on the subject of the militia, and said, when he stated there were 800,000 effective militia men in the United States, he was mistaken at least one-half; and if he was mistaken as much in other points, then one-half the sum proposed would be a sufficient appropriation. The gentleman seemed to forget that we had any arms in our arsenals. The truth is, we have a great quantity of arms in our arsenals. Besides the arms used in the late war, there were those of two large English armies; and what had been purchased since, which, though they might not be sufficient, would enable us to meet any nation in the world. Nor were there better field artillery anywhere than in the United States, not only in the public magazines, but in those States in which the militia are organized. And as to large cannon for the seacoast, there were great numbers which only wanted their carriages repaired. He did not think the country in so destitute a situation, therefore, as had been stated. He believed it would be proper to increase the number of small arms, because he believed some of the militia were without arms; and he held it as an essential principle in a free Republic that every man should be armed, and ready to defend his country when attacked. He did not suppose the United States meant to purchase

arms for the militia; but he hoped individuals would endeavor to supply themselves. Mr. V. was of opinion that there was money yet unexpended, which had heretofore been appropriated for the purchase of small arms. He concluded by saying, he should be willing to appropriate what was necessary; but he was not prepared to vote for cannon to supply ships of the line, or any other additional public vessel. He thought $600,000 would be an ample appropriation.

Mr. Sewall said, doubtless if gentlemen consulted their wishes, the smallest sum would be taken; but from the statement which he had made, it might be seen that the sum which he had mentioned would be required. Gentlemen propose various sums which they think sufficient; but they must show that a less quantity of arms are necessary, or that they can be purchased for a less price, before they can persuade themselves the sum which they mention can be sufficient. In this appropriation the cannon for the frigates are included, as they were not provided for in a former appropriation; but no provision is here made for cannon for the additional vessels which have been recommended by the Secretary of War.

Mr. Nicholas was in favor of a million of dollars; not because he thought the danger of being involved in war certain, but because he saw it possible; not because he thought we should have occasion for all the arms mentioned, but because he wished the country to be possessed of them. He believed gentlemen might make themselves easy as to the expense of small arms; because if they were not necessary for the United States, he was certain they would readily be disposed of in the Southern States; for the only reason why the militia of those States were not so well armed as in others was, the reason that they could not procure arms. With respect to the arms of the Eastern States, he believed they were better calculated for exercise than for service, and that it would be necessary that they also should be replaced. He hoped no nice calculation would be made as to the danger of war, but that on this subject ample provision would be made, as though we might not on this occasion have need of them, yet it could not be said they never would be wanted. He wished our arsenals to be well supplied, that we might at any time be ready to meet an attack. If our circumstances were perfectly tranquil, he should not object to an appropriation for this object.

Mr. Livingston was in favor of a million of dollars for this object, and was sorry the sum had been reduced. The form which this debate had taken, had convinced him that gentlemen had fully weighed the consequences of a war to this country; but if we were to realize such a state of things, it would be in vain to go into nice counting-house calculations about expense. Some gentlemen had said we were about to enter into war, others that we are engaged in war, and in a war of the worst kind—passive on our side, and active on the side of the enemy, yet, in such a situation gentlemen talk about saving $100,000. Some members say too many cannon are contemplated; would those who feel the want of small arms for the defence of their country, refuse to him cannon for the defence of his? He thought the estimate of the Secretary of War for 1,300 cannon was not too large, as it was necessary to have a supply in case of losses. He hoped, therefore, that the largest sum which had been mentioned would be agreed to, not because it will be immediately expended, but because it will be necessary; and if we escape our present danger, the arms will be a valuable acquisition for our future security.

Mr. L. hoped that the votes on this, and similar questions, would convince the gentleman from South Carolina (Mr. Harper) that he had been mistaken in his repeated assertions, and trusted his good sense and candor would induce him to retract his opinion, that no event could induce some gentlemen to take part in the defence of their country. Mr. L. did not believe that the general position of affairs in this country would have called upon them for excessive expenses, if it had not been for some events which had taken place here, and which, though it would not be in order for him to name, was well understood [meaning, we suppose, the publication of the late despatches and instructions by the Senate] might involve us in war; and if this should be the case, he did not wish to be found wholly unprepared.

Mr. McDowell was convinced, from the calculations which he had made on the subject, that $800,000 would be a very ample appropriation. He thought the gentleman from South Carolina had represented the Southern country to be in a more deplorable state than they really are, by saying that there are no arms in the country, and that the district which he represents does not contain ten muskets. If they had not muskets, he knew they had arms of another kind (rifles) which were very valuable, and which they used with success. With respect to North Carolina, the gentleman was much mistaken. In the part where he resided, the people were generally possessed of arms, though not of muskets, which they would not be willing to own, except called into the field. In Tennessee he believed the people were also generally in possession of arms. Gentlemen spoke of providing for the militia. These arms, he said, were not to go into the hands of the militia, except called out into service. He hoped those States which were destitute of arms would provide their own, and he should wish to see a sufficient spirit existing in the people to induce them to purchase their own arms.

Mr. Dayton (the Speaker) said that, a few weeks ago, it would not have been believed that any member of the House, and more especially himself, should have thought it necessary, in the course of the present session, to rise, in order to check the overflowing zeal of the members from New York and Virginia (Mr. Livingston and Mr. Nicholas) in appropriations of money for the protection of commerce and defence of the country; yet this, extraordinary as it might seem, was actually the case. Those two members had ex-

pressed not only a willingness, but an eagerness to appropriate the largest sums which had been mentioned, viz: twelve or thirteen hundred thousand dollars, for the purchase of cannon and small arms, and would probably have gone to a million and a half of dollars, if there had been a prospect of their success. Believing, as he did, that not more than half that sum would be expended in those articles before the month of January next, when Congress would be again in session, he had determined, in his own mind, that six hundred thousand dollars would be sufficient at present, and therefore would oppose the motion to fill up the blank with a million of dollars, although, rather than divide upon the question, he would consent to a sum between the two extremes, and give his vote for eight hundred thousand. Gentlemen ought to reflect upon the state of our revenues and resources, and to consider also that other very extensive as well as expensive preparations were contemplated, and indeed were as indispensable as the objects of the bill under consideration. Although he (Mr. D.) did not feel disposed to declare that it was the object of the members from New York and Virginia, in advocating exorbitant appropriations for fortifications and the purchase of cannon and arms, to exhaust the national funds, before they decided upon the plans for procuring armed vessels and authorizing a provisional army, yet such would be the effect of the almost unlimited grants of money which they wished for those two objects only, and he should not be surprised to hear those very gentlemen make use of that as an argument against every other measure of defence which might be proposed and they be opposed to. If gentlemen were desirous of rendering defensive preparations unpopular and alarming, the most effectual way to do it would be by voting for every purpose, and on all occasions, the largest sums, and thus rendering the aggregate of appropriations enormously large, which would require not only new but heavy taxes to provide for them. The $250,000 for fortifications had been agreed to with too little consideration, but he hoped that gentlemen would pause, and not only reflect upon the state of their finances, but consider what other expenses must be incurred on other equally important objects, before they voted a million for the purposes mentioned in the bill, and which, if voted, could not be expended before next session, but must nevertheless be provided for in this.

Mr. Sheppard again expressed his opinion as to the profuseness of the estimate of the Secretary of War.

Mr. Varnum did not know what the resolves of Congress were with respect to the arms in possession of the soldiers at the conclusion of the war; but he knew the soldiers of the State of Massachusetts had their arms taken from them, and they petitioned the State by hundreds for a restoration of them. In respect to the number of militia, the gentleman from New Jersey supposed he had taken his estimate from returns improperly made. This was not the fact; nor did he go into a calculation of the number of men in the United States capable of bearing arms. He had referred only to the number of men enrolled by law where accurate returns were made every year, and from those, calculated the number throughout the United States, and he was convinced the number did not much exceed 300,000; and if the militia were to be newly organized in the way proposed by the bill now before the House, that number would be reduced about one-sixth, as, instead of men being liable to serve till forty-five, they were restricted to persons of the age of forty years.

Mr. Gallatin said that, from the manner in which the bill was drawn; there was great difficulty in knowing how to vote. The sum is in gross, yet to be appropriated to several distinct purposes. From the different opinions which had been delivered, it appeared that some gentlemen wished a large appropriation, because they thought at least thirty thousand stand of small arms were necessary, others because they did not wish the number of cannon to be reduced; whereas other gentlemen wished a less sum to be appropriated, because they thought one or the other estimates was too great. In order to meet these different opinions, it would be well to have the appropriations distinct, otherwise members voting for a large sum from an idea of providing a sufficiency of small arms, or the number of cannon which they think necessary, cannot have any assurance of their object being accomplished. As to the quantum of money to be appropriated for each object, or for the whole, it ought to be governed by two or three considerations. Not altogether by the quantity of money which may be expended in the present year; but by the quantity which will be wanted in the whole, and also by the sums which would be wanted during the present session for other objects. For when contracts are made they must be for the whole quantity of arms, &c., wanted, and not for that part which may be delivered before the first of January, otherwise the Executive would be at a loss how to act.

Mr. G. said, we ought not only to consider the amount of this appropriation, but of others which may be necessary, and have an eye to our resources; for he did not agree with the gentleman from South Carolina that every expense should first be gone into, before they took a view of our resources. He thought it would be best first to see how much could be raised for all the objects in view, and if then all could not be provided for, those which were most necessary should be chosen. When he recommended this plan, he did it less on his own account, than on the account, of others, because he should oppose any increase of our naval armament; but as other gentlemen would act differently, it behooved them to consider of the whole sum which would be wanted, as the more money there was expended, the greater would be the loans and taxes to be raised. On this ground, he was in favor of appropriating less than a million of dollars; but except the different objects were distinctly specified, he saw no way of securing an application of the money according to their views of necessity.

As to the amount of militia in the United States,

he differed both from the gentleman from South Carolina and the gentleman from Massachusetts. He had made a calculation from the militia of Pennsylvania, which consists of seventy five thousand, in the same way as the gentleman from Massachusetts had made a calculation from his State, but he made the amount of the whole to be about five hundred thousand. How the difference arose between the two calculations he could not tell.

The gentleman from South Carolina was in favor of the largest sum, because he considered there was a great degree of danger to be apprehended from an invasion in certain sections of the country, from the want of arms in those parts. But this only showed the propriety of providing arms for those parts, and not for others, where there is no such danger. Some States, he believed, were tolerably well supplied with arms; he knew the State of Pennsylvania had entered into contracts for 20,000 stand of arms; when they were to be delivered, he did not know, but he believed they must be got before those which are contemplated by this appropriation. Mr. G. was at a loss to know for what the nine and twelve pounders of cannon was wanted; and concluded with the wish that the appropriations might be specific, and if there were no material objections to their being so (for he did not wish to embarrass the bill) he would propose an amendment to that effect.

Mr. Sewall said, he had no particular objection to the appropriations being specific, though he saw no occasion for it, as he supposed the President would apply the money so as best to answer the several purposes mentioned in the bill.

Mr. S. Smith said, the nine and twelve pounders were wanted for some of the fortifications.

Mr. Gallatin moved his amendment, making a specific appropriation for each object.

Mr. Hartley was opposed to it. He wished to leave the disposition of the money to the President; and went into arguments to show the propriety of a liberal appropriation, though he thought a million of dollars too much. He believed the militia of the United States to be at least 500,000 in number, and that there are about 100,000 stand of arms in possession of the United States which might be made fit for use.

Mr. Brooks thought the amendment a good one; he wished himself to see each article appropriated for separately. He thought too many cannon were contemplated, and perhaps too many small arms.

Mr. Dayton thought the amendment a very bad one, so bad, that if it were adopted, he should vote against the bill itself. He asked gentlemen how they could, at this time, say how many cannon, or what number of small arms would be wanted? Or, in the event of war, whether that war would be made on our commerce alone, or by predatory attacks upon our coast, or by invasion? If the former, a greater number of cannon, and a less number of small arms would be wanted; if the latter, a larger quantity of small arms, and less cannon would be required. Besides, if a part of our cannon should be taken, though there might be a surplus of the money appropriated for one object, no part of it could be expended for another. He wished gentlemen, therefore, to look a little into this amendment before they determined to give it their support.

Mr. Brooks said, the objections of the gentleman from New Jersey did not strike him so forcibly as they seem to impress himself. Whether the sums were voted specifically, or in the aggregate, the President might take such measures as he should think proper. If the appropriations were not made separately, the President would have to separate them before he proceeded to make his contracts; and the only difference was, whether he or they should say how much it was proper to expend upon each item.

Mr. Gallatin said, it was his object to make a sufficient appropriation to meet the different kinds of warfare with which we might be attacked, whether it should be necessary to repel it with cannon or with small arms, and therefore the amendment would not produce the effect spoken of by the gentleman from New Jersey.

Mr. S. Smith was opposed to this amendment, as he presumed the President would form a better opinion as to the kind of warfare which we should be likely to have to encounter than they could do. He thought it best, therefore, that the appropriation should be made in one sum, and leave it to the President to dispose of it as he thinks proper.

The amendment was put and negatived, forty-seven to thirty-four.

The question then returned on the filling the blank with a million of dollars.

Mr. W. C. Claiborne was opposed to filling the blank with a million of dollars. It was certainly his wish to see the United States placed in a good state of defence, and to be able to combat any enemy which might assail them; and could he suppose that sum necessary for the purpose, it should not be opposed by him. But his present impression was, that a smaller sum would be sufficient. The number of cannon asked for, he thought larger than was necessary; as he believed his authority was good for saying that the United States were at present in possession of 300 brass pieces, and that several of the States had a considerable number of cannon. So far as relates to small arms, he wished the whole sum proposed to be granted, as he believed the expenditure would be prudent and proper. In case of an invasion, cannon would be of little use; the rifle and bayonet would be resorted to, which were preferable to the slow operations of cannon, and it would be with difficulty that the citizens of the United States would be prevailed with to use any other than the most speedy means of repelling any enemy which may attack our country.

Mr. C. did not believe the gentleman from South Carolina was strictly correct, when he represented the Southern and Western country as without arms. So far as relates to Georgia and South Carolina, the remark might be true: but as it related to the back part of North Carolina and Tennessee, it was not correct. Three years ago, when an Indian war raged on the frontier, every citizen

capable of bearing arms had arms in his hands. Since that time peace had reigned, and there had been very considerable emigrations to that country. He could not say every citizen was now armed, but he believed by far the greater part were; and if an invasion were to be attempted from the quarter which had been glanced at, he believed his fellow-citizens would not thank the United States for a supply of cannon. All they would ask would be a sufficiency of rifles and bayonets; for they would have no inclination to use the musket, except for the sake of the bayonet. Mr. C. said, he was in favor of the amendment which had been negatived, because he wished to have secured the expenditure of a considerable sum in small arms; but, since that was rejected, he should be in favor of $800,000 instead of a million.

Mr. Harper said, the gentlemen from North Carolina and Tennessee had misunderstood him, when they thought he represented the Southern and Western States as being destitute of arms. He knew they had fowling-pieces and rifles; but when he spoke of arms, he meant those arms which would be useful in military service, and that they ought not only be provided with muskets, but that they should be uniform. The gentleman from Virginia was sensible of this, when he referred to the kind of arms possessed by the militia of the Eastern States.

Mr. H. said, the gentleman from New York (Mr. Livingston) had thought proper to make some flattering allusions to his conduct and good sense, with a hope that he would change the opinion which he had heretofore given as to the conduct of certain gentlemen in this House. He declared he had seen on this occasion, with heartfelt delight, many reasons for at least modifying that opinion; as soon as he should find complete reason for changing it, he should express it in the most feeling manner.

The question on filling the blank with a million of dollars was put, and negatived, there being only 26 votes for it.

The question was then put on $800,000, and carried, there being 61 votes in favor of it.

The blank in the third section was filled with $100,000, for the hire, purchase, and employ of foundries and armories, in case such establishments shall be found necessary.

On motion of Mr. Dayton, the following words were struck out of the above section, viz: "or shall be deducted from the sum hereinbefore appropriated, if, in the opinion of the President, it may be conveniently allowed therefrom."

The committee then rose, and the amendments having been agreed to in the House, the bill was ordered to be read a third time to-morrow.

Wednesday, April 18.

Mr. Harper called up for decision the resolution which he laid upon the table some days ago, proposing the appointment of a Superintendent of Fortifications; which, after some debate, was negatived without a division.

The bill for erecting a light-house and placing buoys and stakes in places therein mentioned, was read the third time and passed; as was also

The bill to enable the President of the United States to procure cannon, arms, and ammunition, and for other purposes.

Mr. Gordon, called up for consideration the amendment of the Senate to the bill for continuing in force the act providing for the compensation of clerks, and for other purposes; which being read, it was discovered that one of the amendments proposed an appropriation of money, and would, therefore, require first to be discussed in a Committee of the Whole. It was, therefore, committed for to-morrow.

PROTECTION OF TRADE.

Mr. Sewall moved that the House go into a Committee of the Whole on the state of the Union, in order to take up the bill from the Senate for providing an additional armament for the protection of the trade of the United States, and for other purposes. The motion being carried, the House resolved itself into a Committee of the Whole accordingly; and the bill (which authorizes the President to procure, in any manner which he shall deem expedient, a number of vessels, not exceeding sixteen, nor carrying more than twenty-two guns each, to be employed as convoys, or in any other manner in which the President shall think proper) having been read, and the first section repeated,

Mr. Nicholas observed, that he had some objections to this bill; but he believed he should defer his observations until they came to the section which directs the employment of the vessels, and if the motion he then made was not carried, he might find it necessary to make a motion as to the number of vessels contained in the first section.

The Chairman having read the three next sections of the bill,

Mr. Nicholas moved to strike out the 4th section, which is in the following words:

"That, to secure and maintain the independent rights of commerce and navigation which the laws of nations and the stipulations of treaties acknowledge and sanction, the President of the United States is hereby authorized and empowered to employ the armed vessels of the United States, as convoys, whenever he may think proper to afford such protection, or in any other manner which, in his judgment, will best contribute to the general interests of the United States."

To employ these vessels as convoys to the trade of the United States, Mr. N. said, would be so much real loss to the country. We are in a situation in which convoys are never resorted to. In a state of peace he did not know how this force could be employed. If they were now ready, and were to take charge of our vessels, they would be far from giving them security; for, unless an attack was made upon them, they would have no right to use their arms. And if these vessels were to sail as convoys, notice would be given of the time of their sailing, and privateers would act accordingly. And if, at any time, any of them should

make an attack on the ground of suspicion, it would be tantamount to war. Supposing the trade, then, would bear this expense, it does not appear that it would afford it anything like security. But what is the trade to which this force is to be applied? It is only to Great Britain and her colonies, and to neutral countries. Which are the neutral countries? We have every reason to believe that Hamburg is now under the influence of the Power against whom we are arming. We cannot expect to force a trade into the ports of France, or of her allies; so that there are only the ports of Great Britain and her dominions to which this arming can apply. But will these vessels be able to give a protection to our trade equal to the protection which Great Britain can give to hers? They will have no vessels to convoy; for our vessels must carry on as good terms as the British, or they will have nothing to carry. If Great Britian, from her superior convoy, can have insurance done on considerable lower terms than our vessels can obtain it, a preference will certainly be given by merchants to them. He owned it would be a painful thing to see our commerce carried on by a foreign nation; but we have no choice, if it is not in our power to give equal protection. The Southern States had acted very liberally in this respect, when they had anything in their power. They have consented to lay a burden on themselves to increase the navigation of the United States; but when they were called upon to support additional burdens, they would expect to see that the expense would conduce to some public advantage. But could gentlemen believe that with these vessels, in a state of peace, which destroys half the energy of such an armament, we could protect our trade equally with Great Britain, who is at liberty to act offensively? They could not.

But, upon this subject, another reflection occurs. When we see that this convoy is to act only upon the trade carried on between this country and Great Britain, it is necessary to consider how the treaty which has been entered into between this country and that will operate upon the navigation which we are about to protect at so great an expense. Mr. N. said, he did not pretend to understand this business as a merchant; but, so far as he had been able to get information upon the subject, there was little doubt on his mind, that if we could navigate on equal terms with Great Britain, the countervailing duty imposed by that country upon our vessels must give her ships the preference.

There was, in his opinion, another consideration of very great importance. We know, by statements lately laid before the House, that the exports to Great Britain and her dominions do not exceed eight millions of dollars a year; yet the committee were now called upon to appropriate, by way of a beginning, at least two millions of dollars for the first year's expense. He stated the expense at two millions, because the Senate originally contemplated only twelve vessels, and when the number was changed to sixteen, no alteration was made in the sum proposed to be appropriated; so that no gentleman could expect to see an end of this business for less than two millions. And could the merchants of this country, engaged in the business of navigation, expect that so enormous a sum should be expended in a vain endeavor to protect their trade?—a sum that would be equal to 25 per cent. upon the whole amount of produce exported? He knew gentleman might say that we imported goods to a much greater amount from Great Britain and her dominions; but if our trade with other countries was in a great degree cut off, we should of course import less, since we should have less money to pay for what is bought.

If we were to be engaged in actual war, gentlemen will agree that there would be no advantage which could result from these vessels which would equal the cost of them; since the superiority of the British fleet would then equally be felt, except we were to enter into an alliance with her. The only difference in this case would be, our vessels would be authorized to make attacks. The more effectual force of the British, and their countervailing duty, would still have their operation. And if an alliance between the two countries were to take place, the treaty will operate on the commerce of the two countries; and gentlemen may conceive this alliance would not be effected without some important sacrifices, which would entitle us to all the protection it could afford.

When the prospect of advantage to our navigating interest is so doubtful, all gentlemen must be willing to take into account the possibility of the measure destroying the remaining chance of avoiding war.

Mr. N. said, he was not, with some gentlemen, of opinion that our present situation could not be made worse: he believed it might be rendered infinitely worse. We are now, said he, suffering great inconveniences and losses on account of the war which now exists between Great Britain and France, which will terminate with that war. But when once war is declared, it will require a treaty to restore peace. How was this to be got? Have we, said he, the power of injuring the country with whom we are apprehensive of war, so as to induce her to make peace on good terms? He believed not. And we had sufficient reasons to believe, from the late despatches, that great difficulties would be attendant on such a situation of things. We do not know that it is the intention of France to declare war against this country. The last official account we have had of the acts of that Government towards this country, was the decree forbidding neutral vessels from carrying British produce or manufactures. And he asked whether it would not be better for this country to submit to that, than provoke a war? He allowed it would be a matter of considerable inconvenience, but it would principally affect only our carrying trade. Our revenue would not be greatly affected by it, because, our exports being free, and the means of raising money but little impaired, there is little reason to believe, if the decree was strictly executed, that we should want foreign manufactures; and the additional duty paid by foreign vessels would probably nearly equal any defalcation in the quantity of goods imported.

Mr. N. said, he expected, from the past conduct of France, the execution of this decree to its fullest extent. He admitted, that from the temper of that country, and the measures taken in this country, a reconciliation was not at present to be expected; but our situation may yet want the seal of blood to give it the greatest malignity; he hoped gentlemen would not embark in a measure whose effect would be to bring us into that situation.

Mr. N. said, he did not mean to justify the conduct of France. He had before said, and he repeated it, that if this country chose to do it, she had sufficient ground, from actual sufferings, whatever might have been the origin of the misunderstanding, to declare war, and that it is a question of policy whether we should do it or not. And so sure was he that true policy and the best interests of the country forbade it, that he was certain no gentleman of the committee would agree to any measure, however great a commercial advantage it might promise, that he thought would produce a war. For, however many the difficulties may be which we suffer at present, in the event of war, we may rest assured they will be increased, and be without the prospect of an end.

It had been asserted by some persons, that if our Commissioners did not come to terms with the French Directory, a declaration of war on their part will be the consequence. He did not think there was any ground upon which to expect this. The application for accommodation was made on our part to France. They have proposed a very disgraceful condition upon which a negotiation may be commenced; but he did not understand, that in case this condition was not complied with, we were to expect a declaration of war. All that he expected, in such an event, was a continuance of aggressions upon our commerce, and perhaps an increase of them. Our Commissioners had, indeed, been told by X or Y, that in case they went away without concluding a treaty, that we might expect our coast to be ravaged. But gentlemen should recollect the situation of these agents. He did not mean to say that the French Government was not to be considered as acquainted with any of the propositions made by these persons. He believed they were the movers of the loan proposed by them; but as to the inducements which were held up to the Envoys to bring them to their terms, he considered them as the suggestions of X and Y themselves, with which the Government was unacquainted. When it is recollected what abuse those persons cast upon the Government of that country, it must be evident that they acted, in these respects, wtihout authority. He did not believe, therefore, that there was any chance of a declaration of war from France, unless the manner in which we had treated the negotiation here should produce that declaration.

When the advantage of the measure was so very doubtful, as he had shown it to be, it was of the last consequence to consider the expense attending it, and the means which we have of defraying that expense. The gentleman from South Carolina (Mr. Harper) tells the committee that this country is equal to the furnishing of all the money that may be wanted. Mr. N. said, he believed that he knew as much of the ability of this country to pay expenses as that gentleman. He worked his own lands, and lived in a country where produce was of as much average value as in most other parts of the United States; and he knew, in his part of the country, there would be great difficulty and a great want of ability to pay very heavy taxes.

But this country can defend itself against the whole world. We have men sufficient, and sufficient means of supporting them; but if we are determined to carry on a war at sea to defend our foreign commerce, which can only be done by means of a large money revenue, there we should be deficient. Gentlemen ought not to compare this country with others. The old nations of Europe possess crowds of enterprising and industrious manufacturers, and of course have an internal commerce which supplies the necessities of the country; and what they send to foreign countries is what they can spare from their own consumption, and which may, on urgent occasions, be drawn to the support of Government. We, on the contrary, all make our own provisions, and we have but little demand for our surplus. Few of us can obtain our clothes from within ourselves, but we must depend upon foreign countries for three-fourths of the necessaries of life. We must therefore have foreign commerce, to a certain extent, for the supply of our natural wants; and there is great reason to fear that the diminution of commerce by the war which threatens us, will be so great, in spite of any protection, that the surplus product of labor, on which alone the Government can draw, will be entirely lost. He did not say this to prevent any necessary expense to secure the safety and independence of the country; but he meant to show the difference between the present case and that of other countries who have borne such expenses, and the necessity of confining our expenses as much as possible to narrow limits.

He did not believe that the honor and independence of this country depend upon a Navy. He believed, by applying the means which nature has put into our power, in resisting all demands which require anything like submission, the honor and independence of our country were to be preserved. A demand of this kind had been made upon us by France for money, which could not be complied with. He did not believe that the honor and independence of a country depend upon its strength. It could not be expected that this country, which has but lately assumed its place in the list of nations, should be equal, in naval strength at least, with the old maritime countries of Europe. He did not think our duty required more from us, in this respect, than it is our interest to do. It would be perfectly consistent with the honor and independence of our country, to say we will have no Navy. If we cannot protect our commerce, without greatly injuring the rest of the Union, the Government ought to say to our commercial citizens, "We lament your situation. For a time, you must act as well as you can. In times of peace we will make you all the recompense we can."

In his mind, this was all this class of citizens could expect, and all that they ought to ask.

Mr. N. concluded, by saying, that this subject required mature consideration before it was gone into. It was very different from other measures of defence which had been before the committee. That we have reason for alarm, he was ready to own, and he was desirous of providing amply for our defence; but this subject presented itself as a matter of calculation as to the danger attending it, the good to be derived from it, and the expense of carrying it into effect. On viewing all these, he was decidedly against it, and hoped his motion would be carried.

Mr. Dayton (the Speaker) said, he did not rise to answer the observations of the gentleman who had just sat down, but to ask whether, if the gentleman was indulged with striking out the fourth section, and all the sections which followed it, he meant to go back and strike out the first also. For himself, he should feel no great hesitation in striking out the fourth section, if those which preceded it were to stand; because, if the force was established, he believed the President, according to his Constitutional power, as Commander-in-Chief, could employ it as he thought proper.

Mr. Nicholas thought his intentions must have been understood. He meant to strike out everything which relates to convoys. He did not agree with the gentleman from New Jersey, that the President could employ these vessels as he pleased. He could not employ them as convoys, because they could not be effectual as such without violating the law of nations.

Mr. Harper wished the gentleman who made this motion for striking out the fourth section, had moved to strike out the first section, for the purpose of destroying the bill itself; because, in that case, his arguments, which went not against the fourth section, but the whole bill—not against the employment of this force in convoy, but against the policy of providing the force at all—would have applied better to his motion. Indeed, before he heard the fourth section mentioned, he had conceived, from the scope of the gentleman's arguments, that the first section had been moved to be striken out.

Mr. H. agreed with the gentleman from New Jersey, (the Speaker,) that if the three first sections, which provide for raising the force, were retained, those which follow, and which relate to the manner of its employment, would be of very little importance; and if the gentleman from Virginia would leave him those three sections, he might take the rest. He was ready to make this division of the bill with that gentleman; for he, Mr. H., believed, that when once the force should be provided, the President, under his Constitutional powers, would have a right to employ it in such manner as, in his judgment, the public good, according to the existing state of things, might require. The President, he knew, could not alter the existing state of things. Admitting that state to be at peace, the President could not induce a state of war. But in what manner the public force, when provided by Congress, should be employed, conformably to the state of peace and the rights and duties resulting from it, was for the President to direct, under his responsibility, not for the House. The business of the House was to fix the state of the country, and provide force; that of the President to employ the force, according to that state.

The question, Mr. H. said, would then return, whether, admitting this country to be in a state of peace, we might give convoy to our trade, without exceeding the rights of neutrality which result from that state? If the House should be of opinion that convoys could not be given consistent with a state of peace, it would be for them to consider whether the country ought to remain in a state which prevented it from protecting its injured rights. But how could it be said that neutrals had not the right to protect their trade? Had not all neutral nations practised this right? Had they not asserted it during the present and all former wars? Had not the House and the country heard much of the modern law of nations, and the principles of the armed neutrality, for declining to assert which, in a late controversy with one of the belligerent Powers, the Executive had been loaded with censure? And what was this armed neutrality? It was an agreement among certain neutral nations to protect their trade against the aggressions of a belligerent Power. He could not discern with what consistency gentlemen, who had been so loud in the commendations of the armed neutrality and its principles, could now question the right of neutral nations to give convoy to their trade.

There could be no doubt, Mr. H. said, that the ships of war of belligerent Powers had a right to search neutral vessels, in order to discover whether they had on board contraband goods or enemy's property. But how was this search to be made? Not by seizing the neutral ship, and carrying it into port, but by sending a boat with a few men to make the examination; after which, if no just ground of suspicion appeared, the neutral ship must be suffered to pass.

Against what, then, would the convoy contemplated in our case operate? Not against a just and legal search, regulated by treaty, or authorized by the law of nations, but against those unjust and illegal decrees of the French Government, which order the seizure and condemnation of our vessels in a manner equally contrary to the treaty and the law. In the first place, against the decree which subjects neutral vessels to confiscation for not having on board a paper called a *role d'equipage*—a paper not required by the law of nations, nor in any manner stipulated for by our treaty with France—a paper with which none of our vessels were or could be furnished. Would any gentleman say that we had no right to resist a capture for this cause? The convoy would operate, in the second place, against the decree respecting British manufactures—a decree whereby any neutral ship having on board the most inconsiderable article of the produce or manufacture of any British possession, although the property of the neutrals, is declared good prize; and which, con-

sidering the vast extent and variety of the British possessions, and the degrees in which their productions and manufactures enter into our commerce and our consumption, amounts to little short of a declaration of war against our whole trade. Would any gentleman say that we ought, according to the law of nations, to submit quietly to the capture of every one of our ships, on board of which may happen to be found a hat, a handkerchief, a button, or a pair of stockings, of British manufacture? Surely all would allow that in such a case we might resist, without overstepping the rights of neutrality.

He had mentioned, Mr. H. said, under what regulations searches were to be conducted on the general ground of the law of nations; but, in our treaty with France, this matter is expressly stipulated. It is there stated, that no armed ship of France shall come within gun-shot of any of our vessels, but shall send a boat on board, with not more than three persons in it, who shall make inspection of the ship's papers; and if they be in legal form, then they shall depart, and the ship shall be suffered to proceed. Our vessels have a right, therefore, to say to a French privateer, "If you come within gun-shot, we will resist you; but if you choose to examine our vessel in a legal way, though we have a convoy which could, at a shot, sink you, we shall not refuse to be examined; but you shall not seize our vessel for causes not warranted by the law of nations." During various wars in Europe, in which England, France, Germany, Holland, Spain, and Portugal, have been engaged, the Northern Powers have maintained their neutrality, and yet have given convoy to their trade. How then could gentlemen say that convoys were not to be used by a neutral Power? If convoys could be granted in time of peace, then the President, as soon as a force should be provided by Congress, would have the power of granting convoys to our vessels, within the rules prescribed by the law of nations; and if he gave it contrary to those rules, he must be responsible for his conduct, as much as if he were to send our Army into Florida or Canada, while we were at peace with the Powers to which those provinces belong. He should, therefore, be perfectly indifferent as to the fate of this motion, if the gentleman from Virginia would be satisfied with striking out the fourth and the following sections, which relate to convoy; but, with his usual candor, that gentleman had declared what was his intention, viz: to prevent the vessels being employed as convoys; and, having thus rendered them useless, to urge that uselessness as an argument against providing them. He should, therefore, resist the motion, as it could be considered only as a preparatory step to the destruction of the bill itself.

Mr. H. said, he had heard one declaration from the gentleman with great pleasure, as he thought it indicative of that spirit which ought to actuate every American citizen. It was, that if he was convinced this force could be usefully employed, he should not be deterred from agreeing to the measure by the tendency which it might have to bring about a war. [Mr. Nicholas denied having said this, and explained.] Mr. H. was sorry the gentleman from Virginia was not entitled to all the credit he wished to give him; but he certainly understood him to have said what he had stated.

The gentleman from Virginia, said Mr. H., had founded his objections to the bill, in the first place, on the insufficiency of the force; in the next, on its possible or probable tendency to produce a state of war; and, in the third place, on the ground of expense.

As to the efficiency of the force, he apprehended the gentleman had calculated on erroneous principles. He stated, that provided we had now this force, it would not be adequate to the protection of our trade, so as to render our navigation equally safe with that of Great Britain; and that the British navigation being more safe, their ships would have a preference in the carrying trade. Is this, said he, a just argument? No. Why? Because, though our ships may not be so safe as the ships of England, yet we possess advantages which they do not, and which would more than counterbalance this circumstance in their favor. What were these advantages? In the first place, we can navigate our vessels cheaper, and can construct them cheaper; and, in the next, our foreign tonnage duty would continue to operate in our favor. But the gentleman from Virginia says, that the countervailing duty laid by the British on our vessels is equal to this foreign tonnage duty; but, when he said this, he believed that gentleman had not sufficiently attended to the subject. This countervailing duty, he said, would operate, in any considerable degree only, upon two articles of our exports, viz: rice and tobacco; and only on such parts, even, of them, as are consumed in Britain; which Mr. H. supposed (though not having the papers before him, as he did not foresee this discussion, he could not state it with certainty) did not amount to more than a fifteenth, perhaps not more than a twentieth, part of the whole. Heretofore the whole of our produce was sent direct to Britain, whose merchants re-exported to the foreign markets such parts as were not wanted for home consumption. Latterly, we had been in the practice of sending this produce ourselves direct to the foreign markets, where it is consumed. This operation will be completed by the countervailing duties, under which all our produce intended for British consumption will be exported in British bottoms: the rest we shall send in our own vessels to the countries which consume it.

On all our other exports, this countervailing duty would have but a trifling effect, as they are light in carriage, and pay but little freight. The advantage of our foreign tonnage duty, which had raised our shipping from 450,000 tons, which it was in 1791, to 914,000,* which was its amount in 1797.

Besides, he did not believe this was a true view

* This is the amount on which duties are paid, including double voyages of the same vessel, in the same year. The actual amount in the beginning of 1797, was 831,900 tons.

of the subject; nor did he believe if it were a true one, that it would warrant the inference which had been drawn from it. It was said, these vessels would not give our trade complete protection; but was this a reason why it should not be protected at all? If it did not protect it completely, it would protect it to a certain extent. But, according to the doctrine of the gentleman from Virginia, because we could not provide a complete defence, we were to go on without providing any defence.

This would be to say to France, "You may strip us of our property as you please, we will not resist you; we will not put you to the expense of a considerable armament! therefore, if you send three or four frigates and sloops of war on our coast, you may destroy the whole of our trade; for we are resolved not to suffer a single gun to be mounted against you." Was this, he asked, a wise language to hold to an enemy? Was it wise, when we see these people going on conquering and to conquer, and whatever submission is made to them, committing aggression after aggression, to say to them, "You may injure us to any extent you please, we will not oppose you?" Yet this would necessarily result from the course recommended by the gentleman from Virginia. If the sixteen vessels proposed would not prove an effectual defence, they would at least show to the nation of whose conduct we complain, that we are not disposed to suffer their aggressions without even an attempt to defend ourselves. And was it not more probable that that nation should desist from committing injuries against us, when she finds us disposed to repel them, than if we were to submit? He did not mean by submission, that we should ever submit to an invasion, but to that kind of warfare which is now carrying on against our trade. This was the kind of warfare which he expected to be carried on against us; for though we had provided against an invasion as a possible event, it could hardly be considered as a probable one by any person. But we know that France will continue to assail our commerce while she can do it with impunity, and we know her object in doing so. This object was, according to her own declaration, to do as much mischief to her enemy as possible, at our expense. He thought it wise, therefore, to provide against these aggressions; and though we cannot give to our trade the protection that Great Britain can give to hers, yet we can provide such a force as will make it troublesome and expensive to France to annoy us to any considerable extent.

What would be the consequence of the gentleman's doctrine? that, inasmuch as the English can render their trade more secure than ours, after all our efforts to protect it, we ought to resign our commerce into their hands, lock up our vessels, and tell their owners "we cannot protect you!" What would be the effect of such a conduct and such a declaration? Do gentlemen imagine that the States where this great portion of our property is owned, will sit still and be plundered? Do they imagine that it is within the power of human forbearance to sit down under such losses, injuries, and ruin, without an effort to repel them? And should we, said he, look upon this destruction of our commerce without holding out a hand to protect it? Can we suppose that the ship-owning States, which, in so great a degree, subsist by commerce, would long acquiesce in this abandonment of their property and their rights? He should be sorry to talk of disunion; but if any measure could break the American people into two nations, it would be a measure like this; it would be this total abandonment of one-half of the Union and their property. He did not believe this was the intention of the gentleman who recommended this course, but this he believed would be the effect of it. Suppose, said he, we had an insurrection to the Southward, and the people of the Eastward were to say, "we cannot afford them assistance; we have already been at great expense in assisting them to fight their battles against the Indians. We can waste no more money in taking care of them, or protecting their property." Would not the Southern States immediately consult upon measures for their own safety? No doubt they would; for self-preservation is the first law of nature. And could it be supposed, that these parts of the United States, which are so much interested in shipping, should sit down tamely under their losses, when all protection is refused to them by the General Government, on account of the expense which would attend measures of defence? Such a refusal would destroy, if any thing could destroy, the peace and union of this country. Thus to abandon our citizens and their rights, would also destroy every degree of public spirit in the country, of confidence or attachment to the Government, and introduce a submissive tameness of disposition, which would prepare the people to receive that foreign yoke, which would soon be bound upon them.

In the next place, it would have a most unpropitious effect upon the trade of the country in general. It would be to give to a foreign country a complete monopoly of our commerce. Our shipping, consisting of 800,000 tons and upwards, must be laid up, and our sailors, amounting to between 40,000 and 50,000, would all pass over to England, and she would thus obtain, without any pains on her part, what she was so anxious to get in the years 1775, 1776, and 1777, and thus that wealth which has been drawn to this country from commerce, must be sacrificed for the future, and all hopes of again carrying on our trade be cut off. Besides, Great Britain having got possession of our trade, she will lay what duties and burdens upon it she pleases, as thus we should give all our commerce to a nation whose great commercial predominancy is at present complained of, and whose restrictions upon our trade had so often been a subject of irritation and remonstrance.

The committee were next told, that the expense of this measure, which had been estimated at two millions of dollars, was to be gone into for the sake of protecting eight millions of exports. But was no commerce to sail from our ports but what went to England? Might not our whole trade, if not already included, soon be included in some

confiscating decree? Does not the *role d'equipage* relate to all our vessels? And has not the nation of whose conduct we complain, the power to go farther with her aggressions and restrictions, and declare that our vessels shall go only to such ports as she pleases? If we submit in one case, it might be expected that we should be obliged to submit in others. And unless gentlemen could be prevailed with to resist the oppressive conduct of this nation, he supposed that, in a few months, we should be called upon to submit to still more grating conditions; and when they have cut off our shipping, driven our sailors, that great arm of our force, from the country, and destroyed our commerce, and, consequently, our revenue, we shall be unable to support our Government, much less to resist their final aggressions. To know what we have to expect in such a case, we need only look to Holland, to Italy, to Switzerland, and to Germany.

But is it just to say that all the trade to be protected amounts only to eight millions? This would not be true, if we had reference to England alone; for though only this amount appeared by the estimate to be sent there, yet almost the whole of our exports, whether sent to the West Indies, to the Hanse towns, or to other places, were consigned to agents or correspondents of British merchants. The produce of these exports, being afterwards remitted to England, enables us to purchase the manufactures of that country, from the duties on which we derive our revenue. These vessels were intended to protect not our exports to Britain merely, but our imports from thence, for which we are enabled to pay by our exports to other countries. But it might be expected that the French would next say to us, if you send produce to Hamburg, to the Baltic, or the Mediterranean, it is only that you may be enabled to purchase British manufactures, and, therefore, we forbid you to send it any longer, for we mean to destroy the commerce of Britain, and we are resolved that you shall not purchase her manufactures. He had no doubt this would be her conduct. Indeed, if he were himself in the Executive Directory, and had so far lost sight of all morality and justice, as to adopt the system now pursued by that body, he should be for following up the business in this way, as long as neutral nations would submit to it.

It might be asked, how shall we hinder them from thus acting? He would answer, by showing them that we will not submit; by placing our commerce under protection, and if they commit depredations upon us, to let them do it at the mouth of the cannon. If she does not then let us alone, we shall have the satisfaction of having done all we can, and shall no longer remain in a humble, degraded, and cowardly situation.

But it was said that the sending out these vessels as convoys might hazard a war. So if France were to send a body of troops to take possession of New York or Philadelphia, to resist them might bring about a war. He believed our arming of vessels might have a tendency to produce war; but were we to submit from this fear? What, he asked, could France get by war? Could she invade our country? The gentleman from Virginia says not. She would take our ships? She now takes them. Therefore, we submit to all the evils of war, for fear of those evils. This was an absurdity which he was surprised that men of sense should fall into. Is this the way that nations become great and respectable? Is it by refusing, through fear of war, to protect their rights? No; it is by cultivating a bold and audacious spirit; a spirit which will prompt a nation, though it may be in danger of getting both its arms broken, to do all in its power towards breaking one of the arms of its enemy. This spirit, he said, placed a nation in greater security than the possession of fleets and armies. It was this daring spirit which despises danger, and yields to nothing, that had given empire to every nation which had heretofore possessed it. It was this very spirit which, by inducing the French, in this present war, to hazard all in the defence of their country, had enabled them to triumph over all the armies which have been brought against them. This same spirit now bears them on, conquering and to conquer; and, unless resisted by a corresponding spirit in other nations, will shortly spread out the wings of their dominion over both hemispheres. It was the same spirit, he said, which enabled a handful of shepherds and robbers, on the banks of the Tyber, to become a mighty nation, and finally to triumph over the whole earth. It was not a little, petty, calculating spirit, that would shrink at the expense of a few hundred thousand dollars for the defence of its country, that enabled a small city, with a little adjoining territory, to resist the greatest and most populous and wealthy monarchy that ever the world saw. Indeed, in proportion as nations possessed, or wanted this spirit, they conquered, or were conquered. Money, he said, could not be compared to steel; it was of worth to purchase steel, but of no value without it. Nations become great by the sword, and not by the purse; and, except there was a spirit to defend property, there could be no security in the possession of it. It was rather a lure to invite aggression.

But can we not provide the expense, at which gentlemen seem so much alarmed? Yes, the gentleman from Virginia admits we can; but he says it will be inconvenient to the people to pay it. He had no doubt of this. But would it not be more inconvenient to the landed interest to have our navigation destroyed, and our commerce given over to a foreign nation, than to pay a few millions of dollars? There could be no comparison between the two cases; and he had no doubt the good sense of this House, and the good sense of the people of this country, would discern the connexion between commerce and agriculture, and, if the former were given up to destruction, the latter must fall into speedy decay. The agricultural interest, which would be called on for contributions for defraying these expenses, would, he had no doubt, easily perceive that money paid for the defence of commerce, was, in effect, paid for the defence of agriculture; since it is commerce

which, furnishing a market for our agricultural productions, and supplying us in exchange for them with the comforts and necessaries which our own country does not produce, gives life and enterprise to agriculture, feeds its growth, and stimulates its exertions. Commerce is to agriculture what the stomach is to the limbs; and to refuse protection to it, for fear of expense, would be like refusing food to the human body, for fear of taking from the hands the fruit of their labor.

The people of America, he said, would further discern that the question now is between paying money to our own Government for the protection of our rights, and paying it to satisfy the rapacity and injustice of a foreign Power—between taxes levied by ourselves for our own defence, and contributions levied by a foreign foe. If we refuse the defence, there will be nothing to prevent the contributions, which, if not levied on land, against which we have no security but in our courage, would be levied at sea, as they had hitherto been, and to tenfold the amount of the expenses now contemplated. He had no doubt of the choice of the House and the people, for he knew, he felt, that there was not a single American who would not sooner pay ten millions, to be employed by our own Government in the defence of the country, than ten cents as a contribution to its enemies.

At this point the committee rose, without taking any question.

Thursday, April 19.

Mr. Dwight Foster, from the Committee of Claims, reported a bill for the relief of Obadiah Brown; which was twice read, and committed for to-morrow.

NATURALIZATION LAWS.

Mr. Coit called up for consideration the resolution which he had laid upon the table two days ago, on the subject of the naturalization law; which being read, it was made to run in the usual form, viz: that the committee, &c., be directed to inquire and report whether any, and what, alterations are necessary in the act, &c.

Mr. Sitgreaves wished the committee to have the whole subject before them, in order that they might report a new system respecting naturalization of foreigners, if they should think it necessary. He thought our present situation called for regulations on this head; since, at a time when we may very shortly be involved in war, there are an immense number of French citizens in our country. He could not say what might be the proper measures to be taken with respect to these persons; they should be such as the interest of the country requires; these might be to place them under certain regulations, or by sending them out of the country. He moved to add to the resolution, therefore, the following words, viz:

"And further to consider and report upon the expediency of establishing by law, regulations respecting aliens arriving or residing within the United States."

Some conversation took place as to the propriety of letting this resolution lie for the present, on account of some Constitutional objections; but Mr. Davis, of Kentucky, stating the necessity of some regulation of this kind, from a fact within his own knowledge of a Frenchman residing in that State, who, some time ago, had issued a number of commissions for a certain expedition, which commissions are yet in existence, and that this person constantly employs himself in alienating the affections of the people of that State from their Government; the resolution was immediately and unanimously adopted.

PROTECTION OF TRADE.

The House then again resolved itself into a Committee of the Whole on the state of the Union, Mr. Dent in the Chair, on the bill to provide an additional armament for the further protection of the trade of the United States, and for other purposes; when the consideration of the motion of Mr. Nicholas for striking out the fourth section, being resumed,

Mr. Dayton (the Speaker) said, that the fourth section of the bill had never met his approbation; and, therefore, although the motion for striking it out had been made by the gentleman from Virginia, and advocated upon principles very different from those which influenced his mind, he should nevertheless vote with him for expunging it. He repeated, what he had yesterday intimated, that if it were possible for that member and himself to settle the measure by compromise, he would readily agree to give up the fourth, fifth, sixth, and seventh sections, which alone contained the word "convoy," so offensive to that gentleman, and against which he had displayed all his resentment, provided the other four could be retained. As, however, the matter could not be settled by composition between them in this way, Mr. D. thought it his duty to state his objections against the section, lest, in voting with the mover to expunge it, it might be supposed that he acquiesced in his doctrines and reasoning, than which nothing could be more adverse to his feelings. To him it had always appeared that when the circumstances of the country, or the general state of things, required any addition to their armed force, whether by land or sea, it became the duty of Congress to establish and provide for it, but that here their powers ceased, and that they were stepping beyond their proper province when they went so far (as in the section in question) as to declare who shall be authorized and empowered to employ and direct such force, and more especially the manner in which it shall be employed. This the Constitution had already decided by committing to the President of the United States the command of the Army and Navy, to be directed and employed by him as should seem best, consistently with the state in which we might happen to be; if in peace, consistently with a state of peace, and if in war, in furtherance of the object of it. He would not be understood as insinuating that the right of declaring war was not vested exclusively in Congress; but that, whether the declaration should be made, or refused to be made, the military and naval force was not the less under the

direction of the President, to be used as should appear to be most likely to promote the general welfare, having regard to the existing state of things, whether of peace or war. That the Commander-in-Chief possessed the Constitutional power of employing these armed vessels as convoys in time of peace, he himself had no doubt, for he did not see any distinction in principle between employing a naval force to protect our merchantmen in the prosecution of a fair and lawful trade, or in enforcing the observance of the law of nations and employing the military in enforcing the execution of the municipal law. It was, therefore, nugatory to enact, in the words of the section, "that the President of the United States be authorized and empowered to employ the armed vessels as convoys," or in any other manner for the purposes of defence, since he already possessed that power and authority, derived too from a higher source, the people and the Constitution. It might, indeed, be worse than nugatory, it might be of dangerous precedent, and considered as carrying a strong implication that, without this law, he could have no such authority, and very naturally too, for why else should it become the subject of legislation. If an act of Congress was necessary in this instance, as the section certainly implied, then, Mr. D. said, they must go further, and authorize the President by law also to employ the land forces in covering escorts of provision and clothing through the Indian country to some of our advanced posts, which could not be approached without passing through Indian territory, or to employ our armed vessels in convoying supplies across the lakes to other posts; for, in the navigation of these as of the ocean, we had not the exclusive right, but other Powers participated. Upon neither of these occasions, had this new doctrine been broached, and yet in principle they were certainly analogous, for in both cases, but especially the latter, hostilities might ensue upon the armed force protecting what was under its charge, and war might be the consequence. Convinced as he was that the section could convey not a tittle of power to the President, but that, if adopted, it might be thought to establish a principle, the extent and effects of which could not but be injurious, he trusted that it would be rejected. If this should be the case, and gentlemen were rather disposed to retain than to strike out the succeeding three, merely that they might serve as regulations for any convoys which the President should grant, he should take the liberty of moving to amend the fifth section by prefixing to it the following, viz:

"*And be it enacted, &c.*, That if the President of the United States should think proper to direct all or any part of the naval force hereinbefore provided, to serve as convoys, the following rules, regulations, and restrictions, be observed, viz."

With this amendment the three succeeding sections would very properly be incorporated, and become one, because they were regulatory merely in case of convoys being granted, and not directory as to the granting them, which should be discretionary with the President alone.

Mr. Gallatin said, the gentleman from New Jersey had taken, this day, the same ground which he took yesterday on this subject, viz: That the section ought to be struck out, because the Constitution had already placed the power in the hands of the President of the United States of applying and employing any naval force which may be raised by law, in such manner as he thinks fit, according to the state in which the country may be in at the time.

Mr. G. did not think this principle was recognised by our laws. In the law for completing, manning, and equipping for sea the three frigates, it is said, "the President shall have power to employ the frigates," an expression which could not have been made use of had it been supposed that the President had a right to employ them in any manner whatever, by power derived from the Constitution. He believed this opinion of the gentleman from New Jersey arose from confounding two distinct ideas, viz: the Constitutional power of the President as Commander-in-Chief to command, and the Legislative application of any force which may be raised by the United States. There is, said he, an essential distinction between the power to command and the application of a force. To command is certainly subordinate to applying the force. The President of the United States is Commander-in-Chief of the Militia of the United States; but when that Militia is raised, it is to be applied in a manner specifically directed by law. It is true that, within our own territory, it is in the power of the President to grant escorts, or convoys, for the exportation of any provisions from one part of the United States to another. But these convoys are of a different nature from convoys at sea. The reason is very obvious. The one is within our own territory, wherein we have exclusive jurisdiction, where no interruption can take place, except from an invading enemy; but, over the sea we have no such jurisdiction. The sea is common property, and, being so, we have rights at sea; but other nations have also rights there, and our armed vessels meet there armed and unarmed vessels, some rights involved in which have given rise to questions of the most delicate nature.

Besides, if this power of granting convoys in the President be taken for granted, and that he has a right to grant convoys under our present circumstances, a distinction must be assumed, which is not recognised in the Constitution, viz: between the power of making war, and the power of committing hostility. Because it necessarily results from the power of granting convoys, that the President has also the power of authorizing the commission of hostilities. Convoys are granted for the protection, by force, of our trade, and any attack is hostility; and until the distinction which he had mentioned was assumed, it was impossible to allow that the President had any such power.

The committee had been told that the right of granting convoys, is a right which belongs to neutral nations; and the gentleman from South Carolina has given the same right which exists in the Kings of Sweden and Denmark to employ convoys to the President of the United States. Supposing the premises to be true, all that could be concluded from those examples was, that the sovereignty of a neutral nation had a right to grant convoys; and therefore that Congress, and not the President, had that right here.

The question of granting convoys is one of the most delicate nature that could come before Congress. The motion made yesterday was made with a view of deciding that question. The gentleman from New Jersey, taking it for granted that the power of granting convoys resides in the President, is desirous also of striking out this section. If this section was struck out, then the motion would return on the 5th section, which he hoped would be struck out, and supersede the amendment which the gentleman from New Jersey said it was his intention to make. As there seemed to be a pretty general consent to strike out the 4th section, he would not detain the committee any longer at present. His only object in rising was to say that he differed altogether in opinion from the gentleman from New Jersey as to the power of the President in relation to convoys.

Mr. Sewall said, it could not be expected that those parts of the country which principally depended upon commerce, would readily consent to the abandonment of commerce altogether; but whatever the intentions of gentlemen were, their arguments went that length. It is true, that when we shall enjoy a state of peace, and commerce shall want no attention, the gentleman from Virginia proposes to attend to it. He did not believe, however, that Congress would consent thus to act towards their commercial citizens.

As to the right of the President to employ convoys, he would make some observations on that point. By the Constitution he is made the Commander-in-Chief of the Army and Navy of the United States. Congress had seldom had naval subjects before them; but with respect to the Army, he believed no instance had ever occurred in which the President had been directed to employ, or restricted from employing, the armed force in any particular manner.

The gentleman last up had applied himself to the act respecting the frigates. He allowed that that act says the frigates shall be manned and employed; but it does not say how. By directing them to be employed, it was shown that they were not intended to be stationed within the United States. The word might perhaps be unnecessary. But it was at that time attempted to insert a clause in the act which should have obliged the President to confine the employment of the vessels within the jurisdiction of the United States. This failed; but did the gentleman from Pennsylvania then doubt that the President had the power of employing the frigates when and where he pleased? He believed he did not.

The gentleman from Pennsylvania admits that the President, from being Commander-in-Chief, has a right to grant convoys; but he says they are to be confined to our own territory. So that no regard is to be had to our commercial citizens, or to the commerce of the United States. Our citizens going without the territory of the United States, are to be no longer objects of our attention; our vessels, though they carry with them papers showing them to be the ships of the United States, it was to be understood that no protection could be afforded to them as such; being once at a certain distance from the United States, our citizens were to be abandoned to the elements, or to the hostility of mankind, wherever they went. If this was the intention of Government, that when the citizens of the United States go abroad, they are to be out of the protection of Government, and that they are to be attended to only within the lines of our own jurisdiction, this should be thoroughly and perfectly understood, that protection might be sought elsewhere.

Mr. Dayton said, that he wished to bring to the remembrance of the member from Pennsylvania and of the committee, a section very similar to this contained in a bill "for providing a naval force," which was sent from the Senate to the House during the last session. It would be recollected, that he had then moved to strike it out, for the very reasons which he now suggested against the section under consideration, and they were very generally acquiesced in, and the motion carried by a large majority. It was true that the Senate did not at first accede to the amendment, but upon a conference being had, in which the principles that influenced the amendment were explained, they receded, and the section was rejected. He here read the section from the bill as it originally came from the Senate, expressly "authorizing the President to employ the naval force in such manner as the general interests might require," and repeated the assertion that it was a power which Congress could neither give nor take away, and they had, on the former occasion alluded to, so considered and decided it. As to the word "employed," which the gentleman had discovered in the act that was passed, and on which he placed some reliance as supporting his doctrine, it could only be considered as directing more fully their complete equipment for service, and that the ships should be put in commission for sea, in contradistinction to their being laid up in ordinary. But it was observable, too, that the general term only was used, and that no expression was found in the law prescribing, as was contended for in the present instance, the particular manner and service in which they should be employed.

Mr. Nicholas said, it appeared strange, that, when gentlemen were agreed as to the thing to be done, they should disagree so widely in their reasons for doing it. The words which the gentleman from New Jersey had stated to be struck out in the frigate bill, were struck out because they were absurd and unnecessary, because nobody denied that the President had the power of employing vessels within our own jurisdiction; but he would tell the gentleman what was the intention of inserting the clause for restricting their use. It was to prevent the operation of a sentiment which gave to the President all power, and this question was finally negatived by one vote only, from motives of accommodation.

That commerce may be protected in a time of peace nobody denied; but except such protection was authorized by Congress, and the peace of this country was lost by the measure, the President would be justly chargeable with having lost it. Mr. N. asked if there were no intervening acts between a state of peace and a state of war? And that if the President had the power to do acts, the event of which must be war, he had not the power of making war? This power, he insisted, was included in the right to grant convoys; for except searches were to be resisted, the convoy would be of no use; and if they were to be resisted, war must be the consequence.

Mr. N. said he was not surprised at the doctrine of the gentleman from New Jersey, as it was in perfect conformity to that which he held the other day with respect to the Military Establishment. Because the gentleman from Pennsylvania then gave his opinion, as to the force of the country, the gentleman from New Jersey charged him with arrogating to himself the command of the Army. So that, if the President were so to employ the military force as to leave a district of the country wholly naked and unprotected, the Legislature were not to inquire into the sufficiency of the force of the country, because that gentleman would tell them they were arrogating the command of the Army. For his own part, he never did see a case in which it was more necessary for the Legislature to act than the present, nor where, if they did not act, more responsibility would be thrown upon the President.

The question was put and carried, without a division, for striking out the 4th section.

After the question was carried for striking out the 4th section—

Mr. Dayton rose to move the promised amendment to the 5th section, by introducing immediately after the words "Be it enacted, &c." the following, viz: "That if the President of the United States should think proper to employ any part of the naval force herein before directed, as convoys, the following rules, regulations, and restrictions be observed, namely," &c. This would very properly, in his opinion, precede the 5th, 6th, and 7th sections, which should be incorporated into one, if the committee were disposed to retain them in the bill; but he acknowledged, for his own part, that he should prefer the striking out of these also, and he suggested this modification to be adopted in the event of a majority being found to vote against expunging them.

Mr. Nicholas supposed that the striking out of the 4th section had determined this question. He could not conceive how this amendment could be necessary, if, according to the gentleman's own opinion, the President has the power to employ these vessels as he pleases. He thought that gentlemen ought to be for striking out the whole section, as it is directory to the President how he shall employ convoys.

Mr. Dayton said, the adoption of the amendment he had proposed was not, as the member from Virginia insinuated, inconsistent with the doctrines he had held as to the impropriety of directing by law, by whom and in what way the naval force should be employed. If amended as proposed, the bill would not be directory to the President to use the ships as convoys, but only regulatory upon the commanders and upon the masters of merchantmen who might apply to be taken under convoy. They must produce certain papers before, and do certain things after, they were admitted to such protection, and some doubt might possibly arise with some of the captains of the private vessels, whether they were bound in strictness to obey the regulations without a legislative act.

Mr. Nicholas said, there must be some misconception in the business, for it was his opinion that the gentleman from New Jersey had not read, and did not understand, the clause; and, when the committee hear it read, he believed they would be of the same opinion. That gentleman says the section is for the regulation of merchant vessels; he (Mr. N.) said it was for the regulation of convoys. Mr. N. read it, as follows:

"That no merchant vessel bound from a port of the United States shall be taken under the protection and convoy of any public armed vessel, which is destined to any place that is besieged, blockaded, or invested; nor, unless satisfactory evidence is produced to the Collector, previous to her departure, that the vessel and cargo are *bona fide* the property of a citizen or citizens of the United States; and, if bound to the ports of one of the belligerent Powers, that no goods, wares, or merchandise, contraband by the general law of nations, or by any treaty to which the United States are a party, are laden on board the same. Duplicate certificates of this effect, ascertaining the nature and quality of the cargo, shall be furnished by the Collector of the district where the cargo was laden, one of which shall be delivered to the commanding officer of the convoy, and the other retained by the captain of the merchant vessels. And in cases where merchant vessels of the United States are to be taken under convoy, bound from foreign ports, certificates of the same nature, including the same provisions, shall be obtained from the Consul resident at such ports, one of which shall be delivered to the commander of the convoy, and, if no Consul should be established at such port, then certificates containing evidence of a like nature, attested by two witnesses, and taken before a judge, magistrate, or notary public, shall be procured."

Mr. Otis was in favor of the motion. He had, however, no doubt that, if the section was struck out, it would still be in the power of the President to employ the vessels as he should think proper; and he could see no contradiction between this amendment and the declaration of the gentleman from New Jersey; for, although the President of the United States may have the right, as Commander-in-chief, when vessels are armed, to employ them as convoys, yet it does not follow that the Legislature shall not point out the particular manner in which they shall be employed, and under what restrictions convoys shall or shall not be granted. The President is Commander-in-Chief of the Army, and of the Militia when called out, but Congress might, nevertheless, direct the use of them. He believed, therefore, it would be equally proper to leave the employment

of these vessels wholly to the President, or to direct them to be employed as convoys. The question recurs, whether it is expedient to introduce these regulations? and, for his own part, he thought them proper.

In our present relation with France, it was his opinion that the treaty between the two countries must be considered as annulled, by repeated and gross violations on her part. Whilst the treaty was in existence, a certain mode of search was directed; but the subject was now left at large, and some doubts might arise whether captains of vessels should now submit to a search. His opinion was, that every attempt made by a French armed vessel to search our merchant vessels ought to be resisted with force. But, if this limitation was not prescribed, the President would, perhaps, feel himself under an obligation to grant convoys only under certain restrictions, and cases might occur in which the captain of a convoy would not suffer a vessel under his care to be searched. He thought it better to take away this obstacle of search altogether, that our convoys might sail boldly through the ocean, and resist every attack made upon our trade.

Mr. S. Smith said, he should be for striking out this section altogether. Had this proposition for convoys come forward during their extraordinary session, he should then have voted against it, because he then considered peace as within our grasp. But he should be against anything being said in this bill about convoys, as nothing had been said about convoys in the frigate bill. If a war took place, (and we must soon either have a war or a treaty with France,) some of the directions given in this section for the employment of the vessels would not be suitable to such a state of things; and, if a treaty could be accomplished, convoys would be unnecessary. It was useless, he said, to place things in this half-way between peace and war. The subject was taken up as a measure of defence, but it might soon become a measure of offence. He wished to strike out everything which relates to convoys.

Mr. Harper did not think it of much importance whether these sections were retained or not. He was, however, most in favor of the mode pointed out by the gentleman from Maryland, as he conceived the right of employing these vessels as he pleased was placed in the hands of the President by the Constitution, and he believed he did not want the instructions of this House how he was to employ them. Whilst we remain at peace, (if we could be considered in such a state at this time,) he would doubtless adopt all those regulations which should not interfere with a state of peace; and, if that state of things should be changed, he would also change his mode of acting.

Mr. Dayton was happy to find that very many members concurred with him in opinion that the power of employing these vessels, as he thought proper, was vested in the President of the United States. Finding this to be the case, he would withdraw his motion, and be in favor of striking out the 5th, 6th, and 7th sections.

As to the member from Virginia not understanding him, he did not wish to be understood by that gentleman, but by the committee; for, when he was urging arguments in favor of his own motion to strike out the 4th section, that gentleman represented him as arguing against it.

The 5th, 6th, and 7th sections were then struck out, without opposition.

Mr. S. Smith now moved to strike out sixteen (the number of vessels to be employed) in the first section, for the purpose of inserting twelve. He did not make this motion, he said, because he thought sixteen too many, but because he did not believe we could, in any moderate time, put in force more than twelve. He took up this idea from the report of the Secretary of War, now on the table, which stated that cannon could not be procured for the two revenue cutters during the recess of Congress; because, also, he thought there would be some difficulty in procuring a sufficiency of men to man the three frigates and twelve of these vessels; and because he thought this number of vessels, with proper exertions, might be purchased and got to sea in two months from the passing of the law. When he said this, he meant that application should be made to the different ports in the Union, where he apprehended these vessels might be met with, and such as were calculated for the purpose. He would state such a division of this force as would appear to him proper. At Salem, he supposed, one of these vessels might be got ready; at Boston, one of the large and one of the small size; at Newport, one of the largest size; at New York, Philadelphia, and Baltimore, one of each size; one at Norfolk, of either of the two sizes; and one at Charleston. At Baltimore, he knew that one of his constituents had for sale a vessel in every respect suited to carry twenty-two or twenty-four guns, a prime sailer, and which might be got ready for sea in six or eight weeks. This was the mode which he contemplated following; for if the vessels were to be built it would require a year to get them ready, and then perhaps they might not be wanted. He was for that kind of force which could be got without delay; and he also wished to provide such as should not too much exhaust our resources. Money, he said, was defence; oppress our money resources, and the whole system will be oppressed.

Mr. Sewall was sorry to differ in opinion with a gentleman whose conduct in joining heartily in effecting measures for the defence of our country, since his conviction from the late despatches with respect to the danger of our situation, must have afforded great satisfaction to the public. The gentleman from Maryland is for limiting the force, not because he does not believe it to be necessary, but because he is of opinion more cannot be got ready in time to be of service. He has enumerated the ports at which he supposes vessels may be obtained; but he has omitted a number at which the remaining four vessels might be supplied. He did not mention Newburyport, where the frigate Alliance (one of the best in the service) was built in the late war. In that neigh-

borhood, he doubted not, all the four vessels might be supplied. But Portsmouth was also omitted, at which place there lie materials which were purchased for the frigates in the year 1794, equal to the building of one of these vessels. Portland was also omitted; so that nothing would be more easy than to supply the deficiency. As to our means with respect to money, he believed there was a spirit existing in the country on this occasion which would provide the means of our defence; and he believed our resources could not be better applied than in procuring sixteen of these vessels.

Mr. Josiah Parker seconded the motion in favor of twelve vessels, not because he thought sixteen was too many, but because he thought it better to agree to such a force as could immediately be got ready. He believed that more men could not easily be got than would man the three frigates and twelve of these vessels, and it would be doubtful whether arms could be got for more. He thought it would be well, however, to cause the additional frigates to be built, many of the materials for which being on hand. He had no doubt twelve vessels might be immediately got. He had authority to say that, in one hundred days, two vessels of twenty guns each could be built at Norfolk. Mr. P. regretted that we had occasion to raise this force. He had, before things came to the present crisis, thought it would have been well to have shut ourselves up from European broils; but he was now convinced of the necessity of placing ourselves in a posture of defence; and when he recollected we had 800,000 tons of shipping, and between 40,000 and 50,000 sailors, who, at fifteen dollars a month, earn $9,000,000 a year, and who will, without the proposed protection, be thrown upon the wide world, and probably be driven out of their country, and the capital which employs them be lost, he was desirous of taking such measures as would produce the best and most prompt defence.

Mr. Brooks was in favor of the larger number. He did not think the objections to it well founded. The gentlemen from Virgina and Maryland acknowledge that twelve vessels can be procured within a few months; and, if so, there could not be great difficulty in getting four more. To the places mentioned at which vessels could be procured might be added Hudson. With respect to the guns, they were a mere bagatelle. There would be no difficulty in obtaining nine-pounders.

Mr. Gallatin was in favor of the smaller number. He did not think they could be employed upon any rational plan as convoys, considering the extent of our coast and tonnage; but, in case of war, they might be used along our coast to drive off privateers. In that case, although a larger number than sixteen might be wanted, yet the twelve, with the three frigates, would be as many as our resources could conveniently meet the expenses of. He should therefore be in favor of that number. He stated the expense of this armament, according to the estimate of the Secretary of War, to be at the rate of $100,000 for each vessel, and referred to the expenses already incurred, and to be incurred, for our internal defence, in order to show that twelve would be as many as could be conveniently provided for at present.

Mr. J. Williams was in favor of the amendment, because he thought twelve vessels more than sufficient. There could be no doubt that any number might be built and purchased; but it was necessary to consider where the immediate resources could be found to pay for them. $340,000 were already provided for our fortifications, which he thought too much; also, twelve companies of artillery, which were, in his opinion, four companies too many. $900,000 had been appropriated for cannon, arms, &c., though he thought $600,000 would have been sufficient; and the committee were now called upon to vote for sixteen vessels, when he thought half the number might suffice. They had been told that our revenue would be found equal to every expense; but to make it so, they had also been told that the landed interest must be called upon for three, four, or five millions of dollars a year. He knew the landed property of this country was equal to any expense, and in case of a war (which God forbid) both money and personal service would be cheerfully afforded; but when farmers were called upon to pay their money, they would inquire into the propriety of this and that appropriation. They would inquire into the business of the frigates, and ask how many revenue cutters we have. He had heard nothing said of them. If war was to take place we should want floating batteries, gunboats, and the like, for the defence of our ports and harbors. The question was, whether these vessels were to be considered as for the defence of our seacoast only, or as for convoys. If for the latter, neither sixteen nor six and thirty would be sufficient; but for the protection of the coast, and partial convoys, he thought eight, with the three frigates and cutters, would be adequate. It was of no use to say vessels could be built here and there, he would purchase those already built, and perhaps it would be proper to direct six or eight others built with the materials on hand.

It was true that our shipping amounts to about 800,000 tons, or perhaps, deducting for captures, it may be reduced to 700,000, and that our seamen amount to 40,000 or 50,000, a great part of which property and men would be thrown out of employment, if protection in some measure was not afforded to our commerce; but he also knew that several seamen of the Eastern States, finding their employment of late precarious, had settled as farmers in his neighborhood, and after a little time were among the best farmers in the country. He thought it probable that others might take the same course.

As to the commerce of this country, he thought it had been extended too far. As an agriculturist, he would go all reasonable lengths in the protection of commerce; but when that commerce becomes so unwieldy that it is not possible to protect one-fourth of it, he could not go to the lengths that some gentlemen were desirous of going for

the protection of it. Nearly five millions of drawback were last year allowed to the merchants of this country on goods imported, from which our revenue has not been increased. He was ready to meet the commercial gentlemen on this assertion, and if twelve vessels were agreed upon, he should propose an additional duty on drawbacks, as well as some additional duties on articles of luxury imported. He knew that the commercial and agricultural interests were intimately connected, but he wished agriculture not to be too heavily burdened for the support of commerce. If the landed interest was to be called upon for three or four millions of dollars a year to protect commerce, the country had better have no commerce at all.

Mr. W. asked if the strength of the country did not consist in the number of its inhabitants? Does extensive commerce populate the country? It did not; it was a mistaken zeal which drove men to pursue commerce instead of agriculture, and to suppose that it was that which served the best interests of the country. He did not believe it. At the close of the late war, in 1783, and 1784, in the part of the country from which he came, the people never saw happier days—their wealth flowed in on all sides; any quantity of money could have been had; but two years afterwards, the people were drawn off from their own domestic manufactures, to purchase foreign commodities, and their state became completely changed. In the Eastern States, in particular, manufactories were increasing; but when foreign commodities began to flow in such abundance into the country, the home manufactories were annihilated, and the people got into debt.

This expensive protection of commerce had long been foreseen, and on that ground the establishment of a Navy had always been opposed; but the dispute with Algiers had unhappily given birth to a naval system, and he feared it would imperceptibly increase upon us; and if the landed interest did not keep it down, the whole commercial income would not support it. Mr. W. referred to the navy of England, and said it had been the parent of her immense national debt; and if we went to any extent in the establishment of a Navy, we might bid adieu to the plan of paying off our national debt; we should be forever climbing the hill, and forever sinking to the bottom. He was satisfied the landed interest would cheerfully come forward to defend the country against invasion, but not for extensive convoys to protect our trade. He had no objection to eight vessels for the protection of our coast, and partial convoys to our trade from depredations, which, with the frigates and cutters, he thought would be sufficient. The Eastern States, he said, had nothing to fear on their coast; it was the Southern and Middle States which stood most in need of defence.

Mr. Macon said, the present debate was a very uncommon one, for they were all upon one side. For his part, he was against building or purchasing any vessels; there was a provision in the bill which had not been noticed, which was, that the President should have power to hire vessels; he hoped they would be hired, instead of being either purchased or built, as it would require much less money, and he believed money would be much wanted, if we were to go to war; but he did not think either twelve or sixteen vessels would be equal to the protection of commerce. He did not think it necessary to bring all the subjects into debate, which some gentlemen had thought it necessary to introduce. If a land tax was found necessary and laid, he had no doubt it would be collected. He wished the question might be taken, and they might get home, and do something towards raising the money they were now about expending.

Mr. Harper had no doubt the landed interest would have sense enough to see that the connexion between the commercial and agricultural interests was such, that whatever was paid for the protection of one, was paid for the protection of the other. He should vote in favor of this motion, not for the reasons assigned, but because he agreed in opinion with the gentleman who made, and the gentleman who seconded the motion. He believed such a number of vessels might be effectually employed, and a greater number, if they could be immediately got; but he believed twelve, with the three frigates, would be as many as could be immediately got into service, and by the time they were got in readiness, it would be seen what farther number were necessary, and as twelve would combine a more general vote than sixteen, he should be in favor of that number; not from any apprehensions that the resources of the country were not equal to the expense, or that the people would be unwilling to bear it—upon neither of these points had he any hesitation.

The question was put and carried—49 to 27.

Mr. Gallatin believed it would now be in order to renew the question which had been waived, with respect to the employment of these vessels. He should, therefore, in order to bring this subject under view, move an amendment in the first section of the bill, nearly in the same words as the one which had at first been adopted by the House at the last session in the bill relative to the equipping and fitting for sea the frigates, viz: "provided they shall not, in time of peace, be employed as convoys to any foreign port or place." The words "in time of peace" were not in the amendment of last year; but as he conceived that the vessels authorized to be procured by this bill, were either to be employed for the defence of our coast and our trade within our jurisdiction, in the present state of things, or for general purposes of attack and defence in case of war, he wished only such amendment to be adopted as would be proper in either case. If there was war, let the vessels be applied in the most efficient way; but if they were intended to be used as convoys under our present circumstances, he was going to state that such an employment would inevitably change the present state of things.

But before he took this ground, he would make some observations on the real advantages that might result from employing these vessels as convoys in the actual state of things, supposing even

it was not changed by that employment. Whoever had considered the extent of our coast, and the nature of our trade, must be convinced that twelve ships cannot be employed to any great purpose as convoys. To what part of the globe were they to be convoys? To the West Indies, or to Europe? It could not be intended to convoy vessels from our own ports to an European port with these vessels; it could not be supposed that they would be able to cope with vessels of war in the European seas. The object of this convoy, then, must be our vessels to the West Indies. But he asked whether this force would be sufficient for that purpose, or whether the trade to the West Indies was of such a nature as to be susceptible of being convoyed? There are a variety of small ports in the West Indies, and merchants endeavor to take advantage of the best markets; their vessels, therefore, sail singly and not in companies. He believed the only use to which these vessels could be applied with any effect, so as to protect our trade, would be by attacking privateers to drive them from the coast; but this was by all agreed to be an act belonging to an actual state of war, in which we were not yet plunged.

As to the right of convoy in neutral nations, it was a right at least of a doubtful nature. He believed it had been exercised; but not in an effectual manner, except by nations whose maritime force, the belligerent Powers were unwilling to provoke against them; but wherever belligerent Powers were not afraid of being involved in war with the nations employing such convoys, they have disregarded them. This fact was elucidated by the Armed Neutrality, which, on account of the maritime strength of the Powers concerned, and of the apprehensions of Great Britain, was then respected. But the Dutch convoys never were regarded by the British; and Mr. G. quoted an instance where a whole Dutch fleet and convoy were taken into port by the English, who at that time were at peace with them.

But the question with him, Mr. G. said, was not so much the right, as the policy of the measure. Supposing that neutral Powers have a right to grant convoys to their trade, the object of such a convoy, according to the section of the bill which had been struck out, was "to secure and maintain the independent rights of commerce and navigation, which the laws of nations and the stipulations of treaties acknowledge and sanction." This must be the object of convoys in time of peace, and the question was, whether it would be good policy to grant a convoy to secure these rights. We know, that, in the present case, all the belligerent Powers have not only violated the laws of nations, but stipulations of treaties; and to attempt to secure these rights by convoys, is precisely to say, we mean to employ violence to repel these aggressions; it is to all intents and purposes to go to war. It is not the case in the present European war, as in common wars, that the laws of nations and treaties are tolerably well respected by the different belligerent Powers. In this war, both the belligerent Powers have declared from the beginning, they would not respect the laws of nations and treaties. On this account he had before declared, that France had given us just cause for war; but if Congress do not think proper to go to war, they ought not to grant these vessels as convoys, which would be in fact war.

The question is, whether we shall bear with the losses which must result from capture in the present state of things, or resist them with force and war?

Mr. G. said, he knew the question of war did not depend altogether upon this country. He knew that it was possible that within three months we might be in a state of war; and if the House thought it necessary to have the vessels built to be ready to meet such a state of things, the amendment went only to prevent them being used so as to involve us by our own act in war.

He had said that, from the beginning of the present European war, the belligerent Powers had set aside the laws of nations and stipulations of treaties. At the very beginning of the war, Great Britain entered into treaties with Russia, the Emperor, Spain, and Prussia, and inserted an article into each to declare that not only they themselves should do all in their power to starve France, but that they should prevent all other countries giving them assistance by virtue of their neutrality. [Mr. G. read the article from the treaty entered into with Russia, dated the 25th of March, 1793.] It was well known, he said, that these Powers had acted in conformity to this declaration. The British Orders of June and November, 1793, were issued on that principle. France had also behaved in a still more extraordinary manner. It was immaterial, in the present consideration, to inquire whether Great Britain or France was the first to break the laws of nations; the fact is, that all the different belligerent Powers have at times infringed them; and even the last arrivals from Europe bring accounts (which though not official, carry every appearance of being true) of instructions given to the commanders of British vessels of war, which are direct violations of the laws of nations and of treaties.

It is true, that at present the infringements of the laws of nations made by France are vastly more oppressive, and in their consequences far more extensive and injurious to our trade than those of any other nation; but it is not less true, that until we do deem these infringements sufficient cause of war, we ought not to enter into any measures which will in their effects amount to the same thing as actual war. To grant convoys is such a measure; and before that is done, it ought to be considered whether in a state of war we should be in a better condition than at present.

Mr. G. was aware he should at once be met with an exclamation, What! Will you not protect our commerce? Are you not bound to protect it? So far as this complaint was considered in a local point of view, he thought it unfounded. He had heard it said, and repeated, that those States which are more commercial than others would not quietly sit down under the neglect, if protection was not given to commerce. So far as relates to the Eastern States, he believed they

had no greater reason to complain than some other States on this ground. Whilst on this floor, Mr. G. said, he considered himself as a representative of the whole Union, and bound to attend to the protection and to the interests of every part of the United States; but if the matter was to be considered on local ground, the Middle States had as great right to complain as the Eastern, and therefore no reasons of locality could induce him to give the vote which he proposed to give, since the States of Pennsylvania and New York have as much interest in commerce as the Eastern States. The total amount of the tonnage of the four Eastern States employed in foreign trade is 248,000 tons, and that of the States of Pennsylvania and New York 95,000. The representation of the Eastern States on this floor, compared with the States of New York and Pennsylvania, (which was the best criterion of their respective population,) is as 27 to 23, and the proportion of foreign tonnage between them is as 27 to 21¼. There was, therefore, no sensible difference between them.

The question was, which was the best way of protecting our trade in our present situation. Government was bound to protect all its citizens in whatever occupation they choose to follow; but its power of protection is restrained to a certain extent. In this instance, instead of convoys protecting our trade, they will be the destruction of it; for, if by any act of ours, war is produced, our trade would be in a worse situation than at present, bad as it is.

But he would examine to what extent our present injuries go, and how convoys would apply.

Convoys were to apply more specifically in two cases, viz: where a seizure was attempted for want of a *role d'equipage*, or where, according to the late French decree, our vessels have British manufactures or produce on board. He had never examined to see how far the demand with respect to the *role d'equipage* was an infringement of our treaty with France. He had taken it for granted that if it were justified by our treaty, it was now made a mere pretext for seizure, because our treaty had been in force since the commencement of the war, and this ground had never been taken till lately. But upon this subject he would observe, that almost all the mischief which could be done had been done, for want of these papers, as our vessels could now always furnish themselves with them. He did not think it necessary, therefore, to grant convoys for this purpose.

So far as relates to British manufactures being good prize, he agreed with the gentleman from Virginia, (Mr. Nicholas,) that we ought to take into consideration the extent of our trade to that country; not only our export trade, but our returns from thence. The effect of the French decree will be either to raise the price of insurance much higher upon our own vessels, or the carrying trade will be carried on in British vessels. But great as these evils would be, he believed it would be better to bear with them than to go to war. The only evil in one instance will be, that the consumer would have to pay the additional rate of insurance, and he would much rather do this than change our present situation. For in case of war, not only all British manufactures will be equally liable to captures, but all our trade will be in the same situation. And will any gentleman say that there will be less captures on our trade in a state of war than in our present state? Is it to be supposed that these twelve vessels, with the three frigates, and all the vessels we can build and man, will protect our trade so as to reduce our captures below their present number? He believed not. He believed that in a state of war more captures would be made, as not only the vessels which are now captured under different pretences would still be captured, but that part of our trade which now escapes capture will then be seized.

The amount of our exports, Mr. G. said, was fifty-one millions. Out of these fifty-one millions, eight and a half are sent to Great Britain. Though this is the amount, according to the statement from the proper Department, the gentleman from South Carolina (Mr. Harper) has said that considerable quantities of goods sent to the British West Indies have been entered at the custom-house as for the French West Indies, in order to avoid capture; but it had also been stated by a gentleman who must be supposed to be better acquainted with commercial subjects than him, (Mr. S. Smith,) that full as many goods were entered for the French West Indies, intended for the English, as in the other case. It was, at all events, only an assertion, which ought not to lessen the credit of an official statement.

On the other hand, it appears by this estimate, that to the amount of twenty-five millions of dollars is exported to France, Spain, and Holland. This, in case of war, will doubtless be cut off. And if we are not at liberty to export that portion of our produce thither, what must be done with it? The only country to which we shall have a free trade will be Great Britain. The effect of this will be to sink the price of our produce; because the whole is not wanted, and cannot be consumed in Great Britain, and she is shut out from those ports to which we now send it. Independent, therefore, of additional captures, that immense American tonnage, which it is intended to protect, would at once be reduced to one-third of what it now is, for want of a market for our produce.

Nay, in addition to these twenty-five millions, our trade to the Hanse Towns will also be destroyed, as it is well known what was the situation of Hamburg; so that, in case of war, the whole of our trade will be cut off, except eight and a half millions to Great Britain and her dominions, and a few millions to Sweden and Denmark. He could not, therefore, see how the granting of a convoy could protect our commerce, when the effect must be war, which will destroy it.

The gentleman from South Carolina (Mr. Harper) yesterday told the committee, that the effect of not granting convoys would be to give the whole of our carrying trade to Great Britain. He wished to know, if this was to be the effect of not granting convoys, what would be the effect of

war? The moment we go to war we give to Great Britain the whole of our trade. But the gentleman went on to tell the committee, what France would say to this country next, if we did not resist her. He said she would tell us, You shall no longer go to Hamburg, or to any other place at which you get money for your produce, because you will pay that money to Great Britain for her manufactures. If this would be the case, in case we declined granting convoys, he wished to know what would be the effect of war? Was it expected that France would give more latitude to our trade, in case of actual war, than at present?

When gentlemen spoke of the immense increase of our tonnage, from 450,000 to 800,000 tons, did they consider to what this increase was owing? It has been owing to our neutrality, that it has taken place during the present European war, whilst the tonnage of Great Britain employed in the trade of this country, has, by the effect of that war, decreased from 206,000 tons, which it was in 1792, to 196,000, which it was by the last returns at the end of 1796. Seeing, therefore, that nothwithstanding all the captures made of our vessels, our tonnage has increased from year to year, in order to save that valuable tonnage, and to afford every possible protection to it, if that was the only object of the House, they must wish the present state of things to subsist in preference to a state of war, and must therefore refrain from taking steps which cannot fail to produce war.

It was not only his opinion that the granting of convoys would lead to war. The point has been conceded. For what did the gentleman from South Carolina (Mr. Harper) state convoys were wanted? He said they were wanted against the depredatory decrees of the French—the *role d'equipage*, and the decree making vessels with British manufactures on board legal prize. He said it was to resist these decrees. He went farther; he said they ought to be resisted at the mouth of the cannon. If capture was to be resisted at the mouth of the cannon, without war, he could not understand it. If he understood the gentleman from Massachusetts, (Mr. Otis,) he went still farther, and said that he would resist a search. And certainly the moment a principle of this sort was assumed, it was nothing more or less than war. Unless, indeed, some unintelligible metaphysical distinction should be attempted between fighting and war. If, then, it is better, as a matter of calculation, to be in the present state of things than at war, were there any other considerations which ought to set aside this matter of calculation? The committee were told by the gentleman from South Carolina, that if we did not resist, France would go on step by step in her course of aggressions against this country. This is mere matter of speculation. It is possible France may go on in this way. If she goes on to make war upon us, then let our vessels be used in their full power. Let us not, however, said he, act on speculative grounds; but examine our present situation, and if better than war, let us keep it.

The committee have been told, that this doctrine is a doctrine of submission. The gentleman called war by the name of resistance, and they gave the appellation of abject submission to a continuance of forbearance under our present losses and captures. He affixed a different idea to the word submission. He would call it submission to purchase peace with money—he would call it submission to accept of ignominious terms of peace—he would call it submission to make any acknowledgments unworthy of an independent country—he would call it submission to give up by treaty any right which we possess—he would call it submission to recognise by treaty any claim contrary to the laws of nations. But there is a great difference between surrendering by treaty our rights and independence as a nation, and saying, "We have met with captures and losses from the present European war; but, as it is coming to a close, it is not our interest to enter into it, but rather to go on as we have done." This, he thought, would be a wise course, and extremely different from a state of submission.

The committee had been told of a spirit of money as improper, and that it ought to be set aside. To speak of expense is no proof of that magnanimity, national honor, and national spirit, which have enabled other nations to repel their enemies. He did not think the instances quoted by the gentleman from South Carolina were happy. He had quoted France, and said, that it was because she had set aside every other consideration but the necessity of supporting the war; because she had disregarded every thing like property, and deluged her own country with blood, that she had been successful.

Mr. G. had no objection that France might be adduced as an example to lead us to repel any enemy which may attempt to invade us; but in her disregard for property, in her confiscations and requisitions, in those measures which have had conquest and plunder, and not resistance, for their object; and above all, in the deluge of blood that had been shed for the sake of ambition, or caprice, or faction, he trusted never would be set up as a proper model for this country,

The instances of Rome and Athens, which the gentleman adduced, were not more happy. He did not think the spirit of conquest, which animated the first, the spirit of plunder towards every other independent State of Greece which actuated the last, the lust for power which characterized both, to be that spirit which would be best calculated to promote the happiness of America.

Mr. G. concluded by saying, that he meant to have gone further into a consideration of what was called a spirit of submission, and to have drawn some comparisons between our present state, and what it had been in some stages of the European war, but finding the usual hour of adjournment past, he would forbear to do it at present. He then recapitulated his arguments, and sat down.

Mr. Dayton (the Speaker) expressed an earnest wish that the Committee of the Whole should rise, and have leave to sit again, not so much for

the sake of further discussing the merits of the amendment as of affording to members an opportunity of exposing the dangerous and fatal tendency of the arguments adduced in the support of it. Feeling as he did upon the occasion, it would be almost criminal in him to forbear to declare, that he had heard with astonishment, and he had almost said with indignation, the speech to which they had been listening, from the member from Pennsylvania (Mr. Gallatin.) He had never expected to have heard such tame and submissive language, within the walls of Congress, and from a Representative of the American people, at a time, too, when they were smarting under injuries and insults. If that member had ever made himself acquainted with the principles that actuated the Americans in 1776, with which his doctrines were in direct hostility, yet he surely could not have so soon forgotten the tenor and spirit of the despatches from our Commissioners in Paris. That this speech had been prepared before the receipt of those despatches was by no means improbable, but that it should be uttered thus openly and boldly, after those important communications had been published to the world, was indeed surprising. If it were a motion in order in that body, Mr. D. declared that he should immediately move that it be printed, and that copies should not only be given to every member, but as far as possible to all the citizens of the United States, that they might all, as with one voice, disclaim the principles which it tended to inculcate.

Mr. Nicholas hoped the committee would rise, that the gentleman from New Jersey might have an opportunity given to him to state in what this speech was so extraordinary, which would be much more conformable to Legislative proceedings, than making denunciations in general terms.

Mr. S. Smith hoped the committee would not rise, but that the question would be now taken.

Mr. Allen wished, rather than rise, that the committee should sit till midnight to show their resentment to the gentleman from Pennsylvania, on account of the speech which he had delivered to them. It was astonishing to him that the same spirit should still exist in that gentleman which had always opposed the Executive of this country; which had condemned the proclamation of neutrality; which had justified the conduct of a French Minister in his appeal from the Government to the people of the United States; that spirit which, by preaching up the rights of man, had produced the Western insurrection. [A cry of order, and Mr. A. sat down.]

Mr. Brooks said, though he had as great an aversion to the submissive course recommended by the gentleman from Pennsylvania, as any member of the committee, as he believed it repugnant to the feelings of the American people, yet he thought his speech ought not to go unanswered. This speech would have been thought an extraordinary one in the year 1775; and if the sentiments contained in it had been then adopted, our Revolution would never have been accomplished. He hoped, therefore, that the committee would rise, that arguments, which would lead to a surrender of the peace and independence of this country to a foreign nation, might be resisted.

Mr. Macon hoped the committee would rise, for the reason assigned by the gentleman last up, because, if the speech of the gentleman from Pennsylvania was such as he stated it to be, he wished to hear it exposed. It had struck him very differently.

Mr. Strobhavre hoped the committee would not rise. He believed no profession was necessary on his part. It would be readily credited that he felt as much opposition to the opinions of his colleague as any gentleman could do; but he did not think his speech of such importance that the committee should sit another day to answer it. He believed the answer to it was to be found in the late despatches of our Envoys, and in the convictions of every American. He believed the time was come when, instead of speaking, Congress ought to act. This speech had already been answered, since everything, which had now been repeated, had been heard before; and all that could be said upon the subject could not add to the conviction of any one. He believed the present war a subject well understood by every man, both in and out of doors, and no good effect could be produced by delay. The best answer to this speech, he believed, would be an immediate decision against the doctrine which it contained.

Mr. Brent felt solicitous for the committee to rise, because he felt a great desire to know what it was in the speech of the gentleman from Pennsylvania, which had apparently created so high a degree of indignation in certain gentlemen of the committee. For his part, he owned the gentleman from Pennsylvania had engaged his most serious attention; and, if that gentleman was culpable, he was equally so, for he approbated every sentiment which he delivered. He thought it one of the most temperate discussions he had ever heard, being free from all personalities, and, as it struck him, of any expression which could excite irritation in any one. If, when a gentleman rises on the floor of this House, on a great and important question—a question on which, perhaps, depend the peace and independence of this country—he is to be treated in this manner, there is an end to all freedom of debate. He must own he had never, on any occasion, seen so much indecency of conduct shown towards the gentleman from Pennsylvania, for having delivered sentiments which, in his opinion, did honor both to the head and heart of that gentleman.

Mr. Dana wished the committee to rise. When he reflected that the gentleman from New Jersey was a native American, and had been an American soldier through the late Revolution, he could not be surprised at the indignation which he felt on this occasion; but he wished the committee to rise, in order to show that the gentleman had perverted the sense of the laws of nations. As to his argument to prove that it would be more our interest to submit to, than to resist the terms offered to us by France, he believed the answer which our Envoys returned to the agents of the French Government, would be a complete answer to them.

Mr. Gallatin said he did not mean to make any kind of observations upon what had fallen from the member from Connecticut (Mr. Allen,) or the Speaker. He meant only to notice what had been said by the gentleman last up from Connecticut, who had perverted his sentiments. That gentleman had said that his observations would find an answer in the reply of our Envoys to the agent of Talleyrand, thereby signifying that he, Mr. G., had expressed himself in favor of an acceptance of such terms as had been offered to our Envoys. That gentleman could not surely have attended to what he had said, because he had expressly stated that he should consider it as submission to pay to that nation any money, or to recognise any claim contrary to the law of nations; but he had said he would rather submit to our present captures, under the hope that they might not have a long continuance, than take a measure which was war.

He would just add that the Speaker was mistaken when he stated that the speech, which he had delivered, was prepared before the late despatches were communicated. It was prepared at the time of its being delivered, and in answer to the speech of the gentleman from South Carolina, (Mr. Harper,) delivered yesterday. Before the despatches were communicated, he had hopes of peace; after he had heard them read, those hopes were not extinguished; but, from the publication of them his hopes were very feeble—feeble as they were, however, he did not wish to blast them by any act of this House. As to the sentiments which he had delivered, he was not ashamed of them, and should support them at any time, in opposition to what that gentleman, or any other, may oppose to them.

The committee now rose, without taking any question.

Friday, April 20.

It being announced by the Clerk that the Speaker was sick, and unable to attend the House,

Mr. Sprague moved that a Speaker *pro tem.* be appointed. After some observations on the propriety of so doing, the motion was put and carried, there being 46 votes for it.

The Sergeant-at-Arms accordingly proceeded to collect the ballots, which being done, Messrs. Josiah Parker and Morris were called upon to count the votes; which Mr. Parker reported to be as follows, viz: for Mr. Dent, 40; Mr. Sprigg, 19; Mr. Baldwin, 12; Mr. J. Williams, 1; and Mr. Blount, 1.

Mr. Dent was accordingly declared to be elected, and having been conducted to the Chair, by Mr. Sprigg, he addressed the House as follows:

"Gentlemen: In the execution of the duties of this temporary appointment, my endeavor will be to evince strict impartiality. Permit me to hope your co-operation in maintaining order, and to expect your support in all cases of official decisions, where it ought to be afforded."

On motion of Mr. Sprigg, it was resolved that a message be sent to the Senate, informing them that the House had elected a Speaker *pro tem.*

PROTECTION OF TRADE.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill to provide for an additional armament for the further protection of the trade of the United States, and for other purposes; when the consideration of Mr. Gallatin's amendment to the first section being resumed, viz: to insert, "Provided, they shall not, in time of peace, be employed as convoys to any foreign port or place."

Mr. Allen rose and addressed the Chair as follows: Mr. Chairman, I wish to inform the committee of the reason for the strong expressions of abhorrence and indignation, which fell from me yesterday, at the language of the gentleman from Pennsylvania, (Mr. Gallatin,) when the House was in Committee of the Whole on this bill.

I confess, sir, that I have not that perfect command of myself; I have not that iron system of nerves, which I could wish, the event of which I lament, and which I so much admire in others. Constitutionally too irritable, I meet such insults to my country with a degree of warmth which I desire to repress, but which I hope does not banish from my bosom that consideration and that candor which is necessary in my place. The situation of our country requires a cool and temperate deliberation; and I wish for nothing more than for the adoption of such measures as true wisdom shall point out as proper. The committee, I trust, will pardon me for the astonishment and displeasure I felt at what I heard from that gentleman; a similar displeasure marked the countenances of almost all who heard him. I did expect, upon the disclosure in the despatches of what had passed at Paris between our Commissioners and the Government of France, that a spirit of unanimity would have been, in some degree, produced in our councils, though a perfect unanimity could not be expected. I did expect that every member of the Legislature would have laid his hand upon his heart and considered what was necessary to be done for the safety of his country, and would have determined to support such measures as should be deliberately adopted by the majority. But, sir, what do we behold? I have long considered it as the most prominent feature in the Jacobinic character, the spirit of obstinacy, which knows not to yield: that furious, clamorous spirit, which never acquiesces in measures not principles, however well settled; which never yields to majorities, but which always seeks, by force or art, to convert minorities into majorities; that spirit which drives men to overset, destroy, or render ineffectual, measures which it disapproves, though adopted by the general consent and approbation of the country; that spirit which ceases not to reprobate, in the most bitter manner, measures which gentlemen know and acknowledge cannot now be set aside. I pray God this spirit may have an end; if it continues it will ruin this country. It appears to me, that the course gentlemen are now taking will overwhelm us with irretrievable difficulties. I hope I am mistaken; but it appears to me to be the duty of every American, at this time, seriously to declare that he will support the measures which have been and which may be adopted by the Government.

The Senate have passed, by a large majority, and sent to us, a bill to provide an additional armament, and no expression of disapprobation of it is heard out of doors. The objects of it are, the defence of those parts of our coast which are most exposed to the enemy; our trade from port to port; our trade to foreign countries, where within reach of our shores; and the general defence of the nation. The first step is to provide the means of defence. How it will operate I know not; it cannot be particularly foreseen. Let us possess the power and consult the mode of conducting it afterwards. All men must confess our situation requires it. It is intended to place this force in the hands of the Government, to be used as the exigencies of the nation may demand. But it is attempted, by the gentleman from Pennsylvania, at the very outset, at the very threshold of the business, to shackle it, to make a declaration which goes to a prostitution of the country. He requires that we declare that we will not make use of these vessels to defend our acknowledged rights; that whatever may be our situation, whatever may be the event, condition, or contingency, however effectual may be the means of defending our ships, our property, these vessels shall not be used as convoys. Is this wise? Is this prudent? For I wish to avoid the discussion of all Constitutional questions, and to speak only of the expediency of the measures. Will gentlemen refuse their assent to the bill unless accompanied by a declaration that the vessels shall not be used in a particular manner? Surely every gentleman who is anxious only for the true interests of his own country, must consent to leave the manner of employing these vessels to be settled hereafter, by Congress, or by the President, when our situation, with respect to France, shall be fully known. The events of next month, next week, nay, of to-morrow, may render this restriction idle, absurd, and dangerous. If gentlemen are unwilling to trust the President, are they afraid of themselves? If their jealousy leads them to put manacles on the Executive, must they also fetter themselves? Can we not discuss this question at a future day, and make a law providing for the operation of this force long before it will be prepared for action? Why occupy the time which is wanted for preparing the armament in quarrelling about its course and destination? What will be the use of these vessels without the proposed restriction, I cannot tell; but I am not afraid to confide this power to the President; I am not apprehensive they will be improperly employed. If there were any such danger as gentlemen seem to contemplate, the public sentiment, the general opinion of the country, would influence the Executive conduct on the occasion. Under all the attacks that are constantly made upon us, and the threats of destruction that alarm our country, surely there can be no danger of these vessels defending us and all our rights too zealously, or too effectually.

The question is, shall we suffer these armed vessels to act as convoys in time of peace; and, by peace, he confesses he means that state in which we now stand; plundered, insulted, menaced, as we now are?

It is said, policy forbids it. I believe policy calls upon us to defend ourselves in the best manner we are able, unoperated upon by anything which has taken place heretofore. Policy calls upon us to consult our own safety and interest, without giving way to our affection for one nation or hatred to another. There are absurd and dangerous passions in nations. It is our true policy to defend ourselves and our rights to the fullest extent; we have an awful lesson of what we are to expect from submission and tameness.

It is said, that it is a vain attempt to defend our commerce; because we cannot defend it effectually. Sir, no nation ever did defend its commerce effectually, in the sense the gentleman means; no nation ever expected or attempted it. Every country at war will lose very many of its merchant ships; it is sufficient that we exert so great a force in their defence as, under all circumstances, we can afford, and bring into action. But, sir, no nation ever said, in the spirit of this amendment, that it would not protect its rights and commerce. It would be an invitation to all the pirates on earth to plunder it, under a promise of impunity. Whatever may be expedient to be done in fact, however much we may really be disposed to endure in hope to escape a war, we should not publish to the world and to our foe, our intention to submit to his robberies. The man who would say this, would never have the spirit to defend the country in case of an actual invasion. It is a spirit calculated only to surrender our independence to the first Power who shall have courage to demand it.

It was said by the gentleman from Virginia (Mr. Nicholas) that, by refusing to protect our commerce we should lose only the carrying trade; that the ships of other nations would come to our ports and furnish us with such foreign productions as we might want, and take from us such of ours as we might have to spare; and that the object of the protection was not worth the expense and the hazard. This was not always the language of that gentleman. He formerly thought the carrying trade of the utmost importance to the country. Every one remembers the long and earnest debate which, four years ago, took place on a set of resolutions brought in by a gentleman from Virginia, (Mr. Madison.) They were founded on certain commercial regulations said to have been adopted by Great Britain, injurious only to the carrying trade, which we are now invited to surrender without a struggle. [Here Mr. A. read some observations of Mr. Nicholas on that occasion, in which, speaking of the wrongs this country had suffered from Great Britain, he asks if there was so little American feeling in the House as not to lead them to take retaliatory measures, &c.] Let gentlemen compare our situation at that time with

the present, and they will discover that all which that gentleman then said was applicable at this time, and infinitely more. Those who then opposed the measures of the gentleman from Virginia, called for specific facts of the injuries complained of—they were told of the savages being let loose upon our frontiers, and the Algerines upon our commerce; and of commercial advantages being denied us; yes, sir, the same gentleman from Virginia was then indignant at our commercial losses, and at restraint on our trade. No gentleman now calls for "specific facts;" no gentleman now calls for evidence against France; every gentleman now agrees we have just cause of war against her; but now they profess to doubt the policy of protecting that trade which they then thought so important; now it is not worth defending; now it is mere bagatelle; now they are willing to let foreigners regulate our markets, take our ships, imprison our seamen, and take possession of our cities. Now we are seriously invited to draw our heads within our shells, and humbly take what foreigners will please to give us; and all this without an effort to defend rights so dear and sacred.

These were not the sentiments which animated the gentleman on the former occasion, and I cannot account for the difference of conduct in situations so similar. The gentleman on that occasion stated the question to be, whether commercial regulations should be adopted, or whether we should go to war? Arms were to be the resource if milder measures failed in their effect. These gentlemen were then ready to resist and to repel the aggressions committed on us, and their measures were strenuously urged. At that time Great Britain did not avow the wrongs she had committed on us, nor did she threaten to continue them and ravage our coasts, both which France now does. Our complaints against Great Britain were few and light, compared with those we make against France; yet, had the commercial regulations then proposed by these gentlemen proved insufficient, blood would have been shed in defence of the rights then violated, though of no importance compared with the injuries under which we now groan. It is contended by the gentleman from Virginia (Mr. Nicholas) and I believe by the gentleman from Pennsylvania (Mr. Gallatin) that, by the law of nations, France has a right to search our vessels in order to discover whether they have on board contraband articles, or enemy's property. But has she not declared she will not be governed by the law of nations? that she will make her power her only rule of conduct? And will it be said that she may avail herself of rights given by a law, the injunctions of which she will not obey? May she protect herself under that law, while she will refuse to all other nations the protection it promises to them? Do we allow the Algerines or the pirates of Asia to search our vessels? We may reply to every Frenchman who demands to search our ships, "You shall not; you declare you will condemn for causes which you admit not authorized by the law of nations, and you shall not search for any cause whatever." Certainly while gentlemen admit that we have just cause of war against her, they cannot consistently contend for her right to search, and our duty to submit.

The gentleman from Pennsylvania says: "We ought not to permit our vessels to serve as convoys, because to convoy our merchantmen is to protect them against the unlawful attacks, and against all attacks of foreign ships; that to defend our vessels against the aggressions of France by force, is to fight; and to fight is to go to war; and a state of war is a greater evil than the present state of things." And he adds, "we had better suffer the French to go on with their depredations, unjust and enormous as they are, than to take any step which may lead to war."

This I cannot admit. This course of argument is chosen, I believe, to give currency to the opinion than the Executive and a part of this House are determined on war in behalf of Great Britain. This is continually insinuated or asserted, though contrary to the repeated and most solemn asseverations of the late and present Chief Magistrates, and of many of the members of this body, that they anxiously wish peace with the French Republic. This alarm is rung throughout the United States, and is everywhere preached up and declaimed against, in order to excite meetings, and to raise up a part of the people to resist the measures of the Government, however just and necessary they may be. I think I am warranted in this assertion by a number of circumstances. Look at the petitions, from a number of places, against suffering your merchantmen to arm in their defence against a nation of robbers. Everywhere exertions are made to excite dissatisfaction, and a flame against our Government. Everywhere are found men base or deluded enough to present their faces in broad daylight, and revile the measures and the administration of the Government. Everywhere do they recount the measures they condemn—the funding system, the bank law, the excise, the British Treaty, the building of frigates, the Federal City, and the stamp act, are rung in the ears of the public as monstrous, unjust, impolitic, and destructive; although they have the repeated and decided approbation of majorities in Congress, and of the people; and although almost all men, even those who excite and join in the clamor, acknowledge that every principle of justice now forbids their repeal. Instead of alarming the public mind, gentlemen would do much better service to their country by quieting and appeasing it; and by instructing the people in the true principles of the laws, in the absolute necessity of submitting to, and resting satisfied with, the decision of majorities, unless those decisions obviously and manifestly led to the destruction of the country; and I should doubt even in such a case of the propriety of a forcible interference, because of the danger of exercising the right of insurrection. When measures are deliberately adopted, unanimity ought to prevail in carrying them into effect; but nothing is in fact heard but the jarring sounds of discord and division; if the laws are not openly opposed and disobeyed, it is a grumbling, reluctant

submission which is yielded, indicative of a temper which is ready for resistance, revolution, and blood. This disposition, though seen in all places, commands but a few voices; for the honor of our country, a very great majority of the people remain uninfluenced by these factious disturbers of the public peace; and, thank God, they have lately experienced a fatal and dismal defeat in a particular part of the Union.

But, says the gentleman from Pennsylvania, (Mr. Gallatin) we had better rest contented as we are, "we had better suffer the French to continue their captures of our ships, and imprisonment of our seamen, we had better suffer them to go on with their depredations than to go to war." Sir, what loud and insolent complaints have been made against us for "suffering" the British to commit the very same kind of violence upon us; our ears yet tingle with the reproaches heaped upon us for suffering precisely the same atrocities which we are now invited to meet with tame submission. These gentlemen have heretofore told us that the French were excused for their robberies by our "suffering" the British to strengthen their forces and man their ships with our seamen. Is not this astonishing? What measure of depredation and plunder may the British not adopt by this rule, if we "suffer" the French to strip us at the present rate? They have hitherto proceeded in at least a quadruple ratio. By this rule we shall be required to "suffer" the British to take our last ship, and our last man, and our last farthing.

"We had better suffer the French to go on with their depredations than go to war!" Sir, this is all the French claim for themselves. They now take all they can find; they are perfectly contented with their present condition. If they can take and destroy the whole of our trade, they will be satisfied. The continual plunder of our commerce will be worth more than all the money we can pay. But let gentlemen recollect that France has expressed the strongest hopes of conquering her enemy, Great Britain; that Power which now alone opposes itself to this monster, which has devoured half of Europe. What will be our condition, what will be our means of defence, when she has stripped us of all our ships and seamen? To me it appears clear, that if we "suffer" France "to go on" it will end in the complete destruction of all those articles in which consist our best means of defence. I am not for doing this, I am not for giving up all our ships and seamen to French rapacity; because, I believe, if we give up these we have those within our bosom who would give up our country too. I again call on the gentleman from Virginia (Mr. Nicholas) to remember the spirit which actuated him and the language he spoke, on the former occasion. That spirit, were it now awake, would hold a different tone from what we hear at present. We are advised to refrain from using the power we possess for defending ourselves on the ocean, and to declare that we will fold up our arms and submit to be stripped. No nation that had endured the wrongs we feel, and against whom such threats had been pronounced, ever said "we will not resist, we cannot afford effectual defence, and therefore we will give no defence at all." I hope we shall not subscribe to such a declaration.

Sir, I should have stood astonished at the language I have heard from these gentlemen; I should have wondered what could have induced it, but for what I have in my hand. Is there not something peculiar and alarming in an invitation at this time to surrender our rights and independence to a foreign nation; for I believe the conduct recommended amounts to this? If we turn to the despatches from France, however, we shall see it all accounted for. Mr. A. then read the following paragraph from the conversation of M. Y. with our Ministers at Paris:

"Perhaps you believe, that in returning and exposing to your countrymen the unreasonableness of the demands of this Government, you will unite them in their resistance to those demands. You are mistaken. You ought to know that the *diplomatic skill* of France, and the *means* she possesses in your country, are sufficient to enable her, with the *French party* in America, to throw the blame which will attend the rupture of the negotiations on the *Federalists*, as you term yourselves, but on the *British party*, as France terms you; and you may assure yourselves this will be done."

This, Mr. Chairman, furnishes the solution of all the questions which arise, of all the inquiries that are made into the motives of certain gentlemen on this floor. If the French had applied their "diplomatic skill," the means "they possess in this country," with the most perfect address and dexterity, what more could they have promised themselves than has occurred? Were France herself to speak through an American mouth, I cannot conceive what we would say more than what we have heard from certain gentlemen to effect her purposes. On every proposition for a prompt, energetic, and effectual defence of our country, we are met with Constitutional questions, theories, doubts, nice distinctions, learned metaphysical disquisitions, and long speeches to excite divisions, to encourage their party, occupy time, and protract the debate to an interminable and provoking extent; and this by men who have been long devoted to her cause. This is the greatest extent to which her most artful agent would think it prudent to go; open and direct opposition to all defence would defeat itself; she must be condemned and her measures reprobated; she must be confessed to have committed outrages on our rights; but policy, policy, the sweet, enchanting song of policy, must be chanted in our ears forever; policy forbids resistance to the only wounds she inflicts. She attacks us only by sea. It is there only that we at present are vulnerable; and there this syren, policy, is to sing us to sleep. We are invited to surrender the ocean, and "all that in it is," without one feeble effort of defence. We are advised not to resist the demands of France, though called upon to pay her large sums of money.

Mr. Livingston interrupted Mr. Allen, and said he had sat still a long time, and heard a most uncommon strain of calumny and attacks; but this was too serious a charge to pass unnoticed.

He wished Mr. A. to state specifically who had expressed such a sentiment, for he had not heard it.

On the penalty of my life, said Mr. Allen, I would not, in this place and on this occasion, falsely state the arguments of gentlemen. I allude, sir, to what was said, and so laboriously supported, by the gentlemen from Pennsylvania, (Mr. Gallatin.) His very words were, "we had better suffer the French to go on with their depredations, than to take any step which may lead to war." I thought I had so often repeated the expression that no gentleman could be ignorant of what I alluded to. If it does not amount to what I have stated, I hope I will be pardoned. But it seems impossible to put the sentiment into plainer and more explicit language than that in which the gentleman himself clothed it.

France takes our ships, condemns them, and treats our seamen as prisoners of war. That is, she shuts them up in her jails. We complain of her conduct, and demand that she cease her outrages, and make us satisfaction. She replies that she will continue these captures unless we pay her money; and the gentleman now says, "suffer her to go on." To refuse compliance would be or refuse to suffer her to continue her wrongs to enforce any of her demands; that is, it would be to stand on our defence and repel her attacks; but the gentleman says, "suffer her to go on." This I call advice not to resist her demands. Her demands, taking her language and conduct together, are, "pay me money, or let me take your ships;" for neither of which does she pretend any justification. And the gentleman says, "let her take your ships." Is this the language of an American who loves his country? No, sir, it is the language of a foreign agent. Genuine Americans, sir, disdain such language; they love their country and will defend it, unless the art of these gentlemen shall paralyze our arm. Gentlemen say we cannot defend ourselves; we cannot raise the necessary funds to maintain a war. Sir, we have houses, farms, and cattle, and we will spend the last farthing. We have spirits, blood, and bodies, and we will lay them in the field of battle for our country. Do gentlemen say that we cannot defend ourselves? Sir, this is a language which Americans are not used to hear; they will defend the rights, the honor, the independence of their country or perish; the "diplomatic skill of France, her means, and her party in this country," notwithstanding.

In aid of this argument of policy, it is urged that there still remains some chance, some hope of preserving peace; and this chance, this hope, is attempted to be made a basis of action. I wish any such existed on which a single operation could be built; but I discover none. The gentleman from Virginia (Mr. Nicholas) told us yesterday that he did not believe the present state of things could long exist, that peace must soon take place in Europe—on which, such was his opinion of France, justice would be done us.

Mr. Nicholas interrupted Mr. A., saying he had said no such thing.

Mr. Allen said the gentleman's words were, "we shall be restored to our rights."

Mr. Nicholas replied that he meant that the Powers at war would then cease to violate our rights.

Mr. Allen continued. That may have been the gentleman's idea, but his words naturally imported remuneration, a compensation for the violation of our rights. But, sir, as the gentleman himself has now stated his idea, what foundation is there for it? I do not understand France thus to speak for herself. I understand her to make her passions her guide, and her power her only rule; and though, while she is engaged in combating the most powerful nation in Europe, she cannot wage an open war with us; yet when she has brought that Power to her feet, she reminds us of our fate by the mention of Venice, and other Powers of Europe, which have been obliged to submit to her dominion. [Mr. A. read another passage from the despatches, in which it is said, should not an invasion of England actually take place, yet the alarm, interruption of trade, and the expense which it would create, would ultimately wear them out, and oblige them to make peace.] The latter I fear will be the event. I believe they will not conquer that country by attack; but there is too much reason to believe they will drive it to an ignominious peace by the long continued conflict. And can we expect that France, when she has made peace with England, will sit down in quiet and cultivate only the arts of peace, and breathe nothing but good will to men? When she has humbled the only power that presents a formidable front and terrible aspect, is she to set about the introduction of that millenium of peace and purity of which we have heard so many fine promises and poetical predictions? On the contrary, if our difficulties are not settled with her before the subjugation of, or a peace with Great Britain takes place, and by that means her fleets which now serve us as a barrier, are withdrawn from the contest, they will not be settled at all; and if the course to which we are invited is taken, and we now "suffer" her to strip us of our ships and seamen, we shall be incapable of defending ourselves. We have every thing to expect that the avarice, the ambition, the malice, and the power of France can inflict. Sir, if Great Britain falls, and we remain a divided people, I look for nothing but bloodshed, slaughter, pillage, and a complete subjection to France. How can we prevent it? Nothing else can be expected while gentlemen continue their present line of conduct; while to every measure of defence the expense is objected, and the people are told they cannot pay it; while a land tax is held out to the people as the greatest of all evils, and by these and every possible art the public arm is paralyzed, the public force destroyed.

Let me add, as no contemptible engine in this business of sowing discord, dissension, and distrust of the Government, a vile incendiary paper published in this city, which constantly teems with the most atrocious abuse of all the measures of the Government, and its administrators. A

flood of calumny is constantly poured forth against those whom the people have chosen as the guardians of the nation. The privilege of franking letters is abused in sending this paper into all parts of the country; and the purest characters are, through this medium, prostrated and laid low in the view of the people. No nation, no Government was ever so insulted. In another country, this printer and his supporters would long ago have found a *fourth of September;* and this paper is well known always to speak the sentiments of, and to be supported by, certain gentlemen in this House. These, sir, are the fruits of "the diplomatic skill of France"—these are the effects of her "means"—these are the efforts of "her party in this country." I am aware that our Government may not always, on *all* occasions, have acted with the most perfect wisdom; what Government ever did? we are not perfect, it is the lot of humanity to err. But who would have conducted our affairs more wisely? Will gentlemen never cease their reproaches? The gentleman from Pennsylvania, not many days since, declared that if we have war with France, it will be owing to the publication of the despatches and instructions? I wish we may avoid a war, if possible—but if we do not, if war must come, I cannot believe it will be produced by that publication. The publication of those papers is acknowleged by the gentleman to be an innocent act in itself. A proceeding so proper and so honorable cannot draw upon us hostility and vengeance; our enemy needs no such pretext, she scorns it—she finds in her ambition, and her lust of domination, motives enough for war. I desire that all the citizens of the United States should learn that this gentleman has said "the publication of these papers will lead France to make war on us," and I am sure they cannot mistake the motives to the declaration. It is not the language of patriotism to say that the publication of what the people were anxiously looking for and expecting is to produce a war. The language of every man who loves his country ought to be, "A majority has determined what shall be done, and we will support it; if it was our *error* it was not a *vice*, and we will defend it." But it was not an error. Such is not the language to be produced by the "diplomatic skill of France." That *skill* shows itself in great apparent moderation and candor, but will slyly promote principles calculated to palsy our efforts and defeat all the exertions for the protection of our country's rights and independence. Such things will be practised until all men will agree to prefer their own country to every other. But I believe there are men in this country, in this House, whose hatred and abhorrence of our Government leads them to prefer another, profligate and ferocious as it is.

The gentlemen who press upon us these two ideas, viz: "we have some chance of peace; and, an European peace will restore to us our rights," have heretofore assumed to understand the temper, policy, and projects of the French Government; and thereupon have claimed authority to direct our affairs in relation to France; and have bitterly and loudly condemned our want of faith in them. Let us examine the grounds of their claims—let us see how far their predictions heretofore have been verified.

Genet and his partisans in this country told us France did not wish us to join her in the war. A few months after this, he pulled his instructions from his pocket, and they were found to enjoin upon him to employ all possible means to draw us into the war. These gentlemen understood Great Britain too—they *knew* she would not treat with us at all, much less on any terms of reciprocity. When that treaty was made and ratified, they so clearly saw her perfidy, and her hypocrisy, they were certain she would not perform on her part those stipulations which were favorable to us; they knew she would not deliver up the western posts, &c. Sir, we see that Power performing her engagements with a religiously good faith, that France and her ferocious tyrants never knew.

These gentlemen have constantly assured us that all the robberies, the decrees of spoliation, the violations of her treaty with us, her embargoes, her compulsory contracts with our merchants in her ports, and her disregard of *all* her contracts, were measures necessary to her very existence, that they were the result of "an imperious necessity;" and that when that necessity ceased, when her liberties were secured, when she had repelled and humbled the despots of Europe who were leagued against her, she would cease her outrages, and would render justice to all who had suffered by her wrongs. Let the gentlemen hold up their heads, and declare to us what is now the case. She extends and increases her ravages; her voracious jaws have engulphed all that has come within her reach. Sir, I will remind the gentleman from Virginia (Mr. Nicholas) and the gentlemen who then acted and now act with him, that to the Answer to the President's Speech, at the session last Summer, he moved an amendment in the following words, viz: "The rejection of our Minister, and the manner of dismissing him from the territories of France, have excited our warmest sensibility; and, if followed by similar measures, and a refusal of all negotiation on the subject of our mutual complaints, will put an end to every friendly relation between the two countries; but we flatter ourselves that the Government of France only intended to suspend the ordinary diplomatic intercourse, and to bring into operation those extraordinary agencies which are in common use between nations, and which are confined in their attention to the great causes of difference. We therefore receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted; and we expect with confidence that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on the footing of other countries, by removing the inequalities which may have arisen in the operation of our respective treaties with them, will produce an accommodation compatible with the engagements, rights, duties, and honor of the United States."

This amendment was most zealously supported, and the debate upon it occupied this House near three weeks at the extraordinary session last Summer. I then thought it ill-timed, but I now believe it was a fortunate motion—it serves as a *test* by which to try these gentlemen. The plain language of it was, "We will make another attempt to negotiate, and a repetition of her abuses will convince us that we cannot have any friendly connexions with France." Sir, putting an end to all friendly relations between two countries, I understand to be placing them in a state of *hostility*. I know of no *mongrel, half-breed* state of things, after such an end is put to our relations with a foreign nation; it is war, or it is peace. The citizens of one have a right to be received in the ports of the other in a friendly manner, or they have not—if they have, it is peace; if they have not, it is war. The President has made a fresh attempt at negotiation; he has sent three Ministers in place of the one, to beg and pray for compromising, for negotiation, for justice, and for peace. The haughty Directory will not receive them, will not hear them; its vile agents insult them with demands of enormous sums. Sir, France not only will not negotiate, but she will not even suspend her depredations while one of our Envoys can return home to procure such powers as she demands to be given them. She admits the justice of our complaints, and declares we shall submit to her power. The event on which the gentleman counted in his amendment has happened, but he now warmly contends for a continuation of *friendly relations* between the two countries. It is proved the Government of France did not intend only to suspend the ordinary diplomatic intercourse, and to bring into exertion those extraordinary agencies. We have resorted to such extraordinary agencies; we have sent three Envoys Extraordinary. Her first rejection of our Minister has been followed by similar measures, and a refusal of all negotiation, and the gentleman now vehemently contends against even *defence* and *resistance!*

It is proved that the gentleman's "confidence" in the success of this "fresh attempt" to negotiate was utterly destitute of foundation; and now again he says "there is some chance of peace," and "peace in Europe will restore to us our rights." By this time I think the gentleman should hesitate and pause a little before he pronounces any more creeds on the subject of French justice, French honor, French moderation, French magnanimity.

The gentleman in his amendment also said: "We cannot believe that any serious expectation can be entertained of withdrawing the support of the people from their Constitutional agents"—and now she boasts of "her means and her party" in America.

Sir, our dangers are too imminent, too awful, to trifle with; our measures must be prompt, energetic, and decisive. I wish the gentleman from Pennsylvania could be convinced of the propriety of withdrawing his motion, and of the necessity of unanimity in our councils.

[Mr. A. read from the despatches a part of Mr. Y.'s address to our Envoys.] "What," he (Mr. Y.) asked, "would be our situation, if peace should be made with England before our differences with France could be accommodated?" This is a solemn inquiry; this is a question on which we should well consider; I pray the gentlemen who are now opposing our measures to make the answer, and I wish the light of a Divine revelation in the solution. But if gentlemen will not join us heart and hand, in the defence of our rights and our independence, I do trust a fervor will kindle and spread through the country which will compel gentlemen to act and do their duty.

I hope, sir, the committee will pardon my ardor on this occasion; I am sure a majority will. I cannot hear the threats which are thrown out against us—I cannot hear the denunciations of France against my country—and sit down calmly to calculate the pounds, shillings, and pence, which it will cost to defend it. I do hope, sir, the fervor of the country, if nothing else can affect certain gentlemen, will oblige this House to proceed immediately in such measures as are proper for our defence. I pray God this may speedily be the case, or we are a ruined and devoted people. But while I see such motions as the present brought forward, and a pure American (Mr. Brent) declare that such sentiments as we heard yesterday from the gentleman from Pennsylvania "would do honor to the head and heart of any man," I despair of any considerable degree of unanimity in this House.

Mr. Allen having concluded—

Mr. Otis said, he would not pretend to judge of the sincerity of gentlemen who declared themselves ready to adopt effectual measures for the defence of the country, according to their conception of that object, but he thought their construction of the term, "defence of the country," was extremely limited and partial. If, in ordinary cases, it was requisite for the illustration of a question to agree upon the definition of terms, it was still more important on the present occasion. When the gentleman from Pennsylvania, and others, speak of the defence of the country, they evidently mean to confine their ideas to a defence of the soil. He, on the other hand, conceived that the essential part of a country was the people; and, when he considered the subject of defence, he wished that it might be such a defence as would embrace the whole mass of the citizens distributed into different professions, and together constituting what he called the country. The soil was no otherwise deserving of protection than as it formed a portion of the property of the citizens. It was, without doubt, the principal and most valuable portion; but there were other kinds of property which, for the same reason, had also claims to protection. The ship of a merchant is not less the property of the country than the house of a farmer. The sailor who ploughs the ocean is not less a citizen than the husbandman who ploughs the soil. There is nothing sacred in the soil, distinct from the people who inhabit it. Many extensive tracts of the soil of this country—

deep morasses, trackless swamps, and howling deserts—were of no value whatever; yet they belong to the people—they are a part of our public or private property, which no man would feel authorized formally to abandon.

Mr. O. would agree that sometimes the resources of a country would not be found equal to the protection of all the citizens, or of their property. In such instances, he allowed that a preference was due to the most numerous class of citizens, and to the most valuable part of their property, if all were equally exposed to danger; but when a Government is unable to extend its protection to the whole community, it is sufficient to be silent with respect to that part of it which is left defenceless and exposed. It is an aggravation of the misfortune to declare this imbecility to the world, to depress the spirits of your own citizens, and point them out as victims for your enemies. In the bill before us, it is sufficient to provide such a number of vessels as are nearly equal to the defence of the coast, without saying to our merchants, "Your country cannot protect you." It is enough to leave them to take care of themselves, or to permit the Executive to allow them convoy or not, as circumstances may arise; but to declare to the merchants of the United States—to fifty thousand seamen—to the manufacturers, tradesmen, and laboring poor dependent on them—in explicit terms, that they are abandoned and expatriated; to say, in the mournful language of gentlemen, "We wish to God we could protect you, but we cannot do it;" to pronounce this tremendous sentence upon a number of persons, equal, upon a moderate computation, to the inhabitants of the largest State in the Union, would be an impolitic, unjust, and dishonorable insult.

Let us, said Mr. O., try this principle by another test. Great sums of money have been appropriated for the fortification of ports and harbors, and for the defence of the coast, still no gentleman believes that every part of our extensive coast is capable of defence, or that our resources will enable us to fortify all our ports and harbors. But have we said to any part of the people of our country, "It will be too expensive to protect you?" Or have we said to foreign nations, "Look here, or there, and you will find us vulnerable and defenceless?" No. The means of defence will be employed and apportioned to the best advantage; but, if it were doubtful whether Georgia or Maine could be put into a posture of defence, we should hardly declare to those districts, or to the world, that we thought them untenable. Yet this is the amount of the proposition of the gentleman from Pennsylvania, and it is in this view of it he was astonished to find it introduced. He had often heard from gentlemen the assertion that we were not able to protect our own commerce, and that our utmost means were equivalent only to a territorial defence. He would not comment upon the truth or policy of such remarks. He did not however expect that a proclamation of them, in the form of this amendment, would have been offered for the sanction of the House. Yet this is strictly the fact. We are invited to say that we will guard against an invasion of our shores, but not against the wanton and unjust attacks of our property at sea; that we will defend what is not exposed to danger, and desert what is every moment liable to destruction. If this system is to be adopted upon the eve of a war, we may as well submit at once to the proud and oppressive nation, of whose conduct we complain.

But the question recurs: Do the United States possess the means of protecting their commerce? He believed that no country was naturally more competent to afford this protection. Our country abounds with the principal materials requisite for building a Navy. This opinion is not novel, but has received the sanction of great men and wise Legislatures. Examine the Journals of Congress in the year 1775. It will there appear that resolutions were passed for building six or eight frigates and other vessels of war; and at the close of the session no difficulty appeared in providing the ways and means. They resolved that the money should be provided after having decided that the expense was necessary. Such was the mode of doing business at that period, such ought to be the mode of effecting it now, under circumstances beyond comparison more auspicious—with double the population, an immense addition to our mercantile and agricultural capital, and a regular Government. It is true, that towards the end of the war, the Navy of the United States was diminished by captures, but not before it had much more than indemnified the Government for the cost of its construction and maintenance by prizes. So firmly persuaded was Congress of its utility, that in the year 1783, immediately after the conclusion of peace, upon a recent view and fair estimate of the gain and loss of a Naval Establishment, a resolution was adopted declaring a respectable marine to be a desirable object, and recommending to the States to provide funds for its accomplishment. In the Notes on Virginia (an authority he was fond of quoting) the expediency of a naval armament is also advocated. Besides, sir, said he, why have we not equal ability to build and maintain a Navy with the States of Denmark or Sweden, whose population and resources are inferior to ours? Why cannot this country provide a fleet as well as Peter the Great of Russia, at a time when his people were just emerging from barbarism, and when the arts were imperfectly known in his country? It may be said, indeed, that this was achieved by the force of despotism; but he believed that the force of patriotism could effect much greater miracles; that the free American could serve his country more effectually than the Russian boor, and that the impulse of liberty was a greater stimulus than the lash of the knout.

But it was objected to this power of granting convoy, that this employment of the vessels would be a cause of war. [Mr. Gallatin said he did not say it would be a cause of war, but that it would be war.] Mr. O. replied that he could not conceive that any act perfectly consistent with the laws of nations and a state of neutrality should be considered as actual war; no principle

was more indisputable than this right of convoy. It had been denied with great audacity, but it could not be doubted by any man moderately conversant with the law of nations, or who had read a history of modern Europe. A difference had been hinted between the situation of the northern Powers of Europe, at the period of the armed neutrality, and the state of this country; but this right had been exercised prior to the formation of the armed neutrality, and has been uniformly asserted and adopted in practice during the present war. On the 27th of March, 1794, a new convention was framed between Denmark and Sweden, recognising this right and resolving upon a naval force to maintain it. [He read this convention.] In the same year we find that a demand was preferred by these Powers to the British Government for an indemnity for their captured ships and property. An ample compensation was made, yet the fleets of Sweden and Denmark were not equal to the British fleet; but the equipment discovered a determination to defend and vindicate their rights, and it produced its effect. But how was this convoy, Mr. O. asked, equivalent to actual war? Is it because our vessels will not submit to be searched by the French? If this be deemed by gentlemen equivalent to an actual state of war, it will not be induced, but may be prevented, by convoys; for under present circumstances a private vessel may resist the attempt to search when destitute of a convoy. Does the gentleman from Pennsylvania then intend that this bill will amount to a declaration of war? That cannot be pretended. Or will it afford a pretext for war? It is too late to think of avoiding pretexts. France wants no pretexts, she waits only for convenience. She threatened to ravage your coasts; she warned you of the fate of Venice; the feet of the nation are raised to trample on your necks; their bayonets are burnished to plunge into your bosoms. The war with England affords her sufficient employment at present; let them succeed in their enterprise against her, and then see whether you will escape from oppression and war.

Great reliance has been placed upon the assertion that the late decrees of the Directory affect only an inconsiderable and disadvantageous part of our commerce. Our carriage of British goods and our direct trade with the British dominions, in which branches of commerce the British will exclude us, from their ability to convoy and to carry at a cheaper rate. It is further said that if we remain at peace our trade will be unmolested, except in the cases specified in those decrees, but that a rupture with France will deprive us, not only of her trade, but of that of all the nations in alliance with her or under her control. He wondered greatly that gentlemen did not perceive the simple answer to these objections. In all those cases, if their arguments were just, there would be no occasion for the employment of convoy, and the vessels would either not be purchased or they would be destined to some other use; to defend the coast, or to protect the transportation of our troops and military stores. But he did not believe in the solidity of these arguments. France did not mean to permit this country to carry on any species of commerce that she could prevent; no gentleman could seriously believe that she would confine herself, though unjust and cruel in a high degree, to the letter or spirit of her late decrees. We have authentic information that she captures all she meets, and the Arch Buccanier of the West Indies has published an edict purporting that nothing must be suffered to escape; neither was it to be imagined that, in the event of war with a nation, we should be shut out from the ports of the other European nations. Of the fifty-one millions of our annual exports, a moiety consists of the produce of other countries, of sugars, teas, coffee, cotton, and other articles, the demand for which is constant and must be supplied. This supply must be obtained from those countries which can carry cheapest. At present, for this reason, it is principally derived from this country. It is a monstrous supposition that France should acquire such an ascendancy in Europe as to compel Spain, Holland, the Hanse-Towns, Russia, and the Italian States, to foreclose our commerce, and to deprive themselves of the advantages of purchasing supplies from those who can furnish them with the best advantage; such a system could never be enforced; all those countries would be interested to elude it; the trade that was interrupted in a direct course would be carried on circuitously; but still it would continue, and, if protected, would flourish. The effect, therefore, of denying convoy to our merchants will be to destroy this great and beneficial carrying trade; to transfer its emoluments to other nations; to annihilate forty millions worth of shipping, and to starve or banish sixty thousand sailors and their families. Upon the value of our lands and produce, the operation of this amendment would be highly pernicious. The farmers have been amused with the idea that if our own vessels are embargoed, the British and neutral ships will come hither for their produce, and that their interest will not suffer. But it should be remembered that, with respect to the produce of our country, there is a great difference between seeking and waiting for a market. It chiefly consists of provisions and the necessaries of life, with which nature in some measure provides all countries. As the seasons vary; as the harvest is more or less abundant; the demand for this produce also fluctuates, and one nation may accidentally possess an immense surplus, while another is threatened with famine. The enterprise of the exporter enables him to discover and avail himself of such circumstances, and when trade is free the amount of our produce will be the greatest quantity which our industry can raise, but when exportation is restrained, the demand is uncertain; the merchant will not risk the purchase of great quantities, which may perish on his hand; and an immense diminution both of quantity and value is the unfailing consequence. Besides, said he, admitting that other nations should send vessels sufficient to take off all of our produce, they must provide convoys; they will

not venture unarmed; and unless your produce can be bought on terms that will defray the expense of arming, they will not come at all. The question therefore remains, whose convoy will you pay for, that of foreign nations or that of your own country? Honor and interest give one answer, humiliation and meanness another.

It has been asserted within these walls and echoed throughout this continent that we are going to war in support of British manufactures, and of a trade the balance of which is against us. To show the disadvantage of our trade with Britain, it has been insisted that in the last year France has taken eleven millions of our exports and Great Britain but eight millions and a half. But he would assert that either this comparison of our exports was not an infallible test of the relative advantages of our trade, or, if it be so, the same principle taken for a series of years is in favor of our trade with Great Britain. In the year preceding the last, our exports to Great Britain were twenty-three millions; to France eleven millions only. By the report of Mr. Jefferson, in 1794, formed upon a view of our commerce in peaceable times, we sent to Great Britain nine millions annually, and to France about four millions. In the year 1785, it appears, by a memorial of the British merchants to the King, that such is the natural tendency of our export-trade in favor of Great Britain, that although Germany and Holland wanted annually 18,000 hogsheads of tobacco, they could obtain but 5,000; and that out of 25,000 hogsheads for which the French market would afford a sale, they would get from us but 1,200. The rest was sent to Great Britain.

Gentlemen may contend that a great part of our exports to Britain is re-exported; but the quantity thus re-exported is not precisely known, nor can it conclude against the general position. The markets of other countries being open, we should carry these exports directly thither, if it were not convenient and advantageous to permit them to centre in Great Britain. And whether they are remitted in exchange for merchandise, which we want, and cannot obtain on equal terms from other countries, or as a fund to facilitate our negotiations and commerce in other parts of the world, it equally results that this bias proceeds from that commercial sagacity, which is always acute to discern, and active to pursue, its true interest.

He would further add that the exports of the last year, for another reason, were not the true criterion of trade. The depredations of the French corsairs had already increased to a degree, which induced many to clear out for the French dominions, when the actual destination was to some other country; and of the nominal eleven millions appearing to be thus cleared out, only three millions consisted of our own produce or manufactures.

Mr. O. said that he would not take the wide range of the gentleman from Connecticut, (Mr. Allen,) nor give the same scope to his feelings. Gentlemen agreed that the time was arrived for placing the country in a state of defence, and declared themselves ready to adopt certain measures for this purpose. For these professions he gave them due credit, but their measures are not adequate to the object. He never would agree to declare that this country could not, or would not, protect its commerce, nor assent to a process of outlawry against all the merchants, mechanics, and sailors, in the United States. He thought it not very honorable to say to the merchants, "proceed in your commercial projects, and, in the event of your success, we expect a portion of your earnings to bestow upon the protection of the other classes of the community." The farmers of this country would never find an interest in holding this language, and they had too much generosity to adopt it. From the nature of the landed interest, valuable as it certainly was, and constituting the basis of all riches, it could not be pretended that great sums could be drawn from it for sudden emergencies. If loans are wanted, the merchants are able and willing to lend. They cheerfully support a great share of the public burdens, and if we could not shelter them from destruction, it was a weakness over which he should mourn in silence, but which he would never think it politic to publish to the world.

Mr. S. Smith wished to have risen before the gentleman from Connecticut, (Mr. Allen,) to have expressed a single sentiment, with the hope that the question might have been taken without further debate; but that gentleman had taken such a wide field of declamation and irritation, that he had lost all hope of speedily taking the question. He was of opinion, with the gentleman from Pennsylvania yesterday, (Mr. Sitgreaves,) that this was a time in which they ought to act, and not to make speeches. The observation he wished to make was, that we have already a Naval Establishment of three frigates and two cutters, in the law providing for which, nothing is said to restrict their being employed as convoys. There was a clause of this sort introduced into the bill, but the Senate disagreed to it, and this House concurred in the amendment. It would be an extraordinary thing, therefore, to prohibit these twelve vessels from being employed as convoys, while the three frigates and two cutters were liable to be thus employed. There would be a contradiction between the two laws.

Mr. Nicholas expected that when the gentleman from Connecticut (Mr. Allen) rose to-day, instead of giving the committee new instances of passion, instead of making new attacks, as unfounded as unjust and unreasonable, he would have some reason for the heat which he yesterday discovered. But the committee had received a reason which went to every act of this sort, which must be taken as a full apology for his conduct of yesterday and to-day, viz: that he is differently formed from other persons; that his passions are not under his control; and that, therefore, he must not be expected to answer for them like other men. He should not, therefore, have taken any notice of them, had not calumnies been introduced, which would extend as far, and if unnoticed, might inflict wounds as deep, as if scattered by a person of a different description.

Mr. N. acknowledged he was never more astonished, than he was yesterday, at the real or affected indignation and anger shown on account of the speech of the gentleman from Pennsylvania, and which he found, by the speech of the gentleman from Connecticut to-day, was partly intended for himself; because he did suppose more moderation or more temper could not have been discovered on a discussion of this kind, on which subject, it was known, a great division of opinion existed. The member from Connecticut charges gentlemen with having always been opposed to certain measures; and could he suppose, then, that such a question would be suffered to pass without notice? Could he suppose gentlemen would sacrifice their opinions in silence? Or, could it have been expected that they should have come forward and declared that they had heretofore been always mistaken? As the country was about to answer for the misconduct of its Administration, could gentlemen rationally suppose this could happen?

If the gentleman expected absolute and unlimited submission to opinions which others think erroneous, he may despair of ever seeing it. He trusted there never would be a freeman in the world found, who, though he conforms to the act of a majority, will justify it against his own opinion. What, Mr. N. asked, is the ground of difference between gentlemen on the present occasion? Have we not, said he, concurred with gentlemen in measures of defence, and did we not canvass these measures on the ground of utility? If any objection was made to the different measures proposed, it was as to their propriety, the greatness of expense, or the inefficacy of the measures themselves. And, is it not pardonable, exclaimed Mr. N., that where I see a measure proposed which cannot be useful, but which must plunge the country in a war, that I explore the consequences of such an event, and express my sentiments on the occasion? Upon a review of the conduct of gentlemen in this business, it appeared to him that they did not wish the people to think upon our present situation, but to keep up their resentment and irritation, and prepare them for taking measures which they themselves seemed determined to take. He was sorry to believe this was the case, but in his mind there was no doubt as to its being so.

Could it have been believed, that after the gentleman from Pennsylvania had enumerated so many instances in which he should deem it as an unworthy submission to give way, that he should have been immediately afterwards attacked, and charged with a disposition to surrender the independence of the country? That gentleman had been grossly calumniated, and he could not discover for what, except gentlemen found that their own political conduct would not bear the test of examination.

Gentlemen have said that the independence of the country consists in resisting unjust demands; that you must defend your commerce against aggression, or your honor and independence are gone; but when we suffered under the aggressions of another country nothing was said of forfeiting our honor and independence if we did not resist. And would gentlemen say that honor and independence were of such a nature that they were to bear till the last moment before they complained? If he understood anything about this feeling, it resisted the first inroad upon right, and there was as much loss of honor in suffering an encroachment to the amount of a shilling as there would be in suffering to the greatest amount. By submitting to search, which our vessels were obliged to do by the laws of nations, they have to submit to the decision of a foreign tribunal; therefore he could see but little difference between submitting to the laws of nations and submitting to aggressions. It would be a matter of interest merely. Honor and independence had nothing to do with it.

Mr. N. said, he was much at a loss in following the gentleman from Connecticut through his long and tedious charges against himself, and others who generally acted with him. Many of them were such as he should not take up the time of the committee to notice. He, as well as the gentleman from Massachusetts who followed him, relied much upon the declaration which he had made, that we cannot effectually defend our commerce. He believed this to be the truth, and though the gentleman from Massachusetts formally denied it on the outset of his arguments, he afterwards seemed to acknowledge it. [Mr. Otis said, he declared in the most unequivocal terms that we are equal to the protection of our commerce.] The gentleman stated, that to declare our weakness was to invite aggression; but, he asked, what would be the consequence of holding out protection to men whom the Government cannot protect? To do so would certainly invite enterprises which would end in ruin. Gentlemen say no country ever did completely defend their commerce; but our argument is, that we cannot defend it so as to be of any service, and that though we might attempt it, Great Britain would have a preference on account of her superior force, and our trade would fall a sacrifice to our attempt.

Upon this subject he was called upon to defend himself against great inconsistency, and against a charge of a loss of character and national feeling from what he felt three or four years ago. He was stated as then being a great advocate for the carrying trade; but did not the gentleman from Connecticut see that it was a mere carrying trade that was then spoken of? Those aggressions, which ended so fatally to this country, had gone on to a considerable extent when this proposition was made. The gentleman had stated him as saying that the matter was not so much a commercial as a political grievance; and the intention of the measure then under consideration was to force Great Britain to forbear to do us wrong. If the gentleman examined the subject more attentively, he would find that the same line of conduct governed him at that time which now governs him. All that was then proposed were defensive operations, and the gentleman was obliged to have recourse to his own imagination to make anything else of them. If he might be believed,

he would declare he never did contemplate a situation in which he should have wished to have gone to war with Great Britain, unless she invaded this country.

The gentleman from Connecticut has very directly charged members of this House, who act in opposition to him, with acting under the influence of French diplomatic skill, which the persons denominated X and Y, in the late despatches, have spoken of. He was perfectly willing that that gentleman should circulate every opinion of this sort which he pleased; he was not afraid of this sort of calumny; but he asked that gentleman, when he attended to all the information given by these agents, whether he could charge the Government of France with the whole of it? Did he suppose that Government, or any other, would authorize persons to inform the Ministers of a foreign country that they were not actuated by principles of justice, and that the present state of things could not long exist? Had not insinuations similar to those now made by the gentleman from Connecticut been heard in this House almost as often as gentlemen speak? and was it improbable, Mr. N. asked, that men of the description of which these agents appear to be should address themselves to the fears which they supposed existed of a factious spirit in this country? If gentlemen in this House are sincere in what they say, they have long held such an opinion. The gentleman from Connecticut himself had this morning charged every member, differing from him in opinion, with a devotedness to France. He believed such insinuations, which had for a long time been constantly made, had in this case been taken advantage of by these agents. If there existed a party in this country who were active in furthering the views of France, was it not probable, Mr. N. asked, that some one person would, before now, have been detected? If any such existed, why did not their names appear? No such thing was seen; and he would confidently say, a detection of this kind never would be made. He knew more of the character of the gentlemen alluded to than those gentlemen who made the insinuations knew; and he was certain that no person of his acquaintance had carried on any correspondence with that country since our dispute with it has become of a serious nature.

But gentlemen say that those opposed to them in opinion propose to submit. Where and on what occasion had this been proposed? Do we not, said Mr. N., expressly declare we will not submit? And has it not been acknowledged that the instructions given to our Ministers were ample and proper, and that everything had been done that ought to be done on our part to effect a negotiation? How, then, could it be said that gentlemen wished to submit, because they declined to go into measures from which they could see no advantage, but which would certainly produce war? If the gentleman from Connecticut does believe, as he states, that Great Britain is in imminent danger, and that she will either be invaded, or ruined by other means, and afterwards that the French will go seriously to war with this country, will it not be good policy to forbear exhausting ourselves at present? It certainly would; for if we went into the measures proposed, they would not only be abortive, but mischievous. He did not believe the time would ever come when this country would submit to the will of a foreign Power; but if anything could force us into such a situation, it would be premature exertion on objects beyond our reach.

Mr. N. said, he was charged with expressing hopes of peace being yet preserved, and that he certainly could not believe in the hopes he expressed. It certainly must be allowed that before war is declared a better hope may be entertained with respect to peace than afterwards; and he believed that if we could escape a declaration of war until the war in Europe is closed, we might escape it altogether. There is a possibility that war will not be declared against us; he hoped greater objects—the bringing about a general peace—would engage the attention of the French, and take it off from this country. And if this was not only a possible, but a reasonable course of things, would it not be wise to forbear measures of war? He thought it would.

But the gentleman from Connecticut has declared what he expected from those who differed from him in opinion. He expected that whenever a majority proposed a measure, the minority ought immediately, and without discussion, to agree to it, without anything being said as to the expediency of the measure proposed. [Mr. Allen said he had expressly stated that difference of opinion must exist; but that the decisions of a majority ought always to be abided by.] If that was the gentleman's expression, then his clamor was made too soon, because it was not known, whilst a question was under discussion, what was the will of a majority. Mr. N. did not believe that whenever that gentleman came into a minority that he would show a greater degree of submission, excite less clamor, or do less to thwart the measures of Government than he and his friends did.

But it was said gentlemen ought not to speak of our means. Was it supposed they were inexhaustible? And if they were not, would it not be proper to inquire into the tendency of measures before they are gone into? No—this will not be allowed, and when gentlemen do it, they are branded with treason, with diabolical intentions, and with a desire to subjugate this country to the will of another!

The gentleman had alleged against him that, at the last session, an amendment was proposed by him (Mr. N.) to the answer to the President's Address, which pledged the country to make war. He believed this was what the gentleman was ready for, but he kept his intentions in the back ground. The present question is on a peace measure, and it is objected to because it would produce war. If the gentleman thinks the time is come when we ought to go to war, why does he not declare it? If gentlemen meant to make war, they ought to bring forward a proposition for at once declaring it, as, by

the Constitution, Congress only had the power of doing this; but he was sorry to be obliged to believe, though gentlemen were not ready for this question, it was their desire to produce war in a different way. Rather than agree to a measure which would certainly lead to war, he thought it would be more for the interest of the country to make a positive and unequivocal declaration of war at once.

The gentleman from Massachusetts, (Mr. Otis,) with an art which is greatly practised upon in this House, (and which he was sorry to see, because he did not wish the peace of this country to be thus acted upon,) asked whether, after being successful in a contest with one nation, we were prepared to crouch to another? Mr. N. said, he had before stated that this question does not at all include anything of this kind. In the instance to which the gentleman alludes, things were very different from what they are at present. The country was invaded, submission was demanded, and an armed force ready to enforce it. It was resisted, and the issue was favorable, and he never could have a doubt, that if this country should ever be called to a similar contest, it will have a similar issue.

Sweden and Denmark, it was said, have navies, and that Russia built one when in a barbarous state, though they had far less means to rely upon than this country. When the subject of a navy was formerly under consideration, Mr. N. said, the examples of Sweden and Denmark were quoted, and it was then shown that the whole of our revenue would not support in this country a navy equal to that of either Denmark or Sweden, the expense would be so different in the two countries. As to Russia, he could not calculate upon the difference of means between this and that country; but Peter had an immense number of people whom he could direct at his will; but here everything that is done in this or any other way, must be done by freemen, who will be well paid for their labor. The gentleman from Massachusetts added, that the Vice President has given an opinion that this country is equal to the building and maintaining of a navy. Mr. N. advised the gentleman to look again into the book to which he referred, and he would find that the revenue which the writer supposed would be equal to the support of a navy, we have already raised and applied to other objects. It is appropriated to the payment of a debt, of an army, of a civil list, and of a diplomatic establishment; and in order to prove that we may create and support a navy, it must be known that we may raise a revenue twice as large as what we now have, or was contemplated by the Vice President, in the book which had been quoted.

As to the right of convoying our trade, Mr. N. said, he never had denied it. Where we can declare war, we can convoy our ships. The only question was whether, because the foreign Power of another country can grant convoys, the President of the United States can do it? With respect to the effect which the convoys of Denmark and Sweden had produced, it must appear to have arisen from their united force being formidable, and which, if their convoys had not been respected, would have been thrown into the scale against the belligerent Powers which would have attacked them.

But it was said, if France wished to declare war against us, she would not want pretexts. All that was known on this head was, that France had not yet thought proper to declare war, and it was to be presumed she will not do it. But the gentleman from Massachusetts could not suppose that, any more than other Governments, to be free from passions, and if we determined to sink their vessels, and put to death their people, it may produce a different effect.

But all this was said to be of no consequence; because, if the British are to carry our trade, convoys will not be employed. This would, Mr. N. said, be a new kind of legislation, to go into a very expensive measure, without inquiring into the use of it, because the President will be at liberty to divert it to some other object, if it should not be wanted for the purpose for which it is provided. He wished, on the contrary, to inquire into the usefulness of the armament, before he agreed to it; and if there was not great probability of its being useful as a convoy, he should wish it to consist of a less number of vessels for the defence of our coasts and rivers.

The gentleman says, we shall have to pay the price of convoys to another country, if we do not provide them for ourselves. This he knew; and from the best information he could get on the subject, he believed we should have to do this, if the measure contemplated was gone into.

With respect to the amount of our exports to France and Great Britain, it had little to do with the present question. It was only introduced to show the probable effect of our being shut out of French ports, in consequence of a war. As to the amount of the exportations from this country to Great Britain, in the year 1785, no inference could be drawn from that as to the present amount; because, before the establishment of the present Government, Great Britain was a depot for most of the exported produce of this country; but, since that period, a direct trade has been opened to all the world from our own ports.

The gentleman from Massachusetts had also talked about submission, and seemed to suppose that, since the publication of the late despatches, gentleman were to come forward and declare they had heretofore been in error. [Mr. Otis said, he had never any idea that the despatches would change any opinion of gentlemen; he was glad, however, to find himself mistaken in part.] It was said, nothing could save us but union. Are we continually to be abused, until we concur in every measure which certain gentlemen bring forward? Is our attachment to the interests of the country constantly to be suspected, until we conform to the wishes of these gentlemen? Why are we sent here if we are not freely to exercise our opinions? If a tyranny was to be set up over opinion; if attempts were made to influence them by speaking of the passions of the people, he begged gentlemen

to banish them at once; for this tyranny of opinion was worse than slavery in chains. He wished gentleman to consider of what use this kind of clamor could be. Have we anything but their own professions for the excess of patriotism which gentlemen tell us and the world, they possess? And have those who differ from them in opinion less reason to be attached to their country, than they who are continually charging them with a want of that attachment? Do they believe (they do not) that the influence of another country has spread from one end of the continent to another? Whatever influence there may have been in this country in favor of France, it has been merely the influence of sentiment. It could not be supposed she had the power to buy up the interest of a large part of the country. The idea was too absurd to be entertained. When, said Mr. N., we confess we are injured by that country, and that if they make an attack upon us, we will fight them to the last, what more can gentlemen wish? Why, then, all this clamor? He feared it was intended to make the people out-of-doors believe, what gentlemen themselves did not, that there was a party in this House connected with the French Government, and determined on the destruction of their own.

Mr. N. concluded with an apology for having taken up the time of the committee in noticing these calumnies, which were too gross to be imposed upon the most credulous; but, being so often repeated, he thought it necessary thus to notice them.

Mr. Dana.—Perhaps many gentlemen of the committee, in speaking on this subject, have displayed too great an enthusiasm. It must be admitted that the gentleman from Pennsylvania (Mr. Gallatin) had delivered his observations with great apparent moderation, yet it might not be any easy matter to answer those observations, without sentiments of indignation. An American, not very ambitious as to the glory of his country, may yet abhor the idea of reducing it to a state of submission to a foreign Power; and when gentlemen propose a course to be taken which would abandon our commerce to the depredations of foreigners, and thereby destroy it, it is natural that an American should spurn at the idea. And for this reason, the moderation with which gentlemen speak of measures which would stain our country with infamy, is the thing which excites indignation.

The present question, Mr. D. admitted, ought to be considered with calmness and moderation. In the view he meant to take of the subject, he should endeavor so to consider it. He should have hesitated in speaking upon it at all, if the whole delegation of Connecticut had occupied so much time of the House, this session, as the gentleman from Pennsylvania alone had done.

Mr. D. referred to the late despatches of our Ministers in France, as to the opinion entertained in France relative to our state of union and capacity of defence. Our incapacity for defence was drawn from the want of union in our councils, and therefore of the ability to call forth our resources. France believes she has a powerful party in this country, and in these despatches it appears that her agents have been guilty of a most infamous slander, in saying that they have even supporters in this House. He wished to repel the slander; and whilst that country claims everything, because she has the power to claim it; whilst she plunders us, because we are weak; whilst she insults us, because we do not resent the injury, he should wish to convince France and her agents of their folly and of their ignorance, as to the state of the country.

France is as proud of her diplomatic skill as of her glory achieved by her arms; and by whatever means she has divided the people of this country, whether by means of money, or by artful hypotheses in favor of liberty; whether we are their dupes, or their tools purchased with money, is of little consequence.

This being the opinion held in France, what then will be the effect produced by a number of gentlemen of this House undertaking to oppose measures of resistance against the depredations of that country? The effect certainly will be, that the French will conceive their opinions well-founded, however upright the conduct of those gentlemen may be.

Mr. C. said, he should not repeat the observations of his colleague on this subject; but call the attention of the committee to the exhibit A, in the late despatches, which mentions the application of a lady to General Pinckney. [Mr. D. read an extract from it relative to the loan of money desired by France from this country.] France, Mr. D. said, did not propose to reduce us to submission by invading our country; the only plan suggested is that of ravaging our coasts, and destroying our commerce. The conduct of the French Government showed, he thought, that something might be expected from a firmness in the decisions of Congress; since it appears, by the firmness of our Envoys, the terms proposed by the agents of that Government, were, in some degree, relaxed, and they were evidently unwilling the Envoys should leave the country without entering upon any negotiation. It was in this view that he considered a declaration that we would not resist, as an encouragement to them to proceed in their depredations upon us. And he took the liberty of saying, that, whatever was done here had its effect in France. He had seen the observations of gentlemen opposed to the measures of administration of this country, in the publications of that country. [Mr. D. read a quotation from a speech of Mr. Nicholas in one of these publications.] These extracts are published to prove to the people of France, that the people of this country are disaffected towards their Government; and that we are a discontented, divided, and contemptible race. In justice to the gentleman from Virginia, he had heard him say this was not correctly stated; but he quoted it to show that gentlemen ought to be careful how they deliver sentiments which may be used so greatly to the disadvantage of their country.

When opposition to measures of this kind pro-

duced a belief in France that there exists a division of opinion as to the justice of our cause, if he were in the situation of those gentlemen who make this opposition, he should feel some repugnance in resisting any measure which had the defence of the country for its object. If he stood in so observable a situation as to be considered the chieftain of a party, he should feel some apprehension, however innocent his views and intentions might be, lest he should be suspected of being influenced by improper motives. If he stood in the situation of the gentleman from Pennsylvania (Mr. Gallatin) he acknowledged his patriotism would not allow him to oppose, at this time, a measure intended for the defence of our country. Far be it from him, however, to censure such a conduct. He would render honor to that patriotism, which, he owned, he did not himself possess.

The question before the committee, Mr. D. said, was one of the highest importance; for, if it were carried, it would be the means of annihilating the whole of our foreign commerce; it would destroy the principal part of our revenue; prostrate our public credit; impoverish and ruin our merchants; and would irretrievably lose the great body of our seamen. This was the question upon which they were now about to decide; whether we shall submit to a complete abandonment of our commercial rights; whether only our territorial rights shall be protected, or whether our commercial citizens have not a claim also upon the protection of Government? Gentlemen say they are willing to defend our commerce according to our means. And what are our means? We have been equally pillaged by all the world. Gentlemen will cause respect to be given to our flag? By suffering it to have the honor of being equally insulted by all the world! They say they feel for the misfortunes of seamen; but they will not do a single thing for their relief. The gentleman from Pennsylvania refuses public protection to our vessels, and disallows the right of self-defence, for fear our armed vessels should commit acts which would lead to war. He was, therefore, for letting things remain as they are; and the present situation of things he dignifies by the name of peace. And is this a peace which is valuable? He had supposed that a state of peace was a state in which the rights of nations was respected, and in which the voice of justice reigned. But what is the peace spoken of by the gentleman from Pennsylvania? It is a state of political purgatory; a state of corruption and distress, in which a foreign Power does with us what it pleases. The system of the gentleman from Pennsylvania is perfectly passive; it is, as it respects naval matters, a system of passive obedience and non-resistance. But is this a peace worthy the American Republic to cultivate? No American will say so.

Our present state, the gentleman from Pennsylvania says, is not war, and he undertakes to assert that, to defend our rights against lawless attacks, is to produce war; so that we are never to defend our property but upon the principle of war. Has the gentleman to learn what constitutes a principle of war? He says our authorizing convoys will produce war. This was a position which he could not admit. When a declaration of war is authorized, every treaty is done away, and it would be lawful to seize Frenchmen, or French property anywhere. But would the authorizing of convoys introduce a state of war? Because, if once introduced, it cannot be terminated, except by a treaty of peace. If our convoys produced a war, it would be such an one as would require no treaty to terminate it. Were a declaration of war to take place, a man who went from this country to join the French army, would be a traitor, and a man who corresponded with any person in France, would be guilty of treason. These are essential characters of war. But it is assumed by one of the most respectable writers on the laws of nations, that defence is not hostility; nor do mere reprisals amount to war. [Mr. D. read an extract from *Vattel* in confirmation of this opinion.] But it is evident, from the universal law of nature, that men may defend themselves against violent and lawless attack. This principle is also warranted by municipal law.

Mr. D. said, it was not intended that we should do more than defend ourselves. It was not contemplated either to authorize reprisals or captures, and he called upon gentlemen to state an authority which says that there exists any right of search when vessels are taken under convoy. The question whether a vessel has enemy's, or contraband property on board, was to be determined by some Government, and when a nation takes vessels under convoy, it is to be supposed they have examined to see that there is nothing improper on board; and the true reason why merchantmen are liable to be searched, is, that the national Government does not say anything about their being laden with goods not liable to be seized. The matter is, therefore, referred to the Government to whom belongs the capturing vessel.

On the right of neutral nations to convoy their vessels, there could be no doubt. He referred to the armed neutrality, and to what had been said on this head by three different French Ministers in this country. Genet, Fauchet, and Adet, all complained that we did not arm to protect our trade, and because we did not do it, they told us we abandoned our rights as a neutral nation.

If this amendment took place, Mr. D. apprehended it would drive 40,000 sailors from this country into the service of the British, or some other foreign Power, which would prove a loss which ought not to be disregarded, as they are a deserving and suffering set of men. But, according to the doctrine of the gentleman from Pennsylvania, if a cargo was seized, the owner, and those concerned, ought to rejoice that the vessel was saved; if the vessel were taken, that the sailors were saved; if the sailors were cast into prison, that they were not tortured with thumb-screws; if tortured with thumb-screws, that they were not starved to death; and if starved to death, that they were relieved from the pains and troubles of mortality. Indeed, he saw no limits to the submission which he proposes. He does not, it is true, say that we ought to submit to an

attack on land, and there was good reason for it. He knows that many of the citizens of America have arms in their hands; that they have been trained to the use of them, and that they want no commission to defend themselves. He could not impose submission, therefore, upon them.

Mr. D. then took a view of the amount of our exports and imports to different countries, in order to show the advantage of a convoy for our trade. The late French decree struck at all our East India trade, as no vessel came from thence without some article of British manufacture on board, and even to our vessels bound to the French dominions themselves. So that that decree will go nearly to annihilate the trade of this country.

But it is said, this convoy ought not to be provided, because the expense of effecting it will produce a land tax; but if it were considered, that if commerce was destroyed, the landed interest would not be able to pay anything at all, he trusted a convoy would not be objected to on this ground. Especially when it is evident that, if we do not pay the expense of a convoy of our own, we shall have to pay for one to a foreign country. The gentleman from Pennsylvania, and the gentleman from Virginia, have both said they will not submit. But what does this declaration amount to? Do they join in any measure to defend the country? They do not.

The state of the case is this. If we will give France a certain sum of money, then she will relinquish her piratical practices. The demand is $30,000,000 for this forbearance. He did not think that France, in this respect, stood upon so good a footing as Algiers, because he did not know that the Dey had departed from his agreement; but we have not the same security with France.

But the gentleman from Pennsylvania says, it will be cheaper to submit to French depredations than to undertake our defence. He thought, however, if we were to submit at all, the terms which the French themselves offered would be much cheaper than those of the gentleman from Pennsylvania. The French depredations, it was supposed some time ago, amounted to fifteen millions—perhaps equal to four or five millions a year. The French, on the other hand, propose a loan of $36,000,000, the interest of which would be little more than two millions, and a nation so famed as the Dutch for adherence to their engagements, would certainly pay the principal. Besides, in the one case, we should be at liberty to collect the money in any manner we pleased; whilst, in the other, we must submit to be robbed of it by French corsairs. If the tribute were paid, our merchants would know upon what to rely; but, in the other case, the knowledge of the hazard would be more oppressive to our commerce than the seizures themselves. The reply of gentlemen, he supposed, would be, "Take the least disadvantageous terms." But, added he, I will take neither.

It being past three o'clock, a motion was made for the committee to rise.

This was opposed by Messrs. Harper, Brooks, Craik, and Sewall, who were determined to take the question before the committee rose, if they sat till midnight; for, if it were entered upon again on Monday, they said they supposed it would occupy another week. It was supported by Messrs. Livingston, Findley, Brent, McDowell, and Macon. They complained of being deprived of an opportunity of replying to what had been said, and of being coerced into a decision on a question upon which depended the peace of the country; that there would be no necessity for adjourning till Monday; the House could meet to-morrow, and no time would be lost. The question on the committee's rising was put and negatived—47 to 39.

It having been determined the committee would not rise,

Mr. Macon proceeded to make some observations. He did not think, that in case of war, the loudest talkers here would be amongst the first to defend their country. He believed though others were less willing to plunge the country in war, they would be found more ready to defend it in case of danger. The arguments of the gentlemen from Connecticut and Massachusetts led directly to war; for a kind of *fighting peace*, Mr. M. said, our measures would be too strong, and for war too weak. If gentlemen were determined on war, and would come to a declaration of it at once, he should know what to do.

Some very strange charges had been made against gentlemen desirous of preserving the peace of the country as long as possible, such as being under the influence of the French Government, &c., but if these charges applied to the members of this House, they would also apply to those who sent them; and could so strange an absurdity for a moment be countenanced, as that half the people of this country should be thus influenced? It could not. Whatever a majority did, would doubtless be abided by; but, in the mean time, it was certainly proper that every man should express his free and unbiassed opinion. These charges were not made to have an influence here, but out of doors, where the characters of the persons charged were not known.

There was one part of the observations of the gentleman from Connecticut which he did not understand, viz: by the information which he received from his constituents, he believed that this House would be *compelled* to act. Mr. M. said he was not afraid of any compulsion from that quarter. And why did gentlemen talk of compelling Congress to act? Was this proper? If he were to be compelled to act, of what use was it for his constituents to send him there? He would assure that gentleman he would not be compelled to act.

It was objected against gentlemen that they spoke of ways and means. He considered money as the sinews of all our exertions. With money we could do everything; we could, he knew, do a great deal without it; but was the country to be led blindfold into a war for the protection of commerce, without speaking of the expense?

Gentlemen were continually talking of French diplomatic agency. For his part, he cared not

for these charges. He never knew six Frenchmen in his life. Congress had no proof of any such agency; but they had good proof of the diplomatic agency of another country; and he wished they had a rule similar to one which is established in England, that no member of Congress should visit a foreign Minister.

Certain gentlemen had been so long in the habit of acting with large majorities, that when the House was likely to be nearly divided upon a question, they became angry; but they could not suppose that the method which they took of abusing the agents of one half the country, and consequently the people of that part of the country also whom they represented, was the best for producing unanimity.

At one time, Mr. M. said, it was stated that the whole of these vessels were wanted for the protection of that part of the coast which is not fortified; at another, for convoys. If they were employed for this latter purpose, they could not protect the coast. Besides, he thought the idea of conveying the trade of the United States was a fanciful one, and could not be carried into effect. He hoped, therefore, that the motion would be agreed to.

Mr. McDowell wished to make a few remarks on what the gentleman from Connecticut had said respecting the conversation of X and Y, as to the division of sentiment which existed in the United States, which went to insinuate that some members of this House were improperly acted upon by French diplomatic skill.

There could be no doubt how these agents came in possession of such opinions. Certain gentlemen, opposed to them in opinion, have frequently proscribed one half the Union on this floor, and it has been openly declared that only men of a certain political opinion could expect to be employed by Government. As to diplomatic skill, he believed no country exceeded the British in their knowledge of this art; that House had proofs of its having been carried to a considerable extent in this country. And it must be acknowledged that Great Britain has a much greater influence in the seaports than the French, by reason of their extensive commerce.

The gentleman from Connecticut had spoken of American feelings; and said that foreigners could not possess the same feelings in favor of this country with them. There were members of this House, Mr. McD. said, who were not born here, who had given the strongest proofs of their attachment to this country, by having been engaged in that service which produced the independence of the country. [Mr. Dana explained, by saying he made no allusion to him, as he knew he took an active part in the late revolution.] Mr. McD. concluded, by saying he had no doubt gentlemen who were so loud in their boastings, would, when danger appeared, come forward to defend their country; but he believed others, who differed in opinion from them, would be as ready to do it as they. He hoped, therefore, gentlemen would not take the liberty of representing others as disinclined to support every measure which they think necessary for the support of the country, so as not only to irritate members themselves, but the people whom they represent.

Mr. T. Claiborne said, if ever there was a time which called for harmony in transacting the business of the Union, it was at this time. He hoped the committee would rise. To-morrow being Saturday, the House could sit on that day, and the day would be well spent in a further discussion of this question. It was now five o'clock; he wished to rise.

The question on rising was put and negatived—44 to 33.

The committee having determined to sit,

Mr. Gallatin then rose. It would seem, he said, that a majority of this committee insist upon taking the question before they rise. He felt reluctance at troubling them again at this late hour; yet, after what had passed yesterday and to-day, it could hardly be supposed that he should give his vote without making a few observations upon what had taken place.

He had been at a loss to know whether the warmth displayed yesterday by some gentlemen was occasioned by the amendment itself, or by the manner in which he had supported it. The amendment was in substance the same which had been proposed the day before, by Mr. Nicholas, the decision of which had then been evaded, but upon which no reflection of this kind had taken place. Nor could he, upon reflection, and still less from what had fallen from gentlemen in reply to his observations, find that there was any thing improper in the manner in which he had supported this motion.

It appeared to him, however, from the general turn of the debate, that the great object of gentlemen was to compel by fear those who differed from them in opinion, to vote as they pleased, or at least to oblige them to give silent votes.

He was justified in that assertion by what had fallen from themselves to-day. They say, that in reading the late despatches, they find that certain unauthorized agents of the French Government, in unofficial conversations held with our Envoys, expressed an opinion that there was a French party in this country, who, if the negotiation failed, would throw the blame upon the Envoys. And, said Mr. G., we are now told it is our duty to show that we do not approve of these sentiments, in other words, that we do not belong to that French party. And how is this to be done? By voting as these gentlemen please, and by agreeing to every proposition, however extravagant, which they may choose to bring forward.

Nay, one of the members from Connecticut insisted that gentlemen ought not to reprobate or oppose any measure of Government. Meaning, he supposed, the Executive. [Mr. Allen explained by saying that he had said, that minorities ought always to acquiesce in the determinations of majorities.] How that member meant to apply such an observation to the present question before it was decided, he could not tell. The remark which he alluded to, fell from him in speaking upon what he (Mr. G.) had said with respect to the publication of the late despatches. And after a vote had been carried in this House by a majority of more than three-fourths against the publication, had he not a right to say that his hopes of peace were diminished by this publication? But the member from Connecticut had also in very general terms declared that no men who were not devoted to France ought, in the present situation of things, to say anything which might reflect upon the conduct of the Administration. To those observations coming from that quarter he would perhaps have paid no attention; but the gentleman from Connecticut on his left (Mr. Dana) also stated, that the opposition of members to the present motion, would encourage France to pursue her attacks and insults upon us; that she knew there were divisions in this country, and that whether the people were the tools or dupes of France, made no difference. He went on to show that the speech of the gentleman from Virginia was known there, and that therefore, he (Mr. G.) and others ought to be very careful of what they said. He went farther, and said, if he (Mr. D.) were in his (Mr. G's) place, he should not have possessed so much patriotism as to have offered any opposition to the present measure, for fear, however innocent his intentions might be, that slander might attack his character; so that it is only necessary, according to the gentleman's doctrine, to spread slander, and the person attacked must be compelled to acquiesce in any measure that shall be proposed by gentlemen of different political opinions. Did that gentleman really feel so sensibly the voice of calumny as to suffer it to prevent him from doing what he conceived to be his duty, lest he should be thought by the world to be actuated by improper motives? He would not give credit to such an assertion; on the contrary, he must think that that gentleman, conscious of his innocence and integrity, would, if in his place, act precisely as he himself had done. He would despise the attacks of calumny, and follow that line of duty which his own judgment told him was right and proper.

And, indeed, he could hardly understand how any member on that floor could suppose that it was sufficient to shed his venom on the character of another member, in order to force him to be silent. He could hardly have believed that any member would have supposed those gentlemen who, from principle, were opposed to certain measures, and him, among others, so destitute of fortitude, as not to be able to resist unfounded slander and vague imputations, so weak and unprincipled as to abandon his real opinion on account of suggestions of this kind.

The question before the committee was, whether the power of granting convoys should be restrained in time of peace.

The bill under discussion was brought forward avowedly for the purpose of protecting commerce. It was objected to the present amendment that it went to the annihilation of commerce, merchants, sailors, and revenue; and yet, when it is shown that if the bill passes without the amendment, commerce will be in a worse situation than at present, that a war will be more prejudicial to commerce than even the present state of things, gentlemen forget the object of the bill, and speak of infamy, and of the absurdity of calculating on pounds, shillings, and pence, on a question of defence, though the bill itself is introduced for the express purpose of protecting pounds, shillings, and pence.

For what purpose, said Mr. G., was this bill brought in? Was it for the protection of commerce, or for the purpose of producing war? His idea was that it was intended to afford protection to commerce, and wishing commerce to be protected, he introduced the amendment under consideration, and had attempted to show that it would answer that purpose. He had considered it on the ground on which it was brought in as a fair subject of calculation.

Mr. G. said he went upon the idea that when peace shall be restored in Europe, we shall be restored to the same situation in which we were before the war—not that he expected full compensation to be made to our merchants for their losses, but that in other respects we should be restored to the full enjoyment of our commercial and national rights. The committee had, however, been told that the object of France is, after the conclusion of the European war, to subjugate and deluge our country in blood, if not resisted. Mr. G. said he would not undertake to correct those wild ideas. He owned he had himself no fears of actual invasion or subjugation; but, if he had, what would be the best way of preventing it? Are we to throw ourselves into a war to do it? Would our making war prevent the supposed consequences of war? Will it prevent the invasion or ruin of England, which the gentleman seems to apprehend? Will it increase our resources, or put our revenue upon a better footing than at present? It certainly would not.

But a gentleman (Mr. Dana) had insisted that the granting of convoys will not produce a state of war. He has taken a position peculiar to himself, for the other gentleman who opposed this amendment, spoke of our present state as a state of war. The gentleman from Massachusetts called it a commercial war. The gentleman from Connecticut (Mr. Dana) does not deny that the consequence of granting convoys may be fighting; but, notwithstanding that, though there is no difference in fact between fighting and war, that gentleman rests his argument upon certain circumstances belonging to a state of war, and which will not attach to a state of fighting, before war is actually declared—such as that the property of Frenchmen here, and of American citizens in France, would not be liable to sequestration, that it would not be treason for Americans to hold a correspondence with the French Government. But how will this apply to the present question? When he and those who support his motion object to the granting of convoys as leading to a state of war, it is because it will produce a worse state of things than the present; and will it be less mischievous, because sequestration and treason would not attach, as it would do in a

state of war? If the gentleman would prove that the state which would be produced by convoys was not as bad as war, he should have shown that it would not be attended with the evils of war, and not have dwelt upon mere verbal or legal distinctions between the two states. It did not appear to him to be any great source of consolation to say, though we engage in hostility which will make all our property at sea liable to capture, yet our citizens may go over to France or hold correspondence with the French Government, without being liable to punishment. His opinion was, that to produce hostility in this way would be worse than an open declaration of war, because we should suffer all the evils of war without having either the power of punishing traitors, or that of retaliating, by making reprisals and captures in our turn. If gentlemen were determined upon war, therefore, he should wish them to propose an open declaration of it.

The gentleman from Connecticut drew another distinction, which was, that self defence was not hostility. Though he knew the laws of nations spoke of a discrimination between these two states, he would venture to say that it was a distinction in terms, and not in fact. That gentleman had also remarked, that to grant letters of marque and to make reprisals, is not war, but an intermediate state between peace and war. It was true that writers on the laws of nations have made distinctions of this kind; but he believed the gentleman could point to no instance in the present century, where letters of marque have been granted, in which war did not succeed them. War, indeed, has commenced sometimes by partial hostilities, sometimes by granting letters of marque, sometimes by convoys, sometimes by reprisals, and sometimes by taking what were called measures of self-defence. When it has not been thought proper to come to open war at once, measures of this kind have been carried on for two or three years, during which time all the evils of war have existed, without its being actually declared. He did not wish to follow this course.

The gentleman from Connecticut seemed to rely much upon another principle, viz: that vessels, when under convoy, are not liable to be searched. Now he called upon that gentleman to prove his assertion; to prove that when the Government grants a convoy, it was to be a sufficient proof that the vessels under its care had nothing contraband or improper on board. He denied the position to be well founded. And in every case of this kind, the event would depend on the strength of the convoy, or the force attacking it. Convoys in time of war have never been respected, except where the belligerent Powers apprehended an open rupture with the neutral Power to whom the convoy belonged.

But the fact was, Mr. G. said, he did not consider it very important what was the law of nations on this head, because he knew that the present belligerent Powers had wholly disregarded both the laws of nations and stipulations of treaties; that France had prostrated them altogether, and, therefore, given us justifiable cause of war; and the question was in fact whether we think it our interest to declare war against her, or not. Gentlemen on both sides have said they do not wish to declare war. He, therefore, went upon that ground, and if we take measures grounded on the right we derive from the laws of nations, which we know the belligerent Powers do not respect, those measures will as certainly produce war, as if we were at once to declare it.

Why, then, said Mr. G., will those gentlemen who do not choose to come forward with a declaration of war, (though they are willing to go to war without this declaration,) tell us we mean to submit to France; that we have not the spirit of Americans; that we mean to invite further aggressions from that country? We might, said he, retort the charge upon them, and say they wished to involve the country in a war; at the same time that they dare not declare it, although they thereby deprive America of any advantages to be derived from such a state.

Mr. G. said that no gentleman had attempted to account for that inconsistency, and, indeed, there were many other unaccountable proceedings on the part of some gentlemen on that floor. Whence, for instance, the prodigious clamor on the subject of the late despatches? Gentlemen go at large into all the unofficial conversations which take place between our Envoys and certain persons who are said to have been agents of the French Minister, and they then insist that the knowledge of those conversations must necessarily change our opinions in relation to measures to be adopted. But he would say that the reading of these despatches had added only one circumstance to the knowledge we had already of the insults and injuries committed by France against this country, which was that they want money from us. Everything else that could have any effect upon their deliberations, was as well known before the arrival of those despatches, as since; for it would not be said that because certain individuals in the Government of France are corrupt, or choose to say there are parties in this country, or speak disrespectfully of their own Government, that a knowledge of these circumstances could have any serious effect upon the acts of Congress. It was true these despatches had produced one effect upon their deliberations. Before they were communicated, a resolution was under discussion, declaring "that under the present situation of things, it is not expedient to resort to war against France," which, after the promulgation of these despatches, was postponed to a distant day, as improper for further discussion at this time; but he saw nothing in the despatches which could make any act necessary that was not necessary before they were read in Congress. For if war, or war measures, or measures of self-defence, were necessary, it was not because there were corrupt individuals in the French Government, or because those individuals or that Government wanted money from us. They ask money, we refuse it; and if this was all, there would be an end of the business. But the true ground of offence on the part of France—the offence which gave us justifiable cause of war, if

we thought it for our interest to make war, and which, therefore, gave us right to take any measures however leading to a war we thought proper—consisted in reiterated depredations upon our trade, and in the refusal of receiving or treating with our Envoys, expressly sent for the purpose of negotiating on that subject. And those captures, and that obstinate refusal for a period of four months, were known to us before the despatches were communicated. What do, therefore, the despatches amount to? To disgrace certain individuals in the French Government, and of course that Government itself, to a certain degree. And why should the knowledge of that fact change the opinion of Congress, and induce them to adopt different measures? Mr. G. thought that the gentlemen who expected so great effects from those papers, grounded their expectations upon an erroneous idea they had previously conceived. They have supposed that gentlemen, who differed in opinion from them, have all along acted under an idea that there was attached to the French Revolution, and to the French Government, a superior degree of justice, virtue, and purity; and having once established this idea in their minds, they will suppose that a discovery of a corrupt mind in a number of persons in France will produce a revolution in their minds. Supposing, also, that such members had been actuated in their conduct, not so much by wishes for the good of this country, as by a blind admiration for the French Republic, they naturally conclude that a discovery of corruption in the councils of that country will work a wonderful change in our conduct and opinions. And also because the communication of the instructions to our Envoys, had fully convinced every one that the President of the United States had, by those instructions, made concessions to the full extent of what could be made by this country, it is now expected that every past measure of the Executive shall be approved, and every proposition coming from that quarter shall be supported by the very gentlemen who may heretofore have reprobated some of those measures, or opposed some of those propositions. That expectation—the expectation of a change of conduct in those gentlemen—arose from the same fallacious idea that because some gentlemen have less confidence in the Executive than others, that want of confidence has heretofore dictated measures injurious to their country, and contrary to their duty.

Mr. G. then said he would take some notice of some of the arguments which had been used by the gentleman from Massachusetts, (Mr. Otis.) That gentleman had stated that if convoys are not granted, war will be as likely to be produced by the arming of merchant vessels as by convoys; and that the vessels having been permitted by the President to arm, no objection ought to be made to the employment of public vessels as convoys. He would just observe that another gentleman was mistaken when he supposed that he (Mr. G.) was of opinion that merchant vessels had not a right to arm by the custom of nations. He had no doubt that they had a right, and that it was exercised by neutral Powers; but this difficulty arose in the question, when it was lately presented to the House, viz: that of permitting vessels to arm, after they had been forbidden by the President to do so for a number of years. The right had been abandoned by that restriction and the acquiescence of the Legislature, and having been abandoned, it made a great change of the ground taken at the beginning of European hostilities. But, whatever act of hostility might be produced by the arming of these vessels, it would be a much less evil than those resulting from granting of convoys. The difference between the two cases must be obvious. When merchantmen do arm, they, like any individual who may carry arms, are answerable for the abuse of those arms, and Government are not; whereas, Government will have to answer for the conduct of commanders of public vessels.

But the gentleman says a commercial war already exists. Mr. G. said he did not mean to dispute about words; but if he called the present a state of commercial war, that state would be changed by the granting of convoys. Notwithstanding all the losses we have experienced during the present war, it was a fact that our tonnage and exports have greatly increased, so that our commerce is now in a more flourishing state than at the commencement of the war. Mr. G. then took a view of the different amounts of our tonnage at different periods, and proved that it had been increased sixty per cent. since the year 1792; so that he did not think our affairs were so desperate as to drive us into a war to retrieve them. He also showed that the tonnage of Great Britain had decreased, in consequence of the war, from 206,000 tons, which it was in 1792, to 19,600, which it was when the last returns were made.

In an actual state of war, not only our tonnage will be reduced, but every evil we now experience will be increased tenfold. Not only our revenue will be cut off, but our inability to pay at home will be increased. If gentlemen think the question of revenue is a question which ought not to be considered, but that we ought to go forward without considering anything as to our ways and means, can they deny that a state of war will not only sink our revenue, but that it will at once affect our merchants, our seamen, and every other description of citizens?

The gentlemen from Massachusetts tells the committee that though we preserve the present state of things, France will not permit us to trade to Holland, Spain, the Italian ports, or the Hanse towns; and that she will continue to capture our vessels upon fresh pretences. If that gentleman does believe that, unless we take some active measures, France will not permit us to trade with these places, but that she will add to aggressions already committed, by capturing all our vessels, then we must declare war. It is possible, perhaps probable, that this event may take place; but they ought to act upon existing circumstances, and not upon conjecture only. But the gentleman from Massachusetts went further, and said that, from the nature of our exports, France could not, in time of war, shut the ports of Spain, Holland, the Italian ports, and the Hanse towns; so that, so-

cording to his doctrine, in time of war, we should have a better chance to carry our produce to those countries, under the influence of France, than at present. [Mr. Otis explained.] The same gentleman also stated that, if our trade was to be conveyed by British ships, the expense must be borne by the citizens of this country; and that, therefore, we might as well pay our own convoys in the first instance. But, he would ask that gentleman, whether, in case of war, our twelve ships were likely to give a better protection to commerce than the immense Navy of Great Britain? and, whether, therefore, that event would not render British convoys still more necessary, and give to the British shipping the most decided advantage over our navigation?

But it was stated, that he and those who voted with him were willing to defend the soil, but would give up our property on the ocean. He was willing to give this species of property all the protection we have it in our power to give, and if he believed that the present state of things was as bad as war—was war—he would immediately abandon his amendment. In such a case, he would do all he could to protect our trade by armed vessels. In 1775, Congress gave that protection; and, in time of war, he should be ready to give it; but to grant a convoy, in the present state of things, would be, in his opinion, to injure the merchants and sailors, and not to serve them.

Mr. G. then apologized for the manner in which he had replied to the observations made on that day. Compelled to sit without interruption to so late an hour, (it was then near seven o'clock,) exhausted as his faculties must be, and under a necessity of answering immediately the speeches of gentlemen who had occupied the whole sitting, he had it not in his power to arrange his arguments as he might have wished, but he could only remark on the observations of those gentlemen just as they happened to occur to his mind.

Much had been said, on the motives and conduct of those gentlemen who supported the amendment. Much illiberal and unfounded abuse had been heaped upon them, and particularly upon him. It was well known that, having never conceived personal abuse as a fit topic for this House, or as a ground of argument anywhere, he had uniformly treated it with that silent contempt it deserved. So far as it related to those vague and general imputations which had been made, he would still treat them in that manner, he would not condescend to enter into a justification against charges of so loose a nature. But he would, for once, make a few observations on those attacks where the member to his right (Mr. Allen) had ventured to make anything like a specific charge.

In the first place, he had stated, that a number of members of Congress, in the year 1794, were willing at that time to take much higher ground than at present. The gentleman from Virginia (Mr. Madison) was charged with saying, that he had no hopes from negotiation, and that therefore it was necessary to adopt measures for ourselves; and from the manner in which this was quoted, it might be supposed that the question was with respect to obtaining redress for captures, and that Mr. Madison had declared that, if redress could not be had by negotiation, it must be had by force. What, said he, was the question then under consideration? It was a question of commercial regulation, which did not relate to any infringement of our neutral rights, but which had application altogether to a state of peace. The British having made certain commercial regulations, the question then debating was one intended to counteract the effect of those regulations. And it was said, that no hopes were entertained that by negotiation Great Britain would recede from the steps she had taken, and that therefore the only way to counteract was by adopting counter regulations ourselves. And the fact proved that those gentlemen were right; Great Britain had not receded; and the British Treaty contained stipulations which went to prevent Congress from making, in future, any such regulations as were then proposed.

Another gentleman from Virginia (Mr. Nicholas) was charged by the same gentleman with having thought differently with respect to the advantages derived by this country from the carrying trade, when the depredations of Great Britain and Algiers were under consideration. On the contrary, if the conduct of that gentleman was examined it would be found that he was always opposed to measures which in their effects might lead to war. If the conduct of the two parties in the House at that time was looked into, it would be found that the gentlemen who now opposed war against France, had opposed it against England at that time; that they had adopted only such measures as, in their opinion, would induce or compel Great Britain to change her conduct, without the necessity of recurring to war; such as a suspension of commercial intercourse; but at that time those gentlemen did not threaten war, nor were they in favor of provisional armies, naval armaments, arming merchantmen, granting convoys, or any other war measure whatever.

The member from Connecticut had also represented him as opposed to the proclamation of neutrality of the President, and as a supporter of the measures of the French Minister, Mr. Genet.

Mr. Allen said he spoke of the French party in this country being always opposed to it, and not him in particular.

Mr. Gallatin said, Mr. Allen might now unsay what he had stated yesterday. But, indeed, had the remark only fallen from him, he did not believe that he would have noticed it. But it was not he alone who had referred to this opposition. The gentleman from South Carolina (Mr. Harper) had entertained the House for some time on the same subject, on a former occasion, and insisted upon it that the same gentlemen who wish now to preserve peace, when we had a dispute with Great Britain, were all in favor of war: and with respect to the proclamation of neutrality, the gentleman from South Carolina asserted that though gentlemen at first were violently opposed to it, yet, when Congress met some time afterwards, the people having in the meantime shown their approbation of the measure, they dared not express their disapprobation with the conduct of the Executive. This shows that neither of the gentlemen are acquainted with the facts, because the public records of the country will give a direct contradiction to their assertions.

In 1793, when M. Genet arrived in this country and took such steps as went to an infringement of our neutral rights, and the President issued his proclamation of neutrality, the first public body which met after that period was the Legislature of Pennsylvania, (of which he was then a member,) and he must be permitted to say that this Legislature was, what gentlemen term, a very Jacobinic body. No better proof, he supposed, could be given of this than that they elected him (Mr. G.) a Senator of the United States. This Legislature met before it could be ascertained what was the public voice; and the first thing they did was to present an address to the Governor, expressing their unanimous approbation of the conduct of the President of the United States, with respect to his proclamation of neutrality, and all the other steps he had taken in support of that neutrality, namely, the preventing French privateers from being fitted out in our ports, and the seizure and restoration of prizes made by those privateers. He would add, that that part of the address, which he read, was drawn by himself. The Governor of Pennsylvania (whom gentlemen will also doubtless term a Jacobin) fortified Mud Island during the recess of the Legislature, in order to carry into effect the measures of the Executive, borrowing money for the purpose on his own private credit, and the same Legislature approved his conduct and made the necessary appropriations. Before gentlemen indulged themselves in making these charges, they should take a little pains to make themselves acquainted with facts, for he was persuaded that their prejudices were in a great degree to be ascribed to their want of information.

As to the general charge that the wish of those who supported the amendment was to submit to the claims of the French Republic, he would say that, to submit to those claims, or to recognise them, would be degrading; but that to suffer the present state of things to continue, was a temporizing measure, dictated, under the present circumstances, by the soundest policy. It is true, that the aggressions received from the French, exceed everything which has taken place during the course of the war; but, on the other hand, every day draws nearer the period when war must have an end in Europe. This consideration, with him, outweighed the great extent of depredations which might otherwise induce him to take a different line of conduct. If, in 1793, or 1794, depredations had been made to their present extent, it might have been thought better to have become parties in the war, than to remain neutral. We were justified for not doing so at that time, from the depredations being more confined. The depredations were now much greater, but the period for which the war could continue, had become much shorter. When he considered the growing resources of this country, which, if we can escape war, will every day improve; when he considered that our wealth and population were increasing beyond calculation, he confessed it was with great reluctance he abandoned the last hope of preserving peace. He considered that the event of war must be the loss of that property which they were proposing to protect; the loss of our commerce, of our tonnage, the ruin of our merchants, and the abandonment of our sailors. The natural consequence must be that the loss of our revenue must be supported by heavy taxes on our lands and internal consumption, and the expenses of the war must be supported by loans, borrowed at an interest, proportioned to the wants of the country; so that our debt will be increased in proportion to our efforts to protect our commerce in time of war, that is to say, in proportion to the increase of our navy, the effects of which would be felt for a long time after the war should cease. Taking all these things into consideration, he would rather bear the captures now made of our property; he would rather see a total want of British manufactures, and abandon that part of our trade, than take measures which will not only be war, but worse than war.

Under these considerations it was, that he proposed the present amendment; if it was not carried, he certainly should submit to the decisions of a majority. It would remain with the President to apply the force as he shall think fit; but when an amendment was proposed, the object of which was to prevent war, he did not expect to be charged with wishing to submit to the surrender of the independence of the country. If he had proposed to pay the money which the agents of the French Government demanded, or to recognise by treaty the unjustifiable violations of the law of nations made by that country, or have refused to have taken measures for our defence, there might have been some ground for the charge. Indeed, as long as gentlemen declined proposing a declaration of war, they had no right to make the charge. For, while no such proposition was made, he and those who supported the amendment might retort upon gentlemen, and say, "You say France has given us justifiable cause of war, and yet you mean to submit, and will not declare war."

He must suppose, therefore, that gentlemen opposed this amendment because they did not believe that, to employ these vessels as convoys, would destroy every hope of peace. He acknowledged peace was not altogether in our power. France might declare war to-morrow, or give an order to seize all our vessels; but so long as the fact was not so, it cannot be denied that there is some hope that the state of peace may not be broken; to preserve that hope he urged his amendment.

Mr. G. concluded with saying that, notwithstanding all the violent charges and personal abuse which had been made against him, it would produce no difference in his manner of acting; neither prevent him from speaking against any measure which he thought injurious to the public interest, nor, on the other hand, inflame his mind so as to induce him to oppose measures which he

might heretofore have thought proper. Neither a fear of slander, nor of violent attacks in that House, nor even of that compulsion threatened by the member from Connecticut, should ever produce any change in his votes or in his conduct.

The question was put on the amendment, and negatived—49 to 34.

The question on the sum of money to be appropriated, coming under consideration,

Mr. S. Smith moved to strike out $950,000, and to insert in its place $1,000,000. This motion was not seconded, and the motion for $950,000 was then put, and carried.

The amendment for striking out sixteen vessels, and inserting twelve, being under consideration,

Mr. Sitgreaves called for the yeas and nays on this question, which were ordered to be taken.

Mr. Livingston said, he should be in favor of the largest number of vessels: for, though he was decidedly against the employment of this armament as convoys, because he believed such an employment of them would have an unavoidable tendency not only to involve this country in war with France, but with England, and all the other belligerent Powers, and because no instructions which the President can give will prevent it. Since this was the case, he believed twelve vessels would be totally inadequate to such a state of things. He had said, it was the unavoidable tendency—for what, he asked, was the object of convoys? Gentlemen say they are to be used to resist infringements upon the laws of nations, or of treaties; and if this was to be the use of them, war must doubtless ensue; for France has decreed that vessels shall be lawful prize in cases which are contrary to the laws of nations, and of treaty; Great Britain has done the same; and it must be allowed, that if we shall have to engage all those Powers, twelve vessels will not be sufficient. On the contrary, Congress ought now, since this decision had been come to, to go into effectual measures, as if in war, for he considered the country now in a state of war; and let no man flatter himself that the vote which has been given is not a declaration of war. Gentlemen know that this is the case; and now they have concurred in plunging the country in war, they ought to come forward and provide the means for our defence; but he did not wonder that they tremble and falter, now they are at the last step to be taken; a step which they had been endeavoring to accomplish for many years past; a war with France, which they had so long wished, is now accomplished; at a period, too, when we are likely to be left alone to sustain the shock, when almost all the Powers of Europe have fallen under her force, or become allies in her schemes. We ought to concert means of attack; for we should not have to wage defensive war only, but offensive war also. Now, said Mr. L., let us see who is possessed of American feelings; let us see whether those who call members cowards, and devoted to the service of another country, or those so calumniated, possess the truest American feeling. As to these slanders themselves, he should always treat them as they merited; he considered himself as dignified a character as any man who made the charge. [The Speaker called Mr. L. to order, and he sat down.]

Mr. Harper was glad the gentleman from New York would for once in his life be consistent and support the decisions of a majority, and that this flash of his would not end in smoke. If the dignity of this House would have permitted him to say so, he should have said the gentleman had made a very silly speech. He could not imagine what had given rise to it, except that the gentleman found himself disappointed, in not having been able to carry the amendment which had been negatived. As to the sufficiency of this force, he did not believe it was contemplated to fight France and Great Britain, and for a good reason, because it was not necessary to fight them both.

If Great Britain shall not only persevere in her present measures, but, after infringing the laws of nations and of treaties, shall follow it up by decrees which will amount to a general confiscation of our trade, and instead of listening to our applications to get them altered, shall drive our Minister out of the country, he should then be ready to go to war with Great Britain. At present, however, he saw no cause of war against her, though he saw occasion for negotiation and remonstrance. For the present, he wished to confine our views to one of the belligerent Powers whose injuries all allowed had given just cause of war to this country. He did not mean, Mr. H. said, to prepare measures for offensive war, and he believed what the gentleman had said on this subject was one of those puffs which were introduced for no other purpose than to round off a period; and he was astonished that any gentleman could get his own consent thus to impose upon himself.

Mr. Sitgreaves said, he called for the yeas and nays, in order that he might have an opportunity of recording his dissent to the reduction of the number of vessels agreed to by the Senate. He thought it an improper time to agree to an amendment of this kind; he did not think it proper, at the present crisis, to show symptoms of distrust, weakness, or timidity. As the bill proposed sixteen vessels when it came from the Senate, he did not wish to reduce the number to twelve; especially as it was allowed that sixteen vessels would not be too many, and the only reason for reducing the number was, that a greater number could not be immediately got ready in the recess of Congress; but having no doubt that if sixteen vessels are necessary, the President would be able to procure them, he should be against concurring with the amendment of the Committee of the Whole.

Mr. Livingston was proceeding to remark upon what had fallen from the gentleman from South Carolina, of a personal nature, when the Speaker called to order and he took his seat.

The question on concurring with the amendment reported by the Committee of the Whole, for striking out sixteen and inserting twelve, was then taken, and stood yeas forty-five, nays thirty-seven, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Stephen Bullock, Dennis Burges, Thomas Claiborne, Wm. Charles Cole Claiborne, Joshua Coit, Thomas T. Davis, Lucas Elmendorph, Dwight Foster, John Fowler, Albert Gallatin, Andrew Gregg, William Barry Grove, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Samuel Lyman, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Reed, William Shepard, Tompson J. Skinner, Samuel Smith, Peleg Sprague, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and John Williams.

Nays—John Allen, Bailey Bartlett, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dawson, John Dennis, Thomas Evans, William Findley, Abiel Foster, Jonathan Freeman, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Edward Livingston, James Machir, Lewis R. Morris, Harrison G. Otis, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Mr. Gallatin then renewed his motion for limiting the use of these vessels, which was decided in the negative—yeas thirty-two, nays fifty, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Dennsey Burges, Thomas Claiborne, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Anthony New, Tompson J. Skinner, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, and Joseph B. Varnum.

Nays—John Allen, Bailey Bartlett, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, Joshua Coit, Wm. Craik, Samuel W. Dana, John Dennis, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., James Gillespie, Henry Glen, Chauncey Goodrich, Wm. Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, Wm. Mathews, John Milledge, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

The bill was then ordered to be read a third time on Monday, and the House adjourned, at eight o'clock, till Monday next.

Monday, April 23.

The Speaker attended to-day, and took the Chair.

Mr. D. Foster, from the Committee of Claims, reported a bill respecting Loan Office final settlement certificates and indents of interest, and the unfunded or registered debts credited on the books of the Treasury, which was committed for Wednesday.

The bill providing an additional armament for the further protection of the trade of the United States, and for other purposes, passed, forty-two to twenty-six.

The bill from the Senate establishing an Executive Department to be denominated the Department of the Navy, was twice read and committed for to-morrow.

The House severally resolved itself into Committees of the Whole on the bill for the relief of Reuben Smith, and Nathan Strong, and Pierre Aupoix, and on the bill for the relief of Obadiah Brown, which were agreed to, and ordered to be read a third time to-morrow.

NATIONAL AFFAIRS.

Mr. Varnum presented two petitions, one from the freeholders and others of Harvard, and the other from Lexington, both in the State of Massachusetts, against the arming of merchant vessels, expressing their desires for a continuance of peace, and that every possible means may be taken to avert so great an evil as war would be to this country.

Mr. Imlay presented an address to the President and both Houses of Congress from Princeton, Kingston, Montgomery, and New Windsor, in the State of New Jersey, approving the conduct of the Executive in our negotiation with France as temperate and wise, and stating that they have seen with disdain the infamous proposals of the agents of France towards this country; that having broke the yoke of one tyrant, they wish not to be dictated to by another, and pledge their lives, fortunes, and honor, in support of the Government of the United States, either against foreign enemies, or domestic traitors; they deprecate war, but they believe no evil can befal this country so great as that of becoming dependant on the will of a foreign nation; they trust that the divisions which have heretofore appeared in Congress, and which have given ground, in their opinion, to a foreign Power to commit the injuries upon us which they have done, will in future disappear, and that unanimity will prevail for taking such measures as shall secure us against the attacks of any nation whatever.

This address and the foregoing petitions were referred to the Committee of the Whole on the state of the Union.

STEPHEN CANTRILL.

On motion of Mr. W. C. Claiborne, the House resolved itself into a Committee of the Whole on the report of the Secretary of War on the petition of Stephen Cantrill; and the report and papers accompanying it were read. The report was as follows:

"The Secretary of War, to whom was referred the petition of Stephen Cantrill, respectfully reports: That

the services for which the petitioner prays compensation to himself and a company which he commanded, were performed in the month of September, 1794, on an expedition conducted by Major James Ore, into the Lower Cherokee country, which issued in the destruction of two considerable Indian towns, the Running Water and Nickajack, the killing of a number of Indians, and the taking about twenty prisoners.

"That the report of Major Ore to Governor Blount, dated at Knoxville, the 24th September, 1794, shows, that this expedition marched on the 7th of the same month, and was ordered by General Robertson, of Mero district.

"That the orders of General Robertson for this purpose were afterwards communicated by himself to Gov. Blount, in a letter dated the 6th October, 1794, detailing his reasons for the order.

"That letters from Governor Blount to the Secretary of War, dated the 22d of September, and 3d of October, 1794, as well as the copy of an order, which he states to have been the last given by him to General Robertson, previous to this expedition, evince that the Governor did not sanction the measure.

"That the Secretary of War, previous to Major Ore's expedition, in a letter to Governor Blount, dated the 26th July, 1794, strongly discouraged the idea of destroying the lower towns of the Cherokees, in the following words, viz: 'With respect to destroying the lower towns, however rigorous such a measure might be, or whatever good consequences might result from it, I am instructed specially by the President to say, that he does not conceive himself authorized to direct any such measure, more especially as the whole subject was before the last session of Congress, who did not think proper to authorise or direct offensive operations.' And that as soon as the destruction of the Running Water and Nickajack was communicated to him, the Secretary strongly disavowed any participation in the business, by his letter to Governor Blount, dated the 22d of December, 1794, in these words, viz: 'The destruction of the lower Cherokee towns stands upon its own footing; that it was not authorized is certain.'

"That the President at all times, as well before as after this expedition, endeavored to confine the protection of the frontier of the Southwestern Territory to defensive operations, and to restrain from those which were offensive.

"That, on the whole, it appears, the services for which compensation is prayed by the petition of Stephen Cantrill, were performed on an expedition, offensive, unauthorized, and in direct violation of the orders from the President to Governor Blount, by whom also they were not sanctioned.

"The documents referred to, and others connected with the subject, are herewith presented, numbered from No. 1 to 9, inclusive.

"All which is respectfully submitted to the House of Representatives.

"JAMES McHENRY.

"War Office, April, 1798."

The reading being finished, Mr. W. C. Claiborne said, that, in his opinion, this claim was founded on the principles of justice; and he trusted every member who had attended to the reading of the documents, must accord with him in opinion, that the Nickajack expedition, undertaken by Major James Ore, in 1794, into the Lower Cherokee country, was authorized by General Robertson; and it remains now to be decided, whether soldiers shall not be entitled to pay until they have previously assured themselves of the legitimate authority of their commanding officer. At the time when this expedition was set on foot, a war raged between the United States and the Cherokee nation of Indians, the horrors of which bore hard upon the district of Mero; the very existence of the settlement was threatened; scarcely a day passed without some one or other of the inhabitants, or of their acquaintance, being murdered. Information was received that the Indians were embodied in order to carry the war into the settlement. What was the General to do? Was he to stand still without making any attempt to avert the danger? The safety of the people required him to act, and he struck the first blow, which was a defensive measure, authorized by the usage of all nations. The citizens on this expedition obeyed the command of their officer; they did not think it necessary to inquire by what authority he acted; all for them to be assured of was, that he was an officer of the United States, and this they well knew, as this was not the first time they had served under him. Without a discipline of this kind no military operation could be carried on. General Robertson acted also under the authority of Governor Blount, who acted under the orders of the President of the United States. Having then performed this duty—a duty, too, which put an end to a war which might have cost the United States a million of dollars—he trusted the petitioners would be compensated for their services. The amount, he believed, would not be more than about $4,000, as the party was out only twelve days. To effect this purpose, he proposed the following resolution for the adoption of the committee:

"*Resolved*, That the proper officers be directed to settle the accounts of the militia who served on the expedition commanded by Major James Ore against the Cherokee Indians, in the year 1794."

This resolution was agreed to without opposition. The committee rose, and after some few observations, it was agreed to in the House, and a committee appointed to report a bill accordingly.

ORGANIZING THE MILITIA.

On motion of Mr. J. Williams, the House went into a Committee of the Whole on the bill for organizing, arming, and disciplining the militia of the United States. Very soon after the committee was formed,

Mr. Otis wished the committee to rise, in order to move, in the House, a postponement of the consideration of this bill till the next session of Congress. He was convinced that the principle in the bill which went to divide the militia into a select and reserved corps, was a good one; but he did not think this was a proper moment to make the new arrangement. The bill contained a great variety of detail, which would consume considerable time to discuss, and after all, he did not believe it would be got through this session. It was probable that a provisional army, or some other arrangement, would be necessary for the present, in order to prepare for any attack that may be

made upon us; and he thought it would be very wrong to disorganize the present system of militia at this time, since he saw no good effect that could be immediately produced by the change.

This motion was supported by Messrs. Skinner, Varnum, and T. Claiborne, and opposed by Messrs. Sheppard, S. Smith, R. Williams, Nicholas, McDowell, and Macon. It was negatived—38 to 37.

The consideration of the bill was then resumed, and some progress made on it, when the committee rose, and the House adjourned.

Tuesday, April 24.

Mr. W. C. C. Claiborne, from the committee appointed, reported a bill directing the payment of a detachment of militia, for services performed in the year 1794, under Major James Ore, which was twice read and committed.

PROVISIONAL ARMY.

A bill from the Senate, authorizing the President of the United States to raise a provisional army of 20,000 men, was read the first time; and upon motion made to read it a second time,

Mr. Nicholas objected to the second reading of the bill, as he believed it possessed a principle which could not be assented to. He did not believe it was necessary to pass a bill of this sort under any possible modification. The highest act of Legislative power was, by it, proposed to be transferred to the Executive, viz: the power to raise an army, which he was to exercise at his pleasure. If an army was necessary, the Legislature ought to raise it; but he did not think it was necessary at present. Indeed, when discussing the bill for providing a naval armament, gentlemen had said that members had been willing to make preparations for defence on the land, where there was no danger, but were unwilling to do it at sea, where the greatest might be expected. He did not believe there could be any necessity for going into a measure of this kind at the present session. In case of predatory attack, the militia would be equal to repelling them. Mr. N. said he lived in a part of the country perhaps more defenceless than any other; but, so far as he or his constituents were concerned, he did not wish for a force of this kind. He was willing to confide for defence on the militia of the country.

Mr. Otis thought it very extraordinary that the gentleman from Virginia should endeavor to surprise a part of this House into a decision upon this bill in this stage of it. He hoped he would consent to its taking the usual course. The gentleman had gone into the merits of the bill; he could not follow him, because he had not heard it read; so far as he did hear it, he was of opinion that the gentleman had anticipated objections which did not lie against it. He seemed to suppose that this bill declared that a standing army should be raised. It does no such thing; it only declares that if existing circumstances shall make it necessary, then the President shall raise an army not exceeding a certain number of men. It may happen that the necessity may not exist; but the gentleman from Virginia must be able to fathom the intentions of France further than he could pretend to do, if he could say that no such necessity would exist. If what was said by the agents of that Government to our Envoys could be relied on, there was a direct threat to ravage our coasts. He hoped, however, no invasion would take place; but, when he said this, he calculated upon the French acting as reasonable beings, but perhaps he calculated delusively. Indeed, they are now threatening the invasion of a country, where one may suppose they would have as little chance of succeeding as in this country; and was the idea, then, to be so much scoffed at, as not to suffer a bill, intending to provide against it, to be read a second time? If the arms of our citizens were to be tied up, and our militia were many of them without arms, with what should we oppose such an attempt, if it were made? What, said he, is to prevent Victor Hugues sending over two or three frigates? It had been said that he expected open war, and that he was ready for it. In short, he thought it would be the most disgraceful conduct that ever was attempted in that House, if the bill should be rejected without a second reading. It would be in vain to talk of unanimity, if a bill from the Senate was to be treated in this way. If the gentleman persisted in his motion, he trusted he would find himself nearly alone.

Mr. Gallatin wondered that the gentleman from Massachusetts should be so greatly surprised at a motion of this kind, because if he had attended to the rules of the House, he would have found that it was a course expressly prescribed by them. It had been acted upon before during this session. The principle, he said, was well understood. When a member disapproves of the principle of a bill altogether, and does not wish to go at all into a discussion of the detail, he moves to reject it before it goes to a second reading.

This bill goes to authorize the President to raise an army. He did not know what was meant by a provisional army. He did not find anything said in the Constitution of the United States relative to provisional armies, or of giving the President power to raise armies. He found mentioned there no other kind of defence than an army and militia. It says Congress shall raise and support an army, not provide for the raising of an army; but this bill is to enable the President of the United States to raise an army. The Constitution has declared that the raising of an army is placed in Congress, but this bill goes to declare that this power shall be vested by law in the President. That is the principle of the bill; and if Congress were once to admit the principle that they have a right to vest in the President powers placed in their hands by the Constitution, that instrument would become a piece of blank paper. If it were to be admitted in one case, it would be admitted in another; and, if admitted in one department, it might be admitted in another. The power to raise taxes, he said, is contained in the same article of the Constitution which says Congress shall raise armies. And if they could delegate the power of raising an army to the Presi-

dent, why not do the same with respect to the power of raising taxes? He supposed the House would next hear of provisional taxes, to be raised if the President shall think fit. Mr. G., therefore, thought the principle inadmissible. If the circumstances of the Union required an army, let it be raised; if not, he wished to give no power to raise it—especially, as the President, if he saw necessity, could call Congress together, if he should find that the circumstances of the country required it. Mr. G. thought the House had already decided that no additional army was necessary at present, in agreeing to an additional regiment of artillery; as the select committee, when they brought in that bill, had the report of the Secretary of War before them, which stated, besides the regiment of artillery, that other additional force would be necessary; and having reported no other, it was to be supposed they thought no other necessary. But, if it was thought the House had not gone far enough, he was willing to go farther, but not willing to transfer their power to judge of the propriety of raising an army.

Mr. Dana hoped this bill would not be rejected on its first reading. It required no labored arguments to prove that the motion might be made; but more than had been adduced to show that it ought to be adopted. He thought the gentleman from Massachusetts ought not to have been surprised at this motion, because it was best calculated for exciting alarm. It was said the Senate proceeded in a similar way on the bill sent up from this House for a repeal of the stamp act; but that question had already been agreed upon in the Senate on a distinct proposition, and there was, therefore no necessity for going again into it. The gentleman from Pennsylvania had said that when the House agreed upon an additional regiment of artillery, they negatively decided against any other standing force. The gentleman might put what construction he pleased upon that vote, he could assure him for himself that he had no such idea when he voted.

This bill, Mr. D. said, provided for the raising of a regular force, in case the President shall think the situation of the country requires it. He is also authorized to accept of the services of volunteer corps. The bill could be amended in any manner which gentlemen thought proper. But the gentleman from Pennsylvania does not know what a provisional army means. He believed this was no new principle. He believed it was acted upon when the three additional regiments were raised to the then existing corps. It was in principle the same as when an army is directed to be raised, but where the President has power given him to suspend the raising of it, if he shall see it necessary.

Mr. Sewall said that, though the present motion be not irregular in point of form, yet it is a manner of proceeding very objectionable at this time. His colleague had complained of this motion being a surprise upon the House: He had good reason so to consider it. And the House will consider whether it is expedient, without entering into a consideration of the bill, without seeing whether any alteration could be made in it, so as to render it more agreeable to gentlemen, thus to attempt to destroy the bill. What was the motive of the gentleman from Virginia in making the motion might easily be discovered. He had obtained leave of absence, which might have a tendency to hurry him in his political course. He wished to be heard on this subject, but this hurry of his to return home ought not to hurry the House in its proceedings. Those gentlemen who had determined to take this course had the advantage of others who were unprepared for such a motion.

This bill was said to be unconstitutional; but it was observable that gentlemen did not themselves rely upon this objection, or they would not have had recourse to others of little consequence. Mr. S. denied that the House had already decided that no farther army was necessary. When the Committee for the Protection of Commerce and the Defence of the Country had the additional regiment of artillery under consideration, they had not before them the report of the Secretary of War, which the gentleman from Pennsylvania had mentioned; that measure was grounded upon a resolution long since referred to them. What, he asked, was the amount of the objections to this bill? Will it be said that the House cannot authorize the President to begin to raise an army two months from this time? If so, may they not say he may do it upon certain contingencies? But if gentlemen relied upon this objection, they might say that an army should be raised, but not until a certain time, or until a certain contingency shall have taken place.

With respect to the expediency of the measure, there was a great variety of opinion. Some gentlemen think the danger of our situation greater than others; some think it is not only probable that predatory attacks will be made, but that part of our territory may be taken possession of. If we were to discover the fleets of France approaching with an intention of landing men on our shores, or to hear of a landing from the Mississippi, in the State of Tennessee, would it not be desirable that the President should have the power to take advantage of voluntary enlistments, and to raise an army of 20,000 men? He believed it would. The expense would not be gone into except it be necessary, and he saw no danger that could arise from placing this power in the hands of the President. For though militiamen might be depended upon to repel any sudden attack, their continuance in the field could not be relied upon. If the militia was wholly under the authority of the United States, and under the command of officers appointed by them, they might be more relied upon; but as they are under the authority of the several States, and commanded by officers in some cases appointed by the States, and in others by themselves, and in many parts without arms, he did not think they ought entirely to be relied upon. Or will gentlemen say, that the people in the Southern States, in case of attack, are to rely upon the militia of the Eastern States to march for their relief? Surely it would be

much better to enlist men from among themselves, where danger threatens the most, to form an army to repel any such attack.

Mr. S. said, if this army was proposed to be raised immediately, it would be objected against it, that no one could say it would certainly be wanted; and now it is proposed to be raised, in case there should be a necessity for it, it is called an extraordinary measure. Thus, it was true, gentlemen would prevent effectual means of defence being gone into; but, as he conceived, though there is now no immediate occasion for these troops, there might be in the recess of Congress, he wished to give the President the power to raise them, if he should see occasion.

Mr. Harper believed, notwithstanding what had been advanced by the gentleman from Pennsylvania, (Mr. Gallatin,) that this was a very unprecedented measure; because however prepared the House may be on some occasions, at the first blush of business, to decide upon the abstract principle, yet it was perfectly novel in their proceedings to reject a bill on its first reading, which contains such a variety of propositions, and which are capable of such a variety of modifications as the present. It was also as little consonant with the present situation of the country as it was with their usual modes of proceeding. The allusion to the decision on the bill for repealing the stamp act (as had been shown) was no way applicable. He could see no other view in a proposition of this kind but a determination to resist every measure for the defence of the country. If the intention had not been to destroy the bill, it would have been suffered to have taken its usual course, and attempts would have been made to amend it. If a provisional army was not liked, gentlemen might have had the army immediately raised; or, if 20,000 men were too many, fewer might have been proposed. If gentlemen did not think the army immediately necessary, and did not choose to leave it with the President to judge of that necessity, they might make it to depend upon a declaration of war by France, on an invasion, or in case Victor Hugues were to bring his black troops, or send his threatened frigates against us, or if an insurrection should be excited by our enemy, then the President should be empowered to raise an army.

But gentlemen say this bill ought to be rejected, because it is unconstitutional. Could gentlemen be serious in making this objection? Were troops ever raised in a different manner? And if they had the power to authorize the President to raise troops immediately, they could certainly do it under such contingencies as they thought proper. Did not Congress entrust the President with the discretionary power of borrowing money, of, in some cases, fixing salaries, &c., which powers were equally vested in them with the power of raising armies; and this must be the case, except gentlemen insist that Congress should itself do all the acts committed to it; and if so, they must always be in session.

But the gentleman from Pennsylvania says, that if this power be delegated to the President, Congress may as well entrust the President with the power of raising provisional taxes. He had no hesitation in saying, that he believed this might be done; that the House might determine upon a tax, and authorize the collecting of it, only in case the President should find it necessary, or in case a certain event should take take place.

With respect, then, to the expediency of the measure—he did not speak of the expediency of raising 20,000 men, because any other number might be determined upon—but as to the thing itself. What is the internal and external state of this country? Do we not know that the enemy has in view a plan upon which they place great reliance—of gaining over to their cause a certain class of men, who abound in the Southern parts of this country, and by whose means they intend to subjugate or destroy the country? We do know this—gentlemen from the Southern States know it; yet they say it is impossible to raise any regular force to repel the enemy. He could not believe, that when we had to meet an enemy, who has always fought by means of domestic insurrection, who is now subverting the most ancient Governments in the world by these means, it would be consistent with any maxim of common sense to be unprepared for the worst.

Gentlemen rely upon the militia; but do they not see the difficulty there is attending the adoption of any regular plan for training the militia? That great opposition is given to the bill for newly organizing that force, and that, according to the present organization, it would be a work of time and difficulty to draw an effectual force to the quarter where an attack might be made; besides, that there is a great want of arms in the militia. He would not speak of the other enemy which we had within our own bosom, and upon which, he supposed, the French greatly relied, because he did not believe that enemy existed to any extent. As to the intentions of some gentlemen, he was not bound to pronounce his opinion upon them; he was not obliged to say that he believed that there are individuals in this country who would be glad to see a French force in it; or that there are those who carry on a correspondence with a foreign country, or that the measures pursued abroad inimical to the interests of this country, are not concerted at home. He would not say that he had such a belief; but he would not say he had not. As to there being any number of this description of persons, who could be relied upon by a foreign nation, he repelled the idea with disdain. He knew the American people, and he knew them better than to believe any such thing. He knew that they loved their country; that they would sometimes dispute on political subjects, but when the finger of violence was pointed at them, they would feel the family spirit and repel all attacks with one heart. As to the few persons which there might be of a contrary spirit, he did not believe any provision was necessary as to them; he believed the courts of justice would take care of these persons. Whilst they remain behind their batteries, they do little harm; and, if they come forward, the remedy

would be found in the existing laws. But the other foe, formidable by its numbers, in a part of the country where the population is thin; in a climate favorable to the health of these people, and unfavorable to the health of the persons of a different description; formidable, because of the contingency to the quarter from whence an attack may be expected, he wished for an effectual force to strike that foe whenever or wherever it may show its head.

What, said he, is our external situation? Do we not see the nation with whom we are at variance, find quarrels with every country who is not strong enough to resist her? Does she not injure us on every side? Do we not hear of depredatory threats, and the mischiefs she has the power of doing us, urged as reasons why we should submit to her? And yet, after being told of these designs, shall we sit with our arms folded, and make no defence? For the measures already taken will be nothing without this. Fortifications would be nothing except supported by a sufficient number of infantry and cavalry.

What, he asked, is the situation of the West Indies? Were they not told that Victor Hugues, with 5,000 of his best troops, is ready to make a blow upon the Southern country, whenever the word of command shall be given? They knew that these troops existed; they had been seen, and the desperate character of their leader was also known. Yet, with this enemy upon our threshold, within four or five days sail of us, we still fold our arms, and say we will make no defence.

When he reflected upon these things, he could not help deploring that fatal blindness, that stubborn spirit of opposition, in certain gentlemen, which could hide from their view the danger of our present situation; that, at a period when the veil is rending from before the eyes of the community; when those who have been the most blind out-of-doors begin to see, that those gentlemen in this House, who, from their ancient birth and fortunes, might be supposed to possess the true American spirit, should still persist in their blind, their destructive course, was greatly to be lamented. And though he could not doubt the fate of this bill, yet that there should be a few men found supporting measures which tend directly to the destruction of the country, he could not help lamenting.

Mr. Baldwin did not agree with the gentleman who had just sat down, that the present motion was either unprecedented or improper. When it is proposed to make a law on any subject, it presents itself to discussion on two grounds, the principles of the law and the details. The proper stages to debate the general principle on which the law is to be founded, by the rules of this House, are, when it is proposed to introduce the law, and at the third reading, when it is considered as finished, and on its passage; the intermediate stages of the discussion are all supposed to be employed to settle and adjust the detail. He had often regretted that members, having been accustomed to different modes of proceeding in their State Legislatures, were so apt to disturb and keep unsettled their modes of proceeding in this House. He knew it was sometimes a practice, after a bill had been read the second time, and was referred to be shaped and formed by free discussion in Committee of the Whole, a member would rise to amend the bill by striking out the first section, declaring, at the same time, that he made the motion for the purpose of destroying the bill—a mere law fiction, under color of detail and amendment, to contest the original principle and destroy the bill. Without doubt the commencement of the business is the regular stage to contest the principle. If it originates in this House, it is on a motion in Committee of the Whole, expressing in general terms the expediency that such a law should be provided; if it comes from the Senate, the same question presents itself after the first reading, in the words of the present motion, which are the very words prescribed by the stated rule of the House. If on this question the majority of the House appear in favor of the principle of the bill, it goes on through the stages of its detail and formation, and at the third reading the general question occurs again, Shall the principle, detailed as it now appears, pass into a law? He was sure no member could object to the fairness and propriety of the present motion.

As to the principle of the bill, he must say, it did not meet his approbation. If the House is convinced it is necessary to raise an Army of twenty thousand men, as the bill now proposes, they ought to say so at once, and let it be done; if they are not convinced that it is necessary, the law ought not to pass, the Army ought not to be raised till they are convinced it is necessary. The Constitution made the Legislature the sole judge on this subject. The present bill says it is not necessary to raise this Army now, but perhaps it may be before Congress meets again, it therefore proposes to transfer the right of judging on this subject to the Executive; he thought it a very improper transfer of Legislative power. It has been said that all our troops are raised thus provisionally. If attention is paid to those laws, it will be seen that they did not pass till the Legislature was convinced that circumstances then required the troops to be raised; a clause is added, that if circumstances should alter so as to make the troops unnecessary, the President might forbear to raise, or discharge them; it gives him power to disband the Army, but not to raise one.

The gentleman last up, supposes that the opposition to the principle of this bill arises altogether from a disguised intention of leaving the country entirely without defence, and making no provision on the subject. He would assure the gentleman that he had no intention in the case which he was not ready to declare. The circumstances of the part of the country where he lived, would make him as solicitous as any man could be, to concert the best measures for the most prompt and adequate protection. The nature of things did not admit, neither did experience justify the expectation, of much relief or protection in time of danger from the slow and distant levies of regular troops. He thought it a plan by no means best suited to the exigencies of the present Summer. So far as

he could judge himself, and so far as he was aided by the opinions of those among whom he lived, prompt provision for obtaining the assistance of the troops of the State, and of the adjoining States, would be to them the most grateful and the most sure reliance. The President is empowered by law to call out, at any time, those of the militia who now hold themselves in readiness, and he had strong hopes that some effectual militia system, which would add still greater protection, would be passed this present session; if he should be disappointed in this, he should then be not merely for giving power to the President, but for passing a law actually to raise without delay some additional regiments for the most exposed parts of the country. His respect for the members of the House, and for the people who sent them here, forbade him to entertain for a moment any doubt that they were not all for taking the most effectual measures for general protection. There could be but one intention on that subject. He trusted they should this session make effectual arrangements in the militia law before the House, which is the only prompt and adequate defence of all parts of the country; if that failed, they must then resort to other measures.

It is said now, and it has been said before, that some members have got so much into the habit of making opposition to everything that is proposed, that they seem to do it blindly, or perhaps from an obstinacy of character, much to the injury of their country; it did not appear to him a very wise or proper observation. The supposition itself is very improbable, that if any individual could be so lost to his own interest, all the society where he lives should also be lost to their interest, or should not know what he is about. He could never take any part of such observations to himself; no friend had ever pointed out to him any particular vote or act of his which he had occasion to regret, as having opposed a law which would have been for the happiness of the country: his recollection, and the review of his conduct, always presented to him a very different course of reflection, for having erred on the other extreme, as being too easy, and having given way too much to importunities for frigates, mints, and military expeditions, which had commonly had his votes, and which he sometimes supposed had unnecessarily burdened and brought expense upon the country.

Mr. B. said, he was glad to hear the gentleman last up, and others, declare that they had no doubt of the general good intentions and patriotism of the House, and of all parts of the country, especially when he recollected how many times the contrary declaration had been made; these good dispositions ought to be mutual; it is infinitely important to the country to cultivate them. He was sorry to see the gentleman was disposed to make exceptions; if he had any fact, or any foundation, to entertain any apprehension that there were individuals in this country who were acting an unfaithful or traitorous part, he trusted that that gentleman, or any other, would feel it to be his duty, without delay, to make the proper use of it, and not suffer the people of this extensive country, who possess as social principles towards each other, and as strong attachment to their Government as ever existed in a people, to be tormented with apprehensions respecting their public servants, who are so distant from them that they have rarely opportunity of personal knowledge of them; apprehensions so totally inconsistent with the necessary confidence in those who are conducting their Government—the very foundation of rational subjection to the laws—and so destructive of public happiness. He had seen with inexpressible regret this disposition in some individuals manifest itself on many occasions; he was sorry to see them undertake to carry measures which could not be supported by other arguments; he considered it as arising from an excess of cruelty, or from the most deadly aims. He concluded with assurances of a disposition to join in all measures to afford the most effectual protection.

Mr. Rutledge said, as the principal objection against this bill seemed to arise from an idea that the militia would be found sufficient for every purpose of defence for this country, he thought gentlemen had better concur in letting the bill go to a second reading and be committed, and before it again came under consideration, the militia bill would probably have been determined upon. He was pleased to hear gentlemen say that the country must be defended, and if an effective militia could not be had, it must be done by a force of this kind. For his own part, from the proceedings already had upon the militia bill, he had not much to hope of its passing; and if not, gentlemen would certainly see the necessity of some additional standing force. Mr. R. could not conceive what objections could have been induced by the gentlemen from Pennsylvania (as he was not in the House when he spoke) on a Constitutional ground. Mr. R. adduced, as in point, the law enabling the President to call out troops in consequence of the Western insurrection, and that making provision for the effectual protection of the frontiers of the United States. Mr. R. then mentioned his expectation of despatches being received from our Ministers in Paris in the course of twelve hours (a particular mention of which has already been made) which might convince all of the propriety of going into this measure; for he believed it was the wish of all to defend the country with vigor and effect, and that they only differed as to the means of doing it.

Mr. Craik said, the gentleman from Georgia (Mr. Baldwin) had spoken of the sincerity of his professions of zeal and of good will; but he hoped the people of this country would not consider mere professions on this occasion, except accompanied by acts. If that gentleman had the faculty of making up an opinion at once upon a subject, he ought to give others, who have not that faculty, time to consider. Certain gentlemen met every proposition for defence, whether by land or by sea, by saying they are desirous of going into measures of defence; but when the protection of commerce is the object, then they are desirous of confining their views to the land; and now, when

the protection on shore is the object, they tell the committee there is no fear of invasion. For his own part, as, at first view, this measure appeared to be calculated to afford a more effectual defence to the country than any other which had been offered, he wished for time to examine the details of the bill.

But this bill was said to be unconstitutional. The gentleman from Georgia endeavored to distinguish between this law and that of 1795, as this gave the President the power to raise the troops or not, and that the other directed that a certain number of troops should be raised, except he should think it necessary to forbear raising them. For himself, he saw no difference between the two. He believed that this was the first time that the propriety of granting the power had ever been questioned. Mr. C. quoted the following instances to show that a similar power had been granted heretofore, viz: the law authorizing the President, if he shall judge it expedient, to alter the usual place of meeting of Congress; the law authorizing the President, if he shall judge it expedient, to build and equip certain vessels as galleys; and the law for regulating and revoking embargoes.

Mr. McDowell was in favor of the motion for rejecting the bill, as it contained two principles which he thought inadmissible; the first, because it delegated Legislative powers to the President; the other, as it respects volunteer corps. The first, he believed, would be unconstitutional, and the last would go to the destruction of the militia of the United States. If our situation be such as it had been figured to the committee by the gentleman from South Carolina, they ought to turn their attention to it, and create an army themselves, and not direct the President to do it if he shall judge proper. But if there be no real appearance of danger, but it is merely conjectural, then it is not necessary to act. Gentlemen have talked of members folding their arms and doing nothing for the defence of the United States. It must be recollected that we have gone considerable lengths in measures of defence. We have voted large sums for the frigates, for fortifications, for an additional regiment of artillery, and put in requisition 80,000 militia. If gentlemen can show that these measures, with our former establishment, are not sufficient for our present situation, he was ready to go further, but he was not willing to delegate any power lodged with that House to another branch of the Government.

It was well known, Mr. McD. said, that it had been the wish of the late President, that it was also the wish of the present President, of the Heads of Departments, and many members of Congress, to increase our Military Establishment, and to fix a standing army in this country. It has heretofore, however, been opposed with success, except in time of war. If we were to be involved in war, an army must be resorted to in aid of the militia; but, in the first instance, the militia might be depended upon as a sure and safe defence of this country. He was sure they would be equal to any invasion, and if we were to engage in a lengthy and formidable war, we must provide accordingly.

The gentlemen from South Carolina and Massachusetts had expressed much concern for the safety of the Southern States, and said it was necessary for their protection that this standing force should be raised. Though one part of that country is expressed, there is a formidable force in the Southern States; a force which had protected them heretofore, and he doubted not would do it again, if there was a necessity for it; and as they had faced the most formidable part of the British army and beat them, the gentleman from South Carolina might feel himself perfectly easy on account of any attack from Victor Hugues and five thousand of his black troops.

It had been stated that there are no arms, or very few, in the Southern States. He believed, if the fact could be ascertained, there would be found as great a portion of arms in the Southern as in the Eastern States. He believed Virginia alone had as many arms as any other three States. North Carolina had also a very considerable number, and South Carolina had several depots of arms, and one, he believed, in the very district which the gentleman (Mr. Harper) himself represented, though he had stated there were not twelve muskets in it. He hoped, therefore, for these reasons, the bill would not pass.

Mr. S. Smith hoped this motion would be withdrawn. At a time like the present, when the people of the United States are looking up to Congress in expectation of their taking effectual measures of defence against what they think not only a possible, but probable event, he wished nothing to appear like indifference to that object. He agreed with the gentleman from South Carolina (Mr. Harper) that, if gentlemen did not like the bill, it might be amended; but to reject it altogether would have too much the appearance of indifference to the defence of the country. He did not know that this would be the best and most effectual mode of defence; he thought a better might be established, but he had not made up his mind upon it. He would, however, throw out an idea or two for the consideration of the committee. Last session, eighty thousand men were ordered to be held in requisition. He thought, if the President was to draw out twenty thousand of there for three months, and when their time expired, to draw out twenty thousand more, and so on, till the whole had been out, it might afford a sufficient protection, and more speedily than any other, and it would have the good effect of making eighty thousand soldiers. In addition to this, there might be a provision authorizing the President to receive volunteer corps of cavalry from the Southern States, to be commanded by their own officers, to serve in a manner as shall be directed by law, the equipments for which to be furnished by the United States, which would be more effectual than a general law to raise three or four thousand cavalry.

In addition to the remark of the gentleman from Massachusetts (Mr. Sewall) that it would be attended with great inconvenience for men to travel from the Eastern to the Southern States, for the purpose of protecting them, he would say, that in the late war, Southern men were seen to the Eastward, but never Eastern men to the Southward. He believed the Southern States had more effective militia, according to their Representatives on that floor, than the Eastern States had; and though they had not all arms in their hands, the States had arms sufficient in their arsenals. In the Western insurrection, they armed their own men. In the State which he represented, though their men were not all armed, they had ten thousand excellent stands of arms belonging to the State. Mr. S. said, he had merely thrown out these ideas to induce members to withdraw their opposition to the second reading of the bill.

Mr. Macon said, that some of the arguments used on this occasion were of an extraordinary nature. The motion was first said to be contrary to rule, and then unprecedented. It must certainly be allowed to be as proper to debate a bill on its first reading, as to refuse to refer a resolution. The fact was, that motions of this kind were made every session. It was said to be a surprise upon gentlemen; this could not be the case, if they had done their duty, as it had lain on their desks for some time. One reason, with him, for wishing the bill to be rejected in this stage was, that he was desirous of bringing the session to a close. It was wonderful that gentlemen should persist in bringing standing troops into the Southern States against their will. If members from that quarter were of opinion that their militia was sufficient defence, why will gentlemen be so over civil as to force troops upon them? It was a little extraordinary that gentlemen most in favor of this bill are the most opposed to the plan for newly organizing the militia. [Mr. Dana doubted the fact.] It was said that, because gentlemen are opposed to this bill, they are opposed to all measures of defence. The fact was otherwise; they wished only to avoid unnecessary expense. If they were to bring forward a proposition for raising one hundred thousand or two hundred thousand men, and it was opposed, they might say the same thing. He supposed every man wished to defend his country. He had only heard one reason in favor of committing the bill, and that was, that it was probable we might shortly hear from our Commissioners. If there was any certainty in that, it might be ground for delaying a decision.

Mr. J. Williams was sorry that so much time had been spent on this question. He never found that going out of the ordinary way of doing business saved time. He had hoped that, after the observations of the gentleman from Maryland (Mr. Smith) the motion would have been withdrawn. The gentleman from North Carolina wished to bring the session to a close; but he must allow that it would be necessary to give the President power to repel any attack which may be made upon the country during the recess of Congress. He was as much opposed to a standing army as any man; but if gentlemen will not give us an effectual militia system, what are we to do? He wished, instead of consuming the day with this matter, the militia bill had been gone into, and a decision come to on that subject. He hoped the motion would be withdrawn; for, said he, what are we, in this discussion, telling the world? Why, that one branch of the Legislature has sent us a bill to provide a public army, which we wish immediately to throw out. This would exhibit but a poor specimen of unanimity, and of determination to defend our country.

Mr. D. Foster called for the yeas and nays, which were agreed to be taken.

Mr. Gallatin could not conceive why it should be insinuated that there was anything unfair in making opposition to this bill on its first reading; for, if gentlemen were not ready to vote against the bill, they would, of course, vote for committing it, so that the opposition would have less chance of succeeding now than in the future stages of the bill. In the meanwhile, he wished to take every opportunity of endeavoring to destroy the bill. If a majority could be got against it on the first reading, so much the better, as it would prevent a loss of time in future discussion. He was not, however, afraid of discussion; he believed, the more it was discussed, the more the committee would be convinced of the impropriety of passing this bill. He did not believe, as had been supposed, that it was capable of amendment in any of its essential parts. It had been said, that a contingency might be mentioned; or a time fixed, at the expiration of which, the army might be raised. Such a bill would, however, be altogether different, as this bill vested the power of judging of the proper time with the President; nor could he see how it was susceptible of the amendments suggested by the gentleman from Maryland. If he thought it was, he would certainly agree to its being committed, as he perfectly concurred in the plan he mentioned; but such a system would be so different from the present, that it would be a much shorter and better course to reject this bill, and originate a new one.

He believed the principle of the bill to be improper (as he before stated) because it vested Legislative power in the President of the United States; and it was very extraordinary that gentlemen who have undertaken to answer this objection, have neither shown the propriety nor the constitutionality of doing it, but referred to laws heretofore passed as precedents. If these precedents deserved all the weight they wished to give them, they would only show the danger of setting bad precedents; for, after vesting the power where no danger could arise from it, they are referred to for the purpose of vesting it in a case of the greatest magnitude. Out of all the instances quoted, the only case which came near to the present bill, was the clause of the law of 1792 and 1794, which, after having declared an army shall be raised, declares that it shall be lawful to forbear to raise any part of the troops, or to discharge them after they were raised, if he shall think proper. The power of discretion he did not like; but the clause giving the President the power to forbear to raise, he thought an improper clause, and when this was shown, it proved that they had heretofore done

wrong, and that they ought to be more careful in future.

If the principle upon which this bill is founded, were to be established, our Constitution would become a mere blank; it would be to transform our Government into a Monarchy, or, if gentlemen like the expression better, into a despotic Government. For if Congress can transfer power to the President to raise 20,000 men, they can (and, according to the doctrine of the gentleman from South Carolina, Mr. Harper, it would not be improper to do it) vest the power in him of raising taxes—and these powers, connected with the doctrine which denies to Congress the power of withholding appropriations, would not leave a solitary power in Congress worth possessing, and the Government would be totally transformed.

But supposing, said Mr. G., that the House has the discretion to transfer its own powers to the President of the United States, he asked whether, in so important an instance as this, especially when they saw that every power of this sort, however trifling, was adduced in support of the propriety of doing it, and when they are told the power of raising taxes might also be transferred, to transfer a power so likely to be abused as that of raising an army—a power which is immediately connected with raising money; for having once given the power to raise the men, they would be told ever afterwards they are bound to support them. So that in giving this power, they would not only authorize an expense of about seven millions of dollars a year, but lay themselves under an obligation (according to the opinion of many members at least) to continue them until the President shall think proper.

He thought a bill of this kind was sufficient to alarm the House, and that it ought to be opposed in every stage, notwithstanding what was said about the danger of the country: indeed that danger was what strengthened his opposition to the bill; for, if our danger be as it is represented, likely to come from Victor Hugues and his troops, from an insurrection of the negroes, from disaffected persons, from our enemy being at the door, it is the duty of Congress to raise an army themselves, and not to give the President the power of doing it; but if it is not believed that this representation of danger rests upon any specific ground, but that it is merely imaginary, then there is no necessity for giving the President the power, as he can call Congress together whenever he thinks proper.

If the danger of invasion was great, he should not hesitate to raise an army, without waiting until the event took place. He thought, therefore, the gentleman from South Carolina was not right to say that the opposition to this bill arose from a determined opposition to everything like defensive measures. Mr. G. said it was true he did not apprehend all the dangers which that gentleman had spoken of; but, if they really did exist, he had a much greater reliance upon the militia of the country for defence than that gentleman seemed to have. He knew that though in some States they were not either well disciplined or well armed, yet they were organized, and had their officers, and the States being in possession of arms, they would be a much more effectual defence, and sooner brought together than any other force. He did not believe that giving the President the power to raise 20,000 men, would be so effectual as the calling out of 20,000 militia, as the one could be raised immediately, and the raising of the other would be doubtful. Besides, in proportion as the danger exists, it would be better to call upon the people themselves to defend their country, than upon hired troops. If any danger was to be apprehended from the negroes, they would be best suppressed by the people in the States where they are. A militia is everywhere; whereas a standing army may be very distant from any attack which may take place. A standing army in Virginia, for instance, would do little good against insurgents in South Carolina; and if an insurrection of that kind was not immediately suppressed by the people, the mischief would be incalculable.

Mr. G. concluded by saying he should not be deterred from doing what he thought right, by being told by the gentleman from South Carolina (Mr. Harper) that he was fatally blind, or that he had a veil before his eyes. He did not choose to be enlightened by that gentleman, though he wished to hear every question discussed; but so far as relates to political conduct, the more experience he had, and the events unfolded themselves, the more he had to be satisfied with his own conduct, and to be convinced that the doctrines of that gentleman would prove most fatal to this country. It was not likely, therefore, that they should meet on the same ground; for whilst he (Mr. G.) thought well of his own sentiments, he doubted not that gentleman thought as well of his, which would of course keep them from uniting.

Mr. Nicholas hoped, after so many occasions had been given to the gentleman from South Carolina (Mr. Harper) of imputing the worst of motives to gentlemen, that he would have been satisfied without again repeating his charges, when he saw with what contempt all such abuse was treated. As to the attack of to-day, said Mr. N., in which he has made comparisons between himself and me, if he thought such comparisons of service to him, he might continue to make them. Mr. N. said he might, if he chose, in his turn, go into an inquiry as to the motives which actuated that gentleman, and ask whether he does not, at least, promise himself as much advantage from his political conduct, as he (Mr. N.) is in expectation of? For his part, he would assure the gentleman he wanted nothing from the Government. He would not, therefore, envy that gentleman whatever he might get from that quarter.

The opposition to this bill, it was said, must destroy an effectual defence to the country. Mr. N. was sure he stated the question fairly when he made his motion, and no such design could be imputed to him. As to the time being proper for discussing the principle, he thought it the most proper, as the discussion of such a question in a

Committee of the Whole was, as had been stated by the gentleman from Georgia, a very awkward way of doing it; and the sooner an attack of this sort was begun, the better opportunity it gave gentlemen of bringing their utmost force against it; because if members were not prepared to vote for the rejection, the discussion must again arise.

It had been said, that power had heretofore been given to the President to disband an army, when he saw no longer occasion for it, which was the same as raising it. He saw the thing in a very different light. He was not afraid of an army being disbanded too soon; but he objected to the principle of having or not having an army, according to the will of the President.

Mr N. took notice of the precedents which had been adduced in support of this transfer of power to the Executive; some of which he acknowledged were in point, but of trifling consequence, when compared with the power now proposed to be vested in the President. Besides, he was not for being bound by precedent; if that were to be the case, frequent elections of members could be of no use. And he could see no reason for vesting this power in the President to raise an army, unless gentlemen are ready for the measure, and wish to throw a business upon the President which they do not like to undertake themselves.

But the gentleman from South Carolina says this force is necessary for the Southern country. He did not believe the gentlemen from that country would ask for it; nor did he think it was paying much respect to their country to suppose that four States, whom he supposed could turn out 150,000 men, would want the assistance of 20,000 standing troops to repel Victor Hugues with his 5,000 men. He believed they would neither want this force, nor any of the militia from the Eastern States.

Mr. N. assured the gentleman from Massachusetts he was not hurried in his political conduct because he was going home. He had received information which required his presence at home, but he should not agree to the bill being committed from the apprehensions which had been named, as he believed nothing but a declaration of war, or an actual invasion, would warrant the raising of this force; for, though an enemy might not be prevented from landing, the militia would always be equal to meeting of them when they were landed. As, however, it had been suggested that despatches might shortly be expected from our Ministers, he had no objections to the bill being committed, that gentlemen might be satisfied as to their contents before they voted on it.

Mr. Rutledge thought it necessary, as the gentleman from Virginia had withdrawn his opposition to the commitment of the bill from what had fallen from him with respect to the probability of despatches being shortly received from our Ministers, to state upon what ground he had said this. [Mr. R. then mentioned the arrival of the *Pomona* at Baltimore.]

Mr. McDowell did not think the information given by the gentleman from South Carolina (Mr. Rutledge) ought to put off the decision of the question which had been under consideration; because, whether the despatches were favorable or unfavorable, he should still be against the bill. If favorable, he should think there was no immediate necessity for an army; and if unfavorable, he should be for raising it immediately. He hoped, therefore, the question would be taken.

Mr. Lyon moved an adjournment, as it would be probably ascertained, he said, by the time at which the House met to-morrow, whether Government had really received despatches by the arrival referred to, and what were their tendency. The motion was carried, and the House adjourned.

Wednesday, April 25.

Mr. Otis, from the committee to whom was referred the consideration of the propriety of amending the law with respect to insolvent debtors, made a report on the subject, with a bill, supplementary to the present law, which, it was stated, included provisions for the different petitioners who had applied to the House, except for James Greenleaf, to whom it was recommended leave should be given to withdraw his petition. The bill was twice read, and committed for to-morrow.

PROVISIONAL ARMY.

The Speaker having declared the question on the bill from the Senate for the raising of a provisional army, viz: "Shall this bill be rejected," to be first in order before the House.

Mr. McDowell said, upon further consideration, and conceiving that gentlemen might wish to see the contents of the despatches of our Ministers, which had been mentioned, before they gave their vote on this occasion, he should withdraw his opposition to the second reading of the bill.

The bill was then read a second time; and a motion being made to commit it to the Committee of the Whole on the state of the Union,

Mr. Lyon called for the yeas and nays; but only himself and another member rising in support of the motion, it was not carried.

The bill was then referred.

MILITARY APPROPRIATIONS.

On motion of Mr. Harper, the House again went into a Committee of the Whole on the bill making appropriations for the Military Establishment for the year 1798; when a supplementary report of the Secretary of War was read, in which was the following estimate of the probable expenditures in the Quartermaster's department for the year 1798:

Deputy, assistants, and clerks, in the Quartermaster's department	$4,500
Boatmen	12,000
Pack-horse men	5,000
Wagoners	7,000
Laborers	3,000
Armorers	6,000
Artificers	14,000
Pay and subsistence of the captain and crew of the sloop Detroit	4,000
Occasional repairs for the sloop Detroit	1,000
Schooner, building at Detroit	6,000

Packet boat, building at Detroit	2,000
Pay and subsistence for the captain and crew of the new schooner for six months	2,500
Pay and subsistence of the captain and crew of the packet boat for six months	1,200
Four galleys, building at Pittsburg	16,000
Pay and subsistence for the crews of four galleys, 40 men each—240 men, at —— dollars per month	28,000
Picketing in ship-yard, erecting wharf, repairing barracks, &c., at Pittsburg	6,000
Hire of expresses	6,000
Bar iron and nail-rods	4,000
Stationary	2,000
Kentucky boats	1,000
Keel boats	1,500
Fuel	8,000
Forage	20,000
Occasional purchase of oxen and draught-horses	2,000
Horses for express service	2,000
Occasional purchase of pack horses	6,500
Hire of private boats, on freight	5,000
Bags, lash-rope, pack saddles, &c.	600
Occasional purchase of carpenters' tools, smiths' tools, &c.	400
Retained subsistence	1,500
Saddles, bridles, gears, &c.	1,000
Tents, camp kettles, entrenching tools, &c.	6,000
Repairs to fortifications and barracks at Michilimackinac	5,000
Repairs to fortifications and barracks at Detroit	6,500
Erecting new barracks at Presq'Isle	3,000
To strengthen and repair the fortifications at Chickasaw Bluffs and Walnut Hills	12,000
For erecting a fort near the Western national boundary, including barracks, magazines, commutes, &c.	20,000
Erecting new barracks at Wayne	2,000
Total	$207,200
To this estimate was added another, for articles wanted by the troops and garrisons on the frontier of Georgia, transportation, &c.	29,400
Do. for the same on the frontier of Tennessee	29,400
Do. for transportation of ordnance, Military and Quartermaster's stores, medicines, &c., to Pittsburg, and other places	62,762
Aggregate	$357,762

Mr. Harper moved to fill the blank for the Quartermaster's department with $200,000.

Mr. S. Smith said, in the estimate for the Quartermaster's department, he found some pretty large items for a schooner, galleys, &c., building at Pittsburg and Detroit. He knew of no law for these. He wished to know by what authority they were built.

Mr. Harper said, the sums which the gentleman alluded to, were not included in the calculation which he had made. He did not found it on the estimate which was last received, but upon the original estimate. He did not know of any law for erecting the schooner and galleys on the Ohio and Mississippi. He supposed the Secretary of War or Quartermaster General had ordered them, for sufficient reason, but he was not acquainted with that reason. He meant to fill the blank with $200,000, which was according to the former estimate. If this should not be found sufficient, the deficiency could hereafter be made good.

Mr. Gallatin said, it was proposed, when this bill was formerly before the committee, to fill the blank with $200,000, to which he objected, and called for certain estimates from the War Department. In consequence of this call, a supplementary report had been received, in which, amongst other extraordinary charges, were estimates for building a sloop of war, four galleys, erecting fortifications, &c; all which were expenses unconnected with the Quartermaster's department, which, instead of $200,000, amounts, in the whole, to $357,762. If the estimate was to be regarded at all, therefore, the whole sum ought to be appropriated; if not, he could not see why $200,000 should be agreed to, as an appropriation of that sum would be supposed to authorize the whole expense. Mr. G. said two-thirds of the $207,000 estimated above would be expended in his district, and of course be very grateful to his constituents; but he thought it extravagant, and therefore should oppose it. He wished a number of the items included under the head of the Quartermaster's department to be appropriated for under distinct heads. He could not say that he was at present prepared to make the discrimination which he intended, and would therefore move that the committee rise, and against to-morrow he would make the necessary calculation.

Mr. Harper said, if the committee thought it necessary to have this detail, they would rise; for his own part, he did not see any necessity for it, as it could only tend to embarrass the service, which had already experienced considerable difficulty, from making the appropriations too particular. He was himself not a little surprised to find articles in the last estimate of the Secretary of War which had not been authorized by law; and he should have no objection to any course being taken to check the expenditures under this head, that would not embarrass the business of the department. He was willing to restrict the appropriation to such heads as the House should think proper, or to take any other way of restricting the expenditure. He had no idea of appropriating large sums, to be expended as the Secretary of War or the Quartermaster General pleased. $34,000 were charged for the transportation of ordnance and stores, which were sent to Pittsburg by order of the Commanding General. He wished some better information on this head, and also as to some other items. But as the average of the expenditure in this department for the last five years was $250,000, he thought $200,000 would not be too much for the present year.

Mr. S. Smith said, he was at a loss how to vote on this subject. The estimate before the committee was an extraordinary one. It appears, that under the head of Quartermaster's department, vessels of war and galleys have been built. He wished to vote for $200,000; but, if this sum was voted, the House had no security for its expenditure being confined to the Quartermaster's department; it might be employed in equipping vessels of war. Unless Congress can get the Secretary

of War to understand what they mean by appropriations; if, instead of confining the expenditure of money to the purposes for which it is appropriated, he employ it in building ships of war and fortifications; they may vote $500,000, and still be called upon to supply deficiencies.

The committee rose, and had leave to sit again.

DEPARTMENT OF THE NAVY.

Mr. Harper called for the order of the day on the bill for establishing an Executive department, to be denominated *The Department of the Navy.* The House accordingly went into a Committee of the Whole on this bill, and rose without making any amendment in the bill; but, upon the question, in the House, of its passing to a third reading,

Mr. Gallatin said, he had not proposed any amendment to this bill in the Committee of the Whole, because, what he had to say upon it, would go against the principle of the bill. He did not think it necessary to establish a Navy Department. He did not suppose our Army and Navy were at present so large as to require two separate departments. If the business was so much increased as that the persons at present employed could not do it, they might be increased. Nor did he believe, with some gentlemen, that such an institution would produce economy; on the contrary, he always found that the increase of officers was the increase of expense. Some time ago, it was said that great economy would arise from appointing a Purveyor of Supplies; but he had seen, from the time of this establishment, a great and constant increase of expense in everything which relates to supplies. Not seeing the necessity of it, therefore, he should vote against it, except good reason should be given for it; for he believed, the moment a department of this kind was established, the head of it would wish to make it of as great importance as possible, by endeavors to extend the object of his superintendence. He called for the yeas and nays upon the question, which were agreed to be taken.

Mr. J. Williams did not feel disposed to vote for this bill. It appeared to him that the Secretary of War, with officers under him, would be sufficient for the management of our naval concerns also. It was some time after the Constitution was framed, before the War Department was established. Whenever an office was established, something was always found for it to do. Soon after the War Department was established, we had an Indian war; and after that Indian war ceased, another establishment was made under the name of the Accountant's Office. If the business was increased, new clerks might be employed, but he should be against any new department. If we were engaged in hostilities, and our naval power of course increased, such an establishment might be necessary; but at present he did not think it necessary, nor did he think our revenue equal to the support of a Navy which should require such an establishment to take care of it. If this office was to superintend the construction of vessels, persons acquainted with this business might be employed under the Secretary of War. The present expense of the War Department was $18,250 a year; and though there would not be much to do in this new office, he supposed the expense would not be much less; and, besides, Congress would be importuned, from session to session, to increase our naval force. Mr. W. said he was desirous of making every defence for our country, yet he wished to keep down our expenses as much as possible. If circumstances called for going further into the business of the Navy, he should not object to it.

Mr. Sewall said, when the House was considering any subject relative to the increase of the Navy, complaints were made of the enormous expenses and of the little responsibility which attends the business; and when it has been said that the greatness of the expense might have arisen from a want of knowledge in the persons who had the care of the business, it was said that defect ought to be remedied. This department is intended to do that, and, by the expense of a few hundred dollars, he had no doubt thousands would be saved. When talking about vessels, it was complained that too great an expense was incurred on this object; now it is said there is no object for the proposed officer to attend to. But the gentleman from New York (Mr. Williams) was afraid, if this office was established, it would be the means of increasing the Navy. This certainly could not be done, contrary to the will of Congress.

He thought there were obvious reasons for the establishment of this department. It was well known that an officer might be well acquainted with the business of the army, without knowing anything about a navy; and a man employed at the head of such a department ought to have some knowledge of the business committed to his care. Mr. S. said, however well the present Secretary of War might be acquainted with army concerns, he believed he was not conversant with naval matters. In consequence of this, he had a number of agents employed under him. Indeed, the War Department had so much business on its hands, as not to be able to pay a sufficient attention to our Naval Establishment. He therefore believed it was necessary to make this new establishment, especially as the Navy Department was likely to be considerably augmented.

Mr. S. Smith believed, after all the struggles which had been made on this subject, it would at length be found necessary for the United States seriously to turn their attention to the establishment of an efficient naval force; and the sooner gentlemen could bring their minds to this, the better it would be for the general good. If this proposition had been brought forward at the commencement of the session, he should have thought it unnecessary; but, from the increase which had been made during this session, he thought the establishment proper. $950,000 had been appropriated for providing twelve vessels; a number of galleys were also contemplated. A ship of war or schooner, it appears, has been built on the Lakes, and some galleys on the rivers. These, with the frigates and cutters, form an establishment which will require a naval man to superintend it. An expenditure of two millions of dollars, he supposed,

would be authorized this session; and a man knowing something of naval architecture will be able to save more in the course of this year to the United States than will pay ten years of the expenses of this office. A merchant going into the building of vessels without a knowledge of the business will find the truth of this fact. The great expenditure attending the building of the frigates, he supposed, had been chiefly owing to the want of such an establishment as the present. The gentleman from New York had stated the expense of the War Department at $18,250; but one half of that expense was incurred in the office of the Accountant of the War Department; and as there would be no need of a new Accountant, the expense could not be doubled. The duties of the War Department are greatly increased, and might be further increased during the present session; and an expenditure of the kind proposed might save the throwing away of thousands of dollars.

Mr. Macon said, the arguments in favor of this bill were derived from a want of knowledge of naval affairs in the War Department. He thought that might be supplied without the establishment of a new department; but he believed the building of the frigates had mostly been carried on under the direction of the captains who were to have the command of them. More clerks had been added to the War Department, in consideration of the business which the Navy had occasioned. He believed the more officers were appointed, the more money would be expended.

Mr. Otis said, the gentleman from New York had opposed this bill on different grounds from the gentleman from Pennsylvania. He did not make any reply to the gentleman from Pennsylvania, because he expected opposition from him, and some others, to every measure which had the defence of the country for their object; and, as the session was drawing to a close, he thought it best to have as little debate as possible, and that the sooner the question was taken, the better; but when he saw a gentleman rise in opposition to it, upon whose support he calculated, he was apprehensive lest it might have an effect upon other persons on whose support he also relied. The gentleman from New York seemed to apprehend some new and heavy expense was to be incurred, and that some greater caution was now necessary than heretofore. What saving, then, does he mean to make by opposing the establishment of this office? Since he supposes the same clerks will be sufficient, it will only be the salary of the chief officer, which, Mr. O. supposed, would be $3,500—a greater saving than that which would be made by such a person in every ship built or purchased. Taking the expense of our Naval Establishment at one million dollars a year, it would only be an expense of one-third per cent., which every one must allow was a mere trifle, to have the money of the public well expended. The services of the War and Navy Departments were, he said, perfectly distinct. The duties of the War Department became every day more arduous, and whatever gentlemen may think, they must become still more so. This opposition coming from a friend, he could not suppose it arose from a bad motive, but merely from a narrow conception of what is conceived to be the agricultural interest. Agriculture and commerce, said Mr. O., are twin sisters, and cannot live separate from each other; they must live together, or expire at the same moment. It was the duty of gentlemen representing agriculturists thus to speak to their constituents. It was an axiom realized by every politician in the world. The fact was, that everything spent upon the Naval Department was so much saved, in which the agricultural part of the country partake very largely.

Mr. O. said, it was necessary, even for the sake of appearances, to establish an office of this kind. We ought not only to prepare measures of defence by sea and land, but, in doing this, we ought to do it in conformity to the opinion of the European world. He thought $5,000 a year would be well expended in purchasing the good opinion of the European nations in this respect, and particularly that of France. Though our state was at present that of an infant, it would in time become that of an Hercules.

Even if the present storm should blow over, and our naval power should not be wanted, and the theory of the gentleman from New York should overcome his theory, the establishment of this office could at any time be suppressed, and the money expended in it would be more than saved, by the additional information and care employed in our naval concerns, as it was a thing impossible for one man to undertake the business of the War and Navy Departments. As well might a merchant be set to do the business of a lawyer; a lawyer that of a physician; a carpenter that of a bricklayer; or a bricklayer that of a carpenter. He hoped, therefore, as he had heretofore had the pleasure of voting with the gentleman from New York, he should also have it on this occasion; whilst gentlemen who believe that no danger threatens us, and who are disinclined to take measures of defence, may call the yeas and nays, and find themselves in a minority as usual.

Mr. T. Claiborne never remembered to have heard such language as had fallen from the gentleman last up. He laments, said Mr. C., that a gentleman who usually voted with him should dare to think for himself. Are gentlemen's opinions and language thus to be circumscribed? [Mr. O. explained.] Mr. C. continued, the gentleman was willing that all questions should now be taken without debate. Does this mean, said he, that there are a majority of members in this House who must always be in the right, and a minority always in the wrong? If this be the case, they had better dismiss the minority, and do the business themselves. Were not gentlemen any longer to express their difference of opinion? Would this be the way to keep the Government together, or to preserve harmony in the country? If this were to to be the situation of things, he should regret it with tears in his eyes. He had himself no mathematical certainty that any opinion of his was right; nor did he think the gentleman from Massachusetts ought to expect men to bow to his. Such an assumption led to mischief

of a serious kind. What! to say we have a majority, and therefore we will have no debate. [The Speaker said, no such expression had been made use of; if it had, he should have checked it.] Had it not been for an expression of this kind, he should not have risen on this question. He wished to hear every man deliver his opinion freely. Mr. C. did not believe the bill to be a proper one, and he should therefore vote against it.

Mr. McDowell said, he should be opposed to the bill, if he had no other objection to it than that it went to countenance the idea, according to the gentlemen from Maryland and Massachusetts, that this country must go into the establishment of a large naval power. The great saving to be derived from this office, he understood to be from savings in the building of vessels; but, as the twelve vessels which were lately voted are proposed to be purchased, ready built, he supposed this reason did not apply at present. If there was no intention, therefore, (which he trusted there was not,) of carrying our Naval Establishment to any considerable extent, he could see no occasion for the creation of this office. For, if this Secretary of the Navy was appointed, he would also be obliged to rely upon others, in a great degree, for information.

But the gentleman from Massachusetts (Mr. Otis) says the establishment of this department will operate as a defence to the country, by favorably impressing the minds of foreign countries with our force; and he lamented the loss of the vote of one of his friends, and reflected upon all those who differed from him in opinion as being unfriendly to himself and the country. He could not discover how the passing of this bill would defend the country. If sound or declamation could alarm France, or subdue her armies, the gentleman might have some share of credit for his services; but he supposed other means would be necessary, if an attack was made. But how could that gentleman think of charging others in the manner he had done? Is there a man, said he, who votes in opposition to him, who is actuated by the motives with which he has charged them? No man really believes it. But, because members do not choose to go all lengths with him to involve the country in a war, which may go to the destruction of the liberties of it, they are thus calumniated. They are willing to go all reasonable lengths; and if there were any attack made upon this country, he believed they would be much more ready to meet the enemy than that gentleman. Indeed, many of those members whom he abused had been the means of raising the Constitution and Government under which he has the liberty to legislate. Such reflections could have no effect upon those against whom they were made, where their characters were known: they were meant to produce effect in other parts. He thought enough of this calumny had heretofore passed, without again introducing it. It would not lessen the credit of the House if no more was heard of it in future.

Mr. Harper said, the naval defence which this House thought necessary for the service of the country having been voted, he could not agree with those gentlemen who consider this as a question of defence. He thought it a question of economy, and, in this view, he should reply to some observations which had been made upon it.

He believed our naval defence would be much more efficaciously and speedily provided by means of the proposed establishment than if the bill was rejected. So far, indeed, it is a question of defence, but only collaterally so. The point of view in which this bill should be considered, is simply this: will it not effect with more speed and economy the marine defence now existing, as well as that contemplated? He himself had no doubt as to the fact. Indeed, he would ask the gentleman from North Carolina, whether, if he were about to erect a distillery on his place, he would employ his overseer to do it, who, though he might understand the business of his farm very well, knew nothing of building. He certainly would not; and if this would be bad policy in an individual, it would be equally so in a nation. Besides, the expense would be so trifling as only to amount (as had been stated) to one-third per cent., though traders were in the habit of paying five per cent. to have their business done.

But it was said, that if an office of this kind was established, it would soon create business. But the business is already created. We have, said he, already a marine of fifteen ships of war. This, he knew, was comparatively a small force, but in the establishment of which we shall yet expend two millions of dollars, and the support of which will amount at least to $700,000 or $800,000 annually. When the War Department was first established, the object of its care was not, he believed, of equal magnitude.

These two departments, Mr. H. said, had no connexion with each other. No nation was without two such departments, and our own experience had shewn the want of a Naval Department. Therefore economy, the practice of individuals, the common practice of other nations, and our own experience, concur in support of this bill.

Mr. R. Williams was ready to acknowledge he did not believe it could ever be the interest of this country to go into the establishment of a large naval power, and therefore he should not be in favor of the present bill on that ground. Nor did he think there was any good reason for dividing the military and naval business, except there was more than could be attended to by the present establishment. But it was said the business was of a different nature, and therefore it ought to be in separate departments, as one man cannot be supposed to understand both concerns. That objection would apply to any of the other departments, and whenever this rule of dividing business shall be adopted, we shall get men of inferior talents to do it. When the Government was established, it was thought that a War Department would be equal to the military and naval concerns of this country. But it was said a navy was not then thought of; it was however doubtless thought of when the frigates were ordered to be built, and it was not then gone into. It was, however, said that

much money had been lost for want of an officer of this kind. This was mere assertion, and it was by no means clear that the business would be done better with such an officer than without him.

But it was said, it was necessary to go into this measure for the sake of appearances. To whom are these appearances to be made? Not to our own people, but to European nations. The gentleman from Massachusetts says we ought to adopt their opinion upon this subject. He viewed a policy of this kind the most fatal of any other to this country. He believed that the less we had to do with European politics, and their mode of administration, the better. The only object in view, with that House, ought to be the interest of their own country. What, said he, is the situation of those countries which have gone into the establishment of large navies? They are involved in debt which they never can, and never will, pay.

Mr. W. said, when he considered that almost every day some new construction was either given to the Constitution, or some mode of administering the Government altered; when they were told, that, though such a thing had been understood so and so for two or three years, it would bear a different construction; and now, when he saw they were about to add a grand department to our Government, not contemplated by the Constitution, he owned he was alarmed. Whenever he saw the business of the Navy so extensive as to require a separate department, he should vote for it; but he thought it would not be wise to go on with the establishment of new departments before there was business for them to do; because whenever such a department was constituted, he had no doubt business would be found for it to do, as the officer at the head of it would be continually drawing out and laying before Congress plans for its increase.

As to what had been said about the line of conduct adopted by gentlemen in this House, he should say nothing about it. He thought too much had already been said on that subject, and he believed it would be best to suffer such reflections to refute themselves.

Mr. J. Williams said, the only point in dispute was, whether a separate office should be established for the business of the Navy, or whether it should be put under the care of a superintendent in the War Department. He wished the gentleman from Massachusetts (Mr. Otis) had spared his observations until he had heard those of the gentleman from Maryland, (Mr. S. Smith.) It had appeared to him that a superintendent in the War Department would have been sufficient, and he yet thought so. He did not think the business of the Navy was so great as to require a separate establishment. There was more business in the War Department in 1794 than at present, and nothing was then heard of a new department. He should not have opposed this measure if he had not been convinced that every measure taken to increase the Navy beyond its present establishment would have a bad effect on this country. It had been proposed last Winter to purchase all the live-oak timber in the Southern States; afterwards a proposition was brought forward for the establishment of navy yards. Those measures had been defeated, and they were now called upon to establish a new department for this favorite object. He was not willing to do it. The gentleman from Massachusetts said there would only be a difference between making a new office, and continuing to do the business in the War Department, of the salary of the chief officer; but if he looked at the second clause of the bill, he would find himself mistaken, as there was in that provision for a principal clerk, and such other clerks as he shall judge necessary: so that he may have a clerk for every port in the Union, if he pleases. If he represented, as the gentleman from Massachusetts does, a commercial interest, he might be as favorable to a Navy as him; but as that was not the case, he was opposed to it. He gave his approbation to such appropriations as he thought necessary; and if, in this instance, he differed in opinion from the gentleman from Massachusetts, he should stand excused. He believed with that gentleman, that the commercial and agricultural interests were closely connected; they differed only as to the extent to which it was proper to carry our naval defence. He did not wish, however, at present, to reject the bill. He believed it might be amended, and he had no objection to the question being postponed for that purpose.

Mr. Livingston said, he was almost tempted to smile at the arrogant pretensions of some gentlemen in this House, in their treatment of others, at least their equals on this floor, whatever they might be out of doors, being equally with them Representatives of the people. They were told by the gentleman from Massachusetts (Mr. Otis) that opposition was expected, was looked for, from certain gentlemen; that no argument was necessary on the occasion, because those members who were opposed to all measures of defence, would oppose this measure also; but that those who had originated the measure would carry it into effect. This simple declaration of a strength of party, was also attended with a very handsome rebuke of one of his colleagues (Mr. J. Williams) for having dared to doubt the propriety of the measure before the committee. He was happy to find this rebuke had produced its effect, and that though his colleague was at first very decidedly against the bill, he was now disposed to doubt; and the effect of another rebuke, he supposed, would obtain his vote in favor of the new establishment. For his own part, neither the rebuke, nor the preliminary observations with which it was accompanied, had produced any effect upon him. He did very much doubt the propriety of the measure; for, although there was a great deal of business in the War Office, and the same person could not be supposed to be acquainted with military and naval affairs, if a shipbuilder was to have the appointment, he could not think such a person fit to be one of the great council of the nation; and it must be recollected that the person who holds this office will become one of the counsellors of the President on all great concerns.

But if the idea was adopted that no person in the Government was to have business under his direction which he does not perfectly understand, this division must not stop here. Could it be said that the Secretary of War had a perfect knowledge of everything under his direction, except what related to the navy? Certainly not. To be so, he must not only be a perfect engineer, but be acquainted with the construction of arms. To carry this idea to its full extent, it would not only be necessary to have separate departments, but also a great variety of subdivisions; they must have, he supposed, commissioners of gun-barrels and of ramrods.

But it was said that the establishment of this new office would be the means of saving money; and the excess of expenditure on the frigates was pointed at as a proof of the want of an officer of this kind; but he believed if other business was looked at which had been immediately under the direction of the Secretary of War—the frigate for the Dey of Algiers for instance—it would be found to have been well and speedily done, which was a proof that the Secretary of War could attend to that business.

It was said that this establishment was necessary, in order to give an appearance of defence to Europe, as if the establishment of a Department of the Navy was to have the effect to do away all our past and to prevent future injuries. But our appearance to Europe was not all; the example of European countries was mentioned. All were said to have a Marine Department. The practice of Europe, Mr. L. said, had proved itself to be a bad one, as the navies of those countries had proved the ruin of them.

Mr. L. would make no reply to the insinuations thrown out against gentlemen, which represented them as being opposed to every measure of defence, as not a question came before the House in which the same unfounded charge had not been repeated; and he supposed, by and by, that a new post office could not be proposed, or the most trifling business done, without a repetition of those charges.

The yeas and nays were taken upon this bill going to its third reading, and decided in the affirmative—yeas 47, nays 41, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, junior, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Tompson J. Skinner, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

COMPENSATION OF CLERKS.

On motion of Mr. Harper, the House then took up the amendments of the Senate to the bill respecting the compensation of clerks.

Mr. Harper stated the effect of these amendments to be, to give to the Secretary of the Senate and the Clerk of that House, an addition of $250 each to their present salaries. He recommended an agreement to these amendments as reasonable, as the salaries of these officers were fixed at the same time at which the salaries of the clerks and inferior officers were fixed, which had been advanced.

Mr. Gallatin inquired what the present salaries of these officers were. It was answered $1,500 a year, and two dollars a day during the session of Congress. Mr. G. thought this sufficient, and that since their salaries had not been increased at a time when living was much dearer than it is at present, or likely to be, he could not consent to the proposed advance.

The question was taken by yeas and nays, and negatived—36 to 28.

Thursday, April 26.

The bill for establishing an Executive Department, to be denominated the Department of the Navy, was read the third time and passed—42 to 27.

Mr. Thomas presented a petition from 5,000 inhabitants of Philadelphia and Liberties, expressive of their approbation of the conduct of the Executive in its negotiation with France, and a determination to support every measure which may be thought necessary by the constituted authorities for the support of our Government, Constitution, and independence. A very large body of merchants and others attended the House with this petition.

Mr. Craik presented a set of resolutions which had been agreed to at a public meeting at Georgetown, approbating the measures of the Executive with respect to France, and expressing the firmest reliance on the councils of the nation.

MILITARY APPROPRIATIONS.

On motion, the House again resolved itself into a Committee of the Whole on the bill appropriating for the Military Establishment for the year 1798; when, the question for filling the blank in the Quartermaster's Department with $200,000 again recurring,

Mr. Harper said it would be recollected that

when the House last rose it was for the purpose of affording time to make some discrimination in the appropriations. The gentleman from Pennsylvania (Mr. Gallatin) had done this, and it appeared to him correctly. Mr. H. enumerated the different items, and the sums calculated for each. The vessels on the Lakes, he had no doubt, would be an useful object, and ought to be provided for, but not under the Quartermaster's Department. He would introduce it as a distinct item; but he did not know under what authority the vessels on the Ohio and Mississippi were constructed, or for what purpose they were wanted. Perhaps it might have been for the lower part of the Mississippi, from the idea of a rupture in that quarter; but though this might have been the case, he was far from admitting the principle that the War Department had a right to determine the propriety of such a measure. He believed, if such an expense was necessary, an appropriation ought to have been made by Congress. He was therefore willing to drop this item altogether. It was stated that the construction of these vessels was commenced; he was notwithstanding willing that it should be suspended, until some inquiry was made into the business, and Congress shall pass a law to authorize the expenditure. He could not say these vessels were not necessary; but he was willing to say they should not be provided for at present. Mr. H. again objected to the expense of $34,000 for the transportation of ordnance and stores from Philadelphia to Pittsburgh. As Congress had no assurances of these being wanted, he should be willing to omit this item also. He wished likewise to inquire whether ordnance could not be procured in that country, without being at so great an expense in transporting them from Philadelphia.

Mr. H. still wished the blank to be filled with $200,000. The former estimate was $188,000; but he believed it would be well to appropriate the even sum he had named, as the average of the expense of the five last years in this Department (as he had already stated) had been $250,000.

Mr. Sewall wished to know whether the gentleman from South Carolina had had any conversation with the Secretary of War respecting the vessels constructing on the Lakes and the Ohio? He supposed it was not expected that an act should be passed to enable the President to replace vessels used as transports, when worn out. Perhaps it might be necessary to arm these transports occasionally, as they were subject to the attacks of the Indians.

Mr. Harper said, he did not object to the vessels on the Lakes; he meant to propose a separate appropriation for them. It was to the vessels on the Ohio and Mississippi that he objected, which were not wanted for transportation.

Mr. Craik did not think the committee were prepared to say these vessels were not wanted. He had so full a confidence in the Secretary of War that he was ready to vote for all the items which he had recommended. He wished, therefore, that the decision upon this question might be postponed until further information was received on the subject.

The rising of the committee was advocated by Messrs. Craik, Dayton, and Rutledge, and opposed by Messrs. Harper, S. Smith, and Gallatin. The question for rising was negatived.

Mr. Macon said, he was at a loss how to vote on this subject. Whatever sum was appropriated for this Department, there was always a deficiency; it was not, therefore, worth while to be very particular.

Mr. Gallatin moved to fill the blank with $150,000, which was the sum he had proposed on a former day, since which, he said, the House had received a number of statements from the Secretary of War, in order to induce a larger appropriation. As there seemed to be a general concurrence of opinion to restrict the expenses of the War Department, he wished some gentleman, better able to do it than himself, would compare the number of troops in service with the sums there required. Mr. G. noticed a number of items which appeared to him unaccountably extravagant, and contrasted the very great expense incurred on the Northwestern frontier with that of the troops employed on the seaboard. Mr. G. also took a view of the expenses under this head from the year 1789 to the present time, in order to show that $150,000 would be a sufficient appropriation.

After commenting pretty freely and at large on the estimates from the War Office, Mr. G. said, he believed there was some radical defect with respect to the connexion subsisting between the Accountant's department, the Treasury and War Departments, which prevented a proper investigation of accounts. So far as relates to the Treasury Department, the accounts were always very clear, and there was no ground of complaint; but, from the connexion which subsists between the War Department and the Accountant's department, there seemed to be a want of responsibility.

In the details which had been laid before the House, Mr. G. said, he found items under the head of contingencies, which he should never have expected to have found there; one was for the pay of an inspector of the troops and garrisons of the United States, at a salary of sixty dollars a month. He could not say such an officer was not necessary; but if he was, he would say he ought to have been provided for by law. The other item was for a much larger sum, viz: the pay of an engineer of the fortifications of the United States, at a salary of three thousand dollars a year, which was a salary greater than that of the Secretary of War. It appears that this engineer was engaged for three years; but, after he had been some time in the service, two thousand dollars were given him over and above his pay, to relinquish his contract.

After a few observations from Mr. Dana, in favor of the Secretary of War,

Mr. Shepard rose, and went over the different items contained in the statement read yesterday, particularly the boatmen, $13,000; the pack-horsemen, $5,000; the wagoners, $7,000; the laborers, $3,000; the armorers, $6,000; the artificers, $14,000; hire of expresses, $6,000; and fuel, $8,000. He could not tell how so many boatmen, pack-horsemen, and wagoners, could be employed (for it was not for boats, pack-horses, and wagons, but for the men alone;) and what so many laborers could be employed in he could not imagine. He did not see why the soldiers could not do all the labor the Army had to do themselves. When he was in the Army, he was at no expense like this. And how the repairing the arms for three thousand men could cost $6,000 he could not tell; nor could he see how $14,000 could be expended on artificers. If we were to be involved in war, it would not do to expend money in this manner. It was easy to write down thirty, fifty, or one hundred thousand dollars for this or that, but when the taxes came to be laid, the money would not be so easily raised. Mr. S. passed over a number of articles, till he came to fuel. He thought $8,000 a year for fuel, in a country where the trees were ready to fall upon them, was a very exorbitant charge. While he was in the Army, it never cost him sixpence for fuel. The United States had better purchase the land upon which the timber grows, at once; they would be able to get it for a much less sum. If these expenses were to be incurred for five thousand men, what would be the expense of an Army of thirty thousand men? This estimate, he was sure, must be much too large; and it became Congress to be careful how they gave encouragement to such charges as these, for the country would scarcely be able to support the expense of any considerable establishment if more economy was not used.

The question on filling the blank with two hundred thousand dollars, was put, and negatived without a division.

Mr. Craik moved to fill the blank with two hundred and twenty-four thousand dollars, in order to take in an item recommended by the Secretary of War. Mr. C. thought the character of this officer had been very illiberally and very unfairly attacked by the gentleman from Pennsylvania. If this gentleman had acted improperly, he might be called to account, when he would have an opportunity of speaking for himself. [The Chairman said, these remarks were not in order; no such charges had been made.] Mr. C. thought the observations of the gentleman to whom he alluded must have been so understood.

The motion of Mr. Craik not being seconded, it fell to the ground.

Mr. Gallatin moved to fill the blank with $150,000. He said that, with respect to the integrity of the Secretary of War, he did not doubt it in the least; as to his talents he had no opportunity of forming a correct judgment of them; he was, however, some judge of accounts, and he saw enough of them to authorize the declaration which he had made as to the improper connexion of the different departments. He had spoken of facts only.

The question for filling the blank with $150,000 was put, and carried without a division.

After agreeing to several other items, amongst which was one for the vessels on the Lakes, the committee rose, the House agreed to the amendment, and the bill was ordered to be engrossed for a third reading.

PRESENTS TO MINISTERS.

The Speaker said he had received a letter this morning, signed Thomas Pinckney, which he was desired to lay before the House. It was accordingly read. It stated that when he (Mr. Pinckney) had concluded the late treaty with the Spanish Government, the Spanish Minister, the Prince of Peace, informed him the presents usually given in such cases would be prepared for him; and that also when he took leave of the British Court, the like information was given to him by the Minister there. To both of which he replied, that the Constitution of the United States forbade its Ministers from receiving any present from any foreign Prince or State, without the consent of Congress; that in due time he would ask that consent and act accordingly. This letter asks for the determination of Congress.

It was moved by Mr. Rutledge, to refer this letter to a select committee.

Mr. Macon wished it to go to a Committee of the whole House.

After some observations, the latter motion was negatived, and the former carried.

Friday, April 27.

On motion of Mr. W. C. Claiborne, the House went into a Committee of the Whole on the bill directing the payment of a detachment of militia, for services performed in the year 1794, under the command of Major James Ore. The bill was reported without amendment, and ordered to be engrossed for a third reading to-morrow.

A bill from the Senate for the relief of the legal representatives of Samuel Lapsley, deceased, was twice read, and referred to the Committee of Claims.

Mr. S. Smith reported a bill for continuing in force the first section of an act respecting revenue cutters; which was committed for Monday.

The Senate, by message, informed the House that they persisted in their amendments to the bill respecting the compensation of clerks; and that they had passed a bill to authorize the President to purchase or build a number of small vessels, to be employed as galleys, or otherwise.

LEAVE OF ABSENCE.

Mr. Harper said, he wished to lay a resolution upon the table on a subject which every day appeared more striking and improper. He alluded to a very alarming abandonment of duty by the members of this House. He hoped this charge would not be considered as too harsh against members who were now leaving the public business at this important crisis, when very considerable arrangements remain to be made, particularly on the subject of finance. He need not inform the House that there was now little more than a quorum of members present; and if the present practice continued longer, the public business would be to do, and there would be no Congress to do it.

In order to put a stop to this evil, he proposed the following resolution:

"*Resolved*, That no member of this House, during the remainder of the session, shall have leave of absence, except in case of sickness."

It was ordered to lie on the table.

MILITARY APPROPRIATIONS.

The bill making appropriations for the support of the Military Establishment for the year 1798, was read the third time; when

Mr. Gallatin moved a recommittal of the bill, in order to correct a mistake which had arisen from the War Department having made a subtraction twice over; which was carried. The House went into a Committee of the Whole on the subject; the error was corrected, and the bill was re-engrossed, and passed.

ORGANIZING THE MILITIA.

The bill for newly organizing the Militia being the order of the day,

Mr. Otis again moved to discharge the Committee of the Whole from the further consideration of this bill; which was negatived, there being only 22 votes for it.

Mr. Rutledge then moved to postpone the consideration of this bill until Monday week, in order to give time for a decision upon the bill authorizing a provisional army. This motion was negatived, there being only 20 votes for it.

The House then resolved itself into a Committee of the Whole on the Militia bill, and made some further progress therein. The committee rose and had leave to sit again.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Baldwin, from the committee appointed to inquire into the authenticity of a letter of General Clarke, of Georgia, which appears in the documents relative to the conspiracy of William Blount, intimating that an attempt had been made to engage General Clarke in favor of the British in an attack against the French and Spaniards, reported certain answers to interrogatories which had been put to General Clarke, in which he acknowledges the letter to be his, and states that a person of the name of William Carrick, who called himself a British captain, offered him a salary of £10,000 from the British Government, if he would engage in the British service against the French and Spaniards; and that after he had refused the proposal, he asked him if any sum would induce him to join in the service proposed, which being answered in the negative, the said Carrick extorted from him a promise that he would not disclose this proposal. The General states that he knows of no other proposal made to any other person. This report was ordered to be printed.

ORGANIZING THE MILITIA.

The House went again into a Committee of the Whole on the bill for newly organizing, arming, and disciplining the Militia of the United States; when, after considerable discussion,

Mr. Dayton (the Speaker) moved that the committee rise, in order that it might be discharged from a further consideration of this bill, as there appeared an evident disposition against going into an amelioration of the Militia system at present; and howevery salutary the proposed regulations might be in a state of tranquillity, he did not think it would be proper, under the present circumstances of the country, to derange the whole Militia system to so great a degree as would be occasioned by a change of officers and of men from one company to another. Until the present state of things, therefore, had either blown over or become exhausted, he thought it would be best to suffer the Militia to remain on its present footing.

The committee rose accordingly, was discharged, and the bill was recommitted.

Monday, April 30.

The bill directing payment to a detachment of militia for services performed in the year 1794, under Major James Ore, was read the third time, and passed.

The amendments of the Senate to the bill empowering certain officers and others to administer oaths, were taken up and agreed to.

A bill was received from the Senate for the relief of Joseph Nourse, and was read the first time.

On motion of Mr. Otis, the House went into a Committee of the Whole on the bill supplementary and in addition to an act for the relief of persons imprisoned for debt; and, after some discussion, and several amendments made, the committee rose, was discharged from a further consideration of the subject, and the bill was recommitted.

Mr. Rutledge called for the reading of the bill from the Senate to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys or otherwise. It was read, and referred to the Committee of the Whole on the state of the Union. The number of vessels is not to exceed ten, and the money to be appropriated not to exceed $80,000.

On motion of Mr. Livingston, the House went into a Committee of the Whole on the report of the Committee of Claims on the petitions of Alexander Macomb and William Edgar. These petitioners, it appears, were purchasers of certain lands in the Northwestern Territory, sold at New York in 1787, under the ordinance of Congress of the 20th of May, 1785. The memorialists having neglected to pay the instalments according to the terms of the contract, the first payment which they made became forfeited. They request that Congress will either permit them now to accomplish the payment of the purchase money on the original terms, and thus obtain a grant of the whole quantity of land purchased, or a provision by law to grant to them so much of the said land as will be in the proportion which the sum heretofore paid bears to the whole amount of the purchase money. Several of the lots for which these persons made their contract having been sold at Pittsburg, in pursuance of the act of the 18th of May, 1796, the committee states, that if

the prayer of the petition should be granted, it will be necessary to indemnify the purchasers by granting other lots of equivalent value. But as the petitioners have shown no reason why they did not fulfil their contract, excepting that their funds were otherwise employed, and as the United States must have incurred considerable expenses in the negotiation when the contract was first made, the Committee of Claims can find no reason why the forfeiture to which the petitioners have subjected themselves by the terms of their contract should be remitted; they, therefore, report it as their opinion, that the prayer of the petition ought not to be granted. The whole purchase money was $88,764; one-third, viz: $29,669 had been paid, and by the contract forfeited.

This report was advocated by Messrs. D. Foster, Bayard, Macon, and Allen, and opposed by Messrs. Livingston and Harper. It was agreed to, there being 51 votes in its favor. The House concurred.

On motion of Mr. Harper, the House went into a Committee of the Whole on the report of the Committee of Claims on the petition of Captain Thomas Lewis. The petitioner prays for extra pay as an Aid-de-camp to General Wayne, for a certain time. The committee report that the General had already two Aids (which was all that he was entitled to) and that it was a settled principle with respect to the Army not to pay an officer in two capacities. As it appeared by the discussion that Captain Lewis had been employed by General Wayne as an additional Aid, and that the principle spoken of by the Committee of Claims had heretofore been departed from, the report of the committee was disagreed to, and a resolution directing the accounting officers to settle his account, was agreed to. The House concurred in the report, and a bill was directed to be brought in accordingly.

PROVISIONAL ARMY.

Mr. Sewall moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill authorizing the President of the United States to raise a provisional army, in order that it might be referred to a select committee. Agreed to, and

On motion of Mr. Sitgreaves, it was referred to the Committee for the Protection of Commerce and the Defence of the Country.

Mr. Sewall said, as Mr. Livingston, who was a member of the committee just named, had obtained leave of absence for the remainder of the session, it would be necessary to add a member to that committee in his place; which was agreed to, and Mr. Brooks was added.

Mr. Davis moved to meet in future at ten o'clock instead of eleven in the morning. The motion was lost, only 21 for it.

Tuesday, May 1.

Mr. D. Foster reported a bill for the relief of Thomas Lewis, which was committed for to-morrow.

On motion of Mr. D. Foster, the House went into a Committee of the Whole on the report of the Committee of Claims on the petition of William Parsons, who served on board the Ranger sloop of war, in our war with Great Britain, and who states that he was out of this country from the time of signing the preliminaries of peace till after the act of limitation foreclosed this claim. The report was favorable. It was negatived, there being only 18 votes for it. The committee rose and the House concurred in the decision.

On motion of the same gentleman, the House went into a Committee of the Whole on the report of the same committee on the petition of James Perry, for himself and partners, who prays for compensation for certain supplies taken from their iron works at Spotiswood, in New Jersey, in the course of the war, on the ground of himself and partners having been out of the country since the conclusion of peace. The report of the committee was unfavorable, and was concurred in by the Committee of the Whole and by the House.

POST OFFICES AND POST ROADS.

Mr. Sprigg called up the report of the committee appointed on the subject of Post Offices and Post Roads. It was read, and states that it will be inexpedient to make any alterations in the law relative to Post Offices and Post Roads at present.

Messrs. Dawson, Sprigg, and W. Claiborne, each expressed their disapprobation of this report, and concurred in blaming the committee for having so long delayed making a report, and for having now reported in this way, though very many petitions had been presented for the alteration and addition of roads, and as there was a surplus of revenue, arising from the Post Office, of $50,000.

Mr. Thatcher did not think the committee were chargeable with delay, for, as they conceived, from time to time, that there was not sufficient ground for making any change in the present law, they waited to see whether anything should arise to change that opinion, and when the committee had been applied to by the gentlemen who had expressed their disapprobation of this report, they were repeatedly desired, if they thought the committee ought to report, to call upon them by way of resolution. Mr. T. said, upwards of 3,000 miles of new road had been applied for, and from the best information he could get, not any road of fifty miles in length would pay one-half the expense of carrying the mail. Upon an average, he believed, the roads applied for would not pay 15 per cent of the expense. A few shorter roads might pay more than half the expense. He was as desirous as any gentleman of extending the post roads as fast as possible; but he thought once in two years, which had been the custom heretofore, was often enough to take up this subject. Seven thousand miles of new road had been ordered to be made at the last Winter session, which, he believed, would not pay 20 per cent. of the expense; and as he believed there were ten thousand miles in the United States which had as good a claim for post roads as the three thou-

land applied for, and though there was at present a surplus of revenue, (not so great, however, as had been stated) as he was apprehensive from the conversation he had held with the Postmaster General on this subject, that the circumstances in which this country might expect to be involved, would lessen the revenue arising from the Post Office, he did not think it expedient to go into the subject at present. Mr. T. said he was perfectly unconcerned as to himself whether the report was agreed to or not; but if it was disagreed to, and referred to the same committee, he should not think it right now to make any other report on the subject at present.

Mr. HARPER, Mr. GALLATIN, and Mr. BLOUNT, each expressed their disapprobation of the report; and Mr. MACON, and Mr. T. CLAIBORNE (the other two members of the select committee) their opinion in favor of it.

The question on agreeing to the report was put and negatived—38 to 31.

Mr. DAWSON moved that the subject be recommitted. Agreed to, and a committee of seven members appointed.

NAVAL EXPENDITURES.

Mr. LIVINGSTON, from the committee appointed to inquire into the expenditure of money in the Navy Department, informed the House that the committee had received a number of statements from the Head of the Department, which he was desired to move to have printed.

Mr. OTIS thought the printing of so large a volume of papers, which he did not think one member in fifty would ever read, would be a useless expense.

Mr. GALLATIN advocated the printing, assuring the gentleman from Massachusetts he should read every one of them, as he was desirous of knowing how the money which had been appropriated for this object had been expended.

The motion was carried.

PURCHASE OF SMALL VESSELS.

On motion of Mr. HARRISON, the House went into a Committee of the Whole on the state of the Union, for the purpose of taking up the bill from the Senate for authorizing the President of the United States to build or purchase a number of small vessels, to be equipped as galleys, or otherwise; which being agreed to, the bill was gone through without debate or amendment. The committee rose, and the bill was ordered to be read a third time to-morrow.

ADDITIONAL REVENUES.

Mr HARPER, from the Committee of Ways and Means, made a report, in pursuance of a resolution referred to that committee on the 6th ultimo. directing them to inquire and report whether any, and what, additional revenue will be necessary. The report was read, as follows:

"That, in their opinion, it will be necessary to raise the sum of two millions of dollars by a tax on lands, houses, and slaves, to be apportioned among the several States, according to the Constitutional rule, and on the basis of the last census; the mode of assessment and collection to be uniform throughout the United States.

"This opinion they have founded on a view of the probable amount of the ordinary expenditure of the present year, and of revenue from the existing taxes, presented by certain statements from the Secretary of the Treasury; which, together with the letter of the committee to him on the subject, and his answer, are subjoined to this report.

"From these statements, it appears that the ordinary expenditure of the present year, making an allowance of one hundred thousand dollars for occasional grants, and one hundred and thirty thousand for reimbursing the unfunded registered debt, and the payment of old accounts, will amount to six millions nine hundred and twenty-six thousand four hundred and sixty dollars.

"And that the revenue from existing taxes, stating the impost and tonnage duties at seven millions of dollars, and the internal duties at seven hundred thousand dollars, will amount to eight millions eleven thousand eight hundred and ninety-seven dollars.

"The imposts and tonnage are stated at something more than five hundred thousand dollars below the actual receipts of last year, which were seven millions five hundred and forty-nine thousand six hundred and forty-nine dollars—an statement which the Secretary has thought it prudent to make, on account of the effects likely to be produced on this great branch of the revenue by the depredations on our commerce. The internal revenues are stated higher, by a sum of one hundred and twenty-five thousand dollars, than the actual receipts of the last year, which were five hundred and seventy-five thousand four hundred and ninety-one dollars. This increase, the Secretary supposes, may be expected from an improved mode of collection.

"The stamp duties are stated at two hundred thousand dollars annually—an estimate which the committee conceive to be sufficiently moderate.

"Taking the total amount of revenue, from all the present branches of it, to be eight millions eleven thousand eight hundred and ninety-seven dollars, as above stated, and deducting that of ordinary expenditure, taken at six millions nine hundred and twenty-six thousand four hundred and sixty dollars, there will be a clear surplus, in the present year, of one million eighty five thousand four hundred and thirty-seven dollars; which, if left unappropriated, would go to the discharge of the public debt, but may be applied towards defraying the extraordinary expenses voted during the present session.

"These expenses consist of the following items: fortifications, three hundred and forty thousand dollars; fabrication or purchase of arms, cannon, and military stores, nine hundred thousand dollars; naval armament, nine hundred and fifty thousand dollars; new regiment of artillery, one hundred and seventy-two thousand one hundred and forty-three dollars—making an aggregate of two millions three hundred and sixty-two thousand one hundred and forty-two dollars.

"To this it will be proper to add a sum, probably not exceeding forty thousand dollars, for quartermasters, and contingent expenses attending the new regiment of artillery. And should the bill now before the House for providing galleys be agreed to, an expense of eighty thousand dollars will be incurred on that account. These two sums, added to the former, will raise the aggregate of extraordinary expenses to two millions four hundred and eighty-two thousand one hundred and forty-two dollars.

"The committee have not taken into view the expenses which may be incurred for the military defence of the country, either by a provisional army or detachments of militia. It is certain, however, that whichever of these modes may be preferred, a considerable expense, in case of actual service, must be incurred; it will be for the House to decide how far a provision for this expense ought now to be contemplated.

"Neither have the committee taken into their estimate a provision for the deferred debt; the interest and extinguishing annuity on which, amounting to one million one hundred and forty-six thousand three hundred and seventy dollars, will become payable in the year 1801; nor for the heavy instalments on the foreign debt, which will become due in the years 1802, 1803, and 1804. But they conceive it is of use to state that these instalments, joined to the interest which in this year are only six hundred thousand and forty-one dollars, will amount, in the year 1802, to one million nine hundred and one thousand nine hundred and thirty-one dollars; in the year 1803, to two millions six hundred and forty-one thousand four hundred and fifty-three dollars; and in the year 1804, to two millions fifty-two thousand six hundred and twenty-three dollars. After which, they decline to one million thirteen thousand two hundred and thirty-two dollars, in the year 1807; and to two hundred and fifty-four thousand five hundred and twenty dollars in 1809, when the debt will be extinguished. Hence it appears, that in the year 1801, the ordinary expenses will be increased one million one hundred and forty six thousand three hundred and seventy dollars; in the year 1803, to the amount of three millions seven hundred and eighty-seven thousand eight hundred and twenty-three dollars, being the sums payable, in that year, on the foreign and deferred debts—which sums it will be necessary to provide, in those years, above the amount of the present ordinary expenditure.

"To meet the above mentioned extraordinary expenses, amounting to two millions four hundred and eighty-two thousand one hundred and forty-two dollars, Congress has no present funds beyond the surplus already stated, and amounting to one million eighty-five thousand four hundred and thirty-seven dollars, which being deducted from the aggregate of extraordinary expenses, leaves a balance of one million three hundred and ninety-six thousand seven hundred and five dollars to be provided by new revenue.

"The committee would also observe, that two instalments on the debt to the Bank of the United States, amounting to four hundred thousand dollars, and not continued on loan, will become due on the 31st of December, in the present year. It will be for the House to consider how far provision for the discharge of those instalments ought now to be made. Should such provision be considered as necessary, it will raise the amount to be provided for by new revenues to the sum of one million seven hundred and ninety-six thousand seven hundred and five dollars.

"This sum, it will be observed, falls considerably short of the proposed tax; but in the present situation of the country, with such probability of increased expenses; such possibility, not to say probability, of defalcation in the greatest branch of the present revenue, the impost and tonnage duty; and the certainty of a great augmentation in the ordinary expenses, by the deferred debt and the increasing instalments of the foreign debt; the committee do not think it safe to contemplate an additional revenue, from permanent sources of taxation, to a less amount than two millions of dollars.

"On this view of the subject, they submit to the House the following resolutions:

"*Resolved*, That it will be expedient to raise an additional revenue of —— dollars annually by a direct tax.

"*Resolved*, That the said tax ought to be laid, by uniform assessment, on lands, houses, and slaves.

"*Resolved*, That the apportionment of the said tax ought to be made among the several States, according to their respective number of inhabitants, as ascertained by the last census."

Some objections being made to this report by Mr. BAYARD and Mr. CHAMPLIN, on the ground of its not having been laid before the Committee of Ways and Means since it was drawn by the chairman, (and Mr. HARPER declining to withdraw it) it was recommitted to that committee.

NATURALIZATION LAW.

Mr. SEWALL, from the Committee for the Protection of Commerce and the Defence of the Country, who were instructed to inquire and report whether any and what alterations were necessary in the naturalization act, and into the expediency of establishing, by law, regulations respecting aliens arriving, or residing, within the United States, reported as follows:

That by force of the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," aliens are admitted to become citizens of the United States, when, in the opinion of this committee, there is not sufficient evidence of their attachment to the laws and welfare of this country to entitle them to such privilege; and that, for this purpose, a longer residence within the United States, before admission, than the act provides, is essential, and ought to be required. The committee are also of opinion, that some precautions against the promiscuous reception and residence of aliens, which may be thought at all times advisable, are, at this time, more apparently necessary and important, especially for the securing or removal of those who may be suspected of hostile intentions.

On these subjects, respectively, the committee beg leave to recommend the following resolutions:

1. *Resolved*, That provision ought to be made by law, to prolong the term of residence within the United States, which shall be proved by an alien before he shall be admitted to become a citizen of the United States, or of any State.

2. *Resolved*, That provision be made, by law, for a report and registry of all aliens who shall continue residents, or shall hereafter arrive within the United States, with suitable descriptions of their places of birth and citizenship, and places of arrival and residence within the United States.

3. *Resolved*, That provision be made by law for the apprehending, securing, or removal, as the case may require, of all aliens, being males, of the age of fourteen years and upwards, who shall continue to reside, or shall arrive within the United States, being natives, citizens, or subjects of any country, the Government whereof shall declare war against the United States, or shall threaten, attempt, or perpetrate any invasion or predatory incursions upon their territory, as soon as may be after the President of the United States shall

make proclamation of such event. Providing, in all cases where such aliens are not chargeable with actual hostility, that the period settled by any treaty with such hostile nation, or other reasonable period, according to the usage of nations, and the duties of humanity, shall be allowed for the departure of such aliens, with all their effects, from the territory of the United States; and excepting all cases of such aliens to whom passports or licences of residence may be granted consistently with the public safety.

This report was referred to the Committee of the Whole on the state of the Union.

On motion of Mr. S. Smith, the House went into a Committee of the Whole on the bill to continue in force part of an act therein mentioned, (relative to the revenue cutters,) which was agreed to, and ordered to be read a third time; which was accordingly done and the bill passed.

Wednesday, May 2.

The bill authorizing the President of the United States to build or purchase a number of small vessels, to be employed as galleys, or otherwise, was read the third time and passed.

A message from the Senate informed the House, that they have passed a resolution authorizing Thomas Pinckney, late Minister Plenipotentiary in London, to receive the presents offered to him by the Courts of Great Britain and Spain, to which they request concurrence.

Mr. Harper presented the report from the Committee of Ways and Means recommending a direct tax of two millions to be raised by a direct tax upon land, houses, and slaves, which was yesterday recommitted. It was referred to a Committee of the Whole, and made the order for Friday.

NATURALIZATION LAW.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the report made yesterday by the Committee for the Protection of Commerce and the Defence of the Country, on the subject of naturalization; and the report having been read, and the first resolution for prolonging the term of residence before aliens shall be admitted as citizens, being under consideration,

Mr. Sewall said, the term of residence now required from foreigners before they can become citizens, is five years. The committee think this period too short; it is much shorter than the period adopted by the French Government. The committee were of opinion that a residence of at least ten years should be required; but this might be left a blank in the bill, and afterwards filled.

Mr. Harper believed that it was high time we should recover from the mistake which this country fell into when it first began to form its constitutions, of admitting foreigners to citizenship. This mistake, he believed, had been productive of very great evils to this country, and, unless corrected, he was apprehensive those evils would greatly increase. He believed the time was now come when it would be proper to declare, that nothing but birth should entitle a man to citizenship in this country. He thought this was the proper season for making the declaration. He believed the United States had experience enough to cure them of the folly of believing that the strength and happiness of the country would be promoted by admitting to the rights of citizenship all the congregations of people who resort to these shores from every part of the world. Under these impressions, which, as he supposed they would have the same force upon others as upon himself, he should not detain the committee by dilating upon, he proposed to amend the resolution by adding to it the following words, viz: "that provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States, except by birth."

The Chairman declared this amendment would be a substitute to the resolution before the committee, and therefore not in order.

Mr. Otis said, he would propose an amendment, which he believed would be in order, which was as follows, namely, "and that no alien born, who is not at present a citizen of the United States, shall hereafter be capable of holding any office of honor, trust, or profit, under the United States."

Mr. Harper moved to amend this amendment, by adding the following words: "or of voting at the election of any member of the Legislature of the United States, or of any State."

Mr. H. said, he was for giving foreigners every facility for acquiring property, of holding this property, of raising their families, and of transferring their property to their families. He was willing they should form citizens for us; but as to the rights of citizenship, he was not willing they should be enjoyed, except by persons born in this country. He did not think this even was desirable by the persons themselves. Why, he asked, did foreigners seek a residence in this country? He supposed it was either to better their condition, or to live under a Government better and more free than that they had left. But was it necessary these persons should at once become entitled to take a part in the concerns of our Government? He believed it by no means necessary, either to their happiness or prosperity, and he was sure it would not tend to the happiness of this country. If the native citizens are not indeed adequate to the performance of the duties of Government, it might be expedient to invite legislators or voters from other countries to do that business for which they themselves are not qualified. But if the people of the country, who owe their birth to it, are adequate to all the duties of Government, he could not see for what reason strangers should be admitted; strangers who, however acceptable they may be in other respects, could not have the same views and attachments with native citizens. Under this view of the subject, he was convinced it was an essential policy, which lay at the bottom of civil society, that none but persons born in the country should be permitted to take a part in the Government. There might have been, Mr. H. acknowledged, individual exceptions, and there may be again, to this general rule; but it was necessary to make regulations general, and he believed the danger arising from admitting foreigners generally to citizenship would be greater than

the inconveniences arising from debarring from citizenship the most deserving foreigners. He believed it would have been well for this country if the principle contained in this amendment had been adopted sooner; he hoped it would now be adopted.

Mr. S. Smith believed it would be best first to decide upon the resolution as reported; if it was negatived, the gentleman from South Carolina might then introduce his amendment as a substitute. To adopt the resolution as reported would be, he believed, to agree upon an *ex post facto* regulation. It could not be intended, he should suppose, to prevent persons who had resided in this country two or three years, under the expectation of becoming citizens at the end of five years, from that privilege.

Mr. Champlin suggested whether, if this amendment was adopted, it would not prevent foreigners, who are not at present citizens of the United States, from becoming officers in the Military or Naval Departments of the United States. If so, he believed it would be proper to insert the word "civil" before "officers."

Mr. Otis acknowledged that the objections of the gentleman from Maryland (Mr. S. Smith) were, in some degree, well founded; but there might be regulations introduced into the bill to avoid them. The present law, he believed, directs that persons shall give notice of their intention of becoming citizens of the United States. Where this notice had been given, he thought such persons should be excluded from the operation of the law. These resolutions having only been laid upon the table this morning, he wished, however, that the committee might rise, in order to afford a little time for consideration. He wished to exclude all foreigners, whom he could Constitutionally exclude, from holding offices in the United States; but not to entrap such as are in the way of becoming citizens.

Mr. Harper said, that, having had it suggested to him that the Constitution would not admit of restraining the States in their admission of citizens, he should withdraw his amendment for the present, until he had had an opportunity of examining the Constitution in this respect.

The motion being put for the committee to rise, it was carried, and the committee rose accordingly.

COMPENSATION OF MARSHALS, &c.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill to provide compensation for marshals, clerks, jurors, and witnesses in the Courts of the United States; and, after considerable discussion, the committee rose, leave was refused to them to sit again, and the bill was recommitted to a committee of sixteen members.

Mr. Gallatin then proposed the following instruction to the committee:

"*Resolved*, That the committee to whom this bill is referred be instructed to inquire into the annual official emoluments received by marshals, clerks, and district attorneys, distinguishing between fees paid by individuals and what is paid by the United States."

After considerable opposition from Messrs. Dennis, Bayard, Harper, and Otis, this resolution was carried—36 to 35.

Thursday, May 3.

PRESENTS TO MINISTERS.

Mr. Baldwin called up the resolution from the Senate, authorizing Thomas Pinckney, Esq., late Envoy Extraordinary in Spain, to receive the presents offered to him by the Kings of England and Spain, on his departure from those Courts; which, having been read, Mr. B. said, the same subject had been referred by this House to the select committee, and he was instructed to report a resolution similar to that from the Senate; but the Senate having sent down this, he supposed it would be unnecessary to report another resolution.

Mr. Sitgreaves hoped the House would concur in this resolution.

Mr. Macon moved that it be referred to a Committee of the Whole. If Congress authorized the receiving of presents from foreign Courts, they must also, he supposed, go into the European custom of giving presents to foreign Ministers.

It was committed for to-morrow.

NATURALIZATION LAW.

Mr. Sewall moved the House to go into a Committee of the Whole on the state of the Union, in order to resume the consideration of the resolution which had been reported on the subject of aliens.

Mr. Otis wished to propose a resolution to the House, before it resolved itself into a Committee of the Whole on the state of the Union, as a substitute for the first resolution, reported by the Committee for the Protection of Commerce and the Defence of the Country. It was to the following effect:

"*Resolved*, That no alien born, who is not at present a citizen of the United States, shall hereafter be capable of holding any office of honor, trust, or profit, under the United States."

Mr. Venable did not think the House were authorized to enact such a principle into a law. If taken up at all, it ought to be considered as a proposition for amending the Constitution. If it was thought necessary by gentlemen to amend the Constitution in this way, he should not object to going into the subject. After foreigners were admitted as citizens, Congress had not the power of declaring what should be their rights; the Constitution has done this. Foreigners must, therefore, be refused the privilege of becoming citizens altogether, or admitted to all the rights of citizens.

Mr. Otis had no idea that this proposition could be considered as a proposition to amend the Constitution. If the House had the power to amend the naturalization law, and to extend the time of residence necessary to entitle an alien to citizenship, they could certainly extend it to the life of man. The idea of citizenship did not always include the power of holding offices. In Great Britain no alien was ever permitted to hold an office, he wished they might not be allowed to do it here.

The Speaker said this was not the proper time to argue whether this proposition ought to be considered as an amendment to the Constitution. The Committee of the Whole would report upon it as they thought proper.

Mr. Venable did not object to the resolution being referred, but thought it ought to go rather to an ordinary Committee of the Whole than to that on the state of the Union, as he did not believe Congress had the power of saying, men who were entitled to hold offices by the Constitution, shall not hold them.

The motion for reference was put and carried, there being for it 45 votes.

The House then resolved itself into a Committee of the Whole on the state of the Union, Mr. Dent in the Chair; when

Mr. Otis moved to postpone the consideration of the resolution formerly under consideration, for extending the time of residence of aliens before they should be entitled to citizenship, in order to take up the resolution which he had proposed, and which had been referred to this committee.

The question was put and negatived—51 to 26.

The question then returned upon the motion made by Mr. Otis yesterday, to amend the first resolution, by adding words of the same tenor with those contained in the resolution referred this morning.

Mr. Macon said, whether it would be good or bad policy to adopt a regulation of this kind, he would not inquire, because he believed the President and Senate could always appoint such men as they thought proper to office. If a man is a citizen, he is eligible to office agreeably to the Constitutional rule, and that could not be altered by law. If the people chose to elect a foreigner as a member of the Legislature, if he had been a citizen seven years, Congress could not say he should not be eligible. They might, indeed, make the time of residence, to entitle a foreigner to citizenship, so long, as to prevent him in that way from holding a seat in the Legislature; but, after a man is a citizen, he must be entitled to the rights of a citizen.

Mr. Otis said, gentlemen could certainly read the Constitution for themselves, and draw their own conclusions from it. He himself had not the smallest doubt as to the Constitutionality of restricting aliens in the way proposed. He believed that Congress, having the power to establish an uniform rule of naturalization, could, if they thought proper, make a residence of forty or fifty years necessary before an alien should be entitled to citizenship, which would extend to the whole life of a person, and prove an effectual exclusion. If Congress, then, had a right to exclude foreigners altogether from citizenship, any modification of that right was certainly within their power, and would be an advantage to aliens, for which they ought to be grateful. There would be nothing in this contrary to the Constitution; for it was always acknowledged that where an absolute power may be exercised, a conditional power may also be exercised. What advantage, he asked, was derived to this country from giving aliens eligibility to office? The people of this country were certainly equal to the legislation and administration of their own Government, comprising all the aliens who are now become citizens. He had no doubt but many aliens would become very valuable acquisitions to this country; but he had no idea of admitting them into the Government. He did not wish to open the door to the intrigues of other countries in this way; since we know there are countries whose chief attention is paid to the obtaining of influence in the internal concerns of the countries over which they wish to have dominion. And he could see it possible that persons might be furnished by such a country to come here and buy lands, and by that means, in time, get into the Government. Great Britain, he said, was very careful of the avenues which led to her liberty in this respect. Aliens were there excluded from holding all places of honor, profit, or trust. The situation of America heretofore was different from what it is at present. It had not only been thought good policy, in times past, to encourage foreigners to come to this country, but also to admit them into the Legislature, and important offices. But now, said he, America is growing into a nation of importance, and it would be an object with foreign nations to gain an influence in our councils; and, before any such attempt was made, it was proper to make provision against it; for if the time ever should arrive when a number of persons of this description had found their way into the Legislature, a motion of this kind would of course be very odious. If, however, gentlemen were of a different opinion, and think the object would be better accomplished by extending the residence of aliens, he should not object to that course being taken, though he thought the one he proposed perfectly within the power of the House.

Mr. Sitgreaves wished that, in attaining an object in which all seemed to concur, they might avoid any Constitutional embarrassment; and this it was allowed might be done by extending the time of residence of aliens so far, as to prevent them from ever becoming citizens, by which means persons who could not be considered as having a common interest with the citizens of the country, would be effectually excluded from holding offices in the Government.

The amendment of the gentleman from Massachusetts, he believed, was liable to an objection of a different kind. It proposes that no alien born shall enjoy any place of honor, profit, or trust, under the United States. It was a doubt which had been suggested, (and not yet decided,) in the business of W. Blount's impeachment, whether a member of either branch of the Legislature could be considered as an officer of Government. This question would be avoided in the other mode of proceeding. With respect to military employments, he supposed it would be improper to exclude aliens from them, and there might be others in which they might be properly employed, of which the President and Senate would be the proper judges. The great object was to prevent such persons from being elected into either branch of the Legislature, or into the offices of President or

Vice President; offices in which the sovereignty of the country is materially concerned, and in which, of course, foreign influence might prove most mischievous. He hoped, therefore, that the present motion would be withdrawn, and that the same object would be attained in the way he had mentioned.

Mr. Otis withdrew his amendment; and then all the three resolutions were agreed to, without a dissenting voice.

The committee rose, and reported the resolutions. The two first were concurred in; but, on the question being put on the third,

Mr. N. Smith said, a foreign Government might do an act tantamount to war, without declaring it, yet, according to the wording of the proposition, the citizens of that country could not be removed. He therefore moved to amend the proposition by adding the words, "being native citizens of any country the Government whereof shall be at war with the United States."

Mr. Sewall said, the only objection that he had to this amendment arose from the consideration that Congress alone had the power of deciding on the question of war, and he could not therefore see how it could be determined that any nation was at war with us, until the declaration was made by that nation, or by Congress.

Mr. Otis wished his friend from Connecticut would admit of an amendment which he held in his hand, in the place of that which he had offered. It was in the following words: "or shall authorize hostilities against the United States."

Mr. N. Smith had no objection.

Mr. McDowell thought this motion more objectionable than that of the gentleman from Connecticut. It ought to be remembered, Mr. McD. said, that inducements had been held out to foreigners to come to this country, and many of them had come with a view of becoming citizens of this country, and many, he believed, were as good as any amongst us. Out of respect to these foreigners, he should not wish to place them in the situation which this amendment went to place them in; because it might be said hostilities were authorized when no war was declared, and these people might be treated as if the nation from which they came was at war with us, when no war existed. It had been said our population was now sufficient, and that the privileges heretofore allowed to foreigners might now be withdrawn. In some parts of the country, this might, in some degree, be the case; but he knew there were other parts which wanted population. From this consideration, and as he did not wish unnecessarily to distress the minds of foreigners who had taken up their residence amongst us, he should vote against this amendment.

Mr. J. Williams was persuaded, that, if this proposition passed, no good citizen need be afraid of being disturbed. He had no objection to this resolution without the amendment, nor had he any particular objection to the amendment.

Mr. Rutledge was so far from believing that this amendment would check the immigration of foreigners, that he believed it would encourage it. Foreigners came here to live under a good Government, and the more secure the Government was made, the greater would be their desire to live under it; and he believed a greater security could not be given to it, than was proposed to be given by this amendment. It was wished to vest a power in the President to send out of the country persons who were natives of a country with whom we are at war, or who may have authorized hostilities against us. In fact, in the situation of things in which we are now placed, the President should have the power of removing such intriguing agents and spies as are now spread all over the country. What, said Mr. R., would be the conduct of France, if in our situation? In twenty-four hours every man of this description would either be sent out of the country or put in jail, and such conduct was wise. Was there nothing, Mr. R. asked, to admonish us to take a measure of this kind? Yes, there was. A gentleman from Kentucky (Mr. Davis) had said, that a person was in that State delivering commissions into the hand of every man who was so abandoned as to receive them. Other means were also taken to alienate the affection of our citizens; and are we still, said he, to say we will not send these persons out of the country until a declaration of war is made? If these persons are suffered to remain, France will never declare war, as she will consider the residence of these men amongst us as of greater consequence than the lining of our seaboard with privateers, or covering our coasts with men.

Mr. Venable did not wish to show any particular encouragement to foreigners; but, if persons thought they could live happier here than in their own country, he should not object to their making the change. He could not agree to the amendment. Suppose hostility was committed upon the property of any of our citizens by France, such hostility might not be sufficient cause for placing all our commercial citizens in a situation of having their property seized. Many cases might be deemed hostility by the President which ought not to go to cut off all communication between the citizens of the two countries. In such a case, if any of the citizens of France should be taken up here, it would produce a similar conduct towards our citizens in that country, which would be allowed to be a serious evil.

Mr. Sewall again urged, as an objection to this amendment, the Constitutional power of Congress to declare war. Too many circumstances of insult and aggression, he allowed, had been experienced by this country from a foreign Power, which might have been understood by other nations as war, and might have been so considered by this country; yet, as it is an act of Congress to declare war, we could not be considered as at war until Congress declared us to be in such a state, except war was declared against us. This provision was not intended for any particular case, but as a general provision, which might at any time be called forth by proclamation. It should, therefore, be as well guarded and definite as possible. If the words proposed were introduced, the propo-

sition would be rendered too indefinite; and the President might proceed to send aliens from this country, and of course cause our citizens in a foreign country to be sent from thence, or to be imprisoned, and their property confiscated, at a time when Congress might not judge it expedient to go to war. France, said he, has now done towards the United States what might be considered as hostility. Suppose we pass a law which calls upon the President to act, what ought the President to do? Was he to determine the point whether France has authorized hostilities against the United States? If so, he would doubtless say she had, and in consequence every Frenchman in this country will be liable to be removed out of the country, and our citizens who happen to be in France will be placed in the same situation. Mr. S. said, though it might be proper for Congress to declare this to be the state of the country, he thought it would be improper to give the President this power. He wished the power of sending persons out of the country to be confined to such cases as were particularly dangerous, which were included in the resolution without this amendment. As to foreigners guilty of crimes against the United States, they ought to be apprehended and punished according to the existing laws: the present regulation was not pointed at them.

Mr. Otis said, as his colleague had chosen to call his amendment indefinite, he must excuse him when he said he considered the resolution without it, as trifling and ineffectual, and argued a timidity which ought not at this time to be shown by this country; and had he not been thoroughly acquainted with the uprightness of intention and the purity of the motives of his colleague, he should really have doubted whether he was sincerely desirous of exerting all the energies of the country in her defence; but, being persuaded of these, he would suppose that he himself was wrong in his conception on this occasion, and would make a few observations as to the ground upon which he formed his opinion.

He believed it would not be proper to wait until predatory incursions were made—until the enemy was landed in our country, or until what shall be considered as threatening or actual invasion appeared—before any steps were taken on the subject now under consideration. He was of opinion that when an enemy authorized hostilities, that was the time to take up that crowd of spies and inflammatory agents which overspread the country like the locusts of Egypt, and who were continually attacking our liberties. The provision would doubtless be exercised with discretion. There might be Frenchmen in this city and others (and he doubted not there were) who were peaceable, well-disposed persons, and against whom it never could be thought necessary to exercise this power; but there were other persons, not only in this city, but in others, who have not only been extremely instrumental in fomenting hostilities against this country, but also in alienating the affections of our own citizens; and it was men of this description whom he wished to remove from the country.

It is proposed by this resolution to give the President the power to remove aliens, when the country from which they come shall *threaten* an invasion. Some believe that this country is at present threatened with an invasion, and with a ravage of our coasts, yet others say that the despatches from our Envoys only consist of unauthorized conversations with X, Y, and Z, and therefore not to be relied upon. Mr. O. thought this a more indefinite power than that which he proposed to vest in the President. His opinion was, that something ought to be done which should strike these people with terror; he did not wish to give them an opportunity of executing any of their seditious and malignant purposes; he did not desire, in this season of danger, to *boggle* about slight forms, nor to pay respect to treaties already abrogated, but to seize these persons, wherever they could be found carrying on their vile purposes. Without this, everything else which had been done in the way of defence would amount to nothing.

Mr. McDowell said, from the observations of the gentleman who had just sat down, it would appear that hostilities had already commenced between this country and France. If this is the case, and the House knew it, why not say so, and make preparations accordingly? Why pass acts fitted for a state of war, without declaring that that is the state of the country? [Mr. Otis said, if the gentleman from North Carolina would bring forward a proposition of this kind, he should be ready to vote for it.] Mr. McD. expected the gentleman was prepared for war, and, therefore, that he would have brought forward a resolution to that effect himself.

The gentleman from South Carolina (Mr. Rutledge) had not considered this amendment with his usual accuracy, when he said that the adoption of it would prove an encouragement to foreigners to come to this country. He thought it could not be very flattering encouragement to foreigners, to tell them, "if you come here, and your Government commits any act of hostility against the citizens of this country, you will be liable to be imprisoned, or sent out of the country."

But it was said the country swarmed with spies and seditious persons. If this was the case, he should be glad if gentlemen would point them out; if they could, he should be as glad as they to take measures against them. A person in Kentucky had been alluded to. Under the authority of *Genet*, he believed, some commissions had been issued; but he did not believe that any had been issued since. It was also known that there had been another Minister of another country, who had adopted a similar practice. He still remained here, and might still be carrying on his mischievous schemes. [The Speaker said the resolution was general.] It was said that hostilities having been committed on our commerce by France, they would authorize a war with France, (though Great Britian had conducted herself much in the same way, and nothing was said as to her,) and that therefore the President ought to be empowered to send all Frenchmen out of the country, however peaceably they might be residing here, if he thought proper to do so. This he

could not consent to. It was too large a power. He should therefore vote against the amendment.

Mr. Sitgreaves considered this as one of the essential features of the system of defence about which Congress had been employed during the present session, in order to enable us to meet the dangers which threaten us. He believed, that though it might be extremely wise and prudent to enter into regulations for securing our peace at all future periods, yet it was most particularly their duty to concert measures of defence and protection in our present exigencies. He believed the business of defence would be very imperfectly done, if they confined their operations of defence to land and naval forces, and neglected to destroy the cankerworm which is corroding in the heart of the country. There could be no question on this subject. It is well understood by every member of the community. There is no occasion for specific proof that there are a great number of aliens in this country from that nation with whom we have at present alarming differences; that there are emissaries amongst us, who have not only fomented our differences with that country, but who have endeavored to create divisions amongst our own citizens. They are, said he, assiduously employed at this moment, and it is much to be lamented that there exists no authority to restrain the evil. It was therefore peculiarly incumbent on Congress to add to their other measures of defence, such powers as will protect the country against this evil. He believed this could not be effected without the adoption of some such principle as that under consideration. If the power was too limited, the enemy would not be met. There could be no difficulty, Mr. S. said, in point of right. All understand the rights to which aliens are entitled by the laws of nations. They are no more than the rights of hospitality, and this right varies according to the relation in which the country from which they come, and that in which they reside, is peaceable, or otherwise.

We do not owe to the citizens of France residents in this country (since France had been mentioned) the same hospitalities which we owe to those foreigners who are alien friends; though he confessed there were rights of hospitality which could not be done away in time of war, particularly as it respects alien merchants, which were provided for in this resolution. And except a person had an actual agency in designs which would endanger the peace of the country, though he was ordered out of the country, a free passage would be given to himself and effects; and if actually engaged in designs against the country, there would be a strong necessity for restraining the liberty of any such persons.

It had been well asked, whether we ought to wait till the enemy landed, before any measures were taken to remove persons from the country, who would be ready to join them by thousands, or take advantage of knowledge we have of their hostile intentions towards us? He thought there could be no doubt on the subject. He knew there were aliens in this country, of valuable characters, whose acquaintance ought to be cherished and cultivated. Such men would be in no danger from the proposed provision. It was meant only to operate against factious and bad men, who abuse the liberty allowed to them of residing in this country, and these all must see the necessity of attending to. France, said he, will not admit an alien of any description to reside in her country without a card of hospitality, and shall Congress scruple to go the length of this amendment? He hoped not.

Mr. Allen said, he would move an amendment which would supersede that under consideration, by making the resolution extend to *all aliens* in this country. He wished to retain none of the restraints which are in the present resolution. Nothing but his respect for the gentleman who made this report (Mr. Sewall) would have prevented him from suspecting that there existed some latent and mischievous design in this business. The proposition goes upon the supposition that none but the citizens of a particular nation can be dangerous to this country; whereas he believed that there are citizens of several other countries who are as dangerous, who have dispositions equally hostile to this country with the French—he believed more so. He believed the whole country was aware of this. Mr. A. alluded to the vast number of naturalizations which lately took place in this city to support a particular party in a particular election. It did not appear to him necessary to have the exercise of this power depend upon any contingency, such as a threatening of invasion, or war, before it could be exercised. He wished the President to have it at all times. He moved an amendment to this effect, which went to enable the President to remove at any time the citizen of any foreign country whatever, not a citizen, regarding the treaties with such countries. If gentlemen took a view of the different States of Europe which had been subdued by the French, Mr. A. said, they would not think it either wise or prudent to wait for an invasion, or threatened invasion, before this power was put in execution. Venice, Switzerland and Rome, had been overcome by means of the agents of the French nation, at a time when they were in a much less alarming situation than we are at present; and the first disturbance in those countries was made the pretext of open hostility. This has been the effect of *diplomatic agency*; of emissaries within and without, who have bred quarrels, for the purpose of forming pretexts for measures which have led to the subjugation of those countries. He believed there were citizens in this country who would be ready to join a foreign Power in assisting to subjugate their country. What passed before our eyes, and every day offended our ears, were so many proofs of it. Not many weeks ago open threats were made to disturb the peace of the country. He hoped, therefore, with all these things before them, the amendment which he had proposed would be agreed to.

Mr. Sewall said, being one of the committee who made this report, he supposed he fell in for a share of that censure which had been so liberally

cast upon it by his colleague, and the gentleman last up from Connecticut. The gentleman from Connecticut had thought fit to condemn the committee for not having considered cases which were not referred to them. It was not referred to them to consider what France had done in all other countries with whom she had had disputes, or what this country should do against France; but what should be done with respect to aliens in this country generally. Civil policy regarded aliens, in two lights, viz: alien friends and alien enemies. He did not contemplate the making of this country a wall against all aliens whatever; or that no alien should come here without being subject to an arbitrary authority, such as is known only to the French Directory. If the existence of such a power as shall be able to place every alien in the country in a dungeon, was necessary to quiet the fears and apprehensions of the gentleman from Connecticut, he should not be willing to grant it. Indeed, it appeared to him that the fears and apprehensions of that gentleman arose from some defect in his own organization, or disease of his body (which he believed might be better cured by the physician, than by any thing else) rather than from any real ground of alarm.

What, said Mr. S., is to be feared from the residence of aliens amongst us? Anything to ruin the country? He acknowledged many inconveniences arose from this circumstance, but more from our own unnatural children, who, in the bosom of their parent, conspired her destruction. But did the gentleman wish to increase the evil, by saying that persons born in foreign countries, however regular and orderly their conduct may be, shall be liable to be imprisoned, or sent out of the country, but that citizens of this country, however reprehensible their conduct, should have nothing to fear? The committee were not called upon to report on this point. He was himself of opinion that more ought to be done, and that aliens from any country should be liable to be removed, in case of misbehaviour; but he did not wish to leave the business wholly with the President of the United States. The committee had reported only in part; they had yet to consider what steps would be proper to be taken against aliens, or citizens, guilty of criminal proceedings; but when gentlemen saw the addresses which were pouring in from all parts of the country in favor of the measures which had been pursued by Government, and expressions of determination to support every measure in defence of their country, was anything to be feared from a handful of aliens? It was a reproach to the country to suppose it. If aliens were found to be guilty of seditious practices, let them be restricted; but not placed under an arbitrary authority. He never wished to see the Government of this country in such a situation. Our situation, said Mr. S., is not like that of the Directory of France, whom all of the nation are cursing; we have, therefore, no necessity for the strong measures adopted by them. But if gentlemen were determined to arrest every alien in the country, let them bring forward a resolution of that kind; but, in making regulations against alien enemies, let us not subject every foreigner who comes to this country, however well intended he may be, to the fear of a dungeon or removal. If gentlemen wished to make the resolution more general, and to provide for cases, in which war was first declared by this country, though he had before said he did not think it necessary, he had no objection to indulge them, by inserting the words "between which and the United States there shall exist a declared state of war." But unless the United States were inclined to assume the character of the Turks or Arabs, such a regulation as was recommended by the gentleman from Connecticut could not be adopted.

Mr. Allen had no particular anxiety that the resolution should pass to the extent which he had proposed. If gentlemen did not think it necessary he should not persist in it. He was sorry the gentleman from Massachusetts should have discovered in him any disease of body which was capable of giving rise to personal fear. He believed he possessed as little as most men. As to the necessity of the measure which he had proposed, he would mention two circumstances which led him to think it necessary. A person in this city, who has too respectable a standing, and who is doing too much business in it, has declared that he wishes to see a French army land in this country, and that he would do all in his power to further their landing. He had heard nearly the same thing from another quarter. He thought, therefore, that there ought to exist a power which should be able to send such persons out of the country. Not that he was himself either afraid of being assassinated or having the city burnt. But the chairman of the committee had said, that this subject was yet before them. This he did not know, before the gentleman said so; for, having made a report upon the subject, he supposed they had done all they intended to do upon it.

Mr. Dana was opposed to this amendment. He thought the provisions of this resolution ought to be made definite, as it contemplated regulations which Congress would be willing to have in existence at all future times; and though the principles upon which the residence of aliens was regulated is laid down in the law of nations, as it relates to monarchical Governments, yet, in this country, where the sovereignty of the country is vested by the Constitution in Congress, these regulations must be fixed by law. The danger of war with which the country was threatened had forced the subject upon Congress at this time, and this being the case, he was desirous of adopting some regulations of a permanent nature respecting it. If any other regulations were necessary with respect to our present situation with France, he thought they ought to be made special and temporary.

Mr. Allen withdrew his amendment; when Mr. Otis's proposition returned, the question on which was put and negatived—55 to 27.

Mr. Sewall made the motion which he had suggested when he was last up, viz: to add the

words, "between which and the United States shall exist a state of war."

Mr. Otis hoped this motion would not prevail, as he thought it would deprive the resolution of every good feature which it at present possessed; for it would prevent the exercise of the power in any other case than in a state of war; and as all the expressions were future, it supposed that such a state did not exist at present. He confessed he set no value at all upon any law, unless it was adapted to the present exigencies of the country. Gentlemen might talk as they pleased about permanent regulations; he believed they ought to provide against the residence of alien enemies existing in the bosom of the country, as the root of all the evil which we are at present experiencing, and he could not conceive any mode of doing this, but by applying the remedy immediately to the evil. Gentlemen talk about a declaration of war. No such thing scarcely ever precedes war. War and the declaration of war come together, like thunder and lightning. Indeed, if France finds she can enfeeble our councils by refraining to declare war, and that we will take no measures of effectual defence until this is done, it is probable she will not declare it, but continue to annoy us as at present. He therefore thought, if the select committee had not been ripe for making a report fully on this subject, they ought to have delayed it until they were.

Mr. Sewall explained.

Mr. Sitgreaves said, he had suffered no little from finding the difference of opinion which existed between the chairman of the committee who made the report on this subject, and gentlemen who usually voted with him. He saw that difference of opinion was essential and radical. He did not mean to go into the subject, but merely to make a proposition, and call the yeas and nays upon it. It was to add the words, "or shall declare hostility against the United States."

Mr. Davis moved a postponement of this question till to-morrow, as he wished time to consider of it. He had some doubts as to the constitutionality of such a provision.

Mr. Sitgreaves had no objection to a postponement, if time was wanted for consideration; but he could not see on what Constitutional ground this motion could be objected to.

Mr. Gallatin was in favor of the postponement. He would suggest to his colleague that part of the Constitution which might be in the way of this motion. A distinction was made by it between actual hostility and war.

If it had only gone to have made a difference between declared and actual war, by striking out the word "declare," it would have removed the objection. If there be a difference between a state of war and of actual hostility, there is also a difference in the relation between alien subjects of a nation with whom we are at war, and those of a nation with whom we are in a state of actual hostility. If this distinction be correct, by turning to the 9th section of the Constitution, it is found that the migration of such persons as any of the States shall think proper to admit, shall not be prohibited by Congress, prior to the year 1808. He understood it, however, to be a sound principle that alien enemies might be removed, although the emigration of persons be not prohibited by the States, by a principle which existed prior to the Constitution, and coeval with the law of nations. The question was, therefore, whether the citizens or subjects of nations in actual hostility can be considered as alien enemies. The term "actual hostility," is vague in its nature, and would introduce doubt as to its true import. He should, therefore, be in favor of the postponement, except the mover would consent to have the word "declare" struck out in the way he had mentioned.

The question for a postponement was put and carried; and the two first resolutions were referred to a select committee, to report a bill or bills accordingly.

GEORGIA LANDS.

Mr. Pinckney, from the committee to whom was referred the memorial and remonstrance of the Legislature of the State of Georgia, made a report. The memorial states, that the State of Georgia obtained from the Creek Indians a cession of the county of Tallahassee, but that the United States, at the treaty of New York, ceded it back to the Indians; they, therefore, pray compensation. The committee recommends compensation to be made. The report was committed for Thursday.

Friday, May 4.

On motion of Mr. Harper, the House took up the amendments of the Senate to the bill respecting the compensation of clerks; which the Senate insist upon. Mr. H. moved to recede from their disagreement, but the motion was negatived—38 to 31.

Mr. Macon then moved to adhere to their disagreement; which vote was carried—42 to 32.

PRESENTS TO MINISTERS.

Mr. Bayard called for the order of the day on the resolution from the Senate granting leave to Mr. Pinckney, our late Ambassador to Great Britain and Spain, to receive certain presents from those Courts, on his taking leave. The House accordingly went into a Committee of the Whole on the subject, and the resolution having been read,

Mr. Bayard moved that the committee concur.

Mr. McDowell said, this was a new subject, and, as it struck him, of importance. Notwithstanding he felt as much disposed as any member of the committee to do everything respectful to our late Minister to London and Madrid, yet, when he looked upon the Constitution, and reflected upon the intention of the clause which forbids the receiving of presents by our Ministers, and the consequences which must flow from a precedent of this kind, he could not easily bring himself to consent to it, unless some gentleman could show the propriety or necessity of it in a stronger light than he at present saw it. If we allow our Ministers to receive presents from foreign Courts,

on their taking leave, we must also calculate upon giving presents to all the foreign Ministers who come here, and these, we have every reason to expect, will be constantly increasing. Besides, he objected to the principle of these presents. What are they given for? He supposed it was to gain their friendly offices and good wishes towards the country who gave them. He thought this improper; and he believed it would be well now to put a stop to the business, as a fairer opportunity could never occur of trying the principle, for if it ever could be allowed, in consideration of public services, it could not be better deserved than in the present case; but, believing the principle to be a bad one, he should, therefore, be opposed to it.

Mr. Bayard said, every Constitutional objection must vanish on a single view of the article, because it allows that presents may be received, if the consent of Congress is obtained; and, so far from the Constitution insinuating that it would be bad policy to allow these presents to be received, it proves that they might be received if inconvenience in receiving them could be avoided. He supposed the Constitutional provision was meant to oblige Ministers to make known to the world whatever presents they might receive from foreign Courts, and to place themselves in such a situation as to make it impossible for them to be unduly influenced by any such presents. Indeed, he supposed these presents would produce a directly contrary effect, for when a Minister was known to have received a present of this kind, he would naturally be particularly careful of all his actions, lest he should be supposed to be improperly biassed. If presents were allowed to be received without number, and privately, they might produce an improper effect, by seducing men from an honest attachment for their country, in favor of that which was loading them with favors; but any evil of this kind was securely avoided by the notoriety of the act.

What, said Mr. B., is this present? It is a gold snuff-box, a gold chain, a picture, or some trifling thing, which could have no possible operation upon any man. It was necessary, he believed, to attend to these little civilities and ceremonies, as the want of attention to them often produced hostility between nations. He had some doubt from the Constitution, whether it was necessary in this case, to have applied to Congress at all for leave to have received these presents, as the office of this gentleman had expired before they were offered. Under the old articles of Confederation, a like provision was in being, only that the receipt of presents by our Ministers was positively forbidden, without any exception about leave of Congress; but their being allowed to be received under the present Government, by consent of Congress, shows that they might be received in certain cases. He had indeed, been informed that, notwithstanding the prohibition under the former Constitution, presents were frequently received by Ministers; for, though persons holding offices were forbidden to receive presents, the moment their office ceased, and they became private individuals, they were no longer prohibited from receiving any presents which might be offered to them. Under these circumstances he thought the resolution ought to be agreed to.

Mr. W. C. Claiborne hoped the present resolution would not be adopted. When this subject was first brought into view, he felt inclined to favor the request. This first impression arose from his great personal respect for the applicant, and the desire he felt to gratify his wishes. But, upon a little reflection, it appeared to him that policy dictated the propriety of rejecting the present resolution. So far as relates to the constitutionality of receiving the presents in question, he thought no member would join in opinion with the member from Delaware last up. By recurring to the letter of the gentleman from South Carolina, (Mr. Pinckney,) it would appear that these presents were offered to him when he was about to take leave ot the Courts to which he was Minister. He was, of course, at that time, the Minister of the United States, and came within the Constitutional prohibition.

This prohibition in the Constitution appeared to him to be bottomed on sound policy, and of great importance to the security, the happiness, and freedom of the nation. [Mr. C. read the clause.] The object of this clause appeared to him very different from what had been stated to be its object by the gentleman from Delaware. He believed it was intended to lock up every door to foreign influence, to the influence of Courts and Monarchies, which could not but prove baneful to every free country. He had been told that it was the custom of Europe, when a favorite Minister was about to take his departure, not only to present him with presents, but also to confer a title upon him; and if the leave now asked was granted, a precedent would be established which he apprehended would, at a future day, bring the question before Congress, whether leave should be given for a citizen of this country to receive a title from a foreign Monarch, and thus all the folly and vices of European Courts will be brought up for discussion before the Congress of the United States; and he had no doubt characters might be found who would desire such a distinction, and others who would advocate the granting of it. On the contrary, he was persuaded that, if the vote of this House negatived the present resolution, no future application would be made on this subject. The reason, in his opinion, which induced the insertion of a clause in the Constitution that presents might be received when leave of Congress was obtained, was this: That, in the course of events, a case might exist in which it might be proper for a citizen of the United Sattes to receive a present from a foreign Government. Many, perhaps, might be named; he thought of one: Suppose an officer of our Navy were to render essential service to the vessel of a foreign Power in distress on the high seas, it might be proper, in such a case, for Congress to permit the officer to receive any suitable present as a reward for his service and benevolent exertions in the cause of the unfortunate. But, he believed, in all ordinary cases, every present ought to be rejected.

Mr. Otis saw no ground for the apprehensions which the gentleman from Tennessee had manifested, as to the effects to be produced by concurring in the resolution now before them. When every present to be received must be laid before Congress, no fear need be apprehended from the effects of any such presents. For, it must be presumed, that the gentleman who makes the application has done his duty, as he, at the moment he makes the application, comes before his country to be judged. In the present case, he supposed no idea could be entertained that our Minister had not done his duty, or that he had been bribed by a foreign Power, as a reason for not granting the request. But it was strange that gentlemen should assert that, if presents were allowed to be received, Congress might next be asked to consent to the introduction of titles; for the Constitution expressly says, presents may be received, but, with respect to titles, it says, "no title of nobility shall be granted."

[Mr. Claiborne said, those were not the words of the Constitution to which he alluded. What he had reference to was the following: "No person holding any office of profit or trust under the United States, shall, without the consent of Congress, accept of any present, emolument, office, or *title*, of any kind whatever, from any King, Prince, or foreign State."]

The first part, Mr. O. said, was distinct from the last. Titles of nobility were expressly forbidden; but presents, emoluments, offices, or titles, (not titles of nobility,) might be received by the consent of Congress. But as no title of nobility could be granted, the gentleman from Tennessee need not be alarmed on this ground. If such titles had not been excluded, he should have supposed that, at this time of day, when titles were going so fast out of fashion, there could be no fear of their obtaining here. The intention of the Constitution must have been, that these presents should be received, on their being made known to Congress, otherwise the clause would have been peremptory, as under the old Congress.

Mr. O. said it was altogether a matter of discretion in the gentleman from South Carolina, whether or not he had asked consent to receive the presents in question; for he is at present no officer of the United States, and he might receive them as a private citizen. He believed he had a perfect right to do so, though it might not consist with the delicacy of his character. Mr. O. said he had it from the best authority, that, even under the old Confederation, though presents were unconditionally prohibited, Dr. Franklin, Mr. Jefferson, and Mr. Laurens, received the customary presents on their departure from the foreign Courts at which they were employed. They, to be sure, communicated the fact to Congress after they had received them. And they received them for a good reason, because they could not refuse them without giving umbrage to the Courts which presented them. He, therefore, thought it very improper for gentlemen to suggest difficulties of the kind which had been brought forward, as if the gentleman making the application was personally concerned—it could not be considered as any object to him. The question was merely whether we would conform or not to the customs and usages of other nations, with the presents in question; in which there certainly could be nothing either dangerous or alarming.

Mr. Macon had no doubt Congress had a right to grant leave to receive the presents in question, and believed the determination in this case would fix the usage in future. He believed an application could never be made to the House, in which there could be less objection to the applicant, than in the present case. He was convinced that the gentleman from Massachusetts need not to have said that this was no object to the gentleman from South Carolina. He was sure no one thought so. He believed it was improper to bring any personal considerations into the question. He was sure there had not been a more popular act done for this country for a long time than the treaty which that gentleman had concluded with Spain. But the committee were told that this resolution ought to be adopted, because it was a European custom. If, said he, we adopt this custom, we must adopt another—that of paying foreign Ministers who come here. And he owned he should not be willing to see any of them carry off the money of his constituents, because he did not think the conduct of any of them was deserving of such a fee.

The gentleman from South Carolina had made a conditional refusal of the presents offered to him, and he now wishes the point to be settled by Congress, whether he shall receive these presents or not. He had no idea, whether these presents were a gold snuff-box, a gold chain, a picture, or three hundred guineas, they could possibly have any effect upon the applicant. Nor had he much fear about the introduction of titles into this country; for if any such thing were ever proposed, there would be such a scramble for the highest, among certain gentlemen, that he believed it would be a security against any.

Mr. M. said it might not always happen that the applicants for leave to receive these presents were free from objection; and, in such cases, very unpleasant, and probably very lengthy, discussions would take place. He hoped, therefore, the custom would now be put an end to.

Mr. Bayard remarked that the gentleman from Tennessee seemed to be greatly alarmed, lest the agreeing to this resolution should destroy the liberties of the country; and that a precedent of leave being given to a Minister to accept of a gold snuff-box or a gold chain, should hereafter be brought as a sanction to the granting of titles of nobility. But he asked the gentleman, as a lawyer, whether he conceived that a precedent for granting permission to a Minister to receive a snuff-box could be adduced as a precedent for granting titles of nobility? It certainly could not. Therefore, as to precedent, the gentleman might feel himself perfectly at ease. There could be no doubt but that the Congress of the United States might give their consent to a citizen receiving a title from a foreign Power; but he could not apprehend that they would ever do so. Was this, then,

to be brought as an argument against allowing a gentleman—against whose conduct the most slanderous tongue had never said a word—from receiving the customary trifling presents, on his leaving a foreign Court? He trusted not. He allowed it would be a precedent for the future in this respect, and that Congress might expect to be called upon hereafter for similar permissions. But he did not think there was anything alarming in this—the amount would be very trifling; and he did not know that having a few additional gold snuff boxes in the country could produce any material effect. As to the Constitutional question, he thought it was as he had already stated it.

Mr. Venable wished that everything which was said upon this subject might be said without reference to the gentleman making the application, but that it might be considered as establishing a general principle which was to operate hereafter. It was said that it was necessary to accept of these presents as a point of etiquette, and that refusal to accept of them might give offence. He did not believe this could be the case, as it was well known to the European Courts that our Government is established on principles totally different from theirs; and when our Ministers informed them that their Government did not permit them to receive presents, it must be a satisfactory reason for not accepting them. He knew that these presents were sometimes made in pictures, sometimes in snuff-boxes, and sometimes in money. And, said he, if these presents were not sanctioned by custom, would it not appear an indelicate thing to offer these things to a Minister of a foreign country? It certainly would. If the origin of the custom was, therefore, a bad one, the United States ought not to adopt it, since they had now the choice of doing so or not. He hoped the United States would always make sufficient provision for their own Ministers, and not permit them to receive anything from a foreign Court. A contrary custom, to say the least of it, would prove a very troublesome and disagreeable one.

Mr. W. Claiborne submitted to the gentleman from Delaware, as a lawyer, whether the committee could gather, from anything before the House, that these presents made by foreign Courts consisted of chains or snuff-boxes? He owned he could draw no such conclusion for himself. But whatever the present may be, it was immaterial to him in the present question, because he was convinced that nothing which a European monarch had it in his power to give, could lessen the patriotism of our late Minister, or alienate his affections from his country. It was not to the amount of the present; and whether it was a snuff-box, or anything else, which was a thing of no consequence, and ought not to have been named. He objected to the principle of our foreign Ministers receiving presents at all from European monarchs. This principle he looked upon as the more dangerous, because it opened an avenue to foreign influence—an influence, among monarchs—which has always proved the destruction of Republics.

Notwithstanding what had fallen from the gentleman from Delaware, he was convinced the gentleman from South Carolina would not think himself authorized to receive these presents without the authority of Congress, were they offered to him as a private citizen, as they were certainly meant as a compliment to him as Minister. As to what had been said by the gentleman from Delaware with respect to the present of a snuff-box or picture being precedents which would lead to the granting of titles, what he had said, was that the precedent would authorize the application for leave to accept of a title, at some future period, which would introduce a discussion on that floor whether it ought to be received or not, and thereby disgrace the country in the eyes of every enlightened citizen.

Mr. Thatcher was in favor of the resolution. Gentlemen seemed opposed to it on the ground of its establishing a precedent for the future. He did not think this objection well founded; for, as the Constitution does not absolutely forbid the receiving of presents, the discussion on the propriety of allowing it in future would not be prevented by the present decision. Future Houses could refuse or grant leave to receive these presents. Mr. T. said, it was the natural right of every citizen who served the country as a Minister to receive presents, and the Constitution did not absolutely take away the right. He considered the gentleman who now applied to Congress as having a natural right to receive a present, except some reason was shown to the contrary. Gentlemen allow they know of no special reason; they allow the applicant has done the business with which he was entrusted, well. He supposed, therefore, that gentlemen must themselves vote for it, except they abandon their own ground.

But the gentleman from Tennessee had said, the resolution ought to be disagreed to in order to stop the avenues to corruption from foreign Courts. For his part, he could see no connexion between a decision on this question and corruption; for, whether it was agreed to or disagreed to, it would not take away the power from Ministers to receive presents, if they were so disposed.

But it was said, that, to agree to this resolution, would lead to the granting of titles. Suppose, said Mr. T., a title should be applied for, and leave granted, and a foreign Power should create a Duke or a Count of a citizen of this country, what would it be but to make him and his posterity for ever ridiculous? As he saw no evil which could arise from agreeing to this resolution, he should vote for it.

Mr. R. Williams hoped, by the vote of this day, the House would get rid of future applications of this kind. When the subject was first introduced, he was opposed to it; but, if the question had gone off without debate to-day, he intended to have voted for it. From the discussion which had taken place, however, he was convinced it was a subject upon which they ought not to legislate, since the acting upon it would produce greater evils than the Constitution had provided against. He believed they ought here to put a stop to the business. If not, he would rather that our Ministers should

be at liberty to receive all the presents offered to them, than that the thing should stand upon its present footing.

The gentleman last up had endeavored to show that the determination upon the present question would not set an example for the future. It was his wish to fix a principle upon this subject, and he had no doubt this decision would do it.

It had been said, that the gentleman who made this application, had a right to receive these presents, without this application. Why, then, was the application made? Ought Congress to be called upon every year to discuss questions which would cost the Union $2,000 or $3,000 every year, if the right of receiving the presents existed independent of Congress? This, he believed, would be spending the money of the public in a way which would not be very well approved. As this was the first application which had been made since the existence of the present Government, for this leave, it was the proper time for Congress to say, they will or will not countenance the practice of receiving these presents. Our Ministers, he said, would be obliged by such a determination; and, if the decision was against the practice, they would no longer be troubled with the offers of presents; or if they had them offered, they could, without hesitation, decline the acceptance of them; but, if this was not done, there would be no end of the business. If this motion should not be negatived, if he should be here another session, he would propose the passing of a law to authorize our Ministers to receive these presents, except there should appear some particular objection to such a law.

Mr. Lyon said, he had heard much about *American feelings*. He had some of those feelings himself, and they taught him neither to approve directly nor indirectly of the practice of foreign Governments paying our public agents. If the gentleman from South Carolina had not been well paid for his services, he should be willing to pay him more; but he should not be willing to lay this country under an obligation to a foreign country by our Ministers accepting presents, or to make similar returns to their Ministers. It was said, the gentleman from South Carolina might receive these presents now, without the consent of Congress. If he chose to risk his own character by doing so, Congress had nothing to do with it; but, for Congress to authorize any such thing, in his opinion, would be a shameful business.

Mr. Bayard would tell the gentleman from Tennessee on what authority he informed the committee that the presents in question consisted of what he had mentioned. Being upon the committee to whom this subject was referred, he made some inquiry as to what were the usual presents from the European Courts, and found, that in Holland, it was customary to give a gold chain and medal; in France, a gold snuff-box; and in Spain, a picture. It was on this ground that he said these things were of no consequence. Mr. B. then remarked, upon what had fallen from Mr. R. Williams with respect to the expense incurred in discussing this subject, and said it had been owing to gentlemen opposing the resolution that so long a discussion had taken place. As to the law which that gentleman proposed to introduce, he must see that the Constitution would not admit of such a law.

But some gentlemen were opposed to this resolution, because it was supposed the United States would be obliged to reciprocate the favor to Ministers who were sent to this country; and some gentlemen had seized the occasion of saying that few of these Ministers were deserving of any such present. But, because these gentlemen may be dissatisfied with the conduct of foreign Ministers resident here, they ought not to injure our own Minister, whom all allow has essentially served his country. He did not think this the proper place to discuss the propriety of making presents to foreign Ministers. When Congress were called upon to act in this matter, then would be the proper time for gentlemen to make their stand upon it, and say the allowance should or should not be made. He did not think the thing followed of course. He hoped, therefore, the resolution would be agreed to.

Mr. Rutledge said, that, being closely connected in the bonds of friendship with his colleague, who made the present application, he did not intend to have said a word upon the subject; but, when he heard things of a personal nature introduced into the debate, he could not avoid rising. And, with due submission to the Chair, he must say, that everything of a personal nature, introduced on this occasion, was, in his opinion, wholly out of order; particularly when it was said by a member, "If the gentleman from South Carolina is not satisfied with what he has received for his services, I am willing to pay him more." The Constitution has said, that the customary presents from European Courts shall not be received without the consent of Congress; and, accordingly, when these presents were offered his colleague at the two Courts at which he was Minister, he declined receiving them, saying, that he would lay the matter before Congress on his return home. He had done so, and he could not see any ground of alarm in this. He felt none of that Republican jealousy which caused his mind to revolt at these civilities. He rose to dissipate, if possible, those ideas of danger which seemed to be apprehended from the adoption of the present resolution—the apprehension that it would break down the barriers which were to keep out corruption from our Government, and introduce a variety of evils. The gentleman from Tennessee had stated a strong case. He had supposed, that, to allow these presents might, at some future day, encourage some person to come forward and ask permission to receive a title from a foreign country. And if this should be the case, he seemed to think the liberty of the country would be at an end. But did not that gentleman know that the United States have already given leave to a citizen of this country to wear a ribbon and accept of a title from a foreign Power; but it was a solitary case, and he believed it would forever remain so, as he never heard that

this badge of distinction excited anything but ridicule from his fellow-citizens.

Mr. Claiborne wished to know who the individual was.

Mr. Rutledge answered, it was the case of the Chevalier John Paul Jones to which he alluded. The transaction took place under the old Confederation, which expressly prohibited titles. But the King of France, wishing to confer some mark of distinction on Jones for his bravery, wrote to his Minister here, and he applied to Congress upon the subject, and leave was granted to him to receive the Cross of Military Merit. This happened in the year 1781. Mr. R. having ascertained the fact from the Journals, hoped no uneasiness would be entertained on the ground of danger from titles.

Mr. Harper did not wish to protract the debate, but he could not help noticing a few circumstances which had given some gentlemen alarm. He was sensible that every personal feeling was in favor of the request, he therefore viewed with respect that rigid adherence to principle which had produced the mistake which their zeal had led them into. Gentlemen talked as if none but Royal Governments make these presents. Were they to be informed that every Republic in Europe, which was in the habit of receiving Ministers, was also in the habit of making these presents? Besides, could it be believed that if a Minister abroad was to receive presents, by way of bribes, he would ever lay them before his Government? Certainly not; he would be silent with respect to any such bribe. Corruption flows through far different channels from those which had been mentioned—it flows through the hands of bankers and other agents, not by means of ostensible and customary presents. And he believed if corruption had flowed in any other way than this, we should never have heard of douceurs of £50,000 sterling, or of Ambassadors being imprisoned, in order to extort money from them.

What objection, then, is there to allowing our Ministers to receive these presents? It was said we should be under the necessity of returning them to the Ministers of other countries, in the same way as when a gentleman accepts of an invitation to dinner, he must return the compliment by asking his friend again. Admitting this to be the case, what then? Suppose the United States receive twenty different foreign Ministers, and that they are changed every two years? This would amount to ten presents a year; and if we gave a present equal to that given by the Republic of Holland, he supposed it would be thought very handsome. They gave a gold chain and medal, he supposed about the value of four eagles, so that ten presents of this kind would amount to forty eagles a year. He did not think this would be alarming, or any way endanger the liberties of the country. On the contrary, he believed, the good will which was produced by this interchange of civility between nations would be cheaply purchased for thirty or forty eagles a year. They all knew the advantages of reciprocal civility in private life, and it was still more necessary in Governments and nations. Have we not, said he, seen a want of attention to these little things, alleged as a cause of quarrels and war? This had frequently been seen. It was good policy, therefore, to cherish a good understanding with nations by falling into their customs, especially when it could be done without much expense or inconvenience.

Mr. Macon complained of the gentleman from South Carolina (Mr. Rutledge) having censured the Chair without cause.

Mr. R. Williams denied having said anything of a personal nature; and as to consuming time in debate, he took no part in it, until the gentleman from Delaware had himself made two or three speeches.

Mr. Gallatin said this question might be considered either as of a personal, or of a general nature. He had heard gentlemen, arguing both in support of and against the resolution, speak of the important services rendered by the gentleman from South Carolina in having accomplished the treaty with Spain. Nor did he conceive this to be out of order. He believed, however, the gentleman himself was perfectly indifferent as to the fate of the question.

Mr. G. had some doubt with respect to the construction of the Constitution on this point. If he was well acquainted with the fact relative to this business, it stood in this way: When Mr. Pinckney was sent as Envoy Extraordinary to Spain, he still remained Minister Plenipotentiary at the Court of Great Britain, therefore he was altogether precluded from accepting of the present offered to him by the Spanish Government on his taking leave from that Court; but, with respect to the present offered to him by Great Britain, it appeared to him that the moment a Minister receives his letters of recall, and has taken his leave, he is no longer an officer of the Government; and, in such case, both under the present Constitution, and under the old Confederation, presents have been received. So far, therefore, as relates to Great Britain, he did not think it was necessary to apply to Congress for their consent.

He had said, that after a Minister has received his letters of recall, there was nothing to prevent him from accepting of a present. He might be told the Constitution is lame in that respect; but it was more so with respect to private citizens, because any private citizen might receive either presents or titles from a foreign Power. It has not, therefore, effectually shut out corruption. Officers may receive presents by consent of Congress; but any officer, or member of Congress, might accept of presents, either in secrecy, or wait till they are out of office and receive them publicly. Nothing could prevent this but the infamy that would attach to such an act. Therefore, so far as it was contended that a disagreement to this resolution would shut out a source of corruption, it had little effect upon his mind.

But there was another point of view on this subject, which would induce him to give his vote against the resolution. He considered that if Congress gave its assent to this proposition, it

would be saying that they approve of the act, and that it is in itself proper that a foreign Minister should receive presents. If it was, in their opinion proper to accept of these presents, the resolution would be affirmed; but if they were of opinion, that the practice is a bad one; that it is useless in itself, and ought to cease, they had nothing to do but refuse to authorize it. He owned it was proper to keep up civilities, when it could be done by conforming to customs of an inoffensive nature; but when the Constitution stood in the way, it ought always to be respected.

He had another reason for voting against this resolution. He had already said, that, if a man was not an officer of the United States, he had a right to receive these presents. A question arose whether the gentleman from South Carolina had a right now to receive them. He believed he was precluded, not only by their being offered as reward to a Minister, but from his being a member of Congress, for he did not believe that permission could legally be granted to any member of Congress to receive any such present; and, therefore, that the resolution ought not to be agreed to.

The question on the resolution was put, and negatived—44 to 38.

The committee then rose and reported their disagreement to the resolution of the Senate; when the question was taken on concurring with the Committee of the Whole in their disagreement, and decided in the affirmative—yeas 49, nays 37, as follows:

Yeas—George Baer, jun., David Bard, Bailey Bartlett, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, William Findley, John Fowler, Albert Gallatin, James Gillespie, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, James Schureman, Tompson J. Skinner, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, Abraham Baldwin, James A. Bayard, David Brooks, John Chapman, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Berry Grove, Robert Goodloe Harper, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Rutledge, jun., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

RELATIONS WITH FRANCE.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to Congress copies of all the communications from our Envoys Extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses.

JOHN ADAMS.

United States, *May* 4, 1798.

PROVISIONAL ARMY.

Mr. Sewall, from the Committee for the Protection of Commerce and the Defence of the Country, made a report on the bill from the Senate, authorizing the President to raise a provisional army; which was committed.

EXECUTIVE DEPARTMENTS.

Mr. Harper said, that having observed some embarrassment in the laws establishing the Executive Departments, more especially as it respects the War Department, a very considerable proportion of the business of which is done in the Treasury Department, being made an agent to the War Department in paying and receiving money; so that one department makes the expense, and another is responsible for it. He wished, therefore, to see if some better arrangement could not be made in this business, and for this purpose proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire and report, by bill or otherwise, whether any and what alterations are necessary in the various acts establishing the Executive Departments, so far as relates to the manner of disbursing the money appropriated for each, and the settling of their accounts."

Agreed to, and a committee of three members appointed.

Saturday, May 5.

PRESENTS TO MINISTERS.

Mr. Harper said he wished to submit to the House a motion in relation to the subject decided yesterday. He believed it would not be proper to let that matter go on with a simple negative of the resolution of the Senate. As a committee had been appointed to report on this subject, it might be referred to that committee. It was in the following words:

Resolved, That Congress entertain a just sense of the meritorious conduct and important services of Thomas Pinckney, during his late mission to Great Britain and Spain; but, inasmuch as the Government of the United States have never, in any case, adopted the custom of making presents to the Ministers of foreign nations, it is inexpedient to permit their own Ministers to accept presents from the Governments to which they are sent; for which reason the said Thomas Pinckney ought not to have the consent of Congress to his receiving the customary presents from the Governments of Great Britain and Spain."

Mr. Baldwin said the committee had already reported.

Mr. Gallatin wished to know whether this motion was in order, after the subject had been decided. It was a little curious that a gentleman

who voted for the adoption of a resolution should bring forward the reasons of gentlemen who were opposed to it. Besides, he believed it asserted for fact what was not so. It said our Government had never adopted the custom of making presents to foreign Ministers, whereas, in a late statement, there appeared an item of $2,607 for this purpose. He wished the Speaker, however, to say whether the motion was in order.

[No answer was given.]

ADDITIONAL REVENUE.

On motion of Mr. Harper, the House went into a Committee of the Whole on the report of the Committee of Ways and Means, Mr. Dent in the Chair, when the three following resolutions being read, viz:

Resolved, That it will be expedient to raise an additional revenue of ——— dollars annually, by a direct tax.

Resolved, That the said tax ought to be laid by uniform assessment, on lands, houses, and slaves.

Resolved, That the apportionment of the said tax ought to be made among the several States according to their respective number of inhabitants, as ascertained by the last census."

Mr. Harper moved to fill the blank in the first resolution with two millions.

Mr. Varnum supposed the present revenue would be sufficient for all our current expenses. The duties on imports and tonnage were last year upwards of seven millions and a half. The Secretary of the Treasury estimates the amount this year only at seven millions. He did not see any reasonable ground for this. He believed the amount this year would be greater than the last, as it had increased a million a year for several years past. Last year, when a direct tax was under consideration, it was said there would be a deficiency in this part of the revenue, but it now appears that those suggestions were unfounded; and the first quarter of the present year has produced a greater amount than in any preceding year. He did not think, therefore, that there would be any necessity for the present tax.

Mr. S. Smith did not think it necessary that the committee should have farther information on this subject than was contained in the report. By that it appears that there will be a deficiency of $1,396,705 to be provided for by new revenue, exclusive of two instalments on the debt of the Bank of the United States amounting to $400,000. But the gentleman from Massachusetts supposes the revenue of this year will be equal to that of last year. Suppose this was to be the case, there would still be a deficiency of upwards of a million of dollars. Had he provided any means of meeting this? He had not. Besides, the gentleman's arguments went upon an idea of peace, and not of war. He agreed with that gentleman in one thing, that the revenue of the present year will equal that of last year, as he did not believe our revenue would be diminished by the depredations committed upon our commerce, believing, as he did, that the revenue was in proportion to the consumption of foreign commodities; and as he did not believe the people of the United States would consume less this year than the last, he did not believe the duties arising from imports would be less. Nor did he believe it would decrease much even in a case of actual war. It would decrease our own tonnage, but it would increase that of other nations. The commerce of the United States, Mr. S. said, was equal to any in the world; that of last year, notwithstanding the depredations made upon it, was not exceeded by that of any country. But when we are in a state, which though it be not war, will probably soon become so, it is necessary to provide the means of carrying on war, if we should be involved in it. Large sums have been voted to prepare the country for such a situation, and it became essential that money should be provided. If, on the threshold of war, gentlemen hesitate to provide the ways and means, he should begin to think they were not in earnest to defend the country; but when he saw them provide money, which is the sinews of war, he should be convinced they were indeed determined to defend their country; and in that case, even if France is successful against Great Britain, and, according to the opinion of the gentleman from Connecticut (Mr. Allen) by such an event one of our arms should be cut off, he believed sufficient resources would be found within ourselves to defend this country against any nation whatever. This being his opinion, he was for giving the sum with which this blank was proposed to be filled. He was not for going into nice calculations, as if the country were likely to remain in a state of peace. He had heretofore been for saving money as much as possible, and for paying off the national debt; but this was no time for speaking of these things. It is well known that it will take one year to organize this tax; but if a security of this kind was provided, money might be borrowed upon it. For if the country was involved in war, or an actual invasion took place, that would not be the time to talk about raising money; the moment should be seized whilst there exists a spirit of enthusiasm, and then money might be borrowed. Two millions of dollars would be as nothing for the defence of the country in time of war. The amount of our present force alone would require this, and no man could suppose that double our present force would be sufficient; but upon this tax might at least be borrowed ten millions.

The question was put and carried—47 to 25.

The resolution was then agreed to as amended, as was also the second.

The third resolution being under consideration,

Mr. Dayton moved to strike out the words "last census," as it might be determined when the bill came in whether the number of inhabitants should be ascertained by the last census, or a new one should be taken.

Mr. T. Claiborne hoped the principle upon which the tax was to be laid would be now established.

Mr. Harper believed this was an essential point, as before the bill could be drawn, it would be necessary to ascertain upon what principle it should be formed.

Mr. Lyon supposed the Constitution was decisive as to this point.

Mr. Gallatin hoped the amendment would not prevail; if it did, it would be necessary to take a new census before the tax could be assessed. It might, perhaps, be Constitutional to take the census oftener than once in ten years; but if it was (and he had some doubt as to that point) he did not think it would be good policy to do it now. If it was necessary to continue the tax after the year 1801, it might be then apportioned according to the new census.

Mr. Bayard said, the words of the Constitution were, "within every term of ten years"; so that a greater period than ten years could not be suffered to pass without taking a census, but it might be taken every year if it were necessary. He believed it would be very proper to have a new census taken before the tax was assessed, otherwise from the great increase in the population of some of the States, since the last census was taken, the tax would not be constitutionally collected, since it is directed to be laid according to the number of inhabitants.

Mr. Harper said, he should be glad to see a new census taken at an early period, so as to relieve the States from any inequality which might arise from the variation of population which has taken place since the last census; but he trusted it would not be thought necessary to do this before the proposed tax was assessed. The carrying a law of this kind into effect, let it be done in whatever way may be adopted, would be found a tedious business, and the amount to be produced by it, would have to be anticipated by loans; and if a new census was to be taken before the tax could be assessed, it could not be said, with any kind of certainty, when an effectual revenue was to be raised. He hoped, therefore, when so great an inconvenience would be incurred by delaying the tax until a new census was taken, that, though for one year some of the States would have to pay a little more than was justly their portion, they would consent to do so rather than subject the country to so great an inconvenience as would be experienced by such a delay.

Mr. Dayton said, he did not mean, in this early stage of the business, to determine that the last census should not be the rule of apportionment for the first or second year's tax, but to have avoided deciding that point in this resolution. The gentleman from South Carolina seems not to have recollected that this is a provision for a permanent tax. For the words are, that two millions shall be raised annually, and the rule of apportionment is proposed to be by the last census. If it had been said that the tax should be assessed according to the present census until a new one could be formed, he did not know that he should have objected to it.

Mr. Harper said he should not object to such a change in the resolution.

Mr. Dayton was well convinced that the gentleman from South Carolina must see the propriety of such a change in the form of the resolution. He meant to amend the resolution; he had taken one way to do it. If the gentleman from South Carolina chose another, he should take his own. He believed the words he had moved to be struck out, improper, and it was a principle which might well be discussed when the bill was brought in. If it were found practicable to take a new census within a reasonable time, the tax might, in the first instance, be apportioned by it, if not, by the old census. The gentleman from Pennsylvania was in doubt whether a census could be renewed oftener than once in ten years. He had no doubt on the subject, and he believed great injustice would be done to some of the States if the tax was not assessed according to their present number of inhabitants, as some States have doubled or trebled their inhabitants since the last census was taken, whilst others have scarcely increased at all.

He believed the States of Pennsylvania and New York have increased, when compared to New Jersey, as an hundred to one; and it was well known that the States of New York and New Jersey are divided only by an imaginary line, so that it would happen that one of two farms adjoining each other, from being in different States, would be taxed fifty per cent. more than the other. The inequality in such cases would be vastly more grievous than the tax itself.

Mr. D. said, if it could not hereafter be shown that the census might be taken at the same time that the valuation of the property was made, he should abandon the idea of assessing the tax in the first instance by a new census. All he asked was, that the words should be struck out, and that the question might not be decided at the present time.

Mr. S. Smith was at a loss to know how the bill could be drawn, until this principle was decided.

Mr. Dayton said, it appeared to him one of the simplest things imaginable to do this. The sum to be apportioned to each State might be left in blank, and filled up in Committee of the Whole, when the principle shall have been settled as to the census.

Mr. S. Smith thought it would be much the best now to fix the principle with respect to the census. The resolution, he believed, had better stand as it is, and gentlemen might move to have a new census taken after the first year; so that, if a farmer was to pay four or five dollars more than his neighbor for one year, he would know that the inequality would be remedied another year. The State of Maryland was situated in some respect like that of New Jersey, and would, of course, experience the like inconveniences; but inequalities will exist in every system of taxation. He hoped, if gentlemen were in earnest to raise money, they would not bring forward objections of this sort. Similar objections to these were urged formerly, when the subject was taken up as a peace measure; but now that it was resorted to in support of war measures, he trusted they would not be insisted upon.

Mr. J. Williams supposed, if the amendment obtained, the tax must be apportioned according

to a new census; and, if so, he apprehended the resolution would be disagreed to. Though a new census might be taken within the ten years, he believed that term ought to be nearly expired before a census was renewed. It was true that some of the States are greatly increased in population; but it could not be supposed that States increased in riches in proportion to their increase of inhabitants, as the people who emigrate are mostly persons of little property, who settle upon the back lands. This being the case, he thought it was a wise provision of the Constitution which directs that the census shall be taken only once in ten years. If these words were struck out, no tax ought to be laid until the time comes for taking the new census.

Mr. Harper suggested to the mover of this amendment that his object might be attained, when the bill was brought in, by moving that the new census should be taken at a certain time.

Mr. N. Smith said, though he came from one of those States which would be benefited by a new census, yet he could not see that the object could be effected in time for the present tax, as whenever the tax is levied and apportioned it must be according to the numbers at the time, which were to be ascertained according to the last census. Therefore, if the tax was to be apportioned at the present session, it could not be done according to any other rule. The providing a system of taxation, and the levying and apportioning of it, were very different things; and when the subject was formerly under the view of the House, two bills were reported, which kept the objects distinct. Congress might this session form a system for the valuation of property, and for the providing of a new census; but if it were necessary to levy and apportion the tax at this session, it must be done by the present census. He did suppose it was necessary at this session to apportion and levy the tax, because he believed moneyed men would not lend their money to Government without it. This being his belief, however unfavorable it might prove to his State, he should be in favor of it, as he did not believe this was a time for indulging those local interests which at another time they might wish to do. He would, however, willingly join with gentlemen in providing for a new census on which to levy future taxes. As to the present amendment, he thought it of little importance; for, whatever was the fate of this resolution, the two former ones must be carried into effect according to the existing census.

Mr. Bayard would not be in favor of striking out these words, if he thought it would prevent the collection of the tax; but it would be necessary, before the tax could be laid, that an assessment of lands, houses, and slaves, should be made, and he could not see why the number of inhabitants could not be ascertained at the same time.

Mr. R. Williams wished to know whether the new census proposed to be taken was to affect the representation as well as the tax?

Mr. Dayton answered in the affirmative. The return of the enumeration of the inhabitants, he said, might be made at the first meeting of the next Congress, by which means the number of Representatives to which each State will then be entitled might be ascertained in time for the succeeding election. If the order was not made at this session for taking a new census, the enumeration could not be returned before the last session of next Congress, which would be too late for the election of the following Congress.

Mr. Sewall could not consider this amendment in any other light than as going to determine when the tax should be laid. If a new census was to be taken, it certainly could not be laid during the present session. The gentleman from Delaware spoke of taking a new census and the valuation at the same time; but the census must be taken in a different way, and acknowledged by a law of Congress to be correct. To wait, therefore, whilst a new enumeration is made and accepted, would be to postpone the tax. He would concur with gentlemen in providing for a new census at this session; but let it be for the next tax, and not for this. The resolution might be so altered as to admit of this by striking out the word "annually," for which he saw no use.

The question on this amendment was put and negatived, there being only 17 votes for it.

Mr. N. Smith saw no necessity for this resolution at all; for whatever tax might be laid at this session must be assessed according to the present census.

Mr. Dayton said, he would move to amend it by inserting after the word "said" "first annual tax."

Mr. Sitgreaves said, it would be better for the mover of this amendment, and others who wished to have this tax collected, to suffer the resolution to stand as at present, so that the tax might be immediately assessed by law, and provide at the same time for taking a new census, which no one would object to; and, if it could hereafter be shown that the new census could be taken without prolonging the collection of the tax, it might be done; if not, the tax must be laid according to the present census. The best way would be to strike out the resolution altogether, and then make a provision for taking a new census.

Mr. S. said he was from one of those States which would be considerably affected by the taking of a new census; but he should be far from being influenced by a consideration of this kind in laying this tax. He should be in favor of an equal distribution of the public burdens. He did not wish his constituents to pay one farthing less than their full proportion of any tax. He should dishonor them by saying they wished to pay less; and let this tax come on when it would, he did not believe he should consult the dignity or honor of the State of Pennsylvania by objecting to it, since it appears to be necessary to provide means for the defence of the country.

Mr. Dayton consented to vary his motion so as to meet the ideas of the gentleman last up, by adding, after the word "that," in the first line, "until a new census shall be taken," and to the end of the resolution these words: "and that provision ought to be immediately made by law for taking a census of the inhabitants of the several States, agreeably to the Constitution."

Mr. Gallatin believed this amendment consisted of two parts; he therefore called for a division of it. He should vote in favor of the first. The other part he thought perfectly a distinct subject, and not at present under consideration. If a new census was to be directed to be taken, he thought it ought to be done in a separate bill, and not entangled with this subject.

Mr. Harper was disposed to think there was no necessity for the resolution itself. Therefore, he believed it would be better to reject the resolution, and then let the gentleman from New Jersey bring forward his proposition for a new census; though he had no particular objection to the mode proposed.

The question on the first part of the amendment was put and carried, without a division.

On the second, some observations were made, chiefly expressive of a wish to have the provision for a new census separate from the present subject; after which, the question was put upon it, and carried, 39 to 29.

The committee then rose, and reported the amendments to the resolutions as agreed to; which being confirmed by the House,

Mr. D. Foster moved to strike out the word "annually" in the first resolution.

Mr. Sitgreaves was opposed to this amendment. He had no idea of the policy or propriety of bringing this question frequently before Congress. He had always been opposed to the restricting of laws which were in their nature permanent. If this tax hereafter became unnecessary, nothing would be more easy than to repeal it; but, from present appearances, it was probable that it would be wanted for some years; and, this being the case, he did not wish to put it in jeopardy for one year. Besides the expenses attendant upon our present situation, additional revenue would be wanted for the extinguishment of our debt, after the year 1801; so that for this purpose it would be desirable to continue the tax, and, if there was any surplus, it would of course go to the sinking fund.

Mr. Gallatin was in favor of the motion. It was his intention to have made some general observations on this subject whilst under consideration in the Committee of the Whole; but whilst he was putting down some figures on paper, the question was taken; as they would be equally applicable, he should now make them. They would go to show that this tax was not wanted as a permanent revenue, but solely to meet the present exigencies. He should show that the present revenues of the Union are sufficient to meet the current expenses, and to meet the instalments of deferred and Dutch debt due after the year 1801.

The report of the Secretary of the Treasury states that it is probable there will be a deficiency of $1,796,705; but supposing that, from the present situation of the country, our expenses may be greatly increased, and our revenue defalcate, the certainty of a great augmentation in the ordinary expenses by the deferred debt, and the increasing instalments of the foreign debt, the Committee of Ways and Means do not think it safe to contemplate an additional revenue from permanent sources of taxation to a less amount than two millions of dollars.

In looking into the statements of the Secretary of the Treasury, it would be found that most of the objects of expense brought forward to show the necessity of a permanent tax are of a temporary nature. He has estimated the expenditures for the year 1798 to be $6,926,460; in order to ascertain what will be the permanent expenditures of the Union after the year 1800, it is necessary in the first place to deduct from the sum those items which are not of a permanent nature; and, as he would add a sum for the Dutch debt due after 1801, Mr. G. said he would also deduct the instalment of $80,020 due for the present year. The first item of a temporary nature was a sum reported for deficiencies in the Military Establishment of $164,000. Every gentleman who had attended to this subject, when it was lately before the House, must be convinced that sufficient sums had been appropriated under this head, and that deficiencies must be considered as extraordinaries not likely again to occur. Second, $103,000 were set down for diplomatic expenses; the permanent establishment was now fixed at $63,000, and $40,000, therefore, were a temporary expense. Finally, the following items were stated by the Secretary himself as temporary, viz: for lighthouses, in addition to the usual appropriation, for expenses incident to the treaties with Great Britain and Spain, and for reimbursing the unfunded and registered debts, and for the payment of old accounts, a sum of $546,000. The last item not yet agreed to by this House. These several articles amount to about $830,000, which, deducted from the expense of 1798, as calculated by the Secretary of the Treasury, will leave a balance of about $6,100,000 for the permanent ordinary expenses, civil, military, contingent, and relative to the present debt. To this must be added $1,146,370 for the interest and extinguishing annuity of the deferred debt, payable in 1801, and also the sum necessary to pay the principal of the Dutch debt after that year. The Committee of Ways and Means have reported the foreign debt which will become due in 1802, 1803, and 1804; but, by taking the aggregate of all the years, it will be found that an average sum of $800,000 a year will pay the whole of that debt in twelve years. This last item, the $1,146,000 for the deferred debt, and the $6,100,000 for ordinary expenses, makes the aggregate of $8,046,000 for the permanent expenditures of the Union after the year 1801, including provision for paying the whole of the principal of the foreign six per cent. and deferred debt according to contract.

This, in time of peace, would be the extent of our expenses, especially as there are a number of items which might be reduced, and in that calculation no reduction is introduced in the Naval, Military, or Diplomatic Departments, or in the

Civil List. If the current revenue be examined, it will be found to exceed this amount. The amount of revenue, as calculated by the Secretary of the Treasury, for the present year, is $8,011,897. But to this must be added the deduction of $549,649, which he has made from the duties on imposts and tonnage, from an apprehension of a deduction in this part of the revenue, on account of captures, and which was of course to be considered as temporary. To this there should also be added the duty on salt, laid at the last session, which could not make any part of this estimate. That duty was eight cents per bushel, and calculating the quantity of salt imported at three millions of bushels, it will amount to about $250,000. There was also a number of additional duties, laid during the last session of the last Congress, which would not raise less than $350,000, viz: two and-a-half per cent. on all white cotton goods imported, and an additional duty on tea, brown sugar, and molasses. These two sums make $600,000, and added to the above $500,000, deducted this year on account of captures, would make the permanent revenue, in time of peace, equal to $9,111,897, which would exceed our expenses by $1,000,000. This is clear from the papers before the committee. It was suggested that some of his deductions for expenses were improper, or that he might be mistaken in his expectations of revenue on some items, yet this surplus million, which was equal to one-eighth of the whole expenditure, would certainly cover any mistakes of that kind. Besides, there is every reason to believe some of the branches of the revenue will be more productive, on account of the increase of population in 1801, than now. Mr. G., therefore, agreed with the gentleman from Massachusetts (Mr. Varnum) that the present revenues of the nation are equal to all its expenditures, including therein the redemption of the public debt, except in case of war. The gentleman from Maryland (Mr. Smith) seemed to be of the same opinion, and, indeed, the chairman of the Committee of Ways and Means had formerly made a similar declaration. It would, therefore, be improper to vote a permanent tax, when the objects for which it was wanted were not of a permanent nature.

Two years ago, Mr. G. said, he was in favor of a permanent land tax, as he then thought it would be wanted to meet the demands which would come against the Government in the year 1801. He was of that opinion, because he did not wish to see the list of indirect taxes swelled beyond what it was; but Congress were of a different opinion, and had, since that time, laid indirect taxes on salt, sugar, stamps, &c., to the amount of $800,000 a year, and have so far diminished the necessity of a direct tax.

There was another thing in which he had been agreeably disappointed. The mistake was common to almost every individual, as well as to himself. It was in relation to the amount of duties which would probably arise from imposts and tonnage, and which were productive beyond the most sanguine expectations. The estimates of the Secretary of the Treasury then fell short of the real amount by upwards of a million of dollars, and the same thing had taken place last year. If, however, in the year 1801, a diminution should take place in the product of those duties, the land tax might then be made permanent.

Mr. G. concluded by saying the tax of two millions was already agreed to for one year, though he thought it too large a sum. He could see no objection to its being made an annual tax as in Great Britain, as it could not be doubted that if the money was wanted for another year, the act would be annually renewed.

Mr. S. Smith did not mean to contest the calculations which the gentleman from Pennsylvania had made. He believed they were correct. At the time the gentleman made the mistake as to the probable amount of duty which would be raised from imposts and tonnage, he differed from him in opinion. He then believed, as he now believed, that duty would continue to increase with the population of the country. But, as he had before said, this was not the time to make calculations on a peace establishment. Money must be had. The Secretary of the Treasury has said that the Bank of the United States, and others, would advance money on loan, provided permanent resources were raised as security; but, if this amendment obtained, could it be said that this tax would be a permanent resource? Would moneyed men lend their money upon it? They would not, though perhaps bankers might.

From the complexion of this House, there could be no doubt that whenever this tax became unnecessary it would be repealed. Believing this, he had no objection to its being a permanent tax. The gentleman from Pennsylvania had said that if we had no war, the present revenue would enable us to meet the deferred debt due in 1801; but he (Mr. S.) believed it would not be sufficient for the year 1802. But would not this tax be wanted for other purposes? Had not that gentleman always been in favor of paying off the public debt, and might not any surplus, if we were not involved in war, which every one deprecated, but which all expected, be well applied to that object? For it was generally agreed that indirect taxes were more oppressive than direct taxes, since for every twelve-and-a-half per cent. of duty, the public had to pay twenty-seven-and-a-half per cent. from the various additions made to it by the merchants and dealers. The consumer is not aware of this; but those who do know it ought to endeavor to relieve them from it.

Mr. Harper confessed himself very much alarmed at this motion. He saw in it, and in the arguments of the gentleman from Pennsylvania in support of it, the second leaf of the book for keeping this country in an utterly defenceless state—and another attempt made to render those measures which had been taken nugatory, by effectually tying our hands; and therefore it was that he saw this motion made with grief and astonishment, by his friend from Massachusetts, whose motives he could not suspect.

The gentleman from Pennsylvania, said Mr. H., reasons as if we were in a state of profound

peace, and as if we had nothing to apprehend from abroad; as if all our disputes were settled, and we had nothing to do but pay the expense of the preparations of defence gone into, and then at all future times we should rest in security. This was the basis of his speech, and he could not entertain so low an opinion of his understanding as to believe he thought it a good one. That gentleman must know, every one must know, that this country is not in a settled state of things, but that we are threatened, and speedily, with a war. No longer ago than yesterday the House was informed that our Ministers had presented their final memorial, and that if they did not soon receive an answer to it, they should give up their mission and return home. Far from desisting from her attacks upon our commerce, France goes on increasing them. Her former violations of right have been greatly increased. They had been told by the papers on the table of the subjugation of our country, of the fate of Venice and of Hamburgh. She talks of sending frigates against us, of ravaging our coasts; she has spoken of internal divisions, of a party in this country on which she can rely. We had heard, though not officially, that orders had been issued for taking all our vessels, and executing our citizens as pirates, yet gentlemen sit down with counting-house exactness to calculate the amount which it will take to defend ourselves. This was, however, perfectly consistent with the rest of the conduct of the gentleman from Pennsylvania, because he has constantly set his face against every measure of effectual defence, though he has constantly talked of being willing to concur in what he considered measures of defence.

But will the House thus be acted upon? He trusted not. He could not relinquish the pleasing persuasion that a majority of this House is determined to defend this country against a foreign foe, that they are desirous of protecting their property, their wives, and their children, and that they will rend from their eyes the veil which the gentleman from Pennsylvania has endeavored to cast over them. That they will defend themselves against a foe who relies upon our weakness, upon our calculations of avarice, upon the exertions of men among us who are to paralyze all our efforts to defend ourselves, and upon a prostrate colonial spirit in this country. The existence of this spirit would be confirmed were the present motion adopted. Why? Because the complete defence of the country is not to be effected by two millions of dollars. Mr. H. recapitulated what had been done by way of defence; but said these amounted to nothing, they were only measures of precaution, a commencement of defence, and if those events take place which all think probable, a much larger sum of money will be wanted. Mr. H. said it would be seen, by the report of the Committee of Ways and Means, that they did not take into view the expense which might be incurred for the military defence of the country, either by a provisional army, or by detachments of militia. And would any one say that it would be proper to rise without providing a military defence for the country? Or could they say that no part of the 80,000 militia, ordered to be held in readiness, would not be called into service? Or would it be proper to sit down, satisfied that our enemy will not invade us, though they see we are not prepared to meet them? He hoped not.

How then was the money, which would be necessary, to be raised? It must be raised by loans. And how can these be obtained? Not on a precarious possibility of an increase of revenue, but upon a permanent revenue, which will not only pay the interest, but secure the repayment of the capital within a reasonable time. Had they not heard a gentleman, very conversant in this business (Mr. S. Smith,) say that no moneyed man would advance his money to Government, except a solid security was provided? The Secretary of the Treasury had said the same; and to say that loans would not be wanted, was to say that we should not be attacked. He believed the soundest principles of policy and good sense required that this tax should not be made temporary; if it were, should the French invade us, they will find an empty Treasury, and a total want of the means of defence; they will see the same inducements here which invited them to Naples and to Rome; and blindly good-natured must those be who think they would not take advantage of such circumstances.

These, Mr. H. said, were the impressions upon his mind, and though he did not address them to the gentleman from Pennsylvania, he did address them to those who believed with him that it was necessary to defend the country, and he trusted they would be impressed with the necessity of opposing this motion; for he was convinced, if the gentleman from Pennsylvania succeeded in making this tax annual, it would be his endeavor next year to do it away altogether; for he was of opinion that gentleman would never think it necessary to defend the country. He had all at once lost sight of the national debt, which he formerly called a *curse*, or he would not object to this tax, because more might be raised by it than would be wanted for the purposes of defence, because whatever surpluses might arise, would of course go to that object. He had now great confidence in the permanency of our revenue; whereas, when he had opposed that gentleman on a former occasion, when he wished to have introduced a land-tax in time of peace, he spoke of the defalcation which would take place in our revenue in case of war; and when he (Mr. H.) expressed a different opinion, that gentleman said he should leave him to enjoy his happy dream. But now he had all at once great confidence in our revenues, and was decidedly against a land-tax.

But, admitting that it is right in this case to calculate on cents and half cents, has the gentleman from Pennsylvania been correct in his statements? No; he has made many and very considerable mistakes.

In the first place the gentleman has erred considerably in respect to the deferred and Dutch debts; for in 1803 it amounts to no less a sum than $2,641,453. And how can he say that the

average yearly payment on account of this debt would be only $800,000? for we have not the power of thus distributing the payments: they must be made as they become due.

In the more minute parts of his statement are several errors. Our diplomatic intercourse is stated by the Secretary of the Treasury at $103,650 for this year; but the gentleman from Pennsylvania informs the House that there have been only $63,000 agreed to for that department. But that gentleman forgets we have four Ministers on the Barbary coast, and that $30,000 were appropriated to refund our Consuls money advanced by them for the relief of our sailors abroad, and that there is as much probability we should have it to pay next year as we have had it to pay this.

The gentleman had also stated that the expense of light-houses, buoys, and public piers—stated at $40,000—was a temporary expense; but how did the gentleman know this? Did not the House recollect that calls for expenses of this kind were made every year? There is now a report from the Secretary of the Treasury on the table, recommending an expense of $60,000 for the erection of piers in the river Delaware alone. It could not be said, therefore, that this expense would not occur in future. So also with respect to deficiencies in the Military Department. In the year 1796 there was a deficiency of $96,000; in 1797, $170,000; and yet it is said we need not expect any such deficiency in future. He also observes that the sum of $130,000 for the payment of old accounts, and for the reimbursing the unfunded and registered debts, is not agreed to by the House. He knew the bill was not yet passed, but the principle had been agreed to, and a bill ordered to be brought in.

With respect to what the gentleman had said relative to the increase of our revenue, and the additions to be expected from new duties, he would make some observations. Mr. H. admitted it was possible that the duties on imposts and tonnage might be as great this year as they were the last; but could any one say that this was to be relied upon? It was very possible that many of the merchants might not be able to pay their bonds, though the consumption might be equal to what it is at present. When the first shock of war shall have passed over, our revenue, he doubted not, would be equal to what it is at present; but by the ruin which that first shock would occasion among the merchants, it might be expected that considerable losses would be sustained by the public. But, admitting there may be a partial deficiency, the gentleman supposes it will rise again by the year 1801. He trusted, however, that the defence of the country would not be left upon a conjecture of this kind. He trusted a majority of this House were ready to meet our difficulties with firmness; if so, they will negative the amendment. The tax, if thought necessary, might be limited for a number of years; but to say it should be a temporary annual tax upon the peace system, would not answer the purpose for which it was wanted.

As to the additional indirect taxes which the gentleman estimated at $350,000, he had no doubt that they would aid the revenue; but, if they would keep it at its present amount, it was all that could be expected.

Taking all these things into view, he believed it would be the truest wisdom and policy to reject this motion.

Mr. Otis wished to inquire of his colleague, before he proceeded to make any observations, whether he would consent to withdraw his motion, and admit of another in its place; but as he did not see him in his place, he would state what his proposition was. He supposed it was the object of his colleague to prevent the tax from being permanent. He knew that gentleman too well to believe he wished to render the tax futile. He proposed, therefore, instead of this amendment, to retain the word "annually," and to add "until all loans that may be authorized by law on the credit of such tax be reimbursed."

If the motion of his colleague was negatived, or withdrawn, he would make this motion. He hoped the motion of his colleague would not obtain; if it did, we should never be able to raise one-fourth part of the sum proposed, until it was too late to apply the money to the object intended. Gentlemen seemed to be of opinion that these two millions were not to be obtained before they could be raised by the proposed tax. He was of a far different opinion. He supposed the occasion for expense might have ceased before any of that money came into the Treasury, and that our immediate wants could only be supplied by loans; and surely no gentleman, who was seriously of opinion that this money was wanted, could reconcile it to himself to vote for the present amendment.

This idea of his, Mr. O. said, that money could not be obtained on loan, except a permanent tax was laid, was not singular to himself. He had inquired of several merchants of this city who were connected with banks, who say that they, and all other men, will be unwilling to lend their money on a tax restricted as this is proposed to be. He did not suppose Government would be able to borrow more than $500,000 upon this tax, if thus passed; which, from its novel and complicated nature, might create discontent in the people, and become odious to them. For, though he did not himself apprehend that this would be the case, yet men who had to lend money would suppose all these things, and make their conditions accordingly. But, if the amendment which he wished to substitute was adopted, every object of his colleague, he apprehended, would be secured, and the funds would be pledged until the money borrowed was repaid.

Soon after the late despatches from our Ministers were read to this House, and the common sense of the community was convinced of the necessity there was for immediately going into measures of defence, speaking of the agreeable unanimity which seemed to prevail in the House, it was prophesied to him, by men who had been much longer in this body than himself, that, notwithstanding all this appearance, yet certain gentlemen in the House would take care so to embarrass the detail of the business, that they might just as well have refused

to assent to the principle. [Mr. Dana hoped these remarks were not meant to apply to the mover of the present proposition.] Mr. O. said he felt some difficulty in speaking on this subject, from the motion coming from the quarter whence it came; but he trusted his friend would not apply these remarks to himself. [Mr. Venable hoped the gentleman did not mean to insinuate that any gentleman was actuated by improper motives. The Speaker said it was improper to speak of motives.] Mr. O. added, that his object was to show that the opposition made to this tax would have nearly the same effect as voting against it in the first instance; for he doubted whether a shilling could be got upon it, if passed in this way. Perhaps many wish that this should be the case; they may think the money is not wanted. If there was any wisdom in thus acting, he could not see it, and therefore could not give gentlemen that credit for their actions which they may think they deserve. Mr. O. expressed his astonishment that gentlemen who were two or three years ago in favor of a land tax, should now be wholly opposed to it. He also added that he had heard another prophecy, which was, that many gentlemen who were always averse to a land tax would not now agree to it, but attempt to defeat it, however willing they were to go into measures of defence for the country, when those measures were unconnected with the raising of money. He hoped this would not come true.

Mr. R. Williams observed, it was a fortunate circumstance that the present motion was made by the gentleman from Massachusetts, though, even that circumstance could not secure gentlemen from abuse; for, though his friends cannot but allow the mover's motives are pure, yet they have imputed the worst views to those who support it.

For his part, he could not see how the principle of defence could be connected with the present motion, which went merely to limit the duration of the tax. Could gentlemen suppose, for a moment, that Congress would not always be willing to renew this law while the necessities of the country required it? He had always been in favor of limiting revenue laws; he wished all taxes upon the people to be kept in force only by the consent of all the branches of the Government, and this could only be done by this means.

But there seems to be something more intended by this law than is apparent. It was said that our present situation requires this tax; but when a motion is made to limit the law, gentlemen say it is to go further. [Mr. Harper said, the gentleman was mistaken; he was willing the law should expire when our necessities should no longer remain.] Mr. W. said, he knew the gentleman talked both ways. He argued upon the necessity of making the tax permanent, in order to obtain loans upon it, at the same time that he concluded with saying it might be limited. The House had been told, also, by the gentleman from Maryland, (Mr. S. Smith,) that whilst the enthusiasm of the people was alive, this tax might be laid, and money borrowed. Mr. W. hoped no improper advantage would be taken of this enthusiasm.

The gentleman from South Carolina (Mr. Harper) has, as is usual with him, consumed one-half of his speech in censuring the conduct of members of this House, because they do not agree with him in opinion as to what is the proper defence of this country, and in recounting what France has done in Europe.

As to what that gentleman had said with respect to motives, he believed every gentleman had a right to deliver his sentiments freely, without being subject to the lash of that gentleman, or any other. How could it be fairly argued, because gentlemen desired to limit the duration of this law, that they were unwilling to defend their country? No such conclusion could be drawn. He believed the people of this country would always be found ready to defend themselves, as far as their own interests and the interests of the country required; but not to defend other nations. The gentleman from South Carolina never spoke on the subject of defence, but he went into Europe, to tell the House what was going on there. He thought enough had been said on this subject.

The gentleman had talked much of national honor and national dignity; but he wished him to recollect that national honor and national dignity was national interest. But the dignity and honor, which were too often spoken of, were mere phantoms; and what is looked upon as disgraceful in one country, may be looked upon as honorable in another. But the dignity and honor which he spoke of was the same in all countries; it was the interest of the people. He believed that some gentlemen would even account it honorable to go into Europe, and endeavor to raise up all the crowned heads which had fallen in the course of the present war. He liked no such honor.

The gentleman from South Carolina has not only to-day, but often, reprobated the idea of introducing calculation into our debates when measures of defence have been under consideration; whereas it appeared to himself the true ground upon which they ought to act. He believed, if nations in general were to sit down and count the cost before they went to war, one-half the blood and treasure which are now caused to flow, would in such case be spared. Wherever a nation was about to enter into a war to support its rights without its jurisdiction, it was perfectly right to sit down and calculate the expense of doing it; he agreed, when a country was attacked upon its own territory, that was not the time to talk about expense. It appeared to him, in such a situation, our defence would not so much consist of money as of individual exertion. In his opinion, free men fought for liberty, and slaves for money.

The House was told, that if this money was not wanted, it would be safe in the Treasury, or applied to the reduction of the public debt; but he believed it would not be in the power of the gentleman from South Carolina to convince him, or the people of this country, that the money will not remain as safe in the pockets of the people, until it is wanted, as in the Treasury. He believed the willingness of the people to give the money when it is wanted cannot be questioned; and if that gentleman had all the reliance upon the people which

he pretends to have, he would not wish to take their money when he was not certain it would be wanted.

If this land-tax was to become a permanent tax in time of peace, what must be resorted to in case of war? Every session recourse had been had to new duties. Some exigency or other had always called for an increase of taxes; so that we have got excise laws, a salt-tax, a stamp-tax, and a variety of others, without the national debt being in any considerable degree diminished; and now, in an apprehension of danger, when a land-tax is to be resorted to, gentlemen are not willing it should cease when the occasion which calls for it ceases.

It was even said, that to limit this law, would show a degraded and colonial spirit. It was the first time he ever heard such an effect ascribed to the limitation of a revenue law. But gentlemen say, the law can at any time be repealed. It is not, however, so easy to repeal a law as to make it. Though this branch might consent to repeal it, the other might not; or if the two Houses concurred, the President might not. The consent of all was necessary.

As to our late despatches, containing the conversations of X, Y, and Z, which gentlemen seemed so much to rely upon, he confessed his opinions had not been at all changed by them. He believed, before they were communicated, that this country had been greatly injured by France, and he was not ready to take any step now that he was not ready to take before. He believed that he, and and others who voted with him, should be as willing to defend the country, in case of danger, as those gentlemen who are continually raising up military phantoms for the purpose of knocking them down again. He hoped the amendment would be agreed to.

A motion was made and carried to adjourn, without the question being taken.

Monday, May 7.

Mr. Davis laid the following resolution upon the table:

"*Resolved*, That the number of troops in the service of the United States on the Military Establishment, be so increased, that, including the troops now in actual service, the regiment of Artillerists and Engineers, to be raised under an act of Congress, passed the present session, it shall amount to ten thousand officers, non-commissioned officers, and privates, inclusive."

PRESENTS TO MINISTERS.

Mr. Pinckney said, he rose to request leave to withdraw the resolution which had yesterday been laid upon the table by his colleague, Mr. Harper, without his knowledge, respecting a business which had already been decided relative to himself, as it was founded upon a ground which was at least doubtful, and he thought out of order.

The Speaker interrupted Mr. P. to say that he would save him the trouble of any farther observations, by saying that he deemed the motion out of order.

Mr. Pinckney hoped, notwithstanding, he should be permitted to make a few remarks on the subject.

The Speaker replied, that any remarks upon a business already decided would not be in order, and could not be admitted without general consent. A pretty general cry of "I hope the gentleman will be permitted to proceed," being heard, Mr. Pinckney went on.

He said, it was with reluctance he took up the time of the House a moment in a matter relating to himself, particularly at present, when so much important business pressed for consideration; but he wished to state his reasons for wishing this motion to be withdrawn, lest it should seem to have been brought forward by his consent. He was grateful for the good intentions of his colleague, because he doubtless thought the vote which had passed on the preceding day might cast some imputation upon his, Mr. P's, character. But he also wished it to be withdrawn, because it was founded on at least a doubtful suggestion, viz: that it is not customary for the United States to make presents to foreign Ministers leaving this country. He believed it was customary to do so. But another reason for wishing it to be withdrawn was, that the discussion of it might not subject him to a species of trial as to his public conduct, in which he should not be at liberty to make his defence. He should never shrink from any authorized investigation of his conduct; but he should wish to avoid any unauthorized proceeding of that kind.

But his principal reason for troubling the House was to assign his reasons for addressing a letter to Congress on this subject, apparently of so trifling a nature. With respect to the present offered to him by the Court of Spain, it would have been improper for him, under any construction of the Constitution, to have received it, as he was at that time also Minister to Great Britain. Upon this ground it was that he wrote to the Spanish Minister declining the acceptance of the present offered to him from that Court, except he should obtain leave of Congress to do so. This being the case, whatever might have been the propriety of accepting of the present offered to him by the Court of Great Britain, there would have been at least an appearance of inconsistency to have received a present from one Court, and not from the other. He therefore gave the same answer to both.

This he hoped would account satisfactorily for having troubled Congress with any application on this subject. It was from a respect which he thought due to the Court of Spain, from the favorable treatment he had received from them, and being fully satisfied with all their conduct towards him, that he thought it proper to make the application. The other, respecting Great Britain, was involved with it.

Mr. P. said, he did apprehend there would have been a propriety in this House, at the time they rejected the resolution sent from the Senate, to have assigned a reason why they did so. He would say why he thought so. He thought the Constitution expressly allows, that, in some cases, presents may be received from a foreign Power, but that the power of deciding upon this shall be left in the hands of the Legislature, as a check upon

officers that they may not improperly receive any present from a foreign Power. But, considering this power to have been intended as a check upon the improper conduct of officers, it must strike the minds of the public when they are told that an officer was refused this privilege, that he had not done his duty, especially if the refusal was unqualified, and unaccompanied with any reason for the refusal, and that the refusal was intended as a censure upon his conduct.

It was in this point of view, that he conceived the conduct of the person to whom this privilege was refused, was implicated, without an opportunity of being heard in his defence. He should be far from wishing any resolution to be entered into approving of his conduct; but there was a great distinction between approving and disapproving; between censure and applause; and although he did not desire applause, he could have wished to have avoided censure. All that he wished had been done was, that the House should have stated something of this kind, "deeming it improper that the diplomatic agents of the United States should receive a present from any foreign Prince or State, the request cannot be complied with;" as, without this, the natural inference must be, that there has been some misbehaviour in the officer, or the usual privilege would not have been refused. He called it usual, because whenever it had heretofore been applied for, it had been invariably granted, and the rejection of the resolution from the Senate, must, therefore, be looked upon as establishing an imputation upon his character. It was saying to the world, "Every other person in a similar situation, has been permitted to accept of these presents, but you, and you alone are an exception; you cannot receive them." Such a person may have been worthy of condemnation; he may have betrayed the interest of his country; but it was injustice to that person to condemn him without a trial.

Mr. P. said, he thought it necessary, in justice to himself, to make these observations before the House, from a regard which he felt, in common with other gentlemen, for his reputation—more particularly as this matter would appear upon the Journals of the House, and might not only reflect upon himself, but upon his children after him; they might be pointed at by the finger of scorn, as the offspring of a man who had betrayed the interests of his country. It was under the impression of these ideas that he had been led to trouble the House, and he trusted he should stand excused for having done so.

Mr. McDowell rose, but was prevented from speaking by the Speaker, who declared that nothing more could be admitted on a subject which was not before the House.

Mr. Harper rose. He was also checked by the Speaker, but not before he had declared he brought forward the motion in question without the knowledge of his colleague.

ADDITIONAL REVENUE.

The House then proceeded to the order of the day, when the Speaker having stated the question to be to strike out the word *annually* in the first resolution,

Mr. D. Foster rose, and observed that, for a justification of himself to those who knew him, he need not declare that the motion, which had caused so much agitation, was made with good intentions; that it was not designed to embarrass the measures of Government, or with a view to prevent a provision of revenues adequate to the present or probable future exigencies; or from any reluctance on his part to concur in every measure requisite for an effectual defence of our country. To the uniform tenor of his conduct, on all occasions, since he had the honor of a seat in this House, he would cheerfully appeal. Those with whom he associated knew that nothing was more dear to his heart than the honor, the dignity, the liberty, and the independence of his country. He did not, therefore, consider many of the remarks which had been made on this subject, as applicable to himself, nor should he take any measures whatever to repel them. If his friends intended he should make a personal application, their object was lost. Alike indifferent to censure as applause, when unmerited, he had ever done, and, as far as he could be informed, he would continue to do, what, at the time, appeared to be his duty.

He was as deeply impressed as any gentleman of this House could be, with a sense of the necessity and importance of sufficient and productive sources of revenue. Measures for defence must be expensive; without the means to carry them into effect, all our acts and resolutions are vain and futile.

Protection to our commerce, defence to our frontiers and seacoasts, security to our rights as a nation, energy and respectability to the operations of Government, are not to be obtained without money, and if the present revenues are not sufficient, more must undoubtedly be provided.

Mr. F. further observed, that he had ever entertained the hope that, unless in case of an actual invasion, the assessment of a land tax, for the support of the measures of this Government, might be avoided. That is the only remaining resource of some of the State Governments. The one to which he belonged could resort to no other for the payment of its civil list and to discharge a considerable debt which it has contracted, and which has not been provided for by the General Government. Still, however, if the circumstances of our country are such as to require a temporary supply from that quarter, the people will not object against a payment. They will submit to the inconvenience with cheerfulness, so long as it shall be found to be necessary; but they will not feel satisfied to see a permanent land tax imposed, when other means, less oppressive in their effects, and less expensive in their collection, may be substituted. Such, he believed, might be devised, and if they could not be brought immediately into operation, they might be organized in a short period. Additional duties of excise, stamps, and impost, in some instances, would, in his view, be preferable to a permanent system of direct taxation. Another measure, which appeared to him

to merit the serious attention of Congress, and of the people throughout the United States, is, an alteration of the Constitution in such manner that Congress may be authorized to levy uniform duties or taxes on exports. This might be made a very productive source of revenue, to be levied in such a manner as to draw the principal part, if not the whole, of the tax from foreigners, without the least injury or inconvenience to our own citizens; but time will be requisite to mature measures of this kind. He had not such an antipathy to the idea of a direct tax, but he was willing to look at the subject, and examine it with candor.

Although he did not mean to pledge himself that he would vote for it, he should be glad to see a bill before the House, that opportunity might be given to examine the subject in detail. Since the motion he had submitted had been thought so exceptionable, he was willing for the present to modify it. If gentlemen would concur with him in a substitute, he would withdraw the motion to strike out the word "annually," and propose to add, as an amendment at the end of the resolution, the following words:

"To be collected for a term not exceeding — years; provided the Legislature of the United States shall at all times be at full liberty to substitute other duties or taxes of equal value in lieu thereof, for the purpose of discharging any debts or loans which may be contracted on the credit of said tax."

Mr. Harper rose to second the motion, because it concurred with his ideas on the subject, that the revenues ought to be commensurate with the debt incurred. He need not repeat, he said, that he had always been opposed to a land tax, except in the case of a war, or of preparation for war; but he now believed it necessary.

Mr. Macon hoped this motion would not prevail. In the State from which he came, they had an annual land tax, and found no inconvenience from its being annual. He had no idea of a permanent tax on land, as all the State Governments collected their revenues from this source, or from a capitation tax, every other object having been seized upon by the United States. The idea of the tax being laid for a number of years, would make it more unpopular than anything else. All our revenue laws are temporary. But it was said it was necessary that this tax should be permanent, in order to obtain loans upon it. He believed loans might very well be obtained upon it, though it were passed annually; for certainly those who loaned the Government money would have so much confidence in it as to believe that it would pay all its contracts fairly and honorably. He did not believe that all the money appropriated could be expended before the next session of Congress. Besides there is a surplus million in the Treasury, ready for any purpose which the Executive may think proper to apply it to.

It appeared to him, as it did to the gentleman from Massachusetts, that there might be other articles of taxation fixed upon. Several other articles might be excised. A tax might be laid upon all mahogany furniture, all furniture made of imported materials, all looking glasses above a certain size, watches of all kinds, plate and plated furniture, prints, umbrellas; another description of carriages, viz: those with plated mountings, might be made to pay a higher duty than others; American ale, beer, and porter, might also be excised, and a higher duty put upon such as are imported; hair powder would also be a fit object of taxation. He thought it one of the best British taxes, and as we had some of the worst, we might as well have it. All these articles were used by persons who could very well afford to pay the tax. If any mode could be devised of raising money, exclusively of a land tax and a stamp tax, he should have been glad. If we were engaged in war, we should have distress enough, and a land tax ought to be our last resource. Congress might go on and have the property assessed, without laying any tax. He did not believe this would make any difference, as he doubted whether the assessment could be made before the next session.

But it had been said, advantage ought to be taken of the present moment to get this tax. The same thing was said with respect to the Navy. He did not think it necessary to take advantage of the present enthusiasm of the people to collect a tax; the people would always obey the laws.

The gentleman from Massachusetts (Mr. Otis) had said, that his friends had prophesied to him that there would be opposition when the subject of ways and means came before the House. He might also have heard him (Mr. M.) say the same thing; and it now appeared that many who were ready to vote for expenses, were now amongst the most backward in providing revenue. The House had heard an elegant oration from the gentleman from South Carolina, and much said about France, with which he believed we had nothing to do. He wished they might be left to manage their own concerns, and suffer us to take care of our own. He hoped this amendment would be negatived, that the law might be negatived.

Mr. Gallatin considered the discussion of this amendment, as a continuation of the discussion of Saturday last; the only difference between the two questions was, that what was then an affirmative, is now a negative position; and those in favor of that, must, of course, be against this. For the original motion of the gentleman from Massachusetts (Mr. D. Foster) was, that the tax should be laid for one year, and not for a number of years, which implied that it could not be pledged for a permanent loan; but on this day, the same gentleman has perfectly changed his ground, for his motion now establishes both principles, viz: that it shall be laid for a number of years, and that it may be pledged for a permanent loan. He did not wonder, therefore, that the gentleman from South Carolina (Mr. Harper) seconded his motion.

There could only be two reasons, Mr. G. said, why such an amendment should obtain, viz: that our permanent expenses will be such as to render a permanent tax of this kind necessary, or else

that some temporary expense is contemplated far greater than has been voted. Neither of these principles were proved either by the gentleman from South Carolina or the gentleman from Massachusetts.

But the gentleman from South Carolina (Mr. Harper) instead of argument, took a mode which he has more than once resorted to, of giving the House some violent general declamation about invasion, the fate of Venice, divisions at home, weakness, &c., which would apply to everything and nothing. This had been the theme of the gentleman upon every occasion and upon every question, from the repeal of the stamp act and the foreign intercourse bill to the present one; it was his general ground, and, in his opinion, did not on this occasion require any answer; nor could he complain of the manner in which he had treated him, as he had divided his abuse pretty impartially between his friend from Massachusetts and himself. He had said that it was his (Mr. G.'s) object to oppose everything which went to the defence of the country, and that he had too good an opinion of his understanding not to believe that he was sensible that would be the effect of the motion; but as he did not believe the gentleman from Massachusetts made the motion with this view, of course, he must believe that it was for the want of understanding that that gentleman did not see the effect of his motion.

For without attempting to reply to anything of that kind, and believing that his motives and the understanding of the gentleman from Massachusetts stood on as good ground, at least, as the gentleman from South Carolina, and did not stand in need of any defence, he should proceed to examine that part of his speech which verged a little towards argument.

That gentleman had said, that there will be much greater expense to be met, than is at present voted. But was it not a very uncommon thing to vote money to pay an expense before the expense was authorized? Nay, he believed that the expenses already authorized could not all be incurred in one year. But, supposing the whole of the money could be expended during this year, the tax for one year would be sufficient for the whole amount of the expense authorized.

It was a perfectly novel doctrine to attempt to prejudge questions, to say there are other measures which may be voted in the affirmative; we shall want so much for this and that object; and, therefore, it will be necessary to make the tax permanent, was a curious way of arguing. When an expense was about to be incurred, it always became a consideration whether the means could be conveniently found, but he never knew the possibility of expense made an argument in favor of raising new taxes, before it was actually decided that the expense should take place.

He confessed he did not entertain those fears which the gentleman from South Carolina had expressed, with respect to this country being subjugated or invaded; nor did he apprehend the divisions at home which he had spoken of. The necessity of a standing army was the only ground upon which a calculation of any considerable additional expense could be formed; the House having done all they thought necessary for the Navy, fortifications, arms, and galleys; so that there now remains nothing, except an additional or a provisional army, that can require additional expenses.

He did not, however, consider that subject before the House, nor did he believe that any measure of that kind was necessary, except in case of actual invasion. He did not mean by invasion, any depredatory incursions upon our territory, which the militia would be fully able to meet, but an invasion by a regular army; for, in no other case would a regular force be wanted. He was not afraid of an invasion of the country, because he had full confidence in the spirit of the people, in the militia of the country, whose spirit and strength were perfectly known abroad; and, because he knew that the great maritime exertion necessary to transport any considerable force to this country, and the distance at which we are situate from Europe, renders the idea of invasion of any serious kind altogether ridiculous. He was not afraid of France manning her gun-boats to come to this country. He looked upon the whole as a bugbear. He wished our situation to be really and fairly appreciated; but he did not wish to give currency to imaginary fears. The truth, without exaggeration, ought to be known. If an invasion was not apprehended, he saw no reason why the tax should be permanent.

But it was said, and the present amendment recognised the idea, that this tax was wanted as a pledge for a loan. It must either be wanted for anticipations, or for a permanent loan. He would not have made the distinction, had not the gentleman from Massachusetts (Mr. Otis) said, except this tax was made permanent, anticipations could not be got upon it. This was an extraordinary assertion; for anticipations are only a sum of money equal to the amount of a tax, and advanced to Government before the tax is collected, and therefore it would not be necessary to lay this tax for two or three years to secure the repayment of an anticipation equal to the amount of the tax for one year. If the Bank of the United States was not able or willing to lend the Government two millions of dollars, they would not do it even if the tax was laid for several years. In England, the land tax is laid yearly, yet the Bank of England constantly, and every year, lends by anticipation to Government its annual amount. But, in order to enable the Government to make permanent loans, it was alleged this tax must be permanent. If a permanent tax of two millions was necessary, he wished to know to what amount it was intended to borrow money? A permanent tax to this amount, would, as had been stated by the gentleman from Maryland, be a security for ten or fifteen millions of dollars, leaving a sinking fund of one million of dollars a year for its repayment. And unless a sum of money to this extent was wanted, there would be no necessity to pledge this tax Indeed, if the money was wanted for a provisional army, or an auxiliary army,

the expense of which was calculated at eight millions for the first year, the arguments of gentlemen were perfectly inapplicable. We do not stand in need of a land tax on which to bottom a loan to that amount. It is well known that there is a surplus million in our revenue, and will not that be a sufficient pledge upon which to bottom a loan for that purpose? No longer ago than last session a revenue of $200,000 on stamps was voted for the purpose of a fund to raise a loan upon for the expenses of last session; but the loan had not been obtained, the expenses of last session had been defrayed out of the current revenues; that fund was now liberated, and was a pledge upon which a loan might be obtained.

It did not appear to be either prudent or politic, to pledge in this manner every revenue of the Union. If the land tax was to be pledged for a number of years, what would be our situation next year, if involved in war? If this last resource was pledged, he knew not what gentlemen would apply to in future necessities. Great Britain has never, to this day, pledged her land tax, amidst all her embarrassments.

But it was said, that it may be proper to render this tax permanent to a certain degree, as any overplus may go to the discharge of the public debt. And here he was charged with inconsistency, because, two years ago, he was in favor of a land tax. It was extraordinary, because other gentlemen had changed their ground, they should charge him with having changed his. Are not gentlemen who were against a land tax two years ago, and who are now for it, so, because circumstances have changed? He was in favor of a land tax then, because the revenue was not so great as at present, and he therefore changed his opinion with the circumstances. Look at the documents on the table, and it would be found that, two years ago, the duties arising from impost and tonnage were only $5,800,000. At that time he was in favor of a land tax of $1,200,000 in order to raise the revenue up to seven millions. At present the revenue from imposts and tonnage alone is $7,549,649; that item alone gives an additional revenue larger by $500,000 than what he was desirous to obtain, and the necessity for a land tax was done away. It was most extraordinary that, because he wished to substitute a land tax for the excise, salt tax, stamps, and additional impost duties, now when all these had taken place that gentlemen should insist that he must still be in favor of a permanent land tax. He had not been in favor of a land tax, from a predilection for taxes generally; for he thought they were all attended with inconveniences; but he had been in favor of a land tax, because additional revenue was then necessary, and because he preferred that mode of taxation to the others. But, now that these other taxes had been preferred, and laid by Congress, in opposition to his own opinion, and now that the additional revenue had been procured by those means, he had no wish to lay a permanent land tax in addition to the others. But he was called upon to vote in favor of this bill, because he had heretofore called the public debt a curse, as a part of this tax might go to pay off that debt; and, in order to be consistent, he ought to support it.

It was true, that he considered the public debt as a curse—as a great evil—and no gentleman on that floor, when he considered that three or four millions of dollars a year were paid for the interest and partial instalments of the debt, but must be convinced our situation would be more eligible if we were without that debt. Yet, though he called it a curse, he wished it to be honorably paid, with all due convenience; but, whenever he had a favorite object, he did not rush forward with it, regardless of everything else. He never proposed to pay it off at once. There would be as much evil attendant on paying it off too rapidly, as would arise from a neglect to discharge any part of it. It ought only to be paid in such a way as neither to increase the burdens of the people beyond a certain rate, nor distress the country by sending out of it too much money at a time; for it must be recollected that the greater part was owned abroad. The calculation he had made formerly, was to pay off the foreign debt in twelve years; and he believed no gentleman could think it ought to be paid in less time; and the six per cent. and deferred stock in 23 years, according to contract. With respect to the 3 per cent. stock, gentlemen should recollect that it could not be reduced in that way. It would be folly to pay 20s. in the pound for that debt. We have another resource which will be equal to the payment of that, viz: the land of the United States. This had been his object at all times: it was still what he contemplated; and if we do that, and keep from war, or increased expenses, there will not be much danger to be apprehended from that debt.

But it was extraordinary that gentleman should speak of reducing the public debt, on the present occasion, whilst, by the very amendment under consideration, the tax was to be rendered permanent for the sole purpose of pledging it for a loan and of increasing the public debt. Gentlemen are not willing to vote for it from year to year, because they wish to go further into the funding system. They want a tax as a pledge upon which to borrow money, and yet talk of paying off the old debt. If that tax should neither be wanted to support an additional army, nor as a pledge for a loan, nor as a fund to meet the permanent expenses of the Union after the year 1800, from past experience he had no desire to increase our revenue beyond our wants. He had already stated that the present revenue is sufficient for the present expenses, and to pay off the debt within as short a time as it would be desirable to pay it off; and he could not think it desirable, therefore, to extend the tax further than from year to year.

Gentlemen tell others that the tax may be at any time repeated, if it should not be wanted; but, from what he had seen heretofore, he chose rather to leave the power in that House of continuing it or not. He had never seen any propositions succeed for repealing a tax; on the contrary, as our revenue increases, our expenses are made to keep pace with them. A new regiment, or a few additional frigates, or some new establishment, will at

any time consume any surplus of revenue which may be on hand. This had heretofore been the practice of this Government, and he expected it would continue to be so. Indeed, it was the tendency of all Governments. It was the tendency of man: when a person grows rich, he looks out for objects of expense, on which to employ his superfluous wealth. He wished, therefore, in order to prevent this extension of expense, without necessity, to confine the taxes and the revenue to the expense already created.

Mr. G. said, he would not enter into the detail of what the gentleman from South Carolina called mistakes in his statements, because the documents were on the table, and any gentleman might resort to them; and, besides, all these supposed mistakes did not, according to the gentleman from South Carolina himself, amount to one million of dollars; and, according to the calculation which had been made, there would be more than that to spare to cover any mistakes whatever. He did not think it necessary, therefore, to detain the House with it; but he would only refer to the report of the Committee of Ways and Means, made two years ago, in support of the correctness of his assertion that eight hundred thousand dollars a year were sufficient to pay the whole of the Dutch debt in twelve years.

Mr. G. concluded, by saying, that if the gentleman from Massachusetts had merely withdrawn his amendment, leaving it to be determined, when the bill came, whether or not the tax should be limited in its duration, he should not have objected to that course; because, by the time the bill was before the House, it will have been determined whether or not a provisional army is to be raised, or an augmentation made to our present force. It would then have been time enough to have introduced the present principle, and he supposed simply to have withdrawn the amendment would have satisfied the gentleman's friends. This not having been the case, he trusted the present motion would be negatived.

Mr. Harper could not help congratulating the gentleman from Pennsylvania on his mode of dividing the censure which he stated him to have cast upon himself and the gentleman from Massachusetts, by making him (Mr. H.) to say that he (Mr. G.) was wanting in principle, and the gentleman from Massachusetts in sense. If he thought this a fair division he was satisfied. But he could assure him he meant to make no such division. His observations went to show that the system of the gentleman from Pennsylvania had been opposed to every measure of defence; that he thought it much better to make no defence than to increase our expenses. He did not inquire into his motives, nor should he ever do so; he believed they were sufficiently obvious. But, taking the motion of his friend from Massachusetts as promoting his views, he was not surprised at the eagerness with which he rose in its support. He did say, knowing the disposition of the gentleman from Massachusetts to be in favor of measures of defence, that this motion went to destroy the system which he had supported; but, because a man may overlook the tendency of a motion, does it follow that he is a blockhead? Certainly not.

The foundation of the speech of the gentleman from Pennsylvania was laid on the supposition that there could be no increase of expense in our Government, except from the raising of a provisional army, or an increase of the present army. But is this a true state of the fact? Were the 80,000 militia ordered to be held in readiness to produce no expense? The gentleman had all along spoken of militia as if they could be called into service without expense. Did not he know, that when they were called out, there would be the expense of camps, tents, pay, and all the expenses of a regular army, except the enlistment and bounty paid to soldiers? So that he could not see any great difference in expense between calling out the militia, or raising an army, except in the article of bounty, as he had mentioned. He therefore apprehended that the calling of these militia into service might be attended with an expense of twenty millions of dollars; and the President may, next week, if he thinks proper, call any number of them into service.

The next argument of the gentleman is equally fallacious. Admitting that Government may have occasion for loans, yet the surplus million of revenue in the Treasury would be a sufficient bottom for them. But was it certain that we should have no other expenses besides that of providing for additional military force? Could it be said no more money would be wanted under the 6th article of the British Treaty? He recollected, when that subject was under debate, that a gentleman from Virginia had said, it would produce an expense of fifteen millions of dollars. He never believed any such sum would be wanted. $300,000 had already been appropriated, and he supposed the whole expense might amount to between two and three millions.

And yet the gentleman from Pennsylvania was willing the revenue of the country should depend upon its present (in case of war) uncertain resources. And this was the basis to be offered to moneyed men as a security for their money. It was in vain to say how much more than the two millions would be wanted. He believed it was the intention to fill the blank in this amendment with two or three years, and then, if we have not occasion to incur any extraordinary expense, or make any heavy loans, the tax would come to an end. But, suppose this amendment is rejected, and the bill is confined to one year's duration, it will in a great measure defeat the purpose of the bill.

As to the declaration which the gentleman from Pennsylvania stated him as using, he would assure him that he would not cease to call the attention of the House to the dangers of the country; and though he might continue to administer anodynes as much as he pleased, he would be doomed to hear him, whilst he was a member of that House, warn them against the effects of his soporifics. Mr. H. again adverted to the situation of Europe, and to the probability of an attack upon this country, which he said the gentleman from Pennsylvania might call declamation, but which he called

truth. He hoped, however, the attack would not be made; and if not, the expense would not be incurred. If the law passed with a principle similar to this amendment, he believed a loan would soon be filled up. He knew it would be done chiefly from patriotic motives; but those who advance money will, notwithstanding, expect to have a solid hope of a reimbursement of their money; and if this should be refused, the country would be left defenceless for want of pecuniary resources. This, he supposed, would be bad economy; and he could not help entering his protest against this system, whatever may be the motives which lead to it.

Mr. Findley said, it was admitted, on all hands, that it depended on a contingency whether this tax would be wanted at all. For his own part he was under no apprehension of any formidable invasion of this country taking place before Congress meets again. If France is desirous of making conquests, there are more preferable objects to this country nearer home. The difficulties which have so long agitated Europe are not yet so far settled as to suffer France to send out any formidable force here. Let the conduct of the French Government have been as bad as it can be painted, it cannot be said that it has ever wholly lost sight of its own interest, and it would not be her interest to make an invasion of this country at this time; and, therefore, there is no necessity for going into measures as if an invading army was immediately expected amongst us.

A land-tax was with him a favorite tax. He had long wished it. He was for adopting it some time ago, and for taking advantage of a low market, to bring up the public debt. But when he came to inquire into the subject, he found that many of the States had laid direct taxes for the support of their own Government. There is now an appearance of necessity for this tax; but being a new tax under the General Government, and not likely to be very satisfactory to some parts of the Union, it would be proper to make the law of short duration. Upon Constitutional ground he was against continuing a direct tax longer than two years; every Congress ought to pass a vote upon it; but, in the present instance, he believed the law would be best if passed for one year.

But it was said this tax must be permanent, as a bottom to loans. This was expressing a distrust of future Congresses, which he thought improper. But it was asserted that neither public institutions nor moneyed citizens would lend their money on the credit of Congress, without a permanent source of revenue was provided as a security. Are gentlemen justified by experience in this opinion? He believed not. Mr. F. mentioned several instances to shew the contrary, and doubted not the same readiness would again appear in aid of Government whenever it wanted it.

Mr. F. was of opinion that if power was given to the President to raise 20,000 men as a provisional army, they could be got before the next session of Congress. Officers might be appointed, and he had no doubt they would. If these men were not raised, and any occasion should call for military service, the militia, of course, would be resorted to. But was there any reason to believe that more militia would be called out in the course of the year than one year's land tax would provide for? He could not believe there would.

He supposed every gentleman would vote according to the idea he had of the contingency which had been mentioned being likely to take place, or otherwise. Difficulties would always attend the laying of a new tax; and when it should be necessary to lay a direct tax, he would have it for some considerable sum, as the expense of collecting would be the same, whether it was for a large or a small amount. Though it might prove disagreeable to the people, they will pay it if necessary; but, said he, let it be tried for a year, and do not disgust the people by giving them an idea that they shall never get rid of the tax.

Gentlemen might again be told that they refused to provide any means of defence for the country, that this is a leaf of the same book, &c. But could it be supposed, said Mr. F., that he should mind such charges? Or was it to be credited that the people would believe that he, who had been employed in the formation of this Government, and in executing it ever since it existed, and who had risked everything to obtain it, should now refuse to support any measure which was calculated to defend it? It could not. They will not believe these aspersions.

Mr. F. concluded by observing, that if this law was passed for one year, he could confidently rely on future Congresses to renew it, if the situation of the country should require it. It would not hereafter be convenient for him to take any farther share in the public councils, but he should not distrust the wisdom and patriotism of those who might follow him; and to do away the charges continually made against himself and others, that they were not willing to defend the country, he should call the yeas and nays upon every question of defence which came before the House.

Mr. S. Smith did not like the amendment; but he should vote for it, because, if he could not get all he wished, he would get all he could. If the blank was to be filled with two or three years, (as had been intimated,) it would not go far enough to induce moneyed men to rely upon it as a permanent security.

There seemed to be no difference of opinion as to the propriety of laying a direct tax; it only seemed to be as to the length of time which it ought to be laid. He agreed with those gentlemen who assert that money cannot be borrowed, except a permanent fund be provided. But gentlemen say, where are your expenses? Certain expenses have been agreed to, which are proposed to be met by a direct tax of two millions; but could it be supposed that the proceeds of this tax could be brought into the Treasury in less than eighteen months? They could not, and something must be done in the mean time to raise the money already voted, whether any war takes place or not. How was this to be done? By loans alone. But what inducement will there be to moneyed men to lend money, except a permanent

revenue be made the security? You hold out the credit of the United States, which has not heretofore been injured. This is true. But heretofore we have not been engaged in war; we have had nothing to impede our revenue. But if a war takes place, it is possible our revenue may suffer very materially; and Congress are about to provide a fund which, in the opinion of some, will leave no permanency, and in the opinion of others, very little. And would it not require a great degree of patriotism in gentlemen to lend twenty shillings for twenty shillings, when they can go into the market and purchase them with sixteen. The difference of opinion on this subject, he was convinced, arose from the different pursuits of the members of that House. Certain gentlemen believed moneyed men would advance money without a permanent tax as a security. He believed the contrary; for, however great a confidence they may have in the honor of future Congresses, they would wish to see this Congress do something for their security. He feared gentlemen were not in earnest when they spoke of defending the country. We have men, said he, but we want money. He did not agree with the gentleman from North Carolina, (Mr. Williams,) that slaves fought for money, and freemen only for liberty. If he commanded a regiment of militia, he believed they would expect to be paid, and he could not believe he would term them slaves. Money must be had.

The gentleman from Pennsylvania was afraid of making the revenue permanent, because, as our revenue increased, it had been usual, not to repeal our revenue laws, but to increase our expenses. Whence did he collect this information? Not from the documents on the table; for there he would find that there was an unexpended surplus of one million nine hundred thousand dollars, which were in 1797 applied by the Commissioners of the Sinking Fund to the reduction of the public debt. We have, said he, gone on decreasing our expenses. It was true, that our dispute with Algiers, and a war with the Indians, had cost a great deal of money; but when the war with the latter was at an end our expenses were decreased. And now an income of expense is asked for to repel threatened danger, and gentlemen have voted measures of defence; but now they come to touch the expense, they flinch. Men may moralize and talk about defence as much as they please, it will avail nothing without money.

But gentlemen say, before we raise money, let us wait to see whether it will be necessary. They might as well say, "let us wait till we are devoured," which would be the case if we neglected to raise money until our enemy was at the door.

But gentlemen call for a statement of expense. He would remind them that it was proposed to raise a provisional army of at least 10,000 men, which would cost four millions of dollars a year. It was also proposed that the President should have power to call out 20,000 militia to be trained, and the payment of them must be provided for. It would not be right to leave the President without money. At the time you give him the authority to raise and call out men, you must give him the means of raising money. Mr. S. said, he perhaps might feel upon this subject more than some other gentlemen, because he knew the difficulty attendant on the raising of money.

Mr. Otis said, the gentleman last up had anticipated some of the observations which he intended to have made, but he would suggest a few remarks in favor of the present motion.

The gentleman from Pennsylvania (Mr. Gallatin) had used arguments to show that no tax of this sort is necessary. He should not reply to any arguments of this sort, because the committee have already decided upon the quantity and principle of the tax. But, if he was under the necessity of answering such observations, he would refer to the gentleman's own book, (which, however he had not read, but meant to read,) and because the Secretary of the Treasury and the Committee of Ways and Means had recommended a direct tax as the only source which could be depended upon for a permanent revenue.

But it had been said, no invasion could be expected to take place. His opinion was, however, though the danger might not be very great, it ought to be guarded against. In a certain part of the country, at least, he believed there was considerable danger. Indeed, the House has voted considerable sums for defence, and there remains, according to the report of the Committee of Ways and Means, a balance unprovided for of $1,396,705, for the meeting of which the committee have recommended a land tax of two millions. And if the tax was voted, it ought to be voted in such a way as that the money may be raised; and he thought the gentleman from Pennsylvania had taken a greater latitude in his observations than he complained of in the gentleman from South Carolina, who had held up a picture before their eyes, of which the House ought continually to be reminded. He had already stated that this money must be borrowed, and that it could not be got, if the tax was laid in the usual way. A man who has money to lend, will not part with it without a certainty of being repaid. It had been said that it was not improbable that the enemy might make a landing in some of the Southern States. Suppose they were to do so, and keep possession of a part of the country for some time, the present tax could not be drawn from thence. Moneyed men would take such an event into their calculation, and they would act prudently in doing so, because the other parts of the country would not be liable to make up the deficiency. In such a case, the creditor would have nothing to depend upon but the faith of the Government, and he might as well depend upon that, in the first instance, as to lend his money upon an uncertain security. There would also be the expense of collection to be deducted, which he supposed would not be less than 10 per cent. Considering all these circumstances, if he was the director of a bank, or had the money to lend, he would not lend more than one million upon

this two million tax. The gentleman from Pennsylvania had said that Great Britain never mortgaged her land tax for a number of years, though he acknowledged she annually anticipated it. No man, Mr. O. said, would lend his money without considering the risk he ran in doing so, and he thought it was much less in England than in this country at this time. The principle which he wished to engraft in the bill was, that the tax should be continued until the money which had been borrowed upon it should be repaid. Not that he was in favor of a land tax. He should himself pay as large a proportion of this tax as any man whose property was not larger than his; because, of his little fortune, a greater part was in land than anything else. He was, therefore, interested in preventing the tax. If it were to pass, however, he wished it to be effectual.

Mr. Varnum hoped the motion under consideration would be negatived. The gentleman from Maryland (Mr. S. Smith) gave two reasons on Saturday against striking out the word annually. One was, that it was necessary the tax should have some permanency, in order that money might be borrowed upon it; and another, that it might be a substitute for indirect taxes. That gentlemen allowed, and he perfectly agreed with him in opinion, that in case of war, the defalcation in our revenue, he did not suppose, would be large, and that in our present situation he had no idea of a defalcation. If, then, a defalcation of our revenue was not to be expected, he thought he should be able to make it appear that the proposed tax is not necessary at all; and, of course, that it will not be right to pass it for more than one year. But the gentleman from Maryland says the people ought to be relieved from indirect taxes, because, for every 12½ per cent. duty, the consumer pays 27½. Does that gentleman wish, then, that the merchant should be deprived of a profit of 15 per cent. on the duties which he now pays? If so, this might be very well effected, without doing away the duty, and substituting a land tax in its place, by the merchants lowering the price of their goods 15 per cent.

But the gentleman added another reason for passing the law for a number of years, viz: that this tax might be at any time repealed. But, although this House might consent to a repeal of this tax, it was by no means certain that the other House would consent to its repeal. Indeed, it was his opinion, that if this tax was established as a permanent tax, that the people of this country would not be relieved from it for many years. Many objects, he had no doubt, would be found out by gentlemen, ever fruitful in this respect, upon which to expend any surplus which might arise from this tax.

The gentleman from South Carolina, on Saturday, brought into view our situation with respect to France, and our liableness to an attack from that nation. He alluded to the conversation which took place between our Envoys and X, Y, and Z. and thence inferred that it was probable that this country would be attacked by France. He could not say that all the propositions made by these unauthorized persons were not from the Directory; but there was no evidence of this, and therefore he could not believe it, especially as the agents themselves declared they were not. He thought, therefore, if we wished to preserve peace with France, that we ought not to be too forward in believing all which was said by X, Y, and Z. was authorized by the French Government. He hoped it would prove to be the contrary, and that when the Directory shall discover what has been done, they will punish these persons for their conduct.

The gentleman from South Carolina had frequently introduced to the view of the House the situation of Switzerland, Venice, Spain, Holland, and other countries. As to himself, he had no idea of espousing the cause of those countries; it was sufficient, in his opinion, that we defended our own. In doing this he would go as far as any man, but he did not wish to go to Venice or to Rome to fight in the cause of the Pope. What was meant by observations like these but to prepare the minds of the people for a situation of things which that gentleman expected and wished for? And if gentlemen did not come into all his views, he immediately charges them with not being willing to defend their country—with being slow to protect their wives and children. He should have supposed that men who had left their families, and fought for their country for eight years together, would now feel the necessity of defending their wives and children as much as that gentleman, who never had either.

But it appeared to him that the gentleman from South Carolina, in making the observations which he did, departed from the principle established by the Committee of Ways and Means, of which he is the chairman. They have stated that no additional revenue is wanted, except to meet the extraordinary expenses of the present session. Among these extraordinary expenses, are $340,000 for fortifications, and for the procuring of cannon, arms, and ammunition, 900,000. If the fortifications are once completed, they surely will not want completing the second time; and the appropriation for the providing cannon, arms, and ammunition, could not be considered as an annual expense, but merely as an expense for the present year. Was not this also the case with respect to the naval armament? He hoped it was not intended that $950,000 should be appropriated annually for this object. If this should hereafter be determined, Congress would of course provide the means for effecting it.

Mr. V. supposed the calculation of the amount of duty arising from imports and tonnage for the present year might very safely be taken at the actual receipts of last year, viz:

Duties on domestic manufactures, &c.	$7,549,649
Revenue on the postage of letters	575,491
Fees on letters patent	50,000
Proceeds of that part of the Sinking Fund which consists of interest and stock purchased or redeemed	1,400
Dividends on 2,220 shares of stock of the Bank of the United States, calculated at $32 a share	89,457
	71,040
	8,337,037
Take from this sum the ordinary expenditure	6,334,111
There remains a surplus of	2,002,926

But it was stated by the Secretary of the Treasury that, in consequence of the depredations committed upon our trade, there may be a deficiency of revenue in the present year; and upon this probability the Committee of Ways and Means have grounded their report. He should wish to view the subject with candor, and not deceive himself. He knew that similar observations had been made from year to year, since depredations had been committed upon our commerce by foreign nations, but he also knew that facts had shown them to be ill founded. In the year 1795, the duty arising from this source was $5,588,961; in 1796, $6,567,287; and in 1797, $7,548,649. And he had no doubt the revenue from imports and tonnage for the present year would increase in the same proportion in which it has increased for the three years past; and if so, that alone would produce upwards of eight millions and a half of dollars.

Allowing that the imports and tonnage will make	$8,700,000
Add the additional imposts laid at the last winter session, and the salt tax of the summer session, which, at a moderate calculation, will amount to	600,000
The stamp tax	200,000
To which add the various other articles of revenue mentioned above, amounting to	787,388
Also, add the estimated increase of the internal revenue	125,000
And the whole will amount to	10,212,388
From which deduct the whole expenses of the present year, as stated by the Committee of Ways and Means, viz:	9,808,603
And there will remain a surplus of	$403,785

But it was probable that the revenue arising from imports and tonnage would considerably exceed the sum he had mentioned; for, according to the amount of the duties arising from the first quarter of the present year, the revenue from that source alone, would amount to ten millions of dollars, in which case the whole revenue may be estimated at $11,112,388, and would leave a surplus of $1,303,785.

If this view of the subject was correct, it appeared to him, if the proposed tax was laid at all, it ought not to be for more than one year. If gentlemen had anything in view which was not before the House, he could not speak to that. But if the United States were under the necessity of borrowing fifteen millions of dollars, there was no necessity for this tax for that purpose, as the surplus million, three hundred thousand dollars, accruing annually, was a sufficient security for the payment of the interest on a loan to that amount.

He was against continuing the tax for a longer period than one year for another reason. It was to be collected from houses, lands, and slaves. This, in the part of the country from whence he came, would operate very unjustly. In the State of Massachusetts the people pay annually for the interest of the State debt, expenses of the civil department, county and town charges, support of the poor, highway taxes, and for the support of public schools and ministers of the Gospel, a direct tax of between twelve and thirteen hundred thousand dollars. This tax is collected from polls, and from real and personal estates, with some few exceptions; and it is found that persons holding small farms there, and who have families to bring up, find it difficult to pay these taxes. This additional tax will therefore fall very heavy upon this class of people, as they will principally have to bear the burden, being wholly laid upon houses and the landed property in that quarter of the Union. No tax, therefore, could be calculated to excite so much dissatisfaction in that part of the United States as this. The people will certainly pay it, if it be laid, but they will not do it cheerfully. He should, therefore, be against laying the tax for more than one year.

The question was put and negatived—46 to 35.

Mr. D. Foster then renewed his motion to strike out the word "annually," which was carried, there being sixty votes for it.

The question on the amendment providing for the taking of a new census, was put and carried, there being 57 votes for it.

Mr. Reed moved an amendment, which went to strike out the provision which proposes that the tax should be laid by a uniform rule through all, the States, with the view of inserting in its place the following words:

"And upon such other estates within each particular State as are taxable according to the established rule of direct taxation in each State."

The motion was negatived, there being only twenty-one votes for it.

The report was referred to the Committee of Ways and Means, to report bills accordingly.

Tuesday, May 8.

After the reception and disposal of numerous petitions on the subject of our differences with France,

The House went into Committee of the Whole, on the bill for the relief of William Imlay, Commissioner of Loans for the State of Connecticut. The bill was agreed to without amendment, and ordered to a third reading to-morrow; which it accordingly received, and was passed.

NATURALIZATION LAW.

Mr. Sewall called for the order of the day on the third resolution reported from the Committee

of the Whole, on the subject of aliens, and the consideration of the following amendment being resumed, viz: to add to it these words:

"Between which and the United States, there shall exist a state of declared war:"

It was agreed to; and referred to the select committee on commerce and defence, to report a bill accordingly.

The following is the resolution as amended by the House:

"*Resolved*, That provision be made, by law, for the apprehending, securing, or removing, as the case may require, of all aliens, being males, of the age of fourteen years and upwards, who shall continue to reside, or shall arrive within the United States, being natives, citizens, or subjects, of any country between which and the United States there shall exist a state of declared war, or the Government of which shall threaten, attempt, or perpetrate, any invasion or predatory incursions upon their territory, as soon as may be, after the President of the United States shall make proclamation of such event; providing, in all cases where such aliens are not chargeable with actual hostility, that the period settled by any treaty with such hostile nation, or other reasonable period, according to the usage of nations, and the duties of humanity, shall be allowed, for the departure of such aliens, with all their effects, from the territory of the United States; and excepting all cases of such aliens to whom passports or licences of residence may be granted, consistently with the public safety."

PROVISIONAL ARMY.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill from the Senate, with the amendments proposed by a select committee thereto, authorizing the President of the United States to raise a provisional army; when, the bill and the amendments having been read, the first amendment came under consideration, viz: to strike out the following words: "whenever he shall judge the public safety shall require the measure," and to insert, in lieu thereof, "in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign Power, or of imminent danger of such invasion, discovered, in his opinion, to exist."

Mr. Gallatin said, if this amendment was adopted, it would prevent a motion being made to strike out the first section of the bill. This amendment would certainly make the bill better than it is at present, as it goes to define, in some measure, the cases in which the provisional army may be raised; yet, as he conceived the amendment did not go far enough, and that, under our present circumstances, it is not necessary or proper to pass this bill, he would move to strike out the first section of the bill, which would supersede the motion under consideration. He would briefly state his reasons for the motion.

He had said that the amendment removed, in some degree, the objections against the bill; but it was far from removing them altogether. He allowed the two first contingencies, viz: a declaration of war or actual invasion were definite, and therefore the Constitutional objection which lay against the bill, as to its transferring a power to the Executive which is vested by the Constitution in Congress, viz: to judge of the propriety of raising an army, does not lie against them; but the third, viz: when imminent danger of such invasion, discovered, in his opinion, to exist, is liable to the same Constitutional objection to which the original bill was liable, as it left it to the opinion of the President to decide the proper time of raising an army.

Undoubtedly, the Constitution has foreseen, that in cases of imminent danger, the United States would need a standing army, but it makes Congress the judge of this necessity; but this bill went to make the President the judge; yet he knew, if there were no other objection to this bill, the most usual course would have been to have moved to strike out the latter part of the amendment.

But he conceived it was not proper, at present, to pass this bill; he believed it would be time enough to do it when we were convinced of the existence of danger. And he did not think there were any serious apprehensions to be entertained of an invasion during the present session. The danger to be apprehended was upon our trade; but he expected no attack upon our territory beyond predatory excursions, the landing of a dangerous class of persons from the West India islands, or an attack on the coast by some detached frigates. But, in every case, short of an actual invasion by an army, he conceived the militia would not only be competent to repel the attack, but more so than a regular army. If an invasion or insurrection took place in the Southern States, where the danger seems most to be apprehended, the militia in the neighborhood would be ready, immediately, to repel or suppress it. If these could not do so, neither could a regular army. The danger to be apprehended, in case of an insurrection, or an attack of that kind, is what would take place immediately, and this could only be prevented by the militia who are on the spot; for, an army could not be supposed to be always at hand to meet any sudden emergency. He had no doubt, therefore, the militia of the country would be fully equal to its defence But if they were not, the volunteer corps of cavalry, accoutrements for which were proposed to be provided by this bill, might be called in, and would be more effectual than any other force. He thought, therefore, it would be better to negative this bill, and to adopt the regulations recommended by the select committee, in a separate bill.

If the militia was equal to the repelling of any attack, except from a regular army, it could not be apprehended that an invasion of that kind could take place during the present session. The attention of France is at present engaged on very different objects; and, if it was in their power, which he did not think it was, yet as the whole of their marine strength is engaged in a different object of much greater importance to them than the invasion of this country could be, they would not attempt it at present. This must be evident when it is recollected what a small force they have employed against the West India islands, which they wish to conquer. We do not know that the

French mean to invade this country; everything on this subject arose from apprehension, but we do know they wish to take their possessions in the West Indies, since they have made their restoration a *sine qua non* condition of peace; and we all know the force they have been able to send against them. And what does it amount to? In the course of a year two or three frigates and a few hundred men with arms. This is all the force they are able or willing to send from home. In the East Indies, where they have colonies to conquer for themselves or the Dutch, the same want of force is to be seen. It is certain that while the European war lasts, they are either unable or unwilling to make any great exertions at a distance from Europe. Indeed, if all the force they have employed out of Europe were to come against this country, it would be repulsed by the militia in any part of the country where it might make its attack. If, then, any invasion of this country is to be expected, it must take place at the conclusion of the European war; and, if it was then made, he had no doubt of our being able to repel it. But, in such case, the contingency on which the raising of this army by this bill rests, would not take place till the next session of Congress. He was not, however, under any apprehension of its taking place even at this time; and, when he said this, it was not because he differed in opinion with gentlemen as to the ambition of France, but because he thought it was neither their interest nor in their power to effect an invasion of this country. He believed the French nation to be as ambitious as the gentleman from South Carolina represented it to be, and he believed every nation intoxicated with victory as she is, and possessing power equal to her, would also be as ambitious as she is. If, said he, this country was situated as near to France as Italy and Switzerland are, and our resources were no greater than theirs, he would agree that we should be in some danger; but, situated as we are, he believed it would neither be in the power of France, nor would it be her interest if it was, to invade this country in any formidable manner.

It is not the interest of France to make an attempt to invade this country, because we have no business in the political scale or vortex of Europe. It was to increase their power in Europe that the French have taken those steps which were so often reprobated in that House; but they could have no such views in sending a force against us. And though they may not always be guided in their conduct by the principle of interest, their ambition must be limited by the extent of their power. And if, twenty years ago, when our population, and consequently our strength, was not half what it is at present, the attack of a nation whose force, as applicable to any maritime exertion and to an invasion, was greater than that of France and all her allies, and whose money resources were far superior to theirs, was not able to make an impression upon this country, it held out no flattering encouragement to France to make the attempt. He must confess he looked upon all that was said of an invasion by France as a mere *bugbear*. He did not believe any attempt would ever be made, and if it was made that the militia alone would be sufficient to repel it. Yet were there anything like certainty of such an event, he would not trust wholly in the militia, but would call the whole of our resources into motion—he would have a standing army as well as the militia.

Under these impressions, it was clear he could not vote for this bill, because it goes upon the idea of an army being necessary to meet an invasion, of which he thought there was no danger; but if there are gentlemen who are of a different opinion, who think that an invasion will take place, and, if so, that we must have an army, he would ask if it could take place without being known some time before hand? It certainly could not, as such an undertaking would not be entered upon without immense previous preparation.

What is the intention of this bill? It is, that if the President shall think danger exists, he shall begin to raise an army. When will he do this? He supposed when he first heard of preparations making for an invasion. But, in that case, Mr. G. wished to know whether the first step of the President would not be to call Congress together? Congress were called together last Spring, upon an occasion far less important, and when no imminent danger existed. When it was known that the President could convene Congress within six weeks after he was convinced the danger of an invasion existed, he submitted to the committee, whether it was proper to place the power in the hands of the President which the Constitution has placed alone in Congress, of judging when it is proper to raise an army?

Mr. G. said, the question was, whether an army of 10,000 men should be raised for six years, according to the discretion of the President, or whether Congress would reserve to itself the discretion of raising an army or not, as it shall think proper. He said six years, because, though the enlistments are only to be for three years, yet the power of enlisting was vested in the President for three years. Ten thousand men, according to the gentleman from Maryland, (Mr. Smith,) would cost four millions dollars a year. If gentlemen really believed there was at present danger of an invasion, they would immediately order an army to be raised; but if they do not, and choose to say the President shall decide on the danger, as he conceived this to be a dereliction of duty, he could not agree to it, and therefore he wished to destroy the bill.

Mr. Sewall said, the gentleman from Pennsylvania had grounded his motion on the unconstitutionality and inexpediency of the present bill. If it is inexpedient, it is of little consequence whether it be Constitutional or not; and if it is unconstitutional, however expedient it may be, certainly the bill ought not to pass.

The Constitution appeared to him so plain on this subject, that he knew not how it could have been conceived that this bill was unconstitutional. To say that this bill is unconstitutional, would be to say that Congress are unable to provide, by an-

ticipation, for the public defence; yet measures have been passed upon a different principle, which that gentleman thought right. Mr. S. referred to the law establishing the military corps, in which the President was authorized to suspend enlistments, if he thought it necessary. There were a variety of other instances, he said, but he could only mention one more. It was the law respecting galleys, passed this session, where the President had the power given him to provide them or not, which was exactly the same kind of power now proposed to be given to the President.

He believed every gentleman who attended to the Constitution, and to the manner in which it had been acted upon, could have no doubt upon the subject. In a variety of cases, Congress did not exercise their Constitutional powers themselves; they were frequently obliged to authorize the President to act for them. And in this case, nothing more is intended to be done than to authorize the President to raise an army, in case of certain contingencies happening, viz: in case of a declaration of war, of actual invasion, or of immediate danger of such invasion. But the latter power, it was said, left the raising of the new army to depend on the opinion of the President. He did not conceive this. He apprehended that the fact of the existence of imminent danger was as ascertainable as the other two. The President would have to exercise his opinion in all the three cases, but no more in the last than the first.

Mr. S. called the attention of the committee to a clause of the Constitution, where the same words were used in reference to the individual States keeping troops on foot. It is in the 2d article of the 10th section: "No State shall, without the consent of Congress, lay any duty on tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay." Every objection made to this bill, Mr. S. said, might be made to this clause of the Constitution; but it shows that the framers of the Constitution were not so nice as the gentleman from Pennsylvania appears to be. Mr. S. thought the power proposed to be vested in the President by this bill was important and proper. It was true, that by this means the President might involve the country in war before Congress could be got together; but if the event was necessary, every one must rejoice that he had this power.

The gentleman from Pennsylvania supposes there must be a knowledge of danger before any invasion can take place. This argument would have applied against expending any money on our fortifications. It might have been said there was no need of expense being laid out upon them, except we knew the enemy would make an attack in that quarter. If nothing was to be done but upon certain ground, we should never be defended. This army was not necessary, he (Mr. G.) said, because we have no actual proof of preparations being made for an invasion of the country, and because it is neither in the power, nor would it be to the interest, of France to invade us. This reasoning, Mr. S. said, might answer the purpose of quieting the minds of some people, but it was not satisfactory to him. He should himself suppose that it would not be the interest of France to attempt an invasion of this country; yet we had seen them invade and subjugate one country after another, where they had apparently as little interest to do so as they would have to come against this country. The same inducements which led France to invade most of those countries, viz: to obtain large sums of money, and other property from them, may actuate her in coming here. The army of France appear to govern the Government of that country, and the Executive Directory have, therefore an interest in getting rid of them; and if they could send a part of them to this country they would be satisfied, whatever might be their fate. If many citizens of the United States have apprehensions of this kind, and these apprehensions can be removed by a measure of this kind, which would create no expense, except the danger existed, he thought it would be a desirable object.

For his part, he should certainly be in favor of the bill; for, however distant the danger may be, it is proper that we should be prepared to meet it, if it does come. Besides, if it was known in France that the President of the United States could immediately call out 10,000 men to repel any attack which might be made, the knowledge of this fact might itself prevent an attempt being made. But he was of opinion the danger must be much more imminent than at present to authorize the raising of these men. It may be supposed that England will be under the necessity of making peace with France. If this event happens, France may perhaps employ a part of the British fleet in an attack on this country; at least, she will secure them from rendering any opposition to such an attack. By which means, she certainly might make such a lodgment of men upon our coast as would call for an army equal at least to this to repel them.

Such an establishment, Mr. S. said, would have greatly the advantage over the militia. They were out only three months at a time, and were of course continually marching and countermarching. On this account they are more expensive than regular troops. The manner in which militia are disciplined and officered, he said, were also disadvantages, and it was well known that little dependence could be had upon militia for any length of time.

Mr. S. concluded by saying, that France had at this time a very large army in force on their coast, and for aught we know it may be embodying for the purpose of coming against this country. Or suppose they were to send out a fleet to the West Indies, but instead of going there, it came forward to this country, could the President possibly know of this in time to raise the army proposed? He certainly could not. And in such a case, how much worse a situation would the country be in, if, instead of enlistment, he would have to call Congress together before he could do it. He

hoped, therefore, the bill would be passed, as, if necessity does not require it, neither will the officers be appointed, nor the men raised.

Mr. Dana observed, that the gentleman from Pennsylvania had alleged that the first section of this bill ought to be expunged, for two reasons, viz: because the bill was unconstitutional and inexpedient.

If the bill is unconstitutional, the objection is decisive. Why is it so? Because the gentleman from Pennsylvania says it transfers to the Executive a power which is expressly vested by the Constitution in Congress alone. In a former argument, that gentleman referred to the Constitution, and said that it gave to Congress the sole power of raising and supporting armies. Congress has also the power of providing for calling forth the militia, and yet they delegate that power to the President. In the one case, it is said, "Congress shall have power to raise and support armies;" in the other, "Congress shall have power to provide for calling forth the militia." If this difference amounted to anything, it was to say, that where the Constitution says Congress are to provide for doing a thing, they may delegate their power; but where the other phraseology is used, they must do the act for themselves.

He would examine this doctrine, and show it to be fallacious. Congress have the power to provide for organizing, arming, and disciplining the militia; for the punishment of counterfeiters of the securities and current coin of the United States; and to lay and collect taxes. So that, upon the principles of the gentleman from Pennsylvania, Congress must turn tax-gatherers, borrowers of money or money brokers, apprehenders of coiners, and recruiting sergeants, occupations which he believed few of the gentlemen of that House would wish to undertake, if they were in other respects fitted for the employments.

The gentleman's construction, therefore, proves too much, and is perfectly ridiculous. What, then, is the meaning of this general power placed in Congress? He believed it to be, that Congress shall define the number of troops to be raised, and the manner and the time of their service, and having done that, he believed they have done all that is necessary, the rest is to be submitted to the Executive. This principle was by no means a novel one. It had been recognised in not less than ten different acts. But it is said that these things only show that Congress ought to be careful how they fix precedents. But will the gentleman from Pennsylvania come forward, as if he were the oracle of political wisdom, the only high-priest of the Constitution, and say, that these authorities have no weight? In doing this he set at naught the wisdom of all who had preceded him. Mr. D. then enumerated the different laws in which this principle had been acted upon, and concluded by saying, that if it was not for incurring unnecessary expense, he should be in favor of calling out these men immediately; but, not wishing this, he was willing the power should be placed in the President in the manner proposed.

Mr. Brent said, he was not in the House when the arguments of the gentleman from Pennsylvania were delivered, and was therefore only acquainted with them from the comments which had been made upon them by the two gentlemen last up, which he conceived by no means overturned them.

Two questions naturally present themselves to the mind on this occasion; the one as it respects the constitutionality of the bill, and the other as to its expediency. And it had struck him, from the first moment the subject came before the House, that the power proposed to be placed in the hands of the President by this bill, was perfectly unconstitutional; nor had he heard anything in the discussion which could induce him to change his opinion. A variety of precedents have been introduced to show that similar powers have been given in former instances. But those precedents had no influence upon him. If the acts referred to were unconstitutional, they still remain so. Error will continue to be error however frequently it is repeated.

Without examining whether the precedents which had been adduced were in point, he would leave them, and examine the question on its own merits as a Constitutional question.

The Constitution says, Congress shall have power to raise and support armies. The power is as explicit, as defined as it could be. But what is the purpose of this bill? It is to give to the President of the United States the uncontrolled right, for six years, to determine whether or not an army shall be raised. Congress, then, in whom alone the Constitution has placed the power of raising armies, will be deprived, during that time, of that power. And if Congress have the power of divesting themselves of this right, and transferring it for six years, they may do it for ten years, or for a term equal to the existence of the Constitution. But he did not believe they had the power of making this transfer.

The words in the Constitution, giving the power to Congress of declaring war, are the same with those giving them the power of raising an army; yet, if a proposition was made to transfer to the President the right of declaring war in certain contingencies, the measure would at once appear so outrageous, that it would meet with immediate opposition; but the transfer of one power would not be more unconstitutional than the other; both were vested with them, and, without a most shameful dereliction of duty, they could not divest themselves of them.

But the gentleman from Massachusetts has supposed that this objection is removed, by the exercise of the power being made to depend on certain contingencies. The thing amounts to the same, the President is to raise the army whenever, in his opinion, imminent danger of an invasion exists; therefore, the raising of it will depend upon his will, as he alone is to determine when this danger exists. And the question returns, has Congress a right to deprive themselves of this power, in order to give it to the President? To his mind, there could be no proposition more evi-

dent than that they must themselves exercise the power.

But the gentleman from Massachusetts has said, that the words of the clause in the Constitution which forbids individual States from engaging in war, are as follows: "Except in case of invasion, or imminent danger, which will admit of no delay." This, Mr. B. said, was a very different thing from the present bill. This power was a sort of self-defence, which was to be used in cases of necessity; and of which we cannot divest ourselves, in cases where the assistance of the United States could not be obtained. The power could not be abused, as no particular interest could arise from the employment of it. There was, therefore, no analogy between the two cases.

In short, from every view which he had been able to give the subject, he was decidedly of opinion that Congress ought immediately to proceed to the raising of an army, or defer it altogether until their next meeting.

Mr. B. said he had hitherto confined himself to the unconstitutionality of the measure; but, as others may differ from him in opinion in this respect, he would consider the expediency of it; and he would freely declare for himself, that if the President might be legally empowered to raise this army in the way proposed, there is no circumstance in our present situation which would induce him to raise one man. He had himself no apprehension of an invasion, and, until he saw something more threatening than at present, he should never consent to the increase of our present Military Establishment.

Gentlemen may declaim as much as they will about the incapacity of the United States to repel invasion. He believed himself that the militia of the country are equal to its defence; he believed with the gentleman from North Carolina (Mr. R. Williams) "that slaves fight for money, and freemen for liberty." He did not mean, he said, by this to cast any reflection upon hired soldiers; but he believed that freemen possessed of everything valuable in society that liberty and good government could give, would always be ready to repel any invasion which may be attempted against them, and, until Congress can be got together, he believed our militia would be perfectly competent to our defence; for, notwithstanding what had been said with respect to the incompetency of our militia, he would say that their services in our Revolution proved the contrary. He would travel with gentlemen from the East to the South, and he was certain that the conduct of these degraded militia, during the war, might be compared with that of the regular army, without any dishonor to them.

Mr. B. said it was a very memorable circumstance, that in the argument on this subject heretofore, and in private conversation, this provisional army was always said to be wanted for the Southern parts of the Union. The Eastern States, it was observed, considered themselves as perfectly safe; but, from their fraternal affection and abundant care for their sister States, the gentlemen from those States wished to provide for the security of the Southern States. For, it is a fact that the desire for this army originates with gentlemen from the Eastward, who confess they do not want it for themselves, and the Representatives of the Southern States, generally speaking, are opposed to an establishment of this kind.

[Mr. Dana did not recollect that any gentleman had said the Eastern States were secure from invasion.]

Mr. B. said he knew that one of the most cogent reasons urged in favor of this army was, that the Southern States stood in need of them in order to quell any insurrection which might take place among the blacks in those quarters.

[Mr. Sewall said he had made use of an expression which he believed had been misunderstood. He spoke of the militia of the Southern States as not being in so good order as those of the Eastern States, and that it would be better, therefore, for the President to have power to raise an army for the defence of those States, than that the militia should be marched from the Eastward for the purpose.]

With respect to the disorganized state of the militia to the Southward, Mr. B. believed he could speak to that point as well as the gentleman from Massachusetts, and he could say, with truth, that the militia of the State which he represented was better organized now than it was during the war, and it will be remembered that the great part of the defence of that State was then performed by the militia. There were also at that time a greater proportion of blacks than there are at this time, and the enemy with whom we had then to combat, offered as great inducement to alienate them as Victor Hugues or any other person can do. Those States, however, not only kept the blacks in subordination, but repulsed the invading enemy. He was willing to pledge his own responsibility in saying, that if the Southern States are suffered to remain as they are, they will be equal to their own defence. With respect to the disorganized state of the Southern militia, let him ask the gentleman from Massachusetts, and those who had reiterated the remarks, whether it was justified in their conduct in marching to suppress the insurrection which took place a few years ago in the western part of this State? It certainly was not, for when they were called out to carry into effect a law which was extremely obnoxious to them (he said extremely obnoxious, because none ever was more so than the Excise law to the people of Virginia) yet, notwithstanding the disorganized state of the militia of Virginia, notwithstanding they were called upon at a very short notice, they were ready sooner than the most sanguine expected them. And they were not then called upon to meet a foreign enemy, but their fellow citizens—men with whom they had fought side by side for their liberty and independence; yet, notwithstanding their disorganized state, they were capable of discerning the necessity of crushing an opposition to the execution of the laws.

As to a French invasion, and that it is necessary to have an army to prevent it, it is idle and vain to talk of it; it is a mere bugbear. Gentlemen who speak of this have surely forgotten the immense ocean which happily separates us from Europe, as well as the immense militia of the country. Let us, said he, go on and make the people salutary laws; let the people experience the blessings of a good government; convince them that every civil institution is intended to promote their happiness, and you will not require a standing army either to defend the country against internal or external enemies.

The gentleman from Massachusetts apprehends that France may invade us before we expect it. Because she has a large army on her coast, he supposes she may immediately transport them to our coast, and overwhelm us with them. But when he recollects the distance there is between them and us, he must be convinced that the French have no means of transporting a large army here, except they employ balloons for the purpose. He believed the danger did not exist, nor did he believe there was any disposition in France to invade us. Even if she possesses all that spirit of domination of which gentlemen speak, she need not pass a tempestuous ocean to exercise it, as there are much more convenient situations than this country, for her purpose, nearer home. If she be not restrained by moral considerations, therefore those of convenience will be sufficiently operative.

Mr. B. concluded by saying, that there could scarcely be any situation in which he should be induced to vote for raising a standing army, as he considered standing armies as the bane and destruction of free countries, and nothing but a situation of things which would make it essentially necessary, could prevail upon him to go into the measure. Not being alarmed to the extent which some gentlemen appear to be, he was willing to let things remain as they are; for he was no more apprehensive of an invasion, than he was apprehensive of being transported before night into the moon.

Mr. Otis observed that this bill was objected to on the ground of its unconstitutionality, as if it were intended by it to delegate the power which belongs to Congress to raise an army to the President of the United States; whereas no such thing is intended—this army will not be raised by the President, but by this House. The bill was proposed, indeed, to be passed in a form which would make the raising of the army depend upon certain contingencies, to be judged of by the President; but he believed all the three contingencies perfectly definite in their nature. And he wished to know what difference there would be between giving the President the power of raising an army, in case of a declaration of war, an invasion, or of there being imminent danger of invasion, and his calling Congress together for the purpose, in any of those events? And he would ask also whether, if it was the opinion of the President that the country was in imminent danger of being invaded, any gentleman would wish to take so much responsibility upon himself as to oppose the raising of an army?

Wherever absolute power was invested, there could be no doubt but that power might be executed upon a condition. If Congress could raise an army to-morrow, they certainly might order it to be raised in the manner proposed; as no member could ascertain the extent of danger for himself, he must in some measure depend upon the President for his information.

The gentleman last up says the precedents which had been adduced produced no effect upon his mind, as error must forever remain error; but he believed that when once a precedent was established, the consequence of doing it away ought to be considered before it is reversed. If the acts in which this principle is recognised, be declared unconstitutional, what becomes of your present Military Establishment, of your galleys, &c.? The whole laws and establishments must be dissolved. The present military force would be unconstitutional, all the money borrowed on loan would be unconstitutional, and everything done under these several laws would be null and void. If this course was to be taken, some new mode of doing business must be invented.

Suppose, if, instead of authorizing the President to raise an army, in case certain contingencies take place, Congress were immediately to order the army to be raised, might they not say that the President should have power (as they had heretofore done) of forbearing to raise them, if, in his opinion, circumstances shall have so changed as to make the army unnecessary? They certainly might, and the two powers amounted to the same thing.

Mr. O. said he should not follow gentlemen through all the remarks which they had made relative to the expediency of the present measure; but he would notice such as he thought had any weight. It was said no invasion of this country could be expected, because it was neither in the power nor was it the interest of France to invade this country. But there may be men in power in France who have an interest in it; and he should think it natural for them to conceive that they had the power, if we declined to raise any force against them. Besides, if they think they can detach one part of our country from another, and that they have here a strong party in their favor, they may invade the country, not with a veiew of conquering it, but merely for the purpose of displacing the present Administration, and of fixing another in its stead more to their taste. He did not himself think the French had the power of invading the country, nor did he think they would find it to be their interest, but perhaps they might not foresee this; and ought not a sufficient number of regular troops to be raised to give aid to the militia, and to impart to them discipline and courage? Could there be any fear that the President would raise these men, if no danger threatened the country? He did not believe that this could be apprehended.

But it was said that if the country was invaded, the militia of the country would be competent to its defence. He was surprised to hear the position advanced. He believed the militia of this country was as good as that of any other; but would any man say that militia were able to stand against veteran soldiers? Was nothing due to discipline and experience? If we were invaded,

would it be by militiamen? No; it would be by men who would laugh at the idea of being opposed by militia. Militia might fight very well for a short time; but they could not be expected to be successful against regular troops. It was vain and idle, therefore, to talk of defence, except gentlemen would concur in raising an army. If an invasion was attempted, it would be of great consequence that we should have experienced officers ready to take the field immediately.

The gentleman last up had descanted on the invidious comparisons which had been made between the militia of the Eastern and Southern States. Every opinion which he had of the Southern militia, he had gathered from gentlemen from that quarter of the country. He had been informed that out of 7,000 militia in North Carolina only 500 had arms; and when the militia bill was under consideration, he understood that the militia of that country was in a very indifferent state. And as he considered himself as much interested in the defence of the Southern as the Eastern States, all being a part of the common country whose interests he had to consider, he had as much right to consider what was necessary for the defence of those States as any other. He should be sorry to have that part of the Union overrun, and if it could be prevented by 10 or 15,000 troops, he should wish to raise them for the purpose. Not that the danger of invasion was confined to the Southern country. It was quite as likely to take place to the Eastward. The port of Newport was as likely to be attacked as any other in the Union; because if an enemy got possession of that port, they could go out and in when they liked, and extend their depredations to the Southward or Eastward at pleasure. But the gentleman from Virginia says the militia of that State did wonders in the war. He did not wish to depreciate the militia, he was one of them himself; but though the militia was very serviceable in the war, yet he did not think they were the principal defence of the Southern country; they sometimes fought well, but they also sometimes ran away. Indeed, he believed the idea was in every part of the world given up that a militia is equal to the complete defence of any country. And was nothing due to the opinion of other countries in this respect? Shall we, said he, stand still and say to our enemy, "we know you cannot and will not invade us?" If we are not invaded, it will be because there will be no prospect of success; and except means of defence were taken, this prospect may not appear clear; for, however confident we may be in our militia, we shall not be able to make the veteran troops of Europe believe that they can defend us. It was therefore worth a hundred times the expense of raising these troops, to change the opinion which may be entertained of our weakness in that part of the world, and to convince them that we mean to be prepared to meet any attack which may be made upon us.

But the gentleman from Pennsylvania had said an invasion could not be expected during the present season. He had himself no idea of an invasion whilst the war continued in Europe; but if an end was put to that, it would be more likely that an attack should be made upon us during this season than at any other. When the Army of England, as it is called, and the ships preparing to convey it, shall be no longer wanted for what was said to be their present object, nothing would be more easy than to send these soldiers and vessels either against this country, or to Louisiana, and he should consider one step pretty much the same as the other. After all that had been heard of the secret articles in the treaty between France and Spain, such an event was not at all improbable; and if such an event were to take place, he believed more than either 10 or 15,000 men would be wanted.

He owned he had rather provision had been made for 50,000 than 10,000 men, as no expense would be called for, except there was a necessity for raising the men, and if there was that necessity, he should wish the force to be sufficient for the purpose for which it was raised. The only question at present was, whether, from a Constitutional doubt which had no foundation, the House would refuse to give the President the power proposed, and by that means delay the raising of men until the President should call Congress together, which would be at least two months after the danger appeared. In his opinion, this was no time for making these nice Constitutional scruples; he thought the power ought to be given, or the army immediately raised. Indeed no army could be raised without giving to the President a certain degree of power. For his part, he thought as much discretion was given to the President when an army was ordered to be raised immediately, as in the mode proposed by this bill. And the power to raise an army, when a certain contingency shall take place, was by no means equal to the power placed in the President of commanding the army when it is raised. Mr. O. hoped therefore the section would be retained.

Mr. McDowell was much better pleased with the amendment proposed by the select committee, than with the bill as it originally came from the Senate; but he had objections to the amendment on Constitutional ground. He believed the power of determining the fit time to raise an army was vested in Congress, and could not be transferred. He did not wish to put it in the power of the President, or of any other man, or body of men, to appoint a large number of officers, and create very heavy expense without necessity. Especially when he saw, from the communications which were before the House, that there was reason to believe that if this power was given, the President would immediately appoint officers, and proceed to raise the men. If the situation of the country requires an army to be raised, he wished gentlemen to say so, and propose a resolution to that effect. For his own part, he did not believe the present situation of the country required it; but that the militia was equal to the defence of the country, at least in the first instance. If we were invaded by a formidable foe, an establishment of the kind proposed, and to a much greater extent, might be necessary. But the gentleman last up says our militia are wanting in discipline and arms, and indifferently officered, and therefore

an army is necessary. He could not see himself how a change of name could make any difference in the competence of force. It was neither bounty, nor a coat, that could make a soldier. If an invasion take place, the militia must be relied upon at the first. As to what the gentleman had said about the militia being badly disciplined and officered, it might in some respects be true; but, so far as it related to the militia of North Carolina, he would tell that gentleman that, whoever were his informants, the assertion was not correct. The militia of that State had, in most instances, been able to repel any force which had come against them, with the assistance of but very few regulars. But suppose the gentleman had his 10,000 men, when they were distributed to the different parts of the Union, it would afford but a small number to each, and the militia must at least principally be depended upon. Except gentlemen wished, therefore, to saddle the country with a standing army, he thought they ought not to vote for this bill, as they must see how difficult it is to get rid of any force which has once been raised. Let them also recollect how much the appointment of a great number of officers in the army would increase the influence of the Executive, and consequently the dangerous effect it would have upon the liberty and independence of the country. The expense was a very considerable object, but that which he had last named was, in his opinion, still greater.

Gentlemen had spoken of the conversations which had taken place between X, Y, and Z, and our Envoys in Paris, which they seemed to think threatened great dangers to this country. He owned that he relied but little upon that unofficial information, which he could not consider as coming from the French nation. If the opinions of individuals in any country were to be taken and acted upon as the opinions of the nation to which they have formed a part, we should be continually in error; this might be judged of from what we see at home, for, if the opinions of some individual in this country, or the opinions which are issued from some of the presses here, were to be taken as the opinions of the country, and acted upon by the French Government, we should think it a very extraordinary procedure. For his part he did not rely upon these communications, and he was persuaded this country would be secure from invasion from France, from its not being in her power to undertake it, and if it were, that it would not be her interest to attempt it.

One word, Mr. McD. said, with respect to the militia, and he had done. The gentleman last up said it was impossible that they could contend with old veteran troops. That gentleman, he believed, had himself never had any experience in fighting, and he depended too much upon names. He himself was acquainted with instances in which our militia had overturned the greatest veterans; and if this was not sufficient, if the gentleman would recollect that some of the most brilliant achievements of the French armies were accomplished by new, undisciplined troops, he would no longer insist upon his opinion that we must have a standing army to meet an invasion.

Mr. Harper could not persuade himself that the arguments adduced against the unconstitutionality of the present bill, were capable of a serious reply; but, with respect to the expediency of the measure, he thought there were some considerations worthy of notice, which had not been laid before the committee.

Gentlemen opposed to this measure are constantly contrasting the services of the militia with those of regular troops. Nobody had said that the defence of the country ought to depend upon regular troops entirely, or upon the militia entirely, yet gentlemen argue as if the question was whether the country should be defended by the one or the other. They gave the force proposed to be raised, indeed, a name which does not belong to it, viz: that of a standing army. Was a body of troops, raised only for three years, to be called a standing army? A regular force and a standing army are quite different things. A standing army is wholly in the power of the Executive of a country, and not liable to be put down; such an establishment would be alarming in this country, and it had been effectually prevented by the Constitution, which declares that no appropriation for an army shall be made for more than two years.

Mr. H. said, he was strongly impressed with the usefulness of militia; he believed they were the great strength of this country; but he did not believe they could be called into service with sufficient promptness, without the aid of regular troops, and gentlemen who speak of their experience cannot controvert this point. They say the militia might be called out to meet any predatory attack; but experience did not confirm this. It was well known that in sparsely settled countries the militia could not be promptly called into service; in compact settlements, he knew the contrary was true. In that part of the country where this defence was most wanted, the settlement is very thin, and the militia not being used to act together, would, at first, make but an indifferent defence. In the late war, the militia were almost constantly intermixed with regular troops, and he would not stop to say how often they were defeated notwithstanding.

It was also well known how long it took to organize these troops, and how much the enemy gained on account of these delays; yet we are to say because our militia are brave, and the people are attached to their liberty, no other troops shall be employed in the defence of them but the militia. He knew that the people were attached to their rights, and would defend them; but he also knew that something more than a disposition to do it was necessary; they must have skill, and what is more important, they must have commanders. He himself belonged to one of the best corps of militia in South Carolina, which, though composed of persons who had the greatest stake in the country, wanted discipline, and was far from being prompt in obedience to orders. Indeed, he believed the militia wanted only the habits of soldiers to make them equal to regular troops. But gentlemen say that there is no danger of an invasion from Europe, as France had neither troops nor ships for

the purpose, being wholly engaged in her project against England. But, are there no Frenchmen but in Europe? Did gentlemen look at the situation of the Southern States? It was true, the gentleman from Virginia (Mr. Brent) had taken upon him to say that he would be responsible for the safety of the Southern States, from the militia alone; but, though that gentleman might be well acquainted with the seacoast of Virginia, he believed he knew little of that between Charleston and Savannah. It was disagreeable to him to point out the weak places of the Union, nor would he have done it, had not gentlemen spoken of the safety of that coast. Mr. H. then mentioned several places where attacks might be made with facility and success. We know, said he, that Victor Hugues and Toussaint have each of them considerable force, and though not sufficient, perhaps, to expel the troops from St. Domingo, they might be sufficient to send against our Southern coast, and do considerable damage before any opposition could be made to them, except we had a few thousand regular troops stationed in that quarter; and if they were to get possession of Savannah or Charleston, they might do immense mischief before they could be dislodged. He believed it would be wise to prevent this mischief, and that would be most effectually done by giving the President the power proposed.

Besides, some regard was due to the feelings of the people in that part of the country; they are alarmed on account of their situation, and wish Congress to take some measures for their defence. If they find the President vested with the power of raising an army, they will be satisfied; but if they find themselves abandoned, however attached they may be to the Government, this attachment may be destroyed by neglect. The gentleman from Pennsylvania may rest securely on the banks of the Monongahela, and the gentleman from Virginia in the thick settlements of that country, but they ought to recollect also the situation of these exposed people, and provide for their safety.

The committee had been told by the gentleman from Pennsylvania that there was no danger to be apprehended in the Southern States as the white population was equal to the defence of that country; but if he was well acquainted with the seacoast of that country, he would know that the black population on the seacoast is very great, and that there is a large tract of country full of fastnesses and marshes between them and the white population, and that if the blacks once made a lodgment in these marshes, it would be difficult to drive them off. The people in this quarter expect, therefore, in any emergency, to receive aid from Government; and unless they see a measure of this kind agreed to, they will be disheartened and their confidence in the Union will be much weakened.

Mr. H. concluded with hoping the motion to strike out the section would be negatived, as the force would not be called out without necessity, the President having to answer for his conduct on his responsibility; and if there should be imminent danger of an invasion, no one would say that this force ought to be called out.

A motion was made for the committee to rise.

Mr. N. Smith hoped the committee would not rise. This subject had already undergone one day's discussion, and he doubted not by this time every gentleman had made up his mind on the subject. He wished, therefore, the question might be taken.

The question was then put on the committee's rising, and negatived—48 to 35.

Mr. R. Williams then rose, and said if the committee were determined not to rise, he supposed they would be willing to attend to what was said on the subject. He could not have conceived that this question could have turned so much upon the disposition of members as upon the propriety of defending the country. To discover which was the best way of defending the country, whether by a regular army or by a militia, was a subject well worth inquiry. In that point of view he should consider the question; and therefore hoped that nothing he should say would be ascribed to a wish to oppose any measure for the defence of the country.

The gentleman from South Carolina had endeavored to make a distinction between the army proposed to be raised by this bill and a standing army; but immediately after, his arguments showed that he considered it in the same light as a standing army, as he said nothing short of this could effectually oppose an invasion of the country. For his part, he could not see how the calling these men a provisional army could make them so much more effective than in the form of militia. But the gentleman says, it is necessary for militia to have regular troops to lean upon. He believed they were not the kind of defence which the people would wish to lean upon in case of an invasion. On the contrary, in such a case he believed every man would wish to defend himself and family.

Mr. W. said, who are the persons intended to compose this provisional army? Are they men who have more natural ties to the country than those who compose the militia? No; they are taken from the streets of large cities; many of them are men without any attachment to the country at all, and possessed of but little principle. He must, therefore, give the preference to militia.

Gentlemen say this army is to be raised at the discretion of the President, and that it will not be formed unless the circumstances of the country require it; yet, at the same time, they go on to point out parts of the country which at this moment stand in need of defence. It therefore appeared to him that gentlemen were of opinion that if this law passed, the President would immediately raise the men. The gentleman from South Carolina says he has received letters from his constituents speaking of their alarm. He had also received letters, but his constituents request that arms and ammunition might be furnished them, not that a standing army should be sent to defend them.

It was said, that this bill ought not to be objected to on Constitutional ground, as Congress frequently empowered the President to do business which the Constitution had vested solely in them; but gentlemen make no distinction between Congress determining a thing shall be done, and leaving it to the President to determine whether it shall or shall not be done. No person has said Congress could not authorize the President to raise an army for the defence of the country; but it was denied that the power could be transferred from Congress to him, to determine whether it should or should not be raised. Mr. W. believed the transferring of power from one department to another, was not only dangerous, but embarrassed the proceedings of Government. And it was so observable that every instance of the kind was produced as a precedent for future deviations, and all objections to such a proceeding were opposed by saying, it had been done so before.

Mr. W. said, if Congress had a right to transfer this power, he wished gentlemen to show why they could not also transfer the power of declaring war; as they had not yet shown this, though they had been called upon to do it. Indeed, he should not be surprised if this power should be asked for on some future occasion.

The only difference which Mr. W. could see between the provisional army, when raised, and the present militia, was, that the former would have its officers under Federal authority, and in the latter they would be appointed by the States. The men would in general be the same. What did this go to, but to say that the militia is not to be trusted under their present officers, there must be officers fixed by the General Government?

The gentleman from Connecticut (Mr. Dana) had quoted several clauses of the Constitution, and made some criticisms upon them, and had endeavored to make the supporters of the present motion ridiculous, by representing them as wishing to turn the members of this House into recruiting sergeants, brokers, tax-gatherers, &c. In doing this, he believed he had suffered himself to metamorphose the Constitution, so as to make it mean anything or nothing, instead of construing it in a liberal manner. The same gentleman says he should have no objection to raise the proposed army but for the expense. Was it not rather that he wished to place a power in the President to exercise, which he supposes he will immediately exercise, but which he apprehends Congress would not be prevailed upon to exercise at present? For his own part, if an army was to be raised, he wished to raise it in the way pointed out in the Constitution. It was said that if this army was raised, it might at any time be disbanded, when it should cease to be wanted; but when he heard gentlemen say they wished this army rather to consist of 50,000 men, than 10,000, and knew the difficulty attending the breaking up of anything which was once established, he was desirous of avoiding a measure which he believed wholly unnecessary. The geographical situation of this country, said Mr. W., is such, that a standing army of 200,000 men would not be able to defend it. It was idle, therefore, to suppose the country could be very much benefited by the raising of 10,000 men. But the gentleman from South Carolina (Mr. Harper) still speaks of these men being necessary for the defence of the Southern country. That gentleman may think them necessary for the defence of his State, but he could not think them necessary for the defence of any part of the State to which he belonged. His constituents never wished to see a standing army sent among them. Instead of looking upon such men as their defence, they would consider them as the greatest curse that could come upon them. Why, then, will gentlemen continually insist upon these men being wanted for the Southern States, when no member from those States will say they wish to have them, except one gentleman (Mr. Harper.) And though the gentleman from Massachusetts (Mr. Otis) was so obliging as to say that he wished to take the same care of the Southern States as the Eastern, he could assure that gentleman he might make himself perfectly easy as to their safety.

Mr. W. concluded with repeating his hope that the section would be struck out.

Mr. Findley said, this bill certainly proposed a transfer of power to the President, which was lodged by the Constitution in Congress, and therefore he was opposed to it. The gentleman from South Carolina denied that the army proposed to be raised by this bill could be considered as a standing army, because the bill was only to be passed for three years. Upon the same ground it might be said that Great Britain has no standing army, as their military establishment law is passed annually. Mr. F. was of opinion, that if this bill was now passed, the men could not be raised; the officers, he had no doubt, would. At the commencement of our Revolution, when every breast glowed with enthusiasm in the cause in which we were engaged, there was a difficulty in getting men. We might, as he had said, get an army of officers, but would they, when gotten, be equal to the militia officers? He doubted it. If the army was to be increased, it would be necessary to increase the wages of the men. Militia, he said, was the natural force of the country, and the raising of ten thousand men would not prevent them from coming forward in defence of their country when danger appeared. He was himself too old for service, but he had sons who, he believed, would be ready to fly with their fellow-citizens to the defence of their country in case of invasion.

After a few words from Mr. Davis, in favor of the committee's rising, and from Mr. N. Smith against it, the question on rising was put and carried—45 to 36.

Adjourned, at half-past four, till Thursday next.

Thursday, May 10.

PROVISIONAL ARMY.

The House, on motion, again resolved itself into a Committee of the Whole on the bill authorizing the President to raise a provisional army, and the consideration of the motion for striking out the first section being resumed,

Mr. W. C. Claiborne rose, and said it was with reluctance that he at any time trespassed upon the time of the House; but, on a question so important as the present, he was unwilling to give a silent vote. He owned himself dissatisfied with the principles of the bill upon the table, and in favor of the motion to strike out the first section. He wished it not for a moment to be supposed that he was led to this opinion from local considerations; on subjects of national importance, nothing should ever influence his vote but the common good of the Union. The security which was ascribed to the gentleman from Pennsylvania, on the Monongahela, could not be ascribed to him. He resided in an exposed part of the Western country, amongst a people whose safety does not depend upon their numbers or situation, but upon their determination to resist attack, come from whence it may; and in the event of a war with France the State of Tennessee will be as apt to feel the horrors of it as the States of Georgia or South Carolina. But when he came to reason with the gentleman from South Carolina (Mr. Harper) on the best means of defence, they differed on the threshold of the discussion. That gentleman thinks a standing force is necessary; he, on the contrary, was persuaded that if the implements of war were dispersed amongst the citizens, they would be equal to their own defence, at least with the assistance of the citizens of the adjoining States.

The gentleman from South Carolina allows that the permanent defence of the nation lies in the militia; but he conceives, that in order to bring forward all the force of the militia, it is necessary that a regular force should act along with them. Here they differed in opinion. He himself was inclined to believe that militia and regular soldiers seldom agreed together—that they view each other with contempt, and that they act best apart, and he placed the greater reliance upon militia. He knew that it was a popular opinion that troops long disciplined to bloody warfare, were a better security for a country than militia; but with great deference to military characters, who were far better acquainted with the subject than he could possibly be, he conceived this opinion to be founded on error, and fostered by prejudice, though palmed upon the world for truth. In countries differently situated from ours, this might be the case. When a war is carried on between Kings, by means of slaves who support their authority in time of peace, it is necessary that the troops on both sides should be equally veteran and well disciplined, because they want that *amor patriæ* which animates a free citizen in the defence of his country and his liberty; but when an army of these disciplined troops, who fight *only for pay*, are opposed by a body of citizens who contend for everything dear to man, victory never fails to crown the cause of freemen.

By whom, said Mr. C. was the army of Hannibal driven out of Italy, but by the Roman militia? To whom did Greece owe her safety, when attacked by Xerxes, but to her militia? Passing from ancient to modern times, to whom did Holland and Switzerland owe the preservation of their liberty for so many centuries, surrounded as they were by despotic Powers, and opposed by regular disciplined troops, but to the bravery of their militia.

But we are told, said Mr. C., by the gentleman from Massachusetts, that the veteran Generals of France cannot be made to believe that our militia are able to stand before their armies. He believed those Generals would not have a doubt on the subject. They would remember the prodigies of valor which their own militia performed. They will remember that the militia of France saved that country from the fate of Poland. That that militia had fought her battles, and laid the first corner stone to that monument of military fame, which Bonaparte and his army have since completed.

But if an idea should prevail in France, that the militia of America is not equal in battle to those of the most tried nations in Europe, let them call to remembrance the Revolutionary war of this country, and they will immediately be convinced of the contrary. He by no means wished to detract from the merits of our late small army; they fought well for their country, and they have been recompensed principally by the liberty which their bravery assisted to obtain. He could not speak of that body of men without respect, and when he saw a member of it his heart palpitated with gratitude for his services; but he believed, notwithstanding, that it was principally owing to the militia that we were enabled to pluck from the British Crown the brightest gem which ever ornamented it, in establishing the independence of this country; and he believed the same militia was still able and willing to defend us against an invasion from France, or from any other country.

Mr. C. said, he felt for our present critical situation as much as any man upon that floor; but he did not apprehend the danger of an invasion to be so great as the gentlemen from South Carolina and Massachusetts seemed to think it. He must own he felt no dread on this account. If France still thirsts for conquest and military prowess, or if her armies still fight for rapine and plunder, as gentlemen are continually saying they do, the old Governments of Europe afford much stronger temptations than infant America can offer to them. We have nothing, said he, to court their avarice. Our blessings consist of a good Government, liberty, a good climate, and a fertile soil. Contented with these blessings, he was persuaded his countrymen envied not the possessions of other nations; and however we may sympathize with the distresses of Europe, it ought to be our wish, as it is undoubtedly our interest, to preserve peace with all the human family. He trusted that when the present European war shall cease, our rights will again be respected; but if France, in the paroxysm of her frenzy, shall attempt to invade America, he believed the passing of this law for a provisional army would be of no service. Suppose the law were immediately passed, and

the President were immediately to send out recruiting officers, what kind of men would make up your battalions? The danger is too remote to induce men who have an interest in the country to leave their plough and turn soldiers; and if this army was now embodied, it would consist of the refuse of society—of men who might wear the garb of soldiers, but possess few, perhaps none, of their virtues.

There was a ground of objection to this bill upon which it was his intention to dwell but little. He meant as to the unconstitutionality of the first clause; for, after the gentleman from Pennsylvania and the gentleman from Virginia had spoken on that point, it was not in his power to say anything new upon it. But he viewed the trust placed in Congress to raise armies as an important trust, and to delegate it to the President would, in his opinion, be to attach a responsibility to him which was meant to be placed in Congress only. But the committee were told by the gentleman from Massachusetts (Mr. Otis) that this was an improper time to mention Constitutional scruples; that this was a time for acting. He was of opinion, however, that the Constitution, that palladium of our rights, never could be too sacredly guarded, and this of all others is the proper time to take care it is not invaded. In times of tranquillity, Congress do not feel disposed to surrender their authority; but when danger approaches, and alarm is everywhere gone abroad, then it is that Congress may be most likely to be prevailed on to give up powers to the Executive, from an idea of promoting the public good, (but which may prove its greatest misfortune,) which, at other times, they would hold with the greatest tenaciousness. He need not remind the committee that the greatest evils had arisen from suffering the Executive power in Governments to possess too much power. We need only to look at the nations of Europe to see that the loading of one Executive with power has frequently enabled his successor, at some future day, to enslave the people.

The gentleman from Massachusetts and the gentleman from South Carolina, have each in their turn labored to show the necessity of this army. They have spoken much of the advantages to be derived from the employment of regular troops. Their eloquence he allowed to be splendid, and that their zeal for the safety of the people did honor to their hearts. But have they shown the necessity of this army? No; one of them tells the committee that Victor Hugues, with his black troops, may go against Savannah or Charleston; the other, that when peace is made in Europe France may transport an army to America. But if these events were to take place, would this provisional army give safety to the country? No; it must be the militia which must avert the danger and eventually be the security of the country.

So far as relates to himself, he had fostered in early life an impression unfavorable to the employment of standing troops, from having seen that when they were once introduced they were scarcely ever laid aside, and that they constantly proved the bane of liberty; these impressions had grown up with him, and he still retained them, and they were heightened by the recent experience which he had had of the mischievous effects of such troops in the State which he had the honor to represent; he had seen that they might be made the organs of oppression, and be the means of introducing among a happy, peaceable people much disorder and injury. Here he would stop. He wished to draw a veil over the injuries which had been done to the people of Tennessee by means of standing troops; because no sooner were these wrongs known to the General Government than every department of it showed a willingness to redress them. But the occurrence, notwithstanding, strengthened his former impressions against a standing army.

Mr. C. concluded by saying he would not speak of the expense of this army, or of the difficulty which would attend the collecting of the money, because he did not wish to trespass longer upon the patience of the committee. He did not flatter himself that anything which he had said, or could say, would change the sentiments of one member of the committee; but he trusted all would believe he spoke from the sincerity of his heart, every sentiment of which was deeply interested in the prosperity, liberty, happiness, and independence of United America.

Mr. Brooks had no doubt the gentleman from Tennessee had delivered to the committee the genuine sentiments of his heart; but, notwithstanding that, he could not bring himself to join in sentiment with him. That gentleman had said that militia are better troops than a standing army. This was the first time he had ever heard the sentiment advanced. Whatever objection there may be to a standing army, he thought discipline was everything. He did not think that the allusion which he had made to the troops of another country, who were willing soldiers, or to our own Revolution, would authorize the opinion. He would call the attention of the gentleman to our Revolution. He did not mean to depreciate the militia; but it was well known they could not be kept in the field for any length of time together. He remembered an instance in 1776, at Amboy, where a company of militia were draughted for a particular time, and when it expired they determined at all events to return home, and all that could be said to them could not induce them to stay. Men who leave families behind them will not continue contentedly beyond the time for which they are called. If the militia alone were to be resorted to, a much greater number of men would be necessary in the service, and the expense of retaining them would be greater, according to their numbers, than if regular troops were employed.

The gentleman last up, and others, had said there is no danger of an invasion. Mr. B. asked what all the preparations are making for on the French coast?

Mr. Claiborne explained what he had said about danger.

Mr. Brooks said, if there should be no danger,

no army would be raised, for the uncertainty whether we should be invaded or not, was the reason why the power of determining the time of raising the army was placed in the President. And notwithstanding gentlemen continually call this a standing army, if they look at the bill, they will find that the President will have the power of disbanding it whenever it shall cease to be necessary. Besides, these arguments did not go against the bill, but against the detail of it, which might undergo amendment and modification.

Gentlemen have spoken on the constitutionality of this bill, but he thought these objections had been completely answered, and former laws which had been passed after a similar manner, proved that heretofore no objection was made to this mode of proceeding, and until gentlemen could show the difference which exists between those laws and the present, there was no necessity for spending time in answering these objections. He could not see any objection to the bill on this ground, as it was calculated solely for the purpose of saving expense. With respect to any danger which could arise from the misuse of this power, it was a mere chimera. He believed enough had already been said on this question, and he hoped the question would be taken.

Mr. Gallatin said, he would not take much of the time of the committee in relation to what might be called the Constitutional question under consideration; yet he found, from the manner in which his arguments had been noticed, it would be necessary to make a few additional observations on this subject.

He understood that the object of a constitution was to secure a proper distribution of power among the different branches of a government. It was a security never possessed by any country before the constitutions of the United States were formed. In Great Britain, whatever distribution of powers may exist, an act of Parliament may transfer any power from one department to another. The only check, then, upon the use of that power is public opinion. But, in this country, the principle of the Constitution is, that no department of Government can exercise that power which has been given to another department. Gentlemen, however, seem to suppose the Constitution may remain inviolate so long as there is no forcible assumption of power by any branch of Government from the other, and that a transfer or free gift of such power would not be a violation of the Constitution. He considered the effect to be precisely the same whichever way it was done. The object of the Constitution was to assign forever certain specific Legislative powers to Congress, and certain other powers to the Executive, and whenever one department shall exercise the powers of the other, in whatever way it shall be done, the Constitution will be broken, and the security intended by it will no longer exist.

If these remarks are applied to the case under consideration, it would be found that one of the most important powers that could be vested in Congress, viz: the power of raising an army, is, by this bill, proposed to be transferred from Congress to the President. This he considered as a dangerous principle, and if once admitted, it would be in the power of Congress to destroy the Constitution. Yet the committee are told that there are precedents to authorize this procedure. He knew the line which separates Executive from Legislative duty is sometimes very indistinct; and in some cases of not very great importance, where the distinction might not be very striking, or had not perhaps been attended to, powers which, strictly speaking, were Legislative, may have been improperly given to the Executive; but is an instance of this kind to be brought as a precedent for passing a bill of so important a nature as is the present. Because power has been given to the President to build ten galleys, if he shall think them necessary, and to spend $80,000, should it now be inferred that there would be no impropriety in giving him the power to judge of the necessity of raising an army of 10,000 men, which are to cost the United States at least four millions of dollars a year? If that conclusion was drawn, he would ask whether Congress might not also transfer any of the other important powers vested in them, such as the power of laying and collecting taxes, and that of declaring war? And if so, it was admitted that Congress have the power of destroying the Constitution; for limitation clauses to laws were frequently opposed as improper; and if a single Congress passed without any limitation clause an act similar to this, or giving forever to the Executive the power of judging of the necessity of raising an army, or of laying a tax, or of declaring war, or of enacting laws, he asked whether the Legislative power of Congress would not be annihilated? And yet this is the objection which some gentlemen call it ridiculous to entertain, while others charge the supporters of it with a want of candor and sincerity.

After stating this, Mr. G. said, he believed he need not answer the objections of the gentleman from Connecticut, (Mr. Dana,) who seemed to think that he (Mr. G.) had relied upon a mere verbal difference in the wording of some of the clauses in the Constitution. He would now see that he did not raise his objections on so slight a ground, but that they arose from the general principles and spirit of the Constitution itself. Mr. G. said, he might be told that no danger would arise from this transfer of power, as it was not to be supposed the President would abuse it, and that he ought not to suppose the case of future Legislatures passing such improper acts as he had mentioned, or at any rate transferring other powers to the Executive, because this Congress was going to transfer the specific discretionary power contemplated in the section under consideration. But ought they to put more trust in future Legislatures than in themselves? And if the galleys were brought as a precedent to induce Congress to pass this bill, would not it be brought as a precedent to induce future Legislatures to make still further and more dangerous transfers of power? Were not evident symptoms of that disposition discernable in this very discussion? A gentleman

from Massachusetts (Mr. Otis) had positively asserted, that if the President was to give information to Congress, that, in his opinion, there was imminent danger of an invasion, Congress, without examining the grounds of that opinion, must necessarily act in conformity to it. The same gentleman had said, that if the validity of the objections urged against this bill were admitted, it would declare all former laws enacted upon the same principle null, and of course the whole of our present army would be dissolved. This could not be the case; for if there was anything unconstitutional in the law fixing the Military Establishment, it was the power which was given to the President to forbear raising, or to discharge the men when he should think them unnecessary, which power had never been executed, and therefore could in nowise affect the Military Establishment now existing.

But the committee are told that the present dangerous situation of our country renders it necessary to pass a law of this kind. It appeared to him that when gentlemen were called upon to show where this danger exists, they were at a loss how to answer. They had not shown where it is; almost all concurred in an opinion that there would be no invasion by an army this season. After a peace was concluded in Europe, some gentlemen were of opinion there might be danger, but not at present. The gentleman from South Carolina had indeed pointed out a part of the country where he supposes there is at present some danger, and it was the only quarter in which he himself expected any annoyance at present, and upon which he had already made some observations. That gentleman had, however, gone on to detail the manner in which the French may land, and the points most likely to be attacked. If that gentleman be sincere in his fears, and really thinks that imminent danger exists, he ought to vote for the raising of the army immediately, otherwise the force which he wished to raise would be too late for the quarter in which this danger is said to be so imminent. But the gentleman in the whole course of his observations, has spoken of this section as giving to the President a power, whenever danger shall appear, of calling these men out, or embodying them, as if the proper power of raising an army was suddenly to embody men together in an emergency; whereas it must be clear to him that these men must first be enlisted and collected; while, on the contrary, the militia alone could be called out or embodied immediately. Indeed, a militia force might be called out, and might repel a predatory attack, before five hundred of this provisional army could be raised. He conceived only two things were wanting to make militia more effective than at present, which were provided by the additional sections reported to this bill by the select committee, which were to furnish them with arms, and also the equipments for cavalry, in the Southern States. He hoped those sections would be agreed to, and then he thought the gentleman from South Carolina (Mr. Harper) might be perfectly easy on account of the safety of the Southern States. If we were to be engaged in war, not only by sea but by land, and an invading army was to land under an idea of subjugating the country, or of bringing us to a dishonorable peace, he would then agree that a standing army would be necessary to aid the militia; but at present he did not think there would be any reasonable expectation of such an event.

Mr. G. said he had been told that he might consider himself safe on his farm on the Monongahela, and that the people of the South would not be very thankful for the opposition he made to this force for their defence. But was it proper to introduce circumstances of this kind into debate? He did not believe, that, by any vote which he had ever given on that floor, he had shown any unjustifiable attachment to his constituents to the injury of other parts of the Union. He should undoubtedly, on all occasions, support their interests, so far as he understood them, whenever it could be done consistently with the good of the whole, but never in opposition to that good.

Mr. G. supposed, that if the danger were very great on the Southern coast, more would have been heard of it than by the private letter of the gentleman from South Carolina (Mr. Harper.) He himself did not believe there was any great danger to be apprehended at present from invasion. But the arguments of gentlemen went to show that the danger is now imminent, and consequently that the army ought now to be raised; and yet, instead of acting consistently with their own arguments, they support a bill by which an army is to be raised only in case of a change of circumstances. When gentlemen wish to establish the belief of a probability of an immediate invasion, they refer to the conversations which passed in Paris between our Ministers and X, Y, and Z. If they believe that they see, and the President believes that he sees in that conversation, a threatened invasion, he supposed the army would be immediately raised. Indeed, from what he daily heard and saw, he was of opinion that the President believed imminent danger now to exist. But the section under consideration went, taking the arguments of the gentleman to be well grounded, to throw the responsibility of a measure, which, in their opinion, was now necessary, from themselves on the President.

But the committee had been told by the gentleman from New York (Mr. Brooks) that the militia are more expensive than regular troops. Mr. G. believed, that while they were in service, they were more expensive, on account of their marching to and from home; but the great difference between the two forces was, the militia were only called into actual service and paid when actual danger exists, but an army receives pay all the time it is in being. Of course an army, if considered a cheaper weapon of defence, ought only to be raised in time of actual danger, and discharged when it ceases to exist.

Shall I, said Mr. G., be told it is improper to speak of expense in a business of this kind? He said he knew well enough, that in case of actual war, or invasion, it would be ridiculous to talk of

the expense of defence. And if the committee now believe that we are in imminent danger, they ought immediately to raise an army; but as they suppose the danger does not at present exist, the expense was a proper subject of discussion. He would not, however, on the subject of this bill, have said anything about it, had it not been asserted that no expense could be incurred on account of this law. He wished to know why gentlemen had so earnestly insisted upon a permanent land-tax, in order to insure a permanent loan? That loan and that tax were wanted for the sole purpose of supporting this army, as all the expenses at present incurred are provided for by the present revenue and one year's land-tax. Without this army there would be no necessity for a permanent land-tax. Let not gentlemen amuse themselves with the idea that at the time they are giving the President a power to raise an army of 10,000 men, it will be attended with no expense. If they give the authority, they must reckon upon paying the men, and this can only be done by a permanent land-tax. He had therefore voted against making the land-tax permanent, because he was against raising this army, and he could not conceive how gentlemen who had agreed with him on that question could consistently be in favor of this. If they were in favor of the army, they ought, in order to provide the means, to have voted for the permanent land-tax. As to the distinction made by the gentleman from South Carolina between the troops proposed to be raised by this bill, and a standing army he looked upon it as frivolous; the words *standing army* meant a regular force as distinguished from the militia; you may call it by that name, or simply an army, which are the words used by the Constitution, it will not change its substance—and in Great Britain, where its existence, on account of the annual supply bill, was always limited to one year, it was always called a standing army.

He would add one remark with respect to standing armies. Military men on this floor, in favor of an establishment of this kind, judge of a regular army from what they saw of the Revolutionary army—but such an army, he apprehended, would not again be seen in this country, except in case of invasion, when the same spirit would animate our citizens which inspired them heretofore; but a standing army, in time of peace, would always be found very different from the patriotic army with which those gentlemen were acquainted. With respect to militia, he believed most of those gentlemen were better acquainted with their merits than he could pretend to be, yet they have not only denied that the militia of the United States are capable of serving against a regular army, for any length of time, but also of repelling an invasion. He believed, with his friend from Tennessee, that very many instances in our Revolutionary war spoke a contrary language. If he recollected right, the enemy was kept in Boston for more than a year, and at last driven from thence by the militia; and he believed the State of New Jersey was recovered in 1777 by the militia, when hardly the appearance of a regular army existed. Advancing to another period of the war, which perhaps decided it, he asked whether the standing army would have been able to stop the course of General Burgoyne, had it not been for the militia, which poured from all quarters, checked his progress, and so eminently contributed to his capture. He knew great services were performed by regular troops, and that in case of actual war they were necessary; but he believed the militia were equal to the repelling of any invasion which could, under present circumstances, be contemplated.

Mr. Pinckney said, he did not intend to have troubled the committee with any observations of his on the present question; because he thought all the arguments which had been adduced against this bill had been fully answered; but, as they were again repeated, he must be permitted to say a few words in reply.

The gentleman from Pennsylvania had said, with great truth, that it was the object of those who formed the Constitution, that the powers of Government should be distributed among the different departments, and that they ought not to be assigned or relinquished. All must be agreed as to that point. The only question is as to its application in the present case, and whether the power proposed to be granted by this bill gave away from Congress the power of raising an army to any other department of Government. If this power was generally transferred to the President, he might at all times raise an army, without the consent of Congress; but it would not be said that this would be the case, if this bill should pass. It is not doubted that the Legislature may order an army to be raised by the President, in case of a declaration of war, or of an invasion; but gentlemen say the contingency ought not to depend upon the opinion of the President. But, Mr. P. said, this must either be done, or you must burden your constituents unnecessarily, by raising the army before it is wanted. It had been said that it was not fair to argue from former violations of right. This, he allowed, was a fair objection as it respects real violations of right, but where a thing has frequently been done in one way, and no objections raised to that course, it was reasonable to suppose that course was not unconstitutional.

Mr. P. was surprised to hear gentlemen attempt a distinction between the case of immediately raising an army, and ordering it to be raised in case of certain contingencies. If he could discover any difference, he should be for immediately voting this army; but not seeing this, he thought it unreasonable that he should either burden the country with an unnecessary expense, or leave it in a great degree defenceless. He believed the power proposed to be given to amount to no more than this: It said to the President of the United States, "if war should be declared against this country, if we should be invaded, or if you should have certain information that force is preparing to make such an invasion, you shall proceed to raise this army." He thought, therefore, every Constitutional objection must fall to the ground. But an objection was made to this clause because it gave power to the President for an unlimited time. He should have no objection to limit the period within which this power should be exercised. He should have no objection to limit it till the next meeting of Congress.

It was said that if Congress had the power to vest the power of raising an army in the President, they might also transfer the power of raising a tax to him. He believed this might be done in the same way. A law might be passed for raising a tax, specifying the mode of laying it, and the quantum of money to be raised, but with a provision that it should not be collected until it was wanted, or until some contingency should take place. But if this was done, he should not conceive that he transferred the power of raising taxes to the President, any more than the passing of this bill would transfer the power of raising an army to him.

The passing of the present bill in this form, would also save expense in more ways than one. It would show to the Powers of Europe that we were determined to prepare for our defence, and that if an attack should be made upon us, we are determined to repel it. It was upon this ground that he was in favor of raising 20,000 men instead of 10,000. To show a spirit of this kind, he believed, would be our best means of defence, as it might prevent any attack being made upon us, and, by so doing, save us an immediate expense.

But it had been said, that those who wished to prevent the land tax becoming permanent, ought to vote against this bill, as the one was to meet the expense of the other. He did not think this was the case by any means. Many who voted in favor of the land tax being annual, he doubted not, would vote for this bill also. They might conceive that the money would be better raised in another way.

With respect to the expediency of the measure, it appeared to him that it would be wise and prudent in the United States, in case of a declaration of war, an invasion, or threatened invasion, not to lose a moment to add this force to our peace establishment. The committee had been told that on a former occasion, the militia were found adequate to the defence of the country. He believed an instance of that kind had scarcely ever occurred. He knew they had been of essential benefit in supporting the regular army; but the instances were few in which they of themselves rendered any essential service in the war. He had a gentleman in his eye, under whom the militia had alone rendered very considerable service. He spoke particularly of the affair at King's Mountain, in North Carolina. But the militia would never remain in the field for any length of time. It was true, he saw militia in the late war that were equal to any troops in the world; these consisted of men who had been driven from their homes by the enemy, and who could not of course return to their families. But God forbid this country should ever be brought into a like situation again; if it were, militia would then be as good troops as could be had, but not under any other circumstances.

The gentleman from Pennsylvania had mentioned the case of Boston. That was a very particular case. A small British force was encamped in a very populous country, where the people were united in one spirit and trained to arms. They certainly were very serviceable in the first instance. But what was the opinion of those who were at the head of our military affairs at the commencement of the Revolution? Did they think the militia were equal to the defence of the country? No, they did not. The first step they took, after the first hostility, was to organize a regular corps. A Commander-in-Chief was appointed, who carried the country through the war. He went to Boston, and raised men as regular troops. And this he believed it would be proper to do now. He had as good an opinion of the militia as any man, but he believed it was necessary to have regulars to mix with them.

But the same gentleman instanced New Jersey, where he says great honor was achieved by the militia. Mr. P. believed some of the militia were present at these actions; but he did not recollect anything brilliant performed at Trenton or Princeton by the militia, without a regular force. If the gentleman made inquiry into the business, he would find the troops were mixed, and that the principal part of the defence was performed by regular troops.

He mentioned another case, almost exactly of the same nature. He meant the army which captured General Burgoyne. Mr. P. said, there were, he believed, more than one person present who was engaged in that affair, and if the gentleman referred to them, he would find that brilliant action was not accomplished by militia alone. Those gentlemen will tell him, that had it not been for a regular effective army, Burgoyne's army would never have been captured. He believed not less than 6,000 regular troops were present. The arguments drawn from these instances, therefore, fell to the ground.

Some gentlemen seemed confident in the opinion that our militia would be a sufficient defence for the country. For himself, he would not hesitate to say, he should feel himself much more easy, if there was a regular force in the country from which he came, in aid of the militia, than if there was none. He did not say this from a want of respect for the militia of South Carolina. They had heretofore acted well, and he had no doubt they would do so again, if their service should be wanted. He had it from a gentleman whose duty it was to attend to them, that they were as ready to meet an attack as any militia on the Continent. He had not himself seen them for many years; but if 1,200 or 1,300 regulars were stationed in the lower part of the country, where the population is sparse, to be marched to any place where an attack might be made, he should be better satisfied, than to depend entirely upon the militia. If it was not, indeed, for the expense, he should be for immediately raising troops to

sand to that part of the country; for he believed a predatory invasion might take place from the West Indies, and do considerable mischief there, before an effectual force of militia could be drawn out to oppose it. Feeling as he did, therefore, he could not but vote for the present bill.

The gentleman from Pennsylvania admits that it may be necessary to have a standing army in time of actual war; but says it would be improper to raise an army before we know whether we shall have any occasion to use it; but the gentleman ought to recollect that except this probability exists, in a very strong degree indeed, this army will not be raised.

Before he sat down, Mr. P. said, it might be proper to make a few remarks upon what had fallen from the gentleman from Tennessee. Had it not come from his authority, he could scarcely have conceived that militia could, at any time, have been an overmatch for regular troops. But the gentleman has relied upon ancient history for the illustration of his position, and has spoken of Greece and Rome. He would remark, that if this country was situated as Greece and Rome were, and our enemy in all respects as theirs, the comparison might hold with more force than it does at present. Besides, if the armies of Greece and Rome were militia, there were no armies at that time. Those countries defended themselves by armies which they could organize and discipline in the best manner, which they could march a thousand miles from home, to conquer distant provinces. They were perhaps the most regular armies that ever existed. If, said Mr. P., we expected to be attacked by militia, he should be willing to trust our defence to militia; but as it was likely we should be attacked by well disciplined troops, he should wish to have regular troops to meet them.

But the militia of France was brought into notice, and their valor highly spoken of. If we had the power which France has exercised, of making a well-disciplined soldier of every man from eighteen to twenty-five years of age in one requisition, and if those were not sufficient, to call for a second and third, it might be said our militia would be equal to the troops of France. But, God forbid that we should ever have occasion to do this. When the militia bill was under consideration, he was for imitating the French, in some degree, by dividing the militia into select and several corps, in order to give all our force military knowledge. He would remark, however, that, when the French called out these militia, they grafted them upon the remainder of a well-organized army, to which, perhaps, may be ascribed, in a great degree, their successes.

With respect to the danger to be dreaded from an army of this kind to the liberties of the people, he said it was perfectly groundless. He was as much an enemy to a standing army, in time of peace, as any man; but this was to be an army for a particular emergency. If the arguments of the gentleman from Tennessee went to anything, they must go to the disbanding of our present small army, employed principally in the defence of our frontier. But what degree of blame can be imputed to the troops in Tennessee, to which he alluded? None, in his opinion. If there was any blame, it was in the law which originated in that House, directing certain measures to be taken, and that any person settling within certain bounds in that State, which belongs to the Indians, should be removed by the Executive, and if he thought it necessary, by means of an armed force. The President thought the time was arrived when he ought to carry the law into execution, and he did it.

From all the considerations he had mentioned, and which he recapitulated, he should be in favor of retaining the first section of the bill, which might afterwards be modified, so as to become more generally acceptable than it now appears to be.

Mr. McDowell said, the gentleman from South Carolina (Mr. Harper) had yesterday worked up his passions in representing the dangers to which the coast of South Carolina and Georgia are exposed, from attacks which may be made upon them from the West Indies, and attributed the want of a similar temper in other members, to the security of their situations. Though he himself lived near the mountains, yet he felt for those who resided on the seacoast, with which he was well acquainted. When the coast was formerly attacked, the people in his neighborhood showed their readiness to give the citizens there every possible assistance, and he was certain, if the same necessity again occurred, they would be as ready as formerly to defend their country against any invader whatever.

But he was sorry to hear that the constituents of that gentleman were so greatly alarmed, that they trembled for their safety.

Mr. Harper said, that he did not say that his constituents trembled, but that they were apprehensive of danger.

Mr. McDowell understood the gentleman as using very strong expressions on this subject; but, if this law were to pass, he supposed all would be well. And yet, if the constituents of that gentleman were in daily apprehension of being attacked, how could the passing of this bill relieve them, since these men were not to be raised, until imminent danger appeared? It must be recollected that, during the Summer session, eighty thousand militiamen were ordered to be held in readiness, and any part, or the whole of which, may be called out, whenever it shall be necessary. And would not these be more effective than the raising of ten thousand regular troops? They certainly would. If any attack was made, it would be of a predatory nature, and the militia would soon crush it.

Much had been said about the service of the militia and of regulars. Mr. McD. said, he had served in the regulars and knew their usefulness, and if a war took place, he would give his cheerful assent to the raising of an army; but nothing short of war, or actual invasion, would induce him to go into an establishment of this kind, as he believed the militia adequate to our defence in the

first instance. He should, therefore, be opposed to the bill.

Mr. Sumter was opposed to the principle of the bill, and disapproved the objects it had in contemplation to effect; but above all he was opposed to the principle contained in the first section, namely, that of transferring the Constitutional Legislative power of Congress to the President or Executive branch of the Government. Gentlemen who advocate this principle, being well apprized that pointed and Constitutional objections may be urged against them, have thought proper to draw to their support some precedents in which Congress have made a transfer of their powers; those precedents could not be expected to have much weight with him; indeed, they had no weight, for error could never be sanctioned by being repeated. He admitted that similar questions had been agitated in Congress, which had met with various fates; but, whatever the decisions might have been, he had uniformly voted against the principle of transferring power from one branch of the Government to the other.

Having been then in uniform opposition to the principle on every occasion, it was not to be expected that he should concur in its establishment on the present, especially as the proposed measure appeared to him to be highly momentous, involving in it the peace, the happiness, and even the liberty of his country. Nay, so far from its being expected that he should throw in his vote of approbation, it was to be expected (and he would not deceive that expectation) that he should be more earnest in his opposition; and, believing that there was no necessity for raising a provisional or any army at this time, he intended to vote against the whole bill.

He recommended it to the committee to take a comprehensive view of our situation before they engaged in a system of such immense expense; in doing which, they would necessarily turn their attention to what is passing among the nations of Europe; by one of those nations, it was said, the United States are imminently threatened; gentlemen urge it strongly as a thing certain and at hand, that we are to apprehend every species of attack; but, notwithstanding all that had been repeated over and over again on this head, he still differed in opinion with those gentlemen as to what was likely to be the issue. He had attended to all the information which had been disclosed; he had listened patiently to gentlemen's speculations, and had contemplated, as far as his mind was capable of bearing him through the research, and that too with great solicitude, on what was the situation of the United States, as they stood connected with a certain European Power. He had not been able to discover, nor did he believe, that we have any cause to apprehend an immediate invasion from that quarter, nor was he inclined to believe that ever such an intention existed; but, even if it did, will any man, who is capable of forming a judgment of the present state of things there, and what they are likely to be for a considerable length of time to come, say that there is not ample employment for their energies; that there are not difficulties of such magnitude in the way as will secure us from an invasion for a longer period than those gentlemen who have expressed their alarm have thought proper to foretell? For his part, he had no doubt this was the case; he felt surprised, indeed, at finding gentlemen so apprehensive of danger from this quarter, that they were not content with an additional army of 10,000 men, as reported by the select committee, but were for employing 20,000, the number proposed by the Senate. Nay, some of them did not even think themselves secure unless the number was extended to 50,000, for even that number had been advocated on this floor; but have gentlemen no feeling for their constituents? Will they drain their pockets to the last cent? The committee are informed that the annual expense of 10,000 men will not be defrayed under four millions of dollars; but this information is not accurate, as four millions of dollars will be inadequate, when we come to bring into the account the large items of expense necessary the moment such a force is put in motion; even the expense of four millions of dollars will be found great, perhaps unbearable, but what would the expense be if it was made commensurate with the apprehensions of those who are most alarmed?

This favorite scheme of raising a standing army must be pushed forward by every aid of fact and fiction, and that its success may be insured, the Southern members are to be terrified into its adoption, for we are told that the Southern States have much to fear, that there is every reason to believe the Southern States will be speedily invaded by a merciless and vindictive foe from the West Indies. That at this moment thousands may be disgorging on our shores; that they are prepared to strike. And the gentleman from South Carolina (Mr. Harper, one of his colleagues) has, in the height of his zeal for American defence, or his fears for the safety of the Southern States, or from some other cause, which he did not pretend to divine, by his nice and minute delineations of the condition of the Southern States, shown to the House a terrifying picture of Southern imbecility, and had also published to this cruel, malicious, and insidious enemy, (as he terms them,) an enemy sufficiently penetrating without his aid, every point, every avenue, every position, most advantageous for them to take in attack; he has exposed our most vulnerable parts to their inveteracy, and our wealthiest part to their rapacity. The policy or prudence which dictated the detail, he did not stop to examine, but went on to ask, supposing these marauders were disposed to invade the Southern States, whether it would not be allowed that they were too fully and completely occupied nearer home, to be at liberty to execute at this time their intentions of such an invasion? For his part he thought such was their condition, and expected it would continue to be so for some time to come; but, admitting that it is possible for the man who has been mentioned, to invade our coast with the three or four thousand men spoken of, the consequences predicted are not likely to follow. The reasoning of his colleague

being admitted, perhaps his conclusions might also; but the former not being just, the latter could not result.

He was aware that the number of inhabitants of the lower country, of the States of Georgia, South Carolina, and North Carolina, as stated by his colleague, was not very great; but he did not consent to the deduction which the gentleman had made, that, therefore, the lower country was very weak in point of force to oppose an invasion. And here he deemed it proper to notice the attempt which had been made to draw invidious distinctions between the militia force of our country and what are termed regulars—attempts constantly made by the advocates of standing armies, not only on this occasion but on many others—not only on this floor, but in the other branch of the Legislature, and very lately, in a pointed manner by his colleague, (Mr. Harper,) who pressed the establishment of a standing army by depressing the manly character of his fellow-citizens, he (Mr. Harper) had said he was well acquainted with the Southern States, that the inhabitants on the seaboard are few, that for fifty or sixty miles they are still fewer, that the strong population is quite remote, that the whole in general are badly armed, many altogether without arms; that they are not well organized, and even if they were they are not to be depended upon, unless headed and aided by regular troops; in short, that no good can be expected from the militia, unless they are supported by regulars.

Now, said Mr. S., admitting my colleague to know something of the geographical situation of the country he has attempted to delineate by such an unfavorable description, neither he nor his constituents ought to be surprised if I assure him that if his knowledge of the military prowess of his countrymen is so limited as his description indicates, it amounts to little or nothing at all: the true force of the Southern States to defend themselves cannot be doubted by those who were attentive observers of its exertion through our Revolutionary war. And the militia, notwithstanding its defamers, effected much. All the corps were not of the description of that to which his colleague said he once belonged; he (Mr. Harper) had said that the corps of which he had been a member was as respectable as any whatever, but he had remarked that while he belonged to it that they were generally dissatisfied, always in disorder, and when drawn into service always relaxing from discipline, quitting the corps and returning home without leave, and not to be kept together or at all depended upon, unless when acting with or led on by regular troops. Here Mr. S. observed, that he had an opportunity of seeing the commanding officer of the corps to which his colleague had said he belonged, within two months after the corps was raised, then on a tour of duty with the Southern army, and it evinced to his mind that there was somewhat of that want of discipline, and desire to be or remain at home among some of the corps, for he really had no recollection of seeing him with his officers, and there may be some reason to conjecture that he had not accompanied him on that tour of duty; if so, it will no longer be wondered at that the gentleman insists on placing no confidence in militiamen generally, and if he, Mr. S., was to detail what he had witnessed of the strength, of the means, and of the disposition of the Southern militia, it would go to show that he (Mr. H.) not being on the ground, has less knowledge of the subject than he is desirous of being believed to possess.

It is an unpleasant thing, said Mr. S., for me to have to make any remarks on a subject of this sort; but so frequently have gentlemen made invidious distinctions between the courage and efficacy of militia and regulars, and with so much injustice to the former, that I cannot permit their assertions any longer to pass without notice. For doing this, I do not mean to derogate from the merit of the late American regular army, nor more particularly from that part of it which served to the Southward, of whose condition I can better judge than of that which served in the Middle and Eastern districts; as to them I am bold to say, they were not inferior, under all circumstances, to any army of equal numbers and equal opportunities which I have heard or read of in any time or in any place; but, then, it must also be remembered, whatever gentlemen may here say to the contrary, that the militia were as serviceable and as successful as any regulars whatever.

He said he would take a cursory review of the services of the militia in one of the Southern States, which would tend to support his last declaration.

He would quote only a few cases out of a great number where the militia had acted alone, without any co-operation or support from the regulars, and that against the veteran and conquering cavalry and infantry of British corps, and in which actions they were distinguished for their bravery and success. It may be remembered that very partial, if any, impressions had ever been made by our regular troops on the British corps of cavalry during the early period of war; and it seemed to be reserved to the Southern militia to convince them that their equals existed in our country. It is not to be attributed to the want of courage or discipline in our regular corps that this had not been done before, but to imperious circumstances which no skill could overcome; but this did not change the fact.

After the fall of Charleston in 1780, the first action, and that fought by the militia, without any aid from our regulars, was the action of Fishing Creek, where, without entering into a minute description of all the circumstances attendant on such an occasion, it will be sufficient to say, that the gallant Captain Rooke, who commanded a squadron of Tarleton's legion, fell, and the whole force was beaten and dispersed.

A few days after—and here permit me, said Mr. S., to remark, that if my colleague does not remember, and our historians have neglected to record the achievements of the militia, yet justice is in some degree done them by a British historian, who was an officer in the British service in

that part of our country, and at the very time I am speaking of, who corroborates my facts—a few days after an attack was made by the militia on Rocky Mount, and Colonel Turnbull, who commanded the enemy's force, and who is now in New York, I have no doubt has candor enough to acknowledge, that from the contest he had with them, (although strongly defended by well constructed works,) and which lasted ten hours, there is something due to their bravery and the effect of their arms.

Eight days after the affair on Rocky Mount, an attack was made on the British at their posts of the Hanging Rock. The force on this occasion consisted of the same corps of South Carolina militia who had enterprised on the other occasion; they were in number about 600; they had been joined by a few of the militia from North Carolina, and it is a pleasure to reflect on the cordiality and bravery displayed by them on this occasion.

The enemy's force at this post was 1,200 effectives; yet the result was, after an action which lasted through the greatest part of the day, that Major Bryan's corps was totally defeated, the Prince of Wales' regiment exterminated, even its name has never since been recorded. Other detachments from the 63d and 71st, under the command of Major Carden, were also cut up, driven from their encampment with the entire loss of baggage, &c.; and, in the course of this action, Captain Kinlaw, with a squadron of Tarleton's legion, arrived from Rocky Mount, made a desperate charge on the militia, was repulsed by them, and fled to Camden, without attemping to renew the combat. In this, as well as other actions, it ought to be remembered how many field officers, brave captains, and other officers, as well as valuable citizens, fell, or were wounded, while another nation had to regret in this action alone the loss of upwards of 800 men.

Passing by a number of important and considerable conflicts which took place between the British regulars and the Southern militia, still unsupported by regulars of our own army, said Mr. S., I come now to mention the attack which was made in the neighborhood of Winnesborough, while Lord Cornwallis laid in that town, upon the South Carolina militia, by a British regular force under Majors Wymes and McCarthy, supported by two troops of cavalry, the whole corps drawn together and formed for the purpose; after various charges made by the infantry and cavalry, and after repeated repulses, the enemy was totally repelled, their commanding officer wounded and taken, together with a number of his corps, and the rest were dispersed.

On the return of Colonel Tarleton to Winnesborough another effort was made, and from the number as well as the nature of the troops employed, it was certainly intended to be effectual in driving the South Carolina militia from that part of the country; for it was Tarleton's legion, McCarthy's corps, and that part of the 63d, under Major Money, which troops were led to the attack of the militia on the 20th of November; the result of this action is known to those who do not wish to detract from the merit of the militia. The enemy's detachment consisted of 270 legionary horse, and upwards of 400 regular infantry, with two field pieces; the militia were between five and six hundred, without (as indeed they were through all the actions I have described) a single piece of artillery. In the number of militia are included some Georgians, who not only acquired honor to themselves from their exertions on that day, but did honor to their country. The fate of the British cavalry was then decided; they had been formerly unconquerable, but after that day they were never known to be brought to act with either energy or effect.

Knowing the ardor and firmness of the Southern militia, and not doubting but the militia of the several States in the Union possess equal motives for their exertions, equal spirit and activity, I cannot, said Mr. S., but rely on them as the natural and main support of our national independence—a support fully effectual without a recurrence to a standing army. These few cases, and it is stopping very short indeed of what the merits of the Southern militia deserve, tend to show that the charges brought against the militia generally are as unfounded as they are cruel to their feelings; while, at the same time, they demonstrate, that if an invasion (which is a contingency by no means likely to happen) should actually take place, we may rely with confidence on the manly exertions of the militia to meet the attack, and to resist every effort, at least for such a period as until more effective aid shall be drawn down to their support, and more permanent measures adopted.

Mr. S. concluded with saying, that near a million of dollars had been appropriated for the purchase of artillery and small arms; 350,000 for additional fortifications, and 80,000 for fitting galleys. He wished the appropriation for the galleys to have been increased, by taking a part from the sum appropriated for additional fortifications; as he conceived, from the nature of the attacks or injuries to which our seaboard is exposed, it would furnish the most expeditious and effectual means of safety to the inhabitants who might be threatened; if to this means of defence were added the vigilance, activity, and firmness of the militia, he thought gentlemen might consider themselves tolerably safe, without resorting to that worst of all expedients, a standing army; especially, if they believed with him that the danger of an invasion from Europe was very remote indeed; and that from the West Indies not likely to take place for want of opportunity, even admitting such an intention is entertained. Under this view of the subject, he wished the question of raising an army to remain undecided until a future session of Congress; and from the reasons and arguments he had urged, he was influenced not only to vote against the first section, but the whole bill generally, under a hope that Congress might rely on the natural force of the country, on which alone they could depend in all cases of extreme danger, and without which neither a standing army or a navy, or strongholds or fortifications, would be a

security for our political existence or independence as a nation.

Mr. J. Williams believed there was but little real difference of opinion between those who were in favor of striking out the first section, and those opposed to it. The former suppose an army will be necessary in case of war or an invasion, and the latter wish to give the President the power to raise the men in case the danger of either was very great. He should vote for retaining the first section; though, as it stood at present, he did not altogether like it. If the motion for striking out was lost, he should move to amend it by confining the exercise of the power proposed to be given to the President, to the recess of Congress. He trusted gentlemen would not be willing that Congress should rise without something more being done for the defence of the country than has been done. No one could say how soon an attack might be made upon us, and whenever it was made, we ought, certainly, to be in a situation to repel it, which would not be the case, except a bill of this kind was passed.

A resolution had been laid upon the table, he said, to increase our standing force to ten thousand men; but it might happen that no necessity would arise for increasing our present force. He wished only that the President might have the power of increasing it, if there should be occasion to do so.

Gentlemen had said much in defence of the militia of this country. Had he heard anything said derogatory to the bravery of our militia, he should long since have risen in their defence. No man could doubt for a moment that the militia of this country are as brave as any in the world.

He was astonished to hear the gentleman from Tennessee say that, when regulars and militia act together, they generally quarrel. This assertion must have arisen from his want of experience. He was himself for eight years engaged in the war, and never saw anything to justify the remark. The plains of Saratoga spoke for themselves. At Bennington the militia conquered superior numbers; in the second action they were, it is true, joined by Continental troops. But why recount these things? It was idle to suppose regular troops and militia should quarrel with each other, since they all fight in the same cause, and with the same feelings. No better troops could be employed than militia in a sudden emergency; but, as had been already stated, they remained impatiently in the field for any length of time.

Considering the extensiveness of our exposed seacoast, it could not be supposed that our present small number of standing troops could be sufficient for the present situation of things. Militia ought not to be called from their families and occupations, except in particular emergencies. As to any danger to be dreaded from an army of this kind to the liberties of the country, it was a mere phantom; and he thought it was paying but little respect to our militia to suppose the liberties of the country could be endangered by a regular force of ten or twenty thousand men! Besides, it would be attended with less expense to raise these men, than to call out the militia from time to time. He had something to do in the draughting of militia in 1784, and in consequence of the law of last session, and knew the difficulty attending it. Not one out of five who was draughted could leave his family. These people were obliged to find men in their stead, which they did at from fifteen to twenty dollars. To call the militia from the part of the country where he lived, which was between three and four hundred miles from the seacoast, would be attended with great inconvenience indeed. He hoped this bill would pass; if not, he foresaw great expense. We must augment our present army, and, perhaps, Congress would have occasion to sit here all the Summer, for they could not adjourn until some further provision was made for the defence of the country. It was true, the President might call into service a part of the eighty thousand militia held in requisition, but it would be attended with great expense and inconvenience, which he wished to avoid, by passing this bill.

Mr. Macon was surprised to hear the gentleman who was last up say he had heard nothing derogatory to the militia. He thought the bill itself showed a want of due confidence in them. He saw no object in it, except it was to get an armed force under the command of men appointed by the President of the United States, rather than under men appointed by the Executives of the several States. He had heard no gentleman say he wanted any part of these men for the country from whence he came, except one, (Mr. Pinckney,) who said that one thousand three hundred men would be well employed on the seacoast of South Carolina. He was sorry to find men who opposed the permanency of the land tax, now advocating this expense, which he thought unnecessary, and which, if they thought necessary, they ought to have provided for. He was sorry the gentleman from New York found so much difficulty in raising his quota of the eighty thousand militia ordered to be held in readiness. It was the first difficulty he had heard of in that matter.

Mr. Williams explained, by saying that he did not say there was any difficulty in raising the men, but that it was attended with considerable expense.

Mr. Macon had no doubt of the same spirit animating our citizens against any enemy who may set their foot in this country, which animated them in the late war. As to the danger of invasion, he thought, if the gentleman from South Carolina (Mr. Pinckney) would compare his observations of to-day with what he formerly said on this subject, he believed they would not be found very consistent with each other.

Mr. M. said, it was always odious to make comparisons between the services of our regular troops and militia, in the war; they both deserved well. There were instances of bravery in our Revolution equal to anything in the French Revolution. He need only mention the battle of the Cowpens and the battle of King's Mountain. In the latter, the militia took as many prisoners as they carried men at first into action. There were some instances, on the contrary, in which the militia did not behave well. He had no doubt as to the bravery and power of the militia, whenever real danger approaches.

When a law was passed to create expense, the money must be found. He wished gentlemen to recollect that. He wished to avoid an unnecessary expense of a penny. The gentleman from Maryland (Mr. Smith) had truly said that money is the sinew of war. He wished to be careful of it, though in case of necessity this country could do much without money.

But it was said, that it was desirable that this bill should be passed, because it would produce a good effect in Europe. He did not lay any stress upon this consideration. Europe would be little affected by seeing that we had passed a law for raising 10,000 men; they knew, from experience, that this country is able to defend itself against any nation upon earth.

In actual war, Mr. M. believed a regular force would not only be necessary, but cheaper than any other; but if any sudden invasion were made, every man landed would be cut off by the militia before an army could be raised. He said this country could never experience a war like the last. The people were then divided on the question of independence; but being become independent, there could be but one opinion about remaining so. There was a great difference between the militia of this and other countries; here the people, especially in the country, know well how to use a gun and to take care of it, which was a very essential part of a soldier; and whatever disputes might take place in that House, the militia of the country, from one end to the other, would be unanimous in the defence of their country and independence. He had no fear, therefore, of any enemy. They might distress us for a time; but whenever they landed, there would only be one sentiment, which would be to drive them off as soon as possible. It was acknowledged that the militia of South Carolina was not so well armed as in some other States, but it was notorious that Lord Cornwallis, when attempting to pass through that State, was obliged to turn back, declaring that he had got into a nest of hornets. He did not believe that all the Powers of Europe combined could hurt us; as an enemy could get possession of no one place, or few places in the country, which could greatly distress the rest.

Mr. M. concluded by saying that he had heard nothing to convince him of the necessity of raising these men, or of giving the President the power to raise them, and therefore he should be for striking out the section.

A call was made for the question.

Mr. Brent was sensible, at that late hour, the patience of the committee must be a good deal exhausted. He would trespass upon it only for a few minutes.

Mr. B. was far from thinking that the Constitutional objection which had been urged, was satisfactorily answered. He had heard nothing which had in the least altered his opinion on the subject. The gentleman from South Carolina (Mr. Pinckney) allows that the doctrine laid down by the gentleman from Pennsylvania is correct as far as it goes to general principles, but that, when he made a particular application from these general principles, he was wrong. The gentleman from South Carolina contended that to authorize the President to raise an army under certain contingencies, was not to give him the power so raise an army. But does not this bill give the President power to determine, under certain contingencies, whether or not he will raise an army, for six years to come? He asked where the line could be drawn? He believed if it was right to transfer this power for six years, they might do it for an hundred years. On this head, therefore, he thought the reasoning of the gentleman perfectly inaccurate.

But the gentleman from South Carolina has supposed this provision is not unconstitutional, because it was allowed by the gentleman from Pennsylvania and others, if the contingencies were all specific, the provision would be perfectly Constitutional, and as he asserts the contingency of "imminent danger of an invasion," is as ascertainable as the other two cases, viz: a declaration of war, or an invasion. On this point he differed from the gentleman from South Carolina altogether. War and invasion were explicit; but when imminent danger of an invasion is spoken of as a contingency, it makes the raising of the army depend entirely upon the President's opinion. Suppose the expressions were, "the President of the United States shall have power to raise an army whenever he thinks the situation of public affairs shall render it necessary." Would not every one say, in this case, that power was given to the President to raise the army when he pleased? And how does this case differ from the other? Who will undertake to say that the President does not now think there is imminent danger of an invasion? And if it should appear hereafter that the President had apprehended danger when none really existed, he would only have to reply, "That he acted agreeably to his opinion at the time." The question, then, reverts to this ground, and before gentlemen gave their votes, they ought seriously to consider it: can Congress divest themselves of the right of raising an army by giving it to the President for six years, to act upon his own discretion? If they could, every Constitutional provision is lighter than chaff; but as he considered the Constitution too sacred to be thus violated, he could never consent to the measure.

But with respect to the expediency of which he had already spoken, he would add a few other observations. It was proposed that this army should be raised for the protection of the Southern, and, as all allow, the weakest part of the Union. Yet all the members from that quarter (with only two exceptions) say they wish no such protection. Yet gentlemen who come from other extremes of the Union insist upon their being protected against their will, and are determined to cram an army down their throats, whether they will or not. This was the most extraordinary

thing he had seen since he had had a seat in the Legislature of the Union.

The gentleman from New York, (Mr. Williams,) though he expressed his intention of supporting this bill, went into a copious panegyric on the militia. If he had not declared his intention, he should have thought he would have still confided in the bravery of our militia for our defence; but, notwithstanding his remote situation, he wishes for a standing army.

Mr. B. said, he did not undertake to say, and he was far from believing, that if a formidable force was to be landed in this country, and there was a settled disposition on the part of France, or any other country, to make war upon us, that it would not be necessary to meet such an invasion by a regular force. All he contended for was, that an army of 50,000 men would be ineffectual in opposing the invasion of small marauding parties on our coast, which was the kind of invasion we have most reason to expect. The militia was the proper force by which to repel all such attacks. For, considering that our Southern coast is 1,300 miles in extent, it was not possible that a small standing force could be effectually distributed upon it. He had himself no idea of any extensive invasion, and if any such takes place, the militia would be able to meet them until Congress met.

But, in our present circumstances, at a moment when it is impossible to say whether we shall be involved in war or not; or, if a war takes place, whether it will be maritime and predatory war, or we shall be attacked by a formidable army; at such a time to increase our Military Establishment will be to meet a certain evil, while the event it is intended to repel is most uncertain. He said a certain evil; for however other gentlemen may consider them, he considered standing armies as the bane of the liberty and happiness of every country where they are established.

Gentlemen ought to recollect that they have, in a manner, decided this question by a previous vote. It was contended that the land tax, which was the other day under consideration, ought to be laid for a number of years, in order to have formed a permanent security for a loan of any money that might be wanted for the support of this army; but as that question was not carried, gentlemen who voted against that, to be consistent, ought to vote also against this army; or, could they reconcile it to themselves to go into a measure of this kind, remote as danger appears to be, upon any conjecture, which may entail upon them and their posterity a permanent tax upon the land of the country, and that, too, at a time when the alarm which has been raised throughout the Union has reduced the price of produce from the highest rate that was ever known in this country almost to nothing? He was not willing to do this.

Could it be expected, Mr. B. asked, that the situation of things could be so greatly altered before the next meeting of Congress, a period of only four or five months? He did not think it could; and if danger should then appear too great to be averted, an army might perhaps be raised, as soon as if it was set about at this time, when that danger is not so apparent. Indeed, in every point of view, it appeared to him that to pass this bill, would be one of the most improper measures that ever passed the Legislature of this country.

Mr. Dayton (the Speaker) said, that he had flattered himself with the expectation that the injuries and insults heaped upon this country without number, and aggravated by a refusal on the part of the aggressor to redress, or even to forbear them, would have produced an union in the public councils, but he had been grievously disappointed; he had hoped that the communication of the despatches from our Commissioners, in which we were threatened with the fate of Milan or of Venice, unless we consent to become tributaries at will to the French Republic, would have united this branch of the Legislature so far at least as respected the measures of defence and preservation, but this hope had vanished. The book of opposition, which the member from Pennsylvania (Mr. Gallatin) had hitherto unfolded with a cautious hand, and exhibited only in single leaves or detached sheets, was at length opened to their view in full volume, and the motion under consideration with the speech of the mover, might be regarded as the index to its darkest pages. In the present critical state of things, Mr. Dayton said he must be permitted to speak plainly. Placed as a watchman upon the walls, he should be unfaithful to his trust, if he neglected to sound the alarm when danger was approaching. The menaces of distant danger had already been proclaimed, but here it was brought more nearly to them, it was in the midst of their very camp. The gentleman from Pennsylvania had now boldly erected his standard, and had invited all disposed like himself to rally round it. It was the ensign of opposition, not merely to the Administration or to the Government, but to the only effectual measures of protection, defence, and preservation: and what was the motto most proper to be engraved upon its party-colored field? Was it such as were seen upon the colors of the patriotic legions of 1776? Far otherwise; for on them were to be seen, "Liberty or Death"—"No one shall provoke us with impunity"—"We risk all for Independence"—"We will be tributary to no Foreign Power." These noble sentiments, strongly expressive of American feeling and resolution, were imprinted in capitals and in letters of gold upon the standards which animated our citizens in the memorable era of the Revolution, and led them to conquest. Let them be contrasted with the language of the mover, who had erected his signal for rallying, caused its streamers to be unfurled, and had chosen for his motto, "Weakness and Submission;" written, it was true, in faint characters, and with a trembling hand, but still too intelligible to escape observation. Let those who choose it resort to such a standard, but he should arrange himself under the opposite banners.

Having exhibited the tendency and character of the opposition to the principle of the bill, which the motion went entirely to destroy, he proceeded

to remark with what art and industry the mover had labored to lull this country into a state of profound indifference, inactivity, and security. "I am not (says the member from Pennsylvania) apprehensive, for my own part, of an invasion." And why should that gentleman be under no apprehension from such an event? Was it that, secure in the perfect coincidence of the principles he avowed with those which actuated the furious hordes of democrats which threatened this country with subjugation, he felt a confidence of his own safety, even if they should overrun and revolutionize the States? Was it that, confiding in the remote distance of his residence from the seacoast, among the ridges of the Monongahela, he had determined upon the approach of the invaders to flee to the rocks and mountains, and call upon them not to fall upon and cover him, for that day was not yet arrived, but to shelter and hide him from the foes of order and of mankind? From those distant heights he might, indeed, contemplate an invasion without alarm or apprehension; he might see, with the calmness of indifference, our dwellings burning, and might "laugh at our calamities and mock when our fears came upon us." Were these, or either of these, the grounds of that confidence which he seemed to feel, and of that security which he would inculcate; or was it that he really believed that no invasion would be attempted? To give color to his opposition he had professed to take the latter ground, and had defended his position by the assertion, that it was not the interest, nor in the power of the French to effect it. As to the argument, which took for its basis the mere calculation of interest, it would, he said, have had some weight with him, if the interest of the million was attended to in France, or at this moment otherwise regarded than as it might promote the ambition, the power, and avarice of those who hold the reins of Government. It was known that the great mass of the people were not at all consulted, nor even permitted to vote or act, except as their rulers willed. It was known that they were, in fact, completely brought under military despotism; and that the musket and bayonet were the instruments and support of this otherwise short-lived usurpation. It was known that the Directory must find employment for their armies, or that the armies would find employment for the Directory, and that their safety consisted in their ridding themselves in any way of at least forty or fifty thousand of the most restless, daring, and ambitious spirits. The interest of the whole people of France was, therefore, one thing, and that of those who governed was another very different and opposite consideration. To transport to other countries the men to whom millions had been solemnly promised at the time of their discharge, and who might, therefore, become importunate and dangerous at home, would be the interest, and must be the wish of the French Pentarchy, whose heads would otherwise be made to skip from their shoulders. This would be their interest, even where there might be little prospect of success for the transported army, because the object would be equally answered, whether they should succeed and provide for themselves in a foreign country, or be vanquished and utterly destroyed.

As to the power and the means of invasion, it was known, he said, that there were already collected upon the coasts of France, bordering upon the English channel, a numerous army which, in gasconading style, was called the "Army of England." It was known that there were also collected and collecting at the various ports in that quarter, ships of war and transports of all descriptions. The same soldiers who were prepared to invade an island might certainly be employed upon the Main, and the same bayonets would pierce the breasts of the people inhabiting the latter as the former. Their larger transports, their frigates, their larger ships cut down and armed *en flute*, and their ships-of-the-line, might transport a considerable part of them across the Atlantic, and land them upon our shores, and would very possibly be thus employed in the event of a peace in Europe, or of their abandoning, from any cause whatever, their project against England. But the member from Pennsylvania, aware of the possibility of the attempt, had endeavored to divert the country from immediate preparation by the assurance that we should have timely intelligence of such a design, if it should be contemplated, and here, Mr. D. said, he entirely differed from that gentleman. As the same men, arms, artillery, and military stores, were calculated as well for the one expedition as the other; and as there was a sufficiency of shipping calculated for the navigation of the Atlantic, it would follow that there would be nothing in their preparations to evidence a change of purpose, and a design against the United States, but the additional quantity of provisions shipped in which it would not be easy to detect them, or certainly not possible to do it in season. He declared himself to be of opinion that there was other force, besides that in the West Indies, which was capable of invading this country, and other States, besides the two or three most Southern, against which that force might be directed.

As to the unconstitutionality of the principle contained in this first section, as had been objected by its opponents, it was truly remarkable for the novelty of the discovery, which was now, for the first time, made by the enlightened members of the 5th Congress, although not a session had passed since 1791, in which the same had not been acted upon and sanctioned. Mr. D. said, he recollected perfectly well that, six years ago, in the session of 1792, the section which contains this very principle, in its broadest latitude, was drawn up and moved by a very respectable member from the State of Virginia; one, indeed, of the most respectable of those who had ever occupied a seat in that House, and who was a member of the Federal Convention, (Mr. Madison.) That gentleman had done him the favor to show him the proposition before it was moved, and to ask if he would give it his support, which it received, not only from himself, but from the whole House. It thus became incorporated with the act passed in that year, and that, too, without the least sugges-

tion from any member of its being unconstitutional, either then or at any time since, although it had been renewed in many of their laws.

Without remarking upon the accuracy or elegance of the expression of the eloquent gentleman from Virginia, (Mr. Brent,) when he spoke of Congress "cramming an army down their throats," he should pass to another which was exceptionable, not in the abstract, but in the application which seemed to have been intended by it: "slaves fight for hire, but freemen for liberty," was the expression. If it were at all applicable to the bill before them, it must necessarily be applied also to those who were engaged for the same term in the service of their country, and contributed so greatly to achieve its independence. Did the gentleman mean to brand, with this appellation, the men who had endured hunger, cold, and nakedness, and braved every danger in the Revolutionary war, merely because they were enlisted for a term of years, and received pay for their services? Would he call those slaves, who, at that crisis, when thousands shrunk from the conflict, presented their breasts and bayonets between him and danger? Were they slaves who made him what he is, the representative of an independent people, and to whom he is indebted for the privilege of speaking in these councils? It was a sentiment which should be taken back, and reserved for other and fitter occasions, where it would not be construed as applying to those meritorious men who had heretofore protected him and their country, and whose services might soon be wanted again.

He complained of want of candor in the members from Pennsylvania continuing to urge the objection of unconstitutionality, after he had himself admitted that it would be entirely removed by the amendment proposed by the select committee, with a single alteration, and after that gentleman had, by his own motion to strike out the whole section, prevented that amendment from being previously made in it.

Mr. Dayton concluded by saying that he called on those gentlemen who were desirous of providing for the defence of this country, here to make their stand, and to oppose, unitedly, a motion so fatal to its interests and liberty. He invited them to unite with him in defending, inch by inch, the important provisions of this bill in all its parts, and only to yield, as compelled by numbers composing a majority against them.

Mr. Brent assured the gentleman last up, that he had given a very improper explanation to words which he had uttered. If he had made use of any expression that could be construed into a reflection upon the brave army who fought in our Revolutionary war, he would not hesitate a moment to retract it, because he was desirous of giving to that patriotic band every praise which they deserved. The gentleman from New Jersey was also inaccurate in ascribing the expression to him. It was first used by the gentleman from North Carolina, (Mr. R. Williams,) when, remarking upon what had fallen from the gentleman from Maryland, (Mr. S. Smith,) he observed that the people of the United States are free, and, so long as they continue to enjoy the blessings of a good Government, they would be equal to the repelling of any attack which may be made against them; and he used the expression which he (Mr. B.) afterwards quoted, when replying to some comments which had been made upon it by the gentleman from Maryland. He thought the gentleman from North Carolina was correct in his idea; he believed the militia of this country fought for nobler considerations than money—they fight for liberty and independence.

Mr. R. Williams said, the gentleman from New Jersey had given his words a construction which would offend every man in the United States. He had made use of the expression to enforce his idea of the preferableness of the militia over a standing army for the defence of the country—of men who fought in defence of the blessings they enjoyed, over these who fought merely for hire. He could not see how the gentleman from New Jersey could have understood it in the way in which he had stated it.

With respect to anything which the gentleman had said with respect to the opposition which had been shown to this bill, it would not deter him from acting as he thought would best serve the interests of his country. He did not himself wish to dictate to any man how he ought to act, nor did he wish to be dictated to. All had the same interests, he supposed, to support, and if they differed about the means of effecting it, it ought not to be charged against them as a crime. He wondered, therefore, when gentlemen could not compel others to think with them, that they should think it necessary to abuse them. Such conduct went to destroy the freedom of debate. If members are not to be at liberty to compare their thoughts without having illiberal motives ascribed to them, harmony and good order could not be expected to subsist amongst them. He lived in a remote part of the country, but he believed, in time of danger, neither he nor the people who sent him would call upon the mountains to hide them, as the gentleman from New Jersey had insinuated. They had never shown that disposition.

But the gentleman from New Jersey, on this and former occasions, chooses to single out a particular character in that House for his severest censure. He did not know why he should do this; if there was any blame to be imputed to any man for opposing this bill, he should wish to have his share of it, in the way in which it was usual for that gentleman to bestow it—a way which he, however, thought unwarrantable.

A motion was made for the committee to rise, and negatived.

Mr. S. Smith said, did he think, with the Speaker, that this question was the touchstone by which to determine whether members were willing to defend their country or not, he should waive his opinion, and vote with him. From the receipt of the last despatches from France, he had made up his mind to go into essential measures for the defence of the country, but not to go into anything which he did not think essential; and if he differed from the gentleman from New Jersey on this question, he

trusted he would not impute that difference to a determination not to defend his country.

Mr S. said, he never did consider this as an essential bill; but he agreed to take it with the amendments proposed by the select committee. When he did this, however, it was upon the idea that gentlemen who were desirous of voting for measures of defence would also have voted for raising money to pay them. Upon this view, though contrary to his sentiments, he promised his support to the bill.

The question which was decided on Monday (the question determining whether the land-tax should be for one year or annual) was that which ought to have been a rallying point. It was then gentlemen threw from them the strongest possible defence, when they declared they would not tax themselves more than one year for the defence of their liberties and independence, and not now upon a question of raising a body of 10,000 men, which would scarcely serve for an advance guard. Money was the thing wanted. There had not been a single object of defence which he had not voted for; and he had been the means of bringing forward the touchstone with respect to paying the expense; and what was the consequence? The question for making the land-tax annual was lost, 60 to 20, so that the tax was only to be laid for one year, which would produce two millions of dollars a year hence. Was not this weakness itself? He thought it was. What was meant by charges brought against gentlemen being unwilling to defend their country? No one could seriously believe, for one moment, any such thing. Gentlemen may talk of raising men as much as they please; they can be got whenever they are wanted. Money was the thing wanted, and not 10,000 men, whom he could raise in one-half of his own district in three days' notice. Besides, 80,000 men were held in readiness, and might be called out in whole or in part at any time. Indeed, since gentlemen who are so loud in speaking of defensive measures have opposed the raising of money, he could scarcely consider them in earnest.

Mr. S. said, he did not mean to go at length into this subject; he only wished to convince the Speaker that persons might be opposed to this bill without being opposed to the taking of measures for the defence of the country.

Mr. Dayton wished the gentleman from Maryland to answer one or two things. If 10,000 men could only be considered as an advance guard, why was he so anxious to reduce the number from 20,000 to 10,000, and urge him (Mr. D.) to agree to the reduction? That gentleman did this; spoke of a compromise which had taken place in the select committee, and that, if he (Mr. D.) would support it, the bill would pass without opposition. Is it not extraordinary, that after this, he should now be lectured by that gentleman, and that he himself should now be found opposing the compromise which he had before recommended? He thought it was.

Mr. S. Smith said, he had no idea of lecturing the Speaker. He was making an apology for his own vote. Mr. S. said, he was asked why he wished to reduce the 20,000 men to 10,000? He never proposed any such thing. It was a compromise offered to him by the chairman of the committee, and of the two evils he chose the least, though he did not think the men necessary. But, since gentlemen had declined to vote for the necessary money to support the expense, he thought himself excused from voting for these men at all. Whenever the time comes for defending the country, he had no doubt about finding men enough. He knew of no disaffected or seditious persons, of whom certain gentlemen seemed so much afraid. He knew of no American who could not be trusted; and if the militia had arms put into their hands, they would be equal to the repelling of any predatory attack. Should war take place, he should then be in favor of a regular army; and if war should not take place, then the expense of raising the army would be saved.

Mr. Findley wished to mention one fact. The gentleman from New Jersey had made an ungenerous and unfounded insinuation as to the want of spirit of the people in the country from whence he and his colleague (Mr. Gallatin) came, by saying that he supposed that gentleman would go to his retreat on the Monongahela, and call upon the mountains to hide him. Does experience justify the reflection? He did not live in that part of the country during the war; but he recollected that there were two regiments of men from Westmoreland who fought bravely in New Jersey.

Mr. Sewall rose to explain the business relative to the compromise which Mr. Smith had mentioned, but was prevented by a call to order, and by the interference of the Chair.

Mr. Lyon said he should not have risen at this late hour, had not the gentleman from New Jersey called to his mind some arguments against this bill. In the first place, that gentleman told the committee that the French have got a band of soldiers which they do not know what to do with. Mr. L. wished to keep this country out of a similar situation, and therefore he was opposed to this bill. Another reason; the gentleman says this force is now necessary. [Mr. Dayton said, no such thing had fallen from him.] Mr. L. said, he so understood him; that, from the present situation of things in France, and particularly of the Army of England, and of the vessels preparing to transport them, that it was now necessary to raise these men, and that the President would think it necessary. Mr. L. had no doubt the President did think so, and he was not willing that he should have an opportunity of carrying his wishes into effect. He supposed gentlemen were aware that they could not at present prevail with the House to raise an army, and they therefore take this way of putting it in the President's power to raise it, without their consent.

The question for striking out the first section was put and negatived—47 to 44.

The committee rose, and had leave to sit again.

Friday, May 11.

After the presentation of several addresses and memorials respecting our relations with France,

&c., which were, as usual, referred to the Committee of the Whole on the state of the Union,

The bill for the relief of William Imlay was read the third time and passed.

Mr. Harper, from the Committee of Ways and Means, reported a bill to provide for the assessment and collection of direct taxes; which was twice read and committed.

SEAMEN DETAINED ABROAD.

Mr. Harper, after premising that he understood many of our sailors were suffering in foreign ports for want of the means of returning home, from having been captured on board our vessels, moved the following resolution, which was agreed to, and a committee of three members appointed to carry it into effect:

"*Resolved*, That a committee be appointed to inquire and report, by bill or otherwise, whether any and what further proceedings are necessary to be made by law for enabling the President of the United States to afford to American seamen who may be left in foreign countries, by reason of the capture or the detention of the vessels to which they belonged, the means of returning home."

PROVISIONAL ARMY.

On motion of Mr. Sewall, the House again resolved itself into a Committee of the Whole on the bill authorizing the President to raise a provisional army; when

Mr. Dawson rose, and moved to strike out that part of the amendment of the select committee which is in the following words: "imminent danger of such invasion, discovered, in his opinion, to exist." He said he would state his reasons for making this motion.

That the situation of the United States, at this time, said Mr. D., is extremely awful and delicate, is acknowledged by all; and he agreed, in the sentiment which had been so often expressed, that Congress ought to adopt every measure for our security which existing circumstances may require and our Constitution authorize, whether we may have been brought into that situation by the aggressions of other Governments, or by the policy of our own Administration. Some, he knew, there are, who are persuaded that every act of our Government towards foreign nations has been just and impartial; others there are who think that we may have committed errors, and that we ought, on conviction, to redress them. Some there are who attribute the conduct of the French Republic towards us to a supposed division in our public councils, and between the people and their Government; whilst others are apprehensive that intemperate, acrimonious language, and inflated declamation, on our part, may have irritated a nation, proud in her victory and giddy with success. Whether to any or to which of these several causes we are to attribute our present situation, Mr. D. said he would not inquire, and should think it wise to keep out of view, as far as possible, questions which have so much agitated the Union and divided her councils. He was of opinion that all parties should unite their endeavors to avert the impending storm; and if they cannot do so, they should be prepared to meet it like men resolved to support the Constitution, the liberty, and independence, of their country.

These being sentiments and principles to which he was forever wedded, he must express his astonishment at insinuations which had been so often heard within those walls from gentlemen elated in their own estimation, who are constantly placing feathers in their own caps, and ascribing to others who differ from them in opinion, at least an indifference to the interests of their country. With what delicacy these charges had been made, he left with the gentlemen themselves to determine; with what propriety they had been urged, an impartial public will decide. To that tribunal he cheerfully appealed; and he felt a confidence, that if by the aggressions of other Governments, or the policy of our own, our country should be involved in war, the gentlemen with whom he had the honor to act would be found as ready to meet danger, and as firm in supporting the liberty and independence of our country as their vaunting opponents.

With these impressions upon his mind, he should readily vote for the bill under consideration, however large the number of men, or great the expense, could he persuade himself that existing circumstances require the adoption of the measure, or that the Constitution would authorize the delegation of power. But, believing as he did, that there are no dangers which at this time threaten our country which may not be met by the militia of it, and persuaded as he was that the Constitution does not authorize the proposed delegation of power, he must be opposed to the bill.

On a review of the subject before the committee, two, and only two, points present themselves to our inquiry, and these have been so fully treated by gentlemen who had preceded him in the debate, (especially by the able member from Pennsylvania, Mr. Gallatin, and his very eloquent colleague, Mr. Brent,) that an attempt on his part to enforce their arguments would be adding sophistry for reasoning, and declamation for persuasion. He would, therefore, sit down with moving his amendment.

A call for the question was made.

Mr. Sewall would only observe, that this question was the same which had been debated for several days. He left the public to judge of the candor of gentlemen in thus repeating questions upon the committee. If the bill was to produce any effect at all, it must have its principal effect from these words. As to the Constitutional scruple, he believed no one would lay any stress upon it. If this motion did not prevail, (which he trusted it would not,) he should move to confine the power proposed to be given to the President to the recess of Congress; and if imminent danger should exist in the mean time, the President certainly ought to have the power to begin to raise these men.

The question was put and negatived—48 to 41.

Mr. Sewall then moved the following words to be introduced into the committee's amendment,

viz: "before the next session of Congress, which is or shall be appointed by law."

This motion, after a number of observations upon it, as to the propriety of its form, was agreed to, in these words, "before the next session of Congress."

The next question was upon striking out from the first section of the bill, "whenever he shall judge the public safety requires the measure," and to insert in its place the amendment of the select committee, as amended, mentioning the three contingencies in which the President may proceed to raise the army.

Mr. Sitgreaves inquired whether it would be in order to divide the question so as that he might vote for striking out and against inserting? and being answered in the affirmative, he said he would then call for such a division of the question. He had felt, during the present session, very little disposition to take up much of the time of the House or of the committee; but as no gentleman had at all expressed the opinions which he (Mr. S.) entertained on the subject, and as the subject was of so great importance that silence, under such circumstances, could not be compatible with duty, he must entreat the indulgence of the committee while he explained, as briefly as he could, the reasons why he hoped the words contained in the bill from the Senate might be struck out, and neither those contained in the amendment, nor any others, be substituted in their stead. It was his opinion, formed after much anxious consideration, and which he therefore could not suppress, although from what he had heard in the House for some days, he could not expect that his ideas would prevail generally with the members—it was his opinion that the military force contemplated by this bill should be immediately raised, and that it ought not to depend either upon the discretion of the President, as provided by the Senate, or, what is worse, upon the specific contingencies expressed in the amendment of the select committee. He had no objection to trust the President with the discretion alluded to, but as he was very clearly of opinion that the circumstances of the country required that a respectable military force should be provided without delay, he did not desire to throw upon the President a responsibility which he was ready to take upon himself, and which he thought ought to be borne by Congress rather than the President. At a time when the country is admitted on all sides to be in danger, he could not admit the idea of a provisional army; he believed that the Military Establishment ought to be increased by an addition equal to the exigencies of the times, and that this increase ought to be authorized and directed by law, in the usual and ordinary form.

The committee had heard much about a spirit of compromise. He believed that this bill had, in its origin and progress, grown out of this spirit of compromise; this spirit had nearly strangled it in its birth in the Senate; and this spirit had mangled and mutilated it in the select committee of the House. For himself, he always had believed, and he still believed, that this spirit is an evil spirit; that, on great and important public points of difference, it never had produced, and never could produce any good. On a question like the present, he believed there was no half-way line, no middle course, which could be correct. If the actual or probable circumstances of the country require military preparations, they ought to be made; and if there is no danger, there is no necessity for preparation. The spirit of compromise which had pervaded on this occasion, he thought, therefore, was unwise and improper; it was acting like arbitrators, who, under the notion of splitting the difference, did justice to neither party, but injustice to both. He would not say that there is, to use the very restricted language of the amendment, actual imminent danger of an invasion; but if there are any appearances in the state of our foreign relations to justify a reasonable belief that in one, two, or three years hence, war may be made upon us in our own territory, he believed it was the indispensable duty of Congress now to begin to make preparations to meet it. If we should wait until the danger becomes imminent, before we commence the raising of an army, we shall wait too long. Much time is requisite to be employed in the raising and organizing a regular army, and much more before it can be disciplined so as to be efficient. He agreed with those gentlemen who believed that a regular army was most to be depended upon in time of declared war; but he supposed it would be conceded that such an army, in its early infancy, consisting of raw recruits, imperfectly disciplined, is much feebler and much less to be relied on than the militia of the country, who supply the defect of discipline by principle and enthusiasm. The militia will be composed of men having a common interest in the community, who take the field to fight *pro aris et focis*, for their own preservation and the protection of their families, connexions, friends, and country; whereas a regular army in this, as in all other countries, will be made up, in a great measure, of the idle and the profligate, who have no property to defend, who are without employment, and without industry to seek it. In this observation, he begged it to be understood that he referred to the private soldiery and not to the officers. If, therefore, the bill was calculated only for cases of invasion, or of imminent danger of invasion, there could be no doubt but the immediate resource of the nation must be in its militia. It is a joke to talk of raising a regular army to repel an invasion which has occurred, or which is, as it were, at our door. Before a regular army, commenced thus late, could operate effectually, the enemy will have effected their lodgement in the heart of the country, will have taken our chief towns, and have fortified them against our attacks. For all purposes, therefore, of temporary defence, he presumed the hopes of the nation must rest on the militia and on the volunteers. He understood the army, contemplated by this bill, to be designed to meet that state of things when, one or two years hence, all obstacles being removed which at present oppose themselves on the ocean to the enterprises of France,

she may be left at liberty to reek her vengeance upon us, by a powerful invasion of the territory of the United States. This is a state of things which we ought to anticipate, whether the projected expedition against England succeed or fail; it is reasonable to expect that under either circumstance its issue will induce a peace between those rival Powers; and when that shall take place, there will be nothing to prevent France from sending her ships and her troops across the Atlantic to the invasion of America. It is against this period that Congress ought to prepare, with a prudent foresight of events; and, to be prepared, they cannot begin too soon. According to all ordinary calculations, they will not, even if they begin now, have their army in a state of efficient readiness before it will be wanted. The country is not the less in danger that the danger is not at the door; this is a truth all important, but which did not appear to be sufficiently understood.

He requested that gentlemen who opposed this bill would retrace the arguments which they had used in the course of this session. When measures of defence have been proposed; when arming of merchant vessels has been under discussion, and when it was contended that the public ships of the United States should be used as convoys, have they not urged with the utmost solicitude that these measures must necessarily produce a war? When the despatches were about to be published, did they not strenuously contend that it would be equal to a declaration of war, and would effectually destroy all remaining hope of accommodation? Yet, after these measures have been adopted, and war, according to their own reasoning, has thus become inevitable, and when it is now proposed to be prepared for so probable an event, they affect to have dismissed all apprehension, and tell us "there is no danger." For himself, Mr. S. said, he was ready to avow that he had always believed that there was danger; that it was not in our power, by any efforts, to preserve peace. He had calculated upon the profligacy of the Government with whom we are at variance, upon their boundless ambition, their excessive arrogance, and their insatiable resentment. He had believed that the rulers of France would suppose their individual interests to depend on contention with America; he had never imagined that our danger could be averted, or would be accelerated, by the measures we had adopted. And when he had voted for those measures, it was not from an expectation of averting, but with the view of meeting the danger. He now believed that, unless circumstances should occur in Europe which are not under our control, the time would come when all the difficulties would be removed, which, at present, prevent the Directory from pointing their force against this country, except those which they should encounter in our own courage and our own resources—especially if that sentiment should prevail which had been so often expressed, that a war with France was less to be deprecated than an alliance with England. If no compact could be made with Great Britain that should secure to us the assistance and protection of her navy, and when her numerous fleets shall no longer cover the ocean and keep the fleets of France blocked up in her own ports, what is there to prevent those fleets from landing her military hordes on our shores? We must in that case be exposed, alone and unassisted, to all the efforts of an enemy whom gentlemen affect to consider as all powerful, and of whose resentments there can be no doubt. What is to become of the immense armies, composed of turbulent and restless spirits, habituated to licentiousness and plunder, when they can no longer be amused with the chimera of a conquest of Great Britain? How will they be disgorged from France, where their continuance must be fatal to the rule of those who now exercise the powers of the Government? Where are they to find the rewards which have been so lavishly promised when they shall have achieved the safety of the Republic? Is there not good reason to fear that they will be sent to seek their reward in America, to divide our lands, and establish a military colony in the United States? Are we not exposed to every project of this sort in the South, and from the quarter of Louisiana? He believed that these are not exaggerated apprehensions; that they ought to excite us seriously to think of a danger that may not be very remote; and with firmness and resolution to prepare for the worst. He could not, for himself, consent to postpone one day the raising of an army that might be likely effectually to protect the country, when our trouble shall have come upon us. He could never consent to impose on the President the responsibility of so important a measure; still less was he willing so to confine and restrict his discretion, as that he should only use it when it would be too late. He repeated that, however soon our preparations might begin, there was a strong probability that the army could not be efficiently raised, organized, equipped, and disciplined, before it might be necessary to call them into action.

Solemnly impressed with this conviction, he must vote for raising this army immediately, although he had no expectation that such vote would succeed; but placed in a responsible situation, in critical times, he could not otherwise discharge his duty than by declaring his opinion candidly, and pressing it upon the committee. He was sensible that, in expressing this opinion, he should differ from some respectable friends with whom he had always acted. He lamented it extremely. He lamented that any of his friends should adopt sentiments which, as he conceived, tended to cripple the necessary measures of defence; that they should swell the numbers of those who had been uniform in their opposition to these measures. Of all possible times, he believed the present to be the least proper for compromise. In such times gentlemen should think for themselves; should act from the result of their opinions; and, if they cannot succeed in carrying measures which they think necessary for the honor and interest of the country, should devolve the responsibility of consequences on those who defeat them.

While he was up he would notice the observations of some members who profess to decline voting for the proposed armament, because on a recent question others had voted to limit the duration of the direct tax to one year. No man regretted more than he did the decision of that question, or was more desirous that the duration of the tax should be commensurate with the expense which it was intended to defray; but it did not follow that because they had committed one error, they should commit another. The defence of the country ought not to be crippled from an idea that money could not be raised to meet the expense. It is our duty to adopt the necessary measures of defence, and afterwards it will be our duty to provide the money. The session was not yet closed, and before the House rises, it could not be doubted but that resources would be found to answer all exigencies. He concluded with calling for a division of the question.

The question on striking out the words in the original bill, viz: "whenever he shall judge the public safety requires the measure," was put and carried; there being 72 votes for it.

Mr. Harper then moved to insert the words recommended to be inserted in their place by the select committee, viz: "in the event of a declaration of war against the United States, or of actual invasion of their territory, by a foreign Power, or of immediate danger of such invasion, discovered, in his opinion, to exist."

The question was carried; there being 68 votes for it.

The next amendment proposed by the select committee was to strike out twenty thousand (men) and to insert ten thousand.

Mr. Gallatin wished this question to be divided, as he wished to strike out twenty, and insert five thousand. He was led to wish this amendment from the general agreement which there seemed to be, and agreeably to the confession of his colleague (Mr. Stoddaves) that at present there exists no danger of an invasion from Europe. If there was any danger at all, it seemed to be confined wholly to the Southern States; and it was said yesterday by a gentleman from that quarter, (Mr. Pinckney,) that twelve or thirteen hundred men in South Carolina would be very useful. If that number would be sufficient for that State, Mr. G. thought five thousand would be a number sufficient to be raised for any object to which they could be applied. As for himself he was against the bill *in toto*, as he did not believe in any danger which the militia would not be able to meet; but if an army must be raised, it need not be larger than gentlemen could find a use for.

Mr. Hartley had some doubt whether Congress ought not then to go further than was intended by the bill, and vote for an efficient force to be raised immediately. Nothing but the expense, and the strong objections made against the necessity of the measure, induced him to be in favor only of a provisional army, to be raised on certain contingencies.

The right of delegating the power intended to be given to the President has been very fully discussed. He thought there had been great accommodation on the part of the majority to limit the time.

The President, Mr. H. said, will be in a very delicate and responsible situation. The whole world looking on, he will certainly strive to act in the best manner. He was perfectly satisfied that the President should have the power of raising the 20,000 men, or as many of them as he thought necessary, upon one or more of these contingencies happening. No one ought to say that 20,000 men, in case of war, would be too many. In the year 1776, when we were contending against a nation perhaps not so formidable by land as the one now about annoying us, Congress voted 88 battalions of infantry, besides cavalry and artillery, and afterwards there were voted 16 additional battalions.

Whenever armies are to be raised by recruiting, you must, in the first place, be at considerable expense in supporting officers without men; but this cannot be avoided. The officers should be selected from the several States, and dispersed over the Union.

If we have a war, as the President might engage men for a shorter period than three years, he trusted that the sons of the yeomanry of the country would come forth as on a former occasion.

Mr. H. said, gentlemen might speak as highly as they pleased in favor of militia. The plan now in view would draw a part of them into the standing troops, where they would be better disciplined; and, in addition to the knowledge of shooting, they would acquire that of moving and manœuvring to advantage.

Standing troops will be necessary in a war of any length. You may occasionally call the militia; but it would be immensely inconvenient to be constantly calling the husbandman from the field, and the mechanic from his labors, and to have the whole country marching and countermarching. Short tours of duty in the militia is a serious difficulty, and cannot well be helped. Some attempts have been made to retain the militia in camp six months, but they have been distressing. One instance he would mention. In the year 1776, as a reinforcement to the Northern Army, 5000 militia were ordered out, under the command of General Bricket. They were very good men; they were in camp for some months at Tinconderoga; but, from camp duty, separation from their families, and impatience, they became sickly and depressed, and were daily applying for discharges.

Where the service is not of long duration, but active, the militia can be useful, especially in a woody country. They may frequently act to advantage in aid of the regular troops. They performed their duty in unison when General Burgoyne's army was taken. A number of bold and decided men left their homes, resolved that the invading army should be destroyed or taken before they returned. The army was taken. In several other places the militia achieved reputation.

Mr. H. was not for a large standing army in time of peace, nor, in time of war, of more troops than would give security, and be a convenience to

the rest of the community. He strongly urged the propriety, in the present state of things, of granting the power to the President. He was confident it would be faithfully attended to. If any intentional wrong took place, an enlightened people would discover it.

From the arguments of some gentlemen, all is security—we have nothing to fear. Those arguments have been so forcibly or artfully used, that, for the moment, numbers may be led away by them. Recollection and thought will bring them back; and if they do not dissent or discredit absolutely what is said about our security, they must doubt it, and prefer their own measures.

If none of the contingencies contemplated in the bill happen, no men are to be raised; but if any of them should happen, the number should not be reduced from 10,000 men to 5,000, but rather remain at 20,000.

As to providing the means, Mr. H. was inclined to think that they were not obliged to go to any great extent. No money was provided to pay the militia who may be called out; but the national character and honor are certainly pledged to furnish what may be necessary—so they will in this case.

He conceived, however, that it might be prudent to appropriate $150,000 or $200,000 at present, to be under the direction of the President, in case troops were to be raised under this bill, which might be applied towards bounty, or equipping. He was decidedly against the motion for reduction.

Mr. Harper did not know by what kind of reasoning the gentleman from Pennsylvania could conclude that nobody apprehended any danger from invasion, except from the West Indies, and that in the Southern States. He had himself said, that there was danger in that quarter, but by no means that there was none anywhere else; so far from it, he had declared it to be his opinion that there was as much danger in Rhode Island as in any other part of the Union. Another gentleman (the Speaker) contended that the army on the coasts of France, which, in gasconading style, they call the Army of England, may be the *Army of America;* and the transports collecting at Bordeaux and Brest, instead of being intended to go against London, may be sent to Florida, or against Rhode Island. This, in his mind, was a probable event; and when he saw 150,000 or 200,000 men collected on the shores of France, said to be for a particular purpose, he could readily conceive that a wing of that army might have another destination. He had not the happy turn of mind of the gentleman from Pennsylvania, who, notwithstanding all that was heard and seen from France and her agents, could still believe that we have no danger to apprehend, except from the West Indies. Mr. H. believed the most imminent danger was from that quarter, but by no means the only danger; he believed there were others, not only great, but serious and threatening; he believed the Executive Directory were too wise, and had too good information, to make an attempt on England; and though he did not believe that we had any certain knowledge of an intended invasion from Europe, yet it was extremely probable. He was therefore opposed to the reduction of the proposed army to 5,000 men, because he did not think them sufficient; nor did he concur with another gentleman from Pennsylvania, (Mr. Sitgreaves,) that an army must be raised for a year or two before it can be useful. Much depended upon officers; and he believed, if these were active and did their duty, three months would make an army as fit for service as three years. He therefore believed an army of 10,000 men might be raised and completed for the field, if occasion required, before the next session of Congress; and he did not mean to say that any danger could assail us, in the mean time, which 10,000 men, with the assistance of the militia, (whose service he never meant to lose sight of,) would not be able to repel.

Mr. H. said, had he been so desirous of degrading the militia as his colleague (Mr. Sumter) had supposed, he should have cited some instances of their disgrace, which he could have easily done. He believed the militia were the materials out of which a defence was to be raised, but he still believed that it was necessary to have a regular force to act with them; and though 5,000 men might be sufficient for the protection of the Southern coast, as they might also be wanted in other quarters, he should be opposed to raising any less number than 10,000 men.

Mr. Gallatin said, it was true, that he had conceived the idea of danger from an invasion from Europe during the present season was given up. He had drawn this conclusion from the manner in which gentlemen had supported their opinion against his motion to strike out the first section. It was then stated by the gentleman from South Carolina and others, that there existed danger in a certain quarter. The gentleman from South Carolina even pointed out the very individual spot at which the enemy was to land, the route they were to take, and almost every encampment they were to make, until they got to the walls of Charleston. When he said he thought the idea of danger from Europe was given up, he did not forget what fell from the Speaker yesterday; but having heard that gentleman calling the *Army of England* the *Army of America*, and, at the same time, speaking of falling mountains, unfurled banners, &c., he could not conceive him to be serious in anything he said; and he really had considered the whole of his speech as merely allegorical. But the committee were now told by the gentleman from South Carolina that there is a probability of an invasion from Europe. If he had said there was a *possibility*, he would not have said it was impossible, as very improbable events sometimes take place; but, when the House legislated, they ought not to do it upon possibilities, but upon probabilities; and all that had been said in favor of this bill that was probable, was what had been advanced as to the danger to be apprehended from the West Indies. Everything else he looked upon as beyond probability.

Mr. G. desired to know upon what this probability of an invasion from Europe lay? He wished, instead of saying that the armament now preparing in France, ostensibly against England, might come against this country, to say why they think so. The argument of the gentleman from South Carolina was of a singular nature; it amounted to this: The French Directory are extremely wise, and have the best information relative to England; but it is impossible to succeed in an invasion against that country, therefore the armament must be intended against this country. He must own he was not struck very forcibly with such reasoning.

As to the impossibility of invading England, he knew nothing of it. He believed the success of the event must depend upon the resistance made in England; and it appeared to him, from what was taking place there, that they do believe in the possibility of an invasion, and are determined to resist any attack which may be made. But if the principle laid down by the gentleman from South Carolina, that the Government of France is wise, and have good information, is admitted, they will have the wisdom and information not to attempt impracticabilities, but apply their means to effect objects which will be of service to them. But an invasion of this country could neither be useful to the men in power in that Government nor produce the least advantage to the nation. The resources of that nation, powerful as it is, do not consist of money, or a great navy, by which to carry on projects at a distance from home. They have men in great abundance, and the Government can lay hold of anything they please to support them. But we know the situation of their finances; we know they have called for a forced loan in support of the intended invasion against England. They wanted only forty millions of French livres for that important object—not quite two millions sterling—and were not able to raise it in the usual way. We know that they wanted money from us, and from Hamburg for the same purpose, and have in fact been trying to raise money everywhere on the credit of their Dutch rescriptions. Thus situated, Mr. G. asked, how gentlemen could imagine that the French could undertake to invade a country like this, twelve hundred leagues distance from home? No nation who had not the most extensive resources, both as to money and shipping, could undertake such a project, and it was well known that France is greatly deficient in both, and therefore cannot come with a fleet here.

But, supposing France was able to make an attack on this country, he wished to know what was to be her object? Was it to subjugate our country? Suppose they had it in their power to send over here and land an army of 40,000, or of 100,000 men, could it come into the head of any man, that they would be able to subjugate this country? Suppose they were to conquer a part, possessing different manners, and speaking a different language from the people here, they could not expect to become incorporated with the citizens of this country, and must finally be expelled. Indeed, it appeared to him that this invasion by the Army of England was one of the most extraordinary ideas that ever entered the head of a politician or statesman; when it must be seen that England is the object of this armament, as the only enemy France has left; when it must be evident that no greater object can be contemplated by that country than either destroying their rival, or by producing a revolution in the British Government, to secure the stability of their own; to tell the committee that, notwithstanding every appearance to the contrary, these preparations were probably intended against this country, was, to use the language sometimes adopted by the gentleman from South Carolina, to presume too far on the credulity of this House.

But, is there any reason from anything which has taken place between this country and France, to believe that such a design really exists in the French Councils? It had been said that that Government had threatened us with such an event. He wished to know in what manner, and how the threat had been made? The only threat which he recollected was the threat made by one of those agents, (X, Y, or Z, he did not recollect which,) who said to our Commissioners: "If you do not agree to such and such propositions, we will do—what? Send an army to invade you? No. Some frigates shall be sent from the West Indies to ravage your coasts." With what design was this threat made?

Mr. Harper asked, whether or not the fate of Venice was mentioned?

Mr. G. said, if the gentleman would suffer him to proceed, he would notice what was said respecting Venice also. The design of these agents was evidently to frighten our Commissioners and to extort money from them. But do they threaten them with danger which was improbable? No; they knew if they had done so, our Commissioners would have laughed at them. They, therefore, spoke of things which partook of probability.

But those agents reminded our Commissioners of the fate of Venice. And are gentlemen afraid of this country experiencing the fate of Venice? Did not these agents, in the same breath that they spoke of the fate of Venice, acknowledge that it was impossible to subjugate this country? Mr. G. quoted that part of the despatches where these agents assented to the truth of that position as stated by our Envoys.

But it appeared to him that the gentleman from South Carolina had himself, this day, at the same time that he declared the danger existed, concluded that the danger could not exist for this year. For, if he apprehended any portion of the Army of England would come against this country this season, he certainly would wish for a larger number of men than 10,000; he would have agreed with his colleague (Mr. Sitgreaves) and voted for 20,000. But, he says he will not do this, as he does not believe any danger will arise before the next session of Congress, which will require a larger number of men than 10,000. Believing with the gentleman from South Carolina, that no danger was to be expected from Europe, Mr. G. said, he wished to reduce the number to 5,000.

Mr. G. said, he did not intend to have said anything upon this amendment; but as the gentleman

from South Carolina had dwelt much upon the danger to be apprehended from an invasion from the Army of England, he could not refrain from making a few remarks upon that subject. He could not imagine how such an idea could have entered into the head of any gentleman; but since some had brought their minds into such a state as to apprehend such an event, he did not expect that anything which he could say, would operate upon them; but he expected they must vote in favor of raising the whole 20,000 men at once. But, as to those who could satisfy themselves that the only danger to be apprehended was from the West Indies, he thought it must be evident that 5,000 men would be sufficient for every purpose to which they could be usefully employed. And it would be perfectly clear that they would only cost the United States half the money.

There were also some gentlemen in the House, Mr. G. said, who, though they did not expect an attack from France at present, expected it whenever a peace shall take place with England; he had himself no such apprehension, as he believed that system of plunder which was occasioned by war would end with war, and as no particular vengeance had been threatened against us, although he did not deny some personal resentment existed between the Executive of that country and that of America; but this being confined to a few individuals was less dangerous in its nature, and would cease whenever the men were out of power. But to those gentlemen, however, he would remark; that the less money we expend in the mean time, the better we shall be prepared to meet the danger when it comes.

Mr. Dennis said, he was one of those who thought that, if the House were to act more and talk less, it would be more honorable to themselves and profitable to the country. Under this impression, he had sat with patience to hear gentlemen debate the present subject, without intending to take any part in the discussion. He had heard the gentleman from Pennsylvania, day after day, administer powerful opiates to the committee; but he now began to think it was time to resist them, and he rose for that purpose.

Were he as confident as the gentleman from Pennsylvania appears to be, that we should be fully adequate to repel every foe who might attack us, without raising any troops for our defence until we shall be engaged in actual war; if he could be satisfied to have some of the States ravaged and plundered, and perhaps many parts of the United States deluged with blood, before we could collect a force to repel the enemy, he might acquiesce in the doctrine of that gentleman. But he did not agree with him that, because we cannot effectually guard every part of our coast, we ought not to guard any part of it, any more than he could agree with him in a similar opinion with respect to the defence of our commerce, that if we could not protect it effectually, we ought to protect it as far as we are able.

Mr. D. believed this country was in much greater danger of invasion than the gentleman from Pennsylvania was willing to allow. He would not absolutely say we should be invaded, but he thought such an event very probable. We know, said he, that there is a large body of troops collected on the shores of France, and a number of ships-of-the-line, and other vessels, adequate to the transportation of a large number of troops. We are told, said he, that these men, and these vessels, are intended for the invasion of England. But was it not known that the French were pursuing two systems? They have not only the invasion, and consequent subjugation of England in view; they have another system, in which he believed they placed more confidence than in the other, which was, to cut off the resources of the British nation, and how could they more effectually do this than by getting such an influence in this country as should cut off her trade to it?

To wound Great Britain through our sides, Mr. D. said, had been the object of the depredations which France had for a long time committed upon our commerce. The resources of England were got chiefly from this country and the West Indies; and though the force which the French had collected on their shores might not be sufficient for an attack upon England, it might be sufficient for an invasion and subjugation of this country, and by that means effectually cut off the resources of Great Britain. And what Mr. D. asked, was to prevent this measure from taking place? All agree that the British navy might, if that nation were disposed to do so, prevent it. But are gentlemen willing to depend upon the British navy for protection; a nation, whom, it is frequently said, would rejoice in our destruction; a nation, whose animosities against us are very great; and who, according to the doctrine of some gentlemen, consider us as the greatest rivals. He believed for himself, that we ought not to repose any confidence in Great Britain, or any other nation. He believed the time was arrived when we ought to take measures for our own security.

If, said Mr. D., there be any disposition on the part of the British nation to conciliate the affections of this nation, with a view of drawing us into an alliance with her, he asked in what way it might be most effectually done? If Great Britain calculated on our friendship, it must be in proportion to our enmity with France, and she will be glad to do anything, or suffer anything to be done, which shall have a tendency to produce that enmity. And how could this be more effectually done than by suffering a few French ships, with thirty or forty thousand men, to come out and invade this country? Such an event could not fail to excite the bitterest animosity against the French nation, which would be equivalent to a friendship for Britain.

If he thought, with the gentleman from Pennsylvania, that an invasion from Europe was a mere bugbear, or phantom, and that it was raised merely with a view of getting a standing army, to increase the power of the Executive, he should not have made use of many of the arguments which that gentleman had used. He had not been sparing in his descriptions of the horrors and calamities of war; he had painted them in the most striking

colors. And why has he done this? If there be no danger of invasion; if there be no danger of our commercial resources being deranged; if small predatory incursions can only be expected upon our territory; if our duties on imposts and tonnage will increase, no direct tax can be necessary to support the deficiencies of our revenue, and all the hideous pictures which the gentleman has drawn about the calamities of war, must vanish into air. It was because he apprehended an invasion, and a consequent diminution of our resources, that he (Mr. D.) had supported measures of defence and of revenue to meet the expense of those measures. Was it in order to prevent little predatory incursions, which our militia would be able to repel, that we have so long forborne to protect our commercial rights? Was it for this that we were told, we had better submit to partial losses; that we had better give up the whole of our commerce, than provoke a war? Was this the sort of war of which the gentleman was so much afraid? Was this the danger, to avoid which, it was proposed to give up the whole of our carrying trade to a nation against which gentlemen have so great an enmity? Certainly not.

But the gentleman from Pennsylvania tells the committee, that, though he is against raising an army at present, if the territory should be invaded, he would then not be for raising a partial army, but an army adequate to our defence. The gentleman may believe this at present; he would not say that he had not confidence in the declaration; but his experience of that gentleman's mode of creeping out of any promises which he had made, induced him to believe, that if a foreign army was in the heart of the country, he would still find some arguments against raising a standing army.

Gentlemen continually insist upon it, that, unorganized and undisciplined as they are, our militia are able to defend us against the most powerful army that can be brought against us. So great is their objection to a standing army, and their apprehension of Executive patronage, that they are afraid of even raising ten thousand men, lest they should destroy the liberties of the people, in spite of all the militia in the country.

Mr. D. concluded by saying, that there was great danger in conceiving ourselves too secure. He believed we had resources which, if called forth, would enable us to defend ourselves against the world; but if we declined to use them, and rely for defence upon a disorganized militia, this security might be fatal to us. Indeed all the arguments of the gentleman from Pennsylvania went to show rather an extreme jealousy of our own Government than any apprehension from a foreign foe. He hoped, therefore, the motion would be negatived.

Mr. Brooks hoped the motion would not prevail, for, as the gentleman from Pennsylvania has declared that he is against the bill altogether, it might be expected that he would do all in his power to make it ineffectual. The gentleman from Pennsylvania has said, that there is not the least danger of war, and therefore it is not necessary to raise ten thousand men. He was a little surprised, after that gentleman had declared, day after day, that if such and such measures were taken they would involve the country in war, and those measures had been agreed upon, that he should now say there is no danger of war. He says, that France can have no idea of subjugating a country so capable of defence as we are; but the gentleman seemed to have forgotten what had been said about the division of opinion in this country, upon which he supposed the French principally relied. He hoped France was mistaken in her expectations on this subject; yet, if she only sent ten thousand men against us, he should wish the country to be in a situation to receive them. If France was persuaded, that the moment her standard was erected on our shores, one half the people would flock to it, she might be induced to send out an army against us; and if so, he wished to have ten thousand men, in aid of our militia, to meet them. He supposed the most effectual way of preventing any attack was to show ourselves ready to resist it whenever it comes.

The gentleman from Pennsylvania was most fruitful in resources. When he is defeated in one point, he takes up another, and meets you on every side. But amongst all the extraordinary things he said, was, that because the French had different habits, and spoke a different language from the people of this country, they were not likely to obtain any permanent interest here. He did not think there was any weight in this remark; he did not think the French manners and the French language were so very obnoxious to the people of this country as they were represented; he believed the difference between the gentleman himself and those manners and that language, would not be found very great.

Mr. B. said, he would not detain the committee longer, because he was confident the motion would not be agreed to. He had himself been always in favor of raising twenty thousand men, but upon the select committee he was induced to agree to ten thousand, from the consideration that the President would have the power of calling out and organizing twenty thousand militia.

Mr. Macon said, if gentlemen were determined to have war at any rate, they had better bring forward at once a proposition to that effect; but whilst we are in possession of peace, and there is no proposition to break it, he wished to act as in a state of peace. Gentlemen had spoken of the true touchstone, and of parties; the true distinction of party in that House seemed to be, that certain gentlemen are determined to take every means which leads to expense and patronage, and others are as determined in opposing that expense and that patronage. He believed this was in Congress the true criterion of party. Therefore, when augmentations of our military force were contemplated, it was shown to the House where they were to be employed, and the propriety of the increase was tested by the necessity which was shown for them; but now, because the French Government, or somebody for them, has said some foolish things, an army is to be raised, without saying how, or

where it is to be employed. Is there, said Mr. M., a man in the country, who is not blinded by party spirit, who can believe that the French Government knew any thing of the unauthorized conversations held with our Commissioners in Paris? Is there an American who believes that one half the people of this country are devoted to France? It could not be believed.

If the people of Charleston, or any other place, think themselves in danger, he was willing to let them have as many troops as they asked for; but, as had been stated, 5,000 were a greater number than had been shown to be necessary. He was opposed to the bill altogether, as he saw no necessity for it. He believed if any nation chose to make an attempt to land men in this country, the militia would be able to kill them as fast as they could be brought. He hoped never again to see what he saw in the late war—American armed against American. If ever we were again called to arms, he trusted there would be but one sentiment in America, as to the propriety or justice of the cause in which we fight.

Gentlemen talked loudly about the independence of the country, as if they were the sole guardians of it. Could it be supposed that men who had fought to gain that independence would now be more willing than they who had taken no part in the contest, to relinquish the prize to any nation? It could not be supposed. Nor could he believe with the gentlemen from New Jersey (Mr. Dayton) that the Army of England could be intended for this country. He understood that army was proposed to be sent over to England in open boats, which gentlemen would not contend could bring them hither. He believed that it was not proper on this, or on any occasion, where danger was apprehended, to show a distrust of our countrymen, from any difference of political opinion which may exist amongst them; for, whatever may be their variance in that respect, whenever an enemy appears, they will unite in repelling him. As to what had been said about the subjugation of this country, it was idle. He did not believe that all the Powers of Europe united could subjugate the United States. He should be in favor of five thousand men, because they would only cost half the expense of ten thousand.

The question for striking out twenty thousand to insert five thousand, was put and negatived—47 to 41.

The question now returned upon striking out twenty thousand to insert ten thousand.

Mr. N. Smith hoped this amendment would not be agreed to. It was contemplated, when this reduction was proposed, that the power should be given to the President for three years; but it was now restricted to the recess of Congress. He did not himself think that at present there was any danger of an invasion, nor did he believe that imminent danger of an invasion would exist, whilst the war continued between France and England; but, whenever a peace shall take place between those two Powers, the question ought then to be taken whether this country ought not immediately to go into preparations for war; and if Congress were not in session at the time, the President ought to have the power of determining this question. It will depend on several circumstances; on what kind of peace was made; upon what ground parties stood when peace was made; on the situation of France at the time; on what kind of men are in power; on the situation of this country; on what is the state of parties here at the time; what is the number of those who are opposed to the Government; how many there are of those who wish to lull the rest to sleep; and what is the amount of spies in the country. All these will be important considerations to be decided at the time, and if it shall then appear that imminent danger does exist, will twenty thousand men be to large a number to raise? He believed not.

Another consideration of great importance was, the language which the House would hold to Europe in adopting this amendment. It is said, that in case of invasion, war, of imminent danger, twenty thousand men will be too many to be raised; we will only raise ten thousand. He did not think such language the most proper on such an occasion.

If the French invade this country, it must be with a view to subjugate it; and if so, it must be done through the medium of a revolution; and if the state of parties at the time authorizes an expectation of success, we may expect them here. And though he believed, with other gentlemen on this floor, that there is no danger of an invasion at present, it was because he believed the opinions frequently expressed in this House by the gentleman from Pennsylvania and others, were not very prevalent out of doors. If they were, he should count upon nothing less than revolution and subjection. To provide for the raising of less than twenty thousand men, would, in his opinion, rather invite attack, than serve to repel it; and as the men would not be raised, except they were wanted, there could be no reasonable hesitation about the matter.

The question for striking out twenty thousand, and inserting ten thousand, was put and carried, 54 votes being in favor of it.

The question next came up on agreeing to the section proposed by the select committee, for authorizing the President, from time to time, as he shall deem it necessary, to call forth in rotation such portion, not exceeding at any one time the number of twenty thousand men of the detachments of the United States, authorized by the act of the 24th of June last, as may be conveniently mustered together, and cause them to be trained and disciplined by their proper officers, either in their respective States, or in one corps, to be drawn from two or more adjoining States, for a term not exceeding ——; for which time the officers and men shall be considered as in actual service and be paid and governed accordingly.

After some discussion, in which Constitutional objections were urged against this provision, the committee rose without taking a question upon it, and the House adjourned till Monday.

Monday, May 14.

Mr. J. Williams, from the committee appointed for the purpose, reported a bill to amend and repeal in part the act more effectually to provide for the national defence, and establishing a uniform militia throughout the United States; which was twice read and committed.

The Speaker laid, before the House the accounts of the Treasurer of the United States, of the receipts and expenditures for the quarter ending the 31st of March last, which was ordeed to be printed.

LEAVE OF ABSENCE TO MR. FINDLEY.

Mr. Findley said, the situation of his family laid him under the necessity of asking leave of absence for the remainder of the session. He said, he should have asked this leave some time ago, if it had not been for the notice which the gentleman from South Carolina (Mr. Harper) gave some weeks since, that he meant to accuse him at the bar of the House, on account of a letter of his which he (Mr. H.) referred to. He did not know precisely the letter spoken of. He had seen a letter in one of the papers of the city with his name to it, which he was neither prepared to acknowledge nor deny. But, in order to give the gentleman time to bring this matter forward, if he shall think proper, he would ask leave after Friday next. As to the manner in which that gentleman had introduced this business, he should say nothing. He was not afraid of suffering in public estimation from anything which that gentleman might say of him.

Mr. Harper had no objection to the gentleman's having leave after the day he had mentioned, or any other. As to the charge, he had mentioned as his intention to bring forward against that gentleman, it required some time to collect the necessary evidence to support it; and he also stated, when he introduced the subject, that it was not his intention to interrupt the public business with it. He had received the necessary testimony, and as soon as the House had passed on all the public measures before it, if the gentleman was then in his seat, he should bring the matter forward. If not, he should, of course, take no farther notice of it.

Mr. Findley did not know whether motions of this kind were in order; if they were, the House might expect them frequently to be made. If the subject was brought before the House, they would judge whether it was proper for their deliberation, or not, and what kind of testimony would be sufficient to substantiate the charge. He had never asked leave of absence from his duty since he came into the public service before last Summer, when the situation of his family made it necessary; he was sorry that the same cause called him home at present.

Leave was granted.

PROVISIONAL ARMY.

The House again resolved itself into a Committee of the Whole on the bill for authorizing the President of the United States to raise a provisional army; when, the question being put on the section providing for the calling out 20,000 militia, at a time to be trained and disciplined, it was negatived, there being only 11 votes for it.

This section was objected to on the ground that the Constitution has placed the training and disciplining of the militia in the several States, and that Congress had power only "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion; reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

The two next sections recommended by the select committee were agreed to as follows, with very few observations upon them:

"That it shall be lawful for the President of the United States, at his discretion, upon the request of any military corps established by law in any State, disposed to inform themselves in the use of artillery, or of the Executive of any State, in behalf of such corps, to suffer to be loaned to them such pieces, not exceeding two to any one corps, of the field artillery of the United States, as may be most conveniently spared; to be taken, removed, and returned, at the expense of the party requesting, who are to be accountable for the same, and to give receipts accordingly."

"That the President of the United States shall be, and he is hereby, authorized, when under his orders any portion of the militia, or any volunteer corps, shall be called forth and engaged in the actual service of the United States, to suffer to be loaned, at the request of the Executive of the State from which such militia shall be called forth, or of such volunteer corps appearing to be unavoidably deficient, a supply of field artillery, arms, and accoutrements, from the arsenals of the United States, as the case may require; proper receipts and security being given, to be accountable to return the same, the accidents of the service excepted."

The next section, recommended to be adopted, was the following:

"That the President of the United States shall be, and he is hereby, authorized, to cause to be purchased and procured a quantity of caps, swords or sabres, and pistols with holsters, not exceeding what may be sufficient for four thousand cavalry, and to be deposited in the parts of the United States where he shall deem it most convenient, for the supply of any corps of cavalry which shall be called into actual service of the United States, and which the President of the United States may loan upon the terms and the like receipts, to be accountable, as hereinbefore provided. And for this purpose, and towards defraying the expenses which may be necessarily incurred before the next session of Congress, in executing the other purposes of this act, a sum not exceeding —— dollars shall be, and is hereby, appropriated, and shall and may be paid at the Treasury, under the orders of the President of the United States, out of any money not already appropriated."

Mr. Sewall moved to fill the blank in this section with $200,000. He supposed $50,000 or $60,000 would be sufficient for purchasing the accoutrements mentioned; the remaining $140,000 or $150,000 would be ready in the Treasury in case of emergency, for the other purposes of the act. This mode of proceeding was objected to. It was thought by some that it would be best to appropriate only for the purchase of the articles

specified, and provide for the whole expense of carrying the act into effect in one sum, either in this law or some other; but it was finally carried as it stands, and the blank was filled with 200,000 dollars.

The last additional section proposed for exempting private soldiers from arrest for debt or contract, during their term of service, was then agreed to.

The original bill itself was now returned to, and the first and second sections having been agreed to, the third, which was in the following words, came under view:

"That, in addition to the aforesaid number of troops the President is hereby empowered, if in his opinion the public interest shall require, to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, who shall be armed, clothed, and equipped, at their own expense, and whose commissioned officers the President is hereby authorized to appoint; who shall be liable to be called upon to do military duty at any time the President shall judge proper; and, when called into actual service, and while remaining in the same, shall be under the same rules and regulations, and shall be entitled to the same pay, rations, forage, and emoluments of every kind, excepting bounty and clothing, as the other troops to be raised by this act: *Provided*, Such volunteers shall not be liable to do duty in any place, but in the States to which they respectively belong, or in an adjacent State."

Mr. Harrison moved to strike out the words "and whose commissioned officers the President is hereby authorized to appoint." As he supposed these volunteers would be considered in the light of militia, as they would be included in the census of citizenship; and if so, it would be unconstitutional for the President to appoint the officers, as their appointment was exclusively vested in the individual States. A further reason induced him to this amendment. The President, it is well known, is Commander-in-Chief of the militia when they are called out; but he would not be commander of these corps, except called into the field.

Mr. Varnum moved to strike out the whole section. It appeared to him that permitting volunteers to arrange themselves in separate companies would have a bad effect upon the militia; for as they would chiefly be the most sprightly young men who entered into the volunteer corps, there will be less spirit left in the remainder of the militia to perfect themselves in military discipline. He knew that the introduction of volunteer corps into the militia of Massachusetts was thought to have produced a bad effect. Many of them have been discharged, and he believed they went into the corps to which they belonged as regular militiamen. Besides, he thought there was a privilege granted to these men which ought not to be granted to any citizen of the United States. They are not liable to do duty in any place but in the State to which they belong, or an adjacent State; and the President was authorized to accept of these volunteer corps to any amount. What would be the consequence? The greatest part of the militia would join these corps, and by that means be excused from duty, except in their own or an adjoining State. This could not be proper. He looked upon it as injurious to the citizens at large, for any class to be thus exonerated from duty. He thought it directly in the face of the Constitution of the United States. [Mr. V. read the Constitutional provision in respect to the militia.] Mr. V. supposed these volunteers could not be called anything else but militia. They could not be looked upon as a part of the army; no standing force would ever have the privileges granted to these volunteers. Mr. V. hoped the time was not come when it would be thought necessary to violate the Constitution in order to raise up a defence for the country.

Mr. Sumter seconded the motion for striking out the whole section. He took it for granted, that when gentlemen compared this provision with the Constitution, its impropriety would appear. Nothing was more clear than that the appointment of the officers of the militia is vested in the State, and he was surprised that an attempt like the present should be made to violate so clear a provision of the Constitution. Without entering at large into the subject, he trusted that it would at once appear so flagrant a breach of the rights of the individual States, as not to be countenanced by any member of the committee.

Mr. Dana observed, that the gentleman who had just sat down had supposed that this section was so violent a breach of the Constitution, that no one would be found to support it. He should, however, be in favor of it, because he did not believe it violated any rule of the Constitution; and the reason why he did not think so was, that he could not consider these volunteer corps as a part of the militia. If there be any characteristic marks by which to distinguish a militia from regulars, it is that the former are compelled to serve, and the latter enter voluntarily into the service. This bill provides that the President, if the public interest shall require it, shall accept of any company of volunteers who may offer themselves, armed, clothed and equipped, at their own expense, and therefore they could not be considered as militia.

These volunteer corps, until called into the field, will receive no pay, but they will learn the military exercise and discipline, and surely gentlemen will not consider the Constitution violated because these persons choose to perform this previous service without pay. These corps would clearly be enlisted into the public service whenever they made an offer of themselves, and that offer was accepted; but because they clothe and equip themselves, and receive no pay except when called into service, certain privileges are proposed to be allowed to them which are not allowed to other soldiers. This he thought fair, as these volunteer corps would furnish an army in readiness for any emergency, and without expense until the emergency arrives.

But the gentleman from Massachusetts supposes that the admission of these corps will operate an injury to the militia, by taking from it

those young men who are best qualified to make good soldiers. This objection, Mr. D. said, was contrary to experience both in the militia and army, where volunteer corps have been admitted. Instead of injuring the militia, he believed it would be the means of transfusing a military ardor into them from seeing it exist in these corps, as they would be unwilling to be outdone in skill and discipline by the volunteer corps. It would not injure a good militia, and it might improve a bad one.

If there be militia volunteer corps, well disciplined and commanded, who choose to make an offer of their service to the President, they will be accepted, and when called into the field, they would be considered as in the service of the United States. But if there be other companies of militia who would wish to make an offer of their service, but who have no confidence in their officers, it would be proper that the President should give them other and better officers.

Mr. McDowell said, that the gentleman last up had observed, that to admit these men in the way proposed, would not be a violation of the Constitution, because they are volunteer corps. What was meant he did not clearly understand. He thought it was a violation of the express words, and more particularly of the spirit of the Constitution. It was declared expressly in the Constitution, that the officers of the militia should be appointed by the several States, and these men could not be considered any other than militia, until they were enlisted into the service of the United States.

Mr. McD. was certain, that drawing the active young men from the militia into these corps would have the bad effect which had been mentioned; besides, that it would break in upon brigades and divisions in a manner which would create great inconvenience, and destroy the good order of the militia.

Mr. Harper did not think it necessary to go into any lengthy arguments to refute the Constitutional objection which had been made. This rested upon a matter of fact, viz: whether these voluntary corps were to be considered as militia or regular troops. If they are militia, it is certain the President cannot appoint the officers; if they are regulars, he certainly can.

Mr. McDowell asked where the gentleman would show the enlistment?

The distinct property of militia is this, said Mr. Harper. They are obliged to perform military duty, while the service to be performed by these volunteers was an act of their own. These volunteers, then, are to be considered as regular troops. But the gentleman from North Carolina asked where he found the enlistment. It was true he did not find the word, but he found the thing. They offered their service to the President in numbers, and it made no difference in fact whether the offer of service was thus made, or individually. What is an enlistment? It is an engagement to perform military service for a limited time. This these volunteers would engage, and their making the engagement in a body would not be less effectual than if they were to do it individually. When soldiers are enlisted in the usual way, they receive bounty, clothes, and equipments, and immediate pay. These volunteers are to receive none of these, but only pay when in actual service, and therefore it is provided they shall not be called out of their own State, except to an adjoining State; that they shall choose their own officers, and that those officers shall be appointed by the President. And would any gentleman say that the United States have not a right to make a contract with men in this way? He believed they could not seriously say so. Will these volunteers be less soldiers on account of the different terms upon which they are engaged? Are they not to be subject to the same regulations and military command, and in all respects to be treated and looked upon as soldiers? Except that their officers will be appointed by themselves, and they are not to be marched beyond an adjoining State, they will be as much regular soldiers as the armies of France or Austria.

But the gentleman from Virginia (Mr. Harrison) said they could not be considered as a part of the Army, because they would remain citizens, and be included in the census. He was himself mistaken if regular troops were excluded from the census. He believed the soldier was as much a citizen as that gentleman or himself. Suppose the proposed army of 10,000 men were to be raised, would they not be entitled to all the rights of citizenship to which they would have been entitled had they not become soldiers? They certainly would.

As to the expediency of the measure, he should not go into many observations upon that subject. It was said that the raising of these corps would derange the militia; but gentlemen will recollect that this is only a temporary enlistment, and when the period of service is elapsed, these persons will go back into their ranks in the militia. The militia would be no more deranged, he believed, by the forming of these corps, than it will be by the raising of the provisional army. And will no benefit arise from the return of these men into the ranks of the militia? Yes, they will carry with them their military knowledge and experience, which would be transfused into the whole militia corps, and being well armed and accoutred, a spirit of emulation would be excited in the rest of the militia to become equally so. These men will also be well fitted to become officers and military instructors in the militia.

What benefit would accrue in the meantime? The country would have the advantage of a large body of troops, who would receive no pay except in time of service. And is not this an object worth obtaining? Will those gentlemen who are so loud in their complaints against expense object to the raising of a body of troops without expense? He could not conceive upon what ground they could do this; nor could he see why the United States should cast from them a voluntary service of this kind in the present time of danger. Such a conduct, he thought would be improper in every point of view.

Mr. Brent said, the present was a very important question, and as the usual hour of adjournment had arrived, he hoped the committee would rise and have leave to sit again.

Mr. Allen hoped not. He wished the question now to be taken.

The question on the committee's rising was put and carried—43 to 29.

Tuesday, May 15.

Mr. Harrison reported a bill for regulating the compensation of marshals, attorneys, jurors, and witnesses, which was twice read, and committed for Friday.

Mr. Harper reported a bill laying a direct tax on the United States, which was twice read, and committed for Monday.

Mr. Sewall reported a bill supplementary to, and to amend the act establishing an uniform rule of naturalization, and to repeal the act heretofore passed, which was twice read, and committed for Monday.

CAPTAIN MAGNIEN'S GRENADIERS.

Mr. Josiah Parker presented certain resolutions of Captain Magnien's company of grenadiers, at Portsmouth, Virginia, expressive of their opinion of Government measures, and of the present situation of things between this country and France.

The resolutions were read, as follows:

"At a meeting of Captain Bernard Magnien's company of grenadiers, at the muster ground on the Commons of Portsmouth, the 5th of May, 1798, the following proceedings took place:

"Whereas we venerate the 'Declaration of Rights made by the representatives of the good people of Virginia, assembled in full and free convention, on the 6th day of May, 1776, which rights do appertain to them and their posterity, as the basis and foundation of government;' and whereas it was declared by the said convention, among other things, 'that all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them:' Wherefore, in conformity with these rights, as expressed by the said declaration, we, as freemen and real citizens, think it a duty we owe to ourselves, our country, and posterity, to speak our sentiments on the present alarming crisis in our affairs, and accordingly we give it as our opinion—

"That we view with extreme concern the attempts that are evidently making by men high in authority, to widen the breach between the United States and the French Republic, by holding up to the good people of these States the late unworthy propositions of certain unauthorized persons at Paris, as the act of the French Government, when, in reality, the face of the despatches cannot warrant any such conclusions.

"That we cannot but view the man, or set of men, as inimical to the rights of the people, and the sound principle of self-government, who shall endeavor, by any false coloring, to give the stamp of authenticity to that which is in itself extremely doubtful and problematical; and who shall, by such means, strive to involve us all in the calamities of a war with the most powerful Republic on earth.

"That, without reference to our well founded complaints, or to occurrences fresh in the memory of us all, nothing can be more abhorrent to our feelings than the idea of being, by such a war, driven into an alliance with a nation which is at present unhappily under the guidance of the most foul and corrupt Government upon earth.

"That economy in the administration of a free Government is absolutely necessary to the safety and well being of the State, and therefore such establishments, as will surpass in point of expense the pecuniary resources of the country, must inevitably lead to the failure of public credit—to national bankruptcy, and, consequently, to the destruction of the Federal Government, than which nothing, in our opinion, could be more calamitous.

"That, as 'a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State,' we view every measure which leads to the establishment of standing armies, and expensive navies, as contrary to the spirit of a free Government, and by no means so well calculated to ward off foreign insult and invasion, as to invite domestic subjugation, slavery, and ruin.

"That the measures taken at the last session of Congress for the defence of our common country were wise and patriotic. Eighty thousand of our fellow-citizens and brethren of the militia being, in our judgment, fully competent to the defence of our country against any foreign nation whatever.

"That, in case of actual invasion from abroad, or of domestic insurrection at home, we hold it to be the duty of all good citizens and militia-men to rally round the standard of Government, and to defend our rights against all encroachments whatever; and therefore we pledge ourselves to appear armed and accoutred at any moment when our services shall (for the purposes above mentioned) be required.

"*Ordered*, That the foregoing proceedings be signed by Captain Bernard Magnien, and Lieutenant John Brookes, officers of the said grenadier company, and be forwarded to our Representative in Congress, with positive instructions for it to be laid by him before that body as the sense of the meeting.

BERNARD MAGNIEN, Capt.
JOHN BROOKES, Lieut."

On Mr. Parker's moving to refer these resolutions to the Committee of the Whole on the state of the Union,

Mr. Sitgreaves said, if he had heard these resolutions rightly, they contain a libel on the Government, which ought not to be referred.

Mr. J. Parker hoped these resolutions would have the usual reference, although there might be some expressions in them which may appear severe upon some of the measures of Government, as they wind up in terms which are very patriotic and worthy of attention, namely: that, if this country shall be invaded by any nation whatever, they would turn out in defence of it. He trusted they would have attention paid them.

Mr. Sitgreaves said, he did not mean to go into an argument on this subject, or to question the right of the people to address their sentiments to Congress; and, on all past occasions in which the right has appeared in some degree questionable, he had always voted for a reference rather than make an objection to it; but nothing, he believed, was more true, unquestionable as the right

of petition may be, than that it ought to be exercised with decency, and with some regard to truth.

He did not desire to go into an examination of the sentiments contained in the resolutions which had been read; but no man, he thought, could deny that they contain a libel the most unfounded, and that they are expressed in language the most indecent and unwarrantable; and, if the House wished to preserve the right of an expression of public sentiment, they ought to guard against the abuse of it. He hoped, therefore, they would not be referred.

Mr. Thatcher said, these resolutions contained a serious charge against some person or persons not named. If such person or persons has or have committed crimes against the nation, he or they ought to be punished; but it would not be right to give countenance to charges which might be applied to innocent persons.

Mr. J. Parker was extremely sorry that any opposition should be made to the reference of these proceedings. He did not think the language was stronger or more indecent than that of some other addresses which had been received by the House. The most severe part of it was against the British Government. He had, on a former occasion, heard the gentleman last up speak very improperly of the President of the Executive Directory of France, and he did not know why these people should not take a like liberty with the British Government, if they thought proper, though he acknowledged it was not right to give way to harsh expressions against any Government. He saw nothing in these proceedings which rendered them unfit to be examined. If the sentiments were not well founded—and he believed some of them were not—of course, they would have no weight; but as they concluded with saying they should at all times be ready to defend the country, he thought they ought not to be treated with disrespect. He knew the subscribers, and knew them to be worthy and patriotic citizens, and good officers.

Mr. Brooks could not agree with the gentleman from Virginia, that, because the latter part of these proceedings were patriotic, it ought to give currency to the other. If so, it would be impossible for any person to write a libel.

The gentleman from Virginia says he is acquainted with the subscribers, and that they are good officers. If so, they ought to have known how to couch their sentiments in a respectful manner. It was a little extraordinary that people should take this mode of traducing persons high in office. Every man must know who was meant. It was evident no other person could be meant than the President of the United States. If they think he has abused his trust in the way insinuated, why do they not come forward and impeach him? He could scarcely believe that such illiberal and scandalous abuse could proceed from any other than vicious dispositions.

Mr. Brent said, that all the gentlemen who have opposed the reference of this remonstrance have said that the subscribers, if they thought the President of the United States had acted improperly, ought to have come forward and impeached him. He had supposed these gentlemen had not been so little conversant with the Constitution as not to have known that the right of impeachment is confined solely to this House. He had conceived that addresses of this kind were intended to express the opinion of the people on great and important questions, and that objections were not to be made to them on the ground of form. He did not remember an instance of an address of this kind being refused a reference. He believed that, during the present session, addresses had been received fully as exceptionable as this; but it happened that those sentiments corresponded better with the opinions of certain gentlemen of this House, and they were not, therefore, objected to. He recollected that the House has been frequently told in these addresses of a French party in this country, who were ready to sacrifice it. Yet these were referred; but, because the present proceedings express opinions unfavorable to the conduct of the Administration, they are objected to. If this was the way in which addresses from the people were to be treated, the object of them would be entirely destroyed, since none would be admitted which did not flatter the conduct of a majority in this House.

Mr. Dana asked upon what principle addresses were referred? He supposed it was that they might be acted upon. The question was not whether the people had a right to send this address, but whether the House ought to refer it. What is stated in these proceedings? An accusation is brought forward against persons high in authority; it states the late despatches from France as having been improperly held up to view as the act of the French Directory—meaning, no doubt, to censure the conduct of the President for having sent them to Congress, and the Senate for having published them. And could this House make charges of this kind a basis upon which to found any resolution? Certainly not. It was not because these persons have expressed an opinion that public measures have been wrong, that their address is objected to, but because it contains charges of criminality.

Mr. Brooks called for the yeas and nays, which were agreed to be taken.

Mr. Macon hoped these proceedings would be referred. This was the first instance, he believed, where a reference was opposed of this kind. In the case of the British Treaty, addresses had been received on both sides of the question, couched in very strong terms indeed; but which, nevertheless, had always been referred. At a time like the present, when all (particularly those gentlemen who oppose the reference of this address) believe this country is in great danger, he should suppose it would be imprudent to reject an address from persons who are well attached to the Government, and who express a determination to defend it in every time of danger, merely on the ground of etiquette; for he was persuaded the subscribers neither intended to offend this House, nor the Government.

The part of the country in which these persons reside, is also a part in which their service may be required. Our Constitution guaranties the right of the people to address their sentiments to Government, without defining the manner in which they shall do it; and though this address might not be expressed in very respectful terms, it may, nevertheless, contain some truths worthy of consideration; and, if it were not referred, the addressers would undoubtedly say that the House were afraid of investigation.

Mr. Gallatin said, it appeared to him that gentlemen who opposed the reference of these proceedings do it upon the ground that a reference of a petition or address implies an approbation of its sentiments; for his part, he always looked upon a reference as a mere matter of form. It was true that, if a petition was worded in what was called indecent language, (about which, indeed, there might be some difference of opinion,) it might be good ground of objection; but the indecency must arise from the language itself, and not from any sentiments which it contains. He owned the language of this address was strong, and some of its assertions, perhaps, unfounded; yet he did not see that it was written in such a style as to warrant a refusal to refer it. But it was said that it would be improper to refer this paper, because it contains nothing upon which the House could act. Supposing this to be the true criterion by which to judge the propriety of a reference, which he did not allow, three-fourths of the matter in this address is such as might be acted upon. It reprobates navies and military establishments, and approbates the doctrine of the militia being the true defence of the country, and concludes with saying whatever may be their private opinions as to the past measures of Government, whenever an invasion or insurrection shall take place, they will be among the first to defend their country. Indeed, if petitions were objected to on account of the manner in which they were drawn, it would be necessary to send out a form of petition to the people, when upon any great question their opinion was wanted.

Mr. G. thought it would be much the best course to refer all these addresses, without a discussion, the only effect of which was to give them more consequence than they otherwise would have, and unnecessarily to obstruct public business.

But he would remark, that this was not the first time that addresses had been objected to by gentlemen, because the sentiments which they contained are disagreeable to them. Two instances of this kind had occurred during the present session. One of these was a petition against the arming of merchant vessels, from Cambridge, in Massachusetts, the reference of which was only carried by two votes; the other was a petition which he himself had presented, from forty-four gentlemen, members of the Pennsylvania Legislature, which was objected to, merely because the petitioners stated that they were members of that Legislature. The discussion was interrupted by a message, and he did not think it necessary to trouble the House again with the subject, and the address yet lay upon the table without being referred. But yesterday an address was presented by his colleague from the judges, grand jury, and sheriff, of the county of Bucks, containing different sentiments, which was committed without objection, though it was liable to the objection urged against the address which he presented, as it came from individuals stating their official characters, at the time they were doing an act which did not pertain to their office. He was himself in favor of the reference, because he did not think it objectionable that persons should describe themselves in this way. But it clearly proved that the object of many gentlemen on this floor was to encourage complimentary addresses, and to discourage petitions containing different sentiments.

If he had been a member of this company, Mr. G. said, he would not have drawn the address in the way in which it appears. If he had thought the opinions correct, his own ideas of propriety would have told him it was not right to have thus expressed them. As to the matter itself, he believed the most objectionable part is a mere matter of opinion. They say that the propositions made to our Commissioners in Paris, were made by persons unauthorized; and that authority has been given to what appears extremely doubtful and problematical. So far they may be mistaken, but they have a right to express their opinion. In the next place, they mention that they view with concern the attempts making by men high in authority to widen the breach between the United States and the French Republic, by imputing to the French Government the criminality of those unauthorized agents. He did not believe that this could be denied. The thing was true. He did not allude to the President of the United States, because he did not recollect that he had ever given such an opinion; but gentlemen on this floor have repeatedly spoken of the overtures made by those agents as coming from the French Government. Another objectionable expression is, "that they view the man, or set of men, as inimical to the rights of the people, and the sound principles of their self-government, who shall, by any false coloring, attempt to give the stamp of authenticity to what is doubtful." Although they had a right to hold their opinion, yet, he would agree that they had formed it without sufficient proof, and ought not, therefore, to have expressed it.

But there are opinions as injurious to some gentlemen of this House as this is to others, yet no opposition has ever been made to their reference. The people had a right to form what opinion they pleased of gentlemen on both sides of the House, and an expression of these opinions certainly could not be a good ground of objection against committing them. He recollected that, two years ago, there came a petition from a county in Virginia, which went to cast a direct censure on a vote of the House, with respect to the right which was then determined of appropriating, or refusing to appropriate, for the carrying into effect any

treaty; it was in fact a libel upon the vote of the House, as it said the measure was done with a view of encroaching upon the powers of the Executive, yet it was referred without objection; which was a clear proof that a commitment never, in the opinion of the House, implied an approbation of the petition referred.

Mr. G. recapitulated his reasons for wishing the address to be referred. He did not think error (supposing the subscribers are mistaken in their opinions) could be corrected by force—convince these men they are in the wrong; but truth is to be enforced by argument and not by a mere exercise of power, such as to refuse to commit or to throw under the table the petition, as such a measure could have no tendency but to inflame the minds of the petitioners, and to rivet them still more in what might be supposed to be their erroneous opinions.

Mr. Sewall said, it was a very difficult thing to restrict the right of petitioning; but it was very evident that some restriction ought to be put upon it, if possible. He believed there might be petitions so offensive in their manner and matter, as not to be suffered to have a public reading; there might be others which, on being read, should be found unfit to be referred. Of the latter kind he thought the present. Certain persons, it seems, have associated for the purpose of military exercise, and have thought proper to express their very extraordinary sentiments to Congress. Whether these sentiments were founded or unfounded, he would not inquire, but only whether they were decently expressed. He admitted the right which these people had to exercise their opinions upon all Government measures, and that they might, therefore, say whether they thought the agents who conversed with our Commissioners were authorized or not. But do these proceedings go no further? Have they the right to say that Government have neglected their duty? to say that they have wilfully and designedly blinded the people, contrary to the interests of the community, by falsely and wantonly perverting the despatches of our Envoys, for the purpose of producing a war with the French Republic? And are these subjects not only to be heard, but acted upon, as if they were proper subjects for their consideration and future debate? The very suggestion ought, in his opinion, to have excited an indignation which would immediately have rejected such a paper. He was astonished to hear the gentleman from Pennsylvania, though he acknowledged the impropriety of the thing, go into arguments in favor of referring it; that he should say we ought to convince them of their error. He (Mr. S.) believed, if they themselves could see it, it would scarcely be proper for the House to enter into an argument with them on the subject. If the charges in this paper are founded, they lie against this House, as much as any other branch of the Government, for concurring in the publication of the late despatches; therefore, this House held out false colors, according to these people, as well as the other branches of the Government. He would, at once, reject such an address; he would say to the subscribers "take back your suggestions, they are altogether groundless."

Mr. Otis said, if he could consider the paper before the House as barely expressive of approbation or disapprobation of public measures, he should be in favor of referring it as is usual, though contrary to his opinion, he certainly would not object to it on that account. But it appeared to him not only expressive of an opinion, but a direct censure and calumny on the whole Government, and upon our Commissioners at Paris. Who is the person high in office that they charge with giving a false color to the late despatches? Did they allude to the President? He did not recollect any sentiment of his respecting them. After being asked for the papers, he sent them. If there was any blame imputable for the publication of them, it lay against the other branches of the Government more than against him. But there were other sentiments still more illiberal. He wished to know who held up these despatches as acts of the French Government? Was it not those men who have left their families and home, and exposed themselves to the hazards of an arduous and dangerous mission; who may, perhaps at this moment, be imprisoned for making them known, or who may even be put to death for their conduct in this respect? And was it right to receive charges against their Commissioners? Was this the reward they were entitled to? He thought not.

The gentleman from Pennsylvania says that to refer this petition will not be to give any approbation to its contents; but he (Mr. O.) wished the House to show its disapprobation of it. An address like this would give the French an apology for denying that they knew anything of the communications held with our Ministers, and which they would be afraid to do, if the thing was not asserted on this side of the water. It was in this view, principally, that he objected to the receiving of the address.

Mr. O. said he did not mean to follow the arguments of the gentlemen from Pennsylvania and Virginia, who say it is not customary to refuse a reference to petitions. Though this had not hitherto been the case, at no other time had we been so critically circumstanced; at no time could a factious and seditious spirit have been so inimical to the happiness of the country as at present. But gentlemen are not willing to disgrace these men by refusing their address a reference. There was no occasion for this. He saw with grief that the solvent of sedition had taken possession of the hearts of these addressers, and alienated their affections from their Government. But though these are the sentiments of a militia company, they are not the sentiments of the militia of the United States. If the militia of the Southern country possessed sentiments of this kind, it would be a stronger argument than any other for the establishment of a regular force to protect it.

Mr. Harper believed the sentiments contained in this address to be very erroneous, and very improperly expressed; nor did he think, out of respect for the addressers, whether they were a

company of grenadiers, or forty members of the Legislature of Pennsylvania, when they undertake to lecture the Government on account of measures which have been adopted, and to tell the world that they will produce nothing but calamity, their address ought to be referred on that account, yet he was in favor of referring the present proceedings; and the reason was, he saw that if this course was taken it would lead to endless broils in the House. He conceived that in the present important crisis, the people will present their sentiments to Congress, and those sentiments will be various, and some of them improperly expressed. In the case of the British Treaty, a multitude of addresses were received; and if, whenever an address could be objected to on account of its being couched in disrespectful terms, or because the sentiments are objectionable, there would be no end of discussions of this kind, and the public business would be greatly retarded. He admonished gentlemen to show their attachment to their country, rather by providing measures for its defence, than by disputing about referring a petition; except, indeed, it were of such a nature as to call for a motion of censure against its authors; but in all other cases it would be best either to receive all, or reject all the addresses that come. He should be content to have none of them. He did not want the addresses of his constituents to say whether he had done right or wrong; he was willing they should decide that at his election. He should have no objection to pass a motion declaring that no address of this kind should be received. He was desirous of sending these proceedings to sleep among others where they would soon be forgotten; but, by investigations of this kind, an improper consequence was given to things of no importance in themselves.

Mr. Sitgreaves said as he supposed that, in common with other members, the gentleman from South Carolina extended his admonition to him, he should express his obligation for it; but he believed it would have been well if he had attended to it a little himself; for, however frivolous he deemed the present opposition, he seemed determined, according to custom, to have his share of the debate. Those who say the opposition to this reference arises from the sentiments which these proceedings contain, either misunderstand what has been said, or egregiously misstate it. He needed not to have been told by his colleague that the reference of a petition did not go to an approbation of its sentiments; but it had been expressly said that the objections to this address did not go to the sentiments of it, but to the manner in which those sentiments are expressed. Nobody would have objected to the reference if these gentlemen had, in moderate terms, stated that the tendency of certain measures was to widen the breach between this country and the French Republic; but when they say this is not only the tendency, but that it is the design and object of certain persons to involve the country in war, such insinuations ought to be rejected as base and abominably indecent. Mr. S. quoted the most objectionable parts of the address, in support of what he had said. And shall we be told, said Mr. S., that the dignity of the Legislature is not concerned in repelling this language? Can the gentleman from South Carolina really think this discussion unimportant, and that the Legislature is frivolously employed in repelling such language? In his mind, the rejection of such an address was consistent with sound policy, good sense, and propriety.

Mr. Edmond said, he should be one of the last who would wish to abridge the right of petitioning; but, at the same time that he would preserve to the people that right, he should think it necessary to observe certain rules respecting it. In forming those rules, Congress must either agree to receive every petition, or establish a criterion by which to determine when a petition shall be received, and when it shall not. How, said he, do the courts of law act in this respect? Every man has a right to apply there, and to state his ground of complaint; but if he deviates from the subject-matter of his complaint, in order to slander the court, they would certainly immediately dismiss such an application. He concluded that this House would adopt a similar rule; but if they went further, and said that if two-thirds of a petition be just and right, and the other third slanderous and abusive, the latter shall be overlooked for the sake of the former, would it not follow that men who wish to abuse the Government, would take this course of doing it? They certainly would. If all petitions, however expressed, were to be received, what would be the consequence? It would be the same as to say, every man may abuse the Government in as gross terms as he pleased, by way of petition or remonstrance, and it would not be refused by Congress; and the consequence would be that their table would be covered with libels and sedition. He believed the proper rule would be, that whenever petitions are expressed in decent language, they ought to be referred; but whenever they contain anything slanderous or seditious, he would not refer them.

But the gentleman from South Carolina says a great deal of time would be taken up in discussing the propriety or impropriety of receiving petitions, and therefore Congress ought to come to a resolution to receive all, or none. If gentlemen are disposed to lengthen out debates of this kind, they may certainly do so; but he saw no necessity for it. He should think the simple reading of a petition was sufficient for members to form an opinion upon it. He saw no better course which could be taken.

Mr. Rutledge believed that in refusing to commit the resolutions of the Virginia *peace* grenadiers, the House would have nothing to apprehend from the precedent their refusal would establish; for it was his good fortune to believe there does not exist, in the United States, another set of men who would express to Congress their sentiments in such disrespectful terms—their sentiments were not only indecent, but expressed in the most disrespectful manner. The grenadiers of Portsmouth, not content with expressing their opinion of our attempts to negotiate with France,

for which purpose they had assembled, had taken a review of all the recent public measures, and wishing to inflame the public mind against them, had condemned them in mass, and conducted themselves with the most studied indecency. He said studied indecency, because they had not forwarded their indecent memorial with a request to their Representative to lay it before Congress, but had resolved that he should have *positive orders* to do so. Knowing how sensible he would be of their improper conduct [Mr. Parker wished the Speaker to read the words of the instructions; they were "that they be forwarded to our Representative to be laid before Congress"] Mr. R. was glad to find that these gentlemen had, upon reflection, corrected their style; he had read an account in the Norfolk paper of their proceedings, and in that their Representative was *ordered*, as he had mentioned. These persons, however, had some reason for distrusting their Representative, for he had uniformly voted for some of those measures which they had anathematized as calculated to ruin the country, and destroy the liberties of its citizens. He had voted for having a navy; he had voted for the augumentation of our Military Establishment; and these persons tell us "that an army and a navy are contrary to the spirit of a free Government, and calculated less to ward off foreign insults, than to produce domestic subjugation:" not content with reminding us, as they modestly have, that we are the servants of the people, they have seized this occasion of charging us with the intention of bringing about domestic subjugation.

But the gentleman from Pennsylvania says, if this be their opinion, the people have a right to express it. It is true, Mr. R. said, that any man has a right to send another an indecent letter; but the person to whom it is addressed has also the right to say whether he will receive it or not. These gentlemen might have said our Commissioners were scoundrels; they had a right to say so, by the reasoning of the gentleman from Pennsylvania, but it certainly would not be proper for Congress to give such a paper a reference. It was not an extreme case to suppose the Virginia grenadiers thought our Envoys scoundrels, for there were many, of their way of thinking on political subjects, who regarded the despatches as a fabrication of the Envoys and the Executive, contrived for the purpose of involving us in a war with France, and he had been told that half the people of this city believed the Executive had practised this deception. Whatever right people may have to hold and express these opinions, he thought if they were sent to Congress they ought not to be countenanced by a reference.

But gentlemen say, addresses approving of the conduct of the Executive and the Government are received without objection, whilst those with contrary sentiments are frequently objected against. This was not the case; if gentlemen would recollect the proceedings of yesterday, the day before, and of every day for twenty or thirty days past, they would see that this charge was not founded. What was the nature of the first addresses which were sent to Congress on the subject of our present situation? It would be recollected they all opposed arming our vessels, and deprecated the measure as leading to war. They were, however, expressed in decent terms, and though in opposition to the opinions of a majority of this House, they were received without objection. One of these petitions from the Eastward, presented by the gentleman who sits behind him, (Mr. Varnum,) was objected to by the gentleman from Connecticut, he conceiving, on hearing it read, that it contained some improper expressions, and he did not wish to deny it a reference, but merely requested it might lie on the table for a day; it was, however, immediately committed. Mr. R. knew that the people had a right to petition, and that it was the duty of Congress to attend to their representations; but he also knew that it was the duty of Congress to respect themselves so far as to require these petitions to be expressed in decent terms. What, said Mr. R., will be the effect in Europe of receiving petitions like the present? What will the French Executive (a body in which every species of corruption is personified) say to it? They will not only deny the truth of what our Commissioners have related, but they will say to the people of France, they will say to the people of Europe, "even in America this calumny is not believed." The conversations of Talleyrand, X, Y, and Z, as reported by our Commissioners, they will say is a mere contrivance, the production of the Anglo, Monarchico, Aristocratico faction in America. They will say this, and corroborate it by referring to some of the speeches in Congress, and the petition on the table, in which the French agents are called unauthorized persons, and their villany spoken of, not with contempt and abhorrence, but with ridicule. This would be giving to Citizen Talleyrand and his associates the best justification they can offer for themselves. Mr. R. hoped, therefore, the resolutions would not be referred.

Mr. J. Parker had not the least doubt that the censure contained in these proceedings was levelled as much against him as any branch of the Government, as he did not believe the subscribers had latterly approved of his conduct, on account of his having voted in favor of some establishments which they condemn. He was farther led to suppose this from the proceedings having been sent to him under a blank cover. Mr. P. again urged the propriety of referring this paper. Much had been said about the indelicacy of expression used in this address; it was his opinion that a memorial which he held in his hand from Falmouth, in Massachusetts, which was some days ago received without opposition, was equally objectionable in this respect. Mr. P. read an extract from it, in which the addressers say, that "they behold with disapprobation and surprise the Message of the President, which says, that he has taken off the restriction, which they think was laid in wisdom by the late President, for preventing the arming of merchant vessels, and which they think now more necessary than when it was at first laid."

Mr. Thatcher was opposed to a reference of this address. He acknowledged the right which the people had to petition; but went into some lengthy observations to prove that their Representatives had not given up all their rights by accepting a seat in Congress, and that it was not right for them to sit to be insulted, without showing a disapprobation of the insult.

Mr. Brent said, it had been admitted by the gentleman from Pennsylvania, (Mr. Sitgreaves,) that if the subject-matter of the address before the House had been decently expressed, no objection would have been made to it on account of the opinions which it contained; other gentlemen, however, had thought it was a libel on the Government, and ought not on that account to be admitted.

Mr. B. went through the different parts of the address, and said he saw no way in which the opinions contained in it could have been expressed in language less objectionable than that in which they appeared.

But it was said by the gentleman from South Carolina, (Mr. Rutledge,) and by others, that this address was a libel on Government. He saw nothing of the kind in it. Could not there be persons high in authority, but such as were in the administration of the Federal Government? Neither the Government nor the Administration are mentioned; nor could any one say whether, by persons high in authority, they meant to refer to the Executive or to members of the Legislature. It might even allude to persons in the Judicial, or some other department of Government. But admitting that these persons meant to say that any branch of this Government had endeavored to give a false coloring to the late despatches, and by that means to involve us in war—if this was their opinion, they have the same right to express it that others have to pass their eulogiums on the conduct of the President—it is a right which is guarantied to them by the Constitution, and of which they cannot therefore be deprived.

But it had been said that this address reflected upon the conduct of our Commissioners—men whom we are told may, at this moment, have become victims of their patriotism. Here gentlemen suffered their zeal to carry them beyond the truth, as not a word can be found in this address which has the least reference to our Commissioners. What was said respecting the despatches, had no connexion with the Envoys themselves. Mr. B. thought the rule laid down by the gentleman from South Carolina was a proper one; he believed the House ought to receive all petitions, except extremely indecent and improper, or none. He trusted he had shown that, independent of the matter, there was nothing exceptionable in this address, and he hoped, therefore, no further objection would be made to its reference.

Mr. Hartley was opposed to the reference of this petition. He thought it a novel proceeding for a company of grenadiers to meet at 400 miles distance, and the captain and lieutenant should send on an address reprobating the measures of Government. He was opposed to the reference of the address from the members of the Legislature of this State, when it was presented, because he did not desire to give countenance to persons who wished to show their dissatisfaction with the measures of our own Government, and an attachment to the French. Indeed, such is the change of opinion which has taken place in this country on this subject, that one of the members who signed that address has signed another from Bucks county approbatory of the measures of the Executive. It was nothing uncommon to let petitions lie upon the table, and he hoped this address would have the same fate with that from the members of the Pennsylvania Legislature.

Mr. Dana was unwilling to take any part in this debate, and would not have done it, but for what had fallen from the gentleman from Pennsylvania, (Mr. Gallatin.) He had reprobated the opposition made to this reference as arising from an opposition to opinion, and adduced two instances to support his assertion; the one a memorial from members of the Pennsylvania Legislature, the other of an address from Massachusetts. The first he recollected his colleague objected to on the ground of the persons having addressed the House in their Legislative character; but no question was ever taken upon it. With respect to the address from Massachusetts, on hearing it read, he himself expressed an opinion that it was written in improper language, and requested it might lie upon the table till next day; but the question was immediately taken upon it for a reference, and carried. He afterwards examined the address, and found that if he had heard it distinctly he should not have opposed the reference, though he disapproved of its sentiments. But the gentleman from Pennsylvania says Congress is undertaking to force these petitioners to give up an opinion. It was astonishing that men who know the use of language should so distort the meaning of words. When the House says it will not take this address into consideration; that they will not examine a libel upon themselves, nor be the vehicle of their own calumny, was this using force? This address, Mr. D. said, does not speak of the general tendency of measures, but charges men high in authority with faithlessness, with putting false constructions upon despatches for the purpose of involving the country in war with France, and in order to produce an alliance with Great Britain. Language has no meaning, if this be not the purport of this address; and were the House to sit and determine whether these charges are true or false? Where is the man who wants testimony on this head? Which of us, said he, wants testimony to prove himself a traitor, or otherwise? Yet this is insinuated to be a duty. Let those who choose it, deliberate on such matter; he himself could not consent to it.

Mr. R. Williams wondered that the gentleman from Pennsylvania (Mr. Sitgreaves) should have thought it necessary to press a discussion of this kind upon the House at this late period of the session. As the memorial from Massachusetts, an extract of which they had heard read, had been referred, he could see no reason why this should

not be referred. All the difference he saw between them was, that this deals in general terms, and that from Massachusetts expressly charges the President with improper conduct. It is true this goes on to pass a libel upon the British Government, while that from Massachusetts does not. Why, then, are not both treated alike? Does the circumstance of one being from an Eastern, and the other from a Southern State, make any difference? Gentlemen ought to consider, especially those who talk so much about the people being united, and rallying round the standard of Government, what this led to. Did it tend to produce that unanimity which all must wish to see? No, it tended to widen the breach, and to show to people in one part of the country that they were not to be treated in the same way with others. If citizens were to be at liberty to address the House in one way, they must equally be at liberty to address them in a different way; and yet the objections to the present address must be to the sentiments which it contains, for he was of opinion, with the gentleman from Virginia, (Mr. Brent,) that citizens could not use language more proper to convey the same sentiments. This opposition went to show that addresses might be expressed in as strong terms as could be used, if on the right side; but, if not on that side, the petitioners must be very cautious indeed in the choice of their words.

Mr. W. could not help remarking upon what was said on the subject of party. Party, he said, was created in that House, where it ought to be checked. The citizens of this country are not so divided as gentlemen suppose. Here it is first started, and he was persuaded that the people of this country look with astonishment at the divisions which take place here, and of what was said about their being divided. He did not see how gentlemen could apply what was said in the memorial, of persons high in office, to any particular members of this House, or to any particular persons in the Government. There was no way of doing it but by conjecture. There may be men high in office under the State Governments, who are the persons alluded to. At any rate it was wrong where more than one construction could be put upon a paper of this kind, to put that upon it which would operate most unfavorably upon the subscribers.

Mr. W. concluded with saying he did not approve of all the sentiments contained in the address; but, as he had before said, he did not know how the same sentiments could have been expressed better. His feelings had been frequently hurt by sentiments sent to this House in addresses, but as he believed to attempt to remedy the evil would introduce a greater, he was content to let the business stand as it does. He hoped the address would be referred.

Mr. Brooks said that, notwithstanding a great deal of time had been expended on this subject, he must beg to add a few words. Gentlemen in favor of this motion seemed not to distinguish properly between the expressions in this address and others. A parallel had been drawn between this address and one from Massachusetts. Mr. B. showed wherein they essentially differed.

Much had been said about a loss of time. This, he said, was a stale argument. If this address was suffered to be referred, nothing could be so gross and scandalous but it might be received. He did not expect, above all other members, that the gentleman from South Carolina (Mr. Harper) would have complained of a waste of time. That gentleman, heretofore so sensibly alive to character, had to-day astonished him.

Mr. B. ridiculed the idea that by persons high in office, could be meant any persons in the State Governments, or in the Judiciary. It was written so plain, he said, "that he who runs may read." It was clear that these addressers mean to cast a censure upon the Executive, our Commissioners, and both Houses of the Legislature, in respect to the despatches alluded to.

Mr. Gallatin proceeded to notice the objections which had been made to a reference of this address. His colleague (Mr. Sitgreaves) said it was misrepresentation to say that gentlemen were opposed to the reference of this address on the ground of its advocating opinions in opposition to those which they entertained, as it was merely on account of the indecency of its language; and, in order to show the indecency of language of which he spoke, he laid his arguments against the subject-matter of the address. Another gentleman objected against it because it asks for nothing. He believed it asked for much the same as all the addresses which were daily received, containing pledges of lives, fortunes, &c., in support of Government. The gentleman from Connecticut objected to a reference because it was seditious, slanderous, and calculated to disturb the Government. He did not know what was the precise meaning of these words, and he believed not two gentlemen on this floor could agree as to their application to any special case. A gentleman from South Carolina (Mr. Rutledge) objects to the reference because the address casts blame upon our Commissioners, and may involve them in difficulty. He did not believe there was anything in the proceedings in question which could be supposed to have relation to our Commissioners. No idea of the despatches having been fabricated was to be found in that address. The only idea on this subject was a doubt whether the conversations of X, Y, and Z, were authorized by the French Government; but not a word was said on the authenticity of the despatches, or of the conduct of our Commissioners. On the contrary, they say they draw their conclusions from the face of the despatches themselves. Other gentlemen lay their stress of objection against the address, because it arraigns the motives of Government. All agreed that it ought not to be referred, but gentlemen gave so many, so different, so contradictory, reasons for their opinion, that it was impossible for themselves to define what kind of petitions they would permit, and what they would object to.

But of all the reasons which he had heard assigned against the reference, the one given by the

gentleman from Massachusetts (Mr. Otis) was the most singular. It was that, if this address was referred, it might confirm an idea that we are of opinion that a great part of the conversation held with our Commissioners by X, Y, and Z, were not authorized by the French Government. And if this should be the case, what does that gentleman suppose will be the result? The great danger to be apprehended from this is, that the Executive Directory will disavow the conduct of its agents. As to himself he should not consider such a disavowal as a misfortune. He wished they might dismiss their Ministers as corrupt, and prove themselves not to be so. It was very immaterial to this country whether the Directory were corrupt or not, whether they were implicated in X and Y's business or not; but it is of great consequence to preserve peace, and therefore very important that they should disavow all those proceedings. He hardly could have believed that any gentleman should have thought it a misfortune to this country, that the French Government should say they do not want money from us, but that they are ready to treat upon reasonable terms, unless, indeed, they conceived an accommodation with France to be an unfavorable event. But, he believed, nothing that Congress could do now could produce any such effect, as, before they could learn what was now done, they would be informed of the publication of the despatches. He hoped the proceedings of these agents would be disavowed. If he were to express an opinion upon the subject, he would say, that he did not believe the proposition respecting a loan of money would be disavowed; but, he believed, the Directory would disavow all that related to *douceurs*. But if any means which Congress could take would lead them to disavow the whole, if to refer this petition could contribute to produce that effect, it would, with him, and he trusted with the House, be an additional reason to vote in favor of the reference.

Mr. Rutledge wished to add a few words, with respect to the document from the State of Massachusetts, which had been introduced by the gentleman from North Carolina, as equally indecent with the proceedings whose reference was now objected against. When the gentleman read it, he saw nothing in it analogous to the present case. He therefore supposed the gentleman had omitted the part which was in point, and he had himself recourse to the paper. This address, it is true, calls in question the propriety of an order of the Executive; but there was no impeachment of his integrity, and it could not be said that it was indecent or improper to disapprove of any act of the Executive. There was nothing, therefore, to justify the comparison, since the Massachusetts address merely says, that the addressers looked upon the order to restrict the arming of merchant vessels as a wise measure, and the repeal of that order as unwise. But the proceedings now before the House, charge the Government with duplicity; with having given a false coloring to the late despatches of our Envoys. And why are they said to have done this? In order to widen the breach between this Government and the French Republic. They say that persons high in authority have done this. But the gentleman from North Carolina says, they have named no person. But had men a right to send abroad such abuse as this, where every one must know who is meant, as well as if the charge was direct? Certainly they had not.

Mr. R. said, if it could be shown that anything equally indecent with this was ever received by the House, he would not object to the referring of this paper; but, until this was done, he must persist in objecting to receive what appeared to him to be drawn up with a studied contempt for Government.

A loud call for the question.

Mr. Allen said, he would just state, before the question was taken, that the reason which led him to object to a reference of the memorial of the members of the Legislature of Pennsylvania on a former occasion was, because it purported to come from members of a Legislature, though it was signed by them after the session was broken up.

Mr. Gallatin said, the gentleman was wholly mistaken, for the memorial was signed whilst the House was in session.

The question for referring the proceedings was then taken, and decided in the affirmative—yeas 46, nays 43, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William C. C. Claiborne, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, Tompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Wednesday, May 16.

On motion of Mr. Sewall, an additional member was added to the Committee for the Protection of Commerce and the Defence of the Country, in place of Mr. Pinckney.

ALIENS.

Mr. Sewall said, the Committee for the Protection of Commerce and Defence of the Country, to whom it was referred to inquire into what measures would be proper to be taken respecting aliens, were of opinion their instructions did not go to a sufficient extent, and directed him to propose to the House the following resolution for adoption:

"*Resolved*, That the committee on that part of the President's Speech which relates to commerce and the defence of the country, be authorized to consider the danger which may result by means of aliens and other disaffected or seditious persons residing within the United States, and what measures ought to be taken for securing, removing, or otherwise restricting such persons, and to report by bill or otherwise."

Ordered to lie on the table.

PROVISIONAL ARMY.

The House having again resolved itself into a Committee of the Whole on the state of the Union, on the bill to raise a provisional army; and the question for striking out the third section being resumed,

Mr. Gallatin said, this section contemplated giving to the President the power of admitting men into military service, under the name of volunteer corps, who are liable to be called upon to do military duty at any time which the President shall think proper, after they shall have offered, and he has accepted of their service. Upon the first consideration of this section, an objection was made, on Constitutional ground, to this mode of raising soldiers, supposing they were to be considered as militia. To this it was answered, that these volunteers were not to be considered as militia, but as making a part of the Army of the United States.

It appeared to him difficult precisely to delineate and define what kind of corps this is to be. In some respects it will be similar to the militia; in some respects to the regular Army of the United States, and again distinguishable from both. They are, in some degree, similar to the militia, inasmuch as they are to remain at home, except upon special calls of the President to do duty. The volunteers, when called into actual service, and whilst remaining in it, are to be under the same rules, and entitled to the same pay and emoluments as the other troops. The militia are, like these volunteers, subject to the same rules and regulations, and to the same pay and emoluments with the Army of the United States; and, like these volunteers, when not called into service, are not subject to the rules and regulations of the Army, nor entitled to their pay and emoluments. In these particulars, therefore, this corps very much resembles the militia.

In other respects, these volunteers very much resemble the Army of the United States; inasmuch as they are to be enlisted (not properly so by name, but in a way equally effectual, by giving their consent to serve,) they are also to be considered as making part of the Army, though remaining at home; they are, also, like the Army, inasmuch as their officers are not appointed by themselves, or by the individual States, as in the militia, but by the President of the United States; and, inasmuch, that they will be obliged to do duty for the whole two years, if required, whilst the militia do duty by rotation, according to regulations provided for the purpose. Seeing, therefore, that these volunteers are, in some respects, like the militia, and in others, like the regulars, it was not to be wondered at that a Constitutional objection should have arisen. The Constitution does not recognise more than two descriptions of troops, viz: army and militia. The army proposed to be raised by means of these volunteers is of a kind not known in the Constitution, but seems to be of a description about half way between a regular standing army and a militia. If the principle proposed to be adopted in this section be admitted, the consequence may be, that all the regulations provided in the Constitution for securing a good militia may be evaded, and the whole of the militia be turned into a kind of Public Standing Army. For, supposing that the regulations for the government of these volunteers are more favorable in their effects than those provided for the militia, and it is more advantageous to a man to belong to a volunteer corps than to the militia, citizens would generally leave the militia, and arrange themselves under the head of volunteers. It is true, there are some provisions in this section which may have a tendency to prevent this; but, on the other hand, there are some provisions which would encourage them to do it. For instance, the clause which directs that these volunteers shall only be employed in their own, or an adjoining State, is an advantage, as the militia, whilst in service, can be called anywhere, as ordinary regular troops. The objections, therefore, against raising volunteers are, that it will have a tendency to destroy the militia, and convert the whole of it into an army, thereby transferring the power of appointing the officers from the individual States to the President of the United States.

Waiving, however, the Constitutional objection, he would make a few remarks on the expediency of the measure. It appeared to him, on the one hand, that the advantages contemplated by this clause, will not be obtained, and on the other, that great inconveniencies would arise from carrying it into effect; he believed, also, the advantages might be obtained without having recourse to this provision. If the real intention of the bill is only to induce a number of young men to make a tender of their services as volunteers for the defence of the United States, he believed the provisions already existing in the militia law are sufficient to effect the object. By that law it is provided that a certain number of volunteer corps may be attached to each battalion of the militia; and if a number of young men wish to make a voluntary tender of their service, he saw no difficulty in their doing it as a part of the militia of the United States. As far as respects the State

of Pennsylvania, several of the battalions, which are entitled by law to have light infantry or riflemen attached to them, have them not at present. And he believed scarcely any of the light infantry volunteer corps, or troops of horse of this city, have got their full complement of men; there could be no difficulty, therefore, in young men making themselves volunteers, either by establishing new corps of militia or by joining such as are at present on foot. How far the deficiency in respect to these voluntary corps might exist in other parts of the Union, he could not say; but he recollected that the gentleman from South Carolina, (Mr. Harper,) when speaking on a subject in some degree connected with this, had said that, though there appeared to be many troops of horse to the Southward, they rather existed on paper than otherwise. He supposed, therefore, that there was a good opening for volunteer young men in that quarter. Besides, the law of last session ordering a detachment of 80,000 militia, provides that the President shall have the power of accepting of any volunteer corps of militia who shall offer their service. He did not see, therefore, any advantage to be derived to the defence of the country, by means of this clause, which could not be obtained by means of the laws already existing.

The committee were told, the other day, that, by virtue of this bill, a number of volunteer corps would be raised, who would associate themselves for the purpose of learning the military art, which would be of great service to the Union. He saw nothing of this sort in this bill which was not common to all the militia. It would, therefore, be a matter of choice, and it was the same with all those companies of militia of which he had spoken, the light infantry companies, and troops of horse belonging to the militia having uniformly taken more pains than the other companies of the militia to make themselves masters of the military discipline. It was said also, at the same time, that these corps were to nominate their own officers, and that they would receive their commissions from the President. He did not understand this from the bill; it contains no provision of the kind, and if it did such provision would be unconstitutional. The bill says, the officers of these volunteer corps shall be appointed by the President, and the Constitution directs that the President or heads of department shall appoint all officers whose appointment is not otherwise provided by the Constitution. If these young men were to enrol themselves as a part of the militia, they would then in the State of Pennsylvania have the choice of their own officers by law, but according to the proposed establishment, they cannot do this. They may recommend a person as an officer, but this could not be called a nomination of an officer.

But he believed serious objections might be found to this provision on the ground of expediency. What is to be the organization of these corps? They are to be distinct from the militia. It is not proposed that they should individually enlist, but form themselves into associations, which would be literally military associations, and military associations to last for two years. To consist of whom? Of those persons, who, from their situation in life, are able to arm, clothe, and equip themselves at their own expense. It was, therefore, an exclusive privilege to a certain class of men (young merchants, lawyers, and others,) who are possessed of more wealth than their poorer neighbors, to form a military association. And for what purpose? They are liable to be called out to do military duty in any manner that the President may think proper. They are to be altogether at his disposition. Here, then, is an association of men authorized by law, a military association, and when thus organized, to be put within the power of the President of the United States, to be called into action, whenever he pleases; for there is no limitation in this clause, as in the case of the provisional army, that those men shall be called into service in case of war, invasion, or imminent danger of invasion; but the President may accept of their services at any time. There is no limitation, except that which is upon the duration of the law. The President is also to accept whom, and reject whom he pleases. So that if there be evils to be apprehended from the existence of a standing army, if there was at any time ground of alarm from establishments of this kind endangering the existence of public liberty, it would be impossible to form a standing army more dangerous than this. Here are men who, in the first place, are to associate themselves, not here and there, nor taken indiscriminately, but men of a peculiar cast, who are to associate themselves under the President, and to be called upon to do duty by him. It need not be said that no danger is to be apprehended from the President's abusing this power; and that we ought to have no confidence in him; for, if a majority of this House are ready to say that no danger is to be apprehended from establishments of this kind, and that standing armies are never abused—who have discarded all those principles favorable to liberty which heretofore actuated the councils of this country—no arguments which he could make use of would have any effect upon their minds. But he took it for granted that standing armies were considered as a dangerous weapon, and ought to be guarded against. It was from this conviction, that he thought it unnecessary to say anything on the danger of encouraging these establishments; and if that principle was admitted, he would say that the army now proposed, would be a standing army of the worst kind, as the men are to cost nothing, except when in service, and they are unlimited in their number. He knew it was not in our power (our revenues not being sufficient for it) to raise a standing army in the ordinary way, large enough to prove dangerous to the liberties of the country; but the manner in which this force is proposed to be raised, removes the great security which we otherwise should have from our inability to pay a large standing army.

Nor could Mr. G. believe that the advantages which gentlemen promised themselves would result to the defence of the country from the service of these young men. For, who are the men who

are to form these corps? They are men who can afford to arm, clothe, and equip themselves; and could it be expected, Mr. G. asked, that young men, in the situation in life which these young men must be in, would wish to enlist themselves as private soldiers for two years? He should suppose not. These young men would be most likely to repel any sudden invasion; would be active and serviceable to take a tour of duty for three or six months, in common with their fellow-citizens of the militia; but it is not consistent with the principles of human nature to suppose that young men of this description who have other pursuits in view, and who wish to establish themselves in business, would be willing to lay aside all for the business of a soldier. For a case of emergency, or as officers, he should suppose them willing to engage in the service, but not as common soldiers.

Mr. G. did not believe, therefore, that the service which these young men expected to be called upon to perform was a military service of two years. He believed few of them would be willing to enter, if they thought they were the next day liable to be called upon to perform two years service as private soldiers, though they might be ready to take their full share, or more, of military duty.

Upon the whole, Mr. G. said, it appeared to him that this section contemplated the erection of a standing military force of the very worst kind, to consist of young men not regulated by law, but by association. In short, it was, in his idea, a plan to arm one description of men exclusively of others, and give them to the President of the United States, to be used as he pleased; and what security had they that they would not be used for dangerous purposes? If he was mistaken in his construction of this bill, he wished to be rectified; but, with his present impressions, he must hope the section would be struck out.

Mr. Sitgreaves believed that much time would not be necessary to show that the arguments of his colleague are not only fallacious, when separately considered, but that they are at war with each other. At one time he raises Constitutional doubts, and justifies them on the presumption that these volunteer corps are to be considered as *militia;* and in another part of his argument he considers them as dangerous, because they will form a *standing army*, and a standing army of the worst kind. Thus, changing his principles to suit his purpose, he finds it equally easy to prove them one thing, or the other, or both, or neither. To arguments, such as these, it is sufficient to answer, that, if the volunteers are militia, the considerations of danger and inexpediency do not apply to them; and if they are a standing army, the Constitutional doubt must be at an end.

It was in this way that the arguments of his colleague were in opposition to each other; taken separately, it could be demonstrated that they are as fallacious as they are contradictory. He had first told the committee that the object of this bill, which is to enable the Government to avail itself of the general enthusiasm, and to bring into the service of the country its young and active citizens, might as well be attained by accepting the service of the volunteer companies, who under the existing militia laws are already armed, and clothed, and equipped, and are attached to the established regiments of militia. Yet he had himself, in other parts of his speech, when he had a different point to prove, pointed out very essential features of distinction between these and the volunteer corps contemplated by the present bill. In the first place, the President is not authorized, either by the general militia law or by the act of last session for putting 80,000 in requisition, to require or to accept the actual service of any body of militia for a longer term than three months on one tour; whereas the volunteer corps, whom the President would be authorized to accept, might be called upon to do military duty, at any time within two years from their tender of service, and for any term not exceeding three years. Again, the power of the President to call out the militia is restricted to the cases of insurrection, of actual invasion, or imminent danger of invasion; whereas he would, by this bill, be empowered to call the volunteers into actual service, whenever "in his opinion the public interest shall require." Thus, in two very important and essential points, will these volunteer corps differ from the ordinary militia; and of course it is obvious that the objects of this bill cannot be attained by the existing militia laws.

It remained, therefore, only to inquire whether the gentleman's arguments as to the expediency of the measure were any better founded. Mr. S. understood the objection, on this score, to be that the proposed bill will bring together a corps of rich men, who will constitute a military association to be placed at the disposal of the President of the United States; and a body thus constructed his colleague styles a standing army of the worst kind. The two parts of the objection are that it will be a military association of the *rich*, and that this association *will be at the disposal of the President*. On the first point, the ability of the persons who shall compose the volunteer corps, to arm, clothe, and equip themselves at their own expense, is considered as an evidence of wealth; and the possession of wealth is insidiously represented as an evidence of hostility to the liberties of the people; a military association is denounced as dangerous to the Constitution and laws, because it will be composed of men possessing that property which is the strongest and dearest bond of their connexions with the community, the firmest pledge of their attachment to the happiness and prosperity of the country; that property, the complete protection and enjoyment of which can only be secured by a free constitution, and by wise and good laws, administered with justice and impartiality. Yet such a body of citizens, collected for the defence of the country against foreign enemies, in a season of danger, under the constituted authorities of the nation, is branded by his colleague with the odious epithet of a standing army—a standing army of the worst kind. Mr. S. could confidently appeal to the judgment, as well as the feelings of the committee, to pronounce on

arguments such as these, and however well they are calculated to influence a mob, he was well assured they could produce no effect where they were now used. Shall it be said, because a citizen is able to arm, and clothe, and equip himself for military service, that he is dangerous and inimical to liberty? His colleague did not appear to be aware how many of our citizens this denunciation would include. He did not recollect that it would apply with as much force to all the uniformed militia companies, from one end of the continent to the other, as to the volunteers designed by this bill; that it would embrace those very militia companies, whose services he himself had recommended to accept, and who have been associated under the existing militia laws; that in fact it would include the whole body of the militia of the Union, whose duty it is by law to provide their own accoutrements. His colleague had indeed intimated a distinction by an expression calculated to give an idea that the volunteers are to be made up of *merchants and lawyers*. This insinuation, used merely *ad captandum*, is known by everybody not to be founded in fact; the volunteer companies established by law, and attached to every regiment of militia in the United States, are known to be composed, with very few exceptions, of the substantial yeomanry of the country, of citizens who will not be pleased to hear that, because they have been able and have had spirit enough to uniform and equip themselves, they are therefore enemies to the liberties of their country. In fact, it would not be easy to conjecture any justifiable motive for the insinuation of his colleague on the subject of the merchants and lawyers. Was it designed to insinuate that none but merchants and lawyers have the means and the spirit to render their service to the country in the hour of danger? The other classes of citizens will not be flattered by such an insinuation. Was it designed to impress a belief that the commercial men and the members of the learned professions were less attached to the Constitution and the laws than their fellow citizens? In this view it would be a calumny, unfounded on any fact, unprovoked by any experience; why then was it mentioned? Why was the distinction taken? If it was not intended to intimate that those classes of the citizens were better or worse than their neighbors, the emphatic mention appeared to be without a motive that could have any application to the subject under discussion. The truth is, that citizens thus arrayed in the defence of the nation, at their own expense, let them be composed of what profession or occupation soever, will give the best pledge of their patriotism and love of country. To them might be applied with peculiar force the expression which had been used on a former occasion, that "they would fight, not like slaves for pay, but like freemen for their rights."

The other part of his colleague's objection was, that the volunteers, when raised, are to be under the direction of the President. This objection, if it is of any weight, applies not only to this section of the bill, but to the whole bill; to the whole Military Establishment of the United States; to the Constitution itself: all the military force of the country is by the Constitution of the United States placed at the disposal of the President, who is Commander-in-Chief of the land and naval forces, and of the militia when called into actual service. The law could make no other disposition of the volunteer corps; and the objection was pointed against any military establishment of any sort: its basis was a distrust of the President as one of the constituted authorities of the country. But after having heard the gentleman denounce all, who are able to equip themselves for service, as unfit to be trusted with the defence of the country, it was not surprising to hear him denounce the President as unfit to be trusted with the conduct of this defence.

For himself, Mr. S. could discover in these objections nothing but the spirit of determined, undistinguishing opposition. It must be remembered, when the House was engaged in the discussion of measures for maritime defence, the gentlemen who opposed those measures told us they would agree to any propositions which should be calculated for the defence of the territory of the United States; yet now, when it is proposed to prepare for the defence of the territory, the promise is forgotten or abandoned, and we are encountered with as many objections, and difficulties, and embarrassments as before. When it is proposed to raise regular troops, we are threatened with the expense; and when it is proposed to call into service a body of volunteers, who will save to the country the expense of equipments, of bounty, and various other charges which are incident to the raising a regular army, we are told that this saving is dangerous to the liberties of the people, and that it is arming one portion of the citizens against the rest. His colleague is neither willing to pay for a navy, nor an army, nor to trust the defence of the country to its own citizens. He denounces the rich as dangerous, and he will not pay those who are unable to equip themselves. All the terrors of a standing army are conjured up to prevent an embodying of the citizens, while in the same breath he concedes expressly that a standing army cannot yet be a cause of alarm, and that America, secure in her attachment to law and liberty, would as yet have nothing to apprehend from one. It was for his colleague to reconcile such paradoxes—it was for the committee to determine on the success with which they had been urged.

Mr. Otis said, he was extremely affected, though not much surprised, at the opposition made to this section of the bill. The Constitution of this country, in which all had been taught to confide as the great security to our rights, is upon all occasions introduced as a stumbling-block in the discussions of this House, and instead of forming any safe rule of conduct, it proves a mere cobweb—a mere jargon of political maxims, and is the foundation of sophisms in almost every debate.

What are the objections of the gentleman from Pennsylvania to this section of the bill? It is, if he understood him rightly, that these volunteers

partake in some measure of the qualities of militia, and in others of a standing army, and in some others differ from either, and that if the section was agreed to as it stands, every Constitutional provision with respect to the appointment of militia officers will be violated. An answer had already been given, which he thought plain and conclusive, viz: that these volunteers will not come under the denomination of militia, but of the standing army. The striking characteristic difference is this: that militia are bound to serve by the laws of the country, without any respect to private consent, and the volunteers will be bound only by contract; they will consist only of those who come forward to defend their country. As far as relates to the Constitutional objection, therefore, there is an end of it. Indeed, gentlemen themselves did not seem much to rely upon it.

But the gentleman from Pennsylvania says, that every Constitutional provision respecting the militia may be evaded, if these volunteer corps are thus admitted into the service, and the whole body of militia may become volunteers, and those volunteers form an immense standing army, under the command of the President of the United States, which might overturn the rights and liberties of the people of this country. There could be no question that every institution might be abused. No doubt this House might at any time vote to raise an army equal to all the militia, continue it in force longer than the Constitution has directed, and consume all the resources of the community in support of it; but because Congress possess this sovereign power, does it follow that they will abuse it? The case stated by the gentleman from Pennsylvania is an extreme case, and therefore ought to form no objection to this measure. The whole subject is under consideration; the number may be limited, or the time restricted, without affecting the general principle of the bill; and it is only to answer especial purpose that the gentleman confined his arguments to particular clauses of it. It was stated by the gentleman from Pennsylvania that no possible advantage could be derived from the plan proposed by this section, but that many inconveniencies may arise from it. He says no advantage can result from it, because there are many volunteer corps in the militia which want filling up, and that these young men might enter into them, and the President would then accept them in the form of militia. In answer to this, he would ask the gentleman what he would do in those States where there are no volunteer corps, and, consequently, none of these vacancies? And, so far from this kind of corps existing in all the States, they are in some of them very much discountenanced, and he did not understand that corps of this kind had received any kind of sanction from the Legislature of the State of Pennsylvania. He himself believed that many advantages would be derived to the country from the acceptance of the service of these young men. The flower of our youth, taken from all classes and professions, being ready at a moment's warning to defend the country, must prove the most effectual and cheap security we can possibly have against any attack which may be made upon us. Emulous of outdoing each other in discipline, a military fervor will be excited in the country which could not be raised by means of the militia system alone, and they will be ready to repel invasion, or to engage in any other service which the public safety may require. And, if nobody else did it, he would move to strike out the clause restricting the use of these volunteers to the State in which they reside, or in an adjoining State.

But, in order to alarm the committee, the gentleman from Pennsylvania had called these youth an association of wealthy armed individuals; but Mr. O. hoped the committee would not be alarmed by sounds. It would doubtless be a military association. So is the militia of the country. But we stand in need of the assistance of these brave youth, and, instead of being frowned upon, their association ought to be cherished and encouraged. Does not the militia, said Mr. O., consist of citizens who arm themselves? It certainly does; therefore no proof of wealth results from this, for every soldier in the militia is as much a man of wealth as a volunteer of the corps proposed to be raised. Yet the idea of the opulence of these individuals had been held out in order to make this institution odious.

But did the gentleman suppose that none but the sons of the wealthy will turn out in defence of their country? Does he consider himself as the protector of the poor, or their enemy? Does he mean, by saying this, to satirize or panegyrize them? His own idea was, that citizens of all descriptions, yeomanry, manufacturers, and tradesmen, would come forward and join these defenders of their country.

But it is said there is no limitation to this bill; that the Executive may accept or reject whom he pleases. Does not the President do the same at present, through the medium of the recruiting officers? And could this be conceived a dangerous power? Certainly not; as he could have no rule but this, to accept of all who are willing and able to serve their country.

But it is alleged that this force will be a formidable standing army. Here, again, sounds are to intimidate us. He never heard that a standing army was dangerous to the liberties of a country, except in time of peace, and that when an army is made up, not of citizens, but of the banditti of the community. But we are not now in a state of peace, but of actual war. It is true the country is not invaded, but he believed a long period would not elapse before an invasion takes place, when it might be too late to raise a body of men for our defence. He hoped, therefore, the President would have authority to accept of the service of these young men, who, being taken from the bosom of their families and friends, could not be supposed to form an army dangerous to the liberties of the country; nor did he think insinuations of this kind ought to be urged.

Mr. O. remarked, that when he said we are in actual war, he did not speak figuratively, but literally. War is not declared, but it is made upon

us, and it is our duty to defend ourselves against it. But the gentleman from Pennsylvania had said, that the French will not invade us, and without that there can be no war. He said it was not their interest, and if it were, that it was not in the power of the French to invade us with any formidable force; that they have everything but money, but without that it was impossible for them to come over and invade us. Mr. O. thought this a good reason why they should attempt an invasion of this country. After having desolated Europe, and laid it under contribution, he supposed it would be no difficult thing to induce a belief in their soldiers that they might find in our banks, and among our opulent citizens, a supply of money. Nor was it money alone which they wanted; property of any kind would be welcome. He therefore thought it highly probable, that the ships and troops preparing against another country, when they shall either have failed or succeeded in their enterprise, may be destined for our shores. It became us, therefore, to make the best defence we could.

But it was said, that these young men would not march to fight, or enlist for any time. This was another reproach against them which was unwarranted. We have seen some of the young men of Philadelphia, and from other parts of the country, embody themselves as volunteers, and go upon a very unpleasant and dangerous expedition against the Western insurgents; and, whenever an occasion shall again occur, he doubted not they would again be willing to march in their country's service, provided the Legislature will take strong ground and afford them countenance. But if they see Congress are lulled to sleep, they will very naturally say, "Since Congress is unwilling to take active measures, it is in vain for us to come forward," and they will lose that spirit of ardor which now animates them. It will give place to a repose that has proved fatal to every country which has given way to it, and which, in his opinion, if not prevented, will terminate in the destruction of this country.

But he would wish the gentleman from Pennsylvania, or some other gentlemen who are opposed to this, and who have been pretty generally opposed to every measure of defence, would say what substitute they propose in place of this measure. After a procrastinated session of more than six months, when every man out of these walls is impressed with the danger of our situation, it was surely necessary to provide for some defence of the territory of the Union. They say they will not have a navy, because we are not adequate to the expense; they agree to a few vessels. If you will not have a navy, will you have an army? No, it is answered, not a standing army, because it is dangerous to liberty, and expensive. Will you have a standing army which shall cost nothing? No, because that would be unconstitutional. We will agree to a little expense to fortify our ports and harbors; to a few arms, and a small quantity of ammunition; but further than this we will not go. We will rely upon the militia. If this was the determination of gentlemen, there was no occasion for Congress to have met and debated six months, and finally to tell the people what they could do without our advice: "You must rely upon your militia for defence." He wished, therefore, instead of shrinking from representations of this kind, and manifesting resentment; instead of saying they have been, and are willing to defend the country, they would be pleased to say by what system they propose to do it.

Mr. O. believed this country to be in a very hazardous situation. He believed we should see a day more big with danger than we have ever yet seen, and it would be prudent to guard against it before it comes. In England and Ireland volunteer corps are greatly to be depended upon for the defence of those countries in the present time of danger; and if in those countries, which gentlemen call despotic countries, they depend upon their volunteers, ought not we to have greater confidence in them in this country, where citizens fight for everything dear to man, and where if we make any change in our Government, it must be an exchange of a free for a despotic system of Government? We see an irruption in Europe more to be dreaded than the irruption of the Goths and Vandals; we see not only ancient establishments, and thrones and crowns thrown down, but everything great and good destroyed. And may not our country meet with a similar fate? May not the same means which have been employed in other countries, meet with the same success here? They will, except that we resolve they shall not. He could not help wishing that the old members of Congress of 1776 were now in their places, or that those of them whose spirits are gone to receive their reward, had left their mantles behind them. But he was afraid that the conduct of gentlemen at this session would prove that the present Congress had degenerated from the patriotism of their predecessors, and were certainly not entitled to the blessings of their country.

Mr. McDowell said, were his feelings affected in the manner which those of the gentleman from Massachusetts (Mr. Otis) appeared to be, he would not have risen. It would appear that the sound of the din of war had already reached his ears. He, however, felt perfectly unalarmed by the fears which seemed so greatly to agitate the gentleman.

When this subject was under consideration, the other day, he stated some Constitutional objections to the measure, which he hoped would have been noticed; but they had not been attended to. Mr. McD. repeated them. He admitted that this force would be raised without expense, at first; but, if called into service, it would receive the same pay as others, and there would be no greater expense attending the training any part of the militia held in requisition, than there would be in training these volunteers. It had been said, militia could not be depended upon, and therefore it was necessary to have a regular force. If gentlemen really believed this, he wished they would come forward and propose a standing force at once.

Gentlemen say these volunteers will furnish a very formidable force. This may be the case, but he believed it was very uncertain. He could not see why they should be more formidable than the militia. He believed the militia could learn their discipline as well, and had as much zeal, as they for the welfare of their country. One of the greatest inducements to persons to enter into this corps is, that they are to be employed only in their own or an adjoining State. The gentleman from Massachusetts proposes, however, to strike this clause out. If it were struck out, he supposed it would confine the number of volunteers within a less compass than they otherwise would have been. But, if gentlemen's views were to go the full length which they contemplated, there would be no restriction as to the number of men to be employed, nor to the extent of the time of admission, except the limitation of the law; and Congress would, in the mean time, have no will upon the subject, having delegated the power to the President, contrary to the express provisions of the Constitution.

He was opposed to this mode of raising troops. He knew only of two descriptions of soldiers, regulars and militia, and he looked upon the latter as the only complete defence of the country. As to an invasion, which gentlemen seemed to speak of with so much certainty, he thought it altogether improbable.

Mr. McD. said, he was not apprehensive of a want of spirit in the citizens of this country to defend themselves against any attack. There are men alive who had fought our battles, and he doubted not they would be ready to fight them again, and others would arise to supply the place of those whom we have lost.

It was said, these volunteers were not to consist of the class of men described by the gentleman from Pennsylvania. He hoped not. He never wished to see the rich citizens separated from the poor in any scheme of defence. He believed this would not be the case altogether, because he doubted not a number of young men, who are not rich, from a desire to serve their country, will purchase their own clothes, arms, &c., and join these corps. Indeed, he had rather the arms should be found by Government, so that all might have the same opportunity of serving. He objected to this provision, because it gave to the President a power not contemplated by the Constitution, of calling out these volunteers, war or no war, insurrection or no insurrection, whenever he pleases. These men would form a regular army, not in this or that place, but all over the United States. For what purpose? Gentlemen say to repel invasion; but he apprehended they were wanted for another purpose.

Mr. McD. coincided with the gentleman last up, that this country is in an alarming situation, from without and within; and as he had formerly said, when he saw real danger, he should be ready to raise an army, but not before. He wished, however, the gentleman from Massachusetts to quiet his fears. The eighty thousand militia in requisition would be sufficient for the present; and, if they were not, more might be called. He hoped the section would be struck out. He knew volunteer corps were valuable men, but he wished them to stand on the same ground with the militia.

Mr. Dayton did not know how to understand the member from North Carolina, (Mr. McDowell,) who, when the militia bill was under consideration, had, with some of his colleagues, represented the militia of their State as unarmed and undisciplined; but now, when it better suits his purpose, he represents them in such regular and complete order, as to be enabled to repel any attack upon their country, and to effect all that is possible for regulars and well disciplined troops. That gentleman had declared his opposition to the raising of any men, until an invasion had actually taken place—a declaration which was most extraordinary and unaccountable, as coming from one who had more than once informed the House that he had served in the Army.

No military man, Mr. D. averred, would delay his preparations for receiving and repelling an enemy that threatened an attack, until they had actually made the assault; and, therefore, if that gentleman had ever acquired that knowledge which was to be gained from military service, he must certainly have forgotten or slept it away, for it was in direct contradiction to the plan of procrastination which he had advocated.

Mr. D. said, he should leave him to his slumbers, and proceed to make a single remark upon what fell from the member from Massachusetts, (Mr. Varnum,) respecting the unconstitutionality of one of the provisions of the section under debate. It could not be denied that the leading principle and object of this section was to authorize the President to accept the services of such volunteer corps as might be induced, from motives of the purest patriotism, to offer themselves for the defence of their country, and no gentleman had ventured to say that there was anything unconstitutional in this. The part particularly objected against was matter of detail, and might be altered or modified if the motion for striking out the whole section was lost. He was, however, free to declare for himself, that he would not agree to alter a single word of that provision which authorized the President to appoint the commissioned officers, for it was what he most valued.

Mr. D. then replied to the member from Pennsylvania, (Mr. Gallatin,) who had called these volunteer corps of militia a most formidable force to be put into the hands of the President. That they might be a formidable body of men, Mr. D. was willing to admit, and that he wished them to be so; but to whom, he asked, would they be truly formidable? To the invaders of our country—to the turbulent and seditious—to insurgents—to the daring infractors of the laws. The member from Pennsylvania acted consistently in regarding these volunteers as unnecessary to defend the country against invasion, because he had affected to believe that such an attempt would not be made, but he would not surely say that there might not be internal commotions or insurrections, which

might require the wholesome correction of such an armed force. That gentleman had endeavored to fix upon them an invidious distinction, in styling them "military associations;" but Mr. D. wished him to inform the committee what the troops who quelled the Western insurrection were, if they were not military associations. He himself considered the whole of them of that description, and he well recollected that a considerable number in New Jersey, as well as in Pennsylvania, associated themselves together for that express purpose, were accepted by the President, and marched as volunteers upon that expedition. The gentleman from Pennsylvania must have known how useful they were on that occasion, and he had not now to learn that what has happened once might occur again.

Mr. D. concluded, by expressing a very earnest wish that the motion for striking out this valuable section might be negatived, and that the services of men so able, willing, and ready, as these, to step forward in defence of their country, might not be rejected.

Mr. Varnum did not wonder that the Speaker should attach himself to this section, when he has heretofore declared he would defend the bill inch by inch. It was to be expected this bill would be carried, as gentlemen appear to be bent upon it; he wished them, however, to show its utility. Gentlemen say it will be formidable. He did not think it would bring any force into the field. It could not be intended as a formidable army to face an enemy; they were to be a kind of select corps, accepted by the President, and to remain at home. There are no provisions in the bill for dividing them into brigades or divisions for actual service. They are to be under the command of the President of the United States; but no provision is made for their organization.

It was said the force proposed to be raised by this section could not be considered as unconstitutional, and gentlemen have been called upon to show that it is so. He did not know what was to be understood by the paragraph, except it was to be taken as it stands. He knew of no description of soldiers but regulars and militia. If these volunteers are to be considered as militia, the Constitution has said that the individual States shall appoint the officers; but it is now said they are to be considered as a part of the Army. Considering them in this light, he would turn the attention of gentlemen to another part of the Constitution, where the power of raising armies is placed in the Legislature; but if this power is given to the President, he might raise an army to any extent he pleases, without the consent of Congress. There is nothing to prevent him from engaging half the people of the United States in this way. He was not apprehensive the President would abuse this power, but he thought the Constitution ought to be held sacred.

What are the armed associations which the gentleman from New Jersey (Mr. Dayton) speaks of? They are companies established under the present existing laws. Are they not all officered already? And what better would they be if they were to offer their services to the President, and have officers appointed to them by him, than they are at present, with officers appointed by the State of New Jersey? He could see no good effect to be produced by the change, but he was apprehensive it would cause a great disorder in the militia corps. And, after all, it must be the great body of the people who will defend the country, and not city volunteer corps of young men alone. When they are neatly dressed and well armed, they look very well in the field; but they are not able to bear the hardships of service like men who have been inured to labor and a country life.

But his colleague (Mr. Otis) had said, that gentlemen continued opposed to measures of defence. He had no objection that that gentleman should sound his own praise as to his readiness to defend his country, though he did not know what title he had to exclusive patriotism or bravery. He did not know why he (Mr. V.) should not feel the necessity of defending his country as much as that gentleman, or any other. It was not strange that gentlemen should differ in opinion as to the best mode of defence; but they ought not, on this account, to be charged with a wish of selling the country to a foreign nation, or of making no defence of it. He believed the militia sufficient to repel any invading enemy until an army could be raised. When the people know the country is really in danger, they will not stop at trifles; but, until that time, they will not wish to engage themselves as soldiers.

What was the case, Mr. V. asked, in 1775? The militia then went into camp, and continued there, until the standing army was raised, and they made as good a defence as any standing army could have done. The idea of these men being wanted to keep down sedition, and compel persons to be obedient to the law, which had been intimated, was one he thought which ought not to be countenanced. He did not believe there are any seditious persons in this country, or that standing troops are wanting to enforce an obedience to the laws. If there are disaffected and seditious persons in this country, such as have been spoken of, he could wish them pointed out. For his own part, he had no idea of any such thing.

Mr. McDowell said, had he been asleep, the *thunder* of the gentleman from New Jersey (Mr. Dayton) must have awoke him. In answer to that gentleman's call to point out any part of the Constitution that is infringed by the section under debate, the clause respecting the appointment of militia officers having been already read, he would refer to that which declares the purposes for which the militia may be called forth, viz: "to execute the laws of the Union, suppress insurrections, and repel invasions;" but the employment of these volunteers (though in fact militia, with new officers appointed by the President) is not to be thus restricted; they are to be employed as the President shall think proper.

One word as to his own situation. He had been pointed at as having fought in the Revolution. It was true that he had fought; it was known, but he never boasted of it. He trusted, if

there was again any necessity for it, he should be as ready to defend his country as the gentleman from New Jersey, or any other.

Mr. Dayton said that, opposed as he was in argument by the members from Massachusetts and North Carolina, who he understood were Generals of Militia, he was compelled to own that the weight of rank was against him, but he ventured to say that, if they possessed any military knowledge whatever, they must at once perceive that the position they had taken was untenable. They had relied much on the declaration which he should not controvert, viz: that this country, in case of serious invasion, must be defended by the great body of the militia, and not by single companies or select corps; but did it thence follow that it would not be advisable to encourage and accept the services of those volunteer corps who lay all along the extensive seaboard, and were willing and ready to become the advance guard, and subject themselves to be first called upon for duty? With as much propriety might it be said that, because, in time of war, the main body of the army must bear the brunt of the battle, you must not have an advance corps. It was this valuable purpose which these volunteers would be well calculated to effect, because they were generally situated nearest to the seacoasts, and were, for the most part, better equipped, armed, and accoutred, than any other portions of the militia They would also be men willing to serve, and to these were given willing officers also, agreeably to the provisions in the section; he trusted that their services in time of danger would be found to be equal to the most sanguine expectations that had been formed of them.

Mr. R. Williams was at a loss to know how gentlemen meant to apply their observations with respect to the unconstitutionality of the President's appointing the officers to these corps, on a motion to strike out the section; because, if the motion does not prevail, the section can be amended in this respect.

Mr. W. said, he was opposed to this bill, as it went to raise a standing army: but, with respect to this part of the bill, he was in favor of it. As to consequences which may arise from the abuse of the power proposed to be placed in the President, he did not think that a proper subject of inquiry, for he did not know how gentlemen could reconcile the idea to our Government of suspecting every department of abusing the powers placed in them. If the persons who fill the offices are base enough to do it, all of them may be abused. So far as the Constitution has pointed out caution as necessary, our jealousy ought to go to guard against the abuse of power, but to say a power shall not be granted, because it is liable to be abused, goes against placing power any where.

This section, Mr. Williams said, only went to establish the principle that the President may accept of the service of volunteer corps; the detail of it may be amended as the committee thinks proper. If it could not be amended, he should be disposed to vote against it; but, until he found no amendment could be made in it, he should vote for retaining the section. As to the principles on which the service of these corps should be accepted, or the particular purposes for which they should be called out, they ought to be designated. The committee had got into difficulty from not considering what these volunteers ought to be called. If that was determined, he thought gentlemen would know what line of conduct to pursue. If they were called militia, the Constitution has directed the mode of appointing officers to be by the States; if regulars, that the President shall appoint them. By one of these descriptions they must be called. He had thought that this point was in some measure decided on the motion to strike out the word "regular," which being carried, he thought these volunteers were to be considered a part of the militia, and from that circumstance he apprehended no danger from retaining the clause, as he thought it would be the means to establish a good militia. He should, therefore, vote against striking out the section, with an expectation that it will undergo amendment in the way he had mentioned.

Mr. Gallatin said, it appeared to him that both the gentleman from North Carolina, last up, and the Speaker, had considered this section in a very different point of view from that in which it had been stated by other gentlemen. Both of them considered these volunteers as a part of the militia. The Speaker, when alluding to the militia of New Jersey, had said they were organized companies, or armed associations. He also considered these volunteers in the same light, when he spoke of them as an advanced guard of the militia. And the gentleman from North Carolina, when he spoke of an amendment which he intended to introduce, evidently considered these volunteers as a part of the militia.

Other gentlemen stated, however, that these men were not to form a part of the militia, but of the Army of the United States; that, if they were militia, they would not be volunteer associations, as law compels militia to act; that the distinctive feature between regulars and militia is, that the latter are obliged by law to serve, and the former become soldiers by their own consent. The spirit of the section is, Mr. G. said, not that these volunteers should be a part of the militia, but of the Army. The associations to which it alludes are perfectly distinct from the militia. If they had not been considered in this light by the Senate, where the bill originated, they would not have provided that the officers of these corps should be appointed by the President; and, until what fell from the Speaker, and the gentleman from North Carolina, in relation to their being a part of the militia, he had no idea of their being considered in that light. Indeed, the Speaker, at the same time, observed, he should object to the amendment of the gentleman from North Carolina, to make the section clear in this respect; therefore, though he called them a part of the militia, both his arguments and the spirit of the section prove they are not really considered as a part of the militia.

It was from a belief that these corps were intended to make a part of the Army that he objected to them, and showed that, if they were to be considered as militia, they might become so without any new law, as there are vacancies sufficient to embrace all the volunteers who may offer, in the volunteer corps which are or may be attached to the militia of the several States.

In support of this opinion, Mr. G. read an extract from the militia law, which enacts that there shall be at least one company of light infantry attached to each battalion, but does not restrict the number to one company; and he stated that, in many battalions, that company was not even formed—that there were vacancies in all—and that, supposing in some instances that not to be the case, there was no impediment in the law preventing the formation of new uniform companies.

When he mentioned that it appeared to be the intention of the section under consideration to embody a certain class of citizens, such as merchants, lawyers, &c., and place them in the hands of the President, his colleague said the remark was insidious, and that he (Mr. G.) must know that the volunteer corps in the militia are composed chiefly of the yeomanry of the country. This he knew, and this he wished to continue to be the case; but the object of this section was to create a change in that respect, and to make the volunteers a separate and distinct body from the militia; in short, that they should not be composed of men of all descriptions. And, unless some reason could be given why these volunteers would be more useful under this new organization than a militia, he wished them to be considered as the latter.

His colleague (Mr. Sitgreaves) had given two reasons why these men should be considered as regulars rather than as militia. The President, he observed, had no power to call out any part of the militia for a longer term than three months; whereas he would be authorized to call out these corps for two years. But if this was the only objection, it would be an easy matter to pass a law giving the President the power to call the militia out for a longer period. But this was not the only object of his colleague—he went farther. He said there was an essential difference between these corps and the militia of the United States; that the law which authorizes a detachment of the militia limits their services to invasion, insurrection, or imminent danger; whilst the bill now before the committee is not so limited; and this he gave as a reason why it ought to be adopted. Now he would ask for what purpose these volunteer corps could be employed, other than those above named? He should have been at a loss to have conjectured, had he not heard an argument from another gentleman from Massachusetts which seemed to lead to that object. After speaking of the imminent danger of our situation, and giving it all the coloring he was able, he went on to say that England and Ireland, who stood in a similar situation with us, as to the danger of an invasion from France, had adopted the plan of raising volunteer corps upon a similar plan with these. And now, said Mr. G., I would ask whether these men are intended to be raised for purposes similar to those for which volunteer corps have been raised in England and Ireland? He hoped not.

Another gentleman from New Jersey (Mr. Dayton) had spoken still more plainly, and told the committee, that, in addition to the common service of troops, these volunteers would be the first, ready, not only to repel any invasion, but also to suppress seditious and disaffected persons, insurgents, or any daring infractors of the laws. Mr. G. asked, whether it could be supposed these volunteers would be better able to meet any of these cases than the militia, (and the gentleman from New Jersey argued as if he thought so,) and, if so, what will make them better? The gentleman himself had proved that the militia are equal to the subduing of insurrections by mentioning the Western insurrection, which was subdued by the militia of New Jersey, Pennsylvania, Maryland, and Virginia. Four years, Mr. G. said, had elapsed since that insurrection, and from that time nothing has been seen but a cheerful submission to the laws. From that time, it is true, we have seen differences of political opinion, but no symptom of any infraction of the laws. On the contrary, we have seen nothing but an universal attachment to the Constitution, and a sense of the happiness enjoyed under it. Why, then, is the House told, not only to-day, but on former occasions, of seditious and disaffected persons—of dangers threatened to this country from insurrections? Of the dangers of an invasion he had already spoken, and would not repeat his observations on that head. But gentlemen do not stop here. They speak not only of the danger of an invasion, but of the danger of a revolution—of an oversetting of the Government; and this is represented as more dangerous, and as likely to be attended with more disorder, than were the incursions of the Goths and Vandals of old. Such was the language held five years ago in England. Gentlemen profess themselves afraid of the effects of the French Revolution; but he owned he was afraid of that system of alarm which was raised five years ago in England, and which gentleman seem now to be endeavoring to produce in this country. He would call it a system of alarm which exaggerated the danger of our situation; which, because our vessels continue to be captured in an unjustifiable manner, suggests the existence of a plan on foot for oversetting the Government by a part of the people themselves, with the assistance of a foreign nation. He would call it a system of alarm similar to that of England, which, day after day, brings forth motions calculated to spread fears of imaginary dangers; which one day produces an alien bill; on the next, attempts to introduce an unconstitutional sedition bill; and, finally, wants military associations of one part of the people, in order to suppress a supposed disaffection of the rest of the community. And, seeing that these motions rapidly succeed one another, no one can tell how far it was intended to extend that system, and whether we shall not soon hear

of fictitious conspiracies, pop-gun plots, and every other party artifice which has been practised in England. What, Mr. G. would ask, had been the object, and what the consequence, of that system in England? To strengthen the Executive at the expense of individual liberty, and to involve the country in the most fatal war—a war that has brought that country to the very brink of destruction. Whether there existed in England, at that time, sufficient reasons to have suggested those measures; whether there were in that country a number of persons disaffected to their own Government, and desirous of producing there a revolution, he was not sufficiently informed to be prepared either to affirm or to deny. But, certain he was, that whatever danger might have existed there from France, or from internal disaffection, the measures adopted by that Government, however well calculated to suppress for the moment any dangerous symptoms, had ultimately terminated in creating real and imminent danger from within and from abroad; had brought Ireland to its present deplorable situation; had provoked perhaps a fatal invasion, and, instead of preventing, had paved the way for a revolution.

But, supposing there were reasons which impelled the British Government to take the measures which they did take, Mr. G. asked what cause was there for taking similar ones in this country? He knew of nothing which had taken place here, since the Western insurrection (as he already said) which could indicate a necessity for troops to awe the people of this country, unless, indeed, it was the intention of gentlemen to suppress political opinion. He saw symptoms on this floor, and in various parts of the country, of a difference of political opinion; but none exists anywhere as to the propriety and necessity of repelling an invading enemy, of supporting the Constitution, the liberty and independence of the country, even among those who may have been displeased with the former conduct of our Government, in some of its foreign relations.

Gentlemen in this House, Mr. G. said, very often differed in opinion as to the propriety of laws and sections of laws which passed the Legislature of the Union; but, when they are passed, all were of one opinion as to their being carried into effect. Yet it would seem, that, because persons differ in opinion on various subjects, those who do not come up to the standard of the present majority of Congress are to be considered as seditious and disaffected persons. If this were not the case, he could not see the use of the motion which has this morning been laid upon the table, authorizing the Committee for the Protection of Commerce and the Defence of the Country to report a bill to enable the President to secure, remove, and otherwise restrict aliens *and other*, (the word aliens might as well have been omitted, for the word *other* includes every description, whether citizens or aliens,) disaffected or seditious persons. This he considered as a part of the alarm system. He did not believe that there were any seditious persons within the United States that could render it necessary for Congress to exercise a power forbidden by the Constitution; for he denied that they had power to remove any citizen out of the United States; nor was there any necessity for a military association to assist the Executive in the exercise of his legal authority.

If, said Mr. G., this section of the bill is to be considered merely as providing a force against any invasion which may be attempted against this country, he would ask, in what respects these volunteers would be better fitted for that purpose than the militia corps? And if there be no difference, he had already contended that there is no occasion for this law, as volunteers to any amount might join the militia, according to the existing laws.

His colleague, (Mr. Sitgreaves) in reply to some observations of his, had said, that the consideration of these volunteers being generally men of property, or who have expectations of coming into the possession of property, will be the very reason why they will prove a sure defence of the country. Mr. G. said, he had as much confidence in men of property as others, but no more than he had in every free, independent citizen. Whether a man be rich or poor, provided he has a common interest in the welfare of the community, he had an equal reliance upon him. And this is a Constitutional idea; for the Constitution says, "the rights of the people to bear arms shall not be questioned." Upon that ground, therefore, no sound argument could be drawn.

When his colleague said, that no objection could be brought against this corps, on the principle of its being placed under the command of the President, as the militia is also placed under his command, what does the remark amount to, but to say that all the military force which can be raised must be placed under his command? This he knew; but, because all the force to be raised must be placed under his command, does it result that it may not be dangerous to raise, and therefore to place under his command, a force of a certain description, and unlimited as to its number? This section does not say how the force is to be employed; and his colleague makes this an argument in its favor, because it is left wholly at the disposal of the President of the United States. And they are not only placed at his disposal, without any restriction, but he may accept of the service of as many as shall offer themselves. By this law, Congress give up their right of judging in every instance, and leave to the President the sole power of determining both the application and the number of the Army.

Mr. G. said, his great objection to this armed force was, that it had the appearance of arming one part of the people to guard against the other; and this was evident from the arguments of gentlemen themselves, when they speak of this force being wanted for the same purpose for which a similar force has been resorted to in England and Ireland. In short, if we consider the present state of this country, and that, in case of attack, nothing can be so desirable as unanimity, he did not think it would be prudent to have this half-way corps between regulars and militia, which would disgust the militia, and which, in his opinion, would rather

have a tendency to divide and disunite the country, than to provide for its defence in case of real danger.

Mr. Hartley said, the gentleman last up, in speaking of the troops which subdued the insurrection in this State, represented them as being wholly draughted from the militia. He must recollect that one of the most respectable corps employed on that occasion was a volunteer corps of this city.

Mr. Harper said, he should not employ a great deal of time in answering what had fallen from the gentleman from Pennsylvania, (Mr. Gallatin,) because he conceived that his arguments were so much at war with each other—so contradictory, and so palpably absurd—that it was scarcely necessary to bring them into view to refute them.

But he would make a few observations on the ground of expediency. As to the ground of constitutionality, gentlemen must excuse him if he said he did not think them serious in their objections on that head. It appeared to him as if what was said on this part of the subject was one of those excursions which gentlemen are apt to take when they have nothing material to say. He should, therefore, treat this argument in the only way in which he could treat it, except it were with ridicule, by passing it over in silence.

Two objections have been urged against this measure, on the ground of expediency: one is, that this force, when organized, will differ in no respect from ordinary militia, and therefore will not be more effective; the other is, that it will be extremely dangerous to the liberties of the country.

Mr. H. said he had often heard standing armies railed against, from the days of Pulteney to the present time. It was a fine subject for popular declamation, and was therefore often embraced, when an orator wished to make a speech for the public ear; but it was reserved to this day, and to this nation, to discover, not that standing armies of mercenary troops are dangerous to the liberties of a country, but that armed citizens are dangerous to its liberties. Gentlemen now hear, for the first time, that they cannot trust their own brethren, their sons, their dearest relations—the youth of the country; that generous youth who come forward and say that they are ready to lay open their breasts to receive the first wounds that are inflicted upon their country. Certain gentlemen are alarmed to see this corps of generous youth, and represent them as a force not to be trusted. Why? Because it will prove dangerous to liberty. To the liberty of insurgents, and the seditious, Mr. H. believed this force would be dangerous. The gentleman from Pennsylvania, no doubt, recollects how extremely dangerous volunteer corps are to liberty of this kind, though he did not know that this recollection produced any part of the antipathy which he now shows to the proposed establishment; though he could see a natural cause for it, as it went to put a hook in the nose of insurgents—of those who wish to overturn the Government. In this, he could find a natural cause of aversion in that gentleman against armed associations of citizens, which are the natural defence of Republican Governments. It was because these associations were dangerous to the species of liberty which he had described that Mr. H. was in favor of them; because they are dangerous to that foe, those perturbators of mankind, who are not content with destroying our commerce, but who threaten to destroy all that is held sacred in this country—our Government, all our valuable institutions, our laws, and our liberty.

But, said Mr. H., we are told that no danger exists; and when we wish to put arms into the hands of our citizens, and speak of danger, we are charged with introducing a system of alarm, by which this country will be brought into a similar situation with that of another country. The gentleman from Pennsylvania mentioned England, and deplored the effect which alarm had produced there. He believed he did deplore it, because it put an effectual check to disaffection and disorganization; it also put a check to French principles and French arms, and this he believed that gentleman regretted. On the contrary he himself rejoiced in this, because he thought the effect of it had been happy, and he believed nothing else would have saved England from destruction. It was on this account that he wished to see the same system of alarm exist here. What has been the effect in England? It has brought forward the people—the cultivators of the soil, the possessors of property—they have taken arms in their hands, and rallied round their Government. They have said, "though our Government is not the best in the world, though ours is not the highest lot of happiness which exists, yet it is happiness in the extreme when compared with that which threatens our existence." They have therefore armed themselves, and the friends of France in that country have been put down. And how was this effected? By the system of alarm, of which the gentleman from Pennsylvania complains; notwithstanding the soporifics which were there continually held out to induce the Government to act a contrary part, by men who cried out peace, peace! to hoodwink the community. This system of alarm had, however, opened their eyes. It will, said Mr. H., have the same effect here, if only kept up; it will preserve us from foreign invasion and internal enemies.

It is denied by those who either do not see the danger, or who have succeeded in lulling themselves and others to sleep, that the danger exists, and they wish the alarm to cease. Then, indeed, he should tremble for the fate of his country; then should he think the doors were open to foreign influence, domestic insurrection, and plunder; then should he expect to see the Legislature of the country go out to welcome French Commissioners, and receive orders from their hands; but, whilst this alarm exists, he should apprehend no danger, he should resist these opiates, and endeavor to draw aside the veil which the gentleman from Pennsylvania and others endeavor to spread before the eyes of the people. Indeed, he believed the rights and liberties of the people of this country rested on a small pivot, which was to be found in the present well-founded alarm, and a slight stroke of the gentleman from Pennsylvania might easily overturn the whole.

But even if that gentleman were to succeed in blinding this House, it would not be in his power to blind the people. They will defend themselves. If Congress should be so blind to their interest as not to lend their aid to organize these volunteer citizens for their defence, he hoped and trusted they would not be forgetful of their duty.

But the gentleman from Pennsylvania complains that these volunteers are not made a part of the militia, and denies that they will be anything superior. Why, then, does he quarrel with the institution? If it did not give a more effectual defence against either an internal or external enemy, why does it offend the gentleman from Pennsylvania and his supporters? He thought their dislike of it the best proof which could be adduced in its favor. They acknowledge that these corps will have strength, nerve, and force. The only question is about directing it; and they are afraid of a possible direction of it. It was his wish to have it so organized as that it might act; and whenever the same crisis shall exist that has existed in Ireland, and such as has threatened England, he would call all this force into action. Whenever an Executive Directory shall be sitting, and a day shall have been fixed for assassinating the aristocrats, or all those who do not concur in the principles of French democracy, then he should wish this force to be turned against these persons. He believed, however, this time was far off, and he believed the formidable nature of this force would effectually prevent its arrival.

If, said Mr. H., there be no dangers of this kind; if there be no persons disposed to excite insurrections; no persons ready to aid a foreign foe, and rally round a foreign standard, and no invasion takes place, there will be nothing for these volunteers to be called upon to do; they will have cost nothing, and no inconvenience will arise from having had them in readiness.

But the gentleman from Pennsylvania says, the militia are equal to the quelling of insurrections, and adduces the Western insurrection as a proof of it. But was it not known that means were taken to damp and palsy the spirit of the militia in that affair, which effect was not removed until after the volunteers came forward; and this was one of the crimes of which the volunteers were guilty, and it was a sin which cannot be pardoned or forgotten by that gentleman, but it was one of those things which endeared volunteer corps to him. And unless the gentleman from Pennsylvania could convince him that the people will feel themselves less secure when they see a large force in the country, than when they have none, he should not believe that the establishment of this corps could produce a bad effect upon the militia. On the contrary, he believed it would excite emulation in the militia. They will say, we will not suffer these striplings to get all the laurels. This spirit will begin with the most active, but it will spread through the whole of the community.

Gentlemen speak of this as a permanent corps. This is contrary to the provisions of this bill; if not, it might be easily limited. And what will happen after these volunteers shall return from service? Will they disorganize the militia, by carrying with them home a knowledge of arms and military duty? He believed a very contrary effect would be produced. He was persuaded they would carry home with them to the militia those materials out of which soldiers only can be made.

As to the idea of these volunteers being restricted to certain classes of persons, it is too contemptible for serious notice. Can it be believed that the independent citizens of this country, because they are not rich, cannot provide themselves with the necessary arms and accoutrements of a volunteer? No; they will say, "though we are not so rich as our neighbors, we are rich enough to buy our arms and military coat." He had seen the militia act in this manner in the town where he lived; and though they had expensive uniforms and equipments, the spirit spread, and men of all descriptions, from the most wealthy, to those who worked for their daily subsistence, provided themselves with them. And he could not believe that any American, who possesses his health and liberty, was so poor as not to be able to provide himself with the necessary arms and uniform to become a volunteer. Yet gentlemen chose to insinuate, that this was a plan to arm the rich against the poor. Who dare talk to the people of America of their poverty? It is an inapplicable phrase in this country. As he had already said, every man could afford to become a volunteer; the will only was necessary; and that will, he was persuaded, was ready, if not damped by the motion of the gentleman from Pennsylvania.

The modifications of which the clause is susceptible, he would not point out; but, if there was any which could be agreed to, without cutting up the principle of the section, he should be ready to assent to it; but because the details of the section do not please gentlemen, is that a good reason for striking out the section itself? Certainly not. In the language of the gentleman from New Jersey, it is another instance of the unfair proceedings by which every stage of this bill had been combated and opposed.

Mr. Gallatin and Mr. Brooks rose together. The latter had the preference.

Mr. Brooks supposed, that by this time the committee would have been ready for the question. He did not himself intend to have said anything upon it; but seeing the gentleman from Pennsylvania ready to take the floor again, he would first say a few words upon it, that that gentleman might have an opportunity of remarking upon what he said also. That gentleman had gone through a labyrinth of opposition to every measure of defence; he believed he must now have come pretty nearly to a conclusion. He could not refuse, indeed, an appropriation for the forts and harbors, but that was very confined; but he had successively opposed all the other measures of defence. The naval armament, he was certain, would produce war, though now he insists upon it that there is no danger of war, yet he himself had advices this day of vessels of the ene-

my being in the harbor of New York, that they had taken two vessels there, and that they were ready to point their guns upon us. The provisional army the gentleman from Pennsylvania opposed in every shape; and now he attacks the volunteer corps, which seems to be his last point. These volunteer corps he cannot bear the name of. Why? Because they show the spirit of the people more than any other measure. Government will now find who are willing to defend the country. This surely was not the reason why he objected to it; and yet a stranger would be apt to think so. He would venture to say one thing, however, that if the French Directory had had an agent on this floor to have plead their cause, he could not have done it more effectually than the gentleman from Pennsylvania; and that gentleman may certainly have this consolation, that if, by any fortuitous circumstances, he should be driven from this happy country, he will certainly be received in another, with a cry of "Well done, good and faithful servant, enter thou into the arms of the Directory."

The gentleman had confidently said, that there is no danger to be apprehended from an invasion, because he was convinced the citizens of this country would suffer no foreigner, who comes with hostile views, long to exist on our shores; but Mr. B. believed the way to be safe was not the course of sitting still and folding our arms, recommended by that gentleman, supposing danger at a distance. If we should be found in such a situation we may expect to be overtaken with danger, as with a whirlwind. He had said much of the cheerful submission of the people to the laws. He was himself glad to hear it; though he believed it was more from a principle of fear, than love, in certain quarters of the Union.

But the gentleman from Pennsylvania says, there is no danger to be apprehended from insurrection, or from persons in this country joining the standard of any enemy who may attack us; but, said he, we have better authority than the word of that gentleman to believe the contrary. The Executive Directory have said, that they have diplomatic agents here, that they have them in abundance; so that they are better acquainted with the situation of things here than that gentleman is willing to believe, or to admit. He himself believed the fact, to a certain extent; and the best way of guarding against danger is to be ready to repel it. Even in this city, on a late occasion, a feeble opposition of foolish men, mounted the French cockade, and declared that, when the French troops came, they would join them. Foolish men! he called them, for he apprehended they had discovered the truth too soon; and, trifling as this may seem, he was of opinion these men only spoke what they heard, and that these things did not originate with themselves.

But the gentleman says, that if these volunteers are permitted to arm and equip themselves, it will disgust the militia. Little does that gentleman know of the spirit of this country. Had he been here at the beginning of the Revolution, he would have seen men of a different description. He never knew any jealousy among our soldiers or militia, because one looked a little smarter than another. At the present time, indeed, he believed if the gentleman from Pennsylvania would go out on a review-day, he would see part of the militia of this State, as well as others, in uniform, and part in common clothes, without any disagreeable feelings being entertained on that account.

Mr. B. concluded with saying, that as the day was far advanced, he would not take up any longer the time of the committee than to say, that either the gentleman from Pennsylvania does not understand the subject, or his reasoning is peculiar to himself.

Mr. Gallatin said, he should disappoint the member from New York, in some degree, as he expressed an expectation that he (Mr. G.) should answer what might fall from him; but when a member so far abandoned every rule of common decency, so far forgot the respect due to this House, and so far insulted the understanding of members, as to pay no attention to the question under discussion, but, laying argument aside, goes merely into a wide field of abusive declamation, he conceived him entitled only to silent contempt, and that, and that alone the member from New York would receive from him.

The gentleman from South Carolina, Mr. G. said, had not made any reply to the leading arguments urged against the section under consideration.

He would once more ask whence arose the particular partiality which is shown to the proposed organization of these corps? Are gentlemen afraid that the present militia officers will not be so good as those appointed by the President of the United States? Or are they afraid that if these corps are organized agreeably to the existing laws of the United States, that they will not be so good a defence as if organized according to the present bill?

When gentlemen speak of the Western insurrection, and of volunteer corps, why do they not say there was only one volunteer corps not attached to the militia out of 12,000 men, and he adduced this as a proof to show that, whatever disorders might take place in the country, the militia would be sufficient to quell them. They seemed to think differently, and that they are not to be trusted.

Gentlemen opposed to this motion charge the supporters of it with being afraid to put arms into the hands of the citizens. The charge was unfounded. They are not afraid of putting arms into the hands of our citizens, but they do not wish to put them into the hands of a few chosen persons, to the exclusion of others. The reliance of the supporters of this motion is in the people at large; that of the opposers of it in these few. Mr. G. wished gentlemen to show the difference between these corps and militia, and what are the great advantages in favor of these, and then the committee may judge between the merits of each. He could see no advantage from the present plan; all that he could conceive from it was, that its supporters believe there is more safety in arming

a select few, than in depending upon the whole people.

But the committee are told that, these volunteers, thus organized, are the best calculated for suppressing perturbators and disorganizers. But this was a mere assertion, and no argument had been adduced to prove that they would be better calculated for that purpose than the people at large, or more likely to exert themselves in support of the Constitution and liberties of the country. The gentleman from South Carolina had said, there were disorganizers and seditious persons in the country, and that he was determined to support the present system of alarm; and yet he has not shown where these disorganizers and perturbators exist. Is there anything known, Mr. G. asked, to induce a belief that there are persons of this description in any part of the United States? And when gentlemen, without any proof, insist that if those volunteers shall consist of men of greater property, they will, on that account, be the most proper to suppress sedition, he would not hesitate to say that the assertion implied an illiberal and unfounded insinuation against all the other classes of the community, and was a calumny on the great mass of the people of the United States.

But the gentleman from South Carolina went on to support the justice and policy of a similar plan adopted in England, the effect of which, he supposes, has been to suppress insurrection, and to save that country from that general system of devastation which has taken place throughout Europe. But what, Mr. G. asked, are the effects which we see arising from this system? From that system of alarm and from that combination against France, which went hand in hand, at the commencement of the European war? The consequence has been that France has not rested satisfied with making regulations in her own Government, but has subjugated some of the finest countries in Europe, and subverted their Governments, and she now threatens Great Britain herself with a similar fate. This, Mr. G. said, we know has been the effect of those measures; but the gentleman from South Carolina, in order to reconcile us to a similar plan, sets up his supposition against fact, and tells us what might have happened, in his opinion, had not this system of alarm been adopted in England. He knew what had happened in consequence of those fatal steps; what might have happened had they not been adopted, was a matter of conjecture. It was but a poor consolation to that nation to be told by its Minister, "matters would have been worse, had I not taken such and such measures." And if a similar conduct was now pursued by this country, and should be attended with similar calamities, it would afford but a miserable comfort to America to hear, two years hence, the gentleman from South Carolina assert that a contrary course would have produced, in his opinion, still greater evils. It could not be denied that that system of alarm which the gentleman from South Carolina commended, had, in England, increased that disaffection which it was its object to suppress, and the same effect would be produced here by similar measures. How was the alarm in England supported? By means similar to those adopted in this House this day. A gentleman rises from his seat, and tells the committee he saw five or six men in the streets of this city with French cockades in their hats. He says that some one had reported, that it was said that somebody had heard that one of them had said, he would join the French if they landed here; the gentleman immediately concluded that there is a deep conspiracy in the country, and thousands ready to do the same. The same things were done in England at the beginning of the war; the Tower was fortified on account of an insurrection which no one had ever heard of. Every member on this floor might remember the numerous artifices used there at that time; and it was in order to avoid the evils which had been produced in England by that system that he wished it to cease here; that he wished, instead of placing these young men in corps separate from the militia, to have them joined to it, so as to make one undivided general defence for the country, instead of separating them in the way proposed, which could only produce divisions and uneasiness among the people.

Mr. G. said he would make no remark upon what fell from the gentleman from South Carolina, as to the unfairness of this motion to strike out the section, instead of endeavoring to amend it. He thought it was not less unfair for gentlemen to wish a contrary course to be taken, while they declare themselves unwilling to agree to any amendments which would make it more agreeable to those who oppose it. Nor should he make any remarks on what had fallen from that gentleman on the subject of Ireland, in respect to the Executive Directory sitting there, or of the day appointed for a general massacre. He had seen such things in the papers. How true or false they were, he could not say. But he did know that there had been for a long time in existence there a system of military coercion, which had doubtless increased the disaffection which before existed, and which will in the end prove fatal to the Government of Ireland. Yet the gentleman from South Carolina says there may be a time when it will be proper that the same military coercion should exist here. He trusted that gentleman was the only one who anticipated such an event, and he did not think it necessary to refute or comment on that observation.

For a number of years, Mr. G. said, attempts had been made, in different shapes, to give to the President of the United States a standing army, or select corps of militia. Ever since the organization of the present Constitution these attempts had been on every occasion repeated and defeated. This kind of half-way army and militia would effect the purpose, and might become the most dangerous of all others; and whatever might be the fate of this motion, he never would repent to have exerted himself as far as he was able in order to prevent its introduction.

Mr. G. concluded with saying that he was sorry he had taken up so much of the time of the com-

mittee on this question. He had spoken three times, which he would not have done had any other gentleman answered the observations which had been made in opposition to this motion by the gentleman from South Carolina. But however disagreeable it was to him to be obliged to rise so often, not only to meet the arguments of some gentlemen, but the abuse and impertinent allusions of others, nothing should prevent him from doing it, while he had hopes that the fatal measure now proposed might be defeated.

Mr. Allen wished to know how the Government could get a more effectual defence than by putting the question to every citizen of the United States, Will you, in case of danger, become a volunteer in the public service? Government does not choose, like the gentleman from Pennsylvania, to rely upon the militia altogether; but to address the whole people, and not a few, in the manner he had stated, and he trusted this question would not be answered by a few, nor by the rich alone.

The people of the five Eastern States, said Mr. A., are already armed and equipped, at their own expense; and it could not be said they are rich. The people in these States are so well armed and disciplined, that there will be no occasion for them to offer themselves as volunteers. In other places, but a small proportion of the people are armed. In this city, said Mr. A., a great proportion of the people are unarmed; and he could see no mischief that could arise from putting arms into their hands by means of this kind, which was the only way in which it could be done. And he believed the organization of these brave and generous young men would produce the best effects.

What the committee had heard from the gentleman from Pennsylvania, of this being a plan to arm the rich against the poor, was said to raise a popular clamor against it; and it was for this purpose that the gentleman had risen three times today. While the people from every quarter of the Union are addressing the Government with offers of their lives and fortunes in support of our measures against France, the gentleman from Pennsylvania wishes to take no measures for our security. There is something very extraordinary in this. But the young men of our country possess a different spirit; they are resolved to unite in their country's cause; and they will be able effectually to prevent insurrections and insults from taking place in the large cities, which are most subject to them.

But the gentleman from Pennsylvania has endeavored to excite jealousy against these volunteers in another way, by insinuating an idea that the reason of the power of appointing the officers of these corps being placed in the President is, because the present militia officers cannot be trusted. This, said Mr. A., was not the truth; nobody had such an idea. But, are these men ready to offer their service? If they are, it is not known. If they do offer their service, there is no doubt the President will commission them. But the gentleman is not willing that those who offer their service should be relied upon, but that all should be compelled to enter the service, whether they are willing or not. He thought it was more generous to accept of voluntary service only, which would be made exclusively by those who join heartily in the cause in which we are engaged.

Mr. Macon said the Constitution had limited the calling out of the militia to three cases, viz: to execute the laws, suppress insurrections, and repel invasions; and he could not see for what other purposes troops could be wanted, or why the militia were not equal to all these purposes. He wished gentlemen to speak plainly as to the purposes for which these men are wanted.

The gentleman from South Carolina said that if these corps were not organized, the French would soon be here, and take the cash from the bankers, and the produce and other property from the farmers. But how could these youths resist any attacks which the militia, which would embrace nor only them but all other citizens, would not be able to resist? As to the spirit which that gentleman spoke of being imparted to the youth by this law, he did not believe, if they wanted a spirit to defend their country, that this law would give it to them; but he was sure the spirit would not be wanting whenever danger appears.

Mr. M. noticed what had fallen from the gentleman from South Carolina, with respect to members acting contrary to the wishes of their constituents, and said no consideration should ever prevent him from doing what appeared to him to be his duty. And if he was convinced that his constituents were dissatisfied with his conduct, he would not wait to be turned out, but would immediately relinquish his seat.

Mr. M. never wished to see such a system of alarm existing in this country as existed in England and Ireland. He never wished to see spies and informers riding about the country to take people up on account of their political opinions. He should be glad to see the spirit of 1776 here, though he did not wish to see the old Congress revived. He believed the old Congress had done well, but he believed the present a better system of government than that was.

The question had not yet been determined whether these corps were to be considered in the light of militia or regulars. If the former, it had been shown that these young gentlemen might join volunteer corps already in existence; and, if the latter, there were always recruiting officers with whom they might enlist. But he did not believe many of them would wish to become common soldiers, though, in all special cases, they would, he doubted not, be ready to come forward. But this has been called a formidable force for the suppression of seditious insurrections, but he did not believe it could be more so than the militia itself.

Mr. M. denied that Congress had the power to create a mongrel kind of army such as is now proposed. He called upon any gentleman to put his finger upon that part of the Constitution which gives Congress this authority.

The provision which confines the use of these corps to the State to which they belong, and to the States adjoining, he said, would prove a very unequal regulation, as some of the States only join two States, others to five.

The gentleman from South Carolina says that armed associations are the natural defence of Republican Governments. He never believed that this Government depended upon armed associations for support. It appeared to him that these armed military associations have more the appearance of *Jacobinism* than anything he had ever heard of in that House.

Mr. M., after ridiculing the doctrine of alarm set up by the gentleman from South Carolina, concluded with saying that he believed, if the French were to land in this country, that they would find very few persons to join them. He was sure that from the part of the country from whence he came, that would be the case. The people in that part of the country would very deeply regret a war; but, if it did take place of necessity, they would join heartily in it. If the Constitution does not please them in all respects, they know an armed force is not the instrument by which it ought to be amended; and he knew, whatever a majority determined upon, would by them be carried into effect.

Mr. Dana said he should not have risen at all on this subject, had the gentleman from Pennsylvania confined himself to the merits of the question. But, after rising as monarch of the opposition, and apologizing for having spoken three times, because nobody else spoke, he said that the embodying of these volunteers would be raising a dangerous standing army; that it would be arming one part of the citizens against another; that it would prove the destruction of the militia, and that the whole of the militia might become a part of this army. He also says the provision will be useless, and because, under the militia law, all the advantages proposed by this bill might be had. Why, then, he would ask, do not these volunteers now exist? He apprehended the true reason was, because the field officers are appointed by the individual States, and not by the President of the United States.

But it is said that this provision is useless, because of the requisition of the 80,000 militia ordered at the last session. This had been frequently mentioned, though nobody could consider this force as anything; it is a mere business on paper. The men detached do not know their own officers. Many of the officers have been promoted, and a number of the men removed; so that he did not suppose three-fourths of those men could be found, if called upon. They are even worse than nothing.

It is also said that these volunteers will form a standing army dangerous to liberty. What do gentlemen mean by a standing army? Do they make use of the term because they find it in the Constitution? or because in countries where armies are formed of the worst of men, where they are engaged for life, and where their object is plunder and rapine? The term standing army only applies where officers and men have views distinct from the people, and can by no means apply to the young men contemplated by this section. If they were to join a banditti in desolating the country, whose property would they destroy? Their own, or that of their parents and friends. And against whom would they turn their arms? Against their parents, their brethren, and friends. And whose habitations would they destroy? Those in which they had been bred and educated. Can any one believe, then, that evils of this kind can be apprehended from these patriotic young men? He thought they could not be entertained for a moment.

In proportion as our military force is extended, Mr. D. said, it loses the character of an army. An army of 10,000 men may have something of a spirit distinct from the people; but, if it is extended to 100,000, it will cease to have that spirit. It will have only the spirit of the people. This is one of the causes assigned by one of the best writers on the subject of the French Revolution, which produced that spirit in the French soldiers which led them to join in the Revolution against their Monarch. Their numbers were so large that there was infused into their body the spirit of the people. But the gentleman from Pennsylvania says the establishment of this corps will make an odious distinction between rich and poor, as if that gentleman were the bulwark of *Sanculotism!* Was this intended to excite a jealousy in the poor towards the rich, and a spirit of hatred to the Government? If not, he could not tell why such language was used.

What are the advantages expected to result from this section? They are the admission of a body of patriotic, respectable, generous youth, into the public service, who will form a firm phalanx against any internal or external enemy. His ideas of this section were, that the youth which it contemplates will remain liable to militia duty, both officers and men, until called into the public service; but, when called into public service, they will be considered as troops of the United States.

The question upon striking out the section was then put and negatived—56 to 37.

Thursday, May 17.

ADDITIONAL RULE.

Mr. Sitgreaves wished to propose an additional rule to the standing rules and orders of the House. It must, of course, he observed, lie upon the table a day previous to decision. He would, therefore, lay it before the House now, and call it up for decision to-morrow. It was as follows:

Resolved, That during the remainder of the session, the standing rules and orders of the House be amended by adding the following: "That no member shall, either in the House or in Committee of the Whole, speak more than once to the same question."

PROVISIONAL ARMY.

The House again resolved itself into a Committee of the Whole on the state of the Union on the bill authorizing the President to raise a provisional army; when the consideration of the third section being resumed,

Mr. R. Williams moved to amend the section so as to make the voluntary corps proposed to be

embodied by that section, a part of the militia of the United States. It appeared to him unnecessary for them to attempt to say by whom, or by what authority the officers of these corps shall be appointed; because if the committee only point out whether they shall be considered as militia or regulars, the Constitution has declared in what manner they shall be officered. It was not very material to him which they are considered, though he would rather have them considered as militia, as it would be the cause of producing an effective militia, which every one acknowledges would be a desirable thing, but if they are to be considered as regulars, he believed it would produce a contrary effect. He hoped, therefore, his amendment would be agreed to.

Mr. Hartley was much surprised to find that new difficulties should be raised against this bill. The aggressions of the French nation had been so great, that he doubted not, in one month from the date hereof, every man who is a friend of his country will be ready to say we ought no longer to bear with them. The people of this country are jealous of their rights, and to raise a large body of troops without immediate necessity, would alarm them; but, in our present situation, he wondered the present measure should be objected to. He should rather have expected a declaration of war, which he was confident would be well received by a majority of this House. Mr. H. trusted the present amendment would not prevail, as he wished these volunteers, by all means, to be commanded by officers appointed by the President of the United States.

Mr. Brooks was of opinion that this question was decided yesterday. If this amendment were to be adopted, it would show that the committee had changed their minds since yesterday as to the manner in which the officers of these volunteers ought to be appointed.

Mr. Sitgreaves did not rise to answer any arguments which had been urged in favor of this amendment, but to express his hope that, as this subject had already been fully discussed, no further time would be lost upon it. He addressed himself particularly to the friends of the bill, that so far as it depended upon them no time might be lost upon it.

Mr. McDowell differed in opinion with the gentleman from New York, (Mr. Brooks,) when he considered this the same question which was determined yesterday. It was said by gentlemen yesterday, that it was unfair to vote for striking out a section which was capable of being so amended as to do away the objections brought against it. He believed some gentlemen voted against striking out the section on that ground. But gentlemen are all at once very desirous of cutting short discussion. Those who heretofore spent days in debating on comparatively very unimportant subjects, now wish a question of great magnitude to be taken without debate.

When this subject was yesterday under discussion, the gentleman from South Carolina (Mr. Harper) said he wished to keep up the present system of alarm, in order to answer certain purposes of Government. It had already been kept up for some time, and produced effects which, he believed, could not have been produced without it. It was well known that certain gentlemen in this House had, for a long time past, been endeavoring to increase our Military Establishment, and to raise a navy, and they had seized this moment of alarm to effect both purposes.

Gentlemen, speaking of the important services to be achieved by the young men proposed to be raised, said, that they would make bare their arms, and shield us from all danger. Though he should wish to encourage in our youth an ardent desire to defend their country, he did not wish to expose them to danger alone. He wished the citizens generally to bear their share in the service, whenever danger shall appear. But it had been said, these men can do no good except their officers are appointed by the President—his signature was to do everything. If he thought the seal of the President could possess all the virtue ascribed to it, he might agree to its being used in this case; but while he believed the officers appointed by the several States are as good, and as well disposed to defend their country as any the President can appoint, he could not agree to their being changed in the way proposed. He could not conceive why gentlemen should be jealous of their own States appointing improper persons. To give the President this right would be to add greatly to his power. He believed Congress ought to be cautious how they increase this power; and however unpopular the opinion may at present be, he would express his determination not to increase that power by taking a portion of it from the Governments of the individual States, or from this body, and adding it to his. He wished to keep each power within its present bounds.

Mr. McD. repeated what has several times been said, that it is extraordinary that the Northern and Eastern States should insist upon defending the Southern against their will. It was said that this corps was wanted to answer the like purposes for which a similar force has been raised in England and Ireland. And what have they been used for there but to suppress political opinion? The military force is there riding over the people, and dragging husbands and fathers from their wives and children to prison, merely because they have taken the liberty to think. However much gentlemen wished to support certain opinions in this country, he hoped they would not wish them to be forced upon the people by a system of terror. He apprehended the zeal of gentlemen had carried them too far on this occasion.

Mr. R. Williams did not make this motion, he said, to give any gentleman an opportunity of answering the arguments of yesterday, nor to bring at all into debate the question of yesterday. He made it in conformity to an opinion which he then gave, and upon which he voted for the retaining of this section. But it is a little extraordinary that gentlemen will not permit others who merely differ with them as to the mode of defence, without having imputed to them by those gentlemen a disposition to leave the country entirely defenceless, and at the merey of a foreign enemy. If ever there was a question before this House, during the present session, in which these insinuations might have been spared, he thought the present must be one. What is the question? It is merely whether the President shall accept of any companies of persons who may offer themselves, and that they shall be called militia. He had as much a disposition to put the country in a state of defence as any man; but he believed a good militia would be its best defence. It had been conceded, that, in case of a sudden attack, the militia must be resorted to in the first instance. Why will gentlemen say, that because a member wishes these men to be considered as militia, he is against providing a defence for his country? If he thought it would be best, he certainly ought to advise it, without meeting with any such imputations, and he did think so, and therefore advised it. He thought arms ought to be so distributed through the country, that in case of danger every man might leave his plough, and take up his musket to defend his country. If war should take place, then, as had frequently been said, there would be no objection to standing troops.

How could these men, Mr. W. asked, be less disposed to defend their country because their officers were appointed by the individual States, than if they had been appointed by the President of the United States? The gentleman from Pennsylvania (Mr. Sitgreaves) addressed himself to a certain part of the committee. He should never follow his example, but address what he had to say to every member present. He had never any particular characters in view. Mr. W. said he did not wish to take up much time of the committee, nor should he have risen at all, had it not been for an insinuation that his motion owed its rise to improper motives, than which nothing tended more to lower the dignity of the proceedings of the Legislature of the Union.

Mr. Davis said, it was much to be lamented, that, whilst gentlemen are all agreed in principle, they should differ as to the means of carrying that principle into effect. There are few members, Mr. D. said, who do not agree as to the necessity of having troops in addition to our present militia. Indeed, he must own he did not feel all that security from militia alone which had been expressed by some gentlemen. He knew the French had landed an army in this country heretofore, in defiance of the British navy, and therefore might do it again; the ocean was still open. He was, therefore, impressed with the necessity of raising men of some kind for the defence of the country; but the mode proposed by the bill, as it stands, he objected to. He was afraid of the consequences. It would create jealousies and suspicions of a serious nature. Every one knows that the people of the United States are divided in their opinions. Some have implicit confidence in everything which is done or recommended by the President of the United States. Others have not this confidence. The Eastern States, for instance, place great reliance in the President—and this is natural. They are well acquainted with his person and character, and are therefore attached to him from local prejudices. Gentlemen from the Southern States are, on the contrary, (perhaps too much so,) prejudiced against the President. What will be the consequence? If this bill passes as it now stands, the people of the Eastern States will probably turn out and offer their services to the President; perhaps those of the Southern States will not. This might produce bad effects. It is probable that those men who turn out will be called Executive men, whilst those who do not, will be termed Disorganizers, which will create a disagreeable, and, perhaps, a dangerous division in the country; a division, the effects of which, he owned, he was afraid. The best way, he believed, would be to call upon every State to furnish its quota of men, to go into the field for a year or two, and not leave the matter optional, as by this bill. His fears, on this head, did not arise from any apprehension that the President would abuse the power placed in him of appointing officers, and accepting of the service of men; they arose from an apprehension of undue agitations in the public mind, and from the jealousies and strifes which would grow out of them.

Great inconvenience, if not danger, would arise, not only from the difference of opinion existing in the Southern and Eastern States, but also in the States themselves. In the State of New York, for instance, some of the Representatives are advocates of every Executive measure, and others are generally opposed to them. Part of the people of that State might, therefore, be expected to come forward and offer their services to the President, whilst others will decline doing it, which will produce a division in that State. The same thing would take place in some others. When he recollected all these difficulties and disagreeable consequences, he must be opposed to the bill; not from any fear of public liberty being endangered by the existence of such a body of men, but merely on account of the circumstances he had mentioned. If any gentleman would bring forward a proposition for obliging every State to provide a certain number of men, he would vote for it. When he voted against this bill, he hoped it would not be considered that he did so from a wish to yield passive obedience to any nation in the world, but solely for the reasons which he had mentioned.

Mr. Dayton (the Speaker) was opposed to the motion upon every principle, but, especially, because it was founded avowedly in a distrust of the First Magistrate, in whom the people most deservedly reposed the highest confidence. If the amendment prevailed, it would neutralize and render nugatory one of the most important provisions of the bill. The member from Kentucky (Mr. Davis) had deviated from his usual course of fair argument, and had thought fit to indulge himself in reflections illy calculated to cement the Union, or to inspire a confidence in the General Government. To what good end did that gentleman attempt to influence, improperly, the decisions of Congress upon important questions, by unfounded intimations that the attachment to,

and confidence in the President, was merely local, and confined almost exclusively to that portion of the Union which was his birth-place and residence, and that any measures tending to increase the Executive influence would be viewed in other parts, and particularly in the Southern States, with jealousy and disapprobation? Language so unwarrantable tended only to irritate and divide, and ought not to escape the severest animadversion.

Mr. Davis asked, and was permitted to explain. He said, he did not say that this was the case; but that the President having been born and educated in the Eastern States, it was natural the people there should be attached to him in a greater degree than in other parts of the Union.

When Mr. D. sat down,

Mr. Dayton said, that he had been in the habit of respecting the gentleman from Kentucky for his candor and general correctness of opinion, yet he felt himself compelled to declare, that he was not better satisfied with the explanation than with the first speech. The jealousy and distrust which gentlemen from Southern States, and particularly from Virginia, expressed so unqualifiedly in respect to Executive measures, was not new in Congress, but was of much earlier date than the election of the present President, and could not, therefore, have its source in any belief of want of merit, talents, or probity in him.

The same distrust had marked the conduct and speeches of the members from that State for at least four years past; and the former President had been as much the object of jealousy as the present; nay, even more so; although his place of birth and residence was in their neighborhood. In proof of this, he recollected well that a very influential member from Virginia, (Mr. Giles,) now absent from the House on account of sickness, had, on a former occasion, most unequivocally declared, that he no longer reposed confidence in the man who was then President and head of the Executive Department.

As the Representatives who now distrusted the Government and opposed its acts, distrusted and opposed it then, when he who presided was a citizen selected from their own neighborhood, so it was remarkable that the present supporters of the Government were among the most zealous to support it at that time, without regard to the distance of birth-place and residence of the character who administered it. This, Mr. D. said, must convince every unprejudiced mind, that confidence and distrust were not influenced by local considerations, as had been suggested, but must be ascribed to other causes, that of the merits of the objects in the one case, and of a fixed and determined temper of opposition in the other. The object of the bill was to provide a prompt and efficient defence for the country, threatened, as it was, with hostility; and that of the section under consideration, was, in furtherance of that object, to authorize the acceptance of such volunteers as would first step forth in case of danger. They would not be deterred from offering their services by any apprehension of their being called "Executive men," as the member had expressed it. They would feel themselves superior to such insinuations, and would merit, by their conduct, the honorable appellation of Defenders of their Country.

Mr. D. concluded, with exhorting the friends of this system of defence to oppose this amendment as destructive of its energy, and as coming from, and advocated by its avowed enemies, whose wish must be to make it worse rather than better, and thereby to increase the number of its opponents.

Mr. Harper was not prepared to say, even if he considered the reasoning of the gentleman from Kentucky founded, that Government ought to reject an Eastern or a Northern force, because they could get no force from any other quarter. He was of opinion, that if so many men could not be got from the South as from the North and East, it was an additional reason for adopting the present bill; because, in proportion as some parts of the Union would be inclined to submit, we ought to husband the force from other quarters. But he was far from agreeing with the gentleman from Kentucky on the present occasion, however great respect he always felt inclined to pay to his opinions. He seemed to think that voluntary enlistments would not take place to the Southward; that, in those States, there may exist a want of confidence in the President; a want of attachment to the Government; a want of that ardor which may be expected in other parts of the country. Mr. H. said, he believed that the people in those parts of the Union to which he alluded, are as strongly attached to the Government, and to the Executive, and have as good an opinion of the measures of Government, as the people in any other quarter of the Union. Nor did he believe they would be behind any others in giving a thorough support to this Government, which is the object of their choice. In proof of this, he might cite the various memorials which have come from those parts, not only on this, but former occasions, in which the strongest attachment to the Government is expressed; or he might appeal to the language of the Representatives themselves who come from thence, who constantly say, that, however they may differ in opinion from other gentlemen on political questions, they and their constituents will always be ready to defend their country in time of danger.

Mr. H. knew that certain politicians in this House, under the influence of a determined party spirit, had set their faces, in the most decided manner, in opposition to all the acts of Government; but they have not been able to induce a corresponding sentiment in the country from whence they came. He knew their mistakes were seen and pardoned, on account of their talents and probity in other respects; but though their mistakes are pardoned, they are not gone into. He knew, also, that it is the creed of those gentlemen, that when a measure has been adopted it ought to be carried into effect; therefore, though a difference of political opinion exists, and must exist, there can be no doubt that, whenever danger approaches, there will be but one voice. The conduct of the Virginia militia, when called upon to march against

the excise law in this State had been frequently mentioned, and with propriety, in illustration of this fact. He did not doubt the same spirit of alacrity to preserve order in the country, and a due obedience to the laws, would be shown, whenever an occasion shall call for it, and, if possible, more so, in defending the country against a foreign enemy. So far from the embodying of these volunteers proving an invidious distinction between different parts of the country, he believed it would prove the reverse. The people of North Carolina, South Carolina, and Virginia, so far from holding their services back, because they see the Northern and Eastern States come forward, the sight would arouse them. They would immediately say, "our brethren, with whom we shed our blood in the common cause of independence, are taking up arms for again defending their country against a foreign enemy, let us join them." This would be their feeling, and they would not suffer themselves to be outdone by any part of the Union. Mr. H. was not afraid of the want of spirit in the Southern country. He believed their strength was less than that of some other States, but their will was equal to the will of any. They would risk their all in the defence of their country. He never had, nor never should have, any doubt on this subject.

Mr. H. said, he would here notice an observation of the gentleman from Pennsylvania made yesterday. He asked in what respects these voluntary corps would be preferable to ordinary militia? He would ask, in his turn, in what respects men able, active, and willing to serve their country, men bound by one sentiment, are preferable to men of all ages, characters, and dispositions, forced into service? And whether the former, whose convenience permits them to leave home, and who do not leave helpless families behind them, are not likely to be a more effectual force than the latter? He believed there would be no doubt on the subject. Every one knows that the militia officers are an extremely respectable class of men; yet it was also known many of them could not, without great sacrifices, go into active service, and some were too old to do it. Some might also be indisposed to come forward, and wherever this should be the case, the President ought to have power to appoint others. Whenever militia officers are able and willing to serve, there is no doubt they will be preferred to others.

Another striking difference existing between this corps and ordinary militia, was this. These volunteers may be called out, and trained in the use of arms and military discipline, before they are wanted for immediate service, whereas the ordinary militia could not be called out, except in case of actual danger. This was a great advantage in favor of these corps.

But it was said, these volunteers might enlist in the independent companies at present in existence. This would separate persons living in the same neighborhood, and spread them throughout the country; and instead of being distinct bodies, where they could know their officers, they would be placed under men whose characters they would be unacquainted with, and their military spirit, which ought to be kept alive and encouraged, would, by this means, be frittered down and destroyed. Besides, in some parts of the country, there may be a greater number of volunteers than could be admitted into existing companies. Take, for instance, the county of Lancaster, where there are five or six volunteer companies now organized, and which might admit to complete them, 3 or 400 young men; but there may be 2,000 young men in that county ready to serve; and if so, what could be done with the surplus? They must of course be sent to a distance, or their service be lost.

Under this view of the subject, and considering this as a repetition of the motion of yesterday, he should give it his dissent, as he saw no difference between amending the section in this manner and striking it out altogether.

Mr. W. Claiborne said, whether or not all the measures of the Executive are approved throughout the United States, is not now the question. The proposed amendment met with his approbation, and if a majority of this committee shall think proper to adopt it, it would not be less acceptable to him, because it was made and supported by gentlemen supposed inimical to the bill. His motive for advocating this amendment, did not arise from any jealousy of the President's misusing the power, but from an apprehension of its effects upon the militia. He believed if the clause was to be agreed to as it stands, the militia are gone.

Early in the present session a committee was appointed to prepare a bill for placing the militia of this country upon a better footing than at present. They reported a bill recommending a select corps of militia; but the further consideration thereof was postponed until the next session. The present amendment embraced the same idea, and if it were carried, the volunteer youth would form a kind of select corps to the militia. Would this amendment, if adopted, lessen the number of men who would be ready to rally around the standard of Government, whenever danger shall threaten? No, it would not, it was merely calculated to put them on the ground of militia, instead of making them a part of the Army, and to prevent a dangerous increase of that establishment. For it was not a call upon any particular part of the Union, but upon all the youth of the United States, to come forward and enroll themselves as volunteer soldiers, be officered by the President, and subject themselves to be called into service at his pleasure; and from the spirit which now exists in the United States, and the military ardor of our youth, he had no doubt their numbers would be very large. The consequence will be that our militia will be enfeebled by the attachment of our young men to this chosen band, and what remained will be generally aged and infirm. If it was the intention of gentlemen to destroy the militia altogether, it would be well for them to say so; if not, he thought they ought to agree to the present amendment.

The gentleman from South Carolina has said,

that except this section is agreed to as it stands, the country would be deprived of the services of these patriotic young men. He was of a different opinion. He believed, if these young men wished to serve their country in time of danger, they would immediately form themselves into companies, and learn the use of arms, so that they may act to greater advantage as a part of the militia of the several States. Whilst military zeal is at its present height, he wished advantage to be taken of it, but in the way he had mentioned. This fervor would have a good effect on the militia, by reviving the dormant spirit of that body of men, whom he looked upon as the great safeguard of the country. He had not the honor with the gentleman from New Jersey (the Speaker) of ranking amongst the known defenders of the United States; but he wished to be a supporter of the present motion, and when danger shall appear he hoped he should be found an humble defender of his country.

Mr. J. Williams would not have said anything on this subject, had it not been for what had fallen from the gentleman from Kentucky. From the age of that gentleman, and of the gentleman last up from Tennessee, it was evident they did not take an active part in this country in the year 1775; but it will be recollected that there were volunteers at that time called *minute-men*, who were of great service. When the British marched from Boston to Lexington, the militia joined the minute-men, after they had been defeated by the British. He never before heard that to take volunteers from the body of militia, would ruin the militia.

In the year 1775, the militia came forward in volunteer corps, and instituted a military school. He hoped this would be done now, as it would be advisable for our youth to make themselves acquainted with military duty, whether we are engaged in war or not.

Every possible objection, Mr. W. said, was urged against this bill. It was much to be regretted that time should be so uselessly employed, by so many obstacles being thrown in the way of this bill. If he supposed, with the gentleman from Kentucky, that it would produce disorder in any of the States, he should be one of the last to vote for it. But, if the addresses lately received from the Southward were referred to, it would be found the people in that country are as ready to support the Government as the people to the Eastward are. Indeed the youth of Baltimore, it appears, are as ready as those of this city, or New York, to come forward in defence of their country, and he expected shortly to hear that the youth of Charleston had done the same. He hoped, instead of damping this spirit, by agreeing to the present motion, everything would be done to support and cherish it.

Mr. R. Williams rose to reply to the charge made by the Speaker of his having voted for striking out the whole of the section, and of being, consequently, an enemy to the principle of the bill. He said he had voted for it, with a hope of introducing the present amendment.

The question on the amendment was put and negatived—50 to 38.

Mr. Shepard moved to strike out the provision that went to confine the use of these volunteers in the State to which they belong, or in an adjoining State, which was carried, there being 60 votes for it.

Mr. Gallatin then moved to strike out the following words in the third section, "within three years after the passage of this act," and to insert in lieu thereof the words, "before the next session of Congress," which was negatived—48 to 41.

The committee then rose, and the House took up the second amendment, which had been agreed to in Committee of the Whole.

The first amendment proposed by the select committee, to strike out in the third and fourth lines of the first section of the said bill, the words "whenever he shall judge the public safety shall require the measure," and to insert, in lieu thereof, the words, "in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign Power, or of imminent danger of such invasion, discovered, in his opinion, to exist," being under consideration,

The amendment reported thereon, by the Committee of the Whole House, to add to the end thereof the words following, to wit: "before the next session of Congress," was agreed to by the House—yeas 53, nays 35, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William C. C. Claiborne, John Clopton, William Craik, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, William Findley, Albert Gallatin, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Reed, Tompson J. Skinner, Nathaniel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, Joshua Coit, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Geo. Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

And, on the question that the House do agree to the said amendment, as amended by the Committee of the Whole House, it was resolved in the affirmative—yeas 64, nays 26, as follows:

Yeas—John Allen, Abraham Baldwin, David Bard, Bailey Bartlett, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, William Craik, Samuel W. Dana, Thomas T. Davis, John Dawson, John Dennis, William Edmond, Lucas Elmendorph, Thomas Evans, William Findley, Abiel Foster, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Tompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—George Baer, jr., James A. Bayard, David Brooks, Joshua Coit, George Dent, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Nathaniel Macon, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, and John E. Van Alen,

The second amendment proposed by the select committee, and agreed to by the Committee of the Whole House, to strike out, in the fifth line of the said first section, the word "twenty," and, in lieu thereof, to insert the word "ten," being twice read, was, on the question put thereupon, agreed to by the House—yeas 56, nays 35, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Wm. Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Samuel Lyman, Matthew Lyon, Nathaniel Macon, Wm. Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Reed, John Rutledge, jr., William Shepard, Tompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Joshua Coit, William Craik, Samuel W. Dana, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, James Machir, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

The other amendments proposed by the select committee, as amended by the Committee of the Whole House, were, on the question severally put thereupon, agreed to by the House.

A motion was then made and seconded, further to amend the said bill, by striking out, in the fourth and fifth lines of the third section, the words "company or companies of volunteers," and inserting, in lieu thereof, the words "militia corps established by law in any State;" and, on the question that the House do agree to the said amendment, it passed in the negative—yeas 39, nays 51, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

Mr. Gallatin then renewed his motion to strike out, in the second and third lines of the said third section, the words "within three years after the passing of this act," and inserting, in lieu thereof, the words, "before the next session of Congress," which was negatived—50 to 40.

The bill was ordered to be engrossed for a third reading to-morrow.

On motion of Mr. Sitgreaves, a call of the House was ordered to-morrow, at half past eleven o'clock, in order to insure a full attendance at the passage of this bill.

Friday, May 18.

CALL OF THE HOUSE.

The Speaker informed the House that the hour was arrived at which a call of the House was ordered to be made, and that the Clerk would accordingly proceed to the call.

The call was accordingly made, when it appeared that 92 members were present, which, with 13 members absent on leave, and 1 sick, made up the whole number of members.

Mr. Harper laid before the House the following resolution, which was referred to the Committee of Ways and Means:

"*Resolved*, That a committee be appointed to prepare and report a bill for providing for the more effectual collection of certain internal revenues of the United States."

Mr. Sprigg called up his motion for amending the Standing Rules of the House, by providing that no member shall speak more than once on any question, either in the House or in the Committee of the Whole; which was agreed to without debate—58 members being for it.

The House went into a Committee of the Whole on the bill for the relief of Thomas Lewis; which being agreed to without amendment, the committee rose, and the bill was ordered to be read a third time to-morrow.

Mr. Macon called for the order of the day on the report of the Committee of Revisal and Unfinished Business, on the memorial of William Simmons, Accountant of the War Department, which recommends additional compensation to the memorialist for the year 1798. After some observations, the report was agreed to, and a bill ordered to be brought in accordingly.

A bill from the Senate making an alteration in the act fixing the Military Establishment, in respect to the appointment of a Brigade Major and Inspector, which the Brigadier General is authorized to appoint from the line of the Army, was twice read and committed for to-morrow.

Mr. Sewall called up the resolution which he yesterday laid upon the table, authorizing the Committee of Commerce and Protection to report, by bill or otherwise, the best means to be taken for securing or removing from the United States, aliens, or other disaffected and seditious persons; which was agreed to without debate or division.

PROVISIONAL ARMY.

The bill authorizing the President of the United States to raise a Provisional Army, was read the third time; when

Mr. McDowell moved to postpone the question on the passage of this bill till Tuesday next. Information had been received from Europe, and was entered on the Coffee-House books of this city, that our Commissioners had been received by the Executive Directory; and that the persons who had held authorized conversations with them on the subject of bribes, &c., were imprisoned. He could not say that this information was true; but, if it were, our differences with the French Republic may probably be amicably accommodated, and there may be no necessity to pass this bill at all. He hoped, therefore, the postponement would take place.

Mr. Sewall should be sorry if a motion of this kind were to receive any attention from the House. If negotiations were opened with the French Republic, they might not very soon be concluded. What appearance would it have to the nations of Europe, if, after all the insults and injuries we have received from the French Republic, the moment Congress heard in an indirect, uncertain way, that they had deigned to receive our Ministers, they stopped their proceedings in all measures of defence. A more unfavorable appearance, in his opinion, could not take place. It ought to be recollected that the army proposed to be raised was a provisional army, and would not be raised, if the contingencies therein named did not take place.

The question for a postponement was put and negatived; there being only 29 votes for it.

The question on the passing of the bill was then taken, and stood—yeas 51, nays 40, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, Richard Sprigg, jr, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

THE MILITIA LAW.

On motion of Mr. J. Williams, the House resolved itself into a Committee of the Whole on the bill making some alterations in the Militia law. The bill contained nine sections. The first went to repeal the second section of the old act, which contains the exemptions from militia duty; the second section enumerates the exemptions proposed to be allowed in future, which it proposes should be uniform, and that the States should no longer have the power of granting exemptions; the third, fourth, fifth, sixth, seventh, and eighth sections relate to musters, laying fines for neglect of duty, and the manner in which they shall be conducted; the ninth section provides for the purchase of —— thousand stand of arms, to be distributed in due proportion, by order of the President of the United States, among the several States, and stored at suitable places within each division of the militia of the State, for the purpose of being sold out to the militia, at reasonable prices, and under such regulations as the President shall prescribe. All the sections were struck out, except the last, which was agreed to. The committee rose, and the bill was recommitted to the select committee.

The House then went into a Committee of the Whole on the bill for the relief of Joseph Nourse, which was was agreed to, and ordered to be read a third time to-morrow.

Mr. Sewall reported a bill respecting alien enemies, which was committed for Monday.

Saturday, May 19.

The bill for the relief of Thomas Lewis, and that for the relief of Joseph Nourse, were read the third time and passed.

Mr. Macon reported a bill making additional compensation, for the year 1798, to William Simmons, Accountant of the War Department, which was twice read, and committed for Monday.

Mr. T. Claiborne moved a resolution to provide, that in the bill respecting the purchase of arms for supplying the militia, a clause should be inserted for furnishing arms to such persons as are too poor to pay for them, free of expense. The motion was negatived—15 votes only being for it.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill to amend the act to amend and repeal, in part, the act to ascertain and fix the Military Establishment of the United States; which, being agreed to, the committee rose, and the bill was immediately read the third time and passed.

Mr. Gallatin, from the committee to whom was referred the petition of H. W. Dobbing and John Ellison, who pray for a grant of land in the Northwestern Territory on terms different from those provided by law, made a report. The committee being directed to inquire generally into the subject, and having determined upon the propriety of making some general regulations, recommend that the prayer of the petition ought not to be granted. Concurred in.

The same gentleman also made a report on the petition of Ely Williams, who prays for compensation on account of buildings erected in the Northwestern Territory by himself and partner, when agents for supplying the Western Army, for the purpose of salting provisions, or a grant of land as an equivalent. The committee recommend a grant of land to be made to the petitioner in Cincinnati, upon which said buildings were erected. The report was concurred in, and a bill ordered to be brought in.

FINAL SETTLEMENT CERTIFICATES.

Mr. D. Foster called for the order of the day on the bill respecting Loan Office certificates, final settlement certificates, and indents of interest; and the House accordingly resolved itself into a Committee of the Whole on the said bill, when, after having been read, and after some few observations on the principle adopted for payment, the bill was agreed to, and ordered to be read a third time on Monday.

This bill provides that so much of the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed the 3d of March, 1798, as bars from settlement or allowance, certificates commonly called Loan Office and final settlement certificates, and indents of interest, be and the same is hereby suspended for the term of one year, from and after the time of the passing of this act; that, on the liquidation and settlement of such of the said certificates and indents of interest as may be presented at the Treasury, pursuant to this act, the creditors shall be allowed to receive certificates of funded three per cent. stock of the United States, equal to the indents, and the arrearages of interest due on their said certificates, prior to the first day of January, 1791; that the principal sums of the said Loan Office, and final settlement certificates, with the interest thereon, since the first day of January, 1791, shall and may be discharged, after liquidation at the Treasury, by the payment of interest and reimbursement of principal equal to the sums which would have been payable thereon if the said certificates had been subscribed pursuant to the acts making provision for the debts of the United States contracted during the late war, and by the payment of other sums equal to the market value of the remaining funded stock, which would have been created by subscriptions as aforesaid; which market value shall be determined by the Comptroller of the Treasury; for which purpose the sum of $20,000 is appropriated; that, from and after the passing of this act, it shall not be lawful for the officers of the Treasury to issue, or cause to be issued, any certificates of registered or unfunded debt; and to satisfy such claims for services, or supplies furnished, prior to the establishment of the present Constitution of the United States, as shall be allowed according to law, and the course of settlement at the Treasury, $20,000 are appropriated; that the Commissioners of the Sinking Fund are required to reimburse, or cause to be reimbursed, the principal sums of the unfunded, or registered debt of the United States, credited on the books of the Treasury and Commissioners of Loans, and to cause a notification to be published informing the creditors generally of the said reimbursement, and that interest on the said debts will cease at the expiration of six months after the date of the said notification, and $90,000 are appropriated for the purpose; and that it shall be lawful for the creditors of the unfunded or registered debt aforesaid, to receive certificates of funded three per cent. stock, equal to the arrearages of interest due to them, respectively, prior to the first day of January, 1791; and on the requisition of each or any of the said creditors, the proper officers of the Treasury are hereby required to issue, or cause to be issued, the said certificates of funded three per cent. stock, accordingly.

Monday, May 21.

The bill respecting Loan Office certificates and final settlement certificates, indents of interest, and the unfunded or registered debt credited on the books of the Treasury, was read the third time, and passed.

Mr. Varnum, from the Committee on Post Offices and Post Roads, to whom was recommitted a former report, reported a bill in addition to the act for establishing post offices and post roads, which was committed for Monday.

PRESENTS TO MINISTERS.

Mr. Bayard said, he had a resolution to offer to the House, which he trusted would meet with no opposition from any quarter. It was intended solely to explain the grounds upon which the House proceeded when they refused to consent that Mr. Pinckney should receive the presents usually made by foreign Courts to Ministers upon taking leave, and which had been offered to him by the Courts of London and Madrid. He had purposely avoided in the resolution any expression of approbation of the conduct of Mr. Pinckney during his missions, because he perfectly knew that no approbation of that House could add to the high sense the people of the United States already entertained of the integrity and talents of that gentleman; and because it did not belong to the occasion for the House to express any opinion as to the conduct of the gentleman during the time he was employed abroad. That the design of the resolution he had to submit, was simply to negative an implication which possibly might be made, that, as the Constitution certainly did contemplate cases in which Ministers might be allowed to receive presents, the House were induced, by reasons connected with the conduct of this gentleman, to refuse the liberty to accept the presents; whereas he was perfectly satisfied, from the declarations of gentlemen who opposed the permission, who had all taken occasion to testify much esteem for the character and entire approbation of the conduct of Mr. Pinckney while in office, that their opposition arose from principles of general policy, which led them to think that, in no case should presents be allowed to be received. Nay, they had said, that the purity of this gentleman's character, and the importance of his services, furnished a happy opportunity of establishing an invariable rule precluding the acceptance of these presents, which no merit hereafter should induce the House to depart from. The subject, however, was of so delicate and tender a nature, that he conceived it a piece of justice on the part of the House to state explicitly the grounds upon which their decision was made, in order to preclude the possibility of any mistake as to their motives. He should rely, therefore, with perfect confidence, that the following resolution would be unanimously adopted:

Resolved, That this House, in refusing to allow Thomas Pinckney, late Minister at the Court of London, and Envoy Extraordinary to the Court of Madrid, to receive the presents usually made by the said Courts to foreign Ministers on taking leave, were induced to such refusal solely by motives of general policy, and not by any view personal to the said Thomas Pinckney.

Mr. Griswold moved the postponement of this resolution till to-morrow.

The question on postponement was put and negatived—41 to 34.

The question on agreeing to the resolution then recurred—

Mr. Sewall had some doubts as to the propriety of the determination of the general question, as he believed, by that determination, the House had parted with an advantage placed in them by the Constitution. He thought the best way of settling this business would be to reconsider that question. He knew one gentleman who had voted upon it through mistake, and there might be several others in the same situation.

The question on agreeing to the resolution was put and carried unanimously.

NATURALIZATION LAW.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill supplementary to, and to amend the act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject.

Mr. Sewall moved to fill the blank specifying the length of time necessary for an alien to give notice of his intention to become a citizen, before he can be admitted, with "five years." Carried.

The blank declaring the length of time necessary for an alien to reside here before he can be admitted a citizen, Mr. S. moved to fill with "fourteen years."

Mr. McDowell hoped this blank would not be filled with so long a time. The residence now required from foreigners before they can become citizens is five years. He would not object to an increase of the length of this term to seven years; or, if the committee thought nine better, he would not object to it. He did not wish to discourage an emigration to this country of respectable foreigners, by barring them from the rights of citizenship. The policy of this country had always been different, and he did not wish entirely to change it. When persons come here from foreign countries, it was our interest to attach them to us, and not always to look upon them as aliens and strangers.

The question for filling the blank with "fourteen," was put and carried—41 to 40.

Mr. Sewall moved a clause providing that no alien who comes from a country at war with us, shall be admitted to citizenship while such war continues. Agreed to.

Mr. Gallatin wished to know whether the provisions of this act are intended to extend to persons who were in this country previous to the passing of the law of January, 1795, which requires a residence of five years before an alien can become a citizen, but who have neglected to become citizens, as well as to all those aliens who have come to this country since January, 1795; although they may have made the declaration by that law required three years before they can become so, of their intention of becoming citizens of the United States. The law of January, 1795, had made an exception in favor of all aliens then in the country.

As the bill stands at present, Mr. G. said, it would have a retrospective effect on three descriptions of persons, viz: all those aliens who were

in this country prior to the adoption of the present Constitution of the United States, and who were not naturalized under the State laws before the act of 1790; in the next place, it affects all those who, under the law of 1790, might have been naturalized, and all those who, under the law of 1795, might hereafter be naturalized, provided they have made the necessary declaration of their intention of becoming citizens. From the year 1795, many persons, with a view of making themselves citizens of this country as soon as the law would allow them, have renounced their allegiance to the countries from whence they came, and if this bill passes in its present form, they will for ten or twelve years to come be without citizenship in any country. He hoped, therefore, some exception would be made in favor of the descriptions of persons which he had named.

One reason which led him to mention this circumstance was, that there are a great number of persons in the state of Pennsylvania, and many in the district from whence he came, who, though they are not citizens of the United States, really believe they are. This mistake has arisen from (an error common to most of the districts of the United States) a belief that an alien's being naturalized by the laws of a State Govenment, since the act of 1790, made him a citizen of the United States. The Mayor of Philadelphia, till the year 1795, admitted citizens under the State law, who afterwards considered themselves as citizens of the United States. He always thought that construction to be wrong—Congress having the power to pass, and having passed an uniform naturalization law, which, in his opinion, excluded the idea of admission to citizenship on different terms by the individual States. But he knew the contrary opinion till lately generally prevailed. Indeed, he knew that at the late election in this city, the votes of respectable merchants, who had obtained American registers for their vessels, on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union. It may be said that, since the year 1795, these persons might have gone to any of the courts and have become citizens. In this city, and in others, he supposed persons had generally done so; but where people are two or three hundred miles distant from the District Court of the United States, they had not always an opportunity of doing it, especially on account of a construction of the act of 1795, which had prevailed in some counties of Pennsylvania, and which made it doubtful whether any court in the State, out of the city, could administer the oath of citizenship. Mr. G. supposed that since the year 1790, from ten to fifteen thousand emigrants had come into the State of Pennsylvania, two-thirds of whom believed, till lately, that they were citizens of the United States, from their having been naturalized by the laws of that State. It has now been discovered that they are not citizens; but since that discovery was made, they have not had an opportunity of being admitted according to the law of the United States. If some limited period was given to these persons to come forward to be naturalized, and they did not become citizens in that time, he should be willing to exclude them. He thought, indeed, provision should be made for all these persons; but he would not move any amendment until he had heard the opinion of the committee on the subject. The amendment just adopted, for excluding their enemies from citizenship, would do away any objection which could be urged against a provision of this kind. Indeed, the persons he alluded to generally came from the territories of the King of Great Britain, and three-fourths of them from Ireland.

Mr. Sewall said, this subject was before the select committee, and it was the opinion of a majority of that committee that no exception ought to be made, but that the bill should pass in its present form. His own sentiments were decidedly against any alteration. As to the Irishmen whom the gentleman from Pennsylvania has mentioned, as they have neglected to avail themselves of the privilege of becoming citizens, he supposed they did not place any high value upon it. They are now permitted to hold lands; and from the present distracted state of the country from whence they have emigrated, he did not think it would be prudent to make them eligible to hold seats in the Government after a residence of five years. He believed the liberty which the United States have given in this respect heretofore has been unexampled, and it was high time the evils which had arisen from this imprudent liberality should be remedied. The present distracted state of the world, and the attempts made to disturb other Governments, showed the necessity of the proposed regulations.

Mr. S. did not consider the persons who had been mentioned as laboring under any disadvantages. Considering what they have left, and what they receive here, their situation is vastly improved by the change which they have made, without giving them any chance of becoming members of our Government, for they would have had little chance of becoming members of the Government which they have left. He did not suppose they came here with a view of getting into the Government, but to acquire property, and to enjoy peace and happiness, and this they might do independent of citizenship. As he saw no good, therefore, to be derived to the country from admitting these persons to citizenship, but much danger, he hoped the bill would be agreed to as reported.

Mr. Gallatin said, if the bill was proceeded with, he would prepare an amendment in favor of those classes of persons he had mentioned.

The bill was accordingly proceeded with; and coming to the fifth section, where it is provided, that if an alien shall continue to reside here, and shall refuse or neglect to make a report of his residence, and receive a certificate thereof, shall forfeit two dollars, *and shall be liable to be arrested as a suspected person*—

Mr. Gallatin moved to strike out the words printed in italic. It was sufficient, he said, that such a person should pay a fine. It was a new

thing to punish a man by imprisonment, not for delinquency, but because he was suspected. A conduct of this kind had been highly condemned in another country, and he hoped it would not be adopted here.

Mr. Sewall said, it was the intention of the committee to show the nature of the offence of omitting to make the proper report; to show that such omission would lay the citizens under the suspicion of not acting openly and candidly.

Mr. Sitgreaves remarked, that if his colleague's objection only went to the words "suspected person," his motion went too far.

The question was put and negatived—37 to 36.

Mr. Gallatin then proposed an amendment to the following effect:

"Provided that any alien who was resident within the limits, and under the jurisdiction of the United States, before the 29th of January, 1795, and any alien who shall have made a declaration of his intention of becoming a citizen of the United States, in conformity to the provisions of an act establishing a uniform rule of naturalization, passed on that day, may be admitted to become citizens of the United States, according to the provisions of that act."

Mr. Craik was disposed to go much further than is proposed in this bill in restricting aliens from becoming citizens of this country. He should have no objection to say, that no foreigner coming into this country after this time, shall ever become a citizen; but he believed if this law was to have a retrospective operation on all those foreigners now residing within the United States, who have neglected to become citizens, it would be very unjust. There was a large class of persons, he said, in the country from which he came, who are not naturalized under any law, and many others who had been naturalized under the State law; about the legality of which, as had been stated, there is much doubt, though in Maryland and Virginia foreigners are still naturalized by the States, notwithstanding the law of the United States.

In deciding upon this question, Mr. C. said, it would not be proper to take into consideration emigrants from any particular country. Many of the persons he alluded to, are Germans, and well entitled to every privilege that can be given them, and whose neglect to become citizens was probably owing to their ignorance of our language and laws. He should, therefore, be in favor of this amendment, especially as far as it respects those aliens who were in this country before the year 1795.

Mr. Bayard said, though foreigners were prevented from becoming citizens of the United States until they have resided fourteen years in the country, in many of the States, they are entitled not only to vote for filling the offices of the State Governments, but also for filling those of the United States. Therefore, the only privilege which they are denied, is the capacity of becoming members of the Federal Government; which was a denial, he thought, recommended by sound policy. And he did not see why the restriction should not extend to the aliens now within the United States, as to those who shall hereafter come here. If aliens residing here had any right to expect an exception, it must be on the ground of compact. He did not, however, consider naturalization laws in that light. Aliens cannot be considered as members of the society of the United States; our laws are passed on the ground of our own policy, and whatever is granted to aliens is a mere matter of favor; and, if it is taken away, they have no right to complain. Every principle of policy, in his opinion, required this regulation to be made general; for he believed there were as many Jacobins and vagabonds come into the United States during the last two years, as may come for ten years hence; so that these very persons against whom this law was intended to operate, will become citizens, and may be chosen into the Government. He hoped, therefore, the amendment would not be adopted.

With respect to those persons who have given notice of their intention of renouncing their allegiance to the foreign country from whence they came (for they do not actually renounce it until they become citizens) it can make no difference to them, especially those referred to by the gentleman from Pennsylvania, because it is a principle of the British law, that British subjects have not a right to alienate themselves; they cannot renounce their allegiance to the British King. No objection, therefore, could be had against the measures being general on that ground.

Mr. Macon was apprehensive that gentlemen in their zeal to get at particular persons, will go too far in this business. He agreed with them, that, for three or four years past, people of all sorts of politics had come to this country, from the highest aristocrat to the greatest Jacobin; and he doubted not that persons who were very desirous of becoming citizens, or who had any particular end to answer by it, had availed themselves of the law. But there are persons in distant parts of the Continent, who have never yet become citizens, perhaps from their not being in the way of going through the ceremony, and because he had no apprehension of the privilege being taken from them. Many had also omitted to do it from an ignorance of our language. He hoped, therefore, this amendment would be agreed to. If persons have given notice of their intention to become citizens, they have complied in part with the laws; and he did not think it would be right to put it out of their power to comply with the other part.

Mr. Sewall said, this amendment would comprehend those aliens who have come here since the year 1795, though they may have made no declaration of their intention to become citizens, as they may make the declaration before the law passes. As to the other description of persons, he had not the same objection to them. He agreed with the gentleman from Delaware, that our regulations in this respect are made for our own convenience and safety, and that no alien has a right to complain, if these regulations should disappoint his expectations.

Mr. Sitgreaves said, this was either a question of right or expediency. He presumed no gentleman was prepared to say any alien had acquired an absolute and positive right in this country to citizenship at any particular time. If not, it was a mere matter of expediency; and, when it is considered in this light, there can be little difficulty in seeing the danger and disadvantages which would arise from allowing foreigners to become citizens, as heretofore, or as proposed by the present amendment. They are too evident to be enumerated.

But it was supposed that there were a large number of individuals in this country entitled to citizenship by the law of 1790, but who have, nevertheless, neglected to become citizens. It was a little extraordinary, he said, if this were so; that persons should for so long a time have neglected to embrace a right which, it is now represented, it would be doing them great injury to deprive them of. As to those persons who came into the country since the law of 1795, he saw no good reason for making an exception in their favor. As policy, safety, and security, dictated the measure, he hoped the bill would be passed as reported.

Mr. W. Claiborne said he could not reconcile it to his feelings to vote for the bill without the amendment proposed by the gentleman from Pennsylvania, because it would be doing a number of people whom he represented the greatest injustice. Those people, he said, were peculiarly situated. It was only at the last Winter session that the State of Tennessee was represented on this floor; and, at the time of passing the naturalization law, the people of that country were not in a situation to receive information of what was done in Congress. It need not be a matter of surprise, therefore, if, in that frontier country, there are many persons aliens who did not take advantage of the law of 1790. There are numbers of such who have given the strongest proofs of attachment to the country; they have fought and bled in the service of the United States, and are as much wedded to the Government of the United States as any men born on American soil. If this amendment does not prevail, it will affect many valuable citizens of the State of Tennessee who were citizens in the year 1795, and ten years before that time. These persons would be deprived of rights, because they were living in a country in which there was no post road, and where, of course, they had no newspapers to give them information of what was going on at the seat of Government. He hoped, therefore, it would not be agreed to.

Mr. J. Williams hoped this provision would be agreed to. When an act is passed, good reasons, he said, ought to be given before any change takes place. Many persons had come into the country from an expectation of being naturalized at the end of a certain period; but, if this provision is not agreed to, the system will be entirely changed. He saw no difficulty which could arise from agreeing to this provision, as persons from countries at war with this country could not be made citizens at all. He knew a number of persons who had not taken advantage of the naturalization law, who perhaps are as good men as any in the United States. It was true, he said, that by the laws of the several States aliens are allowed to hold land; but when foreigners come here to reside, and behave well, he did not see why they ought to be prevented from becoming citizens. They contribute their share of the expense of Government, and it was an acknowledged principle that representation and taxation ought to go together; which would not be the case if the bill was passed without this amendment.

The question was put and carried, there being 52 votes for it.

The committee then rose, and the House proceeded to take up the amendments.

The amendment of Mr. Gallatin coming again under consideration,

Mr. Coit hoped that part of the clause would be disagreed to which embraces persons who were in this country before the year 1795, but who had never shown any disposition to become citizens. Those who came since, and had given notice of their intention of becoming citizens, stand on very different ground. He should have no objection to the latter being accepted, in the way proposed, but not the former.

After a few observations on this amendment, it was negatived—49 to 32.

Mr. Sitgreaves proposed an amendment, limiting the time within which aliens, included in Mr. Gallatin's proposition, should be permitted to avail themselves of the exception in their favor, viz: those who were in this country before the year 1795, within one year after the passing of this act; and those who have come here since, and given notice of their intention to become citizens, within four years from the time of such notice having been given.

The question was first put on the former part of the amendment.

Mr. T. Claiborne did not wish to punish men for not being born here, but to punish both natives and foreigners when guilty. He hoped two years would be allowed instead of one.

The question on two years was put and negatived—31 to 39. It was then put on one, and carried—57 votes being for it.

The question on the second part of the amendment was then put.

Mr. Varnum said, the impulse of the moment led members to believe that these restrictions upon foreigners were necessary. He thought there was no necessity for any measures being taken with respect to foreigners, except such as belong to the nation with whom we expect to be at war; yet, he had no particular objection to restrictions being made with respect to such foreigners as shall hereafter come to this country; but, having heretofore held out inducements to foreigners to come to this country, and when they are come, with an expectation of becoming entitled to the rights of citizens in a certain time, he would not disappoint those expectations.

Mr. T. Claiborne said this was a very important bill, and he should wish a little more time to consider on it; he therefore moved an adjournment.

The motion was put and negatived, there being only 15 votes for it.

Mr. Sitgreaves said, the observations of the gentleman from Massachusetts could only be applicable when the principle of the bill was under consideration; whereas, the present proposition only went to limit the period within which advantage should be taken of the indulgence proposed to be allowed.

Mr. Varnum moved a division of the amendment, and proposed to allow till the 1st of September next for persons to make a declaration of their intention to become citizens.

This motion was not seconded; and the question on the amendment was put and carried—47 to 31.

The bill was then ordered to be read a third time to-morrow.

Tuesday, May 22.

The bill to establish a uniform rule of naturalization, and to repeal the former act for that purpose, was read the third time and passed.

On motion of Mr. Macon, the House went into a Committee of the Whole on the bill allowing additional compensation to William Simmons, Accountant of the War Department, when it was agreed to allow him an additional compensation of $600 for the year 1798.

The committee rose, and the bill was ordered to be read a third time to-morrow; which was accordingly done and the bill passed.

Mr. Sitgreaves laid the following resolutions upon the table:

Resolved, That the commanders of the private armed vessels of the United States be authorized, by law, to take or destroy any cruiser of the French Republic, which shall attack them on the high seas, for the purpose of search or seizure.

Resolved, That the commanders of the public armed vessels of the United States be authorized and directed to take or destroy any cruiser of the French Republic which may be found attacking, on the high seas, any public or private vessel of the United States, for the purpose of search or seizure.

Resolved, That the commanders of the public and private armed vessels of the United States be authorized to retake any vessel of the United States which may have been captured by the cruisers of the French Republic, and to take or destroy any cruiser which may have made such capture.

Resolved, That the public armed vessels of the United States be authorized and directed to take or destroy all armed cruisers of the French Republic, which may be found on the coast of the United States within —— of the shore.

Mr. Sitgreaves moved these resolutions to be referred to the Committee for the Protection of Commerce and the Defence of the Country, to report by bill or otherwise.

Mr. McDowell hoped these resolutions would lie upon the table till to-morrow. He owned he was not ready to instruct the committee named to bring in a bill on this subject. He believed these resolutions are synonymous with a declaration of war; and, notwithstanding the present critical situation of the country, he had yet some hopes of war being averted, if prudent measures were adopted. He was not willing, therefore, to alarm the public mind by referring resolutions of so dangerous a nature as these. It was possible, he said, that we might soon receive information from our Commissioners, which would make a step like this proper; but he could not think it would be proper at present.

Mr. Venable inquired of the Speaker whether, when a member requested a resolution of this kind to lie upon the table, it was not to lie according to the rules of the House?

The Speaker answered in the affirmative, and the resolutions were ordered to lie upon the table.

NATURALIZATION LAW.

Mr. Bayard made a motion for suspending the operation of the naturalization bill, for a limited time. He thought the present time was not a proper period for making permanent regulations on the subject, and that it would be better to suspend the present law for a time, than pass any new law upon it at present, as there was danger, under our present feelings, that the restrictions against aliens might be carried too far.

The Speaker said, he conceived this motion could not be in order while the bill which had passed this morning on this subject was on its passage.

COMPENSATION OF MARSHALS.

On motion of Mr. Harrison, the House went into a Committee of the Whole on the bill for regulating the compensation of marshals, attorneys, jurors, and witnesses; and, after some discussion, the committee rose, and the House took up the bill; when

Mr. Lyon moved to strike out the salaries proposed to be allowed to marshals and attorneys, to the former of $300 a year, and to the latter $400 a year, exclusive of the fees arising from their office, which he thought quite sufficient without any salary.

Both motions were taken by yeas and nays, and were negatived—the first 45 to 27, the second 45 to 35.

The bill was ordered to be read a third time to-morrow; which was accordingly done, and the bill passed.

MARINE CORPS.

Mr. Sewall, from the Committee of Commerce and Protection, made the following report:

"That in their opinion important advantages would be obtained by an arrangement in one corps of the marines who are or shall be engaged in the service of the United States, and by annexing them to the existing Military Establishment; particularly, as it would afford the means of order and economy, in which a number of minute detachments are liable to be very deficient; and as thereby the detachments, which will be occasionally on shore, will be kept in proper discipline, and may be rendered useful in the fortifications, or elsewhere, as the public service may require. The committee, therefore, recommend the following resolution to be adopted:

"*Resolved*, That, in addition to the present Military Establishment, there shall be raised a battalion, to be called the Marine Corps, to consist of a Major, and

suitable commissioned and non-commissioned officers, five hundred privates, and the necessary musicians, including the marines now in service; and the marines which shall be employed in the armed vessels and galleys of the United States shall be detachments from this corps."

ALIEN ENEMIES.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill respecting alien enemies, Mr. Dent in the Chair; when the bill was read as follows:

Sec. 1. *Be it enacted, &c.*, That whenever there shall be a declared war between the United States and any foreign Nation or Government, or any invasion, or predatory incursion, shall be perpetrated, attempted, or threatened, against the territory of the United States, by any foreign Nation or Government, and the President of the United States shall make public proclamation of the event, all natives, denizens, citizens, or subjects of the hostile Nation or Government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed, as alien enemies; and shall be further subject, with their goods and effects, to a just retaliation of any unusual severities, restraints, and confiscations, which shall be suffered by the citizens of the United States, resident within the territory of the hostile Nation or Government, and inflicted by their authority, previous to, or at the commencement of, any war or rupture as aforesaid, under color and pretence thereof. And the President of the United States shall be, and he is hereby, authorized, in any event as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom, and to establish any other regulations which shall be found necessary in the premises, and for the public safety, subject, nevertheless, to the regulations which the Congress of the United States shall thereafter agree and establish.

Sec. 2. *Provided, &c.*, That aliens resident within the United States, who shall become liable as enemies in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed, for the recovery, disposal, and removal of their goods and effects, and for their departure, the full time which is or shall be stipulated by any treaty, where any shall have been between the United States and the hostile Nation or Government, of which they shall be natives, denizens, citizens, or subjects; and, where no such treaty shall have been, a reasonable time, which shall be ascertained and declared by the President, or by the Congress of the United States, as may be consistent with the public safety, and according to the dictates of humanity and national hospitality. And the goods and effects of an alien, resident within the United States, who shall become an enemy as aforesaid, belonging and accruing to him there, before the commencement of any war or rupture as aforesaid, shall not be liable to any seizure, confiscation, or restraint, unless by the necessity of a just retaliation as before mentioned, which, under the authority of the President of the United States alone, shall not extend further than to the securing of the persons, goods, and effects of aliens liable as aforesaid, until the end of the next ensuing session of Congress, and to be subject to the law which they shall agree and enact thereupon.

Sec. 3. *And be it further enacted*, That all Justices and Judges of the Courts of the United States, and of each State, and justices of the peace, having criminal jurisdictions and authority for the securing of offenders, and all marshals, sheriffs, and other officers, according to their powers, and within their several jurisdictions and precincts, shall be, and they are hereby, authorized and required to discharge, enforce, and execute the duties and authorities which shall be incumbent upon them respectively, by virtue of the rules and directions which, in any proclamation or other public act, the President of the United States shall and may make and establish in the premises as aforesaid: and whereto all the good people of the United States shall be obedient and assisting. And any person who shall wilfully hinder, obstruct, or oppose any judicial or other officer in the exercise and discharge of the authorities and duties which are or shall be granted or enjoined by this act, or pursuant thereto, or who shall harbor or conceal any alien liable as an enemy, knowing him to be such, after proclamation by the President of the United States as aforesaid. * * * *

The two first sections having been read, without motion for amendment,

Mr. Lyon moved to strike out the word "harbor," in the third section, which was negatived.

Mr. Macon thought the third section gave the President a very extraordinary power; it seemed that his proclamation, in all cases, was to be considered as law. He wished the chairman of the committee, who reported the bill, to give some information on the subject.

Mr. Sewall said, the gentleman from North Carolina seemed to suppose that this was a general power placed in the hands of the President, whereas his power is confined by the first section of the bill. This power, Mr. S. said, must be placed somewhere, and he believed it could not be better placed than in the President.

Mr. Lyon saw no ground for the first section of the bill, except it was to restrain the property of aliens to make satisfaction for the injuries done to our own citizens; nor should he be willing to give a power to the President which might enable him to distress innocent persons. He moved, therefore, to strike out the words "or threatened," in the first section, as he considered these words too vague to authorize the exercise of so great a power as was here given.

Mr. Macon seconded the motion.

The question was put and negatived, 44 to 39.

Mr. Harper moved to strike out the words "predatory incursion," in the first section. The power, he said, was a very extensive one, and he did not think it ought to be given except in case of serious attack; but, after a few words in opposition to it by Mr. Sewall, and in favor of it by Mr. McDowell, he withdrew his motion, alleging that he had not rightly understood the section.

Mr. Bayard said, the last section of this bill

contained a principle contrary to all our maxims of jurisprudence, viz: to provide punishment for a crime by a law to be passed after the fact is committed. Whether the crime to be punished is to amount to treason, misprision of treason, or be only a misdemeanor, is left uncertain. It was his opinion that laws could not be too definite; but it would be impossible in this case for the person committed to know what crime he had committed, or to what punishment he was liable. In order to get rid of this difficulty, he moved to strike out all the words after the word "aforesaid," at the conclusion of the last section, and to insert in lieu thereof the following words, viz: "shall be guilty of a misdemeanor, and subject to a fine not exceeding ——— dollars, and be imprisoned not exceeding ——— months."

Mr. Sewall acknowledged there was a good deal of uncertainty in that part of the bill moved to be struck out; but the select committee did not see any way of remedying the evil without making the law too mild in its operation. In some cases, the offence would amount to high treason, the punishment for which is death; in others, to misprision of treason, the punishment for which is imprisonment not exceeding seven years, and a fine not exceeding one thousand dollars. As the offence might, therefore, sometimes amount to high treason, there would be an impropriety in making it uniformly a misdemeanor.

If an alien should have resided here for a number of years, and he should turn out to have been a spy, and a citizen of the United States should have harbored and concealed the said alien, knowing him to have been a spy, he would be chargeable with high treason for aiding and abetting the enemies of the United States within its territory, or at least a misprision of treason.

But the gentleman from Delaware was mistaken in his idea that it was intended to try an offender by a law passed after the offence was committed. By the expression, "as by law is or shall be declared," was only meant such law as should be passed between the present time and the time of committing any offence.

The question on this amendment was put and carried, 44 to 25.

On motion of Mr. Bayard, the blank for containing the amount of the penalty, in the amendment just carried, was filled with one thousand dollars.

The committee rose, and reported the amendments; which having been agreed to,

Mr. Dent moved to strike out the word "months," in Mr. Bayard's amendment, in order to insert "seven years."

Mr. N. Smith hoped this amendment would not be agreed to. He believed the penalty might, in some cases, be too severe, and in others by far too mild. He thought the bill stood well as it was. He did not think there was any uncertainty in it but what arose from the different species of offence which were comprised within this provision—for a person under it might be guilty of the highest crime, or of no crime at all, according to the circumstances of the case. This being the condition of things, to make an uniform punishment for all cases, whether highly criminal, or no crime at all, cannot be proper.

The bill as it stands, without the amendment, provides that offenders shall be imprisoned and punished according to the law which is or shall be made, (before the offence is committed,) and he thought this was the proper footing, as the punishment would then be apportioned according to the offence.

Mr. Bayard hoped the amendment would be agreed to. He did not know that a greater misfortune could happen to any man than to live in a country where the laws are so indefinite that a person cannot ascertain when he commits an offence, or what is the penalty of an offence when it is committed. The gentlemen from Massachusetts and Connecticut tell the House about the aggravation of the offence. What was the aggravation they allude to they have not stated, and no gentleman could form an opinion upon the subject. The fact was of a definite nature, and a definite punishment ought to be made for it. What is the fact? It is the harboring and concealing of an alien enemy after the proclamation of the President. Gentlemen say this offence may amount to treason, misprision of treason, or other offence. If the offence could amount to treason, he owned he did not understand the bill, because the crime of treason is defined by the Constitution, and could not be varied by any law of Congress. If, then, the fact amount to treason, it will not be included in this law. If gentlemen wished to punish persons in exact conformity to their degree of offence, they ought to prepare a scale of offence for that purpose. If not, the amendment agreed to in Committee of the Whole, ought, in his opinion, to be concurred in.

Mr. Sewall said, this bill aimed at one thing, and the gentleman from Delaware at another. The bill has in itself a definition of the offence. It has declared certain circumstances which shall put a person in a situation in which he shall answer for his conduct. It declares that a person harboring an alien enemy shall be a suspected person; but the crime and punishment must be ascertained by other laws; and by these offenders are to be punished agreeably to their offences, whether they be great or small.

Mr. Gallatin said, if he understood the gentleman from Massachusetts, it was not the object of this bill to define the nature of the offence of which a person should be guilty, or the punishment for it, for harboring and concealing an alien enemy, but only that certain circumstances should render a man a suspected person. This to him was altogether a new legislation.

If he understood the bill as it stood rightly, a person may be apprehended and imprisoned on account of his having harbored and concealed alien enemies; yet the gentleman from Massachusetts says this is in itself no crime; for, if it were a crime, it ought to be punished in the way proposed by the gentleman from Delaware, but he states it to be only a sufficient ground of suspicion. This, Mr. G. said, was not only contrary

to every principle of justice and reason, but to the provisions of the Constitution. The Constitution says, "that no person shall be deprived of life, limb, or property, without due process by law." But here certain persons may be deprived of their liberty without any process of law, or being guilty of any crime. Yet the gentleman from Massachusetts says, that this bill does not define a crime or award a punishment. But, Mr. G. said, this assertion was not correct; for there was a new crime instituted, which was that of being a suspected person, and the overt act which is to be evidence of that crime, is the harboring and concealing of an alien enemy, and the punishment is to be apprehension and imprisonment until it shall be found what law the prisoner has offended.

Mr. G. said he was ready to acknowledge that where a man commits an offence, he ought to be punished; but he could not consent to punish any man on suspicion merely. He therefore moved to recommit the bill. He did this because he thought the whole of the bill vague in its nature. He wished it to be more in detail, and that the offences to be punished should be defined; for it was remarkable that every section of the bill concluded with these singular words: "subject nevertheless to the regulations which the Congress of the United States shall thereafter agree and establish." So that instead of deciding what the law should be, it gives the President the power of saying what it is; subject to the after regulations of Congress. He wished now to make the law to declare what the offence should be, and what the punishment, and not leave it to the President to make what regulations he shall think proper. If not, the whole of the bill might as well be in two or three words, viz: "The President of the United States shall have the power to remove, restrict, or confine alien enemies and citizens whom he may consider as suspected persons." When Congress attempted to legislate, they ought not to do it in this way. When the resolution was agreed to authorizing this bill to be reported, he expected the committee would have defined the nature of offences and their punishments, and not reported the bill in the vague way in which it is before the House, especially as this appears not to be meant for a temporary, but a permanent law.

If gentlemen examined the third section of the bill, it will be found that all Judges, Justices, Marshals, Sheriffs, and other officers, and all the good people of the United States, are bound to do, what? Not to execute any law; but to carry into effect any proclamation, or other public act of the President. So that instead of the Judicial, and any other officers of the United States, and the people at large, being obedient to the laws, they are to be obedient to the will of the President.

The last clause of the bill, which does not relate to aliens, but to our own citizens, is very objectionable. It is in the shape of a penal law, and the crime it defines is the harboring and concealing of alien enemies. Now it is said, that this crime may amount to high treason, by its being construed that an offender has adhered to the enemies of the United States, knowing them to be such, or it may be no offence at all. But the provision is general; and a man guilty of no offence is liable to be apprehended and imprisoned equally with the highest offender under this law.

Upon the whole, it was evident, Mr. G. said, that this bill wants detail, as what is left general and ambiguous, ought to be clearly defined. He hoped, therefore, the bill would be recommitted.

Mr. Sewall said, that the gentleman from Pennsylvania, in order to bring forward this motion, has shut his eyes to the intention of the bill. He says it is a bill for punishing crimes which are not defined. He never knew that alien enemies were guilty of any offence merely as such. It is a bill to provide for the public safety in certain cases. In the event of a war with France, all her citizens here will become alien enemies, but neither this bill, nor common sense, would consider them as offenders. They may be offenders, but not because they are alien enemies, nevertheless it is necessary to provide for the public safety, and in all countries there is a power lodged somewhere for taking measures of this kind. In this country, this power is not lodged wholly in the Executive; it is in Congress. Perhaps, if war was declared, the President might then, as Commander-in-Chief, exercise a military power over these people; but it would be best to settle these regulations by civil process. They would be regulated by treaties as well as by the laws of nations. The intention of this bill is to give the President the power of judging what is proper to be done, and to limit his authority in the way proposed by this bill. In many cases, it would be unnecessary to remove or restrict aliens of this description; and he believed it would be impossible for Congress to describe the cases in which aliens or citizens ought to be punished, or not; but the President would be able to determine this matter by his proclamation. If, however, gentlemen could point out any way in which the necessary regulations could be detailed, he should have no particular objection to it, though he thought the bill stood very well as it was.

Mr. Otis.—In considering this subject, the only practicable modes, he said, which present themselves are three. To provide for the removing or otherwise restricting all alien enemies without distinction, or to specify some overt acts for committing of which they shall be liable to be removed or restricted, or else to leave the power with the President to take such steps respecting them as he shall think proper and necessary for the public safety.

Mr. O. inquired if the House was ready to do the first? He thought not. He had no doubt there might be French citizens resident here who were entitled to protection, who meant to become good subjects, and who ought not to be exposed to any inconvenience or penalty whatever. He believed very few gentlemen are of opinion that it would be proper to treat all alien enemies in the same way. The operation of such a measure would be unjust. Will gentlemen think it right, then, to declare that alien enemies shall only be

removed, or otherwise restricted, on conviction of some overt act to be specified in the act? They are at present liable, with all other persons, to be punished for crimes; so that a regulation with this view would be unnecessary. But there may be cases where the conduct of such persons being extremely suspicious, they ought to be taken into custody, though no positive crime could be proved. Suppose a French army were to land in this country, some of these persons might show a disposition, which would warrant their imprisonment; and yet he did not know how such dispositions could be defined in this bill.

Mr. O. believed, therefore, that it would be best to vest a discretionary power in the Executive to secure and take care that these men should do no injury. And this could not be looked upon as a dangerous or exorbitant power, since the President would have the power, the moment war was declared, to apprehend the whole of these people as enemies, and make them prisoners of war. And in case of a predatory incursion, made on this country, there might be as much reason for securing some of them as in case of actual war or invasion. So that this bill ought rather to be considered as an amelioration or modification of those powers which the President already possesses, as Commander-in-Chief, and which the martial law would prove more rigorous than those proposed by this new regulation. Unless gentlemen were disposed, therefore, to suffer those men to go at large, and to carry on a correspondence with their countrymen and our enemy; unless they will consent to suffer a band of spies to be spread through the country, from one end of it to the other, who, in case of the introduction of an enemy into our country, may join them in their attack upon us, and in their plunder of our property, nothing short of the bill like the present can be effectual.

He was willing to say, that in a time of tranquillity, he should not desire to put a power like this into the hands of the Executive; but, in a time of war, the citizens of France ought to be considered and treated and watched in a very different manner from citizens of our own country.

As to the objection made by the gentleman from Pennsylvania, that the bill provides a punishment for suspected persons, and that the word suspected was indefinite, Mr. O. asked whether men are not usually arrested on suspicion? When information is lodged against a man for committing an offence, he is suspected of being guilty, and imprisoned until he can be examined.

Mr. O. believed, that, to provide for this detention of the person, was all Congress could now do. If the bill was recommitted, he did not think any definite provision could be made. It was necessary the President should have the power of judging in this case, and that punishment ought not to depend upon the slow operations of a trial. Though possessed of this power, the President would doubtless suffer all such persons to remain in the country as demeaned themselves peaceably; but when they discovered a contrary spirit, he would treat them accordingly.

Mr. Gallatin withdrew his motion for committing the whole bill, and moved to commit the third section of it. His arguments, he said, went wholly against that; and gentlemen, in reply to him, had chosen to direct their observations to other parts of the bill. As he did not wish his object to be misunderstood, he would only move for a recommitment of the third section of the bill, as his objections to the other parts of it were immaterial, when compared with this.

After a few words from Mr. Otis, Mr. Macon renewed his motion for recommitting the whole bill, which was negatived—37 to 36.

Mr. Gallatin then renewed his motion for recommitting the third section, which was negatived by the casting vote of the Speaker there being thirty-eight votes for it, and thirty-eight votes against it.

Mr. Lyon renewed his motion to strike out the words "or threatened," in the first section. He thought this too indefinite an expression upon which to rest so important a power as was given to the President by this bill. Where the liberty and happiness of thousands of people are concerned, he wished they might depend upon something more certain. Gentlemen who advocate this bill, he said, spoke as if all power was to be placed in the President, and Congress were never to sit again. He wished this expression to be stricken out, and if, when Congress met again, they found the President had not power enough, they might give him more. He called for the yeas and nays upon his motion.

The question for taking the yeas and nays was put, but less than one-fifth of the members present rising in its favor, it was not carried. The question was then put on the motion, and it was negatived without a division.

Mr. Gallatin supposed, if these regulations were established, it would be proper that permits should be granted to such aliens as the President should suffer to remain in the United States. He was not immediately prepared to introduce a proper amendment for that purpose; but he would move to add a few words in that part of the bill where it is proposed to punish citizens for harboring aliens, to try the question. He did not very well understand the phrase, "liable as an enemy," by which those aliens were defined, and whom it would be criminal by this law to harbor; but he would move to introduce the words, "who shall not have obtained permission, under the authority of the President of the United States, to remain within the territory of the United States." He moved this, in order that citizens might not be entrapped by this law, but that they should know precisely to what description of aliens they might give a night's lodging, without being liable to be arrested as suspected persons.

Mr. Bayard did not think this amendment necessary, as a citizen must harber and *conceal* an alien to be guilty of any offence.

And the question was put and negatived—38 to 33.

The bill was ordered to be engrossed for a third reading to-morrow.

Wednesday, May 23.

A bill was received from the Senate for the more effectual protection of the commerce and coasts of the United States, which received its first reading.

ALIEN ENEMIES.

The bill respecting alien enemies was read the third time, when

Mr. R. Williams moved a recommitment of the bill. He said his objections did not lie so much against the provisions respecting aliens, as to the power proposed to be given to the President of issuing proclamations, which are to be binding on the Judges and other officers with respect to our own citizens. He would wish to designate every offence and its adequate punishment, as far as it could be done. In order to effect this, he made his motion.

Mr. Sewall said, so much discussion took place on this subject yesterday, that he did not expect any more to-day. The gentleman from North Carolina seemed not to object to the powers given to the President by the first and second sections of the bill, but he did not wish him to have any officers to execute his powers. If the President could carry the law into effect with his own hand, he might do so, but he objected to his having any aid from his officers or the people at large. He did not believe this kind of reasoning could have any effect in this House. If the President is authorized to issue orders, he must be authorized to require the aid of proper persons to execute them.

Mr. Gallatin called for the yeas and nays upon this question, which, being agreed to, he hoped this bill would be recommitted. He had no doubt that the committee, by paying due attention to the subject, instead of this general and vague bill, might report such rules and regulations as would be proper to be adopted on this occasion. He recollected seeing a bill from the Senate on this subject, in which something of this kind was done; and though he did by no means approve of that bill, yet it showed that the thing was not impossible. The objection made against a recommittal of this bill, was, that it was necessary to do something to provide means for securing and removing alien enemies, which did not apply as an argument against the recommitment of the bill. It was a good reason why a bill should be passed, but no reason why it should pass in its present form. The present bill, Mr. G. said, was grounded upon the principle that the President of the United States shall have the power to do by proclamation what ought only to be done by law.

In the first place, the Proclamation of the President is to determine the period when foreigners not naturalized shall be liable to be apprehended, restrained, secured, and removed as alien enemies. Mr. G. understood what was meant by apprehending alien enemies, and securing them, but he did not understand the word "restraining;" it was vague, he said, in its nature, and he did not know that it was a legal phrase. The committee could themselves explain it. By the bill from the Senate, it was intended to confine them within the place where they reside; perhaps this was their idea. The bill goes further: they are not only liable to be apprehended, restrained, secured, and removed, but "to be subject, with their goods and effects, to a just retaliation of any unusual severities, restraints, and confiscations, which shall be suffered by the citizens of the United States resident within the territory of the hostile nation or Government, and inflicted by their authority."

Mr. G. wished to have explained what was meant by "unusual severities." They must mean something more than confiscations—than apprehending, restraining, or removing—because they are specifically provided for. He wished, therefore, to know what these unusual severities were, which, upon our own ideas of Government, we could retaliate? If any other reverities besides those which are here enumerated were to be inflicted upon our citizens in France, he thought it would be disgraceful to that country, and he could not believe that either propriety or justice would warrant us committing a disgraceful act against the citizens of another nation, because that nation had committed a disgraceful act upon our citizens in their country.

[Mr. Sewall rose to explain, but the Speaker said, the rule which declares no member shall speak more than once to a question would not permit him.]

Mr. G. did not know whether these words "unusual severities" were not intended to be held *in terrorem* over the conduct of France. If so, he did not think it a very creditable proceeding. But he believed that part of the bill perfectly useless, for two reasons: First, it is extremely doubtful whether the President of the United States could Constitutionally exercise those "unusual severities," which this bill says he may exercise; and with respect to confiscation, it was explained by a subsequent part of the bill to be only a sequestration till the next meeting of Congress, and he therefore conceived this part of the bill to be of no use, except to train our code of law in a manner expressly contrary to the spirit of our Constitution, which expressly declares no "cruel or unusual punishments" shall be inflicted.

But, supposing the words only held out *in terrorem*, he wished to know how they would apply whether it was to make a part of our permanent law, whether it is suited for the present time only. If it were not to make a part of our permanent system—and he thought no gentleman would say it ought—then it must be on account of our present situation. As to our present situation, in relation to anything which may befall our citizens in France, he would say the words are useless, and this for a plain reason; for, out of the natives of France in this country, ninety-nine out of an hundred are of that description of persons whom the French call emigrants, and it is therefore perfectly immaterial to the French nation how they are treated; so that the bill could operate only on a dozen or two of persons of a different description who may be in this country.

In the next place, with respect to confiscation, which by the next clause are so limited as to become sequestrations, it would be wrong to give

this power to the President. An article is inserted in the British Treaty expressly to declare that sequestrations are impolitic and unjust in every case, and providing against them. He admitted that it might be necessary to resort to them on some occasions, because he believed there might be cases where sequestration would be necessary, by way of indemnification; but what he insisted on was, that it ought to be done by law, and not by the President. On a former occasion, when the question of sequestration was before Congress, the power was not proposed to be left at large with the President, but was to be regulated by law.

There was another circumstance which showed how easy a thing it would be to pass a law themselves, instead of leaving every regulation relative to this subject with the President. About the middle of the second section it is said, "where no treaty exists, a reasonable time shall be allowed, which shall be ascertained and declared by the President, or by the Congress of the United States." This was a kind of double legislation which was new to him. He wished to know what difficulty there would have been in defining the time here referred to in this bill? It appeared to him the right and proper time to do it. From the moment that the resolution came before the House, he was ready to acknowledge that the power of regulating this business was in the power of Government, as it was a power possessed by every nation, which it had a right to exercise for its own security; but it ought to be exercised according to law. In some countries, indeed, this power is vested in the Executive. In France, he believed, it was wholly so, and in England in a great degree; but in this country he trusted that this House would be of opinion that Congress is the proper body to regulate so important a measure.

But the evil, Mr. G. said, did not stop here, it extended to all the citizens of the United States. The object of the last section provides that justices, judges, marshals, sheriffs, and the people at large shall perform a duty which is undefined. But the gentleman from Massachusetts says this is right, because the power given to the Executive by this bill is also undefined. This is the foundation of all the objection made to this bill; it is to the want of legislation in it, which leaves not only alien enemies, but citizens of the United States, to the will of the President.

But he would go farther, and say it is possible to define the duties of our own citizens, though the two first sections of the bill should be left at large as they are. By the present bill, the duties of justices, &c., are to be regulated by the Proclamation of the President. He could conceive that the House might take into consideration the nature of the powers vested in the President, and inquire what will be the duties required to be performed by the several officers of the Government to carry into effect those powers. Those powers are to apprehend, restrain, secure, and remove alien enemies, and to sequester their property. As to the removal of aliens, he could not see what justices and judges had to do with it; but if they had anything to do with it, Congress ought to say what. They might say what should be the duties of judges or justices, or of Executive officers in the several cases which may be likely to occur, instead of leaving the thing wholly at large.

The last part of the 3d section, he said, was as objectionable as any other. It defines the crime in two words, "harboring and concealing," and the penalty, if found guilty of this vague and uncertain charge, is imprisonment not exceeding seven years, and a fine not exceeding one thousand dollars. So that if a person be found guilty of harboring and concealing an alien enemy, however trifling the expense may be, his punishment will be left wholly to the discretion of the court. The only power of the jury will be to decide on the fact; and if a citizen has harbored for one night, however undesignedly, an alien enemy, he must be found guilty, leaving it altogether to the court to judge of the criminality of the act, and to affix the degree of punishment. He thought this part of the law ought to be better defined. It ought to distinguish between cases of misdemeanor and those which might arise from ignorance, and in which no offence at all might exist. He hoped, therefore, the bill would be recommitted.

The question on recommitting the bill was put and carried—46 to 44. The yeas and nays were as follow:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Reed, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Mr. Sewall, Mr. Dana, Mr. Imlay, Mr. S. Smith, Mr. Josiah Parker, Mr. Brooks, and Mr. Rutledge, compose the committee.

Mr. Otis reported two bills, one for the relief of persons imprisoned for debts due to the United States; the other supplementary to an act for the relief of persons imprisoned for debt, which were twice read, and committed for Friday.

INSTRUCTIONS TO ARMED VESSELS.

The order of the day was called for on the resolutions of yesterday laid upon the table by Mr. Sitgreaves, proposing to instruct the commanders of our public and private armed vessels; which, being read,

Mr. Sitgreaves moved should be committed to the committee appointed for the protection of commerce and the defence of the country, and that they be instructed to report by bill or otherwise.

Mr. Macon hoped they would not be referred to that committee; but, as the subject was very important, they first go to a Committee of the whole House on the state of the Union, in order to be discussed, before they were referred to a select committee to report by bill.

Mr. Sitgreaves believed the course which he proposed was conformable to the practice on similar occasions. He agreed that the subject was important, and that it required deliberate consideration, and full discussion; but in the meantime he wished them to be referred in the way he had mentioned.

Mr. McDowell was in favor of a reference to a Committee of the Whole. No subject ever came before this Congress, or any former one, of so alarming a nature as this. He wished, therefore, before these resolutions were sanctioned by a reference to a select committee to report by bill, that they should undergo a discussion. He thought a contrary course would create an alarm which he conceived to be unnecessary; for he did not believe the situation of this country authorized the taking up or passing of these resolutions. The President, he said, had the power to give such directions to the commanders of our vessels as our situation makes proper, and he was not, at present, in favor of changing that situation. He hoped, therefore, the resolutions would be referred to the Committee of the Whole on the state of the Union.

Mr. Davis inquired whether it would not be in order to postpone the consideration of these resolutions to a day certain? On being answered by the Speaker in the affirmative, Mr. D. moved that the further consideration of this question be postponed till the 2d Tuesday in June. He said he did not think this a proper time to take up this subject. If he was called upon to vote on these resolutions now, he should be obliged to vote against them. He knew only of two things which could warrant such a step being taken, viz: a declaration of war, or the return of our Commissioners, and their averring peace could not be preserved with the French Republic. Until one of those events took place, it would be with reluctance that he should vote for a measure like the present. Some gentlemen, indeed, declare we are now at war with France; if they are serious in such a declaration, why do they not bring foward a proposition to that effect? If there be a majority in the House ready to declare war, and will do it, then he should no longer be at a loss how to act. He could then no longer cherish a hope of preserving peace, which, however feeble it might now be, he was unwilling to part with entirely. When once our state was expressly declared to be a state of war, he should be ready to go into any measure of defence or offence, which the ingenuity of gentlemen could devise; but, whilst the state of our negotiation is unknown, whilst our Commissioners yet remain at Paris, (and if not proceeding with their negotiation, their stay there is unaccountable,) he was unwilling to do anything which should either frustrate any treaty which may be in train, or hazard the safety of the persons of our Commissioners.

Mr. D. said he would not have made this motion if he had thought it would have delayed the preparing of the vessels for sea. He believed not more than three of the vessels would be ready before that time; and if the directions to be given to the commanders are ready as soon as the vessels are prepared to sail, they will be soon enough. He hoped the motion would, therefore, be agreed to. In the meantime probably some information might be received, which would enable gentlemen to determine upon the question with more propriety than at present.

Mr. Harper did not agree in either of the reasons given by the gentleman from Kentucky in favor of his motion. He did not believe the state of affairs between this country and France was uncertain; and if it were, he did not think it would be any reasonable ground for acting as he proposes.

With respect to the situation of our affairs with France being uncertain, he believed nothing more was necessary to convince gentlemen to the contrary, than that they should cast their eyes upon what is now taking place every day. It will be seen that the depredations committed upon our commerce become daily more enormous. We know that our Commissioners have no hope of accommodation with France; we know they have passed a decree by which nine-tenths of our commerce is proscribed. It had frequently been said that that decree would only affect our trade with Great Britain; but if the decree be examined it will be found to affect almost every cargo with which our vessels are laden; besides, the smallest article of dress of the captain, or any of the crew, being British, would be sufficient for a condemnation of the vessel and cargo. There were also a number of articles which, though they might not come from British possessions, being no way different from such as do come from thence, would form a sufficient ground of capture; such were cotton, coffee, sugar, and rum. Indeed, the French seem determined to make prize of every vessel they meet with; for if a *role d'equipage* be the criterion which they choose to adopt to determine, they will ask for it, and destroy it, and then take the vessel for not having one; and when they find no other cause for seizure, they forge false ship-papers to make the vessel and cargo liable to confiscation. And when we see all our vessels, whether from the East and West Indies, or from Europe, taken and carried

into French ports, shall we still say we are in a state of peace, or that our situation is uncertain? This decree was passed on the 10th of January, and though our accounts from Bordeaux are up to the 25th of March, we know that it is yet in existence; and though the report of our Commissioners having been received, may be true, (though he did not believe it,) yet, whilst that decree is in existence, he could not say our situation is problematical. With a nation which takes all our vessels, without discrimination, we cannot be said to be at peace.

But what is our state with respect to France? Some days ago we had a report that our Commissioners had had an audience of the Directory; but subsequent accounts tell us that this is not true, that they have no prospect of settling our disputes, and that the demand of a loan of eleven millions is now grown into one of twenty-five millions. Yet gentlemen think the situation of this country problematical. Why our Commissioners remain in France, was, indeed, to him problematical, and he could only account for it by supposing they are kept there contrary to their will; for, so long ago as the first of January, they say they have no hope of accommodating our differences, and if they did not, in a few days, receive an answer to their memorial, they should apply for passports, and come home. The French Government had, however, only to delay giving them passports, and they would be obliged to remain; and he thought it highly probable that they would detain our Commissioners as hostages, in order to extort money from us. This, he owned, was mere conjecture, but he thought it very rational conjecture. Still we say our situation is problematical; still we say we will remain defenceless, we will suffer French privateers to cut up our trade, and, within fifty miles of Charleston, land on our coast, and carry off our property. This, he confessed, was very unaccountable conduct; and he believed France would accomplish her object, if we remained inactive, catching at every idle rumor which conveys any hope of accommodation. She will continue to destroy our trade and ravage our coasts, except some measure of this kind is gone into, which shall enable us to drive from our shores all the picaroons and armed vessels which infest it. This could not be done, without instructions like the present were given to our vessels; for, if the President were to send our armed vessels out with such instructions only as he has now the power to give, vessels might lie without our jurisdiction (beyond which our vessels would not have a right to go) and take our merchantmen within sight of our armed vessels, and they would not have it in their power to render them any assistance, except the attack were made in sight, and within the jurisdiction of the United States. In our present situation, Mr. H. thought we ought to use the arms we have. One of our armed vessels, he said, had dropped down the Delaware; and he was certain the people out of doors, whatever might be the opinion of gentlemen on that floor, were desirous we should drive off or bring in the swarms of privateers and picaroons which are upon our coast; those privateers and picaroons which, not content with capturing our vessels, do not scruple to fire upon our officers in the execution of their duty. If this was an equivocal situation, or if this was equivocal conduct in France, then was he at a loss to say what, short of an army being landed in the country, would induce us to resist. It was not the purpose of France, Mr. H. supposed, to go farther than this; whilst she can keep our Commissioners in Paris, paralyze our efforts at home, and continue to rob and plunder us, she will be satisfied, and will never attempt to invade our territory. She will continue to take our vessels wherever she can meet with them, and (according to Victor Hugue's definition) let none pass which have anything on board worth taking. And we still say our state is problematical.

Mr. H. said he could not help deploring this unaccountable delusion which had taken possession of certain gentlemen in that House, but under which he could not believe a majority of it could be drawn. He did hope that all remaining doubts on this head had been done away; but he perceived he was mistaken; he trusted however, that those who are sensible of the necessity there exists for taking active measures against France will unite on this occasion, and that the number who shall be of a contrary opinion will be small indeed.

Mr. McDOWELL observed, that the gentleman from South Carolina had gone into a lengthy argument on the question for postponement; but he did not think his statements were correct. He differed widely from him in his opinion. He states that there can be no doubt that France means to be at war with this country. Mr. McD. asked what information we had received from our Commissioners which could lead to this idea since the despatches dated the 19th of March? He knew of nothing. He thought everything since had rather been favorable than otherwise. True it was, Mr. McD. said, that the French nation has injured us extremely, by taking our vessels, and insulting our rights. But the question is, whether we ought, for the sake of protecting a part of our trade to Great Britain, and in order to obtain British manufactures, to go to war? The gentleman from South Carolina says that our vessels are seized without discrimination. He did not know from what source he got his information, for, however flagrant the conduct of the French towards us may be, this is certainly not correct.

Mr. McD. said, he should be glad to know where the gentleman from South Carolina got his information that the French had landed on the Southern coast, and carried off some property from thence? If that were true, it would be a serious fact. [Mr. HARPER said the fact was in all the papers.] Mr. McD. said he often saw things in the newspapers to which he gave but little credit, and this was one of those things. If such an event had taken place, he was confident that the officers of Government in that part of the country would before now have communicated the fact to Government. Mr. McD. did not believe the exaggerated statement of the gentleman from South Carolina;

and, whilst he had a hope of accommodating our differences with France, he should wish to avoid a declaration of war, or any other measures whose tendency would be certain war. Gentlemen say we have nothing to defend our coasts, the enemy may come and ravage them. Some time ago a number of vessels were asked for, for the purpose of protecting our trade on the coast. It was objected to their being used as convoys on the high seas, lest they should involve us in war. They were, however, granted, without any restriction as to their use. But these do not gratify gentlemen. They now call upon the House to go into a measure which must inevitably produce war, and which will destroy every remaining hope of accommodation.

Mr. McD. wished to call to the view of the House the state of things which they are about to bring about in this country. Let gentlemen reflect upon the prosperity which we have enjoyed for many years back, from a state of peace and tranquillity. But, if the measures succeed which are now taking to induce this House and the people of the United States to go to war with France, this country must again become a scene of blood and devastation; numbers of our valuable citizens must be deprived of existence, and numberless widows and children be deprived of their husbands and fathers, and others of their best friends. Such a state of things may arrive, as shall make it necessary to meet the distress and horrors of war, but they ought not lightly to be encountered. Those who had been witness to the miseries occasioned by our last war, could not but be anxious to avoid any measures which must again introduce similar scenes of misery to our view. Gentlemen who are young and ambitious, push on their schemes without duly calculating their consequences. Men who wish at any rate to involve this country in war, in order to assimilate our Government to that of Britain, will go all lengths to carry their point. He could not say that this was really their view, in pushing the country, first by one step and then another, into war; but he wished to avoid unnecessary war. And nothing could induce him more to oppose a war with France, than the strong conviction with which his mind was impressed that the certain consequence will be an alliance with Great Britain—a Government which he looked upon as the worst upon earth.

[The SPEAKER said, no observations relative to an alliance with Great Britain, or a declaration of war, could possibly be in order on the present question.]

Mr. McD. said, he meant to show the propriety of postponing the consideration of the resolutions before the House, in doing which he found it necessary to reply to some remarks which had fallen from the gentleman from South Carolina.

Mr. W. C. CLAIBORNE believed that prudence, policy, and wisdom, required the adoption of the present motion. The question which the discussion of these resolutions will introduce, being of the very first importance, ought to receive due consideration. It is no less than whether, under existing circumstances, it will be proper to authorize offensive measures against the French Republic; and he would ask gentlemen whether they are prepared to meet this question? Whether they are prepared to say, we will throw from our country all the happiness of peace, and plunge it inevitably into the miseries of war? If gentlemen were prepared to give the affirmative to this question, he must own he was not. He felt disposed to pause a little before he voted for introducing so important a change in the affairs of our country, as the decision upon these resolutions must necessarily introduce.

On account of the spoliations committed upon our commerce by the privateers of France, he felt all the resentment which the gentleman from South Carolina could possibly feel, but he should not suffer it to carry him so far as that of his friend from South Carolina carried him. That resentment he strove yet to stifle, and, for his country's good, he could wish to stifle it until all hopes of peace are destroyed. The gentleman from South Carolina says all hopes of peace are now gone. Did he (Mr. C.) think so, he might agree with him in opinion as to the measures which he wishes to take; but he thought differently. That gentleman says the despatches on the table support his opinion; I (said Mr. C.) can have no other resource for my opinion. What, said Mr. C., is the tenor of the last despatches from our Commissioners? Those gentlemen have stated to the Directory, in a very able and proper manner, a memorial containing the grounds of dispute between this country and France, and were waiting an answer, which, if they did not receive in a few days, they meant to apply for passports to come away. The gentleman from South Carolina supposes, because our Commissioners are yet in Paris, that they are prevented by the Government from coming away; he, on the contrary, supposed that their remaining there was a favorable circumstance, and showed that they had some hopes of yet accomplishing the object of their mission.

Mr. C. asked what possible good could be derived to the country by referring these resolutions immediately? Would the doing of this give protection to our Commissioners? Or would it preserve our vessels from capture? It could have no such effect. But the House are told that one of our ships of war has dropped down the Delaware, and that, in the course of a few weeks, others will be ready. Let us, then, said Mr. C., wait those few weeks, before we act upon these resolutions, and not hurry on to a situation of things which will require forty times the vessels we have got, and which will effectually frustrate any treaty which our Commissioners may possibly be making with the French Government. We must, then, expect to meet all the injuries which enraged France can commit upon us.

Mr. C. trusted gentlemen would reflect a little before they resolve upon the present measure. He hoped the motion of his friend from Kentucky would prevail, and if the information which should next be received from our Commissioners should

be such as to cast all hopes of peace from our view, there would then be unanimity in that House for prosecuting the most spirited measures which could be proposed. No division would then be seen. Every member would resolve to support the dignity of the country; as he supposed it was the intention of all to die upon the soil on which they now live; and that, for the protection of that soil, each, he hoped, would willingly shed all the blood which encircles his heart.

Mr. Sitgreaves said, if he understood the reason assigned in favor of this motion, (and it was the only reason which he had heard,) it was, that it would be improper to act in the way proposed, whilst our mission in France shall be pending and undetermined. He understood gentlemen to insinuate a belief that, whilst this mission remained undetermined, it would be an outrage on the laws and usages of nations to adopt the resolutions which he had proposed to the House.

On this subject, Mr. S. believed, there could be no sort of question. It is a principle as well settled as any in the law of nations, that when a nation has received aggressions from another nation, it is competent for the injured country to pursue its remedy by reprisal before a declaration of war takes place, and these reprisals shall be perfectly warrantable, whilst they are commensurate with the injuries received, and are not, under such circumstances, justifiable cause of war. It is even clear that these reprisals may be made during the pendency of a negotiation, and cannot, according to the law of nations, be a justifiable ground for the rupture of any such negotiation.

He believed, therefore, that upon this subject, there could be no doubt as to the right of adopting these resolutions. For, let it be remembered, they are not calculated to authorize *general* letters of marque or reprisal, which would induce indiscriminate attack on all vessels belonging to the French Republic, wherever found. The right of capture is proposed to be limited to cruisers of the French Republic, who may be found on our coast, or in cases where they may have actually attacked vessels of the United States, for the purpose of search or seizure—measures of strict defence which are essential to the present situation of our country, and by no means of an offensive nature; it is not a course of *general* reprisal, but of *special* reprisal, authorized by the law of nations, which does not amount to a cause of war, nor of the rupture of any negotiation now pending. He felt confident, therefore, that, on the ground of strict right, no objection could be made to this measure, and he did not expect to have met with any difficulties of this kind. On the question of expediency, gentlemen may differ; but he did not suspect they could have differed on the question of right. As to the question of expediency, he would ask his friend from Kentucky, what he had seen in the experience of the past or present situation of this country and France, to induce him for a moment to wish a postponement of the question? Is there anything in all our experience with the French Republic, since the commencement of our dispute, which can lead us to hope that we shall gain anything by forbearance, by submission and acquiescence in all the injuries we are daily receiving from her? Certainly not. We have been practising this system of forbearance from the earliest period of her aggressions until the present. Nothing else has been heard, and what has it produced but accumulated injury? Has this spirit of forbearance done any good? Has it produced the repeal of a single decree, or a relaxation in its execution? On the contrary, so far as appearances will warrant an opinion, we have some reason to believe that a spirit which should show an intention to resist repeated insult and injury, is the only kind of spirit which could produce any good effect in France.

He would not express an opinion on the authenticity of the late accounts from Europe, which represent our Envoys to have been received, and to have had several conferences on the subject of their mission, with the Minister for Foreign Affairs; but, if they are entitled to any belief, they prove, demonstrably to his mind, that the French nation is not willing to drive this country to extremities, but that they desire, by any means, to protract our present state of supense, and to avert that decision which must necessarily result from an absolute rupture of the negotiation. On account of the spirit of forbearance which has been shown by this country, the French have been encouraged to make the most unjust and extravagant demands of our Commissioners, but they have resisted these demands with becoming spirit. They have said, if these demands were persisted in, they would demand passports and return home. What has been the consequence? If the reports now in circulation are true, they prove that the French have not been willing to grant them passports, but, rather than drive us into extremities, to relax from their demands, and, if our mission exists at all, it must be on a different basis from that on which it heretofore rested. It will be proper, therefore, to give up that spirit of forbearance which has hitherto characterized our proceedings, and prosecute, by all the ways permitted by the laws of nations, measures of defence both by sea and land.

It had been said, that the proposed delay could do no injury. He believed it might; and he was sure it could do no good. The delay of a few days would not be likely to produce any more favorable accounts from France, nor to afford evidence of that state of things which would enable us to act with decision; such as a declaration of war, or the departure of our Envoys from France.

It was said, the public armed force would not be ready to put to sea before the time to which this question is proposed to be postponed; but these resolutions relate to private armed vessels as well as public vessels. And if it be admitted that the public armed ships may, in the course of two or three weeks, be equipped for sea, it is not to be expected, according to the usual discussions given to important bills, that if the resolutions were now referred the bill would be passed before the instructions are

wanted; and if the question should be postponed as proposed, the vessels would have to wait for instructions two or three weeks after they are ready to sail. One of these vessels is indeed now waiting only for instructions. And he asked what instructions could the President give, under our present circumstances, until further authority was vested in him by Congress? If he employed them as convoys, our coast would be left unprotected. And if they remained on the coasts what could they do? They cannot attack a French cruiser, or drive a picaroon away. They could only resist attacks made on the vessels of the United States. A French cruiser might even sail in company with our armed vessels, and if an American merchant ship should heave in sight, might seek his opportunity to capture her, when beyond the immediate protection of our armed vessels, and they could not have the power to retake the prize thus taken almost within their view. They could afford no protection to any vessel, except she was attacked in their presence. But if our armed vessels received the instructions which he proposed to give them, the French cruisers would be afraid of being seen by them, and two or three ships, like the Ganges, would scour the coast of nine-tenths of the privateers which now infest it. But if they must go out without these instructions, all the picaroons and cruisers would have to do, would be to take care not to attack any vessel in their view. He believed this was not a state of things to which this country ought to submit, or to which she would submit; for whatever may be the reluctance shown in this House to go into this measure, there is no such reluctance in the great mass of the American people. He was persuaded they impatiently expect Government to defend the honor and protect the property of the country. Their wishes and determinations far outstrip all that Congress propose to do. He believed that a division, such as is in this House, could not be found in any part of the Union. He did not believe that a meeting of the same number of persons could be called together in any part of the United States, from New Hampshire to Georgia, where such a division as is found in this House could take place. He believed the addresses which had been received from all parts of the Union incontestably prove this fact. The people are tired of the injuries which have been heaped upon us, and are impatient to prevent a repetition of them; and, so far as it can be done consistently with the law of nations, it has become a solemn duty to do it.

It ought to be the pride of America, that she has confined all her measures of defence to the established rules of the law of nations, and he wished to continue to govern our conduct by the same rule, and therefore instead of making a declaration of war, about which gentlemen make such a rout, or of authorizing general reprisals against France, which would have been imprudent whilst our Commissioners are in Paris, specific reprisals authorized by the law of nations, are only proposed to be pursued; a regulation which he believed was loudly called for by the situation of the country, but which was very different from general reprisals, or a declaration of war. For himself, however, he had no hesitation to say, that he regretted that there were any circumstances in our situation which obliged us to confine our measures to the specific reprisals proposed. If it were known either that our Envoys had left the territory of France, or were retained in that country against their will, or if it could in any way be ascertained that the mission was at an end, he gave it as his opinion that the honor, dignity, and interest of this country, require that we should make war upon the French Republic, and he believed it would be the duty of Congress to declare it.

Mr. S. concluded by observing that all the objections which had been made, and which he had encountered, did not strictly apply to the question before the House; which was on the reference of these resolutions to a committee and not on their adoption. As he had moved the resolutions it could not be doubted that for himself he was ready to pass upon them immediately. But as he did not desire to hasten the adoption of any important measure, without proper and mature deliberation, he had confined himself to bringing the subject before the House, and to moving that the resolutions should go to the Committee on the Protection of Commerce and the Defence of the Country, to be reported upon by them, by bill, or otherwise.

Mr. Venable observed, that it was a little extraordinary that the mover of these resolutions should insist upon their being conformable to the laws of nations, and that he should at the same time allow that the President of the United States cannot give these instructions, except authorized by law to do so, though it must be allowed he has a right to give whatever instructions are authorized by the laws of nations. Mr. V. recollected that when the subject of providing these vessels was under debate, it was objected against them, that their usefulness would be very limited, except we got into war; but that gentleman and others, at that time, said they could do many things, and be of great service, though he now confesses they can be of no use, without the instructions which he proposes to be given to them. But the same law which would authorize these vessels to act in the way proposed, would involve the country in war, for it goes to authorize our public and private armed vessels to attack any armed vessel which shall attempt to search any of our merchant vessels, though they are authorized to do so by the laws of nations, so that such a power is neither more nor less than war. And Mr. V. asked if the power proposed to be given to public and private armed vessels to retake any of our vessels which have been captured, be conformable to the laws of nations? It is not, but directly contrary. And the power to take and destroy all armed French cruisers which may be found on the coast, though vessels of all nations have a right not only to come upon our coast, but into our ports and harbors, is certainly an act of war.

Gentlemen have pretended, from time to time, to say, they were not ready to make war, but the gentleman last up declares he is ready. If we are to have war, he wished members might no longer amuse themselves with the hopes of peace. He wished the people of the United States to be undeceived in this respect. Every step which had been proposed for some time past, had progressed towards this event; and this measure seems to put it out of all doubt. He wished, therefore, it might be considered as a war measure.

The gentleman last up had spoken very decidedly as to the sentiments of the people of the United States. He might have, Mr. V. said, better information on this subject than he had, but he believed the people were as much divided as the members of this House, on the subject of war.

If gentlemen are determined to go to war at all events, he wished it to be so understood, that Congress might go into measures calculated to meet such a state. Because we have a single ship ready to sail, the gentleman seems to think we are ready to go to war. As if a vessel or two would be able to cover our whole coast, and to cut up all the armed force which might come against us! If every member in the House could be got to vote for these resolutions, it would, in his opinion, be very improper to pass them at present, as the doing so would lay the whole of our commerce prostrate. Our coasting trade is as yet untouched, yet gentlemen are willing to expose the whole, though they have only one ship ready to protect it. He hoped the proposed postponement would take place.

Mr. R. Williams said it was on all hands acknowledged, when the subject of the naval armament was under consideration, that the President had power to employ them in any manner authorized by the laws of nations. So that if the directions proposed by the gentleman from Pennsylvania for the commanders of our vessels be within the law of nations, the President has power to give them, without any law being passed for the purpose. But he conceived these resolutions to go much farther than is warranted by the laws of nations; he considered them as nothing short of a declaration of war.

The gentleman from South Carolina (Mr. Harper) has told the committee that the situation of this country is by no means doubtful, and told them what he is willing to do. But if gentlemen are ready to declare war, why do they propose measures which they say only go half way. If a proposition for war was made in a direct manner, every member could then understand it. But he was inclined to doubt the correctness of the opinion of the gentleman from South Carolina as to the state of the country, as he had told the House the same thing last Spring, when he was as prepared, as he seems now to be, to plunge the country in war. He was himself then, as he continued to be, opposed to any measures which should produce war, until war was unavoidable; and he believed few persons would be found to say that the country had not been in a much happier situation (for produce never sold higher than it had done for the last year) than if we had been in war; our revenue having increased, and things in general gone well.

But, it was said, that out Commissioners were evidently of opinion that nothing could be done by way of negotiation. He himself thought the despatches would convey no such idea. On the 31st of January, our Commissioners presented a memorial to the French Government, and proposed to wait a reasonable time for an answer, which if they did not receive they proposed to apply for passports to come away; and as, by late accounts, we find they still remain at Paris, it is rational to suppose they have some hope of the negotiations having a favorable issue. For it could not be supposed they would be so regardless of the interest of the country, as to remain longer there than they entertained hopes of being of service.

But it was frequently asserted that France has made enormous and disgraceful demands upon this country. Whatever the demands were which certain persons made upon our Commissioners, we know they were not made in an authorized manner, nor do we know that the Government was at all acquainted with the transaction. We know that they were made by unofficial characters, and the last we heard from our Commissioners was, that they would not listen to them any more. It appeared to him that, at this time, as we do not know the situation of the negotiation, it would be extremely impolitic to enter into a measure like the present. He wished the decision upon this resolution to be postponed, until we heard something more from France. He believed, with the gentleman from Pennsylvania, that there was no great division in the country on the question of a peace or war; but he differed from him wholly as to the desire of the people on this subject. He believed they very generally desire peace, and not war. And he believed this was clear from the addresses to which the gentleman referred; for though they approve of the conduct of the President, what is it for? For endeavoring to preserve peace with the French Republic, and they generally contain expressions deprecating the horrors of war.

Besides, if these resolutions were proper now, why were they not brought forward immediately after the late despatches were received? Why were they hidden till this time; and when reports are in circulation that our Envoys are in the way of accomplishing their object, are they brought forward? It seemed as if gentlemen were apprehensive that something should be agreed upon, and they were determined to frustrate any settlement which might be on foot.

The matter of right, to do what was proposed, could not be disputed. He believed we had not only been sufficiently injured by France, but by another nation, to warrant any measure which policy might dictate. The question of expediency was the thing to be considered; and, as he could not yet give up the hope of an accommodation, he was decidedly in favor of the postponement.

Mr. W. concluded, by requesting gentlemen to

consider whether, if by a measure of this kind the mission now in France, which would otherwise have been successful, and preserved the country in peace, should be broken off and produce a war, how they could reconcile their conduct to their constituents? If he were to vote for such a measure, he could not do it. Were he convinced no hope remained of the negotiations succeeding, and that the French were determined on war, a measure of this kind, or much stronger, would be gone into without any division. When no hope of preserving peace remained, there would be but one voice in that House; but so long as that hope remained, it might be expected that those who are anxious to preserve that state of things for their country, would oppose every measure, whose object and tendency is war.

Mr. Gallatin observed, the question was not now whether it would be proper to adopt these resolutions or not, but whether, under our present circumstances, they contain principles which form at present a proper subject-matter of discussion. The gentleman who moved the postponement stated that, so long as our negotiation in France was not concluded, the discussion was improper. His colleague, (Mr. Sitgreaves,) on the other hand, had insisted upon the right we had to pass these resolutions, that they are consistent with the laws of nations to be adopted in a state of peace, and would not, therefore, produce a rupture in our negotiation.

The first position, as to our right, Mr. G. said, he should not deny; but, when his colleague says resolutions like these are consistent with a state of peace, and not tantamount to war, that they are special letters of marque and reprisal, authorized by the laws of nations, his ideas are unfounded. The resolutions upon the table have nothing to do with letters of marque. It is true, they are not a declaration of war; but they go to the making of partial war. Was it ever heard that letters of marque were given to public vessels? They are given to private vessels alone; specific letters of marque are sometimes given in time of peace to an individual, in order to indemnify him for a specific injury. But general letters of marque and reprisal have not for a century been granted, except in a state of declared or actual war. But these resolutions are neither general nor specific letters of marque. They are instructions to our public vessels to make war. They do not say to the commanders of our vessels, "you shall make war in all cases," but they authorize certain acts of war. His idea of these resolutions, was, therefore, that they are instructions to make a partial war; and when one nation makes partial war upon another, nobody could doubt but it was war.

Mr. G. said, he would not speak of these resolutions as leading to war; for though they are not a declaration of war, they are tantamount to it. It might be proper for us to make a kind of partial war, in preference to a general war, in order to throw the blame of declaring war upon our enemy. He did not object to the resolutions, therefore, because they make a partial, instead of a general war, but because they are inconsistent at present with the state of peace in which it is insisted we still continue, and with the negotiations which are not yet finally terminated.

What reasons, said Mr. G., are given for entering into these resolutions at this time? Either that France is making war against us, or that no hopes remain of our negotiation terminating favorably.

France is certainly doing, and had long done, acts which would authorize us in making war upon her. The gentleman from South Carolina says, she takes our vessels under every possible circumstance, and so on. Mr. G. said, he did not mean to dispute anything which he had said in this respect. He was willing to grant, because it was not material in the present discussion, that France has taken all our vessels, wherever she could find them. But, he would ask, whether, after the despatches of our Commissioners, the House did not determine to take a certain stand, and to adopt certain measures? What were they? They were to make defensive preparations by land; to finish and equip for sea our three frigates; to provide twelve vessels and a number of galleys for the protection of our commerce and coast, to be employed according to the discretion of the President. It was then said, he might use them in conformity to the situation of our country. He did not mean to dispute that position. He would also take it for granted that the President had the right to employ these vessels for the protection of our trade, on the coast, and as convoys. He was himself opposed to their being used as convoys in time of peace. His opinion was, that armed vessels could be of little use as convoys in time of peace; but to employ these vessels effectually, would be to scour the coast of the privateers and picaroons which infest it. He concurred in opinion with gentlemen that this was the only effectual way in which our vessels could be employed; but the House then conceived that thus to employ them would be to make war, and, therefore, they were left to be employed by the President according to the state of the country at the time.

Mr. G. wished to know what change had taken place in the situation of the country since the period at which the despatches were communicated? He knew of none. Why, then, are these resolutions now brought before the House? If these instructions are proper to be given now, they were equally proper at the time when the despatches were received. The last information we have from our Commissioners says, that they have addressed a memorial to Government, and if it be not shortly answered, they shall demand their passports. Yet gentlemen are now desirous of changing our present situation, though it is really in no respect different from what it was at the time our first despatches were received. What was the ground taken at that time? It was this: It was thought to be extremely doubtful that our negotiation would succeed, and that, therefore, it was proper to put the country into a state of defence for war, but to wait the event of the negotiation, before war was either declared or made.

When gentlemen wish the resolutions upon the table to be adopted, they must do it from an idea that a change has taken place in our situation which has diminished our hopes of accommodation. Let us, said Mr. G., even grant that, and that there is now less hope of our negotiation succeeding than heretofore, yet it is not less a fact that our Commissioners have not yet left Paris. As to the reports which have been alluded to as to their having been since received, or the contrary, he meant to take no notice of them. He presumed the House knew nothing of what had taken place since the date of the last despatches. But if he were to draw any inference from what he had heard and saw on the subject, it would be, that the negotiation is going on, though the fact might be otherwise. But while the fact is doubtful, what is the motion before the House? It is not to reject the resolutions, but to postpone the consideration of them until the doubt is removed. And could it be proper, while doubts exist as to the fate of our negotiation, and when every day may be expected to remove the uncertainty, to adopt resolutions of this kind? Besides, what disadvantage would arise to the United States from a postponement of these resolutions for a fortnight? Was it because his colleague had yesterday laid these resolutions upon the table, that it had become all at once so important to adopt them? If the measure was so very necessary, how happened it that the committee appointed on the subject of the protection of commerce and the defence of the country, had not recommended the measure? He himself could see no inconvenience which could arise from the proposed delay.

On the other hand, what may be the consequence of going immediately into the measure? It may be a very serious one. It may involve the country in a war, which the delay may prevent. Gentlemen say a favorable result is not to be expected. He owned his hopes were slender, but while there exists a possibility of their being realized, he was not willing to abandon them; and, more especially, when no inconvenience could arise from the postponement which is desired.

The distinction which his colleague had made between war and these half-war measures, is perfectly fallacious. That gentleman had said, he was ready to declare war, and he well knows that this is only a substitute for a declaration of war. History confirms this idea. The last war between Great Britain and France was carried on for two years before a declaration took place. In the war of 1755, war was not declared for three or four years after letters of marque were granted to seize all the vessels of the enemy. He knew a distinction might be found in the laws of nations, as to the practice of the last century, but what is said on that subject is now altogether null and void from the practice of the present century. And the laws of nations are made up of nothing more than what is the general practice of different nations, and as that practice changes, so does the law of nations. But suppose letters of marque and reprisal could possibly be considered as consistent with a state of peace by the laws of nations when granted to private vessels in our situation, it certainly cannot be allowed that instructions to public armed vessels fall within that description.

A motion was made to adjourn, so the House adjourned without taking the question.

Thursday, May 24.

INSTRUCTIONS TO ARMED VESSELS.

The House resumed the discussion of Mr. Sitgreaves's resolutions for instructing the commanders of our public and private armed vessels; and the motion for a postponement of the consideration of these resolutions until the second Tuesday in June, being again under consideration, after a few words against the motion by Mr. Hartley, the question was put and negatived—43 to 37. The question then turned upon a reference of them to the Committee of the Whole, which was negatived, there being only 22 votes for it. The resolutions were then referred, agreeably to the original proposition of the mover, to the Committee for the Protection of Commerce and the Defence of the Country, to report by bill or otherwise. The bill from the Senate for the further protection of the commerce and coasts of the United States, was referred to the same committee. The House spent the remainder of the sitting on a bill providing for the more effectual collection of certain internal revenues of the United States, which was finally agreed to, and ordered to be engrossed for a third reading to-morrow.

Friday, May 25.

The bill providing for a more effectual collection of certain internal revenues of the United States, was read a third time and passed.

Mr. Harper, from the Committee of Ways and Means, to whom was referred the memorials of Jonathan Jackson and Abel Whitney, reported a bill to regulate the compensation of officers for collecting the internal revenues of the United States, which was twice read and committed for Monday.

The House went into a Committee of the Whole on the bill supplementary to an act for the relief of persons imprisoned for debt, which was agreed to, and ordered to be read a third time to-morrow.

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The House next went into a Committee of the Whole on the bill providing for the relief of persons imprisoned for debt due to the United States; when some debate took place on a question to determine whether the benefit provided by this act should be extended to persons imprisoned on mesne process, as well as to those imprisoned on judgments. The motion moved by Mr. Harper to extend the benefit to persons confined under mesne process was negatived—48 to 29. The bill was then agreed to, and ordered to be read a third time to-morrow.

Mr. Sitgreaves then proposed to the House a resolution to the following effect:

Resolved, That the Attorney General of the United States be directed to prepare and report to this House the plan of a general law for the relief of insolvent debtors who may be imprisoned by virtue of process out of any court of the United States, and who shall be willing to make an assignment of their estates and effects for the benefit of their creditors.

Ordered to lie on the table till to-morrow.

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The report was twice read, and ordered to be committed to a Committee of the Whole.

On the Speaker's asking for what day this bill should be made the order, Monday, to-morrow and to-day, were named.

The question was first taken on Monday, and negatived—43 to 37.

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Mr. Gallatin hoped this bill would be made the order for to-morrow, as the bill had only been printed this morning, and the report but this moment made. It would be a very extraordinary proceeding to make this very important bill the order for this day.

Mr. J. Williams said, this was a very extraordinary case. When we learn every day that our vessels are taken by the French cruisers, without any cause whatever, it is necessary to act with decision. This day had been spent on every trifling business compared with this, and he hoped the House would sit until this bill was gone through.

Mr. McDowell hoped this bill would be made the order for to-morrow, as it had only been laid upon the table this morning, and few gentlemen had yet turned their attention to it. Besides, the usual hour of adjournment is arrived, and he hoped gentlemen would not insist upon hurrying so important a bill through the House in this manner. The gentleman from New York remarked that the House had been engaged in trifling business all the day; but, he observed that gentleman sat very contentedly under the discussion, though he now seems so desirous of expediting this business.

Mr. Sewall was impressed with the necessity of passing this bill as soon as possible. If the committee had thought they might with propriety have taken time to deliberate upon this subject, they would not have made this report, but have taken into consideration the resolution which had been referred to them with this bill; but finding it necessary that our armed vessels should receive their instructions immediately, that they may go out and take the vessels on the coast, or drive them off, they made this report, intending hereafter to report farther upon the subject. But the present measures they thought necessary, from the peculiarity of our present situation; the dangers attending which the people without seemed to be fully persuaded of. And as this subject had been fully discussed on the resolutions which had been before the House, he hoped the bill would be immediately, taken up; as he wished to provide without delay for the defence of our coast as far as our force would permit.

Mr. Macon said, it was very extraordinary indeed, that gentlemen should wish to hurry this bill through the House in the way proposed. It appeared as if they were afraid of any thing coming from our Commissioners before they got the country in war. Being now the usual hour of adjournment, it could not be expected that if the House went into this bill, that any debate could take place. Indeed gentlemen seemed to wish to prevent debate as much as possible; a few days ago, they had got a rule passed that no person should speak more than once to any question, and now by moving to go into a Committee of the Whole, at the hour of adjournment, they wish to prevent them from speaking once, and that upon a bill which will certainly place the country in a state of war. He thought a regard to decency ought to prevent gentlemen from pushing this motion.

Mr. Lyon called upon gentlemen to consider the importance of this bill. He considered it as a declaration of war as it now stands, and he hoped time would be given to consider whether some amendment could not be introduced into it, so as to prevent its being so considered. At present, he believed, it was directly in the face of the laws of nations. He was desirous of avoiding war if possible. His constituents also wished it. He had received at least two hundred letters requesting him to do all in his power to prevent it. Indeed, he was afraid of the consequences of war; he was afraid it might produce even a dissolution of the present Government.

Mr. Brent was proceeding to express his astonishment at the conduct of gentlemen in wishing to press so important a subject upon the House, while members were impatient to adjourn, when,

Mr. Sewall rose and withdrew his motion, and the bill was made the order of the day for to-morrow.

Mr. Harper laid before the House a letter from the Secretary of Treasury to the chairman of the Committee of Ways and Means, on the subject of the land tax, which was ordered to be printed, and the House adjourned.

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When gentlemen with the resolutions upon the table to be adopted, they must do it from an idea that a change has taken place in our situation which has diminished our hopes of accommodation. Let us, said Mr. G., even grant that, and that there is now less hope of our negotiation succeeding than heretofore, yet it is not less a fact that our Commissioners have not yet left Paris. As to the reports which have been alluded to as to their having been since received, or the contrary, he meant to take no notice of them. He presumed the House knew nothing of what had taken place since the date of the last despatches. But if he were to draw any inference from what he had heard and saw on the subject, it would be, that the negotiation is going on, though the fact might be otherwise. But while the fact is doubtful, what is the motion before the House? It is not to reject the resolutions, but to postpone the consideration of them until the doubt is removed. And could it be proper, while doubts exist as to the fate of our negotiation, and when every day may be expected to remove the uncertainty, to adopt resolutions of this kind? Besides, what disadvantage would arise to the United States from a postponement of these resolutions for a fortnight? Was it because his colleague had yesterday laid these resolutions upon the table, that it had become all at once so important to adopt them? If the measure was so very necessary, how happened it that the committee appointed on the subject of the protection of commerce and the defence of the country, had not recommended the measure? He himself could see no inconvenience which could arise from the proposed delay.

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Mr. McDowell hoped this bill would be made the order for to-morrow, as it had only been laid upon the table this morning, and few gentlemen had yet turned their attention to it. Besides, the usual hour of adjournment is arrived, and he hoped gentlemen would not insist upon hurrying so important a bill through the House in this manner. The gentleman from New York remarked that the House had been engaged in trifling business all the day; but, he observed that gentleman sat very contentedly under the discussion, though he now seems so desirous of expediting this business.

Mr. Sewall was impressed with the necessity of passing this bill as soon as possible. If the committee had thought they might with propriety have taken time to deliberate upon this subject, they would not have made this report, but have taken into consideration the resolution which had been referred to them with this bill; but finding it necessary that our armed vessels should receive their instructions immediately, that they may go out and take the vessels on the coast, or drive them off, they made this report, intending hereafter to report farther upon the subject. But the present measures they thought necessary, from the peculiarity of our present situation; the dangers attending which the people without seemed to be fully persuaded of. And as this subject had been fully discussed on the resolutions which had been before the House, he hoped the bill would be immediately, taken up; as he wished to provide without delay for the defence of our coast as far as our force would permit.

Mr. Macon said, it was very extraordinary indeed, that gentlemen should wish to hurry this bill through the House in the way proposed. It appeared as if they were afraid of any thing coming from our Commissioners before they got the country in war. Being now the usual hour of adjournment, it could not be expected that if the House went into this bill, that any debate could take place. Indeed gentlemen seemed to wish to prevent debate as much as possible; a few days ago, they had got a rule passed that no person should speak more than once to any question, and now by moving to go into a Committee of the Whole, at the hour of adjournment, they wish to prevent them from speaking once, and that upon a bill which will certainly place the country in a state of war. He thought a regard to decency ought to prevent gentlemen from pushing this motion.

Mr. Lyon called upon gentlemen to consider the importance of this bill. He considered it as a declaration of war as it now stands, and he hoped time would be given to consider whether some amendment could not be introduced into it, so as to prevent its being so considered. At present, he believed, it was directly in the face of the laws of nations. He was desirous of avoiding war if possible. His constituents also wished it. He had received at least two hundred letters requesting him to do all in his power to prevent it. Indeed, he was afraid of the consequences of war; he was afraid it might produce even a dissolution of the present Government.

Mr. Brent was proceeding to express his astonishment at the conduct of gentlemen in wishing to press so important a subject upon the House, while members were impatient to adjourn, when,

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PROTECTION OF COMMERCE.

Mr. Sewall called for the order of the day on the bill from the Senate for the more effectual protection of the commerce and coasts of the United States; and the House accordingly resolved itself into a Committee of the Whole on the said bill, Mr. Dent in the Chair. The bill having been read,

Mr. Macon rose and observed, that he wished to amend both the bill and the preamble to it, and desired the Chairman to say which it would be in order to move first. The Chairman having answered that it would be most regular first to amend the bill, and then the preamble could be made conformable to it, Mr. Macon moved to strike out the word "such," in the enacting clause (the effect of which was to make the instructions given to the commanders of our vessels general against all cruisers, as well as against the French.) His reason for making the motion was, that if this bill must pass, it might be general against all nations who commit depredations upon our commerce, for it was a fact well known that France is not the only nation which does this. It was his opinion, that before any measure of this kind was taken, we ought to know the result of our mission in France; for, however slender our expectations of an accommodation may be, still those expectations ought not to be abandoned, until we are certain our Commissioners have left Paris, without being able to accomplish their mission.

Mr. M. believed it could not be doubted by any one that, if we had thought a state of war preferable to the state in which we had been placed for some time back, we had had sufficient provocation from more than one nation to have declared war long ago. Indeed he looked upon this bill as a declaration of war in substance; he saw that this was the situation to which measures was progressing, but he could not have expected that gentlemen would have proposed a measure of this kind whilst our Commissioners were yet in Paris. It was his opinion, however, that disagreeable as our present situation may be, it is much preferable to a state of war; for, notwithstanding all the losses which our merchants have sustained, our trade and our revenue are continually increasing.

In the part of the country from whence he came, Mr. M. said, the price of produce is now higher than it has been for some time past. But, in the case of war, it would fall, of course.

Notwithstanding all the evils which he was sensible must attend on a state of war, when he found our Commissioners had left France, and no hope of accommodation remained, he should not hesitate to join gentlemen in any measures which shall be necessary to meet a state of war.

Mr. Harper could not help being surprised at the motives which the gentleman from North Carolina said had induced him to make this motion. Gentlemen had heretofore said, they were unwilling to take any active measures against France until negotiation was exhausted. Now, though they confess that they have no hope from negotiation, they are unwilling to do anything against France until our Commissioners come home. Yet the gentleman from North Carolina wishes to make this bill general; and, though he insists upon its being a declaration of war, he desires it may not be levelled at France only, but at England and Spain, to whom no remonstrance for their depredations has been made, and with whom no attempt has been made at negotiation.

Is it not astonishing that men, who have always expressed themselves in favor of peace, should be able to get their consent to arguments which give the lie to all their declarations—that they should object to a measure, because they deem it a war measure with one nation, and still be willing to embrace it when it is made to apply to three nations? If gentlemen are thus blinded by their passions in favor of some nations, and against others, he could only deplore that blindness. If, with their eyes open, they can rush into the measure proposed, and yet decline it when confined only to one nation, he left it to themselves to reconcile the inconsistency. And yet these gentlemen are loading those who wish to take spirited measures of defence with the most odious epithets, as being friendly to war. He could account for this inconsistency of conduct only from the violent antipathies and attachments which he had already mentioned, which seemed effectually to blind gentlemen as to what respects the true interests of their own country.

Mr. McDowell said, the gentleman from South Carolina had dwelt much upon the inconsistency of the present motion. He himself could not see any in it. He had insinuated that the mover and seconder of it must be blinded by prejudice and governed by passion; that, instead of going to war with one nation, it would be going to war with three, and that before we remonstrate with them, or request them to desist from their practices; that we have been attempting to get redress from France for eighteen months past without effect, but that no attempt has been made to negotiate with England or Spain on the subject of their depredations. In this the gentleman from South Carolina was certainly mistaken. He knew we had lately concluded a treaty with England, which had been constantly violated; and what faith, Mr. McD. asked, could be placed in a nation which one day makes a treaty, and the next violates it? The same remark would apply to Spain, so far as they have depredated upon our commerce.

Mr. McD. said, he had all along declared himself opposed to war, or to any measures which would lead to it, and he still held the same opinion. He had no prejudice against or in favor of any nation whatever, except so far as their conduct towards this country was friendly or otherwise; and he could see no reason for giving instructions to the commanders of our vessels to seize and bring in the vessels of one country which may commit depredations upon our commerce, and not those of another. He was himself opposed to the bill altogether; but, if it must pass, he wished to make it contain as little mischief as possible, and he thought by striking out the word

"such," and by that means making it general, France could not take the same offence at it; as the bill now stood, it was tantamount to a declaration of war.

Mr. J. Williams was in hopes, when the gentleman from North Carolina first made his motion, that the opposition which he had heretofore shown was done away, and that the bill was only objected to because it was not general; but now it appears that gentlemen are opposed to the bill altogether. He had hoped when gentlemen had reflected upon what had taken place, even within our own jurisdiction, that there would not have been a single dissenting voice in the committee. Gentlemen allege that this measure will lead to war; but he would ask whether other neutral nations had not taken measures fully as strong as this, without producing war? For his part, he supposed it might have been better if this country had gone into this system of defending our commerce. He was opposed to it for a considerable time. He was in hopes of a reconciliation taking place; but he had been deceived from time to time, and, instead of any appearance of accommodation, every day brought information which convinced him that, except we meant to submit altogether, we must defend ourselves.

This being the case, he asked gentlemen which they would choose? Whether they would suffer themselves to come under the power of the French nation, or repel force by force? He did not believe any gentleman would say we ought not to embrace the latter.

At a time when the enemy's vessels are within our own jurisdiction, are we to withhold the necessary instructions to the commanders of our vessels? He hoped not. Not that he would go hastily into war; but have we not, he asked, been in war for a long time?—a war on one side, and total submission on the other. Yet the House are now called upon to postpone the consideration of this question, lest it should produce war. The only way to prevent a war, he believed, was to be prepared to meet it. If spirited measures had been taken during the extraordinary session of Congress, he believed it might have prevented the loss of property to the amount of twenty millions of dollars, and the necessity of a war. But Congress had gone on, from time to time, saying, we will wait for this, that, and the other, and it will, in all probability, prevent war. This conduct had produced the greatest difficulties, and yet gentlemen wish to go further in the same course. The enemy's vessels, he understood, are within the Capes, and he supposed gentlemen would wait till they came up to the city, before they would take any means to oppose them. He believed it was high time to say, "We will not submit," and to prepare to repel the repeated aggressions of our enemy.

But gentlemen say, "No, we will oppose the bill altogether." Let us, said Mr. W., pass this bill as it is, and, if gentlemen choose to bring forward another bill against any other nation, he should not object to it, if they refused to do us justice. He was not in favor of one nation more than another; he would resist oppression from all. This bill, he believed, ought to be passed immediately. If it had been passed a week ago, it would have saved to the United States a large sum of money.

Mr. Shepard observed, that much had been said on this bill, and on the resolutions on the same subject, which were referred to the same committee. Members differed in opinion very materially as to the proper mode of conducting our affairs at this important crisis; but he could see no reason for deferring vigorous measures any longer, as he did not see the least ground of hope for a reconciliation; it was, therefore, idle to dispute about it.

He would ask gentlemen so violently opposed to this bill what they would do? Are they willing to send more Envoys to the French nation, to sue for an accommodation? He supposed not; everything which can be done has been done to effect an accommodation. Are gentlemen ready, then, to give the money which had been demanded? He presumed not. He hoped gentlemen possessed too much American blood to agree to any such thing; and, if so, why do they hesitate to take the measure proposed, and endeavor to throw embarrassments in the way of every measure of defence which can be taken? If we are to purchase peace, let us do it; if not, let us defend ourselves like men. Or do gentlemen wish to wait until more injuries and more insults are added to those already received, before any step of defence must be taken, lest it should lead to war? Will conduct like this save America? No; it will not.

But gentlemen decline taking this measure, because they are apprehensive it will irritate the French nation. Mr. S. believed this country could do nothing to alter the conduct of the French nation towards us, except it were by giving them money. There could be no doubt, he said, but the French meant to subjugate this Government, and to lay the United States under contribution. Every newspaper told them this; yet some gentlemen seem opposed to everything intended to resist their doings, or even to tell them they have done wrong. For his part, he believed that nation had been boiling over with madness for two years past, and that they are totally void of every virtue.

They have told us, said Mr. S., in plain terms, they mean to subjugate us. They say they have a strong party in this country, and that they understand diplomatic agency as well as any other nation. This he believed, as he saw they had effectually used that power in subduing every country in Europe that they had anything to do with, except Great Britain, and he feared they would succeed against her. No man, he said, disliked war more than him; but, he believed, the best way of preserving ourselves from it, was to take measures to oppose a Power which has so unjustly treated us. We ought not, he said, to trifle any longer, but take new ground. The more insults we submit to, the more we shall have. He could not suppose gentlemen would be willing to

wait till all our vessels are taken and our Government overcome, before they will make resistance. If we meant to preserve our independence, he believed resistance ought now to be made. It is time, said he, to tell the French nation, "we will not submit any longer." This was the way we gained our independence, and this must be the way by which we must keep it. He hoped, therefore, the bill would pass as it stands.

Mr. Otis said, though he had sufficient confidence in the committee to induce him to believe that the present motion cannot succeed, yet he could not forbear to expostulate with gentlemen on the impropriety of any measures which should have a tendency to give unnecessary offence to other nations, besides that against which we are called upon to act. To increase our foes would only be to aggravate our misfortunes. Mr. O. hoped and believed this country would be able to defend itself singly and alone; but, supposing, as gentlemen agree to be true, that we are on the eve of a war, would it not be highly impolitic to irritate a Power whose assistance we may find very acceptable in the course of a few months against a common enemy? He hoped it would never be necessary to seek for this assistance, though it is possible, if we are driven into war with our old friends, that we may willingly avail ourselves of the aid of our old enemies; for, though we had suffered injuries from more nations than one, yet he agreed with our Envoys in the sentiment that, if France should attack us, we must seek the best means of defence; and may find it more prudent to forgive than to provoke, by harsh measures, a nation which may aid in our defence.

Mr. O. said, if, after injuries had been committed against us by Great Britain and Spain, of the same nature with those which have been heaped upon us by France, and those nations, like her, had refused to hear us, or to do us justice, he would support the same measures against them and vindicate our national character and honor. But though he should by no means attempt to extenuate the conduct of Great Britain or Spain, he believed he might say that the depredations committed by those Powers subsequent to their treaties, have been under color, at least, of the laws of nations. But the difference in the degrees of these depredations, in comparison with those of the French Republic, cannot be better ascertained than by the rates of insurance paid as a security against them respectively.

Insurance may be effected against the Spanish and British for five per cent., whilst it cannot be procured against the French for less than twenty-five or thirty per cent. And though the British cruisers do, in some cases, take our vessels, in others they afford them protection. Indeed, he believed, the number of our vessels rescued from the fangs of the French, and restored to us by the British, greatly exceed in value the amount of those which have been taken from us by them since their treaty. They have saved to Philadelphia about a half a million of dollars. With respect to Spain, he believed her disposition towards us to be friendly, and that an injury offered by them to us was done at the instigation of another country. Again, we have received, under the late treaty with Great Britain £100,000 sterling for damages sustained by her depredations, and from Spain $300,000 have been awarded on the same account. So that no comparison could possibly be made between the treatment we experienced from France and those countries. She makes no treaties—she pays no compensations.

The amendment is proposed, with a design to hold up to the people the idea that, if we were at war with France, we cannot calculate to receive assistance from any other country, having cause of complaint against all parties. Gentlemen were certainly accountable to themselves for their own conduct and modes of expression, and, doubtless, think they act with discretion; but, he believed that, when the warmth of the present session and the ardor of debate should subside, they would be persuaded that comparisons, such as they had made, were not pertinent or judicious.

Mr. O. said, it would be recollected that gentlemen had acknowledged that, if this amendment was adopted, they should still vote against the bill. If Great Britain and Spain have injured us, the proper mode of proceeding was, first to endeavor to obtain redress; and if that is not allowed, it will be time enough to use force; but, with respect to the French Republic, every kind of application has been exhausted. There can be no question about war, the only way was to consider how we should get an honorable peace. They have made war upon us, and he believed, we should be more likely to obtain peace by a spirited conduct than by base submission.

Mr. Kittera rose to observe, that one of the articles in our treaties with Great Britain and Spain, stipulates that no reprisals shall be authorized by either country until application shall be made to the other, which he thought would be a sufficient reason for negativing the amendment. He believed it would be proper to adopt an additional rule to those already established for the government of the House, viz: that when French privateers came within our own ports and take our vessels, a long debate shall not take place upon a bill to instruct the commanders of our vessels to make reprisals.

Mr. Gallatin, in reply to the last observation of Mr. Kittera, said that, if his assertion was true, that the French privateers were committing depredations within our own ports, or anywhere within our jurisdiction, it was no reason why this bill should pass immediately; for, without the bill, the President had full power to apply the armed vessels, or any other force at his disposal, in repelling the outrage. As to the amendment, he would not pretend to say that it was very essential; but, he supposed, the reason for moving it was this: It was asserted that this bill was not a declaration of war, but only a kind of special reprisal authorized by the law of nations, it was, therefore, thought it would be proper to make it a general regulation. If it was intended to be a declaration of war, it would be extremely wrong to make two enemies, instead of one. If it was to be passed with that

intention, it would be wrong to adopt the amendment; but he supposed it was introduced on the ground assumed by the supporters of the bill, that the measures proposed might be entered into without violating the laws of nations, and consistently with a state of peace.

In relation to the opposition which had been given to the various war measures which had been brought forward in the course of the session, it was in the power of gentlemen to have prevented the greater part of it; if, instead of going on step by step, the whole system which they had in view had been laid before the House at once, only one debate would have taken place on the propriety or policy of placing the country in a state of war. After that had been determined, the other measures, which must have followed in course, would have been adopted without much debate; because, after the country shall be declared to be in a state of war, it will be the duty of every member to make it as effectual as he is able, and as hurtful to the enemy as it can be made; but so long as the country is declared not to be in a state of war, it is natural for those members who are opposed to war, to endeavor to prevent measures leading to that state, or inconsistent with a state of peace; but, if war is once declared, he would take upon himself to say, no longer opposition would be given to either defensive or offensive preparations.

Mr. G. wished the committee had also made a report upon the resolution on this subject lately referred to them by the House, which they say they had not time to consider; and not that the House should have this bill to-day, another to-morrow, and so on; for if it be intended, at all events, to get into war, the more effectual the measures are which shall be taken, the better. He would at once concur in this bill, or any one which should go further, whenever the country shall have been declared to be in a state of war.

All that had been said for the postponement of this question, and against it, arose from the different opinions entertained as to the possibility of an accommodation with France. He owned his hopes on this subject are very slender; but there is one stubborn fact against any hostile measures at present—the negotiation is still open, and our Commissioners are still in Paris; and whilst this continued to be the case, although he was not able to account for their remaining there, he would continue to vote against any measures inconsistent with a state of negotiation.

On the other hand, when gentlemen say this measure is not war, (though he believed the contrary,) but authorized by the laws of nations, the gentleman from North Carolina came forward with his amendment, and said, if this is one of those things which nations may do consistently with their neutrality, let us make it general; for the moment you take measures of a hostile nature against one of the belligerent Powers, and not against another, it would not be sufficient for us to say that one of them has committed more depredations upon us than another, though this would be a good reason for going to war with one nation more than the other. Mr. G. wished, therefore, if this was intended as a war measure, (and he had no doubt of its being so,) that it might be clearly expressed, as then every effectual measure might be taken for furthering war preparations, and every opposition would hereafter cease.

Mr. Hartley said, the opposition made to this bill was very extraordinary. As to a declaration of war, he did not think such a measure could be proper whilst our Commissioners remain in Paris; but, for more than a week past, he was convinced France would have war with this country. he therefore wished to go into every measure of defence both of our commerce and territory. Gentlemen, notwithstanding they must see that France is aiming at universal dominion, wish to put off measures of defence from one period to another. He thought we ought no longer to hesitate, but to go as far as possible in the protection of our commerce; for he did not think we had anything to fear from the mighty nation. A body of a few thousand men would secure us in the Southern States, and we had nothing to fear in the Eastern or Northern States. He hoped, therefore, this amendment would be negatived, and the bill passed without further objection.

Mr. Edmond supposed that the minds of gentlemen were pretty generally determined on this question, and he could not therefore hope to effect any change of opinion in any member of the committee; yet he hoped he should be justified, in a question of so much importance, in taking up a little time of the committee in delivering his sentiments upon it.

He rose in opposition to the present amendment. It was said, this is either a peace measure or a war measure. If it is consistent with a state of peace, it was argued that there could be no danger in extending it to other nations as well as to the French. He considered it as a peace measure; but before the committee agree to the proposed amendment, they ought to consider the consequences of doing so.

If one of our merchant vessels should be depredated upon by a British or a Spanish ship of war, it would not be war, but a breach of our treaties with those Powers, which stipulate that complaint of any injury received shall first be made, and satisfaction demanded, before any act of reprisal shall be authorized. But with respect to France, admitting that we have the same treaty with her, how does the fact stand? With respect to Great Britain and Spain, it is stipulated that redress shall in the first place be asked. This had repeatedly been done with respect to France. We have frequently made an application there in the language of supplication. Do France and Great Britain, then, stand upon the same footing? No; they stand upon different ground, and the same rule of conduct will not apply to them.

Another idea has been suggested, viz: that the bill should be general, lest it should displease France, and impede our negotiation with that country. If there was the most distant hope of an honorable settlement of our differences with that country, he should be as unwilling as any

man to stop or impede the business; but, when he reflected upon what had passed between the two countries from the commencement of our independence to the present time, that hope was lessened, if it ever existed. When he saw, that instead of friendship, she had shown quite a contrary conduct towards us, he doubted whether that friendship ever existed. When he found that on the 9th of May, 1793, she undertook to pass a decree to take out of all neutral vessels enemy's goods, in violation of her treaty with us, but that upon remonstrating with her, she undertook to repeal it on the 23d; but when she had blinded the eyes of our commercial people by this repeal, she sat down five days after and repealed her last decree. When he saw this he suspected the hatred of France instead of its friendship. Another application was made on the subject, and on the 1st of July, the offensive decree is again repealed; this repeal continued till the 28th of the same month, when it was again rescinded.

Try the conduct of France farther, and how does it appear? When we look at the depredations which have been committed upon our commerce; when we see the manner in which our vessels have been taken upon pretences of certain papers being wanting, of which our masters and owners of vessels were ignorant, what would have been a friendly conduct in such cases? Would it have been to take advantage of inadvertence and ignorance? Certainly not. Or, if we look at the conduct of their Minister in this country: he comes to cultivate harmony; but when we see him endeavoring to raise up the people against their Government, it cannot be taken as a friendly proceeding.

Mr. E. wished some gentleman would undertake to show the marks of this friendship of France of which so much had been heard. What has been done on our part? After receiving repeated injuries, we have appointed Commissioners after Commissioners to treat with them. Our reward is known. He did not wish to aggravate the conduct of France; but he wished to know how long gentlemen would be willing to lie at her footstool? Was it proper to continue our negotiation with a Power which is sweeping the ocean of all our vessels? Suppose our Commissioners are in Paris, endeavoring to negotiate, how comes it that the privateers of France are not recalled, instead of being suffered to infest our coasts? But instead of this, their disposition is shown by their decree of the 11th of January, which determines the character of vessels by their cargo.

All these acts, Mr. E. said, demonstrated the temper and disposition of that Republic towards America. He thought it perfectly idle for our Commissioners to remain at Paris, stating complaints and writing vindications, without the least hope of success. What will the Directory say to them? They will say, "You set up your claims, but how will you enforce them? You cannot get a vote to lay your hand upon any of our privateers upon your coast; you come on an idle errand. Congress have no idea that your country has any such claims; if they believed it, they would support them." When the French find us a feeble and divided nation, will they listen for a moment to the suppliant and feeble prayer of our Commissioners? No; they will continue their war upon our commerce, and raise a tribute upon us when they please, and when they have accomplished their part with Great Britain, they will then treat with us. We shall then be called upon to buy a peace upon their own terms. He acknowledged they had overpowered many nations, and made peace with them at various prices; but the peace which they are disposing of is of French manufacture; it may be brilliant, but not durable. He wished not to purchase such a peace. He would, on the contrary, now adopt spirited measures, and convince France that we are not to be trifled with any longer. Or, if gentlemen wish us to appear so degraded, so reduced, and humbled a nation, as to be ready to receive the boon we can beg from them, then it will be right to continue our supplication. But, if that is not their idea; if they conceive that we have rights founded in justice, which ought to be supported, will they not be persuaded that we shall be more likely to have them respected, by taking a spirited, manly course of conduct, than the contrary? They certainly must.

For himself, Mr. E. said, were he sent to treat with France at a period like the present, and that nation were to tell him that one-half his countrymen disavowed the claims which he set up, if there were any truth for the remark, he should think he might as well attempt to negotiate upon his own authority, as in behalf of Government. If, said he, we do not mean to lie upon our oars, let us come forward and support the claims of our Commissioners, and then there will be some probability of their being successful. Without this, our Commissioners will never be able to accomplish anything, and the French would continue their depredations upon our trade. But if we adopt the measure proposed, are we about to declare war? Certainly not. If, said he, I am attacked by an individual, and resist him, and in doing so, I break or take from him his sword, do I declare war against him? No; common sense, and the first principles of self-defence say that this is right. And will not the same reasoning apply to nations? He said it certainly would. The measure now proposed, goes no further than to wrest the sword from the hand of our enemy, and to keep it for our own security until our dispute is settled. He hoped, therefore, the amendment would be disagreed to.

Mr. Lyon could not discover why gentlemen should be opposed to this amendment, if they did not suppose the bill under consideration would amount to a declaration of war. It was his opinion it would have that effect, and therefore he was opposed to it. He hoped our negotiation at Paris was not yet closed; but if this bill passes, his hopes of peace would be at an end. The gentleman last up spoke about the price of peace; he could not say for his part what would be the price of peace hereafter, if the country once got involved in war. He did not suppose we should be able

to beat the French so severely as to bring them to our terms. He was himself very unwilling to go to war. He believed the people of the United States are desirous of preserving peace, notwithstanding what had been insinuated to the contrary, from the addresses which had been sent to the President and to Congress. We had, said he, a million of thinking people within the United States, and supposing all the addressers to be in favor of war measures, (which he was far from believing,) they do not amount to more than 20,000. He believed there are more persons in this city in favor of war than in any other part of the United States. He was confident there are not two hundred people in his district who wish it. Indeed, he saw nothing to be got for this country by going to war. He said he should vote for this amendment, because it would take off a part of the asperity of the measure towards France.

The question was put and negatived, there being only 22 for it.

Mr. Lyon proposed to amend the bill by inserting the words "consistently with the laws of nations," but his motion did not find a second.

The committee then rose and reported the bill.

Mr. Macon renewed his motion for striking out the word "such." The arguments that had been made use of against this motion had not convinced him of its impropriety. He did not think it would be a violation of our treaties either with Great Britain or Spain; but if gentlemen think so, it can be amended in that respect. Instead of blaming him, Mr. M. said, certain gentlemen ought to be obliged to him for having made his motion, because it had given them an opportunity of making studied speeches, which they otherwise could not have done.

The gentleman from South Carolina (Mr. Harper) said that his (Mr. M.'s) conduct on this occasion was such as gave the lie to his former sentiments. This was not the most delicate way of treating gentlemen, but such as that gentleman generally used. It would, however, have no effect upon him. It was, and always had been, his object to preserve peace, and as long as he had a single hope left, he should not wish to take any measure to break it. It was with this view that he proposed his amendment to make the bill general.

What other nations have done is not now the question. The only question before the House is, what will be the interest of the country to do. He knew no good a repetition of the injuries we have received could do. It had been said, we ought not to do anything to offend Great Britain, as it was probable that if we have to fight our old friends, we might have occasion for the assistance of our old enemies. But, if we are to go to war, he hoped we should depend upon no ally. He wanted to have no connexion with any foreign nation. He believed our last treaty had done us no good, and he wanted no more of them. He had no objection to buy and sell with them all, but he desired to have no farther concern with them. He did not think it was in the power of any of them to hurt us, and he would do all in his power to prevent foreign alliances, which could never do this country any good, but which might do us great harm.

The House had again been told that the Middle and Eastern States are safe, and that if troops are sent to the Southern States, they will be safe also.

[Mr. M. was proceeding to state that in the last war no man eastward of the Delaware was ever seen fighting in the Southern States, and that now the Southern members (with only one or two exceptions) are satisfied to be left to themselves, when the Speaker reminded him of the question.]

It was complained against that this country was charged with being divided. He believed it always would be divided in political sentiment. Indeed, there is not a State in the Union, and but few neighborhoods, which are not divided in this respect. But was this any reason why they would not join heartily in the defence of their country, if it were attacked? However different parts of the Union may differ in political sentiment, when the question was a defence of the country against invaders, he was confident there would be no division upon it. And he thought it a proof the Executive Directory did not rely upon any division in their favor in this country, or they would not have dwelt so publicly on that point. Gentlemen might make use of an argument of this kind in this House in order to catch the popular ear, but it is not true, nor did he believe that there are ten people in the United States who will believe it.

The gentleman from Connecticut (Mr. Edmond) had said, that if he was sent a Commissioner on any business, and one-half of the people were to say that the claims which he went to prefer were not founded, he should not expect any success in his mission. Mr. M. believed it; but had such a thing ever been said in this country by anybody, much less by one-half the people? Everybody believed our claims for redress against France are well founded.

On the subject of giving money, he believed no man would be inclined to stand out longer against giving money than him; and as to the idea of subjugation, he looked upon it as perfectly ludicrous, and he was sorry to hear a military man (Gen. Shepard) express apprehensions on this ground. He thought he had known the spirit of the American people too well to have entertained such an idea for a moment.

Gentlemen have all along denied, Mr. M. said, that this bill is tantamount to a declaration of war. If it were only intended to defend our commerce, according to the laws of nations, it ought to be made general, as he proposed by the present amendment; but he believed it would be in effect a declaration of war. He believed those who supported it generally intended it should have that effect, and the reason they had taken this course of making war in preference to making an open declaration of war is, they know it will be more popular than a declaration of war would have been. He had no doubt of it.

He wished, when gentlemen had come to a determination to go to war, they had brought the question fully before Congress, that it might have been fairly determined, instead of doing a little now and a little then, until they get the country into that state. If the whole plan had been seen at once, gentlemen would have known how to have acted.

Mr. M. concluded by saying, he did not mean to justify the conduct of any nation in Europe towards us. He was conscious we had been ill used by most of them. He had no doubt the gentleman from Connecticut might have enumerated more injuries committed against us by foreign nations than he had done. Was the impressment of our seamen nothing? He thought it the greatest insult which any nation ever received. It was, however, useless to take up the time of the House. He made the motion only for the purpose of replying to the observations which had been made against it in Committee of the Whole, and which he was prevented from answering there by the rule of the House, which says no member shall speak more than once to any question.

Mr. Bayard thought the conduct of the gentleman from North Carolina was liable to the inconsistency with which the gentleman from South Carolina had charged it. That gentleman tells the House he is a friend of peace. If so, his motion is in opposition to his sentiments; because he has said he believes the bill to be tantamount to a declaration of war, and yet he wishes not to modify it, or make it less a provocation of war, but to extend it to two other Powers besides France.

The amendment of the gentleman is in no way opposed to the principle of the bill; but he wishes it to be general and not applied to France only. He would ask, which are the nations that the gentleman desires to comprehend within the provisions of this bill, besides the French nation? Is it the British nation? If it be, he wished to know upon what ground? Before gentlemen take a step which it is said is war, it ought to be shown that we should be warranted in a measure of this kind against Great Britain. He knew they had captured many of our merchant vessels; but are gentlemen prepared to say they were not captured on lawful ground? Will they say that all our trade is carried on so consistently with our treaty with that country, that there can be no ground of capture in any of our merchant vessels? We know that to have enemy's property on board is a sufficient ground for carrying vessels into a British port; and we also know that if they are laden with articles contraband of war, they are liable to capture. And since the British Treaty came into existence, Mr. B. said, we have had no proof of any seizure having been made by that country contrary to the laws of nations. Where, then, is the ground upon which to extend the provisions of this bill to Great Britain as well as to France? When we find a nation putting herself to great inconvenience to grant convoys for our vessels from her own ports to ours, are we to put her upon the same footing with one who, contrary to treaty and the laws of nations, is every day seizing our property and plundering our citizens, and who, when applied to for satisfaction, refuses to receive our Ministers? What other nation would this amendment affect? It had been said Spain. If she has committed depredations upon our commerce, Mr. B. believed they were not considerable; and he believed if the enormity of the conduct of France had stopped short of its present magnitude, no gentleman would have thought of taking this step; and, as it respects Spain, he could not find an excuse for her, as he did not consider her as a free agent, but as acting under the influence of the French nation; France was answerable, therefore, not only for her own depredations, but those of Spain.

Mr. B. could see no reason, therefore, why this bill should be made to operate against any other nation than France. It was strange that objections should yet be urged against measures for the protection of our coasts, though French privateers had entered two of our harbors; yet the gentleman from Pennsylvania, with that boldness of assertion so peculiar to him, tells the House that the President of the United States has the power to give directions for the seizing of privateers within the jurisdictional line, and therefore, on that account, this bill is unnecessary. But he called upon that gentleman to show any good ground for that opinion. Suppose, for instance, Mr. B. said, that a French privateer was to commit depredations beyond the jurisdictional line, and afterwards come within it, it would doubtless come within the provisions of this bill to afford a remedy; but the gentleman from Pennsylvania would not say that the President would have power to afford a remedy in such a case. He had no doubt, that when one nation infringes the rights of another, it had a right to take measures against it; but this right was lodged in the sovereignty of the nation, and as that, in this country, does not lie wholly in the President, but in Congress, the President has no power to act in the case. Congress only could authorize reprisals. Mr. B. concluded with a hope that the amendment would be disagreed to.

Mr. Allen called for the yeas and nays upon the question, which were agreed to be taken, and stood—yeas 20, nays 70, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Nathan Bryan, Demsey Burges, John Clopton, Lucas Elmendorph, John Fowler, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, William Smith, Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Thomas Blount, Richard Brent, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Thomas Claiborne, William C. C. Claiborne, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dawson, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Richard Sprigg, jr., George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John Trigg, John E. Van Alen, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and John Williams.

The question then came up on the bill's going to a third reading; when

Mr. Brent said he voted against the amendment offered by the gentleman from North Carolina, because he apprehended its effects would be to involve us in war with two countries instead of one. The amendment of the gentleman from North Carolina was to strike out the word *such* in the bill, in which instance the commanders of our armed vessels would have been directed by the President to seize and take the vessels of any nations that shall have committed, or are found hovering on our coast for the purpose of committing, depredations on the commerce of the United States. As the bill now stands, it will only apply to French depredations; if amended as proposed, it would have applied to Great Britain, or any other country whose subjects or citizens are unlawfully spoliating our commerce—as he believed that the laws of nations and the stipulations of treaties had been violated in relation to us, not only by the French, but the British also, he considered the tendency of this amendment might be to involve us in war with Great Britain, and he did not wish to increase the number of foes with whom we were to engage in hostility. That he was accurate in his opinion that the armed vessels of Great Britain were at this time in the practice of violating our neutral rights, seemed to be acknowledged by others, and particularly by the member from Massachusetts, (Mr. Otis,) who had opposed the amendment, with a suggestion that in the event of an open rupture with France, it might be expedient for us to call in the aid of England, and, supposing the amendment might have a tendency to create irritation between that country and this, it was improper that at this crisis it should be adopted. This reasoning of the gentleman from Massachusetts could only be derived from an admission that Great Britain did not at this time respect our neutral rights; for, as the amendment only authorized the seizure of vessels spoliating our lawful commerce, there could be no danger that such a regulation would involve us in war, or produce a coolness with Great Britain, without a previous acknowledgment that her armed vessels were illegally depredating our commerce, and consequently would be affected by the general provision of the amendment, which, instead of confining our reprisals to French, extended it to vessels of all nations thus acting illegally in relation to ours.

Though, Mr. Brent said, he was not, under any circumstances, like the gentleman from Massachusetts, for embarking our destiny with that of Great Britain in her present contest with France; though he should consider such an event as one of the most deplorable which could befall the United States, yet he was willing and even studious to preserve peace with Great Britain, notwithstanding the many injuries we had received from that quarter; on the same principle, from the same desire to preserve the tranquillity of this country, he was opposed to the bill itself. He considered this bill as perhaps determining the question, whether or not there should remain a possibility of reconciling our differences with the French Republic. He considered this bill as probably dispelling every ray of hope which yet remained of a reconciliation taking place, and he hoped gentlemen would pause a moment before they adopted a measure so serious and awful. He did not see that we were at present exposed to any greater danger, or our commerce to any great extent to ravages more considerable than we had experienced for some time past.

He acknowledged that our commerce had received great and repeated injuries from France; that it had long felt their injuries and still continued to suffer; yet, under all these circumstances, a disposition has been constantly evinced, and he believed was still sincerely cherished by the great mass of our people, that recourse should not be had to the last fatal resort, till every mode of amicable negotiation had been attempted, and every rational hope of a peaceable adjustment of our complaints was exhausted. From these impressions, and at a period when our commerce was suffering their unjust depredations, we had sent Commissioners to the French nation; and was it proper, until we were certainly advised that our Commissioners had left France, or that every hope of their effecting the object of their mission was to be abandoned, to precipitate a measure, the probable effect of which would be to destroy all prospect of reconciliation, even if, at the present moment, our Commissioners should be engaged in a treaty? Mr. B. said, that neither the despatches which we had received from our Commissioners, nor any other intelligence from abroad, that he was acquainted with, compelled a belief that every possibility of negotiation was past; on the contrary, it was perhaps strictly within the bounds of probability, that, when the Government of France discovered an inflexible disposition on our part not to accede to terms dishonorable or disadvantageous, others of a less exceptionable nature would be, and perhaps before this have been, proposed. But, in every event, what is now a matter of conjecture, a few weeks will reduce to certainty; a few weeks must bring us certain and decisive accounts from Europe, and he was for postponing all deliberation respecting the very delicate subject under consideration till this intelligence arrived. At present, he believed it would be premature and inexpedient to adopt the proposed measures, and should therefore refuse to give them his assent.

The question on the bill going to a third read-

ing, was taken by yeas and nays, and stood—51 to 39, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, Jas. A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Wm. Barry Grove, Robert Goodloe Harper, Thos. Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The bill having been determined to be read a third time, the usual question was put by the Speaker, "For what day shall it be made the order?" Monday and to-day were answered.

Mr. Gallatin hoped Monday would be the day. He did not see the necessity for passing the bill to-day. But it was said, the House ought not to exercise their discretion upon this subject, because French privateers are within our Capes. To this, he replied, that if there was any invasion of our jurisdiction, and depredations committed within it, the President of the United States had power to repel them without this law. He knew he had it, because the power is expressly given to him in the law respecting the revenue cutters; and he knew the power had been used by him when a vessel, taken by a privateer within our jurisdiction, had been restored to the owner by the President. He agreed with the gentleman from Delaware, that the President had not power to employ an armed force to make reprisals of vessels within our jurisdiction which may have taken vessels belonging to the United States.

Besides, he understood that the Senate were not in session to-day, and therefore the bill, if passed to-day, could not go any sooner to the Senate than if it passed on Monday. If, therefore, it could not hasten the final passage of the bill by going to the Senate to-day, he wished to know what other reason could be given for so hasty a proceeding? He saw none. He saw one reason for not passing it. Every hour might be expected to bring despatches from our Ministers. It was known that a vessel had arrived from France, which is said to have brought accounts up to the 8th of April. Perhaps she may bring information that would produce unanimity of opinion as to the propriety of passing this bill.

Mr. Craik rose to correct an assertion of the gentleman from Pennsylvania, that the President had now all the power which was necessary to protect our property within the jurisdiction line. If he recollected rightly, the power given to the President, in the law respecting the revenue cutters, was only applicable to the cutters; but, even admitting the President had the right which the gentleman mentioned, he wished to know whether the President could employ it so as to give effectual protection to our commerce? He certainly could not employ it in the manner directed by this bill, which could alone be effectual.

Mr. Venable did not suppose any gentleman had doubted that the President of the United States had the power to use any force under his command for the defence of property within the jurisdiction of the United States. He had not that power by law only, but by the Constitution. But, if this is not the case, this bill could not, as had already been observed, go to the Senate till Monday, and he did not suppose the President would proceed to act under it until it became a law. He supposed there would be a majority of the House to pass this bill, whether it was passed to-day or on Monday; but he thought some respect due to the wishes of gentlemen who were desirous of the usual course being taken with this bill. It is an important question to this country. We are about to appeal to arms in a cause which many gentleman had anxiously hoped might have been settled by negotiation, and who are not fully convinced that every hope of this kind is yet done away. And can these gentlemen be blamed for wishing to put off the solemn decision for one day? For his own part, he should never regret having given his opposition to these steps. He had for a long time believed that every measure which was brought forward had in view a rupture with France, and he believed this was a closing vote. He hoped, as it was a question of so serious a nature, gentlemen might not be pressed to vote upon it to-day.

Mr. J. Parker said, as it could make no difference whether this bill passed to-day or on Monday, he should be in favor of Monday, as it is possible the vessel which had been mentioned might bring some advices from our Envoys, though he expected nothing more favorable from that quarter than had been already received. As it was said a French privateer was within our boundary, it was probable she might commit some depredation which might be heard of before Monday, which would convince every one of the necessity of passing this bill.

Mr. Otis saw no reason for delaying the passage of this bill till Monday, arising from the possibility of the vessel, which was said to have arrived from France, having brought any news; because, if information should be received from our Commissioners which would give a different aspect to our affairs, the President of the United States could refrain from giving these instructions. If this bill

was passed to-day, it might be reported to the Senate on Monday morning; but if it was postponed till Monday, gentlemen might come with fresh motions and speeches, and produce a further delay.

Mr. Davis hoped the passage of this bill would not be insisted upon to-day. This subject had but very lately been referred to a select committee, and they had made an expeditious report. He had just given his vote in favor of the bill's passing to a third reading; but if, contrary to the usage of the House, he should be called upon to vote on the passage of the bill to-day, he should vote against it.

Mr. Bayard was not willing to postpone the third reading of this bill till Monday, for the reason which had been given, viz: because the Senate is not now sitting. After the bill had passed this House, its going again to the Senate was known to be a mere matter of form. Therefore, the moment the bill passes this House, the President will be able to take measures immediately as if the bill had actually passed through all its forms. But, until the bill had absolutely passed this House, it would be impossible for the President to know to a certainty that some members might not, though they had hitherto voted in favor of the bill (as they had heard one gentleman say he intended to do) when it came to pass, vote against it. Mr. B. again spoke of the power of the President as to the protection of property within our jurisdiction, and said that the French vessel which had been alluded to might remain for any length of time within our capes, provided it committed no hostility there, without the President's having the power to remove her.

One word with respect to the probability of despatches being received from our Envoys before Monday. The House had before been told of an arrival here, and referred to the coffee-house books, to prove that our Commissioners were received. If the passing of the bill was delayed till Monday, he supposed the House would be again told of an arrival at Boston, Norfolk, or some other port, and a farther delay asked for, until we should hear whether something might not be done to make this law unnecessary. If we mean to act at all, Mr. B. said, the sooner we began the better.

Mr. Varnum said, since the bill would become a law as soon if passed on Monday, as to-day, he could not see why the motion was objected to. This question, Mr. V. said, was of the greatest importance, as it went to plunging the country into a war from which it might not be extricated for many years to come. Yet gentlemen act as if they are afraid intelligence should be received before this bill becomes a law, which shall make it unnecessary. Indeed, it appeared to him, that there are certain gentlemen in the House who are determined to have a war with France, at any rate.

Mr. V. said, it had had been complained that an allusion had been made to the coffee-house books of this city, respecting certain information from France; he did not think that was more out of order, than what was heard one day about French privateers having landed men on the coast—another, about their being in our harbors, and taking our vessels from thence. All which stories, he had no doubt, were raised to influence the votes of members of this House. The public would doubtless see them in this light.

Mr. Sitgreaves said, as the gentleman last up appeared to have some doubt as to the fact of a French privateer's being within the bay of Delaware, he would read the information lately given by a Captain Canby, on oath, at the office of the Secretary of State. [This certificate has appeared in the papers: it speaks of having seen a French privateer four miles within the bay.] He would add, that with respect to the vessel arrived from Bordeaux to-day, she brings information that our Commissioners were yet in Paris, but not received by the Directory. She left Bordeaux the 8th April, so that the hope of receiving any favorable news by her could not be indulged. Mr. S. observed, that this bill was intended to meet a case of emergency, and it was proper, to get it passed as soon as possible. If he saw it passed to-day, he should be sure there could be no difficulty about it next week; but, if it was postponed till Monday, he should be afraid of further time being spent upon it. The gentleman from Kentucky (Mr. Davis) had already said, it would not be proper to pass this bill while our Envoys are in Paris, therefore, though the question were postponed till Monday, his vote could not be expected. He, therefore, saw no reason for the delay.

The question on the bill's being read a third time on Monday, was put and negatived 49 to 41. The question on reading it a third time to-day, was then put and carried.

The bill was accordingly read the third time and passed by yeas 50, nays 40, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thos. Blount, Richard Brent, Nathan Bryan, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cort-

land, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The several orders of the day were further postponed until Monday next.

Monday, May 28.

The usual hour of proceeding to business having arrived, the Clerk informed the members present that he had just heard that the Speaker was so much indisposed as not to be able to attend the House this morning.

Mr. D. Foster moved that the House proceed to the choice of a Speaker *pro tempore*, which motion was carried; the ballots were collected, and Messrs. Baldwin and Rutledge being called to tell the votes, it appeared that Mr. Dent had 51 votes, which being a very large majority of the members present (indeed all except two or three scattering votes to four or five other members) he was accordingly declared to be elected, and conducted to the Chair accordingly.

Mr. Harper proposed the following resolution for adoption, which lies on the table till tomorrow:

Resolved, That it is expedient to suspend all commercial intercourse between the United States and the French Republic, or her possessions, until an adjustment of the existing differences between the two Powers shall be effected.

Mr. Harper laid a resolution upon the table calling upon the Secretary of the Treasury to lay before the House annually, as soon as may be after the meeting of every session of Congress, a statement of goods, wares, and merchandise, imported into the United States during the preceding year; which was ordered to lie on the table.

Mr. Sitgreaves called up the resolution which he laid upon the table a few days ago, directing the Attorney General of the United States to report the plan of a general law for the relief of insolvent debtors; which, after some objections from Mr. Coit, was agreed to, without a division.

A bill from the Senate was read, altering and extending the Judicial Courts of the United States; which was twice read, and referred to a select committee of five members.

MARINE CORPS.

Mr. Sewall called for the order of the day on the report of the Committee for the Protection of Commerce and the Defence of the Country, proposing an arrangement, in one corps, of the marines, who are or shall be engaged in the service of the United States, and by annexing them to the existing Military Establishment, to consist of a major and suitable commissioned and non-commissioned officers, 500 privates, and the necessary musicians.

Mr. Gallatin wished the committee who made this report, would inform the House how many men would be wanted on board the several armed vessels of the United States.

Mr. J. Parker said the United States have three frigates, twelve ships, and ten galleys. The two 44 gun frigates will require fifty marines each; one of 36 will need 48 men; two vessels of 22 guns each, will want 25 each; two vessels of 20 guns will require the same number; eight vessels of 16 guns each will need 20 men each; and ten galleys each 10 men, making in the whole 518, exclusive of sergeants and music. There will be no additional expense attending the change except the pay of a major, and it would be much more convenient to be thus organized, than to remain as at present.

Mr. Varnum wished to know whether these men could ever be together so as to enable the commanding officer of a battalion to discipline the corps. He believed they would be separate in the different vessels, and that there would be no means of bringing them together for the purpose. Besides, those marines who have engaged in the service, have engaged to serve on board ship, and not on land, so that this law would have a retrospective effect on those men, now, to say they should serve both on sea and land.

Mr. Sewall could not say that these marines could be brought together to be disciplined; but the major would superintend the whole, hear complaints, and attend to the recruiting service. He would also have to attend to the fortifications, and take a great deal of trouble from the War Office. The men would also sometimes be on shore, and without some officer is appointed, they would be solely under the care of the lieutenant. He believed, upon the whole, much advantage and economy would be derived from it.

The question being put upon the report, it was agreed to—54 votes being for it.

The committee then rose, and the House agreed to the report, after a few observations from Mr. Gallatin, hoping that, when the bill was brought in, this corps of marines would not be made a permanent part of the Military Establishment; but only have the same duration with the laws for equipping and keeping in employment the armed vessels.

The select committee was directed to report a bill accordingly.

POST OFFICES, &c.

On motion of Mr. W. C. Claiborne, the House went into a Committee of the Whole on the bill making alterations in the present law respecting post offices and post roads, Mr. Sitgreaves in the Chair; and after making a number of amendments in the bill, the committee rose, and had leave to sit again.

Tuesday, May 29.

The Speaker attended and took the Chair.

The Speaker laid before the House the accounts of the Commissioners of the City of Washing from the 18th November, 1797, to the 18th May, 1798, which were ordered to be printed.

Mr. Sewall reported a bill for establishing and organizing a battalion of infantry, to be called a Marine Corps, which was committed for tomorrow.

POST OFFICE BILL.

The bill respecting post offices and post roads being the order of the day,

Mr. Coit moved to discharge the Committee of the Whole from the further consideration of this subject. It must be evident, from the experience of yesterday, that it would not be possible to get through this business in any reasonable time, from the great number of roads which had been introduced into it; and he did not believe, that at this late period of the session, while so much important public business was before them, that they ought to proceed with it.

The motion was put and carried—38 to 35, and the further consideration of the subject was then postponed till the next session of Congress.

Mr. Harper called up the resolution which he yesterday laid upon the table for suspending the commercial intercourse between the United States and France, and moved to refer it to the Committee for the Protection of Commerce and the Defence of the Country, to report by bill or otherwise, which was carried without a division.

Mr. Harper proposed a resolution calling upon the Secretary of the Treasury to lay an annual statement of goods, wares, and merchandise, imported into the United States, as early as may be after the commencement of each session, distinguishing quantity, value, &c., which was agreed to.

COLLECTION OF DIRECT TAXES.

Mr. Gallatin called for the order of the day on the bill providing for the assessment and collection of direct taxes; which being agreed to, the House resolved itself into a Committee of the Whole on that bill; and after a number of blanks had been filled,

Mr. G. said, the principle of this bill was to lay a tax on real estates and slaves; but in forming it, a distinction has been made between houses and other real property; they are to be enumerated and valued by themselves, and classed in the manner in which they stand in the bill, and a specific tax to be laid upon them. So that out of the proportion of any one State of the two millions of dollars proposed to be raised from the whole of this tax, when all the houses are enumerated and taxed according to a certain rate, and the slaves (where there are any) enumerated, the remainder of the amount to be raised by the tax, is to be levied upon land. Mr. G. did not see any great advantage to be derived from this plan, but much inconvenience. According to this arrangement, when a farm is valued, a separate valuation must be made of the house and of the land. This would be attended with difficulty, as no one could say what one would sell for without the other; a farmer never would think of selling his house without his farm, or his farm without his house, nor would any one ever offer to purchase them separate; yet the farmer, according to this bill, will have to pay a tax for his house, and a tax for his land, each being valued apart from the other.

In the State of Pennsylvania, Mr. G. said, where they are in the habit of taxing land, no inconvenience is found in making a valuation of lands and houses together. The manner of doing this is to value the land, considering every improvement upon it, and making the estimate accordingly. To value them separately would be difficult, and must be done by some arbitrary rule; for the valuation could not be made according to what each would sell for, since they never were sold apart, nor could a tax be laid indiscriminately on town and farm houses in proportion to what each might have cost in building, without being extremely unequal, as a house in town which cost no more in building would produce to its owner a much greater rent, and was in fact more productive and valuable than a house on a farm.

Another inconvenience would arise in respect to the Commissioners. The houses being valued in classes, and the land by itself, it would be impossible for them to correct, revise, and adjust, an assessment; for the houses being put in classes (and not according to the individual value of each) the Commissioners could not raise or lower their value, so as to adjust and equalize the tax upon the whole State. It would be impossible to give the Commissioners power over the assessments; they must be taken as they are made. And if this was to be done what security would the people of Pittsburgh have that the assessors of Philadelphia would value the houses there at their full value, or upon the same principle with their own assessors? There can be no doubt but the assessors in each place will do relative justice to the citizens in their own district, but no one can say that, in different places, they will adopt the same ideas as to the value of the property. On this account, it had always been found necessary in all the State laws upon this subject, to give a power to the Commissioners to regulate any variations in this respect.

Mr. G. understood that the argument given in favor of this change is, that this assessment being to continue for a number of years, and new houses being built from year to year, it will be necessary to enumerate them every year, in order to ascertain the new houses built, and the old ones taken down, which, it is supposed, may be done more easily on the plan proposed by the bill. But, in Pennsylvania, where the assessment is made every three years, no great inconvenience is experienced on this account. The only consequence attending it is, that houses built in the meantime escape taxation until a new assessment is made. Mr. G. believing that it would be much better to have the land and the improvements upon it valued together, than to have them separate, moved to strike out the 13th section of the bill, which contained the classification of houses. If it were struck out, the committee might proceed with the bill without recommitting it.

Mr. Harper said, this motion might produce one of two effects. It might throw the houses into the general mass of property, as a part of the improvements of land, or it might destroy this mode of valuing houses.

Mr. H. believed that either of these changes would be extremely disadvantageous. The gentleman from Pennsylvania had rose with saying no reason could be given for making the separate valuation proposed; but, before he sat down,

stated a very good reason for it, without answering it. As this tax must last for some time, at least nine or ten years, it would be desirable to avoid repeated assessments, and this could not be done but by putting a separate value upon lands and houses separately, in which case it would only be necessary to attend to the changes which took place from year to year with respect to houses, for doing which a proper person might be appointed. The gentleman from Pennsylvania had said, no inconvenience was experienced in his State from houses and lands being valued together; but the tax must of necessity become very unequal from the houses being valued once in three years only. Suppose, for instance, a person has a house in town for which he pays a tax, and his neighbor builds a much better house which may be excused from tax until a new assessment is made, which may be for several years, will he who pays the tax think he is fairly dealt with? Certainly not. Mr. H. did not think there would be that difficulty which the gentleman from Pennsylvania had spoken of, in valuing the house upon a farm and the land separately. The land could be valued from its produce, and the house from what it cost, or, if in town, by the rent it produces. Since, however, valuations are at best uncertain, it is well to reduce that uncertainty as much as possible; and this would be effected by adopting the plan proposed of keeping the lands and houses separate. Besides, Mr. H. said, in valuing farms, houses were seldom taken any account of, though they differ much in value, and of course serve to raise or lower the value of a farm.

Mr. H. supposed the mode proposed of classing the houses would be preferable to the putting a separate value upon each, as any trifling difference of value put upon houses in the same neighborhood (which could not be avoided, but which always created discontent) would not, by this plan of classification, be discovered. Besides that, it would be much easier to say that a house should belong to a certain class, between one value and another, than to put a precise value upon it. And the placing a tax upon houses according to their value is a good way of raising a tax, because it calls upon men to pay a tax according to their means, as men generally choose to live in houses suitable to their ability to pay. By adopting this plan, the weight of the tax would be thrown upon the towns, and it would be lessened in the more remote parts of the Union. It would also fall heavier upon those people who are able to live in large houses, and of course best able to pay. As it is proposed that a house below the value of $200 shall only pay half a dollar; of $200 value, and less than $400, one dollar and a half; but a house of between 10,000 and 20,000 dollars, a tax of 123 dollars. Houses of the latter description, it is calculated, will pay 60,000 dollars; and out of the two millions proposed to be raised by this tax, 1,300,000 dollars, it is supposed, will be raised from houses. He hoped, therefore, this section would be retained.

The committee rose, and had leave to sit again, and the House adjourned.

Wednesday, May 30.

Mr. Macon laid before the House a resolution proposing an adjournment of both Houses on the 14th day of June; which was ordered to lie on the table.

DIRECT TAXES.

The House again resolved itself into a Committee of the Whole on the bill for laying and collecting direct taxes; when, the question for striking out the 13th section being under consideration,

Mr. Macon said, it would be more easy to carry this law into execution without this section than with it, and, under that impression, he should vote for striking it out. He could not see why a tax should be laid upon a house, more than any other improvements erected on land. He believed land ought to be valued with the houses, mills, furnaces, and other improvements upon it; otherwise, if two persons live in the same neighborhood, and one chooses to improve his property by the erecting of houses, and the other chooses rather to erect mills, &c., the one will be taxed for his improvements, and the other not.

The gentleman from South Carolina had yesterday said there would always be great uncertainty as to the value of property. This, Mr. M. acknowledged, but thought it would be best ascertained in this way, as the putting a separate value upon a house and a farm would be attended with much inconvenience.

But it was said, if this mode was adopted, the tax would fall very lightly on the people in remote parts of the Union; but he believed it would fall full as light, and be more agreeable to justice, if all improvements were valued; and it would be done with much less inconvenience than in the way proposed.

Mr. J. Williams opposed the striking out of this section, being fully persuaded, from the calculations of the Secretary of the Treasury, that the tax will be much better collected, to be laid principally on houses, in the way proposed by this bill, than in any other way. Nor did he expect this motion would have come from the quarter whence it did come. If he recollected rightly, the gentleman from Pennsylvania, (Mr. Gallatin,) had, on a former occasion, spoken of the great inconvenience which would attend the collection of this tax from farmers in the interior of the country, where there is very little circulating medium. But, if the plan proposed by this bill is adopted, the tax will fall very lightly, indeed, upon the new settlers of the country, who, in general, are men unable to bear any considerable portion of taxes, but principally upon the cities, which are best able to pay.

If the calculation of the Secretary of the Treasury was to be depended upon, (and he did not doubt it,) three-fourths of the proposed tax would fall upon houses; and, if persons choose to go to the expense of building large, elegant houses, he supposed they would have no objection to pay the tax for them, according to their value. Perhaps the rage for building elegant houses had gone too far in this country, and, if this tax went to check

it, it would not be lamented, as excesses of this kind tend to obstruct agricultural pursuits, which must be considered as the true interests of the country. And those members, who, like himself, are concerned in supporting the landed interest, must, if they consider the rents which are paid for houses in this city, be convinced that the mode of raising the tax proposed by this bill, will be most favorable to the farming interest. And, if the tax should be found to fall too heavily upon persons living in small towns, with a few acres of land, they might give up their places to tradesmen or mechanics, who can better afford to pay the tax and remove into the country.

Frame the bill as they might, Mr. W. said, they could not reach one hundred millions of property in this country; but, by laying the tax on houses, according to their value, they would come nearer to the proportion of ability to pay, than by any other mode he knew. It was his wish to lay taxes upon persons able to pay, and to excuse those who have not money to pay with. The riches of the country lie in the cities, and the taxes ought, therefore, principally to fall there.

The gentleman from Pennsylvania inquired what a house would sell for in the middle of a farm, without the land. That had nothing to do with the bill. Doubtless houses and farms would always be sold together; but it did not follow that they might not be assessed separately.

Mr. W. liked this mode of classification, though he thought some increase might be made by dividing again some of the higher classes of houses, and adding a higher rate of tax, in proportion to the houses in the higher classes. This might be rectified, if the section was retained. He said he was opposed to a direct tax altogether, and in favor of indirect taxes, which persons pay voluntarily, and which might in a great degree be avoided, if the people chose. But, if the tax was laid according to the present bill, it would partake, in some degree, of the nature of an indirect tax, because every man who built a house would know to what kind of tax it would be subject, and fix his plan accordingly.

He would ask gentlemen, who were acquainted with the settlement of new lands, if settlers, moving on new lands, ought not to be relieved from taxes as much as possible? It was well known that new settlers underwent much hardship and difficulties from the want of roads, bridges, mills, &c., and being distant from neighbors. In the first instance, they build a house under the value of eighty dollars, which, by this section, will be exempted from taxes, until, by their industry, they are enabled to build better houses; and the more wealthy would in the present time make up the deficiency.

As he had been, and still was, concerned in the settlement of new lands, he well knew the expense and difficulty attending new settlements, and how hard it was for those people to procure money. And it being so beneficial to this country, we ought to encourage settlers to go on new lands, and those persons who do it should be exempt from public burdens. This section was not only calculated to do this, but also to relieve the poorer class of our citizens, who, he thought, were entitled to notice.

Mr. Otis hoped, with the gentleman last up, that this clause would not be struck out, as it involved an important principle in the bill. It was very desirable, Mr. O. said, that all taxes should be equal. It was, perhaps, impossible to establish any principle which shall be equal and unerring. All that could be done was, to come as near to these qualities as possible, by fixing upon some criterion of property, which, though not infallible, would be the least fallacious; so that persons possessing these signs of property might be called upon to pay a tax, not merely in an arithmetical proportion to their poorer neighbors, but in a sort of artificial proportion, to be ascertained by experience and observation, which should require from them a larger contribution than their exact proportions, according to the value, splendor, and accommodations of the assumed standard. His opinion was, that the mode of assessing the tax proposed by this bill, would accomplish this purpose in as great a degree as possible. It must be a wise Legislature, indeed, that could do it with certainty. If there were no mode of concealing property, or if all that appeared was real, or if, without arbitrary and inquisitorial laws, men could be compelled to disclose the true state of their affairs, there would be no difficulty in apportioning a tax of this kind according to the true ability of the individual; but it is well known that the case is very different. Immense property of various descriptions is wholly kept out of sight. Some who appear to be opulent are plunged in debt, and compulsory disclosures of property upon oath bind the honest at the expense of the knaves.

The Committee of Ways and Means have reported a bill for laying a tax on three distinct objects, lands, houses, and slaves. But it is now proposed to connect two of these objects together, viz: lands and houses in a general assessment, while slaves are to be taxed by themselves, though there appeared no more reason to him for connecting lands and houses, than lands and slaves, or houses and slaves. He knew of no common property between them. In law they are connected, but in the nature of things have no resemblance to each other. What, said he, constitutes the value of land? It is its produce. It is in its nature a permanent and productive capital; but houses are articles of expense, and produce nothing. They are merely instrumental (and when they do not exceed the measure of convenience they are necessary) to our enjoying other comforts. But they are not so much connected with land, as slaves, who are employed in its cultivation. There is not, therefore, so much connexion between houses and land as between land and slaves. The truth is they are entirely distinct from each other.

If houses and land are not connected together in the nature of things, what reason had been given for connecting them? He had only heard one, which was, that except they are connected, Commissioners would be obliged to rely wholly

upon the accuracy of the assessor's reports, which might be partial. But if houses were to be assessed at all, and the assessors were disposed to be partial, it will be more difficult to connect them, when houses and lands are included in one common valuation, than in the event of their being estimated apart from each other.

Mr. O. said he would not pledge himself to agree to the formal part of the report of the Secretary of the Treasury. He believed the classes might be capable of some arrangement for the better. When the section came under consideration, every gentleman would be at liberty to propose alterations. The question at present is upon the general principle, which he thought a good one. On examination, Mr. O. said, it would be found that, by the plan proposed, the poorer classes of the community would be almost wholly exempt from this tax, and there would be no better way of levying a tax on all property than by making good houses the standard of opulence. A good house, though in itself unproductive, is more frequently an indication of the wealth of the occupant, than even a valuable and productive farm. For a man, consistently with public economy, may live on a farm, though he may be embarrassed in his circumstances, and though the farm itself may be mortgaged. If it produces any surplus beyond the interest which he pays, he may as well cultivate that farm as another, but in no case is an embarrassed or a poor man justifiable in holding a valuable house. It must add to his difficulties. He ought to sell it and pay his debts, or let it, and save the difference of rent. If he will do neither, let him pay for indulging his vanity or his folly.

It had been suggested, by the gentleman from North Carolina, that the tax ought to be levied on all other improvements upon land, as well as houses. This would be to introduce a new principle into the bill, which might as well extend to every other species of property, and the bill must be re-committed; it would also tend to difficulties which he believed gentlemen could not at present foresee, and which they would be glad to give up when they did see them. Such a principle might include articles already taxed; distil houses, for instance, the owners of which already pay duties on the spirit distilled, and warehouses which are used for storing goods upon which an impost duty has been paid. Such taxes would operate as additional duties, in the nature of excise or of impost, or what is more likely as a deduction from the fair profits of trade. Store rent and shop rent are certainly deductions from such profits. Taxes upon stores and shops will often operate in the same manner.

Mr. Varnum observed, that gentlemen who had spoken in opposition to this motion had gone upon the idea of taxing the most wealthy part of the community heavier in proportion to their wealth than others. It had been said that it is impossible to equalize taxation; but, because Congress cannot attain perfection in this respect, did it follow that they ought not to make an attempt at common equity? He believed the proper mode of laying taxes is according to the extent of persons' property. But he did not believe this would be the case, according to the present bill; for it is proposed that a house of the value of $200, shall pay as heavy a tax as that of the value of $600. Was that, he asked, laying the burden of the tax on the most wealthy part of the community? He thought not; he conceived it to be neither equal, nor according to the principle which his colleague said ought to be observed, of taxing the wealthy heavier, in proportion to their wealth, than the poorer classes of the community. Yet this is the principle of the bill throughout.

Mr. V. did not think this tax on houses would produce anything like the sum which had been mentioned. He believed taxes ought to be paid by the people inhabiting towns, and those living in the country, in proportion to their ability to pay, as all had the same interest in, and protection from the Government.

In order to attain this object in taxation in the State to which he belonged, not only all lands and buildings are assessed, but all personal estates also, and this he believed to be the true principle of taxation. But if Congress decline meddling with personal estates, why not include all real estates, and assess all mills, warehouses, distilleries, &c. But his colleague had said that distilleries pay a heavy duty already. This he denied. The excise upon spirits distilled is not paid by the owners of stills, but by the consumers of the spirits, and not only the duty, but a profit upon it. The same remark is applicable to warehouses and merchants. The owners of the buildings pay no duty.

It was said there is no connexion between houses and land. He thought this an erroneous idea. The land and houses are to be valued according to their money price; but take the lot upon which a farm house is built, and it will sell for a mere nothing without the land; the same may be said of the land without the house, which shows that there is a very material connexion between the two. This being the case, he thought assessors would have great difficulty in putting a separate value upon the land and houses separately. No such thing was ever done in the State of Massachusetts.

Mr. V. hoped if Congress should not think it expedient to tax money and moneyed securities, to tax vessels, (which, to be sure, just now are not very valuable property,) all kinds of stock in trade, and all live stock upon a farm, they would think it right to bring into view all the real estates of the country. As the bill stood at present, the tax would operate very unequally indeed; he hoped, therefore, the section under consideration would be struck out; and that the other real estates which had been mentioned, would be introduced.

Mr. N. Smith said, it would be remembered, that two years ago, this House passed a resolution requesting the Secretary of the Treasury to prepare and report a plan for a system of direct taxation early at the next session. A report was accordingly prepared and laid before the House, the result of great labor and skill. The report was

referred to the Committee of Ways and Means, and after considering the subject, they reported a bill pretty nearly in conformity to the plan recommended by the Secretary of the Treasury. It was not then acted upon, but the subject had this session been resumed, and had again undergone the scrutiny of the Committee of Ways and Means. The gentleman from Pennsylvania has, from that time to this, done everything in his power to influence the committee to adopt his principle in laying this tax; but, notwithstanding his exertions, the bill had been reported in its present form, and the committee ought, in his opinion, to be extremely cautious how they meddled with the details of the bill; and he called upon gentlemen who are sensible of the alarming situation of the country, and who know the necessity there is for raising money, to resist any attempt of this kind. It was well known, that in a system of taxation like the present, a variety of opinions exist as to the best mode of carrying it into effect, and if every gentleman was to be indulged in his own notions on the subject, there would be no possibility of getting through the bill, especially when it might be expected that amendments would be brought forward with a view of defeating the bill altogether. When once way is given to amendments, they will be introduced one after another, until the whole system sinks under their weight. He hoped, therefore, attempts to amend the bill, except in something which shall at once appear to be essential, would be resisted. With this determination upon his mind, he should decline introducing some amendments which he otherwise should have introduced.

With respect to the present amendment, to adopt it, Mr. S. believed, would injure the bill extremely; so far from making it better, he thought it would make it infinitely worse. What are the objections to the bill as it stands? He had heard but two stated by the gentleman from Pennsylvania, and again reiterated, viz: that it would not be practicable to value houses and land separately, and that if they were so valued the Commissioners would have no check upon the assessors.

To the first, he would answer, that in almost every collection district, there are houses and lands disconnected with each other, which will be a rule for valuing all the rest of the property in the district. But the objection went to a separate assessment; for, if both are assessed, there appeared to be no difficulty in keeping the value of the houses and lands distinct. The assessors ought not to be considered either as knaves or fools, but men who will do their duty, and, in doing this, they would certainly put a separate value on different parts of a farm, in order to come at the gross value of the whole.

But it was said, the Commissioners would have no check upon the assessors, because the houses would be placed in classes, and not precisely valued. This objection, he thought unfounded, as the assessors are not to class the houses, but to value them, and the Commissioners will class them according to their value, and may raise or lower them as they shall think proper.

Mr. S. conceived, therefore, that the objections against the bill as it stands, are unsupported, and must fall. As to the amendment proposed, he had already said, it would, in his opinion, very much injure the bill. For his own part, he thought houses ought to pay a larger proportion of the taxes than land, and this is the principle of the bill.

The gentleman from North Carolina had said, Congress ought to tax property wherever it could be found; yet it is generally allowed that personal property cannot be taxed. But he was of opinion that nothing was a better or more certain sign of property than the house a man lives in. Land carries with it evidence of no other property besides itself; but an elegant house carries an idea of something farther, and the possessor of it certainly ought to pay a heavier tax than the solitary possessor of land; and he could not help being surprised that the gentleman from Pennsylvania should wish to introduce an amendment which would throw the burden of the tax from the cities upon the country. This may be showing a friendship for the people in the country; but it did not strike him in that light. It was, on the contrary, his (Mr. S.'s) object to throw the tax principally upon the cities, where it would be most easily collected. He would not say that it was the object of the present amendment to destroy the bill altogether; but he could not see, if it was not for that purpose, for what the amendment was introduced as it certainly went to destroy the best principle, in the bill, by destroying that alone which could make it palatable. This provision would not only enable this Congress to lay the tax, in a great degree, upon houses, but, if the tax which will fall on land should hereafter be found oppressive to the farmer, it might also hereafter be thrown upon the houses also.

Another important reason for rejecting the present motion is, that, if the bill passes with this clause, there will be no necessity for new assessments of the houses, as the business might be attended to by a Commissioner. He, therefore, called upon the friends of this bill to unite in rejecting the present motion.

Mr. McDowell differed widely in opinion from the gentleman last up as to the excellence of this section of the bill. Had he the same confidence in the Secretary of the Treasury, and in the Committee of Ways and Means, that that gentleman seems to have, he should not have troubled the committee on this subject; but he had not. When he was called upon to give a vote for the laying of a tax, he wished to consult his own judgment; and the members of this House can certainly tell how a tax will operate better than any one man, however wise and experienced he may be.

Mr. McD. said, when he examined the bill, he was convinced that neither the Secretary of the Treasury, nor the Committee of Ways and Means, had paid sufficient attention to it. For instance, according to this section of the bill, if a house be valued at five hundred dollars it pays as light a tax as if it were valued at nine hundred and ninety-nine dollars. Yet gentlemen say this tax is to

fall upon the rich, and not upon the poor, though this is the principle of the bill throughout.

But it had been said, if this section were struck out, houses and lots would not be taxed at all. This is a mistake. But when he was called upon to lay a tax upon the people of the United States, he was for taxing every species of visible property in proportion to its value, since every citizen of the United States is equally indebted for protection to the Government. He was, therefore, in favor of striking out this section, and of embracing every species of real property.

Gentlemen had, however, asserted, that, except this section is retained, the tax would fall heavily upon the poorer classes of the community. This could not be, since their property could only be taxed according to its value. On the other hand, to put separate value upon lands and houses, would be attended with all the inconveniences which had been mentioned.

Mr. SITGREAVES said, that after the very satisfactory vindication of this clause, which had been made by the gentleman from Connecticut, (Mr. N. SMITH,) it would be wasting the time of the committee for him to go into any observations at length in favor of it. He would only notice one or two objections made to it, which he believed had not yet been noticed.

An objection was made by the gentleman from North Carolina, who opened this debate, which, in point of fact, is true, viz: that there are certain species of property, which are unequivocal indications of wealth, not included in this bill. This, however, was not an objection to this section of the bill, as it relates to dwelling houses only. Mills and other buildings which had been mentioned might either be included in a general assessment of lands, or with the houses. So that this omission might easily be rectified by an amendment, if this section was retained.

Of the same nature is the objection of another gentleman of North Carolina that houses of the value of five hundred dollars pay as much as those of the value of nine hundred and ninety-nine dollars. This might be remedied by multiplying the classes, or by putting a per centage rate upon the precise value of the houses.

Mr. S. added, that, upon the principles of justice, it could not be denied that taxes ought not to be collected absolutely equally, but in proportion to persons' wealth; that is to say, a man worth ten thousand dollars a year ought to pay more than ten times the tax that a man pays who is worth only one thousand dollars a year.

Mr. GALLATIN rose, and was proceeding to make some observations upon this question; when

Mr. HARPER called to order, and desired the rule might be read which directs that a member shall only speak once to the same question.

The rule was read.

The CHAIRMAN said, he conceived that the gentleman from Pennsylvania had not yet spoken to the question, since it was in possession of the Committee of the Whole. What he said previously to the introduction of his motion to the committee, the Chair did not consider as speaking once to the question, according to the sense of the rule which had been adopted.

Mr. HARPER said, it was with unwillingness that he differed in opinion from the Chair; but it was necessary to fix a certain construction to the rule on this occasion, or else do it away altogether.

The CHAIRMAN asked whether the gentleman from South Carolina appealed from the decision of the Chair?

On being answered in the affirmative, the question was put by the CHAIRMAN to the committee, in this form: "Has the member from Pennsylvania spoken to the question before the committee?" Ayes 24, noes 55.

Mr. GALLATIN then proceeded. He said he would not have troubled the committee on this question, had he thought it of great importance.

The gentleman from Connecticut (Mr. N. SMITH) might have spared himself part of the observations which he had made, particularly his appeal to all those in favor of the bill, and upon those in favor of throwing the tax upon that part of the community who are best able to bear it, and to avert it from the poor. Indeed, he had been astonished at what fell from the gentleman from New York, (Mr. J. WILLIAMS;) for, though he generally differed from him in opinion on political questions, he had generally sagacity enough to see how a tax would operate; but, in the present case, he had been quite mistaken in this respect.

In the first place, the mode proposed will create great delay and expense. It will introduce delay, because it will make a double valuation necessary, where a single one would have been sufficient. Besides, if the lands and houses were to be valued together, as is the case in most States, the assessors could have had recourse to the documents of the several States; but, if this section is not struck out, they will be obliged to make all their assessments afresh, without any assistance from the State documents. Whether this would not occasion both delay and expense, he left the committee to decide.

With respect to the inequality of this bill, its principle is founded on inequality, and therefore cannot be amended. The moment houses of a different value are thrown into the same class, and made to pay the same tax, a principle of inequality is introduced which cannot be got rid of. But it is in other respects unequal. Assessors will assess in different places on different principles, and there will be no way of remedying the defect. What security should he or his constituents have that the assessors of Philadelphia will assess their houses according to their real value? Or what security have the citizens of Philadelphia that the people beyond the Alleghany mountains will assess their property according to its real value? None. Unless Commissioners were employed to adjust the various assessments which are made, no equality of taxation could be expected. He knew that in one township, in his own county, land had been valued once at two shillings per acre, whilst in others lands of the same value had

been rated at ten shillings. Though justice may, therefore, be done to persons in the same township, it may be very unequal, as the assessment relates to different districts.

In this bill the same inconveniences had been foreseen, and in order to rectify them, Commissioners have been provided to adjust the value of lands, but not of houses; and if the committee will agree that houses and lands shall be valued together, according to their real value, instead of returning the houses in classes, the Commissioners will be able to rectify any inequality which may take place. But, in order to avoid the difficulty which had been suggested as attending the valuation of lands and houses separate, the gentleman from Connecticut has assumed a principle which is not to be found in the bill. He supposes that the assessors shall value houses separately, and send the valuation to the Commissioners, who, he says, will place them in their proper classes. This provision is not in the bill; but if it was, it would not remove the objection. In what manner are Commissioners to know the value of houses upon farms? They will be able to rectify the assessments upon lands, because that requires only a general knowledge of the relative value of land in different parts of the State; but they cannot rectify the assessments of houses, because this would require a particular knowledge of every house, which they cannot possess.

A gentleman from Massachusetts (Mr. OTIS) had said, that there was no more reason for connecting land and houses together, than land and slaves; for houses were an article of expense, and land of revenue. All this may be true as an abstract proposition; but when the speculation is brought into practice, it will not be found to answer. And notwithstanding the gentleman from Massachusetts says that lands and houses are not connected together, he knew the contrary; for, if he wished to sell his house, he knew he could not do it without selling his farm also, nor his farm without his house; but if he was the owner of a slave, (which, however, he was not,) he knew he could sell him without either house or land. It is true that land is the production of nature, and houses of art, but it is impossible to disconnect them. But suppose it is admitted that houses may be valued separately; it must be done in an arbitrary manner; and the gentleman from Connecticut had himself pointed out one of the most arbitrary ways imaginable, by saying that, if a single house stood distinct from a farm in any district, it would be a guide for valuing all the houses on farms in the district; for, if a house stands by itself, it is a house in a village, which yields an income, which is worth more, and will sell for more, than a house standing upon a farm. Upon the whole, it was clear to him that a distinction between land and houses would be attended with innumerable difficulties, and the assessors must be altogether relied upon for the accuracy of their valuations.

Mr. G. complained that gentlemen, in speaking on this subject, had introduced the report of the Secretary of the Treasury, as though it made a part of the present bill; whereas, it relates to another bill, which is to apportion a tax upon houses according to their classes. How could gentlemen say it is the intention of the committee to lay such a tax upon one class, and such a tax upon another. Gentlemen in favor of retaining this section, tell the committee that the tax will fall upon the rich, and that three-fourths of it will be raised from houses. Nothing could be more fallacious. There is no security for any such thing. In the first place the Secretary of the Treasury goes upon an idea that there are a certain number of houses in the United States, of such and such descriptions, but for which he has no data; then he supposes that, if there are so many in the whole, there are so many of different descriptions; and, thirdly, he proceeds to propose a certain tax for each, which, if adopted by Congress, and if all his other suppositions are correct, will produce a certain sum.

Mr. G. was confident the statement of the Secretary of the number and value of the houses of the United States was incorrect. He values them at three hundred and fifty millions of dollars, and no gentleman could believe that the houses in the United States were worth that money. He believed there would be a much larger number of houses exempt from duty than the Secretary imagines, and a much less number of houses of high value than he has stated. But not only there will be less houses taxed than he supposes; but they will be rated below their real value; for, as the manner of raising the tax is perfectly arbitrary, the effect will be that, in every township, the assessor will value the houses in his district as low as possible. Yet it is said that three-fourths of the tax will be raised from houses. To prove this, several principles are assumed as true, of which we have no proof, viz: that there are the number of houses estimated, (of which we know nothing,) that there are many in the higher classes as the Secretary of the Treasury supposes, and that the assessors will faithfully perform their duty, though there will be no control over them to bind them to it. If any one of these assumptions fail, then the whole of the calculation falls to the ground.

But, Mr. G said, he would go further. That idea, thrown out to entice farmers and landholders, that $1,200,000 will be raised from houses, and only $500,000 from land, was a mere take-in, and nothing more than a Treasury plan, in order to raise more money; for, if the fact was to turn out so, the consequence would be, that the owners of houses will complain of the burden, and say that the tax on land is too light; and at a future day, probably next session, it will be argued that farmers do not pay enough—the tax on houses will remain the same—that upon land will be trebled; and thus the inhabitants of the country will have to pay a double tax—one on their houses, and one on their land.

Another assertion was made to render this provision unpopular, to wit: that the tax would fall more lightly on the poor than on the rich. Let us see, said he, how far this idea is correct. Supposing that the estimate of the Secretary of the

Treasury be adopted, to show that the rich will pay more than the poor, it ought to be shown that they pay more per cent., according to their property, than the poor; and that houses of from ten to twenty thousand dollars value pay more tax, in proportion to their value, than houses of from six to twelve hundred dollars value. He had made a calculation, and did not find this to be the case, but that the classes stood in the following proportion—each paying on an average as follows:

First class houses, from eighty to two hundred dollars value, five-fourteenths per cent.

Second class houses, from two hundred to six hundred dollars value, three-eighths per cent.

Third class houses, from six hundred to twelve hundred dollars value, one-third per cent.

Fourth class houses, from twelve hundred to two thousand dollars value, three-eighths per cent.

Fifth class houses, from two thousand to four thousand dollars value, two-fifths per cent.

Sixth class houses, from four thousand to six thousand dollars value, two-fifths per cent.

Seventh class houses, from six thousand to ten thousand dollars value, three-eighths per cent.

Eighth class houses, from ten thousand to twenty-five thousand dollars value, twelve thirty-fifths per cent.

The ninth class, above twenty-five thousand, as it is unbounded, could not be estimated. Putting the proportions in whole numbers, they are as follow: 42, 45, 40, 45, 48, 48, 45, 41.

Thus, upon an average, according to that plan, a house from eighty to two hundred dollars value would pay more in proportion to its value than a house of from ten thousand to twenty-five thousand; and a house from two to four thousand dollars value would pay more than a house from six to ten thousand. The inequality would appear still more striking, if specific instances were taken. Thus, a house one hundred dollars value is to pay half a dollar—that is to say half per cent. on its value; and a house worth twenty-four thousand dollars is to pay sixty dollars, that is to say, only a quarter per cent. on its value; that is to say, that the palace worth twenty-four thousand dollars pays only one half, in proportion to its value, of the tax raised on the cottage worth only one hundred dollars. Nay, the gentleman from Massachusetts, (Mr. Otis,) at the same time that he contended, in the face of positive calculation, that this tax would fall more lightly on the poor than on the rich, had conceded fully that it would operate in a different manner, and had gone so far as to say that it was proper to make houses of low value, and consequently inhabited by the poorest class of citizens, pay a greater tax than other houses in proportion to their respective value; as, unless that was done, it would not be worth while to collect the tax upon them. The inequality resulting from that plan, applied as well to houses of a moderate value as to those of the smallest value. For a house worth two hundred and fifty dollars is to pay a dollar and a half; and a house worth one thousand dollars, that is to say, four times as much, pays only three dollars; that is to say, only double the tax instead of six dollars, which it should pay, if both were taxed according to their respective value. A house worth two thousand two hundred and fifty dollars pays twelve dollars; and a house worth four times as much, that is to say, nine thousand dollars, instead of paying four times as much, that is to say, forty-eight dollars, is to pay only thirty dollars.

The fact is, that in all the States south of New England, the business is done in the way which he wished to recommend. All those persons who live in remote parts of the country, pay nothing for their houses, but only for their land. If the principle in the bill was agreed to, then houses of a less value than eighty dollars would remain in the same situation in which he wished to place all; but others, who live in houses worth more than eighty dollars, will first have to pay for their houses and then for their land. For, if an individual in the country has a house which cost him one thousand dollars, and a citizen of the city of Philadelphia has one which cost him the same money, it is the intention of this bill that the house in the country shall pay as much tax as the house in the city, in addition to the tax put upon the farm on which it may be built; though, according to the old system of valuing houses and farms together, he supposed that such a house and farm together would not have been charged with more than the house in Philadelphia.

Mr. G. said, he would mention one strong instance in which such a principle would operate against common farmers. Every man who has a house must pay a tax for it; but these men who hold large uncultivated tracts of land (which are mostly rich) will escape without taxation.

Thus, he believed, he had shown that the plan proposed by the bill would tend to introduce a greater inequality than if the houses and land are valued together, according to the practice of the several States; that it will also delay the collection of the tax, and increase the expense.

It is true, Mr. G. said, and it was the only objection which he could see to the proposition yesterday, when he brought forward this amendment, that new houses would, for a time, escape taxation. This, he believed, would be the only inconvenience; and that would, in some degree, be balanced by the encouraging improvements.

His colleague (Mr. Sitgreaves) had suggested an amendment for the including of improvements in the same way as houses, which, if adopted, would introduce the same inconveniences which are complained of as arising from connecting houses and land together, as new improvements will constantly be made as well as new houses built.

As to the idea of facility of collection, if the tax were to be laid upon houses alone, he had no doubt but it would be more easily collected than if it were laid on land, or on land and houses together; but this bill contemplates a tax on both, and whether a larger or less sum be raised from land, it will be attended with nearly the same trouble and expense.

In every point of view in which he could consider it, Mr. G. said, nothing but inconvenience and inequality arose from retaining the section,

and no evil that he saw could arise from striking it out. He hoped, therefore, the amendment would be adopted.

Mr. Sewall said, the gentleman from Pennsylvania had introduced so many uncandid arguments, that he could not forbear taking notice of some of them. He had endeavored by every means in his power to get rid of this clause, whether from a wish to get rid of the bill altogether, he could not say. It had that appearance at least, since every one must acknowledge that it would render a land tax less disagreeable, to have houses assessed in the manner proposed, than by confounding them with land, and by that means suffering them to pass almost without value. This clause was intended as a remedy to the defect acknowledged to exist in a system of this kind, of not being able to reach personal property. This bill does not go to the property of persons in business, or to any kind of money-property, and laying a tax upon a man, in proportion to the size and goodness of his house, will, in some degree, remedy the omission, and when gentlemen attempt to get rid of it, he must thing they wish to get rid of the system itself.

Mr. S. complained, that the gentleman from Pennsylvania had not acted with any tolerable degree of candor in this business. He had not attended to the principle of this subject, but gone into the consideration of a detail which is capable of amendment, and which gentlemen acknowledge themselves ready to amend. Not content with this, he has gone into other parts of the bill, anticipating with what the blanks of another bill may be filled, and examining the statements and opinions of the Secretary of the Treasury. None of these observations had the least weight upon him, and he trusted they would have as little upon the committee.

To consider the objections of the gentleman from Pennsylvania somewhat in detail. He says this mode of laying the tax will create great delay. How can this be? The Secretary of the Treasury supposes the tax on houses will be much more speedily collected from persons well able to pay it. But, it is said, if this plan is adopted the assessors cannot avail themselves of the use of the assessment of the several States; but were they, Mr. S. asked, to be governed wholly by these assessments of the States? If not, and they must value the lands for themselves, he could not see that any great advantage could be derived from a reference to the State assessments.

But, it is said, this mode of raising the tax ought not to be agreed to, because it is liable to be abused by the returns of the assessors. This he doubted not might be prevented. But, it is added, that if the House succeeds in making the proposed assessments on houses, to the relief of land, it might be expected that hereafter it would be thrown upon the land; not, Mr. S. apprehended, while a majority of this House are land-holders, who will naturally be disposed to put as heavy a tax upon cities as they can, to the relief of themselves and their constituents; but the gentleman from Pennsylvania is afraid that, though this section should be retained, still houses may be valued at a less rate per cent. than they would be when valued with the land. This was supposing what is, in the nature of things, impossible.

Without attending further to the objections of the gentleman from Pennsylvania, Mr. S. said, he would give to the committee his own ideas of the bill. It is complained that there will be great difficulty in separating houses from farms. He allowed there would be that difficulty if the assessors were to consider one annihilated when they they valued the other; but no man would value a house as if there was no farm belonging to it, or a farm as if without a house, when the farm or the house was on the spot. As well might it be said, that if a farm house was burned down, no value could be put upon the farm. Besides, he knew it was common to estimate farms and buildings separately. Nor could farmers be displeased with having their houses separately valued, since they would be assured that the tax would principally fall upon houses in the cities, and that houses there would be taxed much higher than houses in the country. But the gentleman from Pennsylvania boasts himself of an unwillingness to lay less upon the farmers than their proportion of the tax. Mr. S. believed, however, that farmers would see the reasonableness of taxing people as nearly as possible according to their ability to pay, which is the object of this bill.

As to the inequality produced by classing the houses, it might be avoided by providing that the houses shall be valued, and a tax of so much per centum exceeding the per centum to be laid upon land, put upon them, if the section is retained. He hoped, therefore, it would be retained.

The question for striking out the section was put and carried—45 to 39.

The committee then rose and had leave to sit again.

INTERCOURSE WITH FRANCE.

Mr. Sewall reported a bill to suspend the commercial intercourse between the United States and France, and the dependencies thereof, which was committed for to-morrow.

AMENDMENT OF RULES.

Mr. Allen moved a resolution declaratory of the meaning of the rule adopted some days ago, prohibiting members from speaking more than once to a question, viz: that prefatory remarks to a motion shall be considered as speaking to the question.

Mr. Harper moved another, which he thought would be better, viz: "that, for the remainder of this session, no member shall be permitted to speak, except to a motion made and seconded, and stated from the Chair."

The Speaker said, from the decision which had taken place, in future no member would be permitted to speak, prefatorily, to a motion.

The two motions were ordered to lie on the table.

Thursday, May 31.

Mr. Macon called up the resolution which he yesterday laid upon the table for an adjournment

of both Houses on the 14th of June; which, after some objections by Mr. Sewall, who stated that it was impossible to say how soon the public business could be finished, was negatived—34 to 32.

Mr. Edmond, from the committee to whom was referred the bill from the Senate making an alteration in the Judicial Courts of the United States, reported it as their opinion that the bill ought to pass without amendment. The bill was committed for Monday.

AMENDMENT OF RULES.

Mr. Allen called up his resolution, proposing that when a member introduces a motion, the remarks he makes upon it shall be considered as speaking once to the question, and deemed to be within the rule of the 18th May, which directs that no member shall speak to a question more than once.

Mr. Harper moved to rescind the rule itself. He believed it had been long enough in operation to prove that it was wholly useless, as it was constantly evaded. The gentleman from Connecticut proposes to prevent one evasion, but there are more ways than one of evading it. Motions might be made, one after another, so that a man who has ingenuity and dexterity enough to evade the rule, does so, and those only are bound by it who will not take advantage of evasions. He believed, also, that the rule was fundamentally wrong. He knew the liberty of speaking might be abused by members, but he believed this could only be cured by gentlemen's own sense of propriety.

This motion for rescinding the rule was ordered to lie till to-morrow.

DIRECT TAXES.

Mr. Sewall said, so important a change had taken place in the bill for laying and collecting direct taxes, that much time would be saved by recommitting the bill to the Committee of Ways and Means. He therefore made that motion.

This motion was negatived—41 to 31.

Mr. Harper moved to postpone the consideration of this bill till Monday.

This motion, after some opposition, was negatived—48 to 33.

Mr. Harper then moved to postpone it till Saturday, which being negatived, a motion was made and carried for a postponement till to-morrow.

MARINE CORPS.

Mr. Sewall called for the order of the day on the bill establishing a marine corps. The House accordingly went into a Committee of the Whole on that bill, and, after a few objections from Mr. Macon, stating, that as the marines would be probably scattered from one end of the continent to the other, he did not think there was any necessity for a field officer; which were replied to by Messrs. Sewall and Dayton. The bill was agreed to, and ordered to be read a third time to-morrow.

INTERCOURSE WITH FRANCE.

Mr. Sewall next moved that the House go into a Committee of the Whole on the bill for suspending the commercial intercourse between the United States and France, and the dependencies thereof, and the House resolved itself into a Committee of the Whole accordingly.

Mr. S. after introducing a trifling amendment in the first section, moved to fill the blank containing the period at which this law should take effect with the first of July.

Mr. Otis thought this too distant a period. He conceived, if a vessel was about to sail from this port in a few days, it ought to be restrained. And if a few days were given, after the passing of the act shall have been duly notified at the different ports, he believed that would be sufficient.

Mr. Dayton (the Speaker) hoped the blank would not now be filled. He was not sure that it would be proper to pass this bill, except there was a prospect of reducing our enemy to submission by starving them. In order to give the committee who reported this bill an opportunity of informing the Committee of the Whole what are the advantages expected to be derived from this bill, he should move to strike out the first section.

The Chairman said the motion was not in order, as the first section had already been amended.

Mr. Sewall moved the following amendment, viz: "excepting any vessel to which the President of the United States shall grant a passport, which he is hereby authorized to grant, in all cases where it is requisite for any purposes of political or national intercourse." Agreed to.

Mr. Gallatin wished to know what was the difference between "the French Republic"—expressions used in the bill?—or "the Government of France?"

Mr. Sewall said, the committee thought it necessary to provide for all possible occurrences; and they conceived it might happen, that when a peace shall take place, that that country may no longer be a Republic.

Mr. Gallatin wished to know whether, if the House were about to pass a bill relative to Great Britain, they would use the words "Kingdom of Great Britain, or the Government of Great Britain," from the possibility that that country might, in the course of the Summer, become a Republic? He believed not. He therefore moved to strike out the words "the French Republic," which was carried without a division.

The bill was then ordered to be engrossed and read a third time to-morrow.

COMPENSATION TO COLLECTORS OF THE REVENUE.

Mr. Harper called for the order of the day on the bill for regulating the compensation of officers employed in the collection of the internal revenue of the United States, and to provide for the more effectual settlement of their accounts.

Mr. Gallatin moved to discharge the Committee of the Whole from the further consideration of this subject, with a view, if that motion was carried, to postpone it till the next session of Congress. This bill, he said, proposed an advance of the salaries of those officers of about 25 per cent., though it is well known that the expense of collecting this revenue had heretofore been considered as high. This bill has been originated on a

report of the Secretary of the Treasury, to whom was referred the petitions of two revenue officers from Massachusetts, the one a supervisor, the other a collector. They complain that their salaries are not sufficient. The Secretary of the Treasury gave it as his opinion, that it would be improper to raise the salaries of these two officers, without a general regulation, and that report produced the present bill. He did not think, therefore, as there were only two solitary complaints before them, that it would be proper, especially at this late period of the session, to go into the subject. He had himself never heard of any complaint of the present salaries being too low. He knew the office of Supervisor in the State of Pennsylvania was filled by a man of great respectability and property, and he believed these officers are generally persons of this description, who would not accept of them, if they were not worth their attention. He did not think it necessary, therefore, to go into the subject of raising the salaries of all the revenue officers of the United States, especially when Congress is about to lay a land-tax to the amount of two millions, which is to be collected by the same officers, and upon which they will be allowed a certain rate per cent. The House ought to know, therefore, what addition this new tax will afford them before they attempt to change the present system, especially at a time when all the economy possible ought to be observed in the expenditure of public money. He hoped, therefore, the subject would be postponed.

Mr. Sewall presumed the gentleman from Pennsylvania must have paid some attention to this subject; and, if so, he must know that the Secretary of the Treasury has stated, that the proposed augmentation is necessary, in order to prevent the greatest embarrassment in the collection of the internal revenues. After such a declaration by the Head of a Department, who must be thoroughly acquainted with the subject, he should have supposed that no objection could have been made to the measure. And, though the table was not covered with petitions, he had no doubt these officers had pretty generally stated their complaints to the Secretary of the Treasury. He himself knew, from the information of that gentleman himself, that the Supervisor of Massachusetts, after paying his clerk hire, had only $800 a year left for his own services, which is less than he would be able to get as a common clerk.

Mr. Harper observed, that the gentleman from Pennsylvania had argued to show that the proposed augmentation is not necessary; or, if it be, that the land tax will afford that augmentation. As to the first argument, he thought the opinion of the Secretary of the Treasury might very well be set against that of the gentleman from Pennsylvania, and he says that it is necessary, to prevent the greatest embarrassments; and surely gentlemen will not consent to risk these embarrassments for the sake of 25 per cent. upon the present salaries of the officers, which may amount to from $25,000 to $30,000. This would be bad economy, as it would risk revenue to three or four times the amount. But because there are only two petitions before the House, and because the gentleman says the Supervisor of this State is a wealthy and respectable individual, these salaries ought not to be raised. It might happen that these wealthy officers, of whom the gentleman speaks, may be the worst kind of officers which could be employed in the business. In order to have the public business done well, the livelihood of the person who does it should depend upon it. He will then devote his whole time and attention to it. But, it is said, the salaries of these officers will be augmented by means of the land tax. This depends upon themselves, as they may make their allowance for collecting that tax what they please. Indeed, a land tax might not be agreed to at all; and he believed some gentlemen wished to destroy it. He hoped, however, they would be disappointed. Neither is the augmentation of salaries the only object of the bill. A more energetic mode than has heretofore existed for the compelling of officers to settle their accounts, makes a prominent part of the bill. This regulation, he believed, was very essential, and he trusted the committee would not be discharged.

Mr. McDowell was in favor of discharging the Committee of the Whole from the consideration of this bill. The gentleman from Massachusetts has spoken of the clerk hire paid by the Supervisor of that district. What the duties of that officer may be, he could not say; but he supposed the reason for his paying so much for clerk hire was, he did nothing himself. It was the opinion of the gentleman from South Carolina that men of property and respectability are not the most proper persons to fill the office of Supervisor of the Revenue; he differed from that gentleman in opinion. He also believed that the present officers are generally satisfied with their salaries. If they had not thought them adequate, they would either have given up their offices, or applied for an increase of compensation. But, it is said, the Secretary of the Treasury is the best judge of this business. He had no doubt he had the best information on the subject; but when he was called upon to increase a salary, he should never surrender his opinion to any other officer of Government. If it be necessary to increase the pay of these officers, it might as well be done by means of a higher allowance for the land tax as in any other way.

Mr. Coit believed, from the information which he himself had upon this subject, that the opinion of the Secretary of the Treasury is just. In the district from which he came, he knew it had been difficult to obtain a revenue officer. The duties of the office had been so great, and the compensation next to nothing, that the Supervisor found it impossible to get an officer. The person who at present holds it, has been importuned to take it, and he holds it in expectation of his salary being advanced. He believed the proposed increase of salary would be saved in insuring a better collection of the revenue. The question for a postponement was put and negatived, there being only 23 votes for it.

Friday, June 1.

INTERCOURSE WITH FRANCE.

The bill for suspending the commercial intercourse between the United States and the French Republic, was read the third time; and, after the blanks were filled,

Mr. Gallatin inquired, whether there was not a mistake in the third section of the bill in that part which related to foreigners. The bill, as it stands, would affect vessels belonging to foreigners residing here. He proposed a change in the phraseology.

Mr. Sewall had no objection to the alteration, and he supposed it might be made by general consent, without recommitting the bill.

Consent was granted, and the alteration made.

The following question was then put "Shall this bill pass?"

Mr. McDowell could not reconcile it to himself to give a silent vote on the passage of this important bill. He had heard no reason assigned for the introduction of this bill, either when the original proposition was before the House, or since; and, therefore, though the bill might pass by a large majority, he should give his vote against it. It had been said, by the gentleman from Massachusetts, that this bill was intended to secure the property of the citizens of the United States from capture. How was this to be done? This bill will not lay an embargo, and, therefore, cannot prevent our vessels from falling into the hands of the French, or any other nation, who chooses to attack them. If gentlemen wished to effect their object, they ought to propose a general embargo; but when he found gentlemen indisposed to this, he could scarcely believe them serious in their wishes to prevent the property of our citizens from being taken. By this bill our merchants are prohibited from trading to any of the ports of France or her dependencies. This he neither thought politic or just. He thought there was no cause for going this length at present. It would be seen by the estimate on the table, the great amount of exports sent to those countries, and this bill would not only destroy the trade to France and her dependencies, but affect also all our other trade. Gentlemen better acquainted with commerce than he pretended to be, would be able to ascertain the effects of this regulation with more precision than he could do; but it appeared to him that this regulation would put the whole of our exports within the power of Great Britain. He hoped, therefore, gentlemen would consider the inconveniences which would be produced by this measure, and not suffer their passions, which are so highly irritated against France, to lead our own citizens into serious difficulties, for the sake of doing her some injury. There could be no doubt, that the moment France received the information of the passage of this bill, all negotiation would be put an end to, and they will lay their hands on all the property belonging to citizens of this country, which they can meet with. He was of opinion that the prudence of our merchants alone would be sufficient to regulate the business, without Legislative interference. Mr. McD. hoped, therefore, the bill would be passed, and called the yeas and nays upon it.

Mr. Sewall said, it was very true, as the gentleman from North Carolina observed, that no general reasons had been given in favor of this bill; and he did not know that any opportunity had occurred in which they could with propriety have been given. Certainly if a measure meets with general approbation, and passes without argument and without discussion, it must have been carried for the best reasons. Reasons, said he, are not strengthened by debate; general consent indicates the strongest reasons in favor of a measure that can be assigned.

The gentleman from North Carolina has supposed that the only argument in favor of this bill was, that it would be the means of protecting the commerce of our citizens; that argument, he agreed, was forcible, but he confessed he relied upon this measure very much affecting our enemy. It occurred to the committee that this measure might very much distress the French West Indies, which are the harbor of a nest of pirates, which continually assail our commerce. It is true, he said, that our commerce is also annoyed in the European seas, but in a much greater degree from vessels fitted out from the West Indies; the privateers from these islands depredate our commerce upon our coast, and if no measures are taken to prevent it, they might soon be expected on our shores. Any measure, therefore, which can be taken, consistent with our political situation, ought to be taken to prevent this mischief. This would not be carrying on hostility, but would withdraw from our enemies the means of supporting their hostility. Gentlemen have objected to this bill because they conceive it will not have this effect; he was, on the contrary, in favor of it, because he believed it would have the effect.

Mr. S. considered our trade with France as at present annihilated, as well as that with Spain and Holland, in a great degree; and France must hereafter, if this bill passes into a law, carry on her trade with this country by means of vessels belonging to the Hanse Towns, Sweden, or Denmark; and having reduced France to the necessity of changing her measures with regard to the neutral Powers of Europe, she might, perhaps, be induced to change her conduct with respect to the United States, or perhaps with respect to all the neutral Powers. He thought this measure recommended by these political considerations. Whether it would produce all the effect which had been mentioned, he could not tell, but it was well calculated to produce it. And the only objection to the measure appeared to be, that it would produce commercial disadvantages to our merchants; but since the adoption of the decree of the French Directory, which directs that all neutral vessels, with British produce or manufactures on board, shall be confiscated as good prizes, and which goes to the destruction of nearly all our trade, this objection would have but little weight, as a trade thus carried on would stand but a very small chance of producing any profit. Some

merchants, indeed, are of opinion that our trade to France and her dependencies has for a long time past been attended with loss instead of profit. It was evident, he said, that the decree to which he had alluded had already had the effect in this country to lower the price of our produce, as many vessels employed in that trade are now employed in a different manner.

Mr. S. hoped the bill would therefore pass. He was not prepared to state all the advantages which would attend this measure; but he trusted those which he had mentioned would appear sufficient to show the propriety of it.

Mr. Gallatin must confess, without pretending to be a very good judge of the subject, that this measure appeared to him at least of a doubtful nature. The object of it is said to be to distress France and the French West Indies as much as possible. How far this could be effected, or whether the attempt to distress our enemy might not distress ourselves more than the enemy, he was not able to ascertain with precision. With respect to France herself, he did not see that it could have any effect. As to the West Indies, Guadaloupe, which he supposed was the place principally aimed at, was so situated with respect to neutral islands that she could always procure supplies of provisions from them. The only place, then, which would be affected by this regulation would be St. Domingo, and there he believed it might have some effect. If the intercourse between this country and that was stopped, it might be distressed for want of provisions; but in doing this he was persuaded we should also injure ourselves, by annihilating our commerce and sinking the price of our produce. With respect to our commerce, in six weeks or two months, all the trade which our merchants now carry on to French ports would be transferred to other neutral nations. The Danes and Swedes will come into our ports and carry our produce to the French islands; so that the only difference, after that time, will be that the carrying trade which we now have will be transferred to those Powers. France will be supplied by way of Holland or Hamburg, and as the freight and other expenses attending the trade will of course be greater than if the commerce was carried on direct, it may be expected the price here will be low. It would be the same with respect to provisions. If the measure would be likely to distress France or her islands to any considerable degree, so as the better to bring her to terms of accommodation, he should not object to it. The inconveniences attending it must be encountered by our citizens; but seeing its effects on our enemy would be doubtful, and upon ourselves certain, he should vote against the bill.

Effectually to prevent provisions being carried to the West Indies, the exportation of them ought to be forbidden, both in our own vessels and in all others. Without this we cannot prevent our provisions from being exported by means of neutral vessels to French ports.

So far as related to his own constituents, Mr. G. said, they are not immediately concerned in this question, as they do not export their produce either to the West Indies or any port of Europe, but to New Orleans, by the Mississippi. He stated the matter as it struck him, and left other gentlemen to enlarge upon it.

Mr. Rutledge allowed that the bill was liable to the objection which had been urged by the gentleman from Pennsylvania, and which might be made against every measure which would be proposed for the defence of the country; it might be said of it that it will produce some inconvenience to our constituents, and bear hard upon the commercial and agricultural interests; but he believed no measure could be devised which would prove so injurious to France, and as little inconvenient to America, as suspending the commercial intercourse between the two countries.

Erecting fortifications, building ships of war, and raising troops, will require great additional revenue, render new taxes indispensably necessary, and, of course, will occasion some inconvenience to our citizens; but he was persuaded these inconveniences and burdens were very far short of those the people of this country are willing and ready to bear for the defence and preservation of their rights and liberties. Mr. R. believed that prohibiting all intercourse with French ports would not only greatly distress the French colonies, but be a very considerable means of preserving our seamen. If our merchants are disposed to speculate and gamble, and will be so adventurous as to continue trading with the French islands in this perilous season of affairs, it is the duty of Government to restrain them, and take care of our sailors; this useful class of our citizens, he thought, were rendered peculiarly valuable by the existing state of things.

Gentlemen who objected to the present measure as being inconvenient, had called upon its advocates to know why they had not advised a greater inconvenience, and asked why an embargo was not proposed? He believed from a general embargo much distress would obtain to America, and not more inconvenience to France than from the proposed regulation; but if this partial restriction shall prove inadequate, and a general embargo be hereafter deemed necessary, it would not be objected to by himself nor those with whom he had the honor to act.

The gentleman from Pennsylvania thinks the bill under consideration will prove fruitless, because the vessels of Sweden and Denmark may carry our produce to the French West Indies; this could not be contemplated as a probable event; in the convulsed state in which almost all the commercial States of Europe are, neutral bottoms will be in too great demand in Europe to permit of their seeking freights in America. If, however, they shall come here, and the Danes and Swedes become our carriers, we can then adopt the regulation suggested by the gentleman from Pennsylvania; we can then prohibit our intercourse with the French, even by means of neutrals; or as that may be impracticable, inasmuch as we shall not have any control over a neutral vessel after she leaves our ports, we can lay a general embargo.

Mr. R. thought gentlemen were greatly mistaken who imagined the present measure would lower the prices of our produce. He did not believe they would fall in consequence of the present bill or any which could be passed. He did not believe a declared war would lower the price of our grain. For some time past, an *ex parte* war has existed; the French have made war in every sea upon our commerce, which for months past has been bleeding at every pore. Government has not protected the trade of the country, but has, by preventing our vessels from arming, deprived our merchants of the use of the means their wealth afforded, of protecting themselves; thus insurance and seamen's wages have been higher, and the price of produce lower than they probably will be in a state of declared war. The grain of the State he had the honor of representing sells for less than it has done for twenty years past, or at any period of the last war; rice, which is the great staple of the country, and which, a few years ago, sold at six dollars the hundred weight, now sells but for a dollar and a half, and Indian corn, which article, the year before last, sold at a dollar a bushel, now sells for twenty-five cents only.

The gentleman from North Carolina has insisted, that because our trade to France and her dependencies, for the two last years, has been great, that we ought not to stop it. He thinks that merchants understand their interests better than we do, and that if they, who are in the habit of calculating risks, think it proper to prosecute a trade with France, that we ought not to restrain them. Mr. R. allowed that our exports to France the year before the last had been great, but said that our returns had been small indeed; of the great number of valuable cargoes sent to St. Domingo, very few have been paid for. The proclamations of persons in authority in that island, and other deceptive contrivances, have allured much of our property to its ports, but, arriving there, it has been arbitrarily taken at a price fixed by the Government, and payment made by bills upon France, which have not been paid, and are now lying protested at Paris, to the amount of many millions of dollars. So that our exports, which the gentleman says France has taken, have been literally *taken*, very little of it having been paid for. Upon such terms it was impossible to suppose this commerce would continue, and it is fallacious in the extreme to calculate, as a permanent trade, that which a peculiar state of things has occasioned with the French islands for some years past, and which we are now suffering for having engaged in.

Mr. R. said, he was not apprehensive of giving umbrage to any honest merchant or fair trader, when he declared it as his opinion, that a trade with France would not and could not be carried on at present but by persons sinking under pecuniary embarrassments. Like gamblers upon the threshold of ruin, they adventure and put at hazard the remnants of their fortune to increase the chances of recovering what had been previously lost. The trade, he also believed, was in a great degree carried on for some time past by bankrupts, who, by means of bank facilities, and other credits fraudulently obtained, were enabled to speculate in a sea of danger and risk, into which they would not have gone if they had had anything to lose. In such a state of things, it would be wise and expedient for Government to interfere, and say to the merchants who are willing to continue trading with France, although you may be disposed to continue this commerce, because it is carried on upon a borrowed capital, and because it is insured in Europe, yet we will put a stop to it, for we must take care of our sailors. When they are abused and imprisoned, and their captains publicly whipped in French ports, it is our duty to protect and preserve them from a continuance of such injuries. Mr. R. concluded with observing, that the present bill would occasion much distress to the French islands; would be the means of preserving many of our vessels and seamen, and answer other very valuable purposes. He hoped therefore it would pass.

Mr. Otis said, as neither of the gentlemen who had spoken on this subject had expressed an opinion which had a primary influence on his mind, he would beg leave to declare it in a few words. It was undoubtedly desirable, that this country should have a free commerce with all the world; but, under our present circumstances, with relation to France, no intercourse will be maintained with that country by the fair American merchant. He will not venture his property either to France, or to any of her dependencies. None but merchants who may have exclusive privileges in the ports of France, will now carry on this trade. He had no doubt that Citizen Hedouville, and other agents of the Directory, would give exclusive privileges to a certain description of dealers at the expense of the fair trader. Protections of this kind had been given, he believed, to favorite traders in every considerable port in the United States; and were not the proposed regulations to be adopted, these persons would be growing fat and rich, while the whole body of merchants would be suffering from the injustice and violence of the French. He did not think it would be prudent to leave room for encouragements of this kind to any of our citizens. For, while they are in the habit of receiving large favors from the agents of the French Government, they will be likely to feel a stronger attachment to the interests of that country than of their own; and a stronger temptation could not be offered to them than a monopoly of the French trade.

Mr. O. inquired whether, in a state of war, it was not usual and proper for all nations to restrain their subjects from a direct trade with their enemies? And are we not in war? Have we not passed a variety of bills which gentlemen have declared amount to war? This very morning, a bill has been passed, which, according to their construction, reaches the climax of war measures. If, then, we are now in a state of war, it will be inexpedient to continue to carry on this traffic. But it is said, if we restrain our own citizens, it will be carried on by neutral nations. To a certain degree, it might be supposed that this would be the case; but this is one of the losses incident to a state of war. We must expect that a part of our carrying trade will be transferred to neutrals for a time; but though this will affect the mercantile part of the community, it will not [illegible]nd the agricultural interest so deeply as a to[illegible]s-pension of commerce. If neutral vessels come hither for produce, the price will not fall so low as it otherwise would do, and the farmers will be the better able to bear the burdens which a war must necessarily lay upon them.

Mr. O. concluded his observations by some remarks with respect to neutral nations. He said he was not without hope that other neutral nations would be prepared to resent the treatment of France towards them with the same spirit which had shown itself in this country. The liberties of mankind are not yet wholly prostrate. All these nations may not submit to be crushed beneath the iron hand of oppression. Mr. O. said, he had been well informed that a spirit of great resentment had been excited in Sweden, Denmark, and Prussia, by the late decrees of the French nation, and he did not despair of a coalition among those Powers favorable to the cause of the United States, and which should prevent the despotism which had overspread so many countries in Europe, from conquering the world.

Mr. W. C. Claiborne said, it was his intention to vote in favor of the passage of this bill for two reasons. The first was, we have many vessels and much property afloat on the ocean, which we cannot adequately defend, and which is now constantly depredated upon. This measure will keep many of our vessels at home. The second was, that it would tend to increase our revenue, which at this time is a very desirable thing; for he was of opinion, that the neutral Powers of Europe would become the carriers of our produce to the West Indies. Denmark, Sweden, and the Dutch, all possess islands in the West Indies in the neighborhood of the French Islands, and if they come and fetch away our produce, the duty on tonnage will be increased; and the duties arising from imposts will not be lessened, as they will doubtless bring with them the produce of Europe when they come out to this country.

The question on the passage of the bill was then taken, and stood—yeas 55, nays 25, as follows:

Yeas—John Allen, George Baer, Jr., Bailey Bartlett, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Thomas Claiborne, Wm. C. C. Claiborne, James Cochran, Joshua Coit, Wm. Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, D. Foster, Jonathan Freeman, James Gillespie, H. Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, William Smith, Richard Stanford, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, John Williams, and Robert Williams.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Demsey Burges, John Clopton, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Richard Sprigg, Jr., Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

AMENDMENT OF RULES.

Mr. T. Claiborne called up the resolution yesterday laid upon the table by Mr. Harper, proposing to rescind the rule prohibiting members from speaking more than once to a question. It was taken up accordingly, and after some observations in favor of rescinding it by Messrs. Harper, Gallatin, Macon, Brooks, and T. Claiborne, and against it by Messrs. Coit and Thatcher, the motion was carried—40 to 32. Members have now, therefore, liberty to speak twice to any question in the House, and as often as they please in Committee of the Whole.

DIRECT TAXES.

The order of the day was called for on the bill for laying direct taxes.

Mr. Sewall moved that the Committee of the Whole be discharged from the further consideration of this bill, with a view of having it recommitted to the Committee of Ways and Means, as the alteration which had the other day been made in the principle of the bill, would occasion many alterations, which would be better made by a select committee than by the Committee of the Whole.

The motion was carried—40 to 33. The bill was accordingly recommitted to the Committee of Ways and Means.

JOHN VAUGHAN.

Mr. D. Foster called for the order of the day on the report of the Committee of Claims on the petition of John Vaughan, of this city, merchant; and the House resolved itself into a Committee of the Whole upon it. The petitioner prayed for compensation for a loss sustained on a quantity of silver bullion, amounting to 230,888 ounces of standard silver sent to the Mint in the course of the year 1795, as assayed and calculated by the then Assayer of the Mint, at the rate of nine parts fine to one part alloy; but, by law, the said silver ought to have been assayed at the rate of 1485 parts fine to 179 parts alloy, by which difference, in the coined silver which he received back for the said bullion, he sustained a loss of two thousand two hundred and sixty dollars. The Committee of Claims recommended this loss to be made good by the Treasury Department, and the report was agreed to, without debate, both in Committee of the Whole and in the House, and a bill ordered to be brought in accordingly.

Monday, June 4.

Mr. Macon informed the House of the death of his colleague, Mr. Bryan, at nine o'clock this morning. The House, in consequence, entered into a resolution appointing the members of North Carolina a committee to manage the funeral of the deceased, and stating that the House do attend the same. This committee afterwards reported that the funeral would take place at nine o'clock in the morning.

Mr. D. Foster reported a bill for the relief of John Vaughan, which was twice read and committed for to-morrow.

Mr. Harper laid a resolution on the table providing that the testimony taken under the act prescribing the mode of taking evidence in cases of contested election, shall be admitted during the existence of the present Congress; which was ordered to lie on the table.

Mr. Harper moved a resolution proposing that provision ought to be made by law for excusing from ordinary militia duty such corps of volunteers as shall be accepted by the President; which was ordered to lie on the table.

The House afterwards resolved itself into a Committee of the Whole on the bill for regulating the compensation of the Supervisors and Collectors of the internal revenues of the United States; when considerable discussion took place on a motion of Mr. Gallatin, to strike out the second section, on the ground of this being an improper time to raise the salaries of these officers. The committee rose without taking a question, and had leave to sit again.

JUDICIAL COURTS.

Mr. W. C. Claiborne called the order of the day on the bill for altering and extending the act respecting the Judicial establishment. The House accordingly went into a Committee of the Whole on this bill; when on

Mr. Coit's requesting information upon it,

Mr. W. Claiborne said, the intention of this bill was to extend to the States of Kentucky and Tennessee the same advantages which are enjoyed by the other States of the Union. At present there is no Circuit Court in those States, but the whole of the Judicial business is done by District Courts. This is an evil which the citizens have experienced, and they seek a remedy of it as a matter of right; for, being free and independent States, it is their opinion they have a right to the same accommodation with other States. Asking this as a matter of right, he supposed it would be a thing of course. It would require at least one additional associate Judge, but two would be found very convenient, as the present duties of those officers are very great. Some of them are obliged to be absent eight months in the year. This hardship the Senate wish to remedy by adding another Judge, which he hoped would be agreed to by this matter.

Mr. J. Williams moved to strike out two, and insert one.

Mr. Coit moved the committee to rise, in order to give time to consider this subject; and the committee rose accordingly, and had leave to sit again.

SEDITIOUS PRACTICES.

Mr. Sewall, from the Committee for the Protection of Commerce and the defence of the Country, reported a bill for the prevention and restraint of dangerous and seditious practices, which was committed for Wednesday.

[This bill proposes, that any alien resident, or who shall come to reside within the United States, who hath been convicted of any felony, or other infamous crime, or who shall be a notorious fugitive from justice, upon any charge of treasonable or seditious practices, in any foreign State or country, or whose continuance within the United States shall be, in the opinion of the President of the United States, injurious to the public peace and safety, may be deemed and adjudged a dangerous person, and may be required to depart from the country, and be apprehended and removed therefrom. And if any person, whether alien or citizen, shall secretly or openly combine, or conspire together, with an intention of opposing any measures of the Government of the United States, which are or shall be directed by the proper authority, or to defeat the operation of any law of the United States, or to discourage or prevent any person holding any place or office in or under the Government of the United States, from undertaking or executing his trust or duty; and if any person, with intent as aforesaid, shall, by any writing, printing, or advised speaking, threaten such officer or person in public trust, with any danger to his character, person, or property, or shall counsel or advise, or attempt to procure any insurrection, riot, or unlawful assembly or combination as aforesaid, whether such conspiring, &c., shall have the proposed effect or not, shall and may be punished, upon the conviction of the offence, by a fine not exceeding —— dollars, and by binding, with sufficient surety for good behaviour, or by imprisonment for a term not exceeding —— years; and if the person so convicted shall be an alien, he may be farther adjudged, in lieu of such binding or imprisonment, to be banished and removed from the territory of the United States.]

Tuesday, June 5.

Mr. Rutledge proposed a resolution to the following effect, which was unanimously agreed to:

"*Resolved*, That the members of this House, from a desire of showing their respect to the late Nathan Bryan, Esq., member of this House, deceased, will go into mourning for one month, by wearing a crape on the left arm."

The amendments of the Senate to the bill for the relief of persons imprisoned for debt, were taken up and agreed to.

VOLUNTEER SERVICE.

Mr. Harper withdrew his resolution of yesterday respecting the exemption of volunteers from ordinary militia duty, and proposed the following resolutions in its place, viz:

"*Resolved*, That provision ought to be made, by law, for exempting from ordinary militia duty, such corps of volunteers as shall be accepted by the President of the United States, pursuant to the third section of the act, entitled "An act authorizing the President of the United States to raise a provisional army;" such exemption to continue during the time for which the said corps shall be respectively accepted.

"*Resolved*, That provision ought to be made, by law, for enabling the President of the United States to appoint and commission, immediately, all such officers as he may judge proper, for raising, organizing, and commanding such volunteer corps; such officers to receive no pay, or other emoluments, till called into actual service.

"*Resolved*, That provision ought to be made, by law, for enabling the President of the United States to supply such of the said volunteers as may be in need thereof, with cannon, small arms, and accoutrements, either by sale or loan, as he may judge most expedient; and under regulations to be established on that subject.

"*Resolved*, That provision ought to be made, by law, for enabling the President of the United States to establish regulations for the government of the said volunteer corps, when ordered on military duty, but not in actual service.

"*Resolved*, That provision ought to be made, by law, for enabling the President of the United States to appoint and commission, immediately, all officers necessary for the army of ten thousand men, provided for by the first section of the aforesaid act; such officers to receive no pay or emoluments, till the raising of the said army shall have actually been commenced."

Mr. Harper moved a reference of these resolutions to the Committee for the Protection of Commerce and the Defence of the Country; but Mr. McDowell desiring they might lie on the table till to-morrow, they lie accordingly.

DIRECT TAXES.

Mr. Harper, from the Committee of Ways and Means, to whom was referred the bill for laying and collecting direct taxes, reported a new bill, entitled "A bill providing for the valuation of lands and dwelling houses, and for the enumeration of slaves in the United States," which was committed for Friday.

Mr. Harper said, the Committee of Ways and Means having agreed to exclude from the bill just reported everything which relates to the collecting of the taxes, and to confine it to the assessment only, he should move to discharge the Committee of the Whole from a farther consideration of that bill, and for the recommittal of it; which was accordingly done.

COMPENSATION OF COLLECTORS.

According to the order of the day, the House again went into a Committee of the Whole on the bill for regulating the compensation of officers employed in the collection of the internal revenue of the United States, and to provide for the more effectual settlement of their accounts; and, after adopting several amendments, the bill was gone through, and reported to the House.

RELATIONS WITH FRANCE.

A Message was received from the President of the United States, as follows:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to both Houses the communications from our Envoys at Paris, received since the last which have been presented by me to both Houses.

JOHN ADAMS.

United States, *June* 5, 1798.

The said Message, and communications referred to therein, were read, and ordered to lie on the table. (See *Appendix*.)

Wednesday, June 6.

LEAVE OF ABSENCE.

Mr. Harper called up the resolution which he laid upon the table some time ago proposing that no member shall, during the remainder of the session, have leave of absence, except in case of sickness of himself or family.

It was objected against this motion, that it would deprive this House of its right of judgment in particular cases, and there could be no doubt that great caution would be exercised in granting leave of absence to members in future.

The resolution was negatived, there being only 13 votes for it.

Mr. Allen proposed a resolution to the following effect:

"*Resolved*, That there shall be a call of the House at half past eleven o'clock every day on which the House shall sit during the present session."

Ordered to lie on the table.

RELATIONS WITH FRANCE.

Mr. D. Foster laid the following resolutions upon the table, viz:

"Whereas the French Republic, regardless of those principles of good faith which ought to insure a due observance of treaties, have, in various instances, violated the express stipulations of the treaties heretofore made and subsisting between the United States and the French nation, in a manner highly injurious to the interest and honor of the United States; by reason whereof the United States are released from all obligation on their part to respect the said treaties, or to consider themselves as holden or bound thereby.

"*Resolved*, That it is expedient to make a Legislative declaration notifying the citizens of the United States, and all others concerned, that the said treaties are no longer obligatory upon the United States.

"*Resolved*, That provision ought to be made by law, authorizing the President of the United States to grant letters of marque and reprisal against all ships and other vessels, with their cargoes, found on the high seas, sailing under the authority of the French Republic, or belonging to the said Republic, or any of the citizens thereof, or its dependencies; to continue and be in force until the French Government shall revoke and annul the orders and decrees authorizing the capture and detention of the vessels and property of the citizens of the United States, contrary to the laws of nations.

"*Resolved*, That provision ought to be made by law granting a bounty, in proportion to the size and number of guns, on all armed vessels (which shall be taken and brought into any of the ports of the United States)

belonging to the Republic of France, or to any of the citizens thereof, or of its dependencies, or to others sailing under the authority, or pretence of authority, from the said Republic."

They were ordered to lie upon the table,

COMPENSATION TO COLLECTORS.

The House then took up the report of the Committee of the Whole on the bill to regulate the compensation of officers employed in the collection of the internal revenues of the United States, and to provide for the more effectual settlement of their accounts. And, after the amendments had been concurred in,

Mr. Macon observed, that the advances which had been made to the salaries of the revenue officers by this bill had been made with but little information, as it could not be told how they would exactly operate; and, as the land tax about to be laid, would of course produce some difference in the salaries of these officers, he wished the bill to be limited in its duration, and proposed to insert a clause to confine its operation to two years.

This was opposed by the friends of the bill, and the motion was negatived—37 to 36.

The bill was then ordered to be engrossed for a third reading to-morrow.

The amendments of the Senate to the bill respecting Loan Office certificates, indents of interest, and final settlement certificates, were taken up, and agreed to.

JOHN VAUGHAN.

On motion of Mr. D. Foster, the House went into a Committee of the Whole on the bill for the relief of John Vaughan, which was reported to the House without amendment.

On the question being put on its going to a third reading,

Mr. Macon moved that the bill be recommitted in order to have a general bill reported in its place; as there could be no doubt that every one, who was in the same situation with Mr. Vaughan, would apply for relief, when they see it has been granted to him.

Mr. D. Foster did not see the necessity for this. It would be time enough to make the allowance when it was called for. He believed there were few others in similar circumstances.

The question for recommitting the bill was put and negatived, there being only 16 votes for it. It was then ordered to be read a third time to-morrow.

VOLUNTEER SERVICE.

Mr. Harper called up the resolutions which he yesterday laid upon the table respecting the volunteers and provisional army; which he moved to refer to the Committee for the Protection of Commerce and the Defence of the Country.

Mr. McDowell hoped these resolutions would not be referred. He believed most of them are already provided for in the law authorizing the President to raise a provisional army. It is there provided that the President shall appoint officers both in the 10,000 troops to be raised, and in the volunteer corps, as soon as the officers could be necessary, and he could see no use in legislating afresh on this subject at this late period of the session. The other part of the resolution which went to free the volunteers from militia duty was still more objectionable. It is in opposition to the laws of several of the States, which direct that every citizen shall be trained as a militiaman. Besides, if these volunteers are not to be disciplined along with the militia of the State, he could not see how they are, in many cases, to be disciplined at all, except officers are to be appointed to ride over the country for the purpose; for they will, in some parts, be so scattered, that they cannot be drawn together for the purpose of training. For his part, he could see no propriety in dividing volunteers from the militia before they are called into service.

Mr. Harper had no doubt the gentleman from North Carolina thought this provision unnecessary, because it went to make the law better than it is at present; and improper, because it will give efficiency to the volunteer corps, which he so much dislikes. That gentleman was, however, mistaken with respect to the provisions of the law which had been passed with respect to the appointment of officers. The President, by that law, cannot appoint officers, until the men are called into service; nor is he authorized, according to its strict construction, to give commissions to enterprising individuals who may be willing to undertake the raising of volunteer corps. All he could do at present was to receive these corps, after they are raised. He might, indeed, promise commissions to such as shall raise men; but, in order that the President may have the power to raise the greatest possible number of volunteer corps, he wished him to have the power of granting commissions immediately, provided that no pay shall be allowed to such officers until they are called into actual service.

With respect to the provisional army, the President is placed in exactly the same situation. He is empowered to raise the army, in case of certain contingencies, and, when the army is raised, he can appoint the officers. But he believed it was desirable that he should have the power of appointing the officers immediately, that they may be known; and when the contingencies shall arrive which will authorize the raising of the army, the business may be entered upon immediately, without waiting two or three weeks for the appointment of officers; and as they are to receive no pay until the army is raised, he could see no reasonable objection to this course.

It had been said that there is no occasion for a law to declare volunteers are not liable to be called upon to do ordinary militia duty; but, he knew a different opinion existed in the War Office, and he supposed in the President of the United States. It was believed by them and other respectable authorities, that these volunteers are not exempt, on account of their volunteer service, from ordinary military duty. This, he said, proves a great hindrance and discouragement to the volunteers; and, because it is a hindrance and discouragement to the formation of volunteer corps,

he wished to remove it; though, for the same reason, he supposed the gentleman from North Carolina would wish to keep it as it is.

With respect to training, the gentleman from North Carolina is of opinion it would be best done along with the militia; but he thought it would be best done apart from the militia. The law authorizes the calling of them out, but does not put them under articles of war until they are called into actual service. He wished to give the President power to institute rules for the regulation of these corps in the meantime, and therefore he proposed the measure. Mr. H. said he should have moved an immediate adoption of the resolution, had he not wished to avoid a double discussion.

Mr. Dana wished to know whether, if these resolutions were referred to the Committee of Commerce and Protection, they would be obliged to report by bill?

The Speaker answered in the negative.

Mr. McDowell said he might not perhaps perfectly understand the bill which had been passed for raising a provisional army, but he thought that he was not mistaken in this, viz: that the officers to the volunteer corps are to be appointed as soon as the corps are accepted by the President, and in the provisional army as soon as imminent danger appears, to make the raising of the army necessary. And from the motion brought forward this morning, by a gentleman who may be supposed to be pretty well acquainted with the views of the Executive, it might be supposed he did not think that danger very distant. [Such remarks, the Speaker said, were wholly out of order.] Mr. McD. said his intention and that of the gentleman from South Carolina were very different. That gentleman wishes to give the President all power in this business, and he wished the House to exercise as much as they could do with convenience to themselves.

The gentleman from South Carolina had, on a former occasion, sounded the praise of our heroic young men, who, he said, were eager to come forward in defence of their country, but we would not receive them; but now, when the power of receiving them had been given, the tone of that gentleman is changed. He finds they do not flock to the standard so fast as he expected, and he wants to send out officers in search of volunteers. Mr. McD. was sorry to hear that spirit, of which the gentleman had boasted so loudly, now flagged; but he did not wish to employ officers to use their efforts to raise it, because he believed whenever real danger appears, that will be sufficient to rouse a spirit in every citizen to defend his country.

The question for a reference was put and carried—40 to 37.

Thursday, June 7.

The bill for the relief of John Vaughan was read the third time and passed.

Mr. Sitgreaves laid the following resolution upon the table:

"*Resolved*, That the Attorney General of the United States be directed to prepare and report to this House, a plan to regulate the process and practice of the Courts of the United States, by a uniform system."

Mr. Dawson laid the following resolution upon the table:

"*Resolved*, That the President of the United States be requested to cause to be laid before this House, such information as he possesses respecting the conduct which has been observed by the British Government, or by persons acting, or pretending to act, by or under the authority thereof, towards the neutral rights of commerce of the United States, since the ratification of the subsisting Treaty of Amity, Commerce, and Navigation."

MILITARY APPROPRIATIONS.

On motion of Mr. Sewall, the House took up the amendments of the Senate to the bill making appropriations for the Military Establishment for the year 1798. These amendments proposed to consolidate all the appropriations, amounting to $1,411,798, (including $200,000 already appropriated on account,) under one head, instead of having them particularized under a number of distinct heads, as it was agreed to have them, after very considerable debate in this House; to allow $224,000 for the expenses of the Quartermaster General's Department, instead of $150,000, as contained in the bill passed by this House; to add $9,141 under the head of contingencies; and to strike out the words "which sums shall be solely applied to the objects for which they are respectively appropriated."

On agreeing to the first, some debate took place, in which the same arguments were used on the same subject as when formerly under consideration, viz: in favor of the amendment, by Messrs. Sewall, Dana, Dayton, and Sitgreaves, that the specification of the appropriations would embarrass the proceedings of the War Department, and might, in some cases, be attended with great inconvenience and injury to the service, particularly in the event of any unforeseen accident. On the other hand, it was argued by Mr. Gallatin that heretofore the want of this specification had been very evident, and that without it there could be no check against the expenditure of any appropriation made by this bill, as, if more money should be wanted under one head of expense than was appropriated for it, it would be taken from another, to which more had been appropriated than might be necessary for that object, so that the distinct estimates became useless, and the whole might as well be appropriated in one sum. Mr. Harper took a middle course, and wished the amendments of the Senate to be disagreed to, in order to produce a conference, in which he said a less particular specification might be agreed upon than had been agreed upon in this bill, which he had always been opposed to as being too particular; but he was far from wishing the appropriation to be left at large, as proposed by the Senate. It was at length carried—45 to 32.

The amendment for increasing the appropriation under the Quartermaster General's Department by $74,000, was advocated by Messrs. Dana and Kittera, on the ground of its being necessary

for some items which had not before come into notice. It was opposed by Messrs. GALLATIN and J. WILLIAMS. Mr. HARPER was in favor of making the whole appropriation $200,000, (which would have been $24,000 less than the above.) The question on the largest sum was, however, put and carried—48 votes being in favor of it. The committee rose, and

The House took up their report, when the yeas and nays were called by Mr. GALLATIN on the above two amendments, and they were taken upon both questions together, and decided in the affirmative—yeas 46, nays 34, as follows:

YEAS—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Demsey Burges, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, John Wilkes Kittera, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and John Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, John Chapman, Wm. Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Matthew Lyon, Nathaniel Macon, Blair McClenachan, John Milledge, Anthony New, Wm. Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

COMPENSATION OF COLLECTORS.

The bill for regulating the compensation of the officers employed in the collection of the internal revenue of the United States, and to provide for the more effectual settlement of their accounts, was read the third time, and,

On motion of Mr. ELMENDORPH, the yeas and nays were taken on its passage, and determined in the affirmative, 49 to 32, as follows:

YEAS—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thos. Hartley, Hezekiah L. Hosmer, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Richard Sprigg, jr., George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

NAYS—Abraham Baldwin, Thomas Blount, Richard Brent, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, William Smith, Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, Abraham Venable, and Robert Williams.

PROTECTION OF COMMERCE.

Mr. SEWALL said, the committee appointed to consider on the proper measures to be taken for the protection of commerce and the defence of the country had had it suggested to them that two mistakes had escaped in two of the bills passed this session, viz: the act for arming and equipping a number of small vessels, and that respecting the revenue cutters. In the former, it is said the officers shall have the same rank, pay, and subsistence with the officers upon the Naval Establishment. This, said he, is by no means necessary, and would show a great want of economy, as a much lower rank would be sufficient. With respect to the cutters, they are limited to thirty men, though several of them will carry seventy men. It is necessary, therefore, to make some amendments to these two acts. Mr. S. reported a bill for the purpose, which was twice read, and committed for to-morrow.

THE JUDICIARY.

On motion of Mr. W. CLAIBORNE, the House again resolved itself into a Committee of the Whole for altering the Judicial Department; but,

On motion of Mr. DAVIS, the farther consideration of this bill was postponed till the next session of Congress.

ADJOURNMENT OF CONGRESS.

Mr. GALLATIN said, it was desirable that it should be known at what time the present session of Congress would probably close. He found, by conversing with different members on this subject, that there exists a variety of opinion upon it. Many gentlemen think it would be proper to adjourn within a short period, appointing an earlier day than the Constitutional day for the next session; other gentlemen say this is no time to talk of adjournment, but that the session ought to be permanent. Whatever might be determined by a majority, he supposed would be generally submitted to; but from the frequent applications for leave of absence, it was evident many members are impatient to bring the session to a close. If it was determined to make the session permanent, it would probably be necessary for several gentlemen, who had not contemplated any such thing, to obtain leave to return home to arrange their affairs. He thought, therefore, if they met earlier, it would be best to have a short recess. In order to take the sense of the House, he proposed two resolutions for their consideration, to the following effect, which were ordered to lie till tomorrow:

"*Resolved*, That a committee be appointed to inquire

whether, and when, it may be proper to close the present session of Congress, and also to appoint a time for their next meeting.

"*Resolved*, That a conference be requested with the Senate, on the subject matter of the above resolution, and that the same committee be conferees on the part of this House for the purpose."

Mr. G. said, he knew that the Senate had, on a former occasion, declined conferring with the House on this subject; but, perhaps, they might not now object to it.

FRIDAY, June 8.

Mr. J. WILLIAMS reported a bill providing arms for the militia throughout the United States; which was committed for Wednesday next.

Mr. SITGREAVES called up his resolution requiring the Attorney General to prepare and report a plan to this House for regulating the process and practice of the Courts of the United States by an uniform system; which was agreed to after the addition of the words "at the next session" was made.

Mr. DAWSON called up the resolution, which he yesterday laid upon the table, proposing to call upon the President for information relative to the conduct of the British since the treaty was concluded between the two countries; which was taken up accordingly, and negatived without debate—47 to 38.

ADJOURNMENT OF CONGRESS.

Mr. GALLATIN called up his resolutions for the appointment of a committee to consider whether and when it will be proper for the two Houses to adjourn. The first being taken up,

Mr. ALLEN wished the resolution to be amended in such a way as that the committee might report what business it thought it would be proper to act upon during the session.

Some doubt having been expressed as to the propriety of instructing a committee of conference—

The SPEAKER read two instances from the Journals, in which the same practice had taken place.

The mover accordingly agreed to accept of the amendment.

Mr. SITGREAVES moved to strike it out. He said it was impossible for any committee to say what business it might be necessary to bring before the House, when it was seen that every day produces measures of importance arising out of our present situation. No one would now say whether it would not be necessary for Congress to sit until their powers expire, (the 3d of March next.) He thought the instruction, therefore, very improper.

Mr. J. WILLIAMS hoped the amendment would be agreed to. It was well known that this House cannot adjourn without the consent of the Senate. It was desirable, therefore, to know their opinion on the subject. If a day was fixed for adjournment, and any particular business arose, doubtless it would be done. It was usual, he said, in all the Legislatures with which he had been acquainted to appoint a committee of this sort towards the close of a session, to report what business it would be proper first to attend to. When this was before the House, it could then be ascertained whether or not the session could close at the time proposed.

The motion for striking out was carried, 45 to 36. The resolutions were then agreed to, and a committee appointed.

LETTERS OF MARQUE, &c.

Mr. D. FOSTER then called up his resolutions relative to granting general reprisals, letters of marque, &c., which, being read, he moved to refer to the Committee for the Protection of Commerce and the Defence of the Country, with power to report by bill or otherwise.

Mr. DAVIS hoped these resolutions would not be referred. It appeared very strange to him that gentlemen should be desirous of taking this step at present. He had heard much in this House about French parties, and of gentlemen being attached to France, but he thought the House had witnessed, not many minutes ago, something of another party, [referring to the negative which had been put upon the resolution calling upon the President for information respecting British depredations.] And yet, when we have lately received information from France that peace is probably yet within our grasp, a motion is brought foward which, if adopted, would effectually shut out all hopes of a favorable termination of our dispute, In the conclusion of the late despatches, he read as follows:

"As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately, to receive instructions of our Government, if that would be agreeable to the Directory; if it was not, we would wait some time, in the expectation of receiving instructions."

So, that two of our Commissioners might be expected shortly to return, to lay certain propositions before the Government here, or that they will write for farther instructions; and, whilst these things are pending, can a proposition like the present be justified? He thought not. It was not, in his mind, a declaration of war; but it was evidently a war measure. And when it is evident, from our Envoys' own showing, that the negotiation between them and the Minister of Foreign Affairs in France was in train on the 8th of March, the date of their last despatches, as certain propositions had been made to them which were not rejected, he thought it would be extremely imprudent to refer resolutions of so hostile a kind as these certainly are. It would be time enough, Mr. D. said, to adopt a measure of this kind when our Envoys shall have informed us that peace is unattainable; but, whilst they held up a contrary expectation, he could not consent to do anything which should cast wholly away the hope of preserving a state of peace. With respect to the first resolution, which declares the treaty between France and this country void, he had not much objection to it, because it must be so considered from the laws

already passed; but those which respect the granting letters of marque and general reprisals, he thought very objectionable indeed.

Mr. Harper said, if the arguments of the gentleman from Kentucky were well founded, he had not introduced them at the proper time. If he views the state of our negotiation with France in the light which he had placed it, his objections to this measure are natural and consistent; but they ought to be made, when a bill is brought in, against its being read a second time; or, if the motion had now been to adopt the resolutions instead of referring them, the remarks which he had made would have been perfectly in order; but that gentleman must know that there is a great difference between committing and agreeing to adopt a resolution. He would confess that he, for one, should not now be ready to agree to any of those propositions, though a fortnight hence he might be willing to adopt them all. If the motion was, therefore, for adopting, instead of referring them, he should move a postponement, or the previous question, or take some other mode of disposing of them; but when the motion was merely to refer them to a committee who might report upon them immediately, or let them lie until farther information was received from our Commissioners; or, if they report a bill, that bill might lie until gentlemen thought proper to pass upon it. He did not, therefore, see any ground for the alarm which the gentleman from Kentucky has shown. He confessed he could not look upon our negotiation with France as in the happy train in which it appears to that gentleman. He knew we might have peace, if we would consent to have our property plundered *ad libitum;* or by paying a contribution to the full amount of our ability to pay, which were the terms that Talleyrand and his agents had offered to our Envoys; and this loan was made a *sine qua non* by Talleyrand. He could not tell, therefore, how the gentleman from Kentucky could conceive the negotiation to be in good train, except he is willing to pay the tribute which France demands from us.

But, as he had already said, the present question is neither to adopt the resolutions, nor to give them the least sanction, but to refer them to a committee over whose acts the House have a complete control; and though he should vote for the reference, he should not consider himself as having given any countenance to the resolutions themselves, though he expected the time would soon come when it would be proper to adopt the two last resolutions; but he thought it was not yet arrived, and that there is other business which may be done to advantage in the meantime.

Mr. Venable said, the gentleman last up had drawn a distinction between committing these resolutions and agreeing to them, and had said that he himself is not ready to agree to them. Mr. V. thought resolutions of this kind ought not to be laid upon the table before the House is ready to decide upon them, as the moment the foreign nation to which they have reference hears that such resolutions have been brought forward, they will take advantage of it, and seize all the property belonging to our citizens within their power. If the resolutions are not proper, therefore, to be adopted, they ought immediately to be rejected; for, if this is not done, we may expect that not only all the property of our citizens in French ports will be seized, but that all our vessels, without exception, which can be met with will be taken. He hoped, therefore, if gentlemen are of opinion with him that the time for taking measures like the present is not yet arrived, that the reference would be refused. It would do infinite mischief. We ought not, he said, to show a spirit of this kind, until we are perfectly prepared to act. And as he believed the House is better calculated to judge of the propriety of thus changing the situation of the country, than any committee could be, he should not choose to ask the opinion of the Committee for the Protection of Commerce and the Defence of the Country, what he should do in this case.

Mr. R. Williams observed, that the gentleman from South Carolina seemed to argue in favor of committing these resolutions, as if no time would be so proper for doing so as the present. But he believed this House would be equally capable of judging of this matter hereafter as at present, and could act upon them in future as well as now. Why, then, ought the House now to refer them, when even the gentleman from South Carolina says he is not prepared to vote for them; but that if he were called upon now to vote upon them, he should give his negative on the question?

It appeared to him, Mr. W. said, that the reference of these resolutions could have no other appearance than that of a challenge, and will doubtless produce the consequences which has been mentioned by the gentleman from Virginia. And however their vessels may have depredated upon our commerce, and suffered their citizens to plunder us at sea, they have not gone so far as to make it a national act to seize all the property of our citizens within their power. He was, therefore, opposed to this reference; for though, whenever the time of actual war shall arrive (for it seemed as if it must arrive,) we shall think it necessary to do France all the mischief we can, yet he did not think it would be prudent to tell them we mean to injure them, in this or that way, before-hand.

He had another reason for voting against this reference. However proper the distinction might be, Mr. W. said, between a reference and the adoption of these resolutions, the argument could not apply to the first resolution; for he should never be in favor of referring any resolution which he did not think the House had the Constitutional power of acting upon. But he did not believe that this House has the power to annul a treaty; if they had, it appeared to him that they would have the power of defeating the treaty-making power as laid down by the Constitution. This was to him, at least, a very doubtful subject.

Mr. Harrison believed, that to refer these resolutions would be to give them a degree of sanction; and, as he looked upon the question as very important, he should call for the yeas and nays upon it They were agreed to be taken.

Mr. Gallatin said, it appeared to him that the committee to whom it is proposed to refer these resolutions might, without this reference, have brought the subject before the House, as they are appointed to consider whatever relates to the protection of commerce and the defence of the country. The reference must mean something more, therefore, than a mere instruction to them to consider the subject, because they have already those instructions given to them generally in their original appointment. What, he asked, could be obtained by a vote on this subject? He was at a loss to know. He could see no possible good to be derived from it. He wished, indeed, the committee to whom it is proposed to refer these resolutions, instead of doing the business committed to them by piecemeal, in the manner which they had adopted, had laid before the House at once a complete general plan of defence consistent with the present situation of the country. A majority of this House seem not only ready to take every defensive measure, but, in a certain degree, offensive measures also. This having been once determined, the committee might very well prepare such a plan. Such a plan would be more consistent and uniform, than if individual members were left to bring forward any measures which it may strike them as necessary to be taken. Of what use, Mr. G. asked, had been the reference of a set of resolutions made some days ago by Mr. Sitgreaves? No report has been made upon them. A part of them were of the same nature with these, and would authorize a report on this subject, if the committee had not the general power already mentioned.

If, then, no advantage can be derived from a reference of these resolutions, and as some disadvantages, which have already been mentioned, may be the consequence, he trusted they would not be referred.

So far as any conclusion could be drawn from the despatches of our Ministers, he confessed he had no great hopes of our negotiation with France being concluded in an effectual manner. He saw a kind of negotiation open between our Envoys and the French Minister for Foreign Affairs. He saw that the latter had asked for a loan; a demand inadmissible by our Envoys, since it was contrary to their instructions; a demand inadmissible from any instructions they might hereafter receive, for the sentiments of the Executive on that subject were well known; and, he would add, a demand inadmissible in its very nature, inadmissible in the opinion not only of this House, but of every individual in the House. So that, as long as that demand was insisted upon, no accommodation could be effected. But it must have been remarked, in the late despatches, that when our Envoys inquired of Mr. Talleyrand whether a loan of money was the ultimatium of the French Government, he did not choose to give a direct answer. This shows it to be possible that this demand may not be their ultimatum; and if not, as we have heard it reported, (though not officially,) that one of our Commissioners still remains in Paris, it would not be prudent to take any step that would defeat any treaty which might be in contemplation.

Besides, the gentlemen in favor of adopting measures of this kind, must know that the committee, to whom it is proposed to refer the resolutions, can at any time make a report on the subject, without the reference, whenever they shall think the state of things requires these measures should be taken. He hoped, therefore, the resolutions would not be referred.

Mr. Coit felt embarrased on this subject. If he were called upon to vote for a reference of these resolutions at present, he should vote against it. He differed in opinion from gentlemen who think there is a probability of a favorable issue of our negotiation with France. If our Envoys, or any of them, were mad enough to make a treaty, upon such terms as the French propose, it would not preserve peace between the two countries. He believed we should have war; but he did not wish to go on faster to this state of things than the people of this country, and the opinion of the world, would justify.

Mr. C. was aware that to refer these resolutions, was not to agree to them; but he thought it would be giving them a sort of sanction. Measures might turn up, he said, which would make the adoption of these resolutions proper, though he did not think the time yet arrived. He therefore moved a postponement of the question for one week.

Mr. W. Claiborne hoped the motion for postponement would prevail, for, though a reference of those resolutions would not be a complete sanction of them, he should consider it as a prelude to a speedy adoption. His observation on the past proceedings of the House justified this remark.

Mr. C. differed in opinion from the gentleman from North Carolina as to the power of Congress with respect to treaties. He believed Congress has a right to do away any treaty by a Legislative act; if not, he should think he lived under the most miserable Government upon earth.

What, said Mr. C., is the nature of the injuries which we have received from France? Have they not been wholly maritime? and have we not done all we can conveniently do for the defence of our commerce? Were not all our marine force already under such regulations as to be enabled to act to great advantage in the prevention of future outrages on our commerce? Why, then, shall we proceed to measures which must inevitably involve the country in war? Will the adoption of these resolutions give us a single ship or gun? No. Why, then, widen the breach between the two countries, by acting upon a measure more replete with impolicy than any act he ever saw introduced into that House. If it were adopted, it would go to the destruction of our commerce with several of the great commercial Powers; for the moment war is declared with France, we shall also be at war with Spain and Holland, her allies. And when a war with Spain shall take place, the commerce of the Southern States and Western country will be immediately gone, and all our vessels in French, Dutch, or

Spanish ports, will doubtless be confiscated. These, he said, were evils which he foresaw would attend the adoption of these resolutions, and he called upon the mover to show a single advantage which could be derived from their adoption. He hoped, therefore, the question would be postponed for a week; and if, at the end of that period, nothing shall have transpired which will make their adoption proper, he trusted they would then be farther postponed. If France is determined to have war with us, we must and will defend ourselves; but he was desirous that no act of ours should show that we ourselves wish for war.

Mr. SITGREAVES did not feel very solicitous whether the reference of these resolutions should or should not be postponed for one week, as he did not think so short a time would make any essential difference in the state of things; but, as he knew no good purpose that could be answered by the postponement, he should vote against it. He rose to offer his reasons in favor of the reference, generally.

Mr. S. said, those gentlemen who had been in the habit of observing the frequency and facility with which a certain description of the members of this House could put on and shake off the most important principles, as occasion required, would not be surprised at the comparison he was about to state between their conduct now and on a former occasion. Everybody recollected that, some time ago, the resolutions of a grenadier company, at Portsmouth, in Virginia, were presented to the House; and that, when it was proposed to refer these resolutions to a Committee of the Whole on the state of the Union, it was objected to, because they contained a most abominably gross and indecent libel on the Government and those who administered it. The reference of those libellous resolutions was nevertheless advocated by one side of the House very warmly, and eventually carried by a majority; and it must be well remembered that this course was justified by its advocates, on the ground that the reference of a proposition to a committee could not by any implication be construed into an approbation of the proposition; and, therefore, while those gentlemen urged the reference of the grenadier resolutions, they, one and all, disavowed all participation in the sentiments they contained. But now, when resolutions highly important and intimately connected with the welfare of the country, are proposed by a member of the House in discharge of his duty, and it is moved that these resolutions should be referred, in the usual and ordinary course of proceeding, for the purpose of consideration, the same members who, on the former occasion, disclaimed all pollution from the reference of Magnien's Libel, affect to declare that the reference now proposed cannot be made without adopting, or countenancing, or sanctioning, to a certain degree, the specific propositions to be referred. How they can reconcile this versatility of principle to the rules of rectitude or reason, he was at a loss to conjecture; it appeared to him that, if the principle they *now* maintain is just, these gentlemen have subjected themselves to the imputation of "adopting, or countenancing, or sanctioning, to a certain degree," the libel of Captain Magnien and his grenadiers—or, on the other hand, if the principle which they *then* contended for was just, they absolutely fail in the ground of their present opposition.

His colleague (Mr. GALLATIN) had fallen into two mistakes; he had said that these resolutions are of the same nature with those which he (Mr. SITGREAVES) had the honor, some days ago, to lay before the House; and that the committee, to which the resolutions are proposed to be referred, have, at present, all the power which this reference would give them. He was not correct, in the first place, in saying that these resolutions are of the same nature with those formerly submitted. The former propositions suggested a course of special reprisal, in cases limited and defined; the present propositions are for letters of general marque and reprisal, which modes of proceeding are essentially different in their nature and their incidents, in their theory and practice. The present propositions, also, recommend a declaration on the subject of the treaties, to which the former ones made no allusion. He believed his colleague to be equally mistaken in his other assertion, that the committee had already power to report to the extent of these resolutions, if they should deem it expedient. Their general power was to consider and report upon so much of the President's Speech as relates to the protection of commerce and defence of the country; and this authority, when construed with relation to the Speech, cannot be considered as going beyond the measures of defence, strictly compatible with the neutral position in which we stood at the commencement of the session; and could not, without an express reference, justify the committee in proposing broad measures of hostility. This, however, is a question of form merely. If the committee have already the power, the reference proposed can do no mischief; if they have it not already, it remains to inquire whether they ought not to have it. He conceived they ought.

He did not mean to give an opinion whether the specific propositions contained in these resolutions ought actually to be adopted; that is not now the question; and all the arguments that have been urged in relation to the actual expediency of the measures proposed, have been irrelevant and out of order. The question is, whether they do not form proper subjects for submission to a committee? On this point he had no hesitation to say, that the councils of the nation could not too soon turn their serious attention to these subjects. Gentlemen could not, with any propriety, contend that the situation of the country is the same as before the receipt of the last despatches; they have most effectually dispelled the few rays of faint hope that the negotiation with France could terminate amicably; we learn by them that the demand of money, of a tribute so disgraceful as on all hands to be scouted as inadmissible, which had before been made by inofficial agents, has now been repeated and insisted upon, as a preliminary to negotiation, by the acknowledged and official

organ of the Directory. War, therefore, absolute war; hostility in all its modes and with all its incidents, appears to be, not merely highly probable, but absolutely inevitable; and whether the precise point of time for its legitimate commencement shall arrive a little sooner or a little later, it is an event to which our solemn attention ought to be immediately directed, on which we should accustom ourselves to reflect, and on which a reference should be made to a committee whose particular duty it would be to revolve it in their minds, and to make a report the instant the necessity should occur. The power of declaring war is, by the Constitution, placed in this department of the Government; and in proportion as the season approaches when the exercise of this power shall become our duty, ought we to prepare ourselves for so solemn an occasion by reflection, by consideration, and discussion. It is already anticipated by the public sentiment and the public voice; and we disregard our obligations if we neglect to make it a principal subject of our own deliberations. We consider, not only what measures are suited to our actual situation, but those also which are calculated for a state of things which appears to be inevitable. The only design of the motion for reference, is to pave the way for these discussions. The committee would deliberate with a caution adapted to the importance of the subject, and after having decided for themselves, would submit to the control and the decision of the House, the result of their deliberations: on the whole, the resolutions contained, he believed, important objects on which, eventually, we must think and decide. He would not say we are prepared to decide; but he was sure we could not begin to think too soon.

Mr. BALDWIN said, that nothing was more certain than that individual members could not vote to refer a motion to a committee, as was now proposed, unless at the time they feel themselves favorably disposed to the object of the motion, and vote to refer it to a committee to further that object, and to give it practicable shape and form. The gentleman who had just sat down should reflect, that referring petitions is a matter of course, and is established by usage as a respectful form of receiving and hearing the applications of our fellow-citizens. The introduction of a petition requires no second; but a motion made and seconded, is to be regarded as a step in the actual operations of the House. For himself he must say that, with respect to the present motion, it required no time for him to be ready to declare, that he was not now favorably disposed towards it, and could not, in any shape, now give it his countenance and support.

When he reflected on what they had done in the small space of a few weeks, and the course of measures which had been adopted by Congress since the receipt of the despatches from our Envoys, he thought they had come on, one upon another, in a succession sufficiently rapid. They must, in their nature, greatly affect the state of the country, perhaps more than was ever done before in so short a time. He thought it would be wise in the House, at present, to make a short pause, before they proceeded any further. It is a subject on which all Governments are apt to err, and to proceed too rapidly. Let us, said, he, take a little time to ourselves, and give some time to our constituents, to look at our interests, and the state of our public affairs, in the new posture which we have given them in the course of a few weeks.

Our measures, he said, divided themselves into three classes; first, the internal defence of our country and of our seacoast. On this there had been no difference of opinion; we had adopted, promptly, the same course of measures which had been adopted a few years ago, when we were threatened by another European Power, we had fortified our ports and harbors, fixed row-galleys and other vessels on our coast, and ordered a draught of eighty thousand militia to hold themselves in constant readiness; and ordered a million of dollars to be expended, in procuring arms, cannon, and ammunition, to be placed all along the country in proper situations, that they may be put into use by such of our fellow-citizens as should be driven to the unfortunate necessity of defending themselves by arms. He had been glad to see such a perfect unanimity in those measures, and such a readiness, on all quarters, to vote even larger sums than were recommended in the reports for these purposes. This course of measures was founded on principles merely defensive, and related only to our own country, and our own coast within cannot shot from our shores, which, by the law of nations, is called our territory; he trusted what had been done, accompanied with the spirit and resolution of our countrymen, would render our country impregnable.

The second course of measures, which he said had also been adopted, was extending our military preparations, and carrying our force beyond our own jurisdiction, on the main ocean, to defend our commerce by convoys, and to seek for and capture French privateers. On these the House had not been unanimous; they had appeared to be founded on more questionable policy; but, as the laws were passed, they would not only be cheerfully submitted to, but as vigorously supported as the others; it was now his duty to hope and expect that they would do more good than harm.

The third and last course of measures, was presented to our consideration by the present motion, to put the country immediately into an actual state of war. He must say he had been surprised to hear it; he thought it very ill-timed; he must express upon it his utter disapprobation. As had been already stated, the last official information from our Envoys, showed that our negotiations were still going on; and though the French Minister still insisted on a compulsory loan, which our Ministers justly declared to be a very inadmissible condition; yet, it ought to be noticed in the despatches that, when he was asked by Mr. GERRY, if they were to consider him as insisting on a loan as an ultimatum, he avoided the question, which gives reason to believe that, as things then stood, a loan or war were not absolute inevitable alter-

native; it was such an alternatives as he was not disposed to take, so long as it was avoidable. Though our situation has been, in many respects, bad for the year past, yet in a state of actual war, it will be much worse. He never turned his attention to the part of the country where he lived, but that he felt himself compelled, by every principle of duty to whom he represented, to address and to urge every consideration to avoid going to that extreme. They have been once almost totally destroyed by war; they know, from their distance and from past experience, that prompt and adequate protection never will be extended to them. He believed no honest man, deliberating merely for the public good, could take a view of the affairs of this country, of his own home, and of his friends, and think of going into a state of war, if is possible to avoid it.

Our fellow-citizens had, by their addresses from every part of the Union, testified their attachment to the principles of the Government, and had endeavored to fortify their public men on this trying crisis, by assurances of their confidence, and their determination not to appear to be a divided people. He hoped they might always conduct public affairs in such a manner as to merit and receive support so grateful on such occasions. The people have discovered dispositions so favorable, he thought it would be wise for the Government not to go too fast for their expectations. Perhaps, said he, as much has been done at this time as was expected. The people had not said expressly that they are desirous of going into war, as some seem to suppose; we know to the contrary—it is only the worst class of them that are desirous of war, and we should deliberate on the subject under this impression: they tell us, to be sure, that they rely on us, and will support whatever we do; they see there is no other way of getting along; we know it, and if a law actually passes the different branches of the Government to make war, there is no doubt but that the whole country goes with us; the consciousness of this good disposition should be, so far from making us more rash and hasty in rushing into war, that it should be felt as the strongest obligation upon us to do for them everything that is possible to avoid it.

Mr. B. mentioned another consideration which had weight with him against the present motion. A committee had been appointed this morning to join a committee of the Senate, to look over the business, and see whether there might not be a recess of Congress for a few weeks. That committee will doubtless find this subject as fairly within the purview of their appointment as the committee of defence could, if it were referred to them. It will come before the committee appointed this morning, without any act of the House, and in a particularly favorable attitude; they must examine it as it stands in relation to the question of adjournment. If there is to be an adjournment of Congress this Summer, which he hoped and trusted there would, will not every one say that it is desirable the adjournment should take place before this question of war is finally determined on? It is the very life of all representative Governments that the representative should have opportunity to see his constituents, more especially on such great occasions; it gives mutual confidence and very much fortifies the Government. It has been the practice in some of the States never to pass an important law without first publishing it for consideration, and then adjourning and going home. At the next session they consider themselves as bringing up the more mature sense of the people on the subject. In other countries, we know that in any great turn of public affairs, it is a common practice to dissolve the deliberative assembly, and to have a new one elected, so as to be sure to bring up the sense of the people. Never can there be more reason for it than in a country of so different interests, and of so great extent as this. The public men of the United States have a work of immense difficulty to conduct; they need to take great care, or they will make shipwreck. It is to be remembered, that since the Fall before the last, Congress has been almost constantly in session, and they who live remote have had very little time to be with their constituents at all. They are full of anxiety, said he, on the present very interesting state of our affairs; it is their business which we are transacting; it is as interesting to each one of them as to ourselves. After so long an absence, and so much having been done, he thought it very desirable that a recess should now give them time to intermingle with their fellow-citizens. It was not stated there was anything immediately pressing for a decision of the question of war just at this time; there is no immediate great stroke to be struck, or special advantage to be obtained by determining it now rather than a few weeks hence. More intelligence might be received; circumstances might alter; he thought every consideration urged letting the war question remain till after the adjournment.

Mr. Dana hoped the gentleman from Georgia did not want to inquire of his constituents whether they would consent to a treaty with France, in which we shall bind ourselves to pay a tribute. He trusted if that gentleman's constituents were thus to instruct him, he would refuse to obey their instructions. He hoped no member of this House could be prevailed with to set his hand to what would prove the death-warrant to the liberties of the country. Mr. D. thought, therefore, that no instructions were necessary on this subject; it is not a subject proper for deliberation in the American Congress, and no other terms of accommodation had been held out to us by that country. Does not Mr. Talleyrand, said Mr. D., complain of the Farewell Address of General Washington, and of the Speeches of Mr. Adams, and say that, before any treaty can be entered upon with us, some proof of our friendly disposition must be shown towards them, and that proof, he more than insinuates, must be a loan, or a tribute to the extent of our capacity to pay? If the despatches do not mean this, he did not know what they mean; and when Mr. Talleyrand was asked whether this was the ultimatum of the French Government,

though he does not answer in direct terms, it is clearly implied that it is so.

What, then, said Mr. D., are our hopes relative to France? Does anybody expect anything from the terrible generosity of the Great Nation? Can we expect anything from their justice, or, rather, have we not everything to expect from their vengeance, if not prepared to meet it? Why do gentlemen tell the House of the danger of irritating France? He thought delicacy of this kind unnecessary, when speaking of a nation which has set at defiance every moral principle, which has taken and is determined to take our vessels, contrary to every principle of right. For himself, he felt no such delicacy; and, therefore, he was in favor of referring the resolutions under consideration. He did not think them so notoriously wrong that they are not fit subjects for deliberation.

The gentleman from Pennsylvania had said, indeed, that as this subject had been referred to the Committee for the Protection of Commerce, and the Defence of the Country, generally, it was improper to make this reference. For this reason, he thought the reference proper. The resolutions introduced some days ago by the gentleman from Pennsylvania (Mr. Sitgreaves) of a like nature, were referred to that committee. If this reference was improper, therefore, the proceedings of the House had heretofore been wrong. The gentleman from Pennsylvania has also thought proper to make some remarks on the conduct of that committee, and has given them his advice. He wishes them to produce a general system, which should contain all the measures relative to the defence of the country which will be necessary during the whole of the session; and he doubted not if such a system was produced, that gentleman would be the first to find fault with and argue against it. Indeed, it would be impossible to produce such a system, whilst every day produces changes in our situation.

Mr. J. Williams wished to say a few words in reply to the remark which had been made, that members who voted for the reference of resolutions, generally vote for the resolution itself. He believed he could produce twenty instances to the contrary, where references had been made, and the measures themselves afterwards have been disagreed to. He should give his vote in favor of the committal, because he wished to see the principles of these resolutions detailed; but he by no means pledged himself to vote for the passage of the bill.

The gentleman from Kentucky had spoken of two parties in this country, but that the decision upon a resolution of this morning proved that there is now a third party. He supposed the gentleman who had made the motion alluded to would have given some reasons why it ought to be agreed to; but not having done that, he voted against it.

[The Speaker reminded Mr. W. of the question.]

He then observed in reply to the remark of the gentleman from North Carolina (Mr. R. Williams) with respect to treaties, that it was clear from the writers on the laws of nations, that when one nation breaks a treaty, it is no longer obligatory on the other party. But treaties are now-a-days, done away, and power substituted in their place.

According to the opinion which gentlemen had themselves expressed, Congress had already agreed to form different measures, which would involve the country in war. If the present bill was passed (and he doubted not it would) it will be the fifth, though the gentleman from Pennsylvania has said that this reference will give the Committee for the Protection of Commerce and the Defence of the Country no new power, and of course, in his opinion, it could make no difference whether these resolutions are referred or not.

The yeas and nays were taken, and the question was negatived—42 to 41, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, junior, James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, and John Williams.

Nays—George Baer, jun., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Stephen Bullock, Demsey Burges, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. Sitgreaves moved to postpone the consideration of these resolutions for two weeks, which motion was seconded by Mr. J. Parker.

Mr. S. afterwards withdrew his motion for a postponement for two weeks, and moved a postponement of one week.

Mr. J. Parker renewed his motion for a postponement for two weeks.

Mr. Venable inquired whether it was in order to take any further question upon the resolutions, the original motion having been negatived.

The Speaker answered, that the question on reference having been disagreed to, the resolutions themselves are now before the House.

Mr. Venable said, he had thought it was not in order to enter again upon the consideration of these resolutions, after the question which had been taken upon them. He knew that, to suffer

them to lie on the table, could have no effect upon the people of this country, but it might have effect on the conduct of a foreign nation, as, when they heard such resolutions were under consideration, and of course likely to be adopted, they might anticipate their being carried into law, and proceed to seize the property of our citizens in their ports. If this motion were to be negatived, or withdrawn for the present, it might be brought forward again, whenever gentlemen shall think it ought to be adopted. He was as much opposed to the suspension, as he was against the reference of these resolutions.

Mr. Sewall said, the gentleman from Virginia had not pointed out any mischief which could arise from a postponement of this motion. He had said, that passing a negative upon it, will leave us in the same situation in which we were before it was brought forward. He apprehended not. It would be saying to the French nation, "notwithstanding all the injuries you have heaped upon us, we will not take active measures against you." It was saying we will not go beyond defensive measures. It was coming to an ultimatum before we know to what extremity France means to drive us. To have postponed the consideration of the question was a very different motion from the present. But gentlemen were desirous of taking a question upon the resolutions themselves, without debate. He hoped, however, this would not be the case, but that the consideration of them would be postponed.

Mr. Macon hoped the consideration of these resolutions would not be postponed. It was a little curious that a gentleman who was a few minutes ago against a postponement for a week, was now become an advocate for a postponement for a fortnight.

The Speaker said, the two questions were different.

Mr. Rutledge rose to make this observation: That members opposed to the former motion for postponement, when a mere question of reference was under consideration, might with propriety be in favor of it when the question comes to be final upon the resolution.

Mr. R. wished gentlemen to use their victory with moderation. He believed the country was big with expectation that spirited measures would be entered into. He did not believe they approved of the half-measures which Congress took. Indeed, the countries which France had overcome, had been overcome chiefly from their taking half-measures while France had taken whole measures. He hoped the postponement would be agreed to; as if the next advices from our Envoys are not more favorable than the last were, he supposed there could be no hesitation in agreeing to have these resolutions carried into effect, and to reject them would have a mischievous effect.

Mr. Lyon called for the yeas and nays on the question, but as one-fifth of the members present did not rise in favor of it, the question was not carried.

Mr. Davis wished the mover to withdraw his resolution.

The question on postponement was put and carried—44 to 40.

Immediately after which, Mr. Blount moved the following:

"Whereas the King and Government of Great Britain, regardless of those principles of good faith which ought to insure a due observance of treaties, have in various instances violated the express stipulations of the treaties heretofore made and subsisting between the United States and the British nation, in a manner highly injurious to the interest and honor of the United States; by reason whereof, the United States are released from all obligation on their part to respect the said treaties, or consider themselves as holden or bound thereby:

"*Resolved*, That it is expedient to make a Legislative declaration, notifying the citizens of the United States, and all others concerned, that the said treaties are no longer obligatory upon the United States."

Mr. Harper called for the question upon it.

The Speaker was about to put it, when

Mr. Gallatin asked if this resolution would not require the concurrence of the Senate? If so, he supposed it must of course lie, at least one day, upon the table.

The Speaker answered in the negative.

The yeas and nays were called for, and agreed to be taken.

Mr. Blount said, he proposed that this motion should lie upon the table, and it was not his intention to have called it up until the resolution which had just been postponed with respect to France, was decided upon. He had been opposed to that resolution; and to take the question upon this resolution would place him in an awkward situation, as he did not wish it to be adopted, except the motion with respect to France was adopted. But if it be right to come to a resolution of this kind with respect to France, it would be equally so with regard to Great Britain; for if her violations of the treaty subsisting between the two countries have not been so great as those of France, they have been great enough to justify this resolution.

Mr. B. said, he did not expect gentlemen would have shown so much indecency of conduct towards his motion as they had done; since it must have been evident to them that he did not intend to have it decided at present.

Mr. Venable was sorry this resolution had been laid on the table. We are, said he, in difficulties sufficient already without unnecessarily increasing them. Even if the other resolution should be adopted, he should be unwilling to have this brought forward. He hoped, as from what the mover had said, he did not wish it now to be decided upon, that he would withdraw his motion.

Mr. Blount withdrew his motion, saying he would introduce it at a future day.

INTERCOURSE WITH FRANCE.

The amendments of the Senate to the bill for suspending the intercourse between the United States and France, and to the bill providing for the more effectual collection of certain internal revenues, were read, and ordered to be printed.

DIRECT TAXES.

Mr. Harper called for the order of the day on the bill to provide for the valuation of lands and dwelling houses, and the enumeration of slaves, within the United States; which being read,

Mr. Gallatin said, the original bill provided that every dwelling house with its appurtenances, &c., above the value of $200, should be separately enumerated; but in the present bill the provision is extended to all houses above the value of $100. He would move, therefore, to strike out the $100 for the purpose of inserting 200 dollars, as before, in order that houses under that valuation might be valued along with the land to which they belonged, which would save a great deal of trouble to the assessors, and be more agreeable to the people.

Mr. Harper believed the amendment contained a principle by no means advantageous. If it be desirable to have a distinct and accurate knowledge of the different species of taxable property throughout the United States, it will not be effected if this amendment be adopted. Even if all houses of the value of $100 are enumerated, Government would be deprived of a considerable share of information which it might possess, if the provision was not so confined. It would be desirable to know what number of houses there are in the United States under the value of $100; but these, according to this bill, will not be enumerated, but valued along with the land; but if, instead of being limited to houses above the value of $100, it should be extended to $200, it would exclude from enumeration a great proportion of the houses in the country, and Government would be left in the dark as to this species of property of the United States, which might be necessary for the laying of future taxes.

Mr. Venable said, the gentleman from South Carolina admits, that the non-enumeration of those small houses would take nothing from the value, or the amount of the tax, yet he insists upon the great advantage which will be derived to Government by such an enumeration, though he does not say what that advantage will be. If every house-keeper was returned, he should suppose every purpose of the gentleman would be answered and the enumeration which he wishes would doubtless occasion much trouble, and he could not see that it would be of any use. He thought it would not be worth while to report a house not worth less than $200, but let them go along with other property. He hoped, therefore, the motion would prevail.

Mr. Gallatin remarked, that the gentleman from South Carolina did not object to this amendment, because it would excuse any number of houses from taxation but merely from description; that is to say, we shall not be in possession of the number of houses in the United States of from $100 to $200 value; for these houses of small value will nevertheless be valued along with the land and other improvements.

What is the object, Mr. G. asked, of obtaining this return of small houses? It is not to lay a tax upon them at present, but that hereafter Congress may with facility lay a tax upon them, to a larger amount than is laid upon the lands; and it was because it was to be made use of as a ground of future taxation, that he wished them to be excused from enumeration, and separate value. He was of opinion that houses of the value of $200 and under, ought not to be taxed at any higher rate than lands. He did not think they were a criterion of that property which ought to be taxed. The Secretary of the Treasury, in his plan, proposed to excuse from enumeration houses of the value of 200 dollars, and under; and they certainly ought to be excused, as they are generally possessed by a description of farmers and laborers, who are not in circumstances to pay such a tax. And, as it is acknowledged that the want of enumeration will not excuse those houses from a tax in proportion to their value, it is of some consequence to levy the tax in a manner which shall be the least disagreeable to the people; their prejudices ought to be consulted, particularly the prejudices of those who live in a part of the country where they can get the least information. Such people, when they saw their houses and lands valued separately, contrary to the custom of the State, would apprehend a double tax was about to be laid upon them, and such an idea might excite great discontent.

Mr. Otis thought this motion premature, as it had a tendency to involve a principle which was intended to be kept out of sight in this bill. It is the object of this bill merely to provide for a valuation of property. It has nothing to do with the tax to be laid. After the valuation had been directed, it will become a question in another bill, whether or not any part shall be excused from taxation. He was not himself prepared to say that all houses under the value of $200 ought to be excused from taxation. He could not say that men living in houses of this description will not be able to pay a tax of half a dollar a year. If this description of houses were wholly to be exempted from tax, it might influence men when they went upon a tract of land, to build houses of this description, in order to avoid tax, instead of building good houses in the first instance. He wished to have this information distinct; it might not be useful only for future taxation, but also for ascertaining the number of militia, and for other purposes, especially as it might be obtained without any additional expense. He supposed the description of houses proposed to be excused, would amount to $150,000, which at half a dollar each, would amount to $75,000, which he thought was too serious an object to be abandoned. As to the alarm which gentlemen predicted that this separate valuation would produce, he could not conceive any such thing. He believed the difficulties which this bill met with in its passage, would create more alarm than anything else.

Mr. Harper said, the language of the gentleman from Pennsylvania, on former occasions, contrasted with what he said on the present, would, to use a favorite European expression, exhibit a *strange spectacle*. How often has that gentleman said, that it was necessary to place

confidence in future Congresses; to believe that they would do what was right and proper to be done. But now he is opposed to the information being obtained, lest a future Congress should abuse it, lest they should lay too heavy a tax upon this description of the people. He, on the contrary, supposed future Congresses would do their duty, and he wished to do his by obtaining the necessary information. He wished to give them data upon which to act, if they think proper. Having this, they can have the houses and land valued together, or separately, as they shall judge best, but the gentleman from Pennsylvania is opposed to this. It was his wish, indeed, not to have separated houses from land at all. That gentleman was fearful of the people being alarmed by a separate value being put upon houses, lest a double tax was about to be imposed; but he could not conceive them to be such blockheads; he believed they would see the reasonableness of the thing, and when they were told the most valuable houses were taxed according to their value, they must allow that the principle is a just one. He could not see, therefore, any use in adopting the amendment, except it was thought proper to hoodwink future Congresses, to prevent them from doing what would be improper.

Mr. W. Claiborne was in favor of the motion. It appeared to him to be founded on justice and sound policy. He believed the people in the country would not be such blockheads (to use the phraseology of the gentleman from South Carolina) as not to know that when a separate value was put upon their houses, that they put it in the power of a future Congress to tax their houses separately; and he was of opinion that such a persuasion would excite alarm and general disapprobation. He believed it would be extremely wrong to lay a direct tax on houses of the value of $200 and under, as they are generally the abodes of poverty; and he could not fancy to himself a more degrading sight than to see our collectors sent to the door of the humble cottager to ask half a dollar for the privilege of his shelter from the inclemency of the seasons.

Mr. C. had another objection to the enumeration of houses of this description. He believed it would be a tax upon the cultivation of the soil, and would excuse the wealthy landholder from paying his portion of it.

The gentleman from Massachusetts observed that a wealthy man might build himself a humble cottage, in order to excuse himself from paying the tax. He did not believe this would ever be the case. He believed the wealthy man would always consult his ease and comfort, and never live in a house worth less than $200, for the sake of saving the tax. Let gentlemen travel into new settled countries, and they will find, that as soon as they can get them, men who have property, will have comfortable houses, and that these persons (generally speaking) who occupy houses of the value of $200 and under, are not objects of taxation.

Mr. C. concluded by observing, that Congres ought to endeavor to make this tax as palatable as possible to the people; and if there be any part of it more than another calculated to excite dissatisfaction, it ought to be struck out. The amendment under consideration, in his opinion, went to remove what would be a source of dissatisfaction, and therefore it had his cordial support.

Mr. J. Williams was opposed to the motion; for though he did not like the provision in this bill so well as that in the original bill, he thought it would be much better as it is, than as it is proposed to be amended. The arguments used in support of this motion, he thought would be more fully used in a future Congress. He did not think they were at all applicable to the present question, as the present bill went only to a valuation of property preparatory to the laying of a tax.

But it is said, if houses and land are thus divided, the tax will fall heavily upon the poorer classes of society. This, he said, was certainly a mistaken notion. And the gentleman from Tennessee says, it would be a degrading sight to see a tax gatherer call upon a cottager for half a dollar for his house; but if land and houses were valued together, the tax gatherer would still have to call upon the cottager for his tax; and that gentleman must know that a great part of the people who settle upon back lands live in houses of a less value than of one hundred dollars. And where this is the case, he will be excused from any tax. If, by separating houses from land, a heavier tax can be put upon large and elegant houses than would otherwise be put upon them, it ought to be done. As to small houses, it would make but little difference whether they were valued with the land, or separate.

The question on striking out was negatived, there being only 21 voters in favor of it.

The committee rose, and had leave to sit again.

ALIEN ENEMIES, &c.

Mr. Sewall, from the Committee for the Protection of Commerce and the Defence of the Country, reported the bill respecting alien enemies, newly modified, which was some days ago recommitted to that committee for that purpose. Also, a bill authorizing merchant vessels to defend themselves against French depredations. This bill authorizes the commanders and crews of merchant vessels to oppose the attack or search of any French armed vessel, and to repel any such search or attack by force, and to capture the vessels making such attack. All such captures to go one-half to the owner of the vessel making the capture, and the other half to the captors. No armed merchant vessel to be suffered to clear out, but such as is owned by a citizen of the United States, who, together with the commander, shall enter into bond, that she shall not commit any outrage against the vessels of any nation at amity with the United States, and that said vessel shall not, during her voyage, carry any articles contraband of war.

A bill was received from the Senate entitled "An act concerning aliens." This bill goes to authorize the President of the United States to order all such aliens as he shall deem dangerous to the

United States, to depart out of its territory; and if, after such order, any such alien shall be found at large, he shall be imprisoned for three years, and forever after deprived of the privilege of becoming a citizen of the United States. And if any alien shall return to this country, after he shall have been sent out of it, he shall be imprisoned and kept to hard labor for life. And all commanders of vessels who shall arrive in any of the ports of the United States after the 1st day of July next, shall make a report in writing of all aliens who shall come passengers on board their vessels, giving an account of their age, profession, description of their person, &c., on pain of forfeiting three hundred dollars.

These bills were severally made the order of the day for Monday.

Saturday, June 9.

Mr. J. Parker moved that the bills, with the amendments of the Senate to them, for altering the time of entering stills, and for the more effectual collection of the internal revenues, be referred to a select committee. Agreed to.

The House spent the remainder of the day principally in going through a very long bill to provide for the valuation of lands and dwelling houses, and the enumeration of slaves within the United States, previously to the laying a direct tax on them. The bill was gone through in the Committee of the Whole, without any debate of consequence, except as to what related to filling the blanks intended to contain the amount to be appropriated for carrying the law into execution, the salary of the Commissioners, Assessors, &c. The committee had leave to sit again. No other business of importance was done this day.

Monday, June 11.

Mr. Harper, from the Committee of Ways and Means, reported a bill providing for the enumeration of the inhabitants of the United States; which was committed for Wednesday.

INTERCOURSE WITH FRANCE.

The order of the day was called for on the bill providing for the valuation of lands and houses, and the enumeration of slaves.

Mr. Sewall hoped before the order of the day was gone into, the amendment of the Senate to the bill for suspending the commercial intercourse between the United States and France, would be taken up.

The question for suspending the unfinished business, being postponed for this purpose, 37 to 32, the amendments of the Senate to the bill above named were taken up. The principal of which was, a provision that the President should have the power of excluding vessels from the operation of this act, in all cases where he shall judge it proper. This amendment being objected to, it was modified by striking out "in all cases," and inserting, "any vessel which shall be necessary for aiding the departure of French persons resident here, wishing to depart with their goods and effects from the United States." The Senate afterwards informed the House that they concurred in the amendment.

DIRECT TAXES.

The House then again resolved itself into a Committee of the Whole on the bill providing for the valuation of houses and lands, and for the enumeration of slaves.

The blank appropriating a sum of money for carrying this law into effect, was filled with one hundred and fifty thousand dollars.

Mr. Venable moved to exclude female slaves from the tax. The motion was negatived—35 to 29.

The committee rose, and the House having taken up the report,

Mr. T. Claiborne moved to change the age at which negroes are to be enumerated from 12 to 50 to from 16 to 50. The motion was negatived—38 to 36.

Mr. Tillinghast renewed a motion which had been negatived in the Committee of the Whole, to extend the tax from houses and land to other property, by inserting in the 8th section the following words: "And such other property as by the law and usage is taxable, by the respective States within their respective districts, in the assessment of direct taxes." Mr. T. called the yeas and nays upon this question. He thought it unreasonable that a man possessing a piece of land of the value of two hundred dollars, should pay a tax, whilst his neighbour, possessed of immediate property of a different kind, should be excused from tax.

The yeas and nays were taken, and the question negatived—59 to 22, as follows:

Yeas—Abraham Baldwin, Lemuel Benton, Stephen Bullock, Christopher G. Champlin, Thomas Claiborne, William Charles Cole Claiborne, Thomas T. Davis, John Dawson, John Fowler, Jonathan Freeman, Jonathan N. Havens, Samuel Lyman, Matthew Lyon, Nathaniel Macon, William Shepard, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, and Joseph B. Varnum.

Nays—John Allen, George Baer, jr., David Bard, Bailey Bartlett, James A. Bayard, Thomas Blount, David Brooks, Demsey Burges, John Chapman, John Clopton, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Albert Gallatin, Henry Glen, Chauncey Goodrich, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, William Matthews, Blair McClenachan, John Milledge, Lewis R. Morris, Anthony New, Harrison G. Otis, Isaac Parker, Josiah Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, William Smith, Richard Sprigg, jr., George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Abraham Venable, Peleg Wadsworth, John Williams, and Robert Williams.

The bill was then ordered to be engrossed for a third reading on Wednesday.

Tuesday, June 12.

Mr. Harper presented the following resolutions to the House, which were referred to a Committee of the whole House:

"*Resolved*, That the sum of —— dollars ought to be appropriated for the support, during the year 1798, of the regiment of artillery and engineers, to be raised pursuant to the act entitled "an act for raising an additional regiment of artillery and engineers.

"*Resolved*, That provision ought to be made by law, for enabling the President of the United States to borrow such sums of money as may be necessary for the public service, during the year 1798, in addition to the present revenue of the United States."

DEFENCE OF MERCHANT VESSELS.

Mr. Sitgreaves called for the order of the day on the bill to authorize the defence of merchant vessels of the United States against French depredations.

The House accordingly resolved itself into a Committee of the Whole on that bill, Mr. Dent in the Chair; when the third section, in the following words, being under consideration:

Section 3. That, after notice of this act at the several custom-houses, no armed merchant vessel of the United States shall receive a clearance or permit, or shall be suffered to depart therefrom, unless the same shall be owned wholly by a citizen or citizens thereof, nor unless such owner or owners, and the master or commander of such vessel, for the intended voyage, with one or more sufficient surety or sureties, shall give bond, to the use of the United States, in a sum of ——, with condition that such vessel shall not make or commit any depredation, outrage, unlawful assault, or unprovoked violence, upon the high seas, against the vessel of any nation in amity with the United States; and that during her intended voyage, and until her return within the United States, while armed as aforesaid, there shall not be carried in such vessel, to any belligerent nation, any goods or merchandise contraband of war, or any provisions or other articles, to any place actually besieged or invested, or any property of a belligerent nation, or of the citizens or subjects thereof; and that the guns, arms, and ammunition of such vessel shall be returned within the United States, or otherwise accounted for, and shall not be sold or disposed of in any foreign port or place; and that such owner or owners, and the commander and crew of such merchant vessel, shall, in all things, observe and perform such further instructions in the premises, as the President of the United States shall establish and order, for the better government of the armed merchant vessels of the United States."

Mr. Sitgreaves moved to strike out the following words in this section, "or any property of a belligerent nation, or of the citizens and subjects thereof." He could not conceive upon what principle these words had been introduced. He apprehended this bill to be, as the title purported, "a bill to authorize the defence of the merchant vessels of the United States against French depredations"—a bill for the protection of the lawful commerce of our citizens; as, therefore, so far as it respects France, the vessels of the United States are authorized to carry the goods of the belligerent Powers, by the express stipulations of our treaty with that country, it follows that such vessels are engaged in a lawful commerce; and he could not understand why a clause had been introduced into this bill to prohibit merchants from arming their vessels in its defence. It might be proper, perhaps, to bind the owner and master to fulfil the other provisions of the section; but when our treaty with France stipulates that free bottoms shall make free goods, he did not think it right to oblige our merchants to give bond which would deprive them of the necessary protection in this case, which is to be allowed to the other branches of our commerce. It would defeat the very end and object of the bill, and abandon our vessels defenceless to the lawless arrests of the French Directory.

Mr. Sewall was not disposed warmly to contest the opinion of the gentleman from Pennsylvania, or, if the words which he thought objectionable were struck out, he should not be uneasy about them; but it was the opinion of the committee who reported the bill, that we ought to show to all nations we did not mean to do anything contrary to the laws of nations. Our treaty with France was an exception to the general rules of the laws of nations. It had been contended by France that the doctrine of the laws of nations was otherwise; but Great Britain had insisted upon a contrary stipulation, viz: that an enemy's property may be seized on board a neutral ship. In arming our vessels, therefore, we should show that we do not mean to offend against the property of other nations. It is true we owe France no obedience in respect to our neutral ground. We accordingly refuse her the right to examine our vessels. But, when we put arms on board our vessels, we ought not to consider a treaty as existing which has long since been done away—a treaty which, if France was to claim anything under it, we should deny it to her. And it was only on the ground of that treaty that the gentleman from Pennsylvania could found his objection. He thought the words ought, therefore, to remain.

Mr. Dana said, that when merchant vessels sailed armed, they might have occasion to use their arms against the lawless attacks of different nations, and, therefore, Congress ought to make such regulations as would be proper with respect to all nations; and, in order to effect this, it was necessary to restrict our citizens to a commerce allowed by the laws of nations. Besides, he thought it would be extremely wrong to take any measure on the ground of the treaty with France, which had so long ceased to be obligatory, and which he hoped, before this Congress rose, would be declared null and void. And as the only argument which had been used in favor of this motion had been founded upon that treaty, he hoped it would not prevail.

Mr. Otis wished, for his own part, rather to consider what measures are proper to be taken in relation to existing circumstances, than puzzle himself by referring his inquiries into abstract rights. He wished not to investigate what might be a

proper conduct under certain circumstances, but what is now right and necessary to be done. The design of this bill is, to authorize a defence against French depredations; and he was opposed to the insertion of any clause in this bill which shall betray a fear of going to the extent to which we are entitled by treaty, except we are compelled to give it up. While it existed, we certainly have a right to carry the property of the belligerent Powers—the enemies of France; and these he would insist upon carrying.

Mr. O. said he should have been much better satisfied with a general decision upon the subject, which should have authorized the capture of all the vessels of the French Republic or her dependencies, wherever they are met with. If the committee was not, however, ripe for this, it must yet be deferred for some time. He was opposed to the adoption of half-way measures, because he believed they would all be in vain. The nation against whom we have to guard is the French nation; and it ought to be avowed to the people that half-way measures will never succeed against them; for the sooner the former probable event is declared, the better they will be able to meet it.

Mr. S. Smith said, if he understood the gentleman last up, he is in favor of striking out the words moved to be struck out, though he did not declare it. He was of opinion with him that we ought to consider our present situation. He believed our treaty with France to be as much annulled as if it had never existed; therefore no regulation ought to be taken which should consider that as in existence. This section provides regulations for the government of our armed merchant vessels at sea, in their conduct towards the vessels of all nations. It goes to regulate a natural right, and this right ought to be regulated upon the established principles of the laws of nations. Our treaty with Great Britain says our vessels shall not carry enemy's goods, and to strike out the clause in question would take away our right to oppose the lawless attacks of the British; whereas we have a natural right to oppose the lawless attacks of any nation. If our vessels have Spanish or Dutch property on board, the British armed vessels, after search, might insist upon carrying vessels of this kind into their ports; but our captains would say, "you shall not, except you have superior force."

Was this the situation in which we are to be placed? If so, he should have no objection. He thought "France" had better be struck out, and then the bill would provide that it shall be lawful for our vessels to go out armed, and to defend themselves against all nations when carrying on a lawful trade, but not otherwise.

Mr. Sitgreaves said, that every gentleman who had spoken in opposition to this motion, had assumed a principle which does not exist, viz: that the treaties between this country and France are void. There can be no doubt that the wanton and unprovoked aggressions of France upon our neutral commerce, are a sufficient and justifiable cause for us to declare them void; but, until this declaration is made, they are binding upon all the departments of the Government, as the law of the land. He thought the rule of the law of nations on this subject had been well understood, that the aggressions of one party make the treaty voidable at the choice of the other party, but not actually void until that choice is pronounced. It is competent to the aggrieved nation either to adhere to the treaty and repel the infractions of it, or to declare it null, and discharge themselves, as well of the obligations as of the advantages of it. According to the forms of our Government, it is only by the Congress that the option can be made; and so far as that has not been done, it necessarily follows that the treaty is the rule of conduct for the departments of the Government, and for our citizens generally; that is, except in those cases in which the Congress have not authorized the contrary.

Now what has been done? A motion which had been laid upon the table for declaring these treaties void, had been refused even a reference; and when such a motion has been negatived, shall it be said that our treaties with France are void? If they are void, why so much tenaciousness against making the declaration? Why refuse to declare to our courts of justice, and to our country, the ground upon which we stand? If Congress had done that, they would have done away many of the difficulties which now embarrass them. We have a right, Mr. S. said, to declare our treaties with France void, either in whole or in part, whenever we please, or to declare war; but until our treaties are declared void they must be considered as the law of the land, and it is perfectly reasonable we should avail ourselves of the rights conceded to us by those treaties while we continue bound by any of its obligations. One of those rights is, that our merchants shall cover belligerent property under their neutral flag, and, being authorized to carry on this commerce, it is the duty of Government to defend them in it.

It ought to be recollected that we are pursuing a system of defensive reprisal; a system suited to our situation, according to the laws of nations; a system of reprisal connected with the defence of our lawful commerce. No authority is given to attack any cruiser of the French Republic, nor is the President authorized to fit out privateers to cruise against the merchant vessels of that nation; our vessels will only have power to use their arms in repelling attacks not authorized by the subsisting relation of things between the two countries, and to make reprisals on the aggressors by capture. The Directory have made a decree that the quality of a vessel shall be determined by the quality of her cargo, and that any British property being on board shall be a ground of condemnation not merely of such property, which of itself would be contrary to the treaty, but also of the vessel and the rest of the cargo, which is in direct violation of the law of nations. The avowed intention of this bill is to repel such aggressions, and it must be agreed to be a strange way of doing it, to prevent our merchant vessels thus circumstanced from arming in their defence. Instead of counteracting the effects of the decree, the direct

tendency would be to expose every vessel, that would come within its purview, defenceless to its operations. It would be a bill to sustain and not repel aggression.

The gentleman from Maryland seemed to think that our vessels ought to be authorized to repel the attacks of the vessels of Spain, Holland, and Great Britain, as well as of France. But if our relations with those countries stand upon a different footing, our provisions with respect to them ought to vary according to this difference. If by our treaty with one country we are authorized in the carrying of enemy's property on board our vessels, and not by another, the provisions of the bill might be accommodated to the two cases. But he understood this to be a bill to authorize a defence against French depredations, and in that view only he wished to consider it. If, however, in adopting provisions against French depredations, there should be any apprehension of their operating against other nations in amity with us, let them be duly restricted in that respect, and in that only.

He agreed with gentlemen in opinion who think our treaties with France ought to be declared void, which, when it took place, would require an alteration in this bill; but, until that took place, our merchants have a right to every advantage secured to them by treaty.

Mr. SEWALL said, the gentleman from Pennsylvania contends that the bond proposed to be given by this bill for the lawfulness of the cargo, includes in it what it is lawful for our merchants to carry. There is no law to determine this matter, it can only be determined by the law of nations. Every other article in the bond might as well be objected to. The gentleman from Pennsylvania might as well say, why not carry provisions to a besieged place, or articles contraband of war? But the carrying of these, as well as enemy's property, is forbidden by the laws of nations, and when we authorize our merchant vessels to be armed on the high seas, we ought to restrict them from carrying anything contrary to the laws of nations. He saw nothing of half-way measures in this. He wished the gentleman from Pennsylvania would restrain himself in his observations upon the conduct of a committee, of whom he did not know that he had any reason to think otherwise than well. All the measures, indeed, which are taken, and which are grounded upon our neutral situation, may be called half-way measures. His own opinion was that we had a right to declare war against France, which, if Congress were to do, he supposed his colleague would call that a *whole-way* measure; but when it was seen from all sides of the House, that gentlemen are not ready to go into this situation of things, the committee had done no more than their duty in reporting a bill such as they have reported, which he did not consider as favorable to France, as it denied her the right of search; whereas the British armed vessels would still have the right of search; but if they attempted to take in our vessels contrary to right, the commanders of our merchant vessels would resist them, without attempting to make a capture of their vessels, which they are not authorized to do.

With respect to our treaty with France, he thought it would be extremely objectionable to take any step that would acknowledge it to be still in force. It was a new doctrine to him that it was necessary to make a Legislative declaration that a treaty is void; it was sufficient to declare this by our acts. He considered that treaty to be so far annihilated, that we could not be called upon to do anything which was stipulated in that treaty, and he should wish to avoid anything that would look like a recognition of that treaty. And the gentleman from Pennsylvania will not allow that we ought to take any advantage of an instrument, when we should resist any claim made upon it. This would be perfectly uncandid.

Mr. BAYARD said, this was the first time that he had heard it asserted that, for a neutral vessel to carry enemy's property, was an unlawful commerce. He had always thought that, in case of war between nations, any neutral had a right to carry the property of a belligerent nation, and that it could not be considered as unlawful commerce. He knew that the belligerent Powers had a right of search, and in case they find enemy's property on board a neutral vessel, they have a right to take it, and no more; but no gentleman could say that a neutral having enemy's property on board, rendered her liable to capture.

Then, if he were called upon to decide on the laws of nations in this respect, he should say that a neutral had a right to carry enemy's property; but, in that case, the search of a French privateer ought not to be resisted. Consequently, he believed, that this bill went too far in prohibiting the carrying of enemy's property as unlawful, and, also, in determining to resist a search. But he wished to know whether the bill was predicated on the laws of nations? He did not know how, according to those laws, our merchant vessels could resist the search of any of the vessels of the belligerent Powers. To resist a search, would alone be a sufficient ground of capture. This provision, therefore, is in direct opposition to the laws of nations.

The embarrassment on this occasion, Mr. B. said, arose from the novelty of our situation. We are not in a state of hostility, and no one could say we are in a state of perfect peace. It is plain, that a variety of measures which have been taken during the present session, have not been built upon the laws of nations, as it respects neutral Powers. Indeed, this country cannot be considered as in amity with France. The act passed for cutting off all intercourse between the two countries, could not be considered as a peace measure.

Mr. B. said he would mention another power given to our merchant vessels, not authorized by the laws of nations. They are authorized not only to resist the attack of French privateers, but to subdue and capture them; and, after they are brought into port, to be libelled and condemned, and one-half of what they are sold for is to go to

the owner, and the other half to the seamen. This certainly could not be said to be agreeably to the laws of nations.

Besides, the authority given to the public armed vessels of the United States, was not built upon a state of peace with France, but upon a defensive state, peculiar to our situation; because they are authorized to capture French vessels hovering on our coast, with an intention to commit hostility, and this intention is to be judged of by themselves.

Mr. B. thought the amendment ought not to be objected to, therefore, because it is not exactly in conformity to the laws of nations. We say we are not bound by treaty, because the French have flagrantly violated that treaty. The same may be said with respect to the laws of nations, which they have equally violated. If they had suffered us to have carried on our trade according to the laws of nations, we should have been satisfied; but when they interfere with their armed vessels and will not suffer us to carry on that trade, we are no longer bound by the laws of nations, or by treaties. If these words were not struck out, he should doubt very much the propriety of passing the bill at all.

Mr. DAYTON (the Speaker) differed in opinion with his friend from Delaware, (Mr. BAYARD,) who had asserted that the bill was founded on principles repugnant to the laws of nations. He, on the contrary, believed it to be perfectly consistent with them, for when one belligerent nation arbitrarily assumes a right to issue its decrees for detaining, seizing, carrying into port, and condemning the vessels and cargoes of neutrals, contrary to the known and established laws of nations, it forfeits all the right to search, which those laws might otherwise have entitled it to. The French Republic, in addition to the numerous acts of plunder and hostility committed against those Powers who had determined to take no part in the war, had issued decrees which subjected an American vessel to capture and condemnation, merely for having on board a single article of the manufacture of Great Britain. Having thus outraged and put at defiance the general law of nations, regulating the conduct of States and Sovereigns towards each other, they had no claim to that right of search, which, having been so grossly abused, might be refused to them, consistently with a state of peace, until they should return to a sense of justice.

Equally consistent with the same law, viz: that of nations, and with the same state, viz: that of peace, was the act alluded to by the member from Delaware, prohibiting commercial intercourse with France and its dependencies. It had pleased those in authority throughout the whole extent of that Republic, and particularly in their West India islands, to seize the vessels and cargoes of our citizens, and to detain and confine in prisons our seamen, whenever they arrived in their ports, even when carrying them produce, and that without compensation for the property thus taken. It behooved the Legislature and Government of this country, under these circumstances, and for the purpose of protecting the persons and preserving the property of its citizens, to prohibit any intercourse with a people whose rapacity was only limited by their power.

Mr. D. said he was opposed to the amendment, limited as it is, because it went to admit the treaty as valid at that moment between the United States and France, although utterly disregarded and violated by the latter. He considered it as broken and void, and would never assent to any proposition which admitted the implication that this country was still bound by it. If an act declaring its abrogation was necessary, he was ready to agree to one, but, in the meantime, he hoped that they should not be prevented by any belief of its being still in force, from taking every measure which the protection of commerce and the defence of the country required. He saw and felt the embarrassment of the House upon this, as well as upon other bills, which had been lately under discussion. It arose from the indecision of many gentlemen, whose intentions were, however, pure, from a desire to adopt only half-way measures, which were always awkward, always embarrassing, and rarely reconcileable with any fixed principle. He lamented, exceedingly, that there was not yet a clear majority wearied with this unprofitable, ruinous, and degrading forbearance, and prepared to take the most decisive measures; for, whilst they were balancing thus between the obligation and dissolution of former treaties, and were kept in a state of uncertainty and suspense between peace and war, no effectual preparations, no active exertions, would be made by the Government or the people. To strike out the words proposed in the amendment, was doing too much, if the object was to provide for protecting merchant vessels against all the belligerent Powers; and it was doing too little, if the intention was, as the title imported, to protect them against French depredations. Mr. D. considered it in the latter point of view, and, therefore, hoped that the motion would be varied by the mover, so as to strike out also the following words, in the three preceding lines, viz: "there shall not be carried to any belligerent nation, any goods or merchandise contraband of war, or any provisions or other articles to any place actually besieged or invested."

Mr. GALLATIN could not conceive why the gentleman from New Jersey should be so much afraid of recognising the existence of our treaty with France. If we had no such treaty with any other Power, the thing would be different; but he had forgotten that we have treaties with Holland and Spain of the same nature. Therefore, in relation to the laws of nations, or to our treaties, these words may be struck out. In our treaties with Spain and Holland, it is determined that free bottoms shall make free goods, and if we wish to insist upon, and defend that right, we have an undoubted right to do so, and he considered the question now before the committee as a mere matter of expediency.

In relation to France, he did not think it mattered anything whether our treaty with that country be considered as in existence or not; because,

after the other provisions of this bill are agreed to, it would be immaterial whether our vessels had English goods on board or not, for there could be no doubt that the French would attack and capture (if they are able) every American vessel they fall in with, and they will not be the less condemned for not having British goods on board.

This section, Mr. G. said, is of a general nature; it gives direction for the regulation of our armed merchant vessels towards all nations; and here is this difficulty in the way. With Spain and Holland we have treaties of one kind, and with Great Britain of another. Having entered into these different stipulations, when we are about to adopt a general rule with respect to them, we are obliged to do it in conformity to the British Treaty, as most general; because it is impossible we can say to the commanders of our armed merchant vessels, "You shall capture the vessels of one nation, who shall molest you contrary to the law of nations and treaties, and not any other." On this account the words, he supposed, had been introduced, and on this account he should vote against the motion for striking them out. But if our treaty with Great Britain were of the same nature with our treaties with Spain and Holland, he should have voted for it.

As to any arguments which have been drawn from the French Treaty, he could not understand them, or see how they could apply to the question.

Mr. HARPER said, he should vote against this amendment, because he thought our treaty with France was out of the question, and because he thought it proper to regulate this business upon the ground of the law of nations. He did not coincide in opinion with those gentlemen who think it necessary to make a Legislative declaration that our treaty with France is void. He believed it would be right for them to proceed with the passing of such laws as they believed to be necessary, according to the present situation of the country. In doing which, he should pay no more attention to that treaty than he should do to a chapter in the Koran.

But gentlemen appeared to confound the right of search with the right of capture. The right of search is universal. A belligerent Power has a right to search the vessels of every neutral nation. But this right may, nevertheless, be abused. After the vessel of a belligerent Power has searched a neutral vessel, she may proceed to capture it, contrary to treaty and the law of nations. The mode of making this search may be violated. France has violated the mode, by making it contrary to the rules prescribed by her treaty with us, and abused the right by capturing vessels after they have been searched, where there was no ground for capture. Having, therefore, abused the right, he would resist all search in future. He would say to French armed vessels, "You have abused this right of search, therefore we will not allow you that privilege. You have a right to come upon our coast with your privateers, and into our harbors with your ships of war; but, as you have abused this right, we will not allow it you any longer."

What, then, are the principles upon which we mean to regulate the arming of our vessels? They are the principles of the laws of nations, upon which our Envoys have been directed to negotiate a treaty. We have said we are desirous of putting enemy's property on board neutral vessels in the same situation in which it is placed in our treaty with Great Britain—that is to say, that a belligerent Power shall have a right to seize an enemy's property on board a neutral ship; but that, as France has so grossly abused the right, we refuse to allow it to her in future.

This, he conceived to be a proper line of conduct, according to the system which we have adopted for the defence of our commerce. We have said to France, "You have infringed our rights, and we are determined to protect them; we will call forth the resources of our country, and resist your attacks." We have not said we will make war; but we have said we will repel your violations. This, said Mr. H., is the situation in which we are, and all our acts are to be justified on this ground.

But the amendment of the gentleman from Pennsylvania (Mr. SITGREAVES) has gone a step farther. He not only wished that we should carry on a trade authorized by the laws of nations, but also what we were authorized to carry on by our treaty with France, which was something beyond the laws of nations. We have allowed to the British, by treaty, the right to seize the goods of an enemy on board our vessels; but with the French, Spanish, and Dutch, it has been stipulated that free bottoms make free goods—and to adopt this amendment would be to say, we will resist the right allowed to the two latter nations. He was therefore of opinion that it ought to be rejected.

If merchants choose to carry on a trade different from this, they would then have to do it in unarmed vessels. When we shall have gone a step farther, and, instead of a defensive system, shall have resolved upon making general reprisals, or war, (for he looked upon general reprisals to be tantamount to war,) then it will be proper to take measures accordingly; but, even then, we ought not to adopt our measures against any other nation than that with whom we may be at war. Therefore, when we shall authorize letters of marque and general reprisals, it would be improper to adopt this regulation, because it would extend to other nations whom we do not mean to place upon the same footing with France. When that period shall arrive, it will be proper to say, "Our vessels shall carry what goods their owners please, and whither they please, and we will defend them to the best of our ability." We have not yet said this, and until we do, he did not think it would be prudent to take the step proposed by this amendment.

Mr. S. SMITH perfectly coincided with the ideas of the gentleman from Delaware, (Mr. BAYARD,) as to what is a fair trade. We have a right to carry the property of either of the belligerent Powers, our own produce, or arms and ammunition, to any place we please. It is all fair trade;

because we do so at our own risk, and if the articles are contraband, and our vessels are met by those of any of the belligerent Powers, those goods will be taken. But now we are about to authorize a defence of our trade by force of arms, and yet it is said we ought not to prevent our merchants from carrying on a trade which is not right with respect to the Powers at war, and which is contrary to the laws of nations. He thought, when our vessels armed, they ought only to carry on a trade which is clearly authorized by the laws of nations.

Mr. S. also agreed with the gentleman from South Carolina, (Mr. HARPER,) that, where nations abuse the right of search, we can with propriety withhold from them the right. That all belligerent Powers have the right of search every man must allow; but, when abused, we certainly have a right to resist that abuse. This had been the case with each of the belligerent Powers with respect to this country. We have a treaty with Great Britain, which says that a vessel bound into a blockaded port shall be turned away from it, and, if she attempts afterwards to enter, she shall be deemed a good prize. The American merchants acted accordingly. But Great Britain has since declared that vessels bound to any such port shall be a prize in the first instance. We know that sixty or seventy of our vessels have been carried into Cape Nichola Mole, and condemned by Cambault, who, the British Government says, acts without their authority.

We do not, therefore, know where to seek for redress. Supposing, then, that a British privateer should attack one of our vessels in the neighborhood of Cape Nichola Mole, evidently with an intention of capturing and carrying her in, and, if she was carried in, it was certain she would be condemned, since none escape condemnation, would it not be right to resist the attack? He thought it would; because it makes no difference to a merchant who loses his property whether it be taken by order of Victor Hugues, because the vessel has an Irish supercargo on board, or by order of Cambault, because his vessel is bound to a French port. The loss is the same in both cases. He hoped, therefore, the amendment would be disagreed to; it might have a very bad effect.

Mr. SITGREAVES did not believe that gentlemen supposed he had these views which they stated. Indeed, they speak of its tendency, rather than the design of the mover. They do not think it was his intention that our vessels should resist by force the search of the vessels of any Power besides those of the French Republic. If the committee have confounded two things, which he thought perfectly distinct, it was not his fault. He had supposed that this bill was to authorize a certain system of defence against the French Republic. He looked at the bill, and found nothing in it with respect to any other than French cruisers. Not a word was said about that general defence of which several gentlemen had spoken. On the other hand, he found that our merchants and the masters of their vessels were to enter into a bond not to "commit any depredation, outrage, unlawful assault, or unprovoked violence, against the vessel of any nation in amity with the United States," and if our vessel shall resist the search of such vessel, she would doubtless become a lawful prize; or if a British armed vessel shall find French property on board of our vessels, it will be contrary to the bond which has been given, and the British will have a right to carry the vessel into port, in order to condemn such property, and therefore this bill could only go to French depredations. If these things are so confounded as gentlemen seem to think them, he believed it would be necessary to strike out of the bill more words than he had contemplated.

If it is really the intention of the gentleman from South Carolina to draw the line between French vessels and others, this bill does not draw that line. That gentleman allows that the conduct of the French has been such as to authorize us to resist the search which the laws of nations gives them a right to make, be the cargoes of our vessels what they may; yet he would oblige our merchants to deprive themselves of their right to carry a cargo unquestionably lawful, or to carry it without the power of defence. If a vessel carries British property, she must sail armed, and be obliged to submit to the search and seizure of French vessels, which he admits ought not to be submitted to.

If it be the sincere desire of gentlemen, therefore, to make a distinction between the Powers at war, and to leave our commerce with other nations upon the same footing on which it stands at present, it would be proper to strike out these words, "there shall not be carried in such vessel, to any belligerent nation, any goods or merchandise contraband of war, or any provisions or other articles, to any place actually besieged or invested," which precede the words already moved to be struck out, and to add in their place, "and shall not resist the lawful search of the armed vessels of any of the belligerent Powers, except the French Republic." This would be drawing the line which gentlemen had spoken of; it would be taking from the French Republic a right which they have always abused, and leaving it with other Powers unimpeded. Mr. S. concluded by making this motion.

Mr. DAYTON (the Speaker) said, he could most heartily agree to the amendment, varied as it had been by the mover, so as to lay our armed vessels under no prohibition from carrying what they pleased, free from search or seizure by French ships. It obviated entirely the objection he had offered against the first motion, because in its present latitude it was not founded on the presumption of our being obligated to grant any privileges to France under a treaty which they had so flagrantly violated, nor even the right of examination and search, to which those belligerent nations only are entitled, who know how to respect the rights and sovereignty of others.

Mr. THATCHER wished the gentleman who moved it would except the word "lawful" from his amendment.

Mr. DANA, at the present moment, was not pre-

pared to say that he approved of this amendment. The tendency of the motion is, that we are willing to contend at sea for the privilege of carrying articles contraband of war, of carrying provisions to a blockaded port, and of carrying the goods of a belligerent Power. In a commercial view, he could not consider such a measure as at present necessary; and in a political view, he could not think these privileges worth a single shot. He hoped, therefore, they would not be contended for.

Mr. Sitgreaves did not know how the gentleman from Connecticut could attach this tendency to his motion. These things are certainly not proposed to be contended for. All nations will have the same liberty of search as before, except the French Republic. We say, because they have abused the power, we will resist any future attempts of theirs to search our vessels under any circumstances. The gentleman must see, therefore, that there is no ground for his remarks.

Mr. S. Smith said, if he understood the motion, it went completely to confine our armed merchant vessels, in their defence against illegal attacks, to French vessels. So that if ever so many unjustifiable attacks are made upon our vessels by British, Spanish, or Dutch cruisers, no resistance is to be offered. And the British are nearly as much in the habit of making illegal seizures of our vessels as the French; and the French might very well act under Spanish commissions, and by that means avoid the regulations intended to operate against France only. Our vessels would not be able to resist any of those attacks made upon them in the neighborhood of Cape Nichola Mole; and if not, almost every vessel which sails that way will be taken, and except the master has got 3,000 dollars to purchase the ransom of his vessel, he cannot prevent her being libelled; and, if libelled, she will certainly be condemned. And when our merchants go to Great Britain with complaints, they are told that Cambault is an unauthorized judge; that no such man is known to their Government; and how merchants who have lost their property in this way will get any satisfaction he could not tell.

Mr. S. was of opinion, that unlesss our merchants were to have the power of attacking and capturing the vessels of the British, Spanish, and Dutch, they would be in a worse situation than at present; because now they believe they have a natural right to defend themselves and their property against the unjustifiable attacks of any nation, and arm accordingly. Because the French nation has gone beyond any other in her injuries towards us, we ought not certainly to tie up our hands with respect to other nations, whose violations of our rights, though they are not so enormous as those of the French, are every day coming to our ears.

Mr. D. Foster believed, the more the committee investigated this subject, the more they would be convinced that it would not be proper to retain any part of the section. He therefore moved to strike it out.

Mr. Bayard was opposed to striking out the whole. He thought that part of it requiring a bond for the return of the arms and ammunition which are taken out on a voyage ought by all means to be retained.

Mr. N. Smith inquired whether it would not answer all the purpose which the mover of this amendment had in view, to strike out the following words, which immediately precede those already moved to be struck out, viz: "and that during her intended voyage, and until her return within the United States, while armed as aforesaid."

Mr. D. Foster said he was willing to accept of this amendment in place of his.

Mr. Sewall said, the committee had to weigh the advantages to be derived from carrying on our commerce in armed vessels instead of unarmed ones. If this part of the section was struck out, he took it that our armed as well as unarmed vessels may carry goods contraband of war, enemy's goods, and provisions, to a blockaded port. The consequence will be, that when our armed vessels are questioned by any of the armed vessels of Spain, Holland, or England, they may, and probably will resist their search, and by that means procure a condemnation of their vessels and cargoes; by which means we shall be deprived of arms and ammunition, of which we may stand in great need at the time. He was of opinion, though it might be proper to carry on a contraband trade in unarmed vessels, that it would be improper it should be suffered in armed vessels, as it is a part of our trade which had the least claim upon our protection. But if gentlemen thought the profits arising from this trade were so great as to warrant the risk that would be encountered in suffering it to be carried on in armed vessels, they are right in wishing it. It had not struck him in this light.

Mr. N. Smith observed, that the gentleman from Massachusetts did not rightly understand the force of this amendment. If these words are struck out, the bond will engage that the armed vessels shall not commit any depredation, outrage, unlawful assault, or unprovoked violence, against the vessel of any nation in amity with the United States. This will be security to us against any improper conduct in our commanders in the cases which the gentleman had named; and he confessed, if they restricted the vessels of countries in amity with us, he was willing they should do what they pleased with such as are at war with us. He did himself, at this time, consider the French Republic as at war with this country. He believed they had been long at war with us. Every gentleman was ready to acknowledge that they had set aside the treaty between the two countries; and he believed that our peace and neutrality were destroyed by that act. Although we should adopt the propositions of this bill, and act upon them; although our privateers are directed to bring in the vessels of the French Republic; although we have suspended all intercourse with that country, shall we still consider ourselves in a state of peace and neutrality? and, being so, prevent our citizens from doing what they please toward them? He believed not. He wished them

to carry on any commerce they chose, without respect to that nation. This is the ground upon which the bill stands, and he thought it the proper ground. With respect to nations at peace with us, we say to our merchants, you shall not commit any outrage against them; but with respect to those nations who have disregarded all our neutral rights, who stop at nothing that is violent toward us, do as you please.

Mr. Gallatin would have voted for striking out the whole of the section, and he was ready to vote for striking out the part of it now under consideration. With respect to arming of merchant vessels, nothing could be objected to it, except that we had adopted a different rule for a number of years, and ever since the law of 1794. He knew it to be the practice of all the neutral European nations to permit their merchants to arm their vessels; but he never knew a law passed to regulate their arming. He always understood that bonds were required from the commanders of privateers and letters of marque, when they are authorized to capture vessels. But it is a principle admitted, that if a merchant arms his vessel, he is bound not to offend against the laws of nations and of treaties, and that he is responsible for the exercise of his power. It is, therefore, perfectly needless to restrict merchants as to what commerce they shall carry on in their armed vessels, because the offence of carrying on an improper commerce is the same whether the vessels in which it is carried are armed or not.

The two first sections of the bill authorize our merchant vessels to resist French armed vessels, but no other; therefore, though the third section were altogether struck out, our vessels would have no right to resist the armed vessels of Great Britain, Holland, or Spain, except in cases authorized by the law of nations. It is, therefore, perfectly useless to retain any part of the section. He thought it useless to pass a law to regulate the use of arms, which the laws of nations give our merchantmen a right to carry; for, whether a part of this section be retained or not, or whether a bond was given by the owners and commanders of the vessels or not, they would not be authorized in committing any act contrary to the laws of nations. He did not think the argument of the gentleman from Massachusetts, that vessels carrying on contraband trade ought to be armed, had any weight; because the arming of a vessel gives it no right which it did not before possess. Mr. G. said, there would be an inconvenience in going much into detail in this business, as it might make Government answerable for the acts of the commanders of our merchant vessels.

Mr. Edmond admitted that the laws of nations are sufficient to regulate the arming of merchant vessels, without any bond; but, in order to secure our citizens and the country from being involved in war, we have a right to make this regulation.

With respect to that part of the section proposed to be struck out, he was in favor of the motion, because he did not wish to deprive ourselves of any right which the laws of nations gave us, and it would not be denied that neutral nations had a right to carry the goods of the belligerent Powers. It is true, they are liable to search, and if such property be found on board, it is liable to be taken; but the nation whose violence we are about to resist, have determined that, in such case, not only the property so found, but the other parts of the cargo, and the vessel itself, shall be forfeited. We have, therefore, a right to say to that nation, "Since you disregarded the laws of nations and of treaties, you have placed yourselves in a situation distinct from other nations." He hoped the amendment would be agreed to.

The question was put and carried, there being 52 votes in favor of it.

Mr. Brooks moved to strike out the provision which requires that there shall be one or more sufficient surety or sureties to the bond. He thought the bond of the owner and master sufficient, without surety. He supposed there would, in some cases, be great difficulty in obtaining sureties to such a bond.

Mr. S. Smith thought the sureties necessary.

The motion was negatived without a division.

Mr. Harper proposed to amend the bill by adding the following:

"And may also retake any vessel owned as aforesaid, which may have been captured by any vessel sailing under French colors, or acting or pretending to act under the authority of the French Republic, and may also attack, take, or destroy, any vessel sailing or acting as aforesaid, which may have made, or may be found attempting to make, any such capture."

This question was put, without debate, and negatived—38 to 34.

Mr. Sewall said, he would move an amendment, which would embrace a part of the motion of the gentleman from South Carolina. As the bill stands at present, resistance is only to be made by a vessel immediately attacked. He believed if two of our vessels were sailing in company and one of them should be attacked and not the other, it would be right that the other should assist in repelling the attack. He therefore moved to add the following words in the first section, after the words "such vessel:"

"Or upon any other vessel, owned as aforesaid, in company therewith."

Mr. Champlin suggested the propriety of omitting the words "in company therewith," and extending the provision to all our vessels.

Mr. Sewall agreed to accept of this alteration, and the amendment was carried without a division.

Mr. S. Smith said, there was a part of the amendment offered by the gentleman from South Carolina, which he thought it would be proper to adopt. He moved to add the following words to the first section:

"And may also retake any vessel, owned as aforesaid, which may have been captured by any vessel sailing under French colors, or acting, or pretending to act, by or under the authority of the French Republic."

This motion was put and carried—37 to 28.

Mr. Sewall moved to fill the blank in the third

section, containing the sum for which the bond shall be given, with "a sum equal to double the value of such vessel." Agreed to.

The committee having gone through the bill, rose, and the House agreed to the amendments reported by the Committee of the Whole.

Mr. Harper renewed his motion, to introduce the following words into the first section:

"And may also attack, take, or destroy, any vessel, sailing or acting as aforesaid, which may have made any such capture."

Mr. H. believed it would be proper to adopt this amendment, for a variety of reasons. The principle, he said, is the same as one contained in the bill providing vessels for the protection of the commerce and coast, and he could not see any reason why merchant vessels should not have the same authority. To reject it, he believed, would be to prevent our vessels from doing what would be most useful to our commerce, as it would put it in their power of clearing the coast of those plundering marauders which infest it. Unless this was done, our vessels might see privateers attack other vessels, and they would not, when they came up with them, after they had ceased the attack, have the power to take them. Would it be politic, he asked, to damp the ardour of the commanders of our merchant vessels, by thus limiting their power? He was sure it would not, and trusted it would not be done. He was of opinion that the adoption of this amendment would make one of the best provisions in the bill.

Mr. Varnum called for the reading of the law to which the gentleman from South Carolina had referred, which was read accordingly.

Mr. Harper said, though the provision was not in the same words, the principle was the same.

Mr. Dana observed, that the gentleman from South Carolina seemed very desirous that Congress should adopt certain principles. These may be proper, but they cannot be proper in this bill. This bill relates only to our merchant vessels, and to their defence; and were Congress to authorize them to search for and attack French cruisers, it would be departing from the intention of the bill. Besides, when this power was given, proper security would be taken against the abuse of it, which require more detail than was introduced into this bill, which the committee had confined to the single object of a defence for our merchant vessels.

Mr. Otis could see no objection to the giving of this power.

Mr. Sitgreaves called for the yeas and nays upon it, which were agreed to be taken.

Mr. Gallatin said, he should vote against the amendment, because he considered it much the same as granting letters of marque and general reprisal. The commanders of these vessels may suppose every French vessel they meet with at sea has made an attack upon some American vessel. To be sure, the authority would not extend to merchantmen; but he believed this to be of little consequence, as the amount of the French commerce, at present, is too small to be any object.

Mr. Sitgreaves said, there was another distinction between this power and letters of marque and general reprisal, besides that which his colleague had named. It is not to extend even to vessels of war, except such alone as have attacked or captured ours. It is, therefore, a part of that system of special reprisals already adopted; it is not proposed, as his colleague has stated, to give a power to the commanders of merchant ships to take such vessels as they may *suppose* have taken our vessels, but such as have *actually done so.*

Mr. S. Smith remarked, that the law which had been alluded to for the protection of our coasts and commerce, was more particularly adapted to the protection of the coast; but our merchantmen sailed all over the ocean.

Mr. Coit observed, that though there was a similar provision in the law for protecting our commerce and coast, yet he thought there was a considerable difference between entrusting this power to commanders appointed by the President of the United States, and entrusting it to commanders of merchant vessels.

The question was taken by yeas and nays, and negatived—47 to 28, as follows:

Yeas—John Allen, James A. Bayard, David Brooks, Christopher G. Champlin, James Cochran, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, James Schureman, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Nays—George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, Thomas Blount, Stephen Bullock, Demsey Burges, Thomas Claiborne, John Clopton, Joshua Coit, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, Thomas Evans, Jonathan Freeman, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Anthony New, Josiah Parker, John Reed, John Rutledge, jr., Samuel Sewall, William Shepard, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The bill was then ordered to be read a third time to-morrow.

CALL OF THE HOUSE.

On motion of Mr. Otis, a call of the House was agreed to be made to-morrow, at half-past eleven, in order to insure a full attendance on the passing of two important bills, viz: the bill for making a valuation of lands and houses, and an enumeration of slaves, preparatory to laying a direct tax; and the bill authorizing the defence of the merchant vessels of the United States against French depredations.

PROVISIONAL ARMY.

Mr. Sewall reported a bill supplementary and to amend the act authorizing the President of the

United States to raise a provisional army; which was twice read and referred to the Committee of the Whole.

PURCHASE OF SMALL VESSELS.

The House went into a Committee of the Whole on the bill to amend the act providing a naval armament, and the act authorizing the President to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise.

This bill was agreed to without amendment, and it was ordered to be engrossed for a third reading to-morrow.

Wednesday, June 13.

Mr. Gallatin, from the committee to whom was referred a bill from the Senate to authorize the sale of certain lands between the Great and Little Miami river, in the territory of the United States northwest of the Ohio, and for giving the pre-emption to certain purchasers and settlers; and the bill to authorize a grant of lands to Stephen Monot, and other inhabitants of Galliopolis, therein named, reported that the former ought to be passed with amendments, and the latter without. The bills were committed.

Mr. J. Parker, from the committee to whom was referred the bill to alter the time of making entry on stills, reported it as the opinion of the committee that all the amendments ought to be agreed to, except one.

CALL OF THE HOUSE.

The Speaker informed the House that the hour was arrived at which a call of the House was ordered, and that the Clerk would proceed to the call. He did so, when it appeared that all the members were present, but three, and excepting such as are absent on leave, or sick. Two of the three absent members appeared in the course of the sitting, and on making apologies were excused.

DIRECT TAXES.

The bill providing for the valuation of houses and lands and the enumeration of slaves within the United States, was then read the third time, and upon the question being put, "Shall this bill pass?"

Mr. Davis said, he was under the necessity of opposing the passage of this bill. No part of the community would contribute more cheerfully, to the extent of their ability, to the support of the General Government, than his constituents; but, from the knowledge he had of their situation; of the scarcity of circulating medium amongst them; and from the want of a market for their surplus produce, he could not give his vote in favor of a tax which it would be with great difficulty they would be able to pay. The people of Kentucky, he said, had produce of every kind, in abundance, but they want a market for it. The Mississippi had lately promised a medium through which to transport it, but as yet little advantage has been derived from it; and whenever a war shall take place, it may be expected that they would be deprived of the advantages which the free navigation of that river promises to the Western country.

Mr. D said, when he came from home, he did not think the coin in circulation, in Kentucky, amounted to $10,000; and, since that period, he was informed that money had become still more scarce. If he thought the tax would be paid without great difficulty he would have cheerfully voted for it; but believing the contrary, he was constrained to give his vote against it.

Mr. W. Claiborne said, the people of Tennessee are, in a great degree, similarly situated with those of Kentucky. Every one enjoyed the necessaries of life, but few of them experience those conveniences which flow from wealth. Money is a scarce article amongst them; and when he reflected upon the present situation of things, and the probability there is that the avenue which was lately opened for the disposal of the surplus produce of the State would soon be closed, he feared his constituents would be illy able to pay this tax. But if, as the gentleman from North Carolina (Mr. Macon) on a former occasion suggested, he should be mistaken in this respect, and that the people of Tennessee are well able to pay the tax, he should rejoice in the event. Fearing the contrary, however, when he heard the people complaining of this grievous burden, he wished to have the consolation of saying, "I did not consent to this law, because I was of opinion that its operation would be particularly oppressive to the Western people."

Mr. Gallatin observed, it would be extremely difficult to point out any mode of taxation which will not be inconvenient and oppressive, in some degree, for some part of the people to pay; and it must be expected that every mode which can be adopted, will bear more hardly on some parts of the community than on others. With respect to the tax on land, he must agree, with the gentlemen from Kentucky and Tennessee, that, from there being a less quantity of circulating medium in their States than any other State of the Union, it would probably fall heavier upon their constituents than upon people of the Atlantic States. But there is one circumstance with respect to those States which ought to be taken into consideration, viz: that the tax for this year will be laid according to the old census taken seven or eight years ago; since which time, it is well known, that the population of these States has more than doubled. Therefore, the inconvenience of paying this tax will be greatly lessened to these States by that circumstance. In the State of Tennessee, by the old census taken in 1791, there were only 35,000 inhabitants, whereas, by a census taken in that State by themselves, two years ago, the number exceeded 60,000.

Besides, it appeared to him that both the gentlemen assumed a principle by no means ascertained, viz: that the Mississippi will be shortly closed to the Western country. No people could suffer more by such an event than the people whom he himself represented. They stood precisely in the situation of the constituents of those gentlemen; and undoubtedly, if our present difficulties with France should produce a war with Spain, it would

be extremely fatal to his constituents as well as theirs. But he knew of no reason for supposing this; and it would be wrong to legislate on a presumption that such will be the case.

In relation to this law, it was not formed, Mr. G. said, altogether to his wish; but it was as nearly so as he could get it, and it was necessary the money should be raised. He had opposed, as long and as forcibly as he was able, most of the measures which made the great expenses of the present session necessary; but a majority having determined that the expense shall be incurred, and that measures shall be taken which will necessarily decrease our present revenue, it has become the duty of every member to provide the means for paying the expense to be incurred, and for supplying the probable deficiencies of former revenues.

If the expense is to be provided for, how is it to be done? It must be either by taxation or by loans. Indeed, it is probable that Congress will be obliged to resort to loans, even during the present session; but certainly it is their duty, as far as they are able, to provide for the public expenses, without going into measures which will increase the public debt. Our choice lies, therefore, between loans and taxation; and however inconvenient it may be to the people to pay taxes, he should certainly resort to taxes rather than loans. And if the money is to be raised by taxes, to what objects can we turn our attention? Congress must have recourse to internal revenue, or an increase of duty on the importation of some of the necessaries of life. Indeed, after turning his attention very seriously to the subject, he could not find how any considerable revenue could be raised, but by means of a direct tax on land and houses, or a tax on salt. He did not think any other could be relied upon; and, between the two, he believed it would be infinitely better, both for the United States and his constituents, to lay a tax on land and houses than on salt. The tax on land and houses will be laid according to the value of the property; and, though there is less circulating medium in the back country, which is thinly settled, than in the larger towns, the property in those parts will be estimated at a much lower rate, and of course the people will have a smaller proportion of the tax to pay; and he thought it far preferable to lay a tax which would fall, in a great degree, upon persons according to their wealth, than one which would operate as a *poll tax*, (as a tax on salt would do,) according to their number.

Mr. G. said, he was of opinion that an annual tax would be sufficient, and that we need not have recourse to loans.

It was necessary, Mr. G. said, at all events, that this bill should pass; for, if it could be proved that our revenue would be sufficient for this year, it would be a good argument why the tax should not be laid for this year, but not against making the valuation of property proposed by this bill; for, if war takes place, it will be convenient to have this valuation made, upon which a tax may be laid. Therefore, though he knew it would prove inconvenient to some of his constituents, as well as to those of the gentlemen from Kentucky and Tennessee, he would nevertheless vote for the passing of this bill.

Mr Harper had the pleasure of being persuaded, in his own mind, from the small personal knowledge he had of the Western country, that the gentlemen from that part of the country represented as little the true situation as they do the real convenience of their constituents. He could not persuade himself that the people of the States of Kentucky and Tennessee would be unable to pay this tax, and still less, that those people would be ready to lay their rights and independence at the feet of a foreign Power, sooner than pay for the defence of them. The objection made to this tax is not that it is improperly laid, or as being unnecessary for the defence of our country. It is not said that the objects which Congress have already undertaken for the defence of the country can be provided for in any other way; but the House is told that the people will be unable to pay this tax—their proportion of the expense of measures which are necessary for the defence of their rights and liberties. This was a statement which he was certain the people of those States will never allow to be correct. He believed it to be founded altogether in mistake, and he believed it would be proved to be so, by the prompt manner in which these people will pay this tax. He had no doubt the gentlemen who made this statement thought it well founded; but he believed they had suffered their fears to blind them; for he never would believe, whilst he considered them Americans, and himself one, that the people of those States will say that they are unable to pay their share of the expense of the defence of their liberties. No; they will spurn the idea, and prove themselves worthy of enjoying that liberty which they assisted to obtain with their blood, by declaring that they are able and willing to contribute their portion in the defence of their country. He would not himself so far insult them, as to suggest the idea of exempting them from the payment of their share of the expense of that defence, much less to insinuate that they would place themselves in the situation of paupers, and claim to be exempted. On the contrary, he would repeat it, that they would pay their share of this expense with cheerfulness; and he would venture to say, that, in making this declaration, he represented the feelings of the people of those States better than their immediate representatives, who asserted the contrary; and he was willing to rest his credit upon this avowal.

Mr. Davis said, he believed he could prove to the gentleman from Pennsylvania (Mr. Gallatin) that his conclusions with respect to the ability of the people of the State of Kentucky to pay this tax, were not altogether correct; and that the number of the people inhabiting the State now, being double what it was when the last census was taken, will afford them no relief. For, if there were $10,000 in circulation in the State, when there were only 30,000 inhabitants, and no more, now there are 150,000—the tax would fall no lighter now than it would have fallen then. How, it might be inquired, does it happen that,

though the population is so greatly increased, no increase should have been made in the quantity of circulating specie? It happens thus: Men who emigrate from the Atlantic States to this country, seldom bring much money with them; for, whatever they may have when they set out, it is expended on their journey, or paid for land to a single person when they reach us, so that none of their money comes into general circulation; and though the people are able to raise plenty of produce, they are not able to exchange it for money. It is true, the more inhabitants they get, the more the general property of the State is increased, but it did not increase the circulating medium. He did not believe there is now so much money in circulation as there was when the census was taken. There was then an army there, and produce sold for a good price; but since a peace was made with the Indians, money has been constantly draining off from the State to pay the debts which the merchants of that State had contracted whilst trade was brisk in this and other cities.

Therefore, as personal property is not taxed, as the people who go there carry with them no slaves, and as there are large tracts of unappropriated land which the State has let out free from taxes, and which will not pay any part of this tax, the people of Kentucky, who will have to pay this tax, will not be much relieved by the State's increased population.

The gentleman from Pennsylvania says his constituents would feel the same inconvenience from the closing of the navigation of the river Mississippi, that the people in the Western States would feel. This he did not think correct; for though it would be very inconvenient for the people on the other side of the Alleghany to carry their produce to an easterly market, they could, nevertheless, do it; but, from the State of Kentucky, it would be impossible for produce to be sent from thence to the Atlantic cities; they must, therefore, trade down the Mississippi, or not at all.

As to the gentleman from South Carolina, he did not believe he either represented the feelings of the people of Kentucky or Tennessee, or knew their interests; though it is not the first time he had heard that gentleman assume to himself more knowledge than everybody else. He denied that he represented the feelings of his constituents. On the contrary, he was persuaded that he himself had represented them truly, when he said that they will be willing to pay any tax, for the support of the General Government, which they are able to pay; but he doubted, from his intimate acquaintance with their circumstances, whether they would be able to pay this tax, and on this account it was that he proposed to vote against it. He did not come here, as the gentleman from South Carolina had represented, to claim an exemption from this tax for his constituents, on account of their poverty. He should vote against the bill, because he knew it would fall oppressively on his constituents, and the gentleman from South Carolina is welcome to all the credit which he can obtain for asserting the contrary. But every person in the least acquainted with the State from which he came, must know that the people cannot command money, though they have an abundance of produce. When he left home, he could have purchased any quantity of Indian corn at half a dollar a barrel; but men, with their stores full of produce, could not, perhaps, produce a dollar in cash. Another reason why money is so scarce is, that, during the Indian war, merchants sent out large quantities of goods, and, when peace was made, the people were much indebted to the merchants, which they had been compelled to pay as fast as they could collect it, and the merchants there had sent off the money to discharge their debts here and in other places, as he had already stated.

Mr. W. Claiborne rose; when

The Speaker desired he would confine himself to the question before the House, as the gentleman who had already spoken had wandered very much from the subject.

Mr. C. hoped he should be permitted to make a few remarks upon what had fallen from the gentleman from South Carolina. The eloquence of that gentleman, all must allow, is great; but it must also be admitted that he does not always apply it to the most proper purposes. He has told the House that he, (Mr. C.,) as the representative of the State of Tennessee, misrepresents the feelings of his constituents—as attributing to them sentiments which they will *despise*.

[The Speaker said the gentleman from South Carolina did not say so; *disavow* was the word he used. Mr. C. changed the word accordingly.]

That gentleman, Mr. C. said, has observed that the people of Tennessee will consider this as a question whether they will suffer their rights and independence to be abandoned to a foreign Power. These remarks had no weight upon his mind. He had stated, and stated truly, that the people of Tennessee would be very illy able to pay a land tax, of which this bill lays the foundation. He never represented them as willing to abandon their rights and independence. Were he to throw out any such idea, he should calumniate the people whom he represented. They have little treasure to bring forward for the service of the public, but they have valiant blood to shed; and when the question shall arrive whether this country shall give up its *independence*, if the gentleman from South Carolina and he should live to that period, he doubted not they would see the people of Tennessee among the foremost in the ranks to defend it. *Dulce est pro patria mori*, was a saying, the truth of which the freemen of that State admitted, and he had the happiness to believe, that they would think it sweet to die for their country.

The gentleman from Pennsylvania (Mr. Gallatin) had said that the measures which had chiefly created the necessity for this tax had not met with his approbation. He could himself say the same thing; but a majority of the American Government having thought them proper, he should do all in his power to carry them into effect; and, on his return home, he should think it

his duty to endeavor to reconcile his neighbors to the state in which they would of course place us. But he could not, as their representative, believing, as he did, that they will be less able to pay this tax than any other that could be imposed, and that it will be found extremely burdensome, vote for this bill. The gentleman from Pennsylvania had truly stated that Tennessee had greatly increased in numbers since the taking of the last census; but, though this is true, it is not consequently true that the State has greatly increased in wealth. When the emigrants from the Atlantic States first leave home to go to that State, they have some property; but it is generally expended on their journey, or for the purchase of land on their arrival, as had been justly represented by his friend from Kentucky. Now and then, indeed, a person of wealth came among them, but the emigrants to the Western country, generally, came in search of an asylum from poverty and distress. It may be, that in the course of a few years, provided his constituents could have a vent for their produce, the State of Tennessee may become wealthy. When that shall be the case, he was certain they would pay the tax cheerfully, without complaint. He hoped to see the day when this State shall vie with its sister States in wealth and consequence; but at present, being in her infancy, he was afraid this tax would of all others prove the most burdensome to many of his constituents. But if the gentleman from South Carolina had supposed that his opposition to this tax arose from a willingness in him, or his constituents, to surrender the independence of this country to a foreign Power, he had greatly wronged both him and them.

Mr. S. Smith did not think the fears of the gentlemen from Kentucky and Tennessee would be realized. It is no doubt true that the quantity of circulating specie in Kentucky had diminished since the peace with the Indians; but it is also true that the Spring trade this year from Kentucky by the Mississippi has been both great and profitable. But gentlemen suppose, if we have a war with France, we shall also be at war with Spain, and our intercourse by that river will be cut off. But the interest of Spain will be against this; for in case of war, there will be great difficulty in getting flour to the Havana from the Atlantic ports, as our West India trade will be cut off, and they will have to depend upon a supply by the Mississippi. Besides, if produce be so much cheaper in the Western country than in the Atlantic States, as it has been stated to be, it will become the interest of neutrals in the Atlantic cities, to make remittances by produce from that country to the Havana. And if Spain should be drawn into the war, there would be other modes of the people of those States disposing of their produce. He did not think, therefore, gentlemen from that country need be so much alarmed as they appeared to be.

Mr. J. Williams had always been opposed to every system of direct taxes; but as a majority of the House had agreed to call forth the resources of the country by this means, he must give his vote for this bill. He was astonished to find the gentlemen from Kentucky and Tennessee opposing this bill, when so much of the money of the General Government had been expended in that country. They must acknowledge their States have had their portion of specie from the Treasury of the United States. An act had indeed been passed during the present session for paying a company of militia for a certain expedition in Tennessee, which amounted to nearly one-fourth of the whole sum required from that State. He believed some of the troops of the United States are also now there, and likely to continue, so that they are constantly receiving supplies of cash from the Treasury of the United States. Besides, it ought to be considered that this tax will fall upon unimproved, as well as improved land, many of the owners of which, he supposed, lived out of that State, which would reduce the portion of the tax to the State. The district in which he lived would pay more tax than the whole State of Tennessee. He knew the tax would be collected in some places with difficulty, and more so, since the bill had undergone a change which had thrown the tax upon land more than it would otherwise have fallen.

But, whatever difficulty may attend the collection of this tax, when we see the ruinous effects of public debt in other countries, we ought to be cautious how we make extensive loans, and endeavor to draw forth the resources of the country, to meet any of the expenses which we may have to encounter.

Mr. Varnum should vote against this bill. He had always thought, since the establishment of the present Government, that there would be no necessity for resorting to direct taxes, except in case of our being engaged in war. He believed the measures already taken would not require a direct tax if no further expenses were contemplated. But he now believed a majority of the Government of the United States are determined on war, and he would, on that account, have given his vote for the bill, if the tax was proposed to be laid on just and equal principles. It was his opinion, that every species of property ought to be taxed, as well as houses and land. So far from this being the case, he believed that between one-third and one-half of the property taxed by the State Legislatures, in their system of direct taxes, would, by the present plan, be excused altogether from tax. Some of the most wealthy people in the Union would, by this means, be untaxed, in a great degree, while persons who hold a small property in houses or land, will bear the burden of it; and not only of this tax, but to any further extent to which the Government may have occasion to carry it.

Mr. T. Claiborne had opposed many of the measures which made this tax necessary; but a majority of Congress having determined upon a certain course of measures, however contrary they may be to his opinion, he should cheerfully submit to them, and vote in favor of this bill.

The people of Virginia, if they must be taxed, wished to be taxed in a direct way, and he doubted

not this tax would be paid with alacrity. They always had been, and would continue to be, he had no doubt, prompt in their obedience to the laws of the General Government.

Mr. Lyon should vote against this bill. He had expected that whenever the States should have been called upon to pay a direct tax, they would have been required to have raised their quota of the tax in the way that should have been most agreeable to them. This would have been a much more economical way than the present. If the State of Vermont had been called upon in this way, he doubted not she could have raised the money at not more than two per cent. upon the collection: whereas, in the way proposed, it is estimated to cost 25 per cent. He should not have objected to a direct tax if properly collected; but he could not agree to this expensive mode of doing the business.

The yeas and nays were then taken upon the passing of the bill; it was passed—69 votes to 19, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, James A. Bayard, Thomas Blount, Richard Brent, David Brooks, Christopher G. Champlin, Thomas Claiborne, John Clopton, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dawson, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Samuel Lyman, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, Anthony New, Harrison G. Otis, Isaac Parker, Josiah Parker, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Richard Sprigg, jr., Richard Stanford, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John Trigg, John E. Van Alen, Abraham Venable, Peleg Wadsworth, and John Williams

Nays—Lemuel Benton, Stephen Bullock, Demsey Burges, William Charles Cole Claiborne, Thomas T. Davis, John Fowler, Jonathan N. Havens, Joseph Heister, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, William Smith, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

Resolved, That the title be, "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves, within the United States."

SUNDRY BILLS PASSED.

The bill to authorize the defence of merchant vessels against French depredations; and the bill to amend the act to provide a Naval Armament; and the act to authorize the President of the United States to cause to be purchased, or built, a number of small vessels, to be equipped as galleys or otherwise, were read the third time and passed.

The amendments of the Senate to the bill supplementary to the act for providing an uniform rule of naturalization, were taken up and agreed to.

NORTHWESTERN LANDS.

Mr. Gallatin, from the committee to whom was referred the letter of Rufus Putnam, Surveyor General of the United States, suggesting the propriety of repealing that part of the law providing for the sale of land northwest of the river Ohio, which requires the north and south lines, &c., to be run according to the true meridian, on account of the difficulty attending it, reported it as their opinion, that it would be improper to repeal that part of the law.

The same gentleman, from the committee appointed to inquire into what progress had been made in the law for the sale of the Northwestern lands, and whether any alteration ought to be made in the said law, reported it as the opinion of the committee, that any alteration which may be proper in the above act, ought to be postponed till next session.

Both reports were committed.

The amendments of the Senate to the bill for the better collection of certain internal revenues, were committed to a Committee of the Whole.

Thursday, June 14.

A bill was received from the Senate, authorizing the President of the United States to accept of any vessel of war which may be offered to him for the public service, in addition to those heretofore provided.

Mr. Sewall, from the committee appointed to confer with the Senate on the subject of an adjournment, reported that they had held a conference with the committee from the Senate, the result of which was—

"That, in their opinion, it is probable Congress may adjourn about the middle of July; at least until the beginning of October next; but that the state of public affairs renders it inexpedient to resolve at present upon the time of adjournment."

POST OFFICES.

Mr. Thatcher called up the resolution which he some time ago laid upon the table, directing the Postmaster General to prepare and report at the next session, such a system as shall comprise in one all the laws heretofore passed on the subject of post offices and post roads, adding to his report such other new roads as he thinks it would be expedient to establish; which was agreed to.

Mr. T. then moved to refer all the petitions which had been presented to the House on this subject, to the Postmaster General; which was also agreed to.

COLLECTION OF INTERNAL REVENUE.

The House went into a Committee of the Whole on the report of the committee to whom were referred the amendments of the Senate to the bill for the more effectual collection of certain internal revenues, and, after spending some time therein, reported their disagreement to the first, and their agreement to the second, of the Senate's amendments; which report was concurred in by the House.

ARMS FOR MILITIA.

The House then resolved itself into a Committee of the Whole on the bill providing arms for the militia throughout the United States, Mr. Sitgreaves in the Chair; when

Mr. Coit, not seeing any necessity for passing this bill, moved to strike out the first section.

Mr. Dayton (the Speaker) could not give his assent to the first section, and was rather in favor of striking it out, because it would be found in practice very inconvenient for the United States to become the retailers of arms to the extent therein proposed. He called upon gentlemen to reflect for a moment upon the expense of transporting them to every division of the militia, which in many cases would require a land carriage of two or three hundred miles. And let it be also taken into consideration how many of the muskets must be injured materially by such transportation, and rendered utterly unfit for service until repaired. Armorers must, therefore, be sent with every parcel of arms into the interior of the United States, and held in constant pay, not merely to repair the damages sustained by transportation, but to expose them frequently to the air, and to keep them free from rust, to which they must be constantly exposed. If they should be scattered abroad in parcels throughout the country, as this section required, it was very uncertain whether the militia would buy the arms, with the additional expense laid on them for transportation, and those thus unsold would consequently be useless both to the public and individuals, or must after some time be brought back to the public armories, with an expense equal to their first cost. The plan contained in the first section was, therefore, the worst that could be proposed, and ought to be essentially altered or struck out.

Mr. McDowell hoped the section would not be struck out. He supposed it must be the wish of every gentleman that the militia throughout the country should be well armed. In some parts of the Union it is well known that this is not the case at present, and some provision ought to be made for supplying the deficiency. The gentleman from New Jersey had said that the States or individuals ought themselves to procure arms from the manufacturers; but, in those parts of the country where these arms are chiefly wanted, there are no manufactories from which they can be purchased; therefore it would be well for the Government to undertake to supply them. The expense of transportation by land would certainly be great; but it ought to be encountered, because, if it is not done in the first instance, if the service of the militia is wanted, they must have arms sent to them, where arms are wanting. Besides, the expense of transportation would be added to the price of the arms. As to the difficulty which would attend the keeping of arms in order, though it would be attended with some trouble, he could not think it would be so great as it had been represented.

Mr. Shepard said the committee who reported this bill, were induced do to it from a persuasion that the Southern States are in want of arms, and have not an opportunity of purchasing them. In the Eastern States, Mr. S. said, they had sufficient manufactories of arms, from whence Government might purchase, and furnish the desired supply. The committee did not forget the inconveniences mentioned by the gentleman from New Jersey, but, notwithstanding these, they were of opinion that Government ought to undertake the business, especially since it would be attended with little or no expense in the end, as the money laid out (or lent for a time) would be returned, when the arms shall be sold.

Mr. S. Smith felt some of the inconveniences pointed out by the gentleman from New Jersey; but when it is recollected that all the manufactories of small arms either are, or doubtless will be, engaged in public service, the necessity and propriety of Government undertaking this business will appear evident; for, if it be desirable that the militia should be well armed, and it undoubtedly is so, Government ought to aid the people in the purchase. Mr. S. asked what was done in the late insurrection? One part of the militia called upon were not completely armed, and Government was obliged to transport arms from the arsenals of the United States; and it would be better to do this while we are at peace, than after we shall be engaged in war, especially as the people would now purchase their own arms; but, if they were supplied by Government in case of emergency, it would be at public expense. Mr. S. was, therefore, decidedly in favor of the measure.

Mr. Harrison said that a little time ago it was dangerous for gentlemen to speak about saving expense, as any man who did so, was immediately charged with wishing to give up his country to a foreign enemy. But now, when a plan is on foot to supply the Southern States with arms, though no expense will eventually attend it, a loud cry is made against the expense which will be incurred. Though gentlemen are perfectly willing to incur the expense of a standing army, they are unwilling to risk a small loss which may accrue from carrying into effect the proposed measure for supplying such of the militia as want them with arms. For what purpose are these arms wanted? For the defence of the liberty and independence of the country; and yet gentlemen now speak of expense. At the present crisis of danger, when all allow that the Southern States are most likely to be attacked, and the militia of those States want arms, and asked for them, when it is proposed to accommodate them, expense is held up as an objection. He trusted, when gentlemen considered the situation of the Southern States, and that they contain within their own bosom a dangerous enemy, they will not persist in their opposition to a measure calculated to remedy this defect; that they will not exhibit to the world a strange inconsistency in a free country, viz: that the General Government insists upon sending hired standing troops into the Southern States, against the will of the people, but at the same time refuses to give them an opportunity of purchasing arms for their own defence!

Mr. Harper believed that most, if not all of the

inconveniences set forth by the gentleman from New Jersey, might be avoided, and the object of the bill attained. These inconveniences were supposed to arise chiefly from a lengthy transportation of those arms by land. Whatever inconvenience and loss, however, might attend this supply, he thought, with the gentleman from Maryland, that the difficulty ought to be encountered now, rather than in a state of war. Besides, if this supply is withheld until the arms are wanted, the same inconvenience would not only be encountered, but the arms would come too late for the people to use them in training. But are we, said Mr. H., obliged to incur the expense of land-carriage? He believed not, except in very few instances. Let it be recollected that every State, except two, borders upon the sea, and that they are penetrated by rivers, which are to a certain extent navigable by boats; and if these arms were sent into some town in every State, where the people could get supplied, though they might have to ride fifty or one hundred miles for the supply, they could readily depute a person to go and make a purchase of all that might be wanted in a neighborhood. There were, to be sure, a few exceptions, in which cases the expense of land carriage must be incurred.

Mr. Dayton said that, if the motion to strike out the second section was withdrawn, he should not object to their proceeding with the bill, and endeavoring to make it as unexceptionable as possible. He had been opposed to the general project of it, because he believed it would rather prevent than promote the general arming of the militia, and would remove from use, as well as put out of repair, many thousand stands of the public arms.

Mr. D. declared that he was not willing to do more than to authorize the increase of the number of armories and arsenals, so that there might be one in every State, where it might be deemed safe and practicable. He hoped that each State would take measures to procure arms for their citizens. It was known that the United States had no surplus of this important instrument of war, but, on the contrary, were deficient.

Mr. Harper knew that the section as it stands, without amendment, would produce great inconvenience; but he also knew that this section is capable of a very simple amendment, which would bring the bill to what the gentleman from New Jersey wished.

Mr. Coit withdrew his motion.

Mr. S. Smith moved to strike out the words, "in due proportion," which was immediately agreed to.

Mr. Harper moved to strike out the words, "within each divisison of the militia of the State."

Mr. Varnum wished a division of the question.

Mr. Rutledge said, as some of the States could easily supply themselves, they did not, of course, stand in need of the assistance of Government; though in other States, where arms cannot be got, it will be proper to send them. In the State from which he came, (South Carolina,) though the citizens in the lower part of the country are well armed, the inhabitants of the back country are in want of arms; and, in order to furnish a supply for that part of the country, the Legislature of that State had appropriated a sum of money for the purchase of ten thousand stands of arms. This money now lies in the Treasury, and if the General Government could send this quantity of arms to that State, they would be immediately paid for. He had himself applied to the Executive Department on account of these arms, but had received for answer, that, though Government had arms in their arsenals, they had no authority to sell them, but, if this law passed, they might be forwarded.

Mr. R. said, if the United States were asked to supply the militia at their own expense with arms, some objection might be made to the request; but as they were only requested to be instrumental in affording the supply, without bearing ultimately any part of the expense, he thought the proposition could not reasonably be objected to.

Mr. Varnum did not believe that the militia of any of the States are completely armed; and many of the arms which they have are of different calibres. In the State of Massachusetts, he believed those persons who had not proper arms could not get them. He hoped, therefore, the arms would be distributed among the several States.

Mr. Brooks did not think the gentleman from Massachusetts had any reason to be uneasy on this subject. If the words are struck out, the President would, doubtless, distribute them where they are most wanted, and where the people will be willing to purchase them.

Mr. Macon said, that he had supposed, since the words "due proportion," were struck out, that the words now moved to be dispensed with, would have gone out of course. This, he said, was one of those kind of bills which are calculated to benefit the whole Union. Those States which manufacture arms, will be benefited by the sale of them to other States which want them, and they will be benefited by the supply. There was very little chance of the State of North Carolina, from whence he came, being invaded; but if either of the neighboring States were attacked, he supposed the people of his State would be called upon for assistance; and when they were so called upon, he was desirous that they should be well armed, and ready to obey the call.

Questions on both parts of the amendment were put, and carried.

Mr. S. Smith wished, from what had fallen from the gentleman from South Carolina, (Mr. Rutledge,) to strike out the word "out," and to insert "to the Government of the respective States, or."

Mr. Thatcher did not know why the General Government should be put to the trouble and expense of providing arms for the State Governments. The original object was to provide arms for such individuals of the States as should choose to purchase them, and he thought that object ought not to be extended to the State Governments.

Mr. T. Claiborne said, the gentleman from Massachusetts must have a very fertile imagination, indeed, if he could suppose that the State Governments could want arms for any other purpose besides that of distributing amongst the people; and, at this time, he thought it proper that arms should be put into the hands of the people, and that those who are not able to pay for them should have them given to them.

Mr. Bayard hoped this amendment would be agreed to. The object of the bill was to place arms in the hands of those who want them, and this object would be accomplished, whether they are sold to individuals or to the State Governments. If gentlemen supposed the Governments of the States could readily get supplied, they are mistaken. He could speak with certainty as to the State from which he came. He knew money had been appropriated for purchasing arms for their quota of the militia. He knew the Governor of that State came to this city, to endeavor to make a contract for these arms, but he found all were engaged for the Government of the United States, and the money yet lies in the Treasury of the State. He hoped, therefore, no further opposition would be made to it.

Mr. Kittera said, the State of Pennsylvania had appropriated money for twenty thousand stand of arms; one half to be purchased within the United States, and the other half to be imported. Those which were ordered to be purchased within the United States had been purchased; but the contracts abroad, he believed, had failed; and he believed the State Government is anxious to complete the order.

Mr. Thatcher said, he did not oppose the amendment, because he wished to prevent the State Governments from purchasing any quantity of arms they pleased; but he did not think this was the best way of bringing arms into the hands of the people. He thought the State Governments might as well go to the manufacturers, or send their orders abroad themselves, as to employ the General Government to do the business for them.

The question was put, and carried without a division.

Mr. Dayton proposed a new section, authorizing the President, in case all or any part of the arms remain unsold, to cause them to be delivered to such of the militia as may want them when called into actual service; proper receipts and securities being taken for returning the same.

It was carried—57 votes being for it.

The question on filling the blank containing the number of arms to be provided, being under consideration,

Mr. Harper hoped it would be filled with 100,000 stands. He thought that number might be well distributed throughout the United States. They were to serve a double purpose, it would be recollected, viz: they are not only to be sold, but to arm such of the militia as may stand in need of them whenever they shall be called into actual service.

Mr. Rutledge thought this would be by far too large a number; they would require more money than could be well spared for the purpose; they would cost from 14,000 to 16,000 dollars. He believed 30,000 stands would be sufficient.

Mr. T. Claiborne thought 25,000 or 30,000 would be enough.

Mr. Otis was opinion that if such a number was agreed to, and the President of the United States was authorized to apply the money received from those which are unsold, in purchasing a fresh quantity, so as to keep the sum now appropriated as a fund to be constantly employed in the purchase of arms, until the people in all parts of the Union shall be well supplied with them, the provision would be sufficient.

Mr. Kittera was against 100,000. He believed that number would cost little less than $2,000,000.

Mr. Harper withdrew his motion for 100,000, and the sense of the House was taken on 50,000, and negatived, there being only twenty votes for it. 30,000 were then moved and carried—44 to 28.

Mr. Shepard believed they could be purchased for twelve dollars a stand, and therefore moved to fill the blank to contain the sum proposed to be applied for the purchase of those arms, $400,000. Agreed to.

Mr. Otis made a motion to carry his purpose into effect, of having this sum constantly employed as a fund for the purchase of arms.

It was negatived, there being only twenty votes for it.

The committee then rose, and the House took up the amendments. Coming to the new section,

Mr. S. Smith could see no occasion for this section, as there was a similar one introduced in the law for raising a provisional army.

Mr. Harper said, there was considerable difference between this section and the one alluded to in a former act. By that provision the arms could not be delivered to the people unless required by the Governor of a State; and it might happen that the President would think it necessary to call out the militia, when the Governor of some particular State might not think it necessary. When the volunteers are in want of arms, the President is authorized to supply them on request of the volunteers; but, with respect to the militia, the concurrent authority of the Governor of a State is necessary. Mr. H. thought this a defect in the law which ought to be remedied.

Mr. Kittera suggested the propriety of recommitting this bill, in order to give the Speaker, who was the author of this section, an opportunity of speaking in reply to the observations urged against it.

The motion was negatived—42 to 28.

Mr. Edmond said, he understood the object of this bill to be to provide arms to be sold out to such individuals or State Governments as choose to become purchasers, by placing them in convenient situations in the different States; but, if this section is introduced into the bill, it will operate as a discouragement to the purchase of these arms, because when the State Governments and individuals see that if they do not purchase arms for themselves, they will, in case of necessity,

have them put into the hands of those who want them, they will not of course be very eager to purchase, and the arms will lie undisposed of at the risk and loss of the United States.

Mr. Sitgreaves said, an objection had been brought against this bill, which he thought had some weight, viz: that though these arms were proposed to be sold, there was no obligation upon the people to purchase them, and therefore a clause ought to be introduced for placing such arms as may remain in any part of the country unsold in the hands of the people, in case of emergency. For this purpose this clause had been introduced in the Committee of the Whole. Mr. S. said, the idea of the gentleman from South Carolina was a correct one, that, without this clause, the President of the United States could only dispose of these arms by sale. However urgent an occasion might arise, he could not put them into the hands of the militia without the concurrence of the Executive of a State; and he believed, if gentlemen wished this bill to pass at all, it would be necessary to have this clause inserted.

Mr. R. Williams was in favor of retaining this clause.

Mr. Edmond again expressed his opinion against the section.

After a few words in favor of the clause from Mr. Craik, the question was put and carried, there being 54 votes for it.

Mr. Allen moved to strike out the following words, "which shall be deposited at suitable places." He thought them very vague. They might mean suitable for safekeeping, or suitable for sale. If they meant that the arms should be placed in suitable places for sale in every State, he should be opposed to it. He did not wish to have these arms sent all over the Union, but to have them left at the disposal of the President. The gentleman from Kentucky, (Mr. Davis,) for instance, could not wish to have them sent there, because his constituents, according to his own account, are not liable to purchase them.

The Speaker declared this motion out of order.

Mr. Allen then moved to add the words "for safekeeping."

Mr. Harper was sorry the gentleman from Connecticut should quarrel with the bill, because it was proposed to accommodate the purchasers of these arms as much as possible. He thought the bill was founded altogether on this ground of accommodation; and as the President would now have the disposal of the arms according to his own discretion, he thought the bill stood very well at present.

Mr. Allen withdrew his motion, and the bill was ordered to be engrossed for a third reading.

PROVISIONAL ARMY.

Mr. Sewall now called the order of the day on the bill supplementary to, and to amend the act authorizing the President of the United States to raise a provisional army. The House accordingly resolved itself into a Committee of the Whole on that bill; when

Mr. Shepard moved to strike out the first section of the bill.

Mr. McDowell seconded the motion. It was one he was himself prepared to have made. He thought the bill highly exceptionable. It is provided by this bill that the volunteers shall not be subject to the militia training which the States have a right to put them under. If these volunteers are, indeed, to be considered as a standing army, then they are free from the authority of the States; but if they are not to be thus considered, to excuse them from militia training would be an interference with State authority, which was altogether unallowable, and would have a tendency to destroy the militia, which had hitherto always been considered as the sure defence of the country. To excuse these volunteers from militia duty, would also create a distinction between them and the militia, which he was apprehensive would produce the most unhappy effects.

Mr. S. Smith said, if he could consider these volunteers as part of the militia of the United States, he should agree in opinion with the gentleman last up; but he considered them not as a part of the militia, but as regular troops, bound to do regular service for two years, after they are accepted by the President. Surely, then, while men stand thus pledged for the public service, it would be very unreasonable, indeed, to call upon them to do militia duty, and fine them for the neglect of doing it, for they could not perform both services.

Mr. Sewall remarked that these volunteers, though they would not be subject to the articles of war until they came into actual service, would nevertheless, according to this bill, be subject to rules and regulations to be established by the President, which he supposed would be founded on the articles of war. It must, therefore, appear to be reasonable to excuse them from militia duty.

Mr. Shepard objected to this clause; because, in the first place, it makes a call to the whole of the militia to come forward and make an offer of their service to the President of the United States, which, if complied with to any extent, would have the effect of destroying altogether the State authority with respect to the militia, and would convert the whole into a standing army, and, consequently, violate the Constitution. If the law could be so modified as to be made agreeable to the Constitution, he should not object to it; but, at present, he thought it in direct violation of that provision which says, the training of the militia shall be left to the individual States; for this bill proposes that these men shall be called by another name, taken from their old officers, and placed under such as shall be appointed by the President of the United States, and its certain effect must be to create disunion between the States and the General Government.

Mr. Harper said, that gentlemen who spoke against this bill had taken an erroneous view of the subject. They spoke as if these volunteers were to be excused from service, whereas they will be subject to much severer exercise than the militia, not only when called into actual service,

but in the mean time, and they will therefore undergo a more rigid discipline than ever the militia are called to. They ought certainly, therefore, to be exempted from militia duty.

Besides, Mr. H. said, he looked upon these corps as a much better defence than the ordinary militia could afford; and those gentlemen who spoke of the militia as being a sufficient defence for the country, he would refer to the fate of the Canton of Berne, from which they will find that something more than spirit and bravery is necessary. It will be seen that nothing can be effected without discipline, for though the people of Berne, assisted by their wives and sisters, defended themselves bravely with their scythes and pitchforks, they were mown down by the superior discipline and order of the enemy; so that for want of energy and decision in their Government, and discipline in their troops, they were crushed and destroyed. This example he thought so strikingly in point, that he was astonished any gentleman should be found here to advocate similar temporizing measures.

Mr. H. had no doubt that our militia are as brave a set of men as any in the world; but courage alone will not avail—undisciplined courage placed against veteran troops, as in the instance just mentioned, would be certain to fail; it would only give the enemy the trouble of killing such a force, and filling the ditches with their dead bodies. In proportion, therefore, as you impart to the people discipline, organization, command, and military habits, you produce an effectual defence for the country. It was on this account that he was so favorably impressed with respect to the volunteers, and that he advocated the present bill.

Mr. MACON wished the gentleman from South Carolina had examined the Constitutional question, instead of referring the House to the fate of Berne. Whatever energy it might be necessary to exert, it ought to be exerted according to the Constitution. He thought the present bill a direct violation of it. If these volunteers are regulars, there is no occasion for this clause, as the State cannot call upon regular soldiers to do militia duty; so that this law, and the committee who formed it, must have considered them as a part of the militia.

This, Mr. M. said, was the same question which was formerly under discussion, on the original bill; and he had not altered his opinion of its unconstitutionality.

Mr. SHEPARD said, this bill was not only unconstitutional, but would create much disturbance and uneasiness in the country. He could not but be much obliged to the gentleman from South Carolina (Mr. HARPER) for his lecture on military duty; but he believed he (Mr. S.) had forgotten more than that gentleman ever knew, and therefore did not want his instructions. He believed the militia are, in general, much better trained and disciplined than they would be in the form of volunteers; but it seemed as if no man could be a good officer unless he received his commission from the President. He saw no foundation for such an idea.

Mr. BAYARD said, whatever name is given to these volunteer corps, whether they shall be called regular troops, or not, there cannot now be a doubt that they are not to be considered as militia, because, by the law authorizing the President to raise a provisional army, he is directed to appoint the officers, and the Constitution is positive that the officers of the militia cannot be appointed other than by the States.

Mr. B. supposed the gentleman from North Carolina (Mr. MACON) did not mean to say that the Legislature of the United States could not exempt persons from a performance of military duty. A proof to the contrary might be found in the militia law. It was clear, therefore, that the House had a right to excuse volunteers from militia duty, and the only question was as to the reasonableness and propriety of doing so; and he thought this must be very evident from the impossibility there would be of their complying with both laws.

Mr. HARPER wished to add one word in reply to what had fallen from the gentleman from Massachusetts, in relation to himself. That gentleman, whom he knew held a considerable military command, must have forgotten more military knowledge than he ever knew, because he never knew any; and because that gentleman seemed to possess but little at present; but he did not know that it was necessary to have a practical knowledge of military affairs to determine that nothing can be done by way of defence without discipline. He believed he might form as correct an opinion on that point as if were possessed of all the military knowledge which that gentleman says he has forgotten.

Mr. GALLATIN observed, there was one point of view in which this subject had not been considered. If he understood the law which had been passed on this subject, his ideas were the same, with respect to the volunteers, as those of the gentlemen from Delaware and Maryland, viz: not that they are a part of the militia, but a part of the Army of the United States; for, if they had been considered as a part of the militia, the law would have been unconstitutional, by giving the power of appointing officers to the President, instead of reserving it to the several States, as the Constitution directs. He, therefore, considered that point as decided, viz: that these volunteers are a part of the Army of the United States; but the section now under consideration goes to declare, that such of the volunteers as shall submit to certain rules of discipline, shall be exempt from militia duty, and, therefore, such as shall not choose to submit to these rules, are to be considered as liable to do militia duty. In that view, it was perfectly inconsistent with the bill passed. He conceived that the moment a person enlisted himself as a volunteer, he was exempt from militia duty.

This bill, he understood, had been introduced to rectify a defect in the original law. A great deal had been said about the great effect of discipline, and of the fate of Berne, which he thought wholly irrelevant. When the original bill was

formerly under consideration, it was objected against it that it did not provide sufficient regulations for the government of these corps. This is found now to be the case, and the deficiency is proposed to be supplied. How is this to be done? By submitting to such rules and regulations as the President shall appoint, or if volunteers shall neglect to do it, they are to be subject to militia duty. He neither thought this right or proper. He thought it ought to be made positive that the volunteers should conform to the rules laid down by the President, instead of leaving the matter at large; for having once determined the volunteers to be standing troops, by authorizing the President to appoint the officers, they cannot any longer be considered as at all appertaining to the militia. The section ought, therefore, either to be amended or rejected.

Mr. DANA thought the section stood very well at present. Every volunteer, while he remained such, must, according to this bill, conform to the regulations of the President. Gentlemen still brought up the question as to what these corps ought to be called. They might call them what they pleased, if they did not call them "an army which will flee before the enemies of their country." As to the volunteers performing the duty of militiamen, as well as the duty of their own corps, it would be utterly impossible to do it; but, if any volunteer declined complying with the regulations laid down by the President for their government, he would be turned back to the militia; for it was not intended that any volunteer should perform a grudging service.

Mr. S. SMITH hoped the section would not be struck out, but that it would be amended in the way proposed by the gentleman from Pennsylvania.

Mr. VARNUM thought the objections to this section might be removed by an amendment in the way proposed. The objections made by his colleague, (Mr. SHEPARD,) and other gentlemen, would have been very proper when the original bill was under consideration; but, at present, he did not think they were applicable. He had himself at that time objected to this corps; but as it had been agreed to, and as it would be looked upon in no other light than as standing troops—and troops, too, which would be first called upon in case of any emergency—it would be wholly inconsistent to make them liable to militia duty.

The question on striking out was put, and negatived—46 to 26.

The question now came up on the proposition for loaning arms to the volunteers; when

Mr. GALLATIN said, it had been provided by the law for raising a provisional army, that, in case any of the volunteers shall be called into service, before they get possession of arms, the President is authorized to loan to them field artillery, arms, and accoutrements; but the provision in this bill proposes that these arms may be loaned for the purpose of training. This he did not think prudent, as it would operate as a discouragement to the purchase of arms by the volunteers themselves, and prevent the country from receiving that cheap defence from the service of these volunteers, which gentlemen had foretold. He believed it would be sufficient to loan arms to such of these volunteers as may want them, when called into actual service. Mr. G. therefore moved to strike out the words which proposed this loan of arms.

Mr. S. SMITH said, the objection of the gentleman from Pennsylvania had some weight; but he believed it might be remedied by confining the loan of arms to field pieces; and he believed that volunteers would generally wish to find their own muskets.

Mr. GALLATIN varied his motion to meet the ideas of the gentleman last up.

Mr. DAYTON moved that the committee might rise. He found a compromise taking place between gentlemen which he did not approve. He thought there might be young men who would turn out as volunteers, who could not afford to purchase their own arms; and in such case he would have arms given to them. He hoped, therefore, a little time would be given to consider this subject.

The committee rose accordingly, and had leave to sit again.

FRIDAY, June 15.

The resolutions laid upon the table some days ago by Mr. HARPER, appropriating a sum of money for defraying the expense of the additional regiment of artillery and engineers, and to authorize the President to obtain such a loan of money as may be necessary for the expenses of the Government for the present year, over and above the current revenue, were taken up in the Committee of the Whole, agreed to, and bills ordered to be reported accordingly.

A bill was received from the Senate, authorizing the President of the United States to receive vessels, armed or suitable to be armed, for the use of the United States, in addition to those heretofore provided, was twice read, and ordered to be committed this day.

Mr. HARPER moved that the House go immediately into a Committee of the Whole on this bill.

Mr. GALLATIN hoped the bill would first be printed. Agreed to.

ARMS FOR THE MILITIA.

The bill providing arms for the militia throughout the United States was read the third time and passed, 55 votes to 17, as follows:

YEAS—Abraham Baldwin, David Bard, James A. Bayard, Thomas Blount, David Brooks, Demsey Burges, Christopher G. Champlin, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, William Craik, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, John Fowler, Jonathan Freeman, Albert Gallatin, Jas. Gillespie, John A. Hanna, Robert G. Harper, Carter B. Harrison, Jonathan N. Havens, Jos. Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, Harrison G. Otis, Josiah Parker, John Reed, John Rutledge, jr., William Shepard, Thomas Sinnickson, Nathaniel

Smith, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Joseph B. Varnum, and Robert Williams.

Nays—John Allen, Bailey Bartlett, Stephen Bullock, John Chapman, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Henry Glen, Andrew Gregg, Roger Griswold, Isaac Parker, Jas. Schureman, Samuel Sewall, Samuel Sitgreaves, Geo. Thatcher, and Thomas Tillinghast.

PROVISIONAL ARMY.

The House then again resolved itself into a Committee of the Whole on the bill supplementary to and to amend the act, entitled "an act authorizing the President of the United States to raise a provisional army."

The motion to confine the loan of arms to pieces of artillery being resumed,

Mr. Dayton said, that he could not agree to this motion, the object of which was to deprive the President of the discretionary power of loaning arms to the volunteer corps, who had most patriotically enrolled themselves, and offered their services to their country. The youths and other meritorious men composing these corps, who had thus nobly stepped forward and offered themselves among the foremost to meet danger, were certainly entitled to so much consideration as to be allowed to use the public arms until they were enabled to supply themselves by purchase. The muskets would be benefited rather than injured by being thus used for exercise, or for more active service, and he trusted, therefore, that the motion would not prevail.

The question was put and negatived—41 to 34.

Mr. Sewall said, a section had been proposed in the select committee to this bill, which, though it had been there negatived, he would now offer to the Committee of the Whole.

[Mr. S. moved it accordingly. It was to give the President power to appoint such of the officers for the provisional army of 10,000 men as he may think necessary for immediately raising the men, whenever it shall be expedient to raise them, provided such officers shall not receive any pay or emolument, until actually employed in the service of the United States.]

Mr. S. Smith hoped this section would not be agreed to. It met with the disapprobation of the Committee for the Protection of Commerce and the Defence of the Country, upon this principle, viz: that the probability was that, when this army shall be found absolutely necessary, a very different description of people would make offers of their services as officers, from what would now come forward. This opinion was strongly confirmed by the experience of the last war; and he had no doubt, that, in case of real danger, the best of officers would join the public standard, who, from their well known characters, would have it in their power to raise the best of troops; but, if the appointments were now made, such only would apply for offices as meant to make the profession of a soldier their business, and who would not be very willing to lay down that profession, when the occasion shall cease requiring their services.

Mr. Harper believed the arguments of the gentleman from Maryland would deserve consideration, if the section proposed an immediate appointment of all the officers. He should, in that case, himself be opposed to the section; because it was likely enough that circumstances would occur by and by which would enable the President to get more fit men for the higher grades of officers than he could get at present; and, though the power were to be given to the President to appoint the officers, it would only be exercised for the public advantage. So far as it was fit the appointments would be made, and no farther. He conceived that many advantages would be derived from giving to the President the power of immediately appointing these officers. There was a great difference, he said, between organizing 10,000 men, and a regiment of artillery. A much longer time must be necessary for the one than for the other; and how long a time, he asked, had been found necessary to organize the regiment of artillery? He believed six weeks had elapsed since the act passed for raising this corps; and, in case of the imminent danger which could alone authorize the raising of these men, six weeks would be a long time to lose in the appointment of officers before the raising of the men could be proceeded with. He thought it would be desirable, therefore, that the arrangement of officers should now be made, that, when the men should be found necessary, orders might be given for raising them without loss of time. Immediately upon the passing of this act, no doubt, the President would have a number of applications, and from these he could make his choice, either before or at the time when he shall have come to a conclusion as to the necessity of raising the men.

But why will not those patriotic characters, which had been alluded to, now come forward with offers of their service? They know that this army is not to be raised, except in case of imminent danger; and when they make the offer, they will look forward to the contingency upon which it is made. If this was a common army, to be raised immediately, the thing would be different. He believed there are many characters in the United States who would be ready to accept of offices in a patriotic army like this, that would not join an ordinary army; and as these gentlemen would be assured that their services would not be called for, except in case of the events mentioned in the act, he doubted not they would now come forward with an offer of them. He hoped the section would be agreed to.

Mr. Dayton (the Speaker) said, that, although he was of opinion with the gentleman from Maryland, that the appointment of field and general officers would not be so good whilst there was a doubt whether this country should be driven into a war, yet he trusted that doubt, in whatever mind it still existed, would soon be removed, and, in the meantime, he thought the company officers ought to be nominated. These were the officers who must recruit the men, and it would require

some time to ascertain from each of them, whether they accept the rank allotted to them, and stand ready to raise the troops, so soon as recruiting orders should be sent them. Much time would be saved by authorizing this measure immediately, and it would not add to the expense, for they would not be put upon pay until it became necessary to raise an army for the defence of the country. He hoped the section would be agreed to.

Mr. S. Smith said, gentlemen seemed determined to do everything by steps. The raising of the provisional army was made to rest upon certain contingencies; but now it is wished that the President should have the power to appoint the officers immediately. He thought it would be fairer in gentlemen to come forward at once, and give the President the power to raise the army whenever he shall think proper, or immediately. This conduct would be more consistent with the dignity of Legislative proceedings, than doing one thing to-day and another to-morrow, which appeared to be the course constantly adopted. As it had been thought proper to defer the raising of the army until danger shall appear, he believed it would be best to defer the appointment of officers also till that time; for, if they were to be now appointed, instead of consisting of men who would engage in the service from patriotic motives, they would consist of bad sons, bad nephews, and indifferent cousins, who look up to the army for a livelihood. He wished this army to be a good army, and, therefore, he wished the appointment of officers to be delayed until danger appeared, in order to draw men of character and property into it, and in order to obtain such an army as we had during the Revolution.

Mr. Sewall said, it appeared to him extraordinary that gentlemen should suppose that men who seek a military life for support should be anxious to accept of situations in a provisional army which may never be raised, and, until it is raised, from which they will never receive any pay or emolument. If the appointments are to be made at this time, these are not the men, he apprehended, who will solicit the appointments; they must have situations from which they can receive immediate emolument. Men who accept of these appointments must have something to live upon at home. But if these officers are not appointed until the time of danger arrives, the President will be under the necessity of appointing such as offer first; whereas, if they are made now, with deliberation, there is every reason to believe good men will be appointed. Indeed, if the appointment of officers was to be delayed until the army was raised, he should be in favor of raising it immediately.

Mr. Shepard thought it would be soon enough to appoint the officers, when we knew whether any men could be got. We had officers at this time recruiting for men to fill up the old regiments, but he believed they met with indifferent success. He could see no other way of raising the men than that of making requisitions on the several States for their portion of men; and if they furnish their quota of men, they will expect to be consulted in the choice of officers. But if the appointments are made at present, and recruiting officers are sent out to get men, they will only pick up the refuse of society, one of whom will require two better men to take care of him; but if the appointment of officers and raising of men were delayed until occasion called for them, tried patriotic officers would be got, and the sons of the yeomanry of the country would enter into the service.

Mr. Dana said, he always supposed, until he heard from the gentleman from Massachusetts, whose military character certainly gave weight to his opinion on military subjects, that it was necessary first to raise men before officers were appointed—that it was first necessary to appoint officers in order to raise men. He supposed the President would not at present proceed to the appointment of officers of the superior grades, but confine his choice to those of the lower grades chiefly, which it may be supposed none of the patriotic officers of the Revolution would be willing to accept of, and this would be a business of the greatest trouble. In case of actual war, he supposed there are many military men in Congress who would again join the standard of their country; but he should be sorry if the public should be deprived of their services in the great councils of the nation, until an actual state of things shall call for their exertions in the field.

Mr. Harper wished to bring to the recollection of the gentleman from Maryland what he determined to forget, viz: the disposition which certainly exists between making arrangements for an army, and the raising of that army. The bill for raising a provisional army, is a bill for raising an army, provided certain contingencies shall take place; and this bill is intended to make previous arrangements to be in readiness in case the army shall eventually be raised, therefore the objections of the gentleman from Maryland fell to the ground.

Mr. H. thought the idea of none but men who wished to make a military life their profession applying for offices in this army, in case they are appointed immediately, had been ably refuted by the gentleman from Massachusetts, (Mr. Sewall.) It was likely to have quite a contrary effect.

With respect to the mode of raising troops by requisition, spoken of by another gentleman from Massachusetts, (Mr. Shepard,) such an idea must have arisen from a want of that military knowledge which he yesterday said he had forgotten. It was quite a novel idea that the States should have anything to do either with the raising of the men or the appointment of the officers of regular troops. It was another proof that the gentleman had forgotten part of his military knowledge, when he spoke of first raising men and then appointing officers. The gentleman had forgotten a number of other things; but Mr. H. hoped that gentlemen would all remember that Congress is now providing an effectual force against a threatened invasion, and he believed nothing would tend more to make it so, than giving the President power to appoint such officers, as he may think necessary, immediately.

Mr. Macon did not consider this a very import-

ant section, as it was, in some degree, similar to one which had already been passed. Gentlemen had said, when the former act was under consideration, that it would provide an effectual force; but now a bill is brought forward to make it so. As the former law gave the President power to appoint officers whenever danger appeared, if this section is agreed to, he should conclude that the officers would be immediately appointed. As we had officers already on recruiting service, it would be needless, he believed, to appoint others. He found that the officers in the new regiment of artillery are placed in every part of the United States; and if we want that corps completed, its progress ought not to be impeded by the appointment of other recruiting officers.

Mr. SHEPARD was obliged to the gentleman from South Carolina for adducing proofs that he had forgotten his military knowledge; but, notwithstanding what that gentleman has said, he did not think, if officers were appointed to-morrow, that they would enlist 200 men in two years. If they are not got by requisition, therefore, he could not see any other mode of getting them, except we wait until actual danger appears, and, in that case, the best of men will be got.

As to the *chin-talk* of the gentleman from South Carolina, he should take but little notice of it; though he attempted to laugh at him whenever he spoke, (which was rather disgusting,) he would continue to speak without being hindered or terrified by him.

Mr. BROOKS said, when the question was before the select committee, he was of opinion that it would be best not to appoint the officers to this army until the danger appeared which would warrant the raising of men; but the arguments which he had heard on this subject, and the conviction which he had upon his mind that we must have war, and that every day brings us nearer to that state of things (and that is now at hand) when it will be necessary to raise the army, he thought the weight of the argument then used in favor of the postponement of this subject every day diminished. For he did not consider this question, as some other gentlemen had done, a gradual step towards raising an army at all events; because the President, as has been already intimated, has no power but what was originally vested in him, viz: to raise the army in case one of three contingencies shall take place. When these officers are appointed, they are not to receive any pay. All that was intended, was to give the President a choice of officers, in order that he might select them at his leisure, and inquire into their character.

Mr. DENT thought this section would be better if made more explicit. He therefore moved to add the following words: "such and so many of the officers of the 10,000 men as the President shall think necessary, and to cause to be raised and enlisted the whole or such portion of the corps of such men as, in his opinion, the public service shall require."

This motion was negatived, there being only 23 votes for it.

Mr. S. SMITH said, the gentleman from S. Carolina had charged him with not having attended to the distinction between raising an army and making arrangements for the raising of one. He did understand the difference; but his arguments had gone against the impolicy of appointing the officers at present. He said nothing about the men. But the gentlemen from South Carolina and Massachusetts (Messrs. HARPER and SEWALL) contend that men who wish to make the business of a soldier their profession will not accept of situations in the provisional army. He believed this was a mistake. They would believe, with him, that this army will be speedily raised, and that much time will not therefore elapse before it will be necessary for them to engage in actual service, and consequent pay. He was opposed to this immediate appointment, because he wished rather to have men of experience and character as officers than soldiers by profession. Besides, it is well known that the young men are everywhere coming forward as volunteers. These are something similar, Mr. S. said, to the independent companies in our Revolutionary war, and they will be, like them, a school for officers. Young men thus engaged will soon find out whether their talents are military, or not; and such as have that talent will come forward and offer their services as officers, and it will be much better to appoint men of this kind, than men who seek commissions merely for support.

The question on the section was put and negatived—41 to 39.

Mr. BAYARD said, he had a strong persuasion on his mind, that if the bill for raising a provisional army stands, as at present, our volunteers corps would not be very numerous. As they consist of young men who are mostly extensively engaged in business, it is scarcely probable that many persons of this description will offer their services, if they shall render themselves liable, by doing so, to be marched on service from one end of the Union to the other. This opinion had been strongly confirmed by fact. He therefore moved an additional section, providing "that no company of volunteers who shall have been accepted by the President of the United States, shall be compelled to march beyond the limits of a State adjacent to that in which they may belong.

Mr. T. CLAIBORNE said, this question had already been fully discussed and decided. He thought it would be an extraordinary thing, indeed, if the best men in the country should be thus limited in their service; if the young and active should be kept at home, whilst persons older and less able shall be liable to be sent whithersoever danger may call them.

Mr. S. SMITH hoped the amendment would not prevail. What! said he, shall volunteer corps, consisting of the young men, be kept at home? Shall we first make provisions exempting them from militia duty, for a loan of arms, &c., and then tie their hands from acting? The gentleman who makes this motion has two States adjoining him, others have three or four, and some have only one; so that the provision would be very unequal. Certainly, the gentleman does not mean to make

the volunteers less effectual than the militia, and to separate the young men for the purpose of keeping them at home by their fire-sides. Such a provision would be disgraceful to these young men, and a libel upon their bravery and public spirit. He hoped the idea of introducing such a provision was not seriously entertained.

Mr. KITTERA observed, that it ought to be recollected that our militia are only called out for three months at a time; whereas these volunteers are liable to serve for two years.

Mr. HARPER said, there was another great difference between the militia and volunteers: the latter clothe and equip themselves, and in most instances purchase their arms. It is true, provision is made for the loan of arms, where it shall be necessary; but the probability is that the greater part will purchase their own arms and equipments. Nor would the proposed amendment tie the hands of the volunteers. They might still go where they pleased. It went only to prevent their being forced to go on distant service; but if it were agreed to, he doubted whether very few of them would decline any service upon which they were called. It was not to be supposed that the President would order the volunteers of New York or Philadelphia to march to the frontiers of Georgia; but wherever there was danger, he did not believe the volunteers would ever hesitate to go. He hoped, as the volunteers lay under several disadvantages, such as engaging to serve for two years, and being liable, if the President chooses, to be called upon every day to do duty previous to any actual service, that this clause in their favor would be agreed to.

Mr. MACON did not suppose it would have been necessary to have said a word on this subject. Mr. M. spoke of the unequal service that would fall upon volunteers in different parts of the Union from such a regulation. The gentleman from South Carolina had said, but few of the volunteers would ever avail themselves of this clause. He hoped not; but he should think it very wrong to pass a law to give them the power of refusing to serve whenever they shall be called upon. He hoped the gentleman from Delaware would withdraw his proposition, for he thought it would place a stigma on these young men which they ill deserved. He had seen some of them parade in the city, and was well pleased with their soldierly appearance. But, to say these volunteers should have arms and cannon lent them, and at the same time not be called upon when their services might be wanted, would be a strange provision, indeed. Besides, as this question has been already decided, he thought it very improper to have it thus renewed.

Mr. SEWALL would only say one word on the inconsistency of the gentleman from North Carolina. He had heretofore said that these volunteers would form an unconstitutional body; that it was improper to place such a force in the hands of the President; that the militia of the country would be sufficient for its defence; and that, therefore, there was neither occasion for volunteer corps, nor provisional army; but now, all at once, the gentleman turns round and speaks of the volunteers as being the troops chiefly to be relied upon. Mr. S. thought the proposed clause would have a good effect in increasing the vigilance of the several States; because, when they see that they must rely upon themselves, or a neighboring State, or adjoining States, if more than one, for defence, they will associate, and put themselves in the best condition for defending themselves.

Mr. RUTLEDGE said, if this amendment was agreed to, he feared its effects would be fatal to the volunteer corps. What young man of spirit, he asked, would enter into a corps so confined in its service? The young men in different parts of the country have come forward and enrolled themselves, with a view of being ready to fly to the defence of the country wherever she may be attacked; but if the present motion was agreed to, it would essentially change the spirit of the associations which have taken place. He would say for himself, he would never consent to belong to such a corps. The militia, when called upon, are obliged to march to any part of the Union; and he thought it would be paying a poor compliment to the young men of this country, to suppose they wanted an inducement like the present to become volunteers; for he could not believe they associated together for the sake of wearing a military uniform and feather, or of marching about the city on a Sunday in their military dress. He hoped, therefore, the motion would be either withdrawn or negatived.

Mr. MCDOWELL was surprised that this motion should have been again brought forward, after having been so decidedly negatived on a former occasion. And what was the greatest surprise to him was, that the gentleman from South Carolina (Mr. HARPER) should be found among its advocates, as heretofore that gentleman had spoken of these young men as willing to lay bare their bosoms in the front of the battle—that they would be ready to fly to every part of the Continent to defend their country. Leave had been granted to raise them; it had been asked to relieve them from militia duty. That is not sufficient, gentlemen now wish to excuse them from any service at a distance from home. This, he owned, was a great falling off from the high strain in which gentlemen had formerly spoken of these volunteers.

What sort of an army, said Mr. MCDOWELL, will these volunteers form? The commander of it cannot rely upon his troops beyond a certain point, at which they may all refuse to obey his command. This would be placing the country in a perilous situation indeed; and to suppose such an exclusion from service would be grateful to these young men, was paying them a very indifferent compliment. There may be many of these young men of the description which the gentleman from Delaware had mentioned; and he hoped men of property would show themselves equally ready to defend their country with their fellow citizens who possess a less share of property, and that they would not seek to be excused from service in the way proposed by this amendment.

Mr. Bayard observed, that gentlemen opposed to this amendment, tell the committee that this principle was contained in the original bill, and that having been fully discussed and determined upon at that time, it ought not again to be brought forward. He believed they were mistaken as to the discussion, because, if he recollected rightly, the question was taken without debate, and, to some members, very unexpectedly carried. It was because it seemed not to have excited sufficient attention at the time, that he again brought it forward. And, notwithstanding all the high notions of chivalry and public spirit of which he heard so much, he would venture to predict, that if these volunteers were to be liable to be marched from one end of the Continent to the other, so far from their affording any considerable public service, there would be no volunteers at all, or at least the number would be so small as to have no effect. He was willing to give the young men of the country all the credit they deserved. He saw them willing to incur many inconveniences in order to render service to their country; but he did not believe they would suffer their military ardor to carry them so far as to induce them to devote themselves to destruction.

What, said Mr. B., are the description of persons who generally comprise these volunteer companies? Many of them are professional men; others are merchants; many of them mechanics and artificers, and many of them have families who depend upon them for subsistence. What is the situation of these volunteers? They become regular troops, subject to such discipline as the President shall choose to direct; and, before the provisional army can be raised, they may be marched from one end of the United States to the other, and might, perhaps, render the provisional army altogether unnecessary. It was because he wished to see a numerous body of volunteers, that he brought forward this amendment; because he did not wish to throw a damper upon the military ardor of our young men, or to disgust them. This regulation would put no restraint upon their public spirit; because it did not go to prevent them from marching beyond the limits mentioned, if they are disposed to do it; it only provides that they shall not be compelled to march beyond the limits of an adjoining State. He did not consider these volunteer corps in the light of a standing army, but as auxiliaries to act in aid of a standing force, to rally around the provisional army, in case of invasion.

As to what the gentleman from North Carolina (Mr. Macon) had said respecting some of the Southern States being only joined by one or two States, and on that account would not have the same advantages from these volunteers with other States, he thought it was a philippic against the public spirit of those States; it was supposing that the youth of those States would not be equally ready to turn out in defence of their country with the youth of other States. The House had been told on former occasions, that if the Southern States were supplied with arms and ammunition, they wanted no other assistance: he hoped this was true; and he thought if gentlemen wished to see a numerous corps of volunteers, they would agree to the present proposition, as, without it, he was confident their number would be too small to be of any public service.

Mr. S. Smith observed, that gentlemen in support of this motion said, that the volunteers ought to be favored, because they clothe and equip themselves at their own expense; and do not, asked Mr. S., the militia the same? But is it a fact that the volunteers arm themselves? No; the House has agreed to lend them arms, and after the power to lend has been given, he apprehended few would be bought. What would the great body of the militia say, provided the present motion were to pass? They would say, "we are obliged to answer any call which may be made upon us; but these volunteers whom you have taken from our body, and to whom you have given arms, remain at home." Would not this offend the great body of militia? It certainly would. Besides, would any military man take command of a body of troops, who, when they came to a certain line, might lay down their arms, and refuse with impunity to march any farther? They certainly would not, as such a circumstance might occasion the most serious consequences; for it would be recollected, that during the war, men who were engaged for six months only went off on the very day their time expired, and on which an action took place, which occasioned a defeat of the American Army.

But the committee were told by the gentleman from Delaware (Mr. Bayard) that except this motion was agreed to, we should have no volunteers, or at least very few. If so, we had better have none. If these young men wish only to fight by their own fire-sides, they had better remain with the militia, and go into the ranks with older men. It would not be worth while to form a separate corps for them. Indeed, if he had a son that would enter into such a corps, he should be ashamed of him, and he would disinherit him; and he was persuaded that the young men of America would not thank gentlemen for placing them in such a situation as was proposed. If they wished to place them in a ridiculous point of view, or to procure for them the name of the *Silk Stocking Company*, or any other term of derision, they could not take a more effectual course to obtain it. He hoped, therefore, this proposition would not be agreed to.

Mr. Brooks did not view the clause under consideration in so exceptionable a point of view as his friend from Maryland, or he would not vote for it. He knew that a provision similar to this made a part of the former bill. How it came to be struck out, he could not tell; but he believed it was done without debate.

Gentlemen spoke of the favorable situation in which these volunteers will be placed, if this provision is agreed to; but they do not weigh the matter on both sides. They forget that the militia cannot be called into service for a longer term than three months at a time, and it was never known that militia were called very far from

home. The idea of marching these volunteers from one part of the United States to the other, was rather imaginary than real. In the course of the last war, the militia was scarcely ever called beyond the bounds of an adjoining State; but he had no doubt if the service of the country should stand in need of these young men, they would not suffer their ardor to be overcome by an ideal line. He believed these young men would prove better troops than any other, and perhaps prevent the necessity of raising any other.

The gentleman from Maryland has said, that if he had a son who would enter into a corps under such a restriction as this, he would disown him. Other gentlemen would be equally concerned with him, if their sons were to take advantage of such a clause in time of danger. But he did not think it would be right to terrify young men from the service by holding up more severe duty for them than it would be likely they would be ever called to perform. He hoped, therefore, the amendment would be agreed to.

Mr. Milledge said, if this provision was agreed to, the State of Georgia could only expect assistance from the volunteers of one State, and the exposed situation of that State is well known. The United States ought certainly to be protected in every part; and in the last war it was usual for the flower of the American people to fly to the most extreme parts of the Union whenever danger appeared.

Mr. Otis did not believe that any provision could be thought of which could be more effectual in discouraging these voluntary associations than a provision of this kind. His friend from Delaware spoke of these young men as if they were to be singled out for distant service in preference to any other troops, and he was afraid such a suggestion, and a motion like the present, might have an undue effect out of doors. For though he believed there are a great number of young men ready to come forward, he believed the adoption of this motion would prevent them from doing so. He rose, therefore, to remind the committee that the volunteers have no reason to believe they will ever be called upon to go upon any distant service, except in such cases as would induce them to it whether they were volunteers or not.

As to the idea of these volunteers superseding the necessity of regular troops, he had no such opinion. He believed that neither volunteers nor militia would be a sufficient defence without regular troops; and as there had been no instance in the last war in which the militia had been sent to any great distance from home, he thought it could not be reasonably expected that these young men would be very soon sent from their own homes. But if this provision was agreed to, he was afraid other arguments would be made use of, rather to discourage than favor these establishments. Instead of evincing any extraordinary degree of spirit and bravery, it would be said their object was to stay at home; they would be called the silk-stocking corps, the invalids, &c.

But, it was said, except this clause was agreed to, no volunteers would enter the service. He had not been out of the city, but he had the pleasure to see, every morning, from three hundred to four hundred young men exercising themselves in military discipline. He also saw troops of horse going through their evolutions. He believed a similar spirit existed also in New York, and other large towns, and he trusted, therefore, that the opinion of his friend from Delaware would prove to have been unfounded.

The question was put and negatived, there being only 19 votes in favor of it.

Mr. Dayton moved to amend the bill by adding the word "legions;" which was agreed to.

The committee then rose, and the House having agreed to the amendments reported.

Mr. Sewall renewed his motion, of an additional section, authorizing the President of the United States immediately to appoint such officers as he shall think necessary for the better raising the provisional army, whenever he shall think it necessary.

The question was taken by yeas and nays, as follows, and carried—42 to 39:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Daniel Morgan, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., Jas. Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Geo. Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Demsey Burges, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Shepard, Samuel Smith, William Smith, Richard Sprigg, jr., Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

Mr. S. Smith then renewed his motion for striking out certain words, in order to confine the loan of arms to pieces of artillery alone. His opinion was that small arms ought not to be lent to the volunteers. He thought them much better able to purchase arms than the militia; and if it was determined to lend them, the probability would be that none would be bought.

Mr. Brooks observed, the volunteers could not purchase arms until they are to be sold; and he believed Government had arms which they could lend, but which they had no authority to sell.

Mr. Otis said, if the gentleman from New York could demonstrate the fact, that Government has guns to lend and not to sell, it would have some weight upon his vote; or if arms

could be bought, he should certainly be in favor of the motion of the gentleman from Maryland, as he did not think these volunteers ought to be excused from burdens laid upon the militia.

Mr. Brooks had no doubt of the fact.

Mr. Sitgreaves observed that a principle had been assumed by gentlemen on all sides, which he thought it important to be exposed, and which ought to be abandoned. Gentlemen seem to think there would be no propriety in extending to these corps exemptions which are not also given to the militia. It is said, they are on no better footing than the militia, and that they ought, therefore, to buy their own arms. He believed the true policy of this country lay on the other side. While we are endeavoring to organize the youth and active citizens of the country, in order to be ready to render service to their country at the first call, without regard to place, or limitation of service; when making this invitation, Congress ought certainly to encourage it by all the motives which can be given; and if Congress can, by lending these young men arms, induce them to turn out, they ought to do it; or, if there be any other way of attaining the end, it ought to be taken.

Gentlemen speak, on this occasion, as if there were no probability of having any volunteers other than young men of property, such as are generally seen associating in Philadelphia and New York. He hoped the same enthusiasm which had fired the young men of the cities, would also reach the young men in the country, and that we should, in consequence, have volunteers in agricultural, as well as commercial districts; and in those districts it must be known, that if public aid is not given, arms of uniform bore and size cannot be got.

These volunteers, Mr. S. said, undertake greater service than the militia; their engagements are of a superior kind, and, in order to induce young men generally to enter into these corps, every proper encouragement ought to be held out to them.

Mr. R. Williams said, it appeared to him that gentlemen very much abandoned the ground which they originally took. The House were told when the subject of volunteers was first under consideration, that these youths would produce a very formidable defence for the United States, without cost, until they came into actual service. These were reasons urged in favor of them, when gentlemen spoke of the militia as being the natural and best defence of the country; but now gentlemen propose for them one privilege after another. It was said, at that time, that the raising of these corps would not injure the militia, because they would be liable to do much more duty, and be at greater expenses, and that nothing but love of country could induce young men thus to come forward. But now, and on former occasions, attempts have been made to obtain regulations in their favor. They had hitherto been resisted, and he trusted they would be so, for if ever material distinctions were made between these corps and the militia, they would produce nothing but discontent. While the duty bears equally upon the people, they will never complain—they will do the duty they are called upon to perform; but, whenever advantages are given to one class of citizens more than to another, dissatisfactions and complaint are the immediate consequences.

What are the militia obliged to do? They are compelled to provide their own arms, and to be subject to the call of Government upon any service upon which they may think it necessary to engage them. It is true that the volunteers may be called into service for a longer period at a time; but that was a condition of their engagement with which they were acquainted at the time. But here is a proposition to loan them arms; and he was of opinion this circumstance might induce many men to join these corps, rather than the militia, where they would have to purchase their own arms. If Government have not the arms to sell at present, as had been suggested, but that they might loan them, why not put the provision upon that ground, and say the arms shall be loaned until they can be got for sale to them. To such a provision he should not object. The gentleman last up had said, the volunteers ought to have a preference given them, but he thought not. He supposes that the enthusiasm which is at present so prevalent in the cities, will spread to the country. Mr. W. wished it might; but if it did, could the gentlemen suppose that there are arms now in the public arsenals to lend to these youths throughout the country? If not, these persons being excused from militia duty, will be excused from all military duty whatsoever. Besides, if the United States were to find arms for all these volunteers, he wished gentlemen to recollect how serious a sum it would cost. He hoped, therefore, the loan of arms would be confined to field pieces.

Mr. Edmond observed, that the gentleman from North Carolina last up had said he was opposed to distinctions, yet he has advocated an amendment which will go to create them. This morning a bill had been passed for supplying the militia with arms, and if neither the State Governments nor individuals will purchase them, they are to be loaned to the people. He himself opposed that measure, because he believed it would discourage persons from purchasing arms, when they had a prospect of borrowing them, though he believed the gentleman from North Carolina was in favor of it.

The volunteers stand upon a very different ground from that on which the original bill proposed to place them. It was there proposed that they should not go beyond the limits of an adjoining State. And in that case multitudes would have come forward, provided they should not be called to serve as a standing army, whilst their families were left destitute. Men might then have been tempted to have left the militia, in order to have joined these corps; but if Congress goes so far as to say they will depend solely for the defence of the country upon the ardor and patriotism of these young men, what will these gentlemen say? Each will say to himself, "I am now exempt from military duty, there is no law to compel me to it; but if I go into these volunteer corps, I must equip and arm myself; I may be marched to the extreme parts of the Union, and not return for

two years. If I do not join this corps, I can stay at home, and, when called upon, do militia duty with my neighbours." Where, then, he asked, was the inducement to become volunteers? There is none, and it can only be a pure sentiment of patriotism which could induce young men to enter these corps. He hoped, therefore, the law would not be trammelled, but that the encouragement held out by this clause would, at least, be agreed to; especially as men beyond the age of 45, who are excused from militia duty, might join these corps.

Mr. S. Smith said, the arguments of the gentleman last up go to this, that there are no arms to be bought. His amendment said no such thing. He wished the volunteers to purchase their arms at once. If the gentleman from Connecticut could show, that the Government could loan arms, but could not sell them, his arguments would have some weight.

With respect to the bill passed this morning, it did not originally contemplate any loan of arms; but an amendment had been introduced into it, providing that in case of any emergency, and any of the arms shall remain unsold, they shall be loaned to such persons as may stand in need of them.

Supposing that 5,000 stand of arms were only to be lent to these volunteers, it would create a draft on the Treasury for $80,000, and he thought it would be much better to suffer individuals, who would generally be very able to do it, each of them to pay fourteen or sixteen dollars for their own.

Mr. Dana supposed, as a military man, the gentleman from Maryland, would admit the propriety of retaining a considerable quantity of arms in the arsenals of the United States. Would it not, then, be folly and madness to sell all the arms out of the arsenals of the United States? Ought we not to have sufficient for an army, in case of invasion? Admitting we have only this quantity at present, if we loan them, and take receipts for them from confidential officers, they might be at any time returned in better condition, probably, than they were lent, so that no expense would be incurred. And these arms cannot be purchased of a proper calibre any where else.

And what was the amount, Mr. D. asked, of the elegant harangue of the gentleman from North Carolina, on the odiousness of distinctions. Does he mean to say there ought to be no distinctions in the community? When men are distinguished by their burdens, ought they not to be distinguished also by their privileges?

The yeas and nays were called and taken. The question on the amendment was negatived—46 to 35, as follows:

Yeas—John Allen, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Samuel Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

Nays—Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Daniel Morgan, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, William Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

The bill was then ordered to be read a third time to-morrow.

Saturday, June 16.

PROVISIONAL ARMY.

The bill supplementary to, and to amend the act authorizing the President of the United States to raise a provisional army, was read the third time, and passed—42 to 30, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Richard Sprigg, jr., George Thatcher, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, Lemuel Benton, Thomas Blount, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

SEDITIOUS PRACTICES.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill for the prevention and restraint of dangerous and seditious persons; when

Mr. Gallatin rose and said, he did not mean, in objecting to the first section of this bill, to take into consideration the propriety or expediency of adopting the measures proposed, or the manner in which it is proposed to carry these measures

into effect. He rose merely at present to state the Constitutional objections which he conceived to lie against this section. The first section provides, "that any alien resident, or who shall come to reside within the United States, who hath, or shall have been convicted of any felony, or other infamous crime, or who shall be notoriously a fugitive from justice, upon any charge of treasonable or seditious practices, in any foreign State or country, or whose continuance within the United States shall be, in the opinion of the President of the United States, injurious to the public peace and safety, may be deemed and adjudged a dangerous person, and may be required to depart and may be apprehended and removed therefrom."

We have, said he, another bill on the table in relation to alien enemies; this bill, therefore, must be considered as applying to alien friends; and whatever power Congress may have in relation to alien enemies, as derived from its power over war and peace, that is not connected with the subject of alien friends; and the question upon which he meant to make some remarks is, whether the Government of the United States are vested with any power to order alien friends to depart from this country.

The three grounds taken by this bill, upon each of which aliens may be sent out of the country, are, first, aliens who may have been convicted of felonies in their own country; 2dly, aliens who have been charged with seditious practices in another; and, 3dly, aliens whose continuance in the United States may be dangerous to the peace and public safety of the country. The last is a kind of sweeping provision which includes the other two.

Mr. G. said, it must be agreed by all that every nation had a right to permit or exclude alien friends from entering within the bounds of their society. This is a right inherent in every independent nation; but that power is vested, according to the Constitutions of different countries, in one or other branch of the Government. In this country, he contended, that the power to admit, or to exclude alien friends, does solely belong to each individual State, and that the General Government has no power over them, and, therefore, that all the provisions in this bill are are perfectly unconstitutional.

By the 12th article of the amendments to the Constitution (which are now a part of the Constitution) it is provided, "That the powers, not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And no power is given by the Constitution to Congress to banish or remove alien friends, nor is there any power there prohibiting the States from regulating or restraining the residence of alien friends, and therefore he concluded the power remained with them. If there is any clause in the Constitution which prohibits individual States from exercising this power, or which gives it to the General Government, he should be glad to have it pointed out, but so long as it is not shown, he should insist upon its being one of those powers which still remains with the State Governments. It is a fact well ascertained, that in the Constitution of the United States, certain specific powers are given to the General Government, and all the other powers are reserved to the State Governments; and the amendment to the Constitution above cited was positively introduced to prevent the General Government from assuming powers which were never intended to be given to it. The power of regulating alien friends, in every possible case, he believed, was understood to be reserved to the States at the time the Constitution was adopted.

Mr. G. said, he would notice one of the strongest cases, viz: alien felons. If the Government of the United States could be supposed to have power to prevent the admission of aliens of any description, it must be those of this odious caste, but even this power was never supposed to exist in the United States. Under the old Articles of Confederation (and the Constitution of the United States makes no change in this respect) this power over aliens was never claimed or exercised. On the contrary, he found on the 16th September, 1788, when the Constitution had been adopted by at least nine of the States, and when, of course, it was soon to come into operation, Congress, passed a resolve recommending it to the several States to take measures to prevent the introduction of transported malefactors into this country from foreign nations. If Congress had supposed they possessed the power of making the regulations which they recommended to the States to make, it is clear they would have made them, and not have called upon the States to make them.

According to the recommendation of the old Congress, which he had just mentioned, the States passed laws on the subject. He found that since the adoption of the present Constitution, and while the first Congress were in session, a law was passed by the State of Pennsylvania, founded upon that resolve, forbidding under severe penalties the introduction of and providing for the removal of convict felons. So that it is clear the State of Pennsylvania has acted upon this power since the adoption of the present Constitution; and that one of the objects of the present section is actually already provided for by the laws of the State.

Again, there are other clauses of the Constitution which have relation to this subject. One immediately, and the other more remotely. The latter are the clauses which say, "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." And "no person shall be deprived of life, liberty, or property, without due process of law." There can be no doubt that if this bill passes into a law, it will amount to a suspension of the habeas corpus; and to a violation of the last clause. This last clause speaks of persons, not of citizens; so far as relates to personal liberty, the Constitution and common law include aliens as well as citizens; and if Congress have the power to take it from one, they may also take it from the other. He said he did not, however, lay so much stress on those clauses as upon some others of the Constitution.

The next clause to which he should refer, was

the one immediately preceding the one he had just quoted. It is in these words:

"The emigration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress, prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Here is a positive clause which says that the migration of persons shall not be prohibited. For it will be noticed the word *migration*, which must relate to free emigrants, is used, as well as the word importation, which relates exclusively to slaves. This provision would be defeated by this law, as it would give the President the power to remove any aliens who might thus migrate, although the States had thought proper to admit them.

Seeing, therefore, that this power is not only not given to the United States, but expressly prohibited, and that this bill must consequently be unconstitutional in every point of view, and having made these remarks in order to draw from the supporters of this bill the reasons upon which it is founded, he should move to strike out the first section.

Mr. SEWALL would not pretend to say that this question is clear from every kind of doubt, but he believed a candid examination of the subject, would convince all reasonable men that Congress has, and ought to have this power, and further, that this is the time that it ought to make use of it.

The gentleman from Pennsylvania advances three arguments, by which he attempts to prove that the power of making the proposed regulations with respect to aliens does not exist in Congress. Mr. S. here enumerated the three different arguments, and gave his reasons why he supposed Congress had the power of making the proposed regulation. And the first thing he referred to was the general nature of the Constitution itself, which he drew from the preamble, in the following words: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain," &c. The Constitution, therefore, he said, in the outset, establishes the sovereignty of the United States, and that sovereignty must reside in the Government of the United States. Indeed, if we attend to the power given to the General Government to regulate commerce with foreign nations, it is an evidence of its sovereignty; and, being once admitted, it may be proved in a variety of details. Mr. S. said, he should therefore argue on the ground of the sovereignty of the nation being in the General Government, as it respects its intercourse with foreign nations. To prove this, it might seem to be sufficient to refer to the manner in which our foreign political intercourse is carried on; yet he believed it would be difficult to find an express declaration in the Constitution that this power is in the General Government. There was, indeed, something to be gathered by implication from the power of appointing foreign Ministers; but this does not determine that the intercourse shall be altogether maintained by a sovereignty placed in the Congress of the United States, yet Congress had always found themselves bound to make those regulations.

It being admitted that Congress has the power to regulate commerce with foreign nations, and foreigners who come here generally coming for commercial purposes, Congress has of course power to make regulations with respect to them, unless this power can be supposed to be taken away by the first article of the 9th section, which he could not believe.

Mr. S. read the article just mentioned, which, as it gave a power to impose a tax upon migration of emigrants, was a commercial regulation, and therefore came within the powers of Congress to regulate commerce.

Besides, the article itself, just quoted, implies that the Congress has the power to regulate this business respecting aliens, or why does the clause suspend the power till 1808? Those who formed this article of the Constitution, must believe that Congress had some power over aliens, or why did they prohibit the exercise of it? and if they had it, they must have derived it from the Constitution. Taking all these circumstances together, he must believe that Congress has the power of regulating this business.

As to the question respecting the writ of habeas corpus, the remarks on this point go to the detail of the bill; and are not applicable to the first section; but this regulation would by no means suspend the habeas corpus. To suspend the habeas corpus, is to commit a person to prison without law; but this bill does not propose any such thing. He took it, Congress has a right to describe certain crimes, or circumstances, which lead to the suspicion of crimes, in which case a commitment ought to take place; and Government has a right to suspend the liberty of persons in cases where they suppose there would be danger in their being at large; but the persons thus imprisoned would also have the power of demanding a trial.

As to the first article of the 9th section, it is clear from this article, that Congress has a right to lay a tax upon the migration of any foreigners which the State shall determine to admit, which is certainly a power of restricting their admission. But, if he understood the section rightly, it supposes that Congress have a right, from their power to provide for the general welfare and internal tranquillity, to take cognizance of everything which relates to aliens; and if the residence of any aliens in this country would be likely, in their opinion, to endanger the public peace and tranquillity, Congress have a right to take such measures respecting them as they shall think fit.

If Congress were to say, that no alien shall be admitted into this country, they would only exercise that power which exists in every country; but, this the Constitution has forbidden Congress from doing till the year 1808. It is clear, therefore, they may then do it, and in the meantime impose a tax of ten dollars on their migration. And it is certainly right that Congress should have this

power; for, if any individual State choose to admit felons, or notorious fugitives from justice on charge of treasonable or seditious practices, it would be in vain for those other States to make regulations on the subject.

It became matter for consideration, then, how far the mere right of admission goes. Because the individual States have a right to admit aliens, it did not, he conceived, follow that Congress cannot make regulations respecting their continuance here. Congress, in right of its sovereign power to preserve peace and tranquillity, might order such aliens to depart from any of the States, as they shall conceive to be dangerous, and the present law goes to consider persons of a certain description as dangerous to the peace of the United States.

By what power, Mr. S. asked, could Congress send away alien enemies (and no one doubted this power) if the States have full power over aliens? If we have power in one case, it struck him, we have it in the other, since in both their removal is necessary for the public safety; for transported felons, and persons notoriously seditious, are full as likely to become dangerous to the country as alien enemies. He believed the sovereign power of every country had exercised a right similar to this. He therefore hoped the power would not be objected to here; but, that it would be allowed that Congress had the power to authorize the President to take whatever measures are necessary with respect to aliens, which are not inhuman and improper in themselves.

Mr. OTIS said, that the objections made against this bill are not such as he had anticipated. He expected to have heard the most elaborate harangues in favor of the liberty of the press, and on the right which ought to be allowed to censure men and measures, and such popular topics; but he did not foresee any objection arising from the Constitution.

He did not think it required much time or ability, however, to answer the objections produced on this occasion by the gentleman from Pennsylvania. If Congress have not the power of restraining seditious persons, it is extremely clear they have not the power which the Constitution says they have, of providing for the common defence and general welfare of the Union.

It has been said, Congress was restricted from the use of this power by the 9th section of the first article of the Constitution, which provides that the migration or importation of such persons as the States should think proper to admit should not be prohibited prior to 1808. If this clause in its most rigid construction amounted to a prohibition to the National Government with respect to the banishment of aliens, in all cases where the separate States had thought proper to admit them, it should still be shown that individual States had ever thought proper to admit aliens of the description mentioned in this bill. He believed no State had passed laws declaring it to be their intention to admit fugitives from justice and seditious persons into their territory. It is true, that some of the States may have tolerated the admission of such persons by forbearing to enact laws against them; but their silence on this subject can never be considered as evidence of their assent to the emigration of such characters.

The article of the Constitution alluded to, as he understood it, had an evident reference to a species of foreigners held as property in some of the States whose importation is sanctioned by their laws. He meant slaves. The object was to prevent any interference of the General Government with the State Governments in the admission of these persons before the year 1808. This construction appears very material, because in all those States where this property is held they have their own laws for regulating their admission and importation, but in no State did laws exist regulating the migration of any other aliens.

But the gentleman from Pennsylvania says, that after the Constitution had been adopted by nine of the States, the old Congress recommended to the several States to take measures against the introduction of malefactors from foreign countries, and from hence he infers that this right did not belong to the old Congress, and in their estimation was not delegated to the Federal Government. The fact is, that although the Constitution was adopted, yet as the Legislature had not then met, it was not in operation, and the old Congress, perceiving dangers arising from this source, might as well recommend to the States to provide against them, as against any other dangers. Suppose, before the Congress had met, money had been wanting, and the States had been applied to for it, would it afterwards have been said that the requisition of the old Congress after the Constitution had been ratified was evidence of their opinion, that the Legislature of the Union, under the new Government, had no authority to raise money? He presumed that it was foreseen by the old Congress that the attention of the Legislature under the new Government would of necessity be occupied upon subjects of a more momentous nature for some time, and the recommendation was wise in itself, and by no means conclusive against the authority now claimed by this bill.

But it was said, that to pass this bill would be to suspend the habeas corpus. He denied this. Every alien resident, when apprehended, would be at liberty to apply to a Judge for a writ of habeas corpus. The return of the warrant would show that he had been legally apprehended as a person dangerous to the peace of the United States and under their authority, and he would be, of course, recommitted. But it appeared to him an absurd supposition, that Congress has not the power to restrain and to banish persons who may have been sent into this country for the very purpose of spreading sedition and of dividing the people, whose intrigues and malpractices threaten the welfare and the very existence of the Government. If the Constitution prevented Congress from exercising these powers, would such a Constitution be worth a farthing? It certainly would not; since the power of sending off this description of persons is essential, not only to the promotion of the public welfare, by preserving peace, but to the efficient prosecution of a war.

But he wished to know why the section of the Constitution alluded to, according to the construction of gentlemen, might not as well restrain Congress from taking measures against the migration of a French army, as against the landing of other aliens; for he saw no power given to Congress by the Constitution to prevent the migration of a foreign army into this country. Yet, though there is no express authority to this effect, it is one of those things which is too evident to be doubted; and an army of soldiers would not be so dangerous to the country, as an army of spies and incendiaries scattered through the Continent.

He thought the whole question resolved itself into this inquiry: has Congress the power to provide for the common defence and welfare of the country? And, if so, do we deem it essential to this end, that the proposed power should be given to the President, or to some other Department of Government? He thought it was; and if there be anything in the letter of the Constitution which would appear to bear a different construction, which he denied, it ought to be reconciled to other clauses and powers which impose the sacred and superior duty of providing for the safety of the country, and without which all our efforts against our enemy will prove vain and futile. In this case there was not a shadow of difficulty. Aliens may come hither under the laws of the States, and when they become dangerous they may be expelled by the laws of the Union.

It remained for gentlemen to consider whether we have any danger to apprehend from this source, or not. Whether the French might not employ other persons than their own citizens to carry on their nefarious purposes in this country? In his humble opinion, there is greater danger from this source than from any other. He believed it had been owing to this cause that all the Republics in Europe have been laid prostrate in the dust; it is this system which has enabled the French to overleap all natural and artificial obstructions; to subjugate Holland and Italy, to destroy the Helvetic Confederacy, and force a passage through rocks and mountains, which have been for ages sacred to the defence of liberty; it is this system which has watered the tomb of William Tell with the blood of widows fighting over their slaughtered husbands, and with the tears of orphans who survive to swell the procession of the victors.

Mr. O., notwithstanding, believed that there are aliens in this country who would never be affected by this law, and that there were among us even natives of France, whose merit and misfortunes gave a claim to protection, and who would prove good citizens; and he was willing to make the most ample provision for the security of the property of both alien enemies and alien friends. But while he respected the rights of the individual, and disdained to retaliate upon private property, he could not, with the dreadful examples of other countries before his eyes, omit the most necessary precautions against the most instant danger. In the late situation of those countries and of his own country, he could trace some painful analogies. If we knew ourselves to be a chosen people, if the age of miracles should return, and Omnipotence should speak to us by the mouths of his holy prophets, neither miracles or prophecy would strike home to his mind a deeper conviction than he now felt, that in the fate of the European Republics we might read our own, unless all the prudence and energies of our country were summoned to avert it. They boasted of their patriotism and courage, they talked loudly of defence, and of resisting the invader; of their attachment to their Government, and of their preference of death to submission. Yet, when the hour of trial arrived, it appeared that secret corruption and foreign influence had completed their work; upon the slightest shock, those Republics crumbled into fragments, and the good and the honest citizens were left to stare, with stupid wonder, at the ease with which foreign agents and domestic traitors vaulted into place and power. It is needless to fatigue the committee with these recitals—not to see their application is to be blinded with a flood of light—not to believe in their moral was gross and fatal infidelity. He hoped the objection would be renounced, and that the bill would pass.

Mr. R. WILLIAMS said that, although there might, in his opinion, be many objections against the passing of a bill of this kind, and though he believed it would be consistent with the rules of the House to show that impolicy, to induce the committee to strike out the first section, he should confine himself to the Constitutional question.

If the principle which the gentlemen from Massachusetts have drawn from the preamble of the Constitution, of providing for the common defence and welfare of the Union, be correct, it appeared to him unnecessary to have any other provision in the Constitution besides the preamble, as it may be inferred from that, that Congress has all power whatever. If such a construction be allowed, what becomes of the powers of the State Governments? This preamble of the Constitution would swallow up the whole.

Mr. W. conceived gentlemen erred in the very commencement of their arguments, in not considering how the General Government had grown out of the State Governments and from the people; for it is clear, if they had thus considered the matter, they must have seen that this Government can have no other power than what is given to it from the State Governments and by the people, in the Constitution.

Mr. W. would agree that, if the General Government were to be considered as possessing all power, and the State Governments and people as possessing none, then the arguments of gentlemen would apply; but, he believed, this was a ground that no gentleman could maintain. It must be acknowledged that the State Governments retain to themselves certain powers, and that the people also retain certain other powers, which they have neither delegated to the State nor General Government; and for the latter to attempt to exercise any power which has not been given to it by the Constitution, is, of course, a violation of the Constitution.

The gentleman from Massachusetts, who was

first up, (Mr. Sewall,) grounded his arguments in support of this bill on two principles viz: on the preamble of the Constitution, and on the power of Congress to regulate commerce. The latter, he thought, a curious idea, that all emigrants coming to this country should be considered as articles of commerce. No such idea could certainly be drawn from the Constitution, and it was inconsistent with any exposition of the word "commerce," which he had ever heard of. But admitting these emigrants could be considered as articles of commerce, he would still ask, whether the principle would go to the extent of this bill? It would not. It only went to say, Congress should have the power of laying a tax of ten dollars upon their migration, as the migration cannot be prohibited till the year 1808.

Mr. W. could not see how gentlemen could contend, from this clause of the Constitution, that Congress has a right to prevent the migration of foreigners, or remove them after they arrive, which would be the same thing, to individual States; or whether, if Congress could send out one person, there be anything in the Constitution to prevent them from sending out all aliens from the country? And if this could be done, he would go so far as to say, that all that species of property, (slaves,) which may well be looked upon as an evil and dangerous to society, not only at present, but in the most peaceable times, may also be sent out of the country. And as ready as the Southern States are to grant slaves are a dangerous property and an evil in their country, they will not consent to Congress assuming the power of depriving their owners of them, contrary to their will. Yet they might as well exercise this power, as the one they are about to exercise.

Mr. W. did not think it was enough to say that evils exist, for Congress to proceed to remedy them. They ought first to inquire whether they have the Constitutional power to afford the remedy, or whether it is not placed elsewhere. But gentlemen exclaim, Shall we not punish persons who commit offences? He would answer, yes; but this bill does not propose a punishment for an offence, or that persons shall be convicted before they are punished, and sent away. Aliens are to be sent out of the country on suspicion, which is not to be ascertained by any known tribunal, but at the discretion of the President of the United States; and as it would be impossible for him personally to attend to cases which may happen in different parts of the United States, he must have correspondents in different parts of the United States, upon whose information he will have implicitly to rely. He must also delegate his power to persons within the different States; and, though he might not himself abuse it, no one could say that none of his agents would not do so. Besides, it is inconsistent with the provisions of our Constitution, and our modes of jurisprudence, to transfer power in this manner; and he conceived that it would be better to endure a temporary evil than to violate the Constitution.

The latter gentleman, from Massachusetts, asserted another curious principle—a principle which he never heard advanced before, viz: that if the States think this law a violation of their right, they might pass a law to contravence it. Could, then, the power exist in both the State Governments and the Government of the United States? If gentleman wished to produce a state of things which he was not desirous of seeing, this, in his opinion, was the way to effect it. The Constitution admitted of no such principle as this. If a law was passed, it was immediately presumed it was according to the Constitution; as it was supposed Congress understood their power too well to pass a law which the Constitution did not give them authority to pass. It would not do for them to say to the States, "You have been backward in your duty, and therefore we will do it for you." It is their power, and they have a right to use it, or let it alone.

It had been said, the 1st article of the 9th section of the Constitution relates only to slaves; but the term *migration* could not relate to slaves, since they were not imported according to their free will. It must apply to emigrants, not only from foreign countries, but from one State to another; and, as far as he ever understood the ground upon which that clause was adopted, it was, in order to accommodate those States who have large tracts of uncultivated country, by permitting them to have leave to admit of such migrations as they should judge proper, for a period which they deemed sufficient to insure them a sufficiency of population. Indeed, he believed the Constitution would never have been adopted without a clause of this kind, as those States who were in this situation, and who brought forward the clause, would never have agreed to it without such a provision.

But the gentleman from Massachusetts said it would be hard, indeed, if Congress had not the power of preventing people from scattering sedition though the country. He agreed with that gentleman, it would be hard if Congress had not that power. But is this bill merely for the purpose of punishing offences? No such thing; it is for the purpose of sending persons out of the country before they have committed any offence. If the bill merely provided punishment for offences, which were defined, he should not object to it; but it was of a much more arbitrary cast.

The same gentleman went on to say what a particular nation had done; but this bill does not relate to one nation, but to aliens from all countries; and because other nations have done mischievous and turbulent acts, are we to violate our Constitution merely to come at particular characters? He would not do it. If there were no other means of doing it, he would leave them at large; but he said there were other means of doing it. Our Constitution would be a very slender security to the people of this country, in the possession of those rights which he supposed they never meant willingly to part with, if, on the cry of there being danger here, or seditious persons there, violations were to be made in it, in order to meet the evil. If this were once admitted, there would not be wanting persons who would be ready to take advantage of these opportunities to bring

about a radical change in our Government. Vain and idle insinuations of this kind have already had too much weight in this country, and he hoped they would not be suffered to alarm the House into a violation of the Constitution, and, of course, their oath to support it.

The gentleman from Massachusetts last up, said he was surprised the bill had been attacked in this respect. He could readily believe the gentleman had been surprised, from the arguments he made use of; but he could assure him that it was not because he did not think other parts of the bill objectionable, that he did not at present notice them. If the unconstitutionality of the measure was sufficiently grounded, it would be unnecessary to go into those parts of the bill which the gentleman supposes are calculated to bring about a discussion on the liberty of the press. He hoped the section would be struck out, because he thought it impossible to make this bill any other than a violation of the Constitution.

Mr. Bayard observed that the gentleman from Pennsylvania (Mr. Gallatin) had objected to this bill on three different grounds, viz: in the first place, he states that Congress possesses no power which is not given to it by the Constitution, and that the power of making a law like the present is not given. In the next place he states that this bill militates against that clause of the Constitution which says the privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion; and, in the third place, that it militates against that article of the Constitution which says that Congress shall not prohibit the migration of such persons as the States shall think proper to admit before a certain period.

With respect to the first objection, he agreed with the gentleman from Pennsylvania that Congress had no power but what was given them by the Constitution. He thought the twelfth article of the amendments conclusive on this point. He confessed, however, that he could not see why the gentleman should refer to any proceedings under the old Confederation to support his doctrine; because this Government had been substituted in place of that, and derives its powers and authority from the Constitution, and not from anything done under the old Government. But Mr. B. contended, that the power was expressly, if not specifically given to Congress, by the 1st article of the 8th section of the Constitution, which is in the following words, "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States: but all duties, imposts, and excises, shall be uniform throughout the United States."

Thus, then, it is evident, that the power is expressly given to Congress to provide for the common defence and general welfare, and it is not necessary to be given specifically. The concluding article of the same section also provides, "that Congress shall make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Hence, it is extremely clear that Congress has the power to do what is necessary for the common defence and general welfare; and the only question before the committee is, whether this law is necessary for these purposes? Because, if it is, it comes within the express letter of the Constitution. Therefore, instead of arguing against the Constitution, it became necessary for the gentleman from Pennsylvania to show that the provisions of this bill are not necessary for the common defence and general welfare of the United States. Mr. B. then read the provisions of the section. With respect to the first description of aliens here spoken of, viz: felons, Mr. B. supposed it must be the wish of the gentleman from Pennsylvania, and everybody else, to free our country from infamous characters of this kind. In order to prove that Congress have not the power to send out of the country persons of this description, the gentleman has had recourse, not to the Constitution, but to the laws of Pennsylvania. But when the law which he had adduced was considered, it confirmed the propriety of sending off from the country men who had been convicted of felony in another country; for that law says, persons of this description shall not be permitted to come into the country at all. And could there be any doubt of the propriety of this conduct? He was certain the gentleman from Pennsylvania could not say it would be for the welfare of this country to admit characters, who, having offended the laws of their own country, as well as every sense of morality, could not be expected to become good citizens here, or serve any purpose which the gentleman from Pennsylvania, or any other gentleman, could have in view.

The next description of persons against whom this bill is directed, includes aliens who are fugitives from justice on charges of treason or sedition. And can there be any more doubt as to the propriety of excluding from the United States this class of aliens? He believed not. It might easily be supposed, that persons who have been guilty of treason or sedition in their native country, who have been able to break all the ties of allegiance and affection for one Government, will not become very obedient or peaceable citizens here. It cannot be expected that these exotics will support this Government, when they have notoriously opposed that of the country which they have deserted. This provision would only extend to those aliens who had been in the country a less period than two years, and he thought such a provision would be very proper to operate upon this description of persons. For when he saw men among us, who had been in the country fifteen or twenty years, wanting in attachment to this country, and even some men who owe their birth to it, he supposed but little dependence could be placed upon the attachment of aliens to this Government, who have been here a shorter period than two years, and that it might be supposed they would be as likely to join the standard of an enemy, in case of an invasion, as that of this country.

The third description of persons included in this bill are those whose continuance in the United States the President shall deem injurious to the public peace and safety.

Upon this head, the gentleman from Pennsylvania might, perhaps, differ from him in opinion. He thought the consideration was, whether, if this power was given to the President, he would abuse it? He had no hesitation in saying that he had so much confidence in the President as to believe the power would not be abused. And if we had reliance that the power would not be abused, he did not think any other objection could be brought against it; because, if it was not abused, no person will ever be sent away whose residence is not judged dangerous to the public peace and safety of the United States, and such persons no one could wish to be retained.

Mr. B. concluded, therefore, that the power of Congress to act upon all the different cases contained in this section is strictly contained in the Constitution, by the two clauses which he had read to the committee.

With respect to the objections of the gentleman from Pennsylvania, that this clause will operate against that clause of the Constitution which says the writ of habeas corpus shall not be suspended, he certainly had not formed an accurate opinion upon that subject. In order to know whether this is a suspension of the writ of habeas corpus, it will be proper to inquire what is a suspension of it? This is a definite idea, established by precedent. In England, it is well known, there is the same provision, and we know it has been occasionally suspended. What, then, was to be done in that case? It is provided by law that the habeas corpus shall not issue at all. Before the gentleman from Pennsylvania can say, therefore, that the habeas corpus is suspended, he must show some act by which it is declared to be so. This bill provides only for the arrestation of persons in certain cases, and it will be competent for every person so arrested to obtain a writ of habeas corpus. It was now extremely clear, therefore, that this writ might still issue to the same extent as before.

The last objection made against the first section of this bill is founded on the article which relates to the prohibition of the migration and importation of persons into this country. Mr. B. asked whether, if this bill passed into a law, it would not be in the power of the several States to admit of the importation and migration of persons in the same way that they do at present? This bill provides only that if any improper or dangerous persons shall be admitted, in order to preserve the public peace and safety, the President shall have power to remove them out of the country.

If there was any solidity in this objection, the consequence would be, that the criminal laws of the United States which would subject any of these aliens to imprisonment, or other punishment, might be equally charged with being violations of the Constitution, which, according to the gentleman from Pennsylvania, has reserved all power over aliens in the hands of the State Governments.

Mr. BALDWIN said, whenever a bill was introduced into the Legislature of the Union, which ran counter to the Constitution, it was its duty to decline acting upon it. That part of the first article of the 8th section, which declares, "Congress shall have power to provide for the common defence and general welfare of the United States," had never been considered as a source of Legislative power, as it is only a member introduced to limit the other parts of the sentence, and not of itself a substantive power, as will be seen by recurring to the words of the first sentence of the 8th section. The first instance in which it had ever been attempted to be acted upon, and no question ever agitated the councils of the Union more, was on the application of the Abolition Societies to Congress for an abolition of slavery, the power of Congress to act upon which was said to be derived from these words; but after the subject was well considered, it was decided by a large majority that the words alluded to could not be relied upon as giving any separate power from that contained in the other part of the sentence.

A gentleman in his eye (Mr. DAYTON) reminded him of another instance in which this article had been resorted to for power, with the same want of success. It was in relation to the establishment of certain manufactories, in support of which the aid of Government was applied for. Indeed, if these words were to have the force which it was attempted to give them, all the rest of the Constitution would be surplusage. He could not have supposed that at this day there had been a doubt upon the subject. As to the other clause which had been cited, which was generally called the *sweeping clause*, "to pass laws to carry into effect the foregoing powers," &c., before it could have any force, some other clause must be found to which it is to give effect.

To adopt the sense which gentlemen wish to put upon the 1st article of the 8th section, would be to do away all ideas of this being a Federal Government, and that there are State Governments in existence who have their portion of power; for if all the power which is necessary to "provide for the common defence and general welfare," be possessed by the Federal Government, all the State Governments must fall prostrate before it, as there will be no power left for them to exercise. Indeed, the doctrine is so extravagant that he never expected to have heard it again advanced on this floor.

Mr. B. thought the 9th section, forbidding Congress to prohibit the migration, &c., was directly opposed to the principle of this bill. He recollected very well that when the 9th section of the Constitution was under consideration in the Convention, the delegates from some of the Southern States insisted that the prohibition of the introduction of slaves should be left to the State Governments; it was found expedient to make this provision in the Constitution; there was an objection to the use of the word slaves, as Congress by none of their acts had ever acknowledged the existence of such a condition. It was at length settled on the words as they now stand, "that the migration or importation of such persons as the several States shall think proper to admit, should not be prohibited till the year 1808." It was observed by some gentlemen present that this expression would extend to other persons besides slaves, which was not denied, but this did not produce any alteration of it. Mr. B. had no doubt that, if this bill passed into a law, Congress would again be appealed to by the advocates for an abolition of slavery, with requests that the President may be authorized to send these persons out of the country, and strong arguments will be used in favor of the measure. He recollected it was asked, on a former occasion, "Suppose a cargo of leprous persons were to be landed in the country, would not Congress have the power to send them out of the country? Slavery, said they, is an incurable leprosy; you surely, then, will eradicate it?" This reasoning, however, did not prevail. There are other mischiefs which might be done, against which the Federal Constitution makes no provision. Persons might burn our towns and slay our inhabitants. But our Constitution goes upon an idea that there are State Governments who divide the powers of Government with the Federal Government. But gentlemen, in speaking of the subject, seem to forget this, and to suppose that wisdom is to die with them. His opinion was, that this business of admitting or banishing aliens belonged to the State Governments, and not to the General Government, and he should therefore vote for striking out the first section of the bill.

Mr. DANA did not before know that the Society of Friends were so turbulent a set of people as to occasion all the uneasiness which the gentleman from Georgia had spoken of. He wondered so great a disorder had not been more particularly noticed. As it had not, he apprehended the gentleman's zeal had given somewhat too high a coloring to this transaction.

That part of the 1st article of the 8th section of the Constitution which speaks of the common defence and general welfare, is of a political nature, and does not refer to any internal regulation, but applies to what relates to the Union generally. As it respects aliens, could it be said that the individual States could make the present regulation? No; they could only make regulations bottomed upon their own policy. What relates to the Union generally, must be done by the Government of the United States. When power is reserved by the Constitution to the States, it is for reasons which are applicable to those States; and it might be easily seen what was the ground of the compromise made in the 1st article of the 9th section. It was certainly with a view of the States securing to themselves the property which they possessed. But that reason does not extend to the principles of this bill, which does not say the States shall not admit the migration of foreigners, but that where persons have not attained the right of citizenship they shall be removed, if their residence shall appear to the President to be dangerous.

There is one power, Mr. D. said, inherent and common in every form of Government, which is founded upon any rational principles of policy, which is the power of preserving itself, which implies the necessary power of making all laws which are proper for this purpose. The question then arises, whether it is not consistent with that power to pass a law for the purpose of removing from the country the descriptions of persons mentioned in the 1st section of this bill? Whether this is the best mode of carrying such a power into effect is not now the question.

Mr. D. thought the declamatory harangue which had been heard from the gentleman from North Carolina, on the sanctity of the Constitution, was foreign to the present subject, since no one will be found to say he is willing to violate the Constitution. The single question before the committee is, whether Congress have the Constitutional power to pass the present bill; if they have not that power, no one, he presumed, would wish to pass it.

Mr. ALLEN said, the object of this bill appeared to be to enable the President to remove aliens out of the United States whose residence he shall judge to be injurious to the public peace and safety. It appeared to him that there is no necessity for so many laws respecting aliens. He did not believe that a man's being born in England or Germany is any proof of his being an alien friend. He may still be an adopted citizen of another country, and come here for the worst of purposes. He thought the President ought to have power over aliens of every description, without distinction. He supposed this bill was to appertain only to alien friends, because there is another bill respecting alien enemies. He did not think Congress ought to legislate in this way. Provision ought to be made for the removal of all these persons.

The powers given to the Executive, Mr. A. said, are of an unlimited, confused nature, and such as he had never before seen. If he deems the residence of an alien dangerous to the public safety, the President is to order his removal. But the bill does not say whether any of the courts are to take cognizance of the business, and make the removal, or in what manner it is to be done. The bill speaks of aliens, having been felons, or notorious fugitives from justice in a foreign country. How are these things to be ascertained? Or how are the persons of these aliens to be identified? He could not understand how this bill was to operate. He understood the Constitution to give a right to all persons to be tried by a jury; but it appeared as if the judges were under this bill to act summarily.

Mr. A thought a law ought to pass authorizing the Executive of this country, as in all other countries, to remove all aliens, of whatever country, whom he deemed dangerous to the peace of the country. He thought it would be best to take up the bill from the Senate on this subject, and he moved the committee to rise for this purpose.

Mr. A. concluded with saying, that he wished a law to be passed for the punishment of seditious persons; but he would have it embrace other cases—cases of great importance, which every day come before our eyes. As to the provisions contained in this bill respecting seditious speaking and writing, he defied any person to know

what was intended by them. He hoped when Congress pass laws on this subject they would be such as would be understood.

Mr. Sewall said, before the question was taken on the committee's rising, he wished to notice the charges which the gentleman from Connecticut had brought against the committee who reported this bill. That gentleman wished the committee to rise, because he thought the bill unworthy the attention of the Committee of the Whole. He wished to have no distinction made between alien friends and alien enemies. He, on the contrary, was of opinion, that to take up aliens, merely as such, would be an act unworthy of any civilized nation whatever. If they are thus dealt with, it must be because their residence among us would be dangerous to our own peace and safety. The select committee made a distinction between alien enemies and alien friends. Nor have they said that all alien enemies shall be sent out of the country; but that persons of that description who are not suspected of being inimical to the interests of this country, shall be protected. The committee have gone further and said, that aliens, not alien enemies, who are of such a description as that their residence among us would be likely to be injurious to the peace and safety of the country, may also be sent away. In the bill respecting alien enemies, discretion is left with the President to treat them according to existing circumstances. By the present bill, aliens render themselves liable to be sent away, who come here under such disadvantageous circumstances of character as to render their residence among us dangerous. As to the particular manner in which this is to be done, when the third section of the bill came under consideration, it might undergo any amendment which might be thought necessary.

In the third section, as it was not desirable that the President should be continually exercising the discretionary power lodged in him, cases are described where facts are only necessary for ordinary tribunals to send aliens out of the country. But where a discretionary power was necessary to be lodged, it is placed in the President alone; since, in the opinion of the committee, it would have been perfectly absurd to have lodged a discretionary power over these aliens in a number of different tribunals. For, in that case, an alien driven from Massachusetts or Pennsylvania, might take refuge in any of the other States; whereas if this power was exercised by one man, by one understanding, it would be always exercised in the same way. He thought, therefore, the bill stood very well in its present form.

The question on the committee's rising was put and carried, and leave was given to it to sit again.

Monday, June 18.

On motion, *Resolved*, That a committee be appointed to bring in a bill authorizing the Secretary of the Navy to receive and convey letters and packages, by post, free of postage.

Messrs. Craik, Varnum, and Thatcher, were appointed a committee pursuant to the resolution.

ALIENS.

The House, on motion of Mr. Allen, postponed the consideration of the bill for the prevention and restraint of dangerous and seditious persons, and went into a Committee of the Whole on the bill from the Senate, entitled "An act concerning Aliens; but soon after Mr. Gallatin had commenced observations against the first section of the bill, he was interrupted by the receipt of the following Message from the President of the United States.

RELATIONS WITH FRANCE.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to Congress the despatch, No. 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office, on Thursday, the 14th of this month.

JOHN ADAMS.

United States, *June* 18, 1798.

After the reading of the despatches was finished, a motion was made to print 1,200 copies of them for the use of the members.

Mr. Thatcher hoped at least two thousand copies would be printed. It was well known that the letter of Mr. Talleyrand had already been printed in the French paper of this city, and he believed by order of the Executive Directory. And he believed that the printer had printed an additional number of that letter for the supply of persons who are not his regular readers. When he saw, therefore, the Executive Directory, and its agents, taking extraordinary means to spread that letter, he wished to take equal means to publish the answer of our Commissioners to it, which he thought not only satisfactory, but incontrovertible. He should think himself deficient in duty, if he were to omit the opportunity of moving for an additional quantity of this reply to be printed.

Mr. T. Claiborne did not understand what the gentleman meant in saying he believed certain persons are French agents.

Mr. Thatcher said, he considered the printer of the paper to which he had alluded as an agent of the French Directory, and he hoped soon to lay before the House satisfactory evidence of the fact.

Mr. Harper wished not only 2,000, but a much larger number of this despatch might be printed. He hoped 5,000 at least. The truth of the positions mentioned by the gentleman from Massachusetts was too evident to be for a moment doubted. It had long been manifest to him that France had her secret agents in this country, and that every means had been made use of to excite resistance to the measures of our Government, and to raise a spirit of faction in the country favorable to the views of France, and the act of Saturday was only one of the ramifications of the scheme. A fact, Mr. H. said, had taken place within a few days, which, he apprehended, would lead to the discovery of a treasonable correspondence, carried on by persons in this country with France, of the most criminal nature. He was desirous, therefore,

of counteracting the effects of any of their machinations, by publishing the truth to the people; and he promised the House he would do all in his power to bring this matter to light.

Mr. Harrison was in favor of 5,000, as he wished the people of the United States to receive the fullest information on this and every other subject. With respect to French agents being in this country, he cared but little about them. He did not fear anything they can do.

Mr. Davis hoped the gentleman from South Carolina would give such information to the House as would enable them to detect any plan that was on foot injurious to the interests of the country. If he would do so, it should have his hearty support.

Mr. Harper pledged himself to the gentleman from Kentucky and to the House, not to be remiss in probing the business he had spoken of. He had got hold of some of the threads of it, and he hoped soon to be able to develope the whole of the mischievous proceeding. If so, he should not fail to bring it before the public, and rely upon the assistance of that gentleman and the House generally, to bring the authors, and those concerned in it, to condign punishment.

On suggestion of Mr. Sitgreaves, that it would be well to direct the Secretary of State to have a large number of all the despatches received from our Commissioners printed and distributed, the motion for printing them separately was withdrawn, and Mr. S. afterward made a proposition directing the Secretary of State to get printed and distributed —— copies of the whole of the despatches.

The Message and documents were then ordered to lie on the table, and 1,200 copies to be printed for the use of the House. (See *Appendix.*)

And then the House adjourned.

Tuesday, June 19.

Mr. Sitgreaves called up his resolution, proposing to authorize the Secretary of State to print a certain number of copies of all the despatches from our Envoys; which was agreed to, after some discussion, and the blank filled with ten thousand.

A bill was received from the Senate for the more effectual protection of the commerce of the United States; which was twice read, and referred to the Committee for the Protection of Commerce and the Defence of the Country.

Mr. Harper, from the Committee of Ways and Means, reported two bills, one making an appropriation for the expense of the new regiment of artillery for the year 1798; the other to enable the President of the United States to raise a loan of money for the service of Government; which were twice read and committed.

ALIENS.

The House again resolved itself into a Committee of the Whole, on the bill concerning aliens, when

Mr. Gallatin rose, and repeated the remarks he was making yesterday, when twice interrupted. He said he could not discover the reason why the bill which was under discussion on Saturday, was postponed for the purpose of taking up this. Both contained the same principle. They differed only as to the mode of carrying it into effect. The first and third sections of the other bill were the same in substance as the first section of this. The discussion on this first section, therefore, must be the same as before; and the question is not whether the measure is expedient, but whether this Government has any power, under the Constitution, to remove alien friends out of the United States, or whether the power over aliens does not belong exclusively to the individual States. He was himself clearly and decidedly of opinion that no such authority was vested in the General Government, and that this bill, if passed, will be a gross violation of the Constitution. Mr. G. referred to arguments which he had used on the former bill. All the powers vested in the General Government are either positively specified by the Constitution, or they are such as are necessary and proper for carrying into effect some of those specific powers. For the Constitution provides that the powers not delegated by it to the United States are reserved to the States. It is not contended, in this instance, that a power over aliens is specifically and positively given to the Union; but an attempt is made, to show that it is given by implication. In order to establish this position, let gentlemen remember that it is necessary not only to assert in a vague manner that the authority contended for may be derived from some specific power, but to prove that, in the words of the Constitution, the present law is necessary and proper for carrying into effect some one specific power expressly given by the Constitution. Let the arguments of the supporters of this bill be examined by that test.

It has been declared by the gentleman from Massachusetts (Mr. Sewall) that this power over aliens is included in the power given to Congress to regulate commerce; the gentleman from Delaware believes it to be contained in that clause of the Constitution which gives to Congress the power to lay and collect taxes, by which he argues power is also given to provide for the common defence and general welfare; but another gentleman from Massachusetts (Mr. Otis) and a gentleman from Connecticut (Mr. Dana) drew this power from that which they say every Government must have to preserve itself.

Mr. G. said, he would offer a few remarks upon each of these reasons. In the first place, the power was said to be included in the power to regulate commerce. But this bill is not intended for any commercial purpose; it is wholly of a political nature, intended to effect political ends, and does not relate to aliens as merchants. It is a power to be given to the President to remove all aliens dangerous to the peace of the United States, and cannot by any one be considered as a commercial regulation. If Congress has any power which they can exercise on the persons of alien merchants it must relate to them as merchants—to their professions, not to their existence as men; if the power was derived from this source, it must

be confined in its operation to alien merchants, and could not be applied to aliens of other descriptions. But this general authority over aliens, not only is not now intended, but it is not necessary for carrying into effect the power given to regulate commerce. Will the regulations of this bill in any way determine how commerce shall be carried on with foreign countries, or from one State to another?

With respect to the clause of the eighth section, contended for by the gentleman from Delaware, it was in the following words: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States," and that no gentleman contended that its meaning was to give power to Congress, in the first place to lay taxes, and in the next place to provide for the common defence and general welfare of the United States. But the obvious and universally received meaning of the last words was not to give a general power altogether unconnected with the remaining part of the sentence, but to define the purpose for which taxes should be laid. Had the construction of the gentleman from Delaware been intended, the power would have been given in a distinct paragraph, in the same manner as all the other powers are given, instead of placing the words in this way in the middle of a paragraph relating to a quite different subject. If this new construction was adopted, there would have been no need to have enumerated the powers given to Congress in this and other sections, because such a broad power as that contended for, would have embraced every other.

Nor is this all. The twelfth amendment of the Constitution seems to have apprehended some improper use being made of the sweeping clause, by taking it as a ground for power never intended to be given, and, therefore, it declares that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people; but if the construction now spoken of were to prevail, this amendment could have no application; for if all the powers are delegated to Congress by that clause, how could it be said that the powers not delegated were reserved to the States?

To show that at the time the Constitution was adopted, no such opinion as this prevailed, Mr. G. referred to the debates had upon it in the Pennsylvania Convention. He particularly quoted the sentiments of Mr. Wilson, who spoke of this provision for raising taxes as being necessary for the common defence and general welfare. Mr. Wilson expressed himself as follows: "Certainly Congress should possess the power of raising revenue from their constituents for the purpose mentioned in the eighth section of the first article, that is, to pay the debts and provide for the common defence and general welfare of the United States;" and again, "I think it would be very unwise in this Convention to refuse to adopt this Constitution, because it grants Congress power to lay and collect taxes for the purpose of providing for the common defence and general welfare of the United States." Mr. G. also made the following quotation from the essay signed Publius, and called the Federalist, written by the members of the Federal Convention, in defence of the Constitution before its adoption:

"Some, who have not denied the necessity of the power of taxation, have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed that the power 'to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States,' amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defence or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction. Had no other enumeration or definition of the powers of Congress been found in the Constitution, than the general expressions just cited, the authors of the objection might have some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyance, must be very singularly expressed by the terms 'to raise money for the general welfare.' But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows, and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning, and shall the more doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural or common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars, which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which, as we are reduced to the dilemma of charging either on the authors of the objection, or on the authors of the Constitution, we must take the liberty of supposing had not its origin with the latter."

Mr. G. said he was well informed that those words had originally been inserted in the Constitution as a limitation to the power of laying taxes. After the limitation had been agreed to, and the Constitution was completed, a member of the Convention, (he was one of the members who represented the State of Pennsylvania.) being one of a committee of revisal and arrangement, attempted to throw these words into a distinct paragraph, so as to create not a limitation, but a distinct power. The trick, however, was discovered by a member from Connecticut, now deceased, and the words restored as they now stand. So that, Mr. G. said, whether he referred to the Constitution itself, to the most able defenders of it, or to the State Conventions, the only rational construction which could be given to that clause was, that it was a limitation, and not an extension of powers.

Another gentleman from Massachusetts (Mr. Otis) has taken a kind of general ground, supposing that there must exist certain general powers in Congress which are equal to meet any possible case. He could not say that he rightly understood the meaning of that gentleman. If he meant that all power should be vested in Government, because it is possible that occurrences may arise which will call for the exercise of them, he would not hesitate to say that doctrine is contrary to the Constitution, for that has put limits to the powers of the Government, and has said certain things shall not be done by it. For instance, it might be thought necessary, though neither an invasion nor a rebellion had taken place, to suspend the Habeas Corpus Act, as had been the case in Great Britain some time ago. It was there represented that a dangerous conspiracy existed against the Government, and that, in order to meet it with effect, it was necessary to suspend the Habeas Corpus Act. Reasoning on the same ground, the gentleman from Massachusetts might say that a dangerous conspiracy now exists here, that he has got hold of the threads of that plot which the gentleman from South Carolina has pledged himself to this House a few days ago to pursue through all its ramifications, and move for a suspension of the Habeas Corpus Act. But the Constitution would be directly against such a motion, as it is there said "it shall not be suspended, but in cases of actual rebellion or invasion." So that this Government cannot do everything which the gentleman may suppose necessary to be done. Or did the gentleman mean that Congress ought to exercise all the powers that may be vested in Government in this country? Such a sentiment is also flatly contradicted by the Constitution, as it recognises a division of powers between the General and State Governments. Thus, in the instance before the committee, Congress has the power to declare war, and to punish any persons guilty of treasonable practices, but what relates to aliens as suspicious characters, the Government of the United States has no cognizance of. It is a matter which remains with the State Governments; and if there was any necessity for passing a law on the subject, there could be no doubt it would be done by the proper Constitutional authority—the State Governments. Or did gentlemen mean that the power for providing for the common defence should absorb all other powers, and that if this power was limited, the Constitution is not worth a farthing, or not worth having, as the gentleman has said. Did he wish, except the Constitution would authorize an act of this sort, it should be overset? Did he like the Constitution only for the powers it gave, and not for the restraints it put on power? Did he intend to declare himself an enemy to every part of the Constitution which restrains the power of the General Government? He could not suppose that this was his opinion; and if it was not, he did not understand what he meant.

As to the general declaration contained in the preamble of the Constitution, he would remark that the articles of Confederation under the old Congress, had several expressions of the same nature. The power was there said to be given for the general defence, showing that to have been the object of the Union. The same articles gave power to Congress to declare war, and several other powers of a general nature, in which such a power might equally be supposed to be included; and it was on this account that he stated that the old Congress never acted on this subject, merely because the general powers of both Governments being nearly similar, the opinion of the old Congress, in relation to their own authority, was applicable to the present instance.

In opposing this bill, it might not be supposed to be necessary to go further than to show that the power of passing a law like the present, had not been given to this Government. But it so happened that, supposing he was mistaken in that position, another clause expressly prohibited the exercise of that power for the present, even if it did exist at all. He would, therefore, proceed to notice some of the objections which had been urged against his observations on the 9th section of the 1st article of the Constitution, which says that Congress shall not prohibit the migration of such persons as the States choose to admit. It was insisted, by a new construction of the word *admit*, that it required a positive law of a State to show that a State exercised this power, and that so long as a State had not passed a law upon the subject, declaring that they do admit persons of the description mentioned in this bill, Congress have a right to pass a law upon it. By this doctrine a new kind of construction of the Constitution will result; for there must not only be a concurrent authority between the States and the United States, but also contradictory powers. So that, if Congress were to pass a law on the subject before the committee, the States might each of them pass a law to repeal it.

But Mr. G. took it for granted that, whatever is not prohibited is permitted; and, so long as no law of any State prohibits the admission of aliens, he supposed all are admitted. Indeed, the admission is recognised by laws in every State. Of that description were the laws in which some States allow aliens to possess lands; in other States declare that the estate of an alien dying in this country, and leaving no heirs here, will go to his nearest of kin in a foreign country, &c.

Again, it was said, that this clause relates solely to slaves, as an exception granted to the power of regulating commerce. He allowed this provision was chiefly intended to secure the importation of slaves. He believed the regulation of the migration of persons to the United States, was not included in the power regulating commerce, because the voluntary migration of free persons was not, like the importation of slaves, an object of trade, and, therefore, that it was unnecessary to have introduced this clause, in rela-

tion to the migration of free persons, as an exception to a power which did not exist. Indeed, the gentleman from Massachusetts mentioned this as an argument to show that the general power of regulating migration existed in the General Government. If not, why, he asked, was this article introduced? In answer to this argument, which supposes that this clause relates to free people, he would only refer the gentleman to the Constitution, which had expressly guarded against the danger of a similar construction, by declaring, in the eleventh amendment, that "the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

But the only use he meant to make of this clause, in support of his opinion, was this: Whether it was necessary, in relation to free persons, or not; and, whatever might have been the intention of the framers of the Constitution, it must be taken as it now stands. The word *migration*, as contradistinguished from the word *importation*, could only apply to a free act of the will, and to the voluntary arrival of free persons coming to this country, in the same manner as the word *importation* could only apply to slaves brought into the United States without their consent; and the word *persons* was of the most general acceptation, and could by no means exclude free emigrants. That this even was well understood, at the time of the adoption of the Constitution, he would prove by the following quotation from Mr. Wilson's speech, in the debates of the Pennsylvania Convention: "The gentleman (Mr. Findley) says, that it is unfortunate in another point of view; it means to prohibit the introduction of white people from Europe, as this tax may deter them from coming amongst us; a little impartiality and attention will discover the care that the Convention took in selecting their language. The words are the *migration* or *importation* of such persons shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such *importation*; it is observable here, that the term *migration* is dropped, when a tax or duty is mentioned; so that Congress have power to impose the tax only on those imported."

The argument, therefore, stood thus: Either the general power of preventing the migration of aliens is included in the powers given by the Constitution to Congress, or it is not. If it is not included, and that was his decided opinion, the present bill is unconstitutional. But if, by implication, it may be derived from any of the specific powers given to Congress, whether that of regulating commerce, of declaring war, or of any other, or if it be included in a supposed general power of providing for the common defence and general welfare, even in that case, its exercise is prohibited to Congress, by this clause, till the year 1808, and, on this ground, the present bill is also unconstitutional.

Mr. G. thought, when a constructive power of this kind was claimed, it was time that a stand should be made against it. He looked upon the provision not only as unconstitutional, but as of a most arbitrary nature, grounded upon a supposition which has not been proved, and upon another which does not exist. The supposition is not proved that the measure is necessary on account of danger to be apprehended, from there being aliens resident in the country dangerous to its peace. The persons from whom this danger is apprehended, are either alien friends or alien enemies. So far as relates to the latter, they are provided for in another bill. The whole of the arguments on this bill, therefore, are applicable only to alien friends. And here he must take notice that, although Congress has not the power to remove alien friends, it cannot be inferred, as had been objected, that it had not the power to remove alien enemies; this last authority resulted from the power to make all laws necessary to carry into effect one of the specific powers given by the Constitution. Among these powers is that of declaring war, which includes that of making prisoners of war, and of making regulations with respect to alien enemies, who are liable to be treated as prisoners of war. By virtue of that power, and in order to carry it into effect, Congress could dispose of the persons and property of alien enemies as it thinks fit, provided it be according to the laws of nations and to treaties.

No facts had appeared, with respect to alien friends, which require these arbitrary means to be employed against them. If there are gentlemen possessed of facts of this kind, it is their duty to lay them before the House. But whilst these proofs are held back, gentlemen have a right to say no necessity exists for such a measure. He supposed gentlemen who spoke with so much confidence on this subject, must be possessed of facts unknown to him, otherwise they would be unjustifiable in creating a groundless alarm; but the House had a right to inquire what the facts are, if they did exist, and whether they relate to alien friends or alien enemies.

He would not only say that this bill was founded on a supposition which was not proved, but, also, that it took for granted another position which did not exist. If there be any danger, it is certainly such as may be punished by the laws of our country, without adopting a measure of this kind. The laws of the United States will reach alien friends if guilty of seditious or treasonable practices, as well as citizens. And if the law is not at present sufficient to reach every case, it might be amended. He wished all crimes and punishments to be accurately defined; and he hoped gentlemen who profess to be warm supporters of this Government and Constitution, will not say that it is not in our power to reach the object. And if it be necessary to send certain persons out of the country, on account of their mal-practices, he trusted laws would be framed for the purpose of punishing them, and that they would not be left without trial, subject to the arbitrary control of one man only.

This bill not only was grounded upon a supposed necessity which did not exist, but it appeared to him that if it was passed, a bill of a similar nature may be brought in, in relation to citizens

of the United States. This bill is called a bill concerning aliens; but in its consequences it affects citizens as much as aliens; for he called upon the supporters of this bill to show him a single clause in the Constitution which has been referred to in support of this bill, which would not equally justify a similar measure against citizens of the United States. And, so far as relates to the necessity of the bill, the plea may be equally made against citizens as against aliens; for what is the ground upon which this power is claimed? It is by virtue of the power vested in Congress to regulate commerce. And what is this power? It is "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Therefore, if by virtue of the power of Congress to regulate commerce with foreign nations, they can remove foreigners from the country by the same reasoning, (bad reasoning he knew it was,) they had a similar power of removing citizens of the several States. And when another gentleman tells us that the power is claimed under certain powers given to Congress to provide for the common defence and general welfare, will it not apply to citizens as well as aliens? It certainly would, since they might argue that seditious and turbulent citizens might be as dangerous to the peace of the country, as aliens of a similar description; and when gentlemen are disposed to treat the Constitution in this way to come at aliens, he had no doubt they would be equally ready to do it against citizens whenever they shall wish to do so.

Or will gentlemen say that the Constitution affords a security to citizens which it does not extend to aliens? He knew the rights of aliens are limited; but if we can dispense with the law towards them, we may also do it with respect to citizens. The trial by jury does not speak of citizens, but of persons. What security, said Mr. G., can citizens have, when they see a bill like the present pass into a law? What, said he, have we heard on this floor? The member from Connecticut (Mr. Allen) objected to the bill for preventing and restraining seditious persons. What were his objections? That the Constitution of the United States had, in all criminal cases, said the trial by jury should remain sacred. By that bill power was given to the Judges to determine certain facts; and, in order to remedy that objection, and to provide a better security for the persons amenable to that law, what did he propose? To take the power from the Judges, and give it entirely to the President of the United States.

Again, with respect to the writ of habeas corpus, what do gentlemen say? They say it is only to prevent any man from being imprisoned in an arbitrary manner; and that, as the present bill describes the cases in which a man is liable to arrestation and imprisonment, it cannot be a suspension of that law; that is to say, the writ of habeas corpus is designed to prevent arbitrary imprisonment, or what the gentleman calls illegal imprisonment; but, according to this doctrine, if you give, by law, the power to the President of arbitrary imprisonment, that power being thus given by law, is on that account no longer illegal nor arbitrary. That was the kind of security which citizens might expect to derive from the clause of the Constitution which related to the writ of habeas corpus. That privilege was to be done away by a legal distinction.

By the seventh amendment to our Constitution, it is provided that "no person shall be deprived of life, liberty, or property, without due process of law." According to the doctrine of the gentleman, Congress may give, by law, the power to the President, or any one else, to deprive a citizen of his liberty or property, and the act of giving that power by law, will be called the due process of law contemplated by the Constitution.

The gentleman from Massachusetts allowed that there exists in the State Governments a power to regulate the migration of aliens, and to admit the arrival of such as are described in this bill; but he said that, as they had forborne to exercise the power, the United States might, with propriety, pass a law on the subject; but that any one of the States might prevent its execution. He therefore allowed a power in the States to prevent the execution of the law, and the only reason why, in his opinion, if this bill passed, it would not be at once a dead letter, was grounded on the construction he put on the word "admit."

But Mr. G. would go further, and say that the States and the State Judiciary would, indeed they must, consider the law as a mere nullity, they must declare it to be unconstitutional; for no one, except the gentleman from Massachusetts, ever would suppose that aliens were not now admitted by the States, and, on his own ground, whenever they were thus admitted, the law was at an end.

A gentleman had said that States must claim only local powers, general ones being placed in the General Government. But the present bill was more of a local than of a general nature. Those States whose population is full, and to which few migrations take place, are little concerned in this question, unless, indeed, to check the population of other States, and to keep a preponderance in their hands, bean object with them. It was of consequence only to those States whose population is thin, and whose policy it has always been to encourage emigration. Amongst these, he placed the State of Pennsylvania. Indeed, he had always thought it was the general policy of this country; he believed it had only been the violence of party which had created any difference of opinion on the subject. It had been an established principle in Pennsylvania, from its first establishment to the present time, and every encouragement had been held out to emigrants of all nations. On this account, if this bill passes, there will be ten times the number of people under its operation, and the arbitrary power of the President in this State, than there will be in all the New England States put together. Emigration, he said, had been very useful to Pennsylvania. It is owing to it that its population had, within a little more than a century, reached its present extent. Nor had the mixture of emigration from

Great Britain and Germany produced any bad effect upon the policy of the State. He believed it could boast of civil establishments as wise and as good as any of her sister States.

A temporary sacrifice has already been made by that State, by the new naturalization law, which makes it necessary for a foreigner to reside fourteen years in the country before he can become a citizen. When that bill was under consideration, the friends of it said, they wished to give security to the persons and property of aliens, but they did not wish them to have any political influence in the country. That point was yielded without a struggle, although, from the establishment of the Province of Pennsylvania to this day, no more than two years' residence had ever been required by the Provincial or State laws, to naturalize a foreigner; and let it be remembered that the Declaration of Independence, in the enumeration of the complaints of America against the King of Great Britain, states that "he has endeavored to prevent the population of these States, for that purpose obstructing the laws for the naturalization of foreigners, refusing to pass others to encourage their migration hither," &c. The present bill related not to any political rights; it affected the civil rights, the personal liberty, the property of aliens. It subjects them to a removal, upon suspicion, and that at the will of one man. It was not only a refusal to encourage migrations, it was a bill to prevent migrations. And in such a bill, assuming a power belonging to herself and not to the United States, and affecting her population and prosperity to such an extent, Pennsylvania was immediately and deeply concerned.

Mr. G. admitted, there might be cases in which it might be proper to transport persons for crimes, but the punishment should in that case be inflicted upon conviction of crimes, and not as a measure of caution, to be effected on mere suspicion, by the arbitrary power of one individual.

Mr. G. concluded by saying, that he was at a loss for the cause of the introduction of this bill. No ground had been shown for it; if any reason could be adduced, he supposed the States, whose duty it is, would be as ready to guard against the dreaded evils, as the General Government, whose duty it is not; and he thought any evils which may exist would be better provided for in the usual way, than by placing so extraordinary a power in the hands of the President of the United States.

Mr. Gordon said, the United States had certainly the right to withdraw their protection to aliens, whenever they thought proper, notwithstanding all that had been said by the gentleman from Pennsylvania. He would endeavor, in a few words, to show that such a power does exist, and that the execution of it is only bounded by sound discretion. The question is, whether, under existing circumstances, the United States have not the power to order foreigners to depart from the country who have been guilty of treasonable or seditious practices abroad? He had no doubt on this subject; it is a question, in his mind, which includes the very existence of Government. The sovereign power of every nation possesses it; it is a power possessed by Government to protect itself; and, in his opinion, ought now to be exercised.

It has been said, that there is no specific power in the Constitution upon which this proposition can be supported; and he knew it had been said that it was necessary that all the acts of Congress should be founded upon express provisions of the Constitution; yet he believed that House had done a variety of acts for which it had no express power. He asked whether Congress had any authority in the Constitution to institute a Bank? They had not: yet they had done it. Another case: in the treaty between this country and Great Britain, it is stipulated that any murderer who shall take refuge in one country from the other shall be given up, though no clause in the Constitution authorizes such a power. This is a case somewhat analogous to the present; and if the States had the power to protect offenders of the kind mentioned in this bill, they might also protect murderers. But the right of Congress to regulate this business, arises from the power of making war, and providing for the general welfare; and the arguments of the gentleman from Pennsylvania in favor of passing a law in respect to alien enemies, would show it to be right also to pass a law of this kind. If the House make the express letter of the Constitution the rule of their power, he denied that they had any power to make the regulations proposed to be made with respect to alien enemies. But is it not absurd to say, at a time when the United States are about to enter upon a war, and the country is filled with the natives of the enemy-country, that we do not possess power to send them out of the country? That Congress may make war, but cannot do a less hostile act? If we possess this right, upon what is it founded, but upon the ground that the safety of the community must be provided for? And, pursuing this principle, it will equally apply to the aliens of other countries. For suppose, at some future time, there shall be as many aliens of various nations as citizens in the United States; and suppose the United States should be engaged in war with any one of the nations of Europe, might not such a band of men, if suffered to remain, prove the destruction of the country? They certainly might, and no nation would act so unwisely as to give them an opportunity of becoming so.

But the gentleman from Pennsylvania says, that this bill is a violation of the rights of aliens, as it takes from them the right of a trial by jury, secured by the Constitution. This, Mr. G. denied. This bill, he said, does not contemplate a crime, but directs that aliens shall be apprehended on suspicion, and sent out of the country. It is only when they refuse to obey the order, that a crime is committed, and then they are to be tried by a jury equally with citizens of this country.

The gentleman has informed the House, that the Constitutions of the United States and of the individual States have limited the powers of Government, beyond which they cannot go. But this limitation, it must be allowed, can only respect

those for whose use and benefit these Constitutions were formed. This bill does not affect any of these persons. It relates only to aliens.

But, it was said, Congress is expressly prohibited from making a law like the present, by the first paragraph of the ninth section of the Constitution, which provides that the migration of any persons whom the States choose to admit, shall not be prohibited previously to the year 1808. But, in order to make this article apply, it will be necessary either to bring this bill within the letter or the spirit of that clause of the Constitution. He denied that it was within either. It had been said, that this clause was intended to secure the importation of slaves to those States of the Union which are concerned in slaves, and the migration of foreigners to other States who wanted inhabitants. But as this bill proposes only to affect persons of a certain description, which he supposed it could not be the interest of any State to remain in it, he thought it could not be reasonably objected to. If any gentleman could suppose that there is a State in the Union which would desire to retain in their society persons who have been convicted of felony, or who are notorious fugitives from justice on charges of treason or sedition, he must have a strange idea of such a State, and it was what he himself could not credit. This bill, he said, was not intended to cut off migrations to this country, but merely to serve a temporary purpose, and therefore could not militate against the article of the Constitution which had been named.

It had been said, that this bill would be a violation of the habeas corpus act. It was a little extraordinary that any gentleman should have asserted this. There is nothing in this bill to prevent a person from being brought before a Judge. His right, in this respect, is no way impaired by this bill. The only difference which it makes, is, that persons in this situation would have to submit to a new law.

If no law of this kind was passed, it would be in the power of an individual State to introduce such a number of aliens into the country, as might not only be dangerous, but as might be sufficient to overturn the Government, and introduce the greatest confusion in the country. Suppose a State were to admit thousands of aliens from a nation with which we are likely soon to be at war, what would be the remedy? The President would have power to remove them as soon as war shall have been declared. But, suppose they shall come from a nation with whom we are at peace? They might settle all over the United States, they would be protected, and they might organize themselves against the Government. And, can the Government be so deficient in power, as not to be able to provide against such a mischief? To suppose this would be to suppose that the very existence of the Union is in the power of a single State.

The United States have guarantied to the individual States a Republican form of Government; but, if one State admit so many aliens into it as to produce a change in its system of Government, the United States would be obliged to use force to recover it, if no other remedy could be had. It was said, a law like this had never before been attempted; but, it might also be said, there never was a time when the United States were so accessible as at this time, and therefore uncommon measures were justifiable. Gentlemen say laws may be made for the punishment of these persons, without giving so strong a power to the President. But, can laws, said Mr. G., reach the hearts of men? Persons who come here with a view of overturning the Government, will not commit any overt act which shall bring them under the laws of the country. He trusted, therefore, the present bill would be passed.

Mr. Otis said, the gentleman from Pennsylvania had noticed some things which he had said, and had attributed other things to him which he did not say. He should not attempt to vindicate arguments which he did not make use of; but he would trouble the committee with a few remarks to illustrate the principles on which he originally vindicated the bill, and upon which he still thought it might be easily defended.

It could not fairly be denied, that it was the design of the Federal Constitution to embrace all our exterior relations. The great objects of peace and war, negotiations with foreign countries, the general peace and welfare of the United States, must be provided for and maintained by the National Government; no other authority is competent to these great duties; no other can judge of the necessity of measures preparatory to the national defence, nor enforce such measures with general effect.

If Congress has the right to defend the Union, it has certainly a right to prepare for defence. And if any specific power had been claimed by the individual States which was inconsistent with this general power, it must vanish before the obligation of the General Government to provide for the common defence.

But he did not think the power of admitting foreigners, which it was contended for by the gentleman from Pennsylvania remained with the States, was inconsistent with the right of expelling dangerous persons, which he claimed for the General Government. That gentleman, Mr. O. said, had interrogated him in a very extraordinary manner. He has asked whether he wished to overturn the Constitution? He should certainly answer, No; he did not wish to overturn, but to preserve it against the attempts of insidious and dangerous aliens, and he thought this bill necessary for that purpose. He considered and followed the Constitution as a lamp to his path; whereas the gentleman from Pennsylvania would make it a mere *ignis fatuus*, calculated to bewilder and mislead.

Mr. O. agreed that the construction was just which the gentleman put upon the first article of the eighth section of the Constitution, and that to provide for the common defence and general welfare was the end of the powers recited in the first part of that section, and that the powers were merely the means. But this is equally the end of all the other powers given to Congress by all the

articles of this section, so that these words might, with propriety, be understood as if they were added to every clause in it, and thus, from the whole section, it appeared clear that Congress has a right to make war for the common defence and general welfare, and of course to do everything which is necessary to prepare for such a state. And shall we, said Mr. O., allow that the States have a right to defeat this power? If we find men in this country endeavoring to spread sedition and discord; who have assisted in laying other countries prostrate; whose hands are reeking with blood, and whose hearts rankle with hatred towards us—have we not the power to shake off these firebrands? Certainly we have. They were admitted here under the rights of hospitality, exercised by nations towards friendly strangers; but when they become dangerous and hostile, we certainly have a right to send them away. What will be our situation, if any one of the States may retain a number of men whose residence shall be provably dangerous to the safety of the United States? If such State should judge proper to make regulations on the subject, it could only banish a person from its territory. So that persons of this description, stamped with infamy in their own country, and plotting treasons against ours, may remain in some part of the territory of the United States, while Congress has not the power to get rid of them until all the States concur in the same object.

If this was the dilemma into which we are reduced by the Federal compact, it might as well have never been made, for a Government that is prevented from exercising an authority which may be necessary to its existence, is not better than no Government at all; and if the individual States have the means of frustrating the views of the General Government in the exercise of its powers, the present Constitution would have no advantage over the old Confederation. The simple ground on which the question stood was this, Can the right of expulsion be exercised by the United States, without infringing the right of admission, which is reserved to the individual States? And gentlemen, to demonstrate the collision of these powers, put an extreme case, and suppose that Congress may send out of the country all the aliens who should be admitted by any State, and thus render nugatory the right of importation reserved to the States. But this is the old-fashioned way of arguing from a presumed abuse of power. It is one thing to banish all aliens indiscriminately, and a very different thing to banish a few individuals of suspicious character. It is in the nature of a punishment for supposed offences, and there is no fear of involving innocence with guilt. Aliens do not claim an exemption from punishment for offences against the United States—when found guilty of crimes, the Courts can sentence them to be imprisoned, or to be punished with death. And yet the gentleman from Pennsylvania might as well say that such sentences are unconstitutional, because the Courts might imprison or hang up aliens as fast as they are admitted into any State.

Mr. O. contended that the limitation of the power of admitting aliens, which is reserved to the States till the year 1808, implied that Congress might prohibit the migration of foreigners after that time, so that this ninth section of the Constitution is only an exception from the general power, and must be construed strictly. If the United States have not this right, they cannot authorize the President to send away a public Minister who should threaten to convulse the nation, but a State might retain such a Minister contrary to the wishes and interests of the United States.

Mr. O. wished gentlemen to inquire whether or not it is now necessary to exercise this power. Gentlemen call for evidence of any alien's acting improperly in this country. If, he said, proof positive and direct could be adduced, the laws of the country might be sufficient to punish them; but is there not sufficient reason to be alarmed on this subject, not only from the fate of other countries, but from what has happened under our own eyes. Do we not know, said he, that the French nation have organized bands of aliens as well as of their own citizens, in other countries, to bring about their nefarious purposes. It is well known that their object is to divide and command; and they furnish the most dreadful commentaries upon this old maxim. By these means they have overrun all the republics in the world but our own. Do we not, said he, read the history of their dark manœuvres in the fate of Holland and Switzerland? And may we not expect the same means to be employed against this country? We certainly might.

Turn back, said Mr. O., to the year 1794, we find the Prince of Orange calling upon the different States of Holland, requiring them to contribute to the common defence. The States General, and the great body of the people, answer him with addresses and professions of loyalty; but some of the towns, and particular groups of the people, instigated by spies and foreign agents, remonstrate against these patriotic measures. It is time enough, say they, "the nation is not in danger of an invasion." The secret agents of the French taught some of the people to answer, "our own dykes will be a sufficient defence for the country, and the affection of the people is the best security for the Government." But behold, in a few months, the Prince of Orange was compelled to fly, the Government was overturned, and its offices taken possession of by domestic traitors—the Revolution was effected, the intrigues of emissaries were then developed, and the rest is well known. Let us look at Switzerland, and ruminate upon the Revolution of that fated country. Where is its Confederacy, which had withstood the storms of so many centuries? The aristocracies are melted down into democracies, and the democracies are moulded into abject colonies; contributions have been levied upon them, the officers of Government have been supplanted by men who riot upon its spoils, and who are supported in the possession of their newly acquired preferments, by foreign armies, and foreign agents. And of

all these disasters, the ground work had been laid by the industry and arts of the French apostles of sedition.

It might be said, the situation of this country is far different from that of Holland, and that the people of this country are too strongly attached to their Government and country to be operated upon by any of those means by which the Dutch and Swiss had lost their liberties. But he believed that both the Swiss and Dutch entertained a very sincere and ardent attachment to their country and institutions. This affection among the Swiss was proverbial. When obliged to quit their native country, they sickened to revisit it; and the great body of the people in Holland were attached in a high degree to the family of Orange. Besides, fear was a principle not less powerful than hope, in exciting men to action; and though the people of this country would not be allured into revolutionary projects by the desire of acquiring an increase of liberty; it was not easy to calculate to what extremities they might be forced by the apprehension of losing what they already enjoyed—a jealousy carefully fomented by the agents of France.

Mr. O. said, that this diplomatic agency had been in full motion in the United States; he might mention names; but it was well known to every gentlemen of this committee that a Frenchman of a literary and intriguing character, who was formerly a member of the Club Breton, and was doubtless in the confidence of the Directory, who has for a long time sojourned in Pennsylvania, who had explored the Indian country, and travelled through other States, had lately taken flight. It was also well known, that a citizen of Pennsylvania, conspicuous for his attachment to the French, had followed him. It was lately discovered that another Frenchman, who resided at New York, and who, he believed, was naturalized, is in the constant habit of corresponding with the Directory, a man, who, though holding no known agency under them at present, has heretofore agitated the Continent by his intrigues, and may be looked upon as in their employ. And the same kind of correspondence is traced up to our own citizens.

Mr. O. concluded by saying, the times are full of danger, and it would be the height of madness not to take every precaution in our power. The right contended for was of inestimable value to the United States, but to the individual States it would be of no importance. The provisions of the Constitution were plain and adequate to all the exigencies of the nation, and it was wrong to waste that time in nice and unnecessary arguments, which ought to be employed in the most active preparations and decisive measures. He hoped, therefore, the section would be retained.

Mr. Harper said, it was not without difficulty that he could prevail upon himself to believe that the objections to this measure, on Constitutional grounds, were serious. He could not help being reminded, when he heard these objections urged, of the saying of a witty writer upon a book still more sacred than the Constitution, viz: "that it was a rich field into which all parties sent their troops to forage." Mr. H. said, it was curious to observe the conduct of gentlemen. When a measure cannot be opposed on the ground of expediency, when the necessity of it is so obvious as not to be questioned, then Constitutional objections are resorted to. If, on the other hand, it cannot possibly be objected to on Constitutional ground, gentlemen then endeavor to show it to be unnecessary. When additional armed forces are proposed to be raised, it is either said to be unnecessary, or that it will cost more than the protection is worth. And if it be wished to restrain a foreign enemy, or domestic traitors, and effectual means are proposed, the House is told, by a novel discovery, that we have not the power of self-defence; though we see the knife of the traitor held to our throats, we are to wait until the State Governments will come in and snatch it away. Strange would it be if the Government could thus exist; strange would it be if it had not the power of suppressing domestic traitors! And how does it appear that this Government has not the power? By arguments better calculated to excite risibility than conviction, and nothing but the serious manner in which they have been made for two or three days together, could have produced any answer to them from him. The committee are told that because Congress cannot prevent the States from admitting the migration of foreigners before the year 1808, they cannot authorize the President to send out of the country the description of characters mentioned in the first section of this bill.

Gentlemen have not said that Congress cannot pass a law to send persons out of the country, but they object to the exercise of the power in the cases referred to. If Congress shall direct the President to send persons out of the country who shall appear under certain circumstances, that would be one way of exerting their power; or if they shall be sent away for offences of which they have been convicted before a court of justice, that would be another way; but the power would be the same.

It was said that the State Governments only had cognisance over aliens; but have these Governments any knowledge of what relates to our foreign relations, or the common defence of the Union? Certainly not. By admitting the doctrine which these gentlemen advocate, what is the result? One State might expel persons as dangerous, but an adjoining State might be of opinion that the person ought not to be expelled; and, of course, such a person would remain at liberty to act against the Government and people of the United States; and if the safety of the Government of the Union is to depend upon the discordant wills of sixteen States, deplorable and debased indeed would be its situation.

But what, said Mr. H., has banishment to do with migration? The Constitution says that the migration of such persons as the States choose to admit shall not be prohibited; but does it follow, that because persons may come here, that they may not only stay here, but commit crimes which

cannot be restrained; for, if these persons cannot be sent out of the country in one way, they cannot be sent out in another. He allowed that the States have a right to admit such foreigners as they think proper till a certain period; but the General Government is, in the meantime, charged with the common defence and welfare of the United States, and, in pursuance of those objects, it certainly has a right to pass all necessary laws, and if any of these laws should require certain aliens to be sent out of the country, what has appeared to be necessary for the general welfare cannot be carried into effect if the States have a right to insist upon keeping their aliens. But the gentleman from Pennsylvania says, that, if this law were to pass, the courts of justice would declare it to be unconstitutional. If so, then, according to his own opinion, the law would become a dead letter. He did not know what the decision of the judicial power would be. Whatever it might be, he should submit to it; but he never could be persuaded that the judicial power would act so absurdly as to make no distinction between the admission of the migration of foreigners and their expulsion. Besides, notwithstanding what had fallen from the gentleman from Georgia, (Mr. Baldwin,) whose opinions on Constitutional points, as he was a member of the Convention who formed the Constitution, he allowed to have weight—he, nevertheless, believed he was mistaken in the construction which he had given to the first paragraph of the ninth section. He believed his memory had failed him. It does not say Congress shall never have the power, but that it shall not exercise the power until the year 1808, which makes it pretty evident that the provision had only relation to slaves. If it had related to emigrants, it would have been without any limitation of time. If Africans, or slaves, had been inserted by name, the thing could not, in his opinion, have been more clear.

What, said Mr. H., will be the situation of things after the year 1808? All the fine-spun arguments of the gentleman from Pennsylvania will then fall to the ground. Congress may then admit foreigners or not. This will be a much larger power than is now contended for, which is only that such aliens as are obnoxious to the peace and happiness of the United States should be removed therefrom. With respect to citizens, we know they cannot be proceeded against in this way, and when the gentleman from Pennsylvania said, that if this power was granted to the President with respect to aliens, there was nothing to prevent a similar power from being exercised against citizens, he declared, in so many words, that the very instant Congress got the power, it would exercise it in the most atrocious and unwarranted manner, by perfidiously turning it against their fellow-citizens. To argue the abuse of power from its existence, was a common subterfuge of gentlemen, which, if not disregarded, would prevent the giving any power whatever, and he desired no better principle to completely stop the wheels of Government, and to lay it prostrate at the feet of its external and internal foes.

But it was said no necessity exists for this measure, and gentlemen call for proof of any danger to be apprehended from the description of persons mentioned in this bill. Are we to wait, then, said Mr. H., until a judicial process can be entered upon? To stay until the dagger is plunged into our bosoms, before we take any means of defence?—Until the thief breaks into our house, before we bar the door? He believed no one would say this would be good policy.

Suppose, said Mr. H., a person had good information that a set of thieves meant to break into his house on a certain night, what would be thought of the conduct of any individual who should say to him, "you need not prepare to defend yourself; there is no occasion to bar the doors—there are no thieves in the neighborhood?" Such a person certainly would be deemed a partner in the burglary. The allegory, Mr. H. said, was applicable to the fate of many nations whose Governments have been overturned by France. Mr. H. referred to the animating picture of French intrigue given by the gentleman from Massachusetts. He trusted the bill would be passed. He wished no traitors should be left in the country to paralyze all our efforts for its defence, and when the enemy appeared, give him possession of it.

As to the ramification of the plot which he had some days ago mentioned, and which the gentleman from Pennsylvania wishes to have developed, he wished he was able to see through it so clearly as to be able to lay a resolution upon the table on the subject; but though he was not able to do this, yet the ramification of that plot is so visible, that he should deem himself the worst of traitors and assassins to his country, if he did not resist those attempts which are made to bind us hand and foot, until our enemy comes upon us; and he supposed it was for this reason that this bill met with so much opposition, and that such means were used to excite prejudices against it. Because it puts a hook into the nose of persons who are leagued with the enemies of this country. The zeal shown in this House, and in other places, against this bill, evinces the deadly hatred of certain persons towards it. But it was well known that those European nations which have escaped being overcome by the domineering spirit of France, owe their safety to a bill like this; and, unless we follow their example, and crush the viper in our breast, we shall not, like them, escape the scourge which awaits us.

Mr. Dayton (the Speaker) commenced his observations with declaring that he should not have risen on this occasion, if no allusion had been made to the proceedings in the Federal Convention which framed the Constitution of the United States, or if the representation which was given of what passed in that body, had been a perfectly correct and candid one. He expressed his surprise at what had fallen from the gentleman from Georgia (Mr. Baldwin) relatively to that part of the Constitution, which had been selected as the text of opposition to the bill under consideration, viz: "The migration or importation of such per-

"sons as any of the States now existing shall "think proper to admit, shall not be prohibited by "Congress, prior to the year 1808." He could only ascribe either to absolute forgetfulness, or to wilful misrepresentation, the assertion of the member from Georgia, that it was understood and intended by the General Convention that the article in question should extend to the importation or introduction of citizens from foreign countries. As that gentleman and himself were the only two members of the House of Representatives who had the honor of a seat in that body, he deemed it his indispensable duty to correct the misstatement that had thus been made. He did not therefore, hesitate to say, in direct contradiction to this novel construction of the article (made as it would seem to suit the particular purposes of the opponents of the Alien bill) that the proposition itself was originally drawn up and moved in the Convention, by the deputies from South Carolina, for the express purpose of preventing Congress from interfering with the introduction of slaves into the United States, within the time specified. He recollected also, that in the discussion of its merits, no question arose, or was agitated respecting the admission of foreigners, but, on the contrary, that it was confined simply to slaves, and was first voted upon and carried with that word expressed in it, which was afterwards upon reconsideration changed for "*such persons*," as it now stands, upon the suggestion of one of the Deputies from Connecticut. The sole reason assigned for changing it was, that it would be better not to stain the Constitutional code with such a term, since it could be avoided by the introduction of other equally intelligible words, as had been done in the former part of the same instrument, where the same sense was conveyed by the circuitous expression of "three fifths of all other persons." Mr. Dayton said that at that time he was far from believing, and that indeed until the present debate arose, he had never heard, that any one member supposed that the simple change of the term would enlarge the construction of this prohibitory provision, as it was now contended for. If it could have been conceived to be really liable to such interpretation, he was convinced that it would not have been adopted, for it would then carry with it a strong injunction upon Congress to prohibit the introduction of foreigners into newly erected States immediately, and into the then existing States after the year 1808, as it undoubtedly does, that of slaves after that period.

Having thus answered the gentleman upon this particular article, the real design of moving and adopting which in the Federal Convention, it was but charitable to say that member had forgotten, Mr. D. proceeded to take notice of the apparent inconsistency in the same gentleman's arguments in respect to the general Constitutional powers of Congress as applicable to the present question. They were now told that the General Legislature could not pass a law authorizing the removal of aliens whose residence in the country was dangerous to its peace and safety, because there was no particular and express delegation of such authority under the specification of the powers of Congress. But a few sessions ago, however, that member held a very different language, when he was pleading in behalf of his own constituents who had suffered from the fires at Savannah, and asking some relief for them, from the Treasury of the Union. He then most unequivocally reprobated the idea of Congress being confined to the strict letter of the Constitution, in the nature, extent, and exercise of the authority vested in it. He said that a construction so narrow would be absurd, and would go to deprive the Legislature of the power of making provisions upon the most common or most necessary cases, merely because they were not specified. He adduced instances to prove that they might legislate with a view to "the general welfare," and, particularly, that where a State, or part of a State, should be overwhelmed by the sea, or otherwise rendered uninhabitable from some extraordinary convulsion, a grant might be made to the people who were saved from the deluge, either of money from the National Treasury, or of a part of the vacant public lands. He cited many acts that had already been passed under that very general power of providing for the common defence and general welfare, and asserted that though the Constitution was very useful in giving general directions, yet it was not capable of being administered under so rigorous and mechanical a construction, as had been sometimes contended for. Such were the arguments, and such the opinion of the gentleman from Georgia, at the time and upon the occasion alluded to, and the House would judge how consistent they were with the language and doctrines uttered by him on Saturday.

As to the gentleman from Pennsylvania, Mr. D. said it would be as useless as it was impracticable, to follow him through all his windings. It was sufficient that he had told Congress on that day (a day which would be memorable for the tale) that they had no power "to provide for the common defence and general welfare," although it was declared in the introductory part of the Constitution to be the great object of forming it, and must be supposed to have been so, if it had not been thus declared. Those who concurred with that member in a position so extraordinary, would of course vote with him, but as his own views and opinions of the intent and extent of that intrument were perfectly variant from theirs, so Mr. D. said would his vote be also.

Mr. R. Williams said, notwithstanding all the insinuations of the gentleman from South Carolina, and the positiveness of the gentleman from New Jersey, he should not be prevented from giving his opinion upon the bill.

The gentleman last up is anxious to know, whether the Federal Government has not the power to provide for the general welfare? Within the limits of the Constitution, it certainly has the right; but it might require all power to do this; and then it would not, for if the General Government had all this power, nothing would be left for the State Governments to act upon. He wished gentlemen would mark the line of distinction, and

say whether the individual States do not possess some power to be employed for the general welfare, as well as the General Government, and whether the benefits thence arising are not equally as serviceable to the public as when exercised by the General Government?

The gentleman from South Carolina supposes States may admit foreigners into their society, but may not be inclined to punish them for breaches of their laws. Could so absurd an opinion ever exist? Besides, if States choose to act contrary to each other in their internal policy, surely Congress has not the power to make them uniform. One State may punish a man with death for stealing a horse, and another may inflict upon him imprisonment. Yet this they have a right to do, without the interference of Congress.

In supporting this bill against aliens, the gentleman from South Carolina has shown its operation upon citizens, which proves to him that the principle is intended to be carried further than it appears at present. If we look into the history of other countries, we shall find, that whenever Governments have wished to make inroads upon the liberties of the people, nothing has been more common than to institute an alarm of danger of some kind or other. No such manœuvre, however, should ever induce him to grant an arbitrary power to the President of the United States, or to any other man. None of the wild declamations which he had heard should draw him from that line of duty which the Constitution has marked out to him. Such arguments and such attempts go to declare this, "Your Constitution is only a dead letter; it may be warped any way: it forms no settled principle for your guide." Such declarations go to the destruction of the principles of the Constitution. It is not enough for gentlemen to say it is necessary to pass a law this or that way, without they can show Congress has the power to do it. It is not sufficient to say that the general welfare requires a thing to be done; because if it be a subject which belongs to the States, however necessary it may be to be done, Congress cannot do it.

With respect to an argument of the gentleman from New Hampshire (Mr. Gordon) that Congress might do acts when the country is in war, or is threatened with it, that it could not do when in perfect peace, he wished that gentleman to show from the Constitution that Congress had a right to do a thing at one time and not at another. Congress had always to act upon its discretion; the powers given to it are the same at all times. For, suppose a bill were to be brought in proposing to send certain persons out of the country, would it not be a strange argument for any gentleman to rise and say, "We might do this in time of war; but not now we are at peace?" It certainly would. But the gentleman says, the persons proposed to be sent out of the country are to have a trial. For what? For an offence how created? Merely because an officer of Government shall say he thinks them dangerous? Not because any tribunal has declared them so; and if they do not obey the mandate of the President, then they are to be tried. He never before knew that this was the way in which offences ought to be created and punished.

The same gentleman has also asked, whether, if any State were to admit persons dangerous to the peace of the Union, the United States would have the power of sending them off? Mr. W. said they had not. If they had, they might also be said to have the power to send all the slaves out of any State, as they are dangerous to the peace of the community. If because a State neglects to exercise a power, the United States may take it, they could soon become possessed of all power, not from the Constitution, but from the latches of particular States.

Mr. W. concluded by repeating some of his former arguments against this bill.

Mr. Milledge hoped the committee would rise. The gentleman from New Jersey (Mr. Dayton) having charged his colleague with misrepresentation, he hoped an opportunity would be given him of answering the charge, and he was not now in the House.

After some observations for and against this motion, it was negatived—49 to 27.

Mr. Gallatin said, he did not rise with a view of giving an answer to any arguments which had been used. It was too late in the day to do it; and had the gentleman from South Carolina confined himself to a misrepresentation of the arguments used in support of this motion, or an attempt to answer them, he would not have troubled the committee again on this subject; but this is not the first time that that gentleman, and some others, had assumed a ground which did not belong to them. They (and particularly the gentleman from South Carolina) seem to suppose that they have an exclusive claim to purity of intention, and fancy they are at liberty to ascribe whatever motives they please to others.

Mr. G. wished to know for what purpose the gentleman from South Carolina had risen to-day, to give to the House that declamation which had so often made part of his speeches? Was it because that gentleman wished to send forth an insinuation to the public that there is a party in this House who wish to abandon their country to an invading country? He says, that the great opposition made to this bill in various quarters, arises from a wish to favor the residence of aliens in this country who are at this time plotting against our security, and from a desire to keep this country in a defenceless state.

And yet in what quarter has opposition to this bill appeared? In no other place besides the Senate and this House. It has not yet been a subject of discussion in any other quarter. What, then, does the gentleman mean? Does he mean that there are gentlemen in Congress, both on this floor and in the Senate, who are actuated by the worst of motives? I am not, said Mr. G., going to justify my motives. I know nothing so respectable in the character of the gentleman from South Carolina, either public or private, as to entitle him to that ground, he so boldly assumes. That gentleman has spoken of alarm in general, and has told

the House that a certain plot is in existence against the interests of this country. If he will bring forward facts upon which the House can judge, let him do so; until he can do so, it is extremely indecent and improper to throw out insinuations such as he had this day made. But, if he cannot, and Mr. G. knew he could not, bring any proof in support of these vague assertions, he would tell that gentleman that these insinuations deserved no other appellation but that of calumny. If those who were calumniated were inclined to retort, could they not do it? Is it, said he, because we have evinced so great a degree of moderation; that we have sat down, day after day, under this abuse, that we are doomed to hear this repetition of calumnies? When the gentleman from South Carolina tells the committee that another country has been preserved by a bill of this kind, might he not be answered, that its adoption in that country was the only reason why such a bill was introduced here; and that he, with perfect servility, knows only how to follow, step by step, all the measures adopted by the British Government? Or because, in my opinion, said Mr. G., the present bill is unconstitutional, might I not, if I chose to preserve as little regard to decency as that gentleman, charge him at once with a wilful intention to break the Constitution, and an actual violation of the oath he has taken to support it?

Mr. G. did not believe that insinuations of this kind, thrown out against members upon this floor, were calculated to produce the welfare of the country. If gentlemen desire unanimity in the councils of the nation, it could only be produced by an exercise of rational confidence in the motives of one another. Mr. G. did not mean to add anything to the arguments already urged in favor of the present motion, since he had no doubt the committee were perfectly ready to decide upon the question.

Mr. Harper did not know how it was that some gentlemen on this floor should be so extremely sore upon everything which relates to motives. He had said nothing about the motives of any gentleman in this House. The gentleman from Pennsylvania, however, knew best whether his motives are pure or not; but when a gentleman who is generally so very cool, should all at once assume such a tone of passion, as to forget all decorum of language, it should seem as if the observation had been properly applied to that gentleman.

The question on striking out the section, was put and negatived—46 to 36.

Wednesday, June 20.

The bill authorizing the defence of merchant vessels from French depredations, was received from the Senate with amendments; which were committed for to-morrow, and ordered to be printed.

The bill granting the Secretary of the Navy the privilege of franking letters and packets, was passed.

The House went into a Committee of the Whole on the bill making an appropriation for the new regiment of artillery for this year; 88,000 dollars were appropriated; and the bill was gone through with, and ordered to be read a third time to-morrow.

The House then went into a Committee of the Whole on the bill providing for the enumeration of the inhabitants of the United States; and, after filling the blanks, reported the bill to the House.

Thursday, June 21.

ALIENS.

The House again resolved itself into a Committee of the Whole on the bill from the Senate concerning aliens.

Mr. Harper, after some observations showing the impropriety of treating persons confined for offences under this act as common felons, moved to strike out the words, "and confined to hard labor for and during life," and insert, in their place, "during the pleasure of the United States."

Mr. D. Foster was against this amendment, as the President had the power of remitting a part of the imprisonment, if he thought it right and proper to do so.

Mr. Harper did not think the President had the power to dispense with this punishment. He did not think the President's pardoning power would extend to these cases.

Mr. D. Foster had no doubt of it.

Mr. Gordon said it would be imposing a very disagreeable duty upon the President, if he should consider it as necessary to confine a person under this act for life.

Mr. R. Williams was in favor of the principle of the amendment of the gentleman from South Carolina, but thought it would be better to leave the proposed discretionary power in the courts, as it had not been usual to place any discretion of this kind in the Executive. It was proper that this discretion should be lodged somewhere, because persons might be sent out of the country for different offences; some might have been guilty of treason or sedition against the United States, while others might have been removed on the ground of suspicion, though perfectly innocent, and no one could wish an innocent person to be imprisoned and kept to hard labor for life.

Mr. Harper did not think it would answer to leave this discretion with the courts. The President of the United States alone, who only is possessed of all information which has reference to our foreign relations, would be the fittest to have the discretion. As to the objection of the gentleman from New Hampshire, (Mr. Gordon,) that this would impose a disagreeable duty on the President, he did not think it ought to have any weight, as the power itself of removing aliens out of the country at all, was of a much more obnoxious kind. The principal objection which he had to this provision was the keeping of prisoners under this act to hard labor. He then changed his motion, and confined it to striking out the words, "and confined to hard labor for life." The

President might, then, remit a part of the punishment, if the opinion of the gentleman is correct with respect to his pardoning power, which, on reflection, he believed it was.

Mr. Dana thought it would be sufficient to say, "during the continuance of this act," which he could only consider as temporary.

Mr. Harper did not think such an alteration would be proper, because it might be necessary to continue the person in confinement beyond the time which Congress might think it necessary to keep the law in force.

Mr. T. Claiborne was in favor of ameliorating the punishment. He did not wish to have the American code stained with the provision as it stood in the bill. It was fitter for the code of Algiers than of America. If the enemies of the country are either removed from it, or confined in it, he thought it would be sufficient.

Mr. S. Smith said, as it was necessary that this bill should pass soon, he should wish it to pass without amendment, except it should appear to be essential. Gentlemen seemed desirous of shortening the period of imprisonment and to lessen its rigor. The present question is, whether persons confined ought to be kept to labor. For his own part he should wish the persons confined under this law, to be kept at labor as well as imprisonment, which was according to the general tenor of our laws, and by which means prisoners are made to earn something towards the expense of their punishment.

Mr. Sitgreaves said, as an amendment had already taken place, the adoption of others would be no hindrance to the passage of the bill. The gentleman from Connecticut was mistaken when he said that imprisonment and labor always go together. Before labor can be carried on in a prison, it is necessary to go to considerable expense in machinery and raw materials. No provision of this kind has been made for prisoners of the United States. It was not only a new idea, but he thought an improper one. If almost any other punishment had been proposed, he should have agreed to it, because he thought the offence a serious one against the Government, and that it is not easy to make the punishment too rigorous.

The question on the amendment was put and carried; there being 53 votes for it.

Mr. Davis moved to insert, after "return thereto," "without permission of the President of the United States." Agreed to.

Mr. Otis moved a new section declaring it lawful for any alien, who shall be ordered out of the country, to take any part of his goods with him, and if he leaves any property behind him, that it shall be subject to his order as much as if he remained in the country.

Mr. Gordon thought it unnecessary to hold out an idea that, without a provision of this kind, the property would be taken.

Mr. Otis believed that an alarm had gone forth, and that these persons had been led to believe that if the Government did not now seize the property of these aliens, they would hereafter do it. He had information from the President of the Bank of the United States, and from several merchants, that emigrants have withdrawn their money from that and other banks in this city, to a considerable amount. As he looked upon all laws which went to a seizure of the property of aliens, as barbarous, he wished to introduce a section into this bill which shall show to this class of men that it is not the intention of the Legislature of the Union to touch their property.

Mr. N. Smith hoped not only this motion would be negatived, but that when they came into the House, all the amendments which had been agreed to would be negatived. He thought all of them unimportant. He did not wish them to lay the Government under any restraint with respect to the property of aliens. He did not think aliens had been particularly alarmed at this bill, but that their alarm had arisen from the general state of the country; and if aliens are withdrawing themselves and their property from our country, he had no objection to it; but he wished to reserve the right to Government of seizing the property of aliens, if they shall think proper to do so. Aliens can read the law for themselves, and they will see that there is nothing in this law which can affect their property, and if they chose to leave the country, he believed it would be a blessing to it. He believed we have persons and property enough without them.

Mr. Harper thought this declaratory section proper. He believed there exists at present a painful apprehension in the minds of certain aliens in this country, without any reason. Driven from their own country to take refuge in this, when it is known they do feel this alarm, he could see no reason why such a declaration as this might not be passed; for he had no objection to tie the hands of Government in this respect. He was certain it never could be good policy for Government to lay its hands arbitrarily upon the property of individuals. Indeed, we have a compact with Great Britain on this subject, and he thought it would be wise and just to make the proposed declaration. Many aliens in this country, so far from being dangerous to our peace, are entitled to our commisseration; and, for the quiet of such unfortunate persons, he should always be glad to take all proper measures. He admitted these people would be equally safe without the declaration, but he believed they would be better satisfied with it, and he wished to satisfy them.

Mr. S. Smith was in favor of the amendment. The gentleman from Connecticut seemed to think it would be necessary to send away all aliens. He believed it would be found necessary to send away very few, and shall we not quiet the minds of these people, when it can be so easily done? For, when power is given to the President to seize and send out of the country any alien whom he pleases, they may reasonably be afraid of their property, as well as their persons; for, if they are sent out of the country, without a moment's warning, they will have no time to look after their property. And there are men of this description who, if they were to take away their property from the country, would very much harass the banks. Indeed,

he knew men of this class, the withdrawing of whose property from the bank where it is lodged, would take every shilling of cash out of it, and they are men who have always conducted themselves with propriety—men who sought an asylum here, where they had been taught to believe they might live undisturbed from the evils and oppressions of other countries. Many of these men had already, he knew, withdrawn from the banks, eight, ten, and fifteen thousand dollars each, which they have thought more safe in their own chests, since the late measures against aliens have been taken, than in the public banks.

Mr. Gordon was certain that no person, on reading this law, could say it would affect the property of any alien; and if they have heretofore had any such idea, when they come to see this law, such an opinion must be done away.

Mr. N. Smith said, this provision could not produce the effect which gentlemen intended; because the peaceable citizens alluded to, would doubtless remain in the country, and the Government might seize upon their property, anything in this law notwithstanding.

Mr. Gallatin apprehended the alarm which had been spoken of was created by the provision in the bill respecting alien enemies, as originally reported. That bill provided for a retaliation of any severities which might be inflicted upon our citizens in France. These aliens knew, from their past sufferings, the severities practised by the French Government, and they saw by that bill that those severities, if inflicted upon American citizens in France were to be reciprocated upon them. They saw, therefore, the possibility and probability of a confiscation of their property. But this bill had been recommitted, and a new bill has since been reported, stripped of the most objectionable parts of the former bill, and which has doubtless, in a great measure, removed their apprehensions. Every person must be convinced, from our proceedings, that there exists no intention in Congress to take hold of the property of any alien removed out of the country. It is true, that marshals, in their zeal to execute their duty, may hurry persons off, who shall be ordered out of the country, with so much haste, as to prevent them from taking property away with them which they might wish to take; but no one could suspect the Government with interfering with their property.

Mr. Rutledge hoped, since this provision had been brought forward, it would be adopted. He knew that these people had been led to believe that Government had an eye upon their property, and would take it for the purpose of carrying on the war. Many of them being ignorant of our language, are unable to undeceive themselves. Every letter he received contained complaints of this kind.

Mr. Sitgreaves said, his objections did not lie as much against the clause, because it was declaratory, as to the force of it. It would be an affirmative act, which might go as far as to alter the rights of these aliens. It was an affirmative proposition that they shall be permitted to take away such of their property as they please, and leave the rest at their disposal. The operation might be to prevent a process of attaching against their property, in favor of their creditors.

Mr. Edmond was opposed to this amendment. It extended only to that class of aliens who shall be considered as dangerous to the peace and safety of the United States. It will give no advantage to the honest and upright alien. He believed the best way of preventing alarm was to let it be seen that our laws, respecting aliens, have reference only to those whose residence here would be looked upon as dangerous to our peace and safety.

Mr. Bayard was in favor of this amendment. Nothing was more common than to pass declaratory laws. The provision could have no operation but to place the property of aliens on the same footing that it would have been upon, had not the law passed. And this was necessary, for what alien could say, however good his intentions may be, that the President may not be imposed upon, and that he may not be subject to the operations of this law, and sent out of the country?

The question was put and negatived—43 to 32.

The committee then rose, and the House took up the amendments. The one for striking out the provision for keeping prisoners to hard labor being under consideration,

Mr. Allen hoped it would not be agreed to. He thought the punishment without labor, too light. He was of opinion it could scarcely be too severe on persons who should return after being banished as dangerous to the country.

Mr. S. Smith thought an imprisonment for life was no light punishment for a person who may have been guilty of no crime; a man who, perhaps, if he had been suffered to remain a few days longer in the country would have been entitled to his citizenship; who might have left his family behind him, and chose to risk his person in returning to see them, and if possible to get them away. Could gentlemen draw a comparison between such a man and the worst of felons? They surely could not. He trusted our laws would continue to partake of some degree of humanity.

Mr. Gallatin said, the gentleman from Connecticut acknowledged himself to be an enemy to innovation. Yet he wished these persons to be confined to hard labor. He was surprised to hear a gentleman call imprisonment for life a light punishment. He should think it next to death. Hard labor has been substituted generally instead of death. In this country hard labor for life has never been introduced into the code of the United States. The punishment for a misprision of treason is seven years imprisonment, but no hard labor. Hard labor, he believed, was never made a part of punishment except for felony. The object of this bill is of a political nature; it is not to inflict punishment, but to restrain persons from doing mischief; and he wished to know whether imprisonment for life would not be a sufficient restraint? It certainly would, and he trusted our code would not be stained by a punishment like that proposed by the gentleman from Connecticut.

Mr. Harper said, the object of this bill is re-

straint merely. If aliens commit crimes, they will be punished like other persons. Confinement for the purpose of restraint was never attended with labor.

The amendment of the Committee of the Whole was concurred in.

Mr. R. Williams renewed the motion of the gentleman from South Carolina to strike out the words "during life," for the purpose of inserting, "so long as, in the opinion of the President of the United States, the public safety shall require it."

Mr. Bayard thought it right that all punishments should be definite. He was against leaving this discretion with the President. There might be no impropriety in leaving some discretion with the judges, but he thought there would be a palpable impropriety in leaving this discretion with the President.

Mr. S. Smith believed the amendment unnecessary, as the President could, at any time, remit such part of the punishment as he thought proper.

Mr. R. Williams said, when penal laws were passed, the punishments were never made heavier than they ought to be, from the consideration that the President has the power of reprieval. The gentleman from Delaware complains of the impropriety of giving this discretion to the President, though the whole bill is a discretionary power given to the President.

The question was put and carried, there being 46 votes for it.

The question being on the bill's going to a third reading,

Mr. Baldwin said, he felt it his duty to take this opportunity of saying, as he had before observed, on the question for striking out the first section, that the Constitution gave Congress no power on this subject. If aliens were to be sent off or banished, it must be by the State Governments where they lived. He said it not only gave no power, but, for the present, absolutely prohibited our interfering to prevent "the migration or importation of such persons as the several States might think proper to admit." He observed that he was yesterday obliged to leave the House a little before the adjournment, and he had understood that, in his absence, the remarks which he had made on that point, a few days ago, in Committee of the Whole, had been controverted, and that it had been done with some degree of harshness and personal disrespect. What he had before asserted was, that the clause respecting migration and importation was not considered at the time when it passed in the Convention as confined entirely to the subject of slaves. He spoke with the more confidence on this point, as there was scarcely one to which his attention had been so particularly called at the time. In making the Federal Constitution, when it was determined that it should be a Government possessing Legislative powers, the delegates from the two Southern States, of which he was one, were so fully persuaded that those powers would be used to the destruction of their property in slaves, that for some time they thought it would not be possible for them to be members of it: to that interesting state of the subject he had before alluded. In the progress of the business, other obstacles occurring, which he need not repeat, it was concluded to give to the delegates of those States the offer of preparing a clause to their own minds, to secure that species of property. He well remembered that when the clause was first prepared, it differed in two respects from the form in which it now stands. It used the word "slaves" instead of "migration," or "importation," of persons, and instead of "ten dollars," it was expressed "five per cent. ad valorem on their importation," which it was supposed would be about the average rate of duties under this Government. Several persons had objections to the use of the word "slaves," as Congress had hitherto avoided the use of it in their acts, and not acknowledged the existence of such a condition. It was expressly observed at the time, that making use of the form of expression as it now stands, instead of the word slaves, would make the meaning more general, and include what we now consider as included; this did not appear to be denied, but still it was preferred in its present form. He had more confidence than common in his recollection on this point, for the reasons which he had before stated. He gave it as the result of his very clear recollection. Any other member of that body was doubtless at liberty to say he did not recollect it. Still that would not diminish the confidence he felt on this occasion.

It was unpleasant to him to be informed that the gentleman had thought proper to use any harshness of manner or personal disrespect in controverting his assertions. The members of this House live in situations so remote from each other that there is scarcely a sufficient degree of mutual dependence to secure the usual deference and civility of social life towards each other, while they are together transacting public business; this had shown itself during the last Summer and this Winter session, in such a manner as the councils of the United States never before exhibited. He was sorry to be the cause of adding to so disgraceful a scene; he had endeavored to the utmost of his power to cultivate that respect and decorum in his deportment to each individual who has been thought by his country worthy of a seat there, which he thought indispensably necessary to secure proper respect and decorum to the House itself. If any member thought proper to withdraw himself from that respectful relation to him, he hoped it might be left to depend entirely on his own sense of propriety.

The Speaker rose from the Chair and said, that there was something so unmanly and improper in the opportunity which had been sought by the member from Georgia of replying to the observations he had made yesterday, that he felt himself irresistibly impelled to break through the rigid form, and to express, in a single word, his sense of it. It could not have escaped the general observation, that, although they had been for some time in Committee of the Whole, when the Speaker was on the floor, and had a right in common with the other members to join in any discussion, yet that member had thought proper in that situation to maintain a perfect silence, and to permit the committee to rise, that he might take advantage of the injunction imposed upon the Chair of never entering into the debate, not even to defend himself. This advantage had been eagerly seized, and the House were witnesses of the manner of his doing it. As to the matter contained in the reply, it was not of such importance, nor so worthy of notice, the Speaker said, as to justify his requesting the House to go again into a committee, merely to give him an opportunity of directly and positively contradicting the member from Georgia, as he should most assuredly and positively do, so far as respected the proceedings of the Federal Convention in 1787.

The bill was ordered to a third reading to-morrow, and the House adjourned.

Thursday, June 21.

The bill making appropriation for the new regiment of artillery for the year 1797, and the bill providing for an enumeration of the inhabitants of the United States, was read the third time and passed.

ALIENS.

The bill concerning aliens having been read the third time, the question was put. "Shall this bill pass?"

Mr. Livingston said, he esteemed it one of the most fortunate occurrences of his life, that, after an inevitable absence from his seat in that House, he had arrived in time to express his dissent to the passage of the bill. It would have been a source of eternal regret, and the keenest remorse, if any private affairs, any domestic concerns, however interesting, had deprived him of the opportunity he was then about to use, of stating his objections, and recording his vote against an act which he believed was in direct violation of the Constitution, and marked with every characteristic of the most odious despotism.

On my arrival, sir, Mr. L. said, I inquired what subject occupied the attention of the House, and being told it was the alien bill, I directed the printed copy to be brought to me, but to my great surprise, seven or eight copies of different acts on the same subject were put into my hands—among them it was difficult (so strongly were they marked by the same family features) to discover the individual bill then under discussion. This circumstance gave me a suspicion the principles of the measure were erroneous. Truth marches directly to its end by a single undeviating path. Error is either undetermined on its object, or pursues it through a thousand winding ways; the multiplicity of propositions, therefore, to attain the same general but doubtful end, led me to suspect that neither the object nor the means proposed to attain it, were proper and necessary. These surmises were confirmed by a more minute examination of the act. In the construction of statutes, it is a received rule to examine what was the state of things when they passed, and what were the evils they were intended to remedy; as these circumstances would be applied in the construction of the law, it might be well to examine them minutely in framing it. The state of things, if we are to judge from the complexion of the bill, must be, that a number of aliens, enjoying the protection of our Government, were plotting its destruction; that they are engaged in treasonable machinations against a people who have given them an asylum and support, and that there is no provision to provide for their expulsion and punishment. If these things are so, and no remedy exists for the evil, one ought speedily to be provided, but even then it must be a remedy that is consistent with the Constitution under which we act; for, as by that instrument all powers not expressly given by it to the Union are reserved to the States; it follows that, unless an express authority can be found, vesting us with the power, be the evil ever so great, it can only be remedied by the several States who have never delegated the authority to Congress. But this point will be presently examined, and it will not be a difficult task to show that the provisions of this bill are not only unauthorized by the Constitution, but are in direct violation of its fundamental principles, and contradictory to some of its most express prohibitions; at present, it is only necessary to ask whether the state of things contemplated by the bill have any existence.

We must legislate upon facts, not on surmises; we must have evidence, not vague suspicions, if we meant to legislate with prudence. What facts have been produced? What evidence had been submitted to the House? I have heard, sir, of none; but if evidence of facts could not be procured, at least it might have been expected that reasonable cause of suspicion should be shown. Here, again, gentlemen were at fault; they could not show even a suspicion why aliens ought to be suspected. We have, indeed, been told that the fate of Venice, Switzerland, and Batavia, was produced by the interference of foreigners. But the instances were unfortunate; because all those Powers have been overcome by foreign force, or divided by domestic faction, not by aliens who resided among them, and if any instruction was to be gained from those Republics, it would be, that we ought to banish not aliens, but all those who did not approve of the Executive acts. This, he believed, gentlemen were not ready to avow; but if this measure prevailed, he should not think the other remote; but if it had been proved that these Governments were destroyed by the conspiracies of aliens, it yet remains to show that we are in the same situation; or that any such plots have been detected, or are even reasonably suspected here. Nothing of this kind has been yet done. A modern Theseus, indeed, has told us he has procured a clue that will enable him to penetrate the labyrinth, and destroy this monster of sedition. Who the fair Ariadne is, who so kindly gave him the ball, he has not revealed; nor, though several days have elapsed since he undertook the adventure, has he yet told us where the monster lurks. No evidence, then, being produced, we have a right

to say that none exists, and yet we are about to sanction a most important act; and on what ground? Our individual suspicions, our private fears, our over-heated imaginations. Seeing nothing to excite those suspicions, and not feeling those fears, I could not give my assent to the bill, even if I did not feel a superior obligation to reject it on other grounds.

As far as my own observation goes, I have seen nothing like the state of things contemplated by the bill. Most of the aliens I have seen were either triumphant Englishmen or Frenchmen, with dejection in their countenances and grief at their hearts, preparing to quit the country and seek another asylum. But if these plots exist, if this treason is apparent, if there are aliens guilty of the crimes ascribed to them, an effectual remedy presents itself for the evil. We have already wise laws, we have upright judges and vigilant magistrates, and there is no necessity of arming the Executive with the destructive power proposed by the bill now on your table. The laws now in force are competent to punish every treasonable or seditious attempt. But grant, sir—what, however, has not been supported by fact—grant that these fears are not visionary, that the dangers are imminent, and that no existing law is sufficient to avert them, let us examine whether the provisions of the bill are conformable to the principles of the Constitution; if it should be found to contravene them, I trust it will lose many of its present supporters; but if not only contrary to the general spirit and the principles of the Constitution, it should also be found diametrically opposite to the most express prohibitions, I cannot doubt that it would be rejected with that indignant decision which our duty to our country and our sacred oath demands.

The first section provides, that it shall be lawful for the President "to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the Government thereof, to depart out of the United States, in such time as shall be expressed in such order."

Our Government, sir, is founded on the establishment of those principles which constitute the difference between a free Constitution and a despotic power; a distribution of the Legislative, Executive, and Judiciary powers, into several hands; a distribution strongly marked in the three first and great divisions of the Constitution; by the first, all Legislative power is given to Congress, the second vests all Legislative functions in the President, and the third declares that the Judiciary powers shall be exercised by the Supreme and Inferior Courts. Here then is a division of the Governmental powers strongly marked, decisively pronounced, and every act of one or all of the branches that tends to confound these powers, or alter this arrangement, must be destructive of the Constitution. Examine, then, sir, the bill on your table, and declare whether the few lines I have repeated from the first section, do not confound these fundamental powers of Government, vest them all in the more unqualified terms in one hand, and thus subvert the basis on which our liberties rest.

Legislative power prescribes the rule of action; the Judiciary applies that general rule to particular cases, and it is the province of the Executive to see that the laws are carried into full effect. In all free Governments, these powers are exercised by different men, and their union, in the same hand, is the peculiar characteristic of despotism. If the same power that makes the law can construct it to suit his interest, and apply it to gratify his vengeance; if he can go further, and execute, according to his own passions, the judgment which he himself has pronounced, upon his own construction of laws which he alone has made, what other features are wanted to complete the picture of tyranny? Yet all this, and more, is proposed to be done by this act; by it the President alone is empowered to make the law, to fix in his mind what acts, what words, what thoughts or looks, shall constitute the crime contemplated by the bill, that is, the crime of being "suspected to be dangerous to the peace and safety of the United States." He is not only authorized to make this law for his own conduct, but to vary it at pleasure, as every gust of passion, every cloud of suspicion, shall agitate or darken his mind. The same power that formed the law, then, applies it to the guilty or innocent victim, whom his own suspicions, or the secret whisper of a spy, have designated as its object. The President, then, having made the law, the President having construed and applied it, the same President is by the bill authorized to execute his sentence, in case of disobedience, by imprisonment during his pleasure. This, then, comes completely within the definition of despotism—an union of Legislative, Executive, and Judicial powers. But this bill, sir, does not stop here; its provisions are a refinement upon despotism, and present an image of the most fearful tyranny. Even in despotisms, though the monarch legislates, judges, and executes, yet he legislates openly; his laws, though oppressive, are known; they precede the offence, and every man who chooses may avoid the penalties of disobedience. Yet he judges and executes by proxy, and his private interests or passions do not inflame the mind of his deputy.

But here, the law is so closely concealed in the same mind that gave it birth—the crime is "exciting the suspicions of the President," but no man can tell what conduct will avoid that suspicion—a careless word, perhaps misrepresented, or never spoken, may be sufficient evidence; a look may destroy, an idle gesture may insure punishment; no innocence can protect, no circumspection can avoid the jealousy of suspicion; surrounded by spies, informers, and all that infamous herd which fatten under laws like this, the unfortunate stranger will never know either of the law, of the accusation, or of the judgment, until the moment it is put in execution; he will detest your tyranny, and fly from a land of desolators, inquisitions, and spies.

This, sir, is a refinement of the detestable contrivance of the Decemvirs; they hung the tables of their laws so high that few could read them. A tall man, however, might reach them, a short one might climb and learn their contents, but here the law is equally inaccessible to high and low. Safely concealed in the breast of its author, no industry or caution can penetrate this recess and obtain a knowledge of its provisions; nor, even if they could, as the rule is not permanent, would it at all avail.

Having shown that this act is at war with the fundamental principles of our Government, I might stop here in the certain hope of its rejection. But I can do no more; unless we are resolved to pervert the meaning of terms, I can show that the Constitution has endeavored to "make its surety doubly sure, and take a bond of fate," by several express prohibitions of measures like that you now contemplate. One of these is contained in the ninth section of the first article; it is at the head of the articles which restrict the powers of Congress, and declares "that the emigration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited prior to the year 1808." Now, sir, where is the difference between a power to prevent the arrival of aliens and a power to send them away as soon as they shall arrive? To me they appear precisely the same. The Constitution expressly says, that Congress shall not do this, and yet Congress are about to delegate this prohibited power, and say that the President may exercise it as often as pleasure may direct.

I am informed that an answer has been attempted to this argument, by saying, that the article, though it speaks of "persons," only relates to slaves? But a conclusive reply to this answer may be drawn from the words of the section; it speaks of migration and importation. If it relates only to slaves, "importation" would have been sufficient; but how can the other word apply to slaves? Migration is a voluntary change of a country; but who ever heard of a migration of slaves? The truth is, both words have their appropriate meaning, and were intended to secure the interests of different quarters of the Union. The Middle States wished to secure themselves against any laws that might impede the emigration of settlers. The Southern States did not like to be prohibited in the importation of slaves; and so jealous were they of this provision, that the fifth article was introduced to declare that the Constitution should not be amended so as to do it away.

But even admit, said Mr. L., the absurdity, that the word "migration" has no meaning, or one foreign to its usual acceptation, and that the article relates only to slaves. Even this sacrifice of common sense will not help gentlemen out of their dilemma; slaves probably always, but certainly on their first importation, are aliens; many people think they are always "dangerous to the peace and safety of the United States!" If the President should be of this opinion, he not only can, but, by the terms of this law, is obliged to order them off; for the act creates an obligation on him to send away all such aliens as he may judge dangerous to the peace or safety of the United States. Thus, according to the most favorable construction, every proprietor of this species of property, hold at the will and pleasure of the President—and this, too, in defiance of the only article of the Constitution that is declared to be unalterable. But, let us, sir, for a moment, if it be possible, let us imagine that a Constitution, founded on a division of powers, into three hands, may be preserved, although these powers should be surrendered into one; let us imagine, if we can, that the States intended to restrict the General Government from preventing the arrival of persons whom they were yet willing to suffer that General Government to ship off as soon as they should arrive; grant all this, and they will be as far from establishing the Constitutionality of the bill as they were at the first moment it was proposed; for, in the third article it is provided, that all "Judicial power shall be vested in the Supreme and Inferior Courts, that the trial of all crimes shall be by jury," except in case of impeachment; and in the seventh and eighth amendments, this provision is repeated and enforced by others, which declare that, "no man shall be held to answer for a capital or otherwise infamous crime, unless on a presentment of a grand jury;" that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." Now, sir, what minute article in these several provisions of the Constitution is there that is not violated by this bill? All the bulwarks which it opposed to encroachments, fall before personal liberty, fall before this engine of oppression.

Judiciary power is taken from courts, and given to the Executive, the previous safeguard of a presentment by a grand inquest is removed; the trial by jury is abolished; the "public trial" required by the Constitution is changed into a secret and worse than inquisitorial tribunal; instead of giving "information on the nature and cause of the accusation," the criminal, ignorant of his offence and the danger to which he is exposed, never hears of either until the judgment is passed and the sentence is executed; instead of being "confronted with his accusers," he is kept alike ignorant of their names and their existence; and even the forms of a trial being dispensed with, it would be a mockery to talk of "proofs for witnesses," or the "assistance of counsel for defence"—thus are all the barriers which the wisdom and humanity of our country had placed between accused innocence and oppressed power, at once forced and broken down. Not a vestige even of their form remains. No indictment; no jury; no trial; no public procedure; no statement of the accusation; no examination of the witnesses in its support; no coun-

sel for defence; all is darkness, silence, mystery, and suspicion. But, as if this were not enough, the unfortunate victims of this law are told in the next section, that if they can convince the President that his suspicions are unfounded, he may, if he pleases, give them a license to stay; but, how remove his suspicions, when they know not on what act they were founded? Miserable mockery of justice! appoint an arbitrary Judge armed with Legislative and Executive powers added to his own! let him condemn the unheard, the unaccused object of his suspicion; and, then, to cover the injustice of the scene, gravely tell him, you ought not to complain—you need only disprove facts that you have never heard—remove suspicions that have never been communicated to you; it will be easy to convince your Judge, whom you shall not approach, that he is tyrannical and unjust; and, having done this, we give him the power he had before, to pardon you, if he pleases.

So obviously do the Constitutional objections present themselves, that their existence cannot be denied, and two wretched subterfuges are resorted to, to remove them out of sight. First, it is said, the bill does not contemplate the punishment of any crime; and, therefore, the provisions in the Constitution relative to criminal proceedings and Judiciary powers do not apply. But, have the gentlemen who reason thus, read the bill; or is everything forgotten, in our zealous hurry to pass it? What are the offences upon which it is to operate? Not only the offence of being "suspected of being dangerous to the peace and safety of the United States," but also that of being "concerned in any treasonable or secret machinations against the Government thereof." And this, we are told, is no crime! a treasonable machination against the Government is not the subject of criminal jurisprudence! Good Heaven! to what absurdities does an over-zealous attachment to particular measures lead us! In order to punish a particular act we are forced to say, that treason is no crime, and plotting against our Government is no offence! And, to support this fine hypothesis, we are obliged to plunge deeper in absurdity, and say that, as the acts spoken of in the bill, are no crimes, so the penalty contained in it is no punishment, it is only a prevention; that is to say, we invite strangers to come among us; we declare solemnly that Government shall not prevent them; we entice them over by the delusive prospect of advantage; in many parts of the Union we permit them to hold lands, and give them other advantages, while they are waiting for the period at which we have promised a full participation of all our rights. An unfortunate stranger, disgusted with tyranny at home, thinks he shall find freedom here; he accepts our conditions; he puts faith in our promises; he vests his whole property in our hands; he has dissolved his former connexions, and made your country his own. But, while he is patiently waiting the expiration of the period that is to crown the work, and entitle him to all the rights of a citizen, the tale of a domestic spy, or the calumny of a secret enemy, draws on him the suspicions of the President, and, unheard, he is ordered to quit the spot which he selected for his retreat, the country which he had chosen for his own, perhaps the family which was his only consolation in life, he is ordered to retire to a country whose Government, irritated by his renunciation of its authority, will receive only to punish him; and all this, we are told, is no punishment.

Again, we are told that the Constitutional compact was made between citizens only, and that, therefore, its provisions were not intended to extend to aliens, and that this acting only on them, is, therefore, not forbidden by the Constitution. But, unfortunately, neither common law, common justice, nor the practice of any civilized nation, will permit this distinction. It is an acknowledged principle of the common law, the authority of which is established here, that alien friends, (and permit me to observe that they are such only who we contemplate in this bill, for we have another before us to send off alien enemies,) residing among us, are entitled to the protection of our laws, and that during their residence they owe a temporary allegiance to our Government. If they are accused of violating this allegiance, the same laws which interpose in the case of a citizen must determine the truth of the accusation, and if found guilty they are liable to the same punishment. This rule is consonant to the principles of common justice, for who would ever resort to another country, if he alone was marked out as the object of arbitrary power? It is equally unfortunate, too, for this argument that the Constitution expressly excludes any idea of this distinction; it speaks of all "judicial power," "all trials for crimes," all "criminal prosecutions," all "persons accused." No distinction between citizen and alien, between high or low, friends or opposers to the Executive power, republican and royalist. All are entitled to the same equal distribution of justice, to the same humane provision to protect their innocence; all are liable to the same punishment that awaits their guilt. How comes it, too, if these Constitutional provisions were intended for the safety of the citizen only, that our courts uniformly extend them all, and that we never hear it inquired whether the accused is a citizen, before we give him a public trial by jury?

So manifest do these violations of the Constitution appear to me, so futile the arguments in their defence, that they press seriously on my mind and sink it even to despondency. They have been so glaring to my understanding that I have felt it my duty to speak of them in a manner that may perhaps give offence to men whom I esteem, and who seem to think differently on that subject; none, however, I can assure them, is intended.

I have seen measures carried in this House which I thought militated against the spirit of the Constitution; but never before have I been witness to so open, so wanton, and undisguised an attack. I have now done, sir, with the act, and come to consider the consequences of its operation.

One of the most serious has been anticipated, when I described the blow it would give to the Constitution of our country. We should cautiously beware of the first act of violation. Habituated to overleap its bounds, we become familiarized to the guilt, and disregard the danger of a second offence, until, proceeding from one authorized act to another, we at length throw off all restraint which our Constitution has imposed; and very soon not even the semblance of its form will remain.

But if, regardless of our duty as citizens, and our solemn obligation as representatives; regardless of the rights of our constituents; regardless of every sanction, human and divine; if we are ready to violate the Constitution we have sworn to defend—will the people submit to our unauthorized acts? Will the States sanction our usurped power? Sir, they ought not to submit; they would deserve the chains which these measures are forging for them, if they did not resist. For let no man vainly imagine that the evil is to stop here, that a few unprotected aliens only are to be affected by this inquisitorial power. The same arguments which enforce those provisions against aliens, apply with equal strength to enacting them in the case of citizens. The citizen has no other protection for his personal security, that I know, against laws like this, than the humane provisions I have cited from the Constitution. But all these apply in common to the citizen and the stranger; "all crimes" are to be tried by jury; "no person" shall be held to answer unless on presentment; in all "criminal prosecutions" the "accused" is to be informed of the nature of the charge; to be confronted with the witnesses against him; may have process to enforce the appearance of those in his favor; and is to be allowed counsel for his defence. Unless, therefore, we can believe that treasonable machinations, and the other offences described in the bill, are not "crimes;" that an alien is not a "person;" and that one charged with treasonable practices is not "accused;" unless we can believe all this, in contradiction to our understanding, to received opinions, and the uniform practice of our courts, we must allow that all these provisions extend equally to aliens and natives, and that the citizen has no other security for his personal safety than is extended to the stranger who is within his gates. If, therefore, this security is violated in one instance, what pledge have we that it will not in the other? The same plea of necessity will justify both. Either the offences described in the act are crimes, or they are not. If they are, then all the humane provisions of the Constitution forbid the mode of punishment, or preventing them, equally as relates to aliens and citizens. If they are not crimes, then the citizen has no more safety by the Constitution than the alien has; for all those provisions apply only to *crimes*. So that, in either event, the citizen has the same reason to expect a similar law to the one now before you; which subjects his person to the uncontrolled despotism of a single man. You have already been told of plots and conspiracies; and all the frightful images that were necessary to keep up the present system of terror and alarm were presented to you. But who were implicated by these dark hints—these mysterious allusions? They were our own citizens, sir, not aliens. If there is then any necessity for the system now proposed, it is more necessary to be enforced against our own citizens than against strangers; and I have no doubt, that either in this, or some other shape, this will be attempted. I now ask, sir, whether the people of America are prepared for this? Whether they are willing to part with all the means which the wisdom of their ancestors discovered, and their own caution so lately adopted, to secure their own persons? Whether they are ready to submit to imprisonment or exile whenever suspicion, calumny, or vengeance, shall mark them for ruin? Are they base enough to be prepared for this? No, sir; they will, I repeat it, they will resist this tyrannic system; the people will oppose it—the States will not submit to its operation. They ought not to acquiesce, and I pray to God they never may.

My opinions, sir, on this subject, are explicit, and I wish they may be known; they are, that whenever our laws manifestly infringe the Constitution under which they were made, the people ought not to hesitate which they should obey. If we exceed our powers, we become tyrants, and our acts have no effect. Thus, sir, one of the first effects of measures such as this, if they be not acquiesced in, will be disaffection among the States, and opposition among the people to your Government—tumults, violations, and a recurrence to first revolutionary principles. If they are submitted to, the consequences will be worse. After such manifest violation of the principles of our Constitution, the form will not long be sacred; presently, every vestige of it will be lost and swallowed up in the gulf of despotism. But, should the evil proceed no further than the execution of the present law, what a fearful picture will our country present! The system of *espionage* being thus established, the country will swarm with informers, spies, delators, and all that odious reptile tribe that breed in the sunshine of despotic power; that suck the blood of the unfortunate, and creep into the bosom of sleeping innocence, only to awake it with a burning wound. The hours of the most unsuspecting confidence, the intimacies of friendship, or the recesses of domestic retirement, afford no security. The companion whom you must trust, the friend in whom you must confide, the domestic who waits in your chamber, are all tempted to betray your imprudence or unguarded follies; to misrepresent your words; to convey them, distorted by calumny, to the secret tribunal where jealousy presides—where fear officiates as accuser, and suspicion is the only evidence that is heard.

These, bad as they are, are not the only ill consequences of these measures. Among them we may reckon the loss of wealth, of population, and of commerce. Gentlemen who support the bill seemed to be aware of this, when, yesterday, they introduced a clause to secure the property of those who might be ordered to go off. They should have foreseen the consequences of the step they have been taking. It is now too late to discover that large sums are drawn from the banks, and

that a great capital is taken from commerce. It is ridiculous, even, to observe the solicitude they show to retain the wealth of these dangerous men, whose persons they are so eager to get rid of. If they wish to retain it, it must be by giving them security to their persons, and assuring them, that while they respect the laws, the laws will protect them from arbitrary power. It must be, in short, by rejecting the bill on your table. I might mention many other inferior considerations; but I ought, sir, rather to entreat the pardon of the House for having touched on this topic, which, compared to the breach of our Constitution, and the establishment of arbitrary power, every other topic is trifling. Arguments of convenience sink into nothing; the preservation of wealth, the interest of commerce, however weighty on other occasions, here lose their importance. When the fundamental principles of freedom are in danger, we are tempted to borrow the impressive language of a foreign speaker, and exclaim, "Perish our commerce, let our Constitution live!" Perish our riches, let our freedom live!—this, sir, would be the sentiment of every American, were the alternative between submission and wealth. But here, sir, it is proposed to destroy our wealth in order to ruin our commerce—not in order to preserve our Constitution, but to break it—not to secure our freedom, but to abandon it.

I have now done, sir; but, before I sit down, let me entreat gentlemen seriously to reflect before they pronounce the decisive vote that gives the first open stab to the principles of our Government. Our mistaken zeal, like that of the patriarch of old, has bound one victim; it lies at the foot of the altar. A sacrifice of the first-born offspring of freedom is proposed by those who gave it birth. The hand is already raised to strike, and nothing, I fear, but the voice of Heaven, can arrest the impious blow.

Let not gentlemen flatter themselves that the fervor of the moment can make the people insensible to these aggressions. It is an honest, noble warmth, produced by an indignant sense of injury. It will never, I trust, be extinct, while there is a proper cause to excite. But the people of America, sir, though watchful against foreign aggression, are not careless of domestic encroachment; they are as jealous, sir, of their liberties at home as of the power and prosperity of their country abroad; they will awake to a sense of their danger. Do not let us flatter ourselves, then, that these measures will be unobserved or disregarded. Do not let us be told, sir, that we excite a fervor against foreign aggression only to establish tyranny at home; that, like the arch traitor, we cry "*Hail Columbia!*" at the moment we are betraying her to destruction; that we sing out "*Happy land!*" when we are plunging it in ruin or disgrace; and that we are absurd enough to call ourselves "*free and enlightened,*" while we advocate principles that would have disgraced the age of Gothic barbarity, and establish a code, compared to which, the ordeal is wise, and the trial by battle is merciful and just.

When Mr. Livingston had concluded,

Mr. Kittera said he hoped that this bill would not only pass, but that it would be followed by a strong sedition bill; and that they would, together, preserve us from the dangers with which we are threatened from internal enemies. The Constitution, he said, in the hands of politicians, was like polemics in the hands of divines: it was made to prove everything or nothing. And he hoped gentlemen would believe him sincere, when he declared he never, in his opinion, heard a doctrine more fraught with heresy, and inconsistent with reason, than the doctrine opposed to this bill. Are we, said Mr. K., at one time to be told that this Government is so strong as to be dangerous to liberty, and at another, that we have no Constitutional power to prevent imminent danger to the Government from seditious persons? Mr. K. believed, if we had anything to apprehend on account of our liberty, the danger did not arise from Government having too much power, but from its want of power.

The power proposed to be exercised by this bill is exercised by every Government upon earth, whether despotic or democratic. France herself, *that land of liberty*, removes both alien friends and alien enemies. It is a right which every man exercises in his own house, by turning out of it, without ceremony, any person whom he thinks dangerous to the peace and welfare of his family. Indeed it was absurd, in the extreme, to be told that the States might exercise this power, but that the United States could not exercise it.

Gentlemen had said that, if the President had this power given to him, he might remove a murderer or felon from justice, by sending him out of the country. It might also be said, that he might pardon a criminal after he has been legally convicted; which he certainly might do, if he was disposed to abuse his power.

But the gentleman from New York calls upon the people to resist this law, because it is unconstitutional. This was a doctrine which Mr. K. could by no means accord with; it was a doctrine which he did not expect to have heard advanced on this floor. There is a Judicial power which will sit in judgment upon our acts; but to call upon the people to resist the law, was a doctrine big with mischief. If a law be unconstitutional, the Judges will refuse to execute it.

If this power was not given to the President, an enemy might even import an army, and Government might be told, they could not remove them until they had received a legal trial.

Mr. Otis said, it could not be expected or thought necessary, in this stage of the bill, that he should attempt a full and methodical reply to a speech of such great and evident preparation as that of the gentleman from New York—certainly his observations, however, should not be permitted to pass without a few remarks.

Mr. O. congratulated the House upon the return of that gentleman after so long an absence from his duty, and on the advantages to be expected from his talents and eloquence. The pleasure which he derived from this circumstance, on the present occasion, would have been more sincere,

if the gentleman had taken the trouble to make himself acquainted with the proceedings of the House in the former stages of the bill; it would have saved himself the fatigue, and his hearers from the impatience of repeating and listening to arguments that had been previously exhausted. After so long an interval of repose, this skirmishing, upon old ground might be sport to him, but it was almost death to some of his hearers.

The gentleman had rallied his friend from South Carolina, in a very pleasant vein, on the subject of the clue to which, some days ago, his friend had alluded, and he had himself made a classical allusion to the fable of the Minotaur; to do justice to the gentleman, he disdained the assistance of a clue in his pursuit of the object which he meant to encounter; he valiantly seized the "bull by the horns," and endeavored, by one bold effort, to overturn a decision which had already been sanctioned by large majorities in both Houses. He did not believe that victory would declare for the gentleman, but thought he was lost in a labyrinth of errors.

The gentleman complains most piteously of the conduct of the House, in undertaking to legislate, without evidence, upon the question before them, and implores them not to make a breach in the Constitution upon mere surmises, and vociferates for the evidence of plots and conspiracies against the Government.

Mr. O. never understood that it was necessary to examine witnesses in the ordinary course of legislation, and the gentleman should recollect that, in these cases, the full evidence does not appear until the explosion; the proof consists in the catastrophe, and when the enemy is in possession of the citadel, it is too late to inquire by what means the mine was sprung. But, if the gentleman is still clamorous for evidence, let him look, said he, at the "Ruins of Empires;" let him recollect the literati and journalists, the agents, official and unofficial, that have been in this country. Who, said he, is the present Minister of Foreign Affairs in France? Has he not made the tour of this Continent; has he not been naturalized under our laws, received, cherished, and domesticated in our families? Have not the French, heretofore, pushed their intrigues into some of the first offices of our Government? Do not our bad citizens correspond with the agents of the Directory, and does not that Directory boast of its diplomatic means, and, of course, calculate on individuals here to give efficiency to those means? Are not, in short, he said, the victories of France, her influence, and facility in revolution-making, to be imputed to the system of espionage which she has so well digested, rather than to any other cause? Most undoubtedly they were, or history was unfaithful, and the concurrent testimony of thousands and the evidence of the senses were unworthy of trust.

Further than this, if the gentleman insisted upon evidence of seditious dispositions in our country, he would refer him to his own speech which he had just uttered. That gentleman had just preached up the duty of insurrection in his place; he had called upon the people to resist the laws. Never had he expected to hear this French doctrine enforced as orthodox upon that floor. He could hardly believe his own ears. Good God! exclaimed he, what society has that gentleman frequented? what books has he read? He could not believe that the gentleman was himself ready to resist the laws or join in an insurrection. These were not his own principles; they were, however, evidence of the contagion of the French mania. When a mind like that of the gentleman is so easily infected, no better evidence need be required of the necessity of purifying the country from the sources of pollution.

When the gentleman condescended to favor the House with something like argument, he endeavored to prove that the present bill, by accumulating the Legislative and Judicial powers into the hands of the Executive, militated against the Constitution, which has provided for the separation of those departments; that, by this bill, the President would be law-giver, judge, and jury, and that inoffensive men might be banished for crimes of which they were innocent, by laws or upon charges of which they were ignorant. In the whole scope of this argument the gentleman proceeds upon the very erroneous hypothesis, that aliens are parties to our Constitution, that it was made for their benefit as well as our own, and that they may claim equal rights and privileges with our own citizens. But, upon reading the Constitution, he found that "we, the people of the United States," were the only parties concerned in making that instrument. He found nothing in it which bound us to fraternize with the whole world. On the contrary, the power was expressly given to Congress to decide on what terms foreigners should become entitled to the immunities of citizens; until they are thus entitled they cannot complain of any breach of our Constitution, and surely none can complain, in their behalf, of what they cannot complain in their own right. It is by thus conforming the rights of the citizen with the privileges of the stranger, that the gentleman from New York, and those who preceded him on the same side, have made the most fallacious inferences. The difference between them consists in this, that the citizens have rights paramount to the Constitution and the laws; but foreigners enjoy no rights except those which are derived from the Constitution and the laws. The sovereign authority of a nation may, undoubtedly, forbid the entrance of foreigners, and, consequently, prescribe the conditions of admission, the duration of their residence, and even the part of the country where they shall be permitted to reside. This authority would have belonged to the National Government as incidental to the power of regulating commerce, and of making war and defending the country, in its full extent, but for the restriction imposed by the Constitution, until the year 1808; and so much of that authority as is consistent with that restriction, has been actually vested by the people in Congress.

But all these objections, founded on the right of a trial by jury, and on the despotic nature of the

power intended to be vested in the Executive, apply equally against the authority of the individual States in relation to aliens. It would be not less despotic for a State Legislature to exercise this power, or to delegate it to a Governor, than it is for Congress to do the like—to the alien it must be the same thing. These objections, therefore, prove too much. They divest, not only the United States, but individual States, of this control over aliens. They deprive them all of the weapons of retaliation: there is not a State in Europe which may not enforce these prohibitions and restrictions against our citizens, and we shall have no power to counteract them by similar regulations.

It had been earnestly contended that the right of trial by jury had been extended by the Constitution to all persons without distinction, to aliens as well as citizens. To this he might reply, that the persons contemplated in that instrument were those only who were concerned in making that compact—the people of the United States; and that it was through mere courtesy and humanity that this, as well as other advantages, were made common to aliens. But if this answer was not conclusive, he would venture to make another. Although the supreme authority of a nation may debar foreigners from gaining a footing on their territory, and compel them to quit it, when their stay becomes dangerous; yet, if they are permitted to come and to reside, they owe a temporary allegiance, which must be reciprocated by a temporary protection. Being amenable to the civil and criminal law, it would be cruel to deprive them of its benefits, and, in our time, the duties of humanity, the laws of hospitality, and the benefits and necessities of commerce, are so well understood, that no distinction is made in the ordinary administration of justice between men; and the advantages of trial and defence in cases of crimes actually committed, are common to all. This is not at all inconsistent with that preventive policy which sometimes renders it necessary to dismiss foreigners from a country; it ought not to be capriciously or wantonly abused; it could be nowhere safer than in the hands of the President.

Again, the gentleman from New York had urged the danger of a proposition and a law to authorize the President to export slaves, which might be justified on the principles advanced in favor of this bill. A gentleman from Georgia (Mr. Baldwin) had suffered the same argument to escape; which, Mr. O. said, he did not remark upon at the time, as he thought it a mere flight of fancy, and, as the gentleman from Georgia usually confines himself to sober reasoning, he thought it unfair to notice this casual deviation from his accustomed path. He would, however, inform the gentleman from New York, that slaves were not citizens, nor aliens, they were property. Citizens, they most certainly were not—they were not free and equal, they could not elect or be elected to any office, and they paid no taxes; neither were they aliens—they owe no allegiance to any foreign country; they are protected by no foreign Prince; they are merely property, which it was the shame and misfortune of the country to possess, but which the Government could not touch or invade.

But it is also said, that we have given invitations to foreigners to come among us, and made stipulations which we are about to violate. Mr. O. contended, that no contract made with foreigners could outweigh, in point of obligation, the contract which we had made with each other to preserve our Government. He also denied the existence of such a contract. All our laws on the subject of naturalization required a probationary term of residence; this was with a view to ascertain their merits and qualifications, and if within that time they became dangerous to the public safety, they could not esteem it a hardship to be sent away.

Gentlemen contend that large capitals will vanish before the terrors of this bill, and that no saving clause can quiet the alarms of the rich foreigners who have brought their wealth into our country. Mr. O. believed that it was not the bill which created alarm, but the arguments of its opposers. They were the terrorists who create alarms, and who move all the engines of the passions to carry their purposes. Every man who could read the bill would see that his property was not affected.

Mr. O. said, he would finish his remarks, with noticing another objection of the gentleman from New York, who feared the effect of the proposed measure in raising and augmenting a host of spies, delators, and informers; he calculated on the very contrary effect, and that it would drive men of those professions from the country; but, if there must be spies, he should prefer the encouragement of citizen spies upon foreigners, to foreign spies upon citizens; the vigilance that was exerted to save the nation, to that which was awake for its destruction. It was a mean trade at best; but in the hands of strangers it was mean and dangerous.

He sat down, with observing, that the gentleman had made other observations, to which it was needless to reply, many of them having been repeated on former occasions, and others being equally applicable to almost any other question as to that before the House.

Mr. Livingston said, the gentleman from Massachusetts had said he had "taken the bull by the horns," if so, he was obliged to that furious animal for having done him so little injury.

Mr. L. said he would take notice of one of his remarks with respect to citizens. He (Mr. L.) had stated that the same provision which was made against aliens, might, if it was carried, be made against citizens also, and that there is no greater security for them than aliens. This observation was founded in good argument. What does the Constitution say? All crimes against the United States shall be tried by jury, without making any distinction between citizens and aliens. But gentlemen say this is no crime; and, if so, then the provision may be made against citizens as well as aliens. It is either a crime or no crime; if it be a crime, then the Constitution has said

that both aliens and citizens shall be tried by jury; but if an alien is to be sent out of the country for *no crime*, a citizen may be sent out in the same way, as there is no declaration in the Constitution, saying that citizens shall not be sent out of the country for sedition. But, it is said, the President will not abuse this power; that the King of Great Britain never sent more than three or four persons out of the country under the alien bill of that country, and that our President will not be likely to make more use of the power than the King has done. Away, said Mr. L., with that liberty which hangs upon chance! He would disdain to enjoy the liberty which depended upon the will of *one man*, and he should be ashamed of any man who would consent thus to hold it.

Mr. McDowell said, as he considered this bill as a violation of the Constitution, he must be permitted to make some remarks upon it. He had attended to all the arguments in support of the bill, but none, in his mind, had tended to prove that it is not an unconstitutional act.

Leaving the Constitutional ground, upon which he thought sufficient had been said, he would make a few remarks on the policy of the measure, if it were not a violation of the Constitution. Why will gentlemen put it in the power of the President to banish any man or set of men from the country, whom we have invited to come among us, and who have brought with them their families, under our law, with the intention of becoming citizens of the country? From a strong aversion which at present exists against France and Frenchmen, men who would neither be guilty of treason or sedition, would probably be reported against, and the President, who will have to rely upon the information which he receives being correct, will banish them the country. Let gentlemen reflect how many men of this description have brought considerable wealth into the country, and whose abilities and industry might be of considerable service to it. It is well known that people are wanting in many parts of the United States; and under this impression, it had been that inducements had heretofore been held out to emigration; but we are now about to pass a law declaring that they shall not be protected equally with our own citizens, but, on bare suspicion, be banished from the country, from their families, and from everything they hold dear in life.

Mr. McD. said, he should be as willing as any gentleman on this floor, if any spies or foreign agents could be pointed out, to pass a law which should reach and punish them in proportion to their crimes, after defining the crime and the punishment. But this, it is said, would not be sufficient; they must be sent off, as if there would not be as much security from an imprisonment of them, as from banishment.

The gentlemen from South Carolina (Mr. Harper) and from Massachusetts (Mr. Thatcher) had spoken of secret plots and conspiracies carrying on in this country, which they promised to trace and probe to the bottom. He was happy to hear this, and hoped they would not forget they had engaged to do so. The gentleman from Massachusetts said, there was a French press here, and that a dangerous correspondence was carried on between citizens of this country and France. He wished, if it were so, that it should be ascertained; but if it had been true, he believed we should have had further information on this subject. He believed the whole founded in that spirit of alarm which had been so long kept up, and that this story was trumped up for the purpose of assisting the passage of this bill. [The Speaker reminded Mr. McD. of the question.] The apprehension which the most innocent aliens must have upon their minds, that they may one day be sent off through the malevolence of some informer or malicious person, had been so well expressed by the gentleman from Delaware, when the subject was formerly under consideration, that he would add nothing to it.

As to the practice of other Governments, to which the gentleman from Massachusetts has called the attention of the House; if they have been unfortunate, and got themselves into difficulties, that is no rule why we should be in any other way influenced by them, than suffering them to caution us against pursuing the course which had produced those mischiefs.

Mr. Champlin began to notice something which had fallen from the gentleman from New York, by charging him with a derangement of intellect; but he was called to order, and sat down.

Mr. S. Smith said, he meant to vote against this bill. He had the strongest possible reasons against it. He believed to vote for it, would be a breach of that oath which he had taken to support the Constitution of the United States, as he believed it to be in direct contradiction to the letter of the Constitution. His conscience was his guide on this occasion; the consciences of other gentlemen would direct them.

Let any man, said Mr. S., look into the Annual Register of Great Britain, and notice the proceedings of that country at the commencement of the French Revolution, and he will be astonished to see the similarity of our measures to those taken in that country at that period. Every day some new alarm was created, and by degrees the country was involved in war. Admitting this was wise conduct in Great Britain (which he was far from doing) what was wise in their situation would not apply to ours. The powers of our general Government are checked by State rights. The State Governments have reserved to themselves the power of regulating what relates to emigrants. The Legislature of his State (of which he was a member) gave every encouragement to emigration. Every man who has resided in that State one year, and taken the oath of allegiance, is entitled to all the rights and privileges of a native born citizen. Many laws in that State have been passed for the express encouragement of emigration. Indeed foreigners are allowed to own property in the city of Washington, if they are neither citizens of the United States, nor of any State. Owing to the encouragement held out to emigrants by the State of Maryland, that State contains a great number of

foreigners. Indeed, to do anything which should impede emigration, would be illy received by many of the States. It would be recollected that it was one of our complaints against Great Britain, in our Declaration of Independence, that she had taken pains to prevent emigration to some of the States; and those States, whose population is thin, got the article introduced into the Constitution to preserve the free emigration of foreigners, and in consequence of this, many of the inhabitants of the old European countries have sought an asylum from the oppressions of those Governments in this country, where they expected to enjoy perfect freedom. Many of them have come to different parts of the Union; but, in many instances, they have not thought it necessary to become citizens. Scarcely any of the emigrants in Maryland (who are mostly Germans) have become citizens; and he believed Pennsylvania was in a similar situation. They have been naturalized in the State, but have not known the necessity of becoming citizens of the United States, and these people would all of them be liable to the operation of this law, for this law is not against French emigrants, because he did not expect a month would pass, before they would become alien enemies, and fall within the operations of another bill. This law would fall upon German, English, and Irish emigrants. And shall we, said he, subject these persons who are come here with a view of becoming citizens of the United States, and who generally become very useful citizens, to be sent out of the country, without trial, on the information of any evil disposed person, though they may have been in the country for four years past?

In Venice, under the old Government, a man who spoke a single word against the Government, was taken up and never heard of again. He had himself been in a counting-house there, and observed that when a foreign Minister's footman came into the room, everybody left it, for fear of being thought to be connected with the Minister.

This bill was one step towards such a situation. How, exclaimed Mr. S., did we go through our Revolution? Not by passing such laws as these, but by the united and determined spirit of the people; and surely foreign influence was much more to be dreaded at that time than at present; at that time a great part of our people were in favor of the old government. We know that there were then traitors; but we also know, too, that they were more frequently found among native Americans than among foreigners. He believed no instance could be found in which an alien had disgraced himself in the situation in which he was employed. He thought, therefore, from past experience of the faithfulness of foreigners, we ought not now, all at once, pass laws which will bear so hard upon them.

Mr. Harper was sensible that discussions either for or against a measure, which has already received the sanction of a public body, are not useful in determining or changing the opinion of the body who has given it this sanction. But when this measure is represented as mischievous, and attempts are made to excite discontent at, and produce resistance against it, he held it to be the duty of those who thought well of it, to state the reasons upon which it is founded.

He said produce resistance; because if he understood the observation of the gentleman from New York, he said the people and the individual States would resist, ought to resist, and he hoped they would resist this law, if it passed; and since gentlemen choose to speak of the similarity which exists between this country and another, he would say that the declaration of the gentleman from New York became the more alarming, since when opposition was vainly opposed to the passage of a law of this kind in the British Parliament, recourse was had by certain persons to stir up the people to resist it by force. Since this idea had been held forth, he deemed it to be his duty to take off, as far as he was able, the misconception which had been put upon this measure.

It had been said, in the course of the debate on this bill, that this measure and others bore a strong resemblance to, and are to be considered in no other light than as a servile imitation of certain measures taken by another country. And was there nothing, he asked, similar in the situation of the two countries? They were equally threatened by a formidable foe, professing to rely upon an internal support in each country. Was there anything extraordinary, then, that the measures taken in the two countries are in some degree alike? To his mind it only proves that the persons entrusted with the management of the Government in both countries have vigor and sense enough to discover the danger, and courage to resist it. He wished to imitate the conduct of that Government in this respect; and he could go further and say he wished the measures taken in this country might be really successful in effecting their object, and equally resist our external enemies and domestic traitors? If so, he should feel satisfied in having taken them.

An allusion had been made to some observations which fell from him some days ago; but the gentleman who made them had certainly misunderstood him. It was true that he had said, and he repeated it, that he believed there existed a domestic—what, said he, shall I call it?—a conspiracy, a faction leagued with a foreign Power to effect a revolution or a subjugation of this country, by the arms of that foreign Power. He believed, however, that these ill-disposed persons are few; and he believed that the great body of the people on whom they relied for support, when these persons and their views are made known, would abandon them with disgrace; but, until they are made known, they may deceive the people by their insidious designs. Having declared that he believed this, he added further, that some facts had lately occurred, which he trusted would furnish a clue by which the whole might be developed. These facts, he said, had given him certain threads which he should pursue with the hope of their leading him to some certain conclusion. If they should convince him that no such design exists, he should be glad of it; but while he did

believe that this design has existence, he must hope, for the good of his country, that it may be developed, and that the projectors, and those concerned in it, may be brought to punishment.

This bill, Mr. H. said, had been declared unconstitutional on a variety of grounds. It has been said to interfere with the rights of States, to admit of what emigration they thought proper. He did not think it necessary to answer this argument. It had been so completely scouted, that nothing but the gentleman from New York having been absent at the time, could have brought that objection again before the House. It had completely fled before the light thrown upon it. But a drowning man will catch at a straw, and there is no resource, however feeble, which gentlemen will not have recourse to, when they are extremely afraid of a measure.

The gentleman from New York has said that this bill will lay prostrate the rights of citizens, though he cannot say that it really applies to them at all. [Mr. Livingston said he did not say that this bill applied to citizens, but that the same principles which produced this bill would lead to the adoption of a similar one with respect to citizens, as all the provisions in the Constitution in relation to trial by jury, have reference to aliens as well as citizens.] Mr. H. said he had thus understood the gentleman. But what, he asked, would prevent a similar bill being brought in with respect to citizens? A sense of right—the Constitution and laws of the country. What, said he, prevents me from cutting the throat of the gentleman from New York? The laws of God and of my country. In the same way should I be prevented from bringing in a bill of this kind against citizens. He owned citizens might be more dangerous to the peace and safety of the country than aliens, because they cannot be so easily restricted. But these mischiefs are only to be guarded against by laws against seditious practices, which must be passed for the purpose. It would have been time enough for the gentleman from New York to have brought forward a great part of his speech, when it had been proposed to send citizens into banishment. Mr. H. knew there were gentlemen who wished to restrain citizens in their seditious practices, and he was one of them, not by sending them into banishment, but by enacting laws which shall bring them to legal punishment. It would be recollected, he said, that a bill of this kind had been before the House, and that it had been recommitted, because its provisions were not sufficiently definite. Is this an indication that we mean to proceed against citizens in the way now proposed against aliens? Certainly not, but the contrary.

But it was said that this bill is contrary to the spirit of this and every free Government. He should be glad to know what Government ever existed which has not claimed a power of this kind? What body politic, indeed, could exist without a power of this kind? The gentleman from Maryland has informed the House that many foreigners in his State have been made citizens of the State, but who are not citizens of the United States; but if they are citizens of the State, they cannot be operated upon by this bill; and whether they are, or are not citizens, will be determined by the Judiciary power.

Mr. S. Smith understood that this law would operate upon the citizens of a State who are not citizens of the United States, as though they were aliens.

Mr. Harper did not understand the distinction between citizens of a State and of the United States. He believed that all persons who are citizens of a State are also citizens of the United States, and of course exempt from the operation of this bill. Every man seized under this law, will have a right to sue out a writ of habeas corpus, and if it appear that he is a citizen, he must be discharged. With respect to persons who have given notice of their intention to become citizens, but have not been here a sufficient length of time to entitle them to citizenship, no provision can be made in favor of them, as they are as likely to be hostile to the Government of the United States as those aliens who have given no such notice.

This bill, said Mr. H., will not alarm good and well disposed aliens. Nothing is here said of confiscation. They will say, "we do not apprehend any law against persons for treasonable or seditious designs, because we have none such. These laws will affect only persons whom we have as much reason to fear as the Government." It will, therefore, only be your mischievous, designing persons, who are conscious of falling under this law, who will be alarmed, for they will be aware that their designs will be defeated, and that they will be driven from the country with disgrace.

Mr. Harper was interrupted by a Message from the President of the United States, enclosing the last letter from Mr. Gerry, with the other papers brought by General Marshall; which having been read, were ordered to be printed.

The Speaker having called upon Mr. Harper to proceed, he said he had finished what he meant to say.

Mr. Gallatin said, when he objected, in Committee of the Whole, to the first section of this bill, he confined his observations to the Constitutional question. Believing the measure, as he did, to be clearly unconstitutional, he did not think it necessary to say anything with respect to its expediency.

Gentlemen, Mr. G. said, had altogether abandoned the two clauses of the Constitution which they had produced to show this bill to be Constitutional. New ground has been attempted, and new arguments have been drawn, either from other parts of the Constitution, or from the necessity of the case. The power of making war which had been resorted to, as implying that contended for by the bill, had as little connexion with removing of aliens, as it had with the removing of citizens; and this was a law that must be carried into effect in time of peace as well as war. As to any reasons drawn from the necessity of the case, they exclude all Constitutional provisions. This is the amount of the whole argument. It is

necessary for such a power to exist, and therefore it does exist.

With respect to the expediency of the measure, some gentlemen tell us that great danger exists; that there is a conspiracy in the country, which, if not suppressed, will overturn the Government, and involve the country in ruin and submission to a foreign yoke. We must believe that these are their sentiments; but until we know upon what ground they entertain this alarming opinion, we cannot make any objection to it. So far as he could learn, this fear arose more from what had taken place in other countries than from any existing danger at present in our own. But, in reasoning from analogy, it is not enough to say that because such events have happened in another country, they will also take place here. The relative situation of the different countries must also be attended to. What is, then, the real meaning of the frequent appeals of some gentlemen to the fate of Holland and Switzerland? In the first place, they are not connected with the present bill; for no one could be so ignorant, on this floor, as to assert that the Revolution in either of these two countries was produced by alien friends residing therein. In both it was carried partly by an invading enemy, and partly by their own citizens. The bill now under consideration did not apply to aliens as enemies; there was another bill before the House relative to alien enemies, to which, such as it had been now modelled, he had no objection. But gentlemen seemed to have forgotten altogether, that a similar revolution to the last Dutch one, to wit, the expulsion of the Stadtholder, had been effected by the people of Holland themselves several years ago, and that the Stadtholder had been forced back upon them by a foreign Power, Prussia; therefore, it was ascertained that a majority of the people of Holland were opposed to their former form of Government. And gentlemen seemed also to have forgotten, that Switzerland was under the dominion of four or five Patrician families, and the bulk of the people merely subjects. Did those gentlemen, when they spoke of the revolutions of those two countries, mean to insinuate that our Government was similar to the aristocracy of either of them, and liable, like them, to be overturned by the people themselves? Did they mean to insinuate that a majority of the American people were, like a majority of the people of Holland, disposed to overthrow their Constitution? Was it not evident that those gentlemen either suffered themselves to be led away by imaginary fears, or wished to improve the temporary alarm they had themselves created, for the purpose of assuming and exercising arbitrary power over a few obnoxious persons? Let it be remembered that this bill is avowedly to be followed by a strong sedition bill. Let it be remembered, that at no time were exhibited stronger symptoms of approbation of the measures of Administration than at present; and let these gentlemen draw, if they can, any argument from similar measures adopted in Great Britain some years ago, where at least some pretext might be drawn from the proceedings of societies and individuals, who declared themselves friends of a Parliamentary reform—that is to say, friends of a change in the Constitution—while here, no change in the Constitution was desired by any set of men, no symptoms of disaffection had appeared anywhere, and even the men in Administration, totally distinct as Administration and Constitution were, seemed on the whole to have gained ground.

Mr. G. said, that he this day rose principally to mention another objection to this bill in respect to the treaties which we have formed. In the alien enemy bill before the House, he found a clause providing that aliens resident within the United States shall be allowed a reasonable time for the disposal of their effects, &c., agreeably to treaty or the laws of nations. According to our treaty with Holland, in case of a war, it is stipulated that nine months shall be granted to a citizen to remove from the country; that there shall be no arrest of their persons, but passports and safe conduct shall be granted to them. We have also a similar provision in our treaty with Sweden, with this addition, that if anything shall be taken from a citizen of that country, in such case, entire satisfaction shall be made; but there is a still stronger case in our treaty with Great Britain, the 26th article of which says, "that if at any time a rupture should take place between the two countries, merchants and others shall have the privilege of remaining and continuing their trade so long as they behave peaceably and commit no offence against the laws; but in case their conduct shall render them suspected, and the respective Governments should think proper to order them to remove, twelve months shall be allowed to them, from the publication of the order." Yet the bill before the House, though it respects alien friends and not alien enemies, and comes precisely within the contingency contemplated by the latter part of that article of the British Treaty, allows no time for a preparation to remove, but a person is to be sent off instantly.

The question was put on the passage of the bill, and on the yeas and nays being taken, there were 46 votes for it and 40 against it, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, George Dent, John Fowler, Albert Gallatin, James

Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

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RELATIONS WITH FRANCE.

In the course of the sitting, the following Message was received from the President of the United States:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

While I congratulate you on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter received by him from Mr. Gerry, the only one of the three who has not received his congé. This letter, together with another from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will show the situation in which he remains, his intentions and prospects.

I presume that, before this time, he has received fresh instructions, (a copy of which accompanies this message,) to consent to no loan, and therefore the negotiation may be considered as at an end.

I will never send another Minister to France, without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation. JOHN ADAMS.

United States, *June* 21, 1798.

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Paris, *April* 16, 1798.

My dear Sir: This, I expect, you will receive by my colleague, General Marshall, who carries with him the last letter of Mr. Talleyrand to the American Envoys, and their answer. On the day when we sent the answer, I received a letter from the Minister, a copy of which and my answer is enclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them. Indeed, I expected my passport with my colleagues, but am informed the Directory will not consent to my leaving France; and to bring on an immediate rupture, by adopting this measure contrary to their wishes, would be, in my mind, unwarrantable.

The object of Mr. Talleyrand, you will perceive, was to resume our reciprocal communications, and again to discuss the subject of a loan. I thought it best, in my answer, not merely to object to this, but to every measure, that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear sir, to support your Administration, and have brought myself into a predicament,* which you must assist me to extricate myself from, by appointing some others to supply the places of myself and colleagues, if a further progress in this business should be found practicable.

I have only a moment to add my best respects to your lady, and my assurance of the most sincere and respectful attachment. My dear sir, yours, sincerely,

E. GERRY.

The President of the United States.

* I allude to my painful residence here, as a political cypher.

[translation.]

Paris, *the 4th Germinal, 6th year of the French Republic, one and indivisible, April* 3, 1798.

The Minister of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French Republic.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventose last, and the obstacles which their known opinions have interposed to the desired reconciliation, to quit the territory of the Republic; on this supposition, I have the honor to point out to you the 5th or the 7th of this decade, to resume our reciprocal communications upon the interests of the French Republic and the United States of America.

Receive, I pray you, the assurances of my perfect consideration.

CH. MAU. TALLEYRAND.

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Paris, *April* 4, 1798, (*Germinal* 15, *an* 6.)

I had the honor, Citizen Minister, of receiving your letter of the 14th Germinal, (the 3d instant,) and Mr. Deutrement, who delivered it, informed me that it was intended to be shown to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have entrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative consequences, and to yourself our decisions thereon, regretting, at the same time, the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as, by the tenor of your letter, it is now expected that they will quit the territory of the French Republic, it will be impossible for me to be the medium of, or to take, any measures which will be painful to my colleagues, or not to afford them all the assistance in my power, and it would be, moreover, inconsistent with the line of conduct, which you well know, Citizen Minister, I have uniformly observed for removing the unfavorable impressions which existed on the part of the Government against them; indeed, in our last letter, there is a conditional application for passports, which, as it appears to me, supersedes the necessity of a hint to them, on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe-conduct for the vessel in which he and his suite may take passage for the United States, to determine whether he shall embark from France or from Great Britain; but the unfortunate situation of General Pinckney, with respect to the critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, Citizen Minister, the 5th or 7th of this decade for me to resume (*reprendre*) our reciprocal communications upon the interests of the French Republic and of the United States. The reciprocal communications which we had, were such only as I have alluded to in the beginning of this letter, unless your proposition, accompanied with an injunction of secrecy, for me to treat separately, is considered in this light, to resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable; I can only then confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United

States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp. Nevertheless, every measure in my power, and in conformity with the duty I owe my country, shall be zealously pursued to restore harmony and a cordial friendship between the two Republics. I had the honor of calling on you last evening for the purpose of making this communication verbally, but, as you were absent, to prevent misconceptions, I have thought it best to reduce it to writing.

Accept, Citizen Minister, the assurances of my perfect esteem and respect,

E. GERRY.

To the Minister of Foreign Affairs of the French Republic.

To Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers Plenipotentiary, from the United States of America, to the French Republic.

Gentlemen: On the 4th instant, came to hand your first despatches since you arrived at Paris; these were your numbers, 1, 4, and 5; and on the 6th instant your numbers 2 and 3 were received; on the 5th your number 6, dated the 8th of January, and a translation of the message of January the 4th from the Directory to the Council of Five Hundred, were laid before Congress. In this letter you repeat "that there exists no hope of your being officially received by that Government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenor of your communications; and we trust that, soon after the date of your number five, you closed your mission by demanding passports to leave the territories of the French Republic.

An official copy of your letters of credence having been delivered to the Minister of Foreign Affairs, and by him laid before the Directory, they were sufficiently informed of the great object of your mission, and, considering that you were an extraordinary delegation from an independent nation, you had a right to expect a prompt and respectful reception. The fair and honorable views of the American Government which dictated your appointment, and your powers, entitled you to expect the early appointment of a commission by the French Government, with equal powers to negotiate on all the matters in controversy between them. Had the French Government been influenced by similar views, the objects of your mission would long since have been accomplished, to the advantage and peace of both nations. But, instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect. Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions. Yet, actuated as you are with an ardent desire to preserve peace, which you know would be so grateful to your country, and having, for this object, manifested unexampled patience, and submitted to a series of mortifications—as you also proposed to make one more direct attempt, subsequent to the date of your last letter, to draw the French Government to an open negotiation—there is a bare possibility that this last effort may have succeeded: The President, therefore, thinks it proper to direct,

1. That if you are in treaty with persons duly authorised by the Directory, on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negotiation is or is not conducted with candor on the part of the French Government; and if you shall have discovered a clear design to procrastinate, you are to break off the negotiation, demand your passports, and return, for you will consider that suspense is ruinous to the interests of your country.

2. That if, on the receipt of this letter, you shall not have been received, or, whether received or not, if you shall not be in treaty with persons duly authorized by the Directory with full and equal powers, you are to demand your passports and return.

3. In no event is a treaty to be purchased with money, by loan or otherwise; there can be no safety in a treaty so obtained. A loan to the Republic would violate our neutrality; and a *douceur* to the men now in power, might, by their successors, be urged as a reason for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprize you that a motion has been made in the Senate, and will doubtless be repeated in the House of Representatives, to desire the President to lay before them your communications; and he will probably be under the necessity of doing it: only withholding the two names which you promised should in no event be made public.

I have the honor to be, with great respect, gentlemen, your obedient servant,

TIMOTHY PICKERING.

Department of State, Philadelphia, *March* 23, 1798.

The Message and accompanying documents were read, and ordered to lie on the table, and then the House adjourned.

Friday, June 22.

Mr. D. Foster believing that the 10,000 copies of the despatches from our Envoys, ordered the other day to be printed under the direction of the Secretary of State, and distributed in such parts of the United States as the information is most wanted, is too small a number, he moved to make the number 20,000, and to include the despatches since received. Ordered to lie on the table.

SUNDRY BILLS.

The House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill to authorize the defence of the merchant vessels of the United States against French depredations; and, after some discussion, they were agreed to.

[The principal of these amendments was one which proposed certain allowances for salvage on vessels re-taken from French privateers, according to the time which the said vessels shall have been in the possession of the capturing vessel. This amendment was changed, on motion of Mr. S. Smith, so as to make the salvage to be allowed to depend upon the circumstances attending the re-capture, according to the judgment of the court, so that it shall not be less than one-eighth of the value of the vessel and cargo, nor more than one-half.]

Mr. Sewall reported a bill supplementary to the bill providing an additional armament for the protection of the trade of the United States; which was committed.

Mr. Harper reported a bill for laying a direct tax on the United States; which was committed.

Mr. Baldwin, from the committee appointed on that part of the President's Speech which relates to the regulating the intercourse with the Indian tribes, reported a bill for the preservation of peace with the Indian tribes; which was committed.

Mr. W. Claiborne called up the report some days ago on the subject of adjournment; which was taken up and agreed to. And

Mr. Harrison laid a resolution upon the table, proposing to adjourn on the 2d of July.

On motion of Mr. Gallatin, the House went into Committee of the Whole on the bill to authorize the sale of land northwest of the river Ohio, and to give a pre-emption right to certain persons, and on the bill authorizing a grant of land to Stephen Monot and others, of Galliopolis. They were ordered to be read a third time tomorrow.

Saturday, June 23.

SUNDRY BILLS.

The bill authorizing a grant of land to Stephen Monot and others, of Galliopolis, was read the third time and passed.

The bill supplementary to the act for the sale of land northwest of the river Ohio, and to give the pre-emption to certain persons, was read the third time; but, on motion of Mr. Venable, after some debate, the consideration of the bill was postponed till next session.

A bill was received from the Senate for the punishment of frauds committed on the Bank of the United States; which was committed for Monday.

Mr. D. Foster called up his resolution proposing to print an additional 10,000 copies of all the despatches received from our Envoys; which was negatived, there being only 23 votes for it.

Mr. Harrison called up his resolution proposing an adjournment on the 2d of July; which was amended by Mr. Thatcher to the 9th, and then agreed to—62 votes to 12.

Mr. Gallatin reported a bill to grant a certain lot of ground to Ely Williams; which was committed for Monday.

ADDITIONAL ARMAMENT.

On motion of Mr. Sewall, the House went into Committee of the Whole on the bill supplementary to the act providing for additional armament for the further protection of the trade of the United States, and for other purposes.

Mr. Gallatin considered this bill as intended to authorize the Government to avail itself of the zeal of such of the people of the United States as shall be inclined to offer vessels on loan for the public service, in return for which the President is empowered to grant certificates of the public debt. In every bill which has passed heretofore to enable the President to borrow money, the terms of the loan have always been specified. This bill authorizes a loan, which is to be made in vessels instead of money, but a debt is to be created and certificates to be issued for it. It will, therefore, be proper to say what kind of stock this ought to be. At present the matter stands at large, without specifying whether it is to be redeemable or not, or in what manner the instalments are to be paid, or what is to be the rate of interest. He moved, therefore, to add the following words: "bearing an interest not exceeding six per cent. per annum, and redeemable at the pleasure of Congress." He knew certificates of debt bearing an interest of six per cent., would not sell for 20*s.* in the pound; but if the persons who offered these vessels were unwilling to make any sacrifice to the public, he would rather give more stock than create a large interest.

Mr. Sewall had no objection to the intention of this provision; but the section supposes that these vessels may, in some cases, be hired to Government. He thought it would be best to introduce the amendment by way of proviso at the end of the bill.

Mr. Gallatin agreed.

After some conversation on filling the blanks with the number of vessels to be received, the committee rose, and the bill was ordered to a third reading.

Mr. Sewall said, the Secretary of the Navy had informed him that the limitation of men on board the frigates was too small; he believed it would be necessary, therefore, to give the President an authority as to the number of men to be employed generally. It would be convenient also to have a number of boys on board. He proposed a resolution to that effect which was agreed to.

On motion of Mr. Sewall, the bill for the restraint and prevention of dangerous and seditious persons, was re-committed.

Monday, June 25.

The bill providing for the enumeration of the inhabitants of the United States; the bill supplementary to the act providing an additional armament for the protection of the trade of the United States, and for other purposes; and the bill in addition to the act for the more effectual protection of the commerce and coast of the United States, were read the third time and passed.

ALIEN ENEMIES.

On motion of Mr. S. Smith, the House went into a Committee of the Whole on the bill respecting alien enemies. The Chairman stated, that when this bill was formerly under consideration, a motion was made to strike out the first section, which was negatived. He proceeded to read the second.

Mr. Otis hoped the committee would rise. He made this motion with a view of moving, in the House, a postponement of the consideration of this bill until the next session of Congress. He did not know that there was any immediate necessity for it, the President having sufficient power over aliens by the bill already passed.

Mr. Gallatin said, he did not expect a motion of this kind. If any bill respecting aliens was

necessary, it was certainly a bill of this kind against alien enemies; but a bill having been passed against aliens generally, the gentleman from Massachusetts appears now to be willing to pass by the bill against alien enemies. This gives a new coloring to the business, and it seems as if gentlemen were more desirous of guarding against alien friends than alien enemies. It is true, if this bill is not passed, the President of the United States will have the power of removing from the country all those aliens whom he may think it necessary and proper to be removed, whether they are alien enemies or alien friends. But, if alien enemies are really dangerous, it cannot be supposed that the President can remove them all. This bill, therefore, provides in what manner they may be laid under certain restraints by way of security.

Mr. Otis interrupted Mr. G. to say he would withdraw his motion. He made it, because he expected the bill would have been objected to by the gentleman from Pennsylvania and his friends. Since they were agreeable to pass it, he had no objection to it.

The committee rose and reported the bill, and it was ordered to be read a third time to-morrow.

ABROGATION OF TREATIES.

The following bill was received from the Senate:

A bill to declare the Treaties between the United States and the Republic of France void and of no effect.

"Whereas the Treaty of Amity and Commerce between the United States and the French Government, concluded on the 6th of February, one thousand seven hundred and seventy-eight, is declared to "be founded upon reciprocal utility and the just rules of free intercourse:" And whereas the Treaty of Alliance between the same parties, and of the same date, was formed for the effectual end of maintaining effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of *government* as of *commerce*: And whereas a regard to national interests requires (and the principles of the laws of nations justify the measure) that when one party to a solemn compact openly violates it, the other is released from all its obligations: And whereas the Republic of France, regardless of its engagements, has repeatedly infracted the most important articles of its treaties with the United States, to the great injury and annoyance of their citizens, as will be fully exemplified by a reference to the following state of facts, viz: Merchandise, the property of an enemy, found on board American vessels, is, by several decrees of the French Republic, exposed to capture, in violation of an article of the Treaty of Amity and Commerce, which stipulates that "free ships shall make free goods." In open defiance of a law which was enacted to enforce the observance of a strict and impartial neutrality, vessels, to cruise against their enemy, have been armed in the ports of the United States by the agents of the French Republic. Military commissions, under the authority of the Republic of France, have been distributed amongst the citizens, and an armed force, to be employed in its service, has been raised, and attempted to be raised, in various parts of the Union, for the evident and avowed purpose of involving the United States in a war with Great Britain, as a necessary consequence of permitting, within their jurisdiction, such a flagrant breach of neutrality. French Consular establishments within the United States have assumed the powers incident to Courts of Admiralty, and have proceeded to the trial and condemnation of enemies' vessels brought into the American ports—thereby violating the sovereignty, and compromitting the peace and neutrality of the nation. Similar institutions, with the same incompetent authorities, have taken cognizance of American vessels captured and carried into foreign ports, and have decreed their condemnation—thereby depriving the American claimants of all those safeguards which accompany the usual and regular administration of maritime jurisprudence. The regulations of the British Government in relation to the American commerce, however unauthorized and unjust, are made a pretext to justify the adoption of a similar system on the part of the French Republic; although it is evident that the United States, not having a control over the acts of that nation, cannot be responsible for their improper conduct. Merchandise, exported in American bottoms, which are not included in the list of contraband articles, are, by a decree of the agents of France, made liable to capture—thereby contravening the provisions of the treaty, to the great injury of the commerce and navigation of the United States. Sea-papers for merchant ships, not contemplated by the treaty, nor ever required in the commercial intercourse between the parties, were arbitrarily, and without any previous notice, exacted, and the want of them made a plea for capture and condemnation; by which insidious arrangement, the commerce of the United States became immediately exposed to molestation, and has, in consequence thereof, suffered immense depredations. A decree of the French Government stipulates that the character of American bottoms shall be determined by the quality of their respective cargoes. The manufactures or produce of the British possessions, found on board the same, render liable to seizure and confiscation both vessel and cargo. By establishing such an unprecedented and oppressive principle, with respect to the relationship of neutral nations, a deadly blow is aimed at the most essential and extensive branch of commerce pursued by the American people. American citizens found on board the vessels of the enemies of France, either as officers or seamen, are, by a decree of the French Republic, which outrages every feeling of humanity, made liable to suffer as pirates, "without being allowed, in any case, to allege that they were forced to it by violence, menaces, or otherwise:" And whereas, to obtain security against further grievances and aggressions, a compensation for injuries sustained, as well as to restore the ties of amity which formerly united the two nations, and which have been severed by the lawless and outrageous conduct of the French Government, the United States, in the spirit of peace and conciliation, had recourse to a friendly negotiation with the Republic of France: And whereas their endeavors, unremittingly pursued, have been entirely frustrated, and all their overtures scornfully rejected; and, instead of indemnity for the immense losses of their citizens by maritime spoliations and arbitrary detentions of their vessels, tribute, in the form of loans, and otherwise, has been insultingly demanded; and instead of an attention to their complaints, and a competent redress of them, an apologetic explanation of the firm and dignified language of the Executive Address to the Legislature has been required, as a necessary preliminary to negotiation: And whereas, thus circumstanced, it becomes expedient, in justification of their violated rights and insulted dignity, as well as to furnish the means of repelling the hostile acts of the Republic, and

the continuance of its lawless depredations, to annul and declare void the treaties that exist between the two nations:

"Sec. 1: *Be it therefore enacted*, &c., That the Treaty of Amity and Commerce, and the Treaty of Alliance, between the United States and the French Government, concluded on the sixth day of February, one thousand seven hundred and seventy-eight, and the Consular Convention between the same parties, concluded on the fourteenth of November, one thousand seven hundred and eighty-eight, ought of right to be, and are hereby declared, void and of no effect, and shall no longer be binding on the Government and citizens of the United States."

Mr. Gordon moved that it be referred to the Committee for the Protection of Commerce and the Defence of the Country, which motion was negatived—40 to 35. It was then, on motion of Mr. Harper, after a few observations on the subject, referred to the Committee of the Whole on the state of the Union.

FRAUDS ON BANK UNITED STATES.

The House went into a Committee of the Whole on the bill to punish frauds committed on the Bank of the United States, which was agreed to, and ordered to be read a third time to-morrow.

LOAN OF MONEY.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill to enable the President of the United States to borrow money for the public service.

Mr. Gallatin said, it had never been usual to pass a law in the present shape. He recollected no bill ever being introduced into this House, proposing to give the President power to borrow money without limitation. The last section of the bill pledges the money to be borrowed under the authority of this law to make up any deficiency in any appropriation heretofore made by law, or to be made during the present session of Congress; and to defray the expenses which may be incident to the calling into actual service any part of the militia of the United States, or to the raising, equipping, and calling into actual service any regular troops or volunteers, pursuant to authorities vested, or to be vested in the President of the United States, by law.

These being the objects of the law, it may be said it would be difficult to limit the sum; but the difficulty may be avoided by making the sum large enough. He would not object to any sum which gentlemen should think it possible may be wanted between the present time and the next session of Congress. Mr. G. proposed an amendment, therefore, to limit the sum to not exceeding the sum of ——dollars. When Congress met again, they would most probably be better able to judge of the actual sum which would be wanted, and also of the terms upon which a loan can be got, or whether a loan can be got at all.

Mr. Harper said, the committee had been induced to introduce the bill in its present form, from the nature of the business being so extremely indefinite; so much so as to make it next to impossible to guess what sum will be wanted. The President of the United States has the power to call into service 80,000 militia; he may raise an army of 10,000 men, and bring them into actual service; and he may raise by way of volunteers, as great an army as he can enlist. It was to be hoped that none of these would be necessary. He supposed there could be no objection to fix the sum, except it was that it would be so large that it would be like no limitation at all. Suppose the President was authorized to borrow ten or fifteen million of dollars, he supposed the latter sum would take in any possible object which could be contemplated; but he thought the bill better as it is, though he had no particular objection to a sum being named, provided it was sufficiently large.

Mr. Gallatin said, the reason why he wished the bill to have the shape he had mentioned was, that the last section of the bill declares what shall be the appropriation of the money, and the first is general, so that they stand in contradiction to each other. The first says, the money shall be appropriated for carrying into effect any law passed during the last, or the present session; but the last section confines it to the purposes above cited. The first section, therefore, covers more ground than the appropriation could do. He thought the appropriation section the best, and should afterward move to make the other sections conformable to it.

Mr. Harper believed the contradiction spoken of by the gentleman from Pennsylvania, was so in appearance only, and not in substance, because he knew no law for which money would be wanted, besides the law for calling out the militia and for raising troops. He should have no objection to conform the two sections. Mr. H. moved to amend the motion of the gentleman from Pennsylvania, by inserting ten millions.

Mr. S. Smith thought five millions would be sufficient, and more than could be expended in the recess of Congress. Many of the expenses are merely contemplated. The fortifications are not yet begun upon. To appropriate a larger sum than five millions, he thought, would be to create unnecessary alarm.

Mr. Harper could not see how any alarm could be raised by giving the President power to borrow ten millions of dollars, as, though this power was given, it might not be necessary to borrow any part of it; but it was prudent to guard against any exigency which may happen. It is not known that the men required can be raised, until an absolute necessity shall call for the service of the people. He believed, indeed, that it would be best not to agree to the amendment at all, as the purposes for which the money was borrowed would be the best limitation of the sum. He owned, with the gentleman from Maryland, that if our other preparations for defence are not carried into effect with more promptness than the repairing of our fortifications, we should be a long time in accomplishing them; but, he supposed, when danger approaches nearer, that will be the case.

Mr. McDowell hoped the amendment would take place, He thought the principle altogether

new, and very alarming, to give the President power to borrow money without limit. He hoped the sum would be limited to five millions; for, to give the President power to borrow money to any extent would be completely to give him the sword and the purse, unlimitedly. This would create an alarm among the people, and he thought justly. If the situation of the country is such as to require more than 80,000 militia, and the 10,000 troops to be raised in case of danger, Congress would doubtless be called; besides, he believed but little of the money appropriated for fortifications, &c., would be expended before the next session of Congress. The gentleman from South Carolina says that when the danger increases, the business will progress with greater expedition. Mr. McD. wished even danger might make our officers do their duty.

The question on filling the blank with five millions, was put and carried.

Mr. Dayton (the Speaker) said he did not vote for filling the blank with five millions, because it was impossible to foretell what sums might be wanted for the public service, and it would consequently be unsafe, and might be injurious to the public weal to prescribe any other rule. If he were called upon to declare his opinion at that time of the amount of the loans which would probably be requisite before next session, he should fix upon a less sum than five millions; but it must be vague conjecture merely, for they could have no estimates to guide them. It was, on the other hand, possible, that the public service might require a still greater sum; and, if this should be the case, every gentleman would regret that more discretion, and greater latitude of power had not been given to the President. He trusted that the amendment offered by the member from Pennsylvania would not prevail, and he was pleased to find that the gentleman from South Carolina had not acquiesced in it, for the mover himself had acknowledged his ignorance of any rule of limitation, while he was undertaking arbitrarily to prescribe one.

Mr. Gallatin said, though a correct estimate could not be made of the sum which it would be necessary for the President to borrow, yet a kind of estimate might be made. A Provisional Army has been authorized to a certain extent; a detachment of the militia has also been authorized; and putting things upon the worst footing, by supposing an invasion actually to take place, a calculation of the expense might be made. In the year 1794, from twelve to fifteen thousand men were called into actual service; for several months they were provided for, and we knew the first advance necessary for that purpose. It did not amount to $400,000 before the meeting of Congress, though they had to march 300 miles, and had been more than three months in service. He thought there would be no difficulty, therefore, in calculating the amount which might possibly be wanted in the recess of Congress; and he hoped it would be done, for he did not know that any nation which has preserved to itself any shadow of legislation, ever parted with the power now proposed to be given to the President. Taking legislation upon the loosest ground, Great Britain never did more than pass a general vote of credit for a sum of money; that is the least specific form in which he ever knew money granted. When specific loans were gone into in that country, not only the sum to be borrowed is named, but also the terms upon which it is to be had; and when a vote of credit is passed, the sum is always specified. He hoped a specification would be made in this case.

The limitation of the bill, as it now stands, Mr. G. said, is in direct contradiction to the doctrine of appropriation laid down in the Constitution. The President has been authorized to raise a Provisional Army for the term of three years. The limitation of the first section of the bill says, the President shall have power to raise money for any law passed during the present session, that is to say, that he shall have power to pay an army for three years, which is against the Constitutional provision, which says that no appropriation for the pay of the army shall be made for more than two years.

Mr. G. thought this improper. He had no objection to fill the blank with the sum which had been mentioned. He acknowledged the expenses would be great, and he wished to have sufficient money borrowed to pay either; but he hoped when Congress transferred their power of borrowing money, they would do it with a limitation to the sum.

Mr. Hartley thought his colleague was very liberal in voting money on this occasion, contrary to his usual practice. He believed it was the wish of every gentleman to be as cautious of expense as possible. We cannot, said he, foresee what sums of money will be necessary, and as we have trusted one discretionary power in the hands of the President, we must trust another. He believed the President would not borrow more money than was necessary. Perhaps one-half of the 80,000 militia might not be wanted. He had great reliance upon the volunteer corps, which would first be ready. If a landing was made by the enemy, and 20,000 men called out, he believed in a few weeks not many of them would be found alive; but as the exact expenditure could not be ascertained, he believed it would be best left with the President.

Mr. Dana said, the gentleman from Pennsylvania observed that the power proposed to be given to the President would be more general than any appropriation he ever knew; and much more so than a vote of credit under the British Government. Mr. D. said, there was a very material difference between the British Government and the United States. The King of England raises armies and navies at pleasure. Parliament does not fix the objects to which the money borrowed shall be applied. Congress, on the contrary, fixes the objects of expense, which serves as a limitation to it.

Mr. R. Williams could not see why gentlemen should be opposed to fixing the sum which it was proposed to authorize the President of the United

States to borrow. Unless the sum was fixed in this bill, he supposed it would never hereafter be fixed, as it is now said that the object of expense being fixed, the President cannot expend more than is necessary. If it was not intended to establish a principle of this kind, he could not tell what it was intended for. The President might be mistaken on this point, and borrow a much larger sum than is necessary. If gentlemen do not think five millions sufficient, let them fix the limitation at ten, which surely would be sufficient for the expenditure of a recess of a few months, and when Congress come together again they could do what was necessary on the subject. If a discretion of this kind was fitting to be placed in the President, he did not think it would be necessary for Congress to meet so often as at present. Authorize certain officers of the Government to borrow money to any amount, and let them do with it what they please, and there is an end of legislation. When he declared himself unwilling to place this power in the President, he had as much confidence in that officer as any other gentleman; but he was neither inclined, nor did he think he was authorized to make this extraordinary transfer of power. If gentlemen think five millions insufficient, let them show by their calculations that more is wanted.

Mr. S. Smith was sorry to differ in opinion from the gentleman from New Jersey. The funding system, he said, was liable to great abuse. Our system has been adopted from that of the British Government; and yet, he believed, it could not be shown that the British Parliament ever gave power to the Minister to borrow an indefinite sum of money. In his mind, such a law would prevent any money from being borrowed at all. When men are about to lend money, they act with caution, and they look to see that the borrower does not go beyond his power; but when they saw a law of this kind, he believed they would not feel themselves so secure as if the sum to be borrowed was specified. It was of little consequence to him whether it was five or ten millions; but he had no idea that ten millions of dollars could be expended before the next meeting of Congress. Under these impressions, however, he was convinced it would be proper to authorize a definite sum to be borrowed; for, though gentlemen may have all possible confidence in the present Chief Magistrate, this law, if passed in its present form, may be adduced as a precedent at a time when we may have a President deserving of less confidence. He did not think that this bill was drawn with that degree of attention which bills of this kind ought to be drawn. The time for which a loan is to be made is generally defined; it is said when the debt shall be redeemable, what interest shall be paid, and what certificates issued for it. He hoped Congress would not place so high a responsibility upon the President as this bill proposed to lay upon him. Congress ought themselves to take the responsibility of the measures, and leave the President to execute the laws. If he thought the granting of this power to the President could add anything to our means of defence, he should be as ready to grant it as the gentleman from New Jersey; but believing the contrary, he should be in favor of the amendment.

The question was put, and the amendment was negatived—40 to 37.

Mr. Gallatin moved an amendment to make the first and third sections conformable to each other, with respect to the objects for which this money was to be appropriated, which was agreed to.

The committe rose, and in the House

Mr. Gallatin renewed his motion to limit the loan to a sum not exceeding five millions of dollars, which was negatived—38 to 37.

Mr. G. then moved a provision, that the rate of interest upon any sum which may be borrowed, shall not exceed ——— per cent., and that no engagement shall be entered into which shall prevent the United States from reimbursing such sums as shall be borrowed within ——— years after the loan shall have been made.

Mr. Harper believed this limitation to be a great deal worse than the other; that might have prevented measures being taken to a proper extent for the defence of the country, and this from doing it at all. What rate of interest would the gentleman from Pennsylvania wish to fix? Will he say six or seven per cent? He supposed he would say six; but admitting that he would agree to fill the blank with seven or eight, even then the President of the United States might not be able to borrow a farthing. He supposed it possible money might be got at this interest, because he saw in the country a spirit of patriotism, determined to aid the Government in the defence of the country, such as has rarely been evinced heretofore; but that spirit may not continue, and circumstances may occur, which would render it impossible to procure money at this rate. In that case the country would be bound hand and foot, our enemy may march his troops into the country, and if no more money can be got, then neither regular army, volunteers, or militia, can be brought into the field to oppose them. All our means of defence will, therefore, be made to depend upon our being able to procure money at a certain interest. Gentlemen have said that the interest of money borrowed by the British Government is always fixed; but this is only in appearance. The Minister obtains from Parliament a vote of supply, and when he does this, he makes a bargain with moneyed men, and then he comes into Parliament and fixes the rate of interest. But here the power of borrowing is the contingency on which the carrying of a law into effect depends; and so far from being able to fix the rate of interest at which this money can be borrowed, it is impossible it can be said at this time at what rate money can be obtained. You must make it the interest of moneyed men to lend their money. If you fix a high rate of interest, they will not lend it for less, and if you fix it too low, they will not lend their money at all. So that, if the rate of interest be fixed at too low a rate, rather than leave the matter to the discretion of the President, the country might be involved in the greatest difficulty.

We have heretofore, said Mr. H., trusted the President to borrow twelve millions of dollars, and was the power abused? No. The money was borrowed on good terms. Why, then, is it now to be suspected that the President will give a higher rate of interest than money can be got for? There is no good ground for such a supposition. He, therefore, believed the motion fundamentally wrong and mischievous; for all the measures which had been taken for the defence of the country would be rendered useless, if money could not be got to carry them into effect. To agree to such a proposition as the one proposed, would be to tread back the steps we have taken, it would be to unnerve the arm of the country stretched out for its defence. After having rejected the last amendment, which was so much less mischievous than this, he trusted this would not be agreed to.

Mr. Coit said the principle advocated by the gentleman from Pennsylvania was a valuable one, and he should be in favor of it but for one difficulty. Suppose this country were to be invaded, and all our measures were at a stand for want of money, and money could not be borrowed at the rate fixed, he wished the gentleman from Pennsylvania to say what ought, in such a case, to be done.

Mr. Otis wished the motion to be divided, which was accordingly done, and the question was upon the first part of it, respecting the rate of interest.

Mr. Hartley believed it would be best to leave this matter to be settled by the President, on the best terms upon which he is able to negotiate the business. He understood some of the States at present have authorized 7 per cent. for money; but if it could be had for less, he had no doubt it would be so obtained.

Mr. Macon did not believe there would be many money-lenders; and if no limitation was put to the interest to be paid, they might combine and make Government pay any price they pleased; he hoped therefore this motion would be carried, especially since it has been brought forward; otherwise, it will be said that Government intended to give more, or they would have agreed to the limitation.

With respect to what had been said by the gentleman from Connecticut (Mr. Coit) in respect to an invasion, if a loan of money was not made before that time, it could not be made then. When such an event shall take place, the people will rise *en masse*, and they must have provisions wherever they can be found. If an attack were to be made in an extreme part of the Union, the Governor of the State would not wait until he knew whether the President of the United States had been able to negotiate a loan, but would repel the attack with all the means he could procure. He had no doubt but the officers of the Treasury would be disposed to get money as cheap as they could. He did not fear that the department which has the business of collecting the money in its hands would be lavish in the expenditure of it, by paying a higher interest than could be avoided.

Mr. T. Claiborne thought it would be improper to limit the interest of money, as money would never be got for less than the sum limited; and if it could not be got for that, a limitation would only produce an embarrasment.

Mr. Gallatin read an extract from a letter from the Secretary of the Treasury, in which he says:

"I entertain no doubt that the President of the United States will be able to negotiate a loan to any amount which may be necessary, on reasonable terms, provided an efficient tax be laid as security. Assurances from wealthy and influential men have been received to this effect."

No objection, Mr. G. said, could be made to the security offered to money-lenders. What is it? He read the following passage from the 2d section of the bill:

"That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriations heretofore charged upon them by law, shall be and hereby is pledged and appropriated for paying the interest of all such money as may be borrowed, pursuant to this act, according to the terms and conditions on which the loan or loans, respectively, may be effected; and also for paying and discharging the principal sum or sums of any such loan or loans, according to the terms and conditions to be fixed as aforesaid. And the faith of the United States shall be and hereby is pledged to establish sufficient permanent revenues for making up any deficiency that may hereafter appear in the provisions for paying the said interest and principal sums, or any of them, in manner aforesaid."

What, said Mr. G., are the permanent appropriations heretofore charged upon the duties on imposts and tonnage? They are only for paying the interest of the public debt, and 2 per cent. on the public stock. The whole civil list, and all the appropriations for the Military Establishment, are payable out of that fund by annual, and not by permanent, appropriations. The surplus of these duties, therefore, are about three millions a year; and, supposing that there is any danger of considerable defalcation in these duties, the deficiency will not affect this fund, but will fall upon the civil list and military appropriations. Having, therefore, provided so competent a fund, he thought Congress had a right to expect, agreeably to the assurance of the Secretary of the Treasury, that loans would be obtained on reasonable terms, and he could not see any reason why those terms may not be fixed; for, if the interest is not limited, he feared the money-lenders would compel the Secretary of the Treasury to pay higher interest than they could do when the interest was fixed by law; and the regulation not only applies to money-lenders generally, but also to the Bank of the United States. If the interest is not fixed, it will be in the power of the Secretary of the Treasury to give the Bank of the United States a higher interest than 6 per cent.; and though he did not expect a permanent loan from the bank, he expected anticipations of the revenue, and he thought it ought to be provided that more than 6 per cent. should not be paid for any such anticipations; and he wished this matter to be fixed, because, heretofore, though we have in appearance paid no more

than 6 per cent. interest, we have really paid between 7 and 8. The Algerine loan was made to Government by the Bank of the United States in 6 per cent. stock, at par, and was sold by us for about 80 per cent., or 16*s.* in the pound. He saw no inconvenience, but much good, to be derived from this regulation; for he had no idea that we should wait for an invasion before we negotiated a loan, because he knew it could not then be done upon such good terms as at present.

For his own share, Mr. G. said, he had opposed a number of measures which had authorized expense in the course of the present session; but that expense having been authorized, and the situation of the country being more critical now than it was two months ago, he wished a loan to be immediately negotiated. He knew, if we were to be engaged in war, and the war was to be carried on principally by loans, a high price must be paid for money; but he would have that price regulated by the Legislature.

As to the idea of the gentleman from South Carolina, that it may be true in form, but not in substance, that the British Parliament regulate the interest to be paid for any loans which are negotiated by that Government; if it is not really so, it is owing to the Ministers having the power to set the Legislative authority at naught. At any rate, the form is preserved; but if Congress abandon the principle, and say they will have nothing to do with the terms upon which a loan is to be made, they will give up a power which the Parliament of Great Britain has always retained, but which they do not make effectual.

Mr. G. wished, however, if gentlemen thought a limitation of interest improper, that they would propose some other restriction, in order that the bill might not be permitted to go out in the unlimited state in which it appears at present.

Mr. Harper said, if the gentleman from Pennsylvania had said with what sum he meant to fill the blank, the committee would have been better able to judge of the propriety of the amendment. If he meant to fill the blank with 6 per cent., he believed the restriction would be attended with many inconveniences and that it would be inexpedient to do anything on this subject. He could not think that this House were so capable of borrowing money as the Executive or the Secretary of the Treasury, who know who these wealthy men are; nor did he see any inconvenience which could arise from giving them this power.

But one argument of the gentleman was a little singular. He says, so far as relates to the Bank of the United States, at least, we ought not to give more than 6 per cent; for though the bank had heretofore appeared to lend the Government money at 6 per cent., it had really paid 7 or 8. The truth was, that the bank finding the 6 per cent. stock, which cost them 20*s.*, would not sell for more than 17*s.* or 18*s.* in the pound, they were obliged to sell it for that. The argument of the gentleman went to shew that the bank ought to borrow money at 8 per cent. and to loan it to the Government at 6. His own idea was, that money might be got for 6 per cent., but from other motives than those of interest.

Mr. Livingston said, the gentleman from South Carolina was mistaken when he said the 6 per cent. stock had cost the Bank of the United States 20*s.* in the pound. Of all the extraordinary arguments he had heard on this subject, one from the gentleman from South Carolina was the most so. It would go to a complete surrender of all the powers vested in this House, viz: that the Executive officers of Government are infinitely better calculated to do this business than this body can be, and that they had no right to suspect the integrity of those officers. There are many other things which it might be said the Executive officers are better able to do than this House. They might, perhaps, be better able to regulate the pay of the Army, or of the officers employed in the collection of the revenue. They could do all this on better terms than Congress could do it; and as no one ever could suspect them of abusing the power, we ought of course to surrender this power to them. These reasons, however would have no weight on his mind. He believed this House ought to attend to public expenditures with a watchful eye. Would the gentleman from South Carolina be willing to surrender his life and property to any man, because that man had no temptation to destroy them? But he denied that it was true that the President had no temptation to abuse the power placed in him with respect to money transactions. It was the first time he had heard it said, that such a power might not be abused. Could it be said that the power to borrow and apply untold millions, without any limitation whatever, might not be abused? He did not think it was becoming in the Representative of a free country to pin his faith to the sleeve of the Executive. He did not come here to make professions of his respect for the Executive. He hoped he should never have any reason to find fault with him; but he was not willing to yield to him that power which he himself was appointed to exercise.

It was said, it would be improper to fix the rate of interest, as, if the highest rate was fixed which should be given for the interest of money, none could be got for less. But was there not a probability, if the rate was not fixed, of giving a much higher rate? He believed there was. He believed moneyed men might so combine as to extort 10 or even 20 per cent. for money. The patriotism of the moneyed men had been spoken of: that patriotism, perhaps, might exist, but he should not wish to rely entirely upon that. If, however, that patriotism is real, instead of wishing more than common interest, the possessors of money ought to lend it to Government at 3 per cent. rather than the country should not be put into a complete posture of defence.

Mr. Harper did not know but the patriotism which the gentleman from New York has spoken of might exist, but he did not wish wholly to rely upon that patriotism. He believed it would be necessary, in some degree, to consult the interests of moneyed men. If the gentleman from New York had given an answer to the question of the gen-

tleman from Connecticut, (Mr. COIT,) his observations would have been much more to the purpose than those which he had given to the committee, which was, what are we to do, provided necessity calls for the money, and it cannot be got on the terms specified? He had however, wisely avoided giving an answer to a question, which, in his mind, is not very easy of solution. The gentleman from Pennsylvania has attempted to show that there can be no difficulty in getting the money, by reading an extract from a letter of the Secretary of the Treasury. That gentleman was not always so willing to rely upon the opinion of the Heads of Departments: he should be glad if he was, because he was sure they were deserving of confidence. But what is the opinion of the Secretary of the Treasury. It is that money may be obtained on reasonable terms; but he does not say that it can be obtained upon this, that, or the other, interest. He founds his opinion upon the permanency of the revenue of the United States, and upon the punctuality with which our former debts, and the interest upon them, have been paid; and hence he infers that the United States are entitled to credit, and therefore ought to obtain money on good terms. But the gentleman from Pennsylvania cites a fact, viz: that the Secretary of the Treasury has had offers of money from wealthy individuals. He had no doubt of this; but what are the *reasonable terms* spoken of by the Secretary of the Treasury? No one can say. Those terms depended upon the value of money at the time; and at present it would be impossible to say what that would precisely be, and therefore the interest ought not to be fixed. If it be, the question returns, what shall we do if money is not to be got at that price? We must go without defence, and be wholly unprepared to meet the attack of our enemy. The prescribing the terms of the loan, therefore, in his opinson, can do no possible good, but may do injury; and he had himself no fear, if the business at large was left with the President, that it would be improperly executed.

Mr. VARNUM thought the gentleman from South Carolina had put the business upon a wrong ground. If the money was to be borrowed abroad, there might be some doubt whether it could be got at the interest prescribed by law: but the United States have certainly a right to say to her own citizens what interest she will pay for money advanced for the public service. That interest ought to be a reasonable compensation, and not less than the current rate which is allowed by one individual to another. It was but the other day, when a bill was before the House authorizing the President of the United States to accept of certain ships on loan, that the interest of the money advanced in that form was limited to six per cent.; and he did not know why those citizens who lent assistance in the form of ships to Government, should not be entitled to the same interest with those who advanced money. Indeed, if one class of persons were to make their own terms with Government, he did not know why others might not do the same. Why may not the officer in the Army say he will not serve, unless you pay him at an extravagant rate? Or, why may not the militia prescribe their own terms? This would be subversive of the principle of Government itself. It would also give an unlimited rate to the interest of money; it would be giving to avaricious persons an advantage which they ought not to have. He believed the United States had power over the persons and property of the country for the public service, and all that could be expected in return was a competent compensation.

If no money could be got, and an army was on foot, Government would have a right to seize upon provisions wherever they found them; and the people who furnished supplies must wait for a reasonable compensation until money could be got. Besides, moneyed men ought the more readily to come forward to assist Government, since their money altogether escapes taxation. A very heavy tax is about to be laid on houses and land, which will not touch their property. This exemption from taxation he could scarcely believe men who had so recently offered their lives and fortunes to Government could wish, at the expense of their more indigent neighbors; nor could he believe they would expect a greater compensation for their money than the usual interest, especially under the present exigencies of the country.

In answer to the gentleman from Connecticut, who asked what must be done if money could not be got at the stated interest, he should suppose that, in that case, the citizens of the United States would be called into service without money, and provisions must be taken from those who had them to spare. The citizens of the United States would rather submit to this than pay 50 per cent. for money. He would, in his turn, ask gentlemen what they would do if money could not be got at all? Would they, in that case, be willing to submit to a foreign Power? He had no such idea.

The question on this amendment was taken by yeas and nays, and negatived—48 to 34, as follows:

YEAS—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Demsey Burges, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, Thomas Claiborne, Joshua Coit, Wm. Craik, Samuel W. Dana, Thomas T. Davis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

The other part of the amendment was then agreed to—47 votes being for it—and the bill was then ordered to be read a third time to-morrow.

TUESDAY, June 26.

The bill to punish frauds on the Bank of the United States, the bill respecting alien enemies; and the bill to authorize the President of the United States to borrow money for the public service, were severally read the third time and passed. The first and last without a division; that respecting alien enemies passed—52 votes being in favor of it.

The House went through the bill to grant a lot of land to Ely Williams, and it was ordered to be read a third time to-morrow.

DIRECT TAXES.

On motion of Mr. HARRISON, the House went into a Committee of the Whole on the bill to lay and collect a direct tax within the United States; when

Mr. S. SMITH moved to strike out of the second section the rates of taxes to be laid on houses of different value, with a view of introducing words to make the tax fall equally on houses and land, according to their respective values.

It might be said, Mr. S. observed, that he was influenced by the mode in which direct taxes are laid in the State of Maryland, which were always apportioned according to the real value of every man's property, which was thought honest and fair. It might be so, but it appeared to him that the plan proposed is of the most novel and exceptionable kind he had ever heard of. Persons are not to be taxed according to their property, but the tax increases not in arithmetical proportion, but in a very highly increased proportion. Indeed, if this tax be laid according to this bill, the title of the bill ought to be changed. It ought to be entitled "An act to prevent the further growth of cities, towns, and villages, in the United States of America." for this certainly must be the effect.

This plan, he understood, was predicated upon the idea that the house in which a man resides, is a fair indication of his personal property, and as that property is not taxed by this bill, it is proposed his house should not only be taxed according to its value, but also in consideration of the personal property of its occupant. In some countries, Mr. S. said, this might be a good criterion on which to estimate a man's personal property; but, in this country, he did not believe it would hold. A house in a city will be assessed at three or four times the amount that a house in the country will be taxed of equal size and quality, and which cost the same sum in building. For instance, a house valued at $3,000 in the country, will be much larger and better than one valued at $10,000 in the city. By this plan warehouses, which are the most productive buildings of any, (as they cost less, and often let for more than dwelling houses,) escape taxation. Nor would a mill, worth $10,000, pay anything; nor will distilleries, tanneries, or other manufactories, pay a shilling, except the tax on houses and slaves should fall short of producing the whole amount of the tax. Why this valuable description of property should be excused from tax, he could not tell; for it was his belief they would be wholly excused, as he was of opinion that the whole of the tax would be collected from houses and slaves, if the proposed scale is adopted. Nor is this all. No one could suppose that a tax of two millions of dollars would be sufficient to meet the expenses of the war in which we are about to be engaged. The tax will doubtless be increased from time to time, and it will be increased on the same scale on which it is begun, so that the people in the cities will not be able to pay so heavy a tax; for, agreeably to the scale proposed, taking houses of the value of $15,000 as the average, they will pay eleven and two-thirds per cent. on the rent paid for houses. [Mr. HARPER interrupted Mr. S. to say that, as he found many of his observations went to the quantum of tax to be raised, he wished to inform him that a gentleman had prepared a lower scale for the tax on houses, which he meant to propose. Perhaps if that was moved and adopted, the objections of the gentleman might be removed.] Mr. S. thought he had expressed himself clearly against the principle of the bill. He wished houses and other property to be taxed according to their value, whatever that value might be, which he thought was fair and equitable, and, without this, let the bill be modified as it may, it will be exceptionable on the ground of justice and right; for he had no idea of oppressing one description of citizens with taxation, to almost the exclusion of others. He himself represented about one-third citizens and two-thirds landholders, and it could be laid in no way in which it would affect his own property less than as it is now proposed.

By this plan, a tax of from one-fifth of one per cent. to one per cent. is laid upon dwelling houses. The scale will be as follows:

Houses of the value of from						
$100 to	$500,	will pay	2-10 of 1	per cent.	or	$1
500 to	1,000,	"	3-10	"	"	3
1,000 to	3,000,	"	4-10	"	"	12
3,000 to	6,000,	"	5-10	"	"	30
6,000 to	10,000,	"	6-10	"	"	60
10,000 to	15,000,	"	7-10	"	"	105
15,000 to	20,000,	"	8-10	"	"	160
20,000 to	30,000,	"	9-10	"	"	270
Above 30,000, one per cent.						
And 30,500	-	-	-	-	-	305

This, Mr. S. said, must be considered as a very heavy tax on houses. Those of the highest value, it would be seen by the estimate, would pay $305 a year; and though there may not be many houses of this highest value in the United States, yet there are many worth $20,000 in the large cities. There would be none in the country of this value; for if there should be any which have cost that sum in building, no one would say that an assessor would put down such a house, with a

two acre lot, at more than $3,000 as a cash price. It would never reach $3,000, though the same house in the city would be valued at the full sum of $20,000. Is there, said he, any justice in this? No man could say so. He believed, if this tax be laid as now proposed, that the State of Maryland will not pay one farthing upon land, and the improvements upon land other than houses. The city of Baltimore alone, in a tax of three-quarters per cent., or fifteen shillings in the hundred pounds, laid for the purpose of lighting and paving the city, had lately paid a sum equal to one-third of the whole sum laid upon the State of Maryland by this direct tax. But the tax is laid fairly and honorably, according to the real value of property, and the people do not complain. It is not so much the weight as the injustice of taxes of which the people complain.

He should not do any credit to his constituents in the country, to suppose that they wish this tax to be so laid as to oppress the inhabitants of the towns. As it now stood, he was confident it would be oppressive. The fairest way of judging of this business would be to take into consideration the rents which houses pay in towns. He believed, taking ten years together, no owner of houses received more than a clear six per cent. for his money. And, if this opinion is correct, a house which cost

$500	will rent for	$30,	and pay	3½	per cent. tax.
1,000	"	60,	"	5	"
3,000	"	180,	"	6 5-10	"
6,000	"	360,	"	8½	"
10,000	"	600,	"	10	"
15,000	"	900,	"	11¾	"
20,000	"	1,200,	"	12½	"
30,000	"	1,800,	"	15	"
30,500	"	1,803,	"	18	"

So that a house worth $10,000 will pay ten per cent. on the rent, in a tax to the United States. This, he thought, might be called a tax on landlords; for what man would lay out his money in building, when he knew the General Government is to take one-tenth part of the rent for a tax? It may be said that this tax will be paid by the renter of a house, and not by the landlord. This, perhaps, may be done in time of war, when money is plentiful in towns; but, in time of peace, it will fall principally upon landlords, otherwise mechanics will be obliged to leave the cities, as they will not be able to pay the tax. Inhabitants of cities already lie under very heavy taxes. It is not uncommon for citizens to pay a city tax of from three to four hundred dollars a year, so that the proposed tax, with the others which they have to pay, will amount to one-fourth of the whole rent received by a landlord. Mr. S. knew that a great part of the members of that body did not personally know the extent of the impolicy and injustice of this tax, but he trusted and believed that when they reflected that this tax is to be paid by cities, towns, and villages, alone, that they would compassionate their fellow-citizens, and lay it according to the value of the property. As it stood at present, it would fall principally upon the merchants in large cities—a class of men who, it is well known, always evince a readiness to contribute their full share to the support of Government, and who are now spiritedly advancing their property to build ships for the public service. He trusted, therefore, gentlemen would not desire to lay all upon the *free horse;* for, if this was to be the plan adopted for carrying on the war, it will be insupportable by the inhabitants of the cities, especially when this tax came to be advanced to five millions more; and no one could contemplate a less tax than that another year, provided the war is carried on with effect. This tax would be the more severely felt by the cities, as two-thirds of the commerce, upon which they principally depend for support, will be lopped off by the war; so that they would not only be burdened with taxes, but deprived of their usual resources. Mr. S. complained that this injustice could not be remedied as the bill stood. It was true it might be modified, but could not be made wholly unobjectionable.

Mr. Harper said, as he foresaw, from the first shape that the gentleman from Maryland gave his speech, it has happened. The committee has been entertained with an ingenious harangue which had no application to the question under consideration; for the question is not whether the tax is too high—he was inclined to think it was—but whether houses should be taxed separate from land. The gentleman from Maryland wishes them to be blended together; but he has given no reason for acting thus, except that high-priced houses pay too much, and land too little; but, if this was the case, an alteration might very well take place without blending the two kinds of property together. He would inform the gentleman from Maryland that this subject had been fully discussed, while he was absent from the House, and the result had been, that houses and land should be taxed separately, upon a plan like that which he saw adopted. The gentleman has shown how much houses of various values will pay in proportion to their rent, for which the committee are obliged. It is a matter of arithmetic, at which that gentleman is very expert; but he believed it would be the best to suffer the tax to be laid for this year in the way proposed; and if it should be laid another year, any alteration which shall be found to be necessary can then be made. One point, is, however, extremely clear, viz: that it will be necessary to keep houses and land separate, as a bill has already been passed for making a distinct valuation.

Mr. H. said, it had been represented to him by a number of gentlemen, that the tax as it now stands would fall too heavy upon a certain description of houses; and if the motion of the gentleman from Maryland should be rejected, another might be brought forward to effect that object; and he, for one, should be ready to listen to any arguments which might be offered, to show the propriety of reducing them.

Mr. Gallatin differed from the gentleman from Maryland, very widely, as to the details which he has given to the committee, and as to what he supposes will be the effect of this tax. That gentleman objects to it, because he concludes it will be unequal, and that it will bear particularly hard upon cities; he objected to it also as unequal, but as falling too heavily upon the country.

When this subject was first before Congress, not being possessed of any data on which to go, and every gentleman being left to make his own calculations upon it, every one calculated according to the information which he personally possessed; and the moment the principle of inequality was introduced, every one endeavored to prevent its falling too heavily upon his constituents, and naturally leaned to the side in which he was interested. Instead of this tax falling too heavily upon houses, he believed, according to the scale adopted, the tax paid upon the two lowest descriptions of houses, would be much less than that upon land. The tax upon land, he apprehended, would be about one-quarter of one per cent. upon its real value in Pennsylvania, and the scale fixed for houses puts two-tenths of one per cent. upon those of the lowest, and three-tenths upon the second class, which includes houses of the value of one thousand dollars. However he might disagree with the gentleman in the result of his calculations, he agreed with him that it is not right to introduce the present principle of inequality in the bill; but if it was the wish of the House to do away this, the section should altogether be struck out, and lay a tax of an equal per centum upon houses and land according to their value. This, he believed, would be the best, as the moment they are separated, Congress legislated in the dark. He was in favor of the principle which subjected houses of a higher value to an increased tax, according to their value, but he was against laying a definite tax upon houses, without knowing how much would fall upon land. He wished to connect them together.

Mr. G. went into a calculation to prove that the scale as it now stands will fall more heavily upon land in the State of Pennsylvania, than upon houses of the value of one thousand dollars and under; and this he wished to avoid. In order to do this, he proposed an amendment, that when land shall pay two-tenths of one per cent. upon its value, then the rate upon houses shall be the same as proposed in the bill; but that, if land shall pay more, then the tax on houses shall also be increased; or, if less than that, it be decreased accordingly.

Mr. Livingston did not wish to separate houses from land in this system of taxation; nor did he see any justice in making one description of houses pay more than another, except as in proportion to their value. He could not see upon what principle of justice a man in the city possessed of a good house should pay ten times the tax upon it that is paid by a person in the country possessing a house of equal goodness. He had no objection to the houses and land being valued separately, provided an equal tax was laid upon each. He wished to hear some reason assigned for this apportionment of the tax.

Mr. Otis could give no other answer to the gentleman from New York than had been repeatedly given on this floor; and though the gentleman was unacquainted with the principle, it is nevertheless laid down by the best writers on the subject of taxation, and practised upon by those nations who have had the most experience in taxation, viz: that good houses are in general a better criterion of the wealth of their possessors than any other. This principle, there is no doubt, will throw a great part of this tax on cities; but though he was himself the Representative of one of these cities, and it would of course lay a heavier burden upon his constituents than if the tax was laid in the way proposed by the gentleman from New York, yet, believing, as he did, that it was a just and equitable mode of laying the tax, he was in favor of it. But he should not be willing to go to the extent proposed by this bill, as he believed it would lay too heavy a tax on large houses. He, therefore, wished to introduce a different scale, which should lower the tax on large houses, provided the present motion was not carried, which he hoped it would not. Mr. O. could not believe the position of the gentleman from Pennsylvania (Mr. Gallatin) well founded, that the proposed tax would fall heavier on land than on houses. He believed it would fall heaviest on houses, and he thought it right that it should do so. He liked this mode of laying the tax, as it was founded upon a principle which had been well digested and adopted by the Treasury Department, and he thought it much safer to be guided by the result of the inquiries and determinations of that Department, than by the opinions of the gentleman from Pennsylvania, or of any committee of that House.

Mr. Venable said, it would be impossible gentlemen should agree on this subject, if they were to be referred always to the Departments. If that course was to be adopted, this House would become a mere registry of edicts. He hoped gentlemen would forbear to press these considerations upon the House, knowing that they alone are responsible, and that they will consent to take up whatever comes before them, and act upon it, without any reference to the opinions of the Heads of Departments. Mr. V. said, he had seconded the motion to strike out this part of the clause, and he did it with a view of bringing the business in the same situation in which it had before been agreed to, viz: that there should be no classification of houses, but that they should be merely valued separately from the land. This amendment does not go to blend the houses and lands in one valuation; for, though the gentleman from Maryland wished to have the matter so placed, it would be easy to fix one rate on houses and another on land, after this amendment shall have been agreed to. Mr. V. believed it would be best to tax all property according to its value; for, though houses might be a pretty correct criterion of the amount of a person's other property in some parts of the country, it was not the case in other parts where he was best acquainted.

Mr. S. Smith spoke in explanation.

Mr. Gallatin supposed, if any question could have occurred in which the doctrine of confidence

might have been kept out of view, it would have been a question of this kind, but the gentleman from Massachusetts has thought proper to introduce it, instead of examining the arguments which have been urged against this section. If, said Mr. G., we have not sufficient documents to act upon, is it to be concluded from thence that we must adopt the opinion of the Secretary of the Treasury? Certainly not. He had no more data than they had. He had, indeed, laid down a scale for a tax on houses; and if Congress are compelled to adopt a plan of this kind, he would rather adopt the one recommended by the Secretary of the Treasury, than that of the gentleman from Massachusetts. He was in favor of adopting a scale for a tax upon houses, provided that scale does not bear hard upon his constituents; if it be such a plan as he likes. The Committee of the Whole has no data by which to determine whether the assumption of the Secretary of the Treasury, that of the Committee of Ways and Means, that of the gentleman from Massachusetts, or the one which he proposed, is the most just. But he had already declared that he was in favor of connecting the tax on the two kinds of property together. Mr. G. concluded by making some observations upon what had fallen from the gentleman from Massachusetts, insisting that any variation to lower the tax on houses, would make it bear too heavily on land.

The question was put on Mr. SMITH's amendment, and it was negatived—49 to 28.

Mr. GALLATIN made the motion which he had before suggested, of raising or lowering the tax on houses and land, when it should bear too hard upon one or the other.

After a few observations by Mr. GALLATIN and Mr. S. SMITH, in favor of it, and by Mr. HARPER and Mr. OTIS, against it, it was negatived—26 votes only being for it.

Mr. OTIS then moved his amendment, viz: to strike out the scale as it stood in the bill, and instead of raising the different classes of the tax on houses by ten cents, he proposed to raise them by five, so as to have reduced the highest tax of three hundred dollars on a house to one hundred and eighty dollars.

This motion was supported by Messrs. HARPER and OTIS, and opposed by Messrs. GALLATIN and SHEPARD.

The committee then rose, without taking a question, and the House adjourned.

WEDNESDAY, June 27.

The bill to authorize the sale of a tract of land in Galliopolis to Ely Williams, was read the third time, and passed.

DIRECT TAXES.

The House again resolved itself into a Committee of the Whole on the bill to lay and collect direct taxes within the United States; when Mr. OTIS's motion for altering the scale of taxing houses being under consideration,

Mr. T. CLAIBORNE said, that the gentleman from Massachusetts, who seemed to lament so strongly that large houses should pay so heavy a proportion of this tax, seemed to have forgotten that the occupiers of them had generally their thousands and tens of thousands employed in trade, or otherwise, upon which no tax is laid by this bill. But the gentleman says this is the class of men from whom Government must look for loans of money, and therefore they ought not to be too hardly borne upon; but if they lent money, Mr. C. supposed they would have an equivalent interest paid for it, and no obligation would exist on that account. And when the gentleman speaks so feelingly with respect to houses in cities, he does not remember that houses in the country also pay a tax, and that the occupiers of them also pay for their houses and slaves in addition. If a man who occupies a large and valuable house be called upon for a tax of two hundred dollars, a person in the country who does not possess one-tenth part of the property, would be called upon for an equal sum. Mr. C. wished the tax to be laid equally; and he believed a man who had to pay but a small part of this tax, as his property will be consequently small, will feel it as heavily, or more so, as those who will have to pay a larger part of the tax, out of their larger property. He hoped the amendment would not, therefore, take place; for, if it be founded on justice, he had been blind from his infancy, and, if so, he wished gentlemen to take the beam from before his eyes, by showing him that he was mistaken.

Mr. SHEPARD spoke in explanation.

Mr. COIT said, it could not be expected that this tax would be laid in the best possible manner at present, for want of information; but, as it was only for one year, any error might easily be corrected another year, if it was found necessary to continue the tax.

Mr. GORDON was aware that no system could be devised for laying the present tax, which would be wholly unobjectionable. Congress must content themselves with such a one as shall appear to them best upon the whole. The present motion went to lower the tax on houses, from an idea that it would fall too heavily on towns, and too lightly upon lands. However this might be the case in some States, which contain a number of large towns, he was certain it would not be the case in some others, which are chiefly agricultural.

In the State from which he came, instead of operating too heavily upon houses, it will have a contrary effect, and fall oppressively upon landholders, exonerating the possessors of large and valuable houses, who had their property employed in trade, or otherwise, from their share of the tax. He should, therefore, be opposed to the present motion.

Mr. G. went into arguments to show the propriety of laying a heavier tax on large houses than on small, according to their value, and also than on land, from their being, generally, representative of personal property, which is not taxed by this bill.

Mr. N. SMITH hoped the committee would

agree to take this question. He believed sufficient discussion had already taken place upon it, and he trusted gentlemen would forbear making any further speeches.

Mr. OTIS felt the rebuke of his friend from Connecticut, though he trusted it was not particularly meant for him. But gentlemen who had not been present in the former part of this discussion, seem to have misunderstood him. Mr. O. repeated his former observations, and repeated his wish that this tax should fall much heavier on the occupiers of large houses than upon the occupiers of small ones.

Mr. O. then took a view of the amount of the tax which he supposed would be paid by the occupiers of houses of different sizes, showing the large proportion which would be paid by the possessors of valuable houses, and again enforced the propriety of his amendment.

Mr. GALLATIN went into an examination of the arguments of the gentleman from Massachusetts, observing that, if this amendment was agreed to, its effect would evidently be to lower the tax on houses, and to increase it on land; and, by an official statement of the taxes paid by the State of Massachusetts, asserted that the tax on houses, as it stands in the bill, will not be so high in that State as the tax on lands, and that, therefore, if any alteration ought to be made, the tax on houses ought to be increased, instead of lowered.

The question was put and negatived, there being only twenty-three votes for it.

The bill was further proceeded with, and the committee had leave to sit again.

Mr. ALLEN laid a resolution upon the table, proposing the appointment of a committee to bring in a bill to authorize the Supervisors of the Revenue to send and receive packets and letters free of postage.

This resolution was subsequently taken up, and passed.

A Message was received from the President of the United States, enclosing a letter from the Governor of Pennsylvania, on the subject of the arrival of a number of French inhabitants at Philadelphia from Port-au-Prince; which was committed to the Committee for the Protection of Commerce and the Defence of the Country.

THURSDAY, June 28.

Mr. SITGREAVES read the copy of a letter from Major Tousard, to the Secretary of War, at Fort Mifflin, dated this morning, stating that a dangerous mutiny was last night discovered amongst the vessels in quarantine, now lying at the fort. He did not, however, mean to excite unnecessary alarm in the House, as he believed the Executive of the State and of the United States had taken measures to prevent any serious mischief taking place, but to show that immediate attention is necessary to be paid to the subject.

DIRECT TAXES.

The House again resolved itself into a Committee of the Whole on the bill to lay and collect direct taxes within the United States; and, after making a number of amendments of little importance, the committee rose, and had leave to sit again.

Mr. SEWALL reported a bill on the subject of the emigrants arrived from Port-au-Prince; and a bill for the further protection of the commerce of the United States, which were committed.

FRIDAY, June 29.

Mr. HARPER presented a memorial from certain merchants of this city, stating that they are owners of certain vessels, now lying at the fort from St. Domingo, on board of which are a number of passengers which they are informed the masters of their vessels will not be permitted to land, owing to the present critical state of the country. They state this as a heavy loss to them, as their vessels are generally richly laden, and they are desirous of having them speedily unladen. As the masters of their vessels never met with any difficulty of this kind heretofore, but had considered this country as an asylum for all who chose to come to it, the memorialists trust Congress will grant them such relief as the justice of their case shall deserve, and they shall think right and proper to afford. Referred to the Committee of the Whole to whom has been referred the bill supplementary to the act concerning aliens.

DIRECT TAXES.

The House again resolved itself into a Committee of the Whole on the bill for laying and collecting a direct tax; when

Mr. HARPER moved to fill the blank to contain the amount of the tax on slaves, from the age of twelve to fifty, with fifty cents. This tax, he said, would fall unequally on the different States holding slaves. He believed in the State which he represented, the owners of slaves might, with propriety, be called upon for a higher tax, as their employment is very productive, and most of the taxes of that State are collected from slaves. At present they pay a dollar a head, large and small; but in other States, where the slaves are not so productive, this tax would be sufficiently large.

Mr. VENABLE said, the large slaveholders, as they generally occupied the largest houses, are already taxed for their slaves, on account of that description of houses being taxed as the representatives of other property, so that they would have to pay a double tax; and if the tax was laid so heavily on houses and slaves, there would be nothing left for land to pay. And, if this should be the case, certain districts of the State of Virginia will pay almost the whole of the tax, and others scarcely any. At present the slaveholding parts of the State are burdened with the heaviest part of the State taxes; and if so heavy a tax as fifty cents a slave be added, it will produce a very unequal tax. He thought half the sum mentioned would be sufficient.

Mr. S. SMITH said, the gentleman's arguments went more against the nature of the tax than against the amount of it. That part of the State

in which he lived, and westward, would pay but a small portion of this tax. He thought it would be better to strike out this part of the bill altogether; but if slaves were to be taxed at all, half a dollar a head could not be too much, as that is only the sum which a house of the value of one thousand dollars will pay.

Mr. Venable spoke in explanation.

Mr. Gallatin went into an extensive view of the subject, in order to show that fifty cents would be too low a tax upon slaves, in proportion to the tax laid upon houses and land. The result of his calculations was, that sixty-five cents would come the nearest to the due proportion which slaves ought to bear of the tax, and he moved to fill the blank with that sum.

After a few observations, in which Messrs. N. Smith, T. Claiborne, Harrison, Harper, and McDowell, were opposed to the motion, and Mr. Gallatin, only, in favor of it—it was negatived without a division.

The question on fifty cents was then put, and carried.

The committee rose, when Mr. S. Smith renewed his motion to make the tax equal on houses and on land, and all other improvements. It was negatived by the yeas and nays being taken—46 to 32, as follows:

Yeas—George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Stephen Bullock, John Chapman, John Clopton, John Dawson, Thomas Evans, John Fowler, Jonathan Freeman, Albert Gallatin, William Gordon, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Lyon, Nathaniel Macon, William Matthews, Anthony New, Samuel Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable,

Nays—John Allen, Bailey Bartlett, Thomas Blount Demsey Burges, Christopher G. Champlin, Thomas Claiborne, William Charles Cole Claiborne, James Cochran, Joshua Coit, Wm. Craik, Samuel W. Dana, George Dent, William Edmond, Abiel Foster, Dwight Foster, James Gillespie, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, Wm. Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, James H. Imlay, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Joseph McDowell, John Milledge, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, William Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Mr. T. Claiborne also called the yeas and nays upon filling the blank with fifty cents, which was negatived—54 to 24, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, Stephen Bullock, Demsey Burges, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, Samuel W. Dana, Thomas T. Davis, John Dawson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Jonathan N. Havens, David Holmes, James H. Imlay, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Nathaniel Macon, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Wm. Smith, Peleg Sprague, Richard Stanford, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, William Craik, George Dent, James Gillespie, William Gordon, Andrew Gregg, Carter B. Harrison, William Hindman, Walter Jones, Matthew Locke, Matthew Lyon, John Milledge, Anthony New, Richard Sprigg, jun., Thomas Sumter, Thomas Tillinghast, John Trigg, and Abraham Venable.

Mr. Gallatin renewed his amendment, to make the tax on houses and land bear a proportion to each other, and to provide that land should not be taxed higher than the rate per cent. laid upon houses of the lowest value. The yeas and nays were taken, and it was negatived—39 to 38, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Stephen Bullock, Demsey Burges, John Chapman, Thomas Claiborne, Wm. C. C. Claiborne, John Clopton, John Dawson, George Dent, Thomas Evans, Jonathan Freeman, Albert Gallatin, James Gillespie, William Gordon, Andrew Gregg, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Lyon, William Matthews, Joseph McDowell, Anthony New, Wm. Smith, Peleg Sprague, Richard Sprigg, Jr., Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

Nays—John Allen, George Baer, Jr., Bailey Bartlett, Christopher G. Champlin, James Cochran, Joshua Coit, Samuel W. Dana, Thomas T. Davis, William Edmond, Abiel Foster, Dwight Foster, John Fowler, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, James H. Imlay, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Nathaniel Macon, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Richard Stanford, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Mr. Holmes, previous to the question being put on the above motion, said he should make no observations as to the manner in which this tax would operate, though, from the knowledge he had of his own district and the one adjoining, consisting of the counties of Berkely and Frederick, he thought the discrimination would have an injurious effect in that part of Virginia, from its being more thickly settled and more improved than any other part of the State.

He rose to observe, that an idea had struck him that a part of this law does not altogether accord with that part of the Constitution which says: "No capitation or direct tax shall be laid, unless

in proportion to the census or enumeration of the inhabitants of the United States," as it supposes that the proposed tax on houses and slaves may exceed the whole of the tax apportioned to a State, in which case the surplus is to be paid into the Treasury of the United States, and placed to the credit of such State; and though a provision is made for crediting the said State with the surplus money, he did not believe that would be strictly conformable to the Constitution; since it would have the operation of a forced loan upon a State which should be so circumstanced, which would not be warranted by the Constitution.

Mr. H. said, the matter had struck him in this light; if he was mistaken, he should thank any gentleman to clear away his doubts on the subject.

After the decision on Mr. Gallatin's motion had taken place,

Mr. Harper, in order to remove the Constitutional objection pointed out by the gentleman from Virginia, (Mr. Holmes,) moved to strike out that part of the bill which had been objected to, and to insert in its place, words to the following effect:

"If, in making the assessment of any State, it shall appear that the amount to be collected from houses and slaves, will exceed the sum apportioned to such State, then the Supervisor shall be authorized to deduct from the tax on houses such rate as to confine it within the limits of the said apportionment."

The motion was carried, and the bill was ordered to be engrossed for a third reading.

The House then adjourned.

Saturday, June 30.

Mr. Harper reported a bill for further suspending the duty on snuff; which was committed.

Mr. Livingston, from the Committee of Commerce and Manufactures, reported a bill for erecting a light-house and placing buoys at places therein mentioned; which was committed for Monday.

PROTECTION OF TRADE.

On motion of Mr. Sewall, the House went into a Committee of the Whole on the bill further to protect the commerce of the United States; when, the first section being under consideration,

Mr. Sprague moved to strike out the word *armed*, before French, or pretended French, vessel, so as to give authority for the capturing of *all* French vessels.

The question was put, and negatived—41 to 32.

Mr. Thatcher did not see the use of the words "or pretended French," and moved to strike them out.

Mr. Sewall said, the reason why these words were introduced was, that many vessels sailed from the West Indies as French vessels, which are not really so, but mere pirates.

Mr. Thatcher withdrew his motion.

Mr. S. Smith renewed it, and it was negatived, 35 to 32.

Mr. Sprague moved to strike out the words "when he (the President) shall judge it expedient." Carried.

Mr. Kittera moved to strike out the words "may be" before "condemned as forfeited." Carried.

Mr. Venable wished to know whether by these words, "or of any person resident in France, or its dependencies," it was the intention of the committee who reported the bill to forfeit the property of any neutral residing in France.

Mr. Sewall knew of no distinction which could be made between persons who resided in and shipped goods from France. Even if an American citizen chose to reside in France, and ship goods from thence, he would be subject to the operations of this law equally with French citizens.

Mr. S. Smith supposed, that if a Danish merchant were to reside at Bordeaux, and were to ship a cargo of wines for Denmark, it would be contrary to the laws of nations, for one of our vessels to make capture of a neutral vessel thus employed.

Mr. Venable moved to strike out the words which he had before quoted. A citizen of any neutral nation may reside in France, and carry on commerce from thence in the same way as if no war existed. He knew that if an American citizen were to reside in France in time of war, for the purpose of carrying on commerce, his property would, of course, be condemned, if taken; but we have no right to condemn the property of citizens of a neutral nation on board of a neutral ship.

Mr. Dana thought the object of the gentleman from Virginia might be accomplished by adding the words, "being French property."

Mr. Sitgreaves preferred the phraseology proposed by the gentleman from Connecticut. He believed we ought to take all that the laws of nations would authorize; but not more.

Mr. Gordon supposed there could have been no doubt that when a neutral merchant resided in an enemy's country, that his vessel and property would be liable to the capture and condemnation of the country with whom that Power is at war. He had never seen anything which controverted this opinion. If neutrals might carry on a trade from countries at war without being liable to capture, all the commerce of the nation at war might be carried on through these means, and that in their own vessels. Nor did he believe the proposed amendment would prevent the commerce of the enemy being carried on through these means.

Mr. Dayton (the Speaker) said, this embarrassment had been introduced by having too suddenly agreed to strike out the words "may be." He should be for retaining these words, and leaving the matter to the decision of the courts. Mr. D., thinking the House had gone prematurely into this subject, moved that the committee rise, report progress, and ask leave to sit again.

The motion was put and carried—34 to 32.

The committee rose accordingly, and had leave to sit again.

ABROGATION OF TREATIES.

On motion of Mr. Sitgreaves, the House went into a Committee of the Whole on the bill to declare our treaties with France void and of no effect.

Mr. Otis moved to postpone the consideration of the preamble, until the section of the bill was gone through.

Mr. S. Smith inquired whether, if that was the case, the whole would be open to amendment?

The Chairman answered in the affirmative.

Mr. S. Smith wished gentlemen to say whether, in the course of their reading, they had ever met with an act of this kind. If ever such an act was passed, they will, of course, inform the committee what produced it; and if no such ever did take place in any country, they will assign reasons why the present bill should pass. For his own part, he saw difficulties which might arise from adopting it, but none from declining to pass it. The rescinding of the article which provides for the safe residence, for a certain time, of the merchants of either country in case of war, until they can remove, with their effects, out of the country, will be attended with inconvenience. Mr. S. was proceeding to enumerate other inconveniences which would attend such a measure, when he was interrupted by a message from the Senate. After the delivery of which, a motion was made for the committee to rise, which was carried, and leave obtained to sit again—38 to 33.

FRENCH PASSENGERS.

On motion, the House went into a Committee of the Whole on the bill from the Senate to authorize the President to prevent or regulate the landing of French passengers, and other persons, who may arrive within the United States from foreign ports.

Mr. Sitgreaves obsered, that the authority given to the President by the first section of this bill is confined to white French passengers. He did not know that there was any reason for thus limiting the authority. He should think it best to extend it to aliens generally. The particular case which has occurred, and which has excited much alarm in the public mind, has doubtless been the immediate cause of this bill; but it is possible that other cases may arise in which it will be equally improper to admit foreigners to be landed, and he could see no objection to the lodging of a general power in the President to prevent the landing of such foreigners as he shall deem dangerous to the peace of the United States. He would move the amendment; but he thought it would be better to let the bill lie over until Monday. He, therefore, moved that the committee rise, that the bill might be printed, and that the two bills might be compared together.

After a few observations upon it, the question on the committee's rising, was put and negatived.

Mr. McDowell doubted whether the expression "French passengers" would include the persons on board the vessels at the fort; they may, perhaps, be more properly considered as British subjects. They were compelled to come here by the British, and he did not think they could be properly deemed French passengers.

Mr. Sewall was against the second section of the bill, which proposes to inflict a penalty of five hundred dollars on any person transgressing the provisions of this law. He thought a more appropriate and effectual remedy was proposed by the fourth section, which was by imprisonment. He therefore moved to strike it out.

Mr. Hartley said, Congress had passed a law to send seditious foreigners out of the country; here are persons coming from the West Indies, of a dangerous description, and it would certainly be very improper to suffer them to land. It would appear extraordinary to the people, that on one day a law should be passed to send off foreigners, and, on the next, no objection made to the landing of a crowd of aliens. He knew nothing of the characters of these men; they may be attached to Great Britain, and may become good citizens of this country; but he trusted no time would be lost in passing this bill, and that therefore this motion would not be agreed to.

Mr. S. Smith said, the striking out of this section would by no means have the effect which the gentleman from Massachusetts supposed; because the first section prevents these persons from landing without the permission of the President of the United States. Mr. S. did not believe that gentlemen had a right idea of the description of persons on board of the vessels lately arrived here. He was informed that many of them are men who came to this country five years ago, and who had been to get possession of the property which they had left behind them in St. Domingo, when they came here. Some of them left behind them, in our banks, property to the amount of forty or fifty thousand dollars. He knew some of them, also, who own real estate in Pennsylvania and New Jersey; and as the President is authorized by the first section of this bill to permit such persons to land, as he thinks proper, he had no doubt most if not all of these will be permitted to land, without hesitation.

Mr. Gordon spoke against the forfeiture. If persons were proper to be admitted into this country, he would admit them; and, if not proper, no money ought to protect them.

The question was put and carried, 43 votes being in favor of it.

Mr. Varnum expressed his doubts whether the terms used in this bill would apply to the persons on board these vessels. Instead of being French passengers, he believed they would prove British subjects—persons who have taken arms against the French Government, and who had of course alienated themselves from it. Nor did he believe that the appellation of "Frenchman" would apply to persons born in the West Indies, though born of French parents.

Mr. Otis said, a Frenchman is a Frenchman everywhere.

Mr. Gallatin did not believe that any of these passengers could with propriety be called Frenchmen.

Mr. Otis repeated that, after all that could be said, a Frenchman is a Frenchman; for though he take his naturalization oath in this country, it does not alter his character; he is still called, and known to be a Frenchman.

Mr. Gallatin was not sensible of the danger which seemed to be apprehended by some gentlemen from these foreigners. It must be recollected that Congress has passed a law suspending all intercourse with France and her possessions; no danger can be apprehended, therefore, from that quarter. This bill goes one step further, viz: to say that no French passenger shall come to this country in any other vessel than a French vessel, notwithstanding those who come will come here from their disaffection to their own Government; but if gentlemen had apprehensions on this head, he had no objection to the measure. He would remark that, our vessels coming from Cape Nichola Mole or Port-au-Prince, have probably been compelled to bring off the persons on board of them, and are, therefore, no way blameable. He did not know what would be the best to be done. The owners of the vessels have valuable cargoes on board; and if these persons are not to be permitted to land, he wished some gentleman would propose an amendment, providing that the removal of them shall be at the expense of the United States, and not of the merchants.

Mr. Harper said, if it was in order to prepare an amendment of this kind, that he wished the committee to rise. To oblige the merchants to remove these persons would be injustice in the extreme, as many of them had been compelled to take them on board, and others had received them from motives of humanity, not knowing that there would be any objection made to their landing here. If, indeed, after this, merchant vessels should offend in this way, it might be well to subject them to some inconvenience; but no one could think of doing it in this case. Whether the present alarm is well or ill-founded, he could not pretend to say; for himself he was not afraid of any mischief from these persons. He was desirous, however, that the bill should pass; but he wished it to pass with amendments, and that it should be postponed until Monday, in order to prepare these amendments.

Mr. S. Smith was opposed to the committee's rising, because he wished to show the situation of these people; for the more it was known, he was confident the less alarm there would be. This bill will only apply to the vessels which have arrived and may arrive at this port. Have none arrived at any other port? Yes: before he left Baltimore, four had arrived there, and others, he believed, had arrived at other ports, without any objection being made to the landing of the passengers. He believed there had been some misrepresentation with respect to this business. He could have wished the Governor of the State had sent some person on board to have inquired into the facts stated. The blacks are body servants of the passengers, who, though they had their choice, determined to abide by their masters. There are no armed persons on board; there may be a few arms put on board to defend themselves against any brigand privateer which might attack them. There would be a degree of cruelty in separating these faithful slaves from their masters, who had preferred this state with them, to freedom without them. And to oblige the owners of these vessels, who had paid from 20 to 33 per cent. insurance on their vessels and cargoes, to carry off these persons to some distant port, and not only subject them to a further insurance, but to keep back their cargoes from them, would be a cruelty never before heard of.

Mr. Sewall was of opinion that there had been a great degree of unnecessary alarm in this business; but this alarm had occasioned great distress to these persons, and he wished to shorten its extent. He wished to examine the subject, and to see if there be any reasonable ground for preventing the landing of these persons; but if the House continued to debate on the propriety of placing the matter on a general ground, according to the bill of this House, or to confine it to French passengers, agreeable to the bill from the Senate, that relief would not be afforded. As to the merchants being obliged to remove these persons, no such idea is contained in the bill. He supposed the President might remove them, under the authority placed in him for removing aliens. But to prevent any doubt on that subject, he had prepared an amendment for the purpose of making the matter explicit, which, if the motion for the committee's rising was negatived, he would move.

Mr. McDowell hoped the committee would rise, that gentlemen might agree a little more in opinion when this subject was again taken up; not for the purpose of forming any amendment which will saddle the Government with the expense of removing these persons. These merchants either brought them from their own free will, or to oblige the agents of the British Government, or they were forced upon them by these agents. If they brought these men on their own accord, they ought to remove them at their own expense; and if they were forced upon them by the British Government, the British Minister ought to send them off to some of the British possessions. He did not believe, by the account Congress had received of them, that they are calculated to produce any good to this country.

The question on the committee's rising was put and carried.

Monday, July 2.

The bill to lay and collect a direct tax throughout the United States was read the third time; and, after some objections to the bill, as it related to the State of Kentucky, by Mr. Davis, the bill passed, 62 votes to 18, as follows:

Yeas—John Allen, George Baer, jun., David Bard, Bailey Bartlett, James A. Bayard, Thomas Blount, Stephen Bullock, Christopher G. Champlin, John Chapman, John Clopton, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dawson, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger

Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, Samuel Lyman, William Matthews, Joseph McDowell, John Milledge, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Peleg Sprague, Richard Sprigg, jr., George Thatcher, Mark Thomson, John Trigg, John E. Van Alen, Abraham Venable, Peleg Wadsworth, and Robert Williams.

Nays—Abraham Baldwin, Lemuel Benton, William Charles Cole Claiborne, Thomas T. Davis, John Fowler, Albert Gallatin, Jonathan N. Havens, Joseph Heister, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, William Smith, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Philip Van Cortlandt, and Joseph B. Varnum.

FRENCH PASSENGERS.

The order of the day being called for on the bill from the Senate, relative to the French passengers lately arrived in this country from Port au Prince,

Mr. Sewall moved to discharge the Committee of the Whole from a further consideration of this bill, in order to postpone it till the next session of Congress. He was induced to make this motion from a belief that the reports respecting the passengers on board the vessels at the fort have been greatly exaggerated; and that these persons might be as safely permitted to land as any other passengers. The President being already empowered to send out of the country all persons whom he conceives to be dangerous to the United States, Mr. S. did not think it necessary to pass a law on the subject, as, if these aliens are found to be dangerous to the peace of the United States, they can hereafter be removed.

After some observations on the subject, the motion was carried, there being 45 votes for it. The farther consideration was then postponed till next session.

The other bill, relative to the same subject, reported by a committee of the House, was also postponed.

PROTECTION OF COMMERCE.

The House then went into a Committee of the Whole on the bill farther to protect the commerce of the United States.

The Chairman stated the question to be, when the bill was last under discussion, on inserting the words "being French property."

Mr. Sewall said, when this motion was before under consideration, he had some doubts as to the propriety of it; but as all property coming from France, if condemned at all, must be condemned as French property, he believed the amendment perfectly proper, and hoped it would be agreed to.

Mr. S. Smith moved to strike out the second section, which authorized the fitting out of privateers to cruise against French vessels in every part of the ocean. This, he said, is a war measure, and we had better make an open declaration of war itself than adopt a measure like this. Letters of marque and reprisal are not absolute war; but to authorize the fitting out of privateers against any Power is war direct. He should vote against it, because he did not wish to go to war at present. He wished to go into every defensive operation; he had gone with gentlemen hand in hand in every measure of this kind. He had been of opinion merchant vessels should be authorized to resist all attacks, when carrying on a fair trade; but he was not prepared to go to war. It was a very easy thing to get into a war; but it would not be so easy a matter to get out of it. We were authorized, he said, in taking the measures which had been taken. We might have gone farther and declared war. The injuries we have received would have warranted such a measure; but he wished to know what object we could have in going to war? Can we strike any blow which will injure France, or its dependencies? Has she any trade which we can annoy? If not, in God's name, exclaimed he, what good can result to this country from a war? You make war upon shells of privateers, and when you have brought them in they will not pay for the equipment of the vessel which made the capture. We cannot have a single object, that he knew of, in going to war, while France can cut up all our valuable commerce.

Mr. S. said, he knew gentlemen frequently say, France takes everything at present, and they can do no more in a state of war. He knew the contrary; because he frequently saw vessels come in here which had been boarded, but not taken, by French privateers; so that some vessels they took, and some they did not take. We are, said he, about to enter into war, when all other nations are getting out of it. One nation alone is at present at war with France, and she is abandoning one place after another to her enemy. Port-au-Prince and l'Archahaye are given up, and he had seen a letter mentioning that a flag of truce had been sent to offer a surrender of another port. Jeremie is also offered to be given up. Now, therefore, when the only nation at war with France is thus endeavoring to creep out of it, shall we, without a navy, with an extensive trade floating unprotected on the ocean, rush into a war, from which, when once entered upon, we can see no possible way of extricating ourselves?

What are our means of war? We have, said he, means sufficient for defence, but we have none of offence. Have you a sufficiency of arms? I know you have not. Have you cannon? No; you have been obliged to dismantle your fortifications to supply your ships of war. Have you a fort that is able to repel the attack of an enemy? No; the only one which has any pretension to it is the fort at the port of Philadelphia. In what situation are the other ports? New York is without guns. At Baltimore there is not a single carriage for a gun, nor the smallest possible defence; and this is pretty much the case with all the other fortifications. In short, said Mr. S., you are devoid of every means of aggression. You may protect yourselves, but you cannot hurt your enemy—you may get into war, but you can do no essential injury to France, while she will have it in her power to destroy your commerce.

Mr. Dayton (the Speaker) rose immediately after Mr. Smith, and said, that if there had ever been uttered within those walls a speech calculated to damp the ardor and slacken the exertions of the people of this country in their preparations for defence, and even to invite the attack of an enemy, it was that which came from the mouth of his friend from Maryland, and was still echoing in their ears. He had represented the situation of his own country to be much more feeble, defenceless, and unprepared, and that of the enemy to be far more formidable, than facts warranted or experience would justify. The United States were not vulnerable at all points, nor France, her dependencies and allies invulnerable in all parts, as had been suggested. Our fellow-citizens were again proving themselves to be worthy to enjoy, and determined to maintain their independence, by exhibiting a spirit of opposition and resistance to unreasonable exactions which slaves only could submit to. This spirit ought not to be disregarded, and permitted to evaporate, nor to be checked and repressed by the language of distrust and of despondency. Had the gentleman from Maryland been contented with advocating the motion he had made for striking out the most essential feature of the bill, by arguments applying to its merits only, then, Mr. D. said, he should not have troubled the committee with any remarks, but left it to the fate it merited. His object in rising was to contest the pretensions which had been urged by the mover, of his having hitherto gone hand in hand with all those gentlemen who had been uniformly the favorers of the most efficacious measures for protection and defence. Some of the speeches of that member upon general propositions had, it was true, breathed that spirit, but it could not be forgotten how industriously he had labored (and sometimes but too successfully) to pare down and fritter away almost to nothing, the various bills which had been introduced for providing both military and naval armaments. Mr. D. particularly instanced four bills, viz: relating to convoys, to the additional naval armament, the provisional army, and the supplementary bill, which would not have labored in the House as they had done, if they had obtained the able and hearty support of that gentleman. The motion, therefore, was entitled to no support but that which could be derived immediately from its merits, for the pretensions of the mover were not warranted by his votes in favor of the most energetic provisions for resistance and defence.

The declaration made by that gentleman and others, that to negative the motion and retain the words, was actually to make war, had no weight, Mr. D. said, with him, for they had declared the very same thing for some weeks past, upon the passing of three different bills. If they prophesied truly then, nothing was more certain than that we were now in a state of war; but if their predictions so often renewed, had as frequently proved to be untrue, then they ought to be disregarded in the repetition of them. That France was making war upon this country could not be denied, and the only question therefore was how much more we are willing to bear, and how much longer to forbear, before we should be provoked to give back the blow, and manfully to defend ourselves and resent our injuries. In this acknowledged state of things, it was not necessary to draw a very accurate line between peace and war measures, since the other party had long since overstepped the boundary, and were annoying and plundering the citizens of the United States at sea, and in foreign countries, much more effectually than they could do in the event of an open rupture. He trusted, therefore, that every amendment tending to weaken and neutralize the bill would readily be rejected.

Mr. S. Smith said, it was of little consequence in what light the gentleman considered him; but he would say he had not adduced a single reason to show that he had not gone hand in hand with him in providing means of defence for the country. With respect to the provisional army, he did go with him; but when he found gentlemen unwilling to pay the expense of that army, he stopped and would go no further. The gentleman and he had certainly differed in opinion; he (Mr. Dayton) seemed to think war desirable, whilst he (Mr. S.) thought it a great and serious evil. He himself did not think the present a state of war, since it had not been so declared. But he would say that he had gone further in measures of defence than that gentleman, or any other; for he was for raising an army immediately, and not for making it a half measure, giving the people reason to believe they are prepared for defence, when they are not prepared. Whenever danger shall arrive, he did not doubt the people of this country would show that they had a spirit equal to the defence of their liberty and independence; and he would tell that gentleman that whenever that period shall arrive, he will not be more ready to defend his country than he (Mr. S.) should be; but he wished to avoid war as long as he was able to do it; when it does come, he should bear his part in it as willingly as that gentleman, or any other. He was convinced the people of this country believe peace to be their true interest. He believed they would do as much as any people in the world for the defence of their country; but they know, also, that we are not in a situation to wage a maritime war. If, however, he had erred in any part of his conduct, it was the part of a friend, to have ascribed it to an error of judgment, rather than to a design of frustrating measures necessary for the defence of the country.

Mr. Nicholas supposed the situation in which we are at present, must be peace, and that gentlemen do not mean to declare war. If they did, he should expect they would make the declaration at once. Taking this to be our situation, he begged gentlemen to consider the effect of the measure under consideration. To him it appeared one of the last steps which ought to be taken, if we hold the good of the country in view.

Mr. N. heard it said, and he believed it to be true, that the French have no commerce; and if this is the case, is it likely that our merchants will fit out vessels for the purpose of cruising against armed French vessels? Certainly not. If they fit out vessels on purpose to cruise, when they find no French merchant ships, they will attack and plunder the merchant vessels of neutral countries; therefore, unless gentlemen can show that the French have trade that vessels of this kind would be able to annoy, they ought rather to forbid than to encourage the fitting out of privateers, since he could not see how the commission could be exercised in any other way than that he had noticed; and except gentlemen could show some way by which merchants could repay the great expense attendant upon fitting out vessels of this kind, without having recourse to those he had mentioned, he hoped no such commission would be granted.

Mr. Harper said, the gentleman from Virginia seemed to have got an erroneous idea of this bill. The object of it is not to capture merchantmen. If he understood it, merchantmen could not be captured under it. It had not been the object of any bill before the House, to capture any unarmed merchantman. The measure proposed is not aggression; it is not hostility, or war; it is defence. The object is not to enable armed merchantmen to capture merchantmen; but that our armed merchantmen shall capture the armed French vessels which capture our unarmed merchantmen. At present, though our merchant vessels have authority to arm for the protection of their trade, and to take the armed vessels of France, our merchants find a difficulty in obtaining crews, not because they are afraid to meet the armed vessels of France, but because, if taken, instead of being treated as prisoners of war, they will be hung as pirates, for cruising without commissions.

Mr. H. said, he did not know but this measure might lead to war. He did not know whether the measures already taken might not lead to an open and declared war. This was no argument with him against them. He did not think war the greatest evil that could befall a country. He thought to be subjected to tribute and plunder, greater. To have our Envoys one after another kicked out of a country; to be obliged to surrender our rights and independence at the feet of a proud and oppressive nation, are greater evils than war; and, to avoid these calamities, he declared himself ready to go to war. He wished to avoid it so long as it could be done with honor; but when the question is whether our national rights shall be preserved, and the respectability of our Government be maintained in the eyes of foreign nations, or we shall go to war, he should not be for abiding by an insecure and inglorious peace. He should feel himself everlastingly disgraced by such conduct; and not only himself, but the people of this country. Mr. H. did not believe that the honor of a country was to be supported by speeches such as they had this day heard, or by calling war the greatest calamity that can befall a country; but it is by acknowledging that there are greater calamities than war, and that to avoid them, war ought to be made.

The gentleman from Maryland, Mr. H. said, had talked as if it was in our power to say whether we will have war or not. We know, indeed, that we may be suffered to remain at peace, if we will consent to pay a tribute; a tribute equal to the rapacity of our taskmasters; but, for one, he would spurn peace from him on those terms, and he trusted the American people would also spurn it from them, among whom, he doubted not, the gentleman from Maryland's constituents would be the first. Unless we choose to get into a similar situation with Holland and the Cisalpines, we have no choice. War is made upon us, and our Envoys are told that no cessation of it shall take place until we consent to pay a tribute, and a suspension of this war is refused, even until they should apply for instructions to their Government; and notwithstanding this, gentlemen talk of the evils of war! Whence such conduct? Where is the spirit which animated gentlemen in the year 1776? He would not dive into the motives of gentlemen. God forbid; but the expression of such sentiments, at this time, can have no other effect than to prepare the people for a base surrender of their rights, and unlimited submission.

The gentleman from Maryland asks, What are our means for war? He would answer, our courage is our means. When assailed by an enemy in 1775, our courage enabled us to triumph over a nation which had lately humbled the Power which now threatens to overwhelm us; at a time when we were not half our present numbers, when we had no Government, or knowledge of each other, when our courage was all that we had to rely upon. For three years we maintained our struggle, and captured an invading army, and then an insidious hand was held out to us by France, which might have the appearance of aiding us, when our difficulties were about to come to a close.

This, said Mr. H., ought to be our conduct now; and instead of inquiring what are our means for defence, we ought to inquire into the necessity for resistance? And if gentlemen asked this question, he would refer them to the papers on the table; he would refer them to what has taken place, and is taking place every day on the ocean, and to all the scenes on the other side of the Atlantic. But we are told that we are the only Power, except Great Britain, (who will, in the opinion of the gentleman from Maryland, soon be overcome,) who resist the boundless ambition of France. This, in his opinion, was honorable to America; that she should singly disdain to lay her neck upon the block of her imperious enemy. This gave him additional pride in the name of American, and it would add to the glory of the American character.

The resolution having been taken—and he had no doubt the people of America had taken it—to resist the demands of France, he trusted our means would be called forth to meet the crisis as we ought; those means, he believed, would be found

ample, if the courage of the people was not damped by such language as had this day been heard.

If, Mr. H. said, our preparations for defence should bring war upon us, it will not be our fault. The world would testify in our behalf. Indeed, that war has already commenced. It is in vain to disguise the truth. We are now in war. It has been frequently said that it was unavoidable, by gentlemen who now are continually preaching about preserving peace. If this law were not to pass, we should still be in war—a war of the most calamitous kind—a war in which we are unable to defend ourselves. He trusted, therefore, since war we must have, that the most vigorous means would be pursued to enable us to meet it with effect.

The gentleman from Maryland is of opinion we ought to have immediately raised an army. He would soon give him an opportunity of doing so. He held a resolution in his hand which would require active measures to carry into effect, and he would soon propose it to the House. An agreement to the measures which he should suggest, would not only call for our most active exertions, but would bring upon us all the vengeance of the Power with whom we are at war. It will be in vain, therefore, for us to take any middle course; we must either resist effectually or submit.

Mr. W. Claiborne said, the gentleman from South Carolina had gone into a field of declamation, which shows the liveliness of the gentleman's fancy; but he had declined the use of any arguments in reply to those of the gentleman from Massachusetts. For himself, he was at a loss to know what part of the speech of his friend from Maryland could have excited so much displeasure or resentment in the mind of the gentleman from South Carolina. He had heard that gentleman say, that war was the greatest calamity which could befall this country, and that this was the opinion of his constituents. The gentleman from South Carolina has asserted the contrary; but he believed the gentleman from Maryland could speak with greater certainty as to the opinion of his constituents than the gentleman from South Carolina could possibly do; and what was more, Mr. C. believed this was the opinion of the people from one end of the Union to the other. But the gentleman from Maryland added, that whilst his constituents were lovers of peace, and desirous of preserving it, they would not submit to the aggressions of any nation. He also added, (and he was pleased to hear the declaration,) that in case of danger, he should again be ready to fight under the banners of his country.

Where, said Mr. C., is the dishonor of such sentiments as these? If they are dishonorable, he partook of the dishonor, for he approved of them most cordially. He was perfectly regardless of all the insinuations of the gentleman from South Carolina against those who differed from him in opinion. He knew of no good which war could produce to this country, however it might benefit certain individuals.

Mr. C. did not know the precise effects which this bill would produce; but all agreed it was a war measure. That we have a right to go into such a measure no one will deny. The wrongs which France has done us, he was ready to allow would warrant it; but the question is, does political expediency require it? This is a question of the greatest magnitude. Our country is placed upon a dangerous precipice, and one false step may ruin us forever.

War, Mr. C. said, is too great a calamity eagerly to be entered upon; and that nation will display the greatest dignity which avoids war as long as she can do it with honor. It is not the blood which may flow in consequence of war, which excites the greatest repugnance to war; but it is the consequences which flow from it. Those who lose their lives in war, lose less than those who suffer the burdens which it lays, not only upon the present, but future generations. A large national debt, and consequent heavy taxes, are sure effects of war.

Mr. C. did not think the measures proposed to be taken to be measures of absolute necessity. He had not heard that France refused to treat upon any other terms than those of tribute. We had seen that it was their wish to obtain a large loan of money from us; but it is not true that they held out this as the only ground upon which they would treat. He confessed his hopes of peace were small; but whilst he could entertain hope at all, he would withhold his vote from any measure which would go to deprive him of it. He believed this section was of that description, and therefore he would vote against it. It had been asked what could be expected from this measure, since France has no commerce? This question has not been answered. The gentleman from South Carolina had thought proper to pass it over without notice.

As this is an indirect way of getting at war, Mr. C. believed it had been introduced for the purpose of trying the sense of the House on that question; and he would ask gentlemen whether it was proper at this period to go into direct war? He believed it was not. He believed the American people thought so. The committee had heard an eulogium on the spirit of America; that eulogium was a just one. He did not think there was an American who would not fly to the defence of his country, whenever it shall be attacked; and whilst he was convinced of this, he was not afraid of France, or any other nation.

The gentleman from South Carolina said, it was this spirit which heretofore saved the country, and asked whether it was now fled? It is here yet, said Mr. C., and it will always save America. If that nation whom the gentleman from South Carolina called our insidious friend in our struggle with Great Britain, (though the timely assistance received from that nation had heretofore been differently spoken of,) shall attack us, she will meet with the same fate which she saw our former enemy meet. But when gentlemen speak of insidious friends, he wished them to beware of another insidious friend. He hoped if this country must go to war, that we should fight our own

battles, without any foreign connexions; and if it did come, he would assure the gentleman from South Carolina, that he himself would not meet it more cheerfully, nor join in it more heartily than he (Mr. C.) would enter the embattled ranks. But if it were possible to avert the evil of war from the country, it was still his earnest wish to do so.

Mr. Dana adverted to what was said by the gentleman from Tennessee respecting his being a lover of peace and tranquillity. If his manner, however, was to be considered as particularly evincive of his moderation and love of peace, the most extravagant fancy could not easily imagine what must be the manifestation of his zeal when in favor of war.

The gentleman from Tennessee has called the measure under consideration an indirect mode of getting at war, and the gentleman from Maryland has called it a subterfuge. Why is such language employed against it? By the law of nations, we are justifiable in saying that all the public and private armed vessels of the United States, under certain conditions, may be employed to sweep from the ocean the French corsairs that plunder our commerce. The scope of the bill is, to authorize our armed vessels to subdue and bring into port these corsairs, wherever found upon the high seas, without waiting until they attack our merchant vessels. This is the direct intention of the bill. And is it not perfectly intelligible to any gentleman who understands the force of language? Gentlemen may call the measure "war direct," or whatever they may think proper. He was not solicitous about the name. The object of the bill, was too plain to countenance any idea of its being concealed or mistaken in that House, and it was clearly vindicable. An act of Congress has already provided that our public vessels may be instructed to capture French corsairs, wherever they are found hovering on our coast for the purpose of depredating on our commerce. The first section of this bill goes further; it authorizes our public vessels to capture such corsairs wherever they can be found, without any restriction as to our coasts. To that section the gentlemen have not objected; yet the present section is objected against, because it proposes to give the same authority to our private armed vessels when duly commissioned. And will any gentleman say that it is proper to allow this power to the one, and that it is not proper to allow it to the other? Can the gentlemen be ignorant that both depend on the same principles? Both descriptions of vessels are to act for the same general purpose, under the same national authority, and in virtue of commissions from the same Government.

The gentleman from Maryland has said that the measure proposed in this section would be making war, and yet he admits that granting letters of marque and reprisal would be consistent with a state of peace. It must, however, be evident that the present is a measure less offensive than the granting letters of marque and reprisal indiscriminately against French vessels; for it is restricted to capturing armed vessels, such as may be rationally considered as employed for committing depredations on our commerce. Indeed, it is of the nature of limited reprisal; for what is a letter of reprisal, as understood by writers on national law? It is a written authority, under the seal of the Government, for seizing property belonging to a foreign nation, and issued in consequence of previous injury committed or sanctioned on the part of that nation against the Government granting the authority, or against individuals entitled to its protection. The property so seized is for securing indemnification for such injury; and, where there is no rational hope of otherwise obtaining satisfaction from the foreign Power, it may be lawfully condemned and disposed of. This, in relation to the Government and to individuals, is now our situation as it respects France. This section is intended as a provision toward protecting our commerce against future depredations, and may possibly tend, in some very inconsiderable degree, to compensate a part of the enormous injuries already suffered. He hoped it would be adopted.

Mr. R. Williams believed this measure to be a branch of that stock, which had long since been set out upon, and which had in view a war with France; therefore, it appeared to him as if all argument were unnecessary, as he believed gentlemen fixed their measures pretty certainly before they brought them before the House. Debate, therefore, is useless, except as it serves to enlighten the public mind on subjects which come before Congress.

Mr. W. believed that a majority in Congress were determined upon war. They had, doubtless, good reasons for having thus determined, though he could not see them; and that being the case, he thought it perfectly useless, if not ridiculous, to be arguing a point which a majority have among themselves long since determined. He hoped, therefore, this question would be taken without further debate. It was his opinion that gentlemen will be much mistaken, if they think their constituents will be as ready to go to war as they seem to be. If they were got into war, he believed they would not be for carrying on a war of extermination; they would not lose sight of the happy state of peace which they had lately enjoyed.

Gentlemen must suppose, Mr. W. said, that the committee did not comprehend the difference between offence and defence, when they called this measure a measure of defence. What! said he, can it be a defensive measure to fit out vessels for the express purpose of sailing all over the ocean in search of the vessels of France, in order to attack and capture them? If he understood the term offensive, this is offensive war; and though he believed the people of this country will always be ready, with their persons and property, to support a defensive war, he could not believe that they would so readily engage in an offensive war.

Gentlemen have said, that those who have been opposed to certain measures, have called them war measures, and said if they were carried into effect,

they would certainly produce war; and yet they now say we are not at war, but wish still to avoid it. Mr. W. said, this was all perfectly consistent. The measures which had been proposed, they apprehended, would produce war; but they have not yet had time to produce their effect; and though it was the possible, it may not be the certain effect. But there could be no doubt, that a measure which goes to direct our vessels to hunt up, wherever they can be found, French vessels, for the purpose of attacking and taking them, must be direct war.

Why were gentlemen asked if they were ready to become tributary to France? Was this involved in the question before the committee? Certainly not. Could we not say positively to France we will not pay you tribute; and, if you attempt to enforce it, we are ready to defend ourselves? These sort of questions could only be calculated to deceive the public mind, and to lead persons unacquainted with their characters, to believe that there are certain persons in Congress who wish to pay a tribute to France.

Mr. W. supposed, from what the gentleman from South Carolina had said, that he held in his hand a declaration of war. If he does, let him bring it forward, and then not only the members of that House, but the country at large, would understand what was meant to be done. Hitherto the grand object of gentlemen had been to induce the House to do one thing, which would oblige them to do another, until matters were brought to the present awful crisis.

Mr. Edmond said, the reproach which the gentleman last up, had cast upon certain members, as wishing to involve the country in war, did not fall upon him. He could say, with truth, that he was as great a friend of peace, and loved his ease as much as any man, and deprecated as much the evils consequent on a state of war; at the same time, he must acknowledge that he loved the honor, the interest, and, above all things, the independence of his country; and whenever an attempt was made to deprive us of these, were he to be indifferent as to the event, the blood he shed in gaining that independence would rise up against him. He did not wish, however, to be hurried on with passion in so serious a concern, though, he must own, he found some difficulty in repressing it. He knew it was proper to exercise candor in considering so important a question, and to take into view the whole train of events which had led to our present dispute with France. It would take up too much of the time of the committee to go into an enumeration of all these circumstances. They are in the memory of every man, and must make a strong impression upon it. Nor need he recapitulate the measures which have been taken by Congress, relative to this subject. Gentlemen had been charged with insidiously leading matters from one stage to another until they had brought the country to the precipice of war. He knew of no measure which had been taken that had not been strictly defensive. Mr. E. enumerated the different measures which had been authorized; all which, he said, were strictly warrantable for defence. And, does this bill go any further? No. The first section proposed something further; but it is not yet law. If you take that section, you must take the following one, now under consideration; and the question is, whether you will authorize private-armed vessels to the same extent that you have authorized our public-armed vessels to go. This power is not proposed to be given indiscriminately to all merchant vessels; but the owner and master are to be bound in a heavy penalty that the vessel so armed and instructed shall not do any act which shall involve the country in war with any other nation. Is this, he asked, a declaration of war against France? No such thing. The right to put arms on board our vessels, with which to defend themselves, is founded on reason and the principles of self-defence; and to deny this, would be to deny the justice of the principles upon which the Government itself is founded; for, if Government declined protecting its citizens, and prohibited them from protecting themselves, it would operate an injury instead of a benefit to the people; but, having authorized our public-armed vessels to act in the manner proposed in this bill, it was pursuing the same line only, to give the authority to private-armed vessels also.

But, it was said by the gentleman from Maryland on this subject, (and he was hurt at a repetition of the words,) that the country was in a deplorable situation for war. This, he did not acknowledge to be true; but if it were true, was that any reason why this section of the bill ought not to be agreed to? If we have neither arms nor ships, and Philadelphia and our other large cities are liable at any time to be laid under contribution, is that any argument against arming such vessels as we have, against the enemy? Certainly not. In proportion as we are weak, we ought to call out every means which we have in our power to resist the attack of a powerful enemy. He hoped, therefore, the section would be retained.

Mr. S. Smith entertained a high respect for the gentleman last up. The part he took in our Revolutionary war was honorable to him; and he did not think any enmity ought to exist between them on account of their present difference of opinion. It ought to be attributed, perhaps, to their different educations or employments, or some other cause, but certainly ought not to be ill-thought of. He believed the gentleman from Connecticut perfectly sincere in his opinion; and it would be no more than candid were that gentleman to believe the same with respect to himself.

Mr. S. said, the manner in which the business of defence is conducted, is somewhat remarkable. Two months ago, a new regiment of artillery was ordered to be raised, yet not one man is engaged. About the same time, a very considerable appropriation was made for the erection, completion, and repair, of fortifications; but a shovel full of earth has not been dug in pursuance of that grant. When he saw this dilatoriness of conduct, was it not a good reason for putting off war to as great a

distance as possible? He wished to be considered as acting from these motives.

He was inclined to believe that the gentlemen from South Carolina and Connecticut both considered this section as merely giving a power to arm and commission our merchant vessels, whereas it goes to authorize the fitting out of privateers, a description of armed vessels he never wished to see in this country, as they are no better than legal pirates.

Gentlemen need not be surprised that they are charged with bringing measures forward, step by step, as that must be evident to the world. A few days ago it was proposed that merchant vessels should have a right to attack and capture French vessels, which was rejected. If that had been carried, there would have been no occasion for this.

Mr. S. said, he had very frequently attended to the speeches of the gentleman from South Carolina with respect to the present situation of the country; and, he must own, he considered them all as mere declamation, and the same thing over and over again. He speaks in general terms of the aggressions of France, which nobody denies, and concludes with asking whether gentlemen are prepared to surrender their liberty and independence? The gentleman will find that no one will answer in the affirmative. He then asks, whether gentlemen are prepared to pay a tribute? Nobody ever thought of such a thing. But, he says, there is no way of preserving our liberty and independence but by paying a tribute, or going to war. If Mr. S. thought so, he would have taken stronger measures than had been taken. He would have declared war at once, but, so long as he entertained a different opinion, he would oppose every measure like the present. He did not think the assertion of gentlemen on this head could be supported by a recurrence to the despatches on the table, to which they appeal. He thought the last of those despatches discovered that there existed in the Directory a willingness to treat with us. What he said on this subject, it was true, was a mere matter of opinion; but he believed that a treaty would be offered to Mr. Gerry, which this country might with honor accept; and, believing this, he would vote for no measure which would tend to widen the breach between the two countries.

Mr. S. said, if we were going to war with a Power, against whom we could strike an effectual blow, so as to disable him, in some measure, during the remainder of the war, he might have been in favor of a declaration of war long since; but as this is not the case, he was against getting the country into a war, from which it could not easily recede; for however acceptable this Congress might be for getting the country into war, he believed the next would be more so, if it shall be able to reinstate the country in peace.

Mr. Gallatin said, it was true that this debate had lasted a long time; it had continued, with little intermission, for two months. If gentlemen who are in favor of the second section of this bill, had brought forward their whole system at once, it would have been affirmed or negatived under one debate, and there would have been an end of it; but they have chosen to divide the question of war into a number of sections, and each section into a number of smaller parcels. Of course most of those gentlemen who would have been against the whole together, have been against all the parts. Why the whole had not been brought forward together he did not know.

What, said Mr. G., is this section? It is an authority to private armed vessels to take every armed vessel of France they meet with. Had the committee forgotten, he asked, that a few days ago, the House had a bill before them authorizing the arming of merchant vessels against French depredations? By that bill it was provided that our vessels should resist and capture any French vessel that should make an attack upon them, and recapture such of our vessels as shall have been taken by French armed vessels. An amendment was then proposed to authorize our vessels to attack and destroy any such vessel as may have made capture of our vessels. This proposition was less extensive than the present; but it was rejected—47 to 28. Five of the Committee for the Protection of Commerce and the Defence of the Country voted against it. The gentleman from Connecticut himself, though in favor of this measure, voted against it. Why did they not at that time bring the subject under consideration, and why vote to reject a measure which did not go so far as the present? Or why had there been a majority in favor of striking out the word *armed* in the first section of this bill? He could not tell why, if the thing be right now, it was not right then.

The section of itself, Mr. G. said, was of no real use; it could only serve as a link in the chain of war; as it could not be believed that any merchant vessel of the United States would go on privateering. There could be no temptation for them to hunt up privateers for the purpose of fighting them. He did not know, therefore, why it was brought before the committee; or, if it was to have been decided, why was it not brought before, when the subject was under discussion?

Mr. G. said, he did not mean to have said anything in opposition to this bill, but to have voted against it, as he should vote against everything else of a like tendency until he knew the termination of our negotiation by Mr. Gerry.

Mr. Edmond said, gentlemen complain that measures have been brought forward step by step. They might have found a reason for this in candor. Gentlemen have said, if you mean to go to war, why not come forward, and declare it at once; and if that had been done, what then? They would have voted against it. Which was the same thing as if they had said, we will prevent you from doing anything for the defence of the country if we can. It was then left for others to determine what measures were necessary to be taken for our defence; and, in order to get anything, they had been obliged to bring forward such measures as they thought most likely to pass, and this will account for our means of defence having been proposed by degrees. Add to this,

that almost every day has brought us new accounts of insults and injuries committed against us. So that he was himself ready to take steps now that he should have taken with great reluctance three months ago.

As to the hopes which gentlemen say they entertain of a treaty being accomplished, he entertained none such. He had no confidence in, or expectation from, the French Government.

Mr. Sewall was so sensible that the patience of the committee was exhausted from a long debate on this subject, that he should avoid any general observations upon it; but the gentleman from Pennsylvania had made such a representation of the course of this business, that he felt himself called upon to make some reply. This, he says, is only a repetition of the question tried the other day, though the gentleman cannot but recollect that the question was not then on commissioning merchant vessels; and that the power to attack is here confined to commissioned vessels. This matter was settled by treaty; in one of our treaties even the sum for which sureties was to be provided, and the number of sureties, was determined. These commissions, issued by the President of the United States, are no more than powers for private vessels to do all that the public armed vessels are authorized to do; and certainly the power given one could be no more a war measure than when given to the other. Indeed, he believed both might be considered as war, if France chose so to consider them. It was true the committee had brought measures gradually forward, but he denied that any of them could be construed into offensive war. The vessels of France have attacked and taken vessels of the United States on the high seas; we therefore only met her on her own ground, by ordering our vessels to take the vessels of France. An attack is neither authorized upon her shores, nor upon her merchant vessels; and so far, according to the laws of nations and common sense, must be deemed defensive war. War it is, but it was first made upon us by France; and the moment France ceases to make hostility upon us, our hostility against her will cease also; but if we were to declare war, Congress must meet again before war could cease. He thought, therefore, this measure ought to be agreed to.

The question on striking out the section was put and negatived—41 to 38.

Mr. S. Smith moved to amend the section, so as that the authority should only extend to merchant vessels, and not to privateers, as gentlemen seemed to suppose that was the intention of the section.

Mr. Sewall hoped this motion would not prevail. The gentleman from Maryland misunderstood him if he understood him to say that this section only related to armed merchantmen. It applied certainly not only to armed merchantmen, but to armed vessels fitted out for the purposes of attack.

Mr. Smith's motion was put, and negatived, there being only 33 votes for it.

Mr. D. Foster moved an additional section, allowing a bounty of so much per gun, according to their size, on all guns taken on board French privateers, brought into the ports of the United States.

After a few observations for and against this measure, it was negatived—43 to 37.

The committee then rose, and General Smith called the yeas and nays upon his motion to strike out the second section. They were taken, and stood—39 yeas, 43 nays, as follows:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Saml. Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Stephen Bullock, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Reed, Jas. Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Mr. Sprague renewed his motion to strike out the word "amend," in the first section, before "French vessel," the effect of which was to authorize the taking of all French vessels. The vote stood—yeas 31, nays 52, as follows:

Yeas—John Allen, David Bard, Bailey Bartlett, James A. Bayard, Christopher G. Champlin, James Cochran, William Craik, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thos. Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Samuel Sitgreaves, Peleg Sprague, Geo. Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Nays—George Baer, jr, Abraham Baldwin, Lemuel Benton, Thomas Blount, Stephen Bullock, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, James H. Imlay, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Niche-

lin, John Reed, James Schureman, Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, William Smith, Richard Spriggs, Jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. Livingston said, at the date of our last despatches, the House had seen that Mr. Gerry, our only remaining Commissioner at Paris, had received an invitation from the Minister of Foreign Affairs of the French Republic, to open a negotiation on the subject of our dispute with that country. They had also seen a letter from that gentleman to the President, and another to the French Minister, by which it appears, that he declines entering into any negotiation, from a supposition that his authority does not authorize him to undertake it. Nor do the House learn from the Message of the President, that he has given any further authority to Mr. Gerry. On the contrary, from the tenor of the Message, the return of our Commissioner could only be expected, without making any attempt at a negotiation. Believing, as he did, that a negotiation might be opened, and that it was probable a treaty might be completed which it would be honorable to the United States to accept, he did not wish to frustrate so happy an event by any punctilio, because they had refused to treat with *three* Envoys, but are willing to treat with *one*. He thought it would be proper for this House to express a wish of this kind, and he would lay a proposition on the table to this effect. Those who are of opinion that we ought not to accept of any treaty from France, however equitable, because that Republic has refused to treat with our *three* Commissioners, will, of course, vote against it; but those who will be willing to preserve the country in peace by an honorable treaty, though it be made by *one* Envoy only, will, of course, vote for it. The proposition was to the following effect:

"*Resolved*, That a respectful address be presented to the President of the United States, requesting him to instruct our remaining Envoy Extraordinary at Paris, to proceed in the negotiation offered to be opened with him by the Minister of Foreign Relations of the French Republic, and to conclude such a treaty with him as he may be enabled to negotiate, consistent with the tenor of the instructions of the President, communicated to this House on the 23d of March last."

Though the mover wished this resolution to lie till to-morrow, an immediate decision was called for, and a good deal of heat was shown upon the occasion. Mr. Dent moved the previous question upon it; but Mr. Livingston complaining of this mode of proceeding, that motion was withdrawn, and the immediate question called for; but to prevent an immediate decision, Mr. L. withdrew his motion, with a view he said of bringing it forward another day.

Adjourned.

Tuesday, July 3.

The bill further to protect the commerce of the United States, was read the third time and passed.

Mr. Harper said, he held in his hand certain resolutions with respect to the defence of the country, which he thought it would be important to adopt; because he considered Congress as having resolved upon repelling and resisting the pretensions of a Power which he had no idea, and which he could not suppose any gentleman had reason to expect would recede from the terms of tribute which they had offered. Having, therefore, a knowledge of the force, the pride, and the perseverance of our enemy, whilst we are not dismayed by their power and their spirit, we ought to view it in all its magnitude, to prepare for a vigorous struggle in meeting it, and to resist the extravagant pretensions of that nation. That we may be thus prepared, he offered the following resolutions for the consideration of the House:

Resolved, That it is expedient to augment the Provisional Army of the United States to fifty thousand men.

Resolved, That it is expedient to enable the President of the United States to proceed, whenever he shall judge it conducive to the public welfare, to the appointment of all the officers of the said army, and the organization of its staff: such officers not to be on pay till called into actual service.

Resolved, That it is expedient to enable the President of the United States to raise immediately, and bring into actual service, one division of the said army, to consist of not more than twelve thousand five hundred men.

Resolved, That it is expedient to enable the President of the United States to raise and bring into actual service, all or any part of the remaining divisions of the said army, in case of invasion of any part of the territory of the United States, or of imminent danger of such invasion, in his opinion conceived to exist.

Resolved, That it is expedient to enable the President of the United States to raise immediately, and bring into actual service, a corps of non-commissioned officers for those divisions of the said army which may not be immediately raised; the said corps not to exceed the number of twelve hundred, and to do duty as a separate corps of the army, until their services in all or any of said divisions shall be required.

Resolved, That it is expedient to enable the President of the United States to obtain by purchase, loan, or other contract, for the use of the United States, any number of vessels of war, not exceeding ten, in addition to those heretofore authorized by law, and of such force, not less than thirty-two guns each, as he may judge advantageous for the public service, and to man and equip the same.

Resolved, That it is expedient to enable the President of the United States to establish one or more dock-yards for the use of the United States, with suitable buildings for marine stores, arsenals, and magazines.

Ordered to lie on the table till to-morrow.

MR. GERRY'S MISSION.

Mr. Livingston again laid the resolution upon the table, which he offered and withdrew yesterday, proposing an address to the President. He said he should not himself call it up at present; but if any other gentleman chose to do so, he should not object to it.

The Speaker said, that the gentleman must know that when a proposition is offered to the House, it is offered for decision.

The question being loudly called for,

Mr. Kittera wished to propose an amendment to this resolution, in the following words, viz: "and in case the said Envoy shall have been ordered out of the French Republic, or taken into custody, then with such other person or persons as the French Directory may select."

Mr. Thatcher seconded the motion.

Mr. Harrison hoped the yeas and nays would be taken upon this amendment. Agreed to.

Mr. N. Smith was sorry this motion was made. He thought it trifling with treason. He wished not to be called to give a vote on so infamous a resolution as he considered this to be. [A call to order.]

Mr. Otis hoped the mover of this amendment would withdraw it. It could only have been intended to cast a censure upon the resolution—a censure much milder than he should himself have been inclined to cast upon it, which, having been done, he trusted the gentleman would not place his friends in so disagreeable a situation as to be obliged to vote upon it.

Mr. Kittera said, the House must have seen his object in making this motion. The resolution which had been laid upon the table by the gentleman from New York, was so abhorrent to all his ideas of propriety, that he had taken this mode of showing his disapprobation of it, in the strongest manner in which he could do it. We have, said he, sent three Envoys to the French Republic in order to terminate our differences with that nation; but the Directory have not chosen to treat with these three Commissioners, but have insultingly selected *one* from among them, with whom they say they are ready to treat, but upon the terms offered to all the three. If this one Envoy should be sent off, or imprisoned, therefore, before the fresh instructions which the gentleman from New York wishes to be sent off should be received, it would be proper that the Directory should make choice of some other person with whom they will be willing to treat. Having, however, shown his pointed dislike to the proposition before the House, by the present motion, he would withdraw it.

Mr. Livingston said, he would not have troubled the House with any further observations on this motion, if not forced to do it by certain expressions which had been used respecting it. One gentleman has called it an *infamous* resolution; another had said that the motion which had been made and withdrawn, was too mild a censure upon it; another gentleman looked upon it with abhorrence. If this resolution is so extremely abhorrent, he should have been glad if gentlemen would have condescended to have shown wherein its abhorrence lies. What is this resolution? Does it tend to dishonor this country, by proposing to agree with any degrading terms offered by the Directory? No such thing. What is it, but to request the President of the United States to instruct the Envoy, whom he himself appointed, to make such a treaty with France as shall be consistent with our honor and interest? Yet this resolution is called *infamous*. If this term was applicable to his motion, he was ignorant of the meaning of words.

The Speaker said, as the gentleman from Connecticut, who made use of this expression, had been called to order, any remarks upon it were equally out of order.

Mr. Livingston said, he would make no comments upon it, but confine his remarks to the resolution itself. It was his desire, if possible, to prevent a war with France, which must involve this country in great distress—which may, perhaps, destroy it, all for the sake of a punctilio. He was not ashamed of this opinion anywhere. It would be for the interest, for the dignity of this country, to conclude an honorable peace with France—more so than any war which we could possibly wage. The fate of war must be doubtful—the honor of it extremely so. For his part, he saw none that could be derived from war. He wished to avoid it, if it could be avoided with honor. He was far from proposing to preserve peace at the expense of our honor. All he wished was that the Envoy at present in Paris should, if possible, make a treaty founded upon the instructions originally given. Is there, exclaimed he, anything so extremely bad in this? On the contrary, he knew it was the wish of a majority of the people of this country that a treaty should, if possible, be made, and by that means prevent the necessity of a war.

But it should seem as if gentlemen were ready to say, that it is better to go to war than that one of our Envoys should make a treaty for us, as if they were ready to draw the sword, because three seals cannot be put to a treaty instead of one. He was not for doing this, nor were his constituents; nor did he believe that either he or they should ever be ashamed of this resolution. It would always be a consolation to him that he had endeavored to preserve the peace of the country, so long as it could consistently be done.

It was altogether a misrepresentation, Mr. L. said, to insinuate that the person whom he wished to be instructed to treat was appointed by the Directory; he was chosen by the President of the United States, and commissioned by him with separate powers. And yet this man, thus appointed, is spoken of as a man chosen by the Executive Directory of France! He wished gentlemen to reconcile this to themselves; he could not do it.

Mr. Matthews thought this resolution ought to be explained before gentlemen were called to vote upon it. He, therefore, moved the following amendment: "Whereas this House has lost all confidence in the President of the United States, and his desire of plunging this country in all the horrors of war with our good friends, is so evident, therefore resolved," &c.

This motion not being seconded, the yeas and nays were taken upon Mr. Livingston's proposition, and decided in the negative, 51 to 30, as follow:

Yeas—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Dempsey Burges, Thomas Claiborne, John Clopton, Thomas T. Davis, John Dawson, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, Walter Jones, Edward Livingston, Mat-

thew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, William Smith, Richard Stanford, Thomas Sumter, John Trigg, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, William Charles Cole Claiborne, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Reed, James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, Richard Sprigg, jun., George Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Joseph B. Varnum, Abraham Venable, and Peleg Wadsworth.

STATE BALANCES.

Mr. Harper laid a resolution upon the table, proposing that, if any State indebted to the United States in the balance of accounts at the close of the late war, shall expend any money in erecting or enlarging their fortifications, upon plans approved by the President of the United States, such sums shall be considered as in part payment of the said balance.

SUNDRY BILLS.

Mr. Livingston reported a bill relative to the compensation of certain officers employed in the collection of imposts and tonnage; which was committed.

Mr. Macon reported a bill respecting a light-house and beacons; and

Mr. Sewall a bill making further appropriations for the additional naval armament; both of which were committed.

A message was received from the Senate, informing the House that they had passed the bill, entitled "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves within the United States," with several amendments, to which they desire the concurrence of this House.

Mr. W. C. C. Claiborne, from the managers appointed the nineteenth ultimo, on the part of this House, to attend a conference with the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act providing for the more effectual collection of certain internal revenues of the United States," made a report; which was read and considered. Whereupon,

Resolved, That this House doth adhere to their amendments to the second amendment of the Senate to the said bill.

The House proceeded to reconsider the last amendment of the Senate, disagreed to by this House, and insisted on by the Senate, to the bill, entitled "An act to alter the time of making entry of stills, and for other purposes." Whereupon,

Resolved, That this House doth insist on their disagreement to the said amendment.

Resolved, That this House doth agree to the conference desired by the Senate, on the subject-matter thereof; and that Mr. William C. C. Claiborne, Mr. Kittera, and Mr. Champlin, be appointed managers at the said conference, on the part of this House,

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves within the United States." Whereupon,

Ordered, That the said amendments be committed to a Committee of the Whole House immediately.

The House, accordingly, resolved itself into the said committee; and, after some time spent therein, Mr. Speaker resumed the Chair, and Mr. Dent reported that the committee had, according to order, had the said amendments under consideration, and directed him to report to the House their disagreement to so much of the amendment of the Senate as proposes to strike out a part of the last line of the proviso at the end of the eighth section; and their agreement to all the other amendments to the said bill.

On the question that the House do agree to the report of the Committee of the Whole House,

It was resolved in the affirmative.

A message was received from the Senate, informing the House that they have passed the bill, entitled "An act respecting alien enemies," with several amendments to the last mentioned bill, to which they desire the concurrence of this House.

The House proceeded to consider the said amendments; and, the same being twice read, were, on the question severally put thereupon, agreed to by the House. Adjourned.

Wednesday, July 4.

The House of Representatives met agreeably to adjournment at ten o'clock; but, on the Speaker's taking the Chair, a few minutes after ten, and a quorum of members not being present—

Mr. Dawson said, as it was not usual to attend to business on this day, he hoped the House would adjourn.

The House adjourned accordingly.

Thursday, July 5.

The bill for erecting a light-house and beacon and for placing buoys in the situations therein mentioned, was read the third time and passed.

Mr. Harper made a report on the organization of the Executive Departments, and a bill to alter and amend several acts relative to the establishment of the Treasury, War, and Naval Departments; which was committed for to-morrow.

INCREASE OF MILITARY ESTABLISHMENT

On motion of Mr. S. Smith the House went into a Committee of the Whole on the state of the Union; when he proposed the following resolutions:

"*Resolved*, As the opinion of this committee, that the four regiments of infantry of the present Establishment be increased to ten companies each, each company to consist of sixty privates.

"*Resolved*, As the opinion of this committee, that the President of the United States be authorized to raise, in addition to the present Military Establishment, eight companies of infantry, and six troops of light dragoons, to be enlisted for three years, or during the war with France."

The first resolution being under consideration,

Mr. S. Smith said, it would be recollected that the regiments of infantry on the present Establishment had been reduced to eight companies each. He wished to have them increased to ten, which would give an increase of 880 men, with only six additional officers. And, if the second resolution was agreed to, it would give us a standing army, with the troops now in service, of upwards of 11,000 men altogether.

Mr. Dayton seconded this motion, because he approved of increasing the regiments from eight to ten companies; but he had rather the mover had proposed twelve additional regiments than eight.

Mr. McDowell believed the first resolution could not be very well considered, without having reference to the second. He could see no reason for increasing our Army at present. He had no particular objection to the first resolution; but finding gentlemen are not prepared to come to a declaration of war, he did not think it would be prudent to increase our standing army. A provisional army, he said, had already been provided, which the President was authorized to raise whenever he shall judge our situation to be sufficiently alarming to warrant the measure; and he was also authorized to accept the service of volunteers to an amount which no one can ascertain. He, therefore, thought it too early to enter into a resolution of this kind, unless gentlemen are determined upon war at all events.

Mr. Allen did not know how it had happened that so few men had been assigned to a company in our Military Establishment. In England, he believed, there are 100 men to a company; in Austria 200, and in France 80 or 100. Mr. A. thought the companies ought to be organized with 100 men each, in order to allow for men who are sick, &c. He believed the army would be more effectual for having more men and fewer officers. He therefore moved to strike out 60 and insert 100.

Mr. Hartley was against this motion. It was necessary that the proportion of officers should be greater in new regiments than in old ones. He thought the proportion as reported just and proper.

The first resolution was agreed to without a division.

The second resolution being under consideration—

Mr. Gallatin observed, that he did not think the expression "during the war" was correct at present. Congress has made the raising of a provisional army to depend on the contingency of our being at war. The Constitution says, Congress only shall declare war, and they have not done it; neither has it been done by France. He thought the provision for three years would be sufficient, without the words which he had mentioned.

Mr. Otis thought it might be altered to read, "during the war which may take place with the French Republic."

Mr. Venable would be glad to be informed whether gentlemen meant, if the war with France continued longer than three years, soldiers were to be compelled to serve longer; or whether, if it did not continue so long as three years, they should be sooner discharged. Besides, he thought the words improper, at present, as he did not consider this country in war with France. He thought it an indirect way of saying this nation is at war with France; whether it was so intended, he could not say. It would also be a question with him, whether persons so enlisted would be obliged to serve, since they would be enlisted to serve during a war which did not exist.

Mr. Dayton (the Speaker) said, that he could never consent to admitting the proposed alternative in the term of enlistment. He remembered too well the unhappy and disgraceful scenes which were exhibited in some lines of the Army during the Revolutionary war, in consequence of their taking the engagements of the soldiers to continue in service "for three years or during the war." As he wished never to see them repeated, he should move to strike out the words "for three years," and leave the engagement of the troops to be raised to be limited only by the cause of the augmentation of the Army, viz: the existence of our differences with the French Republic. This would answer every purpose, especially as the President would also be authorized sooner to discharge them, if, in his opinion, it could be done consistently with the public safety.

The resolution was modified so as to read, "for and during the continuance of the existing differences between the United States and the French Republic."

Mr. Dayton moved to strike out eight regiments and insert twelve.

After some objections from Mr. Macon, who thought it would be better to increase the number of cavalry than infantry, the motion was negatived—41 to 30.

Mr. Macon then moved to strike out eight regiments and insert seven, and to strike out six troops of light dragoons, for the purpose of inserting eight. The expense of two troops of dragoons would, he said, be about the same as a regiment of infantry, and he thought more useful.

The motion was negatived without a division.

The question recurring on the resolution—

Mr. Allen wished to postpone this resolution, to take up another. He had no idea that men could be got at the present pay. He wished gentlemen to look at the men which the United States get for four dollars a month. The world does not exhibit so miserable a looking set of men as are now in the Army of the United States. He wished to give such a pay to our soldiers as should bring into the field the sons of the substantial yeomanry of the country and the sons of mechanics—

men who will not only fight for money, but from a love of country; at the present pay these could not be got. He expected the Committee of Defence would have brought forward a resolution of this kind before this time.

The Chairman said the motion of the gentleman from Connecticut could not be received.

Mr. Allen said, he should vote for no increase of the Army until their pay was increased.

Mr. Dayton expressed his astonishment at the language of the gentleman from Connecticut, who was determined to vote against a proposition which he liked, merely because another, which it seems he likes rather better, had not been first moved and carried. The gentleman indulged his very warm temper in making a furious charge upon all the members of the committee, because they had not brought forward earlier a motion for increasing the pay of the soldiers, without seeming to recollect that it was as much his own business as that of any other member, and that if there had been any improper neglect or delay, he was as much chargeable with it as any one. The truth was, however, that it would probably be found upon experiment, immediately after the present question is decided, that the House were disposed to raise the pay of the Army, and were consequently undeserving of the censures which that gentleman had liberally heaped upon them.

Mr. D. trusted, nevertheless, that no bargain or contract would be made with the member from Connecticut on the occasion, in order to gain his vote, for the result of the question was not so doubtful as to make it advisable to resort to such an expedient to carry the point. He commended the zeal with which the gentleman advocated the increase of the soldiers' pay at the present crisis, and should cheerfully support the motion for that purpose as soon as it was in order to bring it forward for the consideration of the House.

Mr. Allen said, he did not wish to make any bargain on the subject; but he had proposed this resolution because nothing had been said on the subject. If the pay of the men had been raised at the time the additional regiment of artillery had been ordered, the men by this time would have been raised; but this not having been done, all that we have towards that regiment are the officers.

Mr. Harper was sorry the gentleman from Connecticut had adopted so inadmissible a mode of bringing forward his proposition. He himself was in favor of the proposition, and if no other person had proposed it, he would himself have done it; but he did not believe that it had any connexion with the present motion. The gentleman from Connecticut had said he wished those men to enter the service who would do it from other considerations than those of pay. He had no doubt such would be got; and though we have not succeeded in recruiting in peaceable times, we have no reason to conclude that when the time shall come when we must fight for our independence, that multitudes of soldiers will not be got for six dollars a month, who will be ready immediately to march, whenever they shall be told by Executive authority that their service is necessary to repel invasion. With respect to the new regiment of artillery, it is true that no men are enlisted; but it is also true that no attempts have been made to get them. He did not know why this had been the case. He supposed there was good reason for it. When proper arrangements are made, he had no doubt the men would soon be enlisted.

Mr. S. Smith said, the Committee of Defence had not had this subject under consideration. The bill for raising the additional regiment of artillery was passed on the 7th April, when the House entertained very different opinions with respect to their foreign relations from what are held at present, and that was the only time at which the question could properly have been brought forward.

As to the men already in service, he believed they are very good men. Did the gentleman from Connecticut (who is remarkably tall) think no man was good for anything who was less by the head than him? [Order called.] It was said no men had been raised for the new regiment of artillery. There was a very good reason for this—no money was appropriated to pay them till within these few days. However, when the gentleman from Connecticut comes to expense, he ought to tread very lightly. Our soldiers are allowed a number of things not allowed to the soldiers of other countries. They are on a better establishment than any other troops in the world; and if we allow too high a pay, our finances will be exhausted too soon.

The question was put on the second of Mr. S. Smith's resolutions, and carried, there being 49 votes in favor of it.

Mr. Allen then proposed a resolution for augmenting the pay of non commissioned officers and privates to ——— dollars per month.

This motion was agreed to without opposition.

The committee then rose, and Mr. Harper renewed the motion for striking out eight regiments, and inserting twelve, and called the yeas and nays upon it. There were for it 40 yeas, and against it 40 nays, as follows:

Yeas—Jonathan Dayton, John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Demsey Burges, Christopher G. Champlin, Jas. Cochran, William Craik, Samuel W. Dana, George Dent, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Rutledge, jr., Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, and John E. Van Alen.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Stephen Bullock, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, John Dawson, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David

Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, John Reed, James Schureman, William Shepard, Samuel Smith, William Smith, Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The Speaker declaring himself in the affirmative, the question was carried for twelve. The resolutions were referred to a select committee to report a bill accordingly.

PUNISHMENT OF CRIME.

A bill was received from the Senate in addition to the act for the punishment of certain crimes against the United States, which was read the first time.

[This bill provides, that if any persons shall unlawfully combine or conspire together, with intent to oppose any measure of the Government of the United States, or to impede the operation of any law, or to intimidate or prevent any person holding an office under the Government from exercising his trust. And if any person shall, by writing, printing, or speaking, threaten such officer with any damage to his character, person, or estate, or shall counsel, advise, or attempt to procure any insurrection, riot, &c., whether such attempt shall have the desired effect, or not, he shall be deemed guilty of a high misdemeanor, and punished by a fine, on conviction, not exceeding $5,000, and by imprisonment not less than six months, nor exceeding five years. And if any person shall, by any libellous or scandalous writing, printing, publishing, or speaking, traduce or defame the Legislature of the United States, by seditious or inflammatory declarations or expressions, with intent to create a belief in the citizens thereof, that the said Legislature in enacting any law, was induced thereto by motives hostile to the Constitution, or liberties, and happiness of the people thereof; or shall, in manner aforesaid, traduce or defame the President of the United States, or any Court, or Judge thereof, by declarations tending to criminate their motives in any official transaction, the persons so offending, being convicted, shall be punished by a fine not exceeding $2,000, and by imprisonment not exceeding two years.]

Mr. Otis moved that it be read a second time.

Mr. Harrison called for the reading of the amendments to the Constitution.

The Speaker said, the only motion in order, if objections were made to the second reading of the bill, would be to reject the bill.

Mr. Livingston made that motion.

Mr. Allen.—I hope this bill will not be rejected. If ever there was a nation which required a law of this kind, it is this. Let gentlemen look at certain papers printed in this city and elsewhere, and ask themselves whether an unwarrantable and dangerous combination does not exist to overturn and ruin the Government by publishing the most shameless falsehoods against the Representatives of the people of all denominations, that they are hostile to free Governments and genuine liberty, and of course to the welfare of this country; that they ought, therefore, to be displaced, and that the people ought to raise an *insurrection* against the Government.

In the *Aurora*, of the 28th of June last, we see this paragraph: "It is a curious fact, America is making war with France for *not* treating, at the very moment the Minister for Foreign Affairs fixes upon the very day for opening a negotiation with Mr. Gerry. What think you of this, Americans!"

Such paragraphs need but little comment. The public agents are charged with crimes, for which, if true, they ought to be hung. The intention here is to persuade the people that peace with France is in our power; nay, that she is sincerely desirous of it, on proper terms, but that we reject her offers, and proceed to plunge our country into a destructive war.

This combination against our peace is extensive; it embraces characters whose stations demand a different course. Is this House free from it? Recollect what a few days ago fell from the very gentleman (Mr. Livingston,) who now so boldly and violently calls on us to reject this bill at the instant of its coming before us, without suffering it to be read a second time. The gentleman proposed a resolution requesting the President to instruct Mr. Gerry to conclude a treaty with the French Government; and declared that "he believed a negotiation might be opened, and that it was probable a treaty might be concluded which it would be honorable to the United States to accept. He did not wish to frustrate so happy an event by any punctilio, because they had refused to treat with three Envoys, but were willing to treat with one." This is in the very spirit of the malicious paragraph I just now read. It is pursuing the same systematic course of operations. The gentleman also said (what has not been published, however,) that "the commission of the Envoys being joint and several, Mr. Gerry had unquestionably ample powers to treat alone." Here are circumstances of what I call *a combination against the Government*, in attempts to persuade the people of certain facts, which a majority of this House, at least, and of the people at large, I believe, know to be unfounded. Who can say that Mr. Gerry has power to treat alone, or that the French Government is willing to treat with him on fair and honorable terms? Gentlemen do not believe either, let them say what they will. Does such a commission empower one to exercise the functions of the whole in opposition to the opinions of his colleagues? It would produce the most inextricable confusion. The severalty of the powers is well known always to be a provision against such accidents as may prevent or disable a part of the Commissioners from acting. I mention these things to show what false ideas gentlemen endeavor to imprers the public mind with on this subject.

I will take the liberty of reading to the House another paragraph from the same paper; and it comes from high authority. It is published as the

speech of the same gentleman, (Mr. Livingston,) when we were discussing the Alien bill a few days since, and I presume is correct. It is a precious disclosure of the principles of certain gentlemen. I will read but a part of it: "If there is, then, any necessity for the system now proposed, it is more necessary to be enforced against our own citizens than against strangers; and I have no doubt, that either in this, or some other shape, this will be attempted. I now ask, sir, whether the people of America are prepared for this? Whether they are willing to part with all the means which the wisdom of their ancestors discovered, and their own caution so lately adopted to secure their own persons? Whether they are ready to submit to imprisonment, or exile, whenever suspicion, calumny, or vengeance, shall mark them for ruin? Are they base enough to be prepared for this? No, sir, they will, I repeat it, they will resist this tyrannic system! The people will oppose, the States will not submit to its operation. They ought not to acquiesce, and I pray to God they never may. My opinions, sir, on this subject are explicit, and I wish they may be known; they are, that whenever our laws manifestly infringe the Constitution under which they were made, the people ought not to hesitate which they should obey. If we exceed our powers we become tyrants, and our acts have no effect. Thus, sir, one of the first effects of measures such as this, if they be not acquiesced in, will be disaffection among the States, and opposition among the people to your Government; tumults, violations, and a recurrence to first revolutionary principles. If they are submitted to, the consequences will be worse. After such manifest violation of the principles of our Constitution, the form will not long be sacred. Presently every vestage of it will be lost and swallowed up in the gulf of despotism; *but should the evil proceed no further than the execution of the present law*, what a fearful picture will our country present. The system of *espionage* thus established, the country will swarm with informers, spies, delators, and all that odious reptile tribe that breed in the sunshine of despotic power; that suck the blood of the unfortunate, and creep into the bosom of sleeping innocence, only to wake it with a burning wound. The hours of the most unsuspecting confidence, the intimacies of friendship, or the recesses of domestic retirement, afford no security. The companion whom you must trust, the friend in whom you must confide, the domestic who waits in your chamber, are all tempted to betray your imprudence or guardless follies, to misrepresent your words, to convey them, distorted by calumny, to the secret tribunal where jealousy presides, where fear officiates as accuser, and suspicion is the only evidence that is heard."

Sir, is this a just picture? The gentleman attempted, in this instance, to persuade the people, the acknowledged *citizens* and *natives* of this country, that the same principles which governed us in passing a law for sending away aliens of dangerous and suspicious character, would lead us to adopt the same measures with them, and he declares it to be more necessary. This, sir, was a foul calumny on the good people of the United States, or the gentleman has a more intimate acquaintance with treason and traitors than I had been ever in the habit of ascribing to him. The gentleman assumes the fact, and though it is expressly admitted on all hands, that a *citizen* cannot be sent away in that summary manner, he declares "he has no doubt we shall attempt it;" and then goes on to alarm the people with a portrait of that dreadful state of things that his fancy has conjured up; although I will boldly say he has, in truth, no such apprehension. "But (says he) should the evil proceed no further than the execution of the present law (against dangerous aliens) what a fearful picture will our country present;" and going on with a "fearful picture," indeed, he concludes with representing the poor inoffensive alien ("of dangerous and suspicious character," however) as being adjudged in "the secret tribunal where *jealousy presides*," but where the law says, "*the President* shall determine."

But, sir, in the same speech the people are instructed that opposition to the laws, that insurrection is a duty, whenever they think we exceed our Constitutional powers; but, I ask the gentleman, who shall determine that point? I thought the Constitution had assigned the cognizance of that question to the Courts, and so it has. But the attempt here is to evince, and the doctrine we know is openly avowed by members of this House, that each man has the right of deciding for himself, and that as many as are of opinion that the law is unconstitutional, have a right to combine and oppose it by force. The people I venerate; they are truly sovereign; but a section, a part of the citizens, a town, a city, or a mob, I know them not; if they oppose the laws, they are insurgents and rebels; they are not the people. The people act in their elections by displacing obnoxious Representatives, and by the irresistible force of their opinions; when the people wills, the Government is convinced and obeys. It is too manifest to admit of doubt or denial that the intention and tendency of such principles, are to produce divisions, tumults, violence, insurrection, and blood; all which are intended by the fashionable doctrine of modern times, which the gentlemen terms "a recurrence to first revolutionary principles," from which may God preserve us. Do we want another revolution in this country? But, sir, that a revolution is intended, I hope to convince you before I sit down. In the Aurora, of last Friday, we read the following:

"The period is now at hand when it will be a question difficult to determine, whether there is more safety and liberty to be enjoyed at Constantinople or Philadelphia?"

This, sir, is faithfully pursuing the system of the gentleman in announcing to the poor deluded readers of the factious prints, the rapid approach of Turkish slavery in this country. Who can doubt the existence of a combination against the real liberty, the real safety of the United States? I say, sir, a combination, a conspiracy against the Constitution, the Government, the peace and safe-

ty of this country, is formed, and is in full operation. It embraces members of all classes; the Representative of the people on this floor, the wild and visionary theorist in the bloody philosophy of the day, the learned and ignorant. And the paper from which I have so often read, with three or four others, furnish demonstrations without number of the truth of the accusation. Each acts its part: but all are in perfect unison. Permit me to read a paragraph from "The Time-Piece," a paper printed in New York:

"When such a character attempts by antiquated and exploded sophistry, by Jesuitical arguments, to extinguish the sentiment of liberty, 'tis fit the mask should be torn off from this meaner species of aristocracy than history has condescended to record; where a person without patriotism, without philosophy, without a taste for the fine arts, building his pretensions on a gross and indigested compilation of statutes and precedents, is jostled into the Chief Magistracy by the ominous combination of old Tories with old opinions, and old Whigs with new, 'tis fit this mock Monarch, with his Court, composed of Tories and speculators, should pass in review before the good sense of the world. Monarchies are seen only with indignation and concern; at sight of these terrible establishments, fears accompany the execrations of mankind; but when the champion of the well-born, with his serene Court, is seen soliciting and answering Addresses, and pronouncing anathemas against France, it shall be my fault if other emotions be not excited; if to tears and execrations be not added derision and contempt."

Gentlemen contend for the liberty of opinions and of the press. Let me ask them whether they seriously think the liberty of the press authorizes such publications? The President of the United States is here called "a person without patriotism, without philosophy, and a mock monarch," and the free election of the people is pronounced "a jostling him into the Chief Magistracy by the ominous combination of old Tories with old opinions, and old Whigs with new."

If this be not a conspiracy against Government and people, I know not what to understand from the "threat of tears, execrations, derision, and contempt." Because the Constitution guaranties the right of expressing our opinions, and the freedom of the press, am I at liberty to falsely call you a thief, a murderer, an atheist? Because I have the liberty of locomotion, of going where I please, have I a right to ride over the footman in the path? The freedom of the press and opinions was never understood to give the right of publishing falsehoods and slanders, nor of exciting sedition, insurrection, and slaughter, with impunity. A man was always answerable for the malicious publication of falsehood; and what more does this bill require?

In the Aurora, of last Tuesday, is this paragraph:

"Where a law shall have been passed in violation of the Constitution, making it criminal to expose the crimes, the official vices or abuses, or the attempts of men in power to usurp a despotic authority, is there any alternative between an abandonment of the Constitution and resistance?"

The gentleman (Mr. Livingston) makes his proclamation of war on the Government in the House on Monday, and this infamous printer (Bache) follows it up with the tocsin of insurrection on Tuesday. While this bill was under consideration in the Senate, an attempt is made to render it odious among the people. "Is there any alternative," says this printer, "between an abandonment of the Constitution and resistance?" He declares what is unconstitutional, and then invites the people to "resistance." This is an awful, horrible example of "the liberty of opinion and freedom of the press." Can gentlemen hear these things and lie quietly on their pillows? Are we to see all these acts practised against the repose of our country, and remain passive? Are we bound hand and foot that we must be witnesses of these deadly thrusts at our liberty? Are we to be the unresisting spectators of these exertions to destroy all that we hold dear? Are these approaches to revolution and Jacobinic domination, to be observed with the eye of meek submission? No, sir, they are indeed terrible; they are calculated to freeze the very blood in our veins. Such liberty of the press and of opinion is calculated to destroy all confidence between man and man; it leads to a dissolution of every bond of union; it cuts asunder every ligament that unites man to his family, man to his neighbor, man to society, and to Government. God deliver us from such liberty, the liberty of vomiting on the public floods of falsehood and hatred to everything sacred, human and divine! If any gentleman doubts the effects of such a liberty, let me direct his attention across the water; it has there made slaves of thirty millions of men.

At the commencement of the Revolution in France those loud and enthusiastic advocates for liberty and equality took special care to occupy and command all the presses in the nation; they well knew the powerful influence to be obtained on the public mind by that engine; its operations are on the poor, the ignorant, the passionate, and the vicious; over all these classes of men the freedom of the press shed its baneful effects, and they all became the tools of faction and ambition, and the virtuous, the pacific, and the rich, were their victims. The Jacobins of our country, too, sir, are determined to preserve in their hands, the same weapon; it is our business to wrest it from them. Hence this motion so suddenly made, and so violently supported by the mover, to reject this bill without even suffering it to have a second reading; hence this alarm for the safety of "the freedom of speech and of the press."

There is in this country a description of persons—a vast number of emigrants from a nation, of an open, frank, and generous temper, high-spirited and brave, containing, perhaps, some of the noblest characters of the human race. Coming, as these people do, from a country where they believe, at least, that a great degree of tyranny, individual as well as Governmental, exists, and where the passions of men are violently agitated; and coming to a country where virtue, morality, and good government, with great humanity exist,

to seek an asylum for themselves and their posterity, hear how these vile assassins of our country's peace address them. It is directed, "to Irish emigrants, and particularly to that class denominated aliens."

"An alien bill is on its passage. The provisions of this bill are apparently general, but they will bear particularly hard on you. By this law the President of the United States is vested with a discretionary power of seizing on, confining or transporting your persons beyond the territories of the United States, and, if I mistake not, if your purses will admit of it, you will be obliged to defray all the expenses of your seizure and transportation. This is a new species of smart-money. By this law your personal liberty is subject to the caprice of an individual, and this, in turn, will very much depend on the system of espionage which will be unremittingly pursued by those heroes of despotism, the old Tories. As many of you are not acquainted with the meaning of the word "alien," I will give you a definition of it, together with an enumeration of the disabilities to which an alien is subject. An alien, then, is one that is born out of the dominion of the United States. His property is taxed towards the support of Government, although he is not entitled to vote for the Representative who is to tax him, consequently his money is taken from him without his consent. During your residence in the United States you are subject to the laws, although, by the alien bill, you are expressly deprived of the benefits of them. Is not this bill an infraction of the treaty between England and this country? A bill has passed the House of Representatives for raising a provisional army of ten thousand men. It is generally understood that aliens will be most graciously permitted to enlist and shed their blood in the defence of the rights and property of others. What! fight in defence of others, in defence of the very men who have disabled you from becoming even political hewers of wood and drawers of water! If the drill-serjeants should apply to you to enlist and to become Alexanders, at a few dollars per month, remind them of your situation, and refer them to those who have an interest in the soil, who have rights and property to defend. Let those compose the army of defence. Ask the recruiting officer, if it be reasonable to expect that you should fight in defence of a country which has so unjustly and ungratefully proscribed you?"

Thus, Sir, under the hypocritical pretence of warning these honest men of a supposed danger, professing, in their benevolence, (excellent creatures!) to instruct the ignorant and to guide the blind, they mislead them, and inflame their passions against our Government and against our country. Taking advantage of their belief that the French are seeking the relief of their countrymen in Ireland, they endeavor to persuade them that they ought not to defend this country against invasion. The intention is to prepare them, these honest Irishmen, not only not to defend this country, but to join our enemy: nothing is more true, in such a case, than the Scripture declaration: "he that is not with us is against us." The intention is to swell the ranks of our foes with these brave fellows, the moment they make their appearance. We are represented as hostile to them, of course they will become hostile to us; and can we make no laws to prevent such effects? The idea is ridiculous. If we have not this power, away with such a Government, it is not worth preserving; it cannot stand; it contains the seeds of a swift and sudden dissolution. This paper (the Aurora) is the great engine of all these treasonable combinations, and must be strongly supported, or it would have fallen long ago.

Mr. W. Claiborne interrupted Mr. A., and asked him whether he did not subscribe for it, and so become one of its supporters?

I do, said Mr. A. I take it under the rule of this House at the public expense; I take it for the purpose of seeing what abominable things can issue from a genuine Jacobinic press; but this is not supporting it with my name and influence; this is not giving it the authority of my opinions; I do not walk the streets arm-in-arm, I hold no midnight conference, I am not daily and nightly closeted with its editor. I say, sir, this paper must necessarily, in the nature of things, be supported by a powerful party; I do not say of whom that party is composed. The anonymous pieces and paragraphs it contains, evince the talents and industry employed to give it currency; and it is perfectly well understood, by all parties and persons, to contain the opinions of certain great men, and certain gentlemen in this House. This inflammatory address to the Irishmen, is, therefore, understood by them to come clothed with high authority. This is the work of a party; this paper is devoted to party; it is assiduously disseminated through the country by a party; to that party is all the credit due; to that party it owes its existence; if they loved the peace of our Zion, if they sought the repose of our country, it would cease to emit its filth; it has flourished by their smiles; it would perish at their frowns.

I wish there were no other species of writings which aim at the overthrow of this Government, and calculated to excite the deeds of death. But, sir, members of this body are in the habit of writing to their constituents things which they cannot justify; or there are men wicked enough to forge such letters, and send them in their names, either of which I contend, is highly evidential of those treasonable combinations and calumnies which this law is intended to prevent or punish; but I hope, for the honor of human nature and of our country, they are foreigners. The committee will pardon me for reading a part of one which appeared in the Aurora a few days ago. It is entitled,

"Interesting letter from a Member of Congress from Virginia to his constituents."

After many comparisons of our Government with that of England, the learned writer says:

"Nor are we left altogether to conjectural events, arising out of a comparison of the general structure of the Government of England with that of the United States; there are special facts in our own affairs that evidently imply a tendency to similar abuses in the conduct of our Government.

"The public debt has been studiously augmented and funded, according to the mystery and intricacy of English finances; we have been annually familiarized to the system of loans and funds; and we have a bank connected with Government in its being and in its transactions. The nature of these institutions, and their political effects, already discernable in this country, and brought to full form and maturity in England, plainly prove their great fitness and agency in producing a dangerous preponderance of Executive power; the Executive is regularly supported by a party in both Houses of Congress on every questionable case respecting its powers or its projects for expense," &c.

A Representative of the people has committed to him a trust of the highest nature; his obligations are of the most solemn kind; an awful responsibility rests upon him to deal with his constituents in the sincerity of his heart. How could a member of this House seriously inform his constituents that "the public debt has been studiously augmented?" He knew the reverse to be true; how he could say anything else this letter contains I cannot imagine. His object must be to inflame his constituents against the Government, though at the expense of all truth. But, sir, we do know that very many of such letters have been sent into a particular quarter of the Union; and we cannot be surprised at the opinions there entertained of the Government and its administration. Gentlemen, by such measures, are planting thorns under their dying pillows. If this country is brought into a civil war, of which there is too much danger, let gentlemen lay it well to heart; I beseech them now to inquire with themselves, what they have done by such letters to contribute to that calamitous event?

If these things are true; if we have so betrayed the interests of our constituents; if we are so seeking to bring a despotism on this country, we ought to be hurled from our seats, and give place to better men; we ought to be hurled to that punishment which would most justly await us. No gentleman believes them, however; no gentleman believes that every sense of moral obligation is set at naught in this House, and that we forget all that we owe to our constituents. Such representations are outrages on the national authority, which ought not to be suffered; and I have no doubt that Congress have power to remedy the evil. If it be determined that we have not this power, the people will certainly vest it in the Congress, for no Government can exist without it; it is inherent in every Government, because it is necessary to its preservation.

As to the *details* of the bill, the forms of the House do not admit of discussing them; I will not pledge myself to vote for them as they stand; I am inclined to think they require amendments; but the gentleman (Mr. Livingston) and his friends seem disposed to prevent our going further with this bill; they are not willing we should look into the details, correct them, and render them unobjectionable; no, they say, reject it at once without discussion. Sir, I hope we shall go into a Committee of the Whole, and sincerely set ourselves at work to make it what it *ought to be*, if, it is not so now.

Mr. Harper said, if, in voting against the rejection of this bill, his vote should be considered as giving his assent to all its provisions, it would be misunderstood. He thought it right and necessary to make a law on the subject; but not exactly such a law as the present, his particular objections to which he should make known when the subject was fully before him. He should vote against a rejection of the bill, because to vote for it, would be to declare that no law ought to be passed to restrict seditious writing and speaking, which was not his opinion.

He had often heard in this place, and elsewhere, harangues on the liberty of the press, as if it were to swallow up all other liberties; as if all law and reason, and every right, human and divine, was to fall prostrate before the liberty of the Press; whereas, the true meaning of it is no more than that a man shall be at liberty to print what he pleases, provided he does not offend against the laws, and not that no law shall be passed to regulate this liberty of the press. He admitted that a law which should say a man shall not slander his neighbor would be unnecessary; but it is perfectly within the Constitution to say, that a man shall not do this, or the other, which shall be injurious to the well being of society; in the same way that Congress had a right to make laws to restrain the personal liberty of man, when that liberty is abused by acts of violence on his neighbor.

He remembered a very respectable authority in this country (Dr. Franklin) had said, in an essay of his, called "the Court of the Press," that the liberty of the press could never be suffered to exist without the liberty of the cudgel; meaning no doubt to say, that as the use of the latter must be restrained, so must also the former, or else human life would be deplorable. Nor would the rational liberty of the press be restricted by a well defined law, provided persons have a fair trial by jury; but that liberty of the press which those who desire, who wish to overturn society, and trample upon everything not their own, ought not to be allowed, either in speaking or writing, in any country.

Mr. H. knew the liberty of the press had been carried to a very considerable extent in this country. He had frequently seen private character vilely calumniated; he had himself come in for a share of abuse, but he had always despised the base calumniators, believing that a man's propriety of conduct would always be sufficient to shield him against these slanders. When he saw the President of the United States and the Government of the Union defamed, he still despised them, and he believed also that the people were not affected by them, because he saw they did not rise in insurrection against the Government; and if they had not believed that all the things which were said respecting the Government were vile falsehoods, he should have thought the people the most wretched fools, had they not risen against it.

Whilst this abuse was confined to certain newspapers in the United States, it excited in him, therefore, no alarm; but, when he heard a gentleman on the floor of this House, whose character and connexions gave him weight with the people, pronouncing an invective against the Government, and calling upon the people to rise

against the law, the business put on a very serious appearance; he thought so, not because he should wish to have that gentleman muzzled (for he knew he had the liberty of uttering as much treason as he pleased, and that if his own sense of propriety and decorum was not sufficient to check him, there was no other check upon him,) but because this speech may have a very different effect from the filthy streams of certain newspapers; it may gain a credit with the community, and produce consequences which all former abuse has failed to do. It is time, therefore, for the Government to take alarm; the long forbearance which it has shown ought to come to an end, since all its acts are represented in the vilest and foulest colors; and now they are sanctioned by the assertions of a person high in respectability, (he meant as to his situation in life,) and a law ought to pass to prevent such invitations as had been given to the people from producing their intended effects. It was for this reason that he wished a law to pass to punish treasonable and seditious writings.

But the evil was not confined to speeches in this House. He had once before called the attention of the House to a letter of a member of this House, and calculated to excite those insurrections, which had heretofore been excited by other means. He had lately seen another, under a signature which he knew. In this letter the most vile coloring is given to measures, and the most abominable motives are imputed to members, contrary to what the writer knew to be the truth at the time. When the signatures of members are thus affixed to the most abominable falsehoods, what effect may they not produce? It was well known that other countries had been turned upside down by such vile practices. Governments had been compelled to become tyrannical, in order to prevent the most deplorable calamities. And why? Because the seditious spirit which appeared in respectable quarters, was too long disregarded. If energetic laws had been passed in time, those deplorable effects would not have followed. He trusted they would not take place here. He hoped the most daring attempts to sow discontent among the people will now prove as ineffectual as they have heretofore done. He trusted the good sense and patriotism of the people would be their shield. He believed this, but he did not know it would be the case, and lest it should not, he wished a bill of this kind to pass.

Mr. Nicholas was sorry this motion had been made, because it prevents members from going into the modification of the bill, which he was convinced would completely exemplify the folly of the principle; but until gentlemen saw what form the bill was finally to take, it was impossible to speak with precision on its merits; because if the declarations of the gentlemen from Connecticut and South Carolina were attended to, it would be found they are most afraid of the speeches and letters of gentlemen in this House. They acknowledge, however, they cannot prevent members from speaking what they please here. What, then, is their aim? Do they mean to prevent the publication of their sentiments to their constituents and to the world? If this was not their intention he could not tell what it was?

There was one general view of this subject, which Mr. N. took to be the most momentous that this country ever saw. He was ready to go with gentlemen into measures for affording a liberal support to the war, which it appears must be gone into; but he was not ready to create a *domestic tyranny*. The people of this country are competent judges of their own interests, and he was desirous that the press should remain perfectly free to give them every information relative to them; and to restrict it, would be to create a suspicion that there is something in our measures which ought to be kept from the light. It was striking at the root of free republican Government, to restrict the use of speaking and writing. He wished, however, to see the bill put into such a shape as the friends of it themselves might approve.

Mr. Livingston said, after receiving the chastisement of the gentleman from Connecticut on one cheek, he, like a good Christian, had turned the other to the gentleman from South Carolina, and received the stripes of both. He expressed his acknowledgments to these gentlemen, however, if not for their chastisement, for the insight which they have given the House into this bill. They have said, its design is not only to restrict the liberty of the press, which is secured by the Constitution, but the liberty of speech on this floor. The gentleman from South Carolina did not say explicitly that he wished this; but he said he was regardless of what was said in the public papers, either of private or personal slander, or of a slander on the Government, until he heard a certain speech delivered in this House; and though he said he did not intend to restrict the liberty of speech in this House, he must have had something of the kind in view. [Mr. Harper said it was not his intention to restrict the freedom of speech on that floor, but the consequences of it out of doors.] Then, said Mr. L., he will either restrict the members from speaking, or, in some way, prevent the people from knowing what has been said. How is this to be done? By shackling newspapers, and preventing that free communication of sentiment which has heretofore been expressed on public topics.

The gentleman from Connecticut had been pleased to read a quotation from some observations which he had made on a former occasion, which that gentleman thought highly blameable. Mr. L. said what he had read, he avowed to be his sentiments. He avowed them with pride, and he trusted he should always avow them with pride. Nor could he see how acts made contrary to the Constitution could be binding upon the people; unless gentlemen say Congress may act in contravention to the Constitution. [Mr. Otis asked who were to be the judges?] Mr. L. answered, the people of the United States. We, said he, are their servants, when we exceed our powers, we become their *tyrants!*

This is one object of complaint; the other is

against newspaper publications. The gentleman from South Carolina has said, that provided the law is clear and well defined, and the trial by jury is preserved, he knew of no law which could infringe the liberty of the press. If this be true, Congress might restrict all printing at once. We have, said he, nothing to do but to make the law precise, and then we may forbid a newspaper to be printed, and make it death for any man to attempt it!

If this be the extent to which this bill goes, it is not only an abridgment of the liberty of the press, which the Constitution has said shall not be abridged; but it is a total annihilation of the press. Were he then to withdraw his motion, he should consider himself guilty of treason; by his consent, so unconstitutional a measure should not progress an inch. However unsuccessful he might be, he would oppose it in every stage.

Mr. Otis supposed the opposition to this bill arose chiefly from prejudice, as gentlemen could not be so well acquainted with the bill from hearing it once read, as to say there are no parts of it which ought to become law. He had not nicely examined the merits of this bill, but he heard that it contained several important provisions, and he should certainly be opposed to a rejection of it without a perusal. To vote for such a motion, would be to say, we will not examine the bill; and yet he believed there was nothing in it contrary to the common law of the several States of the Union.

Mr. Macon had no doubt on his mind that this bill was in direct opposition to the Constitution; and that if a law like this was passed, to abridge the liberty of the press, Congress would have the same right to pass a law making an establishment of religion, or to prohibit its free exercise, as all are contained in the same clause of the Constitution; and, if it be violated in one respect, it may as well be violated in others. Several laws had been passed which he thought violated the spirit, but none before this which directly violated the letter of the Constitution; and, if this bill was passed, he should hardly think it worth while in future to allege against any measure that it is in direct contradiction to the Constitution.

Laws of restraint, like this, Mr. M. said, always operate in a contrary direction from that which they were intended to take. The people suspect something is not right, when free discussion is feared by Government. They know that truth is not afraid of investigation.

If, said Mr. M., the people are so dissatisfied with Government as some gentlemen would have it believed, but which he did not credit, by passing a law like the present you will force them to combine together; they will establish corresponding societies throughout the Union, and communications will be made in secret, instead of publicly, as had been the case in other countries. He believed the people might be as safely trusted with free discussion, as they whom they have chosen to do their business.

It was a most extraordinary thing, Mr M. said, that, at a time like this, when some gentlemen say we are at war, and when all believe we must have war, that Congress are about to pass a law which will produce more uneasiness, more irritation, than any act which ever passed the Legislature of the Union.

No gentleman, in support of the bill, has gone into the Constitutional question; no one has shown what part of the Constitution will authorize the passage of a law like this. He believed none such could be adduced.

The gentleman from Massachusets (Mr. Otis) has said, this bill is conformable to the common law. He knew persons might be prosecuted for a libel under the State Governments; but if this power exist in full force at present, what necessity can there be for this bill?

The gentleman from Connecticut had read from a newspaper a paragraph which said, "that the Federalists are seeking to destroy the liberty of the press;" but if this bill pass, he would venture to say, that where that is heard once now, it will be heard a hundred times then. The idea of abridging the liberty of the press would be so abhorrent to the feelings of the people of this country, that he could not say what would be the effect of it. This subject had been so well handled by our Envoys in their reply to Mr. Talleyrand, that he wondered an attempt of this kind should have been made. Nothing which he could say would be half so well said as were their observations on this subject. They met with his entire approbation.

Much had been said about a certain paper printed in this city. He believed if anything appeared which was unfounded in that paper, it would always be contradicted in another. It is well known there are papers on both sides the question, and if you say you have read one; you are generally asked if you have seen the other? Without saying anything in praise of any paper, he thought there were at least as many *lies* in two other papers, as there ever were in the one which had been alluded to.

Mr. M. regretted that when Congress is about to rise, they should have had a subject of this kind brought before them. When we are about to change our state from peace to war, a discussion which was calculated to excite the irritation which this could not fail to produce, would add nothing to our strength, and he could himself see no necessity for it, provided there was no objection against it on Constitutional ground.

Whenever we went over the water for precedents, Mr. M. said, we reason from a people in a very different situation from that of Americans. The people of this country, almost to a man, understand the nature both of the State and Federal Governments, which could not be said of the great bulk of the people in Europe, who do not trouble themselves about the concerns of Government. The people here will, therefore, much sooner discern and repel any encroachments upon their liberty, of which they, as freemen, ought to be extremely jealous.

Mr. McDowell was in hopes that when the third article of the amendments to the Constitution had been read, that the unconstitutionality of

this bill would have been so evident, that it would have been rejected without debate.

Mr. McD. was sorry that the gentleman from Connecticut should have thought it necessary to have taken up so much of the time of the House by reading paragraphs from newspapapers, which everybody had seen; but it might have been expected after the gentleman had taken so much pains to villify and abuse the printer of one of the papers of this city, a citizen of respectable character and connexions, that he should have taken at least some notice of another, called the British printer, who boasts of being a subject of King George, and who is generally supposed to be in the pay of the British Minister—whose paper contains more libels and lies than any other in the United States, and who notwithstanding is countenanced by characters whom he was sorry to see have any connexion with such a man; whose constant daily business it is to abuse, and render ridiculous, every member of our Government who does not in everything fall in with British views.

As to what had been said with respect to the circular and other letters of members which have been published, he had seen some of them and heard of others. It was not anything which the gentleman from South Carolina could say, which would prevent him from speaking and writing his sentiments freely. The gentleman from South Carolina said he had seen a letter in the papers the signature of which he knew. He should be glad to know where he saw the signature to know it? He had seen a letter in Fenno's paper, signed *Mc Dowell*, followed by some violent strictures on the letter, and on the author. The letter he owned to be his, but the insinuations contained in the observations upon it were as false as they were malicious.

Mr. HARPER said, he knew the gentleman wrote the letter in question; but he would assure him he did not see it under seal, nor did he break the seal, or write the strictures upon it.

Mr. GALLATIN wished that the bill had been committed before any debate had taken place, as, in its present stage, any observations on details susceptible of amendment would be out of order; and he must now confine himself to the general question "Does the situation of the country, at this time, require that any law of this kind should pass? Do there exist such new and alarming symptoms of sedition, as render it necessary to adopt, in addition to the existing laws, any extraordinary measure for the purpose of suppressing unlawful combinations, and of restricting the freedom of speech and of the press? For such were the objects of the bill, whatever modifications it might hereafter receive.

The manner in which the principle of the bill had been supported, was perhaps more extraordinary still than the bill itself. The gentleman from Connecticut, (Mr. ALLEN,) in order to prove the existence of a combination against the Constitution and Government, had communicated to the House—what? a number of newspaper paragraphs; and even most of those were such as would not be punishable by the bill as it now stands. The object of that gentleman in wishing a bill of this nature to pass, extended far beyond the intention of the Senate who had sent down this bill; far beyond, he would venture to say, the idea of any other member upon this floor, besides himself. His idea was to punish men for stating facts which he happened to disbelieve, or for enacting and avowing opinions, not criminal, but perhaps erroneous. Thus one of the paragraphs most obnoxious to the gentleman from Connecticut, was that in which the writer expresses his belief that Mr. Gerry may yet make a treaty with the French Government, his powers being sufficient for that purpose. [Mr. ALLEN said, his charge was against persons making this assertion, when they knew it to be unfounded.] Mr. G. said, he did not understand the gentleman's explanation. He now says that the act he condemns is the assertion of a fact, which may be true, but which the writer himself disbelieves: and thus he wished to punish such men as, according to his caprice, he may suppose guilty of expressing opinions not consonant with their own sentiments. For by what rule of evidence could he discover and know what was really the writer's belief; But, to return, was there any thing criminal in that paragraph: It asserted that Mr. Gerry had powers sufficient to treat. The gentleman from Connecticut denies this to be true. Mr. G. would aver that it was an undeniable fact, as appears evidently from the documents now on the table. They showed that the powers given to the Envoys were joint and several. And, if Mr. Gerry had powers to treat, how could it be criminal to say that he might treat? Or supposing the writer of the paragraph to have said, that he believed Mr. Gerry would treat, could the opinion be charged with anything but being erroneous? When a paragraph of this nature was held out as criminal, what writings, what opinions, could escape the severity of the intended law, which did not coincide with the opinions, and which might counteract the secret views of a prevailing party?

The gentleman from Connecticut had also quoted an extract of a letter said to be written by a member of Congress from Virginia, and published in last Saturday's Aurora. The style and composition of that letter did the highest honor to its writer. It contained more information and more sense, and gave more proofs of a sound understanding and strong mind, than ever the gentleman from Connecticut had displayed, or could display on this floor. So far he would venture to say, although he had given but a cursory reading to the letter, and he was altogether at a loss to know what was criminal in it, though he might easily see why it was obnoxious. Was it erroneous or criminal to say that debts and taxes were the ruinous consequences of war? Or that some members in both Houses of Congress uniformly voted in favor of an extension of the powers of the Executive, and of every proposed expenditure of money? Was it not true? Gentlemen of that description avow that, in their opinion, the Executive is the weakest branch of Government; and they act upon the ostensible principle that, on that account, its influence and powers must be increased. Look at

the laws passed during this session. Look at the alien bill, at the provisional army bill, look at the prodigious influence acquired by so many new offices, and then deny that the powers of the Executive have not been greatly increased. As to the increased rate of expenditure, and the propensity of these gentlemen to vote money, they would not themselves deny it. Was it criminal to say that the Executive is supported by a party? when gentlemen declared that it must be supported by a party. When the doctrine had been avowed on this floor that men of a certain political opinion, alone ought to be appointed to offices; and when the Executive had now adopted and carried into practice that doctrine in its fullest extent?

Mr. G. acknowledged that some of the newspaper paragraphs quoted by Mr. ALLEN were of a very different nature from that letter. One of them, taken from the *Timepiece*, was extremely exceptionable; most of them contained sentiments different from his own, and expressed in a style he never would adopt. Yet in almost every one of them there was a mixture of truth and error; and what was the remedy proposed by the gentleman from Connecticut, in order to rectify and correct error? Coercion: a law inflicting fine and imprisonment for the publication of erroneous opinions.

Was the gentleman afraid, or rather was Administration afraid, that in this instance error could not be successfully opposed by truth? The American Government had heretofore subsisted, it had acquired strength, it had grown on the affection of the people, it had been fully supported without the assistance of laws similar to the bill now on the table. It had been able to repel opposition by the single weapon of argument. And at present, when out of ten presses in the country nine were employed on the side of Administration, such is their want of confidence in the purity of their own views and motives, that they even fear the unequal contest, and require the help of force in order to suppress the limited circulation of the opinions of those who did not approve all their measures. One of the paragraphs says, that it will soon become a question whether there will be more liberty at Philadelphia or Constantinople. The gentleman from Connecticut bitterly complains of this, as insinuating that some persons in Government intend to establish a despotic power; and in order to convince the writer of his error, that gentleman not only supports the bill, but avows principles perfectly calculated to justify the assertions contained in the paragraph. [Mr. ALLEN said, he stated all these things to show the temper of certain seditious persons in the United States.] Mr. G. remarked that if the gentleman from Connecticut, by that explanation, meant to say that the paragraphs he had quoted were not criminal, but only evidences of a general seditious temper, it was extraordinary that in order to prove the existence of certain criminal combinations, which, in his opinion, it was necessary to punish, he had brought in evidence only writings which he now acknowledged ought not to be punished. But, at all events, that gentleman supposed the existence of a certain seditious spirit, which in his opinion ought to be crushed.

And how has that seditious spirit been exhibited? The only evidences brought by the supporters of this bill consist of writings expressing an opinion that certain measures of Government have been dictated by an unwise policy, or by improper motives, and that some of them were unconstitutional. This bill and its supporters supppose, in fact, that whoever dislikes the measures of Administration and of a temporary majority in Congress, and shall, either by speaking or writing, express his disapprobation and his want of confidence in the men now in power, is seditious, is an enemy, not of Administration, but of the Constitution, and is liable to punishment. That principle, Mr. G. said, was subversive of the principles of the Constitution itself. If you put the press under any restraint in respect to the measures of members of Government; if you thus deprive the people of the means of obtaining information of their conduct, you in fact render their right of electing nugatory; and this bill must be considered only as a weapon used by a party now in power, in order to perpetuate their authority and preserve their present places.

The gentleman from Connecticut had concluded his observations by stating that he could not conceive how gentlemen could day after day hear or read such abusive and seditious pieces and rest quietly on their pillows. He would give to that gentleman a piece of information that would diminish his astonishment. He had himself heard day after day the illiberal abuse poured from several quarters of this House against himself and his friends; he had heard the grossest and most abusive language from the lips of that gentleman; nay, he had heard the most seditious expressions falling from him; he had heard him say, that if gentlemen on this floor did not adopt certain measures, he knew that the people would soon come and compel them to act. And yet, he could assure that gentleman, that torrent of sedition and personal abuse had never deprived him of an hour's sleep.

The gentleman from South Carolina (Mr. HARPER) had taken a different ground. He had stated that he did not apprehend any serious mischief from the present licentiousness of the press until he had heard the speech of a member from New York (Mr. LIVINGSTON) inviting the people to resist a law of Congress. That gentleman had forgotten that the bill which he now meant to support, could suppress and punish only that licentiousness of which he declared he was not afraid, and could not reach speeches of members of Congress, which, by the Constitution, could not be noticed out of these walls. This was the first attack made upon a speech delivered in this House, but what, from the gentleman from South Carolina, he had, for some time expected; for, in his career, after having grossly attacked members first for writing circular letters, and then on account of their private correspondence, the next step must be to make their speeches the foundation of a sedition law. As to the speech itself, so far as he had heard the expressions alluded to, it was not

an invitation to the people, or an opinion that the people should oppose the alien bill itself as unconstitutional; but merely a general position that they had a right to resist, and would resist unconstitutional and oppressive laws. He believed that doctrine to be strictly correct, and neither seditious or treasonable. The opposite doctrines of passive obedience and non-resistance had long been exploded. America had never received them. America had asserted the right of resisting unconstitutional laws, and the day we were celebrating yesterday (4th of July) is a monument of that right. When and how such a right should be exercised, was a different and delicate question. It is a question to be decided by motives of prudence and by principles of morality. It is a question which America had once decided in the affirmative. It is a right to which they may, perhaps, in the course of events be again obliged to resort. God forbid that we should ever see that day! But it is above all in the power of Government to avert such an evil by refraining from unconstitutional and arbitrary laws. Mr. G. added that he was one of those who had the most sincere and strong conviction impressed on his mind that the alien bill was unconstitutional. [The Speaker said, that was not the question.] Mr. G. said, that he was not going to make any remarks on that law, or any that could by any one be supposed to be out of order. He meant only to state that, notwithstanding that conviction, his opinion was that an appeal must be made to another tribunal, to the Judiciary in the first instance, on the subject of a supposed unconstitutional law; and that even where no redress could be obtained, he did not think that law alone, and in itself, sufficient to justify resistance and opposition even in those who thought it unconstitutional.

Mr. G. concluded by observing, that he had considered only the general object of the bill on the table, on a supposition that it might be modified so as to be rendered consonant with the Constitution. The object of the first section was to punish unlawful combinations, resistance to laws, and other crimes and misdemeanors, all of which were already punishable, and had in some instances actually been punished by the Courts of the United States. That section, therefore, is altogether useless. In order to prove the necessity of the second section, which went to impose restraints on the liberty of speech and of the press, it was at least necessary to prove the existence of a seditious disposition amongst the people. The supporters of the bill had been unable to bring a single fact before this House, in support of that position. So long as they were compelled to resort only to newspaper paragraphs and speeches on this floor, in order to show the absolute necessity of passing sedition laws, he thought it useless to investigate more deeply the principles of this bill, and he trusted the weakness of their arguments would afford a sufficient proof to this House of the weakness of their cause, and was sufficient to insure a rejection of the bill.

Mr. Dana did not propose to enter into any controversy respecting the honor which some gentlemen seemed disposed to arrogate to themselves, on account of certain sentiments which they have avowed. If any members of that House were ambitious of being distinguished as heralds of calumny and apostles of insurrection, it might serve to show how incorrect were their ideas of what is truly honorable.

Neither was it his intention to answer all the remarks of gentlemen in opposition to the bill, or to go into a critical examination of its details. In his opinion, such a discussion would be improper on the question then under debate; which was, whether the bill should be rejected without a second reading. Whatever objections might be made to its details, these would be liable to amendments after it should again be read and referred to the Committee of the Whole. The leading principles of the bill, therefore, were what he intended to notice.

The bill has two objects in view—it proposed to punish conspiracies and calumnies against the Government. Against this bill, the freedom of speech and of the press has been insisted on; and the bill has been condemned as violating one of the articles adopted as amendments to the Constitution. Why is the gentleman from Pennsylvania so very anxious on the subject? Or is it abridged by a law to restrain lying? Could the framers of the Constitution intend to guarantee, as a sacred principle, the liberty of lying against the Government? What do gentlemen understand by "the freedom of speech and of the press?" Is it a license to injure others or the Government, by calumnies, with impunity?

Let it be remembered, that the uttering of malicious falsehoods, to the injury of the Government, is the offence which it is now intended to restrain; for, if what is uttered can be proved true, it will not, according to this bill, be punished as libellous. What, then, is the rational, the honest, the Constitutional idea of freedom of language or of conduct? Can it be anything more than the right of uttering and doing what is not injurious to others? This limitation of doing no injury to the rights of others, undoubtedly belongs to the true character of real liberty. Indeed, can it, in the nature of things, be one of the rights of freemen to do injury? Let gentlemen consult any writer of established reputation on this subject; let them examine the Constitution of their own favorite "terrible" Republic! they will not find the ideas of liberty extended to that indefinite latitude which they advocate on this floor.

However, if there are gentlemen who seriously and conscientiously believe that it would be violating the Constitution to restrain abuses of the press, by punishing the guilty; if there are gentlemen who believe that malicious calumnies against the Government ought to be uttered and published with impunity, such gentlemen ought certainly not consent to act further upon this subject. Mr. D. was of a different opinion. He believed that the editor of a newspaper, like the writer of a public history, in the execution of his office, should dare to utter what is true, and dread to utter anything that is false. Considering, therefore, that the liberty of lying, the privilege of vice, is what is truly intended to be corrected by this bill, how is it possible that gentlemen should appear so anxious to excite clamor against it? For himself, Mr. D. wanted not the liberty of calumny or of conspiracy, and was in favor of the principle of the bill.

Mr. Nicholas said, the determining a political question, true or false, would rest upon a variety of considerations; and the doctrine, in its extent, would have the effect to suppress useful truths. As to falsehood, he believed the opposers of this bill are as incapable of it, or of supporting it, as the gentleman from Connecticut, or any other.

Mr. Harper explained.

Mr. Craik said, he should vote against the rejection of this bill, because he wished to see it and examine it, and not because he meant to vote for it at all events. If he thought it went to prevent the freedom of debate, or to hinder members from communicating freely with their constituents, or to restrain the publication of the debates, he would be for rejecting it; but, not believing it went to restrain any of these things, he wished to have an opportunity of seeing the bill, and of hearing its merits discussed.

Mr. Kittera said, gentlemen's arguments were at war with each other. On one side it is said, this bill is a violation of the Constitution; on the other, it is said to be founded on common law principles. If the latter is true, it may be wise and proper to pass this bill. It was wise in all Governments to have the people well informed with respect to crimes on common law principles. It was desirable on another account: It had lately been advanced as an opinion by law gentlemen in the Federal Courts, that those Courts have not a common law jurisdiction in criminal cases. If so, it is important to pass a bill on the subject.

The question on rejecting the bill, was taken by yeas and nays—yeas 36, nays 47, as follows:

Yeas—David Bard, Lemuel Benton, Thos. Blount, Demsey Burges, Thomas Claiborne, William C. C. Claiborne, John Clopton, John Dawson, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Jas. Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, Geo. Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Mr. Allen laid a resolution upon the table to the following effect:

"*Resolved*, That a committee be appointed to consider upon the expediency of declaring, by Legislative act, the state and relation subsisting between the United States and the French Republic."

Friday, July 6.

A bill was received from the Senate to amend the act for the sale of land of the United States in the territory northwest of the river Ohio; which, on motion of Mr. Harper, was postponed till next session of Congress.

Mr. S. Smith, from the committee appointed on the subject, reported a bill to augment the Army of the United States; which was twice read, and committed to a Committee of the Whole.

PUNISHMENT OF CRIME.

Mr. Harper said, that when the bill from the Senate, in addition to the act for punishing certain crimes against the United States, was yesterday under consideration, he had given it as his opinion that, before he could agree to it, he should wish it to undergo considerable alteration. He did not believe these alterations could be so well made in a Committee of the Whole as in a select committee; he, therefore, moved to discharge the Committee of the Whole from the further consideration of the bill, in order to refer it to a select committee.

Mr. McDowell did not think this bill ought to pass in any form that could be given to it. He hoped no further time would be lost with it; but that the House would immediately go into a committee upon it.

Mr. Thatcher liked the bill very much, and hoped it would pass with very little amendment; he thought it good in all its parts. If any amendment was wished, however, it might be made in the Committee of the Whole as well as in the select committee.

Mr. Isaac Parker saw no necessity for sending the bill to a select committee.

Mr. Gallatin wished to know whether the committee, to whom had been re-committed a bill of this nature, entitled a bill for the restraint and prevention of seditious persons, had considered that subject, or whether they meant to make any report? Perhaps it would be proper to recommit this bill, and have a report on both together.

Mr. Sewall said, the committee had generally considered the subject; but, as that bill is pretty much the same as this, the committee, he presumed, would not think it necessary, if this bill was agreed to, to recommend the passage of that bill at all.

The motion was negatived—15 votes only for it.

ADDITIONAL NAVAL ARMAMENT.

Mr. Sewall called the order of the day on the bill making further appropriation for the additional naval armament.

The House went into a committee on the sub-

ject, and the blank for the appropriation was filled with $600,000. It was ordered to be read a third time to-morrow.

STATE BALANCES.

Mr. Harper called up the resolution which he laid upon the table some days ago, in the following words:

"*Resolved*, That when any State, against which a balance was reported by the Commissioners appointed to settle the accounts between the United States and the individual States, shall have expended, in money, or in stock of the United States at par, the amount assumed for such State by the United States, in erecting, enlarging, or completing the fortifications which such State, according to plans to be approved by the President of the United States, such expenditure shall be received and accepted by the United States, as a full acquittance for all demands against such State, on account of the balance so reported."

This resolution was referred to Messrs. Harper, Gallatin, and Livingston, to report thereon.

SEDITIOUS WRITERS.

Mr. Harper proposed the following resolutions, which he moved to be referred to a Committee of the Whole on the state of the Union:

Resolved, That it is expedient to provide for the punishment, upon conviction in due form of law, of persons who shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or who shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the Government of the United States, or either House of the Congress of the United States, or the President of the United States; with intent to defame the said Government, or either House of the said Congress, or the said President; or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States; or to stir up sedition within the United States; or to excite any unlawful combinations therein for opposing or resisting any law of the United States, or any act of the President of the United States done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States; or to resist, oppose, or defeat any such law or act; or to aid, encourage, or abet any hostile designs of any foreign nation against the United States, their people, or Government.

Resolved, That it is expedient to provide for the punishment, or conviction as aforesaid, of persons who, by public and advised speaking or discourse, except in cases wherein freedom of speech is expressly allowed by the Constitution of the United States or of any State, shall knowingly utter or publish any false, scandalous, and malicious words or expressions against the Government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said Government, or the said President, or either of the said Houses; or to bring them, or either or any of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States; or to stir up sedition within the United States; or to excite any unlawful combination therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers vested in him by the Constitution of the United States; or to oppose, resist, or defeat any such law or act; or to aid, encourage, or abet any hostile designs of any foreign nation against the United States, their people, or Government.

Resolved, That it is expedient to provide for the punishment on conviction as aforesaid of persons who shall assemble or convene, or shall cause or procure to be assembled or convened, or shall knowingly and willingly aid or assist in assembling or convening, any public or secret meeting, society, assembly, or convention, to the number of ——— persons, or more; or shall knowingly and willingly attend at, or join in, any such meeting, society, assembly, or convention, with intent to form, devise or contrive, or to assist in forming, devising or contriving any plot, conspiracy, or combination against the peace of the United States, or against the execution of any law thereof, or of any act of the President of the United States, done in pursuance of any such law, or of the powers vested in him by the Constitution of the United States; or with intent to aid, encourage, or abet any hostile designs of any foreign nation against the United States, their people, or Government; or with intent to establish, hold, or carry on any correspondence with any foreign nation, its agents or people, for any of the purposes aforesaid.

Resolved, That it is expedient to provide for the punishment on conviction as aforesaid of persons who, not attending or joining in any such meeting, society, assembly, or convention as aforesaid, shall individually, or in conjunction with some other person or persons, engage in, carry on, or cause to be carried on, any correspondence with any person or persons whatsoever, with intent to form, promote, or aid any plot, conspiracy or combination against the peace of the United States, or to aid, encourage, or abet any hostile designs of any foreign nation against the said States, their people, or Government.

Resolved, That the Circuit Courts of the United States ought to have cognizance of all or any of the said offences committed within their districts respectively; and that all marshals, deputy marshals, and jailers of the United States, and all officers thereof, civil and military, ought to be, when duly thereunto required, aiding and assisting in the due execution of all and every sentence or judgment to be pronounced by any of the said Courts, pursuant to the aforesaid provisions, or any of them.

Resolved, That nothing in the said provisions, or any of them, ought to extend "to abridge the freedom of speech and the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances," as established by the Constitution of the United States.

Resolved, That the said provisions ought to continue and be in force for one year, and no longer.

These resolutions were referred to the Committee of the Whole to whom is committed the bill for the punishment of certain crimes against the United States.

ABROGATION OF TREATY WITH FRANCE.

Mr. Sewall called up the bill from the Senate, declaring the treaty between France and the United States void and of no effect.

Mr. Allen wished the resolution that he laid upon the table yesterday, respecting the condition and relation of this country with respect to France, first to be taken up.

Mr. Sitgreaves thought it would be proper first to go into a consideration of this resolution. We are, said he, now in a state of war. The House know that, by the distribution of powers under this Government, it is only competent for Congress to declare the country in war; therefore, until that declaration is made by this department, the Executive and Judiciary cannot act in the same way as if the country was at war. In other countries, the Executive Department can create war; but here it cannot. If it shall be considered expedient to declare war in consequence of the repeated aggressions and injuries we have received from the French Republic, and the hostility urged against us, and the necessity there exists of making defence against them, there can be no occasion for declaring the treaties void; because, if war is declared, it is the major proposition, and, of course, includes all the minor propositions. If discussed at all, therefore, it would be proper to discuss the major proposition first. He supposed it was a subject on which the minds of members were made up. Whether, therefore, the vote is affirmative or negative, it would be best to declare, in the first instance, the state of the country.

Mr. Nicholas hoped, if we are to come to this question of war at all, it might be so taken up as to occupy the least time of the Legislature. The question of setting aside the treaties is evidently included in the other; he hoped, therefore, the proposition of the gentleman from Connecticut, if to be taken up at all, would have a preference.

Mr. Sewall said, if the question of annulling the treaties with France was included in the resolution of the gentleman from Connecticut, he should think it ought first to be taken up; but he did not think this was the case. The gentleman from Connecticut wishes a committee to state what is our relation with respect to the French Republic. How could we say what our relation is, except we determine what is our relation with respect to the treaties subsisting between the two countries? He took the two things to be perfectly distinct. The gentleman from Pennsylvania (Mr. Sitgreaves) seems to conceive that the question whether it will be proper to make a declaration of war against France, is included in this resolution, as he could not be so anxious for the declaration of an historical fact, which, in his opinion, the report on this resolution could only be; for gentlemen could not consider that the Constitutional power, placed in Congress to declare war, meant no more than a mere report whether or not the country is in war. A number of acts have been done, which are indicative of war, and if a report was made as to our situation with the French Republic, it must be reckoned at least a state of hostility. But this would be doing nothing. If it was the intention of any gentleman to propose a declaration of war, such a motion would supersede the necessity of taking up the bill from the Senate; but, as the resolution of the gentleman from Connecticut did by no means go to this, he hoped the bill he had mentioned would be first considered. If he were to give an opinion on the subject, it would be clearly against declaring war at present. As to the Judicial Courts, they would find no difficulty in acting according to the situation of things, without troubling themselves with the nice distinctions which gentlemen seemed inclined to make between a state of war, and a state of hostility.

Mr. Gallatin wished to know, if the House were to go into a Committee of the Whole on the bill from the Senate, whether a declaration of war might not be moved as an amendment to the bill. To his mind, there seemed to be but little difference between saying the treaties are at an end, and declaring war. If such a motion could be received, it would be desirable to know the will of the House upon it. The shortest way of coming at this question would be the best. He wished the Speaker to say whether he thought such a motion would be in order.

[No answer was given to the inquiry.]

Mr. Allen considered it best to act always with frankness. He wished, by his resolution, that a committee should inquire into, and declare to the House, and to the country, the true state of our situation with respect to France; and if they should report any measures which should supersede the bill from the Senate, it would be the most fair and open way of getting at the business.

The question on taking up the bill from the Senate was put, and negatived—41 to 35.

Mr. Allen then called up his resolution. It had been said that our negotiation with France is yet carrying on, which he denied, and he wished this resolution to go to a numerous committee to report as to that fact, and as to our situation generally with respect to France.

Mr. Harrison hoped the House would go into a Committee of the Whole on the state of the Union, in order to inquire into what is the state of the country? Those gentlemen who wish war, and are determined to have it, ought to speak out. The world should understand them, and the people ought not to be deceived. He hoped gentlemen would bring forward their declaration of war at once. He had always been, and should now be, opposed to war, but he wanted to put his negative upon it.

Mr. Harper had no objection to go into a Committee of the Whole on the state of the Union, if the gentleman from Virginia had any motion to make, when the House got into that situation.

Mr. Hartley hoped the resolution before the House would be referred to a select committee, that the House might have a report upon it. He wondered that gentlemen who were against going to war, should wish to press the question of a declaration of it upon the House.

Mr. Dana observed that, from what had been now said upon the resolution, he saw no necessity for voting upon it at all.

Mr. Otis spoke in favor of referring the resolution to a select-committee, and saw no reason why the House should go into a Committee of the Whole on the state of the Union.

Mr. Harrison said, every one would know he had no proposition to bring forward with respect to war; he wished to remain at peace; but he wished his constituents and the country at large to be informed as to what was to be the state of the country. Seeing, however, that no member is ready to make the declaration which had been so often spoken of, he should withdraw his motion for going into a Committee of the Whole.

Mr. Sitgreaves observed, with respect to the allusions of the gentleman last up, as to being prepared for a declaration of war, he confessed he felt no hesitation in saying, that he thought this declaration ought to be made in some form or other. He believed it was the duty of the Legislature to make it. He had thought so for some time; but certain considerations with respect to our Envoys had prevented its being proposed. Such, he said, was his individual opinion; but he owned he had some scruples about bringing it forward, unless he should be assured, from a comparison of the opinions of gentlemen, such a proposition would receive a respectable and firm support. If he supposed this would be the case, he would make the motion at this moment; and it was because the motion of the gentleman from Connecticut looked towards a declaration, that he was in favor of it.

Mr. S. said he had heard it said for months past, by gentlemen of different opinions, that the aggressions of France against this country were lawful cause of war, and all have admitted that it has become a single question of expediency whether we shall declare war, or not. It was said no consideration but that of interest would prevent its being done, and he did not believe there was any such. We have, said he, for a long time suffered all the mischiefs that can be inflicted upon us in a state of war, and, therefore, the single question is now, whether we will avail ourselves of the advantages which might be derived from declaring war; for, however trifling gentlemen may deem the distinction which he made between a state of hostility and war, he looked upon that distinction as real and material. In case of an invasion taking place before a declaration of war has been made, certain limited authorities are placed in the President, and in the Executives of the several States, with respect to the armed force; but, if a declaration of war has previously taken place, the direction of that force is placed wholly in the hands of the President of the United States. If this declaration should be made, he should still deem it a war of defence on our part. Mr. S. said he rose to declare his opinion on this point, and to say he was in favor of the motion of the gentleman from Connecticut.

Mr. Nicholas supposed there could have been no doubt as to the intention of the gentleman from Connecticut in bringing forward this resolution, though he expected it would have been found necessary to have made it more explicit. If the object was, as he had no doubt it was, to procure a proposition for a declaration of war, he hoped the resolution would be so amended as to embrace that object. At present, it was quite an unmeaning thing.

Mr. Gallatin said, if he understood the resolution, it proposed the appointment of a committee, to declare what is the state of things between this country and France. He could not see with what propriety Congress could declare a statement of facts by a legislative act. It would be a little curious to pass a law to declare Mr. Gerry has no authority to treat with the French Government; or to declare that this room is sixty feet long, or any other fact. If the committee were to report what was necessary to be done, he could see the use of such a report.

Mr. Lyon observed, that though this resolution was not so explicit as gentlemen might wish, yet such as it was, he was desirous it should pass. He wished to know the state of the country. Some say we are at war; others that we are in a state of hostility; others at peace. He wished to see a report on the subject. He had considered the country as in war for some time; if he was mistaken, he was desirous his mistake should be rectified. If we are at war, it would be well to request the President to get us peace as soon as he can.

The question on the resolution was put and negatived, without a division.

On motion of Mr. Otis, the House went into a Committee of the Whole on the state of the Union, to take into consideration the bill from the Senate declaring our treaties with France void and of no effect. The committee being formed, and the bill having been read,

Mr. Livingston called for the reading of the treaties.

Mr. Gallatin thought it would be sufficient to have certain parts of the treaties, which he mentioned, read. Mr. Livingston consented; but Mr. Lyon persisted in the motion for reading the whole. On the question being taken, he only rose in favor of it. The parts of the treaties called for by Mr. G. were read.

Mr. Sewall said some doubts might be entertained, perhaps, as to the propriety of this measure. It is certainly a novel doctrine to pass a law declaring a treaty void; but the necessity arose from the peculiar situation of this country. In most countries it is in the power of the Chief Magistrate to suspend a treaty whenever he thinks proper; here Congress only has that power. We have, said he, during this session, in a variety of cases, suspended the treaties in question, by authorizing measures of hostility against France, contrary to the stipulations contained therein. He believed it would be proper, therefore, to set aside these treaties by legal authority. But he confessed to do this, in the manner proposed by the Senate, would, at least, be inconvenient. He could not conceive that the Senate meant to go so far as this bill goes. We ought not to say the treaties are void and of no effect. They must have effect as historical facts; they must have effect, in our appeal to the world, on the ground of their having been violated, and in our claim upon France on account of those violations. There are also other articles which must have effect in case of war. He alluded to the articles which respect the situation of French citizens in this country, or American citizens in France, after war shall have been declared by either Power. Mr. S., therefore, proposed a new form of a bill, more simple and with a much shorter preface, viz: "that, whereas the treaties have been in numerous instances violated, they are no longer to be considered as law within the United States," &c. It also proposed that any claim or restraint, stipulated by the said treaties, shall be abrogated and annulled.

The Chairman said this motion was not in order, and could not be received.

Mr. Nicholas saw no difference between the substitute proposed and the original bill. The gentleman from Massachusetts wished to retain the provision relative to the residence of the citizens of either country, after declaration of war shall have taken place; but could that gentleman for a moment suppose that he could annul one part of a treaty and preserve other parts? The idea appeared to him a very extraordinary one.

Mr. Rutledge hoped the committee would rise, and that the bill would be referred to a select committee. He believed it would be better to declare a part of the treaties void than the whole, which he thought might with propriety be done.

Mr. Nicholas had no objection to the committee's rising; but he could not believe we could take such parts of a treaty as we liked, and declare the rest void.

Mr. Dana believed that the gentleman from Virginia did not rightly apprehend what had been said by the gentleman from Massachusetts. Mr. D. admitted the impropriety of declaring void and of no effect a legal instrument which was originally valid. In his opinion this impropriety might be avoided, and the object of the bill attained, by a different phraseology. He believed a proper mode of acting upon this business would be, to declare the stipulations of the French treaties no longer obligatory on the United States. This we may justly do in consequence of their being disregarded by France.

As to the effect of such a declaration, he acknowledged that it must be regarded as abrogating all those articles of the treaties which are executory, such as stipulate for the future conduct of the parties. Agreeing thus far with the gentleman from Virginia, he would consent most cheerfully that all such articles should be set aside, as they respect both countries. But the declaration would not have any effect on articles which are executed, such as contain cessions or renunciations of territorial claims, and where a corresponding possession has taken place. The operation of these articles is completed, and cannot be reversed by the declaration now proposed.

Mr. D. then moved to amend the enacting clause, by expunging all the words after "That," and substituting "the United States are, of right, freed and exonerated from the stipulations of the treaties heretofore concluded between the United States and France, and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States."

Mr. Otis approved of this motion, and, after a few observations by him in favor of it, the question was put and carried upon it without a division.

Mr. O. then moved to strike out the whole of this preamble; which motion being carried,

Mr. Dana proposed that the reasons for passing this bill should be condensed in the preamble, to read as follows: "Whereas, the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of the injuries so committed have been refused; and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity; and whereas, under the authority of the French Government, there is yet pursued against the United States a system of predatory violence infracting the said treaties, and hostile to the rights of a free and independent nation, therefore," &c.

The question on the preamble was put and carried—41 to 38.

The committee then rose, and the House took up the amendments. On the question being put on agreeing to the new preamble,

Mr. Bayard said he thought it more in detail than was necessary. He thought it more like a State paper than the preamble of a law. He thought the preamble ought to go no further than to state sufficient ground for the act, which was about to be done; and he took it for granted that whenever a nation violates an essential article of a treaty, it is competent for the other party to declare the treaty no longer binding upon them. He, therefore, moved to strike out all the preamble after saying the treaties have been frequently violated. As to the French having committed depredations upon our commerce, and refused to negotiate with our Commissioners, though these circumstances may be a just cause of war, he did not know whether they were sufficient ground upon which to declare a treaty void.

Mr. Kittera was against striking out. He could not agree that there could be causes for a declaration of war, which are not also causes for setting aside a treaty. The reverse of this position appeared to him to be true, viz: that there might be causes for declaring a treaty void, which would not be causes of war.

Mr. Craik was in favor of the preamble as it stood.

Mr. Gordon hoped the amendment would not prevail. It ought to be considered that if this bill passed into a law, it would be considered as a novel thing. It will be tantamount to a State declaration to annul a treaty, and there ought to be the grounds annexed to it which had led to the measure; and though the gentleman from Delaware is desirous of stating a sufficient cause, he did not think his motion went far enough. The practice of nations is, that when injuries are done, reparation is demanded; and it was necessary, in his opinion, to state that this demand had been made in vain, and that the injuries complained of are still continued.

Mr. S. Smith hoped the amendment would be adopted. He disliked preambles very much. The

reasons given by the gentleman from Delaware in favor of his motion he thought well founded. It would be much better to give one good reason for declaring the treaties no longer binding, than several doubtful ones. In his opinion there were some of this description as the preamble stands at present. He did not know that a reparation for injuries had been refused by France. He had seen nothing like an absolute demand made upon the French Government. The Envoys were empowered to make the demand; but, from their not having been duly received, the demand was never made. If it were made, it is clear it has not been complied with; but we have no evidence of of its having been refused to be complied with. On the contrary, we see that on the 3d of April, Talleyrand had fixed a day on which he proposed to treat with Mr. Gerry on the subject of the disputes between the two countries. We have not heard the result of the conference; but it may have happened that Mr. Talleyrand has offered to make complete reparation for the injuries committed on our commerce, and this intelligence may arrive here a fortnight hence, and then a declaration of this sort would not have a good appearance. He thought, therefore, it would be better to strike these words out than to retain them.

Mr. S. presumed it was not yet *sedition* for him to say that he believed proposals to treat would be made to our Commisioners, independent of any tribute, and such as this country might with honor accept. He hoped, therefore, no difficulty would be placed in the way, by passing the preamble as it now stands.

Mr. Dana was not generally in favor of affixing preambles to laws. Whenever the subject is such that it is obviously competent for the Legislature to act upon it; whenever the act proposed is, from its nature, completely within the usual Legislative powers, and, without any explanation, appears perfectly consistent with national honor and propriety, a preamble is unnecessary. But ought this to be said of the subject under consideration? Whence is it that the United States may abrogate the treaties with France? Is it because the Legislature may, at pleasure, set aside a treaty? If it is proper to do this, without any external cause, a preamble is needless in the present instance. According to his view of the subject, the act was founded on a different principle. France has violated the faith pledged by her treaties with America: this, by the law of nations, puts it within the option of the Legislature to decide, as a question of expediency, whether the United States shall any longer continue to observe their stipulations. It is owing to the perfidy of the French Government that the abrogation of our treaties with that nation has become justifiable and necessary. As an American, he hoped the United States would always regard the faith due to treaties, and that all their acts would, on the face of them, appear consistent with it. In this respect, he wished the conduct of the American Government to exhibit a marked contrast to French perfidy. It is of importance to the fairness of our national character. Therefore it is that the facts should be stated which have led to this measure.

The gentleman from Delaware, in support of the amendment which he has moved, supposes it sufficient to state one cause for setting aside the treaties. He is understood to admit that a sufficient cause should be stated. In this principle, said Mr. D., we are agreed. But the question arises, whether a violation of the treaties on the part of France is, of itself, sufficient for setting them aside? The idea of Mr. D. was, that it would not be sufficient, according to the liberal principles which should be cherished in the United States. A treaty might be violated by the imprudence of some person in authority, or by persons acting without authority; and yet the foreign Government, on proper representations, might be willing to redress the injury. In such case, it would ill become the Government of the injured party immediately to dissolve friendly connexions. Why is it now deemed requisite to abrogate the treaties by which this country has been connected with France? It is because France has not only violated them, but has also refused that attention which was due to our representations on the subject, and persists in the violation. On this account, and in order to show that the United States were completely justifiable in taking the measure, he was against the amendment of the gentleman from Delaware, and in favor of retaining the several clauses of the preamble.

A gentleman from Maryland (Mr. Smith) has declared himself in favor of this amendment, because, in his view, there is no proof that our claim for the injuries committed on our rights, as a neutral nation, have been refused to be adjusted by France. The reason assigned for this opinion is so extraordinary that it may astonish every man acquainted with subjects of this nature. It is, that the French would not receive the Envoys charged with this business, or permit their speaking to them, although they waited for months at the palace-gate of Directorial Arrogance, supplicating in vain for an audience. Were the gentleman from Maryland to go himself, or send one of his clerks, to present a demand for a sum justly due to him, if his debtor, instead of discharging or attending to the account, would not consent even to hear him on the subject, but should kick him from the door, or order a servant to do it, would not the gentleman consider such conduct as a refusal to satisfy the demand. He who knows that claims of justice merit the respect of Governments, as well as of individuals, and ought never to be neglected without reasonable cause, must know that evasions, intentional procrastination, and affected delays, are equivalent to a refusal of satisfaction. This is the doctrine of reason, of common sense, of municipal law, and of the law of nations. The facts stated in the preamble, therefore, are strictly true; they are established by the very statement which the gentleman has made to disprove them. And since he has made a question on the subject, it is of additional importance for the Legislature to declare its conviction of their truth.

Mr. Craik believed, with the gentleman from Connecticut, last up, that, from the declaration of his colleague, this question was of consequence. He believed gentlemen were now called upon to testify to the truth of this statement, since it had been doubted. The people ought not to be left in doubt on this subject.

Mr. Otis said, exactly the same effect which had been produced upon the mind of the gentleman last up, was also produced upon his. Before he had heard the arguments of the gentleman from Maryland in its favor, he intended to vote for the motion of the gentleman from Delaware, as being more concise, and, as he thought, stating sufficient ground for the act about to be passed; but, when that gentleman says we have no evidence of reparation for the injuries committed upon our commerce being refused to be made, the abhorrence he felt at the idea of being ranked among members of this opinion would lead him to vote against it. He believed the facts stated in the preamble unquestionably true, and he did not think there could have been a man in the United States who had a doubt on the subject. He believed there could be no doubt that when a sum of money is neglected to be paid, when due, though the debtor may refuse to see any person authorized to make the demand, that it is legally refused to be paid.

If the documents on the table were examined, Mr. O. said it would be found, that so far from Mr. Talleyrand having listened to the claims of our Commissioners, he had expressed his surprise that they should have been made, alleging that the priority of claim was on the part of the French Government. Mr. O. made several other observations, when he concluded by saying, that if any offers of pacification were made by men of the description of those at present in power in the French Directory, he should have no confidence in them: he should think them insidious, and that they originated in their fears, and were intended to effect our ruin.

Mr. Harper said he would say only a few words in justification of his vote in favor of the present motion. He disliked preambles altogether. He voted against the one from the Senate, and he should be in favor of reducing this; for, if we must have a preamble, he thought the less the better. It is the business of the Legislature, Mr. H. said, to pass laws; if a manifesto is proper to be published on this occasion, it would more properly fall under the Executive department. It is his business to issue State papers, and he could do it much better than it could be done in this House. He was sorry it should be thought necessary to have any preface at all to the law, as it was departing from a good old rule laid down by Congress.

Mr. S. Smith was not convinced, by anything that had been said against this motion, that what he had before stated was ill founded. It had been asked whether, if he sent three persons to demand a debt, and the debtor ordered them away without seeing them, he should not consider the act as a refusal to pay. He answered, he should. But he would put a case, which he thought more in point. Were he to send three persons to settle an account with a debtor, and he were to send two of them home again, but keep one, and promise to adjust the business with him, he should naturally expect he would do so, and should not think of proceeding to any rigorous measures with him, until he heard the result.

The gentleman from Massachusetts has said that he can never consent to accept of any terms from the present Executive Directory, as he shall consider them insidious, and not to be relied upon. After a two-years war, perhaps, he may be of a different opinion. Mr. S. said he should be as unwilling as any man to accept of any terms from the French Government which would be derogatory to the United States; but if the Directory will engage that all the depredations upon our commerce shall cease, and will offer to treat with us on equitable terms, (which he did not think improbable,) he should be for acceding, most cheerfully, to the proposal.

Mr. Gallatin said he should vote against the motion to strike out a part of the preamble agreed to in the Committee of the Whole. He was of opinion with gentlemen that it was better to pass laws, in general, without preambles; but this proceeding is altogether of a novel nature. He knew of no precedent of a Legislature repealing a treaty. It is therefore an act of a peculiar kind, and it appeared to him necessary that Congress should justify it by a declaration of their reasons. Nor could he understand the argument of the gentleman from South Carolina, when he said the Executive department was better calculated for the publishing of a manifesto than the Legislature, or, in other words, could assign the reasons that influenced Congress, better than Congress themselves. If, then, a preamble is to be adopted, it ought to contain those reasons which operated in producing the law. He thought this would be more correctly stated by leaving the preamble as it is, than by adopting the amendment.

There was also another reason for preserving the preamble as at present. The French have violated the Treaty of Commerce made with this country; but it would be rather difficult for any gentleman to show that repeated violations have taken place of our Treaty of Alliance with France. The ground of complaint is, that France has violated the Treaty of Commerce between the two countries, and the laws of nations, and not the Treaty of Alliance; and, therefore, a breach of that treaty is not the reason why it is set aside. Besides, if repeated violations of a treaty are sufficient reasons for setting it aside, it could not be forgotten that certain orders had been issued by another country, which are not conformable to our treaty with that Power. So, that it is not sufficient to say, that because a treaty has been violated, we will repeal it; but we ought to show to the world that repeated attempts have been made, in vain, to obtain redress.

But the gentleman from Maryland is apprehensive that the statement of the French Government having refused to make reparation for the injuries committed upon our commerce could not be cor-

rect, from the possibility of Mr. Gerry having succeeded in making a treaty since the date of our last despatches. He acknowledged there was a bare possibility of the fact being so; but this ought to operate as a reason against passing the bill at all, and not against the preamble.

Mr. Edmond said, he voted for rejecting the Senate's preamble. It appeared to him that no preamble was necessary. For, if it were necessary to state the reasons which induced the passing of this act, it would be proper to state all the reasons; and to do that would be a work of considerable time; and, upon the facts stated, there might probably be a considerable difference of opinion. If reasons were stated for passing this law, and, at a future day, when an adjustment of differences should take place, the negotiation on the part of the United States were to adduce other reasons for passing this act than are stated in this preamble, it might be said by the negotiator, on the part of France, why do you muster up complaints now, which you did not think of when the law passed? He therefore thought it would be best to pass the law without a preamble at all.

No question in the laws of nations, Mr. E. said, was more clear, than that, when a treaty is violated by one nation, the other party, who has maintained good faith, may either discharge themselves from the obligations of it, or, if friendly disposed, they may set on foot a negotiation, or they may declare war, without doing either of the other two. He laid it down as a further principle, that where there are several treaties in existence between two countries, and one of them is violated, the injured party may demand satisfaction; and if it be not given, they may declare the whole of the treaties void. He therefore was of opinion that France having violated our treaty with her, we have a right, without assigning any reason for it, to set it aside; and as we have repeatedly applied to them for redress, and they have refused to grant it, we have a right to reject the whole, or to declare war, without assigning any reason whatever. However, if we wish to appear fair in the eyes of the world, we may, if we please, assign a reason for our act; but, in this case, he would either give all the reasons which exist, or make them as precise as possible. He should, therefore, vote in favor of striking out the words in question.

The question to strike out was negatived; and the question being taken on the preamble, it was carried—there being 53 votes for it.

The bill was ordered for a third reading this day. It afterwards received its third reading, and was passed—yeas 47, nays 37, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, Jas. A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Thos. Blount, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Thomas Evans, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

PROVISIONAL ARMY.

Mr. Harper said, the addition which had been made to the Standing Army of the United States, since he brought forward some resolutions on the subject of defence, rendered a part of those resolutions unnecessary. He yet wished, however, the two last of those resolutions, relative to procuring additional vessels of war and establishing dock yards, to be entered into, together with the two following:

"*Resolved*, That it is expedient to add to the Provisional Army of the United States such number of non-commissioned officers and privates, with a suitable number of commisioned officers, as will augment the said Army to thirty thousand non-commissioned officers and privates; the said additional number to be raised on the like contingencies, and the commissioned officers to be appointed and paid in like manner, as is provided respecting the said Army by existing laws.

"*Resolved*, That it is expedient to enable the President of the United States to raise, immediately, and bring into effectual service, such number of non-commisioned officers for the said Army, not exceeding —— hundred, as he may judge advantageous to the same; the said non-commissioned officers to be organized and trained in such manner as he shall prescribe, and to do duty as a separate corps, or, otherwise, till their services in the said Army shall be required."

These resolutions were referred to a Committee of the whole House.

A bill was received from the Senate for establishing an office of Accountant of the Navy, &c., which was committed.

The House went into a Committee of the Whole on the bill relative to the compensation of certain officers employed in the collection of imposts and tonnage; when the first section, which related to offices at Tappahannock and Georgetown, was stricken out, and the bill ordered to be engrossed for a third reading.

Saturday, July 7.

Mr. Harper, from the committee to whom was referred the resolution respecting the balances due from certain States, made a report, recommending some alterations in the form of it; which, having been twice read,

Mr. Coit moved a postponement of the consid-

eration of this report till next session. The question was negatived, 33 to 29—and the report was committed.

The bill making further appropriation for the additional naval armament, and the bill establishing an annual salary for the Surveyor of the port of Gloucester, were read the third time and passed.

INCREASE OF THE ARMY.

Mr. S. Smith called the order of the day on the bill to augment the Army of the United States. The House accordingly went into a Committee of the Whole on that subject, when several amendments were agreed to. The bill proposed that non-commissioned officers and privates should not be less than 18, nor more than 45 years of age, nor less than five feet three inches in height, musicians excepted. These words were moved to be struck out, for the purpose of inserting words which should leave this matter to the discretion of the President of the United States, on the ground that there might be youths of a less age than 18, and of a less size than five feet three inches, who would make good soldiers. The motion was carried—41 to 23.

Mr. Allen moved to increase the pay of the private soldiers to six dollars a month.

Mr. Macon wished it to be six dollars and sixty-seven cents.

Mr. Gordon was in favor of six dollars and fifty cents.

Mr. S. Smith thought five dollars would be sufficient.

After some debate, the highest sum was negatived without a division. The sense of the committee was then taken on six dollars and fifty cents, and negatived, there being only 21 votes for it; and six dollars was carried—41 to 36.

Mr. Kittera moved to strike out the words *French Republic*, and to insert in their place "France and her possessions."

Mr. S. Smith could see no difference between the two expressions. He wished the gentleman to show wherein the difference consisted.

Mr. Kittera said, at present the men were to be engaged during the continuance of the dispute between this country and the French Republic. If this were to be settled, though we might yet have a dispute with some of her possessions, from the prosecution of this war, the men would be discharged. And it could not be forgotten that a report had been in existence, which he thought likely enough to be true, respecting a secret article in the treaty between France and Spain, by which a cession of the Floridas and Louisiana was made to France. There was also another consideration which he thought ought to be attended to. France, at the time we may have to negotiate with her, may have changed her form of Government, and have become a monarchy, a military despotism, an aristocracy, or some other form of Government, which might produce some inconvenience, if the present words stood.

Mr. Livingston said, two objections were made to the words proposed to be struck out, viz: that France may change her Government, or that her colonies may become independent. As to the first, he never before heard a doubt expressed that, when one nation entered into a contract with another, the contract continued, notwithstanding any change of Government in either party, until it was abrogated. He instanced our present treaties with France which were made under the monarchy of France. As to the other event, the gentleman seems to look with a piercing eye into futurity, when he sees the independence of the present colonies of France. But this case is so remote, that the gentleman might as well provide for keeping the Army on foot in case of a war with the Emperor of Germany. If such an event took place, it would be time enough to provide for it when it happened; except, indeed, the gentleman may have some secret information on this subject. If he has he should be glad to see it.

Mr. Dana thought it right to make our laws to refer to nations, and not to Governments. He, therefore, thought the expression proposed would be better than that now used. For if gentlemen were disposed to give the French Government a title which would be gratifying to them, French Republic is not the proper term, since they call themselves the Grand Nation! He thought they had disgraced the name of Republic, and, as he esteemed it, he did not wish to apply it to that nation.

Mr. Kittera said this proposition related to a contract to be made with our own soldiers, and it ought to be made so intelligible as not to be misunderstood. It was well known that during our Revolutionary war, very disagreeable circumstances were produced by the condition of enlisting men for three years, or until the end of the war. He wished this law to be well understood.

Mr. Gallatin thought if his colleague had intended to make this law understood, he should have proposed a different amendment from that which he had proposed, for he did not think he could himself understand the motion he had made. Does the gentleman mean that it is possible, that after we have made a peace with France, we can be at war with her possessions? Or did he mean that some of her present possessions may have become independent, and that, if we should be at war with them, these men should be kept in service until we have peace with them? As to the probability of our being at war with Louisiana and Florida, because they may have become independent, he could see none such. He thought it would be a favorable circumstance for the United States if those countries were to become a distinct republic. Mr. G. hoped, therefore, if his colleague wished to make the law intelligible to soldiers, he would take some other way of doing it.

Mr. Kittera altered his motion, and made it to strike out "French Republic," and insert *France*.

Mr. Thatcher said the French Government had a right, if they thought proper to exercise it, to call their Government a Republic, in the same way that people in this country were in the habit of naming certain black creatures, Cato, Cæsar, &c., who certainly bore no resemblance to those heroes;

and though France, under the name of a Republic, exercises all the arbitrary power of a despotism, yet, as she chooses to be thus styled, he did not see that we had anything to do with it.

Mr. T. Claiborne said it mattered not to us whether France discredited the title she had taken or not. It was enough for us that she had taken it, and that many mighty nations had been obliged to yield it to her. Even Great Britain herself, was, at length, obliged to do it. When France spoke of this country, she would do so by the name of the United States. How, said he, did we acquire that name? By fighting for it; and she has obtained her title in the same way. But does the gentleman who moved this amendment mean, in case, after we are at peace with France, we should go to war with Spain, the Dey of Algiers, or any other Power, that we should still retain these men? He hoped not. No men would be found to enlist for so indefinite a term.

Mr. W. Claiborne thought the amendment wholly unnecessary. We were, he said, the first nation to recognise the title of France to a Republican Government, and we claim a merit from the act, and were we now to decline the use of it, it might appear as if we expected the King of England was about to enforce his title of King of France. When we speak of that nation, we ought certainly to call them by the same name that all other nations call them. Even his British Majesty, whose hatred of that country must be full as great as that of the Government of the United States, does not refuse them this title.

The motion was put and negatived—46 to 26.

Mr. Harper made a motion to increase the pay of the officers of the Army; but it was negatived, there being only four votes for it.

Mr. Allen proposed that the Government of every State should be obliged to furnish its quota of the men to be raised. The motion was not seconded.

Mr. Nicholas moved that the twelve regiments should be struck out and eight inserted, as it originally stood. The motion was negatived—yeas 29, nays 43, as follows:

Yeas—David Bard, Lemuel Benton, Thomas Blount, Stephen Bullock, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Albert Gallatin, James Gillespie, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Lyon, Nathaniel Macon, William Matthews, Joseph McDowell, Anthony New, John Nicholas, James Schureman, Samuel Smith, Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Demsey Burges, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge jr., Samuel Sewall, William Shepard, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

The Senate informed the House they had agreed to the amendments of the House of Representatives to the bill declaring the treaties heretofore concluded with France no longer obligatory on the United States.

Monday, July 9.

INCREASE OF THE ARMY.

The bill to augment the Army of the United States, and for other purposes, was read the third time, when, on the question being put, "Shall this bill pass?"

Mr. S. Smith called the yeas and nays upon the question, which being agreed to be taken, he hoped those gentlemen who had voted against having twelve additional regiments instead of eight, would not now refuse to vote for the passing of this bill, though the twelve regiments had been agreed to.

The yeas and nays were taken accordingly, and the question was carried—60 votes to 11, as follows:

Yeas—John Allen, George Baer, jr., Abraham Baldwin, Bailey Bartlett, David Brooks, Stephen Bullock, Demsey Burges, Christopher G. Champlin, Thomas Claiborne, William Charles Cole Claiborne, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Edward Livingston, Samuel Lyman, William Matthews, John Nicholas, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Nathaniel Smith, Samuel Smith, Peleg Sprague, Richard Stanford, George Thatcher, Richard Thomas, Thomas Tillinghast, John Trigg, John E. Van Alen, Philip Van Cortlandt, and Joseph B. Varnum.

Nays—Lemuel Benton, Thomas Blount, John Clopton, John Dawson, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, William Smith, and Thomas Sumter.

MARINE CORPS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the establishing and organizing a battalion of infantry, to be called the Marine Corps," which lay on the table; whereupon,

Resolved, That this House doth agree to the said amendments.

AMENDMENTS TO THE CONSTITUTION.

Mr. D. Foster said, the Representatives from the State of Massachusetts had received from the Legislature of that State certain propositions of amendment to the Constitution of the United States, which he begged leave to lay before the

House. He did so. The amendment proposes that, in addition to the qualifications already required, no person shall be elected President or Vice President of the United States, or a Senator or Representative in Congress, except a natural-born citizen, or a resident in the United States at and since the Declaration of Independence, except he may have been in the employment of the United States during that time. Or, if this proposition should not be agreeable, they propose to exclude all persons not naturalized at the passing of the amendment, and all such as shall not have resided fourteen years in the United States previous to their election. Mr. F. grounded a resolution upon them, which, with the amendment, was ordered to lie upon the table.

COMPENSATION OF REVENUE OFFICERS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to regulate and fix the compensations of officers employed in the collection of the internal revenues of the United States, and to insure more effectually the settlement of their accounts;" whereupon,

Resolved, That this House doth agree to the said amendments, with amendments to the fourth amendment.

PUNISHMENT OF CRIMES.

The House, on motion, went into a Committee of the Whole on the bill in addition to the act for the punishment of certain crimes against the United States; when

Mr. S. Smith moved to strike out the words "by any writing, printing, or speaking, shall threaten such officer or person in public trust, with any damage to his character, person, or estate, or shall," as he conceived them to be in direct contradiction to the third amendment of the Constitution, and as he had not forgotten the oath which he had taken to maintain the Constitution, he could never consent to vote for these words.

Mr. Dana called for the reading of that part of the Constitution.

Mr. Thatcher asked, whether if a Judge was to pronounce judgment in a case, and the person upon whom it was passed were to come to him and threaten to shoot him, or to burn his house, if he suffered the sentence to be executed, would it be a breach of the Constitution to pass a law to punish him?

Mr. T. Claiborne viewed the principle of this bill as radically wrong, and as being fraught with the most serious mischiefs, from its creating crimes which were never before thought of in this country. As to what the gentleman from Massachusetts had said with respect to a person's threatening the life, &c., of a Judge, this law is certainly not necessary to punish such a person. He might be imprisoned until security was given for his better behavior. There is law enough, he said, in all the States, to provide for this. Any justice of the peace could exercise that power. Why, then, raise an imaginary giant for the purpose of slaying him? He had no fear himself of any evil arising from disaffection to the Government. He believed the people would do what is right if they are not oppressed. He hoped the House would put its veto upon this bill, and thereby show to the people that they want their willing aid, and not the service of slaves. Suppose, said he, abusive paragraphs are published against the President, if they are calumnies, they will have no weight; and if they are truth, they ought to be published. Mr. C. concluded by moving to strike out the first section of the bill.

Mr. S. Smith said, he should vote against striking out the first section of the bill, with the hope that his amendment would be adopted; but if it should not be adopted, he should hold himself at liberty to vote for striking out the whole section.

The motion on striking out the whole section was put and negatived—48 to 28.

The question was then taken on Mr. S. Smith's motion; which was negatived—40 to 38.

Mr. Harper said, he had strong objections to more parts of this bill than one; but they lay principally against the second section. He should not go into a detail as to the particular objections which he had to it, but would move to strike out all the words after the enacting clause, for the purpose of inserting a new section, (which was in the substance of his resolution offered to the House a few days before.)

After some debate on this amendment, in the course of which much was said for and against the Courts of the United States having common law jurisdiction, it was carried—35 to 34.

Mr. Bayard moved to strike out the 3d section, which he thought unnecessary; and Mr. Otis moved also to strike out the 4th section; both of which motions were carried.

Mr. Harper moved to amend the bill by inserting a new section, which he believed must result from the construction of the bill itself, but which he believed it would be better nevertheless to have inserted, viz: "Provided, that nothing in this law shall be construed to extend to abridge the freedom of speech and of the press, as secured by the Constitution of the United States."

After some observations on the subject, Mr. Harper withdrew his motion.

Mr. Bayard moved to amend the bill by a new section to the following effect, viz: "And if any person shall be prosecuted under this act for writing or printing any libel, he shall be at liberty, in his defence, to give in justification evidence of the truth of the matter contained in the said libel." Agreed to.

Mr. Harper moved to limit the duration of the law for two years.

Mr. Sprigg moved to strike out two years, and to insert one year.

The motion thus to amend the section was carried, 45 votes being for it, and then the section itself was agreed to.

The committee rose, and the House took up the amendments. On agreeing to the new section of Mr. Harper, in place of the second, the votes were 40 affirmatives, and 40 negatives. The Speaker voting in the affirmative, the question was carried.

Mr. W. CLAIBORNE said it would be recollected that in Great Britain, it had heretofore been the practice for the jury, in cases of libel, to find the fact of the publication, and the court was left to judge with respect to the law; but as it had been found that this practice did not afford sufficient security to the subject, it had lately been declared, that juries, in such cases, should be judges of the law as well as of the fact. He hoped the House would agree to put this law upon the same footing; for that purpose, he proposed an amendment to the following effect: "And in all cases arising under this act, the jury who shall try the cause, shall be judges of the law as well as the fact."

Mr. HARPER said, there could be no need of such an amendment. It was well known that, in this country, the jury were always judges of the law as well as the fact, in libels, as well as in every other case.

Mr. W. CLAIBORNE believed the doctrine of libels was very unsettled in this country. Prosecutions of this kind have very rarely happened; in some of the States, a cause of this kind had never been tried. The age, however, seems now to be at hand, when they may be expected to increase, and he believed such a provision proper to prevent any misunderstanding on the subject. It is a fact well known, that Lord Mansfield supported the doctrine, "that a libel is not less a libel for being true, and that the law respecting libels could only be judged of by the court;" and who could say, without some provision of this kind, that some of the courts of this country might not adopt a similar opinion. The House had already agreed, that the truth of an alleged libel should be pleaded in justification, and he hoped that the power of the jury to give a general verdict would also be recognized.

Mr. OTIS hoped this amendment would not be agreed to, as he conceived it to be unnecessary. The jury had always a power of returning a verdict of guilty, or not guilty; but if they chose to find a verdict in a special way, he did not think they ought to be obliged to find it general.

Mr. LIVINGSTON considered this as a precious provision, and that it is not only valuable in itself, but extremely necessary at this period. We are now, as has justly been observed, entering upon the doctrine of libels, and a decision ought to be come to in this respect, which should bind the courts hereafter. If this is not done, where will our courts look for guides? Will they look to the common law or to the statute law of England? They can only refer to the common law, and they will there find decisions where the jury have been declared, not to be judges of the common law, in all cases, till of late. The provision ought, therefore, to be made, since all allow it is a proper one, in order to prevent any doubt upon it; for if the courts were allowed to determine the law, to say whether libel or no libel, as well as to declare the punishment to be inflicted, juries would have nothing to do, since the fact of publishing always appears. He hoped, therefore, the amendment would be adopted.

Mr. N. SMITH said, if this amendment was intended only to give the jury power to declare guilty, or not guilty, upon every case of this sort, the only objection against it would be, that it was wholly unnecessary, as there can be no doubt but juries have already that power; but this amendment proposes to give the juries a strange power indeed, viz: to be complete judges of law and of fact, so that in case of any doubt as to legality of testimony, it would seem as if the jury were to be judges of the matter in dispute.

Mr. HARPER differed in opinion from gentlemen when they say the practice with respect to libels is unsettled. He had himself been witness to four or five trials of this kind in the State from which he came, and could not believe there could remain a doubt as to the power of the jury in such cases.

Mr. BAYARD considered this amendment as most hostile to our system of jurisprudence; as it is amongst its soundest principles, that Judges are to determine the law, and juries the fact. It was utterly impossible, he said, that unlettered men can be competent to decide justly as to questions of law. He knew of no criminal case in which the jury exercised this power. Indeed, he thought such a power would frequently operate against the defendant; for if a jury determined erroneously, a man would have no appeal; whereas, when Judges decide wrong, appeal can be had by writ of error, or by an appeal to a superior court. And surely it would be allowed that a power of this kind is much more safely lodged in the hands of learned and upright Judges, than it could possibly be in those of an unlettered and perhaps prejudiced jury. The jury are no way responsible. After they have come to a decision, they are dispersed to their several homes, and few persons know who they were. The education of a Judge enables him to decide the true meaning of a law, which a jury may not be competent to form a correct opinion of, from the want of those opportunities of education which the Judge has received. Mr. B. said, the House had heard of a great deal about the liberty of speech and of the press, and much had been said about the Constitutionality of this law; and he believed the effect of this amendment would be, to put it into the power of a jury to declare that this is an unconstitutional law, instead of leaving this to be determined, where it ought to be determined, by the Judiciary.

Mr. GALLATIN said, that the amendment of the gentleman from Tennessee had been objected to on the ground of its being useless, as it was supposed that the doctrine formerly supported in Great Britain, that the question of "libel, or no libel" exclusively belonged to the Judges, had never been recognised in the United States. But from what had fallen from the gentleman of Delaware, it must appear evident to the committee that the question was not settled in all the States, and that the amendment was necessary.

It was a principle, indeed, of common law, that a jury in criminal cases were judges not only of the fact, but also of the criminality of that fact. Thus, in a trial for murder, a jury, in their verdict, had a right not only to declare the bare fact, to wit: that A had killed B, but also to decide whether the act of killing was criminal or not, and if criminal to what degree; and it had, therefore, never been disputed, that in that case a jury might bring in their verdict of self-defence, manslaughter, or murder. Upon the same principle, it was evident that in case of libel, a jury should have a right not only to decide the bare fact, to wit, whether the accused person was the author or publisher of a certain writing, but also to decide whether that writing was criminal or not, whether it was libel or no libel. Yet, in Great Britain, through what might be called a corruption of the principles of common law, an alteration had been attempted, and actually prevailed in the case of libels. Judges had there usurped a power in that case, which they claimed in no other criminal case, and the interference of Parliament had become necessary in order to restore to juries their Constitutional power.

How far a similar doctrine might have prevailed in the United States, it was difficult to ascertain; but if it was questionable in any one of the States, it was proper to settle it in this law. There is not, Mr. G. said, any such thing as a common law of the United States. The common law of Great Britain received in each colony, had in every one received modifications arising from their situation; those modifications differed in the several States; and now each State had a common law, in its general principles the same, but in many particulars differing from each other. The Courts of the Union had no common law jurisdiction, and the object of the second section of this bill was to give them that jurisdiction in the case of libels against Government. If, therefore, there be in that very case any principle not perfectly settled by the common law of Great Britain, or not uniformly recognised by the common law of the respective States, it becomes necessary to settle the point in the same law which gives this new jurisdiction.

The objection that the amendment would give to the juries, not only a right to return a general verdict, but even of deciding every incidental law question that might occur during the trial, might easily be removed, by introducing words showing clearly that its intention was only to declare that juries should have the same power to decide on the criminality of the act, which they had in other criminal cases. Mr. G. suggested the words which had been introduced, in the Constitution of Pennsylvania, with that very intention, viz: "that the jury should have a right to determine the law and the fact, under the direction of the Court, as in other cases."

After undergoing some slight alterations, the motion was carried by yeas and nays—yeas 67, nays 15, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, Lemuel Benton, Thomas Blount, Richard Brent, David Brooks, Stephen Bullock, Demsey Burges, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, William Craik, Samuel W. Dana, John Dawson, William Edmond, Thomas Evans, John Fowler, Jonathan Freeman, Albert Gallatin, Jas. Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Jos. Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, Walter Jones, Edward Livingston, Matthew Locke, Samuel Lyman, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Harrison G. Otis, John Reed, Samuel Sewall, William Shepard, Samuel Smith, William Smith, Peleg Sprague, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Richard Thomas, Mark Thomson, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—James Cochran, Joshua Coit, Abiel Foster, Dwight Foster, Roger Griswold, Thomas Hartley, Jas. H. Imlay, John Wilkes Kittera, Isaac Parker, John Rutledge, jr., Jas. Schureman, Nathaniel Smith, Geo. Thatcher, John E. Van Alen, and Peleg Wadsworth.

Mr. S. SMITH renewed his motion for striking out the words which he had moved to be struck out in Committee of the Whole, and called the yeas and nays upon it. It was again negatived—43 to 29, as follows:

YEAS—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Demsey Burges, Thomas Claiborne, John Clopton, John Dawson, George Dent, Thomas Evans, John Fowler, Albert Gallatin, James Gillespie, William Gordon, Andrew Gregg, Wm. Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, George Baer, jr., Bailey Bartlett, Jas A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

On the motion to concur in the limitation clause agreed to in the Committee of the Whole, there were 40 yeas and 39 nays; when the SPEAKER declaring himself in the negative, the question was not carried.

Mr. DENT moved a new clause limiting the law to the 3d of March, 1801, which was carried, 48 votes being for it.

Mr. ALLEN proposed an additional section for the publishing of this law in all the papers of the United States, in order to prevent its being mis-

represented. After a few observations had been made upon it, he withdrew it.

The bill was ordered to be read a third time to-morrow, and carried, 44 votes being for it.

A message from the Senate informed the House that they had passed the bill, entitled "An act to lay and collect a direct tax within the United States," with several amendments; to which they desire the concurrence of this House. The Senate have disagreed to the bill, entitled "An act for the relief of Thomas Lewis." They have agreed to the amendments proposed by this House to the fourth amendment of the Senate to the bill, entitled "An act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States; and to insure more effectually the settlement of their accounts;" also, to the resolution of this House, of the twenty-third ultimo, for an adjournment of the two Houses of Congress on this day, with amendments; to which they desire the concurrence of this House.

Tuesday, July 10.

The amendment of the Senate to the resolution fixing the time of adjournment for Monday next, was taken up and agreed to.

PUNISHMENT OF CRIMES.

The bill, in addition to the act for punishing crimes against the United States, and for other purposes, was read the third time; when

Mr. Sitgreaves wished the bill to be recommitted. It had been suggested to him that great inconvenience arises in the Federal Courts, from its having been conceived that they have not the power to bind to good behaviour, and he was desirous of removing this defect, by adding a section to this bill for the purpose.

Mr. Bayard thought the gentleman from Pennsylvania had better bring this subject forward by itself, than have this bill recommitted, as it was no way connected with it.

Mr. Sitgreaves consented.

The question was now on the passing of the bill.

Mr. McDowell called for the yeas and nays upon it.

Mr. Nicholas rose, he said, to ask an explanation of the principles upon which this bill is founded. He confessed it was strongly impressed upon his mind, that it was not within the powers of the House to act upon this subject. He looked in vain amongst the enumerated powers given to Congress in the Constitution, for an authority to pass a law like the present; but he found what he considered as an express prohibition against passing it. He found that, in order to quiet the alarms of the people of the United States with respect to the silence of the Constitution as to the liberty of the press, not being perfectly satisfied that the powers not vested in Congress remained with the people, that one of the first acts of this Government was to propose certain amendments to the Constitution, to put this matter beyond doubt, which amendments are now become a part of the Constitution. It is now expressly declared by that instrument, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and, also, "that Congress shall make no law abridging the freedom of speech, or of the press."

Mr. N. asked whether this bill did not go to the abridgment of the freedom of speech and of the press? If it did not, he would be glad if gentlemen would define wherein the freedom of speech and of the press consists.

Gentlemen have said that this bill is not to restrict the liberty of the press but its licentiousness. He wished gentlemen to inform him where they drew the line between this liberty and licentiousness of which they speak; he wished to know where the one commenced and the other ended? Will they say the one is truth, and the other falsehood! Gentlemen cannot believe for a moment that such a definition will satisfy the inquiry. The great difficulty which has existed in all free Governments, would, long since, have been done away, if it could have been effected by a simple declaration of this kind. It has been the object of all regulations with respect to the press, to destroy the only means by which the people can examine and become acquainted with the conduct of persons employed in their Government. If there could be safety in adopting the principle, that no man should publish what is false, there certainly could be no objection to it. But it was not the intention of the people of this country to place any power of this kind in the hands of the General Government—for this plain reason, the persons who would have to preside in trials of this sort, would themselves be parties, or at least they would be so far interested in the issue, that the trial of the truth or falsehood of a matter would not be safe in their hands. On this account, the General Government has been forbidden to touch the press. Gentlemen exclaim, what! can anyone be found to advocate the publication of lies and calumny? He would make no answer to inquiries of this sort, because he did not believe he could be suspected of being an advocate for either. But, in his opinion, this was a most serious subject; it is not lying that will be suppressed, but the truth. If this bill be passed into a law, the people will be deprived of that information on public measures, which they have a right to receive, and which is the life and support of a free Government; for, if printers are to be subject to prosecution for every paragraph which appears in their papers, that the eye of a jealous Government can torture into an offence against this law, and to the heavy penalties here provided, it cannot be expected that they will exercise that freedom and spirit which it is desirable should actuate them; especially when they would have to be tried by judges appointed by the President, and by juries selected by the Marshal, who also receives his appointment from the President, all whose feelings would, of course, be inclined to commit the offender if possible. Under such circumstances,

it must be seen that the printers of papers would be deterred from printing anything which should be in the least offensive to a power which might so greatly harass them. They would not only refrain from publishing anything of the least questionable nature, but they would be afraid of publishing the truth, as, though true, it might not always be in their power to establish the truth to the satisfaction of a court of justice. This bill would, therefore, go to the suppression of every printing press in the country, which is not obsequious to the will of Government.

Mr. N. again asked, what are the bounds which gentlemen would draw between the liberty and licentiousness of the press? The Senate had sent them the project of one law which made it criminal to attribute bad motives to Government, even where the facts were not questionable; the House had now another project, which describes a number of other offences, all restricting the use of the press. The Constitution has not defined the bounds here spoken of. He had heard something said out of doors on the subject of common law; that the offences created by this bill are offences under it; but two gentlemen who advocate the bill, had denied that the common law made any offences against the United States.

Mr. Harper said, if any expression of his was alluded to, he never said that no common law offence could be committed against the United States. He had said that there was no common-law jurisdiction in the Courts of the United States; but he believed the common-law doctrine of libels as applicable to the Government of the United States as any other Government.

Mr. Nicholas believed the opinion which the gentleman from South Carolina had now delivered, came nearly to what he had stated. However, the opinion of the gentleman from Delaware went to the full extent of it; for it was given in correction of an opinion delivered by his colleague, (Mr. Evans,) who had supposed it was a mere want of cognizance in the Courts of the United States of such offences.

Mr. N. hoped there was no necessity for examining the opinions of the gentleman from South Carolina as to the common law being part of the law of the United States. He should like to know how the United States had adopted the common law. He should be glad to know where gentlemen found an account of their having so adopted it. Do gentlemen suppose that, in adopting the Constitution, the United States adopted the common law of all the States, which is so various, that he would venture to say no man perfectly knew it at the time, nor did he believe that any one gentleman who seems in this House to entertain that opinion, is acquainted with the common law of all the States. The common law of England has undergone various improvements and modifications in the several States, which it could not be supposed would be rejected by the Convention who formed the Constitution, in silence. Indeed, it was to him one of the most absurd ideas imaginable. If the common law was not adopted by the Constitution, and does not form a part of it, where is the rule by which to ascertain where the liberty of the press ends, and its licentiousness begins? If gentlemen say it is adopted by the Constitution, it must remain unchangeable, and there could be no authority for passing this law.

Mr. N. said, he had also heard another rumor out of doors—for gentlemen, in pursuing their favorite objects, are naturally forced to seek a justification. He had heard it said that all the States take cognizance of offences of this sort. But does this give the power to the General Government? Because the States declare certain things offences, have the General Government power over the like offences? If so, it would have a concurrent power with all the State Governments, which, he believed, would be a novel idea. Indeed, he was utterly at a loss to find any ground upon which to found a law of this kind. He was confident there was none.

That the House might not think this opinion originated with the present time, or from that disposition with which himself and others are sometimes charged of opposing everything, he would read an extract from the ratification of the Constitution in Virginia, which is as follows:

"The delegates of the people of Virginia, met in Convention, do, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them, whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby, remains with them, at their will; that, therefore, no right of any denomination can be cancelled, abridged, restrained, or modified by Congress, by the Senate, or House of Representatives, acting in any capacity, by the President, or any Department, or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that, among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States."

Here, then, when the Constitution had not an express provision on the subject of the liberty of the press, the understanding of the members of the convention was complete on the subject. In pursuance of the same idea, the Congress of the United States, and the State Governments, proceeded to declare the meaning of the Constitution, in this respect, in the most express terms.

And yet, in direct opposition to the clause of the Constitution, which says, "Congress shall pass no law to abridge the freedom of the press," Congress is now about to pass such a law. For it is vain to talk about the licentiousness of the press, the prohibition is express, "shall pass no law to abridge," &c. And as to what gentlemen called the licentiousness of the press, it was so indefinite a thing, that what was deemed licentiousness today by one set of men, might by another set, tomorrow, be enlarged, and thus the propriety of the information to be given to the public would be arbitrarily controlled. If this bill passed into a law, there could be no doubt it would produce the

effect which he had already mentioned; no man would continue to print a newspaper, who could not bring himself to be, at least, silent as to any impropriety in the conduct of the General Government, which would deprive the people of a great part of its present usefulness.

Mr. N. said, he was authorized in this supposition, from the declaration of the gentleman from Connecticut, (Mr. ALLEN,) who was very loud in his condemnation of certain printers in the United States, and read a number of what he deemed seditious paragraphs from their newspapers, in order to show the necessity of restricting their publications in future.

Mr. N. said, he was as sensible as that gentleman, or any other, that some of our printers have abused the liberty of the press, but, notwithstanding, he saw this, he was far from being convinced of either the propriety or necessity of Legislative interference in the matter. He believed himself to be incapable of promoting or encouraging falsehood; but he was not, because the press may have transgressed in this respect, for taking measures to suppress it. Nor did he think this by any means necessary; because falsehoods issued from a press, are not calculated to do any lasting mischief. Falsehoods will always depreciate the press from whence they proceed. He was persuaded that the publication of one falsehood in a paper would do it more mischief than the abuse of its enemies; and he always regretted to see, at any time, a falsehood issue from a press which is generally the organ of truth. He believed, on this account, it would be unnecessary for Government to interfere in this matter, if they had a right to do it, which he denied, since every publisher of a newspaper, who consults his own interest and respectability, will, as far as he is able to do it, make it a vehicle of correct information.

The gentleman from Connecticut, when he read the extracts from the newspapers alone alluded to, insinuated that these papers met with the support of some of the members of this House. He would tell that gentleman how far he was a supporter of one of the papers alluded to. He was a subscriber to it, and meant to be so. He thought it justifiable and proper. He said he knew but of three or four papers of any consequence in the United States, which are open to any animadversions on Government, written with ever so much decorum. He knew that most of the editors of public papers are so firmly persuaded that Government, or rather the Executive branch of it, can do no wrong, that they reject everything which does not approve of Governmental measures. Therefore, though he sometimes saw things in the papers which the gentleman from Connecticut so unqualifiedly condemns, which he did not approve, he nevertheless believed it was desirable to have papers printed in which, if there be necessity for it, strictures may be inserted on the measures of Government. It was on this account that he subscribed for the *Aurora* of this city, the only paper printed in it in which any animadversion on public measures can find admission. He would continue to subscribe for it, and if the gentleman from Connecticut chose to calumniate him for it, he was at liberty to do so.

Though it is said the bill on the table is only intended to suppress the publication of falsehood, yet its effect must be general, and, from the present agitated state of the public mind and from the other causes which he had named, with respect to the court and jury before whom the offences committed under this law will, of course, be tried, its effect must be a very powerful restriction of the press, with respect to the publication of important truths.

Mr. N. wished gentlemen, before they give a final vote on this bill, to consider its effects; and, if they do this, he thought they would consent to stop here. He desired them to reflect on the nature of our Government; that all its officers are elective, and that the people have no other means of examining their conduct but by means of the press, and an unrestrained investigation through them of the conduct of the Government. Indeed, the heart and life of a free Government, is a free press; take away this, and you take away its main support. You might as well say to the people, we, your Representatives, are faithful servants, you need not look into our conduct; we will keep our seats for a little longer time than that for which you have given them to us. To restrict the press, would be to destroy the elective principle, by taking away the information necessary to election, and there would be no difference between it and a total denial of the right of election, but in the degree of usurpation.

Mr. N. said, he had seen many measures carried into effect in this House which he did not approve; he had often been in minorities, and frequently disappointed in what he thought important questions; but he could solemnly say that he never yet saw the time when he would not again have voted for this Constitution, relying upon the operations which complete information, with respect to the transactions of Government, would have upon the minds of the people. If he was right, he was confident, though he had been disappointed in carrying the measures which he advocated here, the people would finally see and approve the right which he had supported; and, if wrong, he should profit by the benefit his country would have received; but his feelings would be very different on the passage of this bill. If he found a power existing which trammelled the press, and prevented a free communication of whatever took place in the Government, to the people at large, he should no longer see a possibility of abuses in the Government being corrected by the influence of the people; there would no longer be reason to expect that uncontrolled Government would consult the public good, and the Government which he had always flattered himself would have no other object, would lose the value he had been accustomed to attach to it.

It would be recollected, Mr. N. said, that two years ago, there was a great alarm in England, very similar to the one raised at present in this country. If gentlemen will turn their attention to the sedition law which passed there at that

time, it will be found that that Government, imperfect as we look upon it, stopped infinitely short of what is proposed by the present bill. In speaking of sedition in this country, an idea is never entertained that it would be seditious to censure the conduct of a responsible agent of the Government. The King, it is well known, is not considered as a responsible agent in the Government. It is his property, so far as he is concerned in it, and the sedition law of that country went barely to prohibit any imputation upon him; but every responsible agent they suffered to be brought to the tribunal of opinion. In order to show the difference between the two laws, Mr. N. read the provisions of each. Seeing, therefore, that the elective principle is respected in England, when the Parliament enacts sedition laws, he hoped it would also be respected here. Our President and Congress stand on the same elective ground with the British House of Commons, and yet we frequently see in the public prints of that country, charges against that body of the most atrocious nature, such as their being in pay, of their being bought by, and under the control of the Minister. Yet we do not find that the printers in that country are prosecuted for exercising this freedom of the press. Nothing of the kind takes place. The great check upon any calumny of this sort, is the sound understanding of the people. If members of the Legislature are charged falsely, they are in as good situations as they could wish to be, to refute the charge; and it is better, according to their understanding of the matter, (and he owned he concurred with them in opinion,) that fifty slanderers should escape punishment, than that a single oppression, with respect to the liberty of the press, should take place. More mischief would be done to the press by a single act of this kind, than any possible amount of slander could do harm. Mr. N. concluded by saying, that it having been seen, that in England, when in the greatest possible state of alarm, there was no disposition to protect their representative characters against examination in the public prints, he trusted the Representatives of this free country would not consent to pass laws by which the free public examination of their own conduct will be prohibited.

Mr. OTIS said the professions of attachment to the Constitution, made by the gentleman from Virginia, are certainly honorable to him; and he could not believe that an attachment so deeply engrafted, as he states his to be, would be shaken by this bill. The gentleman had caught an alarm on the first suggestion of a sedition bill, which had not yet subsided; and though the present bill is perfectly harmless, and contains no provision which is not practised upon under the laws of the several States in which gentlemen had been educated, and from which they had drawn most of their ideas of jurisprudence, yet the gentleman continues to be dissatisfied with it.

The objections of the gentleman from Virginia, he believed, might be reduced to two inquiries. In the first place, had the Constitution given Congress cognizance over the offences described in this bill prior to the adoption of the amendments to the Constitution? and, if Congress had that cognizance before that time, have those amendments taken it away? With respect to the first question, it must be allowed that every independent Government has a right to preserve and defend itself against injuries and outrages which endanger its existence; for, unless it has this power, it is unworthy the name of a free Government, and must either fall or be subordinate to some other protection. Now some of the offences delineated in the bill are of this description. Unlawful combinations to oppose the measures of Government, to intimidate its officers, and to excite insurrections, are acts which tend directly to the destruction of the Constitution, and there could be no doubt that the guardians of that Constitution are bound to provide against them. And if gentlemen would agree that these were acts of a criminal nature, it follows that all means calculated to produce these effects, whether by speaking, writing, or printing, were also criminal. From the nature of things, therefore, the National Government is invested with a power to protect itself against outrages of this kind, or it must be indebted to and dependent on an individul State for its protection, which is absurd. This essential right resulting from the spirit of the Constitution, was still more evident in the language of that instrument. The people of the individual States brought with them as a birthright into this country the common law of England, upon which all of them have founded their statute law. If it were not for this common law, many crimes which are committed in the United States would go unpunished. No State has enacted statutes for the punishment of all crimes which may be committed; yet in every State he presumed there was a Superior Court which claimed cognizance of all offences against good morals, and which restrained misdemeanors and opposition to the constituted authorities, under the sanction merely of the common law. When the people of the United States convened for the purpose of framing a federal compact, they were all habituated to this common law, to its usages, its maxims, and its definitions. It had been more or less explicitly recognised in the Constitution of every State, and in that of Maryland it was declared to be the law of the land. If, then, we find in an instrument digested by men who were all familiarized to the common law, not only that the distribution of power, and the great objects to be provided for, are congenial to that law, but that the terms and definitions by which those powers are described, have an evident allusion to it, and must otherwise be quite inexplicable, or at best of a very uncertain meaning, it will be natural to conclude that, in forming the Constitution, they kept in view the model of the common law, and that a safe recourse may be had to it in all cases that would otherwise be doubtful. Thus we shall find that one great end of this compact, as appears in the preamble, is the establishment of justice, and for this purpose a Judicial department is erected, whose powers are declared "to extend to all cases in law and equity, arising under the Constitution, the laws of the United States," &c. Justice, if

the common law ideas of it are rejected, is susceptible of various constructions, but agreeably to the principles of that law, it affords redress for every injury, and provides a punishment for every crime that threatens to disturb the lawful operations of Government. Again, what is intended by "cases at law and equity arising under the Constitution," as distinguished from cases "arising under the laws of the United States?" What other law can be contemplated but common law; what sort of equity but that legal discretion which has been exercised in England from time immemorial, and is to be learnt from the books and reports of that country? If it be answered that these words comprise civil controversies only, though no reason appears for this distinction, yet what is to be done with other terms, with trial, jury, impeachment, &c., for an explanation of all which, the common law alone can furnish a standard? It has been said by the gentleman that the Constitution has specified the only crimes that are cognizable under it; but other crimes had been made penal at an early period of the Government, by express statute, to which no exception had been taken. For example, stealing public records, perjury, obstructing the officers of justice. bribery in a Judge, and even a contract to give a bribe, (which last was a restraint upon the liberty of writing and speaking,) were all punishable, and why? Not because they are described in the Constitution, but because they are crimes against the United States—because laws against them are necessary to carry other laws into effect; because they tend to subvert the Constitution. The same reasons applied to the offences mentioned in the bill.

Mr. Otis contended that this construction of the Constitution was abundantly supported by the act for establishing the Judicial Courts. That act, in describing certain powers of the District Court, contains this remarkable expression: "saving to suitors in all cases the right of a common law remedy, where the common law was competent to give it." He could not tell whence this competency was derived, unless from the Constitution; nor did he perceive how this competency applied to civil and not to criminal cases.

It was, therefore, most evident to his mind, that the Constitution of the United States, prior to the amendments that have been been added to it, secured to the National Government the cognizance of all the crimes enumerated in the bill, and it only remained to be considered whether those amendments divested it of this power. The amendment quoted by the gentleman from Virginia is in these words: "Congress shall make no law abridging the freedom of speech and of the press." The terms "freedom of speech and of the press," he supposed, were a phraseology perfectly familiar in the jurisprudence of every State, and of a certain and technical meaning. It was a mode of expression which we had borrowed from the only country in which it had been tolerated, and he pledged himself to prove that the construction which he should give to those terms, should be consonant not only to the laws of that country, but to the laws and judicial decisions of many of the States composing the Union. This freedom, said Mr. O., is nothing more than the liberty of writing, publishing, and speaking, one's thoughts, under the condition of being answerable to the injured party, whether it be the Government or an individual, for false, malicious, and seditious expressions, whether spoken or written; and the liberty of the press is merely an exemption from all previous restraints. In support of this doctrine, he quoted *Blackstone's Commentaries*, under the head of libels, and read an extract to prove that in England, formerly, the press was subject to a licenser; and that this restraint was afterward removed, by which means the freedom of the press was established. He would not, however, dwell upon the law of England, the authority of which it might suit the convenience of gentlemen to question; but he would demonstrate that although in several of the State constitutions, the liberty of speech and of the press were guarded by the most express and unequivocal language, the Legislatures and Judicial departments of those States had adopted the definitions of the English law, and provided for the punishment of defamatory and seditious libels. To begin with New Hampshire: In the Bill of Rights of that State, it is declared, "That the liberty of the press is essential to the security of freedom in a State; it ought, therefore, to be inviolably preserved." By an act passed in February, 1791, subsequent to the adoption of that Constitution "any person of the age of fourteen and upward, making and publishing a lie or libel, tending to the defamation of any person, is liable on conviction to a fine," &c. The declaration of rights prefixed to the Constitution of Massachusetts, contains an article to the same effect with that of New Hampshire; yet in the law establishing the Supreme Court of that State, cognizance is given to it, among other things, over all offences and misdemeanors of a public nature "tending to a breach of the peace, oppression of the subject, raising of faction, controversy or debate, to any manner of misgovernment." By another law, any person aiding in a lottery by printing or publishing a scheme on account of it, was punishable." Another law provided, "that if any person by public or private discourse or conversation, or by any ways or means, should dissuade or endeavor to prevent an officer from doing his duty in quelling riots," he is subject to a heavy penalty. In Pennsylvania they carried matters still further In their Bill of Rights, we find "that the printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature, or any branch of the Government, and no law shall ever be made to restrain the free right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely write, print or speak, on any subject, being responsible for the abuse of that liberty." Yet, in Pennsylvania, a law has been made, and he had heard from the best authority was still in force "making it high treason to propose a new constitution in that State."

Mr. Gallatin denied the existence of any such law.

Mr. Otis replied that he might, perhaps, have mistaken the precise words, but it was to that effect.

If we go to Virginia, said Mr. O., we shall read in their constitution "that the freedom of the press cannot be restrained, except in despotic Governments;" but, in the act passed December, 1792, it is provided, "that if any person shall, by writing or speaking, endeavor to instigate the people to erect or establish any Government, separate or independent of the Government of Virginia, he shall be subject to any punishment not extending to life or member, which the court may adjudge." They have another act against cursing and swearing, which is merely using the liberty of speech.

In all these instances, it is clearly understood, that to punish licentiousness and sedition is not a restraint or abridgment of the freedom of speech or of the press. He might no doubt multiply these examples, and appeal to the opinions and decisions of many learned Courts and juries; but he would confine himself to the Courts of Pennsylvania.

Mr. O. then read divers extracts from a case found in *Dallas's Reports*: the Commonwealth *vs.* Oswald, and the opinion of the Chief Justice, which, as he said, avowed and fortified the law with all its distinctions as stated by himself; and this opinion, he declared, had been incidentally sanctioned by the whole Legislature of Pennsylvania, upon Mr. Oswald's petition. He said he should despair of finding this great Constitutional law expounded with the same pertinence and eloquence, but that he held in his hand another document containing a late charge to a grand jury from the same learned Judge. [This charge he also proceeded to read.]

Mr. O. having finished reading this extract, repeated his expressions of astonishment that gentlemen should raise such an outcry against a law so perfectly analogous to the laws and usages under which they had all been born and bred. If this law were a violation of the Constitution, each State had infringed upon its own constitution; for it was not more true that all the powers not given to Congress were retained by the States, than that all the powers not given to the States were retained by the people.

The gentleman from Virginia had inquired how a line could be drawn between the liberty and licentiousness of the press? He would inform him, that an honest jury was competent to such a discrimination, they could decide upon the falsehood and malice of the intention. How, said he, do they draw a line of discrimination in the case of a forgery of public security? This crime is effected through the medium of the press or of the pen. How can they punish the intent when a man offers a bribe to a Judge, which may be done by words only? These are offences which the gentlemen would anxiously discountenance. Yet forgery is only the liberty of the press upon his construction, and an offer of bribery is merely freedom of speech. Is it not a restraint upon the freedom of speech, that the people in the gallery are not allowed to join in this debate? Yet this would hardly be permitted. Why then, said Mr. O., are gentlemen so feelingly alive on this subject? Where lies the injury in attempting to check the progress of calumny and falsehood? Or how is society aided by the gross and monstrous outrages upon truth and honor, and public character and private peace which inundate the country? Can there be any necessity of allowing anonymous and irresponsible accusers to drag before the tribunal of public opinion, magistrates, and men in office, upon false and groundless charges? There are sixteen Legislatures in the United States, in which all the measures of Government are open to investigation. There are two Houses of Congress, in which every accusation and suspicion may have free vent, wherein our jealousies and prejudices may be uttered without restraint, and every man will still be at liberty to print and speak at pleasure; but he must be prepared to prove those charges which bring disgrace upon his fellow-citizens. No reasonable being can desire a greater latitude than this. But the gentleman from Virginia is fearful that an impartial jury will not be found in the present excited state of the public opinion; but if twelve honest men cannot be found to acquit a libellist, he ought to be convicted. He urges further that, even in Great Britain, Parliament has never made laws to restrain censorious remarks upon its measures; but, in Great Britain, Government is more able to protect itself, and, if the gentleman pleases, he may add, it is less deserving of protection. It should be remembered, too, that the esteem and confidence of the people is of less consequence to a British Parliament, than it is to an American Congress; and, moreover, that libels as well against Parliament, as other bodies of men, are offences at common law. Neither does the present bill restrain a free animadversion upon the proceedings of Congress, or the conduct of its members; it merely prohibits calumny and deception. The gentleman from Virginia had made another singular objection to the bill, arising from an apprehension that, by it, a blow was aimed at an individual printer, to whose paper he subscribed, as it was one of the only three or four papers that were open to a free discussion of the measures of the Administration. The right of the gentleman to subscribe for the paper alluded to, could not be disputed, although his fears must proceed from an opinion that it would inevitably fall under the description of writings intended by the bill. But, does the gentleman speak from personal information in alleging that other presses are shut against strictures upon the Government? Has admission been refused to the lucubrations of himself or friends? If not, he should not complain because the editors of newspapers generally, and the people at large, are too well satisfied with the conduct of Government to volunteer an opposition. The public approbation and contentment expressed in the daily papers, was the highest and most honorable testimony of the wisdom of public measures, unless it be supposed that the printers from one end of the Continent to the other, are paid by the Administration for suppressing truth;

a confederacy this, much less likely to exist, than one consisting of three or four printers, for the propagation of error and mischief.

Mr. Otis concluded by apologizing to the committee for the time he had employed upon topics so familiar to them as the present. He was aware that the right of Congress to legislate upon this subject, appeared to a majority of that House self-evident, and begged to assure them, that he did not mean to insult the understanding of gentlemen by enlarging upon principles so perfectly plain and undeniable. He justified himself only by the occasion. He knew that most unusual attempts were made to deceive the people and alarm their fears, that they were threatened with the deprivation of a darling privilege. It, therefore, was proper to remind them, that these were idle terrors, and that no innovation was attempted upon the immemorial laws and customs of the country. They were still at liberty, and would ever be so, to use their tongues and their pens, like all other property, so as to do no wanton and unjustifiable injury to others. He, therefore, hoped the bill would pass.

Mr. Macon said, the same section of the Constitution which forbids any interference with the freedom of speech and of the press, extends also to religious establishments, and says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This bill ought to be considered, therefore, as the commencement of a system which might as well be extended to the establishment of a national religion, as to a "restraint of speech and of the press." He acknowledged the bill was less exceptionable than when it came from the Senate; but it yet contained the principle which he considered as violating the Constitution.

Mr. M. said, he had attended to all that had been said in support of this bill; but could find nothing like argument in it. When the words of the Constitution were so express, it seems impossible they could be understood as the gentleman from Massachusetts had represented them. Several authorities, Mr. M. said, had been read to show that this bill will form a Constitutional law. He believed, however, far more might be adduced to show the reverse. He believed the best way of coming at the truth of the construction of any part of the Constitution, was, by examining the opinions that were held respecting it when it was under discussion in the different States.

Mr. M. then proceeded to quote the opinions of the leading members in several of the State conventions, in order to show, from the opinions of the friends of the Constitution, that it was never understood that prosecutions for libels could take place under the General Government; but that they must be carried on in the State courts, as the Constitution gave no power to Congress to pass laws on this subject. Not a single member in any of the conventions gave an opinion to the contrary. The following are the words of Judge Iredell, of North Carolina, on the occasion. Judge Wilson, of this State, and several others, were equally strong; but we have them not at hand, and if we had, to give extracts from the whole would occupy too much room. In the Convention of North Carolina, in reply to a member who had said that the General Government might make it treason to write against the most arbitrary proceedings, but who, it appears, afterwards corrected himself, and said he meant only misprision of treason, and only that it might be done within the ten miles square, where they were to have exclusive legislation, Judge Iredell thus spoke:

"Where is the power given them to do this? They (Congress) have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; but they have no power to define *any other crime whatever*. This shows how apt gentlemen are to commit mistakes. The powers of the Government are particularly enumerated and defined. They can claim no others but such as are so enumerated. In my opinion, they are excluded as much from the exercise of any other authority, as they could be by the strongest negative clause that could be framed."

Mr. M. also quoted the opinions of members of Congress at the time the amendments to the Constitution were adopted, to prove the same thing. And inquired how it was come to pass, notwithstanding all the positive opinions which he had quoted to the contrary, that Congress should now conceive that they have power to pass laws on this subject? He could himself find no ground to justify the change.

Gentlemen, Mr. M. said, might call this a harmless bill; but however harmless it may be, it is a beginning to act upon forbidden ground, and no one can say to what extent it may hereafter be carried. He thought this subject of the liberty of the press was sacred, and ought to be left where the Constitution had left it. The States have complete power on the subject, and when Congress legislates, it ought to have confidence in the States, as the States ought also to have confidence in Congress, or our Government is gone. This Government depends upon the State Legislatures for existence. They have only to refuse to elect Senators to Congress, and all is gone. He believed there was nowhere any complaint of a want of proper laws under the State Governments; and though there may not be remedies found for every grievance in the General Government, what it wants of power will be found in the State Governments, and there can be no doubt but that power will be duly exercised when necessity calls for it.

Mr. M. concluded with observing, that from the best examination which he had been able to give to the subject, he was convinced that Congress does not possess the power to pass a law like the present; but if there be a majority determined to pass it, he could only hope that the Judges would exercise the power placed in them of determining the law an unconstitutional law, if, upon scrutiny, they find it to be so.

Mr. Livingston said, that notwithstanding the sarcasms which had been thrown out against those who oppose this measure; notwithstanding that

kind of accommodating principle which has been set up and reiterated, that the powers of this Constitution extend to every possible case—a principle which goes to the destruction of State authorities, and makes that instrument mean anything or nothing—notwithstanding this, he should again venture to engage the attention of the House while he endeavored to show that this bill is not only contrary to the spirit, but to the direct letter of the Constitution.

The Constitution declares that "no law shall be passed to abridge the liberty of speech or of the press." Let us inquire, said Mr. L., what was the liberty enjoyed at the time this declaration was agreed to, and see whether citizens will enjoy the same liberty after this law passes that they then enjoyed. Will gentlemen say that the same liberty of writing and speaking did not exist then that now exists? If they will not say this, must they not allow that the Constitution is positive in prohibiting any change in this respect? Gentlemen may call this liberty an evil, if they please; if it be an evil (which he was far from believing) it is an evil perpetrated by the Constitution.

The Constitution seems to have contemplated cases which might arise at a future day. It seems to have foreseen that majorities (far be it from him to believe the present majority is of the number) might be actuated by dispositions hostile to the Government; that it might wish to pass laws to suppress the only means by which its corrupt views might be made known to the people, and therefore says, *no* law shall be passed to abridge the liberty of speech and of the press. This privilege is connected with another dear and valuable privilege—the liberty of conscience. What is liberty of conscience? Gentlemen may tomorrow establish a national religion agreeably to the opinion of a majority of this House, on the ground of an uniformity of worship being more consistent with public happiness than a diversity of worship. The doing of this is not less forbidden than the act which the House are about to do. But, it is said, will you suffer a printer to abuse his fellow-citizens with impunity, ascribing his conduct to the very worst of motives? Is no punishment to be inflicted on such a person? Yes. There is a remedy for offences of this kind in the laws of every State in the Union. Every man's character is protected by law, and every man who shall publish a libel on any part of the Government, is liable to punishment. Not, said Mr. L., by laws which we ourselves have made, but by laws passed by the several States. And is not this most proper? Suppose a libel were written against the President, where is it most probable that such an offence would receive an impartial trial? In a court, the judges of which are appointed by the President, by a jury selected by an officer holding his office at the will of the President? or in a court independent of any influence whatever? The States are as much interested in the preservation of the General Government as we are. We do wrong when we attempt to set up interests independent of the States. They are all desirous of preserving the Constitution as it now stands; and it is, therefore, much more probable that justice will be found in a court in which neither of the parties have influence, than in one which is wholly in the power of the President.

But, it is said this Government is liable to suffer abuse of the worst kind; the worst motives may be attributed to it, the most false statements made with respect to its conduct, and no hand can be held out to protect it. For his own part, he believed there ought to be no such power. He believed every independent Government was equal to the protection of its private or public character; but when gentlemen speak of slanders against the Government, he knew of no such thing. We are charged, for instance, with passing an unconstitutional act—with violating our oaths. What answer is it proposed we should make to the charge? We are not to disprove the fact, and let the public judge between us, but we are immediately to prosecute the man who makes the charge. You may, by thus acting, establish error as soon as truth; you put them both on the same footing; you crush them by force of arms, and not by the force of reason. This is the same system which heretofore lighted the fires of Smithfield, and which has produced so much bloodshed and ruin amongst mankind.

But even the Constitutional objection to this bill, great as it is, is of small importance, when it is considered in another point of view. He looked upon it as a link in a chain of events leading to the most serious consequences—events which he had always opposed and constantly deplored—leading to a practical change in our Government. Gentlemen may think this is not so. He had frequently heard them speak of weak and rotten parts of the system; they may wish only to strengthen the weak parts, and cut out the rotten. But, Mr. L. said, he admired the Constitution in its present form; he had superadded to this admiration the sanction of an oath. Both inclination and duty, therefore, led him to oppose measures which, in his opinion, went to a radical change of it.

Many writers have amused themselves, and instructed the world, by delineating the means by which free Governments gradually become oppressive; and some of them the means by which free Governments become Despotisms. He would take the liberty of reading an extract out of one of the best writings he had seen on this subject—the best in this view: as it shows how a Government, organized like ours, may come to destruction. He would barely read the passage, and if it did not make an impression on the minds of gentlemen, he should despair of saying anything that would. [Mr. Dana inquired the name of the author.] Mr. Livingston replied, the book he alluded to was John Adams's Defence of the American Constitution. Whilst he read this, he wished it to be recollected that it had been declared on this floor that none but men of a certain political opinion would be chosen by the President to office. Mr. L. then read as follows:

"A few eminent, conspicuous characters, will be continued in their seats in the Sovereign Assembly, from no election to another, whatever changes are made in

the seats around them. By superior art, address, and opulence; by more splendid birth, reputation, and connexions, they will be able to intrigue with the people, and their leaders out of doors, until they worm out most of their opposers and introduce their friends. To this end, they will bestow all offices, contracts, privileges in commerce, and other emoluments, on the latter, and their connexions, and throw every vexation and disappointment in the way of the former, until they establish such a system of hopes and fears throughout the State as shall enable them to carry a majority in every fresh election of the House. The Judges will be appointed by them and their party, and, of consequence, will be obsequious enough to their inclinations. The whole Judicial authority, as well as the Executive, will be employed, perverted, and prostituted to the purposes of electioneering. No justice will be attainable, nor will innocence or virtue be safe in the Judiciary Courts, but for the friends of the prevailing leaders. Legal prosecutions will be instituted and carried on against opposers, to their vexation and ruin; and, as they have the public purse at command, as well as the Executive and Judicial power, the public money will be expended in the same way. No favors will be attainable but by those who will court the ruling demagogues in the House by voting for their friends and instruments; and pensions and pecuniary rewards and gratifications, as well as honor and offices of every kind, will be voted to friends and partisans. The leading minds and most influential characters among the clergy will be courted, and the views of the youth in this department will be turned upon those men, and the road to promotion and employment in the church will be obstructed against such as will not worship the general idol. Capital characters among the physicians will not be forgotten, and the means of acquiring reputation in the practice of the healing art, will be to get the State trumpeters on the side of youth. The bar, too, will be made so subservient that a young gentleman will have no chance to obtain a character, or clients, but by falling in with the views of the Judges and their creators. Even the theatres and actors and actresses must become politicians, and convert the public pleasures into engines of popularity for the governing members of the House. The press, that great barrier and bulwark of the rights of mankind, when it is protected in its freedom by law, can now no longer be free; if the authors, writers, and printers, will not accept of the hire that will be offered them, they must submit to the ruin that will be denounced against them. The presses, with much secrecy and concealment, will be made the vehicles of calumny against the minority, and of panegyric and empirical applause of the leaders of the majority, and no remedy can possibly be obtained. In one word, the whole system of affairs, and every conceivable motive of hope and fear, will be employed to promote the private interests of a few, and their obsequious majority; and there is no remedy but in *arms!*"

Sad remedy! He hoped the people of this country would never be forced to have recourse to it. If the fatal tendency of certain measures be what they are here described, (and he believed the representation to be a just one,) it behooved us to beware in time.

Mr. L. would be glad if gentlemen would inform the House of any good which would be derived from the passage of this bill—of any evil which it will remedy? If they could not do this, he further entreated them to think of the evils which it may produce. He feared it would lessen the confidence of the people in the Government. By the addresses which we see pour in, from every quarter, it would seem that this confidence is now possessed, and he hoped Government would be careful not to lose it. But to judge from addresses alone, was but a fallacious mode of judging. In proof of this, Mr. L. referred to Dalrymple's History of the Reign of James I., which shows that this monarch was overpowered with the most fulsome addresses, at a time when the people in general were disaffected to his Government to the highest degree. This, he said, was a strong historical fact, which ought to have its due weight. The political situation of this country very much resembles that of England at the time alluded to.

The effect of this bill may be to lift a few men into consequence who were never of any before, and to ruin two or three others; but it will be in vain to attempt to hide the misconduct of Government from the people. The thing will defeat its own end. They will, besides, be struck with the flagrant breach which it makes in the Constitution, compared with which, he looked upon war, pestilence, and every other calamity, as of trifling consequence. Time may remove these, but of an unforgiving, dreary despotism, who can see the end? God forbid that we should ever be called upon to employ our talents to the overturning of such a Government!

Mr. Dana said, no honest man wanted the liberty of uttering malicious falsehood—and this law would operate against no other publications.

Mr. Gallatin observed that the same kind of general answer to all the objections against the bill, which had now fallen from the gentleman from Connecticut, had already been used by him on the first reading of the bill, when the criminality of certain writings was not to depend on their being false and malicious. The remarks of that gentleman were, however, as little in point now, and no more applicable to the argument urged against this bill, than they were before it had received its present modifications. Was the bill, in its present shape, free from Constitutional objections? Supposing it to be Constitutional, was it expedient? or, to use the words of the Constitution, was it necessary and proper, at present, to pass this law? These were the two important questions which claimed the attention of the House.

The gentleman from Massachusetts (Mr. Otis) had attempted to prove the constitutionality of the bill by asserting, in the first place, that the power to punish libels was originally vested in Congress by the Constitution, and, in the next place, that the amendment to the Constitution, which declares that Congress shall not pass any law abridging the liberty of the press, had not deprived them of the power originally given. In order to establish his first position, the gentleman had thought it sufficient to insist that the jurisdiction of the Courts of the United States extended to the punishment of offences at common law, that is to say, of offences not arising under the statutes or laws of the Union—an assertion unfounded in itself, and which, if proven, would not support the point he endeavors to

establish. That assertion was unfounded; for the judicial authority of those courts is, by the Constitution, declared to extend to cases of Admiralty, or affecting public Ministers; to suits between States, citizens of different States, or foreigners, and to cases arising under the Constitution, laws, and treaties, *made* under the authority of that Constitution; excluding, therefore, cases not arising under either—cases arising under the common law. It was preposterous to suppose, with the gentleman from Massachusetts, that, in cases arising under the Constitution, were included offences at common law; for the cases meant were only, either such as might arise from any doubtful construction of the Constitution—for instance the constitutionality of a law—or those arising immediately under any specific power given or prohibition enjoined by the Constitution; such, for instance, as declaring a retrospective law of any State to be null and void. Nor was that gentleman more fortunate in his choice of arguments, when he thought he could derive any proofs in support of the supposed jurisdiction of the Federal Courts from the number of technical expressions in the Constitution—such as *writ of habeas corpus, levying war,* &c., which, as he supposed, recognised the common law. He had there confounded two very distinct ideas—the principles of the common law, and the jurisdiction over cases arising under it. That those principles were recognised in the cases where the courts had jurisdiction, was not denied; but such a recognition could by no means extend the jurisdiction beyond the specific cases defined by the Constitution. But, had that gentleman succeeded in proving the existence of the jurisdiction of the Federal Courts over offences at common law, and more particularly over libels, he would thereby have adduced the strongest argument against the passing of this bill; for, if the jurisdiction did exist, where was the necessity of now giving it? If the judical authority of the Federal Courts, by the Constitution, extended to the punishment of libels, it was unnecessary to pass this law, which, modified as it is, was intended by its supporters for the sole purpose of enacting into a law of the United States the common law of libels. The gentleman from Massachusetts himself, by his efforts to obtain this law, had shown that he did not believe that the courts could act in the case of libels, without the assistance of a law; and every gentleman who had spoken in favor of this bill had explicitly declared, as his opinion, that the Federal Courts had no jurisdiction whatever over offences at common law. The fact was, that the gentleman from Massachusetts, although he had at first stated the question correctly, by saying that it was sufficient to prove that the power of passing this bill was given by the Constitution, had afterwards altogether forgotten his own position—the position which it was incumbent upon him to prove—and had attempted to establish another point, unconnected with the first. The question was not whether the Courts of the United States had, without this law, the power to punish libels, but whether, supposing they had not the power, Congress had that of giving them this jurisdiction—whether Congress were vested by the Constitution with the authority of passing this bill?

For a proper discussion of that question, Mr. G. said, it would be necessary for him to bring once more to the recollection of the House those Constitutional principles to which he had already, on another occasion, adverted. The people of the United States were not under the authority of a simple, or of one, but under two distinct Governments—that of the different States in which they respectively lived, and that of the Union. The Government of the Union was not a consolidated one, possessing general power; it was only a federal one, vested with specific powers, defined by the Constitution; and though it should seem that no one could, on reading that instrument, mistake its principle, yet, for greater security, it had been provided, by an amendment which now made a part of the Constitution, that the power not delegated to the United States, nor prohibited to the individual States, remained respectively with the States, or with the people. Hence it was that Congress had no undefined general legislative powers, but that it became necessary for them, whenever they passed a law, to show from what article of that charter under which they acted—from what specific power vested in them by the Constitution—they derived the authority they claimed. In this instance, it must be shown that the Constitution has given them the power to pass a law for the punishment of libels. It would not be contended that any such power was specifically given, and it only remained to be examined whether it was included in any more general authority. It had been insisted that Congress had the power, generally, to provide for the punishment of any offences against Government. It is evident that such a power, if it did exist, would embrace the punishment of any offences whatever, or rather of any act, which, though not criminal in itself, might be obnoxious to the persons who happened to have Government in their hands; for any such act might, by them, be called an offence against Government, and made criminal. But, so far from this being the case, it would be found that the Constitution had actually specified the cases in which Congress should have power either to define or to provide for the punishment of offences; and they were the following: piracies, felonies on the high sea, and offences against the law of nations, which they had a right to define and punish; counterfeiting the coin or public securities of the United States; treason, which they had a right to punish, but not to define, it being expressly defined by the Constitution itself; all offences that might be committed within the ten miles square, forts, arsenals, &c., over which the United States might, with the consent of a State, acquire exclusive jurisdiction; and, finally, opposition or offences against the laws or exercise of the Constitutional authority of any department—which offences Congress had a right to define and punish, by virtue of the clause of the Constitution which empowered them to pass all laws necessary and proper for carrying into execution any power vested by the Constitution in them, or in any department. Mr. G. then proceeded

to enumerate the several offences defined by the two acts providing for the punishment of crimes against the United States, in order to show that Congress had heretofore strictly adhered to the specification of the Constitution, and never attempted to legislate in the manner proposed by this bill.

It must be evident, from that enumeration, that the only clause of the Constitution which can give a color to the authority now claimed, is that already quoted, which gives Congress authority to make all laws which shall be necessary and proper for carrying into execution the power vested by the Constitution in the Government of the United States, or in any department or officer thereof.

But the language here used was strict and precise; it gave not a vague power, arbitrarily, to create offences against Government, or to take cognizance of cases which fall under the exclusive jurisdiction of the State courts. In order to claim any authority under this clause, the supporters of this bill must show the specific power given to Congress or to the President, by some other part of the Constitution, which would be carried into effect by a law against libels. They must go further—they must show which of those Constitutional powers it was which could not be carried into effect, unless this law was passed. It was in that manner that the authority of Congress had heretofore been exercised; they had passed no penal laws, except such as arose from the necessity of carrying into effect some of the specific powers vested in them. Thus, as they had the exclusive power to establish post roads, they had made it penal to rob the mail; and as they were authorized to lay taxes, they had passed laws to punish frauds of revenue officers, or evasions of the revenue laws. But, until this bill was proposed, Congress had never attempted to define or punish offences generally; and the gentleman from Massachusetts was mistaken when he had stated that forgery was generally punishable by the laws of the United States. It was only in those specific cases defined by the Constitution, or which arose from some power heretofore exercised by Congress, that forgery came under the jurisdiction of the Federal Courts.

Mr. G. said that he had heretofore considered the Constitution as it originally stood, and that it must be evident that no law against libels could be passed by Congress, unless it was under color of carrying into effect some other distinct power vested in them. However improbable such an attempt might have appeared, the bill now under discussion justified the suspicions of those who, at the time of the adoption of the Constitution, had apprehended that the sense of that generally expressed clause might be distorted for that purpose. It was in order to remove these fears, that the amendment, which declares that Congress shall pass no law abridging the freedom of speech or the liberty of the press, was proposed and adopted—an amendment which was intended as an express exception to any supposed general power of *passing laws, &c.*, vested in Congress by the other clause. The sense, in which he and his friends understood this amendment, was that Congress could not pass any law to punish any real or supposed abuse of the press. The construction given to it by the supporters of the bill was, that it did not prevent them to punish what they called the licentiousness of the press, but merely forbade their laying any previous restraints upon it. It appeared to him preposterous to say, that to punish a certain act was not an abridgement of the liberty of doing that act. It appeared to him that it was an insulting evasion of the Constitution for gentlemen to say, "We claim no power to abridge the liberty of the press; *that*, you shall enjoy unrestrained. You may write and publish what you please, but if you publish anything against us, we will punish you for it. So long as we do not prevent, but only punish your writings, it is no abridgment of your liberty of writing and printing." Congress were by that amendment prohibited from passing any law abridging, &c.; they were, therefore, prohibited from adding any restraint, either by previous restrictions, or by subsequent punishment, or by any alteration of the proper jurisdiction, or of the mode of trial, which did not exist before; in short, they were under an obligation of leaving that subject where they found it—of passing no law, either directly or indirectly, affecting that liberty.

In the next place, this amendment was introduced as an exception to some pre-existing power vested by the Constitution in Congress; so that, to render the construction given by the supporters of the bill admissible, it was necessary for them to prove, that, by virtue of some such pre-existing power, or in order to carry into effect some distinct power, Congress could have laid previous restraints upon the press—a suggestion which never was hinted, even by the most violent opponents of the Constitution, at the time of its adoption. The danger intended to be remedied was that which had been actually apprehended, and which might have some frail foundation in the general clause so often quoted. Finally, that construction was inconsistent with the amendment itself. That amendment provided against the passing of any law abridging either the liberty of the press or the freedom of speech; and a sound construction must be such as to be applicable to both. But that contended for, to wit, that the only prohibition was that of passing any law laying previous restraints upon either, was absurd, so far as it related to speech; for it pre-supposed that Congress, by the Constitution, as it originally stood, might have passed laws laying such restraints upon speech; and what these possibly could have been, he was altogether at a loss to conceive, unless gentlemen chose to assert that the Constitution had given Congress a power to seal the mouths or to cut the tongues of the citizens of the Union; and these, however, were the only means by which previous restraints could be laid on the freedom of speech. Was it not evident, that, as speech could not be restrained, but might be punished, a Constitutional clause forbidding any abridgment of the freedom of speech must necessarily mean, not that no laws should be passed laying previous restraints upon it, but that

no punishment should by law be inflicted upon it? But, admit the construction given to the amendment by the supporters of this bill, still must they recur to the original provisions of the Constitution—still is it incumbent on them to show that this bill is *necessary*, in order to carry into operation some of the powers of Government. Government has existed for more than nine years without the assistance of this law. This law is not, then, necessary at all times; indeed, it is intended only to last for three years. Let, then, gentlemen prove that that necessity now exists which heretofore did not exist. It is an obligation laid upon them by the Constitution itself, evidently, to prove that an alteration has taken place in the situation of this country, which impels us to pass this law. And yet they are silent. Where is the House to find proofs of that wonderful, yet unknown change in our circumstances? Will they derive their information from the newspaper scraps with which they had been entertained, the other day, by a member from Connecticut? as if there was anything alarming or novel in paragraphs blaming or attacking certain measures or certain individuals of Government; as if the present Administration felt more afraid of newspaper abuse than former Administrations, or than other men. Or is Congress to receive a conviction of that alteration from the plot which the gentleman from South Carolina (Mr. Harper) had promised to unfold—a plot in which not one member on this floor did believe, when it was announced, and in which he suspected the gentleman himself had long since discovered he had been mistaken? Leaving, however, those ridiculous grounds of alarm, (and, ludicrous as it might appear to an indifferent hearer, they were the only ones that had yet been alleged in support of this bill,) Mr. G. would ask whether gentlemen did not believe themselves, that at no time had there been less to be apprehended from presses that circulated opinions in opposition to the measures of Government; that no reason could be adduced why this bill should pass, except that a party in the United States, feeling that they had more power, were not afraid of passing such a law, and would pass it, because they felt themselves so strong—so little in need of the assistance of that measure—that they expected to be supported by the people, even in that flagrant attack upon the Constitution? Would any of them dare to assert that the time when the Western insurrection took place, when it was thought *necessary* to call to arms fifteen thousand men, was not a more dangerous moment for Government, and did not more forcibly call forth a law punishing misrepresentations of the measures or motives of Government, than the present period?

The advocates of this measure must show to us its necessity for carrying into operation the powers vested in the President, or in either branch of the Legislature—who are its objects. They must prove that the President dare not, cannot, will not, execute the laws, unless the abuse poured upon him from certain presses is suppressed. If there be a majority of this House in favor of this law, are that majority ready to declare that that law is *necessary*, in order to enable them to execute the powers vested in them by the Constitution? Are they ready to say that they are prevented from voting according to the dictates of their conscience, for voting is the only power belonging to them, by newspaper paragraphs? Are they ready to say, that unless libels against them shall be punished; that unless they may obtain revenge from the insolence of the printers, they will not or dare not vote as they would otherwise do? But if they are ready to make those declarations; if they do believe this bill *necessary* in order to enable this House to do their duty, they must recollect that this House is composed of individuals, and that, according to their own doctrine, in order to insure a conscientious vote in the whole House, every individual, and not a majority of the House, ought to be equally sheltered by this law from the abuse of printers. Whilst, therefore, they support the bill in its present shape, do they not avow that the true object of the law is to enable one party to oppress the other; that they mean to have the power to punish printers who may publish against them, whilst their opponents will remain alone, and without redress, exposed to the abuse of Ministerial prints? Is it not their object to frighten and suppress all presses which they consider as contrary to their views; to prevent a free circulation of opinion; to suffer the people at large to hear only partial accounts, and but one side of the question; to delude and deceive them by partial information, and, through those means, to perpetuate themselves in power?

In vain did those gentlemen attempt to shelter themselves under the different pleas that this bill could only affect the authors of false publications, since any man might justify his writings by giving in evidence the truth of his assertions; and that it created no new offence, but only re-enacted what had always been the common law of libels.

It was true that, so far as related merely to facts, a man would be acquitted by proving that what he asserted was true. But the bill was intended to punish solely writings of a political nature, libels against the Government, the President, or either branch of the Legislature; and it was well known that writings, containing animadversions on public measures, almost always contained not only facts but opinions. And how could the truth of opinions be proven by evidence? If an individual thinking, as he himself did, that the present bill was unconstitutional, and that it had been intended, not for the public good, but solely for party purposes, should avow and publish his opinion, and if the Administration thought fit to prosecute him for that supposed individual offence, would a jury, composed of the friends of that Administration, hesitate much in declaring the opinion ungrounded, or, in other words, false and scandalous, and its publication malicious? And by what kind of argument or evidence, in the present temper of parties, could the accused convince them that his opinion was true?

As to the assertion that the bill, under its present modifications, was nothing more than the

common law of libels, he would observe that no gentleman could be satisfied that the few lines, of which the bill consisted, contained the genuine and unadulterated principles of the law of libels—a law which had arisen from the precedents and judicial decisions of three centuries; a law which, like every other branch of the common law of England, had received different modifications in the different States, so as to be now dissimilar in every one. He had not critically examined the bill in that point of view; but he would just notice a mode of expression which, if strictly construed, would introduce a principle now unknown to the common law of libels. By the bill, every person who should write, print, utter, or publish, &c., was guilty; so that a person only writing what might be adjudged a libel, although he neither printed, published, read, or communicated his work to any one, and although he did not intend it for publication, might, like Algernon Sidney, be found guilty, under this act, for the offence only of having thrown his ideas on paper.

But, although there might be no change made by this bill in the law of libels, there was an all-important one made by the transfer of jurisdiction. Heretofore the cognizance of offences of this nature had exclusively belonged to the State courts, and the mode of trial was essentially altered by being had before the Federal courts. It was not only by being deprived of the benefits of a trial by a jury of their vicinage that the accused persons were put in a worse situation; the manner of selecting the jury was, in some States, in Pennsylvania, especially, very different in the Courts of the United States from what it was in the State courts. It was provided, by the act to establish the Judicial Courts of the United States, "that jurors, to serve for the Courts of the United States, shall be designated by lot, or otherwise, in each State, respectively, according to the mode of forming juries therein now practised, so far as the laws shall render such designation practicable, by the courts or marshal of the United States." Juries, in the New England States, were selected by the towns, or by lot, and under that act, they still were selected in the same manner to serve in the Federal Courts, without the interference of any federal officer. Gentlemen from those States were, therefore, very easy on account of this bill, as, in practice, it left their constituents in the same situation in which it found them. In case of a prosecution for a libel, an inhabitant of Massachusetts would be tried by a similar jury, whether the trial was had before the State or Federal court. But, in other States, where the juries were summoned by the sheriff, the case was far different. In Pennsylvania, if the prosecution was before the State court, the jury would be summoned by the sheriff, but if before the Federal court, the marshal, in that case, would summon the jury. The difference in this case was immense; for the sheriff in Pennsylvania was elected by the people, and held his commission for three years, revocable only for misbehaviour. The marshal was appointed by the President of the United States, was removable from office at his pleasure, and sometimes held other offices under the Executive; for instance, the marshal of Pennsylvania, till within a few weeks, had been inspector of the revenue. The sheriff was the officer of the people, the marshal was the creature of the Executive. And, however immaterial this might be in ordinary suits or prosecutions, when the offences were, as under this bill, altogether of a political nature; when the supposed crimes to be punished were a libel against the Administration, what security of a fair trial remained to a citizen, when the jury was liable to be packed by the Administration, when the same men were to be judges and parties?

After having given this short sketch of the features of this bill, Mr. G. said he had intended to make some general remarks on the nature of political libels, or of writings against the measures of the Administration, and on the propriety of interfering at all by law with them. The lateness of the hour prevented him. He would only observe that laws against writings of this kind had uniformly been one of the most powerful engines used by tyrants to prevent the diffusion of knowledge, to throw a veil on their folly or their crimes, to satisfy those mean passions which always denote little minds, and to perpetuate their own tyranny. The principles of the law of political libels were to be found in the rescripts of the worst Emperors of Rome, in the decisions of the Star Chamber. Princes of elevated minds, Governments actuated by pure motives, had ever despised the slanders of malice, and listened to the animadversions made on their conduct. They knew that the proper weapon to combat error was truth, and that to resort to coercion and punishments in order to suppress writings attacking their measures, was to confess that these could not be defended by any other means.

Mr. Harper said, that he should hardly expect, at so late an hour, to be indulged by the House in a detailed answer to the objections urged against this bill, even if he thought it necessary. He did not, however, think it necessary, as most of the arguments which had any appearance of application or force, had already been fully refuted; some few only, which he thought it important to controvert, had remained unanswered; and on them he begged permission to make a few remarks.

In the first place, gentlemen who oppose the bill had said, that hitherto the Government of the United States had existed and prospered without a law of this kind, and then exultingly asked: "What change has now taken place to render such a law necessary?" He did not know whether most to wonder at or pity the security of gentlemen who asked this question. They, no doubt, could perceive no change of circumstances; for they had declared that they perceived none; but, to his mind, by the conclusions of which his conduct must be governed, the change was most evident; and he would, for himself, answer the question of the gentleman. The change, in his opinion, consisted in this: that heretofore we had been at peace, and were now on the point of being driven into a war with a nation which openly boasts of

its party among us, and its "diplomatic skill," as the most effectual means of paralyzing our efforts, and bringing us to its own terms. Of the operations of this skill among us, by means of corrupt partisans and hired presses, he had no doubt; he was every day furnished with stronger reasons for believing in its existence, and saw stronger indications of its systematic exertion. We knew its effects in other countries, where it had aided the progress of France, much more effectually than the force of her arms. He knew no reason why we should not harbor traitors in our bosom as well as other nations; and he did most firmly believe that France had a party in this country, small, indeed, and sure to be disgraced and destroyed as soon as its designs should become generally known, but, active, artful, and determined, and capable, if it could remain concealed, of effecting infinite mischief. This party was the instrument of her "diplomatic skill." By this party she hoped to stop "the wheels of our Government," enchain our strength, enfeeble our efforts, and finally subdue us; and to repress the enterprises of this party, he wished for a law against sedition and libels, the two great instruments whereby France and her partisans had worked for the destruction of other countries, and he had no doubt were now working, he trusted unsuccessfully, for the destruction of this.

He could not, therefore, believe that our safety hitherto ought to lull us into security now; unless gentlemen could convince him that, because a person had existed in health, for nine years, he ought to refuse medicine when he at length felt the approach of disease; or when he saw the daggers of assassins everywhere whetted against him, should neglect to put on a coat of mail, because, for nine years, he had not been assailed.

It was honorable for the Government, Mr. Harper said, that it had existed for nine years, in safety, without such a law as this; and he still hoped that even now, there would be little or no occasion for enforcing the law should it pass, but of this he was far from being certain. The coat of mail which Congress was about to provide in this law, might turn away the point of some dagger aimed at the heart of the Government, and in that case it would, he said, be matter of rejoicing that the bill had passed. Should no such case occur, then, like a sword, which there has been no occasion to draw, it will have done no harm.

The gentleman from Pennsylvania (Mr. Gallatin) had expressed an opinion, Mr. H. said, that he himself having as yet produced no proofs of the criminal correspondence which he had supposed to exist between persons in this country and the Government of France, must now be convinced that no such correspondence, or, as the gentleman had thought proper to express it, no such *conspiracy* did in fact exist; and a gentleman from New York (Mr. Livingston) had observed, with an air of triumph, and in poetic language, that the clue sometime ago discovered had not yet led to the den of the Minotaur. He would advise gentlemen, he said, not to triumph too soon. Because proof is not produced in a fortnight, it does not follow that it will not be produced in a month: because it is not now laid on the table, it does not follow that it will not be laid there at the beginning of next session, or even before the end of this. He took the liberty of assuring gentlemen that his conviction on this head was by no means weakened. Legal proof was one thing, and he did not know that he should ever be able to produce it; circumstances sufficient to influence opinion, to induce belief, to fix conviction in the mind, might exist, notwithstanding the want of such proof, and, as respected him, did exist in this case. Those circumstances which he had, on a former occasion, compared to threads that might at length lead to proof, had received new force from subsequent indications, and had fully confirmed him in the opinion that France is not without a party in this country, engaged in a most criminal correspondence with her agents, devoted to her service, and aiding, to the utmost of its power, the efforts of her "diplomatic skill." Fortunately this party was inconsiderable in number, and though hitherto possessed of considerable influence, through the ignorance of the public respecting its views, would, he had no doubt, be abandoned to disgrace, the instant those views should be generally understood.

It would be recollected, Mr. H. said, that the gentleman from Pennsylvania (Mr. Gallatin) had drawn an argument against this bill from the manner in which juries are formed in Pennsylvania. In that State juries are summoned by the sheriff; and, as the proceedings in the Courts of the United States must conform to those of the State courts respectively, the juries to try persons under this act, in Pennsylvania, would be summoned by the marshal, who, holding his appointment at the pleasure of the Executive, may select a jury predisposed to convict the person accused. Such was the argument of the gentleman from Pennsylvania; but it should rather be an argument with that gentleman to use his influence for obtaining a reform of this defect in the laws of his own State. Surely a defect in a State law, which it was in the power of that State to remove, could never be considered as a reason why the United States should not pass a law necessary for the safety, perhaps the existence, of the Government. This argument, moreover, would apply with as much force in one direction as in the other; for if, in the Federal courts, marshals appointed by the Executive should be inclined to pick juries against the accused, sheriffs, on the other hand, in the State courts, might be inclined to pick them in his favor. If, therefore, on the strength of this objection, the trial of libels and sedition should be left to the State courts, instead of being transferred, as the bill proposes, to the Courts of the United States, it would be running into Scylla, in our attempt to avoid Charybdis. There was, certainly, as much danger of partiality on one side as the other.

Mr. H., however, did not believe that there was any danger of this kind, on either side. He was persuaded that juries would be summoned

with impartiality, either in the State courts or those of the United States, and that, when summoned, they would do justice according to their oath. If, however, he was mistaken in that point, he hoped the State would speedily remedy so great a defect, which it might do by ordering the juries to be drawn by ballot, instead of being selected by the sheriff—the same reform must then take place in the Courts of the United States, and the jurors there would no longer be selected by the marshal; but he never could suffer this defect, if it really were one, to prevent him from voting for a law which he considered as necessary for the public safety.

The gentleman from Pennsylvania (Mr. GALLATIN) had gone a step further, Mr. H. said, in his opposition to this bill than the rest of its opposers. They had contended that it was contrary to the third amendment to the Constitution, which provides "that Congress shall pass no law restraining the liberty of speech or the press." The gentleman from Pennsylvania had discovered that, independently of that amendment, Congress had no power to pass a law against sedition and libels none such being expressly given by the Constitution. But can there, said Mr. H., be so great an absurdity, can such a political monster exist, as a Government which has no power to protect itself against sedition and libels? Has not the Constitution said that "Congress shall have power to make all laws which shall be necessary, or proper, for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof;" can the powers of a Government be carried into execution, if sedition for opposing its laws, and libels against its officers, itself, and its proceedings, are to pass unpunished? The idea, he said, appeared to him so monstrous and absurd, that he was astonished that any one should seriously advance it.

In the other objection, he admitted that there was more plausibility; the objection founded on that part of the Constitution which provides that "Congress shall pass no law to abridge the liberty of speech or of the press." He held this to be one of the most sacred parts of the Constitution, one by which he would stand the longest, and defend with the greatest zeal. But to what, he asked, did this clause amount? Did this liberty of the press include sedition and licentiousness? Did it authorize persons to throw, with impunity, the most violent abuse upon the President and both Houses of Congress? Was this what gentlemen meant by the liberty of the press? As well might it be said that the liberty of action implied the liberty of assault, trespass, or assassination. Every man possessed the liberty of action; but if he used this liberty to the detriment of others, by attacking their persons or destroying their property, he became liable to punishment for this licentious abuse of his liberty. The liberty of the press stood on precisely the same footing. Every man might publish what he pleased; but if he abused this liberty so as to publish slanders against his neighbor, or false, scandalous, and malicious libels against the magistrates, or the Government, he became liable to punishment. What did this law provide? That if "any person should publish any false, scandalous, and malicious libel against the President or Congress, or either House of Congress, with intent to stir up sedition, or to produce any other of the mischievous and wicked effects particularly described in the bill, he should, on conviction before a jury, be liable to fine and imprisonment. A jury is to try the offence, and they must determine, from the evidence and the circumstances of the case, first that the publication is *false*, secondly that it is *scandalous*, thirdly that it is *malicious*, and fourthly that it was made with the *intent* to do some one of the things particularly described in the bill. If in any one of these points the proof should fail, the man must be acquitted; and it is expressly provided that he may give the *truth* of the publication in evidence as a justification. Such is the substance of this law; and yet it is called a law abridging the liberty of the press! That is to say, that the liberty of the press implies the liberty of publishing, with impunity, false, scandalous, and malicious writings, with intent to stir up sedition, &c. As well might it be said that the liberty of *action* implies the liberty to rob and murder with impunity!

Whence was it, Mr. H. asked, that all confidence in the trial by jury was now discarded by those gentlemen who have heretofore so warmly, and so justly, resounded its praises? Why are juries, in whose hands the fortunes, the lives, and the reputations of the citizens had been safely deposited by our laws and Constitutions, no longer to be trusted, when it is in question to punish those who, with wicked intent, publish false, scandalous, and malicious libels against the President and Congress? Is this offence of so sacred a nature, so dear to gentlemen, that the authors of it cannot be trusted in the hands of a jury of their fellow-citizens?

Such, Mr. H. said, had ever been his impressions concerning the liberty of the press; which he deemed to stand on the same ground, and to be liable to the same restraints by law, with the liberty of action; nor could he be persuaded that the liberty of the press, as understood by the Constitution, could ever be abridged by a law to punish, on conviction before a jury, the publication of false, scandalous, and malicious libels. He was very happy to find his opinions fully supported by those of a most venerable man, whose character was admired and revered by all, and who could never be suspected of wishing to abridge the liberty of the press. He held in his hand a little volume of essays by the late Dr. Franklin, among which there was one entitled "An Account of the Highest Court of Judicature in Pennsylvania, viz: the Court of the Press." The venerable author first treats of "the power of this court." Secondly, "of the persons in whose favor, or for whose emolument, it is established." Thirdly, of "the practice of this court." Fourthly, of "the foundation of its authority." Fifthly, of the persons "by whom this court is commissioned or constituted." Sixthly, of "the

natural support of this court." And lastly, "of the checks proper to be established against the abuses of its power."

Each one of these heads, said Mr. H., contains much valuable matter, exceedingly applicable to the present purpose, and deserving of the serious attention of those gentlemen who talk so much, but appear to have thought so little, about the liberty of the press. The last, however, is more particularly in point, and to that, the length of the essay, and the lateness of the hour, admonish me to confine myself.

Speaking of "the checks proper to be established against the abuses of power in the Court of the Press," the venerable and ingenious author says:

"Hitherto there are none. But since so much has been written and published on the Federal Constitution, and the necessity of checks, in all other parts of good Government, has been so clearly and learnedly explained, I find myself so far enlightened, as to suspect some check may be proper in this part also; but I have been at a loss to imagine any that may not be construed an infringement of the sacred liberty of the press. At length, however, I think I have found one that, instead of diminishing general liberty, will augment it; which is by restoring to the people a species of liberty of which they have been deprived by our laws; I mean the liberty of the *cudgel!* In the rude state of society, prior to the existence of laws, if one man gave another ill language, the affronted person might return it by a box on the ear; and, if repeated, by a good drubbing; and this without offending against any law; but now the right of making such returns is denied, and they are punished as breaches of the peace, while the right of abusing seems to remain in full force; the laws made against it being rendered ineffectual by the *liberty of the press.*

"My proposal, then, is, to leave the liberty of the press untouched, to be executed in its full extent, force, and vigor, but to permit the liberty of the cudgel to go with it, *pari passu.* Thus, my fellow-citizens, if an impudent writer attacks your reputation, dearer to you perhaps than your life, and puts his name to the charge, you may go to him, as openly, and break his head. If he conceals himself behind the printer, and you can nevertheless discover who he is, you may, in like manner, waylay him in the night, attack him behind, and give him a good drubbing. If your adversary hires better writers than himself to abuse you more effectually, you may hire brawny porters, stronger than yourself, to assist you in giving him a more effectual drubbing. Thus far goes my project as to *private* resentment and restitution. But if the Government should ever happen to be affronted, as it ought to be, with the conduct of such writers, I would not advise proceeding immediately to these extremities, but that we should, in moderation, content ourselves with tarring and feathering and tossing them in a blanket.

"If, however, it should be thought that this proposal of mine may disturb the public peace, I would then humbly recommend to our legislators to take up the consideration of both liberties, that of the press, and that of the cudgel; and, by an explicit law, mark their extent and limits; and, at the same time that they secure the person of a citizen from assaults, they would likewise provide for the security of his reputation."

Thus we see, continued Mr. H., that this great man, the champion of liberty, who spent his life in promoting her cause, did not think that the liberty of the press would be abridged by an explicit law for curbing its licentiousness. Supported by this great authority, I can never believe that a law to punish the publication of false, scandalous, and malicious libels, on conviction by a jury, is a law "to abridge the liberty of the press," as intended by the Constitution.

The gentleman from New York (Mr. LIVINGSTON) has thought proper to quote a very venerable authority, the Defence of the American Constitutions, by the present President of the United States, in order to prove that this Government is advancing rapidly to a despotism. The passage is very striking, and most forcibly marks the steps of progressing tyranny. Most of those steps, the gentleman declares, have been, or are on the point of being, taken by this Government. But there is one part of the passage which he has forgotten to notice. Let me be permitted to recall it to his attention. The learned and venerable author is treating of the tendency towards despotism which exists in a Government composed of one branch, or whose whole powers are concentrated in one popular assembly; and, in order to warn us of the dangers of such a Government, and inculcate the necessity of a division of power for the support of liberty, he tells us how the great men, the heads and leaders of the great and wealthy families, find their way into such an assembly, and acquire an absolute influence over its decisions. He then goes on to mark the steps, those very steps quoted by the gentleman from New York, whereby they render their seats permanent, stifle opposition, subjugate the assembly, usurp its powers, and at length establish an oligarchy or a despotism, on the ruins of the democracy. Let the House recollect how persevering and vigorous have been the efforts of the gentleman from New York, and his political associates, to pave the way for this state of things, by concentrating gradually, sometimes under one pretext and sometimes under another, all the powers of our Government in this House, by demolishing, piece by piece, the checks established in the Senate and the Executive power; and then it will be able to judge to whom his quotation is most applicable; to himself and his friends, or to those who strenuously have opposed, and who do still oppose, these his enterprises; to those who struggle to preserve the division of power and the balance of the Constitution, or to those who exert all their might to destroy them both, and reduce the Government to a single representative democracy, on which that oligarchy, so earnestly panted after by self-named friends of the people and exclusive patriots, is so speedily and so certainly engrafted.

It is by such a state of things that men of immoderate ambition, great family connexions, hereditary wealth, and extensive influence, like the gentleman from New York, will exclusively profit. It is such a state of things that will enable them to conglomerate all power, all splendor, all patronage, into the hands of a few great patrician families, and walk over the heads of us plebeian people, who, having none of these means of domination, and no safeguard for our rights but the Constitution, strive

all in our power to maintain it against the attacks of these great men. Who could gain more by this change than the gentleman from New York? Who boasts a higher descent, more powerful family connexions, more extensive hereditary wealth, than him? As for me, if I may be permitted to bring myself into view, for me, who possess none of these advantages, who am the son of a cabinet-maker, and have always been forced to eat my bread in the sweat of my brows, I have nothing to hope except from the Constitution. Upon it rest all my expectations of fortune, preferment, and importance. It is therefore as natural for me to struggle for its support, as for the gentleman from New York to aim at its destruction, which would be the first step towards his own greatness; and perhaps this may be one chief reason why I feel so much jealousy of his views, watch them with so much care, and oppose them so zealously. It may also be a chief reason why I feel anxious for the fate of this bill; which I consider as an important mean of preserving the Constitution, and thereby counteracting those projects whose success I so much dread.

The bill was then passed—yeas 44, nays 41, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, Samuel W. Dana, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Stephen Bullock, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. Harper, from the Committee of Ways and Means, reported a bill making an appropriation for the expenses of the several loan offices of the United States, during the year 1798; which was read twice, and committed to a Committee of the whole House for to-morrow.

The amendments proposed by the Senate to the bill, entitled "An act to lay and collect a direct tax within the United States," were read, and ordered to lie on the table.

A message from the Senate informed the House that they had passed the bill entitled "An act to enable the President of the United States to borrow money for the public service," with several amendments; to which they desire the concurrence of this House.

Resolved, That a committee be appointed to inquire into the expediency of vesting in the Judges of the Courts of the United States, and of the several States, authority to bind to the peace and good behaviour, for offences against the United States, with power to report by bill or otherwise.

Ordered, That Mr. Sitgreaves, Mr. Livingston, and Mr. Goodrich, be a committee, pursuant to the said resolution.

Wednesday, July 11.

DIRECT TAX.

On motion, the House went into a Committee of the Whole on the amendment of the Senate to the bill for laying and collecting a direct tax.

The first of these amendments (and the most important) proposed to strike out the classification of houses as contained in the bill, which, it will be recollected, progressed from two-tenths of one per cent. to one per cent., according to the value of houses, increasing the rate as the value of houses increased, not in an exact, but in a greater proportion, from a consideration that large and valuable houses are generally representative of other property; and to insert in its place four-tenths per cent. upon all houses.

Mr. Gallatin hoped this amendment would not be adopted. If this principle of equality, which the Senate wish to introduce, had been extended to land also, he should have been in favor of it. It is a principle which he had always been in favor of. But what, he asked, would be the effect of the proposed amendment? It would be to reduce the duty on all houses above the value of $3,000, and to increase it on all houses under the value of $1,000; those from the value of $1,000 to $3,000 would remain the same as at present. Of course, as he supposed, the number of houses in the United States, above the value of $3,000, was greater than that under the value of $1,000, the aggregate duty on houses would be lessened, and the aggregate duty on land increased. It would also heighten the duty upon large houses, and increase it upon small houses; and as the houses of farmers are, 99 out of 100, of a less value than $1,000, this amendment, if agreed to, would not only increase the duty on land, but also upon farm-houses.

Mr. S. Smith did not believe the amendment of the Senate would have the effect which the gentleman from Pennsylvania spoke of. He believed it would produce more money than the plan agreed to by this House, and, of course, reduce the tax on land. Nor does it hold out the same temptation to assessors in cities to make a lower than the real valuation of houses there, to prevent the tax from falling too heavy on cities.

The question on this amendment was put and negatived, there being only 17 votes for it.

The other amendments were considered and decided upon.

SUNDRY BILLS.

Mr. W. Claiborne, from the managers of a conference with the Senate on the subject of the bill altering the time of entering stills, made a report, which was ordered to lie on the table.

A message was received from the Senate, informing the House that they insist upon their amendment to the bill authorizing the President of the United States to borrow money, which went to strike out the provision allowing the United States to redeem the sum borrowed within fifteen years. The House insisted upon their disagreement, and a committee of conference was appointed.

The bill further to suspend for a limited time the act laying a duty on snuff, was read the third time and passed.

A bill from the Senate to encourage the capture of armed French vessels by private armed vessels of the United States, was twice read; when

Mr. Harrison moved to postpone the consideration of this bill until the first Monday in November.

The question was put and negatived 38 to 31, and it was committed.

The House then went into a Committee of the Whole upon the bill relative to the Judicial Courts, and rose without debate, or agreeing to any amendment. It was ordered to be read a third time this day, and afterwards received its third reading.

Mr. Harper called for the order of the day on the report of a committee on the subject of balances due from certain States.

Mr. Allen moved to postpone the further consideration of this subject until next session; which was negatived, there being only 20 votes for it.

The House went into a committee on this report, when it was agreed to, and a bill ordered to be brought in accordingly. Mr. Harper, in the course of the sitting, reported a bill, which was committed.

The House went into a Committee of the Whole on the bill to alter the time of the next meeting of Congress; when

Mr. Harper moved to strike out November (the first Monday in November being fixed by the Senate in this bill for the next meeting of Congress) for the purpose of inserting October. He should have wished to have had it the first Monday in September, if it would have afforded members time to have gone home and to have returned.

After several observations, made upon this motion, Mr. Bayard moved for the committee to rise, with a view of refusing leave to sit again, that the next meeting of Congress might stand for the Constitutional day. If the President saw a necessity for their meeting sooner, Mr. B. said, he would call them together as he had before done.

This motion was carried, there being 44 votes for it; and leave was refused to sit again, there being only 21 votes for it.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill further to extend the suspension of the duties on snuff. The bill was gone through, and ordered to be read a third time to-morrow.

Mr. Harper laid before the House a letter from the Secretary of the Treasury, stating a further appropriation of $16,720 to be necessary for the Naval Department, and other contingencies; which was referred to the Committee of Ways and Means.

LOANS OF MONEY.

The amendments of the Senate were taken up to the bill authorizing the President of the United States to borrow money for the public service. The principal of those amendments were to strike out the provision which gave the President the power of borrowing all such sums of money as he shall think necessary, and to insert five millions of dollars; and to strike out the provision which was agreed to on the discussion of the bill in this House to afford an opportunity of redeeming the debt within fifteen years.

The first amendment being under consideration, Mr. Harper hoped it would not be agreed to; but if it was, he wished the sum to be augmented to seven millions, as no provision had been made for anticipating the two millions to be raised from the land tax.

Mr. McDowell hoped this amendment would be agreed to. He did not think the half of five millions could be expended before the next session, and he thought the limitation proper.

Mr. S. Smith said it was very immaterial whether the sum to be borrowed was limited to five or seven millions; he thought the smallest sum would be far more than would be wanted before the House met again. A limitaton of some kind, he said, was essential. The indefinite manner in which the bill passed this House was one of the most extraordinary things he had ever witnessed.

Mr. Nicholas thought it an extraordinary thing to speak of including any anticipation of a tax in a loan which was to be irredeemable for twenty-five years. If any such anticipation was necessary, it ought to be in a separate bill.

The question on Mr. Harper's amendment was negatived, without a division, and the amendment of the Senate was agreed to, there being 44 votes for it.

The second amendment of the Senate came next under consideration, which was to strike out a provision in the bill, that no engagement or contract shall be entered into which should prevent the United States from redeeming any part of the sum borrowed, within fifteen years.

This amendment was negatived, there being only 19 votes for it.

Thursday, July 12.

On motion of Mr. Dent, the House went into a Committee of the Whole on the bill establishing the office of Accountant of the Navy Department, and to alter and amend the act establishing the office of Purveyor of Public Supplies; which, after undergoing sundry amendments, was agreed to. Before the House rose it was passed, with the title of it altered to "an act to alter and amend the several acts for establishing and regulating the Treasury, War, and Naval Departments.

Mr. Sewall, from the Committee of Commerce and the Defence of the Country, reported a bill making certain appropriations, and authorizing the President of the United States to obtain a loan in anticipation of the direct tax, which was committed for to-morrow.

The House went into a Committee of the Whole on the bill making appropriations for the additional expenses of several loan offices for the year 1798. On motion of Mr. Harper, three additional sections were added to the bill, viz: for

An appropriation for the expenses of the Navy Department, from June 16 to December 31, 1798 - -	$6,214 72
Do. for additional contingent expenses of the House of Representatives - - - - - - -	4,000 00
Do. for do. of the Senate - - -	1,000 00
Do. for replacing in the Bank of the United States for the amount advanced on Treasury Bills, drawn in favor of the Cashier upon the Supervisor of the district of New Hampshire, and which bills were protested for non-payment - -	5,506 00
	$16,720 72

Mr. W. Claiborne called up for consideration the report of the managers of a conference with the Senate on the varying rates of the two Houses on the bill for altering the time of making entry on stills.

Mr. Gallatin moved to disagree to the report, and to adhere to the disagreement of this House to the amendment of the Senate, which proposed that the drawback on the exportation of distilled spirits should be reduced from seven cents to four, from an idea that, by the duty being paid upon the capacity of the still, it is reduced in many cases to four cents, or less. This motion was carried; and, before the House rose, the Senate informed the House they had postponed the bill till next session.

Mr. S. Smith laid a resolution upon the table for the appointment of a committee to inquire whether any and what alterations are necessary in the act for laying a duty on stamped vellum, parchment, and paper. His object was to rectify what he apprehended was a mistake, as it never could have been the intention of Congress to have burdened foreign bills of exchange with three times the amount of duty which was laid upon other notes and bills, which arose from persons who have bills of this kind having, at least, three in a set, viz: two to send by different vessels, and one to keep here. Bills of lading, he said, were in the same situation, as it was always found necessary to take three or four copies of every bill of lading, and it could never have been intended to tax each with a duty of twenty-five cents.

After some objections from Messrs. Harper and Kittera, the resolution was agreed to—38 to 33, and a bill ordered to be brought in accordingly.

Mr. Sitgreaves proposed a resolution to the House, authorizing the Clerk of the House of Representatives to employ a third engrossing Clerk during the recess of Congress, which was agreed to.

The bill to alter and amend the several acts for establishing and regulating the Treasury, War, and Navy Departments; and the bill making certain additional appropriations for the year 1798, were read the third time and passed.

The House went into a Committee of the Whole on the bill respecting balances due from certain States to the United States; and, after some discussion, and the introduction of several amendments, the bill was agreed to, and ordered to be read the third time to-morrow.

Mr. S. Smith reported a bill to amend the Stamp Act, which was committed for to-morrow.

Mr. Sewall, from the committee to whom was referred the memorial of sundry merchants of Philadelphia, complaining of the operation of the law suspending the commerical intercourse with France, on account of its requiring two sureties to the amount of the value of one half of the vessels and cargo, before any vessel was allowed to clear, for the proper employment of the said vessel, reported a bill to afford relief to the petitioners, entitled an act supplementary and in addition to the act for suspending the commerical intercourse between the United States and France and her dependencies. This bill proposed to admit of the bond of the master and owner (with the addition of an oath) without any surety. It was committed for to-morrow.

Mr. Rutledge called for the order of the day on the bill from the Senate for encouraging the capture of French armed vessels, by private armed vessels of the United States.

Mr. Macon moved to postpone the consideration of this bill till next session. The motion was negatived—37 to 32.

Friday, July 13.

Mr. Kittera laid a resolution on the table for the appointment of a committee to bring in a bill to alter the time of making entry of stills, which was agreed to, a committee appointed, and a bill brought in accordingly, fixing the time of entrance from the first of July to the last day of August. It was agreed to, and, in the course of the sitting, passed.

BALANCES DUE FROM STATES.

The bill respecting balances due from certain States, was read the third time and passed—yeas 45, nays 28, as follows:

Yeas—David Bard, James A. Bayard, David Brooks, Demsey Burges, John Chapman, Thomas Claiborne, William C. C. Claiborne, John Clopton, James Cochran, William Craik, John Dawson, George Dent, Thos. Evans, Albert Gallatin, Henry Glen, William Barry Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Anthony New, John Nicholas, Isaac Parker, John Rutledge, jr., Samuel Smith, William Smith, Richard Stanford, Thomas Sumter, Richard Thomas, John Trigg, John E. Van Alen, Philip Van Cortlandt, Peleg Wadsworth, and Robert Williams.

Nays—John Allen, Abraham Baldwin, Bailey Bartlett, Thomas Blount, Stephen Bullock, Christopher G. Champlin, Joshua Coit, William Edmond, Abiel Foster, Dwight Foster, James Gillespie, Chauncey Goodrich, William Gordon, Roger Griswold, Matthew Locke, Samuel Lyman, Joseph McDowell, Harrison G. Otis, John Reed, James Schureman, Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Mark Thomson, Thomas Tillinghast, and Abraham Venable.

Mr. S. Smith called for the order of the day on the bill proposing certain alterations in the Stamp Act; when

Mr. D. Foster moved to postpone the consideration of this bill till next session. The motion was negatived, 21 votes only being in favor of it.

The bill was then agreed to, and ordered to receive its third reading to day, which it did, and passed.

Mr. Sewall reported a bill making certain appropriations for the year 1798, and authorizing the President to obtain a loan of two millions, in anticipation of the direct tax. One of the additional appropriations was for the bounty, pay, &c., for the augmentation lately made in the army, $900,000; the other an additional $75,000 for fortifications. The House went into a Committee of the Whole upon it—when

It was objected against this last appropriation that no part of the large sum already appropriated for this object had been expended; and, until that was the case, there could be no want of additional money.

In reply, it was answered, that plans had been preparing for the business, and that when it was once begun the whole money would be necessary, in order that the Secretary of War might fix his plans accordingly.

Mr. S. Smith moved to strike out that part of the bill which related to fortifications, as, in his opinion, unnecessary at present.

The motion was negatived—39 to 25.

Mr. Sewall wished to add another item, which he had been informed by the Secretary of State was necessary. It was to supply a deficiency in the appropriation for carrying into effect the Spanish Treaty, for which purpose $25,000 would be necessary. Agreed to.

The committee rose, and the bill was ordered to be read a third time to-day; which it accordingly received, and passed.

The Senate informed the House that they receded from their amendment to the bill authorizing the President to borrow money.

CAPTURE OF FRENCH ARMED VESSELS.

The House went into a Committee of the Whole on the bill for encouraging the capture of French armed vessels by armed vessels belonging to citizens of the United States; which was agreed to without debate or amendment, and ordered to be read a third time to-day. It was accordingly immediately read a third time; when

Mr. McDowell said, he hoped this bill would not pass. Congress had already passed laws authorizing public and private armed vessels to attack and take French vessels; but they are now called upon to give a bounty upon the guns that are brought in, according to their size. He was not willing to allow this. It would open a door to innumerable frauds. Plans would be laid between the owners of privateers here and their friends in the West Indies, and vessels and arms would be thrown in their way for the purpose of capture, and in this manner our Treasury would be drained to an extent which no man could at present foresee. He could see no use in the provision, as it would not induce merchant vessels to go in search of French vessels; and, without some unfair play, it would never be worth the while of persons fitting out privateers for the purpose. He called the yeas and nays upon it. They were taken accordingly, and were, yeas 34, nays 36, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, Joshua Coit, William Craik, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thomson, and John E. Van Alen.

Nays—David Bard, Thomas Blount, Richard Brent, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, Albert Gallatin, James Gillespie, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

And so the said bill was rejected.

INTERCOURSE WITH FRANCE.

The House went into a Committee of the Whole on the bill supplementary to and in addition to the act for suspending the commercial intercourse between the United States and France, and the dependencies thereof; when

Mr. Harper moved to strike out the first section of the bill, because he thought if this bill passed it would defeat the former bill. Nay, it would worse than defeat it—it would give a monopoly of our commerce to unfair traders, and take it from the fair and honest merchant; for, unless sureties were required for the proper employment of vessels, nothing would be more easy than to defeat the original law. It would only be making a man of straw owner of a vessel, and let the master and him be bound for her proper em-

ployment. The vessel goes out, and carries on a trade contrary to law, but the persons bound are not worth anything, and probably will not be seen again. Congress had better, therefore, repeal the law altogether than pass a bill like this, which would only tend to encourage perjury and villany. And what, he asked, are the inconveniences complained of under the law as it now stands? That there will be a difficulty in obtaining sureties for so large an amount, when the forfeiture depends upon the master of a vessel; but nothing was more common, he said, than for merchants to be bound with each other. Besides, when a vessel is owned by a substantial merchant, he supposed the Collector would not be very nice as to the sureties.

Mr. Bayard differed in opinion from the gentleman from South Carolina. He did not think this bill would be liable to the abuse he had mentioned; and he believed, if it did not pass, the merchants of moderate and small property must give up their business, since they would not be able to procure the required security.

The question on striking out the first section was put and negatived—33 to 31.

The committee rose, and the question being upon the bill's going to a third reading,

Mr. Harper opposed it, and called the yeas and nays upon it. He said there was another mode of evading the law, which was simple—that, if this bill passed, he would venture to say it would be practised in a fortnight. A man who wishes to carry on this trade, and who is not very scrupulous about an oath, provides himself with a vessel of small value; he finds out a market where he can get a large price for goods; he obtains credit of some merchant, who will give it to him; he and the master of his vessel become bound; the vessel sails, and the owner goes supercargo. They go to one of the French islands, and sell their cargo so high, that, if they were to burn their vessel, they would have made a great voyage; but they can sell their vessel—they can remit the purchase money for the cargo, and they can carry on the same game from other parts, and in this way soon make fortunes.

After a few other observations, the yeas and nays were taken. They were, yeas 29, nays 43, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, Joshua Coit, Samuel W. Dana, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, Samuel Lyman, William Matthews, Blair McClenachan, Isaac Parker, John Rutledge, jr., Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, and Mark Thomson.

Nays—George Baer, jr., Thomas Blount, Stephen Bullock, Demsey Burges, Thomas Claiborne, William C. C. Claiborne, John Clopton, William Craik, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, William Barry Grove, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Joseph McDowell, Anthony New, John Nicholas, Harrison G. Otis, James Schureman, Thomas Sinnickson, Samuel Smith, William Smith, Richard Stanford, Thomas Sumter, Richard Thomas, Thomas Tillinghast, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and Robert Williams.

And so the said bill was rejected.

Mr. Sitgreaves said, that a bill which he considered of great importance to this country (the bill for encouraging the capture of French armed vessels by vessels belonging to citizens of the United States) had been this morning lost, owing to the non-attendance of a number of members. In ordinary cases, when gentlemen choose to pursue their own business, instead of attending to that of the public, he would leave them to account with their constituents, without particularly noticing their conduct; but upon a subject of national importance like this, he thought all fair and proper means ought to be taken to have questions determined according to the real strength of opinion in the House. The bill had been lost only by two votes, and two members were absent on the business of the House, attending the Joint Committee of Enrolment, who are allowed to sit during the session of the House; they, therefore, are not blameable. But there were thirteen other members, who were in the city, absent. He meant, therefore, to bring forward a motion for the appointment of a committee to report a new bill—which, he believed, he was authorized by the rules of the House to do, provided it varied in ever so small a degree from the bill decided upon. Mr. S. proposed a resolution accordingly.

This motion met with considerable opposition, from some members even who were in favor of the bill, as setting a precedent which would be found very inconvenient; for, it was said, if the House were once to go into a practice of this kind, there would be no end of business. Questions might be renewed, day after day, whenever the advocates of a favorite measure thought they had a chance of carrying it. A measure having been once solemnly determined by yeas and nays, in the manner this question had been decided, it was declared ought not again to be revived.

The debate continued till the hour of adjournment; when, at the suggestion of Mr. Gallatin and Mr. Harper, Mr. Sitgreaves consented to a call of the House being made to-morrow morning, at half-past ten o'clock, for the purpose of deciding upon his motion.

Saturday, July 14.

The hour having arrived, at which the call of the House was to be made, the names of the members were called over, eighty-two members (including the Speaker) appeared in their seats, twenty-three absent, twenty of whom have leave, one sick, and two for whom excuses were made, and received by the House.

A resolution was received from the Senate proposing to subscribe for 400 copies of Folwell's

edition of the Journals of the Old Congress. The consideration of it was postponed till the next session.

Bills were proposed, agreed to, and passed, for allowing extra compensations to the Secretary of the Senate, the Clerk of the House of Representatives, the Engrossing Clerks, and the Doorkeepers of both Houses.

Mr. Livingston laid a resolution upon the table, proposing that, instead of the laws being inserted in three papers in the Union only, the Secretary of State should be directed to insert them in one paper in every State. Ordered to lie.

Mr. Dent moved for the appointment of a committee to bring in a new bill for altering the next meeting of Congress. The motion was negatived—39 to 26.

On motion of Mr. Nicholas, a call of the House was ordered for half past nine on Monday morning.

An engrossed bill, making certain appropriations, and to authorize the President to obtain a loan on the credit of the direct tax, was read a third time and passed.

CAPTURE OF FRENCH VESSELS.

Mr. Sitgreaves, called up for decision the resolution he laid on the table yesterday, viz:

Resolved, That a committee be appointed to prepare and bring in a bill for giving a bounty on the capture of French armed ships or vessels, by armed ships or vessels owned by a citizen or citizens of the United States.

The question on the resolution, was then put and negatived—yeas 40, nays 41, as follows:

Yeas—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, John Chapman, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, and Peleg Wadsworth.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Stephen Bullock, Demsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, William Barry Grove, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

And so the motion was rejected.

ADDITIONAL NAVAL ARMAMENT.

The amendments of the Senate to the bill making a further appropriation to the additional Naval Armament were taken up. The principal of which was a provision for three new vessels.

Mr. Gallatin said, if the House wished to have three additional vessels provided, to the twenty-four already authorized, he did not know that he should make any particular objection to it; but this thing, he said, appeared in a very extraordinary shape. It must be recollected that the House had, in a former law, appropriated $950,000 for the additional Naval Armament. Since that time, Congress have passed a law authorizing the President to accept of certain vessels which may be built by citizens of the United States, in which it is said that six of the vessels to be built shall be above 32 guns each, and of course these $950,000 will not be sufficient, and $600,000 more are by this bill proposed to be appropriated for building three of these large ships, supposing that the other three might be built by the merchants and loaned to Government; but, according to the amendment of the Senate, these $600,000 were to be appropriated for building three new vessels not yet authorized.

There was, Mr. G. said, another impropriety in this amendment. It authorized an expense, under cover of an appropriation, which was an unallowable practice.

Mr. Sewall said, if the gentleman from Pennsylvania would compare the first section and the amendment together, he would find that his remarks would not apply.

Mr. Gallatin said, if he was mistaken, he should be glad if the gentleman from Massachusetts would set him right; but if he could understand the amendment, it was what he had stated it to be.

Mr. Sewall said, it was well understood that $600,000 were barely sufficient to finish the three frigates formerly proposed to be built, and the materials for which are partly on hand. This appropriation, he said, did not at all apply to the authority given to the President of the United States to build twelve, and to accept of twelve other vessels. The $950,000 were appropriated to finish twelve of those vessels, and the difference in the plan related only to the other twelve which it was expected would be built by subscription, and therefore made no difference in the appropriation.

Mr. Nicholas said, if the three vessels were proper to be built, it would be improper to have them provided for in this way. This was a simple appropriation bill, and the Senate might as well have introduced any other new expense as the one they had introduced.

Mr. Harper said, he was extremely desirous of adding to our Naval Armament not only three, but a larger number of vessels; but he believed the mode proposed would not accomplish the object. Twenty-four vessels are already authorized as an additional armament; twelve of which are to be built by private citizens, in exchange for stock of the United States; for building the other twelve, $950,000 have been appropriated; but, as it had been determined that six out of these twenty-four vessels should be more than 32 guns each,

it was found that $950,000 would not be sufficient, and this bill was meant to provide for the deficiency, including the materials on hand; but if the $600,000 proposed to be appropriated for that object by this bill be diverted to another, it is clear the twenty-four vessels already authorized cannot be finished. Mr. H. wished the Senate had new modified the bill, so as to have left an appropriation for all the vessels. He was sure that $600,000 would not be more than was wanted for the vessels already authorized, especially if they should be built of large force—perhaps of 74 guns—which the President would be authorized in doing, if he should think proper.

The motion was put and negatived, there being only nine votes in favor of it. The Senate afterwards receded from it.

MONDAY, July 16.

The call of the House was postponed from time to time during the whole sitting, and in the end dispensed with.

The Senate informed the House they had postponed the bill making an alteration in the stamp act till next session.

Mr. LYON called up the resolution yesterday laid upon the table by Mr. LIVINGSTON respecting the publication of the laws. From the present imperfect publication of the laws, the people in the remote parts of the Union, he said, were imperfectly acquainted with them. He thought it a duty the Government owed to the people to have the laws well circulated, since no man is allowed to plead an ignorance of the laws when he offends them; and he thought this could not be done by inserting them in less than in one paper in every State.

On the question being put, Mr. LYON only appeared in favor of it.

INTERCOURSE WITH FRANCE.

Another bill was received from the Senate, to amend the act for suspending the commercial intercourse between the United States and France and her dependencies.

Mr. NICHOLAS moved to postpone this bill till next session.

Mr. HARPER hoped not. This bill, he said, was very different from the one which had been negatived. That proposed to dispense with sureties altogether; this only to lower the amount of the bond. Instead of the owner giving security in a sum equal to the amount of vessel and cargo, and finding two sureties in half the sum, this bill proposes that the owner and master shall be bound in a sum equal to the amount of the value of the vessel, and a surety in from one to ten thousand dollars. To exact a bond equal to the amount of the vessel and cargo in every case, would be very inconvenient. They are sometimes very valuable. There is now, he said, a vessel in this port ready to sail, whose cargo is worth $300,000. To exact from the owner a bond to the full amount, and two sureties in half the sum, would be requiring a very heavy security from them. It would be sufficient, he thought, to require a bond equal to the profit which it is probable would be derived from any voyage.

Mr. S. SMITH said, this bill was certainly very different from that which had been rejected by this House, though it did not meet with his approbation at present. It was capable, however, of amendment. The security at present proposed was not worthy of the name. Had he a ship ready to sail such as the gentleman last up had named, he would willingly forfeit the sum proposed, to have the privilege of sending her to a French market. The difference in price between a French and a Hamburg market would make it well worth his while to do so. In many cases, such a voyage would afford 50 per cent. A regulation something like the present could only secure the fair trader; but the surety must be a much larger sum than $10,000.

Mr. HARPER said, nothing would be more easy than to increase the sum, if it should be found too small.

The question on a postponement was put and negatived—41 to 22.

The House then resolved itself into a Committee of the Whole upon this bill; when

Mr. OTIS moved to strike out the surety of $10,000, for the purpose of inserting 20,000.

Mr. S. SMITH moved $30,000; which was carried.

Mr. HARRISON moved to strike out $1,000, the lowest sum, and insert 3,000.

Mr. NICHOLAS thought this bill vested a very great power in the collectors; and there could be no doubt that all the bonds would be filled up with the lowest sums, except some information was received of foul play.

Mr. GORDON supposed the collectors would be guided by the amount of the cargoes.

Mr. HARPER had no objection to the collectors having this power, as it would be exercised under the direction of the Treasury Department; and no doubt they would give instructions to the collectors not to be guided wholly by the amount of cargoes, but according to circumstances of fraud appearing or not appearing.

Mr. S. SMITH said, he would make a motion which would supersede the one under consideration. He thought the bill as it stood too indefinite, and that it held out temptations to collectors to receive the lowest security in any case; the law would be wholly in their power. He proposed that, in addition to the bond for the amount of the value of the vessel, an additional security should be given in a sum equal to one-third of the amount of the value of the vessel and cargo.

The CHAIRMAN declared this motion not in order.

The committee rose, however, and Mr. SMITH renewed his amendment in the House, when it was agreed to, after some objections to it from Mr. BAYARD—36 to 28. The bill was then ordered to be read a third time, received its third reading, and passed.

The Senate informed the House that they had postponed till next session the bill respecting the

entry of stills, and the bill for the relief of Reuben Smith and Nathan Strong, and resolved that the bill respecting balances due from certain States do not pass.

Mr. BAYARD made a motion for the appointment of a committee to bring in another bill respecting the balances due from certain States, but it was not carried.

The House having received all the bills from the President, and the business of the two Houses being finished, the SPEAKER adjourned the House till the first Monday in December next.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE THIRD SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 3, 1798.

MONDAY, December 3, 1798.

The third session of the fifth Congress commenced this day, conformably to the provision of the Constitution, and the Senate assembled at the city of Philadelphia, in their Chamber.

PRESENT:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;
THEODORE FOSTER and RAY GREENE, from Rhode Island;
WILLIAM BINGHAM, from Pennsylvania;
HUMPHREY MARSHALL, from Kentucky;
JACOB READ, from South Carolina;
JAMES GUNN, from Georgia.

DANIEL SMITH, appointed a Senator by the Executive of the State of Tennessee, in the recess of that Legislature, in place of Andrew Jackson, resigned, took his seat in the Senate.

The members present not being sufficient to form a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, December 4.

HENRY LATIMER, from the State of Delaware attended.

The members present not being sufficient to form a quorum, adjourned.

WEDNESDAY, December 5.

BENJAMIN GOODHUE, from the State of Massachusetts; ELIJAH PAINE, and NATHANIEL CHIPMAN, from the State of Vermont; JOHN LAURANCE, from the State of New York; and TIMOTHY BLOODWORTH, from the State of North Carolina, severally attended.

No quorum being present, the Senate adjourned.

THURSDAY, December 6.

RICHARD STOCKTON, from the State of New Jersey, and JOSEPH ANDERSON, from the State of Tennessee, severally attended.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and JOHN LAURANCE was chosen.

The credentials of DANIEL SMITH, appointed a Senator by the Executive of the State of Tennessee, in place of Andrew Jackson, resigned, were read, and the oath was, by the PRESIDENT, administered to him, as the law provides.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected JOHN LAURANCE, President of the Senate *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business, and that, in the absence of the VICE PRESIDENT, they have elected JOHN LAURANCE, President of the Senate *pro tempore*.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and they have appointed a joint committee on their part, together with such committee as the Senate may appoint on theirs, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

The Senate took into consideration the message from the House of Representatives, and

Resolved, That they do concur therein, and that Messrs. READ and PAINE be of the joint committee on the part of the Senate.

The return of service on the summons to William Blount, made by the Sergeant-at-Arms, pursuant to the resolution of the Senate of the first of March last, was read.

The PRESIDENT communicated a letter from Jared Ingersoll, Esq., stating that he, together with A. J. Dallas, Esq., were employed as counsel for William Blount, impeached by the House of Representatives, for high crimes and misdemeanors; and that they were ready to attend the trial when ordered by the Senate.

Mr. READ reported, from the joint committee appointed for that purpose, that they had waited on the President of the United States, and had notified him that a quorum of the two Houses of Congress were assembled, and the President of the United States acquainted the committee that he would meet the two Houses on Saturday next at 12 o'clock, in the Chamber of the House of Representatives.

Resolved, That James Mathers, Jr., be Assistant Doorkeeper to the Senate, in place of Cornelius Maxwell, deceased.

Resolved, That each Senator be supplied, during

the present session, with copies of such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge, for such papers.

Resolved, That two Chaplains, of different denominations, be appointed to Congress, for the present session, one by each House, who shall interchange weekly.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

SATURDAY, December 8.

JAMES ROSS, from the State of Pennsylvania, attended.

A message from the House of Representatives informed the Senate that they are now ready to meet the Senate, in the Chamber of that House, to receive such communications as the President of the United States shall be pleased to make to them. Whereupon,

The Senate repaired to the Chamber of the House of Representatives, for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the President of the United States, this day addressed to both Houses of Congress was read. [For which see proceedings in the House of Representatives.]

Ordered, That Messrs. STOCKTON, READ, and ROSS, be a committee to report the draught of an Address to the President of the United States, in answer to his Speech this day to both Houses of Congress, and that the Speech be printed for the use of the Senate.

MONDAY, December 10.

URIAH TRACY, from the State of Connecticut, attended.

A message from the House of Representatives, informed the Senate that the House concur in the resolution for the appointment of Chaplains; and have elected the Rev. Doctor ASHBEL GREEN on their part.

Mr. STOCKTON made a report from the committee appointed to draught an Address to the President of the United States, in answer to his Speech to both Houses of Congress at the opening of the session; and the report was read.

Ordered, That it lie until to-morrow.

The Senate proceeded to the appointment of a Chaplain to Congress on their part, and the Right Rev. Bishop WHITE was unanimously elected.

TUESDAY, December 11.

JAMES WATSON, appointed a Senator by the Legislature of the State of New York, in place of John S. Hobart, resigned, produced his credentials, which were read, and the oath was, by the PRESIDENT, administered to him, as the law provides.

The Senate resumed the consideration of the report of the committee on the draught of an Address in answer to the Speech of the President of the United States, to both Houses of Congress, at the opening of the session; which, being read in paragraphs and amended, was adopted, as follows:

To the President of the United States:

SIR: The Senate of the United States join you in thanks to Almighty God for the removal of the late afflicting dispensations of his Providence, and for the patriotic spirit and general prosperity of our country. Sympathy for the sufferings of our fellow-citizens from disease, and the important interests of the Union, demand of the National Legislature a ready co-operation with the State Governments, in the use of such means as seem best calculated to prevent the return of this fatal calamity.

Although we have sincerely wished that an adjustment of our differences with the Republic of France might be effected on safe and honorable terms, yet the information you have given us of the ultimate failure of the negotiations has not surprised us. In the general conduct of that Republic, we have seen a design of universal influence, incompatible with the self-government, and destructive of the independence of other States. In its conduct towards these United States, we have seen a plan of hostility pursued with unremitted constancy—equally disregarding the obligations of treaties, and the rights of individuals. We have seen two embassies formed for the purpose of mutual explanations, and clothed with the most extensive and liberal powers, dismissed without recognition, and even without a hearing. The Government of France has not only refused to repeal, but has recently enjoined the observance of its former edict, respecting merchandise of British fabric or produce, the property of neutrals, by which the interruption of our lawful commerce, and the spoliation of the property of our citizens, have again received a public sanction. These facts indicate no change of system or disposition—they speak a more intelligible language than professions of solicitude to avoid a rupture, however ardently made. But if, after the repeated proofs we have given of a sincere desire for peace, these professions should be accompanied by insinuations, implicating the integrity with which it has been pursued—if, neglecting and passing by the Constitutional and authorized agents of the Government, they are made through the medium of individuals without public character or authority; and, above all, if they carry with them a claim to prescribe the political qualifications of the Minister of the United States to be employed in the negotiation, they are not entitled to attention or consideration, but ought to be regarded as designed to separate the people from their Government, and to bring about by intrigue that which open force could not effect.

We are of opinion with you, sir, that there has nothing yet been discovered in the conduct of France which can justify a relaxation of the means of defence adopted during the last session of Congress, the happy result of which is so strongly and generally marked. If the force by sea and land which the existing laws authorize should be judged inadequate to the public defence, we will perform the indispensable duty of bringing forward such other acts as will effectually call forth the resources and force of our country.

A steady adherence to this wise and manly policy—a proper direction of the noble spirit of patriotism which has arisen in our country, and which ought to be cherished and invigorated by every branch of the Government, will secure our liberty and independence against all open and secret attacks.

We enter on the business of the present session with an anxious solicitude for the public good, and shall bestow that consideration on the several objects pointed out in your communication, which they respectively merit.

Your long and important services—your talents and firmness, so often displayed in the most trying times and most critical situations—afford a sure pledge of a zealous co-operation in every measure necessary to secure us justice and respect.

JOHN LAURANCE,
President of the Senate pro tempore.

Ordered, That the committee who prepared the Address, wait on the President of the United States, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. STOCKTON reported, from the committee, that they had waited on the President of the United States, and that he would receive the Address of the Senate to-morrow, at 12 o'clock, at his own house. Whereupon,

Resolved, That the Senate will, to-morrow at 12 o'clock, wait on the President of the United States accordingly.

WEDNESDAY, December 12.

Agreeably to the resolution of yesterday, the Senate waited on the President of the United States, and the President of the Senate, in their name, presented the Address then agreed on.

To which the PRESIDENT OF THE UNITED STATES made the following reply:

To the Senate of the United States:

GENTLEMEN: I thank you for this Address, so conformable to the spirit of our Constitution, and the established character of the Senate of the United States, for wisdom, honor, and virtue.

I have seen no real evidence of any change of system or disposition in the French Republic towards the United States. Although the officious interference of individuals, without public character or authority, is not entitled to any credit, yet it deserves to be considered, whether that temerity and impertinence of individuals affecting to interfere in public affairs, between France and the United States, whether by their secret correspondence or otherwise, and intended to impose upon the people, and separate them from their Government, ought not to be inquired into and corrected.

I thank you, gentlemen, for your assurances that you will bestow that consideration on the several objects pointed out in my communication, which they respectively merit.

If I have participated in that understanding, sincerity, and constancy, which have been displayed by my fellow-citizens and countrymen, in the most trying times, and critical situations, and fulfilled my duties to them, I am happy. The testimony of the Senate of the United States, in my favor, is an high and honorable reward, which receives, as it merits, my grateful acknowledgments. My zealous co-operation in measures necessary to secure us justice and consideration may be always depended on.

JOHN ADAMS.

December 12, 1798.

The Senate returned to their own Chamber, and proceeded to the consideration of Executive business.

THURSDAY, December 13.

Ordered, That the Secretary notify the House of Representatives that the summons issued by order of the Senate of the United States, against William Blount, on the 1st day of March last, to appear at their bar, on the 3d Monday of December instant, and answer to the impeachment made by the House of Representatives, for high crimes and misdemeanors, has been duly served on the said William Blount, by the Sergeant-at-Arms, and a return thereon is made to the office of the Secretary of the Senate.

FRIDAY, December 14.

JOHN E. HOWARD, from the State of Maryland, attended.

The Senate spent the day in the consideration of Executive business.

MONDAY, December 17.

ALEXANDER MARTIN, from the State of North Carolina, and JAMES HILLHOUSE, from the State of Connecticut, severally attended.

The PRESIDENT laid before the Senate a report from the Commissioners of the Sinking Fund, which was read, as follows:

The Commissioners of the Sinking Fund respectfully report to Congress—

That the measures which have been authorized by the Board subsequent to their report of the 4th of December, 1797, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 12th of December, 1798, and in the proceedings of the accounting officers therein referred to, which are herewith transmitted and prayed to be received as part of this report.

JOHN LAURANCE,
President of the Senate pro tempore.

December 15, 1798.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund—

That no purchases of the debt of the United States have been made since the date of the last report to Congress, on the 4th day of December, 1797; and that the sums heretofore purchased amount to two millions three hundred and seven thousand six hundred and sixty-one dollars and seventy-one cents; for which there have been paid, in specie, the sum of one million six hundred and eighteen thousand nine hundred and thirty-six dollars and four cents, as will more particularly appear from the document hereto annexed, marked A.

The following sums have been applied towards the discharge of the principal debt of the United States, since the date of the last report to Congress, of the 4th of December, 1797:

1st. To the third instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed on the 3d day of March, 1795, and the act in addition thereto, passed on the 28th day of April, 1796, became payable on the 1st day of January, 1798, the sum of - $738,016 03

2d. To the payment of an instalment of the subscription for bank stock, due on the last day of December, 1797,	200,000 00
3d. To the payment of the second instalment of the loan of $800,000 obtained of the Bank of the United States, pursuant to an act passed the 21st of February, 1795, - -	200,000 00
4th. To the payment of the first instalment of a loan of one million of guilders in Holland, which fell due the present year, pursuant to a contract dated the 1st June, 1787, estimated at forty cents per guilder, - -	80,000 00
	$1,118,016 03

The payments before enumerated have been made out of the following funds:

1st. The interest fund on the sums which accrued upon the stock purchased and vested in the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the document hereto annexed, marked B, - - -	$88,912 87
2d. The fund arising from the payment of debts which originated prior to the present Constitution of the United States, as particularly stated in the document marked C, - -	17,714 95
3d. The fund arising from the sales of lands in the Northwestern Territory, as particularly stated in the document hereto annexed, marked D, -	88,376 73
4th. The funds funds arising from established revenues and appropriated for the reduction of the debts of the United States, being for the period, and in reference to the objects, contained in this report, - -	923,011 48
Making in the whole a sum equal to the reimbursements before mentioned	$1,118,016 03

The growing produce of the interest funds, together with the sums received and expected from established revenues, are estimated by the Secretary as sufficient for the reimbursement of the fourth instalment of the six per cent. stock, bearing a present interest; a statement of the amount and application of the said funds will be exhibited to the Board with the next report.

All which is most respectfully submitted by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *December* 12, 1798.

Ordered, That the reports be printed for the use of the Senate.

The PRESIDENT laid before the Senate a report signed Winthrop Sargent, in behalf of the Governor of the Northwestern Territory, in pursuance of the order of the Senate of the 6th of March last, together with the copy of instructions to Robert Buntin, Surveyor of Knox county, in the said Territory; which were read.

Ordered, That they, together with the petitions of Benjamin Reed and others, respecting claims within the said Territory, be referred to Messrs. ROSS, LIVERMORE, and PAINE, to consider and report thereon to the Senate.

On motion, *Ordered*, That Messrs. ROSS, READ, and LIVERMORE, be a committee to prepare and report rules for conducting the trial of an impeachment, now depending in the Senate, against William Blount; and to report thereon to the Senate.

Mr. ROSS, from the committee last appointed, reported,

"That the Legislative and Executive business of the Senate be postponed, and that the Senate form itself into a Court of Impeachment, by taking the oath prescribed by a resolution of this House on the 9th of February last.

"After the oath has been administered to the President and Senate, the process which, on the first of March last, was directed to be issued and served upon William Blount, and the return made thereupon, shall be read. The officer who served the process shall be sworn to the truth of the return thereof. The defendant, William Blount, shall be called to appear and answer the articles of impeachment exhibited against him. If he appears, his appearance shall be recorded. If he does not appear, his default shall be recorded.

"The House of Representatives shall be notified of the appearance or default of the defendant, William Blount, and that the Senate will be ready at 12 o'clock to-morrow, to receive the managers appointed by that House, and to take further order in this trial."

And the report was adopted; and the Senate formed itself into a Court of Impeachment accordingly.

The Court of Impeachment being adjourned, the Senate went into the consideration of Executive business.

TUESDAY, December 18.

Resolved, That Messrs. ROSS, LIVERMORE, and STOCKTON, be a committee to take into consideration, and to report what rules are necessary to be adopted on the trial of the impeachment of William Blount.

Resolved, That Messrs. WATSON, BINGHAM, LATIMER, GOODHUE, and BLOODWORTH, be a committee to take into consideration that part of the President's Speech respecting the expediency of establishing regulations in aid of the health laws of the respective States; and to report by bill, bills, or otherwise.

Resolved, That Messrs. GUNN, HOWARD, and ROSS, be a committee to take into consideration that part of the President's Speech which respects the extension and invigoration of the measures of defence, other than those which relate to a naval armament, and to report by bill or otherwise.

Resolved, That Messrs. GOODHUE, READ, TRACY, BINGHAM, and WATSON, be a committee to take into consideration so much of the President's Speech as relates to the naval defence of the United States, and report by bill, bills, or otherwise.

After proceedings as a Court of Impeachment, the Senate went into the consideration of Executive business.

WEDNESDAY, December 19.

FRANKLIN DAVENPORT, appointed a Senator by the Executive of the State of New Jersey, in the recess of the Legislature, in the place of John Rutherfurd, resigned, produced his credentials; which were read, and, the oath of office being administered to him as the law provides, he took his seat in the Senate.

THURSDAY, December 20.

Mr. ROSS, from the committee appointed to take into consideration and report what rules are necessary to be adopted on the trial of the impeachment of William Blount, reported in part.

The report was read, and ordered to be printed for the use of the Senate.

Mr. TRACY laid before the Senate the petition of Joseph Russell, jr., and others, stating that there is due to them from the United States, interest on twenty-four thousand four hundred dollars, according to a resolution of Congress of the 18th of March, 1780, and praying payment; which petition was read.

Ordered, That it lie on the table.

FRIDAY, December 21.

The PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer, together with his specie and War Department accounts, ending 30th June, and War and Navy Departments, ending 30th September; which were read.

Ordered, That they lie on file.

The Senate proceeded to take into consideration the report of the committee appointed to consider what rules are necessary to be adopted by the Senate in the trial of William Blount; and, the report being amended, was adopted, as follows:

"*Resolved*, That, at the next opening of the Court of Impeachment, the President shall inquire whether the managers have any request to make, before the counsel of the defendant are called on to put in his answer.

"If no motion or request is made, the defendant's counsel shall be required to put in his answer or plea, to the articles of impeachment.

"The answer or plea shall be read by the Secretary, and entered by him on the Journal.

"A copy of the defendant's answer or plea shall be communicated to the House of Representatives, by the Secretary.

"The President shall then inform the managers that the Senate is ready to hear any reply or motion which they may think proper to make.

"All questions, arising in the course of the trial, shall be decided with closed doors. The decisions shall be by ayes and noes, which shall be entered upon the Journal. When the question is decided, the doors shall be opened, the parties called in, and the result made known to them by the President.

"Witnesses shall be sworn by the Secretary, and shall take the following oath:

"I, A, B, do swear, (or affirm, as the case may be,) that the evidence I will give to this Court, touching the impeachment of William Blount, now here depending, shall be the truth, the whole truth, and nothing but the truth. So help me God.

"Witnesses shall be examined by the party producing them, and then cross examined in the usual form. If a Senator wishes any question to be asked, it shall be put by the President.

"If Senators are called as witnesses, they shall be sworn, and give their testimony standing in their places."

Ordered, That the Secretary inform the House of Representatives that the Senate, taking into their care the ordering of the trial of William Blount, late a Senator of United States from the State of Tennessee, on Monday, the 24th of December instant, have prepared some rules to be observed at said trial, which they have thought fit to communicate to the House of Representatives.

MONDAY, December 24.

The Senate resolved themselves into a Court of Impeachment; and, after proceedings therein, went into the consideration of Executive business, and afterwards adjourned to Wednesday morning.

WEDNESDAY, December 26.

JAMES LLOYD, from the State of Maryland, attended.

The Senate proceeded to the consideration of Executive business.

THURSDAY, December 27.

THOMAS JEFFERSON, Vice President of the United States and President of the Senate, attended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States;" and a bill, entitled "An act providing for the enumeration of the inhabitants of the United States;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

FRIDAY, December 28.

The bill sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," was read the second time, and referred to Messrs. PAINE, READ, and HILLHOUSE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," was read the second time, and referred to Messrs. LAURANCE, TRACY, and MARTIN, to consider and report thereon to the Senate.

Mr. TRACY notified the Senate that he should, to-morrow, if the Senate should be in session

and if not, on Monday, move for leave to bring in a bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut.

MONDAY, December 31.

The VICE PRESIDENT laid before the Senate a letter from JOHN HUNTER, notifying his resignation of his seat in the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

A report of the Secretary of War, made to me on the twenty-fourth of this month, relative to the Military Establishments, I think it my duty to transmit to Congress, and recommend to their consideration.

JOHN ADAMS.

December 31, 1798.

The Message and report were read, and ordered to lie for consideration.

Agreeably to notice given on the 28th instant, Mr. TRACY requested leave to bring in a bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, on motion to agree thereto, it was determined in the affirmative—yeas 17, nays 2, as follows:

YEAS—Messrs. Anderson, Bloodworth, Chipman, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Langdon, Livermore, Lloyd, Marshall, Martin, Paine, Read, and Tracy.

NAYS—Messrs. Laurance and Ross.

So leave was given, and the bill was accordingly read the first time, and ordered to the second reading. And the Senate adjourned to Wednesday morning.

WEDNESDAY, January 2, 1799.

The bill, authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, was read the second time.

Ordered, That it be referred to Messrs. READ, LAURANCE, ROSS, MARSHALL, and TRACY, to consider and report thereon to the Senate. It was further ordered, that the committee last named be instructed to make a special report on the subject referred to them.

Mr. ROSS laid before the Senate the petition of Thomas Lewis, late Aid-de-camp to the late Major General Wayne, praying compensation for his services as extra Aid-de-camp, from the 16th of July, 1794, until the death of the General; which was read, and referred to Messrs. ROSS, TRACY, and GUNN, to consider and report thereon by bill or otherwise.

THURSDAY, January 3.

Resolved, That, in all questions of adjournment of the Court of Impeachment, as also in all questions on a motion that further time be allowed to the parties, the taking the question by yeas and nays be dispensed with.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting the balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," reported the bill without amendment.

After proceedings in the Court of Impeachment, the Senate went into Executive business.

FRIDAY, January 4.

After proceedings as a Court of Impeachment, the Senate adjourned.

SATURDAY, January 5.

After proceedings as a Court of Impeachment, the Senate adjourned.

MONDAY, January 7.

JOHN BROWN, from the State of Kentucky, and THEODORE SEDGWICK, from the State of Massachusetts, severally attended.

After proceedings as a Court of Impeachment, the Senate went into Executive business.

TUESDAY, January 8.

STEPHENS T. MASON, from the State of Virginia, attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

In obedience to the law, I now lay before you my annual account of the application of the grant made by Congress, for the contingent charges of Government, from the 1st of January to the 31st of December, 1798.

JOHN ADAMS.

January 8, 1799.

The Message and account were read, and ordered to lie on the table.

After proceedings as a Court of Impeachment, the Senate went into Executive business.

WEDNESDAY, January 9.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States."

Ordered, That the further consideration thereof be postponed until to-morrow.

On motion, *Ordered*, That the report of the Secretary for the Department of War, communicated with the Message of the President of the United States of the 31st ultimo, be referred to the committee appointed the 18th of December last, on that part of the President's Speech respecting the extension and invigoration of the measures of defence, other than those which relate to a naval armament, to consider and report thereon to the Senate.

After proceedings as a Court of Impeachment, the Senate adjourned.

THURSDAY, January 10.

Mr. READ presented the petition of Daniel Halloway, of Charleston, South Carolina, praying relief from the operation of the revenue laws of the United States; which was read, and ordered to lie on the table.

After proceedings as a Court of Impeachment, the Senate went into Executive business.

FRIDAY, January 11.

Ordered, That the petition of Joseph Russell jr., and others, be referred to Messrs. HILLHOUSE, TRACY, and GREENE, to consider and report thereon to the Senate.

After proceedings as a Court of Impeachment, the Senate proceeded to Executive business.

MONDAY, January 14.

Mr. PAINE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," reported amendments; which were read, and ordered to lie for consideration.

After proceedings as a Court of Impeachment, the Senate went into Executive business.

TUESDAY, January 15.

The Senate took into consideration the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," and, after debate,

Ordered, That the further consideration thereof be postponed till to-morrow.

The Senate took into consideration the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States by the Commissioners appointed to settle the accounts between the United States and the several States."

Ordered, That it be recommitted to Messrs. TRACY, PAINE, and SEDGWICK, to consider and report thereon to the Senate.

Mr. ANDERSON presented the petition of Daniel Smith, praying compensation for a negro and some horses, stated to have been stolen by certain Cherokee Indians; which was read, and referred to Messrs. ANDERSON, ROSS, and TRACY, to consider and report thereon to the Senate.

Ordered, That Messrs. ROSS, SEDGWICK, and BROWN, be a committee to consider whether any, and what, amendments ought to be made in the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" and that the said committee be authorized to report by bill or otherwise.

Ordered, That Messrs. ROSS, READ, TRACY, SEDGWICK, and CHIPMAN, be a committee to consider whether any division, or other alteration, ought to be made in the government of the Territory of the United States Northwest of the river Ohio; and that the said committee be authorized to report by bill or otherwise.

On motion that it be

Resolved, That a committee be appointed to examine what laws have been adopted by the Government of the Territory Northwest of the river Ohio, and to report how far the same may, in their opinion, be authorized or expedient:

Ordered, That it lie for consideration.

WEDNESDAY, January 16.

Mr. WATSON presented the petition of Seth Harding, commander of several armed vessels in the public service during the late war, stating his services and sufferings, and praying compensation; which petition was read, and ordered to lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States."

On motion, to strike out the words "May next," and substitute "April, one thousand eight hundred," so that the clause stand: "The enumeration shall commence on the first Monday in April, one thousand eight hundred"—it was determined in the affirmative—yeas 17, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Marshall, Paine, Read, Ross, Sedgwick, Tracy, and Watson.

NAYS—Messrs. Anderson, Bloodworth, Brown, Langdon, Martin, and Mason.

And the other amendments reported being agreed to, and the bill further amended,

Ordered, That it pass to the third reading as amended.

On motion,

That the Secretary of the Senate be instructed to have ——— copies of the Constitution of the United States, with the amendments which have been adopted, printed, and bound in a small form, for the use of the Senate.

Ordered, That this motion lie until to-morrow for consideration.

THURSDAY, January 17.

The bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," was read the third time.

Resolved, That this bill pass with amendments.

FRIDAY, January 18.

The Senate proceeded to the consideration of the motion made the 16th instant. Whereupon,

Resolved, That the Secretary of the Senate be instructed to have two hundred copies of the Constitution of the United States, with the amendments which have been adopted, printed and bound in a small form.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the punishment of certain crimes therein specified," in which they desire the concurrence of the Senate.

The bill was read, and ordered to a second reading.

The Senate proceeded to consider the motion made on the 15th instant; which was amended. Whereupon,

Resolved, That Messrs. MASON, ROSS, and BROWN, be a committee to examine what laws have been adopted by the Government of the Territory Northwest of the river Ohio, and report how far the same may, in their opinion, be expedient.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The communication relative to our affairs with France, alluded to in my Address to both Houses, at the opening of the session, is contained in the sheets which accompany this. A report of the Secretary of State, containing some observations on them, will be sent to Congress on Monday.

JOHN ADAMS.

January 18, 1799.

The Message and papers were in part read, and the further reading thereof postponed.

MONDAY, January 21.

HENRY TAZEWELL, from the State of Virginia, attended.

Mr. READ, from the committee to whom was referred the bill, authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, having inquired into the subject-matter of the bill, made a special report thereon, together with the bill, without any amendment—and the report was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled "An act for the punishment of certain crimes therein specified," was read the second time, and referred to Messrs. SEDGWICK, TAZEWELL, and TRACY, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

According to an intimation in my Message of Friday last, I now lay before Congress a report of the Secretary of State, containing his observations on some of the documents which attended it.

JOHN ADAMS.

January 21, 1799.

The papers referred to in the Message of the President of the United States, of the 18th inst., were read.

On motion, that five hundred copies thereof be printed for the use of the Senate, it was agreed that the consideration of this motion be postponed.

Mr. GUNN, from the committee appointed on that part of the President's Speech respecting the extension and invigoration of the measures of defence, other than those which relate to a Naval Armament, reported, in part, a bill for the better organizing the troops of the United States, and for other purposes.

Ordered, That it pass to a second reading.

TUESDAY, January 22.

The communications referred to in the Message from the President of the United States, of the 21st instant, were read; and it was

Resolved, That five hundred copies of the Message of the President of the United States, of the 18th of the present month, and the papers accompanying the same, together with the report of the Secretary of State, communicated by the President's Message of yesterday, be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House agree to some and disagree to other amendments of the Senate to the bill, entitled "An act providing for the enumeration of the inhabitants of the United States."

The Senate proceeded to consider their amendments disagreed to by the House of Representatives to the bill last mentioned. Whereupon,

Resolved, That they do adhere to their said amendments.

Mr. WATSON notified the Senate, that he should, to-morrow, move for leave to bring in a bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States."

WEDNESDAY, January 23.

Agreeably to notice given yesterday, Mr. WATSON had leave to bring in a bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States;" which was read, and ordered to a second reading.

Mr. GREENE laid before the Senate the petition of Stephen Heffernan, praying the allowance of the drawback on a certain quantity of fish, stated to have been taken in the year 1797, although the formalities required by law were casually omitted; which petition was read, and referred to the Secretary for the Department of the Treasury, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill for the better organizing the troops of the United States, and for other purposes, was read the second time.

Ordered, That the further consideration thereof be postponed to Monday next.

On motion, *Ordered*, That Mr. CHIPMAN be of the committee to whom was referred the bill sent from the House of Representatives, entitled "An act for the punishment of certain crimes therein specified," in the place of Mr. TAZEWELL, indisposed.

THURSDAY, January 24.

Mr. SEDGWICK, from the committee to whom was referred the bill sent from the House of Representatives, entitled "An act for the punishment of certain crimes therein specified," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries," was read the second time, and referred to Messrs. GOODHUE, PAINE, and READ, to consider and report to the Senate.

Mr. ROSS, from the committee to whom was referred the petition of Thomas Lewis, reported a bill for his relief; which was read, and ordered to the second reading.

The Senate being informed that HENRY TAZEWELL, one of the members from the State of Virginia, died this morning,

Resolved, That a committee be appointed to take order for superintending the funeral of the said HENRY TAZEWELL, Esq., and that the Senate will attend the same, and that notice of the event be given to the House of Representatives, and that this committee consist of Messrs. MASON, BROWN, and MARSHALL.

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of HENRY TAZEWELL, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm.

Resolved, That the President of the Senate notify the Executive of Virginia of the death of HENRY TAZEWELL, late Senator of that State for the United States.

A message from the House of Representatives, informed the Senate that the House adhere to their disagreement to sundry amendments of the Senate to the bill, entitled "An act providing for the enumeration of the inhabitants of the United States."

FRIDAY, January 25.

The VICE PRESIDENT communicated the credentials of WILLIAM HILL WELLS, elected a Senator for the State of Delaware, in the place of Joshua Clayton, deceased.

The bill, sent from the House of Representatives, entitled "An act for the punishment of certain crimes therein specified," was read the third time.

On the final passage of the bill, the question was determined in the affirmative—yeas 18, nays 2, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Howard, Latimer, Livermore, Lloyd, Martin, Paine, Read, Ross, Sedgwick, Tracy, and Watson.

NAYS—Messrs. Bloodworth and Langdon.

So it was, *Resolved*, That this bill pass.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries," reported amendments; and the consideration of the report was postponed.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States by the Commissioners appointed to settle the accounts between the United States and the several States," reported amendments, which were read.

Ordered, That the report lie for consideration.

The bill, supplementary to the act, entitled "An act to establish the Judicial Courts of the United States," was read the second time, and referred to Messrs. WATSON, ROSS, and READ, to consider and report thereon to the Senate.

The bill for the relief of Thomas Lewis was read the second time.

Ordered, That the further consideration thereof be postponed until Monday next.

Mr. GUNN, from the committed appointed on that part of the President's Speech respecting the extension and invigoration of the measures of defence, other than those which relate to a Naval Armament, made further report, in part, of a bill, for the establishment of a Medical Department, which was read, and ordered to the second reading.

MONDAY, January 28.

The Senate resumed the consideration of the amendments reported by the committee, to whom was referred the bill sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries; and, after debate,

Ordered, That they be recommitted to the committee who made the report, further to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

An edict of the Executive Directory of the French Republic, of the 29th of October, 1798, enclosed in a letter from our Minister Plenipotentiary, in London, of the 16th of November, is of so much importance, that it cannot be too soon communicated to you and to the public.

JOHN ADAMS.

UNITED STATES, *January* 28, 1799.

The Message, and papers therein mentioned, were read.

Ordered, That they be referred to the committee appointed the 18th of December last, on so much of the President's Speech as relates to the naval defence of the United States, and that the committee be instructed to have the same translated and printed for the use of the Senate.

The Senate resumed the second reading of the bill for the relief of Thomas Lewis.

Ordered, That this bill pass to a third reading.

The Senate took into consideration the amendments reported by the committee, to whom was referred the bill sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States;" and, after debate,

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Ordered, That Mr. ANDERSON be of the joint committee for enrolled bills on the part of the Senate.

Mr. READ presented the petition of Daniel Stevens, Supervisor of the Revenue for the district of South Carolina, in behalf of himself and the officers in his department, praying additional compensation for their services; which was read, and ordered to lie on the table.

Mr. ROSS presented the petition of Ennion Williams, praying the exclusive privilege of manufacturing salt, from certain salt springs in the Northwestern Territory, particularly mentioned in the petition; and which was read.

Ordered, That it be referred to the committee appointed on the 15th instant, to consider whether any division or other alteration ought to be made in the Government of the Territory Northwest of the river Ohio, to consider and report thereon to the Senate.

THURSDAY, January 29.

The bill to regulate the Medical Establishment was read the second time.

The bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes," was read the second time, and referred to Messrs. READ, BINGHAM, and WATSON, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, for the better organizing of the troops of the United States, and for other purposes.

On motion to strike out the second section of the bill, as follows:

"SEC. 2. *And be it further enacted*, That every lieutenant colonel commandant of a regiment, heretofore appointed, shall be, and be denominated colonel, every ensign and every cornet in the regiments heretofore appointed, shall be denominated hereafter second lieutenants, and the lieutenants in the corps of artillerists and engineers, first and second lieutenants."

It was determined in the negative—yeas 10, nays 12, as follows:

YEAS—Messrs. Anderson, Bingham, Bloodworth, Brown, Langdon, Livermore, Marshall, Martin, Mason, and Paine.

NAYS—Messrs. Chipman, Davenport, Greene, Gunn, Howard, Latimer, Lloyd, Read, Ross, Sedgwick, Tracy, and Watson.

And, after progress, it was

Ordered, That the further consideration of this bill be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act respecting quarantines and health laws," in which they desire the concurrence of the Senate.

WEDNESDAY, January 30.

JOSIAH TATTNALL, from the State of Georgia, attended.

Mr. ANDERSON notified the Senate, that he should, to-morrow, move for leave to bring in a bill to amend the act, entitled "An act giving effect to the laws of the United States within the district of Tennessee."

Mr. DAVENPORT presented the address and remonstrance of the inhabitants of the county of Essex, in the State of New Jersey, against the "alien and sedition" laws, and against "regular and standing armies;" and the petition was read.

Mr. HOWARD presented the petition of the managers of the Library Company in the city of Baltimore, praying exemption from the duties now chargeable on imported books; which was read, and ordered to lie on the table.

The bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws," was read the first time, and ordered to the second reading.

The Senate resumed the consideration of the amendments, reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States; which, being adopted,

Ordered, That this bill pass to the third reading as amended.

The bill for the relief of Thomas Lewis was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Gazzem, Taylor, and Jones, of the city of Philadelphia," and a bill, entitled "An act for the relief of Jona-

than Haskill," in which they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The VICE PRESIDENT laid before the Senate a report of the Secretary for the Department of the Treasury, of a general statement of goods, wares, and merchandise, imported into the United States, from the 1st of October, 1796, to the 30th of September, 1797, which was read.

Ordered, That it lie on file.

Mr. GUNN, from the committee appointed on that part of the President's Speech, respecting the extension and invigoration of the measures of defence, other than those which relate to a naval armament, further reported, in part, a bill giving eventual authority to the President of the United States to augment the Army; which bill was read, and ordered to the second reading.

The Senate resumed the second reading of the bill for the better organzing the troops of the United States, and for other purposes; and, after progress,

Ordered, That the further consideration thereof be postponed.

THURSDAY, January 31.

The bill, sent from the House of Representatives, "entitled "An act for the relief of Jonathan Haskill," was read the second time, and referred to Messrs. GREENE, ROSS, and SEDGWICK, to consider and report thereon to the Senate.

Agreeably to notice given yesterday, Mr. ANDERSON obtained leave to bring in a bill to amend an act, entitled "An act giving effect to the laws of the United States within the district of Tennessee," which was read, and ordered that it pass to a second reading.

On motion, it was agreed that a committee be appointed to take into consideration the act, entitled "An act to regulate trade and intercourse with Indian tribes, and to preserve peace on the frontiers;" for the purpose of making amendments to the same if in their opinion necessary; and likewise the propriety of continuing the act in force longer than the third day of March next; with liberty to report by bill or otherwise.

Ordered, That Messrs. TRACY, ANDERSON, and GUNN, be the committee.

The bill, sent from the House of Representatives, entitled "An act for the relief of Gazzam, Taylor, and Jones," of the city of Philadelphia," was read the second time, and referred to Messrs. BINGHAM, WATSON, and DAVENPORT, to consider and report thereon to the Senate.

Mr. FOSTER presented the petition of John Brown and others, merchants of Providence, in the State of Rhode Island, praying that they may be enabled, at public expense, to prosecute their claims for the recovery of their property on the high seas, captured by the Powers at war; and the petition was read.

Ordered, That the said petition be referred to the Secretary for the Department of State, for his report thereon; and that he be directed to report all cases, with the circumstances attending them, which have come to his knowledge, similar to those mentioned in said petition.

The bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws," was read the second time.

Ordered, That it be referred to the committee appointed on the 18th of December last, on that part of the President's Speech respecting the expediency of establishing regulations in aid of the health laws of the respective States, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act respecting the balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," was read the third time.

On the final passage of this bill as amended, the question was determined in the affirmative—yeas 17, nays 10, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Goodhue, Gunn, Howard, Latimer, Livermore, Lloyd, Paine, Read, Ross, Sedgwick, Stockton, Tattnall, Tracy, and Watson.

NAYS—Messrs. Anderson, Bloodworth, Brown, Foster, Greene, Hillhouse, Langdon, Marshall, Martin, and Mason.

So it was *Resolved*, That this bill pass with amendments.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes," reported amendments; which were read.

Ordered, That they lie for consideration.

The Senate resumed the second reading of the bill for the better organizing of the troops of the United States, and for other purposes; and, after progress,

Ordered, That it be referred to the committee who reported the bill, further to consider and report thereon to the Senate.

The bill giving eventual authority to the President of the United States to augment the Army, was read the second time.

Ordered, That the further consideration thereof be postponed until Tuesday next.

The Senate resumed the second reading of the bill to regulate the Medical Establishment; and, after progress, the further consideration thereof was postponed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I have received a report from the Director of the Mint on the state of the business committed to his superintendence, and a statement of the coinage of the Mint of the United States for the year 1798, which it is proper to lay before Congress.

JOHN ADAMS.

January 31, 1799.

The Message and papers were read, and ordered to lie for consideration.

FRIDAY, February 1.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes;" and the report was, in part, agreed to; and, after debate,

Ordered, That the consideration of the bill be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act entitled 'An act laying duties on stamped vellum, parchment, and paper;' and further to amend the same;" in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives was read, and ordered to the second reading.

The bill to amend an act, entitled "An act giving effect to the laws of the United States within the district of Tennessee," was read the second time, and referred to Messrs. ANDERSON, LLOYD, and ROSS, to consider and report thereon to the Senate.

MONDAY, February 4.

WILLIAM HILL WELLS, appointed a Senator by the Legislature of the State of Delaware, in place of Joshua Clayton, deceased, attended; and his credentials being read, and the oath required by law administered to him, he took his seat in the Senate.

Ordered, That the committee appointed on the Message of the President of the United States of the 28th of January last, be instructed to report by bill.

Ordered, That the petition of Daniel Stevens, presented to the Senate on the 28th of January last, be referred to the Secretary for the Department of the Treasury, to report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes;" and, after debate,

Ordered, That the further consideration thereof be postponed.

TUESDAY, February 5.

Mr. GOODHUE, from the committee to whom was referred the Message of the President of the United States, of the 28th of January last, together with the copy of an Arrêt of the Directory of the French Republic of the 29th of October, 1798, reported a bill, vesting the power of retaliation, in certain cases, in the President of the United States; which was read, and ordered to the second reading.

Mr. ROSS, from the committee appointed to consider whether any, and what, amendments ought to be made in the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" reported a bill to amend the same; which was read, and ordered to the second reading.

The bill, sent from the House of Representatives, entitled, "An act to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act entitled, 'An act laying duties on stamped vellum, parchment, and paper;' and further to amend the same," was read the second time, and referred to Messrs. BINGHAM, READ, and SEDGWICK, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes."

On motion, to expunge the fourth section of the bill, amended as follows:

"SEC. 4. *Provided, and be it further enacted*, That at any time after the passing of this act it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order to remit and discontinue, for the time being, the restraints and prohibitions aforesaid, either with respect to the French Republic, or to any island, port, or place, belonging to the said Republic, with which a commercial intercourse may safely be renewed; and also to revoke such order whenever, in his opinion, the interest of the United States shall require; and he shall be, and hereby is, authorized to make proclamation thereof accordingly:"

It was determined in the negative—yeas 10, nays 17, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Gunn, Langdon, Marshall, Martin, Mason, Read, and Tattnall.

NAYS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Livermore, Lloyd, Paine, Ross, Sedgwick, Stockton, Tracy, Watson, and Wells.

On motion, to expunge the fifth section of the bill, as follows:

"SEC. 5. *And be it further enacted*, That it shall be lawful for the President of the United States, if he shall judge it expedient and for the interest of the United States, to issue a proclamation for suspending and prohibiting all commercial intercourse between the United States and any port or place in the West Indies, or elsewhere, to which ships or vessels of the United States, captured by ships of war, or privateers, sailing under the authority, or color of authority, from the French Republic, shall be allowed to be sent or carried, and to be there condemned or sold. And such proclamation shall be effectual to prevent the departure of any vessel which shall not conform thereto, after notice of the same at the offices of the several collectors of the collection districts of the United States; and from and after the expiration of two months, or any longer time which shall be therein expressed, shall be effectual to prevent the entry of any vessel coming from the port or place with which the commercial intercourse shall be thereby prohibited. And it shall also be lawful for the President of the United States to revoke any such proclamation, whenever, in his opinion, the public interest may require the same:"

It was determined in the negative—yeas 10, nays 16, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Gunn, Langdon, Marshall, Martin, Mason, Read, and Tattnall.

NAYS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Livermore, Lloyd, Paine, Ross, Stockton, Tracy, Watson, and Wells.

Ordered, That this bill pass to a third reading.

Mr. ANDERSON, from the committee to whom was referred the bill to amend an act, entitled "An act giving effect to the laws of the United State, within the district of Tennessee," reported amendments.

Ordered, That they lie for consideration.

The VICE PRESIDENT laid before the Senate the account of James Mathers, their Sergeant-at-Arms, for his expense and trouble in serving the process on William Blount, impeached for high crimes and misdemeanors.

Ordered, That it be referred to Messrs. TRACY, BINGHAM, and READ, to consider and report thereon to the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Gazzam, Taylor, and Jones, of the city of Philadelphia," reported the bill without amendment.

Mr. TRACY notified the Senate that he should to-morrow ask leave to bring in a bill to continue in force the first section of the act, passed the 6th of May, 1798, entitled "An act making further provision relative to revenue cutters;" a bill to continue in force the fifth section of the act entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States;" and a bill making permanent appropriations for carrying into effect the treaty made on the 2d of October last, with the Cherokee tribe of Indians.

Mr. GUNN, from the committee to whom was referred the bill for the better organizing the troops of the United States, and for other purposes, reported amendments.

Ordered, That they lie for consideration.

WEDNESDAY, February 6.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate, to the bill entitled "An act respecting balances reported against certain States by the Commissioners appointed to settle the accounts between the United States and the several States," with an amendment to their first amendment; in which they desire the concurrence of the Senate. They have passed a bill entitled "An act to amend the act, entitled 'An act to provide for the valuation of the lands and dwelling houses, and the enumeration of slaves, within the United States;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to consider the amendment of the House of Representatives to their amendment to the bill, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts betweeen the United States and the several States."

Resolved, That they ask a conference thereon, and that Messrs. WATSON and SEDGWICK be managers at the same on the part of the Senate.

The bill, sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes," was read a third time.

On motion to add the following proviso to the fourth section:

"*Provided*, That a notice of not less than nineteen days of the opening commerce with the French Republic, or any port or place under the Government thereof, by authority of this act, and of not less than thirty days of the revocation of any order issued by the President, by virtue of this act, shall be given:"

It was determined in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Bloodworth, Brown, Chipman, Gunn, Langdon, Livermore, Lloyd, Marshall, Martin, Mason, Read, and Tattnall.

NAYS—Messrs. Bingham, Davenport, Foster, Goodhue, Greene, Hillhouse, Latimer, Paine, Ross, Sedgwick, Stockton, Tracy, Watson, and Wells.

On motion to amend the motion, to be read as follows:

"*Provided*, That notice shall be given, of not less than thirty days, of the revocation of any order issued by the President, by virtue of this act:"

It was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Lloyd, Marshall, Paine, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Brown, Langdon, Martin, Mason, Read, Ross, and Tattnall.

And, on the question to agree to the motion thus amended, it was determined in the negative.

And, having agreed to several amendments to the bill, the question on the final passage thereof, as amended, it was determined in the affirmative—yeas 18, nays 10, as follows:

NAYS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Lloyd, Paine, Ross, Sedgwick, Tracy, Watson, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Brown, Gunn, Langdon, Marshall, Martin, Mason, Read, and Tattnall.

So it was *Resolved*, That this bill pass with amendments.

The VICE PRESIDENT laid before the Senate a letter from the Secretary for the Department of the Treasury, with a statement of goods, wares, and merchandise, exported from the United States during one year, prior to the 1st day of October, 1798; which were read.

Ordered, That they lie for consideration.

THURSDAY, February 7.

The Senate proceeded to consider the report of the committee to whom was referred the bill for the better organizing of the troops of the United States, and for other purposes; and, having agreed thereto, and further amended the bill, it was ordered to a third reading.

A message from the House of Representatives informed the Senate that they agree to the conference requested by the Senate on the subject-matter of the amendment proposed by the House of Representatives to the amendment of the Senate to the bill, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," and have appointed managers at the same on their part.

FRIDAY, February 8.

The bill, sent from the House of Representatives, entitled "An act to amend the act entitled 'An act providing for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States,'" was read the second time, and referred to Messrs. TRACY, ROSS, and SEDGWICK, to consider and report thereon to the Senate.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill to amend an act, entitled "An act giving effect to the laws of the United States within the district of Tennessee, and having agreed thereto,

Ordered, That this bill pass to a third reading.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries," reported amendments.

Agreeably to notice given on the 5th instant, Mr. TRACY obtained leave to bring in a bill making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians; which was read, and ordered to the second reading.

The bill vesting the power of retaliation, in certain cases, in the President of the United States, was read the second time, and ordered to the third reading.

The bill to amend the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the second time; and, after progress, it was ordered that the further consideration thereof be postponed.

SATURDAY, February 9.

Mr. SEDGWICK notified the Senate that he should, on Monday, ask leave to bring in a bill touching the mode of surrendering a defendant, who has been held to special bail in one district, and is afterwards arrested in another.

Mr. BINGHAM presented the petition of John Vaughan, of Philadelphia, stating that he had received from the Mint, in the year 1795, in return for bullion deposited there, a certain quantity of silver, below the standard alloy, and praying allowance for the deficiency; and the petition was read.

The Senate resumed the second reading of the bill to amend the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

On motion, to strike out the 8th section of the bill as follows:

"SEC. 8. *And be it further enacted*, That aliens residing within the United States or elsewhere, shall be capable of purchasing and holding lands in the Territory of the United States Northwest of the river Ohio, and their heirs may succeed to them, *ab intestato*, in the same manner as if they were citizens; and they may grant, sell, and devise the same to whom they may please, whether citizens or aliens; and that neither they, their heirs, or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens."

It was determined in the affirmative—yeas 13, nays 11, as follows:

YEAS—Messrs. Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Martin, Read, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Brown, Gunn, Langdon, Livermore, Marshall, Mason, Ross, and Tattnall.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to regulate the collection of duties on imports and tonnage," in which they desire the concurrence of the Senate.

MONDAY, February 11.

Agreeably to notice, Mr. SEDGWICK had leave to bring in a bill touching the mode of surrendering a defendant who has been held to special bail in one district, and is afterwards arrested in another; which was read, and ordered to the second reading.

Mr. WATSON, from the managers appointed at the conference, on the disagreeing votes of the two Houses on the bill, sent from the House of Representatives, entitled "An act respecting balances reported against certain States, by the Commissioners appointed to settle the accounts between the United States and the several States," reported that the Senate adhere to their amendment disagreed to by the House of Representatives, with amendments; and the report was adopted.

The bill, sent from the House of Representatives, entitled "An act to regulate the collection of duties on imports and tonnage," was read the first and second time, and referred to Messrs. GOODHUE, READ, and WATSON, to consider and report thereon to the Senate.

The bill for the better organizing the troops of the United States, and for other purposes, was read the third time, and being further amended,

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act for the better organizing the troops of the United States, and for other purposes."

Mr. GREENE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Jonathan Haskill," reported the bill without amendment.

Mr. ROSS, from the committee to whom it was referred to consider whether any division or other alteration ought to be made in the Government of the Territory Northwest of the river Ohio, reported a bill to reform the Superior Court of the Territory of the United States Northwest of the river Ohio; which was read, and ordered to the second reading.

Ordered, That the bill giving eventual authority to the President of the United States to augment the Army, be committed to the committee who reported the bill.

TUESDAY, February 12.

The VICE PRESIDENT laid before the Senate a letter from Samuel Meredith, Treasurer of the United States, with his account of receipts and expenditures in the Treasury Department, for the quarter ending the 30th September last; which were read.

Ordered, That they lie on file.

The bill touching the mode of surrendering a defendant, who has been held to special bail in one district, and is afterwards arrested in another, was read the second time, and referred to Messrs. SEDGWICK, STOCKTON, and CHIPMAN, to consider and report thereon to the Senate.

The bill to amend an act, entitled "An act giving effect to the laws of the United States within the district of Tennessee," was read the third time, and passed.

The bill to amend the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the third time, and passed.

The bill vesting the power of retaliation, in certain cases, in the President of the United States, was read the third time; and, being amended, the question on the final passage thereof was determined in the affirmative—yeas 22, nays 2, as follows.

YEAS—Messrs. Anderson, Bloodworth, Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Latimer, Livermore, Lloyd, Marshall, Martin, Paine, Ross, Sedgwick, Stockton, Tattnall, Tracy, Watson, and Wells.

NAYS—Messrs. Howard and Langdon.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act vesting the power of retaliation, in certain cases, in the President of the United States."

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act for the augmentation of the Navy;" a bill, entitled "An act authorizing the purchase of timber for naval purposes;" and a bill, entitled "An act authorizing the establishment of docks;" in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, after debate,

Ordered, That the further consideration thereof be postponed.

WEDNESDAY, February 13.

The VICE PRESIDENT communicated a letter from the Executive of the State of Virginia, in answer to his of the 24th ultimo, stating that an appointment to fill the vacancy in the Senate, occasioned by the decease of Henry Tazewell, would, probably, be deferred to the meeting of their Legislature.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to regulate the collection of duties on imports and tonnage," reported the bill without amendment.

The bill, sent from the House of Representatives, entitled "An act for the augmentation of the Navy;" the bill, entitled "An act authorizing the purchase of timber for naval purposes;" and the bill, entitled "An act authorizing the establishment of docks;" were severally read the first time, and, by unanimous consent, they were read the second time.

Ordered, That they be severally referred to the committee appointed the 18th of December last, on so much of the President's Speech as relates to the naval defence of the United States, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, after debate,

Ordered, That the further consideration thereof be postponed.

THURSDAY, February 14.

Resolved, That the committee to whom was referred so much of the President's Speech as re-

lates to naval defence, be directed to inquire whether any, and what, amendments may be necessary to the act, entitled "An act in addition to the act more effectually to protect the commerce and coasts of the United States," and to report by bill or otherwise.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut.

Ordered, That it be recommitted, together with the proposed amendment, to Messrs. STOCKTON, TRACY, and ROSS, further to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians;" and a bill, entitled "An act for the relief of Joseph Wheaton;" in which they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen in foreign countries;" and, having adopted the same, the bill was ordered to the third reading.

Ordered, That the bill sent from the House of Representatives, entitled "An act to regulate the collection of the duties on imports and tonnage," be recommitted to the same committee who have before had it under their consideration, further to consider and report thereon to the Senate.

Mr. BINGHAM presented the petition of Samuel Watt, merchant, of Philadelphia, praying the allowance of drawback, on certain goods shipped on board the schooner Eagle; although, by unavoidable accident, the provisions of the law were not complied with; and the petition was read.

Ordered, That it be referred to Messrs. BINGHAM, WATSON, and DAVENPORT, to consider and report thereon to the Senate.

Ordered, That the bill sent from the House of Representatives, entitled "An act for the relief of Gazzam, Taylor, and Jones, of the city of Philadelphia," be recommitted to the commitee appointed on the petition of Samuel Watt, further to consider and report thereon to the Senate.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, sent from the House of Representatives, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians," be now read the second time.

Ordered, That it be referred to Messrs. GUNN, ROSS, and LIVERMORE, to consider and report thereon to the Senate.

The bill making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians, was read the second time and referred to Messrs. ROSS, GUNN, and LIVERMORE, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Jonathan Haskill," and, the report being adopted,

Ordered, That this bill pass to a third reading.

Mr. TRACY, from the committee to whom was referred the account of James Mathers, reported a bill, allowing James Mathers compensation for services done for the United States, and expenses incurred in rendering said services, as Sergeant-at-Arms to the Senate; which was read and ordered to the second reading.

The bill to reform the Superior Court of the Territory of the United States Northwest of the Ohio, was read the second time and ordered to the third reading.

Mr. GOODHUE, from the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act to regulate the collection of duties on imports, and tonnage," reported amendments; which were read and adopted, and the bill was then ordered to the third reading.

FRIDAY, February 15.

Mr. BINGHAM, from the committee to whom was recommitted the bill, sent from the House of Representatives, entitled "An act for the relief of Gazzam, Taylor, and Jones, of the city of Philadelphia," reported amendments thereto; which were read and adopted, and the bill was ordered to a third reading.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians," reported the bill without amendment; which was read and adopted, and the bill was ordered to a third reading.

Mr. ROSS, from the committee to whom was referred the bill making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians, reported the bill without amendment; which was adopted, and the bill was ordered to a third reading.

Mr. MASON, presented the petition of William Baskerville, of Virginia, praying for the interposition of Congress in his behalf, against certain processes commenced in the Federal Court for breaches of the act laying duties on stamped vellum, parchment, and paper; and the petition was read.

Ordered, That it be referred to the committee appointed on the bill, entitled "An act to alter the stamp duties imposed on foreign bills of exchange and bills of lading, by an act, entitled 'An act laying duties on stamped vellum, parchment, and paper,' and further to amend the same;" to consider and report thereon to the Senate.

Mr. GUNN, from the committee to whom was referred the bill giving eventual authority to the President of the United States to augment the Army, reported amendments thereto.

Ordered, That they lie for consideration.

Mr. TRACY, from the committee to whom was referred the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, together with the amendments proposed thereto, reported the bill without amendments.

Ordered, That it lie for consideration.

The bill, sent from the House of Representatives, entitled "An act to regulate the collection of duties on imports and tonnage," was read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act to establish the compensation of the officers employed in the collection of the duties of imports and tonnage, and for other purposes," and a bill, entitled "An act fixing the pay of the captains and commanders of ships and vessels of war of the United States;" in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act to authorize the reimbursement of moneys expended in rendering aid to sick and destitude American seamen, in foreign countries, was read a third time.

Resolved, That this bill pass with an amendment.

The bill to reform the Superior Court of the Territory of the United States Northwest of the river Ohio, was read a third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to reform the Superior Court of the Territory of the United States Northwest of the river Ohio."

SATURDAY, February 16.

CHARLES PINCKNEY, elected a Senator by the Legislature of the State of South Carolina, in place of John Hunter, resigned, produced his credentials, and the oath prescribed by law being administered to him, he took his seat in the Senate.

The bill, sent from the House of Representatives, entitled "An act to establish, the compensations of the officers employed in the collection of the duties of imports and tonnage, and for other purposes," was read a second time, and referred to Messrs TRACY, GOODHUE, and CHIPMAN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act fixing the pay of captains and commanders of ships and vessels of war of the United States," was read the second time, and referred to Messrs. LANGDON, GUNN, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of Joseph Wheaton," was read the second time, and referred to Messrs. TRACY, ANDERSON, and WELLS, to consider and report thereon to the Senate.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing the establishment of docks," reported the bill without amendment. He also reported the bill, sent from the House of Representatives, entitled "An act authorizing the purchase of timber for naval purposes," with amendments.

Ordered, That these reports severally lie for consideration.

The bill allowing James Mathers compensation for services done for the United States, and expenses incurred in rendering said services, as Sergeant-at-Arms to the Senate, was read the second time, and ordered to the third reading.

The bill, sent from the House of Representatives, entitled "An act for the relief of Jonathan Haskill," was read the third time, and passed.

The bill, sent from the House of Representatives, entitled "An act for the relief of Gazzam, Taylor, and Jones, of the city of Philadelphia," was read the third time.

Resolved, That this bill pass with amendments.

The bill, making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians, was read the third time; and, the blank being filled up,

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians."

The bill, sent from the House of Representatives, entitled "An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians," was read the third time.

Resolved, That the Senate concur in this bill.

Mr. WATSON, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws," reported amendments.

Ordered, That they lie for consideration.

The Senate proceeded to consider the amendments reported by the committee to the bill giving eventual authority to the President of the United States to augment the Army.

On motion, to agree to the amendment reported to the 7th section, to read as follows:

"SEC. 7. *Be it further enacted*, That it shall be lawful for the President of the United States to call forth and employ the said volunteers in all cases, and to effect all the purposes for which he is authorized to call forth and employ the militia, by the act, entitled 'An act to provide for the calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for those purposes:"

It passed in the affirmative, as follows:

YEAS—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Gunn, Howard, Laurance, Livermore, Lloyd, Marshall, Paine, Ross, Sedgwick, Tracy, Watson, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Langdon, Martin, Mason, Pinckney, and Tattnall.

And the bill being further amended, agreeably to the report of the committee, it was ordered to the third reading, as amended.

The VICE PRESIDENT communicated to the Senate a report from the Secretary for the Department of Treasury, with a letter from the Comptroller, together with an abstract, required by the 4th section of the act, entitled "An act relative to the compensations of certain officers employed in the collection of the duties of imports and tonnage, passed the 14th February, 1795."

Ordered, That they lie on file.

MONDAY, February 18.

The bill allowing James Mathers compensation for services done for the United States, and expenses incurred in rendering said services, as Sergeant-at-Arms to the Senate, was read the third time, and passed.

Mr. SEDGWICK notified the Senate that he should, to-morrow, ask leave to bring in a bill to augment the salaries of the principal officers of the Executive Departments.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act authorizing the establishment of docks."

Ordered, That it pass to a third reading.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing the purchase of timber for naval purposes;" and, having adopted the amendments,

Ordered, That this bill pass to the third reading, as amended.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act providing for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States,'" reported amendments thereto, which were read.

Ordered, That they lie for consideration.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws;" which were adopted.

Ordered, That this bill pass to the third reading, as amended.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act authorizing the discharge of Robert Sturgeon from his present confinement," and a bill, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," in which they desire the concurrence of the Senate.

The bills last mentioned were by unanimous consent read the second time, and referred to Messrs. TRACY, STOCKTON, and PAINE, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act for the augmentation of the Navy."

Ordered, That this bill pass to a third reading.

Mr. CHIPMAN notified the Senate, that he should, to-morrow, ask leave to bring in a bill for the alteration of an act, entitled "An act giving effect to the laws of the United States, within the State of Vermont."

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill, sent from the House of Representatives, entitled "An act authorizing the discharge of Robert Sturgeon from his present confinement," be now read the second time.

Ordered, That it be referred to Messrs. TRACY, LLOYD, and WELLS, to consider and report thereon to the Senate.

Mr. ANDERSON presented the petition of Paul McDermot, praying Congress to authorize the settlement of his accounts, as Paymaster to a part of the troops, who served in the year 1794, against the insurgents, the loss of his vouchers notwithstanding; and the petition was read.

Ordered, That it be referred to Messrs. ANDERSON, TRACY, and BLOODWORTH, to consider and report thereon to the Senate.

Mr. READ notified the Senate, that he should, to-morrow, ask leave to bring in a bill to amend the act, entitled "An act respecting fugitives from justice and persons escaping from the service of their masters."

The bill giving eventual authority to the President of the United States to augment the Army, was read the third time; and the blanks being filled up, the question on the final passage of the bill was determined in the affirmative—yeas 21, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Langdon, Martin, Mason, and Tattnall.

So it was, *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act giving eventual authority to the President of the United States to augment the Army."

Mr. READ presented the memorial of Lewis Garanger, in his own name and that of his brother Charles Garanger, concerning military establishments, fire-arms, and ammunition; which was read.

Ordered, That it lie on the table.

Mr. TRACY notified the Senate that he should, to-morrow, ask leave to bring in a bill for the relief of Reuben Smith and Nathan Strong, and of Peter Aupoix.

The Senate then proceeded to the consideration of Executive business.

TUESDAY, February 19.

Agreeably to notice given yesterday, Mr. SEDGWICK had leave to bring in a bill to augment the salaries of the principal officers of the Executive Departments; which was read, and ordered to a second reading.

The Senate resumed the second reading of the bill to regulate the Medical Department.

Ordered, That it be referred to Messrs. LATIMER, LAURANCE, and GUNN, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act authorizing the purchase of timber for naval purposes," was read the third time.

Resolved, That this bill pass with amendments.

The bill, sent from the House of Representatives, entitled "An act for the augmentation of the Navy," was read the third time, and passed.

The bill, sent from the House of Representatives, entitled "An act authorizing the establishment of docks," was read the third time, and passed.

The bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws," was read a third time, as amended.

Ordered, That the further consideration thereof be postponed.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, after debate, adjourned.

WEDNESDAY, February 20.

Agreeably to notice given, Mr. CHIPMAN had leave to bring in a bill for the alteration of an act, entitled "An act giving effect to the laws of the United States within the State of Vermont;" which was read, and ordered to a second reading.

Mr. SEDGWICK, from the committee to whom was referred the bill touching the mode of surrendering a defendant who had been held to special bail in one district and is afterwards arrested in another, reported amendments thereto; which were read.

Ordered, That they lie for consideration.

The bill to augment the salaries of the principal officers of the Executive Departments was read the second time, and referred to Messrs. SEDGWICK, BINGHAM, and ANDERSON, to consider and report thereon to the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives, entitled "An act respecting quarantines and health laws;" and, having agreed to a further amendment,

Resolved, That this bill pass with amendments.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," reported amendments thereto; which were read.

Ordered, That they lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to regulate and fix the compensation of clerks," in which they desire the concurrence of the Senate.

The bill was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to Messrs. TRACY, LLOYD, and LIVERMORE, to consider and report thereon to the Senate.

Mr. LANGDON, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act fixing the pay of the captains and commanders of ships and vessels of war of the United States," reported the bill without amendment.

Ordered, That this bill pass to a third reading.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, after debate,

Ordered, That the further consideration thereof be postponed.

THURSDAY, February 21.

Mr. GOODHUE, from the committee to whom was referred the inquiry whether any, and what, amendments may be necessary to the act, entitled "An act in addition to the act more effectually to protect the commerce and coasts of the United States," reported a bill concerning French citizens that have been, or may be, captured and brought into the United States, which was read, and ordered to the second reading.

The VICE PRESIDENT laid before the Senate a report, signed Arthur St. Clair, Governor of the Northwestern Territory, on the subject of the western lands, in obedience to the resolution of the Senate of the 6th of March last; and the report was read.

Ordered, That it lie for consideration.

The bill, sent from the House of Representative, entitled "An act fixing the pay of the captains and commanders of ships and vessels of war of the United States," was read the third time and passed.

The bill for the alteration of an act, entitled "An act giving effect to the laws of the United States within the State of Vermont," was read the second time.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, entitled "An act to amend the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;" which were adopted.

Ordered, That this bill pass to the third reading, as amended.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and, after progress,

Ordered, That the further consideration thereof be postponed.

Mr. LATIMER, from the committee to whom was referred the bill to regulate the Medical Department, reported amendments thereto; which were read.

Ordered, That they lie for consideration.

FRIDAY, February 22.

The bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States,'" was read the third time.

Resolved, That this bill pass with amendments.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to establish the compensations of the officers employed in the collection of the duties of imports and tonnage, and for other purposes," reported the bill without amendment.

Ordered, That the consideration thereof be postponed.

The bill concerning French citizens that have been, or may be, captured and brought into the United States, was read the second time.

The Senate resumed the second reading of the bill authorizing the acceptance, from the State of Connecticut, of a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut.

On the question to agree to the said amendment, reported by the committee, as follows:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, authorized to execute and deliver, in the name and behalf of the United States, to the Governor of the State of Connecticut for the time being, for the use and benefit of the purchasers, their heirs, and assigns, a good and sufficient deed of release, whereby all the right, title, interest, and estate, of the United States, to all that tract of land lying west of the west line of Pennsylvania, and claimed by that State, and sold, on the 2d day of September, 1795, by the State of Connecticut, to certain purchasers known by the name of the Connecticut Land Company, shall be released and conveyed, as aforesaid, to the said Governor of Connecticut, and his successors in said office forever, for the purpose of quieting the said purchasers and confirming their titles:"

It was determined in the affirmative—yeas 17, nays 8, as follows:

YEAS—Messrs. Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Lloyd, Marshall, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Bingham, Bloodworth, Langdon, Laurance, Martin, Pinckney, Ross, and Watson.

And having agreed to the other amendments reported by the committee, it was

Ordered, That the bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that it has passed a bill, entitled "An act to grant an additional compensation for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act, entitled 'An act laying duties on stamped vellum, parchment, and paper,' and further to amend the same," reported the bill without amendment; and the report was adopted.

Ordered, That this bill pass to a third reading.

The Senate proceeded to consider the amendments reported by the committee, to whom was referred the bill to regulate the Medical Department; and, having agreed to the report, the bill was ordered to the third reading.

Ordered, That Mr. STOCKTON be added to the committee to whom was referred the bill to augment the salaries of the principal officers of the Executive Departments.

The Senate proceeded to consider the report of the committee to whom was referred the bill touching the mode of surrendering a defendant who has been held to special bail in one district, and is afterwards arrested in another; and, having agreed to the report,

Ordered, That the bill pass to a third reading as amended.

Mr. SEDGWICK, from the committee to whom was referred the bill to augment the salaries of the principal officers of the Executive Departments, reported amendments thereto; which were read.

Ordered, That they lie for consideration.

SATURDAY, February 23.

The bill, sent from the House of Representatives, entitled "An act to grant an additional compensation for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," was read the second time.

Ordered, That it be referred to Messrs. LIVERMORE, PAINE, and WELLS, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-nine;" and a bill, entitled "An act making appropriations for the support of the Military Establishment, for the

year one thousand seven hundred and ninety-nine;" in which they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to a second reading.

The Senate proceeded to consider the report of the committee to whom was referred the bill to augment the salaries of the principal officers of the Executive Departments, which was adopted; and

The question to agree to the third reading of the bill as amended, was determined in the affirmative—yeas 22, nays 3, as follows:

YEAS—Messrs. Bingham, Bloodworth, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Laurance, Lloyd, Marshall, Martin, Paine, Pinckney, Read, Sedgwick, Stockton, Tattnall, Tracy, Watson, and Wells.

NAYS—Messrs. Langdon, Livermore, and Mason.

So it was, *Resolved*, That this bill pass to the third reading as amended.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bills last brought from the House of Representatives be now severally read the second time.

Ordered, That they be severally referred to Messrs. TRACY, PAINE, and LLOYD, to consider and report thereon to the Senate.

The bill authorizing the acceptance, from the State of Connecticut, of a cession of the jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, was read the third time.

Ordered, That the further consideration thereof be postponed until Monday next.

The bill to regulate the Medical Establishment was read the third time, and further amended.

MONDAY, February 25.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the relief of Joseph Wheaton," reported the bill without amendment, and the report was adopted.

Ordered, That this bill pass to a third reading.

The Senate resumed the third reading of the bill to regulate the Medical Establishment.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act to regulate the Medical Department."

The bill, sent from the House of Representatives, entitled "An act to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act, entitled 'An act laying duties on stamped vellum, parchment, and paper;' and further to amend the same," was read the third time, and passed.

The bill touching the mode of surrendering a defendant who has been held to special bail in one district, and is afterwards arrested in another, was read the third time, and further amended.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act providing for the security of bail in certain cases."

Mr. LIVERMORE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," reported amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to erect a beacon on Boon Island;" and a bill, entitled "An act for the government of the Navy of the United States;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and, by unanimous consent, it was read the second time, and referred to Messrs. GOODHUE, BINGHAM, and WATSON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to erect a beacon on Boon Island was read, and, by unanimous consent, it was read the second time, and referred to Messrs. GOODHUE, GREENE, and LANGDON, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes;" and having agreed thereto,

Ordered, That this bill pass to the third reading as amended.

The Senate resumed the third reading of the bill, authorizing the acceptance, from the State of Connecticut, of a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and the question on the final passage of the bill was determined in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Livermore, Lloyd, Marshall, Paine, Read, Sedgwick, Stockton, Tracy, and Wells.

NAYS—Messrs. Bingham, Bloodworth, Brown, Howard, Langdon, Latimer, Laurance, Martin, Mason, Pinckney, Ross, and Watson.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act concerning the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut."

The bill to augment the salaries of the principal officers of the Executive Departments was read the third time; and the question on the final passage of the bill was determined in the affirmative—yeas 23, nays 2, as follows:

YEAS—Messrs. Bingham, Bloodworth, Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Lloyd, Martin, Paine, Pinckney, Read, Sedgwick, Stockton, Tattnall, Tracy, Watson, and Wells.

NAYS—Messrs. Livermore and Mason.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An

act to augment the salaries of the officers therein mentioned."

The Senate resumed the second reading of the bill for the alteration of an act, entitled "An act giving effect to the laws of the United States within the State of Vermont.

Ordered, That this bill pass to a third reading.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to grant additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States;" and, having adopted the amendments,

Ordered, That this bill pass to the third reading, as amended.

The second reading of the bill concerning French citizens that have been, or may be, captured and brought into the United States, was resumed, and it was agreed that this bill pass to the third reading.

TUESDAY, February 26.

The petition of Joseph Wheaton, Sergeant-at-Arms to the House of Representatives, was presented and read, praying additional compensation for his services.

Ordered, That it lie on the table.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act for the relief of Joseph Wheaton;" and the question on the final passage of the bill was determined in the negative.

The bill, sent from the House of Representatives, entitled "An act providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," was read the third time.

Resolved, That this bill pass with amendments.

The bill, for the alteration of an act, entitled "An act giving effect to the laws of the United States within the State of Vermont," was read the third time, and amended.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act altering the time of holding the District Court in Vermont."

The bill concerning French citizens that have been, or may be, captured and brought into the United States, was read the third time, and passed.

The bill, sent from the House of Representatives, entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," was read the third time.

Resolved, That this bill pass with an amendment.

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to establish the compensations of the officers employed in the collection of the duties of imports and tonnage, and for other purposes;" and, having agreed to sundry amendments,

Ordered, That it pass to the third reading, as amended.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act for the government of the Navy of the United States," reported it with an amendment.

Ordered, That it pass to the third reading, as amended.

WEDNESDAY, February 27.

Mr. GOODHUE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to erect a beacon on Boon Island," reported the bill without amendment, and the bill was ordered to the third reading.

The bill, sent from the House of Representatives, entitled "An act for the government of the Navy of the United States," was read the third time.

Resolved, That this bill pass with an amendment.

The bill, sent from the House of Representatives, entitled "An act to establish the compensations of the officers employed in the collection of the duties on imports and tonnage, and for other purposes," was read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act to establish the Post Office of the United States;" a bill entitled "An act in addition to the act for the relief of sick and disabled seamen;" and a bill entitled "An act authorizing the augmentation of the Marine Corps;" in which they desire the concurrence of the Senate. They agree to the amendment of the Senate to the bill entitled "An act to grant additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," with an amendment, in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act to establish the Post Office of the United States," was read, and, by unanimous consent, it was read the second time, and referred to Messrs. TRACY, ROSS, and HILLHOUSE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled an "Act authorizing the augmentation of the Marine Corps," was read, and, by unanimous consent, it was read the second time, and referred to Messrs. GUNN, GOODHUE, and ROSS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act in addition to the act for the relief of sick and disabled seamen," was read, and, by unanimous consent, it was read the second time, and referred to the committee last mentioned, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate the report of the Secretary of State on the petition of John Brown Cutting, for a reimbursement of his expenditures, and compensation for his services, in the year 1790; in liberating and relieving American seamen impressed into the British Navy.

Ordered, That it lie on table.

The Senate proceeded to consider the amendment of the House of Representatives to their amendment to the bill entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States."

Resolved, That the Senate do not agree to the said amendment.

The Senate proceeded to the consideration of Executive business.

THURSDAY, February 28.

The VICE PRESIDENT laid before the Senate a report of the Secretary for the Department of the Treasury, on the petition of William Gray.

Ordered, That the consideration thereof be postponed until next session of Congress.

The bill, sent from the House of Representatives, entitled "An act to erect a beacon on Boon Island," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act for the better organizing of the troops of the United States and for other purposes," with amendments, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendments proposed by the House of Representatives to the bill last mentioned.

Ordered, That they be referred to Messrs. GUNN, ROSS, and HOWARD, to consider and report thereon to the Senate.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing the augmentation of the Marine Corps," reported the bill without amendment; and the bill was ordered to the third reading.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to regulate and fix the compensation of clerks," reported the bill without amendment; and the bill was ordered to the third reading.

Mr. TRACY, also, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing the discharge of Robert Sturgeon from his present confinement," reported the bill without amendment.

Ordered, That the consideration thereof be postponed until to-morrow.

The VICE PRESIDENT notified the Senate that he desired to be excused from attendance in the Senate, after this day, for the remainder of the session.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act authorizing a detachment from the militia of the United States;" a bill entitled "An act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," and a bill, entitled "An act to amend the act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" in which they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to the second reading; and by unanimous consent, the bill, sent from the House of Representatives, entitled "An act authorizing a detachment from the militia of the United States," was read a second time.

Ordered, That it be referred to Messrs. GUNN, ROSS, and HOWARD, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that they insist on their amendment to the amendment of the Senate to the bill, entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," ask a conference thereon, and have appointed managers at the same on their part.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to establish the Post Office of the United States," reported amendments, which were read and adopted.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time; and, after debate on a further amendment proposed, the Senate went into Executive business.

FRIDAY, March 1.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and JAMES ROSS was duly elected.

Ordered, That Mr. STOCKTON be added to the committee to whom was referred the bill, entitled "An act for the better organizing of the troops of the United States, and for other purposes."

The bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen," was read the second time and referred to Messrs. LAURANCE, STOCKTON, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen, and to amend the same," was read the second time, and referred to Messrs. BINGHAM, GOODHUE, and LANGDON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act to regulate and fix the compensation of clerks," was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act authorizing the augmentation of the Marine Corps," was read the third time and passed.

Mr. TRACY, from the committee to whom the subject was referred, on the 31st of January last, reported a bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers; which was read, and, by unanimous consent, it was read the second time, and ordered to the third reading.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act for the relief of Comfort Sands and others;" a bill, entitled "An act making additional appropriations for the year one thousand seven hundred and ninety-nine;" a bill, entitled "An act making appropriations for the support of the Naval Establishment for the year one thousand seven hundred and ninety-nine;" and a bill, entitled "An act to authorize the sale of certain lands between the Great and Little Miami rivers, in the Territory of the United States Northwest of the Ohio; and for giving a pre-emption to certain purchasers and settlers;" in which they desire the concurrence of the Senate.

The bill, sent from the House of Representatives, entitled "An act for the relief of Comfort Sands and others," was read, and by unanimous consent, it was read the second time, and referred to Messrs. WATSON, TRACY, and LAURANCE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act making additional appropriations for the year one thousand seven hundred and ninety-nine," was read, and, by unanimous consent, it was read the second time.

Ordered, That it be referred to the committee appointed on the bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-nine," to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act making appropriations for the support of the Naval Establishment for the year one thousand seven hundred and ninety-nine," was read, and, by unanimous consent, it was read the second time, and referred to the committee last mentioned, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives, entitled "An act authorizing the sale of certain lands between the Great and Little Miami rivers, in the Territory of the United States Northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers," was read, and, by unanimous consent, it was read the second time, and referred to Messrs. BROWN, STOCKTON, and LANGDON, to consider and report thereon to the Senate.

Mr. GUNN, from the committee to whom was referred the amendments of the House of Representatives to the bill, entitled "An act for the better organizing of the troops of the United States, and for other purposes," made a report. Whereupon,

Resolved, That the Senate do agree to the first, second, third, and fifth, and disagree to the fourth, sixth, seventh, and eighth, amendments.

The Senate proceeded to consider the resolution of the House of Representatives, proposing a conference on the amendment of the House of Representatives to the amendment of the Senate to the bill, entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninty-nine, to certain officers of the Senate and House of Representatives of the United States."

Resolved, That the Senate agree to the conference, and that Messrs. STOCKTON and MARSHALL be managers at the same, on the part of the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives, entitled "An act to establish the Post Office of the United States."

On motion, to add the following to the amendment of the 17th section:

"*And, provided*, That all the letters and packets franked by any one member, in any one week, shall not exceed thirty ounces; and such privilege shall continue:"

It was determined in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Bingham, Davenport, Goodhue, Hillhouse, Howard, Livermore, Lloyd, Paine, Ross, Sedgwick, Stockton, Watson, and Wells.

NAYS—Messrs. Anderson, Bloodworth, Brown, Chipman, Foster, Greene, Gunn, Langdon, Latimer, Laurance, Marshall, Martin, Mason, Pinckney, Read, Tattnall, and Tracy.

Resolved, That this bill pass with amendments.

Mr. LAURANCE, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" reported amendments thereto.

Mr. WATSON, from the committee to whom was referred the bill sent from the House of Representatives, entitled "An act for the relief of Comfort Sands and others," reported the bill without amendment.

SATURDAY, March 2.

A message from the House of Representatives informed the Senate that they have passed the bill, entitled "An act giving eventual authority to the President of the United States to augment the Army," with amendments, in which they desire the concurrence of the Senate.

Mr. STOCKTON from the managers at the conference on the bill, entitled "An act to grant an additional compensation, for the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," reported that they could come to

no agreement; but that the managers on the part of the House of Representatives appeared convinced of the impropriety of the amendment to the amendment of the Senate, and would probably so report to the House of Representatives.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act giving eventual authority to the President of the United States to augment the Army."

Resolved, That they do agree thereto.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

Judging it of importance to the public that the Legislature should be informed of the gradual progress of their maritime resources, I transmit to Congress a statement of the vessels, with their tonnage, warlike force, and complement of men, to which commissions, as private armed vessels, have been issued since the ninth day of July last. JOHN ADAMS.

March 2, 1799.

The Message and papers were read, and ordered to lie for consideration.

The bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was read the third time and passed.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-nine," reported sundry amendments, which were adopted; and, by unanimous consent, the bill was read the third time.

Resolved, That this bill pass with amendments.

Mr. BINGHAM, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," reported the bill without amendment.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act authorizing a detachment from the militia of the United States," reported the bill without amendment.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making *additional* appropriations for the year one thousand seven hundred and ninety-nine," reported an amendment, which was adopted; and the bill was, by unanimous consent, read the third time.

Resolved, That this bill pass with an amendment.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act respecting distillers of Geneva;" and a bill, entitled "An act for establishing the salary of the Assistant Postmaster General;" in which several bills they desire the concurrence of the Senate. They recede from their amendment to the bill, entitled "An act for the better organizing of the troops of the United States, and for other purposes," except from the *second*, on which they *insist*, and ask a conference thereon, and have appointed managers at the same on their part.

The Senate proceeded to the consideration of the resolution of the House of Representatives, asking a conference on the amendments to the bill, entitled "An act for the better organizing of the troops of the United States, and for other purposes."

Resolved, That the Senate do agree to the conference, and that Messrs. GUNN and HOWARD be managers at the same on the part of the Senate.

Mr. BROWN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to authorize the sale of certain lands between the Great and Little Miami rivers, in the Territory of the United States Northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers," reported the bill without amendment, and the bill was, by unanimous consent, read the third time and passed.

The Senate proceeded to the consideration of the amendment reported by the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act to amend the act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethern for propagating the Gospel among the Heathen,'" and it was adopted; and the bill was, by unanimous consent, read the third time.

Resolved, That this bill pass with an amendment.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making appropriations for the support of the Naval Establishment, for the year one thousand seven hundred and ninety-nine," reported the bill without amendment, and the report was adopted; and the bill was, by unanimous consent, read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act for establishing the salary of the Assistant Postmaster General," was read, and, by unanimous consent, it was read the second time.

On the question to agree to the third reading of this bill, it passed in the negative.

The bill, sent from the House of Representatives, entitled "An act respecting distillers of Geneva," was read, and, by unanimous consent, it was read the second time, and referred to Messrs. SEDGWICK, PAINE, and MARSHALL, to consider and report thereon to the Senate.

Mr. GUNN, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act in addition to the act for the relief of sick and disabled seamen," reported amendments.

Mr. TRACY, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act making appropriations for the support of the Military Establishment, for the year one thousand seven hundred and ninety-nine," reported the bill without amendment, and the report was adopted; and the bill was, by unanimous consent, read the third time and passed.

A message from the House of Representatives informed the Senate that they have passed the bill, sent from the Senate, entitled "An act to reform the Superior Court of the Territory of the United States Northwest of the river Ohio," with amendments, in which they desire the concurrence of the Senate.

The Senate proceeded to the consideration of the amendments of the House of Representatives to the bill, entitled "An act to reform the Superior Court of the Territory of the United States Northwest of the river Ohio."

Resolved, That they do agree to the first, and disagree to the other, amendments, and ask a conference thereon; and that Messrs. SEDGWICK and LAURANCE be managers at the same, on the part of the Senate.

The bill, sent from the House of Representatives, entitled "An act authorizing a detachment from the militia of the United States," was read the second time.

On the question to agree to the third reading of the bill, it was determined in the affirmative—yeas 17, nays 12, as follows:

YEAS—Messrs. Bloodworth, Brown, Foster, Goodhue, Greene, Gunn, Howard, Langdon, Laurance, Lloyd, Marshall, Martin, Mason, Pinckney, Ross, Tattnall, and Watson.

NAYS—Messrs. Bingham, Chipman, Davenport, Hillhouse, Latimer, Livermore, Paine, Read, Sedgwick, Stockton, Tracy, and Wells.

So it was *Resolved* That this bill pass to the third reading.

A message from the House of Representatives, informed the Senate that they have passed a resolution "authorizing a subscription for four hundred copies of the Journals of Congress," in which they desire the concurrence of the Senate. They recede from their amendments, disagreed to by the Senate, so far as to agree to the modifications reported by the managers at the conference, on the bill, entitled "An act for the better organizing of the troops of the United States, and for other purposes." And they have passed a bill, entitled "An act, in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States;" in which they desire the concurrence of the Senate.

Mr. GUNN, from the managers at the conference on the bill, entitled "An act for the better organizing the troops of the United States, and for other purposes," made a report, which was adopted. Whereupon,

Resolved, That the Senate do agree to the modifications reported by the conferees.

The Senate adjourned to 6 o'clock in the evening.

SATURDAY, EVENING, March 2.

The bill, sent from the House of Representatives, entitled "An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States," was read, and, by unanimous consent the bill was read the second and third times and passed.

The resolution, sent from the House of Representatives, "authorizing a subscription for four hundred copies of the Journals of Congress," was read, and referred to Messrs. SEDGWICK, STOCKTON, and GREENE, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act in addition to the act for the relief of sick and disabled seamen," and agreed that the bill should be amended accordingly.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

Resolved, That this bill pass with an amendment.

The bill, sent from the House of Representatives, entitled "An act authorizing the discharge of Robert Sturgeon from his present confinement," was read the third time; and

Resolved, That this bill do not pass.

Mr. SEDGWICK, from the committee to whom was referred the resolution, sent from the House of Representatives, "authorizing a subscription for four hundred copies of the Journals of Congress," reported the same without amendment. He made, also, a similar report on the bill, entitled "An act respecting distillers of Geneva."

The Senate proceeded to consider the resolution last mentioned.

On motion, it was agreed to amend the resolution as follows:

"And such number of copies of deficient volumes, of the sets now in print, as may be necessary to complete the same.

Resolved, That the resolution pass with the amendment.

The bill, sent from the House of Representatives, entitled "An act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act respecting distillers of Geneva," was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act for the relief of Comfort Sands and others," was read the third time and passed.

The bill, sent from the House of Representatives, entitled "An act authorizing a detachment from the militia of the United States," was read the third time.

On motion to amend the bill, by adding at the end of the first section the following proviso:

"*Provided, always*, That it shall be lawful for the President of the United States, if he shall judge it expedient, to forbear to call on the Executive authority of any particular State or States east of the river Delaware, to organize, arm, and equip the proportion of the militia of such State or States as fixed by this act:"

It was agreed to amend the motion, by striking out the word 'Delaware,' and inserting 'Potomac.'

On motion to agree to the motion thus amended, it was determined in the affirmative—yeas 13, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Latimer, Paine, Sedgwick, Stockton, Tracy, and Watson.

NAYS—Messrs. Bloodworth, Brown, Gunn, Howard, Langdon, Martin, Mason, Pinckney, Ross, Tattnall, and Wells.

So it was resolved that this bill pass with the amendment.

On motion, leave was given to bring in a bill to alter the time for the next meeting of Congress; which was read, and ordered to the second reading.

Mr. TRACY obtained leave to bring in a bill authorizing the President of the United States to fill certain vacancies in the Army; which was read, and the bill was, by unanimous consent, read the second and third times; and, being amended,

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act authorizing the President of the United States to fill certain vacancies in the Army and Navy."

A message from the House of Representatives informed the Senate that they have passed the bill, sent from the Senate, entitled "An act vesting the power of retaliation, in certain cases, in the President of the United States," with amendments, in which they desire the concurrence of the Senate.

The Senate proceeded to the consideration of the amendments proposed by the House of Representatives to the bill, entitled "An act vesting the power of retaliation, in certain cases, in the President of the United States."

Ordered, That they be referred to Messrs. SEDGWICK, MASON, and TRACY, to consider and report thereon to the Senate.

Mr. SEDGWICK, from the committee last mentioned, reported the amendments without amendment, and the report was adopted.

A message from the House of Representatives informed the Senate that they disagree to the amendment proposed by the Senate to the bill, entitled "An act authorizing a detachment from the militia of the United States."

Mr. HILLHOUSE reported, from the committee to whom was referred the petition of Joseph Russell and others, that the consideration thereof be postponed until the next session of Congress; and the report was adopted.

The Senate proceeded to the consideration of the resolution of the House of Representatives, disagreeing to the amendment of the Senate to the bill, entitled "An act authorizing a detachment from the militia of the United States."

On motion, to postpone the further consideration of this bill until the next session of Congress, it was determined in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS—Messrs. Bloodworth, Brown, Gunn, Howard, Langdon, Martin, Mason, Pinckney, Read, Ross, and Tattnall.

Resolved, That the further consideration of this bill be postponed until the next session of Congress.

The bill to alter the time for the next meeting of Congress was read the second time; and being amended, by inserting the third Monday in November, it was agreed, by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be, "An act to alter the time for the next meeting of Congress."

Ordered, That the further consideration of the bill supplementary to the act, entitled "An act to establish the Judicial Courts of the United States," be postponed until the next session of Congress.

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to James Mathers, Doorkeeper, out of the contingent fund, the sum of one hundred dollars; and to James Mathers, jr., Assistant Doorkeeper, the sum of one hundred dollars, for their extra services during the session.

Resolved, That the Secretary of the Senate pay to Hugh McKinley, for his labor and attendance on the Senate, one dollar per day, during the time he has been employed the present session; to be paid out of the money appropriated for the contingent expenses of the two Houses of Congress.

A message from the House of Representatives informed the Senate that they have appointed a joint committee on their part to wait on the President of the United States, and notify him, that unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn; and desire the appointment of a joint committee on the part of the Senate.

The Senate proceeded to the consideration of the resolution for the appointment of a joint committee for the purpose last mentioned.

Resolved, That they do concur therein, and that Messrs. STOCKTON and READ be the joint committee on the part of the Senate.

The report of the Secretary for the Department of State, on the claim of John Brown Cutting, for a reimbursement of his expenditures and a compensation for his services in the year 1790, in liberating and relieving American seamen, impressed into the British Navy, was read.

Ordered, That it lie on file.

Mr STOCKTON reported, from the joint committee, that they had waited on the President of the United States, who informed them that he had nothing further to communicate to Congress, except his wishes for their individual happiness, and safe return to their respective families.

On motion, that the Secretary of the Senate pay out of the contingent money, to the principal and engrossing clerk in his office, one hundred dollars each, for extra services during the present session, it was determined in the affirmative—yeas 18, nays 6, as follows:

YEAS—Messrs. Bingham, Chipman, Davenport, Foster, Greene, Langdon, Laurance, Livermore, Lloyd, Martin, Mason, Pinckney, Read, Ross, Sedgwick, Stockton, Watson, and Wells.

NAYS—Messrs. Brown, Goodhue, Hillhouse, Howard, Paine, and Tracy.

So it was resolved, that the Secretary of the Senate pay out of the contingent money, to the

principal and engrossing clerks in his office, one hundred dollars each, for extra services during the present session.

On motion, it was resolved that the memorial of M. Garanger, having been presented to the Senate at too late a period to be acted upon, be postponed to the next session of the Senate, and recommended to their attention.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn without day.

The Senate then proceeded to the consideration of Executive business.

The Senate, then, resuming Legislative business, adjourned without day.

IMPEACHMENT OF WILLIAM BLOUNT,

SENATOR OF THE UNITED STATES,

FOR MISDEMEANOR.

[☞ All the proceedings which took place, in either House of Congress, preliminary to this trial before the Senate, will be found under their proper dates in the body of the work.]

DECEMBER 17, 1798.

On this day the Senate formed itself into a High Court of Impeachment, in the manner directed by the Constitution, and the oath prescribed was administered to the Senators present. The process issued on the 1st of March last, against William Blount, together with the return made thereon, was read, and the return was sworn to as follows:

James Mathers, Sergeant-at-Arms of the Senate of the United States, maketh oath, that, in obedience to the within summons, he did repair to the usual place of residence of the within named William Blount, at Knoxville, in the State of Tennessee, and on the 27th day of August, in the present year, did then leave a true copy of the said writ of summons, and of the Articles of Impeachment annexed, with the wife of the said William Blount, he not being to be found; and that, on the next day, meeting with the said William Blount, at the Blue Springs, the deponent showed and read the said original writ to the said William Blount, and informed him that he had left a copy at the usual place of his residence. JAMES MATHERS.

The doors of the Court were then opened by order of the PRESIDENT, and by his order the Sergeant-at-Arms called the said William Blount three several times, in the words following, to appear and answer:

"Hear ye! Hear ye! Hear ye!

"William Blount, late a Senator from the State of Tennessee, come forward and answer the Articles of Impeachment exhibited against you by the House of Representatives."

William Blount not appearing, the Court adjourned till twelve o'clock to-morrow.

DECEMBER 18.

The PRESIDENT communicated a letter, signed "Jared Ingersoll and A. J. Dallas," praying to be admitted to appear as counsel for the defendant. It was accordingly so ordered, and that the House of Representatives be informed thereof.

The Managers, on the part of the House of Representatives, and the defendant's counsel, appeared at the bar.

On motion of Mr. HARPER, (in the absence of Mr. BAYARD, the Chairman,) in behalf of the Managers, that further time be allowed them to prepare their proceedings in the case, it was

Ordered, That they have time till Monday next, at twelve o'clock, for that purpose.

The Court adjourned till that time.

DECEMBER 24.

The Managers and Counsel attended as on the 18th instant.

On the motion of Mr. HARPER, in behalf of the Managers, that the counsel exhibit and file the power, or powers, by which they are authorized to appear in behalf of William Blount, and that the Managers be furnished with a copy thereof.

Mr. DALLAS, one of the counsel, exhibited sundry letters to the PRESIDENT, which, he alleged, contained the powers, and also the confidential instructions of Mr. Blount to his counsel.

The Court was cleared in order to take into consideration the motion made by the Managers of the Impeachment; and, on the motion that it be ruled,

"That the Court having, on the 18th day of the present month, admitted Jared Ingersoll and A. J. Dallas, Esquires, to appear and plead for William Blount, to the Impeachment now pending against him; and the Court having then been satisfied that the said counsel were duly authorized to appear for the said William Blount, are of opinion that it is not necessary that any warrant of attorney, or other written authority, be now filed in this Court:"

It was determined in the affirmative—20 to 2.

The Managers and Counsel being again admitted, the PRESIDENT stated to them the opinion of the Court on the motion of the Managers, and returned to Mr. Dallas the letters by him exhibited, unopened.

The PRESIDENT then asked the Managers if they had further motion to make, prior to permission to the counsel for the defendant to file a plea on his behalf?

To which the Managers replied in the negative.

Whereupon the PRESIDENT notified to the coun-

sel that they were permitted to file their plea, which was done by Mr. Ingersoll, and read by the Secretary, as follows:

"UNITED STATES vs. WILLIAM BLOUNT.

"Upon Impeachment of the House of Representatives of the United States, of high crimes and misdemeanors.

"IN SENATE OF THE UNITED STATES, *Dec.* 24, 1798.

"The aforesaid William Blount, saving and reserving to himself all exceptions to the imperfections and uncertainty of the articles of impeachment, by Jared Ingersoll and A. J. Dallas, his attorneys, comes and defends the force and injury, and says, that he, to the said articles of impeachment preferred against him by the House of Representatives of the United States, ought not to be compelled to answer, because he says that the eighth article of certain amendments of the Constitution of the United States, having been ratified by nine States, after the same was, in a Constitutional manner, proposed to the consideration of the several States in the Union, is of equal obligation with the original Constitution, and now forms a part thereof, and that by the same article it is declared and provided, that 'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.'

"That proceedings by impeachment are provided and permitted by the Constitution of the United States, only on charges of bribery, treason, and other high crimes and misdemeanors, alleged to have been committed by the President, Vice President, and other civil officers of the United States, in the execution of their offices held under the United States, as appears by the fourth section of the second article, and by the seventh clause of the third section of the first article, and other articles, and clauses contained in the Constitution of the United States.

"That although true it is, that he, the said William Blount, was a Senator of the United States, from the State of Tennessee, at the several periods in the said articles of impeachment referred to; yet, that he, the said William, is not *now a Senator*, and is not, nor was at the several periods, so as aforesaid referred to, an *officer* of the United States; nor is he, the said William, in and by the said articles, charged with having committed any crime or misdemeanor, in the execution of any civil office held under the United States, or with any malconduct in civil office, or abuse of any public trust, in the execution thereof.

"That the Courts of Common Law, of a criminal jurisdiction, of the States, wherein the offences in the said articles recited are said to have been committed, as well as those of the United States, are competent to the cognisance, prosecution, and punishment, of the said crimes and misdemeanors, if the same have been perpetrated, as is suggested and charged by the said articles, which, however, he utterly denies. All which the said William is ready to verify, and prays judgment whether this High Court will have further cognisance of this suit, and of the said impeachment, and whether he, the said William, to the said articles of impeachment, so as aforesaid preferred by the House of Representatives of the United States, ought to be compelled to answer.

"JARED INGERSOLL.
"A. J. DALLAS."

On request of Mr. HARPER, in behalf of the Managers, that they be allowed a further delay, to wit: until Thursday sennight, to file their replication, it was allowed, and the Court adjourned to that time.

JANUARY 3, 1799.

The Court being opened, and the Managers and counsel being present,

Mr. BAYARD, Chairman of the Managers, in behalf of the House of Representatives, offered a replication, which was read by the Secretary as follows:

The replication of the House of Representatives of the United States, in their own behalf, and, also, in the name of the people of the United States, to the plea of William Blount to the jurisdiction of the Senate of the United States, to try the Articles of Impeachment exhibited by them to the Senate against the said William Blount:

The House of Representatives of the United States, prosecuting, on behalf of themselves and the people of the United States, the Articles of Impeachment exhibited by them to the Senate of the United States against the said William Blount, reply to the plea of the said William Blount, and say, that the matters alleged in the said plea are not sufficient to exempt the said William Blount from answering the said Articles of Impeachment, because, they say that, by the Constitution of the United States, the House of Representatives had power to prefer the said Articles of Impeachment, and that the Senate have full and the sole power to try the same. Wherefore, they demand that the plea aforesaid, of the said William Blount, be not allowed, but that the said William Blount be compelled to answer the said Articles of Impeachment.

Signed by order, and in behalf of the House.

JONATHAN DAYTON, *Speaker.*

Attest: JOH. W. CONDY, *Clerk.*

Mr. INGERSOLL, counsel for the defendant, thereupon presented a rejoinder, which was read by the Secretary, as follows:

UNITED STATES vs. WILLIAM BLOUNT.

In the Senate of the United States.

And the aforesaid William Blount, by Jared Ingersoll and Alexander J. Dallas, his attorneys, says, that the matter by him before alleged, which he is ready to verify, is sufficient reason in law to show that this Court ought not to hold jurisdiction of the said impeachment, and the articles therein set forth; which said matter so as aforesaid by him alleged, the said House of Representatives not having denied or made answer thereto, he prays the judgment of this honorable Court, whether they will hold further jurisdiction of the said impeachment, or take cognisance thereof, and whether the said William Blount shall make further answer thereto.

JARED INGERSOLL.
A. J. DALLAS.

JANUARY 3, 1799.

Mr. BAYARD, the Chairman, having communicated with Mr. Ingersoll, the leading counsel for the defendant, it was agreed between them, that the Managers should proceed in the argument first on the part of the prosecution, and that the right to reply should belong to the Managers: whereupon,

Mr. BAYARD rose, and proceeded as follows:

Mr. President: The House of Representatives being in possession of evidence of a nature to convince them that William Blount, late a Senator of the United States, has been guilty of high crimes and misdemeanors, conceived it to be their Constitutional duty, by exhibiting to the Senate articles of impeachment against him, to demand justice in the name and on the behalf of the people of the United States. To the articles which have been preferred, the party impeached has appeared; but, instead of answering them, has pleaded that the Senate has not jurisdiction to try the matters which they contain. The House of Representatives have replied that the plea is insufficient, and have demanded that the party be compelled to answer the articles. The point, therefore, upon which we are now at issue, and which is to be the subject of discussion, is, whether the Senate has cognizance, in this case, of the matters which are charged in the articles of impeachment? In the observations which I have to submit upon the point in controversy, I shall certainly avoid everything of a declamatory nature, as equally unsuitable to the gravity and wisdom of this honorable body, as to the dignity of that which, as one of the Managers, I represent.

Having examined the plea, the first objection to jurisdiction which I find relied on, is derived from an amendment to the Constitution, which provides that, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses in his favor; and to have the assistance of counsel for his defence."

I should conceive it a sufficient answer to the objection urged upon the ground of this amendment, to say that, whatever validity it may have, as regards the mode of trial, it certainly has no application to the point of jurisdiction. The utmost latitude to which the provision could be extended, would only be that a jury to try the facts in issue should be brought from the district in which it is alleged that the offence was committed. But before there can be anything for a jury to try, the articles must be answered, the facts put in issue, and then the question might be proper, whether this Court were bound to award a process in nature of a *venire facias*, to bring a jury to the bar. But surely, sir, were I to admit that it belonged to a jury to try the facts which may be disputed on the occasion, instead of being a ground to exempt the party from answering the articles, it would be a weighty reason to prove that the articles ought to be answered for the purpose of forming the issues which alone could be objects of a trial by jury.

If, sir, the objection went to the jurisdiction of the Senate, there would be an end of its judicial character. For, as the Senate has judicial cognizance only in the case of impeachment, if the right by jury be a reason why no proceedings can be had before them upon articles of impeachment, it must necessarily follow that the whole of their judicial authority is abolished; by which an important feature of their original Constitutional character is obliterated. But, sir, it is too much to say, when, in the 2d section of the 1st article of the Constitution, we find a power to impeach *expressly* given to the House of Representatives, and in the 3d section of the same article, a power to try all impeachments *expressly* vested in the Senate, and when we find in other parts of the Constitution numerous provisions on the subject of impeachment, that all this should be done away by a doubtful inference as to the intention of an amendment, the words and object of which are completely satisfied without such an operation. Sir, it is extremely evident that the amendment was solely designed to secure the trial by jury in criminal prosecutions in the courts of law, and that it never entered into the view of those who framed it, that it should produce an innovation of the Constitution, so important as the abolition of a proceeding of the first political necessity for the punishment of great offenders, and the security of the nation. But, sir, are they who say the amendment has such an extent, sensible of a consequence which must follow in regard of another proceeding equally suited to its object? If the amendment is to operate to the extreme latitude of its words, as the trials before our courts martial are of a criminal nature, it must happen that persons accused before such courts will be entitled to a trial by jury. And when this does happen, there must certainly be an end of discipline in the army and navy. Sir, for my part I can see no difficulty in the subject.

The amendment is a part of the Constitution, and as it now stands, it is the same thing as if it originally had been made a part of it. If such had been the case, what doubt could there have been as to the construction of the instrument? In one part of it we find a general provision, securing the trial by jury in all criminal prosecutions, and in another part, the 2d section of the 3d article, an express exception of the trial by jury in cases of impeachment. It is, therefore, plain, that though it was the intention to establish it as the general rule, that, on criminal prosecutions, the trial should be by jury, yet that exceptions to the rule were designed to be allowed in the cases of impeachment and of courts martial.

If the trial by jury were annexed to the jurisdiction of the Senate, it does not appear to me that it would abridge, as some may imagine, the power of the body, but, on the contrary, would increase it.

By the Constitution, no man can be convicted by the Senate without the concurrence of two-thirds of the members present; but if the power of conviction be attributed to a jury, it must result that judgment of removal from office and

disqualification may be given by a majority. Nay, sir, I think there is some question, if this amendment is to introduce a jury into the constitution of this Court, that as it appears they may convict generally of the offence, that this Court might pass a general judgment to the extent of statute or common law punishment.

I have but one observation more to make on this point, which is, that impeachment is a proceeding purely of a political nature. It is not so much designed to punish an offender as to secure the State. It touches neither his person nor his property, but simply divests him of his political capacity. It would therefore seem, from the nature of this body, that they were peculiarly and exclusively the proper tribunal to try impeachments.

I shall now proceed to the discussion of another point, arising out of the plea of the party impeached, embarrassed, I confess, with more difficulties than the one which I have been employed in considering. The plea alleges, that William Blount, at the time of the act done, charged in the articles of impeachment, was a Senator of the United States; that a Senator is not an officer of the United States, and that no persons but the President, Vice President, and civil officers, are liable, by the Constitution, to impeachment. In answer to this objection we submit two points:

1. That all persons, without the supposed limitation, are liable to impeachment.

2. That in order to carry into effect the general intent of the Constitution, a Senator must be considered as a civil officer.

It will be found, sir, upon an examination of the Constitution, that in no place are the cases defined, or the persons described, which were designed as the objects of impeachment. I will beg the liberty of stating all the provisions which have been made on the subject. The last clause of the 2d section of the 1st article vests the power of impeaching in the House of Representatives. The fifth clause of the 3d section of the 1st article gives the cognizance of impeachments to the Senate. In the same article and section, the 6th clause, the punishment on conviction is defined. The 2d section of the 2d article takes from the President the power of pardoning, and the 4th section of the 2d article provides, that certain officers on conviction shall be removed from office. These, sir, I believe, are the only material provisions to be discovered on this subject in the Constitution. And it is very evident, that in none of these does an intention appear to declare in what cases an impeachment shall be sustained, or to what persons it shall be confined.

On this subject, the Convention proceeded in the same manner it is manifest they did in many other cases. They considered the object of their legislation as a known thing, having a previous definite existence. Thus existing, their work was solely to mould it into a suitable shape. They have given it to us, not as a thing of their creation, but merely of their modification. And, therefore, I shall insist, that it remains as at common law, with the variance only of the positive provisions of the Constitution. The same principle is scattered in every part of the Constitution. Were we to rely solely on the details of the instrument itself, we should be incapable of understanding and executing the greater part of its regulations. That law was familiar to all those who framed the Constitution. Its institutions furnished the principles of jurisprudence in most of the States. It was the only common language intelligible to the members of the Convention. It was a work too great for them not only to form a Constitution of Government, but also a code of municipal law. The members of the South would never have agreed to receive the local institutions of the North, as the common law of the States. But the first source from which all the Colonies originally derived the principles of their law, was the only point of resort to which it could be expected that all would have recourse. We accordingly find many terms which cannot be understood, and many regulations which cannot be executed without the aid of the common law of England. Thus, it is said, in the sixth section of the 1st article, that the members of both Houses shall be privileged from arrest, except in cases of treason, felony, and breach of the peace. When we inquire what is meant by felony and breach of the peace, the Constitution is silent. Again, in the second clause of the 9th section of the 1st article, it is said that the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it. But the same instrument has not given us the form of the writ, nor defined the cases to which its relief shall extend, nor, in short, prescribed any of the proceedings which relate to its execution. In the third clause of the same section and article, it is ordained, that no bill of attainder shall be passed, but there is nothing which attends it which would enable us to comprehend the restriction. In the 4th section of the second article, it is provided, that the President, Vice President, and all civil officers, shall be removed from office on impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors.

The Constitution has defined treason. The abuses of the term at different periods of the English history was the inducement to fix its meaning and extent. This circumstance strongly indicates the law they had in view; to the obscurity and latitude whereof they were unwilling to commit the crime of treason, but to the certainty of which they were satisfied to leave the offence of bribery and other high crimes and misdemeanors.

The third clause of the 2d session of the 3d article speaks of a trial by jury, but the number which composes the jury, and the unanimity on which the verdict is founded, are not prescribed. The first clause of the 3d section of the same article uses the terms *overt act*, without defining them. The second clause of the same section declares that attainder shall not work corruption of blood. Surely, sir, it is in the common law alone that we find that corruption means the extinction of the heritable quality of blood. I shall trouble the honorable Court with but one more instance of the principle for which I am contending. It is in the 2d section of the 4th article, where it is provided, that the citizens of each State shall be entitled to all *privileges* and *immunities* of citizens in the several States. Upon these words I have known a controversy in a court of law as to their extent. And the limits which were set to them by the judgment of the Court were drawn from their import in the books of common law.

The cases which I have cited, I humbly submit, abundantly prove the proposition with which I set out, that where the Constitution has given us terms which it does not explain, or directed proceedings which it has not defined, and where it is plain that the regulation was viewed as previously existing, and designed simply to be modified, in such cases, we must have recourse to the common law, in order to ascertain the original nature of the subject which is necessarily adopted in the Constitution, in consequence of being made an object of its provisions. Such, sir, as I have described, is our situation upon the present subject.

The Constitution has said who shall have the power to impeach and who of trying impeachments. It has also limited the extent of the punishment. But it has not described the persons who shall be the objects of impeachment, nor defined the cases to which the remedy shall be confined. We cannot do otherwise, therefore, than presume, that upon these points, we are designedly left to the regulations of the common law. Sir, in the very threshold, has not this law given us the foundation upon which we stand? Where have we looked for the form of the pleadings, which has brought the present question before the Court? And if, sir, a question of evidence should arise, as happened upon a former occasion, should we hesitate as to the law which ought to determine its competency? If we were asked, whether a greater looseness in pleadings on impeachment were not allowed, than in suits at law, we should answer in the affirmative; and if it were inquired, whether the rules of evidence were more lax, we should answer in the negative; and in such opinions, I trust, we should not be contradicted by the learned counsel of the party impeached, and yet, sir, the opinions could alone be collected from the rules of the common law.

It is, perhaps, worthy of observation, that even as it regards those persons who are clearly liable to impeachment, there is no direct provision which subjects them to it. Thus, in the 4th section of the 2d article, which has the closest connexion with the point, it has not said that the President, Vice President, and civil officers, shall be liable to impeachment; but, taking it for granted that they were liable at common law, has introduced an imperative provision as to their removal upon conviction of certain crimes.

The question, therefore, is, what persons, for what offences, are liable to be impeached at common law? And I am confident, as to this point, the learning and liberality of the counsel will save me the trouble of argument, or the citation of authorities, to establish the position, that the question of impeachability is a question of discretion only, with the Commons and Lords. Not that I mean to insist, that the Lords have legal cognizance of a charge of a capital crime against a commoner, but simply that all the King's subjects are liable to be impeached by the Commons, and tried by the Lords, upon charges of high crimes and misdemeanors. And this, sir, goes to the extent of the articles exhibited against William Blount. And for my part, I do not conceive it would have been sound policy to have laid any restriction as to person upon the power of impeaching.

It is not difficult to imagine a case in which the punishment it imposes would be the most suitable which could be inflicted. Let us suppose, that a citizen not in office, but possessed of extensive influence, arising from popular arts, from wealth or connexions, actuated by strong ambition, and aspiring to the first place in the Government, should conspire with the disaffected of our own country, or with foreign intriguers, by illegal artifice, corruption, or force, to place himself in the Presidential Chair, I would ask, in such a case, what punishment would be more likely to quell a spirit of that description, than absolute and perpetual disqualification for any office of trust, honor, or profit, under the Government; and what punishment could be better calculated to secure the peace and safety of the State from the repetition of the same offence?

Upon this point, I have nothing further to urge, but shall proceed to support the second point, which I stated, that supposing the power of impeachment limited by the Constitution, to the President, Vice President, and civil officers, "in order to carry into effect the general intent of the Constitution, a Senator must be considered as a civil officer."

Sir, it is extremely strange to say, that a Senator, who participates in all the general powers of the Government, is not an officer. We see him acting as a Legislator, an Executive Magistrate, and a Judge, and yet we are told he is not an officer. May I ask, what an office is? I have ever understood it to mean the exercise of some authority. It is not material whether the authority be public or private; the only consequence would be, that the office would follow the nature of the authority. In common parlance, there could be no doubt, but that a Senator, whose public functions reach every authority of Government, would emphatically be considered as an officer. And I consider myself warranted in saying, that the legal intendment of the word office does not materially vary from its received meaning in ordinary speech. It is in my power to show that it has legislatively been used to comprehend the members of a Representative and Legislative body. And for this purpose, I will refer the honorable Court to an ordinance of Congress, passed the 13th of July, 1787, to be found in the 12th volume of the Journals of Congress, page 88; the object of the ordinance was, to establish a Government northwest of the river Ohio. I shall be excused for reading some passages.

"The Representatives thus elected, shall serve

for the term of two years; and in case of the death of a Representative, or removal *from office*, the Governor shall issue a writ," &c.

Again, "The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in *office* five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as Representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the Council, by death or removal from *office*, the House of Representatives shall nominate two persons qualified as aforesaid, for each vacancy, and return their names to Congress," &c.

In page eighty-nine, it is said, "The Governor, Judges, Legislative Council, Secretary, and such other *officers* as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, *and of office*," &c.

This exposition of the word office is cotemporary with the use of it in the Convention. On the day that ordinance passed, the Convention were sitting in this city. And when we reflect, sir, that both those bodies were composed of members from the several States, all appointed in the same manner, by the Legislatures of the States, and that both were employed upon the same subject of forming a Government, I apprehend that the sense in which an important term is used by the one body, may properly be allowed to be strong evidence of the meaning attached to it by the other. I have further proof in this case, of the extent to which this word was supposed to reach at the epoch referred to, which, however, is perhaps, more curious than authoritative. Sir, it is remarkable, that the party impeached, was a member of the Congress which passed the ordinance which I have cited, and that his assent to it stands recorded.* He was then acting under the solemn obligation of a Legislator; his opinion was probably the result of a disinterested and unbiased judgment; but now, when his crimes have subjected him to a national prosecution, he seeks to shelter himself from the punishment he has merited, by attributing an interpretation to a term opposed to that which he himself has deliberately given to it. Such contradiction usually attends the conduct of a man, who, departing from the path of integrity, yields to the seductions of a treacherous and inordinate ambition.

I am sensible, Mr. President, that I have not yet touched the point of the argument which, on this subject, will be relied on.

*Journal of Congress, vol. xii, page 93.

I presume it will be said, that the question is not whether a Senator may be considered as an officer in common or legal parlance, but whether he is an officer within the contemplation of the Constitution. I will readily agree, that if the question can be settled by the light of the Constitution alone, we shall not be warranted in having recourse to any other, but if that light still leaves the question in darkness, every ray of information should be collected which can assist our view of the subject, though derived from other quarters. I do not know, however, sir, that I need despair of success in being able to convince this honorable body, that, in the just, constitutional exposition of the word officer, it embraces the trust of a Senator. I presume the learned Counsel will not differ from me, when I lay down the true rule of construction to be, so to interpret an instrument as to give the fullest effect to all its parts. If there be apparent contradiction, we must attempt to reconcile; and if there be absolute repugnancy, we must reject that part which can be rejected with the least violence to the general intention. If these principles be correct, I humbly apprehend that an attentive examination of the different parts of the Constitution must be followed by the opinion, that a Senator must, according to it, be deemed an officer. I shall not affect to disguise, that there are passages in the Constitution, the aspect of which is opposed to the opinion I state; but what I expect to show is, that there are provisions of greater importance which must be partly frustrated upon a different principle. In the discussion of this point, I shall beg the liberty, in the first place, of considering those grounds which I presume will be relied on to show, that a Senator is not, by the Constitution, considered as an officer.

The first ground I find referred to in the plea, is the 4th section of the second article. It is there provided, that the President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment and conviction of certain crimes there specified.

There is nothing in this provision which can affect the immediate question under consideration. For the question is, whether a Senator is a civil officer. If he be, which is the point I am contending, he is within the express words of the section. The same answer applies to the 7th clause of the 3d section of the first article, a second ground I find relied on in the plea—the substance of which is, that judgment on impeachment shall not extend further than removal from, and disqualification to hold, any office of honor, trust, or profit, under the United States. It is very plain that there is nothing here which can affect the question whether a Senator be an officer. There are two clauses in the Constitution, which, though not stated in the plea, I do presume more stress will be laid on than upon those referred to in the plea. The first of these is the 3d section of the second article, which declares that the President shall commission all officers of the United States; and as it is clearly not designed that he should commission a Senator, it will be

inferred that a Senator is not to be considered as an officer.

I humbly trust I can show, that it was not the intention of the Constitution that these words should take effect in their full extent; and I shall submit that they ought to be understood according to the subject to which they apply.

A commission is simply an evidence of authority delegated to a particular person. And surely it is proper that that evidence should show from the same source from which the appointment is derived. By the Constitution the President is made the fountain of office. The officers, properly speaking, under the United States are all appointed by him; and it was right, therefore, as the general power of appointing was given to him, that he should also have the general power of commissioning.

It is certain that it was intended that the power of commissioning should not exceed that of appointing; because the President does not commission any one whom he does not appoint. The provision in question was not intended to define who should be considered as officers, but to introduce a plain and just rule of policy that the power of appointing and commissioning should reside in the same person. The practice under this Constitutional regulation, explains its meaning and extent. It is clearly not true that he commissions *all officers* of the United States. He is an officer himself, and so expressly denominated throughout the 2d article, and yet he has no commission. It is equally clear that the Vice President is an officer, and yet not commissioned. Again, the Speaker of the House of Representatives is an officer, as I shall have occasion to show hereafter, but has no commission. And there are also a variety of subordinate officers, appointed by Heads of Departments and Courts of Justice, whom the President does not commission. I am, therefore, justified in concluding that it does not follow, because a person has no commission from the President, that, therefore, he is not to be considered as an officer.

There is another objection of a similar nature, arising from the provision in the 6th section of the 1st article, of which it is probable much use will be made. That section declares, *that no person holding an office under the United States shall be a member of either House during his continuance in office.* It will, therefore, be said, if the place of a Senator is an office, this clause is repugnant and absurd.

This provision, I humbly apprehend, has the same limits with the one which I have just adverted to. The intention of it was to erect a barrier between the Executive and Legislative departments; to prevent Executive patronage from influencing Legislative councils. It was designed, therefore, to apply solely to the officers of Executive appointment. I am not much disposed, sir, to place reliance in an argument upon so great a subject, upon nice distinctions or verbal criticism; but I think I shall be excused for paying some attention to the peculiar language of the clause in question. The regulation is, that no person holding an office *under* the United States shall be a member of either House during his continuance in office. The United States here means the Government of the United States, for the United States grants no office but through the Government. Now, it is clear that a Senator is not an officer *under* the Government. The Government consists of the President, the Senate, and House of Representatives, and they who constitute the Government cannot be said to be under it. Besides, a Senator does not derive his authority from the Government. The senatorial power is an emanation of the State sovereignties; it is coordinate with the supreme power of the United States; in its aggregate, it forms one of the highest branches of the Government. Giving every effect to this section, it would only prove that a Senator is not an officer *under* the Government of the United States, but still he may be an officer *of* the United States; and, give me leave to say, that the distinction which I have here taken, is supported by the variance of language to be found in another part of the Constitution.

The 4th section of the 2d article provides, that the President, Vice President, and all civil officers, not under, but *of* the United States, shall be removed from office on impeachment and conviction, &c. It would seem, therefore, that it may plainly be collected, that the power of impeachment extends further than to officers *under* the United States. But, sir, let me confess that I unwillingly place any confidence upon an argument derived from mere verbal criticism. In construing the charter of a Government, our view should comprehend all its parts, and our aim should be to execute it according to its general and true design.

The argument which I have submitted must be taken hypothetically. Supposing we are precluded from considering a Senator as an officer under the United States, he may still be deemed an officer of the United States. For, sir, I mean to contend that the 4th section of the 2d article is confined to officers of Executive appointment; and I shall be able to show, by a Legislative exposition, that a member of the Legislative body has been considered as an officer under the United States; and although so considered, it has never been supposed to follow that the seat was vacated.

The Constitution has given a power to Congress, in case of a vacancy in the office of President, by the death or resignation of the President and Vice President, to provide, by law, what officer should fill the vacancy. Under this power, Congress, on the 1st of March, 1792,* by law enacted, that in case of such a vacancy, the Speaker of the House of Representatives should exercise the office. The power being confined to the designation of an officer of the United States, a person not an officer could not have been appointed by the act of Congress to fill the vacancy.

I have, then, a legislative opinion that the Speaker of the House of Representatives is an

* Acts of Congress, vol. ii. p. 25.

officer of the United States; and, if the interpretation of the section under consideration is to be restrained only by the extent of the words, it must follow that the House, in choosing a Speaker, disqualify him as a member of the House. But, sir, the case, in fact, is not so; it cannot be so, from its nature. And I have, therefore, a high authority for saying that these sections are not considered as embracing all the officers of the United States, and that the generality of the words must be restrained by confining them to the officers of Executive appointment. When the Constitution provided that all officers under the United States should be commissioned by the President, and that no person holding any office under the United States should be a member of either House, it is extremely manifest, from the object designed to be accomplished, that the terms used were intended to reach officers only of Executive appointment. Such being the single view, the term office was certainly incautiously used in relation to other subjects. Notwithstanding the words, all officers are not commissioned by the President; nor is it more a universal truth, that no person holding an office under the United States can be a member of either House. This provision was designed to preserve the purity of the Legislative body, to exclude Executive influence, as a barrier dividing the two great branches of Government; and its end is completely answered when restrained to offices filled by the President.

I have submitted, in the course of my argument, that the sound principle of construction to be adopted in relation to the construction of an instrument, having in view the vast object of settling the powers of the Government, and the rights of the people, is to give it such an interpretation as is best calculated to give effect generally to all its parts according to its true design. If I am supported in this principle, I shall be able to show, by strong cases under the Constitution, that its undeniable intention must be frustrated if a Senator be not considered an officer of the United States.

I find it provided in the 7th clause of the 3d section of the 1st article, that conviction on impeachment disqualifies the party convicted from holding any office of honor, trust, or profit, under the United States. If a seat in the Senate be not an office, the disqualification does not extend to it. And yet, can it reasonably be contended that the policy which incapacitates a citizen, if convicted on impeachment, from holding an office the most mean and humble, does not apply to the case of a Senator? The wisdom of the Constitution, sir, has considered a conviction as an evidence of moral unfitness for public trust. It never can happen but in the case of a great national offence. And shall such an offender, degraded from the capacity of even being doorkeeper of this Chamber, yet retain the capacity of being a member of a body of the most dignity, trust, and power, in the country? This is a solecism in politics, an absurdity in reason, which I trust this honorable Court will not willingly, by their act, attach to an instrument so highly and justly revered as the Constitution of our Government.

I find, also, a provision in the 7th clause of the 9th section of the first article, that "no person holding any office of profit or trust under the United States, shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any King, Prince, or foreign State." If a Senator holds no office of profit or trust under the United States, it is lawful for him to accept a present, title, or office, from any King or foreign State. Can it be possible that a public functionary, of all others, the peculiar object of this jealous restriction, is, in fact, the sole object of exemption from its operation? Can it be imagined that a Senator, upon whom the Constitution has heaped the powers and trusts of Legislator, Judge, and Executive Magistrate, is the only person who is left exposed to the seductions of foreign influence? It can never be admitted that a situation which, from its trust and importance, most invites corruption, is the only one which the Constitution has not guarded against. If, sir, a Senator be not an officer under this clause, it might happen that the Senate of the United States might become a House of Lords. It would be in the power of any King in Europe to change our free Government, and to convert one branch, at least, from a republican into an aristocratic form. You will not suffer an Ensign in your army to accept the humble title of Chevalier, and yet you will allow an integral part of the Government to be composed of Earls and Dukes. And let me pray the honorable Court to remember, at the same time, that the Constitution has provided that a member of either House shall not be allowed to retain his seat and hold any commission, civil or military, under the United States. The President has no titles to grant, nor offices of great emolument to confer; and yet the chaste republicanism of the Constitution will not allow a Senator to feel the influence of his patronage; and yet, at the same time, he may lawfully be the pensioner, or the titular noble of a foreign Power. Such a doctrine is not simply absurd, but infinitely dangerous. It is ever wiser to protect men from temptation, than to trust their resisting it. The party impeached is an instance that the confidence and honors of his country could not secure his fidelity. He is also a proof that unprincipled men may insinuate themselves into popular favor, and be seated in this body, beside men of the best and purest character in the country. Is it compatible with the dignity of this body to say it shall be liable to such impurity? Are you bound to receive into your bosom a character degraded by political crimes, or stained with moral turpitude? And, even if you expel him, must you open your arms to receive him, if returned, a second time? And can it be affirmed that the Senate of the United States is the only body exposed by the Constitution to this shame and degradation! If you cannot disqualify him, the very delinquent against whom the common voice of the country calls for justice, and whom we are now prosecuting, may again take a seat in this honorable body, and exercise the high trust which already he has so grossly abused, and of which he has shown

himself so unworthy. The consequences, I humbly submit, must ever silence the construction which declares a Senator not an officer of the United States. By considering him as an officer, you interfere with the strict letter, but you commit no violence upon the true intention of the Constitution; on the contrary, by considering him not an officer, you frustrate different provisions of the first political importance.

Mr. President, I am sensible of some embarrassment in opening the argument on the part of the prosecution, arising from the difficulty of foreseeing the points which will be most relied on, or most pressed by the counsel for the party impeached. On this subject I have nothing to direct me, but the objections which appear on the face of the plea.

It certainly furnishes other points than those already discussed; deeming them, however, subordinate, and which, possibly, may be either abandoned or relied on, I shall not trouble the honorable Court with any observations in respect of them.

I observe, it is stated in the plea, that William Blount was not an officer of the United States at the time of the act done charged in the Articles of Impeachment. This objection is removed if either of the grounds which we have taken be maintainable: 1st, That impeachment is not confined to officers, but extends to every citizen; 2d, That a Senator is an officer of the United States.

It is also alleged in the plea, that the party impeached is not now a Senator. It is enough that he was a Senator at the time the articles were preferred. If the impeachment were regular and maintainable, when preferred, I apprehend no subsequent event, grounded on the wilful act, or caused by the delinquency of the party, can vitiate or obstruct the proceeding. Otherwise the party, by resignation or the commission of some offence which merited and occasioned his expulsion, might secure his impunity. This is against one of the sagest maxims of the law, which does not allow a man to derive a benefit from his own wrong.

It is further insisted in the plea, that the act done did not regard the office of the party.

I do not in the first place admit the truth of this allegation. For I conceive that a plain violation of the trust reposed in the party may be discovered in the matter alleged in the articles. I shall not, however, trouble you, sir, by going through the articles with a view to this point. The charges are before the Court, and every honorable member can easily satisfy his own mind as to a question rather of fact than law. But I conceive that it is not material whether the objection be, in fact, true or groundless. Because there is not a syllable in the Constitution which confines impeachment to official acts, and because it is against the plain dictates of common sense, that such restraint should be imposed on it. Let me suppose that a Judge of the United States, forgetting his duty and the gravity of his situation, instead of using his authority, in case of an insurrection, to quell the insurgents, should aid them in their violence. Surely this would not be a Judicial act; and shall I be told, for that reason, that he shall not be liable to impeachment? How else is he to be removed? He may be called upon to try the very men whose crimes he was accessary to; and would he be fit in such case to pass sentence? Common sense tells us he ought to be removed. His office was granted during good behaviour, and the tenure has expired by his ill conduct. But I am at a loss to know how the fact is to be ascertained, and the end accomplished, but by conviction on impeachment.

But one other point remains, which I can discover from the plea. It is alleged that the common law courts have competent jurisdiction to punish the party for any offence he has committed.

I will observe, first, that this suggestion is not true; because there is no court of common law which can give judgment of disqualification, which power exclusively belongs to this honorable body, and is a just punishment for the offences committed by the party impeached. In the second place, if the suggestion were true, it would not be effectual; because by the seventh clause of the seventh section of the first article of the Constitution, delinquents shall be liable both to the punishment upon impeachment, and that inflicted in the courts of common law. It is no objection to say that the courts have cognizance of the offence, because it is expressly provided that the one punishment shall not be an exemption from the other.

Mr. President, I have gone through all the objections to the jurisdiction of the Court, which I can discover in the plea. I shall not trouble you with a recapitulation of the matters which I have urged against the sufficiency of the plea. I have already consumed much time, and am indebted for much attention. I conclude with praying that the plea be overruled, and the party ordered to answer the articles of impeachment.

On motion, by Mr. Ingersoll, in behalf of the defendant, for further time to reply, it was allowed, viz: until to-morrow morning at 11 o'clock, to which time the Court adjourned.

January 4.

The Managers and Counsel for the defendant attended.

The Vice President notified the counsel they might proceed; and Mr. Dallas, in behalf of the defendant, spoke in support of the plea, as follows:

Mr. Dallas premised that he was conscious that he must fail in any attempt to imitate the eloquence of the honorable Manager, who yesterday addressed the Court; but he trusted that he should, at least, be as successful as that gentleman in adhering to the rule which had been proposed for the present discussion, by abstaining from all declamatory matter.

He thought that the consideration of the two general propositions would embrace all that was necessary to be said, either in maintenance of the

plea to the jurisdiction of the Senate, or in answer to the adverse arguments. He should, therefore, endeavor to establish,

1. That only civil officers of the United States are impeachable; and that the offences for which an impeachment lies, must be committed in the execution of a public office.

2. That a Senator is not a civil officer, impeachable within the meaning of the Constitution; and that, in the present instance, no crime or misdemeanor is charged to have been committed by William Blount, in the character of a Senator.

1. That only civil officers of the United States are impeachable; and that the offences for which an impeachment lies, must be committed in the execution of a public office.

The necessity of discussing the first branch of this proposition could hardly have been anticipated; but as the honorable Manager had contended that the Constitutional grant of a power to institute and try impeachments extends *ex vi termini*, to every description of offender, and to every degree of offence, a just respect for the high authority which he represents, as well as for the talents which he has displayed, compels the defendant's counsel to follow him in the wide field of controversy that he has unexpectedly chosen. A claim of jurisdiction so unlimited, embracing every object of the penal code, annihilating all discriminations between civil and military cases, and overthrowing the boundaries of Federal and State authority, ought surely to have been supported by an express and unequivocal delegation: but, behold, it rests entirely on an arbitrary implication, from the use of a single word; and while the stream is thus copious, thus inundating, the source is enveloped (like the sources of the Nile) in mystery and doubt.

The Constitution declares, that "the House of Representatives shall have the sole power of *impeachment*;" and that "the Senate shall have the sole power to try all *impeachments*:" Hence, it has been urged, that as there is no description of the offenders or the offences in the Constitution itself, where the power is vested, every offender and every offence, impeachable according to the common law of England, must be deemed impeachable here; and, it is alleged, that the common law power of impeachment extends to every crime or misdemeanor, that can be committed by any subject, in, or out of office. But, Mr. Dallas insisted, that this doctrine is contrary to the principles of our Federal compact; that it is contrary to the general policy of the law of impeachments; and that it is contrary to a fair construction of the very terms of the Constitution.

1. That the doctrine is contrary to *the principles* of our Federal compact, he deduced from the design with which the Government of the United States was established: For, although it is in some of its features Federal; in others it is consolidated; in some of its operations, it affects the people as individuals, in others it applies to them in the aggregate as States; yet, in every view, all the powers and attributes of the National Government are matter of express and positive grant and transfer; whatever is not expressly granted and transferred, must be deemed to remain with the people, or with the respective States; and as the motive for establishing the Federal Constitution arose from the want of a competent national authority in cases in which it was essential for the people inhabiting the different States to act as a nation, so far the people gave power to the Federal Government; but the delegation of that power is evidently limited by the reason which produced it. Thus, in the creation of a national Judiciary, we find that in criminal as well as civil cases, no authority is vested in the courts, but upon the appropriate subjects of national jurisprudence. *Const. Art.* 1, *Sec.* 1. *Art.* 3. Crimes and misdemeanors, which have no connexion with national objects, are left to be prosecuted and punished under the laws of the State in which they are committed. And yet it is asserted, that for any crime or misdemeanor which could only be thus the object of State jurisdiction, which could not be tried upon an indictment, in any Federal Court, a State officer or a private citizen may be impeached before the Senate of the United States. The mere investment of a power to impeach and to try impeachments, is considered as an instrument destined to carry the Government beyond its natural sphere; and to give to the censorship of the Senate, a scope and efficacy of which the general Judicial authority of the Union does not partake.

But the honorable Manager having referred to the English common law, for an exposition of the import and operation of the power of impeachment, Mr. Dallas contended that the United States as a Federal Government, had no common law in relation to crimes and punishments, and cited the opinion of a Judge of the United States on the subject. The crimes punishable under the authority of the United States, can only be such as the Constitution defines, or acts of Congress shall create, in order to effectuate the general powers of the Government. How, he asked, did the Government of the United States acquire a common law jurisdiction in the case of crimes, and by what standard is the jurisdiction to be regulated? When the Colonies of America were first settled, each Colony brought with it as much of the common law as was applicable to its circumstances and it chose to adopt; but no Colony adopted all the common law of England, and there was great diversity, owing to local and other circumstances, in the objects and extent of the common law which the different Colonies adopted. The common law is, therefore, the law of each State so far as each State has chosen to adopt it; but the United States did not bring the common law with them. There are no express words of adoption in the Constitution; and if a common law is to be assumed by implication, is it to be the common law of individual States, and of which State? Or, is it to be the common law of England, and at what period? Are we to take it from the dark and barbarous pages of the common law, with all the feudal rigor and appendages; or is it to be taken as it has been ameliorated by the refinements of modern legislation? Would it not be absurd to refer us to the ancient common law of England? And if we are referred to it in its improved state, do we not rather adopt the statutes than the common law of that country? And is the common law to fluctuate for ever here as it may fluctuate there?

Here Mr. Dallas cited a variety of cases to show the extravagant length to which the ancient common law doctrine of impeachments had been extended, and insisted that there was no more occasion to go to the volumes of the English law for a glossary on the impeachment power, than for an exposition of the words "felony," "breach of the peace," &c., &c., all of which were in use, and perfectly understood, in the different States, before the present Constitution was established. The different States, speaking in the same language, make use of the same terms to express a similar idea; but, in instances innumerable, particularly on the subject of crimes and punishments, though their theories were the same their practice was widely different, not only with the practice of England, but with the practice of each other. Mr. Dallas then represented, and illustrated, the pernicious and absurd consequences that would ensue, either by adopting the penal common law of England, or the penal laws of the respective States, as the rule for the Federal Government. In the former event, though every State in the Union had rejected or amended the common law of crimes and punishments, all its rigor will be revived and enforced; and, in the latter event, the principle of uniformity so anxiously sought after by the framers of the Constitution, and so essential to the administration of justice, would be effectually destroyed.

It is the object of the Constitution to establish a National Government, independent in its operations, and with powers adequate to self-preservation. But, Mr. Dallas observed, that the doctrine which the Managers contended for was at war with that object, and rendered the Government dependent upon the laws and usage of a foreign country. Nor was there the slightest necessity for the interposition of the doctrine, since the Constitution itself provides a means for carrying the impeachment power, as well as every other power, into effect; and if the cases and objects proper for impeachment are not sufficiently defined in the Constitution, Congress may pass a law to define and ascertain them.

The honorable Manager has asserted, that the investment of the impeachment power is absolute. "The House of Representatives shall have the sole power of impeachment;" "the Senate shall have the sole power to try all impeachments." And, he contends, that the language of the fourth section of the second article, so far as it speaks of the "President, Vice President, and all civil officers of the United States," is merely a recital, not to designate the objects of impeachment, but to point out a class of persons who, imperatively, "*shall be removed from office* on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." But if this argument is just, it will equally apply in the case of the Executive and Judicial Departments; for, the phraseology of the articles, with respect to the investment of their powers, is precisely the same; and the same common law code, to which we are referred for an exposition of the impeachment power, would also supply a political, and technical, exposition of the Executive and Judicial authority. Thus, in article the 2d, it is generally declared, that "the Executive power shall be vested in a President of the United States of America;" and the subsequent provisions may, with equal propriety, be denominated mere recital; designating a form of election, an oath of office, and some of the Executive attributes. Again: in article 3d, it is generally declared, that "the Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain, and establish;" but, surely, it was never thought that the power of the Federal Courts extended beyond the enumerated cases, though those cases are as much matter of recital as the cases prescribed for the exercise of the impeachment power.

2. But the doctrine is not only inconsistent with the principles of the Federal compact, it is, also, inconsistent with the general policy of the law of impeachments. The system of criminal jurisprudence is co-extensive with all the ordinary objects of prosecution and punishment; but the jealousy that power might be used to protect official delinquents, gave rise to impeachments even in England. In the 2d vol. of *Woodeson's Lectures*, page 596, the fact is asserted. "It is certain (says that author) that magistrates and officers entrusted with the administration of public affairs, may abuse their delegated powers to the extensive detriment of the community, and, at the same time, in a manner not properly cognizable before the ordinary tribunals. The influence of such delinquents, and the nature of such offences, may not unsuitably engage the authority of the highest court, and the wisdom of the sagest assembly. The Commons, therefore, as the grand inquest of the nation, became suitors for penal justice; and they cannot, consistently either with their own dignity, or with safety to the accused, sue elsewhere but to those who share with them in the Legislature. On this policy is founded the origin of impeachments, which began soon after the Constitution assumed its present form." The author, in a subsequent page, (p. 601,) states, "that all the King's subjects are impeachable in Parliament; but with this distinction, that a Peer may be so accused before his peers of any crime, a Commoner (though, perhaps, it was formerly otherwise) can now be charged with misdemeanors only, not with any capital offence." This position, however, must be understood in coincidence with the general policy previously stated; and then all subjects are impeachable, because all subjects may be magistrates and public officers. The instances specified in *Woodeson* are all of an official nature; and no other description of impeachment by the Commons can be traced in the English books.

Mr. D. proceeded to argue, that the policy of the law of impeachments being thus ascertained in England, any departure from it in the practice of that country ought not to be made a precedent in America. Wherever the appointment to office is independent of the people, the policy is the same, whatever may be the form of the Government; but the reason of the law shows and limits its extent. It is not within the reason of the law of impeachments that any man, who is not a public officer, should be so prosecuted; nor any public officer for an offence which has no relation to his public trust.

3. The doctrine, in fine, is inconsistent with a fair construction of the terms of the Constitution. The operative words are express: "The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."—Art. 2, sec. 4. The previous clauses are only descriptive of the power and distributive of its exercise; declaring that the sole power to institute, and the sole power to try, impeachments, shall belong to the branches of the Legislature respectively. They contain no description of the persons liable to impeachment, nor of the offences for which the impeachment may be brought. To suppose that they include a jurisdiction over all persons, for all offences, is to annihilate the trial by jury where a punishment more severe than death, to an honorable mind, may be inflicted; it is to overthrow all the barriers of criminal jurisprudence; for every petty rogue may be tried by impeachment before this High Court for every offence within the indefinite classification of a misdemeanor.

The reason of the thing, as well as the expression, shows, however, that the offender must be a civil officer, to vest the jurisdiction of impeachment. For every other offender a competent punishment is provided in the ordinary tribunals; but, in the case of a public officer, no sentence strictly judicial, in any common law court, can affect the tenure of his office. In the business of offices, to appoint, to re-appoint, or to abstain from re-appointing, are attributes and exercises of Executive authority; the ordinary judicial authority cannot exercise them, nor restrain or regulate their exercise by the proper magistrate. Hence arose the necessity of the judgment in case of a conviction on impeachment; which, by declaring that the delinquent officer shall be removed, and that he shall never be re-appointed, affixes, in effect, a check, or limitation, to the general power of the Executive.

But, if civil officers are not exclusively contemplated, why limit the judgment on impeachment simply to a removal and disqualification? The common law maxim says, that no man shall be twice tried for the same offence; and if the Senate may, on any charge against any offender, try the whole merits of the accusation and defence, why restrain them from pronouncing the whole judgment? Why multiply trials, and parcel out jurisdictions, when one trial, one jurisdiction, would accomplish every purpose of justice? There is an appearance of absurdity in the doctrine that cannot be overlooked. A private citizen, who holds an office, may be impeached, on the speculation that, at some period of his life, it is possible he should be appointed a public officer. And, if any sentence is pronounced, it must, in his case, be a perpetual disqualification; whereas, in the case of a man actually in office, the sentence may only extend to a present removal.

Again: if the bare designation of the party who should impeach, and of the party who should try impeachments, creates a jurisdiction over all persons for all offences, why should the subsequent clause specially name the President, Vice President, and all civil officers of the United States? They would, certainly, be included in the general authority; and it can be no answer to say, that it was with a view, imperatively, to command their removal on conviction, because the restricted judgment of the Senate points emphatically at their case—a removal from office and a perpetual disqualification. Would not those officers be removed or disqualified for any offence for which a private citizen might be disqualified on impeachment, though it is not one of the enumerated offences? It is here, likewise, to be remarked, that the persons subject to removal, are to be "civil officers of the United States," excluding all idea of affecting the station of State officers; and yet State officers, as well as private citizens, are liable to impeachment before this Senate, according to the present claim of jurisdiction.

And here Mr. D. again asked, if the general investment of the power of impeachment created so unqualified a jurisdiction, by what law are we to be guided, in instituting, conducting, and concluding the process? There is no act of Congress adopting or prescribing a rule; and if it is a matter referred, by implication, to the English code, whence will the Senate derive a discretionary power to adopt the modern and reject the ancient law; to select the doctrine as it relates to Peers, or the doctrine as it relates to Commoners? No; the words do not permit this latitude of jurisdiction;—the reason of the case does not require it. On the contrary, the Constitution presents a complete and consistent system:—it declares who shall impeach, who shall try, who may be impeached, for what offences, and how the delinquents shall be punished. Finding all these arrangements in the Constitution, finding everything that was necessary to suit the means to the design, to introduce a practice in conformity with the policy of impeachments, it would be unjust and unreasonable to suppose the framers of that glorious instrument meant more than they have expressed, or left in doubt and ambiguity so important a part of their work. The power, as it relates to the civil officers of the United States, is expressly given; it is not expressly given as relates to any other description of citizens; and, therefore, it is enough to observe, that it cannot be assumed or implied. Here Mr. D. added, that if the power was assumed under the general terms of the investment, it would equally embrace the case of military and civil officers; and the imperative clause, as it has been called, only demands the removal of civil officers on a conviction; whereas the policy, if it operates in the way contended for, would apply as much to military as to civil officers.

Proceeding to the second branch of the first general proposition (that the offence for which an impeachment lies, must be committed in the execution of an official trust,) Mr. Dallas observed, that the argument had necessarily been, in a great measure, anticipated. The ordinary penal law and courts of justice can punish every offence, whether it is committed by public officers, or by a private citizen; but as official offences can only be committed by public officers and as it would be a dangerous encroachment on the Executive power, to authorize the Judges to pronounce a removal from office, a provision has been wisely superadded, which is at once calculated to preserve the independence of the Departments of Government, and to secure the people from an abuse of the Executive authority. It is evident, however, from the description of persons and offences impeachable, and the qualified nature of the punishment to be inflicted on a conviction, that official offences and offenders were alone contemplated. This opinion is fortified by the express provisions of the Constitutions of the individual States. [Here Mr. Dallas read extracts from the Constitutions of New Hampshire, Massachusetts, New York, Pennsylvania, North Carolina, South Carolina, Georgia, Vermont, Kentucky, and Tennessee, all of which restricted the power of impeachment to the case of offences committed in office.] And he remarked, that this being the sense of the States individually, it may fairly be presumed to be their sense collectively. In politics, as well as in mathematics, all the parts are equal to the whole; and when we find all the parts pursuing this policy, we must, in order to be consistent, ascribe the same policy to the whole, when acting on the same subject. But, it may be added, that even the House of Representatives seems to have entertained the opinion, that an impeachable offence must be an offence committed by an officer, in the execution of his office; since it is stated, as the gist of the charge in the articles of impeachment, that the defendant was a Senator, (which the prosecutors contend is an office,) and that the misdemeanors imputed to him, were committed contrary to the duties of his station.

2. That a Senator is not a civil officer, impeachable within the meaning of the Constitution; and that, in the present instance, no crime or misdemeanor is charged to have been committed by William Blount, in the character of a Senator.

In entering upon the discussion of this general proposition, Mr. Dallas thought it necessary to notice a verbal criticism, to which the honorable Manager, in a state of evident embarrassment, had condescended to resort, in maintenance of the claim of jurisdiction. It had been seriously urged, that there was a distinction between officers *of*, and officers *under*, the United States; the former designating the officers forming the Departments of the Governments, Executive and Legislative; the latter designating the officers appointed by the Executive Department. But a moment's consideration will incontestibly show that the expressions "officers *of*," and "officers *under*," the United States, are indiscriminately used in the Constitution. Thus, in the very section on which the controversy turns, it is said, that "the President, Vice President, and all civil officers of the United States, shall be removed on conviction," &c. Will it be admitted, that the Executive and Legislative Departments are alone liable to be removed, under this provision, and that it does not extend to officers *under* the United States, appointed by the President? But the very judgment to be pronounced excludes such a construction; for, "judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit *under* the United States."

Again: The Constitution declares, that "no person holding any office of profit, or trust, *under* the United States, shall, without the consent of Congress, accept of any present," &c. May the President, Vice President, and members of either branch of the Legislature, being, as it is said, officers *of* the United States, accept a present, or a title, without the consent of Congress?

Again: The Constitution declares, that "the President shall appoint all other officers *of* the United States:" does this give him no power to appoint officers *under* the United States? If it does not, whence does he derive that power, which he daily exercises? By the 6th article of the Constitution it is provided, that "the Senators and Representatives before mentioned, and the members of the several State Legislatures, and all Executive and Judicial officers, both *of* the United States, and *of* the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office, or public trust, *under* the United States:" Now, is it reasonable to interpret this article, so as to require the *political test* only from officers *of* the United States, that is from the President and members of the Legislature, and not from officers *under* the United States, that is from persons appointed by the Executive? Or so as to exempt officers *under* the United States, that is, officers appointed by the Executive, from the *religious test*, while such a test may be exacted from the President and members of the Legislature, under the description of officers *of* the United States? This cursory analysis is a sufficient refutation of the distinction, which has been attempted on a mere quibble, or play of words

Mr. Dallas then proceeded to observe, that there were no words in the Constitution, that extended the impeachment power to the case of a Senator. The fourth section of the second article contains the only Constitutional description of persons liable to impeachment; and it does not

expressly name a member of either branch of the Legislature. To involve a legislator, therefore, in the operation of the power, it must be by implication, either including his case in the general terms of the investment, or in the description of civil officers. But why, he inquired, insert the President and Vice President, and omit the Senator, if the Senator was equally intended to be affected by the provision? Under the general designation of "civil officers," it would surely have been much more natural to include the President and Vice President, than the members of the Legislature. If the President and Vice President are named as a department of the Government, so ought the Senators and Representatives. It is a rule of law, that by naming an inferior officer, a superior cannot be affected. The Legislative department is, in all free Governments, considered as the sovereign; and those who compose it cannot be properly classed with civil officers, the subordinate functionaries of the State. There is another rule of law, *expressio unius exclusio alterius;* and therefore, by naming the Executive, the Legislative department, not being named, is excluded. But Mr. Dallas urged, at considerable length, the great inconvenience which would arise from an opposite construction, by destroying the independence of the two branches of the Legislature, by enabling the House of Representatives to drive a Senator from his seat, by arming a majority with the instruments of personal vengeance against their political opponents, and by rendering Senators the judges in their own cause. And he contended, that to include the Senators in the description of "civil officers," would generate endless absurdity and inconsistency in the Constitution itself.

The 2d section of the 2d article provides, that "the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." The President having then power to appoint all the officers of the United States, including military as well as civil officers; the 3d section of the same article, declaring that "he shall commission all the officers of the United States;" and the 4th section, providing for the removal of all civil officers, excluding military officers, on impeachment and conviction; it would seem inevitably to result, that no man is an officer of the United States, unless he has been appointed and commissioned by the President; and that, therefore, unless he is so appointed and commissioned, he cannot be an object of impeachment. Here Mr. Dallas requested that it might be remembered, that the provision respecting impeachments was a part of the Executive article of the Constitution; and was immediately connected with the arrangements for making appointments, and issuing commissions, under the authority of the President.

Then Mr. Dallas proceeded to inquire, does the President nominate or commission Senators or Representatives? No: nor does the Constitution, in any part of it, term them officers, or call their representative station an office. But the honorable Manager has said, that the latitude to which this position extends would render it necessary that the President should issue a commission to himself, to the Vice President, and to the Speaker of the House of Representatives, since they are all expressly denominated officers. The Constitution, however, is not chargeable with this absurdity. The President and Vice President have their commissions from the Constitution itself; and the Speaker of the House of Representatives is emphatically an officer of the House, not of the United States. But the objection affords an opportunity to illustrate the meaning of the Constitution. It is provided that the President shall commission all officers, and that all civil officers shall be removed on impeachment and conviction; but the President does not commission himself and the Vice President, and, therefore, as it was intended to affect them by the impeachment power, it became necessary expressly to name them. The President does not commission Senators and Representatives; but it was not intended to affect them by the impeachment, and, therefore, they are not named.

Mr. Dallas continued to analyze various parts of the Constitution, and argued from the operation of them that a legislator never was considered as an officer of the United States, in the ordinary or Constitutional acceptation of the term. The 6th section of the 1st article contains the following passage: "No Senator or Representative shall, during the time for which he was elected, be appointed to any *civil office* under the authority of the United States, *which shall have been created*, or *the emoluments whereof shall have been increased* during such time; and *no person holding any office under the United States shall be a member of either House during his continuance in office.*" Nothing could more strongly mark the discrimination between a legislator and an officer than the language which is here used. It is declared that no member holding any office shall be a member of either House while he continues in office. If a member was deemed an officer, the phraseology would, doubtless, have been, "no member holding any *other* office." Again: let it be supposed that, previously to the amendment of the Constitution, (which merely provides that no law varying the compensation for the services of Senators and Representatives shall take effect, until an election of Representatives has intervened,) the pay of Senator had been increased by an act of Congress, could not a Representative, who had assisted in passing the act, be chosen a Senator before the expiration of the two years for which he was originally elected? Again: let it be supposed that a new State was erected and admitted into the Union;—if a Senator is an officer, the office of Senator for the new State would be created during the time for which Congress, who created it, was elected; and yet might not a member of that Congress be chosen a Senator for

the new State, before the expiration of the time for which he was elected a Representative? When, for instance, Kentucky was separated from Virginia, and erected into a State, was not a Representative elected for Virginia, residing within the boundaries of Kentucky, eligible immediately as a Senator of Kentucky, though he resigned his representative seat before the term of his election had elapsed?

The first section of the 2d article, likewise, pointedly distinguishes between a legislator and a public officer, declaring, "that no Senator or Representative, or person holding *an office* of trust or profit under the United States, shall be appointed an Elector." If Senators or Representatives were considered as persons holding offices of profit or trust under the United States, it was superfluous to specify them at all; or, if named, it would have been correct to say, "no Senator or Representative, or person holding any *other* office of trust or profit," &c. But it is important also to remark, that here, where the Constitution intends to work a disqualification, as to Senators and Representatives, they are expressly named; and no sound reason can be offered why they should not have been equally named, if the Constitution had intended to subject them to impeachment.

But the 8th section of the 1st article contains a classification, which is calculated to demonstrate to every candid understanding that the framers of the Constitution uniformly distinguished between legislators and officers. It is there provided that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution: 1st, in the Government of the United States; 2d, or in any Department thereof; 3d, or in any officer thereof." This furnishes a key to the meaning of the Constitution. The Government of the United States embraces all the Departments; and the Legislature is a Department. It is true that the Executive and the Judicial powers likewise constitute Departments of the Government; but they are in their nature and operations characteristically distinguishable from the Legislative Department. The Legislature always conveys to the mind the idea of numbers; the Judiciary and Executive always convey to the mind the idea of individuals; the former acts by majorities; the latter act by persons. Hence we find the Legislature is chosen, the Executive and Judiciary are appointed; the one is called a trust, the others are called offices. In common parlance, as well as in technical precision, the Legislature is denominated a body, of which each Representative is a member. The members of the Legislature have no responsibility but to their constituents; and what they do as legislators can nowhere else be questioned. But Executive and Judicial Magistrates are responsible for all their acts, in the ordinary course of criminal prosecution, as well as in the extraordinary course of impeachment.

This distinction is not a novelty; it has been drawn in the Articles of Confederation, it exists in the present Federal Constitution, it is recognised in many of the Constitutions of the individual States, and even the recent acts of Congress sanction and enforce it. Mr. Dallas, having read the extracts to support his assertion, animadverted particularly on the oath of office prescribed in the Constitution (Art. 2, sec. 1) to the President, though none was prescribed to Senators or Representatives; and on the act of Congress to certain oaths which exacted from Senators and Representatives more than an oath to support the Constitution; but to the Executive, Judicial, and all the subordinate officers of the United States, prescribed an additional oath of office.

But, Mr. D. contended, that, independent of all precedent and authority, the distinction was founded upon the very nature of a free Government. The Legislature is, in theory, the people: they do not themselves assemble, but they depute a few to act for them; and the laws which are thus made are the expressions of the will of the people. Over their Representatives, the people have a complete control, and if one set transgress they can appoint another set, who can rescind and annul all previous bad laws. But the power of the people is only to make the laws; they have nothing to do with *executing* them; they have nothing to do with *expounding* them; and hence arises the diversity in the modes of remedying any grievance which they may suffer from the conduct of their Representatives or agents. If a legislator acts wrong, he may be expelled before the term for which he was chosen has expired; he may be rejected at the next periodical election; and the laws which he has sanctioned may be repealed by a new representation. But if an Executive, or a Judicial magistrate, acts wrong, the people have no immediate power to correct; prosecution and impeachment are the only remedies for the evil. Then, it is manifest, that, by the power of impeachment, the people did not mean to guard against themselves, but against their agents; they did not mean to exclude themselves from the right of reappointing, or pardoning; but to restrain the Executive Magistrate from doing either with respect to officers, whose offices were held independent of popular choice.

The subject is made more plain by two considerations—1st, that although either House may expel a member, they cannot (on the principles of the Constitution, without any express prohibition) expel him twice for the same cause: 2d, that the President is not empowered to pardon in cases of impeachment. In the case of expulsion, the member is sent to the people, but if they choose to return him again, he has a perfect title to his seat. In the case of an impeachment, the delinquent officer is dismissed. On the general power of the Executive, he might be reappointed; but to guard against the abuse of that power, the Constitution superadds a sentence of perpetual disqualification.

It has been said by the honorable Manager, that every person who executes an authority is, in fact, an officer; but this definition is certainly too vague and extensive. Here Mr. D. exemplified the general principle of his argument, by the analogies to a corporation, which has a power of making by-

laws, appointing its own officers (being members of the corporation) and acting by proxy. The proxies appointed by the members (one proxy, perhaps, for many members) he compared to Senators and Representatives; but, surely, the proxies were never called the officers of the corporation. When the president and directors of the corporation are chosen from its members, they are called the officers of the institution; so, when the Speaker of the House of Representatives is chosen, he is called the officer of the House, but the rest of the Representatives remain its members: the language of the Constitution, indeed, is pointed on this subject: "The House of Representatives shall choose their Speaker, and *other* officers." The Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring *what officer* shall then act as President." Now, the latter expression, *what officer*, without saying "of, or under, the United States," seems to be employed to admit the very case of the Speaker of the House of Representatives, who is an officer (an officer more confidential than any appointed by the Executive) but yet he cannot be called an officer of the United States. The act of Congress, which was passed to effectuate this Constitutional provision, preserves the same guarded and appropriate language. The title is, "An act, &c., declaring the officer who shall act as President, &c.," and the 9th section provides, "that in case of removal, death, resignation, or inability both of the President and Vice President of the United States, *the President of the Senate pro tempore*, and in case there shall be no President of the Senate, then *the Speaker of the House of Representatives*, for the time being, shall act as President, &c." The President of the Senate *pro tempore*, and the Speaker of the House of Representatives, are merely the officers of their respective Houses; and it is only by being chosen to the Chair, that they acquire the denomination of officers, contradistinguished from the character of members.

Mr. D. repeated, that from a just consideration of the principles of our Government, it was thus manifest, that the moment there was a departure from the immediate choice of the people, the law of impeachment became necessary to secure them from the favoritism, or perverseness of the Executive Magistrate. *Impeachment*, he observed, is, with respect to Executive and Judicial officers, what *expulsion* is with respect to the members of the Legislature. As expulsion enables the people to decide whether they will restore the evicted member to their service, a conviction on impeachment enables the Representatives of the people to decide whether the delinquent shall be partially or totally excluded from the honors and emoluments of public office. But the very circumstance of declaring that a pardon shall not avail in cases of impeachment, though a re-election shall avail in cases of expulsion, demonstrates (as was before intimated) that the people did not mean to guard against the exercise of their own sovereignty, but against an abuse of the power delegated to their agents. Nor is there any legal force in the objection, that a Senator or Representative, convicted upon impeachment, should be rendered ineligible; for the people are the best judges to whom they ought to confide their interests; and it is no uncommon thing in the law, that persons disqualified to act for themselves may be qualified to act for others. A minor and a married woman may be an executor or executrix. A person outlawed or attainted may be an attorney. And it appears from the case of *Wilkes*, and many other cases, that conviction of a misdemeanor, is no bar to an election as a member of the British Parliament.

Here Mr. D. entered into a general recapitulation of the points of his argument, urging that the reason on which the law of impeachments was founded, did not apply to the case of a legislator; that impeachments were intended as a check on the Executive power, in the business of appointing to office; that the power of expulsion, by returning an offending member to his constituents, was sufficient to enable each House of Congress to preserve itself from pollution; and that the general penal law, applying as much to Senators and Representatives as to any other class of citizens, was competent to every purpose of punishment, as well as to warn the people against unworthy candidates for their favor. But, besides these considerations, there are precautions taken in relation to the popular choice, which are not taken in the ordinary appointments to office. The candidates must have attained a certain age; they must be qualified by citizenship and long residence; and they are exposed to the ordeal of frequent elections. Under these circumstances, the great security, after all, is, that the people will only trust those citizens with Legislative power who will employ it with wisdom and fidelity.

There is, however, one topic connected with the present discussion, to which the honorable Manager (perhaps from motives of delicacy) has not adverted, though in almost every conversation abroad, it is treated as of some importance. Mr. D. said, he meant the distinction between Representatives and Senators, as objects of impeachments, owing to the participation of the Senate in the Executive business of making treaties, and appointing officers; and on which distinction alone, a Senator has sometimes been regarded as a civil officer. But the objection is susceptible of a full and satisfactory answer. The Constitution declares, where the Legislative, and where the Executive power shall be deposited, and to each depositary it allots certain attributes; but it no where calls, or considers, the Senate as an Executive body. The omnipotence of the people in choosing their form of Government, and in modifying its powers, will not be denied. They might have established a despotism instead of a Republic when they ratified the existing Constitution; and they had a right to regulate and limit, as they pleased, the jurisdiction of the great departments of the State. They have, in fact, exercised this absolute authority in a variety of instances. If they have enlarged the sphere of Senatorial authority, as a Legislative power, in the cases of treaties and offices, they have abridged it in the

case of money bills. If they have abridged the Presidential authority, as an Executive power, in the cases of treaties and offices, they have enlarged it, in the case of the qualified negative on laws; and, indeed, the President might as well, for that reason, be called a member of the Legislature, as a Senator may, for the preceding reason, be called a civil officer.

But what is the nature of this Senatorial participation in the business of the Executive? It is nothing more than a privilege to approve, or to disapprove; to expres a Legislative sentiment, upon an Executive proposition. The right to nominate, to commission, and to remove public officers, remains, exclusively, in the President. Might not the people, however, have given to the Legislature, or to either of its branches, an entire power over offices, without changing or destroying the Legislative character? In Pennsylvania, the State Treasurer is always appointed by the General Assembly; and that body may appoint all the other officers in the department of accounts. This was the case, likewise, when the Legislature of Pennsylvania consisted of only one House; and yet it never was thought that the Representatives, for this reason, became Executive magistrates or civil officers. If the people might invest their Representatives with the whole power, may they not invest them with a part? But if this participation, in what is termed Executive business, changes the character of a legislator into the character of a civil officer, how will the rule operate, when we find Congress is empowered to make war, to grant letters of marque and reprisal, to regulate weights and measures, to coin money, to create courts, &c., all attributes of Executive authority, according to most political theories, and practically so, according to the Government of that country from which our ideas of politics and jurisprudence are derived? Surely, then, the distribution of power is no criterion on the occasion; and the participation of the Senate, in the business of appointments, may as well be called a Legislative as an Executive authority: it is a part of the jurisdiction alloted to the Senate as a Legislative body. The general reasoning is equally applicable to the Senatorial participation in making treaties. And this additional remark occurs, that, as treaties are, under our Constitution, a constituent part of the supreme law of the land, they would seem more properly to be classed with Legislative than with Executive acts. Why, likewise, it may fairly be asked, should not a Senator be considered as a civil officer, on account of the participation with the Judiciary, in matters of impeachment, as well as on account of the participation with the Executive, in matters of office and treaty? And, in that point of view, the House of Representatives, acting in the character of the Grand Inquest of the nation, may also be denominated civil officers. But the truth is, and it cannot be too often repeated, that the people have a right to deposite any power, in any form, in any department; and an arbitrary definition of the power will not alter the character of the department.

Mr. Dallas here observed, that he had so greatly trespassed on the time and attention of the Senate, and was so much exhausted with the debate, that he should leave it to his colleague to dilate upon the remaining points involved in the discussion. It would be permitted to him, however, cursorily to remark, that the articles of impeachment do not charge William Blount with any crime or misdemeanor committed in the execution of his office, with any act which might not have been committed by any other citizen, as well as a Senator; that there was room for argument, whether an officer could be impeached after he was out of office; not by a voluntary resignation to evade prosecution, but by an adversary expulsion; and that the honorable Manager had misunderstood the object of the plea, when he supposed it asserted a right to a trial by jury, in cases properly impeachable; since the clause to which he referred was merely inserted to show that, unless this was a case in which an impeachment would lie, the party was entitled to a trial by jury, in the ordinary courts having cognizance of the matters charged.

Upon the whole, Mr. Dallas expressed his hope, that for the sake of the principle, as well as in favor of his client, the plea to the jurisdiction of the Senate would be sustained, and the impeachment dismissed; but, whatever should be the result, he was confident it would be produced by deliberation, wisdom, justice, and impartiality.

The Court adjourned until to-morrow-morning at eleven o'clock.

JANUARY 5.

The Court being formed, and the Managers and counsel having attended, Mr. INGERSOLL spoke as follows:

Mr. President, and Gentlemen of this Honorable Senate:

A cause involving the construction of an important part of the Constitution of the United States, the dignity and independence of the Senate, and the rights of the House of Representatives, offers for consideration.

Motives of such high import secure to me the attention of this honorable body, while I attempt the discussion of a question, novel, curious, and interesting to every citizen of the Union.

I shall class my observations under these three particulars, to wit: The *nature*, the *extent*, and the *objects* of the power of impeachment, as designated by the Constitution of the United States.

The honorable Chairman of the Managers has told us that the Constitution has adopted the word impeachment, as well as many other technical terms, and has sent us to the common law for its exposition; that, by following the guide to which he refers us, we shall find that this power is universal and without exception, pervades every part, indefinite as to offenders and offences, restricted only in the punishment to be inflicted.

This suggestion gives to the cause an importance, the weight of which oppresses me. I now

feel a zeal beyond the line of the mere advocate. This is the first and last opportunity to pause and consider before the irretrievable step is taken. The interest of my client is lost in the consideration, how the event of this hearing may affect the public.

Sir, when I turn, as directed, to the books of the law, to know the nature of the proceeding by impeachment, what do I find of it there? Little good, and much ill; and while the energy of the English language, copious as it is, is exhausted in eulogiums on trials by jury in criminal cases, I read of none on proceedings by impeachment. The best English writers content themselves with stating, coldly, that the most proper and the most usual instances of proceeding by impeachment, are against the Ministers and other great officers of State, who, surrounded by the imposing splendor of royal favor, are too great for the grasp of law, administered by courts and juries; and from the special nature of the alleged crimes, sometimes a knowledge is requisite not always possessed by juries.

Sir, I find in those books, that the trial by jury in criminal cases, is the palladium which has preserved the liberties of the British nation during the shocks of conquest from abroad, the convulsions of civil wars within, and the more dangerous period of modern luxury.

My impression or my sentiments upon this subject, are not entitled as such, to the notice of this honorable body; but when I can cite in their support such names as Hale, Hume, Blackstone, and Woodeson; when I can add the expressions of the first great charter of American freedom, the Declaration of Independence, in which I find it assigned as one reason for the dismemberment of the Empire, that the King had given his assent to laws, for depriving us in many cases of the benefits of trial by jury; I trust what I have observed in this particular will not be stigmatized as declamation.

Since the honorable Manager has put me in this course, I will pursue it a little further. And I ask, is proceeding by impeachment the genuine offspring of that Constitution whose very end and aim, in the view of Montesquieu, was civil liberty; or is it an excrescence on the body politic, a necessary evil to cure a greater mischief; a balance to counterpoise the weight of monarchy? I read in *Blackstone's Commentaries*, vol. i. pp. 244, 249, 250, 251, 252, 257, 258; and *Blackstone's Commentaries*, vol. iv. 259, 260, that the King, *all perfect and immortal* in his royal capacity, can do no wrong; and hence the necessity of a check by impeachment upon his ministers, and those subjects who are entrusted with the administration of public affairs, who may infringe the rights of the people, and be guilty of such crimes, as the ordinary magistrate either dares not or cannot punish—a part of these reasons, surely, cannot operate in a republican system.

I read in *Magna Charta* that no man shall be condemned but by the lawful judgment of his peers, or the *law of the land*. What was this law of the land? What other mode of proceeding in criminal causes was then in practice, except trial by jury? Hale, eminently great and equally good, expresses it to be by the common law of the land. A learned English historian explains the expression, as alluding to those methods of trial which originated in the presumptuous abuse of *revelation* in the ages of dark superstition. The trial by ordeal, of fire or water, the *corsned* or morsel of execration, and the trial by battle. I add informations originally reserved in the great plan of the English Constitution, and attachments for contempts. Was the proceeding by impeachment within the exception? *Magna Charta* bears date A. D. 1225; the first instance of impeachment mentioned in the judicial history of England (as far as I can find) was on the 3d of February, 1388, or at least 1327, in the reign of Edward III., more than one hundred years after *Magna Charta*; unless, indeed, it be the proceedings against the two Despensers in 1321, which were so irregular that it was made void in Parliament the subsequent year.

Appeals in Parliament had been practised and their inconvenience became intolerable, and by the fourteenth chapter of the 1st Hen. IV. A. D. 1399, they were abolished; after which the proceeding by impeachment became frequent.

Supposing its origin to be as clear as it is doubtful, has not its history been marked with injustice; and is it a mode of trial as safe and useful as the trial by jury?

"It is sufficient," says the celebrated Montesquieu, as quoted by Justice Blackstone, "to render any Government arbitrary, that the laws on the subject of treason are indefinite;" for this reason, the statute of 25th Edward III. attempted to render the law on this subject definite and clear. The House of Commons, in order to destroy an object of their vengeance, attempted to introduce a new species of treason, *constructive*, and to support the charge by a new species of evidence, called *accumulative:* can any man read without the strongest sensibility the defence made on that occasion? Penalties are imposed previous to the promulgation of the laws, and the defendant is tried by maxims, unheard of until the moment of the prosecution. Who can recollect without horror the cruel manner in which the defendant was treated on his trial, as described by *Woodeson*, vol. ii. pp. 608, 609? Personal animosity and violence, and the implacability of determined enemies, marked their proceeding, until it ended in a bill of attainder, which a subsequent Parliament *repealed, erased*, and *defaced*. Let me add, in the words of the same author, *Woodeson*, vol. ii. p. 620, from this, or a more particular survey of the proceedings on impeachment, we shall find occasion to observe, that though great is the utility of the public ends, which they are designed to answer, they have been too often misguided by personal and factious animosities and productive of alarming dissensions between two branches of the Legislature. The incompetency of a court and jury sometimes to decide, from the greatness of the offender and the nature of the crime, is urged against me. I do not believe that at present

any offender is too great for the grasp of law as administered by our courts and juries; but what may happen, in our eventful history, I know not, and therefore I confess it to be proper that a provision of this kind should find a place in the Constitution, as far as respects the *Executive and its officers*; but further than this I contend there is not any necessity that it should be carried, and that such extension of this proceeding would be infinitely dangerous to the citizens. Might not the influence, the weight, and the protracted nature of such proceedings by impeachment, endanger even innocence? Have we not seen, in our own days, an impeachment continue seven years? Had the defendant possessed no other means of defence than innocence, the prosecution would have occasioned his ruin in one-seventh of the time.

Wherever a proceeding in a criminal matter deviates from the course of the common law by jury, whether such proceeding be introduced by statute or by a constitution, such statute and such constitution ought to be strictly construed. If any one thinks I have dwelt too long on this prefatory matter, let him read the encomium on trial by jury, by Mr. Justice Blackstone; let him read *Hume's History of England*, vol. i. p. 98, and *Black. Com.* vol. iii. p. 349, and *Black. Com.* vol. iv, pp. 349, 414; he will not find trials by jury spoken of in those qualifying observations which *Woodeson* applies to the trial by impeachment.

Thus far I urge the argument and no farther. The Constitutional power of impeachment is to be strictly construed. If the question that now arises be involved in doubts, those doubts ought to be *decisive* in favor of the accused. The power is to be extended only so far as is expressed, or to be clearly inferred, by a fair and clear, if not necessary, implication from what is expressed.

I acknowledge that the trial by jury, like every human institution, is liable to abuse; but I contend that it is less so, infinitely less so, than trial by impeachment. The demon of faction most frequently extends his sceptre over numerous bodies of men.

I conceive that it was this retrospective view of the history of impeachment that was in the mind of the Convention who framed the Constitution of the United States. Hence, the salutary restriction, as I understand it, not as contended by our opponents, an introduction upon the indefinite ground on which it is placed in England; but in a restricted manner, in a narrow channel, to supersede the trial by jury only in certain cases. The malignant suggestions of envenomed jealousy have no access to my breast. I do not impute improper motives anywhere. I ask only a reasonable construction to ascertain its extent. I thought proper to consider its nature as exemplified in the juridical history of that country from whose system of jurisprudence we have adopted it. Let us obtain an exposition of our great Charter according to its true and genuine meaning. It is surely our duty to examine and to understand, as well as to revere and to defend the Constitution. Previous to the formation of the present Constitution of the United States, this subject had been under consideration in forming State Constitutions; and in New York, whose Constitution was made in 1777, and in Massachusetts, whose Constitution was made in 1780, the practice of proceeding by impeachment was, in these and every instance, where the power was allowed, restricted to the Executive and its officers for malconduct in office. A strong indication of the sentiment that was generally entertained upon the subject; and such was the situation of the private citizen, that he could not be condemned on any criminal charge, but by the unanimous consent of a jury of his neighborhood.

I consider myself as having now prepared the way for a discussion of the second point, the *extent* of the power of impeachment under the Constitution of the United States; which power and proceeding I shall endeavor to show is restricted to the President, Vice President, and *civil officers* of the United States, for malconduct in office. I shall afterwards endeavor to make it appear that Senators are not the objects of this power, not being comprehended under the designation of *civil officers* of the United States.

Art. 2, sec. 4, is thus expressed: "The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

To construe an act of Parliament, it is necessary, we are told, to know what was the common law previous to passing the statute. For a similar reason, let it be recollected, that previous to the present Constitution of the United States, Congress had not any judiciary power; it was exclusively in the States separately—of both kinds—criminal and civil. The 12th amendment, now considered as a part of the original Constitution, declares that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." It was not in contemplation that either the Legislative, Executive, or Judiciary powers of Congress should be indefinite. The first section of the first article declares, not that *all Legislative* powers shall be vested in Congress, but "that all Legislative powers *herein granted* shall be vested in a Congress," &c. The Executive is to execute the laws made by the limited Legislature. The Judiciary is to extend to all those *causes* which arise out of the laws of the United States—to those which concern the execution of the provisions contained in the Articles of Union—to those in which the United States is a party—to those which involve the peace of the Confederacy—to those which originate on the high seas—and those in which the State tribunals cannot be supposed to be impartial.

That the Constitution of the United States, limited in its Legislative and Executive powers to certain enumerated objects, as well as in its Judiciary, where a jury constitutes a part of its administration of justice, should be left without bounds in this hazardous proceeding by impeachment only, is grossly improbable, and, I trust, un-

founded. Contrary, I am sure, to the spirit, and, I think, also to the letter of the Constitution. Let us trace the operation of this principle. A State officer is liable to impeachment in the Senate of the State. Is he liable at the same time, and for the same offence, to impeachment in the Senate of the State and of the United States? Will an acquittal in one be a bar in the other? In disputes between the powers and relative jurisdictions of State and United States, the same reasons may induce an acquittal in the former and a condemnation in the latter. Would not this occasion a Babel, a confusion of Constitutions, a monster of jurisprudence? In jurisdictions not emanating from the same authority, where a party had not his choice, the citizen is liable, it is said, to successive trials, and contradictory determinations for one offence. The distant inhabitant is amenable, we are told, at the bar of this Court, for every species of offence, at the distance of a hundred, or a thousand miles from his vicinage, to whom the prosecution itself would be ruin, and here must submit to the awful *discretion* of the Senate whether he shall retain his honor or be doomed to disgrace, recorded and transmitted to posterity, upon your archives, as unworthy the offices of Government, and, in part, reduced from the rank of a citizen.

I have said, sir, to the discretion of the Senate; because it is perfectly well known that, not only in the delineation of the offence by the prosecutors, but also in the construction of it by the Judge, a Court of Impeachment is not tied down by such strict rules as, in common cases, before a court and jury, give personal security.

Improvident citizens! They have taken care that they shall not be subjected to a fine of one shilling, nor to imprisonment of their bodies for one hour, but, in consequence of a verdict of the neighborhood, at the same time that it is suggested, their honor they have not secured with equal precaution. The suggestion, I undertake to say, is unfounded. The mistake is not in the people, but in those who impute to them so great an inadvertency.

I recur, then, fortified by these general reflections, to the words of the 4th section of the 2d article. My position is, that the clause in question was intended, and operates for the purpose of designating the *extent of the* power of impeachment, both as to the *offences and the persons* liable to be thus proceeded against. It will be of use here to recollect, that the Constitution had previously provided for the purity of the Legislature, in the 2d clause of the 5th section of the 1st article by empowering each House to punish its members for disorderly behaviour, and, with the concurrence of two-thirds, to expel a member. No clause similar to that which is introduced into some of the State Constitutions (that a member expelled and then returned, is not liable to be expelled again for the same offence) is to be met with in the Constitution of the United States; and, therefore, the Senate has an unlimited power to expel any member they shall deem unworthy their society.

Here, then, I flatter myself, the dispute admits of a clear solution—is reduced within a narrow compass, and brought to a point.

It is a rule of construction, that every part of an instrument be, if possible, made to take effect, and every word operate in some shape or other.

There are but two constructions suggested as possible; the one for which the honorable Managers contend, to wit: that the 4th section of the 2d article was intended as an imperative injunction upon the Senate, that when judgment was rendered against a civil officer of the United States, it should be for removal from office; the other, that for which we, as counsel for the defendant, insist, that is, that it was intended to designate the extent of the practice of proceeding by impeachment, specifying who are the persons to be proceeded against, and for what offences. If, then, I am able to show that the words of the 4th section of the 2d article will not have any effect or operation at all, unless they receive the construction for which I contend; if I establish these premises, the inference will necessarily follow, that the construction for which the honorable Managers contend is not well founded, and that the construction for which we contend is the true meaning of the Constitution in this particular. To this fair, short, and decisive test be the appeal.

In a previous paragraph, to wit: the 7th clause of the 3d section of the 1st article, it is provided that judgment, in cases of impeachment, shall not extend *further* than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; that is, judgment must be either—1st. Removal from office; or, 2d. Removal and disqualification; or, 3d. Disqualification without removal, where the person convicted is not an officer. I have spoken of a judgment of disqualification, where the conviction was of a person not in office, because I am now endeavoring to show the weakness of the reasoning against me; and, as the question of the liability of all persons, those not in office as well as those in office, depends for its answer upon the construction of this 4th section of the 2d article, I am not at present authorized to consider this position of my opponent's, of its comprehending all citizens, as refuted; and I acknowledge that the argument is connected with its respective principle on each side, and that unless there is a restriction of the power of proceeding by impeachment by this 4th section of the 2d article, it is without limit both as to offenders and offences.

What do the honorable Managers mean by saying that this section is imperative? Is not every part imperative in the same sense that this section can be said to be imperative? If a person is impeached before the Senate, they must try him; it is not a matter of choice. Duty is imperative. If they try, they must acquit or convict; if they convict, they must pronounce judgment. It is imperative, also, in the 1st article previous to the clause in question, what the judgment shall be. For I trust that it will not be said, that, although the judgment may not extend *further* than removal from and disqualification for office, the Senate may

substitute other punishments by fine or imprisonment, which in their opinion shall not be greater than removal and disqualification. This would be acting upon a principle inconsistent with every idea of criminal jurisprudence; it would render the people slaves to the magistrate, to the Senate, and there would be no security for the citizens. In this sentiment I am supported by that safe guide, Mr. Justice Blackstone, in his 4th vol. p. 377. "The species, though not always the quantity or degree of punishment is ascertained for every offence; for if judgments were to be the private opinions of the Judge, men would then be slaves to their magistrates." Such a principle has not, and I presume will not be suggested by the honorable Managers. It is also observable here, that by the 2d section of the 2d article, cases of impeachment are excepted out of the President's power of pardon. The punishment being thus limited, the Constitution was imperative upon the Court to remove before as much as since the introduction of the clause in question; for I defy the honorable Managers to show that it is *possible* for the Senate, on conviction of an officer, not to remove from office, because a judgment of disqualification is a removal when pronounced against a person in office; it is a removal and more. It is impossible to pronounce a judgment that a man shall be incapable of holding an office and not remove him. The incapacity takes effect immediately. It is coeval with the judgment. There is not any interval between the judgment pronounced and the disqualification and incapacity. It is of course ridiculous to say, that the 4th section of the 2d article was introduced to make it imperative upon the Senate to remove from office on conviction, when it was previously made so imperative that it was impossible to avoid pronouncing a judgment that would operate a removal from office. As it is thus clear beyond the possibility of doubt, that the 4th section of the 2d article was not introduced for the purpose suggested by the honorable Managers, which I have considered; and, as no third construction has been attempted on either side, I infer that the construction contended for by the counsel for the defendant is well-founded, to wit: that the 4th section of the 2d article was intended for the purpose of designating the extent of the power of proceeding by impeachment, at least so far as respects the *persons* liable to be thus proceeded against.

Further, if anything further be necessary upon a matter so very plain; if, as the honorable Managers insist, all persons are within the extent of this mode of proceeding, why make it imperative on the Senate to remove civil officers only? Why make it absolutely imperative to remove the marshal of a district, whose sphere of influence is comparatively inconsiderable, and leave a general at the head of an army or an admiral in the command of a navy? Would not the public security be much more endangered by leaving a man convicted of high crimes and misdemeanors in these situations than those of many civil offices? It may be said, that these military characters are liable to be proceeded against by courts martial. Be it so; that consideration is a good reason why they should not be considered as within the power of impeachment, as we assert to be the case; but none at all for not removing them on conviction, if they are within the provision of the Constitution in this particular. And if Senators were within the power of proceeding by impeachment, would it not also have been made imperative upon the Senate to remove them, who have a veto upon every bill proposed to be passed into a law and every nomination for appointment to office?

I add, that I conceive the proceedings by impeachment are restricted not only to civil officers but that the only causes cognizable in this mode of proceeding are malconduct in office.

Treason, it is true, is not necessarily a crime of office. In respect, however, to the President, he is considered as so constantly in the exercise of his office that it would be difficult to disconnect the crime in which alone treason consists under the Constitution of the United States, from his official character. Why is it that this section passes immediately from treason to bribery, a crime necessarily referring to the duties of an office? Why are the intermediate grades of offences passed by and omitted in the enumeration.

I will not however, pursue this subdivision of the subject, as it is not necessary to the support of the defendant's plea. I will leave it after submitting a few additional observations.

The punishment is official, if I may be allowed the expression, and therefore peculiarly adapted as a punishment for malconduct in office; and surely a civil officer of the United States ought not to be deprived of a trial by a jury of the vicinage in criminal cases, but by express words or necessary implication. Whoever examines the Constitution of the United States with critical attention, and compares it with the State Constitutions, will find that many of the principles of the latter are adopted and introduced into the former, where the proceedings by impeachment were confined to crimes and misdemeanors alleged to have been committed by officers in the execution of their offices. Such I conceive, was the general sense of the country as to the proper limits of this proceeding, and that to give it a greater extent was both dangerous and unnecessary. Offences not immediately connected with office, to obtain the purpose of essential justice, are best decided in the courts of the States or the United States, where party, and witnesses, and jurors, are known to each other. Nor can adherence to this principle be productive of inconvenience; if the civil officer hold a commission at the pleasure of the Executive, his removal cannot be a matter of any difficulty. If such officer, holding a commission during good behaviour, be convicted of a crime and misdemeanor, such conviction would be *ipso facto* a removal and disqualification; or a transcript of the record of conviction would be a sufficient ground for removal, and a concurrence of the Senate in a reappointment of such offender is scarcely expectable. Is the charge against William Blount within the extent of the power of impeachment, as I have deduced it from the Constitution of the United States? Is it for malconduct in office? The ar-

ticles do not charge William Blount with treason, bribery, or other high crime and misdemeanor, committed while acting in the character of Senator. A Senator sometimes is a Legislator; at other times he exercises a Judicial power, as on occasions like the present. Sometimes he participates in the Executive power, concurring with the President in appointment to office. The articles do not suggest that William Blount acted or claimed to act in either of these characters when he committed the offences alleged against him. It is alleged only to have been done, contrary to his duty as a Senator; so is every impropriety. Eminent station makes faults as virtues more conspicuous, and the evil example more extensive and pernicious. On which of his Sentorial capacities were these offences breaches of his duty? No discrimination is made in the articles. For anything said or done in his Legislative capacity, he cannot be questioned out of this House, otherwise the whole power is vested in the most numerous branch, already sufficiently powerful. The offences charged are not more a violation of his Senatorial duty in his Executive than in his Judicial and Legislative capacity.

It is true that in England this power is upon a very indefinite footing. In theory it is constitutional to proceed against a Peer for any crime, against a Commoner for any misdemeanor. In practice this power is not carried into execution, nor would the present instance be endured.

All writers speak of this power as intended only as useful in charges against officers for malconduct in office. It is said by Blackstone, in the 4th volume of his Commentaries, pages 260, 261, "that a subject entrusted with the administration of public affairs may infringe the rights of the people, and be guilty of such crimes as the ordinary magistrate either dares not or cannot punish.

Montesquieu, in his *Spirit of Laws*, volume i. p. 327, expresses himself in a similar manner. A late learned English writer, Woodeson, volume 2d of his Lectures, pp. 601, 602, and 612, repeats the sentiment, and adds, "that the abuse of high offices of trust, are the most proper, and have been the most usual grounds of this kind of prosecution. The power of the delinquents, and the peculiar political nature of their crimes, pointing out this mode of proceeding as best calculated to answer the purposes of justice." History supports the position of these elementary writers. The Duke of Suffolk was impeached for neglect of duty as an Ambassador; the Earl of Bristol, that he gave counsel against a war with Spain, whose King had affronted the English nation; the Duke of Buckingham, that he, being Admiral, neglected the safeguard of the sea; Michael de la Pole, that he, being Chancellor, acted contrary to his duty; the Duke of Buckingham, for having a plurality of offices; and he whom the poet calls the greatest, brightest, meanest, of mankind, for bribery in his office of Lord Chancellor; the Lord Finch, for unlawful methods of enlarging the forest, in his office of assistant to the justices in Eyre; the Earl of Oxford for selling goods, to his own use, captured by him as Admiral, without accounting for a tenth to others. My argument is, that what in England is said to be the most proper, and has been the most usual, in this particular, is, by the Constitution of the United States, the exclusive ground of proceeding by impeachment; at least, that none but civil officers of the United States are liable to be thus proceeded against. I do not say, that it is equally clear that the power is limited also to malconduct in office.

Allow me here to notice an objection made by the honorable Managers, which has been much relied upon, and which, as it apears to me, is easily obviated. It has been said, the 4th section of the 2d article is only affirmative. I answer, so are all the powers of Congress, Legislative, Executive, or Judiciary. Congress has power, in the 8th section of the 1st article, to lay and collect taxes, to borrow money, &c. &c. There are no negative words except when applied to the States. From the nature of the compact, as well as by the 12th section of the Amendments of the Constitution, already noticed, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. I find by the Constitution, that civil officers are amenable to justice by impeachment, and I do not find that any other citizens are, and I therefore confidently presume that this will be the boundary by which this honorable Court will limit its proceedings. Whatever offences Mr. Blount may have committed, or is said to have committed, it is not expedient to break down the barriers of the Constitution in order to reach him. From all the preceding considerations I infer, that the power of proceeding by impeachment under the Constitution, extends only to the civil officers of the United States.

In the third place, who are the *objects* of this power of impeachment? Or, in other words, are Senators *civil officers* of the United States?

Ideas derived from English jurisprudence are ingrafted into all our Constitutions. Hence the propriety of reasoning by analogy from the books of the law. Thus far I agree with the honorable Chairman of the Managers. In Great Britain, says Mr. Justice Blackstone, in his Commentaries, vol. i. p. 271, 272, the King is the fountain of honour, of *office*, and of privilege. What is the definition of an office? It is thus defined, 2d *Black. Com.* p. 36; "a right to exercise a public or private employment, and to take the fees and emoluments thereunto belonging:" a definition much more accurate, I conceive, than that given by the honorable Chairman of the Managers.

If an officer is excluded from office, he may have a mandamus for admission or restoration. Will these remedies apply to a Senator? A writ of quo warranto, or an information in nature thereof, will lie against him who claims or usurps any office, to inquire by what authority he supports his claim? May it issue against a Senator? Will or will not the same particulars distinguish an officer of the United States? I mean the mode of appointment, the means to obtain admission or restoration, and the manner in which he may be called upon to show how he supports his claim to the office he exercises. No; it will be said, expulsion, and the power of the Senate to judge of the elections of their members, render such proceedings unnecessary. True, that is, the Senator is to be removed, corrected, or restored, by methods adapted to the member of the Legislative body, not to the officers of Executive appointment. The President is as much the parent of office here, as the King is in England. The second clause of the 2d section of the 2d article declares, "that the President shall have power, by and with the advice and consent of the Senate, to appoint Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for." The expression is not, that the President shall appoint all officers holding *under* the United States, but all officers *of* the United States. The exception is immediately explained, and does not affect the present question. "But Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the Heads of Departments." It follows in the next section, the third of article second, "that the President shall commission all the officers of the United States." I infer that none are within the expression of civil officers of the United States, unless so appointed and so commissioned.

Here is the text and its comment. To be an officer of the Government, you must receive a commission from the Executive of that Government. The Constitution proceeds without the intervention of a single line, after declaring that the President shall commission all the officers of the United States. As if so to connect the two circumstances, that it should not escape notice, it selects out the President, Vice President, and one class of those who are to be commissioned, to wit, the civil officers, and subjects them to impeachment and its consequences.

Where then is the distinction suggested by the honorable Chairman of the Managers, between those who hold *under*, and those who hold *of* the United States?

It is objected that the President is surely an important officer of the United States, and yet not commissioned, and therefore, that our definition is not accurate. To this we answer, that the President in the Constitution is always designated by the appropriate term of office, and never included under the expression of officer of the United States, or any generic term.

Now is it possible to darken what is thus clear, obscure what is thus plain, and render doubtful what is thus exempt from all ambiguity? Three characteristics distinguish the objects of impeachment (besides President and Vice President, who are specially designated, instead of being included under any general denomination;) 1st. They are appointed by the President, with the advice of the Senate. 2d. They are commissioned by the President. 3d. They are civil, in contradistinction to military officers.

Verbal criticism laid aside, let us attend to the spirit and meaning, the scope and design of the Constitution, in this particular. In the 5th section of the 1st article, the purity of the Legislature had been provided for, by giving to each House a power to punish and expel its members. Impeachment is afterwards introduced for the Executive, and its officers.

Who is the Senator? How appointed? To whom ought he to be amenable? Does he fall within the former, or the latter class? And which of those provisions is most applicable to him?

They are appointed by the State Legislatures—each has one vote—they are the representatives of the portion of sovereignty remaining in the individual States—they are sent as guardians to preserve the remaining limited sovereignty of the States. Do the reasons which show the propriety of rendering the Executive and its officers liable to impeachment, apply to these characters? Official neglect may be a pretence, Legislative firmness the real cause of offence. Firmness in the discharge of his duty might subject a Senator to impeachment. It is a power of ostracism in the hands of the most numerous branch, already sufficiently powerful, which would enable them to remove from his seat any member of the Senate who dares oppose their favorite measures.

As a further indication how little analogy there is between the character of a Senator, and that of an officer of the Executive of the United States, let it be recollected, that if a Senator resigns, or dies, in the recess of the State Legislature, the Executive of the State, not of the Unied States, supplies the vacancy. The small State of Delaware has the same number of Senators as the large State of Massachusetts. Why? Because the Senators are the representatives of sovereignty. Refine as we please, this proceeding aims at the Legislative character of the Senator. The impeachment destroys his influence as such. Common fame is a sufficient foundation for this mode of proceeding; its immediate effect, let the opinion of the House of Representatives determine, who, on this occasion, even before the articles were presented or prepared, requested that the accused, merely on an intimation from them that they had resolved to impeach him, might be suspended from his seat in this House.

The Senator has a Judiciary and Executive as well as Legislative character, we are told; and, in the old quaint law Latin, *quo ad hoc*, he is *quasi*, an officer of the United States. Can you remove him in that or those capacity or capacities? How will the judgment be rendered? The civil officers contemplated by the Constitution, by necessary implications in the articles and sections so often read to this purpose, were those who had received their appointment from the President and Senate, commissioned by the President. If the Senator is in any respect a civil officer, he must, in the same respect, be thus appointed and thus commissioned, or he is not comprehended under the Constitutional definition of a civil officer of the Government of the United States. Is the Senator, in his Judicial and Executive character, appointed by the President and Senate, and commissioned by the President? Or does his Judicial and Executive character also emanate from the same

source as his Legislative, to wit, from the States? A member of the House of Lords, no writer, no speaker ever denominated an officer of the Crown or Government. Compare the Judiciary powers of a member of the House of Lords with those of the Senators of the United States. Here, a rare instance, of perhaps half a century, an impeachment. In England, the House of Lords is the dernier resort for the ultimate decision of every *civil action*. Then certainly it is not the Judicial part of the Senatorial character that denominates them civil officers of the United States.

It remains to consider their power in appointment to office. They can only advise and *consent*. They cannot either appoint or execute. Is this any incident of a civil office? Being appointed is; but not appointing, except the first Civil Magistrate. The civil officer is the patient, not the agent of appointment. The President, indeed, is not *appointed;* but, as I said before, he is not comprehended under the generic term of civil officer; but specifically described by the term of his *office*, as is the *Vice President*.

If the Senator rarely judges, and sometimes appoints, but generally legislates, in the Constitution, as in laws and common language, does the general nature of the character give the determination, or the incidental?

The President is the Executive of the United States; but does he not take a part in legislating? He has *a qualified negative upon every law;* and yet *all* Legislative power is vested in a Congress of Senate and House of Representatives.

If the Senator is liable to be proceeded against by impeachment, because he acts as a Judge sometimes, or joins the Executive in appointments, the reason of the law shows its extent, and *cessante ratione legis cesset et ipsa lex*. He is liable to impeachment only for what he did in the Judicial or Executive part of his character, then he would be prosecuted in one character, disgraced and punished in another.

There is not any charge in the articles against the defendant for malconduct, with peculiar reference to the exercise of his Judicial or Executive Senatorial character. If it be said, that his being a civil officer of the United States in two respects, renders him an object of impeachment for any crime and misdemeanor, then you include offences in his Legislative character, confound all the distinctions in the Constitution, destroy the independence of the Senate; and the most numerous branch, like *Aaron's* serpent, swallows up the whole. To obviate this objection, should any one say that his conduct as a legislator is exempt from this course of proceeding—I say no, unless that, as civil officers only may be impeached, it implies for malconduct in office, or that the Senator is not a civil officer of the United States. I defy ingenuity to suggest any but one of these two reasons, or make a third distinction. The 6th section of the 1st article declares, "that for any speech or debate in the Senate, the Senator cannot be questioned elsewhere;" but suppose that he is guilty by act, takes a bribe to vote for a law or against a law, if he is a civil officer of the United States, there is not anything to prevent his being liable to impeachment as any other civil officer; and if as to others, it is not confined to malpractice in office, but includes every crime and misdemeanor, so will it as to him also. It is asked, shall a Senator escape punishment? Must the Senate associate with an unworthy member? I answer, the Constitution has provided that the offender may be prosecuted by indictment, he may be expelled; after which, it is not very probable, that he will be appointed to an office of the United States, with the advice and consent of the Senate. If William Blount, however, is convicted, may he not be returned a Senator again? I mean to ask, will the judgment on conviction disqualify? The Senate, it will be said, can expel him again. Be it so; but, until expulsion, is he not a Senator, at least in his Legislative capacity? Can he be so by parts? Does not this show that a Senator is not an officer of the United States, nor an object of the proceeding by impeachment? Would a judgment on conviction remove him as a Senator? Would it be a disqualification, as to part of his character, and not as to another part? Such subtle refinements, opprobrious niceties and inconsistencies result from classing Senators under a denomination not intended by the Constitution.

Senators and members of the House of Representatives have one set of words appropriated to them in the Constitution—civil officers, other terms. As thus, *office, appointment, commission, removal; Senator, or one* of the House of Representatives, *member, election, expulsion, seat vacated.*

What interpretation shall we give to the 6th section of the 4th article? "No person holding any office under the United States, shall be a member of either House, during his continuance in office;" and yet a Senator is, *ipso facto*, it is said, an officer of the United States. Identity is incompatibility. The exception of a Senator is implied, say the honorable Managers; but how do they show it? Is not this section to be understood as importing that the character of a member of either House, and that of an officer of the United States, are, by the Constitution, distinct and incompatible. The distinction is observed throughout. Can the Clerk of this House, or the Clerk of the other House, be proceeded against by impeachment? I conceive not; because they are not appointed nor commissioned by the United States Government, or by the Executive thereof, but by the respective Houses. I believe that not an instance can be found in the Constitution of the United States, in which a Senator is classed under the denomination of an officer, or civil officer of the United States.

Some observation was made on the 9th section of the 1st article of the Constitution of the United States, "that no person holding any office of profit or trust under the United States, should, without the consent of Congress, accept of any present from any King, Prince, or foreign State." Might a Senator, one in so important a public situation, accept of a present from a foreign State? No, I answer. The power of expulsion is a sufficient check. The impropriety of the measure would

be a sufficient guard. The laws, in consonance with the Constitution of the United States, distinguish between the members of the Legislature and the officers of the United States, and also of the several States.

In the first volume of the laws of the United States, p. 18, sec. 3, it is provided "that all members of the State Legislatures, and the Executive and Judicial officers of the several States, shall take an oath to support the Constitution;" and by section 2, it is provided "that the members of the Senate and House of Representatives," and by section 4, "that all officers of the United States shall take the same oath, distinguishing between the members of either House and the officers of the United States." In the Constitution of the State of Pennsylvania, of New York, of Massachusetts, and of New Hampshire, the same distinction of language is observed. The distinction is equally familiar in the English law. In the 1st vol. of *Blackstone's Commentaries*, p. 368, it is said "that the oath of allegiance must be taken by *all persons* in any *office*, trust, or employment;" yet members of either House are not considered as included. In p. 374 of the same volume, it is declared "that no denizen can be of the Privy Council, or either House of Parliament, or have any *office* of trust, civil or military." Such, I believe, has been the universal understanding of the expressions, until the present prosecution.

It is a rule of construction, that when a law is only doubtful, arguments *ab inconvenienti* are most powerful. The rule will apply, with equal propriety, to the construction of a Constitution. If the most numerous branch, already, I repeat it, sufficiently formidable, may proceed by impeachment against a Senator—at their will, doom to temporary disgrace any member—this would form an engine of immense additional weight in their hands. I know that it is not always an objection against entrusting power that it may be abused; but, when it is unnecessary to make the trust, and the danger great, the risk ought not to be incurred.

It is among the less objections of the cause, that the defendant is now out of office, not by resignation. I certainly shall never contend that an officer may first commit an offence, and afterwards avoid punishment by resigning his office; but the defendant has been expelled. Can he be removed at one trial, and disqualified at another, for the same offence? Is it not the form, rather than the substance of a trial? Do the Senate come, as Lord Mansfield says a jury ought, like blank paper, without a previous impression upon their minds? Would not error in the first sentence naturally be productive of error in the second instance? Is there not reason to apprehend the strong bias of a former decision would be apt to prevent the influence of any new lights brought forward upon a second trial?

I know I am endeavoring to support what in all courts is generally unpalatable doctrine. I am speaking for a decision against the exercise of jurisdiction requested by the honorable Managers. Waters, however, says Lord Coke, which overflow their limits, are apt to lose their channel, *est boni judicis ampliare justitiam non jurisdictionem.* I thank you for the patient attention with which I have been heard. I hope and believe that your deliberations will end in a proper decision of this most important question. I conclude in the dying words of the famous Father Paul to his country, as quoted by Mr. Justice Blackstone, and which he has, I conceive, with less propriety, applied to the Constitution of Great Britain: I say of the Constitution of the United States, in its true sense and genuine exposition, *Esto perpetua!*

Mr. Ingersoll having closed his observations, Mr. Harper replied as follows:

And I, too, Mr. President, say of the Constitution of the United States, *Esto perpetua!* In this prayer I most devoutly join the honorable counsel for the defendant; nor will I yield to that honorable gentleman, or any other of America's sons, in the warmth or the sincerity of my wishes for the perpetual duration of our free and happy Constitution.

But the question between us does not relate to the duration of the Constitution, which we all equally desire, but to its construction, about which doubts may well exist among its sincerest friends. To fix this construction in the case now under consideration, will, therefore, be the sole object of those remarks, which, as one of the Managers of the impeachment against William Blount, I shall address to this honorable body. To this object I shall strictly confine myself; leaving in the fields of rhetorical embellishment, to which they properly belong, all the other topics whereon the learned counsel for the defendant have so eloquently descanted.

The arguments urged against the jurisdiction of the Senate, in this case, naturally divide themselves under two heads: first, that no person except an officer of the Government of the United States is liable to impeachment under the Constitution; secondly, that, according to the force and true meaning of the Constitution, a member of the Senate is not such an officer. It was in this order that my learned colleague considered the subject. On the first point nothing can be added by me to the very able and conclusive argument which he delivered; nor shall I attempt anything more than merely to remove the principal objections which were urged by the learned counsel in reply; but, on the second, which was more lightly touched by him, I shall insist at greater length.

My honorable colleague, under the first head, contended that the power of impeachment being given by the Constitution to the Senate and House of Representatives, without restriction or explanation, its nature, its objects, and its extent, must be sought for in the common law of England, from whence it is derived. This principle was warmly combated by the learned counsel for the defendant who replied to him, but who did not condescend to inform us to what source we are to resort for the explanation of the term "impeachment," after we shall have rejected, pursuant to his advice, what he is pleased to term "the dark and barbarous volumes of the common law."

What, he exclaims, shall we, in order to decide on questions respecting our dearest rights, have recourse to the "dark and barbarous volumes of the common law!" This, Mr. President, reminds me of the "worm-eaten volumes" of the law of nations, about which we formerly heard so much in our dispute with the French Republic. The former Minister of that nation, when he found himself hard pressed by the authorities from the law of nations, which the American Secretary of State very ably adduced against him, had recourse to the same ingenious expedient whereto the learned counsel for the defendant, in similar circumstances, has resorted. He denied the authority of Grotius, Puffendorf, and Vattel, and called their works "worm-eaten volumes," whose contents, he thanked God, that he had long since forgotten.* With equal prudence and dexterity, the ingenious counsel for the defendant, hard pressed by the authorities adduced from the common law, and unable to answer or evade them, gets rid of them at once, by a *coup-de-main à la Genet*, and consigns them to oblivion, as "dark and barbarous volumes," unworthy of the light of the new philosophy; which, in law, it seems, as well as in politics and morals, can dispense with the aids of long experience, soars above the wisdom of all former ages, and, in the mouths of its new-fledged votaries, is all-sufficient, by its own light, to regulate not only our civil institutions and our moral conduct, but also the laws which protect our property, our lives, and our reputation. The "dark and barbarous volumes of the common law," which have been the boast of ages, and in which our simple ancestors thought that they could find the maxims of truth, discovered by reflection, and confirmed by experience, are now, according to the learned counsel for the defendant, to be banished, along with the "worm-eaten volumes" of the law of nations, into the regions of mere antiquarian curiosity, or of total oblivion. And yet, Mr. President, our courts and juries do not seem to be yet illumined by this new light; for to these "dark and barbarous volumes" do they perpetually recur on questions of the highest importance. If a man be indicted for murder, and a question arise whether the matter alleged in the indictment amount to the crime of murder, whither does the court resort for a decision on this question? I answer, to the "dark and barbarous ages of the common law." If the indictment be sufficient, and it become a question whether the facts proved are sufficient to support the indictment, whither, I ask, is recourse had for a decision on this point? Again, I answer, to the "dark and barbarous volumes of the common law." If the testimony, offered in support of the indictment, be objected to as improper, how is this question decided? By a recurrence to those same "dark and barbarous" volumes. If a man, being defamed by his neighbor, bring an action for damages, and it be objected that the words spoken are not sufficient to support an action of slander, how is this question decided? I answer, by recourse to the "dark and barbarous volumes of the common law."

Do these volumes, which have so unfortunately incurred the displeasure of the learned counsel for the defendant, possess less influence upon our property than upon our life and reputation? By no means; for should a man claim an estate by inheritance from his ancestors, or by the will of a person deceased, and a question were to arise respecting the legal effect of the words made use of in the will, or the circumstances necessary to constitute a descent in law, by what standard would the decision be regulated? By the rules, I answer, which are contained in the "dark and barbarous volumes of the common law." Should I bring my action of trover for the recovery of any part of my personal property, whereof another person had obtained possession? By what authority should I support my action? By what rules would the recovery be governed? Still, I answer, by the "dark and barbarous volumes of the common law."

It appears, indeed, that our Legislatures are as destitute as our courts and juries, of that new light which might enable them, like the learned counsel for the defendant, to dispense with the "dark and barbarous volumes of the common law;" for they perpetually refer to those volumes for the explanations of the most important terms used in their Legislative acts. Suppose, for instance, that the Legislature of any State should pass an act providing that any person *convicted* of such or such an offence, should suffer the punishment of *felony*, without *benefit of clergy*. Similar acts are frequent. Would the Legislature, in this case, explain, in the act, itself, what is meant by the terms *conviction*, *felony*, and *benefit of clergy*? Certainly not. For the explanation of those terms, which constitute the very essence of the act, recourse would be had to the "dark and barbarous volumes of the common law." So, if it were to be enacted, that lands held in fee simple, should no longer pass by descent to the heir at law alone, but should be equally divided among all the heirs of the whole blood, in equal degree, there would be found in the act itself, no explanation of the terms *fee simple*, *descent*, *heir at law*, heirs of the *whole blood*, *&c.*, but recourse must be had for their meaning to the "dark and barbarous volumes" which are so unsightly in the eyes of the learned counsel for the defendant.

I should never conclude, Mr. President, were I to enumerate all the instances of this kind which might be drawn from our systems of jurisprudence and our Legislative proceedings. Every day and every hour do our courts of justice found their decisions, and our Legislators rest the explanation, of their acts on those "dark and barbarous volumes" of the common law, for attempting to draw from which an explanation of the nature and extent of the power of "impeachment," my learned colleague has incurred the censure of the honorable counsel for the defendant.

But if my colleague were not thus supported by the universal practice of our Legislative bodies, and our courts of justice, in his recurrence to the common law for an explanation of a term derived solely from that law, what could be more reasonable in itself than such a recurrence? Is it not common, is it not necessary, in every day's practice, to use terms drawn from particular arts or sciences? And when doubts arise about the meaning of these terms, to what do we resort for their explanation? Surely to the art or science from whence they were borrowed. Let us take chemistry for an example. Suppose it were enacted by a law that men should not profess chemistry, or should not perform certain operations in chemistry, without a previous license from the Government; and a question were to arise before a court of justice about the meaning of the term "chemistry," or of the terms employed in describing those particular operations; on what authority would this explanation, the decision of this question, be rested? Surely on the approved books of chemistry; on the writings of those authors who have obtained the greatest reputation in this science—of Lavoisier and Priestley, for instance. I trust the learned counsel for the defendant would not stigmatize the writings of these illustrious chemists, of these new lights in science, as "dark and barbarous volumes." To me, they would be "dark," for I do not understand the subject whereof they treat, but I should never pronounce them "barbarous." On the contrary, I should submit implicitly to their authority, according to the maxim which, in my unenlightened opinion, is not the worse for being old: *cuique sua arte credendum*. Not so the learned counsel for the defendant. To him the volumes of the common law are not "dark;" and yet, after having so successfully employed himself in extracting their rich treasures, he, rather ungratefully, I must say, consigns them over to worms and oblivion, with the epithet of "barbarous."

The learned counsel who first replied to my colleague took great pains, and displayed much ability, to show the pernicious and absurd consequences which would result from adopting the penal common law of England, or the penal code of any State, as a rule of conduct for the Federal Government. But this was merely fighting a phantom; for my colleague contended for no such thing, nor is it in the least necessary for our purpose. We do not wish the Federal Government to adopt the penal laws of England, or of any particular State in the Union; but we contend that when a term, borrowed from the law of England, is introduced without comment or explanation into our Constitution or our statutes, every question respecting the meaning of that term must be decided by a reference to the code from whence it was drawn; in the same manner as a term in chemistry, or any other science, being introduced into one of our statutes or Constitutions, must be explained by a reference to the writers on that science. Surely this is a different thing from adopting the penal code of England, or of any particular State, as a rule of conduct for the Federal Government.

If, therefore, it be proper and necessary to recur to every art and science for the explanation of terms which have been borrowed from it, where shall we search, but in the common law of England, for the nature and extent of the "power of impeachment," which our Constitution has borrowed from that law? It is answered that we must recur to the Constitution itself. This, Mr. President, I would most readily admit—nay, most earnestly contend for—did the Constitution contain any explanation on this subject. But is that the case? Let the Constitution answer.

In the last clause of the 2d section of the 1st article, the Constitution declares that "the House of Representatives shall have the sole power of impeachment."

1. The two last clauses of the 3d section of the 1st article declare that "the Senate shall have the sole power to try all impeachments;" that, "when sitting for that purpose, they shall be on oath or affirmation." That "when the President of the United States is tried, the Chief Justice shall preside." That "no person shall be convicted without the concurrence of two-thirds of the members present." That "judgment, in cases of conviction, shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust, under the United States." And that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law."

And, finally, the 4th section of the 2d article provides that "the President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

This is every word that that the Constitution contains on the subject of impeachment.

In these clauses there are provisions for three distinct objects, and, as it appears manifest to me, for nothing more. First, by whom impeachments shall be preferred; secondly, by whom and in what manner they shall be tried; and, thirdly, what shall be the punishment, in case of conviction. The power of punishment, indeed, is restricted. In no case shall it go beyond removal from office and disqualification; and in the case of the President, Vice President, and all civil officers, it shall not stop short of removal. But as to the persons who shall be impeached besides the President, Vice President, and civil officers; or as to the offences for which they may be impeached, not a word is to be found in the Constitution. The sole power of impeachment, in all its latitude, and with all its properties and incidents, is given to the House of Representatives.

Where, then, Mr. President, are we to look for these properties and incidents? Where shall we find the measure of this latitude? Not in the Constitution, surely, which says not one word on the subject; but in the common law of England, from whence the Constitution borrowed the term "impeachment," as it did so many other terms, without explanation or restriction.

It cannot, then, I apprehend, be doubted that the term "impeachment" in our Constitution has, and was intended by the framers of the Constitution to have, precisely the same meaning, force, and

* See the correspondence in 1793, between Mr. Jefferson and Mr. Genet.

extent, as in the English law. And it being perfectly clear that in the English law the power of impeachment is unlimited, and extends to every person and to every offence, it follows, undeniably, that the positions of my learned colleague remain unshaken, and that the defendant, in the present case, is liable to impeachment for the offences charged against him by the House of Representatives.

The learned counsel who first replied to my colleague has, indeed, denied that the power of impeachment is unlimited in the English law. According to him, it is restricted, by what he calls "the policy of impeachments," to mere official offences, committed by people in office. It is somewhat singular that the author cited, in support of this doctrine, (*Woodeson*, pp. 596, 601,) flatly and expressly contradicts the doctrine. After explain- the circumstances from which, in his opinion, the practice of impeachments in England first arose, he goes on to state what the law on that subject actually was, at the time when he wrote, a very few years ago. "All the King's subjects, (says *Woodeson*, p. 601) are impeachable in Parliament; but with this distinction, that a Peer may be so accused before his Peers, of any crime; a Commoner (though perhaps it was formerly otherwise) can now be charged with misdemeanors only, not with any capital offence." I confess I cannot understand how it is to be inferred, from this authority, that the power of impeachment in England is restricted to official characters and official offences. To me it appears that the very contrary is expressly established. As to the position that all the instances specified by *Woodeson* are of an official nature, I cannot contradict it; but surely the learned counsel must have forgotten the case of Dr. Sacheverel, impeached for preaching an improper sermon, before he asserted that no impeachments, except of persons in office, and for official offences, are to be found in the English books.

As to the principles of the Federal Government, and the general policy of impeachment, whereby the learned counsel for the defendant have informed us that the power of impeachment under our Constitution ought to be restricted, I confess, Mr. President, that I do not perceive the force of such arguments in a question of this kind. Our business is to ascertain the meaning of the Constitution, and not to discuss the policy of its various provisions; to inquire what the law of impeachments is, not what, according to its policy and its uses, it ought to be. Such arguments would have been very proper in the Convention which framed the Constitution, or in any of those by which it was ratified, but are wholly inapplicable in a court of justice, whose business it is to expound the law, not to judge of its policy or impolicy. Nor can I conceive how the universal extent of the power of impeachment, contended for by my honorable colleague, is contrary to the spirit, the objects, or the policy, either of the law of impeachment, or of the Federal Constitution. The use of the law of impeachment is to punish, and thereby prevent, offences which are of such a nature as to to endanger the safety or injure the interests of the United States; and the object of the Federal Constitution was to provide for that safety and to protect those interests. Such offences may be committed, as well by persons out of office as by persons in office; and although the punishment can go no further than removal and disqualification, which restriction was, perhaps, wisely introduced in order to prevent those abuses of the power of impeachment which had taken place in another country, yet it may often be extremely important to prevent such offenders from getting into office, as well as to remove them when they are in; and it is, therefore, as consistent with the policy of impeachments, and the principles of the Federal compact, to punish them in the one case as in the other. This doctrine, it is further said, would enable Congress to interfere with the State Governments, by impeaching their officers. But those impeachments must be founded on offences against the United States; and if such offences were committed by State officers, I cannot see why they ought not to be punished, as well as in any other case. Surely they would not be less dangerous. If the convictions in such impeachments could remove men from State offices, or disqualify them for holding such offices, there might be something in the objection; but that could not be the case, since the removal and disqualification apply to offices under the General Government alone.

The learned counsel for the defendant have adduced many of the State Constitutions, to show that the States have, in their own Constitutions, restricted the power of impeachment to official persons and official offences; from whence, according to them, it ought to be inferred that the States, in ratifying the Federal Constitution, intended that the power of impeachment which it contains, should be restricted in the same manner. But, Mr. President, I cannot discern how this inference is warranted. The very contrary, I should suppose, ought to be inferred. It must be remembered that in the State Constitutions the power is expressly limited; and that terms are employed very different from those to be found in the Federal Constitution. This proves that where the States intended to limit the power, as in their own Constitutions, they employed express words for that purpose: from whence it may, surely, be inferred that when they took the Federal Constitution, without any such express words, they intended to take the power of impeachment alone with it, without any such limitation. It must also be remarked, that the Convention which framed the Federal Constitution was composed of members from each State, who must have understood their own State Constitutions, and the limitations on this subject, which they contain. Had they intended to limit the power of impeachment in a similar manner, they would no doubt have done it by express words, as in their respective State Constitutions.

But the learned counsel for the defendant have told us that the power of impeachment is limited in the Constitution itself, by the restriction which it imposes on the power of punishment. The power of punishment on conviction by impeachment, is restricted, say they, to "removal from *office*, and disqualification to hold or enjoy any *office* of honor, trust or profit, under the United States;" and it would be absurd to impeach, try, and convict a man, who held no *office* from which he could be removed, and could, of consequence, be no otherwise affected than by a disqualification to hold, in future, offices which he, perhaps, never had a prospect of obtaining. Of this absurdity the Constitution cannot be supposed to be guilty; and therefore it could not have intended to subject to the power of impeachment any persons except those who actually hold offices, and may be punished by removal.

But where, Mr. President, did the honorable counsel for the defendant learn that disqualification to hold any office of trust, honor, or profit, under the Government of our country, is no punishment? Would either of those honorable gentlemen think it no punishment in his own case? There are, no doubt, many men indifferent as to offices of profit, and not ambitious of those of honor or trust. But to be held up to our fellow-citizens as a person unworthy of trust, undeserving of honor; to be stigmatized by a solemn sentence of the law, pronounced by the highest and most awful judicature known to the Constitution; to be excluded, by the voice of our country, from all hope of participating in those rights, privileges, and advantages, which are open to our fellow-citizens; to be disowned by our common mother, as degenerate and unnatural sons, unworthy of her confidence; to be deprived, not only of her kindness and her favors, but even of the right which a good citizen holds dearest of all, the right of devoting ourselves to her service, of defending her in the hour of danger and distress. Are these not punishments? I know not where the learned counsel learned that they are not; but this I know, that they did not learn it in their own hearts. Yes, Mr. President, a sentence of disqualification, pronounced by this honorable body, in the face of the whole American nation, and on a charge of high crimes and misdemeanors by the Representatives of the American people, is a punishment; and as this punishment is applicable to persons who are not officers as well as to those who are, it follows that the power of impeachment, if its extent be measured by that of the power of punishment, is applicable to all persons, whether officers or not.

But admitting, Mr. President, that the power of impeachment is restricted by the Constitution to *officers* of the Government of the United States; still, I contend that a Senator of the United States, a member of this honorable body, is an *officer* of the Government, in the Constitutional meaning of the word, and consequently liable to impeachment, on the doctrine of the learned counsel themselves.

The learned counsel have, indeed, contended, by their plea, and in their arguments, that none but *civil* officers are liable to impeachment by the Constitution; but in this they are plainly contradicted by the Constitution itself. They found their argument on that clause which provides "that the President, Vice President, and all *civil* officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." But this clause is, evidently, not restrictive, but imperative. It does not point out what persons, or what officers, shall be liable to impeachment; but expressly orders, that such and such officers, when convicted on impeachment, shall be punished to the extent, at least, of removal from office. The former clause had declared, that "judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust, or profit, under the United States;" leaving the Senate to apportion the punishment, according to its discretion, within those limits. They might censure the person convicted, suspend him for a limited time, or disqualify him perpetually for certain offices, or for all offices during a certain period. But beyond absolute removal, and perpetual disqualification for all offices, they could not go. This was fixed as the utmost limit of their power, and of their discretion.

It was judged, however, that in case of the President, Vice President, or any *civil* officer, the punishment ought not to be less than removal; though it might be more, according to circumstances. This provision was, therefore, inserted. Its object, manifestly, is, not to designate the persons who shall be liable to impeachment, but to prevent the Senate, in the exercise of their discretion, from retaining in a civil office, a person convicted of "treason, bribery, or other high crimes and misdemeanors." As to the distinction here made between *civil* officers, and other officers, there is no need to examine or defend it. It may, however, be supposed to have arisen from an opinion, certainly well founded, that, under certain circumstances, there might be danger, or great inconvenience, in removing from his command, a *military* officer, whom, nevertheless, it might be very proper to censure or suspend, or even to disqualify for some particular offices. As to military officers, therefore, a complete discretion was left to the Senate; but not in the case of civil officers, to whom the same reasons could not apply. They, on conviction, *must* be removed. Military officers *may* be removed, or not, according to circumstances.

The honorable counsel for the defendant, who immediately preceded me, viewed this provision in a very different light. He discussed it at considerable length, and made it the principal groundwork of his argument. According to him, it is not to be considered as merely imperative on the Senate, and restrictive of their discretion in apportioning the punishment; but as a designation of the persons who may be impeached: because, as an injunction on the Senate, not to reduce the punishment, in the cases which it mentions, below removal from office, it would be wholly useless and superfluous; and therefore must either become nugatory, contrary to the maxim which requires an instrument to be so construed as to render

every part of it operative, or must be taken as a designation of the persons who alone are liable to impeachment. But with deference to the learning and discernment of that honorable counsel, I conceive that his opinion, on this point, is founded on a total misapprehension of the provisions respecting the punishment of impeachment. Every part of the Constitution, he says, is imperative on the Senate. If the House impeach, they must try; and if they convict, removal and disqualification must follow. Therefore, to say that, in such and such cases, they shall remove on conviction, when removal and disqualification must be the necessary consequence of conviction in every case, would be nugatory and ridiculous. But is it true, that every part of the provisions respecting punishment on conviction is imperative? Is it true, that removal and disqualification must be the necessary consequences of conviction in every case? "Judgment, in cases of impeachment, says the Constitution, shall not extend *further* than to removal from office, and disqualification to hold," &c. Does this mean that the Senate shall always punish to the extent of removal and disqualification, whatever be the nature and mitigation of the offence; or that, within the limit of removal and disqualification, they may graduate the punishment according to circumstances, but never shall exceed that limit? If the latter be, as I contend it is, the plain and necessary meaning of the provision, the whole argument of the honorable counsel falls to the ground.

"The President, Vice President, and all civil officers," says the Constitution again, "*shall* be removed from office on impeachment," &c. Is there no difference between these two passages? Is it the same thing to say that certain persons *shall* be removed on conviction, and that judgment in no case shall extend further than to removal and disqualification? Is it not manifest, that one is imperative, and the other restrictive? That one prescribes limits to the exercise of a power supposed to exist, leaving it discretionary within those limits; while the other declares that, in certain cases, it shall be exercised to a certain extent, and thus curtails the general discretion before given? To me this construction appears so obvious, that I am almost tempted to repeat the phrase, rather hastily used by the honorable counsel, and declare that a contrary construction would be perfectly ridiculous.

Had the Convention intended by this clause to restrict the power of impeachment, by designating the persons who should alone be liable to it, would they have employed expressions so awkward, so unapt, and so liable to doubt? Instead of saying, "the President, Vice President, and all civil officers, shall be removed from office on impeachment for and conviction of treason, &c.," would they not have said, "the President, Vice President, and all civil officers, *and no other persons*, shall be liable to impeachment, and on impeachment for and conviction of treason, &c., shall be removed from office? Had such been their intention, this, I conceive, would have been their language, for then their intention would have been clearly expressed.

The restriction, therefore, of the power of impeachment, is to be sought for in other parts of the Constitution, not in this clause. In what part? I answer in that which restricts the power of punishment.

"Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States." It is this clause, and this alone, that restricts the power of punishment, and that is said to restrict, by implication, the power of impeachment also. The power of punishment, it is contended, is restricted to *officers* by this clause; and it would be absurd to extend the power of impeachment beyond the power of punishment. The former, therefore, must be considered as restricted to *officers*, as well as the latter.

This reasoning has been already combatted, and, I think, entirely overthrown; but admitting it, for the present, to be perfectly well founded, let us, Mr. President, inquire how far it will aid the plea relied on by the defendant. Admitting that none but *officers* of the United States can be impeached; let us inquire whether a Senator be not an *officer* in the sense of the Constitution? This is the second great question in the cause. If I can prove that, in the true sense of the Constitution, a Senator of the United States is an *officer*, and that a seat in this honorable body is an *office* under the United States, it will follow that the defendant, in this case, is liable to impeachment, and that his plea must be overruled.

It is to be remarked, that the term "office," in that clause of the Constitution which, restricting the power of punishment, is said to restrict thereby the power of impeachment also, is used in the most general sense. The clause does not speak of a civil office, a military office, or any particular species of either; but of any "office of honor, trust, or profit," which is *genus generalissimum*, and includes every possible designation of office, of what nature or kind soever. It is, therefore, into the signification of the word "office," in its most comprehensive sense, that we are now to inquire.

In order to ascertain the meaning of a term, we may have recourse to its derivation, to its definition by writers of authority, who have had occasion to employ it, and to its established acceptation in common use. Let me be permitted, Mr. President, to try the meaning of the term "office" by these three standards. As to the derivation of this term, it is derived from the Latin word *officium*, which signifies duty, charge, or employment. As far, therefore, as its meaning can be inferred from its derivation, it must signify "a post, place, trust, or employment, which requires the performance of certain duties." Where those duties are of a public nature, the office is a public office.

It is in this sense that the term "office" is used among us. In common language, in legal proceedings, in public acts, when we speak of an "office," we mean "a post, place, or employment, which requires the performance of some duty of a public nature." These duties may be of various

kinds. They may relate to the civil Government, and then the office is a civil office. They may relate to the public defence, to the superintendence and direction of the public force; and then the office is a military office: but still it is an "office." in the general and universally received sense of the word. Where these duties relate to the civil Government they may also be of various kinds. They may appertain particularly to the enaction of the laws, which is the highest department of the civil Government, and then the office is a Legislative office. They may appertain to the execution of the laws, and then the office is an Executive office. They may appertain to the administration of justice, or the application of the laws to individuals, and then the office is a Judicial office. They may appertain to the relations between the nation and foreign nations, and then the office is a Diplomatic office. But still, in every case, it is an office, and a civil office. Wherever a man holds a place which requires from him the performance of a duty of a public nature, we call him an officer. We apply the term to a constable, or the cryer of a court, as well as to the Chief Justice of the United States; to a midshipman in the Navy, an ensign in the Army, or a weigher in the custom-house, as well as to the President of the United States. It is the official obligation to perform a public duty that constitutes the office in one case as well as in the other. There is no difference, except in the importance and nature of the duties.

I admit, indeed, Mr. President, that the application of the term to members of the Legislature is less frequent, in common language, than to persons employed in the Executive or Judicial departments; but, that it is frequently so used and so understood, I shall hereafter prove by the most authoritative examples. Its being less frequently used in that sense, is by no means an argument to show that it does not bear that sense. It is not very frequently used in application to persons employed in the diplomatic department. We do not commonly say of a foreign Minister or Consul that he is an officer; and yet there can be no doubt that the post of foreign Minister is an "office," in the strictest sense of the word. The term officer is more frequently and appropriately applied to persons holding military commissions, than any others; and yet nobody supposes, on that account, that a General in the Army is more an officer of the United States than the Secretary of State. The question is not, how the word is most frequently used, but to what extent its common and received acceptation will justify its use? There can be no doubt that, in its common and received application, it includes all persons holding posts which require the performance of some public duty. Surely a member of this honorable body holds a post which requires the performance of public duties, and those of the most important kind; for he participates in the enaction of the laws, by his share in the Legislative authority; in their execution, by his control over Executive appointments; and in the administration of justice by his power of impeachment. He, therefore, if any person, is to be considered as peculiarly an "officer under the United States."

He is even a civil officer: for we have seen that "civil offices" are contradistinguished from "military offices" by the nature of their duties; being "those posts which require the performance of some duty, of a public nature, relating to the civil Government." They constitute one general division of offices; and include, as subdivisions, offices Legislative, Executive, Judicial, and Diplomatic; all of which require the performance of duties relating to the civil Government. Hence it appears, that the argument of the learned counsel, who immediately preceded me, would avail him nothing, even were it well founded. He contends that the clause declaring that "the President, Vice President, and all civil officers of the United States, shall be removed on impeachment, &c.," is restrictive of the power of impeachment; and that, consequently, none but civil officers can be impeached. Be it so: but still the plea cannot be supported, for a Senator is a civil officer.

These elucidations also furnish us with a reason for the distinction made, in the clause relied on by the learned counsel, between the President, Vice President, and civil officers. Upon the construction of the learned counsel, this distinction would, to use his own expression, be nugatory and ridiculous; for, according to him, the term "civil officer" includes the President and Vice President: upon our construction, it is operative and necessary; for we contend, and I think have proved, that it is the relation of the duties to particular departments of public business, that produces, and defines, the division of offices into civil and military; and of civil offices, into Legislative, Executive, Judicial, and Diplomatic. Now as the duties of the President are not confined to the civil or military department, but comprise both, it follows, that his office is neither exclusively civil, nor exclusively military, but includes both characters; so that he would not have been included in the designation "civil officer," and it was necessary to name him expressly, which is accordingly done. The same reasoning applies to the Vice President, who is also expressly named.

I would not, however, be understood, Mr. President, to rely solely on this division of "offices" into civil and military; and of "civil offices" into Legislative, Executive, Judicial and Diplomatic. I think it perfectly well founded. It satisfies my mind; but it is not essential to the argument. Whether a Senator be a civil officer, or not, is immaterial. To prove him an officer is sufficient for my purpose. For the only clause in the Constitution, which can, with any appearance of reason, be said to restrict the power of impeachment, speaks not of "civil offices," but of "offices" in general, of all "offices of honor, trust, or profit." That a seat in this honorable body, is an office of honor and trust, cannot, I think, be denied by any who consider the nature of the post, and the derivation, force, and universally received signification of the term "office." It is even an office of "profit;" for however inadequate the sum allowed for the maintenance of the members may be, yet

every public post, which entitles to receive a compensation, great or small, from the public, is considered, in the proper legal sense, as an office of "profit."

The manner in which the term "office" is used by legal writers, and their formal definitions of it, support the interpretation which I have drawn from its received and common acceptation. Without going into a detail on this point, which might be tedious, let it suffice, Mr. President, to refer to Blackstone, who has been justly relied on by the learned counsel for the defendant, as a standard authority on subjects of this kind. Speaking of "offices," in the second volume of his Commentaries, page 36, as cited by the learned counsel who preceded me, that great writer lays it down, that "offices are a right to exercise a public or private employment, and to take the fees and emoluments thereunto belonging." Now let me ask, is not a seat in this honorable body "a public employment?" Has not the member "a right to exercise this employment," and to receive the emoluments thereunto belonging?" Surely, to answer in the negative, would be a strange abuse of language.

The learned counsel who immediately preceded me, has contended that a Senator cannot be considered as an "officer," because there could be no quo warranto to remove him from his place, if he held it improperly, nor mandamus to place him in it, if unjustly kept out. But surely this cannot be a well founded argument, for, if it be, it applies as well to the President, the Judges, the Secretaries, and the Commander-in-Chief of the Army, as to a Senator. Not one of them could be removed by quo warranto or replaced by mandamus. Did any one ever hear of a quo warranto to remove a Colonel of a regiment? Was a quo warranto ever brought in England against the Chancellor of the Exchequer, or a Secretary of State, or a Lord of the Admiralty? Certainly not, and yet that these are officers, will not be denied. The truth is, Mr. President, that the doctrine of quo warranto and mandamus, as far as it relates to officers, is confined exclusively to certain local municipal officers, of a subordinate nature, who are placed, by the common law of England, under the superintendence of the Supreme Court of Justice; to which, from the nature of their offices, recourse could most conveniently and effectually be had, for their punishment, their removal, or their reinstatement. But this reason did not extend to the great officers of the State, of the Army, or the Navy, or to any of their subordinates. They could best be punished, removed, and replaced; in a different manner, and by a different authority. To them, therefore, nobody ever dreamt of extending the power of the Supreme Courts by quo warranto and mandamus; and yet nobody ever, on this account, thought of denying that they were "officers," which, however, would be just as reasonable as to contend that a Senator of the United States is not an "officer," because he cannot be removed by a quo warranto, or admitted by mandamus. I admit that it would be absurd to talk of an office from which a man could not be removed, however flagitious his conduct; or into which, when entitled to it, and improperly kept out, he had no means of obtaining admission. But a Senator may be removed by a vote of expulsion; and if duly elected, but not returned, may obtain his seat by a petition to the Senate.

I conceive, therefore, that no argument can be more destitute of foundation, than that which would divest a seat in this honorable body of the quality of an "office," because it is not within the scope of writs of mandamus and quo warranto.

If from Blackstone, Mr. President, we turn to our own laws, our own writers, and even our own Constitutions, we shall equally find that a seat in the Legislature is considered as an "office."

Let us begin with the laws of the United States. In the 3d section of the "act to regulate the time and manner of administering certain oaths," it is provided, "that all members of the several State Legislatures, and all Executive and Judicial officers of the several States, who shall be chosen or appointed before the 1st day of August next, and who shall then be *in office*, shall take the same oath or affirmation, which may be administered by any person authorized by the law of the State in which such *office* shall be held, to administer oaths." Here it is most manifest, that the expressions "shall then be in *office*," and "in which such office shall be holden," are applied to members of the State Legislatures, as well as to the Executive and Judicial officers of the several States; which not only proves, incontestably, that Congress, acting immediately under the Constitution, and making provision for carrying it into effect, considered a seat in a Legislative body, as an "office;" but also marks, in the plainest and strongest manner, the division of "offices" into Legislative, Executive, and Judicial.

The same section then goes on to provide, that "the members of the several State Legislatures, and all Executive and Judicial officers of the several States, shall, before they proceed to execute the duties of their respective *offices*, take," &c. Here the station of a member of the Legislative body is expressly called an "office," and the same distinction between officers Legislative, Executive, and Judicial, is kept up and enforced.

Not less explicit on this point are the Constitutions of the several States. When I refer to those Constitutions on this question, I refer to them as I would to the writings of Marshal Saxe or Frederick the Third, on a military question; or of Lavoisier, on a chemical question; or of Blackstone or Lord Coke, on a question of law. I refer to them as authorities for the meaning of a Constitutional term. And, surely, when a question arises about the meaning of a term used in the Constitution, we can refer for an explanation to no better authorities than the Constitutions of those States, by whose delegates the instrument was framed, and by whose Conventions it was ratified.

To begin with New Hampshire; we find in the 8th section of the Bill of Rights, prefixed to the Constitution of that State, these words: "All power residing originally in, and being derived from, the people, all the magistrates and *officers* of Government are their substitutes and agents, and at all times accountable to them." Here we see that the term "officer" is used in the general sense for which I have contended, and means any agent of the people, any delegate of public trust or authority; a description plainly including members of the Legislature.

The next section is still more express. "No office or place whatsoever, in Government, shall be hereditary;" making the word "office" synonymous with the term "place in Government."

So in the 11th section. "All elections ought to be free; and every inhabitant of the State, having the proper qualifications, has equal right to elect or be elected into *office*." This evidently includes members of the Legislature, who are therefore said to be elected into "office."

When we come to the form of Government, we find a provision under the head of "Senate," which comes expressly to the point. "The Senate shall consist of 13 members, who shall hold their *office* for one year. This requires no comment.

Under the head of oaths and subscriptions, &c., there is an expression no less conclusive. "Any person chosen Governor, Councillor, *Senator*, or *Representative*, military or civil officer, shall, before he proceeds to execute the duties of his *office*, make and subscribe the following declaration." Here it is expressly declared that a Senator or Representative holds an "office."

In the Constitution of Massachusetts the authorities are not so numerous; but there is one which is full and express to the point. It is found in the Bill of Rights, section 5th. "All power residing originally in the people, and being derived from them, the several magistrates and 'officers' of Government, vested with authority, whether *Legislative*, Executive, or Judicial, are their substitutes and agents, and are at all times accountable to them." Here we see members of the Legislature expressly included in the term "officers;" and the distinction between Legislative, Executive, and Judicial officers, clearly laid down. The 8th and 9th sections go also to the same point, though less clearly.

In the subsequent part of this Constitution, chap. 6th, art. 1st, it is provided that "any person chosen Governor, or Lieutenant Governor, Councillor, *Senator*, or *Representative*, and accepting the *trust*, shall, before he proceed to execute the duties of his *place* or *office*, take and subscribe the following declaration." Here the place or trust of a Senator or Representative is called an *office*, and the words place, trust, office, are used as synonymous, according to the definition which I have endeavored to establish. The declaration to be thus taken is equally explicit.

The article then goes on to direct that "every person chosen to either of the places or *offices* aforesaid, (the place of Governor, Lieutenant Governor, Councillor, Senator, or Representative,) shall, before he enters on the discharge of the business of his place or *office*, take and subscribe," &c.—still using "place" and "office" as synonymous, and applying them to the post of Senator and Representative.

In the Constitution of Rhode Island, which consists merely of an ancient charter, I see nothing on this subject; nor in that of Connecticut, which is also an ancient charter; but, in an account of the manner of holding elections in the latter State, I find that the writer constantly applies the term "office" to members of the Legislature; from whence we may infer that it is so understood in that State.

In the Constitution of New York, sec. 25th, the term "office" is applied to members of the Legislature, and especially of the Senate. "The Chancellor and Judges of the Supreme Court," says that section, "shall not hold any other office except that of Delegate to the General Congress, upon special occasions; and the first Judges of the County Courts in the several counties, shall not, at the same time, hold any other *office*, except that of *Senator* or Delegate to the General Congress.

The Constitution of New Jersey, sec. 4th, prescribes the qualifications which shall entitle a person to vote "for representatives in Council and Assembly; and also for all *other* public *officers* that shall be elected by the people of the country at large"—thus recognising the principle that members of the Legislature are public officers.

In the Constitution of Pennsylvania, art. 8th, we find mention of the *offices* of members of the General Assembly. "Members of the General Assembly," says the article, "and all officers, Executive and Judicial, shall be bound by oath or affirmation to support the Constitution of this Commonwealth, and to perform the duties of their respective *offices* with fidelity." The same idea is expressed, though less pointedly, in the 4th and 7th sections of the 9th article.

The Constitution of Delaware, after declaring that one branch of the Legislature shall be called "the General Assembly" and the other "the Council," and prescribing the manner of their election, proceeds (art. 4th) in the following manner: "And this rotation of a Councillor (a member of one branch of the Legislature) being displaced at the end of three years in each county, and his office supplied by a new choice, shall be continued," &c. Nothing I apprehend, can be more expressly to the point than this passage.

In the Constitution of Vermont, chap. 1st, sec. 6th, it is declared "that all power being originally inherent in and consequently derived from the people—therefore, all officers of Government, whether Legislative or Executive, are their trustees," &c. The people of Vermont, therefore, as well as those of so many other States, understand the term "office" as we do, and consider it as applicable to the members of a Legislative body.

These instances, Mr President, are the result of a hasty glance over our Laws and Constitutions. Had there been time for a more accurate and extensive research, I have no doubt that a much greater number might have been adduced from the Constitutions and codes of the various States. These however, seem to me most fully to establish the point for which we contend, as far as any point can be established from authority of the highest

nature, viz: that the term "office" as used in our Constitution, and universally understood by those who framed and ratified it, extends to Senators of the United States

Although I am sensible, Mr. President, that this point is now fully established, yet there is one authority more which I cannot forbear to cite, and which I am persuaded will have great weight with this honorable body. It is taken from a book of high authority in this country, the production of a very accomplished writer, whose style is no less remarkable for precision and correctness, than for beauty. This wrtier, in the year 1783, prepared the "Draught of a fundamental Constitution for the Commonwealth of Virginia." in which I find the following passage: "The General Assembly (that is, the Legislature, to be composed of a Senate and a House of Delegates) shall meet at the place to which the last adjournment was, on the forty-second day after the day of the election of delegates and thenceforward, at any other time or place, on their own adjournment, till their office expires." What office? The office, I answer, of Senators and Delegates—of members of the Legislature—whose posts are thus declared to be offices, by the derivation of the term, by its universal acceptation in common language, by the definitions of the greatest law writers, by our own statutes and the Constitutions of the States, and by our most distinguished authors. All this body of testimony, speaking with one voice, it might have been expected, would be sufficient to convince the learned counsel for the defendant and induce them to abandon their plea. But no; far from it. They still tell us that this explanation of the term "office" is repelled by the Constitution itself, several clauses of which they cite to prove that it does not consider the term as extending to members of the Legislature, however that term may be understood elsewhere

To this authority, Mr. President, I readily acknowledge that we must submit. If the Constitution do in fact explain the word "office" differently from our explanation, our explanation must fall to the ground. Let us, therefore, examine this point. Let us view and consider those clauses which are said to contain the explanation. I believe it will be found that they do not warrant the inferences which have been drawn from them by the learned counsel for the defendant.

The first of these clauses which has been relied on, is found in the 2d section of the 2d article of the Constitution, where it is provided, that "the President, by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers, and Consuls, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." But does it follow from this that none are to be considered as officers of the United States except those whom the President appoints? So far from it, that the clause expressly speaks of officers who are not to be appointed by the President, and whose appointment is otherwise provided for by the Constitution itself. The clause, therefore, proves nothing; for, as there are officers who are not appointed by the President, it cannot be inferred that Senators are not officers because the President does not appoint them.

As little can the objection be supported by that clause (in the 3d section of the 2d article) which declares that "the President shall commission all officers of the United States." It cannot be hence inferred, that a Senator is not an officer, in the sense of the Constitution, because he is not commissioned by the President; for, at that rate, the President himself would not be an officer; nor would the Vice President, since neither the one nor the other are commissioned by the President. It is plain, therefore, that this clause is not to be understood in its unlimited sense, in which it would be a manifest absurdity, and would require the President to commission himself, but, in a limited sense, applying to those officers only whom the President appoints. A commission, indeed, Mr. President, is nothing more than the certificate of an appointment; the evidence that a post, office, or employment, has been conferred by the proper authority. This certificate, it is perfectly proper, that the authority making the appointment should give. It is evidence of the fact, and the authority which made the appointment is the most authentic source from whence this evidence can be derived.

Nothing, therefore, could be more proper than to provide that the President should commission all those officers who derive their appointments from him. But there are officers whom he does not appoint, and whom he does not, nor can commission; among the rest, himself and the Vice President. The clause, therefore, when rightly understood, proves nothing; for, as there are officers who, notwithstanding this clause, are not commissioned by the President, it cannot be inferred that a Senator is not an officer, because the President does not give him his commission.

A clause from the 6th section of the 1st article, in the following words, has also been relied on:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office."

I am ready to admit, Mr. President, with my honorable colleague, who opened the case, that this clause wears an aspect more hostile to our construction of the term "office," than any other part of the Constitution; but I contend with him, that the Constitution, like all other instruments, must be construed in each separate part of it, *secundum subjectam materiem*, according to the subject matter of each part; and in such a manner as to effectuate every part, and render the whole consistent. These rules of construction will not be denied. When this clause comes to be analyzed and tried by these rules, it will, I think, appear satisfactorily, that our construction is not infringed by it.

What is the object of this clause? It is threefold: first, to prevent a blending of the different

departments of Government, the Legislative, Executive, and Judicial, by uniting their functions in the hands of the same individual; which would be contrary to the spirit of the Constitution; secondly, to prevent the Executive from acquiring an undue influence in the Legislature, by appointing its most active and able members to offices which must be held at his pleasure; and thirdly, to take away from aspiring or avaricious members, the temptation to create offices, or increase their emoluments, which might arise from the expectation of speedily filling those offices themselves. What description of officers was it necessary to exclude from the Legislature, in order to effect these three objects? First, those whose duties might be incompatible with a strict and regular attendance in the Legislature; secondly, those who derive their appointments from the Executive; and thirdly, those whose offices are of a nature to be considered as lucrative, to be sought after on account of their pecuniary emoluments. It is evident, that some one or other of these characteristics belongs to every description of officers, except "legislative;" to military, to executive, judicial, and diplomatic. It is to be presumed, that the Constitution here used the word "office" in that sense, and that only, which was necessary in order to effectuate its intentions; and, consequently, that the clause extends to those officers only, whom it was the intention of the Constitution to exclude from the Legislature. The clause, therefore, is to be understood, as if, instead of the general expressions, "any civil office," "any office," it had said, "any other civil office," "any other office." This will render the whole Constitution consistent with itself, and with the well-established meaning of language. In the clause relative to commissions, we have an instance where, in order to prevent the Constitution from pronouncing a palpable absurdity, it was necessary to explain the general term "all officers," so as to mean "all officers appointed by the President." If the general expression may be controlled by the subject-matter and intent, in one case, it may in another; and certainly the subject-matter and intent could not speak more strongly against the general expression, in the former, or any other case, than in this.

If this reasoning be well founded, it follows, that the clause in question proves nothing against our doctrine of a Senator being an officer, in the sense of the Constitution: it only proves that the Constitution, being obliged to use the same word in application to different matters, and for different purposes, has used it generally, and left it to be explained by a reference to the intent and subject-matter, instead of explaining it by express modifications. The object here was, to exclude certain officers from the Legislature; and the term is used generally; but it by no means follows, from thence, that members of the Legislature are not themselves officers.

A clause in the 1st section of the 2d article is likewise adduced, as distinguishing between "members" of the Legislature and "officers," by declaring that "no Senator, or Representative, or person holding *an office* of trust or profit under the United States, shall be appointed an Elector." This proves, indeed, that the words, "Senator and Representative," have been repeated from abundant caution, and in order to prevent doubts on so essential a point as the qualifications of an Elector. But has it ever been heard before, that two words or two phrases cannot mean the same thing, because they are used together in a legal instrument? Do we not, on the contrary, know that it is common, in such instruments, to use a number of synonymous terms, in order to express more plainly and precisely the same idea, and to remove all danger of uncertainty? How frequently do we meet with the expression, "any deed, instrument, or writing?" And yet nobody ever supposed, on this account, that a "deed" was not a "writing" and an "instrument." Which, however, would be quite as reasonable as to infer, from the above-cited passage in the Constitution, that a Senator or Representative is not an "officer."

In the 8th section of the 1st article, it is provided, "that Congress shall have power to make all laws which shall be necessary and proper for carrying into effect the foregoing powers vested by this Constitution in the Government of the United States, or in any *department or officer thereof*." This has also been relied on, as proving that the Constitution does not consider a member of the Legislature as an "officer." A distinction, it is said, is here drawn between a "department" of the Government, and an "officer" of the Government; and a member of the Legislature, which is a "department," cannot, therefore, be considered as an "officer." But this reasoning, if well founded, would prove that the Secretary of the Treasury is not an "officer;" for the Treasury is a "department," and he is a member of it.

Such are, Mr. President, the clauses of the Constitution which have been opposed, by the learned counsel for the defendant, to our construction of the term "office." It has, I trust, been proved, that when rightly understood, they afford no solid ground of objection.

The learned counsel, who immediately preceded me, urged an objection, derived from the inconvenience of this construction. The consequence of an impeachment, he says, is a sequestration of the member from his seat, until the trial is over: and if a Senator may be impeached, the consequence is, that a factious majority in the House of Representatives may, by an unfounded and vexatious impeachment, remove from his seat, for an unlimited time, any Senator, whose talents, influence, and courage, may have rendered him the object of their dislike or dread. This objection, if founded in truth, would, I confess, have considerable weight: but, with all deference to the learning of the honorable counsel, I apprehend that it is wholly unfounded. According to the law and practice in England, for which I appeal to all the precedents of impeachment, a member of the House of Peers is not removed from the House in consequence of an impeachment. The sequestration from his seat does indeed take place, but it means nothing more than his being prevented from sitting when any-

thing relative to the impeachment is under consideration.

An objection has also been drawn from the supposed intention with which the power of impeachment was established by the Constitution. The sole object of this power, it is said, was to provide a remedy against the favoritism or obstinacy of the Supreme Executive Magistrate, by affording a means of removing from office improper persons, whom he might be inclined to retain in place, to the detriment of the nation. This necessity does not exist, we are told, with respect to members of the Legislature, who are removable by the people themselves, at stated periods; and to whom, consequently, the power of impeachment ought not to extend.

But this cannot be the sole object of the power of impeachment, because the President himself is liable to be impeached, as well as the officers whom he appoints. So also is the Vice President. And yet these two great officers are appointed by the people themselves, in a manner far more direct and immediate than Senators, and removable at shorter periods. If the power of impeachment be, as the learned counsel insist, intended as an aid to the control which the people, by the right of election, have over their public servants, or to supply the place of that control where it does not exist, surely there is much stronger reason for its extending to Senators than to the President or Vice President; for Senators are much further removed from the power of the people and the control of elections than those officers. They are elected for a much longer period: their election being made by Legislative bodies, who are chosen by the people for other purposes, and, for a considerable time, is far less influenced by popular opinion or popular feelings than that of the President, who is chosen by electors, elected for that sole purpose, and selected, in almost every instance, according to their known attachment to the favored candidate. The election of the President and Vice President, therefore, partakes far more of the nature of a popular election than that of Senators. Indeed, of all the component members of our Government, the Senate, both in the mode of its appointment and the term of its duration, is intended to be, and actually is, the most permanent and independent—the furthest elevated above the region and the influence of those storms whereby a popular Government must sometimes be agitated. God forbid, Mr. President, that I should find fault with these ingredients in the composition of the Senate, or do anything which could tend in the least to diminish their efficiency. I consider them as among the most valuable principles of the Constitution. I consider this honorable body as the sheet-anchor of our vessel of state; and if we escape (as I trust we shall) from those tempests which await all popular Governments, and have overset so many, it will be to the stability, the independence, the firmness, of this honorable body, that we shall be indebted for our escape. With these sentiments, it cannot be supposed that I would, intentionally, attempt to weaken the moorings by which alone we can be held in our station. But this very independence of the Senate, in its duration, and the mode of its appointment; this very removal from the influence of popular opinion and popular influence, furnishes a strong argument in favor of extending the power of impeachment to its members; for, in proportion as the controlling power of the people, by means of election, is weakened and diminished, other means of control ought to be increased.

We have heard much, Mr. President, respecting the nature of those offences to which the power of impeachment was intended to apply. They are said to be merely official offences. If by this be meant offences committed by an officer, it proves nothing, or is, at best, no more than begging the question; for a Senator, according to our doctrine, is an officer. But if, by *official* offences, the learned counsel mean offences committed by an officer, and relating solely to the duties of his office, I must intreat them to reflect on the extent to which their doctrine would lead. Suppose a Judge of the United States to commit theft or perjury; would the learned counsel say that he shall not be impeached for it? If so, he must remain in office with all his infamy; for there is no method of removing a Judge but by impeachment. Many other cases, equally strong, might be supposed. It seems to me, on the contrary, that the power of impeachment has two objects: first, to remove persons whose misconduct may have rendered them unworthy of retaining their offices; and, secondly, to punish those offences of a mere political nature, which, though not susceptible of that exact definition whereby they might be brought within the sphere of ordinary tribunals, are yet very dangerous to the public. These offences, in the English law, and in our Constitutions, which have borrowed its phraseology, are called "high crimes and misdemeanors." Now, let me ask, Mr. President, whether offences of this nature may not be committed by a Senator? Let me ask, whether he may not commit them to an extent far more dangerous than any other man; or, if gentlemen please, than any other officer? Placed as he is on the very pinnacle of the Constitution; touching the Executive power with one hand, the Judicial with the other, and partaking fully of the Legislative; secured in his seat for six years—a longer period than any other known to the Constitution—and depending for his re-election, not on the people, or on electors chosen by them for that sole purpose, but on a Legislative body, where a party may be formed to support him: whose "high crimes and misdemeanors," let me ask, can be more safely committed, or more dangerous than his? What an inconsistency to say that the collector of the most petty custom-house, or a person standing in the lowest grade of military commission, may be impeached for offences dangerous to the State, and therefore requiring his removal from office, and that a Senator of the United States is not impeachable!

But the effect of an impeachment, it is said, may be produced in another manner, more conformable to the dignity of the Senate. The same majority of two-thirds which can convict on an impeachment may also expel; and thus an improper person may be driven from the Senate. But, in the first place, he cannot be thus kept out in future; for, though the Senate may expel, it cannot disqualify. And if we suppose the case (which may very well happen) of a great and wicked man, supported by a strong party in the Legislature of his own State, he may return again, after being expelled, and may go on in the commission of "high crimes and misdemeanors," in the very station which gives him the greatest means of committing them with effect.

In the second place, an offender has a much better chance to escape from an expulsion than from an impeachment. Where the offence is of a very dark and complicated nature; consists in transactions or plots carried on at a distance, or in many places at once; and, of consequence, cannot be brought to light, and fully substantiated, without a laborious, long-continued, and systematic inquiry; it must be admitted that the aid of a prosecutor will be necessary: and that the Senate, of itself, and for the mere purpose of expulsion, will be little disposed to undertake so tedious and disagreeable a task.

As to the dignity of the Senate, about which much has been said, I trust, Mr. President, that I shall always be as anxiously tender of it as any other person; and I do most solemnly and seriously believe that I am, at this moment, laboring for the dignity of this honorable body, in attempting to render its members liable to impeachment. For which line of conduct is most dignified; to wrap one's self up in legal inviolability, and thus avoid an inquiry into our conduct, or, conscious of rectitude, to brave investigation, and offer ourselves to the strictest scrutiny? The awful station which this honorable body holds in our system; the high and all-important trust assigned to it by the Constitution, no less than to regulate all the movements, both Legislative and Executive; to serve as both the ballast and the anchor of the political vessel; require that its members should inspire the utmost degree of confidence into the nation—should not only be free from guilt, but free from suspicion. Will they be more likely to escape suspicion, to inspire confidence, by declaring that they will avail themselves of a doubtful construction of the Constitution, to screen their own conduct from all inquiry, except by themselves, or by boldly standing forth to the light, and extending to their own persons and actions that power of investigation, by the representatives of the nation, which the Constitution has appointed for those who exercised its powers? I confess, Mr. President, that feeling, as I do, for the dignity of this honorable body; deeply impressed, as I am, with the awful nature of its trust, and the essential importance of its inspiring the nation with the most unlimited confidence, I tremble to think of its declaring, by a solemn decision, that the conduct of its members shall be exempt from inquiry by impeachment.

I have now, Mr. President, gone through the various heads of this very important argument, to which I am far from supposing that I have been able to do justice. It is satisfactory to me, however, to reflect that my deficiencies are amply supplied by the cause itself, by the talents of my learned and eloquent associate, and, above all, by the wisdom of this honorable body; to whose decision I now submit the subject, with an entire conviction that its determination will be worthy of the exalted station which it holds in our Government, the confidence reposed in it by the Constitution, and the veneration wherein it is held by the American people.

After Mr. HARPER had closed his observations, the VICE PRESIDENT inquired of the Managers if they had any further observations to offer? On which,

Mr. BAYARD, in their behalf, requested permission to withdraw for a few minutes; and, returning into the Court, he replied in the negative.

On motion that the Court adjourn, it adjourned to 12 o'clock on Monday next.

MONDAY, January 7.

On motion to agree to the following resolutions:

"That William Blount was a civil officer of the United States, within the meaning of the Constitution of the United States, and, therefore, liable to be impeached by the House of Representatives;

"That, as the Articles of Impeachment charge him with high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled:"

After debate, on motion, the Court adjourned till 12 o'clock to-morrow.

TUESDAY, January 8.

The Senate resumed the consideration of the motion made yesterday, on the impeachability of William Blount, late a Senator of the United States, by the House of Representatives; and, after debate, the Court adjourned till 12 o'clock to-morrow.

WEDNESDAY, January 9.

The Senate again resumed the consideration of the motion made on the 7th instant, on the impeachability of William Blount, late a Senator of the United States, by the House of Representatives; and, after debate, on motion, adjourned to 12 o'clock to-morrow.

THURSDAY, January 10.

The Court proceeded in the debate on the motion made on the 7th instant, and which had been under consideration every day since; and, on the question to agree thereto, it was determined in the negative—yeas 11, nays 14, as follows:

YEAS—Messrs. Chipman, Davenport, Goodhue, Latimer, Livermore, Lloyd, Paine, Ross, Sedgwick, Stockton, and Tracy.

NAYS—Messrs. Anderson, Bingham, Bloodworth, Brown, Foster, Greene, Gunn, Hillhouse, Howard, Langdon, Marshall, Martin, Mason, and Read.

On motion, the Court adjourned to 12 o'clock to-morrow.

FRIDAY, February 11.

On motion, it was determined that

"The Court is of opinion, that the matter alleged in the plea of the defendant is sufficient in law to show that this Court ought not to hold jurisdiction of the said impeachment, and that the said impeachment is dismissed."

Yeas 14, nays 11.

The yeas and nays on this question were exactly the reverse of what they were on the last.

On motion, *Ordered*, That the Secretary notify the House of Representatives that the Senate will be ready to receive the Managers of the House of Representatives and the counsel of the defendant on Monday next, at 12 o'clock, to render judgment on the impeachment against William Blount.

The Court adjourned to 12 o'clock on Monday.

MONDAY, January 14.

The Court being opened, the parties attending, and silence being proclaimed, judgment was pronounced by the VICE-PRESIDENT as follows:

Gentlemen, Managers of the House of Representatives, and Gentlemen, Counsel for William Blount:

"The Court, after having given the most mature and serious consideration to the question, and to the full and able arguments urged on both sides, has come to the decision which I am now about to deliver.

"The Court is of opinion that the matter alleged in the plea of the defendant is sufficient in law to show that this Court ought not to hold jurisdiction of the said impeachment, and that the said impeachment is dismissed."

Copies of the judgment were delivered to the Managers, and to the Counsel for the defendant, respectively.

After which, they withdrew; and, on motion, the Court adjourned without day.

REPORT OF THE COMMITTEE.

HOUSE OF REPRESENTATIVES,
November 30, 1797.

The committee, appointed on the 8th day of July last, to prepare and report articles of impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors; which committee, by a resolution of the tenth day of July last, were authorized to sit during the recess of Congress, and were instructed to inquire, and, by all lawful means, to discover the whole nature and extent of the offence whereof the said William Blount stands impeached, and who are the parties and associates therein; make, in pursuance of the latter resolution, the following report:

The committee, having charged themselves with the business to which they were appointed by this House, received on the 8th day of July, from JAMES ROSS, Esq., chairman of a committee of the Senate, a trunk belonging to William Blount, containing a number of papers, which had been seized in pursuance of a resolution of the Senate, authorizing its committee to send for persons and papers. From these papers a selection had been made by the committee of the Senate; and the House, having made a further selection of such as appeared to them to be connected with the object of their appointment, returned the residue to the order of William Blount. The papers retained by the committee are, in the Appendix to this report, marked, Nos. 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 19, 20, 21, 22, 23, 26, 28.

A violent presumption having arisen, from the inspection of the papers referred to, that Nicholas Romayne, of the State of New York, was intimately connected with William Blount in his criminal designs, the committee conceived it to be their duty to exercise the powers vested in them by this House, in such manner as to prevent the escape of the said Nicholas Romayne, and effectually to secure his person and papers for examination; they issued, therefore, on the ninth day of July, the warrant in the Appendix marked (A;) and, as it was deemed important to commit the execution of this warrant to a person of intelligence, discretion, and fidelity, the Secretary of State was requested to provide a messenger of competent character for the occasion. With a very prompt attention to the wishes of the committee, he assigned this service to Captain William Eaton, to whom the instructions in the Appendix marked (B) were given by the committee; and the Secretary of State added to them the letters marked (C) and (D.) On the twelfth day of July Captain Eaton returned to Philadelphia, with Nicholas Romayne in his custody, and made the report of his proceedings, marked (E.) He delivered also to the committee, under seal, a number of papers found by him in the possession of the said Romayne, of which such as are supposed to be material are contained in the Appendix, and marked Nos. 1, 4, 18, 24, 25, 27. The examination of Nicholas Romayne engaged much of the attention of the committee until the 22d of July, when he subscribed his deposition (A B,) and, having given bond for his appearance before the Senate on the trial of the impeachment of William Blount, was dismissed from further attendance, and received, at his particular request, the certificate marked (F.)

The letter No. 23, found among the papers of William Blount, signed James Grant, and dated at Knoxville, May 24th, 1797, being supposed to contain the proof that the said James Grant had been the confidential bearer of the letter from William Blount to James Carey, communicated to Congress by the President of the United States, on the 3d of July; it was deemed expedient to adopt the same measures for the seizure of his person and papers, as had been taken in the case of Nicholas Romayne. Major Thomas Lewis was employed for this purpose by the committee, who charged him, on the 11th of July, with the execution of the warrant marked (G.) He was further directed to serve, on John Rogers and James Carey, respectively, the precepts (H) and (I,) requiring their appearance before the committee for examination; which precepts were accompanied with the letter marked (K,) from the committee to John Rogers, who resided beyond the jurisdiction of the United States, and with the letters marked (L,) (M,) and (N,) from the Secretary of War, who readily, at the desire of the committee, co-operated with them in their endeavor to obtain the testimony of these witnesses. The instructions to Major Lewis are in the Appendix marked (O.) In the interim, between the departure and the return of Major Lewis, the Secretary of War communicated to the committee the letters marked (Q) and (R,) from Colonel David Henly and Benjamin Hawkins, Esq., covering the examinations of James Carey, marked (T U, No. 1,) and (T U, No. 2,) taken at Tellico, by directions from the Executive, together with the examination of William L. Lovely, marked (T U, No. 3,) and the original letter from William Blount to John Rogers, marked in the Appendix (No. 15.) On the 25th of September, Major Lewis having arrived at Germantown, in the State of Pennsylvania, with James Grant in his custody, and accompanied by John Rogers and James Carey, made his report marked (P;) and the depositions of the said James Carey, John Rogers, and James Grant, were, immediately thereafter, taken by the committee, and are hereunto annexed, marked (T U, No. 4,) (V W,) and (X Y,) respectively. Before the discharge of Major Grant, he gave bond for his appearance before the Senate, on the trial of the impeachment of William Blount. The letters referred to in his deposition, from William Blount to James Carey and Major Lovely, dated April 24, 1797, are marked (No. 16) and (No. 17.)

To complete the series of the correspondence between William Blount and Nicholas Romayne, as disclosed by the letters found in their possession, respectively, the letter (No. 9) from the latter to the former, appeared alone to be wanting. This letter, on or about the 13th of July, was received by the Secretary of State, in an anonymous letter, which had been transmitted by mail, but without any post-mark other than the word "Free." The anonymous letter, and a translation of it, are subjoined to the Appendix, marked (No. 9, A.)

The committee having received information that John Chisholm, named in the letter from William Blount to James Carey, which gave rise to the present inquiry, had sailed from Philadelphia in a vessel belonging to or chartered by, Mr. William Davy, a merchant of that city, requested the attendance of Mr. Davy for examination. He waited on the committee agreeably to their desire; and, after expressing considerable embarrassment from peculiar circumstances attendant on his situation, with some reluctance, made the deposition (C D.) Mr. Davy has since communicated to the committee the extract of a letter from his brother in London, which is subjoined to his deposition, and marked (C D, No. 2.)

The disclosure made by Mr. Davy led to the examination of George Lesher, contained in his deposition (E F.) The suspicion, excited by the latter part of this deposition, was traced by the committee, and satisfactorily removed by the testimony of Mr. William Bell, Appendix (G H.) The communication from the Secretary of State, of the 20th July, marked (I K,) is connected with, and explanatory of, the subject matter of these depositions, and of the letter from Robert Liston, Esq., the Minister Plenipotentiary of his Britannic Majesty, to Nicholas Romayne, found among the papers of the latter, dated Philadelphia, 28th April, 1797—Appendix (No. 18.)

With relation to the paper (No. 28,) found in the possession of William Blount, endorsed by him "Judge Turner, Memor. of force, &c." Geo. Turner, Esq., late one of the Judges of the Territory of the United States Northwest of the river Ohio, was interrogated by the committee, and the result is contained in his deposition—Appendix (L M.)

In the course of the investigation entrusted to the committee, a number of persons were examined, whose testimony in many instances proved to be immaterial. It was thought proper to take the depositions of Elisha B. Hopkins, Charles Buxton, and John Franklin, which are herewith reported—Appendix (N O,) (P Q,) and (R S.)

On the 13th of July, the Chevalier d'Yrujo, the Minister Plenipotentiary of His Catholic Majesty, called on the committee and made the communications, in the Appendix marked (A B C) (D E F.) In consequence of these communications, the committee immediately dispatched, by mail, to Major Lewis, their messenger to the State of Tennessee, the letter, Appendix (S,) covering a subpœna for ——— Mitchell, named in the said communications. Major Lewis has informed the committee, since his return, that he received the letter and subpœna, but that his most diligent inquiries were unavailing to discover the person described in them.

On the 24th of July, the Chevalier d'Yrujo again called upon the committee, and introduced to them John Phillips Ripley, who delivered a paper containing the information afterwards included in his deposition (G H I.) On the succeeding day, the Chevalier d'Yrujo presented to the committee Thomas Odiorne, who afterwards made the deposition (K L M.) Although there was an appearance of singularity in the medium adopted by these persons for making their communication to the committee; although the committee at that time possessed satisfactory evidence that the statement made in these depositions was incorrect, so far as related to the essential objects of investigation and inquiry; and although it was not very material whether the mistake proceeded from the misrepresentation of Captain Eaton, or the misapprehension of the witnesses, or from worse motives; it was nevertheless conceived to be the duty of the committee, in justice to the persons named in these depositions, to obtain an explanation from Captain Eaton, of the facts asserted in them. On this subject the House is referred to the letters marked in the Appendix (T,) (U,) (V,) (W,) and to the deposition (N O P;) and

for further evidence connected herewith, to the report of Captain Eaton beforementioned (E,) and the letter from Richard Harrison, Esq., Attorney of the United States for the District of New York, to the Secretary of State, (E, No. 2.) It is proper to add that the caution, given by Colonel Pickering to Captain Eaton, was intimated to him by request of the committee, who were apprehensive that an indiscreet and premature disclosure of evidence might increase the difficulty of further discovery.

The letter from Capt. Eaton to Colonel Hodgdon, alluded to in the deposition of the former, is on the files of the committee, and corroborates his narrative.

On or about the 6th of October, the Secretary of War transmitted to the committee the letters in the Appendix (No. 11, A,) and (No. 11, B,) from John Chisholm to Colonel John McKee and John Rogers, respectively, dated March 17, 1797.

On the 23d of November, the Minister Plenipotentiary of His Catholic Majesty sent to the committee the note of that date (Q. R S,) covering the letter (Q. R S, No. 2,) from Elijah Clark to the Spanish Consul, at Charleston, South Carolina, dated August 9, 1797. It is obvious that this communication has been made too late to enable the committee to pursue the investigation of its contents.

A large package of the circular letters (No. 29) was intercepted and delivered to the committee; some of these letters were directed to various persons in Tennessee; others were folded without any address.

The committee have supposed it to be their duty to submit to the House, in addition to the exhibits herein before referred to, the correspondence contained in the Appendix (Aa) to (An) inclusive, on account of its connexion with the object of their appointment; although a part of these communications being anonymous, could not form the basis of any further proceedings; and although where further investigation was attempted, it failed of producing any satisfactory information. The letters (Aa,) (Ab,) (Ac,) (Ag,) will appear to be addressed to the Secretary of State, and were delivered by him to the committee.

The committee, in presenting to the consideration of the House this succinct narrative of their proceedings, together with the evidence collected by them and the correspondence annexed, believe that they sufficiently fulfil the duty assigned to them; without anticipating, by their own inferences or observations, the judgment of the House on the whole matter. It is to be regretted that some suggestions still remain unexplained, or that any part of the subject should continue in obscurity; but the committee have done all in their power for the discovery of the truth, without incurring a greater expense than the probability of success was deemed to warrant. And this report is respectfully submitted as the best practicable result of their earnest endeavors.

NOVEMBER 30, 1797.

APPENDIX.

(A.)

UNITED STATES, to wit:

To Captain William Eaton.

Whereas the House of Representatives of the United States did, on the eighth day of July, in the year one thousand seven hundred and ninety-seven, come to the following resolution, viz:

"*Resolved*, That a committee be appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors; and that the said committee have power to send for persons, papers, and records."

"*Ordered*, That Mr. SITGREAVES, Mr. BALDWIN, Mr. DANA, Mr. DAWSON, and Mr. HARPER, be a committee pursuant to the said resolution."

You are hereby authorized and required, in pursuance of the said authority vested in us as aforesaid, taking to your assistance such person or persons as you may deem necessary, to make strict and diligent search for Nicholas Romayne, now or late of the State of New York, practitioner of medicine; and him, having found, to seize and apprehend, and to bring, together with his papers, in safe custody, before us, the committee aforesaid, at the city of Philadelphia, to be examined touching the premises. And all officers, civil and military, and all faithful citizens of the United States, are required to be aiding and assisting to you, as there shall be occasion.

Given under our hands and seals, in committee aforesaid, at Philadelphia, the ninth day of July, in the year aforesaid.

S. SITGREAVES,
ABR. BALDWIN,
SAM'L W. DANA,
J. DAWSON,
ROB'T. G. HARPER.

(B.)

To Captain William Eaton.

SIR: You will proceed with the utmost expedition to New York, and, immediately on your arrival, see Mr. Harrison, or such other person as, in case of his absence, you are addressed to. Having advised with such person as to the proper mode of executing your commission, you will proceed, with such assistance as may be deemed necessary, to arrest the person expressed in your warrant, in the most secret manner, and to secure all his papers. Him and his papers you will then convey safely and expeditiously to this place.

When you see the person to be arrested, it will be proper to inform him that the committee is desirous of avoiding all unnecessary publicity, and that, by attending quietly with his papers, it may be prevented. You may let him understand at the same time, that hesitation or resistance can have no other effect than to render the affair more disagreeable to him, by making it public. On the road he will be treated by you as a fellow passenger, but carefully attended to, and, above all, the

papers are to be most carefully guarded, and kept in your own possession.

The same treatment may be observed towards any other person whom, with his papers, it may be resolved to arrest.

Whatever papers are seized, you will immediately seal up in the presence of the person to whom they belong, if on the spot, or if not, in the presence of some other person, and will deliver them sealed to the committee.

It is scarcely necessary to add that the papers most likely to be important will be letters from William Blount, and copies of letters sent to him. Such must be diligently sought and carefully secured.

I am, sir, your most obedient servant,

S. SITGREAVES,
Chairman of the Committee.

PHILADELPHIA, *July* 9, 1797.

(C.)

DEPARTMENT OF STATE,
Philadelphia, July 9, 1797.

To Captain William Eaton.

SIR: Knowing your capacity, spirit, and diligence, and relying on your fidelity, I have selected you to be charged with the orders of a committee of the House of Representatives of the United States, for seizing the person and papers of Dr. Nicholas Romayne, who is now supposed to be in the city of New York, and against whom there is presumptive evidence of his being connected with William Blount, Esq., who has been impeached of high crimes and misdemeanors by the House of Representatives.

It is possible that the arrest of this person may lead to the discovery of other conspirators on the spot; in respect to whom you will likewise observe the orders of the committee. Or, if those orders should not precisely prescribe the course you are to take, respecting such unknown conspirators, then you will apply for advice to Richard Harrison, Esq., Attorney for the District of New York, or, in his absence, to Josiah Ogden Hoffman, Esq., Attorney General of that State, and do what they or either or them shall direct. If any others than those named in the orders of the committee, shall be arrested, you will bring them to Philadelphia likewise, if either of the attorneys shall advise it.

You will need an assistant or assistants in the execution of these orders, in procuring whom you will take the advice of either of the attorneys before named.

In making the arrests and seizing the papers, it will be expedient for the public, and agreeable to the persons to be arrested, that you act in the most secret manner possible; and in the same manner they may be brought to this city. But although you may treat them as fellow passengers, you are never to suffer them to be in a situation to escape, or to destroy the papers you may seize. For this reason your assistants should be vigilant men.

On your return to the city, call on me for further directions.

I am, with great regard, sir, your obedient servant,

TIMOTHY PICKERING.

P. S. There is a possibility that both Mr. Harrison and Mr. Ogden may be absent, in which case wait on Colonel Hamilton or Governor Jay, and ask their advice, laying before them your orders.

(D.)

DEPARTMENT OF STATE,
Philadelphia, July 9, 1797.

SIR: The bearer, Captain William Eaton, is charged with orders from a committee of the House of Representatives of the United States, to seize the persons and papers of some men, supposed to be in the city of New York, connected with Governor Blount in the plot for which he stands impeached by the House of Representatives. And the object of my addressing you is, to pray you to find a confidential and active man to aid Captain Eaton in executing the orders above mentioned. Or, if more than one assistant be necessary, as many as circumstances shall, in your opinion, require, to make the arrests, and securely to bring the persons arrested, with their papers, to this city.

The arrest of the persons referred to, or the seizure of their papers, may lead to the discovery of others of the conspirators. In this case you will be pleased to consider how they shall be secured, with their papers, and take such measures as you shall think proper. If Captain Eaton can render you any aid herein, he will be instructed to do it.

Whatever expenses shall be incurred, I will defray.

I am, very respectfully, sir, your obedient servant,

TIMOTHY PICKERING.

RICHARD HARRISON, Esq.,
Attorney of the United States,
District of New York.

In his absence, JOSIAH OGDEN HOFFMAN, Esq., *Attorney General of that State.*

(E.)

PHILADELPHIA, *July* 12, 1797.

SIR: In obedience to your instruction of the 9th instant, and warrant of your committee of the same date, at 3 o'clock, the morning of the 10th, I took stage for New York, and arrived thither the evening of the same day, crossed Paulus Hook at midnight; waited on Mr. Harrison, attorney for the district of New York, who went with me in company of the marshal and one of his deputies, to the house of Nicholas Romayne, practitioner of physic, whom I arrested agreeably to order, and proceeded to examine and secure his papers. On entering his chamber, I observed a portable writing-desk, with a number of loose papers on or about it, among which was found an unfinished letter in the hand-writing of Mr. Romayne, which he acknowledged was intended for William Blount, late Senator in Congress. The papers in this room were lying in a disordered situation, and had every appearance of having been recently examined. Below stairs were shown me by Dr.

Romayne, four letters from William Blount to said Romayne, which four letters with the unfinished letter above mentioned, I have laid before the honorable committee. On examining a bundle of papers of neglected appearance, I discovered a letter, signed "Robert Liston," to said Romayne. At this, Romayne exhibited evident marks of confusion, and reached as if to take it from me; but it passed through the hands of Mr. Harrison—was lodged with the papers above mentioned, and with them is laid before the committee. The agitation which I thought I discovered in Romayne, in giving up this paper, and the recollection of his acknowledging the receipt of more letters from William Blount, than we found in his hands, and, also, the disordered situation in which the papers above stairs appeared, establish my suspicion that he had destroyed more or less of the papers which would have led to a minute development of the subject of the committee's inquiry. I expressed to Romayne this suspicion, and my reasons for entertaining it; and at the same time intimated to him, that I thought these would be sufficient to justify my suggesting it to the committee. He, in some perturbation, acknowledged that he had, perhaps, received ten or twelve letters from Mr. Blount, in answer to his, found among Blount's papers; but that, being a careless man, he had destroyed, or suffered them to be destroyed; but he soon after qualified this concession, by declaring on honor that he had not destroyed any such letters within a week past. Having thus far executed the order of the committee, I took to my assistance Mr. John S. Bainbridge, and with the prisoner, said Nicholas Romayne, recrossed to Paulus Hook, at 3 o'clock, A. M., of yesterday, and procuring a stage, proceeded to this city, whither I arrived at 3 o'clock this morning of the day and date above mentioned.

I have the honor to be, with perfect respect, sir, your most obedient servant,

WILLIAM EATON.

Hon. Mr. SITGREAVES.

(E. No. 2.)

NEW YORK, *July* 11, 1797.

SIR: By the return of Captain Eaton to Philadelphia, you have doubtless before this time been informed of the manner in which the orders of the Committee of the House of Representatives of the United States have been executed. Your Excellency's letter of the 9th having been delivered last night, after a short conference with Mr. Eaton, it was judged advisable to lose no time in securing Dr. Romayne and his papers, particularly as there was reason to apprehend that he might already (from apprehensions of necessity) have destroyed the most material. The aid of the marshal and his deputy was, therefore, resorted to, and the whole business effected in little more than an hour after Captain Eaton's arrival. It appeared that Dr. Romayne was by no means surprised. The first observation that he made to the messenger was, that he supposed him instructed to search for papers, and he then offered to produce those he had. Upon entering his bed-chamber, we found such as were then in a state of considerable derangement, which he attributed to the windows having been left open. There were no appearances, however, from whence the recent destruction of papers could be evidenced. Upon this table were two or three old letters from Count Motier, formerly the Minister of France in this country, and a bundle or two loosely tied, containing among other letters of no importance, those from Governor Blount and Mr. Liston, which have been sent to Philadelphia.

He acknowledged, in the course of conversation, that he had, in the period of about two months, received as many as ten or twelve letters from Governor Blount, but observed that he had always been careless with respect to papers, and in the habit of tearing letters soon after he received them.

It is remarkable, nevertheless, that a very considerable number of old and unimportant letters had been preserved, and that his recent correspondence has almost entirely disappeared. The letter from Mr. Liston, it may be presumed, had, by some fatality, escaped his notice. He alleged that it would be fully explained by the one to which it was an answer, and said that he should apply to Mr. Liston for the production of that document. Upon the whole his behaviour was collected and proper, nor did he discover any very great apprehension or surprise, except upon the finding of Mr. Liston's letter, when Captain Eaton judged that he betrayed some emotion, which, however, escaped my observation, as I was then engaged in perusing other papers.

I sincerely wish that measures had been taken with regard to this business, before the publicity of the proceedings against Governor Blount had excited alarm. It is probable that more important discoveries might then have been made. I still hope that they may result from a personal examination of the prisoner, though I do not believe that it is to be expected.

Any services which I can render in future with relation to this important business, will be given with the utmost alacrity; and I have only to add, that I am most respectfully, sir, your obedient servant,

RICHARD HARRISON.

Hon. TIMOTHY PICKERING, Esq.,
Secretary of State.

(F.)

These are to certify whom it may concern, that Doctor Nicholas Romayne, of the city of New York, having attended the Committee of the House of Representatives of the United States, charged with the impeachment of William Blount, in pursuance of the process by them issued for that purpose, and having undergone such examination, and answered such interrogatories as were required and exhibited by the said Committee; and having further entered into bonds for his appearance before the Senate of the United States as a witness on a trial of the said impeachment,

has been, and hereby is discharged by the said Committee, from any further attendance upon them.

Given in the Committee aforesaid at the city of Philadelphia, on the twenty-second day of July, in the year of our Lord, one thousand seven hundred and ninety-seven.

By order of the Committee,

S. SITGREAVES, Chairman.

(G.)

UNITED STATES, to wit:

To Major Thomas Lewis.

Whereas the House of Representatives of the United States, did, on the eighth day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, resolve as follows, to wit:

"*Resolved*, That a Committee be appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors, and that the said Committee have power to send for persons, papers and records.

"*Ordered*, That Mr. Sitgreaves, Mr. Baldwin, Mr. Dana, Mr. Dawson, and Mr. Harper, be a Committee pursuant to the said resolution."

And whereas the House of Representatives of the United States, did on the tenth day of July in the same year resolve as follows, viz:

"*Resolved*, That the Committee appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House of high crimes and misdemeanors, be authorized to sit during the recess of Congress.

"*Resolved*, That the said Committee be instructed to inquire, and, by all lawful means, to discover the whole nature and extent of the offence whereof the said William Blount stands impeached, and who are the parties and associates therein."

"*Ordered*, That Mr. Dana be excused from serving on the Committee appointed to prepare and report articles of impeachment against William Blount, a Senator of the United States, and that Mr. Bayard be of the said Committee in his stead."

You are hereby authorized and required, in pursuance of the said authority vested in us as aforesaid, taking to your assistance such person or persons as you may deem necessary, to make strict and diligent search for Major James Grant, now or late of the State of Tennessee, and him having found, to seize and apprehend, and to bring, together with his papers, in safe custody, forthwith before us, the Committee aforesaid, at the city of Philadelphia, to be examined touching the premises. And all officers, civil and military, and all faithful citizens of the United States, are required to be aiding and assisting to you as there shall be occasion.

Given under our hands and seals, in committee aforesaid, at Philadelphia, the tenth day of July in the year aforesaid.

S. SITGREAVES,
ABR. BALDWIN,
J. DAWSON,
R. G. HARPER,
J. A. BAYARD.

(H.)

To John Rogers, resident in the Cherokee Nation.

Whereas the House of Representatives of the United States did, on the eighth day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, resolve as follows, to wit:

"*Resolved*, That a committee be appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House, of high crimes and misdemeanors, and that the said committee have power to send for persons, papers, and records.

"*Ordered*, That Mr. Sitgreaves, Mr. Baldwin, Mr. Dana, Mr. Dawson, and Mr. Harper, be a committee, pursuant to the said resolution."

And whereas the House of Representatives of the United States did, on the tenth day of of July, in the year aforesaid, further resolve and order, as follows, to wit:

"*Resolved*, That the committee appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House, of high crimes and misdemeanors, be authorized to sit during the recess of Congress.

"*Ordered*, That Mr. Dana be excused from serving on the committee appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, and that Mr. Bayard be of the said committee in his stead."

You are hereby required, in pursuance of the powers vested in us, the said committee, by the resolutions and orders aforesaid, that, laying aside all manner of business and excuses whatsoever, you be and appear forthwith, in your proper person, before us, the said committee, at the State-House, in the city of Philadelphia, to be examined touching the premises, and to testify your knowledge therein: And that you bring with you all such papers and documents touching the same, as may be in your hands and possession; and herein fail not, at your peril.

Given under our hands and seals at the city of Philadelphia, in committee aforesaid, the tenth day of July, in the year aforesaid.

S. SITGREAVES,
ABR. BALDWIN,
J. DAWSON,
ROB. G. HARPER,
J. A. BAYARD.

(I.)

UNITED STATES, ss.

To James Carey, Interpreter for the United States, to the Cherokee Nation, and Assistant at the Tellico Factory.

Whereas the House of Representatives of the United States did, on the eighth day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, resolve as follows, to wit:

"*Resolved*, That a committee be appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House, of high crimes and misdemeanors, and that the said committee have power to send for persons, papers, and records.

"*Ordered*, That Mr. Sitgreaves, Mr. Baldwin, Mr. Dawson, Mr. Harper, and Mr. Dana, be a committee, pursuant to the said resolution."

And whereas the House of Representatives of the United States did, on the tenth day of July, in the year aforesaid, further resolve and order, as follows, to wit:

"*Resolved*, That the committee appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by this House, of high crimes and misdemeanors, be authorized to sit during the recess of Congress.

"*Resolved*, That the said committee be instructed to inquire, and, by all lawful means, to discover the whole nature and extent of the offences, whereof William Blount stands impeached, and who are the parties and associates therein.

"*Ordered*, That Mr. Dana be excused from serving on the committee appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, and that Mr. Bayard be of the said committee in his stead."

You are hereby required, in pursuance of the authority vested in us the said committee, by the resolutions and orders aforesaid, that laying aside all manner of business and excuse whatsoever, you be and appear forthwith, in your proper person, before us, the said committee, at the State-House, in Philadelphia, to be examined touching the premises, and to testify your knowledge therein: And that you bring with you all such papers and documents, touching the same, as may be in your hands and possession; herein fail not, at your peril.

Given under our hands and seals, at the city of Philadelphia, in committee aforesaid, the tenth day of July, in the year aforesaid.

S. SITGREAVES,
A. BALDWIN,
J. DAWSON,
R. G. HARPER,
J. A. BAYARD.

(K.)

PHILADELPHIA, *July* 10, 1797.

SIR: The House of Representatives of the United States has impeached William Blount, of the State of Tennessee, for certain acts of his, tending to endanger the peace of the Union, and whereof there is reason to suppose from some of his letters, that you have some knowledge.

A committee has been appointed to conduct this impeachment, and to make a full inquiry into the whole affair; and this committee has conceived that your testimony might be of great importance in bringing this transaction fully to light. They have, therefore, directed me to write to you on the subject, requesting your attendance with all letters and papers in your possession, from William Blount, and assuring you that your expenses in coming and going shall be defrayed, and that you shall return without molestation or unnecessary delay.

The committee flatter themselves, sir, that you will comply with this request, whereby you will confer an important obligation on the Government, and may contribute much to preserve the peace and prosperity of the United States.

It will be essential that you should arrive here with as much expedition as possible.

I am, sir, by order and on behalf of the Committee of the House of Representatives,

S. SITGREAVES, Chairman.

Mr. JOHN ROGERS,
Resident in the Cherokee Nation.

(L.)

WAR OFFICE, *July* 10, 1797.

SIR: A letter having lately been detected, written by William Blount, to Mr. Carey, containing certain criminal matters, in which mention is made of one to be forwarded to you, and that you were advised therein to do certain things affecting the United States, and the same having been submitted to Congress by the President, the House of Representatives have ordered a committee of their members, to sit in their recess, with power to send for persons, papers, and records, that the project might be more perfectly known and understood. I enclose you a letter from the said committee, requesting your attendance in Philadelphia, to give information in the premises, and request that you will lose no time in complying therewith. I shall take care that the expense of your journey, hither and back again shall be paid. As you can render a service to truth and to your country, by coming forward, I have no doubt but that you will do everything that is proper and patriotic on the occasion.

I am, sir, with respect, your obedient servant,

JAMES McHENRY.

Mr. JOHN ROGERS,
Resident in the Cherokee Nation.

(M.)

WAR OFFICE, *July* 10, 1793.

SIR: The House of Representatives having impeached Mr. William Blount, of high crimes and misdemeanors, and appointed a committee of their body, to send for persons, papers, and records, and the said committee being desirous to receive your information, in person, touching what you know relative to Mr. Blount's criminal project, you will be pleased to respect their warrant, and attend their messenger to Philadelphia. I shall take care that your expenses, going and returning, shall be paid.

I am, sir, your obedient servant,

JAMES McHENRY.

To JAMES CAREY, *Interpreter at Tellico.*

(N.)

WAR OFFICE, *July* 10, 1797.

SIR: The House of Representatives of the United States, having impeached William Blount, a Senator of the United States, of high crimes and misdemeanors, and appointed a committee of their body to send for persons, papers, and records, and

the said committee having issued a warrant to apprehend and bring before them Major James Grant, of the State of Tennessee, and subpœnas for James Carey, and John Rogers, with their papers, respectively: You will be pleased to give to the said instruments, and their bearer, all lawful aid in your power, to carry their object into effect.

I am, sir, very respectfully, your obedient servant,

JAMES McHENRY.

Colonel DAVID HENLY,
Agent for the War Department, Knoxville.

(O.)

PHILADELPHIA, *July* 11, 1797.

You are to proceed without delay to Knoxville, in the State of Tennessee. The object of your mission is to take into your possession and custody, the person and papers of James Grant, of Knoxville, agreeably to the warrant with which you are charged, and return with them to Philadelphia. It will be necessary to avail yourself of the aid and advice of the officers of the Government of the United States, to whom you are recommended by letters put into your hands from the Secretary of War. As soon as you find Mr. Grant, and such papers as he may have in his possession, in your power, you will let him know that it is your wish to prevent, as far as possible, anything that may be disagreeable to him in the manner of his coming to this place. That he may come merely as a fellow-traveller, if he consents to such regulations for the conveyance of himself and his papers, as you may judge necessary to insure their arrival at this place in safety.

You will be careful to secure well, and put your seal on such papers as you may take into your possession, in the presence of the person to whom they belong, and assure him that they will be opened in his presence, if he desires it, and examined solely with reference to the subject of impeachment now depending against Wm. Blount, Esquire, and such as are found not to relate to that subject, will be immediately returned to him.

You will be particular in securing all papers or letters from William Blount.

At Knoxville, Col. Henly, the agent for the War Department, will give you information how to find John Carey and John Rogers, to deliver to them the letters directed to them, and to serve the subpœnas on them—who, it is expected, will accompany you to this place.

If the committee should not be in session on your arrival here, you will take your directions from the Secretary of War.

You are requested to use all possible despatch in your journey to Tennessee, and on your return to Philadelphia; for this purpose you will take relay horses as there shall be occasion; and if any opportunity should offer to write to the committee while you are on the road, you will communicate any information in your power to the committee, under cover to the Secretary of War.

If your conversations with Major Grant, or Rogers, or Carey, should produce any important disclosures, connected with the business in which the committee is engaged, you will, in such case, apply yourself to Mr. Hawkins, or Col. Henley, or other agent of the United States, in that country, for directions how to act, and endeavor, with the aid of the civil authority, to secure the persons and papers of any who shall appear to be concerned in the plot.

Wishing you success in your mission, I am, by order, and on behalf of the committee, sir, your most obedient servant,

S. SITGREAVES, Chairman.

To Major THOMAS LEWIS.

(P.)

GERMANTOWN, *Sept.* 25, 1797.

SIR: In obedience to the instructions of the committee, dated the 11th of July last, and handed me on the day following, I set out on the 13th for the State of Tennessee, and proceeded with all possible despatch that my health would admit of, and arrived at Knoxville on the 27th in the evening. Early on the morning of the 28th, I waited upon and served the precept on Major James Grant, in company with Colonel D. Henly, Agent of War at that place; after which Mr. Grant produced all his papers, which Colonel Henly and myself carefully examined, culling all those that appeared attached to his domestic concerns. The balance of his papers I put my seal carefully upon in the presence of Mr. Grant.

On my arrival at Knoxville, Colonel Henly sent an express for Carey, who was at Tellico block-house, employed as an interpreter in the public store at that place, and who came immediately to Knoxville after the receipt of Colonel Henly's letter. Rogers, I found, was in the Creek nation, and had been sent for by Colonel Hawkins, previously to my arrival at Knoxville. As it was a desirable thing with me to bring Rogers, as well as Grant and Carey, I was induced to wait until the 10th of August, in expectation that he might arrive by that time; in this I was disappointed. Colonel Hawkins and Henly pressed me to stay a few days longer, expecting daily Rogers's arrival, and with him some information which might be useful to the General Government. Not hearing anything during my stay at Knoxville, or having any real information of Rogers being on the way, I set out on the 20th of August with Major Grant. Carey I sent off on the 13th, with directions to proceed on to Abington, in Virginia, where he should wait until I should arrive.

Colonel Henly was desirous I should accompany him to Colonel King's iron works, as he expected to collect some useful information in that quarter. This circuitous route detained me three days longer than I expected, after which I made the best of my way for Philadelphia, and arrived at Germantown with Messrs. Grant and Carey on the 15th instant.

I have the honor to be, very respectfully, your most obedient servant,

T. LEWIS,
Capt. 2d U. S. Regiment.

The Hon. SAMUEL SITGREAVES,
Philadelphia.

(Q.)

SIR: Agreeably to your directions to me in the letter brought express by Mr. Byers, I invited the honorable Mr. Hawkins and Judge McNairy to proceed to Tellico, for the examination of certain persons under suspicion of knowing the contents and the plan laid against Government, in a letter written by Gov. Blount, and after examinations which took place yesterday, this morning Carey brought forward another letter from Governor Blount, to Rogers, by which it appears that Chisholm and Rogers have full knowledge of the plan.

Mr. Hawkins being more competent to such examinations than myself, I submitted to him the whole conducting of it.

The examinations of Carey and Lovely, accompanied with Mr. Hawkins's letter, make it unnecessary for me to be more particular, and I have only to assure you, that I shall be faithful to my trust, and will use all means to give Government the fullest information respecting every occurrence.

Rogers being gone to the Creek nation, which is some distance from this, Mr. Hawkins and myself thought it most advisable for Mr. Byers to return immediately to you with the proceedings as far as we could obtain information. In the meantime we shall send for Rogers, and get all that may be got from him and forward to you.

I am, very respectfully, sir, your humble servant,

DAVID HENLY,
Agent War Department.

Hon. JAMES MCHENRY,
Secretary of War.

(R.)

TELLICO, *July* 9, 1797.

I sent you from Knoxville, the 4th of May, copies of the originals herewith enclosed. I have written to you frequently since, but dates I do not recollect; and my papers are all at a distance from me. On the 5th I enclosed to you, from Knoxville, with a long letter, the examination of James Carey. I thought it my duty to interpose as soon as I got out of the woods, and sift that affair thoroughly. Upon the return of Mr. Byers, Colonel Henly called on the agent in the Indian department to accompany him here, with Judge McNairy. We have now sent this second examination, and an original letter from Mr. Blount to Rogers. When I first examined Carey, I did it alone; he was much alarmed; I assured him all I wanted was the truth, and that, if he was faithful to the Government, he had not anything to fear, and the proof I required of his fidelity, was a disclosure of all he knew relative to the contents of the letter, and that no part of his narrative should militate against himself, or affect his present standing in the Government. He communicated to me all that he said he knew. I replied, that I was not satisfied with his communication, that I gave him until the next day to recollect himself, and then I would examine him again. This I did as detailed to you. Notwithstanding the answers of Carey do not correspond with the expectations which naturally arise from reading the letter, I am inclined to think they are substantially true. That a man who has acted in so high offices as the writer of the letter has done, should so commit himself, must be attributed to a long series of base conduct, which seems to have buoyed him and his followers above shame. For a general idea into this conduct, you have only to inspect into the records in your own office.

I have the honor to be, with great respect, your obedient servant,

BENJAMIN HAWKINS.

Hon. JAMES MCHENRY,
Secretary of War.

(S.)

PHILADELPHIA, *July* 14, 1797.

SIR: The Committee of the House of Representatives of the United States, having reason to believe that Mr. Mitchel, of the State of Tennessee, is possessed of important information relative to the business with which they are occupied, have issued their precept in the nature of a subpœna, requiring his attendance before them forthwith, to be examined on the subject.

This precept is now enclosed to be served by you, conformably to the instructions given to you in the cases of Carey and Rogers. The committee have it not in their power to inform you particularly of the place of his residence; this you must ascertain by inquiry. It is very desirable that you may be able to bring him with you when you return; but if you find it impracticable to serve the precept yourself, without inconvenient delay to the other objects of your mission, you will, under the directions of Colonel Henly, or Mr. Hawkins, commit it to some confidental person to execute.

We cannot discover, with satisfactory certainty, the christian name of Mr. Mitchel. He made a communication, on the subject which we are desirous of investigating, to the Spanish Minister, who calls him Medad Mitchel, and describes him to be a tall and slender young man, with dark hair; he may be further known, by the circumstance of his having received a letter from Chisholm, dated Philadelphia, March 16th, 1797, directed to Messrs. Mitchel and Craige, which letter he communicated to the Chevalier d'Yrujo. When you have ascertained his name, you will please to fill up the blank in the subpœna accordingly.

Carey and Rogers have been assured, by the letters from the Secretary of War, which were delivered to you, that their expenses going and coming would be reimbursed to them. The same assurance must be given to Mitchel, and if he should not have the actual means, the agent of the War Department, Col. Henly, will doubtless advance what will be sufficient to bring him to this city.

I am, sir, your most obedient servant,

S. SITGREAVES, Chairman.

Major LEWIS.

(T.)

PHILADELPHIA, *July* 25, 1797.

SIR: Mr. John Phillips Ripley was yesterday introduced to the Committee of the House of Representatives, and gave to them the information, of which the enclosed is a copy. As it is, in several points, variant from the purport of your past communications, and refers to evidence which is said to be in your possession, but which has not been yet delivered to the committee; we request that you will be so good as to inform us how far Mr. Ripley's representation corresponds with the fact, and whether there is anything within your knowledge which can have given rise to his suggestions. If you should return to Philadelphia before your embarcation for Algiers, the committee further request that you will let them see you on the subject; and that, in the interim, you will please to write to the committee, immediately on the receipt of this letter, and acquaint us how soon you expect to be in this city.

I am, sir, your most obedient servant.

S. SITGREAVES, Chairman.

Capt. WILLIAM EATON,
Brimfield, Massachusetts.

(U.)

BRIMFIELD, *Mass.*, *July* 29, 1797.

SIR: Mr. John Phillips Ripley, son of a very respectable Professor of Divinity and the Languages, in Dartmouth College, now resident in Philadelphia, was cotemporary with me at that Seminary; and though young, was among the circle of my friends there. He has been so since the renewal of our acquaintance at Philadelphia; on my return from New York, I said to him that four or five enigmatical letters from Blount to Romayne were found among the papers of the latter, which undoubtedly had reference to the conspiracy; that, from his own concession, I had concluded that letters of more importance were destroyed; that *one* letter was found, among some neglected papers, signed by Robert Liston, at which Doctor Romayne discovered evident perturbation, and that this letter countenanced the conspiracy. That the Secretary of State, hearing I had mentioned this circumstance, intimated to me that it was improper; that Mr. Hodgdon had done the same, and that I had written him on the subject.

Colonel Pickering said nothing to me of the effects a discovery of facts relative to Mr. Liston's letter would have on the minds of the people; he said nothing of insuring the views of the Government; nothing of the bad policy of offending the British Minister or his nation, nor anything of Great Britain being the only friend we have. These ideas Mr. Ripley must have mistaken from my letter to Mr. Hodgdon, on the propriety of which I did consult him, believing him to be a young man of confidence, and a friend to the Government. I have not an accurate copy of that letter, or it should accompany this. Probably it may still be in the hands of Mr. Hodgdon; if so, it may show the inconsistency of making Mr. Pickering the author of ideas and conclusions, which will there appear to be the result of my own reflections, and will evince the inaccuracy of the impressions left on the mind of Mr. Ripley.

The expressions, "several important letters," "positive proof that the British Government was at the bottom of the conspiracy;" "that these letters offer rewards to those who would engage in the enterprize;" "rubbish" and "reprimand," do not recur so familiarly to me as it seems they did to Mr. Ripley. I disclaim them.

No information has been in my possession which has not been delivered to the committee.

I expect to sail from Philadelphia for the coast of Barbary so soon as the frigate fitting out for the Dey of Algiers shall be rigged and equipped. This, Colonel Pickering informed me, would be the ensuing Autumn. I shall repair to that port on receiving orders, and, immediately on arriving in the city, will do myself the honor to wait on the committee.

I have the honor to be, sir, with great respect, your most obedient and very humble servant,

WILLIAM EATON.

Hon. Mr. SITGREAVES.

(V.)

PHILADELPHIA, *Sept.* 1, 1797.

SIR: I have received your letter of the 29th July. The committee are obliged to you for the promptitude of your reply. But as the information of Mr. Ripley has been given on oath, and will, of course, form a part of the body of the testimony collected by the committee, it is proper that your evidence should be accompanied, as far as is practicable, with equal solemnity. It is, therefore, the request of the committee that you would appear before some judicial character of the highest grade in the vicinity of your residence, and make a deposition, upon oath, of your knowledge relative to the subject-matter with which the committee are charged, and particularly with relation to the facts deposed by Mr. Ripley.

Mr. Thomas Odiorne has also appeared before the committee, and made a deposition corresponding, in general, with Mr. Ripley's. You will, therefore, be so obliging as to include in your narrative the subject of your conversations with Mr. Odiorne also. And you will desire the magistrate who shall take your deposition to forward it, under cover, to me.

This is all that can be done at present, without incurring a greater expense, and giving you more trouble than the committee think the occasion would justify. But it is their further request, that when you shall come to the city of Philadelphia, before your departure for Africa, you will apprize

them of your arrival, and make such other or further deposition as they shall deem necessary.

I am, sir, your obedient servant.

S. SITGREAVES, Chairman.

Captain WILLIAM EATON,
Brimfield, Massachusetts.

(W.)

SPRINGFIELD, *Sept.* 6, 1797.

SIR: I am this morning honored with your letter of the 1st instant; mine of the 29th July contains my answer to Mr. Ripley's deposition, but as it cannot be admitted as evidence, I unite my oath to the statement herewith enclosed. I felt astonished at the inconsistency of the letter signed Robert Liston, found among Romayne's papers, with the explanation of the British Minister on the subject of the conspiracy, presented in a billet to the Secretary of State. The letter made the same impression on Messrs. Harrison, Giles, and Benbridge, and, if I discerned accurately, the committee were not otherwise impressed. My letter to Mr. Hodgdon on this subject is expressive of my feelings. That letter I read to Ripley and Odiorne, the former of whom had been a candidate for an Executive appointment under Government, and told me he had experienced the friendship of Mr. Pickering; the latter was soliciting a place in some public office—both professedly friends to the Executive measures, and both had plighted their faith and honor to keep my confidence. I am informed by my friend Byers, that both, in violation of that faith and honor, and of truth, also, have since aggravated this information to the Spanish Minister. I knew the young men in embarrassed circumstances, but believed their honesty impregnable. Feeling for the disappointment of Ripley (for he had formed sanguine expectations) in not obtaining the appointment to the Consulship of Tripoli, I requested that he would accept a room and lodgings in my house, and the use of my library, to qualify himself for the practice of the law, with an attorney who lives near me, and that he would use my name to obtain such credit as would be necessary in the prosecution of his studies, till the avails of business would enable him to refund his expenses. He did, with seeming gratitude, accept the offer, but has since passed through my neighborhood, I am told, without calling on me. I can no other way account for this neglect than by a conjecture that READY MONEY has diverted him from his resolutions, and this, indeed, is uncharitable. Mr. Odiorne has at least been a spectator in all these transactions, and has not less experienced my friendship. I would not, sir, ask your condescension to the perusal of these individual concerns, did they not tend to show the relation in which these deponents should consider themselves with me, and that, to a violation of good faith, they have added ingratitude.

With great respect, I have the honor to remain, sir, your most obedient and very humble servant,

WILLIAM EATON.

Hon. Mr. SITGREAVES.

(No. 1.)

PHILADELPHIA, *February* 9, 1797.

DEAR SIR: I persevere in my determination respecting a certain business, as expressed to you at New York. I am without the expected letter from you. If you have anything worth communicating comes to your knowledge, I beg the favor to receive it as early as possible.

And am, with the sincerest esteem,

WILLIAM BLOUNT.

Doctor ROMAYNE, *New York.*
(Free.) William Blount.

(No. 2.)

NEW YORK, *February* 10, 1797.

MY DEAR SIR: I should have written you before, but I have not been able to learn, till lately, that nothing has come from Mr. King to any persons in this city: I now know that to be the case.

Our news from Europe you have in the public papers. You see with what earnestness the British loan has filled, and you see with what boldness Bonaparte fights. There are no omens of peace. The Directory agree to the terms of composition, yet they do not mean to give up Flanders and the parts of Germany South of the Rhine, which are now incorporated with the Republic, one and indivisible. They can only mean to give up some of the conquests in Italy. These terms will not suit the British as yet, and I am fully persuaded that the war will go on with increasing violence, for it will become more and more national. I have reflected much, since you left me, respecting our plans to the Southward; and the more I think on them, the more important they appear to me in their consequences. The packet sails on Tuesday, and I shall begin to write this evening fully on the subject, giving assurance that the friend we contemplate will go over in May. I am sure of success, from a variety of circumstances, and am sure I am not too sanguine.

I am really anxious to go on to Philadelphia to see you for a few days, but I am detained here. The man from whom I had to receive twelve hundred dollars the 20th of this month has failed: I have sureties, but they will not pay without being sued, and the question is, whether I must not give time. I have nearly the like sum due the 1st of March, which I must also endeavor to secure, for I know I shall not obtain payment.

To add to my disappointment, I shall lose £150 for house-rent, from the misfortunes of my tenants.

I trust and hope you are of the same mind you were about going to the Eastward. I am collecting all the facts I can to furnish you, and you will no doubt do the same. Pray let me hear from you soon.

I am, with perfect consideration, your assured friend,

NICHOLAS ROMAYNE.

The Hon. WM. BLOUNT, Esq.,
Senator of the U. S., Philadelphia.

(No. 3.)

NEW YORK, *March* 3, 1797.

I have only this moment, my dear friend, received your letters of the 9th and 16th ultimo, and I am to censure myself very much for not having called at the post office before.

I am happy you continue in your sentiments on a certain point; you may be assured it is everything to you and me. With respect to peace, be assured it is very distant, notwithstanding what is said. It is impossible, under present circumstances, any accommodation can take place, or peace continue for nine months.

There are letters here from Mr. Monroe. His opinion is that of peace, but I know it is founded on a supposition that England must yield, in every point, to France. There are letters from Mr. K——; he writes with caution. The only thing he says, is, that the Minister's mode for a loan is not popular; but the result shows that Mr. Pitt has gained his object.

With respect to myself, I am preparing all my business to follow you. We are here very much perplexed in money matters. The one note I mentioned to you is already protested, and I have another due to-morrow, which will also be protested: by giving time they will be secured to me. Pray let me hear from you by return of post, and what time you will set out for ——, when you leave Philadelphia, &c.

Present me to your lady and family, and be assured of the sentiments of esteem with which I have the honor to be your obliged servant and friend,

NICHOLAS ROMAYNE.

The Hon. WM. BLOUNT, Esq.,
Senator of the U. S., Philadelphia.

(No. 4.)

PHILADELPHIA, *Tuesday, March* 7, 1797.

DEAR SIR: I have before told you that I persisted in the plan of going to London, and I now repeat it to you; but from what part of America I shall take my passage is uncertain; and I fear it will not be convenient to take it from New York. Hence seems to me to arise a necessity that I should see you before my departure from this place.

Can't you come here on the last of this week, and spend a few days, when and where you and myself can talk things over once more? I shall expect your answer as early as may be.

With the sincerest esteem, your friend,

WILLIAM BLOUNT.

(Free.) William Blount.
Doctor ROMAYNE, *New York.*

(No. 5.)

NEW YORK, *March* 8, 1797.

MY DEAR SIR: I have acknowledged your favors of February last week; since that time, I have not had the pleasure of a line from you respecting your future operations. The last letters from Holland speak of peace as out of the question, and that there will surely be another campaign. I do not find that the death of the Empress of Russia will have much effect on the present politics of Europe. The same Ministers will be continued; and if the new Emperor will not meddle with State affairs, his life will be continued to him; otherwise he will be destroyed, and his wife will reign. Indeed, from late accounts, it is suspected that some revolutionary movements are to be apprehended. There is a very high aristocracy in Russia, and they will, with much difficulty, submit to the control of a sovereign. The Bears, it seems, prefer to be governed by a woman.

I do not hear anything from England. A packet is hourly expected with the January mail. I shall write you if anything occurs.

I have read Mr. Adams's speech. I expect the greatest part of his administration will consist of speeches and orations. I fear much that on Saturday commenced an era not very propitious to our country. The most that can be expected from Mr. Adams will be a negative Magistrate. But it appears as if he does not mean to give any tone to the Government, but to be led by the Senate and House of Representatives. Money is very scarce here, indeed; and it is said there are very great sacrifices of all kinds of property making every day at auction at the Coffee House. Mr. Macomb has purchased some North Carolina lands here at ten cents per acre, said to be of good quality. Pennsylvania lands are offered here at a quarter of a dollar, said to be good lands. R. Morris's notes are at one shilling in the pound. I have much reason to suppose that these matters will not mend, as bills on London are rising, and our commerce getting more and more embarrassed. I wish your opinion respecting the value of Morris's notes, and respecting lands for a friend of mine here.

I am, with perfect consideration, very entirely yours,

NICHOLAS ROMAYNE.

The Hon. WM. BLOUNT, Esq., *Phil'a.*

(No. 6.)

NEW YORK, *March* 9, 1797.

MY DEAR SIR: I have just received your favor of the 7th instant, and am extremely sorry that my sister's indisposition will prevent me going on to Philadelphia at the time you have appointed.

Your voyage will be very interesting to us both, and of the highest consequence to certain operations. I have therefore thought much about the most eligible mode for you to go. I have concluded, in my own mind, that it would be best to embark for Amsterdam or Hamburg, and for a guinea you can always be landed in the Channel by fishing boats, who are in great numbers on the coast. In this way all —— will be done away ——: you can go very privately from this or Philadelphia, and you will have a much better choice of shipping. At any rate you must not go from the Southward in a vessel with naval stores—you will be subject to too many chances of capture.

Another consideration of moment is, that I wish you to see answers to the letters I have written, because there may be some disposition to be made in consequence of them. Let me know when you leave Philadelphia, and if you go to Washington or Knoxville. It surely will be convenient for you to go from the Northward, and I hope your arrangements will enable you to set out the beginning of May. My opinion is much for your going from this or Philadelphia, as I have mentioned. I shall inquire respecting shipping, and give you information in my next.

Yours, affectionately.

NICHOLAS ROMAYNE.

The Hon. Wm. Blount, Esq., *Phil'a.*

(No. 7.)

Philadelphia, *March* 11, 1797.

Dear Sir: Yesterday I received your letter of the 8th, and to-day that of the 9th instant. I regret that I could not have had the pleasure of seeing you at this place before my departure for the Southward, which will now be in a few days, and particularly the cause which has prevented your coming. Yet, I beg you to continue to address such letters as you shall write me on or before the 23d of March, to this place, as to that day they will reach me free of postage, and I shall direct the postmaster how to forward them to me; and before that day I will advise how to address me after that time. My business, at present, to the Southward is such that I cannot give more particular instructions to you at this time. I shall certainly attempt to carry our plan into execution, and shall see you at New York, or some other convenient place, before my departure for Europe, early in May. Mrs. Blount is so importunate to go to Knoxville this spring, that I have not yet been able to say I am not going there with her; hence, perhaps, you may hear I am gone to Tennessee; but hear what you will, rest assured I am steady and determined to our purposes. Pray let me hear from you often, and, on my part, I promise to you to keep you well advised of my movements. In the meantime, be assured that I am, with very sincere esteem, your obedient servant,

W. B.

Doctor Romayne.

(No. 8.)

New York, *March* 11, 1797.

My Dear Sir: I regret very much, indeed, that I have not had it in my power to go on to Philadelphia to meet you as I so sincerely wish; but I must communicate my sentiments as they occur.

You know my sentiments are, that no peace can take place in Europe for some years—certainly not this century—at least such is my opinion. I am sure I cannot be wrong that peace is not at hand. You are, therefore, to consider if the object we have proposed is not of greater moment the more it is considered. I have mentioned to you in my last letter my wishes that you should go in an Amsterdam or a Hamburg vessel, even in one bound to France, if she goes up Channel, in preference to any other mode. I have made the necessary inquiries, and I am told there will be good ships going from this in May, though none are specified—you will be at no loss from this port.

I must communicate to you two sentiments which are strongly impressed on my mind: The one is, that you be not seen or known in any commercial or land speculation in ——, for it will be of immense disadvantage if known, in respect to your other business, as long as that is pending; if you have any views that way, let it go through your brothers to Captain Laurence, who is known to them, and is a good man, or Mr. Mullet—this I wish to impress very much on your mind. The second is, that I have reason to believe there is a personal dislike in Mr. King towards you; and I think it absolutely necessary that the objects we contemplate be kept from him. Upon this head, then, we are to be prepared and armed, and I shall throw sentiments of that kind in all my letters to keep the business from King, and to anticipate his conduct.

This is all that occurs to me now. As you know my opinions respecting the continuance of the war, you must know what are the prospects of things in the United States. I think they will not be very flattering. You who are at the head of things must have a great opportunity of knowing how things will be. Let me hear from you soon, for I am very anxious to know your future determination, as it must very much govern mine.

Yours, affectionately,

NICHOLAS ROMAYNE.

The Hon. Wm. Blount, Esq.,
Senate of the U. S., Philadelphia.

(No. 9.)

New York, *March* 15, 1797.

My Dear Sir: I have this day received your letter of the 11th instant. I do not know that I shall write you after the 23d on the subjects we contemplate, because the utmost caution is necessary for us both to observe. The great point is now decided, and will corroborate the opinions I gave you, that the war will go on; and you may depend it will, for some years, with a degree of acrimony and horror not to be described. This, then, is fixing one point in this state of things, if you and I can benefit ourselves, and be at the same time of service to our fellow creatures, we ought to do it.

I find that Hamilton and our politicians here are very averse to the French being in our neighborhood, and are equally so that there should be any change; I am very cautious and circumspect, but I get all the opinions I can. In our business we will have nothing but enemies here; therefore the utmost reserve is required. I shall give out that I mean to visit some of the States, and then sit down and practice physic here. I think that will kill all suspicion about my being engaged in any political matters. In my last letter I gave you some ideas of King, and of not being seen in

any business in a certain place, so as to appear a pure, dignified political character —— let me know if these letters have reached ——. I never was so confident of success in my life of any business, as I am in this of our contemplation.

I wish to impress on your mind very much the idea of secrecy in our business, and not to confide in any one, for it may be of material disadvantage to us. This, perhaps, may be of moment for you to consider, that every means should be used in the Tennessee, Kentucky, &c., to give every assurance that a certain country is certainly ceded to France. That of course all property in these countries will be of no value, as it will be in the neighborhood of a hostile and warlike people who will favor the liberation of all the slaves. As landed property must fall in these United States, it is well to give it this turn among the Western people; it will be well to say that the mouth and navigation of a certain river will be shut against all Americans. It might answer to get some meetings of the people to instruct Congress against the French getting the Spanish cession, &c. You may inflame the minds of the people in a certain way, so as not to let out any of our plan, and yet put things in such a situation as will make our plan, when it takes place, appear as a salvation of the people, or as "Common Sense" was in 1776, for ground must be prepared before seed will bear properly; all the fermentation you can make to the Southward, respecting the change of possession, &c., the better; when it is in your hands it will be well done. With respect to the United States we are to be pissed upon and degraded, or I am deceived.

If any new ideas should occur, I will write to you again—in the meantime we have no time to lose. You must positively be all expedition; I am fearful you will hardly have time to visit the Tennessee, and yet it may be very necessary.

Adieu: God bless you and preserve you, wherever you be.

Your affectionate friend,

NICHOLAS ROMAYNE.

The Hon. Wm. Blount, Esq.,
Senate of the U. S., Philadelphia.

What would you think of my writing certain pieces for the Knoxville Gazette, &c.? Burn or destroy my letters.

(No. 9. A.)

11º Junio, 1797.

Mui Senor Mio: Por qualquiera accidente que sea que la carta incluida fui descubierta, lo cierto es que debo à enviarla à v. m. por ventura, sea un eslabon de la cadena execrabile conque los enemigos callados de nuestra patria esparaban à deshonrarla.

Diome esta carta un amigo de mi, y de mi patria, en cuyas manos echaba por acaso, y porque sospechaba à essa carta de estar el descubrimiento de una especulacion de tierra, conservola pari si, sin relacion à las razones de estado.

B. L. M. de V. M.

El enemigo eterno de cada influencia estrangera.
Sr. Don T. Pickering.

N. B. Escribo con el español, aunque incorrectemente, porque es mui incognito, y en razon de que soi rodeado de los otros.

(translation.)

June 11, 1797.

Sir: By what accident the enclosed was discovered, it is certain that I should send it to you. Perhaps it may be a link of the execrable chain with which the secret enemies of our country hope to dishonor it.

A friend of mine, and of my country, gave me this letter. It came to his hands by accident, and as he suspected that it was the discovery of a land speculation, he preserved it for himself, without regard to reasons of State.

Your most obedient servant, an eternal enemy to every foreign influence.

Timothy Pickering, Esq.

(No. 10.)

New York, *March* 17, 1797.

My Dear Sir: Yesterday I acknowledged your last favor that came to hand, and gave you some ideas respecting impressing certain facts on the minds of the Western people. I can only repeat to you, that it might be well in you to advocate the Spaniards holding their present possessions, as most advantageous to the Western people, and committees or meetings ought to be held to request Congress to take the business in hand, and remonstrate against the French people, that if they do get possession, they will oblige the Western people to come into all their measures and caprices, or they will shut up the navigation—they will sow discord among the people, and the value of lands and all property will be greatly reduced.

These facts and probabilities may be enlarged upon in such manner as will best suit our purposes.

The time is fast approaching in which something must be absolutely done. We have not more than six weeks time. I have spoken to my sister about my visiting Europe—as yet she will not consent, but if you can't go, and you think that you are immediately necessary to make arrangements in the Tennessee, &c., then I will endeavor to go myself if you can't. I know that you will be more important in Europe than I—so you are here—for I must be a nullity till you return. In the meantime think what will be necessary; act for the best, and let me hear from you early on this last subject. At any event we must meet the beginning of May, and then determine. Keep yourself prepared to go and I will do the same.

Your affectionate friend.

The Hon. Wm. Blount, Esq.,
Senate of the U. S., Philadelphia.

(No. 11.)

Philadelphia, *March* 17, 1797.

Sir: On a further investigation of my business—after your departure from here—it is insisted

on my going to urope instantly; therefore, I saile to-morrow at 9 o'clock. I shall expect to see you very soone. Every thing promises fair—Don't faill—come soone.

JOHN CHISHOLM.

The Hon. Wm. Blount, *Baltimore*—if he is left Baltimer to be forward to Alexandria, Virginia.

(No. 11 A.)

Philadelphia, *March* 17, 1797.

Dear Jack: I now tell you in Earnest that, at nine o'clock to-morrow, I go on board the Ship favorite, & saile for Old England—Rejected by the u S—I now steere for forein Climes—I wish you well most sencerely—and dam all the rest I pray—Dam C: D. H. and S. D.—B. H.—The honorable S: Cr. W.—the loss of on is the choice of 20 and the gaines—of 2—to be plaine Jack—I will conquer or be Damd. Let me be serious to you pr. fear I may neaver see you permit me to tell you that from my hart & soule I cencerely wish you well—& Eaver shall Esteem you for your Conduct whilst in Philadelphiai—Wher honesty and vertue—is no Recomendation—I am Determined to Dey or ——— after I arrive in Urope I will write you—My love to Daveson Lovely and old Mrs. Miller—farewell.

JOHN CHISHOLM.

Colonel John McKee, Teleco Block-House, State of Tennessey, *via* Knoxville Post.

(No. 11 B.)

Deer Rogers—I am gone to England—you Kno for what—give love to all my Indian friends—hold yourself Ready Keep everything secret & keep up there spirits—I go to-morrow—Let Sligins and Greeson kno what they may exppect and that they see me Quick after my Return—My friend keep your secret and mine.

Pheladelphia
17th March, 1797. JOHN CHISHOLM.

Captain John Rogers, in the Cherokee nation, Big Creek—To the care of Ignatious Chisholm, Knoxville.

(No. 12.)

New York, *March* 21, 1797.

My Dear Friend: I have not been in town for some days past to see if there be any letters in the post-office for me from you—but I shall see to-day. I have hinted to you in my last that I would go myself upon the business we contemplate, if it met your approbation, and you should think it most proper. My determination has been founded upon the necessity of a person going soon—to set out certainly the beginning of May—and I did not know that you would be fully in readiness; a second reason is, that I am sure that our plans will succeed, and that there will be no need of great talents in the business confidence is all; a third reason is that you may be advantageously engaged in this country in my absence, whereas if I remain I can do nothing. I have an opinion that your presence here is essential to our business; all this business is, however, submitted to you, and you must let me know your mind soon. The great question is, whether we should have a meeting before you set out from Philadelphia or after you return from the Tennessee. I would prefer the latter, because you will know better how the land lies. You are, however, to judge upon the subject.

From the last accounts from Europe, England will be hard run; she must make great exertions to save Portugal.

I shall make every arrangement in my affairs to set out from this as early as possible.

Yours, affectionately,
NICHOLAS ROMAYNE.

The Hon. William Blount, Esq.,
Senate of the U. S., Philadelphia.

(No. 13.)

New York, *March* 22, 1797.

My Dear Sir: Lest the letter I sent on yesterday should miscarry, I send you this as a duplicate. I do not know that anything can occur that will make it requisite for me to write you again before I have the pleasure of seeing you.

I stated to you in my last two letters that, if it met your approbation, I should have no objection to cross the water myself. It is necessary some one should go on the business soon, and I suppose you will not be in readiness. I now believe talents will not be wanting; a person of confidence is all that will be required. I think, therefore, if I go, you can be very usefully engaged here in my absence, while nothing can be done by me. The only difficulty that occurs is my sister; we must, therefore, be both in readiness—the one to go if the other can't—and I hope to see you here the last of April with certainty.

There are despatches here from Mr. Pinckney, at Paris, and they are gone on to the new President. It is supposed here that Congress will be immediately called, and that it is probable an embargo will be laid, and a new Minister sent to France—at least, an Envoy Extraordinary—I am, therefore, the more anxious about our arrangements, lest the embargo should be laid and the season lost to us. Your presence here, therefore, about the last of April will be highly necessary.

The news from Europe shows with certainty that the war will continue and perhaps with more acrimony than ever. England, I am persuaded, will be hard run, but if she acts with boldness and firmness, she will gain, I am fully persuaded, the day.

We have no news here of moment. Our Legislature is adjourned. All people are hard run for money. Your friend, Mr. Burr, has returned to the law and now practises in our courts. There will be great and wonderful changes in the circumstances of people here in the course of three or four years. Our merchants are under very serious alarms on account of the French cruisers. Our commerce, if unprotected, will be very much diminished, and yet it is hard to say it can be

done. I hope this letter will yet find you in Philadelphia, and that I may have your ideas about my visiting Europe. If you think it will be best I will make every preparation and every exertion; and, as the time is very short, I am anxious for your sentiments. Pray, therefore, write me as soon as you can.

I am, in great truth, sincerely yours,
NICHOLAS ROMAYNE.

I suggested to you in my letter of yesterday our meeting before you went to the Tennessee, but I have expressed a wish that it may be after, as you may survey things and know matters better than you can at present.

The Hon. William Blount, Esq.,
Senate of the U. S., Philadelphia.

(No. 14.)

Col. King's Iron Works,
April 21, 1797.

Dear Carey: I wished to have seen you before I returned to Philadelphia, but I am obliged to return to the session of Congress, which commences on the 15th of May.

Among other things that I wished to have seen you about, was the business Captain Chisholm mentioned to the British Minister, last winter, at Philadelphia.

I believe, but am not quite sure, that the plan then talked of will be attempted this fall, and if it is attempted, it will be in a much larger way than then talked of, and if the Indians act their part, I have no doubt but it will succeed. A man of consequence has gone to England about the business: and if he makes arrangements as he expects, I shall myself have a hand in the business, and probably shall be at the head of the business on the part of the British.

You are, however, to understand, that it is not yet quite certain that the plan will be attempted: yet you will do well to keep things in a proper train for action in case it should be attempted; and to do so will require all your management. I say will require all your management, because, you must take care in whatever you say to Rogers or anybody else, not to let the plan be discovered by Hawkins, Dinsmoor, Byers, or any other person in the interest of the United States nor Spain.

If I attempt this plan, I shall expect to have you and all my Indian country and Indian friends with me, but you are now in good business I hope, and you are not to risk the loss of it by saying anything that will hurt you, until you again hear from me. Where Captain Chisholm is I do not know, I left him in Philadelphia, in March, and he frequently visited the Minister and spoke upon the subject; but I believe he will go into the Creek nation by way of South Carolina or Georgia. He gave out he was going to England, but I did not believe him. Among things that you may safely do, will be to keep up my consequence with Watts and the Creeks and Cherokees generally; and you must, by no means, say anything in favor of Hawkins, but, as often as you can with safety to yourself, you may teach the Creeks to believe he is no better than he should be. Any power or consequence he gets will be against our plan. Perhaps Rogers, who has no office to lose, is the best man to give out talks against Hawkins. Read the letter to Rogers, and if you think it best to send it to him, put a wafer in it, and forward it to him by a safe hand; or, perhaps, you had best send for him to come to you, and speak to him yourself respecting the state and prospect of things.

I have advised you, in whatever you do, to take care of yourself. I have now to tell you to take care of me too, for a discovery of the plan would prevent the success, and much injure all parties concerned. It may be that the Commissioners may not run the line as the Indians expect or wish, and in that case, it is probable the Indians may be taught to blame me for making the treaty.

To such complaints against me, if such there are, it may be said by my friends, at proper times and places, that Doublehead confirmed the treaty with the President at Philadelphia, and received as much as five thousand dollars a year, to be paid to the nation over and above the first price: indeed, it may with truth be said that, though I made the treaty, that I made it by the instructions of the President, and, in fact, it may with truth be said, that I was by the President instructed to purchase much more land than the Indians would agree to sell. This sort of talk will be throwing all the blame off me upon the late President, and as he is now out of office, it will be of no consequence how much the Indians blame him. And, among other things, that may be said for me is, that I was not at the running of the line, and that if I had been, it would have been more to their satisfaction. In short, you understand the subject, and must take care to give out the proper talks to keep up my consequence with the Creeks and Cherokees. Can't Rogers contrive to get the Creeks to desire the President to take Hawkins out of the nation? for, if he stays in the Creek nation, and gets the good will of the nation, he can and will do great injury to our plan.

When you have read this letter over three times, then burn it. I shall be at Knoxville in July or August, when I will send for Watts, and give him the whiskey I promised him.

I am, &c.,
WM. BLOUNT.

The preceding letter was enclosed in a cover, with the following direction, viz:

No. 1.

Mr. James Carey,
Tellico Blockhouse.

(No. 15.)

Tennessee, Sullivan County,
Colonel King's Iron Works, April 21, 1797.

Dear Sir: As I passed on from Philadelphia to this place, at Petersburg I saw a negro fellow there in the possession of Mr. Wilder. I think he is called Dread, and is by trade a barber—who

says he belongs to you, and wishes to get back again. The only way you can get him, is to institute a suit against Mr. Wilder, (for I suppose he will not deliver him without,) and make proof of your property. It remains for you to determine whether he is worth so much trouble and expense, even if the recovery was quite sure, and although with me there is no doubt but the fellow is your property, yet, at such a distance, and the time he has been out of your possession, you might fail in your proof, and then the cost of suit would fall upon you, which would be an additional loss to that of your negro. I give you this information to the end that you may act as you judge proper on the occasion.

I suppose you know that Captain Chisholm informed me of your and his objects at Philadelphia.

I tell you that I am induced to believe that plan will go into operation, and if it does, it will be attended with great success. You will do well to keep things in a train, but take care and act wisely.

I am, with esteem, your obedient servant,
WM. BLOUNT.

Mr. JOHN ROGERS,
Care of Mr. James Carey.

(No. 16.)

APRIL 24, 1797.

SIR: I request you to pay to James King, or order, the money due to me for the cattle, if you have not already paid it to Mr. McClung or my brother Willie. You know the number of the cattle, and if you have had good luck with those that survived the winter, you can afford to allow me a good price.

I am your obedient servant,
WILLIAM BLOUNT.

JAMES CAREY, *Tellico Blockhouse—Col. King.*

(No. 17.)

APRIL 24, 1797.

SIR: If I recollect right, I requested you to pay to my brother Willie the money I advanced you through the hands of Mr. David Deaderick, and if you have not so done, I request you to pay it to James King, or his order, who acts as my attorney in fact in all cases. I hope your employment has or will shortly enable you to pay this sum without feeling of it.

I am, with esteem, your obedient servant,
WILLIAM BLOUNT.

Major LOVELY—*Colonel King.*

(No. 18.)

PHILADELPHIA, *April* 28, 1797.

I am much indebted to you, sir, for your friendly letter of the 14th of this month, enclosing one from Mr. Pulteney, whose good opinion gives me high satisfaction. (That letter is now returned.)

Taking it for granted that I understand to what business you allude, I could wish to have a full explanation of your sentiments on the subject; it may be done I think, in writing; you may depend on secrecy and discretion on my part.

The general sketch of what has taken place here is, that a person came to me to make certain important propositions of enterprise, to which I listened, but said I had no power to act.

He appeared to be determined and active, though illiterate and unfit to assume command.

He urged to have my consent to go to Europe, to tell his own story; to which I consented (though with some hesitation) not thinking myself authorized to give a positive refusal.

It strikes me that if a person of confidence, with proper authority from home, were to accompany him to the scene of action, something might possibly be effected.

Information of every sort will be faithfully received.

N. B. I have no intention of sending my secretary anywhere.

Believe me, with great truth and regard, sir, your most obedient humble servant,
ROBERT LISTON.

Dr. ROMAYNE.

(No. 19.)

Extract of a letter from James Grant to William Blount, dated Hawkins, May 8, 1797.

"Considerable uneasiness, I learn, prevails with the citizens respecting the line which the Commissioners seem determined to fix on; I am told, from some experiments made, it leaves the whole of Marysville within the Indian line, also a part of Charles McClung's place. The thing is becoming so serious, that it is thought the Commissioners will defer marking, and procrastinate the business, under an idea of searching for further records before it is made final. You stand well, and have the confidence of the people where I have been. If Colonel Cocke would go into the House of Representatives, he would hardly meet any opposition.

"News comes from Cumberland that the British have invaded the Floridas, and blocked up the Mississippi; the report has gained credit, whether true or not. If anything should transpire, I should be glad to hear it. Let me know when you come on the day you will be at Hawkins, or Greene Court House.

"I am, very respectfully, your humble servant,
"JAMES GRANT.

"Hon. WILLIAM BLOUNT,
"*Senator in Congress, Philadelphia.*"

(No. 20.)

NEW YORK, *May* 12, 1797.

MY DEAR SIR: I have received your favor from Petersburg. I have serious thoughts of going to Europe the middle of the ensuing week, but I think it will be of moment for me to see you. I think we may meet at Eliz. Town; you can come on; fix your time, and I will meet you. After the President's speech, very little will be done for some days. Write me immediately what had best be done.

Yours, sincerely,
NICS. ROMAYNE.

I have two letters from Sir W. Pulteney on the subject of our business, but there is nothing decisive.

The Hon. WILLIAM BLOUNT, Esq.,
Senate of the United States, Philadelphia.

(No. 21.)

NEW YORK, *May* 13, 1797.

MY DEAR SIR: I wrote you yesterday acquainting you of my wishes that we should have an interview at Eliz. Town; but, upon reflection, I think it would give room to a variety of false conjectures, and therefore you had best come on directly to New York. I informed Mr. Jarvis, who is among the inquisitive ones, that I conceived you had some business with Mr. Vander Hewitt, and might probably be in New York.

There is a fine ship called the Chesapeake, which will sail for Bristol about the middle of the ensuing week; at least her sails are bent, and she is nearly loaded. If I am to visit Europe, I had better go in her.

There is some probability that I may be in France. I will thank you to procure for me some good letters from Mr. Jefferson and others. I have spoken to Colonel Burr about a land scheme between you and me, and have requested his attention in getting letters for me. Your coming to this place will insure this business. There are circumstances which will prevent my visiting Philadelpha were I so inclined, but you may easily conceive how my time is taken up in preparing for my voyage. I am very earnest to see you; and if I am to sail, there is no time to be lost. I shall get myself in readiness to go in twenty-four hours' notice.

Yours, affectionately,
NICS. ROMAYNE.

The Hon. WILLIAM BLOUNT, Esq.,
Senate of the United States, Philadelphia.

(No. 22.)

NEW YORK, *May* 23, 1797.

DEAR SIR: The ship in which I intended to have sailed for Europe left this on Friday. I momently expected to hear from you.

I have informed you that I have received two letters on the subject of the business, written to you, and by the packet I expect further information. This, and the expectation of seeing you, retains me here.

I have it not in my power to visit the seat of Congress, and I must, therefore, expect the pleasure of seeing you here, where we can meet more privately than at any other place. A variety of conjectures may take place if we meet in Jersey. Let me have the pleasure of hearing from you as soon as you arrive, and your sentiments on the subject of our meeting.

I am, with much sincerity, affectionately yours,
NICS. ROMAYNE.

To the Hon. WILLIAM BLOUNT, Esq.,
Senate United States, Philadelphia.

(No. 23.)

KNOXVILLE, *May* 24, 1797.

DEAR SIR: Seven days ago I was with Carey at Tellico; handed him your letter No. 1, left with Colonel King, and urged his sending for R——: he will certainly do it.

The chiefs are calling out for their old friend, Governor Blount, and McKee; are much dissatisfied; say the new masters treat them niggardly. I am assured they will advise in their towns, and send on through South Carolina, without the knowledge of the Commissioners.

The Broom had just come in from Pensacola, and says he saw the British land in West Florida, with ordnance, &c.

Watts and Doublehead wish much to see you. Colonel Hawkins is gone to Cumberland. He neither stands well with the Cit's or Indians.

I am your humble servant,
JAMES GRANT.

The Hon. WILLIAM BLOUNT,
Senator Congress, Philadelphia.

(No. 24.)

PHILADELPHIA, *May* 29, 1797.

MY DEAR SIR: I acknowledge the receipt of your several letters, to which I will reply to-morrow. I beg you to attribute my omission in answering sooner to anything but the want of respect or esteem for you, both of which I have cherished from our earliest acquaintance, and shall never part with but with extreme pain.

WM. BLOUNT.

Doctor ROMAYNE, *New York.*

(No. 25.)

PHILADELPHIA, *May* 31, 1797

DEAR SIR: I can't come to New York to see you, and I much want to see you. Can't you come to this place to see me? I beg the favor of you to do so. And if you can come, I wish you would come this week. To see each other face to face it would be best; and to a man of your abilities and observation a journey to this place cannot be lost.

I am, dear sir, with the sincerest esteem,
WM. BLOUNT.

Doctor ROMAYNE, *New York.*

(No. 26.)

NEW YORK, *June* 2, 1797.

MY DEAR SIR: I have received your two letters, and I must take it into consideration the visit to Philadelphia.

The late packet which is arrived has brought me no letters, which surprises me much. The affairs of Europe are, indeed, such that the great ones are mostly occupied respecting matters which are pressing upon them. I do not know what to think respecting peace; but it appears to me that England will be more eager to obtain it now than when I left Europe; but I have no idea that a peace will be permanent. The parties will only respire and begin again. At this time I consider our prospects more uncertain than I did. I had penned some sentiments to be sent to you in case I should leave this before the meeting of Congress. I wish you had them, but I dare not trust them out of my hands.

Should, however, the war continue in Europe, it will be impossible for this country to escape being parties in it.

Yours, respectfully,
NICS. ROMAYNE.

The Hon. WILLIAM BLOUNT, Esq.,
Senate United States, Philadelphia

(No. 27.)

NEW YORK, *July* 2, 1797.

MY DEAR SIR: I have been confined to my room for a fortnight past with St. Anthony's fire in one of my feet; and though I am now nearly recovered, yet the warm weather deters me from undertaking a journey to Philadelphia, though I am extremely anxious to see you.

I think myself very fortunate that I did not go to Europe this Spring. I am much disposed to think the business is over now. Whether France will make a peace with England this season I have my doubts; and that nation, if the war continues, will not be able to show much exertion under the present load of accumulated debt. What is to be the fate of our country is very uncertain, but I have my fears that, if the war continues, France will be very unpleasant to us.

I presume it is now understood that Louisiana is to have a new master. How will the change be liked by the settlements in the Tennessee and the Ohio? You know I had some thoughts, when I could command a little money, to invest it in lands in that quarter, but I now hesitate very much on that subject.

Though a peace may take place between England and—*

(No. 28.)

A post upon Hosage river, a branch of the Missouri, about one hundred leagues from the mouth of the Missouri, established as a trading post. This post was contemplated in the Winter 1794, and may or may not be established. It is reported Hosage Indians are at war with the Spaniards.

Petit Coat, a post eight or nine miles up the Missouri, with a small garrison, say a militia subaltern's command. The circumjacent militia are about eighty.

St. Louis, fifteen miles below the mouth of the Missouri, upon the bank of the Mississippi, situate upon a rock, a sergeant and twelve men. Here the commandant, with the rank of captain resides: circumjacent militia, about three hundred.

St. Janevier, sixty-five miles below St. Louis, no soldiers; in lieu, militia, about one hundred and eighty. This post is commanded by a captain of militia. At this place is a regular quadrangular stockade, capable of being defended by four hundred men, but no cannon mounted.

New Madrid, commanded by Colonel Lusare, with the rank of Commandant of Upper Louisiana.

Endorsed: Judge Turner—Memor. of Force, &c.

(No. 29.)

PHILADELPHIA, *July* 26, 1797.

SIR: The annexed is a copy of a letter with which it seems Mr. Byers, of Tellico Blockhouse, came express to this city, and delivered it about the 20th June, to the President, with whom and his Executive Council it remained until the 30th instant, when it was laid by him before both Houses of Congress, with other papers.

It is imputed to me, and has involved me in serious difficulties, the extent of which I cannot at present foresee. They will, however, shortly be detailed to you.

I ask of you to examine it with attention, and determine for yourself, if the contemplated plan, let whoever may be the author, had gone into effect—what would have been the result to the citizens of Tennessee, whose good it ever has been, and will be, my happiness and duty to promote. I repeat, read and judge for yourself, regardless of popular clamour which its publication has raised in this city and other places, much to my injury. Shortly I will be in Tennessee. In the meantime,

Believe me, very respectfully, your obedient servant,

WILLIAM BLOUNT.

(A B.)

Deposition of Doctor Nicholas Romayne, aged thirty-nine years and upwards, taken before the Committee of the House of Representatives, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House of high crimes and misdemeanors, on the 15th, 17th, 18th, 19th, and 20th days of July, 1797.

DR. NICHOLAS ROMAYNE, being sworn on the Holy Evangelists of Almighty God, doth depose and say:

That he had been acquainted with William Blount since the year 1782, when he first came to this city as a member of Congress. Some time after, he had occasion to correspond with him respecting some property belonging to the deponent in North Carolina. Upon that and various other subjects the correspondence between them had continued till very lately. While Mr. Blount was Governor of the Territory of the United States South of the Ohio, the deponent was requested by a friend to write to him, and to propose the solution of certain queries respecting the military lands on Cumberland, in that Territory, for the purchase of which it was contemplated to form a company, and to propose to Mr. Blount to become a party. This proposition was accordingly made to him. Mr. Blount's answer to these queries and propositions was communicated by Captain Chisholm, at that time an entire stranger to the deponent, but whom Mr. Blount recommended as a proper person to be employed by the company as a purchasing agent. The plan, however, was wholly dropped, on account of the person who proposed it going to Europe. Some time afterwards the deponent formed a resolution of paying a visit to Europe; which being known to Mr. Blount, a proposition originated between them that an attempt should be made there to form a company on the principles and for the purposes formerly mentioned, and to include Governor Blount and Captain Chisholm as partners. This happened previous to the 12th July, 1795, on which day the deponent sailed for England. An agreement to this effect was made and formally executed; but from motives of delicacy, and apprehensions of the fall of lands on account of the political events in Europe, no direct attempts were made to carry it into effect. The deponent, however, left maps and papers on the subject with certain persons of consideration in England, and was requested by them and some others to procure from the State of Tennessee a law for enabling them, as aliens, to hold lands. These persons contemplated to purchase lands as the price, circumstances, and their own convenience, should dictate. In case of their becoming purchasers, it was understood that Governor Blount and the deponent might be interested in the purchases, upon terms, however, which were not settled; and the propriety of the purchases was to depend, in a great measure, upon his opinion. On his arrival in this country, he was to keep up a correspondence with them, which he has done.

In October last the deponent arrived in America. He has not been out of the State of New York since, till he was summoned to this place. Soon after his arrival he wrote to Governor Blount, informing him that he had done nothing in their land business, more than has been before mentioned. To this letter he never received any answer; but, about the beginning of February last, Governor Blount came to New York on business of his own; at least, his coming was not at the instance or with the privity of the deponent. During his stay there he and the deponent frequently met as acquaintances, had much political conversation, and frequently conversed on the value of property in the United States, particularly landed property. It seemed to be his wish that the deponent should urge his friends in Europe to become purchasers of land at that time, which, however, he positively declined, on account of what he considered to be the political state of this country. He particularly stated to Governor Blount that the French Government was at that time very hostile to the Government of the United States; that, in his opinion, there was no probability that General Pinckney would be received as Minister of the United States; that this opinion was founded on a knowledge of what appeared to be the system and temper of France when he came from there in July last; that he had much reason to believe that Spain had made a cession to France of Louisiana and the Floridas; that the French, possessing great powers, had great views in all their operations, and that he thought it not improbable they had in contemplation the acquisition of Canada and the whole Western country; and that he and his friends might be prepared to think of becoming *sans culottes*.

Mr. Blount seemed to be much interested by this conversation, which was very extensive, and which became at length more particularly directed to the State of Tennessee, and the manner in which it might be effected by these events. He said he had taken great pains to settle that State, and to render it important. He spoke of his being concerned in administering the Government there, on the subject of which he said he had been treated very ill by the President, or some of the Executive officers of the United States. The conversation, indeed, became so affecting to him that he wept; upon which the subject was dropped for that time. His stay at New York was several days; he was out at the house of the deponent one or two nights, and there were frequent conversations on the same subject; in the course of which the deponent expressed his opinion, that, under present circumstances, the lands in Tennessee and in the Western country, in general, would be of little or no value. A remark was made, that in case of a war between the United States and France, the situation of the Western country must be very disagreeable; and that in such an event those people, in order to relieve themselves from the calamities which must appear so threatening, would perhaps be impelled to separate from the Government of the United States. Speaking of the Genesee lands in the State of New York, and of some sales of them lately made abroad, and comparing them with the price of lands in Tennessee, the deponent was led to remark that it was a pity Louisiana also, as well as Canada, could not be in the hands of the English, as neighborhood to that Government added so much to the value in the sale of lands. Mr. Blount replied that he had no doubt of the justness of the observation; that it was indeed to be regretted that the British did not possess Louisiana, and that such an event might very easily be brought about. The deponent expressed some doubts of this opinion; having always understood that the people in the Western country were much attached to France and unfriendly to the English, which would create great obstacles to such an enterprise. Governor Blount admitted this, but remarked that the Spaniards were very weak, and would make but feeble resistance in that country. In consequence of this conversation, he proposed going to Eng-

* The preceding was found among the papers of Nicholas Romayne, and acknowledged by him to be an unfinished letter to Wm. Blount.—*Vide* Captain Eaton's Report.

land on this subject. The deponent told him, if he chose to go, he would give him letters to persons who might introduce him to those in power. He then informed the deponent that Captain Chisholm and several others had a plan of doing something against some parts of Florida, about which they had been admitted to some interviews with a person of consequence in Philadelphia. This was the first the deponent heard of Chisholm in this business, nor has he ever had any intercourse or communication with him relating to it. On his expressing a desire to know the nature and extent of Chisholm's plan, Governor Blount observed that he did not know it in its full extent himself, because Chisholm kept himself very much to himself; but he apprehended it to be some plundering party or petty enterprise. The deponent observed that he was very sorry for this affair of Chisholm, and observed that it ought to be prevented. He also expressed much surprise that the person of consequence in Philadelphia, who had been alluded to, should see such a man as Chisholm on a business of that nature; and added that Governor Blount ought to see that person of consequence, and caution him against listening to such overtures from persons of that description. Mr. Blount observed that he had no acquaintance with that person, as he had never waited on him. The deponent then begged him to take care that Chisholm should be prevented from pressing his project; he replied he could command Chisholm when near, but could not answer for control him at a distance.

The conversation then turned, for the first time, to the Floridas, and the deponent observed that it was matter of regret they did not belong to the United States—mentioning, among other things, the inconvenience of having such great natural boundaries as the Mississippi and the Gulf of Mexico; that if he should go to England, he ought to impress this idea upon the people in power, and point out to them the favorable effect that their aiding such an event would have on the United States, to whom Florida was of great importance, while it could be of but little value to England.

The deponent remarked, generally, that it was understood and agreed by Mr. Blount and himself, throughout the whole of their conversations on this subject, that the most favorable state of things for the United States was the possession of Louisiana by Spain; but if it were to pass from their hands, it was deemed by them of great importance that England should possess it rather than France.

With these general impressions, Governor Blount left New York, that he should consult some persons of importance in Philadelphia, both in the Government and out, and learn from them how far such a project might receive their approbation or countenance, or be deemed advisable by them; that he should also, for the same purpose, sound certain persons in Virginia, the frontiers of North Carolina, the State of Tennessee, and generally throughout the Southern States, and the people in general in the State of Tennessee; that he should particularly attend to those persons in the Indian country and elsewhere who had been engaged in Genet's project. As they were already under operation they they must be managed; and that the deponent should forward to Philadelphia such letters of introduction, for Governor Blount, to persons in England, as might be thought useful. This the deponent engaged to do; and soon after wrote to a gentleman in England, informing him that a person of consequence would sail from this country, some time in May, for England, on a business of this kind.

After Governor Blount returned to Congress, several letters passed between him and the deponent, on the same subject. In one of them he expressed the necessity of his standing well with the four southern nations of Indians, and holding his importance among them. He also, in these letters, expressed his fears about the conduct of some persons in this country who had contemplated this business, and might attempt to execute it in an improper and imprudent manner. These considerations united, and some other matters not connected with them, induced the deponent to think of sailing for England in the month of May; before he set out, he expected to receive from Governor Blount full information of his opinions and the result of his inquiries, and for that purpose requested an interview, that there might be a full and free conversation on the whole business; to this he received no answer for some time, but learned from other persons that Mr. Blount was in Philadelphia. His neglect in this respect made the deponent hesitate, and the late change of circumstances in Europe made him doubt of the success of the application to the British Government at this time; he had also received some further account of the force of the Spaniards in that quarter, and some information said to have come from a respectable foreigner who had been in that country, that there were in the Southern and Western parts of the United States, large numbers of men who, it was likely, would aid the French and Spaniards. These circumstances had determined the deponent to abandon this business altogether, when he received a letter from Mr. Blount, expressing his regard for him, and apologising for not writing; and soon after another, requesting him to come to Philadelphia; to this the deponent did not consent, and there the intercourse on this subject ended, except that the deponent wrote a letter to Mr. Blount, expressing his opinion that the business was ended, to which he never received an answer.

Interrogatories of the Committee and answers of the Deponent.

1. Who was the friend at whose request you wrote to William Blount, while Governor of the Southwestern Territory, about the purchase of military lands?

Answer. It was Mr. Edward Griswold, now resident in Paris.

2. You have said that articles of agreement were drawn up between you and William Blount, previously to your departure for Europe, in 1795. Were they executed, and what was their tenor?

Answer. They were executed, and are, I understand, in the possession of the committee. They

related solely to lands, and their tenor and contents may be discovered from a persual.

3. How long did you remain in Europe, and in what part of it?

Answer. Something more than a year; during which time I visited first England, then Holland, France, and Belgium; from whence I returned to England, and after a short stay there embarked for New York.

4. Who were the persons in whose hands you left certain maps, and papers on your departure from England?

Answer. I left them with different persons. They were wholly of a private nature, and in no manner connected with the object of this examination.

5. Are you acquainted with Sir William Pultney; and if you are, did your acquaintance with him commence before you visited England, in 1795?

Answer. It did not. My acquaintance with him arose from letters from Mr. Williamson, in the Genesee country, to him, with which I was particularly charged. The personal delivery of these letters, which I understood to relate to private concerns, gave rise to conversation between us, and that led to a further acquaintance.

6. Were you acquainted, while in England, in 1795, with Lord Grenville, or Mr. Dundas?

Answer. Not with Lord Grenville. With Mr. Dundas I had some acquaintance, having been introduced to him by a gentleman at whose house I met him at dinner. This gentleman afterwards carried me to breakfast with Mr. Dundas, whose desire of an acquaintance with me, probably, might have arisen from some sketches which I had written respecting this country, and which I believe were seen by him. This was all the acquaintance or intercourse that I had with Mr. Dundas.

7. Did not these persons, or some, and which of them, in those conversations, express to you a desire to add Louisiana or the Floridas, or both, to the British Crown; and did you not hear this desire expressed by some other, and what persons of consideration in England?

Answer. I never heard such a wish expressed by those or any other persons in England.

8. Were you while in Europe, requested by any, and what persons, to sound the people of the United States on the subject of a plan to annex Florida or Louisiana, or both, to the British Crown: or to make some propositions tending that way?

Answer. No such request or overtures were ever made to me. The plan originated between Governor Blount and myself, as far as I know, in the manner stated by me in my deposition.

9. In your conversations in England with persons of consideration, was any mention made of a description of people in this country who wished to separate the Western settlements from the Union?

Answer. No mention of such persons was made to me by any persons whatever.

10. How long have you been acquainted with the British Minister in this country, and by what means did you come to know him?

Answer. I was introduced to him in London, by Mr. Pinckney, soon after his appointment to this country, and I paid him a visit, and left some letters for America, of which he took charge. I have never seen him since his arrival in America.

11. On your return to this country, in 1796, you wrote to Governor Blount. Did you urge him to meet you at New York?

Answer. I did write to him as stated in my deposition, and spoke of some private business; but I did not mention this subject, nor did I request him to come to New York. His arrival there, in February, was without my knowledge or privity, and, as I understood, for private business of his own.

12. To what persons in England or America have you written, on the subject of this inquiry, since your return, and what answers have you received?

Answer. I have written to one person in England, a member of Parliament, but not of Adminstration; from whose answer it does not appear that the business was ever spoke of there by him. I also wrote to Governor Blount, and received answers; the purport and substance of which correspondence I have already explained. I likewise wrote to Mr. Liston; and, I believe, to no other person. Mr. Liston gave me an answer, which is now in the possession of the committee.

13. What was the purport of your letter to Mr. Liston?

Answer. I have no copy of the letter, but I recollect its purport, which was, to inform Mr. Liston that I had heard of a certain enterprise in contemplation, and on which he had been consulted, and to caution him against it, as a very delicate measure, requiring great circumspection, and capable, if known to be encouraged by him, of injuring those interests, both of this country and his own, which I was persuaded it was his wish to promote. I also hinted that a plan more extensive was contemplated by fitter persons; and having understood that he intended to send his secretary to some place on the business which had been mentioned to him, I strongly dissuaded him from this step; indeed, to do so, had been one of my chief inducements to address him. In his answer, now in the possession of the committee, he assured me that he had no intention of sending his secretary anywhere. I was induced to take this liberty with Mr. Liston, from the manner in which I became acquainted with him, and the very favorable light in which he was presented in letters which I had received from England, and one of which I enclosed to him.

14. What was the project against which you cautioned Mr. Liston?

Answer. It was that of Chisholm, of which I had been informed by Governor Blount, and which the latter told me had been mentioned to the Minister.

15. What was the project to which you alluded as being in more proper hands? Did Mr. Liston know of it, or did you explain it to him?

Answer. It was that contemplated by Governor Blount and myself. Mr. Liston, as far as I know

and believe, had no knowledge of it, nor was it our intention to give him any. I did not think it proper for him to be acquainted with it; the intention being to apply, not to him, but to the British Government.

16. In your conversation with Governor Blount, at New York, you expressed your regret that Louisiana did not belong to England, since the value of lands in the Western country would, in that case, be increased: Was this the first time you had contemplated or expressed that idea?

Answer. It was not. I had reflected on the idea before, but had never mentioned it verbally to any person; nor in writing, except once, and that was in a letter to a gentleman in England. This letter, however, merely stated the possession of those countries by England as a desirable thing.

17. What was the nature and object of the business contemplated between William Blount and you?

Answer. Nothing precise or definite had been agreed on. Much was to depend on the result of Governor Blount's inquiries and observations, upon which I never received any communication from him. But the general object was to prevent Louisiana and the Floridas from passing into the hands of France, pursuant to the supposed cession by Spain; and to make propositions to the British Government in that view.

18. What were the propositions intended to be made to the British Government?

Answer. On this head, also, nothing definite had been agreed on. Had Governor Blount gone to England, he would, of course, have proposed his own terms; had I gone, I should have received his instructions. This would have been settled in the interview which I proposed between us, had it taken place. Had I gone without seeing him, I should have waited in England for letters from him on the subject.

19. Was it not understood that William Blount and yourself were to use your personal efforts and influence to prevent the supposed cession of Louisiana by Spain to France from being carried into effect?

Answer. This was certainly our object; and every means, both in this country and Europe, would, of course, have been employed by us for its accomplishment.

20. Was it not proposed that Great Britain should send a force into that country for this purpose?

Answer. To ascertain whether they would do this, was the express object of Governor Blount's intended visit to Europe.

21. Was it understood that in case circumstances should require it, Governor Blount and his Western friends were to make active efforts in co-operation with the British forces which might be sent there?

Answer. When Governor Blount and myself parted at New York, the understanding between us was that he should go to England. Nothing was then said, or has since passed between us, on the subject of this interrogatory; nor have I any direct knowledge of his views on that head.

22. What part were the Indians and Western people to act in this business; and in what manner were they to be used in its execution? Was a co-operation by force from the territories of the United States contemplated?

Answer. As to Indians, there was nothing particularly said about them, nor had I any idea of their being employed. To keep them quiet was all supposed to be intended, or advisable. The Western people, according to my view of the subject, were to be rendered favorable to the possession of the Floridas and Louisiana by the British, and disposed to emigrate there, and assist in holding the country, should the reduction take place. No co-operation of force was mentioned by Governor Blount, nor have I any knowledge of his precise intentions as to either the Western people or the Indians. All this, as I understood the matter, was dependent on his observations and inquiries in the Western country, on which subject I have had no information from him.

23. What part was William Blount to bear in this business, and what advantage or emolument was it understood that he, and others who might favor or aid it, were to derive from its accomplishment?

Answer. I have no doubt that Governor Blount had high expectations of emolument and command, in case the project should succeed, but nothing definite on this subject was spoken of between him and me; and, from the nature of the business, everything must have depended on the arrangement to be made in London with the British Government.

24. Did William Blount ever apply to those persons of importance, in and out of the Government, whom it was agreed that he should sound on this subject?

Answer. I do not know that he ever did apply to any of them. I had no information from him on this point.

25. In one of your letters to William Blount, you urge the propriety of his appearing to have no connexion with land schemes, or commerce in ———. What place was meant, and why was this caution recommended?

Answer. England was the place meant, and the caution proceeded from an opinion in me, that the dignity and importance of character which it was desirable for Governor Blount to maintain in England, would be lessened by his appearing to be concerned in commerce or the sale of lands.

26. In another part of the correspondence between William Blount and yourself, you tell him that it would be proper to keep his business in England secret from Mr. King. What was the reason of this caution?

Answer. The reason is explained in the letter itself which contains the caution. It is possible that I may have had some further reasons than are there expressed. But I have no accurate or perfect recollection on the subject.

27. In one of your letters to William Blount, you mention a paper which you had drawn up on the subject of your business, to be left for him, in case you should sail for Europe without a personal

interview, and which you wish him to possess, but do not choose to send. Where is that paper, and what were its purport and substance?

Answer. The only copy which now exists was sent by me to England, directed to myself, some time in May or June. It contained a variety of notes, reflections, and cautions, relative to the business contemplated between me and Mr. Blount, which had occurred to me after he left Philadelphia, in the Spring, on his return to Tennessee, but I cannot state the particulars. They were reflections which occurred to me at various times, when thinking on the subject, and were noted down as they occurred, to serve myself and Governor Blount as hints and memorandums in the progress of the business. One copy I sent to England for my own use when I should arrive there. Another I retained for Governor Blount, but afterwards destroyed when I conceived the business to be at an end. They were never seen by him.

28. Do you know any other matter or thing which, in your opinion, is material to the objects of this examination? If yea, declare it fully.

Answer. The foregoing depositions and answers contain all that I know on the subject; and, aided by the correspondence now in possession of the committee, will, I presume, furnish them with every idea respecting it in my power to communicate.

NICHOLAS ROMAYNE.

(CD.)

On the thirteenth day of July, in the year of our Lord one thousand seven hundred and ninety-seven, in pursuance of an order of the committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House of high crimes and misdemeanors, Mr. William Davy, a partner of the mercantile house of Davy, Roberts & Co., of the city of Philadelphia, merchants, appeared before the said committee, and a solemn affirmation having been administered to him in due form of law, by Reynold Keen, Esq., one of the Associate Judges of the Court of Common Pleas of the city of Philadelphia, and an Alderman of the said city, did depose and say:

That, on the twenty-eighth of February last, he chartered the brig John Henderson, Captain Ephraim White, of the port of Philadelphia, which was loaded by him and cleared out for Hamburg, but was actually bound, with the consent of the owners and underwriters, for London; that she was so cleared for Hamburg to protect her from French cruisers; and on this account he had resolved to take no passengers, nor any letters unless from persons well known, and in whom there could be great confidence; she was not advertised; but, as had been his practice, the deponent informed the Secretary of State and the British Minister of this opportunity, in like manner as, on a former occasion, of sending a vessel to Spain, he had informed the Spanish Minister. A few days after, Mr. Liston's Secretary, Mr. Thornton, called on the deponent, and asked if he would permit a special messenger, a confidential person, whom they wished to send to England, to go in this vessel. The deponent told Mr. Thornton that, although the vessel would be cleared out for Hamburg, and her papers carry that appearance, she certainly was intended to proceed for London. That he had determined not to take passengers, and feared the vessel might be endangered by having such a person with despatches on board. Mr. Thornton assured the deponent that the messenger was a confidential person, that the despatches with which he would be entrusted were of great consequence, that they would be taken care of, and would be leaded in order to be sunk in case of danger of capture. Mr. Thornton did not inform the deponent of the nature of the despatches; but as the deponent thought there would be an advantage in entrusting his own private despatches to so confidential a person, he consented to take him, and so informed Mr. Thornton, adding, at the same time, that he would charge the messenger with his own despatches. A few days after, while the brig was loading, a person called on the deponent, and said he was the person recommended by Mr. Thornton to go in the brig. He was a hardy, lusty, brawny, weather-beaten man, and much resembled one of the King's messengers formerly seen by the deponent, who addressed him as such, but was immediately informed he was not the person. The deponent conducted him from the counting-house to the parlor, and offered him some refreshment, which he accepted; and, considering him as a person in whom the British Minister confided, the deponent entrusted him with the secret of the voyage, and his intention of committing his private despatches to his care; the deponent particularly mentioned that, although cleared for Hamburg, the vessel would actually proceed to London, but requested him, however, to be perfectly silent on this business, which he engaged to attend to. While drinking some porter he appeared sociable; and, on the deponent's remarking that, although he had mistaken his name, he was impressed with an idea of having seen him before, he told the deponent "No;" that he was a back-countryman; that he had long lived among the Indians, and was with them during the last war; that he was well known to the Spaniards; that his name was Captain Chisholm; that he had been an interpreter to the Indians last Winter in this city; that the Spaniards had frequently imprisoned and treated him cruelly in Pensacola; that they dreaded him, and he hated them, and was now determined to take his full revenge on them. He added, that his influence with the Indians was such that he could do with them as he pleased; that he knew every part of the Mississippi; that there was no man in America who knew the forts and their exact situation so well as himself, and that he was now going to London to accompany and conduct a squadron to the attack of Pensacola. The deponent smiled at the idea, and regarded it as a Quixotism, and not the real object of his voyage. He said he was serious,

and that nothing would be more easily executed; that the Spaniards had no posts of any consequence on the whole of the Mississippi; that one hundred, or one hundred and fifty, a mere handful of men, might destroy them all.

He appeared anxious to give an opinion of his own consequence as a British officer. Soon after he called on the deponent, and introduced as his respectable and confidential friend, Mr. Christian Jacob Huetter, who was to accompany him on this expedition, and requested a passage for him in the brig. The deponent was then impressed with the danger of permitting such a man as Chisholm to go in the brig, and stated strongly to Chisholm his fears; he replied that the deponent need not be afraid, for he was furnished with other papers fully sufficient to cover his design; he then showed the deponent a number of letters unsealed, from Mr. Liston to persons in Hamburg, stating him to be a person going there on a land speculation, and one for a person in London, who the deponent then supposed to be either one of the under Secretaries of State or Mr. Liston's private agent, calling him, "the person of whom I have written to you relative to the land business." This letter was not directed to the person by an official description. These, and the strong assurances of care with his despatches, induced the deponent to consent to their going in the vessel. The brig was prevented from sailing on the day first intended, but their baggage was put on board, and Sunday, the 19th of March, was fixed positively for her sailing. She had dropped down the river, and the captain had called on the deponent and received his despatches; the private despatches of the deponent had been delivered by him to Chisholm, who he supposed was then on board; but the same evening the deponent was surprised by Dr. Rogers calling on him to inquire for Chisholm, who, he said, was still in town. Doctor Rogers wished to ask him some further questions concerning the Welch Indians, of whom Chisholm, he said, knew more than any other person he had ever met with. The deponent felt much alarmed at this report of Chisholm's not being on board, fearing that, from some cause or other, the captain had left him behind, and with him the deponent's private despatches. The deponent went immediately to Mr. Liston, and informed him of these apprehensions. The deponent had before given a hint to Mr. Thornton that Chisholm was a babbler, and now mentioned to Mr. Liston every particular, and the probability there was that he had babbled in the same way to others; that he had shown the deponent Mr. Liston's letters; that he had frequently been seen with Frenchmen; that he appeared to be either a very weak man, or to be acting a double game. Mr. Liston observed, that his letters were given as a matter of prudence as well in relation to the vessel as to the despatches; but he appeared uneasy and alarmed at the apprehension of the deponent that the vessel had gone without Chisholm, whose baggage was all aboard, and determined to accompany the deponent in search of him immediately that night. Mr. Liston and the deponent accordingly went together, and, while Mr. Liston stopped at the corner of Second and Arch streets, the deponent went into Lesher's tavern, where Chisholm had lodged. Chisholm and Huetter were there together, and Chisholm was vociferating vehemently amidst a crowd of Frenchmen. They were called out of the room at the request of the deponent, who expressed to them his surprise to see them there after the captain was gone, and told them of his alarm. They replied, that the captain was not gone; and to convince him, they would go to the house where he had lived, and endeavor to find him out. The deponent left them and returned to Mr. Liston; told him they were not gone, and that they said the captain had not gone, but that the deponent did not believe them, and would follow them in search of the captain. It was now between ten and eleven o'clock; Mr. Liston returned to his house, and the deponent followed Chisholm and Huetter, and, after strict inquiry, was satisfied that the captain was not gone; and was further informed by Chisholm, that the captain had engaged to call for them at five o'clock the next morning. The deponent returned with them to Lesher's tavern, told them to wait for him and he would see them again that night, late as it was, near twelve o'clock. The deponent then went to Mr. Liston, and informed him of his inquiries and their result; and, at the same time, took the liberty to observe that, in the deponent's opinion, Mr. Liston had employed a person, or was engaged with one, not entitled to his confidence. Mr. Liston seemed seriously impressed with the deponent's information of the exposure the man had made, and immediately wrote a letter to Mr. George Hammond, under Secretary of State, which the deponent delivered that night, or about one o'clock, to Chisholm; and the next morning they went out of town.

The deponent being interrogated by the committee, whether he knew the contents of the letter to Mr. Hammond, says, that Mr. Liston put it into his hands to read; that the purport of it was to inform Mr. Hammond, that he should hear further from him on the subject by the packet; and that, in the meantime, it would be proper to be cautious; the packet was to sail the following week. The terms of the letter were ambiguous in themselves; but, connected by a person who understood the subject, evidently conveyed a caution against Chisholm. Mr. Liston told the deponent, that the man Chisholm had come forward to him with certain propositions, which it was not within his province to decide on; but that he thought himself obliged to refer him to his Government, and twenty or thirty guineas for his passage was a trifling expense. The deponent particularly mentioned to Mr. Liston the bawling he had heard Chisholm make among the Frenchmen, and of his wearing the national cockade, and the alarm it occasioned to the deponent on account of his vessel and cargo. He replied, that was a cover to his designs, and for the purpose of gaining information. Soon after the brig sailed, Mr. Liston paid the usual price for Chisholm's passage, conformable to Mr. Thornton's engagement. Christian Jacob Huetter

paid for his own passage. The vessel left the Capes on the first of April, and has never been heard of since by the deponent. Chisholm wrote letters to the deponent from the Capes. In the first, dated March 23d, he requests the deponent to inform Mr. Thornton that "all is well so far." Under cover of a letter which the deponent received from the captain, was an open letter from Chisholm, directed to William Blount, Senator in Congress. The deponent was thunderstruck, knowing Mr. Blount's character and politics, to see a letter to him from a man who pretended to be pursuing such a plan as Chisholm's. The deponent read the letter, and took it to Mr. Liston. It contained only, in general terms, that all was going on well; that he expected a long voyage, and desired remembrance to his family and friends; and that Blount would inform them how he was going on. Mr. Liston advised to seal and deliver the letter; which was done.

The deponent declares, that it never occurred to him that the United States were either directly or indirectly concerned in the progress or consequences of this project; but he considered it (if really projected, which he very much doubted, apprehending Chisholm's real object to be something very different) as merely a wild enterprise between England and Spain, until the late publications on the subject.

Being further interrogated, whether any conversation had since passed between him and Mr. Liston, or Mr. Thornton, on this affair, the deponent saith, that about two or three weeks ago, Mr. Thornton informed him that they had some suspicions that Chisholm had not gone in the brig, and requested the deponent to find out the pilot and inquire. This was before Blount's affair exploded. The deponent obtained the information that Chisholm had actually gone, and communicated it to Mr. Thornton.

Being interrogated, whether any conversation had taken place between Mr. Liston and him, since the discovery of Blount's business, the deponent answers, that on the day of Mr. Blount's examination in the Senate, the deponent was passing by Mr. Bond's house, and was called in by Mr. Liston. After other conversation relative to the papers of a captured vessel, Mr. Liston asked the deponent if he had informed anybody that he, Mr. Liston, had paid Chisholm's passage? The deponent told Mr. Liston he had not, nor had said anything else on the subject, but that he had strong reasons to apprehend that Chisholm had talked of it himself to several persons. Mr. Liston said, he could not have done his duty if he had not sent him on to his Government, for them to hear and decide on his plans, which were beyond his powers to act on.

WILLIAM DAVY.

(CD No. 2.)

Extract of a letter from Thomas Davy to William Davy, dated

"LONDON, *September* 13, 1797.

"The papers you sent me concerning the business with which Captain Chisholm was commissioned to our Court, did not at all surprise me; I do not wonder it should have transpired from such hands. He made some vain attempts to borrow cash from me on the credit of your recommendation. Being desirous that not the slightest recommendation from you should be neglected, I sent to Lord Grenville's office to be satisfied of the reality of the story he told me; and there found that, though his business was treated by the Ministers as it deserved, they had not, as he pretended to me, refused him pecuniary assistance, but had absolutely supplied him largely: I mean, in a manner fully adequate to his pretensions. In consequence hereof, on my sending him word that it would not suit me to advance him any money, I saw no more of him."

(EF.)

The deposition of George Lesher, aged forty-eight years and upward, being duly sworn before the Committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House, of high crimes and misdemeanors, by Reynold Keene, one of the Aldermen of the city of Philadelphia, on the 19th day of July, 1797.

GEORGE LESHER, being duly sworn, deposeth and saith, that, for several years, he has kept a tavern in the city of Philadelphia; that some time late in the last Fall a man, called Captain Chisholm, came to his house with a party of Indians; that, after they went away, he remained until about the first of April, within which time he observed to this deponent, that it would be a fine thing if the Floridas could be taken from the Spaniards.

That there lodged in his house, at the same time, a man of the name of Huetter, who, he understood, intended to go to Hamburg; three days before the vessel was to sail in which he was to go, Chisholm came to this deponent, in his back room, and said he was going to Europe, and should make his fortune; on the next day, in the evening, he came to him again, and said now he should certainly go, as everything was fixed, and the vessel ready; he told to this deponent, as a secret, what his plan was; that the vessel in which he was going would clear out for Hamburg, but would go to England, where he should land, and expected to get a commission; and that he should sail from thence with a fleet to Pensacola or Louisiana, where he should be joined by a number of Indians, for he could raise two thousand of them by firing a cannon.

On the evening before Chisholm sailed, he showed to this deponent a packet of papers, about three inches thick, covered with lead and sealed, for England, which he said he should throw overboard if taken by the French, and become himself a Frenchman.

On the next morning he went away in the Wilmington stage for Newcastle, at which place the deponent understood he was to take shipping.

While Chisholm was at the house of this depo-

nent, he was arrested by an under-sheriff, as the endorser of a note of four hundred dollars, drawn by Governor Blount. For some time he opposed the payment, saying that he did not owe the money. However, after much conversation, he went out, attended by the sheriff, and on his return declared that he had paid the four hundred dollars, which he regretted, as he had been forced to sacrifice, at the loss of five or six dollars in the hundred, a note of five hundred dollars, which he had received from Mr. Bond, the British Consul.

GEORGE LESHER.

(GH.)

On the twenty-seventh day of July, in the year of our Lord one thousand seven hundred and ninety-seven, in pursuance of an order of the Committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House of "high crimes and misdemeanors," Mr. William Bell, of the city of Philadelphia, merchant, appeared before the said committee, and being first duly sworn according to law, by Reynold Keen, Esquire, one of the Associate Judges of the Court of Common Pleas of the county of Philadelphia, and one of the Aldermen of the said city, did depose and say:

That a bill of exchange was sent to him by Walter Roe, of Baltimore, drawn by Stephen Duncan on John Chisholm in favor of Alexander S. Roe, dated the 4th of April, 1796, for four hundred dollars; that he was informed by Mr. Roe that Chisholm had come to Philadelphia, and was to receive money on account of the Indians, and the deponent was requested to demand payment of the bill. The deponent sent up the bill for payment to Mr. Chisholm, who had accepted it before it came to the hands of the deponent. Chisholm's answer was, that he would pay it in a few days. The deponent sent again and again, very often, and received still the same answer for the space of three months. The deponent then sent word to Chisholm that he thought he was trifled with, and that, if Chisholm did not pay the acceptance, the deponent would bring a suit against him. Chisholm replied that it was not his own debt, that it was for Governor Blount; that he had been disappointed in receiving money for the Indians, that he was going on to New York, and if the deponent would wait for his return, he would certainly pay the debt, as he was to get money there. On his return he said he had been disappointed, and that, if the deponent would wait a few days longer, he expected Governor Blount would supply him with the money. The deponent then waited, and then sent again; Chisholm said he had not got the money. On receiving this answer, the deponent directed Mr. Joseph Read, attorney at-law, to take out a writ for him. The writ was taken out and served, and then Chisholm waited on the deponent at his counting-house. He told the deponent that he had been very much disappointed in his expectations of getting money; that the money he was to have received here had been sent on by Congress to the proper officer in Tennessee, which deprived him of receiving it in this city; that when the sheriff's officer had come to take him, he was in company with two or three gentlemen at Lesher's tavern; that the officer asked for him, and was told by one of the company that he had gone out about ten minutes; that on receiving this information, the officer had turned about and walked away; that when the officer had gone off, the gentlemen told him that the man was a sheriff's officer; that he immediately jumped up, followed the officer, and told him that the information which had been given to him was a mistake, and that he was the man the officer had inquired for; that he never wished to do an improper thing; that the debt he was sued for was a just one; that he had been disappointed in his expectation of receiving money here; that he had no friends, and was an entire stranger in the city; that if the deponent wished it, he would go to jail immediately, for he was not able to pay the money at that time; but that, if the deponent would trust his honor, he would appropriate the first money he should receive to the payment of the bill, which he expected would be in sixty days at the outside. He also said he expected he should be able to settle the debt with Mr. Roe, as he should go through Baltimore; that he had some friends there who would enable him to do it. In consequence of his conduct and declarations, the deponent withdrew the suit. This transaction took place some time in March last.

The deponent further declares, that he never received from Chisholm any note or bill of Mr. Bond's in payment, nor did Chisholm ever mention Mr. Bond to the deponent at all.

WILLIAM BELL.

(IK No. 11.)

Letter from Timothy Pickering, Esq., to the Committee.

PHILADELPHIA, *July* 26, 1797.

GENTLEMEN: In a note received from Mr. Harper, I was requested to put into writing, for the use of the Committee, the substance of my conversation with Mr. Liston, the British Minister, particularly that part which relates to the correspondence with Dr. Romayne. I give it as follows:

When the Spanish Minister, the Chevalier de Yrujo, had formally expressed to me his suspicion that an expedition was preparing on the Lakes, on the part of the English, the object of which was to attack Upper Louisiana, I mentioned it to Mr. Liston. He instantly answered, that he had no knowledge of any such preparations. I remarked, that to me the project suggested did not bear the resemblance of probability; that very great embarrassments must be encountered in transporting troops, cannon, stores, and provisions, from Canada to the Mississippi: and besides, that the British had not in that country a force that was adequate to the execution of such a plan.

At a subsequent period, I am inclined to think it was in the latter part of April, after the Spanish Minister had repeated his suspicion of an expedition intended from Canada against Upper Louisiana, and which I again mentioned to Mr. Liston, the latter again said that he had no knowledge of such a design. But he added, that a proposal had been made to him of an expedition to the Southward, against the Spanish possessions, but which he had no power to authorize. And, as to General Clarke of Georgia, to whom the Spanish Minister said he certainly knew that propositions had been made by the British, relative to an attack on the Floridas, he (Mr. Liston) did not recollect ever to have heard of the man, and certainly that he had no knowledge of any such propositions.

Mr. Liston has informed me, that when he objected to the project of an expedition against the Spanish territories at the Southward, because, on the plan of the projector, it could not be attempted without violating the neutral rights of the United States, the projector answered, that the men going from the United States would march *unarmed*, and not take arms until they should be within the Spanish territory. When he told the projector, that he (Mr. Liston) had no authority to institute such an expedition, he asked if the Governor, or General commanding in Canada could not authorize it? To this Mr. Liston answered, that the Governor doubtless possessed certain military powers, but he presumed that he would not think himself authorized to direct the execution of a plan of this kind; and all that he (Mr. Liston) could do, would be to write to the British Government, and await its answer, which, indeed, might be long in coming, or might not come at all, partly on account of the important objects which engaged its attention, and partly on account of the strong objections to the project itself. This was about the beginning of January last. The answer not arriving as soon as the eagerness of the projector expected, he became impatient, and was extremely pressing to go to England to obtain, in person, an answer to the British Government; to which, Mr. Liston said, he with much reluctance consented.

I asked Mr. Liston if a trading scheme formed any part of the project which had been proposed to him? He answered in the affirmative.

Governor Blount having, in his letter to Carey, expressed his doubts whether Chisholm was gone to England, I asked Mr. Liston of the fact. He answered that he was certainly gone; that he embarked in a vessel from Philadelphia; that he (Mr. Liston) had paid for his passage; and that he had seen letters brought by the pilot, received from Chisholm when he was far down the Delaware, or at the Capes.

Having learnt from the Committee, or some of its members, that they had received information that Chisholm had said that he discharged a debt for which he had become engaged (I think for Governor Blount) by making some sacrifice on a note or obligation from Mr. Bond, the British Consul, I mentioned the circumstance to Mr. Liston, who answered, that he knew of no such thing, and that he had never communicated to Mr. Bond any information of the project in question. Afterwards (I believe on the same day) I met Mr. Liston, when he told me that he had mentioned to Mr. Bond the story of his note or obligation to Chisholm. Mr. Bond said he had never given either; that he had never paid him any money nor even knew the man. As this story, however, tended to excite a suspicion that other moneys might have been paid to Chisholm by Mr. Liston, or by his directions, I asked him if he had ever paid anything to or for Chisholm, besides his passage-money. He answered that he had not; that even his passage-money was not paid into the hands of Chisholm, but to the master or owner of the vessel in which he embarked. But as Chisholm, on his arrival in London a perfect stranger, would need some money for his immediate support, he (Mr. Liston) gave him a draught on his banker for twenty pounds sterling; but whether this has been actually paid to him or not, Mr. Liston has not received information. And in his letter to Mr. Hammond concerning Chisholm's voyage, Mr. Liston said he had intimated the necessity of paying for his passage back to America; apologizing for permitting him to go to England, by saying that the whole would be an expense of only about a hundred pounds. Mr. Liston added, that these were all the moneys ever paid or promised by him to any person or persons concerned in the project in question.

With respect to Dr. Romayne, Mr. Liston informed me, that a day or two before he left London in March, 1796, he breakfasted with the American Minister, and found there Dr. Romayne, of New York, who was introduced to him by Mr. Pinckney. That this circumstance, with the Doctor's civility, and the strain of his conversation, led him to form a favorable opinion of his character. That he never saw him before, nor has since seen him. That he did not know of his return from Europe, until towards the latter part of last April, and a few days after Chisholm had embarked for England, when, with some surprise, he received a letter from the Doctor, dated the 14th of that month.

That, in this letter, the Doctor reminded him of their interview at Mr. Pinckney's, expressed his good wishes, and alluding, as it appeared to Mr. Liston, though in covered terms, to the project of an expedition to be undertaken with the aid of persons resident within the United States, and to certain matters that had been discussed between the British Minister and some of the parties, mentioned the delicacy of Mr. Liston's situation, cautioned him against interfering in a business that could not, with propriety, be patronized by a person in a public character, and particularly put him upon his guard against certain men who had made application to him upon the subject, and who, the Doctor said, were not to be trusted. That Dr. Romayne named no one, but hinted that, if he had an opportunity of communicating with Mr. Liston, he might enter into further particulars.

Mr. Liston said that, as he had already reasons

to doubt the good faith of some of those who had come to talk with him on the business, he was still more apprehensive in consequence of the suspicion thrown out by Dr. Romayne, and hence became anxious to draw from him further explanations, especially with regard to individuals.

He therefore wrote to the Doctor, on the 28th of April, the letter which is in the possession of the Committee, calculated, as he thought, for this purpose, as it was meant to inspire confidence, by telling the truth. That the mention in the letter of sending a person of consequence to the scene of action, Mr. Liston said, was occasioned by a passage in the Doctor's letter to him, in which he seemed particularly to dissuade from a step of this nature, falsely supposing that Mr. Liston had already taken some resolution in respect to it. Mr. Liston said that, conceiving the sending of such a confidential person to be a necessary preliminary in case the project received attention in England, he stated this opinion, in a few words, to the Doctor, in the hope of inducing him to give his sentiments fully on that point. But that he (Mr. Liston) had been disappointed in the Doctor's answer, which did not give the frank communication which was desired; that his style was still mysterious; that he seemed to have misunderstood what was written to him, and avoided entering into any detail. That Mr. Liston did not reply, and that here the correspondence ended.

I have been enabled to detail so many particulars on this subject of Doctor Romayne's correspondence by conversing with Mr. Liston again, since the Committee's request was communicated to me by Mr. Harper. On my hinting to him the wish of the Committee, which I did immediately on receiving Mr. Sitgreaves's letter of the 13th instant, to be possessed of Dr. Romayne's letter to which Mr. Liston's was an answer, he said it was destroyed.

In the same letter the Committee expressed their desire to see Lord Grenville's letter, which I informed them Mr. Liston had shown to me, and intimated that a copy of it would be convenient. I have already shown you the original by Mr. Liston's consent; and I now enclose a copy, together with a copy of the note in which Mr. Liston sent it to me, to show under what reserve it was thus submitted, viz: that it should not be exhibited to prove the criminality of any of the persons concerned in the plan in question; for which reason I have left a blank in the copy where the name of one of those persons was introduced.

I return the original letter of April 28th, from Mr. Liston to Doctor Romayne, which was found among the papers of the latter.

I am, gentlemen, very respectfully, your obedient servant,

TIMOTHY PICKERING.

SAMUEL SITGREAVES, ABRAHAM BALDWIN, R. G. HARPER, JOHN DAWSON, and JAMES BAYARD, Esq'rs, a Committee of the House of Representatives on Governor Blount's impeachment.

PHILADELPHIA, *July* 15, 1797.

R. Liston presents his respects to Colonel Pickering, Secretary of State:

I have the honor of enclosing, according to your desire, Lord Grenville's original despatch to me respecting the proposal for an attack on a part of the Spanish territories in North America; and you have my leave to show it to the President, and to make what other use of its contents you may, in your discretion, judge expedient; always with the reserve, which I am confident you will not think it improper I should put in, that it shall not be exhibited to prove the criminality of any of the persons concerned in the plan in question.

True copy of the original letter:

GEO. TAYLOR, Jr.,
Chief Clerk in Department of State.

No. 6.

DOWNING STREET, *April* 8, 1797.

SIR: In answer to your despatches Nos. 2 and 3, I have to inform you that the proposal which has been made to you by Mr. ——, as mentioned in those despatches, for endeavoring to wrest the two Floridas from Spain, has been taken into consideration by His Majesty's confidential servants, but it has not been thought expedient to accede to it or to adopt any measures for carrying it into execution.

Without entering into a detail of the various considerations that have led to this decision, I think it merely necessary to observe that, exclusively of the inadequacy of the means to the end proposed, the two objections which have occurred to yourself, the necessity of employing the Indians, and the impropriety of originating within the United States any hostile expedition against a nation with which they are at peace, are of sufficient magnitude to counterbalance the advantages which are likely to result from the execution of such a plan.

I have, therefore, to signify to you the King's pleasure, that you take an early opportunity of informing Mr. —— that you have submitted his design to His Majesty's Government, but that it has not been thought advisable to afford any assistance from this country towards carrying it into effect.

I am, with great truth and regard, sir, your most obedient, humble servant,

(Signed) GRENVILLE.

ROBERT LISTON, Esq., &c.

True copy of the original letter, blanks being left for the name, which occurs twice:

GEO. TAYLOR, Jr.,
Chief Clerk in Department of State.

(LM.)

GEORGE TURNER, Esq., late of the Territory of the United States Northwest of the river Ohio, being duly sworn by Hilary Baker, Esq., Mayor of the city of Philadelphia, before the Committee of the House of Representatives, on the fifth day of September, in the year of our Lord one thousand seven hundred and ninety-seven, deposeth as follows:

That some time in February last (but the deponent does not recollect the day) the deponent met William Blount in the streets of Philadelphia. Having before been acquainted with him, he requested the deponent to call frequently to see him, and said that he had a great deal to say to the deponent. Some days afterwards the deponent did call. In the course of conversation, he asked the deponent many questions about the State of Upper Louisiana, which he said he understood the deponent had visited lately, and about the navigation of the Mississippi. He also made particular inquiries respecting the state of the Spanish posts and forces in that quarter. He requested permission to take down the the deponent's answers in writing, for which he made some apology that seemed plausible at that time, though the deponent does not now recollect it. The deponent consented, and he did take down the deponent's answers. They are, in part, contained in a paper now in possession of the Committee, endorsed, "George Turner, Memor. of Force," &c.," which is in Mr. Blount's handwriting. Some particulars respecting the navigation of the river, and the roads, are omitted.

The deponent has had no conversation with Mr. Blount on that subject since, nor did he ever suspect or conjecture the purpose for which the information given by the deponent was desired, until the late discovery of Blount's correspondence with Carey.

Being in conversation, since that discovery, with Mr. Oliver Pollock, who formerly resided at New Orleans, he informed the deponent that, some months ago, Mr. Blount made many inquiries from him respecting the situation of Lower Louisiana, especially as to the state of the forces, posts, and fortifications; and, at length, pushed them so far, as to induce him to decline any further answer. This brought to the deponent's recollection the conversation which the deponent himself had with Mr. Blount, and gave him the first suspicion of the object of Mr. Blount's inquiries.

GEORGE TURNER.

Sworn the 5th day of September 1797, before me,

HILARY BAKER,
Mayor of the city of Philadelphia.

(NO.)

The deposition of Elisha B. Hopkins, aged forty years and upwards, being duly sworn before the Committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House of High Crimes and Misdemeanors, by Reynold Keene, one of the Aldermen of the City of Philadelphia, on the 14th day of July, 1797.

ELISHA B. HOPKINS, being duly sworn, deposeth and saith, that in the course of the last Winter, when he was in the habit of being every day at Mr. Allison's, where Governor Blount lodged, and very intimate with Governor Blount in business, (too intimate, unfortunately for him,) he was in Governor Blount's room, and a man of the name of Chisholm came in; Governor Blount and Allison were both in the room; Chisholm took out Governor Blount, and they had some private conversation. Governor Blount soon returned without him, and asked the deponent if he could think it possible that that man (naming Chisholm) should have address enough to introduce himself to the British Minister? The deponent answered, his appearance and manners were against him; but as Governor Blount had informed him he was an Indian countryman, that perhaps the British might make him instrumental by paying him more than the United States. That nothing further passed at this time.

That some time after, in the month of March, the deponent was with Mr. Allison, and Chisholm and Blount came into the room; upon finding the deponent and Mr. Allison there, they retired to an office in the front of the house. Soon after Governor Blount returned, and observed to the deponent that that man (Chisholm) had so ingratiated himself with the British Minister, as to have the promise of a Lieutenant Colonel's commission, and that he was going to England.

And the deponent further saith, that in the course of conversation with a friend of his, in town, about five or six weeks ago, inquiring of the news generally, his friend informed him, either that he had seen a letter, or heard one read, by which it appeared that a number of old revolution characters in Georgia were going to join the British against the Spaniards and French, in an expedition against East Florida, which was a matter of surprise to the deponent, who knew that some of them were very inveterate against the British. The deponent asked if he was confident of it. He said the information was such he thought it pretty correct, and he gave the deponent hints which led him to believe he knew some of the characters. He was induced to suspect a character who had been confined a long time by the Spaniards at St. Augustine, and had formerly been a colonel in the American army. He meant Colonel John M'Intosh. This conversation ended in the deponent's expressing his astonishment. Shortly after the deponent met Mr. Richard Smyth, and the news of the day being inquired, he observed to Mr. Smyth that he was intimate with the Spanish Minister. Smyth said he was. The deponent then desired him to inform the Spanish Minister that if he wished an interview, he had something to communicate of consequence to him and his nation. He then gave Smyth a few hints respecting the business. The deponent heard nothing further of the matter till about ten or fifteen days ago. He was then in company with Governor Blount on business at Mr. Allison's, and Governor Blount asked him, in direct and pretty positive terms, what the information was he was going to give the Spanish Minister (this was before the communication of his letter to Congress,) respect-

ing a number of respectable characters going to join the British in an expedition against the Spaniards and French in the Floridas, for that Smyth had told him the deponent was going to make a communication of the kind. The deponent informed him that he did not know those characters, but repeated the information he had received from his friend. He asked him if he had heard of any commissions being granted by the British Minister to any characters whatever? The deponent answered, no. If the deponent had heard of any commisions being granted by the French Minister? He said, yes, he had seen them when he was in Georgia, 1794. Did he think any of those commissions were now existing? The deponent informed him he did not know, but thought it probable, as Major De Bert had some formerly, and might have them still; and so the conversation ended at this time. After the conversation, the deponent immediately called on Mr. Smyth, and asked him the reason why he had not made the communication to the Spanish Minister as he had desired, instead of informing Governor Blount of it. He answered, that he had informed the Spanish Minister of it. It then struck the deponent that perhaps the Minister thought it of no consequence, and he troubled himself no further about it.

A few days after the conversation with Smyth, the deponent met Mr. Fatio, the Secretary of the Spanish Minister; he thinks it was the day before the communication to Congress. He asked Fatio if Smyth had made any communication from him to the Spanish Minister? Fatio said, not to his knowledge. He observed to the deponent that if he knew anything, he wished him to make the communication in writing, as something very important was going forward; he appeared in a great hurry, and passed on.

Smyth afterwards told the deponent he had made the communication to the Spanish Minister when they were playing at backgammon, and that the Minister did not seem to notice it.

The deponent further saith, that there was great intimacy between Mr. Smyth and Governor Blount.

And further the deponent saith not.

(PQ.)

The deposition of Doctor Charles Buxton, aged twenty-seven years or upwards, taken before the Committee of the House of Representatives, appointed to prepare and report Articles of Impeachment against William Blount, a Senator of the United States, impeached by the said House of High Crimes and Misdemeanors, on the twentieth day of July, one thousand seven hundred and ninety-seven.

Doctor CHARLES BUXTON, being sworn on the Holy Evangelists of Almighty God, doth depose and say:

That Dr. Romayne has mentioned to him that he had expectations of acquiring large quantities of land in the Western or Southern country, and that he (this deponent) should have an advantageous appointment; that he was advised by the Doctor to postpone the acceptance of a commission in the New York Militia, as his removal from that State, if the plan went into effect, would put it out of his power to discharge its duties: this was in the beginning of May.

That he had read a letter to Doctor Romanye, he thinks from Sir William Pulteney, in which Mr. Liston is mentioned, and the Doctor advised to consult with him, as the name of a Minister would have more weight in England than that of an individual.

On his asking the Doctor whether he intended to go to Philadelphia to see Mr. Liston, he replied that he did not, as he had received an answer to his letter to him.

About the fifteenth of May the Doctor informed this deponent that he had relinquished his intention of going to England, as the plan was laid aside.

That he was never informed what the plan alluded to was, but always supposed it to be no more than one for the acquirement and settlement of back lands, and that the Doctor's trip to Europe was to obtain the aid of some moneyed men.

CHARLES BUXTON.

(RS.)

John Franklin, Esquire, of Luzerne County, in the State of Pennsylvania, a Member of the House of Representatives of the said State, being duly sworn by Hilary Baker, Esquire, Mayor of the City of Philadelphia, before the Committee of the House of Representatives, on the second day of September, in the year of our Lord one thousand seven hundred and ninety-seven, deposeth as follows:

That on the 16th of December, 1796, the deponent took lodging at the house of George Lesher, No. 94 North Second street, at which place he resided until April 26, 1797; that at the time he came to the city a certain Captain Chisholm, and about twenty-two Indians of the Cherokee nation, were at the said Lesher's; had taken lodging, &c., Captain Chisholm being the interpreter; that there were two others, of the name of Carey and Rogers, who, the deponent understood, were interpreters to some of the Indian nations then in the city; that Carey and Rogers were at G. Lesher's part of the time during the Winter, but not so constant as Chisholm; that about the time the Cherokees were preparing to return to their native country, the deponent often heard the said Chisholm complain that the Indians had been ill-treated; that the Secretary of State had not supplied them with cash, and other necessaries sufficient for their journey; that the Indians, as Chisholm said, were dissatisfied; that it would not be strange if they commenced hostilities on the American frontiers as soon as they returned; that he often heard Chisholm say that he should not return with the Indians; the reason he gave was, that he, Chisholm, as well as the Indians, had been ill-treated; that they had not been well rewarded for their service and trouble. The deponent further recollects, that after the Indians had returned, or had been some time gone from the city, there was a report in the city that some white people

on the western frontiers had been killed by Indians; that he heard the said Chisholm say, that it was not anything more than he expected.

The deponent further saith, that during the Winter and Spring of the year, he heard Chisholm sundry times speak of the reduction of the Floridas for the British; that in the month of March, or the beginning of April, Chisholm talked of going to England; that he had engaged a passage in a ship bound to Hamburg (as near as the deponent recollects;) that a Mr. Huetter, of Northampton county, in Pennsylvania, was going passenger in the same ship; that a short time before the ship sailed the said Chisholm came into a chamber where the deponent then was, without any company, and informed the deponent that he was really going to England to obtain liberty from the British Court (or words to that effect) to take the Floridas for the British. Chisholm said that it was easily effected; that the Floridas were thinly inhabited; that he could raise an army of more than two thousand in the Tennessee country, and as great, or a larger number of Indians of the Cherokee nation to carry the plan into execution. The deponent, sundry times, heard Chisholm mention about being in company with Governor Blount. During the Winter, the deponent understood, by Chisholm, that Governor Blount was concerned in the plan. The deponent has also heard Chisholm speak of being in company with the British Minister, but does not recollect hearing any mention made by Chisholm of any particular business he was doing or transacting with the British Minister.

The deponent further saith, that as Chisholm appeared to be something talkative, he scarcely charged his memory with Chisholm's conversation or plan, until some time near the close of July last the deponent read in *Porcupine's Gazette* a copy of a letter said to be from Governor Blount to Carey, in which the name of Carey, Chisholm, and Rogers were mentioned. After reading this letter the deponent well recollected the conversation of Chisholm, and the plan he had talked of, viz: the reduction of the Floridas. The deponent thinks that Chisholm at the same time made mention of the reduction of Louisiana, or some other part of the Spanish dominions West of the Mississippi, but does not recollect anything in particular on the last-mentioned subject.

The deponent does not recollect the Christian names of either Carey, Rogers, or Chisholm. And further the deponent saith not.

JOHN FRANKLIN.

Sworn to and subscribed the day and year aforesaid before me, HILARY BAKER.

(TU No. 1.)

Examination of James Carey in presence of Benjamin Hawkins, Col. Henly, Mr. Dinsmoor, and Lieutenant Wright, on the intercepted letter.

Question 1st. How came you in possession of the letter from William Blount, addressed to you? Narrate the whole.

Answer 1st. Major James Grant, about the twentieth May, being at the public store, informed me he had a letter for me from my friend Governor Blount, and he would deliver it to me. We went down to the creek side; he then delivered the letter, and when I read it I was uneasy, the hand was difficult to read; he said he would help me, and did so. I must remark, that in putting me right, he did so without reading after me, which surprised me, as I knew thereby he knew the contents.

Q. 2d. "Among other things I wished to have seen you about, was the business that Captain Chisholm mentioned to the British Minister last winter, at Philadelphia." What was this business? It appears, by the manner this is written, you have a knowledge of it.

A. 2d. Captain Chisholm did for a while live with me in Philadelphia, but changed his lodgings; I was, after this, invited by Colonel Mentges to dine with him, and to take two Indians with me, which I did, Col. Watts and Laugley. After dinner we walked towards Schuylkill, and were overtaken on the street by Captain Chisholm, in a coach; he invited us to ride with him; Col. Mentges objected; but at length being prevailed on, we got into the coach, and rode on to Schuylkill, and turned round to a tavern; there we drank a little wine. On the return, Mr. Chisholm pressed us again to go in the coach; we all did, except Col. Mentges, who positively refused.

As we were going in the coach, Chisholm said he had been injured by the United States, and now he could have satisfaction; if they would go with him, he would show them at his lodgings a paper from the Minister of Great Britain. Upon our arrival there, he opened a box, and took out four or five sheets of gilt letter paper, close and well written, which, he said, was from the British Minister he received it. Dick Brown and John Walker were there. Chisholm proposed that we should go to the Minister's; Carey refused, and said the others might go; Watts refused, and said he came to do business with the President of the United States, and not with the British; if his interpreter refused to, he would not go.

The paper was read, and it appeared to be a plan for the reduction of the Floridas. This was to be sent to England, and the return from the Minister, if it arrived at Philadelphia, was to be sent to Knoxville to Captain Chisholm, or, if he was not there, to Ig. Chisholm; that if the packet arrived to the Southward, it was to be sent up to the Cherokees to Captain Chisholm, and if he should be absent it was to be delivered to John Rogers. The paper was not signed, but there were the names of John Pitchlin and John Rogers in it; that he (Carey) spoke to Pitchlin since about it, and he said he had not heard anything about it, and Rogers said it was not worth minding Chisholm.

Q. 3d. "I believe the plan then talked of will be attempted this Fall." What was the plan then talked of? It appears to be the same as mentioned in the first question.

Q. 4th. "If the Indians act their part, I have no

doubt it will succeed." What part were the Indians to act?

A. 4th. I cannot answer; but on the road I conjectured that it was to get the Indians to help the British, and I talked with Watts and Brown about it, and told them as much. Watts said Chisholm need not come into his nation with such talks, he would not take them. Carey said we lost enough already without meddling in such things. Chisholm tried to get Brown, who is his brother-in-law, to go with him to England, but Watts dissuaded him, and he declined it. Perhaps George Colbert can give some information; he was with us, and heard us talk the matter over on the road.

Q. 5th. "You are, however, to understand that it is not quite certain the plan will be attempted, yet you will do well to keep things in a proper train for action, in case it should be attempted; and to do so will require all your management."

This paragraph shows that you have knowledge of the plan, and are to keep things in proper train for action, and that much reliance is had upon your management?

A. 5th. "Answered that this subject had never been understood by him."

Q. 6th. You are advised to send for Rogers, and to speak to him yourself respecting the state and prospect of things."

This implies a certainty of your knowledge of the plan, and evidences a confidence in your co-operation?

A. 6th. I have no knowledge of this.

Q. 7th. "In short, you understand the subject, and must give out the proper talks, to keep up my consequence with the Creeks and Cherokees."

In this paragraph you understand the subject, and are relied on to keep up the consequence of the writer among the Creeks and Cherokees?

A. 7th. Governor Blount requested me, before he left Knoxville, to keep up his name among the Indians, and not let them forget him. After you saw Chisholm's communication, did you see Governor Blount, and have any conversation on the subject with him? Yes, I visited the Governor, and, after some conversation, I asked him if he knew what Chisholm was about. He started up his head quickly, and answered, "No, what do you mean? damn the fellow, I do not know where he is; do you know anything about him?" I informed him of the paper; he asked if it was signed; I told him, no; he then said, "It is not worth minding him, he is such sort of fellow; say nothing about what you have seen."

Did Grant deliver you any message from Mr. Blount? Yes, he advised with me about getting the letter to Rogers; told me to seal it or send for him, whichever I thought best. I replied, I would study upon it.

After the discovery of the letter, did any other person apply to you about the discovery? Yes, Col. John McClellan came and asked me to walk, and inquired after it, and how it was got. I told him it was true it was got; he inquired after the cover; that, I told him, was safe. He said, the discovery was a terrible affair; you ought to have destroyed it.

Charles McClung, Gen. White, John and Samuel McClellan, came here, probably on the same subject; but Lieutenant Wright had enjoined it on me to hold no conversation with any one, but in his presence. This I obeyed, and told McClellan of this order; that I was glad to see my friends, but could have no private conversation with them. I was ordered either to go over the river while they stayed, or be confined to the garrison; I obeyed, and went over the river.

What did you understand about the offer of whiskey to Watts from Governor Blount? The Quakers had spoken to Watts against drinking whiskey, and he disliked it, and complained of it to the Secretary of War. The Secretary replied, this now depended with Colonel Hawkins; that afterwards we were at Governor Blount's, and Watts mentioned the subject to him, in style of complaint. Blount laughed, and said, "Never mind it; when I come to Knoxville, I will give you two kegs of whiskey."

Received the 3d August, 1797.

JAMES McHENRY.

(TU No. 2.)

TELLICO, *July* 8, 1797.

Deposition of James Carey, taken by the Hon. John McNairy, Judge of the District of Tennessee, in presence of David Henley, Benjamin Hawkins, Silas Dinsmoor, and James Byers.

The deponent being duly sworn to make true answers to such questions as should be put to him relative to a letter signed William Blount, and dated Colonel King's Iron Works, April 21st, 1797 deposeth as follows:

Question 1. The letter being read, it was asked, how came you in possession of that letter from William Blount, addressed to you? Narrate the whole.

Answer. James Grant, (called Major Grant,) about the 20th of May, being at the public store, informed me he had a letter for me from my old friend Governor Blount, and he would deliver it to me. We walked down to the creek side, and there he delivered to me that letter. The hand was difficult to read, and my sight is defective; he said he would help me to read it, and did so, without looking at the letter, which made me know he knew the contents.

Question 2. Did Major Grant deliver you any message from Mr. Blount?

Answer. Yes; he told me he was to advise with me about getting this letter to Rogers; told me to be cautious, to seal it, or send for him, whichever I thought best. He said people about here thought it was all over with Governor Blount, but he would rise yet; and if the plan in the letter took place, it would be a great thing for his friends. He added, I should get another letter from Governor Blount.

Question 3. Did Major Grant say he would visit you again on this subject?

Answer. He said he would visit me again, I understood on this subject, and he did come down here again.

Question 4. Did Major Grant say anything to you relative to the contents of the letter on this visit?

Answer. Yes; he handed me a newspaper from Philadelphia, containing the speech of Doublehead, on receiving $5,000 a year; I supposed for the purpose of circulating it through the nation. Major Grant and Lieutenant Davidson had some conversation relative to the speech, the purport not recollected. They two came over to the field where I was hoeing corn. I asked them to sit down under the shade; we remained there a short time, and returned—they on the horse-path and I on the foot-path, which are a small distance from each other. Lieutenant Wright arrived at the garrison while we were on the other side of the river, and sent two soldiers after Lieutenant Davidson. On our return, the two officers were talking together, and Mr. Grant asked me what this bustle meant? He answered himself, I know; it was known at Knoxville I was going into the Indian territory, and it is about me. What has become of the letter I gave you from Governor Blount? It is destroyed, I answered him. He then left the garrison, and has not since been here, or sent any message to me.

I recollect he said Mr. Byers was gone to Philadelphia, and that there was some stir or bustle at Knoxville, but he could not make head or tail of it; but it must be about his going into the nation. And he allowed that brought Mr. Wright, the Lieutenant, down.

Question 5. This is an extract from the intercepted letter: "Among other things I wished to have seen you about, was the business Captain Chisholm mentioned to the British Minister last Winter, at Philadelphia." What was this business? It appears, by the manner this is written, you have a knowledge of it.

Answer. Captain Chisholm did, for a while, live with me in Philadelphia, but changed his lodgings. I was after this invited by Colonel Mentges to dine with him, and to take two Indians with me; which I did, Colonel John Watts and Langley, After dinner we walked towards Schuylkill, and were overtaken on the street by Captain Chisholm, in a coach; he invited us to ride with him. Colonel Mentges objected, but at length, being prevailed on, we got into the coach and rode on towards Schuylkill, and turned round to a tavern; there we drank a bottle of wine, and returned. Mr. Chisholm pressed us again to go into the coach; we all did, except Colonel Mentges, who positively refused.

As we were returning in the coach, Chisholm said he had been injured in the non-settlement of his accounts, or his business; and now, if it cost him the last drop of blood, he would have satisfaction; it was now in his power. If they would go with him, he would show them, at his lodgings, a paper from the British Minister. Upon our arrival there, he opened a box and took out four or five sheets of gilt paper, close and well written, which he said was from the British Minister; he read it. Dick Brown and John Walker were there. Chisholm proposed that we should go to the British Minister's. I refused, and said I had no business with him; that the Indians might go if they chose. Watts refused, and said he came to do business with the President, and not with the British. If his interpreter refused to go, he would not go.

The paper was read, and it appeared to be a plan for the reduction of the Floridas. This was to be sent to England to the British Ministry there, and the return from the Ministry, if it arrived at Philadelphia, was to be sent to Knoxville to Captain Chisholm, or, if he was not there, to Ig. Chisholm, the Captain's son. That if the packet arrived to the Southward, in the Floridas, it was to be sent up to the Cherokees, to Captain Chisholm, and if he should be absent, it was to be delivered to John Rogers. The bearer was to say he was going into the nation for his health.

The paper was not signed, but there were the names of John Rogers, John Pitchlin, Captain Chisholm, and Ig. Chisholm, in it. That I spoke to Pitchlin since, on the road, about it, and he said he had not heard anything of it. I spoke also to Rogers, he said it was not worth minding Chisholm.

Question 6. "If the Indians act their part, I have no doubt it will succeed." What part was the Indians to act?

Answer. I cannot say; but on the road I conjectured it was to get the Indians to help the British; and I talked with Watts and Brown about it, and told them as much. Watts said Chisholm need not come into the nation with such talks—he would not take them. I said we had lost enough already, without meddling in such things. Chisholm tried to get Brown, who is the brother of his Indian wife, to go with him to England. But Watts dissuaded him, and he declined it.

Question 7. "I believe the plan then talked of will be attempted next Fall. You are, however, to understand that it is not quite certain the plan will be attempted, yet you will do well to keep things in a proper train for action, in case it should be attempted, and to do so will require all your management."

This paragraph shows that you have knowledge of the plan, and are to keep things in proper train for action; this shows you are a confidant in the business, and that much reliance is had on your management.

Answer. This subject has never been mentioned to me, except as answered in the 5th question, and the answer to that question discloses what I know.

Question 8. "You are advised to send for Rogers, and speak to him yourself respecting the state and prospect of things."

This implies a certainty of your knowledge of the plan, and evidences a confidence in your co-operation.

Answer. I have no other knowledge of the plan than what I have communicated.

Question 9. "In short, you understand the subject, and must give out the proper talks, to keep up my consequence with the Creeks and Cherokees."

Have you any knowledge of the meaning of this paragraph, and have you ever been applied to keep up the consequence of Mr. Blount among the Indians?

Answer. Governor Blount requested me, before he left Knoxville, to keep up his name among the Indians, and not let them forget him.

Question 10. After you saw Captain Chisholm's communication, did you see Governor Blount and have any conversation with him on the subject?

Answer. Yes; I visited the Governor, and after some conversation, he asked me if knew what Chisholm was about; damn the fellow, I do not know where he is, do you know anything about him? I answered, yes; and told him he had changed his lodgings, and where he then lived. I then asked Governor Blount what it was that Chisholm was upon with the British Minister? He started up his head quickly, and answered, no; what do you mean? I informed him of the paper shown to me by Chisholm. He asked me if it was signed? I told him no. He said it was not worth minding him, he is such a sort of a fellow; say nothing about what you have seen.

Question 11. After the discovery of the letter, did any person apply to you about the discovery?

Answer. Yes; Colonel John McClellan came here, and asked me to walk, and inquired after the letter I had received from Governor Blount, and whether it was got? He then inquired after the cover, and whether they got that? I told him the cover was safe. He said the discovery was a terrible affair. You ought to have destroyed the letter. It was, or would be, the best plan that ever was adopted for the benefit of this country. I will try to support Governor Blount's character in this country. I have heard Byers and the letter were gone to Philadelphia."

Charles McClung, Gen. White, John and Samuel McClellan, and Willie Blount, came here some days after the foregoing conversation with Colonel John McClellan, probably on the same subject. But Lieutenant Wright had enjoined it on me to hold no conversation with any one, but in his presence. This order I obeyed, and told Colonel John McClellan of this order; that I was glad to see my friends, but could have no private conversation with them. I was ordered also, by Lieutenant Wright, either to go over the river, while the gentlemen stayed, or be confined to the garrison. I obeyed, and went, by permission, over the river.

Question 12. What did you understand by the offer of whiskey to Colonel Watts by Governor Blount?

Answer. The Quakers had spoken to Watts against drinking, and he disliked it, and complained of it to the Secretary of War. The Secretary replied, this now depended with Colonel Hawkins. That after this we were at Governor Blount's, and Watts mentioned the subject to him in style of complaint. Governor Blount laughed and said never mind it; when I come to Knoxville I will send for you, and give you two kegs of whiskey.

JAMES CAREY.

Sworn before me, on the 8th day of July, 1797.
JOHN McNAIRY,
Judge of the District of Tennessee.

(TU No. 3.)

TELLICO, *July* 8, 1797.

Deposition of William L. Lovely, taken before the honorable John McNairy, Judge of the District of Tennessee, in presence of David Henly, Benjamin Hawkins, Silas Dinsmoor, and James Byers.

The deponent being duly sworn to make true answers to such questions as should be put to him, relative to a letter signed "William Blount," and dated "Colonel King's Iron Works, April 21st, 1797," deposed as follows:

Question 1. Do you know anything relative to the letter from Governor Blount to James Carey?

Answer. Yes. Carey showed me the letter before he delivered it up, and seemed uneasy about it. I read it, and told him he knew his own duty. I believe I pointed out to him the nature of the oath, and said such a letter in his hands was attended with dangerous consequences. I knew the handwriting to be that of Governor Blount, and was much surprised to see such a letter. I had a great regard for the man, and thought to myself I would not, for a large sum, that he should have so committed himself.

Question 2. Have you any knowledge of the plan mentioned in the letter?

Answer. No other than what I had from Carey himself. He mentioned, before he received this, upon his return from Philadelphia, that Chisholm had been with the British Minister, while in Philadelphia, on a plan for the reduction of the Floridas, and wanted to get the co-operation of the Indians.

W. L. LOVELY.

Sworn before me, the 8th day of July, 1797.
JOHN McNAIRY,
Judge of the District of Tennessee.

(TU No. 4.)

The deposition of James Carey, taken on the twenty-ninth day of September, in the year of our Lord one thousand seven hundred and ninety-seven, at Germantown, in the State of Pennsylvania, before the Committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount, the said James Carey having been first sworn, in due form of law, by John Huston, Esquire, one of the Justices of the Peace of the county of Philadelphia.

I am interpreter for the United States to the Cherokee nation of Indians, and assistant at the public store established at the Tellico Blockhouse, and I reside there at present. For these offices I receive the annual salary of three hundred dollars, besides my board, from the Government of the United States.

I attended the Cherokees on their visit to Philadelphia last Winter, and one day, about the last of December, or beginning of January, was invited, with two of the chiefs, John Watts and John Langley, to dine with Colonel Mentges. After dinner, Colonel Mentges proposed to us to take a walk to the Schuylkill; Captain Chisholm overtook us in a coach, and invited us to ride with him, which invitation we accepted, after a little hesitation. We stopped at a tavern in the neighborhood of the city, and, after taking some wine, we all returned in the carriage with Chisholm, except Colonel Mentges, who preferred walking. After Colonel Mentges had left us, and on our way home, Chisholm began a conversation with me, which, at his request, I repeated to the Indians who were with us. He said that he had great power in his hands, that he was going to England, and should return and take the Floridas. As I knew him to be a rattling, boasting kind of man, I laughed at him, and did not much regard what he said. He then told me, if I would not believe him he would show it to me in writing. Accordingly, when we returned to our lodgings, he took out of his trunk four, or five, or six sheets of gilt paper, the whole of which was filled with a writing in a very pretty hand; this, he said, he had received from the British Minister, and read to me with such rapidity that I could not distinctly understand it. It had neither signature, direction, nor address, but purported to be a plan for the reduction of the Floridas by a British and Indian force, of which, however, I do not recollect the particulars. It did not specify the number of men or ships that were to be engaged in the expedition; Governor Blount's name was nowhere mentioned in it, nor did it contain the names of any other persons as parties or associates in the project, or who were to be desired to join in it; nor do I remember that it proposed at all to engage any citizens of the United States in the enterprise, or to raise any force for the purpose within the United States. Chisholm was styled "Captain," in the paper, and was to go to England to the British Ministry with it, or, if he did not go himself, the paper was to be sent there, and the answer was to be returned to the British Minister at Philadelphia. If Chisholm should not be in Philadelphia when the answer was received, it was to be forwarded by land to Knoxville to him, or, in his absence, to his son Ig. Chisholm, who was to send it to the Cherokee nation to his father; or, if his father should not be there, to deliver it to John Rogers. If the answer should be sent round by the Floridas, it was, in like manner, to be forwarded to the Cherokee country to Captain Chisholm, or, in his absence, to John Rogers. This arrangement was contained in the paper. Chisholm himself said that he was going to England to get everything in preparation, and to procure from the Ministry men and a naval armament; that the expedition was to come out in a large privateer; that he was to come out in her, and to have command of the enterprise; and that, on their arrival in the Floridas, he was to obtain the assistance of the Indians, and then attack the Spanish. After Chisholm had read his paper, and finished his story, I continued to laugh at him, and express my incredulity; whereupon he said, if still I would not believe him, I should go with him to the British Minister the next morning, and take the Indians with me. I told him I had no business with the British Minister, and declined going, and so also did the Indians.

Two or three days afterwards, at the request of the widow of the Hanging Maw, I went to Governor Blount's lodgings to ask him for some money that he owed her. I found him engaged in writing, and alone. On my entrance, he said to me, "Carey, what in the devil has become of Chisholm; damn the fellow, where is he?" I replied that he had changed his lodgings. Being thus reminded of Chisholm, I concluded to tell Governor Blount what I had heard and seen. I said to him, therefore, "Governor, do you know what this business is that Chisholm is upon?" He instantly raised his head eagerly from the paper on which he was writing, and looking at me, said, "No, no; what do you mean, Carey?" I then told him of my conversation with Chisholm, and of what Chisholm had shown me. When I mentioned the writing I had seen, he again raised his head suddenly, and looking at me as before, asked me eagerly whether that writing was signed? I told him it was not; and then he said, "Pooh, pooh, Carey, you know what a windy, blasty fellow Chisholm is, and it is not worth while to take any more notice of it, or say anything about it."

I had at no time, before or afterwards, any other communication of any kind with Governor Blount, relative to this subject or any other political plan or scheme, until I received from him the letter dated at Colonel King's Iron Works, April 21, 1797, except that once, in the city of Philadelphia, last Winter, he advised me not to be present at the running of the line, nor to have anything to do with it, as he said it would be a troublesome business, and might occasion the Indians to reflect on me.

In a short time after these occurrences, I left the city of Philadelphia with the Indians. At Tellico, I mentioned, without reserve, to Mr. Byers and other gentlemen there, what Chisholm had said to me and shown to me; they all seemed to treat the thing very lightly, and to consider Chisholm and his communications as equally unworthy of attention. I mentioned them also to John Rogers, told him how he was mentioned in the paper, and asked him if he knew anything about it; he said he did not, and that such a fellow as Chisholm was not worth minding.

After my return to Tellico, on or about the 20th of May, I was told that James Grant, commonly called Major Grant, wanted to see me. When I met him, he told me he had a letter for me which he wished to deliver to me when we were by ourselves. We walked away together some distance, and he then said he had a letter for me from my old friend Governor Blount. He delivered it to me, and, on opening it, I found, within the same cover, two letters, one for John Rogers, dated "Tennessee, Sullivan county, April 21, 1797, (Colonel

King's Iron Works,") the other for me, dated "Colonel King's Iron Works, April 21, 1797," both of which letters are now in the possession of the committee. Without attending to the direction, I first opened that which was addressed to Rogers, and read down one side, which related to a runaway negro fellow, before I discovered my mistake. I then began the letter which was directed to me. Major Grant and I were sitting within two or three feet of each other. I read loud enough to be heard by him; and, as I was sometimes at a loss to make out a word, being a poor scholar, he told me what it was, and explained to me and corrected me whenever I blundered as I went on. When I had finished reading it, he said to me, "Now, Carey, you must be very careful, as your friend Governor Blount puts great confidence in you; you must observe what he tells you, that when you have read the letter two or three times you are to burn it. He then asked me what I intended to do; whether I would send the letter to Rogers, or send for Rogers to come to me. I told him I did not know; perhaps I might write to Rogers, and, if I did, I would let him know. He said that people thereabouts thought it was all over with Governor Blount, but he would rise yet; that if his plan should take place, it would be a great thing for the friends of the business and for the country; that Governor Blount would entrust nobody with the care of the letter but him, and that he had come to Tellico on purpose to deliver it to me; that I should receive another letter from Governor Blount, and that he, Major Grant, would come down again to see me on the subject. I then told him that I could not tarry there any longer, as I was wanted at the store. As we returned, he repeated to me that I should be careful, that the business was of great consequence, that it would be of much service to his friends, and that Governor Blount placed great confidence in me. He then returned to Knoxville.

I kept the letter, but did not know what to do with it or think about it. I had, a few days before, been sworn by Mr. Dinsmoor, to execute my appointments with fidelity to the United States; and I was much embarrassed between my regard for Governor Blount and what might possibly be my duty in respect to the letter. I consulted Major Lewis Lovely, who is clerk at the store, and showed him the letter. He told me he did not know what to advise, but that I should consider my oath. I took occasion, a few days afterwards, when I was alone with Mr. Byers, to tell him that I had a strange letter in my possession, which I did not know what to do about. He asked me who it was from. I told him, and promised to show it to him the next morning, which I did accordingly; and, on his assurance that it was of importance to the public that it should be disclosed, I gave it to him.

After Byers had brought the letter to Philadelphia, Major Grant came again to Tellico. I was planting corn on the other side of the river; he and Lieutenant Davidson came over to me. Major Grant took a newspaper out of his pocket, read it for me, and gave it to me. It contained something about Doublehead's having been at Philadelphia with Gen. Knox, and obtaining a greater annuity for the Indian country than had before been stipulated. Davidson and Grant entered into an argument about it; and then we returned towards the Blockhouse, whither I invited them to take a drink. They pursued the horsepath, and I went on the footpath at some distance from them. In a little while I was met by a soldier, who said there was an express come to the Blockhouse for Lieutenant Davidson and me, and then passed on to inform Davidson. A little further on I met another soldier, with a paper for Lieutenant Davidson, which was delivered to him as soon as he came up; and he then told us that Lieutenant Wright had come to the garrison. We crossed the river, and the two lieutenants entered into discourse together, and walked away by themselves. Grant then said to me, he believed he knew what all that bustle was about; that he had said at Knoxville that he was going into the Indian country, and he supposed Wright had come to stop him. He said, also, that there was a great stir at Knoxville about something, but he could not make out what. He asked me what I had done with the letter from Governor Blount. I said it was *gone*, but did not tell him where, nor did he pursue the question further, but I thought looked very cool upon me. The officers soon returned, and Lieutenant Wright continued with me and Major Grant; and I afterwards understood that his business at Tellico was to follow Major Grant, and prevent him from having any private intercourse with me. Grant, immediately after taking a drink, left us, and returned to Knoxville.

A few days afterwards, a Colonel John M'Clellan, of Knoxville, came to Tellico, and called me out, and asked me if I had not received a letter from Governor Blount. I said I had. He asked me what were the contents, and said there was a terrible to-do about it at Knoxville, and that it was reported that Byers had got it from me when I was drunk. I told him it was true that Byers had got it. He repeated his question about the contents. I told him I could not recollect them all. He said it was a damned thing that I had let it go. He then asked me if the cover was gone; I said, I believed not. He then observed, that he supposed the letter was about something relative to Florida. I replied, I supposed it was. He said, he imagined it was to the same purpose as one which he had himself received from Governor Blount; but that, by God, they should not get that from him; that he was determined to support Governor Blount, and so were many others in that country.

Some days afterwards, Charles M'Clun, General White, Willie Blount, and Colonel M'Clellan's brother came also to Tellico along with the Colonel; but I was desired by Lieutenant Wright not to hold conversation with any of them, except in his presence. I took, therefore, an early opportunity to mention to Colonel M'Clellan that I was glad to see my friends, but that I was not permitted to have any private discourse with them. Afterwards, they wanted me to go over the river with them to get fruit; but I declined, telling them that I would go over and send them some by the Indians, but that I could not go with them.

The letter for John Rogers, which was enclosed in the same cover with that I received from Governor Blount, I delivered to Col. Hawkins.

I never received the letter which is now produced to me, signed "William Blount," dated "April 24, 1797," and in the handwriting of Governor Blount, and directed to "James Carey, Tellico Blockhouse——Col. King."

JAMES CAREY.

(VW.)

The deposition of John Rogers, residing among the Creek Indians, taken at Germantown, in the State of Pennsylvania, on the twenty-ninth day of September, in the year 1797, before the Committee of the House of Representatives of the United States, appointed to prepare Articles of Impeachment against William Blount; at which time and place the said John Rogers being produced before the Committee, and duly sworn by John Huston, Esq., a Justice of the Peace for the said State, the following passage of a letter addressed to him, signed by the said William Blount, and dated Tennessee, Sullivan county, April 21st, 1797, was read to him, viz:

"I suppose you know that Captain Chisholm informed me of yours and his objects, last Winter, at Philadelphia. I now tell you that I am induced to believe that plan will go into operation; and, if it does, it will be attended with great success. You will do well to keep things in a train; but take care and act wisely." And the said John Rogers being thereupon required to declare what were the objects, nature, and particulars of the plan mentioned in this letter, and what he knew concerning the views and projects of the said William Blount, John Chisholm, and others connected with them, he answered as follows:

"I have resided for many years past, and still do reside, in the Creek and Cherokee nations, but I hold no office or employment of any kind under the Government of the United States. When some chiefs and warriors of the Creeks came to Philadelphia, last Winter, on business from their nation with the President of the United States, I attended them as their interpreter, at their request, and not at the instance of the American Government. After I had been some time in Philadelphia, John Chisholm, commonly called Captain Chisholm, asked me what I should think of a voyage to England? I replied, that I should not think of it at all, it having always been my determination never to cross the sea unless by compulsion. He told me then that I might make my fortune by going to England. I asked him how? He answered that England and Spain were about to be engaged in a war against each other, or actually were so; that England would naturally be desirous of engaging the Southern Indians in her interest, and that there was no doubt that, by conducting some of the Creek chiefs to that country, I might make my fortune. I replied that I had no wish to engage in any such enterprise, and would not go. He then asked me whether I would not prevail on some of the chiefs to accompany him to England? Which I also refused to attempt; telling him that he was a fool, and that I did not choose to expose myself to any such inconveniences as would probably result from an interference in a matter of that kind with the Indians.

"He said no more to me at that time; but I learnt, soon afterwards, that he had been speaking on the same subject to some of the Indians, whom I advised to have nothing to do with him, observing that he was a man of no sense, to whom no attention ought to be paid.

"Some days afterwards he came to my lodgings and had some conversation with me, which ended in my telling him that I disapproved much of his conduct, and desired to hear no more of his projects.

"Being a short time afterwards, however, at his lodgings, I saw a number of writings on his table, which, looking hastily over a part of them, I took to be plans of propositions to be made, in the name of the Indians to the British Government, relative to the sending of a force into Florida. I paid, however, very little attention to them, nor did he read them to me, or explain their contents; but I took them to be in his handwriting. Being much displeased at this, and other parts of his conduct, I left the room, advising him to take care that he did not get hanged.

"He made no secret of his project, which, on the contrary, he talked of in a very public manner; but he never mentioned to me any person as being engaged in it beside himself, nor did he ever, in my hearing, name either Governor Blount or the British Minister. His plan, according to his own account of it, was to induce the British Government to send a force into Florida sufficient to garrison Pensacola, New Orleans, &c., and to protect the country against the Spaniards, after the people, assisted perhaps by the Indians, should have risen against them, and thrown off their Government. For this purpose he was to go to England; and he wished the Indians, and other persons from the Western country, to accompany him, in order, as I understood the matter, to give greater weight to his representations.

"As for Governor Blount, I am little better than an absolute stranger to him, never having corresponded with him at any time, nor seen him till I came to Philadelphia last Winter. Even then I saw but very little of him, nor was I at his house more than three times; on one of which occasions he asked me if I knew what Chisholm was about? I replied that he was loitering about the town, or something to that effect. He then asked me if I had heard Chisholm speak of going to England? I replied that I had. He asked me what I thought of the matter? I answered that I considered it as mere idle talk. Governor Blount, by his manner of answering, seemed to be of the same opinion; and there our conversation ended. This was the only mention that he ever made to me of Chisholm or his plans; nor did any correspond-

ence, on that or any other subject, ever take place between us. I suppose that the plan which he talks of, in the letter addressed to me, but never received, was this plan of Chisholm's; and I conjecture that he was induced to write to me in that strain, and on such a subject, by some misrepresentation of Chisholm, who probably told him that I had approved the project, and engaged to act a part in its execution. This, however, I do not know to be the case.

"I never heard the affair mentioned in any other way, nor by any other person, than as related above; till on my return, lately, from an excursion among the Creeks, I found it a subject of general conversation, and received the summons by virtue of which I have attended the committee."

The said John Rogers being then asked whether he knew anything else which had relation to the subject of this examination, answered that he did not.

JOHN ROGERS.

Sworn and subscribed, September 29, 1797.

(XY)

The examination and deposition of James Grant, taken on the twenty-ninth day of September, in the year of our Lord one thousand seven hundred and ninety-seven, at Germantown, in the State of Pennsylvania, before the Committee of the House of Representatives of the United States, appointed to prepare and report Articles of Impeachment against William Blount; the said James Grant being duly sworn by John Huston, Esq., one of the Justices of the Peace of the county of Philadelphia.

"I reside at Knoxville, in the State of Tennessee, and am generally called Major Grant. On the twenty-eighth day of April last, being on my return from Hillsborough, in North Carolina, to Knoxville, I met William Blount, a member of the Senate of the United States for the State of Tennessee, at Washington county, in the State of Virginia. We conversed together on various subjects. He spoke of the line that was to be run between the Indians and the State of Tennessee. He appeared to have it much at heart that it should be run conformably to the line which had been fixed on by Doublehead and several chiefs of the Cherokee nation with the late Secretary of War, General Knox, in Philadelphia, subsequent to the treaty which had been made by him, Governor Blount, called the Treaty of Holstein. His object, as I viewed it, appeared to be to avert as much responsibility as possible from himself; that in case either party should be dissatisfied with the line which the Commissioners might run, no censure might reach him for having made the treaty, and that he might, as much as possible, preserve the confidence both of the Indians and citizens. He mentioned that he had written to Carey from King's Iron Works, and had furnished him with such hints and talks on the subject as would enable him to convince the Indians that Doublehead's line was the one which the Commissioners and the Indians ought to establish as the dividing line between the Cherokees and Tennessee. He, at the same time, expressed some doubt whether Carey would do the thing as effectually as he could wish; that is, as I understood it, whether he could sufficiently impress on the minds of the Indians that they should have no cause to be dissatisfied with his official transactions with them; and he therefore requested me, if I should see Carey, to tell him, by all means, to send for Rogers; and again repeated it, 'Tell Carey to send for Rogers.'

"After speaking generally of some unfortunate circumstances having taken place in his pecuniary affairs in Philadelphia, he told me, in confidence, that there was a plan on foot which, he hoped, would relieve him from his difficulties. I asked him the nature and extent of it, believing it to be a landed negotiation which I had understood he with some others were concerned in, and had in operation by their agents in London and elsewhere. He informed me that it was quite a different thing; that it was a plan, respecting which, Chisholm and several of the chiefs had been with the British Minister during the last Winter in Philadelphia, and on the subject of which Chisholm had a paper in the handwriting of Mr. Liston, though he believed his name was not to it; that the intention of the thing was a co-operation of the Indians with the British in taking the Floridas, and establishing a British Government in the Spanish dominions on the Mississippi, which, he conceived, would be of great utility to the Western country. He said, if the plan should go forward, he should be engaged in it; that he was to use his influence to bring the Indians to act their part, and to conduct them as their military leader on the expedition; and that he was to be rewarded by some high official situation in the Government of the conquered country. He made no direct overture to me to join in the enterprise; but said that, if he succeeded, he should have it in his power to provide handsomely for his friends; and advised me to go to the Natchez, to get out of the reach of certain pecuniary engagements which I had been induced to contract by endorsing paper on his assurance that the payment should be provided for, and which he told me there would be no other method of avoiding than by going out of the Government of the United States. He did not mention the names of any persons who were to be associated with him in his project, but I understood generally from him that any citizens of the United States who would engage in the enterprise, as volunteers, should be received and employed. He appeared to place great reliance on the assistance of Rogers and Carey, and on their influence in persuading the Indians to second his views. He spoke particularly of Rogers as a more resolute and determined man, and more to be depended on, than Carey. He did not explain the arrangement of the plan more particularly than that a naval armament was to be sent from Great Britain, which was to bring out the materials for the enterprise, and which was to be co-operated with on the land side, under his directions, by the Indians and such other force as he could engage for

the purpose. He spoke of it as an affair not yet matured, but which depended on preliminary circumstances yet to be arranged. I understood that the paper, which he mentioned Chisholm to have in the handwriting of Mr. Liston, contained the project of the expedition.

"I parted from Governor Blount about one hundred and fifty or one hundred and sixty miles from Knoxville, and proceeded on my journey. On the 15th of May, or about that time, I was going from Knoxville to Tellico Block-house, to settle some pecuniary transactions of my own; when I was requested by Colonel James King to take down some letters. On my signifying my willingness to take them, he gave me two letters to James Carey, and one for Major Lovely—all from Governor Blount. One of the letters for Carey was, I think, under two seals, and was marked on the superscription No. 1—the other two letters were open. When they were delivered to me by Colonel King, he enjoined me to deliver the sealed letter to Carey secretly. I did not inquire the motive of this injunction, because I supposed it was the letter of which Governor Blount had spoken to me in Washington county, and that Colonel King was acquainted with the subject of it. I delivered all the letters as I was requested; the unsealed letter for Carey, which was upon private business, I took back from him, as its object could not then be complied with; I have obtained from Major Lovely, since the process of the committee was served upon me, that which was directed to him, and they are now both delivered to the committee; and are both dated April 24, 1797.

"When I handed the letter marked No. 1 to Carey, I sat at some little distance from him; he broke the seals, and, while reading it, asked me the explanation of some words which he could not make out. I presume I told him what the words were. He did not read the letter to me, nor hand it to me to read, but only showed me, when he was at a loss, the word which he wanted explained; nor did I know the contents of the letter until, in the following June, Colonel David Henly delivered me a copy in the hand-writing of James M'Henry, Secretary of War, certified as the letter of William Blount to 'Dear Carey,' which I was desired to publish in the Knoxville press then under my care. When Carey had finished reading it, he said 'Yes, I understand it, and will pay attention to it.' I then mentioned to him, agreeably to my promise, Governor Blount's request that he would send for Rogers. He said he would. I did not observe that there was any letter for Rogers enclosed in that which was directed to Carey. I saw none. I never saw the letter now produced to me from Blount to Rogers, dated 'Tennessee, Sullivan county, April 21, 1797 (Colonel King's Iron Works).' When I desired Carey to be sure to send for Rogers, he said to me, 'I see you know something about the business.' I replied, 'That is all I know about the business, that you are to send for Rogers.'

"The letter in the possession of the committee, signed James Grant, directed to 'Hon. William Blount, Senator, Congress, Philadelphia,' and dated at Knoxville, 24th May, 1797, is in my handwriting. I think it was written in consequence of Colonel King's request that I should notify to Governor Blount the delivery of his letter to Carey. I recollect no particular reason for not writing the name of Rogers at length in it; and the other communications of the letter were a mere relation of the current news of the country, without any other object; the principal Indian information contained in it, or a part of it, I obtained from Carey.

"Some time on or about the ninth of June, I went again to Tellico, on private, business of my own. I took with me a newspaper which had been recently published at Knoxville, and which contained Doublehead's treaty, which I gave to Carey, for the purpose of explaining the subject to the Indians. I asked him what had become of the letter which I had delivered to him from Governor Blount, and mentioned that I had heard it had been obtained from him. He replied that nobody had got it from him unless he had been robbed of it. When I set out from Knoxville, on this visit to Tellico, Lieutenant Wright and some others inquired where I was going; I told them I was going to the Indian country. My reason for this was to disappoint the inquisitive temper of persons who chose to entertain very injurious suspicions about me, and to amuse myself with the new conjectures that would be formed on the subject.

"JAMES GRANT."

(ABC.)

Copie de la déclaration faite au Ministre de sa Majesté Catholique, par le citoyen Mitchell, habitant du Tennessee.

1°. Qu'il a été enrolé par le nommé Chisholm, agent Anglais et habitant en Tennessee, 1000 habitans de cette Province destinés à attaquer les postes du Baton Rouge, de New Gales, et des Ecors à Margot.

2°. Que Chisholm a fait toute la reconnaissance de la Louisiane et des deux Florides, et cherché à engager les nations Creek et Cherokee à tourner leurs armes contre les possessions Espagnoles.

3°. Que Chisholm a obtenu une liste de 1500 torys, ou royalistes Anglais, des Natchez, (dont il est porteur) qui se sont engagés à prendre les armes en faveur des Anglais dès qu'ils paraitront pour attaquer la Basse Louisiane et marcher de là sur St. à Fé.

4°. Qu'il se forme un rassemblement sur les lacs composé de 500 Anglais troupes de ligne, 700 Canadiens milice soldée, et 2000 sauvages qui doivent être commandés par le chef Brent.

5°. Que ce corps doit descendre par la rivière des Illinois, attaquer St. Louis, la Nouvelle Madrid, marcher ensuite sur St. à Fé en suivant la rivière St. François et celle des Arkansas.

6°. Que Chisholm s'est procuré six pieces de canon de campagne qu'il a deposées sur la rivière du Tennessee entre les mains d'un de ses

agens, et que ces sont les mêmes qui devaient servir à l'expedition du citoyen Genet.

7°. Que le rendezvous pour les Americains est fixé à Knoxville, dans le Tennessee, pour le 1r de Juillet.

8°. Qu'en conséquence, Chisholm, qui a disposé de toutes ces choses après en avoir fait *son rapport au Ministre Liston*, devoit partir le 28 de Mars de Philadelphie pour Londres sur le batiment* destiné pour Hambourg, pour faire part au gouvernement de ce projet, demandé des vaisseaux et de l'argent pour son execution.

9°. Enfin, pour preuve de ce qu'il avançoit, le citoyen Mitchell m'a remis une lettre en original, signée de Chisholm et dont copie est cy-joinge.

Fait à Philadelphie, le 12 Juillet, 1797.

(DEF.)

[Copy.]

PHILADELPHIA, *March* 17, 1797.

Messrs. MITCHELL and CRAIGE: You will observe, that it will be necessary for you to be in the State of Tennessee on the first day of July next, in order to perform what we have agreed on. You may rely on every attention on my part, and everything that we have talked of shall be performed agreeable to the *existing plan*.

I am, gentlemen, your very humble servant,

JOHN CHISHOLM.

Pour copie conforme à l'original qui reste entre nos mains.

LE CHEVALIER D'YRUJO.

Le 12 Juillet, 1797.

(GHI.)

JOHN PHILLIPS RIPLEY, a native of the State of New Hampshire, now resident in Philadelphia, of the age of twenty-two years, being duly sworn before Reynold Keen, Esq., one of the Associate Judges of the Court of Common Pleas, of the county of Philadelphia, in the presence of the Committee of the House of Representatives appointed to prepare and report articles of impeachment against William Blount, a Senator of the United States, impeached of high crimes and misdemeanors, on the twenty-sixth day of July, in the year of our Lord one thousand seven hundred and ninety-seven, deposeth—

That he was educated at Dartmouth College with Captain Eaton. That he heard Captain Eaton say, after he returned from New York, that several very important letters were discovered in the possession of Doctor Romayne, of New York, containing positive proofs that the British Government was at the bottom of the conspiracy, lately discovered, for violating the neutrality of the United States, and involving us on the side of Great Britain against Spain and France, some of which were signed by Robert Liston, the British Minister; that these letters offer rewards for those who would engage in the enterprise; that they were covered under some old papers and rubbish. That when they were discovered, Doctor Romayne appeared much confused; that letters of more importance had been destroyed by Doctor Romayne. That Captain Eaton, on his return to Philadelphia, mentioned those circumstances to this deponent and some friends. That Mr. Pickering, hearing of this, reprimanded Captain Eaton for it, declaring that the utmost secrecy was necessary in respect to those letters, since, should the people become acquainted with the facts, it would injure very much the views of the Government, as it was bad policy to offend the British Minister, or his nation, Great Britain being now the only friend we have; that the deponent saw a lengthy and manly letter in reply, in which Captain Eaton reprobated every kind of influence of a foreign nature in this country, and every kind of partiality; thought that every attempt against the neutrality of the United States should be repelled and punished, but concluded that, in consequence of the injunction of secrecy imposed by the Secretary, and of the Secretary's opinion that the good of the country required it, he should not be the instrument of its publication. That Captain Eaton has been since sent with despatches to Mr. Gerry, at Boston.

In reply to interrogatories put to the deponent by the committee, he further deposeth, that he cannot recollect how many letters from Mr. Liston Captain Eaton said were found in the possession of Doctor Romayne, but is sure he used the plural number. That the circumstance of the reprimand given to Mr. Eaton by Colonel Pickering is not of the deponent's own knowledge, but was told to him by Captain Eaton. The deponent is certain that Captain Eaton told him the letter heretofore referred to in reply to the reprimand, was intended for Colonel Pickering. The deponent understood from Captain Eaton, that when he had gone to New York, he had received his instructions from this committee. That the reason why the deponent gave the first information of his knowledge in the premises to the Chevalier d'Yrujo, was, that he thought the intelligence of importance, and was desirous it should be communicated to the public; that the deponent had seen the correspondence between Mr. Pickering and the Spanish Minister, and thought the information would be of service to the latter, and would by him be made public. The deponent is well acquainted with Captain Eaton, and believes him to be a man of honor and integrity. The deponent had no reason to suppose that Captain Eaton had kept back or withheld from the committee any of the letters found in the possession of Doctor Romayne, or any important information which he had obtained. The deponent supposed that Captain Eaton had done his duty. That, on communicating this information to the Spanish Minister, he advised the deponent to appear

*Il ne se rappelloit pas du nom du batiment, mais il sera parti probablement dans un de deux que donnerent la voile pour Hambourg 7 d'Avril, viz: "La Favorite, Thompson," appartenant à M. Jeremiah. Warder, ou dans "La Bachus," appartenant à Messieurs Pratt & Kintsing.

before the committee and inform them of his knowledge.

JOHN P. RIPLEY.

(KLM.)

THOMAS ODIORNE, of Exeter, in the State of New Hampshire, of the age of twenty-six years, being examined before the Committee of the House of Representatives, appointed to prepare and report articles of impeachment against William Blount, being first duly sworn, deposeth and saith: That he was educated with Captain Eaton at Dartmouth College, and heard him say, after he returned from New York on an express, that several important letters were found in possession of Doctor Romayne, some of which were written by Robert Liston, the British Minister, offering money. That said Liston would be implicated in the Blount affair or conspiracy, and he supposed was at the bottom of it. After this, calling on Captain Eaton, he read the deponent a letter which he had prepared for Mr. Pickering, to apologize for having divulged the above, he having received a reprimand from Mr. Pickering for doing it. That Mr. Pickering said the utmost secrecy was requisite in respect to those letters. (Though Mr. Eaton reprobated every kind of foreign influence and our partiality to any individual nation, and was somewhat doubtful as to the necessity of those letters being kept from the people—or the purport of them—yet he concluded, though he had said the above, out of regard to Mr. Pickering, they should go no further.) This the deponent thinks is the main substance of what Captain Eaton communicated to him, part of which the deponent heard in presence of Mr. Ripley.

On being questioned by the committee, Mr. Odiorne further says, that he understood from Captain Eaton, that five letters were found in Doctor Romayne's possession, some of which were written by Robert Liston, in which he had offered money.

The deponent does not recollect that Captain Eaton explained for what the money was offered. The deponent understood that no more than five letters of any consequence were found. That the deponent understood from Captain Eaton, that he had gone to New York to arrest Doctor Romayne under the orders of the Committee of the House of Representatives. He said he had great powers given to him from the committee, and that he had obeyed them strictly; but the deponent does not recollect that he said he had given the five letters above referred to, to the committee. The deponent is very positive that Captain Eaton told him that the letter which he had written, and heretofore spoken of by this deponent, was for Colonel Pickering; but the deponent did not see the direction of the letter, as it was not at that time folded or directed; but Captain Eaton was copying it from a book in which he had written it. The deponent was informed by Captain Eaton and others, that this committee was sitting, charged with the business of Mr. Blount. That the deponent himself did not at that time think the conversation he had with Mr. Eaton of importance enough to be communicated to the committee; but, by the request of Mr. Ripley, he called on the Chevalier d'Yrujo, at whose desire he has attended the committee. That the sentiments of Mr. Eaton hereinbefore expressed, by this deponent, and contained between crotchets, were the sentiments expressed by Mr. Eaton in his letter to Colonel Pickering. That the deponent is not sure that Captain Eaton said Mr. Pickering had reprimanded him; but the deponent understood from Mr. Eaton that he had had a conversation with Colonel Pickering, in which Colonel Pickering had disapproved of his having spoken of the papers.

THOMAS ODIORNE.

July 25, 1797.

(NOP.)

DISTRICT OF MASSACHUSETTS, ss.

September 6, A. D. 1797.

Personally appeared Captain William Eaton, signer of the following deposition, and made oath to the truth of the declaration and facts therein stated.

Before me, SAMUEL LYMAN, Justice of the Peace throughout said district.

I, WILLIAM EATON, declare and say, that John Phillips Ripley, son of a very respectable Professor of Divinity and the Languages in Dartmouth College, lately a resident in Philadelphia, was cotemporary with me at that seminary; and though young, was among the circle of my friends there—he has been so since renewal of our acquaintance in Philadelphia. Some time about the 12th of July last, after my return from New York with Doctor Nicholas Romayne, I said to him that four or five enigmatical letters from Wm. Blount to Romayne were found among the papers of the latter, which undoubtedly had reference to the conspiracy of the former. That from Romayne's concession, I concluded letters of more importance had been by him destroyed. That one letter, signed Robert Liston, was found among some neglected papers of Romayne, at which he discovered evident perturbation, and that this letter countenanced the conspiracy. About the 17th July, Mr. Ripley was at my lodgings. I told him the Secretary of State had intimated to me an impropriety in mentioning those circumstances till after the papers were handed to the committee; that Mr. Hodgdon had done the same; and that I had written him (Mr. Hodgdon) on the subject. A copy of this letter I showed to Ripley. The Secretary of State said nothing to me of the effects a discovery of facts, relative to Mr. Liston's letter, would have on the minds of the people; he said nothing of injuring the views of Government, nothing of the bad policy of offending the British Minister or his nation, nor anything of Great Britain being the only friend we have. I never said to Mr. John P. Ripley, nor to any other person, that the Secretary of State

mentioned anything to me on these subjects. My letter to Mr. Hodgdon, above mentioned, if yet in existence, will demonstrate that these ideas and conclusions were the result of my own reflections; and will at least warrant the presumption that Mr. Ripley must have wholly mistaken them. The expressions—"Several important letters;" "Positive proof that the *British Government* was at the bottom of the conspiracy;" "That the letters offered rewards to those who would engage in the enterprise;" "rubbish," and "reprimand"—recorded in Mr. Ripley's deposition, I disclaim. I always considered the *late honorable* William Blount *at the bottom of the enterprise;* that his motives and views were altogether void of regard for others, further than comported with his individual interest; and that his project was not sufficiently matured to engage the co-operation of any Government. But that the British Minister did patronize the conspiracy, and that he would ultimately have influenced the agency of his Government in the measure, had circumstances conspired to render it practicable and advantageous to the British nation, I do believe, notwithstanding the sensibility he has expressed in exciting the Indians to the slaughter, and the singular regard his nation cherishes for the rights of neutrality. These, however, are creeds of my own. I never heard a syllable on the subject spoken by the Secretary of State. It is injurious that the insinuation should obtain. I always supposed the Secretary believed differently of Mr. Liston till the letter in view appeared; and even then, to me, he expressed nothing on the subject, except, as I have above related, the impropriety of giving publicity to that evidence before it was delivered to the Committee. Every article of information, which I have ever possessed relative to Blount's conspiracy, has been given to the Committee of the House of Representatives.

At the time Mr. Ripley and myself were remarking the liberties foreigners among us were suffered to take with impunity, in subversion of our internal tranquillity, and the audacity which this tolerance invited, he informed me, "There is now in this city, or Baltimore, a French engineer, who has made the tour of the United States, has taken plans of every commanding position on our seaboard, and other frontiers, and is about to transmit a copy, if he has not already done it, to the National Directory." This information I immediately communicated verbatim to the Secretary of State. I then expected to have tarried in Philadelphia a few weeks, but was that day requested to go to Cambridge with despatches.

On this subject I have since, on the 6th ultimo, answered to questions of the Secretary of War by letter from Brimfield.

I do not recollect whether Mr. Odiorne was present at this interview; am inclined to think he was. Sure I am no conversation had with Mr. Ripley has been hidden from him. He visited me often at Captain Elliot's quarters. I believed him an honest man; and from such no communication or conjecture which I have ever made ought to be hidden. I at least thus believed, and do still believe. If my intentions or observations have, through interest or error, been misconstrued and misapplied, I can only lament my misplaced confidence.

WILLIAM EATON.

SPRINGFIELD, *6th September*, 1797.

(QRS.)

MARKET STREET, *23d November*, 1797.

SIR: Encouraged by your polite invitation to produce and lay before the committee any proof or document I might obtain relative to the late discovered conspiracy of William Blount, and thinking the enclosed original letter from General Elijah Clark, of Georgia, to his Catholic Majesty's Consul, in Charleston, may tend to throw some light on the subject, I have the honor of transmitting it to you, sir, requesting you will be pleased to present it to the committee.

I have the honor to be, with great respect, sir, your most obedient servant,

LE CHEVALIER D'YRUJO.

SAMUEL SITGREAVES, Esq., *Chairman of the Committee of Inquiry, &c.*

(QRS No. 2.)

STATE OF GEORGIA, WASHINGTON, *August 9th*, 1797.

SIR: I received your letter by Major Patton, requesting me to inform you of the propositions, and persons who made them to me, respecting my junction with the British. The peculiar and delicate manner in which these propositions were made, and the delicacy with which the whole business was conducted, prevents me from giving you that satisfaction on the subject which I wish. I can only say that an application was made to me from the British, through a channel which bound me to silence, if not acquiesced in. And this question asked me by that person—"Whether a salary of ten thousand dollars would or would not induce me to join the British?" I answered that no sum could ever induce me to join the British, upon any occasion whatever. In fact, I rejected the offer with disdain. Could I be more explicit upon the subject, I would gratify you with pleasure; but from the circumstances heretofore mentioned I am confident your good sense will dictate that silence on my part is the most prudent act.

I am, with respect, sir,
Your most humble servant,

ELIJAH CLARK.

DIEGO MORPHY, *Consul of Spain.*
Hon. by Major Patton.

(A a)

NEW YORK, *12th July*, 1797.

SIR: I wrote to you yesterday, per post, respecting the circumstances which took place upon the apprehension of Doctor Romayne. It was impossible to conceal this business from public observation, as the attention of many persons was

excited by the visit to his house at an unusual hour, and his sudden departure for Philadelphia with Captain Eaton and his assistant. In the course of the day information was given to me that Doctor Charles Buxton, of this city, formerly a pupil to Doctor Romayne, was acquainted with some of the circumstances relative to the plot in which he was engaged. I was told that, in a moment of intoxication, he had declared that Romayne would become one of the greatest men in this country, and that he himself was engaged to fill an important station under him. This declaration was considered, at the time, as merely the effect of wine and vanity, and, as the particulars of the scheme were not disclosed, the whole would probably have been forgotten, if Doctor Romayne had not been implicated in the discoveries lately made. In consequence of that circumstance, Buxton was, without my knowledge, called upon by my informant for an explanation, and I was told that he had acknowledged his acquaintance with the nature of the business, and that he had seen a letter from Mr. Liston to Romayne respecting it. Though from this information it appeared probable that Buxton was possessed of Romayne's confidence, and was willing to embark in the undertaking, whatever it might be, yet, from the general character of the parties, I did not believe that he could have had any direct intercourse with the other principal agents, or that he possessed any material papers relating to it. I was also convinced that, if he ever had such papers, they must have been destroyed, as he would naturally have taken the alarm upon the first account of the discovery. For these reasons I thought it could not be improper to apply to Dr. Buxton personally, and hear his own account of the business before any other measure was taken. This I have accordingly done; and he has assured me that the propositions made to him were only *generally* of some employment much to his benefit on the Mississippi, which, however, he apprehended *might interfere with his duty* to the United States, and had declined. He admitted that he had seen two letters in Doctor Romayne's hands, one from a person of consequence in England, (supposed to be Sir William Pulteney,) and the other, he thinks, from Mr. Liston; but he affects to have a very indistinct recollection of their contents. Should it be thought advisable to compel the attendance of Doctor Buxton, either as a witness or otherwise, before the committee of the House of Representatives, an order or warrant for that purpose will of course be forwarded.

I am this moment informed that William Duer, formerly Assistant Secretary of the Treasury, is suspected of being privy to this transaction. The reasons assigned are his frequent interviews, at late hours, with Doctor Romayne, and his having betrayed some agitation at the arrest of that person. I know nothing of these facts, but it is observable that a letter of Mr. Duer's, relating to a land speculation, was among those papers of Doctor Romayne which were most in sight, and it might have been so placed to remove suspicions, if any should arise.

I have the honor to be, with the highest, respect, sir, your most obedient servant,

RICHARD HARRISON.

Hon. TIMOTHY PICKERING, Esq.,
Secretary of State.

(A b.)

NEW YORK, *July* 11, 1797.

SIR: The arrest of Doctor Romayne has been the subject of much conversation this day. I think it proper to state to you that Doctor Hicks, who was formerly a student with Dr. Romayne, informs me a gentleman, who also was once a student with him, told him (Doctor Hicks,) several weeks ago, that he had conveyed letters from Doctor Romayne to the British Minister, and was requested or directed to deliver them to the Minister with his own hand. The name of this gentleman Dr. Hicks has not mentioned to me; but he is in this city. Whether this circumstance deserves investigation, is submitted to the opinion of the proper authorities; but I have thought it my duty to state the circumstance to you. Mr. Blount's intimacy with Doctor Romayne, while in this city, was a subject of remark. We are alive to this discovery, and everything that can throw light on it.

I am, sir, with great respect, your obedient servant,

N. WEBSTER, JR.

Hon. TIMOTHY PICKERING, Esq.,
Secretary of State, Philadelphia.

(A c.)

NEW YORK, *July* 12, 1797.

SIR: I take the liberty of informing you that their are other characters in New York that are not less dangerous to the happiness of the U. S. than Doctor Romayne, and that if the ware in custity I should appear against one in particular who has been hear from the State of Penn. this five month and better was in company with W: Blount last spring in this City and with the Doctor and lodges in the house of the last mentioned corner of John and Nassau street No 23 he is caul'd Col. Stevenson or by some General it can be proven that this man is in the consera and that he makes it a point to abuse you and many other public offisers upon all occations in the most scurilous manner such as rascals, scoundrals and velons this man is despart and unless he is apprehended know one will venture to come forward against him he has chalanged severals in this place and would not think any thing of taking the life of any person he new would inform on him. He is at this time confined with the gout but not so as to prevent his being taken to the seat of justice. I shall come forward when he is taken and prove more than I shall venture to assert in this.

In the mean time I remain your Exelency's most ob. servant & friend to my country. H. M.

TIMOTHY PICKERING, Esq.
Secretary of State.

P. S. There is but one other that know I have writen. H. M.

(A d.)

July 13, 1797.

DEAR SIR: The committee are of opinion that the suspicion against Col. Stevenson, arising out of H. M.'s letter, should be traced if possible. It would not be right to issue a warrant to apprehend him without some better proof than an anonymous correspondence; yet the thing deserves inquiry. Perhaps by enclosing the letter to Mr. Harrison, he may be able to discover the author, and procure further information. The letter is returned to you, that you may, if you think it proper, write to Mr. Harrison on the subject.

We propose to send a subpœna for Dr. Buxton; either Claxton or Dunn will go with it, if you will furnish the means.

There are other reasons, besides Mr. Harrison's letter, to suppose that Mr. Duer had a pretty full knowledge of the project. A Richard Smith, who has been lately with him in New York, has said that Mr. Duer gave him information on the subject, in general terms, corresponding with Romayne's disclosure. Perhaps Mr. Harrison may obtain from him some important testimony.

We submit it to your consideration whether by communicating to Mr. Liston the fact that we have in our possession his letter to Romayne, he may not be induced to give up Romayne's letter to which it is an answer, as well as the rest of Romayne's correspondence with him. We should be very glad to see the letter from Lord Grenville, which you informed us Mr. Liston had shown you, and of which you imagined he would make no difficulty to let you have a copy.

I am, dear sir, with great regard, your most obedient servant,

S. SITGREAVES.

The SECRETARY OF STATE.

(A e.)

PHILADELPHIA, *July* 16, 1797.

SIR: It is reported that your committee has sent to Tennesse for some witnesses. One Mitchel told me last winter that his partner knew every thing more than he did. I give this news which I hope may be useful.

Your servant a friend to truth

G. H.

Mr. SITGREAVES—
Committe man—present—(this)

(A f.)

NEW YORK, *July* 19, 1797.

SIR: Crossing the ferry this day and listening to the conversation of some gentlemen of this city, of which Dr. Romayne was the topic—I remarked the following:

That, Sunday previously to R.'s being taken, he was at the house of Mr. Benjamin Wintrop, and made use of such observations as these—"The Government of the United States is not, in fact, nor ought it to be considered a Government; it was founded on rebellion and supported by faction, and that a *short time* would restore things, in this country, to the political order which existed before the Revolution."

It has transpired from some of R.'s confidants, that he has said: "One year would make him Governor of the Natchez."

I took the liberty to ask the name of the gentleman who seemed to lead in these observations, and found it to be Leonard Bleeker.

I have the honor to remain, sir, most respectfully, your obedient servant,

WILLIAM EATON.

Hon'ble Mr. SITGREAVES,
Chairman of the Committee of Congress, Philadelphia.

(A g.)

NEW YORK, *June* 20, 1797.

SIR: A few days since, I received from Caleb Russel, attorney-at-law in Morristown, New Jersey, the following verbal communication, viz:

That, in the month of May last, one Munsun Day (or Dey) informed him that he was going to the Western country; that there was a grand business going on, that they were to invade the Spanish territories, and drive them from Louisiana, &c., and take the fort at the Natchez; that there was a person gone to England on the subject; that he should make his fortune, &c.; that he had his information and was employed by one Mitchel, a surveyor; that Mitchel authorized and pressed him to raise forty or fifty young men, all of whom were to be highly rewarded.

That he spoke of his business in so open a manner, through Morristown, that it passed unregarded.

This Day is a young man, not yet arrived at twenty-one. He made essays, however, to get his complement of men; but, not succeeding, he went to the Tennessee, taking with him two or three.

Mitchel went on the business to the Tennessee. He was to be a great man in the affair. His Christian name, Mr. Russel could not recollect. But it can be had at Morristown, where, it seems, he is well known.

Not knowing from what quarter light might be thrown upon this mysterious business, I thought it a duty to trouble you with this epistle.

Health and respect, from

WM. WILCOCKS.

TIMOTHY PICKERING, Esq.,
Secretary of State, Philadelphia.

(A h.)

From the New York Herald, of August 2d, 1797.

A writer in the Argus, signed "Flaccus," asks Dr. Romayne the following questions:

"Were you an accomplice with William Blount, in the design of violating the American territory, to attack, murder, plunder, and destroy, the subjects of our good ally the King of Spain? Were you the man who first suggested the idea to Governor Blount? Who first seduced him into the plan? Was this idea your own, or did it originate with that conspicuous example of talents, virtues, and manners, your fast friend and inseparable companion, William Duer? Did you write letters to Pulteney, of London, to supply you with money for the expedition, and to make the best treaty he could with Pitt for places, pensions, territory, &c., for yourself and friends, in case you should succeed? Did Duer compose fifteen or twenty sheets of paper, pointing out the immense advantages that must accrue to Great Britain, by an acquisition of New Orleans, and the territory of Louisiana and the Floridas? Did you copy this, read it over to Blount and some others, whose names for the present shall not stain my paper, at Mrs. Gordon's boarding house, in Greenwich street, and send it off to England as your own production? Were there daily and nightly meetings in that lady's bed-room, of four persons, settling, digesting, and arranging the nefarious plot, during the whole period of Governor Blount's visit to New York, in the Fall of the last, and Spring of the present year? Were you one of those four; and, if so, by what appellation would you designate such a convention? Would you call it a club or a committee?"

(A i.)

COMMITTEE-ROOM, *August* 30, 1797.

DEAR SIR: On the 13th July, you communicated to the Committee of the House of Representatives, a letter from Mr. Harrison, of the 12th July; and another letter, directed to you, under the signature of "H. M.," dated also at New York, July 12, which letters intimated certain suspicions affecting Mr. Duer and Col. Stevenson, as connected with Blount's plans. On the same day, when you made this communication, we requested you would be good enough to write to Mr. Harrison, on the subject of these suspicions, and engage him to pursue the inquiry as far as practicable; for which purpose we enclosed to you the letter of H. M.

Certain queries, signed "Flaccus," originally published in the Argus, and which I find republished in the Herald, of August 2d, addressed to Dr. Romayne, seem to point to the same objects which were the subjects of the letters above referred to. We conceive these intimations ought not to be neglected, and propose to write to Mr. Harrison to endeavor to obtain further light, if possible, but are first desirous to know, whether he has hitherto, under your directions, made any inquiries conformably to the wish of the committee.

Will you take the trouble to inform us, whether you have received from Mr. Harrison any intelligence of his inquiries, or their result?

I am, sir, your very obedient servant,

S. SITGREAVES.

Col. PICKERING.

(A k.)

PHILADELPHIA, *August* 30, 1797.

SIR: I have the honor to acknowledge the receipt of your letter of this date, inquiring whether I had received any information from Mr. Harrison relative to Mr. Duer and Col. Stevenson, who were mentioned in some anonymous letters, as connected with Gov. Blount's plot? and answer, that I have not heard from Mr. Harrison on the subject. I have shown you my letter to him making the inquiries which you requested.

I am, respectfully, sir, your obedient servant,

T. PICKERING.

SAMUEL SITGREAVES, Esq.,
Chairman of the Committee of the House of Representatives.

(A l.)

Copy of the letter from the Secretary of State to Richard Harrison, Esq., referred to in the last letter.

DEPARTMENT OF STATE,
Philadelphia, July 14, 1797.

SIR: I have shown your letters of the 11th and 12th to the Committee of the House of Representatives. Yesterday the Chairman wrote me a letter, from which I quote the following paragraph:

"There are other reasons, besides Mr. Harrison's letters, to suppose that Mr. Duer had a pretty full knowledge of the project. A Richard Smith, who has lately been with him in New York, has said that Mr. Duer gave him information on the subject, in general terms, corresponding with Romayne's disclosure. Perhaps Mr. Harrison may obtain from him some important testimony."

Yesterday, I received the enclosed anonymous letter concerning one Col. Stevenson, as connected with Blount and Romayne. I know Stevenson. It is doubtless the same person who published, in the newspapers, his correspondence with me and Mr. McHenry, as Secretaries of the War Department, about his complaint against General Morgan, while commanding the militia army against the Pennsylvania insurgents.

* * * * * * * *

If you can make any use of this information, to discover more of the designs of the conspirators, you will certainly do it.

I have the honor to be, with great respect, sir, your obedient servant, T. PICKERING.

RICHARD HARRISON, Esq.,
Attorney of the United States, District of New York.

P. S. I have just received another letter (dated July 12th) concerning Col. Stevenson, which I also enclose.

(A m.)

PHILADELPHIA, *August* 31, 1797.

SIR: On the 13th July last, the Secretary of State communicated to the Committee of the House of Representatives, your letter to him of the 12th of the same month, intimating some suspicion of Mr. Duer, as privy to the plans of Governor Blount. At the same time, the Secretary of State also communicated to us an anonymous

letter, under the signature of "H. M.," dated New York, July 12, 1797, intimating suspicions of a similar nature against a Colonel Stevenson. There were other reasons besides those suggested by you to create some belief of Mr. Duer's knowledge or concern in these transactions: And the committee thought that such repeated intimations ought not to be neglected; but as Mr. Duer's actual situation would render it inconvenient, if not impracticable, lawfully to obtain his attendance before the committee by any process which they could issue, we signified to Col. Pickering our wish that he would endeavor to engage your good offices in procuring from Mr. Duer what information he was willing to give on the business with which the committee are charged. The suspicion excited against Col. Stevenson having no better foundation than an anonymous letter, we did not believe that we could be justified, without further proof, in doing any act that might put him to inconvenience, or subject him to imputation; but as we were desirous to neglect no occasion of tracing, by every just and practicable means, any appearances connected with the object of our inquiries, we requested Col. Pickering to transmit to you the anonymous letter which he had received, with the hope that it might be in your power to discover the author and further to investigate the causes of suspicion it contained.

As we are informed by the Secretary of State that he wrote to you conformably to the request of the committee, but has not received from you any communication of the result of your inquiries, we presume they have not been attended with any success. But, having observed in the Herald, of August 2, certain queries addressed to Doctor Romayne, signed "Flaccus," and republished from the Argus, of New York, pointing to the same objects of suspicion with the letters herein before referred to, it has occurred to us that the printer of the Argus, by giving you the name of the author of those queries, might enable you to prosecute this inquiry with some better hope of a satisfactory result. At any rate, we believe that we ought to make every practicable attempt to obtain information, as we are responsible for the endeavor, though not for its success.

I am desired, therefore, by the committee, to request that you will take the trouble of another effort to extract some light from these various hints and intimations; and that you will favor them with a line to inform them as well of what has been essayed, in consequence of their former request through the Secretary of State, as of what you shall be able to accomplish by any new inquiries.

I beg you to accept the assurance of the reluctance with which the committee give you the trouble of their repeated requests, and of the perfect respect and consideration with which,

I am, sir, your most obedient servant,

S. SITGREAVES, Chairman.

RICHARD HARRISON, Esq.,
Attorney of the United States,
District of New York.

(A n.)

NEW YORK, *September* 16, 1797.

SIR: A scene of domestic affliction in which I have lately been involved, prevented my attention to your letter of the 31st ultimo, until a few days ago. As soon as I was able to turn my mind to that subject, I called upon Mr. Greenleaf, the printer of the Argus, for the information you requested. He has given me the name of William Langworthy, an Englishman, who has been about two years in this country, as the author of the queries, signed "Flaccus." At the same time, he has assured me that, before the publication, he expressed to Mr. Langworthy his expectation that he would be called upon, and was told that he had no objection to a particular disclosure of all that he knew.

It seems that this Mr. Langworthy was a lodger in Mrs. Gordon's house, at the time the occurrences are supposed to have taken place, which are alluded to in these queries.

I have no great confidence in the authority upon which this communication rests, but that nothing on my part might be wanting, I have inquired for Mr. Langworthy, who, it seems, is now in the country, and I shall endeavor to see him as soon as I hear of his return to this place.

I perfectly accord with you in sentiment, that the letter respecting Col. Stevenson does not furnish sufficient grounds upon which any measures can be taken: And, with respect to Mr. Duer, I have no idea that any information can be obtained in the way that has been intimated. He is in general a zealot in whatever he undertakes, and has that kind of attachment to all his plans, which is common with persons of that description.

I am, with the highest respect, sir, your obedient servant, RICHARD HARRISON.

SAMUEL SITGREAVES, Esq.,
Chairman of the Committee of the House of Representatives, Philadelphia.

Supplementary Evidence, reported by Committee after submission of first Report.

ABEL HOLDEN, Jr., of the city of New York, in the State of New York, being duly sworn upon the Evangelists of Almighty God, makes oath and saith, that he lived for a number of years in the State of New Hampshire, where he was acquainted with John Phillips Ripley, nephew to the President of Dartmouth College; that the said John Phillips Ripley lived for about two months during the last Summer, and this deponent thinks in the months of July and August, as a boarder and lodger in the house of Asa Holden, the uncle of this deponent, where this deponent also lived at the same time, in the city of New York; that the said John Phillips Ripley, during the same period, having been applied to for payment of the money due for his said board and lodging, this deponent, at his request, accompanied him first to a house at the corner of Pearl and Broad streets, in the said city, where he said he would see a gentleman

from whom he was to have some money; that the said John Philips Ripley there conversed with a person to this deponent unknown, in the French language, which this deponent does not understand, and then informed this deponent that the gentleman whom he expected to have seen was not at home; that this deponent then proceeded with said John Phillips Ripley, at his desire, to a house in Greenwich street, near the Battery, in the said city, which this deponent has since understood to be occupied by the Spanish Consul, and where, as this deponent then understood, he expected to see the Spanish Minister; that in the course of conversation on a former day, the said John Phillips Ripley had informed the deponent that he knew the Spanish Minister, whom he had recently seen in the said city, in a phaeton drawn by four horses; that upon their coming to the said house in Greenwich street, the said John Phillips Ripley looked in at one of the windows, and said he saw there was company in the room, and that he would take another opportunity of calling, or to that effect, and added, that he had already had two hundred dollars from the said Minister, and was to have more money from him; that he has heard the said John Phillips Ripley say that he should have had the office afterwards conferred upon Captain Eaton, of Consul to Algiers, but that Captain Eaton had interfered and prevented it; that he was present when a similar declaration of the said John Phillips Ripley was mentioned to Captain Eaton, who then observed that he had been inclined to favor Ripley's views, but that there were substantial reasons to prevent his appointment, and further added, that he understood Ripley had received money from the Spanish Minister; that this deponent thereupon communicated to Captain Eaton what the said John Phillips Ripley had mentioned to him as aforesaid, and had before mentioned the same in the family of his uncle, the said Asa Holden.

ABEL HOLDEN, Jr.

Sworn the 30th day of December, 1797, before me (the word "had," and the words "whom he had recently seen in the said city, in a phaeton drawn by four horses," being first interlined, the last words over an obliteration.)

RICHD. VARICK *Mayor.*

GEORGIA, WILKES COUNTY,
Tuesday, March 27, 1798.

General ELIJAH CLARK being sworn by William Barnet, Esq., one of the Justices of the Inferior Court, to make true answers to the interrogatories transmitted to us and Benjamin Taliaferro, Esq., or any two of us, by the said committee, deposeth to the first interrogatory, and saith:

That he wrote the letter of which the annexed is a copy, to the best of his knowledge and belief, and to the person to whom it is addressed.

To the second interrogatory he saith, there was an application made to him as suggested in the said letter. That the application was made to him by one William Carrick, to the best of his recollection, some time in the month of May, in the year 1797, at his house in Wilkes county; that the said Carrick came to his house the day before any propositions were made, and tarried all night; that he appeared to know this deponent, and said he had seen him about ten years before in Savannah, though this deponent could not call to his mind that he had ever seen the said Carrick before; that during the evening he talked much of the existing war between France, Spain, and England; that the day after his arrival, some little time after breakfast, he informed this deponent that he was a British Captain, then from Charleston, and intended to return there as soon as possible, by the way of Savannah, where he expected to see Colonel John McIntosh, and that he was authorized by the British Government to propose to this deponent $10,000, as mentioned in the said letter, as a salary, if he, this deponent, would engage in the British service against the Spaniards and French; and this deponent should hold in the said service the same rank that he held in the State of Georgia.

That the said proposals were oral, and not in writing. And this deponent further saith, that after he had contemptuously refused to close with the said propositions, the said Carrick asked this deponent if any sum would engage this deponent to enter into the service of the British Government? And, having explicitly informed the said Carrick, that nothing could induce him to enter into their service, the said Carrick extorted a promise, that nothing more should be said of the propositions so as aforesaid made, which this deponent felt no reluctance in giving, not believing at the time that a disclosure could in any manner be interesting to the Government of the United States. That the design, scheme, or enterprise, was not disclosed to this deponent; and that the said Carrick left the house of this deponent in one half hour, he believes, after the said propositions were made and rejected.

To the third interrogatory he saith, that he does not know of any proposals made by and on the part of the British or any other foreign nation, to any citizen or citizens of the United States, for the purpose of engaging them in any enterprise hostile to the United States.

his
ELIJAH ⋈ CLARK.
mark.

(1.)

Letter from the Chevalier D'YRUJO, Minister Plenipotentiary to the United States from Spain, to the Chairman of the Committee appointed to prepare and report Articles of Impeachment against William Blount, dated January 19, 1798.

PHILADELPHIA, *January* 19, 1798.

SIR: Having seen, by the supplementary report of the committee, which you laid before the House on Thursday, the 18th instant, that Abraham Holden has declared that J. P. Ripley had received from me a sum of money in New York, to extricate him from a difficulty in which he found himself, I think it an indispensable duty I

owe to myself, to prove the total misrepresentation of the fact by the following statement. Towards the latter end of last September, on my return to New York from Boston, I was informed that Mr. Ripley had been arrested for debt, and that by the interposition of Governor Jay he had been prevented from going to prison. Mr. Ripley shortly after applied to a merchant in New York for a sum of money in order to extricate himself finally from this embarrassment; the gentleman applied to me for information respecting Mr. Ripley, and, on my telling him I had every reason to consider him as a young man of honor and integrity, he advanced him, on his own notes, the money he required, the amount of which I do not exactly recollect. Moreover, I think it necessary here to observe to you, sir, that from the first moment of my acquaintance with Mr. Ripley, I never have, directly or indirectly, offered him any money or other reward, or in any ways hinted to compensate him for his deposition, as he was conscious it was his duty, and in that light only have I viewed it. I have further reason to believe this motive was the only inducement he had to apply to me, at the commencement of the sitting of the committee, as it was an entire voluntary act of his own.

As the deposition of Mr. Holden has been laid before Congress, permit me, sir, to request of the committee to do the same with this letter, and, if necessary, to take proper steps for the further elucidation of the above-mentioned facts, in order to remove any wrong impression it might make on the public.

I have the honor to be, sir, your most obedient servant, LE CHEVALIER D'YRUJO.

SAMUEL SITGREAVES, Esq.,
Chairman of the Committee of the House of Representatives, for the impeachment of William Blount.

(2.)

Letter from John Phillips Ripley to the Chairman of the Committee appointed to prepare and report Articles of Impeachment against William Blount, dated January 19, 1798.

PHILADELPHIA, *January* 19, 1798.

SIR: I have just seen, with much surprise, an abstract of a deposition made by Abraham Holden, of New York, "which seems to imply that I was supplied with money while in New York by the Spanish Minister, and that I had received two hundred dollars from him, and expected more." I beg leave, sir, to relate to you the facts which may, perhaps, have given some color to the impressions made on the mind of the deponent. It is, however, extremely disagreeable to be obliged to trouble you with any observations respecting my personal affairs.

Some time after my arrival in New York, in September last, owing to a mistake of a person in Philadelphia, I was arrested for debt. The plaintiff having removed from the town on account of the fever, no explanation could take place, nor any communication be made. Not expecting the suit, nor having any money in New York to discharge it, and having scarcely any acquaintance in that city, I found myself reduced to a disagreeable dilemma. In this situation I applied for bail to Mr. Isaac Clason, who declined interfering in my behalf. I found myself, then, under the necessity of making application to Governor Jay, who very kindly pledged his word to the officer for my appearance on a certain day. On that day Governor Jay left town for Albany; I surrendered myself to the officer, and the matter not being yet accommodated, I requested Mr. Thomas Stoughton to become my bail. He replied, being Consul of Spain, it was not consistent with his office and instructions to interfere in the justice of the country. I related to him the manner in which Governor Jay had assisted me, and he at length followed his example. Some time after, the Chevalier D'Yrujo arrived at New York from Boston. Owing to the continuance of the malady at Philadelphia, I had not been able to hear from the plaintiff, nor from any other person of my acquaintance. My situation, it may be well supposed, was by no means enviable. I described it to the Chevalier. He told me it was not convenient for him to assist me; but, on representing my anxiety of finishing the affair, and the necessity of my returning to Philadelphia, he promised to recommend it to Mr. Stoughton. On applying to Mr. Stoughton, he lent me sufficient money to conclude the affair, for which I gave my notes. This simple narration exposes all the ground on which Mr. Holden can build his assertions or conjectures. Living in the same house with him, he, of course, became acquainted with my embarrassment, and I took no pains to conceal from him, or any one else, the manner in which I was extricated. He has, doubtless, mistaken the Consul for the Minister.

This relation will, I trust, be sufficient to explain or correct the impressions which were made on the mind of the deponent. It may, however, not be amiss to add, that the Chevalier D'Yrujo never gave me, offered, nor promised me, any money or reward. In confirming me in my resolution of declaring before the Committee the facts which I knew, he simply represented it as the duty of a citizen to declare, on all occasions, the truth: to detect and frustrate the projects of those who may desire to sacrifice our neutrality, or to substitute unnatural and impolitic connexions in the place of those which our reason, our interest, and our engagements, should induce us to support.

This plain and correct explanation of facts will, I trust, enable every one to appreciate, properly, the importance of Mr. Holden's deposition, and will remove any wrong impression which may have been induced by it.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

JOHN P. RIPLEY.

Hon. Mr. SITGREAVES,
Chairman of the Committee of the House of Representatives for the trial of William Blount.

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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FIFTH CONGRESS.

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

LIBRARY OF THE HOUSE OF REPRESENTATIVES UNITED STATES OF AMERICA

FIFTH CONGRESS.

COMPRISING THE PERIOD FROM MAY 15, 1797, TO MARCH 3, 1799, INCLUSIVE.

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WASHINGTON:

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1851.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE THIRD SESSION OF THE FIFTH CONGRESS, BEGUN AT THE CITY OF PHILADELPHIA, MONDAY, DECEMBER 3, 1798.

MONDAY, December 3, 1798.

This being the day appointed by the Constitution for the annual meeting of Congress, a number of members of the House of Representatives assembled in their Chamber.

The following are the names of the members present:

From New Hampshire.—ABIEL FOSTER, JONATHAN FREEMAN, WILLIAM GORDON, and PELEG SPRAGUE.

From Massachusetts.—DWIGHT FOSTER, SAMUEL LYMAN, HARRISON G. OTIS, GEO. THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

From Rhode Island.—THOMAS TILLINGHAST.

From Connecticut.—SAMUEL W. DANA, CHAUNCEY GOODRICH, and ROGER GRISWOLD.

From New York.—DAVID BROOKS, HENRY GLEN, JONATHAN N. HAVENS, and HEZEKIAH L. HOSMER.

From New Jersey.—JONATHAN DAYTON, (the Speaker.)

From Pennsylvania.—DAVID BARD, JOHN CHAPMAN, WILLIAM FINDLEY, ALBERT GALLATIN, JOHN A. HANNA, BLAIR MCCLENACHAN, and RICHARD THOMAS.

From Maryland.—GEORGE DENT.

From Virginia.—JOHN CLOPTON, JOHN DAWSON, DAVID HOLMES, JAMES MACHIR, and DANIEL MORGAN.

From North Carolina.—MATTHEW LOCKE, NATHANIEL MACON, and RICHARD STANFORD.

From Tennessee.—WILLIAM CHARLES COLE CLAIBORNE.

From Georgia.—ABRAHAM BALDWIN.

Three new members, to wit: JONATHAN BRACE, returned to serve in this House as a member for Connecticut, in the room of Joshua Coit, deceased; ROBERT WALN, returned to serve as a member for Pennsylvania, in the room of John Swanwick, deceased; and JOSEPH EGGLESTON, returned to serve as a member for Virginia, in the room of William B. Giles, who has resigned his seat; appeared, produced their credentials, and took their seats in the House.

A little after 12 o'clock the SPEAKER of the House took his Chair, the names of all the members were called over by the Clerk, and there appearing only forty present, (fourteen short of a quorum,) a motion was made to adjourn, and the House adjourned accordingly till to-morrow at 11 o'clock.

TUESDAY, December 4.

Several other members, to wit: from Massachusetts, STEPHEN BULLOCK; from New Jersey, JAMES H. IMLAY; from Pennsylvania, JOHN WILKES KITTERA; from Maryland, GEORGE BAER, Jr., WILLIAM CRAIK, and SAMUEL SMITH; from Virginia, ANTHONY NEW, ABRAM TRIGG, JOHN TRIGG, and ABRAHAM VENABLE; from North Carolina, THOMAS BLOUNT; and from South Carolina, WILLIAM SMITH; appeared and took their seats in the House.

A new member, to wit: ROBERT BROWN, returned to serve in this House as a member for Pennsylvania, in the room of Samuel Sitgreaves, appointed a Commissioner of the United States under the sixth article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, appeared and took his seat in the House.

But a quorum of the whole number not being present, the House adjourned.

WEDNESDAY, December 5.

Several other members, to wit: from Massachusetts, ISAAC PARKER, JOHN REED, SAMUEL SEWALL, and WILLIAM SHEPARD; from Connecticut, NATHANIEL SMITH; from New York, LUCAS ELMENDORF, JOHN E. VAN ALEN, and JOHN WILLIAMS; from New Jersey, JAMES SCHUREMAN; and from South Carolina, ROBERT GOODLOE HARPER and JOHN RUTLEDGE, Jr., appeared, and took their seats in the House.

And a quorum consisting of a majority of the whole number, being present,

The oath, or affirmation, to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was administered by Mr. SPEAKER to the following new members, to wit: JONATHAN BRACE, ROBERT BROWN, ROBERT WALN, and JOSEPH EGGLESTON, who took their seats in the House on the third and fourth instant.

Ordered, That a message be sent to the Senate to inform them that a quorum of this House is assembled, and ready to proceed to business.

Ordered, That a Committee of Elections be appointed, pursuant to the standing rules and orders of the House.

And a committee was appointed, of Mr. Varnum, Mr. Goodrich, Mr. John Williams, Mr. Kittera, Mr. Dent, Mr. New, and Mr. Baldwin.

NEWSPAPERS FOR MEMBERS.

Mr. Kittera moved the usual resolutions for supplying the members with three daily newspapers, at their respective lodgings.

Mr. Macon inquired whether, by *usual*, was meant the resolution passed at the last session, which authorized members to be served with any three papers published on the Continent, or that formerly passed, which had reference only to papers printed in this city? If the former was meant, he should be opposed to it; but if the latter, he wished it to pass.

Mr. Kittera observing that it was the resolution which was confined to the city papers, it passed without objection.

No other business being before the House, a motion was made and carried to adjourn.

Thursday, December 6.

Several others members, to wit: from Massachusetts, Bailey Bartlett; from Vermont, Lewis R. Morris; from Pennsylvania, Andrew Gregg and Joseph Heister; from Maryland, Richard Sprigg; and from Virginia, John Nicholas; appeared, and took their seats in the House.

A message was received from the Senate, informing the House that the number of members required by the Constitution to do business were present; that they had appointed, in the absence of the President of the Senate, Mr. Laurance, President *pro tempore*, and that they were ready to proceed to business.

Mr. Macon said, that quorums of both Houses being assembled, he believed the next step ought to be the appointment of a joint committee of the two Houses, for the purpose of waiting upon the President of the United States, to inform him that they are ready to receive any communications which he may think proper to make to them. He, therefore, made the usual motion, which was agreed to, and Messrs. Dana, Venable, and Harper, were appointed a committee on the part of the House.

A message from the Senate announced the appointment of Messrs. Read and Paine, as a committee on their part, to join the committee of the House, for the purpose of waiting upon the President.

The joint committee waited upon the President accordingly, and after some time, Mr. Dana reported to the House, that the committee had performed the business assigned them; that the President had signified his intention of making a communication to both Houses in the Representatives' Chamber, on Saturday, at 12 o'clock; and that he also added, his present indisposition was the cause of his postponing the communication till that time.

Mr. Dent having moved that when the House adjourns, it adjourn to meet on Saturday, and the motion being concurred in, another was made to adjourn, and the House adjourned accordingly.

Saturday, December 8.

Several other members, to wit: from Connecticut, William Edmond; from Maryland, John Dennis and William Hindman; and from Virginia, Thomas Evans and Walter Jones, appeared and took their seats in the House.

The House having been called to order, and the Journal read, the Speaker observed that the hour was nearly arrived at which the President had proposed to make his communications to both Houses, and read a resolution which was usually entered into on such occasions, informing the Senate that this House is formed, and ready to receive any communications which the President may be pleased to make to them. The resolution was adopted, and a message having been sent to the Senate therewith, the members soon after entered and took the places prepared for them.

At twelve o'clock, Lieutenant General Washington, with his Secretary, Colonel Lear, Major Generals Pinckney and Hamilton, entered the Hall, and took their places on the right of the Speaker's Chair. The British and Portuguese Ministers, and the British and Danish Consuls, with their Secretaries, had their places assigned them on the left of the Chair.

PRESIDENT'S SPEECH.

A few minutes after 12, the President of the United States, accompanied by his Secretary, and the Heads of the several Departments of the Government, appeared. The President having taken his seat, and the officers of Government theirs, near the general officers, he rose and addressed the two Houses as follows:

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

While with reverence and resignation we contemplate the dispensations of Divine Providence, in the alarming and destructive pestilence with which several of our cities and towns have been visited, there is cause for gratitude and mutual congratulations that the malady has disappeared, and that we are again permitted to assemble in safety at the seat of Government, for the discharge of our important duties. But, when we reflect that this fatal disorder has, within a few years, made repeated ravages in some of our principal seaports, and with increased malignancy; and, when we consider the magnitude of the evils arising from the interruption of public and private business, whereby the national interests are deeply affected, I think it my duty to invite the Legislature of the Union to examine the expediency of establishing suitable regulations in aid of the health laws of the respective States; for, these being formed on the idea that contagious sickness may be communicated through the channels of commerce, there seems to be a necessity that Congress, who alone can regulate trade, should frame a system which, while it may tend to preserve the general health, may be com-

patible with the interests of commerce and the safety of the revenue.

While we think on this calamity, and sympathize with the immediate sufferers, we have abundant reason to present to the Supreme Being our annual oblations of gratitude for a liberal participation in the ordinary blessings of His Providence. To the usual subjects of gratitude, I cannot omit to add one of the first importance to our well being and safety: I mean that spirit which has arisen in our country against the menaces and aggression of a foreign nation. A manly sense of national honor, dignity, and independence, has appeared, which, if encouraged and invigorated by every branch of the Government, will enable us to view, undismayed, the enterprises of any foreign Power, and become the sure foundation of national prosperity and glory.

The course of the transactions in relation to the United States and France, which have come to my knowledge during your recess, will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States towards an amicable adjustment of differences with that Power. You will, at the same time, perceive that the French Government appears solicitous to impress the opinion that it is averse to the rupture with this country, and that it has, in a qualified manner, declared itself willing to receive a Minister from the United States, for the purpose of restoring a good understanding. It is unfortunate for professions of this kind that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a Minister of the United States should possess; and that while France is asserting the existence of a disposition, on her part, to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation that the decree of the Directory, alleged to be intended to restrain the depredations of French cruisers on our commerce, has not given, and cannot give, any relief; it enjoins them to conform to all the laws of France relative to cruising and prizes, while these laws are themselves the sources of the depredation of which we have so long, so justly, and so fruitlessly complained.

The law of France enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of British fabric or produce, although the entire property belongs to neutrals, instead of being rescinded, has lately received a confirmation, by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French Government only a Power regardless of their essential rights, of their independence and sovereignty; and, if they possess the means, they can reconcile nothing with their interests and honor but a firm resistance.

Hitherto, therefore, nothing is discoverable in the conduct of France which ought to change or relax our measures of defence; on the contrary, to extend and invigorate them, is our true policy. We have no reason to regret that these measures have been thus far adopted and pursued; and, in proportion as we enlarge our view of the portentous and incalculable situation of Europe, we shall discover new and cogent motives for the full development of our energies and resources.

But, in demonstrating by our conduct that we do not fear war, in the necessary protection of our rights and honor, we shall give no room to infer that we abandon the desire of peace. An efficient preparation for war can alone insure peace. It is peace that we have uniformly and perseveringly cultivated, and harmony between us and France may be restored at her option. But to send another Minister, without more determinate assurances that he would be received, would be an act of humiliation to which the United States ought not to submit. It must, therefore, be left to France, if she is indeed desirous of accommodation, to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rights of embassy. And with a sincere disposition on the part of France to desist from hostility, to make reparation for the injuries heretofore inflicted on our commerce, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse. In making to you this declaration, I give a pledge to France and to the world that the Executive authority of this country still adheres to the humane and pacific policy which has invariably governed its proceedings, in conformity with the wishes of the other branches of the Government and of the people of the United States. But considering the late manifestations of her policy towards foreign nations, I deem it a duty deliberately and solemnly to declare my opinion, that, whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty, and insure its observance.

Among the measures of preparation which appear expedient, I take the liberty to recall your attention to the Naval Establishment. The beneficial effects of the small naval armament provided under the acts of the last session, are known and acknowledged. Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy than we have derived from the arming for our maritime protection and defence. We ought, without loss of time, to lay the foundation for an increase of our Navy to a size sufficient to guard our coast, and protect our trade. Such a naval force, as it is doubtless in the power of the United States to create and maintain, would also afford to them the best means of general defence, the safe transportation of troops and stores to every part of our extensive coast. To accomplish this important object, a prudent foresight requires that systematical measures be adopted for procuring, at all times, the requisite timber and other supplies. In what manner this shall be done, I leave to your consideration.

I will now advert, gentlemen, to some matters of less moment, but proper to be communicated to the National Legislature.

After the Spanish garrisons had evacuated the posts they occupied at the Natchez and Walnut Hills, the Commissioner of the United States commenced his observations to ascertain the point, near the Mississippi, which terminated the northernmost part of the thirty-first degree of north latitude. From thence he proceeded to run the boundary line between the United States and Spain. He was afterwards joined by the Spanish Commissioner, when the work of the former was confirmed; and they proceeded together to the demarcation of the line. Recent

information renders it probable that the Southern Indians, either instigated to oppose the demarcation, or jealous of the consequences of suffering white people to run a line over lands to which the Indian title had not been extinguished, have, ere this time, stopped the progress of the Commissioners. And considering the mischiefs which may result from continuing the demarcation, in opposition to the will of the Indian tribes, the great expense attending it, and that the boundaries which the Commissioners have actually established, probably extend at least as far as the Indian title has been extinguished, it will perhaps become expedient and necessary to suspend further proceedings, by recalling our Commissioner.

The Commissioners appointed in pursuance of the fifth article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, to determine what river was truly intended under the name of the river St. Croix, mentioned in the Treaty of Peace, and forming a part of the boundary therein described, have finally decided that question. On the twenty-fifth of October they made their declaration that a river called Scoodiac, which falls into Passamaquoddy bay, at its northwestern quarter, was the true St. Croix, intended in the Treaty of Peace, as far as its great fork, where one of its streams comes from the westward, and the other from the northward, and that the latter stream is the continuation of the St. Croix to its source. This decision, it is understood, will preclude all contention among individual claimants, as it seems that the Scoodiac and its northern branch bound the grants of lands which have been made by the respective adjoining Governments. A subordinate question, it has been suggested, still remains to be determined. Between the mouth of the St. Croix, as now settled, and what is usually called the Bay of Fundy, lie a number of valuable islands. The Commissioners have not continued the boundary line through any channel of these islands, and unless the Bay of Passamaquoddy be a part of the Bay of Fundy, this further adjustment of boundary will be necessary; but it is apprehended that this will not be a matter of any difficulty.

Such progress has been made in the examination and decision of cases of captures and condemnation of American vessels, which were the subject of the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, that it is supposed the Commissioners will be able to bring their business to a conclusion in August of the ensuing year.

The Commissioners, acting under the twenty-first article of the treaty between the United States and Spain, have adjusted most of the claims of our citizens for losses sustained in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty during the late war between France and Spain.

Various circumstances have occurred to delay the execution of the law for augmenting the Military Establishment; among these, the desire of obtaining the fullest information to direct the best selection of officers. As this object will now be speedily accomplished, it is expected that the raising and organizing of the troops will proceed without obstacle, and with effect.

Gentlemen of the House of Representatives:

I have directed an estimate of the appropriations which will be necessary for the service of the ensuing year to be laid before you, accompanied with a view of the public receipts and expenditures to a recent period. It will afford you satisfaction to infer the great extent and solidity of the public resources, from the prosperous state of the finances, notwithstanding the unexampled embarrassments which have attended commerce. When you reflect on the conspicuous examples of patriotism and liberality which have been exhibited by our mercantile fellow-citizens, and how great a proportion of the public resources depends on their enterprise, you will naturally consider, whether their convenience cannot be promoted and reconciled with the security of the revenue, by a revision of the system by which the collection is at present regulated.

During your recess, measures have been steadily pursued for effecting the valuations and returns directed by the act of the last session preliminary to the assessment and collection of a direct tax. No other delays or obstacles have been experienced except such as were expected to arise from the great extent of our country, and the magnitude and novelty of the operation, and enough has been accomplished to assure a fulfilment of the views of the Legislature.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I cannot close this Address, without once more adverting to our political situation, and inculcating the essential importance of uniting in the maintenance of our dearest interests: and I trust that, by the temper and wisdom of your proceedings, and by a harmony of measures, we shall secure to our country that weight and respect to which it is so justly entitled.

JOHN ADAMS.

United States, *December* 8, 1798.

The President having finished his Address, after sitting a few moments, presented the President of the Senate and Speaker of the House of Representatives, each of them, with a copy of it, and withdrew, and after him, the Heads of Departments, Senators, general officers, foreign Ministers, &c. The Speaker then took his Chair, and after calling the House to order, proceeded, as is usual, to read over the Speech, which being finished, it was committed to a Committee of the whole House for Monday, and ordered to be printed. The House then adjourned.

Monday, December 10.

A new member, to wit: Richard Dobbs Spaight, returned to serve in this House as a member for North Carolina, in the room of Nathan Bryan, deceased, appeared, produced his credentials, and took his seat in the House; the oath to support the Constitution of the United States having been first administered to him by the Speaker.

Ordered, That a Committee of Revisal and Unfinished Business be appointed, pursuant to the standing rules and orders of the House;

And a committee was appointed, of Mr. Thatcher, Mr. Thomas, and Mr. New.

Ordered, That a Committee of Claims be appointed, pursuant to the standing rules and orders of the House;

And a committee was appointed, of Mr. Dwight Foster, Mr. Macon, Mr. Hanna, Mr. Jonathan

Freeman, Mr. Imlay, Mr. Sprigg, and Mr. Van Alen.

Ordered, That a Committee of Commerce and Manufactures be appointed, pursuant to the standing rules and orders of the House;

And a committee was appointed, of Mr. Samuel Smith, Mr. Sewall, Mr. Waln, Mr. Rutledge, Mr. Schureman, Mr. Tillinghast, and Mr. Blount.

A message was received from the Senate, informing this House that they had come to the following resolution, to which they request a concurrence:

Resolved, That two Chaplains be appointed to Congress for the present session, one for each House, who shall interchange weekly.

The resolution was taken up and concurred in; and the House proceeded, by ballot, to the appointment of a Chaplain on its part, and upon examining the ballots, a majority of the vote was found in favor of the Rev. Ashbel Green; and he was declared duly elected.

ADDRESS TO THE PRESIDENT.

On motion, the House resolved itself into a Committee of the Whole on the Speech of the President of the United States, Mr. Dent in the Chair; when

Mr. Sprague proposed for adoption the following resolution:

Resolved, That it is the opinion of this committee, that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress at the commencement of this session, containing assurances that this House will take into consideration the various and important subjects recommended to their consideration.

The resolution was agreed to without objection, and the committee rose and reported the resolution. The House took it up, concurred in it, and appointed a committee of five to prepare an answer accordingly.

The committee consists of Messrs. Dana, Venable, Harper, Hosmer, and Baldwin.

PRESIDENT'S SPEECH.

Mr. J. Williams moved that the Speech of the President be referred to a Committee of the Whole on the state of the Union; which motion being carried, the House adjourned.

Tuesday, December 11.

Two other members, to wit: Thomas Sinnickson and Mark Thomson, from New Jersey, appeared and took their seats in the House.

A message was received from the Senate, informing the House that they had elected Bishop White as their Chaplain.

The Speaker laid before the House a letter from the Secretary of the Treasury, enclosing a statement from the Commissioners of the city of Washington, of their receipts and expenditures, from May 18 to November 18, of the present year, which was ordered to be printed.

Mr. Thatcher, from the Committee of Revisal and Unfinished Business, made a report in part, which was ordered to lie on the table.

COLLECTION OF DUTIES.

Mr. S. Smith moved that a letter, received from the Secretary of the Treasury, during the last session, accompanying a plan for regulating the collection of duties on imports and tonnage, be referred to the Committee on Commerce and Manufactures.

Mr. Macon thought, as it was the intention of this report to provide a new law on this subject, it would save time if the committee were empowered to report by bill or otherwise. Agreed to.

UNIFORM BANKRUPTCY.

Mr. Harper said it would be recollected that, at an early period of the last session, the House took into consideration an important subject relative to a uniform system of bankruptcy. The bill proposed, it was well known, was then passed over, on account of more pressing concerns; but, as he considered the business of great importance, he wished to call the attention of the House to it at an early period of the present session, and, therefore, proposed the following resolution for adoption:

"*Resolved*, That a committee be appointed to prepare and bring in a bill for establishing a uniform system of bankruptcy throughout the United States."

The resolution was agreed to, and a committee of five appointed.

ALIEN AND SEDITION LAWS.

Mr. Harper said no member of this House could be ignorant of the use at this moment made of two acts passed during the last session of Congress. He meant the acts commonly called the alien and sedition laws. No one could be ignorant of the ferment which had been raised, and sedulously kept up on account of those laws. I do know, said he, of a certainty that this ferment has been raised, and is kept up, in many places, by a misrepresentation of the contents of those laws. The possibility of doing this will be readily allowed, when it is recollected how little newspapers are circulated in some parts of the Union, and even where they do circulate, how liable the readers of them are to pass over, without much attention, any law which may appear in them. A law, he said, is not an article of news, which, if a person remember in part, he may recollect the rest—of a law a man ought to have precise and accurate ideas; and, in order to attain these, it must be read at leisure, and he must have it by him so as occasionally to refer to it. This cannot be done, at present, with respect to the laws of the United States. A comparatively small number of copies only are printed; of course, they are far from being generally circulated, and the great mass of the people have no opportunity of becoming acquainted with them. I know, continued Mr. H., that the most unfair misrepresentations have been practised. I know an instance where, in a large assemblage of people, the bill which

originated in the Senate on the subject of sedition, and which was never passed into a law, was read as the sedition law complained of, and resolutions were founded upon it. I also know that, in another State, resolutions have been passed, not upon the laws which are reprobated, but upon a letter from a member of Congress, which contained, not perhaps wilful misrepresentations, but certainly misrepresentations of the laws in question. In order to counteract these evils, Mr. H. said, he held a proposition in his hand which he meant to submit to the House. And, as an additional reason for moving it, he mentioned that, in the course of an excursion he had lately made of many hundred miles, he had met with no individual (who was not himself actively employed in spreading the misinformation which he complained of) who did not approve of these laws. He had, indeed, met with many who had been misinformed with respect to them. But all of these, without exception, have expressed themselves satisfied that the laws are wise and Constitutional measures, when made acquainted with their contents. In order, therefore, to enable the people to judge for themselves upon this subject, to do away the misrepresentations so industriously propagated respecting them, and to defeat the attempts which he believed were made in some places to produce an armed opposition to them, he offered a resolution to the House to the following effect:

"*Resolved, by the Senate and House of Representatives,* That the Secretary of State be, and he is hereby authorized, to cause to be printed and distributed throughout the United State, —— copies of two acts passed during the last session, the one entitled "An act respecting aliens," the other "An act in addition to an act for the punishment of certain crimes against the United States, and for other purposes."

Ordered to lie on the table.

PRESIDENT'S SPEECH.

Mr. Sprague called for the order of the day on the President's Speech.

Mr. Macon said it was unusual to enter upon this business until an answer was returned to it. The Speech was, at present, before the committee appointed to draught the answer.

Mr. Sprague replied that his intention was to refer the several matters contained in the Speech to select committees, which he thought no way connected with the answer to the Speech.

The motion was negatived.

Mr. Thatcher moved an adjournment, which was negatived; only 14 votes appearing for it. But in a short time after,

Mr. Rutledge observed that, as he supposed the motion for an adjournment had been negatived from an idea that the committee appointed to draught an answer to the Speech of the President might be ready, in the course of the sitting, to make their report, he could inform the House, as one of the committee, that they would not be ready to make their report this day. He then renewed the motion for adjournment, and the House adjourned accordingly.

Wednesday, December 12.

Several other members, to wit: from Rhode Island, Christopher G. Champlin; from Pennsylvania, Thomas Hartley; and from Virginia, Carter B. Harrison; appeared, and took their seats in the House.

STATE BALANCES.

Mr. Harper wished to lay a resolution on the table, the subject of which had engaged the attention of Congress at their last session; and, as it was in substance the same with a bill which then passed this House, he trusted no objection would be made to it. It was as follows:

"*Resolved,* That if any State against which a balance was reported by the Commissioners appointed to settle the accounts between the United States and the several States, shall, within ———, either pay into the Treasury of the United States, or expend, or by a Legislative act engage to expend, in executing, enlarging, or completing, any fortifications for the defence of the said State, at such place or places, and according to such plan or plans, as shall be approved by the President of the United States, and under his direction, a sum of money, or in stocks of the United States, equal to the balance reported as aforesaid against such State, or to the sum assumed by the United States, in the debt of such State, such payment or expenditure, when so made, shall be accepted by the United States as a full acquittance of all demands on account of the said balance; and the President of the United States shall be, and he is hereby, authorized to cause credit to be given to such State, on the books of the Treasury of the United States, accordingly: *Provided, however,* That no more than one-third part of the whole payment or expenditure that may be made by such State, shall be made in three per cent. stock, nor more than one-third part of the remaining two-thirds shall be made in deferred stock: *And provided, also,* That any such State may obtain a full acquittance, as aforesaid, by the payment or expenditure of a sum of money sufficient, in the opinion of the Secretary of the Treasury, to purchase, at market price, the different species of stock, the payment or expenditure of which would be accepted, as a full acquittance as aforesaid: *And provided, further,* That if any such State as is indebted as aforesaid, shall have expended, since the establishment of the present Government of the United States, any sum of money in fortifying any place since ceded by such State to the United States, or which may be so ceded within ———, such expenditure having been ascertained and proved to the satisfaction of the Secretary of the Treasury, shall be taken and allowed.

Mr. H. moved to have it referred to a Committee of the Whole this day; but Mr. Thatcher wishing that it might be printed, it was made the order for to-morrow.

STAMP DUTIES.

Mr. Harper moved that a committee be appointed to bring in a bill further to amend the act for laying a duty on stamped vellum, parchment, and paper. A bill of this kind, he said, was before the House at a late period of the last session, which the Senate postponed. As he understood the gentleman who brought forward the subject at the last session did not mean to renew it in the present, he wished himself to do so. The purpose

of this bill is to correct that part of the law which subjects all the copies of foreign bills of exchange and bills of lading to the same stamp with the original, and of course makes the duty on those kind of transactions fall heavier than upon any other.

Mr. Macon suggested the propriety of appointing a Committee of Ways and Means, to which this and all other subjects respecting revenue might be referred.

Mr. Harper had no particular objection to the business taking the course which the gentleman from North Carolina suggested, if he thought proper to move for the appointment of a Committee of Ways and Means; but he saw no objection to the course he himself had proposed—it was that taken last session.

A committee of three was appointed.

ALIEN AND SEDITION LAWS.

Mr. Harper then called up the resolution which he yesterday laid upon the table respecting the publication of an extra number of copies of the Alien and Sedition Laws, to be distributed gratis throughout the United States.

Mr. Nicholas had no objection to the publication of the laws in any manner which might be thought proper. The reason which had been given for the extraordinary publication of the laws in question were founded upon facts which had come within the mover's own knowledge, and from others which he said he had learned from his friends. Mr. N. could not help suspecting the gentleman had been misinformed; but as he had stated that certain public meetings had acted upon false information, rough draughts of bills, and other papers, which discovered the extremest ignorance, he would be glad if the gentleman from South Carolina would indulge the House with the evidence which he possessed upon this subject.

Mr. Harper had no objection to indulge the gentleman from Virginia, and, if an indulgence, the House, with the information which he required. When he introduced this motion, Mr. H. said, he stated three matters of fact, two of which he asserted to be within his own knowledge, the other he mentioned to have received from authority which he could not doubt—which was, that at a public meeting, when resolutions of an extraordinary and hostile complexion were passed upon the subject of these laws, in one of the harangues which preceded these resolutions, and upon which the resolutions were apparently founded, a person read, not the law commonly called the Sedition Law, but the draft of a bill which was reported in the Senate, which there underwent a total alteration, and was in this House further amended. This fact, though not founded upon his own information, was told him by an eye-witness. The meeting, he said, was held in Louisa county, Virginia; and if the gentleman wished to know the name of the man, he would give it to him when he sat down, but he did not think it proper to mention names on that floor.

The other two facts were these: One related to certain resolutions passed in Kentucky. He believed he did not before mention where they were passed, but he did not hesitate now to do it. He stated that these resolutions had every appearance of being founded upon a letter written by a member of Congress, which letter he had read, and which contained what, perhaps, were not wilful misrepresentations; indeed, from the character of the gentleman, he must suppose them unintentional misconceptions; but the letter certainly contained gross errors, for the law is stated as laying the most unjustifiable restraints on speech, which was not within the purview of the act. The third fact came within his own observation. It was, that in no instance had he met with any individual, not himself actively employed in misrepresenting these laws, or a most zealous party man, who was not, upon hearing their contents simply stated, convinced of their wisdom and propriety. He had, indeed, met with many well intentioned people who had conceived prejudices of so strong a nature against these laws that they could not view them but through a perverted medium; but every man not of this description, or still worse, expressed his astonishment that such pains should have been taken to produce so much discord with respect to them.

Though, said Mr. H., the gentleman from Virginia may not have met with persons of this description, yet he himself had, and upon this statement of facts he had founded his motion. And he believed it to be of primary importance, for whatever may be the intention of gentlemen who promote the measures which he complained of—whether the persons who stand by and say these resolves pass unanimously, intend to follow them up by acts he knew not; but, said he, if these measures have any meaning, or the persons any consistency in their conduct, they must mean, and he supposed they did mean, an armed opposition to these laws, and consequently to this Government. He hoped these effects would not take place; but it had been heretofore seen that similar proceedings in another part of the Union, in reference to a former law, had produced the same lamentable catastrophe. He saw the same steps pursuing now that were then pursued; the same inflammatory resolutions, and the same tumultuous assemblages of the people. The best way of counteracting these designs, in his opinion, was to give the people correct information with respect to these laws. He believed that the great body of the citizens of this country are ready to give a hearty support to these and all the other acts of Government; but he knew the laws in question are not understood in various parts of the Union, and that discontents exist, which would be removed by a simple publication of them. He was also convinced, that if even this should not be the case, the publication could have no other than a good effect. In a matter, however, which so materially concerns the rights of the people, they ought to have full information, which must, he was convinced, produce general content. But if, on the contrary, these laws are as full of mischief as they are represented to be, their publication will increase the present discontent on account of them,

so that gentlemen who have always been opposed to them ought not to object to their publication; for his own part, he wished truth to have its full force, and therefore did he advocate this motion.

Mr. Nicholas said he had not the least objection to the proposed publication. As to the general charge of ignorance, which the gentleman from South Carolina had made against the people whom he had conversed with in his travels, he expected if, as he knew that gentleman had always been in the habit of setting down all opposition to his own opinions to the account of ignorance. With respect to the fact, it had turned out also as he expected. Upon the information of a single man, that a certain public meeting had acted upon the first draught of a law, instead of the law itself, he has thought proper here to assert the fact. He could inform the gentleman from South Carolina, that there were, in the quarter alluded to, friends of the Administration as respectable for accuracy and information as himself, and that a man of this description was chairman of the meeting in question. With respect to the Kentucky resolutions, the gentleman from South Carolina states, he is induced to believe, from concomitant circumstances, as he now understood, that they must have been founded upon the letter of one of their members, though he understood him as saying, yesterday, that he knew it was the fact. As the gentleman, however, has been so successful in his justification of these laws on his travels, he would advise him to suspend this matter for a time, until his own observations accompanied a publication of the laws; for, if nobody else does it, he would assure him, that, as soon as the seats of the House shall be a little better filled, he would himself move a repeal of these laws. For his own part, he had never met with a man in Virginia, favorable to these laws, who was not possessed of all the arguments which had been used in support of them in this House; however, since the gentleman from South Carolina supposed them so grossly ignorant, he had no objection to their receiving all the light he could throw upon the subject.

Mr. Dawson inquired, whether it would be in order to suspend the consideration of this motion. On being informed that it would, he moved for a postponement of it for a month, not, he said, because he was opposed to the resolution, but because he wished to give every information on the subject, as he was convinced that the more the laws in question are known, the more they will be reprobated by the citizens of the United States, and more especially by the friends of the Constitution. It must be understood, from what had fallen from his colleague, that an attempt will be made, in the course of the present session, to obtain a repeal of those laws, and, whenever the subject came up, he trusted there would be found a majority of Congress in favor of the measure. Should he be disappointed in this hope, he would join as heartily as any other member, in supporting the present resolution, after having attempted to amend it by adding to it, as was proposed during the last session, by a gentleman from North Carolina, those parts of the Constitution which, it is alleged, are infringed by those laws. With respect to the county of Louisa; he believed he had spent more of his time in that county, during the recess, than the gentleman from South Carolina, and yet this was the first time he had heard of the circumstance which had been mentioned, and not having heard of it, he did not believe that such a thing existed; and though he did not doubt the gentleman from South Carolina had received the information, he did not think the fact was sufficiently ascertained to be brought forward on this floor. He concluded, by moving a postponement.

Mr. J. Williams wished this motion had not been made. It appeared to him that, whatever laws are passed, the more they are promulged the better. Even those who wish for a repeal of the laws in question, ought not to be against the proposed publication of them, since, according to their ideas, the more they are known, the more they will be disliked. They were passed at the close of the last session after he had been called home by the indisposition of his family; and if gentlemen meant to attempt a repeal of them, he should be glad to hear the arguments they had to offer in favor of the measure; but, in Republican Governments, too much information could not be given to the people at large, and he should therefore be in favor of any motion which had that for its object.

The question on a postponement was put and negatived—42 to 29.

The original motion on the resolution then recurred—

Mr. Macon was of opinion that, as this measure would involve an expense, the subject ought to be committed. He thought it ought also to be done by a law. When the laws of the United States were ordered to be printed, it was effected by a special law, and though this will by no means be so expensive, yet it involves the same principle. He submitted it, therefore, to the mover, whether it would not be best to refer his resolution to bring in a bill.

Mr. Harper knew no essential difference between the two modes of proceeding. The mode which he proposed was the same with that adopted last session in the extra publication of the despatches from our Commissioners in France, and he saw no reason for departing from it.

Mr. Thatcher was in favor of the principle of this resolution; but he was doubtful whether the mode of publication proposed was the best. He thought, if these laws were ordered to be printed in all the newspapers of the United States once a week for three or four weeks, it would better answer the purpose, than publishing them in a pamphlet. As to the principle, it could not be objected to. The gentleman who proposes an adjournment, acknowledges that the information may be proper a month hence.

Mr. Harper believed, if one hundred thousand copies of these laws were struck off, it would answer the purpose. With respect to the idea of the gentleman who was last up, it is better calculated for a particular part of the Union than for the

Continent at large. Indeed, it is owing to the imperfect and limited circulation of newspapers, in certain parts of the Union, that it is necessary for the Legislature to take a step of this kind. Where newspapers are abundantly circulated, and post offices are numerous, there is no necessity for other information; but there are parts of the United States, and the part where he lived is one of them, where the circulation of newspapers is extremely limited, and that is the reason why these laws are so little understood in those parts.

Mr. H. said, he must be indulged in a single word of reply to the gentleman from Virginia who was first up. In the first place, he denied that he had said the facts which he stated were all within his own knowledge. If that gentleman had attended to what he said, he would have known that he stated, part were within his own knowledge, and that he had the other from a person upon whom he could depend.

The gentleman from Virginia next spoke of another matter of fact; he had stated the uniform tenor of his, Mr. H.'s, conduct to be, to consider all differences of opinion from his own to be proofs of ignorance. If so, he must always have treated the gentleman from Virginia as the most ignorant of mankind; yet this House, and that gentleman himself, must remember the acknowledgments which he had always been ready to make to that gentleman's superior talents, which was a proof against the assertion. But the gentleman from Virginia, in order to make this witty remark upon him, had misstated the fact. He did not say that the persons of whom he spoke differed in opinion from himself, but that they had taken up misconceptions of the law; nor did he say that he had convinced them of their errors by his arguments, but that this was effected by the bare reading of the law.

Mr. H. concluded by saying, that from the known urbanity of the gentleman from Virginia, he supposed he would have suffered the first three or four days of the session to have passed, without a personal attack of this kind; but because he hoped the gentleman would speedily return to that good humor for which he was always remarked, except driven from it by the heat of debate, (when it is perhaps excusable,) he should forbear making any further observations upon what had fallen from him.

The question was then put for filling the blank with 100,000; which was negatived, 12 votes only being in favor of it; then upon 50,000; which was negatived—36 to 31; then upon 40,000, in favor of which only appeared 40 votes; then upon 20,000; which was carried; 42 votes being for it.

The question was now on the resolution as amended.

Mr. Gallatin believed that every one was agreed as to the propriety of giving all necessary information to the people of the United States; and he believed they wanted it in relation to the laws of last session generally, more than on any other, for he found on his arrival at this city, the laws of last session are not yet printed. But, if any laws had been published throughout the United States more than others; or if there were any laws upon which less information is required, they were the two laws selected by the gentleman from South Carolina for an extraordinary publication. He has selected these laws for publication, because he says the people of the United States do not understand them. What sort of evidence has he adduced in support of this resolution? His own. He has said that, in travelling through the country, he has met with misinformed individuals. He had no doubt of this; he might have met with five, ten, or fifty persons who did not properly comprehend the sedition law. But, said Mr. G., because one member of this House, in travelling through the United States, has found individuals misinformed, are we to conclude that the people of the United States generally want information? Are there not one hundred members on this floor, and is there one among them, besides this gentleman, who says the people in his district are misinformed with respect to these laws?

But, said Mr. G., let us take the evidence of the gentleman himself. The resolution embraces two laws, yet his evidence only relates to one of these laws. The alien law, he does not pretend to say the people do not understand. It is impossible to say so. It cannot be misunderstood. It gives the President power to send out of the United States, any foreigner whom he thinks dangerous, which is too plain to be misunderstood. What does his evidence amount to? That resolutions have been passed in one of the counties in Virginia, not founded upon the sedition law, but upon a bill which never passed the Legislature.

Mr. Harper explained, by saying he did not say the resolutions were founded upon the bill, but that it was read there by a person speaking on the subject, as the law.

Mr. Gallatin said, he was going to state what he understood to be the fact, but the gentleman himself had saved him the trouble. He supposed the gentleman who read this bill did so merely to show what were the views of the supporters of this law, as an incident in the history of the business. If the resolutions were really founded upon that bill, and not upon the law, let the resolutions be produced in proof of the assertion. It would be readily discovered whether they were founded on misinformation or not. From what the gentleman had himself said, there appeared to be no foundation for the opinion.

The next part of the gentleman's evidence relates to resolutions passed in the State of Kentucky. He mentioned that a letter, written by one of the members from that State, contains some misrepresentations, and that the resolutions passed there were founded upon those misrepresentations. This is mere matter of supposition, nor does he show, if it be true, how sending the law will correct the misrepresentation. We are informed, said he, that the Legislature of that State are now acting upon these laws, and, therefore, if copies of the laws were sent to that body, it would answer the gentleman's object. If his arguments have any weight, not only individuals are misin-

formed, but there is a general and wilful misapprehension with respect to these laws, and the Legislature of Kentucky have either not got the laws, or, if they have, they have misunderstood them.

There is another article of evidence, and the only one which can have any weight, and that is what the gentleman has himself seen in his travels. He has seen men, he says, opposed to the law, merely from misinformation, who, the moment they saw the law (and, he supposed, heard his, Mr. H.'s, arguments, upon it) were convinced it was Constitutional and proper. If he understood the gentleman, not a single individual, except he were a violent party man, but what was convinced in this way.

Mr. G. wished the gentleman had called in some other parts of Virginia, besides those in which he went, because he had seen the opinion of a gentleman, who certainly was not a violent party man,* disapproving of these laws. He wished that gentleman had called at Richmond and convinced this gentleman of his error.

But, said Mr. G., taking it for granted, that some misinformation respecting the laws in question has gone abroad, he could not see how it was to be corrected by the publication proposed. He had complained that it had been said that the sedition law attacked the freedom of speech; and if there be any misapprehension on the subject, it must be on this point, and this alone. It was true, Mr. G. said, that he had himself met with some individuals, and not violent party men, but supporters of the Administration, who conceived that the liberty of speech was intended to be affected by the word "utter." He was himself of a different opinion, but he had found the greatest variance of opinion, even among gentlemen of the law, as to the intention of the sedition act; and, if it be intended to inform the people on this subject, it will be necessary to send out a commentary with the law; for, after they have read the law, they will not know whether the act of writing a letter without either publishing or printing it, comes within the law; whether the act of lending a newspaper which may contain any article which may be construed into a defamation of the Government, or of the President, renders a person liable to the penalties of the act, or how matters, which are mere matters of opinion, are to be ascertained by witnesses. The only difficulty with respect to the sedition law is as to what is its real construction. On this point, said Mr. G., I want information myself. I do not know whether any of the acts which I do myself may not come under this law; whether I may not, in writing a letter to my family to-morrow, if I express any sentiment in opposition to the Administration, be deemed guilty of sedition. But reading the laws would not afford him the information he wanted.

But the gentleman has stated another ground. He has spoken of tumultuous meetings of the people, and that it is the intention of some individuals, and at all events their acts have that tendency, to produce an *armed opposition* to these laws. What does the gentleman call tumultuous meetings? Peaceable meetings of the people to state their grievances. And he was not astonished, that after an attack has been made on the liberty of the Press, that another is made against the peaceable meetings of citizens to state their grievances, and that they are called symptoms of an *armed opposition to the laws.* Mr. G. thought gentlemen ought to wait for stronger symptoms, before this language was held on the floor of Congress. As long as the people confine themselves to an expression of their opinions on the measures of Government, he saw no danger of an armed opposition to the laws. So far as he was acquainted with those parts of Pennsylvania in which these laws are deemed impolitic, and by many unconstitutional, he had seen no symptoms of an armed opposition, or indeed any opposition whatever, for he could not call a meeting to draw a petition in opposition to a law. If this, said he, be a fact, the resolution before the House ought to be rejected. Yet he believed one reason would induce him to disappoint the gentleman from South Carolina by voting in favor of it. He saw only one motive that could have led to the introduction of it. It is known that in many parts of the United States these laws are considered impolitic and unconstitutional, and, if the members from these parts were to vote against this motion, it would be immediately said by the friends of these laws, "You see the opposition which is made to any information being given to the people with respect to these laws; though all the dislike of them arises from misinformation, certain gentlemen will not suffer the people to be undeceived." It would be to prevent this being said, and not from any evidence which had been brought to show the necessity of the measure, that he should vote for it.

Mr. HARPER (after having obtained the necessary leave to speak a third time) was glad to find, however gentlemen disapproved of this motion, they all found some reason or other for voting for it. He was not displeased with the gentleman from Pennsylvania for furnishing him with so ingenious a motive for his conduct. According to an old adage, said Mr. H. "he measures other people's corn by his own bushel." He thought it a curious argument, that because complete information could not be given to the people, they should have none. The gentleman from Pennsylvania had stated his doubts as to what facts will be cognizable by the sedition law; but he himself knew there were many who were not acquainted with its provisions. When they knew them, perhaps they might have more discernment than that gentleman; they will know that the word *uttering* is confined exclusively to writing, vending, or distributing, and that writing a private letter, or lending a newspaper, except the transaction is of a very suspicious nature indeed, cannot be brought within the meaning of this act.

Mr. H. denied that the Senate's bill was read in the Virginia meeting in any other sense than as the law of Congress, and complained that in several other instances he had been misrepresented by the gentleman from Pennsylvania.

* General Marshall.

Mr. DAWSON said, if it was determined to take the sense of the House upon this resolution at present, he should move an amendment of the kind which he had mentioned; but he would rather that the resolution might be committed, that he might prepare his amendment against to-morrow.

Mr. N. SMITH said the motion for committing was always to give liberty for discussion, on a controverted subject. He had heard no gentleman oppose the principle, and therefore could not conceive why discussion was necessary; there had been much more said about it already than was attached to the question; amendments could be as well introduced in the House as by committing; if the gentleman was not ready, he had no objection to its postponement till to-morrow, as a day could not make much difference.

Mr. MACON said he voted for the largest number to be printed, and he wished to see a general dissemination of all the laws, to make them as publicly known as possible. But he hoped the House would not depart from its usual civility: when a member requested a postponement in order to introduce amendments, to deny it him.

On the motion of Mr. VENABLE, that for committing being withdrawn, it was postponed till to-morrow, 42 votes being for it.

ADDRESS TO THE PRESIDENT.

Mr. DANA, from the committee appointed to draught a respectful Address in answer to the President's Speech, made a report, which was committed for to-morrow.

THURSDAY, December 13.

PHILIP VAN CORTLANDT, from the State of New York, appeared and took his seat.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanying sundry statements exhibiting the amount of duties arising from domestic distilled spirits and stills, for the year ending on the 30th of June, 1797; also on sales at auction, refined sugar, carriages, and retailers' licences, to the close of 1797, together with a letter from the Commissioner of the Revenue on the subject; which were ordered to be printed.

ADDRESS TO THE PRESIDENT.

On motion of Mr. DANA, the House resolved itself into a Committee of the Whole on the Address yesterday reported, in answer to the Speech of the President of the United States, and Mr. DENT having taken the Chair, the Address was read, as follows, omitting the words printed within brackets, which were added as amendments: The words printed in italics were struck out in the discussion, so that the Address to be presented to the President contains the words printed within brackets, and does not contain those printed in italics.

JOHN ADAMS, *President of the United States*—

SIR: The House of Representatives unite with you in deploring the effects of the desolating malady by which the seat of Government and other parts of our country have recently been visited. In calling our attention to the fatality of its repeated ravages, and inviting us to consider the expediency of exercising our Constitutional powers, in aid of the health laws of the respective States, your recommendation is sanctioned by the dictates of humanity and liberal policy. On this interesting subject we feel the necessity of adopting every wise expedient for preventing a calamity so distressing to individual sufferers, and so prejudicial to our national commerce.

That our finances are in a prosperous state, notwithstanding the commercial derangements resulting from this calamity, and from external embarrassments, is a satisfactory manifestation of the great extent and solidity of the public resources. Connected with this situation of our fiscal concerns, the assurance that the legal provisions for obtaining revenue by direct taxation will fulfil the views of the Legislature, is peculiarly acceptable.

Desirous as we are that all causes of hostility may be *exterminated* [removed] by the amicable adjustment of national differences, we learn with satisfaction, that in pursuance of our treaties with Spain and with Great Britain, advances have been made for definitively settling the controversies relative to the Southern and the Northeastern limits of the United States. With similar sentiments have we received your information, that the proceedings under commissions authorized by the same treaties, afford to a respectable portion of our citizens, the prospect of a final decision on their claims for maritime injuries committed by subjects of those Powers.

It would be the theme of mutual felicitation, were we assured of experiencing similar moderation and justice from *another Power*, [the French Republic] between *whom* [which] and the United States differences have unhappily arisen. But this is denied us by the ultimate failure of the measures which have been taken by this Government towards an amicable adjustment of those differences, and by the various inadmissible pretensions on the part of that nation.

The continuing in force the decree of January last, to which you have more particularly pointed our attention, ought, of itself, to be considered as demonstrative of the real intentions of the French Government. That decree proclaims a predatory warfare against the unquestionable rights of actual commerce; which [with] our means of defence, our interest and our honor, command us to repel. It therefore now becomes the United States to be as determined in resistance as they have been patient in suffering, and condescending in negotiation.

While those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity.

As therefore the conduct of France hitherto exhibits nothing which ought to change or relax our measures of defence, the policy of extending and invigorating those measures, demands our sedulous attention. The sudden and remarkable advantages which this country has experienced from a small naval armament, sufficiently prove the utility of its establishment. As it respects the guarding of our coast, the protection of our trade, and the facility of safely transporting the means

of territorial defence to every part of our maritime frontier, an adequate naval force must be considered as an important object of national policy. Nor do we hesitate to adopt the opinion, that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

In this conjuncture of affairs, while with you we recognise our abundant cause of gratitude to the Supreme Disposer of events for the ordinary blessings of Providence, we regard, as of high national importance, the manifestation, in our country, of a magnanimous spirit of resistance to foreign domination. This spirit merits to be cherished and invigorated by every branch of Government, as the estimable pledge of national prosperity and glory.

Disdaining a reliance on foreign protection, wanting no foreign guarantee of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, we confide, under Providence, in the patriotism and energies of the people of these United States for defeating the hostile enterprises of any foreign Power.

To adopt with prudent foresight such systematical measures as may be expedient for calling forth those energies wherever the national exigencies may require, whether on the ocean, or on our own territory—and to reconcile with the proper security of revenue, the convenience of the mercantile enterprise, on which so great a proportion of the public resources depends—are objects of moment, which shall be duly regarded in the course of our deliberations.

Fully as we accord with you in the opinion, that the United States ought not to submit to the humiliation of sending another Minister to France, without previous assurances sufficiently determinate that he will be duly accredited, we have heard, with cordial *acquiescence*, [approbation] the declaration of your purpose, steadily to observe those maxims of humane and pacific policy by which the United States have hitherto been governed. While it is left with France to take the requisite steps for accommodation, it is worthy the Chief Magistrate of a free people, to make known to the world, that justice on the part of France will annihilate every obstacle to the restoration of a friendly intercourse, and that the Executive authority of this country will respect the sacred rights of embassy. At the same time, the wisdom and decision, which have characterized your past Administration, assure us that no illusory professions will seduce you into any abandonment of the rights which belong to the United States as [a] free and independent [nation.]

The Clerk having read the Address, it was again read by the Chairman by paragraphs.

Mr. RUTLEDGE moved to strike out of the fourth paragraph the words "another Power," and to insert in their place the words *French Republic.* The present words appeared to him a circuitous mode of expression, which he thought unnecessary. As the other two Powers with which the United States had had disputes of a less serious nature than with France, were mentioned by name, he thought the French Republic should also be named.

Mr. DANA was perfectly willing to have the passage so expressed as to be pointed directly to France; but he had an objection to the application of the term Republic to that Government, as with the term of Republic, he associated the idea of liberty and happiness; and, considering the French as having abused the name of liberty for the purpose of despotism, he was unwilling to apply the phrase to them.

Mr. RUTLEDGE replied, that however the form of the French Government may differ from our own, they choose to call themselves a Republic, and our Government has so acknowledged them; and if we meant to treat with them, for the accommodation of our present differences—an event which all must ardently desire—he believed it would be necessary to consider them as a Republic, and treat them as such. He thought, therefore, the term ought now to be used.

The question on the amendment was put and carried, there being 49 votes in favor of it.

Mr. HARPER suggested the propriety of striking out the following words, which were a part of the designation, rendered unnecessary by this amendment.

Mr. DANA objected to this amendment. It would make some farther alterations necessary, and he thought the paragraph would stand as well without it.

The motion was put and negatived.

Mr. RUTLEDGE proposed to substitute the word *which* for "whom," in the same paragraph.

Mr. GORDON moved to amend the last paragraph, by striking out the word "acquiescence," and to insert in its place *approbation*, which he thought a more accurate expression. Agreed to.

Mr. DANA proposed to add the word *with* in the fifth paragraph; which was agreed to.

Mr. HARPER suggested a verbal amendment at the close of the last paragraph, viz: instead of the words "as free and independent," to insert "as a free and independent nation." Agreed to.

Mr. SPRAGUE wished to alter the phraseology in the sixth paragraph, from "their conduct forbids us to confide," to "there is no ground for confidence;" but this motion was not seconded.

The committee rose, and reported the amendments to the House, which were agreed to, and on the quesion being put on the Address as amended, it was agreed to unanimously.

Mr. THATCHER wished, as no objection was made to the Address, that it might be entered on the Journals as unanimously agreed to; but, on the question being put, a few noes being heard, the SPEAKER declared it not carried.

The usual resolution was then passed, that the SPEAKER, attended by the House, do present the Address, and that a Committee be appointed to wait upon the President, to know when and where he will be pleased to receive the same.

Messrs. DANA, VENABLE, and HARPER, were appointed a committee for this purpose. They waited upon the President accordingly, and Mr. DANA reported that the President would receive the Address to-morrow, at his own house, at twelve o'clock.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. HARPER said, he had been requested, in the absence of Mr. BAYARD, (the present Chairman of the Committee) to move that an additional member be added to the Managers for conducting the impeachment against William Blount, late a Senator of the United States, in the place of Mr. SITGREAVES, who had resigned his seat in this House.

The motion was agreed to, and the House proceeded to ballot for an additional member. The votes having been told by Messrs. EVANS and WADSWORTH, it appeared that there were 18 votes for Mr. KITTERA, 14 for Mr. J. WILLIAMS, and the rest so much scattered, that no member had a majority of votes. A fresh ballot was accordingly made, when there appeared for Mr. KITTERA, 38 votes, Mr. J. WILLIAMS 14, the rest scattering. Mr. K. was accordingly declared elected.

A message was received from the Senate notifying the House that the Senate had caused a summons to be issued on the 3d of March last, against William Blount, to appear at the bar of the Senate on the third Monday in the present December, to answer to charges of high crimes and misdemeanors committed against the United States, which had been duly served upon him by the Sergeant-at-Arms, and a return thereof made to the Secretary of the Senate.

STATE BALANCES.

Mr. HARPER called up the resolution, which he yesterday laid upon the table, respecting balances due from the debtor States. The House went into a committee upon it, and it was agreed to without debate or objection, and a bill ordered to be reported accordingly.

FRIDAY, December 14.

Several other members, to wit: JAMES COCHRAN, from New York; WILLIAM MATTHEWS, from Maryland; JOSIAH PARKER, from Virginia; and THOMAS PINCKNEY, from South Carolina, appeared, and took their seats in the House.

UNIFORM BANKRUPTCY.

Mr. SEWALL, from the committee appointed to prepare and report a bill providing a uniform system of bankruptcy throughout the United States, reported a bill, which, being a copy of the one before the House, at the last session, was not read, but, after reading the title, committed to a Committee of the Whole, and made the order for Monday.

Mr. HARTLEY supposed, as there are several new members in the House this session, and as some of the old members might not have preserved their copies of this bill, that it would be necessary to be printed. He therefore made a motion for the purpose.

Mr. MACON doubted not the Clerk would be able to furnish the new members with copies of the old edition; if so, he hoped it would not be again printed. He believed the various bills which had been reported from session to session, had already cost the United States more than a thousand pounds, for, when he came first to Congress, he found the subject before the House, and it had remained here ever since; and, as he had no idea of its passing during the present session, he hoped, if it was printed, that there would be a sufficient number of copies ordered to serve for several years. He wished the Clerk to be asked whether there were not a sufficiency of copies in hand.

The SPEAKER answered that the Clerk would inquire what copies are on hand.

ANSWER OF THE PRESIDENT.

The hour having arrived at which the PRESIDENT had appointed to receive the Address of this House in answer to his Speech to both Houses, the SPEAKER announced it, and the House withdrew for the purpose of presenting the Address.

In about a quarter of an hour, the members returned; when, the SPEAKER, having taken his Chair, proceeded to read the answer to their Address a copy of which had been put into his hand by the PRESIDENT. It was as follows:

To the House of Representatives of the United States:

GENTLEMEN: My sincere acknowledgments are due to the House of Representatives of the United States, for this excellent Address, so consonant to the character of Representatives of a great and free people. The judgment and feelings of a nation, I believe, were never more truly expressed by their Representatives than those of our constituents, by your decided declaration, that with our means of defence, our interest and honor command us to repel a predatory warfare against the unquestionable rights of a neutral commerce. That it becomes the United States to be as determined in resistance as they have been patient in suffering and condescending in negotiation. That, while those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity; that an adequate naval force must be considered as an important object of national policy; and that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

The generous disdain you so coolly and deliberately express, of a reliance on foreign protection, wanting no foreign guaranty of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, will meet the full approbation of every sound understanding, and exulting applauses from the heart of every faithful American.

I thank you, gentlemen, for your candid approbation of my sentiments on the subject of negotiation, and for the declaration of your opinion, that the policy of extending and invigorating our measures of defence, and the adoption with prudent foresight of such systematical measures as may be expedient for calling forth the energies of our country, wherever the national exigencies may require, whether on the ocean or on our own territory, will demand your most sedulous attention.

At the same time, I take the liberty to assure you, it shall be my vigilant endeavor, that no illusory professions shall seduce me into an abandonment of the rights which belong to the United States, as a free and independent nation.

JOHN ADAMS.

UNITED STATES, *December* 14, 1798.

PRESIDENT'S SPEECH.

The reading of the President's Answer being finished,

Mr. HARPER moved that the House go into a

Committee of the Whole on the state of the Union, for the purpose of taking up the President's Speech; which motion being agreed to, and the committee formed, he proposed the following resolutions:

1. *Resolved*, As the opinion of this committee, that so much of the Speech of the President of the United States, to both Houses of Congress, at the commencement of the present session, as relates to the expediency of establishing suitable regulations in aid of the health laws of the respective States, for preventing the introduction of contagious diseases, be referred to a committee, with power to report by bill or otherwise.

2. That so much of the said Speech as relates to the extending and invigorating the measures of defence heretofore adopted by the Government of the United States, be referred to a committee.

3. That so much of the said Speech as relates to the Naval Establishment, and to the augmentation of the Navy, and the adoption of systematic measures for procuring timber and other supplies, be referred to a committee.

4. That so much of the said Speech as relates to a revision of the system by which the collection of that part of the revenue which arises from duties on merchandises imported, is now regulated, be referred to a Committee of Commerce and Manufactures.

The first resolution was taken up; when

Mr. DAYTON said, he could see no reason why this resolution ought not to be referred to the Committee of Commerce and Manufactures, as well as the last, since the power of Congress to act on this subject, is derived from their power to regulate commerce.

Mr. HARPER had no doubt the Committee of Commerce and Manufactures was as well selected for the purpose of acting on this subject as any other committee would be; but he could see no connexion between the preservation of health and the regulation of commerce. It was true, that regulations for this purpose might ultimately have some effect on commerce, and therefore it is proper that the proposed measures should be taken by Congress, but this does not necessarily connect the two subjects. He was not, however, tenacious as to the mode he had proposed, but thought it the best.

Mr. DAYTON moved to amend the resolution by making the reference to the Committee of Commerce and Manufactures; as the gentleman from South Carolina himself, though he had at first denied any connexion between commerce and this subject, afterwards showed the connexion to be intimate.

Mr. MACON thought it would be best to leave the resolution blank, and let the reference be determined in the House. If the subject was referred at all, it certainly ought to go to the Committee of Commerce and Manufactures.

The question on the amendment was put and carried.

The question returning to the resolution,

Mr. VENABLE suggested to the mover of this resolution, the propriety of modifying it, so as that the Committee of the Whole might determine merely upon the principle. He thought it improper for a Committee of the Whole to make references; but that they ought to be made in the House.

Mr. HARPER did not approve of the course proposed by the gentleman from Virginia, as when a positive affirmative proposition is proposed in the first instance, it never fails to produce a premature discussion. This had been heretofore complained of, and at the last session the mode which he now proposed was adopted; a select committee reports in detail, and the House can act more understandingly in this way than when called to vote upon an abstract proposition.

The question was put upon the resolution and carried.

The second, third, and fourth resolutions, were agreed to without debate.

The committee then rose, and the House took up and concurred in the resolutions.

Ordered, That Mr. OTIS, Mr. RUTLEDGE, Mr. GOODRICH, Mr. SAMUEL SMITH, Mr. CHAMPLIN, Mr. SPAIGHT, and Mr. DENT, be appointed a committee pursuant to the second resolution.

Ordered, That Mr. JOSIAH PARKER, Mr. PINCKNEY, Mr. SEWALL, Mr. CHAMPLIN, Mr. BALDWIN, Mr. GRISWOLD, and Mr. VAN CORTLANDT, be appointed a committee, pursuant to the third resolution.

That part of the report of the Committee of Revisal and Unfinished Business was next taken up and agreed to, which proposes that all petitions depending and undecided in the last session, ought to be taken up and acted upon as they may be called for by any member, or upon the application of the individual claimant or petitioner.

CENSUS.

Mr. DAWSON moved for the appointment of a committee to bring in a bill for the enumeration of the inhabitants of the United States.

Mr. HARPER suggested the propriety of letting this subject lie until a Committee of Ways and Means was appointed, as a bill of a similar kind originated with that committee at the last session, and there would be propriety in letting the business have the same course at present.

Mr. DAWSON had no objection.

COMMITTEE OF WAYS AND MEANS.

Mr. HARPER moved for the appointment of a Committee of Ways and Means, agreeably to the standing rules and orders of the House. The motion was agreed to.

He then moved that the said committee consist of nine members.

Mr. NICHOLAS hoped, as this is a very important committee, it would consist of sixteen, which is a member from every State of the Union.

Mr. HARPER objected to this on the ground of its being difficult to get so large a number of members together to do business, stating also the idea as fallacious that there was more complete knowledge on fiscal matters in so numerous a committee than in a smaller, as wherever information was wanted from States not represented in the committee, it was always easily obtained by inquiries of the members from those States.

After the remarks of several members, which

relate chiefly as to the manner of putting the question, two of the States, viz: Delaware and Kentucky, being at present unrepresented, at length it was determined that the sense of the House should be taken on 14, and when the Representatives of those two States arrived, a motion might be made to increase the committee to sixteen, and the SPEAKER would, of course, select a member from each of those States.

The question on having the committee consist of fourteen members was accordingly put, when there appeared to be 34 votes in favor of it, and 34 against it. The SPEAKER declaring himself in the negative, the question was not carried.

The sense of the House was then taken on nine, and it was carried—yeas 35, nays 30.

Ordered, That Mr. HARPER, Mr. GALLATIN, Mr. NATHANIEL SMITH, Mr. COCHRAN, Mr. JONES, Mr. ISAAC PARKER, Mr. HINDMAN, Mr. BLOUNT, and Mr. SINNICKSON, be appointed a committee, pursuant to the said resolution.

ALIEN AND SEDITION LAWS.

The House having again taken up Mr. HARPER's proposition for printing 20,000 copies of the above laws, to be distributed gratis throughout the United States.

Mr. DAWSON said, when the subject was the other day before the House, he declared that he had no objection to the resolution, as it had ever been his wish to give the fullest information to his constituents—nay, he was disposed to favor it, though from reasons, he believed, different from those which actuated the mover of it, as he doubted not a thorough knowledge of these laws would insure their repeal. But he then and now thought that it was prematurely brought forward; that gentleman might have waited, at least, until the fate of an intended proposition for the repeal of these laws was known; especially when it is recollected that no effect can be produced by the measure during the present session. It was under this idea that he had moved for a postponement of the decision; but, as that motion was negatived, he presumed it was the pleasure of the House to act upon the resolution at present, and, therefore, he wished to make the information as complete as possible. He would move to have printed, with these laws, all the parts of the Constitution which appeared to him to relate to the subject, as well those which may be supposed to give the power to Congress, as those which prohibit the exercise of it. If he had omitted any, he should readily agree to their insertion. Mr. D. then moved to add the following:

"And the eighth section, and the first and second clauses of the ninth section of the first article; the first section, and the third clause of the second section of the third article of the Constitution of the United States; and the third, seventh, eighth, eleventh, and twelfth articles of amendment which now form a part of the said Constitution."

Mr. RUTLEDGE said, as he wished to have a correct understanding of the intention of the mover of the amendment, he wished to be informed whether he believed there was any portion of the citizens of the United States who had not read the Constitution, or whether, in his opinion, there were any parts of the Union in which it had not been promulgated? His colleague, in justification of his having moved for a further promulgation of two laws passed in the last session of Congress, had stated, as facts of his own knowledge, that, in certain parts of the Union, where discontents had been manifested, and where resolutions had been entered into censuring the alien and sedition laws, that discontents had been generated by misrepresentation of the provisions of these laws; that resolutions censuring them as unconstitutional had been procured, not by circulating and promulgating what were the laws of the land, but by distributing and publishing copies of two bills which had been projected in the Senate, and which did not pass either House of Congress, and which were very dissimilar to the existing laws. With the knowledge of these facts, it might be proper for the National Legislature to order an additional publication of the sedition and alien laws, for the purpose of diffusing a knowledge of them, and removing those errors and prejudices which had been created by false copies and gross misrepresentations. But why these laws were to have annexed to them certain parts of the Constitution, which the opposers of the laws in question had declared were violated by them, he could not understand, unless there were parts of the United States where the Constitution was not to be procured; if the gentleman from Virginia would declare that to be the case, he would vote for the amendment, but he would not vote for it when intended (as he believed it to be) as "an appeal to the people;" that measure had been abandoned in the country, where it had its origin, and where its practice had been marked by every species of disorder, and he was not disposed to adopt this popular measure.

Mr. R. said, it was not to be wondered at that, in some parts of the Union, ebullitions of discontent had occurred, when the invitations were remembered which accompanied the sedition bill to the people to resist it. Certain gentlemen had declared it unconstitutional, and expressed their wish that the people would resist its execution; our constituents had been told by them that, to rebel against this law which invaded their Constitutional rights, was a duty they owed their country. When he recollected these attempts to agitate the country, he was surprised that our citizens had discovered so much patience, wisdom, and good sense, as they had by their ready acquiescence in the execution of the laws, which many members of Congress had been active in representing to be unconstitutional. They had, however, after a very learned debate, and persevering opposition, been deemed Constitutional by majorities in both Houses of Congress. The Judges, who had acted under them, had declared them to be perfectly Constitutional, and he was not disposed to make "an appeal to the people," to know whether they deemed them Constitutional; but if any gentleman would declare that there was a difficulty in any part of the country in obtaining

copies of the Constitution, he would have no objection to voting the distribution of a necessary number. He suspected, however, that this was not precisely the object of the amendment.

Mr. Harper desired to pass by the extreme futility of publishing to the people, at this day, parts of a Constitution which had been in force ten years, and the excessive futility of such an idea; but he would say that, if the gentleman would extend his amendment to the whole of the Constitution, his motion would be better deserving of consideration. For, if these extracts which he proposes were published, who can tell that the gentleman himself might not inform his constituents that they were not true extracts. If it were thought that the people want information with respect to an instrument to which they have so frequently expressed their attachment, let the whole be printed. He would not object to the printing of 50,000 or even of 500,000 of them. But what would the gentleman have thought of me, if, instead of printing the whole of the laws in question, I had proposed to make extracts from them? He would certainly have treated the subject with laughter, instead of argument. Indeed, he thought the making of a proposition like the present, was trifling, and sporting with what ought to be held sacred—the laws of the land.

Mr. Dawson did not think the gentleman from South Carolina (Mr. Rutledge) had treated him with candor. He ought to have recollected that the original proposition did not come from him; that he had moved a postponement of it; that he had proposed to add to it, not only those parts of the Constitution which militate, in his opinion, against the laws, but those said to be in favor of them. For his own part, he did not believe that the people of the United States are so ignorant with respect to these laws as they had been represented; but if it were thought necessary to make the proposed publication of them, he was convinced it was full as necessary to print the parts of the Constitution which he had proposed.

Mr. S. Smith understood that the ground upon which the gentleman from South Carolina had brought forward his motion, was to remove certain misrepresentations which had been made of these laws. He alluded particularly, as he thought, to the State of Virginia. For his own part, he believed that State, as well, perhaps better informed, with respect to these laws, than any State in the Union, for they are made there the criterion of their elections. They are, therefore, everywhere read and discussed *pro* and *con*. What, said Mr. S., is the misrepresentation of these laws complained of? They are represented as unnecessary and unconstitutional. Will the simple publication of these laws do away this opinion? Certainly not; because, when the people read the laws, they will not have the Constitution to compare with them.

Mr. Harper interrupted Mr. S., to deny that he had said this was the ground of complaint, but that the provisions of the law are misunderstood, and that their contents are not correctly known.

Mr. S. Smith said, he understood the gentleman; but he believed the unconstitutionality of these laws is what is most complained of; and this was the principal reason why their passage was so warmly opposed in this House. He was of opinion, therefore, if the laws were sent out to the people, these parts of the Constitution ought to go too, but he saw no occasion for either.

Mr. Harper said, he did not particularly allude to Virginia; nor did he mention any place, until he was called upon to do so. He spoke of the Southern States generally, and particularly of his own State. He did, however, believe that these laws are as much misunderstood in Virginia, as anywhere.

Mr. Sprigg observed, that the gentleman first up from South Carolina, had said that, if any gentleman would state to the House that his constituents are not in full possession of the Constitution and the amendments which have been added to it, he should think the present amendment necessary. He would mention a circumstance which took place at a public meeting, held for an electioneering purpose, in his district, which ought to convince him that, at least, the amendments to the Constitution are not generally known. One of these acts was spoken of at this meeting as unconstitutional; when a gentleman of great respectability (if property can make a man so) held in his hand the Constitution of the United States, to support the opposite opinion; and when he was referred to one of the amendments, as materially affected, he said, that amendment was not to be found in *his* Constitution, nor had he ever heard of any amendments being added to the Constitution.

Mr. Gordon said, the original motion was only supportable from the nature of the laws and the period of their duration. If promulged only in the usual way, they would scarcely be known before they expired, and he was therefore in favor of this extraordinary publication; for one, if not both of the laws, was to continue in force only two years. The laws intended to be permanent, he believed, were sufficiently known by the ordinary mode of publication.

But, said he, we are now called upon to circulate sundry parts of the Constitution. Upon what principle is this founded? Could it be supposed that gentlemen would agree in any selection of passages from the Constitution? It could not; every one would wish to have such parts printed as favored his own opinions. But, what was the object of the selection? To enable the people to decide whether these laws are Constitutional or not. What would be the consequence? A mob, or large collection of people, will be brought together to decide this question. The consequence seems to be this, that if they determine them to be unconstitutional, they will also determine to oppose their execution. Gentlemen surely do not contemplate such an effect as this; and, if not, they ought not to be desirous of calling the attention of the people to these laws in the way proposed. Gentlemen had said, that these laws were made the touchstone at elections in a certain quarter of the Union; if so, it would certainly be im-

proper in this House to send out anything which might affect those elections, by declaring men of a certain opinion friendly, and those of an opposite opinion, unfriendly to the Constitution. Indeed, he saw no ground upon which the proposed publication of parts of the Constitution could be founded. The Constitution itself, he believed, is in the hands of almost every citizen. He should blush for his constituents, many of whom have sworn to support it, did he suppose that any considerable number of them were unacquainted with the whole of its contents. He hoped, therefore, the motion would be negatived.

Mr. Eggleston rose to move a postponement of this question. Being a new member, and unused to speak in public assemblies, it was with reluctance that he offered his sentiments. But the motion which he proposed was founded on the idea that an attempt would be hereafter made to repeal these laws, which, he trusted, would be successful. He was unwilling, therefore, that the minds of the people, which are in many parts of the Union, (he knew it was the case in the district from whence he came,) already sufficiently irritated, should be wounded unnecessarily by a measure of this kind, which would be wholly useless, if a repeal takes place. And, he trusted, if these laws should appear neither called for by the exigencies of the times, nor warranted by the Constitution, a majority of Congress would not insist in continuing them in force merely to show their power or their infallibility.

The Speaker said, he was sorry to interrupt a new member, but he was under the necessity of informing him that he was departing from order.

Mr. Eggleston said he meant to show by his observations the propriety of a postponement.

The Speaker replied that they were wholly out of order, as no member could answer any observations upon the merits of the laws, all remarks must be confined to the proposed extra publication.

Mr. Eggleston saying he wished to comply with the rules of the House, sat down.

Mr. Nicholas seconding the motion for a postponement, it was put and negatived, there being only 25 votes for it.

Mr. Dawson said, from what had fallen from the gentleman from South Carolina, (Mr. Harper,) and others, he was induced to withdraw his motion, and to move the following addition to the original motion: "And the Constitution of the United States as now amended."

Mr. W. Claiborne hoped that this amendment would be agreed to. It would be diffusing among the people information highly important, and information of which they at present stood in need. He would undertake to say, that the people whom he represented wanted this information; and he believed it was generally wanted throughout the Western country, as the Constitution, and especially the amendments which have been added to it, has not been so generally circulated as he could have wished; and, except this amendment succeeds, the alleged object of the mover of the original proposition, would not be answered. What was that object? It was to circulate information respecting these laws, because, for want of it, the minds of the people had been fermented by misinformation. But, permit me, said Mr. C., to tell that gentleman that the parts of the country to which his observations apply, are not misinformed as to the contents of these laws. In Kentucky, he had been informed, they had been circulated in the form of handbills, and that there are few persons who could not produce a copy of them; but, he believed that few persons, comparatively, possessed copies of the Constitution as amended. The expediency of these laws, he said, had been a secondary consideration with the people; their primary objection to them is, that they are violations of the Constitution. And, if the people have been misled as to this point, and not as to the details of the laws, this amendment must be conceded to be proper. Mr. C. said he should be glad to take any step which might be calculated to allay the present fermentation of the public mind with respect to these laws, which he believed existed in an alarming degree in certain parts of the Union. If a publication of the Constitution would do it, it would be well. At any rate, it would have no bad effect; for if these laws are Constitutional, and the gentleman from South Carolina says the Judges have declared them so, this publication may convince the people of their error, and disappoint those, if such there be, who wish to mislead them. It was his wish that the General Government should receive, and he hoped it would receive from the people, all the respect to which it is entitled.

Mr. Thatcher agreed with the gentleman who had just sat down, that the people in the Western country were greatly misinformed; but he did not believe it was either with respect to the Constitution or the laws, but on moral subjects.

The Speaker said, no remark of this kind could possibly be in order.

Mr. Thatcher said he was about to state facts, from which he meant to draw an argument against the publication of the Constitution. If any conclusion could be drawn from the speeches of their Governors, and Legislators, and public meetings, it is evident they are misinformed, and in a state of ignorance, not of the Constitution or of the laws in question, as, when they quote either, they quote them correctly. These speeches and resolutions have appeared in newspapers in the hands of their clerks and agents. It was not political information which these people were in want of, but moral information, correct habits, and regular fixed characters.

Mr. Nicholas inquired whether the gentleman was in order?

The Speaker replied, that very many of his remarks were not in order.

Mr. Thatcher, after a few other observations on the people's want of moral information, took his seat.

Mr. Clopton called for the yeas and nays on this question, which were agreed to be taken.

Mr. Gallatin did not know that there was any great necessity for publishing the Constitution in

the manner proposed; but this he was convinced of, that there was as much necessity for the proposed amendment as for the original resolution; and that, therefore, if the resolution was adopted, the amendment ought to be adopted also.

It had been said, by gentlemen who seem in favor of printing these two laws and not the Constitution, that the laws are not known; but that the Constitution is known. He believed those gentlemen lie under a mistake. The laws have been published again and again in every part of the Union, whereas the Constitution, as amended, has never been published and promulgated. The original Constitution had, indeed, been published, and is generally in the hands of the people; but, as to the amendments, many persons do not know how many of them have become a part of that instrument. Nor can it be ascertained anywhere, except in one edition of the laws, it is added by way of note, that ten of the amendments now form a part of the Constitution. Can it be surprising that the people at large should be uninformed as to this point, when only two years ago, a committee of this House, to whom the subject was referred, reported it, as their opinion, that no part of these amendments were become a part of the Constitution, three-fourths of all the States not having concurred in them? It was true their report was reversed; but when Congress itself has so lately determined these amendments to be a part of the Constitution, it is not strange that the people should not be well informed on the subject. It may be said these arguments apply only to the amendments, but as no one could produce a publication of the Constitution as amended, he wished it now, for the first time, to be published.

Have any objections been offered to this proposition which ought to have any weight? The gentleman from South Carolina, who was first up, complained that a publication of this kind would be an appeal to the people. He did not precisely understand what he meant; but if a publication of the Constitution can be called an appeal to the people, what will the gentleman term the proposed extra publication of the laws in question? Has it been said that this promulgation of the laws is necessary, in order to secure the people against prosecutions under them? Is this the object of the publication? No; the avowed object is, to convince the people the laws are good and expedient; which, being an appeal to the people, ought to be accompanied with the Constitution.

Another gentleman, from New Hampshire, has made use of a most extraordinary argument. He says the publication is necessary, because the laws expire in two years; but he was at a loss to know by what kind of logic he makes it more necessary to publish a law in an extraordinary manner which has only an existence of two years, than a law permanent in its nature, and especially than the Constitution itself. Does he think the Constitution should be disregarded, or set aside for two years, on account of these laws? This observation did not fall from him, who was always opposed to these laws, but from one of their supporters. But this gentleman had made use of an expression which he certainly had not sufficiently attended to. Speaking of the meetings, or assemblies of the people, which had been held in different parts of the United States on the subject of these laws, he made use of the word "mob." He called these assemblies of the people "a mob." This he conceived improper, and especially at this time, when it is known that not only respectable meetings of the people have been held to consider these laws, but that the Legislatures of some States have taken up the subject.

Upon the observations of the gentleman from Massachusetts, (Mr. Thatcher,) he would make no remark. They appeared too frivolous to merit any. So far as they went, they were as forcible against the proposition as the amendment.

Mr. Craik said, as a gentleman from Virginia had called the yeas and nays upon the present question, he wished to state his reasons for voting against this amendment. If any gentleman would declare his constituents in want of information with respect to the Constitution, and, after the proposition for printing these laws shall have been decided, bring forward a substantive, distinct proposition, he would vote in favor of it. He could not allow the State from which he came, however, to lie under the imputation of ignorance, with respect to the Constitution, which had been cast upon it, by voting for the present amendment. He hoped the instance which his colleague had mentioned was a solitary one. Nor could he agree to publish these laws and the Constitution by way of calling the attention of the people to them. He was sorry the original proposition had been made. He did not think any act of Congress ought to be published more than others. The laws were supposed to be sufficiently promulgated to the people; if not, means ought to be adopted for the purpose.

The Speaker said, these observations were against the resolution generally, and not the amendment.

Mr. Craik wished these acts to be placed on the same ground with all other acts, and not supposed to be particularly obnoxious to the people. He should, therefore, vote against both the amendment and the original proposition.

Mr. J. Williams was opposed to this amendment. If the amendments to the Constitution had not been sufficiently published, they ought to be so. It was derogatory to this House to suppose this to be the fact. In the State which he represented, the town clerk of every town had the laws of the United States put into his hand. He had hoped every State had done the same. When this resolution was first brought forward, it was on the ground that the newspapers did not give sufficient information on the subject, and it was on this ground that he proposed to vote in favor of the proposition; but he could not consent at this day to publish again either the whole or parts of the Constitution.

Mr. Hartley was sorry the original motion was made by the gentleman from South Carolina. It is well known, said Mr. H., that some parts of

the Union are at present much agitated by these laws. If any mischief had been done by misrepresentation, that time was now passed; it was done before the laws were made public; they have now been pretty generally published. The Secretary of State is employed to distribute the laws of Congress in the several States, and if the laws of the last session have not reached them, they soon will. He believed the bill which had been first introduced into the Senate, had done much mischief; but he had no doubt these laws would be sufficiently circulated to do away any misinformation, without the proposed extra publication. He hoped neither the amendment nor the original proposition would be agreed to.

The question on printing the Constitution, along with the laws, was taken by yeas and nays, and stood—yeas 35, nays 41, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, Robert Brown, William C. C. Claiborne, John Clopton, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Andrew Gregg, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Anthony New, John Nicholas, Josiah Parker, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, and Abraham Venable.

Nays—Bailey Bartlett, Jonathan Brace, David Brooks, John Chapman, Jas. Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, JohnA. Hanna, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, Geo. Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The original proposition being now under consideration,

Mr. Nicholas said, lest it should be understood that those members who were in favor of publishing the Constitution, or such parts of it as are connected with the subject, were opposed to the original resolution, he must, unwillingly, trouble the House with another call for the yeas and nays on this question. Agreed to.

Mr. Sprague professed himself opposed to the resolution entirely, as unsusceptible of amendment, and wholly useless. He believed the laws which it proposed to have printed, had been more read, and are better understood, than any other laws of the United States. At any rate, having been published in the usual and ordinary mode, he was not willing to give his consent to any special publication of them; for, if asked why it had been done, he could not give any good reason for it. If any principle, said he, is more fixed in a Republican Government than another, it is that majorities ought always to govern; and these laws having been passed by a majority of Congress, they must be considered and obeyed as Constitutional and proper.

Mr. Thatcher said it appeared to him that the ground of this motion had been put upon a wrong footing. It seemed as if the object was to enable the people to determine whether the laws in question are Constitutional or not; whereas the object is to inform the people of the contents of these laws, that, knowing them, they may not offend against them. When a tax was laid upon carriages, which a certain part of the Union conceived to be unconstitutional, they brought the question before the Judiciary, and when the law was there determined to be Constitutional, it was acquiesced in. Where would be the use of sending out the Constitution with these laws, for the purpose of examination by the people? For, if they were to determine them unconstitutional, they would, nevertheless, be liable to prosecution for a breach of them. He hoped the question would be thus understood.

Mr. Josiah Parker thought this proposition yet capable of amendment. It has been agreed that the Constitution is well understood, and that these laws are also pretty generally known; but, as the amendments to the Constitution, it is acknowledged, have not been sufficiently promulgated, he should propose to amend the resolution by adding to it the amendments of the Constitution agreed to in the year 1789. Mr. P. said he had, in the first instance, voted for the publication of the Constitution as amended, with the two laws, as it might have given satisfaction to some, though he believed the great mass of the people did not stand in need of another edition of the original Constitution. He had voted against publishing extracts from that instrument, because he thought it unfair to publish it in parts; but, as these amendments are little known, he wished to see them published.

Mr. Hartley observed, if the people of this country are not acquainted with the amendments which have been made to the Constitution, the subject can be acted upon at any time; but he hoped neither the original proposition nor this amendment would be agreed to. The publication will imply that our conduct has not been what it ought to have been, by our calling for an extraordinary examination of it. If the subject was separately brought forward, he would not object to the publication of the amendments to the Constitution.

The question on adding the amendments of the Constitution was then taken by yeas and nays, and decided in the negative—45 to 32, as follows:

Yeas—Abraham Baldwin, David Bard, Thomas Blount, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Anthony New, John Nicholas, Josiah Parker, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

Nays—Jonathan Brace, Robert Brown, Christopher

G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The question, of course, recurred upon the original resolution, when

Mr. EDMOND rose, and said that when this resolution was first laid upon the table, on hearing the observations of the gentleman who made it, that in the course of his travels he had met a number of gentlemen unacquainted with these laws, stating also a general ignorance of the people respecting them, and that certain rough drafts of bills had been read for the sedition law, it occurred to his mind that the first view of the Legislature, after passing laws, being to make them known to the people, if these laws are not sufficiently known, they ought to be. It struck him, also, that as certain incendiaries appeared to be taking advantage of this ignorance, it afforded an additional reason for making them known as soon as possible; he had, therefore, determined to vote for them. But, after seeing the several amendments which had been proposed, and hearing the arguments adduced against the measure; when he was informed by the gentleman from Pennsylvania, and others, that these laws had been printed in handbills, and published more than any other laws; that they had been made the groundwork for meetings and declamations of self-created orators, and of persons ill disposed towards our Government, for the purpose of creating uneasiness; he saw no necessity for the publication since the Legislature had done its duty in having the laws published in the usual way; and, the original resolution being unnecessary, the amendments are equally unnecessary. It appears that both these laws and the Constitution are well known, and that an extra publication of them could have no other effect than to invite the people to assemble together, once more to act over the same scenes of disorder and confusion, which have been acted too often already. He should, therefore, vote against the proposition.

Mr. GALLATIN wished to set the gentleman from Connecticut right in one respect. He did not believe the gentleman from South Carolina had said a word about any meetings in Pennsylvania; if there had been any, he himself had not heard of them.

Mr. EDMOND declared he had not said anything about meetings in Pennsylvania.

The question on the original resolution was then taken, and decided in the negative—yeas 34, nays 45, as follows:

YEAS—Abraham Baldwin, David Bard, Thomas Blount, William Charles Cole Claiborne, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, Albert Gallatin, William Gordon, Andrew Gregg, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Anthony New, John Nicholas, Josiah Parker, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, George Thatcher, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and John Williams.

NAYS—Bailey Bartlett, Jonathan Brace, David Brooks, Robert Brown, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, Wm. Edmond, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Roger Griswold, John A. Hanna, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Matthew Locke, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Abraham Venable, Peleg Wadsworth, and Robert Waln.

MONDAY, December 17.

M. W. CLAIBORNE laid the following resolution upon the table:

"*Resolved by the Senate and House of Representatives of America in Congress assembled,* That the Secretary of State be, and he is hereby, authorized and directed to cause to be printed a certain number of copies not exceeding —— thousand of the Constitution of the United States, together with the amendments which have been made thereto, and to cause the same to be distributed gratis throughout the United States."

Ordered to lie on the table.

Mr. GALLATIN, from the committee directed to prepare and report a bill respecting balances due from certain States, reported a bill, which was read and committed.

NUMBER OF ARMED VESSELS, &c.

Mr. NICHOLAS said, that as the law of last session for increasing the Navy Establishment had given great discretionary powers to the President of the United States, he thought it proper that the House should receive some information as to what had been done in consequence of these powers, particularly as it appeared to be an avowed object to increase the Navy Establishment during the present session. He therefore proposed the following resolution:

"*Resolved,* That the Secretary of the Navy be directed to lay before this House an account of all the armed vessels employed in, or preparing for, the service of the United States, with an estimate of the expenses of their equipment, and of their annual support."

Mr. J. PARKER had no objection to this inquiry; but as the committee already appointed to consider and report on the subject of the Navy Establishment, will certainly make this a part of their business, he did not see any necessity for this resolution. He, as one of that committee, should

think it his duty to give every information which could be required on this subject.

Mr. NICHOLAS thought if there was no objection to the information being obtained, it was not a sufficient reason for dispensing with the resolution, because a committee already appointed might possibly make it a part of their duty to give the information required to the House. He saw no reason, if the information was necessary and proper, why the House should wait for it until a select committee should think proper to give it to them.

Mr. OTIS wished the gentleman from Virginia would suffer his resolution to lie upon the table till to-morrow. He himself should have no objection to wait for this information until the committee which had been appointed should give it; but, if this resolution were passed, he should wish it to be more particular. He should wish to know of what force the vessels are, what part of them have been purchased, and what part built and where. He agreed this was information which the House ought to possess; but was of opinion that a select committee had better obtain it and lay it before the House.

Mr. NICHOLAS had no objection to the resolution laying till to-morrow, nor to its being made more particular.

CENSUS.

Mr. DAWSON moved that the Committee of Ways and Means be instructed to prepare and report a bill for the enumeration of the inhabitants of the United States.

Mr. OTIS thought a select committee would be preferable to a standing committee for this business; but Mr. MACON suggested that the law would require a considerable sum to carry it into execution. The propriety of the reference was allowed, and the motion agreed to.

TUESDAY, December 18.

IMPEACHMENT OF WILLIAM BLOUNT.

A message was received from the Senate, notifying the House that William Blount, impeached of high crimes and misdemeanors before the Senate, by this House, though he had been duly summoned, had not appeared at the bar of the Senate at the time appointed; and that the Senate would be ready to receive the managers at twelve o'clock this day, to take farther order in this trial.

On motion of Mr. HARPER, this message was referred to the managers of the impeachment, who had leave to sit during the session of the House.

NUMBER OF ARMED VESSELS.

Mr. J. PARKER said, if his colleague (Mr. NICHOLAS) would withdraw the resolution which he yesterday laid upon the table, relative to the Navy Establishment, he would present one, by direction of the committee which had been appointed on this subject, containing more particulars, which would embrace all the objects of his colleague. It was to the following effect:

"*Resolved,* That the Secretary of the Navy be directed to lay before this House an account of all armed vessels employed in, or preparing for, the service of the United States, particularizing where the same were built, or are building, and under what contract; their respective sizes, number of guns, and complement of men, and the names of the commanders of such as are in commission, with a statement of the expense of the equipment of each, and of its annual support."

Mr. NICHOLAS had no objection to the substitution of this resolution for the one which he yesterday proposed, and it was agreed to by the House.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. HARPER, from the committee of managers of the impeachment of William Blount, to whom had been referred the message of the Senate of this morning, reported, as their opinion, that it would be proper for the managers to attend before the Senate at the time appointed, to request a further day for preparing their proceedings in the said impeachment.

The House took up the report and agreed to it. No other business appearing before the House, it adjourned.

WEDNESDAY, December 19.

Mr. HARPER, from the Committee of Ways and Means, reported a bill for the enumeration of the inhabitants of the United States, which was committed for Friday.

DIRECT TAX LAW.

Mr. GORDON said, it would be recollected, that when the bill for laying a direct tax upon the United States was under consideration, certain amendments were proposed, which, for want of time, were passed over. One of these, which related to the conveyance of lands, he thought essential; and, in order to bring the subject before the House, he moved that the Committee of Ways and Means be directed to inquire whether any, and, if any, what amendments are necessary in that act, and that they report by bill or otherwise.

DISTRIBUTION OF THE CONSTITUTION.

Mr. W. CLAIBORNE called up the resolution which he laid upon the table on Monday, for causing a number of the Constitution of the United States, as amended, to be printed and distributed gratis throughout the United States.

The House having agreed to take it up,

Mr. C. hoped the resolution would be agreed to, as he conceived the information which it proposed to give to the people would be highly desirable. It had been conceded by all, that the circulation of the Constitution as amended, had been very limited, and that the amendments are unknown in some parts of the Union. He said he should rejoice to see our form of Government in the hands of every freeman in the country; nor, if gentlemen wished it to be understood, respected, and obeyed, could recurrence be too frequently had to first principles. When the people are in full possession of these, it could not be doubted that their vigilance would preserve the Constitution inviolate to the latest posterity. How far

this publication may be desirable in the Eastern and Middle States, he could not tell; but in some of the Southern, and in the two Western States, he was decidedly of opinion, that it would be very acceptable.

On a former occasion, said Mr. C., the House had been told by a member from Massachusetts, (Mr. Thatcher,) that the people in the Western country are not uninformed as to the Constitution; that it is not political information which they want, but "moral information, fixed principles, and correct habits." Such language as this need only to be mentioned to be despised.

The Speaker interrupted Mr. C. to say, that the member from Massachusetts was checked by the Speaker at the time, and that therefore his remarks were out of order.

Mr. Claiborne replied, the remark had gone forth to the public, and it was certainly proper for him to state that it was calumny.

Mr. C. concluded by moving to strike out of the resolution the words "not exceeding ———," in order to insert 50,000 copies; and as he had been informed that this number of copies might be printed for less than a thousand dollars, he hoped the number would not be objected to, since it would be money well expended.

The question on the amendment was put and negatived—33 to 32.

Mr. Claiborne then moved to fill the blank with 40,000 copies, which motion was carried—33 to 32.

Mr. N. Smith supposed the question would now be on the resolution as amended. He said, he should have no objection to this publication, did he suppose it necessary; but he could not conceive what new light had flashed upon the gentleman from Tennessee, just at this moment, which made the publication more necessary than at any former period since the adoption of the amendments to the Constitution. These amendments had been regularly published in the edition of the laws which was published in 1796. Two amendments were, indeed, then published, which have never been adopted, but there was a note inserted, discriminating between those which had been, and those which had not been adopted. There certainly can be no objection to the Constitution being in the hands of every citizen; but whether the United States ought to be at the expense and trouble of this distribution, was a question. The gentleman himself supposes that there are only two or three States which are in want of this information; and with respect to those, the printers in these States may make any publication of the Constitution which they think proper; or the States themselves, or any individual gentleman, or any set of gentlemen, may do it. For his own part, as there had been an equal distribution of the Constitution, as amended, with the laws of the United States, he did not wish, by an extra publication, to make a difference between the publicity of the Constitution and the laws, nor between certain laws and other laws of the Union. He would treat them all alike. He therefore saw no reason for voting in favor of this resolution, unless, indeed the principle were to be allowed a good one, which was, on a former occasion, advocated by the gentleman from Pennsylvania (Mr. Gallatin) on the motion of the gentleman from South Carolina for printing the alien and sedition laws; that gentleman told the House that he could see no good reason for the publication, but that he would nevertheless vote for it, because, if he did not, it would be said he was for preventing information from going to the people. Did I believe this a just ground upon which to found my vote, I ought certainly to vote in favor of the present resolution; as I have not the least doubt it will be said of those who oppose it, that they are for keeping information from the people; but, as I do not believe the publication necessary, and as I wish to consult my own understanding as to the necessity of the measure, rather than what may be said of my conduct by others, I shall vote against it.

Mr. W. Claiborne denied that he had said this publication would be necessary only for the Western States; but he had stated, that he could not be certain, for want of information, whether it would be equally desirable for the Eastern and Middle States with those of the Southern and Western. He believed, however, this publication would be acceptable in all parts of the Union. The amendments to the Constitution, he had been informed, had been published only in Mr. *Swift's* edition of the laws, of which 5,000 copies had been circulated throughout the United States; so that to be possessed of a complete copy of the Constitution, it will be necessary for citizens not only to have a copy of the Constitution, but also a copy of the laws, which he would venture to say many of the Justices and Judges in many of the States, and some of the Legislatures in others, had not.

But the gentleman from Connecticut had said, that the Legislatures of the States, or individuals, might cause the Constitution as amended to be printed; but is not this, said Mr. C. a more proper subject for the National Legislature to act upon, than for any other body of men, or than for any individual? Does it not belong to them to inform the people correctly with respect to the powers vested in the General Government? It certainly did, and he was sorry to find any objection made to the motion, as he thought it of the first importance. Those, indeed, who are in the vicinity of large cities, where this information can be readily obtained, need not be anxious for the present publication; but people far removed from sources of information cannot get copies of the amended Constitution, except a publication of the kind proposed be made.

Mr. Sewall viewed the resolution under consideration, as of little importance in itself, and, if unnecessary, only an useless expense of a few thousand dollars. But, instead of being a means of information to the people, he conceived that it would operate a contrary way. At present, the same promulgation has been made of the amendments to the Constitution, that has been made of the laws of the United States; 5000 copies have

been printed and circulated through the Union; so that there is no part of the country where the laws and Constitution cannot be easily obtained; but these copies, and this information, is continually multiplied, by making it the interest of the printers to publish them on their own account, so that every man who wishes for this information, may get it at any printing office in the country, much better than by applying to the Secretary of State for it. The wants of the people are better known in this respect by the printers than by the Secretary of State. And suppose 50,000 copies of the Constitution and amendments were printed, they would not furnish a copy for every hundredth man. Who, then, are to be the favored individuals to whom these copies are to be sent? He could not tell. But as any one by expending sixpence might at present purchase one for himself, he saw no necessity for the present motion, especially, since by discouraging printers from publishing them on their own account, those who did not get a copy given to them, would have to pay double price for them, on account of the decreased demand. It was on this account, Mr. S. said, that he considered the measure as calculated to restrain, rather than increase information on this subject.

Mr. Thatcher said, that when he saw this subject brought forward again and again, it struck him that the gentleman from Tennessee has got certain complex impressions upon his mind, which he is not able to analyze. He seems to think that the people in his part of the country do not know what the Constitution is; yet if he would look back six or seven years, and see what the people have done, as well in those parts of the Union as in others, the conclusion must be that the people are well informed with respect to the Constitution, or that they are in such a situation as that a publication of 40,000 copies of that instrument would be of no use to give them the information. But they certainly, said Mr. T., do understand, at least, the practical parts of the Constitution, as they have several times exercised their rights as electors under it. It was in vain, therefore, for the gentleman to say that his constituents are ignorant of the Constitution; since this alone shows that they are acquainted with the practical parts of it, which is all that it is of immediate consequence for the people to know.

Look upon the subject, said Mr. T., in another point of view. For six or eight years past, a session of Congress has not passed, in which some law has not been enacted, which certain gentlemen have deemed unconstitutional. This they have publicly declared, and the declaration has gone forth to the people, and engaged the attention, and undergone the examination of clubs, of mobs, and of legislatures. Could this examination have taken place, said he, and yet the people be ignorant of the Constitution? Certainly not, and therefore the people in the Western country either do know what the Constitution is, or they have remained in a state of *mental apathy*, from which they could not be roused, though told that the Constitution was invaded, and their liberties about to be destroyed. If they could not be roused by this stimulus, it follows of course, said Mr. T. that they are in a state of mental darkness, and "that a pair of spectacles might as well be put upon the nose of a dead man, as that information should be sent among these people!"

Another argument to show the impropriety of the present resolution. There is no State in the Union which does not contain a printing press. He doubted not the State of Tennessee had its printer, and that he was not so fully employed, but that, if he thought there would be any considerable demand for the Constitution of the United States, he would find time to print it; and the gentleman would not say that his constituents cannot afford to purchase it, since they can afford to buy *slaves*, and, of course, must possess considerable property. Upon the whole, the gentleman had himself convinced him, that there is no demand for the Constitution in his State; or that, if there be, those who want it may be readily supplied; he should, therefore, vote against the motion.

Mr. Harper felt no difficulty in confessing, that the more he reflected on this subject, in consequence of the motion which he himself made, and the variety of amendments which had been proposed to it, the more he doubted the propriety of the Government of the United States making any of these extra publications. He was, however, far from wishing to oppose a proper publication of the Constitution as amended, nor did he think the arguments which had been used against the measure were sufficiently strong to show it to be unnecessary. Printers are not always inclined to run the risk of publications, though, in the end, they might be well paid for their trouble; and, indeed, some people would be ready to accept a copy of the Constitution, gratis, and read it, who would not themselves purchase it. He was not, however, in favor of the present motion. He was aware that there was a want of an authentic copy of the Constitution as amended. The edition of the laws which had been mentioned, contained all the amendments but one; but one, he believed, it did not contain. It occurred to him that the publication of the laws authorized by the Government does not extend to the laws which may be passed during the present Congress. Might it not, then, said he, be proper to give this business some form of this kind, viz; That the Secretary of State be authorized to publish a like number (5000) of the laws of the present Congress, and that the whole Constitution be prefixed to the publication. This would insure a general circulation of an authentic copy of the Constitution, which might be multiplied as printers saw proper. Mr. H. was not confident that this course would be the best; he barely suggested it; and, that the subject might be more fully considered, he moved to refer it to a select committee.

Mr. Nicholas hoped this course would not be taken, since he had heard no real objection to the original motion. Several had, indeed, been mentioned, one of them of a very extraordinary na-

ture. It was, that the people knew everything respecting the Constitution, which it is proper for them to know; that they have nothing to do with this Government but to elect the component parts of it. Mr. N. said, he was not in the habit of answering the arguments of the gentleman from whom this sentiment fell; but so extraordinary a declaration ought not to pass unnoticed come from whom it might. Principles of this kind, said he, are not likely to be at first generally avowed, they are generally ushered in indirectly, before their real supporters come forward and avow them. He hoped so dishonorable a sentiment would always be scouted by the people of the United States.

But, it was said, that this measure is unnecessary, because printers will always find it their interest to print what is much wanted; so that the promulgation of a perfect copy of the Constitution is to depend upon the enterprise of individuals, and, if it is not thus circulated, the people are to remain in ignorance with respect to the basis of our laws and Government. At present, he believed, no one could point to any volume containing our Constitution complete. The whole amendments had been published, but, having been ratified by degrees, the people do not know which are a part of the Constitution, and which are not. And he would also tell gentlemen that they are mistaken with respect to individual industry. It is only in places where printers find it difficult to make a living, that everything is laid hold of for publication, which affords the shadow of success. In places where this difficulty does not exist, neither does this industry appear. He doubted whether even the gentleman from Massachusetts himself could point to a publication in his part of the country (where individual exertions were carried much further than in many other parts of the Union) containing a perfect copy of the Constitution. He hoped this resolution would be agreed to, if for no other reason than on account of the arguments which had been urged against it, which certainly were calculated to pervert all the principles of our Government.

Mr. Craik understood that the question now before the House, is not whether the Constitution shall be published, but whether the resolution shall be referred to a select committee. He did not think that the arguments of any gentleman ought to be given as a reason for passing a resolution, but the reasonableness of the motion itself. It ought also to be founded upon a general view of the subject, and not on any particular consideration. He should, therefore, prefer the motion of the gentleman from South Carolina, as it would not appear to be pointed to the particular situation in which we stand with respect to certain laws lately passed. He did not think it necessary to publish the Constitution in a more general manner than the laws, many of which are penal, and of course immediately affect the lives and property of the people. As the proposition of the gentleman from South Carolina connected the laws and Constitution together, he preferred that mode.

Mr. Macon wished, before the question was put, that the law authorizing the printing of 5,000 copies of the laws might be read, as he believed it would be found that the Secretary of State is authorized to publish 5,000 copies of the laws of every succeeding session, to be distributed throughout the Union. [The law was read, and this was found to be the fact.]

Mr. Thatcher replied to Mr. Nicholas, that the amendments of the Constitution had been published again and again in his part of the country; and he believed they had also been published in that gentleman's district. With regard to the astonishment and surprise which he had expressed at the sentiments which he (Mr. T.) had delivered, it is natural when anything is new, that it should excite these sensations, but, after gazing for some time, the astonishment will subside, and the spectators will act rationally upon it.

Mr. Macon said, after hearing the law, which he had called for, read, the proposed reference must appear unnecessary. This resolution, said he, embraces no new principle. It is the same as that upon which the extra publication of the laws was founded. It was thought the laws were not sufficiently known, and an extra publication of them was agreed upon. It was now supposed that the Constitution, as amended, is not sufficiently known, and a further publication of it is proposed. As to the printers publishing it, if they had thought it worth their notice, it would have been done before this time; and, not having been done, Congress ought to make the publication, since it is clear that the amendments are not sufficiently known. The instance mentioned the other day by a member from Maryland, of a gentleman who was capable of making an oration at a public meeting, not knowing anything of the amendments to the Constitution, was a strong proof that they are not generally known. This did not happen on the other side the mountains, but in as thick a settled part of the country as any in the United States; and as it had been stated that 50,000 copies of the Constitution complete might be printed for less than a thousand dollars, there could be no reasonable objection to its being done. He thought this publication far more necessary than the extra publication of despatches, ordered at the last session.

Mr. J. Williams said, it appeared to him that it would be much better to have this subject referred as proposed, than that a question should be taken upon the resolution. By the law, which had been read, it appeared that an extra edition of the laws of the present Congress would have to be printed, and the Constitution could be added to it. He should not have said a word on this subject, but from what had fallen from the gentleman from Tennessee. That gentleman said, "if we mean to support our liberty, Constitution, and Government, it is necessary to support this resolution." Mr. W. wished to know from that gentleman, whether, if the House agreed to this resolution or not, they could not support these? Such sentiments, thrown out in debate, said he, serve only to create warmth, and answer no good purpose whatever. He wished all the acts of Government to have the greatest publicity; but, when called upon to print an extra number of copies of anything to answer certain purposes, those purposes ought also to be considered. Had it not been for two acts of last session, he did not suppose the House would have heard of this motion, or of the arguments used in support of it. If the resolution was referred, this difficulty would be removed, and the question would be considered on a future day with coolness and candor.

The question for a reference of the resolution to a select committee, was put and carried—38 to 33.

Mr. W. Claiborne wished this committee to be further instructed to inquire how far the law for the promulgation of the laws of the United States had been carried into execution, and whether any, and what, further provisions are necessary on this subject? The laws passed at the last session, he said, had not yet been forwarded to the several States, though several of the Legislatures were in session; nor did he believe the members of this House had got copies of them. He knew he had not.

Mr. Goodrich wished the resolution to embrace another object. At present, the laws of the United States are inserted, by order of the Secretary of State, in five newspapers in the Union. This he did not think sufficient. He supposed, when this was ordered, it was expected that other papers would copy the laws without being paid for their insertion; but this has not been found to be sufficiently the case, and it is necessary the provision should be extended.

The Speaker said the present resolution would comprehend this object.

Thursday, December 20.

BANKRUPT BILL.

Mr. Sewall called for the order of the day on the bill for establishing an uniform system of bankruptcy throughout the United States.

The House went into Committee, Mr. Dent in the Chair.

Mr. Hartley moved to dispense with the first reading, as it was a lengthy bill; and beside, he said, several members were opposed to the passing any bill for establishing a general system on that subject; he thought it would save much time of the House if those who were opposed to it would at once come forward and move to strike out the first section, and then it would speedily be determined whether such a bill was to pass or not.

Mr. Otis thought the provisions of the bill were excellent, and it would be more proper that the bill should be read, as he declared he had not matured it.

Mr. Hartley withdrew his motion, and the bill was read through. It contained 59 sections.

Mr. Nicholas said this bill had been before Congress a number of years, but he believed it would generally be agreed that it had not been seriously entered upon. From its complexity, it could not be supposed to be understood so soon as taken up. He thought it was absolutely necessary, before gentlemen could be prepared to give their votes on its numerous provisions, that they consult a great number of authorities, perhaps more than on any other subject which could come before the House; at the very threshold of the business, innumerable English authors must be consulted; he was not, therefore, ready to undertake the bill at present. However, he would engage that he would not make any opposition to the progress of the business, if the committee would agree to rise for the present, in order to postpone it till Monday, which he moved. As the bill contemplated so great a change in the system, and embraced such a multiplicity of objects, a few days could make no difference, and he hoped it would be granted.

Mr. Sewall was not averse to agreeing with the gentleman's desire; he agreed with him that it had not hitherto had that serious attention paid to it which it demanded. He believed the act exceedingly necessary, and, therefore, if he should give his vote for a postponement, he would not wish it to be supposed that he did it with a view to pass it over as heretofore.

Mr. Harper said, if by going through the first section, and progressing forward with the bill, could preclude the gentleman from Virginia making any amendments, or striking out any part of the bill he was averse to, he should think the postponement of it altogether reasonable; but, since making some progress could not have that effect, he could see no reason for agreeing with the motion. From the number of sections the bill contained, and the number of provisions made in it, it might readily be conceived that two or three days would be taken up in its discussion, in which time the gentleman could look into the "innumerable authorities" he spoke of. But he would take upon him to say it was not so; it required only a reference to two acts of Great Britain, which are the foundation of the bankrupt system of that nation as it now stands. No doubt but he is well acquainted with them; but if not, he can be in three or four hours as well as with any question that comes before him in his professional line.

By those kind of delays, Mr. H. said, one time after another, and on various grounds, this bill had been postponed. A gentleman from North Carolina had said there was no necessity for printing, but after it had been made the order for a certain day, it was found necessary to print it—that delayed it three or four days; and yesterday, just as it was going to be called up, a gentleman who was opposed to it, at 1 o'clock, moved to adjourn; and now a farther delay till Monday was asked, in order that the mover might examine a bill which had been before the House five or six years! If this should be delayed till Monday, who could foresee what might occur to force it out, and postpone it farther? He said he could foresee that those repeated delays would operate to endanger the bill passing at all, though he did not mean to charge any gentleman with an intention to destroy it. He wished gentlemen would state their objections at once to the passing of this bill, and not delay it day after day. It would be much better to begin the bill to-day, and discuss its

provisions, and to-morrow the gentleman may be more acquainted with it, and his object would be answered. If it was delayed till Monday, the House would delay thinking of it till then, and no advantage would arise; whereas, a thing being constantly kept in mind would have a tendency to mature it.

Mr. Hartley hoped that, if it was postponed, gentlemen would have the candor, if they were opposed to the bill, at that time to move to strike out the first section. It was too much the custom of the House to go into detail on a bill, and consume considerable time in its discussion, without any settled motion being made; such, he said, was the case with the militia bill, which never passed. He thought, if a general system of bankruptcy was expedient, that this contained as good provisions as could be.

Mr. S. Smith thought it would be advisable in the House to get through some business or other. The gentleman from Virginia had said that this bill had been before the House several years. He had made the same observation; it had been served up constantly almost every session, and as constantly passed by as a matter of no consequence. He thought, if it was intended to be decided on in the present session, the House could spare no time towards it better than now. By its undergoing a discussion at this time, gentlemen would be much better acquainted with it than by retiring to their chambers to read it. He said he had read the bill with some attention, and, from its general appearance, he was much pleased with it. He could not pledge himself to vote for or against it; for, when it came to be argued, he might see as much reason to vote against it as he at present did in its favor. He did not wish those delays to be made, by putting off business from day to day; he did not know what kind of an appearance it would have with their constituents.

The question for postponement was taken—ayes 33, noes 37.

In the 10th section it is enacted, that in case a bankrupt had sold any of his property, the assignees were empowered to demand back such property, on payment of the purchase-money.

Mr. Otis moved to strike out that part of the section, as he said great inconvenience might attend a *bona fide* purchaser returning property which had fairly become his own, and particularly if it had been transferred into other hands.

Mr. Harper said it was an object of particular attention, in Great Britain, to guard against frauds in their bankrupt laws. He would allow that great inconvenience attended the return of property from a *bona fide* purchaser, but the difficulty of discovering the various means which were constantly practised by fraudulent persons to evade the law made this provision necessary. Though, in an abstract view of the subject, it did not seem reasonable that they should be deprived of property fairly paid for, yet in practice it had been found necessary. After all that is or can be done, it is too general a complaint that bankrupt laws are made use of to evade the payment of debts. After all provisions, it is impossible to discover how many doors are open to fraud. This provision is the most infallible remedy possible to discover it; you have every opportunity to discover the truth by it. If the possessor has fairly purchased the property, he has nothing to do but show his receipt, and he is paid the purchase-money on returning the property; and thus, having his own, he is not injured; but if the property has been fraudulently conveyed, it is, by this means, easily discoverable. This practice, he said, had been the object of judicial and legislative inquiry in England for 500 years, and, upon experience, was found best to answer the purpose.

Mr. Otis said there was a considerable difficulty in this provision, as the property may have been bought and sold several times, and thus become scattered abroad; so that it would be impossible to return it; and yet, a purchaser is liable to a suit from the assignees, and ordered by a jury to return the articles. Suppose it should be a farm that a man had purchased, and made considerable improvements on it; the asignees would compel the purchaser to return it, and it would be out of his power to obtain satisfaction for the improvements he had made. We ought to pay great respect to the experience of a great commericial country, but we ought also to avoid the errors which ancient practice and prejudice might have established.

Mr. Sewall said the difficulty intended to be obviated was one of those which most required attention, because a reasonable lenity was generally taken advantage of, mostly by a debtor, for his own benefit, to the injury of his creditors. The disadvantage to purchase was not so great under this provision as was imagined; for if the property was purchased at a fair price, it would not be to the benefit of the creditors to have it back, as it must afterwards run the chance of a vendue before the dividend could be made; it must be purchased very low, indeed, to make it worth their attention.

But another part of the law so provided that it could be only during six months that such an advantage could be taken; so that the inconveniences could not be very great in that time. This law, he said, was vastly more moderate than in Great Britain, because there the purchaser, after a certain time, loses all the property.

Mr. Harper enforced his former arguments by saying, that in the course of his experience he had witnessed more frauds respecting *bona fide* sales than in all other causes put together. He hoped the gentleman who wished to suspend this, would inform the House in what manner those difficulties could be removed, but by the provision in the bill.

Mr. Goodrich said he was not prepared to vote on this question. The difficulties in it were so great, and the subject so delicate and important, that he would move a postponement of the paragraph, in order to have time to reflect on it, and also that the committee rise.

Mr. Otis hoped the committee would not rise. Rather than it should, on that account, if the member would withdraw his motion, he would also withdraw his, for the present, and the bill might go on. He proceeded to mention the inconveniences

of the clause, which he particularized in certain articles of commerce, (as sugar or coffee,) which frequently experienced, in a short time, a considerable advance; which, if a purchaser had bought low, would it be right, he asked, at the advance, for the assignees to have power to demand its return, when perhaps it had been transferred into many hands? Certainly not.

The motions were both withdrawn, and the committee proceeded with the bill.

Several sections were postponed, and a number of blanks enacting fines, &c., filled.

Mr. Eggleston said, if gentlemen were not prepared to vote, who had had the bill before them for a number of years, it would not be wondered if new members were unprepared also. In order, therefore, to give every one an opportunity to examine the subject, he moved that the committee rise.

The committee rose, reported progress, and obtained leave to sit again.

IMPEACHMENT OF WM. BLOUNT.

Mr. Harper, from the managers appointed to conduct the impeachment against William Blount, reported that the said managers had, pursuant to a resolution of this House, attended before the Senate, to request that a further day might be assigned for proceeding with this business; and that Monday next, at twelve o'clock, was assigned. The report further stated that the managers, having considered the subject, conceived that it would not be consistent with propriety, or the solemnity which ought to be observed on this occasion, to proceed to the trial of the said William Blount in his absence; and that having failed in his appearance, the managers on the part of this House ought, when they next appear before the Senate, to request that further order may be taken to compel the attendance of the said William Blount. The managers, therefore, submitted a resolution to the House for adoption, to the following effect:

"*Resolved*, That the managers appointed on the part of this House for conducting the impeachment against William Blount, be instructed to request, at their next attendance before the Senate, that further order may be taken to compel the attendance of the said William Blount at the bar of the Senate."

Mr. Venable hoped that the gentleman who made this report would suffer it to lie till to-morrow. He conceived that the question whether the Senate ought to proceed in the trial of William Blount in his absence, is a question which ought to be settled by themselves, and not by the House of Representatives. However, as this was an entirely new subject, he hoped an immediate decision upon the report would not be desired.

On the question for taking up the report being put, it was negatived without a division.

TREASURER'S ACCOUNTS.

The Speaker laid before the House a letter from the Treasurer of the United States, enclosing his specie account, and his account with the War Department—the one up to the end of June, and the other to the end of November; which were ordered to be printed.

ALTERATION OF STAMP DUTIES.

Mr. S. Smith, from the Committee of Commerce, reported a bill to alter the stamp duty imposed upon foreign bills of exchange and bills of lading, by an act laying a duty on stamped vellum, parchment, and paper, and further to amend the same; which was committed for to-morrow.

Friday, December 21.

Mr. Morris proposed to the House a resolution, to the following effect:

"*Resolved*, That a committee be appointed to prepare and report a bill prescribing the compensations which shall be allowed to marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, and to repeal the present law on this subject."

The resolution was agreed to.

IMPEACHMENT OF WM. BLOUNT.

A message was received from the Senate, communicating to the House certain rules, which the Senate think fit to be obeyed in the trial of William Blount, impeached by the House of Representatives of high crimes and misdemeanors against the United States. They are, that,

"At the next opening of the Court of Impeachment, the President shall inquire whether the Managers have any request to make, before the counsel of the defendant are called to put in his answer.

"If no motion or request is made, the defendant's counsel shall be required to put in his answer or plea to the articles of impeachment.

"The answer or plea shall be read by the Secretary, and communicated by him to the House of Representatives.

"The President shall then inform the managers that the Senate is ready to hear any reply or motion which they may think proper to make.

"All questions arising in the course of the trial shall be decided with closed doors. The decisions shall be by ayes and noes, which shall be entered upon the Judiciary Journal. When the question is decided, the doors shall be opened, the parties called in, and the result made known to them by the President.

"Witnesses shall be sworn by the Secretary, and shall take the following oath:

"I, A. B., do swear (or affirm, as the case may be) that the evidence I will give to this court, touching the impeachment of William Blount, now here depending, shall be the truth, the whole truth, and nothing but the truth—So help me God.

"Witnesses shall be examined by the party producing, and then cross-examined, in the usual form. If a Senator wishes any question to be asked, it shall be put by the President.

"If Senators are called as witnesses, they shall be sworn, and give their testimony, standing in their places."

Mr. Harper moved to postpone the unfinished business of yesterday, in order to take up the report of the managers of this House for conducting the impeachment of William Blount, before the Senate. This would appear necessary, when gentlemen recollect that the Senate has fixed Monday next for the managers to appear again at their bar,

as the managers do not think themselves competent to take what they think ought to be the next step in this business, until they have received the instructions of the House.

The motion for postponing the unfinished business was put and carried.

The report of the managers was then read, as follows:

"That, pursuant to the resolution of this House, of the eighteenth instant, they did attend before the Senate of the United States, and request a further day for preparing their proceedings in the said impeachment; whereupon, a further day was granted till Monday next, at twelve o'clock.

"That the managers, having carefully considered the subject, are of opinion that it is neither consistent with the solemnity which ought to attend this high Constitutional proceeding, nor with the principles, which, as far as they have been able to discover, have invariably obtained in impeachments, and all other trials of a criminal nature, to proceed to trial against the defendant, in this case, in his absence: and that the said William Blount, having failed to make personal appearance, as has been notified to the House by the above-mentioned message from the Senate, the next step, on the part of this House, ought to be a motion before the Senate that further order be taken by them for compelling his personal appearance at their bar, to answer to the articles of impeachment exhibited against him by this House.

"The managers, however, do not think it proper for them to take a step involving so important a principle, without the direction of the House; for the purpose of obtaining which, they beg leave to submit to its consideration the following resolution:

"*Resolved*, That the managers appointed, on the part of this House, to conduct the impeachment against William Blount, late a Senator of the United States, be instructed to request, at their next attendance before the Senate, that further order be taken for compelling the personal appearance of the said William Blount, to answer to the articles of impeachment exhibited against him on the part of this House."

Mr. NICHOLAS hoped this resolution would not be agreed to. It was very different from his ideas on this subject. It was requiring a step to be taken which might altogether defeat the prosecution; for, if a *capias* was issued, Mr. Blount might not be taken, and the agreeing to this report would affirm the principle that no further proceeding could be had until he appeared in person; and if he is taken, the Senate can do no more than they can now do. In his opinion, this kind of proceeding would be the reverse of dignified, by requiring a thing to be done, as essential, which is perfectly immaterial, but which, if it fails, may put the whole business to hazard. The dignity of a proceeding of this kind depends upon its certainty. The managers state, as their reason for this application, that all other impeachments and criminal prosecutions require a personal appearance; and, in order to this, said Mr. N., they require a person to be in custody in order to secure the due execution of the law; but where it is not necessary to secure the person in order to carry into effect the judgment of a court, the appearance of the person is not essential. As it was unnecessary, therefore, to issue a *capias*, he would not do it, but immediately proceed to trial, if the Senate are ready to try the cause.

Mr. SEWALL said, the managers of the impeachment submitted it as their opinion to the House, almost unanimously, that it would be proper to request the Senate to take further order for compelling the attendance of William Blount, to answer to the charges brought against him, as, in all cases of impeachment and criminal proceedings, personal appearance is necessary before a trial can take place. It may be argued that, in some cases of impeachment, it would be expedient to dispense with a strict adherence to this rule, as it might, as the gentleman from Virginia has suggested, prevent judgment from being obtained against the party impeached. But, then, some substitute ought to be provided; and still the question recurs, that if it be an established principle of law that no criminal shall be tried, except he be present in person, shall this principle be dispensed with at the will of a court? He believed not. He did not see how the Senate could proceed in this trial, as there is nothing in our laws to direct them; and they could not certainly go on to trial in defiance of the established rules of common law, or proceed to judgment without a trial. Is it not, then, said Mr. S., becoming the dignity of this House to make, at least, an application to the Senate, requesting that they will take further order to compel the attendance of Mr. Blount?

When the House first instituted this impeachment, they requested the Senate would take order for the personal appearance of Mr. Blount. They have summoned him to appear, and given him personal notice of the charges exhibited against him, but he has not appeared; and if, in this case, the House departs from the established rule of law, without substituting a rule in place of it, in some future case the Senate may deem less than a personal notice sufficient in similar cases, which might prove extremely injurious to the party accused.

Let us not, said Mr. S., consider this question merely as it has reference to William Blount, but as relating to all future cases of this kind. It cannot be doubted the present Senate are disposed to do justice; but, at some future day, there may be a Senate which, availing itself of a bad precedent, may injure and oppress citizens who may be so unfortunate as to come within their power. We ought, therefore, said he, by a statute, which shall be known to the people, to declare what shall be the consequence of a neglect and contempt of the summons of a court in such a case. He must, he said, consider William Blount as guilty of a contempt of court, in failing to appear before the Senate; and if he is to suffer no inconvenience on this account, it cannot be expected that any future summons will be better obeyed; for, if a person impeached shall be suffered to enjoy all the advantages, by an appearance of counsel only, that he would have if he appeared in person, every impeached person will hereafter avoid the inconvenience and suffering of being personally present at his trial, and all cases of impeachment will be managed by attorneys, and of course be much diminished in their consequences, and become a

mere *farce* or *play*, to be acted before the public. But he had said it was an established principle, that in all impeachments and criminal cases, the party accused ought to be present at his trial. He had not the books by him to prove this; but *Blackstone*, and all the other English authorities, confirm this position. In England, indeed, they have a process of outlawry which does not exist with us; but in no case do the courts proceed to trial when the party does not appear.

It is objected, however, by the gentleman from Virginia, that if the mode recommended be pursued, it will tend to defeat the prosecution. In saying this, he anticipates what may be the views of this House and of the Senate. The Senate may refuse to grant the request proposed to be made to them. They may say the trial shall proceed. But the Senate may do something else; they may not issue a *capias*, but may pass a law, saying what shall be the process in similar cases in future. Or, if the Senate does not originate such a law, it may be originated in this House. He could wish a law passed, declaring that if a person impeached does not appear, when duly summoned, the facts stated against him shall be taken as true, and the court shall proceed to judgment, admitting counsel to argue only points of law. The consequences of a contempt of court being thus known, every innocent man will cheerfully attend a summons; but if a contrary course is pursued, the dread of impeachment will be greatly lessened, and it will grow into disrepute.

The gentleman from Virginia had endeavored to do away the common-law principle, by supposing the preference of the party as only necessary to insure an execution of judgment. Mr. S. presumed this was not the reason. He would mention some circumstances to show that it was not. In common law, where a man is charged with a crime, he alone is concious of the crime, and he ought, therefore, to be present. The court should at all times see him, that they may know that they are not trying a man who may not be in existence. In the case of a person standing mute upon his trial, he is called upon to answer; and if he refuses, he would ask whether any court could proceed to judgment or trial? They could not. Yet he is as liable to the penalties of the law as if he plead; but because he does not plead, no trial can take place.

Mr. S. concluded, by saying he hoped the subject would be coolly considered—that he had no particular reference in what he had said to the present case, but he had an eye to all future similar cases.

Mr. OTIS said, the respect which he entertained for the members of the committee of managers led him to express an opinion different from theirs with some degree of diffidence; but, from the short view which he had taken of the subject, he believed the managers had propounded a question which it is not proper for this House to decide; for, said he, being prosecutors for public justice, it is our duty to present ourselves before the Senate, and there to insist upon our prosecution. If our cause should be overruled, we must submit; but it is not for us to start difficulties.

Mr. O. said he did not know what had been the rule observed in similar cases in England; he had not had leisure to examine; nor did he think we ought to be bound by British precedents in a case of this kind. It is, said he, a new case, and he saw no difficulty in determining to prosecute this man to conviction, and in obtaining for him the punishment which he deserves. There is some analogy between this process and a process (well known in common law) against a man's property, distinct from his person. Every one knows that such a prosecution is a prosecution of forfeiture. For instance, we libel a vessel, and notice is given to all the parties to defend. If they do not appear, judgment and execution are obtained. The present process is against the office of William Blount; it has nothing to do with his person; he is afterwards liable to a prosecution at common law for any crime which he may have committed. And is it for us to start difficulties on the threshold of the business, and, in arguing thus, take the same side, perhaps, with the defendant's counsel, when they come before the Senate? Public opinion, said Mr. O., requires that this man should be removed from office, and rendered incapable of holding any place under the Government in future; but if the course proposed by the managers is taken, he may be elected to office again, before judgment can be obtained against him.

It had been said, by his colleague, that a law ought to be passed on the subject; but, if this was done, a question might arise whether it was not retrospective as to the present case; and he saw no necessity for providing for any future case. It is our duty, said he, to be ready to appear before the Senate, and insist upon a trial. If, indeed, on hearing counsel, the Senate shall determine they cannot proceed to judgment without the personal appearance of the accused, we must submit; but I see no propriety in our taking that side of the question.

Mr. DANA said the Senate had doubtless a right to summon the party accused to attend before them. They have a right to issue process for the attendance of witnesses; and if the party chooses to appear, he has a right to require process for his witnesses, and they may be excused from all other service; but when the party accused does not choose to appear, shall he be compelled to appear? For what purpose shall he be compelled to appear? Whether an offence is committed against the public, or a man is guilty of a civil injury, it is easy to decide what is the legal inference arising from the truth of the fact. It would be idle in courts of justice to proceed in trials where judgment cannot be effectual; and, therefore, in criminal prosecutions the security of the person is necessary, and is always enforced. Let gentlemen who say that a person, in a case like the present, should be required to appear, answer, if a sentence can neither affect a man's person nor his property, why he should appear in person? If a man were liable to be punished with imprisonment, fine, or ransom, his person ought to be secured; and it is because courts will have security, that in such cases persons are either imprisoned

or held by efficient bail; and when bail is refused, it is where it does not afford a sufficient security. Is any such security required in this case, asked Mr. D.? There is not. The process would be a rare one, if the party were required to appear. It would be to say, that the moment the person accused, and in custody, is found guilty, that moment he shall be at liberty; but in all the previous stages of the prosecution, he shall be a close prisoner. If such a man wished, therefore, for his liberty, he must wish to be found guilty as soon as possible. Is it possible, then, said Mr. D., that this could be a proper course to be pursued? that it can be right to bring a man thus charged before the court, that he may be found guilty, in order that he may afterwards smile at the impotency of its vengeance? The Constitution, continued Mr. D., has proceeded on a different principle. The process in cases of impeachment, in this country, is distinct from either civil or criminal—it is a political process, having in view the preservation of the Government of the Union. Impeachments under the British Government are wholly different from impeachments carried on under this Government. The Constitution proceeds on the high authority of public opinion and of the high value of reputation to every man who is a candidate for public office, and that the declaration of public reprobation, expressed by the Constitutional organ, is one of the severest punishments. It considers that the punishment of fine and imprisonment may be endured, but that public abhorrence is not to be borne.

The punishment in this case, therefore, is wholly a declaration of public opinion, not only that the person receiving it has proved himself unworthy of his present office, but that there is such a baseness attached to his character as to render him unfit for any office in future. Taking the matter up in this view, the propriety of not considering the offence as criminal will clearly appear. Were the offence to be considered as a crime, merely, the judgment of the court should involve the whole punishment; whereas, it has no connexion with punishment or crime, as, whether a person tried under an impeachment be found guilty or acquitted, he is still liable to a prosecution at common law. This process, therefore, is perfectly *sui generis*—equally unknown to the British Government or to this country.

Upon this view of the subject, Mr. D. said his opinion was, that the House ought to instruct the managers, but in a way directly opposite to that proposed by the resolution under consideration.

Mr. HARPER allowed it would be very difficult to answer the challenge thrown out by the gentleman from Connecticut, to produce an instance in which a man, tried for an offence, the punishment for which does not extend to his person or property, is required to appear in person; for, before the present Constitution, no such case existed; and, at present, there is none such but what is contained in the Constitution. But every punishment under the common law affects either a man's person or property, as they are the only punishments to be had. Admitting, therefore, that no such case can be found, neither in this country nor in that from which we have drawn the principles of our jurisprudence, where no punishment like the one contemplated in our Constitution was ever imagined, the argument has no weight. Mr. H. denied the principle upon which this personal appearance is required. It had been the practice, from the earliest records of our jurisprudence to the present time, that a man shall never be tried in his absence for a criminal offence. Gentlemen say the reason of this is, that he may be ready to receive judgment. If so, it would be foolish, because the court might direct the person of a criminal to be brought before them to receive sentence, as well as they could do it before his trial. What, then, said he, is the reason? Ask the great sages of the English law, and they will give an answer very different from his learned friends. They will say that it is because a man ought always to be face to face with his judges and accusers; that no witness ought to be heard against a man, or his life or property put in jeopardy, without his personal presence; and so sacred is the principle held, that a man is not permitted to depart from it. This is not a solitary instance in which personal convenience is sacrificed to natural convenience; this is frequently the case, in order to make sure the barriers which protect individual security. It is in this respect that our jurisprudence is chiefly distinguished from the inquisitorial proceedings of former times, where a man might be found guilty of the highest crimes without knowing who were his accusers, witnesses, or judges. It is by this sacred maxim that no man can be put in jeopardy without being confronted by his accusers. And shall we, said he, depart from this principle? Why shall we do this? Because the judgment to be awarded in this case does not extend to person or property? Is the judgment less than if it affected person or property? Gentlemen will not say so. They will say that a man's reputation is the dearest possession which he can enjoy; and certain he was, that gentlemen who are opposed in opinion to him on this subject would sooner be deprived of their property or personal liberty than lose their fame and reputation. It was, in his opinion, the highest punishment that could be inflicted upon a man of worth. An abandoned profligate, indeed, who holds reputation for nothing, and who conceives he is free if he has the liberty of roaming at large, will not thus consider this punishment; but a virtuous citizen will consider it in the light in which he had presented it, as it places an indelible mark of infamy upon a man, which separates him from the rest of his fellow-citizens, and places an insurmountable barrier between him and all that is fair in character. Yet, gentlemen say this is not a criminal proceeding! Yet, surely, if the punishment is greater for this offence than it is for any other, the proceeding must be considered as criminal.

Mr. H. said, it might be very convenient for a man to stay away from the court which tries him. He could conceive instances in which it would be convenient for a man to pay a fine which should be imposed upon him, rather than appear in court.

But may it not be conceived that cases may arise in which it would be the greatest hardship to try a man in his absence? And yet, said Mr. H., if this barrier is once broken down, how shall we be able to say, "Thus far shall the departure go, and no farther." We cannot. The greatest abuses may arise from it.

In this instance, we are told, the process was first left with the wife of Mr. Blount. Suppose the thing had ended here, could we have said the man had had actual notice? He would have had legal notice, but it could not have been said that he had received actual notice; but, notwithstanding, the trial might have been proceeded with. In this instance, it is true, that the accused had personal notice, but the messenger might have returned after he had left the process at his house, so that a man might be tried without knowing of his trial; and the step from this proceeding to that, would not be so great as this is from the established practice of our courts. It is an old adage, said Mr. H., that first steps are most difficult. If this is taken, the succeeding ones would readily follow, which would render our proceedings, in such cases, the most inquisitorial and tyrannical. I hope, therefore, said Mr. H., the House will adhere to the landmarks of our ancestors, and not, by this new-fangled doctrine, set up our own wavering, deceitful reasonings, in their stead, throwing down the strong barriers which have been set up around the safety of individuals, and the administration of strict justice. It is right, continued he, to adhere to the maxims of experience, though we may not always see the reason upon which they are founded; as counsel argue in court against a precedent, on the ground that the reason of the thing has ceased to exist; the court invariably say, "no, we do not know this, nor the consequence of departing from established precedent; we choose to walk in the paths of experience, which we know to be safe, and not in new courses, which, for aught we know, may lead to destruction." If, said he, we depart from the maxims of experience, we subject ourselves to the dominion of our passions—to revenge on one side, or to favoritism on the other, and our reasonings will lead us this way or that, according to our enmity or affection towards the party accused. It is true, on one day the decision may be in our favor, but it may be against us on the next; and though our favorite be screened to-day, he may to-morrow, when the popular opinion, which is ever varying, shall have changed, be overwhelmed, by this departure from established principle.

Let us not said he, be governed by these new maxims which have overspread and created so much mischief in some parts of the world. It had been the same kind of disregard for experience, and contempt for old establishments, which had produced so much confusion and misery, which we wish to keep from our country. He hoped the most minute part of this mischief would not be suffered to enter in among us.

The gentleman from Virginia had spoken of the dignity of this proceeding, as if the report had thus spoken. It, indeed, spoke of the solemnity of the proceeding, but said nothing about its dignity.

He should say nothing in reply to the gentleman from Connecticut, except that wit had little alliance with sense; it is pretty enough, and may serve to amuse us, but never serves to enlighten the subject on which it is used. If a man, who is liable to a penalty of ten pounds, cannot be tried, cannot plead, except in person, how much more is this necessary, in a case where all the people of the United States are prosecutors, where the Senate are the judges, and when a Senator, a person of the third rank in our Government, is the party accused? In such a case, the greatest possible solemnity ought to be observed. Ought the public to be suffered to see the foolish spectacle of the House of Representatives going up to the Senate from day to day, to try a man who is laughing at them in the State of Tennessee, or the District of Maine? This sort of ridicule ought not to be thrown upon this trial. Does not every one know that one part of the solemnity of such a trial consists in the personal presence of the accused; try him in his absence and you take off three-fourths of its solemnity from the mind of the public. And it was certainly the great design of this trial, to produce a strong effect upon the public mind by making an example of the person accused, by a public trial and degradation; and he believed it would be rendered infinitely less so, if the personal appearance of Mr. Blount be dispensed with. He hoped, therefore, the House would reflect before they adopt an opinion which would go to the entire demolition of the most valuable of our privileges, the sacred barrier of our persons and property against the encroachments of power, and the best means of preventing future malversations of office.

Mr. OTIS said, the gentleman from South Carolina had, with his usual eloquence, entertained the House; but, however ably he might have discussed one of the points in dispute, he had altogether eluded the other. Admitting, for the sake of argument, all that he insists on true, yet another important point remains, viz: whether it be incumbent on this House to decide the question, or leave it to the decision of the Senate; and upon this his friend had not thought proper to bestow a single word. If it were desirable to avoid the influence of passion on this question, it would be expedient to avoid the question altogether, and leave it to the decision of those who may be supposed to be less under its influence. And if this question came to be tried before the Senate, he had not a doubt, though his friend from South Carolina thought it his duty to advocate the necessity of the personal appearance of Mr. Blount, the same sense of duty would then induce him to take the contrary side of the question.

The gentleman from South Carolina had said, that the fame and reputation of an individual is more dear to him than his liberty or his life, from which he infers that the common law having so scrupulously guarded individuals from trial in their absence, in this case, also, trial ought not to be had in the absence of Mr. Blount. However

dear fame and reputation may be to the gentleman from South Carolina, and he knew they were very dear to him, the law does not consider the matter in the same light. The loss of reputation is not looked upon, in the eye of the law, in the same view with the loss of life or of limb, nor provided with the same severity of punishment. In England, if a man does not appear, a process of outlawry and fine is issued. In former times, it was lawful for any man to kill persons of this description. Modern times have humanely done away the latter provision; but the outlawry and fine is yet in existence.

When a man is indicted, the object of the law is to rescue society from the pernicious effects of his crime, in the way which common law points out. Persons are not to be tried in their absence, as a trial in their absence would be injurious to them, considering that they are generally poor persons, and unable to fee counsel in their absence, and that, therefore, the hand of power might gripe and destroy them. But impeachments are prosecuted in order to purify the National Councils, and to prevent them from being contaminated in future by the re-election of men of infamous character. But if the mode now proposed be taken, the provision might be eluded, by the re-election of the accused person, before judgment could be obtained against him. The gentleman from South Carolina says, that if Mr. Blount does not appear, the effect intended to be produced upon the public mind will be lost; but if he should be again elected to office by the proposed delay, what will be the effect produced on the minds of the people, and upon his judges? Let us not suffer this State criminal, or any other, to escape from any needless attention to form; let us present ourselves before the Senate as the prosecutors, and leave them to decide a question which properly belongs to them.

Mr. Gordon said, it seems to have been the principal idea of gentlemen, by their observations, to direct what mode the Senate should pursue in the trial, and not what previous steps should be taken toward proceeding with the trial. It is to direct the managers whether they should take further steps on the trial. It cannot be certain that, when we make the application, the Senate will see proper to proceed agreeably to our request. The situation of the case stands thus: The people of the United States, by their Constitutional organs, accuse Mr. Blount of certain crimes; they have requested that certain steps should be taken in order to bring him to answer; the Senate have complied with the request, and have notified the person, of which they have informed this House, and that he has failed to make his appearance. What is the next step to be taken? Is it not right that this House, as prosecutor, should come forward and take further steps to procure his appearance, in order that the man should appear and process be had? When this process is followed, what is the next proceeding? In an application to common law, if a person is duly summoned and he does not appear to answer the indictment, does the court proceed with the trial? I presume not. I see a peculiar propriety in this House instructing their managers to go forward as prosecutors, and that they appeal to the Senate to compel appearance on the part of the respondent; to go forward and direct that body in what manner to proceed; it is the duty of this House so to do by their resolution. This case is somewhat analogous to a criminal prosecution; and, if it is so considered, then there can be no doubt on the step to be taken; in that case the personal appearance cannot be dispensed with. But it is denied that it is so; if so, consequently, we must pursue a different course. But, what is a criminal prosecution? It is a charge exhibited by the Government against a person for violating the peace, welfare, and dignity of the community; all laws are made for securing that peace, welfare, and dignity to the community, and the offender is tried by them. Now, is not this a charge of that nature? The charge is for high crimes and misdemeanors, and the Senate as the judges are to judge on the degree of crime and punishment in the case. Here is every part which constitutes a criminal trial. The accused, the accusers, and the court—and all competent. We, therefore, maintain this position, that it must be taken entirely in the view of a civil process.

It is said, that because the judgment does not act *in personam*, because it does not punish the man, it is not a criminal process; now, admitting the idea that no other judgment should be rendered that should affect the estate of the person but a disqualification from office, would it not be a punishment to be removed from office, and disqualified from holding any? If this was the only punishment for any offence, according to that doctrine, there would be no criminal code in the United States. It is well known that a person holding an office, during good behaviour, has a freehold in it; it is a freehold estate. Should it, then, be said that a forfeiture of this is not a punishment? It certainly is.

Several objections have been made to the report, and most of them resolves itself in this, that it involves inconveniences. It has been also said that, if this mode is pursued in the impeachment, its object would be entirely frustrated, and no judgment could be given on it. These objections, he thought, were made without due consideration. If the present law was insufficient to compel a personal appearance, it did not follow from that, that no law could be made, adequate to the purpose. When the Judiciary law was passed, if it had not provided marshals, &c., for executing it, there might have been the same argument used; but no man would argue, for instance, if a person was tried for his life and convicted, and there had been no law to execute sentence, that the court had not power to order some person to carry that sentence into execution; the same would apply to the present case. The deficiency could be made up by a law, which would answer the end. It had been said that it was not necessary, in civil law, for a person to appear; but the case was different. The process in civil law was only against property, and not against the person; but there

was no analogy in the cases, as this did not affect the property, but the individual. It had been said that, in criminal law, bail was not admitted, but in this case bail had been. It is true, that bail is allowed in misdemeanors, but it is only for appearance, and the court cannot proceed to judgment without the person is present. The law considers that, in that case, bail is sufficient to oblige him to respond to the judgment the court may eventually enter, but, if the party is not there, they do not pronounce judgment; they resort to his bail to get satisfaction.

But the gentleman from Connecticut has told us that the Constitution of the United States proceeds from a different principle than any law; that this respects disqualification from office, which is the highest punishment that can be inflicted; and yet, he says, an offence that shall merit the highest punishment that can be, is not criminal, but only civil. What strange doctrine is this! Criminal law, he says, is to rescue a community from the pernicious effects of a man's crimes. And, is not this to rescue the United States from the pernicious effects of such crimes as are charged in the case? It has a great similarity with assault and battery, and yet it must not be termed criminal.

Again: we are told that if we do not proceed immediately, if we delay the matter agreeably to the resolution, the person may be eventually discharged. Let us not be so much for the severity of justice as to do away the principle of the law. Such a doctrine as this would lead to this inference, and it may as well be said in the case of a man imprisoned under a charge of murder, this man may elude the law, it may be dangerous to wait for a trial, let us hang him at once. It will be most advisable to go on in the regular way, and if, in the event, it should die away, we should avoid what is, in my mind, much worse, and be at least right in the view of jurisprudence. Upon these ideas, he thought there was sufficient ground for the present application, and particularly if the case can be considered in the view of criminal.

Sir, as the process now seems going on, I will suppose the case of a person appearing by his attorney. It is a principle regularly established by courts of law, that a confession regularly made by an attorney, in his absence, should bind him to all intents and purposes the same as though made by himself; and, where answer is made, it does not include him in that suit, but in any other to which they may relate. Now, let me suppose that there was an individual arraigned before the bar of the Senate for high treason; that this individual wished to appear by his attorney, and is heard by attorney, (which I shall take for granted;) the attorney comes in and confesses that he is guilty of the crime. I ask, whether the confession would not be taken as conclusive evidence? On the principle of common law it would be, if I know anything of the operation of confession. If this is the consequence of confession by attorney, it must strike a person with abhorrence! That the life of a person should be trusted to an attorney: Who shall say whether a person arraigned for so high a crime is guilty or not?

Again: suppose an attorney should undertake, whether he is authorized or not, to appear and plead in the absence of a person indicted, (and such a thing is possible,) he undertakes to personate him, and pleads for him, as he is entitled to do; may not such a one have an evil design in that case? It is possible. If, therefore, such a thing was to be done in the present case, can there be compensation for a judgment which would render this person infamous in the eyes of his fellow-citizens, and remove him from office as well as disqualify him in future? There cannot possibly.

I might go on to point out a great variety of inconveniences more, which might attend this neglect, but shall submit those I have mentioned. I do not conceive that great inconveniences can arise from the measure, as a law can be made to secure its effects, and remedy evils which may otherwise be apprehended. That if, after he is informed of its contents, he does not appear, it shall be taken for granted the facts are true, and judgment be had accordingly.

But the Constitution of the United States speaks of a judgment which shall be rendered in case of conviction, and further adverts to common law, but it does not define what other judgment shall be rendered after the impeachment is closed. The Senate have their limits prescribed, beyond which they cannot go, although they may come short; they may only pass censure upon a person impeached, but the judgment may be removable. Upon the whole, he did not think it would be consistent with the dignity the Legislature ought to observe in the trial of a citizen, if the personal appearance was dispensed with, and therefore he hoped the resolution would be concurred in.

Mr. Edmond said that, upon reading the resolution, it appeared to him to import that the prosecution could not proceed unless the Senate compelled the man to make his personal appearance. It is my opinion that the prosecution might go on whether he is brought into court or not. I do not pretend to say what has been the jurisprudence of Great Britain, because it appears to me that very little analogy can exist between a trial before the Senate, and an impeachment in England. In order to discover its powers, we ought to inquire how this court is constituted, and then what are the crimes or offences that may be brought before this court, and then what is the mode of procedure in this court, and see, for it is laid down in the Constitution, a direction which is obligatory on us. The Constitution says, that the Senate shall have the sole power to try all impeachments, and they should be on oath before they be constituted into that court, &c. [Here he read the direction in the Constitution.] The court is to be the Senate; they are on oath; the penalty is, removal from office; at the same time it takes care to point out that this court shall not extend to affect any criminal procedure that may be had against the party for the same offence; it has carefully drawn a line here. It goes on to point out the objects that can be brought before

this court—the President, Vice President, and civil officers; the crimes are, for treason, bribery, and other high crimes and misdemeanors. The mode of trial appears at the first blush to be different from all other courts, as no jury can here be allowed, but it shall have no relation to any criminal prosecution on the same subject. If, as the gentleman from South Carolina declares, this amounts to a criminal case, what would be the consequence? It must be determined a criminal case, or it must not; if so, it has attached to it all the rules relevant to a criminal court. If I agree with the gentleman, what will be the result? It will be that a second prosecution in common law is permitted by the Constitution; in all other cases a man shall not be put in jeopardy twice for the same crime; but it appears clear that the offences to come before this court are different from offences in common law, and the mode different; it takes away the privilege of a trial by jury, because it is a political crime, and his political privileges are taken away by disqualification, &c. And, as in case of a trial for high treason, the privilege of a jury is taken away, the Constitution wisely ordains that two witnesses shall be necessary in such overt acts. In that case would depositions be admitted? Would not they compel the accused to look the accuser in the face?

But, sir, a difficulty may occur agreeably to the construction of the gentleman, which would not easily be surmounted; suppose the President, or Vice President, or one of our Judges, should be guilty of treason, and, in such a case, no doubt he would fly; suppose he goes to another country; he is still your President; if then you cannot proceed to try him in his absence, we are in the disagreeable situation of having our President in another country, and guilty of treason, and he cannot be brought to trial? Is this fact, that a want of power in our Government shall screen the guilty from punishment? It is true, we ought to give every privilege the nature of the case will admit, to a person impeached, but not such as will defeat the law. Was this to be law, the case would be, that so long as he could keep himself from being taken, he would be safe; but, from the impropriety and attendant difficulties of the motion, I hope it will not pass.

Mr. Sewall said, the gentleman last up endeavored to get rid of the difficulty by stating the nature of the court by which the impeachment was to be tried; that it arose from the Constitution; that its powers were defined, or limited. He appeared to conceive that this court is above all law and rule of proceeding that can arise in the community; that there is no law by which the court is to regulate its proceedings, and they, having the sole power to try, have no rule, but their own opinion, to say whether the party is before them or not. If they really are so exalted a body, I shall not be sorry if this impeachment fail, but I shall if any other ever does occur. For, if the judgment of this court can go to the destruction of fame and character, it will be in a dangerous situation; this seems to be the bent of the gentleman's argument; but, on the other hand, we contend with submission, that this difficulty is carefully avoided, and this court as carefully established on the proceeding of common law, and that it ought to be guided in conformity to that rule as established in the United States. If they do not conform to the common law, it is an injury to the party accused, because I do not know any way by which their judgment can be set aside. It is for this reason that the managers wish for instruction from the House; if the House should think fit to agree with the motion, it will so far meet their wishes. I feel very anxious that the responsibility of proceeding should not rest upon the managers. It appears now that the Senate have instituted rules for the proceeding with the trial, which, in my opinion, are contrary to common law. We find they have established it according to the rule of their court, that not the person himself should answer, but the person who comes as his counsel should say whether he is or is not guilty. Is there any court of law the same in this respect? What may be the conduct of his counsel we do not know.

My colleague (Mr. Otis) has been very anxious to prove that we have been trying before a wrong court; he says we ought to wait the objections on his part by his counsel. That gentleman ought to know that the court is bound to say that it proceeds according to courts of law. What may be the consequence of dispensing with his presence? The counsel for William Blount, being learned men in the law, may take advantage of every proceeding of this kind; they appear in court for William Blount; they conceive he is not guilty; but if, contrary to their expectations, facts should be proved to fix his guilt, they then come forward and say, our client is not here in person, he not being here in person, your honors say he is guilty, we move an arrest of judgment; we forbid any judgment being entered, as, agreeably to our law, he must be present. But the position may come forward, that he was not tried in the common way; were I one of that counsel, I should declare that judgment and conviction so obtained was contrary to the common law, and, therefore, I should be for avoiding it by any action that I could; I should conduct myself exactly as I would in a case of common law.

I would observe again, that this House ought not to consider themselves as prosecutors, by the rule of law, or without the rule of law. We come forward for the whole community; why, then, should we attempt to obtain judgment in any other way than we would if it was before any other law body instead of the Senate? If the Senate are to act contrary to every other court, then the gentlemen are right in their opinion, but they cannot.

The gentleman has supposed that impeachment and criminal law are subject to distinction, because the Constitution has provided that, notwithstanding the impeachment, a trial at common law may be had; he, therefore, supposes that if this is criminal the other is unnecessary. I understand, then, that this being a criminal proceeding, should not be a bar to other proceedings, because the

powers of this court are limited. But the Senate ought to govern themselves by the rules and general principles of law entirely in this impeachment; they have not the power to change the law in this respect, nor to depart from the law. But if they see occasion, with the consent of this House and the President, a law might be made suitable to this case.

Mr. Nicholas and Mr. Dana opposing this mode of getting rid of the question, and wishing for the sense of the House to be taken upon it, Mr. O. withdrew his motion.

The yeas and nays were called upon it.

After Mr. Dana had read the case of Robert Tresylliam and others, tried before the British House of Lords in the year 1388, in support of his opinion, and Mr. Gordon declared that this case had since that time been highly censured by the English law writers, the yeas and nays were taken on the report, and negatived—69 to 11, as follows:

Yeas—John Dennis, Thomas Evans, Chauncey Goodrich, William Gordon, Robert Goodloe Harper, James H. Imlay, William Matthews, Thomas Pinckney, John Reed, Samuel Sewall, and George Thatcher,

Nays—George Baer, jr, Abraham Baldwin, David Bard, Bailey Bartlett, Jonathan Bruce, David Brooks, Robert Brown, Stephen Bullock, Christopher G. Champlin, John Chapman, William Charles Cole Claiborne, John Clopton, William Craik, Samuel W. Dana, John Dawson, George Dent, William Edmond, Joseph Eggleston, Lucas Elmendorf, William Findley, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, Henry Glen, Andrew Gregg, Roger Griswold, John A. Hanna, Carter B Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, Walter Jones, Samuel Lyman, James Machir, Nathaniel Macon, Blair McClenachan, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Isaac Parker, Josiah Parker, John Rutledge, jr., James Schureman, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, William Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, Richard Stanford, Richard Thomas, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, Robert Waln, and John Williams.

The report having been negatived,

Mr. Sewall wished, before the House rose, that they would agree to some positive instructions to the managers of the impeachment, as he was unwilling that a precedent of the kind which the House seem inclined to establish, should lie upon the managers, and he did not think it sufficient for the House to have negatived the report which had been made to them. He wished to have an affirmative vote on the part of the House, as the foundation of their proceedings. He could have wished that the motion had come from another quarter; but as it had not, he would himself move a resolution to the following effect:

"*Resolved*, That the managers appointed on the part of this House for conducting the impeachment against William Blount, proceed in the prosecution of the said impeachment, although William Blount should not appear in person to answer to the same."

Mr. Venable did not know whether there was any propriety or necessity for such a resolution; but if it were to be passed, he hoped it would be amended, by adding to it, "provided the Senate shall think proper to proceed with the same," as it appeared to him a question most proper to be determined by the Senate, except a law were passed on the subject.

Mr. Sewall had no objection to the alteration.

Mr. Hartley hoped this resolution would not be passed. He saw no necessity for it, as the Senate had a right to act as they saw proper without the interference of this House.

Mr. Gallatin called for the reading of the message received from the Senate on Tuesday last. From which, he said, it appeared, that the only fact before the House is, that William Blount had not appeared at the bar of the Senate, in pursuance of the summons which had been served upon him; and the resolution now proposed, if agreed to, would express an opinion that the trial must be proceeded with, though Mr. Blount neither appear by himself or counsel. Mr. G. said, though he had readily voted against the resolution which proposed a delay of the trial until Mr. Blount appear in person, he was not willing to say the trial shall go on at all events. It would be establishing a dangerous precedent. He supposed the managers were already in full possession of the opinion of the House, without any farther resolution on the subject.

Mr. Sewall did not think the resolution he had proposed was liable to the objection made to it, as it applies to no other case than the present; nor does it contemplate a proceeding in the trials, except counsel appeared in behalf of Mr. Blount. He hoped, therefore, it would be agreed to.

Mr. Craik said, the House was called upon to vote upon a question—all the facts relating to which are not regularly before them, though they may have heard them incidentally. He thought it improper not to give any instructions at all, but leave the Senate to proceed as they think proper, without establishing any precedent.

Mr. Pinckney said, if the resolution does not contain all the facts which are necessary, he hoped gentlemen would amend it so as to be satisfactory, that the managers might receive instructions from the House how to proceed; for he could not concur in the opinion which had been expressed that the whole of the proceedings in this business should be left to the Senate; for, in thus giving up their opinions, the House might surrender in an indirect manner the most valuable privileges of the citizens of the United States, if at any time a Senate shall be found inclined to abuse their powers. The managers on the part of this House, Mr. P. said, would be placed in a peculiarly hard situation, if the House should refuse to instruct them on this subject, as the whole responsibility of the business would lie upon them, and they may hereafter be accused of giving up the best interests of the citizens of the United States, though their intentions are different. Who, said Mr. P.,

are the managers of this impeachment? Are they not the organs of this House; and for the House to refuse them instructions is as unreasonable as if an individual should refuse to make use of his head to direct his hands what to do. It is, said he, the duty of the managers to apply to the House for instructions, and it is equally the duty of the House to give them. He hoped, therefore, the resolution would be agreed to.

Mr. Otis thought it would be proper to strike out of the resolution all after the word "impeachment," if it was passed at all; but he thought it wholly unnecessary, as the House had authorized the managers to ask for a further day to proceed with the business, and that having been assigned, they might doubtless attend to it without further instructions.

Mr. Nicholas saw no necessity for a motion like the present; but, if the managers wished it he should have no objection to vote for a resolution directing them to proceed in the business. As to the Senate being sovereign judges, and that if they were so disposed, might abuse their trust—if they were not to proceed on the business in a manner which was likely to do justice, the House would certainly have no hesitation in withdrawing the prosecution.

Mr. Harper fully subscribed to the doctrine of the gentleman from Virginia with respect to their power of withdrawing the prosecution; but he considered the managers merely as the counsel of the House; they have declared an opinion, which they declined acting upon until they received the direction of the House. The House has done nothing more than say they will not give this direction. It is true the managers might infer from this what is the opinion of the House; but it is possible that in coming to this resolution, the House might have thought the managers so very wise as not to need any instructions. And, indeed, if no instructions are given them, he saw nothing to prevent the managers from pursuing the course which they proposed by their report. He should himself be for taking this course. He believed, however, it was the duty of the House to come to an express declaration of opinion on this subject; and it was not only their duty, but it would also be doing an act of favor to the managers, to which he thought them entitled.

After a few other observations, the question was put on this resolution, and negatived—37 to 46.

Monday, December 24.

Several other members, to wit: from Massachusetts, Tompson J. Skinner; from Virginia, Matthew Clay; from Kentucky, Thomas T. Davis; and from North Carolina, William Barry Grove and Robert Williams; appeared and took their seats in the House.

The Speaker laid before the House a letter from the Secretary of the Treasury, enclosing a statement of the expenses of Government for the present year, and also of what revenue will be requisite for the ensuing year. Referred to the Committee of Ways and Means.

UNIFORM MILITIA.

Mr. W. Claiborne said that there was a subject before the House at the last session, which was not finished, and which he thought it expedient to bring again before the House. He alluded to the bill proposing a new regulation of the militia system. It was his opinion that the common defence of our country ought to rest upon the militia, and he thought their present derangement a national misfortune, which ought to be removed as soon as possible. He therefore moved for the appointment of a committee to report whether any, and, if any, what, amendments are, in their opinion, necessary in the act for establishing a uniform militia throughout the United States, and that they be authorized to report by bill or otherwise. Agreed to.

POST OFFICE LAW.

Mr. Craik moved for the appointment of a committee to consider whether any and what alterations are necessary in the act respecting Post Offices and Post Roads.

Mr. Thatcher thought it would be well to wait for the report of the Postmaster General on this subject, which might be expected in a few days, as he had been directed at the last session to make a report early in the present session, and all the petitions on this subject had been referred to him.

Mr. Craik thought the House had better appoint a committee, and when the report of the Postmaster General came in, it might be referred to this committee. Agreed to, and a committee of five appointed.

Mr. Baldwin said, as a report was made during the last session, on a representation and remonstrance of the Legislature of the State of Georgia, which was not then acted upon, he moved to have it referred to a Committee of the Whole. Agreed to.

Mr. Otis proposed, as the managers of the impeachment against William Blount would have to attend to their duty in the Senate, at 12 o'clock, that the House adjourn, and that, to-morrow being Christmas day, they adjourn till Wednesday. Agreed to, and the House adjourned.

Wednesday, December 26.

Two other members, to wit: Nathaniel Freeman, Jr., from Massachusetts, and James A. Bayard, from Delaware, appeared and took their seats in the House.

The Speaker laid before the House a report from the Secretary of the Navy, in conformity to a resolution proposed by Mr. J. Parker, on the 18th instant, which was ordered to be printed.

USURPATION OF EXECUTIVE AUTHORITY.

Mr. Griswold said he wished to lay a resolution upon the table, relative to a subject which, in his opinion, deserves consideration. Its object is to punish a crime which goes to the destruction of the Executive power of the Government. He

meant that description of crime which arises from an interference of individual citizens in the negotiations of our Executive with foreign Governments. As every gentleman must be satisfied of the importance of this object, and the propriety of making some provision with respect to it, he trusted it would meet with no opposition. The resolution was in the following words:

"*Resolved*, That a committee be appointed to inquire into the expediency of amending the act entitled 'An act in addition to the act for the punishment of certain crimes against the United States,' so far as to extend the penalties of the said act, and other penalties, if need be, to all persons, citizens of the United States, who shall usurp the Executive authority of this Government, by commencing or carrying on any correspondence with the Governments of any foreign Prince or State, relating to controversies or disputes which do or shall exist between such Prince or State and the United States."

Ordered to lie on the table.

UNIFORM BANKRUPTCY.

The House then resolved itself into a Committee of the Whole on the bill providing a uniform system of bankruptcy throughout the United States, which, after making some amendments in several of the sections, with scarcely any debate, was wholly gone through by sections; after which,

Mr. Otis moved to strike out of the tenth section, which provides that in case of a *bona fide* purchase, made from a bankrupt, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed, such purchase shall not be invalidated or impeached, the following words, viz:

"Unless a major part, in value, of the creditors, at a meeting to be held upon due notice, shall agree to refund or return to such purchaser the sum of money or other consideration, which he shall make appear that he paid or gave upon such purchase; and, in such case, upon the refunding or tendering such consideration, the assignees shall be entitled to the property sold as aforesaid, for the use of the creditors:"

And to insert, in their place, the following amendments:

"*Provided always*, That no purchase made *bona fide*, from such bankrupt, of any personal estate, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed or intended, shall be invalidated or impeached after the purchaser shall have *bona fide* sold and alienated the same without such knowledge, information, or notice, nor unless the assignees shall, within —— months after the allowance of the commission, agree to refund or return to the purchaser the sum of money or other consideration, which he shall make it appear that he paid or gave for such purchase; and, in such case, upon the refunding or tendering such consideration, or so much thereof as shall be equivalent to that part of such purchase as remained in the possession of such purchaser at the time of such knowledge, information, or notice, the assignees shall be entitled to the estate purchased as aforesaid from the said bankrupt, or to such remainder thereof, for the use of the creditors.

"*Provided also*, That in case the assignee or assignees of any bankrupt, shall enter upon and claim any lands or tenements, or any interest in lands or tenements, which shall be *bona fide* purchased of such bankrupt, for a valuable consideration, by any person or persons, not akin to such bankrupt or to his wife, after an act of bankruptcy committed, without any notice, information, or knowledge, of any act of bankruptcy committed or intended, it shall be lawful for the purchaser, or for the person or persons, claiming such lands or tenements from, by, or under such bankrupt, to file a bill in equity against the assignee or assignees, in the office of the clerk of the Circuit Court for the district in which such land or tenements lie, and upon his making it appear to the satisfaction of said court that he has paid a valuable consideration for such lands or tenements, or erected or made any buildings or improvements thereon prior to any notice, knowledge, or information, of any act of bankruptcy committed or intended, the said court shall ascertain the amount of the sums thus *bona fide* paid by such purchaser or claimant, which shall be refunded by the assignee or assignees, within —— such time as the said court shall order, or otherwise the title of such purchaser or claimant shall not afterwards be invalidated or impeached."

After submitting these amendments, Mr. O. moved for the committee to rise, in order o give time for them to be considered and printed. The motion was carried, and the House rose accordingly.

FRENCH DEBTS.

Mr. Waln presented a petition from a number of merchants and traders of Philadelphia, complaining that by the act prohibiting our intercourse with France, and her dependencies, they are prevented from taking measures to recover large debts which are due to them from those countries, and praying for such alterations to be made therein as shall afford them relief.

Mr. Sewall moved that this petition be referred to the committee appointed to consider that part of the President's Speech which relates to the extending and invigorating measures for the defence of the country.

Mr. Gallatin thought the Committee of Commerce would be a more proper reference.

Mr. Otis said, the committee appointed on the subject of defence, had already had this law under consideration, conceiving it to come within the province of their appointment. If it did not, he wished the House would so determine. This law will certainly require amending during the present session. He had conceived it to be one of the best measures of defence adopted at the last session, and when extended and modified, he believed it would prove one of the best measures of defence which could be entered into at the present session.

The question for a reference to the Committee of Commerce (being a standing committee) had the preference; but this motion having been negatived—46 to 31, the other was put and carried.

IMPEACHMENT OF WILLIAM BLOUNT.

A message was received from the Senate, informing the House that the High Court of Impeachment sat on Monday on the trial of William Blount, and that his Counsel had filed their plea,

which was now communicated by the Secretary of the Senate to this House. The plea is in the following words:

"United States vs. William Blount.

"Upon Impeachment of the House of Representatives of the United States, of high crimes and misdemeanors.

"In Senate of the United States, *Dec.* 24, 1798.

"The aforesaid William Blount, saving and reserving to himself all exceptions to the imperfections and uncertainty of the articles of impeachment, by Jared Ingersoll and A. J. Dallas, his attorneys, comes and defends the force and injury, and says, that he, to the said articles of impeachment preferred against him by the House of Representatives of the United States, ought not to be compelled to answer, because he says that the eighth article of certain amendments of the Constitution of the United States, having been ratified by nine States, after the same was, in a Constitutional manner, proposed to the consideration of the several States in the Union, is of equal obligation with the original Constitution, and now forms a part thereof, and that by the same article it is declared and provided, that 'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.'

"That proceedings by impeachment are provided and permitted by the Constitution of the United States, only on charges of bribery, treason, and other high crimes and misdemeanors, alleged to have been committed by the President, Vice President, and other civil officers of the United States, in the execution of their offices held under the United States, as appears by the fourth section of the second article, and by the seventh clause of the third section of the first article, and other articles, and clauses contained in the Constitution of the United States.

"That although true it is, that he, the said William Blount, was a Senator of the United States, from the State of Tennessee, at the several periods in the said articles of impeachment referred to; yet, that he, the said William, is not now a *Senator*, and is not, nor was at the several periods, so as aforesaid referred to, an *officer* of the United States; nor is he, the said William, in and by the said articles, charged with having committed any crime or misdemeanor, in the execution of any civil office held under the United States, or with any malconduct in civil office, or abuse of any public trust, in the execution thereof.

"That the Courts of Common Law, of a criminal jurisdiction, of the States, wherein the offences in the said articles recited are said to have been committed, as well as those of the United States, are competent to the cognisance, prosecution, and punishment, of the said crimes and misdemeanors, if the same have been perpetrated, as is suggested and charged by the said articles, which, however, he utterly denies. All which the said William is ready to verify, and prays judgment whether this High Court will have further cognisance of this suit, and of the said impeachment, and whether he, the said William, to the said articles of impeachment, so as aforesaid preferred by the House of Representatives of the United States, ought to be compelled to answer.

"JARED INGERSOLL.
"A. J. DALLAS."

Mr. Bayard, moved that this message be referred to the managers for conducting the impeachment against William Blount, with directions to proceed therein as they shall deem advisable.

Mr. Dent thought the instruction unnecessary; but Mr. Bayard still wishing the instruction to be given, the question was put and carried, there being 53 votes for it.

STATE BALANCES.

On motion of Mr. Gallatin the House went into a Committee of the Whole on the bill respecting balances due from certain States, which was agreed to without debate, and ordered to be engrossed for a third reading to-morrow.

CENSUS.

The House then went into a Committee on the bill for enumerating the inhabitants of the United States. Mr. Dent in the Chair.

One schedule of the bill reported, orders a designation of the occupation of the inhabitants to be taken, which Mr. Griswold moved to strike out.

Mr. Harper hoped it would not, as it was a piece of information which might prove extremely useful, particularly in the estimation of any tax that might be proposed to be laid; indeed it would be absolutely necessary in the ascertainment of the amount of the revenue laws; it was the groundwork—the basis of political calculation, on which laws must be founded. Besides it would give the House information of the progress of manufactures and arts, and the Government might, by its fostering care, give the helping hand to the impotent manufacturer, &c The trouble could not be much in making this inquiry; but its advantage may be very great.

Mr. Dayton (the Speaker) hoped the schedule would be struck out, as he could not conceive any necessity there could be in it; it would cause much unnecessary trouble, and indeed be very uncertain. In New Jersey, he said there were people who some part of the year made it a rule to carry on one branch and at other times another, and some two others; it would be difficult for them to say what branch they followed. It was not merely unnecessary, but would prove injurious. This particularity, he said, was very injurious in the law for the enumeration of slaves, and no doubt, would prove so in this law.

On the question to strike out—yeas 59, nays 33.

Some trifling amendments were made, and the committee rose and reported the bill.

The House then took it up, and Mr. Harper renewed his former argument, urging the necessity of the clause. It was carried in the House in favor of striking out—yeas 38, nays 34.

The bill was ordered to be engrossed for a third reading to-morrow.

Thursday, December 27.

The bill providing for the enumeration of the inhabitants of the United States, was read the third time and passed; as was also the bill respecting balances reported to be due from certain States, by the Commissioners for settling the accounts between the United States and the several States, 55 votes being in favour of its passage.

THE STAMP ACT.

Mr. Otis said, the committee to whom was referred the bill for amending the stamp act, with respect to the duty payable on foreign bills of exchange and bills of lading, had received information from the Commissioner of the Revenue, stating that it would be necessary to provide some compensation for the supervisors, who had the management of the stamp business, as the present law provides none. The committee had also suggested the propriety of making some other alterations in the bill; he therefore moved that the Committee of the Whole be discharged from the farther consideration of this bill, with a view of having it recommitted to the select committee who reported it.

The motion was carried, and the bill was recommitted. Mr. Otis afterwards made a report of the proposed amendments; but, owing to some informality, the report was not received.

USURPATION OF EXECUTIVE AUTHORITY.

Mr. Griswold called up for consideration the resolution which he yesterday laid upon the table, for the appointment of a committee to consider the propriety of amending the act for the punishment of certain crimes against the United States, so as to provide a penalty for any citizen who shall usurp the Executive authority of this Government, by commencing or carrying on any correspondence with the Government of any foreign Prince or State, relative to controversies or disputes which do or shall exist between such Prince or State and the United States.

The resolution having been read.

Mr. Nicholas said, he believed this to be a new subject of general legislation; and, as such, he did not apprehend there was any necessity for making the proposed inquiry; and, if it had any particular object in view, the motion appeared to him premature. If it was founded upon what had been seen in the public papers relative to the conduct of a certain gentleman who has lately been in France, he thought the mover ought to have waited until the President of the United States had put the House into possession of facts upon that subject; which, though promised three weeks ago, had not yet been received. Indeed he did not know but the conduct of this House in giving an opinion upon these despatches before they are received, had prevented the communication; and if the House should proceed to legislate upon them, the President may suppose they have no desire to see what he has promised to lay before them, and withhold them altogether. If any particular object has given occasion to this new kind of legislation, the House ought to know it. He had hoped that no change had taken place in the affairs of this country with respect to foreign nations, which could have directed the resentments of gentlemen to any particular person. He had hoped things were mending, and he had gathered these hopes from the Address of the President at the opening of the session, as in that Address, he seemed to wish to argue down the too sanguine hopes of a speedy reconciliation which might arise from the communication he had to make on the subject. This was not only the impression which the Address had made on his mind, but it was, as far as he had learnt, the general impression. Indeed, he found a different tone even amongst those gentlemen who had always been loudest in their cry for war, from what existed when he last parted with them. Nothing was then heard but a declaration of war—now he heard nothing of that kind. Thinking, therefore, as he did, that the subject is of too novel a kind for general legislation, without some good reason being assigned for it, and that the House does not possess sufficient information, if the measure be levelled at a particular object, he was opposed to the motion.

Mr. Griswold said, the gentleman from Virginia had mistaken the object of this resolution, in supposing it had reference to any particular person. Its object, said Mr. G. is general, and I think of the first importance. I think it necessary to guard by law against the interference of individuals in the negotiation of our Executive with the Governments of foreign countries. The present situation of Europe, in my opinion, calls aloud for a regulation of this kind. He did not know but an interference of this kind might have already taken place; but the object of this motion was prospective, and had nothing to do with what is past. If, said Mr. G., offences of this kind are to pass unpunished, it may be in the power of an individual to frustrate all the designs of the Executive. The agent of a faction, if such a faction shall exist, may be sent to a foreign country to negotiate in behalf of that faction, in opposition to the Executive authority, and will any one say that such an offence ought not severely to be punished? It certainly ought. Placing the subject in this point of view, he thought it the duty of the Legislature to inquire into it. He was not certain that adequate provision could be made for the punishment of offences of this kind, but he wished the matter to go to a committee for consideration. He hoped no occasion would ever arise for bringing into operation a law of this kind; but, if it should, it would be well to be prepared to meet it. He could not see why this should be considered as a subject of irritation, as no gentleman would pretend to say that an unauthorized individual ought to exercise a power which should influence the measures of a foreign Government with respect to this country. This power has been delegated by the Constitution to the President; and, said Mr. G., the people of this country might as well meet and legislate for us, or erect themselves into a judicial tribunal, in place of the established Judiciary, as that any individual, or set of persons, should take upon him or themselves this power, vested in the Executive. Gentlemen may say that all this is right; but, in his opinion, such practices would be destructive of the principles of our Government. He hoped, therefore, the resolution would be agreed to.

Mr. NICHOLAS had no idea that the gentleman from Connecticut could mean to make this law retrospective; but he thought the House ought to possess more information on the subject before they undertook to legislate upon it. The Constitution having defined what treason shall be, he conceived it was not in the power of the Legislature to create a new offence of this kind; and if it could, he thought it would be unnecessary. Whether the gentleman had any reference in what he had said of a faction, to a faction existing at present in this country, he could not tell; he would say, however, that if he had had any share in sending the gentleman alluded to to France, he should not be ashamed to confess it—he should not be ashamed or afraid to promote the peace of his country. Nor, were it not for the apparent arrogance of such a step, should he himself be ashamed or afraid of crossing the Atlantic, if by doing so he could procure peace for his country. Nor did he think the people of America would be offended with him for thus acting. If, said Mr. N., all individual interference is to be prohibited, the President having declared all negotiation to be at an end, how is peace to be procured? Who, said he, are so likely to take a step in a business of this kind as those who are to share the enjoyment of peace? The mischief which gentlemen see in a conduct of this kind, he could not understand. If, said he, any individual or set of men were bent upon involving the country in war, the case would be very different. He could not consent to class the two descriptions of persons together.

Mr. RUTLEDGE thought this resolution was become more necessary from the observations which have been made upon it. He did not believe the mover of the present proposition had reference to any particular person; the law was to be of prospective operation. If the transaction alluded to came before this House, he hoped it would be taken up in a more serious point of view. But when gentlemen come forward and declare that there is no impropriety in an individual attempting to influence the conduct of a foreign Government with respect to this country, he thought it high time to pass a law upon the subject; for, if all the discontented people in this country are to be suffered to tamper and negotiate with foreign Powers, it would lead to the most serious consequences. If, said Mr. R., our situation were a novel one, gentlemen might accuse me of possessing a gloomy mind; but let us look at the present situation of the countries of Europe, and profit by what we see there. They have most of them suffered by means which this resolution proposes to guard against. The patriotic party in Holland, previous to their revolution, had their agent in France; and unauthorized individuals had everywhere been employed in the subversion of old establishments. We know, said he, that the United Irishmen, who have deluged their country in blood, had their agents in France, who instructed the French army where to land, where to find pikes, provisions, and other necessaries, for their work of devastation.

Profiting from the example of Europe, Mr. R. wished the Legislature of this country, to guard against similar misfortunes; for, said he, are the people of this country more patriotic, more wise, more enlightened, or more attached to their Government, than the people in other parts of the world? He believed not. There are, said he, in all countries, some portion of discontented persons, who are dissatisfied with the administration of their Government, and will endeavor, by every means in their power, to alter it. In every Government, constituted like ours, such a description of persons will exist.

What, said Mr. R., is the situation of this country? The General Government is authorized to make treaties, to regulate commerce, and other national concerns, with which the State Governments are not permitted to have any concern; and yet, though none of the sixteen sovereign States are permitted to interfere in this respect, it is asserted that an individual may, with propriety, present himself at the bar of the Council of Five Hundred, or of the Executive Directory, as the representative of a patriotic society, of Virginia or any other State, to speak on these subjects.

There may be gentlemen, said Mr. R., who consider the Administration of the General Government as hostile to the liberties of the country; and their zeal may carry them so far as to believe it to be their duty to do all in their power to overturn the whole system, to effect which, they may think a French army and a French invasion necessary. And if the citizens of this country shall be permitted to have intercourse with foreign Governments, they may do the greatest injury to this country, under what they conceive to be the best intentions, which, though they may not be rewarded here, they will rest confident will be rewarded in Heaven! And shall these persons, said he, go unpunished? If so, the consequence must be a division of the people of this country from their Government. Mr. R. thought this a good measure of national defence; and he declared that he had seen nothing in the Address of the President, nor in anything else, which could influence the mind of the most sanguine legislator to weaken his desire for effective measures of defence. If our prospects had brightened at all, it was entirely owing to the energy and wisdom which directed the measures of the last session. He hoped the same spirit would be continued, and that measures would be taken to prevent our citizens from holding any improper intercourse with foreign Governments.

Mr. GALLATIN said, it had been said by gentlemen who support this resolution, that it has no reference to anything which has taken place. It may be so; but, although it has no reference to what has already been done, those gentlemen will not say that such a resolution would have been brought forward, unless a certain event had taken place. This will not be denied. It is therefore proper, said he, before we enter into this business, that we should have some information on the subject, and this information the House had a right to expect, since the President had promised it

at the commencement of the session. He conceived this proper, because, if the House were to legislate upon so novel a subject, in order to prevent future injuries to the United States, they ought first to know how the injury which gave rise to the measure has been committed. But, said Mr. G., if this proposition is brought before the House on the ground of general legislation, it is extremely improper in itself. He would not deny that there might be an interference with the Executive authority of the United States, which it would be proper to punish by law; still less was he disposed to deny that men who should embark in foreign aggressions against this country, and men who should attempt to subvert the Constitution by foreign aid, ought to be liable to punishment; and such, he was pretty confident, are already liable to punishment.

But, said Mr. G., let us examine the resolution. It is not intended in the least to cover this ground. It proposes only to provide punishment for such persons as shall attempt to check the negotiations of the Executive. Nothing is here said about aggression; but only to provide punishment for such persons as shall usurp the Executive authority, by commencing or carrying on any correspondence with any foreign Government, relative to existing controversies or disputes. In the first place, he would ask how gentlemen could call "carrying on *any correspondence*," an act of usurpation over the Executive authority? The gentleman from South Carolina had said, that this was as much an usurpation of Executive authority, as it would be an usurpation of the Judicial authority, for a set of unauthorized persons to take upon themselves the power of trying causes. Mr. G. did not think the two cases analogous; but he would state a case with respect to individual proceedings, in his opinion, perfectly similar. Suppose, said he, I had a law-suit with an individual, and a third person, unauthorized by me, should write a letter to my adversary, with a view of procuring a reconciliation between us: this would be an exactly similar case. He could not conceive how a man who has not power of attorney can usurp the Executive authority. He may be guilty of high crimes and misdemeanors; he may do very improper acts; but he could not usurp the Executive authority.

Again, the resolution says, that any person who shall usurp the Executive authority, by carrying on *any correspondence* with a foreign Government. The proposition here covers far too much ground. He would suppose a merchant, or owner of a vessel, whose property had been plundered by the vessels of a foreign Government, were to enter into a correspondence with that Government for the restoration of his property. Would gentlemen wish a person of this description to be punished? Certainly not; and yet he would certainly come within the meaning of this resolution. He would go farther, and suppose an American citizen, who shall neither be a merchant, or the owner of a vessel, should apply to any branch of a foreign Government, to desire an embargo might be taken off, or some old debt paid, and ask whether such a person ought to be punished?

If it were intended to cover all cases of this kind, the resolution does not go far enough. It only embraces cases of "controversy and dispute." It ought to extend to all subjects of negotiation with foreign Powers, as an interference in any, would be equally an usurpation of Executive authority; and a citizen of the United States who shall enter into any negotiation with the Government of Great Britain, on the subject of renewing that part of our treaty with them which will at a certain period expire, would surely be as guilty as one who should correspond with the Government of France on the subject of peace. Both cases, if either, are equally usurpations of Executive authority.

Mr. G. thought, therefore, that the resolution, in some respects, covered too much ground; in others, too little. He believed, however, that the criminality of any of these acts, did not lie in their being usurpations of the Executive authority, but in the nature of the crime committed.

There is, said he, another difficulty in this resolution. In the general manner in which it is brought before the House, it is quite a novel subject of legislation. All nations punish citizens who carry on correspondences of a criminal nature with foreign Governments. Of this nature would be an invitation of a foreign Power to invade a country. Thus, to add one instance more to those adduced by the gentleman from South Carolina, he would mention the case of Switzerland, where the armies of France were called in by certain individuals, to overrun the country. The resolution ought, therefore, to be made general, and confined to cases of a criminal nature. He did not know that any nation ever passed a law to punish persons for holding a correspondence with foreign Governments. He believed, in certain situations, such a correspondence would be highly improper. In our situation, for instance, said he, it would be extremely improper for a member of this House to enter into any correspondence with the French Republic, because this country is at present in a peculiar situation; for though, as we are not at war with France, an offence of this kind would not be high treason, yet it would be as criminal an act, as if we were at war; but, as he had already stated, the nature of the correspondence must constitute the crime, and not the act of corresponding. Thus, our Constitution has said, to adhere to the enemies of the United States, and to afford them aid and comfort, is treason; but as we are not at war with France, an act of this kind could not be treason. It might, therefore, be declared, that though a crime of this kind cannot be considered as treason, it should nevertheless be considered as a high crime. Not that he was convinced it was proper to legislate upon the subject at all; but, if at all, it ought to be upon the nature of the crime.

But with respect to the conduct of an individual, he agreed with the gentleman from Virginia that if a man of his own accord, out of a pure love for his country—out of a sincere desire for

peace, or out of his hatred for war—were to go over to France, to use his endeavors to prevail upon the Government not to undertake the subjugation of our country, and to exert his endeavors, however weak they might be, to prevail upon that Government to put an end to their depredations upon our commerce; or to prevail upon persons in power there to offer such terms of accommodation to our Government as he is persuaded would be accepted, he saw nothing either criminal or improper in such a conduct, but the contrary. Whether such a man had existed, he could not at present say, as he wanted information upon the subject; but if there had, he would say, he thought there was nothing in his conduct either criminal or improper. He was willing, however, to suspend his judgment on the case alluded to, until he had the expected information before him. With respect to the resolution, if it was properly modified, he did not know that he should have much objection to it; but he could by no means agree to it in its present form.

Mr. DANA could not subscribe to the opinion of the gentleman from Pennsylvania, that the resolution before the House is either inaccurately or improperly expressed. That gentleman did not seem fully to understand the import of the words used. He objects to the word *usurpation*, though no other word could have been used with so much propriety. It was not intended, by this resolution, to provide against all correspondence with foreign Governments, but against such only as ought to be carried on by the Executive; and when an individual undertakes to correspond in such a manner, it is then, and then only, that he usurps the Executive authority. The word is, therefore, a necessary part of the general definition of the resolution. In the details of the law, it might be said more particularly in what this usurpation should consist; and the gentleman from Pennsylvania himself cannot deny, that all usurpations of the Executive authority ought to be punished, and this is all that is proposed by the resolution. The gentleman says, a correspondence ought to be judged of by its nature, which alone rendered it criminal, or otherwise. This opinion every one must subscribe to. And what are the correspondences most likely to be criminal? The gentleman objects to the case which has been alluded to being criminal; yet he allows it might be proper, in our present situation, to punish persons who should correspond with the French Government.

Mr. GALLATIN said, he had made use of the words "afford aid and comfort."

Mr. DANA thought the gentleman had spoken as he had stated. At any rate, said he, this position is true; and this unauthorized correspondence must have led to an opinion in the French Government that they had numerous friends in this country, and have encouraged them in their measures against us.

Mr. D. thought the instance which the gentleman from Pennsylvania had alluded to, of an individual writing a letter, was not in point. He would give him one, in his opinion, much more so. Where two hostile armies are in the field, the general officer who suffers his troops to negotiate with the enemy, would not, he believed, be considered as either very careful or skilful. But the gentleman from Pennsylvania has supposed that very worthy individuals might carry on a correspondence with a foreign Government so as to deserve praise instead of censure. It is possible, indeed, great and eminent characters, whose individual opinions might be known to have great weight in this country—that of Gen. WASHINGTON, for instance—might be much respected in Europe; but any great and respectable character, who regarded the honor of his country, who filled a great space in the view of mankind, would never go abroad in an obscure, mean, and sly manner, without the knowledge of his own Government, to settle differences with a foreign nation. Could there be found, indeed, an individual without any public character, or reputation for public services, who would be willing to go on such an errand, every man of sense must laugh at the ridiculous vanity of such a man. No individual of America, no individual undistinguished by eminent services, if he had the ordinary abilities of the American character, would ever undertake such an embassy; if he did, he would certainly be despised for the weakness of his intellects and his inflated vanity; besides being considered as having some other object in view, and as making this a mere cover for other designs.

Mr. D. would not disgrace the American character, by supposing that ever such a man could be found; such a one would merit being confined in a mad-house, and be supposed to go forward as agent of a French faction in this country. [If the gentleman from Pennsylvania does not like this term he must give him another; it expressed his own idea.] And, in every instance of this kind, the person thus employed, must be considered as acting in direct hostility with the authority of our Government, and against the general character of our country. It is proclaiming to the enemy the division of your country. It is a crime of serious magnitude, as the person thus acting must be considered as the agent of a faction, waiting only for an opportunity of joining the enemies of their country. He did not believe such a faction has really existence. He knew there had been reports to this effect which had placed a man high in rank in this Government, at its head; but he could not believe, in his place, that men in so exalted a situation could be guilty of such conduct; he was not authorized to listen to any such suggestions, and therefore would not.

The gentleman from Pennsylvania supposes the House ought not to legislate on this subject, until they receive information from the President relative to our foreign affairs; but as this was intended as a general provision, unconnected with any particular case, it was wholly unnecessary, in his opinion, to wait for this communication.

Mr. PINCKNEY said, he should not have troubled the House on this occasion, had it not been for the doctrine which had fallen from the gentleman from Virginia, (Mr. NICHOLAS,) which he considered as extremely dangerous in a Republican Government, and which had a tendency to subvert all order and good government under whatever form they may exist. If he understood the gentleman rightly, he said, "he should not be ashamed of his having been concerned in any negotiation which has lately taken place, provided he had, by that means, obtained peace for this country; and that he believed the people of this country would be satisfied with such an embassy, provided peace was the result." He thought this doctrine subversive of every principle of Republican Government, the great and leading doctrine of which is, that the sense of the majority shall govern; that when this sense is proclaimed by the proper organs, it shall be absolute; that no one can pretend to interfere so as to counteract the proceedings of the people of this country as expressed by its legal organs. This doctrine, said he, cannot be controverted. He believed the gentleman's good intentions for the peace of his country, had misled his better judgment. Peace is desirable, is most welcome to every country, and highly essential to its welfare. This wish of the gentleman for peace may have induced his better judgment to have brought forward a sentiment more prejudicial than the bitterest war.

Upon what principle is it, said he, that an individual should interfere in the general management of the affairs of his country, even to procure peace to it? It must be upon the ground, that his private sentiments ought to prevail over the legal Government of his country; and it would not be confined to the idea of giving peace to the country; because, if it was the opinion of this individual, or of any party, that the country ought to go to war, the same reasoning would hold good; since it will be thought more beneficial, at some times, to enter into war, than to remain at peace. Times may come—they have come in all countries—when it will be more essential to engage in a war, under all its disadvantages, than remain at peace.

Mr. P. knew of no case, no situation, in which it could be lawful or right for an individual to interfere with a foreign Government at the time when any negotiation is going forward by legal authority. Such an interference can have but a bad effect; it may have very bad effects. It shows, at least, that there is a party in the country divided from the Government, who take upon themselves a separate negotiation, and set up a distinct power, which they wish to be paramount to the legal authority.

He did not think the gentleman from Virginia had formed a correct idea of the sentiments of the American people, when he said, he believed, on his return from an unauthorized embassy, of the kind alluded to, he should have received their thanks for having given peace to the country. Under the present circumstances, he thought the gentleman calculated illy; as his calculation was founded on an idea of the pusillanimity of the people; that they are afraid of war, and glad to have peace upon any terms, or by whatever means. He did not think that this is the sentiment of the American people. They love peace, and would go as far as any people to preserve it; but he believed, when they have exhausted every means of conciliation in vain; when these conciliatory measures have produced nothing but new aggression, and no prospect of an honorable adjustment of differences remains, in such circumstances, he believed they would choose war rather than peace, as more for the interest of the country, and its future lasting peace.

The gentleman from Pennsylvania had himself agreed that it would be wrong for any party to hold correspondence with France under our present circumstances; but that gentleman draws a distinction between a party and an individual, which he did not understand, as he could not conceive why an individual was not equally justified with a party in holding any such correspondence. If it was a usurpation, it matters not whether it be by an individual or a party—both are alike criminal. A party might be more dangerous; but an individual is equally criminal.

The gentleman from Pennsylvania has made several objections to the motion, on the ground of its interfering with individual negotiations about their own private concerns. These had been fully answered by the gentleman from Connecticut, by saying that this resolution has no reference to any other negotiations but those of peace or war between a foreign nation and the United States. He might add, that it is merely an instruction for a committee to report a bill; and if any fear existed with respect to an interference with private matters, when the bill came in, this could be easily guarded against. He hoped, therefore, the measure would be agreed to.

Mr. HARPER observed that, not having been present when this resolution was called, up, he did not hear a declaration said to have been made by the mover of it, viz: "that, in bringing it forward, he had no reference to a particular and recent case." If this declaration was made, he could have no doubt of its truth; but, for his own part, he deemed proper to declare that, in giving his vote in favor of the resolution, he did refer to that particular case. It was from particular cases, he said, that general Legislative measures almost always originated; and this was necessarily the case; because, in general, it was impossible to foresee the necessity of preventing an evil, or punishing an offence, until some instance of the evil or offence had occurred. The writers on English law had informed us that from the oppression of an obscure individual, in that country, arose the celebrated habeas corpus act; and similar instances were numerous in the legislation of our own and every other country. Human foresight, said he, does not suffice to discern, beforehand, all the multiplied forms which crime can assume, and hence the necessity of waiting until it appears, before it can be struck down. It is thus, and thus only, that general laws have reference to the particular cases which have demonstrated the necessity of enacting them. Those particular cases cannot, everybody knows, be included in the punishments provided by the subsequent laws; for that would

be to give them a retrospective operation, and to punish acts which, however improper in their nature or dangerous in their tendency, were not, when committed, contrary to any law. The law, therefore, having reference to them as to the necessity and extent of its penalties, provides against their future perpetration.

It was in this view, Mr. H. said, that he had reference, in the present instance, to a recent case. The case, he believed, had happened. He knew of it as soon as it did happen, and then declared his opinion about it; and what he then said, respecting the nature and objects of the transaction, had been since confirmed by the public prints of the country to which the agent in question was sent, by the official gazettes of the Government to which he was addressed. He had considered this individual, from the moment of his embarkation, as an agent employed and sent by a party in this country. This opinion he had formed from the transaction itself, from the known connexions of that individual, and from the circumstances under which he went.

As to the transaction itself, could it be conceived that any person could be so silly, so vain, so totally void of common sense, as to undertake, on his own account, of his own mere notion, a mission of this kind? Could it be imagined that an obscure individual, not known in the country, whose name was never heard at the distance of twenty miles from Philadelphia till this affair brought it into some notice, having no pretensions to speak the sentiments or answer for the conduct of any man or description of men; could it be conceived that an individual of this description, and thus circumstanced, should have supposed himself able, standing merely on his own ground, and speaking from himself alone, to effect a change in the political system of a great Government, and arrest the course of plans which had been steadily pursued for five years together, and which no remonstrance of our Ministers, no exertion of our force, nor of the combined force of Europe, had been able hitherto to stop? He could not conceive it to be possible.

This person, indeed, as he had been told, declared that he undertook the mission of his own accord; that nobody knew of his design, nor even of his departure, till a day or two before it happened; that even this knowledge of his intended departure was communicated to but three persons, one of whom holds a high office in the Government of the United States, another fills a distinguished post under the State of Pennsylvania, and the third was formerly Consul General from the French Republic; and that from these three persons, or any others, he received no advice or instructions relative to his enterprise, the objects of which he did not make known to them, nor any introductions, recommendations, or credentials of any kind, except merely a certificate that he was an American citizen, and had been a member of the Pennsylvania Legislature. But I would ask, whether this story is credible? For my own part I confess that I do not believe one word of it. What! would these two circumstances, to be an American citizen and a member of a State Legislature, entitle a man to the notice, the confidence, of the French Government, and give him the weight necessary for transacting with it the affairs for which he professes to have gone? Did these two circumstances obtain for him a favorable reception from the French Directory; an audience, which was refused to the public Ministers of this country; a dinner with Merlin, suppers with Treilhard, frequent conferences with Lepeaux, and with Talleyrand? Was all this attention bestowed on him by the Government which is making war against this country, which tramples on its rights, has spurned its remonstrances, and professed a design to bend it to submission by means of a domestic faction, and bestowed merely because he was certified to be an American citizen and a member of the Legislature of Pennsylvania? Can this individual himself have had the incredible nonsense to imagine, that with such credentials, he should obtain an audience, and be able to change the policy of the French Government, from a system of rapine and domination, from a thirst for the subversion of all regular Governments, to a spirit of mildness, justice, and good faith? No, sir. To me it is incredible, nor can I ever be led to believe it till I am forced to adopt a lower opinion of human intellect than even the conduct of this person has yet been able to inspire.

He knew, Mr. H. continued, that some instances had been spoken of, in which religious fanatics had gone great lengths in affairs of this kind. One or two persons of this description, he had heard, did once go to the Emperor of Germany and the French Convention, to exhort them to make peace. Another, as he understood, had, in the time of the late war, gone into New York, while in the possession of the British forces, to exhort the British Commander to abstain from the further effusion of human blood. But these acts, if they really took place, were founded wholly on a religious tenet peculiar to a particular sect, and wholly unconnected with politics or Government. In the transaction under consideration, nothing of that kind could be pretended. It was wholly of a political nature, and arose wholly from political considerations. It was, in fact, a plain and direct interference with the powers of Government. He, therefore, not only presumed that this case had occurred, but that it had occurred by contrivance and design; that an Envoy had not only gone, but gone in the name, and with the credentials, of other persons; of persons possessing weight, name, and influence, in the country; persons whom the Directory might consider as authorized to speak, and actually speaking, the sentiments of a powerful party here; that party which it believes to exist, on whose aid it relies, and whom it would consider as the real author of the mission. And his mind was the more alarmed at this event, as he considered it in connexion with the general system of France, the political state of the world at this time, and the avowed plans of that country respecting this. The French Government, every body knew, had long since proclaimed, and had

constantly followed up its proclamations by actions, that whenever it should find, in any country, a party disposed to subvert the established Government, it would support that party. The policy of this system was obvious; for that party, coming into power by the aid of France and depending on her for the support of their authority, will generally be subservient to her views, and willing to place the affairs of the country under her control. With respect to this country, the French Government had told us plainly, and in so many words, that such a party did exist among us; that they relied on this party; that we, indeed, might be good natured and credulous enough to believe the persons composing this party, when they denied having any connexion with France, or acting under her influence, but that they had better proofs than the words of these persons, they had their actions; and that, although this party could not direct the Government, it could so embarrass and fetter it as to disable it from moving hand or foot against France. Under these circumstances, while France entertains, and acts upon, this belief, an Envoy goes thither from this country, and goes—as Mr. H. said seemed evident to him from the reasons which he had stated—with credentials from, and in the name of, certain persons here, who exercise the right of speaking the sentiments of this party, and acting in its behalf. What must be the objects of such a mission? What must be the language which the Envoy, supposing him or those who sent him to possess some small portion of common sense, must have employed to the French Government, in order to attain those objects?

I know, said Mr. H., that the gentleman from Virginia (Mr. Nicholas) has told us that the object of this person in going to France was to obtain peace for his country: and this object, the gentleman from Virginia says, is so laudable, that the person in question, instead of censure for this interference with the affairs of the Government, deserves, and no doubt will receive, the applause of every sincere friend to his country, every sincere lover of peace. That gentleman affirms that every person has a right to take such a step, has a right to go, of his own authority, and attempt to make peace with a foreign nation, if he conceives himself to possess the means of accomplishing the object. It may, he admits, be a proof of great folly and presumption in an individual to believe himself possessed of those means; but if he really entertains the belief, he ought to exert them: and the gentleman from Virginia has declared, that could he believe himself able to succeed in such an enterprise, he would undertake it and glory in it. My colleague (Mr. Pinckney) has shown, most undeniably, that this principle, once admitted, must go to the utter subversion of Government—the principle being, that whenever an individual, or, by stronger reason, a number of individuals, conceive themselves wiser than the Government, more able to discern, or more willing to pursue, the true interests of the country, they may assume its functions, counteract its views and interfere in its most important operations. Why, asked Mr. H., may they interfere to make peace? Because they judge peace desirable. But they may also judge war desirable, and upon precisely the same principle, they may, in that case, interfere to make war. When, under pretence of making peace, they have assumed a public character, and by themselves or their Envoys, addressed themselves directly and openly, to a foreign Government, they may treat with that Government about any other matter, and all other matters. Under this pretence, if this principle be once established, any discontented faction, under the name of a club, a patriotic society, a revolution society, a whig club, or any other name, may usurp the most essential functions of Government in their own country, negotiate, on all sorts of subjects with the Governments of other countries, and open a direct and broad road for the entrance of that foreign influence which, with equal truth and force, has been characterized as "the Angel of Destruction to Republican Governments."

Leaving this principle, therefore, continued Mr. H., where my colleague has placed it, exposed to view in all its nakedness and deformity, as visible as the pillar to which I point, I will proceed to remark on the connexion between this mission and the system and views of France towards this country; and I will repeat the question, what, under such circumstances, must have been the object of this mission, and what considerations must the Envoy, supposing him or his employers to possess common sense, have urged to the Directory in order to attain that object?

Could this mission, he would ask, have arisen from a conviction in its authors that the conduct of France towards this country was unjust or injurious, and ought, on that account, to be altered? No; for in that case the zeal which gave rise to the mission, would have been sooner awakened, and the mission itself would have taken place as soon as that conduct had been reduced to a regular system, and adhered to for a time. Was it the object of the mission to rescue the violated rights of this country from further outrage? No; for it was notorious that the acts whereby this violation had been effected, so far from rousing the indignation of these persons, or giving rise to an embassy from them, had been excused, and even justified. What, then, was the object? The answer, Mr. H. said, was to be found in the time when the mission was sent. France had pursued, for a long time, a system of hostility and aggression towards this country. During this whole time, the zeal which gave rise to this mission had slept. France had not only refused reparation for the past and forbearance in future, but had spurned at our remonstrances, slapt the door in the faces of our Ministers of peace, and finally demanded tribute as the price of an audience. Still this zeal slept. At length the spirit of the country, roused by these repeated injuries and insults, comes in aid of the Government; measures of preparation and resistance are adopted, and a universal indignation burst forth against France and her adherents. Then this sleeping zeal was awakened—by what? By the dread lest this public spirit and indignation

should strengthen the hands of our Government and arm the nation against France, and strip off all popularity and power from the individuals who were devoted to her interests, and expected to flourish under her patronage. How was this evil to be averted? By persuading France to tread back some of her offensive steps; to assume a line of conduct something less courageous; to hold out some appearances of a conciliatory spirit; in short, to change her system of menace and blustering, for an insidious system, whereby our resentments might be disarmed, and our spirit of resistance lulled asleep. How was France to be thus persuaded? By a mission, which, going under the sanction and with the credentials of her partisans here, might obtain the confidence of her Government. The mission, therefore, was sent.

This, Mr. H. said, he took to be a true history of this transaction as to its motives and objects. What, he would now ask, must have been the arguments urged to the Directory in order to insure its success?

Could any reliance have been placed by the authors of this mission on an appeal to the justice of France? Certainly not, unless they were downright blockheads. And that, although he had never thought highly of the understanding of the person whom he supposed to have been the prime mover in this affair, yet he could not estimate it so very low as to imagine him capable of talking seriously about justice to a Government which had told us plainly "that it cared nothing about the justice of our complaints or our claims; that we might, indeed, have just cause of complaint, but the question was not about justice or injustice, but whether we were prepared to submit on the conditions prescribed." To a Government holding openly this language, it would have been the last stage of folly to talk about justice, with any serious expectation of being listened to. The appeal, therefore, must, he conceived, have been to the policy, the interests, of the Directory. And in what language would this appeal be made? By what topics would it be enforced? He imagined by such as these: "You have, it is true, a party in America, and a strong one; but not so strong a one as you imagine; and much of the force which it does possess depends on public opinion, and the adherence of persons not fully apprized of its views. Of this force you are about to strip it by the intemperate violence of your late conduct. You overshoot the mark, and rouse the public indignation against yourselves and your friends, whose popularity and influence you wholly destroy, thereby breaking their strength, and thereby disabling them from rendering you any service in future. Therefore slacken your hand a little. Assume a language somewhat more complaisant, a behaviour somewhat less offensive. Hold out some appearance of an amiable and conciliatory spirit. You need not repeal your decrees against our commerce, but abate a little, and for a time, from the rigor of their execution. Talk about calling in privateers; release a few seamen and a ship or, two now and then. This will assuage the resentment of the people, unnerve the arm of the Government, and leave you at leisure to prepare your plans for execution at a more favorable moment. In the meantime, we, your friends, shall regain our influence, or, at least, preserve what we have left, and may render you good service in future. After your war with England is at an end, we may, perhaps, show you the way into America, as well as Citizen Ocks and his friends showed you the way into Switzerland, as soon as you got the Emperor off your hands. On the contrary, should you push matters to extremities now, when the national spirit is roused and high, a war must be the consequence, and that will overwhelm you and us, as far as respects your influence in America, in one common ruin."

This, Mr. H. said, he supposed must have been, and he verily believed was, the language which the person employed in this mission was intrusted to hold, and did hold, in secret, to the French Government. His more ostensible communications, if he made any, as was said to be the case, might have been, and probably were, more cautious in their expressions, and more guarded in their sense; but it was on these considerations, and these alone, that, in his opinion, any reliance was placed by the authors of the mission. These, he had no doubt, were the substantial parts of the negotiation. The rest was mere talk and ceremony—the cover thrown over the real design. To have held other language, under such circumstances, would, in his apprehension, have betrayed a degree of incapacity, of ignorance, and of childish simplicity, of which he could not suspect the contriver of this mission, nor even the agent employed in it.

I am very sensible, sir, continued Mr. H., that the gentleman from Virginia, (Mr. Nicholas,) may again tell me, as he did on a former occasion, that in reasoning thus I set up my own understanding as a measure for those of other men, and find everybody guilty of ignorance or folly who differs from myself in opinion. But there are some propositions on which, such is their fulness of evidence, it is impossible for the mind to doubt, and in which we must suppose all men of common sense to agree; in the same manner as every man who has eye-sight must agree that the sun now shines; and should any one deny it, whatever respect we might have for his discernment on other occasions, we must suppose him to be blind upon this.

Mr. H. said he was ready to admit, with the gentleman from Pennsylvania, (Mr. Gallatin,) that the embassy in question had produced no effect. Of this he was well assured, for he believed it to be a very weak project, not calculated to produce any effect whatever. The small apparent changes, in a few trifling particulars, which are said to have taken place, he had no doubt, were to be ascribed, not to the representations of this Envoy, but to the vigorous measures of Government, the firmness of the Executive, and the spirit displayed by the country at large. It was not the effect of the mission, but its principles, its nature, and its tendency, at which he was alarmed. He wished to nip this most dangerous practice in the bud, to cut up, by times, this plant of usurpa-

tion, which, if suffered to take root and flourish, must soon destroy the Government by its poisonous shade. This was to be effected, not by punishing this individual, which he believed could not be done, for he knew of no law wherein the case was included, but by making a law to prevent such mischievous practices in future. And when we know, said he, that other countries have been ruined by this very engine of a factious intercourse between their turbulent citizens and the French Government; when we know that that Government openly avows its determination to encourage such intercourse, to protect all factions, all malcontents, all insurgents, in all countries; when we know, in fine, that this intercourse and her consequent protection of domestic factions, are the great engines of her foreign policy, and the weapons wherewith she has already prostrated so many wretched countries; when we know all this, shall we not oppose an effectual barrier against this terrible plague? shall we not pass a law to prevent individuals from thus transferring to themselves, by their own authority, the powers of the Government, which they may afterwards use for placing the country under foreign dominion? I hope, Mr. Speaker, that we shall pass this necessary law, that we shall courageously meet this new and formidable danger. To do so, I know, will be contrary to the new code of the rights of man, according to which an handful of individuals, twenty, fifty, or one hundred, may assemble, call themselves "the people," and assume, at once, all the powers of Government. It will, I know, be sinning against the new light. But in this new light I am not a believer. I still think that the majority of the people, by their representatives and agents legally appointed, ought to rule, and that all interference with their functions, or usurpations of their authority, by self-appointed individuals, or self-constituted bodies, are dangerous encroachments, which ought to be restrained and punished. This, I am sensible, is an old-fashioned doctrine; but the experience had under the new system does not seem to me to speak much in its favor, and I therefore wish to adhere, closely and steadfastly, to the old plan.

Although, therefore, Mr. H. said, he was ready to acknowledge this embassy to have been, in itself, a very silly affair, yet he believed that if the practice were once permitted, and thus the principle established, it would speedily be drawn into precedent, and must lead to the total subversion of the Government. The effects of such a principle, reduced to practice, had already, he said, made themselves sufficiently manifest in several nations of Europe, to the catalogue of which, presented by his colleague, the gentleman from Pennsylvania had with great propriety added Switzerland. And by whom were the inhabitants of that beautiful and happy country delivered up to pillage, slaughter, and a foreign yoke? By whom but her own profligate sons, who, stimulated by a boundless and unprincipled ambition, chose, rather than not rule, to rule over a country plundered and ruined, and to hold a precarious power as the miserable vicegerents of a foreign despotism! Are there no persons of this description among us? none who, for the sake of authority, would consent to obtain it by foreign aid, and hold it by a foreign tenure? I hope in God that there are none; but I know of no reason why we should be happier in this respect than the Swiss. Surely we have not less reason to be discontented than they had. But this spirit, a spirit of usurpation, of assumed power, and of revolt, out of which this particular case has grown, is not confined to this or that country, nor to this or that form of Government. It exists more or less in all countries and under all Governments, however just and mild; for in all countries are there to be found restless, discontented, turbulent individuals, unsatisfied with the portion of power which they possess, or can, by regular means, obtain, and therefore disposed, according to opportunities and circumstances, to use irregular means for the attainment of more. This spirit, thus universal, has committed dreadful ravages in all those countries where it has not been vigorously resisted and closely restrained. It is therefore our wisdom to meet it on the threshold, and oppose to it a timely and a vigorous resistance, lest it destroy us also. "*Obsta principiis*" is a wise maxim in all circumstances of human affairs, especially in the affairs of Government. When a cancer has shot deep its roots, it cannot be torn out without destroying the vital parts. A timely use of the knife, or the caustic, might have destroyed it in the beginning without danger or inconvenience. This cancer in the body politic has but just made its appearance. Its roots are yet short and feeble. The proposed law is the caustic and the knife, which I hope to see applied with a firm and steady hand ere the evil spread and grow more inveterate. Otherwise it certainly will spread, and destroy the body politic, perhaps in less time than any one now apprehends.

The House indeed had been told, Mr. H. said, that they ought to reject the proposed resolution, because of some defects in its form of expression, which, however, would be found in no degree to affect the principle whereon the resolution was founded. Objections of this kind are never proper except to a bill on its third reading, when, being no longer open to amendment, it must be rejected by those who cannot agree to its particular provisions; but such objections were wholly inadmissible, when urged against a resolution which must pass through various subsequent stages, where all those small defects may be amended. In this first stage nothing but the principle ought to be in question, and it was the principle alone for which he contended.

As little regard, he said, was due to what had been said respecting the intention with which an interference of this kind must be made. The gentleman from Pennsylvania (Mr. Gallatin) had said that the impropriety of acts like this must depend on the intention with which they were done. But how were men's intentions to be judged of, but from their actions? Might they not sometimes think their projects beneficial, when they were, in fact, of a most mischievous tendency? And if the principle were once admitted, how would the in-

tentions of those who might practice on it be ascertained? The principle, in fact, was everything; and this principle the gentleman from Pennsylvania had been too prudent to defend. He had, on the contrary, endeavored to call away the attention of the House from the true principle to some trifling details of the resolution. In this he acted wisely. But the gentleman from Virginia (Mr. Nicholas,) less cautious, had spoken out with his usual candor, and asserted that the practice was proper, the principle justifiable, and that he himself should glory in having acted in the same manner. This, said Mr. H., is a candor which I admire, for I like the man who tells plainly what he aims at, and what he means. The gentleman from Virginia has declared it honorable and proper for any individual, or set of individuals, who believe themselves more fit than the Government for conducting the foreign relations of the country, to take the business into their hands, and adopt such measures as they may deem proper for obtaining peace: or, by a necessary consequence, for accomplishing any other national objects which they may think beneficial. This principle, so utterly subversive of all regular Government, has been so fully exposed by my colleague (Mr. Pinckney) that it is unnecessary to say anything more on the subject. But I request the House to bear it in mind, when they come to a decision on this subject, that this principle has been justified and even extolled by one of the most respectable members on this floor. Little petty insurgents, the mere journeymen of sedition, who now and then peep out of their houses to search for mischief, and then shrink back to escape from punishment, excite more contempt than dread; but when principles utterly subversive of all law, order, and Government, are openly avowed and preached up by men of character, station, and influence in the country, then it is that we ought to be alarmed, and to prepare for opposing their schemes with energy.

I am very sensible, Mr. Speaker, that all this will be treated, by some gentlemen, as mere empty declamation, the mere wanderings of a heated imagination. This has heretofore been the case with me, and it is thus that have always been treated, by some descriptions of men, those warning voices, for neglecting to listen to which, some other countries are now plunged in irretrievable ruin. To me these considerations appear to be the most important truths, on our attention to which the preservation of this Government, and the safety of this country, in a great measure, depend. It is from this quarter, from the introduction of foreign influence, through the medium of domestic faction, that republican Governments are especially menaced with destruction. Monarchies, despotisms, aristocracies, which, for the most part, depend on the support of a few, may be subverted by foreign force, but popular Governments, unless quite contemptible, in point of extent, cannot be subverted without the aid of internal division. This division is effected by means of foreign influence, which mutually supports, and is supported by, domestic faction; therefore, everything that tends, however remotely, to facilitate the alliance between those two deadly foes, is most carefully to be guarded against. What Bonaparte said to the Italians, after he had subdued and plundered them, by means of the divisions excited by himself, is a most important lesson for all Republics: "While a nation," said he, "is armed, united, and disposed to defend itself, it is always invincible." Let us well reflect upon this all-important lesson, and oppose on the threshold, by adopting the resolution now on the table, the first beginnings of this fatal alliance between foreign influence and domestic faction; this prolific germ of intestine division, which, if suffered to grow, will soon produce the bitterest fruits to this country.

Mr. Gallatin observed, that the gentleman from South Carolina, and the gentleman from Connecticut, had both found fault with the manner in which he had discussed this question; that he had objected to the detail of the resolution, instead of attending to its principle; and that the adopting of this resolution would be only adopting a general principle, which might hereafter be modified. The gentleman from Connecticut had been pleased to say that he (Mr. G.) was old enough in legislation to know this. Mr. G. said, he was old enough to know that when the principle of an original proposition was vague, the bill which was founded upon it was also vague, and nine times out of ten copied verbatim.

As an instance of this, Mr. G. mentioned the sedition bill, which was also introduced into the House as a measure of defence. The same complaint was then made against the original proposition, which is now made against this; and it was said then, as it is said now, that when the bill came in, the object would be more defined, yet the section of that bill which is thought to infringe the liberty of the press, is as liable to misconstruction as the present resolution. Gentlemen have admitted the validity of the objection which he had made to the want of precision in this resolution, yet they will not make it more precise. We are told that, when an individual carries on a negotiation with a foreign Government, it is an usurpation of the Executive power, yet the word used is *correspond*, and not *negotiate*; and when they are told that what an unauthorized individual does cannot bind a nation, they are silent, but still say our arguments are vague. If, said Mr. G., as gentlemen assert, there is what they call a French party in this country, and it is the object of this resolution to prevent them from carrying on negotiations with the French Republic for subverting the Government, let them come forward openly on this ground, instead of producing a resolution perfectly vague and uncertain.

As to the arguments of both gentlemen, he was at a loss how to set about answering them; for when, without paying any regard to fact, gentlemen deal boldly in assertion, it is very difficult to make them a reply. He was not surprised that the gentleman from South Carolina took the ground he did. The mover of this resolution declared, in making it, he had no reference to a recent event; but the gentleman from South Carolina asserts that he did mean to refer to it; and he may certainly do so, without running the risk of being contradicted, as the House is at present unacquainted with any facts relative to this subject. So far, Mr. G. said, as he could credit the reports and letters which he had seen printed in the newspapers, it appeared that the measures which had lately been taken by the French Government, and which he had heard ascribed to the agency of a certain gentleman lately in France, had taken place before his arrival there.

[Mr. Harper said, he did not speak of any effects produced by the agency to which he had referred; he did not believe any had been produced. It was against the principle which he spoke.]

Mr. G. believed the gentleman was rather at a loss on this subject; for, if much effect is ascribed to the interference of this individual, gentlemen get into the difficulty in which the gentleman from South Carolina seems to be, as it would then appear that peace might have been made by our Executive; and if no effect was produced, then there is no ground of complaint.

The gentleman from South Carolina says it is incredible, that an individual, unknown twenty miles from Philadelphia, could effect a change in the measures of the French Government, and that, therefore, he must have received credentials from other persons; that he must have been the agent of a certain faction, and he goes on to say that the French depended upon the force of that faction, which naturally led him to the conversation which he supposed this agent would use at Paris; such as, "Your conduct has been impolitic; you have alarmed the American nation, and unless you ameliorate your measures, your cause and our party will be involved in one common ruin."

As the gentleman from South Carolina meant these remarks to apply to him, and others who happen to differ with that gentleman on certain political subjects, he hoped he should be permitted to appeal from the decision of that gentleman, so far as related to the views and motives of the party to which he was supposed to belong. But he would certainly be justified in taking for granted the confession of that gentleman of the real object of his own party. It seemed, then, that, in their own opinion, the only way by which this gentleman's party could overwhelm their opposers, was through the medium of a war; and the object of this resolution was evidently to raise a clamor about foreign affairs, and to connect what the gentleman is pleased to call the French party in this country, with the French Government; and the gentleman from South Carolina deserves credit for having shown, by his arguments, that this was the intention of this proposition.

It is true, said Mr. G., that it would have been extremely difficult for a certain party (whom he certainly would not call a faction) to get a number of measures adopted, the tendency of which is to crush all the rest of the nation who do not agree with them in opinion, except through the medium of a war. They know that even a war would not be sufficient; that the only way would be to establish an opinion that one-half of the American people are in league with France, and ready to support her cause by force of arms. It was only by raising such a clamor in the country as this, that they could hope to get such measures as the alien and sedition laws approved by the people of the United States, or to believe that a standing army was necessary, not to repel an invasion, but, as it is now confessed, for the crushing of a faction at home.

As to the assertion of gentlemen of the party to which he alluded, that the party in opposition to them had sent a certain gentleman to France, so long as they deal only in assertion, he supposed it unnecessary to notice it. He believed the fact not to be true. He believed the individual, said to have been sent, went of his own accord. So far as his knowledge went, he knew it to be a fact. He knew of no individual from whom he received instruction. If there are such, the gentleman from South Carolina ought to bring them to view, instead of making general assertions, which can have no object except to calumniate certain individuals.

In the course of his remarks, the gentleman from South Carolina—though he could not see how he connected his observations with the resolution under consideration—mentioned certain modern doctrines, to which he is not a convert, viz: that twenty or one hundred persons may assemble, and exercise any authority they please, &c. Mr. G. wished to know by whom, or where, and at what time, a doctrine of this kind had been supported. That persons have thought they had a right to petition, if they were only twenty in number, and to communicate with others for their co-operation, and to lay their petitions so framed before Congress, he knew, but he did not consider this as a modern doctrine. There appeared to him to be two modern doctrines in the world, and to one of the two the gentleman from South Carolina appeared to be a disciple. In one country we have seen the doctrine supported of taking a part of the community for the sovereign people, who have a right to dictate and govern. How far these principles are now supported in any part of the globe, he would not say. But he would insist that it never had been either advocated or supported in this country. The other, to which he supposed the gentleman a disciple, is, that because liberty has been abused, or, under the name of liberty, licentiousness and injustice have been practised in a part of Europe, the old maxims of liberty and republicanism, which laid the foundation of our Revolution and of both our General and State Constitutions and Governments, are to be laid aside, at least for a while. It is the doctrine of alarm—a doctrine which has been preached up by gentlemen of great abilities in another country, and repeatedly re-echoed by the gentleman from South Carolina on this floor.

In some things, however, the gentleman from South Carolina is mistaken in fact. He says the modern system of Europe is, to transfer all power from the regular authority to mobs and demagogues; and though he draws no conclusions as

applicable to this country, they naturally are, that all those who are opposed to the extension of Executive authority here are the mob, the demagogues, who are to derive power from its overthrow. This is not the fact. The present system seems to be to concentrate all power in the Executive, and support that power by a military force. This appears to be the conduct of France, to whom the gentleman meant to allude. But how it can be supposed, said Mr. G., that we, who oppose on every occasion the undue enlargement of Executive power—who are not afraid that every act of an individual disagreeable to the Executive will overturn the Government, should be advocates of this system, is extraordinary.

The gentleman also supposes that we ought not to hope to be more happy than Switzerland or Holland, and that therefore it is as likely that a party should exist here willing and desirous to overturn our Government as that such a party should have existed in those countries. In order to have had his position correct, the gentleman ought to have shown the similarity between the situation of those countries and this. With respect to Holland, the gentleman must know that their old Government was forced upon them by the armies of Prussia, so that every allusion to that country went to prove that both parties there, the Government and the Republican parties, had called in foreign aid. Was that Government forced upon them by conquest, and which a new conquest had overturned the Government of the choice of the people? He ought also to have shown that an inconsiderable part of the inhabitants of Switzerland were exclusively possessed of hereditary power, and, consequently, that those who were forever excluded from holding any office of honor or trust, would not be well satisfied under the deprivation. It was not surprising, therefore, that persons thus situated should have sought foreign aid to overturn a system by which they were oppressed. The democratic cantons, however, which enjoyed equal Government, opposed invasion with all their force, and were conquered only by superior force.

Mr. G. said, he had followed, perhaps not very properly, the gentleman from South Carolina through his various assertions. He should have been glad to have avoided any insinuations of party motives; but if motions are laid upon the table to bring about again and again declamations such as have been heard, full of the grossest insinuations, all that he could say was, that he would be ready to repel them. If it was the intention of gentlemen constantly to make it appear we are a divided people, he was not willing to stand mute as a mark to be shot at. He would attack them, in his turn, as to their motives and principles; he would carry war into their own territory, and oppose them on their own ground.

Mr. Nicholas apologized for again troubling the House, but the notice which had been taken of what had fallen from him made it necessary. He had been charged with advocating principles destructive of republican Government; as making a most violent and wicked attack upon the Government of this country, and upon all its order and happiness. Mr. N. said, he was astonished that gentlemen should not have remarked the difference between the case which he had stated and those which they have stated; and how much they bring into question the principles of our Government, to make an effort to procure peace for the country an usurpation of the Executive authority, by making it as criminal to procure peace for the country as to bring war upon it, it would appear as if the Government had been forced into a peace which they did not want. Can peace, asked Mr. N., be made without the concurrence of Government? Certainly not; therefore, the only possible evil which could arise to the Government from the interference of individuals for the purpose of procuring peace to the country would be, that it might be forced to make peace against its will, on terms which it dare not refuse. The natural and obvious difference between an attempt to procure peace for the country, and an attempt to procure war for it, is, that peace cannot be made without the consent of our Government, but that war may. It is not possible, said Mr. N., that a majority of Congress may have interests distinct from our constituents—an interest which they dare not avow—which may induce them to wish for war. And if such a war could be averted by any innocent means, the people would have cause to rejoice at the event. But it had been said that the people of America would not give a cordial reception to any citizen who should be the means of procuring peace for his country by his individual exertions; that they would not accept of peace on such terms; that the people of America wished rather for war than a peace so procured. Mr. N. did not think this opinion correct.

The gentleman from South Carolina (Mr. Harper) had taken different grounds from any other gentleman. He points at a particular case which is said to have taken place. It would have been well if that gentleman had attended to what had been said relative to that case, which was, that having no information before the House, no one could be said to understand it; that it could not be said that it had produced either good or bad effects; and, not knowing anything about it, the House could not be prepared to act upon it. But that gentleman can always dive to the bottom of everything at once. He has found a clue to this business. He has traced it to a set of men, (at least as respectable as himself,) and made it to consist of a system of treachery such as his imagination delights to conjure up. Heretofore, said Mr. N., these extravagances have passed unanswered by me, because I believed that no man besides the fabricator of them could for a moment give credit to such stories. These insinuations, however, may have found credit; he believed they had. At least, they have been propagated by men whose views they answered. Unfortunately, however, for the gentleman from South Carolina, said Mr. N., there is one circumstance which renders it impossible that his statement of facts should be true. We are come to the crisis when the fac-

tion which the gentleman speaks of (if such an one exists) ought to make use of the fruits of the late agency, (as he chooses to term it,) but no use is made of them. And surely, if a faction employ an agent to negotiate with a foreign Government, they will not do it for nothing. Yet this appears to be the case, according to that gentleman.

Has the gentleman found any member of this House advising us to lay aside our arms, and take a different situation from that in which we at present stand? He believed not. During the last session, a great many things were done which were thought by many to be unnecessary and improper; but all were agreed that we ought to be prepared for defending ourselves. Now, said Mr. N., let the gentleman from South Carolina use his own understanding, and say how this conduct of gentlemen can be reconciled? That a party should send a person to France, to get things put into a certain train, and then make no use of the effects produced; that when they had nothing to do but make a disposition of the business, they abandon it altogether! The gentleman from South Carolina has so long indulged himself in themes of this kind, that they must cease to have effect upon the minds of the most credulous. The only proof which he has adduced in support of his assertion, that a certain gentleman who lately returned from France was the agent of a party, is, that an individual would never have engaged in so foolish a thing; that it would have been an act of madness in an individual; and yet he supposes a collection of individuals would be more capable of this mad act! That the person alluded to is only fit for journey-work, and not so fit to undertake an act of extreme folly, as men of superior understandings!

The gentleman allows that there have been fanatics of a certain religious persuasion who have gone great lengths in order to procure peace for contending nations. How did that gentleman know that the religious principles of that society may not have had some effect in a late transaction. The gentleman concerned was educated a Quaker, and although he did not now conform to their habits, he may still retain principles peculiar to that sect, which had been early instilled in his mind.

It had been said that the French Government has declared that they have a party in this country. Mr. N. denied that he had any knowledge of such a declaration. The only thing of the kind which he heard of, was said by Mr. X, who never pretended to be an agent of the French Government.

Mr. N. denied that the outrages of the French Government had ever been justified by the friends of peace in this House: and, if he understood what had taken place in France of a favorable nature to this country, he believed no measure complained of at the last session had been since changed; but that the relaxation which had taken place related to measures adopted after that time, and, of course, unknown to Congress at their last session.

The gentleman from South Carolina had called the transaction alluded to, foolish, weak, and ineffecual, because no person could produce a change in the conduct of the French Government. Mr. N. differed in opinion from that gentleman. He believed, in most instances, the efforts of an individual must have been weak and foolish, and brought shame and disgrace upon the person who undertook them; but, he believed, if ever there was a case in which an individual might be serviceable in restoring peace to two countries, it is the present. Is it not notorious, said Mr. N., that if the French have enemies in this country, they have been continually playing into their hands, from the commencement of the dispute between this country and that? He appealed to the gentleman from South Carolina himself whether he had not received more support in his favorite objects, from the conduct of France, than from anything else? Their system had all along been calculated to produce a total dependence in this country upon the enemies of France. If this was so, the French were playing the most unnatural and foolish game that ever was played by any country. It ought to have been in the power of a child to have illuminated France on this subject. He asked whether the outrages of the French Government had not been received in this country with triumph and exultation? He knew they had, and he had seen them made the foundation of darling measures in this House. This being the case, said Mr. N., was it not in the power of an individual to say to persons in power in that country, "you are acting very unwisely; you are losing all your friends in America; as to supposing you have a party in that country who would be ready to join your standard, were you to hoist it there, it is nonsense; but you are establishing a national hatred there, which will throw weight into the scale of your enemy." Would not a conduct of this kind have appeared proper to a person of the commonest understanding, and much more so to the gentleman alluded to, and such a representation could have produced none but a good effect. Without knowing anything of the mission of this gentleman (for he had left Philadelphia a month before it took place) he did believe that observations of this kind had occurred to that gentleman as likely to produce a good effect, as they had occurred to thousands beside in this country, and they were observations which an American had a right, and which he might conceive it to be his duty to make, and which must have had their effect upon the French Government.

Mr. N. had heard a great deal about subjugation. The gentleman from South Carolina had expressed an opinion that, while the people under a popular Government remain united, they cannot be conquered by force. He would himself go further, and declare it to be his opinion, and it was founded upon a knowledge of the disposition of men who think your Government have done extremely bad acts, that, so long as the people are not actually oppressed, and they can see in their Government the seeds of correction, no attempt at dividing or subjugating the people of this country could be successful. There is not a man among

those who are the most dissatisfied with some of the measures of Government, who would not fight as soon against the French as against any other nation that injured them. He believed there is a perfect unanimity in this respect. Let the Government, therefore, said he, take care not to infuse dissatisfaction into the minds of these people, by carrying things with too high a hand, by oppressing one part of the people to benefit another. Mr. N. believed that the gentleman from South Carolina would not have been willing to have lived under any of the old Governments, the overturning of which he so feelingly deplored. Is it, said he, the fault of the people that they live under bad Governments; or, because they are bad, are they never to be changed? Are people who are bound down by the chains of tyranny, for ever to remain so? And, was it right or just to charge the violence and blood, which too generally attend revolutions, upon the people who have been oppressed, instead of their oppressors? Surely not. The evils must be deplored, but they ought to be charged to the proper account.

Mr. N. believed more evil was to be apprehended in this country from the votaries of despotism, than from the votaries of France. Gentlemen are constantly telling the world that nothing ought to be done, no sentiment offered, in opposition to regular Government. Why? because it produces divisions in a country. And this is not only the language held here, but it is held in all the Governments of the world. What do such opinions lead to? Certainly to favor the principles of despotism, which, it was to be lamented, have of late had a greater spread than those of liberty, owing to the abuses which had been committed under its sacred name, and the use made of those abuses; and the doctrines now held are calculated to subvert all the liberties of our country by silencing every opposition to the measures of Government, however violent they may be. Gentlemen cry, this is not the time to clamor against the Government, all ought now to be union; and this will continue to be the cry, so that a time for bringing a Government back to its first principles will never arrive, and abuses will thus be perpetuated. Principles, Mr. N. said, he was sorry to say it, had gained ground in this country of late, which nothing but terror and alarm could have produced.

Mr. N. SMITH said, the gentlemen from Pennsylvania and Virginia have taken ground perfectly characteristic of the two men; while the gentleman from Virginia comes forward and boldly avows the right of an individual to interfere in our negotiations with a foreign Government, the gentleman from Pennsylvania goes into detail, and pleads an abatement in the resolution; says it goes too far in some respects, and not far enough in others; that it will prevent correspondences about private concerns, and so on. Why this sort of trifling, if it were not intended to lead the House off from the spirit of the resolution? The gentleman from Pennsylvania knows too much of Legislative business not to know, that this resolution, worded as it now is, cannot pass into a law; that it is only intended as an instruction to a committee upon which to report a bill, which will have to undergo the scrutiny of that gentleman, and of the House. He did not himself like all the provisions of this resolution; he thought the interference, instead of being general, would have been better confined to France; but these are matters for after-consideration. The only proper inquiry at present is, is there reason for Legislative interference, or not? Is there, or not, danger to be apprehended from the interference of individuals in business of this sort? For himself, he had no hesitation in saying he believed there is danger to be apprehended from this source. He considered this as a measure of defence, of efficient defence, pointed to the danger—danger with which we are threatened—danger from the diplomatic skill of a nation well versed in this skill. We have, said Mr. S., heretofore made provision for the raising of armies. These were for remote danger; but this is a provision against danger which immediately threatens us—a danger which had assailed us for many years past—a danger which has produced the most direful effects in this country. He himself never thought there was immediate danger to be apprehended from the arms of France, though, at some future period, there might be danger from this source, but their diplomatic skill ought to be constantly and strictly guarded against.

If, said Mr. S., we reflect for a single moment upon the character and pursuits of the French nation, we shall see that their only system is, to divide and conquer; to support their party in the country which they mean finally to subjugate, until the favorite opportunity shall present itself to aid that party with actual force. Time has been, when it was more convenient for the French Republic, (for she chooses to call herself by that name,) to carry on a correspondence with her party in this country, than at present. All legal correspondence between the two countries has long since been cut off. There is now no Minister here to favor the projects of France; there is, therefore, no way of carrying on a communication with the party in this country, but by means of unauthorized agents. Are we not, then, to expect these? Certainly. France has voluntarily cut off all legal communication between the two Governments, and because Ministers were sent there from this country, who would not place themselves at the head of a faction, against their Government, they rejected them. Knowing their character, what, then, could be expected from them? Doubtless, that they would immediately open a negotiation with their party in this country. How was this to be done? Not by doing a thing which would have been reprobated by every one. They knew their business too well to do this. They determined to put the proceeding on so plausible a footing as, at least, to take in some obscure individual, uninformed on political subjects, by making the first pretext a procurance of peace for the country; and, after the correspondence was once formed, it might go on from one degree to another; for if such a correspondence

can effect one thing it can another; and he expected this intercourse to be continued until the time shall arrive for the French to make their proposed expedition into this country.

If we consider the situation of the two nations, said Mr. S., may we not suppose there is danger to be apprehended from an improper interference of individuals? But, if we call to mind a recent instance, shall we be any longer in doubt that an interference of this kind has taken place? We cannot; and therefore we may expect that it will be done in future under one plausible pretext or other. It was in this point of view only, that he alluded to the transaction which had recently happened, as the foundation of a law to prevent future abuses.

But it had been said by the gentleman from Virginia, that if the interference of an individual was for a good purpose, it rather called for our thanks than for our resentment, and the gentleman from Pennsylvania had said, that it depended upon the nature of the transaction, whether such a procedure was criminal, or not. Mr. S. said, he would, on the contrary, lay it down as a maxim, that no foreign nation will ever enter into a correspondence with an individual for the benefit of the nation from which he comes; because, if they meant to do benefit to that nation, they could do it through the legal organ. But if, instead of doing a benefit to the country, the French wish to aid a faction, who are desirous of dividing the people from their Government, they will certainly wish to treat with an individual. The supposition, therefore, that an individual may negotiate with a foreign Government for a benefit to his country, is wholly unfounded; and the very idea of such a correspondence is a proof of the vilest of all purposes, that of aiding a faction to overturn the Government to which such an individual belongs.

But, it was said, the interference of an individual could not be improper, because he could not usurp the Executive authority. If the gentleman from Pennsylvania will give himself the trouble of reading the Constitution, he will find that the carrying on of all foreign intercourse is placed in the hands of the Executive, as fully as the Legislature is possessed of all legislative power, or the Judiciary, of judicial. When an individual, therefore, attempts to negotiate with a foreign Government on national concerns, he is certainly doing the business of the Executive. And is not that a strange state of things, said Mr. S., when an individual, or a set of individuals, shall say to a Government, "you are about to make war, but we will prevent it." Ought not such a conduct to be punished, and provided against by law? It certainly ought, and therefore he wished the present resolution to pass.

Mr. OTIS next rose, but a motion being made to adjourn, the House adjourned, without taking a question upon the resolution.

FRIDAY, December 28.

JAMES GILLESPIE, from North Carolina, appeared and took his seat in the House.

Mr. OTIS reported a new bill for laying a stamp duty, including the amendments; which was ordered to be printed, and committed to the whole House for Monday.

Mr. O., from the committee respecting means of defence, requested leave to report by bill; which being granted, he immediately reported a bill in behalf of that committee for encouraging the capture of French armed vessels, and for allowing salvage on all vessels brought into the United States; which was read and committed to the whole House for Monday.

Mr. J. PARKER requested a similar liberty for the Committee for Naval Defence; which was granted.

USURPATION OF EXECUTIVE POWER.

Mr. GRISWOLD's resolution again coming up,

Mr. BALDWIN said, that the usages of the House certainly admitted of taking a question on a general principle, in several different stages; that it was very common for the mover to call for the opinion of the House when he first made his motion; that when a motion was made in the form in which the gentleman had thought proper to submit the one now under consideration, viz: "That a committee be appointed to inquire and report whether there be any propriety or necessity for such a law to be passed," Mr. B. thought it a stage not very favorable to the discussion of the general principle. He was not prepared to say that a committee might not, on investigation, report facts and circumstances which might render further provisions in those laws necessary. He thought the motion very guarded; that it left the subject as open as possible, and expressed his wish that the committee might be suffered to be appointed. He said it had been repeatedly stated, and did not seem to be denied, that there might be cases in war, or in imminent danger of war, in which individuals would find it indispensable to the support of themselves and families, or perhaps to their lives, to hold such a correspondence with a foreign Power. Persons might also be led, as had been stated yesterday, by religious impressions, or by other benevolent and honorable motives, to take such measures to endeavor to avert the horrors of an impending war, and to prevent the effusion of human blood. This has often been done, and been attended with wonderful success. He did not, for a moment, suppose it possible, that a judicious committee of that House could be appointed, who would wish to throw obstructions in the way, or render criminal such conduct. Instances of this kind were presented to them in all history; they have been the subjects of most exalted and unbounded applause; monuments and altars have been erected to peacemakers. Even the histories of savage nations are not without such instances. Individuals, at the risk of everything, of life itself, have gone out between contending tribes and armies, and been the instruments of restoring peace, and been rewarded with the highest testimonies of respect and veneration from both parties.

In this country, and in this age, Mr. H. was sure

it could not be the intention of any gentleman to discourage or defeat such a disposition. He was willing, at present, to accept the assurances which they have given, and let the subject go to a committee to examine and report.

Mr. OTIS observed, that when the present resolution was yesterday before the House, he intended to have offered a few remarks upon it, but gave way upon a motion to adjourn. He would not now take up more of the time of the House than he should have then occupied, nor enlarge the observations which had then occurred to him, as the sentiments expressed by the gentleman from Georgia had not varied the question. He viewed the propriety of the resolution as resulting from the peculiar circumstances of the country. The insults and outrages of the French Republic had compelled the United States to assume an attitude which in other countries had been usually identified with war, and which, in this country, we ought to consider, for anything that yet appeared to the contrary, as a prelude to an open rupture. We had been obliged to arm, by sea and by land, to interdict commerce and authorize reprisals; in short, to do all but agree upon the formulary of a declaration. There could then be but one question before the House. Is it right and expedient, in this state of approximation to war, to adopt every defensive and cautionary measure that would be incumbent upon us in an avowed and open state of war? If not, the strongest possible argument would be furnished in favor of making an immediate declaration of war; but if, on the contrary, prudence demanded and justified every precaution, which, after such a declaration, would be indispensable, we might still exhibit our moderation and forbearance in preserving our present relations. It had never yet been doubted, that, in the event of an open war, it was not only competent to every nation, but a sacred and necessary duty, not only to restrain its citizens from passing over to the enemy, but from maintaining any correspondence with him, especially upon subjects of a political nature; and he could scarcely conceive of any reasons which would render such restrictions wise and politic in the last resort, that did not apply in the present stage of advancement towards such a state. If party divisions exist in a country, it is no less important to conceal them than, when armed at all points, we might have less to fear from their effects. If distinguished citizens, and men high in office, under the plausible semblance of restoring peace, might extend their intrigues to a dangerous latitude in one case, they might equally abuse an unrestrained intercourse in the other case, under the no less specious appearance of a design to prevent war. The same encouragement to an enemy, the same assurances of support, the same plans of proceeding, and the same conspiracies, would be pregnant with the same, and sometimes with more aggravated evils. Indeed, so palpable are the abuses to which this tampering with an open enemy would be liable, that none but a lunatic would contend for the innocence of the practice, or for the possibility of permitting it consistently with the public safety. Yet the House had been told yesterday by the gentleman from Virginia, (Mr. NICHOLAS,) and the idea had been enforced this morning by the gentleman from Georgia, that if a late eccentric mission had been instrumental in maintaining peace, far from being a subject of reproach, it would be a cause for pride and exultation, for civic rewards and monumental honors. That is, in other words, the end will justify the means. Sir, said Mr. O., it is the misery of legislation in this, as well as in other countries, that we cannot advance a step without entangling our feet in the toils of this fashionable philosophy; without encountering these old Jesuitical doctrines, new vamped and varnished by modern *illuminati;* as if there were no standard of moral fitness in the nature of things. Gentlemen espouse and preach up these principles, and are not aware of their extent. An ingenuous nature had led the gentleman from Virginia to extenuate the conduct of a person who had lately visited France, probably under an impression of the purity of his motives, or of the views of those who were privy to this singular adventure. But Mr. O. could not believe that this conduct would meet with the approbation of the people of this country from any persuasion that peace was the object of this diplomatic volunteer. Peace might be obtained by various modes, at which, he believed, that gentleman would revolt with horror. Assassinate your President, and transport a majority of both Houses to Cayenne, let the people be terrified into the election of men of opposite principles, and probably these measures would give you peace, but it would be a peace delusive, precarious, and fatal. Let those who prefer peace to honor, and French fraternity to independence, form a subscription and pay to the Directory the fifty thousand pounds. Probably this act of patriotism would, for a time, procure the continuance of peace. But from such a peace, he hoped the country would be preserved. It would be a peace destitute of comforts and of blessings, a peace distinct from prosperity; a delusive calm, portentous and dreadful, and such as the people of this country will never embrace.

It had been objected to the present resolution, by the gentleman from Pennsylvania that it, glanced at a late transaction, concerning which no evidence was before the House. Although the resolution does not involve or affect that transaction, yet Mr. O. admitted that it might not have been offered to the House at this time, unless the case in question had occurred. It is not, said he, good policy to anticipate offences; but when misdemeanors occur, and are committed not only with impunity, but applause, it is time for the Legislature to interfere. Indeed, as there are some crimes so atrocious, there are also degrees of folly and of vanity so exquisite, that no fancy can picture them before they are exhibited. Thus no one could seriously imagine that any man, who was not descended in a right line from Don Quixote, would have gone to France with the romantic project of restoring, by the mere force of his own private remonstrances or personal influence, the accustomed relations of the two countries. No man could foresee that an American citizen, formerly of a good character, was capable, after a few years' residence in France, of becoming an apostate from honor, and a traitor to his country, and of writing and dispatching to a member of this House, such infamous slanders, and servile sentiments, as we have lately seen published in the newspapers. Yet these phantoms of the imagination are likely to be realized; we now learn that men can be thus foolish and thus prostituted, and we must guard against the effects of this folly and wickedness in future.

With respect to the mission itself, knowing, said he, as he knew, by letters from a gentleman who was in France at the same time with the person alluded to, and on whose information and attachment to his country he could place a perfect reliance, that all those measures which some affect to consider as proofs of a change favorable to our country were actually agreed upon prior to any interview of the missionary with the French Directory; being also well apprized that this person since his return had been so unlucky or so forgetful as to impute this relaxation of the French policy in our favor, to a temporary absence of Rewbell, he should be very much inclined to treat the whole expedition as an object of merriment and derision; to consider it in the view of a crusade, or a pilgrimage to Mecca, or on a footing with a voyage to Spain to see bull-baiting, or to London to see the lions, or any other project of curiosity or fanaticism; but that the account given by this man to various persons of the characters who were privy to his departure, induced him to think of it in a more serious light. He has repeatedly declared that the Vice President of the United States, the Chief Justice of Pennsylvania, and the late French Consul, were acquainted with his design, and furnished him with letters and passports; and a gentleman who was now in this country, but had seen and conversed with this Envoy in Paris, had assured him (Mr. O.) that he also acknowledged that Mr. Genet was informed of his intention and errand. It does not follow from these circumstances, said Mr. M., that any intrigue or conspiracy has certainly existed which may be hostile to the public welfare, nor was he disposed to implicate either of the American citizens just named in any such accusation. It was indeed strange, if true, that the secret of this mission should be communicated only to those persons; but, perhaps, a satisfactory explanation might be given. His object, however, at present, was not so much to institute an inquiry into this particular transaction, as to show that great danger might exist in such practices, and to prevent their continuance.

The gentleman from Pennsylvania had been obliged to admit that a species of correspondence might be instituted with the citizens of France, that would be highly criminal, but that the criminality would depend on the nature of the correspondence, and that the resolution did not define with accuracy the kind of correspondence which ought to be published. But, said Mr. O., this is a very fallacious objection. It is not merely the particular correspondence, but the illegal and dangerous tendency of any correspondence with our enemies, and the abuses to which it is liable, which requires attention. An ostensible correspondence may be so conducted as to furnish of itself no ground of censure, while a covert correspondence between the same parties may be thereby facilitated. He would venture to predict that if ever this renowned Envoy had presented a memorial to the Directory, or written any letter to them, it was ingeniously contrived so that if by any accident it should be made public it might appear unexceptionable. In such a memorial he would be careful to dwell much upon our union and patriotism; upon the folly of attempting an invasion, and the little chance there would be of success; upon the madness of forcing us against our natural bias into the arms of Britain; upon the great advantages that both countries would derive from a restoration of harmony, and upon the injustice and severity of their measures; in a word upon all those topics which if published, would strike favorably the public ear and even aid the popularity of the writer and his friends. But with him this sort of correspondence would be of no avail. He should regard it merely as a fabrication. It would throw no light upon the real errand, the conversations at the private dinners of Merlin, the *petit soupers* of Treilhard, the tête-a-têtes with Lepaux, nor the conferences with Talleyrand. It is on these occasions that the real business is done, it is in these scenes that the flow of soul is communicated. A law that does not reach this sort of correspondence will prove inadequate to the object of the resolution.

The House, said he, have frequently been told, and particularly on the present occasion, by the gentleman from Pennsylvania, that the great object and main design of the majority was to excite a general alarm in the minds of the people. If this charge, said Mr. O., applied to me among others, I plead guilty at once. I confess myself to be alarmed, and while I stand as a sentinel at this post it is my duty to communicate and diffuse the alarm until the danger be past. It was not a proof of courage, but of apathy, to be free from alarm; he saw nothing in the situation of other countries to quiet his fears. The fairest and the happiest countries on the globe had been subjugated by France; their fields laid desolate, their cities transformed into a profligate banditti; all social order subverted, commerce destroyed, religion scoffed out of countenance, and liberty pursued hither into her last sanctuary, and the skirts of her garments already in the hands of ruffians, in spite of an intervening ocean. Nor was he alarmed merely for himself, and his political associates, but for those who opposed him. He was aware that when the confusion incident to French principles should overtake his country, that friend and foe would be involved in promiscuous ruin. The same dagger that was whetted for his bosom would strike deep into theirs, the same hands that rifled his pockets would plunder their pockets, and the violence which beggared and enslaved his children would involve theirs in

the same distress. He should not, he said, be discouraged from expressing this alarm, by being reminded of the effects produced by alarm in another country. He wished to God the gentleman from Pennsylvania could augment the list of countries that had listened seasonably to the voices of their alarmists. Had Holland, Switzerland, and other nations which now groan under the despotism of French taskmasters, heard and obeyed the warnings, the entreaties, the prophetic prayers of their best and most faithful citizens, they would have had sufficient cause to rejoice at this hour; one country, only, had taken this necessary alarm, and by means of it has hitherto withstood, and will probably ride out in safety, the destructive tempest which has overwhelmed her neighbors. It is by resisting the lullaby of opposition that Great Britain has preserved her Constitution and Government; and if such a Constitution and Government, which so many are pleased to consider as corrupt and rotten, struggling with debts and abuses, have been preserved by a timely alarm, it is no reproach to be anxious to save a better Constitution and a better Government by the same means.

It has been also said, that if we suffer ourselves to be led astray by arguments drawn from the state of other countries, we shall be enslaved, and surrender our liberties through fear of losing them. He believed the reverse of this proposition to be true, and that, if the examples of those countries came to be disregarded, we might prepare to meet our fate. Again: it is insisted that the secret of the resolution on the table, was to perpetuate the division of party, and that, although but few real causes of dissension remain, yet we are determined to throw down the gauntlet and excite the greatest possible irritation. This accusation he denied. He did not believe that the resolution was introduced with any such design; but if such had been the object of the mover, the blame would not attach to him or to his friends. They might even then have justified themselves upon principles of self-defence. He appealed to the whole House, that, within a few days after the commencement of the session, they were threatened with a notice that motions might be expected in favor of repealing the Alien and Sedition acts; which could owe their origin to no other intention but that of inflaming the public mind, and of persevering in the endeavor to expose the Administration and its friends to odious imputations. Therefore we should stand acquitted, if, instead of giving time to our adversaries to furnish their weapons, and carry war into our borders, we had seized this occasion to strike the first blow.

If, as the gentleman from Virginia observed, the aspect of our affairs was changed for the better, he sincerely rejoiced; but confessed that nothing with reference to our foreign relations had occurred, either in the repeal of the embargo on our vessels, nor the liberation of our seamen, nor in the nugatory renewal of the commissions to French privateers, which convinced him of any real change in the sentiments of the Directory. Our domestic posture may, indeed, be changed for the better, if gentlemen, as they seemed to intimate, would unite in preserving and extending the system of defence, and follow up the wise and prudent measures which were adopted at the last session. Of their sincerity, hitherto, he had not been able to form an opinion, but in the course of the session they would show to what point their professions were entitled to confidence. No credit was due to another imputation, so often repeated, of a desire prevalent with a majority of that House, to crush the opposite party. For his part, he declared that his object was to crush no man, but to reform certain principles, and to explode others which his daily observation convinced him were mischievous, and inconsistent with good government.

The gentleman from Pennsylvania had concluded with expressing his design "to carry war into our borders." He presumed the gentleman did not mean literally to levy war against his opponents. The gentleman had acquired great credit as a political warrior, but he had often sustained his fire without much injury. If he really intended to bring a new force of artillery into the field, it is our duty, said Mr. O., to unite in throwing up such ramparts and bastions as may be requisite for our defence. But as the gentleman has never yet succeeded in forcing our camp, nor defeated us either by storm or surprise, there was no occasion to dread his return to the charge. On the whole he thought the resolution highly worthy of attention, and hoped it would pass.

Mr. Harper.—Had the opposition to this motion, Mr. Speaker, been at first placed on the liberal ground where the gentleman from Georgia, (Mr. Baldwin,) has just now placed it, this discussion would, no doubt, have taken a different turn. Those observations which have so much excited the gentleman from Virginia, (Mr. Nicholas,) might have been avoided; and the gentleman from Pennsylvania (Mr. Gallatin) would, probably, have been spared those wounds, the anguish whereof has wrung from him a threat of offensive war. This direction was given to the debate by the gentleman from Virginia, who plainly and emphatically avowed a principle utterly subversive of every Government, and in the highest possible degree alarming to this, in the present state of things—the principle that any individual, and, by stronger reason, any number or class of individuals, might justifiably, and even laudably, interfere between this country and a foreign Government, for the purpose of making peace. That gentleman, instead of denying the existence of a recent case, has expressly justified it. He has even gone the length of declaring that the act was honorable and meritorious, and that he himself, could he have supposed himself to possess the means of insuring success in the attempt, would have done likewise. This principle, thus avowed, it became necessary to oppose and repel. Several gentlemen did oppose it, and proved, in the most convincing manner, that if once admitted, it would open a wide door to foreign intrigue and foreign influence; would justify the interference of individuals, or clubs, or factions, to make war as well

as peace, and to negotiate, of their own authority, with foreign Governments, on every subject that could arise in the intercourse between nations. I myself endeavored also to oppose the destructive consequences of this principle, and in doing so was naturally led, not only to prove the existence of a recent case in which it has been reduced to practice, but also to point out the probable origin and objects of that mission, and the means probably employed to give it success. Hence those remarks which have called forth so much animadversion from the gentleman from Pennsylvania, and his friend from Virginia.

The gentleman from Virginia has indeed said, that he justifies this sort of interference only in cases where its object is to make peace; and he exultingly exclaims, that to repel the principle admits the possibility of a case where peace might be made for the country on terms which the Government would wish to reject, and by this implied admission he supposes that my colleague (Mr. Pinckney) has brought himself and his cause into a disagreeable dilemma. But, in the first place, Mr. Speaker, there is no such admission implied, for the Government, if it had any sense of vigor, and is at all worthy of the trust reposed in it, would not suffer unauthorized individuals to make peace, even on terms which it desired. The reason is plain. It would exercise its functions itself, and not suffer them to be usurped by others. If it wanted an army or taxes, would it suffer clubs or societies to raise the army, or impose the taxes, of their own authority? What difference is there, in principle, between raising armies or taxes, and making peace with a foreign nation? I can see none. They are all equally acts of sovereignty; and if a Government be weak enough to suffer one to be usurped with impunity, by a faction or the agents of a faction, the rest will soon follow.

In the next place, Mr. Speaker, I am willing to make the admission, though it certainly is not contained in anything advanced by my colleague. I do admit that there might be a possibility of obtaining peace on terms which the Government would be averse to accepting. I will go further. I will say on terms which it would be criminal in the Government to accept. The gentleman from Virginia now desires to convert the word "peace" into a spell whereby every mouth is to be stopped. This use was formerly made of the word "war." When our differences with France first grew serious, every measure proposed for doing justice to the country, or putting it in a state of preparation, was repelled by sounding in our ears the word "war." Such measures, we were told, would lead to "war." But, Mr. Speaker, I was not, for my part, then frightened by the word "war;" for I always declared that I was ready to go to war sooner than suffer our rights to be ravished from us, our independence as a nation trodden under foot; and it has since appeared that in making this declaration, I spoke the sentiments of the American nation. I am not frightened by the new catch-word "peace;" and I declare that there might be terms proposed on which I would spurn at peace with disdain; and terms, moreover, whereto, I have no doubt, that many persons in this country, and the authors and agent of this mission among the rest, would be willing to accede. There may even be many honest and worthy people here who would approve of, and propose, if in their power, terms which I should think it my most sacred duty to reject. In our late struggle with England were there no persons, I will even say were there no well-meaning, worthy persons, who would gladly have submitted to, or proposed terms of peace, from which the gentleman from Virginia would have turned with disdain? No doubt there were. The truth is, and the people of this country know it, that peace is desirable only in proportion to the terms whereon it can be obtained. If those terms are submission, or the surrender of essential rights, then peace is a curse instead of a blessing. To judge of these terms is the business of the Government, and of it alone; and if, in this business, it suffers self-constituted individuals or bodies to interfere, it blindly and foolishly signs the transfer of its functions into the hands of the first bold and unprincipled faction that may choose to usurp them.

The gentleman from Virginia, indeed, admits that, if the envoy went to invite war instead of securing peace, it would be highly criminal; and in this admission he has given the death blow to his own principle; for, when the envoy goes for the ostensible purpose of securing peace, how are we to be assured that the real, though secret purpose, is not to invite war? War may happen to suit a faction better than peace; and, in that case, they would send an envoy to invite or to hasten it; but they would never avow this object. It would be too odious. Therefore, the mission would be covered under the plausible pretext of securing peace. The public and ostensible acts of the agent would wear this complexion. His secret negotiations would point to the other object. If the practice be admitted, who shall guard us against this perversion of it? Who shall assure us that these self-constituted missionaries of peace will not be inviters and guides of invasion? Who shall assure us that the very embassy now in question had not this for its real object? that the envoy, instead of the language which I formerly supposed him to have held to the Directory, did not address them to this effect: "Now is your time; lose not a moment; the spirit of the nation is rising; vigorous preparations are going on; a small force, aided by your party in America, may now suffice; but if you delay long, the enterprise will become very difficult, perhaps impracticable. In a short time the nation will be in arms, and your party, without timely and efficacious assistance, will be entirely broken." In many situations, which may readily be imagined, this would be the natural secret language of the missionary of a faction, whose efforts to prevent defensive preparations might be as great, and whose outcry about "peace," might be as loud as those we have witnessed during the last two years.

The gentleman from Pennsylvania, (Mr. Gallatin,) who proceeds with more caution, has not ventured to justify this mission, directly, but he

has done it in a more complete, though indirect manner. He has contended that the impropriety of such acts must be estimated by the object for which they are done. If that object be, in an abstract view, innocent or laudable, the act may be justified. This amounts to the old Jesuitical and Jacobin principle adverted to by my friend from Massachusetts, (Mr. Otis,) "that the end justifies the means;" a principle which, in its application to human affairs, is the most wicked and mischievous that the heart of man ever imagined. Let a man once be convinced of this principle, and he is immediately freed from every moral or religious restraint, from all the ties of nature, and the feelings of humanity. He is himself to judge whether the end be a good one; and this decision will be according to his passions and his interests. The means are then laid open before him. There are, for instance, many persons in this country who think it a most desirable object to procure a change of Administration and of system in our Government. Convince them of the truth of this principle, "that, if the object be a good one, the acts done to attain it may be justified;" in other words, "that the means are justified by the end;" and whether they will employ assassination, insurrection, foreign influence, or foreign force, or all of them together, becomes a question, not of morality, but of mere expediency. Of all the engines employed by the modern overturners of society, this principle has acted with the most destructive efficacy; and, accordingly, it is preached with the greatest zeal by all the modern apostles of insurrection.

The gentleman from Pennsylvania has entertained the House, and amused himself, with some very ingenious distinctions about the technical meaning of the word "negotiation." An agent of this kind, he says, cannot negotiate, because to negotiate is to conclude a treaty, which such an agent could not do. It must, however, be observed, that the word "negotiate," is not used in the resolution which speaks of corresponding with any foreign Government, or any subject in dispute between such Government and this country. Besides, even if the technical diplomatic meaning of the word "negotiate," were such as the gentleman from Pennsylvania has stated, which is by no means the case, yet we know that its common acceptation, in ordinary discourse, is to propose a plan on any subject, to discuss that plan, settle its terms, and arrange its various stipulations. In this sense, an agent of this kind might negotiate a treaty with a foreign Power; might admit into it conditions wholly incompatible, in the opinion of the Government, with the good of the country; might bring it and offer it to the Government for acceptance; and should the Government refuse it, however wisely, might publish it to the people, and employ it as an instrument of faction to excite discontent, deprive the Government of public confidence, and force it, by these means, to a ruinous treaty, repugnant to its own judgment, and the true interests of the country. All this might be effected by such a mission, notwithstanding the ingenious distinctions of the gentleman from Pennsylvania, and according to the construction which he has put on the term "negotiate." This, indeed, is the very course that would, no doubt, be pursued, as being most likely to accomplish the views of a faction connected with the enemy Government. It is, however, only one out of numberless methods, in which such an intercourse, were any Government weak enough to permit it, might be employed for its destruction, and the ruin of the country.

The gentleman from Virginia (Mr. Nicholas) has resorted to a very singular argument to prove that he and his political friends had no share in contriving this mission, and that the envoy must have gone on his own footing. "We," said the gentleman, "have made no use of the success of this mission. We have taken no advantage of what it has accomplished, in order to move for a repeal or suspension of any of those measures which were adopted last session for resisting France." True, the gentleman has taken no such advantage of what has been accomplished by this mission; and for this he had a very good reason, for he well knows that nothing was accomplished. He well knows that this weak, silly project, produced no effect whatever, and that the few trifling changes made by France, not in the substance of her system, for in that she has made none, but in the mere form of it, in her language, not her acts, either took place, or must have been resolved on, before this wise envoy arrived in France. He further knows, though I have not yet heard him acknowledge it, that this change, such as it is, proceeds not from a returning sense of justice in the French councils, but from the measures adopted, and the spirit displayed in this country; measures which he opposed with all his might, and a spirit which he did everything in his power to keep down. Had he made this change the ground of a motion for reversing those measures, he well knew that the effect already produced by them would have been urged against him, as an irresistible argument for their continuation. He therefore, very wisely, avoided the topic. He has very prudently kept silence about the effects of this mission, because he knows that it had no effect; and if I were to judge of it by its effects, I should content myself with laughing at it. But, considered in its principle, and the consequences to which that principle leads, it becomes a matter of very serious consideration, and worthy of very vigilant restraint.

I must now pay a more particular attention to the last speech of the gentleman from Pennsylvania, (Mr. Gallatin,) and I will begin with the avowal which, he asserts, I have made, and in which he so greatly triumphs. According to him, I have avowed, and those gentlemen with whom I have the honor to act, and who he is pleased to call "my party," have avowed, by my mouth, that their object all along has been, and is, to involve the country in a war against France, for the purpose of crushing and destroying their political opponents. This is the avowal which, according to that gentleman, I have explicitly made. Let us see how it is made out. When I

had the honor last of addressing the House, I stated, "that, admitting the French Government to have a party here, as it has all along asserted, that party, observing the rising spirit and indignation of the country, would naturally be led to conclude, that a perseverance by France in the same course of offensive and outrageous conduct, would speedily produce an open war, a natural and necessary consequence of which would be, to deprive France of all interest and influence in this country, and to overwhelm themselves, and her partisans, in a storm of public indignation and odium. I further stated, that this party, admitting it to exist, would naturally be led, by these reflections, to take steps for prevailing on France to change her conduct, at least, so far as to preserve appearances; and for this end they would, probably, send an envoy, and instruct him to hold such and such language." These were the observations from which the gentleman has extracted the admission wherein he so greatly triumphs, an admission whereby, not only I myself, but what he thinks proper to call my party, are to be convicted of laboring to bring about a French war! To insist that a French party, if one there be, as the French inform us, must see its own destruction in a war, is to admit, according to this ingenious reasoner, that another party, opposed to this, does wish, and has labored for a war, in order to destroy it! Really, if this is a specimen of the offensive war wherewith we are threatened by that gentleman, his attacks will excite more smiles than apprehensions in those against whom they are to be directed. Unless he can bring better forces than these into the field, this new Hoche, when he has arrived, by some accident, within sight of our coasts, will find himself happy to get back into his own port, even by the friendly aid of fogs and storms.

As to this threat of an offensive war, Mr. Speaker, I should be inclined to answer it in the words of the poet—

> "There is no terror, *Cassius*, in thy threats,
> For we are arm'd so strong in honesty,
> That they do pass us as the idle winds,
> Which we regard not."

An offensive war! That gentleman threatens that he will carry on an offensive war! I should really like to know what he has been employed about for five years past. Has he, or have his political associates, ever omitted any opportunity of making personal attacks on their opponents, and imputing every part of their conduct to the vilest motives? Is it not notorious that the gentleman from Pennsylvania himself is more remarkable for personal attacks, and personal reflections, than any member on this floor, and in every battle of this kind has uniformly been the aggressor? Has the House forgotten his behaviour to a former colleague of mine, now abroad, whom he first accused of desiring and aiming to involve the country in war, and, when my colleague denied the charge, told him, in plain terms, that he did not believe him? Has the House forgotten how he, on another occasion, accused the same gentleman of introducing and supporting measures by the orders of the Executive? Is it forgotten how, for two years together, he made perpetual and unprovoked personal attacks on me, which I bore patiently, in hopes that they would at length be discontinued; and how, at last, he went so far as to make a formal speech for the avowed purpose of proving that no attention was due to anything which I advanced? Now, when those who submitted so long to his attacks find it necessary, with a slight stroke of the hand, to beat him away, he raises an outcry, as if unjustly treated, and talks of offensive war! I would advise him, Mr. Speaker, to review his forces before he begins the campaign. If he feels so much pain from those gentle touches which he has hitherto experienced, let him reflect well before he provokes harder blows, from which he might not so soon recover.

The gentleman threatens to hold up certain persons in their true colors, and expose them to the public. Whom does he expect to frighten by this menace? Let me remind him, before he begins, of an old proverb, on which he will do well seriously to reflect, "A man living in a glass house, should never throw stones at his neighbors." The gentleman's own habitation is exceedingly brittle. A small pebble will be sufficient to demolish it. Let him, therefore, beware how he rashly provokes a retort.

On this subject of motives, Mr. Speaker, let me be permitted to ask what description of persons it is who discover most soreness when motives are even glanced at? Who cry out, and writhe, and shrink, with their bodies, even when the finger is pointed at this tender part? Let those answer who have attended to the debates of this House.

As to the question of aggression on this subject, who can have any doubts that recollects the course of events since the institution of this Government; have we yet forgotten the copious and filthy streams of abuse habitually poured out upon the private characters of those persons who have been concerned in, or understood to favor, the system of administration adopted by this Government; the vile motives of bribery, corruption, speculation, and foreign influence, to which their conduct has constantly been attributed? Have we forgotten those letters, written by members of this House, wherein the writer, contrary to what he knew to be the fact, accuses the President with having provided for his own son at the public expense; and points out members of the House, by name, as servants of the Executive, acting solely from the expectation of reward? Have we forgotten how the gentleman from Pennsylvania accused my former colleague of coming with a commission in his pocket to vote for his own salary? A calumny which was instantly refuted from the most authentic documents. Did not that gentleman, to speak once more of myself, lately accuse me, when I moved for the publication of certain laws, with acting not from a wish to diffuse information, (which I had declared to be my motive,) but from a desire to play off a party-trick and draw my opponents into an unpopular step? Did he not even now make a similar charge against the gentleman from Connecticut, who brought forward

the present motion? And yet, after thus charging members, in plain terms, with the vilest hypocrisy, he makes loud complaints about motives!

Mr. H. then offered to read the letter to Mazzei, as a proof that the most illiberal and unqualified accusations, on the subject of motives, had long been deliberately circulated against the friends and supporters of the Administration, but the SPEAKER declared it to be out of order. And he concluded with repeating his admonition to the gentleman from Pennsylvania (Mr. GALLATIN) to reflect well before he commenced a war to which his forces were so unequal, and from which he had so much more to dread than to hope.

Mr. GALLATIN, having obtained leave to speak a third time to the same question, acknowledged that many of his remarks yesterday were of a general nature, and not perfectly applicable to the question under consideration; but he had been compelled to follow the gentleman from South Carolina himself, who, according to his usual habit, had left the question, in order to introduce a general declamation upon the supposed motives and actions of gentlemen who differ from him in opinion. It was some of those general remarks which he called offensive war, because it was a deviation from the manner in which he himself had been in the habit of debating questions before this House, and, notwithstanding what the gentleman from South Carolina had insinuated to the contrary, he believed it would be allowed that the manner in which he argued upon any proposition was as unexceptionable as that of any other member. It was not his custom to depart from a question under discussion; still less had he done it, and that times without number, as that gentleman had done for the purpose of introducing declamation on the conduct and motives, not of one man, but on all who differed from him in opinion with respect to his favorite measures. By offensive war, Mr. G. said, he did not mean personal attack; but a retaliation of that kind of attack which the gentleman from South Carolina himself made. If that member thought proper to misrepresent the motives of the party opposed to him, he would himself retaliate, not by personality, nor by vague assertions, but by bringing forth facts to show the true motives of the party to which that gentleman belongs. As to the personal attacks, said Mr. G., which he states I have made upon him, what are they? That I have charged that gentleman two years ago with not understanding the subject of revenue. Is this, said Mr. G., personality? Certainly not. How could I resist an argument on the subject of revenue, made by that gentleman, better than by showing that he does not understand the subject, if that is true? And I think, indeed, the gentleman ought to be obliged to me for having told him so; because it led him to attend to the subject, and I believe he understands it much better now than he did then. Mr. G. said that, unconscious as he was of having made any personal attack upon the gentleman from South Carolina, or any other, he should not, however, be deterred, on a proper occasion, from carrying into effect that kind of offensive war he alluded to, from that investigation of the true motives of that gentleman's party, by any threats of personal retaliation, especially from that gentleman. Of whatever materials his house might be composed, it was at least proof against any pebble which that gentleman might cast against it. He believed that both his private and political character, when compared with that of that member, were not in much danger of being hurt by any insinuations coming from that quarter.

But the gentleman from South Carolina has said that it is not customary for him to ascribe wrong motives or to misrepresent the actions of his opponents. Permit me, said Mr. G., to make a few remarks upon what has fallen from him in the course of the present debate. What were his arguments or assertions yesterday? They were these. "It is impossible," said he, "that the person who went to France should have gone of his own accord—that he could have been so silly and vain, since he could not possibly expect to produce any effect; therefore, he must have been sent by other persons, and have taken credentials with him. He brings no proof of this, or that he was sent, or authorized; but it must be believed, because he chooses to suppose it." This Mr. G. considered as one of those general attacks which it would be proper to repel. But the gentleman does not stop here. The person who went to France, according to his assertion, was sent there by individuals who gave him credentials. And who are these individuals? They are a party in the United States which the gentleman chooses to call a French party—a party, he tells the world, upon which the French depend for assistance to enslave this country; and the gentleman proceeded to inform the House what must have been the language of this party, through their agent, to the French Directory. And this is the ground which the gentleman takes to show the necessity of passing this resolution. This was not the first time, Mr. G. said, that arguments of this kind had been brought forward to support propositions which had no other foundation but that gentleman's own fertile imagination. This is the kind of attack which he meant to repel.

When the gentleman comes forward, said Mr. G., and tells you that the individuals, generally speaking, with whom he differs in opinion, are a French party; when he tells you it is the view of that party to revolutionize this country; that there is a modern system which they mean to carry into effect by means of foreign aid, am I not right, said Mr. G., in attributing these assertions to a design in that gentleman to support a system of alarm which he wished to exist in this country? Nay, on this very day, that gentleman, following the gentleman from Massachusetts, has gone upon ground nearly similar. He has said that the opposers of this resolution support a Jesuitical or Jacobinical doctrine; that the end of a thing justifies the means by which it is accomplished. This doctrine, said Mr. G., so contrary to every principle of integrity, is charged upon us without the least proof. What does this mean, but that all those who oppose this resolution, and all others of Re-

publican opinion, are deficient in integrity, and everything sacred? Who has ever said that the end justifies the means by which it is attained? Has it been said by any member opposed to this resolution that it was wrong in this person first to act, but that, if good effects were produced, the wrong ought to be overlooked? No such thing. It had been on the contrary said, that if there was no criminality in the act, no bad intention, and no bad effect produced, the whole was innocent. It had never been said, that provided the effect was good, though the act was criminal, it ought not to be punished; but that the act itself was not criminal; and that the resolution ought to be confined to the punishment, not of any correspondence whatever, but of criminal correspondence only; whilst its supporters insist that every act of that kind, however innocent in itself, ought to be punished, because the effect might be mischievous.

Mr. G. said, as he was up, he now would consider some other arguments which had been used in favor of this resolution. The gentleman from Massachusetts has said that it was right to lay this resolution upon the table; and his argument in favor of it was, that it had been understood, at the beginning of this session, that it was intended to bring forward a motion to repeal the alien and sedition laws, and that, then, gentlemen would of course bring forward every argument to influence the passions of the public, and that therefore the friends of the present resolution had thought it right to give the first blow, and choose their own ground to fight upon. This, said Mr. G., is an acknowledgment that this proposition is nothing more than a manœuvre, and justifies what I have already said, that the friends of the alien and sedition bills chose rather to attack us on this ground than to wait till a proposition for a repeal of those laws is brought forward, where they feel we must have the advantage. Mr. G. said, he gave credit to gentlemen for having selected this ground, as the resolution has something specious on the face of it. It is a good manœuvre; but it is nevertheless a manœuvre, according to gentlemen's own acknowledgment.

In support, however, of the proposition, the same gentleman has told us that it was at least very likely that if the person who was lately in France had ever risked anything in writing, or in public, everything said or written had been extremely proper in itself—such as no person need be ashamed of, and such as would rather operate in his favor, when known, than otherwise. At the same time, he remarked that we do not know the subjects of his private conversations with the members of the French Government; so that all his ostensible acts were right, and all his secret ones wrong. Now, said Mr. G., if a law is passed on this subject, it can only have effect upon ostensible correspondence; and yet, the gentleman says that ostensible acts will always be right. Mr. G. believed the gentleman had told the House what was true; and that if any person wished to carry on a criminal correspondence with a foreign Government, they will do it secretly, and not in the open manner in which the gentleman alluded to has lately done. He believed the publicity of this proceeding is the best argument in its favor. He spoke, however, only from conjecture; when he was better acquainted with that business, it was possible he might be obliged to condemn it.

When he had heretofore attacked this resolution, it was said he had attacked its details only, and not its principle; yet those details made up the whole of the resolution. Mr. G. here repeated the objections, which he had before stated, to the resolution, insisting that no unauthorized individual could usurp the Executive authority, and that a distinction was not made between private correspondence and public negotiation. Mr. G. said he had also made a distinction between an individual acting on his own account and a person being sent to a foreign Government by a party. He thought this distinction correct. If a person, from enthusiasm or any other cause, not criminal, undertook to open a correspondence with a foreign Government, not intended to defeat any negotiation of the Government, or to involve the country in a war, or to invite foreign aggression, he believed it would be perfectly innocent; but, if a combination of men were to combine themselves as a party against the Government of their country, and for that purpose select an Envoy in order to negotiate for them, he should consider such conduct as highly improper.

A gentleman from Connecticut made use of an argument yesterday which had not been noticed. He said that a foreign nation who means to confer a benefit upon another nation, will never negotiate with an unauthorized individual; that, if one Government was disposed to treat with another, they would for ever reject the interference of private individuals; and that, when a Government opens a correspondence with an individual, it shows upon the face of the transaction a want of sincerity to obtain the object in view; and that the French Government, therefore, having lent an ear to an individual American citizen, had shown a want of its sincertiy; that it is always criminal to hold such a correspondence, and that it ought to be restrained. But did the gentleman who laid this doctrine down perceive whither it would lead to? If it be criminal for an individual to negotiate with a Government, is it not equally criminal in a Government to negotiate or correspond with an individual? If it be so, and also a proof of a want of sincerity, how will this apply to the conduct of our Government? Take the resolution upon the table, and transfer it on that of the Council of Five Hundred, and it will appear in the shape of a law for punishing Messrs. X and Y for carrying on an unauthorized correspondence with the American Government through our Commissioners. Let it be remembered that our Envoys did open a correspondence with X and Y; one of them averred that he was not an agent of the French Government, and that he had no object, except that of promoting the welfare of the United States, and that, when they opened that negotiation, they had no proof that even the other was authorized. Would it be said, then, that our Government was not sincere in their wishes to obtain peace, from their hav-

ing carried on such a correspondence? Mr. G. said, as he did not agree in the doctrine, he did not agree in the conclusion. He believed there were cases in which Governments are obliged to have recourse to indirect means of negotiation; and as our Commisioners were not accepted, perhaps it was right for them to do as they did, in order to get finally heard by the Government. In the same manner, after all intercourse had been cut off between the two countries, the French Government might correspond with an American citizen in France, without giving any evidence of their insincerity. Whether they had done so, or not, he could not say: their actions must show.

The same gentleman spoke of what he called the diplomatic skill of France. This, Mr. G. said, had long been a favorite expression—to him it always appeared ridiculous, because, if any nation has given proof of their want of wisdom in this respect, the French have done it in their diplomatic intercourse with this country. Amongst all the foreign Ministers who have been sent to this country, it must be acknowledged that none have evinced so little diplomatic skill as those of the French Republic. The French appeared to him to have, in their enthusiasm at first, and then in the intoxication of victory, very unwisely set aside those rules which had been adopted by all other nations in their mutual intercourse, and, in so doing, they had been guilty, in his opinion, not of a display of diplomatic skill, but of egregious folly. They had made a most curious display of diplomatic skill in having called home their Minister from this country, and in having sent back ours unaccepted. So that, though there is in this country, according to the representations of certain gentlemen, a party ready to join the French nation in any of their schemes against this country, and although the French wish to countenance and promote that party, they have themselves cut off every means of correspondence through which those domestic traitors might have carried on their nefarious projects, without any suspicion whatever.

But, Mr. G. believed it was immaterial to us whether the French have diplomatic skill, or not—whether their views upon this country are inimical, or not, as it respects this resolution. He had himself never been alarmed (as the gentleman from Massachusetts has expressed himself to be) from the view of what has passed in other countries. He had not been alarmed, because he considered the internal situation of this country, and our distance from Europe, as two sufficient safeguards. He considered our internal situation to be such (divided in opinion as we unfortunately are) as not to admit the supposition that there can be a party in this country disposed to make any change in the form of Government which we have the happiness to enjoy. There are, said he, I know, men in this country who are dissatisfied with some of the measures of the Administration, and not only with the measures of the Administration, but also with some of the acts of Congress; but the remedy which they wish and seek for is not a revolution, but by the means pointed out by the Constitution—by enlightening the minds of the people, through the medium of the press, with respect to their true interests; by convincing them that certain measures are wrong, and by persuading them to effect a change in these measures, by means of *elections*. Any other change which could be accomplished, would, undoubtedly, as the gentleman from Massachusetts had said, "Plunge a dagger in the breasts of those who supported, as well as those who opposed, it!" No man in this country can possibly have an interest in changing the Constitution. Men who generally enjoy independence, or more than independence, (which is mostly the case in that part of the country where some of the measures of Government are most condemned,) have nothing to hope from such a change. They may wish to see other persons in the administration of Government, but would never consent to any revolutionary risk to obtain this end.

And if there are no men in this country who wish to effect a revolution, said Mr. G., still less are there any who wish for foreign aid to assist them in such a work. But if they did, how was it to be obtained? Did not our distance from Europe, and the want of naval resources of that nation whose interference was apprehended, secure us from that danger? That alarm appeared to him too ridiculous for serious consideration.

Mr. G. had already observed, that if any law were passed upon this subject, it ought to be founded upon a resolution which should define what is criminal, and what is not; and he was not confirmed in this opinion by any nation ever having passed a law of the nature of the one now proposed. He recollected having seen printed, during the late war, a correspondence between an English subject and an agent of France, on the subject of the difference between the two countries; and he recollected that, on a trial for treason, it had been stated, that where a correspondence tends to lead an enemy to desist from their violence against the country to which the correspondent belongs, it is so far from being criminal that it is worthy of praise.

He had never heard of a nation legislating on the general ground proposed; and though it has been said, that when a bill is reported, it will be more defined, gentlemen, by their arguments, tell us the reverse; for they say that any kind of correspondence ought to be punished. Mr. G. mentioned this on account of what had fallen from the gentleman from Georgia.

Mr. G. concluded, by saying, that he was sensible that the ground selected by gentlemen for this debate was a specious one, and had been selected with sagacity; that it was such an one as it would have been most prudent not to have opposed them on. And if this had been merely a declaratory opinion, unconnected with any law, he would have suffered it to pass over without remark; but when he saw it was to be the foundation of a penal law, whatever advantage gentlemen may take of the opposition to alarm the public mind, he considered it a duty, which he could not abandon, to oppose it in every shape. If the resolution was however adopted, and if, when the bill is reported, it should be free from the objections which he had brought

against the resolution, he should then withdraw his opposition.

Mr. J. Williams said, that, notwithstanding the declaration of the gentleman who had just sat down, he did not think his opposition to this resolution would warrant a belief of it; because his arguments went to justify, not only the late transaction, but to lay it down as a maxim that any person whatever may do the same thing. He thought gentlemen would have done well to have taken the advice of the gentleman from Georgia, and reserved their objections until the bill was reported; but they have chosen a contrary course, and determined to oppose the principle in all its stages. During the last session, the House was employed for four weeks in discussing the propriety of sending certain Ministers abroad. Gentlemen were for having few or none, but now they are in favor of any individual who chooses to become a negotiator. If, said Mr. W., we mean to preserve our Constitution and Government, an innovation of this kind ought to be strictly guarded against. It is derogatory to a Republican Government, continued he, to see it announced in a foreign paper that an Envoy has arrived from the United States, but afterwards contradicted and said to be a person come to treat, but unauthorized by the Government. It would appear that the Government of any country which would treat with such a person must despise the principles of Republicanism; because everything done contrary to the will of a majority is contrary to Republican principles.

Our Government sent Commissioners to France to treat, but the French Directory refused to treat with them. Certain gentlemen then say they will send a man themselves—for no one can believe that the person went of his own accord. He believed no gentleman could say so. And if he did not go by his own authority, by what authority did he go? It must have been an authority directly opposed to the will of the majority. Mr. W. supposed the opposition which the gentleman from Pennsylvania has given to this resolution, had carried him farther than he intended. He had said that the resolution carried a declaration of war on the face of it. Was not this sending out unnecessary alarm to the people? Certainly it was. And what was it followed with? That a standing army was found to be necessary to destroy the remaining liberties of the people. What, said Mr. W., gave rise to this standing army? What, but the opposition of these very gentlemen! Had they not inflamed the minds of the people, procured public meetings, and at length produced an insurrection in the country? By this conduct, they have put the country to vast unnecessary expense; even the present debate, which they had been the cause of, would cost the public a large sum. Had it not been for the opposition of these gentlemen, large expenditures would have been saved to the nation. When anything like a measure of defence is supposed, they are sure to arrest its progress, by occasioning a long debate. And yet the excessive expenditure of Government is always attributed to its friends and supporters; whereas the very reverse is the fact. Even in the most trifling business, day after day is taken up in debate. Why not suffer the present resolution to go to a committee, and when their report is made, the subject could be discussed in Committee of the Whole. He hoped every gentleman who wishes to support the Constitution and Government, would not oppose a measure intended to support them. He believed there would be no difficulty in discriminating between criminal correspondences and those which are innocent. Gentlemen suppose it would be a happy thing if an individual could procure a peace for the country, which it was not in the power of the Government to obtain. But, said he, suppose two countries are at war, and a party or an individual were to go to one of the hostile nations from the other, and advise them to continue the war for a certain time longer, (when they would otherwise be disposed to make peace,) by an assurance that, if they did so, their enemy would surrender at discretion. Yet this, it might be said, was undertaken from the best motives. If an unauthorized person were to come to this country from France, he would be rejected at once; and France had proved herself to be no Republic, by acting differently, and paying so little respect to republican principles.

Mr. Macon said, that notwithstanding the admonition of the gentleman from New York, who generally occupied unnecessarily as much time as any member in the House, he wished to say a few words on this question. It was said this proposition was necessary for defence. He had waited with some impatience to hear what sort of defence it was to afford, without being gratified. At the last session, it was said that certain laws, which had since proved very obnoxious, were intended as objects of defence, but he had never heard of any they had afforded, and this measure appeared to be of the same description, brought forward for the purpose of anticipating another question, viz: a motion for repealing the alien and sedition laws. He believed, if gentlemen wished to provide defence for the country, they must do it by means of guns, powder, and men, and not by such laws as these.

Mr. M., said he had heard a great hue and cry against a French party in this country. If such a party exists, why can they not be pointed out? It might as well be said that there is a British party in this country. He believed there existed full as much reason for saying there is the one as the other. His reason for thinking so was, that great part of the commerce of this country is carried on by means of British capital, and British subjects are seen from one end of the Continent to the other. And will not this capital, and these persons, produce a British interest? The diplomatic skill of France, Mr. M., said, was continually preached up. It had been clearly shown, that they had never discovered any of this skill in sending Ministers here. But, if he might speak out, he would say, that the British had discovered more diplomatic skill in this country than any other nation, and that the present British Minister had shown more of it than any other. [The Speaker declared such remarks out of order.] Mr. M. said, that it had been insin-

uated, that all those who wish to fraternize with France, and to pay them the £50,000, which they demanded of us, would oppose all measures of this kind. He had himself never heard of a man willing to give a cent to France to procure peace. If France could believe there is a party in this country in her interest, she must have collected the belief from such observations as these.

It had been said, that certain gentlemen high in authority in this country were privy to the departure of the gentleman who was lately in France. For aught he knew, these gentleman might have named him. But it was a little extraordinary, said Mr. M., that in our discussion on this floor, we should be talking of an officer in our Government being a traitor. Such kind of language can have no effect but to create suspicions in the minds of the people that that man is an enemy to this country. This does not look much like a wish to conciliate differences of opinion, but the contrary. If gentlemen possess proof of any malconduct in the person particularly alluded to, it is their duty to bring it forward and put him from the situation in which he is placed; and if any such should be brought, no man would be more desirous of seeing him displaced than he should. But if no such proof exist, it is a strange way of supporting the constituted authorities, thus to calumniate a man whom the people have thought proper to place in so high a station.

An expression had escaped the gentleman from South Carolina, who always spoke much of his American feelings, which he did not understand. He said, that during our Revolutionary war, there were men who would have been ready to have purchased peace by submission. Surely the gentleman must have been mistaken, except he means such as were opposed to the Revolution from the beginning. [Mr. Harper said he did mean those.] Every body knows, continued Mr. M., that such as took up arms against us, would have been willing to have purchased peace by submission.

For his own part, he saw no good to be answered by this law. He could not conceive how an individual could usurp the Executive authority against the voice of the people of the United States, supported by all the force of the Union; and if any individual, were so mad as to invite over a French army, he would find himself miserably deceived, if he expected anybody in this country would join them. He did not think a single man could be found that would join a French standard. But if we were even in a state of war, and an individual could prevail upon our enemy to offer such terms of peace as our Government would be willing to accept, it would be a good thing. He could himself conceive no situation in which such a law as is proposed could operate; and as he believed our Government as firmly fixed, as the land we live on, he saw no necessity for any such measure.

Mr. N. Smith wished to make a few remarks in reply to the gentleman from Pennsylvania, who had noticed some of his former observations. The gentleman had, in the first place: misstated his argument, and then answered it in his own way. It would be recollected that the gentleman from Virginia had stated to the House that if an individual had opened a correspondence with a foreign Government for the benefit of his country, so far from its being criminal, it would be praiseworthy. In answer to this, Mr. S., said he had remarked, that it might be laid down as a general rule, that no foreign nation would open a correspondence with an individual, intending to favor the nation to which that individual belongs, because, if they were inclined to do this, they could do it through the legal organ. In answering this argument, the gentleman states it differently. He makes me, observed Mr. S., to say "that no Government could ever, consistent with good faith, open a correspondence with such an individual." He had said no such thing. After differences arise, and one nation receives injuries from another, many indirect measures may be necessary to compel the offending nation to do justice. One nation may go to war with another consistent with good faith, but who ever heard of this being done to confer a favor? After thus misrepresenting his argument, he did not even attempt to answer it; but attempted to prove that our Envoys had been guilty of misconduct. Mr. S. did not wish this use to be made of it. Did our Envoys, said he, treat with a set of persons who declared they were not authorized by the French Government? No; the persons with whom they negotiated, said they were authorized by the Government, and he had no doubt they were. They did not say, "our Government will not treat with you; but we will, being of a different opinion from our Government."

Mr. S. would notice one or two other inconsistencies in the gentleman from Pennsylvania. Aware that he had gone too far in declaring that an individual might assume the Executive authority, he attempts to qualify the doctrine by saying, that an individual may, but a party may not. What! an individual may do a favor to his country, yet several individuals may not! Strange inconsistency! It was astonishing that the gentleman could have suffered himself to support such an opinion.

The same gentleman had also told the House that there is a difference between negotiation and correspondence; and that a negotiation must be criminal, but a correspondence may be perfectly proper. Where is the difference? A man goes forward and corresponds with a foreign Government with respect to subsisting differences between it and the Government of the country to which he belongs. What is this but negotiating? And the gentleman from Virginia does not pretend to make any difference; because his argument was, that such a person could do no harm, because he could not conclude a treaty. In short, said Mr. S., the whole comes to this: If this nation and another are at war, and our enemy chooses rather to negotiate with an individual than with the Government, with respect to peace, they may make one treaty after another, and cause them to be laid before the Executive; and, if the argument of the gentleman is sound, they must examine each of these treaties to see whether they are proper or not. It is true the

Government would not be bound to adopt any of these treaties, but they will be obliged to sit down and form an opinion upon them. Thus, the power of carrying on foreign negotiations would be taken from the Executive, and placed in the hands of any individual who might choose to enter upon the business, which would be defeating a power placed in the President by the Constitution of the United States, and which is so guarded that even he cannot exercise it without the concurrence of the Senate. And why, asked Mr. S., has the Constitution been thus cautious? For this purpose—because these are matters that ought to be in skilful hands, and not in the hands of a novice. It was well known that foreign nations will always look well to their own interests, and that this nation ought to have persons of great ability and integrity, and persons who have the good of their country at heart, employed on their behalf. But, if the gentlemen are right, all this Constitutional barrier is to be thrown down, and the business lie open to any one who will take it up. Mr. S. said, it was astonishing to him that gentlemen, who had always been for limiting the power of the President, should now advance a doctrine which gives power to individuals in direct opposition to the Constitution. If this doctrine had come from gentlemen who have never been so scrupulous on this subject, it would not have appeared so strange; but, to come from those who have ever been so very jealous of an extension of power, is perfectly astonishing.

Mr. Harrison called for the reading of the act proposed to be amended; after the reading of which, the yeas and nays were taken upon the resolution, and it was carried—yeas 65, nays 23, as follows:

Yeas—George Baer, jun., Abraham Baldwin, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Matthew Clay, James Cochran, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Tompson J. Skinner, Nathaniel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John Trigg, John E. Van Alen, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, John Williams, and Robert Williams.

Nays—David Bard, Thomas Blount, Robert Brown, William Charles Cole Claiborne, John Clopton, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Carter B. Harrison, Jonathan N. Havens, Matthew Locke, Nathaniel Macon, Blair McClenachan, Anthony New, John Nicholas, William Smith, Richard Sprigg, jun., Richard Stanford, Abram Trigg, Philip Van Cortlandt, and Abraham Venable,

Ordered, That Mr. Griswold, Mr. Pinckney, Mr. Baldwin, Mr. Bayard, and Mr. Spaight, be appointed a committee, pursuant to the said resolution.

Monday, December 31.

Several other members, viz: from Connecticut, John Allen; and from Virginia, Samuel J. Cabell and Thomas Claiborne, appeared, and took their seats in the House.

IMPRESSMENT OF SEAMEN.

Mr. Otis said, he was directed by the Committee of Defence to propose a resolution to the House, on a subject highly interesting to the United States. He supposed that it was known to every gentleman present, that a report had prevailed for many days past relative to the impressment of a number of American seamen from a vessel of war of the United States into an armed ship of Great Britain. The committee are sorry to confess that, after making inquiry into the subject, there is too much reason to believe the report to be well founded, though they have no official information on the subject. It is conceived by the committee, therefore, that an act of this sort calls for the attention of every branch of Government; and though they have full confidence that the Executive will institute an immediate inquiry into the subject, and take measures to prevent similar abuses taking place in future, they think it necessary that the Legislature of the Union should show to Great Britain, and to the world, that instances of abuse of this kind excite a lively sensibility, and that they are determined to protect their flag against any country whatever. It is not improbable, said Mr. O., that this circumstance may call for some Legislative provision, and that it may be necessary to review and amend the act for the relief and protection of American seamen; for, unless these injuries can be removed and prevented, little success can be expected to attend our infant navy, which has been considered, both in and out of this House, of the greatest consequence to this country. From these considerations, he was induced to offer the following resolution for the adoption of the House:

"*Resolved*, That the President of the United States be requested to lay before this House such information as he may possess relative to the impressment of seamen belonging to the United States sloop-of-war Baltimore, into any ship or vessel belonging to the King of Great Britain."

On the motion of Mr. Harper, that this resolution might lie till to-morrow, it was ordered to lie upon the table.

REMONSTRANCE OF GEORGIA.

Mr. Baldwin said, he hoped there would be no objection to a further postponement of the Bankrupt bill, to take up the report of the select committee on the memorial and remonstrance of the Legislature of Georgia, which was the special order of this day. Coming from the Legislature of

a State, it claimed respect and early attention, and the subject-matter of it had long called for greater attention; that Legislature would now soon be in session, and had a right to be informed of the determination on the subject, during their present session. He was confident there had been no intentional disrespect in the treatment of it, but unfortunately it had too much the appearance of it. The remonstrance arrived here just after the adjournment of the last Congress; at the first meeting of the present Congress endeavors were used to prevail on members to consent to take it up at that session, but the determination to take up no common business, and to confine themselves entirely to the subjects on which they had been specially convened, prevented it. At the opening of the last session the subject was taken up and referred to a select committee, who, late in the session, made a report which had given him much satisfaction; he hoped the adoption of it by Congress would give satisfaction to the State. He should not urge gentlemen to any question upon it immediately, if any further delay was desired.

He hoped they would consent to look at the subject a little this morning; the transactions to which it alluded were, some of them, of so old a date that they were, in some measure, at this time out of view, and were spread over so much surface that, without some previous discussion, members would not know where to look for the necessary information, so as to be preparing their minds for as early a decision upon it as might be made convenient.

After a few observations from Messrs. Otis and Harper, in favor of proceeding with the Bankrupt bill, the question on a postponement of the unfinished business, was put and carried—42 to 38.

MILITARY ESTABLISHMENT.

A Message was received from the President of the United States, enclosing a long report from the Secretary of War relative to the Military Establishment, proposing a new organization and increase thereof; which was read, referred to the Committee of Defence, and ordered to be printed.

REMONSTRANCE OF GEORGIA.

The House then resolved itself into a Committee of the Whole, on the report of a select committee on the representation and remonstrance of the State of Georgia; which was read as follows:

"Report of the committee to whom was referred the representation and remonstrance of the Legislature of the State of Georgia:

"That a certain tract of country, within the limits of Georgia, bounded by a line beginning at the fork of Oconee and Ocmulgee rivers, and thence running in a southwest direction, until it intersects the most southern part of St. Mary's river, thence down the river to the old line, was ceded by the Creek nation of Indians, to the said State, by a treaty held between the Commissioners of said State, and the Creek Indians at Galphinton, on the 12th of November, 1785, which tract of country was, by the Legislature of said State, formed into a county, by the name of Tallessee county; and the cession thereof was afterward confirmed, at a treaty held between the same parties, at Shoulderbone, on the 3d day of November, 1786.

"Your committee further report, that, by the treaty made at New York, between the United States and the Creek Indians, bearing date on the 7th day of August, 1790, a boundary line was established between the said nation of Indians and the United States, whereby the above described tract of country, named Talessee county, was declared to be within the Indian territory.

"The committee have not been able to discover upon what principles this relinquishment of the territory of the State of Georgia was acceded to on the part of the United States, it is therefore to be presumed that it was done upon principles of general policy, with the intention of establishing a permanent peace between the United States and the said nation. They are, therefore, of opinion that compensation ought to be made to the State of Georgia for the loss of this territory, and recommend to the House to adopt the following resolution:

"*Resolved*, That the United States will make compensation to the State of Georgia, for the loss and damage sustained by that State, in consequence of the cession of the county of Talessee, made to the Creek nation, by the Treaty of New York, unless it shall be deemed expedient to extinguish the Indian title to the said land.

"Your committee have paid particular attention to that part of the memorial which relates to the operation of the intercourse laws, and are of opinion, that part of that law requires revisal and explanation, but on account of the advanced period of the cession, and the variety of important business now before the House, they recommend that such revisal be postponed until the next meeting of the Legislature."

Mr. Baldwin said, he should not call for the reading of the remonstrance, as it had already been twice read, and had also been published in the newspapers. The committee in their report have stated such parts of it as they thought necessary to lead the House to a decision. It is seen at once to relate to two objects: what they consider as a dismemberment of the State, by giving back to the Indians a district of country, called Talessee county, and the injurious operation of the act for regulating trade and intercourse with the Indians. He was himself at New York at the time when the treaty, called the Treaty of New York, was made; he knew well it was with great concern and reluctance that the Federal Government consented to an act which had so much the appearance of dismembering a State, as giving back Talessee county to the Indians; but that frontier was so extensive, the savages who border upon it were so much more numerous and hostile than any others in the United States, that they were induced to consent for a time to the relinquishment of that district to them, as the counterpart of all the other conditions which they obtained in that treaty. He was sure it was at that time their expectation and design to have before now peaceably repurchased it of the Indians. The act was not founded on any defect in the right of the State to that county; but a short time before, three Commissioners, viz: Gen. Lincoln, Judge

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Griffin, a former member of Congress, and Mr. Humphreys, who is now our Minister at Madrid, were sent to examine into the state of that frontier, and to form treaties with the neigboring tribes; they were unwearied in the execution of their trust, visited the frontier in person, collected the Indian chiefs to meet them there, to learn what information they could give; they afterwards returned to the seat of Government of Georgia, and examined the treaties, laws, and journals, and examined individuals on oath, so as to obtain all the information that it was possible to procure, on the spot. On their return they made a special and very full report, a copy of which is on the files of the House, and, without doubt, is to be regarded on those subjects as a document paramount to everything else, at the time it was made. This document leaves no doubt of the fairness of the transaction in the treaties of 1785 and 1786, in which this Talessee county was purchased and contained, as stated by the committee. The giving it back, by the subsequent Treaty of New York, rested only on the importance and urgency of the case, as the only possible means of obtaining peace.

On the other point contained in the remonstrance, viz: the injurious operation of the law respecting trade and intercourse with the Indian tribes, he did not think it necessary now to make many observations, the report of the committee was, that it should be revised and amended; as that law expires by its own limitation with this session, it is a subject that must be taken up, and at that time he should submit to the consideration of the House the various matters which seemed to impress themselves so strongly upon the minds of his constituents.

Mr. B. said, the report of the committee was peculiarly grateful to him, and he hoped the confirmation of it by Congress, would be so to his constituents, because the individuals who composed the committee were so long and so well known in the United States, that their report will be likely to have a great effect in finally settling the minds of people on those old subjects of reproach and discord, especially as it is in direct conformity with the copious report of the three Commissioners who examined into the same subject on the spot, as he had before mentioned. This appeared to him to be a matter of great importance.

From the close of the Revolution to the present time, these reproaches have always been at the threshold, to encounter everything that was proposed in behalf of that growing and important part of the United States. The Revolution had raged there to such a degree, and the minds of men were so embittered against each other, that it required more than the usual time for them to lay aside the fierceness of their hostility. Though their enemies were driven from them, yet they were not driven beyond the recoil of their resentment. This, joined to the disappointment of some pecuniary enterprises of individuals for gain, had been the cause of those malignant torrents of reproach which have but too long poured forth upon the greater part of their councils, and upon the most distinguished of their public servants.

It was well known to him, and to some who heard him, that their calls for protection on a very extensive and very turbulent frontier, had, within these few years, always been repelled with reproaches, that they had never been anything but an expense; were totally delinquent in bearing the burdens of the Revolution; that they had been carried through entirely at the expense of the other States; and that they ought not now to be protected any further till they were willing to pay requisitions. When this reproach was wiped off by the report of the General Board of Commissioners, on the settlement of the whole account of the old copartnership of the Confederation, and the very small number there, at that time, appeared to have done the proportion of the whole number by the census which was the rule of the settlement, and to have reimbursed the great delinquency of the loan officers appointed by Congress, for which they were made accountable, still they were told they must protect themselves, for they wronged the Indians out of their lands, and this was the cause of their suffering. It appears now, in the result, that they have always discharged all their Federal obligations, and much more, and instead of getting away the lands from the Indians, the Indians have got away their lands, and they cannot get them back.

He believed there could not be much doubt left but that the principles contained in the report of the committee were just and proper. These had been to him for many years very sore objects; the position in which he considered them immovably fixed gave him great pleasure. His constituents had not sent him here to play the champion. He thought it could not be denied that there was some ground for them to triumph over those who had so long vilified and abused them. He begged leave still further to urge the measures recommended by the committee, from the consideration of the small expenditures which have been made on that frontier, in proportion to the others.

The accounts of the military expenditures on the northern frontiers, were now more than ten millions of dollars. This had been begun, and principally originated from a regular expedition to destroy a village of fugitive Indians, who committed depredations on the northern frontier; a similar village on the southern frontier, called the Chehaw, was also destined by the Government for a similar expedition; but the measure failed in the Legislature, and that frontier was left to protect themselves. This has been done; the fugitives in that village have been driven off by a party of volunteers. He believed the whole amount of military expenditures on that frontier, till the time of entire peace with the Indians, did not exceed a quarter of a million, and nearly one hundred thousand of that the militia had now been kept out of for four or five years; though he hoped and trusted they would not much longer have cause of complaint on that head. After the observations which he had made, he thought no

apology was necessary for some apparent harshness in the language of the remonstrance.

As to the course which it is proper to pursue in granting relief on the subject, he had not much to say. He was confident the expectations of the State were not unreasonable; he was sure they would be satisfied with any result which could be considered as fair and honorable; and his confidence in the House forbade him to suppose for a moment that it could be brought to any other. The course recommended by the committee in their resolution now under consideration, is either to make compensation to the State for the land which has been relinquished, and for the damages which they have sustained, or else to repurchase that district or another district, on that frontier, of equal value. He said he had laid on the table a certificate from the Surveyor General of that State, taken at that time, as to the length of the lines enclosing that district, and the probable contents of it. If the report of the committee should be agreed to, a bill might be reported in conformity to one or the other, or all of those principles, as might be thought proper. He was contented in leaving it to the judgment of the House.

On the call of Mr. Brooks, the representation and remonstrance were read. After which.

Mr. Champlin moved that the committee might rise, with a view of postponing this subject till the next session of Congress. He thought the language of the remonstrance too violent and indecorous to claim attention from the House. This opinion was also supported by Mr. Dana. Messrs. Bayard and N. Smith wished this motion to prevail, because they doubted the propriety of the report, and supposed there would not be time thoroughly to investigate the business during this session.

On the other hand, Messrs. Pinckney, Rutledge, Harper, Gallatin, Venable, W. Claiborne, J. Parker, and Macon, were against the postponement. The objection to the language, it was said, was out of time. If made at all, it ought to have been made when the remonstrance was presented; that some allowance ought to be made for the language, as it appeared to have been drawn in a moment of passion; that if the claim was just, it ought not to be rejected because it was made in improper language, especially, since the Legislature of Georgia were not the only persons concerned, as the inhabitants on the frontier, while this subject is undecided, are suffering severely from Indian cruelties and depredations.

The question for leave to be given to the committee to sit again, was carried by 69 votes.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Bayard, from the managers appointed on the part of this House, to conduct the impeachment against William Blount, to whom was referred, on the twenty-sixth instant, a message from the Senate, communicating a copy of the plea filed by the counsel in behalf of the said William Blount, with instructions to proceed thereon, as they shall deem advisable, made a report; which he delivered in at the Clerk's table, where the same was twice read, and agreed to by the House, as follows:

"That the replication annexed be put into the said plea on behalf of this House, and that the managers be instructed to proceed to maintain the said replication at the bar of the Senate, at such time as shall be appointed by the Senate:

"The replication of the House of Representatives of the United States, in their own behalf, and also in the name of the people of the United States, to the plea of William Blount, to the jurisdiction of the Senate of the United States, to try the articles of impeachment exhibited by them to the Senate against the said William Blount:

"The House of Representatives of the United States, prosecuting, on behalf of themselves and the people of the United States, the articles of impeachment exhibited by them to the Senate of the United States against the said William Blount, reply to the plea of the said William Blount, and say, that the matters alleged in the said plea are not sufficient to exempt the said William Blount from answering the said articles of impeachment, because they say, that, by the Constitution of the United States, the House of Representatives had power to prefer the said articles of impeachment, and that the Senate have full and the sole power to try the same: Wherefore, they demand, that the plea aforesaid, of the said William Blount, be not allowed, but that the said William Blount be compelled to answer the said articles of impeachment."

Tuesday, January 1. 1799.

The Speaker informed the House, that the unfinished business which was first in order, was the report of a select committee on the representation and remonstrance of the Legislature of Georgia.

Mr. Otis said, he did not observe the gentleman from Georgia in his place; but he understood, when the consideration of the bankrupt law was yesterday postponed, in order to take up this subject, it was wished only to bring it up for consideration, leaving a decision upon it to a future day. He, therefore, moved that it be postponed till Tuesday, the 11th January. Carried.

UNIFORM BANKRUPTCY.

The House then resolved itself into a Committee of the Whole, on the bill providing a uniform system of bankruptcy throughout the United States, the amendments proposed by Mr. Otis to the 10th section being under consideration. The section is as follows:

"That the assignment of the Commissioners to a bankrupt's estate and effects, shall be good at law or in equity, against the bankrupt, and all persons claiming by, from, or under such bankrupt, and by any act done after he shall have committed the act of bankruptcy, for which the commission is issued: *Provided, always*, That in case of *bona fide* purchases made from such bankrupt, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed, such purchase shall not be invalid or impeached, unless a major part, in value, of the creditors, at a meeting to be held upon due notice, shall agree to return to such purchaser the house, money, or other consideration, which he shall make

appear he paid or gave upon such purchase, and in such case, upon refunding or tendering such consideration, the assignees shall be entitled to the property sold as aforesaid, for the use of the creditors."

The motion was, to strike out after the word "issued" above, and insert the following:

"*Provided always*, That no purchase made *bona fide* from such bankrupt, of any personal estate, for a valuable consideration, by any person having no knowledge, information, or notice of any act of bankruptcy, committed or intended, shall be invalidated or impeached, after the purchaser shall have *bona fide* sold and alienated the same, without such knowledge, information, or notice, nor unless the assignees shall, within ——— months after the allowance of the commission, agree to refund or return to the purchaser the sum of money, or other consideration, which he shall make it appear that he paid or gave for such purchase; and in such case, upon the refunding or tendering such consideration, or so much thereof as shall be equivalent to that part of such purchase as remained in the possession of such purchaser at the time of such knowledge, information, or notice, the assignees shall be entitled to the estate purchased as aforesaid from said bankrupt, or to such remainder thereof, for the use of the creditors.

"*Provided, also*, That in case the assignee or assignees of any bankrupt, shall enter upon or claim any lands or tenements, or any interest in lands or tenements, which shall be *bona fide* purchased of such bankrupt for a valuable consideration, by any person or persons, not being akin to such bankrupt, or to his wife, after an act of bankruptcy committed, without any notice, information, or knowledge of any act of bankruptcy committed or intended; it shall be lawful for the purchaser, or for the person or persons claiming such lands or tenements, from, by, or under such bankrupt, to file a bill in equity against the assignee or assignees, in the office of the Clerk of the Circuit Court for the district in which such lands or tenements lie; and upon his making it appear to the satisfaction of said court that he has paid a valuable consideration for such lands or tenements, or erected or made any buildings or improvements thereon, prior to any notice, knowledge, or information of any act of bankruptcy committed or intended, the said court shall ascertain the amount of the sums thus *bona fide* paid by such purchaser or claimant, which shall be refunded by the assignee or assignees, within such time as said court shall order, or otherwise the title of such purchaser or claimant shall not afterwards be invalidated or impeached."

Mr. Bayard spoke against the first amendment, and Mr. Otis in favor of it.

The question being taken, 21 members only rose in the affirmative; when Mr. Otis withdrew the other amendment.

After some other amendments had been proposed and agreed to.

Mr. Dayton moved that the committee might rise, as it did not appear to him that as much attention was paid to this bill as its importance demanded.

The motion was put and carried, and the House being resumed,

Mr. Otis called for the resolution which he yesterday laid upon the table, relative to the impressment of American seamen by a British vessel of war.

Mr. Dent thought, as so little attention had been paid to the subject which had just been disposed of, it might be presumed as little would be paid to any other, and this being the first day of the year, he would move that the House adjourn; which it accordingly did.

Wednesday, January 2.

IMPRESSMENT OF SEAMEN.

Mr. Otis called up the resolution which he laid on the table on Monday, relative to the impressment of American seamen by the British.

It was taken up accordingly; when

Mr. Gordon said, not having been in the House when this motion was laid upon the table, he was unacquainted with the reasons which had induced the Committee of Defence to lay it before the House. He wished the gentleman who moved it would state the object of the resolution, as, without this information, he was not prepared to give his vote for it.

Mr. Otis replied, that, though it was not his fault that the gentleman from New Hampshire was not present when the motion was proposed; though he explicitly stated at that time the reasons which induced the committee to bring the subject before the House; and though these reasons have been published with tolerable accuracy in all the papers; yet, for the gratification of his friend, he would repeat them. Mr. O. then repeated what he before stated were the reasons of the committee for proposing this resolution, adding that the committee had no doubt of the fact, as they had the information from our Consul at Havana.

Mr. Gordon assured the gentleman from Massachusetts, and the House, that he had not seen anything in the papers relative to this motion, nor had he heard of it till the evening of yesterday. He said, he could not see the propriety of passing this resolution from what had now fallen from the mover of it, as he saw no connexion between it and any Legislative act of Congress; he should, therefore, vote against it. He believed there is no necessity for a resolution of this kind, to show to the people of the United States that a transaction like the one referred to, meets with the resentment of every branch of Government. Every one, on hearing of an act of this kind will feel for the dignity and honor of his country; and there can be no doubt that the Executive of the United States will take every step necessary to vindicate that honour and dignity.

The business, said he, comes properly within the jurisdiction of the Executive, and I am so fully impressed with a conviction that every necessary step will be taken, without our interference, that I wish to leave the matter to that department of the Government. Even had he any distrust that proper measures would not be taken, he would wait to see whether they were taken or not, before he would recommend any step to be taken by the Legislature. He knew the gentleman from

Massachusetts was as far from entertaining any doubt on this subject, as he himself. Then why point out the mode which it will be proper for the Executive to pursue? He saw no reason for it; and, believing no Legislative step necessary, he would vote against the resolution.

Mr. J. Williams thought the resolution did not go far enough, that it ought not to be confined to a single vessel. He believed it proper that the House ought to express their resentment at an act of this sort, let it be committed by what nation soever. Too many insults of this kind had been suffered, and it is time for this country to set their face against their commission. National honor may be infringed by one nation as well as another, and if the fact had taken place, as had been represented, this was a most violent outrage, and ought to be strictly inquired into. He should vote for the resolution, but would have been glad to have had it general.

Mr. Otis wished the gentleman from New Hampshire to recollect that this is no uncommon proceeding.

Mr. Josiah Parker moved to amend the resolution, by adding after the word "Baltimore," "or any other public-armed vessel of the United States."

Mr. P. was desirous that the people of the United States should be informed of this transaction; for, as it had been stated to him, (and he had his information from an authentic source,) the outrage was the most flagrant and violent that could have been offered to the American flag. He had no doubt that the President of the United States would feel this indignity as severely as any one; but he nevertheless thought it proper to pass this resolution. The Baltimore, he understood, was convoying a number of our vessels to the Havana, when three of the squadron were cut off by the British force. Captain Phillips, the commander of the Baltimore, inquired the reason of this? Captain Loring, the British commander, sent an officer on board our ship, who said: "That Capt. L. would take out every man from his ship, who was a British subject, and could not produce his protection?" Capt. P. very properly answered: "That the American flag was a sufficient protection." This, however, was not deemed sufficient, and this officer took fifty-five men from the Baltimore, and detained them on board the British ship for some time. Supposing, however, (it is presumed,) that he had done wrong, Captain Loring informed Captain Phillips, "that he might come on board his ship, and take back such of his men as were American." Captain P. replied: "The men were in his power, and he might do with them what he pleased." Capt. L. afterward set two of the vessels at liberty which he had cut off, saying: "I keep the other, because the Captain has been insolent," and returned fifty of the men, keeping five.

Mr. P. thought Captain Phillips ought not to have suffered a treatment so flagrant, without firing upon the British ship, and nothing, except, perhaps, his inferiority of force, could plead his apology for not having done so. It is useless, said Mr. P., to guard against the injury and insult of one nation, if we are to receive them with impunity from another. He had no doubt, however, that the President would see the necessity of strongly remonstrating with the British Government against this conduct, and of demanding reparation for the injury sustained; nor ought, in his opinion, a small reparation to be accepted.

The resolution was put and carried without a division; and Messrs. Otis and Josiah Parker were appointed a committee to wait upon the President therewith.

UNIFORM BANKRUPTCY.

The House then, according to the order of the day, resolved itself into a Committee of the Whole on the bill providing a uniform system of bankruptcy throughout the United States; when, after agreeing to some amendments, one of considerable length and importance proposed by Mr. Sewall, providing, instead of the Commissioners having power to take such order as they shall deem expedient with the body of a bankrupt, a more lenient provision,

Mr. N. Smith moved that the committee rise, that time might be afforded to have the amendment printed and considered.

Mr. Harper saw no necessity for this. If the committee were to rise, for the purpose of printing every amendment that was offered, the bill would not be gone through in six years. He did not himself perfectly understand the amendment, but he understood enough of it to vote against it. The provision, as it stands, is copied from the English law; the committee, amongst whom was the mover of the amendment, was satisfied with it, and he hoped it would be retained.

Mr. N. Smith hoped the gentleman's anxiety to pass this bill, would not force gentlemen to vote upon propositions which they do not understand. The gentleman himself confesses he does not understand the amendment; and yet his fondness for the bill as reported, will lead him to vote against it. If he chooses to act thus, Mr. S. hoped other gentlemen might be permitted to act more deliberately.

The question for rising was put and carried—44 to 21. and leave was given to the committee to sit again.

STAMP DUTIES.

On motion of Mr. Otis, the House went into a Committee of the Whole on the bill to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act, entitled "An act laying duties on stamped vellum, parchment, and paper, and further to amend the same."

[This bill proposes that, after a certain time, the duties paid upon foreign bills of exchange and bills of lading shall cease, and that all foreign bills of exchange, whether for a small or large sum, shall then pay a duty of twenty cents; on any note or bill of lading for goods to be exported from one district to another in the United States, not being in the same State, four cents; if to any foreign

port, ten cents; any policy of assurance, or instrument in nature thereof, other than those specified in the former act, not exceeding five hundred dollars, twenty-five cents; above that sum, one dollar; and the said duties shall be chargeable upon each and every bill of exchange and bill of lading, without respect to the number contained in a set. And every draught or order for the payment of money within the United States shall be chargeable with the same rates of duties, as, by the former act, are chargeable upon inland bills of exchange, excepting only orders for the payment of money on demand, drawn upon the president and directors or cashier of any bank.]

Mr. Champlin did not know why so great a difference was made between foreign and inland bills of exchange; by the bill, as it stands, a foreign bill of exchange of one thousand dollars will only pay twenty cents, and if three copies only sixty cents; while an inland bill for that sum will pay seventy-five cents. He thought it right that the duty on foreign bills should be reduced; but he also thought that on inland bills it ought also to be reduced, as, if any difference was made in the duty, it ought to be in favor of inland bills. He therefore moved an amendment to put both on the same footing.

Mr. J. Williams was against this amendment, as it would introduce a new arrangement of duties into the bill. Except in case of particular hardship, he thought no variation ought to be made in the present law, as the business was well matured at the time when the law was passed. And if the House were to go on and lower the duty on inland bills, the whole system would be deranged. As he believed the merchants suffered material inconvenience from the present rate of duty on foreign bills, he should be willing to reduce it, but thought it ought to be twenty-five instead of twenty cents on each.

Mr. Otis said, if this amendment prevailed, it would destroy the whole bill, which principally proposed to make a distinction between foreign and inland bills of exchange; but if this proposition is agreed to, there would be no reason why the duty on notes of hand, bonds, &c., should not be reduced; so that this question goes to the propriety of reducing the whole revenue from this source. The reason why the duty on foreign bills of exchange is reduced, is this: that always two, three, or four copies are made of a foreign bill, and each is subject to duty; whereas, inland bills are single, the same as notes of hand. This bill, as originally reported, Mr. O. said, proposed to divide the foreign bills of exchange into four classes, viz: above twenty dollars, and not exceeding one hundred; above one hundred, and not exceeding five hundred; above five hundred, and not exceeding one thousand; and all above a thousand: and to lay on the first class four cents, on the second ten, the third twenty, and the fourth twenty-five cents. But, upon the best information which the committee had been able to obtain, they thought it best to lay an average duty of twenty cents on all foreign bills; and though, as the gentleman from Rhode Island has stated, an inland bill of exchange for one thousand dollars will pay seventy-five cents, and a foreign bill for the same sum will only pay sixty, if only three copies are made of it; he ought to have recollected that a foreign bill for one thousand dollars would pay the same sum, whilst an inland bill of that amount would only pay about four cents. So that, taking the whole together, he supposed foreign bills would pay fully as much as inland bills; but, if the gentleman from Rhode Island thinks differently, he ought rather to have increased the proposed duty above twenty cents, than have made his present motion.

Mr. Harper said, it would be proper, before this debate proceeded any further, to ascertain a fact, viz: whether it is customary, in drawing inland bills of exchange, to make three or four copies? Because, the reason why it is proposed to reduce the duty on foreign bills is, that three or four pieces of stamped paper are used for every bill, so that, instead of a bill for one thousand dollars paying seventy-five cents, it pays, at present, three or four times that sum. If this is the case with respect to inland bills of exchange, also, then this motion is proper; if not, it is improper.

Mr. Champlin said that, in peaceable times, it is customary to have three copies of a foreign bill; but in the present state of things, four or five are usually drawn. Inland bills, which are drawn on distant parts of the Union, have, generally, two, and sometimes three to a set. He thought the bill, as was first reported, better than as it now stands. He could see no reason for pitching upon a round sum for all bills. By this means persons of small capital, who generally deal in bills of small amount, will be taxed considerably higher than merchants of the greatest property, who have to do with the largest bills. He saw no justice in a bill of £100 paying the same with one of £1,000; and if foreign bills were to pay a round sum, he did not see why inland bills ought not to do the same.

The question was put and negatived, without a division.

Mr. J. Williams then moved to increase the duty from 20 to 25 cents on all foreign bills, which he supposed would make them pay the same as originally intended.

Mr. Waln said, the committee who reported this bill had inquired of the Secretary of the Treasury what sum he thought it would be proper to fix on as an average duty upon all foreign bills, so that the revenue arising from the duty might be about the same as that arising from inland bills; and he had given it as his opinion that 20 cents would be a proper rate, and would rather favor the revenue than otherwise; and he supposed the Secretary of the Treasury better able to make this calculation than any member of this House.

Mr. J. Williams said, though he had a high respect for the calculations of the Secretary of the Treasury, yet he chose to make his own. He believed, that if the duty were only 20 cents, some merchants would pay no more than that sum on a bill for $1,000, as they would not be under the necessity of taking more than one; and some would

run the risk—keeping the stamp in their own hand, and sending unstamped copies to the foreign country on which the bill is drawn. At any rate, he did not think that more than two would be taken on an average, and, if so, the duty at 25 cents would be lower than inland bills and notes.

The question was put and negatived—ten members only rising in its favor.

Mr. Gallatin observed, that by this bill, every draught or order for the payment of money within the United States is made chargeable with the same rate of duties as are chargeable on inland bills, excepting, only, orders for the payment of money on demand, drawn upon the president and directors or cashier of any bank. He did not know, precisely, what technical distinction gentlemen made between inland bills of exchange and draughts or orders: but such a distinction the gentleman from Massachusetts appears to make, and perhaps on that account this provision might be necessary. But he found an exception in favor of money paid on demand, drawn upon any of the banks. He did not think this exception proper as it stands. If an exception is to be made of money paid on demand it ought to be general. He saw no reason why a check on a bank should be exempted from duty any more than if it was drawn upon a factor or individual. The reason of the distinction, he supposed, was that a greater number of checks were drawn on bankers than on individuals; but which only proves that a greater quantity of money passes through those channels than through the hands of individuals. In the country, persons have not an opportunity of lodging money in banks, but they lodge it sometimes with individuals; in which case they would be subject to a duty, which a person who has the convenience of a bank is not subject to. He moved, therefore, to strike out the words "drawn upon the president and directors, or cashier of any bank."

Mr. Otis and Mr. Champlin both mistook this amendment, supposing it to have had for its effect the laying a duty on bank checks. Under this idea, they went into arguments to prove the unreasonableness of such a measure, and said it would be like taxing a man for taking money out of his chest; that it would cause people to draw their money out of the banks, and of course disable them from carrying on their business.

Mr. Gallatin said, that after the gentleman from Massachusetts had finished his observations, in order to show him the mistake he had laid under, he had called for the reading of the section as amended, and yet the gentleman from Rhode Island had taken the same ground of error. If his motion were agreed to, the banks, he said, would remain on the same footing as before; the only change which would take place would be, that orders for the payment of money on demand would be exempted from duty, as well as bank checks. If the amendment is exceptionable, therefore, it is not because it will have an effect to injure the banks, but for some reason which had not been stated. He conceived it could not be objected to as opening a door to evade the duty on inland bills, because it is always necessary to draw them at a certain number of days after date, or at sight, as it is impossible to know whether an individual one hundred miles distant can at sight pay the sum drawn for.

Mr. Bayard said the banks would not be injured by an agreement to this amendment, but the revenue would; and he saw no reason for making the proposed exception. It is extremely reasonable that checks on banks should not pay a duty; but the profit which might arise in the transaction of other money concerns, on demand, would enable persons to pay the duty. He saw no reason why a draught or order, on demand, ought not to pay a duty equally with draughts at ten or twenty days after sight. If it were not so, the duty would be constantly evaded by drawing at sight, but informing the persons on whom and in favor of whom the order is drawn, that though drawn at sight, it is not expected to be paid until a certain number of days after sight.

Mr. Otis said the gentleman from Delaware had anticipated the remarks he intended to make. He would however add one, which was, that not only all draughts will be drawn on demand, but all notes of hand will be turned into orders, and no duty will be collected from any note or inland bill of exchange whatever.

The question was put and negatived—43 to 37.

Mr. Gordon was not satisfied with the provision that makes orders for the payment of money on demand liable to duty. He did not know what its operation might be. Suppose, said he, I have money in the hands of one of my debtors, and, wishing to get it from him, I send an order by a neighbour or servant; this order will be subject to a stamp duty, contrary to the intention of the original act. He would state an instance with respect to himself. It is not unusual, said he, in the course of my business, (and he supposed other gentlemen of the law are similarly circumstanced,) to have orders drawn upon me for money received on account of my clients. These orders, according to this provision, must be stamped, which would be very troublesome and inconvenient. He would therefore move to amend the paragraph, so as to read, "every draught or order, *being of value received*."

Mr. Otis observed, that upon the strength of objections similar to those offered by the gentleman from New Hampshire, the committee at first adhered to the language of the original law, and confined the duty to bills of exchange, technically so called; but they thought it best afterwards to adopt the present form. If this amendment be adopted, the bill would be again brought to the state in which it was first drawn, and there would be no occasion for this paragraph. But, to do away the objections of his friend from New Hampshire, he would state that it is always in the power of a person to reduce an order under twenty dollars, in which case it pays no duty. But the best answer to this objection is this: a creditor will either have a liquidated debt, such as a bond or note, or an unliquidated debt, in account, which certainly ought to be charged with duty. If the debt be of the former kind, nothing further is necessary than to

give up the security, if received in full, or if in part, to write a receipt upon the instrument.

But the gentleman is concerned for the great body of lawyers. Mr. O. believed, that where lawyers had got money in their hands for their clients, a few cents for duty would scarcely be missed out of their fee, if paid by themselves, or, if charged to their client, would scarcely be observable amongst his other costs. No general principle could be adopted, without operating a little hard in some individual cases. The question, said Mr. O., is, whether these shall be endorsed, or the whole duty be evaded; and he believed, after all that could be done, too many ways would be discovered to avoid a just payment of the duties imposed.

Mr. Gallatin hoped that this amendment, or something like it, would be adopted, and the duty be left to fall, as intended in the original act, upon negotiable bills or orders. It is not, said he, so much on account of the rate of duty imposed that I wish this, but from the great inconvenience which everywhere in the country attends the procuring of stamps; and the more the law is extended, the greater will be these difficulties; as, on most occasions, where a person in the country wants a stamp, he has to ride ten, fifteen or twenty miles, to get one. Though the present amount of the stamp duty paid by the country is trifling, he knew it had proved extremely inconvenient to the people. It was well known that draughts or orders of this kind are never negotiable, but are merely used for the purpose of drawing money out of the hands of individuals; and he could see no difference between drawing a check of this sort upon an individual, and drawing it upon a bank. As to what gentlemen have said in relation to the injustice of paying a duty on bank checks, from the consideration that a man's drawing money out of a bank is the same as if he took it out of his chest, it was grounded on a fallacious idea—an idea that the money placed in banks always remained there to answer the checks which might be drawn for it. This, said he, is not so; as no bank would be able to pay, in any one day, the sums which had been deposited there. Indeed, many of the checks drawn upon banks are not paid, but transferred from one person's account to another; so that this drawing of checks on banks is more of a money transaction than when drawn on individuals.

The gentleman from Massachusetts has said that there are a variety of ways to evade this act without this amendment; that, if one person wished to draw an order upon another, he had only to reduce it below twenty dollars. If, said Mr. G., there is any weight in this argument, it would equally go to every description of paper directed to be stamped; so that the whole law might be evaded. It had been said, that if a debt was a liquidated one, the only thing was to send a receipt; but in all such cases it would be necessary to draw a receipt for the whole, when perhaps the whole would not be paid; and with respect to unliquidated accounts no evasion could be supposed. Besides, if the duty can be evaded in one case, by sending receipts instead of orders, it may be done in all, and the next thing will be a tax upon receipts; and if the present provision was retained, he should next expect a receipt tax, in order to prevent evasion. For his own part, had it not been that there was some ground of complaint against the present operation of the law, which he wished to remove, he should have wished the passing of this act to be postponed, until stamps could have better circulated in the country.

Mr. Otis said he felt a little interested in keeping this clause as it stands, and he thought this question of considerable importance. It is a little embarrassing, said he, when gentlemen friendly to the bill should be struck with arguments which are agreeable to those who have always been opposed to a stamp act.

All the arguments which he had heard in favor of the proposed amendment amount to this, that possible inconveniences may arise, in some few instances, if the bill passes as it stands; on the other hand, it is evident, that if the amendment prevails, it would have the same effect as if the whole clause was stricken out.

What, asked Mr. O., says the gentleman from Pennsylvania? That though the amount of duty collected in the country has been small, yet it has been attended with inconvenience. Suppose it has, said Mr. O., let the people submit to it. Is it not better that they should submit, than that those who pay the duty, in the commercial towns, should suffer a greater inconvenience? If any part of the community is to be somewhat put out of their way, ought it to be people that perhaps do not drew an order for $100 in twenty years, or those who pay almost the whole of the duty.

But, according to the idea of the gentleman from Pennsylvania, the duty may be evaded. The whole House knows this. By whom? By those who are settled about the country and deal in small sums, and who would divide their draughts so as to exempt them from duty. He was willing this should be done, rather than that these people should be dissatisfied, make a clamour, and raise *liberty poles* about the payment of a small sum which would make but little difference to the revenue. He would appeal to the candor of the gentleman from Pennsylvania, whether the number of persons in the country is not very small who have their money placed in the hands of individuals as their bankers? Besides, if a person had $100 in the hands of another, he could easily draw five orders for it. But persons who have money in the hands of any one, have generally a bond or note for it; and, when they receive anything on account, they send the security, and a receipt is written upon it. No harm or inconvenience can arise from this. And shall we, said Mr. O., relinquish all the revenue to be derived from the species of paper in question, from the cities, for the sake of accommodating a few individuals? Certainly not. As to the complaint that stamps are not sufficiently circulated, they would become more so every day.

Mr. Champlin said he was against the original stamp act, and in favor of its repeal, at the last session; but he did not wish to defeat its operation in any side-way manner, and he was therefore

against this motion; for the simple question, said he, is, whether all inland bills of exchange shall be exempted from duty, (as not one bill in a hundred would pay duty if this provision was made,) since they would be drawn without the words "for value received."

Mr. GORDON had not been convinced, by anything which had been said on this subject, that his amendment ought not to pass; on the contrary, the arguments of the gentleman from Massachusetts had convinced him it ought to be adopted, or something like it. Whenever anything is brought forward, said Mr. G., relative to cities or banks, gentlemen are on their feet in a moment, and exclaim, "Will you destroy our cities or our banks!" And if anything is said of the inconvenience attending the collection of money in the country, gentlemen are told "that all the revenue comes from the cities; and if people in the country do suffer inconvenience, it is no matter—they must submit to it." He believed, though far less money had been paid in the country on account of the stamp act than in the cities, that the inconveniences experienced from it had been much greater in the country than in the cities; and if this clause is not amended, said he, those inconveniences will be greatly increased.

Gentlemen say that this act will be evaded. I do not think, observed Mr. G., that it will be evaded to any considerable extent in the country. Country people are not willing to take securities for money, unless they have evidence sufficient to recover upon their security. For my part, I see no inconveniences which could arise from adopting this amendment. If, however, any such should occur, it will be time enough to guard against them when they appear.

Mr. HARPER said there could be no doubt that it would be desirable to establish the exceptions which had been mentioned, provided it could be done without endangering the substance of the law itself; but he did not see how it could be done. If, as had been stated by the gentleman from New Hampshire, the words "value received" were nenecessary to make a paper legally binding, and a good cause for action in a court of justice, his idea would be a correct one; because every one who took a draught would take care to have those words in it.

He believed, however, that these words were not necessary to sustain an action. He believed that where a man acknowledged himself to be a debtor, and drew an order, accepted it, or paid it away, it is presumed value has been received; and he believed a promissory note or bill of exchange could as well be received without the words "value received" as with them—it being only presumptive evidence, which is of no use where real evidence can be had, and therefore these words would be omitted, in order to evade the duty. Mr. H. said he did not lay this doctrine down as positive, as it was some time since he attended to the minuter parts of law; but if he was not correct, he had no doubt he should be corrected by the gentleman from New Hampshire.

Mr. NICHOLAS moved to strike out the whole of the clause respecting draughts or orders being charged with duties.

The motion was put and carried—48 votes being for it.

A desultory conversation next took place on a motion to amend a section of the bill which provides a penalty for any person who shall accept or pay any unstamped foreign or inland bill; when a motion was made for the committee to rise, and the committee therefore rose before the question on the amendment was taken. They had leave to sit again.

THURSDAY, January 3.

Mr. OTIS, from the Committee of Defence, reported a bill entitled "An act further to suspend the commercial intercourse between France and the dependencies thereof, and for other purposes," which was read and committed for Monday.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. BAYARD rose and informed the House that the hour was arrived which the Senate had appointed for the managers of the impeachment against William Blount to appear at their bar to sustain the impeachment; and as he supposed the House would not think it proper to proceed with business in the absence of so considerable a number of members as compose the managers, he moved that the House adjourn for one hour.

Mr. VARNUM thought it would be better to adjourn to the usual time, and the motion was carried—51 votes being in favor of it.

FRIDAY, January 4.

Mr. SEWALL, from the Committee of Commerce, said he was directed, in the absence of the chairman of that committee, to ask leave of the House to have printed such bills as the committee might think it necessary to frame on the subject of a new arrangement of the laws for the regulating of the duty on imposts and tonnage, before the same was presented to the House. Agreed to.

Mr. BAYARD said, the time was arrived to which the court for the trial of the impeachment had yesterday adjourned, on which account he moved that the House adjourn.

MONDAY, January 7.

RICHARD BRENT, from Virginia, appeared and took his seat in the House.

REPRINTING JOURNALS.

Mr. RUTLEDGE said, that on looking over the report of the unfinished business of last session, he observed that a resolution was omitted, which was sent down from the Senate on the last day of the session, and not acted upon by this House, proposing a subscription for a certain number of copies of the old Journals of Congress, founded on a petition from several of the Judges and gentlemen of the bar, stating them to be out of print, and that a republication of them would be very desirable. Several printers had given in proposals for executing this object, but were unwilling to undertake it without legislative aid. He wished, however, instead of agreeing to take the copies from any particular printer, that the business should be left with the Secretary of the Senate and the Clerk of this House. Mr. R. therefore proposed a resolution to the following effect:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Senate, and the Clerk of the House of Representatives, be authorized and directed to subscribe for ——— copies, on such terms as they may think eligible, for the use of the members of both Houses, of the Journals of Congress; together with such reports of the Heads of Departments, and of both Houses, as are out of print, and important for explaining the acts of the Government."

Ordered to lie on the table.

DUTIES ON DOMESTIC SPIRITS.

Mr. HARPER, from the Committee of Ways and Means, said, that at the last session, the Secretary of the Treasury had been directed to collect together all the laws which had been passed relative to duties payable on domestic distilled spirits and stills, for the purpose of incorporating the whole in one act; but owing to the great variety of business which then occupied his attention, it was not done. The business had, however, now been completed, and the Committee of Ways and Means being desirous of acting upon the subject, in conformity to their wish, he proposed the following resolution to the House:

"*Resolved,* That the Committee of Ways and Means be instructed to prepare and report a bill to consolidate into one act, and for amending the several acts respecting the duty on domestic distilled spirits and on stills."

The resolution was agreed to.

USURPATION OF EXECUTIVE AUTHORITY.

Mr. GRISWOLD, from the committee appointed to inquire into the expediency of amending the law for the punishment of certain crimes against the United States, asked leave for the committee to report by bill.

The motion was carried—50 votes being in favor of it; and

Mr. GRISWOLD then reported a bill for the punishment of certain crimes therein specified, which was committed for to-morrow, and ordered to be printed.

STAMP ACT.

The House went into Committee of the Whole on the bill for amending the stamp act; and the following amendment being under consideration, viz., to strike out these words from the bill:

"Or if any person or persons shall accept or pay any foreign or inland bill of exchange, draught, or order, on which any duties are chargeable by law, before the same shall be duly stamped, the person or persons so offending shall forfeit a sum not exceeding ——— dollars."

Mr. HARPER believed his object would be better attained, by striking out only the words "foreign or," leaving the forfeiture as it is, on accepting or paying any unstamped inland bill, draught or order. He therefore varied his motion to that effect.

Mr. GORDON was opposed to this amendment, as it was introducing a new principle into the stamp act relative to inland bills of exchange. If a provision of this kind was necessary to secure the duty on inland bills, he did not see why it was not also necessary with respect to promissory notes, or any other security. But, as he saw no occasion for it, and as it was changing the ground taken for securing the duty by the former act, he should vote against it. When the stamp act was passed, it was thought to be a sufficient security for the payment of the duty, to declare that no unstamped security could be a ground of action in any court of justice, until a stamp was affixed to it; to obtain which, ten dollars were to be paid in addition to the stamp duty. This Mr. G. thought sufficient, without any additional penalty.

Mr. GALLATIN renewed the motion, which had been withdrawn by the gentleman from South Carolina, to strike out all the words which went to lay a penalty upon paying or accepting bills of exchange, as he saw no necessity for it.

The motion was put and carried, without a division.

The 3d section now came under consideration. It provides a forfeiture for any person who shall write or print any bond, bill, &c., upon stamped paper that has already been once used, until it be restamped; also, for erasing any name, date, sum, or other thing, or fraudulently cutting or getting off any stamp, with intent to use it for any other writing.

Mr. NICHOLAS was apprehensive lest innocent persons might be ensnared by a provision of this kind, as a person possessed of a stamped piece of paper, upon a part of which some instrument had already been written, might sell it to another, and cause him to offend the laws unknowingly.

Mr. GORDON believed this objection might be removed by adding the words "shall knowingly and fraudulently" use any such paper. Agreed to.

The 4th section provides that all writings upon which duties are chargeable shall be written in such manner that some part thereof shall be either upon, or as near as conveniently may be to, the stamps or marks which shall be placed thereon, on pain of the person writing, contrary to the tenor and true meaning thereof, forfeiting ——— dollars.

Mr. VENABLE moved to strike out this section. It was so indefinitely expressed, that a person might be subject to the fine without knowing he had offended.

Mr. J. WILLIAMS was against striking out, believing the provision to be a good one.

Mr. HARPER said, if the only objection to this section was the one mentioned by the gentleman from Virginia, it might be obviated without striking out the section, by requiring that some part of the instrument shall be written upon the stamp.

Mr. VENABLE thought the section better away. Many persons using stamps might not know that the law required them to write upon the stamp;

and, if they did not do this, they would incur the forfeiture.

Mr. Waln said, he would state to the committee the reason which had induced the Committee of Commerce to introduce this section into the bill. It was to prevent the practice which it was understood had prevailed among persons who deal in notes, called accommodation notes. The persons concerned in these notes get them discounted; and it is said that a practice has obtained of writing one of these notes at the foot of half a sheet of paper, and, afterwards, as the notes have been cancelled, three or four other notes have been written upon the remainder of the paper, one after another, till the whole of the paper has been used, by which practice the duty has been evaded, and in such a manner as not to be detected.

Mr. Otis confirmed the fact mentioned by the gentleman last up, and adding that he believed some private banks had countenanced the deception, that the provision could affect no person who did not intend to defraud the revenue. What is a further recommendation of the provision, it is copied from the English statute, where it has been found successful in preventing frauds, which could not otherwise be prevented.

Mr. Nicholas acknowledged that it was desirable to prevent the abuse which had been mentioned, but he could not, on that account, consent to a section which would greatly increase the inconveniences at present felt from the stamp act in the country. If it was made necessary for stamps to be used in a particular manner on pain of forfeiture, country people would be afraid to use them, and be obliged to employ a scrivener, if they had only to give a note. If the provision could be confined to the kind of notes which had been mentioned, he should not object to it.

Mr. Varnum thought it would be best to provide that some part of the writing of every instrument should be upon the stamp, and also to insert the words, "knowingly and fraudulently."

Mr. Otis said, no person could offend against this provision without designing to do so, as no person would think of beginning to write upon a stamped piece of paper so far from the stamp as to leave room for any other instrument to be put upon it, if he had not that in view. There could be no objection to the introduction of the words, "knowingly and fraudulently," if it were thought those of "contrary to the tenor and true meaning thereof," were not a sufficient guard for innocent persons.

The motion for striking out the section was put and negatived—44 to 31.

Mr. Bayard moved to strike out the words, "as near as conveniently may be," as being too uncertain an expression on which to found a penal law. If it was provided that the stamp should be written upon, the fact could always be ascertainable.

This motion was opposed by Messrs. Nicholas, Otis, and Gordon, and advocated by the mover, T. Claiborne, Harper, and Edmond. Those in favor of it, were so because they thought, if the law required a person to write upon the stamp, he would be less liable to offend than if not directed to write upon it, or as near as conveniently may be; those opposed to it, were so because they were apprehensive many penalties might be incurred before the law was known, and because it is usual at present to write as near to a stamp as is convenient, at least so near as not to leave room for the writing of any other instrument.

The question was negatived—24 votes only being in its favor.

Mr. Champlin proposed an amendment, new modelling the section, which he thought would render it less objectionable; but, after a few observations, it was negatived—there being only seven votes for it.

The 5th section, which directs the manner in which the fines shall be recovered, was passed over without amendment. The 6th, as it stood, provides, "that no duties shall be levied or collected upon any bonds required in any case by the laws of the United States, or of any State, upon legal process, or in any judicial proceeding, or for the faithful performance of any trust or duty."

Mr. Dana said, this section was introduced to do away doubts which have existed, whether bonds of the description here mentioned, were subject to duty or not. The wording of the section will prevent any division of opinion in future; but it is so expressed as to imply that they ought to have paid duty heretofore. He wished, therefore, to alter it in some measure. Another idea occurred to him. This section mentions "bonds required," and there are bonds which are not required, but which are allowed. He, therefore, proposed to strike out the words in italic, and to insert the following in their place, viz: "nothing in said act shall be construed to require the payment of any duty on bonds taken pursuant to." Carried.

Mr. Bayard moved further to amend this section by adding to the end of it, "nor upon any exemplification taken out by a party for the purpose of carrying into effect any judicial proceeding."

Mr. Otis said, this motion would go to alter the principle of the original act. The intention of the motion of the gentleman from Connecticut had only gone to affirm the intention of the former law, but this goes to repeal a part of it, as there is a duty imposed upon all exemplifications, of what kind soever.

Mr. Bayard did not think this amendment would go further in repealing any part of the former law than the amendments which had just been adopted. As all bonds are by it made subject to duty as well as all exemplifications, and as a certain species of one are to be exempted from duty, he did not see why the kind of exemplifications to which he alluded might not also be excused from duty. This term, "exemplification," was differently understood in the different States. By some gentlemen only a copy of a whole record is called an exemplification, while in the State of Delaware any part of a record is called an exemplification, and comes within the terms of the law. It was his wish only to excuse partial

exemplifications from duty, and by that means put all the States, in this respect, on the same footing.

The motion was negatived, there being only 13 for it.

Mr. Allen said, a considerable difference of opinion had existed in different parts of the country with respect to bonds or notes given for the furnishing of certain produce or other goods at a specified time, whether they are or are not subject to duty. He had always given it as his opinion that they are not; and he thought himself warranted in this opinion, because, when the original bill was under consideration, a motion was made to amend it, by inserting a clause to include contracts of this kind, when the chairman of the Committee of Ways and Means said it was only meant to lay a duty on bonds and notes for money. For himself, he saw no reason why these contracts should not be taxed as well as any other; but as it was the intention of the House at that time that they should not be included, he moved further to amend the 6th section by adding the following words: "or upon any contract for the payment, delivery, or performance, of any specific article or thing."

Mr. Otis hoped this amendment would not prevail. The act was sufficiently clear; and if this motion was carried, he should expect to see notes given for such and such goods, or so much money, in order to evade the duty.

Mr. Allen had no particular anxiety that this motion should pass; but he thought the people ought not to be left in the dark as to what instruments ought to pay duty, and what ought not. Acts of such a kind would deserve execration. Where there is doubt, that doubt certainly ought to be cleared away; and that there is doubt on this subject, is well known. He knew that an officer in the Government had declared it to be his opinion that these contracts are included by the acts. He wished to have the law made clear. He proposed to add the following words to his amendment: "whose value in money is not ascertained or estimated in said contract."

Mr. J. Williams was in favor of the amendment. He thought the difference of opinion which exists on this point ought to be removed.

Mr. Otis said, suppose the value is not ascertained in, but out of, the contract. He saw no reason why notes for specific articles ought not to be taxed as well as other notes. If not, nine-tenths of the duty would be evaded in the way he had mentioned.

Mr. Gallatin believed it would be necessary either to adopt this amendment, or to re-commit the bill. The Treasury Department had inserted in the newspapers, in the recess of Congress, the rates of stamp duty and the objects upon which it was laid. These had been generally read, and he had several times the question put to him whether securities of the kind referred to by this amendment were intended to pay a duty, and had constantly given it as his opinion, that when a bond was given for a certain thing to be done, though there was a penalty annexed to the bond, no duty was payable upon it. It may, however, have been constructed in a different manner, and he understood it had, by some of the officers of the revenue. On looking at the original act, he found that the words used are, "any bond, bills, single or penal, or promisory note, or other notes for the security of money." But the words, *for the security of money*, apply only to notes, and not to bonds and bills, single or penal. Indeed, if a duty were to be paid by bonds, of the kind alluded to, it must be according to the penalty; and if so, and the rule was to be general on all bonds, they would pay double the sum that notes pay, as the penalty of a bond is usually double the condition. It would be necessary, therefore, either to re-commit the bill, in order to have this matter rectified, or agree to the amendment; but he thought the amendment ought to be agreed to.

It was true, that the law might be evaded in the way mentioned by the gentleman from Massachusetts, by giving a note for such and such goods, or so much money; but if he attended to the law, he would find his argument went against the law itself, and not against this amendment.

The motion was put and carried, there being fifty-seven votes for it.

The question was now upon filling the blanks allowing compensation to the Supervisors and Inspectors of Survey, for collecting the stamp duties.

Mr. Otis proposed to fill the first blank, which was for all duties collected from persons other than officers of the revenue, with six per cent., and the other, upon what they received from the officers, two per cent. The fact was, Mr. O. said, that no compensation whatever had been made to these officers for their services in this business. By the law passed last session for regulating the compensation of these officers, it was enacted that they should have the same commission on collecting the internal duties as had been allowed to them by the President of the United States before this law passed; but he had never made them any allowance on the stamp act, supposing Congress would fix their compensation for the business laid upon them by that act. The commission allowed to the Collectors, said Mr. O., for collecting the internal duties, is six per cent., and he supposed it would be proper to allow these officers the same where they collect the money; but where they receive it from other officers, he supposed two per cent. would be sufficient.

Mr. Gallatin thought he understood the gentleman from Massachusetts to say that the Collectors have six per cent. allowed to them for collecting the stamp duty.

Mr. Otis said, in fixing the compensation of the officers of the revenue, Collectors had been allowed six per cent. on all the internal duties, and of course upon the stamp duties.

Mr. Gallatin observed, that when this law first passed it was provided, in the 19th section, that the President should cause to be paid such sum of money for collecting the duties as he should think proper, so that the whole amount did not exceed five per cent. The section which the gentleman had read was posterior to this. It

was curious enough, Mr. G. said, that after the whole expense of collection had been confined to five per cent., that it should be thought proper to give the Collector alone six per cent. There would be much less difficulty in collecting this duty than any other. The reason why six per cent. had been given to the Collectors on the whole of the internal revenue, was, because some part of the collection is attended with great trouble: the collection of the duties on stills better deserves twenty per cent. than that on stamps deserves two. All the trouble attending the collecting of the stamp duty is selling the stamps. Instead of six per cent. being allowed to the Supervisors, he thought one per cent. on all the money they receive, whether from officers or others, would be a sufficient allowance. The commission allowed to them on the other duties is from one to one and a half per cent. He therefore thought six per cent. six times too large a sum.

Mr. Sewall thought six per cent. too much, though he seconded the motion of his colleague, but he thought the gentleman from Pennsylvania as much too low as he was too high. The Supervisors, Mr. S. said, had to distribute the stamps, and either to employ a person to stamp the paper or to do it himself. Besides this, he had to keep a record of the stamps, and was obliged to pay a constant attention to the business.

Mr. Otis said, it was the intention of Congress to allow the Supervisors the same for collecting the stamp duty that is allowed to Collectors for the other internal duties and what reason could be assigned why a principal officer should not at least receive as much for his services as a subordinate one? The trouble which Supervisors had in this business was greater than gentlemen conceive. If a person come to have a note stamped, he is obliged to attend to see it done; and it is of consequence to the public that he should attend to all the minutiæ of the business, rather than that it should be trusted in the hands of persons who could not be so well relied upon. He knew the Supervisors had been allowed at the last session for clerk hire, but he was nevertheless convinced that they ought at least to have five per cent. allowed for collecting this stamp duty; if not, he did not suppose they would undertake it.

Mr. Gallatin said the gentleman who had just sat down was wholly mistaken as to the allowance heretofore made to Supervisors. Last year their salaries were fixed by law, and sums allowed for clerk hire; before that time their compensation was left to the President. It was also said that they should have the same commission on the internal taxes as had been heretofore allowed them by the President. The gentleman from Massachusetts says this allowance was five or six per cent. It was no such thing. By the schedule, said Mr. G., lately laid upon our tables, we find on spirits distilled and on stills, the commission is from one to one and a half per cent. on sales at auction, retailers' licenses, &c. one half per cent. Yet the gentleman from Massachusetts wished to give them five per cent. for the stamp duty, though he was persuaded it would be attended with less trouble than any other. In my opinion, said Mr. G., the Supervisors are the best paid officers under the Government. Their salaries in three of the States, exclusively of what they will receive from the stamp duty, and including $800 for clerk hire, exceed $5,000 per annum, and none have less than 1,000 or $1,200. There is no need, therefore, to give them six per cent. on the stamp duties. From one half to one and a half per cent. (according to the proportion of the business done) would be an ample allowance.

After a few words from Mr. Otis in defence of his motion, it was put and negatived, without a division.

Five was then proposed and also negatived.

Mr. Gallatin proposed one and a half, which he thought rather too high.

Mr. Sewall proposed three per cent., but before a division was had upon this question, a motion was made for the committee to rise. It rose accordingly and had leave to sit again.

Tuesday, January 8.

A report was received from the Postmaster General on the subject of Post Offices and Post Roads, in pursuance of a resolution of the 14th June, which was referred to the committee on that subject.

Mr. Rutledge called up the resolution which he yesterday laid upon the table respecting a subscription for the printing of the old Journals of Congress; which was referred to Messrs. Rutledge, Nicholas and D. Foster, as a committee to consider the subject and to report thereon.

RELATIONS WITH FRANCE.

Mr. Gallatin said, that the President of the United States had mentioned in his Speech at the opening of the session "that the course of the transactions in relation to the United States and France, which had come to his knowledge during the recess, would be made the subject of a future communication." He presumed that the delay in this communication was owing to a wish of rendering it as complete and perfect as possible; nor would he have been desirous to press in the least the subject on the President, had not the House, by a vote of theirs, declared their intention to legislate without further delay on subjects immediately depending on and connected with the promised information. Among other bills (more or less connected with that subject) which are made the order of the day, Mr. G. alluded particularly to two provisions in the bill reported by the Committee of Defence, for the purpose of further suspending the commercial intercourse between the United States and France. The first of these authorizes the President to permit intercourse with any island or place belonging to France, whose Governor or commanding officer shall disavow and refrain from depredations against the vessels of the United States, although that commanding officer should not be authorized in so doing by his own Government. The other provision empowers the President to suspend the commercial intercourse of the United States with other countries besides France, with the ports of Spain and Holland, as would appear when the bill comes under discussion. These two provisions, said Mr. G., are so novel, and involve considerations of such magnitude, that he thought it improper that the House should attempt to adopt or discuss them, before they had the fullest information on the subject. By making the bill to which he had alluded the order of the day, the House had declared its intention of entering into an immediate investigation of those important measures. He therefore conceived it necessary that the information should be called for without delay, and proposed the following resolution:

"*Resolved*, That the President of the United States be requested to communicate to this House the information with respect to the course of transactions in relation to the United States and France, which came to his knowledge during the recess of Congress, mentioned in his Address to both Houses on the 8th ult., and also such further information as may have come to his knowledge during the present session of Congress."

Mr. Harper hoped the resolution would be suffered to lie on the table till to-morrow. He believed the information which the gentleman wants will soon be laid before the House.

Mr. Gallatin had no objection to the motion lying, provided the bill to which he had alluded was not called up in the meantime.

The Speaker was about to take the sense of the House upon resolving itself into a Committee of the Whole on the bill to amend the stamp act; when

Mr. Gallatin said he believed that the amendments, under consideration yesterday, would require some time to get information on the subject, before a decision could probably be had upon them. The shortest way, perhaps, would be to discharge the Committee of the Whole from a further consideration of the subject, with a view of recommitting the bill to the Committee of Ways and Means, who might get the necessary information. For he believed, from the loose information which he had obtained since the House rose yesterday, that he had himself made a motion which he should withdraw, as he believed it proposed to allow two or three times too much to the Supervisors for collecting this duty. The stamp duties, he said, would be principally collected in the large cities, and therefore a small per centage would be sufficient. He supposed that in Philadelphia alone $100,000 a year would be collected from this tax, which, at three per cent., would give the Supervisor $3,000 a year, in addition to his present salary.

Mr. Dent thought the better way would be to postpone the consideration of this bill for a certain day.

Mr. Otis did not think it necessary that either of these motions should pass. In consequence of the objections made yesterday to filling up the blanks with the sums he had proposed, he had waited upon the Commissioner of the Revenue, and gained some information on the subject; and though the Commissioner could not furnish a correct return from all the States, he could do it from some. He had obtained from him returns for two quarters from Pennsylvania and Maryland, and it may be supposed that the amount of the collections in those States will be as great as in any other. He thought, therefore, that these returns would afford sufficient data on which to act; the result of which would be found far less than the gentleman from Pennsylvania had suggested.

Mr. Gallatin said that, from the observations of the gentleman from Massachusetts himself, it appeared that either the motion which he had made, or the one proposed by the gentleman from Maryland, ought to be adopted, since he says that he has received information from the Commissioner of the Revenue which is not before the House, and they cannot expect the House to act on a business of this sort upon any private information which any gentleman shall inform the House he possesses. It is necessary that this information should be official. Believing the motion proposed by the member from Maryland would answer his purpose better than the one he had himself proposed, he should withdraw his own, and move to postpone the consideration of this bill for two days.

Mr. Otis was against this motion, because he believed as good information might be obtained in half an hour as could be got in three days. He thought it sufficient for a gentleman to declare in his place, what has been the amount of the duty collected from certain States, in any given time; and he had himself seen the books of the Commissioner of the Revenue, which state that the amount of duty collected in the State of Pennsylvania, for the first quarter, was $11,804, and for the second $6,800, so that it may be supposed the whole amount of the annual collection of this duty in Pennsylvania will not amount to $40,000 a year. He thought this information sufficient.

The question on postponement was put and carried.

IMPRESSMENT OF SEAMEN.

The following Message was received from the President of the United States:

Gentlemen of the House of Representatives:

In compliance with your desire, expressed in your resolution of the 2d of this month, I lay before you an extract of a letter from George C. Morton, acting Consul of the United States at the Havana, dated the 13th of November, 1798, to the Secretary of State, with a copy of a letter from him to L. Tresevant and William Timmons, Esqs., with their answer. Although your request extends no further than to such information as has been received, yet it may be a satisfaction to you to know that as soon as this intelligence was communicated to me, circular orders were given, by my direction, to all the commanders of our vessels of war; a copy of which is also herewith transmitted. I also directed this intelligence and these orders to be communicated to His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States, and to our Minister Plenipotentiary to the Court of Great Britain, with instructions to him to make the proper representation to that Government upon this subject.

It is but justice to say that this is the first instance of

misbehaviour of any of the British officers towards our vessels of war, that has come to my knowledge. According to all the representations that I have seen, the flag of the United States, and their officers and men, have been treated by the civil and military authority of the British nation, in Nova Scotia, the West India Islands, and on the ocean, with uniform civility, politeness, and friendship. I have no doubt that this first instance of misconduct will be readily corrected.

Jan. 8, 1799. JOHN ADAMS.

[CIRCULAR.]

To the Commanders of Armed Vessels in the service of the United States; given at the Navy Department, December 29, 1798.

Sir: It is the positive command of the President, that on no pretence whatever, you permit the public vessel of war under your command to be detained, or searched, nor any of the officers or men belonging to her to be taken from her, by the ships or vessels of any foreign nation, so long as you are in a capacity to repel such outrage on the honor of the American flag. If force should be exerted to compel your submission, you are to resist that force to the utmost of your power, and when overpowered by superior force, you are to strike your flag, and thus yield your vessel, as well as your men; but never your men without your vessel.

You will remember, however, that your demeanor be respectful and friendly to the vessels and people of all nations in amity with the United States; and that you avoid as carefully the commission of, as the submission to, insult or injury.

I have the honor to be, sir, your obedient servant,

BEN. STODDERT.

Letters which accompanied the above Message:

Extract of a letter from George C. Morton, acting Consul of the United States at the Havana, dated there the 18*th November*, 1798, *to the Secretary of State.*

"By the delegation of Daniel Hawley, Esq., I am at present acting as Consul of the United States in this district, with which he will most probably have acquainted you. It imposes upon me the mortifying task of informing you, sir, of the partial capture of an American fleet under the convoy of the Baltimore sloop-of-war, —— Phillips, Esq., commander, by a British squadron, off this harbor, accompanied with circumstances rather grating to the feelings of Americans, and by no means analogous to that good harmony which seems to subsist between the two Governments.

"The answer of Messrs. Trezevant and Timmons to my annexed note of the 17th instant, requesting an exact relation of the occurrence, will, I presume, be deemed as impartial a narration as can be given of the whole transaction, they having been passengers on board one of the captured vessels, and removed to the Baltimore.

Mr. Morton adds, that Commodore Loring ordered the fifty-five men out of the Baltimore "on board of his ship, previous to any proposal of exchanging the natives of one nation for those of the other, and retained five of the hands as being British subjects, without giving an equal number of Americans, whom he acknowledged to have on board."

Havana, *November* 17, 1798.

Gentlemen: As acting American Consul for this city and district, and of course obliged to forward the most correct statement possible to the Government of the United States officially, I would beg the favor of you, gentlemen, to furnish me with an exact relation, under your signatures, of the unpleasant occurrence which took place off the Moro Castle on the 16th instant, by which you will much oblige,

Gentlemen, your most obedient servant,

GEO. C. MORTON.

L. Trezevant and W. Timmons, Esqs.

N. B.—It would be proper to premise that you were passengers, and your distance from the Moro Castle at the time of capture. G. C. M.

Havana, *November* 18, 1798.

Sir: Agreeably to your request, we now commit to writing the best account we are able to give you of the conduct of Captain Loring, Commodore of the British squadron, which was lately off the Moro, towards the United States ship Baltimore. We must observe, however, that all we can say of it is from the information of Captain Phillips, as we were not on board the Baltimore when she was visited by Captain L's officers.

In the morning of the 16th instant, we discovered this squadron when we were in sight of the Moro, and afterwards found it was composed of Captain Loring's ship, the Carnatic, of 74 guns; Captain ——'s ship, the Thunderer, of the same force; Captain Dobson's ship, the Queen, of 98 guns; Captain Donnelly's frigate, the Maidstone, of 32 guns; and Captain Hardy's frigate, the Greyhound, of the same force. We were passengers in the brig Norfolk, Captain Butler, which, together with the ship Eliza, Captain Bass, and the brig Friendship, Captain Fuller, were cut off from their entrance into port, and were all made prizes within gunshot of the Moro. We obtained leave to go on board the Baltimore with our baggage, and did so. When Captain Phillips discovered that they were English ships, (which was before we were taken,) he stood towards them, and spoke the Commodore. After we got on board the Baltimore, the Captain informed us that he had been on board the Carnatic, and the Commodore had told him that he should take out of the Baltimore all such men as had not American protections; that he had remonstrated with him against showing such an indignity to our flag; that to do so would leave his ship in a very defenceless state, and would deprive him of nearly all his men, as not even those who were really Americans, or at least very few of them, could show protections, because it was always thought that our flag, on board of a Government ship, was a sufficient protection. All this, however, was urged in vain. Captain P. returned to his ship, and the Commodore sent an officer on board the Baltimore, who carried away fifty-five of her men to the Carnatic. Captain Phillips remained in expectation that nearly all the rest would be taken from him; but whether the Commodore, upon reflection, thought better of it, or whatever else might have been his motive, he sent back fifty, and kept five, among whom was the ship's boatswain. Captain Loring proposed to give up a number of American seamen, who, he said, were in his fleet, if Captain P. would give him English subjects for them. Captain P. refused this offer, and the American seamen were not delivered to him. Before any of the men were returned, he sent a message to Captain P. to let him know if he, or one of his officers, would go on board of him, and point out who were Americans and who were not, he would return all the Americans; but this was declined also. After we got on board the Baltimore, he sent a letter to Captain P. which he showed to us, in which the Commodore "demanded" that he would give up all the British subjects on board the Baltimore. To this, Captain P. replied that he could not know any of his men as British subjects, nor could he, as commander of a ship, in the service of the United States, voluntarily give up any of his men; but if he thought fit to send an officer on board, with orders to take any number of his men, he should not oppose it. In this answer, Captain P. mentioned he should lay before the Executive of the United States a full account of the occurrences of the day. Shortly after sending this reply, the squadron set sail, and left the Baltimore. Commodore L. was very polite to us, and was so to Captain P., when he went on board; but Captain P. complained of indecent behaviour from the inferior officers.

LEWIS TREZEVANT,
WM. TIMMONS.

G. C. Morton, Esq.,
Vice Consul of the U. S. at Havana.

The Message and documents were read and ordered to lie on the table.

Another message was received from the President of the United States, enclosing a statement of the grants made for the contingent expenses of the Government for the year 1798; ordered to lie on the table.

UNIFORM BANKRUPTCY.

On motion of Mr. Sewall, the House resolved itself into a Committee of the Whole on the bill providing an uniform system of bankruptcy throughout the United States, when the motion which he had proposed when the committee last sat upon the subject was taken up, considered, and negatived. After agreeing to several amendments, the committee rose, and the House took them up and agreed to them.

A motion was renewed by Mr. Waln (which had been made by Mr. Gordon, in the Committee of the Whole, and then negatived) to strike out the following words from the 36th section:

"And no certificate granted in pursuance of this act shall be available or effectual to discharge any debts contracted prior to the date of this act, but the same, or so much thereof as shall not be satisfied out of the effects of the bankrupt, shall be recoverable in like manner as they might have been if this act had not been made."

Mr. Waln thought that when a debtor submitted to the inconveniences laid upon him by this act, he ought to have the full benefit of a bankrupt law, by being freed from all his debts. He thought this bill calculated, upon the whole, to benefit the creditor; and he believed the creditor of a bankrupt, who was such before the passing of this law, would have a better chance of being paid if this provision was stricken out than if it was retained, because the friends of an unfortunate bankrupt would never think of giving him any assistance to recommence any business for the future support of his family, when they knew, that the moment he got any property, these unsatisfied debtors might seize upon it. He thought it would be better, therefore to leave it to the honor of a man in this situation to pay, if ever he shall become able, than to deprive him forever from doing anything for himself and family.

Mr. Craik declared himself friendly to this bill, but he should be sorry to see it pass with the provision now moved to be stricken out. He was not of the opinion that this is a law for the benefit of creditors—a bankrupt law, well framed, he believed, equally beneficial to the debtor and creditor. If the provisions of this bill are attended to, said Mr. C., there will be found important benefits given to the creditor, in order to prevent the fraudulent debtor from making away with his property; and in consequence of these advantages, the honest debtor is entitled to certain indulgences. The benefits which creditors will derive from this law are many. Any one creditor to a certain amount may, by petition, make his debtor a bankrupt, if he sees no probability of being paid in any other way; where all his debtor's property goes into the hands of commissioners, who have a complete control over the bankrupt's property, and this by a summary process. A debtor making these sacrifices, therefore, has a right to expect indulgences in return. What are these indulgences? His body is exempted from future arrest; and any property which he may hereafter acquire cannot be touched by any of his creditors, who were so prior to the act of bankruptcy. And if such bankrupt makes a disclosure of his affairs in time, and, by making a fair surrender of his property, pays a certain portion of his debts, he is entitled to an allowance per cent. on the amount of his debts, in order to enable him to commence business again. But the clause now under consideration, if retained, would destroy a greater part of these advantages, by making a debtor for ever subject to be harassed for debts owing before the passing of this act. The only reason which he could suppose might be alleged in favor of this clause was, that it might be thought by some that the Legislature had no right to interfere between a creditor and his debtor, in respect to transactions which took place before the passing of this law. But he was satisfied that no system of bankruptcy could be formed without affecting, in some degree, the contracts in existence at the time. But, with this clause in it, all the benefits in the law will be in favor of the creditor, and the debtor will receive nothing in return, but be deprived of the opportunity of ever after acquiring property. Indeed, this clause would effectually do away the check which is provided to prevent a bankrupt from obtaining a certificate unworthily, by making the assent of two-thirds of his creditors necessary, as this species of creditors would always be in favor of the certificate, that they alone might have a future claim upon the bankrupt. This clause, Mr. C. said, would clash with the power constantly exercised by some of the State Legislatures of passing insolvent acts, in order to relieve objects of distress from prison.

Mr. C. could see no mischief which would arise from striking out this clause, as a bankrupt will never be able to obtain a certificate until two-thirds of his creditors have signed it; and if the law is passed at all, it ought to afford a reciprocal benefit to debtors and creditors.

Mr. BAYARD said, nothing could be more just and reasonable than the amendment proposed; and when the committee engrafted this clause into the bill, they did not do it from a wish that it should be adopted; but they knew it was a great principle, and they did not know what the opinion of the House might be upon it, and therefore thought it right to lay it before them, but he trusted it would not be adopted, as he thought the provision would be unjust. This bill, said Mr. B., goes to divest a bankrupt of his whole property, and to place it in the hands of assignees, for the benefit of the whole of his creditors, as well those who were his creditors before the passing of this law, as those who have become so since; and having honestly given up the whole of what he possessed, and two-thirds of his creditors being satisfied that this is the case, signing his certificate, he is at liberty to begin the world anew, clear of all embarrassments; but if this clause is retained, however unfortunate and honest a man may be, he may be oppressed in his person and property all his life, by an ill-disposed creditor of this description.

Mr. B. believed, that when this subject was under consideration in Committee of the Whole, some gentlemen were of opinion that to pass this law, without a provision, would make it partake of the nature of an *ex post facto* law, which is prohibited by the Constitution. He believed, when it was recollected that the Legislature, for want of a bankrupt law, has passed an insolvent law in order to take persons out of confinement, it would be acknowledged that no objection could lie against a bankrupt law, on account of its interfering between the contracts of debtors and creditors, which would not equally lie against an insolvent law, as, without such a law, a man would be obliged to lie in prison all his life, if his debts were not paid. It is true, a bankrupt law discharges a man's property, as well as his person, from the power of a creditor; but the thing is the same in both cases.

Mr. B. assumed it as a just principle, that when a man gives credit to another, he does it not only subject to the existing laws, but to all others which may be passed. If he should consider the law as *ex post facto*, he should be as much opposed to it as any other member could be; but not so considering it, and wishing the provisions of it to be equally beneficial to the well-meaning, but unfortunate debtor, as to the creditor, he hoped the amendment would be agreed to.

The question was put and carried—51 votes being in favor of it.

Mr. PINCKNEY said, he wished to offer a new section to this bill, for the purpose of postponing its operation to a future period. Though this system of a bankrupt law has been frequently agitated in Congress, and therefore familiar here, yet to the citizens of the United States at large, it is a system of a novel nature. Mr. P. wished the law to pass, but that its operation should be suspended so as that another session of the Legislature may be able to pass their judgment upon it, before it takes effect. If the law is passed and promulgated, the citizens will pay more attention to it than they have had an opportunity of doing heretofore. We have, said he, heard of great objections made to this bill, and of its being surrounded with insurmountable difficulties; but, when it comes to be taken up, those difficulties seem, in a good degree, to have vanished; and he was of opinion, that if the law was passed and laid before the people, their objections to it would also be removed. At all events, the Legislature, at the next session, would have the full opinion of the community before them, which would be the best ground upon which to form an opinion upon the expediency of the measure.

Mr. P. said, he had another reason, which was local, for wishing this postponement. In the part of the country from which he came, the manner of carrying on the intercourse between the mercantile and planting interest is different from what it is in the Northern and Middle States. There are with us, said he, no wholesale merchants; they are all retail as well as wholesale, and the planters purchase what they want of them, and pay them in their crops when they come down. So the connexion there between the merchant and planter is more intimate than in other parts of the Union. The merchants have to depend upon the returns of the planter; and in case of bad crops, from a disappointment in returns, the merchants might be unable to make good their engagements; and if this act were, therefore, to go into immediate operation, it might subject them to bankruptcy before they had time to guard against its operation. For these reasons, he proposed a section to the following effect:

"That this law shall be of no force or effect until the 1st of March, 1800; and nothing herein contained shall defeat or invalidate any mortgage, judgment, recognizance, &c., whereby any property was bound previous to the time when the operation of this law shall commence."

Mr. NICHOLAS could inform the gentleman from South Carolina, that if he thought the opposition to this bill was withdrawn, because no objection had been made to the details of it, he was mistaken. It appeared strange, that though that gentleman seemed to think the provisions of this bill incompatible with the general situation of the Southern country, that he is willing to pass the law. For though it should not go into operation until the time which he proposed, and though the next House of Representatives should be wholly averse to it, it would still go into operation. To obtain his object, the bill ought to be postponed till the next session; though he thought what the gentleman had stated to be the situation of his part of the country, was a fatal objection to the law itself. Mr. N. did not think this a proper way to legislate. If there is any doubt about the propriety of the law, it ought to be postponed, in order to give further time for consideration. To pass the law in the way proposed would be trammelling a future Legislature. He hoped the law would be passed, as all other laws are passed, or postponed.

Mr. BAYARD called for a division of the question.

The first part of which being now under consideration.

Mr. PINCKNEY repeated his opinion, that if the law was passed in this way, it would draw the attention of the public to it; that it would prove a whetstone to their ingenuity to find out its defects, in order to induce the next Legislature to repeal it. If this was not done, he doubted whether the time would ever arrive when we shall have a bankrupt law; for it had been seen how little attention had been paid to the subject heretofore. In his opinion, it is the duty of the Legislature to pass a law of this kind as soon as possible. It is an injunction of the Constitution to do so. It appeared to him necessary, because a great evil exists, to which it would be a remedy. At present, many fraudulent debtors cheat their creditors with impunity, and many unfortunate but honest debtors are grievously oppressed. He could conceive no measure more desirable than a law which shall prevent the hopes of an unfortunate but fair trader from being forever blasted, because the hand of misfortune had reached him; which should restore him to society, and enable him again to provide for himself, and perhaps a large family. Besides, he knew nothing more destructive of the morals of the people than the present mode of taking advantage of the laws for the relief of debtors. It was to prevent these abuses and to provide the remedy he had mentioned, that he wished the bankrupt law to pass.

As to the situation of the country from whence he came being a fatal objection to the bill, he did not think so; because he believed that if the time which he proposed was allowed before the law takes effect, such arrangements would be made as to enable the people to meet it.

Mr. BAYARD was in favor of the principle of the amendment, but thought the time to which it was proposed to be postponed too distant. He thought the gentleman might inform his constituents sufficiently in six months; for it had already been seen that if too much time is allowed, a subject is not considered at all. He therefore moved to strike out the 1st of March, 1800, for the purpose of inserting the 1st day of November next.

The SPEAKER suggested the propriety of leaving the time blank, which might be filled after the principle was agreed to. Consented to by the mover.

The question was then put on the most distant day, and negatived, there being only twenty-three votes for it. The 1st of November was then proposed, and carried—42 to 37.

The question was now upon the amendment as amended.

Mr. BAYARD said, there was nothing unusual in this provision; a similar one was made in the stamp act; and he thought it proper that the law should be published for some time before it goes into effect, that the people may be thoroughly acquainted with it.

Mr. CRAIK said, this appeared to him a very important question; he could not help thinking that it would open a door to fraud on one side, and to oppression on the other, he therefore wished for time to consider it, and moved an adjournment, which was carried.

WEDNESDAY, January 9.

AMOUNT OF STAMP DUTIES.

Mr. GALLATIN moved the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire the nett annual amount of the duties on stamps, &c., and what would be a proper compensation for the allowance to Supervisors and Inspectors for their services, in preparing and distributing stamps.

The resolution was agreed to.

DIRECT TAX LAW.

Mr. CRAIK said, he had received information from the first Commissioner in the State of Maryland, of imperfections in the act laying a direct tax on houses, &c.; he knew the zeal and attention of that gentleman to be such that, unless it actually existed, he would not have complained. In one of the districts he had made an appointment three times of assessors, and had not been able to obtain any, owing to the lowness of salary, and short notice of thirty days. He moved a resolution that the Committee of Ways and Means be instructed to inquire if any and what alterations may be necessary in that act, and to report by bill or otherwise. Carried.

UNIFORM BANKRUPTCY.

The House took up this bill, and agreed to the first resolution, proposed by Mr. PINCKNEY yesterday, to suspend its operation to the first of November. Ayes 43, noes 37.

The other part of the resolution was then taken up; it provides that this law shall not annul any mortgage, judgment, statute, attachment, or recognizance, on any estate or property entered previous to the act passing.

Mr. BAYARD observed that, with respect to a mortgage, the resolution was not necessary, because it could not affect it; and with respect to a judgment, recognizance, &c., it was improper, because it was in the power of every one to clear them away before November. But when neglect should be made by the party, he hoped the law would not give a preference to creditors of any certain description, for one great object of a bankrupt system was to treat all creditors alike, but this would be a departure from that object in favor of certain species of debt. But another and a great objection to the motion was, that it would give room for a number of frauds, to the injury of other creditors. On which account he hoped the motion would not prevail.

After a few words from Mr. S. SMITH against the motion, it was negatived—ayes only fourteen.

Mr. HARPER moved to the effect that no man should be entitled to a statute of bankruptcy, unless his debts should amount to five thousand dollars.

Mr. GORDON spoke of the impropriety of this motion, and the injury it would subject a man to, if a number of persons should apply for the commission against a man and his debts should not amount to that sum; it would thus expose him and injure his credit, and suspend his business, without producing any good effect. If it was made necessary that creditors to that amount should agree before the debtor be entitled to the benefits he would not object.

The motion was lost—ayes 33, noes 39.

Mr. BAYARD moved to insert a provision, agreeably to former acts, that all demands by the United States should be first satisfied out of the estate of a bankrupt. The whole community were interested, he said, and ought, therefore, he thought, to have the preference. Carried.

In a section it had been specified, that no one creditor should be able to take out the statute against a debtor, except for two hundred dollars, or if two, three, or five hundred dollars.

On motion of Mr. SEWALL, the bill was recommitted to a Committee of the Whole, to alter these sums. The committee sat, and agreed to replace them with one thousand, fifteen hundred, and two thousand dollars; to which the House agreed, and the bill was ordered to be engrossed for a third reading on Friday—ayes 48, noes 35.

Mr. W. CLAIBORNE said, as this was a very important bill, and one on which much interest depended, he would move that the House be called at 12 o'clock on Friday. Ayes 40, noes 39; the Speaker declaring in the negative, it was lost.

INTERCOURSE WITH FRANCE.

Mr. OTIS moved the order of the day on the bill to prevent commercial intercourse with France.

Mr. GALLATIN said, he did not suspect that the bill would have been called up, until the communications from the President had arrived on that head. When he laid a motion on the table yesterday to call for that information, the House were informed that it might soon be expected, in consequence of which he had not this day called up the resolution. He did not think this bill ought to be called up until the House received every information they could get relative to our situation with France. Twenty-eight members only rising in the affirmative, it was not taken up.

USURPATION OF EXECUTIVE AUTHORITY.

The House went into committee, Mr. DENT in the Chair, on the bill for punishing certain crimes against the United States. It was read as follows:

"*Be it enacted, &c.*, That if any person, being a citizen of the United States, whether he be actually resident or abiding within the United States, or in any foreign country, shall, without the permission or authority of the Government of the United States, directly or indirectly, commence or carry on any verbal or written correspondence or intercourse with any foreign Government, or any officer or agent thereof, relating to any dispute or controversy between any foreign Government and the United States, with an intent to influence the measures or conduct of the Government having disputes or controversies with the United States, as aforesaid; or if any person, being a citizen of, or resident within, the United States, and not duly authorized, shall counsel, advise, aid or assist, in any such correspondence, with intent as aforesaid, he or they shall be deemed guilty of a high misdemeanor; and, on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding —— thousand dollars, and by imprisonment during a term not less than —— months, nor exceeding —— years."

Mr. BAYARD proposed to fill the first blank with five, the second with six, and the third with three. Carried.

Mr. SEWALL said it appeared to him that the words "Government of the United States," in the sixth line, are too uncertain an expression, where a crime is defined. The Government, said Mr. S., consists of the Legislative as well as the Executive Department, and he did not know whether the bill, as it now stands, might not even go to prevent the Executive from employing any foreign Minister, as a person so employed could not be strictly said to be employed by the Government. Besides, there might cases arise in which the President would wish to employ an agent abroad, without consulting the Senate, which, by the present bill, he would be excluded from doing. Mr. S., therefore, proposed to strike out the words "shall, without the permission or authority of the Government of the United States," and to insert in their place, "not being empowered or employed by the President of the United States, or other lawful authority."

Mr. NICHOLAS submitted to the gentleman from Massachusetts, how far such a provision would accord with the Constitution, which declares that all foreign Ministers shall be appointed by the President, with the concurrence of the Senate. I do not think, said Mr. N., that it is more in the President's power alone to send abroad agents of this kind, than it is in mine. He thought the bill would be much more exceptionable with this amendment, than as it now stands.

Mr. SEWALL did not believe that all agents employed by the President abroad would come within the description of foreign Ministers mentioned in the Constitution; but though such agents, not being Ministers, could not conclude a treaty, yet they might influence the measures of a foreign Government, and such persons, acting under the authority of the President, or other lawful authority, ought not to be subject to the penalties of this bill. As the bill at present stands, the President himself would scarcely be at liberty to write a letter to a foreign Minister on the subject of any existing disputes between the two Governments. Besides, said Mr. S., there are cases in which the President alone is authorized by the Constitution to send Ministers abroad. For instance, he may do it in the recess of the Senate, or he might employ a Consul resident in a foreign country, to correspond with a foreign Minister on any subject of dispute between the two Governments.

Mr. GALLATIN said, if he understood the object of the gentleman from Massachusetts, it was to enable the President, or other lawful authority, to

employ what may be called private or secret agents, not under the authority of the Government, according to the tenor of this bill, but under the private authority of the President of the United States, the Secretary of State, or any other officer of the Government. This would be giving sanction to a new principle in this country. He conceived that all the negotiations carried on between the United States and foreign countries ought to be by means of public Ministers, in the manner provided by the Constitution. If there are any cases, allowed by the Constitution, in which the President may authorize a Minister, without the concurrence of the Senate, he will, in doing so, act under the authority of the Government of the United States, and come within the tenor of this bill. But he did not think it would be proper to introduce a principle that the President or the Secretary of State, at their pleasure, shall have power to carry on a private or other correspondence with any foreign Government, through any medium, except such as is pointed out by the Constitution. To allow of this, he was of opinion, would open a door to infinitely greater danger than that proposed to be guarded against by this bill. Such a correspondence might not only have relation to existing disputes between this country and another, but also to future political connexions. Such a correspondence would form no part of the papers to be found in the office of the Secretary of State; it would be the correspondence of the man, and not of the officer; it would not therefore, remain in the office after he left it, and a future President or Secretary of State could not act upon it. If this amendment, therefore, was agreed to, this would not only be a bill to punish crimes, (such as they are,) but to introduce a principle never yet allowed in this country.

Mr. SEWALL said, if the words "or other lawful authority," were objected to, he should have no objection to dispense with them. If such an agent is employed, it must be by the President or by law. The Secretary of State would have no power to employ agents of this kind. As the law now stands, any individual may employ himself in this business. He wished, in future, unauthorized individuals might be restrained in this respect, but he wished the President of the United States to be left at perfect liberty to do do what he saw proper in this respect.

Mr. BAYARD did not think this amendment necessary. The gentleman from Massachusetts objects to the term "Government," because, he says, it embraces the Legislative as well as the Executive authority; but the word "Government" is here to be understood according to the subject-matter. Any Legislative act done under the Government, must be considered as an act of the Government. Even a Marshal of the Government, when he does an act, does it under the Government. The word Government means here lawful authority. Suppose a law were to be passed, authorthizing the President to appoint a Minister abroad, the Minister would then be appointed by Government, according to the gentleman's own doctrine, because the Legislature would have concurred in the appointment. But Mr. B. wished to know whether it made any difference whether the President derived his power to appoint a Minister from the Constitution, or from a law? Certainly not; since the Constitution is the supreme law of the land. He therefore hoped the amendment would be negatived.

The question was put and negatived.

Mr. DAWSON said he was not in the House when the House first took up the subject, or he should have opposed it altogether. He would now propose an additional section to the bill.

"*Be it enacted, &c.*, That neither the President, nor any other officer of the United States, shall employ any person, except those appointed under the Constitution, to carry on, directly or indirectly, any correspondence or intercourse with any foreign Government, or any officer or agent thereof."

Mr. NICHOLAS thought this amendment perfectly in the spirit of the bill; but, as he was against the bill, he should also be against the amendment.

Mr. DAYTON (the Speaker) was also desirous of negativing this proposition; but, in the meantime, he wished to make it as perfect as possible. He would, therefore, move to amend it by adding to it the words, "or Vice President," after the word "President." He could not conceive the reason why the mover had omitted this officer in particular.

Mr. DAWSON consented to the addition.

Mr. PINCKNEY did not think it necesary to speak to the merits of the amendment, but barely to state that it would be useless. All power with respect to negotiations with foreign Governments, is placed in the hands of the Executive by the Constitution, and no act of Congress can alter the Constitution. If the President negotiates consistently with the Constitution, he acts under the Constitution, and the act is an act of the Government. If he has not the power of making use of agents under the Constitution, this act will not give it to him. This House can neither give nor take away power on this subject.

The question was put and negatived; there being only 8 votes for it.

Mr. GALLATIN said, when the proposition upon which this bill was grounded was before the House, he objected to its generality in respect to the correspondence to be carried on. The objection he made was, that it would include the correspondence and intercourse of individuals in relation to their private concerns. All cases where a change of the measures of Government was attempted, though it were done merely by an individual to secure his private rights, would come within the meaning of this bill. Thus, if an individual, whose vessel is taken by the French should, after his vessel is carried into one of their ports, remonstrate or enter into a correspondence with any of the agents of that Government, he must do it in such a manner as that his arguments shall not involve any of the general principles in dispute between the two Governments; because, the moment he does this, he falls within the penalties of the bill. Now it appeared extremely difficult, Mr. G. said, that an individual, who is not only per-

haps concerned for himself, but an agent for others, should be able to make any effectual application to the French Government, without taking into consideration, in some respect, the principles of dispute between the two Governments. It appears, therefore, that if this bill is passed into a law, a provision should be inserted to exclude cases of this kind from the act. He had not himself prepared such a provision; it would take some time to do it. He wished, however, the gentleman who brought in this bill, would either propose such a provision, or show to him that these individuals do not come within the operation of the bill. If not, he should himself prepare such a provision.

Mr. OTIS did not see the least occasion for a provision of this kind. Every owner or commander of a vessel is authorized by the law of nations to make application for the release of his own property in any case of unlawful capture. This is a right which the Government of the United States could not deprive them of, and instead of acting contrary to the authority of Government, in applying for redress, such an application would be under their sanction. The words, "with an intent to influence the measures of a foreign Government," must relate to general public measures, not to the concerns of any individual. This objection, he apprehended, was made with a view of casting a shade over the bill, more than for any real intention of improving it. If, however, the gentleman could propose any clause of this kind which would not interfere with the spirit of the bill, he should have no objection to vote for it. Mr. O. said, it appeared to him, that it would be necessary to introduce an amendment into the bill, after the words "foreign Government," viz: "being at peace with the United States," because if the correspondence was with a nation with whom we are at war, the offence might amount to treason by adhering to the enemies of the United States. And this law being subsequent to that which defines the punishment for treason, might be considered as a repeal of it. He, therefore, moved this amendment.

Mr. PINCKNEY believed, if the gentleman would recollect that treason was a Constitutional crime, and that nothing which Congress might do could alter it, he would see there would be no occasion for his amendment.

Mr. NICHOLAS believed the gentleman from Massachusetts was for extending this law too far, for the purposes intended. The endeavors of an individual to procure peace for a nation, could surely never be construed into treason. The gentleman should extend his views a little further; the time may arrive when it may be found necessary to force a peace upon the Executive.

Mr. OTIS explained.

Mr. GORDON did not think this amendment necessary. He did not like it because it seems strongly to imply, that though this correspondence may not be carried on in time of peace, it may be carried on in time of war, though it was the intention of this bill to restrict improper correspondence at all times, both of peace and of war. With respect to this law having the effect to repeal the punishment for treason, it cannot be, since both laws are affirmative.

The question was put and negatived without a division.

Mr. EGGLESTON being unwilling to punish any act as criminal which he deemed innocent, moved to strike out, after the words "United States," "as aforesaid," and to insert in their place the following words, "so as to prevent or impede the amicable adjustment of said disputes or controversies."

Mr. BAYARD said, if this amendment was adopted, the intent of the bill would be defeated. What sort of evidence could be made use of, to prove the good disposition of the person charged with an interference of this kind? If this amendment were to pass, a person might carry on any correspondence whatever, and no punishment could be inflicted upon him, unless a bad intention was proved. The object of this law is to prevent these private interferences altogether, since the Constitution has placed the power of negotiation in the hands of the Executive only. An indivdual may do good, but he may also do evil; and it cannot be supposed that any private person has more wisdom, or a greater desire to serve his country than the Executive of the United States.

Mr. NICHOLAS said, if his colleague would vary his amendment, by inserting the words "with intention to defeat" instead of "so as to prevent," it would do away at least one of the objections of the gentleman from Delaware.

Mr. EGGLESTON consented. He said the gentleman from Delaware himself had allowed that an individual might do good; and as it was contrary to his sentiments that any man should be punished for doing good, he had proposed the amendment. He thought the gentleman from Delaware, having also made this confession, ought to vote in favor of it.

The question was put and negatived—51 to 33.

Mr. JOSIAH PARKER believed the bill ought to pass, and he wished to make it as effectual as possible, he proposed therefore to insert the words "or defeat," after the words, "with an intent to influence." After the question was stated, Mr. P. believed it would be necessary to strike out what follows the word "measures" to the words "as aforesaid."

Mr. GRISWOLD said, this amendment would defeat the object of the bill, which was to prevent, as had already been stated, all interference of individuals with our disputes; but if it be allowed that a person may go to a certain extent in his interference, no line can be drawn, because whether what he did was with a good or bad intention, would be matter of controversy.

Mr. DAYTON thought the amendment a good one, if the words were inserted after the word "influence," without striking out any words.

Mr. J. PARKER consented to the change.

Mr. GALLATIN said, the gentleman from Virginia was very compliant in changing his motion to anything which any gentleman might propose,

though it changed the sense of it altogether. He seemed perfectly willing to have a question taken upon it in any shape. He was himself in favor of his first motion, but he could not consent to vote for it, now he had altogether reversed it.

Mr. J. PARKER wished to make the bill as complete as possible, and to put every check upon individual interference with foreign negotiation which the Government had it in its power to do.

The question was put and carried—48 to 30.

Mr. DAYTON wished to strike out these words, "relating to any dispute or controversy between any foreign Government and the United States," and the word "having" in the line following, and the words "as aforesaid," and to insert in the place of the word, "having," "in relation to any." Mr. D. said he made these amendments on two grounds. First, these words might by some be deemed liable to the objection which had been made to them, of extending to the private correspondence of captains or owners of vessels, in their applications for the restoration of their vessels and cargoes, or of merchants for the payment of their debts. In the next place, there may be instances of persons carrying on a correspondence with a foreign Government, without saying anything relative to any dispute which may exist between the two Governments, and yet influence the conduct of the foreign Government towards us. He might report, for instance, that the people of the United States are divided among themselves; that they are disarmed or disorganized. He might also point out the weak places of approach, in case of a projected invasion. He might do all this without coming under this act. For these two reasons, he proposed these amendments.

The question was put and carried.

Mr. OTIS wished an amendment at the end of the bill. By an act for the punishment of certain crimes against the United States, it is declared, "that if any person shall levy war against the United States, or give aid and comfort to their enemies, he shall be adjudged guilty of treason and suffer death." This act provides that persons may adhere to the enemies of the United States, for which they are to suffer only fine and imprisonment. Now, if a man be hung under the first law, it is certain that he cannot be fined and imprisoned under the second; and this act being posterior to the act for the punishment of treason, might be considered as a repeal of that law, as he had before stated. He, therefore, proposed the following proviso:

"*Provided*, That nothing herein contained shall be construed to prevent the punishment of treason, according to the existing laws of the United States."

Mr. BAYARD read the Constitutional clause respecting treason, to show that this amendment was not only unnecessary, but absurd and nugatory.

Mr. OTIS was sorry his amendment appeared absurd and nugatory to his friend from Delaware; but he would mention a case in which a person might be guilty of treason under this act. If, in the event of an open war between this and another country, a person were, by letter or otherwise, to invite the enemy to invade this country, would not this act be considered as treason? If the gentleman, as a lawyer, can say no, it would be an answer to his objection.

Mr. THATCHER thought this motion wholly unnecessary. His colleague seemed to have two subjects of concern on his mind. One was, that when a man was *hung* for treason, he could not be punished by this law; and if punished by this law, he could not be *hung*. Now, if a man was hung, he thought his colleague ought to be satisfied; for his own part, he should be perfectly satisfied to see such a man fined and imprisoned.

Mr. OTIS did not know whether his colleague meant to show his wit, or the necessity of his amendment; but if what he said had any weight, it went to show that a man might be prosecuted on either law, which was a defect he wished to remedy.

The question was put and negatived, there being only thirteen votes for it.

The committee then rose, and the House took up and concurred in the amendments which had been made in the Committee of the Whole; after which,

Mr. EGGLESTON renewed his amendment to insert the following words: "with intent to defeat or impede the amicable adjustment of said disputes or controversies," and called the yeas and nays upon it, which were agreed to be taken.

Mr. W. CLAIBORNE meant to vote for the proposed amendment. He thought that propriety appeared on the face of it, and that no objection could be made to it on fair reasoning. In every country, the laws of which breathe humanity and justice, the intention of an act almost always constitutes its criminality or its innocence. Our foreign relations ought doubtless to be managed by the Executive department, and if any other character attempts to interfere in this business, his interference could certainly have no weight; but if chance should draw a citizen of the United States into a foreign country with the Government of which we have a serious dispute, and that citizen can give any information which shall tend to the settlement of our dispute amicably, and by that means avert a war, he never could consent to vote for an act which would punish such a man. Let not gentlemen say there is difficulty in proving the good intentions of an individual in this respect; the same evidence which would prove a negotiation to exist, would also probably prove its object. He hoped this amendment would, therefore, be agreed to.

The yeas and nays were then taken—yeas 35, nays 51, as follows:

YEAS—Abraham Baldwin, Thomas Blount, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Rich

ard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. Gallatin said, he would now move a proviso to accomplish the object which he had in view, of preventing the operation of this law from reaching individuals in their endeavors to obtain justice from a foreign Government. It was to the following effect:

"*Provided*, That nothing in this act contained shall be construed to extend to any person who shall apply to any foreign Government, or to any officer or agent thereof, for the purpose of obtaining either the release-ment of American seamen, or for the restoration of any property belonging to citizens of the United States, and captured, sequestered, or detained, by or under the authority of any such foreign Government, or any of its officers or agents, or for the payment of any debts due by such Government to the citizens of the United States."

Mr. Nicholas seconded this motion, and called for the yeas and nays upon it, which were agreed to be taken.

Mr. Bayard was opposed to this amendment. When a proviso was added to a bill, it was to except something from the operation of the law, which would otherwise be operated by that law; but if the cases are not included in the general words of the law, to say the least of it, the proviso is nonsensical. Now, he apprehended the cases alluded to are not within the provisions of the bill. In order to establish a crime by this bill, what is to be proved? First, that there are disputes subsisting between the United States and the foreign nation with whom the correspondence is said to have taken place; that this intercourse has really existed; and that it was carried on with a view to influence the measures or conduct of the foreign Government in relation to any disputes or controversies with the United States; and, unless all these facts are proved, the crime is not made out. The intention must be proved before the crime will appear, and therefore he saw no need of this proviso.

Mr. Nicholas was astonished that, after gentlemen had positively declared that this law was to prevent all intercourse with any foreign Government, which might possibly influence the measures of that Government with respect to any disputes which we may have with it, the gentleman from Delaware should now say that this law is confined to criminal acts only. If he understood the law, it meant this, that if an individual influences a foreign Government in any respect whatever, whether the effect is beneficial or otherwise to this country, he is criminal. Yet the gentleman from Delaware seems to think that an individual might have intercourse with a foreign Government on any of the objects contained in this proviso, though they may all be matters in dispute between the foreign Government and ours, and though, in pursuing his private claim, or the claim of his friends, an individual might chance to touch on disputes or controversies between the two Governments. Mr. N. was glad to hear this confession, because he believed gentlemen would be convinced that they had gone too far, and that they must tread back their steps. This law having been brought forward by particular circumstances, it is difficult to give it a general application.

Mr. Bayard said, the gentleman from Virginia had not understood the point of his argument. He had said there could be no crime without criminal intentions; but the gentleman had said nothing about the intention.

Mr. Nicholas thought that he had explained himself clearly on this point. If he understood what was the crime created by this law, it is negotiation with intent to influence the measures of a foreign Government towards ours; and if a man opens a negotiation on any of the objects contained in this proviso, he offends this law, though the act does not in the least partake of the nature of a crime.

Mr. Griswold said, the bill does not extend to the mere application of an individual for the release of seamen, the obtaining of property taken, or of debts contracted, as these acts cannot be construed into an interference with a foreign Government in relation to any disputes or controversies with the United States. No gentleman who reflects calmly upon the subject can say so, therefore the proviso is unnecessary. But, further, the provision may be attended with some danger. If it be agreed to, then the law is not to operate upon any person who treats with a foreign Government on any of the subjects contained in it; and if an individual says he goes for these purposes, he may pursue other objects calculated to affect the general measures of the Government; yet he would be screened from punishment by this proviso. He hoped, therefore, as it was unnecessary, and might be dangerous, that it would not be agreed to.

Mr. Macon hoped this amendment would obtain. It had not been made to appear by any one that it would do injury. It is at least doubtful whether individuals in the situation here described, would come within the meaning of this law. The law is to take effect from the moment it is passed, and no one can say what its construction will be. It may prevent our commercial citizens from endeavoring to obtain a settlement of their claims upon the French Government; and, if so, might they not hereafter come forward and ask indemnification of Congress, on the ground that

they had been prevented, by law, from prosecuting their claims themselves? He believed they might; and hoped, therefore, as the provision could do no harm, and might do good, it would be agreed to.

Mr. Dana said, the gentleman last up had assumed a basis upon which he advocated this amendment, which is wholly inadmissible. He says it can do no harm. This he denied. It goes to exempt from punishment persons who make a pretence of applying for any of the objects therein mentioned, let him go for what purpose he may. He acknowledged the proviso to be a *cunning* one, but hoped the House had sufficient sagacity to discover its purpose. The bill had nothing to do, Mr. D. said, with individual disputes. The disputes and controversies mentioned in this bill are those which exist between the Government of the United States and foreign Governments—disputes and controversies of a political nature, unconnected with individual claims.

Mr. Allen said, this amendment gave the business a peculiar aspect. The gentleman from Pennsylvania says this bill will prohibit an individual from prosecuting his claims upon a foreign Government, whereas cases of this kind were never contemplated as within the meaning of the bill; but the amendment is broad, and discovers the *cloven foot*. It does not say that an individual shall make his own claim. The plural number is used, and the words are general. It says individuals shall have a right to address themselves to foreign nations, and provided their ostensible object is found in this proviso, they may go on to treat upon any other they please. The view with which this amendment was brought forward, Mr. A. said, was clear; it was in order to procure a debate which should convey an idea to the people that there is a majority in this House desirous of curtailing the privileges of the people, though no such thing is intended by the friends of this bill.

Mr. R. Williams said it was very extraordinary, that though the gentleman who brought in this bill (who ought to be at least as well acquainted with its views as any other member) said it was not meant to include any of the cases contained in this amendment; yet gentlemen are unwilling to declare this on the face of the bill, though other gentlemen differ in opinion from them, and believe the cases here excepted will be included, if the proviso is not agreed to. It appeared to him, from this conduct, as if gentlemen meant to effect a purpose by this bill which is at present hidden from view. In his opinion, if gentlemen were to set about writing a clause expressly for the purpose of including the cases here excepted, they could not hit upon words more appropriate; and he was satisfied, that if this law passed, no citizen would hereafter venture to make application to the French Government for the recovering of any property whatever.

When the gentleman from Connecticut called this a *cunning* thing, Mr. W. expected he would have taken the trouble to have shown the House wherein its *cunningness* consisted. The gentleman from Delaware said something about criminality; but there certainly could be nothing criminal in an individual endeavoring to recover his property, or to influence a foreign Government to make peace with his own Government. Yet the act of carrying on a correspondence or intercourse is made criminal, though it may have been for the best of purposes.

Mr. Pinckney said, after the explanation which had been given of the intention of this bill, and the effect which this amendment must necessarily have, by two gentlemen from Connecticut, he did not believe that anything which he could say could have any weight. If the amendment were adopted, Mr. P. said, there could be no doubt but it would overset the bill, and render it wholly nugatory. Can it be proper, said Mr. P., when any gentleman of this country may conceive himself better informed, better instructed, or better delegated, than the President of the United States, for him to league himself with others to oppose the measures of the Government of the United States, and by this means usurp, in some degree, the powers of the Government? Suppose, however, he does this, and goes forward to a foreign country, and gives himself out as an Envoy of a particular party in this country, making his ostensible objects the liberation of American seamen, the restoration of captured property, or the payment of debts due to our citizens—(and what other grievances, said Mr. P., have we with France? None)—a person might do whatever he pleases under this proviso; yet, when he comes to be accused, he says, "I do not come within the purview of your law, for you have a proviso in it which excuses me." In this way, the whole of the authority of the Executive of the United States may be usurped with impunity.

We have heard, said Mr. P., in the course of this debate, a great deal said about criminality. Whenever a person transgresses the laws of his country, he certainly does a criminal act. He would agree with gentlemen, that to procure peace for a country is generally a laudable thing; but to procure even peace, by taking the power of negotiating out of the hands of the Executive, is an usurpation of power, and therefore criminal. And when a law is passed to prevent this kind of interference, it becomes doubly criminal. He mentioned this circumstance, because the gentleman from Virginia had charged the authors of this bill with creating a new crime. It does not create a crime, but provides for the punishment of one.

Mr. P. asked whether no mischief had arisen to the United States from the mission of the gentleman who lately went to France, as is said, on his own account? He asked whether the public mind in Paris was not drawn to the mission of a party in the United States? It certainly was, by a public mention of the circumstance in the papers. If gentlemen deny that this person was delegated, the more the mischief, because every instance of this kind would always be attributed to a party. The gentleman himself had denied being sent by a party, and therefore he supposed it was so. Giving the gentleman all the credit, however, which he could expect for his good intentions, his mission has nevertheless already created mischiefs.

Mr. P. thought so full an explanation had been

given of the principles and scope of this bill, that nothing further was necessary on this head. When a controversy exists between an individual of the United States and a foreign Government, it cannot be said to be between the two Governments. Besides, all cases of this kind must be tried by a jury, and it cannot be supposed that any jury would convict a man of a crime for attempting to do any of the acts contained in this proviso, if he did nothing more.

Mr. T. Claiborne said, as this was an important question, and the usual hour of adjournment was passed, he would move the House to adjourn. The motion was negatived—47 to 37.

Mr. Gallatin observed that gentlemen, opposed to this provision, find themselves very much at a loss from the tenor of the bill, in their arguments against it. One gentleman tells the House that it ought not to be adopted, because it is perfectly useless, as it does not reach any case included in this bill; another says, it covers so much ground that it would render the bill nugatory. Other gentlemen are opposed to it, not because it covers too much ground, but because, under cover of these exceptions, much mischief may be done.

The criminality of the act to be guarded against by this bill, is an intention to influence the measures or conduct of a sovereign Government, in relation to any disputes or controversies with the United States. It is, said Mr. G., on account of the vagueness of this clause, which means everything or nothing, that gentlemen disagree so much amongst themselves as to the meaning of it. If gentlemen had modified this bill, so that it could be clearly seen what it would be criminal to do, and what might be done innocently, this proviso would not have been introduced. But a member from Connecticut says this amendment shows the *cloven foot*, and that it is meant to cover all the mischievous acts intended to be guarded against. If the gentleman had attended to the manner in which this amendment had been introduced, he might have spared these expressions. Mr. G. said he had stated in the Committee of the Whole that the wording of the bill was vague, and called upon the gentleman who reported the bill to bring forward a provision to render it more explicit; but that if they declined doing so, he should do it himself.

What, said Mr. G., is the intention and nature of this proviso? It is to except from the operation of the act all those individual cases therein named. But it is said, if the proviso is agreed to, the bill will be rendered nugatory; that it would be impossible for a man to commit an offence which might not be covered by this proviso. For if there be any offence which may be committed under the bill, which is not included in the proviso, the bill cannot be nugatory. We must suppose, therefore, said he, that the exceptions in this proviso contain the whole bill. Indeed, a gentleman said that the bill was only meant to punish these acts, and that no man could be guilty of anything more. He believed the gentleman right, and that there was not an individual in the United States that would do more; and that if the bill passes with this provision, no individual will commit any act which this law can deem criminal.

The proviso, Mr. G. said, is not confined to an individual applying for a restoration of property for himself only; it would have been ridiculous so to have drawn it. A man seldom undertakes a business of this kind on his own account merely, there is either a combination of persons, or an agent appointed to act for the whole; and it is clear that a person thus employed, would not only have regard to the interests of those for whom he was immediately concerned, but for all others in the same situation.

But the House is told that this proviso is improper, because it may serve as a cover for improper proceedings; if that is the case, said Mr. G., we ought undoubtedly to pass a law to make it criminal to carry on any correspondence, without respect to the intention. We are told that it is improper for a man to carry on a written correspondence to obtain a restoration of captured property, because under cover of this he may carry on an intercourse dangerous to the interests of the country, and that, therefore, he ought to be punished for carrying on a harmless correspondence, because it might possibly be criminal. Mr. G. had supposed that, before a man could be punished for carrying on any correspondence, it would have been necessary to prove its criminality.

But, it is said, the proviso, such as it is, is exceptionable, because, to do the acts exempted by it, would be criminal; that Government having alone the power to negotiate with foreign nations, it is wrong for an individual to exercise that power by any of these acts. In answer to this, he would say, that to do any of these acts would be no assumption of power. When a citizen claims the restoration of his property from a foreign Government, he does an act which our Government could not do for him, without his consent, and therefore it could not be deemed an interference with the measures of our Government. But, it is extraordinary to say it is an assumption of the power of Government for an individual to express his ideas on the subject-matter of dispute between his own Government and another. Suppose, said Mr. G., a man were to publish a book, for instance, and say that the Government ought to make peace on certain terms; would the publishing of such an opinion be criminal, because the Executive has alone the power to negotiate a peace? In the same manner might it be called an assumption of Legislative power for a writer to publish his opinion on any Legislative subject, or an individual give his opinion to a legislator as to the manner in which he ought to act on any question.

But, said Mr. G., I will say it is not criminal to do any of these acts, and that it has never been thought so by any nation. During the whole of our disputes with France and Great Britain, such an idea was never suggested. Individuals have made repeated applications to those Governments for various purposes of a national kind, which were never deemed criminal. Indeed, we have lately seen in the papers, an application to the Council of Five Hundred, in France, by persons

styling themselves subjects and citizens of Russia, Sweden, Denmark, and Holland, declaring that, though they are few in number, they may be considered as representing the interests of the European trade, that of England excepted. Though we know there is a close compact between the Batavian and French Governments, and though disputes exist between Sweden and Denmark and France, yet while the negotiation for settling those disputes is going on, we find a number of individuals, interested in the commerce of their several countries, endeavoring to change the conduct of the French Government in their favor. Mr. G. said, his amendment did not go to this extent; it did not go to prevent the punishment of a man who should attempt to change the future conduct of the Government of a foreign nation; it had relation only to past measures. These representatives of the mercantile interest of a great part of Europe have required a total change in all the arrangements of the French Government with respect to neutral nations; and, when a thing of this kind is allowed to be done openly, ought the acts contained in this proviso to be deemed criminal? This, said Mr. G., is the first place in which such a thing was ever imagined. We all know, said he, that a criminal correspondence may be carried on; but, in the law, which is intended to punish a crime, it ought to be said wherein the criminality exists.

Mr. G. believed, that the gentlemen who brought in this bill had been carried further than they intended, from considering the present situation of things. He allowed, our situation with France was different from our relative situation with any other country. It is something less than war, and something more than two countries having a controversy with each other. On this account, though they have reported a bill of a general nature, they have always had France in view. It is certain that, if we were at war with France, for an individual to correspond in a certain manner with the French Government would be criminal, would be treason by the Constitution; and though a correspondence of the identical kind which would be treason when we are at war, would not be so now; yet, he was not surprised that gentlemen wish to make such acts misdemeanors at the present time. But, instead of following this course, they have proposed an act of a general nature, contrary to all the laws and customs of every other nation. In England, Holland, or any other country, it is not criminal to endeavor to obtain a restoration of captured property, to release imprisoned seamen, nor to recover old debts; at the same time that all nations have provided punishment for criminal acts; if such are only intended to be met by this bill, this proviso ought not to be adopted.

Mr. Edmond said, that the gentleman from Pennsylvania, at the close of his arguments, got on the ground that he formerly took in opposition to this bill; and, it is natural, said Mr. E., for a gentleman who has constantly been opposed to the principle of this bill, to wish to introduce an amendment to defeat the whole; because, in doing this, he carries his point as effectually as if he had succeeded in persuading the House that no such bill was necessary. The votes, however, that have already been taken, are sufficient to show that it is the opinion of the House, that it will be wise and prudent, at this time, to frame a law to prevent individuals from interfering with the Executive authority, in a manner injurious to the community. This being admitted, the first thing requisite is to frame a bill to meet the object; and cannot a bill be so framed? If it cannot, the present must be abandoned; but he supposed our language copious enough for the purpose. A bill, said he, has been framed; and a question then arises whether, in the general expressions used in this act, it may not be implied that the privileges of private citizens are abridged.

The gentleman from Pennsylvania complains of inconsistency in the arguments used against this amendment; because one gentleman has said that it is useless, another that it covers too much ground, and another, that, under cover of these exceptions, many things may be done which ought not to be done.

Mr. E. said, it appeared to him, however, that all these objections are consistent with each other. It might be a sufficient answer to gentlemen to say, point out the necessity for this amendment. It ought to have been shown what words in the bill could be construed to affect those rights of individuals which ought to be retained. They have not done this. As the gentleman from Delaware has declared, before the crime intended to be punished by this act can take place, a controversy must have existed between the Government of the United States and a foreign Government, and an individual must have carried on a correspondence with an "intent to influence the measures with respect to the controversy." The bill goes no further.

When this construction has been given to the law, we must inquire, said Mr. E., whether the doing of any of the acts contained in the proviso, would incur its penalties? Suppose, said he, a captain, whose vessel had been captured by a foreign Power, were to carry on a correspondence with any of the officers of the Government for the recovery of it, could this be said to be a controversy between two Governments, or to influence the measures of one Government toward the other? Or, if a debt is due to an individual by a foreign Government, and he applies for it, would any one say that this was an endeavor to influence the measures of the Government? Certainly not. The exercise of none of these rights could be construed into a criminal intent; and a man having the right to exercise all these privileges under the bill as it stands, the proviso is useless.

With respect to the objection that the proviso covers too much ground, attend, said Mr. E., the wording of it. What is the dispute between the United States and France? What do the United States complain of, besides the unjust capture of our vessels and property, the arbitrary imprisonment of our seamen, and the delay in the payment of debts due to our citizens? These are our

grounds of dispute. And this proviso, instead of saying that an individual shall ask in his own name, for the justice which he claims, authorizes an individual to treat for every vessel which has been captured, for every seaman imprisoned, and for all the debts that are owing; so that it would be a complete saving to individuals to do whatever they pleased, and prove a repeal of the whole bill; he therefore should be opposed to it.

The yeas and nays were taken upon this proviso, and decided in the negative—37 to 48, as follows:

Yeas—Abraham Baldwin, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Ordered, That the said bill, with the amendments agreed to, be engrossed, and read a third time to-morrow.

Thursday, January 10.

Joseph McDowell, from North Carolina, appeared and took his seat in the House.

USURPATION OF EXECUTIVE AUTHORITY.

The bill for the punishment of certain crimes therein specified, having been read the third time,

Mr. Nicholas called the yeas and nays upon its passage.

Mr. Eggleston could not vote for any bill inflicting pains and penalties, without great precaution, because, in his opinion, the energy of the mind, and the activity of personal enterprise, ought never to be repressed, unless the good of the society makes the measure apparently necessary. I will use still greater caution, said he, when those advocating such measures, instead of addressing themselves to the understanding, apply wholly to the passions, and endeavor to excite fears and alarms. But when my observation and knowledge, said he, convince me that those alarms and fears are groundless, I am obliged to give my decided negative to a bill which contemplates the prevention of such imaginary evils.

When he looked around and took a view of the principles, feelings, habits, and pursuits, of the people of the United States, he was astonished to hear gentlemen expressing such dreadful apprehensions of French intrigue and domestic dissension. He was convinced that every gentleman who heard him would be ready to pledge himself that the alarm is groundless with respect to his particular State, and I profess myself ready to do so, said he, for the State to which I belong. In no State in the Union would there be more zeal and unanimity in repelling foreign aggression. He could not, then, vote for this bill; for if there are individuals so stupid, or so wicked, as to attempt to bring about the mischiefs which it means to prevent, the principles and unanimity of the people would render their attempts nugatory. But I have, said he, a stronger motive to vote against it, and to wish its rejection. I believe the remedy is worse than the mischief. I believe that in the zeal of gentlemen to guard against visionary dangers, which exist only in their own imagination, that they are running into the contrary extreme, and that the multiplicity of their penal regulations will depress that spirit and that enterprise, which are among the most important benefits attendant upon a free form of Government. In guarding against an ideal danger, we shall incur the real danger of too much increasing the powers of the Government.

Whilst gentlemen with so much solicitude are inculcating the necessity of adhering to the principle, which he acknowledged to be a good one, of obeying the will of the majority, they ought to be cautious of reviving the old exploded doctrine of passive obedience and non-resistance. Whilst they so eagerly proclaim the necessity of unanimity and unlimited confidence, they appear desirous of precluding the people from discussing the propriety of public measures, and examining the conduct of public agents. By such measures, and by thus multiplying our penal laws, we shall depress that spirit, and stifle those principles which gave existence to the Government we now live under, and which can alone make it permanent.

Mr. Nicholas said, that from all the consideration which he had been able to give to this subject, he could find no known object to which this bill can apply; that it can have no good effect, but may have very bad ones. The debate of yesterday showed, Mr. N. said, how little gentlemen were agreed as to the objects of this bill, for one-half of their speeches were employed in showing that it would not extend to certain objects, and the other half to show that it would, or its effect would be nothing. Mr. N. was also satisfied, as he had before stated, that nothing is to be apprehended from the conduct of any person who has in view the restoration of peace to a country; and the opposition which was made to the proviso proposed yesterday, proved that the exceptions embraced almost all the cases on which this bill

could operate, yet gentlemen were obliged to declare that an individual might innocently do any of the acts contained in that proviso; and if gentlemen dare not say the doing of any of those things would be criminal, where could be the criminality of restoring peace to the country? He had already declared he could see none.

There appeared only to be one case to which gentlemen could attach any criminality, which was that of a citizen who should endeavor to bring all the horrors of war upon his country. And would this law, said Mr. N., prove a guard against such a character? When a man shall have become so desperate as to be ready to embark in a war with an enemy against his own country, to place all his future hopes and fortunes upon the success of the force of an enemy, will the apprehension of fine and imprisonment deter him from his object? Can guilt wound up to this pitch be diverted from its purpose by a law of this kind? How could the law be brought to act upon such a man? It certainly would not be able to reach him. Are not all the ports in the neighborhood of France open to a man of this description? And might he not find persons there with whom he might carry on a correspondence, without subjecting himself to the operation of this law, because it could not affect any person until evidence was adduced against him in our own courts. Yet this is the only case in which the law could operate. It must, therefore, prove a dead letter. For in case of a dispute between our Government and a foreign nation, and any individual were of his own accord to go over to that foreign country for the purpose of reconciling the differences, if he were to fail in attaining his end, he would be denounced for his arrogance and folly; and if he did attain his object, instead of deserving punishment, Mr. N. thought he would deserve the thanks and gratitude of his country.

But, said Mr. N., when I see within how small a compass the operation of this law will be confined, if it is to have no other effects than those which appear upon the face of it, I am obliged to look for other objects, which, I fear, are what are principally aimed at by this law. It is intended, I have no doubt, principally to excite suspicion and clamor throughout the United States, against the political opponents of the supporters of it, by bringing them under the general stigma meant to be thrown upon all those who differ in political opinion from these gentlemen, whom they wish to bring into discredit, that they may the better succeed in carrying their favorite schemes into effect.

With respect to a late transaction, though he looked upon it as fair and honorable, and though there is no evidence of any person having had any concern in it but the gentleman himself, who has lately returned from France, gentlemen have no hesitation in saying that guilt will attach to others, and one gentleman has gone so far as to say it ought. It was a little remarkable, Mr. N. said, that the gentleman from Massachusetts, (Mr. Otis,) who seems to have picked up the most facts with respect to this mission, as it is called, should say that everything respecting this matter will be found perfectly fair.

Mr. Otis wished to explain. The same idea had before been thrown out by the gentleman from Pennsylvania, and which he had suffered to pass unnoticed. He never said the conduct of that gentleman was fair, because he did not think anything he could do would be fair; but that, if ever his correspondence should come to light, if he should have presented any writing to the Directory, it would probably be found such as would aid his popularity, rather than excite censure upon his conduct; but that this would give us no security that his private correspondences were of the same tenor.

Mr. Nicholas said, he did not expect the gentleman from Massachusetts to pass any eulogy on the gentleman in question, the terms he used were such as he should have expected from him to convey the sentiment which he had expressed.

Mr. N. said, he meant to convey this idea only; that nothing is known of this man, that can either criminate his conduct or his views. He would say further; that nothing is known which can implicate any other person in the matter. Yet, though no human creature knew of the voyage, or advised it, so far as the design and end of it had come to his knowledge, he was willing to bear his share of the blame of it.

Mr. N. feared another effect from a law of this kind. As it would seem to attach some degree of guilt, not only to the person who was lately in France, but also to all the friends of peace in this country, it might excite a suspicion against any overtures of peace which may come from France, so that the Government may not be forced to meet them.

Gentlemen might charge him with making irritating speeches; but he felt himself bound to say, that the general operation of this law will be, to blend innocent and bad actions together, and to bring into disrepute every possible effect that can be attributed to good actions.

Mr. N. said he must be pardoned for believing that the present state of things is too agreeable to many gentleman in this House, and out of it, to be willingly parted with. He had, for six years past, been witness to the earnest desire which has existed in these gentlemen to create armies and navies; and for three years past he had seen with what pleasure they had viewed a state of things which afforded them plausible ground, at least, for carrying their schemes into effect.

Mr. N. said, he was fortunate enough to find that this was not a mere party impression in himself, but that these gentlemen do really feel satisfaction in the present state of things.

In confirmation of this opinion, he read an extract from a poetical work which has lately made its appearance in Connecticut.

It has been too much the theory of writers upon Governments like ours, to say that the Executive is always prone to war. If there be any truth in this assertion, however, have we not good cause at present to keep a watchful eye in this respect? For, if we go to war, it will be a war, of all others,

calculated to answer the purpose of persons in power, as it will be a war without danger; its only effect will be upon the pockets of the people. He said, without danger, for he did not believe there is a man in the United States who seriously dreads, or even the most distantly expects, an invasion from France. Therefore, all the inducements which ever did operate upon an Executive to wish for such a crisis, may have full exercise at present.

There is another object couched under this law, and that is, it will bring censure on all the acts which can flow from it, and prevent the people of this country from suspecting the Government of doing wrong in acting so much on party principles with respect to France.

If the person who lately went to France, went with innocent intentions, as he believed he did, what result may be drawn from his voyage? That, if more attention had been paid to the political opinions of the men employed to treat with France, the way might have been paved for opening a negotiation, and before this time we might have been at peace. He was far from justifying the French Government in their refusal to treat with our Ministers, on account of their private political opinions; but, he said, if there are able and honest men in this country, whose sentiments would have been more congenial to the men in power in France, and who might have been bound down by instructions, this objection would have been obviated, and the probability is, that men of this kind would have been received.

Mr. N. concluded, by saying that, seeing no case upon which it could operate, the only case brought forward by the advocates of it, on which it could act, would not be deterred by its penalties, as it included so many acts, the performance of which would be honorable; and, as he believed it would have a bad effect, and a very bad one, he hoped it would not pass.

Mr. Bayard said, he came to the House this morning without the least expectation of the opposition to this bill being renewed. He thought gentlemen had exhausted their opposition and their ill-will in the debates which had already taken place. He found however, that their pertinacity, and he might say obstinacy, still continued.

Mr. B. could not conceive that a bill could be founded on sounder or more politic principles than this bill. On this account, he was surprised at the first opposition which was made to it. Indeed, the gentleman from Pennsylvania had himself confessed he was in such a situation, that all the advantages of discussion was in favor of the advocates of the bill. When called upon to define the bill, its friends defined it; but they are told their definitions of it are contradictory. It was a little extraordinary, Mr. B. said, that gentlemen should impute the obscurity of their own minds to others. He was confident that when the principles of the bill are attended to by men of common intellects, its design must be comprehended. The offence proposed to be punished by this law, is separated only by a shade from treason; yet such is the act which the gentleman from Virginia, in his place, has avowed he should not be ashamed to do. This act is that of an individual taking upon himself to settle a dispute with a foreign Government, after the proper authority in his own Government has vainly attempted to do it. But it is said by the gentleman from Virginia, that this act is so far from being dishonorable, that it is a virtuous and a laudable thing, to accommodate national differences. If we are to admit that the sole object of such person was to settle these differences, we might accede to the sentiment in the abstract; but, in a political point of view, it cannot be justified. For though he may do good in some instances, he would do evil in others, by making disgraceful stipulations. He acknowledged peace to be a desirable thing; but the honor and independence of a country are still more desirable.

Mr. B. was not unwilling to say, that he was satisfied with the present state of things; because we had only the election of evils, viz: either to surrender our independence and pay a tribute, or prepare to resist. The gentleman from Virginia is dissatisfied with this state of things; it may be inferred, therefore, that his choice would have been to have paid a humiliating and ruinous tribute, and he was willing to give him his election.

But further, with respect to this abstract question; is it possible that the gentleman from Virginia can seriously avow a belief, that an individual has a right to assume this power to negotiate? For what purpose have we an Executive and foreign Ministers, if any unauthorized individual may assume the power placed in them? As to this object of negotiation for a peace, as he had already stated, it might be purchased at too great a price. With respect to the individual alluded to, we are in a state of darkness. Whether his object was honorable, or not, we cannot tell. How far he was connected with other persons, is uncertain. The House had heard, indeed, disavowals on this floor which he was willing should go out to a credulous community. As to his own opinion, it was a matter of faith which he was not obliged to disclose. It must be clear to every reasonable man, that a law of this kind is necessary as a barrier to guard against an arrogation of power in public factions. Is the offence proposed to be punished by this bill a crime or not? If it is, it is the intention of Congress to define it better than it stands upon common law principles. If it is not a crime, it is the intention of Congress to make it one, since the most deplorable consequences may be prevented by it.

Mr. B. would imagine, for a moment, that the agent alluded to, had negotiated on different ground from what he had done. He believed that every one was satisfied, that the most liberal terms were offered by our Commissioners, and the greatest exertions made by them to settle our differences with France. The gentleman from Pennsylvania himself brought forward a resolution approbating those instructions.

The Speaker said, the gentleman from Delaware must recollect under what circumstances this happened. It was with closed doors, and therefore could not be adverted to.

Mr. Bayard said, he did not need this authority to confirm his remark. There could be no doubt that these Ministers possessed a sincere desire to settle the existing disputes between the two countries, if it could be done with honor. This was found impossible; and yet, after all this, a single individual, not appointed by the Administration, thinks he can accomplish what the whole Government could not do, and goes to France under this idea. And can it be right that an individual should go and offer terms of peace, which could have no other effect than to excite that clamor at home which the gentleman from Virginia has been pleased to say is the object of this bill, by making it appear that there is an unwillingness in the Government to make peace. But suppose a Treaty of Peace was negotiated by an individual thus situated, and Government should not approve of it, it would be thrown out to the people as a bone of contention, the consequences of which would be that one party in the United States would say that the terms ought to be accepted, and the other that they ought not; so that a rash step of this kind might involve the country in a civil war. Mr. B. concluded by saying, that he thought the bill was founded in justice and policy, and he hoped it would pass.

Mr. R. Williams said, the gentleman last up supposed all opposition to this bill had subsided. He knew not what had induced this belief, except it was thought that a want of the probability of success would induce members to neglect their duty. For his own part, he would never cease to oppose a measure so fraught with mischief as this bill appeared to be.

It might not be amiss, Mr. W. said, to take a retrospective view of this bill. The resolution which was originally brought forward proposed to amend the sedition law. But now the bill is brought in, we find it is not in conformity to the resolution, but a bill for the punishment of certain crimes therein mentioned. How this happened he could not tell. He voted for the resolution, as he wished to see a report on the subject, and had no objection to a law which should punish usurpations of Executive authority. But now the bill is before the House, it is seen that usurpations of Executive authority are not proposed to be punished, but persons who shall carry on any verbal or written correspondence or intercourse with any foreign Government, &c.

This intercourse, which is to be punished, is of a very extensive latitude. If a citizen should at any time have it in his power to prevail upon a foreign Government to relax its measures towards us, this is to be deemed a crime by this bill; because, say gentlemen, it is an usurpation of power lodged in the Executive, who, as it respects all negotiation, is the representative of the nation. But, said Mr. W., have the people deprived themselves of all power to speak, when their speaking can do no possible harm, but good to their country. It does not follow that because the people have delegated a certain portion of power to the Executive, that they have deprived themselves of all power or interference, when that interference is for their own interest. He should have no objection to a law to punish any man who should attempt to usurp the Executive authority, or who should so interfere in any dispute with a foreign Government as to defeat the operations of our Government. But gentlemen say, "No; the act itself, whether good or bad, shall be punished." What does this amount to, said Mr. W., but that a man shall be deprived of the privilege of applying for property which may be unjustly kept from him by a foreign Government, and upon the recovery of which the existence of his family may depend? Mr. W. mentioned the case of a person applying to a foreign Government to raise an embargo, in order to recover his vessel, which would be influencing the measures of the foreign Government, and consequently come within this law.

It had been said that peace might be procured by dishonorable means, and that if an individual were to have the privilege to make peace, he might make war also. But, said Mr. W., an attempt has been made to accommodate gentlemen in this respect, by declaring that where the act of an individual defeats the design of the Executive, we are willing it should be considered criminal; but they will not consent to this. He would consent even to punish an individual who should defeat the Executive in bringing on an honorable war, as it is termed, but all this will not do. This does not appear to be the design of the bill. It had often been said, in this House, that there was a party who wished to restrain the Executive so as to stop the wheels of Government; but in this instance gentlemen propose to punish a person for aiding the Executive. It appears, therefore, that the bill is intended solely to increase Executive influence, let the consequences be what they will. The Government of the United States has said, that from the treatment which our Envoys have received, no further negotiation with France can take place. Could it then be criminal, when national pride has said that no further negotiation can take place, in an individual, to tell the French Government on what terms peace may be made? One would think not; yet, by this law, such a man would be a criminal.

So far as this law goes to construe certain acts criminal, it is a departure from all usage, in order to discover what is criminal and what is innocent. When we wish to know whether an act is criminal or not, we inquire if it has produced any mischief. In the present case no evil is assigned. The offences are an attempt to procure peace for the country; to obtain a restoration of property, a release of seamen, or a recovery of debts. The people of this country never contemplated these acts as offences.

This bill, though the gentleman who reported it said that it had no reference to any particular case, appears to have been produced by the heat of the moment. No one would ever have dreamt of the things described in this bill being offences, if nothing had happened to move their passions. The first feature of the bill has a direct allusion to a late transaction, and takes from the people of these States a power which they never meant to

delegate—that of seeking their own interest by their own means. It has been introduced, like some others of late, on a plausible resolution; but when the bill itself appears, it is found to violate the most sacred rights of the people. The bill, which it was said this was intended to amend, was introduced in the same way. It was on a resolution for the punishment of sedition. Every one allowed sedition ought to be punished; but when the bill was brought in, it was found to restrict the liberty of the press; and the present bill, instead of punishing usurpations of Executive authority, as originally proposed, goes to punish individuals for honestly seeking for their own.

Mr. W. said, it appeared to him, that if this bill passed, it would establish a dangerous principle, viz: that an individual may be prevented from carrying on any verbal or written correspondence or intercourse with any foreign Government respecting his own private concerns, lest he should influence the measures of that Government in relation to any disputes or controversies with the United States. If we have the power to deprive an individual of this right, I do not see why we may not also deprive an individual of seeking redress for an injury at home, lest, in any possible manner, he should, in doing so, affect the Government of the United States. He hoped, therefore, the bill would not pass.

Mr. GRISWOLD observed, that the gentleman last up had found fault with the manner in which this bill had been introduced. It was true, that the instructions to the committee were to consider the propriety of amending a certain act, or of providing other punishments for the contemplated offence. The committee, believing that a separate law would best answer the purpose, and that the resolution gave them power to draw a separate bill, had so reported. If the gentleman from North Carolina had thought, in doing so, that the committee had exceeded their powers, his objections ought certainly to have been made in an earlier stage of the business.

The principle of this bill, Mr. G. said, had been very frequently explained, and must be perfectly well understood. Its object must be known to be to prevent all interference with the Executive power in our foreign intercourse. If this object cannot be justified, then the bill is bad. Have not the people, said he, delegated this power to the Executive? Has not every individual done this, and therefore deprived himself of the power by the delegation, which he has no right to resume? No gentleman can say he has. The principle would be a dangerous one, because, if one man may do it, any man may do it; and if it be done for one object, it may be done for another. There can be no limitation to it. And it certainly would be dangerous to entrust individuals to exercise a power of such magnitude—a power in which the honor and dearest interests of the country are so intimately concerned. He should himself be as much opposed to the interference of an individual to promote peace as to procure war, because he thought both equally an usurpation of Executive power.

Mr. G. said, he would not detain the House by further observations, because he believed the subject was perfectly understood; but gentlemen say the bill goes too far, as it will prevent individuals from pursuing their claims upon a foreign Government. If it did this, he should acknowledge it did what was wrong; but it did not; it lays no restrictions upon individuals in the prosecution of their individual claims. He need do no more than appeal to the candor of gentlemen themselves, by asking them whether they believe that any court in the United States would condemn an individual under this law for a mere personal application to a foreign Government for a restoration of his property, for the release of seamen, or for the payment of his debts? If gentlemen do say that a court would thus act, they would say what he did not believe they would say.

Mr. PINCKNEY observed, that if he had not been a member of the committee who reported this bill, and if he did not rise in its support, it might be supposed he shrunk from the investigation, he should not have troubled the House with any farther remarks upon it. But being thus situated, he must take leave to offer his sentiments upon what had fallen from the gentlemen opposed to the bill this morning.

The first gentleman up, from Virginia, (Mr. EGGLESTON,) seemed to think this bill unnecessary and improper, because it proposes to punish foreign intrigue, and he does not think there is any foreign intrigue in these States; that he is ready to vouch for his own State, and supposes other gentlemen are equally ready to vouch for theirs. He alluded to this subject because it had relation to what had been said about the diplomatic skill of France by a gentleman from Pennsylvania, on a former occasion. It had been said that no charge of this kind ought to be made against France, because they had displayed the greatest ignorance in this respect, in relation to the Ministers which had been sent to this country. But Mr. P. apprehended that this failure in the diplomatic skill of France towards this country arose from the misinformation which they received on their side of the water as to the true state of America, and from no want of a wish on their part to employ every means of diplomatic skill in their power to divide the people of this country from their Government. Certain it is that their skill did not succeed to the extent of their wishes. But the gentleman from Pennsylvania must have recollected a letter written by the Minister of Foreign Affairs of France, (which had appeared in all the papers,) addressed to the public agents of that country in foreign nations, on this point of diplomatic skill. It is true that he does not publicly direct them to use undue means, but he directs them to use all the means in their power to cause the French Republic to be respected. This shows that the diplomatic skill of France has not been idle, but that their public agents have been directed to do all in their power to influence the people of the countries where they reside in favor of France.

It was scarcely necessary, Mr. P. said, to repeat

what had been so frequently stated on this floor with respect to the state of Europe, and to show the effects which an exercise of this skill has produced there. He would not repeat what had been said on this subject, but barely state that the present situation of Europe does show, and that most forcibly, that there is an evil existing, which it is time for all nations to prepare against. It is an evil which has arisen out of the late revolutionary state of things. This evil is no less than an endeavor on the part of one Government, by means of its diplomatic skill, to overset all the Governments which do not concur with them in its mad career. It is become necessary, therefore, for us, in common with other nations, to guard against this evil, and to oppose it by such barriers as are within our power. Upon this footing the bill now before the House might be justified, if no inconveniences had already been experienced, which make such a law necessary.

But the gentleman from Virginia says, no danger can be apprehended from this evil in this country, and therefore this bill is unnecessary. But, said Mr. P., it is better that we should be prepared against an evil that may happen, than run the risk of the evil coming upon us when unprepared to meet it. If there is no delinquency against the bill, there can be no punishment, no oppression under it; and if there should be any correspondence carried on, upon which it ought to operate, it will doubtless be allowed the person carrying on such correspondence ought to be punished. The gentleman went on to state, that this bill would tend to prevent a free investigation of public measures, and of the conduct of public men. Mr. P. could not see how this remark could apply to this bill; it might have done very well against the sedition bill, but could not have any connexion with this.

The next gentleman from Virginia, (Mr. NICHOLAS,) has repeated the observation of the gentleman from Pennsylvania with respect to the inconsistency of the conduct of those who support this bill. He thought this argument had been so fully answered by the gentleman from Connecticut yesterday, that nothing farther need be said upon it. But it is again repeated that there is no criminality in the acts proposed to be punished, and that the advocates of the bill have not been able to show that any moral turpitude is attached to the correspondence proposed to be punished. Mr. P. said he thought the act had already been shown to be criminal. He asked upon what principle an individual could undertake to exercise these Executive functions? If an individual goes forward to a foreign Government to negotiate on national concerns, what answer could he give to such a Government, when he was asked, "Upon what authority do you come?" He must say, "I have no power, I am undelegated; but our Administration is either weak or wicked, and will not do what is for the interest of the country, and therefore I come, because I think myself more wise, and better disposed to serve my country than its constituted authorities." And is there no criminality, said Mr. P., in thus throwing censure on those who have been appointed by the people to administer the Government? If such an act produces any effect at all, it must produce a bad one. Any sensible Government must either laugh at such a man as mad, or conclude that he is the agent of a deep-rooted party opposed to the Government of the country from whence he comes. And certainly no individual ought to be permitted to do an act with impunity which might throw so great a contempt upon the Government of his country.

As much had been said about the gentleman lately in France, he would state it as his opinion, that that gentleman did not view the matter in this point of light. Personally, Mr. P. said, he considered himself as under obligation to that gentleman, and nothing but what he conceived to be the public interest could have induced him to have remarked upon a conduct which he considered as calculated to bring the greatest mischiefs upon this country, if not put a stop to.

But it had been said that this bill was introduced into the House with no other view than to raise a clamor in the country against gentlemen of a certain political opinion. If, however, there is a great evil existing, to which it is proper to apply a remedy, he thought it would have been more fair to have attributed the motive of the gentleman to this cause. But why is it supposed that this bill is intended to raise a clamor against persons of a particular description? Why is the gentleman from Virginia afraid of this clamor? What can be his objection to meet it? If an individual has gone forward of his own mere notion and done an improper thing, no mischief can arise to those who have had no concern in it. The people of the United States are not to be duped by mere vague reports. If gentlemen are accused with being privy to the business, will they not say, let gentlemen who say this, come forward with proof? The people could not, he believed, be so easily led away by unfounded assertion, as some gentlemen seem to imagine. But the gentleman says, this bill will have a tendency to bring into disrepute good actions. If the gentleman conceives the acts guarded against by this bill as good, he for himself should be contented to have them brought into disrepute.

In a former debate, Mr. P. said, a great distinction had been made between an individual acting in his own behalf, in a dispute between his own Government and another, and one deputed by a party. Mr. P. gave reasons, which have formally been assigned, why both are equally criminal; and he thought the acknowledgment that this conduct would be wrong in a party, was a tacit confession that it is wrong in an individual. For, said Mr. P., if at any future time, a party should arise which shall attempt to divest the Executive of any part of his constituted authority; if they should wish to carry on a negotiation with a foreign Power, can it be expected it will be done in an open manner? Certainly not. A party thus disposed would act so secretly, that probably no person but the agent employed could be discovered; so that there is no way of preventing such a com-

munication being carried on, but by making the risk too great for any individual to undertake a business of this kind.

Mr. P. thought the gentleman from Virginia had deviated a little from the present question, in making use of an expression which ought not to pass unnoticed. He had stated that, from the effect which had been produced by a late embassy, it appeared that if persons of a different political opinion had been employed by our Government, a peace might have been obtained. To what, said Mr. P., does this amount? Does it not amount to what we have been elsewhere, viz: that the French ought to have been indulged in the hoice of our agents?

[Mr. NICHOLAS said that his remarks were applied to the original appointment of our Commissioners; for, after objections had been made to them by the French, on account of their political opinions, he would not have changed them.]

If, continued Mr. P., a Government, in its appointment of foreign Ministers, is to consider only what will be agreeable to the foreign Government to whom they send them, and appoint only such persons as will be pleasing to them, it would matter not whether the demand was made or not. On the contrary, Mr. P. was of opinion, that a Government ought only to consider who are the persons who will best transact the business of the country, and not who are most in favor of the Government to which they go; because it is natural to suppose that persons most in favor with a foreign country, will be most disposed to favor that country; and it is also natural to suppose that such persons will have an undue bias on their minds, and be disposed to relinquish the interests of their own country in favor of that with which they have to negotiate. He therefore thought the position ill-founded. He believed the President, in his choice of Envoys to the French Republic, was desirous of choosing men of integrity, totally unprejudiced, and friends to their own Government. Mr. P. believed the gentlemen appointed were of this description; and though, said he, insinuations have been thrown out in the public papers to the contrary, can anything be collected from the documents on the table, which can support a contrary opinion; which can show that they possessed any undue partiality against that nation? He heard of no such insinuation; if any such had been made, he believed it would not have been difficult to have confronted the charge by those papers.

This doctrine, said Mr. P., has been carried to a great extent; it has gone to the full length that the wishes of the French Government ought to have been consulted in sending Ministers from this country. We have seen, said he, a famous letter published in the papers, written by an American citizen in France to a gentleman in this country, (and which has since been the subject of a prosecution,) in which this matter is developed. This gentleman tells the world, he has been a fellow-laborer with the heads of the French Government, in bringing about the present state of things; that he is now intimately connected with them. He tells us upon what terms we may make peace with France—terms which he believed no gentleman in this House would be disposed to agree to; that we must apologize for our past conduct, and become tributary; that we must send a man to treat who will be agreeable to them. He goes so far as to point out a particular character whom he thinks it would be proper to send. And, said Mr. P., I think the writer calumniates that gentleman, when he says that if that gentleman had gone forward, the dispute between the two countries would have been settled in twenty-four hours. He has told you the terms upon which a settlement might be had, and then, that if this gentleman had been employed, the dispute would have been settled in the short time he mentions. The natural inference is, that the gentleman referred to would have acceded to those terms. Mr. P. thought this calumny. He knew that gentleman well, and highly respected him for his talents and integrity; nor did he believe that either in twenty-four hours, or in twenty-four years, he would have agreed to any such terms. No, said he, that gentleman has too great a regard for his country, thus to barter away its independence.

He thought this doctrine of favoring a foreign nation in the choice of Ministers, a dangerous one, and had therefore noticed it.

The gentleman last up from North Carolina has made use of one or two ideas rather extraordinary. He says, that true it is, that this power of negotiation has been delegated to the Executive of the United States, but he also says that the people have by no means divested themselves of the power of carrying on negotiation, if they choose to do so.

[Mr. WILLIAMS said, the gentleman from South Carolina had certainly misunderstood him. His idea was, that because the people have vested the Executive with this power, that it did not hence follow that they had not a right to correspond with a foreign Government for the purpose of recovering their own property, or that of their friends.]

Upon that point, Mr. P. said, they were perfectly agreed, and this bill does not prevent any such interference; it had only relation to disputes between the two Governments. These cases, as had been repeatedly shown, are perfectly distinct. But the gentleman said (if he did not also mistake him, and this he thought connected with his former idea,) that this law will have a tendency to increase Executive influence. If this, said Mr. P., is the tendency of the bill, I plead guilty, so far as it goes to confine the exercise of the power of negotiation to the Executive. That the people shall not interfere with it, so long as our present Constitution lasts; much less that an individual should take the power upon himself. Therefore there is no argument to be derived from that ground against this bill.

Mr. P. could not help noticing, before he sat down, a circumstance which happened yesterday. Gentlemen are perfectly willing that individuals should have an uncontrolled power to carry on any correspondence they please with a foreign

Government; but the moment a gentleman from Massachusetts introduced an amendment, which might, by implication, have vested the power in the President alone to have sent a Minister, without consulting the Senate, as is directed by the Constitution, they immediately took the alarm. What! say they, will you give this power to the President alone? And the amendment was rejected. This must appear inconsistent.

Upon the whole, Mr. P. said, he considered this bill as calculated to prevent an evil, which, from the present state of things, does exist; that it does not encroach on individual rights; that it will produce much good, and no evil, and therefore he was in favor of it.

Mr. S. SMITH agreed with the friends of this bill, as to its general principle, of punishing usurpations of the Executive authority. Had it been confined to that object, he should therefore have voted for it; but the generality of the expressions used, would induce him to vote against it. For, if he understood the bill right, a private individual seeking for a restoration of his own property from a foreign Government, would be liable to its penalties. It was possible, however, he might be mistaken; if so, he should be glad to be corrected. He would state a case or two, which, if answered to his satisfaction, he would still vote for the bill.

Suppose this law to be in force, and, upon the arrival of an American citizen at Bordeaux, he finds an embargo laid on American vessels, from a false impression taken up by the French Government that this country is immediately going to war with France, and that this war would shortly commence. This gentleman being direct from America would be possessed of the full views and feelings of the American Government and people; and suppose he were to state to the agents of the French Government (as we have no Minister there to whom he could apply) that they had been misinformed; that the American Government had no desire to go to war; that all the measures she had taken were measures of defence only, called for by the unexampled depredations committed upon our vessels and property by French privateers, whose abominable conduct, perhaps, they had not been informed of. A man capable of making a fair and just representation of the situation of things, and showing that all which had been done by this Government had been right and proper, might find it also necessary to speak of the relative situations of the two countries. He might find it necessary to do this, in order to obtain a release of his own property. And suppose, from his representations, the French Government should take off the embargo which had been laid, release our seamen, and restore our property, would such a man come under the lash of this law? As it appeared to him, he would, and he could not consent to a law which should punish such a person.

Our Consul-General at Paris, he well knew, is not authorized, as a diplomatic character, to interfere in the existing disputes between this country and France. Suppose, however, he had come forward to the French Government at the time the embargo was laid, and, by using the same kind of arguments which he had supposed to be used in the former case, which he had stated, had convinced the French Government of the impropriety of its conduct, would he not, by thus acting, have made himself liable to the operation of this law? If so, it goes farther than he wished it.

He would put another case. Suppose our Minister at the Hague should be applied to on the subject of the disputes between the two Governments, and should give such information with respect to the views and conduct of this Government as should induce them to relax in their measures towards this country, would our Minister at the Hague fall under the penalties of this law? He believed he would, though he might have been the means of averting a war from the country. If these objections can be answered to his satisfaction, he would vote for the bill; otherwise, he would not.

Mr. DANA wished the law might have the credit which the vote of the gentleman from Maryland would stamp upon it; and, when he was shown that the cases which he had stated do not come within its letter or its spirit, he trusted he would give it his vote.

The first case is that of an individual merchant applying to the French Government for a restoration of his own property. If this case, said Mr. D., could come within a fair construction of the law, it ought not to pass; but if the gentleman from Maryland will attend to the scope and phraseology of the bill, and recollect that every law must be explained according to its subject-matter, that the law proposes to punish only interferences in disputes between two Governments, he will be convinced that such a case cannot come within the law. Individual concerns cannot be interfered with by Government, without the consent of such individual; no more than a dispute between two Governments can be interfered with by an individual.

With respect to the case of the Consul-General, the gentleman from Maryland must know that he has no diplomatic authority.

Mr. S. SMITH said he had so stated the case.

Mr. DANA.—As to applying for the raising an embargo, and liberating seamen, they are acts within the Consular power for which he is expressly appointed.

As to the other case, of a Minister resident at the Hague being applied to, he had no doubt that all our Ministers, being clothed with the powers of the Government, have a right to make such representations to any foreign Government as shall be for the benefit of this country. It is true, they have not the power to make a treaty with any other country than that to which they are sent, but it is certainly their duty to further the interests of their country in all cases within their power.

If these answers prove satisfactory to the gentleman, I hope, said Mr. D., that we shall be favored with his vote.

But gentlemen still insist that this bill is improper. In addition to what had been said by the gentleman from South Carolina, with respect to

the motion made by the gentleman from Massachusetts, by the decision upon which it appears that gentlemen are more willing to leave the people at large to execute this power of negotiation, than suffer the President to exercise it without the concurrence of the Senate. And, proceeding still further, the gentleman from Virginia (Mr. Dawson) moved an amendment, subjecting the President to the penalties of this law, if he should employ any agent to negotiate without having first consulted the Senate. The gentleman from Virginia voted for this amendment, after the Vice President had been added to it.

But, said Mr. D., what does all that we hear about peace-makers mean? Who are these peace-makers, and what is this peace they want? What is this blessing? Is it to act in concert with the views of their own Government, or in hostility to it? If this man chose to hazard his reputation by this species of public knight errantry, by attempting to do what had been in vain attempted by his Government, why did he not apply to the Executive, and say to him, "I am ardently desirous of preserving the country in peace; I wish to consult you before I set out for France, to see if I cannot induce a change in the measures of that Government. Give me your passport." Where was the difficulty in doing this? None, except that in that case he would have gone by the permission of Government, and that did not accord with his views. His object was not, according to the gentleman from Virginia, (Mr. Nicholas,) to make a peace which should be agreeable to our Executive—it was to force the Executive to make a peace. This was the language of the gentleman from Virginia. How force the Executive? Does an individual wield the sword of war, that he can compel the Government? Or will he make them ashamed of their conduct? Or is he the instrument of a hidden power in this country, or of a foreign Government, whose force our Government cannot withstand? Or is it by another mode—which, indeed, is the most probable—by seducing the public opinion; by undermining the public confidence, on which our Government rests for all its energies? Because any man who knows anything of our Constitution, also knows that the Government of the United States must render homage to public opinion; that it cannot, and ought not to be disregarded.

But what is this public opinion? It is the fair result of the sense of the people at large, when the truth is fairly known, when falsehood has been discarded, and misrepresentation discountenanced; and not when the public mind is disturbed, when suspicions and hatred have been kindled against our Government. It is this we have to fear, and this is the danger most to be dreaded.

And what, exclaimed Mr. D., is this claim in favor of an officious individual? Have not the people delegated the power of negotiating to the President? Why, then, shall a patriot, a friend of the people, usurp it? No phrase, said Mr. D., is more abused than this phrase of "the people." As used in the Constitution, no man could pay more respect to it than he; but not when it is used to mean a few individuals, a club, or a small section of the people. It is clear that an individual taking upon himself a power which has already been delegated to a constituted authority, usurps that authority, and if he has ever taken an oath to support the Constitution, he violates that oath.

The gentleman from Virginia, in addition to his remarks, had made a general charge against the friends of this bill, by declaring it to be his opinion that they had brought it forward for the purpose of exciting clamor against their political opponents, that they might the better effect their purpose of getting the country involved in war. He had thought this cant of "war" had been out of date; that by this time there was no American who would not rather submit to the evils of war than submit to the payment of French tribute, to French artifice, and French usurpation. Let them have war, said Mr. D., if they want it; we will neither shrink from it, nor court it.

But the gentleman says there is a general disposition for war in a majority of this House; and, in order to support this opinion, he has had recourse to a poetical work, which has lately made its appearance in the State from which he (Mr. D.) came. But he complained that the gentleman from Virginia had not stated the authority fairly. He ought first to have stated, that for a long time before the despatches were received from our Envoys in France, many gentlemen in this House were found to be the constant apologists for the conduct of France, while the Federalists were as steady in condemning their conduct as infamous. In this state of things the despatches were received and communicated to the House with closed doors. This poem attempts to describe the scene which then took place:—

"Long had our Ministers of Peace,
The insults borne of Gallia's race;
At length, the Envoys deign to tell us,
They had to deal with scurvy fellows,
With Autun and the five-head Beast,
And half the Alphabet at least.
The budget op'd, in Congress, show'd
The whole contrivance of the brood,
And that their heads were bent on brewing
Subjection, infamy, and ruin.
While joy each Federal feature crown'd,
And triumph glow'd the Hall around;
Each Jacobin began to stir,
And sate, as tho' on chestnut burr.
Up the long space from chin to forehead,
Sate every feature of the horrid;
Their moon-ey'd leaders stood like beacons,
Or as a drove of Satan's Deacons,
When from the burning lake, in ire,
They sat their feet on solid fire,
To find if war or sly pollution
Could raise in Heaven a revolution."*

Mr. D. appealed to the House for the truth of the representation, and apologized for having taken up their time by introducing a work of this

* The lines printed in italic were read by Mr. Nicholas. Mr. Dana read the whole as here given.

kind; but he had thought it necessary, in order to correct the statement given by the gentleman from Virginia.

Mr. Harrison hoped this bill would be recommitted. He said he was as much disposed as any gentleman within these walls, to punish any usurpation of Executive rights, and if the bill could be so defined as not to punish the innocent with the guilty, he would vote for it, as wherever power is delegated there he wished it to remain until revoked. As it now stands, however, he apprehended it would interfere with individual rights; and, as the law is to take immediate effect, an individual now in France may be punished before he knows such a law exists. Another objection which he had to the bill was, that it is unlimited. He feared, as had already been hinted, that the law is principally intended for party purposes, and to bring an odium on the advocates of the rights of man in this House. Gentlemen have already resounded it through the country that there is a party here connected with France; but they have not dared to fix upon a man who forms one of this party. If such a man be in this House, let them at once fix upon him, and there will be no hesitation about bringing him to punishment. If gentlemen fail to do this, the public will not longer be deceived in this matter. They will be certain that no such person exists. He hoped, for the reasons he had stated, that the bill would be recommitted.

The question was now put and negatived—53 to 36.

Mr. Harper said that the motion for recommitment having been lost, he wished to offer a few remarks in reply to the objections urged against the passing of the bill.

And first he would state to the gentleman from Maryland, (Mr. S. Smith,) who had declared himself to be favorable to the principles of the bill, but objected to the form in which it was drawn, that none of the cases put by that gentleman would, in his opinion, come within the purview or the penalties of the bill in its present form. The bill created, he said, a new offence, viz: "the commencing or carrying on, without the authority of the American Government, any correspondence, written or verbal, with a foreign Government, its officers, or agents, with intent to influence the conduct or measures of such foreign Government, in relation to any disputes or controversies with the United States, or to defeat the measures of the Government of the United States." It was this intent, he said, which constituted the essence of the offence; an intent to interfere in the political relations of this country with foreign nations, or to defeat the measures of our own Government. And it was an invariable and fundamental rule in our criminal proceedings, that upon every indictment the criminal intent which constitutes the offence must be proved. Otherwise the indictment cannot be supported. The intent cannot be directly and positively proved; but it may be and must be inferred by the jury from the circumstances of the case, and those circumstances must be proved by legal and sufficient testimony. Thus upon an indictment for murder, it must appear to the satisfaction of the jury, that the act of killing was not only done, but done with a mischievous and criminal intent; and the accused party may acquit himself by showing, from attending circumstances, that he had no such intent. So if a person were indicted under this act for carrying on a correspondence with a foreign Government, he might acquit himself by showing, from all the circumstances of his conduct, that he did not carry it on with any of the criminal intents specified by this bill, but merely for the purpose of saving his own property, or procuring the release of himself or his friends. I will say, therefore, continued Mr. H., that any merchant or merchants of this country may, notwithstanding this bill, should it pass, make application, by themselves or their agents, to the French Government, for the restoration of their property, for payment for it, or for the release of their friends, provided they confine themselves to these objects, and do not meddle with the political relations of the two countries. I will say, further, that even the memorial cited by the gentleman from Pennsylvania, (Mr. Gallatin,) and presented by certain foreign merchants to the Council of Five Hundred in France, would not, should it be presented by a number of American merchants, after the passing of this bill, bring them within its penalties; it being manifest that the views of these merchants went no further than to their private affairs, and that although the reasonings which they adduce are of a very general nature, and apply to the whole system of France respecting neutral commerce, yet they do not design to intermeddle in any manner in the political relations between France and their respective Governments.

I will even go further. I will say that were I in France, after this bill should be passed, and M. Talleyrand were to invite me to sup with him, which perhaps might be the case, considering that I had the pleasure of his acquaintance in this country, and he were to ask my opinion about the political relations of the two countries, I should not scruple to tell him that the conduct of his Government was highly impolitic, and to assign my reasons for the opinion. I might, perhaps, not think it prudent to do so, but, if I thought it prudent, and the occasion offered, I should not consider myself as offending against this bill by doing so. Why? Because I should not act with the intent which this bill fixes on as the essence of the offence created by it; the intent to interfere or intermeddle with the public relations of the two countries. It is this interference, this intermeddling, and not an accidental conversation, which the bill forbids, according to any reasonable or possible construction of it by an American court and jury. Therefore I should hold such conversation without fear of the law, should the occasion accidentally occur; and should any body indict me for it under this bill, I would justify myself by showing, from all the circumstance of the case, that the affair was merely accidental, and that I had acted without any intention to interfere in the disputes of the two countries.

If he was right, Mr. H. said, in this construc-

tion of the bill, and, after a full consideration, he firmly believed that he was, there could be no ground for the apprehensions of the gentleman from Maryland, since the cases for which he wished to provide could never be considered by a court and jury as coming within the purview of the bill, which, in order to constitute the offence, required that the act should be done with an intent to interfere with the functions of the Government, and intermeddle with the political relations of the two countries.

The gentleman from Virginia (Mr. NICHOLAS) had, indeed, contended repeatedly, that such interference or intermeddling, so far from being punishable, was highly meritorious, provided its object was to make peace. This principle had been again and again exposed, by showing that, if once admitted, it would cover or even justify any interference for any purpose, and could not fail to end in transferring to unauthorized individuals, all the powers which the people of this country have confided to their Government, to be exercised by men of their own choice. Will it be denied, said Mr. H., that this principle may be so employed? Will it be denied that, under pretence of promoting peace, the agent of a faction may go from this country to France, and advise the French Government in what manner it ought to act, so as to lull the country into security, increase its influence among us, and strengthen the hands of its own party? To show that the principle contended for by the gentleman from Virginia may be so employed, that such attempts may be concealed, under the specious garb of peace-making, I will beg leave to read in my place, and as part of my observations on this subject, a paper which I hold in my hand, and which has come to my possession by means of one of those threads whereof I formerly made mention. This paper is addressed to the Minister of Foreign Relations of the French Republic, and I have reason to believe was presented to him by a citizen of this country who lately made a visit to France. It is in the following words:

[Here Mr. DENT asked by whom the paper was signed.]

Mr. H. replied, that it was signed by nobody, and he did not think himself at liberty to name the person by whom he supposed it to have been presented. He would state that it was transmitted to this country through no official channel, but that he had reason to believe, and did believe, it to have been presented to the French Government by an American citizen who was lately in France. He thought it in order for him to read in his place any paper, unless it contained unbecoming language, which was not the case with this. He would, therefore, unless the Chair should otherwise decide, proceed to read it.

No objection being made, he proceeded to read it by paragraphs, and comment upon it, as follows:

"*To the Minister of Foreign Relations:*

"The undersigned, a firm friend to the principles of the French Revolution, and well known as such in his own country, the United States of America, begs leave, Citizen Minister, to expose to you in writing, what he cannot with facility do by conversation, the motives which have induced him to quit his home and visit this country at a crisis like the present, when the political relations of France and America are so near experiencing a total dissolution."

Thus we see that, this person professes, in the outset, to treat generally of the matters in dispute between the two countries, and declares this to have been the object of his journey:

"Without any official character, and wholly unauthorized from any quarter, but knowing it to be his right, and believing it to be his duty, he comes as an dividual citizen to offer you his opinion on the best means of restoring harmony and a good understanding between the Governments of the two Republics, and, at the same time, to support his own opinion with what he knows to be that of all the principal characters in America, famed for their sacred love of liberty in general, and attachment for your cause in particular. Their hearts are overcome with sorrow when they reflect that so great a number of American patriots, who have fought and conquered side by side with Frenchmen, and whose blood has flowed in the same trenches, are now forced to gird on their swords and combat whom? those same generous Frenchmen."

It is observable in this paragraph that, although he affects, for form's sake, I presume, to declare that he is authorized by nobody, but comes merely on his own footing, he yet immediately begins to speak in the name and on the behalf of a political party in this country, whose opinions he declares to be the same with his own, and whom he describes by calling them "all the principal characters in America, famed for their sacred love of liberty in general, and their attachment for the French cause in particular." We all know what this jargon means, when translated into plain English.

We all know that it means, in the new language of party, that description of persons in this country who have uniformly opposed all the measures adopted under this Government, and especially those which relate to France; a description of persons whom we know that France has considered, and does consider, as a party devoted to her will and directed by her influence. She has told us that she relies on this party, for keeping the Government in shackles, and rendering it wholly unable to resist her aggressions; and that on this reliance her haughty and rapacious conduct toward this country has been founded. In all these opinions this Envoy takes care to confirm the French Government. In the name of this description of persons he undertakes to speak. Their opinions, he assures her, are entirely conformable with his own.

Thus we see that, while France professes to have proceeded, in all her injurious conduct toward this country, on the reliance which she placed upon the aid of a party among us, a direct and formal negotiation is opened with her Government in the name and on the behalf of that party. What effect this must produce on the general interests of the country, on the safety and

authority of the Government, I leave every one to judge.

And here, Mr. Speaker, permit me to correct a mistake in matter of fact into which the gentleman from Virginia (Mr. NICHOLAS) fell on a former occasion. He declaredd that the existence of a party here on whose aid France relied had never been mentioned by any person connected with the French Government; the assertions on that subject having been made by one Mr. X, who never pretended to any authority from that Government. That gentleman will find, by recurring to the printed correspondence, that the assertions respecting the existence of a French party in this country, and the reliance placed on its aid by the French Government, were made not by Mr. X, but by Mr. Y; and that Mr. X, and Mr. Y, are two very different persons. Mr. Y was the real negotiator, and the agent of the French Government. He has since appeared to be a gentleman of the name of Bellamy; and being piqued at the insinuations which represented him as a mere swindler, who wished to get money for himself, he has published a letter under his real name in the Paris newspapers, wherein he expressly declares that he neither spoke or wrote one word in the negotiation with our Commissioners without the express direction of the Minister for Foreign Affairs.

The Envoy having confirmed France in her opinion as to the existence and strength of her party here, goes on to inform her who are her enemies in this country.

"By what fatuity, Citizen Minister, has this unfortunate quarrel been suffered to arrive at the present crisis? Why are the enemies of France and America to be so highly gratified?"

Here we see that the enemies of France in this country are also the enemies of America; and they are gratified, it seems, by the quarrel. From the whole tenor of the paper it is manifest that by the enemies of France are meant those persons in this country who have supported their own Government and thought that the aggressions of France ought to be resisted. These, France is informed, are also enemies to America; while, on the other hand, all the real lovers of liberty and friends of their country are also friends of France. Let every one judge how much this must tend to confirm her in the opinion she holds respecting the existence, the strength, and the attachment of her party in this country.

"France will no doubt answer, America was originally in the wrong, and gives us no explanation; the Government of the United States will deny this, and offer its own complaints. But, unhappily, the danger of a rupture is now become too imminent to permit recriminations on the one part or the other. Is peace desired by France? The friends of liberty in America have ever been ready and willing to admit of it."

In this paragraph, the system is still further developed, and the views of the mission begin to disclose themselves. "The friends of liberty in America," France is told, "have ever been ready and willing to admit that she is desirous of peace." Therefore, those who are not ready and willing to admit this, are not friends of liberty. Therefore, the American Government, including the Executive and both Houses of the Legislature, are not friends of liberty; for they have denied that France was desirous of peace, and have contended, on the contrary, that nothing less than submission would satisfy her. This has been the main position of the American Government, the ground-work of its whole system, of all its late measures; and the ardor wherewith these measures have been seconded by the people has arisen from a conviction of this truth. But here France is told not to be alarmed by these appearances; for, that all the "friends of liberty" in America, that is, in other words, the whole party whom she considers and relies on as her party, are still ready and willing to believe, contrary to all the evidence of facts, and all the declarations of their own Government, that she is desirous of peace. Could she have stronger encouragement to proceed than thus to be told, by a person who speaks, whether with or without authority, in the name of a party, and supports his opinion by theirs, that, do what she will, there is a numerous and powerful description of persons in this country ready to shut their eyes to her conduct, distrust and disbelieve our own Government, and place an implicit reliance on all her insidious professions? What stronger inducement could she have to believe that even were she to invade the country, she might insure the assistance of all the "friends of liberty in America," by publishing a manifesto to declare, as her General did when he was advancing into Switzerland, that she meant not to attack the country, but only to release it from oppression, to suppress the "aristocracy," and place the Government in the hands of the "true patriots," the "friends of liberty in America?"

"When we have seen the numerous depredations made on our commerce, particularly in the West Indies, some by cruisers without commissions, others by commissioned cruisers, but condemned on the most frivolous pretensions, we have, with pleasure, sought a pretext in malconduct of the agents of Government, and not carried our indignation to the Government itself: the late arrêt of the Directory has proved that we are right."

Here France receives another most encouraging piece of information. That "we," meaning the Envoy and those in whose names he speaks, in other words, "all the friends of liberty in America," are not dissatisfied with the conduct of the French Government itself, with her hostile decrees against our commerce, which are the grounds of our complaints, but merely with the irregularities committed under those decrees, by some of her agents and privateers. Hence, she is enabled to conclude, that she may insure the countenance and support of this party, of "all the friends of liberty in America," without receding in the least from the substance and essential parts of her aggressive system, provided she will do something to save appearances, will restrain some irregularities of her agents, and pass some unmeaning arrêt about the conduct of her privateers. If she

will do this, she is, in substance, informed, that she may continue to enforce her decrees, against which themselves, and not against the abuses committed under them, we have armed, and may rely on the aid of the "friends of liberty," to render our efforts ineffectual. It is easily seen how much this, while it teaches her the proper course to be followed, must encourage her to persevere.

"We have seen, with the most lively regret, the non-success of the negotiations at Paris; we neither blame one Government nor the other, that these have not been brought to a happy issue; we prefer directing all our efforts to revive the expiring flame of friendship and good will, that ought not, for a moment, to have been diminished, and to baffle the infamous intrigues of the enemies of France and America, who, in no way, can be so much gratified, as by bringing the two Republics to an open rupture."

Thus, it seems that "we," meaning still the Envoy and his party, "all the friends of liberty in America," are not disposed to blame France for the rupture of the negotiation, and take care to tell her so. This is saying to her, in effect, "notwithstanding what the American Government, and its supporters here, said about your conduct in the late negotiation, be not discouraged, for the 'friends of liberty' in America do not believe them. They believe you in opposition to their own Government, and acquit you of all blame in this affair; and they will take care to counteract the *infamous intrigues* of these enemies of France and America." Let us recollect who are meant by "the enemies of France and America," in the language of this paper, and we shall find, Mr. Speaker, that these "infamous intrigues" mean the efforts employed to rouse this country to resistance, and place it in a state of defence. These efforts France is taught to consider as "infamous intrigues," set on foot by the enemies of America: which "all the friends of liberty" will not fail to resist, and, if possible, to render ineffectual. It is obvious what encouragement in her enterprises she must derive from this assurance.

"The advantage of speaking the same language, gives the enemies of France an opportunity of knowing well the American people; they know that the purest Republican principles govern the mass of them; that their magistrates once chosen, are the organs of the people during the time for which they are chosen, notwithstanding their administration may be attended with errors and even faults. If therefore they can provoke the rupture they so ardently wish for, they are sure that every American will rally round the standard of Government; and a Government so supported will be a most useful ally to them.

"I wish, Citizen Minister, (and here I know that I convey the wishes of all who deprecate a separation from France, and particularly, that great friend to liberty, so well known in this country.)

[In this place, Mr. H. said, the name of a distinguished personage in this country was mentioned, which he did not think himself at liberty to repeat.]

"To impress on the minds of the Government, the truth contained in the foregoing paragraph, it is essential that they should feel and be well convinced of it, in order that they may be on their guard against *intrigants* who will not fail to engage them to count, in case of a rupture, on a powerful party in America to assist the plans of France, and even to aid in case of an invasion. The contrary, be assured Citizen Minister, will be the effect; the very idea strikes all true Americans with horror; they are ardently desirous of an accommodation with France; but desirous as they are of an accommodation, they would be no less ready to support their Government in war, and particularly in opposing with energy all foreign invasion. This truth admitted, France has to consider which is most for her own interest, to make an enemy of United America and to throw her thus into the arms of Great Britain, or by a great and magnanimous conduct to draw back those wandering affections, which intrigue and misunderstanding have estranged for a moment, and leave the true American character to blaze forth in the approaching elections."

This paragraph, more fully than any other, discloses the cloven foot of the mission. France is assured that, should she persist too openly in her pleas, should she continue her outrageous and insulting behaviour, should she openly attack or invade the country, she will unite all parties against her, and ruin her own cause. That she must, therefore, temporize, take off a little, or, to use a seaman's phrase, shorten sail for a while. For what is she to do this? Listen to the Envoy. She is to do it in order to "bring back the wandering affections of the country; and make the true American character blaze forth in the approaching elections." In plain English, to strengthen her party, which her late violent conduct had rendered unpopular, and give them a preponderance in the next elections. Thus, a foreign Government is instructed, by the envoy of a domestic faction, or a person who takes on himself to speak and act as such, in the proper method of aiming a successful stab at the vitals of our Constitution, by influencing our elections, and from the assurances contained in the former part of the memorial about the views and opinions of this party, who are thus to be rendered triumphant in the elections, she is left at full liberty to conclude that, if by some trifling and insidious concessions, she can accomplish this point, she will have nothing to fear after "the true American character shall have been made, by her means, to blaze forth in the elections." In other words, after this party, on whom she relies, shall have obtained a preponderance in the popular branch of the Government.

"France has now, Citizen Minister, an opportunity of gaining, or losing, the affections of the Americans forever; she has lately shown an unequivocal desire of preserving peace with her; but she has not yet done enough for her own interest. What she has done will have but little effect, while the embargo exists and American seamen are confined in prison; let them be released, the embargo raised as soon as possible, and a Minister sent to America with liberal instructions; the dispute will then be immediately restored; you will rejoice the hearts of all true Americans; their children will lisp your praises, and their fathers will inspire their young minds with love and affection for their ancient deliverers.

"I know that the measure of sending a Minister immediately to Philadelphia, may be considered as an act of condescension. But there are cases, Citizen Minister, where condescension is magnanimity. The object is to strike dead at one stroke the intrigues of the enemies of France, both in England and America.

"That Government, between the two Republics, which shall take the first and most irresistible step towards this great object, will acquire the highest honor. Though, as an American, I might wish that this honor might belong to my Government, yet, as a philosopher, I am only desirous that the good should be done, without being anxious who shall be the author of it.

"Permit me to close, with another observation. If the last proposition be inadmissible, let a neutral city, such as the Hague, be pointed out by the Directory as the place of meeting, and let an official declaration to this effect be made through Mr. Skipwith, the only authorized person we have in this place.

"I beg, Citizen Minister, that you will not forget that there is not a moment to be lost. Congress is to assemble again in about two or three months from this time, and I dread the effects of the despair to which the American people may be driven from the cruel state of suspense which brought me to this country."

In these paragraphs, the degree of apparent concession necessary, on the part of France, in order to regain her influence, and render her party triumphant in the elections, is expressly pointed out; and we see that it extends to not one of the great subjects of complaint which have induced this country to resort to force for the protection of its violated rights. The raising of an embargo, which may be laid on again as soon as the purpose is answered; the release of a few seamen, who may be detained under various pretexts; a negotiation which may be spun out at pleasure; while, under the hostile decrees of France, our commerce, unprotected, may be assailed in all parts of the world—such are the anodynes whereby this country is to be lulled into a fatal security, while French influence is to operate on our elections, a French party is to be raised up and increased, and those plans which have hitherto, in the insolent intoxication of success, been too openly and prematurely pushed, are to be cautiously ripened for more well-timed and effectual accomplishment.

In short, France is informed, in this memorial, of the false step she has taken, of the ill effect which it has produced, and of the manner wherein it may be retrieved; while, on the other hand, she is assured of the attachment of her party, and taught to hope everything from their efforts, provided she will not herself render them ineffectual by the too great violence of her conduct.

This paper, therefore, Mr. Speaker, proves in the first place the actual existence of such interference by a party, or person speaking in the name of a party, as the bill now under consideration is intended to prevent; and secondly, shows to what insidious and destructive purposes this interference, were Government weak enough to permit it, might be employed. Shall we not then check this dangerous evil by passing the bill?

As to myself, I have been charged on this occasion, as on others, with intending to excite alarm. I shall not at present notice this charge particularly, because whenever I have formerly thought fit to answer, I have answered by confessing. Shall I be asked why I wish to create alarm? Ask the sentinel, who sees the enemy approach under the cover of night, why he creates an alarm. I see, or think I see, for I lay no claim to infallibility, and may perhaps be mistaken, but I think I see the enemy attempting, by secret marches and ambuscade, to make a lodgment in our works, or take our camp by surprise; and believing this, my most sacred duty to those who have placed me here to watch for their safety, commands me to give the alarm; and from the performance of this duty I shall never be deterred by the fear of falling under the censure of gentlemen, who, seeing no danger themselves, are offended if an alarm is sounded by those who do see it.

Friday, January 11.

The Speaker informed the House that the unfinished business first in order, was a bill on its third reading for the punishment of certain crimes therein named.

Mr. Bayard moved to postpone the further consideration of this bill till Monday, for the purpose of passing the bankrupt bill, which he thought it of importance to pass immediately. He wished it for another reason. He had been instructed that the Senate had come to a conclusion on the question of jurisdiction with respect to the impeachment of William Blount, and it was probable the managers might be called to the bar of the Senate to receive judgment in the course of the sitting, and if the debate on the bill for the punishment of certain crimes was proceeded with, it might occupy a considerable time, and the managers could not with propriety attend the Senate whilst the debate was going on.

Mr. Nicholas said that it could not be expected that the bankrupt bill could be sooner got through than the business first in order, and the managers would be as little inclined to leave the debate on that as the other bill. It could not be supposed that a law of such magnitude as the bankrupt law, could be passed over without a discussion of its principle; and as no gentleman had come to the House with any idea of this business being taken up to-day, and of course are unprepared to deliver their sentiments upon it, he hoped the unfinished business would be proceeded with.

The question for postponement was put, and negatived—41 to 40.

USURPATION OF EXECUTIVE AUTHORITY.

The bill for the punishment of certain crimes, therein named, being then read—

Mr. Baldwin said, he now considered the bill as having taken its definite shape and extent, in which it was to pass into a law or not, as the judgment of the House should direct. For his own part, he must say that his judgment was that it was not best for it to pass into a law. As the words of the bill now stood, he considered them as clearly including the cases mentioned by the gentleman from Maryland (Mr. Smith) and the gentleman from Pennsylvania (Mr. Gallatin)—persons who sought

the release of captured seamen, or of sequestered property, or the payment of debts from such foreign nations; or attempted the explanations on the subject of embargo, as they had mentioned, must come under the penal operation of this law. As the act now reads, it is, "if any person shall directly, or indirectly, commence or carry on any verbal or written correspondence or intercourse with any foreign Government, or any officer or agent thereof, with intent to influence the measures or conduct of the Government, in *relation to* any disputes or controversies with the United States." The words "in relation to," seemed to be considered by some gentlemen, in their remarks, as following the word "correspondence," and as designed to limit and qualify that part of the sentence; but the fact is they are in the other member of the sentence—"with intent to influence the measures or conduct of such Government, in *relation to* any disputes or controversies;" the words as they stood seemed to have a stride and compass peculiarly extensive; having any distant relation to any such disputes and controversies: certainly the cases before stated must have some distant relation to such disputes and controversies, and must be punishable by the law.

He also considered it as clearly prohibiting the cases which he had mentioned, when the motion for introducing this bill was first made, viz: persons who from religious impressions, or any other cause, undertook to be peace-makers. It was well known that there was a very respectable religious society, who made it matter of conscience not to take part in war, but who were unwearied in their exertions to avert and prevent it; there was reason to believe they had many times produced favorable effects. The management of affairs with the Indians had not been specially given to this Government, but had been taken up under their power to hold treaties with foreign nations. The Moravians and some other religious societies, to whom he had before alluded, were much in the habit of having intercourse with them, to prevent their depredations and keep them at peace. Their vicinity to some of the tribes, and the influence which they have acquired, often renders them exceedingly useful. He thought, as the expressions now stood, all these cases would be exposed to the punishments of the law.

He also now considered it as settled, in this stage of the business, that there was no special call to legislate on this subject from anything that could be made to appear respecting the gentleman who had lately gone to France to endeavor to bring about a reconcilation between the two countries, which had been alluded to by some, and urged by others, as the principal occasion of this law. The motion which had been first committed on this subject was, to inquire into the expediency of passing such a law at this time. It was no doubt the duty of the committee not to overlook the subject, which had been urged as the principal ground of the expediency. Having been one of the committee, he knew they did not overlook it; he had himself specially urged the necessity of it in the committee; he had also felt it his duty, as one of them, to make all the inquiry in his power; he believed nothing had presented itself to them which they could make the ground of a special report. The committee, in asking leave to report in the first instance by the bill, fully convey their opinion that it rests on the principles of general expediency, and not on any particular case.

As there were those objections to passing the law, and nothing special to demand it, he thought it must be owned at least to be a very doubtful measure. He was apprehensive it rose from the impulse of the present time, and not from the real nature of the subject. He was led to make this remark, because such laws had never been found necessary in other countries, as far as he knew, yet they have political parties, and are equally exposed to have their measures counteracted by individuals. Neither had it been found necessary heretofore in this country; in the time of the Revolution, it was singularly exposed to such interruption, but never resorted to these penalties.

Passing general laws under the influence of particular occasions, he thought generally the infirmity of all Governments; perhaps there was not a code of any civil society where cool reflection had not found occasions to regret such errors.

He begged leave, then, to attend to the necessity urged on this occasion; that, unless this law passes, an individual can usurp the Executive authority, go as an Ambassador to a foreign country, and defeat all the measures of the Government. It will be remembered, said he, that if there is more than one concerned, it will come under as heavy penalties by the first section of a former act for the punishment of certain crimes. This necessity, urged in this case, is to be considered as confined to individuals who may undertake such enterprises without any combination or concert with any other person; if it is possible to trace out any connexion with a party, or with any other individual, it is already made as penal as it is now proposed to make it. Is it possible, he asked, that an individual without any such connexion, without any testimonial of his acting for, or respecting any other but himself, should be able to usurp the character of an Ambassador, or any other portion of the Executive power? Would it be possible for an individual arriving here, to take upon himself the character of Ambassador from the Emperor of Germany, or any foreign Court, when, on inquiry, he appeared to be clothed with no authority, and had no evidence of his being empowered to act for others? It has absurdity in the face of it; an individual might as well usurp the Legislative or Judicial powers, but who would acknowledge or obey him as a legislator or as a court? He did not see the necessity for the bill, on that ground, so urgent as it appeared to some gentlemen.

But, said Mr. B., the necessity for this law is urged by many, principally from the present time and the political circumstances of the country; that there is a French faction in this country, a party whom they call Jacobins, who, as they say, are in close union with the Jacobin Republic, and who wish to make this country a province of France. What they call the Jacobin Republic, appears to

have been very different in different stages. Which of the political parties in this country bears the strongest resemblance to that body in their system, or in their manner of accomplishing their measures, which seems most to make use of them as their model, he should leave others to determine. Though there was no place in this country called the hall of Jacobins, yet he had heard of a hall of *caucus*, which, from the beginning of the Government to the present time, had been very much a place of political intrigue and nocturnal cabal; where a certain party, with whom he had generally disagreed on political subjects, had concerted their measures and enforced very disciplined obedience on their followers; for himself he had not been in the habit of transacting the business of the public in that way; he believed he might say the same of those with whom he had generally acted.

As to their insinuations that this French faction was formed into a party by a foreigner who arrived here several years ago, by the influence of money—that they are leagued with United Irishmen, and societies of free masons in this and in other countries, for the destruction of all social relations, of all private property, of all religion, and of all government, and that so great a proportion of this House, and two-thirds of the last, are involved in the charge, it appeared so entirely the creature of passions and imagination, or something worse, that with all his respect for the individuals who had made the insinuations, he could not persuade himself to give them a serious answer. He believed the gentlemen erred in confining their views of the existence of political party in this country to so short a period. It might probably arise from their not having had opportunity to be so particularly acquainted with the affairs of this country before that time. These remarks had been principally confined to the last and the present session, and to those who were among the last who had taken their seats in the councils of the United States. For his own part, he did not consider it as at all the just view of the political parties which exist in this country. His situation had obliged him to view the subject in a very different extent. This country had but lately gone through a great Revolution; in all nations and countries where a revolution has taken place, it generally affects the whole age in which it has happened, and often much more. They who undertake to judge of characters and events, must judge of them as standing in relation to those events and as to be explained on principles in some measure peculiar to themselves, or they will be led into error.

In the long struggles between the houses of York and Lancaster in England, or the expulsion of the Stuarts and the establishment of the house of Hanover upon the throne, the events of those times are to be judged of principally by an intimate knowledge of those transactions. He believed the events of our times had not yet got beyond the reach and influence of causes peculiar to that revolution; probably they who came after us may discover relations in character and events, which form the real picture of nature and of life, and which are overlooked by man at the present time.

Mr. B. also observed that they had scarcely got through the Revolution before it became expedient to make great changes in the form of their Government; though this was done with unusual calmness and moderation, yet it also partook so much of the nature of a revolution, that it forms an important part in the view of the political parties in this country. To put in practice a single new law often occasions great perplexity and difference of opinion in a court; where there has been a new revision of a whole code, it costs years of labor and difficulty to settle the practice upon it. The Constitution of the United States contained more provisions on great and important subjects, in a small compass, than almost any other instrument that had gone before it; of course it was a work of great difficulty to settle the practice upon all the parts of it, and to carry it into effect. Just as this difficult undertaking was commenced, the commotions begun in Europe; it soon became a great and most passionate strife of all the cardinal principles of politics, and under circumstances that could not fail to extend their influence to this country, to excite something of the same strife between the same principles, and make our own difficult undertaking doubly difficult. Besides these considerations which he had now mentioned, all society showed that there was in the human character a foundation for radical different opinions on political subjects; there is not a place in which it does not show itself. Some are always for turning Government a little higher, and others for keeping it more moderate; probably if a thousand persons in exactly similar circumstances were removed at once and placed on a desolate isle, and in the midst of the sea, to begin a society for themselves, it would not be long before these leading distinctions would show themselves, which would finally grow up into the old settled distinctions of Monarchists and Republicans. There was no doubt but that it showed itself early in this country; he had no doubt but that it showed itself before the disbanding of the American Army, in the attempts, which have been well known, which were made to prevent their disbanding, and to go and demand their pay with their arms in their hands: and in some other circumstances, which he could mention if it was necessary.

It also showed itself soon after the peace, in repeated attempts to jostle the pillars of the old Government, and that in defiance and without the consent of those who were administering it. After they consented to recommend a Convention to make alterations, it is well known to have shown itself in that assembly; the greatness of the occasion unexpectedly called forth such a portion of the oldest and most venerable statesmen of our country as effectually to correct and control the councils on those subjects; they kept the same ground as the Revolution had taken, and which was seen in all the State Governments. They took their principles from that set of political economists and philosophers now generally denominated in the English language Whigs, and

consecrated them as a Constitution for the government of the country. Though this was a very great and decided majority, yet it is equally well known that there were some who entertained very different opinions; they no doubt still entertain them, and they who expect to find any time when this will not be the case, expect too much of human nature, they will be sure to be disappointed.

These were the outlines under which he had accustomed himself to view these subjects; he was sensible they would often receive some additional colorings from the great events which are now passing; but he believed, that on a fair view of the subject, in all its proper relations and connexions, there is nothing so perilous and terrifying in our present situation as to be sounded so loudly as a cause of alarm, or to call for any very harsh or desperate measures; nothing but what the good sense and virtue of the people of this country would, in a time of peace, soon bring to a proper situation. Even the paper which one of the gentlemen adduced as the ground of his principal reliance to enforce the present necessity of this law, which he has been at so much pains to procure, does not at all strengthen the case of Switzerland and the other instances which have been so often held up for our warning and alarm; there one of the parties invited foreign force to come in and aid them in vanquishing their political opposers; this paper represents this country as truly Republican; that the people will without doubt rally round their Government, even though they may conceive them to be guilty of errors, and that if an invasion is attempted, they may expect unanimous resistance.

Mr. Brace complained that the gentleman from Georgia, who had just sat down, had forsaken the subject before the House, by giving to the House a dissertation on law, politics, and history, not only of this country, but also of European countries. The object of the bill, said Mr. B. is to prevent a certain mischief; but the gentleman says Congress ought not to pass laws on particular occasions. If this principle had been adhered to, our code would have been very small. He had supposed that all laws were produced by particular occasions which showed their necessity. He believed no example could be adduced from the whole code of our common law, of a law which did not originate in some transaction calculated to destroy society. To be sure, this is a new case; but the gentleman himself allows that this is a new era, in which new doctrines and new principles are advanced. But the alarm about these principles, the gentleman from Georgia says, has generally come from gentlemen who have lately taken their seats in this House, who are unacquainted with the grounds upon which the Government had proceeded from its commencement. Mr. B. said he supposed he should come within this class of members. He confessed he had not had the advantage of the experience of the gentleman from Georgia; but he should notwithstanding take the liberty of stating that the occasion which has called for this bill is a strong one, and that if Congress go upon the ground which some gentlemen have taken, that any individual has a right to interfere in the negotiations of the Government, the principle is so broad as to be the parent of serious mischiefs to this country. If this principle were just it would go to the subversion of all Government; for if an individual should be allowed to interfere in one department of the Government, he may also be permitted to interfere in all. The principle goes the whole length, and this principle once allowed, we should find one class of individuals taking upon themselves the Legislative power, another the Executive, and a third the Judiciary. Nay, he did not see why any number of people, who had formed an opinion from the debates which are published, that this House was at any time acting contrary to the welfare of the country, might not come forward in a body, or as individuals, and state their objections to them on this floor. Such a principle, it must be seen, therefore, would lead to nothing but disorganization and ruin.

The result of doctrines of this kind has promoted, upon the great theatre of Europe, scenes which have astonished the world; and were they once acted upon here, it would be opening a door for the like scenes to be carried on here. But these scenes had been so frequently and so ably brought to the view of this House, that it would be a waste of time for him to dilate upon them. There could be no doubt that this would be the operation of such a doctrine.

This mischief, said Mr. B., is intended to be prevented by this bill. The conduct which had given rise to this bill, if the facts stated are true, might be punished at common law; but it is said we have no common law that will reach this case; that the Federal courts have no common law, and this ought to be a complete answer to gentlemen who say this is no offence. He believed it to be not only an offence, but an offence of the highest kind, and ought to be provided against by a statute law of the Government; not for the sake of punishing individuals, but in order to secure the Government.

Gentlemen opposed to this bill have not all taken the same ground of opposition. Some have admitted the principle upon which it is founded to be good, but that it covers too much ground. What, said Mr. B., is this bill? He thought it could not be read by an impartial individual who could doubt as to its object, or the mischief to be prevented. Here is a Government, and there are a variety of European Governments. This law does not relate to any particular one. It proposes to punish any person who shall interfere in any controversy or dispute between this Government and any of these foreign Governments. But gentlemen have stated a variety of individual cases as coming within the compass of this bill, which can by no means be so considered. Suppose, said Mr. B., an individual has lost his vessel, and goes to a foreign Government to recover it; what connexion can this be supposed to have with any dispute between the two countries? Certainly none; the individual sufferer goes to

seek redress for himself, or for some person by whom he is employed, and has no connexion with any dispute of a national kind.

But in the course of the remarks which have been made on this bill, gentlemen have not confined themselves to the bill itself, but have gone into a consideration of the general policy of the Government. The gentleman from Virginia, yesterday, (Mr. Nicholas,) stated that a course of proceedings had been adopted by a majority in this House, the effect of which had produced a large army, a navy, and considerable taxation. He supposed this system wrong, as it led to war; but he believed it was a system which pleased certain gentlemen, and to support this idea (with how much propriety he would not say) he had introduced some lines from a poetical work, a production of the State from whence he came. The object of this was to show that gentlemen opposed to him in opinion had been the aiders and abettors of Government to produce a war. These are ideas of extensive operation, said Mr. B., and involve very serious charges against the measures of Government. For his own part, he did not think that those gentlemen who are in the habit of supporting all the measures of Government, ought to be denominated a *party;* those only who oppose such measures deserve that appellation—especially in all free Governments. The gentleman from Georgia has, indeed, stated this Government as in its infancy, as making experiments, and that no ill effects need be apprehended from them. He could not himself rest thus satisfied.

Much, Mr. B. observed, had been said in favor of peace, that it is all desirable, and that war involves every calamity. These are topics on which we may declaim, and about which a great deal may be said; but he did not believe the friends of Government had been contending for war as such. He believed, on the contrary, that their object had been peace—that peace which could be had upon a solid foundation. He was convinced that a peace of this kind has been and still is the object of this Government, and that the measures which have been adopted, notwithstanding what has been said to the contrary, have been calculated to procure it.

What, exclaimed Mr. B., would have been the situation of this country, had opposite measures to those which have been adopted been pursued, and we had now, agreeably to the wishes of the gentleman from Virginia, neither Army nor Navy? He left the reflection of every gentleman's own mind to make a reply. It would be readily allowed that the present situation of Europe had changed, in some degree, the state of things here. An invasion of our country may not be attempted at so early a period as was formerly expected. With respect to our Navy, however, Mr. B. believed, if it had not been for it, the whole of our commerce would, before now, have been cut up by the roots, our vessels would have been taken out of our harbors, and our towns reduced to ashes. There was nothing, at least, to have prevented this from being the case, and we know sufficient, said he, of the hostile disposition of the enemy, to lead us to believe that this would have been the case.

Happily for this country, continued Mr. B., the course desired by the gentleman from Virginia has not been pursued. We have been placed on a different ground. The measures which have been taken have been defensive, and calculated to cut off all communication with the nation from whom we have received so much injury; but all our measures will be in vain, if the door proposed to be closed by this bill, is left open. Of what avail will it be, that our commercial intercourse is cut off, if individuals are permitted to hold an intercourse of a far more dangerous kind? So far from this bill being unnecessary, therefore, it is absolutely essential to follow up our system of defence. Indeed, this is a part of our defence which is above all others necessary, as it will defend us against foreign intrigue, against what has already brought upon this country great calamities, and involved many others in irretrievable ruin. This crime, said Mr. B., is, of all others, of the deepest dye; an individual may commit murder, and deserve punishment, but his crime may affect only a small number of persons; but the evil of an offence of this kind is, that it involves a whole nation, and puts at hazard everything which we hold dear.

Mr. B. concluded by saying, that this was an extraordinary case, that few individuals would ever be found to embark in such a business; but, as what had occurred might again occur, he hoped a punishment would be provided for the offence.

Mr. Rutledge observed, that the gentleman from Georgia, who this morning opened the debate, in charging the friends of the present bill with legislating upon the circumstances of the day, had been so candid as to allow *that* practice was not peculiar to this Assembly; and, he would add that, legislating upon circumstances as they arose, was coeval with the science of legislation. The gentleman from Georgia well knows that it is the business of Government to mark and correct abuses that may occur, and that if nothing had ever arisen to disturb the harmony of society, there would have been no occasion for codes of jurisprudence. If the tranquillity of America had not been interrupted, and she had not been menaced with war, we should not have passed sedition and alien laws, and other laws, which had been dictated by the circumstances of the times; they called imperiously for those laws, which would not have been projected in ordinary times, and they now require a law like that under consideration. The gentleman from Georgia had entertained the House with a long and learned dissertation upon parties, and declared the advocates of the bill could not seriously believe that any members of this House were capable of carrying their opposition to the Government so far as to endanger the independence of this country; he treated all that had been said upon this subject as mere chimeras, as the offsprings of lively imaginations, and asserted that he could not believe the opposi-

tion mean to bring ruin upon a country in whose welfare they are as much interested as we are, by the circumstances of birth and wealth, and other equally weighty considerations. To these observations he would give a short answer; it was, that the opposition in this country was so analogous to the opposition parties in other countries, that he could easily suppose they would act here as the oppositions had in Holland, Switzerland, Ireland, and other countries, where there had existed opposition parties, and where they had constituted a very considerable mean in subverting the liberties of their respective countries. Those parties everywhere began with reform, and everywhere ended with ruin; their zeal had far surpassed their wisdom, and had carried them lengths which, originally, they never contemplated going. This fact had been fully illustrated in an interesting publication, which had been dedicated to a distinguished member of this House, (Mr. GALLATIN,) and in which the writer, speaking of the misfortunes of his country, (which, from being one of the most free in Europe, had become a department of France,) says:

"Stop where you are; recollect the fate of our common country, Geneva, and do not put at hazard the liberties of America; like you, I opposed the Administration of my country; my zeal to reform carried me all lengths in destroying, and I live a wandering exile to mourn over the ruins of a Government which I aided to destroy, and which originally I meant to reform."

In the history of Geneva, gentlemen would see how the opposition there to the administration of the Government had been led into the revolutionary road by the delusive lights which are held out from the new-fangled philosophy of the times, and which a gentleman from Virginia yesterday acknowledged an acquiescence in, when he said "we are contending for the rights of man." If gentlemen are not satisfied by referring to Geneva, he entreated them to look at Ireland, and contemplate how the opposition there, (composed of persons who had much to lose by insurrection, and much to attach them to the preservation of good order,) had been carried by their misdirected zeal and spirit of party, from plans of very limited reforms to open war against their country. They had on all occasions declared that their only object was a redress of the grievances of the Catholics and Dissenters; a Parliamentary reform was originally all they talked of; they solemnly protested they would not in any event go beyond that measure; we find, however, that these persons, after having associated for attempting these measures of reform, (as they declared,) took up arms against their country; we find that self-denominated patriots, who had been loud in their professions of loyalty, have lately been conducting French fleets and French armies to their native shores; we find them combined with a foreign force for the purpose of annihilating a Government, which, originally, they only meant to reform.

Mr. R. said, the present bill appeared to him so unobjectionable, that he could not suppose it would have been opposed, if the ingenuity of the gentleman from Pennsylvania had not suggested an amendment, which now formed the ground of opposition. The gentleman from Georgia had laid foot-hold of it, and said that, legislating upon a particular case would produce inconvenience in all other cases; to show this, he had said that, if the exceptions contended for, were not introduced into the bill, persons trading with the Indians might be liable to its penalties; he was much surprised by this objection coming from the gentleman from Georgia, for he very well knew by communications from the War Office, made to a committee of which he was a member, that Indian traders who had gone into the Indian country, under the pretence of selling goods, had been in reality employed by a foreign nation, for the purpose of alienating the affections of certain tribes from the United States. He allowed, this bill might interfere with persons going among the Indians, but it would be a salutary interference, and tend to preserve the peace and promote the welfare of our Western citizens. A gentleman from Maryland (Mr. SMITH) said, he could not vote for the bill without the exceptions proposed; that, without them, no individual would be safe in attempting to recover his property, which had been detained in France; and that if the French should be disposed to make overtures of peace, they could not, if the bill passed, be received by any American in France, not even by our Consul General.

The gentleman from Maryland had been told by every professional gentleman who had spoken on this subject, that the cases he adverted to would never be considered as coming within the meaning of this law; he also knew there were laws on the subject which would not be repealed by this bill, and which would afford ample means of relief in all such cases as he had mentioned; he very well knew that the act would still be in force which provides for the prosecution of the claims of American citizens in the Admiralty courts of any of the belligerent Powers. With respect to our Consul at Paris, the gentleman from Maryland must know that he is no diplomatic character, and that he possesses no treaty powers whatever. Mr. R. said he would be sorry if our Consul General did possess powers to negotiate with France; he certainly should not expect an advantageous negotiation from the gentleman who is our Consul at Paris. Mr. R. said, there is a point of view, from which, if gentlemen would look at the exceptions, it would be impossible for them to approve them; they would see in them a cloak large enough to cover the most mischievous designs. If all the malcontents in America were to assemble by their delegates in Congress, and believing the Administration too wicked or too weak to desire an attainable and good peace, should determine to send an Envoy to Paris, what would be their instructions to him? They would charge him to ask for the restoration of our stolen property; for the release of our seamen, and every other thing which the exceptions of the gentleman from Pennsylvania would permit, they, in fact, covering all the points now at issue between the two countries. Mr. R. declared he believed the bill would be highly mischievous if amended as proposed by the other side of the House, and showed that, in all well constituted Governments, it is a fundamental principle, that the Government should possess exclusively the power of carrying on foreign negotiations.

Mr. GALLATIN objected to this bill, because, under the pretence of punishing certain offences which ought to be punished, it is expressed in so general a manner as to include a number of acts which ought not to be punished; because it is drawn in the loosest possible manner; and wants that precision and correctness which ought always to characterize a penal law. The words "any citizen who shall directly or indirectly commence or carry on any verbal or written correspondence or intercourse with any foreign Government, or any officer or agent thereof, relating to any dispute or controversy betwen any foreign Government and the United States, with intent to influence the measures or conduct of the Government having disputes or controversies with the United States; or shall counsel, advise, aid, or assist, in any such correspondence," are so vague, incorrect, and dissimilar to our other penal laws, that he considered it his duty to vote against this bill; especially when amendments, which have been proposed to remedy these defects, have been rejected, without attempting, if they were objectionable, to make them less so; and when the friends of the bill, as reported, refuse to go into a Committee of the Whole to see if it cannot be amended.

Before he went into the nature of the bill, he would say a few words on its principles in general. What are they? Are they founded on the ground that it is proper to punish an individual who shall assume the power to negotiate with a foreign Government—power that is placed alone in the Executive? It is worthy of remark, that neither the words assumption of power, nor the word negotiation, appear in the bill now on the table. The crime there described, is not to enter into a negotiation with a foreign Power, with an intent to usurp or assume the powers vested in the Executive authority. Gentlemen have made use of one set of expressions in the bill, and they use another kind when they come to advocate it. Can an individual, who derives no power from the Executive, assume a power vested in the Executive to act in the name of the nation, and to bind the nation? The idea is ridiculous and absurd in itself; the most so of any that ever entered into the head of man. Let an individual go and draw a sketch of a treaty; will it be an assumption of power? No; to assume a power you must carry it into effect. To draw a sketch of this kind would be no more an assumption of power than the drawing of a petition praying that certain measures may be adopted by the Government; which might be said to be dictating to the Government as to what was proper to be done.

It has been said, that if individuals are not prohibited in the manner proposed by this bill, they will next take upon them the Executive, the Legislative, and Judiciary powers; that men will lay their opinions before us, and by that means overset the Government. Individuals, said Mr. G., are continually giving us their opinions, and previously assemble for the purpose of collecting and putting them in form. Have gentlemen forgotten that, whilst the British Treaty was under consideration, town-meetings were held from one end of the United States to the other, and that crowds of petitions were presented to this House telling us we must acquiesce in the treaty? But no one ever thought that the doing of this was an assumption of power, but merely the expression of an opinion; and, in the same manner, it is in the power of any individual to sketch a treaty, and say it is such an one as he could wish to see adopted by this country and France. An individual would be justified in publishing this sketch of a treaty, and in sending it to France through the medium of the press.

What, said Mr. G., is the act rendered criminal by this bill? Is it the commission of an act which might either defeat or change the measures of our own Government? This would be an usurpation of the Executive authority, if an individual should force them to change their measures. If an individual were to give an opinion to the Executive on the proper way of acting in any particular case, some gentlemen might think (though he did not) that it would be an attempt to influence the Executive authority; but the offence to be punished by this bill, is not for having influenced our own, but a foreign Government.

Yet, Mr. G. allowed, this bill does include offences which ought to be punished, because such a correspondence might be carried on with a foreign Government as might be criminal; but he wished to have the crime defined. The words used in this bill are neither descriptive of an usurpation of the Executive authority, nor descriptive of an act criminal in itself; because, said he, no mischief can arise from any person influencing a foreign Government in our favor. Yet this is proposed to be punished by this bill.

But gentlemen say there is no danger; the courts will undoubtedly take care to punish—whom? Not those who act without bad intention, but whom they please. That is to say, we must pass a sort of general bill, giving merely authority to the courts without defining how it is to be applied, and leave them to punish or not punish, as they judge proper; to explain and define the law as they please; or, in other words, our Government is to become a Government, not of law, but of men! But, gentlemen say, no court will render such a decision as to involve a man applying for a restoration of his own property, or the property of any one by whom he may be employed. What security, said Mr. G., have we for this? Is it not true, that a man applying for his own property, or that of another, must necessarily enter into the subject of dispute between the two countries? Has it not been declared that the identical cases stated in the amendment which he had proposed, if taken in the aggregate, would constitute the whole matters of dispute between France and this country? It had

been so declared, though he believed gentlemen were mistaken, as, on inquiry, it will be found there are other objects of dispute between the two Governments. But, taking the matter upon the ground on which gentlemen place it: In the memorial lately presented to the Council of Five Hundred by certain European merchants, (to which he had already referred) the application is openly made with a view of changing the measures of the French Government. Yet, the gentleman from South Carolina has said, that the presenting of such a memorial by an American citizen would not be criminal. Mr. G. could not reconcile this bill with assertions of this kind. Will that gentleman tell me, that a court shall so construe this law, without any exception being annexed to it, as to exclude cases of this sort? To tell me that all this is understood, is a doctrine which I cannot comprehend. I do not wish to leave this to the courts; I wish the law itself to define what are the specific cases upon which it is to act, that it may be clearly known what it will be criminal to do and what may be done innocently.

But the gentleman from South-Carolina went further. He stated that if he were in France, he would not hesitate to hold conversation with Mr. Talleyrand; that he should not scruple to tell him freely and plainly his opinion of all the measures of France towards this country; nor should he be afraid of falling under the lash of this law, from having held such a conversation. What does this, said Mr. G., amount to, connected with what had been said about the existence of a dangerous combination of men, a French party in this country, and other expressions of the same import? Does it not mean that the law is to attach to a certain description of men, and not to others? According to the manner in which our courts are formed, our juries summoned, and other circumstances, the gentleman from South Carolina thinks he is safe, the courts will protect him. Yes! he may act as he pleases with impunity. If a man is a federalist, he will be innocent, but if he is an anti-federalist he will be guilty. [Mr. Harper denied having said any such thing, and repeated what he had said.] Mr. G. observed, he did not charge the gentleman with making the inferences which he had himself made: but the facts which he had repeated are the same as he had now stated them to be and he thought the conclusions which he had put upon them were perfectly natural.

But we are told, said Mr. G. that at all events, it is necessary to have a bill of this general nature, for if any exceptions whatever are made, a man might, under color of these exceptions, carry on a criminal correspondence. This, said he, is the most extraordinary ground for legislation that could be advanced. To punish men, not for what they do, but because, in doing something which is right, they may have done something wrong. Yet gentlemen allow that these cases are not included in the bill; but that the proviso cannot be inserted, because it is necessary to cut the evil up by the root. If this argument is good, it would be necessary to cut off all correspondence whatever; and yet they allow that some correspondence may still be carried on notwithstanding this bill.

Again, nothing is said, as he before stated, respecting negotiation or a usurpation of Executive power; so that an individual might go to England and reside there, might negotiate and form new connexions, and might be encouraged and supported in his career by the Government of that country, in doing everything that he could do to change the situation of the two Governments. Mr. G. concluded, therefore, that this bill will not answer the end proposed; since it will not punish all the crimes which may come under what is called usurpations of the Executive authority; but will in one quarter punish with unheard of severity, and in another leave matters as they are.

But the House is told, that the particular situation of the country calls for the act. In the first place, allowing the danger to exist, and alluding to the transaction which had lately taken place, allow that such a mission, as it is called by some, and a voluntary voyage by others, and suppose, the French think they have a party here in their favor. From what cause do they believe this? He should suppose, because there is a party here who are making perpetual declamations to this effect on this floor, and because most of the presses on the Continent teem with similar insinuations. But it is not a little remarkable, continued, Mr. G., that when a certain State paper was read to the House yesterday, by the gentleman from South-Carolina, the crime appeared to be, that the writer had attempted to show the French Government that they have no party here. Gentlemen think it perfectly innocent in themselves to invite further aggressions, nay, an invasion, by assuring France that they have a party here ready to receive them; and they hold it up as a crime that an individual should have spoken of the unanimity of the people, and their determination to rally round their Government against the attacks of any foreign nation whatever; and think the writer of such a paper ought to be punished.

Again, the House had been told, in a general way, not, perhaps, perfectly connected with the subject, that after our Government had failed in its endeavors to obtain an honorable accommodation with France, an individual goes, or is sent by a party, for the purpose of negotiating a peace with that Government; and it is added he must do this by making dishonorable stipulations. But, allowing that such a negotiation was opened and an individual were to agree to certain conditions, since he would have no power to bind the nation, his folly would recoil upon himself.

But the danger to be apprehended, he supposed, was not from any disadvantageous stipulation being made. Gentlemen do not pretend to say, that anything of this kind had been spoken of by the gentleman lately in France They seem to be afraid of a contrary conduct; they are alarmed because the truth is spoken with respect to the situation of the country. If the gentleman alluded to, or any other person, had told France that peace upon dishonorable terms was the object of a party here; such assurances could not have produced a change in the measures of that Government; but rather strengthen them in continuing the same line of conduct which they had heretofore pursued. It is only by telling a foreign nation, that no such party as they may have supposed exists; that there is no set of men in this country who wish for a dishonorable peace, or a dishonorable treaty, that any effect could possibly be produced. Mr. G. did not know that any such effect had been produced; but he was sure it could only be effected by such means

The gentleman from Delaware mentioned another effect, that he conceived highly dangerous, which was, that an individual might offer terms of peace to a foreign Government which it might be willing to accept; which, when they came to be published in this country, would appear so reasonable to the people, that the refusal of them on the part of our Government, might have the effect to destroy the popularity of the Government. Mr. G. said, there was at least candor in a supposition of this kind. He believed this might be a high offence to Government. But upon what ground does this argument go? That the Government does not wish to accept of such terms of accommodation as would be most agreeable to the people at large. He did not believe this. He did not think that our Government would reject terms of peace, which would be popular throughout the Union. He believed the Government and the people entertain the same opinion on this point, viz: that whenever a peace can be made with safety, on just and honorable terms, it ought to be made. And, therefore, if any individual could, by any argument, or reasoning, create such a change in the measures of the Government of France as to prevail upon them to offer such terms of peace as would be acceptable, it could not be an offence, nor could it defeat the measures of our Government, unless when their measures were inimical to a peace of any kind.

Again, it had been said that a correspondence ought not to be permitted, because individuals might abuse and defame our Government. This, he said, was making this bill a second edition of the sedition act. He supposed that law had been bad enough, and that gentlemen would have been satisfied with punishing any person who shall write publish, or utter, anything to defame our Government. He thought that went far enough; but this bill, in that point of view, goes a step farther, as it affects speaking, for it forbids all verbal or written correspondence, and proposes to punish all persons who shall counsel, advise, aid, or assist—how? in any manner whatever. A few words dropped by chance would be sufficient to incur the penalties of this law.

Mr. G. said, he would not go into the details of what may be the object of this bill. Not that he was afraid to do it. He had already stated that he believed it to be intended to create a clamor against certain persons in the United States, representing them as being willing to sacrifice the interests of this country to another, and as having entered into a criminal correspondence with France.

No one can be at a loss as to the real object of the bill. If it had been to punish only correspondence of a criminal kind, as the gentleman from Delaware had stated, a different kind of bill would have been proposed, and not a bill which might be interpreted to mean everything or nothing.

But, Mr. G. said, he would discharge this part of the subject, and come to the transaction which appears to have given rise to this bill. The gentleman from South Carolina, (Mr. Harper.) yesterday, favored us with the sight of a certain State paper, which, from the style of it, appeared to have been delivered to the Minister of Foreign Relations in France, by a gentleman who lately left his home and visited that country. The gentleman told the House, that he had been enabled to obtain this by pursuing some of those threads of a conspiracy which, last year, he told the House he possessed a knowledge of; and the use he meant to make of this paper, was to show the necessity of passing this law. The gentleman then stated, that the memorial presented by certain European merchants to the French Council, would not have come within this law, at the same time he declared that this memorial did come within it. And he would ask, whether, if our courts were to give the same coloring to every offence prosecuted under this act, that the gentleman from South Carolina had given to this paper, whether any conduct could be expected to avoid condemnation?

But, said Mr. G., as we have been told that it is from this paper that the public is to learn what the views of the anti-federal or opposition party are, let us examine what they are. He would not read the whole of this paper, as the gentleman himself had read it, and it had, this morning, appeared in one of the papers of this city. In the first place, said Mr. G., it does not come in the shape of a negotiation; if it speaks not of any stipulations or terms on which a peace might or ought to be made. It states only those steps which the writer conceives necessary, in order to the opening of a negotiation with the Government of this country. What are those steps? That an embargo should be raised, and that a Minister should be sent to this country with liberal instructions. These objects could not even form a part of the terms of a treaty, but would be the necessary consequence, or the necessary preliminary of any treaty. Before any treaty could be negotiated, negotiators must be appointed. Whatever treaty might be concluded, vessels that were only embargoed, and seamen that were imprisoned, would necessarily be released as a consequence of that treaty. And, therefore, the steps proposed by the writer of this memorial, might render a negotiation practicable, but could not even be the objects of negotiation; and yet these are the parts which the gentleman from South Carolina has produced to show that the writer of this paper ought to be punished, as interfering with the Executive authority. Yet this paper is adduced to show the necessity of passing this law; though the same gentleman acknowledges the memorial of the European merchants before alluded to was not crim-

inal, though the object of it was to effect a change in several of the measures of that Government with respect to neutral property.

Mr. G. read an extract from it, showing that they asked for a modification of the decree respecting *rolé de equipages*, and for a repeal of the decree which renders vessels subject to capture for having British merchandise on board, which, they state, no nation ought to submit to.

Was not this an attempt to influence the measures of Government? He submitted to the House, whether it was not more calculated to do this, than what is called the memorial of the American Envoy.

It appeared to Mr. G. that the gentleman from South Carolina had committed a mistake in bringing this paper before the House. It would be recollected that, when this subject was first under debate, the gentleman had declaimed very handsomely on the occasion, and in a manner, indeed, very difficult to be answered. The reason was, that, at that time, he had produced no document in support of his assertions, but had made his own facts, and thence had drawn his conclusions. When that gentleman gave his assertions for facts, you could, indeed, deny his assertions, but then he might at least draw them in such a manner, that, if granted, his conclusions must follow. But, on this occasion, he has been imprudent enough to read a paper instead of making assertions, and he has not acquitted himself quite so well as formerly. Every gentleman must have seen the embarrassment which he was in yesterday in his endeavors to give that coloring to the paper which he wished it to bear. On the former occasion, though he liked not the manner in which he had discussed the subject, he gave him credit for the ingenuity of his language. No person then could call his statements in question, but now the matter is different, and he has produced a paper.

He thought the gentleman had made another small mistake. On a former occasion he declared it to be his opinion that it was time to act on account of the transactions which had lately taken place, and went on to give his reasons why he believed the gentleman alluded to was the envoy of a party. All this was very well, so long as he produced no paper. But what has the gentleman now done? He has brought a paper, and that paper is said to have been delivered to the Minister of Foreign Relations, by an individual who has lately left his home to visit France.

When the gentleman from South Carolina was about to read this paper, he was asked by whom it was signed? He answered, he was prevented from saying by whom it was signed. Mr. G. said, he would be more candid than that gentleman had been; as he professed to have nothing to do with intrigues or conspirators, and had no secret threads by which to obtain information, he felt no reluctance in communicating to the House what had come to his knowledge this morning. A gentleman by the name of Dr. Logan, who he believed was the writer of a letter which appeared the other day in the papers, called at his lodgings, about half past ten o'clock, and said that, having heard of a memorial which had been read by Mr. Harper yeesterday, as presented by him to the French Minister, he must declare that he was not the writer of that memorial, and that he had not presented it nor any other, to the French Minister; that he had, however, seen that paper, for it had been put into his hand by a Mr. Codman, from Massachusetts, now residing in Paris, for the purpose of presenting it as from himself; but that he had declined doing it, and returned it a few days after to Mr. Codman. In what manner this memorial came to this country, he could not tell, or how the gentleman from South Carolina got possession of it. Though the gentleman did not say it was written by Dr. Logan, every one who heard him believed it was written and presented by him. He seemed to wish this particularly to be believed, and laid also great stress on the word *we*, to show that Dr. Logan was acting in the name of a party. Mr. G. supposed, when Mr. Codman wrote this paper, although it was with an intention of having it presented by Dr. Logan, yet he forgot that circumstance in a part of the paper, and could not help thinking of his own situation and that of others in France; so that the word *we*, instead of meaning Dr. Logan's associates and constituents, turns out to mean the American merchants residing at Paris.

Mr. G. would not pretend to say that Dr. Logan had done nothing wrong in going to Europe, but he would say that, if he had written and presented this memorial, he had done nothing criminal, though he did not like some parts of it. He had, however, stated that Dr. Logan did neither draw nor present it. He hoped, when the gentleman from South Carolina produced any more of his "threads of conspiracy," he would let the House have them more complete.

He would advert to a circumstance to show that, when the gentleman from Massachusetts (Mr. Otis) made his speech on this subject, he was in the *secret;* because, evidently having an eye to this paper, he said, "an ostensible correspondence may be so conducted," &c. Mr. G. said he gave the gentleman credit for his sagacity; having no doubt read the memorial, and seen nothing criminal in it, he endeavored, in this way, to parry off the effect it might have upon the public mind, when it came to be printed. Whether he knew the writer of it, and that it was not presented, he could not pretend to say. But while gentlemen are very loud in their complaints against all open or secret intercourse or correspondence with the French, they have apparently, themselves, acted in rather a curious manner. This paper must have come from some correspondent or other; from what source he did not know; he had no suspicions of gentlemen; they had no doubt come very honestly by this paper; but there, at least, seemed some mystery in the matter, which he could not understand.

It must appear, therefore, said Mr. G., that no circumstances have come to our knowledge in relation to the conduct of Dr. Logan, which ought to induce us to pass this bill; nor is there any

fact known to us which seems to call for it. It is not one of those peculiar cases which call upon us to legislate. We, in fact, know nothing about it; all that had been said having been vague assertion, and when anything like fact has, for a moment, seemed to appear, the next minute has shown it to be a mere illusion. The clamor which gentlemen have thought proper to raise about this paper, when the public knows the fact, may recoil upon themselves.

But if gentlemen are determined to have a law of this kind, and they think that the amendment which has been proposed goes too far, why not suffer the House once more to go into a Committee of the Whole, with a view of making it less objectionable. The amendment which he proposed went to all cases where individuals were seeking for their private property; but it was objected to, because it was said it might cover other correspondence of a criminal nature. This was not his intention, and he should be glad to have the objection obviated. This bill extends to all citizens at present resident in foreign countries; and the moment the bill passes, they are liable to fall under its operation. It might be doubtful how far we have power to punish citizens in foreign countries consistently with the laws of nations; but if citizens abroad are to be affected by the law, they ought first to be made acquainted with it.

Again: this bill, as he had before hinted, is not correctly drawn. The crime proposed to be punished will not, in all cases, be met, as the bill stands. If a man carries on this correspondence who is not a citizen of the United States, he does not come within this law, so that all that would be necessary to escape punishment, would be to employ an agent who is not a citizen. Indeed, the more gentlemen examine this law, the more they will be convinced that it is the most hasty and imperfect production ever submitted to this House; and he hoped, therefore, the bill would either be recommitted or rejected altogether.

Mr. Edmond was aware that he should come under the description of those whose conduct received the censure of the gentleman from Georgia, as he was politically born but of yesterday; but having had the advantage of hearing a great variety of facts stated by him, he trusted he should profit by them. It is, said Mr. E., by discoursing with wise men, that we become able to reason on subjects; and under the light which he had received from that gentleman, he would submit a few observations to the House, and those observations should relate to the subject, without wandering over the immense space which the gentleman from Georgia had thought it necessary to pass over.

The objections to this bill seemed principally to arise from a conviction in gentlemen that individuals have a right to interfere in disputes between the Government of the United States, and other Governments, and that this right ought not to be abridged. The gentleman from Virginia, at the outset of this business, stated that if the object was to secure peace, every individual in the community has a right to interfere. He said, that if the Government shall become corrupt, and involve the country in war, it is not only just and laudable for an individual to interfere to prevent a war, if possible, but to place the country in a situation that the Government durst not declare war, and thereby secure peace.

Mr. E. conceived that the gentleman from Virginia had suffered himself to be led away by the terms generally made use of when speaking of peace or war—"That war is the greatest calamity that can befall a nation, and that peace is the greatest of all blessings." Is this true? Is there not a kind of peace (for the gentleman has declared he should not be willing to pay a tribute to France,) which would not be the greatest of blessings? Suppose, for instance, we had only the alternative of war or tribute. No one would hesitate to take war in preference to tribute. If war was the greatest of calamities, then every nation, rather than go to war, must submit to every oppression which the lust of man can prescribe. The gentleman doubtless means to say that war is a great evil, and ought to be avoided so long as we can avoid it with honor, and without sacrificing our independence. Therefore, the peace which he would wish to secure to his country would be an honorable peace.

But let us see, said Mr. E., what would be the operation of the principle laid down by the gentleman from Virginia. Who are to be the judges of when a peace shall be honorable, and when otherwise? The people are doubtless the judges. And how is their judgment to be obtained? Through the medium of their Representatives, as their Legislative organs, a majority of whom ought always to be considered as speaking the sense of a majority of the people. But if an individual may take upon himself to speak to a foreign Government on the subject of any dispute, he may say that his Government is corrupt; that it is going to involve the country in war contrary to the wishes of the people. Though such a person, together with his fellow-citizens, has delegated the power of negotiating to the Executive, and sworn to support that power, yet he will undertake to counteract the measures of Government, because he conceives it is corrupt, or that it is guided by a faction. Therefore, from the purest love of peace, he goes to procure it. He will state the situation of his country, and perhaps declare, that it durst not declare war. What can such a Government be called? The private individual is undoubtedly the tyrant; and the justifier of such a man, would justify any tyrant in the world.

But the gentleman from Georgia says it was the duty of the committee who reported this bill, to inquire whether any fact of a criminal nature existed, which made it necessary to pass a law of this kind. He also tells the House that he, as one of the committee, made the inquiry, and could learn no such fact. He also says, that if any such fact had existed, that this is not the time, in the moment of heat and passion, to make a law on

the subject. So that, in neither case, according to him, a law ought to pass.

Another gentleman, has made a great many observations on the present occasion. That gentleman, Mr. E. said, had an uniform mode of reasoning. It is this: being commonly found in opposition to every measure, and especially to those of a defensive kind, he objects in the first place, that a proposed measure does not go far enough, and in the next, that it goes too far. When the resolution was first brought in, the gentleman thought the words used too indefinite. The word "usurpation" could not be defined. Now he complains that the word "usurp," is not found in the bill. His reasoning in one case must be wrong.

But the gentleman from Pennsylvania resorted to another idea, and he has frequently assumed it. "You are making your law too indefinite; it will rest wholly in the discretion of a court whether a man is an offender, or not. So that a federal man will be found innocent, and an anti-federal, guilty." The gentleman must know, said Mr. E., that this objection does not go to this bill in particular. Mr. E. enumerated a number of cases in which the intent with which an action was done, remained to be ascertained by a court, before any penalty could be inflicted, and in which federalists had no better chance than anti-federalists; and he believed the bill was as definite and correct as if it had been left to the ingenuity of the gentleman himself to have formed it.

Mr. E. took notice of what had fallen from the gentleman from Maryland (Mr. Smith.) and was clearly of opinion that the cases which he had stated were not within the bill. But that gentleman, said Mr. E., speaks invariably in favor of measures of defence; but when the question comes to be taken, from some cause or other, we always lose his vote.

But the gentleman says, this bill does not embrace the case of a treaty. It was never intended. But he also says it goes to abridge the liberty of speech. This is a favorite subject with gentlemen; it serves well to raise clamor, and seems only calculated for that. It might as well be said that the privilege of speech is taken from a man that is punished for perjury.

Mr. Harrison moved a recommitment of the bill for the same reasons which he had before stated.

Mr. S. Smith seconded the motion for a recommitment. He wished to have the bill recommitted, that it might be modified in such a manner as that he might vote for it; for, notwithstanding the insinuation of the gentleman from Connecticut to the contrary, he wished to vote for it, provided it is rendered less exceptionable. Doubting his own legal knowledge, Mr. S. said, he had taken the opinion of a professional gentleman of the first abilities (neither a resident nor a citizen of Pennsylvania) with respect to the cases which he had already stated, as seeming within this bill, who had confirmed him in the opinion which he had already stated to the House. Mr. S. read an amendment, which he said he would propose, if the bill should be recommitted.

Mr. Otis stated his reasons against the recommitment of the bill; so did Mr. Bayard. Messrs. Harper and T. Claiborne spoke in favor of the recommitment. The question was, at length taken by yeas and nays, and carried—49 to 44, as follows:

Yeas—George Baer, jun., Abraham Baldwin, David Bard, Bailey Bartlett, Thomas Blount, Richard Brent, Robert Brown, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, William Findley, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Draik, Samuel W. Dana, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Wain, and John Williams.

The bill was then made the order of the day for Monday next.

IMPEACHMENT OF WILLIAM BLOUNT.

A message was received from the Senate, informing the House that they would be ready to receive the managers of the House of Representatives, and the counsel for the defendant, on Monday next, at 12 o'clock, to render judgment in the impeachment of William Blount.

On motion, the House adjourned at 12 o'clock, in order to afford time for the managers of the impeachment to appear at the bar of the Senate at the time proposed.

Monday, January 14.

Edward Livingston, from New York, appeared and took his seat.

Mr. Sprigg presented a petition from the orphan children of Alexander Trueman, praying for an extension of the law of last session, for the relief of widows and orphans of officers killed in the service of the United States. Referred to a select committee of three members.

IMPEACHMENT OF WILLIAM BLOUNT.

Mr. Bayard, from the managers appointed to conduct the impeachment against William Blount, made a report, stating that the managers had, this

morning, attended upon the Senate agreeably to their appointment, and received the judgment of the Senate on the trial of impeachment; which is, that the plea filed by the counsel of the defendant, is sufficient; and that, therefore, the impeachment is *dismissed.*

UNIFORM BANKRUPTCY.

The bill for establishing an uniform system of bankruptcy throughout the United States was read the third time, and the blanks filled up. In the course of filling up the blanks, it was recommitted, at the instance of Mr. Gallatin and Mr. Bayard, to make some amendment in the provision that prohibited any bankrupt from receiving a certificate who had lost, within twelve months before he became a bankrupt, ——— dollars, by taking up or borrowing money at more than lawful interest. Lawful interest, it was stated, was an indefinite expression, and very uncertain, as lawful interest is different in the different States. On motion of Mr. Sewall, who stated a variety of ways in which the provision might be eluded, the clause was struck out altogether.

The blanks being filled up, and the question being on the passage of the bill—

Mr. Gallatin said, it had so happened, that during the discussion which had taken place on the several sections of this bill, its principle had scarcely been touched upon; no motion having been made to strike out the first section, which is usually done to bring the principle of a bill into view. He would, therefore, now make a few observations on the bill itself.

So far as he understood the object of a system of bankruptcy, it was calculated to afford three advantages; first, to check the career of a debtor, who might be supposed to be either insolvent or to have an intention of defrauding his creditors, by taking possession of his property and putting it into the hands of assignees; the second advantage of such a system is an equal division of a bankrupt's effects among all his creditors, without distinction as to the nature of their debts; the third is, the releasement of unfortunate debtors, who, from accident, or other unforeseen event, may not be able to pay their debts, not only from personal process, but from any future attachment against the property they may hereafter acquire. These, he believed, are the advantages proposed by this system; and although, under his present impressions, he should be obliged to vote against the passing of this bill, he was not blind to these advantages. Having stated this, he would proceed to mention the reasons which, notwithstanding these benefits, led him to conclude that it is not proper, at present, to pass a general law on this subject.

It appears to me, said Mr. G., that two circumstances ought to be admitted as having existence in a country before a system of bankruptcy can be proper, or generally useful; first, not only that a nation shall be in a considerable degree commercial; but also, that the different professions and occupations are so distinct, that it will be easy to distinguish between those who are traders and come under a bankrupt law, and those who are not traders, and ought not to come under it. In Great Britain, whence this system is borrowed, this distinction exists—the different trades and occupations of men being so well distinguished, that a merchant and a farmer are rarely combined in the same person; a merchant is a merchant, and nothing but a merchant; a manufacturer is only a manufacturer; a farmer is merely a farmer; but this is not the case in this country. Here, it is well known, that the different professions and traders are blended together in the same persons; the same man being frequently a farmer and a merchant, and perhaps a manufacturer.

The object of this system, said Mr. G., is to apply to persons only who follow the business of buying and selling. But it is well known, that as this bill is copied from the British law, we must not only adopt the law, but the decisions which have taken place upon it in Great Britain, as our guide; from which it will be found that it is not necessary that a man should get his living altogether, or principally, from any trade, to come under the bankrupt law, but if he blends the professions of farmer and trader, he is as liable to be made a bankrupt, as if he were a trader only. And if this decision is taken, one-half of the people of this country may, in some shape or other, be considered as traders. Go into the interior of the country, and you will scarcely find a farmer who is not, in some degree, a trader. In a grazing part of the country, you will find them buying and selling cattle; in other parts you will find them distillers, tanners, or brick-makers. So that, from one end of the United States to the other, the people are generally traders. Consider, therefore, that if this bill passes, it will not apply here as it applies in Great Britain, but extend much further; it will reach persons who ought neither to be disturbed or benefited by it. The second circumstance essential to exist in a country in order to make a bankrupt system good, or even tolerable, is the facility of converting into specie, without much loss, the kind of property generally held by traders, or at least of easily obtaining credit on that property.

Among the acts which are described as making a man liable to become a bankrupt are some which, although they may be an evidence, either of intended fraud, or of absolute inability of paying, may also be owing only to a temporary embarrassment. Yet a bare failure of payment, if attended with arrest, or a mortgage, is considered as a symptom of a person's intention to defraud his creditors, and a reason why a commission should issue against him. This, Mr. G. said, might be proper in a country where there is plenty of circulating medium, and in which the goods and effects of traders can easily be converted into money. In Great Britain, if a trader does not discharge his engagements, and is "arrested, and remains two months in prison, or, being arrested for debt, shall, in order to gain a large time of payment, or a reduction of the demand, mortgage his or her goods, or confess judgment, or give a power so to do." &c.; an act of this kind, where

property can so readily be turned into money, may be considered as a proof of an unwillingness to pay, or as a design to wrong the creditors of the person who does it; but the circumstances of this country are very different, and this formed his principal objection to this bill.

In the first place, a great part of property held by great numbers of the traders of this country, out of the cities, and of many in the cities, is landed property, and not personal. It is known that personal property can generally be converted into money. Personal property has always a certain price current; but this is not the case with respect to land. The value of land depends more upon opinion, and is therefore less certain; and, on this account, when a man wants to raise a sum of money on a sudden, he will generally make a far less sacrifice in disposing of personal than of landed property. Besides, there is no proportion between the facility of selling landed property here and in Great Britain, nor as to the quantity held by traders. The merchants of Philadelphia, for instance, own a much larger property in land, compared with their ability, than the same description of persons in London; and, if the comparison be extended out of the large cities, the dissimilarity will be much greater. Add to this, what he before mentioned, that farmers and traders are generally blended in one character, and it will show the unfitness of this country for a bankrupt system.

The consequence of a bankrupt law here, Mr. G. said, would be that many honest men, who are perfectly able to pay all their debts, and have a handsome surplusage, if time were given them, would be made bankrupts, and have their property taken from them and sold for much less than would satisfy the demands of their creditors. That there is this difficulty in selling lands, Mr. G. referred to the laws of the several States, some of which provide that land shall not be sold at all for the payment of debts, and others that it shall not be sold under a certain time. In some of the Southern States the former is the case. In some of the Eastern States, when land is taken in execution, an appraisement is made of it, and it cannot be sold, except the creditor will take it at its valuation.

In Pennsylvania, where he believed debts are as well paid as in any State in the Union, if an execution is obtained on land, the debtor may summon a jury to make a valuation of it, and if the jury be of opinion that the land will pay the debt, with interest, in seven years, the land cannot be sold. These laws, said Mr. G., have been found necessary, in order to prevent the sacrificing of land at a rate so much below its value as it must sometimes be sold for, if it were always liable to be sold for debt, as personal property.

If this bill should pass, all those State regulations respecting the sale of land would fall to the ground under the bankrupt system, and, from this circumstance, a great number of persons would be involved in ruin, who at present believe themselves in comfortable circumstances. The effect of this law will be that one foolish or ill-natured creditor may issue out a commission against a trader, which will ruin him, though all the rest of his creditors, being more wise and considerate, might be disposed to allow their debtor time; knowing that while the property remained in his own hands, his exertions would be greater to get its value, than if it were taken from him and put into the hands of assignees, who will not be disposed to take any extraordinary pains to dispose of it for its full value. Perhaps, as it may relate to personal property, the assignees might dispose of it nearly as well as the owner; but this would never be the case with respect to land. Nor would the only evil be neglect, or a want of attention to the interest of the bankrupt. The business would be wholly in their power, and he apprehended a door would be opened to more fraud than the acts of this kind have produced in Great Britain, though they have been there very great.

These, said Mr. G., are the general objections which I have to this bill. I have some others of less moment. In the first place, this law comes at once upon the United States, and will subvert all the municipal laws of the several States wherever it operates. Though he allowed the principle to be a good one, that, where a man cannot pay the whole of his debts, all his creditors should receive an equal share of his property; yet it would be hard upon a man, who had for two or three years past been endeavoring to obtain judgment against his debtor, to be left to bear all the expenses of his suit, and come in with other creditors under a commission of bankruptcy.

Another inconvenience, which had been foreseen and attempted to be remedied, but which had not been remedied, would be with respect to *bona fide* sales made by a bankrupt to persons who had no knowledge of an act of bankruptcy having been committed.

If, said Mr. G., a bankrupt law is to pass at all, this bill is ill-timed. It ought rather to have been passed at a time when our commerce was in a more flourishing state than it is at present, as it was then more in the power of traders to pay their debts punctually. He was not able to judge of the situation of the United States at large in this respect; but in the part of country from which he came, he knew that three years ago it would not have affected them in the least. All the shopkeepers were then able to make their remittances regularly; but now, from the scarcity of circulating medium, the fall of produce in some parts, the failure of trade in others, the capture of our property by foreign nations, the disorders which have for two years afflicted our metropolis, and from the fall which has taken place in the price of land, there is a greater difficulty among the shopkeepers in making payment of their debts in the cities, than was ever before experienced. They want more time; and to throw their property into the hands of assignees, by means of this law, would make the matter still worse. Gentlemen who came from other parts of the Union would be better able to state the manner in which this law would affect them than he could do. He

believed, in some parts, it would bear more hardly than in Pennsylvania.

Mr. G. said, he would not pretend to examine all the details of this bill; but he would take some notice of three of its clauses. One of them is the exclusion of a certain description of persons who ought, in his opinion, if the bill passes at all, to be included. And the reason of this arises from the difference of circumstances between this country and Great Britain. In that country, land is not an article of merchandise. No set of persons there follow the business of buying and selling land, and it is well understood, therefore, that these persons dealing in land are not included within their bankrupt law. But, if any description of persons in this country ought to be placed under a law of this kind—if it were necessary to stop any description of persons in their career, not only on their own account, but because they are involving thousands in their ruin—it is land-jobbers; because they make land as much a merchandise as a merchant does his goods.

In what situation, asked Mr. G., are persons of this description placed? In this: If they do not choose it, they need not come under this law, but may laugh at their creditors; but if any of them conceive they shall be benefited by coming under its provisions, they have nothing more to do than commence some other sort of trade, for a short time, and then become bankrupts; so that they are put in the best possible situation for themselves, and the worst for their creditors.

He believed there was another description of persons not included in this bill. Perhaps, however, he was mistaken; if so, gentlemen would doubtless put him right. Persons holding bank stock, or any other public securities, are not considered as traders, because these securities are not considered as merchandise. So that it appears that land-jobbers, and stock-jobbers, are neither of them included under this act; whereas, from what we have seen of *bubbles* in this country, he thought them a thousand times more likely to happen among this description than any other.

When, said Mr. G., it is known that laws of this kind have been found so deficient in their execution in Great Britain, that it has been found necessary, from time to time, to add penalty upon penalty, and to follow fraud from place to place, we ought to pause before we introduce the system here, where, from the sparseness of our population, it will be so much more difficult to carry it into effect. If, in Great Britain, where business of this kind lies comparatively within a small compass, where everything is within the knowledge of the tribunal by which the commission is issued, so much fraud is practised that the becoming bankrupt is known to be a kind of trade, notwithstanding all the sanguinary laws which have been passed to punish these frauds, he did not believe it could be carried into effect in any tolerable manner here. So great, indeed, have been the evils attending this system in that country that the most sensible writers on the subject doubt whether bankrupt laws have not, upon the whole, done more harm than good.

In this country, said Mr. G., it will be still more difficult to guard against these frauds, as we have not been in the habit of providing such a guard, and heavy penalties will be found necessary. Even in this bill, which is the first essay on the subject, he found proceedings very repugnant to his feelings. He would mention one, which was, the Commissioners have power to examine the wife of a bankrupt upon oath, for the discovery of concealed property, and if she does not appear, or refuses to be sworn, she is to suffer an imprisonment of from two to ten years! So that, in the very outset of this business, the fear of fraud makes it necessary to overthrow all our regulations of common law, and cause a wife to be called as a witness against her husband.

Mr. G. believed, however, that the system might produce good in large cities, but no where else. Almost the whole of the capital in America, which might be loaned upon interest, was accumulated to the amount of twenty millions of dollars in the banks, and these gave relief only to the inhabitants of cities who might, if they had property, have on any emergency recourse to them; whereas, if a storekeeper in the country wants money, he is under the necessity of mortgaging real property before he can obtain it. If the law only applied to cities he would vote for it, but he could not consent to oppress the country traders by such a system. Gentlemen have attempted, indeed, to define the law so as that it may fall only upon large traders, by declaring that no man who does not owe one thousand dollars to one creditor, fifteen hundred dollars to two, or to more than two, two thousand dollars, shall be liable to be made a bankrupt. But this provision, said Mr. G., must hereafter be changed, because traders of this description would complain, and with justice, that they are deprived of the same remedy against their debtors, which had been applied to them.

In the next place, Mr. G. believed that, if such a system is wanted, it is much too unwieldy to be managed as proposed in this bill, and he thought it better for such States as might want them, to pass bankrupt laws. But he believed it to be a good evidence to prove that they did not want them, that they had not generally passed them. He had heard it said, that the reason of this was, that they expected that the United States would pass a general law, as authorized to do by the Constitution.

Mr. G. knew, that this had not been the reason which had formerly actuated the Legislature of Pennsylvania, where there has been no bankrupt law for several years. He was himself in the Legislature when it expired, and there was a very general vote against its being renewed, though many respectable merchants, and particularly the city members, were then anxious to see one passed, from the idea that a majority of the Federal Legislature could never be persuaded to pass a general law on the subject. But it was not renewed, because it had been found productive of no-

thing but fraud; and, if inquiry was made in other States, it would be found that the reason why bankrupt laws had not been passed, was not from an expectation that the United States would pass a law upon the subject, but from their dislike of the system itself. The fact is, said Mr. G., that we are now asked to pass this bill by the minorities in the several State Legislatures, who have been unable to get a State law on this subject.

This bill, said Mr. G., when reported, was not to apply to debts contracted before the passing of this act; but this clause has been expunged. Gentlemen had said that, notwithstanding this, the law is not *ex post facto*. Agreed, that the distinction of the gentleman from Delaware is correct, it will not be said that the law will not have a retrospective effect. When a person contracted a debt, before the passing of this law, if he did not contemplate any such law, he ought not to be affected by it; for if he had known that if he did not pay at a certain time, he might be made a bankrupt of, it is probable he would not have contracted the debt. It would operate in the same manner with respect to creditors, for though many creditors are pleased with this law, others are not. He knew he had some debts owing which he looked upon as rather doubtful, but he considered them as made more precarious by this law. An individual, if not oppressed by this act, might pay twenty shillings in the pound, but if made a bankrupt, might not pay ten shillings. At all events, it would place both debtors and creditors in a different situation from their present one.

Present debtors, Mr. G. said, ought to be excluded from the operation of the bill altogether, that debtors and creditors might remain on the same footing that they were upon before the law passed.

Mr. G. concluded by saying, that he had thus stated his objections to this bill, and should be glad to have further light thrown upon the subject. At present he thought the bill ought not to pass.

TUESDAY, January 15.

Mr. HARPER, from the Committee of Ways and Means, said that that committee having received from the Secretary of the Treasury, a plan for digesting and arranging into one act all the laws imposing a duty on spirits distilled within the United States, and on stills, think it would be advisable to have it printed, and had desired him to ask leave to do so. Granted.

Mr. HARPER, from the same committee, proposed the following resolution:

"*Resolved*, That the Committee of Ways and Means have leave to report a bill to authorize the reimbursement of money advanced by our Consuls for the aid of sick and destitute seamen in foreign countries."

Mr. H. said, that twelve cents a day were allowed by law to our Consuls for every seaman who shall stand in need of support; but this had been found an inadequate allowance for the present times. Last session thirty thousand dollars were appropriated for this object for the last year; he supposed $20,000 might be wanted for this; but the committee thought it necessary to have the expenditures authorized, before the appropriation was made.

The resolution being agreed to, Mr. H. reported a bill for this purpose; which was read and committed.

Mr. H., from the same committee, asked leave to report a bill making appropriations for the support of Government for the year 1799. Granted.

Mr. H. also proposed the following resolution:

"*Resolved*, That so much of the report of the Committee of Revisal and Unfinished Business, as relates to the act or acts respecting the compensation of Clerks, be referred to the Committee of Ways and Means."

The compensation of the Clerks here referred to had been made by a renewal of this act at every session. In order to prevent this trouble, the committee think it will be best to pass a permanent law upon the subject. The resolution was agreed to.

UNIFORM BANKRUPTCY.

The SPEAKER having declared that the business first in order was the Bankrupt bill on its third reading—

Mr. BAYARD said, he wished to make a few observations on this bill and particularly in answer to the remarks made by the gentleman from Pennsylvania (Mr. GALLATIN) yesterday.

In the first place, Mr. B. observed, that, by the Constitution of the United States, power is given to Congress to pass an uniform bankrupt law; and the power being thus surrendered by the individual States, he conceived that no power any longer existed in any of the States to pass a law on this subject. It is a doctrine warmly advocated by certain gentlemen in this House, that Congress possesses no power which is not expressly given to it by the Constitution; and he supposed, where a power is expressly given, it would follow, from the same reasoning, it is no longer possessed by the States individually, since it cannot exist in both; and being vested with the United States, it is incumbent upon Congress, in his opinion, to exercise it.

This, Mr. B. said, might account for the rejection of the bankrupt laws in the Legislature of the State of Pennsylvania, as stated by the gentleman from that State, yesterday, and also for some of the other States having passed no laws upon this subject; and not, as had been represented, because such a system is disliked by the different States.

The necessity of a bankrupt law, Mr. B. stated, results wherever a nation is in any considerable degree commercial. No commercial people can be well governed without it. Wherever there is an extensive commerce, extensive credits must necessarily be given. Debts of great magnitude must be contracted; and the most honest and prudent man may, by accidents and misfortunes incident to commerce, be deprived of the means of making good his engagements. In a state of society, chiefly agricultural, a bankrupt system is not

wanted, because credits of so great an extent are not given, nor are persons engaged in pursuits liable to so many unforeseen accidents. It is on this account that a bankrupt law distinguishes between these two classes of men.

The principle of a bankrupt law, said Mr. B., is peculiarly applicable to merchants, and is manifestly calculated for the benefit of both debtor and creditor. The experience of several years has shown the want of such a system in this country. We have seen, said he, men going on in speculative schemes, by means of fictitious credit, imposing upon the community, and amassing property by contracting debts to an immense amount, without an intention to pay, and ultimately failing, to the ruin of thousands of individuals. These debtors, with means to pay in their possession, have, notwithstanding, held their creditors at arm's length, and bid them defiance. Every process known to the laws of this country has proved ineffectual to obtain justice from persons of this description. It has been owing to this, that thousands of fortunes and families have been prostrated and ruined; whereas, if a law of this kind had been in force, it would have been in the power of creditors to have arrested the career of such persons, and to have obliged them to make a just distribution of their property; and, by this means, many families might have been preserved from beggary. He hoped it would not longer be delayed.

Gentlemen are not, said Mr. B., to expect this to be a perfect system; they are not to expect it, because it is a human system; nor, in a law of such extensive operation as the present, could it be expected that the great advantages that will result from it, should not be connected with some evils; but a wise legislator will not inquire whether any bad consequences will arise from a law, but whether, upon the whole, the *tout ensemble*, it will not produce more good than evil.

There is no man who will not say that, if an honest merchant, from the loss of his ships, or other unforeseen misfortunes, is become unable to pay the whole of his debts, he should be liable to be imprisoned to the end of his life, and thereby be lost to his family, his friends, and the community. Under such circumstances it is reasonable that his creditors should accept of his property equally among them, and have him at liberty to begin the world anew, as such a treatment will inspire a man with activity in making a future provision for himself and family; but if a person in such a situation is told that any exertions which he may make shall not go to the benefit of himself or his family, but to his creditors, all his hopes are blasted, and he has no motive for industry or frugality, and he is lost to himself and the world. These, Mr. B. said, are the important advantages to be derived from a bankrupt system.

The gentleman from Pennsylvania had mentioned another advantage arising from this system; which is, that the property of a bankrupt is divided equally among all his creditors. This, said Mr. B., is a sound and just principle. Where a man owes a number of debts which he is not able to pay in full, it is a principle of common justice, that he should pay an equal proportion to each.

It would be necessary, Mr. B. said, to consider the disadvantages which are thrown into the scale to weigh against these advantages.

The first objection which the gentleman from Pennsylvania had brought against this bill, was, that trades or professions are not sufficiently marked in this country, to admit of a system of this kind. This evil, Mr. B. said, arose in the gentleman's mind from his having taken a view of society, instead of this law; because, if he looked into the law, he would find that its operation is confined to professions as distinct in this country as in any other. The error might also be strengthened from the gentleman's having read the speculative works of British writers on this subject, instead of having attended to the practical effects of a bankrupt law. It ought to be observed, Mr. B. said, that the description of a bankrupt is not the same in this bill, as in the British law. The indefinite and vague description, so objectionable in the British statute, was purposely omitted in this bill, because it was liable to the objection which had been brought on this head. These words are used in that law, "that all persons seeking their trade of living by buying and selling, shall be liable to made bankrupts." And if the gentleman from Pennsylvania will examine the English reports, he will find that all the embarrassments which have arisen in their courts on this law, have arisen principally from these vague expressions. The terms used in this bill being definite, the Commissioners will have no difficulty in ascertaining who comes within the law, and who does not. In some cases, indeed, there might be some difficulty, but he believed it would seldom happen. The professions of the clergy, lawyers, and doctors, are as distinct here as in any other country; so is that of merchant.

Mr. B. said, he would refer to the point of mistake of the gentleman from Pennsylvania. The description of persons included under this law are, "any merchant, or other person, actually using the trade of merchandise, by buying and selling in gross or by retail, or dealing in exchange, or as a banker, broker, factor, underwriter, or insurer." Is there any obscurity, said Mr. B., in this description? What is meant by *using*? It does not relate to a single act. Use implies time. It is the same with usage, and usage supposes a considerable time. It is not a single act which is to make the character of a man, but his prominent occupation. If the gentleman says he cannot understand this term, he cannot ascertain a merchant's warehouse when he sees the goods on the shelves. That there might be some cases of difficulty, he would not doubt. To make a law of this magnitude absolutely perfect, would be to do what was never yet done. All the descriptions of persons here enumerated, which are only six in number, are perfectly distinct, and cannot be mistaken. These six descriptions of persons are singled out from the rest of the community; and it is impossible for any intelligent, well-meaning man to

take up this law, without being able to decide who is, and who is not, included within it. The objection of the gentleman from Pennsylvania is not, therefore, solid; as this bill will not, like the English law, include tailors, shoemakers, and graziers.

Another objection is brought against this bill, which appears to be more relied upon, and which is in its nature more calculated to make an impression on this House, which is, that where a man is unable to fulfil his engagement, by paying his debt, when it becomes due, his creditors will have the power immediately to make him a bankrupt. The whole fallacy of this argument was owing to the gentleman from Pennsylvania having taken for granted what is not true, viz: that a mere inability to pay a debt is a sufficient ground for declaring a man a bankrupt. By looking into the bill it will be found that a man may be insolvent, and yet it will not be in the power of his creditor to make him a bankrupt, however malignant he may be. The great principle of this law being that its energies cannot be called into operation, except in cases of fraud. A man can do no act which can make him a bankrupt without a fraudulent intent; and where a person is intent upon some scheme by which he means to delay the payment of his debts, or to defraud his creditors, it is right he should be stopped in his career; but in case of insolvency, or a man possessing property which he cannot sell, the law will not apply; such a man, if he be disposed to pay his debts, may have as much time as he pleases, to enable him to dispose of his property. In proof of this, Mr. B. referred to the acts described in the bill as constituting acts of bankruptcy. After describing what classes of persons shall be liable to become bankrupts, the bill goes on to say, "shall, with intent unlawfully to delay or defraud his or her creditors, depart from the State in which such person usually resides, or conceal him or herself therein, or keep his or her house, or suffer him or herself willingly to be arrested for debt, or other just demand not due or accrued, or surrender him or herself to prison, or willingly or fraudulently procure him or herself to be arrested, or his or her lands, goods, money, or chattels to be attached, sequestered, or taken in execution, or shall secretly convey his or her goods out of his or her house, or conceal them to prevent their being taken in execution, or make or cause to be made any fraudulent conveyance of his or her lands, or chattels, or make or admit any false or fraudulent security or evidence of debt, where valuable consideration has not been received, or being arrested for debt, shall remain in prison two months or more, or escape therefrom, or being arrested for debt, shall, in order to gain a longer time of payment, or a reduction of the demand, mortgage his or her goods or lands, or confess judgment, or give a power so to do, or being privileged from arrest, shall not, within two months after notice, in writing, left at his or her house, of any debt or demand, satisfy the same, or enter an appearance to an action brought therefor, in the county or district where he or she usually resides,—every such person shall be deemed and adjudged a bankrupt." In all these cases, Mr. B. said, the act must be proved, to the satisfaction of a jury, to be with a fraudulent intent. Indeed, all the cases here enumerated, are based on fraud; therefore the objection of the difficulty arising from the sale of the property does not apply; for, if a man go on in the straight path of integrity, he is at all times out of the power of his creditor under this law; and if he diverges from that path, the sooner his property is distributed among his creditors, the better, since it is an an act of justice.

In support of the objection which I am considering, it is said that, in the Southern States land is not liable to be sold for the payment of debts, and that in Pennsylvania, and other States, if the land will pay the debt for which it is taken in execution, with interest, in a certain time, it is not liable to be sold. The gentleman from Pennsylvania has adduced these instances to show, that this State policy was founded upon the idea that it was impracticable to convert land into money. But, said Mr. B., give me leave to tell that gentlemen, he is most palpably mistaken as to the reason of this law with respect to the sale of land. It has nothing to do with State policy, or the idea that land cannot be converted into money. It is a remnant of the feudal system, of the principle of the ancient aristocracy of England, which was imported hither from that country by our ancestors. In some of the States it has worn away to a certain degree; in others it exists as fully as in England. Will it satisfy the gentleman to be informed, that a similar law exists in England at the present time? Lands, generally speaking, are not more liable to be sold there than in Virginia; though it is admitted that there no difficulty exists of converting land into money.

But, in England, the bankrupt law has corrected this aristocratic policy; for, however democratic the representatives from the State where this law is in force may be, this law is doubtless of aristocratic origin, and is an aristocratic law, though it seems to be a favorite with them. But so desirous was England to make this policy give way to the more liberal views of commerce, that the land of a bankrupt was made liable to be sold in common with his other property. And is it not an unjust principle, said Mr. B., that in a nation so commercial as we are, land should not be liable to be sold for the payment of debt? What is the consequence of such a principle? What have the learned writers of England said, was the result of the principle there? Owing to the extensive credits there given, and without which trade cannot exist, immense sums got into the hands of merchants, who invested their money in land, and a person dying personally poor would leave a rich posterity. Such a principle goes to the root of commercial credit; because a merchant must know, that if he gives credit to a large amount, that the whole of that money may be vested in land by his debtor, and then he cannot touch it. So that a fraudulent debtor may, in this way, set his creditors at defiance. Commerce, and a law like this, cannot live and flourish on the same soil. Will it, said Mr. B., be

said, that if I advance a man a thousand dollars, he shall be at liberty to invest it in land, and then bid me defiance, when, perhaps, I am distressed for want of a return of my money at the appointed time? Does not common honesty revolt at a practice of this kind? No honest man, one would suppose, could espouse so unreasonable a doctrine. Instead, therefore, of its being an objection to this bill, that it will throw down so complete a guard for fraud as such laws are, it ought to be valued for it, as it will do away a great obstacle to the free circulation of our commerce. Those gentlemen who think it is not worth our while to pay any regard to the revenue derived from commerce, would do wrong to vote for this bill, because it is a law for the benefit of commercial people; they will act in conformity to their principles to oppose it; but those who know how to appreciate the value of our commerce, will certainly vote for it.

Mr. B. believed, that, till lately, the law of primogeniture existed in some of the States of the Union, which was also a law made for the support of British aristocracy. In Maryland and Virginia, he believed, it existed as long as in any other part of the Union. This law has gradually worn away, and now the children of a family are all put on the same footing.

He mentioned this to show that the ancient spirit of our laws relative to land was of feudal origin, and not the effect of State policy.

Another objection to this bill was, that vesting the property of a bankrupt in the hands of assignees, it would not sell so well as if the owner himself had the disposal of it. Why not? Assignees will be creditors, and of course they will be acting for themselves, and will have an interest in common with all the other creditors. If anything is lost, they will suffer the loss; therefore it will be their interest to do the best in their power for the benefit of the estate of the bankrupt.

It was objected also, with considerable force, that this bill will fall all at once upon the United States, and destroy all our municipal regulations with respect to debtor and creditor. In one respect, Mr. B. said, this argument was not true, and in another respect it was fallacious. It is not true, because the law is not to take effect till the 1st of November. He supposed the gentleman from Pennsylvania had prepared his observations before this amendment was introduced by the gentleman from South Carolina, (Mr. PINCKNEY,) for, as the law was not to take effect for nine months to come, they could not apply. But he had also said the objection was fallacious, and he should find no difficulty in proving what he said. Gentlemen, observed Mr. B., have held out an idea that this law will introduce a vast innovation in the existing laws of the several States with respect to debtor and creditor, and, on that account, introduce incalculable evils. This, continued he, is a *bugbear*. On looking into these laws, it will be found that a bankrupt system would introduce very few innovations. In most of the States there are insolvent laws, which differ in nothing from this, except that they give all the advantages to the debtor, and none to the creditor. In the State of Pennsylvania, there is a law of this kind which goes to a great extent, and produces fraud without end. A man may be discharged from his debt in respect of his person without being an hour in jail. He has nothing to do but petition one of the courts, to submit to an examination, and he arrives at the end of the proceeding; and though at the same time his property is not discharged from the debt, yet, by the laws of this wise State, (and certainly it is a wise one,) a man may hold property, be a rich man, and wallow in luxury, out of the reach of his creditor. If he have 100,000 dollars in the six per cent. stock, he may bid defiance to his creditors. They may take his coach, but they cannot touch his stock.

The operation of an insolvent law is to discharge a man from prison; that of a bankrupt law only goes one step further, which is, to discharge his property also. In some of the States, he was told their insolvent law goes as far as this bankrupt law, by releasing both person and property. A man swears he has no property, and there is an end of the business. And if a general bankrupt law is not passed, all the States must pass insolvent laws, since they have not now the power to pass bankrupt laws. These laws will extend to all persons; whereas the law now before the House extends only to the six descriptions of persons already named. Besides, under a bankrupt law, everything is done upon fair and equitable principles; whereas insolvent laws, by holding out temptations to dishonesty and perjury, have a lamentable effect in destroying the morals of the people.

If gentlemen attended to the operation of this bill, Mr. B. said, they would find its operation very important. He did not know whether it might not have an effect to change the course of population; for if one State passed laws which would protect men in fraud, persons of dishonest views (he was sorry to say there were too many in the world) would be induced to flock to those States where a mild ordeal discharged their consciences, as well as their persons, from the obligation of their debts.

It had been said that great inconveniences would arise from the derangement which this bill would cause in liens which have already taken hold of lands, by means of mortgages, judgments, &c. The objection, said Mr. B., is founded in mistake. As the law will not go into operation for nine months, creditors may sue out their executions in the mean time, and then their debts will be secured.

It is also said, this bill is ill timed, because there was a time when our commerce was more flourishing, and when there was more money in the country, than at present. Mr. B. did not know that we have great reason to complain of our trade at present. To be sure it is not so flourishing as it has been; it has met with many embarrassments from the depredations which the vessels of France have committed upon it; but it is

now rising from the weight of those embarrassments, and he hoped by the time this act came in force, our commerce would be as flourishing as at any former period.

After the gentleman from Pennsylvania had offered these objections, he said he had some objections to the details of the bill. Mr. B. did not think this mode of arguing altogether candid. What right had that gentleman to make objections to the details of the bill, when the principle only is under consideration? If he did not wish the details to remain faulty, had he not an opportunity of amending them in the Committee of the Whole? Besides, if he has objections to the details of the bill, it would be a good reason for recommitting, but not for rejecting the bill. It might otherwise be amended by a supplement, or it might be amended in the Senate. He did not conceive the objections, therefore, in order, but would nevertheless take some notice of them.

The gentleman from Pennsylvania has told the House, that land jobbers and stock jobbers are not included in this bill. The gentleman will forgive me, said Mr. B., for believing, that if they had been included, he would have objected to the bill on that account, as inclining to favor these descriptions of persons, by making them new men, after they had gone to the greatest extent with their speculations. The reason why the committee did not introduce these descriptions of persons was, that they did not wish to extend the law too far at once; they wished to see it in operation first on a narrow scale, as it would be amended when it was found necessary.

But the gentleman has also told us that this bill will be productive of many frauds, incident in the nature of a bankrupt law; and that this is the opinion of learned English writers on the subject, who doubt whether the bankrupt law there has not been productive of greater evils than good. This, said Mr. B., is the opinion of speculative men, and not of practical men. But he would in this case, as he had done before, oppose fact to theory. Do we not know, said Mr. B., that for more than two centuries and a half, England has been the most flourishing commercial country upon the face of the earth, owing to her civil policy, the essential part of which was the bankrupt system? And will any one be disposed to take the idle speculative opinions of theoretical men in their chambers, in preference to solid fact? No nation in the world has been able to extend its credit so far as Great Britain; and is not this experience worth more than the declamation of a thousand theorists? It certainly is, and he trusted the House would so consider it.

The gentleman from Pennsylvania thought it extremely wrong that the wife of a bankrupt should be examined as to the property of her husband, and that this is against common law principles. A little before the gentleman was complaining that it would be impossible to prevent frauds under this law, and now it is attempted, he is dissatisfied with the means. Why not examine the man's wife, as well as the man himself; which is not permitted at common law; but it is necessary for the sake of getting information on his affairs, which nobody else can so well give. And if the wife was not examined as well as the bankrupt himself, he might make his wife an instrument of fraud, by allowing her to conceal the property.

Mr. B. believed he had now gone through all the objections which had been stated by the gentleman from Pennsylvania. A great advantage of this law will be that it will generalize, by an uniform system through the United States, the most important law of any society—the law regulating the relation of debtor and creditor. It was very desirable that a general system should be adopted, that a trader at one extremity of the United States might always know what are the laws at the other, where he may have concerns; such a uniformity would doubtless tend to the extension of our commerce, and the reputation of our country. This law, he trusted, would also have an effect to unite and naturalize the United States, and its permanent operation will cement together the different parts of the Union and connect more closely the nation with the Federal Government. He could not help thinking that this view of the subject furnished the true ground of opposition on the part of the gentleman from Pennsylvania. Gentlemen will not say, added Mr. B., that I mean to make this a political question; for in doing this he did not know but he might lose more than he should gain; but believing it would have this political effect, he thought proper to suggest the idea. Upon the whole he considered the present bill among the greatest national objects, and he should not deny that he felt a solicitude that it should pass the House.

Mr. GORDON had no doubt he should stand exempted from the censure which the gentleman from Delaware had last applied to the gentleman from Pennsylvania. If he was sure the passing of this bill would have the effect of uniting all the people of the United States in a cordial support of their Government, though he was far from approving the bill, he would certainly vote for it; but this is a mere speculative opinion, the truth of which was very doubtful.

That a bankrupt system has many advantages attending it, no one, Mr. G. said, would be disposed to doubt. The only question is, whether, at this period of time, the evils which may attend it, would not overbalance the good, being a system so totally different from those of the several States. If he was satisfied that this would not be the case, he would vote for it; but, doubting on this head, he should be obliged to vote against it.

The principles contained in this bill, Mr. G. said, had been frequently before the House, but he believed never in so perfect a *form* as at present, as the accuracy of the gentleman from Delaware had passed over its sections again and again, and it had received the aid of the legal and commercial knowledge of his friend from Massachusetts, (Mr. SEWALL.) He believed it had now attained as perfect a shape as could be given to it.

The leading principle of a bankrupt system, said

Mr. G., is to prevent debtors from defrauding their creditors. This is doubtless an important end, if it can be attained without producing any considerable mischief. Such a system will certainly induce debtors to be more punctual in discharging their engagements than they otherwise might be, from their fear of being made bankrupts, and of course, having their property taken from them. The question is, whether this country is fitted for such a system? He was of opinion that we are not arrived at that state when such a law would be desirable, not having a sufficient quantity of circulating medium to enable debtors to comply with its requirements. He believed, before a system of this kind was adopted, that there ought to be a certain proportion existing in the community between manufacturers and merchants, in order for it to produce the benefits contemplated by it. Where this is not the case, in his opinion, it would involve a country in greater difficulties than it experienced before the system was adopted; and, instead of making the payment of debts more certain, it would have a contrary effect.

Manufacturers in a country, said Mr. G., may be considered as a medium between the merchant and husbandman, by whose agency the surplus produce of the land is transferred to the merchant; and, without this description of persons, there cannot be that ready compliance with engagements, and, therefore, a system of bankruptcy will certainly be pernicious. How does the case stand, said Mr. G., in this country, with respect to intercourse between merchants and traders? By what means does the trader discharge his debts to the merchant? It is well known that the farmer disposes of his property to the country storekeeper, and that in all parts of the United States he cannot command money for his produce. It is not an article of such immediate necessity as to force immediate payment. But, where there is a certain portion of manufacturers who want a constant supply of provisions, the case is different, and cash is paid. In England this has produced a very different state of things from what exists here, or can exist here for many years to come. A farmer can here sometimes dispose of his produce for money, but sometimes it lies dead upon his hands. The country trader gives credit to the farmer, and when he fails to pay at his appointed time, the trader is obliged also to disappoint the merchant, and perhaps obliged to do some of those acts which are always considered as amounting to acts of bankruptcy. This state of things would not, in his opinion, justify the introduction of a bankrupt law.

Gentlemen in favor of this bill, aware of the inconveniences which would arise from extending a bankrupt system throughout the United States, have attempted to do what cannot be completely accomplished, to confine its operation to the commercial cities. They are ready to allow that if the law is applied to small country traders, it will do more harm than good. It is, therefore, provided that no person shall be made a bankrupt who does not owe one thousand dollars to one person, or three thousand dollars to a number of persons. If it can be shown that this will not produce the effect intended, it will form a strong objection to the bill in its present shape.

Let us, said Mr. G., bring the case of a merchant before us, against whom a commission of bankruptcy has been issued. Who are the debtors of this merchant? They are mostly country traders. The affairs of the merchant are thrown into the hands of assignees. What is the consequence? All the evils of bankruptcy will at once attach to country traders, without any of its benefits. The assignees will enforce immediate payment of the debts due to the bankrupt, and, in order to effect this, it will be found necessary to attach and sequester the property of many of these persons. And, if their property shall not be found sufficient to discharge their debts, they will be liable to be thrown into jail, and to remain there, since they are deprived of all the benefits derived to larger traders from the bankrupt law, from the smallness of their concerns. This is not all. The country trader, finding himself thus situated, is under the necessity of using compulsory process with his debtors; and the consequence will be, in the New England States, that writs will be issued against all the debtors of such persons, in order that, if possible, the country trader might save himself. Nor is this an imaginary case; it must naturally grow out of the system, and all the inconveniences of law suits and attachments must follow.

But, if this evil should not arise, he would, for a moment, consider the operation this law might have upon four of the Eastern States. In these States, a creditor, when his money is due, can obtain a writ against his debtor, which operates as a lien upon his property. He believed the effect of this system would be, to sign a death warrant to this practice.

A great proportion of the lawsuits carried on in the Eastern States arise from connexions between the shopkeepers and farmers. In what situation will the farmer be placed, if this bill passes, who has disposed of his property on credit? By the State law to which he had referred, when he suspected his debtor to be unable to pay, he might take out a process to secure his debt; but, if this bill became a law, after he has taken out his writ of attachment, and he is about to obtain judgment, the whole may be done away by a commission of bankruptcy, and the farmer not only disappointed in receiving his money, but saddled with the costs. A creditor will then have no mode of realizing his demand upon his debtor, but will be obliged to trust to his word, or wait until a commission of bankruptcy be issued against him.

Whether it be right, said Mr. G., that the system now practised in the Eastern States, to which I have alluded, ought to continue, is not the question. I only state that this would be the effect, and unless we are persuaded that it ought to be done away, this would form an objection to a bankrupt law.

It has been argued, by gentlemen in favor of this bill, that it is extremely hard to see a person, who has been unfortunate, deprived of his liberty, and

liable to imprisonment for life. Such a case must, indeed, interest every man's feelings; but will this bill remedy the grievance? With respect to merchants it will have the effect; but traders in the country and in small towns will remain in the same situation they are in at present; and certainly men of this description are as much entitled to our commisseration as those who trade on a larger scale.

Whether this bankrupt system will receive so extensive a construction in our courts, as it has done in those of Great Britain, could not now be told. An objection was yestesday made that it would apply to many persons in the country who are not regular traders, but who are, nevertheless, though farmers, sometimes engaged in trade. The objection was answered by saying, that the same phraseology that is used in the British law is not used here, and therefore the objection would not hold. This, said Mr. G., is mere matter of opinion. The words are not precisely the same; but it struck him that they are sufficient to authorize a very extensive construction; for they are, "Any person actually using the trade of merchandise, by buying or selling by gross or by retail." Mr. G. supposed, upon the most obvious construction of these words, that they would be more comprehensive than those used in the British statute, which are, "any person gaining his livelihood by trade." &c. He thought the description used in this bill might be applied to a man who had not been in trade a month, though he did not in future intend to gain a livelihood by it; but whether his idea was right or not was immaterial. It is certain it would implicate many persons in this country besides merchants.

It has been said that persons merely insolvent could not be made bankrupts, but only those who have been guilty of some fraud; so that it will not only be necessary to be unfortunate, but fraudulent, before a man can become a bankrupt. One of the acts mentioned in the first section is certainly not fraudulent, where it is said "that if a person being arrested for debt, shall, in order to gain a longer time for payment, or a reduction of the demand, mortgage his or her goods or lands, shall be deemed a bankrupt." A man finding himself hardly pressed, could not be charged with acting fraudulently, if he did such an act. Mr. G. stated several cases to show the unreasonableness and absurdity of the doctrine which should require a man to be fraudulent before he could have the benefit of the bankrupt law.

The gentleman from Delaware has said that either we must have a bankrupt law, or insolvent laws must become general, as it would not answer for persons to be confined in jail for life. There is, doubtless, said Mr. G., great hardship in such cases; but it does not follow that this law will remedy the evil. He believed it would not. Mr. G. presumed that it was owing to particular circumstances that a bankrupt system was so anxiously desired by some gentlemen, more than for any permanent reason. But he did not think it was owing to the natural operation of commerce, that a number of persons are now in jail; but, from a spirit of speculation which had raged to a great extent in this country; which has driven the merchant from his counting-house to speculate in land, and produced a sort of mania among the people of the United States. The consequence is that our jails are crowded with persons anxiously solicitous for an act of this kind. Mr. G. did not think it necessary for the sake of these persons, nor for the public good, to pass a law of this kind. With respect to persons who may be considered as honest debtors, and who have faithfully given up their property to their creditors, it does not often happen that men of this description are suffered to languish in a prison.

With respect to a circumstance much enlarged upon by the gentleman from Delaware, respecting the sale of land, Mr. G. would observe that he did not believe the principle laid down by the gentleman was correct. He did not think that the provision which prohibits the sale of land for debts, in some of the States entirely, and in others for a limited time, arose from the feudal system; but, as the gentleman from Pennsylvania had said, for the want of a sufficiency of circulating medium, and he would venture to say, from his little experience in business, that a practice of selling land by vendue in the same manner as personal property, would be attended with great inconveniences, and it would scarcely ever fetch half its value.

Mr. G. concluded by saying, that a few years hence the Legislature would be better able to judge of the effects of a bankrupt system; but, at this time, believing that it would be productive of more evil than good, particularly in the Eastern States, he had thought it his duty to oppose it.

Mr. SEWALL said his friend from New Hampshire objected to the operation of a system of bankruptcy, upon grounds which he was surprised that he, above all other men, should have taken. It seems to him that no mode is necessary to be adopted for the better collection of debts; that creditors ought to be left to get their money as well as they can. Hence, said he, we hear the gentleman lament the want of circulating medium, and the horrors which will be occasioned by the collection of debts in the country, in case this law goes into effect.

This law, said Mr. S., will not affect those who do not buy to sell again; but those who do buy to sell again ought to be exposed to all the inconveniences, as they will receive all the benefits of a bankrupt law. We ought not, said he, to consider this as the first mode proposed for collecting of debts, but compare it with such as are in existence, and if it be found that this will be beneficial to certain persons, it ought to be adopted.

A system of bankruptcy is limited in its extent to persons concerned in commerce. Extensive credits are essential in all commercial communities, and, as had been already stated, merchants are constantly liable to accidents which may disable them from paying their debts; but if they become bankrupts, he would not only have their personal property sold, but also their land, and let them suffer the loss, however great it might be,

by its being thus sold. And this, Mr. S. said, might serve as an answer to all that the gentleman had said about the country traders. They are truly the medium between merchants and farmers; but if they should hold lands, and are not able to pay their debts, they must submit to their being sold. Admitting, said Mr. S., that we shall not then see so many country traders as at present, this will be no disadvantage to the community, as the larger stores deal more advantageously for the public. A number of men who now carry on business of this kind might be more usefully employed. He was willing, therefore, that the diminution of this kind of traders should be one of the effects of this law.

But the main principles of the bankrupt system are to avoid the extension of fraud. In New England, a man may be taken by an attachment of his creditor. His friend from New Hampshire lamented that this process should fail. It would fail, indeed, where merchants and traders have dealt to so large an amount as to come within the bankrupt law; but it will only fail so far as to prevent him from getting his whole debt—he will, nevertheless, come in for his share along with his other creditors; and it could not then happen, as it now frequently happens, that a country trader divides his property among his neighbors, who are either his creditors, or pretend to be so, and the creditor in the city perhaps never hears of the transaction until all the property is divided. Under this law, a man's effects would be fairly looked into, and equally divided amongst all his creditors, without exception. Mr. S. hoped the bill would pass.

Mr. BALDWIN had felt himself entertained and instructed by the temperate and able discussion which this subject, so important to the interests of this country, had undergone. There were still one or two points of view in which he wished to present it to the House, which had not yet been so particularly noticed, and which had now, as well as on former occasions, when this bill was under consideration, considerable force in forming his judgment against it.

Had this question of passing a bankrupt law presented itself in an ordinary Legislature, the general utility and expediency of bankrupt systems, and their suitableness to the circumstances of this country, which has been the principal ground of this discussion, would have been the only one which the subject could have had, and the judgment must have been formed on those grounds.

The real practical question which is presented to the House on this occasion, seems to be, what are the inducements for this Legislature to take up the subject? It must be for the sake of making a uniform system of bankruptcy for the whole country; the arguments to enforce the measure must be derived from the importance of uniformity on this subject, rather than from the general principles of bankrupt laws, on which the States have been in the habit of judging and legislating at their pleasure. It is on the necessity of having a uniform system that the mind must principally rest in forming a decision upon this question. The contemplation of uniformity on any subject at first excites pleasing sensations; indulging this pleasing sensation might lead us to expect and to attempt to make all the laws on all subjects the same through the whole country. It might be urged that if a person came from one State into another to settle an intestate estate, in which he was interested, it would be unjust that he should not be allowed the same advantages which had been given to the citizens of that State in the one from which he came; the same might be extended to any other subject, and the argument will always be plausible. He would also acknowledge that commercial subjects are in their nature so extensive, and involve in the same transactions interests and persons so remote from each other, that uniformity not only appears more pleasing, but is in fact more desirable and important on that than on most other subjects. It had already been carried far in the provisions of our laws, but he believed it could not safely be carried so far as was proposed in this bill. Of all branches of legislation which relate to commerce, bankrupt laws seem to be most local in their nature, and most to require the same state of advancement in commerce in the places which are to be subject to them, to have them equal or even tolerable in their operation. There are few countries so well suited to the uniform operation of such systems as Great Britain; their insular situation confines their expectation of greatness to those pursuits; it is built up on commerce; he could conceive that a smaller island might be still more entirely commercial, and that a bankrupt system might apply as exactly to their circumstances as to a small commercial neighborhood. How very different is the situation of this country. There are not more than five or six places which are at all in similar circumstances. The introduction of such a system to operate over this country, would be to overturn all the ancient usages and institutions which their interests have heretofore pointed out as necessary, to accommodate them to the circumstances of a smaller part, who bear no proportion to them; this had already been so strongly stated, it was unnecessary for him to pursue it farther. If the question of passing a bankrupt law had occurred in a State Legislature, he thought the subject would present itself, even to them, in such a point of light that rather than to generalize legislation on that subject, and send it forward to Congress to have a general bankrupt law passed, to operate over the whole country, it would be much more likely to take the other direction, and be sent down to a kind of Legislatures which exist in some States, inferior to themselves, such as cities and corporations, who have power to pass by-laws, and whose powers might be extended to make regulations in the nature of bankrupt laws, such as their local circumstances most particularly required. At any rate, he thought it not advisable to make it a subject of more general legislation than what is competent to the present State Governments.

But it is insisted on, said Mr. B., by some gentlemen, that as the power to pass uniform laws on

the subject of bankruptcy is expressly given to Congress by the Constitution, it is their duty to do it; and some go so far as to say that it is not proper for the States to legislate on that subject. He thought there was no great weight in that argument. Congress not having passed such a law for these ten years past, and the States having legislated upon it in their own way, is a sufficient proof that that has not been the understanding of the Constitution. Power is also expressly given by the Constitution to exercise exclusive legislation over the ten miles square which has been ceded for the permanent residence of Congress; this exclusive legislation has not been exercised, but has been submitted to the local jurisdictions where the territory lies.

Many other instances might be adduced to prove the same thing, if necessary. The fact is, the powers given to Congress as well as to all other Legislatures, are in general submitted to their discretion to use them as the circumstances of the country should require. He had no doubt in saying, as well from the perusal of the instrument as from his own recollection, that many of them must have been considered as of very difficult execution, and that it must have been supposed that the existence of the power in Congress would effect the control which they desired, would check the abuses which might otherwise have taken place, and prevent the necessity of using it. Any other view of that instrument, he thought, would lead to great perplexity and embarrassment. He was sure it was the one which its best friends had originally indulged, and had made the administration of the Government much more practicable and successful than it otherwise could have been. This power of passing a uniform act of bankruptcy, he had always thought, was wisely given. Some of the States had before that time fallen into the habit of making a kind of Legislative and Judicial war upon the citizens of other States; these general controlling powers, though but little called into use, had without doubt had effect in preventing the continuance of them. States which, from their situation, were more remote from commerce, might pass bankrupt laws which would unreasonably protect their retail dealers, and greatly injure the merchants in the large commercial cities; this power in Congress to control such attempts, probably will prevent them, even without the exercise of it. He had not heard of any such attempts since the existence of the present Government. When they took place he would acknowledge then there would be an argument for the exercise of that power to control them—no such argument is even stated at this time to exist.

Mr. B. proceeded to consider the observations made by several members, more particularly by the gentleman from Delaware, viz: that the States had made such bad bankrupt and insolvent laws, and had in general conducted the business so badly, that it was incumbent on Congress to take up the subject, to prevent in future such frauds as had already taken place in all parts of the country. No man regretted more sincerely than he did, the errors and frauds complained of, but he saw in the present bill nothing but the increase of them. He thought it would be well to examine the ground of that argument more particularly, before they undertook to act upon it. An intimate view of the affairs of all human Governments, exhibited infirmities and imperfections; as a friend to this Government, he wished they might appear so to have conducted their affairs, on the difficult subjects on which they were obliged to act, as to be as justly free from reproach as the State Governments in this country generally had been. The expectation is scarcely to be indulged. Ordinarily speaking, that legislation is always most easy and most perfect where there is the greatest degree of similarity of circumstances in the persons over whom it is to operate, and the most full and free interchange of feelings and interests between them. If there was an attempt to unite all Europe, or all the Eastern continent under one Government, it must deal only in a few very general subjects, or it would be found at once impracticable. To endeavor, by weight of pressure, to bring together very dissimilar interests under the same legislation, has always been found a very difficult and hazardous experiment. There was a certain point beyond which it could never be wise to attempt to extend such an experiment, unless the national existence demanded it. He thought the experience of this country, without exception, justified this remark. The limits of several of the State Governments had already been found so extensive, as to involve interests so dissimilar, that it became more and more difficult to unite them under the operation of the same laws, and to carry them into full effect. Discontents, jealousies, and animosities, were engendered, which there was no way to cure, but to give them the privilege of making laws better accommodated to their circumstances. Those States generally appear to be the most happy, and their laws best executed, where their limits are so small as to secure a good degree of similarity in the interests of the citizens, and in the operation of their laws, but not so small as to make the expenses of the Government too burdensome; and in proportion as you extend, the work becomes difficult and hazardous.

The same thing, he thought, appeared from a candid review of the short history of this General Government. He did not accustom himself to look back upon its measures for the sake of finding fault, but for the sake of deriving instruction, as a guide in future measures. It had thus far, in its operations, been principally confined to two objects—to pay for past protection, and to afford present protection. In undertaking to pay for past protection, they seem to have been under the impression of the same sentiment which is now recommended on this occasion, viz: that it was their duty to endeavor to do greater justice in principle than had been done by the legislators who had gone before them, and, therefore, they undertook to break up the old settlements, and to modify and settle it over again. He was willing to allow them the best intentions, but they certainly appeared to have failed very much in their object; the debt was nearly doubled by the intrigues and frauds to which it was exposed in the operation, a vast inequality of estates created in this country, and very little relief reached those who had devoted their blood and treasures to the public. He believed there were but few at the present day who did not regret their undertaking to do greater justice than those who had gone before them.

In affording present protection, the same thing presented itself: the Indian treaties and expeditions had been expensive beyond all former example. The operation of building the frigates had been the subject of more particular inquiry, and more pointed censure from all parts of the House, than any other; it had always been his opinion that it was less exposed to such censures than most of the other measures. He never doubted the good intentions of those concerned in these transactions, but it clearly shows that it is more difficult to give effect to our good intentions than in smaller Governments, and that they are more exposed to be interrupted by the bad intentions and frauds which always exist in all societies; it ought to check projects of mere amelioration not justified by the reason of things or our own experience.

This subject of bankruptcy, he said, had always been found one of the most difficult and perplexed problems in legislation, by all Governments who have attempted it; it had always called forth the utmost ingenuity of fraud and stratagem to counteract their intentions, and has, indeed, been but badly managed even by the best Governments. It had been before stated that, even in England, a nation so merely commercial, with all the powers of Chancery which had always been accompanied with all the powers both of Church and State, and enforced by penalties which neither the genius nor habits of this country would bear, the best and most experienced judges now doubt whether it is not more a refuge to fraud than an aid to justice. This part of the subject had been so fully handled by others he would not enlarge upon it. He had no expectation that such an experiment from this Government would succed well; he was very confident it would do much mischief, and disgrace the Government.* He wished there might be seen the same caution and wisdom in using the powers that were displayed in the Constitution in giving them. He did not rely most on the friendship of those who were continually urging the Government on to the most rough and impracticable ground. If it was able to discharge with tolerable faithfulness and success those great duties to which no other Legislature was competent, he hoped and trusted it would not be urged into those projects of amelioration to which it was, indeed, ill suited, unless called by some stronger reasons than presented themselves on this occasion.

The question being called for,

Mr. OTIS said, he was sensible that the House must be fatigued with the discussion which had already taken place on this bill. Indeed, every argument, perhaps, that can be used for or against it, had already been urged; but, he thought so unprecedented a satire as had been uttered on the Constitution and Government of the United States, by the gentleman from Georgia, ought not to pass without comment. He seems to think the General Government inadequate to every object for which it was constituted; that it is unequal to the forming of a system of Bankruptcy, or of providing for the payment of the National Debt; that it is incompetent to the building of a Navy, or to the defensive protection of our frontier; and, in a word, that all the objects which it has undertaken would have been better done by the State Governments. What, said Mr. O., is the inference to be drawn from all this? Why, to be sure, that it would be better to dissolve it, and restore the old system of a Confederation of the States, through a despair of being able to administer it to any good effect. Mr. O. thought the gentleman had pronounced a very ungraceful valedictory on parting with an old friend whom he had so long professed to support. If these be his sentiments, instead of pronouncing them on his departure from its admininistration, it would have been well if he had explained his creed at an earlier period.

Mr. O. differed in opinion, however, from the gentleman from Georgia; he believed this Government perfectly competent to all the purposes for which it was instituted. And he thought there never was a measure more important in domestic legislation; none which would have a greater tendency to harmonize and conciliate the jarring interests of this great community than a bankrupt act, of which the gentleman from Georgia spoke so lightly. It had been considered by the Convention which formed the Constitution, as a proper object of national legislation. We cannot conveniently, as has been objected, make uniform laws regulating the titles and sales of real estates or testamentary distributions, without intrenching too far upon local laws and usages. But, said Mr. O., commerce is a general concern, and, in this respect, it would be a desirable spectacle to behold in every part of the Union our citizens, who are engaged in the same profession, governed by the same laws, and appealing to the same tribunals for justice.

Mr. O. did not mean to go at length into the subject; but he could not refrain from expressing his regret for the discordant and inconsistent system of the debtor laws of the several States.

In the part of the country where he lived, and in all the New England States, an individual, upon an impulse of resentment or jealousy, might destroy his debtor, root and branch, by taking out an attachment against his property, and securing himself to the exclusion of all other creditors; in other States you may attach for the benefit of all

* A General Government must, from the nature of things, be too loose and unwieldy in its movements, and too remote in many of its operations, to be able to counteract fraud and intrigue with as much success as smaller Governments.

the creditors, and in some others you can make no attachment whatever. In one part of the Union you may take lands at an appraisement, in another part you may sell them at auction, and in some States not at all.

Again, in one State, the body of the debtor may be committed until he pays his debts; in another State he swears himself free in a few days, and in a third, if he will swear well, he is not committed for an hour. Is there any reason, said Mr. O., for this conflict of laws among a people, who have the same interests, who speak one language, and whose contracts are framed upon the same principles?

He had no doubt but that a sense of honor and a habit of punctuality among merchants had, in a measure, remedied this defect; but he believed that great inconveniences had arisen for want of a system of this kind. Misfortune, enterprise, speculation, and a spirit of over-trading, have involved thousands in ruin. The compassion due to real misfortune is diminished by the number of its victims, and the disgrace that should attach to fraudulent bankruptcy is relieved by the influence of the delinquents. Men fail for millions; and, though these great leviathans of speculation, after having sunk in the ocean for a time, may rise again and revel on the surface, yet the widows and orphans, the fair merchants, industrious tradesmen, and credulous friends, who are involved in the same whirlpool, rise no more.

To prevent these mischiefs, said Mr. O., we should give to creditors a control over the property of their debtors, so as to stop the fraudulent in their career, and we should rescue the honest but unfortunate insolvent from the oppression of a vindictive creditor. He was of opinion this law would furnish the remedy desired. Among the various objections offered to this system two only had appeared to him deserving of attention. One was, that our situation being very different from that of Great Britain, as our citizens often exercise more than one trade, it will be difficult to limit the extent of the act. In answer to this he would say, that our situation in this respect is precisely similar to hers, since both we and they are a commercial people. We have large cities, populous villages, and a country more or less populous. So have they. Our cities and villages, it is true, are not so full of people as theirs, yet the same division of labor and of professions will be found in them. If you look at Boston, Philadelphia, New York, and Baltimore, you find things much in the same state as in the large towns of Great Britain. In the villages, it is true that professions are not so distinctly marked as in the cities, some of the mechanics being also traders. This is also the case in England; and if you go into the country, either here or there, you will probably find the farmer sometimes employed in tanning leather, or in making of bricks. But is it to be concluded from this that it is impossible to ascertain who are, and who are not, the objects of this law? Without going into detail, he would give a short answer to this inquiry. If the business of buying and selling be a man's principal profession, he would be considered a trader, and be liable to bankruptcy; but if his trading be only an incidental thing, he would not be comprehended within the act.

Another objection to this bill was, that, from the peculiar circumstances of this country, punctuality in payment cannot be expected. To whom, said Mr. O., does this remark apply? To country traders? If so, he would allow that men of this description cannot always be strictly punctual; but these men will then be in a better situation under this act than they are in at present. If a country trader is now tardy in his payments, each creditor has the strongest possible inducement to strive to be the first to compel payment; but, after a bankrupt law is passed, creditors will have the same inducements to be indulgent; they will know that, in case of failure, the bankrupt's property will be equally divided among them; that, by striking the first blow, they gain no advantage, and lose none by restraining. Thus there would arise a common interest among them to put off the bankruptcy, and to give the debtors time to make payment, until it was evident a man could not overcome his difficulties.

Gentlemen complain of the scarcity of circulating medium as a cause of the want of punctuality. The only way, said Mr. O., to make money plentiful is to pass this law. The present scarcity is artificial. There is plenty of money in the coffers of the rich, and in the city banks, and it is because those who have it are afraid of trusting it in the country, under the present laws for the recovery of debt, that it is hoarded, or let at exorbitant interest. But when once the moneyed men are satisfied that the laws will secure their money to them, by a lien upon all the estates of their debtors, an honest trader will be able to obtain the loan of money on fair and legal interest. He hoped, therefore, the bill would pass.

Mr. O. having sat down, the call being pretty loudly repeated for the question, the Clerk proceeded to call the yeas and nays; when, having called the first name, Mr. HARPER and Mr. NICHOLAS were both on the floor to have spoken on the question, but the SPEAKER informing them they were too late, the Clerk having commenced his call, they sat down, and the call of the yeas and nays was proceeded with. These were 44 in favor of the passing of the bill, and 47 against it, as follows:

YEAS—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, James Gillespie, Henry Glen, Chauncey Goodrich, Roger Griswold, John A. Hanna, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Edward Livingston, James Machir, William Matthews, Blair McClenachan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, and Robert Waln.

NAYS—George Baer, jun., Abraham Baldwin, David Bard, Thomas Blount, Robert Brown, Stephen Bullock, Samuel J. Cabell, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, Wm. Findley, Dwight Foster, Jonathan Freeman, Albert Gallatin, William Gordon, Andrew Gregg, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Jos. Heister, David Holmes, Walter Jones, Matthew Locke, Samuel Lyman, Nathaniel Macon, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, John Reed, Tompson J. Skinner, Nathaniel Smith, William Smith, Peleg Sprague, Richard Sprigg, Richard Stanford, Mark Thomson, Abram Trigg, John Trigg, Jos. B. Varnum, Abraham Venable, John Williams, and Robert Williams.

And so the said bill was rejected; and the House adjourned.

WEDNESDAY, January 16.

DIFFERENCES WITH FRANCE.

Mr. GALLATIN called up the resolution, which he laid upon the table a few days ago, requesting the President to lay certain papers before the House respecting our dispute with the French Republic.

Mr. D. FOSTER hoped the gentleman from Pennsylvania would not urge a decision upon his resolution at this time. He was himself at the Secretary of State's office this morning, and mentioned that the House were in expectation of receiving a communication on this subject. He was informed that it was in forwardness, and might be expected to be made to-morrow. He hoped, therefore, the resolution would be suffered to lie; if not, he should move a postponement of it.

Mr. GALLATIN agreed to its lying.

USURPATION OF EXECUTIVE AUTHORITY.

The House being again in Committee of the Whole on Mr. GRISWOLD'S bill for punishing certain crimes,

Mr. ISAAC PARKER said, when the resolution upon which this bill was founded was under consideration, he gave it all the consideration which its novelty and importance demanded. He was then satisfied that the object was a good one, and that there ought to be a law to carry it into effect, and he was highly gratified to find that there was so large a majority of the House of the same opinion.

This bill, said Mr. P., is founded upon the principle that the people of the United States have given to the Executive Department the power to negotiate with foreign Governments, and to carry on all foreign relations, and that it is therefore an usurpation of that power for an individual to undertake to correspond with any foreign Power on any dispute between the two Governments, or for any State Government, or any other department of the General Government, to do it. But when the bill came to be reported, several gentlemen who voted in favor of the resolution, opposed the bill on the ground that it went further than the resolution authorized, as they believed it would include within its operation individuals who might be pursuing their private affairs abroad, without any intention of interfering between the two Governments. The objection was started by the gentleman from Pennsylvania (Mr. GALLATIN,) and prosecuted by several others. The gentleman from Georgia regretted that the principle (which he allowed to be a good one,) could not be carried into effect without affecting the rights of individuals. Mr. P. thought that gentleman, as he was one of the committee appointed to consider the subject, ought to have laid before that committe a plan which he esteemed better than the one reported, for Mr. P. thought his objections went more to the principle of the bill than to its details. The only objection urged against this bill which had any weight upon his (Mr. P.'s) mind, was that which complained that the bill was too loosely drawn, and that it would, from this circumstance, though it certainly could not be intended to do so, include citizens prosecuting their individual concerns in foreign countries, and bring them into jeopardy. If the whole scope of the bill was attended to, he did not believe that any such consequences could arise from it, because, every person liable to punishment by this bill, must be acting contrary to the authority of the Government of the United States, and persons of the description alluded to, are expressly authorized by law to prosecute their claims abroad. But an argument had been used by gentlemen all round the House, which had undoubtedly weight. It was this—"You say these persons are not meant to be included, what objection, therefore, can you have to satisfy us that they cannot be included by the admission of a proviso to exclude them?" Though Mr. P. had no doubt on the subject, yet he thought it was no more than reasonable to remove those of other gentlemen. It is true the courts might force a construction of the law so as to include these persons within its operation, though this could never be expected. It was, however, doubtless proper to leave as little to the discretion of a court in a penal law as possible. Under this impression he had prepared an amendment for the purpose of excepting the persons in question from the operation of this bill.

Mr. P. said, it might be objected to an amendment of this kind, that the proviso indicates that it was the opinion of the Legislature, that without it the law would have included the persons excepted. But he believed this was not a just conclusion, since he had seen many acts passed, in which clauses of this kind had been inserted, merely with a view of removing individual doubts. It was with this view that he proposed this amendment. It was as follows:

Provided always, That nothing in this act contained, shall be construed to abridge the right of any citizens of the United States to apply by themselves, or their lawful agents, to any foreign Government, or agent thereof, for the redress of any injury in relation to person or property, which such individuals may have sustained from such Government, any of its agents, citizens, or subjects."

The motion was put and carried, 67 votes being for it.

Mr. HARRISON supposed gentlemen would have sufficiently gained their purpose by having a law of this kind enacted, and hoped they would therefore suffer it to go out of our code at the close of a year. To effect this purpose, he moved a limitation clause.

The motion was negatived—49 to 39.

Mr. HARPER moved an amendment in the body of the bill in these words, "with intent to usurp the authority of the Government of the United States, by intermeddling in any dispute, controversy, or negotiation, between the United States and such foreign Government; or with intent to defeat or counteract any measure or measures of the Government of the United States," striking out a few other words of surplusage.

After some objection made to this amendment by Mr. GRISWOLD, Mr. H. withdrew it.

Mr. EGGLESTON renewed the amendment.

Mr. S. SMITH moved to amend it by making it read, "and with intent," instead of "or with intent."

After some debate, the question on this latter motion was put and carried—49 votes being for it. The question was then taken on the amendment as amended, and it was negatived—55 to 41.

The committee then rose, and reported the amendment proposed by Mr. ISAAC PARKER, which had been agreed to; when

Mr. NICHOLAS called the yeas and nays upon it. The yeas were 69, the nays 27, as follows:

YEAS—George Baer, jun., Abraham Baldwin, David Bard, Bailey Bartlett, Thomas Blount, Richard Brent, Robert Brown, Stephen Bullock, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Henry Glen, William Gordon, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Tompson J. Skinner, Nathaniel Smith, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Richard Thomas, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, John E. Van Alen, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, James A. Bayard, Jonathan Brace, David Brooks, Christopher G. Champlin, James Cochran, William Craik, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Chauncey Goodrich, Roger Griswold, William Barry Grove, William Hindman, James H. Imlay, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Rutledge, jr., Peleg Sprague, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. EGGLESTON again renewed the amendment which had been originally proposed by Mr. HARPER in the Committee of the Whole; but after some observations against it by Mr. GALLATIN, as tending to place the crime proposed to be punished on more uncertain ground than it stands in the bill at present, Mr. E. withdrew his motion.

Mr. HARRISON renewed his limitation clause, and called the yeas and nays upon it. It was negatived—56 to 41, as follows:

YEAS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, Nathaniel Freeman, jun., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. W. CLAIBORNE renewed the amendment which had been withdrawn by Mr. EGGLESTON, giving the reason for so doing, that it would, in his opinion, make the bill more explicit than it now stands, and called the yeas and nays upon it. They were taken, and the motion was negatived—57 to 39, as follows:

YEAS—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thos. Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, William Findley, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Joseph Heister, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Stanford, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Saml. W. Dana, John Dennis, George Dent, William Edmond, Lucas Elmendorf, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Jonathan N. Havens, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, Richard Sprigg, Geo. Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. GALLATIN said, he wished to propose two other amendments to this bill. It appeared to him that this bill may not only punish, as offences, acts not criminal in themselves, but suffer those which are criminal to pass unpunished. This bill makes it criminal "to enter into any verbal or written intercourse with any foreign Government, or any officer or agent thereof, with intent to influence the measure or conduct of"—of what? "That Government." So that it does not make it criminal to influence the conduct of an officer or agent of such foreign Government. He allowed there might be cases in which it would not be criminal thus to influence the officers or agents of a foreign Government. But it is possible, said he, that individuals, without the permission or authority of the United States—that individuals who may be excluded by the Constitution from negotiating for the United States, may negotiate, not with a foreign Government, but with its officers or agents, not to change the measures of their Government, but to influence the measures or conduct of such officers or agents. And would not a conduct of this kind, he asked, be highly criminal? And might it not produce more serious effects than the offences proposed to be punished by this bill? He thought it might, and therefore proposed to amend the bill, by adding the words, "or of any officer or agent thereof."

The yeas and nays were taken upon this question. They were, 61 yeas and 35 nays, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, James A. Bayard, Thomas Blount, Joanthan Brace, Richard Brent, David Brooks, Robert Brown, Stephen Bullock, Samuel J. Cabell, John Chapman, Thomas Claiborne, Wm. Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, William Craik, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, Abiel Foster, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Samuel Lyman, James Machir, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS—Christopher G. Champlin, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Dwight Foster, Chauncey Goodrich, Roger Griswold, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. GALLATIN said, he would attempt once more to define this bill, by proposing an amendment which met his ideas, and if it were adopted he would vote in favor of the passage of the bill. It was his object to distinguish between acts of a criminal nature and those which are perfectly innocent; as he did not think a man who should be the means of the raising of an embargo by a foreign Government should be punished equally with a man who should procure an embargo to be laid; or a man who procured the restoration of millions of property, with a man who should cause that property to be condemned; or a man who should be the means of procuring peace to his country, with him who should be the means of involving us in war. He therefore proposed to insert the following words: "in a manner detrimental to the United States."

This amendment was warmly opposed by Messrs. HARPER, PINCKNEY, SPRAGUE, and BAYARD; and supported by the mover and Mr. NICHOLAS.

The amendment was negatived—54 to 40—and then the bill was ordered to be read a third time to-morrow.

THURSDAY, January 17.

NAVAL ESTABLISHMENT.

Mr. J. PARKER, from the committee to whom was referred so much of the President's Speech as related to the Naval Establishment, made, in part, the following report:

That an act passed the first of July, one thousand seven hundred and ninty-seven, authorizing the President of the United States to cause the frigates United States and Constitution, of forty-four guns each, with the Constellation of thirty-six, to be manned and employed; for the accomplishment of which, the twenty-seventh of March following, a law passed, appropriating a sum not exceeding one hundred and fifteen thousand eight hundred and thirty-three dollars, to complete and equip those ships for sea; also two hundred and sixteen thousand, six hundred and seventy-nine dollars for the pay and subsistence of the officers and crews for one year—sixty thousand dollars for wear and tear, and two thousand two hundred dollars to pay salaries of persons having care of the navy yards at Norfolk, New York, and Portsmouth.

On the twenty-seventh of April, one thousand seven hundred and ninety eight, an act passed, entitled "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes," authorizing the President of the United States to cause to be built, purchased, or hired, a number of vessels, not exceeding twelve nor carrying more

than twenty two guns each, to be armed, fitted out, and manned, under his direction. To carry this law into effect, the sum of nine hundred and fifty thousand dollars were appropriated.

On the 4th of May, 1798, an act passed, authorizing the President of the United States to cause to be built or purchased a number of small vessels, to be equipped as galleys, or otherwise, to be stationed in such parts of the United States as he may direct. To carry this into effect, eighty thousand dollars were appropriated.

On the 28th of May, "An act, more effectually to protect the commerce and coasts of the United States" passed, which authorized the President of the United States to instruct and direct the commanders of the armed vessels of the United States to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any armed vessel of the Republic of France, sailing under authority or pretence of authority, which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to the citizens thereof; and also to retake any ship or vessel of any citizen or citizens of the United States which may have been captured by such armed vessel.

On the 22d of June, an act passed, entitled "An act to amend the act, entitled 'An act providing a naval armament,' and the act, entitled 'An act to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise." The act authorizes the President to increase the strength of the revenue cutters to seventy marines and seamen, and authorizes the President to employ them, as well as the small vessels to be equipped as galleys or otherwise.

On the 30th of June, was passed "An act supplementary to the act, entitled 'An act to provide an additional armament for the further protection of the trade of the United States; and for other purposes." This act authorizes the President of the United States to accept vessels offered on the credit of the United States, where he may cause evidence of the debt or the obligation to be given therefor, limited to twelve vessels; the interest to be paid, not to exceed six per cent. This act also stipulates the size of the vessels to be received, as well as the size of those authorized by the act of the 27th of April, viz: six, not exceeding 18 guns each; twelve, not less than 20, not exceeding 24; and six, not less than 32 guns each. The third section of this act authorizes the President to accept of armed vessels from any State, body politic or corporate, citizen or citizens of the United States.

An act passed July 16th last, making a further appropriation for the additional naval armament, provides for the building of three ships of not less than 32 guns each, and appropriates 600,000 dollars for that purpose, and authorizes the President of the United States to employ timber and other materials for ships now on hand, to be used for this purpose, or disposed of in such manner as he may direct.

In conformity to those several acts, the ship Delaware, of twenty guns, sailed on a cruise, and took Le Croyable, French privateer, of 14 guns, and seventy men, within soundings, on our coast; which privateer had taken vessels on the coast. A few days after, the ship Ganges sailed on a cruise: this ship mounted twenty-four guns. In June, the Constellation, of thirty-six guns, sailed on a cruise; and in July, the Constitution and United States, of 44 guns each; and shortly after, several other vessels of war. For a particular account of the existing force, as well as the additional vessels preparing, the committee exhibit herewith a report of the Secretary of the Navy, of the 26th ultimo.

Your Committee beg leave to report, further, that about the time of the sailing of our ships of war, and before the merchant ships were permitted to arm for their defence, our trade was in such jeopardy at sea and on the coast, from French privateers, that but few vessels escaped them; that ruin stared in the face all concerned in shipping, and that it was difficult to get property insured; that insurance stood at the following rates in Philadelphia, *at that* time:

To Russia - -	out 22½ per cent.—Home		22½
Sweden - -	20	" "	12½
Denmark and Hanse Towns - -	17½	" "	17½
Holland - -	20	" "	17½
Great Britain -	17½	" "	17½
Spain - -	17½	" "	17½
France - -	–		–
Portugal - -	15	" "	15
Morocco - -	20	" "	20
Italy - -	27½	" "	27½
China and the East Indies - -	20	" "	15
West Indies -	17½	" "	17½
Africa - -	20	" "	20

That at this time insurance can be had at the following rates, in the same offices:

To Russia - -	out 12½ per cent.—Home		12½
Sweden - -	12½	" "	12½
Denmark and Hanse Towns - -	10	" "	10
Holland - -	15	" "	12½
Great Britain -	10	" "	10
Spain - -	12½	" "	12½
France - -	–		–
Portugal - -	10	" "	10
Morocco - -	12½	" "	12½
Italy - -	17½	" "	17½
China and the East Indies - -	10	" "	10
West Indies -	12½	" "	12½
Africa - -	12½	" "	12½

From hence it will appear, independent of our greater security at home, as well as from insult and robberies abroad, that the saving on our shipping, exports and imports, for the last year, has been more than could have been expected in so short a period. But, pleasing as this is to the committee, they have good reasons to believe that the saving will be greater as our naval force increases, believing that insurance will be less than it now is. The committee would exhibit an exact statement of the imports and exports of the last year, if they had it in their power, as well as the quantity of tonnage employed by the United States, but on account of the dreadful malady that afflicted this city, as well as other important towns of the United States, the returns cannot be obtained; nor can the committee exactly estimate the value of the imports of the last year, as the value is not annexed to several articles which pay duty, the duty being estimated by the pound on coffee, &c., and rum, &c., by the gallon; but the imports in the United States, from the 1st of October, 1797, to 30th September, 1798, may be safely estimated at fifty millions of dollars; the committee believe, more, as the profits on exports have been considerable, and moneys imported are not entered.

The exports beginning on the 1st October, 1796, and ending September 30th, 1797, were as follows:

To Russia - - - -	$3,450
Sweden - - - -	898,315
Denmark - - - -	2,533,224
Holland - - - -	8,845,486
Great Britain - - -	8,569,748
Hanse Towns - - -	9,589,858
France - - - -	11,664,091
Spain - - - -	5,596,253
Portugal - - - -	463,310
West Indies - - - -	1,508,044
Africa - - -	230,833
Europe (generally) - - -	207,077
Northwest Coast of America -	15,607
	51,294,710

In addition to which, the committee are assured that large sums of specie have been exported, particularly to the East and West Indies, and China.

The merchant shipping of the United States, built and employed in that period, were as follows:

	Tons.
In foreign commerce - - -	675,046
Coasting trade - - - -	200,372
Fisheries - - - -	38,920
	914,338

Besides 3,114 tons of shipping built in foreign countries, and owned in the United States—making the whole a total of 917,542 tons—the value of which may be fairly estimated as follows:

Shipping owned in the United States, employed in foreign commerce, 678,160 tons, at forty dollars per ton - - - - - -	$27,126,400
Coasters and Fishermen, 239,290, at $30 per ton - - - - -	7,178,760
Total - - - -	34,305,160

The committee beg leave to state, as their opinion, that the measures taken for the protection of the commerce of the United States, and subsequent thereto, have saved to the United States considerably more than all the expenses incurred by the Naval Establishment; and, in aid of their opinion, beg leave to exhibit the following statement:

Exports and imports into the United States for one year, commencing from the time of the sailing of our vessels of war, and authorizing merchant ships to arm, $1,000,000 at 7½ per cent. is - -	$7,500,000
Value of vessels employed in foreign trade, $27,126,400, at 7½ per cent. is -	2,006,730
Coasters and fishermen, $7,178,760, at one per cent. - - - - - -	71,787 60
Total - - -	9,578,517 60

which may be reasonably calculated on, as, notwithstanding the rate of insurance has fallen so much, the stock of the insurance company of this city is higher than at any other period, which evidently shows that it may be still lowered—the natural consequence must be, that freight will fall as well as insurance; foreign productions will share the same fate, while the productions of our country, and fisheries, will raise in the same proportion—as the merchants of this country will be enabled to do more on a less capital, and with more certainty.

The exact expense that has attended the whole of the Naval Equipment cannot be ascertained on account of the late fever, added to the Secretary of the Navy's not having entered on the duties of his office until June last, and the Accountant of the Navy, not before September; but the annual expense attending the present Naval Establishment, including eight revenue cutters, is estimated at two millions four hundred and thirty-four thousand two hundred and sixty-one dollars and ten cents, as will appear by the report of the Secretary of the Navy in this report; and the committee presume that the sums there stated will be fully adequate to answer the purposes for which they are intended; from that sum may be taken the estimate of the annual expense of the Retaliation galley, taken in the West Indies by two French frigates, twenty-four thousand eight hundred and thirty-seven dollars and fifty-five cents, leaving the annual expense of the present armament, two millions four hundred and nine thousand four hundred and twenty-three dollars.

Your committee beg leave to report as their opinion that, for the safe-keeping and careening the ships of war of the United States, a dock or docks should be established in one or more places in the United States; that it would be advisable to lay in annually a stock of timber for the building and repairing of ships of war, and that a sum of money ought to be appropriated for that purpose; that the President of the United States be authorized to have put on board such of the vessels of war as he may think proper, an additional number of guns, than for which the ship or vessel may be rated, and that an additional sum ought to be appropriated therefor; that the Navy of the United States ought to be augmented. They, therefore, submit the following resolutions:

Resolved, That —— docks be established in the United States, and that a sum not exceeding —— dollars be appropriated therefor.

Resolved, That —— dollars be appropriated for the annual purchase of timber to be used or preserved for building ships or vessels of war of the United States.

Resolved, That the Navy should be augmented with —— ships, to carry not less than seventy-four guns, and —— sloops-of-war of not more than eighteen guns, and that a sum not exceeding —— dollars be appropriated therefor.

Resolved, That the President of the United States be authorized by law to augment the number of guns on board any ship now in service, or building, above the number such ship may be rated, and that —— dollars be appropriated for that purpose.

Resolved, That the President of the United States should be authorized to take on the Naval Establishment such of the revenue cutters now in service, as may be, in his opinion, fit for service abroad.

The report was committed and ordered to be printed.

USURPATION OF EXECUTIVE AUTHORITY.

The bill for punishing certain crimes therein mentioned having been read the third time, and the question being "Shall this bill pass?"

MR. LIVINGSTON rose.—Not having had the advantage of being instructed by the discussion of the resolve which produced the present bill, I en-

deavored to compensate for that misfortune by the most unremitted attention to the arguments since its recommitment. As those arguments chiefly turned on the general principles of the act, I had hoped to have discovered in them as well the necessity for the measure as the propriety of the particular remedy proposed. In both these expectations, sir, I have been disappointed. No necessity has been shown for the measure. No arguments have evinced the fitness of these provisions to arrest the evil, if it should exist. I have always believed, sir, that laws, more especially those of a penal nature, should not be passed without an acknowledged necessity. Every law is a restraint on natural liberty, and every useless restraint is a wanton exercise of power, which a wise Legislature will not, and a limited one cannot, indulge. Laws of this description ought also to be unequivocal in their language; they should operate equally; their penalties should bear a due proportion to the offence, and they should be adequate to the end proposed. These principles are so generally admitted as the basis of all penal legislation, that any attempt to establish their validity might seem presumptious, or, at least, useless.

Let us, then, examine how far the present measure will bear the test of these rules; and ask, first, what is the evil complained of? Where is the necessity for the proposed restraint? Two answers have been attempted to this preliminary and most important question—the one drawn from a supposed state of the politics of Europe, the other from a particular occurrence which had lately happened, as relating to the United States. We are told, first, that the state of the world, at this eventful period, calls for unusual and energetic measures to repel efforts that are now first made to separate the people from their Government; to destroy social order, and overturn the constitutional establishments of mankind. I cannot, sir, see the connexion between these fears and the provisions of the bill under consideration, nor how we shall prevent those evils by forbidding an individual to aid his Government in promoting the success of their negotiations. But in inquiring into a necessity which, it is said, arises from a general state of things, affecting all nations, but more particularly those who are nearest to the source of this evil, let us ask, whether any of them have thought a measure like the present essential to their safety? The posture of affairs in Europe is said imperiously to evince the necessity of adopting the plan which gentlemen have proposed to us. If these things are so, how does it happen that no nation of Europe has yet discovered the necessity for a law like this? Are they less exposed to danger from this source? Gentlemen, on the contrary, tell us they are more so from their local position. Are they then inattentive to their safety? Surely they must be blind not to see the danger if it is so urgent as is described. How is it then, that under these circumstances, all the nations of the earth have not fortified themselves by penalties, on this weak, unguarded side? Why is it that not a single instance can be produced of one people who have deemed this a necessary addition to their code? and that even in countries where the act might be deemed a breach of prerogative, it is never punished or considered as a crime, except when the interference is to counteract the views of Government. And permit me here to declare, if that were the only object of the present bill, it should not meet with my opposition. The gentleman from South Carolina, indeed, endeavors to account for this tacit evidence against his positions, by saying that the case is new; that domestic treachery, and excitements to insurrection, were never before resorted to as the means of warfare, and that, therefore, we have no instances to guide us in the history of foreign jurisprudence. Again, sir, let me repeat, that there is no connexion between domestic treachery and the crimes created by this bill. The acts which will be punishable after its passage, are such as before were innocent, at least, if not praiseworthy. But if the bill did apply to domestic treason and insurrection, how can the gentleman support the assertion that these are novelties in war? Does not the gentleman's ancient erudition, as well as his modern reading, teach him the reverse? In what war have not these secret machinations been resorted to, as well as open force? If then, no nation, though all more exposed to danger from this source than we are, has guarded itself by a similar provision, the deduction is a fair one, that no nation has either apprehended danger or experienced evil for the want of this addition to their code, and that, of course, the argument drawn from the general state of Europe not only gives no support to the bill, but as far as example goes, shows us that it is useless or mischievous. But though unnecessary in other countries, it is said to be demanded here by circumstances peculiar to ourselves; that a transaction has lately happened which evinces the danger of individual interference in national concerns, and loudly calls for the sanction of a penalty to prevent it in future. In adverting to this particular instance, I am ready to admit the audacity of that interference which, without the aid of a commission or instructions procured the release of a number of valuable ships, and the enormity of the crime which effected the discharge of many valuable citizens from a foreign prison; but while I admit the great injury we have received by such unauthorized and wicked acts, let me caution the House against being led away by the indignation such conduct must naturally inspire. I have always been taught to believe that laws passed to meet particular cases, and under the influence of passions which are excited by the animosities of party, are generally bad laws; that they are, for the most part, cruel and oppressive, and are commonly repealed as soon as passion subsides and legislation resumes its calmness and dignity.

You are, indeed told, sir, that it is impossible to foresee every evil, or imagine every crime; that, therefore, in many instances, it is impossible to legislate until the evil occurs, and that then it is a duty to apply the remedy. This reasoning is perfectly just, when applied to improper acts, which are prevalent, which are injurious in their

effects, and which, unless prevented, might frequently again occur; but it surely cannot apply, as in the present case, to a solitary instance, which had operated beneficially, but which was not likely to be repeated. The laws, sir, which different nations have passed, when heated by the passion of the moment, to operate on particular cases, would make us smile at their singularity and folly, if we were not forced to weep over their cruelty and oppression.

I will mention a few instances from the history of a nation with which we are all familiar, and will confine myself to a short period, during the reign of Henry VIII., a period when acts of this kind were more prevalent than at any other time, when every new-fangled doctrine in religion, every caprice of the Monarch, became the foundation of a law, and when the Parliament did not blush at the title or provisions of an act "to prevent the diversity of opinions." How far, sir, we have travelled in this road, how far we have attempted already to fetter, if not the indulgence, at least the expression of opinion, those who hear me will judge. That we may proceed no further in this path, let us examine some of the laws made on the spur, as it is called, of the occasion, and we shall find a ridicule attached to them which surely will not invite our imitation. In the period to which I have referred, a cook belonging to the Bishop of Rochester, mixed some poison in one of his dishes, or, perhaps, dressed it so ill, that the Bishop and some of his guests died of an indigestion. The Parliament, feelingly alive to every abuse, zealous to punish every crime, began immediately to legislate, and as treason was then as fashionable a term as sedition is here, they, with great propriety, attainted the cook of high treason, and, to preserve some kind of relation between the punishment and the offence, they ordered him to be boiled in his own pot. But this was not all. It was not enough to punish one offender. This would have been doing things by halves. They extended the penalties of high treason to every future offence; and, as if none but one of the same profession could be guilty of the crime, decreed that the same culinary punishment should forever be inflicted.

Whenever a doubt arose in the mind of the Monarch relative to his confession of faith, or the fidelity of his mistress, whenever the good of the Kingdom absolutely required that he should change his religion, or cut off the head of his Queen; whenever any of these cases occurred, the Parliament, ever ready in their zeal to provide for the important object of the moment, endeavoring to keep pace with the incomprehensible changes of his faith, very *piously* directed all those to be condemned as heretics, who dared to doubt when the King was convinced; and, in the same style of legislation, but with a little variety of manner, ordered them to be nicely roasted. If the modern improvements had then existed, I have no doubt other statutes would have given us other varieties in the art of cooking for crimes.

Disgusting, sir, and ridiculous as these legislative provisions are, they naturally grow out of the rage for passing laws on particular occasions; and though we may avoid the savage penalties I have quoted, there is no saying how far we may extend the penalties of sedition, or where our definition of misdemeanors will end. I thank God that a Constitutional barrier, I hope too strong to be broken, is placed between our powers and the definition of treason; that we cannot make use of it as an engine to employ in the prevalent system of terror. It is not true then, sir, that any general considerations require this law; and, if a particular instance has occurred, I think it has been shown to be improper and even ridiculous to make it the subject of legislation.

If, however, sir, I had considered this measure as unnecessary only, I do not know that I should have troubled the House with any observations on the subject. I should have said to myself, "the gentlemen who propose this measure have long been the exclusive supporters of Government; we have the best authority for believing it, they tell us so themselves; they alone know the diseases of the State; they alone can apply the remedy; and, though its utility is not apparent to my unenlightened mind, yet, in due time, the wisdom of their measures will unfold itself. I would have said, "the gentleman from South Carolina has dreamed of more plots; he has in his hand the threads of a new conspiracy; his friend from Massachusetts has received another memorial from Paris; let us wait patiently; they have so well satisfied us on the score of their former apprehensions, that we ought to put implicit confidence in their assertions now." This reasoning, sir, would have suppressed my opposition if I had viewed in this bill only a useless measure, but it is worse, it is a pernicious one; it is defective in that great and leading characteristic of all good laws, in precision. A penal law ought to be so clear to the meanest capacity, that no doubt should exist of its construction, that he who runs may read it; and that when about to act we may know at once by recurring to plain, evident expressions whether we shall incur a penalty. Can gentlemen recur to this law and seriously declare that they have a clear idea of the precise acts upon which it is designed to operate? If their enlightened minds comprehend it, can they say that it will not prove a snare to entrap the illiterate and unwary? Or, must a man who has never learned to poise his words, to weigh out his sentences in a technical balance, must he always have a lawyer at his elbow to guide, not only his actions, but his most unguarded words, without adverting to the numerous class of words and actions which I might suppose to come within, or on a different construction to be left without, the provisions of this act? Let me only refer to the various opinions we have heard as to its operation on this floor. Many of these, legal opinions of the highest respectability: Scarcely two of them have agreed; and yet, it is contended, the law is sufficiently precise. We, its framers, after a week's deliberation, with all the advantages our situation affords, cannot determine the meaning of a law, which, we yet insist, that the people shall understand and obey; this, too, a

law highly penal, and next to treason and felony the most so in our code.

Not only uncertain the law is also unequal in its operation; it reduces actions, highly criminal in themselves and mischievous in their effects, to a level with others, which, if dangerous, are only so by a very remote tendency, and whose criminality is only created by the bill. This objection has been ably stated, and how, sir, was it answered? By a reference to the power vested in the Judge, of fining and imprisoning, within the discretionary limits left by the law. It is true, sir, there is that discretion left, and it is that of which I complain. Every wise legislator will leave as little to the interpretation of the Judge as possible, he will endeavor to limit discretion by precise rules, and will not give the Judge a power of legislating on each particular case. Discretionary power to the extent contended for has this effect: acts totally dissimilar are classed together in the same law, and the Judge has a discretionary power of declaring that the penalty intended for the most aggravated crime, shall be inflicted on one whose offence is so slightly separated from innocence, that the line is scarcely discernible. What a field is here opened for partiality, oppression, and the indulgence of party rage! Shall I be told that I want a just confidence in our Judges? Sir, if we had angels on the bench, I should think it a duty to leave as little as possible to the discretion of those who expound the law.

I have said, that laws of this nature are liable to abuse from the spirit of party. Whenever questions of great national importance have long agitated the public mind, every man in the community is insensibly led to take his side, and by degrees he becomes infected, first with the passions, then the prejudices, and at length by the rancorous and intolerant spirit which is commonly inseparable from party. I know of no means by which a Judge can totally divest himself from these passions, these prejudices. Man is man wherever he is placed, on the bench or in the Senate. Human nature is the same. Let us, then, suppose, in such a state of things, that the object of a party in our Government should be, at some future period, to embroil us with a foreign nation, to foster discontents, and prevent explanations which might lead to reconciliation. Let us suppose the Judges to espouse the side of those who wished for war, and that some of the virulence of party had communicated itself to the bench. At this crisis, let a citizen be accused of having infringed the provisions of this law, by an unauthorized interference, which was well meant, and produced the most beneficial effects, by removing causes of discontent and opening the way to a restoration of harmony. By his side stands another culprit, who, under the same law, is convicted of a like interference, but with the most injurious intentions and effects, who has created misunderstandings, blown the flame of dissension, and involved his country in war. Without infringing the law, the peace-maker may be punished with its highest penalties, while its most gentle restraints may be laid on the more malignant, but better connected offender. Is the law liable to this abuse? If it is, we may, without hesitation, pronounce it a bad one. Whatever may be the merits of men whom we now respect in office, a blind confidence should not induce us to place powers in their hands which may be abused by them or their successors. In passing general laws, we should shut our eyes to the merits, we should be blind to the faults, of those who are to interpret or execute them. As if the framers of this law had determined that it should sin against every general rule of legislation, they have made it not only unnecessary, uncertain, and unequal in its operation, but also inadequate to the end proposed. If the practice complained of be an evil, the law should be effectual to punish or prevent its commission. This law does neither. It is a cobweb that may catch a harmless moth, or intercept the useful industry of the bee, but which will not restrain the poisonous hornet, or malignant wasp.

If we have anything to fear from private negotiation with foreign Powers, it is from those citizens who reside abroad, whose connexion with their native land is weakened by long absence—who, if they bring evils on their country, do not feel their effects; and these are precisely the people upon whom your law cannot operate.

Having thus stated, as far as was possible, without repeating arguments already used, my objections to the bill, I shall vote against its passing into a law.

Mr. Otis said, he was always charmed with the observations of the gentleman from New York. He displayed so great a variety of classical, historical, and oratorical allusions, that one could not help being pleased, were it not that the time which is thus occupied is precious. From this consideration he could have excused the gentleman, if, instead of delivering his speech on this occasion, he had given it to the public through the medium of the *Vermont Magazine*, where his famous speech on the Sedition bill, delivered at the last session under similar circumstances, was exhibited under the title of the "Scourge of Aristocracy." But if gentlemen are determined that the question shall not be taken, and that they will spin out the debate, it may be well, said Mr. O., to let them see we are not to be outdone in perseverance, and, though the question has been fully discussed, that they must not expect to have the floor to themselves.

The gentleman from New York begins his remarks by exclaiming "How does it happen that no provision of the kind contemplated by the bill has been made in any country of Europe, where all the evils of which we complain exist in a high degree?" He could tell the gentleman that, while the state of Europe is a state of war, the very conduct proposed to be restrained by this bill would amount to high treason; and he could refer the gentleman to an instance in which conduct of this kind had been deemed a violation of the laws of nations, and was the means of involving a country in war. The gentleman from Pennsylvania, in speaking on this subject, has said that it is perfectly allowable for any individual to sketch a treaty and send it to a foreign country for adoption. This very project was attempted by some individuals in Amsterdam during the late American war. A treaty was conceived there for the United States. It was put into the hands of Mr. Laurens, and taken by the British among his papers. It became the subject of a remonstrance from Great Britain, who required this Government to disavow the proceeding and punish the authors; and a war between Great Britain and Holland was the consequence of this transaction. To be sure, this country had no cause to repent of this effect at the time, as we were glad of an alliance with Holland; but it shows the danger of such conduct, and the heinous light in which it is viewed in Europe.

The gentleman has proceeded to state that the histories of all countries are replete with instances in which domestic treachery has combined with foreign violence; but, said Mr. O., never before our times was this treachery gravely advocated and justified in a legislative council, and, consequently, was never so dangerous. This humiliation has been reserved for our own country, and constitutes a material difference between our situation and that of any other country.

Did the gentleman from New York mean to excite a smile in the House, or to put gentlemen in good humor, when he cited the ridiculous cases of high treason in Henry the Eighth's time, of boiled cows and roasted heretics? If this was the object of the gentleman, it seemed to have failed; for he must own it excited no merriment in his mind, nor did he perceive that it had the effect on any other gentleman. If he might make use of a pun on the occasion, he thought any gentleman deserved to be "roasted" for introducing so absurd a comparison. It was about as much in point as the comparison of the gentleman from Pennsylvania, when he likened the petition of an individual to a foreign Government for peace, to petitions presented to Congress by the citizens of the United States. He must own he was surprised to hear sentiments from any quarter which place the Executive Directory on a footing with our own Government.

The gentleman goes on, and, with most devout ejaculation, thanks God that the Constitution has fixed an effectual barrier with respect to the crime of treason. Did he not know the character and patriotism of that gentleman, he should be inclined to think his fervor was produced by interested motives. As to the arguments (and he was willing to allow that something like argument was introduced at the close of his speech) made use of by the gentleman from New York, they had been repeated and refuted too often already, to require any further observations from him.

Mr. O. said, that having been called up, he would now say a word relative to a certain memorial which had been read by the gentleman from South Carolina, (Mr. Harper,) and to which it had been said he (Mr. O.) alluded in certain observations which he had made prior to that time. Mr. O. said he was perfectly willing to confess all he knew respecting that instrument. The fact was this: a memorial was brought from Paris, by a gentleman by no means inimical to the supposed author of it, and by him delivered to an individual of this country, as a copy of the identical paper presented by a certain gentleman then in Paris to the Directory. Mr. O. said he had only once given it a cursory perusal, but as it appeared to him to be the mere gloss and varnish of the real design of the mission, as the evidence of its being presented might not be equally satisfactory to others, and as the scope of his argument was intended to show the probable course which such a missionary would adopt, and the abuses to which a country might be exposed, it was quite as pertinent to the purpose of that argument, to suppose a case that might happen, as to reason upon a direct assertion of a fact not material. With respect to the fact of presenting the memorial, it was of no consequence, except as to the manner in which it had been introduced by the gentleman from Carolina, and the imputation of a contrivance to bring public odium upon an individual. But such an imputation vanishes when the friends of the person alluded to are loud in their praises of the contents of the memorial, and when it appears, from that gentleman's own confession, that he saw the memorial and did not disapprove of it.

Further, said Mr. O., it seems very strange that Mr. Codman, or any other gentleman, should draught this memorial without the consent or authority of the gentleman who was to present it. This is scarcely a supposable case, though certain reasons, not explained, might operate with him against presenting it after it was written. He left gentlemen, however, to take their choice either to say he did or did not present the memorial. In the one case he had done an act which the friends of this bill considered highly improper, and in the other case he refused to do an act which his friends considered as meritorious, and we then knew not what line of conduct he pursued; "shadows, clouds, and darkness, rest upon it."

When, however, said Mr. O., this memorial is compared with the letter which this same gentleman has published in the papers, giving an account of the object of his voyage to France, there will be found a striking resemblance between them. Mr. O. proceeded to read several passages from each, and to compare them together in order to show that both papers contained the same sentiments. The outside dress of the memorial, he allowed, had a little more tinsel and show than the letter; it is more *a la mode de Paris*, but the difference is owing to the different qualities of the atmosphere in Paris and the Northern Liberties. At Paris, a man imperceptibly adopts the style and language of democracy, whatever may have been his habits before he goes thither. The grave philosophical republican assumes the garb of the petit maitre; "the Quaker sly, the Presbyterian sour," is transformed into "a smart free-thinker, all things in an hour." But, if any difference exists between the letter and the memorial, it is not, said Mr. O., in favor of the former. In the letter, the writer observes that his visits to Citizen Mer-

lin were those of a private friend in his own family. Who, said he, is Citizen Merlin? By recurring to the former despatches, it will be found he was suspected of being concerned in the privateers employed in plundering our commerce, and had written a treatise to justify these piracies. Yet this was the gentleman's private friend, with whom he dined and supped, and was upon the most intimate footing. After publishing this fact himself, it surprised him that either he or his friends should take pains to prove that he did not write or present the memorial in question; an act, in his opinion, of a more innocent and much less suspicious nature than the private visits mentioned in the letter, extracts from which he had read.

Mr. O. referred to another passage in the letter, wherein it is said the writer "had an interview with influential characters." Why this vague and mysterious mode of expression? Why could not the gentleman have said that this interview was with three members of the Directory? That he had such interviews is a fact well known. Mr. O. also referred to that passage of the letter which states that the writer was desirous of being the bearer of the information to his country of the passing of a certain arrêt, from the belief that it would be agreeable information to his countrymen, and an evidence of the friendship of the Directory. What, said Mr. O., was this act of the French Government, which seems to have made so deep an impression upon this gentleman's mind? The raising of an embargo, which they had no right to impose, and the liberation of our seamen whom they had wrongfully confined. This, said Mr. O., is a species of friendship much upon the same footing with that of a highwayman, who, having robbed a man of his watch and money, afterwards restores the watch. He should not be easily tempted to hold any intercourse with such a man, or to consider him as a friend.

With respect to the gentleman at Paris, with whom it had been said he corresponded, he has always felt and manifested a due attachment to his country. He has, said Mr. O., been one of those few Americans in Paris who have dissented from the acts and intrigues of a junto of his countrymen there, who have shown themselves on all occasions friendly to the views of the French, and whose conduct has been a source of infinite mischief to the United States. If this gentleman had been concerned at all in this business, he must attribute it to that kind of influenza from which it seems almost impossible for any person who visits Paris to escape. If he did write the memorial, he must have done it with a view of presenting the gentleman's own sentiments, expressed in such a manner as would be likely to meet his approbation, and from an apprehension that if the gentleman had been left to himself, he would have presented something worse. He acknowledged that it was not right that his friend should have interfered at all in the transaction, and he must be allowed to express his doubts whether he had done so or not; but, if he was the draughtsman, he imitated the example of men in high stations, with whom it is no uncommon thing to dress up memorials which do not contain their own sentiments. It was well known that the late Secretary of State had drawn memorials to the French and British Ministers, containing opinions which no one ever believed he possessed.

Mr. O. concluded by observing that the existence of the memorial proved what he had originally asserted, that an artful and specious garb might be assumed for hidden purposes, and all the inferences which he at first made, were not less applicable, admitting the memorial was never presented, as upon the contrary supposition.

Mr. DENNIS said he should not undertake to follow the gentleman from New York (Mr. LIVINGSTON) through his retrospect of the reign of Henry VIII., nor inquire with what propriety he had attempted to assimilate the mild penal code of the United States to the sanguinary punishments of that monarch; nor would he follow him in his petty objections to the petty details of the bill; for he had long since perceived that the object of some gentlemen, from the recent arguments on this subject, was, first to create a conviction in the public mind that they were desirous to do something in this business, but what it is, neither themselves nor any other person can divine; and, secondly, to seduce the attention of the House from the subject, while they were endeavoring to bewilder their understanding in a mist of amendments. To bring back the attention of the House from these devious paths, into which gentlemen had endeavored to seduce it, was the object which he had in view.

The gentleman from New York (Mr. LIVINGSTON) had stated that the policy of this bill had been supported upon the two following grounds, viz: of its analogy to a recent transaction, and, secondly, of the peculiar characteristic policy by which the Government of France has been distinguished. He should not take time to inquire what peculiar relationship the bill had to that transaction; but he was disposed to think that had not the late daring invasion of the Executive functions been attempted, we should not have thought of the necessity of legislating on the subject. But the second part of his argument with respect to the necessity of counteracting the policy of France, deserved more consideration. Out of this policy the bill had grown. Whatever difference of opinion may heretofore have existed, with respect to the views of France, all seemed now to agree that her ultimate object is universal dominion. This they have attempted at different times by different means. Formerly they made war as enemies, and attacked their foes in the open plain. They now make war as friends and allies, and endeavor to subjugate nations through themselves, by exciting divisions and sowing the seeds of discontent. They formerly fought no less for military fame than political domination; but, in no recent instance have they declared war, and always attack by wiles and stratagems. It has been remarked that it is not France making war upon and conquering the world, but a great sectary which has risen up in France, and which, having subverted all the principles of social order, has ruined their

own country. This sectary is composed of atheistical philosophers, fanatical politicians, political metaphysicians, and blood-thirsty jacobins. These form in Paris a mother club, a common stock, which shoots its ramifications into every country of the world. The subaltern sectaries or affiliations are all actuated by one common principle; and, in order to enable the mother club so to play her cards as to support her subordinate affiliations, it is necessary to keep up a constant correspondence, and by keeping it up, are the liberties of nations subverted and destroyed; and by cutting off all communication between the Executive Directory and the friends of liberty, upon whom they so much calculate, shall we mar and counteract their projects.

This is a new and peculiar system of policy from which, more than any other source, is danger to be apprehended. Why, then, does the gentleman from New York, (Mr. LIVINGSTON,) the gentleman from Pennsylvania (Mr. GALLATIN) and the gentleman from Georgia, (Mr. BALDWIN,) all of them complain, that this bill embraces a principle unknown to the codes of nations? It would seem to be a sufficient answer to say, that no nation since the Romans have sought for universal dominion, in the name of friends and allies. But, is it for these gentlemen now to be told, that the means of defence must always be adjusted to the means of attack, and that before a nation undertakes a system of defence, she must first ascertain her enemy's means and system of annoyance? It is in this the great art of defence consists, and when you shall have explored the resources of your enemy, and discovered the point at which you are to be attacked, you are half secure.

Frequently, said Mr. D., have gentlemen been told of the means by which the liberties of some of the fairest portions of Europe have been destroyed, and by which they have been involved in one common mass of plunder and destruction. But it is in vain that we warn gentlemen to learn wisdom from the misfortunes of others; it is in vain that bounteous nature has interposed an extensive ocean between the wild and ambitious projects of that nation and our happy country, if, when we have seen the gathering of the storm, and its fury bursting upon and destroying others, we are determined to take no means to avert it from ourselves. When we have remonstrated on these subjects, the uniform and only answer we have received has been that the Governments which have been subverted were ancient tyrannies, that they oppressed their people; and that the French were right to aid their people to break the shackles by which they were confined, and that it was advancing the rights of man. This is the only answer we have received, and we daily hear prayers set up for the success of the French in the invasion of Ireland, in order that this benevolent and disinterested nation may rescue the friends of liberty from the yoke of British dominion, and restore them to liberty and equality. And who are these friends of liberty? From late accounts, said Mr. D., I should call them an organized banditti, robbers, and assassins, who, like beasts of prey when all creation is at rest, make from their fastnesses nocturnal excursions, and plunder and destroy all who are opposed to their nefarious projects.

Thus it is, we see gentlemen recognise the right of foreign interference, and only qualify it by the nature and motive for such interference. If a nation, according to the ideas of some gentlemen, is groaning under an aristocratic, monarchic, or oligarchic Government, it is a good thing, and for the interest and happiness of the world, that France should interpose to put them to rights. Thus, too, we see, such is the benevolence, the philanthropy of this nation, manifested in these cases, that the limits of Europe are too narrow for the exercise thereof, and she has penetrated into the barbarous regions of Egypt and Arabia, to relieve the friends of liberty from the yoke of the Beys and Mamelukes. And who knows but it may be thought a good thing, that these benevolent people should visit the shores of America, to rescue the friends of liberty, the Republicans, from the vassalage of the Beys and Mamelukes of the United States? That it may be desirable they may come here to check the progress of British influence, the rapid strides of the Federal Government to a consolidation of all the State sovereignties, as has been said was our object, into one limited or absolute monarchy; for preventing the British party from keeping up a system of alarm; in order to induce the people to believe standing armies are blessings; that the gag-law is a blessing, (for so has the gentleman from Pennsylvania, Mr. GALLATIN, said;) in order to chastise the American Legislature and the President, for daring to make a law by which they have declared to European convicts, to foreign renegadoes, that the territory of the United States belongs to the citizens thereof, and not to them? For some or all of these things, it perhaps might be desirable that these great and disinterested people might visit us.

True it is, the gentleman from Pennsylvania has said that, although he and his political friends are extremely desirous to change our system of administration, yet that nobody (he is surprised we should think otherwise) has any design or wish to change it in any other way than through the medium of elections. But is there anybody upon this floor ready to subscribe to this declaration of that gentleman? Has that gentleman seen a number of addresses to the Executives of different States, and some to the President, in which the addressers declare that they have arms in their hands, and are ready to yield their lives and fortunes to check domestic usurpation? Has he seen certain resolutions in which every important measure of this Government is denounced, and in which it is resolved that certain acts of the Government shall be openly resisted, if attempted to be executed? Has he seen a writer, under the signature of "Curtius," with whose appearance gentlemen appear to be highly pleased, and whom they have dignified with the appellation of "Junius;" and has he seen this writer telling the people of Virginia that the Ex-

ecutive Directory of France is not their greatest enemy; that the Government of the United States is a greater enemy; that they are in the last stage of political oppression; and that the just vengeance of an insulted people is as terrible as the wrath of Heaven? And has the gentleman from Pennsylvania heard the gentleman from New York (Mr. LIVINGSTON) at the last session most fervently praying that the people and States might rise up in open rebellion against the alien bill; has he heard and seen all these things and many more of a similar complexion; and will he still declare, that no person wishes to change our Administration but by elections? Mr. D. said, this was not his opinion, on the contrary, he believed the maxim with many was, that the Administration must be changed, and that if it could not be done through the ordinary channels, it must be done otherwise; but, at all events, it must be done. But, admitting that the object of all the clamor and falsehoods disseminated through the Union, to be for changing the Administration by election, and that this is exclusively the object for attaining which, gentlemen upon this floor had talked so much about Executive patronage, &c., have we any security that the opposition which may be excited will be confined to this object? When they shall have alienated the minds of the people from the Government; when they shall sow the seeds of division and excite discontents, can they control them and direct them at their will? Can they put this vast machine in motion, and stop it with a touch of the finger? Can they raise a factious temper to obtain a particular end, and secure us against a perversion of it to other uses? No. I find no security against it, either from the examples of other nations, or from these gentlemen's intentions, however good they may possibly be. The patriots of Berne at first complained only of some grievances in their existing Constitution; but the Government offered to call a Convention, and took measures to do it, to alter the Government, and to remove all well-founded complaints. It was indignantly rejected by those who were determined on nothing less than the subversion of their system, by the introduction of a foreign force. That force was introduced and the Government subverted. At Geneva, the opposition and clamor against the Government commenced with a handful of aliens and the descendants of aliens, and their only complaint was, that they were excluded from a seat in the Assembly of the people. But the citizens of Geneva offered to give them this right, and they scornfully rejected as a favor, that which they said belonged to them as a right. They were satisfied with nothing short of an entire revolution, and a system of pillage and plunder. Many well-disposed persons were seduced into the clamor they raised against the existing state of things, who were afterward very desirous to suppress it, but who fell victims to the very storm which they helped to raise. Thus we see, however virtuous may be some gentlemen's motives, when sedition once breaks loose, and a spirit of revolution gets afloat, it is not in the power of human foresight to calculate the event. And, in my opinion, to excite these discontents is to favor the policy of France and her designs upon us. Gentlemen complain, said Mr. B., of ungenerous suspicions, and that one object of this bill is to excite and keep up suspicions against them, and their party. I can give these gentlemen a recipe against suspicions. If these gentlemen will cordially cooperate in all those measures necessary to defend us against the arms and the secret machinations of France, they will cease to be suspected. And until then they will continue, I will not say with what propriety, to be suspected. But while they complain of these ungenerous suspicions, we are charged with keeping up a system of alarm to cheat the people out of their rights, to raise standing armies, to restrain the freedom of speech and of the press; to do away the trial by jury; to prostrate all the barriers which separate freedom from the dominion of despotism, by consolidating Legislative, Executive, and Judicial power. If we have kept up a system of alarm for the accomplishment of these purposes, it seems as if these gentlemen ought to be the last to complain of it. Have not these gentlemen, from the beginning of the Government to this moment, kept up a constant alarm; have they not continually warned the people against the danger of funding systems, banks, the excise, Executive patronage, &c.; have they not, by all possible expedients, endeavored to operate upon the apprehensions of the people? It is with a bad grace that these gentlemen now complain of this system of alarm.

But is there is no ground for alarm? There is no ground for fear; neither am I affrighted, but it becomes us to look around us, to survey the ground upon which we stand, and guard every avenue to the approaches of our enemies. When I see the cool and philosophic composure with which some gentlemen behold, and have for a long time beheld, the insolent aggressions of a foreign Power; when I have seen, for years past, our commerce plundered and citizens imprisoned, thumb-screwed, and starved, and compelled to enter on board of foreign privateers, to plunder their own countrymen; our vessels embargoed, and the property of our citizens taken in the ports of France, by order of the Government, and the indignities offered to our Ministers; when I have seen these things, and that they have not disturbed the equanimity of some gentlemen, who are all alive to the supposed aggressions of our Government; when I see those who are crying out peace, peace, with regard to France, taking every means to stimulate discontents, already bordering on open insurrection; there is to me some ground for alarm.

Again, those gentlemen who have heretofore preached day after day about the mischievous effect of foreign influence; who were for restraining the Executive from exercising his Constitutional powers, in sending Ministers abroad, lest these Ministers should be entrapped by the diplomatic talents of corrupt politicians; these gentlemen are now for giving the utmost latitude to the exercise of this power to every officious individual. This is to me a ground of alarm; because

it seems as if it were some gentlemen's maxim, that power is best trusted where there is no responsibility; whereas to me it appears that power without responsibility is the essence of tyranny. But the gentleman from Pennsylvania (Mr. GALLATIN) has informed us, that the people of the United States are too contented and happy, in the enjoyment of peace and liberty, to be excited to disorder and insurrection. I believe they are difficult to be excited to rebellion, but our past experience warns us it is not impossible. How was the Western insurrection excited? Was the excise the ostensible ground of that insurrection? Is that law repealed? Were they more taxed, or any more oppressed, than at present, and was it possible then, and why is it impossible now, to raise insurrections? But does it comport with the usual doctrines of these gentlemen to say the people are free from oppression, contented, and happy, who have so often told us of the tyranny of our Government, who have so frequently declared that we have been imitating the British Government in her system of terror and of punishment? No, sir, we cannot permit it to these gentlemen to say, for one purpose the people are free and happy, and for another, they are despised, degraded, and oppressed. They may say which they please, but they cannot be permitted to say both.

After all, what are the particular objections to the bill? One gentleman says it will check the ardor of individual enterprise; some say it is indefinite, and that there is no notice to those upon some of whom it may operate; but the great argument seems to be that, although the power of conducting our exterior relations is vested in the President, yet each individual has reserved a right to himself of intermeddling in those concerns, for the purpose of keeping peace, and it would be wrong to pass this bill, because it prevents certain pacific persons from indulging their favorite disposition of making peace. This can only be asserted upon the principle, that our Government has neglected something which may be done by an individual, and which was essential to peace. Are the gentlemen prepared to show this, and that there is now a prospect of peace, but that the Government refuses to embrace the opportunity? Have they any new project which they wish to be attempted, but which the Government refuses to accept? Are they prepared with another project for sending over to France another ship load of Envoys to be insulted and scornfully rejected? I cannot believe they are, and I cannot see for what purpose it is that this right of negotiation is to be retained to individuals. Is it supposed that an individual may influence that Government by addressing their justice? Already it has been addressed and ably addressed, and they have told us that justice, like religion, was out of fashion in France. They only inquired what was their power, and not what was justice. Is it that some individual may paint the enormity of their depredations? I thought my colleague (Mr. S. SMITH) intimated something like this. But the greater part of our grievances originated in their own decrees, embargoes, &c.; and I have seen a communication from the Commissioners at St. Domingo, in 1796, in which is fully stated the depredations of her agents and their privateers; and our Commissioners most eloquently disclosed to them, that similar instances of piratical outrages to those committed on our defenceless merchantmen, are unparalleled in the annals of nations. Is it for the purpose of addressing their interests? Already has it been demonstrated that all those violations of neutral rights which they have committed, to injure their enemy, is now bringing ruin upon themselves. But this bill is complained of as operating hardly on those individuals who may find it necessary to apply for a restoration of captured property, releases of seamen, &c. It appeared, however, to him, that this objection was done away by the proviso of the gentleman from Massachusetts. If it was not, he was glad of it, for, all commercial intercourse being suspended, he could see no necessity for these indivtdual applications. If a vessel were captured, or seamen imprisoned, it would be a general thing, and there was no reason upon which to expect a relaxation in any particular case, except it be upon the principle of favoritism. I believe, said Mr. D., if a man were to apply who was a good democrat, and who had certificates to show from the friends of liberty in America, that he had been uniformly attached to the French Government, accompanied and justified it in all its measures relative to his own country, whilst he criminated his own Government in everything respecting them; if he could show that he had one hundred times cursed the British Treaty, and voted for resolutions to condemn before he had read it; and if he would promise to become in future, a faithful servant to her interests, he might then get his property restored, and his seamen released. But when the question is between these persons and the public safety, he did not hesitate a moment how to decide. He, therefore, would not only prevent political correspondence, but all correspondence, in the present state of things, and this was the only way to cut off criminal correspondence. Mr. D. said, he would do more, he would recall our citizens from France, under penalty of disfranchisement, and prohibit our citizens from going to France.

[The SPEAKER said, Mr. D. could not be permitted to disclose anything which he wished to be done beyond what was in the bill.]

Mr. D. said, he had arrived at the close of his observations, and he would only add, that he believed there were many persons in the country who would join in any system of foreign or domestic combination, to subvert the Government; that, although this bill did not fully meet his ideas, as far as it went it would produce good, and narrow the present latitude of unofficial correspondence with a Government from which we had much to fear, and, therefore, he was in favor of its passage.

Mr. T. CLAIBORNE said, he was not in the House when the resolution on which this bill was founded, first made its appearance; but soon after

his arrival, the bill was reported. Not knowing what had given rise to the bill, he felt inclined to vote for it, being desirous of preventing any usurpation of Executive power, after it should have undergone certain amendments. He had attended to the arguments for and against it, without suspecting any thorn under the rose; for he was not accustomed to suspect gentlemen of improper motives; nor did he suspect anything wrong in this business, until he saw a certain memorial introduced and mangled by the gentleman from South Carolina; he then clearly perceived that the object of gentlemen was to depress the public spirit in this country, which they call a French or a jacobin spirit. What! exclaimed Mr. C., has the period arrived when it is criminal to be a republican? He trusted no American was yet ashamed of being considered a republican. It is cruel thus to treat Virginians, who pride themselves in being republicans. He believed this to be a law for the punishment of republicans, by leaving so wide a discretion in the courts. The gentleman from Maryland had chosen to brand the Virginians, through the sides of *Curtius*, (a youth of twenty years of age,) with being enemies to the Federal Government, and as being ready to upset it. Mr. C. said, he belonged to no party; indeed, the gentlemen with whom he generally voted did not act upon any system, as it appeared other gentlemen did; for he recollected, on a late occasion, when a gentleman, who usually voted with them, expressed his intention of voting differently, the gentleman from Massachusetts (Mr. Otis) did all but weep over the member who thus fell out of the ranks. He should be sorry to find the business of the House so conducted as to leave the votes upon all important questions ascertained before a measure was proposed; he wished, himself, and he hoped every other gentleman would wish, to be perfectly independent in his movements.

Mr. Harper did not rise with a view of entering into a discussion of this subject, nor of repeating arguments which had been used for seven days together. But he deemed himself called upon to make an explanation on a matter in which he was personally interested.

It had been said, that the paper which he had introduced as a part of his observations upon this subject, was not delivered or written by the gentleman to whom he had alluded. He knew not whether these two facts are true, or not. The gentleman has denied having either written or presented the memorial, and he is entitled to the full credit which such a denial will give him. Those who shall read this paper, and compare it with this gentleman's letter, will determine for themselves on this point.*

With respect to the manner, said Mr. H., in which this memorial came to my hands, I will state it. A gentleman of this country, who happened to be in Paris at the same time with the person who is supposed to have presented the paper, brought it to America, and delivered it to a gentleman here "as the memorial delivered by that person to the French Government." The gentleman who thus received it, enclosed it to an acquaintance of Mr. H.'s in this town, who gave it to him, together with an extract of the letter wherein it was enclosed. This extract he read in the following words: "Yesterday Mr. ——— came up, and presented me with the enclosed memorial, which, he says, was presented by Dr. Logan to the French Minister, and was procured for him by Mr. Richard Codman."

Whether this memorial was delivered by Mr. Codman or Dr. Logan, he left the public to judge; he was himself convinced, from the thing itself, that it was the genuine production of the latter; if not, it evidently spoke his sentiments. He knew he had repeated the same sentiments to various persons in this city. But it was a matter of no consequence whether the memorial was delivered or not, as it served to show how the most mischievous designs might be covered under a plausible garb. He was, therefore, justified in the introduction of it. He did not state, at the time, that it was the production of the Missionary, but he then, and now, believed it to be so. Mr. H. concluded by some remarks upon the principle of the bill.

Mr. Allen thought it time that this debate was brought to a close. He believed this was the eighth day which it had occupied. If this course was to be pursued, it would be possible for two or three members to prevent any of the important business of the session being accomplished. He thought, by thus acting, they were serving their constituents unfaithfully, and if they continued thus to act, the people in the gallery ought to drive them from their seats. Day after day the same persons rise in the debate, and frequently so late as to prevent any answer being given to their observations. It was sufficiently evident, from

**For the American Daily Advertiser.*

Robert G. Harper, on Thursday last, brought forward and read in Congress, a memorial which he insinuated had been presented by me to the Minister of the Exterior Relations in Paris.

Out of respect to the honorable situation in which Mr. Harper has been placed by his country, I think it proper to observe, that neither the memorial in question nor any other writing was ever presented by me to Citizen Talleyrand. The paper read in Congress was draughted by a respectable citizen of Boston, residing in Paris, the friend and correspondent of Mr. Otis. Some of the sentiments which it contains were taken from a letter which that person had just received from his brother, and which he had a few days before communicated to Citizen Talleyrand. It was judged of importance that these, united with other opinions calculated to promote peace, should be supported by a citizen of the United States immediately from his country. On this account the memorial was handed to me for the purpose of communicating it to the Minister. I declined this service, as having too much the appearance of an official act. I returned it to Mr. Codman without even taking a copy of it, or making any use of it whatever.

GEORGE LOGAN.

Philadelphia, *January* 14, 1799.

the votes which had been taken, that there is a large majority of the House in favor of this bill. He hoped, therefore, the question might be taken. The lengthy debates on this subject were not meant to have effect in this House, but out of doors, and to prevent the important business of the session from being done. The session was half gone, and no one law had been passed. He hoped his friends would forbear to lengthen the debate, as it would only be casting "pearls before swine."

Mr. McDowell was well aware that the House was generally desirous of the question. He would not however occupy many minutes in stating his reasons for voting against this bill. The leading object of it is stated to be to prevent the interference of individuals in our foreign relations. In support of this bill, he expected, therefore, that it would have been shown, that some individuals had already usurped this authority. No such thing had been shown. Is the situation of this country at present more alarming than it has been at any former period, or more so than that of any other country? He believed not, and yet no law of this kind was ever passed before. Is it not surprising, though gentlemen have such faithful correspondents in France, who communicate to them all that passes there, that they should not have been able to ascertain the fact that the memorial which had been introduced to the House, as presented to the French Minister, was really presented? They could not do this, because it never was presented; but gentlemen are continually aiming at something or other to alarm the public mind, and to induce members in this House to vote for measures, under the impression of fictitious alarms, rather than of sober reason. They wished it to appear that Dr. Logan was the missionary of a party in this country, and to establish this fact, they seem to be willing to go all lengths. Falsehood would, however, always recoil upon its author. For his part, he saw no offence which had been committed by Dr. Logan; but the contrary; and he could never consent to punish a man for endeavoring to promote his country's good, though he should be glad to punish all who endeavored to injure it, by involving the country in war. He had always thought the intention with which an act was done, constituted its crime or innocence. Mr. McD. condemned the latitude allowed to the courts; and, after a few other observations, concluded by saying that the gentleman from Maryland, instead of being angry with the gentleman from New York, for opposing this bill, ought to have thanked him, since it afforded him an opportunity of making his speech about his *mother club*.

Mr. Gallatin observed, that a number of ludicrous circumstances had attended this discussion. Poetical quotations had been produced *pro* and *con*. The gentleman from Massachusetts (Mr. Otis) had pretended to possess the gift of prophecy, by saying that if even a memorial should have been presented by the gentleman lately in France, it would doubtless contain certain sentiments; and it now appears, from his own confession, that it was only the gift of aftersight, for he had actually seen the memorial which was to be laid before this House as the production of Dr. Logan. The gentleman from South Carolina had told the House, that it was by pursuing some of his threads of conspiracy that he had come in possession of that most important paper, and it now seems that his ingenuity and activity have only led him in the pursuit of a phantom; to-day, the House had been told by the gentleman from Maryland, (Mr. Dennis,) that this bill was brought in, in order to prevent the introduction of atheism, philosophy, politics, and metaphysics, which issue from the mother club in Paris; and the gentleman from Connecticut (Mr. Allen) tells us, that if we do not pass so many bills per day, that section of the *peuple souverain* who sit in the galleries ought to drive us from our seats.

Mr. G. said, he was at a loss to find any arguments in support of the bill, in what had fallen from the gentlemen from Massachusetts, South Carolina, or Maryland. So far as he could understand, they appeared to think the bill necessary only on account of the present situation of Europe, or on account of what they call Dr. Logan's mission.

The gentleman from Maryland had, indeed, taken a ground to himself, and told the House that there was a disposition in the people of this country to join an invading enemy; but did not seem to be supported in that honorable sentiment by many of his friends.

In relation to Europe it is said, that it is not by war, but by an interference in their internal Governments, that France attacks the countries which she wishes to subdue. In support of this, gentlemen refer to the decree passed in 1792, which he believed had since been repealed. On this account the gentleman spoke of the wild beasts of Ireland, of Holland, Swizerland, Italy, and the Mamelukes, confounding in a common mass every act of that Government, whether done in pursuit of an open war, or by a more insidious attack.

Mr. G. said, he was not disposed to apologize for the conduct of France in her treatment of foreign countries. If he were to consult his own feelings, he perhaps felt as much as to the fate of certain countries as any other gentleman possibly could; but, at the same time, he went rather farther back in his views of the subject, and recollected but too well the conduct of foreign Powers in relation to some of the countries alluded to, at a period far antecedent to any revolutionary system. Yet it is said, that such conduct is the effect of a new system, a system which must be opposed by measures of an extraordinary nature. Mr. G. said he cared less about the bill than about the principle; but, when he saw bills grounded on principles which are inadmissible in this country, and under pretence of repelling new revolutionary principles, he began to feel a different kind of alarm from that felt by the friends of this bill.

Last year, the House was told that the alien and sedition laws were necessary for our defence. They were passed; now, said Mr. G., we are asked to go a step farther; we are called to legislate on

a subject, in order to catch the public opinion, on which no nation ever before legislated, in order to prevent the effects, as is said, of the *mother club*, and its disciples and emissaries.

If, said Mr. G., we are to legislate on such arguments as these, what is the kind of measure we may not be called upon to adopt? Under color of preventing innovations, we may, said he, go on to undermine the principles of our common law, of our Government, and Constitution. Let gentlemen who do not wish to excite the alarm which these measures are calculated to produce, stop here; or at least, before they propose such measures, prove the facts which they say exist on the other side of the water.

In relation to Europe, he would state that as to the conduct of France, there was nothing new in it. The practice spoken of did not originate with them. The endeavor of the combined Powers of Europe to introduce a new form of Government in France, was as much an interference for the destruction of national self-government, as any part of the conduct of France had been. Indeed, the conduct of those combined Powers towards France and Poland, gave rise to these arbitrary principles.

Gentlemen say that by the decree which France passed in 1792, it was their object to encourage insurrections under every Government. Mr. G. did not see why he ought to be more afraid of a nation who passed a decree to this effect, than of a nation who acted upon the principle without a decree. He saw no difference between a civil war supported by England in the Vendee, and a civil war supported by France in Ireland. He was far from justifying any of these interferences; but he believed Great Britain, as well as France, had endeavored to do as much mischief as she was able to do in this way. But he could draw no reason from this conduct, why Congress should pass a law of this kind.

With respect to the disposition of the people of this country, he would say but little. The gentleman from Maryland seems convinced that there are a great number of persons in this country ready to join an invading enemy. He was far from believing this; and he thought the gentleman ought to have had some better proof of it, before he made the declaration so roundly, than the resolution of a certain part of the country disapproving of two of the laws of the last session of Congress. If that gentleman could not distinguish the difference between resolutions of this kind, and a desire to join an invading army, for the purpose of overturning the Government, he must be ready for establishing, by law, the doctrine of passive obedience and non-resistance.

Mr. G. was not himself much alarmed that these revolutionary principles, which appear so greatly to frighten other gentlemen, would make much progress in this country; for even supposing, as gentlemen say, that missionaries have been sent here for this purpose, what has heretofore been their success? Let us examine our situation, said he, for several years back, and we shall be obliged to say, that so far from progressing in a revolutionary way, we have adopted the contrary course, and have never failed every year, and year after year, to concentrate some new power in the Executive. As to the other ground which gentlemen have taken, viz: the conduct of Dr. Logan whilst in France, he scarcely knew how to treat this part of the subject. He had supposed the gentleman concerned in this memorial would not again have brought it before the House. What have they done? Instead of explaining the manner in which they got the memorial, they still speak ambiguously. The gentleman from South Carolina says, an Eastern gentleman brought it from Paris, that he gave it to another gentleman who sent it to an acquaintance of his in this city, who gave it to him. Why this mystery? Why not say at once how it came? He would endeavor to assist gentlemen in this respect. Since the memorial was introduced he had learnt that the memorial was known, had been communicated by that acquaintance of the gentleman from South Carolina to a number of members of this House, who were of the same politics with the gentleman from South Carolina, and his acquaintance. Thus it was first shown to Mr. A, who would have nothing to do with it; then to Mr. B, who was not satisfied with the proofs of its being Dr. Logan's work; then to Mr. C, who would take time to consider of it; and so it went all round the alphabet, till it finally came into the hands of Messrs. X and Y, (OTIS and HARPER,) the unofficial agents on this floor of their acquaintance, our Minister of Foreign Relations. And they had done the business in so bungling a manner, that it was very likely he would now disavow them; since the gentleman from South Carolina did not dare to say that the Secretary of State had shown the paper privately to him, but made use of general and ambiguous expressions.

As to the memorial itself, he did not understand what gentlemen had said on the subject. This fact is certain, that it was put into their hands, and they did not know very well what to do with it. The gentleman from Massachusetts says, that either Dr. Logan did present the memorial, which was a bad one, or refused to present a memorial which, in the opinion of his friends, was a good one. What argument is there in this? He would reverse the gentleman's statement, and say, that either he refused to present a memorial which his enemies think bad, or did present a memorial which his friends think good. But both gentlemen say, there is a great similarity between this memorial and the letter which Dr. Logan has published. Mr. G. could readily believe this. Mr. Codman doubtless knew the Doctor's sentiments pretty generally, and he would insert such in his memorial as he would be likely to approve; but, because some of the sentiments are similar, he could not see how an argument could be drawn from thence that the memorial was presented.

The gentleman from Massachusetts stated the conduct of Dr. Logan as extremely mysterious; that he did not know what it was; yet he informed the House that his conversation with influential characters was with *three* members of the Directory. How did the gentleman get this fact? The public had been told by Dr. Logan that Mr. Codman is a correspondent of this gentleman. Perhaps he has got the information from him; but he ought not to say that the conduct of the Doctor is mysterious, when he seems to know so much more about it than anybody else.

The gentleman from South Carolina had taken a different ground; he believed, notwithstanding all that had been said to the contrary, that the memorial was written and presented by Dr. Logan. Mr. G. said he did not mean to dispute the belief of that gentleman; but he believed there would be no doubt in the public mind on the subject.

But the gentleman said, it was immaterial whether the memorial was presented or not. What! said Mr. G., can it be immaterial whether a paper which is produced to prove that a gentleman is the agent of a party in this country, was not written or presented by him, but written by a Federalist, the correspondent of the gentleman from Massachusetts?

Mr. G. said he could not help observing that this bill is so framed as to include, in future, a case like Dr. Logan's, but not Mr. Codman's, as he is not a person residing within the United States.

Mr. G. wished to notice an observation of the gentleman from Massachusetts, who said, that the principle guarded against by this bill is of so dangerous a nature, that it had formerly produced a war between Great Britain and Holland. He would remind that gentleman that the cause of that war was not merely owing to the sketch of a treaty having been drawn there between individuals and this country, but to the refusal of Holland to disavow it, and to punish the authors of it, and particularly to the assumption of Great Britain that we were rebels, with whom no nation could treat. But every gentleman must remember what took place at that time in relation to that country. If it be a crime in an individual to do an act of this kind, it is certainly equally criminal in a Government to correspond with the individual.

If this principle be right, let us recur, said he, to what we did with respect to Holland. Did not our Government treat, and draw a sketch of a treaty, with private individuals. A law passed two years ago (for the relief of De Neufville) which brought all these things before us. Do we not know, said Mr G., in what high station, now, is one of the characters who were involved on our part in that negotiation with individuals in Holland? Mr. G. said, he had also stated the other day, that our Envoys in France had treated with two individuals whom they did not know to be authorized by the French Government, and one of whom declared he was not.

Mr. G. concluded by referring to the bill before the House for further suspending the commercial intercourse with France, which, he said, contained a provision authorizing the President of the United States to treat with rebels. And he wished gentlemen would attend to their own conduct before they attempted to criminate and punish that of others.

Mr. BAYARD said, it was with reluctance he rose to detain the House at so late an hour; but, to be silent, would be to give success to a practice studiously observed by the gentleman from Pennsylvania, of speaking till the hour of adjournment, in order to preclude a reply, or, in case of a reply, that it should meet the impatience and inattention of the House. This practice, like many of that gentleman, in his opinion, might be artful enough, but was without candor.

He could have no intention at that late hour of going into the merits of the general argument, but had some observations to make on a subject on which some gentlemen affected much triumph. The subject he alluded to was a certain state paper which had been introduced into the House, as the work of our late spurious Envoy to the French Republic. We are told, said Mr. B., that this paper was not drawn by the Envoy, nor presented by him, but, that it is the work of a certain Mr. Codman. And some gentlemen seem to think that the principles of the paper are such as their party need not be ashamed of. The story fabricated about Mr. Codman, he said, was a very pretty one for the amusement of those who were disposed to believe it. He had no doubt it would meet the faith of many, for there were certainly many whose credulity relished a strange fabrication better than the plain truth. They tell us the paper was written by Mr. Codman, and handed to the Envoy; but he, alleging that he had no public character, and that he went to Europe for nothing, declined presenting it. Proof had been required, he said, that the paper was the work of the Envoy, and, in his turn, he would ask what evidence there was of the truth of this story about Mr. Codman? One thing, said Mr. B., is certain, the paper has an existence; the only question is as to its parentage.

He would undertake to show that it was the natural offspring of the spurious Envoy. His proof was derived from circumstances connected with evidence of the same nature with that on which rested the belief of our holy religion; he meant the internal evidence of the work itself. He would beg gentlemen first to consider the time when the Envoy left the United States, and the suspicions under which he departed; they would also remember that he had been represented as a man of wealth, living in ease, amid every domestic comfort. He was engaged in no mercantile pursuit; he was not travelling for health, and yet we find him suddenly embarking for Europe, proceeding with great haste to Paris, exposed to many perils; and could all these things be considered, and yet could it be affirmed that the whole was without an object? Indeed, it was scarcely denied that the object was of a political nature. The paper in question, then, corresponded with the project of the Envoy in going to Paris. He did not mean to contend that the paper was actually composed by the Envoy, not that he supposed a want of will, but of ability, for the task. For anything he knew, the paper might—he would not say that it saw the light, but might have been nursed in the darkness of this country. All that he should insist on was, that the paper was presented to the French Government by the Envoy, and thereby made his act.

Gentleman say it was presented by Mr. Codman. [Mr. GALLATIN denied that he or any other

gentleman, to his knowledge, had said the memorial was presented by Mr. Codman. He believed that it had not been presented at all. As to evidence, he had none, except the word of Dr. Logan himself.] Mr. B. said he should take it for granted, that the memorial was presented by somebody, for it was certainly not made for nothing. The only question was, who presented it? It is attributed to two persons, and our belief as to the person must be directed by the weight of evidence on the subject. He believed the proof that it was presented by the Envoy was irresistible. It corresponded with and accounted for every circumstance of his mysterious voyage. He begged that it would be remembered, that gentlemen on the other side had not only admitted, but repeatedly declared, that Mr. Codman was a Federalist; that it was pretty generally known that the Envoy was a Jacobin; and he should take the liberty, by examining the paper itself, to inquire by which of these characters it was most likely to have been made use of. It will be found, said Mr. B., that this memorial contains the most abominable falsehoods, and the most atrocious calumnies on the Government of the United States. And this fact should be enough to satisfy us at once that as it could not be the work of a Federalist, it was likely to be the fruit of Jacobin principles.

The writer sets out by avowing himself a firm friend to the principles of the French Revolution. Let us examine those principles to see whether they are those of a Federalist. A leading principle, said Mr. B., of the Revolution, was the annihilation of all religion. We had seen the altars of our Saviour thrown down, and heathenish temples erected on their ruins: the clergy of France had been universally obliged to renounce their creed, or to suffer proscription or death. The very calendar had been changed, in order to obliterate the era, and to confound the times of Christian worship. It was evident, he said, that this principle of the Revolution embraced the project of erasing every trace of Christianity; and such a principle, he said, he could believe to be the principle of a Jacobin, but never of a Federalist.

Another principle of the French Revolution had been the exercise of a military despotism by the Government—a despotism more violent and atrocious in its excesses than even the despotism of the most mad and brutal of Roman Emperors—a despotism which has shed oceans of blood and which racked invention in order to multiply its victims in a given time, which, not satisfied with the devouring guillotine, introduced noyades and fusellades, which plunged hundreds and thousands into eternity at once—a despotism which has desolated one of the finest countries in Europe, and now binds its inhabitants in the iron shackles of the most arbitrary tyranny. The establishment of such a Jacobinic power was not among the principles of a Federalist. Another principle of the French Revolution was the proscription of every man of wealth, for the purpose of seizing his property. It was not that the ancient nobility were formidable to the mass of the nation, and therefore were exiled or murdered; but their possessions were inviting, and their death or banishment was the shortest title to their property. To the same cause may be attributed the dreadful immolations of the clergy. The end justified the means. Money was necessary, and it was not less useful, because it was moistened by the tears of widows, or by the blood of priests.

Another principle of this Revolution was the abolition of the liberty of the press. There is not a press in France exempt from the immediate control of the Directory; there is not a printer who dares to publish what may give umbrage to the Government. If offence by accident was given, it was not punished under the mild provision of a sedition bill, where a jury was to try, and truth or innocence of intention was a justification, but the summary process was begun and ended by a file of soldiers, who seized the body of the delinquent, and put seals upon his press. He should not say that the Jacobins of France and the United States resembled in this point. The Jacobins here are attached, not only to the liberty, but the licentiousness of the press; and they indulge themselves in the attachment. He did not mean to say they varied in principle from the Jacobins of France, but circumstances were different. In France they are in power, here they are not. But "let the true American character blaze forth at the elections"—the event so devoutly prayed for in the memorial—and he would undertake to say the conflagration would soon not leave one free press in the United States. "The true American character!" He would recur to the expression to mark the abuse of it. He conceived the true American character now blazing forth; and hoped it never would be eclipsed by the French character blazing forth in the United States.

Another principle of the French Revolution is foreign conquest. At no era had any Government betrayed a plainer intention of establishing an universal empire. The ambition of the Directory exceeds that of the Monarchy, and the means of extending their power were more profligate and unprincipled. The sovereignty of no State in Europe had been respected. The form of their Government was indifferent. Republics were, equally with Monarchies, the prey of their devouring ambition. Whatever was contemptible in intrigue, whatever was detestable in hypocrisy, whatever was vile in the basest deceit, were the means by which the French Government accomplished their ends. Where their designs were the blackest, their caresses were most profuse. With a Government at home the most arbitrary, they pretended to carry liberty into foreign countries. Liberty and equality were the magic sounds by which they had been enabled to conquer, plunder, and oppress, more nations than by the bayonet. The lower classes of society were cajoled by the most splendid promises, and were seldom suffered to awaken from their dream of greatness, till the manacles of themselves and fellow countrymen were completely rivetted.

Such, said Mr. B., are the principles of the French Revolution—the principles to which the writer of the paper in question avows himself the firm friend.

Sure he was, they were not the principles of a Federalist, and therefore he should conclude that Mr. Codman did not write the memorial, but that it was the work of a Jacobin.

Mr. B. then read that passage of the memorial which speaks of the blood of the present people of France having flowed in the same channel with that of the Americans. This, said he, is an absolute falsehood, and therefore could never have come from a Federalist. There is not a Frenchman now in France who ever spilt a drop of blood in this country. The generous Frenchmen who spilt their blood in our defence, and lived to return to their country, have all been murdered or exiled in the course of the Revolution. It was in the grave, and not in the Directorial Palace, that America was to look for her French friends.

He would appeal to the candor of gentlemen, and the enlightened sense of the country, for the truth of his remark. He would ask the question plainly, To whom was this country indebted for the services which France rendered us in the late war? And he would undertake to answer it as plainly: It was to the King, and next to him to the Queen, of France. The King had then the entire power of the nation in his hands. The people might have been kind in their wishes, but wishes were all they could bestow. Had the King willed it, not a French soldier could have ever put his foot on our shore. The troops sent here were the King's soldiers—the money lent was the King's treasure. It was to the King we owed everything; and, while he was in power, it was to him we were disposed to attribute and pay everything.

He would ask by what magic it was that the gratitude due to the Monarch was transferred to his murderers? It was impossible to look over the face of France, and discover one public character which the principles of gratitude did not bind this country to detest. Gratitude was due to the person, and not to the office; and though the Directory had succeeded to the power of Louis, yet, sitting in the seat stained with the blood of the great friend of our country, they must be objects of our abhorrence, or else we must abandon all pretensions to gratitude. He was obliged to confess, with a sentiment of humiliation, that when the scaffold was reeking with the blood of our benefactor, the event excited in America more joy than horror. He could wish to find an excuse in the delirium of the moment; and now the nation had returned to its sober senses, he presumed its gratitude would be bestowed on its proper objects.

He was not afraid of advocating the truth on this subject, though he might again be called a Monarchist. Names were insignificant, and let a man be called what he might, he could never suffer in public opinion for supporting the truth.

Mr. B. next read the passage, in which the writer says he could neither impute the blame of the existing dispute to the one Government nor to the other. Would a Federalist say this? asked Mr. B. Since the commencement of the Revolution, have not the people of this country constantly evidenced a strong partiality in favor of the French cause? Has not the Government scrupulously rendered them every service which their duty imposed, or which neutrality permitted? Since the origin of the present dispute, has any step been neglected on our part which could lead to a reconciliation? Has not the Government suffered, in silence, till the bitter cup of wrongs and contumely was filled to the brim?—till the wounded spirit of the country was at length roused to resistance by the danger of annihilation?

Smarting with the sting of the many insults we have received, was not the Government willing still to postpone the just claims of our citizens for indemnity for injuries done them, and were not advances made under every form of respect, towards a settlement of differences, upon principles honorable and beneficial to France? And how were these advances treated? With a contempt proportioned to our former submission, and in a manner which could be borne only by a base and abject people. And, after all this, could any but a Jacobin say that he imputed blame to neither of the Governments? It was language which suited the mouth of the Envoy, but could not proceed from the lips of a Federalist.

Mr. B. next took notice of the expression "enemies of France and America." It was manifest, he said, that this was applied to the Government of the United States; because, in another part of the memorial, where England alone was meant, the expression was, the enemies of France. Now, he would ask, whether it was credible that a Federalist would assert that the Government was not only the enemy of France, but of the people of the United States? This was a false and detestable calumny, and could never have proceeded from any one but a Jacobin. It corresponded with the grimace of the French Government and the cant of American Jacobins, which equally affected an exclusive attachment to the rights of the people.

Mr. B. next alluded to that part of the memorial which speaks of the opinion of Mr. Jefferson. He asked how Mr. Codman could know anything about the sentiments of that gentleman? He had not been for years in this country, and, as he was a Federalist, it might safely be relied on that he was not a correspondent of Mr. Jefferson's. Now, it was extremely likely that the Envoy was in possession of Mr. Jefferson's sentiments. They were intimate previously to the departure of the Envoy; it was generally understood that there was much intercourse between them; and it was said by many, and actually believed by some, that the Envoy not only carried with him the opinions, but also the credentials of Mr. Jefferson.

He conceived that this reference to a personal knowledge of the sentiments of Mr. Jefferson disproved the fabrication with respect to Codman, and fastened the production upon some connexion of the Envoy's. Mr. B. said, that one passage in this State paper had been relied on with a degree of triumph. He referred to that in which it was stated by the Envoy that, in case of invasion, their party would oppose the invaders. There is, to be sure, said he, great merit in this declaration. They say to France: "Capture our vessels; de-

stroy our commerce; ruin our merchants; extinguish the sources of public revenue; lay your embargoes; imprison our seamen; insult and trample upon the rights of the nation abroad; but don't bring an army among us, because then we can no longer hoodwink the people; they will then see and feel for themselves; they can't be deceived as to the cause of what they suffer, and, in consequence, our party will be ruined. The people will then perceive that the interest of the Government and their own is the same thing; and all our clamor can never convince them that it is better to be governed by French bayonets than American law. We shall be deserted and annihilated; we must fall never to rise again." Such Mr. B. understood to be the true construction of this boasted declaration, and he had the charity to allow the gentlemen the whole merit which belonged to it.

Mr. B. said, that there was a sentiment in the paper equally base and false. He referred to the assertion that the French were the deliverers of this country. Our delivery, he said, was owing to the energy and patriotism of our own citizens. He considered the assertion as an impious slander upon the blood of those heroes who fell in the Revolutionary war. It was not until America had demonstrated that they were capable of effectual resistance, by the capture of a large British army, that French aid was offered to the country. The war probably might have been prolonged without that aid; but the nation had spirit enough—and that was all that was necessary—to accomplish their independence without French assistance.

Mr. B. said, there was one other passage in the memorial of so much meaning and design, that he should trouble the House with some observations upon it. It at once marked the source from whence the paper came, and furnished a key to the novel and mysterious embassy. He referred to that part in which the Envoy so feelingly appeals to the interest of the French Government, "to allow the true American character to blaze forth at the ensuing elections." The Envoy knew, what the party are sensible of, that their actions had so associated them in public opinion with the French cause, that their popularity must sink as that declined. French popularity was their popularity; and it was well known that every man who was cured of the Gallic mania was lost to their party. The enormous aggressions and humiliating insults committed on the country by the French began to recall the senses of the most infatuated. Goaded into resistance, the nation had at last roused, taken up the gauntlet, and bid defiance to her adversary. In the attitude we then stood, one blow from France would have placed the nation in a state of general hostility. This was the event deprecated by the party, because a war with France would necessarily obliterate every trace of French influence, and to extinguish the attachment to France was to annihilate the party. To resist the war was to contend for their existence. We are not, therefore, to be surprised if they should prefer the pillage of our commerce, the prostration of national character, or even the imposition of a tribute, to a state of war. On the other hand, a great object presented itself to those who sent the Envoy. They knew that our citizens were peaceable in their tempers, industrious in their habits, and, however willing, in case of extremity, to abandon everything for the defence of the country, yet that peace was desirable to them, and that if it could be obtained by their party, while it cast an odium, or at least a suspicion, on the conduct of the Administration, would at once reinstate French influence, and restore French favorites to public esteem. The Envoy might well flatter himself with a cordial reception. He went to represent a party against the Government. It opened a noble field for diplomatic skill. A more auspicious event never presented itself to French intrigue. It promised to accomplish the great object of their policy in every country—to separate the Government from the people; or, in other words, to divide the people among themselves—which might ultimately render them a cheap prey to French ambition. It enabled them to say, "We do not go to war with the good people of America, but only with the Government, the pensioners of Pitt."

This view of the subject, Mr. B. said, was justified by the passage of the memorial which he had last cited.

It was thought that peace was popular, and if denied to the Government and granted to a party, it would strip the Government of public favor and support, and confer it on the party. It was thus that the true American character was to blaze forth at the approaching elections, when a grateful people were to reward the party which obtained peace, and the power which granted it. He believed that this was a great object of the embassy: to procure for the party the popularity of peace-makers, which should operate on the elections which were approaching. He would not say that the nation had escaped the precipice to which this affair exposed them, because the danger might not yet have passed away. It was impossible to foresee what consequences might have followed, if France had offered the Envoy certain terms of accommodation, which in themselves were acceptable to the people. Could the Government have accepted of them, knowing they had been denied to them in order to be granted to a party; would it not be allowing a foreign Government to erect a minority in this country into a ruling power, and thereby to establish an influence among us destructive of our independence? He had no hesitation in saying, that for the Government to accept terms of peace refused to themselves, and designedly granted to a party, would be an act the most disgraceful and dangerous in their power to commit. And yet, perhaps, to discard them might inflame the spirit of party to a height which might be attended with the most deplorable consequences to the country. Such, said Mr. B., is the danger to which the presumption, the folly, or criminality, of an individual might expose us. It proved the expediency of the present law. Mr. B. said, he should make no further observations on this State paper, as it had

been called. He believed he had said enough to point out the source from which it came, and the object it was designed to accomplish.

Before he sat down, he hoped he should be indulged, notwithstanding the lateness of the hour, in a few observations on what had fallen from the gentleman from New York (Mr. LIVINGSTON.) That gentleman had been absent during the greater part of the time that the present bill had been under debate. And recollecting what had happened on a former occasion, he had presumed the gentleman had again hastened to save the nation, stored with knowledge, not simply the fruits of his own industry, but of the researches of many other heads equally wise, governed by principles equally patriotic.

He confessed, therefore, he looked for much edification. He expected a great speech. He was preparing to yield to an involuntary conviction. But what was his disappointment, when, after patiently attending to the gentleman for more than half an hour, he found he had nothing to tell the House, but a story about a boiled cook and a roasted heretic. Believing, in the end, that the gentleman designed only to amuse the House, he expected he would have gone on with the stories of Tom Thumb and of Jack the Giant Killer. His speech would then have been divided into co-ordinate parts, all having equal application to the subject under discussion. But, said Mr. B., perhaps he was mistaken. The speech which was delivered might be designed simply as an apology for one which was to be published. As this had once happened, it might again occur; and possibly the world be indemnified for the present disappointment, by the merits of a second edition.

Mr. B. said, he should trouble the House no longer. He had not risen for the purpose of entering upon a regular discussion of the subject before the House, but for the purpose of making the remarks he had submitted upon some matters introduced into the debate, though not properly belonging to it.

Mr. NICHOLAS said, he should not apologize for rising at so late an hour; when he felt it his duty to speak, he would speak; but if he wanted an apology, he should certainly have it in the conduct of the gentleman from Delaware, who, after charging the gentleman from Pennsylvania with making a speech at a late hour, that it might not be answered, had certainly made one which he could only have made under such an expectation.

Mr. N. wondered the gentleman from Delaware had not been warned by the conduct of his friend from Massachusetts, (Mr. OTIS,) who had predicted, at a time when he supposed this paper would not be produced to the House, that if any memorial should have been presented by Dr. Logan, it would probably be such an one as would serve rather to raise his character than otherwise; who is now obliged to confess that he had at the time seen the memorial, and who is yet, out of respect to his party, to give it a different character. Now the gentleman from Delaware insists that the memorial was not written by a Federalist, and has adduced a number of reasons in support of his belief. What, said Mr. N., will be this gentleman's situation, if, hereafter, this paper should really appear to have been written by Mr. Codman, a Federalist, and that it never was presented? He will not surely, in that case, be inclined to throw a respectable character out of the ranks of Federalism, and yet he would be puzzled to avoid it.

But the gentleman from Delaware says, the writer of this memorial could not have been a Federalist, because he justifies the principles of the French Revolution. This gentleman forgets one thing, that though men may class together under the same name, they may differ very materially in opinion, and that among Federalists some may be Monarchists whilst others are Republicans. If there are men of the former description, (and he really believed there are,) they certainly do not like the principles of the French Revolution; but he had proof before him that there are Federalists who do approve of the principles of the French Revolution. The proof he alluded to was the Answer of the late President of the United States, (whom the gentleman would not deny is a good Federalist,) to the Address of the French Minister, on his presenting the colors of France to the United States, on the 1st of January, 1796. Mr. N. read an extract from it as follows:

"Born, sir, in a land of liberty; having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country; my anxious recollections, my sympathetic feelings, and my best wishes are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banners of freedom. But above all, the events of the French Revolution have produced the deepest solicitude, as well as the highest admiration. To call your nation brave, were to pronounce but common praise. Wonderful people! Ages to come will read with astonishment the history of your brilliant exploits! I rejoice that the period of your toils and of your immense sacrifices, is approaching. I rejoice that the interesting Revolutionary movements of so many years, have issued in the formation of a Constitution designed to give permanency to the great object for which you have contended. I rejoice that liberty, which you have so long embraced with enthusiasm—liberty, of which you have been the invincible defenders, now finds an asylum in the bosom of a regularly organized Government; a Government which, being formed to secure the happiness of the French people, corresponds with the ardent wishes of my heart, while it gratifies the pride of every citizen of the United States, by its resemblance to their own. On those glorious events, accept, sir, my sincere congratulations."

This reply, all the sentiments of which he was not now going to give an opinion upon, was given after the death of Robespierre, and, of course, after all the unjustifiable acts of the Revolution, of which the gentleman had spoken, had been committed. But though this is the language of a Federalist. Mr. N. knew it is not the language of all Federalists; he knew that they, like all other classes of men, are of various opinions, some of higher and others of lower tone. Mr. N. remembered the gentleman from Delaware had once

said that the rotten boroughs of England are necessary to support the Monarchy, which would not have been the sentiment of the Federalist to whose authority he had appealed.

But the gentleman says the memorial contains a *lie*, and therefore it could not have been written by a Federalist. Mr. N. referred to the occurrences of every day, whether or not this is a characteristic of the gentleman's party. There is no person alive now in France, says he, who fought for this country. From this assertion, Mr. N. supposed the gentleman from Delaware had fought by the side of these brave Frenchmen, and recollects that all his then friends and acquaintances are cut off. He himself was not so well acquainted with this business, but he had been told that General Jourdan, now in one of the French councils, was either a private or a sergeant in the French army in this country; and that many of the first military men in the French army, were subordinate officers or privates in that army.

If gentlemen will have it that Dr. Logan presented this address, notwithstanding all that is said to the contrary, he would examine for a moment the thing itself. What does it say? Why, that when the French Government shall have raised their embargo, released our seamen, and sent a Minister with liberal powers to the United States, peace may be made. By whom? By the Executive of the United States. Where, then, is all this cause of alarm? Gentlemen complain of this paper saying that the people of the United States would testify their joy at the event of the approaching elections, and they seem to apprehend that the downfall of their party must be involved. Let it be recollected that peace was proposed to be made through the Executive, and on liberal terms, and then there is no cause for such an apprehension, but with those who would be dissatisfied with the event, and would be incapable of expressing the joy the people of the United States would certainly feel. If, indeed, there is in this country enemies of the French Revolution, who want to have a kingly Government in that country, and of course are enemies to liberty everywhere, the consequence of a peace would be their destruction, as it would produce an union of parties, which would be destruction to their views; but such an event could injure no other description of persons.

This memorial is complained of, because the writer says, he will not undertake to blame either Government. And would it have been prudent in any man who wished to promote a reconciliation between the two Governments, to have begun by telling the French Government that all that they had done had been wrong? Certainly not; a less irritable course was preferable; and the writer only says, that he waives the subject of injuries, and prefers rather to seek the means of reconciliation. Besides, the language of this memorial is the language of our approved negotiator in the British Treaty.

But much reliance has been placed, to anwer the purpose of gentlemen, on that part of the memorial which speaks of the enemies of France and America, representing it as meaning the Executive and Federalists of this country; whereas nothing could be more clear than that Great Britain are the enemies here alluded to. The writer explains himself in that way when speaking of the enemies of France alone, and the gentleman from Delaware cannot certainly think that any party believes that the Executive of the United States is a greater enemy to the happiness of this country than the British Government is. Mr. N. never heard such an idea expressed; and he did not think that the construction which had been put upon this part of the memorial, could be made but by the most malignant disposition.

But it is said that Mr. Codman could not have written this memorial, because he cannot be supposed to be acquainted with the sentiments of Mr. Jefferson. In writing this memorial, he would doubtless express what he took to be the opinion of Dr. Logan, and he certainly might have learned from him what was the opinion of Mr. Jefferson; and he would not hesitate to say that he believed, that the opinion there, was not only the opinion of Mr. J., but of every friend of liberty in the country: "that in case of attack, all the citizens would rally round the standard of their Government."

The gentleman went on to state his opinion of what would be the conduct of parties. Mr. N. thought he might have spared himself that trouble. The party with whom he acted, neither know nor care, what his opinions are.

[Mr. BAYARD did not know why the gentleman should take his remarks to himself.]

The gentleman, continued Mr. N., meant his remarks to apply to gentlemen in this House; but he was perfectly easy as to what his opinion might be. Neither that gentleman's public or private character were so conspicuous in the public view, as to give an alarming weight to his denunciations. His character is founded on party efforts, and until it was founded on something else, anything he could say would neither hurt him (Mr. N.) nor his friends.

Mr. N. said, the memorial of which so much had been said, and which gentlemen yet enveloped in mystery, was brought to this country by a Mr. Woodward, who received it from Mr. Codman, at Paris, and was probably informed by him, that it was an address intended to be presented by Dr. Logan. Mr. N. believed that Dr. Logan was not disposed to blame either of these gentlemen with propagating a falsehood. Everything was reconcilable, by supposing that Mr. Woodward received the copy while the original was in Dr. Logan's possession.

Mr. NICHOLAS concluded by saying, that it was a little remarkable that gentlemen should understand this paper so differently at different times. When the gentleman from Massachusetts was at liberty to act upon it or not, he declared it innocent and honorable.

[Mr. OTIS declared he had said no such thing.]

Mr. N. said he had said so, as might be seen from his speech. It was a little extraordinary, that, after going through so many hands, the memorial should not have found its way to the House before it came to the hands of the gentleman from South Carolina. Why did not the gentleman from Delaware bring it forward?

[Mr. BAYARD said he never saw it before it came before the House.]

Mr. N. knew it had been in a number of hands, and certainly must have been considered as innocent by them. Now, indeed, gentlemen endeavored to divert the attention of the public from the circumstance of having brought forward a false paper of this kind, and from the disgrace which ought to attach to such conduct, by endeavoring to extract from it something criminal, which suspicion would attach to their opponents.

The question was then taken on the passage of the bill, by yeas and nays, and it was carried—58 to 36, as follows:

YEAS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, Wm. Findley, Albert Gallatin, Jas. Gillespie, Andrew Gregg, Jno. A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Richard Stanford, Abram Trigg, Joseph B. Varnum, and Abraham Venable.

Resolved, That the title be "An act for the punishment of certain crimes therein specified."

And then the House adjourned.

FRIDAY, January 18.

Mr. RUTLEDGE said, he wished to lay a resolution upon the table, the object of which was to prevent the future protraction of debate, as he thought it very improper to consume so much time in debating every question which comes before the House. He was persuaded that he could never offer a resolution of this kind with greater chance of success than at present, when one-half the session has passed over, without any important measure having been adopted. The resolution was to the following effect:

Resolved, That during the remainder of the session, it shall be a standing rule and order of this House, that during the debate on any bill or resolution, no motion for an adjournment shall be received by the Chair, either in the Committee of the Whole, or in the House, except by unanimous consent.

Ordered to lie.

CENSUS.

The amendments of the Senate to the bill for making an enumeration of the inhabitants of the United States, were taken up. The principal of these amendments is a postponement of the enumeration until the 1st of April, 1800, which would be extending it over another election. On motion of Mr. NICHOLAS, the amendments were committed to a Committee of the Whole.

REMONSTRANCE OF GEORGIA.

Mr. BALDWIN called for the consideration of the report on the representation and remonstrance of the Legislature of Georgia.

Mr. N. SMITH hoped this motion would not be persisted in, as there was a fact relative to this business very doubtful, which he had not yet been able to ascertain. He hoped the report would be permitted to lie at least a few days.

Mr. OTIS hoped this report would not be taken up for another reason. There was a bill for further suspending the intercourse between the United States and France, which is the order of the day. He had already twice attempted to call up this bill, when it had been objected to, because the communications which had been promised by the President, respecting our dispute with France, had not been received. He had given way on this account, not because he thought the objection had any weight, but because it had been made; as it was uncertain whether these communications would be received to-day or to-morrow, or Monday, and as the present law would expire on the 2d of March, he wished it now to be taken up, because if it was not soon acted upon, there would not be time to give the necessary notice to the distant parts of the Union. From the Speech of the President, at the opening of the session, gentlemen might be convinced there would be nothing in the promised communications which could have any effect on this bill; and from the present precarious situation of several vessels, and the early expiration of the present law, he hoped the subject would now be taken up.

Mr. BALDWIN withdrew his motion, to give the gentleman from Connecticut the time he required.

INTERCOURSE WITH FRANCE.

Mr. OTIS then called up the bill he had mentioned.

Mr. NICHOLAS was surprised the gentleman from Massachusetts should persist in calling up this bill. When the gentleman from Pennsylvania called for his resolution requesting the President to send the despatches, it was said they would

be here next day; but they are not yet come. He tells the House it is altogether unnecessary to have the despatches, because the President's assurances were sufficient to assure gentlemen they would make no change in our circumstances, and that therefore we may as well do without them. He did not understand the footing upon which he stood, if this doctrine was to be admitted. If the President's opinion were thus to be acted upon for the foundation of a law, why not leave him to make the law also? Mr. N. said, much had been said about delay. It was extraordinary, that charges of this kind should be brought against this House, whilst the Executive has not yet communicated despatches promised six weeks ago. This, said he, is almost all the business before the House, and it is probably owing to the want of this communication, that so much time had been spent on other subjects. Mr. N. said there was a very important new principle in this bill, which these despatches perhaps might throw some light upon. If this motion was persisted in, he should consider it as taking away Legislative discretion, and as tending to make the Government wholly Executive.

Mr. D. Foster hoped his colleague would not press his motion. It had been observed that it had been said the despatches alluded to would be laid before the House yesterday. It was so stated, but he found they were not ready. He had been again to the office of the Secretary of State, and had been informed they would be here to-day.

Mr. Harper could give another reason why the communication was not made, if in doing it, he should not run the risk of being called an unofficial agent, and classed on the ground with X, Y, and Z. He believed it had not been owing wholly to the length of the despatches, and the time necessary to copy them, that they had not before now laid before the House; but from the time which had been found necessary to prepare a report of the Secretary of State, with which it was thought necessary to accompany the despatches, and from completing which he had been prevented by the variety of business which had engaged his attention. As soon as this is completed the despatches will be communicated.

Mr. Sewall said, his colleague (Mr. Foster) seemed to admit the connexion between this bill and the despatches in question. The main object of this bill, Mr. S. said, was the continuing in force the former act, the propriety of which no one could doubt, since the depredations of the French are continued, and no dependence could be placed upon their professions.

Mr. Nicholas was afraid the members of that House do not all stand on equal ground; since some gentlemen seem to be perfectly acquainted with the contents of the despatches, while others are perfectly ignorant with respect to them. Mr. N. denied that the continuance in force of the former act was the principal thing contained in the bill in question. But it seems, said Mr. N. that the despatches are kept back, to give time to the Secretary of State, to accompany them with a long report. Since the Secretary of State has thought it necessary to analyze these despatches before they are laid before the Legislature, he trusted there would be something worth waiting for, and therefore hoped the bill in question would not be taken up.

Mr. Macon spoke of the unreasonableness of pressing this motion, under the circumstances which had been mentioned.

Mr. Rutledge urged the propriety of taking up the subject, on account of the shortness of time between this and the expiration of the present law, that it might require nearly a month to send information of the decision of the Legislature to Savannah; and if this information was not received, great quantities of provision might be sent from thence to the West Indies. He said he knew no more of the despatches than other gentlemen; but he had seen Mr. Gerry's letter which has been published, and therefore knew the result.

Mr. T. Claiborne did not wish to depend upon newspaper reports, but upon information from the Executive.

Mr. Livingston said, if the bill called for was no more than a renewal of the act for suspending the commercial intercourse between France and the United States, there might be some weight in the reasons given for going into its consideration; but if gentlemen look into the bill, they will see far different provisions. There is there a clause enabling the President, whenever he shall think fit, to renew the intercourse with such rebel subjects as shall have cast off their allegiance to their mother country. This important principle was not in the former law; perhaps occurrences have recently happened, which may have made it necessary.

In the course of a late debate, Mr. L. said, gentlemen had thought proper to foretell certain events which might possibly happen. He would, on this occasion, follow the same course, by speaking hypothetically. Suppose, said he, an agent shall have arrived in this city from the Governor of a certain foreign Island; suppose that agent should have been the bearer of certain proposals, in order to produce an alliance, either commercial or political, with the United States; suppose he should have been introduced to the President, and have laid these proposals before him; suppose this agent had also laid these proposals before certain members of the Legislature; ought not this House to be equally well informed with such gentlemen on this subject, before they are called upon to act? He had stated this matter hypothetically, because he possessed no evidence of these facts which he could lay before the House; but he thought the presumptive evidence strong. We have, said he, seen the arrival of this agent announced in the papers; and we have seen a bill brought in to meet the very case. He thought this furnished presumptive evidence that the President may possess information on the subject which this House ought to have, before it is called upon to legislate, and they cannot be justly charged with any evils which may be produced by the delay.

But it is said the despatches alluded to will not be laid before the House, until the Secretary of State can accompany them with his report. The Executive seems determined that the Legislature shall not receive the poison without an antidote. Mr. L. said, he felt his indignation a little roused at this kind of treatment. Heretofore, said he, despatches of the greatest consequence have been sent to the House, without any explanatory report from the Secretary of State. Such conduct, said he, excites suspicion that all is not right. As to what had been said about these despatches being unnecessary, he supposed the President had thought differently when he promised them to the House; and having promised them, he thought it was high time they were sent.

Mr. Otis said, whatever indignation the gentleman from New York might feel towards the Secretary of State, [Mr. Livingston said he did not feel, nor did he say he felt any,] he would feel more towards him for having made this motion, since it had given him an opportunity of expressing his suspicions with respect to the conduct of the Executive. Mr. O. said he had been induced to make this motion for two reasons, viz: because he thought all the information necessary now before the House, and because several of his friends had pressed a desire that he should do so. The suspension of our intercourse, said Mr. O., was founded upon the depredations which the French committed upon our trade, and since those depredations are continued, it is necessary to continue the law.

Mr. O. was here interrupted by a Message from the President of the United States, communicating the despatches which had given rise to this conversation. The papers communicated are long and numerous; they consist chiefly of letters which passed between Mr. Gerry and the French Minister, after the return of Generals Pinckney and Marshall; together with a general view of the negotiation by Mr. Gerry, dated Nantasket Roads, the 1st of October. The reading of these papers commenced soon after twelve o'clock; and though the House sat till half past three, they were not nearly gone through. The reading of the remainder was however dispensed with, and the whole ordered to be printed. [See Appendix.]

The President informed the House, by his Message, that a report from the Secretary of State on the subject of these despatches, will be communicated to both Houses, on Monday.

The House then adjourned till Monday.

Monday, January 21.

Mr. Harper, from the Committee of Ways and Means, made a report, in compliance with a resolution of the House directing an inquiry to be made into the amount produced by the stamp tax, and into the proper allowance to be made to the supervisors for their trouble in stamping and delivering out the stamps; which was ordered to be printed.

He also made a report from the same committee on the subject of amending the law directing a value of lands, houses, &c.; and a bill was twice read and committed, for increasing the compensation of the assessors.

On motion of Mr. Gallatin, a committee was appointed to inquire whether any and what amendments are necessary in the bill making certain grants of land.

CENSUS.

Mr. Gallatin called for the order of the day on the amendments of the Senate to the bill providing an enumeration of the inhabitants of the United States. The principal change in the bill proposed by the Senate was, the striking out of May next, for the purpose of inserting "April, 1800." The effect of which, Mr. G. observed, would be to prevent the new enumeration from operating upon the next election, and to cause a direct tax to be laid for two years and two months, according to the increased enumeration, while the representation was founded upon the old census. The amendment was negatived in Committee of the Whole—51 to 31. In the House the yeas and nays being called upon it—54 to 33.

FRENCH AFFAIRS.

A Message was received from the President of the United States, enclosing a report of the Secretary of State, mentioned in his Message of Friday last, containing the Secretary's observations on the documents therewith sent.

ADDITIONAL RULE.

The following resolution being under consideration:

"*Resolved*, That for the remainder of this session it shall be a standing rule and order of the House, that during the debate on any bill or resolution, the motion shall be received for the Committee of the Whole to rise, or the House to adjourn, except by unanimous consent."

Mr. Rutledge said he had offered the present resolution from a persuasion of its being necessary for expediting the business of the House. If gentlemen would take a review of the manner in which one-half of the session had passed away; if they would recollect that one bill only had gone through the House which was of a public nature; if they would contemplate how many very important measures had been recommended to Congress, by the Executive, and calculate how short a period of time remains for their adoption, he flattered himself that the resolution would be supported by a considerable majority. He well knew that it would not be agreeable to gentlemen who think the measure of our defensive arrangements is full. He was well aware of the opposition it would receive from those who think the less we legislate the less mischief will be done; and who are of opinion either, that we have already taken sufficient precautionary measures to resist successfully the hostile projects of France, or that she has no hostility in store for this country. He expected that gentlemen who entertain such opinions will resist the present resolution; but he should be much disappointed if it did not receive

the support of gentlemen who think that our system of defence should be extended and invigorated; who are of opinion that our Naval Establishment ought to be augmented; that the Army bill requires amendments; that a hospital establishment is indispensably necessary; that the law interdicting commercial intercourse with France should be renewed, and that new sources of revenue must be explored for meeting the expenditures which these necessary measures will draw after them. To gentlemen who deem those measures he had enumerated expedient, this resolution was particularly addressed, and he entreated them to calculate the great length of time it will require to pass them, if they are to go through the House at the very slow pace with which everything has moved on since the commencement of this session. So little had been done, so much remains to be done, and there is so short a period of time before the present Congress will expire, that it seemed to him absolutely necessary we should quicken the march of our proceedings; and, in his opinion, this desirable object is not attainable in any more eligible way than by adopting the proposed resolution. It appeared to him so unobjectionable that he would not take up any more of the time of the House in enforcing its propriety, at least until he should have heard the opposition to it.

Mr. McDowell observed that the mover of this resolution had introduced a variety of matter which had nothing to do with the question. If he meant to prevent all discussion, to pass this resolution might have the effect. He was sorry, since our time was so precious, that so much of it had been occupied in reading a commentary of the Secretary of State on the official despatches lately laid before the House; but, as the resolution could answer no good purpose, he hoped it would be rejected.

Mr. Nicholas said several attempts of this kind had been made without success; nor did he believe the mode now proposed of shortening the debate, would be more successful, if agreed upon, than others. It proposes, that while any one man chose to keep the House sitting, it shall not adjourn. He could see neither propriety in, nor necessity for, such a resolution. The gentleman who proposes such a resolution, prides himself in being in a majority with respect to all the measures which he had enumerated; being so, why cannot he trust a majority to determine when they will take a question? Have we not experience, said Mr. N., on this subject? Has not a practice of this kind been the means of turning day into night, and night into day, in respect to the Parliament of Great Britain? Such a practice would no doubt frequently keep the House sitting till two or three o'clock in the morning; and members would not then be fit to attend to business at the usual hour. By degrees the House would, in consequence, get into the habit of meeting after dinner, as is the custom in the country to which he had alluded, and, like the British Parliament, do business in the night, and sleep all day. Mr. N. said he had as great a desire to dispatch business with all convenient celerity as any other member; but he wished not to act himself before he is prepared to act, nor to force others to do so. He hoped the gentleman would not persist in his motion, or that, if he did, it could be negatived.

Mr. J. Williams did not believe this measure could have the effect which the gentleman from Virginia had mentioned, as there would be all the various stages from a resolution proposing a bill to its passage, for discussion. He wished some mode to be adopted for shortening our debates; whether this was the best he would not tell.

Mr. Otis said all sides of the House had a common interest in this measure. It would not be more in favor of one party than of another. If there can be any difference, it is, said he, in favor of those gentlemen who are generally in the opposition, since it is much easier to make objections than to answer them. He believed, if it were adopted, it would prevent a great deal of useless recrimination, which was derogatory to the dignity of legislation. Perhaps it might be said that he was entitled to his share of blame in this respect. This might be so; but he was willing to be confined for the future. With respect to what the gentleman from Virginia had said, of turning day into night, he did not believe it would have that effect, but the effect desired, that of curtailing debates. At any rate he thought it worth while to try the experiment. Gentlemen say a majority, at present, can sit as long as they please; but to exercise this power is looked upon as rather arbitrary, and never fails to be complained of when recourse is had to it. The same charge would not be brought against a general rule.

Mr. Macon said experience had proved the fallacy of regulations of this kind. One of the objects for which Congress met was, to discuss the subjects which came before them. He wished to hear arguments, because, if they did not produce much effect here, they would have their effect elsewhere. Mr. M. pointed out a variety of ways by which the resolution might be evaded, and believed it would be best to let business go on in its usual way. If subjects crowd upon the House, it would be well to meet at an earlier hour. It was a little extraordinary that after having sat one-half the session without doing any important business, that now gentlemen wish to push everything through the House without debate. He thought there was never less occasion for a rule of this kind than at present.

Mr. Nicholas said, in a House where there are so many speakers as in this, if the rule was adopted, members on one side of a question only might be permitted to speak. As to the recrimination which the gentleman spoke of, he had no doubt opportunity would be found for that, where any purpose was to be answered by it.

Mr. Harper once thought that a measure of this kind would be useful; but more observation and one or two experiments had convinced him of the contrary. Nothing but a common determination on the part of the House to close a discussion at a certain time could have any effect. No rule could be adopted but that he believed the ingenuity of gentlemen would evade.

Mr. T. Claiborne said, if this resolution was agreed to, it would prevent the end of their meeting together, which was to discuss questions and to understand them. If the proposition should be adopted, it would be well to depute men to argue the different questions which came before the House, and impose silence on everybody else.

Mr. Rutledge urged the propriety of passing the resolution, and doubted whether the ingenuity of gentlemen could evade it.

Mr. Gallatin observed that the arguments of gentlemen applied to one thing, and the resolution which they meant to support to another. Their object seemed to be to prevent too long a debate on a resolution or a bill, which seldom lasted more than a day or two, and which would not, therefore, be affected by this rule, if adopted. It will only operate on proceedings in a Committee of the Whole; and, as no motion could be received for the committee to rise, while one member objected to it, the consequence would be that a committee would be obliged to go through the most lengthy details of a bill, however defective they might be, at one sitting. This, he thought, must be attended with bad effects, particularly in some important bills which would come before the House in the course of the session. It might have very pernicious consequences. The gentleman who brought forward this proposition is a member of the Committee of Defence. The House had heard of a variety of projects from that quarter. In order to expedite business, that committee might incorporate into one bill, and present it to the House, all the objects upon which they wished the House to pass, and get it through a Committee of the Whole in one day. Mr. G. showed a variety of ways in which the rule might be evaded in all other cases, except in Committees of the Whole; and there, when members found it necessary to let a bill pass through, in order to get an adjournment, a member might the next day move a recommitment, on the ground of its imperfection, so that the rule would only prove an incumbrance, without being of any real use.

The motion was put and negatived; there being only 25 votes for it.

ON PRINTING THE DESPATCHES.

Mr. Allen having proposed the following resolution:

"*Resolved*, That —— extra copies of the Message of the President of the United States of the 18th instant and of this day, with the papers accompanying them, respectively, be printed for the use of the members."

Mr. Nicholas hoped the question would be divided. If gentlemen thought it necessary, he should have no objection to an extra publication of the despatches; but he did not think there was the same necessity for publishing an extraordinary number of Mr. Pickering's commentary.

The Speaker declaring the question incapable of division—

Mr. S. Smith moved to strike out the words, "and of this day."

Mr. Allen should be opposed to the publication of the first communications, unless they were accompanied with something to correct the gross and stupid errors which they contain—errors which, he said, one would think no man in his senses could commit. The Message of to-day, said Mr. A., contains something more than a commentary—it contains facts—facts which ought to be published, but which he did not believe one-fifth of the members heard, which, however, he had attended to. He was not for having the public mind misled. People in the country might be made to swallow monstrous things; they might be persuaded that France is sincerely disposed to make peace with this country; whereas no man in his senses could believe it. He did not see why gentlemen should be opposed to the publication of this second Message, if they are not disposed to throw dust into the eyes of the people, in order to prevent them from discovering the truth.

Mr. Venable hoped the mover would consent to modify his resolution, that the House might pass their opinion upon the two subjects separately. He had no objection to the printing of an extra number of the despatches from abroad; but the other paper is of a different nature. But the gentleman says it is not proper for the people to see the despatches without the commentary of the Secretary of State upon them. How came the President to send papers to the House which are unfit to be published to the people, or which they cannot understand, or which the House cannot understand, without an explanation from the Secretary of State? And are we come to this, exclaimed Mr. V.—are we so degraded that we cannot be trusted to put our own construction, nor the people trusted to put their own construction on official papers, without a commentary? Striking him as an extraordinary case and as a new one, he wished to give his opinion distinctly upon it.

Mr. Thatcher did not think there was anything new in this proceeding. The Secretary of State, it would be recollected, made a report respecting our dispute with Algiers, which was read with closed doors, and which was not considered as improper at that time. He remembered then the gentleman from Virginia wished that report to be printed, because the President desired it might not; yet now he is against printing, lest the people should be misinformed. Could the gentleman say there was any misstatement of facts, or erroneous reasoning in this report? He has not said it. Mr. T. saw nothing degrading in the Secretary of State's having given his opinion on public documents. The report refers also to papers not received before; and as all the papers referred to in this report are already before the people, they cannot be misinformed by it.

Mr. Sewall said, gentlemen spoke of this communication as a letter from the Secretary of State to this House. It is no such thing, but a communication from the President of the United States; for, though the paper is drawn up by the Secretary of State, the President gives his sanction to it by sending it to this House, and it ought

to be considered in the same light as the Speech of the President at the opening of the session. It matters not to this House whether the President chooses to write his communications to Congress himself, or employs the Secretary of State to do it. This paper being communicated as containing facts relative to the state of the Union, it ought to be communicated to the people. If facts are misstated, or wrong conclusions drawn from them, the people would doubtless discover that that is the case.

Mr. S. SMITH was inclined to believe the gentleman from Massachusetts was mistaken in considering this report as coming from the President. The President himself, in his Message, calls it a report of the Secretary of State. Mr. S. hoped the report would not be considered by any gentleman as the report of the President. It contains some things which could not come from him. If he was not much mistaken, he heard a sentiment of this kind read from it: that certain men were *true* Americans because they had voted in a certain way, and, of course, that all who voted contrarily are not true Americans. It was impossible that the President could utter so illiberal a sentiment.

Before he voted for the publication of this report he wished to read it, and to see what it contains; because, in voting for its publication, he considered himself as approbating its sentiments. From what he did hear of it, it struck him as one of the most extraordinary productions ever laid before a Legislature. He considered it as an improper interference, on the part of the Secretary of State, with this House. [The SPEAKER said the report was received from the President.] Mr. S. replied, he knew it was received from the President, but not as the act of the President; and he thought it would only be candid in the gentleman from Connecticut to let the House see the paper before they order this extra publication of it. Mr. S. did not think it necessary for the Secretary of State to instruct this House what conclusions they ought to make from any public document laid before them. The gentleman from Connecticut does not think that any man in his senses could make the conclusions which Mr. Gerry has made; and yet Mr. Gerry must be considered as a person in his senses, because he had been appointed to his embassy by the President, and approved by the Senate, and we had received no information of his having become insane. But why the Secretary of State should come here with his opinions he could not tell. [The SPEAKER said he must again interrupt the gentleman from Maryland. The Secretary of State did not lay his opinions before the House; they were laid before the House by the President of the United States. The member is therefore not in order.] Mr. S. appealed to the House whether he ought to proceed.

The SPEAKER said, the question is not whether the member shall proceed, but whether he was in order when called to order by the Speaker.

The question being put, Mr. S. was declared out of order—46 to 37.

Mr. SMITH repeated that before members were called upon to vote for the printing of any paper of this kind for the people, they ought to know what it contains.

Mr. BAYARD said, the gentleman from Massachusetts was perfectly correct when he called this report a report of the President of the United States. The President promised this information at the opening of the session, and in his Message of Friday last he stated that the information which he gave was not complete, but that it would be made complete on this day, by a report of one of the organs of Government, which doubtless the President had directed to be made to him, and, being made, he communicates it as his act to the House. As well might gentlemen say that the first letter which appears in the despatches sent to the House on Friday, recalling Mr. Gerry, was not an act of the President, being signed by the Secretary of State. The President had not only a right, but it is his duty, to make communications of this kind, whenever he thinks them necessary. He was astonished to hear gentlemen talking about commentaries and the degradation of this House. Can this House, said Mr. B., be degraded by receiving information from the President of the United States? Is not the management of our foreign relations committed to his hands? And is it not incumbent upon him to give to the Legislature all the information he possesses with respect to them? And if he thinks the papers which he lately sent to us contain false facts or wrong inferences, he would have been guilty of a breach of his duty, if he should have sent such documents to the House without accompanying them with that light which he alone possesses. He thought, therefore, the communications ought to go out together to the public; indeed, not to print the report, would be to pass an indirect censure upon it. It was no less an act of the President because the Secretary of State had written the report; for if the President had directed his chief clerk to have drawn it, and he had approved it, it would not have been the less his act. He hoped, therefore, the present motion would be negatived.

Mr. W. CLAIBORNE thought this report degrading to this House, not on account of the source from whence it came, but from its contents. He understood, from gentlemen who had spoken on this subject, that this information is to be considered as coming from the President of the United States, because, though written by the Secretary of State, it was sent to the House by the President. Be this as it may, the opinions contained in that report, from whatever quarter they came, are degrading to this House. He had always understood, that the deliberations of Congress ought to be free from any kind of bias. He had, heretofore, heard the gentleman from Delaware declare, that each department of the Government ought to move within its proper sphere. When the President of the United States communicates information relative to the state of the Union, he communicates what it is his duty to send to the House; but when he communicates the opinions of the

Secretary of State upon public documents already laid before the House, it is information which we are degraded by receiving. Mr. C. said, he was further of opinion that this is a kind of information which is not of sufficient importance to be sent out in a special manner to the people, at an extraordinary expense, being the mere reasonings of the Secretary of State upon documents which are official. Let these official documents, said Mr. C., go forth to the people, unaccompanied by any commentary, and leave them to read and judge for themselves. They are able to do it.

Another thing, the direction of the printing of this report would carry with it an idea that the sentiments it contains are approved by this House. If the expression alluded to by the gentleman from Maryland be in it, that the *true* Americans brought into office the present President, he should be sorry to countenance such a distinction, because it would be publishing a calumny against one-half of the people of the United States, who voted in favor of another gentleman; and as he knew there are among these not only true Americans, but men warmly attached to the Federal Government, and to the liberty and happiness of this country, he would not give his vote for the publication of anything which threw an unwarranted reflection upon them.

Mr. HARPER said, that gentlemen, in making their objections to the printing of this report, give ample proof that they do not know what it is. It is called a commentary, a mere opinion. It is no such thing. It is a statement of facts relative to subjects of great importance; a statement calculated to enable this House to form a correct opinion with respect to our foreign relations. It is neither an opinion of the Secretary of State, nor of the President of the United States; though he did not think it would be degrading in the House to receive the opinion of the President of the United States on the state of our foreign relations. He had been thanked for such an opinion heretofore. Without a report of this kind, every gentleman would have found it his duty to have looked into all the facts here brought together, for himself. This has been done by the Secretary of State. And why? Because it was judged important that this statement of facts should be brought into view before this House, when deciding on questions relative to the French Republic. By whom was it judged necessary? By the Secretary of State? No, but by the President of the United States. And why is it more degrading to receive information of this kind at this time, than at former periods? The same course, Mr. H. said, was taken in communicating information with respect to our dispute with Spain on the Mississippi, and it was then neither considered degrading nor offensive. He supposed gentlemen are not afraid that the weakness and folly of this report should be exposed. Did they suppose that any one thinks it necessary for a commentary to go out with the documents to expose their defects? No; they are marked in strong characters on their front. They will be found to contain extraordinary instances of design, artifice, intrigue, duplicity, ignorance, and childish reliance, curiously mixed up together, which need only to be seen to be judged of; but it is because this report states facts relative to the French Republic, which are necessary to enable the public to form a correct opinion with respect to our dispute with that country, that its publication is opposed. For that reason the report was made, and for that reason it is necessary it should be printed, in doing which gentlemen certainly do not make themselves answerable for any opinions it may contain. As to the expression mentioned by the gentleman from Maryland, he did not believe it is contained in the report.

Mr. VARNUM understood the gentleman who brought forward this motion, as saying that he did it from a wish that this report should go out with the documents, in order to do away the falsehood contained in Mr. Gerry's statements. And he seemed to allude particularly to a passage in Mr. G.'s letter, where he says: "On the 26th of July I left Paris, and, from the best information I could obtain of the disposition of the Executive Directory, they were very desirous of a reconciliation between the two Republics." The gentleman from Connecticut says, that the man who could write this, must either have been insane, or known he was writing a falsehood. The gentleman must, therefore, accuse Mr. Gerry of uttering a known falsehood, since no one will believe he was insane, and that it is necessary to do away this falsehood by means of this report of the Secretary of State.

Mr. V. said, whoever is acquainted with Mr. Gerry's character, must know that such observations very illy apply to him. Mr. G. is a man of the utmost veracity and independence; a man who would not say he believed a thing except he did really believe it. This, said Mr. V., is so well known to be Mr. G.'s character, that he wondered any man should have accused him of falsehood. But it seems the facts which these documents contain, are not agreeable to the Executive Department, and they have thought it necessary to accompany their publication with a commentary, which they think will show them to be unfounded. They seem to think it would be dangerous to suffer anything to go out to the people, which should hold out an idea that the French Government is disposed to a reconciliation with this country. On the contrary, they wish to hold out the idea that France is determined to go to war with this country. It seemed to be the darling object of a number of people in the United States to involve this country in war.

[The SPEAKER said, such expressions were out of order.]

Mr. V. said, he was against the printing of a report which could serve only to calumniate a man whom he was certain did not deserve it. But, said Mr. V., I have seen gentlemen, with the same political sentiments with the gentleman from Connecticut, lately from France, who are of the same opinion with Mr. Gerry, and do not scruple to avow it. Their friends here tell them they are mistaken; but he left it with the public to judge, whe-

ther gentlemen who formed their opinions from what they heard and saw in France, or those who take up their opinions from what they hear and see here, are most likely to be right.

If gentlemen are determined to have this report go out to the people with the despatches, he hoped at least they should first be permitted to see it. He, therefore, moved an adjournment, as he expected it would be printed for the use of the House by to-morrow.

The motion was negatived—yeas 39, nays 44.

Mr. R. Williams could not see why gentlemen should refuse to let questions be taken upon the two subjects separately, except from a determination that the House should not vote understandingly upon it. The gentleman from Delaware says, that if the words are struck out it will imply a disapprobation of the report. This difficulty was occasioned by connecting the two things together, which bespoke a want of candor; because, if there be a majority for the publication, they could have carried the question separately. He was far from wishing to cast a censure upon the report before he knew whether it deserved it; but if it contained the calumny which had been spoken of, he certainly should oppose its publication.

Mr. Eggleston thought the gentlemen who consider themselves as the exclusive friends of the Executive had, on this occasion, done the President great injustice, by ascribing the report of the Secretary of State to him; for he had, in his Messages, cautiously guarded against any such conclusion being formed by calling the report "a report of the Secretary of State, containing some observations upon the documents." Yet gentlemen persist in confounding the two things together, by wishing the same respect which is due to every communication from the President, to be paid to this report from one of the Heads of Departments; and went so far as to say that, if the Secretary of State had employed his clerk to write a report, which he approved and sent to the President, and the President sent it to this House, it must considered as a report of the President of the United States.

If gentlemen looked to Great Britain, they would find a better doctrine. There, when the Speech of the King came under consideration, it was considered as the Speech of the Minister; but here gentlemen reverse the case, and make the report of the Secretary of State the report of the President, though he has carefully guarded against such a conclusion. He hoped, until more was known of the contents of this paper, it would not be ordered to be printed in the way proposed.

Mr. Thatcher said, gentlemen appear to be unwilling to vote for the publication of this report, because they have not read it. If this was a good reason, it would apply equally against printing the documents, since they have not read them; but here this is no objection. This he did not think very consistent conduct.

Mr. S. Smith hoped it would be admitted there is a great difference between official documents from a public Minister, and a report of any kind from one of the Heads of our Departments. When the report of the Secretary of War came under consideration, he hoped gentlemen were not to be deterred from commenting upon it by being told it was a report of the President.

Mr. Craik said, gentlemen did not distinguish between reports made by Heads of Departments to the House, or committees of the House, and reports made from the same quarters to the President, and by him communicated to the House. He was not disposed to think, however, with some other gentlemen, that what came from the President was not to be examined and commented upon. He was surprised the gentleman from Virginia should think the President ought to be considered in the same light as the King of Great Britain, and that therefore "he could do no wrong."

Mr. Eggleston declared he said no such thing.

Mr. Macon would not consider whether this report is the report of the Secretary of State or of the President; let it come from which it would, he felt himself at full liberty to remark upon it. His objection to the printing of this paper was founded upon its being a new custom. With respect to the report on Algerine affairs, which had been referred to, it contained a statement of official papers, without any opinion upon them. He had another reason for objecting to it. He thought that all the official papers with respect to our dispute with France ought to go out to the people in the same way; and as former communications had gone out without a commentary to direct the people's conclusions either this way or that, he hoped these would be suffered to go out in the same way. He did not think there was any occasion to direct the people how to think; he believed the great body of them would always think right, if left to themselves. Was it because former communications looked more like war than these, that they were given to the people without commentary; and that, because these have the appearance of peace, it is necessary to twist them to look a contrary way? He saw no such necessity, and was therefore opposed to the printing.

Mr. Gallatin saw no reason why there should be an extra publication of the despatches themselves, except that heretofore it had been thought proper; but though this had been the case, with respect to despatches, he believed no instance could be adduced of printing an extra number of any report of the Secretaty of State, which, according to the President's own description of it, contains "observations upon the despatches." For, though the gentleman from Delaware, has said that this is a part of the communications promised by the President of the United States at the opening of the session, if he had attended to the Message he would have found that the President says, that "the communications promised at the opening of the session, relative to our affairs with France, are contained in the sheets which accompany this;" and he adds, "that a report of the Secretary of State, containing some observations thereon, will be laid before the House on Monday." The two things are as distinct as possible. They are not called "facts" by the President, but "observations

upon the despatches," and they are so. There are, indeed, a few insignificant facts scattered amongst the observations, and he should have no objection to have them tacked to the end of the despatches; though, if the President had thought them of importance to be communicated, he would doubtless have sent them along with the others. The report contains no information, but deductions and observations from the communications made last year, and those now made. He therefore saw no reason why the expense of publishing an extraordinary number of this report, should be incurred, more than of any other report from one of the Heads of Departments. To send these observations and reasonings out to the people, would be to say that they are in all respects proper and true, and therefore it ought not to be done.

Mr. G. did not consider either the resolution or the amendment as of any importance. He had however another reason for wishing the report not to be printed, which was, that, in many instances he believed it contains bad reasoning, that facts are improperly stated, and that it is in some parts improper in itself. Though these reasons would induce him to vote against printing an extraordinary number of this report, still his objections are not so strong as to induce him to vote against the resolution, if the amendment should be negatived; because he did not think the report would produce any effect upon the people. He believed they would do as well without it as with it; but if they had it, he did not believe it could mislead them in any material degree.

The paper being under consideration, he might be asked to state some of his objections to it. He could not be expected to do this with much correctness; but it had struck him, in the reading, to be a very extraordinary production. Making an observation on the French Minister having declared to Mr. Gerry that he did not wish the Government of the United States to break the British Treaty, the Secretary of State finds fault with that, and seems desirous that the French Government should have insisted on our breaking the British Treaty. For his argument appears to amount to this: "Only think of it!—those villains will not demand that we should violate our treaties." And he really appears very angry on the occasion. As to the general deduction, that the French Government is not disposed to treat with us, he had only heard once the report, and was not yet prepared to form a correct opinion upon that part. But the gentleman from South Carolina seems to suppose that ignorance and a childish reliance are so conspicuous in the despatches, that it is impossible any one can fail to see them. If this were the case, he could see no use for this commentary. Mr. G. did not understand whether the gentleman meant to apply his terms of ignorance and childishness to the French Minister or Mr. Gerry, but supposed to the latter. He had himself read the greater part of the communication, and had neither found much of ignorance or childishness. He found, on the contrary, opinions expressed with modesty, and which, being formed on the spot, were certainly entitled to confidence.

But the gentleman from Connecticut says that this report is necessary in order to correct the false information and wrong conclusions contained in the despatches. In saying this, the gentleman could not allude to the correspondence between Mr. Gerry and the French Minister, but that between Mr. Gerry and the Secretary of State. The gentleman seems to be afraid of the effects which this correspondence will produce. Mr. G. believed the letter of Mr. Gerry would produce an effect. Let him, said Mr. G., get as many of the Secretary of State's reports as he pleases, and send them out with as many of his own observations as he pleases, and he defied him, though thousands of copies should be printed and dispersed, to prevent the impression that would be made upon the public mind by the reading of Mr. Gerry's letter, which was known to be written by an honest man and a man of sense. The opinions of such a man will certainly have greater weight than the opinions of men who are at 3,000 miles distance. Whether the effect will be pernicious to this country he would not say; it may be so considered by some gentlemen; but he believed the circumstance of their thinking it necessary to send out an antidote with the poison will operate against them, as it will lead the people to suspect that all is not right. They will naturally say, why are not these despatches sent to us as before? Was not the opinion we formed of the last a correct one? Did we not then decide rightly; and cannot we now be trusted to decide for ourselves? Because we have not been permitted to do so, it must have been supposed by the President, the Secretary of State, and a majority in Congress, that we should draw a different conclusion, from the facts sent to us, from what they have done.

On a proposition for calling for the despatches now communicated, it had been given as a reason why they were withheld, that the Secretary of State was preparing a report to accompany them; from which it may reasonably be inferred, said Mr. G., that neither Congress nor the people were to be trusted to make their own conclusions from these despatches; that they had not suffcient discernment to do it, without receiving a previous lesson from the Secretary of State.

This, said Mr. G., will be the natural conclusion; but if the despatches are suffered to go out as usual, the people will form their own opinions candidly upon them.

Mr. Edmond said, the question was, whether the report of the Secretary of State should or should not go out to the people, with the despatches with which it is connected. It is said the report contains something beyond facts, and that therefore it ought not to be printed with the despatches. And does not the letter of Mr. Gerry, besides stating what he has done, also contain his opinions. Whether his opinion or that of the Secretary of State is most correct, he would not now undertake to say: he had not perused them. The gentleman from Pennsylvania says the deductions of Mr. Gerry are modest and conclusive, and will have a great effect. On the other hand, he says that the deductions contained in the report of the Secre-

tary of State will operate against him. As he did not know what either contained, and wishing the people to see both, he should vote for both being printed.

Mr. OTIS was of opinion that it was not the House that was degraded by receiving this report, but that the people of the United States are degraded by the arguments of gentlemen who suppose they are not to be trusted with the report of the Secretary of State, and that they cannot determine how far its reasonings are just, or otherwise. The gentleman from Pennsylvania is opposed to the publication of this report, because he does not approbate all the opinions contained in it; and will the gentleman say that he approbates all the sentiments contained in Mr. Gerry's letter? For instance, does he approbate this: "If, on the other hand, Great Britan, unaided, had fallen, the United States would have been in a much better condition at peace than in war with the most formidable Power the world had exhibited. In such an event, they could have but small hopes of resisting France; and it might have been deemed madness in them ever to have attempted it!" But the gentleman from Pennsylvania says these despatches ought to go out without this report, because the former despatches were so sent out. This, Mr. O. thought a good reason why this report should be published, because it brings into view all the facts contained in the two despatches, and part of which may by this time have been forgotten. And who, said Mr. O., is so proper to draw a statement of this kind as the Secretary of State, who is situated at the source of all information concerning our foreign relations? In his mind, this report would be considered as the finger of truth in this business. It confirms what was said by the President, at the opening of the session, "of the ultimate failure of all our measures for reconciliation;" and also, that, by some of their declarations, it would appear "that the French are averse to a rupture, but that, unfortunately, no reliance can be placed upon their declarations;" or, in plain words, that one cannot believe anything they say.

Mr. O. was glad to see this opposition made to the publication of this report, as it convinced him that gentlemen are fully impressed with the effect it would have upon the public mind.

Mr. SHEPARD asked if gentlemen would be opposed to the publication of this report, if they thought it contained false reasoning? No, they would not. They were convinced, on the contrary, that it contains truths, and they are afraid the people should see them.

Mr. PINCKNEY was astonished to hear so much opposition given to the publication of all the information for the people which is received by Congress, through the proper official channel, on a transaction of the utmost importance to them. He could not conceive what hidden reason could lurk under this opposition. A negotiation has been carried on by the President of the United States. He has acted upon the light which he has received upon the subject; and if he chooses to give his opinion upon any despatches, through the medium of the Secretary of State, with a view of justifying the part he has acted, is he not justified in doing so? And when he does it, shall the House refuse to make those reasons public? The President would have been wanting in his duty, had he not given this information to Congress. He is the source of knowledge with respect to our foreign relations, and is therefore the only person who can give information. Are we afraid, said Mr. P., to trust the people with this information? He saw no reason which could apply to the publication of the documents, which would not also apply to the publication of the report. The gentleman from Pennsylvania says it will produce no effect; but his attempt to stifle its publication seems to speak a different language. The same gentleman, from Pennsylvania, had insinuated that it was the wish of certain members in this House to plunge the country, unnecessarily, into war. It might be replied, that there are other gentlemen who wish to lull the people of the United States into a false security, in order to prevent them from vigorously preparing to defend themselves against attack. This would be repelling one unjustifiable insinuation by another perhaps equally so.

Mr. VENABLE said, as what he had said had been frequently alluded to, and unfairly stated, he must repeat that he was far from wishing to preclude the people from a sight of this report. The objection, said Mr. V., is not to the making of it public, because it will doubtless appear in all the papers, which give it a greater publicity, than any other mode. That is not the object; gentlemen know it is not. The Secretary of State may circulate his opinion in every corner of the United States, if he pleases; he only objected to the mode of doing it. Mr. V. repeated some of the former expressions as to the report being degrading to the House, and said, if the Secretary of State were to be permitted to send to Congress comments on one subject, he might do it upon another, and where would be the ground left for legislation? It would become very limited, indeed.

The question on striking out the words, "and of this day," was negatived, 46 to 36, and then, the blank being filled with 12,000, it was carried without a dissenting voice.

TUESDAY, January 22.

Mr. HARPER, from the Committee of Ways and Means, reported a bill to regulate and fix the compensation of clerks; which was twice read and committed.

RELIEF OF SICK SEAMEN.

On motion of Mr. HARPER, the House resolved itself into a Committee of the Whole on the bill to authorize the reimbursement of money advanced to sick and disabled seamen in foreign countries; which, after adopting one amendment, and rejecting two others, was agreed to, and ordered to be engrossed for a third reading.

INTERCOURSE WITH FRANCE.

The House being in Committee of the Whole on the bill further to suspend the commercial in-

tercourse between the United States and France, and the dependencies thereof, and for other purposes, and the 4th section of the bill being under consideration, in the following words, viz:

"That if, at any time after the passing of this act, the Government of France, *or any persons claiming and exercising command and authority, in any island, port or place, belonging to the French Republic*, shall clearly disavow, and shall be found to refrain from the aggressions, depredations, and hostilities, which have been, and are by them encouraged and maintained against the vessels and other property of the citizens of the United States, and against their national rights and sovereignty, in violation of the laws of nations, it shall thereupon be lawful for the President of the United States, being ascertained of the premises, if he shall deem it expedient and consistent with the interest of the United States, to remit and discontinue the restraints and prohibitions aforesaid, either with respect to the French Republic, or to any such island, port, or place, belonging to said Republic, with which a commercial intercourse may safely be renewed; and also to revive the said restraints and prohibitions, after the same shall have been discontinued, whenever in his opinion the interest of the United States shall require; and he shall be, and hereby is, authorized to make proclamation thereof accordingly:"

Mr. NICHOLAS said, there are some words in this section [in italics] which he did not understand, and if he could not get an explanation of them in any other way, he would move to strike them out. They are not in the former law; and they are very extensive. They go to this, that a man in authority in one of these islands, be his authority as limited as it may, may make an agreement on the subject of intercourse different from what he is authorized to do by the Republic of France, and, in that case, the island is to be open for our commerce. He wished for some information on this subject.

Mr. S. SMITH understood, that the reason why these words had been introduced into the bill was, in order to meet the case of Hispaniola. It was well known that a new agent had succeeded Hedouville there; that he has published a proclamation, stating, that notwithstanding the decree of the French Republic, which directs the seizure of all American vessels and their cargoes, whenever there shall be found on board an article of British manufacture, he was authorized to suspend that decree so far as relates to vessels coming to that island. And, Mr. S. said, if any agent in the West Indies could give assurances that no capture should take place from the island of which he is Governor, then the President shall be authorized to open our commerce with that island. It was on this ground that he had given his consent to this clause of the bill.

Mr. NICHOLAS said, if the clause were intended to meet the case to which the gentleman had alluded, the agent had his powers from the French Government, and whatever he did must be considered as done by that Government, until his power should be revoked; but, as the clause stood, it would authorize the President to treat with usurpers; not merely with persons in power, but with any person having momentary possession of a place, and he could not agree to such a principle. Why, asked Mr. N., was this law originally passed? Was it not an order to bring France to terms by distressing her islands? Suppose France should say to one of her agents in the West Indies, "You shall be authorized to make a stipulation with the United States to take off the suspension of intercourse with respect to your island." Would not this be to acknowledge that there our regulation pinched her? And would not the opening of intercourse with such a place, by relieving the distresses of France, defeat the original intention of the law? [Mr. HARPER asked if there was any question before the committee?] Mr. N. said he would make one, by moving to strike out this section. A clause of this kind, Mr. N. said, held out an invitation to agents to abandon their country, and to set up Governments of their own. If it were to operate only in a partial manner, for the relief of such of the French islands as are so far distressed as that the Government should be willing to restrain her depredations, so far as related to those particular places, where will be the efficiency of the law afterwards? It will only prove a burden upon our own citizens, without injuring France. If we are to have a free trade with the West Indies, why deprive tobacco planters of going immediately to the country where the article is consumed, instead of going through Spain, and by other circuitous routes? But the other aspect of the bill, Mr. N. said, was the most extraordinary and exceptionable he ever saw. It authorized the President to treat with persons "claiming authority." This provision may produce consequences the most fatal. Suppose any of the islands make a separate negotiation with this country; what will be the effect of our having thus enticed them to disobey their Government? Will this Government not be chargeable with having assisted in detaching such a colony from its Government? And if so, could anything afford a more lasting cause for war than an act of this kind? If there be any disposition in the French Government to treat, (which, however, the Secretary of State denies,) a conduct of this kind would effectually root it out, and there could be no treaty—no peace between the two countries—for years to come. If gentlemen, therefore, can give no better explanation of this clause than has already been given, he hoped it would be stricken out.

Mr. OTIS did not believe that a more unjustifiable jealousy ever entered the heated imagination of the gentleman from Virginia, than that which occupies it at this moment. He seems to think that this section of the bill is intended only to encourage usurpation and rebellion, whereas, a slight attention should convince him, that when any one of the French islands or dependencies revolt and declare for independence, neither the law passed the last session nor this bill will apply to such a case. In such an event, there is nothing in the existing laws to prevent our carrying on a free trade with such revolted island. If attention be paid to the first section of the bill, it will be seen to apply only to such places as are under the acknowledged Government of France; and the moment a place is no longer under her Government,

both the existing law and this section become null with respect to that place, and a new relation would be created which would be regulated under the law of nations. If a rebellion of this kind should break out, it would become a question to what extent we ought to carry on commerce with the rebellious place; and we should then be governed by existing circumstances. If we should be at war with France, we should doubtless, said Mr. O., avail ourselves of the trade to its full extent, without respect to her wishes; but if an accommodation of differences should be effected, and the mother country should prohibit all trade with the revolters, it is not presumable that this Government would sanction any commerce that would provoke a war, or protect adventurers from the seizure and confiscation of their property.

But it is not enough, observed Mr. O., to say that this section does not relate to rebellious colonies; it is merely a provision to meet such conditions as the agents of the Executive Directory are entitled to make, consistently with their allegiance to their own country—such at least as they constantly undertake to propose. Without assuming to define the powers of these agents, it was very clear, that they have undertaken to dispense with the decrees and laws of the Republic, whenever the exigencies of their Governments have, in their opinion, made it necessary or convenient.

At St. Domingo and at Guadaloupe, the agents seem to exercise an unlimited control over the trade and maritime concerns of those islands. He presumed they had a discretionary right given to them to relax or suspend many of the decrees of the mother country, with respect to the territory they are appointed to govern. The uniform conduct of Santhonax and Polverel, and of all the Commissioners at St. Domingo, show this to be the case; and at Guadaloupe, Victor Hugues has proved himself to be nothing less than a despot. If this bill passed, these Commissioners may open the commerce with this country, even though an open war should exist between this nation and France. Nay, Mr. O. said, he had a proclamation of Hedouville, the late agent at Cape Francois, in his hand, which shows that he had determined to adopt this line of conduct.

[Mr. O. read the proclamation which states that neutral ships and cargoes, that provisions and dry goods, shall be admitted into St. Domingo in American bottoms, that they shall not be seized when destined for French ports, but pass unmolested by French cruisers even if war should break out between the mother country and the United States.]

Now, said Mr. O., the interests of this country, and of our mercantile citizens in particular, require us to place ourselves in a situation to meet these advances. Can there be any difficulty in giving to the President a power with respect to the trade with a part of the French dominions, which he at present possesses over the whole? Gentlemen have said that an agent has arrived from an usurper in St. Domingo. Mr. O. said, he did not know the fact. He did not know of any usurper in St. Domingo. He believed General Toussaint had succeeded Hedouville in the government of that island; that he had, in imitation of his superiors, sent him off in the same way as in the mother country are sent off those who may be obnoxious to the designs of the reigning and the strongest party. But it does not follow that these measures of General Toussaint will not be ratified by the French Government. The same General had heretofore sent off the Commissioner Santhonax. He was not, however, for this cause declared to have forfeited his allegiance, but pains were taken to appease and reconcile him, and Santhonax came back. He was afterwards succeeded by Hedouville, who is, in his turn, sent on a voyage to France. But, said Mr. O., shall we now begin to examine into the legality of the powers of persons in authority, either in France or in her West India possessions? Have we not uniformly adhered to the principle that those who exercise power *de facto* are the only persons that we are bound to recognise? From the first dawn of the Revolution, we have, said he, never questioned the legitimacy of the power exercised in France; to us it seemed indifferent whether Jacobins or Girondists were at the helm of affairs; whether it was a reign of terror or of moderation. We have constantly sung hosannas and offered adorations to the great Republic, one and indivisible, without considering by whose hands the power was exercised. It is now too late to change this system. We have no way of knowing, said Mr. O., whether the agents of the Directory act in conformity to the will of their masters or not, until the Government declares them out of their allegiance. It will then be soon enough for us to determine the posture which good faith and policy require us to take.

But, the gentleman from Virginia says, we ought not to treat with individuals under any circumstances; but it appears probable that the French Republic may permit her agents to carry on this commerce, and to give us satisfactory assurances of safety and protection without a treaty; and such an arrangement would be advantageous to that Republic.

We find, indeed, said Mr. O., from the papers on the table, that one of the complaints of that Government is founded on this suspension of intercourse, and therefore to restore the trade in part is to diminish the cause of complaint. With respect to the remark of the gentleman from Virginia, that it was the object of the original act, by distressing France, to bring her to terms, he differed in opinion from him. It was merely a defensive measure. Our trade became so insecure, that it was necessary to do—what? conquer France? No; but to prevent the ruin which threatened our citizens, by prohibiting all intercourse with that country and its dependencies; and whenever an end is put to those aggressions and depredations, the suspension may be removed.

This, said Mr. O., is not a novel practice. At the commencement of the late war, the citizens of the Bahamas were excepted from the general regulations and orders prescribed to our privateers.

It is very possible to be at war with a nation, and yet at peace with a certain portion of its territory. We find, by the papers on our table, that France says her privateers have transgressed their authority, and that they have now determined that no commissions shall be issued, except by their agents. Let us be prepared to meet them, if they will act accordingly; and if their agents in the Colonies restrain privateering, and depredations within their respective jurisdictions, let us avail ourselves of their good dispositions without any nice inquiries.

Mr. O. had said, that this law had no allusion to any country in rebellion; but he could conceive it possible that St. Domingo may declare itself independent, and become so, in spite of the opposition of France, or the wishes of this country. Far be it from me, continued Mr. O., to contend that it is desirable for the interest of the United States that such an event should happen; such a doctrine at this moment would be unseasonable and improper; but, if it does take place, he might say, without offence, it would be good policy to be upon the best terms with the persons in authority there; if not, the inhabitants of that island may become pirates upon our trade, and do us more mischief than we formerly suffered from the Barbary Powers. To prevent which, let us feed and clothe them and deprive them of inducements to quit their island.

Mr. O. hoped, therefore, this section would be retained, and that we should not, by refusing to listen to these people, throw them into the hands of another Power. This island, said he, may prove a very formidable enemy, or a very useful friend. If we recollect, said he, what was done by a handful of Maroons of Jamaica, we shall form no contemptible idea of a population of five hundred thousand souls, of which thirty or forty thousand are disciplined troops, and who have in their possession one of the richest islands in the West Indies; and, if driven to despair, would have it in their power to inflict deep wounds upon our commerce.

While, therefore, we carefully abstain from inciting them to revolt, and are silent upon the result of their independence, in reference to this country, we should not omit any fair occasion to teach them the advantages to be derived from an amicable intercourse with our country; and to cultivate those good dispositions which others will improve if we unwisely repel them.

Mr. HARPER did not know that he could give an explanation of this section which would be satisfactory to the gentleman from Virginia; but he would state what was the intention of the bill, and what he thought would be its effects. He conceived that the section now under consideration is in strict conformity with the bill heretofore passed. The object of that bill was twofold; first, to save our commerce from that speculative and hazardous enterprise which the high profits made by successful voyages enticed the merchant to go into, which was a species of gambling by which some made large fortunes, and others sustained heavy losses. This trade was something of the nature of faro-banks, or lotteries, which all good Governments have thought proper to prohibit. The Government of this country thought it wise to interfere, and say to the merchants: "You shall not run these great risks; for though a few of you make great gain by the trade, the loss upon the whole is much greater than the gain." This was one object. The other was, to deter the French nation, and those exercising authority under it, from committing depredations upon our commerce, and thus procure protection to our trade. By what means was this to be accomplished? By withholding from the French those articles of prime necessity which they were accustomed to receive through the medium of commerce, to produce an effect which they should feel.

Let us examine, said Mr. H., whether this section is in conformity to these two objects. There could be no doubt with respect to the first, because if you can prevail upon those who heretofore encouraged privateering, to forbear to make further depredations, our commerce will unquestionably be rendered safe. The reason, therefore, for laying the restriction, is thus removed; and he saw no reason why it should be continued.

But gentlemen say, that this clause will hold out an excitement to rebellion, as it proposes to negotiate with unauthorized agents. It says to the Colonies, "rise and shake off your allegiance." How? Is it throwing off allegiance to the French Republic, to say they will not fit out privateers against us? Mr. H. asked, whether the Colonies are obliged to fit out privateers? No such thing; they may, in case of war, privateer; but, it is a privilege and not a duty. Is the advantage held out to the Colonies by this bill, on condition that they revolt? We say expressly to the contrary, viz: "While you continue under your alliance to the French Republic, and shall, nevertheless, cease to exercise against us the right of privateering against our ships, we will trade with you as usual." This cannot surely be construed into an exciting of rebellion. We know, said Mr. H., that these Colonies have privateered against us. Whether they have done what they were not authorized to do, is not for me to inquire. If they will not give up the privilege of privateering, they cannot have the benefit of our trade. If they have not the authority to do so, he supposed they would not do it; but if General Toussaint prohibits privateering, we shall suppose he has the right to do it.

If the effect which the gentleman from Virginia mentions, could be produced upon the French Government by continuing the restrictions, it would be well to continue them; but we have seen how little France cares for the welfare of her Colonies, and therefore cannot reckon upon such an effect. To persevere with a view of obtaining an uncertain good, would be bad policy, when, by making the proposed change, we can obtain a certain good. Scarcely can any good man hesitate about the choice, when certain and precarious advantage is set before him.

Mr. GALLATIN said, one of the objects of this

bill, when it passed at the last session, was to prevent depredations upon our commerce; but a majority of the House who voted for it, did so with a view of compelling France, by the loss of our trade to her islands, to come to reasonable terms of settlement with the United States. It was then said by some gentlemen, that it was not improbable that the trade to the West Indies was even more advantageous to the United States than to France, valuable as it was to her; and that, therefore, it would not produce the effect predicted. This was his opinion, and he therefore voted against the bill. But, though he voted against this measure, and some others, which he thought at the time premature, yet a majority of Congress having, by adopting them, placed the nation in its present situation, whatever his opinion might then have been, and whatever it might now be, as to the probability of an end being put to our differences with France, he should think it bad policy, under present circumstances, to recede from the ground then taken, since such a conduct could betray nothing but weakness, and tend to defeat the object which all doubtless have in view, whatever might be the different opinions of obtaining it, an honorable peace. Though this law, therefore, was limited to the present session, he was ready to vote for a continuance of it; but the section now under consideration goes entirely upon new ground, and entirely different to any either taken or avowed at the last session.

The law now in existence, said Mr. G., has a section something similar to this, though widely different in substance. It is to this effect; that if, before the next session of Congress, the Government of France, and all persons under its authority, shall disavow and be found to refrain from depredations upon our commerce, then it shall be lawful for the President to suspend the operation of this law. Not to any part, but with the whole. By that law, we said, "We are not yet at war with you, we will adopt such measures as we think necessary for our present situation. We will suspend commerce with you as a nation; but if you, as a nation, shall disavow and refrain from depredations, we have given the President power to renew our commercial intercourse with you."

But what, said Mr. G., is the language of this section? It is this. [He read the section as above.] It is, that if any part of the nation, or any commanding officer, or person claiming authority, in any one port, or island, shall take those steps which we consider necessary for that nation to take, it shall be lawful for the President to remit and discontinue the restraints, prohibitions, &c. Instead of taking a general national ground, it provides for the negotiation of an individual, on his private account, who may either exercise, or claim to exercise, authority in any island, &c.

We are not, said Mr. G., at war, and an act of this kind is an act which, if it can be justified at all, can only be made use of in a state of war. It is only in such a state that we are authorized to declare, that we will act a different part with certain parts of a country at war, from what we meant to act with the whole; that we will negotiate, treat, make specific regulations with private individuals, provided they shall do—what? Disavow what the French Republic does not disavow. The present act makes it necessary for the disavowal to come from the Government; but this section says, "that although the French Government shall not disavow or restrain her depredations, &c., yet if an individual shall do it, we will open a trade with this individual. This would be to encourage insurrections. It is establishing a doctrine which is reprobated almost every day on this floor—that it is right to divide a people from their Government.

Before he examined what would be the consequence of such a conduct, it might be proper, Mr. G. said, to notice what had fallen from the gentlemen from Massachusetts and South Carolina.

The gentleman from Massachusetts told the House that this section could not apply to any place in rebellion, because no part of this bill does apply to any such case; and, therefore, that it is wrong to suppose that this section holds out any encouragement to rebellion. In proof of his assertion, he referred to the first section of the bill to show that it relates only to places under the acknowledged Government of France. By adverting to the words, Mr. G. said, it would be found that the bill prohibits intercourse "to any port or place within the territory of the French Republic, or the dependencies thereof, or to any place in the West Indies, or elsewhere, under the acknowledged Government of France." This description relates to two different states of things; 1st, commerce with any port or place within the territory of France or its dependencies, (and here is included St. Domingo, for so long as France has not renounced her Colonies, they are her dependencies,) or to any place in the West Indies, under the acknowledged Government of France. These words relate to places which they may take in the course of the war, which, though under the acknowledged Government of France, do not make part of her dependencies. Therefore the argument of the gentleman is altogether groundless.

The gentleman also told the House, that this clause was meant to apply to certain acts of the acknowledged agents of France who may open a trade with us, notwithstanding the decrees of the Directory, and he introduced the proclamation of Hedouville to show that this was the intention of the bill. Whatever the proclamation of Hedouville may have been, this bill was certainly not meant to meet any such case; if it had, it would have been differently expressed. This section says, that when any persons claiming and exercising command, &c., shall clearly disavow—what? the aggressions, depredations, and hostilities of the Government under whose authority they act. What does this amount to? Certainly to an official disavowal of all the acts of the Government of the mother country which has violated our national rights and sovereignty. Both the gentleman from South Carolina and the gentleman from Massachusetts proceeded to say, that

the objects produced by this clause would be beneficial to the United States. Suppose this should, in some degree, be the case, if other effects of a serious and mischievous nature may proceed from it, the measure ought not to be adopted.

The effect expected to be produced is to operate not upon France, but upon certain agents, or commanding officers in the West India islands, by inducing them to forbear from privateering. Supposing this effect is produced, said Mr. G., will it not also be considered as a lure thrown out to encourage those agents to negotiate in their private capacity? Certainly one effect will not prevent the other, and the whole of the subject ought therefore to be considered together.

It is said that any kind of negotiation which might be entered into with any agent of the Executive Directory, whatever may be the situation of that agent, ought to be considered as lawful, because we ought not to inquire into the right which a person has to exercise a power; that it is enough for our purpose if he does exercise it. This doctrine, said Mr. G., will not apply to the commanding officer of any island. It will apply only to the Government of a nation, and not to a part or a section of a nation. No one could suppose it right to treat with a town, or any foreign nation which was in a state of insurrection, from whatever source the person proposing to treat might have received his power. The case is different with respect to a nation. Whoever exercises the Government of a nation, is supposed to do it by consent of the nation. This rule will not apply to Colonies. An agent in an island under the Government of France, must be considered as an agent of the French Government. So long as he remains an agent of France, it is no matter to us whether he obtained his situation by transporting his predecessor in office, or by any other improper act; while he remains an agent of the French Government, he must be considered as such. But this section has nothing to do with a case of this kind; it contemplates a period when these agents shall have ceased to consider themselves as such; when they shall have thrown off their allegiance to their Government, then this section says, we shall be ready to negotiate with them.

Mr. G. conceived, therefore, that the question comes to this: Is it proper to give power to the President, under our present circumstances, to stipulate with certain agents, that in case they will disobey their Government, by declaring themselves independent, or by throwing themselves into other hands, we will renew our commercial intercourse with you? No man, said Mr. G., will deny that a trade of this kind would be advantageous to the United States; he believed it to be one of the most lucrative branches of our commerce; but it was nevertheless thought proper, at the last session, to suspend it, in order, as then supposed, to effect a greater good. Therefore, this commerce being advantageous to the United States, is not a sufficient reason why this measure should be taken, if it be wrong in itself, and may produce greater mischiefs than the trade can do us good.

What, said Mr. G., are the inconveniences which would arise from a measure of this kind? It must be allowed, in the first place, that it would give the lie to all our former declarations of abhorrence against the attempts of other countries to divide the people of a nation from their Government; for we here, said he, assume the ground that it is proper to negotiate and stipulate with a part of the people, with a certain district of a country, with any person who shall choose to say that he claims the right of governing in any place. We abandon the general ground of treating with a foreign Government, and determine to treat with any individual who may either have, or claim to have, authority. Mr. G. believed a principle of this kind at all times improper; and it would be peculiarly improper in us to act upon it, with respect to a nation, against which we have so many grounds of complaint of this kind. He had already stated, that it could only be justified in a state of war, if then, to hold out encouragement to insurrection and rebellion to the colonies of another country.

But, provided the act be justifiable, would it be our interest to do it; and what would be the probable effect of such a measure? To be able to speak upon this point with perspicuity, it would be necessary to investigate the real object of this section a little more closely. Mr. G. wished gentlemen had been so good as to have given the House all the information they possess on this subject; he wished Congress had received whatever official information there may be on this subject in the archives of the Secretary of State, or all the information which may exist with some gentlemen on this floor. Deprived of this information, said Mr. G., we can only speak of what we have heard, but which, he believed, susceptible, in some degree, of proof.

Mr. G. believed he might go so far as to say that this section was not inserted to meet the case spoken of by the gentleman from Maryland; but for the admission of one which had been a subject of discussion in the newspapers for some time past. He meant what was generally understood by the mission of Toussaint, a black General, of St. Domingo. It had been asserted, from the moment of the arrival of a supposed agent, that he came here with the late Consul of the United States at that port; that he brought despatches from Toussaint to our Government. Further than this, we have seen, in some of the newspapers printed at the Eastward, that this mission is likely to have some effect. We have seen it there stated, "that the President is neither rash nor diffident, and that good effects may be expected to flow from this mission." So far, on the authority of the public newspapers, and none of these assertions have been denied.

Should I be doing right, said Mr. G., to say that I believe that this section of the bill is an effect of that negotiation? It is true I only deduce this from probability, but the probability is strong. Mr. G. said he knew that the independence of St. Domingo had been a favorite theme with gentlemen, and they had made an appeal

upon it to the avarice of the people of the United States, that, in case of war, this independence would be of advantage to the United States, and that, during a time of peace, the minds of the people ought to be prepared for this event. But gentlemen seem to think that the public mind is not yet ready for this change, or they do not choose to avow the object of this mission. Which, he could not tell; but he would advise those gentlemen who have received information on this subject to communicate it. Mr. G. said he should be happy to know the subject of the despatches of General Toussaint. What is his offer to our Government? Whether his ideas go to independence or not? Whether he is in any way connected with the British Government, or not? Whether the sudden and extraordinary evacuation of St. Domingo by General Maitland was to promote something of this kind, or to support the force of General Toussaint? He should wish to know what is the disposition of the Executive with respect to this business, so far as it shall have come to the knowledge of any of these gentlemen. He would also be glad to know the disposition of this agent, or the nature of his object, at least so much of it as may have escaped at any *petit soupér* or *dinér*, at which these gentlemen may have been parties? If any such information could be obtained, it might tend to throw some light upon the subject. If he should be mistaken in his views of it, it would be wholly owing to his being deprived of that information, which he believed either the Executive, or some of the members on this floor possess.

Mr. G. believed the object of this section is to give encouragement to the black General in his present views. A single sentiment had dropped from the gentleman from Massachusetts (Mr. Otis) in the course of the debate, which had given rise to part of what he had said on this subject, and which led him to believe that he had some information which he ought to communicate. He said, "if St. Domingo should finally be independent, it was proper to cultivate a good understanding with that island at present, and not refuse"—what? "to hold out certain encouragement to them in such an event." When? Now; so that we are not only to cultivate a good understanding with St. Domingo, if it should become independent, but in the expectation of it, and before it takes place, it is proper to cultivate a good understanding with that island, by holding out the encouragement proposed by this bill. This was nothing less than to confess that this section is inserted in the bill to encourage Toussaint to declare the island independent. Nay, his views, if he is a man of sense, must go further; he must not only secure a temporary trade, but he would also desire to know whether it be the wish of this country that St. Domingo should become independent; because he should suppose that if the Government of the United States was opposed to such an event, a temporary trade would not be a sufficient inducement to him to throw off his present allegiance.

To me, however, said Mr. G., if it be the intention of the General to declare it, the independence of St. Domingo is a very problematical event. It would certainly be the interest of Great Britain to oppose an attempt of this kind; since it could not be her interest to have a black Government there. But supposing the event possible, he should consider it as extremely injurious to the interests of the United States. Suppose that island, with its present population, under present circumstances, should become an independent State. What is this population? It is known to consist, almost altogether, of slaves just emancipated, of men who received their first education under the lash of the whip, and who have been initiated to liberty only by that series of rapine, pillage, and massacre, that have laid waste and deluged that island in blood; of men, who, if left to themselves, if altogether independent, are by no means likely to apply themselves to the peaceable cultivation of the country, but will try to continue to live, as heretofore, by plunder and depredations. No man, said Mr. G., wishes more than I do to see an abolition of slavery, when it can be properly effected; but no man would be more unwilling than I to constitute a whole nation of freed slaves, who had arrived to the age of thirty years, and thus to throw so many wild tigers on society. If the population of St. Domingo can remain free in that island, he had no objection; but, however free, he did not wish to have them independent, and he would rather see them under a government that would be likely to keep them where they are, and prevent them from committing depredations out of the island. But if they were left to govern themselves, they might become more troublesome to us, in our commerce to the West Indies, than the Algerines ever were in the Mediterranean; they might also become dangerous neighbors to the Southern States, and an asylum for renegadoes from those parts.

This being the case, Mr. G. said, he must deprecate every encouragement which may be held out to produce such an event. Did not gentlemen recollect what an alarm was sounded last year, with respect to the probability of an invasion of the Southern States from the West Indies; an alarm upon which some of the strongest measures of the last session were grounded? Mr. G. could not help hoping, there would be a general wish not to take any measure which may imbody so dangerous a description of men in our neighborhood, whose object may be plunder, and who might visit the States of South Carolina and Georgia, and spread their views among the negro people there, and excite dangerous insurrections among them. He did not wish, therefore, to see this black population independent; and that the interest will be wholly black is clear. The General is black, and his agent here is married to a black woman in this city. Mr. G. did not mean by this to throw any reflection upon the General. He believed he had behaved well to Americans. His remarks were general, and were only intended to show that it would be with a black population we must treat.

But Mr. G. believed conduct of this kind would

have the effect to remove to an immense distance any expectation of an accommodation of our disputes with France. We have, continued he, just had despatches laid upon our table from Mr. Gerry, one of our late Commissioners to the French Republic, by which we are told that he believed there exists in that Government a sincere desire to treat with us. Since those dispatches were communicated, it is true, that the Secretary of State has sent us a report, in which he endeavors to prove the deduction of Mr. Gerry unfounded. Be it so. At least, he believed, without entering into an examination of the despatches, or the Secretary of State's reasoning upon them, it must be allowed that appearances are more favorable at present than they were nine months ago. The disasters which had happened to the fleets of France, her want of success in other parts, the determined tone assumed by all the neutral Powers, and other occurrences, have rendered it more the interest of France to treat with us than it was nine months ago. So that the prospect is rather better of an honorable accommodation of our differences. While things are thus situated, and after we have made a declaration, by echoing the sentiment contained in the President's Speech respecting the rights of embassy, that we are still ready to treat on honorable terms, it would, in his opinion, be highly impolitic to change our ground, and take the most offensive, a ground that would show our desire for war, and not only for war but a war of extermination; for no measure could be taken which could affect a nation in a more lively manner, than an attempt to detach from it its colonies, by giving an encouragement to insurrection. Even, said Mr. G., if we were obliged to go to war with France, it would be impolitic to take a step of this kind. Every war must be terminated by a treaty; and we shall be able to obtain better conditions if a project like this be not attempted; and, in case the attempt at independence by the Island was not to succeed, we should cut up by the root a branch of the most advantageous part of our commerce for ever. In his opinion, we ought neither to recede from the ground taken, nor take new ground, but let our measures, whatever they are, be such as are calculated to affect the nation altogether, and not any particular part of it. He hoped, therefore, the section would be struck out.

The committee rose, had leave to sit again, and the House adjourned.

Wednesday, January 23.

Mr. S. Smith, from the Committee of Commerce, reported a bill respecting quarantine and health laws, which was read and committed.

Mr. Josiah Parker, from the Navy Committee, reported a bill for the government of the Navy of the United States Mr. P. stating the bill was very long, and related entirely to the government of the Navy, he did not think it necessary to detain the House in reading it. The reading was therefore dispensed with, and it was ordered to be printed, and was committed.

The bill authorizing the reimbursement of money expended in rendering aid to sick and disabled seamen in foreign countries, was read the third time and passed.

The amendments of the Senate to the bill for taking an enumeration of the inhabitants of the United States, to which they had *adhered*, was taken up; and the question being "will the House recede from their disagreement to the Senate's amendment," (which was to postpone the enumeration for a year,) it was negatived, 26 votes only being for it.

Mr. S. Smith laid the following resolution on the table:

"*Resolved*, That the Committee of Ways and Means be instructed to prepare and report a bill for augmenting the salary of the officers employed in the Executive Department of the United States."

Ordered to lie.

PROTECTION OF SEAMEN.

Mr. Harper said, it had been found that the act passed last session for the protection of American seamen, was ineffectual, by admitting persons to receive protections who are not entitled to them, and by that means taking from them all credit. He therefore proposed the following resolution:

"*Resolved*, That a committee be appointed to inquire and report, by bill or otherwise, whether any and what alterations are necessary in the act for the relief and protection of American seamen."

Agreed to, and a committee of three appointed.

INTERCOURSE WITH FRANCE.

The House then went into committee on the bill further to suspend our commercial intercourse with France, and Mr. Nicholas's motion to strike out the 1st section being still under consideration,

Mr. Sewall said, this bill was far the greater part of it nearly a renewal of the old law, which expires on the 4th of March next; and the arguments used in support of the present motion go rather to an abandonment of the law as now in force, than to show the propriety of striking out the section. This opinion would be justified, he thought, by taking a view of those clauses of the law which may be considered as aimed at by these arguments. To what does the present law, said Mr. S., relate? Our citizens are prohibited from going to certain places with their commerce, viz: to the territory of the French Republic, to the dependencies thereof, to the West Indies, or elsewhere, under the acknowledged Government of France. Our vessels are, therefore, only prevented from going to places under the authority of the French Republic. The gentleman from Pennsylvania has endeavored to show that by "the territory of the French Republic or the dependencies thereof," are included all the actual possessions of France; and that by, "or to any place in the West Indies, or elsewhere under the acknowledged Government of France," are meant places which might come into their possession in the course of the war. He therefore supposes that

though a part of the French West India islands should be conquered, and go into other hands, still our intercourse with them would be prohibited by this law.

This idea, Mr. S. said, could not be considered as having any foundation, since the law was intended to operate against the French only. Suppose, said Mr. S., a merchant sends his vessel to the West Indies at a time when he supposes Guadaloupe is in possession of Great Britain. In such case, the vessel may safely enter that port; though if it had remained in the hands of the French, and she had gone in, she would have been liable to the penalties of the law. Mr. S. could not see any difference between this case and a place changing its own Government. The aim of this law not being to injure our own citizens by depriving them of this trade, but because, in prosecuting that commerce, the French Republic have gained the advantages of it instead of our citizens. This construction of the act, said Mr. S., is further confirmed by considering the words "or shall be employed in any traffic or commerce with or for any person resident within the jurisdiction or under the authority of the French Republic." If one of the French islands shall declare itself independent, any person residing there could not be said to "reside under the jurisdiction and authority of the French Republic." Let us consider a question to arise between two citizens of the United States. Suppose one of our vessels comes from an island which has been conquered from the French, and a citizen seizes her as coming from a French island, would it not be competent for the owner to show that though the island from which he sailed had been a member of France it was not now so? Such a defence would certainly be complete. Therefore, all the observations of the gentleman from Pennsylvania apply to the law as it now stands, and not in support of this motion. The gentleman says he is now unwilling to change the state of things which he was always before opposed to; but he certainly argues in support of a change favorable to France, in relation to her colonies. Mr. S. acknowledged we ought not to encourage rebellion in the colonies of any foreign Power; but our merchants, in prosecuting their commerce, have nothing to do with the political situation of the country to which they go.

Considering this bill, therefore, as a mere commercial regulation, and justified so far as the law goes, Mr. S. could not admit the arguments of the gentleman from Pennsylvania to have any weight. Mr. S. said, he would adduce authorities to the committee to show that every nation is perfectly free with respect to their commerce, though it seemed strange that there should be occasion for proof in so clear a case. He should also show that where there is rebellion in a colony against the mother country, it does not change the ground with respect to commerce, but that a nation has a perfect right to trade there, if she thinks it expedient. In passing the law, Mr. S. said, Congress might have made exceptions in favor of any part of the possessions of France; and we are now proposing not to except any particular part by name, but to declare a condition upon which we will open a trade with any part thereof; and certainly if the restraint can be laid altogether, it can be modified as we please.

[Mr. S. read extracts from *Vattel* in support of his opinions.]

The gentleman from Pennsylvania had made some objections to this doctrine on a more general ground. Upon the possibility of a change of our conduct with respect to our commerce having an effect upon some of the possessions of France; and has said that in case of our going to any port or place in rebellion against its Government, it will be to desert our former principles, and give the lie to all former declarations against the French, on account of their attempts everywhere to divide the people from their Governments.

It would be difficult to show, Mr. S. said, how our carrying on our commerce with any country was to attempt to divide the people from their Government. The gentleman has supposed, what is foreign to this bill, that a treaty is in agitation with General Toussaint, and that a missionary is here with whom the treaty is to be concluded. The gentleman had evidently introduced this subject to pass a slur on the councils of this country. This bill cannot produce such a treaty. The only object of this bill is to give the President power, when he finds any particular colony has changed its conduct with respect to us, to open our commerce with that place, without affecting in any respect the political relations between the two countries.

It is well known, Mr. S. said, that the situation of the French possessions is very uncertain, the mother country having in a great degree forsaken them. They have no military force there; they are, therefore, supported by themselves and their own force. It is true, there is still a nominal acknowledgment of dependence on the mother country; but the Governors of the islands have frequently contravened the decrees of the mother country; or, when inconvenient, they have changed them, and acted independently of any other authority. Under these circumstances, it might well become a question with the Governors in the West Indies, whether they will change their conduct towards us by restraining their privateers, and preventing American vessels from being condemned in their ports, in order to receive the benefits of our commerce. We might then open our intercourse with such island, being delivered from the mischiefs which gave rise to the suspension, especially since this commerce, as the gentleman from Pennsylvania has acknowledged, is of all others the most beneficial to this country.

Mr. S. had heard no objection to this power being placed in the President. Great advantages will be derived from placing it there. During the long recess of Congress great changes may take place—changes which may make it beneficial to the people of the United States to have the intercourse opened. We know also, said Mr. S., that in Spain and some other countries, privateers are

encouraged; and if this encouragement should continue, it will be highly expedient that the suspension of intercourse should be extended to those countries, which might be done in the recess, without waiting for an extraordinary call of Congress.

Without enlarging further on the subject, the bill appeared to Mr. S. very necessary at present, and it would be proper, in his opinion, to retain this section.

Mr. S. Smith said, that if he thought with the gentleman from Pennsylvania, that the clause under consideration was conpected with the mission from Toussaint, and the separation of Hispaniola from France, or with an intention of dividing the people of that island from their Government, he should also be opposed to it; but believing, as he did, that it would be productive of none but good effects to this country, he was in favor of retaining the clause.

It might be well, Mr. S. said, to take a view of the relation which had subsisted between France and her colonies for some years back. Early in the Revolution, Santhonax and Polverel were sent as Commissioners to Hispaniola, for the purpose of governing the island, and to carry into effect the decree of the French Government for liberating the slaves. They conducted themselves in a friendly manner towards America, but destructively to the northern part of Hispaniola, and particularly towards Cape Francois. The disastrous contest which took place between the whites and blacks, to the destruction of the former, is well known. From the abuse of their power, these Commissioners were recalled. Polverel had not sufficient courage to appear before the French Government, and put an end to his existence. Santhonax went to France, and was sent out again to the island. Still he was favorable to this country, until the decree of France which declared that their vessels of war should treat neutral vessels in the same manner as neutral Powers suffered Great Britain to treat them. Santhonax then issued his decree of December, 1797, and American vessels were taken and carried into Hispaniola indiscriminately, and unsuspectingly, not under the authority of France, but under the authority of this agent. Not content with this abuse of his power, Santhonax sent Deforneaux, the Commissioner of Guadaloupe, to the south side of Hispaniola, to carry his plans into effect there; but Rigaud, a man of color, and an honest man, who had gained the esteem of the people, who was in power there, frustrated the attempt. Deforneaux attempted to escape, but was taken and sent to France. We see, therefore, that Santhonax made no scruple to set aside the decrees of France; and in this manner has Rigaud ever done, repealing and preventing the execution of the decrees of France, whenever he disliked them. And was Rigaud punished by France for thus exercising his power or not? No; he was made Commander-in-Chief of the south side of the island for having sent off Deforneaux. Hedouville succeeded Santhonax in the Government, and brought with him the power to execute or not, as he judged proper, the decree of the Directory directing the capture of neutral vessels with British manufactures on board. He determined that this decree should not be carried into effect against vessels bound to Hispaniola. Did he carry his purpose into effect? So far as his (Mr. S.'s) information went, he did.

Here, then, we see Hedouville setting aside the decrees of France; and Rigaud has not only prevented American vessels from being condemned, but has thrown the captains of privateers into prison for daring to bring in American vessels, and has caused such as have been carried into Jacquemel, on account of not having a *role d'equipage*, to be delivered up immediately. Victor Hugues, upon the recall of Mr. Adet, ordered that all vessels carrying on trade to what he called rebel ports, should be brought in and made legal prizes of. This was another separate authority. He afterwards issued orders for the condemnation of vessels coming into Guadaloupe with a supercargo, who should either be an Irish or a Scotchman, though they had every necessary paper on board to show that they were bound to that port, and vessels were condemned for this alone; and this is not seen in any of the decrees of France. Mr. S. understood this clause as intended to meet cases of this kind; and, so far from this being offensive to France, it must be quite the reverse. Under this law, said Mr. S., the President will be enabled to say to these special agents, "if you will suspend your decrees with respect to your islands our trade shall be opened to you," and by this means give to our citizens a commerce which is a mine of gold to them. Such a conduct, he thought, must appear to every one perfectly reasonable.

The gentleman from Pennsylvania says that the independence of Hispaniola would be dangerous to the Southern States. But does this bill, said Mr. S., contemplate any such thing? Does it not say that the agents must be under the Government of France? If the island were to declare itself independent, we could not, said he, prevent our merchants from trading with it; or if it should be in a state of rebellion, they would trade with it at all risks, without coming under this act. This bill seems, instead of encouraging the independence of the island, to place an obstacle in the way of it. It promises to the commanding officer the trade of this country, so long as he remains attached to France, and forbears to depredate upon our commerce; but the moment he declares himself independent, that promise is no longer binding.

Certain words in this clause are complained of; and Mr. S. owned he did not like them himself. He meant the words, "shall clearly disavow;" and, if this motion should not prevail, he would move to strike them out. He should be satisfied if the islands refrained from depredating upon our trade, without making any disavowal. Mr. S. said he could by no means bring his mind to believe that this clause could give encouragement to the people of Hispaniola to rebel against their country. Toussaint, said he, is not the only Governor of that island. Rigaud, who, as he had already stated, is a man of color and a man of ex-

cellent character, who has great hold of the affections of the people, and whose attachments are also strong to the French Government, has also a considerable share of authority; and Toussaint, in his opinion, would not on this account dare to declare the island independent.

But suppose, said Mr. S., this independence were to take place, would all the danger to this country actually take place which has been stated? In his opinion the reverse would be true. Refuse to these people our commerce, and the provisions of which they stand in need, and you compel them to become pirates and dangerous neighbors to the Southern States; but, so long as you supply them, they will turn their attention to the cultivation of their plantations. If, on the contrary, they once get a taste for plunder, they will never settle to labor.

Mr. S. observed that it was the other day said that truth was the characteristic of the Federal party. It might be so, though he had found it otherwise; but the characteristics of party, he observed, always is detraction, suspicion, and jealousy, whether it be called this or that. On the present occasion he found jealousy and doubts had intruded on the minds of gentlemen who would, at other times, see very differently. He did not mean to throw any censure upon them on this account, because they doubtless believe themselves right. This party spirit, said Mr. S., is everywhere to be found. The gentleman from Connecticut had the other day said that he (Mr. S.) had constantly voted against every measure of defence, yet if he would have read the Journals, he would have found the reverse the fact. [The Chairman doubted whether this was connected with the question.] Mr. S. concluded by saying that the more gentlemen think on the subject, the more they will be convinced the bill is not pregnant with the mischiefs which they apprehend.

Mr. Nicholas said it would be difficult to ascertain precisely where truth is to be found; whether in the extremes of party or in a middle course. The gentleman from Maryland says party men are always in the wrong; therefore he supposed that gentleman to be of opinion that those who vibrate between two parties are always in the right. In considering this question, he should do it according to his best judgment. If his mind should be so operated upon by party spirit as not to see the truth, it would be his misfortune.

He believed, as he had already stated, that this bill, as it now stands, will authorize the President to negotiate with the subordinate agents of a Government against the will of that Government, and thereby promote a separation between the agent and his Government, by holding out a temptation to do certain acts not warranted by the Government. The House had been told, by two gentlemen from Massachusetts, that this cannot be the operation of the law, because it has no relation to a revolted colony; that when a revolt once takes place, the trade will open of itself, as the territory will no longer be under the authority of France. He wished to inquire into the truth of this doctrine, which one gentleman has asserted and another has endeavored to prove. Mr. N. asked if Toussaint should to-morrow declare himself independent, would the President be authorized to direct the collector of the customs to consider St. Domingo as no longer coming under the present law? In his own opinion, he could not, because it would be contrary to the practice of any other Government; and, if done, would give the lie to all the professions made by us on subjects of this kind. When the separation merely commences; when we know nothing of the means which the revolters possess, but because some person chooses to declare a place independent, shall our Government interfere and acknowledge such a place independent? He asked whether any gentlemen in this House, who are so frequently called disorganizers, had ever broached a doctrine like this? He knew very well, without the authority of *Vattel*, which the gentleman from Massachusetts had introduced, that any nation is at liberty to take part in a rebellion; but it is a good cause of war. When a revolution is effected, then the country revolting becomes independent, and any nation may treat with it according to its will. But, if you take part with the revolters, you place yourselves on the same ground with them in respect to the Government revolted against. And, said he, in case we give any assistance to any island belonging to France, in its revolt against that Government, we place ourselves in a state of war. The only question would be whether we ought to run this risk? The gentleman last up, from Massachusetts, has taken it for granted that this may be the effect of the law, and has attempted to justify it. He has declared that after any island shall have declared itself independent, no captain of a vessel could be recovered against for a breach of his bond. Mr. N. asked whether the gentleman could suppose that any of the courts of this country, who are the peculiar defenders of order, and who are to keep down all dispositions to violate it, would give it as their opinion that the moment any rebellious agent shall declare a colony independent, it is to be considered as really become so? Mr. N. did not believe this opinion could be seriously avowed.

But the gentleman says that, while any island remains under the Government of France, it will be no violation of the rights of France, no commitment of the peace of this country, to agree, on certain conditions, to trade with it, while our commercial intercourse is interdicted with the nation and possessions generally; because a nation has the right to trade with whom it pleases, and to except any part of such nation which it may think proper. Suppose this doctrine were admitted, what does it prove? Will it prove that we may hold out an invitation to a part of a country to commence trade with you, when that invitation requires an abandonment of the orders of the Government to which it belongs. Certainly not. The case he has stated could only operate with the consent of the foreign Government.

Mr. N. believed gentlemen are wrong in their construction of the present law, when they say if Toussaint were to declare himself independent to-

morrow, that the Executive might immediately consider him so, and direct trade to be carried on with that island as heretofore. He believed the President would not do it, and that the present clause of this bill is founded upon the certainty that he would not. If this is the case, the same objection is in full force against the wording of this section. The gentleman from Massachusetts, first up, seems to acknowledge that this law is to have this operation. He says, St. Domingo may become independent, and that therefore it is highly proper we should let them know what dependance they may have upon us; to let them know that they may expect all the advantages of independence. Is not this, said Mr. N., an acknowledgment of the effect which this law will have? That the moment they throw off the French yoke, they will receive all the assistance from this country which a free commerce can give them? Mr. N. thought the gentleman himself inflicted the deepest wound on this bill, for gentlemen cannot say that such an assurance is not a temptation to commit the act.

But it is said, we are mistaken in the meaning of this law, continued Mr. N., and that it relates only to persons exercising authority under the French Government. The words are, "any person claiming and exercising authority;" so that a place may belong to the French Republic, and yet any usurper may "claim and exercise an authority" there. Indeed, it is expressly calculated to meet a case of rebellion.

But gentlemen tell the committee that, however these words may be construed, it is not the meaning of gentlemen that they should operate in any other way than to meet that power which appears to be vested in the agents of the French Government in the West Indies, to exempt their islands from the laws of the mother country, whenever they are found inconvenient. The gentleman from Massachusetts produced the proclamation of Hedouville in support of this opinion. As he understood that proclamation, Mr. N. said, it amounted to no more than this, that provisions and dry goods, when destined to St. Domingo, should be received there. Does this, said he, make a case upon which this bill can operate? It does not; and every one must admit that this clause was not meant to apply to Hedouville.

But the gentleman from South Carolina, (Mr. Harper,) whom he must take the liberty of saying from being a declaimer against the practice of dividing the people from their Government, is now become an advocate of the doctrine, but who seems to have lost much of the force and energy which he has heretofore displayed—says this bill will not promote disorganization, because privateering is a privilege of the colonists, but it is not their duty; that they may, therefore, privateer or not at their will.

Mr. N. said, he would state a case, in order to try the gentleman's doctrine. Suppose we make an agreement of the kind proposed with St. Domingo, and a cruiser of France should carry in there one of our vessels, and demand condemnation, he wished to know whether the Governor would consider the orders which he had received from France or the agreement which he had entered into with our Government paramount? Mr. N. referred to what had been said about considering every Government in existence as legal. With respect to a nation the doctrine was correct; but could not apply to the usurpation of power in a colony.

Mr. N. could readily believe that the trade of St. Domingo is very valuable to this country, and the assertion of the gentleman from Maryland, that it is a "mine of gold," had confirmed that opinion; and he was really afraid that that gentleman's representing a commercial part of the country, and being himself deeply engaged in commerce, the importance of this trade may have too much weight in deciding a question of this kind, and be a mean of disregarding the evils which may arise from it; but Mr. N. was of opinion, that a solid peace would be far more beneficial to commerce generally, than any temporary advantage of this kind. Besides, the principle upon which such advantages would be built, is something similar to that which would actuate a man to fall upon the property of his neighbor, because he is richer than himself.

But does not the same gentleman tell the House that the powers in St. Domingo are pretty equally balanced between General Toussaint and Rigaud, and that, therefore, if Toussaint attempted to establish the independence of the island, there could be no certainty of his success? Why, then, said Mr. N., should we go into a measure which might produce war between the two countries, when the advantage to be derived from it is so very doubtful? And he thought the danger from the proceeding was heightened by the circumstance which gentlemen have mentioned of there being so very large a body of people in arms there; for, since the powers are so nicely balanced, is it not probable that the Government party, in case of a struggle, would have the advantage? And would it not be the height of madness for us to run the risk of having the large force of that island turned against us, in consequence of our improper interference between the colony and its Government?

Mr. N. said, he could not overlook some considerations connected with this subject, which he thought of great importance. It is well known, (and he begged gentlemen who have the same desire to preserve the country in peace that he had, to pause at the suggestion,) that there are many gentlemen in this House who have been long in favor of coming to an open declaration of war against France; and he had every reason to believe that the same disposition yet exists in these gentlemen; but the same opportunity of making this declaration does not now exist. The public mind is not now so well prepared for entering upon a war as it was some time ago, because they believe things wear a better appearance. If then, said Mr. N., the same disposition exists for war; if these gentlemen think they or their country will be benefited by war, they may be very willing that France should declare it; and if it be

possible that a wish of this sort may exist, it affords a full solution to the meaning of this bill.

We have, indeed, been told by the gentleman from Connecticut (Mr. Allen) who, like himself, is remarkable for the coolness with which he makes up his opinions, that there is no change for the better with respect to our dispute with France; and that it would be madness to believe that the conclusions and observations which Mr. Gerry has made upon the subject are well-founded. If so, Mr. N. said, he was justified in supposing that gentlemen think there is no change in what is proper for this country; and he was further confirmed in this opinion by Mr. Pickering's report upon the despatches. For his own part, he was unwilling to take a step that would effectually dash from us prospects, which, in his opinion, might end in peace, notwithstanding all the assertions made to the contrary. Indeed, if all the three points which the Secretary of State sets out with wishing to prove, in his report, viz: the attempts of the French Government to exculpate itself from the charge of corruption; to detach Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation; and its design, if the negotiation failed, to throw the blame of a rupture on the United States; if all these points were proved, it would not show Mr. Gerry's conclusions to be unjust. But, Mr. N. believed, from the acknowledgment of Mr. Pickering himself, that there is a disposition in the French Government to treat, and that there is a change of circumstances between the two countries; for he acknowledges that the idea of loans and reparation on account of speeches, are formally given up; and also the demand for satisfaction on account of the British Treaty. After these have been relinquished, said Mr. N., what are the points of dispute which remain? He always conceived these to be two of the principal complaints against us.

There is one effect which this report of the Secretary of State, like the present bill, is calculated to produce. It may tend to change our situation with respect to France, by insisting that all the informal acts which they have disavowed, and must get rid of before any treaty can take place, were nevertheless acts countenanced by the Executive Directory. This is one way of doing away the disposition, which, said Mr. N., in my opinion, exists in France for peace, and the passing of a law like the present, will be another; and, if persisted in, a successful one.

But we are told, said Mr. N., that we ought not to excite the animosity of the people of St. Domingo. Is our present situation calculated to produce this effect? Certainly not, since they are necessarily involved with the mother country; and to take the part proposed, he had already shown might be attended with the most direful consequences. He thought this country ought not to wish for the independence of St. Domingo in another point of view. However we may wish to see the naval power of France put down, so that they may not have it in their power, if they have the wish, to invade this country, it is highly important to us that the naval power of Europe should be divided. He did not think that it could be for the interest of this country that Great Britain should have a navy which should keep the world in awe, and subject it to her views; and if we assist in destroying the colonies of France, we shall be the means of throwing them and their naval power into the hands of Great Britain. He did not know that it mattered much to us whether St. Domingo was a colony of France or England, only as it would add to the naval strength of England. He hoped, therefore, the motion for striking out would prevail.

Mr. Pinckney observed, that so much had already been said on this subject, and the general principles of the bill had been so ably defended, that it would be unnecessary to make more than one or two remarks in reply to the gentleman from Virginia. That gentleman had gone altogether upon the idea of this bill being of so obnoxious a nature to the Government of France, that it must be considered by that Government as a cause of war. He thought it had already been shown, that the gentleman was altogether mistaken; and, very unhappily for his position, our own experience was sufficient to determine whether it has ever been considered as a cause of war for neutral countries to trade with colonies revolting from a mother country. We know, said he, very well how neutral nations conducted towards us in our revolt from the Government of Great Britain. Mr. P. believed it was never understood that any nation with whom we traded was in consequence involved in war with Great Britain. The fact was otherwise. It was never so looked upon by that country, and gentlemen will admit that that Government was at least high-toned enough. All that Great Britain did was to seize the vessels whenever she could lay hold of them; and this is the risk which the gentleman from Maryland mentioned our traders would run in carrying commerce into any place in a state of revolution. It is well known that we endeavored, during the whole course of our war, to draw foreign commerce to this country, which was found necessary in order to enable us to carry on the war. Agents were employed for this purpose, and we saw no moral turpitude in this. And during the time that Holland was separated from the dominion of Spain, was war declared in consequence of any nation trading with Holland? The case was so different, he recollected that Holland declared, that she would seize all vessels going to Spain, though that had heretofore been considered as the mother country. This was reversing the case.

Mr. P. had hoped that the comprehensive view which the gentleman from Maryland had taken of the acts of the different colonies, would have removed every objection to our merely carrying on a trade to those countries, by showing that the colonies have all along acted as if they were independent, not only without the decrees of France, but directly in opposition to those decrees, and this with the tacit approbation of the French Government itself, since it never found fault with them. Seeing, therefore, that the French Government left the colonies to trade with us or not, as they pleased, and believing that it would be for the benefit of France that such a trade should be carried on, he thought it could not be considered as a cause of offence. Gentlemen called it an invitation to rebellion. He saw it in a very different light. No authority was given to the President to enter into a treaty, offensive and defensive, or to maintain them in their declaration of independence. Nothing further is meant by this bill than to carry on our commerce as usual with such of the French islands, as shall refrain from committing depredations upon it. Reverse the case, and though these islands forbear to capture or annoy our vessels, we shall refuse to trade with them; if they are in want of these provisions, they may be driven to despair rather than starve. Who knows what excess might be the consequence of such a conduct! The probable event would be, that they would become pirates upon our trade, or throw themselves into the hands of Great Britain, who can protect them, and who can find for them a sufficient supply of provisions. But the gentleman from Virginia has made some remarks upon the opinions of the Secretary of State, contained in his late report, which the President sent to the House, a few days ago, for the purpose of showing that the Government of France is more disposed to make peace with us at present than at any former time; and if this bill be passed into a law, may divert that intention and bring on war; but he did not think that the gentleman had shown that France is now more inclined to conciliate than at any former time.

With respect to the three points stated generally by the Secretary of State, they are not said to go to the point for which the gentleman from Virginia has taken them. With regard to the *douceur* of £50,000, Mr. P. would say, that if we believe this attempt to have been made to extort this sum of money from our Envoys, for corrupt purposes, (and notwithstanding all that has been said on the subject, he did believe that X and Y were the agents of the French Government in that transaction, and which has, indeed, been acknowledged by Y, Mr. Bellamy of Hamburg, who declares he has never written or said any thing to our Envoys but by the direction of the Secretary of Foreign Affairs,) no reliance ought to be placed upon any of their declarations; for after such an act, it may be supposed they will say one thing at one time and another at another; and no reliance could be had upon anything which comes from so corrupt a source.

The gentleman from Virginia says, that the Secretary of State proves his second point, viz: that the French Government attempted to detach Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation. Mr. P. said, he could not help differing very materially from that gentleman on this point. He thought the attempt most hostile and degrading. This conduct on the part of the French does not agree with what the gentleman from Pennsylvania had the other day stated, that the French had shown no diplomatic skill. This skill had apparently produced some effect even upon the mind of the Envoy himself, when he declares it as his opinion that the French Government are desirous of a reconciliation with this country. What! when this Government has appointed three Envoys to treat with the French Government, is it a sign of an amicable disposition to say, by their conduct, "We do not consider you as an independent nation who may appoint what agents you please; we will ourselves choose with whom we will treat; we will cashier some of your officers, and negotiate with the person upon whom we think we can make the best impression." So far from this showing a spirit of conciliation, he thought it a conduct most hostile to our independence.

The third point, viz: to throw the blame of a rupture upon the United States, if it should take place, shows no intention to conciliate our differences. If the French Government were convinced that our grievances were just, and that they ought to conciliate with us, would they have gone into an elaborate defence of their conduct? When they justify their decrees and the confiscation of our vessels, can it be conceived that when they talk of peace they are serious? If they had, indeed, come forward, and disavowed their former conduct, he should have considered it as a conciliatory circumstance; but when they justified everything they have done, it evinced no disposition for peace.

Mr. P. said he would not trouble the committee longer, except in one point, and that was as to the consequences which might flow from a declaration of independence on the part of St. Domingo. He should endeavor to answer the gentleman from Pennsylvania as to the consequences which it might produce to the Southern States. It was a subject to which he had paid all the attention in his power. He did, on all questions, endeavor as much as possible to divest himself of anything like party spirit; but in this case, where he had himself so much at stake, in which his native country and everything dear to him was concerned, his sincerity could not be doubted. Mr. P. did not himself believe that this bill would have the least tendency to procure the independence of St. Domingo; but as some gentlemen think it is probable that this may be the result, and as no one could say with certainty what the effect of any measure would be, he had considered the subject, and was clearly of opinion, that should the independence of that island take place, the event would be more advantageous to the Southern States than if it remained under the dominion of France, considering the disposition which France has evinced towords us, (and of which he saw no prospects of a change,) and the present conduct of the inhabitents of St. Domingo. Nothing which we can do, said Mr. P., can bring back the internal state of that island to the state it was formerly in. Considering the inhabitants, then, in the light of freemen, whether will it be better for us, in the Southern States, to have to deal with them as such, or under the direction of the French Government, unreasonable and arbitrary as we have found it? He had no hesitation in saying, that,

it would be more for the safety of the Southern States to have that island independent, than under the Government of France, either in time of peace or war. If our dispute with France should not be accommodated, and they keep possession of St. Domingo, they could invade this country only from that quarter. There is there a large body of troops, and their unofficial agents told our Envoys, that in case we did not submit to their conditions, we might expect an attack from that quarter. It would certainly lessen the danger from that island, were it to be separated from France; but remaining in the hands of France, and supported by the powerful navy of France, notwithstanding all the vigor we have shown on the ocean, we might be very much annoyed from thence.

If these people in St. Domingo find that we withhold from them supplies which are necessary for their subsistence, said Mr. P., though they are friendly disposed towards us, they will look elsewhere for support; they must either turn their attention to cultivating their land, look to Great Britain, or become freebooters. Which situation is it most for the interest of the United States that they should be in? Surely the peaceable cultivators of the ground; and to induce them to take this course, it will be our interest to supply them with what they have occasion for, lest they should get the habit of freebooters, and make our commerce the object of their plunder. He hoped, therefore, the motion for striking out would not prevail.

Mr. Macon had no doubt the gentleman from South Carolina had paid particular attention to this subject. It was to be expected that every gentleman from the Southern States would pay attention to it. In one respect he was precisely in the same situation with the gentleman from South Carolina. He lived in a country that would be affected by any event, such as had been mentioned, and all his connexions were there. It was the same with all other gentlemen from the Southern States. He differed in opinion, however, when the gentlemen said that we should have less to apprehend from St. Domingo, in case it should become independent, than whilst it remained a part of the French Republic. He believed the state of society to be such in that country, as not to admit of self-government. In case they separate from France, he should apprehend that the consequence will be, that instead of being ruled by one of the European Powers, they would become the tools of them all, in turn, and we should probably have the same game played off upon us from thence, that we have heretofore had played upon us by means of the Indians.

Mr. M. said, that although the part of the bill moved to be stricken out does not go directly to say that it has reference to St. Domingo, it is a little extraordinary that no other case will fit it. There could be no doubt, if the island became independent, we should have a right to trade to it; but he believed it would puzzle gentlemen to find an instance of a Legislature passing a law in order to fit a case which might happen. As he thought it improper, he hoped it would be stricken out.

The question was put and negatived—55 to 35.

Mr. S. Smith moved to strike out the words "shall clearly disavow." Carried.

Mr. Livingston observed, that gentlemen had frequently told the committee that they did not mean, by the general expression of this clause, to allow any disavowal of an agent of any acts of his Government, but merely such an avowal of intention as they were entitled to make by their proper authority. In order to test the sincerity of their declaration, and to prevent any improper interference between an officer and his Government, and to prevent any lure being held out to insurrection and revolt, he moved to add these words: "being duly authorized by the Government thereof, shall clearly disavow."

After a few observations upon it, this motion was negatived—57 to 29.

Mr. Pinckney, in his opposition to the above amendment, said he believed the gentleman from New-York to be perfectly sincere; but his judgment appeared to be disordered, and to be in a situation something like the jealous man, whenever the subject of war is in any way touched. And we know, said Mr. P.,

> ——— "Trifles light as air,
> Are, to the jealous, confirmation strong
> As proofs of Holy Writ."

Mr. Gallatin proposed an amendment which he supposed would be free from the objections urged against the last, for effecting the same purpose. It was to add these words: "by virtue of powers derived from the Government, and in its name."

This motion was negatived—52 to 38.

Mr. Speight moved to insert the words, "and having," after the word "exercising," and between the words "authority" and "in," in the same line, "under the same."

Mr. Dayton (the Speaker) thought the amendment was unnecessary, as it went to make no material alteration in the bill; but, on

Mr. Champlin's noticing the latter part of the amendment, which the Speaker had not heard, he expressed his disapprobation of it.

Mr. Gallatin said, there was no difficulty in discovering why the gentlemen form New Jersey and Rhode Island dislike this amendment; it is obnoxious to them, because, if adopted, it would prevent a treaty being made with persons in a state of rebellion; and this amendment was liable to no other objection.

Mr. Harper thought this amendment one of those things which might be adopted, or not, without making any material change in the bill; and believing it to be of this nature, as he supposed it would, at least, make it more agreeable to the mover, he should vote for it.

Mr. Nicholas was of a different opinion. If a man had thrown off his allegiance to a Government, he could not be said to be exercising an authority under it.

Mr. Varnum observed that the gentleman from South Carolina had said that he should vote in favor of this amendment, because it would make

no change in the bill; he should, on the contrary, vote for it, because he thought it made a most material change in it. That gentlemen says he cannot see how a person can claim or exercise a command without having it from the French Government. He thought this very conceivable. A person or a number of persons might usurp an authority, and this amendment went to prevent a treaty being made with such persons. And surely gentlemen who do not wish to countenance the doctrine of dividing the people from their Government can have no objection to this amendment.

Mr. Goodrich said this amendment went to change the principle of the bill. The bill goes upon the idea that when any island in the West Indies shall cease to make depredations upon our commerce, our trade shall be opened with them, without regarding by what authority or force the change was effected. The matter is not placed upon the ground of any treaty whatever; for, said Mr. G., we can neither increase nor diminish the power of the President in this respect. A great deal of mist has been thrown on this subject. The effect of this amendment will be, that the person restraining from depredations upon our commerce must act under the authority of the French Republic; on the contrary, the friends of this bill wish not to examine by what authority the thing is done, provided that it be done. We have a right to say that our vessels shall go to any port we please; but, according to the doctrine of the amendment, supposing the island of St. Domingo was conquered, we could not send our commerce there, nor could we send it to a place in rebellion; so that our commerce was to be affected by every change of circumstances which might take place. He hoped the committee would recognise no principle which shall say we have not a right to send our commerce wherever we please, whether the places to which our vessels go are in war, peace, or rebellion.

Mr. Gallatin was astonished to hear the gentleman from Connecticut say that this is merely a commercial question. Let us, said he, examine the effect of this amendment. We are told that the provisions of this bill do not extend to any colony which may be conquered; for instance, to St. Martin's, St. Lucia, or any other colonies which have been conquered. Let us see, then, how it will apply if this amendment is rejected, and whether the question is commercial or political. Let us inquire, said he, what is the case provided for, if the amendment is rejected, and which is unprovided for if it is adopted, and it will then appear what ground is covered by the opposers of this amendment. If rejected, it will result, that all persons who may claim or exercise any command in any island, &c., although they have not that command under the Government of France, and who shall refrain from privateering, shall be entitled to a free trade with this country. The only case is a case of insurrection and rebellion. Suppose, said Mr. G., I should agree with the gentleman from Connecticut, that if once a rebellion takes place, or any colony shall declare itself independent, (but, by the by, the doctrine is not countenanced by the law of nations,) that we may trade there as we please. Does it result that we have a right to pass a law beforehand to contemplate such an event? If we do, it will be speaking publicly, thus: "If any persons shall, in any island, port, or place, belonging to the French Republic, raise an insurrection, and declare themselves independent, and shall be found to refrain from committing depredations upon our commerce, we will open a free trade with them." And yet the gentleman from Connecticut calls this a mere commercial question.

The committee have been told of a number of cases which he had been astonished to hear—cases which happened in our war. Gentlemen who have mentioned these have not attended to any of the facts of the war. Mr. G. referred to the case of the treaty made in Holland, which has already been explained in a former debate. Mr. G. said, gentlemen might put what construction they pleased upon this section; but certainly publicly to tell the French colonies that if they will rebel against their Government, and restrain from depredating upon us, we will treat with them, is to invite them to do it. A declaration of war has always been the consequence of such a conduct in other countries; and he supposed gentlemen are not ready for a declaration of war, though they tell us there is no change in our affairs for the better; that negotiation is at an end; that no idea can be entertained of the sincerity of any professions of the French; and not being ready to bring in a declaration of war, they are not surely ready to make it, or provoke it; and if not, why assume a principle that may have this effect? He hoped the amendment would be agreed to.

Mr. Otis was apt to think, that if the gentleman from North Carolina, whose candor and attachment to this bill are well known, could have foreseen the eagerness with which gentlemen opposed to the bill have seized upon his amendment, it would have had some weight with him in presenting the motion. And if the sagacity of his friend from South Carolina (Mr. Harper) had not been a little surprised, on this occasion, he would not have given his consent to it. This amendment, said Mr. O., contains the same principle which has already been three or four times rejected. It will necessarily lead to an examination whether the officer in any island is legally authorized or not, whereas it is our wish to let that question alone. To say that this bill will be a cause of war is ridiculous. The gentleman from Pennsylvania had so long and so often predicted causes of war, that everybody would discredit them in future; for, being at peace at present, was a full contradiction to all his former predictions.

The committee now rose, and had leave to sit again.

Thursday, January 24.

The Speaker laid before the House a letter from the Secretary of State, correcting errors which had occurred in the copy of his report on the late despatches printed for the House, which was ordered to be printed.

DEATH OF MR. TAZEWELL.

A message was received from the Senate, informing the House that Henry Tazewell, Esq., one of their body, died this morning, and that they had directed orders to be taken respecting his funeral.

Afterwards, on motion of Mr. Dent, the House came to the following resolution:

Resolved, That this House will attend the funeral of Henry Tazewell, Esq., late a member of the Senate of the United States, on to-morrow, at half past four o'clock.

INTERCOURSE WITH FRANCE.

The House again resolved itself into a Committee of the Whole, on the bill further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes.

Mr. Spaight's amendment being under consideration,

Mr. Hartley said the general policy of this bill had been considered at the last session; and he had no doubt, that when any parts of the French dominions cease to depredate upon our commerce, we might, with propriety, open our intercourse with them. If, for instance, the Isle of France had fitted out privateers, and depredated upon our commerce, and chose to forbear to do so in future, and leave our passage to the Indian seas clear, it would be a good reason for opening our commerce with that place. The case of St. Domingo is still stronger, and has, as has been shown, the power of doing us much mischief, should we refuse to furnish them with the necessary supplies. If they call in their privateers, therefore, it would certainly be right to open our intercourse with that valuable island, especially since they appear to be abandoned by France, who has withdrawn all her troops from the island.

After some other observations, Mr. H. concluded with hoping the amendment would not be agreed to, as it would only tend to embarrass the bill, by making it necessary to ascertain the legality of the governing authority of the places with which we might open our intercourse.

Mr. Brace was opposed to this amendment, as it came round to the same point with that which the gentleman from Pennsylvania had proposed. It struck him that, in the course of the debate, gentlemen have forgot the ground on which we stand. Our treaties with the French Government have been declared void, on account of the conduct of that Government. We have proceeded further, and suspended all our commercial intercourse with France and her dependencies. It would be well to consider what kind of connexion now exists between the United States and France, and whether a measure of the kind proposed can injure our present prospect of peace. By the arguments of some gentlemen, it would seem that we are under some obligation or contract to that Government; whereas, we ought to consider ourselves, with respect to it, in no other light than we consider ourselves with respect to the Governments of the world with which we have no connexion. We have, therefore, no object to pursue, but what, in a dignified national view, it is our duty and our interest to pursue.

This separation having been effected by the wrong acts of the French Government, she can have no claim upon us; we have taken our stand upon such ground as can always be justified, whenever a spirit of justice shall return. There is no man, said Mr. B., in this House, who does not wish for peace, whenever it can be obtained on a solid foundation. But it was well observed yesterday by his colleague, (Mr. Goodrich,) that this question is wholly a commercial one. This declaration gave offence to the gentleman from Pennsylvania. He was surprised that any one could suppose this to be the case. Mr. B. said he was equally surprised at the arguments of that gentleman. What connexion had we with the French Government? or what connexion had we with any other, besides commercial? He had heard much clamor out of doors about other connexions—about treaties offensive and defensive. He hoped no such connexion ever would exist between this country and any nation whatever.

What, said Mr. B., was the original intention of the act, which this bill is meant to continue? It was to suspend our commercial intercourse, leaving a power, however, with the President, to repeal the suspension, whenever the French shall cease from their depredations. If we follow this course, said Mr. B., and these depredations are discontinued in any of the West India islands, we have a right to relax this suspension with respect to them. And it is a strange idea to suppose that such a step can give offence. Gentlemen suppose that some kind of treaty is to be made, though no such thing is provided for. The commerce is to be opened the moment depredations cease, without any agreement being entered into whatever. It is, therefore, a simple proposition, and has nothing to do with the Government of France; indeed, so far from being matter of offence to that Government, he supposed they would be gratified by the circumstance.

But it had been said, that the independence of St. Domingo would have bad effects upon this country. He could not see that this would be the result; nor had he heard sufficient reason to convince any man's mind that this will be the case. If persons in power in St. Domingo shall find it to be their interest to cease from plunder, how are we to ascertain that they do not act according to instructions from the mother country? If they do refrain from doing us injury, it will be sufficient for us. It is a strange idea that, because we choose to serve the inhabitants of St. Domingo with provisions, of which they stand in need, on condition that they will not depredate on our commerce, that, in doing this, we promote the independence of the country. But suppose this should be the consequence, the French Government must allow that it is an effect produced by their own acts, and not by any conduct of this Government. To talk in this way, Mr. B. thought, was to show a false complaisance towards France. He wished to treat that nation with justice; but could never consent to prostrate the dignity of

the country, by supposing that, in doing an act merely to regulate our own commerce, we are about to give offence to the French Government, and that, therefore, we ought not to adopt it. Mr. B. would advise gentlemen to take a view of the aggressions we have received from France, and also of our resources, in order to see whether the latter are such as to warrant our giving up the independence of our nation; if this was not the case, and he was sure it was not, we ought to take a firm and dignified attitude. But if this amendment is agreed to, it will render it necessary to inquire whether the authority exercised is under the French Government, before we can permit our vessels to carry on commerce with any of the islands, how well disposed soever they may be. He hoped, therefore, it would be negatived.

Mr. Spaight said, he wished to have given the reasons which induced him to make this amendment yesterday, but a motion being made for the committee to rise, prevented him. Having been a member of the committee who formed this bill, and having given his consent to it, he trusted it would not be believed that he brought forward this motion to defeat the bill; his object was to make it more palatable to many gentlemen, who, if an amendment something like the present was not adopted, would vote against the bill. The gentlemen from Massachusetts and Connecticut have said, that if this amendment is adopted, it will destroy some of the most important principles of the bill. He believed they had mistaken the effect of the amendment. They state that it will be necessary for the President to inquire whether the commander of any island with which he was about to open our intercourse, had his authority from the French Government? On the contrary, it appeared to Mr. S. that, so long as the citizens of any island acknowledged France as the mother country, whatever authority may exist there, the place must be under the Government of France. If an open rebellion took place, it would alter the case entirely. And if conquered by any of the belligerent Powers, it would not then come under the bill; so that, in either case, the amendment could have no bad effect. The principal motive with him for moving the amendment was, in order to take away the objection made to it by many gentlemen, that the bill is calculated to produce the independence of St. Domingo; for he himself had no such view, nor did he think any other member of the committee, who reported the bill, had. He believed, if the wants of these people are supplied from this country, it will be better that they should remain under the Government of France; but, if we refuse to supply them with provisions, they may act as freebooters, or do still worse—throw themselves into the hands of Great Britain, in order to procure supplies. These reasons had induced him to make the amendment, and he should be glad to see it adopted.

Mr. Champlin could see no difference between this and the former amendment, which had been negatived. The design of this section is, to authorize the President to open the intercourse with any of the islands and the United States, whenever he shall deem it consistent with the honor and dignity of this country, without inquiring whether such place is under the French Government. Frequent decrees are passed in France, said Mr. C., for revoking the commissions of these officers, which are not enforced; and yet, if this amendment is passed, such a person could not be treated with, and it would always be difficult to ascertain whether an officer acted under the French Government or not. If the islands choose to cease from their depredations, he would openly trade with them; for the intercourse was originally suspended, not with a view of starving the islands, but to prevent depredations being committed upon our commerce. He was astonished to find that nothing could come before this House, but gentleman are ready to object to it on account of the effect it may have on France. For his part, if the measure be beneficial to this country, he cared not what effect it might have upon France. It was said this provision would have a tendency to provoke insurrection, or the independence of the island; on the contrary, he believed, if this law does not pass, they will throw themselves into the hands of Great Britain, or become plunderers of our property. He hoped to see the intercourse opened, not only with St. Domingo, but with the Isle of France.

Mr. Harper said, when this amendment was first made, he considered it as making no considerable change in the section, and was, therefore, inclined to vote for it; but the gentleman from Massachusetts, (Mr. Varnum,) of whose discernment he had a very high opinion, having said that he considered it as making a very considerable change in the section, and declaring that he would, on that account, vote for it, he was induced to take a further view of it, and he found, upon reconsideration, that it would, indeed, make a very material change in the section, and because he found this would be the case, he must vote against it.

Mr. Gallatin said, it appeared to him that this amendment goes no further than to prevent any stipulations with persons who have usurped the power of a country. It was yesterday stated by the gentleman from Massachusetts, and repeated to-day by the gentleman from North Carolina, that it did not extend to cases where men's commissions are doubtful. If a man has once held a commission as an agent in any French colony, he may be recognised as their agent, so long as he has not been publicly declared to be otherwise. His exercising the power will be sufficient proof that he has it; and, unless this principle is admitted, it must be evident that the bill is intended to operate in favor of revolters.

There is a great difference, said Mr. G., between this amendment and the one which had been moved by the gentleman from Virginia, the gentleman from New York, or that which he had himself moved. It was the opinion of the gentleman from Virginia, and it was his also, that the President ought not to be authorized to open a trade with St. Domingo, unless the constituted

authorities of France had disavowed their former aggressions, and refrained from them; they did not think it right to permit a trade with particular parts of the possessions of France, considering that the measure was originally taken to distress the French Government, and bring it to terms; but this section gives the power of opening a partial intercourse with St. Domingo, though the Government of France should not disavow any of her former illegal acts; and the present amendment only proposes to except cases of insurgency. Nor could he see what possible objection can be made to it, except that it will prevent a lure from being held out to promote the independence of St. Domingo; for in nothing else does the amendment differ from the bill as it now stands.

If we are to hold out this lure, said Mr. G., it must be because we have the right, and it is our interest to do it. When he asserted we have not the right to do it, he would remark upon the word "right." Gentlemen say we have a right to do this, because we are an independent nation. No doubt. But when he said we have not a right to do it, he meant that we could not do it without infracting the law of nations, or those rules which we have declared ought to govern every nation. And though the gentleman from Connecticut has said that there is no connexion of a political nature between us and France, and therefore considers this as merely a commercial regulation, Mr. G. said, he has mistaken his meaning, by making use of the word "connexion" instead of *relation*. We have no connexion, either commercial or political, with France; but we stand, as a nation, in a political and commercial relation with France and other nations. There is no connexion between us, but there is the same relation, both political and commercial, that there is between all other nations. And, said Mr. G., it is, doubtless, an infraction on the law of nations to offer any lure, or promote the independence of a colony. We certainly have a right to give assistance, in case of a rebellion, by running the risk of becoming a party in the war, but not without infracting the law of nations; still less could we do it without breaking that morality in politics, the breach of which we have so often complained of. We may suppose the Government of France radically wrong, and the people exercising it corrupt, but neither would justify the overturning, or holding out any encouragement to others to overturn, the Government of any part of her dependencies. A conduct of this kind could only be justified in time of war.

In this country, in our speeches, at least, we have gone further, and said that, even in case of war, it would not be right to sow the seeds of insurrection; for, on what other grounds could we account for the philippics which have been pronounced on this floor against France, for her conduct not only against countries with whom she was at peace, but also against those with whom she was at war. This was the case with respect to all the charges made against France with respect to Holland, or the Milanese (now Cisalpine Republic) with whom she was at war when the attempts condemned were made. But we have said, war is at best an unfortunate state, and it is not right to heighten its evils by exciting insurrections and commotions. If this principle is right, and Mr. G. believed it correct in most cases, it is clear that we shall not be justified in promoting insurrections, even in war, much less in this state, which is a state of hostility, but not of war.

Notwithstanding the respect which he paid to the opinion of the gentleman from South Carolina (Mr. PINCKNEY) he could not be persuaded that the independence of St. Domingo could be a desirable object. To-day, it had been avowed, in what fell from his colleague, (Mr. HARTLEY,) that this was the ground upon which the clause was founded, all the French force being withdrawn. He gave credit to the candor of his colleague for the declaration, and it was in this point of view which he had always considered it, because he had stated that, no doubt, an agent from that quarter had come with propositions to our Government.

Mr. G. repeated some of his former reasons against the policy of promoting the independence of St. Domingo. He heard the gentleman from Rhode Island, with regret, repeat one of those illiberal ideas that had been so frequently introduced here, by saying that gentlemen seemed opposed to this measure, because it would be injurious to France.

Some remarks had been made on the probability of peace being made with France. He did not mean now to consider this subject, because he did not consider it as connected with this bill. In the course of the session, he supposed questions would come before the House, in which it would be proper to touch this point. At present, he wished to make no change in our situation.

Mr. CHAMPLIN observed, that he did not allude to anything the gentleman from Pennsylvania had said, when he spoke of a common interest between this country and France. He drew this from what fell from the gentleman from Virginia, that we are interested in the preservation of the French marine.

Mr. PINCKNEY wished to make a single observation upon what fell from the gentleman from Pennsylvania. In order to defeat all that has been said about this section holding out a lure for the establishment of the independence of St. Domingo, it need only be said, that it is confined to the colonies which are under the jurisdiction of France. The language of this clause is, "so long as you continue dependent, we will treat with you.

Mr. NICHOLAS explained.

Mr. SPRAGUE observed, that the gentleman from Pennsylvania insisted upon it, that, without this amendment, this bill would hold out a lure to insurrections in St. Domingo, and that if gentlemen did not wish to encourage these, they must agree to the amendment. What is this encouragement? It is, "if you will forbear committing depredations, which we have heretofore experienced from you, we will open our trade with you." Then, according to the gentleman's reasoning, acts of

hostility against the commerce of this country, are favorable to France; or rather, ceasing to commit them is an act of rebellion against the mother country; and, to hold out a lure on our part, to stop these depredations, is so contrary to the views of France, as to give a high offence to that country.

Mr. MCDOWELL remarked, that gentlemen opposed to this amendment, all agree that the section, as it stands, holds out no lure to insurrection in the French West India islands; if not, why should they object to this amendment, which is only calculated to make certain what is at present doubtful to some members. He wished gentlemen to consider what might be the consequence of authorizing the President to treat with unauthorized persons. Gentlemen have stated, and he supposed truly, that the trade of this island of St. Domingo is a gold mine to the merchants of this country; and he was afraid that the richness of this trade had too much attraction to be resisted by those concerned in it, though it might be dearly purchased by the nation at large. He differed widely in opinion from the gentleman from South Carolina, with respect to the effect which the independence of that island would have upon this country; he believed it was by no means a desirable event to this country.

Mr. LIVINGSTON was afraid, and it could not be too often repeated, that the committee are losing sight of those great principles which gentlemen have heretofore so warmly espoused, viz: the danger of interfering with the concerns of other Governments. It has been said that this detestable plan has been practised to an extent in Europe, unknown to the ancient or modern world. If this is true, though he was not himself inclined to believe it is a modern doctrine, it certainly ought not to be practised by nations who make the law of nations their rule of action.

We have complained, said Mr. L., that another Government has, by invitation, by words, not by acts, attempted to separate the citizens of this country from its Government. If the fact is well founded, and could be proved, it ought doubtless to have excited the indignation of all America. Let us, said Mr. L., see what we are about to do. We are about to say, by law, "that we will give particular advantages in trade, whenever any part of the dependencies of France shall be found to act differently from the whole body of the nation, and, of course, contrary to the will of their Government." Are we not about to do this? No man who reads this bill can hesitate to say we are.

But gentlemen say it is no lure thrown out to the dependencies of France, to say to them, "You ought to refrain from committing depredations upon the commerce of the United States." This is a strange argument. The refraining from these acts, for the advantages of our commerce, is the lure. If it is right in the United States to negotiate with a part of the French dominions, in order to induce them to act differently from their Government, whether right or wrong, it would be right for a foreign Government to negotiate with separate parts of the United States, instead of negotiating with the General Government. The right must be reciprocal.

France may, for instance, consider the law authorizing the fitting out of vessels in the United States, to cruise against her, as an act of hostility, and very injurious to her. Suppose, then, the Government of France were to say to the inhabitants of New York, or Boston, "Provided you shall refrain from fitting out any vessels against our trade, we will refrain from capturing your vessels." Would not a conduct of this kind excite a far greater degree of indignity in the American Government and people, than any conduct of the French Government has yet excited? It certainly would. Yet, where is the difference between this conduct and that which we are pursuing? He could see none. Will gentlemen say "we are right, and they are wrong; because they are making depredations upon our commerce, and refuse to do us justice?" This will give no answer. Every nation is its own judge, and can always declare themselves right, and their enemy wrong.

But gentlemen say no negotiation is to take place. Will the President, said Mr. L., when he finds privateers no longer fitted out at certain ports, renew intercourse at once with such ports, without any assurance that the same conduct will be pursued? Some intercourse must take place before a proclamation can be issued declaring that the practice of privateering has ceased at any place. Here is then a negotiation, and a treaty, not only with a colony, but with any other port or place, which will make application for it; yet we say an interference with foreign Governments cannot be sufficiently detested. We say this, and yet we are about to do the same thing, not by words only, but by a solemn legislative proceeding.

Gentlemen say wherever an authority is exercised, it must be supposed to be legal, and referred to the different Powers which have been established during the Revolution in France. This was reasoning from particular agencies to a General Government. In case of a revolution in the Government of a nation, he would not inquire how the new Government came by its power. It would be sufficient for him that they had it. But with respect to individuals who exercise a subordinate power, they can never be equal to making a national compact. A governor, commandant, or justice of peace, may be negotiated with under this act; and, if this amendment be rejected, we not only say we will negotiate with particular persons, but we expressly declare that we will negotiate with persons not under the Government. Gentlemen say this bill means that persons legally constituted only should be treated with, but they refuse to say so by admitting an amendment which makes the matter clear. What is the meaning of this? What, but if the general expression is suffered to stand, the President would have it in his power to negotiate with any man who chooses to say he is in power under the authority of France. The inference is clear.

An insinuation had been thrown out that gen-

tlemen wished rather to promote the interests of France than of their own country. If any inference of this kind is proper, said Mr. L., the reverse is true. Gentlemen say they do not mean to detach any part of the dependencies of France from the Government—and if so, it certainly must be an advantage to France to open a commercial intercourse with such of them as are in distress for provisions—to allow them to receive directly, what they now receive in a circuitous manner. If, therefore, he and his friends wished to serve France, they had only to join gentlemen in this measure; but, intead of this, said Mr. L., we give it our most decided opposition.

The gentleman from South Carolina (Mr. PINCKNEY) yesterday told the committee that an ungrounded jealousy had taken possession of the minds of some gentlemen, and particularly, said Mr. L., of mine. That a constant distrust was shown with respect to the execution of every Executive measure. It may be so. Whether I have reason for this distrust, circumstances may determine.

[Mr. PINCKNEY said he did not mention the Executive; he was speaking on the subject of war.]

Mr. L. said, it amounts to the same thing. A distrust relative to war, must relate to Executive measures; for the measures taken in this House relative to war, must be in connexion with Executive measures. Mr. L. said he had never considered jealousy, though a fault when carried to excess, a much less fault in governmental proceedings than blind confidence; and if I, said Mr. L., am to be considered in the light of a jealous man, I must consider the gentleman from South Carolina as a blind lover, who cannot see faults where they really exist. Which of the two dispositions may be indulged with the least danger, he left to the committee to determine. For his own part, when he saw gentlemen oppose an amendment, which goes to meet what they say is the object of this bill, he could not avoid a jealous fear that something more is meant than meets the ear.

Mr. J. WILLIAMS did not intend to have said anything on this subject, as it is principally a commercial concern, of which he knew but little; but he also conceived that the agricultural interest is connected with it. Gentlemen are afraid more is meant by this bill than meets the eye; they are afraid to take a worm or a fly, lest a hook should be concealed in them. Instead of war, he thought this bill calculated to promote peace. It is admitted, on all hands, said Mr. W., that Hispaniola cannot support itself. How must they, then, get support? Either we must supply them, or they must depend upon neutral islands, or the people must bend their whole force upon our commerce. What, said he, is most prudent to do? He thought the regulation proposed by this bill the best that could be hit upon. But the gentleman from Virginia said we are obliged to send our tobacco through Spain to France; is this, said he, an advantage to the people of this country? It may be presumed, Mr. W. said, that the President will go no further in this business than the interest of the country requires. This jealousy of the President has a bad effect; because, from a want of confidence in this officer, he will be unable to do anything for us. He hoped the amendment would not be agreed to.

It was negatived—49 to 41.

Mr. EGGLESTON hoped, since gentlemen had opposed several amendments which had been offered, with a view of benefiting the commerce of certain parts of the United States, to which they belong, he hoped they would support an amendment which he should propose, out of regard for the commerce of that part of the country to which he belonged. We are, said he, engaged in carrying on a commerce in tobacco to France. This commerce is of no advantage to France, but it is of great advantage to the part of the country where it is raised; and though we do not think it prudent to trust American vessels to carry it to France, from the risk they would run of being plundered and robbed, he hoped this commerce would be suffered to be carried on by foreign neutral vessels. To effect this purpose, he moved to strike out of the first section the words "hired or employed." This would give an opportunity to such as choose to accept of it, to employ neutral vessels.

Mr. DENT said, this amendment would not be in order until the bill was gone through.

The CHAIRMAN confirmed this opinion.

Mr. EGGLESTON said he would move it at that time.

Mr. SPAIGHT said, as he had been so unfortunate as to lose one amendment, he would propose another, which would, if agreed to, leave the bill as he wished it to have stood at first.

Mr. S. then moved to amend the 4th section, so that it should read thus:

"That, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interest of the United States, to remit and discontinue the restraints and prohibitions aforesaid, either with respect to the French Republic, or to any island, port, or place, belonging to the said Republic, with which commercial intercourse may safely be renewed: and also revive the said restraints and prohibitions, whenever, in his opinion, the interest of the United States shall require, and he shall be, and hereby is, authorized to make proclamation thereof accordingly."

This amendment was agreed to, there being 52 votes for it.

The fifth section then came under consideration; it was in the following words:

"SEC. 5. *And be it further enacted*, That it shall be lawful for the President of the United States, if he shall judge it expedient and for the interest of the United States, to issue a proclamation for suspending and prohibiting all commercial intercourse between the United States and any port or place in the West Indies or elsewhere, in which vessels or privateers, commissioned by or sailing under color of authority from the French Republic, shall be built, repaired, or otherwise equipped as vessels of war, for the purpose of cruising against or capturing the vessels of the United States, or with any port or place at which ships or vessels of the United States, captured by ships of war or privateers, sailing under the authority or color of authority from the French Republic, shall or may be carried in, and condemned, or sold. And it shall also be lawful for the President of the United States to revoke any such proclamation, whenever, in his opinion, the public interest may require the same. *Provided*, That the departure of any ship or vessel shall not be restrained by any proclamation issued by virtue of this act until the expiration of one month from the date thereof, nor shall the entry of any ship or vessel within any port of the United States, be prevented by any proclamation, until the expiration of two months from the date of such proclamation, unless such proclamation shall remit and discontinue all the restraints and prohibitions imposed by this act."

Mr. NICHOLAS moved to strike out this section. He did not know why authority was given to the President to suspend our commercial intercourse, on the terms here stated. It is said that this intercourse may be suspended with any port or place in which privateers shall be built, or repaired, &c. He supposed that the nations alluded to are under obligation, by treaty, to permit vessels thus to come in and repair, &c., and because this is allowed, shall the President cut off our commerce with these places? He hoped not. He was not willing to go to any such extremity, and he hoped the committee would not.

Mr. CHAMPLIN hoped the section would not be struck out. Great abuses were committed in the Dutch and Spanish islands in the West Indies. In Curacoa our seamen are imprisoned, and vessels commissioned by the French Republic are permitted to equip in those ports, and follow our ships immediately upon their getting under way. He did not believe the law of nations would justify the treatment which our seamen there received. Whether or not these abuses could be corrected, he could not tell; but he thought it would be well to give to the President the power of cutting off our intercourse with those islands; which, however, it might be necessary to hold over them *in terrorem*.

Mr. BAYARD said, it was clear to him that the gentleman from Virginia had not considered this subject in its proper light. If the United States have a beneficial trade to any of these islands, it would not be cut off by this bill; because the authority given is discretionary, and it must be exercised for the interest of the United States. And will any gentleman say, that anything in the law of nations will prevent us from thus protecting our commerce? What have we to do with the treaties of these islands? If they are obliged by treaty to give harbor to these privateers, it may be a good reason why we ought not to declare war against them, but not against our cutting off our intercourse with them. Our right, in this respect, is unlimited, and the exercising of it could not, therefore, give any just ground of complaint. If those who indulge these practices think it is more their interest to do so than to have an open intercourse with us, let them continue to indulge them. If not, they will refrain from them.

Mr. OTIS said, he would state the motives which induced the committee to insert this clause in the bill. It was stated to the committee, that ravages and depredations to a great and mischievous extent are sanctioned by the Governors of various ports in the West Indies, with which the United States are at peace. At Curacoa, Havana, Porto Rico, &c., our vessels, captured by French privateers, are taken in and sold, and sometimes by vessels uncommissioned. It also appears, by documents on the table, that the judges and officers who condemn them, are concerned in the vessels who make the captures. This being the state of things, it was thought necessary to introduce a section of this kind; for, since the fourth section is agreed to, it is most probable that all the vessels which heretofore sailed from St. Domingo will be driven to these places. It would, therefore, be doing the business by halves, were not a section of this kind to be adopted. With respect to the argument that these islands are obliged by treaty to admit French prizes into their ports, there may be a treaty between France and Spain of this kind; but if these prizes are taken from a neutral Power instead of an enemy, and Spain thus becomes leagued with France against us, such a treaty ought not to be binding upon us. He could not believe that Spain had entered into any treaty which would countenance such a practice. We might as well suppose that France had entered into a treaty with Spain to receive stolen goods, or to make their ports receptacles of pirates. He did not mean to enlarge, because gentlemen seem determined to oppose every principle of this bill, and he believed it would be as well for the friends of the bill to let these gentlemen have their talk to themselves.

Mr. NICHOLAS said, the gentleman from Delaware did not understand him. The gentleman from Massachusetts seems to have understood him, but had not satisfied him. Mr. N. did not mean to deny that we have the right to interdict our commerce with any country we please; but, if prior to our Treaty of Amity and Commerce with Spain, a treaty existed between France and Spain, in which the right was reciprocally allowed to carry prizes into each other's ports, with which we were acquainted at the time, if we, because Spain admits of these prizes, interdict our commerce with any of her possessions, we violate our treaty, and she will be at liberty to say the treaty shall be no longer binding. This, Mr. N. said, was the objection in his mind to this section, for which he did not think himself deserving of the reproof which he had received. As to the argument that no harm could arise from giving the President this power, it was sufficient to answer, that when power is given it is expected to be exercised, and if this power be likely to run foul upon a treaty, it ought not to be given.

Mr. GALLATIN believed it impossible to mistake the meaning of this section. It is extremely plain, and the gentleman from Massachusetts is doubtless right in endeavoring to make this a party question, in order to prevent its rejection, because he defied that gentleman to support the propriety of the section by argument. He,

therefore, makes an appeal to party, by saying it will be best to leave gentlemen to their own conversation. Mr. G. believed so too, because it would be impossible for the friends of this section to answer the objections brought against it.

But the gentleman from Massachusetts complains that every section of this bill is opposed. No part of this bill, said Mr. G., which is similar to the law as it now stands has been opposed, but only the new principles which have been introduced into it; and could it be expected that we should sit silently to see a section pass like the present, which authorizes the President of the United States to interdict all our intercourse with Spain and Holland, without saying it is wrong? Because this power is to be lodged where the gentleman thinks it is expedient for the United States it ought to be lodged, are we, said Mr. G., to place an unlimited confidence in the President on the subject of commerce, which the Constitution has exclusively placed in our hands? Could it be supposed that members on this floor who represent the western counties of Pennsylvania, Virginia, and the States of Kentucky and Tennessee, should be silent when a provision is proposed to the House which might go to prevent those parts of the country from exporting a bushel of wheat or a barrel of flour? This could not be expected; for his own part, he could scarcely believe his own eyes, when he read this section of the bill.

As to what the gentleman from Rhode Island had said about the imprisonment of our seamen, this bill has no relation to them. This section says that the President shall have power to suspend our intercourse with all those places in which French privateers shall be built, repaired, &c. Is it not known, said Mr. G., that Spain and Holland are parties in the present war against Great Britain, and that therefore their possessions in the West Indies and elsewhere must receive French privateers and suffer them to be repaired? Indeed, they are interested in all their captures of British vessels and property; and if, under the pretence of cruising against the British, they bring in American vessels, it cannot be expected that the ports of Spain and Holland can refuse them harbor. It is clear that every port of the possessions of Spain and Holland does and must admit French privateers. Whilst parties in the war they can in no way avoid it; and, unless we mean to make every nation in Europe a party in our disputes with France, and declare war against them as joint enemies with France, we ought not to pass a clause like the present.

Is it, asked Mr. G., contrary to the law of nations to suffer the vessels of a belligerent Power to be built in a neutral port? Certainly not, for we admit of it ourselves. We are now building vessels for the Dey of Algiers, which are intended to cruise against neutral nations; and how can we, therefore, say it is a breach of the law of nations? In building these vessels, we do not suppose that we have anything to do with their employment. But the prohibition is still more extraordinary when it is extended to places in which French prizes are permitted to be condemned or sold. So far as relates to condemnation, the gentleman from Massachusetts seems not to understand it. Most neutral nations have admitted of a consular jurisdiction by France with respect to the sale of their prizes, though we have not. They are considered as an inferior court of admiralty, and we have no right to find fault with any nation for admitting of them, though we have not chosen to do so. But the bill does not only contemplate cases of condemnation, but also those of sale. Did not we, said Mr. G., before the British Treaty, suffer the French to bring in and sell their prizes in our ports? It is true, a neutral nation is not obliged to permit the sale of the prizes of belligerent Powers; it is a thing which they may do or not, as they find it their interest; we have done it, and we should have thought it very extraordinary if, on that account, Great Britain should have said, we will prohibit all intercourse with you, because you permit French prizes to be sold in your ports.

What is the ground upon which this business is taken? There is no official document before the House; it is true the gentleman from Massachusetts has read a memorial to show that the judges in Curacoa are corrupt, and have suffered prizes to be sold contrary to the law of nations. But what is the natural course to be taken in such cases? Certainly for our Executive to negotiate for a redress of grievances, and not cut off at one blow our intercourse, without waiting for any representation on the subject. The same ground of complaint, Mr. G. said, had existed in some of the British West India islands. Have gentlemen forgotten what was done at Cape Nichola Mole? And did we think it right at that time to suspend our commercial intercourse with the British? No; the first step was to negotiate with the British Government.

A provision like the present is extremely novel. It proposes to place an unlimited power in the hands of the President as to the interdiction of our commerce. The gentleman from Rhode Island says we have nothing to fear from this. If so, said Mr. G., Congress might as well pass a law for the President to do whatever he thinks proper with respect to our commerce. But, if we mean to preserve peace with all nations, except France, we ought not to act thus; for we are not authorized by the law of nations in a conduct of this kind.

Again: with respect to Holland, we have declared by a treaty with that country that they shall be entitled to the same privileges which we grant to the most favored nation. We cannot, therefore, without violating that treaty, prevent vessels from Curacoa, or any other Dutch possession, from coming into our ports.

Mr. G. wished, however, the gentleman from Virginia had postponed his motion until the amendments proposed to be made to this section had been adopted or rejected, as he supposed it would be necessary to retain the latter part of the section.

The question on striking out was put and negatived—48 to 34.

Mr. S. SMITH then moved to strike out the whole of the proviso of the section. The motion was carried—45 to 31.

Mr. GALLATIN then moved to strike out the remainder of the section. He had voted against the motion of the gentleman from Virginia because he thought the proviso necessary; but as that had been struck out, he hoped the remainder would follow it.

On motion of Mr. GORDON, the committee rose and had leave to sit again.

FRIDAY, January 25.

ALIEN AND SEDITION LAWS.

Mr. HAVENS presented a memorial from the inhabitants of the county of Suffolk, &c., in the State of New York, expressing their alarm on account of the alien and sedition laws passed at the last session, which they consider as inconsistent both with the spirit and letter of the Constitution, and pray for a repeal thereof. Referred to a Committee of the Whole House—43 votes to 27.

INTERCOURSE WITH FRANCE.

The House then went into Committee of the Whole on the bill further to suspend our commercial intercourse with France, the motion of Mr. GALLATIN to strike out the remainder of the fifth section being under consideration.

Mr. SEWALL said, he had heard no reason given for the striking out of this section which had any weight upon his mind. It is no more than the exercise of a right which every commercial country possesses of regulating its commerce in such a manner as appears to be for their interest. It is an internal, and not an external regulation, which does not affect any other country, except incidentally. The countries alluded to have regulated their commerce in the most arbitrary manner with respect to us; when they choose to receive our flour and salt provisions, they say so, but this is only when it suits their convenience. Nor is this ever considered by us as a cause of offence; on the contrary, we have always considered ourselves as bound to submit to them.

This he thought a sufficient argument against all that had been said as to this regulation being a cause of offence.

Mr. S. would, however, if he were not prevented by the present motion, move to exclude the cases of building, repairing or equipping of vessels in the ports described in this section. These, he thought, ought not to be considered as causes of offence. Besides, in such cases, it would be found impossible to execute the law, as it would be impossible to ascertain for what purpose vessels are building. The law would, therefore, be constantly evaded; but there is a case which ought to be considered as offensive to us, and which ought to be prevented. He meant the refitting of vessels captured by French privateers, in Spanish and Dutch ports, which is not allowed by the law of nations; and if such practices are sanctioned by treaty, it is a treaty injurious to us; and the party having made it, must take their choice, whether they will abide by such stipulations, and lose our commerce, or give up their treaty, and accept of our trade.

Mr. S. believed, if practices of the kind he had mentioned were prevented, the others would also cease, as if the French were not allowed to refit their prizes, they would not carry them into those islands.

Mr. S. SMITH said, he meant to have risen for the purpose of proposing an amendment of the kind which the gentleman from Massachusetts had mentioned; and he trusted the gentleman from Pennsylvania would have the candor to withdraw his motion for the purpose of admitting this amendment, as he might afterwards move to strike out the section, if he did not like it. That gentleman seemed to found his principal objection to this section on its possibly affecting New Orleans; but when he recollected that that port could never become a resort for privateers, as they could not, with any sort of convenience, get up to it, he hoped his objection to the section on this account would be done away. This law would principally apply to the ports of the Havannah, which are easy of access, and which are constantly used as harbors for privateers which destroy our commerce. Boats, said he, lie under the Moro Castle, and when our vessels pass by, they row out and carry them in, and frequently proceed to sell them without trial, since the issue of a trial under the Government of Hedouville was not quite so certain, as it was under Santhonax. Mr. S. said he had himself suffered in this way, one of his vessels having been carried in and sold without trial.

The question for striking out the section was put and negatived—49 to 28.

Mr. SEWALL then moved an amendment, which being adopted, left the section to read as follows:

"That it shall be lawful for the President of the United States, if he shall judge it expedient and for the interest of the United States, to issue a proclamation for suspending and prohibiting all commercial intercourse between the United States and any port or place in the West Indies or elsewhere, to which ships or vessels of the United States, captured by ships of war or privateers, sailing under the authority, or color of authority from the French Republic, shall be allowed to be sent or carried in, and to be there condemned or sold. And it shall also be lawful for the President of the United States to revoke any such proclamation whenever, in his opinion, the public interest may require the same."

On suggestion of Mr. EGGLESTON, Mr. SEWALL proposed the following amendment, to be introduced after the words "condemned or sold," in the above section, which was agreed to.

"And such proclamation shall be effectual to prevent the departure of any vessel which shall not conform thereto, after notice has been given of the same at the office of the collectors of the several districts of the United States; and from and after the expiration of two months, or any longer time which shall be therein expressed, it shall be effectual to prevent the entry of

any vessel coming from any port or place with which the commercial intercourse shall be thereby prohibited."

The bill having been gone through,

Mr. EGGLESTON renewed the motion which he yesterday moved, at a time when it could not be admitted, proposing that neutral vessels might be hired for the purpose of carrying our commerce. It was negatived, 21 votes only being for it.

On motion of Mr. S. SMITH, the limitation clause was amended, so as to confine the operation of this law to the 3d of March, 1800.

The committee then rose, and the House took up the amendments which had been agreed to.

Mr. NICHOLAS renewed his motion to strike out the whole of the fifth section, and called the yeas and nays upon it.

Mr. S. SMITH complained of this motion, as placing members in an awkward situation. He was against the section as it originally stood, but in favor of it as amended.

Mr. GALLATIN said, there could be no kind of inconvenience in taking the question in this way. If the gentleman from Maryland is satisfied with the section as proposed to be amended, he will, of course, vote against the motion to strike it out. Mr. G. said he meant to vote in favor of striking out the section, because he did not approve of it as amended. In the first place, it is no breach of the law of nations to allow the sale of prizes within neutral ports. Gentlemen have said, we may limit our commercial intercourse as we please. This, he allowed, might be done, where treaties are not in the way; but in relation to Holland, we are bound by treaty to receive them upon the same terms with the most favored nation; we have therefore no right to interdict our commerce with that nation, except they commit some act either contrary to the stipulations of our treaty, or in breach of the law of nations. But, for permitting American vessels to be sold in their ports, we have not a right to break our treaty with them; and though the Spanish and Dutch islands in the West Indies, do receive or restrain our commerce at their will, they only act towards us as they act towards other nations. But this bill does not apply to the West Indies alone; it will apply to Amsterdam as well as Curacoa; and if any vessel of ours be sold as a prize at Amsterdam, the President will be authorized to interdict our commerce to Amsterdam. If, said Mr. G., we are to go to war with France, he saw no reason why we should break our treaty with Holland, because they do an act which is not a breach of the law of nations. Till the British Treaty, we had permitted British prizes to be sold in our ports, and we had, by the law of nations, a right to do it or not; and Holland has the same right with respect to French prizes. Mr. G. agreed it would be for our interest that our vessels should not be sold as prizes in the ports of Holland; but it cannot be allowable to say, because this is the case, we will break our treaty with that nation. No nation ever yet complained of a practice of this kind. If this bill had only relation to those Dutch and Spanish ports in the West Indies, which receive, or refuse to receive, our commerce, at their pleasure, he would not have objected to it.

The port of New Orleans, Mr. G. said, would be included within the operation of this bill. That port is in a peculiar situation, as, by our treaty with Spain, it is in fact rendered an American port, to or from which we cannot be admitted or expelled at pleasure. The Spaniards have agreed to give it to us for a number of years; and if, at the end of that period they do not choose to continue to us that port, they engage to give us another, equally well suited for our purpose; and to give the President the power to suspend the intercourse of the Western country with New Orleans, would be much the same thing as to give him power to suspend the intercourse between Albany and New York; because New Orleans is to Pittsburg, what New York is to Albany.

Mr. G. would be glad if the operation of the bill could be confined to ports in the West Indies; because, since they only receive our vessels when they please, there would be some justice, and we have a right to do it, in making this regulation with respect to them. But he did not wish the provision to extend to Europe, since it is well known that the Governments of Spain and Holland are well disposed towards this country.

Mr. S. SMITH said it was perfectly absurd to suppose that New Orleans could ever be affected by this clause, since it never could become a place for the resort of privateers. Privateers, he said, might as well be carried up to Pittsburg, as New Orleans.

Mr. W. CLAIBORNE said, he did not believe that the gentleman from Maryland (Mr. SMITH) was accurately informed as to the situation of New Orleans. Mr. C. had no personal knowledge of that port, but a reputable character had told him, that it was accessible to privateers, and that several prizes had been brought there, during the last Summer, but he did not suppose, that the practice would be pursued.

Mr. C. said he was in favor of striking out the section. He saw no necessity for ceding to the President such general powers; on the contrary, the cession appeared to him highly improper. If the clause was retained, the President might, by a single dash of his pen, destroy the commerce of the Western country; and this interest, Mr. C. said, he was too tenacious of to consent to transfer a power of this kind to any Executive. The river Mississippi was the only commercial road now opened to Tennessee and Kentucky, and through the dominions of Spain their exports were necessitated to pass. If the President then should forbid an intercourse with the Spanish ports on the Mississippi, the surplus produce of the Western farmers would remain on their hands, and the rising prosperity of the Western States greatly checked. Mr. C. said he might be told that from the great discernment, prudence, and patriotism of the President, an improper use of power need not be apprehended; but he was of opinion that a power improper to be exercised, ought not to be conceded; and surely no gentleman will contend that an intercourse with Spain should at this time

be suspended. How far this clause may affect the commerce of the Atlantic States, he was not sufficiently informed on the subject to hazard an opinion. It appeared to him, however, that the American trade was already sufficiently shackled. Mr. C. could not approbate the practice of conceding so much to Executive discretion. Of the motives of the President he had no doubt. He believed them to be strictly virtuous. But the President, from the nature of things, must frequently act upon the information of others, which, in misdirecting his judgment, might injure the public interest.

If there are any neutral ports to which our commerce should be prohibited, let gentlemen name the places, and if their reasons for a suspension of our intercourse with such places were good, no doubt but their wish would be obtained. But Mr. C. was unwilling to throw all the responsibility upon this head, upon the President, where duties, cares, and responsibility, are already sufficiently various and great.

The yeas and nays were then taken, and the motion negatived—53 to 36, as follows:

YEAS—Abraham Baldwin, David Bard, Thos. Blount, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams,

NAYS—John Allen, George Baer, jr, Bailey Bartlett, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Waln.

The question was then taken upon the amendments to the fifth section, on which Mr. S. SMITH called the yeas and nays. The question was carried—87 to 1, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Baird, Bailey Bartlett, Thomas Blount, Jonathan Brace, David Brooks, Robert Brown, Stephen Bullock, Samuel J. Cabell, Christopher G. Champlin, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, William Craik, John Dawson, William Edmond, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, William Findley, Abiel Foster, Dwight Foster, Jonathan Freeman, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, John Wilkes Kittera, Edward Livingston, Matthew Locke, Samuel Lyman, James Machir, Nathaniel Macon, William Matthews, Joseph McDowell, Daniel Morgan, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, Robert Waln, John Williams, and Robert Williams.

NAY—George Dent.

The amendment reported from the Committee of the Whole House to the tenth section, to strike out the words "for and during the space of one year, and from thence until the end of the next session of Congress," and, in lieu thereof, insert, "until the third day of March, in the year one thousand eight hundred," was agreed to—yeas 57, nays 32, as follows:

YEAS—Abraham Baldwin, David Bard, Thos. Blount, Robert Brown, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, William Craik, John Dawson, John Dennis, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, Jonathan Freeman, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Edward Livingston, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Joseph McDowell, Anthony New, John Nicholas, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Thomas, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, Robert Waln, and Robert Williams.

NAYS—John Allen, George Baer, jr., Bailey Bartlett, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Peleg Sprague, George Thatcher, Peleg Wadsworth, and John Williams.

Mr. W. CLAIBORNE moved a proviso to prevent this law operating to suspend the commerce of the Western country by the Mississippi. The yeas and nays were taken, and the motion was carried—55 to 34, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Bard, Bailey Bartlett, Thomas Blount, Jonathan Brace, Robert Brown, Stephen Bullock, Samuel

J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, John Dennis, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, William Findley, Jonathan Freeman, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, James Machir, Nathaniel Macon, William Matthews, Joseph McDowell, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Thomas Pinckney, John Reed, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Mark Thomson, Thomas Tillinghast, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—David Brooks, Christopher G. Champlin, James Cochran, William Craik, William Edmond, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert G. Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John W. Kittera, Samuel Lyman, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Peleg Sprague, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. S. SMITH said, in order to meet the wishes of the gentleman from Pennsylvania, he would move the following words, viz: "On the continent of America," so as to exclude the operation of this act from European ports.

The motion was negatived—45 to 41, and then the bill was ordered to be engrossed for a third reading.

MONDAY, January 28.

Mr. HARPER, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1799; which was twice read and committed.

INTERCOURSE WITH FRANCE.

The bill further suspending our commercial intercourse with France and her dependencies, and for other purposes, having been read the third time,

Mr. ALLEN moved for a recommitment of the bill, in order to have expunged a proviso introduced by the member from Tennessee, excluding the port of New Orleans from its operation. He stated his reason to be, that he did not believe that was likely to be a rendezvous for French privateers; but that, if it should be, it ought to be liable to the same restrictions with other ports; and, if it was not likely to become a harbor of privateers, to insert a proviso of this kind, was to show a distrust that the President would not exercise the power given to him for the interest of the United States.

This motion was seconded by Mr. OTIS, and opposed by Messrs. VENABLE, NICHOLAS, S. SMITH, W. CLAIBORNE, and HARPER. It was negatived, the yeas and nays being taken—74 to 18.

The question on the passing of the bill was then taken, and stood, yeas 55, nays 37, as follows:

YEAS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jun., Henry Glen, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, John Williams, and Robert Williams.

NAYS—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

INCREASE OF SALARIES.

Mr. S. SMITH then called up the resolution which he had laid upon the table some days ago, directing the Committee of Ways and Means to inquire into the expediency of augmenting the salaries of the officers in the Executive Department of the Government; and being agreed to be taken up, the question on the reference was taken by yeas and nays, and carried—53 to 33.

MARINE CORPS.

Mr. HARPER submitted the following resolution:

"*Resolved*, That the Navy Committee be instructed to inquire and report, by bill or otherwise, whether, according to the existing regulations of the Navy, any and what augmentations are necessary in the Marine Corps, as now established by law."

Mr. H. said the Committee of Ways and Means had been informed that the Navy Establishment requires a greater number of marines than the present law provides; and, before they can be appropriated for, it will be necessary to pass a law making the augmentation.

The resolution was agreed to.

QUARANTINE LAWS.

On motion of Mr. S. SMITH, the House went into a Committee of the Whole, on the bill respecting quarantines and health laws, Mr. RUTLEDGE in the Chair.

The bill was read as follows:

SEC. 1. *Be it enacted, &c.*, That the quarantines and other restraints which shall be required and established by the health laws of any State, or pursuant thereto, respecting any vessels arriving in, or bound to, any

port or district thereof, whether from a foreign port or place, or from another district of the United States, shall be duly observed by the collectors, and all other officers of the revenue of the United States, appointed and employed for the several collection districts of such State respectively, and by the masters and crews of the several revenue cutters, and by the military officers who shall command in any fort or station upon the seacoast; and all such officers of the United States shall be, and they hereby are, authorized and required faithfully to aid in the execution of such quarantines and health laws, according to their respective powers and precincts, and as they shall be directed from time to time by the Secretary of the Treasury of the United States. And the said Secretary shall be, and he is hereby authorized, when a conformity to such quarantines and health laws shall require it, and in respect to vessels which shall be subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries. *Provided*, That nothing herein shall enable any State to collect a duty of tonnage or impost, without the consent of the Congress of the United States thereto: *And provided*, That no part of the cargo of any vessel shall, in any case, be taken out, or unladen therefrom, otherwise than as by law is allowed, or according to the regulations hereinafter established.

SEC. 2. *And be it further enacted*, That when, by the health laws of any State, or by the regulations which shall be made pursuant thereto, any vessel arriving within a collection district of such State, shall be prohibited from coming to the port of entry or delivery by law established for such district, and it shall be required or permitted by such health laws, that the cargo of such vessel shall or may be unladen at some other place within or near to such district, the collector authorized therein, after due report to him of the whole of of such cargo, may grant his especial warrant or permit for the unlading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws shall permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, reasonably judge expedient for the security of the public revenue: *Provided*, That in every such case, all the articles of the cargo so to be unladen, shall be deposited, at the risk of the parties concerned therein, in such public, or other warehouses or enclosures, as the collector shall designate, there to remain under the joint custody of such collector, and of the owner or owners, or master, or other person having charge of such vessel, until the same shall be entirely unladen or discharged; and until the goods, wares, or merchandise, which shall be so deposited, may be safely removed, without contravening such health laws; and when such removal may be allowed, the collector having charge of such goods, wares, or merchandise, may grant permits to the respective owners or consignees, their factors or agents, to receive all goods, wares, or merchandise, which shall be entered, and whereof the duties accruing shall be paid or secured, according to law, upon the payment by them of a reasonable rate of storage, which shall be fixed by the Secretary of the Treasury for all public warehouses and enclosures.

SEC. 3. *And be it further enacted*, That there shall be purchased or erected, under the orders and with the approbation of the President of the United States, suitable warehouses, with wharves and enclosures, where goods and merchandise may be unladen and deposited, from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any State as aforesaid, at such convenient place or places therein, as the safety of the public revenue, and the observance of such health laws may require. *Provided*, That the sites of all such warehouses and wharves, with such other adjoining lands as may be necessary for the public uses hereby authorized, shall be ceded to the United States by the State wherein the same shall be.

SEC. 4. *And be it further enacted*, That when, by the prevalence of any contagious or epidemical disease, in or near the place by law established as the port of entry for any collection district, it shall become dangerous or inconvenient for the collector and the other officers of the revenue employed therein, to continue the discharge of their respective offices at such port, the Secretary, or, in his absence, the Comptroller of the Treasury of the United States, may direct and authorize the removal of the collector, and the other officers employed in his department, from such port, to any other more convenient place, within, or as near as may be to such collection district, where such collector and officers may exercise the same authorities, and shall be liable to the same duties, according to existing circumstances, as in such lawful port or district; and of such removal, public notice shall be given as soon as may be.

Mr. LIVINGSTON moved to strike out the proviso at the close of the third section, as it might, in his opinion, be productive of delay in some cases, and of danger in others. Some of the State Legislatures might not be in session before the evil intended to be guarded against returns upon us, and it might interfere with the jurisdiction of towns or cities, of which those sites form a part. He knew that there were some gentlemen in the House who think no money ought to be expended by the United States for any public works until cessions of the jurisdictions are made. This may be proper, said Mr. L., with respect to forts and magazines, with which State jurisdiction might interfere; but this being merely a civil jurisdiction, and so far from interfering with any State jurisdiction, is to co-operate with the State regulations, gentlemen may vote for striking out this clause, without parting with their favorite doctrine.

Mr. DAYTON trusted the motion would not prevail.

It was negatived, there being only 23 votes in favor of it.

Mr. LIVINGSTON then moved to amend the bill by striking out of the second line of the third section the words "and with the approbation," which was certainly surplusage. Agreed to.

Mr. WALN said, if it was proper to cede the land upon which warehouses are built, he did not think it would be right to cede the sites of wharves to the United States. He should not think it right, for instance, to cede the jurisdiction of any wharves which might be built in the vicinity of this city to the United States. He, therefore, moved to strike out the words, "and wharves."

Mr. SEWALL hoped the gentlemen from Pennsylvania would not insist upon this motion. No

wharves would be erected where wharves now are; and if the United States are at the expense of erecting wharves, they ought to have the jurisdiction of their sites, as well as of the sites of warehouses.

This motion was negatived, there being only 12 votes for it.

The committee rose and reported the bill; when

Mr. HARPER renewed the motion for striking out the proviso in the third section, for the reasons urged in support of the former motion, and because this cession could be of no use to the United States; and, after some few observations upon it, the motion was carried—40 to 31.

On motion of Mr. SEWALL, a section was added to the bill, repealing a law of the first session of the fourth Congress, respecting quarantine. It was then ordered to be engrossed for a third reading.

JONATHAN HASFIELD.

On motion of Mr. D. FOSTER, a report of the Committee of Claims, on the petition of Jonathan Hasfield, who claimed $258 for the public service, was taken up. This report, which was favorable, was concurred in, and a bill reported for his relief; it was read and committed.

GAZZAM, TAYLOR, AND JONES.

On motion of Mr. S. SMITH, a report on the petition of Gazzam, Taylor, and Jones, made at the last session, allowing them certain drawbacks for which they prayed, was taken up and concurred in, and a bill reported, read, and committed for their relief.

ALIEN AND SEDITION LAWS.

MR. BROWN presented a memorial from a number of the inhabitants of the county of Northampton, in this State, expressing, in very strong terms, their alarm at, and dissatisfaction with, the alien and sedition laws, passed at the last session, which they state as contrary not only to the spirit but to the letter of the Constitution. They complain, also, of the law giving the President power to raise a provisional army when he shall judge proper, and of that which allows him to pay any interest for money, which he may judge right, as increasing the Executive power at the expense of the other departments of the Government.

This memorial was referred to the same Committee of the Whole to which was referred a remonstrance of the same kind from Suffolk county, in the State of New York.

FRENCH AFFAIRS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

An edict of the Executive Directory of the French Republic of the twenty-ninth of October, 1798, enclosed in a letter from our Minister Plenipotentiary in London, of the sixteenth of November, is of so much importance that it cannot be too soon communicated to you and to the public. JOHN ADAMS.

JANUARY 28, 1799.

Extract of a letter from Rufus King, Esq., Minister Plenipotentiary of the United States at London, to the Secretary of State, dated November 16, 1798.

"The annexed arrêt would appear extravagant and incredible, if it proceeded from any other authority; but mankind is so accustomed to the violence and injustice of France, that we almost cease to express our surprise and indignation at the new instances that she continues to display."

[TRANSLATION.]

Decree of the Executive Directory, of October 29, 1798.

The Executive Directory, upon the report of the Minister of Foreign Relations, considering that the fleets, privateers, and ships, of England and Russia, are in part equipped by foreigners.

Considering that this violation is a manifest abuse of the rights of nations, and that the Powers of Europe have not taken any measures to prohibit it. Decrees:

1st. Every individual, native (*ou originaire*) of friendly countries, allied to the French Republic, or neutral, bearing a commission, granted by the enemies of France, or making part of the crews of ships of war, and others, enemies, shall be by this single fact declared a pirate, and treated as such, without being permitted in any case to allege that he had been forced into such service by violence, threats, or otherwise.

2d. The Executive Directories of the Batavian, Ligurian, Cisalpine, and Roman Republics, shall be instructed to this effect.

3d. The provisions contained in the first article shall be notified to those Powers which are neutral or allied to the French Republic.

4th. The Minister of Exterior Relations is charged with the execution of the present arrêt which shall be printed in the Bulletin of the Laws.

[Signed] TERILHARD, *President.*

The Message and documents were read, and ordered to lie on the table.

TUESDAY, January 29.

THOMAS SUMTER, from South Carolina, appeared, and took his seat in the House.

The bill respecting quarantines and health laws, was read the third time and passed.

AUGMENTATION OF THE NAVY.

On motion of Mr. JOSIAH PARKER, the House went into a Committee of the Whole, on the report of the Navy Committee, Mr. RUTLEDGE in the Chair; and, after some discussion, the committee rose, and reported the following resolutions:

Resolved, That two docks be established in the United States, and that 50,000 dollars be appropriated therefor.

Resolved, That 100,000 dollars be appropriated for the annual purchase of timber to be used or preserved for building ships or vessels of war of the United States.

Resolved, That the Navy be augmented by a number not exceeding six, of ships of war, to carry not less than seventy-four guns, (to be built within the United States,) and a number not exceeding six, of sloops-of-war, carrying not less than eighteen guns, (to be built or purchased within the United States,) and that a sum not exceeding one million of dollars be appropriated therefor

Resolved, That the President of the United States be authorized by law to augment the number of guns on board any ship now in service, or building, above the number such ship may be rated, and that 35,000 dollars be appropriated for that purpose.

Resolved, That the President of the United States shall be authorized to take on the Naval Establishment such of the revenue cutters now in service, as may be, in his opinion, fit for service abroad.

The words within parenthesis, were introduced on motion of Mr. LIVINGSTON.

The first resolution was agreed to without debate.

Mr. PARKER stated that one of the docks was proposed for the Eastern and the other for the Middle States.

Mr. P. stated, in support of the second resolution, that it was necessary to secure a sufficient quantity of timber, and to have it in readiness for building ships of war. To effect this, he supposed it would be necessary to purchase a forest covered with live oak and red cedar. And having good timber secured, no nation in the world could build better ships than the United States.

It was objected to by Mr. MACON, that this was not a proper time to go into a speculation of purchasing land, for the sake of a future supply of timber, when we are obliged to pay eight per cent. for all the money which the Government borrows; he wished no more money to be appropriated than was necessary for a present supply of timber.

The motion was carried without a division.

In respect to the third resolution, Mr. PARKER stated that, according to the estimate of the Secretary of the Navy, six 74-gun ships would cost near $2,400,000, and the six smaller vessels about $300,000; but, though the smaller vessels are immediately wanted, the 74's could not be built in less than a year, he, therefore, supposed that if one million of dollars were appropriated, it would be as much as would be expended before the next session of Congress.

Mr. HARPER and Mr. S. SMITH supported the same opinion.

It was objected by Messrs. NICHOLAS and GALLATIN, that if it were meant that these vessels should be built within a year, as had been mentioned, the whole two millions and a half of dollars ought to be appropriated; that one million only being asked for, was a proof that they would not be built within the time stated; they suspected these vessels are not wanted to meet the present supposed emergency, but that the present moment is merely seized as favorable for carrying into effect the favorite project of a Navy, as a permanent establishment, and that a commencement having been once made in the business, the ships might be completed at leisure. They were, therefore, opposed to the resolution, and said that those who think it would be desirable at this time to have these vessels, ought also to be opposed to it, since it is evident that they are wanted for future purposes; and considering the present time, when money can only be obtained at a very high rate, as a very improper season to go into a work o such immense expense to the country. They had reference to the enormous expense of the three frigates already built, which had cost more, they said, than double the price that six frigates were originally estimated at, and which, it is probable, would never have been built, if the whole expense had been at first stated.

It was urged by the friends of the resolution, that one million would be as much money as could be expended, though every possible exertion was made, considering the number of vessels already building.

This resolution was the only one upon which a division was called. It was carried, by 52 members rising in its favor.

Mr. PARKER stated the object of the 4th resolution to be, to enable the President to put on board three of the 24-gun vessels, 8 additional guns, making them frigates of 32 guns. The 5th resolution was to place such of the revenue cutters on the Navy Establishment as might appear proper. A law was passed at the last session to take them into service; but not being placed on the Navy Establishment, the officers are unwilling to go into the service, without the same rank and pay with the officers in the Navy, and one of them had refused to act. This resolution is necessary to rectify the defect.

No opposition was made to these resolutions; and the whole were referred to the select committee who reported them, to bring in a bill or bills accordingly.

The House went into committee on two bills, which were agreed to, and ordered to be engrossed, viz: a bill for the relief of Gazzam, Taylor, and Jones, and a bill for the relief of Jonathan Haskill.

WEDNESDAY, January 30.

The bill for the relief of Gazzam, Taylor, and Jones, and the bill for the relief of Jonathan Haskill, were read the third time and passed.

Mr. HARPER, from the Committee of Ways and Means, reported a bill for the support of the Military Establishment for the year 1799; which was committed.

ALIEN AND SEDITION LAWS.

Mr. EGGLESTON presented a petition from the inhabitants of Amelia county, Virginia, censuring many of the measures of the General Government, calling the British Treaty the first link in its chain of errors, and complaining that it follows too much the policy of the British Government, and particularly prays that the alien and sedition laws, which it terms impolitic, tyrannical, and unconstitutional, may be obliterated from our statute book; and, also, that the law authorizing the President to raise a provisional army may be repealed.

Mr. E. having moved to refer this petition to the same Committee of the Whole to which former petitions of the same nature had been referred,

The SPEAKER laid before the House an address

and remonstance from Essex county, in New Jersey, of the same nature, though couched in less pointed language, which he wished to have the same direction; which having been read,

Mr. GORDON called for a division of the question; and the question being on the Virginia address, he hoped it would not prevail. Every gentleman who had attended to the reading of this paper, must have heard, he said, that it contained a libel upon every measure of this Government since its first establishment; and, at the conclusion of the address, there is a sentiment still more exceptionable—a sort of threat, that unless Congress shall proceed to repeal the two laws in question, the militia of that county would not obey the orders of the General Government. If a stop was not put to the presenting of such petitions as these, this House would be considered as a place consecrated to abuse.

Mr. EGGLESTON believed that the gentleman must have misunderstood that part of the petition to which he had particularly referred. So far as he was acquainted with the gentlemen who signed the petition, he was sure they never entertained such a sentiment. Indeed, they expressly declare, in another part of the petition, that they shall always be ready to oppose an invading enemy, and to obey the will of the majority. He hoped gentlemen would not so rigorously express their disapprobation of this petition, when they recollect that this is the first which has been presented to Congress, though the laws in question are generally disapproved in that State. Most other parts of the State had made representations of their disapprobation to the State Legislature, which he did not think so regular a way as to apply to this House. He hoped, therefore, the petition would be referred.

Mr. NICHOLAS said the gentleman from New Hampshire certainly mistook the passage in the petition to which he had alluded. It merely stated that should a standing army be dispensed with, the militia of the Union would be found equal to the protection of the country. This, at least, is the natural construction, and he thought gentlemen ought not to put the most acrimonious meaning possible upon the words of petitions.

Mr. KITTERA thought there was another expression in the petition not less exceptionable; which was, "that the solicitude of the Administration for a standing army was a sufficient cause to apprehend that they are ultimately intended for other objects than defence against a foreign enemy."

Mr. LIVINGSTON had hoped that the sedition law would have gone far enough for gentlemen, and that they would not have branded petitions to this House with the name of libel. The gentleman from New Hampshire wished this petition to receive the marked disapprobation of the House, because it disapproves of all the measures of Government, and because it contains something like a threat that the militia will not perform their duty. The first allegation was justifiable, he said, to the fullest extent; the second could not be found in the petition. To what would the gentleman reduce the right of petitioning? Have not the people a right, said Mr. L., to say to Congress, "You have done wrong, you have exceeded your powers." If they think so, who shall stop their mouths, since the Constitution has guarantied to them this right? If gentlemen are so very scrupulous as to the form of petition, they ought to bring in a bill, and prescribe a courtly form to the people, with which they would be pleased, and defining when honest bluntness may be deemed a libel and when not. With respect to the threat alluded to, there is no such thing. Speaking of a standing army, the petitioners say, "Repeal your laws establishing armies, and you will find the militia a sufficient defence." If, said Mr. L., when we pass unconstitutional laws, the people are not to be permitted to tell us so, the right of petitioning will be reduced to narrow ground indeed.

Mr. ISAAC PARKER said, it could not be wondered that the gentleman from New York should so zealously defend petitions of this sort, since he had called upon the people of the United States, when the laws in question passed, to resist their execution, and to come forward and show their disapprobation of them. He agreed with the gentleman that the people have a right to petition Congress on any subject they please, but this House has a right to protect itself against abuse, and to see that the language of petitions is decent and proper. The whole of this petition appeared more calculated to insult the majority who passed this law than to obtain the redress prayed for. They charge Congress with acting tyrannically, and the Executive with being solicitous to increase the standing Army for other purposes than the public safety. If this petition, like others on the same subject, had been expressed in decent terms, he should have had no objection to have referred it to a select committee. He had voted against the reference of the others, because he thought a Committee of the Whole an improper reference.

Mr. ALLEN was sorry his friend from New Hampshire had opposed the reference of this petition. He thought it was desirable that persons who would sign a petition like this should come forward that they might be disclosed to the world. These addresses are doubtless calculated for a particular object; but there could be no doubt but persons of this description would be held in such general contempt and abhorrence, when they are known, that their designs would fail of effect. He believed the House must be content to sit and hear a number of addresses like this, which he supposed would get worse and worse. He supposed, however, these addresses would in some way or other find their way to the public; and he trusted the honest part of the people would be induced to rise and throw off these people as so many morbid excrescences on the body politic. He had no doubt the end of the business would be confusion to the subscribers of such petitions.

Mr. T. CLAIBORNE found fault with the manner in which the gentleman from Massachusetts had spoken of the right of the people to petition. Who, exclaimed Mr. C., gave that gentleman the

right to stand on this floor, but the people? He was afraid Virginia was an eye-sore to some gentlemen, because they choose to express themselves in manly and strong language, and are unwilling to surrender any of their rights as Republicans. But though they speak firmly, said he, they will always obey the laws; and if the President was to order any alien amongst them to be sent out of the country, the order would be obeyed; but the men who executed the order would be the first to say the law is unconstitutional.

Mr. LIVINGSTON wished the gentleman from Connecticut (Mr. ALLEN) to explain what he meant, when he said "that the honest part of the people would rise and throw off the description of persons who had signed this petition, as a morbid weight upon the Union." [Mr. ALLEN replied, he did not say so.] Mr. L. so understood him, and wished he would explain to the House what he did say. The gentleman from Massachusetts, said Mr. L., does me the honor to suppose some part of the spirit shown against the alien and sedition laws had been excited by me. It is not so; the cause, he said, lies deeper—it is from a firm sense the people have of their rights; but if anything he had said or done had tended to awaken the people to a sense of their rights, he should think he had not lived in vain.

Mr. THATCHER said, some gentlemen seemed to suppose that when members took their seats in this House, they surrendered certain rights, and were to be insulted with impunity, though before they came here, they would not have been liable to be so insulted without redress.

Mr. S. SMITH observed, that if the gentleman was deprived of some rights by having a seat here, he possessed others, which he did not before possess; since he might say here what he might not like to say out of doors; so that what he loses in one respect he gains in another.

Mr. GALLATIN scarcely believed, when the objection to this reference was first made, it would have been serious. He thought, with the gentleman from Connecticut, that the opposition is rather impolitic. This petition is objected against as being a libel, so that after having declared by law that any person who shall find fault with the doings of Government, so far as to bring it into disrepute, shall be guilty of a libel, this doctrine goes a step farther, by saying, that if these opinions are expressed by way of petition, it ought to be adjudged a libel, and not inquired into. And this is to be done, said Mr. G., not by a court or jury, but by ourselves, who passed the laws complained of, taking it for granted we are right and the petitioners wrong, and that whatever opinion differs from ours is libellous, which was effectually to destroy the provision of the Constitution, which guarantees the right of petitioning, and gives to the people the right, at any time, to oppose their opinions to those of Congress; and there is, said he, no way of doing this without charging us with being deficient in wisdom or something worse; and although gentlemen may not like this, it is so ordered, and cannot be got over by charging a petition with being false or libellous. He did not mean to justify the petition in all its parts, because it was unnecessary; but he did not think the passages which had been quoted were objectionable. The one he had already justified, and the other respecting the militia did not apply to the militia of that district in particular, but to the militia of the United States. As to the expression alluded to, that the petitioners expect a standing Army is wanted for other purposes than defence against foreign enemies, he saw nothing improper in this. This has been avowed by men high in office; it has been publicly said that the Army is not wanted so much to repel invasion as on account of certain appearances of discontent in some parts of the Union, amongst which was mentioned the part from which this petition comes, and he believed if the question of continuing the Army was to be brought up in this House, there are gentlemen who would make use of this as one of the arguments for the necessity of keeping it up.

Mr. EGGLESTON called for the yeas and nays, which were agreed to be taken.

Mr. PINCKNEY said, he had attended particularly to the language of the petition, because he thought the indecency of that almost the only ground upon which a petition could with propriety be rejected, and he did not think it so exceptionable as to authorize its rejection.

Mr. RUTLEDGE thought it was much to be lamented that the time of the House was so frequently consumed in taking the yeas and nays, and by consequent debate to explain the reason of members' votes. Mr. R. said he should vote against the reference, because he thought it improper that petitions of this kind should go to a Committee of the Whole; they ought either to go to the Committee of Defence, with a view of showing them that their former measures were wrong, or to a select committee, to report upon them to the House.

The question was taken by yeas and nays, and carried—73 to 30, as follows:

YEAS—John Allen, George Baer, junior, Abraham Baldwin, David Bard, James A. Bayard, Thos. Blount, Jonathan Brace, Richard Brent, David Brooks, Robert Brown, Stephen Bullock, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, James Cochran, William Craik, John Dawson, John Dennis, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, William Findley, Jonathan Freeman, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Walter Jones, Edward Livingston, Matthew Locke, Samuel Lyman, James Machir, Nathaniel Macon, William Matthews, Joseph McDowell, Lewis R. Morris, Anthony New, John Nicholas, Harrison G. Otis, Josiah Parker, Thos. Pinckney, John Reed, James Schureman, Thomas Sinnickson, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

Nays—Bailey Bartlett, William Edmond, Abiel Foster, Dwight Foster, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Hindman, John Wilkes Kittera, Isaac Parker, John Rutledge, junior, Samuel Sewall, William Shepard, Peleg Sprague, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, and Robert Waln.

STAMP DUTIES.

The House being again in Committee of the Whole, on the bill to amend the stamp act, and the documents which had been directed to be obtained relative to the amount of duties received, and with respect to the proper allowance to be made to the Supervisors, having been read, Mr. Otis's motion for filling up the blank for compensating the Supervisors for their trouble in stamping and dispersing the stamps, with six per cent. recurred; when

Mr. Otis said, at the time he made this motion, he had obtained an informal estimate from the Commissioner of the Revenue, which appears to have been the foundation of the documents since laid before the House. The allowance of six per cent. was at that time considered by some gentlemen as very exorbitant. We have now some more data on which to form an opinion as to what these officers are entitled to receive, and if this data is to be depended upon, he did not think the sum which he had proposed would be too much. One Supervisor would, indeed, receive more than others, but this is an inequality which cannot be remedied, except an adequate salary were to be given to these officers, instead of a commission upon what they receive; and he should prefer a plan of this kind.

In the State of Pennsylvania, Mr. O. said, the amount of duty collected, in the Supervisor's office, for six months, was 18,606 dollars, upward of 11,000 dollars of which was collected in the first quarter, which is attributed to the want of knowledge as to the true consumption of stamps. Mr. O. supposed 8,000 dollars a quarter would be about the average revenue, in this State, in the Supervisor's office, and a commission of six per cent. upon this, would give $1,930. Out of this sum must be deducted the extra expenses of the Supervisor, which, as estimated, would leave a clear profit of 756 dollars. To this sum must be added a commission of one per cent. on money received from other offices, which, supposing it to amount to ten thousand dollars a year, would make an additional hundred dollars.

These duties, Mr. O. said, might perhaps increase in a few years, and the Supervisors might receive something from the direct tax, and as he did not wish to give large salaries, though he wished to make every person employed under the Government an adequate compensation for his services, he was willing that this blank should be filled with four per cent., which, though it would be inadequate at present, might become sufficient hereafter, if not, he supposed no objection would be made to an advance.

Mr. Gallatin said that, from a view of the documents on the table, one fact seemed to be certain, that whether a Supervisor dispersed a large or a small quantity of stamps, he would stand in need of a person to work the stamp and keep an account of what was delivered out; therefore a sum per cent. might be twice too much to some officers, and far too little in others. He believed it would be improper, on this account, to make a per centage allowance. Nor ought the Inspectors to be classed with the Supervisors, as they have no trouble in either stamping or delivering the stamps. His idea was, that there should be allowance for clerk-hire to each Supervisor, for this special duty, and then allow the ordinary commission of one or one-and-a-half per cent., as is allowed upon other duties. It was true that, at the last session, the Collectors were allowed six per cent. upon the collection of all the internal duties, but as the stamp duty had not then taken place, he did not expect it would have applied to that, but if it was so considered, it was an average sum upon all the duties, and some of them are very troublesome in the collection.

In order to enable the committee to form a better judgment as to what allowance will be proper to be made to the Supervisors for stamping and distributing stamps, he would make some remarks on the present actual receipts of these officers.

We have had, said Mr. G., an official account laid before us of what is received by them; but there are two omissions in it, one the allowance made at the last session for clerk-hire, and the other the commission which they will receive upon the land tax. Adding these two items, he would state what is the total amount received by the Supervisors of the several States, exclusive of any allowance under the stamp act.

Mr. G. stated it to be as follows:

Virginia - - -	$5,410
Pennsylvania - - -	5,165
Massachusetts - - -	4,648
North Carolina - -	3,211
Maryland - - -	3,197
New York - - -	3,131
South Carolina - -	2,581
Connecticut - - -	2,002
New Jersey - - -	1,658
New Hampshire - -	1,330
Rhode Island - - -	1,509
Kentucky and Northwest Territory	1,700
Vermont - - -	1,052
Georgia - - -	1,151
Tennessee - - -	1,029
Delaware - - -	992

These sums are taken from the revenue of 1796 and 1797, and there must be deducted from them what these officers are obliged to pay for clerk-hire. This statement shows that it would be improper to make a per centage allowance, and that four per cent. on the stamp duties in the States of Virginia, Pennsylvania, and Massachusetts, will be too much, and far too little in all the small States. In Pennsylvania, it appears that upward of 18,000 dollars have been received for stamps in the Supervisor's office for six months; but as it is supposed more was received in the first quarter than will be received again, he would suppose, that

stamps to the amount of 30,000 dollars a year would be dispersed at that office. This, at four per cent., would afford a commission of 1,200 dollars, and to give this sum to an officer who already receives 5,165 dollars, would, in his opinion, be quite wrong.

If it would be in order, Mr. G. said, he would move to strike out the words, "and Inspectors," in order to confine this provision to Supervisors, and then that the section should read, "that the following sums shall be allowed for clerk-hire, in addition to the sums already allowed;" and in the next place, provide, "that the Supervisors and Inspectors of Surveys shall be severally allowed upon all stamp duties and fines —— per cent."

Mr. G. agreed with the gentleman from Massachusetts that it would be better to allow these officers salaries, than to pay them by way of commission.

Mr. Otis said, that the calculations of the gentleman from Pennsylvania did not differ materially from those which are on the table, except that, in order to appreciate the salary of the Supervisor of Pennsylvania, he has taken the amount of taxes for the last two years, instead of taking an average for several years back. The true way of ascertaining the amount of this gentleman's compensation, is to take it from the statement on the table, by which it appears that his nett allowance, after all the expenses of his office are deducted, is from 1,200 to 1,500 dollars a year. This sum could not be thought too much. If the plan which the gentleman proposes had been the original plan, Mr. O. did not know that he should have objected to it; but, to adopt a new principle at this time, would only produce unnecessary delay; and the expense to the Union, in the plan of the gentleman, would be as great as the one now proposed. At the next session of Congress, he supposed more correct information on this subject will be laid before the House, and a plan of giving adequate salaries, instead of commissions, might be adopted.

Mr. Harper was sorry that the chairman of the committee who reported this bill, did not concur in the idea suggested by the gentleman from Pennsylvania. It seemed obvious to him that a rate per cent. cannot be an equal or proper mode of compensation for these officers; because whether 30,000 dollars or 10,000 dollars are collected in an office, the trouble will be pretty much the same; as the delivering of a stamp, at a dollar, is as soon performed as the delivering of one of five cents. He did not think four per cent. would be too much in any of the States, deducting for clerk-hire, but he was satisfied it would be far too little in the smaller States.

Mr. S. Smith said, the amendment proposed by the gentleman from Pennsylvania, and recommended by the gentleman from South Carolina, might have been proper, if it had not been for the law of last session, making an allowance for clerk hire, which he supposed would be sufficient for the stamp duties also, and he believed if this course was taken, the expense would be much more than four per cent.; for if, said he, we look to the State of New Hampshire, it will be found that the whole amount of duty there collected is only $520; and if $400 be allowed to the Supervisor of that district for a clerk, it will swallow nearly the whole amount. He believed it would be best to go on at present with the mode proposed by the gentleman from Massachusetts. At the next session, when further information is before the House, a different course may be taken. With respect to the amount of duties collected in Pennsylvania, as he knew that State had been deficient in making its returns for several years past, the two last years might include some of those deficiencies. He believed it was bad policy to starve the public officers; he wished them to be enabled to live decently and respectably. If not, men might come into office who would pay themselves.

Mr. Harper said, since the question must be first taken on the amount of commission to be allowed, he should be in favor of the sum proposed. He believed the gentleman from Pennsylvania had erred with respect to the present emoluments received by the Supervisors in the several States. A striking instance of this error appeared in the statement made as to the Supervisor of South Carolina. Mr. H. said he had before him an authentic statement of the emoluments received by that officer for seven years past, including everything which had been allowed to him, and making deductions for clerk hire, office rent, stationery, &c., and his clear annual allowance, from the year 1791 to 1798, has been no more than $448 and 61 cents. This year, on account of an allowance for clerk-hire, and a commission upon the direct tax, his emoluments would be considerably increased. He supposed he would receive something more than $800 clear. This sum, for an officer who is obliged to live in Charleston, must be acknowledged to be too small; and if, said he, we persist in this course, our choice of men must be confined to men of fortune, without respect to industry and abilities.

Mr. Otis said, that though the Commissioner of the Revenue had omitted to notice the land tax in his statement, he had mentioned it in a note.

Mr. McDowell said, though he acknowledged it to be important that the office of Supervisor should be filled by men of integrity, yet he thought it would be impolitic and improper to increase their emoluments in any material degree at present. So far as he was acquainted, the salaries of these officers had been found adequate. Last year an allowance of clerk-hire had been made, and he thought four per cent. on the stamp duties would be too great an addition to their present emoluments.

The motion on filling the blank with four per cent. was carried—40 to 38.

The blank for allowing Supervisors a commission on money received from the Collectors was filled with one per cent., and that for compensating the Inspectors of Surveys with 1½ per cent. An amendment was also agreed to excluding bonds from the operation of the clause in favor of 60 day notes; and another making an allowance for defaced stamps. The committee had leave to sit again.

NORTHWESTERN LANDS.

On motion of Mr. Kittera, a commitee was appointed to consider whether any and what amendments are necessary in the law for the sale of the United States' lands northwest of the Ohio.

A report was laid before the House from the Treasury Department, respecting the value of goods imported into the United States.

Thursday, January 31.

A bill from the Senate for the relief of Thomas Lewis, was read and committed.

On motion of Mr. Harper, the Committee of the Whole, to whom was referred the bill to regulate and fix the compensation of clerks, was discharged from a further consideration of it, and it was recommitted to the Committee of Ways and Means, in order to undergo some alterations.

A Message was received from the President of United States, enclosing a report from the Director of the Mint, with a statement of the coinage of the Mint for the last year. Both these communications were ordered to be printed.

ALIEN AND SEDITION LAW.

Mr. Hartley presented a number of petitions (copies of each other) from the county of York, signed by upwards of 1,800 persons, complaining against several laws passed at the last session, particularly against the law for raising a provisional army, the alien and sedition laws, the stamp act, and the direct tax law, and praying for a repeal of them; and, also, that such a system of economy may be adopted by the Government, as will comport with its dignity, and prove agreeable to the people at large.

Mr. H. hoped, as this petition was couched in decent and proper terms, no objection would be made to its reference. He hoped also that its merits would be duly considered, and, upon a full discussion of the subject, he had on doubt the petitioners would be satisfied with the result. He moved the usual reference, which was agreed to.

Mr. Hanna presented petitions from the county of Dauphin, in the same words with those from York county, signed by 504 persons; and

Mr. Gallatin presented a petition and remonstrance from Washington county, signed by 1,544 persons, of a similar nature with the above; which had also the same reference.

STAMP DUTIES.

The House again resolved itself into a Committee of the Whole on the bill to amend the stamp act; when Mr. Otis proposed a new section to the bill, providing that every certificate of stock in any bank or insurance company, above one hundred and not exceeding four hundred dollars, shall pay the sum of 25 cents, and all above $400, an additional duty of five cents for every $100, in lieu of the present duty. The motion was negatived—44 to 27.

The committee then rose, and the House took up the amendments. When that was come to, which was yesterday introduced by Mr. Otis, for excluding bonds, at or within 60 days, from the exception in favor of notes of this description, Mr. Gallatin hoped it would not be agreed to. Mr. Gordon also spoke against it, and Mr. Bayard in its favor. It was negatived, 26 votes only being in its favor.

On the other amendment of Mr. Otis, proposing that defaced stamps should be allowed for, Mr. Waln said if it were agreed to, it would open a door for fraud. One of the principal reasons why notes at or under 60 days were made to pay a less duty than others, was, because a number of stamps used in this way would be necessarily defaced by merchants drawing notes which never would be discounted. Mr. W. had no doubt that in particular instances individuals might suffer from stamps being accidentally defaced; but he believed if this provision passed, all the 60 day notes not discounted would be included within it.

Mr. S. Smith was also opposed to it; and the amendment was negatived without a dissenting voice.

On the amendment to fill the blank allowing a compensation to supervisors for stamping and selling stamps with four per cent.—

Mr. Gallatin said, he hoped it would not be agreed to. In relation to the Supervisor of Charleston, whose case the gentleman from South Carolina had introduced to the view of the Committee of the Whole, he would say a few words. It had been stated that his nett compensation at present, including his commission on stamps and the direct tax, would not exceed $800. In order to make that statement, he has deducted all the increase of office rent and clerk hire which will arise from the increase of duty, and, of course, instead of $900, which were the expenses of his office in 1798, he has charged $1,500 in 1799. In examining the credit account, Mr. G. was surprised to see the manner in which the supervisor had stated it. Though the amount of commission arising from duties collected for the two last years were, as stated by himself, in 1797, $1,517; in 1798, $1,500; yet he makes his estimate at twelve hundred dollars, which is three hundred dollars less than his real receipts. He has also stated his commission upon stamps at one hundred dollars. The amount of duties collected on stamps for something less than six months is $5,201. Supposing the amount for twelve months to be ten thousand dollars, at four per cent., his emolument would be four hundred dollars. Add to this one per cent. upon other stamp duties received from the collectors, and, instead of the supervisor receiving $800, it would be found he would receive at least $1,500.

Mr. G. said, he yesterday stated to the Committee of the Whole the amount of emolument received by the different supervisors of the United States. There was one item, however, which he could not take into consideration, because there was no return before the House from which he could take it. This was the allowance upon certificates for wines, &c., which, as stated by the Supervisor of South Carolina himself, was, in the year 1796, $241; in 1797, $293; in 1798, $260.

This amount will, of course, be considerably larger in the cities of New York and Philadelphia than in Charleston. He supposed in these towns six or seven hundred dollars would accrue to the supervisor from this source.

Mr. G. regretted that the House had not yet had laid before it an annual return on this subject, directed to be laid before them in the month of December. If that was before them, he apprehended very different conclusions might be drawn from it, from what can be drawn from less authentic sources.

In relation to the Supervisor of this State, he had yesterday stated that his emoluments are $5,165, including what will arise from the land tax. To this sum must be added about $750, arising from certificates; also the allowance on the stamp duties, which, if they amount to thirty-six thousand dollars a year, will, at four per cent., amount to upwards of $1,400, and also one per cent. upon stamp duties received from the collectors, which, he supposed, would leave another one hundred dollars, making the whole of the emoluments of this office $7,400.

What are the expenses of this officer? We have not these from himself, but from a clerk in his office. Clerks and office rent are estimated at $1,500; and that an additional clerk will be necessary on account of the stamp duty, so that, allowing this clerk to be necessary, nine hundred dollars a year will be cleared from these stamps alone. He supposed his emoluments would amount to a nett $4,000 a year This officer, said Mr. G., does not live wholly in this city, and his expenses ought not to be calculated as being obliged to live here; and if he pays a larger sum for clerk hire, because he is himself absent, this expense ought not to induce a larger allowance. He had no doubt the office is well kept; he mentioned this circumstance only because it will certainly be necessary to pay more for clerks when the supervisor himself is not present, than if he was to attend his duty himself.

This remark Mr. G. believed applicable to most of the large States. He did not know that it was necessary for these officers to live in large cities, as a great portion of the internal duties is not collected there. Residing in cities is, therefore, a matter of choice with supervisors.

This morning, said Mr. G., we have had presented a petition from York county, in which complaint is made against certain taxes, with which, however, he had no doubt they would cheerfully acquiesce, if they were convinced that they are necessary; but, at the time they pray that a system of economy may be adopted, he did not think it would be good policy, or that it would increase their affection for the law, to tell them on the same day that their petition is presented that we are about to allow four per cent. on the collection of the stamp duty; that in so doing the greatest inequality would be produced between the allowance made to the officers of large and of small States. To do this might induce an opinion that taxes are raised for the sake of giving large salaries to those who collect them.

With respect to the stamp tax, Mr. G. said, no tax could be collected cheaper than it, being a mere matter of sale and receipt of money. Accordingly we find, when this law passed, it was supposed that the duty could be collected for five per cent., and yet we now find six per cent. given to the collectors, one per cent. to the supervisor, and one and a-half per cent. to the inspector.

Mr. G. said, his great objection to this amendment was its inequality. He hoped it would, therefore, be rejected, and a more equal principle be introduced in its place.

Mr. Otis believed the gentleman from Pennsylvania would not again have troubled the House on this subject, unless he had flattered himself that some gentlemen who represent some of the smaller States had been affected by the wish which he had expressed, of increasing the compensation of the officers of those States; but, seeing this, though his object is very different, for he believed it was to starve the officers of all the States, he had again brought the matter before the House. The gentleman complains of want of information. Have not the supervisors from different parts of the Union petitioned the House for two years past, and sent statements of their accounts? and the Secretary of the Treasury has singled out these officers as not being sufficiently paid, and as being unable to support themselves without an advance of pay. What says the gentleman from Pennsylvania to this? He says it is all loose information, and that the statements which he gives to the House are only to be depended upon. Allow him his own data, and he will make results; but Mr. O. believed the proper data was the information received from the Secretary of the Treasury.

With respect to the error of the Supervisor of South Carolina, he could not correct it; but he believed that gentleman incapable of such inconsistency as the gentleman has stated. He supposed the supervisor had drawn his statement from correct data, and the gentleman from Pennsylvania had taken his from what he guesses to be correct. Yesterday, the gentleman told the committee that the Supervisor of this State is in the receipt of emoluments from his office of a clear $3,000 a year; to-day he says it is $4,000; and there could be little doubt, if this subject engaged the House a few days longer, he would bring irrefragable proof that it is $10,000.

But we have, said Mr. O., a return from this officer himself, and he tells you that, exclusively of the stamp duty, it is from twelve to fifteen hundred dollars. But the gentleman states that this account is not given by himself, but by a clerk. Can we have better information, said Mr. O., than that of the clerk who keeps the accounts of the office? Mr. O. denied that it was likely the stamp duty in the Supervisor's office in this State would be $36,000 a year, though it had been $18,000 in the first six months, owing to circumstances which had already been mentioned. Perhaps, however, it might be $30,000, which would produce $1,200, at four per cent.; and it appears that the clerk hire in this business had taken the whole of this,

so that nothing remains for the supervisor but one per cent. upon the money received from the collectors, which would not produce more than a nett sum of $80 or $100.

From the manner in which the gentleman had spoken of the Supervisor of Pennsylvania, it would almost seem that he had some personal dislike to him. This officer, said Mr. O., is compelled to go to and from the city; and, if he employs a capable person in his office, it is not material whether he be himself there, or in his own county, lulling those disquietudes which have been industriously raised among a set of people who are well disposed towards this Government; for his own part, he should be inclined to pay him better on this account.

With regard to the complaints of the people, he had the same idea with the gentleman from Pennsylvania of them—that they are unreasonable; since the taxes which are laid are unavoidable, and fairly and equally imposed, and are for the support of the liberty and independence of the country. Mr. O. said he would not inquire into the origin of these petitions. In some instances, they doubtless arose from an examination of the subject; but in others, they are the work of malcontents, who complain because they are disposed to make difficulties; and too many follow these file-leaders, and sign petitions and remonstrances, which, if he mistook not, they would hereafter, when they see matters in their true light, be glad to unsay and contradict.

Mr. Hartley said if all the statements which his colleague (Mr. Gallatin) had made were like that which related to the residence of the Supervisor of Pennsylvania, they would be indeed incorrect; for though the family of that gentleman lives at Yorktown, he was himself four-fifths of his time in this city. This officer, Mr. H. said, had much disagreeable duty to perform, and he was sure that his constituents would wish him to be well paid.

Mr. Harper observed that there was nothing new in the remarks of the gentleman from Pennsylvania, except two points, one of which was relative to the residence of Supervisors, and the other to the statement of the officer of South Carolina. He says these officers are not obliged by law to reside in large towns; but, said Mr. H., the law gives them duties to perform which makes it necessary for them to spend the greater part of their time there; and the gentleman cannot suppose that the Supervisor of this State would be constantly riding backward and forward between York county and this city, if he was not obliged to keep his office. If the residence of the family of this gentleman in the country proves anything, it proves that his office will not support them in town, and that his compensation ought to be increased. Could it be supposed that the Supervisor of Maryland had made inroads upon his fortune from his desire to live in the city of Baltimore, though his duty did not require it? Certainly not. Mr. H. could not see why the gentleman from Pennsylvania should have stated to the House, that when the Commissioner of the Revenue sent to the office of the Supervisor he was not in town, except it was to glance indirectly at the manner in which the business of that office is done; and as that gentleman frequently told the House he does nothing without a reason, he could see no other reason he could have had for it.

With respect to the Supervisor of South Carolina having taken $1,200 as an average, it was not an error, but the average allowance received from 1791 to 1798. He may, indeed, have been wrong in not having taken the average of the three or four last past years, instead of the seven. He believed himself this would have been most proper. What is the result? That $300 ought to be added to the $800 which he had stated to be the amount of his emoluments, which would make $1,100, which he was sure could not be thought a sufficient allowance for such an officer. But the gentleman says, the Supervisor ought to have added $400 more for the stamp duties, and $100 as arising from moneys received by the collectors. Was he to blame for not having done this, when he did not know what would be allowed?

[Mr. Gallatin said he did not say he was to blame on this account, but for having stated at $1,200 what he must know ought to have been $1,500.]

No, Mr. H. said, the gentleman did not blame him alone, but everybody else must do it from the manner in which the gentleman expressed himself. We contend, said Mr. H., that 4 per cent. ought to be allowed, and the gentleman from Pennsylvania calculates what he would receive, if this was the case, but himself opposes it. He hoped 4 per cent. would be allowed.

Mr. Pinckney wished to say a word or two with respect to what had fallen from the gentleman from Pennsylvania. There might have been an error in judgment, in the Supervisor of South Carolina, in taking the average which he had taken; but if reference was had to what he has actually received for his services, it will be found he has by no means received an adequate allowance; and on that account, said Mr. P., we ought rather to go beyond what may be strictly a sufficient allowance, in order to make amends for past deficiencies. In time past it appears his emoluments have only been from $700 to $800 a year, and the utmost allowance now proposed is $1,500; and he asked whether any man could support a family for less than this in the city of Charleston? He thought he ought at least to have $2,000. He conceived it bad policy to withhold a competent allowance from the officers of the public. As to the commission arising from the direct tax, it ought not to be taken into consideration as a permanent allowance, as it was only laid for one year, and no one could say it would be continued.

Mr. Gallatin insisted that the statements he had made were taken from official documents. And to show that the allowance to the Supervisor of this State was what he had mentioned, he enumerated the items as follows:

Salary - - - -	$1,200
Allowance for clerk-hire - -	800
Commission from duty on distilled sprits - - - -	1,744

Commission on all the other internal duties - - - -	235
Commission on land tax - -	1,186
Total - - -	$5,165

These, said Mr. G., are not loose calculations. I am not in the habit of drawing conclusions from loose calculations. When I have no information on a subject, I am silent; and because I had no data on which to ascertain the amount received from certificates, I was silent with respect to them. But this morning a statement with respect to them had been received. Mr. G. said he had selected the officers of Pennsylvania, in order to shew the unequal manner in which a per-centage allowance would operate; and so far from extending his general remarks to the officer of South Carolina, he thought his salary ought to be full as much as it would be made by allowing him 4 per cent. on the stamp duties, and, of course, that all those who receive less than him receive too little.

In relation to the officer of Pennsylvania, whom he had selected for the reason which he had stated, he had been astonished to hear it said that he had made invidious remarks with respect to that gentleman. He wished to know how it could be deemed invidious to state facts relative to the emoluments received by one of our officers, at the same time that he stated the office was well filled. Mr. G. said he had not the least personal disrespect for or objection to him. The only reason why he had mentioned this officer's spending a part of his time in York county was, that he must necessarily pay more for clerk-hire during his absence than he otherwise would have occasion to do.

But the gentleman from Massachusetts informs the House that this officer is better employed in York county, than he could be in his office at Philadelphia. [Mr. Otis denied having said so.] The House would recollect, Mr. G. said, that the gentleman spoke of this officer's being in York county doing away those groundless objections which appeared to exist there to some of our laws; so that it seems, said Mr. G., that one of the reasons why an additional salary should be allowed to our officers is, not on account of their attending to their duty as Supervisors, but on account of some extra duty, which their office does not oblige them to do. Of what nature is this duty? It is to correct the errors of the people of York county as to certain political truths; to give them lectures on the laws; not only the duty of acquiescing in them; not only peaceably to obey them—because they have always been inclined to do this—but to teach them that their opinions with respect to them are wrong. As this is not a duty enjoined upon any of the Supervisors, he did not think it ought to be used as an argument for advancing their emoluments. Nor did he know in what they were better calculated to convince the people of their errors than other gentlemen. As an individual, Mr. G. said he did believe that the opinion of the people of York county is correct. With respect to the grievance they complain of, in the direct tax, he had always been for placing land and houses on the same footing, which would have avoided the evil they complain of.

Mr. G. did not wish to see this officer receive more pay than the Secretary of the Treasury or the Commissioner of the Revenue, who are certainly his superior officers.

Mr. Otis said he did not make any positive assertion with respect to the officer of Pennsylvania; and the only information he had on the subject fell from the gentleman from Pennsylvania himself, in conversation. In following him it seems he had fallen into mistake. This he allowed was natural enough, and he would be careful how he followed him again.

Mr. O. said, the gentleman from Pennsylvania had made his calculations from what the officer of this State received last year, which was more than any preceding one. He believed that $500 ought to be deducted on account of clerk-hire for the land tax duty; and when this was done, and all the other expenses deducted, it would only leave $2,412.

Mr. Hartley denied that this officer was employed in York county as had been represented.

Mr. Galltin said that he might, for aught he knew, have said something in jest over one of the fires, and in private conversation; but he denied altogether having given or pretended to give any information on the subject. The gentleman from Massachusetts had upon the floor argued on a supposition that the fact was so, and was the only person who had made the assertion his own. As to himself, he knew too well the respect due to any gentleman, and to himself, to assertin his place as a fact what he did not know, or to repeat any jest that he might have overheard in private conversation. And in what he had said he only followed and answered the argument openly made by the gentleman from Massachusetts. He then called the yeas and nays. They were taken, and the question for filling the blank with 4 per cent. was carried—49 to 40, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Berry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, Peleg Sprague, Richard Sprigg, George Thatcher, Richard Thomas, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David

Holmes, Edward Livingston, Matthew Locke, Nathaniel Macon, William Matthews, Joseph McDowell, John Nicholas, Josiah Parker, Tompson J. Skinner, William Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Mark Thomson, Thomas Tillinghast, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The bill was then ordered to be engrossed for a third reading to-morrow.

Then the House adjourned

Friday, February 1.

John Fowler, from Kentucky, appeared and took his seat in the House.

Mr. J. Parker, from the Naval Committee, reported the following bills, viz:

A bill for augmenting the Navy, and fixing the pay of Captains of ships or vessels of war.

A bill authorizing the establishment of docks, and

A bill authorizing the purchase of timber for naval purposes.

These bills were severally twice read and committed.

Mr. Rutledge, from the committee to whom was referred a resolution proposing to make an extra allowance to the Sergeant-at-Arms, on account of his sickness during the last session, reported a bill for his relief, which was committed.

The bill to alter the stamp duty imposed on foreign bills of exchange and bills of lading, and further to amend the stamp act, was read the third time, and the blanks being filled, was passed. This act is to take place after the 31st day of March next.

Mr. S. Smith, from the Committee of Commerce, reported a bill to regulate the collection of duties on impost and tonnage, which was committed to a Committee of the Whole.

COLLECTION OF DIRECT TAX.

On motion of Mr. S. Smith, the House went into a Committee of the Whole on the bill to amend the act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States. The first clause of this bill authorized the Secretary of the Treasury to augment in cases where he may find it necessary the compensation fixed for principal and assistant assessors by the present law, so that no principal or assistant assessors shall, in any case, receive more than two dollars per day, exclusive of an allowance, also made in the second section of this bill, for clerk hire to the principal assesor, of one dollar per day.

On inquiry, it appeared that the principal assessors have, by the law as it now stands, one-and-a-half dollar per day allowed them; and the other assessors one-and-a-half dollar whilst collecting, and one dollar when otherwise employed.

This bill, advancing the pay of the assessors, originates from complaints from the State of Maryland, that persons cannot be got to perform the office for the sum allowed, and that, in consequence, in many parts of that State, no steps have been taken to carry this law into execution. This fact was stated by Messrs. S. Smith, Craik, Sprigg, and Matthews, Representatives from that State.

Mr. S. Smith moved to strike out two dollars, for the purpose of inserting three; but this motion was superseded by one made by Mr. Varnum to strike out the first section of the bill.

He thought the present allowance quite sufficient, and rather more than enough; that no complaint has been made from any other part of the Union; that he could not agree to allow the Secretary of the Treasury a power to pay the officers in Maryland more than is paid to the same officers in other parts of the Union; and he could not consent to raise the pay of the whole, when they are, excepting the case mentioned, perfectly satisfied with what is now allowed. Mr. V. saw no necessity for clerk-hire; if a clerk were to be allowed, the office of principal assessors, he said, would become a sinecure; that nothing would make the tax so unpopular as thus to increase the expense of collection; and that out of two millions of dollars raised, not more than one million would find its way into the Treasury. This opinion was supported generally by Messrs. Venable, McDowell, Shepard, J. Williams, Thatcher, T. Claiborne, and Findley.

The necessity of the increase was advocated by Messrs. S. Smith, Gordon, Craik, Pinckney, Harper, and Otis, as absolutely necessary, if the tax was to be collected in Maryland; that it would not be necessary to advance the pay of the officers in any other parts of the Union; but that, owing to the extent of the districts in Maryland, and from other causes, persons could not be induced to perform this duty without the proposed advance.

After a great deal of conversation on the subject, the motion for striking out the section, was negatived—45 to 41. The committee then rose, and had leave to sit again.

REMONSTRANCE OF GEORGIA.

On motion of Mr. Baldwin, the House resolved itself into a Committee of the Whole on the report of a select committee on the petition and remonstrance of the Legislature of Georgia; and the resolution reported by that committee being under consideration, its adoption was opposed principally by Mr. Allen.

Mr. Nicholas thought the following resolution would be less exceptionable than the one reported, and it was agreed to—55 votes being in its favor.

"*Resolved*, That provision ought to be made by law for complying with such treaty as the President of the United States may think proper to make with the Creek Indians, and for obtaining possession, in behalf of the State of Georgia, of the lands lying within the county of Tallassee, or other lands on the frontier of the said State, which may be deemed equivalent thereto, and that —— dollars be appropriated therefor."

The committee rose, and, after some further remarks from Mr. Allen, the resolution was concurred in—59 votes being in its favor. It was then referred to the select committee to report a bill.

The House adjourned to Monday.

Monday, February 4.

Mr. Harper, from the Committee of Ways and Means, made the following reports, viz:

A new bill for regulating the compensation of clerks;

A bill making additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States; and

A bill making appropriations for the support of the Navy Establishment for the year 1799;

Which bills were severally twice read and committed.

Mr. McClenachan presented a petition and remonstrance from 1,210 inhabitants of the county of Philadelphia, praying for a repeal of the alien and sedition laws, which they deem unconstitutional. Referred as usual.

SICK AND DISABLED SEAMEN.

Mr. Pinckney moved that a committee be appointed to inquire whether any and what amendments are necessary in the act for the relief of sick and disabled seamen, and that they have power to report by bill or otherwise. He said, there is a provision in the present law, directing that all the money collected within a district shall be expended within the same, in carrying which into effect inconvenience has been experienced, from the smallness of the districts under the revenue system. It would be necessary, therefore, either to repeal that provision, or enlarge the districts. Some doubt also existed whether seamen of the Navy are admissible into the hospitals to be provided under this law. He hoped, therefore, a committee would be appointed. Agreed to.

COLLECTION OF DIRECT TAXES.

The House again resolved itself into a Committee of the Whole on the bill to amend the act for valuing the lands and dwelling-houses of the United States, and for the enumeration of slaves; when

Mr. S. Smith moved to strike out two, for the purpose of inserting three, making the allowance to the assessors three dollars.

Mr. Craik seconded the motion. He believed that without this allowance no tax could be collected in the State of Maryland, since no part of the tax could be laid until all the assessments are made. Mr. C. believed the allowance was thought too small in other parts of the Union also.

Mr. Nicholas had hoped the gentleman from Maryland would have been satisfied with double the allowance for the assessors in Maryland, that is allowed to any other.

Mr. McDowell spoke also against the allowance.

Mr. Waln was in favor of the advance; he believed the present pay too small, and that the assessors in this city had undertaken the business more from personal respect to the Commissioner than from any other reason. If this was agreed to, he should be for dispensing with the clerk provided by the next section for the principal assessors.

Mr. Gallatin said, he voted against the striking out of this section, not because he thought the present allowance too small, but because he knew the fact that the assessments are not made in certain parts of Maryland, and that the tax cannot be laid until the whole of the assessments are made. He therefore saw the necessity of making some advance. He was, however, altogether against this amendment. It appeared very mysterious to him that though assessors were readily found to do the business for the sum allowed, in those parts of Pennsylvania and Virginia which are only separated from these districts of Maryland by an arbitrary line, persons cannot be obtained to do the business there. As to what his colleague (Mr. Waln) had stated, of assessors having undertaken the business in this city, principally out of personal respect to the Commissioner, he could scarcely think that was the case; since, for doing the same kind of business, the State only pays its officers one dollar a day, and he never heard of any want of persons to fill the places. The County Commissioner, whose duty is the same with that of the principal assessors, receives from the State of Pennsylvania $1 33⅓. In voting against striking out this section, he proposed to introduce an amendment, providing that the additional compensation shall not be made to any person who has at present accepted the office.

Mr. S. Smith said, the fact which had been stated, might appear less mysterious to the gentleman from Pennsylvania, when he informed the committee that, about two years ago, the State of Maryland passed a law for levying a direct tax, and allowed to the assessors of each district $106; and though this business was simple, and the present assessments complex, only $45 are here allowed. Another reason, in the State of Maryland, no person employed by the State in its assessments, can undertake the same business for the United States. He supposed these the principal reasons for the existing difference between this State and others.

On suggestion of Mr. Gordon that the question had best be first taken on striking out, it was agreed to be so taken.

On the question being put to strike out two, it was negatived—47 to 34.

Mr. Gallatin then moved to introduce the following words into the section, "in order to procure principal assessors, where the same may not have been appointed."

This motion was supported by Messrs. Harper, J. Williams, Macon and Venable; and opposed by Messrs. Thatcher, Matthews, and S. Smith.

It was negatived—19 votes only being for it.

Mr. T. Claiborne moved to make the advance general throughout the United States. He wished to have no discretion anywhere on this subject, but in Congress.

Only five votes were in favor of this motion.

Mr. Thatcher saw no necessity for the second section, which provided a clerk of the principal assessors; if a man could read and write, he said, he might certainly do the business of this office without a clerk.

The motion was carried, 59 votes being in its favor.

The third section then came under consideration, which went to repeal so much of the present act as makes it necessary to take an account of the windows in dwelling-houses.

Mr. WALN wished to propose an amendment to this section. He thought there are other parts of the 9th section of the present law which might very well be dispensed with, as they tended only to make the law disagreeable in its execution, in the same way that numbering the windows had given people an idea that a *window tax* was in contemplation. The only reason which he had heard given for these details, was, that they were to enable the Commissioners to form an idea of the value of houses; but he thought this reason insufficient, as he did not believe any just opinion of the value of houses could be formed without a personal view of them. The Secretary of the Treasury, in his letter to the chairman of the Committee of Ways and Means, seems to hold out this idea. Mr. W. moved that the section read as follows:

"That so much of the said act as requires the assessors to make the number and description of the windows of dwelling-houses, and of the exact dimensions or area of the dwelling-houses, or other buildings, shall be and the same is hereby repealed; *and it shall be the duty of assessors to require such a general description of dwelling-houses and other buildings, as they may deem necessary.*"

This amendment was supported by Mr. BAYARD and Mr. J. WILLIAMS; and opposed by Messrs. HARPER, GORDON, NICHOLAS and REED.

On suggestion of Mr NICHOLAS, that the words printed in italic were more objectionable than the present law could be, Mr. WALN withdrew them.

The question was then taken on the amendment, and it was negatived—22 votes only being for it.

On motion of Mr. HARPER, a new section was added to the bill, giving a power to the Commissioners to extend the time of receiving appeals by the principal assessors.

The committee then rose, and the House took up the amendments.

Mr. WALN moved an amendment to repeal that part of the present law which requires appeals to be made in writing, which, he said, was found inconvenient in some parts of this State; carried—35 to 29.

Mr. VARNUM then moved to strike out the first section of the bill (which makes the increase of pay to the assessors,) and called for the yeas and nays upon it.

Mr. NICHOLAS said, he should vote against striking out this section, in hopes that an amendment something like that which the gentleman from Pennsylvania proposed in the Committee of the Whole would be adopted; but, if such an amendment was not agreed to, he would finally vote against the passing of the bill.

The yeas and nays were then taken, and stood—yeas 47, nays 45, as follows:

YEAS—Abraham Baldwin, David Bard, Bailey Bartlett, Robert Brown, Stephen Bullock, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Andrew Gregg, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Samuel Lyman, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, William Shepard, Tompson J. Skinner, William Smith, Richard Stanford, Thomas Sumter, George Thatcher, Mark Thomson, Abram Trigg, John Trigg, John E. Van Alen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.

NAYS—George Baer, jr., James A. Bayard, Thomas Blount, Jonathan Brace, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Albert Gallatin, James Gillespie, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, James H. Imlay, William Matthews, Lewis R. Morris, John Nicholas, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, Richard Thomas, Peleg Wadsworth, and Robert Waln.

The first section being struck out, the remainder of the bill underwent the necessary alterations, in point of form, and then it was ordered to be engrossed for a third reading.

STATE BALANCES.

On motion of Mr. HARPER, the House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill respecting certain balances due from the several States of the United States. The amendments were, first, that the time of erecting fortifications should be confined to five years; second, that cessions should be made of the territory on which any such fortifications should be built.

Mr. BAYARD moved to amend the first, by adding "or in the erection of piers for the protection and improvement of any port or harbor in the United States." This motion was negatived—26 votes only being for it.

Mr. COCHRAN moved to strike out that part of the amendment which requires a cession of the territory.

This motion was advocated by Messrs. LIVINGSTON, J. WILLIAMS, BROOKS and GALLATIN; and opposed by Mr HARPER.

Mr. BAYARD moved a reference of this amendment to a select committee; which was negatived—46 to 29.

The question was then taken on striking out what relates to cession, which was carried—40 to 38.

TUESDAY, February 5.

The House met as usual; when the Clerk informed the members present that the SPEAKER was indisposed, and unable to attend the duties of the Chair this morning, when a motion was made to adjourn, and the House adjourned accordingly

WEDNESDAY, February 6.

The bill to amend the act providing for the valuation of land and dwelling-houses and the enumeration of slaves within the United States, was read the third time and passed.

IMPORT AND TONNAGE DUTIES.

On motion of Mr. S. SMITH, the House resolved itself into a Committee of the Whole on the bill to regulate the collection of duties on imports and tonnage. A few amendments were agreed to, and the bill being gone through, the committee rose, but the SPEAKER having left the House, indisposed, no report could be made, and the House was informally adjourned by the Clerk.

A short debate took place in the committee on motion of Mr. LIVINGSTON, to exclude from duty books, maps, prints, or charts, imported for any college, academy, or incorporated library. It was opposed principally on the ground that the subject had been referred to a select committee, who had not yet made their report. The motion was finally withdrawn.

THURSDAY, February 7.

Mr. RUTLEDGE made his report, as Chairman of the Committee of the Whole, yesterday, on the bill to regulate the collection of the duties on imports and tonnage; which report was taken up, the amendments concurred in, and some others made. The bill was then ordered to be engrossed for a third reading.

Mr. MORRIS, from the committee appointed on the subject, reported a bill providing compensation for marshals, attorneys, jurors, and witnesses in the Courts of the United States; which was committed.

Mr. CRAIK, from the Committee on Post Offices and Post Roads, reported a bill establishing the Post Office of the United States, which was committed.

Mr. PINCKNEY, from the committee appointed to consider the representation and remonstrance of the Legislature of Georgia, reported a bill appropriating a certain sum of money for defraying the expenses of holding a treaty or treaties with the Indians; which was committed.

The House went into a committee on a bill from the Senate for the relief of Thomas Lewis; which was agreed to, and ordered to be read a third time to-morrow.

INCREASE OF SALARIES.

Mr. HARPER, from the Committee of Ways and Means, reported a bill for augmenting the salaries of the officers of the Executive Departments. By this bill it is provided that the Secretaries of State, Treasury, War, and Navy, shall each have $5,000 a year; the Comptroller of the Treasury $4,000; the Attorney General, the Treasurer, the Auditor, and the Commissioner of the Revenue, each $3,400; the Register of the Treasury $2,800; the Accountants of the War and Navy Departments each $2,300; the Postmaster General $2,400, and the Assistant Postmaster General $1,700.

The bill was committed.

INTERCOURSE WITH FRANCE.

The House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill for further suspending our commercial intercourse with France. The principal of these amendments was, to strike out the fifth and sixth sections of the bill, which gave the President power to suspend our intercourse with such Spanish and Dutch ports as should be found to harbor French privateers. This amendment of the Senate was concurred in, 60 votes being for it. The rest followed of course. The Committee then rose, and the yeas and nays being called for in the House on agreeing to the report of the Committee of the Whole, the question was carried—59 to 32, as follows:

YEAS—George Baer, jr., Abraham Baldwin, David Bard, B. Bartlett, Jas. A. Bayard, Thos. Blount, Richard Brent, Robert Brown, Stephen Bullock, John Chapman, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, James Cochran, Samuel W. Dana, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Thomas Evans, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Joseph Heister, David Holmes, James H. Imlay, Walter Jones, Edward Livingston, Matthew Locke, James Machir, Nathaniel Macon, Blair McClenachan, Lewis R. Morris, Anthony New, John Nicholas, Isaac Parker, Josiah Parker, John Reed, James Schureman, Samuel Sewall, Tompson J. Skinner, Samuel Smith, William, Smith, Richard Sprigg, Richard Stanford, Abram Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—John Allen, Jonathan Brace, David Brooks, Christopher G. Champlin, William Craik, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Hindman, Hezekiah L. Hosmer, John Wilkes Kittera, Samuel Lyman, William Matthews, Joseph McDowell, Harrison G. Otis, Thomas Pinckney, John Rutledge, jr., Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

STATEMENT OF EXPORTS, &c.

A communication was laid before the House from the Treasury Department, enclosing statements of goods exported from the United States, by which it appears: That the total amount of the value of our exports, for the last year, ending on the 30th of September last, was $61,327,411, thirty-three millions of which it is estimated were of goods, wares, and merchandise, of foreign growth or manufacture. Also, a statement of the tonnage of our shipping for the year 1797, which is, of—

	Tons.	*95ths.*
Registered tonnage - -	597,777	43
Enrolled and licensed do. -	237,402	69
Fishing vessels, do. - -	41,732	73
Total - -	876,912	90

Of the above, it is found by returns that 57,679 tons were built in the United States in the year 1797.

The increase of our domestic exports this year over the last, is above two millions, which is owing to about 10,000 hogsheads more of tobacco having been ex-

ported this year than the last. The following is a comparative statement of the exports of the years 1797 and 1798:

To what countries.	1797.	1798.
Russia, &c. - -	3,450	60,732
Sweden, &c. - -	898,315	732,462
Denmark, Norway, &c.	2,533,324	2,901,511
Holland, &c. -	8,805,486	7,420,650
Great Britain, &c. -	8,569,748	17,086,189
Hanse Towns -	9,589,858	14,492,613
France, &c. -	11,664,091	6,941,486
Spain, &c. - -	5,596,253	8,740,553
Portugal, &c. -	463,310	729,089
Morocco -	15,000	19,188
Italy - -	767,064	1,334,036
China, and India generally	387,310	261,795
West Indies generally	1,508,044	248,121
Africa do	230,873	132,883
Europe do	207,077	74,858
Northwest Coast of America	15,607	79,515
Imperial ports -	-	70,730
Total -	51,294,710	61,327,411

Summary value of Exports.

	1797.	1798.
New Hampshire - -	275,840	361,453
Massachusetts - -	7,502,047	8,639,252
Rhode Island - -	975,530	947,827
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Pennsylvania - -	11,446,291	8,915,463
Delaware - - -	98,929	183,729
Maryland - - -	9,811,799	12,746,190
Virginia - - -	4,908,713	6,113,451
North Carolina - -	540,901	338,124
South Carolina - -	949,622	6,994,179
Georgia - - -	644,307	961,848
Total - -	51,294,710	61,327,411

AUGMENTATION OF THE NAVY.

On motion of Mr. JOSIAH PARKER, the House resolved itself into a Committee of the Whole on the bill for the augmentation of the Navy, and fixing the pay of the captains of ships or vessels of war; when the first section being under consideration—

Mr. GALLATIN moved to strike out the words, "six ships of war, of a size to carry, and which shall be armed with not less than seventy-four guns each; and these shall be built or purchased within the United States;" in order to take the sense of the committee on the propriety of building, at present, ships-of-the-line. When this subject was last year before the House, the general opinion was, that during the present war, considering the crippled state of the French navy, frigates and vessels of a smaller size, were sufficient to protect our vessels on our own coast, and in the West India seas; nor did that opinion seem to have undergone any material alteration; for, although the Secretary of the Navy, and the select committee, had reported that the expense of building the six seventy-four gun ships now proposed, would amount to $2,400,000, yet the appropriation asked for the present year was only one million of dollars. It was not expected that much more than one-third of the work necessary to send those ships to sea, could be executed during the present year. It was not expected that they could be finished in less than two or three years. They were not wanted for any immediate purpose. The proposed measure was not therefore a measure of defence. It was a project of a general nature. The question is, whether it be proper, at the present time, to lay the foundation of a navy, of a fleet, that might be able, hereafter, to give us a certain weight in relation to European nations; which might be able to cope with the fleets of those nations: and it was in order to bring that question fairly before the Committee of the Whole that he had made his motion. Should that motion prevail, it would not affect the building of the six sloops of war which were said to be immediately wanted, in addition to our present naval force, for the purpose of protecting our commerce. It would merely prevent the building, at present, of a fleet which was supposed, by the friends of the bill, to be wanted only for future purposes.

The only argument given by the select committee in support of this new establishment, was inapplicable to the present question. It went only to show that great protection had been afforded to our commerce by our present naval force. Supposing, therefore, that their calculations were correct, and that those advantages had been derived from our navy which they contended for, it would not follow that it was necessary, at present, to build a fleet which could not be applied to that object. Yet, as that argument was in itself fallacious, and calculated to make a wrong impression, he would examine the data on which it was grounded.

The committee state that about the time of the sailing of our ships of war, the rate of insurance in Philadelphia stood as follows:

To Russia - -	out 22½	per cent.—Home	22½
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Denmark and Hanse Towns - -	17½	" "	17½
Holland - -	20	" "	17½
Great Britain -	17½	" "	17½
Spain - -	17½	" "	17½
France - -	-		-
Portugal - -	15	" "	15
Morocco - -	20	" "	20
Italy - -	27½	" "	27½
China and the East Indies - -	20	" "	15
West Indies -	17½	" "	17½
Africa - -	20	" "	20

That at this time insurance can be had at the following rates, in the same offices:

To Russia - -	out 12½	per cent.—Home	12½
Sweden - -	12½	" "	12½
Denmark and Hanse Towns - -	10	" "	10
Holland - -	15	" "	12½
Great Britain -	10	" "	10
Spain - -	12½	" "	12½

To France - -	out -	per cent.—Home	-
Portugal - -	10	" "	10
Morocco - -	12½	" "	12½
Italy - -	17½	" "	17½
China and the East Indies - -	10	" "	10
West Indies -	12½	" "	12½
Africa - -	12½	" "	12½

That our exports and imports for one year, may be estimated at one hundred millions of dollars, and the value of our vessels at twenty-seven millions; and that the insurance having, according to the preceding table, fallen 7½ per cent. on an average, there results a clear annual saving of nine millions and a half, which they ascribe solely to our naval force. The committee thence conclude that the saving in insurance, is a clear gain to the country greater than the expense incurred by the navy.

Mr. G. said he differed *in toto* from the committee, both in their premises and conclusions, and must therefore be permitted to make some observations on this statement.

In the first place, whatever fall may have taken place in the rate of insurance, that fall must have been owing, at least, to two distinct causes, viz: to private vessels having been suffered to arm, and to public armed vessels. To decide precisely what share of the effect was produced by our public armed vessels, it would be necessary to know exactly what effects have been produced by private armed vessels; the balance might then be ascribed to our public force. Considering the manner in which our trade had principally suffered in the West Indian seas, by row-boats, and other small vessels, there could be no doubt but the armed private vessels had been of much greater service in preserving our vessels from plunder, than our navy. And even in relation to those private armed vessels, the expense of arming, and of a greater crew, must be deducted from the profit arising from a fall in the rate of insurance.

In the next place, it is very extraordinary that this committee should have at once supposed that the fall which has taken place in the price of insurance, has been wholly owing to our armed force. If this had been the case, it would have fallen most where our force was principally employed, viz: to the West Indies. Has this been the case? It has not. The committee state, that the insurance to the Hanse Towns and Great Britain, was last Summer, 17½, and now only ten per cent.; that last Summer it was to Italy 27½, and now 17½, per cent.; that to China and the East Indies, it was last Summer 20, and now 10 per cent.; and that to the West Indies it was last Summer 17½, and now 12½ per cent. Thus, by their own account, the insurance has fallen 10 per cent. to Italy, China and the East Indies; 7½ per cent. to Great Britain and the Hanse Towns; and only 5 per cent. to the West Indies. Had the fall of insurance been owing solely, as it is ascribed by the committee, or principally to our navy, that fall would have been greater to that part of the world where that navy had principally been employed and could afford the greatest protection. But the reverse was the fact. To the West Indies, where that navy was principally applied, the fall of insurance was the least. To Italy and China, where it could afford almost none, it was the greatest. To England and Hamburg, where more than one-half of our exports and imports entered, and where our fleet had never been seen, it had fallen 50 per cent. more than to the West Indies, where our navy had principally been stationed. This is at once sufficient to show, how erroneous were the calculations of the committee. All the scaffolding of their superstructure falls to the ground; and they have altogether mistaken the causes of the fall in the rates of insurance. It was possible, Mr. G. said, when he attempted to assign reasons for the alteration which had taken place in the price of insurance, that he might also be mistaken; but it would not still be less clear that the committee have been wrong.

Mr G. believed the fall in the rate of insurance, had been owing to a variety of causes. One reason was, the rate had been fixed too high, and the trade of insurance had afforded too large a profit; and this opinion he drew from a simple fact, viz: that the dividends of some of the insurance companies had lately been very exorbitant. One of these offices had declared a dividend of 20 per cent. for half a year, which is 40 per cent. a year. It is clear, therefore, that the price of insurance had borne no proportion to the risk incurred. In consequence, two or three new insurance companies had applied for incorporation acts, and some new offices had actually been opened on private account, which showed the profits were so large as to occasion a competition in the business.

Again, it is clear, that in April last, when the despatches which were then received from France were published, considerable apprehension of war was entertained, not only with France, but with Spain and Holland, from their connexion with France; and in consequence, the price of insurance was much advanced in the months of May, June, and July. Facts had occurred, he believed, to justify what he had stated to be the public opinion, with respect to Spain and Holland. He understood that insurance had been refused on the risk of vessels being detained in the ports of those nations: so great were the apprehensions of war with those Powers, from the measures taken during the last session. This fear had now subsided, and the rate of insurance fallen in proportion.

Again, in relation to Europe, it is clear, that the measures which have been adopted both by France and England, have tended to diminish the number of privateers in the European seas. France, either with the intention, or under the pretence of an intention, of invading England, laid an embargo on her own vessels and seamen, which had, in a great measure, locked up their privateers. And, on the other hand, the very measures adopted by Great Britain, to prevent that invasion, had the effect, by a complete blockade of the French ports, to detain there both their fleets and their privateers.

Another event had eminently contributed to diminish the rate of insurance, to the British West Indies, generally. It was the evacuation of St. Domingo by the English. For the greatest danger,

ported this year than the last. The following is a comparative statement of the exports of the years 1797 and 1798:

To what countries.	1797.	1798.
Russia, &c.	3,450	60,732
Sweden, &c.	898,315	732,462
Denmark, Norway, &c.	2,533,224	2,901,511
Holland, &c.	8,805,486	7,420,650
Great Britain, &c.	8,569,748	17,086,189
Hanse Towns	9,589,858	14,492,613
France, &c.	11,664,091	6,941,486
Spain, &c.	5,596,253	8,740,553
Portugal, &c.	463,310	729,089
Morocco	15,000	19,188
Italy	767,064	1,334,036
China, and India generally	387,310	261,795
West Indies generally	1,508,044	248,121
Africa do	230,873	132,883
Europe do	207,077	74,858
Northwest Coast of America	15,607	79,515
Imperial ports	-	70,730
Total	51,294,710	61,327,411

Summary value of Exports.	1797.	1798.
New Hampshire	275,840	361,453
Massachusetts	7,502,047	8,639,252
Rhode Island	975,530	947,827
Connecticut	814,506	763,128
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and the highest rate of insurance, were on vessels bound to their ports in that part of the island called the Bite of Leogane, where Port-au-Prince laid. And since the evacuation, that part of the trade, and of the insurance being at an end, no mention of it could be made in the table given by the committee.

Two other causes had contributed to produce this general effect. Whatever might be the sincerity of the French Government, in their apparent desire to put an end to the disputes now existing; it was not less true, that (and it was immaterial to what motives it was owing) they had relaxed in their conduct by sea with us. Their privateers were actually under greater restraints, and a general belief had taken place in the public mind, that they were more disposed to make peace now, than some time ago. Whether that belief was well-founded, or not, he did not mean now to examine; but it was sufficient that the belief existed, to cause a fall in the premium asked for a risk which was thus believed to be diminished.

Finally, within these six months, not only has the tone of the French been lowered, but their power has been diminished, from the destruction of their fleets and other causes; and that was also a powerful cause of a greater confidence in ourselves, of an opinion, that as that nation had it less in their power to injure us, the risk of captures, and the premium of insurance, must be less than before. Hence, he concluded, that though he was ready to acknowledge that our navy had been of some service in protecting our commerce, and consequently had produced some effect in lowering the rate of insurance, yet the extraordinary changes ascribed to it, were, in a great degree, produced by other causes, and the enormous and ridiculous calculations of the committee altogether groundless.

In relation to the amount of captures made by the belligerent Powers, he knew but little, as he possessed no documents from which to collect this information. He knew that the Secretary of the Navy had said, that they amounted to four times the amount of the expense of the navy which he recommended; and that the Secretary of State had estimated the amount of captures by the French alone, at twenty millions of dollars. Mr. G. said, he should be happy to see some documents relative to this subject. If any such were in the office of the Secretary of State, it would have been his duty to communicate them to Congress, in pursuance of a resolution passed during the last session, which directed him to do it. As he has not done it, we must infer that he does not possess any documents or official information, and that his saying that those captures amount to twenty millions, must be considered as a vague assertion, unsupported by proof. Twenty millions was a round number, which had become fashionable. These captures were twenty millions eighteen months ago, and twenty millions now.

There is a way, however, of coming at their amount, within at least a million of dollars. By an application to the insurance offices of this city, New York, Baltimore, and Boston, for an account of the sums which they have paid, both for British and French captures, and by comparing the total amount insured with the total amount of our exports and imports, a sufficiently correct calculation could be formed. If gentlemen coming from those quarters, and who are more immediately concerned in commerce, have made any such inquiry, he should be glad if they would favor the House with the result. He himself, last year, obtained an account of this kind from one of the offices in this city; but the amount was so small, that he was astonished that the idea of twenty millions should ever have been fixed upon as the amount of captures by the French. Whether the amount of these captures have been three or twenty millions, is very immaterial as to our feelings or conduct towards a nation who has caused or suffered these depredations to be made upon us. But, though this circumstance makes no difference with respect to that nation, it ought to have considerable weight on the question of a navy. Because, in considering the policy and propriety of establishing a navy, we ought certainly to calculate the expense, and the profits to be derived from it. It is only on this ground that we can say whether it will be for the benefit of this country to have a navy, or not.

This led him naturally to consider the expense of that navy. It is stated by the Secretary of the Navy, that the annual expense of a 74-gun ship will exceed 216,000 dollars, and that therefore the annual expense of six of these ships will be about 1,300,000 dollars. That the building and equipping a 74-gun ship, exclusive of military stores, will be 342,700 dollars; and that the military stores will cost 48,000 dollars; so that the first building and equipping six of these vessels will cost about 2,400,000 dollars. This is the first expense, but nothing is said of the yearly repairing and building which will be necessary to keep up a fleet of this kind. It is estimated, in the navies of Europe, that a ship-of-the-line will last from 12 to 15 years; so that, besides ordinary repairs, the whole expense of building would have to be renewed every 12 or 15 years. It would have been desirable, and it might have been expected, that the select committee should have laid before the House an estimate of the peace establishment of a navy to the extent proposed, in order to have enabled the House to have formed a just opinion on the main question. This they have not done; but supposing the other estimates to be perfectly correct; supposing that the expense would not overrun the calculations laid before the House, and, if so, it would be the first time it had not done it; supposing, according to those calculations, that a 74-gun ship will hereafter cost us less than two-thirds of what 44-gun frigates have heretofore cost us; it results, that the first necessary expense (including $150,000 for docks and timber) will exceed, for six ships only, two millons and a half of dollars; and that the annual expense of supporting them, when in commission, exclusively of annual repairs, and of building new ships, necessary to supply those that from time to time will become unfit for service, will amount to

1,300,000 dollars. Whether it be proper at present to incur that expense for an object which, confessedly, is not of immediate necessity, will be best determined by an examination of our present revenue and expenses.

The revenue from imports and tonnage, was the last year, and may be estimated at - - -	$7,400,000
Ditto, from internal duties, - -	600,000
Ditto, from land tax and stamp tax (allowing for the expense in collection, losses, &c.) - -	2,000,000
Nett revenue from taxes, -	10,000,000

Mr. G. did not think that ten millions would either exceed or fall short of the real revenue of the present year half a million.

As to our expenses, they would be found in the estimate of the Secretary of the Treasury before the House.

The appropriations asked for the present year, are - - -	$7,400,000
Besides this sum, there are a number of items not included. In the first place, the interest and charges on the public debt and domestic loans, including 8 per cent. stock, amount to about - - - -	3,800,000
But it is to be observed, that besides this there are a number of articles for which appropriations have been made, which are not yet expended, viz: fortifications, and an appropriation for the purchase of arms, establishing armories, and foundries, &c., amounting to 1,500,000 dollars, of which, this year, there might be expended about - -	800,000
In the estimate for the Navy Establishment, the appropriation asked for the present year was only 2,160,000 dollars, but the expense was stated to be 2,980,000 dollars, the difference having been appropriated last session, and being more than -	800,000
Total - - - -	12,800,000

From this must be deducted, on account of the additional army, as the whole number of men will not be raised within the year, about 1,500,000 dollars.

He supposed, therefore, that our expenses will be about eleven millions and a half, for the present year, exclusively of the addition to the navy now proposed, of the expenses for docks, &c., of the payment for the British debts, and of the interest on the new loan. Therefore, not only the whole of the expense incurred by this addition to the navy, but at least one million and a half, and perhaps, two millions of our present expenses, must be paid out of the five million loan, about to be opened, at 8 per cent.

It is not necessary, said Mr. G. to examine into the terms of this loan, whether they are too high, or too low. Supposing, for the present, that the terms are as good as could be obtained by the Secretary of the Treasury, it follows, that, in order to build this navy, we must borrow money at 8 per cent., irredeemable for at least ten years, which was nearly equal to a perpetual annuity, of about 7 per cent. Mr. G. said, it was unnecessary to say a word upon the extravagance of borrowing money at this rate. It forcibly evinces, that provided a navy shall be necessary hereafter, for our protection, this is not the proper time to set about building it.

In the next place, if, said Mr. G., we consider this as a permanent establishment, and look at our permanent resources, and compare them with our permanent expenses, it will not appear proper for us to go into the proposed expenditure. He had already stated our permanent revenue at ten millions, should the land tax be continued. The permanent expenses, supposing the additional army to be disbanded, may be estimated as follows:

Civil list, mint establishment, foreign intercourse, Indian trading houses, light-houses, contingencies, miscellaneous claims, &c. - -	$1,000,000
Permanent army, (exclusive of the additional army,) consists of 5,000 men, and if we look at the appropriations heretofore made for 5,000 men on paper, it will never be found less than - - - -	1,500,000
Interest and charges on public debt, including interest on new loan, -	4,200,000
Deferred debt, which will become due in 1801, - - - -	1,200,000
Fortifications, purchase of military stores, and maintaining the navy	2,600,000
Total - - - -	10,500,000

From whence it appears, that even if we shall disband the additional army, and exclusively of the claims for British debts, the expense of our permanent army, the Navy Establishment, the Diplomatic and Civil Departments, and the charges and interest on the public debt, will exceed by half a million, our permanant revenue, the land and stamp taxes; and thus considering both of them as perpetual. It was under these circumstances, that the Legislature were called upon to build a navy, which was not immediately necessary.

Deducting the expense of the navy, from the preceding calculation, the other permanent expenses of the Government would be about eight millions, and this is the amount of our revenue, deducting the land tax and stamp tax. It follows first, that a perpetual land tax is necessary to support the navy; and, second, that every preparatory expense for any increase on that navy, must, in the first place, be paid out of a loan, at the rate of eight per cent.

If these premises are true, and he knew they could not be contradicted, the conclusion must be most forcible that it is improper at present to build a navy, especially since there is no immediate demand for it. But if once the foundation of a large navy is laid, no one can say where it will stop.

The Secretary of the Navy does not suppose that six 74-gun ships will be sufficient. He supposes twelve necessary; six are now proposed merely as an entering wedge. And when once twelve ships-of-the-line are obtained, if our commerce and coast, extensive as they are, must be effectually protected, these will not be deemed sufficient. He drew this conclusion from the naval force of European nations. Our tonnage exceeds that of any European nation, except Great Britain and Holland; and if we must have a navy to protect our commerce, it must bear some proportion to the extent of our coast, to the amount of our tonnage, and to the navies of the European nations. And upon what terms are we to cope with the Powers of Europe with respect to any navy? It would be recollected, that when last year there was a mutiny on board the British fleet, in order to put an end to it, the sailors' wages were advanced to one shilling sterling per day, equal to thirty shillings sterling, or six dollars and two-thirds per month, whilst we give our seamen seventeen dollars a month, so that we pay nearly three times as much for men to supply our navy, as England does.

Mr. G. said, he would not detain the committee longer at present, though he meant to have made some observations with respect to the expense of navies to those nations who support them, in order to show that the expense of them far exceeds the benefits derived from them. If reference were had to European nations, it would be found, Mr. G. said, that navies were used more as engines of power, than as a protection to commerce. Even with respect to Great Britain, which is the only nation which has succeeded in effecting any material object by a navy, though she has obtained a preponderacy at sea, and has been mistress of it for the last hundred years, yet it has been the means of involving her in almost continual war, and the support of it has always been attended with enormous expense. He believed he was correct, when he stated that from 1776 to 1789, the average expense of the navy of Great Britain (including a period of seven years of war and six of peace) was six millions of pounds sterling a year. Now, said Mr. G. if we calculate the rate at which we shall be obliged to pay for everything appertaining to a navy, what will be the sum necessary to support a navy of any extent here? Suppose a navy should only be one-tenth part of the British, and instead of 120 ships-of-the-line, we should be content with twelve. The expense, according to the British rate of expenditure, would be £600,000 sterling, nearly three millions of dollars a year; but when we know that we pay three times as much for our seamen as they do, it is imposible precisely to calculate what the expense would be.

In relation to European nations, it would be found, that none had ever derived any advantage from a navy, except Great Britain. It has been said (and by high authority) that an extensive commerce cannot be maintained without a navy. In answer to this it may be said, that Spain has always had a considerable navy, but very little commerce; their tonnage compared with ours was insignificant, yet their's is the third navy in Europe. Holland, for a time, had a powerful navy; but they gave it up, as more expensive than beneficial, since the wars of Queen Anne. Yet their commerce, on this account, never diminished in any considerable degree. They are the second commercial nation in Europe; and they never suffer for want of a navy, except when they become a party in war; he conceived therefore, that a navy is not necessary to protect commerce. At this time, Mr. G knew that the commerce of Holland was in a great degree annihilated; but so was that of France and Spain, notwithstanding their powerful navies. Holland being at the door of Great Britain, may, in time of war, be altogether blocked up by the fleets of that nation. Fortunately that was not our situation.

Mr. G. concluded by saying, that as he believed commerce might exist independently of a navy; that a navy would cost far more than it would ever benefit the country; and knowing our finances were not such as to admit of the expense, he must hope his motion would prevail.

When Mr. G. had finished his remarks, the House adjourned.

FRIDAY, February 8.

Mr. SMITH, from the Committee of Commerce reported the bill to establish the compensation of officers employed in collecting the duties on imports and tonnage, and for other purposes; which was committed.

The bill for the relief of Thomas Lewis was read the third time and passed.

The bill authorizing the establishment of docks, and

The bill authorizing the purchase of timber for naval purposes, were severally ordered to be engrossed for a third reading to-morrow.

AUGMENTATION OF THE NAVY.

The House then went into Committee of the Whole on the bill for augmenting the Navy, Mr. GALLATIN's motion for striking out what relates to 74-gun ships being under consideration.

Mr. JOSIAH PARKER hoped this amendment would not be agreed to. He was happy to find, however, that the gentleman from Pennsylvania did not go farther, and oppose the whole force, as he had heretofore always opposed everything like a navy. Indeed, he has acknowledged that our infant navy has done some service, though he does not give to it all the credit which the committee who reported this bill thinks it deserves. He attributes the fall in insurance to other objects than the navy, because he says it has fallen more on vessels to Europe, where our navy could have had no effect, than to the West Indies, where that effect was more likely to be produced. But the gentleman should have recollected that the fall to Europe may have been occasioned by the vigilance of the British navy; but in the West Indies, the British, or at least the officers of the British men of war, seemed rather to countenance, than prevent, the depredations of the French; as, in many instances, they have suffered captures to be made by the French, and immediately afterwards recaptured the vessels, and by that means obtained a salvage upon them. Nor did he suppose the British Government would regret these depredations, since they knew such treatment would serve to rouse the resentment of this country against her enemy. Mr. P. supposed that the saving produced by our navy had even been greater than the committee had supposed, as, by the report made yesterday on the subject of our exports, it appears they have been ten millions more than the committee calculated them at. He allowed that our navy had not been the sole cause of safety to our commerce; the British navy had also contributed greatly to it. But it would be recollected that when this navy was first fitted out, French privateers and picaroons were not only upon our coast, but in our very bays; and, but for these measures, there can be no doubt, but our shores would at this time have swarmed with French privateers, which the British would have suffered, in order to widen the breach between the two countries.

Mr. P. hoped when the quantity of shipping, and the number of seamen we employ, is considered—that these are the means of bringing us from foreign countries all that we desire to have from thence, and that they thereby fill our treasury with money—gentlemen will not hesitate to allow our commerce a competent protection. No nation, except Great Britain, exceeds this country in the number of vessels and men engaged in this service, yet no nation has done so little to protect them. He trusted we should be allowed to have a sufficient navy to protect our commerce and coast, and to cause us to be respected abroad.

The British Government, Mr. P. said, has 141 sail-of-the-line, (according to Steele's list, which he had lately seen,) and these, according to the opinion of the first statesman and politician that England ever possessed, Lord Chatham, require as many thousand seamen; not that each vessel requires 1000 men, but it is necessary to have this number in order to employ their frigates and sloops of war, not that the ships of the line require 1000 men; yet, though Britain has this immense navy, she has not double the number of merchant vessels and seamen, which this country possesses. If, said Mr. P., these six 74-gun ships and six sloops are agreed to, we shall not want more than 12,000 seamen to man our navy. At present we have only 4,000; and the whole annual expense will be 4,230,149 dollars. Mr. P. believed, in order to give us efficient protection, we ought to have eleven sail-of-the-line; but as he considered six to be as many as our present finances will allow, he should be satisfied with that number.

The gentleman from Pennsylvania wished to be informed as to the expense of a peace establishment of our navy. A large navy in time of peace would be unnecessary; he should wish it, however, to be kept on a respectable footing. Many of our ships, Mr. P. said, will last much longer than the gentleman from Pennsylvania had supposed; some of them, he doubted not, would last forty or fifty years. The British have ships which have been in service thirty years; when poorly built they may not last more than seven years. He had not made an estimate of what would be the expense of a peace establishment with respect to the navy; nor did he know what force the President of the United States might think it necessary to maintain in time of peace, but he supposed it would be small, and a single officer and thirty men would be sufficient to take care of a ship when she is laid up in ordinary; that only a few of the best ships would be kept, and the others sold.

The gentleman from Pennsylvania had represented the expense of a navy in this country as being much greater than in England; but when he spoke of the pay of British sailors being only one shilling sterling a day, he was certainly mistaken. They have at least a guinea and an half a month, which is seven dollars; and ours average fourteen dollars, which is double to that of England. If the same means were taken here that are taken in England, of raising men by means of press-gangs (which, however, he rejoiced never could be suffered in this country,) they might perhaps, be gotten on easier terms, as the Government might follow the example of Great Britain, by fixing the pay and pressing the men. He would much rather pay higher wages; especially when it is considered that a very small part of the money paid to seamen will ever go out of the country; they spend their money freely, and the United States will not, therefore, lose it.

And as to the number of men employed in the Navy, if they were not thus employed in our own service, they would go abroad, since this is the employment they choose; indeed, if all our citizens were employed in cultivating the ground, our produce would be so great, and sell for so little, as to make it scarcely worth the trouble of raising. And if we do not provide for our own defence, we shall be at the mercy of every foreign Power which chooses to insult or ill-treat us. The interests of commerce and agriculture must always go hand in hand; and farmers who now get so much better a price for their produce than they heretofore got, ought to be the first in supporting a navy sufficient to protect our vessels in carrying that produce to foreign countries. When they see their interests more clearly, Mr. P. trusted they would, like the gentleman from Pennsylvania, be ready to allow that our Navy is of service. It would be happy for us, and for the world, Mr. P. said, if there were no use for navies, and nations might be permitted to carry their productions wherever they pleased without annoyance; but, while nations continue to make war upon each other, we must expect to come in for our share of the evils of such a system, and it will be necessary to have some force not only to guard against injuries, but to keep foreign belligerent nations in check, lest we should throw our force into the scale against them. The French Directory, said Mr. P., have lately passed a decree, which ought to be considered as a declaration of war against the world, "that the citizens of neutral countries found on

board of any of their ships shall be considered and punished as *pirates*"! Where is the man, exclaimed he, who will not defend his country and his fellow-citizens against such a decree?

Mr. P. said he would take the liberty of quoting the authority, on the subject of a Navy, of a gentleman who deservedly ranked high in public estimation, and whom he was proud to call his countryman. The authority he referred to was Mr. Jefferson's Notes on Virginia. He read the following extract:

"But the actual habits of our countrymen attach them to commerce. They will exercise it for themselves. Wars, then, must sometimes be our lot; and all the wise can do, will be to avoid that half of them which would be produced by our own follies, and our own acts of injustice; and to make for the other half the best preparations we can. Of what nature should these be? A land army would be useless for offence, and not the best nor safest instrument of defence. For either of these purposes, the sea is the field on which we should meet an European enemy. On that element it is necessary we should possess some power. To aim at such a navy as the greater nations of Europe possess, would be a foolish and wicked waste of the energies of our countrymen. It would be to pull on our own heads that load of military expense which makes the European laborer go supperless to bed, and moistens his bread with the sweat of his brow. It will be enough if we enable ourselves to prevent insults from those nations of Europe which are weak on the sea, because circumstances exist which render even the stronger ones weak as to us. Providence has placed their richest and most defenceless possessions at our door—has obliged their most precious commerce to pass, as it were, in review before us. To protect this, or to assail us, a small part only of their naval force will ever be risked across the Atlantic. The danger to which the elements expose them here are too well known, and the greater danger to which they would be exposed at home, were any general calamity to involve their whole fleet. They can attack us by detachment only; and it will suffice to make ourselves equal to what they may detach. Even a smaller force than what they may detach will be rendered equal or superior by the quickness with which any check may be repaired with us, while losses with them will be irreparable till too late. A small naval force, then, is sufficient for us, and a small one is necessary. What this should be, I will not undertake to say. I will only say, it should by no means be so great as we are able to make it. Suppose the million of dollars or £200,000 which Virginia could annually spare, without distress, to be applied to the creating of a navy. A single year's contribution would build, equip, man, and send to sea a force which should carry 300 guns. The rest of the Confederacy, exerting themselves in the same proportion, would equip, in the same time, 1,500 guns more. So that one year's contribution would set up a navy of 1,800 guns. The British ships-of-the-line average 76 guns, their frigates 38—1,808 guns, then, would form a fleet of 30 ships, 18 of which might be of the line, and 12 frigates. Allowing 8 men, (the British average for every gun,) their annual expense, including subsistence, pay, clothing, and ordinary repairs, would be about $1,280 for every gun, or $2,304,000 for the whole. I state this only as one year's possible exertion, without deciding whether more or less than a year's exertion should be thus applied."

Mr. P. perfectly concurred in this opinion. He had frequently expressed it. But the gentleman from Pennsylvania says we have no money, and therefore we ought neither to have a navy nor anything else, to defend ourselves at home or at sea. He tells the House that our revenue will not exceed ten millions, and that if we agree to have these ships built, we shall want twelve millions. Mr. P. trusted that if these two millions were wanted the ways and means will be found, rather than that we shall suffer our commerce to be destroyed, and lose all our credit as a nation abroad. Admitting, said Mr. P., that our debt is a hundred millions of dollars, it must be recollected that its increase has been owing to a number of causes which could not be avoided, amongst which was our war with the Indians, the Western insurrection, our treaty with Algiers, and the building of vessels for the protection of our commerce; but if our debt is fifteen millions more now than it was at the commencement of the present Government, our numbers have greatly increased since that time, so that he supposed, considering the number of individuals who have to bear it, it is not so heavy, in proportion to our population, as it was at that time. Having the ability, therefore, he trusted there would be found the will to provide a respectable naval force to protect us at home, our commerce abroad, and leave us in a situation to be more respected by foreign nations than we have heretofore been, and therefore hoped the present motion would be rejected.

Mr. Harper.—Notwithstanding, Mr. Chairman, the subject now before the committee, the usefulness of a Naval Establishment for the United States, has been so frequently and so fully discussed on former occasions, I deem it important to enter once more into a particular consideration of it, less on account of the general reasons so often urged against the measure, than of those particular objections, founded on the supposed state of our pecuniary resources, whereby it has, at this time, been assailed.

The objections yesterday urged by the gentleman from Pennsylvania (Mr. Gallatin) against the establishment of a navy—and they are the same which we have heard from him seven or eight times before, as often, indeed, as this subject, in any shape, has been under consideration—naturally divide themselves under two heads: the inadequacy of our resources to the support of a navy; and the inadequacy of a navy, could we support one, to its main object, the protection of our commerce. The last is the favorite topic of the gentleman from Pennsylvania. He has heretofore given us very many dissertations upon it; and yesterday it furnished him with the chief materials of a discourse, in which he displayed much learning, and a total forgetfulness of history, matter of fact, and just reasoning on the actual state of things in the world.

The gentleman from Pennsylvania has proved, as he thinks, that no possible navy could be equal to the protection of our commerce, extended as it is. And how has he proved this? By the example of other nations—of Holland, Spain, and

Great Britain. Spain, he says, has a very considerable navy, perhaps the third in Europe; and yet no commerce. Holland found herself unable to support her navy, and even while she supported it was unable to protect her trade; and therefore she gave it up, and yet, after she had done so, continued to possess a very great commerce. Even Britain, according to him, mistress of the ocean as she has been for a century past, has not fully protected her trade by her marine; which, in the mean time, has cost her more than the whole sum which her trade has yielded—and, therefore, she would have been better without a navy. This, Mr. Chairman, is the calculation of a schoolboy, not of a statesman; of the counting-house, not of the cabinet; and if the judgment of the gentleman from Pennsylvania were not warped on this, as on so many other occasions, by his particular political system, he would be one of the last persons in the world to present the subject in a point of view so much beneath a mind of the least political discernment. The gentleman, in fact, forgets that Britain is indebted to her navy, not for her commerce only, but for her independence; not only for the dominion of the seas, but for her existence as a nation. Every man, who is in the smallest degree versed in history, knows that Great Britain, but for her navy, must long since have been a province of France. Had not Britain been mistress of the ocean, France would long since have been not only her mistress, but mistress of the rest of Europe. That great people, uniting within itself all the sources of military, pecuniary, and maritime strength, has never ceased to contend for universal empire, with immense means, vast genius, boundless ambition, and unwearied perseverance, since the period when two centuries ago its provinces became united under one Government, and its immense resources, managed and called into activity by a Minister whose mind was equal to his station, were directed to the increase of its power and extension of its limits. How has Britain been enabled to check this formidable career, to maintain her own power, and to arrive at her present high pitch of consequence in the scale of nations? Not by her population, which is little more than one-third of that possessed by France; nor by her insular situation, which heretofore could not protect her from invasion and conquest; nor by her military power, which, when compared with that of France, has never been considerable; but by her navy. It was that navy, and the wealth which commerce, protected by it, poured into her lap, that enabled her to support, with glory, so unequal a contest, to call to her aid the military force of Germany, and thus to establish a counterpoise to the power of France. But for this naval force, and the commerce which it protected and cherished—but for this union, cemented by the money, and aided by the maritime preponderance of England—France, combining as she did, greater means of strength of every kind than any other nation, or even than all the nations of Europe united, except Germany and Great Britain, must long since have established her dominion over all. England must have fallen first, being unable without the command of the sea to save herself from invasion; and then the Powers of the Continent, deprived of the pecuniary aid wherewith England was enabled by her commerce, under the protection of her navy, to supply and unite them, would have bent, one after another, beneath her formidable and continually augmenting strength. Even now this same navy enables England to ride secure amidst the most terrible storm wherewith the political world has ever been afflicted; to brave all the tremendous dangers by which she has been threatened; to baffle every attempt against her safety, or that of her remotest possessions; and amidst the dismay, the humiliation, or the total overthrow of so many Powers, to triumph over her rival, whose strength, always formidable, is exercised not more by her extension of territory and of influence, than by the consternation wherewith her successes have stricken other States, by the disunion and feebleness which has characterized their counsels, by the terrible weapon of internal commotion with which she threatens, or has actually assailed them, and by the unheard of despotism of her own Government, which enables it to employ, in a degree hitherto unexampled in the history of civilized men, the physical forces of the nation, in executing its plans of plunder and conquest. This same navy enables England not only to maintain thus gloriously a conflict so dreadful and so unequal, but to stand the barrier between independence and universal dominion, between liberty and the most degrading despotism, between civilization and the barbarism of the dark ages—to become the citadel of property, the store-house and the banker of the world, and to render all nations, with their own consent, tributary, by means of her commerce, to the support of her greatness.

What, then, Mr. Chairman, must we think of that political system which estimates the British navy by a calculation of the sums which it has cost to maintain it; forgetting that, without this navy, there would have been no wealth to supply these sums, and, perhaps, no nation to pay them; that without this navy Great Britain, instead of holding her present exalted station among the Powers of the earth, must long since have sunk into a secondary and unimportant State; and, probably, into the condition of a province of that very rival against whom she now so nobly and so gloriously contends! Is it too much to say of such a calculation, that it is a paltry calculation, unworthy of a statesman, and befitting only a schoolboy?

But even the navy of Great Britain, the gentleman from Pennsylvania has told us, formidable as it is, has not afforded complete protection to her commerce. How then, he asks, can we expect to protect our commerce by a navy? If the gentleman means by "protection," the total prevention of captures at sea, it is certain that no nation ever did, or ever can, protect its commerce, in that scale. But that is not the true idea of "protection," which means nothing more than such a degree of safety as may enable the merchants of a nation, taken as a body, to pursue their commer-

cial enterprises without discouragement, or eventual loss. This is all the protection that is ever attempted, or that is necessary; and this, I contend, we have it in our power to give.

Respecting the navy of Holland, the gentleman from Pennsylvania falls into a mistake equally remarkable. Holland, he tells us, has no navy, and yet maintains a very great commerce. Formerly she had a navy, but could not maintain it, and was forced to give it up. But where did that gentleman learn that Holland has no navy? Had she no navy in the American war, when with great gallantry, though with unequal success, she fought the English at sea? Had she no navy when she fitted out the formidable armament under De Winter, in October, 1797, which, after a dreadful conflict, was defeated rather by the superior address of the British Admiral, than the superior force or bravery of his fleet? Do we not know that even now, after this fatal defeat, she possesses, in her different harbors, a much more numerous fleet than is proposed by the present bill for the United States? How, then, could the gentleman from Pennsylvania say that Holland has no navy? He ought to have known that until the marine of France and Spain were destroyed, in the present war, that of Holland was sufficient to turn the scale in their favor and against England; which gave her not only security for her commerce, but respectability and weight among the maritime Powers of Europe.

As to the other assertion of the gentleman from Pennsylvania, that Holland a long time ago found her navy too burdensome for her resources, and therefore gave it up, it is equally erroneous. Holland, as we have seen, never gave up her navy, and even now, exhausted and ruined as she is by French fraternity and internal revolution, maintains a much greater one than is proposed for the United States. There is, indeed, a period in her history, the close of the last and the beginning of the present century, when she ceased to be ranked with the first maritime Powers of Europe; but that happened, not through the want of means, but a mistake in policy. Before that period her system had been wholly maritime. All her resources were applied to her navy. A maritime armed neutrality was her great object, and she long preserved it with success. Her commerce, fostered by her marine, spread over every sea; and the Northern maritime States, guided to the same policy by her influence, acknowledged her as their umpire, their mediator, and their safeguard. The great Powers courted her alliance and respected her rights. She interfered with weight in their disputes. Her village of the Hague became the centre of their most important negotiations. She disputed the empire of the seas with them singly; and, at one time, she held the united forces of France and England in check at sea, and finally compelled the French armies to retreat from her territory, which they had overrun and occupied. All this she effected by means of her navy, and of the resources which it had furnished to her by the protection of her commerce.

At this period she altered her system, and instead of cherishing her marine, and confining herself solely to the maintenance of her commerce, by an armed maritime neutrality at the head of the Northern Powers, she engaged in the land wars of the great military Powers, and made exertions disproportionate to her strength, whereby her resources were exhausted. Into this fatal mistake she was drawn by the aspiring ambition, the popularity, and the heroism of one of her own citizens, stimulated and aided by the aggressions, the insults, and the alarming encroachments of the French Monarch, Louis XIV., at the zenith of his glory, evidently aspiring to universal dominion. William III., placed by his birth and personal merit, at the head of the Dutch nation, saw those objects of French ambition, and roused his own country to resistance. Called, at length, to the government of England, he communicated to that nation his own martial ardor. He finally succeeded in forming a confederacy to check the progress of France. Of this confederacy, Holland, his native country, was induced by his influence to become a principal member. At the head of it he struggled against the power of France, with unequal means, and sometimes with unprosperous fortune, but with a genius and perseverance not to be subdued, and a heroism rarely to be equalled. After his death, the impulse which his mind had given to his own and other countries continued to be felt, and the confederacy was renewed under his successor, on a different occasion, but with the same views. At length its object was altered. France was completely humbled, and Europe secured against her enterprises, but the strength of Holland was undermined in the struggle. The vast armies which she had kept up had loaded her with debts. Her operations for so many years, by land, had drawn off her attention from her marine; and, from that moment, it declined, while that of England rose gradually on its ruins.

Hence, Mr. Chairman, the downfall of the maritime greatness of Holland. Her resources were not equal to the maintenance of fleets and armies, of both maritime and military strength. While she was left to attend solely to her maritime concerns, she continued to be powerful, respected, and prosperous; but her situation on the Continent, in the neighborhood of a great and ambitious military Power, drew her, perhaps unnecessarily, into land wars, to which her strength was unequal; and, of course, her naval power declined. But still she continued for a century to keep up a navy sufficient to form a considerable weight in the scale, and to secure attention to her rights as a nation; and, under this security, her commerce continued to flourish, in a greater or less degree, till a domestic revolution, aiding and aided by foreign oppression, dried up all its sources.

What, then, Mr. Chairman, is the instruction which we may draw from this example? A nation whose population never exceeded two millions and a half, and whose territory, compared with ours, is but a mere speck on the surface of the globe, a mere garden spot, was able to maintain a most formidable marine, while it attended to that object solely, to extend its commerce under

the protection of this marine, and to maintain not only an equal, but a distinguished rank, among the great Powers of Europe by whose territories it was surrounded, and by whose formidable armies it was liable to be invaded. Even this nation, after a mistake in its policy, or the pressure of inevitable circumstances, it had been induced to divert its attention from its marine to land wars, to exhaust its resources, and burden itself with debts too great for its means, by these disproportionate efforts, still was able to preserve a navy sufficient to give respectability to its flag, and a degree of safety to its commerce. Even now, when its resources are dried up by anarchy, or diverted by foreign exaction into the coffers of another nation; when its territory is curtailed, and its population reduced to one million and a half; when it is compelled to maintain an army of 25,000 men for France, still it has a navy greater than we propose. Shall it, then, be said that this country, with probably six millions of population, most rapidly increasing; with an extent of territory capable of containing fifty millions; with a commerce greater than that of Holland ever was; and with more tonnage and sailors than she ever possessed; is not able to support such a navy as she, even since the commencement of her downfall, has always supported, and still supports? Yes, it is said by the gentleman from Pennsylvania; but the good sense of this House and of this country, will, I trust, correct his mistake, as as it has so often done heretofore.

But if it were true, Mr. Chairman, that Holland had afforded no protection to her commerce by the navy which she has been able to keep up, does it follow that the same thing will happen to us? Will the same navy be more efficacious in our case, than in the case of Holland, or Spain, or Portugal? This must be taken for granted in order to give any solidity to the argument of the gentleman from Pennsylvania, and yet nothing can be more untrue. Those States are situated at the very door of the great maritime Powers, and their dominions are also exposed to invasion by land. They must, therefore, either singly or by combinations with other Powers, contend against the whole maritime force of those great States, and must maintain navies adequate to that purpose. But we are under no such necessity. Placed at a vast distance from those great Powers, and in the neighborhood of those possessions which contribute most to the support of their commerce and their navies, we can attack them in a weak, and yet a vital part, with our whole force, while but a small part of their force can at any time be brought to act against us. It is with this part only that we shall have to contend, should they at any time drive us into a war. Let us take England as an instance. Her great and valuable possessions lie at our threshold. The uniform course of the trade-winds compels all her vast and rich commerce with those possessions, to pass almost in sight of our shores. The force which she can send to protect this commerce and annoy us, in case of a rupture, will not be her whole force, but that part of it only which she can spare from Europe, after securing her preponderance there. France, notwithstanding the prostrate condition of her navy at present, possesses maritime means which will speedily enable her to raise it up again, whensoever those means come to be directed, as one day they must, by a Government of some understanding. This navy, and the maritime combinations which will be formed under its protection, England must watch and keep under. Her existence will depend upon it. She will, therefore, have but little force to spare which she can bring to act against us. A comparatively small maritime force, therefore, will compel her to respect us, and to avoid a quarrel with us by all just and reasonable means.

It follows that a moderate navy, a much smaller one than Holland, Spain, or even Portugal, have supported, would be sufficient for our protection, aided by the peculiar advantages of our situation. Those nations, inconsiderable as they are when compared to us in population, wealth, and extent of territory, have supported navies which, however unequal to that of England, have yet afforded some degree of protection to their trade, rendered their flags in some degree respectable, and given them a weight in the scale, a consequence among nations, which otherwise they could not have had. And shall not we, with our great and increasing resources, and the peculiar advantages of our situation, be able to effect still more!

We shall never be able, the gentleman from Pennsylvania tells us, to afford complete protection to our commerce by a navy. No nation, he says, has done it, and we can never hope to do it. Be it so, Mr. Chairman; but if we cannot have complete protection, are we therefore to have no protection? If we cannot prevent any of our vessels from being captured on the high seas, are we not therefore to have a squadron that may drive privateers from our coasts, prevent them from blocking up our harbors, sailing into our rivers, and making prize of our vessels within our very ports? Will the gentleman from Pennsylvania seriously tell me, that because I am not rich enough to live in a palace, I shall therefore deny myself a decent and comfortable habitation? Surely not, and yet this is the amount of his argument on this point.

He further tells us, that we never shall be able to contend on the ocean with the great maritime Powers. As often as it suits his purpose, he blazons forth the vast naval power of England, places before our eyes her six hundred ships of war, and then, with a most anti-patriotic triumph, asks us what our six seventy-fours, and ten or fifteen frigates, can do against this mighty Colossus. I grant, Mr. Chairman, that we shall not be able to contend with this force, nor do I wish it. I aim not at dominion, but at defence. To dominion we cannot, and ought not, to aspire. To protect our commerce against that portion of the maritime force of Europe which can be brought to act against us, we can and ought to aspire. The difference between defeats and dominion, constitutes the difference between that gentleman's argument and truth.

So much, Mr. Chairman, for the example of Holland, who, had she abstained from land wars, and persisted in that system of maritime policy on which we wish to enter, persisted in fostering her navy with her whole care, would, at this day, have been, if not equal to England, at least a second-rate Power; instead of being what she is, a paltry, ruined, and miserable province of France.

As to the example of Spain, I am really astonished that any gentleman, having the least pretentions to historical knowledge, should adduce it in a discussion about the conduct and policy of nations. Spain indeed has a fleet, without commerce, and that fleet is void of efficiency; but this proceeds from weakness, the total incapacity of her Government; from its want of sense, its want of energy, and its subjection to foreign influence. The spirit of the nation, its military enterprise for which it once was famous, its naval prowess, have been sunk and broken by the miserable politics of its Government; and we ought not, therefore, to take it into the calculation of what a nation may effect by wise and vigorous counsels. Spain has been a great nation, and with a Government possessing sense, spirit and energy, might be a great nation again; but her Government, instead of guiding her to independence and glory, has given itself up to become a contemptible tool in the hands of the French Directory—a mere board of tax-gatherers for French rapacity. The nation, of course, is sunk and gone. Its fleet did once venture out of port, at the orders of France, and was defeated by a force one-half its inferior; and has ever since been ignominiously blocked up in port. This fleet, manned by American sailors and commanded by American officers, or by those of Britain, would constitute a formidable maritime force. As it is, it amounts to nothing.

But still it proves, inefficient as it is, that Spain, even without the aid of commerce, can maintain a large fleet. Shall it then be said that we, with our immense commerce, cannot maintain that small establishment which would be sufficient for our purposes?

If we consider a navy under the view of expense, we shall find it not only the most efficacious mode of strength for us, and the best adapted to our particular situation, but by far the cheapest, in proportion to its efficiency. According to the statement of the gentleman from Pennsylvania, the average expense of the British navy for 12 years past, including six years of war, and six of peace, has been six millions sterling per annum. Since the commencement of the present war, her whole annual expense, we know, has been enormous—twenty-five millions annually at least, and probably much more. If we suppose that the annual war expense of her navy has been ten millions, (which perhaps is near the truth, though not having lately recurred to the statements on that subject I do not exactly recollect them,) it will result that the expense of the British navy, during the present war, has been little more than one-third of her whole expense. The other two-thirds have gone to the army. If we compare the effect produced by her navy with that of her exertions on land, we shall find that they bear no proportion to each other. Her soldiers have always fought gallantly, but from their inferiority in numbers, and other causes, they have made little figure, and still less impression on her enemy. Her navy, on the other hand, has been uniformly triumphant. It has humbled the united maritime strength of more than two-thirds of Europe in the dust at her feet. It has enabled her to make many important conquests, and to protect, not only from conquest but from invasion, every part of her own dominions, both at home and abroad; and that at a time when greater means were brought to act against her than have ever before, in modern times, been combined under the direction of one Power. It has rendered her the protectress of Europe, crowned her with glory, and poured into her lap the commerce and the wealth of more than half of the universe. These are the benefits which she has derived from her navy, and they have cost her about one-third, or a little more perhaps, of her whole annual expense. This may serve to convince us that maritime power, to those nations whose situations and circumstances enable them, like us, to aspire to it, is infinitely cheapest in proportion to its efficiency; for not ten times the sum which the British navy has cost could have enabled that nation, in any other way, to produce half the effect in the present war.

If we look back to former wars—to her history for a century past—we shall find the same observation fully verified. From authentic statements which have been published it appears that, from the beginning of this century up to the year 1783, (the termination of our war,) the annual expense of the British navy has been, on an average, but one-third of the war expense of that nation. Within that period she has been engaged in a great number of wars. On land she has been almost uniformly unfortunate, except indeed for a short period, while her arms were conducted by the triumphant genius of Marlborough. But at sea, she never ceased to hold victory enchained to her car, and by naval triumphs she has risen to her present colossal strength.

Let us, Mr. Chairman, reap instruction from this great example. Of all nations, Britain not excepted, we are the most favorably situated for maritime operations. We possess within ourselves all the materials in the greatest abundance. Our builders are skilful; our sailors numerous, hardy, and expert; our commerce is vast and increasing; our sea-coast extends two thousand miles, affording everywhere the finest harbors; a great portion of our people, living near the sea, are naturally inclined to maritime pursuits; our population, our agriculture, and our wealth, increase rapidly, and our vast territory affords the means of further increase almost beyond the power of calculation. Even the boasted insular situation of Britain gives her no advantage over us in this respect; for as to all purposes of defence our situation also is insular, since our inland settlements are bounded by immense deserts, and the only nations that can attack us are beyond the Atlantic. If attacked, we must be attacked by sea. We

are even better situated than Britain, since she is divided from her enemies by a narrow channel only, while ours must cross a sea a thousand leagues wide before they can reach us. Such is the peculiar felicity of our situation, that, as to all purposes of population and free extent of limits, we are on a continent, and on an island, as to all purposes of defence. And while the great nations of Europe must cross this immense ocean to attack us, our vicinity to their rich possessions, and to the necessary course of their commerce, enables us to attack them almost at our own doors. Our operations may, therefore, be wholly maritime. If we defend, we defend at sea. If, in order to secure respect to our rights, we are compelled at any time to make ourselves be felt, and to attack, we attack by sea. We can be under no necessity of dividing our force and our resources by keeping up large Military Establishments. A small body of troops, continued permanently, for ordinary purposes, and augmented occasionally, in times of danger, will be sufficient for us: and we may employ all our vast and increasing resources in the creation and support of a Marine.

But we are told, Mr. Chairman, that we ought not to make the proposed increase of our Navy at present, because we must borrow money at 8 per cent. We have, however, already resolved to borrow money at that rate. The act authorizing the loan was passed at the last session. The proposals for the loan have been published by the Secretary of the Treasury. The money is to be borrowed, and surely it is not intended, that when borrowed, it shall lie useless in the Treasury. As we have resolved to borrow the money, I hope we shall not resolve not to use it, because we think the interest too high.

As to the rate of interest, let me ask whether any nation does borrow, or has borrowed, at less? I believe not. We know the terms on which the British Government has made its loans; and I think I may safely assert, that, notwithstanding the immense wealth of that nation, and the firm reliance placed by it on the credit of its Government, loans have never been made there, or but very seldom, at less than 8 per cent. The form of the loan, indeed, is different. Stock is sold bearing 3 per cent., but it is sold at a rate which brings the interest on the sum actually received by Government up to 8 per cent. Many persons have contended that much more than 8 per cent. is paid—as much, perhaps, as 10 per cent. The statements of the Minister himself often place it as high as 8. From the mode, too, in which their loans are made, the British Government can never reduce the interest; whereas, according to our mode, we may, at the end of ten years, avail ourselves of any favorable circumstances to pay off the debt by a new loan, at a lower rate of interest—perhaps 5 per cent. It appears, therefore, that we borrow on as moderate and beneficial terms as any Government can expect, at a time like the present, when money is in such great demand, and bears so high a rate of interest among individuals. And when the question is to take measures for the protection of our commerce and our national rights, I cannot see the policy of making a difficulty about one or two per cent. in the rate of interest. If we defend our commerce, and secure respect for our rights, we shall be enabled to pay this interest, or even a higher one, if necessary, with ease; but if, for fear of borrowing at this rate of interest, we neglect the defence of our rights, our commerce will be destroyed, and our citizens will have nothing to lend; our revenue will fail, our credit will fail, and our wealth will fail. We shall neither have the means of borrowing nor of paying interest, however low the rate of interest, or whatever necessity we may be under to get the money. The consideration of one or two per cent, therefore, in the rate of interest, I cannot help considering as a paltry consideration on a question of this kind.

Since, Mr. Chairman, we are on the question of expense, I deem it proper to present, in this place and on this occasion, a short sketch of our present financial situation—of our means, compared with our expenses. I deem it proper to make this statement, not because I find the estimate yesterday presented by the gentleman from Pennsylvania to be materially erroneous, but in order to show that if the bill as now before the committee should pass, our resources will yet be sufficient to meet the expenses of the present year, without further taxes or a new loan.

In estimating the revenue of 1799, I have taken that of 1798 as a safe basis; because I do not conceive that there is any good reason for apprehending a material diminution. An increase, indeed, may rather be expected, because the depredations on our commerce have affected the revenue of 1798, in a greater degree than they will probably affect that of the present year.

Revenue for 1799.

In 1798 the impost and tonnage produced the sum of $7,405,420. In 1799 they ought to be something greater, because the new duty on salt of eight cents per bushel, which did not commence until September, 1797, and are calculated at $120,000, will come into the Treasury in 1799. Being on a credit of nine months, very little was received from them in 1798. Making allowance, however, for the effect of captures, which was heavily felt in 1798, and may be more so in 1799, it will, perhaps, be unsafe to estimate these duties for the present year higher than their product in the last, which was $7,405,420

In 1798, the internal revenues, exclusive of stamp duties, produced $585,879, as much, at least, may be expected for the present year - 585,879

In 1798, the revenue from the Post Office was $57,000. The same may be expected this year - 57,000

[In 1798, the sale of public lands produced $51,049. This is an increasing and very important branch of revenue, but its proceeds being appropriated by law to the extinguishment of the public debt, it cannot be taken into the estimate of

ways and means for defraying the current expenditure of Government.]

The stamp duties, according to the account which has been rendered for 1798, during two quarters of which they have been in operation, may safely be estimated for 1799, at - - - -	200,000
The bank dividends of the United States, as stockholders in the bank, produce - - - -	79,920
Other small sources of revenue, from patents, coinage, repayments, &c. may be taken at - - -	20,000
The direct tax is $2,000,000; but if we deduct for the expense of the first valuations, and of one year's collection, $200,000, which perhaps will not be too much, there will remain for the net product	1,800,000
	$10,138,219

From the report of the Committee of Ways and Means, of May 1st, 1798, it appears that there was last year a balance of $1,080,000 of revenue beyond the ordinary expenditure. This balance was subject to the extraordinary appropriations for that year; and we know that it was greater than the report stated, because in that report, the import and tonnage duties were estimated at $7,000,000 only, whereas they actually produced $7,405,420, while on the other hand the internal revenues fell short about $115,000 of the estimate. The balance, therefore, in fact, was $285,000 greater than the report made it, or $1,365,000; and, as in the aforesaid estimate, $300,000 were allowed for the payment of awards under the sixth article of the British Treaty, no part of which sum was called for last year, this $300,000 must also be added to the balance; which raises it to $1,665,000. But, as we have not yet seen the detailed account of receipts and expenditures for last year, it is not known what part of the balance has been actually expended in the naval and military preparations voted last session, and it is therefore the most safe to leave it entirely out of the present calculation, and to take the revenue of this year at the above sum of - - $10,138,219

If to this we add the 5,000,000 loan, authorized at last session, and proposals for which have actually been published, it gives for the whole ways and means of the present year, now provided, the sum of -	5,000,000
	15,138,219

We now come to the expenditure which is composed of the following sums:

The principal and interest due, in the present year, on the foreign debt -	$676,801
Interest, and extinguishing annuity of two per cent. on the six per cent. stock - - - -	2,321,525
Interest on the three per cent. stock -	587,097
Ditto on the 5½ do do -	101,689
Interest on the 4½ per cent. stock -	7,920
Ditto on the unfunded debt - -	71,029
The interest paid on domestic loans in the last year, was $238,679; but as a large amount of those loans was paid off in the course of last year, the interest for the present year will require a much less sum. It may be stated at - -	150,000
To this must be added the interest of the new loan, for a whole year to $400,000; but from the manner in which the instalments are to be paid in, and the interest to commence, not more than half of that sum will be necessary for the present year, this item must be stated at	200,000
The principal and extinguishing annuity of two per cent. on the deferred debt, amounts to $1,146,370, but as neither is payable till the year 1801, it cannot be taken into the account of expenditure for the present year.	
The appropriations for the present year are not yet made; but the estimates, from which it is probable that there will be no material variation, are as follow:	
For the civil list, diplomatic department, and fulfilling treaties -	759,609
For the present army - -	1,461,175
For the additional army, $2,740,830 are estimated; but the army being not yet raised, it is evident that not more than half the expense can be incurred during the present year; probably not more than one-third; but taking it at one-half, it is -	1,370,415
Present Naval Establishment, including the expense of finishing and equipping for sea those vessels which are yet unfinished, and of maintaining the whole number till the end of the year - -	2,984,208
Military pensions - - -	93,400
Light-houses, &c. - - -	44,281
Contingent expenses of Government	20,000
Trading-houses with Indians -	110,000
Miscellaneous claims - -	19,000
Making a total for the expenses of this year, according to the present establishment, of - - -	11,178,149
There was appropriated last year for fortifications, arms, cannon, and military stores, $1,240,000, of which it cannot be supposed that more than 1,000,000 will remain to be paid out of the treasury in the present year; though it is not yet known precisely what sum has been expended on this account. Add for this object - -	1,000,000

And it gives for the whole expense now authorized, a total of -		12,178,149
Deduct this from the whole amount of ways and means as stated above, ($15,138,219) and deduct also, for awards, under the sixth article of the British Treaty, $300,000, which has been appropriated, and may be wanted in the course of this year; and it leaves a clear balance, to be applied to the new Naval Armament, of - - - -		2,760,070
The sums proposed to be appropriated for the armament, during the present year, are		
For the ships - -	1,000,000	
For ship timber - -	100,000	
For docks - -	50,000	
For augmenting the force of some ships already built - - -	35,000	
		1,185,000
Which being deducted from the above balance, leaves a clear balance of -		$1,575,070

Which is an excess of the ways and means of the present year, above all the proposed expenditure.

Hence it appears, Mr. Chairman, we may defray the whole expense of Government, the interest of our debt, the annual sum for the extinguishment of the principal, the Civil List, the Army, the Navy, contingent and miscellaneous expenses, and the new Naval Armament, out of the ways and means of the present year, and without anticipating the whole of the direct tax, or perhaps any part of it. By anticipating that tax, which the President is authorized to do in case of need, we shall have a large surplus for contingencies and deficiencies. All this we can effect without new taxes or further loans, and by the ways and means provided for last year: for let it be remembered that the five million loan and the direct tax were provided for the last year, and for the purpose of meeting the expenses voted at the last session. But we got through that year by our ordinary revenues, without touching these extraordinary funds; which, instead of being expended during the last year, will carry us through the present, at our increased rate of expenditure.

I well know, Mr. Chairman, that if we are obliged, by the violence and injustice of other nations, to keep up and enlarge our Naval Establishment; to raise the provisional army; and, in short, to consider ourselves as in a state of war, and make preparations suitable to such a state, we must make further loans, for no nation ever did, or ever can, in the present state of the world, raise from taxes, within the year, sufficient sums to defray war expenses. They are all obliged to borrow money, and contract debts, in time of war, and to rely on paying them off gradually in time of peace. This was our practice during our Revolutionary war; and we are now paying the debt then contracted to secure our independence. While other nations have recourse to borrowing in time of war, and thus increase their present means by anticipating their future means, any one nation which should reject this resource, and confine itself, in its war expenses, to what could be raised by taxes alone, must speedily sink under the power of its neighbors. The means employed by some must be employed by all. We also must submit to this common necessity, or submit to the power of those who assail us. Since they recur to loans, and thus increase their means of attack, we must resist with equal arms, or sink in the unequal conflict. When they put on a coat of mail, we must put on a coat of mail. If they attack us with cannon, we must employ cannon in our defence. As long, therefore, as their injustice and aggressions shall compel us to remain in a state of hostile preparation; in a state which is war in fact, though not in name, we must have recourse to loans for defraying our expenses, or a great part of them. When this state ceases, it will be for our wisdom to employ efficiently the resources of the country in extinguishing, gradually, the debt which we may thus be forced to contract.

And was there ever a nation on earth, let me ask, which had less reason to be afraid of contracting a debt in defence of its rights than this nation? Was there ever a nation whose present burdens were so inconsiderable, in proportion to its means? Was there ever a nation whose means, in the short period of ten years, had multiplied in the same degree? Was there ever one the peculiar felicity of whose situation and circumstances gave it so certain a prospect of great and progressive increase for the future? Our extent of territory is unbounded. Our population has increased and still increases with unexampled rapidity. Our revenue is bottomed on consumption, and, as that consumption must increase with the increase of our population, and of our wealth, which increases faster than our population itself, it is clear that our present revenue must certainly become, more and more productive. Many of the most fruitful sources of taxation, nearly exhausted by other nations, are yet untouched, or but very slightly touched, among us.

Hence it is clear that a debt which in our present situation might be inconvenient, will, twenty years hence, if we do justice to ourselves, become mere sport and play—may be paid off by some savings out of our pocket money. And when this is our situation, and these our prospects, shall we endanger these prospects, and deprive ourselves of the advantages of this situation, by refusing to grant the necessary means for our defence, through fear of contracting a debt of ten twenty, or even thirty millions of dollars?—through fear of incurring a debt which even now we should not feel, and the means of which must every day increase, by the natural increase of our population, our wealth, and our consumption, without an augmentation of taxes? We are at present far less taxed than any other nation; and these taxes, light as they are, must, in a few years,

with some temporary additions, perhaps, become more than sufficient to pay off, in a reasonable time, any debt which our defence at present might require us to contract. Since this is our situation, I trust that we shall not hesitate a moment to put forth our strength in a degree sufficient to repel foreign aggression, to protect our national rights and honor, to secure the property of our citizens, and to inspire them with that confidence in their Government which it is proper that the people of this country, above all others, should uninterruptedly feel.

Mr. Nicholas said this question was different from any former question, with respect to the Navy, which had been before the House. Whatever gentlemen may have heretofore said with respect to the advantages of a navy for the protection of our commerce, they must agree that the present question has a different aspect, as no man can say that seventy-four gun ships are calculated to resist the kind of force which has heretofore made attacks upon our commerce in the West Indies.

Mr. N. was far from believing that our armed vessels had produced the effect which the committee, who reported this bill, stated them to have done. He thought the gentleman from Pennsylvania had adduced many sufficient reasons for the fall which had taken place in the price of insurance, independent of our navy; and that, therefore, the committee were wholly mistaken that the advantages already derived from our navy have exceeded the cost of it; and that, if it had been established several years ago, it would have proved a great saving to the United States.

Mr. N. supposed the first time gentlemen would have thought it proper for this country to have taken alarm, and to have built a navy, would have been when the British published their provision order of June, 1793. Suppose that a fleet, such as is now recommended by the Secretary of the Navy, and less than which none of the advocates of a navy seem to think would answer our purpose, had been then established, what would it have cost the United States at this time? According to the estimate of the Secretary of the Navy himself, the original cost would have been

at least - - - -	$9,173,700
The expense for six years, -	32,300,000
Total, - - -	41,473,000

Let gentlemen set off against this expense the highest estimate which has been made of captures by the French and British. Twenty millions was the greatest amount he had ever heard French captures reckoned at, and five millions the British. But add millions more, and gentlemen will see that the sum will fall far short of the expense of building and supporting a navy. He knew expense was not the only consideration on a subject of this kind. He acknowledged it was a mortifying consideration that this country should be subject to losses from the depredations of foreigners; but, when there are serious doubts that the means proposed to remedy the evil will not be efficient, it certainly is worth while to consider the expense of those means, and on that ground try the policy of going into the system proposed.

Mr. N. confessed he had always been opposed to a naval force for the purpose of warring with European nations, and whether the force now proposed is considered as necessary for defence or offence, it must have that character. The propriety of a naval force for this purpose never appeared to him in a questionable point of view; he thought every consideration of policy and interest forbids it. We are well informed, said he, by the best historians, that the British navy has been the means of sinking that nation to its present state; for he could not admire, like the gentleman from South Carolina, the splendor and prosperity of a nation, which is brought into such a situation as to render it doubtful whether it can exist for a day, a month, or any other period. If the navy of Great Britain, then, commenced under different circumstances from those in which we are placed—which, according to the gentleman from South Carolina, was not only for the protection of her commerce, but as a defence against neighboring nations, and to guard against the worst revolutionary principles—has nearly ruined that country by the immense sums necessary for its support, shall we, who, according also to the confession of that gentleman, have nothing to fear from European nations—[Mr. Harper interrupted Mr. N. to deny that he had said we had nothing to fear from Europe. He had said we had nothing to fear but from the sea.] Mr. N. said this was the way in which he understood the gentleman, and that no danger exists of any invasion by a land force. If this is the case, the use to which a navy can be put will only be to defend our commerce from cruisers, and passing fleets. We have not, therefore, half the inducements to the establishment of a navy which influence European nations, and many powerful reasons against such a force.

The European nations have, most of them, distant colonies, which they have to protect, and with which they have to keep up a constant communication across the ocean, which renders a navy in some degree necessary. But all the European nations commenced their navies under the delusion that a small force would only be necessary, and that one or two ships would give them an ascendency over other nations. Can we expect this, said Mr. N.? No; we begin the business with fewer inducements than any other nation ever begun a navy, and without necessity; for it is acknowledged we have nothing now to apprehend from invasion, (and if we had, this force could not be provided in time,) we have no colonies to protect, and no intercourse which calls for a naval force.

We cannot, therefore, said Mr. N., embark in this business with the same motives which influenced all European nations in establishments of this kind. They built small navies because they would be equal to cope with the small navies of their neighbors; but we are about to begin the business with a navy staring us in the face, the

most formidable that any man could suppose to exist. According to his colleague, the British have 140 sail-of-the-line; and yet our navy is undertaken with the avowed purpose of keeping her as well as the other nations of Europe, in check. Mr. N. asked whether we could ever hope to succeed in a plan of this kind? We certainly could not, since Great Britain would always even in war have more than a sufficient force to meet all the ships which we can build. Besides, if our situation, as gentlemen say, will make a small force so operative in our hands in time of European wars, will not our possessing it be sufficient to produce war with Great Britain, when it is always a sufficient cause for war, in the opinion of Great Britain, for any other maritime Power to put a few more ships in commission than their ordinary establishment? And, if Congress were to order the building of fifty ships, it would only increase the certainty of this effect. How is a naval force to guard us, which Great Britain can destroy, whenever she pleases, even in time of war? For she has frequently ships sufficient on our coast to destroy all the vessels which are contemplated to be built. In short, this navy will be the means of keeping this country in continual broils. On the first appearance of arming any additional vessels on the part of Great Britain, for whatever cause, we must set on foot a negotiation to combine the other Powers of Europe in our favor; and this country will become the centre of intrigue and tricks for the agents of every country.

But the gentleman from South Carolina says, this is the cheapest mode of defence; but does the gentleman prove this? Can he prove that £10,000,000 sterling is only the third part of the expense of defence, as he says? Does he not recollect how much of the revenue of that country goes to pay the interest of their enormous debt, and, therefore, cannot be considered as a part of the expenditure for defence? The gentleman will find, on reflection, he is much mistaken in his calculation in this respect. The gentleman from South Carolina has been loud in his encomiums on the British navy, on account of its usefulness to the world; and he calls the calculation of the gentleman from Pennsylvania, relative to the expenses of a navy, a paltry, schoolboy calculation, because it has not taken into view this usefulness. That gentleman, said Mr. N., only referred to the British navy so far as it was useful in the way gentlemen say they expect ours to be advantageous. But from the contradictions which the gentleman from South Carolina seemed to run into on this subject, he did believe that he had not an eye to a navy, merely for the defence of our commerce; he appeared to wish that this country should take a stand like that of Great Britain, that the safety of the world may, at a future day, depend upon us, as it now does upon Great Britain. Mr. N. believed the ambition of this country, the pride of its Government, and naval commanders, will all operate this way; and we may, one day or other, if we proceed with this navy scheme, be as aspiring, as domineering, as any other nation in the world, and by this means be embroiled in continual war, and be saddled with a debt equal to that of Great Britain.

Mr. N. was not satisfied with the observation made by his colleague (Mr. Parker) that, as the expense incurred in support of a navy goes to our own citizens, and is spent in the country; that, because the money only changes hands, and is not lost to the United States, aggregately, it is, therefore, not of much consequence that it is drawn from the pockets of the people who earn it, and placed in the hands of Government. He believed it of the utmost consequence to keep out of the hands of Government money that is unnecessary for its proper uses. He believed the immense expenses of the British Government had a double operation; the taxes to supply them were not only oppressive to the people but deprived the people of their proper share in the Government of that country. If the British navy has been the sole cause of their enormous national debt, (and he believed it would not be denied,) he thought his colleague ought to pause before he wishes Congress to embark in a system which seems so likely to make our situation the same with hers.

But Mr. N. found this idea, that, because the expense of our navy will chiefly be at home, it ought not to be objected to, was not confined to his colleague. The usefulness of this money, independent of the defence which was expected, he feared was the greatest recommendation of the navy to some gentlemen upon this floor; and so long as the people shall cheerfully part with their money in support of it, he did not doubt the expense will sufficiently recommend itself. It will give great power to the Executive, by disbursing money into the hands of favorites, and by that means give to him the power of destroying great part of the influence which it was intended the people should have in this Government.

The gentleman from Pennsylvania had made a statement of our present revenue and expenditure, the correctness of which had been allowed by the gentleman from South Carolina. This estimate was, however, confined to the present year; but, if we are to prepare for a state of things which is to continue for several years, it is not enough to take into view the finances of the current year, our view ought to be carried forward to some years hence.

Perhaps, Mr. N. said, he did not hear the gentleman from South Carolina rightly; for he understood him to say that, after paying the expenses of the current year, there would remain a clear balance of receipts, (including the five million loan,) independent of the direct tax, of $2,700,000.

[Mr. Harper said, not independent of the direct tax, but including it.]

If so, Mr. N. said, there would be no material difference in the estimates. He had made estimates of the expenses of the years 1800, 1801, and 1802. They were as follows:

For 1800.

Civil list, &c. - - -	$1,000,000
Debt - - - - -	3,800,000
Permanent army - - -	1,500,000

Additional army now raising -	2,500,000
Annual support of navy - -	4,000,000
Fortifications, arms, foundries, &c -	700,000
Instalment of Dutch debt - -	400,000
Interest on new loan - -	400,000
	14,300,000

For 1801.

Civil list, &c., debt including interest on new loan, permanent and additional army and navy, same as in 1800 - - - -	$13,200,000
Deferred debt - - -	1,200,000
Instalment of Dutch debt - -	500,000
	14,900,000

For 1802.

Civil list, &c., debt, permanent and additional army, navy, and deferred debt, same as in 1801 - -	$14,400,000
Instalment of Dutch debt - -	1,400,000
	15,800,000

It is to be observed, that the revenues will be insufficient by a very large sum, for the expenses of any one of these years, the estimates all agreeing that it may be considered as only ten millions of dollars. In the next year, supposing the unexpended balance of the loan now making should be $2,700,000, as the gentleman from South Carolina supposed, (but which he believed was more than will be left,) the deficiency will be $1,600,000, and even the disbanding of the additional army will not prevent the necessity of imposing further burdens on the people to meet the expenses of the three years he had stated.

When these statements were considered, Mr. N. thought gentlemen ought seriously to pause before they lay the country under expenses which our resources will not justify, especially when necessity does not call for the measure. And if these vessels are not wanted at present, and it seemed to be agreed that the measure promised no present usefulness, consider the difference there would be between building and equipping them in the present time of war, and a time of peace. It would be well, indeed, if we are providing for a future war, to let the present first be at an end, as we may want all our resources for the present; if not, we shall not only pay a much higher price for money, but more profusion will be seen in every part of the business, and the vessels will cost more than double what they would be built for in time of peace. And if a navy be really so necessary to our existence as an independent nation, as gentlemen seem to think it is, they need not fear that the disposition to provide it will be wanting when better times shall arrive for carrying into effect a project of this kind.

Mr. N. believed there existed no good reason for going into the establishment of a navy at all, because he believed it would never be really useful to this country; but if it should be otherwise determined by a majority of Congress, this, he thought, of all times the most improper to commence the work.

The question was put, and negatived—yeas 40, nays 50.

Mr. J. Williams then moved to strike out what relates to 18-gun vessels, on the ground that the thirty-nine small vessels which we have are sufficient. The motion was negatived without a division.

Mr. J. Parker proposed filling up the blanks in the section fixing the pay of Captains in the Navy, with an advance from $75 to $100 per month to Captains of 74's, and others in proportion; except the masters of vessels under 20 guns, which were proposed to be lowered.

Some objection, however, being made to this, and particularly to the mode of doing the business, this being the first time that the subject had been before the House, the section was moved to be struck out, and carried.

The committee then rose, and the House having concurred in the amendment reported,

Mr. Nicholas renewed the motion for striking out the 74 gun ships, and called the yeas and nays upon it. They were taken and stood, yeas 40, nays 54, as follows:

Yeas—Abraham Baldwin, David Bard, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The bill was then ordered to be engrossed for a third reading.

ALIEN AND SEDITION LAWS.

Mr. Hartley said, that since presenting the petition which he had laid before the House from York county, praying for a repeal of certain laws, he had been written to on the subject; he gave notice, therefore, that he should call up the petition for consideration on Monday.

The Speaker saying it would be necessary to make it the order of the day, Mr. Hartley made that motion, which was carried.

Saturday, February 9.

The bill to regulate the collection of duties on imports and tonnage, was read the third time and passed.

STEPHEN SAYRE.

On motion of Mr. Rutledge, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Stephen Sayre, who prays for compensation as Secretary of Legation to Mr. Lee at the Court of Berlin, for a few months, and for other public services. This claim having been decided against at a former session, the Committee of Claims made an unfavorable report, without going into the consideration of the merits of the claim.

Messrs. Griswold, Craik, Macon, Bayard, and Gordon, spoke in favor of the report; and Messrs. Pinckney, Harper, Gallatin, Brooks, S. Smith, and the Speaker, against it, and in favor of allowing the claim.

The report was finally negatived—21 votes only being in its favor. The committee rose, and the House concurred in the report of the committee.

Mr. Harper then laid two resolutions on the table directing the accounting officers of the Treasury to settle the account of Mr. Sayre; but before a decision was had upon them, a motion was made and carried to adjourn.

Monday, February 11.

Mr. Harper, from the committee appointed to confer with the Senate on the disagreeing votes of the two Houses on the bill respecting balances due from certain individual States to the United States, made a report, which lies on the table.

A message was received from the Senate, informing the House that they had passed a bill for organizing the troops of the United States, and for other purposes, to which they request the concurrence of this House.

AUGMENTATION OF THE NAVY.

The bill for augmenting the Navy of the United States was read the third time; and on the question, "Shall this bill pass?"

Mr. Eggleston said, he did not stand up with any hope of changing the vote of any gentleman who had heretofore favored the bill now under consideration, and yet he felt impelled to offer a few objections, which presented themselves to his mind against its passage.

He said he was opposed to the bill because he believed there was already as much done for defence as the danger or ability of the country rendered necessary. When, said he, we have fortified our harbors and ports, and shall by their means afford shelter and protection to our present marine, and thus enable them to protect our commerce from the ravages of privateers, and from the insults and robberies of those kind of vessels usually employed in plundering merchantmen, I think we shall have completed as much as the present state of our finances and the existing danger can justify. Here we ought to stop for the present, on account of those unavoidable expenses which are already authorized, and which the gentleman from Pennsylvania and my colleague have shown to be greater than our receipts.

Mr. E. said, additional taxes, or further loans, ought not to be resorted to, without the danger of our situation made it really necessary to have recourse to such disagreeable expedients. A cultivating people, he apprehended, ought not to be unnecessarily depressed and harassed with taxes. As much of the surplus of their labor as could be, ought to be left for the extension and improvement of cultivation. The contributions of America for the support of Government had hitherto been very light—hence arose the unexampled growth and population, and even increasing commerce of the United States; and all this without a Navy. This experience ought to operate on the minds of gentlemen more powerfully than those nations which had been adduced as examples, to induce them to vote for an augmentation of the Navy.

Mr. E. said, his colleague (Mr. Parker) had resorted to argument in support of this expensive measure, which he did not expect to hear openly avowed. According to his ideas, it is immaterial how much money is extracted from the people by Government, provided the matter is so managed that it is again expended in the United States. Such doctrine, carried into practice, would squeeze from the hard hands of a laborious father of a numerous family the little surplus of his industry and economy, in order to equip fleets and armies, and fill the pockets of well dressed officers and modern fine gentlemen. It was robbing the bee to feed the drone, and this when no necessity or danger existed to demand the measure.

But, added Mr. G., if the six ships-of-the-line were already in commission and afloat, and as many others as could be manned and supported, they would be ineffectual to oppose any of the maritime Powers of Europe in any great attempt. Should an invasion be attempted, those means which had heretofore been successful must again be resorted to.

In possession of a wide-extended territory, the population of which is dispersed over such a continent, he conceived that we are precluded from sudden impressions from an invading enemy, or from irreparable damage; nor can we be conquered from the loss of a single battle, as had happened to that island from whence the gentleman from South Carolina so often cited examples.

The safety and prosperity of the United States could not, then, rest on a Navy, as that gentleman seemed to think, even if an invasion were probable. But, as it is improbable, why ought so great

an expense be incurred to ward off a danger so remote, when it is well known means less expensive could repel it were it to happen? The same gentleman, he said, spoke much of the efficacy of the naval power of England, in supporting that balance so necessary to the happiness of Europe. This did not apply to America at all. Separated from those complex and dreadful scenes of carnage and expense, it was not necessary to be forced into a participation of their follies, their vices, and their miseries.

The late President, Mr. E. said, gave good advice on this point; and he was sorry to hear that, contrary to his maxims, negotiators were appointed to Russia and Turkey, and he feared that cause would arise to lament such departure from the plainness and simplicity of past times.

The gentleman from South Carolina had also called the attention of the House to Holland, and told them many things of her navy, and the benefits she derived from it. It appeared to him that the gentleman had never been more unfortunate in his allusions, for he could not have selected a nation more unlike America. Holland was a mere spot on the globe, so surcharged with inhabitants, and so destitute of materials to exercise their industry, that they were obliged to build their houses on ground reclaimed from the sea. America, on the contrary, is an immense continent, to excite industry, stimulate exertion, and profitably employ wealth and labor.

Mr. E. concluded by saying the gentleman might as well advise us, and it would as well become us to follow his advice, to desert our cities and hills, and build our houses on land claimed from the Atlantic, as to depend on a navy for our safety, and exhaust our resources and impoverish our people in building one. I am, therefore, said he, decidedly against the bill, and hope it will be rejected.

Mr. Gallatin hoped that the extreme importance of the question would be a sufficient apology for his once more troubling the House on this subject. He had before confined his remarks to the arguments suggested by the select committee in support of the measure. Judging both from the answer of the chairman, (Mr. J. Parker,) and from the silence of the gentleman from South Carolina, that the special position assumed by that committee, in relation to the advantages actually derived from our present naval force, was untenable and in a manner abandoned, he would now proceed to make some observations on the general advantages that might be supposed, by its advocates, to be derived from a navy.

A navy was stated to be necessary and proper as affording means of defence against invasion, protection to commerce, and giving this nation a certain weight in the general scale of European politics.

In relation to invasion, he thought a fleet to be neither a necessary nor a sure means of defence. Not sure, because, if an invasion was ever attempted, it must be by a nation possessed of a very superior naval force, and, in that case, what reliance could be placed on six seventy-fours, against one of the great maritime Powers of Europe, effectually to defend a coast of 1,500 miles? Not necessary, because the events of the last war had already proved that this country, even if invaded by the most formidable naval Power in the world, had within itself the means of repelling the invader; because our defence must, in that instance, finally rest on the people themselves. To say, with the gentleman from South Carolina, that England owed her political existence to that navy which had prevented her from becoming a province of France, was only to show the dissimilarity of situation of the two countries, and to prove that reasons of a superior nature had rendered a fleet essentially necessary to Great Britain, which did not exist in the United States. Nor was that gentleman more happy in his allusion to the invasion of Holland, since the fleet of that nation had never prevented her being invaded. Her navy, although then triumphant and mistress of the ocean, had not prevented her from the attack of Louis XIV., and it was not to her navy that she owed, at that time, her deliverance. The superior navy of her late ally, Great Britain, had not been able to snatch her from the late French conquest. And a comparative view of these two invasions must convince every man that not in navies, not in regular armies, does the safety of a nation, in a great crisis, consist, but in the union, the zeal, and the bravery of the mass of the people. In these, Mr. G. said, he placed his sole confidence against the danger of an invasion. But that danger did not exist, and was not seriously apprehended, either by the American people, or by their Representatives on that floor. No one did believe that any nation would attempt an invasion of this country, or that an invasion, if ever attempted, would be successful. He would, therefore, dismiss that part of the subject, and examine the ground on which gentlemen seemed most to rely—the protection afforded by a navy to commerce.

Much had been said on the duty of Government to give as effectual protection to our floating property on the sea, as to the lands, houses, and persons of our citizens on our shore. Mr. G. did not think the position to be correct, in its full extent. The rights of property, the liberties of the people, and the independence of the nation, required a full and complete protection of every part of the country against an invader, whatever the risk and expense might be. But as the advantages of commerce were a mere matter of calculation, the defence to be afforded to commercial property, out of the territory of the United States, became also a proper subject of calculation, a question of profit and loss. He did not wish to draw any invidious distinction between the commercial and agricultural interests of this country; but when, under pretence of protecting commerce, the nation was to incur an enormous expense, it became proper to examine to whom, on the supposition that a navy would effectually protect commerce, that expense would prove most beneficial, and by whom it must finally be borne.

Mr. G. agreed that the agricultural and commercial interest were intimately connected together to a certain extent. So far as the merchants, by their enterprise and industry, open new avenues of trade for the exportation of our produce, increasing the demand, and thereby both the quantity and value of our exports—at the same time that they supply us with foreign necessary articles, from the cheapest markets and on the cheapest terms—so far the interests of commerce and agriculture are the same; so far commerce is directly and immediately beneficial to the whole nation; and so far as this kind of commerce could with propriety be protected, he would agree to protect it. But it ought to be observed that more than one-half of the commerce of this country does not consist of either the exportation of our produce, or the importation of articles consumed in this country; but of a sort of extraneous staple. By the return, lately laid upon our table, it appears that our exports, during the last year, amounted to sixty-one millions of dollars, twenty-eight of which only were our own produce, the other thirty-three millions consisting of articles first imported from foreign countries, and afterwards re-exported to various parts of the globe; and however advantageous this trade might be to the merchants concerned in it, it was of no direct service to the farming interest, or to the nation at large. In an indirect manner, indeed, it benefited, in a small degree, the other parts of the community, by increasing the wealth of these merchants; by enabling them pay a greater proportion of taxes, and by producing those general advantages which may be supposed to result from the general increase of the wealth of the nation. But, with respect to this extraneous trade, he was of opinion that if it did not yield a sufficient profit to protect itself, without expense to the nation, it was not entitled to any extraordinary protection. If the advantages derived to the nation from this kind of commerce cannot be purchased at a cheap rate, he would much rather abandon them altogether. Yet, when gentlemen speak of the protection of commerce, they always include this, as well as any other kind of commerce.

With respect to that part of our commerce which consists of the exportation of our own produce, the profits are divided between the merchant and farmer. The agricultural interest is so far benefited by this commerce, as the price obtained by this means for their produce exceeds that which would have been obtained for it, had it been exported in the vessels of foreign nations. The profits are not, however, divided in an equal proportion—the greatest share goes to the merchant.

Mr. G. wished to apply these remarks to the expense contemplated by this bill, and to inquire what portion of it will be paid, and how much of the advantage will be received by the farmer. The chairman of the committee, said, indeed, that the expense was immaterial, since the money would be spent at home, and only pass from one hand to another. No argument, in his opinion, could be more fallacious than this. He considered it of some importance to inquire, supposing this navy to give full protection to our commerce, into whose hands, and for whose benefit, the millions which it is to cost will principally fall? Suppose we raise a tax of four millions of dollars. Of this tax nine-tenths will be paid by the farmers, manufacturers, and mechanics, and one-tenth, at most, by the mercantile part of the community; since it must be paid in proportion to their respective consumption or real estates. Supposing that this navy shall prevent all future captures, more than one half of this advantage goes solely to the merchant, as the protection is extended, as well to the carrying trade of foreign productions which we do not consume, as to that which may be considered as a national commerce. And if the advantage of this last is supposed to be equally divided between the merchant and farmer, one-fourth part only of the benefit derived from the establishment will be received by the farmer, and the other three-fourths will go to the merchant. What is the result? We raise four millions, 3,600,000 of which will be paid by the farmers, manufacturers, and mechanics, and 400,000 by the merchants; while the agriculturists will receive only about one million of the profits, and the merchants the other three millions. This is the way in which the money will be expended; and yet the gentleman from Virginia tries to make this business a mere shifting of property from one hand to another. It makes some difference, said Mr. G., to a man who pays a heavy tax, whether he is to receive any portion of the money back or not. If this money was to be spent in a distant part of the United States, it would make little difference to him whether it was expended in or out of the country. But he had, heretofore, gone on a supposition that a navy was an efficacious means of protecting commerce, and the next question was, whether it answered that end, whether, in fact, it was essential to the existence and support of that commerce?

Mr. G. considered an extensive commerce as depending upon the wealth of a nation; and that wealth as depending, in the first place, on internal industry, and in the next, on the laws for the protection of property. If, said he, we turn our attention to any part of Europe, we shall find the commerce of countries depend invariably upon this wealth and industry, and not upon a navy. And the reason we are deceived, with respect to Great Britain, is, that we perpetually confound the effects with the cause. It is the internal industry, and the protection afforded to manufactures and commerce, in that country, which have produced its wealth, that wealth has produced its immense commerce, and has enabled them to support a powerful navy; but it does not follow that her navy has effectually promoted and invigorated that commerce; and to say that it has created it, that their industry, their manufactures and commerce, have been produced by their navy, is a doctrine which cannot be supported.

Mr. G. said, he mentioned the other day, merely as a matter of fact, that Holland, without scarcely any navy at present, has an extensive commerce; and that Spain, with a great navy, has scarcely

any commerce. All he intended to show was, that a commerce might exist without a navy, and a navy without commerce. In order to show this idea to be unfounded, what was the answer given? The gentleman from South Carolina altogether mistook the position, and went into a dissertation of the causes which destroyed the navy of Holland and the commerce of Spain. These, Mr. G. said, were nothing to him; he had only stated the fact. And he would call upon gentlemen, putting England out of view, to show in what country their navy and commerce bore any kind of proportion the one to the other.

From Holland he would go to another country. He meant the Hanse towns of Germany. Let us, said he, compare Hamburg, which has no navy, with the neighboring countries of Sweden, Denmark, and Russia, which have each of them considerable navies. It is true that the Hanse towns had formerly a considerable navy; but finding that their commerce would not support the expense, they gave it up; and at this time, though Hamburg has an immense trade, she has not a single gun-boat at sea; whereas, if we turn our eyes to their next neighbors, Denmark, Sweden, and Prussia, they possess sixty or seventy ships-of-the-line, with very little commerce. He presumed, though Russia has forty ships-of-the-line, the commerce of Hamburg is fifty times greater than that of Russia. Therefore it may be clearly inferred that the sources of commerce are perfectly distinct from a navy; and that a navy is created more as an instrument of power than for the protection of commerce.

If the merchants of Hamburg could have persuaded the inhabitants of Germany generally to pay taxes to support a fleet, they perhaps would gladly have had one, in the same way that the merchants of this country wish for a navy, if they can prevail upon the farmers to pay taxes for that purpose; but Hamburg, though it is the chief seaport of Germany, does not govern that country, and the people at large have not been willing to pay for that supposed protection of commerce; the merchants, who well knew that it would be a greater expense than commerce itself would bear, have abandoned all ideas of a navy. Germany now enjoys all the benefits of commerce, without being burdened with the expense of a navy, and, in fact, suffers less in a commercial point of view than the great naval Powers; for, however war may rage on land, they carry on their trade without interruption; whilst those countries which possess fleets, the moment they enter into war, have their commerce immediately either curtailed or annihilated. He had not heard that the commerce of Hamburg had been more affected than that of Sweden and Denmark, during the present long and extraordinary war; that of all three has, at different times, been more or less interrupted, but the trade of this port has not suffered more than that of any other.

In relation to Holland, their navy arose from their situation. It is well known that, when that country was created, they carried on commerce and war together; they conquered that part of the East and West Indies which they possess by their vessels of trade; and, having thus found themselves possessed of a powerful navy, they determined to dispute the dominion of Great Britain at sea. What was the consequence? After sometime they found themselves more heavily taxed than any other nation, and they were, therefore, induced to drop their navy. From the Treaty of Utrecht, in the year 1714, to this day, they have never had a fleet at sea more than two or three weeks at a time. Last war they fitted out but one, and one only; and this war they have fitted out two—one to be taken out at the Cape of Good Hope, and the other at the mouth of their own ports. He did not consider their fleet, therefore, as any protection to their commerce. Yet in what situation is that commerce? When the country is at war, it is true that it is annihilated, from their being situated at the door of Great Britain. But, in time of peace, though it is not now so great as it was formerly, yet it is very considerable; and its decrease is not owing to the decrease of their navy, but to the increase of the industry and wealth of neighboring countries. So far, indeed, from their being weakened for the want of a navy, they have enjoyed a greater share of tranquillity during the present century, than in the last, and, of course, their commerce has suffered less during the last period, than it would have done had they acted the same part they did during the former.

If, said Mr. G., we turn our attention to ourselves, examine our situation, and compare our commerce with that of other countries, what is the result? We have had no navy, no protection to our commerce. During the course of the present war, we have been plundered by both parties in a most shameful manner; more, perhaps, than we should have been during any other war, on account of the nature of the present contest. The belligerent Powers have not supposed themselves bound by the law of nations. The orders and the conduct of Great Britain and of France have been in defiance of that law. Yet, notwithstanding all those depredations, what is our present situation? Year after year our exports and imports have increased in value; not only that part which includes our own produce and the articles consumed in the country, but even that part which is merely the trade of our merchants, viz: the importation of goods from one foreign country in order to export them to another. And this increase has taken place, notwithstanding the fall which our produce sometime ago experienced, and the suspension of our commercial intercourse with France. This proves that a commerce can be protected without a navy, whilst a nation preserves its neutrality.

Mr. G. said, that when we consider commerce as connected with a navy, we ought to consider the price of that navy; and it will be clear that a navy will cost a great deal more than all the profits of the trade put together; profits which, as has been shown, are unequally divided between the merchant and the farmer, the farmer receiving less of the benefits and paying more of the expense of protection than the merchant. Nor

must it be forgotten that countries are involved in war in proportion to the extent of their navies. No man could doubt, said Mr. G., that if, in 1793, we had had twelve ships of-the-line, we should have been involved in the present war, on one side or the other, according to the fluctuation of public opinion. And the protection of commerce ought to be taken into consideration in time of war, as well as in time of peace. Every one must be sensible of the immense losses that must be consequent on a state of war.

The price of this protection of commerce in England has been equal to the whole of their immense national debt. He believed, if the exports and imports of that country were examined, and every possible profit allowed upon them, that profit would be found to be less than the expense of their navy. It is no consolation to us, it is no argument against naval expenses to be told by the gentleman from South Carolina, that England has spent more by land wars than by sea, and with less success; but the fact is that a great part of those land wars may be fairly ascribed to her navy—her strength by sea having more than once been the principal reason which induced her to provoke wars, that might otherwise have been avoided. Had it not been for that cause, the defence and conquest of colonies, and the expensive and fruitless attempt to subdue America, never would have been attempted. Notwithstanding the great industry and ingenuity of the people of Great Britain—notwithstanding their extensive manufactures and wealth, the Government of that country has laid its hands upon all the surplus capital of the nation, and applied it to the use of her navy and army.

But what will be the cost of a navy here? The House will remember that statements have been produced by the gentleman from South Carolina, by the gentleman from Virginia, and by himself, which were not materially different from each other. Two facts appear well ascertained; the one, that this fleet is to be built and equipped out of the proceeds of loans; and the other, that its peace establishment must depend upon the land-tax, which at present is only laid for one year. These facts are not disputed. And this, said Mr. G, leads me to notice the loan which is now advertised, and about to be opened,

This loan is to consist of five millions of dollars, at eight per cent., irredeemable for ten years. It is out of this money, that we must build our fleet. A fleet which is not to be put into commission for two years, and may not be wanted in the course of the present European war. He would go farther, and say, that not only this fleet is to be paid for out of this loan, but it is meant to be a cover for this loan. So far as relates to the terms of this loan, if he might give his opinion upon it, he thought the rate of interest too great; when it is filled, it will be filled by banks and foreigners; or at least the whole of it that will not be subscribed by banks will eventually fall into the hands of foreigners. [The Speaker asked whether the gentleman from Pennsylvania thought these observations in order?] Indubitably so, said Mr. G., as I mean to establish the fact that if we do not pass this bill, we shall either want to borrow to a less amount, or perhaps have no occasion for this loan, and that therefore this bill ought not to pass. He had said, that not only the interest to be given for this loan is too great, but we shall have to pay it to foreigners, which will be sending $400,000 a year out of the country. If, indeed, we have a real necessity for money, and it can be got on reasonable terms from abroad, it would be right to get it from that quarter; but when we consider that we are to pay them an extravagant premium for their money, it is an additional reason why we should not borrow it, if we can possibly do without it. Our revenue is allowed by all to amount to ten millions, and our expenses for the present year, exclusively of this additional navy, to be eleven and a half millions; and that if this bill does not pass, we shall therefore want at all events, and at most, but one million and a half on loan: and although therefore, it should seem that if this bill does pass, we shall want but two millions and a half, yet this bill is meant to cover the whole loan; and it is probable that the two millions and a half, remaining, which possibly may be lent to us at the rate of eight per cent. by the banks themselves, will be applied to repay to the banks the debt for which we now pay them only six per cent. If, on the contrary, this bill is rejected, we may either take only one million and a half on loan, or by repealing the law passed last year for an additional army, of which we stand in no need at present, the whole of the loan might be set aside by repealing the law which authorizes it. The more money we borrow, the further we shall go forward in these schemes, and the higher interest we shall pay. The gentleman from South Carolina has said, we pay no more for interest than Great Britain pays. He did not believe this to be a fact. He did not know that that country ever paid more than six per cent. on the money they received, and as to the nominal capital they borrowed, it was of little consequence to them, since the idea of paying that principal was abandoned. There the amount yearly paid was the real debt—its nominal amount an imaginary superstructure. But supposing Great Britain did pay eight per cent: what consolation would that be to us? Certainly none.

When the fleet proposed is created, it must be supported in peace as well as war. No estimate, as he before observed, has yet been made of the peace establishment; but he would show, by another statement, that if we go on with this fleet, the increase of debt which it will occasion in four years, will render it necessary to make the land-tax a permanent tax. The gentleman from South Carolina has indeed told us, that our population and our means increase in so rapid a way, that we might, without being frightened or astonished, go on to increase our debt to ten, twenty, or thirty, millions of dollars, that the debt which we now consider large, will, in a few years hence, when our means shall be thus increased, appear a mere trifle. So that, according to that gentleman, we are constantly to increase our taxes, in proportion not only to our present means, resources, and pop-

ulation, but in proportion to what we expect they may hereafter be. And to what purpose is that increase of taxation to be applied? Not to the discharge of our present debt; not to the encouragement of agriculture, manufactures, or anything really useful to society—but to the payment of the interest of a large debt which we shall create in the establishment of a navy; and, because it is supposed that we may hereafter be able to pay this interest, we are told that we ought to pass this bill without hesitation.

Mr. G. said, he gave credit to the candor of the gentleman from South Carolina; it was coming to the point at once. This bill cannot be passed, without contemplating a debt of this kind. Mr. G. said, he had made a statement for four years to come, upon the ground that our present expenses will continue what they are; that in relation to the vessels proposed, it will take two years to build them, and that they will not come into commission until the third year. He had taken the estimate on the table for the cost of the vessels, (though there is reason to fear they will cost double the sum at which they are estimated,) and reckoning nothing for repairs for the four years.

In 1799 our expenses will be -	$12,750,000
1800 - - - -	14,850,000
1801 - - - -	15,450,000
1802 - - - -	16,750,000

Our revenue, Mr. G. said, as he had before shown is ten millions of dollars; and, therefore, whatever our expenses are, above that sum, must be met by either borrowing money, or providing new taxes. The excess of expenditure over our actual revenue for four years, will be, according to this estimate, $19,800,000. From this sum must, indeed, be deducted a part of the Dutch debt, of $2,300,000; the payment of which is included in the above statement, and leaves an increase of debt or taxation of $17,500,000. The interest on this increase of debt, if no new taxes shall be laid, will lay upon us a perpetual additional burden of $1,500,000.

This principle is not denied, but it is contemplated by the gentleman from South Carolina, and contemplated with boldness. Mr. G. confessed he did not think a sum of this kind worthy of so little consideration. The gentleman says, we shall be able to bear it. This, I doubt not, said Mr. G.; if it must be paid, we must bear it. But the gentlemen goes on to say, that we pay less than any other nation, and therefore ought not to complain. Mr. G. did not know this, and wished the gentleman from South Carolina had brought forward facts to have proved it. He knew that we pay less than Great Britain, Holland, or France; but he knew, also, that we are only about beginning a system, which has been in operation in Great Britain for a century, in France for a century and a half, and in Holland for two centuries. He was not surprised, therefore, that we should, at this time, pay less taxes than those countries; but, paying what we do at present, if we follow their steps, as we are now proposing to do, by building a navy, and increasing our debt, it cannot be doubted that, before our system has been as long in existence as theirs have been, we shall pay as much as they do. What, asked Mr. G., do we pay now? To the General Government ten millions of dollars. How much do we pay to the State Governments? How much for poor rates, county taxes, &c.? Suppose these do not exceed two millions of dollars; that will make twelve millions of dollars, to be paid by four millions of white people—about three dollars a head annually. He did not think this a very low tax. He recollected that, just before the French Revolution took place, according to Mr. Necker's calculations, notwithstanding the corruptions, abuses, and oppressions of that Government, the taxes upon an average were not five dollars a head. Before the American war, in Great Britain the annual taxes were about ten millions, which, divided among eight millions of people, was about twenty-five shillings sterling, or about five dollars and a half a head; and, when we consider the immense wealth of that country and the extravagance of the Government, and compare it with our situation, it must be allowed that the sum which we pay is by no means inconsiderable. He believed that the money now raised from the people was quite as much as could be raised with convenience. He knew we could raise more, but he believed not without inconvenience to the people. In the country, the quantity of circulating medium is so small that it will be with difficulty that the present taxes will be paid. It was on this account that the land tax had proved so unpopular in some parts of the Middle States, where the people had always been remarkable for their attachment to the General Government; and it is a sufficient reason for saying that taxes are heavy enough, when people who cannot be charged with being anti-Federalists, Jacobins, or disorganizers, complain bitterly of the weight which they already bear. In the part of the country where he lived, he knew that, to pay the duties on excise, and the direct tax, would require more money than there was circulating medium, and that they could not be paid two years, unless a greater quantity of money was expended there by Government, in the purchase of produce, than the amount of the taxes.

Having considered the manner in which the money for the Navy is to be raised, and the degree of protection which it is calculated to afford, he would now consider the Navy as an instrument of power. And he believed that this was not the least favorite object of the supporters of this bill. He agreed that navies had always been great engines of war and conquest. So far as a navy would tend to create new officers, or to cause new contracts, it would be the means of extending the power of administration at home; and, so far as this might be the object, it would, doubtless, be answered; but he meant to consider it only as an instrument of power abroad.

It appeared to him that navies had been principally employed for the protection of colonies abroad, or to increase the influence of the nation to which they belong in the rank of nations. In relation to colonies, said Mr. G., we want no navy, as we have none, and he hoped never should have

any. He trusted it would be our policy to be satisfied with our immense territory, without seeking for wealth in foreign conquests and establishments. In relation to the West Indies, though they lie near us, he considered a project of obtaining possession of those islands as the most fatal policy that could be adopted; he hoped we should always trade with them, but never possess them. Yet, if we have no use for our navy, after we have got it, the having a fleet may be made use of as an argument for endeavoring to obtain some part of the West Indies, and otherwise extending our power.

As an instrument of power, however, and as such, he was persuaded, gentlemen were chiefly in favor of it, it has a tendency to destroy its other object, viz: to protect commerce, by involving us in wars, and inducing us to interfere in the political interest of Europe. The Navy will injure commerce in another respect, by raising the wages of seamen, which it must do, unless we adopt the British mode of pressing men; a practice which, at present, he did not believe would meet with the approbation of this Legislature.

But, in what manner is this navy to be applied, in order to give us a weight in the scale of European nations? And what are the general political objects of the supporters of this new establishment? As an inducement to pass this bill we are told, on this floor, that the navy of Great Britain has enabled her to assume the first rank among the nations of Europe, and, above all, to curb the ambition of France. From higher authority, we have heard that it is a most desirable object to prevent that relapse into barbarism with which that nation threatens Europe. And, at the opening of the first session of this Congress, the President of the United States told us:

"It is a natural policy for a nation that studies to be neutral, to consult with other nations engaged in the same studies and pursuits."

Will not now the reverse of that proposition be supported? Will it not be said, that it is a natural policy for a nation that studies *not* to be neutral, to consult with other nations engaged in the same pursuit? And if, under the impression of the first sentiment, an embassy to Prussia originated, will not the Administration, under their present impressions, throw this navy in the scale of a new coalition against France, form a more intimate connexion with Great Britain, and seek for nations engaged in similar pursuits with themselves, by sending embassies to Russia and Constantinople? Our navy is intended for the common service of mankind. The united banners of Mahomet and of America are to establish true religion in France. And, in order to check a relapse into feudal barbarism, in order to promote civilization in Europe, we are to receive the assistance of the Tartars of Russia, of the Cossacks of the Ukraine, of the Mamelukes of Egypt, and of the Moors of Africa. These are designed as our hopeful allies; and I should think, continued Mr. G., that instead of wasting the treasure and shedding the blood of the freemen of America in this new crusade, our quota, to make the whole a homogeneous mass, ought to consist of Cherokees and Mohawks.

I am alarmed, said Mr. G., at the idea of creating a navy with a view of throwing our weight into the political scales of Europe; it is carrying our views beyond all rational bounds. The excesses of the French Revolution, the dislike which we have to some of their writings, their proceedings with respect to religious establishments, and our great desire to restore religion and order, induce us to believe that we ought to take an active part in bringing France to her senses; it appears desirable to the friends of this bill, that we should spend our blood and treasure to prevent or cure these evils. Mr. G. owned he had no such wish. I know not, said he, whether I have heretofore been indulging myself in a visionary dream; but I had conceived, when contemplating the situation of America, that our distance from the European world might have prevented our being involved in the mischievous politics of Europe, and that we might have lived in peace without armies and navies, and without being deeply involved in debt. It is true, in this dream he had conceived it would have been our object to have become a happy, and not a powerful nation; or, at least, no way powerful, except for self-defence. He had not conceived that power was to be accumulated in the hands of the Executive, and a few other persons, in order to increase our weight in Europe, or with a view of feeding the ambition of these individuals.

To be happy, as we have heretofore been, ought, in his opinion, still to be our object; for, said Mr. G., when we enter upon the career proposed to us, do we know where to stop? When we are told that an increase of debt is contemplated, according to the increase of our population, it is an avowal that we mean to follow the example of the great nations of Europe.

These considerations, Mr. G. said, produced an alarm in his mind, at this bill, and would determine him to vote against it. He trusted that, after the present popular fervor had ceased, our successors, guided by public opinion, would put a stop to schemes of this kind; and he did believe that, if the House could have firmness enough to reject this bill, though the popular opinion might, in some quarters, be in favor of it at present, when the subject came to be seriously considered by the people, the impolicy of the measure would be seen, and the measure never again be proposed with any prospect of success. However, whatever might be the public opinion upon the subject, he must comply with his own convictions of its evil effects, and oppose its passage.

Before he sat down, Mr. G. said, he would take notice of a quotation which had been made from the opinion of a gentleman high in office in the United States. He was always disposed to listen to the opinions of men superior in talents and information, and to none more than to those of a gentleman for whose integrity and abilities he entertained the highest respect. But still, after a fair examination, he believed them erroneous; his authority would not, with him, be an argument forcible enough to abandon his own sentiments and

to induce him to vote for a measure which that gentleman had recommended fifteen years ago. Yet, if he understood the quotation, there was nothing in it applicable to our present situation. That gentleman had, fifteen years ago, gone on a supposition, then not improbable, that we should not apply our resources to an increase of debt; that we should have no assumption, no perpetual funding system; and he proved the practicability of a navy on the supposition that Virginia for her quota might pay a million of dollars toward it. Nor had that gentleman any idea of our having, at the same time, a standing army of 14,000 men. But now, without a fleet, our present expenses are already ten millions of dollars, two millions of which are paid by the State of Virginia. Can Virginia, under these circumstances, pay the additional million for that purpose? The question is not whether we might, without inconvenience, in case we had not swelled up our debt to near ninety millions of dollars, and in case we had not it in prospect to spend four or five millions a year on armies, apply four or five millions a year on a navy, but whether it is proper, at this time, to add that burden to those we already bear?

When Mr. Gallatin had concluded—

Mr. Josiah Parker said, he would not have troubled the House again on this subject had it not been for an observation of his colleague, (Mr. Eggleston.) He had said he did not expect to change a vote in this House, nor did he believe he would. He says our commerce has increased without a navy; but he knows not what it would have done if we had had a navy. But the sentiment which had concerned himself, and upon which he rose principally to remark was, "that he, Mr. P. did, not seem to care how much was expended upon navies and armies, though it was drawn from the industrious fathers of numerous families; or how much was taken from the bee to support the drone." Mr. P. thought such a sentiment very unfair as applied to him, since, though he had ever been a supporter of a navy, he had always been opposed to a standing army as much as that gentleman or any other.

The gentleman from Pennsylvania asked, what our six seventy-four-gun ships would be able to do against the powerful nations of Europe? Mr. P. did not believe they were intended to fight those Powers, but to be used for the protection of our own coast and our own commerce; and thinking a navy the best and most natural defence of this country, he was in favor of it.

The European Powers have distant possessions; Great Britain, France, and Holland, have territories in the East and West Indies, and, of course, a great part of their navy is employed abroad; and if either of these Powers be at war with the United States, the others would not likely be at war with the same European Power. In this case our small navy would enable us to annoy the valuable trade of either Great Britain, France, or Spain, in our neighborhood, and keep us secure at home, without the expense of a military establishment, except troops enough to garrison our extensive frontiers. We have nothing to apprehend from invasion from one nation, since she has heretofore failed in her attempt to subdue us; the attempt having ended in her disgrace, and our independence. France, if she had a navy, might, perhaps, be able to succeed in an attempt of this kind. The event might, at least, be doubtful, and the repelling of such an attack might be attended with great expense, and produce great ravages. He had no doubt the French have the inclination to make the attempt, since it is clear that their aim is universal dominion. This effort was feebly made by Louis XIV.; but as the energies of that nation are now in action, and supported by military enthusiasm, they have advanced, unhappily, too far in this career; a great part of Europe and Italy have either been conquered or revolutionized, and the rest paralyzed. Africa now bends under its weight, and Asia is threatened, and trembles for its fate; and, after having extended their arms to every other quarter, if they could get together a navy for the purpose, he should expect them to make the attempt upon us. We ought, therefore, Mr. P. said, to prepare to meet such an event, be the expense what it may, though he did not expect it at present. France, said he, seems to have seized the truncheon of Mars, and and wields it successfully in two quarters of the world, and yet she is not satisfied—and Neptune has yielded his trident to Great Britain; but we may expect, at some future day, when our unfledged Eagle has attained full plumage and vigor, that it will explore its vast aquatic domains, and snatch the trident from the hands of proud Albion, and bring it to America. That day may be distant, but the time must come, when the United States will give laws to the world. If so, he hoped we should make them good, and let the family of mankind be happy.

But the gentleman from Pennsylvania says, we are raising a navy to carry on a trade, one half of which does not consist of the produce of this country, or of articles consumed in the country. Mr. P. thought this a happy circumstance; it gave full employment to our seamen, to our carpenters, smiths, &c., and enabled the owners of our forests to dispose of their timber to advantage, and was the means of keeping up a valuable nursery of seamen; and, said he, it is as natural for men, born on the sea shore, to seek for a living upon the sea, as it is for men, born in the woods, to live by game.

And is it not reasonable, said Mr. P., that our citizens, engaged in commerce, should have their property protected; for, if persons from the back woods, bringing down their produce by land or by water to market, were met by a banditti who should take it from them, would they not have cause of complaint, if no redress was afforded them? If so, they certainly would; and some defence ought to be given to our citizens on the ocean, to which we have more right than any other nation, having a more extensive margin on the water than any other Power in the Northern hemisphere.

The gentleman from Pennsylvania spoke of the Hanse towns as having great trade and no navy. It would not be in their power to maintain a navy; they depend for protection upon the armies of Germany. These free towns are left, by common consent, to supply the belligerent Powers with what they may have occasion for. We have no neighbors near us who can do us any injury; and he hoped this country would never be guilty of aggressions towards other nations, which should give cause for war. He believed we have nothing to apprehend but from France; but when she had accomplished her other objects of conquest, she may turn her attention to this country.

The gentleman from Pennsylvania says, our produce has sunk in value. This, said Mr. P., is certainly not correct. There never was a time before the present war when our produce was so high as at present. Tobacco never brought so good a price; and wheat and flour sell equally well.

But the gentleman says, we carried on our last war without a navy. This was not so; we had a small navy, but we were unfortunate with it. Our harbors were in the possession of our enemy. It would be recollected that thirteen frigates were ordered to be built by the first Congress, but they were mostly destroyed in our harbors. Our privateers, however, did much service.

Had it not been for these, and the few vessels of war of the United States, we should not now have had our seats in this House. It is well known when General Washington invested Boston that he had not power to carry on a siege, and had it not been for the capture of a British ordnance and store ship, by a schooner of the United States, he must have abandoned the investment.

Grant our merchants this navy, said Mr. P., and they will spread our sails in every part of the ocean, and by that means keep up the price of our produce; but, if this is not done, it will be left to foreign nations to come and bring our produce, and give us what they please for it; and give us in return articles, which we require, at their own price, as in times of war many merchant ships are employed in transport service.

Mr. P. was sorry to find that, in all the observations which the gentleman from Pennsylvania made on this subject, he insisted that but for this navy, the loan and land tax would be unnecessary. Why does not the gentleman tell the House that more than two-thirds of our whole revenue is received from customs, and that only three-fifths of what is received from commerce is now asked for a navy? He tells you the people in the back parts of the State of Pennsylvania are unable to pay their taxes, except Government spends more money among them than their taxes amount to. He did not know what sums might hereafter be spent in that part of the country, but he knew that all the great expenses of the Government, since its existence, except what has been paid to the Barbary Powers, had taken place in that part of the country. Upwards of seven millions of dollars have been expended in the Western country in quelling the insurrection, and in keeping up an army on the Western and Southwestern frontiers.

The opposition to this measure appeared to Mr. P. to be of a piece with the opposition which had been shown to all the other measures of defence which had been proposed. If any part of the country would be more particularly benefited by a navy than another, it would be the Western country, as their produce will be convoyed from New Orleans by it.

Mr. P. said he should make no further observations on this subject; nor should he have made these, but for the remark of his colleague, which he had noticed; and concluded with saying, that few on this floor were more affected by taxes laid than him, as there was none which he did not pay except that of retailing wines and spirits.

Mr. Otis observed, that the gentleman from Pennsylvania, in the first stage of his argument, had contended that the naval armament proposed by this bill, in addition to the present establishment, would not be sufficient to protect the country against an invasion by the superior fleets of Europe; yet, in the conclusion of his discourse, he supposes our navy traversing distant seas, navigating the Baltic, in aid of Russia, and the Mediterranean, to fight the battles of the Turk, and pursuing projects of conquest and dominion to which powerful navies only can be adequate. Did the gentleman rely that the House would forget the ground which he first assumed, or had he forgotten it himself, in wandering into the fields of imagination. In these excursions it must be acknowledged the gentleman was not so fortunate as when he confined himself to facts and sober reasoning. Mr. O. believed, however, that a small navy would be instrumental in defending the country from invasion; though the danger of invasion being remote, did not furnish the most urgent reasons for an immediate augmentation of it. Let it be remembered, that whenever this country is invaded, it will not be by the entire fleet of any European nation, but by a detachment only of such squadrons as can be spared from its own coasts. The situation of the country also affords reason to hope and believe that we shall not be suddenly involved in any European war, singly and alone. It is by the collision of other nations that our peace is endangered, and this danger will be diminished by qualifying ourselves to act as a powerful auxiliary upon the sea. When gentlemen contend that we have never been defended by a fleet, let them beware of derogating from the claims of France in effecting our independence; let them not incautiously deprive our former allies of any portion of their merit. He had never been charged with doing them too much justice, but he readily allowed that the small fleet sent to our assistance by France enabled us to strike a blow which hastened the termination of our controversy with Great Britain; and it could not be doubted that a moderate Navy would be always essentially useful in protecting the entrance of our rivers and harbors, and in the convoy of troops from one part of the continent to another. But, further, said Mr. O., an argument drawn from the comparative weakness of any fleet which we are able to equip, in

competition with such a force as may possibly be sent against us, is equally conclusive against the fortification of our ports and harbors, none of which are, or probably ever can be, made impregnable against an invading enemy. The objection is as strong against the fort now building in the Delaware as against a ship-of-the-line; it applies no less to the Army already established, which would be insufficient in itself to protect the country. It is by multiplying the means of annoyance; it is by the co-operation of fleets, of forts, and of armies, that our security must be provided for. The gentleman from Pennsylvania had proceeded to assert that at least one-half of the commerce of this country consists in the carrying of foreign produce and manufactures, from which the agricultural interest derives no direct emolument, and for which it is unjust to tax them with the support of a navy. If this assertion be true, why will not that gentleman permit us to institute a navy sufficient to protect the other half, consisting in the carriage of domestic produce? But it is not true. This doctrine, he supposed, had been a long time cherished by that gentleman, but he did not expect to hear it so boldly avowed on that floor. The carrying trade of foreign commodities was not, indeed, so beneficial to a country as the carriage of articles of home growth and manufacture; but the one actually promoted and augmented the other by increasing the number of ships and of seamen. Has not, said he, the exportation of our own produce increased at the same time that our carrying trade has increased? And is not the portion of our shipping employed in this exportation fully equal to the demand? Are not the riches acquired by this trade brought home and expended in productive labor, and circulated through every part of our country? Is not a portion of the surplus medium acquired by this trade laid out upon land, by which its value is increased, and its improvements advanced? And are not the landholders and cultivators directly interested in these consequences? Surely, all who had heard the argument of the gentleman on this subject must have been filled with astonishment. These objects are essentially connected, and this country is calculated to combine both with advantage.

Another assertion of the gentleman from Pennsylvania appeared to be addressed to those who had never read the history of any commercial nation, or extended their views beyond the limits of their own country. He insists that the commercial prosperity of other countries has not been promoted by their fleets; and instances Holland as a nation possessing an extensive commerce with a small fleet, while Spain has a powerful fleet and no commerce. Mr. O. said, that in defiance of that gentleman's assertion, he was ready to maintain that no nation on earth had ever carried on an extensive and prosperous commerce without the aid of a navy. The navy and commerce of Holland grew up together, and her colonies, the source of her opulence, were acquired and protected by her fleets. The commerce of Spain was originally extended and protected by a naval force; it has been ruined by an erroneous course and direction, in consequence of the discovery of the American mines. When the commerce of the Hanse Towns was in its zenith, their fleet commanded respect in every sea. France, prior to the administration of Colbert, was respectable neither as a commercial or naval Power. That Minister bent his attention to a navy, and her trade flourished beyond all former example. All these countries have declined in commercial importance, not because they had great navies, but because they were in the neighborhood of a nation who, by more persevering efforts and attention to a navy, has defeated their fleets and supplanted their rule. Why, sir, did the gentleman mention Hamburg? Do we not know that all the nations of Europe have a common interest in preserving Hamburg as a mart during the present war; and that this city is under the special protection of a powerful Monarch? Yet, with these advantages, Hamburg has preserved her commerce and her privileges by becoming tributary to France; by sacrificing her independence to a mercantile, calculating, sordid spirit—a spirit which France expected to find predominant in the policy of this country, and to amerce in the same way; but they mistook the character of our people. When we become a nation of merchants without public spirit, or of farmers destitute of patriotism; when our moneyed men shall be ready to yield their liberties and preserve their capital, then, and not till then, we may be likened to Hamburg. It might be shown that other Republics besides those mentioned by the gentleman—that Genoa, Venice, and, in a word, that all commercial States, ancient and modern, attained the summit of prosperity and opulence by means of their naval equipments, and that their trade and their navies decayed and perished by a common fate. And it would be not less easy to show that the destruction of both has been accelerated by internal dissensions by want of confidence in their own Governments, and by the delusion and siren songs of those who lulled them into a false security while danger was near.

Mr. O. said, it would hardly be expected that he should reply in detail to the speech of the gentleman from Pennsylvania, the materials of which appeared to be collected at the expense of much time and labor, and which was delivered at a moment when least apprehended by the House. That gentleman had exhibited new calculations of the expense attending this armament. It had, however, been shown, by incontestible documents, that our ways and means for the present year were abundantly adequate to all our expenses. The true question returns, Is the augmentation of the Navy a measure essential to the public welfare? The calculations of the gentleman are founded on the assumption that this fleet is to be supported upon a war establishment; but this will not happen unless we should be engaged in a war or exposed to the danger of it, and in that event the fleet must be supported, cost what it may. But if we escape a war, and maintain the fleet only upon a peace establishment, a very small

portion of the estimated expense will be sufficient for that object. It has been urged that ships which are now to be put upon the stocks cannot be gotten ready for any present emergency; but we must regard the future as well as the present; and the objection would be alike pertinent against building forts, completing the buildings at the Federal City, or any other measure dictated by a prudent foresight.

The gentleman from Pennsylvania has introduced the subject of the new loan, and of the rate of interest proposed for that loan, and takes it for granted that money will not be borrowed hereafter on better terms. With respect to this loan, it was necessary to open it on such terms as would insure its being speedily filled. To permit it to lie open month after month would have made a very unfavorable impression of our resources, and of the disposition of the people, upon France and all Europe. The precise rate at which money could be obtained, could not be ascertained before a trial, unless the loan had been confined to a few rich and speculating characters. In order to make sure of it, it is possible that half per cent too much may have been offered. But in several of the States the legal interest of money is seven per cent; and in all the States the market rate of interest is much higher. This loan is a first experiment, and if it should be filled with greater eagerness, future loans may be opened upon reduced terms, though he did not believe that recourse to this measure would be necessary hereafter. The revenue of the country from indirect taxes constantly increases, and he thought that additional duties might be laid upon imports which would produce from one to two millions. But however that may be, if it should become necessary to borrow twenty millions, to preserve our independence, or defend our country, we must meet the expense without repining. The greatest economy in our public expenses was indispensable, nothing should be squandered, but the liberty and safety of the country were objects not to be estimated by money. That gentleman, indeed, has condescended to show us a mode whereby much money may be saved. By undoing the defensive measures of the last session: disband your army, dismantle your ships, call in your cruisers, proclaim to the world that you are reconciled to France, and are convinced of her sincerity! Confess that your late professions of a determined spirit of resistance, were the ebullitions of a temporary enthusiasm; that you mean to save money, and for that purpose will desist from raising an army or a navy; that with folded arms you are ready to receive and patiently endure the blows of the first ruffian that assaults you! Adopt this system and doubtless some present savings may be made. He declared, however, that he saw nothing that should induce the House to relax a single measure of defence, or to repent of the vigorous measures already adopted. For himself he gloried in the inconsiderable share which had fallen to him in providing for the defence of the country. Under present circumstances he should adhere to every tittle of the system, unless compelled to relinquish it by a majority of that House. A departure from that system upon slight suggestions and vain hopes, would be truly degrading, and would prepare him to bid farewell to the independence of his country.

Another favorite object of the gentleman from Pennsylvania, seemed to be, to connect the Navy with the land tax, doubtless with a view to transfer the odium and prejudice created by that tax to the Navy; but only a few years since that gentleman wrote an elaborate treatise to prove that our ordinary revenue would not be equal to the current expenses and discharge of the public debt without a land tax, and at a time when no augmentation of the Navy was contemplated. What has been the result? The increased means, and rapid growth of our prosperity, have baffled those calculations, and he now contends that we might dispense with the land tax, but for the Navy, although other expenses have considerably increased. Mr. O., had no faith in the former calculations and predictions, and doubted not that the present ones would prove equally fallacious.

Another argument had been drawn from the scarcity of money. In the part of the country where that gentleman resides, he believes there will not be found money sufficient to pay the taxes already imposed by law. If this be true, said Mr. O. that a part of the people are unable to pay their taxes, it is very clear that Government cannot receive them, and in the end they must be released; but surely people in this situation were not entitled to be gratified at the expense of those who were able and willing to pay. Shall the body of the nation be deprived of their natural protection, and compelled to relinquish a favorite plan of defence, because that plan is unpopular with a set of men who cannot pay their taxes! Surely those who are disposed to contribute to the public defence, should not be prevented by those who are neither able or disposed. Mr. O. could not forbear to express his regret at hearing an argument, the main tendency and design of which was to array the commercial and agricultural interests of this country against each other. He had often touched upon this topic, and was persuaded that a more odious, a more ruinous division of parties could never be established. If the body of farmers can be persuaded that their interest in the State is distinct from that of the body of merchants, party dissensions will acquire a malignity that will be appeased by nothing short of the destruction of the Constitution.

He concluded by again declaring that he did not rise with the intention of attempting a minute reply to the speech of the gentleman, but only to such of his observations as appeared to him deserving of the most attention.

Mr. S. SMITH said he meant to have given a silent vote on the passage of this bill, because he thought the subject had heretofore been sufficiently discussed; but the distinction which the gentleman from Pennsylvania has drawn between the agricultural and commercial interests of this country was so invidious, that he felt himself called upon to offer some remarks to the committee.

The gentleman has stated this as a new system, as a new era in our affairs. Mr. S. denied that this was the case. The system had commenced at the last session; 74-gun ships were then mentioned, and authority was given to the President to provide six ships of not less than 32 guns; under which authority it was well understood he might have built 74-gun ships. It was found that 74's could not be built so speedily as to answer the exigencies of the case. Indeed, at the time the Department of the Navy was instituted, it was understood that it was done with the view of establishing a permanent navy for the United States, as well as with a view of economy in the expenditure of money in that department, the necessity of which had been shown in the extravagant expenditures which had taken place in the building of the frigates.

Mr. S. did not believe our present Navy had had all the effects ascribed to it; but he believed that it had shown to France, that we were determined not to submit to their unjust treatment, and were able to resist.

Mr. S. said, he was not one of those who believed that the amount of the depredations committed upon our commerce by France was anything like twenty millions of dollars. He did not think they amounted to more than six or seven millions; he grounded his opinion on the following information. The two insurance offices at Baltimore, agreeably to an actual statement from their presidents, had paid for losses sustained by French captures, 550,000 dollars. He had estimated the sums not insured, or paid by the other officers, at 450,000 dollars, making one million for the city of Baltimore. The documents on the table show the commerce of Baltimore to be equal to one fifth of that of the whole Union; the losses might therefore be estimated at the same proportion. This would be five millions for the United States. He therefore conceived that seven millions would be a high estimate.

By a letter which he had seen from the President of the North American Insurance Company, he found that, since the British Treaty, the proportion of French depredations to those of British, had been as two to one. He believed this statement to be correct, it corresponded with the losses sustained by Baltimore. In this estimate the seizure of contraband goods was not included.

But it has been said, that our Navy has rendered little or no service. In his opinion, the contrary would appear to be true, from a statement of the North American Insurance Company, quoted for a different purpose, by which it appears that our commerce has suffered less within the last six months from French than from British captures. He believed the fact, which shows that our armed vessels have effectually protected our commerce against French cruisers.

The gentleman from Pennsylvania, in Mr. S's opinion, has taken the subject on its true ground, when he considered it as connected with the general interests of the United States. Considering the subject in that point of view, he had classed his arguments under three heads, viz: as a defence against invasion, as a protection of our commerce, and as an instrument of power; and has endeavored to prove that it will answer neither of the two first purposes, that it will merely become an instrument of power, and therefore he is opposed to it.

Mr. S. did not believe that any gentleman contemplated an invasion at present; but is this any reason why it may not hereafter be attempted? The navy of France, it is true, is nearly annihilated. We have seen it similarly situated in the days of monarchy, and raised again in the course of one war, so as to meet the British with equal force; and he supposed they would not do less under a republican than under a monarchical Government. He did not think, therefore, that we ought never to apprehend an attempt of this kind. He was not, however, afraid of an invasion; nor do the American people fear it. It was for the general good of the nation that he wished a fleet. When the people of the United States associated and formed one National Government, it was for their mutual good. When was protection refused to that part of the country from which the gentleman himself comes? Did any member now in favor of the Navy oppose protection to the Western country when it was wanted? They did not; and they have a right to expect, in their turn, protection to commerce, on which the welfare of all depends. Can it be expected, that that quarter of the Union, which depends as much on shipping for support as Great Britain does upon her manufactures, will be contented without this protection? And would the gentleman from Pennsylvania be willing to give up the advantages of our carrying trade for the paltry consideration of a few millions of dollars? He hoped and believed that equal protection would be given to all our citizens who are equally entitled to it.

But the gentleman asks, what will six 74's do? He should recollect, said Mr. S., that we contemplate twelve 74's, and with these we shall be able to do much. When the nations of Europe are at war, we can throw our force into the scale against that nation which shall dare to insult our commerce; or it is probable that the idea that we may do so, without our doing it, will preserve us from insult. Let it be considered that the European Powers are compelled to pass by our doors when returning from their West India possessions; and if they attempt to trample upon our trade, we can send these vessels out, and seize upon their commerce, without contending with their naval force.

Gentlemen opposed to the Navy have said, Great Britain will prevent France from coming against us; but shall we depend upon and throw ourselves into the arms of another Power for protection? It had never yet been our custom to do this, and he hoped it never would.

The gentleman from Pennsylvania has spoken of our extraneous trade; that out of 61 millions of exports, 33 millions were of foreign production, which, according to that gentleman, only benefits the merchants of the United States; but, said Mr. S., this extraneous commerce is the produce of the labor and industry of our citizens, and it certainly must be of advantage to the country, that a commerce of 61 millions has been carried on with a capital of 33 millions.

But the gentleman from Pennsylvania says, that Holland carries on an extensive commerce without a navy; and that Spain, with a navy, has no commerce. Mr. S. did not know where the gentleman got this information, but certainly it is far from being correct. Whilst Holland possessed a navy, she carried on an immense trade; but, as her navy declined, in the same proportion did her commerce decline. At present, Holland is not a great trading nation in her own ships. Spain, it is said, has little commerce. She has, on the contrary, said Mr. S., immense commerce; she has enough to employ the whole of her capital within her own dominion. This commerce is so valuable, that it has always been an object with Great Britain, in time of war, to fall upon the commerce of Spain, in order to pay for her hard fought battles with France.

The gentleman has also spoken of the Hanse Towns. They had, said Mr. S., at one period, a navy superior to all the world; and compelled the King of England to receive their merchants, and give them exclusive privileges, even in London, otherwise they captured their vessels. Great Britain attempted to crush them, but did not immediately succeed; she increased her navy, succeeded, and the navy of the Hanse Towns fell, and with it their commerce.

But why, continued Mr. S., does the gentleman compare this country with Hamburg—a single city—a spot of earth compared with a great nation? Is the trade of Hamburg carried on by their own ships? No; by our ships, and by the ships of all the world. By a reference to the statements on the table, it will be seen what a small quantity of the Hanse Town shipping visits our ports. A great part of their trade is carried on in Danish and Swedish bottoms. When Great Britain attacked the commerce of neutral countries, Denmark and Sweden armed, and obtained a settlement of their differences. Indeed, the European nations depredate upon us because of our weakness. He trusted, since we had discovered something like a disposition to defend ourselves at sea, we should not now act a contrary part.

It had been said we should not be able to man our ships. We were told the same story, said Mr. S., last year; that our sailors would be taken to man our ships of war, and our merchant ships would not be able to get men. But no scarcity had taken place until lately, when such a spring had been given to commerce in consequence of the security from our little fleet, as he had never before witnessed.

The gentleman has asked, how it was that Hamburg carried on its commerce without a fleet? It had been shown, said Mr. S., that it was protected by others. They have money, and what they cannot do with men, they do with money. They have paid France twice for their neutrality, and probably they will again be called upon.

It is said that our fleet will be attended with greater expense than profit. But, said Mr. S, there is something like honor; and to make a calculation of this kind, would be to say that all nations might rob us with impunity.

The gentleman from Pennsylvania observed, that our commerce had increased, notwithstanding all the spoliations which have been committed upon it. This, said Mr. S., has been owing to our neutral situation, and the enterprise of our merchants. But, notwithstanding, he adds, our produce has fallen in value. For a while, Mr. S. said, it fell; but, as soon as our commerce was in some degree protected, it rose again, and tobacco was never so high as it is at present. Flour has also lately risen; indeed, all our produce has risen, in proportion to the protection which our commerce has received. But the gentleman says, the farmer pays more of the expense of the protection of commerce, and receives less of profits, than the merchants. This, said Mr. S., was making an invidious distinction between them. The gentleman cannot himself think this a well-founded remark, or such an one as can have any effect in this House; he means it to have an effect elsewhere. It is impossible for a merchant to be benefited, without the farmer being also benefited at the same time. What was our situation in 1789, when this Government commenced? Our agriculture was at a low ebb, and our trade oppressed by foreign nations. Commerce almost instantaneously sprung up, and flourished, and agriculture followed; and we now, on every field, view the blessings which have everywhere flowed in their train.

But the gentleman from Pennsylvania is of opinion, that, if we had been possessed of twelve ships-of-the-line at the commencement of the present war, we should, ere now, have been parties in it. He was himself of a different opinion. He believed, that if we had possessed these vessels, Great Britain would never have issued her order of the 5th of November. She would have known that her vessels to the West Indies passed by our doors, and that we could, therefore, have retaliated upon her with ease. But knowing we had no naval power, she had acted as we have seen. France followed, and greatly exceeded her example. If we had possessed the fleet now proposed, neither our commerce nor our honor would have suffered in the manner they have done from either nation.

The gentleman from Pennsylvania also said, reject this bill, and repeal your army bill, and you will save money; but, said Mr. S., if these are to place the country in a strong posture of defence, he would not surely dispense with them for the sake of a little money. The natural defence of this country is a navy and a well regulated militia. If a plan which he proposed at the last session for newly organizing the militia, had been adopted, he should have been opposed to an army. But when he found he could not carry his point in putting the militia upon a better footing than it is at present, he thought an army absolutely necessary, and had voted for it.

But the gentleman says, the people in the coun-

try, and in those parts which have alwas been accounted the most federal, complain of the direct tax. They complain, said Mr. S., before they know whether any part of the tax will fall upon them? He believed very little would fall upon the country, but that it would be paid mostly by the cities. The people who are dissatisfied have yet paid nothing. They are told they will have a great deal to pay; he doubted not they would be satisfied.

The gentleman had expected that we might have gone on in a state of peace. So we might, said Mr. S., if the Powers of Europe would have let us alone. But, since they will not, we must have a navy to protect ourselves.

The question was then taken, and decided in the affirmative—54 to 42, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Ellmendorf, William Findley, John Fowler, Albert Gallatin, Jas. Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

DOCKS AND TIMBER FOR THE NAVY.

The bill authorizing the establishment of docks, and the bill authorizing the purchase of timber for naval purposes, were severally read the third time and passed.

Tuesday, February 12.

Mr. D. Foster, from the Committee of Claims, made a report on the petition of Comfort Sands and others, with a bill for their relief; which was committed.

Mr. Josiah Parker, from the Navy Committee, reported a bill fixing the pay of captains and commanders of ships and vessels of the United States; which was committed.

The amendments of the Senate to the bill respecting balances due from individual States to the United States, was taken up and concurred in. They went to give the right of jurisdiction to the United States of all places whereon fortifications should be built; but reserved to the States the right of soil, and the right of serving criminal and civil process therein.

The bill from the Senate for organizing the troops of the United States, and for other purposes, was read and committed.

A bill was received from the Senate, vesting the power of retaliation, in certain cases, in the President of the United States.

THE ALIEN AND SEDITION LAWS.

Mr. Livingston presented a petition from a number of aliens, natives of Ireland, resident within the United States, praying for a repeal of the alien law; which, having been read, he moved to have it referred to the same Committee of the Whole to whom had been referred the petitions heretofore presented against the alien and sedition laws.

Mr. Sewall objected to this reference. He said he held in his hand a motion, which he had, several times, in the course of the morning, risen to make in relation to petitions of this kind. He could not now offer it as a reason why he should vote against this motion. It had all along appeared to him that these memorials would have been better referred to a select committee than to a Committee of the Whole. As the subject of these petitions was the order of the day, he had intended, in order to save time and prevent unnecessary discussion, to have moved to discharge the Committee of the Whole from a further consideration of these petitions, with a view of afterwards referring it to a select committee. Indeed, he thought it important, whatever may be the result of the business, that an opportunity should be afforded of showing to the House, and to the Union at large, the nature of the complaints made against these laws, from whence, and from whom they came. Some of these memorials, it was seen, were presented by aliens, who not only complain of the alien law, but other acts of Congress, to which our citizens make no objection; and who, it is clear, said Mr. S., do not aim so much at obtaining a repeal of the alien law, as, by complaining of the Government of the Union, to spread a seditious spirit through the country. How far this was the case, he could not precisely say; but if the business was referred to a select committee, they would, of course, examine the merits of these petitions, and report their opinion thereon to the House. He hoped, therefore, the present reference would not be agreed to.

Mr. Nicholas hoped the gentleman from New York would withdraw his motion, in order to make way for that of the gentleman from Massachusetts. He had listened to the petition which had been read, and did not hear anything in it but what related to the case of the petitioners; but he thought they had gone further into a discussion of our Constitution than was necessary

for their purpose. He did not wish the petitions of our citizens to be blended with this.

Mr. Livingston had no objection to withdraw his motion, at the same time that he must say the objections to this petition are wholly without foundation. The object of these petitioners is to obtain a repeal of a law which is pointed at them, and at no other persons: and when aliens pray for a repeal of the alien law, shall we say to them, "You shall not use arguments which you think will induce us to repeal the law?" Certainly not. He would, however, withdraw his motion, as he did not wish to confound this petition with the petitions of the citizens of the United States.

Mr. Sewall then made his motion, "that the Committee of the Whole to whom has been referred sundry memorials for the repeal of the alien and sedition acts, be discharged from a further consideration thereof, and that the same be referred to a select committee to consider and report their opinion thereon to the House."

Mr. Macon said, he did not believe that any good purpose could be answered by this motion. If it was intended to save time, he was sure it would not have that effect. If a statement of the contents of these memorials is to be made, there will be as much time spent in agreeing to it as in considering the petitions themselves. The point on which the House has to act is single and distinct; the petitioners pray for a repeal of certain laws, and it is not surely necessary to employ a committee to give an opinion on the propriety of doing this. He apprehended that the effect of this motion, if agreed to, would be, that these petitions would not be acted upon at all. The House must adjourn on a certain day; and it was probable that the select committee might not report till within a few days of the close of the session. To prevent this effect, therefore, he wished the petitions now to be considered, and their prayer either granted, or rejected, at once. In the case of the British Treaty, when the table was covered with petitions, this was the course taken.

Mr. Nicholas observed, that by the remarks of the gentleman from Massachusetts, previous to making this motion, it appears, that this motion has a two-fold object; it is to inquire who the petitioners are, whether they are in circumstances such as ought to call for attention, and what are the grounds upon which they pray for a repeal of these laws. What have these inquiries to do, Mr. N. said, with the decision of this House upon the question as to the propriety of repealing the laws in question? Would the gentleman say, that he should be ready to yield to the petition of one description of persons, and not to that of another description? Could he say that anything could be drawn from these petitions, by analyzing them, which could influence the determinations of the House? He supposed the intention of this motion was, to give an opportunity to draw out reasons against repealing the laws, on a supposition that these laws will not be repealed. Mr. N. hoped this question would be decided on the reason of the thing, and that a question of importance, like that of determining whether these obnoxious laws should be repealed or not, would not be shifted to a select committee. He conceived this course was intended to evade the question, and to prevent that discussion which gentlemen are aware will take place on this question whenever it comes up. But gentlemen might as well suffer the business to take the usual course; for, if these petitions are thus referred, any person would be at liberty to bring forward a motion for the repeal of these laws, upon which the same discussion might take place as upon these petitions.

Mr. Hartley was in favor of the reference, because he thought the business would be better matured in a select committee than it could be in a Committee of the Whole. He had no doubt the committee would soon make their report; and when they do, the same opportunity will be afforded for debate that would be afforded in case the petitions were immediately acted upon.

Mr. J. Williams was in favor of the motion, as it would bring a distinct proposition before the House. He had a desire to see the petitions which had come to the House analyzed, as he found they were not only from our citizens, but from aliens; and also found that even the ordinances of the Sabbath have been broken in upon to obtain signatures to them.

Mr. Eggleston hoped this motion would not pass. This House, he said, must have two objects in view; the one to treat the petitions with that respect which is due to them, and the other to decide upon their merits in the least objectionable and shortest way. If gentlemen consult these two points, they will not concur in the present proposition. What will be the course taken, if the motion is not agreed to? The House will go into a Committee of the Whole, and, after one of the petitions has been read, motions will be proposed for repealing the two laws; and, if the present motion is agreed to, as his colleague had stated, distinct propositions for the repeal of the laws might still be brought forward. As he believed there was more wisdom in a Committee of the Whole than in any select committee, he trusted the reference would not take place.

Mr. Sewall said, if the question was an abstract one, whether or not these laws should be repealed, there would be propriety in going directly upon it; but, when gentlemen rely upon the arguments and complaints of the people to enforce the repeal, it is right that they should go to a select committee to be analyzed. As gentlemen are continually speaking of these memorials, it will be well to know from whence and from whom they come; and, as some complain of one thing and some of another, he wished to have the whole in one view, that the House may discover whether they speak in one voice, or in so many different and discordant tones, as ought to have no influence on the decision of the abstract question. He did not, indeed, consider these memorials as evidences of any real pressure upon the people, but as evidences of the seditious feelings and seditious principles; as proofs that they have

been deceived by those in whom they have placed confidence.

[The SPEAKER called to order.]

Mr. S. said, he thought it would be treating these petitions with respect, to have a statement of their contents on the Journals of the House; and, as he had no idea that the laws would be repealed at the present session, the report upon these petitions might suggest reasons to the people at large, which might satisfy them with their being continued in force.

Mr. McDOWELL said, the reasons for this motion were very apparent; they were, as the gentleman from Massachusetts had in part stated them, that an opportunity might be given of casting an odium on the petitioners, and of making an address to the people in favor of these laws; and, also, to prevent any discussion upon the subject, by putting off the report upon it to the close of the session.

Mr. LIVINGSTON said, the gentleman from Massachusetts had acknowledged that it was impossible to get rid of the discussion upon this subject, because any member even after the reference, may propose a resolution for a repeal; but the gentleman wishes to seperate the consideration of these petitions from that discussion. He is aware of the weight and respectability of those applications, and, therefore, wishes to hide them in the committee room, while we are debating on the subjects of which they complain. The gentleman, indeed, says, that these remonstrances are not produced by any real grievances; but, as he boldly and decisively pronounced, are the effects of weakness or imposition. Yet the gentleman says, that he knows so little of their contents, that he wants a select committee to inform him what are the subjects of their complaint. He has scarcely heard them read, is ignorant of their contents, and yet has no hesitation in saying that they could be signed only by knaves or fools; for this is the amount of the gentleman's observations. He trusted, however, that on so serious and solemn a subject, that gentlemen would not shut their ears to the complaints of their constituents; that they would observe, on this, the course which had been universal on former occasions, and reject the resolution.

Believing, as the gentleman from Massachusetts does, that these obnoxious laws will not be repealed, he wishes to find a justificatory memorial in the report of a select committee; it was natural for the gentleman, and all who thought with him, to wish this. They, indeed, wanted all the argument that ingenuity could devise, to reconcile the people to the operation of these laws. But, as I cannot yet believe, said Mr. L., that a majority of this House are determined to reject the complaints of the people; as I earnestly expect that the discussion will end in a repeal, I hope there will be no necessity for this report to justify the laws. Many gentlemen voted for these measures from an idea that, though violent, they were called for by the pressure of the times; others may have done so from the agitation naturally produced in times of party heat. The situation of affairs being now somewhat changed, and the warmth of party being, he hoped, in some degree, allayed, he could not but flatter himself that gentlemen, in the predicament he had described, joined to the new members of the House, would form a weight sufficient to incline the balance in favor of a repeal.

He trusted that no man would enter on the discussion so far prejudiced as to be deaf to the voice of prudence, to the complaints of his constituents, to a regard for the Constitution, and his sacred oath, in its support; all of which, in his opinion, called for the repeal.

Let not gentlemen, said Mr. L., deceive themselves, or hope to deceive the public, by this device. It will be understood, that every man who votes thus to hide the public complaints, will be considered as voting for a continuance of these laws. That the public might have full information on this subject, he called for the yeas and nays.

Mr. HARPER was glad the gentleman from New York had not again threatened the House with an insurrection of the people and of the States, because gentlemen happened to differ in opinion from him; but he has to-day come pretty near it. He says, if gentlemen do not listen to reason and prudence, they must look to the consequences. He did not know whether his former threat had produced effects which induced him, in this covered way, to repeat it. For his own part, he felt it as little now as he did formerly, and, notwithstanding appearances, he was inclined to continue the same course which had heretofore been taken. He did not know that it was the duty of a legislator to surrender his opinion, because that opinion is, in some parts of the country, and among a certain description of people, unpopular. He was disposed to meet the arguments of one gentleman, and the threats of another. He was convinced of the necessity of looking this thing boldly in the face. We will do what is right, said Mr. H., and if you throw out threats, we will not mind them.

The gentleman from New York said, that if the course proposed was taken, it would preclude all reference to the petitions. Mr. H. said, he was as much disposed to treat the petitions of the people with respect, as any gentleman could be; nor was he disposed to consider who are the signers of a petition, but what are the reasons it contains; and if, as he supposed, by adopting this motion, gentlemen would be precluded from referring to these petitions, he should be opposed to it; but the contrary is true; gentlemen may call for the reading of any one or the whole of the petitions if they think proper to do so. The gentleman from New York may place in array before the House all the petitions from the Northern Liberties to the streets of New York, and he may threaten us with their force.

[Mr. LIVINGSTON said, he made no threats, though the gentleman from South Carolina had several times said so, but he was not willing to interrupt him in florid harangue. Mr. L. repeated what he had said.]

Mr. H. remembered very well what the gentleman had said, and when he recommended prudence, with the peculiar emphasis which he laid upon it, he considered it a threat, as strong, though not so gross, as that which he used at the last session. If his speech on this occasion wanted any comment, he need only refer to his former speech, when he told the House, that not only the people, but the States, ought to rise and oppose this law. If the gentleman did not mean to use a similar threat at present, he ought to be more cautious in his expressions hereafter. The intention of this motion, Mr. H. said, was merely that the matter of these petitions should be arranged, so as to be better understood than it could be in its present state.

Mr. GALLATIN said, this motion was of a novel nature. He believed it had been an uniform rule in this House, that whenever petitions come which relate either to particular claims, or respecting the details of any law, or touching anything which requires a statement of facts, they are referred to select committees to report thereon. It is not less true that, when petitions of a general and abstract nature, praying for the repeal of a law *in toto*, and complaining of a measure in all its parts, all such petitions are uniformly referred to a Committee of the Whole House; and this, for a plain reason, because the question is perfectly abstract; it is, "Shall this thing be done or not?" Though he was desirous of giving due weight to the arguments of petitioners, yet they can have but partial weight, as the question itself is considered, and gentlemen adduce their own arguments for and against it, and the number and respectability of the petitioners never comes under consideration. In the case of the British Treaty, when the table was covered with petitions from one end of the United States to the other, no idea was ever suggested of referring them to a select committee, in order to give to the House information who the petitioners were, nor whether arguments had been used to deceive them by false information, or whether the people had been moved by their own free will to sign them. The subject was well understood, and the House wanted no information from a select committee. What, said Mr. G., will be the report of a select committee? Not, perhaps, the real arguments contained in the petitions against the alien and sedition laws, but a distortion of those arguments. If the gentleman who makes the present motion be employed to analyze these arguments, he will certainly enter upon the task with a prejudice against the petitioners; he will consider the petitioners as discontented and seditious persons, and will determine to find out sedition in the memorials; a fair statement could not be expected from a prejudiced committee. And it is to gentlemen who avow their sentiments against the petitions that the statement will be entrusted, and not to those who are in favor of them. Would it not be fairer, said Mr. G., to allow us, who are in opinion with the petitioners, to produce our own arguments, and to give those of the petitioners all the weight that we think they deserve, and leave to those gentlemen who are opposed to the petitioners the task of refuting those arguments. But the gentleman who makes this motion, has a novel object in view; he wishes the House and the people at large, to be informed of the names and characters of the petitioners. He agreed with the gentlemen from South Carolina, that these ought to have no influence on the decisions of the House.

Mr. G. had already said, that a correct statement of the arguments of the petitioners was not to be expected. Most probably the report of the select committee would contain an answer to those arguments. The object of this committee is influenced by public opinion; for though gentlemen may despise what they call threats from the people, (which indeed ought to be disregarded,) yet they are not beyond the reach of public opinion. Gentlemen may say so, and that they do not act under this influence, but when they vote on this ground, they act on a different principle. If gentlemen are not afraid of public opinion, if they are not afraid of meeting a discussion on this subject, why take the course now proposed—a course never before pursued?

At the opening of the present session, the gentleman from South Carolina brought forward a proposition for printing an extraordinary number of these laws, in order to correct mistakes which he said existed with respect to these laws. Yet, though this was not to make an address to the people, but merely to have the laws spread, the gentleman who makes this motion, and most of the other friends of the bill, voted against it. He himself, though he saw no necessity for the measure, voted for it; but the friends of the laws were for trusting to the good sense of the American people, and were not to be shaken by demagogues and public meetings. They therefore rejected the motion as extraordinary in its nature; but now the same gentlemen wish to take a course still more extraordinary, by directing a committee to make an address to the people, in justification of these laws; of which, he supposed, they would wish to have 10,000 or 20,000 copies distributed among the people. Though this practice has been adopted by other Legislatures, he hoped it would not be adopted by this.

As to the laws themselves, he did not think that there is no probability of their being repealed. He believed that there is a probability that the sedition law will be repealed at this session, at least so far as relates to this House; as he knew it was passed by a majority of only three votes; and if there had been no change of opinion since that time, in members who then voted for it, as a measure of defence; as several members are now in the House who were not then here, and as he could not help believing that at least all who had not already voted for this law, would now vote against it. He did not wish, therefore, to sanction any motion which would have the appearance of prejudging the question. Besides, if any arrangement of the arguments contained in these petitions were to be made, it ought to be done by a person friendly to them. Mr. G. acknowledged that the gentleman from South Carolina (Mr. HARPER) possessed very superior talents, and that he could arrange

any crude mass of matter much better than he could do it; but I will submit it to the candor of that gentleman, said Mr. G., whether it would not be more fit for me, who am friendly to a repeal of these laws, to state the arguments in favor of a repeal, than that he should do it; and whether, notwithstanding my inferiority of talents, I should not be likely to state them in a stronger manner than he would state them?

Mr. G. thought, though threats ought to be despised, the public opinion ought to be attended to; and, if so, he hoped the laws in question would be repealed, and that a course of action would not be adopted which, by producing considerable delay, may prevent the subject being acted upon at all. An instance had occurred during the present session in which the public opinion had been respected. He alluded to the repeal of that part of the law, passed at the last session, for valuing the houses and lands, and enumerating the slaves in the United States, which relates to the measuring of windows, &c., which, from its having created discontent among the people, from an apprehension that it was the forerunner of a window tax, had been at this session repealed, without attributing the dissatisfaction, which had been shown on account of it, to a seditious spirit, especially as it was found no way essential to the law. He thought it would be well to suffer the like considerations to have weight on this occasion. The petitions which have been received ought to be taken as a proof of discontent with the laws in question, and though the arguments made use of in support of the prayer of the petitioners may be bad, we ought to pay respect to them as symptoms of real objections against these laws, and if the laws are not found to be essential, they ought to be repealed.

Mr. G. said he could foretell, without much chance of being mistaken, what kind of report might be expected. It would be doubtless stated that the arguments of the petitioners are weak and contradictory, and this representation would be accompanied with reasons for continuing the laws. He supposed this report would be accompanied with a negative resolution that it is not proper, at this time, to repeal the laws in question, upon which the same opportunity for debate is not afforded as upon an affirmative proposition. Or, perhaps, instead of a repeal, the committee may propose some trifling amendments to the laws, and, by that means, exclude from debate the question of repeal.

Upon the whole, as no good could arise from pursuing this course, as it will be acknowledging the propriety of publishing addresses to the people, and not being willing to trust a select committee to analyze the petitions, he should vote against this motion.

Mr. Harper observed that the gentleman from Pennsylvania had spoken of threats, as if he (Mr. H.) had represented the memorials upon the table as containing threats. He had no reference to them. He did not hear any of them; if he had, he certainly should have opposed the reference of any such.

Mr. Livingston said that he could not imagine which of his observations the gentleman from South Carolina alluded to, when, in the former part of his speech, he quoted him as having threatened the House. But, as he was unwilling to spoil a florid language, he had not interrupted the gentleman to make the inquiry. He had at length discovered, and with some surprise, that the threat was contained in his recommendation of prudence. This was the first time, Mr. L. said, that the recommendation of a virtue had been construed into a breach of its precepts. The gentleman's public conduct, he would, however, assure him, would always have prevented his undertaking the hopeless task of enforcing the practice of this virtue upon him; but he really thought that he might, without a crime, recommend its observance to the Legislature of the Union, and that it could not be construed into a threat of arraying the citizens of the Northern Liberties against them. It was certainly a bitter satire on the proceedings of the House, to say that prudence was so utterly discarded, that the name ought not ever to be mentioned within its walls. For his own part he did not believe this to be precisely the case, but must be allowed to say that prudence and deliberation were as necessary to public bodies as to individuals; and that, as he himself had frequently been reproved (perhaps justly) on that floor, for a disregard of this virtue, he thought he might, without offence, recommend it to the House.

Mr. Shepard thought gentlemen seemed to be afraid, that when these petitions came to be looked into, they would be found to contain no solid reasons for a repeal, and that they are ill-timed. He originally voted for these laws, and he had seen no reason to repent for having done so. He considered them as essential to the rights and privileges of the people as any law upon our code; and, as the mode proposed will be likely to bring the business to a conclusion much sooner than any other, he trusted it would be adopted. Mr. S. considered the word "prudence," as used by the gentleman from New York, to imply a threat. He wished gentlemen could be more united.

Mr. T. Claiborne was opposed to this motion. It appears as if gentlemen meant to denounce certain parts of the country as seditious, and to declare that their petitions are unworthy of attention.

Mr. Bayard thanked the gentleman from New York, (Mr. Livingston,) for the prudence he had recommended to the House; but he should have thanked him more, had he explicitly declared what he meant by prudence. Prudence, generally speaking, was to be deemed a virtue; but he was not certain that what that gentleman pleased to call prudence, would be considered by others entitled to that appellation. The enthusiasm which the gentleman affects for the liberties of the people might lead him to say that it would be prudent to oppose by force, instead of by petitions, the execution of the laws in question. Nor was this simply matter of conjecture that such a thing might be recommended by the gentleman. It was doubtless fresh in the memory of the House, that

at the last session, when one of these bills was under consideration, the gentleman, in his place, had publicly called upon the people, and upon the State Governments, to oppose the law, and prayed to his God that it would be opposed. He had affirmed it to be an unconstitutional law, and therefore void, consequently not binding on the people, and, therefore, that they had a right to oppose it by force. By this recommendation, any segment of the people, no matter how small, how uninformed, without official character—nay, any individual, or description of persons, who thought proper to call themselves the people, were to oppose their judgment to the solemn, deliberate opinion of the Representative Legislature of the Union, clothed with the sanctity of all the forms of law. This was a specimen of the prudence of the gentleman from New York.

Mr. Livingston interrupted Mr. Bayard, saying he must pray the decision of the Chair upon one point. Is it in order, in debating a question now before the House, to allude to arguments which took place at a former session; if it be, how are those arguments to be correctly quoted? and to whom, when members differ, are they to appeal? He had been made to say, by the gentleman from Delaware, that any inconsiderable section of the people might oppose the laws by force; an idea he abhorred and had never expressed. If gentlemen are to be indulged in these misstatements, he must be permitted, in future, to go into a full defence of what he had said at the period alluded to. The frequent allusions to his sentiments on that occasion made it a duty which he should faithfully perform, when a proper opportunity offered, to defend the doctrines he had then stated, to show that they were such as he ought to glory in, rather than palliate or excuse; but, in the meantime, he would request gentlemen, when they did him the honor to refer to that speech, to quote his expressions truly; to give them in their connexion with other arguments, and not impute to him doctrines which he detested, or words which he never uttered.

The Speaker said the sentiment delivered by the gentleman from New York, at the last session, and now referred to by the gentleman from Delaware, was, "that the States ought to resist the law, the people ought to resist the law, and he hoped to God the people would resist the law."

Mr. Livingston appealed from the decision of the Chair, because the Speaker had undertaken to state, from memory, the precise words which it was said he uttered twelve months ago, without giving the arguments with which they were connected, and because the statement itself was materially incorrect, as he would proceed, if it were in order, to show. [The Speaker here called to order.]

The decision of the House on the point of order was carried—57 to 29, in favor of the Chair.

Mr. Bayard conceived that it would really be prudent for the gentleman to attempt a defence of his conduct on this subject. Ingenious speeches as he could make, he apprehended he would find it a difficult task. The Chair had stated the words he had made use of, and so plain a commendation of insurrection could never be forgiven by any honest man in the country. He might possibly derive credit for his conduct in the eyes of some people; but an esteem earned by such conduct, in his opinion, was in no degree enviable.

Mr. B. said he had alluded to the memorable declaration of the gentleman at the last session, as connected with, and in some degree explaining, what at present was to be understood by the gentleman's prudence. He believed, with the gentleman from South Carolina, (Mr. Harper,) that it was intended as a threat. It was as much as to say, if you do not voluntarily repeal these laws, the people, according to the advice given them, will rise and compel you to repeal them. Understanding, as he did, what was meant by the gentleman's prudence, the last quality he should be ambitious to possess would be such a prudence.

Mr. B. did not believe, with the gentleman from Pennsylvania, (Mr. Gallatin,) that the laws in question would be repealed; and yet he believed that the gentlemen on the other side of the House would accomplish their object. It was not his opinion that there was any sincerity in the anxiety expressed by some gentlemen for the repeal of those laws. The means were apparently directed to one object, but in truth designed for another. The noise and clamor excited by a party against the alien and sedition laws, he was satisfied, were intended solely to divert the public mind from another subject. The acts and sentiments of this party had long associated them with a French interest. There was a moment when they had a pride in avowing the fact, and enjoyed the benefit of it, when the torrent of revolutionary opinion threatened to prostrate every mound of Government and social order. In this moment of delirium, they willingly enough connected themselves with the French interest. The few years which had since elapsed had completely developed the French character, and opened the eyes of the nation. We have seen that country deluged in innocent blood. We had beheld religion banished, and a system of crimes substituted in its place; principles the most sound, ridiculed and violated; age, sex, innocence, without respect or protection; and, added to this, a long train of acts had proved their Government to be actuated by a spirit of the most inordinate and unprincipled ambition. A spirit which manifestly aimed at universal empire. A spirit equally and ever disposed to accomplish its objects by the most daring outrage of power, or by the meanest artifices of intrigue.

These things had awakened the country, and had pointed out the precipice they had approached. The *ignis fatuus* which lately glittered before their eyes, has now lost all its attractions. This is well known to the party who formerly profited so much by French influence in our country. They have felt the shock, and have been sinking under the decay of the French spirit among us. It became necessary to throw out another tub to the whale.

It was necessary to sever their connexion in public opinion with the French interest, and to

establish a new foundation of popularity. The attack upon the sedition and alien laws is the commencement of the new plan of operations. To create a clamor against a public measure, it is necessary only that the signal should be given by the leaders of a party. When the gentleman from Virginia, early in the session, gave notice of his design to move for the repeal of these laws, he must have known that he was scattering firebrands through the United States. The thing was designed to put in activity every restless and discontented spirit in the country—to overwhelm us with petitions and remonstrances.

The SPEAKER said, it was not in order to speak of the motives of a member's conduct.

Mr. BAYARD said he could discover no other effect attending a motion to repeal these laws, than an increase in the rage and virulence of party. The complaints against these laws were visionary. There was not, nor had there been, a man in the United States who felt the operation of the alien law. He had not understood that it had been executed against a single individual. It proved the power given by the bill had been safely delegated. If there have been any sufferings from the bill, they have been only the affairs of imagination.

He could have wished to have seen the law carried into effect. He had reason to believe there were many intriguers among us, employed not only to debauch the minds of the people, but acting as spies upon the country. In his opinion, it was the duty of the Government, required by the interests of the community, to send such aliens out of the United States.

Mr. B. said, that another reason which induced him to think that gentlemen could not be very anxious for the repeal of these laws, was the circumstance that they would expire by their own limitation, in a very short time. No case had occurred under the alien law; but one solitary case of exemplary justice under the sedition law; and when these acts were not to continue longer than they had already existed, what great national mischief could be contemplated. He thought he was warranted in saying, that the laws in question would have been allowed quietly to expire, if a party had not supposed that they had a great interest in exciting the clamor and discontent which had been raised.

The question, Mr. B. said, was, whether the reference should be to a select committee, or to a Committee of the Whole?

Now, the petitions on the table could derive weight only from two causes: 1st, the numbers who signed; and, 2dly, the reasons by which they were supported. It was more suitable to refer to a select committee, in relation to either of these grounds; because they alone were capable of ascertaining either the numbers of the signers, or the weight of the reasons offered in the petitions.

The gentleman from Pennsylvania has complained, that, if the reference were to a select committee, the report would be partial. Mr. B. said his suspicions on this subject belonged only to his own breast, and he hoped, for the honor of the House, had not entered the bosom of any other gentleman. He did not question the sagacity of the gentleman, but it was too much for any man to foresee that the Speaker would be partial in the appointment of a committee, and the committee partial in their report. The gentleman himself had frequently been appointed on committees—sometimes chairman of the committee—and might possibly be appointed on the present; and he could not suppose that the gentleman's habit of suspecting would carry him so far as to suspect himself.

But suppose, said Mr. B., the report should be favorable to the continuance of the laws, and its arguments should be answers to the allegations of the petitions. Will any one say the Government has not a right to defend itself against unfounded charges alleged against it? The petitions on the table he considered as the act of a party, the minority of the nation—many of them were abusive, and most of them inflammatory. And could there be any impropriety in a majority of Congress appealing to the better sense of the people, and disclosing the true and necessary ground on which the law stood? This was not avoiding a submission to the tribunal of public opinion; but it was simply bringing the subject fairly before the people, and furnishing them with equal means of deciding the merits of the points in dispute.

He conceived it was the opposition who were afraid of public opinion. The busy industry of the party had at present given them every advantage which could be derived from argument, artifice, or calumny. Every means had been employed to inflame popular discontent. We had seen a Legislature capable of the humble imposition of passing a law to secure the liberty of speech, though the meanest understanding in the country could not examine the sedition law, and suppose it extended to words, much less to debates, in a legislative body. The Government would be treacherous to itself, if, in order to resist these efforts, it did not enable the well disposed part of the community to judge of the grounds of its measures.

Mr. B. said, another reason operated in inducing him to vote for the petitions going to a select committee. It was in order that some inquiry might be made as to the manner in which they were obtained. He believed that very improper means had been employed in obtaining signers. He had reason to believe that many people had been imposed on in procuring their signatures; that the petitions were represented to them as being of a different nature from their actual import. If such frauds had been practised, they ought to be known, for petitions obtained in such a manner could not be entitled to any weight. From what had been recently experienced in this city, it was certain that the promoters of the petitions were capable of any arts or violence which tended to accomplish their object. We had seen the sanctity of a church violated—the holy services of religion interrupted—the devotion of a whole congregation disturbed, by a daring and insolent attempt to procure signers, and an outrageous

support of the attempt. Such conduct could be no inducement with him to repeal a criminal law; it showed the necessity of extending and invigorating the criminal code. Facts of this kind ought to be ascertained; a select committee was alone competent to the inquiry, and he should, of consequence, vote for such a committee.

Mr. McDOWELL said, the gentleman from Delaware has accounted in his way for the sentiments and actions of others, and has said that an attempt to obtain a repeal of the laws in question was made with a view of spreading firebrands among the people of the United States, and because the gentleman is a Federalist, and he says Federalists always speak the truth, he supposes that his assertion will be believed. Mr. McD. was of opinion the people would not concur with him in this statement.

The gentlemen from Massachusetts and South Carolina say that it is necessary to refer these petitions to a select committee, in order to draw from the heterogeneous mass of matter contained in them a statement of the arguments which they contain, and to bring forward an answer to them; to convince the petitioners of their errors, and that these laws are good and proper. The gentleman from Delaware was also of the same opinion, as if arguments could not be adduced by members friendly to these laws on the floor of the House, without sending to a select committee for them. The gentleman from South Carolina had candidly stated, that, if this motion should be agreed to, and a motion should afterwards be brought forward for a repeal, it would probably be referred to the same committee, so that this course might effectually prevent a discussion of this subject.

Mr. W. CLAIBORNE said, he had not yet learned the art of remaining silent, when he heard the most illiberal reflections thrown upon gentlemen in this House, with whom he generally agreed in opinion, and, consequently, upon himself, as making one of the number. These he had this day heard from the gentleman from Delaware, in a speech, which for illiberality was never exceeded even by that gentleman himself. It was one continued tissue of invective against gentlemen on this floor, and others who differ in opinion from him. To what superiority is that gentleman's opinion entitled over that of his fellow-citizens? Is it from his superior standing in the American world? Or is it from his superior patriotism, acknowledged by the people?

Among those gentlemen whom he has thought proper to abuse are men better known for their patriotism, better known for their virtues and public usefulness, than the gentleman from Delaware, or any of those with whom he acts.

Are we to be told, exclaimed Mr. C., that gentlemen who express their disapprobation of the alien and sedition laws, that the petitioners for their repeal, do not wish to obtain that repeal, but merely to spread firebrands through the Union, in order to excite disquiet and discontent among the people of the United States? And that they do this from an attachment to the French nation? Such charges, such illiberality, such untruths, were reserved for the gentleman from Delaware.

I was one, said Mr. C., who voted against the passage of these laws, and I shall vote for their repeal. I did it, and will do it, because I consider these laws bad laws, and that, instead of promoting the happiness of the country, they will only promote discord and discontent; and the gentleman from Delaware will not have the boldness to call in question the sincerity of my declaration. What is this tub, which that gentleman says is thrown out to the people of the United States to play with? That tub the freemen of the United States have themselves brought into discussion, by the memorials now upon the table; and, if this House acts with the prudence which the gentleman from New York so properly recommended to them, these memorials will receive the most serious consideration. For, let the gentleman from South Carolina make as light of it as he will, it is a serious subject. He has said, "We know these memorials are confined to party efforts; we know that the dissatisfaction which appears with respect to these laws has been excited by certain States." But, said Mr. C., does the gentleman call these States a party? Will he call the expression of a Legislature—a Legislature chosen from among the freemen of a State, as men most eminent for their virtue, their talents, and their love of liberty—will he say that the deliberate opinion of such a body is the expression of a party? Or that they are moved by party efforts? Or that they can be in the interest of a foreign nation, as has been insinuated? If the gentleman from Delaware does think this, there is not a man in the United States, whose mind is devoid of prejudice, and open to the conviction of truth, who will not disagree with him in opinion.

Mr. C. said, he should have been silent, had not the remarks of the gentleman from Delaware called him upon the floor; being up, he would declare his disapprobation of the motion, for this reason: because, if it succeeds, the petitions will be thrown out of view, and the committee may keep back their report until nearly the close of the session, which would be much crowded by business that must and will be attended to; and, of course, any discussion upon the subject, which he thought ought to be had, will be prevented. It was unfair. Mr. C. said, to insinuate that these petitions had been obtained unfairly.

The gentleman from Delaware tells the House that even the Sabbath has been violated in the procuring of signatures to these petitions. When the gentleman made this charge, he ought not to have made it general. If he had said, in a solitary instance, something of this kind had taken place, there might have been some truth in the charge.

Mr. BAYARD said he spoke only of one.

Mr. CLAIBORNE said, and that one is not included in the present motion, as it is not referred, but lies on the table; and he believed no charge of irregularity could be brought against any of the others, and he trusted they would be treated with respect; and though gentlemen may think it ne-

cessary and proper that the laws in question ought to be continued—and he did not question the motives of gentlemen, he believed some of them to be actuated by the best of motives—they ought to be willing to allow the subject to have a fair discussion.

Mr. Eggleston hoped opportunity would be given for a fair discussion of this question. He had heard it said that favors might be so roughly conferred as to take away all sense of obligation, and that others might be refused so pleasantly as to prevent any disagreeable sensation at the disappointment.

When the petitions were presented, though the reference of some of them had been opposed, they had generally been treated with decency and respect. He hoped the House would continue to act in this way. With respect to threats, he had heard none in any of the petitions; but if some one had contained anything of this kind, it ought not to affect those which were unexceptionable in their language. He hoped the House would go into the subject fully; and, if there should be found a majority against the repeal, the gentleman from Massachusetts may then bring forward his reasons for continuing the laws, and the public will judge who are right.

Mr. Thatcher did not know why this question should have called forth so much warmth. He did not think either of these laws of such a nature as to call up all the irascible passions of the human heart. He was himself in favor of this reference, and for this reason: because he thought it would give the whole business the go-by, and the House would hear no more of it. He had no reason to expect conviction on a subject of this kind. If it was discussed, until every gentleman is tired of speaking, he did not suppose a single mind would be changed. Notwithstanding the gentleman from New York had wished gentlemen to keep their minds open to conviction, yet he believed that gentleman is so well convinced of the necessity of a repeal, that nothing short of a miracle would convince him to the contrary; and he believed the mind of the gentleman from Pennsylvania is so firmly fixed as to be even beyond the power of a miracle. That gentleman said, he could predict what would be the report of the committee; and I, said Mr. T. could predict with, at least, as much certainty, who will vote for the repeal, and who will vote against it. Then why should this discussion take place, when every gentleman has made up his mind upon the subject, and determined he will not alter it? It is clear gentlemen do not wish this discussion for themselves, and he wished them to believe that others do not want it. But it is said, a respect for the public opinion requires that this subject should be discussed; on the contrary, he believed the public opinion is in favor of, and generally satisfied with the laws, and against any unnecessary discussion. Gentlemen commit a great mistake, when they say that these petitions are from "the people" of the United States. They are not in the proportion of one to one thousand; they are like a drop compared with the ocean. This is taking a part for the whole; as when a man jumps up and calls himself "the people;" but if three or four persons meet together, in any corner of the country, they are sure they are "the people," and proceed to act as if they were really so. This, said Mr. T., is the language of *democracy*. But it has been said that some of the Legislatures of the States have declared their disapprobation of the laws; but, said Mr. T., if the State Legislatures are consulted generally, they will be found in favor of these laws, though two or three States have expressed their opinions against them. Therefore, as it could not be said to be the wish of the people that this subject should be again discussed, he hoped no more time would be spent upon it.

Mr. Gallatin observed, that the gentleman from Massachusetts had, with great candor, given the House the true ground of this motion, which he says, is to give the subject the go-by. And that gentleman says he shall vote for it, because he thinks the discussion would be useless, and those who think with him will, of course, vote with him. But he adduced his argument to show that these petitions are the work of demagogues. He says, that whenever a man jumps up to deliver his sentiments, he calls himself "the people." Therefore such a person was a Jacobin, because he declares all the people of his opinion. But the gentleman has himself, in the present instance, declared that "the people" agree with him in opinion; and has taken upon himself to declare what is the opinion of the different Legislatures of the Union, who have themselves expressed no opinion upon the subject. Who was the demagogue and Jacobin, he left the House to judge.

The gentleman from Delaware had, with great candor, given another reason for this motion, to notice which had induced him to rise again on this subject. He has told the House that there is in this country a party, which heretofore derived its influence from its connexion with the French Republic; but finding that cause unpopular, it has abandoned that ground, and is now attempting to raise itself in the public opinion, by taking part against the alien and sedition laws.

The object of the gentleman from Delaware, said Mr. G., has uniformly been to attempt to show, by political imposture, but which has heretofore had too much weight, that the opposition which had been given to certain measures in this House, some of which were intimately connected with the liberties of the people, and could not be called measures of defence, arose from an improper attachment to the French Government. He believed the gentleman is right, therefore, in believing, as a statesman, and connected with a certain party, that the moment that this political imposture can be got rid of, the people will unite with us in our measures, and in the condemnation of those generally advocated by that gentleman. Mr. G. believed, that when the present fervor is past, and he thought he saw it departing, all those measures which are calculated to eradicate from our minds the principles of our Revolution, and to concentrate power in the Executive, will prove obnoxious to the people of America. He was of opinion such measures never would have been supported, had it not been for the alarm which had been created throughout the country with respect to the designs of France, and a party in this country said to be in their favor. It was therefore thought improper to discuss this subject, because it is totally unconnected with the subject of alarm, and cannot be influenced by it. He owned this was one of the reasons why he wished to meet this discussion.

But, said Mr. G. the gentleman from Delaware does not believe us sincere in our wish for the repeal of these laws; because, in another year, they will expire of themselves. Can it be no object to obtain a repeal of one of these laws for a year, which it is allowed has not proved a dead letter? Do not gentlemen remember, that the same gentleman, on a former occasion, when charging us with all the cruelties and enormities of the Jacobins of Europe, allowed that we are at present in favor of the freedom of the press; but that, if we had power, we should be, like the Executive Directory, for suppressing that liberty; but to-day he tells us, we are not sincere, when we ask to have this liberty of the press restored.

Mr. G. said, gentleman could not charge him or his friends with bringing this subject into view. We opposed the laws in question, said he, in all their stages; we not only did all in our power to prevent them from passing; but we endeavored to make them as good as we could before they did pass. An amendment was proposed, and which succeeded, defining the powers of juries, by the enemies of the bill, but opposed by that gentleman and other friends of the bill. So that the whole of our conduct has proved our sincerity. But the gentleman says the friends of the repeal are not sincere, because the laws have been inoperative, and that therefore no one can have ground of complaint against them. If this were true, what would be said of the arguments used, whilst they were under consideration, to prove their necessity? It was then said, Government could not exist without them. But he did not agree with the gentleman from Delaware, that these laws had been a dead letter; one of them, indeed, had only been held as a rod *in terrorem;* but the other (the sedition law) has been carried into effect, and, not only in one solitary instance, (though, perhaps, only one judgment may have been rendered,) it has been levelled against the free presses in several parts of the country; in Massachusetts, New York, and he believed, in New Jersey, prosecutions had been commenced against the printers of newspapers, on account of some offensive paragraphs which have appeared in their papers. But, supposing that only one solitary instance had occurred, he wished to know whether that would not be sufficient for gentlemen to wish for a repeal of this law? Have we not seen three-fourths of the present session pass away, without the Representative of a district of Vermont; so that laws have been passed to bind a portion of the people, whose Representative has been absent from his duty during this time. He asked whether there is not just cause of alarm when the gentleman saw this, without saying any thing about the justice or injustice of the sentence against the member alluded to? whether gentlemen ought not, as members of this Legislature, to have a wish that this law was repealed?

But have gentlemen forgotten that these laws were opposed on the ground of their unconstitutionality? If they do not give us credit for our sincerity in other respects they must believe, said Mr. G., that we were perfectly sincere in our wishes to support that construction of the Constitution, which went to prove these laws unconstitutional.

Mr. G. supposed the gentleman from Massachusetts would be as obstinate in his opinion, as he himself should be; but there are gentlemen in the House who have yet given no opinion upon the subject. These gentlemen it may be supposed, are perfectly unbiassed, and will not shut their ears to argument on the subject. He wished it therefore to be had.

Mr. G. did not expect the alien law to be repealed, though, as he had before stated, he had hopes the sedition law would be repealed; and though he did not believe the alien law to be supported by the Constitution, yet he wished the people to submit to it. So far from desiring to inflame the public opinion on account of it, or anything else, he should endeavor to calm the minds of the people; because he knew that whenever anarchy should be produced in any part of the country, it would ruin the cause which he wished to support, and tend only to give additional power to the Executive Department of the Government, which, in his opinion, already possessed too much.

Mr. G. said, if gentlemen wished to promote union in the country, they would consent to a repeal of these laws, as there is nothing tends more to divide them, and to render the administration of the Government unpopular. If gentlemen will join us in our wish for a repeal of these laws, we will, said Mr. G., have as little discussion as they please.

Mr. Thatcher said, it was a matter of joy to hear that instead of there being only one solitary prosecution under the sedition law, as stated by the gentleman from Delaware, there have been several. This is an additional reason with him for keeping the law in force. He should wish to make it a permanent law. It shows that the people do not like sedition, though he did not think the law had operated so extensively as it ought to have done. He had seen instances in which he thought the law ought to have operated, and he hoped it would be more effectually put in force hereafter. But he was surprised to hear that the gentleman from Pennsylvania is alarmed because a member of this House has been seditious, and punished; for that gentleman cannot be affected by this law, unless he become a seditious member, and not then, unless he becomes a seditious man; and, if he does become so, the law ought to operate upon him, as well as upon others. Mr. T. observed, it was well said, "that the tongue is an unruly member;" and there is no difference between the tongue and the press, except that every

press ought to be considered as a million of tongues, and ought to be guarded with a million of guards.

Mr. HARTLEY disapproved of what the gentleman from Massachusetts had said about giving these petitions the go-by, referring them to a select committee. If that gentleman had any such wish, he trusted he stood alone.

Mr. BAYARD said, the gentleman from North Carolina (Mr. MCDOWELL) and the gentleman from Tennessee (Mr. CLAIBORNE) had been extremely liberal in their charges of illiberality against him. Considering the distinguished urbanity and uncommon good breeding of those gentlemen, he should not question their privilege to make such charges. He could tell the gentleman from Tennessee, however, that in all he had said, *he* had never once entered his mind, and he therefore could have had no personal allusion to him. He was not in the habit of attributing to the gentleman any schemes from which the country had reason to apprehend danger to its peace or security.

He would confess that he should feel it as a great reproach if he were justly liable to the charge of illiberality. He had made no reflection upon any individual, nor had he reference, in what he had said, to any particular character. He spoke generally of the party whose views and designs, whatever language it might be necessary to express them in, he considered as not only a fair proceeding, but a duty, to develope and expose. And he trusted that, whatever his public duty called upon him to do, the fear of no charge nor of any consequence, would restrain him from performing. But, said Mr. B., let me ask what right those gentlemen have to take offence at what has been said of their party? Has it not been the constant practice, for years, of gentlemen on the other side, to criminate the views, and vilify the measures of the administration, and of those who supported the operations of the Government? Has not the wish and intention to change the form of Government been often imputed to us? Has it not been insinuated that we were more friendly to monarchy than to republicanism, and desirous of fashioning the Government of this country according to the form of a certain foreign Government? Could anything be more insidious, more groundless, or more calumnious, than these imputations?

And when, on the other hand, there was an attempt to lisp even a disagreeable truth, the gentlemen then flew for shelter behind the rules of decorum and the etiquette of good breeding. Mr. B. said, it gave him no pleasure to say anything which was unpleasant to any part of the House, but what his duty enjoined him to say he should consider it not only as a false, but a criminal delicacy to suppress.

He had been charged by the gentleman from Pennsylvania (Mr. GALLATIN) with having opposed the amendment introduced into the sedition bill, giving a power to the jury to decide the law and fact, under the direction of the court, as in other cases. He should not deny this charge. He admitted it to be true; but, if the gentleman had acted candidly, he would have stated the ground upon which he had rested his opposition. It was not because he was opposed to the principle of the amendment, but because he considered the provision as nugatory and useless. It was because he had no doubt that a jury would possess and exercise the power as fully without the provision being introduced into the law as under a specification of it. He had opposed it upon the same principle that he should have opposed a provision that a party should not be convicted upon a charge under the law, without the jury being sworn to give a true verdict, or without the jury all agreeing in their verdict. But, as the gentleman has taken the pains to mention an instance in which he conceived him unfriendly to the security of the party accused, Mr. B. said, he hoped he should be excused for taking the liberty of mentioning an amendment which, upon his motion, was incorporated into the bill, and which greatly enlarged the means of defence under the law. He alluded to the clause which enabled a defendant to give the truth of a charge in evidence in his defence. He took the common law to be that, upon a prosecution for a libel, the truth of the charge could not be given in evidence. By the provision, therefore, which he had been instrumental in introducing into the bill, he conceived that the liberty of the press had been placed on a basis as broad as was compatible with the peace and good order of society. As the law stood, no man could be convicted but for publishing a malicious falsehood. He was not liable to be punished for his malice, unless it was false; nor, for his falsehood, unless it was malicious. And surely there could be found no man so depraved, so devoid of moral rectitude, as to contend that punishment should not attend a falsehood published with a malicious intent.

Mr. B. said that, in the course of his former observations, he had remarked that there had been but one instance in which any one had suffered under the operation of the law. And this observation, which was designed to prove it of a harmless nature, had been laid hold of by the gentleman from Pennsylvania, in order to show that there was no occasion for passing it; and, as there was no occasion, there was no power of passing it. This he conceived to be a perverted view of the subject. It did not follow because no cases happened under a law, that, therefore, it was unnecessary. The terrors of a law might prevent the commission of crimes which otherwise might justly have been apprehended. He did not know that any persons had been convicted of piracy; but it would not, therefore, follow, he said, that it was unnecessary to provide a punishment for the crime. In his opinion, it was the true pride of a country, to have laws punishing crimes with severity, with few or no instances of persons suffering under them. It was an evidence of a sound and wholesome state of society. It was a proof, also, that the Government was not in the hands of persons whose vices or crimes stood in need of the countenance or indemnity of indulgent or weak laws.

In order to show the injustice of the law in

question, the gentleman from Pennsylvania had complained bitterly of its operation upon a member of the House, whose constituents, in consequence of his punishment, would be left the greater part of a session without a Representative. Mr. B. said, he could excuse the impulse of sympathy, but he did not expect such an instance of imprudence from that gentleman. He could not have supposed that the gentleman would have publicly regretted the absence of a man whose presence would have disgraced the House, and whose society humbled those who were obliged to associate with him. A man who had been convicted of a crime of the strongest political cast which evidenced a will to destroy the Government of the country, and proved the party to be utterly unworthy of any public trust.

Mr. B. believed there could hardly be a member of the House who could question the impartiality of the jury or the integrity of the court who passed upon the trial of the party referred to; and, after he had been convicted of an aggravated breach of the law, could he be deemed a fit person to make laws? A man who will not obey the law, will you allow him to make laws? If his example should be followed, what would avail your laws? They might be food for worms, but society would not be benefited by them. Mr. B. said, he had no hesitation in going further, and explicitly declaring that, in his opinion, the member ought to be instantly expelled, if he should again take his seat.

The SPEAKER observed that the gentleman was departing from the question.

Mr. B. said, he had risen simply to reply to some observations which had fallen from different gentlemen on the other side.

They had not much connexion with the subject before the House, and, of consequence, necessarily led him from it. He had not much to excuse him, for he had ever been sensible that he could not follow their example without running into error. He would, however, be more guarded in future. Presuming that gentlemen were impatient at the late hour for the question, he would trespass no longer on their patience.

The question was then put, and carried—51 to 48, as follows:

YEAS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, Wm. Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Messrs. GOODRICH, PINCKNEY, NICHOLAS, CRAIK, and HARTLEY, were named a committee to report upon the subject.

WEDNESDAY, February 13.

Mr. GREGG, from the committee to whom was referred the petition of Robert Sturgeon, [confined in prison for debts due the United States, for moneys received as Collector, which he appropriated to his own use, and is unable to refund,] reported a bill authorizing the discharge of the said Robert Sturgeon from his present confinement; which was committed.

Mr. RUTLEDGE called up for consideration the bill for the relief of Joseph Wheaton, which, after a few observations, was agreed to, $360 being allowed him, on account of his sickness. It was ordered for a third reading to-morrow.

ALIEN AND SEDITION LAWS.

Mr. GREGG presented a remonstrance against the alien and sedition laws, signed by two hundred and seventy of the inhabitants of that part of Mifflin county which lies north of Tuffey's mountain. Mr. G. said that, yesterday, in the course of the debate on the subject of the reference of the several petitions respecting the alien and sedition laws, some insinuations had been thrown out against the characters of the signers of these petitions, and the manner in which their signatures had been obtained. He therefore thought it a duty incumbent on him to state, in his place, that the remonstrance which he presented had been drawn up by a committee of the signers themselves, in consequence of and agreeable to certain resolutions which they had previously adopted at a numerous meeting, specially convened for that purpose. The signers are mostly freeholders, and others, reputable inhabitants of that district. Many of the more aged of them have been actively and usefully engaged in the service of their country during the Revolutionary war; and ever since that period have conducted themselves as good citizens and friends to the Government, constantly yielding to its laws a ready and cheerful submission. This is the first and only instance of their troubling Government with their complaints, and he was persuaded they would have been silent now, had they not been irresistibly impelled to

the measure by the force of the objections which they had stated in their remonstrance.

Mr. G. said he had also two petitions and remonstrances on the same subject, signed by 320 of the inhabitants of Cumberland county in this State, which he wished also to present. He remarked, with respect to these petitions, that they had been formed by deputies from different parts of the county, and were signed by the yeomanry of the places from which they came; a yeomanry highly respectable, not only for their number, but also in point of affluence, respectability, and patriotism. He therefore hoped the petitions would be referred, and meet with that attention which their importance required.

They were referred to the select committee yesterday appointed.

Mr. Havens also presented a memorial from Queen's county, in the State of New York, praying for a repeal of the alien and sedition laws, which was referred to the same committee.

DUTIES ON DRAWBACKS.

Mr. J. Williams observed, that it was said the other day that some additional revenue might be drawn from commerce. As a bill had passed this House for the purpose of effectually protecting commerce, he hoped some additional revenue would be raised from it; and proposed a resolution to the following effect:

Resolved, That the Committee of Ways and Means be instructed to inquire whether any, and if any, what additional duty ought to be laid upon drawbacks allowed on goods exported from the United States; and that they report by bill otherwise.

Ordered to lie.

LAW OF RETALIATION.

The bill from the Senate vesting the power of retaliation, in certain cases, in the President of the United States, was read; and, on a motion being made to commit the bill for to-morrow,

Mr. Nicholas hoped it would be made the order for Monday; as he understood, at the time this subject was before the Senate, it was declared that the President had received information of the French arrêt, upon which this bill is founded, having been suspended; for, though necessity might call upon the Legislature for a law of this kind, without that necessity no one could wish to see our code stained by a law of this kind.

Mr. Rutledge thought it improper that the proceedings of this House should be influenced by mere report. He had not heard of the report of which the gentleman from Virginia speaks. He supposed it was a mere report of the day. If there had been any foundation for it, ere now it would have found its way into a certain print. Or, if there had been any such information, it would doubtless have been sent to this House by the Executive. He was prompt in sending the arrêt, and he would certainly have been equally so in sending any account which he might have received of its suspension. He was, therefore, unwilling to postpone the bill on account of any report of this kind.

Mr. Livingston had also heard the report mentioned by the gentleman from Virginia, and had prepared a resolution for calling upon the President for any information which he may possess relative to this matter. He agreed with the gentleman from South Carolina that the House ought not to be influenced in its deliberations by vague information. He also agreed with him that the measure is important, but, being important, he did not think the House ought to be hurried to a decision upon it without consideration; the more important the measure, said he, the more we ought to reflect upon it before we adopt it; the more serious the consequences which may arise from it, the more we ought to wish for information which may throw light upon the subject. Why commit this bill for to-morrow, instead of Monday, when there is at least a possibility that information, of the kind which had been mentioned, has been received by the Executive? He could see no reason for it. He meant to lay the resolution, which he had prepared to call for this information, upon the table. Whether the President would send the information without being called upon, or whether the President is acquainted with the suspension of this decree, he had no means of knowing. It was sufficient for him to believe that the information does exist, to make it his duty to call for it.

Mr. Brooks said, though the bill be made the order for to-morrow, if it should appear that any information was likely to be obtained, it would not be taken up, but deferred till Monday; but to defer it, from a mere surmise that information may be received, would be showing too great a fondness to catch at the least shadow, as an apology for suspending our proceedings upon a bill of so momentous a nature. He should be sorry to be driven to the necessity of making use of the *lex talionis*—but, in some cases, it may become the greatest mercy. Mr. B. did not think it would be right to call upon the President for despatches which it was not known he had received. If, said he, the President has received the information, will he not communicate it, without being called for? When we know that he has received it, it will be time enough to pass a resolution such as is proposed.

Mr. Nicholas said, if gentlemen would condescend to understand the business, some speeches might be saved. It was declared, by members in the Senate, that they had been told by the Secretary of State that this information had been received. But, according to the gentleman last up, said Mr. N., we are not to call for information, except we are *certain* the President possesses it; if so, we put it in his power to conceal from the House whatever information he pleases. Mr. N. thought it would have been as well for the gentleman from South Carolina (Mr. Rutledge) to have spared his remarks on this subject; because, if this information should be obtained by a call upon the President, he would have pronounced a censure upon him for not having sent it without the call. He hoped gentlemen would now consent to let this business lie for a day or two.

Mr. Gordon observed, gentlemen adverted to a particular arrêt of the French Directory, as if it was the only one to which the principle of this bill could apply. In looking into the bill it would be found to be intended to operate not only on that arrêt, but any law which may be passed by the French Republic, and which may call for retaliation. On this ground he should vote in favor of this bill, provided it shall be found that the arrêt alluded to has been suspended or repealed. Gentlemen exclaim, "What! shall we not wait a moment before we stain our code by a law like this, which will authorize the most sanguinary acts?" Mr. G. said this law, instead of being sanguinary, is intended to prevent sanguinary acts, and to preserve the lives of our citizens. If the decree alluded to is repealed, what security have we that the Directory will not soon pass a similar one? And, after Congress rises, no retaliatory law can be enacted to meet it. He hoped, therefore, that the House would proceed in this business, without waiting for the information in question.

Mr. Harper believed it was not perfectly in order to introduce here what may have been said in the Senate, with the view of making it the ground of our decisions. Though the bill be made the order for to-morrow, it does not follow that it will be taken up on that day, and if objection be made to it, it doubtless will not. If any gentleman, on inquiry at the office at the Secretary of State, should to-morrow state that the information alluded to had been received, and bring forward a resolution calling for it, this bill would certainly give way to other orders of the day. It did not appear to Mr. H. that it was a just conclusion, that because the French may have suspended or repealed the decree lately passed, that this law ought not to be enacted. May not seamen of other countries, taken on board our own ships, if this decree is repealed, be considered as pirates, if the French shall choose to call us enemies, which we have no reason to think they will not? Besides, as has been noticed, the offensive decree may be again renewed when Congress is not in session; and, before Congress comes together again, our seamen, taken on board British ships, may be sacrificed as pirates; and he was astonished that gentlemen, who have heretofore been so zealous for the protection of our seamen, when impressed by one country, should now be so cool, when they are about to be hung by another. What could be the reason of this, he could not say, but the fact is striking.

Mr. H. did not believe, with the gentleman from Virginia, that the passing of this bill would be staining our code. It would be repelling violence by violence. It would be the same as saying to a murderer or highwayman, "if you attack me, I will put you to death." This, said he, is the law of nature and of reason; and so far from this law staining our code, he thought it would be honorable to this Legislature, as it would show that it had spirit to repel so great an outrage, a parallel to which could not be found in the most barbarous countries. [Mr. Nicholas observed that he had said it would stain our code, if found to be unnecessary.] Mr. H. was about to say that if France repealed her obnoxious decrees, there would be nothing for this law to operate upon. But, said Mr. H., is the arrêt in question the only act to which this law can apply? Let gentlemen remember the famous decree of the 2d of March, 1796, in which the same provision exists in relation to American seamen, which is in the late decree made general, and the first decree is yet in force. In his opinion, a bill like the present ought to have been passed long ago, and he thought it disgraceful to the country that such a law had not before now been passed. He saw no reason for making it the order for a distant day.

Mr. Hartley hoped this bill would be made the order for to-morrow. If the decree was merely suspended, it might at any time be renewed.

Mr. Eggleston said it was unfortunate that in almost every subject which comes before this House, addresses are made to the passions of members, instead of to their reason. We all feel as we ought to do for the protection of our citizens, both by sea and land; but ought not members to have sufficient time allowed them for obtaining information on the subjects upon which they are called to act. He thought gentlemen had wholly departed from order in going into the merits of the bill. If it were in order to speak of its merits, it might have been asked whether, because the British had passed an order to retaliate this decree, it is become necessary to pass a similar law here? But, in a question whether the bill shall be made the order for to-morrow or Monday, it was only necessary to state that information is wanted.

Mr. Brooks thought gentlemen were wrong in charging this bill with the term sanguinary. If there be anything sanguinary in it, it should be charged upon the French Republic, and not upon Congress, for repelling their sanguinary decree. With the same reason might a person be called sanguinary, who should say to a robber or murderer about to enter his house, "if you dare enter and commit violence, we will meet you with the point of the bayonet." No; gentlemen say it is possible the French may not carry this decree into effect, or there is a report they will not do it. But, said Mr. S., until we know that the French have not only repealed their decree, but ceased to act upon it; not only that they have suspended it, but that they will not bring it again into force, we ought to pass this law.

Mr. Gallatin observed that the present question was merely whether the bill should be committed for to-morrow or Monday. The reason for wishing it deferred till Monday is, that information may then be received which cannot be had to-morrow. The question is, therefore, said Mr. G., whether we mean to pass a retaliation law upon general ground, according to the views of the gentleman from New Hampshire, (Mr. Gordon.) by passing this law, though there is no decree of France to be repelled by it, or to go upon the ground of retaliating a cruel and unjustifiable

decree. He had no doubt on this point. It appeared to him improper to grant such a power on general grounds. If there be any propriety in such a measure, it must be to meet and repel that decree. He was, therefore, in favor of the more distant day, that the fact may be ascertained whether the decree is in existence or not. As to the argument, though it is now repealed, it may be re-enacted, he trusted Congress would never legislate on a supposition of this kind.

It had been said that gentlemen who had been very earnest on the subject of our seamen when impressed by one nation, are now very cool when they are about to be hung by another. The observation might be retorted by saying, gentlemen are now very ready to retaliate a violent measure threatened by one nation, though heretofore they never thought of such a thing, when violent acts were committed by another. It is true the decree complained of is sanguinary and disgraceful to the French nation; and, though it is true that a similar decree was passed two years ago against American seamen, it is not less true that not one of our seamen has suffered in consequence of it. And it is not less true that, though Great Britain had passed no decree upon the subject, they have pressed into their service thousands of our seamen, who have been forced against their will to fight their battles, and many of whom have been killed on board of their vessels. We seemed alarmed, said Mr. G., at a decree on paper, but not at acts of cruelty which have taken place without a decree. He did not mean by this to say it would be proper to pass an act of retaliation against the British nation. He knew there were other modes of settling this business, and he did not know but they had been adopted. He only mentioned the fact to show that the insinuation of the gentleman from South Carolina is unfounded.

In relation to this bill itself, he considered it as very unimportant. He did not believe, if the decree is not repealed, that it will ever be carried into effect; and the reason why he was of this opinion, was, that the former decree had existed for two years without being carried into effect. Nor did he believe this law would be carried into effect, if passed; and, for this reason, because a retaliation law never could be carried into effect in this country. He believed, if the French nation were to execute this decree, the effect produced here would not be a desire to retaliate, but a declaration of war. The American nation would, with one voice, be ready to resent such a conduct; but it would be a difficult matter to reconcile them to retaliation, for, though every one knows there was sufficient cause for retaliation during the last war, no instance of the kind had occurred. Americans hate the cool shedding of blood, and, therefore, he did not expect the law, if passed, would ever be executed. But, if it is thought proper to hold it *in terrorem* it ought not to passed, except the decree which it is intended to repel is in existence.

Mr. Champlin said that this bill appears not to be understood. It is said, in case the French decree is repealed, this will be a sanguinary law. This cannot be, because there will be no enormity to retaliate. He thought it was a case that ought long since to have been provided for, and that it is disgraceful to the country that it was not. He was surprised at one argument, viz: that on investigation, we may find that the British may have taken our seamen under their protection, and that, therefore, there is no necessity for this law. He was surprised, also, that the remark should come from gentlemen who, he should have supposed, would not have received protection for our seamen from Great Britain. Mr. C. was for ourselves redressing the wrongs of our seamen. With respect to the impressment of seamen, gentlemen are tremblingly alive whenever that subject is mentioned. As to the report which has been mentioned, he thought it of little consequence whether true or false. If the decree be repealed, he should still think it proper to pass this law, and could see no reason for delaying the bill a moment. When such violence is proposed, it ought to be opposed almost by acclamation.

Mr. Eggleston said, it would be curious enough if, after suffering Great Britain to impress our seamen with impunity, if, because France shall punish them for being in that situation, we shall go to war with her. For it is clear, if the men had not been first pressed, there would have been no cause of offence on the part of France.

Mr. Livingston said, he was far from arrogating to himself any merit on account of his former exertions in behalf of American seamen; nor had he taken to himself the remarks of the gentleman from South Carolina on this subject. But it seems, said Mr. L., that he alluded to my zeal at that time, and my coolness now. He did not see how this could be inferred. The bill from the Senate, now under consideration, gives extraordinary powers to the President. It has been on the table one day. A few days only are asked in order to gain information. He could see no blameable coolness in this. The decree of the Directory is one of the most detestable that ever disgraced the code of any nation. No man could have but one impression upon it. We are, said Mr. L., about to pass a law to prevent the evil; but ought we not to examine the best means of repelling this decree, and not pass laws by acclamation, as the gentleman from Rhode Island advises us to do; not to pursue a conduct which, when we receive further information, we shall be sorry for. Mr. L. took a review of the former steps which were taken for the relief of American seamen, in which he had acted a principal part. He hoped the bill would not be taken up before Monday, as, if it was, the House might act upon false information.

Mr. L. had serious doubts as to the propriety of passing a retaliation law at all. He had doubts whether, because one nation becomes cruel and barbarous, we should become so too; whether, because one nation roasts our citizens, we should roast theirs. He hoped, however, the expected information would be waited for.

Mr. Rutledge observed, though it would seem to be disagreeable to the gentlemen from Pennsylvania and New York that this bill should be

made the order of the day for to-morrow; yet the pressing of this question has given them an opportunity, which they never fail to seize with avidity, of talking about the conduct of Great Britain several years ago, and which conduct has long since been adjusted by negotiation, in order to destroy the quick sense of injuries which we feel from the oppressive conduct of France. We have nothing to do at this time, said Mr. R., with the conduct of Great Britain. It is against French proceedings that we are now providing a remedy. But the gentleman from Pennsylvania says, we never thought of retaliation against the British. What, said Mr. R., was the conduct of the friends of this bill with respect to Great Britain in a recent instance? Did not gentlemen, who are frequently charged with too great affection for that country, the moment they heard of the outrage which had been committed by a British vessel of war against one of our vessels, come forward with a resolution calling upon the President for information relative to the affair? and has not the President since given the most spirited orders to the commanders of our vessels with respect to their future conduct? This was their conduct towards Great Britain, though they are constantly and insidiously charged with being always favorable to that country.

The gentleman from New York has said that, if one nation roasts their prisoners he would not follow their example, though he had the other day introduced both instances of boiling and roasting in the time of Henry VIII. What was the conduct of Great Britain when France declared that no quarter should be given to her soldiers in case of victory? They declared they would retaliate, and the French repealed their sanguinary decrees. If you have to contend with an enemy who is regardless of the laws of war, you must also be regardless of them. If you have to contend with cannibals, you must reduce yourselves, as nearly as you can, to the state of cannibals.

The gentleman from Virginia (Mr. Eggleston) is afraid of being hurried into a vote. He has not been long on this floor; if he had, he would know that he has no need to entertain a fear of this kind; if he wants information before the bill is passed, time will be given him. We do not press, said Mr. R., for going into a Committee of the Whole on this bill to-morrow, but merely that it may be made the order for that day, that it may not appear to the world that we are diverted from our purposes with respect to France by the most trifling occurrences.

Mr. Harper wished to correct a statement made by the gentleman from Pennsylvania, perhaps inadvertently, but certainly not just. He has talked about thousands of our seamen impressed by Great Britain. He forgot that thousands meant only forty-two! He could further state that the most effectual measures have been taken to counteract this evil, and that, in consequence, the number of impressments have of late greatly diminished, and are now very inconsiderable. This he was able to state from documents in his possession, as a member of the committee appointed on this subject. He thought it proper to reduce this broad assertion to fact.

Leave having been asked for Mr. Livingston to speak the third time, and obtained by a division of the House,

Mr. Livingston said, it was not usual with him to exceed the rule of the House, nor would he have done it now, if he had thought there would have been any opposition to a few words, which he wished to remark on the statement of the gentleman from South Carolina. He says that, on inquiry, it will be found that thousands meant only forty-two. Did the gentleman mean to say that only forty-two of our seamen had been impressed by the British? If he does, the documents on the table will contradict him. He believed, by two lists from Mr. King, there appear to be several hundreds—he thought eight hundred—who had applied to our Minister in order to get their discharge, but which could not be effected. He had seen the documents which the gentleman from South Carolina mentioned as being in his hands and he believed the number of seamen pressed during the last year does not exceed the number stated by him. But seamen, to the extent he had mentioned, to a certainty are yet languishing on board British ships of war; and when the difficulty of communicating with our Minister from ships of war is considered, the number having applied for relief, it will appear reasonable to suppose that at least treble the number are suffering on board British ships of war. Add to these the numbers which have been discharged by our agents in the West Indies, and elsewhere, and it must be allowed that the British have, at different times, impressed several thousands of our seamen. Many of these, said Mr. L., are now rejoicing in their liberty, which has been effected by those laws which it has been insinuated were passed more under the influence of passion than of reason. He appealed to the world to say on which side passion lay, and on which side reason. If passion and prejudice have produced these effects, he should never covet the reason which other gentlemen boast of.

Mr. Kittera complained of the length of the debate, and hoped the question would be taken.

The question for Monday was taken, and negatived—51 to 39. The bill was then made the order for to-morrow.

Mr. Livingston afterward laid a resolution on the table to the following effect:

"*Resolved*, That the President of the United States be requested to lay before this House any information which he may have received touching the suspension of the arrêt of the French Directory relative to the citizens of neutral nations found on board of British ships of war."

Ordered to lie till to-morrow.

The two following bills from the Senate, were then read and committed:

A bill to amend the act giving effect to the laws of the United States within the State of Tennessee; and

A bill to amend the act providing for the sale

of land of the United States Northwest of the river Ohio, and above the mouth of Kentucky river.

On motion of Mr. PINCKNEY, the House went into a Committee of the Whole on the bill appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians; and, after filling the blank for containing the sum appropriated with $25,000, the committee rose, and the House having concurred in the amendment, and, on motion of Mr. ALLEN, adopted a proviso, limiting the allowance to Commissioners to eight dollars a day, the bill was ordered to be engrossed for a third reading.

THURSDAY, February 14.

RELATIONS WITH FRANCE.

Mr. LIVINGSTON called up for consideration, the resolution which he yesterday laid upon the table, calling upon the President for any information which he may possess touching the suspension of the French arrêt, declaring neutral citizens pirates when found on board the vessels of belligerent Powers; which being read,

Mr. L. called the yeas and nays upon it. He said he understood that, since yesterday, a member of this House had applied at the office of the Secretary of State, and been informed that some information had been received relative to this subject. Perhaps the gentleman would himself state to the House what he had learned from that office.

Mr. HARPER said, he had only to state, that he had made inquiry at the office of the Secretary of State, and had been informed that a letter had been received from our Minister in London, enclosing an extract from the *Redacteur* (supposed to be an official French paper) stating that the Executive Directory had suspended the edict in question. This extract, he understood, does not state the reason of this suspension; but our Minister writes, that it was owing to a threat of the British Government to retaliate upon French citizens within their power.

The yeas and nays were taken, and stood—52 to 38, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Bard, James A. Bayard, Robert Brown, Stephen Bullock, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Edward Livingston, Matthew Locke, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Thomas Pinckney, James Schureman, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS—Bailey Bartlett, Jonathan Brace, D. Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Reed, John Rutledge, jr., Samuel Sewall, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Thomas Tillinghast, Robert Waln, and John Williams.

The resolution having been agreed to, Messrs. LIVINGSTON and HARPER were appointed a committee to wait on the President therewith.

SUNDRY BILLS.

The bill appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians; and

The bill for the relief of Joseph Wheaton, were severally read the third time, and passed.

On motion of Mr. S. SMITH, the House went into a Committee of the Whole, on the bill to establish the compensation of officers employed in the collection of duties on imports and tonnage, and for other purposes; and, after making some amendments, the committee rose, the House concurred in the amendments, and the bill was ordered to be engrossed for a third reading.

On motion of Mr. JOSIAH PARKER, the House resolved itself into a Committee of the Whole, on the bill fixing the pay of captains of ships and vessels of the United States; and, after some amendments, the bill was reported, and ordered to be engrossed for a third reading.

[This bill provides "that all vessels in the service of the United States, mounting 20 guns and upward, be commanded by captains; those not exceeding 18 guns (except galleys, which are to be commanded as heretofore provided by law,) by masters or lieutenants, according to the size of the vessel, to be regulated by the President of the United States; that the pay of a captain, commanding ships of 32 guns and upward, be $100 per month, and eight rations per day; of captains, commanding ships of 20 and under 32 guns, $75 a month, and six rations a day; of a master-commandant, $60 per month, and five rations per day; and of lieutenants who may command the smaller vessels, $50 per month, and four rations per day; that whenever any officer as aforesaid shall be employed in the command of a squadron, in separate service, the allowance of rations to such commanding officer shall be doubled during the continuance of such command, and no longer, except in case of a commanding officer of the Navy, whose allowance, while in service, shall always be at the rate of sixteen rations per day."]

On motion of Mr. W. CLAIBORNE, the House resolved itself into a Committee of the Whole, on the bill for amending the act giving effect to the laws of the United States, in the State of Tennessee. The committee rose and reported the bill without amendment, and it was ordered to a third reading.

On motion of Mr. MORRIS, the House went into a Committee of the Whole, on the bill providing compensation to marshals, jurors, attorneys, and witnesses; and, after some time spent therein, the committee rose, and the House adjourned.

FRIDAY, February 8.

RELATIONS WITH FRANCE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the House of Representatives:

In pursuance of the request, in your resolve of yesterday, I lay before you such information as I have received, touching a suspension of the arrêt of the French Republic, communicated to your House by my Message of the 28th of January last. But if the execution of that arrêt be suspended, or even if it were repealed, it should be remembered that the arrêt of the Executive Directory of the 2d of March, 1797, remains in force, the third article of which subjects explicitly and exclusively American seamen to be treated as pirates, if found on board ships of the enemies of France.

JOHN ADAMS.

UNITED STATES, *February* 15, 1799.

Extract of a letter from Rufus King, Esq., Minister Plenipotentiary, &c., London, to the Secretary of State, dated 28th November, 1798.

"Annexed I send you a copy of a note from Lord Grenville, respecting the French arrêt transmitted to you with my No. 9. A late French paper contains a second arrêt which postpones the execution of the first."

Lord Grenville to Mr. King.

The undersigned, His Majesty's Secretary of State for Foreign Affairs, has the honor of communicating to Mr. King, Minister Plenipotentiary for the United States of America, for the information of his Government, that, by a decree, published officially at Paris, it appears to have been declared, in the name of the French Directory, that every person being a native of or originally belonging to neutral countries, or to such as are in amity and alliance with the French Republic, who shall bear any commission under His Majesty, or who shall form a part of the crews of any British ships of war, or other vessels, should, on the proof of that fact alone, be considered and treated as a pirate, and that it has been ordered that this resolution shall be notified to the neutral Powers, and to those in alliance with France.

Even this decree, contrary as it is to the usages of every civilized nation, cannot excite any surprise, as proceeding from those in whose name it has been published. To the different Powers who are thus insulted, and whose innocent subjects are exposed to the most cruel treatment on the part of a Government professing friendship or alliance with them, His Majesty must leave it to adopt such measures as they will, without doubt, judge necessary, in the case of an outrage hitherto unexampled in the history of the world.

The King, however, feels, that protection is also due from him to those who sail under his flag, either in His Majesty's ships of war, or in other British vessels; His Majesty has, therefore, not hesitated to direct it to be signified to the Commissioner for French prisoners in Great Britain, that the first instance of the execution of this decree shall be followed by the most rigorous retaliation against the French prisoners whom the fortune of war has already, or may hereafter place at the King's disposal.

It would certainly never be but with extreme reluctance that the King could yield to the painful necessity of exposing so many unfortunate individuals to the fatal but inevitable effects of this atrocious decree; but His Majesty will have at least the satisfaction of feeling that nothing has been omitted on his part to prevent its execution, and that the authors of it can alone be considered responsible for all its guilt and all its consequences.

GRENVILLE.

DOWNING STREET, *November* 27, 1798.

Mr. LIVINGSTON moved that this communication be printed.

Mr. ALLEN objected to the motion, as it would delay the consideration of the bill proposing to vest the President with the power of retaliation in certain cases; and it was clear, from this communication, it ought to have no effect upon that bill.

Mr. LIVINGSTON said he was not possessed of that intuitive faculty which the gentleman from Connecticut seemed to have, as he seems prepared to act on the bill alluded to, without scarcely hearing this communication read; and, perhaps, without knowing the dates of the different decrees. The President has told the House that though the obnoxious decree has been repealed, there is still left in force another decree. Does the gentleman from Connecticut recollect the words of that decree? Or has he had time to examine whether that decree is really in force, or not? If he had done this, Mr. L. said he had not done it. It would appear, from what happened the other day, that the House ought not to move quite so rapidly in this business. The House was then told by the gentleman from South Carolina, that it was impossible that this information could have been received by the President, because, if it had been received, the President would undoubtedly have immediately sent it to the House. [Mr. RUTLEDGE said, he did not use the word impossible, but improbable.] Mr. L. admitted this might be the word. But it now appears, that the President has not only received the information then alluded to, but received it officially.

Mr. ALLEN interrupted Mr. L. by withdrawing his motion. The communication was ordered to be printed, and was committed to the same Committee of the Whole to whom was referred the bill vesting the power of retaliation in the President.

EXPENSES, &c., OF PRISONERS.

Mr. CHAMPLIN laid upon the table the following resolution:

Resolved, That the committee to whom was referred that part of the President's Speech which relates to invigorating our system of defence, be instructed to inquire whether any, and, if any, what provision ought to be made by law to defray the expense that has been or shall be incurred for the subsistence and safekeeping of all persons who have been, or hereafter shall be,

taken, by the public or private armed ships of the United States, and detained as prisoners in pursuance of the laws thereof; and that they have leave to report by bill or otherwise.

The resolution was agreed to.

SUNDRY BILLS.

The following bills were read the third time and passed:

The bill fixing the pay of captains and commanders of the ships and vessels of war of the United States;

The act to amend an act to give effect to the laws of the United States within the State of Tennessee; and

The bill to establish the compensation of officers employed in the collection of duties on imports and tonnage, and for other purposes.

Mr. Kittera, from the committee to whom was referred the bill from the Senate respecting the sale of land Northwest of the river Ohio, reported the bill with one amendment; and the bill and amendment were committed.

Mr. Harper moved that the Committee of the Whole to whom has been committed the bill, &c., may be discharged from the further consideration of that bill, with a view of postponing it to the next session.

After some objections to this motion, Mr. Rutledge wished his colleague would withdraw it, to give way to one for a postponement till Monday, which was done. The motion was negatived, there being only 26 votes for it. Mr. Harper then renewed his motion, which was negatived—46 to 35.

The House then resolved itself into a Committee of the Whole on this bill, and went through it. The amendments were reported to the House, but not taken up.

Saturday, February 16.

A bill from the Senate, for forming a Supreme Court in the Territory Northwest of the river Ohio, was read and committed.

On motion of Mr. Gregg, the House went into a Committee of the Whole on the bill authorizing the discharge of Robert Sturgeon from his present confinement. The bill was agreed to without amendment or debate, and ordered to be engrossed for a third reading.

The House took up the report of the Committee of the Whole of yesterday, on the bill to regulate the compensation of marshals, attorneys, jurors, and witnesses, and having agreed to the amendments, the bill was ordered to be engrossed for a third reading.

AMENDMENT TO THE CONSTITUTION.

Mr. A. Foster laid on the table a resolution proposing an amendment to the Constitution, with respect to the mode of electing the President and Vice President of the United States, by making it necessary to designate the person voted for as President, and the person voted for as Vice President; which resolution was ordered to lie on the table and to be printed.

INCREASE OF SALARIES.

The House then went into Committee of the Whole on the bill for the augmentation of the salaries therein mentioned—

Mr. Otis moved to amend the bill, by inserting among the other augmented salaries, an officer which he supposed had been overlooked, viz: the Purveyor of Public Supplies, 2,800 dollars.

Mr. Gregg was opposed to the whole bill, and would therefore propose a motion, which he supposed would supersede that of the gentleman from Massachusetts, which was to strike out the whole section.

The Chairman declared the motion out of order, as the bill consists of only one section. The gentleman might attain his object by disagreeing to the bill.

The question was then put on Mr. Otis's amendment, and it was negatived—45 to 27.

Mr. Varnum moved to strike out "$1,700," the salary fixed in this bill for the Assistant Postmaster General, and to insert in its place "$2,300." The business of this department, said Mr. V., is very extensive, and if the salaries of the principal officers of Government are to be raised generally, he thought this officer ought at least to be placed on a footing equal to the Accountant of the War and Navy Departments.

After some observations from several members in favor of this motion, it was carried without a division.

Mr. Otis then renewed his motion to advance the salary of the Purveyor of Public Supplies. He proposed now to make his pay $2,600.

Mr. Gallatin said he was opposed to this bill altogether; but if it is to pass, he wished the augmentation to be kept within some bounds. He had supposed it was to be confined to the Executive officers of Government. There was another officer, viz: the Superintendent of Military Stores, who is obliged to reside in the city, and whose salary is only $1,500. He supposed there is the same reason for advancing the salary of this officer as that of the Purveyor of the Public Supplies. If the salaries of these officers are to be augmented, he supposed the officers of the Mint would next be introduced, and all other officers of the Government who live in the city.

Mr. Otis said, if he had considered this amendment as introducing a new principle, he should have suppressed it. He had considered the proposed augmentation of salaries as being confined to officers connected with the great departments of Government, of which kind is the Purveyor of Supplies. The same reason would apply to the Superintendent of Military Stores; but by no means to the officers of the Mint.

Mr. Nicholas asked whether it is not contemplated to have the duties of the Purveyor of Supplies divided, and a new officer of this kind appointed of the Navy, leaving the present officer to the War Department.

Mr. Otis believed such a proposition was made; but this would form a perfectly distinct question.

Mr. Nicholas said, it appeared that the gentleman from Massachusetts was determined to increase salaries at all events, otherwise he would not select a case of this kind, the duties of which are about to be so greatly lessened by a new appointment.

Mr. J. Williams observed it was difficult to ascertain what is best to be done in this business. Two years ago a bill of this kind was rejected, when there was a greater necessity for the augmentation than at present. Some of the officers, he believed ought to have their salaries advanced; but others, he thought, had quite enough. If gentlemen are determined first to put in one officer and then another, he should be opposed to the whole bill.

The question was put, and negatived, there being only 15 votes for it.

Mr. Brooks moved to advance the salary of the Accountant of the War Department, instead of from $1,600 to $2,300, as it stood in the bill as reported, from $1,600 to $2,800. He thought this officer ought to stand on the same ground with the Register of the Treasury.

The motion was negatived without a division.

Mr. Gregg had already said he was opposed to the bill altogether; but if it was to pass, he should wish to make it as equal as possible. He moved, therefore, to advance the salary of the Superintendent of Military Stores, from $1,500 to $2,000.

The motion was negatived without a division.

Mr. Gallatin moved a limitation clause, providing that this bill shall continue in force two years and no longer.

Mr. Hartley was in favor of the limitation clause. A part of his constituents, it would be recollected, had prayed the House to use as much economy as possible in the administration of Government; but he doubted not that, when they are informed that the present salaries of our officers were fixed when the Government first commenced, when $3,000 would have purchased as much as $6,000 will now purchase, they will be convinced of the propriety of the proposed advance. He thought it would be most prudent, however, to limit the law.

Mr. Harper moved an amendment to this limitation clause, which was, to strike out "two," and insert "three years, and from thence to the end of the next session of Congress," as he did not think two years would afford sufficient time to try the experiment of this law.

Mr. Gallatin had no objection to this amendment. He supposed the friends of this bill go upon the ground that our officers are not able to live in this city upon their present salaries. As it will be recollected that, in the year 1800, the Seat of Government is to be removed, and as the expenses of living may be lower in the Federal City than at Philadelphia, he should wish to have the subject again under consideration, in a year or two after the change has taken place.

Mr. Nicholas hoped this clause would not be agreed to. As to the idea of reducing salaries once established, he believed it to be perfectly fallacious; it was a thing that never did, and he would venture to say, never will, happen; for, if the expense of living at the Federal City was lower than at Philadelphia, the officers will only have to increase their style of living. To agree to this clause, would be giving a color to this bill which he did not think it deserves, viz: that the salaries are increased on account of the present expensiveness of living. On the contrary, he rather thought the proposition was made now from an idea that, if the augmentation was not now obtained, the rate of living would become so much more reasonable, from present appearances, than it has been, that the augmentation never would be obtained.

Mr. S. Smith said, when he proposed an augmentation of the salaries of the principal officers of our Government, he did not do it from an idea that the price of living would fall so much that if not done now, it could not hereafter be done. Nor did he think this idea of a considerable fall in the price of provisions having taken place, or being likely to take place, was correct. It was true that there had been a fall in the price of markets in this city, owing, probably, to the loss of people by the late fever, and to the great quantity of provisions which were brought to market when the disorder had subsided. But no fall has taken place in the other large cities, and the present low prices cannot be expected to continue here. Flour had lately risen two dollars a barrel; coffee is high, and almost all imported articles have risen in value. When the salaries of our officers were fixed, 600 barrels of flour could be purchased for $3,000; whereas now not many more than 200 could be purchased with the same money. Many of the other necessaries of life, and house rent, have risen in the same proportion. Nor could it be expected that we shall ever see things at the same rate as formerly, since there is a constant depreciation taking place in the value of money.

Mr. Harper said, the gentleman from Virginia had exhibited two qualities, which he was much in the habit of showing, viz: a most uncharitable temper, and a total want of information on the subject upon which he speaks. He tells the committee that gentlemen who support this bill are not actuated by the motives which they assume in advocating it; that the officers cannot live upon their present salaries; but by a deceitful motive, which they keep out of view, to catch at the embers of expiring high prices, knowing that, a little time hence, it will appear that there is no necessity for this advance; that it was our object to get an augmentation of salaries at any rate. In the next place he had shown a want of knowledge on the subject; since the price of living has not fallen in any considerable degree, and will not fall, whilst the cause which makes the price of produce rise, exists, and the cause of the temporary depression in price, as stated by the gentleman from Maryland, has ceased to exist. To these causes of depression in the price of produce may be added the stagnation of our commerce; but does this stagnation at present exist? Never was commerce as flourishing, and the commercial spirit so high, as at present. The mercantile part of the community begin now to find that they belong to a nation; the arm of Government has

been extended for their support, and the consequences will be an enhancement in the prices of the necessaries of life, which are the basis of our commerce. With these, house rent, labor, and everything else will rise. But, he believed, the fall in price, upon which gentlemen dwelt so much, had been very inconsiderable. He did not believe that, if any housekeeper in this city were to examine his house expenses for the last year, he would find them much less than any of the late preceding years. And, as these high prices have been occasioned by an influx of wealth into the country, there is no reason to expect a fall in them. The only reason to expect a change in the price of living to the officers of Government, is grounded upon the removal of the seat of Government to the Federal City. It may happen that the price of living may be much lower there, and, if so, the salaries may be put again upon the old footing. On this account the limitation clause was proposed.

Mr. Harrison said, he would vote for the limitation clause. When a gentleman speaks of the ignorance of others, he ought to be certain that he has taken the right view of the subject himself, which he did not believe the gentleman from South Carolina had done. It was not owing to the arm of Goverment being extended to the protection of commerce, that the price of produce has risen; it is owing to defective crops. But that gentleman never lost an opportunity of introducing his favorite topic—the navy, to which almost every advantage we possess is ascribed.

Mr. Bayard would almost as soon have the bill lost altogether, as to pass with a limitation clause. For, if the principal officers of Government receive $5,000 a year for three years, it may be expected that they will live at that rate; and would it not be unjustifiable and cruel, at the end of that period, to reduce the salaries again to $3,500? It certainly would. On what principle is it, said Mr. B., that the salaries are proposed to be augmented? Is it to enable our officers to live? No; he supposed they would not starve if they had only one thousand dollars a year. The object was to enable them to live as gentlemen, which they cannot do upon their present allowance. They cannot live in the manner in which the officers of the United States ought to live, to enable them to associate with that rank in society with which they ought to associate, and to live in a manner which would be creditable to the United States, and becoming the dignity and character of the nation. We ought, therefore, said Mr. B., in augmenting and fixing these salaries, to proceed on permanent principles, and not because the expenses of living in this city may be greater than they will be in the Federal City. Mr. B. did not think $5,000 too much for the Heads of the Departments of this Government anywhere. What ground ought to be taken in estimating what these salaries ought to be? He thought it a proper way to ask what is the price of the best talents in the United States, as this ought to be given in order to induce men of the first talents and respectability to come forward and serve their country? If not, they will employ themselves in business in which they can get better paid. And will gentlemen say that $5,000 a year, either here, or in any other place, is a greater sum than such a person could get in a different line of business? When it is considered how much the national interest depends upon the exercise of their talents, it is a measure of economy instead of expense, to hold out encouragement to the best talents in the United States for the Heads of our Departments.

Gentlemen say they wish to vote for this clause, in order to ascertain the public sentiment upon this augmentation, before it be made a permanent regulation. He knew no measure better calculated to create noise and clamor in the community than a limitation of this act. He knew that this augmentation would be unpleasant to some portions of the community, as it would carry with it an idea of an increase of taxes; and its being limited would set the whole country in a flame. Petitions and remonstrances would be sent here against the law, and we should have persons going from State to State to encourage the discontent, and Congress might be compelled to reduce the salaries, however reasonable they might appear. But, if the law passes without a limitation, there will be an end of the business. From the depreciation which had taken place in our circulating medium, owing to the establishment of banks, and from other causes, he did not think $5,000 are now equal to what $3,500 were when the salaries were first established.

Mr. Nicholas said, he should not attempt to answer that part of the observations of the gentleman from South Carolina which spoke of his (Mr. N's) want of information. To talk of himself would exhibit a self-conceit peculiar only to the gentleman from South Carolina. To equal him in this respect would be impossible, since it is his constant and favorite employment to sound his own praise.

Mr. N. was far from charging the gentleman from South Carolina with any concealed views in respect to the augmentation of salaries. He well knew he had constantly been in favor of high salaries, and of many other expenses. He therefore always expected this from him, and he knew no reason why he should not be in favor of them. He recollected that, two years ago, that gentleman was very anxious to make an augmentation of these salaries. But, Mr. N. observed, he had said that a fall had taken place in the price of the necessaraies of life, and an appreciation in the value of money, which made this advance particularly improper at this time. He was well informed that this fall could not be reckoned at less than 33 per cent. The gentleman from South Carolina, he presumed, had no information on this subject, except what he got from boarding-houses; but he believed it is notorious that both house-rent and meat are much lower than at any time within the two last years; and if there is this decrease in the price of living, the suspicion arises, which he before mentioned, that gentlemen are afraid no time will arrive hereafter which will

afford a better prospect than the present for augmenting these salaries.

Mr. Waln did not know whence the gentleman from Virginia got his information. He did not himself believe that any such fall in the price of living in Philadelphia had taken place as was mentioned by that gentleman. Butcher's meat may have fallen in price, and the rents of small houses, occasioned by the loss of many of our citizens by the late contagious fever; but he believed the expenses of a family, taken altogether, are as high as they have been in any preceding year. He had no doubt these expenses have doubled within the last ten years. He did not think the highest sum which had been contemplated, therefore, more than sufficient; nay, he was certain, that to enable the Heads of Departments to live comfortably, and in a manner which every gentleman thinks they ought to live, without intrenching on their private fortunes, they ought to have at least 5000 dollars a year.

Mr. Brooks was of opinion with the gentleman from Pennsylvania, who had just sat down, that these sums are not too large for a permanent salary. He was well aware that this subject is capable of being turned to great advantage to those gentlemen who are opposed to the advance of salaries; but he should always be in favor of what he thought necessary, however unpopular it might be. In addition to what had been advanced by the gentleman from Pennsylvania, which he thought conclusive as to the price of living, he thought the salaries of public officers ought not only to be sufficient to enable them to live comfortably, but also to leave them some clear gains, not only for the education and provision of their children, but to lay by something against old age. And he was willing to risk this opinion, not only to his constituents, but to the world. Gentlemen may call this prodigality; but he believed it would be the best economy to hold out encouragement to proper persons to accept of these offices. The whole augmentation proposed will amount only to about 15,000 dollars a year, and what is this sum compared to what may be lost by employing improper persons in these important departments of Government?

Mr. R. Williams said, he should vote both against this amendment, and against the bill. He had observed a constant propensity in certain gentlemen in this House to raise the salaries of public officers, but he never heard of such a thing as lowering a salary. The arguments made use of in favor of the proposed augmentation are mere matters of course; and there could be no doubt that after the salaries of these gentlemen are raised, all the other officers of the Government will follow. If the reasoning of the gentleman from Delaware is to prevail, that our officers are not to be paid according to their services, and according to the expense of living; but in order to enable them to move in a certain line in society, there would be no knowing to what our salaries may be extended; for first our officers must rise up to a certain rank in society, and then, he supposed, if they were inclined to mount higher, society must follow them, and by this means their expenses will be continually increasing. He had heard no good reason for advancing the salaries at present, and our treasury not being in a state to meet unnecessary expense, he hoped neither the amendment, nor the law itself would pass.

The question on the limitation clause was put and negatived—46 to 39.

The committee rose and reported the bill; and on the question "shall this bill be engrossed for a third reading?" it was negatived—45 to 42. So the bill was lost.

Monday, February 18.

The bill authorizing the discharge of Robert Sturgeon from his confinement, and

The bill providing for the compensation of marshals, clerks, attorneys, jurors, and witnesses, in the Courts of the United States, for repealing such parts of the former law as are therein mentioned, and for other purposes, were read the third time and passed.

A bill from the Senate making an appropriation for defraying the expenses which may arise in carrying into effect certain treaties with tribes or nations of Indians, was read and committed.

A bill from the Senate making compensation to James Mathers, for his services and expenses as Sergeant-at-Arms of the Senate, during the recess, was read and committed, as was also

A bill from the Senate giving eventual authority to the President of the United States to augment the Army. [This bill gives the President authority, in case a war shall break out between the United States and any foreign Power, or in case of imminent danger of such war, in his opinion to exist, to organize and raise twenty-four regiments of infantry, one regiment of riflemen, and three regiments of cavalry. The President is also authorized to call out the volunteer corps, on all occasions in which he is at present authorized to call out the militia, provided that he does not call a greater proportion from any one State, than he is authorized to call out of the militia, by the law which directs the 80,000 militia to be held in readiness. If it be necessary to carry this law into effect, two millions of dollars are appropriated for the purpose.]

On the question for reading this bill a second time, it was carried—45 to 37.

INCREASE OF SALARIES.

Mr. Allen believed, from what appeared on the discussion of the bill on Saturday for augmenting the salaries of certain officers of the United States, that there is a majority of this House in favor of advancing the salaries of some of the principal officers of the Government; he believed the chief difference in opinion was as to the rate of this advance. In order to bring the subject again before the House, he proposed a resolution for augmenting the salaries of the following officers: —— dollars, viz.: the Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, and the Assistant Postmaster General.

Mr. D. Foster moved to refer this resolution to a Committee of the Whole, but this being objected to by Mr. McDowell, it was ordered to lie on the table.

SALE OF NORTHWESTERN LANDS.

The House went into a Committee of the Whole on the bill for amending the law providing for the sale of land Northwest of the river Ohio; when, after some discussion, and several amendments, a motion was made by Mr. Craik for the committee to rise, with a view of postponing the further consideration of it till the next session. This motion was carried, and the bill was postponed accordingly.

COMPENSATION OF CLERKS.

On motion of Mr. Harper, the House went into a Committee of the Whole, on the bill to regulate and fix the compensation of clerks; and after introducing some amendments, the two principal of which were, to allow the Postmaster General $4.250 for clerk hire, and an additional clerk of $800 salary to the War Office, the bill was agreed to, and ordered to be engrossed for a third reading. The bill was read the third time next day, and passed.

CAPTURE OF FRENCH VESSELS.

On motion of Mr. Otis, the House went into a Committee of the Whole, Mr. Rutledge in the Chair, on the bill encouraging the capture of French armed vessels, by armed ships or vessels, owned by a citizen or citizens of the United States, and for allowing salvage in certain cases. The bill, which proposes a bounty on guns, according to their sizes, having been read,

Mr. McDowell observed, that this bill is similar to the one which was two or three different times negatived at the last session. At that time, he considered the situation of this country more alarming than at present, and the conduct of France more likely to drive us to extremities than it has since been. Knowing this, he did not expect gentlemen would have introduced a bill of this kind. Finding, however, that gentlemen are not satisfied with things as they are, but are desirous of hiring the people of the United States to make war upon France, though they are unwilling to declare war, and not being willing to give his vote to any such measure, he should move to strike out the first section of the bill.

The question was put, when there appeared 43 votes for it, and 42 against it, and the Chairman said, "it is carried," before he declared his vote to be in the negative.

A motion was made for the committee to rise, and negatived—43 to 42.

Mr. Allen asked, whether the former question could be considered as carried, the Chairman having, by mistake, omitted to vote.

The Chairman considered a majority of the committee as desirous of availing themselves of his mistake.

Mr. Harper said, it was clear that every member in the committee is obliged to decide one way or other, and therefore the Chairman has not a right to omit voting, when his vote will affect a decision; and, if he omits to vote through in inadvertency, any member in the committee has a right to call upon him to vote.

Mr. Dayton (the Speaker) said, he must be permitted to deliver his opinion on this occasion; which was, that the question was decided against striking out the first section. Having said this, he would add, that the Speaker would be justified in refusing to receive a report from the Chairman of the Committee of the Whole, which went to destroy that portion of the bill; since every member must know that a bill is not sent to a Committee of the Whole to report their disagreement to it, but to examine and amend its details.

Mr. Nicholas said, this was starting a new question, to which the attention of the committee ought not at present to be drawn. Mr. N. supposed the best practice would be not to attack the principle of a bill in a Committee of the Whole; but the gentleman from New Jersey must allow, that he has seen it done in a thousand instances, without any objection being made to this course, except the bill has only one section, and then the absurdity of the practice prevents its being acted upon. As to the gentleman from New Jersey's saying he should consider himself authorized, as Speaker, to refuse a report from the Chairman of the Committee of the Whole, provided he reported a disagreement to the first section of the bill, he thought it an extraordinary assertion. If so, said Mr. N., we may as well hold our tongues, if the Speaker is to tell the committee he will act in this way, or that, with respect to the report of their chairman.

The Speaker said, he did not say he would act in this way or that, but that he should be justified in so acting.

It amounted to the same thing, Mr. N. said, as he supposed the Speaker would do his duty, and if he thought he ought to refuse the report, he would of course do so. In Mr. N's opinion, if the Committee of the Whole, of which the Speaker is himself a member, direct their chairman to make a report, the Speaker must receive it, and that he has no right to make any objection to the report, be it what it may. Mr. N. did not believe the rules of the House require the Speaker, or the Chairman of the Committee of the Whole, to vote, except in cases where they have a casting vote. When their vote may tie a question, they may give it or not, as they please. At any rate, having not only taken that question, but decided another, he hoped the decision would not now be called in question.

Mr. McDowell concurred in this opinion.

The Chairman declared the question to have been decided. Finding members inclined to take advantage of his mistake, knowing it could only have a temporary effect, he acquiesced in the decision. Having, therefore, declared the question carried, except there be an appeal from the Chair, there can be no further question upon it.

A motion was made for the committee to rise.

Mr. Kittera objected to this. He hoped the bill would first be gone through; for, if there be a majority in favor of the bill, they will disagree to the report of the committee to strike out the first section, and the bill will be agreed to.

Mr. Nicholas and Mr. Sewall concurred in this opinion.

The question on rising, was put and negatived—48 to 25.

The bill was then gone through, and the committee rose, and reported one amendment, viz., their disagreement to the first section.

The House took it up; and the question being upon concurring with the report of the Committee of the Whole,

Mr. Nicholas called the yeas and nays upon it.

Mr. S. Smith wished to know from the chairman of the committee which reported this bill, what is its object? It had already been twice rejected at a former session. The object was then said to be to encourage our merchants to arm their vessels to guard their vessels, and to repel, and to attack French privateers. Have the merchants of this country wanted any encouragement of this kind to induce them to arm their vessels? Have they not armed them to a greater degree than any one could have expected? No man could have supposed, that, in the short space of six months, 300 merchantmen would have been armed. Seeing, therefore, that there is no want of this encouragement, by allowing a bounty on guns, why, said Mr. S., shall we expend the money of the United States in this way? Not a vessel, more or less, will be taken on account of this encouragement. Gentlemen were opposed to raising certain salaries the other day, because our Treasury cannot spare the money, yet they are about to lavish it away to no purpose by this bill. He could see no reason for passing this bill, yet if it is passed, said Mr. S., my constituents will be benefited more by it, perhaps, than those of any other gentleman on this floor, since they own more armed ships, having 62, which is more than one-fifth of the whole number in the Unired States. He did not think it right to expend the money of the public upon a measure which could be of no service to the United States.

Mr. Champlin was astonished at the opposition of the gentleman from Maryland to this bill. When the subject of arming merchant vessels was under consideration at the last session, that gentleman was opposed to it; the expense he said would be enormous, the object would never be answered, and merchants would never go into the measure. It is now seen the contrary has taken place.

Mr. C.'s idea was, however, that though a greater number of vessels had been armed than could have been expected, yet they have not armed in so effectual a manner, as if encouragement had been given to them to do so. Eight or ten instances, he believed, had occurred, of our vessels having engaged French privateers, and driven them off, but not a single instance of capture; and for a plain reason, because there was no inducement to make such a capture, the privateers being of too little value in themselves to take any trouble about them. It was necessary, therefore, to make them of more value, by allowing a bounty on their guns, according to their size. For his part, he thought it of infinite consequence, that when a French armed vessel strikes to one of our merchant-men, that they should be encouraged to take it, and bring it into port, as, by capturing one of these privateers, twenty or thirty of our own vessels might be saved. He did not know that the proposed bounty would increase the number of our armed vessels, but it would certainly increase their force. He remembered the other day, when the subject of the Navy was under consideration, the gentleman from Maryland concurred with the gentleman from Pennsylvania in the idea that all the advantage received from our armed force at sea, was not due to our Navy, but part of it to our private armed vessels, though he had been originally opposed to the measure.

Mr. Otis observed, that it was somewhat surprising that the gentleman from Maryland, who was himself one of the committee which reported this bill, should call upon that committee for information as to the object of the bill. [Mr. Smith said he was in Maryland at the time the bill was reported.] The gentleman must know, however, that it was considered as forming a part of our system of defence. He says this bill was lost three times at the last session; but it will be recollected, Mr. O. said, that it was lost once by accident, on a question of order, and once because some gentlemen, friendly to the bill, thought it a violation of the rules of the House, to bring forward the subject again, after it had been once decided; and that when the question was first taken upon the bill, several of its friends were absent. Mr. O. considered the bill, therefore, as standing on original principles; and, in order to judge of its expediency, it will be necessary to recur to the great object of our maritime preparations; which was, to break up the nest of French privateers which swarmed in the West India seas—an object clearly within our power—and it is for the House to determine whether this bill would not give encouragement which would further the breaking up of that nest. In his opinion it would. He believed that many of the privateers, which run into little rivers and small bays, will be ferreted out by our merchant vessels, when this encouragement is held out to them, and that many of our merchant vessels, on their return home, will cruise in aid of our public armed vessels, if this encouragement be given. At present, however well a merchant vessel is armed, it will, in ordinary cases, make the best of its way home, and rather get out of the way of privateers, than endeavor to capture them; and in order to induce such vessels to stop and give battle to these privateers, this encouragement is given.

The gentleman from Maryland has discovered, that if this bill passes into law, it will be beneficial to his constituents. It was formerly said, that it would be beneficial only to the Eastern States. As the gentleman is now convinced the law, if passed, will be beneficial to his constituents, upon a little further investigation, he hoped that gen-

tleman would find it to be his duty to pursue the interest of his constituents.

With respect to France having shown a more moderate disposition towards this country than formerly, he could only say, in one word, gentlemen who draw these conclusions, thought very differently from him. He saw no measure of the French Government which is not covered by duplicity, whether he looked to the Executive Directory itself, or to its agents, in which gentlemen, innocently perhaps, co-operate, to throw us off our guard, and lull us into a false security. Let France repeal her obnoxious laws; nothing short of this can evince her sincerity. Nothing short of this ought to impede our measures of defence. All the songs which they have sung to this country have been more fitting to be sung to children than to the people of the United States.

Much might be said upon this subject. He knew, however, that there are some gentlemen who believe that everything said by the French Republic is to be regarded as Gospel truth; and that their words, and not their actions, ought to be attended to. He hoped, however, this is not the sense of a majority of this House, but that gentlemen generally consider our situation as more hazardous now than it was at the last session; and that the dignity and honor of the country are more concerned to keep up our defensive measures. For these general reasons, notwithstanding the eagerness of some members in the Committee of the Whole, to avail themselves of a mistake to destroy the bill, he hoped that it would now receive the sanction of the House.

Mr. Josiah Parker said, he intended to have voted for this bill; but he had just been informed that the President has this day nominated to the Senate a Minister to go to France, and he should not be willing to go into any hostile measure that might injure that negotiation. The President having taken this step, some favorable change in our situation with respect to France must have occasioned it, and the probability is, that we may have peace—an event most desirable to this country. Having this information, he should vote against the passage of the bill.

Mr. Rutledge moved an adjournment, which was negatived—48 to 42.

Mr. Rutledge said, the first question now before the committee appears to be, whether it is the policy of this country to destroy the French privateers which infest our trade; the next, whether it will be most for the interest of this country to destroy them by holding out an encouragement to our merchant vessels to effect the business, or whether we ought to augment our naval force for the purpose. In his opinion, the former would be less expensive, and equally efficacious, and therefore he was in favor of it.

It had been said by the gentleman from Maryland, that the private armaments of this country have exceeded all calculation. He speaks correctly on this subject, and this furnishes a reason why our commerce has so suddenly revived. It has revived from its depression by means of private armaments, and the question is now whether we will extend them by making them still more effectual? How is this to be done? It is by holding out encouragement to industrious enterprise.

The gentleman from Maryland says, that having refused to advance the salaries of our officers, because our Treasury could not afford it, the House ought not to agree to spend money on this object. This, Mr. R. said, was not precisely the case. This was not the argument chiefly urged against those augmentations, it was (and he thought it a very fallacious argument) that living was become cheaper than it had been. But just when the House is about to decide on this question, a gentleman rises and says it will be wrong to pass this law, because a nomination has been made to the Senate of a Minister to go to France. He did not know how the gentleman received his information of this nomination; but if it should have taken place, and it be thought necessary on this account not to pass this bill, it may stop where we leave it. If peace be likely to be obtained, no man would wish less than him to frustrate it. If he saw peace in prospect, if he saw a probability of an honorable negotiation, no one would be more ready to embrace it than he; but he nevertheless thought it would be improper for the House to act upon this information. He trusted, therefore, this bill would be agreed to.

Mr. S. Smith said he was certainly averse to this bill at the last session, as well as to some other plans which were called measures of defence, for which he then gave his reasons, and in some instances he was fortunate enough to introduce amendments which, in his opinion, went to make certain measures less objectionable; but he had been against no substantial measure of defence. He knew such assertions as had this day been boldly made by the gentleman from Rhode Island, had gone forth to the public in some of the public prints. Mr. S. now declared, and a recurrence to the Journals would confirm this declaration, all such assertions to be wholly unfounded. It must be recollected, that so far from opposing the arming of merchant vessels, he declared on this floor, that the President had no right to prohibit their arming, since merchants had a natural right to arm their vessels. And this had always been his language. He had already said, that he believed this bill could answer no good purpose, as the encouragement it holds out would not induce a single merchant vessel to go out of its way to take French privateers, their cargoes are generally too valuable to be thus sported with. If the encouragement held out was to be so large as to encourage the fitting out of privateers, that would be another consideration, but he was certain it would have no effect with respect to merchant vessels.

Mr. Goodrich did not think it ought to be an established principle in this House, that when it hears informally of anything being done in the Senate, or of anything being done by France that has a favorable appearance, that it ought immediately to arrest its proceedings. If so, it will at any time be in the power of France to prevent our putting ourselves in a posture of defence. We

know nothing at present, said Mr. G., of the mission which has been mentioned. It may, for aught we know, be another attempt to drive us from the strong ground which we are taking for our defence; and what effect will it have upon the councils of a foreign nation, to be told, that the very moment we heard it lisped, not by authority, but by a member in this House, without any regular information upon the subject, that the President has nominated a Minister to treat with France, the consideration of an important bill was suspended; that the spirit of the gentleman who has been the most zealous in patronising our Navy, is immediately relaxed, and he determines to vote against a measure of defence, which he before supported? He saw no reason for this, but the contrary, since if the disposition of France is in any degree changed towards this country, it must be seen to be entirely owing to our having acted with some degree of spirit, in preparing to resist her outrageous conduct. We have, therefore, said Mr. G., the strongest reasons for maintaining our ground, until the moment of determined peace. This, he said, was our practice in our Revolutionary war, when the same arts were practised. He hoped, therefore, that on reflection, the gentleman from Virginia would still vote in favor of this bill.

Public economy, Mr. G. said, required this law, in order to excite individual enterprise to make captures of French privateers; and, since private armaments have been found so important to the United States, if, by holding out a small reward, you can excite and invigorate this spirit, a very valuable purpose will be attained at a very small expense, and we may be certain that the expense can never exceed the benefit, since they must go hand in hand.

Mr. G. acknowledged that the spirit for private arming had been great. Before that spirit the French privateers have retired. But is there no danger that this spirit may relax from its expensiveness? In order to prevent this from taking place, and to encourage the capture as well as the repulsion of French privateers, he hoped this bill would be agreed to.

Mr. Otis rose to acknowledge his obligations to the gentleman from Virginia (Mr. Parker) for furnishing him with a stronger argument in support of this bill than had heretofore been urged. If the President of the United States, who has always been disposed to restore peace to the country whenever an opportunity offered, has proceeded to nominate a Minister to treat with France, we ought, said Mr. O., to be very careful that the Minister so nominated goes to France under auspices more favorable than his predecessors. It was clearly his opinion, that if the negotiation with that country is to be renewed, it ought to be accompanied with a continuation of determined measures on our part, of that defence which has already been adopted, until the negotiation shall be brought to a favorable conclusion; if not, we may expect our negotiation to terminate like those of other nations with that Republic. If the nomination of a Minister to France affords us a single glimpse of hope for peace, that hope will be brightened if our Minister goes under the strongest preparations of this country for war, in case our negotiations should not succeed. If our first Envoys to France had been thus supported, it is probable we should have had peace long since; or if this had been the case with respect to our late Envoys, they might have been able to bring their negotiation to a favorable issue; for if there appears any favorable symptom in the present conduct of France, it has certainly been brought about by measures of which this bill forms a part—measures which seem to have awakened the Directory of France to a sense of their true interest—measures which have convinced them that their party in this country is not so strong as they expected, and that we have spirit to resist their oppressions. Therefore, though he did not think it was in order for the gentleman from Virginia to notice the nomination which he had mentioned, yet, if any inference might be drawn from it, it ought to be, that whilst we hold the olive branch in one hand we ought to hold the sword in the other. He understood, however, that this nomination is merely a conditional one, empowering our Minister at the Hague to proceed to France, whenever he shall be convinced that France will receive him as the Minister of a free and powerful nation. But surely a circumstance of this kind ought not to affect the passage of a bill like this. If it did, the House might as well go on and repeal our Army and Navy laws. He hoped, however, that what had fallen from the gentleman from Virginia was merely the result of that pleasurable feeling which every one experienced at the prospect of peace; but he hoped the gentleman, for his own credit, as well as in consideration of those friends who have of late been proud of his assistance in putting this country in a state of defence, would still vote for this bill. But as the minds of gentlemen may not be perfectly satisfied on the subject, he should be glad if the House would adjourn, and he renewed that motion; which was agreed to—49 to 47.

Tuesday, February 19.

A quorum of members being assembled, the Clerk called the House to order, and said, that he had just been informed that the Speaker was so much indisposed this morning as to be unable to attend the House.

Mr. T. Claiborne wished a Speaker *pro tem.* to be appointed; but a motion being made to adjourn, it was carried by a considerable majority.

Wednesday, February 20.

Matthew Lyon, from Vermont, appeared and took his seat in the House.

ALIEN AND SEDITION LAWS.

Mr. Livingston said, he had received, under cover, a number of petitions from the State of Vermont, praying for a repeal of the alien and sedition laws, which he begged leave to present to the House. One of which having been read, in which

among their other objections to the laws, the petitioners complain of having been deprived, by the sedition law, of their Representative in Congress for the greater part of the present session; Mr. L. moved to have the whole referred to the select committee to whom was referred the other petitions relative to this subject; but on Mr. Gallatin's suggesting that he understood that committee is ready to report, and that it would therefore be better to suffer the petitions to lie on the table until that report is made, and then have the whole referred to the same Committee of the Whole; that course was taken.

CAPTURE OF FRENCH VESSELS.

The House took up the report of the Committee of the Whole on the bill for encouraging the capture of French privateers, by allowing a bounty on guns, and the motion being to concur in the agreement of the committee to strike out the first section of the bill,

Mr. Macon said, there were some other observations made the other day, when this subject was under consideration which he thought very foreign to the subject. The history of this bill during the last session was given. The House was told it was three times rejected—once by trick. He was surprised to hear two gentlemen make use of this expression. If there was any trick, it certainly was among those gentlemen who had so frequently brought the subject before the House. It had been said, also, that it was once rejected by accident. It was the first time he had ever heard it urged as a reason for reconsidering a subject, that certain members had before voted accidentally upon it. Another reason was given, that the vote in the Committee of the Whole had been improperly obtained, by taking advantage of a mistake of the chairman. By the rules of the House, Mr. M. said, the Speaker, or Chairman of a Committee of the Whole, has a casting vote, or they may tie a vote; but after the chairman had declared the question carried, it might be supposed he did not mean to vote, or if he did that he meant to vote with the majority.

Nothing, then, seems more decided than that the sense of the Legislature is opposed to a bill of this kind. Another circumstance occurred, which he thought equally strange; which was, that the gentleman from Massachusetts should have so feelingly regretted that a gentleman (Mr. Parker) had expressed his intention of voting against this bill. He thought these uncommon arguments on the passage of a bill.

Mr. M. said, he had seen a letter printed in the papers from one of our naval commanders in the West Indies, wherein he says, that American vessels sail into the neighborhood of the French islands, in ordered to be carried in; that they afterwards get away, pretending to have made their escape, and soon return with another cargo. He also mentions having fallen in with one of these vessels, evidently steering for a French island, but the vessel's papers were so well managed, and the captain and mate understood each other so well, that he could make nothing of them. If, said Mr. M., the laws for suspending our intercourse with France and her possessions can be so easily evaded, might it not be expected that this law would be evaded, and that privateers might be fitted out in the West Indies, and brought to a certain latitude, for the purpose of being taken? He had no doubt this would be the case.

Whatever gentlemen may say to the contrary, the reasons for passing this bill at the last session, were much stronger than at present. It was then said, that except a law of this kind was passed to encourage the taking of them, privateers would come into our ports. We find that this is far from being the case at present. One of the captains of our armed vessels writes, that there are no privateers to be seen in the West Indian seas, but that they confined themselves in port, being completely blocked up; nor had he heard one reason for passing this law now which was not urged last year, and the reasons against it are certainly much stronger than they were at that time. Since that time, said Mr. M., we have done another thing which we never did before; we have publicly advertised, that we are ready to borrow money at eight per cent. Therefore, now, when our situation is so much better than it was at that time, and when all the money we pay out in this way, will be borrowed at this extravagant interest, he hoped the bill would not pass.

Mr. McDowell said, that when this bill was before under discussion, he had stated that our situation with respect to France appeared to be more favorable than last year. This was denied by the gentleman from Massachusetts (Mr. Otis.) He considers our danger greater, and this bill more necessary than at that time; and has gone on to remark, that all that was said about our improved situation with respect to France, were songs only fit for children, and not for the people of America. He was of a different opinion; they were the songs of peace, and as such, he believed, suited to the people of this country, who wish to live in peace. And if that gentleman knew more of the evils attendant on war than he does, he certainly would not be so ready to embrace them as he appears to be.

But he thought the gentleman from Massachusetts mistaken as to our situation; he believed it to be much better than it was at the last session. He formed this opinion from the despatches of Mr. Gerry, who declares it to be his opinion, that France is sincerely disposed to make peace; and more particularly from the President having nominated a Minister to treat with France, though he had declared he never would send another Minister until he should receive assurances that he would be received as the Minister of a great, free, and powerful nation. He supposed, therefore, that the President has received these assurances, and that we have, on this account, some reason to hope, that a reconciliation between the two Governments will take place.

He was opposed to this bill, because it might be the means of bringing the country into difficulties and war; it was giving to one part of our citizens the power to embroil the whole. No necessity

has been shown to exist for this law; it is, indeed, said to be necessary to keep down the privateers of France, but we find by letters which have just been published, from the commanders of our armed vessels, that there are very few to be seen. But supposing there are yet a number of them, what better use can our public armed vessels be put to than to go after them? They must either be employed in doing this, or sent, where he did not wish them to go, to the European seas, or kept useless at home.

Mr. McD. alluded to what had been said about the vote in the Committee of the Whole having been obtained by trick. He thought it taken perfectly fair, and trusted it would be confirmed by the House.

Mr. Gallatin would not have troubled the House on this subject, had it not been for the remark of the gentleman from Massachusetts (Mr. Otis) immediately before the adjournment took place on Monday. He told the House that the vote on this subject ought not to be influenced by the nomination of a Minister to go to France; and he precluded any answer being then given to the remark, by moving an adjournment.

For my part, said Mr. G., I do not consider this bill as very important in itself, and I have always been at a loss to know why there appeared to be so great an anxiety to have it passed. It is said, we ought not to recede from the ground we have taken; and really, from the arguments of the gentleman from Massachusetts, it would appear that there was a motion before the House to prevent our merchants from arming their vessels, or our public vessels from taking French privateers. This measure brings us to the question, not whether we will recede, but whether we will progress. The object of this bill is not to authorize any new measure, but it is to give a bounty to merchants to do what they are already authorized to do. The only question is, whether it will promote the taking of French privateers? He believed it would produce no effect at all, except the blanks in the bill are to be filled with sums which would produce a very serious demand on our Treasury. The object of merchants is to make a safe and quick voyage, and if privateers will keep out of their way, they will never go in search of them: and if they should fall in with a privateer, their aim would be self-defence, and not capture, since to attempt this might hazard the loss of their vessel and valuable cargo, and take from them means of defence against any other attack, since they must put their own men on board the captured privateer.

It is clear, therefore, said Mr. G., that one of two things must take place, either we must give such a bounty on the guns of privateers as will make the expense of taking them greater than the benefit, or else it will become a mere matter of speculation, or small vessels will be fitted out on purpose to obtain the bounty. When privateers are taken by other countries, they are always taken by their vessels of war, and seldom by letters of marque.

But it is said this measure ought to be taken, in order to strengthen the hands of our Minister, by showing our determination to resist, in case an accommodation does not take place. On the same grounds, Mr. G. said, a declaration of war might be urged.

As to the effect to be expected from the appointment of a Minister to treat with France, he considered it merely as opening a door to negotiation. He agreed with the gentleman from Massachusetts, that it ought by no means to be considered as putting an end to the dispute between the two countries. It may succeed, or not. But this step having been taken, he did not think proper to go into a measure of this kind, especially since it can be attended with so little good effect.

Mr. Josiah Parker said, when he gave notice to the House on Monday of the nomination of a Minister to go to France, and declared that, on that account, he should vote against this bill, he did not do so because he was willing to relax from any of our measures of defence or offence against the French; but because he thought the measure proposed by this bill puerile and ineffectual, and therefore unnecessary. When he made this declaration, he was sorry to differ in opinion from the gentleman from Massachusetts, with whom he had had the honor to vote very frequently. At the same time that he said this, he declared himself ready to abide by every measure of defence yet adopted, and even to take higher ground than has yet been taken; for he had no opinion either of the magnanimity or sincerity of the French Republic. He believed they had no desire for peace, except such as arose from their changed situation. He thought it better, however, not to go into any little, irritating measure, like this. The President had heretofore told the House that he would never send another Minister to France until he received assurances that he would be properly received; he believed the President had received these assurances from the French Minister at the Hague, through our Minister there.

Mr. P. thought the second section of this bill, allowing a salvage on the retaking of any of our vessels, ought to pass; the first he hoped would be struck out.

Mr. Pinckney was sorry to differ in opinion from the gentleman just sat down as to the expediency of passing this bill. He did not think it a measure of great importance; but, as an additional measure of defence, it may have some effect, and he was therefore for agreeing to it. He thought the gentleman from Pennsylvania (Mr. Gallatin) had put the prospect of a negotiation with France upon a proper footing; and he agreed with that gentleman that we ought not to vary the ground we have already taken; but he did not think that any augmentation of force would be going off the ground originally taken.

What, asked Mr. P., was the ground taken at the last session, and acted upon at this? It was, that we should, by all means in our power, prepare for our defence, more especially that we should add to every measure of defence to which our revenue is adequate, on the ocean. We have

shown this to be our determination both at the last session and this, and our preparations have only been limited by our ability to make them. This measure, therefore, is a continuance of the same ground.

This bill reverts, therefore, altogether upon the question of expediency, and this he thought the proper footing on which to place it. The gentleman from Pennsylvania has objected to its expediency, because he says it will be inefficacious. Mr. P. would give a short answer to this, which was, that its expense will be commensurate with its utility. There is no doubt, if it has any effect at all; if it induces any private armed vessels of the United States to bring into our ports privateers which are depredating on our commerce, no moderate reward could be too great to be given for this advantage. And if there is nothing done; if the law proves ineffectual, then the public is nothing out of pocket. It is one of those cheap expedients which may be beneficial, but which can have no bad consequences.

Mr. W. Claiborne said, when this bill was first proposed at the last session, he viewed it as bottomed on a narrow policy—as calculated to produce no general good—as a mere burlesque when spoken of as a measure of defence. He therefore voted against it, and was happy to find himself in a majority on the occasion. When the bill was proposed the second time, his first impressions respecting it were not removed; and at that period the situation of our country called at least as much for measures of defence as it does at the present period. Nay, more. How comes it, then, asked Mr. C., that this bill, after having been twice considered and rejected, that it should now appear so strikingly proper to the gentleman from South Carolina? Let him read the bill, and he cannot declare it important as a measure of defence. Let him look over the report of the Secretary of the Navy, whose duty it is to recommend to the Legislature what appears to him useful for our defence in that Department, and he will not find a measure of this kind ever glanced at. Let him also examine the report of the select committee of this House, appointed to consider whatever relates to the Navy, and he will find no bounty on cannon recommended. Supported by these two authorities, and his best judgment, he must continue opposed to this measure.

He was of opinion that we ought not, on account of the late nomination, to relax our measures of defence, nor ought we to go further by taking any step which might tend to widen the breach between the two countries. Though he had heretofore been opposed to some of the measures of defence, he would not at present revoke them. But thinking this bill unnecessary, to say the least of it, he hoped it would not pass.

Mr. S. Smith said, that previous to the question being taken, he would state, that if he thought this measure essential to the defence of the country, he would give it his vote; but believing it unessential, he should vote against it. He agreed that the system adopted at the last session ought not to be departed from. In some instances he should be for making it stronger.

Mr. Harper believed that gentlemen, in their deliberations on this subject, have fallen into some mistakes as to the course which this bill took at the last session. Mr. H. gave the history of this bill, and also spoke of the decision which had taken place in Committee of the Whole as by no means conclusive. On the general policy of the measure, he was not inclined to make any observations. He believed it was well understood; but he would not omit this occasion of declaring, that, in his opinion, its policy had not been changed by the nomination which has taken place of a Minister to treat with the French Republic.

It is said that an intimation has been made, not through the Dutch Minister, but through the Secretary of Legation at the Hague, to our Minister there, that the French Government is disposed to receive any Minister Plenipotentiary which we may choose to appoint, suitable to the dignity due to the representative of a great, free, and independent nation. This intimation having been given to the President, he has thought it proper to meet the advance so far as to nominate a Minister, which Minister is to go to France, provided he shall receive assurances of being properly received, and a Minister of equal rank appointed to treat with him.

This change, Mr. H. said, from haughty insolence; from the expulsion of our Minister; from a demand of tribute; from requiring apologies for speeches; from outrage and insult, to the mild language of supplication, must certainly have been owing to the measures of this Government, and therefore clearly evinced the policy and propriety of these measures. We have thus far, said Mr. H., seen the good effects of buckling on our armor, at the same time that we hold out the olive branch. And instead of relaxing, we ought now to brace up the system; not that he would wish to take any new ground, but merely reinforce and invigorate the system already established. This he thought the true policy of this country. Whether this application for a negotiation on the part of the French Republic may arise from sincerity, or from a wish to wheedle this country to their own advantage, or because they perceive we are not to be bullied into submission, and therefore it is best to live on friendly terms with us, he held it wise policy in us to enlarge our means both of defence and offence, until our dispute with France is brought to a close. He, therefore, thought it of more importance to adopt this measure now than heretofore; because, if it is not carried, it may be supposed that we have forborne to adopt it, because we are disposed to relax the instant we have information that a negotiation is likely to be opened, and that they may at any time unnerve our arm by a proposition to negotiate. Therefore, if he had before been against this measure, he should now be in favor of it, because, if it had no other good effect, it would convince the Government with whom we are about to treat, that the same vigorous measures which have produced this negotiation will still be continued, and that

though we are treating for peace, we are preparing for war, and that we are determined to do ourselves justice, if they refuse to do us justice. For these reasons he hoped the bill would pass.

Mr. Livingston said, that considering how great a favorite this measure had been of its partial parents, it was the most unlucky child that ever showed its face in the House. It had scarcely seen the light at the last session, when it was lost in the short passage from its nursery in the committee to the House, because those who were most interested in its preservation, by accident, did not happen to vote for it. Another accident of the same nature prevented its passage when it was again attempted in the same session. At the interval of a year, the same ill fortune seemed to pursue this unlucky bantling. It had scarcely taken its first step into existence when the same forgetfulness seemed to seize all those who had the care of it. Again, it was lost in the committee; again it accidentally expired; and all the efforts to revive it, he believed, would be in vain. Mr. L. then went into a history of the bill to show that it was lost, not by accident, but because a majority were opposed to it.

In arguing on the merits of this bill at present, had those opposed to it said anything about relaxing those measures of defence which were taken in times of greater danger? Have they advised you to lay up the frigates, disband your army, and place full reliance on the advances of the French Republic towards negotiation? No such thing. It has been said only that this bill having been rejected in times of greater danger than the present; and having now been thought of so little consequence as to be suffered to lie till the close of the session, it ought not now to pass. He believed there is no contrariety of opinion in this House as to the propriety of abiding by all the measures of defence which have been taken, until the proposed negotiation is brought to a conclusion; and he could not conceive why gentlemen, in arguing in favor of this bill, should speak in such a manner as to induce a by-stander to suppose, that members opposed to it advised a relaxation of that system. He did not think this perfectly candid.

Mr. L. said, he understood that France proposes to receive a Minister from this country on the very terms upon which only the President of the United States has heretofore said he would ever send one. It was said to be improper to recede from the ground we have taken on this account, because the French may not be sincere. He had heard no such idea suggested, and gentlemen certainly do wrong in imputing motives to others without foundation. But when gentlemen come to the merits of the bill, they touch them very lightly. They tell you it is part of our general system of defence. Is this the case? How is it to operate? It is to operate as a measure of aggression, not of preservation, or self-defence; and though he was perfectly willing to preserve our present ground, he did not wish to progress in any measures of hostility, especially when so little advantage can be derived from it as is proposed by this bill.

But it was said to be a measure of self-defence, because it went to disarm our enemy of the means of annoying our trade, by encouraging the taking of their privateers. Upon the same principle of self-defence, he did not see why we might not despatch our frigates against one of the ports in the West Indies from whence these privateers sail, and take possession of that, in order to prevent privateers from being fitted out from thence against us. He did not wish to take either of these steps while in our present situation.

But the gentleman from South Carolina has said, that gentlemen who were formerly opposed to this bill ought now to be in favor of it, because, if it is not adopted, France will suppose we are relaxing our measures, and trust altogether to the sincerity of their professions. This argument, Mr. L. said, would apply, if there was a proposition for receding from measures already taken, but it could not apply in the case of a new measure like the present.

Mr. Edmond rose to rectify a mistake. When the question was taken in Committee of the Whole, he had been out a few minutes, and was just entering the door, and supposing it had been to agree to the bill, he voted in the affirmative, though, if he had known that the question had been for striking out the first section, he should have voted in the negative. He did not apply to have the mistake corrected at the time, because he discovered an unwillingness to correct mistakes in the case of the Chairman.

Mr. Dana said, that the President of the United States, in his Message to both Houses of the 21st of June last, declared, "that he would never send another Minister to France until he had assurances that he would be received as the Ministe- of a great, free, and powerful nation." The character of the President of the United States for integrity and political fortitude, is well known and established, and that character is pledged for an adherence to the declaration above recited. Nor had he any idea of his receding from it. With a knowledge of this fact, we are to inquire what is the purport of the information which has been given to this House of a Minister having been appointed to negotiate with the French Republic. For his own part he did not consider the French Government sincere; and he was authorized to think so by the declaration of this House in answer to the President's Speech. Nor did he think the President believed them to be sincere, and he was authorized in thinking so, from his communication to both Houses at the opening of the session. How, then, is the nomination of a Minister to be understood? It was to be understood in the same light in which we used to appoint Commissioners during our Revolutionary war, who were sent to Europe to treat with Great Britain long before we expected she would be willing to treat for peace; but they were possessed of eventual authority. So, in the present case, the authority proposed to be given to our Minister at the Hague, is only to be an eventual authority, that when he receives sufficient evidence of the sincerity of the French Government, he may pro-

ceed to treat with them. Nor did he believe that the Senate possessed any document informing them that the President has already received these assurances.

[Mr. D. here read extracts from the President's address to both Houses, from the address of this House in answer to it, and from his reply; in which the President states he can have no confidence in the sincerity of the French Government, while the decree which condemns our vessels as prizes, on account of having articles of British growth or manufacture on board, is in force.]

We know, said Mr. D., that this decree is, however, yet in force; and yet gentlemen pretend to say that the nomination which has taken place is a proof that the President has now some reliance on the sincerity of the French Government; whereas it is nothing more than a conditional appointment, such as he had already stated. No gentleman will hazard his political sagacity by saying, a negotiation is likely to take place whilst that decree is in existence; nor can any gentleman be found who will apologize for it, if it is so atrocious that its repeal must be an indispensable preliminary to any negotiation which may take place. Believing this nomination, therefore, to be nothing more than the naming of a person to treat with the French Government when it shall condescend to do us justice, the arguments of gentlemen built upon it, fall to the ground. And if they attend to the declaration of this House, in the address already alluded to, they will find that we ought to advance in our defensive measures instead of receding, or even remaining stationary.

But the gentleman from New York has made a sagacious discovery. He says, this act will not only be progressing in, but changing our system. Our system has generally been maritime defence, with a view of not only protecting our commerce, but of subduing all foreign force.

Mr. LIVINGSTON said he did not say it would be changing the principle of our measures, but extending that principle.

Then, said Mr. DANA, I must consider the argument as extremely idle, because our having a vessel more or less, or a regiment more or less, cannot be objected to.

Mr. D. was in favor of this measure, because it would assist us in making effectual resistance to the maritime violence of France, and because he believed the nearer our measures of hostility approached war, without producing war, the nearer would be our prospect of peace. For the French nation, said Mr. D., have discovered a character which no other nation ever before discovered. Other nations, when they are solicited to be at peace, will be so; but the more you seek for a good understanding with the French, the more they insult and abuse you. Yet, when we took measures which were calculated to establish a mortal hatred between the two countries, it is then we see a spirit of supplication and compliance. Justice has no influence upon them; they are strangers to that honor which nations and individuals wish to support in their characters. He hoped, therefore, the same measures which had heretofore been acted upon would be continued, and that this would be added to them.

Mr. NICHOLAS supposed, during the first half of the speech of the gentleman who had just sat down, that he meant to vote against this bill, for he could not have supposed that he had quoted the President's Message to Congress, in June last, for the purpose of making a declaration such as he has made with respect to it. He supposes that the President has received no assurances from the French Republic that our Minister will be received, though he has heretofore said he never would send a Minister until he had assurances he would be properly received; but that he has appointed a Minister to wait, as it were, at the door of France, for a declaration that he will be properly received. And he supposes that the declaration of the President will in this way be satisfied. Mr. N. believed, if the President has appointed a Minister, he will be received, because he did not believe he would have appointed him until he had good assurances that this would be the case; or, if he has, that he has certainly forgotten his declaration.

As to the conduct of the United States during our war with Great Britain, when the Commissioners were appointed to reside in Europe for the purpose of making peace, we were then in a situation which made us anxious for peace—every one longed to see it restored. Our situation is now different. We make the act of peace the act of our enemy. He should not stop to examine into the propriety of this change in our conduct.

Mr. N. could not help being surprised at some observations which had been made on this occasion. Gentlemen seem determined to embrace every opportunity of enjoying self-applause, on account of the present appearance of things—of saying that they have managed our affairs well, and that, by acting with spirit, they have humbled a nation which has set all other nations at defiance; and, on this behalf, they wish to adopt a new measure. It is surprising, said Mr. N., that gentlemen can entertain so fallacious an opinion, however flattering it may be to themselves. He should leave them to enjoy it uncontradicted if other measures were not to proceed on the supposed success of the former.

The gentleman last up had made use of a very extraordinary argument. He says the French nation is governed by different principles from any other. When we intreat them to be at peace, he says they insult us; but when we give them cause to wage eternal war against us, they become humble and submissive. Mr. N. believed that this was not the first time that such measures have had this tendency; but it is the first time it has been acknowledged that the measure alluded to (the publication of the despatches containing the unauthorized negotiations of X, Y, and Z, he supposed was meant) was calculated to produce these direful effects. He did fear they were intended to have these mischievous consequences; but he hoped and believed that their being so notorious and palpable have been the means of defeating the intention, and of saving the nation from war, as it showed that the

Government of this country had no desire to be at peace. The French saw that a war between the United States and them would have been a war of passion, in which they could have had no possible interest, and which would, above all other things, have proved agreeable to their enemy. They saw that there was a party in this country who wished for this state of things, and he believed the extremity to which things had been carried has defeated the object in view. I do believe, said Mr. N., that France is now disposed to make peace; that she is calling upon us to enter into negotiation, in order that the party in this country who are desirous of war may have no pretext for carrying their wishes into effect.

Mr. N. was astonished, that after a Minister of respectable character, a Minister chosen by the President, and who declared he accepted of the employment from a desire to support his administration, being well acquainted with the disposition of France, from his having resided there a considerable time—has asserted that, previous to their knowledge of the publication of the negotiations of X, Y, and Z, in this country, the French Government were desirous of negotiating a peace; that after having rejected two of our Ministers, and retained a third, their resentments appeared to be satisfied; and that, though, after they had received information of the publication of these despatches, their displeasure was for a while excited, yet, before Mr. Gerry left France, the same disposition for peace had returned; though, from the disposition which appeared in this country, they were doubtful how their overtures would be received. And after we have now proofs that they have made overtures, in conformity to the sentiments exhibited in Mr. Gerry's despatches, it was astonishing, he said, that gentlemen should ascribe this offer to negotiate to the effect which the small force we raised has had upon them—a force which could not possibly have availed anything against such a force as it might be expected would be sent against us, if it was the purpose of France to invade this country.

Mr. N. said we had lately heard much about the usefulness of our Navy in the protection of our commerce, and as being the cause of the late increased price of our produce. Within these two days, he had observed a letter in the papers from one of our naval commanders, which seems to give a different face to things. He says the French privateers have been laid aside on a different account, viz: on account of the rigorous orders that the commanders of them are laid under. The heavy penalties attached to offences, Captain Tingey writes has destroyed privateering.

He would make an observation here which had considerable force on his mind. The decree regulating the conduct of commanders of the privateers of France, was issued at the instance of Mr. Gerry, and which, though it had received the marked censure of the Secretary of State, it seems has produced very good effects in restraining privateering. Gentlemen cannot have forgotton that the unwarrantable British order of the 6th of November, was corrected by another of the 8th of January; and, though this last order was very exceptionable, confirming almost every exceptionable principle of capture in itself, yet it produced almost the state of things we wished. It is the policy of Governments, when they are called upon to correct bad laws, to throw the blame upon their agents, and to afford redress, not by repealing the laws, but in some indirect way, which does not go to an acknowledgment that they had passed bad laws.

Mr. N. said he had omitted to notice an observation of the gentleman from Connecticut, where he says that the only possible ground on which the United States can open a negotiation with France will be, by their first repealing their offensive decrees; and that the President had said this must first be done. Mr. N. did not recollect his having said this; but he knew he had said, that he would not send another Minister to France, until he should have assurances of his being received as the representative of a great, free, and powerful nation; which places the business on a very different footing from the repealing of decrees, &c., as a preliminary. What! would the gentleman wish the President of the United States to refrain from sending a Minister to France until he receives the submission of France? until she does everything we complain of by way of preliminary, so that nothing will be left for negotiation? If these are to be the terms of negotiation, we should need no negotiator at all. He seems to think it will only be necessary for our Minister to go and receive the submission of France. Mr. N. did not think it right to flatter the people of the United States with any such expectations, so different from anything which has heretofore been seen in the settlement of disputes between independent nations.

Mr. RUTLEDGE observed, that the effect of the measures which were taken at the two last sessions of Congress have been so different from what was predicted by the gentleman from Virginia that he was no longer inclined to give credit to his predictions. He has constantly been prophesying, but time and experience have shown his prophecies to be wholly unfounded. It was doubtless in the recollection of the House, that that gentleman thought it would be weak to rely upon a Navy; he thought and said that many of the measures formerly taken would plunge the country in war, by causing a declaration of war on the part of France. The gentleman apologized for the length of his speeches, because he thought the measures of the last importance; and that if they were adopted, the scabbard would be thrown away, and it would not be in our power to resume it. But, instead of war, it is now found these measures have obtained for us peace—at least gentlemen say so. The gentleman from Virginia now predicts we shall have peace; but as all the former predictions of that gentleman have fallen to the ground, he trusted a majority of this House will not be inclined to give credit to his present prediction.

Much had been said about the diplomatic skill of France; and he thought her present conduct more deserving of this epithet than any of her

former measures with respect to this country. Let gentlemen review the conduct of that country. She first attempted to bully us; but finding that we were not to be frightened, her next object was to obtain delay, in order to afford time for the spirit which had been roused by her injuries, to spend its force. When our Minister, Mr. Pinckney, first arrived in France, he was assured he would be received; but the French had an agent in this country feeling the pulse of the people, and finding that there existed a great deal of French mania, and a party upon whom they could rely, the French Government refused to receive our Minister. This country still desirous of preserving peace, sent three Commissioners. What was then the conduct of the French Government? Our Ministers remained for months at Paris an unique spectacle, waiting in vain to be received. France has endeavored to palsy our Government—to produce delay—to give time for that noble sprit which has done so much honor to our country to spend itself. When she finds that our efforts to negotiate having failed, we buckled on our armor, and were determined to resist her injustice, the French Secretary of Legation at the Hague is directed to have some conversation with our Minister there; and assure him, notwithstanding this country had done acts enough to justify the most offensive measures, that if we will send another Minister to France, he would be received as an agent of a great, independent, and powerful nation. Gentlemen catch at this; but what is it but an attempt to arrest the arm of the Government of this country, just when it was about to strike a blow? And yet gentlemen are the dupes of this diplomatic skill.

Some gentlemen were always opposed to this bill; but the gentleman from Virginia says he was in favor of it, but now wishes to stop—a Minister having been appointed to go to France. The gentleman is mistaken as to the fact—no Minister is appointed to go to France. The President of the United States knows how little reliance is to be placed on the assurances of the French Government; he only proposes, therefore, that when Mr. Murray is convinced of the sincerity of the French Government, he shall proceed to Paris. This act of the President manifested what he and his friends had always insisted upon, but which the gentleman from Virginia and his friends had always denied, viz: that the President has always been ready to embrace peace, the moment it could be obtained with safety and honor. Mr. R. confessed, however, that the remembrance of the past duplicity of the French Government was not removed from his mind; and he did not, therefore, rely much upon this advance on the part of France. But certain gentlemen in this House lay great stress upon this nomination. He wished these gentlemen would, in some instances, imitate the policy of the French, which is at times wise in the extreme. Mr. R. allowed it was unwise in any Government to aim at conquest; but this being the object of France, her means of carrying her purpose were well adapted.. At the time negotiations are going on at Rastadt, the French Directory have made a call for 200,000 men, which will be the strongest argument in their favor at Rastadt. But what was the conduct of France towards Switzerland? At the time they meditated its overthrow they talked of peace, and by thus amusing the Swiss they were the better enabled to effect their purpose, and the liberty of that country is now completely subdued.

I wish to God, exclaimed Mr. R., that we may have peace. My constituents wish it as much as those of any gentleman on this floor; for if France were to make war upon this country, they might ravage the whole coast of the country which I represent in one night. It was not therefore to be expected that I can wish for a state of things which would put their property and my own in the greatest jeopardy. Mr. R. declared he was not for war, but for peace—not a transient, but a permanent peace—and the only way to insure a peace of this kind, in his opinion, was to prepare vigorously for war.

The gentleman from Virginia, in order to show that we are not indebted to our Navy for the apparent change in our affairs for the better, had read a letter from a commander of one of our vessels, to show, that notwithstanding the offensive decrees of France, the conduct of the privateers in the West Indies is materially changed. Mr. R. said he would read an extract of a letter from another of our commanders, who, having been in the islands, he apprehended was better informed on the subject. [Mr. R. read Captain Bainbridge's letter, which speaks of a great number of American vessels being constantly made prizes.] Mr. R. accounted for the different language held by Captain Tingey, from his having gone from this country with sanguine hopes of taking a number of French privateers, and because he had not met with many of them, he supposes the French have changed their system; but this opinion is altogether contradicted by the better information of Captain B.

Mr. R. thought it of importance to pass this bill. Not to do it, would be to attach too much confidence to trifling occurrences; it would be palsying the arm of Government, and make the people of this country think it unnecessary to pursue their system of defence.

The gentleman from New York, being endowed with much wit, sometimes entertains the House with stories about boiled heretics and roasted cooks; and this bill he calls the most unfortunate child that was ever brought into the world. The facts are known to this House, said Mr. R., that this bill had been kept back by accident. It is said, how can gentlemen tell how those members who were absent would have voted? Because the gentlemen themselves have declared what they would have done. The Committee of Enrolment were out of the House when the question was first taken upon a bill of this kind, and therefore an attempt was made to revive it; and a few days since it was disagreed to in Committee of the Whole by a majority of one, the Chairman (himself) not recollecting that he had a right in that case to vote; and it might, therefore, be justly said that the vote against this bill had been carried by accident.

Mr. Varnum said it was perfectly astonishing

to observe the effect which this bill produced whenever it came under consideration. No one could have supposed, beforehand, that it was calculated to excite so much sensibility. If strangers were to hear the debate which has taken place, they might suppose that the question was, whether another Minister should be sent to France, or whether the doors should be closed, in order to consider the question of a declaration of war, whereas the bill before the House is a very simple one. It is merely to give a bounty to merchant vessels, which most gentlemen believe will be a dead letter, except where the bounty shall be fraudulently received; for no gentleman could believe that any merchant will permit his captain to stop in his voyage to fight and take privateers, or that they will send additional hands for the purpose. Why, then, introduce into debate matter so foreign to the subject, if it were not for the sake of making fine speeches? It is merely to abuse France, because they have expressed a desire to settle the existing differences between them and us, and seem determined not to go to war with us. Mr. V. did not think the question of all the importance which was attached to it.

Mr. Pinckney said, that notwithstanding the little consequence which attaches to this question, in itself (for he did not think it very important,) and notwithstanding arguments may have been introduced which do not bear directly upon the point; yet, as they have been introduced, and some of the arguments made use of by the gentleman from Virginia have not been answered, he hoped he should be excused if he made a few observations in reply.

In the course of that gentleman's remarks, he observed that he believed the French Directory is disposed to peace with the United States; he believes this on the testimony of one of our Commissioners who remained in France after the departure of his colleagues, who says, that, at the time of his sailing, he believes this to have been the disposition of the French Directory. Mr. P. called upon the gentleman from Virginia to say in what single instance France has offered to make peace with us? That they have brought forward propositions to negotiate, is no proof that they are desirous of peace, since keeping up a negotiation may be a more desirable situation for them than the present. But have they, it has been repeatedly asked, in any respect altered their conduct towards us? They have not; and until they do, he could not give them credit for any better disposition than they have heretofore shown. Does not the decree exist which sentences our mariners, taken on board British vessels, to the fate of pirates? And could it be supposed, that if they had a sincere desire to conciliate, this decree would be suffered to remain in existence? Is there any other act of their's which manifests a disposition for conciliation? The gentleman from Virginia says that the decree regulating the conduct of their privateers is of this nature, and has undertaken to show that the proceedings of the French and British have been very similar in respect to their unjustifiable decrees. Mr. P. thought he had attended particularly to the issuing of these orders; but if the opinion which the gentleman from Virginia has formed of them be correct, he must have misunderstood them. The British order of the 6th of November cut off at one blow all the intercourse of the United States, by declaring that all vessels may be carried in for adjudication which should contain any of the produce of the French colonies; so that all our vessels were made subject to confiscation. The decree of the 8th of January went nearly to a repeal of the former decree. It went, indeed, on the old doctrine that no neutral nation shall be permitted to carry on commerce, in time of war, which was prohibited by every nation in time of peace. But this did not strike at the commerce of the United States direct: it did not prevent our commerce with the West Indies. He allowed that this decree did not go far enough.

If, however, all the weight which the gentleman from Virginia claims for his argument was given to it, it would go no further than to justify the aggressions of one nation by those of another. Mr. P. thought it impossible to justify the conduct of the French privateers in the West Indies. [Mr. Nicholas said he did not pretend to justify them; he only meant to show the manner in which nations undertook to correct unjust laws.] But, asked Mr. P., has the French decree respecting the commanders of their privateers, in any way corrected the offensive decrees of France? On the contrary, they are required to comply with the laws of the Republic; and they so understand it, as appears from the letter of one of their agents lately come over, which has been published: in which he says, that the American vessels which they met with, having all the necessary papers, especially the *role d'equipage*, (the requiring of which had always been considered as the most arbitrary regulation,) they were suffered to pass.

Mr. P. said he had endeavored to find out whether there had been anything in our conduct to induce the French to behave with a more friendly disposition towards us than heretofore, but could find nothing: and he did not expect them to change their conduct without some cause. The gentleman from Virginia admits they were hostilely disposed towards us at a former period: that they had been guilty of aggressions which would justify a declaration of war. Mr. P. did not believe we had shown a more amicable disposition of late towards them; and the gentleman from Virginia will not allow that any of our armaments have had any effect. Therefore, unless gentlemen could show some cause for a change in the conduct of France, he must continue to believe that her disposition remains the same.

But, whatever may be the issue of this negotiation, he could easily imagine that a state of negotiation would be more agreeable to the French nation than a state of actual hostility, or than the present state of things. They have diplomatic skill enough to see that the minds of the people of the United States would be roused by a continuation of their enormities, and would be prepared to baffle any attempt which might be made to subdue or to bring us to terms; and they can also see that

a negotiation may be caught at by the people of the United States, and serve as a lure to disarm them and relax all their measures of defence, and by this means prepare us for a more easy prey at some future period.

Mr. Livingston was not surprised that gentlemen who had always been the advocates of war, at this critical moment, when all the horrors of peace stare them in the face, should seize every opportunity of postponing that dreaded event by questioning the sincerity of the offer to negotiate. [Mr. Rutledge asked whether this had been done? The Speaker answered in the negative.] From those gentlemen this was naturally to have been expected, and he therefore excused their vexation and dismay. But Mr. L. said he was not a little astonished that others, who at least professed an attachment to peace, should betray such evident anxiety and uneasiness at its approach. The gentleman from South Carolina (Mr. Rutledge) has said that he wishes for peace; that no class of men are more exposed than his constituents, and that he himself would be a great sufferer by war. Such wishes and such motives he was however inclined to believe would have prompted language very different from that which had just been heard. A gentleman really desirous of peace would not, he should have supposed, travel out of the argument to pronounce philippics against those with whom we were treating, or to question the sincerity of overtures which were made in the mode we ourselves had prescribed. Such an one would naturally say to himself, "If these overtures are sincere, irritating language and violent measures may retard, or perhaps frustrate, the accomplishment of that event I so much desire. If on the contrary they are insincere, big words and reproachful language will add nothing to our defence." And he would conclude that conduct which might be productive of mischief, but could in no event be conducive to good, had better be avoided.

Mr. L. said these suspicions of double-dealing and insincerity must lead to eternal warfare and endless animosities. He knew no mode in which differences could be adjusted, if every offer was to be repelled by suggestions of deceit. He knew not whether these offers to negotiate were the effect of a desire to accommodate, or were dictated by duplicity. It was impossible he should know. Every one was at liberty on this subject to indulge his own suspicions, or to form his opinion upon the facts. He himself firmly believed that the French Republic were sincerely desirous of accommodating their differences with the United States; and since the President, by the appointment of a Minister, had met their advances, he had little doubt that an honorable treaty would be the result. But he did not think that either the one opinion or the other ought to induce any difference of conduct; because he did not deem it expedient to alter the position we had assumed, even on the best grounded expectations of peace. He had not, it is true, approved of all the steps which led to that position; but being assumed, he thought it was proper to retain it until the final arrangement of our disputes.

He would not ask gentlemen who pronounce so decisively on the subject; who tell us that no reliance is to be placed in French professions; that they promise only to betray; that, unlike all other nations, they treat us with disdain when we ask for peace, but, like spaniels, crouch and fawn upon us when we use them ill, whether they had calculated the consequences of their doctrine? That would be demanding more from them than their conduct had given him a right to expect; but he would ask whether they had attended to dates, when they arrogated to their measures the credit of producing the present disposition for peace in the Government of France? Let it be remembered, said Mr. L., that the most earnest and pressing solicitations for an accommodation were expressed to Mr. Gerry; that he was repeatedly urged to negotiate a treaty, which it was more than intimated he might have on his own terms; and that, after his repeated refusals to treat, a Minister was designated to carry these pacific intentions to America—and all this before any account of those measures on which gentlemen so much pride themselves had arrived in France. Let it not be forgotten, too, that when the account of these measures did arrive, so far from having a beneficial effect, they were very near producing the one for which gentlemen now tell us they were intended, and for which they were indeed admirably calculated—that of provoking, on the part of France, a declaration which could not be obtained here. Mr. Gerry very expressly gives us these important facts. He states the evident desire to accommodate before the arrival of the despatches, and the turn which their contents gave to the negotiation. The discussion was turned to unimportant points; the design of sending a Minister was relinquished; and everything showed a design to protract the business, until it could be ascertained whether the United States were desirous of peace, or would receive a Minister, if he should be sent. In this state of things, Mr. Gerry received orders to return. All further intercourse with France then ceased, until the President, by his Message to this House, declared the terms on which alone he would send a Minister to France. No sooner were these terms known, than the assurance is sent in the very words prescribed by the President, accompanied by expressions of an earnest desire to treat. In all this history, subsequent to the departure of Messrs. Pinckney and Marshall, he thought an evident desire had been shown for an accommodation, the sincerity of which he believed it was our duty to test—not by reproachful speeches and hostile measures, but by meeting their overtures for negotiation in good faith; and while we showed our desire for peace, not to trust too much to our wishes, but retain every measure of defence.

But gentlemen had said that the professions to Mr. Gerry were equally insincere with the overtures that are now made. Mr. L. said this might be so; but, on this subject, he thought some little weight ought to be given to the testimony of a man who, in some respects, perhaps, was in a situation better suited to form a true judgment, than those who differ from him. A man who was on the spot, who was a principal actor in the scene,

who had no prejudices in favor of the French; who had, as he himself says, undertaken his mission with a view of supporting the administration of the Executive. This man expressly tells us that he firmly believes the French were sincere in their desire of accommodation before the arrival of the despatches. And yet gentlemen, at 3,000 miles distance, in the plenitude of their wisdom undertake to say that he was mistaken, and grossly ignorant of what he ought to have been best informed.

But Mr. L. said he would not quarrel with gentlemen about the credit which they assumed for producing the present state of things. All he desired was, that however produced, proper advantage might be taken of it. And he could not avoid expressing his astonishment that so much evident vexation should be shown at the prospect of an event which some, in the House at least, say they expected from the energy of their measures. The key to it, he believed, was to be found in the sentiment delivered by the gentleman from Connecticut, (Mr. Dana,) who states "that no other nation but the French would or ought to have borne the measures taken by the United States; that they were calculated to produce war, and, with any other nation, would have had that effect." Is it disappointment, then, that produces the sensation so evident on the prospect of peace? He was loth to answer in the affirmative, but certain symptoms might warrant the opinion.

The gentleman from South Carolina (Mr. Rutledge) had mentioned delay. France, he said, always conquered by producing delays. This he thought not a very applicable expression to the rapidity with which gentlemen traced their conquests. But on this occasion it was particularly unfortunate. It appears that the overtures which have now been acted upon were communicated by the Minister for Foreign Relations at Paris, to Mr. Pichon at the Hague, and by him to Mr. Murray, on the 28th of September; and we hear nothing of them until the close of February. He did not know when the communication was received here; but there was at least a probability, from the date, that it was before the opening of the session; before the adoption of all the expensive measures we have undertaken; before the loan was opened at eight per cent.; before the intemperate commentary was written on Mr. Gerry's despatches, with which we have been favored by the Secretary of State. Let gentlemen compare the language of that singular State paper with these proposals made to Mr. Murray; let them examine the respective dates, and then let them talk to us of delay.

Mr. Shepard could not think, with the gentleman from New York, that France is serious in her proposals to negotiate; he believed she meant to deceive us; and sooner than be deceived by them he would fight the ungodly nation. After some other observations, he sat down, with hoping the question would be taken.

The question was put on agreeing to the report of the Committee of the Whole, and carried—52 to 48, as follows:

Yeas—George Baer, jr., Abraham Baldwin, David Bard, Richard Brent, Robert Brown, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, Wm. Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The second section was then amended by adding to it the usual enacting clause; but after some observations against passing it by Mr. Sewall, since the first section had been stricken out on the motion for its going to a third reading, it was negatived. And so the bill was rejected.

EXPULSION OF MATTHEW LYON.

Mr. Bayard proposed the following resolution to the House:

"*Resolved*, That Matthew Lyon, a member of this House, having been convicted of being a notorious and seditious person, and of a depraved mind, and wicked and diabolical disposition; and of wickedly, deceitfully, and maliciously, contriving to defame the Government of the United States; and of having, with intent and design to defame the Government of the United States, and John Adams, the President of the United States, and to bring the said Government and President into contempt and disrepute, and with intent and design to excite against the said Government and President the hatred of the good people of the United States, and to stir up sedition in the United States—wickedly, knowingly, and maliciously, written and published certain scandalous and seditious writings or libels, be therefor expelled this House."

Mr. B. said he had only to remark that this resolution is copied from the record of the trial, which he had in his possession.

Mr. Nicholas said, if this had been a candid statement of the business, he should have been willing to have come to an immediate vote upon it; but words are introduced into this resolution (which are words of course in every indictment) which do not particularly belong to this offence, and the truth of which is never inquired into upon

a trial. As he wished the nature of the offence to be clearly stated, he hoped the motion would lie for the present.

Mr. Bayard observed he had already said the terms used are copied from the record itself, and he did not think the gentleman from Virginia had been wiser than the law. He had himself no doubt that all the charges on the record are pertinent to the subject; if not, it would be extremely improper to introduce them. They are charges upon which a jury of the country have decided.

Mr. Nicholas appealed to the gentleman from Delaware, and to all other gentlemen of the law who heard him, whether the words here used are not the mere form of the indictment, and unconnected with the act here charged. He moved to adjourn, which motion was carried without a division.

Thursday, February 21.

ALIEN AND SEDITION LAWS.

Mr. Goodrich, from the committee to whom was referred the several petitions which have been preferred during the session for the repeal of the alien and sedition laws, made a long report on this subject, showing the constitutionality of these laws, and the propriety of continuing them in force. The report concludes with three resolutions, declaring it inexpedient to repeal the alien law, sedition law, or any of the laws relative to the Military or Naval Establishments of the United States. The report was committed for Monday, and ordered to be printed.

Mr. Gallatin presented a petition from seven hundred and fifty-five inhabitants of the county of Chester, and another from seventy-eight inhabitants of Washington county, both in the State of Pennsylvania, praying for a repeal of the alien and sedition laws.

Mr. Brown presented petitions and remonstrances, of the same nature, from one thousand nine hundred and forty inhabitants of Montgomery county, and from one thousand one hundred inhabitants of Northampton county, both in the State of Pennsylvania.

Mr. McClenachan presented a petition of the same kind, from five hundred and eighty-seven inhabitants of the Northern Liberties of Philadelphia.

These petitions were referred to the Committee of the Whole, to whom was, this morning, referred the report of a select committee on this subject.

SUNDRY BILLS.

Mr. Pinckney, from the committee appointed to consider whether any and what amendments are necessary in the law for the relief of sick and disabled seamen, reported a bill to amend the present law, which was committed.

Mr. Gallatin, from the committee appointed to consider what alterations are necessary in the law appropriating lands for military services, reported a bill to amend this law, which was committed.

Mr. S. Smith, from the Committee of Commerce, reported a bill for the relief of Thomas Arnold, and a bill to authorize the erection of a beacon on Boon island, which were committed.

On motion of Mr. Harper, the House went into a Committee of the Whole on the two following bills, which were agreed to, and ordered to be read a third time to-morrow, viz:

A bill allowing James Mathers a compensation for services done to the United States, and for expenses attending the same; and

A bill making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill making appropriations for the support of Government for the year 1799; and, after going through the same, the House took up the amendments and agreed to them. The bill was then ordered to be engrossed for a third reading.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill to grant additional compensation for the year 1799, to certain officers of the Senate and House of Resentatives of the United States; and the bill having been agreed to, the committee rose, and it was ordered to be engrossed.

Mr. Varnum laid a resolution upon the table to the following effect:

Resolved, That the President of the United States be authorized and empowered to call upon the Executives of the several States, to take effectual measures, as soon as may be, to organize and hold in readiness to march, on the shortest notice, 80,000 militia, including officers, to be appointed according to the number of white male inhabitants in each State respectively; which detachment of militia shall be officered out of the present militia officers.

Mr. Varnum said, that at the extraordinary session, a law was passed directing 80,000 militia to be held in readiness, which law expires at the close of the present session. These 80,000 men had been the only effective force of any consequence which we have possessed during that time; for though laws have been passed for augmenting our Army, the object has not been effected; and, as he had great confidence in the defence of the militia of the country, he should wish this number of men to be held in readiness, until our disputes with France are completely settled. He should not think it safe, in our present situation, to relinquish this force.

The resolution was ordered to lie on the table.

PURCHASE OF NAVAL TIMBER

On motion of Mr. Josiah Parker, the House took up the amendments of the Senate to the bill authorizing the purchase of timber for naval purposes. The amendments proposed to strike out the appropriation of $100,000, and to insert in its place $200,000, authorizing also the money to be laid out on land upon which timber is growing, as well as upon timber.

After some debate, in which these amendments

were supported by Mr. J. Parker and Mr. Pinckney, and opposed by Messrs. Nicholas, J. Williams, Gallatin, and McDowell, the amendments were concurred in—50 to 37.

QUARANTINE LAWS.

The House then took up the amendments of the Senate to the bill respecting quarantines and health laws, which were concurred in. [They provided that the Judge of any district court, in case of any contagious sickness, which may endanger the lives of persons confined in prison, do direct the Marshal to remove the prisoners to the next adjacent prison, where such disease does not prevail; that, in case of such disease prevailing at the seat of Government, it shall be lawful for the President to permit and direct the removal of any or all the public offices, to such other place or places as, in his discretion, shall be deemed most safe and convenient for conducting the public business; and also a power to Judges to adjourn any court which may be held in any place where contagion exists, to a place of safety.]

Friday, February 22.

The following bills were read the third time and passed:

A bill allowing to James Mathers compensation for services as Sergeant-at-Arms to the Senate; a bill making appropriations for expenses which may arise in carrying into effect certain treaties with Indian tribes or nations of Indians; and a bill to grant additional compensation for the year 1799, to certain officers of the Senate and House of Representatives of the United States.

ALIEN AND SEDITION LAWS.

Mr. Bard presented several petitions and remonstrances from 1,487 inhabitants of the county of Franklin, in Pennsylvania, praying for the repeal of the alien and sedition laws; which having been read,

Mr. Bard moved to have this petition referred as usual.

Mr. Harper inquired whether it would be in order to strike out a part of this petition. On being answered in the negative by the Speaker, Mr. H. said, he was always unwilling to object to the reference of petitions; but, on this occasion, he could not help protesting against an atrocious libel contained in these petitions against the courts and juries of this country. Some time ago a great deal had been said on the subject of courts and juries in this House, and now we find the sentiments, as many others have been, reverberated in the form of petitions. It is here said, "that the sedition law had, in its execution, been used as a means of private vengeance, personal enmity, and party resentment." A charge so unjustifiable, and so untrue, upon the courts and juries of this country, he could not suffer to be referred without his protest.

Mr. Gallatin observed, that the reference of these petitions is objected to, on account of what the gentleman from South Carolina calls a libel, which makes a part of these petitions. This, said Mr. G., is going upon the ground, which the greatest enemies of these laws have barely suggested might be taken, but which they thought scarcely possible, viz: that the right of petitioning might next be restricted, since the liberty of writing and speaking on the measures of Government were by law restricted; and now, taking it for granted, that the allegation contained in these petitions is untrue, the gentleman from South Carolina wishes to refuse these petitions a reference, without examining whether it is true or not. The petitioners say that the sedition law has been carried into effect under the operation of party spirit and personal revenge. The gentleman says that this is not true; but he does not want to have the allegation examined, in order to discover whether it be true or not, but to dismiss the subject at once; to tell the people, "You shall not be permitted to lay your petitions before us, if you dare to say that laws are carried into operation to gratify party spirit or private revenge, (for nothing is said of courts and juries,) if they contain such allegations, we will reject your petitions." Mr. G. hoped, on examination of the fact, the House would be convinced that though the charge is not a libel, that it is at least a gross mistake; that no such personal enmity, party spirit, or private revenge, has taken place, either in the commencement of any prosecution under this law, or in any decision which has taken place. But thus to object to the reference of petitions, would be to say that we have the power of defining the nature of petitions; that they may apply to this and that object, but that there are certain points which the people may not touch. He wished to know whether the people have not a right to say, if they choose, that the administration of justice is corrupt? and whether, if they do say so, the fact ought not to be inquired into? It certainly ought, and he was surprised to hear such an objection made. It must have arisen, because these petitions are grating to the feelings of gentlemen who are favorable to these laws. He hoped, on recollection, that the reference of petitions does not imply an approbation of the sentiments contained in them, that the gentleman from South Carolina would permit these petitions to be referred.

Mr. Harper was not surprised that the gentleman from Pennsylvania should defend these petitions, for reasons which every man must know. What he has said upon the subject is no more than a repetition of some things which we have before heard. He agreed that, when grievances are complained of, they ought to be examined; and if the people were to complain of a maladministration of justice, the fact ought to be inquired into; but when the repeal of a law is prayed for, it certainly cannot be proper for petitioners to go into charges against the administration of courts and juries, by saying that prosecutions are carried on under party malice and party revenge. To do this is to strike at the vitals of our Constitution. The gentleman from Pennsylvania likes this, perhaps, from party motives, but he ought to remember that it is an instrument which will cut both ways; and the use of which, if he has any respect for the laws

and rights of his country, he may live to regret having countenanced. Mr. H. said, if in order, he would move to refer this part of the memorial to a select committee, with a view of inquiring into the subject-matter, and report their opinion thereon to the House.

The Speaker declared such a motion out of order; and, after some observations from Mr. Nicholas, in which he said the gentleman from South Carolina had answered himself, by allowing the propriety of a reference at all; and observed, if because these petitions complained of the administration of one part of our Government (which, however, he did not allow they do) they were to be rejected, it might be expected that, hereafter, no petition would be received that complained of the maladministration of any department of the Government.

The reference was carried, there being 55 votes for it.

Mr. Gallatin presented petitions from six hundred and seventy-eight inhabitants of Chester county, praying for the repeal of the alien and sedition laws, in the same words with those presented yesterday.

MILITARY APPROPRIATIONS.

On motion of Mr. Harper, the House resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Military Establishment for the year 1799; and, after filling the blanks of the bill, the committee rose, and the House having concurred in the amendments, the bill was ordered to be engrossed for a third reading.

GOVERNMENT OF THE NAVY.

On motion of Mr. Josiah Parker, the House resolved itself into a Committee of the Whole, on the bill for the government of the Navy of the United States; and, after going through the same, the committee rose, and the amendments being concurred in, the bill was ordered to be engrossed for a third reading.

ON EXPELLING MATTHEW LYON.

Mr. Bayard called up, for consideration, the following resolution, which he had laid upon the table a day or two ago:

"*Resolved*, That Matthew Lyon, a member of this House, having been convicted of being a notorious and seditious person, and of a depraved mind, and wicked and diabolical disposition, and of wickedly, deceitfully, and maliciously, contriving to defame the Government of the United States, and of having with intent and design to defame the Government of the United States, and John Adams, the President of the United States, and to bring the said Government and President into contempt and disrepute, and with intent and design to excite against the said Government and President the hatred of the good people of the United States, and to stir up sedition in the United States, wickedly, knowingly, and maliciously written and published, certain scandalous and seditious writings or libels, be therefore expelled this House."

The resolution having been read, Mr. B. presented to the House a copy of the record of Mr. Lyon's trial, which was read by the Clerk, after which,

Mr. B. observed, it would not be necessary to trouble the House with many observations in support of this resolution. The facts upon which the resolution is founded, are proved to be incontrovertibly true, by the record which had just been read. The only question, therefore, before the House was, as to the consequence of the fact, or whether the crime of which the member in question had been convicted, is a sufficient cause for expulsion. Mr. B. referred the House to that clause of the Constitution which gives the House the power of expulsion. The power, said he, is unlimited. The House has the power to expel a member for any crime, or for any cause, which, in their discretion, they conceive has rendered him unfit to remain a member of the body. Perhaps some gentlemen may think that it is improper for the House to take notice of acts done by its members out of the House, but he believed the fallacy of such a doctrine would be easily seen. It was certainly possible, and might, therefore, be imagined, that a member of this House might be guilty of murder, treason, perjury, or other infamous crime, and would it be asserted that a man, defiled by crimes of this kind, ought to be suffered to represent a portion of the people of the United States in the National Legislature? He trusted that no gentleman, who valued reputation, would contend for such a point. The question, then is, said Mr. B., whether the act in question is an act of that description, the commission of which ought to induce the House to expel the convicted member? In his opinion, the crime was of the first political magnitude. A crime not only affecting the members of this House, but the whole community, as its consequences go to the subversion of the Government. This Government, said Mr. B., depends for its existence upon the good will of the people. That good will is maintained by their good opinion. But, how is that good opinion to be preserved, if wicked and unprincipled men, men of inordinate and desperate ambition, are allowed to state facts to the people which are not true, which they know at the time to be false, and which are stated with the criminal intention of bringing the Government into disrepute among the people. This was falsely and deceitfully stealing the public opinion; it was a felony of the worst and most dangerous nature. The member from Vermont has been convicted of doing this, with a view of exciting the hatred of the people against the President and Senate, and of stirring up sedition in the country. This, in his opinion, was a crime of the greatest magnitude, since it is all important that the channel by which information is conveyed to the people should be preserved as pure as possible; for, if men are allowed to state things as facts, which they know to be false, what will be the consequence? However upright the Government, or however correct the First Magistrate may be, the hatred of the people may be excited against them by means of false information; and when a foreign foe, or domestic traitors, join the standard of rebellion, the

best Constitution and Government may be subverted. Therefore, that falsehood which deprives men of the means of forming a true judgment of public affairs, in this country, where the Government is elective, is a crime of the first magnitude. The member from Vermont has been convicted, under aggravated circumstances. He was on this floor when the law, against which he has offended, was passed. He, therefore, was well acquainted with the law; yet, with this knowledge, he has falsely, scandalously and maliciously, defamed the President of the United States, with a view of exciting hatred, and stirring up sedition. These facts are recorded and incontrovertible; and he conceived it would be out of order to call them in question.

Mr. B. concluded with appealing to the candor and honor which he expected to find in the House, whether a member, the malice of whose heart, and the falsehood of whose pen, stood recorded; who had, from the worst and basest motives, violated a law which he had himself assisted to make, was fit to hold a seat in that House. Will any one say that a man who does not keep the laws ought to be allowed to make them? Certainly, nothing was more repugnant to principle and propriety; and, as he conceived the member from Vermont was notoriously and exemplarily guilty in this respect, an obligation rested on the House to expel him. Mr. B. said he brought forward this resolution from a sense only of public duty, from a strong feeling for national character. He knew but little, and should be happy if it were less, of the member who was the object of it. He could not be suspected of having been induced to the step he had taken by the miserable gratification of offering violence to the feelings of the member. He believed that nothing he had said, nor anything which could be said, would awaken a single feeling. His sensations were of another sort, and excited in another manner. Mr. B. conceived he had done his duty, and if the House refused to purify itself by the expulsion of the member, it was a satisfaction to him to reflect that it would appear to the world that he had no share in the disgrace.

Mr. Nicholas had hoped that the gentleman from Delaware would have shown to the House something in this transaction which made the character of the member alluded to so infamous as to have rendered him unfit to hold a seat in this House. He should have thought that, after a member of this House had suffered so severely as the member from Vermont has suffered by fine and imprisonment, it would have been thought necessary to go into a consideration of the nature of the offence of which he is said to have been guilty, and to have shown that the guilt attaching to him was such as to defile the characters of the rest of the members to sit with him, before a vote of expulsion was taken. Indeed, Mr. N. had supposed that there had been but one opinion on this subject, and that no attempt would have been made to have inflicted a second punishment. The gentleman from Delaware, Mr. N. said, had confined himself in his declaration about this offence, to its being an offence against one of the laws of the United States, without showing the House what the offence was, or wishing them to form a judgment upon it.

Mr. N. was surprised at this second prosecution, because, if gentlemen will speak candidly, according to the opinions which they formerly delivered in justification of the law, they will acknowledge that the whole of the charges brought against the member from Vermont ought not to have been inquired into under the sedition law; since two of the counts contained in the indictment are mere matters of opinion, not containing the least suggestion of fact; and the third rests so much on matter of opinion, that it is impossible, according to a sound construction of the law, for any guilt to be incurred by the act.

Mr. N. wished the House to attend to the nature of the charges exhibited against the member from Vermont, and to say whether they were not of such a nature as to render it difficult to say whether they are well founded, and, if they are well founded, then they are innocent. In the record from which he had copied the charges, there are three counts; two of them are founded on extracts taken from a letter, called "Barlow's Letter;" the third is for sentiments contained in a letter of the member's own writing. The two first turn on mere matters of opinion. Mr. N. read the counts as follows:

"The misunderstanding between the two Governments has become extremely alarming, confidence is completely destroyed, mistrusts, jealousy, and a disposition to a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come before your Executive—I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe, before the coming and second coming of Pinckney; had it guided the pens that wrote the bullying Speech of your President, and stupid answer of your Senate, at the opening of Congress in November last, I should probably have had no occasion to address you this letter. But we found him borrowing the language of Great Britain, and telling the world that, although he should succeed in treating with the French, there was no dependence to be placed on any of their engagements; that their religion and morality were at an end; that they had turned pirates and plunderers; and it would be necessary to be perpetually armed against them, though they are at peace. We wondered that the answer of both Houses had not been an order to send him to a mad-house. Instead of this, the Senate have echoed the Speech with more servility than ever George III. experienced from either House of Parliament.

"As to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness, and accommodation of the people, that Executive shall have my zealous and uniform support. But, when I see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, or selfish avarice; when I shall behold men of real merit daily turned out of office for no other cause but independence of sentiment; when I shall see men of firmness, merit, years, abilities, and experience, discarded on their application for office, for fear they possess that independence; and men of meanness preferred

for the ease with which they take up and advocate opinions, the consequence of which they know but little of; when I shall see the sacred name of religion employed as a State engine to make mankind hate and persecute one another, I shall not be their humble advocate."

The two first counts contain the opinions of the writer on public and notorious acts. No act is charged upon the President and Senate which is not notorious. It is not an attempt to impose upon the world a belief of facts which do not exist. He called upon gentlemen of the law and others to say whether this law was ever intended to extend to matters of opinion. He was astonished that a record of this kind should ever come from a court of the United States. The law declares that the publications which it proposes to punish, shall be false and scandalous. Do gentlemen say opinions can be false which do not contain matter of fact? Another part of the law gives to the party accused the privilege of giving the truth of the fact charged in evidence; but it is impossible that this can be done, where the matter charged consists of mere opinion; and juries could not possibly say whether an opinion be true or false. They can only determine whether or not it is their own opinion.

If a man is to be subject to a prosecution for his opinions, what will be the consequence? We are, said Mr. N., sent here to form an opinion, and, when we return home, we are expected to deliver that opinion to our constituents; but, if the propriety of our opinions are not to be judged of by ourselves, but by others, what will become of us? No man will be safe; for, though he may have formed his opinion as correctly as possible, if twelve men are to sit upon it, and, if it should not happen to be their opinion, or if they should not believe it to be his upon whom it is charged, he will be liable to a severe fine and imprisonment. Is it proper, Mr. N. asked, for legislators to be placed on this ground? Or, will gentlemen say it was their intention to place themselves in this situation? They certainly will not; for who would consent to sit here, or of what use would it be, under such conditions?

The third count is somewhat of a different nature. Mr. N. said, in speaking on this subject, he was not giving his own opinion. If he were to give it, he should say he had no foundation for the fact here stated. There is no mode, however, of ascertaining whether or not it was the opinion of the member from Vermont; and if it were his opinion, there being no mode of determining whether the opinion is correct or otherwise, it was impossible to act upon it.

With respect to the first part of the third count, which speaks of "every consideration of the public welfare being swallowed up in a continual grasp of power, &c.," he supposed it would be agreed that it was an expression of the affection of the mind—an opinion upon the disposition discovered by actions. That part of it which relates to "men of real merit being turned out of office for no other cause but independence of sentiment, &c.," suggests a fact, but if this was his opinion, it is a matter so much connected with opinion, as to be scarcely distinguishable from it. And shall we be told, said Mr. N., that a member ought to be banished from his seat for uttering a sentiment of this kind, after having been told by the gentleman from Delaware, and others, that it was a complete disqualification for office for a man to hold a different political opinion from that of the Executive? He trusted gentlemen could not seriously think so. For, since if the fact were true, and the member from Vermont had adduced (as he believed he might have done) two or three instances of men being turned out of office merely on account of their political opinions, still the jury might have asked, "how do you know that the men displaced possessed superior talents to those who succeeded them?" This, though true, could not be proved, therefore the member from Vermont could not have availed himself of the advantage held out by the law. Gentlemen may say this is not necessary, as this law goes to many offences not capable of this proof; they may say that the British law on this subject goes to many others. But our law is not the same with the British law; there, though the libel be true, it is not less a libel, which is not the case under our law, which is an important distinction.

It was clear, Mr. N. said, that such parts of the counts as went to insinuate fact, were so connected with opinion, that it was impossible to separate them. It could not be said that the jury were competent to decide upon the truth of the case. The decision of twelve honest men on a point of fact, is, perhaps, the best security that can be devised for the security of justice; but if a man is to be convicted because his opinions and those of a jury are at variance, there is an end to all security. Men's opinions are as various as their faces, and the truth or falsehood of those opinions are not fit subjects for the decision of a jury.

Upon what ground does the member from Vermont stand? He is a representative of the people; and gentlemen could not shut their eyes against a notorious fact, viz.: that the constituents of this member, with a full knowledge of this prosecution, have re-elected him; and if the people of Vermont choose to have a person possessing these opinions to represent them, who have a right to say they shall not? Indeed, if they are to be represented at all, they must be represented by the man whom they choose to elect.

The gentleman from Delaware had said, that all the offences of Mr. Lyon were greatly aggravated from his being a member of this House. Mr. N. was of a different opinion. He thought it incumbent on a Representative to disclose his opinions on public affairs to his constituents; and this disclosure will become more necessary, in proportion as such opinions may be offensive to the administrators of the Government; as, when all goes on smoothly and well, there will be no necessity for calling the attention of the people to public concerns.

The gentleman has also said, that it would be out of order to contest the truth of anything contained in this record. He thought differently, and

that if it was proper to act upon the subject at all, it would be proper to assign a day to have a fair hearing of the business, to enable the House to judge of the facts. For gentlemen will not say, that courts and juries are so infallible, that there is no case in which the decision of a court ought to be revised. If the member from Vermont should think it necessary to demand this investigation, the House ought to submit to it.

There was something in that record, Mr. N. said, which was very singular indeed; something which requires investigation; for unless the fact is different from what his information made it, a most extraordinary circumstance was connected with the third count. It will be seen, from the showing of the record, that the letter upon which the charge is founded, was written before the passage of the law on which the offence was tried. If he was not misinformed, no evidence was adduced in court to show that Mr. Lyon did any act subsequent to the writing of his letter in the publication, and that though the thing appeared in print after the law took its effect, all that was done by the writer was done before the law was passed. He thought, therefore, before the House acted upon this subject, an inquiry ought to be had upon it. He did not know what were the wishes of the member from Vermont himself on this subject; he had not put the question to him, because he thought there was no offence contained in the record of which the House ought to take notice. He would say farther, that believing most religiously that the law against which the member from Vermont is said to have offended, is a violation of the Constitution of this country, he could not, without a breach of his oath, do any act to punish a breach of that law.

Mr. Lyon said, he did expect that if he was to have had a second trial, he should have been at liberty to have adduced the evidence upon which a jury had already decided. Gentlemen who have been able to obtain a copy of the record, which he, notwithstanding all his earnest desires to obtain it, had not been able to procure, might also have obtained a copy of the testimony on which this judgment was founded.

Mr. L. thought he had received an unjust trial and a hard sentence. He said unjust, because he was frowned upon by the Judge in a very abrupt manner when he challenged two of the jury, which he had a right to do by a law of the State. The Judge answered me, said Mr. L., "You are unacquainted with the laws of the State." Mr. L. observed, that there is a law in the State of Vermont for punishing persons who speak against the public authorities, which gives to the accused the privilege of challenging six of his jury. This privilege, said Mr. L., I was denied, exclusive of the political packing of the jury who tried me. This is the kind of treatment I have received; but I shall submit to the decision of the House without occupying their time on my account, further than my enemies are desirous of so occupying it.

Mr. Allen said, nothing but the respect which he entertained for the character who presided at the trial of the member from Vermont would have drawn him from his seat on this occasion. But, if he understood the member from Vermont, he said he was frowned upon by the court when he challenged two of his jury, and having been present at the trial, he was able to speak to that fact. He understood the member to make a challenge, and the Judge told him he did not know the laws of Vermont; but so far from any harshness being used towards the member, he must say he never saw a trial more fairly conducted. He thought it did honor to Judge Paterson, who presided. When the member persisted in his opinion, that a law of the State gave him a right to challenge his jury, the Judge replied, "if that was the law, it would require consideration;" and he inquired of the District Judge if that was the law, who said it was not. As to the member's being precipitately tried, [Mr. Lyon observed, he did say so,] if ever there was a case deliberately tried, or in which unexampled indulgence was shown to the accused, it was this.

The member from Vermont had spoken of the jury being packed. He had seen this asserted in the papers, and the public ought to be informed that the charge is wholly untrue. The member from Vermont must know it is untrue. The jury was drawn from the boxes as is usual, in consequence of an order made by the court in May, which pointed out the particular towns from whence the jury were to be drawn. Mr. A. concluded by saying, he was sorry to find any man base enough to attack the gentleman who presided on this trial, as he believed his conduct to be unimpeachable.

Mr. Bayard said, considering the lateness of the hour, he should limit his reply to a few observations. He did not know what would bind the gentleman from Virginia; he denies the obligation of the law, and the credibility of the record. He could not expect, therefore, that he would be bound by the obligation of reason.

The gentleman from Virginia, in his defence of the member from Vermont, has gone upon the ground that mere matter of opinion cannot be construed into a libel. He begged leave to differ from that opinion, for which there was not the least ground. Four things, Mr. B. said, are necessary to constitute a crime under the law in question: it is necessary that a publication should be seditious, false, scandalous, and malicious. When these four things appear, whether the publication consists in the assertion of matter of opinion, or matter of fact, it will be within the law, which makes no discrimination on the subject.

Mr. B. did not think it altogether in order to question in this place the regularity of the proceedings of a court of justice. According to the organization of this Government, the powers of it are distributed, and the Judiciary, in its department, is as sovereign as the Legislature; and it is as improper for the Legislature to question the proceedings of a court, as it would be for a court, in common cases, to question the obligation of a law. What has the fact been? The judgment of a court has decided, on the verdict of a jury given

upon oath, that this case was within the law; and, after a judicial determination, is it for a member of this House to say that the case was not within the law?

But Mr. B. could conceive no idea more groundless than that of the gentleman from Virginia, that mere matters of opinion are not grounds of charges under this law. This the gentleman had made his *alpha* and *omega*. He wished to know how a distinction was to be made on this subject? If an opinion upon a fact be expressed, and that opinion is false, scandalous, and malicious, ought it not to be subject to prosecution? Does the gentleman say opinions cannot be false? Mr. B. said, he would put a case to the gentleman from Virginia, without any intention of personal reflection, but merely for the sake of the argument. Suppose any person were to say that, in *his opinion*, that gentleman was a *rogue*, or any other *opinion* casting a gross imputation, would the offence be less, because he had, instead of saying expressly he was a rogue, merely given it as his opinion? But if the gentleman insisted opinions could not be false, how would he get rid of the conclusion? This, Mr. B. conceived, might be sufficient to show that opinions may be false. Or suppose a man were to say that, in his opinion, another was a traitor, ought he not to be punished as severely as if he had asserted the thing as a fact? The intention and wisdom of this law was, Mr. B. said, to caution men to be guarded in the publication of their opinions; since, by the expression of false opinions, the minds of the people may be alienated from their Government. Suppose, for instance, that the gentleman from Virginia, or the member from Vermont, were to harangue the people, and say, in their *opinion*, this law is unconstitutional, and, therefore, not binding; that it ought not to be obeyed, but opposed by force; that it was made by men grasping after power, in defiance of the best interests of their country, in order to answer their own private views. Although this all might be mere matter of opinion, would it not come within the meaning of the law in question? No man on earth, Mr. B. said, would be more opposed to any measure for restraining the expression of honest and well intentioned opinions, than himself. All that this law does, is to restrain false, malicious, and scandalous opinions. And will the gentleman from Virginia say, that the good of the country, or its liberty, will be promoted by indulging in an expression of what is false, scandalous, and malicious? Could this be liberty? He thought not. Every man, under this law, has the liberty of publishing what he pleases, taking the responsibility upon himself for the truth of what he writes. If he writes only what is true, he is not liable to punishment; if what is false, and that maliciously, it is only reasonable he should be punished for his falsehood and malice.

Suppose a common case, that a man were to say that, in his opinion, another was insolvent, a bankrupt, or a thief, would he not be answerable for this opinion? He certainly would. And ought a man to be permitted to slander the Government and not an individual? If the licentiousness of the press be allowed to go thus far, there will be nothing safe in character; it will always be in the power of a malicious person to rob the best men of their reputation with impunity. He presumed, therefore, that there was no ground for the distinction which the gentleman had attempted to draw.

The gentleman from Virginia had called upon the advocates of this resolution to show, that the member from Vermont could be punished a second time. Mr. B. did not know that the expulsion of a member from his seat could be considered in the light of a punishment. It was merely lopping off from the Legislative body a rotten member who contaminates the whole system. This was done without regard to the member himself, but with a view solely to the health and purity of the body of which he is a member. The Constitution, however, left no doubt on the subject.

It is said that the member from Vermont has been re-elected, since his offences were known. He wished the gentleman from Virginia to say, how this fact was ascertained. At one moment he disputes the truth of the record, and says it cannot be considered as conclusive or creditable; yet, at another, he asserts a fact, upon the grounds of an extract of a letter, or a paragraph in a newspaper, of which this House could take no notice. The member was not re-elected to the present Congress, nor was any return made of his re-election to the next. Suppose he had a majority of votes at the late election, may it not hereafter appear that the election was carried by corruption or fraud, and that the member is not entitled to his seat?

It is suggested as a fact that the letter of the member from Vermont was written before the law passed; but the crime is not in the writing of the letter, but in the publication of it. There would have been no crime in scandalously writing, if he had not published the letter. The crime consisted, not in the wickedness of his own heart, but the intention to corrupt others; the design to scatter firebrands through the community, with a view of exciting insurrections. If, therefore, he could have proved before the court and jury that he was not accessory to the publication, after the passing of the law, he would doubtless have been acquitted; and though he did not think highly of the talents of that member, he supposed, if this had been the case, he would have had wit enough to have availed himself of it.

He would say a word with respect to the consequences of the crime upon a member. In England, a member of the House of Commons may be expelled for libellous matter. Such was the case with Mr. Wilkes; though, in this case, the transaction was afterwards expunged from the Journals, it was not done upon the principle that the original expulsion was not justifiable, but because he had been expelled for the same offence, after he had been re-elected to the same Parliament.

Believing, as he did, that the member in question disgraced the body to which at present he belonged, he hoped the resolution would be allowed to wash away the blot which marked and disfigured this branch of the Government.

Mr. Gallatin confessed that, though there were some reasons which diminished his surprise at seeing this resolution on the table, he did not expect to have heard it defended on the ground which the gentleman from Delaware had taken in his last speech. He did not expect that when a judgment, awarded under the sedition law, was under consideration, a gentleman should rise and tell the House that this law applies to the publication of opinions as well as to that of facts; and it was less to be expected from the very gentleman who introduced an amendment into that law, providing that the truth of a charge may be given in evidence. His present declaration amounted to this: that those words were introduced in order to deceive the public, since they could be of no real use.

The gentleman from Delaware had constantly confounded matter of fact expressed, not positively, but only as the belief of the writer, and opinions or deductions from facts. If a man, with a view of defaming the Government, publishes that, in his opinion, according to his belief, a certain fact does exist, which is susceptible of proof, and is found to be false, the publication, by the law, is undoubtedly a libel. Thus, if a man says that, in his opinion, a man is a thief, a bankrupt, or insolvent, it is not less a libel, than if he said such a person was positively so, because these things are susceptible of proof. But, when we speak of opinion, as distinct from fact, we speak of opinions not susceptible of proof, because they depend upon reasoning, and different opinions may be deduced from the same facts; therefore, we say that such opinions are not matter for prosecution even under this law. But, the gentleman from Delaware says that all opinions are liable to be prosecuted, provided that they can be proved to be false, scandalous, and malicious. Proved false! And who are the judges? To be sure, twelve jurymen, who are sworn to give a verdict according to evidence. And how can the truth of things which cannot be proved by evidence, be determined by evidence? An opinion may be incorrect; and, if judged incorrect by the gentleman from Delaware, it is, according to his reasoning, to be deemed false, and liable to prosecution.

The House had been told by the gentleman from Delaware, that it has nothing to do with this trial, any further than the record; that it ought to be taken as complete evidence of the facts which it contains, which ought not to be disputed. He also tells the House that courts of justice are as independent of the Legislature, as the Legislature of them; that this House has nothing to do with the crime; that it is the conviction only which they ought to take cognizance of. If, said Mr. G., the gentleman from Delaware had not brought forward the resolution now under discussion, we should have had nothing to do with the business. We did not bring forward the subject; we have nothing to do with it. Mr. G. added, I believe I go too far when I say we have nothing to do with it; for I believe it was the duty of this House to have sent the Sergeant-at-Arms for the member from Vermont, and demanded him from confinement, that he might have attended to his duty in this House.

[The Speaker said this was not now the question.]

Mr. G. knew this was not the question; he mentioned this to show that the House might have had something to do with the business. But we did not, said he, bring the subject before the House; and, if we have nothing to do with the decision of a court, that decision has nothing to do with us. If the member from Vermont is to be expelled, he ought to be expelled, not because he has been convicted, but because he has committed a crime which renders him unfit to retain his seat. What is that crime? It is stated in the record; and, stated as it is, he did not believe it was sufficient to ground a motion of this kind upon. Whatever is contained in these charges, which is capable of proof, ought to be taken into consideration, but not what is mere matter of opinion. It was generally allowed, he believed, that the paragraphs from what is called Barlow's letter, are of this last description. With respect to the other part of the charge, viz: the extract from a letter said to be written by the member from Vermont himself, to which he meant to confine his observations, he would beg leave to state it. Mr. G. read it.

Mr. G. said, the whole of this paragraph was hypothetical; but, supposing that the member from Vermont had declared it as his opinion "that the efforts of the Executive power was not bent on the promotion of the comfort, the happiness, and the accommodation of the people," he wished to know whether this could be considered as a declaration of fact or opinion? There is, perhaps, no measure passed by Congress, which one or other may not think will be contrary to the happiness, comfort, and accommodation, of the people of the United States. We had, said he, the other day, the question of a navy before us, the establishment of which many believe is necessary for the promotion of the comfort, happiness, and accommodation of the people; whereas, in my opinion, and in the opinion of many others, it will produce the very reverse. How is this question to be decided? And yet it is known that the President, in his writings and speaking, has recommended the establishment of a navy; and persons writing and speaking against this system, which they ought to do, if they believe the system inimical to the United States, might be charged with bringing the Congress and President into contempt. But, doubtless, this is a mere matter of opinion, and not susceptible of proof by evidence. In order to prove the truth of either assertion, you must bring forward a dissertation *pro* and *con*.

The next part of the paragraph, viz: "when I shall see every consideration of the public welfare swallowed, up," &c." So far as relates to the first member of this sentence, he did not see how it could be proved. He was not of opinion that

every consideration of the public welfare was swallowed up in a continual grasp for power; but he did believe that there was a constant disposition, not only in the Executive, but in many gentlemen on this floor, to increase the power of the Executive.

[The Speaker said, neither this remark, nor the observations on the Navy, were in order.]

Mr. G. said, that he always wished strictly to adhere to order, and in order to avoid committing any further mistake, he desired to be informed why it was out of order? Was the argument not in point; or was it the declaration of his own opinion, as he went along, that was out of order? He wished to know, as he meant to be guided by the rule adopted by the Chair.

[The Speaker repeated that the gentleman from Pennsylvania had been out of order.]

Mr. G. proceeded. With respect to that part of the paragraph which says, "when I shall see men of firmness, &c., discarded on their application for office," &c. This, said Mr. G., is, in some degree, matter of fact, and, in some degree, matter of opinion. It is a matter of fact, so far as that men of firmness, experience, &c., have been turned out of office; and matter of opinion as to what is said of men of meanness being preferred in their place. I do believe, said Mr. G., that the first assertion is true; and what is here written is no more than an illustration of what has been declared upon this floor, that men of certain political opinions, however capable, experienced, firm, and virtuous they might be, were unfit to hold offices. This, Mr. G., said, was the only fact which could be brought under the law, and he thought it a fact capable of being proved to be true. Mr. G. adduced as evidence of the fact, the cases of the late Commissioner of Revenue for the United States, and of the Commissioner of Loans for the State of New Hampshire, who, he said, it was evident, were turned out of office on account of their political opinions. And he read, in support of his assertion, the publication of the late Commissioner of Loans of New Hampshire.

Another part of this paragraph speaks of "an unbounded thirst for ridiculous pomp." This, said Mr. G., is mere matter of opinion. Take the member from Vermont to the house of the President, and he may call its furniture and appendages, ridiculous pomp; take a member from a different part of the country, and he may declare everything decent and plain; but, take an overgrown nobleman from Great Britain into the house of the President, and he would set down everything he saw as mean and selfish.

But, I insist upon it, said Mr. G., that matter of opinion ought not to be subject to cognizance by this law. What, said he, is the nature of the crime now proposed to be punished by the expulsion of the member from Vermont. We are told that he has published and uttered false, seditious, and malicious writings; that though these writings may be only matter of opinion, yet if those opinions are false, they come under this law; and, also, that such writings have a tendency to stir up sedition and insurrection.

Mr. G. would not repeat what had been said as to the unconstitutionality of the law under which the member from Vermont had been convicted; but this alone would be a sufficient reason for him to vote against the present motion. But, supposing the law Constitutional, is the crime an infamous one? Certainly not. It is a political crime, and will always be determined according to the situation of the parties at the time. For, said he, we may say as much as we please about the purity of our courts and juries, and of our own purity; decisions upon political questions, will always be influenced by party spirit. It is we, said Mr. G., that have introduced this spirit into the courts; and having given them political questions to decide, it need not be expected that courts will be free from party prejudice any more than others. Therefore, the falsehood or maliciousness of a publication will be determined by the political opinion of the jury.

As to the manner in which the trial of the member from Vermont had been conducted, he knew nothing of it. He wished the gentleman from Connecticut, (Mr. Allen,) who, it seems, was present at the trial, would inform the House what proof was adduced to the court to show that the letter of Mr. Lyon was published by him after the sedition law passed. The letter is dated the 20th of June, the law was passed on the 6th of July, and the letter was published in Vermont on the 30th of July. He should be glad to know whether any evidence was adduced to show that Mr. Lyon did anything relative to that publication, after writing the letter from Philadelphia on the 20th of June? If not, it will appear strange, indeed, that he should have been punished for an act done prior to the passage of the law under which he was convicted.

As to the manner in which the jury had been summoned, he supposed it had been done in the usual way. Without saying, however, that the jury was packed, which he did not believe, yet, if the towns out of which the jury was selected, were towns which had never given Mr. Lyon but one or two votes at his election, it necessarily results that the jury were his political enemies; and being called upon to try him for a political offence, they would, of course, convict him.

Mr. G. said, the lateness of the hour would prevent him from detaining the House longer. He would only observe that, considering that the member from Vermont had been tried for a political offence, by a jury opposed to him in opinion, and upon a law passed on political ground at the last session; that he had been punished by an imprisonment of four months, and by a fine of one thousand dollars; that he had been deprived of his seat in the Legislature for three months; he thought it would have been better not to have proposed this resolution.

If this resolution should be adopted, it would follow, Mr. G. said, that every member who shall write anything which is contrary to the opinion of a majority of this House, whether what he writes be founded in truth or not will be liable to be expelled, in order to purify the House. Mr.

G. thought persecution had followed the member from Vermont long enough. Every candid man must acknowledge that, if he has committed an offence, he has already been sufficiently punished by fine and imprisonment; to expel him from his seat, would carry with it an idea of persecution to the public, and to his constituents, that they would not be permitted to have a representative on this floor. He knew the circumstance of the member from Vermont's having been re-elected could not be introduced as an argument in his favor, but it might serve to show that what he had suffered for was no offence in the eyes of his constituents.

The question was put; when there appeared 49 yeas and 45 nays, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Robert Waln, and John Williams.

Nays—George Baer, jr., Abraham Baldwin, David Bard, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne. Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Nathaniel Freeman, junior, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The Speaker, declaring the state of the vote, said, the Constitution requiring two-thirds of the members present to expel a member, the resolution is not carried.

Saturday, February 23.

Mr. J. Parker, from the Navy Committee, reported a bill authorizing the augmentation of the Marine Corps; which was committed.

The two following bills were read the third time and passed:

A bill making appropriations for the support of the Government for the year 1799; and

A bill making appropriations for the support of the Military Establishment for the year 1799;

Mr. Craik, from the Committee on Post Offices and Post Roads, reported a bill to alter and discontinue certain post roads, and to establish others; which was committed.

The House then went into a committee on the bill for erecting a beacon on Boon Island; which was agreed to, and ordered for a third reading.

COLLECTION OF DIRECT TAX.

The amendments of the Senate to the bill for amending the act providing for the valuation of lands and houses in the United States, and for the enumerations of slaves, were taken up. One of these, which was a renewal of the principle which was formerly agitated in this House, of authorizing the Secretary of the Treasury, where he shall think it necessary, to increase the pay of the assessors, so as that the allowance do not exceed two dollars a day, occasioned considerable debate.

Mr. Gallatin first moved to amend the amendment, by inserting the words, "in order to procure proper assessors where the same may not have been appointed."

This motion was negatived, 27 votes only appearing in its favor. The question then returned upon the amendment, which was supported on the ground of its necessity, in order to carry the land tax law into effect in some parts of Maryland and South Carolina, as the assessors had positively refused to serve at the present compensation of one dollar and fifty cents a day; and opposed, on the ground of the present allowance being found sufficient in every other part of the Union; that, if an advance was made it ought to be general, otherwise it held out a bounty to officers to refuse to do their duty; and, also, as vesting an improper power in the hands of the Secretary of the Treasury.

The amendment was finally carried by yeas and nays—57 to 36, as follows:

Yeas—John Allen, George Baer, jr, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, Thomas Claiborne, James Cochran, William Craik, Samuel W. Dana, J. Dennis, G. Dent, Wm. Edmond, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Carter B. Harrison, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Edward Livingston, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, John Nicholas, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Peleg Sprague, Richard Sprigg, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Nays—Abraham Baldwin, David Bard, Rob't Brown, Samuel J. Cabell, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Thomas Hartley, Jonathan N. Havens, Joseph Heister, David Holmes, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, Richard Stanford, Thomas Sum-

ter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

DETACHMENT OF MILITIA.

Mr. Varnum called for the order of the day on the resolution which he had yesterday laid on the table, proposing the appointment of a committee to bring in a bill for a detachment of 80,000 militia, in the place of the law which expired at the close of the present session.

Mr. Sewall could not say he was prepared to decide upon this resolution. There were two bills before the House from the Senate; one for organizing the Army, the other for giving the President eventual authority for raising an army, which he wished first to see decided upon. If those bills passed, a bill of this kind would be unnecessary. His colleague had formerly acknowledged that this law could not be carried into effect without expense; and, except it would be of some use, it would be unnecessary to incur that expense.

On a suggestion that it would be best to commit the resolution, Mr. Varnum moved to have it committed.

Mr. Nicholas had no objection to the resolutions going to a Committee of the Whole; but he thought the House might as well decide upon it at present. Gentlemen could as well show their preference to volunteer corps now, as at any other time.

The question being carried for a reference to a Committee of the Whole,

The Speaker asked the usual question, "For what day shall it be made the order?"

Mr. Otis answered Monday, Mr. Gallatin today.

Mr. Gallatin said, he would give his reasons why he wished this business to be made the order of to-day. The present law on this subject expires with the present session. He had himself expected that the committee appointed at the opening of the session for invigorating our measures of defence, would have reported a bill to continue in force the present law, since this detachment is organized in many of the States, and ready to march at a moment's notice; but if this law is not renewed, there will be no power to continue them in this readiness. The bill now proposed, is nothing more than to continue the present act in force for the ensuing year; and as the House had only one week to sit, if they mean to show that they place any reliance upon the militia of this country, it is high time the subject was entered upon; if not, it will be the same as postponing it altogether. The House is told that the bills from the Senate respecting a regular army and volunteers, ought first to be decided upon. He did not think this necessary. He was not of opinion that our whole defence should depend on a regular army. He knew some gentlemen were more inclined to rely upon these than others; but he never yet heard it asserted that our whole reliance ought to be put upon them. Yet this is the question before the House; and he thought it ought to be immediately decided.

Mr. Hartley hoped this subject would be made the order for Monday, that the bill from the Senate which proposes the calling out of volunteers in cases of emergency might first be considered.

Mr. Harper did not see the necessity of comparing the militia with our other means of defence. He believed others to be more efficacious; but he should be sorry to see this neglected. Had not the subject been placed in a proper channel at the commencement of the session, he should himself have called it up before this time.

Mr. Otis said, he was in favor of going into this business on Monday, in preference of to-day, because, as his colleague knows, this measure is unnecessary, in the part of the country from which they came, the militia being always in a good state. He had no objection, however, to its being taken up to-day. With respect to the Committee of Defence not having reported a bill on this subject, he himself thought it of no use; but if other gentlemen wished it, he had no particular objection to it. He hoped, however, before this measure was gone into, some account would be given of the manner in which the former law was carried into effect.

The motion was carried for to-day. And the House afterwards went into a Committee of the Whole upon it; when

Mr. Allen said, he did not understand precisely the purport of this resolution. He understood the gentleman from Pennsylvania as saying, that it was precisely the same thing as a bill to continue the old law in force. He did not think that men who had been draughted under the present law, could be kept up longer than the law exists; nor could he suppose the same men would be draughted under a new law; and the calling together 80,000 other men would be an idle piece of business, and would only serve to burden the people. In the section of the Union to which he belonged, such a detachment is unnecessary; the militia being always in a state of readiness to march. And in the States south of the Delaware, he believed it could have no good effect, from the militia being generally unarmed. Where, said he, would be the use of detaching 7,000 men in North Carolina, when they have not 70 muskets amongst them? For his own part, he would rather the defence of country should rest upon men who voluntarily offered their service. A great part of the militia are laborers and mechanics, and it would be doing them a favor to let them stay at home. When we come to the doctrine of requisition, said he, men may be forced into the service; but he thought those who are willing to go, should first be taken.

Mr. McDowell hoped this resolution would be agreed to. The gentleman from Connecticut was certainly as incorrect in saying that the militia service was confined to the poor farmers and mechanics, to the exclusion of the rich, as he was in saying there are not more than 70 muskets among the militia of North Carolina. In North Carolina we have men in reality; we have given proofs of it, and those proofs are on record. He did not know the proportion of muskets they had, but they had

sufficient to meet any attack that could be made upon them. And does the gentleman from Connecticut suppose that the rich will be the only men who will offer themselves as volunteers? He believed the contrary would be true. It was well known that the rich generally wished to avoid personal service. He believed it would be proper to rely upon the whole mass of the people, and not upon any particular description of citizens.

Mr. Dayton (the Speaker) wished, instead of informing the House what the militia of North Carolina could do, the gentleman from that State had said what they had done with respect to carrying into effect the law making a detachment of 80,000 men. It was not unusual for that gentleman to rise and talk in the same strain about the services of their militia. He gave him full credit for those services, but he wished to know whether the portion of militia directed to be detached, had been enrolled, and made ready for taking the field? In his opinion, the law had operated unequally, had been oppressive, vexatious, and expensive. He looked upon the enrolment as a *pompous nullity*. In the State from which he came the law had been carried into effect, at a considerable expense; in some States little had been done with respect to it; in others, the militia was not known, their names not even being on paper. In other States, the milita is in such good order, that nothing was thought necessary to put them in greater readiness. When it is seen, therefore, that in some States the law is strictly carried into execution, and in others wholly neglected, he conceived a more unequal and oppressive law could not be passed. He believed if gentlemen from the different States would give an exact account of the manner in which this law had been observed, the House would laugh at the absurdity of such a law. In case of an invasion, Mr. D. said, we must look to the great body of the militia, and not to a draught of this kind.

Mr. McDowell said he would satisfy the gentleman from New Jersey. The enrolments have been made in North Carolina. The number required generally turned out voluntarily, and all the officers were nominated. There had been no failure in North Carolina. As to his sounding the praises of the militia of North Carolina, he should not have done it, had he not considered himself called upon by the gentleman from Connecticut.

Mr. Varnum did not know how the gentleman from Connecticut could consider this as continuing the old law in force, or as intended to keep the same men detached, which are now held in readiness. He knew that the present law and the engagements of the men would expire together. His intention was not, therefore to continue the old law, but to have a new law. He did not know how far the former law had been carried into effect; but it was considered as very important at a former session, by gentlemen who are now opposed to it. In the State of Massachusetts, he knew the men were completely detached, officers appointed, and the whole regularly organized. They were in as great readiness as any standing army could be, and could have been marched at a moment's warning, in case of invasion, which could not be the case, without such a detachment. Did the gentleman from New Jersey suppose, in case of an invasion in South Carolina, that the whole body of the New Jersey militia would be called upon to march to that State? He knew the whole might be called upon; but it was well to hold a part in readiness, in case of a sudden necessity.

Mr. Dana knew that the gentleman from North Carolina had been employed in real and important services, and the gentleman from Massachusetts also; and it was on this account that he was astonished to hear, when they were speaking of our defence by militia, that they should have omitted to say one word about the only article of importance. They have told the House that the men and officers ordered to be detached were designated on paper; but have they said, that the men thus designated were better armed, equipped, or disciplined, than others? Or that they were ever assembled under their officers? Or that they knew each other? Or that they could have been called into service more promptly than the other parts of the militia? Consider, said Mr. D., if these men were to be called upon, how many vacancies there would be, owing to the continual moving of the people from one place to another. If these men are not better disciplined and equipped than the rest of the militia, (and when they are called together they are strangers to each other,) gentlemen must know that this detachment deserves the epithet applied to it by the gentleman from New Jersey, of a pompous nullity. Indeed, he considered it as far worse than a nullity. The observations of the gentleman from Massachusetts proved, that these detachments prevent the great body of the militia from holding themselves in a state of preparedness, and that it therefore reduces the efficacy of the militia; and if, said he, we go on with this paper system, the bill ought to be entitled, "a bill to reduce the efficacy of the militia of the United States."

Mr. Gallatin said, the objections to this measure were of two kinds. The gentleman from Connecticut seems to think, that the making of a detachment of militia, in the way proposed, would lessen our dependence upon the main body; and another gentleman from the same State, speaking of these detachments, gave them the name of requisitions, in imitation of another country, forgetting that we had originally set the example of thus calling out the force of the country.

The question now before the House, said Mr. G., is fairly this: Whether any dependence can be placed on our militia, as an effectual guard against invasion, or whether we ought to rely upon a different kind of force? And all the arguments of gentlemen tend to show, that no dependence ought to be placed upon the militia; they are said to be disorganized, disarmed, and undisciplined, that all dependence upon them will prove delusive and ineffectual; and that, therefore, reliance must be had upon other resources. What these are, has been pointed out in a plain way,

It has been said, that the bill from the Senate, providing for an eventual army, and for giving power to the President to convert our militia into volunteers, to be officered by him, instead of the Executives of the several States, would give us the kind of force we wanted.

In order to render this project popular, the gentleman from Connecticut says, that the draughting of the militia is vexatious and troublesome; that it lies heavy on particular classes of the community, viz: on farmers, mechanics, and laborers, whilst the more wealthy are excused. However novel this doctrine appeared, he believed it was a favorite with those gentlemen who have at all times been for increasing our Military Establishment. Nor was it surprising, that gentlemen of this description should represent detachments of the militia as inefficacious, expensive, and vexatious. Let them only succeed in establishing the opinion, that to be a militia-man is a mere duty, and not a right; that it is a heavy duty, from which they might easily be relieved, in the first place by volunteer corps, in the next by regular troops. Let gentlemen succeed in this, and they will, in a short time, introduce a standing army as a substitute for the militia. So far as it may be thought prudent to avow the doctrine, it has been avowed on this floor.

In the first place, this detachment has been called inefficacious, because, if an invasion takes place, our defence would not rest upon a small body of the militia, but upon the whole. Mr. G. observed, that, in case of invasion, 80,000 men would be no inconsiderable force. It might be expected, however, that a great part or the whole of the militia of the State where the invasion should take place might be called upon, and that the detachments in the more distant States might not be called upon. In case of an invasion in one of the Southern States, it could not be expected that Pennsylvania should send more than 11,000, or New Jersey, 4,000 men, which is their proportion of the 80,000 men, to that part of the Union. But, if there was any objection to the number, it might be increased.

In the next place, it was said, we had no information as to the manner in which the former law had been carried into effect. He knew the law had been carried into effect in this State. In the part of the country where he lived, he knew that independent corps had offered their services, and formed two-thirds of the whole quota, and the rest were supplied, sometimes with and sometimes without having recourse to a draught. In other parts, draughts had taken place with little trouble, and without expense.

This law, Mr. G. said, went not only to organize, but to arm and equip. How far the different States had carried it fully into effect, he could not say, nor whether they had taken means to supply themselves with arms. In this State, they have appropriated for 20,000 stand of arms; 10,000 of which are contracted for and many of them delivered. In many instances, the men, being designated, have procured arms for themselves, and militia volunteers must have arms, before they are admitted.

Mr. G. conceived the question clearly to be, whether this detachment shall be made, or 75,000 volunteers and the eventual army shall be relied upon in their place? And for himself he had no hesitation in making a choice. If he had no other reason, he should choose militia because they are certain, whereas the others will depend on voluntary enlistment. We know, said he, the number of volunteers which have already offered their service, and also the number of men enlisted into the regular army. We also know that until the danger of war is imminent, men who would be willing to serve their country in the hour of danger, will not enter into the service. Enthusiasm has already gone as far as we can expect it. The alarm of war which has for some time existed, is now subsided; and, except it were renewed, he did not expect many soldiers would be got. He thought it would be wise and proper, therefore, to agree to this proposition. Indeed, it was attended with so little expense, that he should not object to its being a permanent provision in our militia law.

Mr. W. Claiborne observed, that the measure upon the table had been called a pompous nullity. I am afraid, said he, that the gentleman from New Jersey, who thus terms a detachment of 80,000 militia of the country, is not willing duly to appreciate the services of our militia. He was himself of opinion that it was a strong measure of defence. In his mind, more security might be placed upon it, than upon a standing army, or volunteers, on which some gentlemen seem to wish entirely to rely. He thought it high time to give the militia of the country some encouragement; and no greater stimulus could be afforded than to commit a part of the honor of defending their country to their charge. This resolution goes no farther; it goes only to rally round the standard of Government, when danger shall approach it, a large detachment of militia; and can any gentleman, who is a friend to the great bulwark of a free country, a militia, say, that this measure is an improper one? He wished he had heard a different appellation given to it. If the gentleman from New Jersey had been acquainted with the military spirit of every State of the Union, he would not have hazarded the appellation he had given to them. How far the militia of New Jersey deserved it, it was for himself to judge; but if he could take a view of the militia in his State, he would not give them this name. He did not know that the law had been strictly complied with; but if it had not, it was an additional reason for the law proposed, in which ought to be introduced such regulations as will insure a compliance with it in future.

In the State which he represented, Mr. C. said, the militia law had expired, and no power was vested in the Governor to have the men directed to be detached, draughted; but, the moment the Governor signified this to be the fact, he had the pleasure to say, that volunteers, more than the number wanted, offered their service. One whole regiment of cavalry directed their Colonel to inform the Governor, that they were ready to obey the call of their country; and this regiment, he would

say, was as well disciplined as any cavalry militia in the Union. If the gentleman from New Jersey could command these troops, he would not say they were a pompous nullity. [The Chairman said, the gentleman from New Jersey applied that term to the detachments ordered by the present law, and not to the militia at large.] Mr. C. said, he understood the gentleman as saying, that the part of the militia proposed to be called out by the resolution on the table, was a pompous nullity; and he thought himself correct in showing that it did not deserve that appellation. He trusted a majority of this House would also confirm his opinion, by agreeing to the resolution.

Mr. Sewall said, it was an uncandid representation to say, that those who opposed this resolution, do not rely upon the militia. He took it they did rely upon them, and did not wish to lessen their number. He thought, with the gentleman from Connecticut, that it would be a law to reduce the number of the militia. The whole body of our militia ought always to be well disciplined, and in readiness; and this, directing only 80,000 to be so held, of course, lessens instead of increasing the force of the militia.

But if a detachment of this kind is objectionable in this point of view, it is still further objectionable from its being unequal in its operation. It is well known, that in many parts of the Union, the detachments are never made; and in others, that great complaints are made by the people, who say that they have no more time to give to the country than others. The consequence of these complaints had been, that those not detached had contributed to pay those that were, for their trouble and loss of time. In consequence of this oppressive operation, no detachments had been made in consequence of the law of 1797, except upon paper, which had therefore produced no other effect than to derange the ordinary arrangements of the militia. Mr. S. believed, therefore, that the militia would be a better defence without this law than with it.

Mr. Harper was sorry to see any comparisons introduced in this House between the different kinds of force which we possess. He believed, in time of danger, all our force would be necessary. He did not wish to examine the question whether militia volunteers, or a standing army, were the best kind of defence. He thought it wisdom to combine them all; we had heretofore done so, and he hoped would continue to do so. He admitted that this was a detachment of militia on paper, rather than in reality, but it does not result that they are of no effect. As to the trouble attending the carrying into effect such a law, it has already been incurred. He hoped this measure would be continued; he was against discontinuing any of our means of defence. Though the danger with which we are threatened may not be very imminent, yet, in his opinion, it was by no means diminished; and he hoped no measure of defence would be relinquished.

Mr. Nicholas believed, it was impossible not to see, from the use made of the comparisons introduced between the militia and regular army, to the disadvantage of the former, that gentlemen wish to rely wholly upon a regular force for defence. It is said, the House does not know whether the former law was carried into effect. Supposing it had not, this was not a reason against passing the law, but to show the necessity of making it more effectual. How is the militia ever to be called into service, if Congress will not provide laws to place them in detachments? And ought they to wait for danger before this is done? But Mr. N. doubted the fact as to the former law not having been carried into effect. He could not say it had been observed in every part of the country from which he came; but he knew this was the case in some parts. Nor could it be expected that members could give complete information on this subject; it ought to be known in the War Department what had been done in this respect.

But the House had been told, that this was an expensive operation. If he understood the law, there was no expense attending it. Nothing is said about discipline, but merely of organization. If some parts of the Union have proceeded to discipline, it was more than was contemplated by the law. There was no farther expense than attended the calling of any portion of the militia together. This must always be incurred; and gentlemen who use this argument must mean that the militia should never be employed; and as to the argument that this service bears hard upon farmers and mechanics, it is certainly founded in deception, and explains itself. Gentlemen either mean to substitute a regular force, or a volunteer force, which is to put down the militia, and which, if carried into effect, the Constitution is destroyed in one of its most material parts. He had not heard a single objection against this measure, which did not go against ever employing the militia at all.

Mr. S. Smith was not convinced of the great futility of this law. It ought to be recollected, that those men who have already been detached, have done their duty as completely as if they had been called into the field, and if this law passes, other men must be detached. The law passed in 1794, on this subject, was not executed in Maryland; but that passed in 1797, was carried into effect, and the men, though not called from their homes, were held ready for service.

Mr. S. said, he should not have been much in favor of this law, but from the recent appointment, which gave us an appearance of peace; and he thought a departure from any branch of the system of defence which had been adopted would be improper. Believing as he did, that the strong measures of defence which this Government had taken, had been the means of producing this change in the conduct of France, he should give this law his vote, though it may not have all the effect which some gentlemen suppose.

It must be known, Mr. S. said, that the militia are obliged to do their duty when called upon, and that this is a mere draught in case of necessity. With respect to the State to which he belonged, he felt less on account of it than usual; the State hav-

ing passed an excellent militia law; a law which provides a select corps of young men from twenty-one to thirty, who are equipped by the State. The division to which he belonged, had all voluntarily offered their service for the defence of their country, in case of necessity, and he did not believe if this law passed that there would be any occasion for a draught to carry it into effect.

Mr. Dayton said, he did not interrupt the gentleman from Tennessee, in his gross misrepresentation of what he had said; because he did not wish to break that gentleman's florid language; not because he considered it as made up of pompous nullities, but of *pompous falsehoods*. He knew, in many cases, rhetorical flourishes must be endured, or the oratory of some gentlemen would be at an end. Though he did not think it necessary to make further remarks upon what fell from the gentleman from Tennessee, he must be indulged with a few remarks on what was said by the gentleman from Pennsylvania, whom he considered as his *file-leader*.

That gentleman had ascribed to him a distrust—an avowed distrust, in the services of the militia of this country. Every gentleman who heard him would bear him witness that he had always had confidence in the great body of the militia. He had said, that whenever an invasion shall take place, the whole or a very large portion of the militia would necessarily be called out. He believed, with the gentleman from Connecticut, that 80,000 men might be sooner drawn from the whole body of the militia, than by means of the proposed detachment; as had been observed, when the detached men were called upon, a great part of them would not be found. He appealed to gentlemen whether a fifth or a sixth part of the quota of some of the States of these 80,000 men might not be expected, when called for, to be fishing for cod or catching whales; and it would, in a great degree, be the same with respect to other States, in consequence of the constant removal which takes place from one State to another. Mr. D. said, he relied much more on the power given to the President, whenever the country is in danger, to call out such number of the militia as he may think necessary, to repel invasion, than upon any detachment of this kind.

Mr. D. said he had called these detachments a pompous nullity; because the officers and men had never seen, nor ever would see each other; because, in many of the States, not even their names were upon paper; while in other parts of the Union, considerable expense had been incurred, and, in some instances, men who could not conveniently perform the service themselves, had hired substitutes. In private inquiries of different members, he found that in some parts no step had been taken towards carrying the law into effect. He had, therefore, said that a law of this kind was oppressive, vexatious, unequal, and inefficacious. He added, also, and he would repeat it, that it brought the body of the militia to rely upon these detachments; and caused the State Legislatures and officers to be more attentive to the arming and equipping of the whole of the militia.

Mr. W. Claiborne said he was indebted to the gentleman from New Jersey, for the compliment he had paid him with respect to his talents; and, in return, he would inform that gentleman that he was always well pleased to hear his eloquent and energetic speeches.

Mr. C. should not, however, have risen, but to have noticed one expression which fell from that gentleman, which was the calling "the gentleman from Pennsylvania his (Mr. C's) file leader." Mr. C. said he would inform the gentleman from Jersey, that if he meant to convey the most remote idea that he was led by that gentleman any further than by the weight of his reasonings, he had done him great injustice. Mr. C. knew he had not been accustomed to command in a private station, much less in a public station; but, if he could be dictated to in the performance of his public duty, by any other view than the good of his country, he should disdain his own soul.

Since the gentleman from Jersey had explained, he believed he had used the expression of pompous nullity improperly; thinking so, he made the confession. But he was himself far from considering this measure as a pompous nullity. He believed the Government of this country had heretofore had recourse to pompous nullities. He looked upon the provisional army of this description, and upon the proposed eventual army as of the same description, though he had no doubt, if carried into effect, they would each of them prove energetic measures.

Mr. J. Williams said the making of these detachments were attended with considerable expense, without being of any use. The detachments ordered in 1794 not having been called upon, in 1797 the number of men voluntarily offered themselves. This was the case in the brigade which he commanded; but, if these men were called upon, what reliance could be had upon them, having offered their services under such circumstances? If immediate service was wanted from the militia, no better troops could be had; but they never could be kept together more than two or three weeks. If this detachment was ordered, he supposed men would again be ready to offer their services, under an idea that their services would never be wanted.

Mr. T. Claiborne observed, if the remarks of the gentleman last up meant anything, they went to say that the framers of the Constitution did not know what would be the proper defence of this country.

Mr. Venable hoped the gentleman from New York was somewhat mistaken with respect to the brigade which he commanded. The gentleman had heretofore been loud in their praises; but now he says they would not have offered their services, if they had expected to be called upon; and that, if they had any apprehension of being called into service, they would not again come forward. He did not think his brigade would thank their General for giving this character of them.

Mr. V. hoped the gentleman was mistaken in another respect. It was said that whenever an invasion takes place, it will be necessary for the

militia to turn out in mass. This may be the case, in the parts where the invasion happens; to which this detachment will be no hindrance. And whenever the militia shall be called out, he had no doubt they would be kept together five or six weeks, without difficulty.

Mr. Williams explained.

The resolution was then finally agreed to—48 to 40; and Messrs. Varnum, McDowell, and Harper, were appointed a committee to report a bill in pursuance of it.

Monday, February 25.

Mr. Gregg presented two petitions praying for a repeal of the alien and sedition laws; the one from Cumberland county, signed by 270 persons; the other from Mifflin county, in Pennsylvania, signed by 314 persons.

Mr. Gallatin presented another petition of the same kind from Chester county, signed by 692 persons.

Mr. Livingston: one of a similar nature, signed by 2,500 citizens of New York.

Mr. Heister: one of the same kind, from 1,400 inhabitants of Berks county.

Mr. Bayard: one from the inhabitants of Newcastle county, State of Delaware, signed by between 700 and 800 persons.

Mr. Bayard and Mr. Brown each of them presented petitions to the same effect, signed by a small number of persons.

The whole were referred as usual.

On motion of Mr. Livingston, the petition presented some days ago from a number of alien Irishmen against the alien bill, was also referred—44 to 35.

The two following bills were then read the third time and passed, viz: a bill to authorize the erection of a beacon on Boon Island, and a bill for the government of the Navy of the United States.

Mr. Harper, from the Committee of Ways and Means, reported a bill making additional appropriations for the year 1799; which was committed.

Mr. Varnum reported a bill authorizing a detachment of the Militia of the United States; which was committed.

ALIEN AND SEDITION LAWS.

On motion of Mr. Goodrich, the House went into a Committee of the Whole on the report of a select committee, on the petitions praying for a repeal of the alien and sedition laws; which was read by the Chairman, as follows:

The committee to whom were referred the memorials of sundry inhabitants of the counties of Suffolk and Queen, in the State of New York; of Essex county, in New Jersey; of the counties of Philadelphia, York, Northampton, Mifflin, Dauphin, Washington, and Cumberland, in Pennsylvania; and of the county of Amelia, in Virginia; complaining of the act, entitled "An act concerning aliens," and other late acts of Congress, submit the following report:

It is the professed object of those petitions to solicit a repeal of two acts passed during the last session of Congress, the one "An act concerning aliens," the other "An act in addition to an act for the punishment of certain crimes against the United States," on the ground of their being unconstitutional, oppressive, and impolitic.

The committee cannot, however, forbear to notice, that the principal measures hitherto adopted for repelling the aggressions and insults of France have not escaped animadversion.

Complaints are particularly directed against the laws providing a Navy—for augmenting the Army—authorizing a provisional army and corps of volunteers—for laying a duty on stamped vellum, parchment, and paper—assessing and collecting direct taxes—and authorizing loans for the public service.

With these topics of complaint, in some of the petitions, are intermingled invectives against the policy of the Government from an early period, and insinuations derogatory to the character of the Legislature and of the Administration.

While the committee regret that the public councils should ever be invited to listen to other than expressions of respect, they trust that they have impartially considered the questions referred to their examination, and formed their opinions on a just appreciation of their merits, with a due regard to the authority of Government, and the dispassionate judgment of the American people.

The act concerning aliens, and the act in addition to the act entitled an act for the punishment of certain crimes, shall be first considered.

Their constitutionality is impeached. It is contended that Congress have no power to pass a law for removing aliens.

To this it is answered, that the asylum given by a nation to foreigners, is mere matter of favor, resumable at the public will. On this point, abundant authorities might be adduced, but the common practice of nations attests the principle.

The right of removing aliens, as an incident to the power of war and peace, according to the theory of the Constitution, belongs to the Government of the United States. By the fourth section of the fourth article of the Constitution, Congress is required to protect each State from invasion, and is vested by the eighth section of the fifth article, with power to make all laws, which shall be proper to carry into effect all powers vested by the Constitution in the Government of the United States, or in any department, or officer thereof; and to remove from the country, in times of hostility, dangerous aliens, who may be employed in preparing the way for invasion, is a measure necessary for the purpose of preventing invasion, and of course a measure that Congress is empowered to adopt.

The act is said to be unconstitutional, because to remove aliens is a direct breach of the Constitution, which provides, "by the ninth section of the first article, that the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

To this it is answered, first, that this section in the Constitution was enacted solely in order to prevent Congress from prohibiting, until after a fit period, the importation of slaves, which appears from two considerations. First, that the restriction is confined to the States which were in existence at the time of establishing the Constitution; and, secondly, that it is to continue only twenty years, for neither of which modifications could there have been the least reason, had the

restrictions been intended to apply, not to slaves particularly, but to all emigrants in general.

Secondly. It is answered, that to prevent emigration in general, is a very different thing from sending off, after their arrival, such emigrants as might abuse the indulgence, by rendering themselves dangerous to the peace or safety of the country, and that if the Constitution in this particular should be so construed, it would prevent Congress from driving a body of armed men from this country, who might land with views evidently hostile.

Thirdly. That as the Constitution has given to the States no power to remove aliens during the period of the limitation under consideration, in the meantime on the construction assumed, there would be no authority in the country empowered to send away dangerous aliens, which cannot be admitted; and that on a supposition the aforesaid restrictive clause included every description of emigrants, the different sections must receive such a construction as shall reconcile them with each other; and according to a fair interpretation of the different parts of the Constitution, the section cannot be considered as restrictive on the power of Congress to send away dangerous foreigners in times of threatened or actual hostility. And though the United States, at the time of passing this act, were not in a state of declared war, they were in a state of partial hostility, and had the power, by law, to provide, as by this act they have done, for removing dangerous aliens.

This law is said to violate that part of the Constitution which provides that the trial of all crimes, except in cases of impeachment, shall be by jury; whereas this act invests the President with power to send away aliens on his own suspicion, and thus to inflict punishment without trial by jury.

It is answered in the first place, that the Constitution was made for citizens, not for aliens, who of consequence have no rights under it, but remain in the country and enjoy the benefit of the laws, not as matter of right, but merely as matter of favor and permission, which favor and permission may be withdrawn whenever the Government charged with the general welfare shall judge their further continuance dangerous.

It is answered in the second place, that the provisions in the Constitution relative to presentment and trial of offences by juries, do not apply to the revocation of an asylum given to aliens. Those provisions solely respect crimes, and the alien may be removed without having committed any offence, merely from motives of policy or security. The citizen, being a member of the society, has a right to remain in the country, of which he cannot be disfranchised, except for offences first ascertained, on presentment and trial by jury.

It is answered, thirdly, that the removal of aliens, though it may be inconvenient to them, cannot be considered as a punishment inflicted for an offence, but, as before remarked, merely the removal from motives of general safety, of an indulgence which there is danger of their abusing, and which we are in no manner bound to grant or continue.

The "Act in addition to an act entitled an act for the punishment of certain crimes against the United States," commonly called the sedition act, contains provisions of a twofold nature; first, against seditious acts, and, second, against libellous and seditious writings. The first have never been complained of, nor has any objection been made to its validity. The objection applies solely to the second; and on the ground, in the first place, that Congress have no power by the Constitution to pass any act for punishing libels, no such power being expressly given, and all powers not given to Congress, being reserved to the States respectively, or the people thereof.

To this objection it is answered, that a law to punish false, scandalous, and malicious writings against the Government, with intent to stir up sedition, is a law necessary for carrying into effect the power vested by the Constitution in the Government of the United States, and in the departments and officers thereof, and, consequently, such a law as Congress may pass; because the direct tendency of such writings is to obstruct the acts of the Government by exciting opposition to them, to endanger its existence by rendering it odious and contemptible in the eyes of the people, and to produce seditious combinations against the laws, the power to punish which has never been questioned; because it would be manifestly absurd to suppose that a Government might punish sedition, and yet be void of power to prevent it by punishing those acts which plainly and necessarily lead to it; and, because, under the general power to make all laws proper and necessary for carrying into effect the powers vested by the Constitution in the Government of the United States, Congress has passed many laws for which no express provision can be found in the Constitution, and the constitutionality of which has never been questioned, such as the first section of the act now under consideration for punishing seditious combinations; the act passed during the present session, for punishing persons who, without authority from the Government, shall carry on any correspondence relative to foreign affairs with any foreign Government; the act for the punishment of certain crimes against the United States, which defines and punishes misprision of treason; the 10th and 12th sections, which declare the punishment of accessaries to piracy, and of persons who shall confederate to become pirates themselves, or to induce others to become so; the 15th section, which inflicts a penalty on those who steal or falsify the record of any court of the United States; the 18th and 21st sections, which provide for the punishment of persons committing perjury in any court of the United States, or attempting to bribe any of their Judges; the 22d section, which punishes those who obstruct or resist the process of any court of the United States; and the 23d, against rescuing all offenders who have been convicted of any capital offence before these courts; provisions, none of which are expressly authorized, but which have been considered as Constitutional, because they are necessary and proper for carrying into effect certain powers expressly given to Congress.

It is objected to this act, in the second place, that it is expressly contrary to that part of the Constitution which declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the liberty of the press." The act in question is said to be an "abridgment of the liberty of the press," and therefore unconstitutional.

To this it is answered, in the first place, that the liberty of the press consists not in a license for every man to publish what he pleases without being liable to punishment, if he should abuse this license to the injury of others, but in a permission to publish, without previous restraint, whatever he may think proper, being answerable to the public and individuals, for any abuse of this permission to their prejudice. In like manner,

as the liberty of speech does not authorize a man to speak malicious slanders against his neighbor, nor the liberty of action justify him in going, by violence, into another man's house, or in assaulting any person whom he may meet in the streets. In the several States the liberty of the press has always been understood in this manner, and no other; and the Constitution of every State which has been framed and adopted since the Declaration of Independence, asserts "the liberty of the press;" while in several, if not all, their laws provide for the punishment of libellous publications, which would be a manifest absurdity and contradiction, if the liberty of the press meant to publish any and everything, without being amenable to the laws for the abuse of this license. According to this just, legal, and universally admitted definition of "the liberty of the press," a law to restrain its licentiousness, in publishing false, scandalous, and malicious libels against the Government, cannot be considered as "an abridgment" of its "liberty."

It is answered, in the second place, that the liberty of the press did never extend, according to the laws of any State, or of the United States, or of England, from whence our laws are derived, to the publication of false, scandalous, and malicious writings against the Government, written or published with intent to do mischief, such publications being unlawful, and punishable in every State; from whence it follows, undeniably, that a law to punish seditious and malicious publications, is not an abridgment of the liberty of the press, for it would be a manifest absurdity to say, that a man's liberty was abridged by punishing him for doing that which he never had a liberty to do.

It is answered, thirdly, that the act in question cannot be unconstitutional, because it makes nothing penal that was not penal before, and gives no new powers to the court, but is merely declaratory of the common law, and useful for rendering that law more generally known, and more easily understood. This cannot be denied, if it be admitted, as it must be, that false, scandalous, and malicious libels against the Government of the country, published with intent to do mischief, are punishable by the common law; for, by the 2d section of the 3d article of the Constitution, the judicial power of the United States is expressly extended to all offences arising under the Constitution. By the Constitution, the Government of the United States is established, for many important objects, as the Government of the country; and libels against that Government, therefore, are offences arising under the Constitution, and, consequently, are punishable at common law by the courts of the United States. The act, indeed, is so far from having extended the law and the power of the court, that it has abridged both, and has enlarged instead of abridging the liberty of the press; for, at common law, libels against the Government might be punished with fine and imprisonment at the discretion of the court, whereas the act limits the fine to two thousand dollars, and the imprisonment to two years; and it also allows the party accused to give the truth in evidence for his justification, which, by the common law, was expressly forbidden.

And, lastly, it is answered, that had the Constitution intended to prohibit Congress from legislating at all on the subject of the press, which is the construction whereon the objections to this law are founded, it would have used the same expressions as in that part of the clause which relates to religion and religious tests; whereas, the words are wholly different: "Congress," says the Constitution, (amendment 3d,) "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press." Here it is manifest that the Constitution intended to prohibit Congress from legislating at all on the subject of religious establishments, and the prohibition is made in the most express terms. Had the same intention prevailed respecting the press, the same expressions would have been used, and Congress would have been "prohibited from passing any law respecting the press." They are not, however, "prohibited" from legislating at all on the subject, but merely from abridging the liberty of the press. It is evident they may legislate respecting the press, may pass laws for its regulation, and to punish those who pervert it into an engine of mischief, provided those laws do not abridge its liberty. Its liberty, according to the well known and universally admitted definition, consists in permission to publish, without previous restraint upon the press, but subject to punishment afterwards for improper publications. A law, therefore, to impose previous restraint upon the press, and not one to inflict punishment on wicked and malicious publications, would be a law to abridge the liberty of the press, and, as such, unconstitutional.

The foregoing reasoning is submitted as vindicating the validity of the laws in question.

Although the committee believe, that each of the measures adopted by Congress during the last session, is susceptible of an analytical justification, on the principles of the Constitution, and national policy, yet they prefer to rest their vindication on the true ground of considering them as parts of a general system of defence, adapted to a crisis of extraordinary difficulty and danger.

It cannot be denied, that the power to declare war, to raise and support armies, to provide and maintain a navy, to suppress insurrection, and repel invasions, and also the power to defray the necessary expenses by loans or taxes, are vested in Congress. Unfortunately for the present generation of mankind, a contest has arisen and rages with unabated ferocity, which has desolated the fairest portions of Europe, and shaken the fabric of society through the civilized world. From the nature and effects of this contest, as developed in the experience of nations, melancholy inferences must be drawn, that it is unsusceptible of the restraints which have either designated the objects, limited the duration, or mitigated the horrors of national contentions. In the internal history of France, and in the conduct of her forces and partisans in the countries which have fallen under her power, the public councils of our country were required to discern the dangers which threatened the United States, and to guard not only against the usual consequences of war, but also against the effects of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law, and government. Will it be said, that the raising of a small army, and an eventual provision for drawing into the public service a considerable proportion of the whole force of the country, was in such a crisis unwise, or improvident?

If such should be the assertion, let it be candidly considered, whether some of our fertile and flourishing States did not, six months since, present as alluring objects for the gratification of ambition or cupidity, as the inhospitable climate of Egypt. What then appeared to be the comparative difficulties between invading America and subverting the British power in the

East Indies? If this was a professed, not real object, of the enterprise, let it be asked, if the Sultan of the Ottoman Empire was not really the friend of France at the time when his unsuspecting dependencies were invaded; and whether the United States were not at the same time loaded with insults, and assailed with hostility? If, however, it be asserted, that the system of France is hostile only to despotic or monarchical Governments, and that our security arises from the form of our Constitution, let Switzerland, first divided and disarmed by perfidous seductions, now agonized by relentless power, illustrate the consequences of similar credulity. Is it necessary at this time to vindicate the Naval Armament? rather, may not the inquiry be boldly made, whether the guardians of the public weal would not have deserved and received the reproaches of every patriotic American, if a contemptible naval force had been longer permitted to intercept our necessary supplies, destroy our principal source of revenue, and seize, at the entrance of our harbors and rivers, the products of our industry, destined to our foreign markets! If such injuries were at all to be repelled, is not the restriction which confined captures by our ships solely to armed vessels of France, a sufficient proof of our moderation?

If, therefore, naval and military preparations were necessary, a provision of funds to defray the consequent expenses was of course indispensable. A review of all the measures that have been adopted since the establishment of the Government, will prove that Congress have not been unmindful of the wishes of the American people, to avoid an accumulation of the public debt; and the success which has attended these measures affords conclusive evidence of the sincerity of their intentions. But to purchase sufficient quantities of military supplies, to establish a navy, and provide for all the contingencies of an army, without recourse to new taxes and loans, was impracticable; both measures were in fact adopted. In devising a mode of taxation, the convenience and ease of the least wealthy class of the people were consulted as much as possible, and although the expenses of assessment have furnished a topic of complaint, it is found that the allowances are barely sufficient to insure the execution of the law, even aided as they are by the disinterested and patriotic exertions of worthy citizens; besides it ought to be remembered that the expenses of organizing a new system, should not, on any principle, be regarded as a permanent burden on the public.

In authorizing a loan of money, Congress have not been inattentive to prevent a permanent debt; in this particular, also, the public opinion and interest have been consulted. On considering the law, as well as the manner in which it is proposed to be carried into execution, the committee are well satisfied in finding any excess in the immediate charge upon the revenue, is likely to be compensated by the facility of redemption which is secured to the Government.

The alien and sedition acts, so called, form a part, and, in the opinion of the committee, an essential part in these precautionary and protective measures, adopted for our security.

France appears to have an organized system of conduct towards foreign nations; to bring them within the sphere, and under the dominion of her influence and control. It has been unremittingly pursued under all the changes of her internal polity. Her means are in wonderful coincidence with her ends; among these, and not the least successful, is the direction and employment of the active and versatile talents of her citizens abroad as emissaries and spies. With a numerous body of French citizens and other foreigners, and admonished by the passing scenes in other countries, as well as by aspects in our own, knowing they had the power, and believing it to be their duty, Congress passed the law respecting aliens, directing the dangerous and suspected to be removed, and leaving to the inoffensive and peaceable a safe asylum.

The principles of the sedition law, so called, are among the most ancient principles of our Governments. They have been engrafted into statutes, or practised upon as maxims of the common law, according as occasion required. They were often and justly applied in the Revolutionary war. Is it not strange, that now they should first be denounced as oppressive, when they have long been recognised in the jurisprudence of these States!

The necessity that dictated these acts, in the opinion of the committee, still exists.

So eccentric are the movements of the French Government, we can form no opinion of their future designs towards our country. They may recede from the tone of menace and insolence, to employ the arts of seduction, before they astonish us with their ultimate designs. Our safety consists in the wisdom of the public councils; a co-operation on the part of the people with the Government, by supporting the measures provided for repelling aggressions, and an obedience to the social laws.

After a particular and general review of the whole subject referred to their consideration, the committee see no ground for rescinding these acts of the Legislature. The complaints preferred by some of the petitioners may be fairly attributed to a diversity of sentiment naturally to be expected among a people of various habits and education, widely dispersed over an extensive country. The innocent misconceptions of the American people will, however, yield to reflection and argument, and from them no danger is to be apprehended.

In such of the petitions as are conceived in a style of vehement and acrimonious remonstrance, the committee perceive too plain indications of the principles of that exotic system which convulses the civilized world. With this system, however organized, the public councils cannot safely parley or temporize, whether it assumes the guise of patriotism to mislead the affections of the people; whether it be be employed in forming projects of local and eccentric ambition, or shall appear in the more generous form of open hostility, it ought to be regarded as the bane of public as well as private tranquillity and order.

Those to whom the management of public affairs is now confided, cannot be justified in yielding any established principles of law or government to the suggestions of modern theory; their duty requires them to respect the lessons of experience, and transmit to posterity the civil and religious privileges which are the birthright of our country, and which it was the great object of our happy Constitution to secure and perpetuate.

Impressed with these sentiments, the committee beg leave to report the following resolutions:

Resolved, That it is inexpedient to repeal the act passed the last session, entitled "An act concerning aliens."

Resolved, That it is inexpedient to repeal the act passed the last session, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States.'"

Resolved, That it is inexpedient to repeal any of the laws respecting the Navy, Military Establishment, or revenue of the United States.

The question being upon agreeing to the first resolution declaring it to be inexpedient to repeal the alien law,

Mr. Gallatin rose and spoke as follows:

Mr. Chairman: This subject was so fully discussed during the last session, that I would not have addressed the committee on this occasion, did I not entertain some hope that the change of circumstances which has taken place since the laws were enacted, and above all, the sense which so many of our fellow-citizens have expressed on their propriety and constitutionality, may induce the House to reconsider their decision of last year.

Petitions, signed by near 18,000 freemen of this State alone, collected in a few counties and within a few weeks, have been laid on your table, earnestly requesting Congress to repeal laws, at best of a doubtful nature, and passed under an impression of danger which does not now seem to exist, of general alarm, which has nearly subsided.

Sixteen hundred of my immediate constituents have joined in these petitions, and their opinion on this subject being the same which I have uniformly entertained, I feel it forcibly to be my duty to examine the reasoning used by the select committee who have reported against the repeal of the obnoxious laws.

The act concerning aliens comes first under consideration. Two laws were passed during the last session of Congress on that subject, the one concerning aliens generally, the other respecting alien enemies. No petition has been presented against the last, and it would remain in force even if the first should, agreeably to the request of the petitioners, be repealed. The petitions apply solely to those provisions of the first act which are not included in the last. The provision, therefore, complained of, and which is the subject-matter of the reference to the committee, is that which authorizes the President to remove out of the territory of the United States, "all such aliens (being natives, citizens, denizens, or subjects of a nation which is *not* at war with the United States, and which has *not* perpetrated, attempted, or threatened any invasion or predatory incursion against the territory of the United States) as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to *suspect* are concerned in any treasonable or secret machinations against the Government thereof."

This authorization is considered by the petitioners as unconstitutional—1st, because such power being neither among the specific powers granted by the Constitution to the General Government, nor necessary to carry into effect any of those specific powers, is, both by incontestible deduction, and by the 12th amendment, reserved to the individual States; 2d, because, even supposing such power to be by implication comprehended among those granted to the General Government, its exercise is, for the present, expressly prohibited to that Government by the section which provides that the migration or importation of such persons as any of the States shall think proper to admit shall not be prohibited by Congress prior to the year 1808; and 3dly, because aliens are supposed to come under the general description of persons to whom, by the Constitution, the right of a trial of all crimes by jury is secured.

In answer to the first objection, it is not contended that the power of removing such aliens is specifically granted by the Constitution. But it is insisted, first, that every nation has a power at will to admit, to remove aliens; second, that this power is necessary and proper in order to carry into effect the specific powers vested in Congress to declare war and to protect each State from invasion.

To admit the first position in its full extent does not destroy the force of the objection; for that objection rests not on a supposition that the power of removing aliens does not exist in the nation; but on the principle that it is not one of those granted by the nation to the General Government; that it is one of those intrusted by the nation to the Governments of the individual States respectively. The second position is predicated on a construction of the clause of the Constitution and an application of that construction to the act, which to me appear inadmissible. The expressions used in that clause are "necessary and proper." The idea conveyed by the word "proper" is implied in that of the word "necessary," for whatever is necessary must be proper. The addition of the word "proper" was therefore useless, unless designed more precisely to ascertain the meaning of the word "necessary," the better to prevent a construction "that by necessity nothing more was meant than propriety," and to establish, beyond contradiction, that whatever might by Congress be thought proper, was not on that account to be judged necessary. Hence the meaning of the word "necessary" is confined in that clause to its strict sense, to wit: the power of passing laws without which some of the powers delegated to Congress could not be carried into effect.

In the present case it cannot be said that a power generally to remove aliens, not belonging to a nation from which a war or invasion is apprehended, is necessary or even proper in order to protect the States against such a war or invasion. Aliens individually may commit acts tending to assist the enemy, and, in such case, it would become necessary to punish them. Should a body of armed aliens (the supposed case of the select committee) land with views evidently hostile, to whatever nation they might belong, the act itself would be an invasion, and the necessity of repelling, or if another expression is selected, of removing them, would be self-evident and immediately flowing from the specific power delegated to Congress to protect the States against invasions. But it is preposterous to say that the necessity of a general removal of alien friends flows from the apprehension of an invasion. The law con-

cerning aliens, however, does not designate the acts which shall establish the necessity of their removal individually. Although they may not have been concerned in any machinations against Government; although the machinations in which they may have been concerned shall not have tended to promote or assist an invasion; and although their machinations might be sufficiently prevented and punished in the common course of law; although, therefore, their removal may not be necessary to protect the States against an invasion; yet, by the present law, they are liable to be removed, if they shall be suspected of being concerned in those machinations. Their having actually and individually committed certain acts is requisite to constitute that necessity which alone can justify the exercise of the power delegated by this law. And yet that removal, which, in order to be Constitutional, should rest on its necessity, depends, by the provisions of this law, on the bare suspicion of a necessity. But necessity implies proof, and cannot rest on suspicion. The law cannot be supported by the Constitution unless that instrument had declared that Congress shall have power to pass laws which they may suspect to be proper or necessary in order to carry into effect certain specific powers delegated to them.

But the law does not even confine its operation to cases when a war or invasion should be apprehended. Supposing the alarms on that subject to be completely at an end, still the power remains with the President to remove aliens suspected by him to be concerned in secret machinations against Government. The power delegated by this law is not applicable exclusively to cases where it may be thought necessary in order to carry into effect the power to protect States against an invasion. It is to apply generally and under color of its necessity for executing certain specific powers, it may be exercised in a case where that specific power, on which alone it rests, has itself, nothing on which to operate. Although it may happen that there shall be no necessity to protect States against invasion, it will even then, according to this constructive doctrine, still be lawful to do an act which cannot be Constitutional, except on account of its being necessary to protect States against invasion.

In order, therefore, to support the constitutionality of the law, the select committee must suppose, in the first place, that Congress may pass laws, without a certainty of their being necessary for carrying into execution some of the specific powers granted to them; that is to say, that Congress have a right to pass laws which may be unnecessary for that purpose. In the next place, that if a certain law is necessary only for executing a Constitutional measure of a temporary nature, that law may constitutionally be executed, although the temporary measure itself should not be executed at all; that is to say, that the incidental power may be exercised for a purpose different than that of executing the original power on which it rests.

The application of that constructive doctrine to the sedition and alien laws justifies a conclusion that, if adopted, it will substitute in that clause of the Constitution a supposed usefulness or propriety to the necessity expressed and contemplated by the instrument, and will, in fact, destroy every limitation of the powers of Congress. It will follow that instead of being bound by any positive rule laid down by their charter, the discretion of Congress, a discretion to be governed by suspicions, alarms, popular clamor, private ambition, and by the views of fluctuating factions, will justify any measure they may please to adopt; that, instead of being bound by a Constitution, they may claim the omnipotence of a British Parliament; that all the reserved powers of the people or of the States will be swallowed up at their pleasure by that undefined discretion; in a word, that the Constitution itself, so far as respects a limitation of powers, is by that doctrine completely annihilated. Even the positive checks, which, in a few instances, prohibit the exercise of certain powers, will not prove a sufficient guard against an inordinate appetite to legislate on some favorite subject.

Thus, in the case of the sedition law, the prohibitory clause, respecting an abridgment of the liberty of the press, is attempted to be construed away by star-chamber definitions, by exotic doctrines, which, if suffered to flourish, will overshadow and smother every plant of American growth; doctrines incompatible with the principles of a Government elective in all its Executive and Legislative branches; of a Government which the people, the sole fountain of power, cannot properly carry into execution, if the sources of information are shut up from them; if a free and full discussion of every public measure is at the will of those who enjoy only a delegated authority, checked and embarrassed by prosecutions for libels, grounded solely on the British system of hereditary prerogative.

And thus, in the case of the alien law, it is said that the temporary prohibition enjoined on Congress, to forbid the importation of persons, must be understood as applying only to slaves; and that a power to remove emigrants may be constitutionally exercised, though that of prohibiting their migration should be unconstitutional.

The evidence of members of the Convention which framed the Constitution, has sometimes been offered to prove that that body by *persons*, meant *slaves*. But the evidence of those members cannot prove anything beyond their own individual intention, or, at most, their belief of what might have been the intention of some other members. Nor is, on any possible supposition, the intention of the Convention itself of any importance to decide the true meaning of the Constitution. For they were not the legislators who passed and ratified the act, but only the framers who drew the instrument and offered it for consideration. As well might the Judges of the Supreme Court be induced in their decision on a point of law, to abandon the clear construction pointed out by the precise meaning of the words of the statute, on account of the supposed opinion of some one of

the members of the committee of this House that had draughted the law, as we be guided by what was, at the time, the meaning of some of the gentlemen who drew the Constitution. After a lapse of ten years, it is preposterous to receive parole evidence against a sacred record. Are the people of America to be told, after a lapse of ten years, that the delegation of powers, which they sanctioned under the impression of what on its face appeared to be its meaning, is to receive a contrary construction, bottomed on private meaning, on the unknown opinion of the members of a body whose deliberations were secret? And if, even through mistake, those individuals adopted expressions which conveyed a different meaning from what they intended, is that supposed intention to prevail over the explicit sense of those expressions?

But we are told by the select committee, that "there could not have been the least reason" for confining the restriction to the then existing States, and to a period of twenty years, had the restriction "been intended" to apply to all emigrants in general. Here, again, a supposed intention is brought as an argument against the general acceptation of the word "persons." The question is not, whether we are at a loss to find the reasons which dictated a modification of the restriction. Yet, if we were to recur to suppositions, we might as well suppose that the then existing States, which alone formed the Constitution, felt interested only for themselves, and not for future non-existing States; and that those States, who were interested in promoting the migration of free persons, were satisfied with the same regulation which satisfied those States who were apprehensive of an interference in the importation of slaves. But the only question is, whether modification is contradictory with the common acceptation of the word "persons," which, it will not be denied, in its natural sense, will apply to free as well as to the other description of individuals? Whether there is anything absurd or repugnant to common sense, in saying that Congress shall not, for twenty years, prohibit the migration of free persons in the existing States? If there be nothing inconsistent in that provision, the modification of the restriction cannot modify and alter the meaning of the word "persons."

Was there any possibility of doubt on the sense of that word, it might be explained by other parts of the Constitution and by other expressions in the clause itself.

The 2d section of the 1st article of the Constitution, speaking of the mode of ascertaining the respective numbers of the several States, declares that they shall be determined by adding to "the whole number of free persons" (including those bound to service for a term of years, and excluding Indians not taxed) "three-fifths of all other persons." A sentence in which the word *persons* is expressly applied first to freemen, and secondly to slaves.

The prohibitory clause itself declares that the migration or importation of such persons as any of the States, &c., shall not be prohibited. The word "migration," as contradistinguished from "importation," clearly implies the free will of the person, and applies exclusively to free persons.

The select committee have also informed us that the power to send off emigrants, who abuse the indulgence granted them to remain, is a very different thing from the power of preventing emigration; meaning, I suppose, that although Congress might be forbidden by the Constitution to prohibit migration, they may constitutionally send off such emigrants. Was the power claimed by this law, that of punishing by transportation aliens convicted of certain offences, defined by the law, although the Constitutional necessity of the mode of punishment would still remain to be proven, yet the argument of the committee would deserve some consideration. But it is denied that there is the least difference between a power of prohibiting emigration and that of sending off any alien at the will of the President, merely because he is suspected by that Magistrate. The transportation of the emigrant does not rest on any act committed by him, but on the degree of suspicion entertained by the President. The removal, therefore, contemplated by the law, is not the special removal of certain emigrants, but a general power to remove all the emigrants, on suspicion, if the President shall please. I must confess that, to my understanding, that power to remove all emigrants would, if exercised, (and the law authorizes its general exercise,) amount precisely to the same thing with a general prohibition of emigration.

So far is it true that the clause of the Constitution admits of a construction which would defeat its object; that, at the end of it, we find a provision permitting Congress to lay a duty of ten dollars, not on migration, but on the importation of persons. Had it not been for that provision, Congress could not even have checked that importation by any duty. As the clause now stands, they cannot check the migration by any duty whatever, nor the importation by a duty higher than ten dollars. And yet it is contended, that notwithstanding so much caution, Congress may, by a general power of sending off emigrants, evade the restriction laid upon them, and altogether prevent the effect of migration.

Finally, if there be any difference between the power of prohibiting migration and that of sending off emigrants, it consists in this, that it might have been apprehended that, under color of the general power over commerce given to Congress, they might, by duties or other commercial regulations, have prevented or checked migration; but that there does not exist any power granted to the General Government by the Constitution which can rationally serve as a pretence to claim an authority to remove emigrants generally. And the only deduction to be thence inferred is, that the clause now under consideration, although it might be proper for preventing the exercise of the first power, was unnecessary for the last purpose—a conclusion to which I agree in its full extent, and which it seems to me I have already fully established in the first part of my arguments.

The select committee (driven thereto, perhaps,

by the weakness of the ground they were compelled to defend) have recurred to a last argument, the most extraordinary, perhaps, of any they have advanced. Having said, in the former part of their report, that every nation had a right to send off aliens at will, they afterwards assert that, "as the Constitution has given to the States no power to remove aliens," it is necessary to conclude that the power devolves to the General Government.

It is, I believe, the first time it has been suggested that the powers of the individual States were derived from the Constitution of the United States. That Constitution has heretofore been considered as a delegation of powers to the General Government, and not to the several States. But the assertion of the committee may be shortly answered by reading the twelfth amendment to the Constitution, viz: "The powers *not delegated* to the United States by the Constitution, *nor prohibited* by it to the States, are *reserved* to the States, respectively, or to the people." In order to prove that the powers are not reserved to the States, it is necessary to prove that they are delegated to Congress; and the committee, with that kind of logic which pervades the whole of their report, in order to prove that powers are delegated to Congress, assume the position that they do not belong to the States. The Constitution declares that the powers not prohibited to the States are reserved to them, and the committee asserts that the powers not given to the States, are not reserved to them. It would seem, as the committee had been desirous of justifying, by their own argument, what I have advanced, that the doctrine necessary to support the constitutionality of this law would infallibly swallow up all the powers of the several States.

That the States had a right to legislate on this subject never was denied. It is a fact, that some of them have legislated upon it. Virginia has passed an alien law, which has been quoted by the supporters of the law of Congress. It was strange enough, that on a Constitutional question, whether the United States or the several States had a right to pass such laws, the advocates for the right of Congress should quote a law of one of the States, which proved the very reverse of their doctrine. But their object was to puzzle and confound, and not to enlighten the understanding; and if they meant to rescue the law of Congress from the charge of impropriety and injustice, by the instance of that of Virginia, they have been guilty of a gross misrepresentation: for the act of that State, so far from being similar to that complained of, is not a law concerning alien friends, but a law respecting alien enemies, perfectly similar to that of Congress, of which no one complains, and which passed without opposition.

To the argument against the law, drawn from that part of the Constitution which secures the trial of all crimes by jury, the most satisfactory answer given by the committee is, that aliens not being parties to the Constitution, have no rights under it. Without entering into an examination of the Constitutional question arising on that point, I will only remark, that the construction is harsh; and that, to transport emigrants, "merely from motives of policy," and "without their having committed any offence," is often unjust—always oppressive and cruel. The manner in which aliens have been invited to this country, and the peculiar situation in which they stand, justify the assertion.

The Constitution gives to Congress no power over aliens, except that of naturalization. The power, therefore, remains with the States to give to aliens the rights of denizens. That power has not been exercised by that name; but it has, in fact, been carried into effect. Not only in some States have aliens been enabled to purchase, to hold, to inherit, and to leave by will, real estates—a right which principally constitutes a denizen—but many have actually been admitted in some States, either by special acts of the Legislature, or in conformity to former general laws, to all the rights of citizens of those States, so far as it was in the power of individual States to do it; that is to say, that they have received every right, but such as arise from naturalization—every right of denizens. On the other hand, the laws of the Union have invited emigration, by holding out the prospect of being naturalized at the end of a period which, till nearly the time when the alien law passed, never exceeded five years. Under these laws, emigrants have, by a formal declaration before our courts, given evidence of their intention of becoming citizens and of renouncing their former allegiance—a declaration almost tantamount to an actual renunciation. They have abandoned their native countries forever; many of them have acquired lands, and married in America, most of them have here the whole of their property, or their only means of subsistence. Under all these circumstances, it may be doubtful whether a great proportion of these aliens are not entitled to the rights of denizens; and if they are not so, by a strict construction of positive laws, at least, it can hardly be denied that the provisions of the law violate, in this respect, the dictates of humanity and justice.

The policy of this measure seems to be defended by the select committee on the same ground which is to be a pretence and a justification for every act of domestic oppression, for every encroachment of power, for every new tax, for every extravagant loan, for every prodigal act of expenditure, for every increase of the Navy, for every standing army which may be raised under the various names of permanent army, additional army, provisional army, eventual army, or *well-affected* volunteers. The alien and sedition acts form, in the opinion of the committee, an essential part of our general system of defence against France. I do not mean to follow them, whilst they use, instead of arguments, the mere cant of the day. They cannot be serious when they tell us of the employment of the active talents of a numerous body of French citizens here as emissaries and spies. And if they are, does that committee mean to impose upon this House, as upon the people of some parts of the Union? Do we not know that, if there be any danger from France, the act respecting alien enemies is applicable to her citizens, and that the law now complained of respects alien friends, and was originally intended

to operate, not against subjects of France, but against *Irish* emigrants and other subjects of Great Britain? Do we not know that, notwithstanding all the clamor of last Summer, and notwithstanding the two laws passed on that subject, not a single French citizen has been removed?

Still less can I suppose that the committee were in earnest when they pretended to believe that the United States offered as easy and alluring a conquest to France as Egypt. They seem to have forgotten that Egypt was governed and defended by Mamelukes and inhabited by slaves; that the United States are *as yet* inhabited and defended by the people themselves. But if the committee thought that the fear of an invasion did justify those laws, when passed, will they pretend to say that the danger, even in their opinion, now exists, and that the same necessity now justifies the continuance of the laws?

It is not only against invasion that those laws are said to be necessary. We are told of a system which convulses the civilized world, and has shaken the fabric of society; of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law, and Government. If these are the dangers which threaten us, and if Congress think themselves vested with all the powers which they may think expedient to repel them, I wish to know to what extent they may not legislate, and by what possible limitation they can be restrained, in their assumption of powers? There is not an individual on this floor, there is not a man of common understanding and common information in the nation, who, unless he is under the influence of the illusions of the new anti-republican fanaticism, or blinded by party spirit, does not know that these pretended dangers are, in America, the visionary phantoms of a disordered imagination. And I have taken notice of those sentiments merely to give an additional proof, that under pretence of preventing imaginary evils, an attempt is made to establish the omnipotence of Congress, and substantial despotism, on the ruins of our Constitution.

Is that a measure of security and general defence which puts a numerous body of aliens—aliens who are represented as so desperate and dangerous—under the absolute control of one man, which, by holding the rod of terror over their heads, and leaving their fate at his sole disposal, renders them complete slaves of the President, and makes them proper instruments for the execution of every project which ambition may suggest, which faction may dictate? Is that a Government of laws which leaves us no security but in the confidence we have in the moderation and patriotism of one man? And do the abettors of these laws forget that even that is precarious, and that the unlimited power which they think safely lodged in one individual may in a day be vested in another man in whom they do not place the same confidence?

Is that a measure of general defence which has diminished confidence in the Government and produced disunion among the the States and among the people?

Yet I am happy to find that even this law has produced such general dissatisfaction. I was the the more alarmed on account of this law, because, attacking only aliens, for whom no immediate concern could be felt, it might the more easily become the vehicle to introduce doctrines and innovations which would hereafter serve as a precedent to attack the liberties of the citizens themselves. A pretence of general defence may justify oppressive measures against citizens as well as against aliens. Although some nice distinctions may now be made in order to discriminate one class from the other, yet it must be remembered that the only security of citizens against unconstitutional measures consists in a strict adherence to the Constitution; that their liberties are only protected by a *parchment*—by *words*—and that they may be destroyed whenever it shall be admitted that the strict and common sense of words may be construed away under the plea of some supposed necessity; whenever the Constitution shall be understood and exercised as an instrument unlimited where it grants power, and nugatory where it limits power.

We may feel alarmed when we see a committee of this House asserting that the powers not given to the States (and it may be added, by the same rule of construction, the powers not given to the people by the Constitution) belong to the General Government. We may feel alarmed when that committee insist that, although it is true that the trial of all crimes must be by jury, yet, to inflict a punishment when no offence—no crime—has been committed, is not a violation of the Constitution; when the only distinction they apply to citizens consists in the difference of punishment, but not in a difference of the principle. We may feel alarmed when we find that Congress have already acted on those principles towards citizens; that they have already passed another law—the sedition law—grounded on the same principles, on the same doctrine, or rather on the same abandonment of the explicit and evident sense of the Constitution, which alone could justify the alien law. I hope—I trust—that the spirit which dictated both laws has subsided, even within these walls, and that the same Congress who, under the impressions of a momentary alarm, which prevented a cool investigation, hastily adopted those two measures, will have courage enough to revise their own conduct, to acknowledge their own errors, and, by a repeal of the obnoxious acts, restore general confidence, union, and harmony, amongst the States and the people.

When Mr. Gallatin had concluded, the question was taken and carried—yeas 52, nays 48.

The 2d resolution being next in order, viz:

Resolved, That it is inexpedient to repeal the act passed the last session, entitled "An act in addition to the act, entitled An act for the punishment of certain crimes against the United States."

Mr. Nicholas rose and spoke as follows:

Mr. Chairman—I am sorry to be obliged to rise at this late hour of the day, indisposed also as I find myself, to speak on this important question; but, since gentlemen are determined now to decide upon it, I must be indulged in making some

observations upon it, previous to the question being taken.

The select committee had very truly stated, that only the second and third sections of the act, in addition to the act for the punishment of certain crimes against the United States, are complained of—that the part of the law which punishes seditious acts is acquiesced in, and that the part that goes to restrain what are called seditious writings, is alone the object of the petitions.

This part of the law is complained of as being unwarranted by the Constitution, and destructive of the first principles of Republican Government. It is always justifiable, in examining the principle of a law, to inquire what other laws can be passed with equal reason, and to impute to it all the mischiefs for which it may be used as a precedent. In this case, little inquiry is left for us to make, the arguments in favor of the law carrying us immediately, and by inevitable consequence, to absolute power over the press. The case chosen for our first legislation, that of "false, scandalous, and malicious writings," is specious, and as likely as any can be to establish an interest in its favor; but when it is fairly examined, it will be found to operate on cases, which could not, at first view, be expected to come under it; to be the instrument of most unjust oppression, and to restrain that free communication of honest opinion which is the soul of the Government. But when you come to inquire further, and learn, from the advocates of the law, the authority which they claim for passing it, you will find that the power claimed does not stop even with this law, mischievous as it may be, but that it extends to absolute and unlimited control.

It is not pretended that the Constitution has given any *express* authority which they claim for passing this law, and it is claimed only as implied in that clause of the Constitution which says "Congress shall have power to make all "laws which shall be *necessary and proper* for "carrying into execution the foregoing powers, "and all other powers vested by this Constitution "in the Government of the United States, or in "any department or office thereof." It is, therefore, necessary to fix a just construction of this clause.

That the powers of the Federal Government were intended to be limited, is universally admitted, in the abstract; is proved by every clause of the Constitution, and is positively declared by the 12th amedment in these words: "the powers not "delegated to the United States by the Constitution, nor prohibited by it to the States, are re-"served to the States respectively, or to the peo-"ple."

The just construction of the Constitution, if the clause respecting necessary and proper powers had been omitted, would have been the same that it ought to be with the addition; for there can be no doubt, that a grant of specified powers would have contained a grant of such power as is necessary to carry the specified power into effect, and therefore the declaration ought to make no difference, according to a well known maxim. This was the understanding of all the friends of the Constitution at its adoption, and the Constitution ought now to be construed as if the clause had been omitted. But it is proper to examine the meaning of it, as expressed.

It is clear, that this clause was intended to be merely an auxiliary to the powers specially enumerated in the Constitution; and it must, therefore, be so construed as to aid them, and at the same time to leave the boundaries between the General Government and the State Governments untouched. The argument by which the select committee have endeavored to establish the authority of Congress over the press, is the following: "Congress have power to punish seditious combinations to resist the laws, and therefore Congress must have the power to punish false, scandalous and malicious writings; because such writings render the Administration odious and contemptible among the people, and, by doing so, have a tendency to produce opposition to the laws."

It is expressly admitted by the committee, that the power to punish seditious combinations to resist the laws, is only derived, by construction, from the clause giving all necessary and proper powers before recited; and that there is no express power in the Constitution to that effect. There is no dispute about this construction being just; but I contend that the inference from this implied power cannot be supported. viz: That Congress have a power to punish seditious writings."

The Constitution says: "Congress shall have power over all acts which hinder the execution," &c.; but, to make it support the construction of the committee, it should say that, "Congress shall have power over all acts which are likely to produce acts which hinder the execution," &c. Our construction confines the power of Congress to such acts as immediately interfere with the execution of the enumerated powers of Congress; because the power can only be necessary as well as proper, when the acts really would hinder the execution. The construction of the committee extends the power of Congress to all acts which have a relation, ever so many degrees removed, to the enumerated powers, or rather to the acts which would hinder their execution. By our construction, the Constitution remains defined and limited, according to the plain intent and meaning of the framers; by the construction of the committee, all limitation is lost, and it may be extended over the different actions of life as speculative politicians may think fit.

The suggestion on which the authority over the press is founded, is, that seditious writings have a tendency to produce opposition to Government. What has a greater tendency to fit men for insurrection and resistance to Government, than dissolute, immoral habits, at once destroying love of order, and dissipating the fortune which gives an interest in society?

The doctrine that Congress can punish any act which has a tendency to hinder the execution of the laws, as well as acts which do hinder it, will,

therefore, clearly entitle them to assume a general guardianship over the morals of the people of the United States.

Again: nothing can have a greater tendency to insure obedience to law, and nothing can be more likely to check every propensity to resistance to Government, than virtuous and wise education; therefore Congress must have power to subject all the youth of the United States to a certain system of education. It would be very easy to connect every sort of authority used by any Government with the well-being of the General Government, and with as much reason as the committee had for their opinion to assign the power to Congress, although the consequence must be the prostration of the State Governments.

But enough has been said to show the necessity of adhering to the common meaning of the word "necessary," in the clause under consideration, which is, that the power to be assumed must be one without which some one of the enumerated powers cannot exist or be maintained. It cannot escape notice, however, that the doctrine contended for, that the Administration must be protected against writings which are likely to bring it into contempt, as tending to opposition, will apply with more force to truth than falsehood. It cannot be denied that the discovery of maladministration will bring more lasting discredit on the Government of a country than the same charges would if untrue.

This is not an alarm founded merely on construction; for the Governments which have exercised control over the press, have carried it the whole length. This is notoriously the law of England, from whence this system has been drawn; for there, truth and falsehood are alike subject to punishment, if the publication brings contempt on the officers of Government.

I have shown, as I promised, that the authority on which this act is supported, gives unlimited power over the press, as to its investigation of public affairs, which is its most important function; and I will now endeavor to show, that the effect of the present law is very little short of the complete restraint of all useful discussion on public men and measures.

The law has been current by the fair pretence of punishing nothing but falsehood, and by holding out to the accused the liberty of proving the truth of the writing; but, it was from the first apprehended, and it seems now to have been adjudged (the doctrine has certainly been asserted on this floor) that matters of opinion, arising on notorious facts, come under the law. If this is the case, where is the advantage of the law requiring that the writing should be false, before a man shall be liable to punishment, or of his having the liberty of proving the truth of his writing? Of the truth of facts there is an almost certain test; the belief of honest men is certain enough to entitle it to great confidence; but their opinions have no certainty at all. The trial of the truth of opinions, in the best state of society, would be altogether precarious; and, perhaps, a jury of twelve men could never be found to agree in any one opinion. At the present moment, when, unfortunately, opinion is almost entirely governed by prejudice and passion, it may be more decided, but nobody will say it is more respectable; chance must determine whether political opinions are true or false, and it will not unfrequently happen, that a man will be punished for publishing opinions which are sincerely his, and which are of a nature to be extremely interesting to the public, merely because accident, or design, has collected a jury of different sentiments.

If the effect of the present law is to restrain the free communication of opinion, and its principle will justify any control Government chooses to exercise over the press, an inquiry may safely be entered on, whether Congress ought to possess the power, even if the clause giving necessary and proper power would extend to such remote cases? It is the more necessary to inquire into the usefulness of this power in the hands of Congress, since the opinion is becoming current, that that alone will give Congress a right to assume it, upon the principle that Government must have a right to do everything proper for its safety. This doctrine may be very fallacious, if not taken in the restricted sense to be found in the clause giving necessary powers. No Government can assume a power not delegated, on pretence of its being necessary; for none have a right to judge of what is necessary but the makers of the Constitution, otherwise all Governments would be competent to make every alteration in a Constitution, they might think proper, and the Constitution would rank with the laws, and not above them. For the execution of powers expressly given, there must have been some latitude allowed to those who were to execute them, the same in fact which is expressed in the clause respecting necessary powers.

Is the power claimed proper for Congress to possess? It is believed not, and will readily be admitted, if it can be proved, as I think it can, that the persons who administer the Government have an interest in the power to be confided, opposed to that of the community. It must be agreed that the nature of our Government makes a diffusion of knowledge of public affairs necessary and proper, and that the people have no mode of obtaining it but through the press. The necessity for their having this information results from its being their duty to elect all the parts of the Government, and, in this way, to sit in judgment over the conduct of those who have been heretofore employed. The most important and necessary information for the people to receive is, of the misconduct of the Government; because their good deeds, although they will produce affection and gratitude to public officers, will only confirm the existing confidence, and will, therefore, make no change in the conduct of the people. The question, then, whether the Government ought to have control over the persons who alone can give information throughout a country, is nothing more than this, whether men interested in suppressing information necessary for the people to have, ought to be entrusted with the power, or whether they ought to have a power which their personal interest

leads to the abuse of? I am sure no candid man will hesitate about the answer; and it may also safely be left with ingenuous men to say whether the misconduct which we sometimes see in the press, had not better be borne with, than to run the risk of confiding the power of correction to men who will be constantly urged by their own feelings to destroy its usefulness.

The mode of thinking which countenances this law, and the doctrines on which it is built, are derived from a country whose Government is so different from ours, that the situation of public officers ought to be very different. In Great Britain, the King is hereditary, and, according to the theory of their Government can do no wrong. Public officers are his representatives, and derive some portion of his inviolability from theory, but more from the practice of the Government which has, for the most part, been very arbitrary. It was, therefore, of course, that they should receive a different sort of respect from that which is proper in our Government, where the officers of Government are the servants of the people, are amenable to them, and liable to be turned out of office at periodical elections. In Great Britain, writings are seditious, though they are true, if they tend to bring a public officer into contempt.

In this country, it is seen that the same principle is contended for, and that in practice, with respect to matters of opinion, we have gone the whole length of the principle. How long can we expect to maintain the other distinctive qualities of the magistracy of the two countries, when this sameness is established? How long can it be desirable to have periodical elections, for the purpose of judging of the conduct of our rulers, when the channels of information may be choked at their will?

But, sir, I have ever believed this question as settled by an amendment to the Constitution, proposed with others, for declaring and restricting its powers, as the preamble declares, at the request of several of the States, made at the adoption of the Constitution, in order to prevent their misconstruction and abuse. This amendment is in the following words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for a redress of grievances." There can be no doubt about the effect of this amendment, unless the "freedom of the press means something very different from what it seems; or unless there was some actual restraint upon it, under the Constitution of the United States, at the time of the adoption of this amendment, commensurate with that imposed by this law. Both are asserted, viz: that the "freedom of the press" has a defined, limited meaning, and that the restraints of the common law were in force under the United States, and are greater than those of the act of Congress; and that, therefore, either way the "freedom of the press" is not abridged.

It is asserted by the select committee, and by every body who has gone before them in this discussion, that the freedom of the press, according to the universally received acceptation of the expression, means only an exemption from all previous restraints on publication, but not to an exemption from any punishment Government pleases to inflict for what is published. This definition does not at all distinguish between publications of different sorts, but leaves all to the regulation of the law, only forbidding Government to interfere until the publication is really made. The definition, if true, so reduces the effect of the amendment, that the power of Congress is left unlimited over the productions of the press, and they are merely deprived of one mode of restraint.

The amendment was certainly intended to produce some limitation to Legislative discretion, and it must be construed so as to produce such an effect, if it is possible. This is required in the construction of all solemn acts, but must be more particularly due to this on account of the various examinations it underwent, previous to its adoption. It was first recommended by the conventions of several States, was adopted by two-thirds of both Houses of Congress, and finally ratified by three-fourths of the State Legislatures. To give it such a construction as will bring it to a mere nullity, would violate the strongest injunctions of common sense and decorum; and yet that appears to me to be the effect of the construction adopted by the committee. If subsequent punishments are sufficient to deter printers from publishing anything which is prohibited, there is no stint to the power of Congress; and yet, it appears to me that a limitation was clearly intended. I cannot doubt the power of Government to bend printers to their will by subsequent punishments, when all other offences are restrained only in this way. Government does not punish men for keeping instruments with which they cannot commit murder, but contents itself with punishing murder when committed. The effect of the amendment, says the committee, is to prevent Government taking the press from its owner; but how is their power lessened by this, when they may take the printer from his press and imprison him for any length of time, for publishing what they choose to prohibit, although it may be ever so proper for public information? The result is, that Government may forbid any species of writing, true as well as false, to be published; may inflict the heaviest punishments they can devise for disobedience; and yet we are very gravely assured that this is "the freedom of the press."

But it is worth while to trace this definition to the place from whence it is taken, and inquire into the circumstances in which it is used. Blackstone, in his Commentaries on the Laws of England, after stating the law respecting libels, which is, that everything which brings a magistrate into contempt is punishable, whether true or false, goes on to say, that this law is not inconsistent with the liberty of the press; and then gives a definition of the liberty of the press in the manner it is used by the committee. The meaning of all Blackstone has said is this, that the press has the proper degree of liberty in England, and that libels, whether true or false, ought to be punished there. Let us apply what he has called a definition, in the way he used it, to the legislation of the United States. Suppose the present question was, whether we should punish truth, as well as falsehood, in libels, would gentlemen venture to tell us that it was consistent with the freedom of the press, or that the degree of freedom proper for the United States, would remain? I venture to say they would not. Ought they, then, to support the doctrine which hereafter may be practised on to the full extent? Is there not reason to believe gentlemen hope to conceal the full extent of their principles, by bringing them into operation only by degrees? But, sir, it is a manifest abuse of Blackstone's authority to apply it as it has been here applied. He had advanced into the fourth volume of a panegyric on the laws of England, and after stating the law on this subject, makes a theory to justify the actual state of the law. It must be remarked, in his justification, that the nature of their Government justifies more rigor than is consistent with ours, and that the existing law, of which he was writing the praise, had been greatly softened in practice, by public opinion. In this case, there was no danger of impairing the security to liberty, intended by the Constitution; for England has no Constitution but what may be altered by the Parliament, and therefore no great precision was necessary with respect to general principles. Indeed, his observations on this subject ought to be called a theory, and a theory adapted merely to his own country, and not a definition. Very different are the circumstances in which his doctrine has been applied here. A restrictive clause of the Constitution of the United States, by its application, is made to mean nothing, and when it is clearly the intention of the Constitution to put, at least, some acts of the press out of control of Congress, by the authority of this writer all are subjected to their power.

But it is said, that the States have all adopted the same construction which is given to freedom of the press by the committee, for that all the State Constitutions provide for it, and yet the law of libels remains part of their codes. If this is fact, about which however I am uninformed, it is easily to be accounted for. At the Revolution, the State laws were either the law of England, or were built on it, and, of course, they would contain the monarchical doctrine respecting libels. When the State Constitutions were formed, the old law was continued in force indiscriminately, and only a general exception made of what should be found inconsistent with the State Constitutions. Now, to prove that the States have considered the law of libels consistent with the freedom of the press, gentlemen should show that this law has been practised on since the Revolution, and that the attention of the States had been called to it by its execution, and that it still remains in force. I believe this cannot be done. So far as I know, it has been a dead letter. I mean the law of libels against magistrates; and, if so, the argument is reversed, and is wholly on my side. The terms of this law furnish one of the best proofs of the truth of my opinion; for the framers of it, wound up, as they have been, in their notions about Government, since the adoption of the State Governments, endeavored to take a middle course between real liberty and the State law, which is supposed to continue in force, and have studiously endeavored to conceal that their doctrine leads to the same thing by constantly pretending that their law is to punish only falsehood. This is a plain admission, that even now, public opinion would not support what they pretend is the law of each State. But, from the argument before urged, I think it must be admitted, that if the States had so understood it, the construction could not be extended to this amendment. No solemn instrument can be construed so as to destroy it. I have seen somewhere, and I beg leave here to remark on it, the authority of the Convention who formed the Constitution of Virginia, quoted to justify this construction. That Convention is said to have passed a law similar to the law of Congress, after having provided for the liberty of the press in their bill of rights. Let us examine that law. The first section is to punish those who shall "by any word, open deed, or act, advisedly and willingly maintain and defend the authority, jurisdiction, or power of the King, or Parliament of Great Britain, heretofore claimed over this Colony, or shall attribute any such authority," &c. This section, passed at the beginning of the most awful contest in which ever man was engaged, a contest for the right of self-government against one of the most powerful nations in the world, was to establish what? Not the inviolability of the Governor of the State, nor of the majority of either House of the Legislature, but to punish men who should promote resistance to the right of the people to govern themselves, to the principle of the Constitution, to the republican principle. So different is this from the object of the law of Congress, that it would have been impossible to believe that they should have been compared, if we had not seen it done. All argument must be thrown away on gentlemen who do not feel the difference between the respect due to the Constitution, to the right of self-government in the people, and that which is due to the organs of Administration, who cannot only deserve contempt, but who are to be removed with disgrace, according to the Constitution itself, when they misbehave. By the second section of this law, those were to be punished "who should maliciously and advisedly endeavor to excite the people to resist the Government of the Colony, or persuade them to return to a dependence on the Crown of Great Britain, or maliciously and advisedly excite or raise tumults and disorders in the State, or maliciously and advisedly terrify and discourage the people from enlisting in the service of the Commonwealth, or dispose them to favor the enemy." The design of this section is apparently the same with the former. Every act of ill-will to the existing Government, is immediately followed by one tending to submission to Great Britain. These acts are, however, out of the question, for they belong to the class enume-

rated in the first section of the sedition law, which nobody wishes to repeal, as the committee declare. But if the law had any analogy to the law of Congress, it would be improper to quote it; for it is well known that our Revolution made a resort to expedients necessary in a variety of instances, which could not be justified by principle, and that for a time, personal rights were compelled to bend before public necessity.

A distinction is very frequently relied on, between the freedom and the licentiousness of the press, which it is proper to examine. This seems to me to refute every other argument which is used on this subject; it amounts to an admission that there are some acts of the press which Congress ought not to have power to restrain, and that by the amendment they are prohibited to restrain these acts. Now, to justify any act of Congress, they ought to show the boundary between what is prohibited and what is permitted, and that the act is not within the prohibited class. The Constitution has fixed no such boundary, therefore, they can pretend to no power over the press, without claiming the right of defining what is freedom, and what is licentiousness, and that would be to claim a right which would defeat the Constitution; for every Congress would have the same right, and the freedom of the press would fluctuate according to the will of the Legislature. This is, therefore, only a new mode of claiming absolute power over the press.

But it is said, that the phraseology of the amendment proves that the framers of it considered the freedom of the press as limited, otherwise they would have used the same words in speaking of the freedom of the press which they use in speaking of religious establishments. This argument is certainly fanciful; but it shall be considered, as it is my design to leave no argument, which I recollect to have seen, unanswered. It is plain, the writer of the amendment intended to indulge his copiousness of expression, or that he had been accustomed to use certain words in a particular connexion. The amendment says, in speaking of religion, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The change of expression, according to the argument, ought to have some new object; and yet there can be no doubt that if the word *prohibiting* was dropped, the provision would be the same. But the argument will lose all force when the amendment is read to the end, and it seems to have arisen merely from the committee having stopped in the middle of it, and lost sight of the latter part. It says, "or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for a redress of grievances." The argument is that the word *abridging*, as it is distinguished from *respecting*, implies that the freedom of the press was before limited; but, if this is true, it must also be the case with the right of peaceably assembling and petitioning, &c. Is this pretended, and may we hereafter expect to have a definition of the right of petitioning, which will put it also under the control of Congress?

I think I have answered every construction of the amendment which can prevent its being completely prohibitory of all legislation by Congress on the subject of the press, unless there was some existing restraint under the Constitution of the United States, at the time of adopting the amendment. To this inquiry I now proceed.

It is said, there is a common law, which makes part of the law of the United States, which restrained the press more than the act of Congress has done, and that therefore there is no *abridgment* of its freedom. What this common law is I cannot conceive, nor have I seen anybody who could explain himself when he was talking of it. It certainly is not a common law of the United States, acquired as that of England was, by immemorial usage. The standing of the Government makes this impossible. It cannot be a code of laws adopted because they were universally in use in the States, for the States had no uniform code; and if they had, it could hardly become, by implication part of the code of a Government of limited powers, from which everything is expressly retained, which is not given. There never was a uniform code of laws at any time among the States. Their settlement took place at different times, and the law of England was adopted up to the respective settlements, in the whole or by selection. Virginia recognised the common law, properly so called, and the statutes to the 4th James I.; Maryland, the common law, and statutes, up to the time of her settlement: and South Carolina, I am told, never acknowledged any of the English statutes to be in force, except what were specially adopted by law. With this dissimilarity at the commencement, there can be no doubt that the decisions of courts, and the statutes which were constantly passing, must have made the codes of the several States altogether unlike at the time of adopting the Federal Government. Is it the law of England, at any particular period, which is adopted? It cannot be believed that this was a universal favorite; for it had been greatly altered in every State, to adapt it to their situation, and it cannot be believed that after altering it under the instruction of experience, it was intended to bring it again into force. But the nature of the law of England makes it impossible that it should have been adopted in the lump into such a Government as this is; because it was a complete system for the management of all the affairs of a country. It regulated estate, punished all crimes, and, in short, went to all things for which laws are necessary. It might be more properly considered as the measure of the powers left with the States. But how was this law adopted? Was it by the Constitution? If so, it is immutable and incapable of amendment. In what part of the Constitution is it declared to be adopted? Was it adopted by the courts? From whence do they derive their authority? The Constitution, in the clause first cited, relies on Congress to pass all laws necessary to enable the courts to carry their powers into execution; it cannot, therefore, have been intended to give them a power not necessary to their declared powers. There does not

seem to me the smallest pretext for so monstrous an assumption; on the contrary, while the Constitution is silent about it, every fair inference is against it. It was thought necessary to adopt expressly many of the ancient and most valuable principles of the law of England, such as trial by jury, and the writ of habeas corpus; and wherever the Constitution gives cognizance of crimes, which were known in that law, it requires Congress to define them, and direct the punishment, except in the case of treason, which it defines itself. Perhaps it may be said, that the law of England with respect to libel was in force in all the States, and that therefore it is to be considered as adopted. When we recollect what that law is, that it punishes truth as well as falsehood, and that the Congress of 1798 did not think proper to enact its provisions in the full extent, it may be fairly denied that it could have accorded with the jealous republican temper of the Convention who adopted the Constitution. If the common law was adopted on this subject, it was adopted entire as it then existed, and must remain forever unchangeable as part of the Constitution. The power of juries must be the same that it was then, and no more, and the improvement which was immediately afterwards produced by public opinion in that respect, in England, will be denied to us, and we may even have to regret the want of some of the provisions of the present odious law; but there is too little reason for the suggestion of there being a common law in the United States, to need a refutation. If there was a uniformity in the law respecting libels, it is one of the strongest evidences of what was before said, that this whole doctrine of libels was obsolete; for nobody can doubt, after hearing what it is, that it must have undergone considerable changes, if it had ever been practised on.

The committee seem to suppose, for I confess it is very difficult to comprehend this part of their argument, that the law of libels is adopted by that part of the Constitution which extends the judicial power to cases of law and equity arising under the Constitution; for this is the expression of the part referred to by them, and not "offences arising under the Constitution," as they have quoted it. How this can be inferred, I cannot conceive. If the expression was "offences," as they assert, still it would mean offences on which Congress was directed by the Constitution to legislate; but, as the expression really is, the cases are innumerable which come within it. See "The Federalist," vol. II., for an explanation of this part of the Constitution. It is there said: "It has been asked, what is meant by cases arising under the Constitution, in contradistinction from those arising under the laws of the United States? All the restrictions on the authority of the State Legislatures furnish examples of it," &c. For the opinion of the same writer, as to the force of the common law in the United States, see same volume, page 345, and the two following pages, in which he answers the objection to an omission of its provisions, and admits that it is not adopted by the Constitution.

Upon the whole, therefore, I am fully satisfied, that no power is given by the Constitution to control the press, and that such laws are expressly prohibited by the amendment. I think it inconsistent with the nature of our Government, that its administration should have power to restrain animadversions on public measures; and for protection from private injury from defamation, the States are fully competent. It is to them that our officers must look for protection of persons, estates, and every other personal right; and, therefore, I see no reason why it is not proper to rely upon it, for defence against private libels.

The call for the question being loud,

Mr. McDOWELL rose, and hoped the question would not now be taken, but that the committee would rise, it being now a late hour of the day, and he doubted not other gentlemen would wish to deliver their sentiments upon this important question; and he thought an hour or two of to-morrow might be well employed in the discussion of this subject—a subject which had been brought before the House by the people, and ought, therefore, to receive a full discussion. He moved the committee to rise.

Mr. BAYARD hoped that the committee would not rise, but that the question would now be taken. The subject had already been exhausted by essays, and debates which have taken place in this and other Legislatures, and he did not believe that gentlemen on this floor want to hear anything more on this subject. One gentleman had been heard in favor of the repeal of one law, and another in favor of the repeal of the other; and gentlemen in favor of keeping the laws in force, he trusted, would be satisfied with the arguments in favor of them, reported by the select committee.

Mr. LIVINGSTON rose to enforce the arguments of the gentleman from North Carolina, for further time for the discussion of this subject, and he thought the arguments of the gentleman from Delaware showed the necessity of this discussion. This is a subject, said Mr. L., such as seldom occurs; such as, he hoped, would seldom occur in the annals of this country. It is a subject which has, more than any other, alarmed and agitated the public mind. Our table is loaded with petitions, which charge us with having gone beyond our powers; and we are now about to decide whether the charge is well or ill founded. And is not this a question of great importance? He must say he thought it of awful importance. If the complaints of the people are ill-founded ought they not to be convinced that they have received due consideration? Can we say that this subject has had this consideration, without affording more than two gentlemen an opportunity of giving their opinions upon this subject? We cannot; the people will tell us, it has not been duly considered. They will answer, when we tell them that much public business prevented a more full discussion, "our complaints are of infinitely greater importance than any other subject which could engage your attention, as it relates to the very existence of our liberties, and of the Constitution, which you have sacredly sworn to preserve."

Shall we tell the people when they thus speak, said Mr. L., that the subject has been discussed in the newspapers; and that, therefore, there was no necessity for discussion in the Legislature? He did not believe that they would be satisfied with such an answer. Gentlemen may say that they are willing to sit and hear those who choose to speak upon the subject; that their reasons in favor of the law are stated in a summary way in the report of the committee. But who, on this floor, can be considered as the organ of another? Can any one gentleman say that a majority of this House are in favor of adopting the reasoning of the select committee? No gentleman has a right to speak in what he thinks the language of a majority; and though gentlemen may be desirous of delivering their sentiments, yet nature cannot support zeal beyond a certain extent; if it would, the question on this subject would undergo much more discussion. Bills of small importance were frequently postponed at the request of a single member; and he hoped on so important a question as the present, a few hours for debate would not be refused.

Mr. Dayton (the Speaker) said, it was to be lamented that the gentlemen from New York and North Carolina should think it necessary to consume time in speaking in favor of being allowed to speak. Besides, the gentleman from New York ought to recollect that the sense of the committee has already been taken upon the propriety of repealing the alien law, on the passing of which that gentleman had last year exhausted all his threats and all his bitterness. And he believed if a similar decision takes place on this resolution, that gentleman as well as himself, will eat his dinner as well, and sleep as quietly, as if the question was determined in a different way.

Mr. Livingston said, the gentleman from New Jersey is mistaken. If the resolution be decided, as he thinks it will, I will not sleep in quiet. The country will not be quiet. The gentleman may again construe this into a threat. He may tell me that my former predictions with respect to these laws were unfounded, and that these are equally so. I hope, said Mr. L. that his will be true, that the people will remain as tranquil as he supposes; but I do not believe the people of the United States will sit down quietly under the operation of these laws. Mr. L. believed they would not suffer another session to pass without having the table loaded again with petitions. If gentlemen wish to put the present discontent to sleep, they ought to suffer a more full discussion; if they refuse this, they may be assured the people will not be satisfied.

As to his speaking, to obtain time to speak, he did not wish to force his sentiments upon the committee, because he believed they would avail but little here, though he should hope, when the people should have seen a full discussion on this subject, they would be satisfied with the result, whatever it be.

Mr. W. Claiborne said, if the question was then taken, he should participate in the disquiet which his friend from New York had declared he should feel; because he thought so hasty a decision on so important a question would be an insult offered to the majesty of the people. It is a question which the people themselves have brought before us. It is no less than whether we, the Representatives of the people, have violated the Constitution, which we have sworn to maintain. Short as the time consumed in this discussion has been, he had received much important information from the two gentlemen who have spoken on the subject. They have delivered reasons to the committee in favor of the repeal of these laws, which are not answered by the report upon the table; and the friends of these bills, if they wish to satisfy the minds of the citizens, are called upon to answer these arguments. If time be refused for this discussion, it will be offering an indignity to the people, of which they will not be insensible; nor will they be satisfied with this silence on the part of the majority; it will be deemed as adding insult to injury.

The question on rising, was put and negatived—55 to 42.

The question was then taken on the resolution, and carried, 52 votes being in favor of it.

The question was then taken upon the third resolution, which was carried without a division.

The committee then rose, and the question being upon concurring in the agreement of the committee to the first resolution,

Mr. Livingston entered upon a defence of the sentiments which he delivered when the passage of this law was under consideration, which, he said, had been much misrepresented; but, after making some progress in his observations, the Speaker declaring them unconnected with the question before the House, he sat down, and the first resolution was decided by yeas and nays, and stood—52 to 48, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Wain, and John Williams.

Nays—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thos. T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thos. Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. McDowell then moved an adjournment; which was negatived—55 to 38.

The question was then taken on the second resolution, upon which the yeas and nays were exactly the same as upon the first.

The question on the third was concurred in, 61 votes being for it.

Tuesday, February 26.

SUNDRY BILLS.

On motion of Mr. Craik, the House went into Committee of the Whole, on the bill establishing the Post Office of the United States; which being gone through, the committee rose, and the bill was ordered for a third reading.

Mr. Harper, from the committee appointed to consider whether any, and what, alterations are necessary in the law for the relief and protection of American seamen, reported a bill to revise, continue in force, and amend the law; which was committed.

The following bills from the Senate were read, viz:

A bill for the security of bail, in certain cases;

A bill to augment the salaries of the officers therein mentioned;

A bill concerning the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut;

A bill altering the time of holding the District Court of Vermont;

A bill concerning French citizens that have been, or may be, brought into the United States.

On motion of Mr. Livingston, the bill respecting the Western Reserve lands, was postponed till the next session.

The bill respecting the District Court of Vermont, and the bill concerning French citizens, were ordered to be read a third time to-morrow, and the others were committed.

On motion to read the bill respecting salaries the second time, Mr. Gallatin moved to reject the bill, on the ground of its being very little different from a bill which had already been rejected by this House; but the motion for a second reading being withdrawn, the question of rejection will also lie over till to-morrow.

On motion of Mr. Josiah Parker, the House resolved itself into a Committee of the Whole, on the bill authorizing an augmentation of the Marine Corps. The augmentation is by two first lieutenants, six second lieutenants, eight sergeants, eighteen drums and fifes, and one hundred and seventy privates. After filling the blanks, the committee rose, and the bill was ordered for a third reading.

On motion of Mr. Pinckney, the House went into a Committee of the Whole, on the bill to amend the act for the relief of sick and disabled seamen; which being agreed to, went to a third reading.

On motion of Mr. S. Smith, the House resolved itself into a Committee of the Whole, on the bill for the better organizing of the troops of the United States; and, after some discussion, the committee rose, reported progress, and had leave to sit again.

Mr. Gallatin presented a petition from George Turner, praying for a pre-emption to certain lands in the Western Territory, formerly included within the tract of Judge Symmes, but now excluded therefrom. Mr. G. urged in favor of the appointment of a select committee to consider this petition; that he believed if some steps were not taken immediately, with respect to these lands, that the United States would never get anything for them. A committee of three was appointed to report by bill or otherwise.

The following bills were read the third time, and passed:

The bill respecting French citizens who are or may be captured and brought into the United States;

The bill for altering the time for holding the District Court of Vermont;

The bill for augmenting the Marine Corps;

The bill in addition to the act for the relief and protection of sick and disabled seamen; and

The bill to establish the Post Office of the United States.

Mr. Gallatin reported a bill to authorize the sale of certain lands between the Great and Little Miami rivers; which was twice read and committed.

INCREASE OF THE ARMY.

The House then went into a Committee of the Whole, on the bill for better organizing the troops of the United States, and for other purposes. This bill proposed, besides the better organizing of the troops, to provide an eventual increase of the Military Establishment, and a present increase of a battalion of artillery, two companies of cavalry, and a battalion of riflemen. In the Committee of the Whole, a motion was made by Mr. S. Smith, to strike out what relates to the present increase of the Army, when there appeared 40 votes in favor of the motion, and 39 against it; and the Chairman declaring himself in the negative, the motion was not carried.

When the bill came into the House, a motion was made by Mr. Gallatin, which went to say, that no part of the proposed additional force should be raised, unless further provision shall be made, or war shall break out between the United States and some European Prince, Potentate, or State, in which case it shall be lawful for the President of the United States, at his discretion, to cause the said regiments, or any of them, to be severally completed to their full establishment.

The question was taken by yeas and nays, and decided in the affirmative—yeas 52, nays 45, as follows:

Yeas—Abraham Baldwin, David Bard, Richard

Brent, Robert Brown, Samuel J. Cabell, John Chapman, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Richard Sprigg, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Nays—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Some debate took place on a motion to strike out a section of the above act, which proposes to repeal so much of the 9th section of the act for augmenting the Army of the United States, as confines the choice of Inspector of Artillery to the corps of Artillerists and Engineers, and to allow any other person to be appointed as such Inspector. The question for striking out was carried, there being 60 votes in favor of the motion.

The section providing for a Purveyor for the War Department, distinct from the Navy, was also stricken out.

The bill was then ordered to a third reading to-morrow.

INCREASE OF SALARIES.

On motion of Mr. Harper, the House went into a Committee of the Whole on the bill for augmenting certain salaries, viz: the Secretary of State and Secretary of the Treasury, to $5,000; the Secretaries of War and Navy, to $4,500; the Comptroller of the Treasury, to $3,500; the Attorney General, the Treasurer, Auditor, Commissioner of the Revenue, and Postmaster General, to $3,000; the Register, to $2,400; the Accountants of the Navy and War Departments, to $2,000; and the Assistant Postmaster General, to $1,700. The bill passed through the committee without debate, and on the question of its going to a third reading, after being opposed by Mr. McDowell, as being much the same as the bill already negatived, and supported by Messrs. Harper and Champlin, who said the whole advance would only amount to $11,550 a year, the question was carried—yeas 52, nays 42, as follows:

Yeas—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Edward Livingston, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, junior, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Richard Dobbs Spaight, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, and Robert Waln.

Nays—Abraham Baldwin, David Bard, Robt. Brown, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Tompson J. Skinner, William Smith, Peleg Sprague, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

The bill was afterwards passed, 52 to 40—three members who voted in the negative on the former question, being absent on this.

Thursday, February 28.

PROMULGATION OF THE LAWS.

The House went into a Committee of the Whole on the report of the select committee on the subject of a further promulgation of the laws, when the following resolutions were agreed to:

"*Resolved*, That the Secretary of State be authorized and required to cause all the laws of the United States which may be passed this session, and hereafter, to be be printed in some one or more of the newspapers in each State, as soon as conveniently may be.

"*Resolved*, That, in addition to the number of copies of the laws now required to be printed at the end of each session of Congress, there ought to be printed 5,000 copies thereof—one copy thereof to be distributed to each of the Judges of the Courts of the United States; one for the use of each clerk of the said courts, for the use of the courts; and one copy for each of the Marshals and District Attorneys of the United States; the rest to be furnished to the States according to the rule of representation.

"*Resolved*, That 2,000 copies of the Constitution of the United States, and the amendments that have been made thereto, ought to be printed for the use of the members of this House.

"*Resolved*, That a copy of the Constitution of the United States, and the amendments which have been, or may be, made thereto, ought to be added to each copy which is to be made of the laws of the present session of Congress.

"*Resolved*, That the resolution for authorizing and directing the Secretary of State to cause to be printed 40,000 copies of the Constitution of the United States, ought not to be adopted."

A committee was appointed to report a bill accordingly.

SUNDRY BILLS.

The House went into a Committee of the Whole on the following bills, which were severally agreed to, and ordered for a third reading to-day, viz:

The bill to amend the act for granting land for military services, &c.; the bill authorizing a detachment of the militia of the United States; and the bill to amend the act for the relief and protection of American seamen.

These bills afterwards received their third reading, and passed.

The House went into a Committee of the Whole on the bill to alter several post roads, and to establish others; and, after making sundry amendments therein, the committee rose, and leave was refused to it to sit again.

On motion of Mr. Varnum, a resolution was agreed to, advancing the salary of the Assistant Postmaster General to $2,000, and a bill ordered to be reported.

The House went into a Committee of the Whole on the bill to authorize the sale of certain lands between the Great and Little Miami rivers, in the Territory of the United States Northwest of the Ohio, and for giving a pre-emption to certain purchasers and settlers; which, being agreed to, was ordered to a third reading.

On motion of Mr. Brooks, the House went into a Committee of the Whole on the bill for the relief of Comfort Sands and others; which, being agreed to, was ordered to a third reading.

NAVAL AND OTHER APPROPRIATIONS.

On motion of Mr. Harper, the House went into a Committee of the Whole on the two following bills, which were agreed to, and ordered to be read a third time to-morrow, viz:

The bill making appropriations for the Naval Establishment for the year 1799; and the bill making certain additional appropriations for the year 1799.

[Among other appropriations contained in the last-mentioned bill, is $78,700 for contingent expenses of intercourse with foreign nations, in which sum Mr. Harper informed the House, is included $48,700 on account of the proposed Embassy to France; and $29,000 for the expense of the Minister lately appointed to go to the Ottoman Porte, for the purpose of forming a Commercial Treaty with that Power. This bill also contains an appropriation of $200,000 for making good deficiencies in former appropriations for carrying into effect the engagements of the United States with the Mediterranean Powers; $51,987 to be paid to certain subjects of Algiers and Tunis, for the damages sustained by them from the capture or loss of certain merchandise freight on board of vessels sailing under the flag of the United States; $21,000 for the expenses of intercourse with foreign nations during the present year, in addition to the $40,000 appropriated by law for that purpose; $18,000 for defraying the expenses which have already arisen, or may arise during the present year, on account of captured French prisoners; for expenses arising under the British Treaty, $67,499; and for expenses under the Spanish Treaty, $20,000.]

Friday, March 1.

The following bills were read the third time and passed:

A bill for the relief of Comfort Sands and others; a bill for authorizing the sale of lands between the Great and Little Miami rivers; a bill making additional appropriations for the year 1799; and a bill making appropriations for the Naval Establishment for the year 1799.

Mr. Harper reported a bill respecting distillers, which was ordered to a third reading.

Mr. Varnum reported a bill for establishing the salary of the Assistant Postmaster General, which was committed.

Mr. Goodrich reported a bill in addition to the act for the more general promulgation of the laws of the United States, which was committed.

INCREASE OF THE ARMY.

The House having resolved itself into a Committee of the Whole, on the bill giving the President authority to raise an eventual army,

Mr. Clay moved to strike out the first section of the bill, in order to try the sense of the House whether they wished this bill to pass or not. He could see no reason for it, after having authorized a detachment of 80,000 militia; besides, as we had now every prospect of peace, he hoped gentlemen could not be serious in wishing this bill to pass.

Mr. McDowell said the principle of this bill might as well be tried now as upon any other motion. For his own part, conceiving, as he did, that this power ought not to be given, except in cases of imminent danger, out of the hands of the Legislature, into those of the President, he should be opposed to the bill. He called upon gentlemen to say, whether, taking into view the situation of Europe, and our present prospect of peace, there was any ground to expect an invasion; and if there were, he believed the detachment of militia which had been ordered, the whole body of the militia in reserve, and our present Military Establishment, would be equal to the meeting of any attack which might be made upon us. He saw no necessity therefore for the transfer of this power. The President might not exercise the power improperly; but he was not for giving powers, to this extent, without having the means himself of judging of the propriety of the measure. The transfer of this power, if not exercised, could have but one effect, which was to alarm the public mind, and to lead the people to believe that no reliance was placed upon the advance of the French Government towards peace. That part of the bill which respects volunteer corps was to him the most objectionable,

as he considered it as destructive of the militia, and as going to the establishment of a Presidential, instead of a National, militia.

Mr. S. Smith said the first section of this bill was much the same as that of the bill providing a provisional army at the last session, except that the number of men is larger. If the gentleman from Virginia, instead of moving to strike out the first section, had proposed to lessen the number of men, he might have agreed with him; but as he did not wish to lessen our force, in any respect, he must vote against the present motion.

Mr. Pinckney was opposed to this motion. He was serious when he thought the provision contained in this section might be of essential service in our present situation. This, said Mr. P., is only an eventual army, to be raised in case certain contingencies shall take place. With respect to the probability of those contingencies happening, he did not conceive it to be a very material argument. If the necessity arises, the troops will be raised; if not, they will not be raised, and no expense will be incurred. It will be an army upon paper merely, which can do no harm; but, even upon paper, it may do some good. It will continue in force provisions similar to those contained in the provisional army law; and as experience had proved that the ground taken at the last session was safe and honorable to the United States, he wished it to be still preserved. Besides, the very knowledge in any nation with whom another treats that there exists a power in the Executive of the Government to raise an immediate force to repel any attack which may be made upon them, may induce them to behave with propriety; whilst an idea of the weakness of the nation with whom they had a dispute might encourage attack.

If we consider the situation of Europe, said Mr. P.—though there is no certainty of any Power being able to bring any considerable force to bear upon us, yet, when we reflect upon the rapid changes which there take place in the situation of things—no man can answer for the events of a few months. Persons risking conjectures on this subject, frequently mistake; all calculation seems wholly at random. We have seen, said he, since the rising of the last session of Congress, a most uncommon attempt by a most formidable army—he meant Bonaparte's expedition against India. We may, in the course of events, again see something similar to this take place. We are fortunately so situated as not to have much to fear, if we only stand upon our ground—if we show a determination to protect ourselves—but if we show any symptoms of weakness, or a disposition to be misled by mere conciliatory disposition on the part of France, we should not be in that position of safety in which we wish to remain.

Most of the gentlemen who had spoken on the subject of preparatory measure since the communication of a Minister being appointed to treat with France, though some of them had been opposed to the measures originally, have agreed in their propriety of not retracting from a single step heretofore taken; and this measure is substantially the same with one taken at the last session, except that the number of men is somewhat increased. We have heard, within these few days, said Mr. P., (it is true the information rests on newspaper report,) that peace has been concluded between France and the German Empire, at Rastadt. Supposing this to be well founded, France will be at liberty to turn her attention elsewhere; and we know the vigor and ability with which she carries into effect projects the most stupendous. We also know what the resources of such a nation can accomplish, and when we know this, we ought not to be lulled into too great security.

Suppose, said Mr. P., that a general peace should take place in Europe in the course of the Winter, which he did not think improbable—what would be our situation if no negotiation be carried into effect with France? How very important will it be for us to be secure against any attack which France might, in such circumstances, be inclined to make against us. In such circumstances, with all our exertions, we should find it difficult to prevent their sending a considerable force against this country. The navy of Great Britain would then be entirely out of the case; and the navy of France might, with great facility, conduct her force to effect the purposes which have heretofore been held out, viz: to take possession of Louisiana, and from thence assail the United States. Considering this, it would certainly be unwise for Congress to break up without vesting the President with a power of this kind.

This measure, said Mr. P., if not carried into effect, will cost nothing but the time occupied in passing this law. If necessary, the troops will be raised, and then the expense incurred will be well expended. He thought the event of last year ought to take away all jealousy which some gentlemen may have with respect to the vesting of this power, since it had been seen, though a similar power was last year vested in the President, he had not strained a point to carry it into effect.

He hoped, therefore, the present motion would not be agreed to.

Mr. Gallatin was really at a loss to know what were the reasons for this measure. We are told, in the first place, said he, that we ought to be ready in case of an attack by France; and, in the next, that this measure is necessary, in order to give weight to the proposed negotiation.

Though several steps had been taken at the last session, which he was himself opposed to, he had already declared that, as certain grounds had been taken with respect to France, he did not think it would be proper to recede from them. For instance, he did not think it would be proper to repeal the act for declaring the treaties between this country and France void; or any of the laws authorizing merchant-men, or our public vessels to take any armed French vessel, because, to do so, might weaken the measures of the Executive. He did not think these the wisest measures which might have been adopted; but he was willing that they should now be permitted to have their full effect, notwithstanding the change of situation, which gentlemen themselves are compelled to allow has taken place. Though he did not think

it would be right to recede, he thought it would be equally wrong to progress in war measures. The act for providing a provisional army, now expired, gave the President power to raise, on the contingency of war or threatened invasion, 10,000 men. The bill which has been passed this session for organizing the Army of the United States increases the establishment, by 8,000 men, on the same contingency. He did not think, therefore, that there could be any necessity for this eventual army. Our permanent army, said he, is 5,000 men; an additional army of 9,000 men was ordered, at the last session, to be raised immediately, and to continue in force during our dispute with France, besides the provisional army to which has now been substituted the increase just made of 8,000 men, as mentioned above. The question is, whether it can be necessary, in addition to the measures of last session, to give the President an eventual power to raise 29 regiments more, or about 30,000 men.

This would be an army of 30,000 men on paper, in addition to the one which we have already on paper to the amount of 9,000 men, besides the increase of 8,000 made by the law for organizing the Army, and our permanent establishment of 5,000 men is not full. Notwithstanding all that had been heard on the subject of invasion, the President of the United States did not proceed to organize the additional army provided at the last session, until Congress met at the present session, which was a proof the President did not think the country in any danger. He conceived he should be therefore justified in saying, that an army on paper cannot be considered as a measure necessary to repel any really existing danger. And the question returns as to the danger being greater now than it was at the last session. We are told, said Mr. G., that an event has taken place since the last session which ought to convince us of the practicability and possibility of an invasion from France. This event is the invasion of Egypt by Bonaparte. One thing, however, gentlemen forget; which is, that that country opened an alluring object—an object easy of conquest, because it was governed by Mamelukes, and inhabited by slaves; whereas, at present, this country is inhabited by freemen and governed by the people themselves. This difference ought to be sufficient to repel from our minds all apprehensions of danger from invasion. Indeed, in the event alluded to, though an invasion was effected, the means of effecting that invasion have been destroyed; and how we were to be invaded without a fleet, he was at a loss to know.

Again, the House was told that no dependence could be placed upon the situation of Europe. Mr. G. said he did not depend upon it; he believed the situation of that country was so fluctuating that no dependence could be placed upon it. But, we are told that it is probable a peace will be concluded at Rastadt. And when we are told of the danger of our situation, in case of a general peace taking place during the Winter, it leads us to examine the measures which have taken place in order to make us parties in the concerns of Europe. If there is so much danger to be apprehended from a general peace, does it not follow that it is for the Executive of this country to enable us to become a party in that peace, in case it is made? Have not these measures been taken? He believed they had. He believed he might go so far as to say, (though he did not wish to make any allusion to what had taken place in another body,) that the President had wisely made an appointment, calculated to give us a Minister in Europe who might have sufficient power to put an end to our differences, and to prevent the danger which might arise to us from a general peace, without our being a party in it. Whether any attempts had been made to defeat this measure, and whether those attempts had been successful, he left it to other gentlemen to inform the House. He must confess that, for his share, he did not see any great danger likely to arise to this country from a general peace. We are asked what will be our situation if a peace takes place and the British fleet is withdrawn from us? He would ask, to what danger we should be exposed if it were not for the war in Europe? The critical situation in which we have been so long, and in which we now are, has been and is wholly owing to that war. Let an end be put to that, and our disputes will also come to a close. There would remain, indeed, some difficulty in making new arrangements and settling for spoliations which had taken place during the war; but these would be easily accommodated. So far from a general peace producing bad effects to this country, he thought it would be a most fortunate event.

Mr. G. said he should not have made these observations, had not the subject been introduced by the gentleman from South Carolina, because he did not consider them as connected with the bill. Mr. G. did not believe that, even in case of actual war, the army proposed by this bill would be necessary. He did not wish, therefore, to place a power in the President which, it appeared to him, would in no event be proper to be exercised, especially since, before any war could be declared, Congress must meet, and they could then themselves determine upon the proper force to be raised. For it might appear to them that the resources of the country might be more usefully employed than in providing an army of this kind. But if the power was now transferred, no choice would hereafter be left to them. If this addition was made to our Army, its support would cost at least fifteen millions of dollars a year. He did not think it necessary for our defence, in addition to our militia, against any force that could be sent against us by the largest naval Power in Europe. Mr. G. wished to know the real motives of this bill. He could see no good it could do, but some evil.

It had been said, that it was necessary to show that we are determined to resist attack. He did not think it necessary now to show to the world, that the American nation will resist any attack that may be made against her. If there could be any doubt of this, it must be occasioned by a bill of this kind; which appears to say, that no reliance is had upon the people at large. Nay, this bill by proposing the extravagant number of fifty

thousand men, destroys its own object, and seems to declare, that we mean to confine our exertions to paper.

Mr. HARPER said, if the gentleman from Pennsylvania had now, for the first time, begun to prophesy what would be the effect of those measures which he does not like, some reliance might, perhaps, be placed upon his predictions; but when a course of events, to which he had always been opposed, had flatly contradicted every one of his predictions, it was but with a bad grace that he re-commences his prophesies. He takes care to refute his own arguments. Truth presses him so hard, that at all the windings which he takes to get out of its way, he is still met by it at every turn.

At one time the gentleman tells the House this is a dangerous measure; at another, that it will be useless and can do nothing; then, that this measure having heretofore been useless, and that not having been carried into effect, proved that there was no occasion for the law. It was seriously said that because the law had not been acted upon, it was therefore a useless precaution. Is it possible, said Mr. H., that arguments more flatly contradictory could be used? We were not invaded. Why? Because the power from whom invasion was apprehended, wanted the inclination? Ask the Egyptians, or the Swiss, if they wanted the power? It was not because they wanted either the inclination or the power; it was owing to those energetic measures having been taken by this country, which the gentleman from Pennsylvania had continually opposed, since those measures showed that this country was ready to meet an invasion; that the Government and people were determined to repel any aggressions which might be attempted; and the aggressors having more disposition to plunder, than to fight, kept away.

The provisional army had been objected to; but it had doubtless been one of those measures which had preserved the country from invasion—from that depredating plan which the French have executed on other countries. But the gentleman from Pennsylvania says, that a peace in Europe will settle all our difficulties; that after that event we shall have nothing to do but settle some old accounts. Does the gentleman forget that it was not till after a peace was made with the Emperor of Germany, that the Swiss Cantons were struck by France; that France had been on good terms with Switzerland for several years, and had talked about friendship and affection, but the moment that a peace took place with the Emperor, she laid all her professions aside, and seized upon the country? If he has forgotten this, it is a little extraordinary; and if he does not know it, his knowledge is far too circumscribed to legislate for a country like this. France has found out this country is more determined, something stronger than she expected; but her principle is everywhere the same; she chooses to have as few enemies at a time as she can.

When we hear of a peace at Rastadt taking place, is it more likely that a general peace will take place? No; it is less likely than before, as France will be more at liberty to attend to those Powers which remain. We have heard, in consequence of this peace, that permission has been asked of Spain, to march 100,000 men through her territories to attack Portugal. This shows the result of her system of policy, viz: to get rid of one enemy, that they may proceed with greater effect against another.

If Spain is so lost, so humbled a slave at the foot of France, said Mr. H., as to permit a French army to pass through her territory to attack Portugal, what shall hinder her from giving up Louisiana to France, in order to enable her to attack us? Is such a project less likely than the invasion of Egypt? The moment a French army enters the territory of Spain, Spain will become, in effect, a dependance of France, and the King a Viceroy of the Executive Directory, ready to do whatever they may ask of him.

And does not this state of things make it wisdom in us, to prepare a force which will enable this country to defend itself against any attack which may be made upon it?

But, perhaps, it may be said, that France is not disposed to invade this country. Let us hear the opinion of a man, said Mr. H., deserving of as much credit as any gentleman on this floor. Mr. H. had reference to an answer of General Pinckney, one of our late Envoys to France, to an address presented to him by the Intendant and Wardens of the city of Charleston, which he read as follows:

"To return to my countrymen, unsuccessful in the mission of peace and reconciliation on which I was delegated, is no doubt painful in a high degree to my feelings; but to receive, on my return, the testimonies of their approbation while abroad, goes far indeed to alleviate those feelings, and to compensate for the indignities and insults so liberally bestowed upon me by the Government to which I was deputed. With respect to that Power, you must have observed with pride, that the energetic measures of the United States have already produced the effect to change their mode of procedure; but permit me, gentlemen, to say, that from the intimate knowledge of that nation, which I have had an opportunity to possess, I am thoroughly persuaded that no alteration has taken place in their system. It is with pleasure I observe, that you are aware of their inimical views towards us, when you tell me that our citizens are prepared to meet at the point of the sword any attacks that may be made on their sovereignty and independence. The experience of several years has shown us, and the occurrences of every day must convince us, that in no other manner can be met the daring encroachments of a people, who, abusing the honorable title of Republicans, are bending their whole strength to subvert, in every quarter of the globe, the holy blessings of civil liberty, and the precious rights of self-government: a people whom no candid appeal to justice, no claim of ancient friendship, and no humiliation can for one moment divert from their long planned system of general opposition. Force alone is left to those whom she has injured; and happy the nation, whom the insidious arts of her destructive policy have not already deprived of this solitary resource. America is still among the number."

Here said Mr. H., we have the opinion of a man not remaining on this side of the Atlantic, and founded on surmise, but who has been three years in France, whose duty it was, from his official character, to watch all the movements of that Government; and he declares that though she may change her measures, she would not change her system, and that if we supposed so, it would be a fatal delusion. Mr. H. read the following extract from another answer of the same gentleman, to an address presented to him by the officers of the seventh brigade of Charleston:

"With heartfelt pleasure I see the martial ardor which pervades all classes of my fellow-citizens, and their firm determination to support our rights and independence. An habitual dislike to prepare for hostile resistance, and apathy with respect to national honor, too certainly provoke aggression in all ambitious and powerful States; while on the other hand a preparation for war, a sincere union among all the citizens of the State, whether they are called by the voice of their country to command or to obey, with a strong manifestation to support our national rights, will as certainly produce the effect of checking the criminal enterprises of the most rapacious and aspiring foe. You are pleased to observe, that your sensibility was often awakened by the unworthy and insidious treatment which I received, and which, through me, was offered to our country, by those we so lately esteemed our friends. Permit me, on this occasion, to say that if my own feelings were often excited by the insulting conduct of France, their keenness was doubly augmented, when I reflected that this treatment was directed towards a people, whom I had so lately left overflowing with the warmest effusions of virtuous friendship. But our minds are now awakened to the views of that nation. Let us hasten, then, my fellow-soldiers, as our overtures for peace have been spurned with contempt, to prepare with active energy for war. The despots of France will, I am sure, attempt to disunite us, for they are insidious and cunning; but I conjure you to exert the utmost vigilance, to detect and guard againt their wiles, and to frustrate their Machiavelian policy. They will, by fallacious propositions, endeavor to relax our activity; be careful how you trust them, and be in readiness to repel their hostilities; for they are vindictive, fierce, and unrelenting, and their animosity against us is roused by the very injuries which we have sustained at their hands. Let a strenuous application confirm your discipline; let the enthusiasm of public virtue animate your exertions; let a confidence in the justice of your cause elevate your hopes, and the efforts of your valor will assure you victory."

These are the counsels, said Mr. H. to which this country ought to listen, and not to those false predictors, to those miserable politicians, who would have left this country a prey to the designs of France.

We are told, said Mr. H., of steps having been taken towards a negotiation. By whom are these taken? By the Executive to whom the power of raising this army is to be given. And after this instance of his unwillingness to have recourse to force, except he is absolutely obliged to it, no fear ought to be entertained about trusting him with power. When he manifested such alacrity to meet the slightest advance, even the appearance of advances, on the part of the French Government, it cannot be supposed that he will be inclined to abuse this power. On the contrary, he thought it was sufficient to show that whatever extent of power was placed in the Executive, it would not be abused.

At what moment, said Mr. H. is it necessary to make the greatest display of force? Is it not at the season when peace is about to be treated for? Ought a nation not to show at such a moment, that if their disputes cannot be adjusted amicably, they are prepared to do themselves justice by the sword? All nations who have had any title to wisdom in their proceedings, have acted thus. This, said Mr. H. is the dictate of wise policy, except the word negotiation was to be considered as another name for submission. This will show, that though we are willing to make peace, we are determined to defend our country, our liberty and independence; that we are not to be lulled into security by insidious propositions. If they are not insidious, there can be no doubt peace will be concluded; but if they are insidious, it is proper we should be ready to meet the design. Indeed the measure proposed may render that sincere, which was originally insidious; when the French find we cannot be duped, they may change their disposition, and desire to have peace with us.

But gentlemen say this is an advance in our measures. Mr. H. was of a different opinion. Our position consists in the ground taken, and not in the means employed. Our posture was that of defence. We said that we could not make war, but we would repel with vigor the aggressions of France, and we now only mean to add greater means to this position. If a proposition was on the table to declare war, or to grant letters of reprisal, or to take French merchant ships, it might be called an advance of measures; but this could not, as it was only strengthening the ground heretofore taken.

Mr. McDOWELL observed, that the gentleman from South Carolina had indulged his usual warmth, and taken another opportunity of abusing the French Government, and of flattering himself and friends upon the success which had attended the measures which they had heretofore brought forward. He attributed the change in the conduct of France to different causes. Mr. McD. said he was one of those who voted against these measures at the last session, and of those who disbelieved all that was then said about an invasion. The event had shown he was right. Much had been said about having this army on paper. He did not believe the French nation was to be awed by an army on paper, or that it would influence her conduct. If he thought otherwise, he certainly should not be opposed to it. If this country were to be invaded by Louisiana, as had been suggested, could this eventual army be called into existence in a day, or a month, to march against them? No, reliance must be had upon the troops in service, and upon the militia. These thirty regiments upon paper would be of no use in such a case. Dependence must be had, in all cases of emergency, in the first instance, on the militia, until regular troops could be raised.

Mr. Livingston represented this measure as wholly unnecessary, and as taking new ground, which he thought impolitic under present circumstances. A provisional army had already been ordered, and an unconditional army, which is not yet raised. Besides, he believed the defence of this country ought to be left to other than mercenary bands, he thought the militia, the yeomanry of the country, its proper defence, of which eighty thousand had been ordered to be held in readiness.

Mr. Hartley did not apprehend that there would be any necessity for raising this army; but he believed it would be proper to give the President this power. He had great reliance on the volunteer corps. If gentlemen think twenty-four regiments of infantry too many, the number may be lessened; but he hoped the section would not be struck out.

Mr. Pinckney rose to notice an expression which fell from the gentleman from New York, which he presumed he did not consider so fully as he generally considers what he delivers; or else it did not strike his mind in the same light that it appeared to him. That gentleman said, "he wished the defence of this country to be placed in other than mercenary hands." The gentleman certainly did not wish to reflect upon our Army, and yet the word seemed to convey that idea. Mr. P.'s idea of a mercenary soldier was, one who did not come forward for the defence of his own country, but who was ready to be hired to any country who might want him. The term "mercenary," was illy applied to our Army. The Army employed in the last war received, and our present Establishment receive compensation for their services, and so do the militia, when called into service; therefore, if the regular Army are to be called mercenaries, merely because they receive pay, the militia ought also to be so termed.

The gentleman from New York, as well as the gentleman from Pennsylvania, seems to think that this measure is a departure from the ground which had been taken at the last session. His idea was, that it was a continuance of those measures which were in contemplation previous to the offer of negotiation from France being made known.

But what Mr. P. rose principally to remark upon was, what had fallen from the gentlemen from Pennsylvania and North Carolina with respect to this being an army on paper. He had attended to their arguments, expecting they would have shown some evil consequences that might arise from this law, but none were shown. The objection to it was, that it was merely an army upon paper; a paper defence, which could have no good effect, but the contrary. If, said Mr. P., we attempted to put an army on paper beyond what the resources of the United States could raise, then indeed it would look like vain boasting; but if the force was recollected which the United States proposed to raise, at a time when they did not possess one-half of the resources which they now have; that, instead of thirty, they then proposed to raise eighty regiments, and he believed an addition of sixteen, making ninety-six in the whole; if during the period of our Revolution, the resources of the United States were equal to the keeping in pay ninety-six regiments, surely an addition of thirty regiments, in our present circumstances, could not be considered as mere boasting.

But it is said that the present army is not full, and that the army ordered to be raised is not yet raised. This, Mr. P. said, was no argument against the present bill for raising men when they shall be found necessary. No attempt has been made to raise the new troops; if there had been, they would doubtless have been raised. The officers have only lately been named; which is another proof that steps are not taken by the President before they are necessary.

Mr. T. Claiborne had attended to the arguments which had been adduced on this occasion, and had heard a great deal of declamation from the gentleman from South Carolina. Mr. C. could not think that any nation would believe that an army on paper was an army indeed. All nations know that we have a militia, which we look upon as our bulwark of defence; and he was not willing to degrade the United States so much in the eye of the world as to let it appear that Congress should think it necessary to put on paper something merely to make foreigners believe that we have an army, when we have none. We have an army at hand following the plough, but ready to come forward whenever called upon; not, indeed, to slay giants which gentlemen themselves raise and kill; but, if giants indeed appear, we shall have a militia ready to slay them. Passing laws like the present, he said, was laying additional duties upon the President, who had already sufficient upon his hands—duties which he did not believe he wished to have. The world knows what we can do—they know that when necessity calls, said Mr. C., we shall march to a man, Mr. Chairman, and what better men could march than you and I, sir? He wished to hear no more of these imaginary giants.

Mr. Livingston and Mr. Dayton rose together. The latter having the preference said, he hoped the gentleman from New York, when he rose, would declare (for he had not heard the gentleman) whether he had called the Army of the United States a mercenary army, in the manner mentioned by the gentleman from South Carolina, and whether he meant thus to call them?

Mr. Livingston explained, and justified the use of the word "mercenary" as applied to regular troops, in contradistinction to militia. It would equally apply, he said, to all persons who received wages for their services.

Mr. Dayton said, the gentleman from New York had shielded himself under a poor, pitiful evasion. The term "mercenary" could only be applied to men who are engaged for life as soldiers, and who make a trade of arms; whereas in this country the longest period of service is five years; others are only enlisted for three years; and the men for the army now in view are only to serve so long as danger threatens us. He was

sure the gentleman would be ashamed of the expression; not only because it was a reflection upon the present army, but, if he had any feeling, he must have known that every member on this floor must condemn the expression, as it was owing to a description of troops which he has called "mercenary" that that gentleman is entitled to his seat on this floor; and the making use of such an expression was, therefore, indirectly to abuse the men who placed him where he is.

Mr. Livingston denied that he had used any evasion.

Mr. Pinckney could assure the gentleman from New York that he never made use of any argument on this floor with a view of gaining popularity with any other body of men, or with the people at large; but, when he heard epithets used reflecting on a deserving body, by a gentleman who seldom uses expressions without intention, he felt it his duty to take notice of them, and to obviate any ill effects which they are calculated to produce. The gentleman from New York has given the House a definition of the word "mercenary," and his friend from Pennsylvania has given one which differs very materially from it. The latter gentleman had, in substance, given the same definition of the term which he had himself given; but, at the same time, the gentleman says, no reflection could have been intended upon the present army.

Who then, said Mr. P., are the "mercenary bands," according to the gentleman from Pennsylvania's opinion, who will fight in anybody's cause, if paid? It never could apply justly to an army of the United States; and it is in vain for gentlemen to talk about standing armies—they know that the proposed army is to be raised, if raised at all, for a specific purpose, and for a limited term. Neither the gentleman from Pennsylvania, nor the gentleman from New York, he believed, were in our Revolutionary Army. He had the honor of serving in that army; and he knew that an imputation of this kind was always considered by the soldiers of that time as the greatest insult. They were not men who fought for wages; they came forward in defence of their country equally with the militia, and could with no more propriety be called mercenary than the militia. If the gentleman had called the troops a regular army, he should not have objected to it; but he could not suffer them to be called mercenary, without noticing the expression.

Mr. Gallatin was a little surprised that the gentlemen from South Carolin and New Jersey should have taken so much alarm at the expression of the gentleman from New York. He wondered at their ingenuity in making it a reflection on the last American Army, or on the officers of the present Army. He could see no reason for this, except it was to destroy those prejudices which exist in the American mind in favor of militia and against a standing Army, in order to pave the way for this kind of defence in the place of militia. The term mercenary troops was to be understood in a variety of senses. It sometimes means those troops in foreign countries who sell their services and their blood to any country which will purchase them; sometimes it means those who fight for pay, in contradistiction to those who, perhaps, fight for plunder; but the term has the meaning given to it by the gentleman from New York, viz: soldiers who fight for pay. Men of this kind may be necessary, and very valuable. All descriptions of men who receive pay for their services may in that sense be called mercenary, as contradistinguised from those who might, not as a profession, but occasionally, do the same services. In that sense, you might call lawyers who speak for money, mercenaries. Does this make the profession disreputable? No; but it is perfectly well understood that both those who practice the law and those who go into the Army, do so for the sake of the emoluments arising from each, and that both are not less honorable professions for that circumstance.

Mr. G. believed the term mercenary properly applied to an army which is raised, not for any specific purpose, but for the purpose of fighting in any cause in which their Government may choose to employ them. A distinction ought to be made between officers and privates, in this respect, because officers can resign if they do not like the employment, but privates cannot. But from this definition of the term, he could see nothing in it which would apply either to the late Army, or to any Army which may be raised against France, but it would solely and precisely apply to any permanent establishment which may be projected for this country. Nor had it anything to do with the first section of this bill, which contained merely an abstract proposition; that section was objectionable only so far as it formed a part of a bill calculated, in his view, to raise a standing Army to be substituted in the place of the militia.

As to the remarks of the gentleman from South Carolina, (Mr. Harper,) he should take no notice of them. That gentleman always gave the House a handsome declamation whenever he could introduce the extravagances of the French Government, which he was not displeased to hear, since there was generally something handsome in the language, even when there was nothing novel in the matter; but as to the application of his observations to the present subject, he could not see how the gentleman had connected the two subjects.

Mr. G. did not mean to prophesy anything about France. The gentleman may be correct in his flights and fancies, for aught he knew; but as to the conclusions he drew, he did not think any argument necessary to repel them.

Mr. Bayard remarked upon the ingenuity displayed by the gentleman from Pennsylvania in defence of the epithet used by his friend from New York. He had no doubt that gentleman well understood both the word and the thing. He spoke of mercenary troops and mercenary lawyers, but there were other mercenaries whom he had omitted. He might have added mercenary patriots and mercenary politicians, of whom we have had but too many examples. He might also have said, that there were mercenary politicians

imported from abroad, as well as mercenary troops. [Mr. Eggleston rose to call the gentleman to order; and was proceeding to state the impropriety of personal reflections, but there was a general cry of order—that a member was on the floor. The Speaker desired Mr. B. to proceed.] Mr. B. believed he was not more out of order than the gentleman from Pennsylvania; but what fell from him might make a different impression upon the gentleman from Virginia. He was saying, that amongst other mercenaries there might be mercenary politicians. He did not know why he should be understood as having particular reference to persons in that House. Did the gentleman from Virginia mean to allege that any persons were described by what he said? He should be glad if the gentlemen would point them out. When the gentleman from Pennsylvania spoke of mercenary lawyers, he supposed he did not allude to any honorable gentleman on that floor of that profession. He believed further, with respect to mercenary politicians, that there were some who were doubly mercenary; they received pay from their own Government, and also from a foreign Government, and, actually served a foreign Government, whilst they are receiving the pay of their own.

But to recur to the sense in which the gentleman from New York had used the word mercenary. He believed the gentleman from New Jersey was perfectly correct when he said that the term can only be applied to troops whose principal object is to receive pay, without any motive of rendering service to their country. If the term was to be understood in any other sense, the militia of the country might as well be called mercenaries as any other soldiers, since they receive pay for their services. Indeed, if all men are mercenary who receive wages, we had a mercenary President, a mercenary Vice President, a mercenary Senate, and a mercenary House of Representatives. In that case, the clergy would be as much mercenaries as officers in the Army, since both receive pay for their services. Nor would the gentleman be able to find a man who is not a mercenary. For this term, said Mr. B., has a peculiar signification; and whenever we speak of a mercenary army, we mean to say it is an army devoid of patriotism and virtue, whose soldiers serve alone for the sake of money; and he was certain no gentleman could say this description could be applied to the Army of the United States. Gentlemen knew the fact was otherwise; they know that the Army of the United States is made up of the yeomanry and other citizens of the country, who have a common interest with their fellow-citizens in the prosperity and happiness of the country; and with respect to officers in the Army, he believed the money received for their services was the least consideration. They had come forward to offer their services at a moment when our national independence was threatened. He was confident, therefore, that the term could not apply to our Army.

This bill, said Mr. B., is not positively to raise an army, but eventually to do so, and therefore he could see no connexion between it and the present state of Europe, or the probability of an invasion, or the probability of a peace at Rastadt; since no army is contemplated to be raised, except in case of war, and no man could say such an army would not be necessary in case of invasion. Will the militia, said Mr. B., be competent for your defence in such a case? If you call them into service, their time will expire before they can be well brought to act; for, in the last war, by the time the militia had arrived at the place of their destination, and could be brought to operate, their times expired, and, at moments of the greatest emergency, there was no power to detain them. He did not think it would be prudent, therefore, to let the safety of the country depend upon such a source.

No one, said Mr. B., doubts the discretion of the President. He has been trusted with the power with respect to the provisional army, and has shown no disposition to abuse it. He thought, therefore, he might be safely trusted with this.

Mr. Eggleston said, as the gentleman from Delaware has so explained his meaning as to soften the harshness I supposed he was running into when I called to order, I only rise to make an observation or two on the necessity of adhering to decency and decorum in debate. If we mean to be a deliberating assembly, all personalities, whether against individuals or descriptions of men, ought to be avoided, as tending to inflame and not to inform or convince the mind. It is a course I shall endeavor to pursue, and I would not willingly reflect on any member, or use asperity in interpreting his expressions. Nothing can be more unfair than to lay hold of a particular word used in the warmth of debate, and by affixing to it an invidious meaning, endeavor to excite prejudice, as in the present instance. If there are any mercenary politicians, as hinted by the gentleman from Delaware, I should think they most probably would be found among those who are anxious to extend Executive influence, patronage, and power, because, as Executive friends, they might expect to receive the emoluments of office.

If it could be expected, said Mr. E., that prejudice could be thrown aside, I should think both sides of the House would concur in rejecting this bill; for the armaments and expenditures already authorized will consume all the receipts of the present year; and, of course, more efficacy will be given to the measures already adopted, if the money is received to carry them into effect. And, if there is real danger, and the country should be invaded, the great mass of the people will be able to defend it until Congress can be assembled, and while the regiments now established are raising and filling. I hope, therefore, the bill will be rejected.

Mr. Harper said a few words in reference to what the gentleman from Pennsylvania had said about his flights of imagination.

Mr. Livingston complained that he had not been treated with candor. After he had given an explanation of the term which he had used, he thought a different meaning ought not to have

been put upon it, with a view of exciting prejudices against him.

Mr. Macon believed, if the subject had been more closely attended to, the question might have been taken long ago. It appeared to him that there was no necessity for the present bill, as our affairs were certainly in a better condition than last year. The only effect which, in his opinion, the bill would have, would be to ascertain how many people would apply for commissions under it; for no one could believe the army would ever be raised, as it is calculated upon a contingency which cannot possibly happen within twelve months, considering the present state of the French marine. His principal objection to the measure was the delegation of a power which Congress ought always itself to exercise.

The question on striking out the first section was put and negatived—54 to 42.

Mr. Varnum moved an amendment to prevent the immediate appointment of the officers.

Mr. Otis considered it as the principal merit of this bill that the officers of the proposed eventual army may be immediately appointed, that the recruiting service may go on without delay, whenever the necessity for raising them shall appear. Mr. O. said it was a difficult thing to make a selection of officers for so large a body of men; five or six months elapse before it can be ascertained whether officers will accept of their appointments. The officers, though appointed, will receive no pay until they enter upon actual service; and it will certainly be of advantage to have them appointed, that in case of necessity, the Secretary of War may know where to find them.

Mr. Eggleston said, but few officers would be wanted for the purpose of recruiting; and whilst those officers were employed in recruiting, there would be time enough to appoint the others.

Mr. McDowell remarked, that what the gentleman from Massachusetts considered as the greatest excellency of this law, he considered as its most objectionable quality, as it goes to enlist the officers on the side of the President, and gave him an influence which he ought not to have without absolute necessity required it. Indeed, he believed, to create this influence was the chief purpose of the bill.

On the question being put, it was negatived—55 to 39.

On coming to that part of the bill which relates to volunteers,

Mr. W. Claiborne said, this part of the bill was to him far the most objectionable. He viewed it as altogether useless, and not called for by the exigency of the times. But his principal objection was to the unconstitutionality of the provision, since the volunteers are resorted to in lieu of the militia, and to be employed for the purposes which the Constitution directs the militia shall be employed for. He therefore moved to strike out the 6th section; which, if agreed to, the 7th and 8th would follow of course.

Mr. S. Smith hoped the gentleman from Tennessee was about to have made a different motion. He had no objection to a part of this section, as it merely goes to the organizing of the volunteers. He hoped he was going to move to strike out that part of the section which limits the employment of volunteers to the State to which they belong. This provision was not contained in the provisional army bill. It had been proposed, but disagreed to; and he hoped it would now be struck out.

Mr. Claiborne withdrew his motion, to make way for the one proposed by the gentleman from Maryland.

Mr. S. Smith made his motion. This subject was fully argued at the last session; there would be no occasion, therefore, to occupy much time with it at present. Agreeably to the Constitution of the United States, the several States have the power of appointing all the officers of the militia. In the case of these volunteer corps, that power is taken from the States and placed in the President; but that part of the bill now proposed to be struck out goes a step farther. It proposes to take persons from the militia into the volunteer corps, and by that means make the militia less effectual; and it is proposed that the volunteers, though equipped at the expense of the United States, shall not be employed out of the State to which they belong; though the militia are obliged to march wherever they are ordered to go, equipped at their own expense. So that the youth and the most active part of our citizens are to be kept at home, and the more aged and less energetic part are to go wherever called. This, to his mind, was one of the most extraordinary provisions he ever saw. It went to paralyze and destroy the militia, and to give us nothing in its stead. What satisfaction would officers of the militia have in commanding men who had been culled for the volunteer corps? He could see no reason for the distinction, and he thought it unnecessary to say more upon it.

Mr. Bayard considered the motion of the gentleman from Maryland as going to the destruction of the volunteer corps; for, if his motion obtained, the consequence would be we should have no volunteers at all. The volunteer corps, Mr. B. said, were generally composed of young men, engaged in various avocations of life, who, without receiving any pay, equip and discipline themselves in order to be qualified for rendering aid to their country, in case of necessity. They ought not, therefore, to be considered as mercenary troops; they associate for the purpose of rendering certain aid, but not that aid which persons who devote their whole time to military services are destined to afford. The spirit of the volunteers themselves, he was satisfied, would not be affected by the want of provision of this kind; but their parents and connexions will not suffer them to enter without it. Uncommon pains, he knew, had been used with the friends of young men to prevent them from entering, on the ground that they would be liable to be sent to the extreme parts of the Union, wherever danger should appear. He knew these representations had produced effect, not upon the young men themselves, but upon their friends, and had prevented many from enrolling themselves. Seeing that this operation

had taken place, he considered this provision as the vital principle of the system which, if not agreed to, would prevent enrollments altogether.

The gentleman from Maryland complained that this provision would operate as a hardship upon the militia, who were obliged to march wherever called; but it would be recollected that militia were obliged only to serve for three months at a time, which was nearly the same thing as saying they should not march to distant parts, as the time of service would not admit of it. At any rate, if militia are obliged to march to a greater distance than the volunteers, the volunteers have a much longer period of service than the militia. He could not see the force of the objection of the gentleman from Maryland; on the contrary, he thought the militia should consider themselves as obliged to the volunteers. If, however, the service of the volunteers is preferable to that of the militia, the militia may become volunteers, if they choose. They will have the same election with others.

The operation of this provision was, said Mr. B., that the volunteers should not be compelled to go out of the State to which they belong; but, when enrolled and in service, he asked whether it was probable that these young men, fired with *l'esprit de corps*, would refuse to go to the furthest extent of the Union?—whether they would stop at an imaginary line? He was sure they would not avail themselves of this privilege; but, in cooler moments, when about to enrol themselves, they do hesitate, and it operates as a barrier to the increase of these corps.

Mr. McDowell was in favor of this motion, though he should have been better pleased with that of the gentleman from Tennessee. His mind was strongly impressed with a conviction that that part of the bill passed at the last session, which directs that these volunteers shall be organized and their officers commissioned by the President, was an infringement of the Constitution of the United States, and he hoped no other law of the kind would be passed.

But he was surprised that the gentleman from Delaware should call the provision proposed to be struck out, an essential part of the bill. What! that these patriotic young men shall be kept at home in time of danger! There was a great deal of patriotism, which he called *sunshine patriotism*, and the patriotism of these young men seemed to be of this kind, or they would not decline to meet danger wherever it might appear.

Mr. Bayard said, he spoke of the parents and friends of the young men, and not of the young men themselves, as desiring this provision.

Mr. McDowell said, he knew the gentleman from Delaware had talked much of the patriotism of these young men; but he had a different wish from that gentleman. He wished to have no volunteers, except they were willing to march to every part of the United States. He was not willing to have a Presidential militia, to be confined to their own State. For what would be the situation of a general commanding an army of volunteers, who, when they come to the line of a State, will say, "We will go no further?" It would be mortifying to the greatest degree, and he trusted so disgraceful a provision, as it respected the volunteers, would never be adopted.

Mr. McD. trusted that those gentlemen who were in favor of a detachment of the militia would be found against this part of the bill, which would, if agreed to, go to the destruction of the militia system.

Mr. W. Claiborne said, one of the greatest objects, at the formation of this Union, was to secure the common defence; and he was decidedly of opinion that as great an obligation rested on the young men of Tennessee, to defend the State of Delaware, if attacked, as to defend the soil on which they live; and, if a disposition exists in the minds of certain young men to be freed from that duty, he would not be for passing a law to gratify that disposition. He was glad to hear the gentleman from Delaware remark, that this provision was not introduced at the suggestion of the young men, but of their parents and friends. He believed there was more patriotism and love of country in the young men of America; and he was sorry to find that the provision was wished by the elder part of society. He hoped the gentleman was mistaken in this respect, and that the fathers and friends of these young men did not possess so narrow a patriotism. But, if they do possess this disposition, if his vote could prevent it, it should not be gratified. The militia law operates upon all, and the President could call out these young men under that law, and send them to the most extreme parts of the Union. But if this law passes, these select, these favorite corps, will be excluded from duties which attach to other citizens. He should suppose that justice, policy, and a regard to the feelings of our fellow-citizens generally, would prevent the passing of such a law; which, in his opinion, would give a vital stab to our militia system, which he considered as our best support.

Mr. Macon said, if this motion did not prevail, it was clear that the volunteer corps could not be sent out of their respective States. It was said, the militia were only called out for three months at a time; but it ought to be recollected that, if Congress choose to pass a law to hold them in service six months, they must submit to it. But it is said that, if the militia think the volunteer service preferable, they may enter into it, and then we should have no militia, and no man could be taken out of the State to which he belongs. But the gentleman from Delaware observed that this provision will have no effect upon the young men; that they will march to the extremest part of the Union, notwithstanding. Why, then, insert the provision? The gentleman says, "to satisfy the parents and guardians of these young men." Mr. M. supposed, after this declaration, the old folks would not be thus taken in. Besides, as some of the States are much easier invaded than others, it would render the service very unequal; and, as he had heard no good reason for the clause, he hoped it would not be agreed to.

Mr. T. Claiborne said, it appeared strange to

him, that gentlemen who are at all times desirous of augmenting the power of the President, are now for taking a part of the power which he possesses out of his hands. He is at present Commander-in-Chief of all the militia of the United States; and gentlemen wish to separate a part of that militia, under the name of volunteers, to be placed under officers of his appointing; in doing which, he supposed the men were to be transformed into men of greater spirit, more patriotism, more virtue, or become more subservient to the Government, Constitution, and laws of the United States, than the militia. Would the mere appointment of officers by the President make this change? He believed not. He was of opinion that these men would make good peace soldiers, but would not answer the purpose for war. He disliked the thing exceedingly, as it went to a disorganization of the militia. He, therefore, moved the committee to rise, with a view of postponing the consideration of this bill till the next session.

The motion was negatived.

Mr. Venable thought two reasons ought to have weight with the committee in striking out this part of the section. In the first place, it seems that the gentleman from Delaware does not expect this clause to have any operation when the volunteers come into service; he wishes it only to pacify the parents and guardians of young men. Mr. V. thought this improper. When a person enters into service, both he and his friends ought to know the terms on which he enters, without any deception. In the next place, these volunteers are to have peculiar privileges; they are to be exempt from militia duty, and to be kept within their own States. He thought these objections against this part of the bill were entitled to consideration.

Mr. Bayard denied that he had any intention to deceive the volunteers or their friends. He declared his view explicitly.

Mr. S. Smith observed, that the gentleman from Delaware had said, that if this motion obtains, it will destroy the bill, as, without a provision of this kind, no young men will enrol themselves. What, said Mr. S., does this go to? If you hold out a temptation, a bribe, to these young men, they will enrol themselves, if they have nothing to do, instead of going into the militia. But the gentleman from Delaware says, they will not stop when they come to the line of demarcation, because they are not mercenaries (and here, by the by, he uses the term in the same sense that the gentleman from New York used it.) Mr. S. said, he had had some experience in this business, and he believed men would march no further than they were obliged to march. Mr. S. enumerated several instances in the late war, where men left the service at the instant their time expired, and at the most critical periods. And, as he never wished to place the commander of an army in such a situation, he trusted the clause would be struck out.

Mr. Dayton said, when the gentleman from Maryland introduced this motion, he begun with a declaration not founded in fact, viz: that this was precisely the same question which had been decided at the last session, and rejected, and, of course, that this provision would meet the same fate. Mr. D. took the liberty of reminding that gentleman that there was an important difference between the two measures. In the former case, there was no limitation to the number of volunteers to be accepted; the whole militia might have become volunteers; whereas, in the present bill, the number is limited to each State, and the whole number to 75,000.

Mr. D. said, he should use no other arguments than those used by the gentleman from Maryland, in favor of the motion, to induce the committee to reject it. He has shown how little dependence can be placed upon men engaged for a short term; whether for three, four, six, eight, or nine months. What is the subject of this bill? To place in a state of readiness, men who may properly enough be called militia, for two years, to be called upon to march at a moment's warning. What is asked for in return? That they shall not be obliged to go out of the State to which they belong, except with their own consent. Stipulations in our enlistments are not unusual. Sometimes men are engaged for five, sometimes for three years, and sometimes for a particular kind of service. If 75,000 of those volunteers are stationed at the most important parts of the Union, in case of insurrection or invasion, these men will be first called upon, and screen the militia from a call which might be inconvenient and oppressive. Indeed, it would be a thing which the great body of the militia would wish. If this were bribery, it was a kind of bribery which he did not understand; for how could these volunteers perform less duty than the militia, when they are always liable to the first call for two years?

Gentlemen say, the object of this provision is to extend the power of the President. On the contrary, the effect will be to abridge it. At present, he may march these volunteers to the furthest extent of the Union; but if this motion is negatived, and the bill passes, he cannot employ them out of their own State. Mr. D. believed nothing more need be said, to show that the provision is a proper one, and that this bill differs very materially from that passed at the last session.

Mr. S. Smith said, the provisional army bill did not propose to confine the service of the volunteers to their own State, but to an adjoining State; and it never could be expected that the whole of the militia would become volunteers; but that what remained would be paralyzed, and no man would like to command what was left; and if the gentleman from Jersey was left to command the dross of the militia, he would feel, said Mr. S., like myself.

The question on striking out was put and carried—51 to 44, as follows:

Yeas—George Baer, jr., Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John

Dawson, George Dent, Joseph Eggleston, Lucas Elmendorf, William Findley, Jon. Fowler, Albert Gallatin, Jas. Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, Josiah Parker, James Schureman, Thos. Sinnickson, Tompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

NAYS—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Reed, Samuel Sewall, Wm. Shepard, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thomson, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

Mr. W. CLAIBORNE then moved to strike out the section which provided for the holding in readiness 75,000 volunteers, apportioned to the several States.

The motion was negatived—50 to 41.

The committee then rose and reported the amendments; which having been gone through,

Mr. GALLATIN moved to limit the rate of interest of the two millions of dollars proposed to be borrowed for carrying this law into effect, to 6 per cent.

The motion was negatived by the casting vote of the Speaker, there being 46 votes for it, and 46 against it.

On motion of Mr. OTIS, a provision was introduced into the bill, that no volunteer shall be compelled to serve out of the State in which he resides, for a longer term than three months after he arrives at his place of rendezvous.

Mr. GALLATIN moved an amendment to take from the President the power of immediately appointing the officers to the 24 regiments of infantry, a regiment and a battalion of riflemen, a battalion of artillerists and engineers, and three regiments of calvary, which he is authorized by this act to raise, in case war shall break out between the United States, and a foreign Power, or in case imminent danger of invasion of their territory by any such Power, shall, in his opinion, be discovered to exist, which was negatived—56 to 39, as follows:

YEAS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

NAYS—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The bill was then read the third time and passed 54 to 41, as follows:

YEAS—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, Jas. Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth; Robert Waln, and John Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Jos. McDowell, Anthony New, Tompson J. Skinner, William, Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

A call of the House was ordered to-morrow at half past ten, and then the House adjourned.

SATURDAY, March 2.

A call of the House took place at half past ten, agreeably to order, when 92 members (including the Speaker) appeared in their seats. Some of the

members were absent, who had severally to make apologies on taking their seats.

The House resolved itself into a Committee of the Whole on sundry bills, which were severally read the third time and passed.

A Message was received from the President, stating to the House the number of vessels commissioned since July last; the number of which is 365, their tonnage 66,691 tons, their number of guns 2,723, of men 6,347.

Mr. FOSTER moved to refer the resolution he some time ago laid upon the table, respecting an amendment to the Constitution, to a Committee of the Whole on the state of the Union. The motion was negatived—56 to 28.

A bill to reform the Superior Courts in the Territory of the United States Northwest of the river Ohio underwent some discussion, but was afterwards postponed till next session.

The House agreed to the resolution in favor of Joseph Wheaton, also one in favor of subscribing for 400 copies of the old Journals proposed to be printed by Mr. Folwell.

Mr. GREGG presented a petition signed by 950 inhabitants of Lancaster county, praying for a repeal of the alien and sedition laws. Ordered to lie.

Adjourned till seven o'clock this evening.

EVENING SITTING.

LAW OF RETALIATION.

Mr. OTIS called the order of the day on the bill vesting the power of retaliation, in certain cases, in the President of the United States; when

Mr. DENT moved to postpone the consideration of this bill until the next session of Congress; which motion was negatived—35 to 32.

The House then went into a Committee of the Whole on this bill, and after some discussion, and an amendment being introduced into the preamble of the bill, by Mr. DAYTON, (the Speaker,) to make it apply generally to any acts of severity that may be committed by the French Republic in pursuance of any violent decree, instead of applying particularly to the decree declaring American citizens, found on board vessels of their enemy, pirates, and liable to suffer death, the committee rose, and the amendment was concurred in.

The question being, "Shall this bill pass?"

Mr. LIVINGSTON complained that this bill went to place the power of life and death in the hands of the President, with respect to every Frenchman in this country, in case the French Government should commit any act of violence against one of our citizens. He doubted, indeed, whether he would not have this power, in case of any American citizen being killed in battle on board a British ship. The Legislature, he said, had no right to vest this power, except in case of war; nor did he believe it would ever be exercised, if given. And as the decree complained of had been two years in existence without being carried into effect, he thought there was no need now to create an alarm about it. Indeed, the last decree having been suspended, he considered the first to be so also.

Mr. EDMOND was sorry, at this late hour, to occupy a single moment of the time of the House; but he found himself called upon to say a few words. It was a painful reflection, he said, that any nation in the world should deliberately pass a Legislative act for the purpose of authorizing the commission of murder; for the *arrêt* of the French Republic was nothing less than a law for putting innocent men to death. An instance like it could not be found on record. In time of war retaliation is found necessary to prevent the enormities of an enemy. Indeed, the intention of retaliation is always to prevent cruelty. This decree was said to be suspended; but if it were not intended to give it future operation, it would have been repeated. It might be convenient to suspend the decree for a time; but when a nation is so depraved as to pass a decree of this kind, what security have we that the decree will not be brought into operation in the recess of Congress. If it is not, the present law can have no effect. Mr. E. believed no one but the gentleman from New York could have supposed that this law was meant to retaliate for men killed in battle. If he examines the bill, he will find that the person must have been put to death pursuant to a decree of the French Republic. And whilst we suffer our humanity to be touched with respect to French citizens here, we ought not to forget American citizens, whose blood may be spilt in France under this decree.

Mr. GALLATIN observed, that three arguments had been used in favor of passing this bill. One of them was, that it would afford protection to our seamen; the second, to give sufficient cause of irritation by repelling every hostile measure of the French Government by one of a similar nature; the third, to prevent the people of America having any belief in either the sincerity of France or the probability of a negotiation.

Mr. G. did not believe that this bill would give the protection expected to our seamen; and as to the power of retaliation, well knowing, both from the character of the President and the general character of America, that retaliation would be repugnant to his feelings, and the feelings of the public at large, he did not believe a single case would ever happen in which it would be exercised. What, said Mr. G., would be the degree of proof necessary to carry into effect this law? A man must have been taken on board a British vessel, or some other vessel at war with France, and put to death or ill-treated by the French. It must also be proved to have been done in pursuance of a French decree. In the next place, he must be an American citizen, and have been compelled to go on board such ship; and Mr. G. did not know how all this information was to come to the President.

If, said Mr. G., it be really our intention to give protection to our seamen, instead of authorizing the proposed retaliation, we ought to go to the source of the evil, and endeavor to prevent the impressment of our seamen by the British, which alone brought them into this situation. This bill does not comprehend any American who goes on board of a British ship of war voluntarily; they are not entitled to our protection by the law of na-

tions they must seek protection from the country under whose flag they sail. Those American citizens only, therefore, who have been forced on board a British ship of war, and who have been obliged to fight their battles against their will, are by this bill to be protected, so far as retaliation can protect them.

Mr. G. said, he had been induced to mention this point, not only because it naturally flows from the subject, but from one of the documents which had been submitted to the House. He alluded to Lord Grenville's letter to Mr. King, our Minister at London. [Mr. G. read an extract of that letter.]

Mr. G. observed, upon this document, that it contained a very extraordinary acknowledgment. Lord Grenville says, "the King feels the protection due to those who sail under his flag." Thereby openly acknowledging that there are a number of American seamen who do sail under his flag. And, as not many of our seamen had selected his service in preference to that of their own country; as our own seamen, if left to their choice, would sooner sail on board of our own ships than those of His British Majesty; it is therefore an explicit avowal of the impressment of American seamen. That identical document which communicates the offensive decree of France, is also the occasion of this bill.

This acknowledgment, said Mr. G., leads to more than one consequence. If we pass this bill, it will amount to this, that knowing American seamen were impressed by the British, the fact having been thus confessed, we choose rather to pass a retaliatory law against the French for punishing our seamen found in a situation into which they were arbitrarily forced by the British, than apply a remedy to the root of the evil.

Again, another part of this letter of Lord Grenville, when connected with this measure, made an extraordinary impression on his mind. The acknowledgment having been made, it might have been supposed Lord Grenville would have ordered all such American seamen to have been released; but he does not do this, but says the King will cause retaliation to be exercised. To do this, might have some effect whilst these men remained on board of the King's ships; it would, therefore, increase his power, and prolong the time during which such seamen will remain on board. But Lord Grenville does not stop here. He says, the "King leaves it with the different Powers to take measures accordingly." So that he gives us advice what we ought to do, and we are about to do it.

Mr. G. had said, this bill was not likely to produce any effect; yet, if it should be put in force, by referring once more to Lord Grenville's letter, it will appear that the retaliation of which he speaks is to be confined to French prisoners, whom the fortune of war had thrown into the power of Great Britain; and he believed the present law should be confined to persons who should be captured by vessels of the United States. And it would be most effectual in this way; because if it were to operate against other French citizens in this country, the French Government would not be concerned about it, since ninety-nine out of a hundred of those citizens are probably emigrants, or persons for whose safety they have no interest.

If by meeting every hostile act of the French Government, by a measure of a similar kind, could render this country more respectable, Mr. B. should be in favor of it; but, in the present case, he did not think the measure applicable. There was a great difference, he said, between measures of hostility and retaliation. Measures of retaliation could do no good, except as preventives; and as the decree in question had already been two years in force without being carried into effect, it could scarcely be expected that it would now be exercised.

It must be allowed, Mr. G. said, that some change had taken place in our situation with respect to France; but it seemed as if gentlemen wished, by the passing of this bill, to take off any impression of this kind which might have been made on the people by the late appointment of Ministers to treat with France. Mr. G. did not mean to express any opinion on the probable issue of that nomination. He believed the President had taken certain measures; and that nothing which he could do or say would either accelerate or delay those measures. He wished to leave them uncontrolled, to have the effect they may, whatever it may be. Yet, in relation to what had been said with respect to Guadaloupe, he believed that captures had taken place; yet, when we speak of information, there was a letter written by one of the commanders of our vessels, which says, that a number of vessels go there for the purpose of being taken, in order to carry on a trade contrary to the laws of the United States. [The Speaker called to order.] Mr. G. said he was about to conclude. He considered this bill as calculated to have but little effect, and had it not been for the arguments of the gentleman from Massachusetts, he should have been at a loss to have known for what reason it was passed.

Mr. Dana said, "with what measure you mete, the same shall be measured to you again," was a doctrine long since established. It was a doctrine which injured man had assumed in all countries, and the justice of which had been universally admitted.

An appeal to this national sentiment, and to the writers on this subject, would be a sufficient answer to the gentleman's humanity for Frenchmen, to the forgetfulness of his fellow-citizens.

The general principles of the law are too just to be questioned. The gentleman from Pennsylvania, well knowing that the national feelings of man must approve of the principle, undertakes to distinguish away the subject. Instead of coming forward to the point, he has gone into complaints against British inhumanity. But why speak of British inhumanity, if not to embarrass this bill? This bill is intended against the French nation. If the gentleman wished a similar law against the British, neither he nor his followers could be suspected of any attachment to that nation, which would have prevented him or them from bringing forward such a measure. The gentleman knew such a measure would be embarrassed with difficulties; and, if it failed, it would deprive him of the argument he now makes use of. Shall we,

said Mr. D., because our seamen have been first injured by Great Britain, when France uses them still worse, abandon them? Because they have been once injured with impunity, shall we turn our backs upon them forever? The doctrine is too inhuman, too absurd, to be countenanced.

The gentleman from Pennsylvania assigns another reason against this bill. To make it effectual he says certain information must be given to the President, viz: that the person ill treated is an American seaman; and that he has received his ill treatment in pursuance of a decree of the French Government. Has the gentleman to learn that, when the officers of the French Government do an act of violence, which the principles of humanity and the law of nations condemn, if the nation does not punish its officers for the act, it must be done in pursuance of the orders of Government?

The gentleman's other objection was honorable to Americans. It was that the humanity of the President, and of the people of this country, would not suffer the law, if passed, to be carried into effect. Mr. D. said it was difficult to reason on this subject, but, admitting the fact, it affords a decisive proof that this power will never be abused, and at the worst, the law could only be ineffectual, and it might have the good effect of preventing the unprincipled murder of our countrymen.

The gentleman from Pennsylvania had said that the decree of the British Cabinet might have had some effect in procuring a suspension of the decree of the Executive Directory.

[Mr. Gallatin denied having said that the French Government had suspended their decree on account of the threats of the British. Mr. King's first letter is dated the 27th of November, and his second, mentioning the suspension of the decree, the 28th, so that that was impossible.]

The gentleman has taken an opportunity of referring to the note of Lord Grenville. If the gentleman was disposed to make a philippic against Lord Grenville, Mr. D. said, he had no reason to vindicate him; but, when the gentleman went so far beside the question to do it, it showed he had little respect for his audience. But the gentleman from Pennsylvania was certainly incorrect, when he said the note of Lord Grenville was a direct admission that impressed American seamen were held on board the British fleet. He would state a case in which American seamen would be liable to the effects of the French decree, where the British Government could not be censurable. Suppose an American vessel captured and plundered by the French, and some of our seamen, to escape the severities of a French dungeon, had escaped and got on board of a British ship of war, hoping by that means, in time, to get to their own country. Such cases, he had no doubt, had happened, and in such, the gentleman must allow, our citizens must be liable to suffer as pirates, without any blame resting on the conduct of the British.

Mr. Otis said, it had been so long unfashionable to vindicate the conduct of France, or to make apologies in her behalf, that those who now wished to do it, attempt to excite hatred against another nation. The gentleman from Pennsylvania has gone altogether upon this principle. He has said but little against the principle of the bill. His only objection to it was that it was not sufficiently extensive. Admitting the injuries to exist with respect to Great Britain, and that many of our seamen have been impressed by them, did the gentleman wish us to retaliate by impressing British seamen? No, he would be the first to oppose such a law; and yet this is the only just kind of retaliation that could be adopted, for he would not wish us, because the British have impressed our seamen, to put the first British subject we meet to death; and to talk of impressing their seamen, would be perfectly ridiculous.

It was not incumbent upon him, Mr. O. said, to enter into any argument to distinguish between the injuries which we have received from the French and British Governments, nor to palliate the conduct of any nation which has done us wrong; but when things perfectly clear are violently distorted, to excite undue prejudices, with a view of diverting the attention of the House from the subject before them, it becomes necessary to notice the attempt. Let it be granted that Great Britain impresses our seamen; she renounces every right to do so. She perseveres, it is true, in her right to reclaim her own seamen from on board our vessels, and in making this claim, some abuses may have taken place.

If the gentleman from Pennsylvania had seen fit to do justice to Lord Grenville he would have turned to another document laid before Congress by the Secretary of State last year, wherein he says that Great Britain had never assumed the principle of impressing American seamen. His friend from South Carolina (Mr. Pinckney) affirmed what he said, and showed that the great difficulty was in preventing false passports from being given. This was verified in the conduct of Captain Loring and the Baltimore sloop of war. The difference, Mr. O. said, between the conduct of France and Great Britain towards us was palpable. Great Britain never refused to rectify grievances; she never heaped outrages upon us. If she had, he should have been for vengeance and war against that country, and the cry would certainly have been echoed by the gentleman from Pennsylvania.

Mr. O. said he disdained that sort of sensibility which his friend from Connecticut (Mr. Dana) seemed to think redounded to the honor of the people of this country. He owned it would not wound his feelings, in the smallest degree, to see the law of retaliation executed upon any French citizen in America. If one American citizen fell a sacrifice to the decree of France, it would altogether absorb his sympathies for Frenchmen. There is a French citizen, said he, now living in the neighborhood of New York, who originally came here as Ambassador from the French Republic; and I must say that I should not feel the least sensibility if he should fall a victim to this law! Indeed, there were French citizens enough on whom to execute the law; though he joined gentlemen on all sides of the House in hoping

that there would be no occasion to carry it into effect.

The gentleman from New York says that a law of this kind ought not to be passed, except in time of war; and yet, said Mr. O., the gentleman will not let us go to war, and in the meantime our citizens may suffer with impunity under the bloody decrees of France. But he believed Congress had clearly the power, from those words of the Constitution which say "they shall grant letters of marque and reprisal"—reprisal, doubtless, not only against ships, but against property and persons, to pass a law of this kind. Mr. O. thought it necessary, therefore, to show to the French Republic that we are not negotiating through fear; that we are desirous of keeping peace with all the world, so long as we can do it consistent with our honor and independence; but no longer.

Mr. S. Smith wished to have postponed this bill till the next session. He thought it improper as it originally stood; as the decree which was passed two years ago was never acted upon. Indeed he had somewhere seen that American seamen were released on application of Mr. Skipwith, our Consul in France. The bill, as amended, is far less objectionable, yet he wished it were postponed till next session, because he never wished to see a law of this kind on our code. He agreed with the gentleman from Connecticut that it was legalizing murder.

Mr. S. believed the gentleman from Massachusetts mistaken in many respects. He himself believed France was disposed to make peace. Mr. S. proposed an amendment to the bill confining the retaliation to persons captured in pursuance of any of the laws of the United States. If this amendment was agreed to, the bill would be less exceptionable; for, though the gentleman from Massachusetts had said he should not regret the murder of any French citizen, under this law, nothing surely but the heat of argument could have led him to say this; he must own he should: nor did he believe that that gentleman, or any other, could lay hold of an unfortunate Frenchman, and put him to death, though one of our citizens might have suffered unjustly and cruelly in France.

The amendment was carried.

Mr. Macon did not wish to see this law in our code. In his opinion nothing but the utmost necessity ought to induce us to pass it. Nor could he believe that the gentleman from Massachusetts could see any man, even if taken in arms, put to death in cold blood! Though it might be right to punish those who passed the decree, if they could be laid hold of, it was a mournful thing to retaliate upon innocent persons the offences of the guilty.

The gentleman from Connecticut had quoted a scriptural passage—"With the same measure that you mete, the same shall be measured unto you." In the same volume, Mr. M. said, he would also find, "Do unto others as ye would they should do unto you;" and a law of this kind could not be justified upon the latter principle.

It is said we ought to show that we do not act from fear. He thought this one of the last measures the House should pass to evince that. Mr. M. hoped, that on the last evening of the session, a bill of this kind would not be pressed. The members had heretofore been accustomed to part in good humor, at the close of the session, however they might have differed in the course of it. He hoped they should not now depart from this custom. He therefore moved to postpone the bill till next session.

The question for postponement was negatived—48 to 37.

After a few observations from Mr. McDowell, against the bill, it was ordered to be read a third time and passed—yeas 56, nays 30, as follows:

Yeas—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, Samuel W. Dana, John Dennis, George Dent, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Henry Glen, Chauncey Goodrich, Wm. Gordon, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John Trigg, John E. Van Alen, Joseph B. Varnum, Peleg Wadsworth, and Robert Waln.

Nays—Abraham Baldwin, Robert Brown, William Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorf, William Findley, John Fowler, Albert Gallatin, James Gillespie, Carter B. Harrison, Jonathan N. Havens, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, and Robert Williams.

DETACHMENT OF MILITIA.

The House took up the amendment of the Senate to the bill providing a detachment of 80,000 of the militia of the United States, which amendment was, that "the President should be authorized to dispense with the detachments being made by the States east of the Potomac."

Mr. W. Claiborne spoke warmly against this amendment, and inquired what could be the reason on which it was founded?

Mr. Otis supposed the reason of it was, that the States east of the Potomac held their militia in such good order that they were always ready to march; and that the militia of the Southern States were not in this readiness. Another reason, (as the gentlemen from the Southern States appear most desirous for this detachment,) the Senate wish to gratify them in it, and to excuse those who do not wish for it. He should therefore be in favor of it.

Mr. S. Smith declared it one of the most extraordinary propositions he ever heard of.

Mr. Venable exclaimed, What! is it come to this, that one part of the nation shall have duties laid upon it which another part is to be excused from? Have any of the States south of the Potomac ever been deficient in duty? Have any States been more prompt than they in executing the laws of the United States? He believed no militia in the Union had done their duty better. Are we to be told that the Union is to be separated—that one kind of law shall operate in one part, and another in another part? If, said Mr. V. we of the Southern States are to become "hewers of wood and drawers of water," it is time we should know it. He hoped no gentleman could be found in the House to vote for an amendment like this.

Mr. Champlin voted against this bill; but if it passed at all, he had no idea of drawing disgraceful distinctions between the Southern and Eastern States.

Mr. Eggleston expressed himself pleased with the liberality of the gentleman from Rhode Island. He wished the gentleman from Massachusetts had been equally liberal. If it was necessary to speak in praise of the militia of Virginia, he could do it fully. [The Speaker said it would not be in order; and Mr. E. sat down.]

Mr. W. Claiborne called for the yeas and nays, which were agreed to be taken.

Mr. Dana said it was not a little singular that gentlemen who have been most desirous for this detachment of militia, now, when all the honor is confined to themselves, they deem it burdensome, as making them "hewers of wood and drawers of water." It was objected to as unnecessary by the Eastern States; and this amendment proposes to excuse them from the duty, and to give it to those who wish it.

Mr. Harper said it was not necessary to go into arguments on this amendment. He was sorry to see it had given rise to so much warmth. It was contrary to every idea of legislation, as it went to the passing of a law to operate on one part of the country, and not upon another.

Mr. Clopton observed, it was true, that this amendment did not deserve to be discussed; but it could not be surprising that the members from Virginia feel irritated by such a proposition, as it was evidently intended to insinuate that the militia of the State immediately joining upon the mark of distinction was not in such good order as their neighbor's, who were to be excused from the detachment. Knowing that the State of Virginia never had been backward, and convinced it never would be backward, in the defence of the country, in time of danger, he hoped such a proposition would not meet a moment's countenance.

Mr. Gallatin said, amongst other objections to this amendment, it was impossible to understand what it meant. He had endeavored to discover whether that part of Pennsylvania in which he lived could be considered as east of the Potomac, or not, and was at a loss to determine.

Mr. Otis said, when this amendment first appeared, he was indifferent as to its fate. He supposed the gentlemen from the Southern States would have no objection to it, because they did not seem to consider the detachment as burdensome; but as the matter appeared to be illy received by them, he would not vote for it.

On a wish being expressed that the yeas and nays might be dispensed with, the Speaker said, if there was a single objection to their being dispensed with, they must be taken; but no objection appearing, the amendment was rejected unanimously.

The Senate afterwards informed the House that they had postponed this bill till the next session of Congress.

Several bills were then taken up and passed; when

A motion was made, by Mr. Livingston, to adjourn till ten in the morning, as it would be impossible to get through the business to-night, and he understood the Senate were about to adjourn to that time.

Mr. Dana proposed to adjourn till seven in the evening; but that motion being negatived, the House adjourned till ten o'clock on Sunday morning.

Sunday Morning, March 3.

Several reports were made by the Committee of Enrolment, and sundry messages communicated from the Senate relative to the bills in their passage.

VOTE OF THANKS.

Mr. Champlin rose and addressed the House as follows:

"Sensible as I am of the importance of the duties that at all times attach to a gentleman who presides over the deliberations of this assembly, and more especially in times of imminent danger; impressed with the able and honorable manner in which those duties have been discharged by the gentleman who now fills the Chair; and believing the sentiments I entertain on this occasion to be in perfect unison with those of every member of this House—I beg leave to submit a resolution expressive of the sense of the House on this subject:"

He then moved the following resolution:

"*Resolved*, That the thanks of this House be presented to Jonathan Dayton, in testimony of their approbation of his conduct in discharging the arduous and important duties assigned him whilst in the Chair."

This motion was received by the Clerk, and the question being put upon it by him, there appeared for it 40, against it 22.

The resolution being carried, the Speaker rose and addressed the House as follows:

No language, gentlemen, can do justice to those feelings which this second vote of approbation of my conduct, after four years presidency in the House of Representatives, has excited in my breast. It would be unjust in me not to acknowledge, that to the support uniformly afforded, and to the confidence unremittedly reposed in me, rather than to any merit of my own, is to be ascribed the success with which you are pleased to declare that the duties of the Chair have been executed.

Permit me to say, that far from being displeased, I have, on the contrary, been very much gratified at hearing that the resolution of thanks has not been passed, as

a mere matter of form, unanimously. As in all public bodies, there have ever been found men whose approbation must be considered by the meritorious as a censure, so in this body, there are, unhappily, some whose censure will be regarded by all whose esteem I value, as the highest testimony of merit. About to abandon the seat which I have held in this branch of the General Legislature for eight successive years, I take advantage of the moment which precedes our separation to bid you, gentlemen, an affectionate farewell.

The Senate sent down a bill for altering the time of the next meeting of Congress, making it, instead of the first Monday in December, (as fixed by the Constitution,) the third Monday in November.

On motion of Mr. Bayard, this bill was rejected—53 votes being for it.

Mr. Macon moved the usual resolution appointing a joint committee with the Senate, to inform the President, that Congress is ready to adjourn without day, unless he has any further communication to make them; which being agreed to, Messrs. Otis, Macon, and Brooks, were appointed a committee on the part of this House.

Mr. Otis, from the committee appointed to wait upon the President, informed the House that they had performed that service; and he informed them "that he had no further communication to make, except to express his wish for the health and happiness of the members, and a pleasant journey home to their families and friends."

The Speaker then adjourned the House without day.

APPENDIX

TO THE HISTORY OF THE FIFTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

FRANCE AND SPAIN.

[Communicated to Congress on the 19th of May, 1797.]

Department of State,
May 17, 1797.

Sir: By the direction of the President of the United States, I have the honor to present the enclosed papers, numbered from one to eighteen, as noted below, to be laid before the House of Representatives. I am, &c.

TIMOTHY PICKERING.

The Speaker *of the House of Reps.*

No. 1. General Pinckney's letter to the Secretary of State, dated at Paris, December 10th, 1796.

No. 2. Report of Major Mountflorence to General Pinckney, dated at Paris, December 18th, 1796.

No. 3. Extract of a letter from General Pinckney to the Secretary of State, dated at Paris, January 6th, 1797.

No. 4. Extract of a letter from General Pinckney to the Secretary of State, dated at Amsterdam, February 18th, 1797.

No. 5. Extract of a letter from General Pinckney to the Secretary of State, dated at Amsterdam, March 5th, 1797.

No. 6. Extract of a letter from Major Mountflorence to General Pinckney, dated at Paris, February 14, 1797.

No. 7. Extract of a letter from Major Mountflorence to General Pinckney, dated Paris, February 21, 1797.

No. 8. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 8, 1797.

No. 9. Speech of Mr. Barras, President of the Executive Directory of the French Republic, to Mr. Monroe, December 30, 1796.

No. 10. Decree of the Executive Directory of the French Republic, dated March 2, 1797.

No. 11. Extract of a letter from John Quincy Adams, Esq. to the Secretary of State, dated at the Hague, November 4th, 1796.

No. 12. Extract of a letter from the committee of foreign relations of the Batavian National Assembly to John Quincy Adams, Esq., dated at Hague, September 27th, 1796.

No. 13. Extract of a letter from John Quincy Adams, Esq., Minister of the United States, at the Hague, to the committee of foreign relations of the Batavian National Assembly, dated at the Hague, October 31st, 1796.

No. 14. Extract of a letter from John Quincy Adams, Esq., Minister of the United States, at the Hague, to the Secretary of State, dated February 17, 1797.

No. 15. Extract of a letter from Rufus King, Esq., Minister of the United States in London, to the Secretary of State, dated March 12, 1797.

No. 16. Letter from the Chevalier de Yrujo, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty, to the Secretary of State, dated May 6, 1797.

No. 17. Letter from the Secretary of State to the Chevalier de Yrujo, the Minister of His Catholic Majesty to the United States, dated May 17, 1797.

No. 18. Letter from General Pinckney to the Secretary of State, dated Paris, February 1st, 1797.

No. 1.

Paris, 30*th Frimaire,*
(*December* 10*th*, 1796.)

Dear Sir: We left Bordeaux on the 25th of November, having been detained there until that time: first, by the badness of the weather, which prevented the unloading of the baggage, and afterwards by some necessary alterations being made to my carriage, to encounter the bad roads we were threatened with. The roads were even worse than the horrible description we had heard of them; and we broke down twice, and were obliged to get three new wheels, out of four, before we reached this city, which we at length did on the evening of the 5th of December. I here met Major Henry Rutledge, my secretary, and, on the morning of the next day, (December 6,) I transmitted by him, to Mr. Monroe, his letters of recall, with my compliments, and that I would wait upon him at any hour he would appoint. I received for answer that Mr. Monroe would see me whenever I pleased. I immediately waited on him, and we had a long conversation on the affairs of America; in which he, with a great deal of frankness, communicated all the late measures of this Government with respect to ours, and of which you must, long before this, have been ap-

prised, both by Mr. Adet and the despatches of Mr. Monroe. He also showed me a letter which he had received from M. De la Croix, the Minister of Foreign Affairs, in the following words:

The Minister of Foreign Affairs to Citizen Monroe, Minister Plenipotentiary of the United States.

PARIS, *12th Frimaire, 5th year of the French Republic.*

CITIZEN MINISTER: The arrival of Mr. Pinckney, at Paris, appearing to be near at hand, if it has not already taken place, I conceive that I should communicate to you certain formalities which you are to fulfil on the occasion. The usage is, that the Minister recalled and his successor send to the Minister of Foreign Affairs a copy of their letters of credence and recall. As I presume your letters of recall have already been sent to you, I request you to communicate them to me as soon as possible. Greeting and fraternity.

CH. DE LA CROIX.

I told Mr. Monroe that I thought it would be more respectful to the Minister to acquaint him with my arrival, and to inform him that we would wait upon him any hour he should appoint, with my letters of credence, and his letters of recall. Accordingly Mr. Monroe, in my presence, and with my approbation, sent him the following letter:

The Minister Plenipotentiary of the United States of America to the Minister of Foreign Affairs of the French Republic.

PARIS, *December* 6, (*16th Frimaire.*) *21st year of the Independence of the United States of America.*

CITIZEN MINISTER: I have the honor to inform you that my successor, Mr. Pinckney, is arrived, and is desirous of waiting upon you for the purpose of presenting a copy of his letter of credence for the Directoire Exécutif of the French Republic. By him I have also received my letter of recall. Permit me, therefore, to request that you will be so obliging as to appoint a time when Mr. Pinckney and myself shall have the honor to attend you, for the purpose of presenting you copies of those documents. Accept the assurance of my respect.

JAMES MONROE.

On Friday morning, December 9, I received a letter from Mr. Monroe, informing me that M. De la Croix had appointed that day, between one and four o'clock, p. m. to receive us. M. De la Croix's letter was conceived in the following terms:

The Minister of Foreign Affairs to Citizen Monroe, Minister Plenipotentiary of the United States of America.

PARIS, *19th Frimaire, 5th year,* (*December* 9, 1796.)

CITIZEN MINISTER: I have received the letter which you did me the honor to write to me, in which you request an interview for Citizen Pinckney, designated for your successor, for the purpose of delivering copies of his letters of credence, and your letters of recall. I shall be glad to receive you between the hours of one and four o'clock, this afternoon, if convenient to you. I pray you to propose this to Citizen Pinckney. Greeting and fraternity.

CH. DE LA CROIX.

Mr. Monroe and myself, with my secretary, Major Rutledge, about two o'clock, waited upon M. De la Croix, and I was introduced by Mr. Monroe as the person appointed as his successor. The Minister at first received us with great stiffness, but afterwards, on our conversing on some general subjects, he unbent and behaved with civility; and, on receiving the official copies of our letters of credence and recall, said he would deliver them, without delay, to the Directory. He desired Major Rutledge to let him have our names of baptism, and our ages, that cards of hospitality might be made out, which he said were necessary to reside here unmolested. This requisition was immediately complied with, and he promised to send the cards the next morning. When this interview was known, the reports, which had been spread abroad before my arrival, of my not being received by the Directory, vanished, and the general idea seemed to be that there would be no objection to receive me as Minister from America. At 11 o'clock, on Monday, December 12, Mr. Prevost, (Mr. Monroe's secretary,) called upon me, and told me that Mr. Monroe had just received a letter from M. De la Croix, and desired to know if I had received one. I said no. He then showed me M. De la Croix's to Mr. Monroe, which was as follows:

The Minister of Foreign Affairs to Citizen Monroe, Minister Plenipotentiary of the United States of America.

PARIS, *21st Frimaire,* (*Dec.* 11, 1796.) *5th year of the French Republic, one and indivisible.*

CITIZEN MINISTER: I hasten to lay before the Executive Directory the copies of your letters of recall, and of the letters of credence of Mr. Pinckney, whom the President of the United States has appointed to succeed you, in the quality of Minister Plenipotentiary of the United States near the French Republic. The Directory has charged me to notify you 'that it will not acknowledge nor receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it.'

I pray you to be persuaded, Citizen Minister, that this determination having become necessary, allows to subsist between the French Republic and the American people the affection founded upon former benefits and reciprocal interests; an affection which you yourself have taken a pleasure in cultivating by every means in your power.

Accept, Citizen Minister, the assurance of my perfect consideration. CH. DE LA CROIX.

I waited until next morning, expecting to receive a notification from M. De la Croix, when, not hearing from him, I wrote him the following letter:

PARIS, *December* 13.

CITIZEN MINISTER: Colonel Monroe has been so good as to communicate to me your letter to him of the 21st Frimaire, wherein you inform him that you had submitted to the Executive Directory his letters of recall, and my letters of credence as Minister Plenipotentiary from the United States of America, and that the Directory had instructed you to notify him "qu'il ne reconnoitra et ne recevra plus de Ministre Plenipotentiarie des Etats Unis jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la République Françoise est en droit d'en attendre" [That it will not acknowledge nor receive any Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it.] This communication has filled me with real sorrow, as I am thoroughly convinced that the sentiments of America and its Government—for they are one—are misunderstood, and that I am not permitted even to attempt to explain them, or, in the terms of my letters of credence, to endeavor "to efface unfavorable impressions, to banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." Devoted, as I am, to the liberty, prosperity, and independence of my own country, the freedom, happiness, and perfect establishment of the French Republic, have always been dear to me, and to have been instrumental in cementing the good understanding which, from the commencement of their alliance, has subsisted between the two nations, would have been the height of my ambition. I most fervently pray that there may be a speedy and candid investigation of those points in which you differ from us, that affection may banish distrust, and that the alliance of the two Republics may be perpetual.

In your letter to Colonel Monroe you do not desire him to make any communication to me, and I am indebted to his politeness for the knowledge I have of the intentions of the Directory. I submit to you, citizen Minister, that, as the letters of recall had been received by Mr. Monroe, and official copies of his letters of recall, and my letters of credence, had been delivered to you, that the sentiments of the Directory should be communicated by you immediately to me, that I may, without delay, transmit them as from the Executive of this Republic to the Government of the United States; and that I may be informed, by you, whether it is the intention of the Directory that I should immediately quit the territories of the Republic, or whether I and my family may remain until I hear from my Government. As I have not received the cards which, in your interview, you said I ought to possess in order to enable me to reside here, and that they should be transmitted to me the next morning, I am the more doubtful on this subject than I should otherwise be. Accept my best wishes.

CHARLES C. PINCKNEY.

Citizen DE LA CROIX,
Minister of Foreign Affairs of the French Republic.

This letter I sent by Major Rutledge, who delivered it to M. De la Croix, and made the following report of what passed between them, which he immediately reduced to writing:

PARIS, *23d Frimaire,* (*13th December.*)

I this day waited upon M. De la Croix, the Minister for Foreign Affairs, at two o'clock, as bearer of a letter from General Pinckney. I was admitted immediately on sending in my name, and delivered the letter. Having informed him from whom it came, and that there was a French translation annexed, he opened it and proceeded to read the letter in my presence, which, when he had finished, he desired me to return to General Pinckney as his answer: That the Executive Directory knew of no Minister Plenipotentiary from the United States of America, since the presentation of Mr. Monroe's letters of recall, and that the Executive Directory had charged him to notify to Mr. Monroe (here he read the quotation contained in the letter) qu'il ne reconnoitra et ne recevra plus de Ministre Plenipotentiaire des Etats Unis, jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la République Françoise est en droit d'en attendre. Which notification the Directory relied upon Mr. Monroe's imparting to his own Government, as well as communicating to General Pinckney. Upon my asking him if I understood him rightly, he stopped me, by repeating the substance of what I have mentioned, with the alteration, when he came to the notification of the word *American* into *Federal.* He then went on to say, that, with respect to the second subject of General Pinckney's letter, he could return no answer until it was laid before the Directory. I then suggested to him the inconveniences to which General Pinckney was exposed; he replied, that he would take an early opportunity of submitting his letter to the Directory, probably the next day. I asked if General Pinckney should expect an answer; he replied, that their intentions should be signified either to himself or to Mr. Monroe. I then took my leave, and withdrew.

HENRY M. RUTLEDGE.

On the 25th of Frimaire, (15th of December,) about three o'clock in the afternoon, a Mr. Giraudet called on me, and said he was chief secretary in the Department of Foreign Affairs; that he came on the part of the Minister of Foreign Affairs, to signify to me that, with respect to my letter to him, (which he produced, together with the translation,) he could not directly communicate with me on it, as such direct communication would be acknowledging me as Minister, when the Directory had determined not to receive me; that, as to the other part of my letter, relative to remaining here, that he supposed I was acquainted with the laws of France, as they applied to strangers. I told him that I was not acquainted with the local laws of the Republic; he said that there was a decree which prevented all foreigners from remaining at Paris without particular permission, which, as the Directory did not mean to grant to me, of course the general law would operate.

I answered, that I could not conceive the having a direct communication with me would involve the consequences he stated; that if Mr. Monroe had died before my arrival, the information that they would not acknowledge me, must, of course, have been made to myself. Mr. Monroe having received his letter of recall from our Government, could not now act officially any more than if he had ceased to exist; that I was indebted to Mr. Monroe's politeness for the information I had received of the intention of the Directory not to acknowledge me, but that he had not intended it as an official communication. That, with regard to the laws of France relative to strangers, the law which he had cited did not apply to the requisition of my letter, which was to know whether it was the intention of the Directory that I should quit the territories of the Republic, or whether I might remain here until I should hear from my Government. He said, he rather believed that it was the intention that I should quit the territories of the Republic; but, as it admitted of a doubt, he would mention it to the Minister, with whom he was to dine, and acquaint me with the result in the evening. I told him I should be obliged to him, should it be the intention of the Directory that I should quit the Republic, to inform me in what time I was to set out, as my baggage was not arrived from Bordeaux; that I meant not to ask any personal favor, but to have the intention of the Directory clearly expressed, as it related to me, in the situation in which I came to France. He said he would, and expressed a regret at being the bearer of disagreeable information, and then departed. His behaviour and manners were very polite.

In the evening, about eight o'clock, he returned, and informed me that, in answer to the doubt which had been entertained in the morning, (a doubt, he observed, which had proceeded from his own inattention to the words of M. De la Croix,) the Minister could only reply that he understood the Directory to mean the territory of the Republic, and not Paris alone, which was to be quitted; that as to the time in which it was necessary to depart, the Minister could not designate it, but that he would have another communication with the Directory, and that their intentions should be made known to me in a more explicit manner upon both points; that, at the same time, he must inform me that, in all probability, M. De la Croix would not be the organ through which they would be addressed, as the Minister of the Police Générale would be the officer under whose department my case would come. I replied that I apprehended M. De la Croix was the proper organ through which information should come to me, as he knew the capacity in which I had come to France: whereas, the Minister of Police might regard me as a mere stranger, and throw me into confinement; that it was in the power of the Directory to receive me, or not: but they could not divest themselves of the knowledge which they had of the public character in which I came to France; that, before I arrived, M. De la Croix had, on the 12th of Frimaire, written to Mr. Monroe, that, as my arrival at Paris might be soon expected, if it had not already taken place, that the custom was for the recalled Minister and his successor to send, respectively, copies of their letters of credence and recall to the Minister of Foreign Affairs; that, in consequence of this notification, M. De la Croix was informed in writing, on the 16th Frimaire, the morning after my arrival, by Mr. Monroe, that I was arrived as his successor, and was desirous of waiting on him, for the purpose of presenting a copy of my letter of credence for the Executive Directory of the French Republic; that, on the 19th of Frimaire, M. De la Croix informed Mr. Monroe, by letter, that he would receive us, with our letters of credence and recall, between the hours of one and four, if it suited us: agreeably to which notification, we waited on him, and I was introduced to him by Mr. Monroe as his successor; that we presented official copies of our letters of recall and credence; that he promised to lay them before the Directory, and also promised that cards of hospitality should be sent to me and Major Rutledge the next morning; that M. De la Croix, on the 21st Frimaire, wrote to Mr. Monroe, and informed him "that he had laid before the Directory the copy of his letters of recall, and of the letters of credence of Mr. Pinckney, whom the President of the United States had named to succeed him in quality of Minister Plenipotentiary of the said States near the French Republic." From all which circumstances, the character with which I was invested must be apparent both to the Directory and to the Minister of Foreign Affairs; and that, in that character, I was entitled to the protection of the laws of nations, whether the Directory received me or not. If they permitted me to remain until I heard from my Government, I was under the protection of those laws: if they ordered me to quit the territories of the Republic, I was still entitled to letters of safe conduct, and passports on my journey out; that this was the case even with Ministers of belligerent Powers, much more ought it to apply between us, who were at peace. He said, supposing M. De la Croix had been mistaken in having desired my letters of credence, in seeing me, and in his laying those letters of credence before the Directory, such mistake of the Minister could not be binding on the Directory. I replied that it was impossible for me to admit that the Minister of Foreign Affairs had committed a mistake in his official duty: he was held forth to the world as Minister; all his acts must be accredited as performed within the line of his duty, and under a competent authority; and that his letter to Mr. Monroe showed he was desirous that the established usage should be complied with. He said he did not allege that there was a mistake: he had only, for argument's sake, urged a supposition, which might be unfounded; that he would communicate what I mentioned to M. De la Croix. I desired him, at the same time, to inform M. De la Croix that I requested whatever further passed might be in writing, that no mistakes might happen by verbal communication, and that I might know explicitly what were the intentions of the

Directory. Since this conversation, I have not heard from the Directory, or any of the Ministers or their agents. My situation, as you may easily conceive, is unpleasant; but if I can ultimately render any services to my country, I shall be fully compensated: at all events, it shall be my study to avoid increasing the discontent of this Government, without committing the honor, dignity, and respect due to our own. Should I fail in doing this, or should I err in the measures I pursue to accomplish it, the failing will not be in my zeal, but should be charged to my want of ability. At present, I think the ground I have taken has puzzled them: they wish me gone, but they apprehend that it would be too harsh a measure to send off, in a peremptory manner, the Minister of my country; though there is no saying what their conduct will ultimately be, as I am informed that they have already sent off thirteen foreign Ministers: and a late emigrant, now here, has assured them that America is not of greater consequence to them, nor ought to be treated with greater respect, than Geneva or Genoa. Those who regard us as being of some consequence, seem to have taken up an idea that our Government acts upon principles opposed to the real sentiments of a large majority of our people, and they are willing to temporize until the event of the election of President is known; thinking that, if one public character is chosen, he will be attached to the interest of Great Britain; and that, if another character is elected, he will be (to use the expression of Du Pont de Nemours, in the Council of Ancients) devoted to the interest of France; entertaining the humiliating idea that we are a people divided by party, the mere creatures of foreign influence, and regardless of our national character, honor, and interest. To eradicate this ill-conceived and unfounded opinion, will be a work of time and labor, so greatly have they been prejudiced by misrepresentation. The reasons that are alleged here for the conduct of the present Government of this country to us, you have already been apprised of from Mr. Adet and Mr. Monroe. The letter of the 21st Frimaire, from M. De la Croix to Mr. Monroe, above recited, shows the distinction which this Government attempts to make between the American people and their Government; at the same time, Major Mountflorence's report to me, which I enclose, shows that the property of the American citizens is not respected in the cases he mentions. I trust that America will show that her sentiments and those of her Government are one; and that she will never suffer any foreign nation to interfere in her concerns; and that an attempt to divide her citizens will be the "signe de ralliement,"* and render them the more united. As much as I am averse to a sea voyage, I should immediately have sailed for Philadelphia, on knowing the determination of the Directory not to acknowledge me, that I might receive personally the instructions of the Administration of our Government, more particularly at a time when Congress was sitting; but, as I am informed, the orders to Mr. Adet were issued about the 19th of August, and that the vessel which carried them sailed from L'Orient about the 7th of September, I thought it probable that new instructions might be forwarded to me before I could arrive in America: and I have therefore determined, if the Directory will not suffer me to remain upon the territory of the Republic, until I hear from you, to proceed to Amsterdam, and stay there, until I shall receive orders how to act, or whether to return home.

I have seen Mr. Monroe very often since my arrival: his conduct has been open and candid, and I believe he has made me every communication which he thought would be of service to our country. He undoubtedly felt himself hurt at his being superseded; but I am convinced he has not, on that account, left anything undone which he thought would promote the objects of my mission. The Directory and Ministers had, for some time before they were informed of his removal, treated him with great coolness; but as soon as they heard of his recall, their attentions to him were renewed. Should this Government attempt to make any further communications to me, through him, he has promised me to inform them that he cannot comply with their desire, as his powers have ceased. I remain, with great respect, &c.,

CHARLES C. PINCKNEY.

Colonel Pickering, *Secretary of State.*

* Signal for rallying.

No. 2.

Major Mountflorence's Report, given in to General Pinckney, the 19th December, 1796.

Consulat Americain.

Paris, *December* 18, 1796.

Sir: In the absence of Mr. Skipwith, I will endeavor, at your desire, to make you a succinct general report of the present situation of our commercial interests in this country, in the best manner that the shortness of the time will admit of.

Since several months, the Executive Directory has given evident symptoms of displeasure towards our Government; which has been generally attributed to the Treaty of Commerce with Great Britain. In consequence of which, orders have been given to their cruisers to visit every neutral vessel going in, or coming from, an English port, *but these orders are common to the Danish and Swedish vessels as well as to our own.* Numbers of our vessels have been brought into the ports of France by virtue of these orders, and, in a subsequent report, I shall have the honor of submitting to you a nominative list of all of them, informing you of the several proceedings respecting each of them; several of them have been already released; some of the cargoes temporarily sequestered; and others now libelled before the tribunals of commerce. During the government of the Convention, the Committee of Public Safety had exclusively the cognizance of all matters respecting prizes or captures at sea; which committee gave judgment on the reports of the executive commission of marine; but since the organization of the present constitution, the legislature has passed a law on the

27th of April last, giving power to the tribunals of commerce in every port of France, to take cognizance, in the first instance, of every matter relative to captures at sea; from whose judgment appeals may be carried before the civil tribunals of the respective departments; and one of the articles of the aforesaid law enacts, that in cases of appeals before the departmental tribunals, should the interests of neutrals be concerned, the commissaries of the Executive Directory near the tribunals (whose duties are similar to those of our attorneys general) may, if they see cause, refer the whole proceedings to the Minister of Justice, to take the opinion of the Directory thereon, before judgment be given by the said tribunals. I deemed it necessary, sir, to enter into these particulars in order to elucidate the proceedings which have lately taken place in respect to some of our vessels, captured and libelled. The tribunals of commerce are chiefly composed of merchants, and most of them are directly or indirectly, more or less, interested in the fitting out of privateers, and therefore are often parties concerned in the controversies they are to determine upon. This happened in the case of Capt. John Bryant, of Norfolk, in Virginia, which I beg leave to relate to you: Captain John Bryant, master of the Fanny, of Portsmouth, in Virginia, lost that vessel at sea, having a sea-letter, which he preserved, and was taken up by the brig Francis, of Salem, and carried to Spain; from whence he returned to Norfolk, where, having received the command of the Powhatan, of Richmond, he proceeded in her to London, where the said vessel was sold by the owners. He purchased in England from our Consul, Mr. Joshua Johnson, a prize vessel, the Royal Captain, and traded with her under the flag of the United States, and made several coasting voyages from one French port to another, his ship's papers having been found regular. But, lately bound from Flushing to Bordeaux, with a cargo belonging to him, he was captured by a privateer from Boulogne, and brought into that port. The judges of the tribunal were most of them concerned in the privateer, and of course declared the Royal Captain a lawful prize, under pretence that she had no sea-letter. Appeal has been made from that judgment and the case referred to the Minister of Justice. Mr. Skipwith and myself waited on the Minister and had a long conference with him on the proper construction to be made of the 25th article of the Treaty of Commerce between the United States and France. The Minister having acknowledged the Royal Captain and her cargo to be American property; but insisting upon its being liable to condemnation, not being furnished with a sea-letter, we urged to him, that the very article of the treaty upon which he founded his opinion, did not specify seizure or confiscation of vessels which should not be provided with sea-letters; that every penal law was to be construed liberally; that the object of the treaty must have been reciprocal benefit to the merchants and commerce of both countries; that the interpretation given by him to that article would operate in a quite opposite manner, and place the merchants of the United States in a worse situation than if there had been no treaty, which most certainly could never have been the intention of either of the contracting parties; for if there existed no treaty, most undoubtedly an American vessel being brought into a French port would be immediately released, upon due proof being made of her being American property, and consequently neutral. Besides, we alleged that this doctrine had been sanctioned in France since the commencement of hostilities, several hundreds of our vessels having visited their ports, and no exception being taken to the want of sea-letters; indeed they have never been heretofore asked for; that the French Government had sold a very considerable number of prize vessels to our merchants in payment of supplies by them furnished, or otherwise; some of which had been chartered by the very agents of the Government, for sundry voyages in Europe, all of which had no sea-letters, nor could they ever obtain any before they made a voyage to the United States. All we could obtain from the Minister, was his saying, that he would reconsider the matter and take the decision of the Directory. Nothing yet has transpired on this subject; but, two days ago, letters from Brest mentioned that the Diana, Captain Ingraham, from Savannah to Europe, sent into Brest by a French privateer, has been condemned by the tribunal of commerce of that port, and that the only motive for condemnation was the want of a sea-letter. I have wrote to Mr. Barnet, the consular agent at Brest, to instruct the counsellor on the appeal to apply to the commissary of the Directory near the tribunal of the department, to have the matter referred to the Minister of Justice. Should the Directory, sir, decide this important question upon the construction of the 25th article, in the same manner as the tribunals of commerce have done, it would be very alarming to our trade, as we have a vast number of vessels in that predicament, many of which are now in the several ports of France. As to the several claims of the American citizens against the French Government, for supplies furnished here and in the West Indies, spoliations, embargoes at Bordeaux, and at Brest, and other ports, indemnities for illegal captures and detention of our vessels, freights of vessels chartered by the French agents in the United States, drafts of the colonial administrations upon the national treasury, delegations of the said administrations on the Ministers of France near the United States; nothing can be done with them for the moment; but this suspension is common to all the claimants of other neutral nations, as likewise to the French creditors; for, indeed, the embarrassment of their finances is such that many of the officers of Government cannot obtain the payment of the arrears due to them. I deem it also my duty, sir, to inform you that a foreign built sloop, the Nancy, Captain Berry, having been detained at Calais by the custom-house officers of that port, the tribunal of commerce ordered her to be released, provided the Minister of the United States near the French Republic, would countersign her ship's papers. Having at this moment no Minister acknowledged by the French

Republic, Captain Berry writing a very pressing letter to be able to comply with the orders of the aforesaid tribunal, which orders are conformable to a late regulation of the Directory, I have waited on the Minister of Foreign Relations, to submit the difficulty we labor under in that respect, and shall have the honor of communicating to you his answer when it shall be given.

With great respect, &c.,

J. C. MOUNTFLORENCE.

Major General PINCKNEY.

No. 3.

Extract of a letter from General Pinckney to the Secretary of State.

PARIS, *January* 6, 1797.

DEAR SIR: The cessation of Mr. Monroe's functions, and the dormancy of mine in this country, have been attended with many inconveniences to our fellow-citizens; among others, the difficulty of obtaining passports to come from the out-ports to Paris, and to go from Paris out of the Republic, were complained of; and I conceived it my duty, though not acknowledged by this Government, to endeavor to remedy this grievance; for to our countrymen, arriving here from the territories of a Power at war with the Republic, it was really so, as they were put into confinement on their arrival at the port, unless they could give security for their good behaviour until they could obtain passports from our Minister at Paris—which passports were countersigned by the Minister of Foreign Affairs; and present circumstances did not even admit of these dilatory passports. I, therefore, requested my Secretary, Major Henry Rutledge, to wait upon M. De la Croix on this subject, and desired him, at the same time, to obtain from him, unofficially, an account of what the Directory had resolved, with regard to the points concerning my residence, which Mr. Giraudet had informed me M. De la Croix would submit to their determination. Major Rutledge waited upon M. De la Croix, and made me the following report:

PARIS, *December* 26, 1796.

I this day, at twelve o'clock, called upon the Minister of Foreign Affairs, and being admitted, after waiting some little time, I informed him that I came on the part of General Pinckney, who had desired me to say that, although he had not the honor to address him in an official capacity, yet his feelings would not excuse him from communicating an article of intelligence, in which the humanity of both nations was interested—it was upon the subject of such of our citizens as had of late arrived in the different ports of France. That, in conformity to the regulations of the police, all foreigners, upon their arrival on the territories of the Republic, were arrested and put into confinement until they had obtained from the Ministers of their respective countries, near the Republic, a passport countersigned by the Minister of Foreign Affairs. That the circumstance of having no Minister acknowledged by the French Republic, had thrown the American citizens into a predicament which had rendered them incapable of complying with the accustomed forms. That the consequence was their having remained for some time past in prison, which, at the present season, was a situation from which they could not be too soon released; it was, therefore, to know in what manner to answer their various applications, and to be informed to what authority he should refer them for relief, that General Pinckney had, at this moment, taken the liberty to trouble him. The Minister replied, that an arrêté had been made on the subject, and that, in future, all petitions for passports on behalf of the American citizens, should be addressed to the Minister of the Police Générale. That he would, however, charge himself with any which General Pinckney might have at that moment by him, if he preferred the channel of his department. I thanked him for his politeness, and made a motion to go, but stopped and asked him if he had heard anything further from the Directory as to their intentions respecting General Pinckney's remaining where he was. He answered, with marks of great surprise, that he thought he had already explained himself with sufficient clearness on the subject; that he had signified to General Pinckney, long since, the impossibility of his staying; that he thought he had exercised much "condescendance" in having been so long silent; which he had been induced to do by General Pinckney's having complained of the delay of his baggage, which, he supposed, must, by this time, have arrived from Bordeaux; that, in short, he should be sorry if his further stay should compel him to give information to the Minister of the Police. To this I replied, that, if he would permit me, I would recall his recollection to the communication which he had been pleased to make to General Pinckney, through his Secretary, Mr. Giraudet; that that gentleman had called on General Pinckney, and had very clearly expressed the wishes of the Directory, in answer to a letter which he had written to the Minister of Foreign Affairs, requesting to know their will; which desire was, that General Pinckney should consider himself in the light of any common stranger, to whom a card of hospitality was refused, and who was compelled, by the laws respecting foreigners, to withdraw from the territories of the Republic. That General Pinckney had refused to regard himself in any other light than the one in which he had entered France, which had not been in a private capacity, but in a public character; which circumstance had been officially announced to the Directory, by his having delivered to the Minister of Foreign Affairs a copy of his letters of credence and by other acts. That this precluded all laws relative to strangers from operating on him, and put him under the protection of the law of nations, which he claimed in his favor. That Mr. Giraudet had taken leave with a promise to communicate to the Minister of Foreign Affairs the ground which General Pinckney had taken. That he returned again in the evening, and then said, that the Minister would again

lay General Pinckney's letter before the Directory, and that their intentions should be made known to him as soon as possible. All this had, no doubt, been faithfully related to him by his secretary. He answered that General Pinckney must have mistaken Mr. Giraudet as to his intention of again laying his letter before the Directory. I told him that it was impossible; for that I had been present at both conversations, in which the material points had passed in English, and been repeated in French. He then said Mr. Giraudet had acted without his authority. I replied, that General Pinckney had, however, waited until this moment in expectation of hearing from him, agreeably to Mr. Giraudet's promise; that he was very far from intending to dispute the will of the Executive Directory; what he wanted was a communication of their wishes in writing. He said that it had already been given. I desired to know when; he answered in the notification which he had made, by their order, to Mr. Monroe; that it had contained their sentiments on Mr. Pinckney's staying, inasmuch as that his not being received, implied that he should depart. I denied that it was a fair deduction; he insisted that it was; I declared that it had not struck General Pinckney or any person with whom he had conversed; but that, however, if such was the construction which he had put upon it, I flattered myself that he could have no objection to throwing his idea upon paper, that General Pinckney might have something more substantial, than the authenticity of the word of his secretary to justify himself to his own Government, for quitting a spot to which he had come in obedience to their orders. The Minister here turned from me with some warmth, and said that he should do no such thing; that General Pinckney might make his own deductions; he desired to have no more communication with him. I only replied by a bow, satisfied to end a conversation which had already lasted near half an hour; during which I had not been admitted to the honor of a seat.

HENRY M. RUTLEDGE.

This behaviour of M. De la Croix's did not induce me to alter my conduct; I considered that I was at the post where my duty required me to remain until I received orders from my Government how to conduct myself, or till this Government should give me a written mandate to depart, or send me passports as a Minister of my country whom they would not suffer to remain here; or would do some unequivocal act respecting me as would justify me in going. M. De la Croix's conversation with Major Rutledge I did not deem such; I have therefore staid; though notwithstanding the inclemency of a journey for my family, at this season of the year, to Amsterdam, it would have been more agreeable to me to have gone away than to have remained here in this situation. This interview, however, prevented me, until three days ago, from changing my lodgings, which were very expensive and inconvenient; when, not receiving any further intimation to depart, I changed them, and have not yet heard from M. De la Croix. When I was sending away the triplicate and quadruplicate of No. 2, the speech of M. Barras, President of the Directory, to Mr. Monroe, appeared, I therefore transmitted it to you in those enclosures. I need not comment on so strange a composition; it, however, evinces the disposition of the directors of this country towards us, and the system which they have adopted, by endeavoring to persuade our countrymen that they can have a different interest from their fellow-citizens, whom themselves have chosen to manage their joint concerns. One circumstance, however, attending this speech, you ought not to be unacquainted with. Mr. Monroe assures me that the Directory were not acquainted with a syllable contained in the valedictory address he delivered, till the moment he pronounced it; and that, as soon as he finished, President Barras read his own speech. Of course, the speech of M. Barras was not an answer to Mr. Monroe's specific harangue; but was an answer to every speech which, on that occasion, could possibly have been made. This anecdote does not make the present sentiments and views of the Directory respecting our country less evident.

Whatever the decision of this country may prove with regard to me, be assured that I shall endeavor to behave in such a manner as shall neither injure nor compromit the respect due to our own; and that no personal slights can prevent me from most earnestly praying, that the independence and liberty of France may be firmly secured by a speedy and honorable peace.

No. 4.

Extract of a letter from General Pinckney to the Secretary of State, dated

AMSTERDAM, *February* 18, 1797.

DEAR SIR: I arrived here last night, after an expensive and tedious journey, through some very bad roads, from Paris. My letters No. 6,* of which I forwarded to you quadruplicates from that city, will inform you that the day after accounts were received of Bonaparte's successes in Italy, Mr. De la Croix gave me, by direction of the Executive Directory, official notice in writing to quit the territories of the French Republic. As this was complying with what I had declared to be a requisite preliminary to my departure, I did not think it proper to remain longer at Paris than was necessary to prepare for my journey; and, having received the customary passports for this city, I set out with my family and secretary on the fifth instant. I shall remain here, or in some part of the United Provinces, till I receive directions from you how to act. I regret that my mission to Europe, at the same time that it has been very unpleasant to myself, should be both expensive and unprofitable to my country. Could I be of any service, I should disregard personal inconvenience, and the idea of benefiting my country would soften the asperities of a situation rendered

* The letters Nos. 5, 6, from General Pinckney, have not yet come to hand.

particularly disagreeable by the conduct of a Government with whom we wish to be on the most amicable terms, and yet who disregards and annihilates the usual mode of conciliatory explanation established between independent nations. Mr. Giraudet, the chief secretary in the Department of Foreign Affairs at Paris, mentioned to Major Rutledge, a few days before I left Paris, that, as we were not going far, he hoped he should soon see us return. This I imagine was only the language of politeness; it certainly was not spoken officially, and I have not the least idea that I shall receive any invitation from France; though I ardently wish for a return of the good sense and good humor of that Republic.

CHAS. C. PINCKNEY.

No. 5.

Extract of a letter from General C. C. Pinckney, to the Secretary of State, dated

AMSTERDAM, *March* 5, 1797.

Some time before I left Paris, I was informed that the Directory had requested the Dutch to join them in treating neutral vessels in the same manner as by their decree in Messidor they had determined to treat them. As I did not obtain this information from a source that I could depend on, I did not trouble you with it; but I have since had reason to believe that it was either true, or the Dutch were apprehensive such requisition would be made; for I have just received intelligence, which I am persuaded I may rely on, that the Dutch have informed the Directory, that it would be exceedingly prejudicial to them to join in so hostile a measure, for that they would thereby lose the friendship and trade of America, which (considering their commercial losses) were of extensive benefit to them, and they would be deprived of the means of affording the French those aids which their commerce enabled them to do. In these reasons, my information adds, the French have acquiesced, and there is now no apprehension that our commerce will be molested by the Dutch. If the French had not consented to this, there is but little doubt but the Dutch would have been obliged to have treated us as the French do: for there are twenty-five thousand French troops in Batavia, and it is here no secret, that they can direct what measures they please.

I transmit you extracts from Major Mountflorence's letters to me of the 14th and 21st of February, relative to the infamous conduct of some of our countrymen, (I blush to call them so,) in fitting out privateers under French colors, and plundering our fellow-citizens. Something energetic, I trust, will be done by our Government with respect to these unprincipled marauders.

No. 6.

Extract of a letter from Major Mountflorence to General Pinckney, dated

PARIS, *February* 14, 1797.

A letter from Mr. Barnet, our consular agent at Brest, under date of the 3d instant, informs me that a French privateer, owned by Captain Cowell, a citizen native of the United States, and formerly master of the Jane, has captured lately two of our vessels, and sent them to L'Orient; one of them is a ship of four hundred tons, belonging to Boston, and bound from New Orleans to London; the other is a brig from Baltimore to London, with a very rich cargo of sugar, cotton, &c. Another letter of the said agent of the 7th informs me, that though he is certain that these two vessels and their cargoes are American property, yet it is generally believed that, by the intrigues of the aforesaid Captain Cowell, and of a certain Captain Benjamin Lewis, of Marblehead, that the whole will be condemned. I blush when I think on the conduct of some of our countrymen in this country; not satisfied with violating the laws of the United States, respecting our neutrality, but arming vessels under French colors to plunder their co-citizens! Besides, sir, I have it from good authority, that those Americans who are interested in fitting out privateers, are constantly teasing this Government with applications for more severe orders to cruise against our vessels, and it is really our own countrymen who endeavor to irritate matters between us. The same agent informs me that a large number of our sailors, found on board of English vessels, are now detained as prisoners of war at Brest. I had formerly recommended to that officer to use all his endeavors to procure the release of such as he should be satisfied were really Americans, and that he has done; but his last letter mentions that the Minister of the Marine has lately given orders not to release any more of the citizens of the United States, who may be taken on board British vessels. A new embargo was laid on the 7th instant at Brest, which is the third since General Hoche's expedition.

No. 7.

Extract of a letter from Major Mountflorence to General Pinckney, dated

PARIS, *February* 21, 1797.

Without any of your favors to answer, it is my duty to inform you that a letter from Mr. Vail, our consular agent at L'Orient, under date of the 12th instant, informs that the American ships Hope, Captain Rogers, and Antelope, of Boston, Captain Benjamin Hilton, captured by the privateer Hardy, Captain Cowell, (the man I mentioned in my last,) and carried into L'Orient, are now libelled; and the only reason upon which this American captor grounds his claim, is, that the seamen's articles are not countersigned by an American public officer; I cannot find that the laws of the United States require that formality; and the truth is, that not an American vessel in a hundred has the seamen's articles countersigned in that manner; but Cowell's attorney pretends that an antiquated, an obsolete ordonnance of France, of the year 1750, authorizes all ships of war to arrest such vessels, as have them not, as pirates. The tribunal of commerce has refused

pronouncing in this question till they receive instructions from the Executive, having written on the subject to the three Ministers, of Justice, Marine, and Foreign Relations, and I am going to do the same, but my application will be signed by Mr. Skipwith. Mr. Vail further adds, with much truth, "the American commerce very much depends upon the fate of these two vessels, and the hopes of the privateers are placed greatly on these vessels being condemned;" and, in another place he writes, that most of the privateers are owned or commanded by Americans, who create these difficulties.

Another letter from Mr. Le Baron fils, our consular agent at Dieppe, informs that the American ship Hare, of New York, Captain Nathan Haley, of the burden of two hundred and eighty tons, has been sent into Dieppe on the 17th instant, having been captured by a French privateer. These captures alarm very much our traders. If this Government sanctions the doctrine held out at the tribunal at L'Orient, it would be tantamount to a state of warfare, as almost every vessel we have now in Europe are in that predicament.

J. C. MOUNTFLORENCE.

Major General PINCKNEY.

No. 8.

Extract of a letter from General Pinckney to the Secretary of State, dated

AMSTERDAM, *March* 8, 1797.

I have just received intelligence from Major Mountflorence, that the tribunal-civil of the Department of the Pas de Calais has confirmed the judgment of the tribunal of commerce, condemning as lawful prize the American vessel Royal Captain, John Bryant master and owner, for want of a sea-letter. I understand that it is a Captain Nathan Haley, an American, who commanded the privateer under French colors, which captured and carried into Dieppe, the 17th ultimo, the American ship Hare, commanded by a namesake and cousin of his, bound from England to New York, with a cargo, it is said, of fifty thousand pounds sterling. Mr. Barnet, our consular agent at Brest, informs me that several citizens of the United States, who were captured in British vessels, on board of which they had been pressed, are at present confined in the prisons of that place as prisoners of war, and suffer much by close confinement and bad provisions, and that all his solicitations in their behalf, since the latter end of January, have been in vain. These injurious acts to our countrymen and trade are exceedingly distressing, nor can it be said when they will cease. It is thought by many, and I believe justly, that the election of their new third will determine France either to conciliation or avowed hostilities; as much as I wish for the former, I wish the measures of our Government will be dispassionate and candid, but firm. Mean submissions are generally returned with contempt and renewed oppression.

No. 9.

To Mr. Monroe's Valedictory Address to the Executive Directory, the President replied:

Mr. Minister Plenipotentiary of the United States of America: By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants; moreover, the French Republic hopes that the successors of Columbus, Ramhiph,* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, sir, that, like them, we adore liberty; that they will always have our esteem; and that they will find in the French people republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected.

As to you, Mr. Minister Plenipotentiary, you have combated for principles; you have known the true interests of your country: depart with our regret. In you we give up a representative to America, and retain the remembrance of the citizen whose personal qualities did honor to that title.

No. 10.

Decree of the Executive Directory.

MARCH 2, 1797.

The Executive Directory having consulted the law of the 9th March, 1793, considering that the flags of neutral Powers being no longer respected by the enemies of the French Republic, and all the rights of men being violated to their prejudice, it is no longer permitted to the French people to fulfil toward those Powers, in general, that wish which they have so often manifested, and which they will constantly entertain for the full and entire freedom of commerce and navigation, directs, among other dispositions:

I. That ships of war and privateers may stop and bring into the ports of the Republic neutral ships, which shall be charged in whole or in part with merchandise belonging to the enemy.

II. That merchandise belonging to the enemy shall be declared good and lawful prizes, and be confiscated to the profit of the captors.

III. That, in all cases, neutral ships shall be released the moment that the merchandise seized is discharged; that the freight of it shall be paid at the rate which shall have been stipulated by the consignees; and that a just indemnity shall be granted, on account of their detention, by the tribunals competent to decide on the validity of prizes.

*Probably intended for Raleigh.

IV. That these tribunals shall be directed, besides, to send, three days, after the decision, a double inventory of the merchandise to the Minister of Marine, and another to the Minister for Foreign Affairs.

V. That the present law, applicable to all the captures that have been made since the declaration of war, shall cease to have effect as soon as the enemy shall have declared non-seizable, although destined for the ports of the Republic, the merchandise laden on board neutral ships which shall belong to the Government or to French citizens.

Having seen the law of the 27th July, 1793, which directs the foregoing law to be fully executed; having also seen the seventh article of the law of the 13th Nivose, third year, which enjoins all the agents of the Republic to respect and observe, in all their dispositions, the treaties which unite France to the neutral Powers of the Continent, and to the United States of America; considering that this last is not derogatory to the law of the 9th of May, 1793, resolves, as follows:

ART. I. The commissaries of the Executive Directory, with the civil tribunals of the departments, shall take care that, in the contests upon the validity of maritime prizes, no decision shall be founded on the seventh article of the law of the thirteenth Nivose, without the Minister of Justice having been previously consulted, conformably to the third article of the law of the eighth Floreal, fourth year, relative to the treaties, in virtue of which neutral persons pretend to withdraw themselves, by means of the first of these laws, from the execution of that of the 9th of March, 1793.

ART. II. The Minister of Justice shall examine whether the treaties still subsist, or whether they have been modified since the conclusion of them; there shall be furnished to them, by the Minister of Foreign Affairs, all the documents of which they shall stand in need, and reference shall be made to the Executive Directory, as is prescribed by the law of the eighth Floreal, fourth year.

ART. III. The Directory remind all the French citizens that the treaty concluded on the sixth of February, 1778, between France and the United States, has been, on the terms of the second article, modified of full right by that which has been concluded at London, on the 19th of November, 1794, between the United States of America and England: in consequence,

1. After the article seventeen of the Treaty of London of the 19th of November, 1794, all merchandise of the enemy's, or merchandise not sufficiently ascertained to be neutral, conveyed under American flags, shall be confiscated; but the ship on board of which such merchandise shall be found, shall be released, and given to the proprietor. The commissaries of the Directory are enjoined to accelerate, by all means in their power, the decision of the contests which shall arise, either upon the validity of the captures or the cargoes, or upon freights and insurances.

2. According to the eighteenth article of the Treaty of London, dated the 19th of November, 1794, relative to articles declared contraband by twenty-fourth article of the treaty, dated February 6th, 1778, are added the following:

Ship timber; oakum, pitch and rosin; copper for sheathing vessels; sails, hemp, and cordage; and everything which serves, directly or indirectly, to the arming and equipping of vessels, excepting bar iron, and fir in planks. These articles shall be confiscated as often as they shall be destined or attempted to be carried to the enemy.

3. According to the first article of the Treaty of London, of the above date, every American who shall hold a commission from the enemies of France, as well as of every seaman of that nation composing the crew of the ships and vessels, shall, by this fact alone, be declared piratical, and treated as such, without suffering the party to establish that the act was the consequence of threats or violence.

4. In pursuance of the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 28th of July, 1778, respecting the manning of vessels and neutral merchandise, shall be complied with, according to their form and tenor.

Every American ship shall therefore be deemed a lawful prize, which shall not have on board a bill of lading in due form, according to the plan annexed to the treaty of the 6th of February, 1778, the execution of which is enjoined by the twenty-fifth and twenty-seventh articles of that treaty.

5. The Commissioners of the Executive Directory are required to carry into effect the penalties that attach on all clandestine attempts that may be made by American, or vessels belonging to any other nation, to pass as neutral, on board the vessel where the fraud is attempted to be practised, in the manner that these penalties have been repeatedly carried into effect during the present war. The penalty shall attach where the blanks in the consignments or invoices are not filled up, though signed and sealed; where the papers are in the form of letters, containing fictitious signatures; where are double passports or policies, specifying different destinations; where consignment is made to two or more factors; and where there are different receipts or papers of any kind, which consign the whole or part of the same goods to different owners or different destinations.

6. By this article, provisions of the treaty of the ninth Frimaire last, relative to the freight and insurance, are repealed as far as they apply to insurance.

7. The present treaty shall be published in the bulletin of the laws. The Ministers of the Marine and of the Colonies, of Justice, and of Foreign Affairs, are charged with the execution of it in their respective departments.

REWBELL, *Pres.*
LEGARDE, *Sec. Gen.*

No. 11.

Extract of a letter from John Quincy Adams, Esquire, Minister Resident of the United States near the Batavian Republic, to the Secretary of State, dated

THE HAGUE, *November* 4, 1796.

In the letter from the Committee of Foreign Affairs, a copy of which was enclosed with my last, they have raised pretensions and used expressions, upon which I have not thought it necessary to anticipate the opinion which you will form, or the notice which you may think proper to take of them. But, as it is possible that the tone and ideas may appear extraordinary, I think it necessary to add a few observations, and some particulars of information, which will make them more accountable.

The general disposition, even of the patriotic party in this country, favors cordially and sincerely the neutrality of the United States. They have a very substantial reason for this disposition, as they are continually receiving remittances of interests upon their moneys loaned to the United States, and as these are almost the only public funds upon which the payments are still punctual, they apprehend that the difficulties and the necessities of war might produce a suspension or postponements on the part of the United States, similar to those of which many of the belligerent Powers have given examples. But, at the same time, the patriotic party can have no avowed will different from that which may give satisfaction to the Government of France. They feel a dependence so absolute and irremoveable upon their good will, that they sacrifice every other inclination, and silence every other interest, when the pleasure of the French Government is signified to them in such a manner as makes an election necessary.

I received, not long ago, an intimation that one of the members of the Committee of Foreign Affairs had confidentially communicated to a friend a circumstance which was intended to be kept profoundly secret: it was, that the French Government had determined to defeat, if possible, the treaty lately concluded between the United States and Great Britain, and had signified to the Committee of Foreign Affairs here their expectation that they would concur, with all their influence, towards the same object. The tenor of their letter strongly serves to show the accuracy of the information. The object which the last paragraph of their letter aims at, is not at all equivocal; but, in considering the manner in which they urge their proposals, the address with which they pursue their point may be ranged on a level with their logic. After having undertaken formally to justify the condemnation of the Wilmington Packet's cargo, because they concluded it to be French property, they make no difficulty to assume a right to *insist* upon the protection of Batavian property on board of American vessels. They call very loudly upon the United States to go to war with Great Britain, and make a *common cause* with the French and Batavian Republics. The whole of this singular passage might have excited a stronger sentiment than it did, had I not previously received the intimation mentioned above. Considering their language as dictated by an irresistible external impulse, an excuse for its singularity was derived from the necessities of their situation. In the answer which I have given, therefore, it was my endeavor to avoid every unnecessary discussion, and, as far as possible, every unpleasant expression; but the inconsistency of their pretensions with their own argument could not be passed without notice. Their oblique insinuation, of treaties formed by the United States militating with that before contracted with this Republic, I thought it necessary to repel in the most decided and explicit manner. Their assertion of *numerous services* rendered by their Republic to the American nation, authorized the reference in the answer to the reciprocal services and common utility, upon which I conceived the engagements between the two nations to be founded.

As they very clearly hint a wish that the United States should violate some treaty concluded after that with the Batavian Republic, and make a common cause with them and France, I thought the honor and dignity of my country, and its Government, required an explicit declaration in answer, that they would inviolably maintain their engagements with all other nations as faithfully as with this; but I did not think it necessary, though it might have been not unfair, to observe that their proposal, of a common cause to be made with the French Republic, could not be made by them without her concurrence, or that the energy which they would insist upon for the protection of their property in American vessels would be unnecessary, if it were efficaciously employed in giving security to the navigation of their own flag. It may be mentioned here that the American flag is not the only one for the honor of which these gentlemen have taken so deep and so generous a concern. They, some time since, interested themselves in a similar manner for the honor of the Danish neutrality, until they were given to understand, by the Count de Bernstorff, that the Government of Denmark was the proper judge of its own honor, and was not disposed to listen to their instigations upon its concerns with other nations.

No. 12.

Extract of a letter from the Committee of Foreign Affairs of the Batavian National Assembly, to the Minister Resident of the United States of America, dated

THE HAGUE, *September* 27, 1796.

We cannot let the present opportunity pass without requesting you to state to your Government, how useful it would be to the interests of the inhabitants of the two Republics, that the United States should at last seriously take to heart the numberless insults daily committed on their flag by the English; to represent to them that, when circumstances oblige our commerce to confide its interests to the neutral flag of American vessels, it has a just right to insist that that flag be protected with energy, and that it be not insulted at the expense of a friendly and allied nation. Deign to recall to the remembrance of the nation of which you are Minister, that the numerous services which our Republic has rendered to it, our reciprocal relations, as well as mutual utility, imperiously require that it should cease to view with indifference the manner in which the English act, who carry off, with impunity, from on board American vessels the property of Batavians. Lead them to perceive that reasons of convenience, treaties concluded subsequent to that with the Batavian Republic, cannot change or annul a treaty formally concluded and ratified between our two nations, between two nations who have equally suffered from the arrogance and despotism on the seas of proud Albion: in a word, between two nations *who, making common cause with the French Republic*, and governing themselves by the imprescriptible rights of nature, and of men, may render to the two hemispheres a peace for which humanity languishes.

No. 13.

Extract of a letter from John Quincy Adams, Esquire, Minister Resident of the United States at the Hague, to the Committee of Foreign Relations of the Batavian National Assembly, dated

THE HAGUE, *October* 31, 1796.

I shall not fail to transmit also to the Government of the United States the other observations which you have thought proper to make to me on this occasion. It does not belong to me to judge with what sentiments it will view that part of your letter, in which you complain of the seizure of Dutch property on board American vessels, when it compares it with the other part where you suppose that the quality, necessary to procure the protection of the American flag for the lading of a vessel, did not exist, because the lading appeared to you to be French property. But you, yourselves, on reflection, will, I hope, be convinced that these two claims are not easy to be reconciled.

But I will take upon myself, citizens, to assure you that it is unnecessary to remind the nation, whose Minister I have the honor to be, that "reasons of convenience, or treaties posterior to that concluded with the Batavian Republic, cannot destroy or annul that treaty." I can answer, before hand, that the Government of the United States is perfectly sensible of this truth, and has always conducted itself agreeably to the principles on which it is founded. In all posterior engagements it has reserved to itself the power of fulfilling all prior ones; it will ever fulfil those which reciprocal utility and services have caused it to contract with the Batavian Republic; and, while it religiously observes all the obligations of its treaties with other nations, it will, in like manner, observe all those which you have a right to demand from it.

No. 14.

Extract of a letter from John Quincy Adams, Esquire, Minister Resident of the United States at the Hague, to the Secretary of State, dated

THE HAGUE, *February* 17, 1797.

The neutrality of every other nation is as little respected by the French Government as that of the United States. They have recently proposed to Denmark to shut up the mouth of the Elbe against all British vessels.

No. 15.

Extract of a letter from Rufus King, Esquire, Minister Plenipotentiary of the United States, to the Secretary of State, dated

LONDON, *March* 12, 1797.

Mr. Adams will inform you from the Hague of what is passing in that quarter; but, lest his opportunities of writing should be less frequent than mine, it may be proper to state that I have reason to believe, though the French Government assign our treaty with England as the cause of their maritime conduct towards us, that they have recently demanded of Hamburg and Bremen to suspend all commerce with England. These cities have not yet complied, and the French Minister has been recalled from Hamburg. The same demand has been made at Copenhagen, and the refusal has produced a sharp diplomatic controversy. These Powers have made no late treaties with England.

No. 16.

Letter from the Minister of Spain to the Secretary of State,* dated

PHILADELPHIA, *May* 6, 1797.

SIR: The King, my master, desirous of drawing closer the connexions of friendship and good

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* PHILADELPHIA, *May* 24, 1797.

SIR: In the collection of documents referred to in the President's Speech, and printed for the use of the members of both Houses, I have seen the translation of the memorial I had the honor of presenting to you on the 6th instant, and, after a cursory perusal of it, I have observed with concern that the translation has not been exact in some particular passages; and, as it has been published and presented to Congress in that imperfect state, I shall take the liberty of pointing out to you, sir, those passages which appear to me most material, flattering myself you will be pleased to order the publication to be corrected.

In the 8th line, page 45, at the beginning of my memorial, it is said that the cession of a considerable portion of territory from Spain to the United States has been made *by agreeing to draw a line of demarcation* between the possessions of both parties. At a time when the sense of every proposition is so minutely examined into, I cannot pass over this without remarking to you, that, as every State has a right to a line of demarcation to its possessions, it is not only *by agreeing to draw limits* that the cession was made to the United States, but "*by the manner*" *in which His Catholic*

correspondence already subsisting between Spain and the United States, concluded with them, on the 27th of October, 1795, a treaty dictated by the most generous principles, opening to the Americans the navigation of the Mississippi to the ocean, and ceding to the United States a considerable portion of territory, by agreeing to draw a line of demarcation between the possessions of both parties. Equally animated by the desire of diminishing for humanity the horrors of war, he adopted the liberal principle that *free ships shall make free goods.* This stipulation was in reality an incalculable advantage for the American citizens, who, by the extension of their navigation, the geographical situation of their country, and the nature of their political connections at that epoch, promised a neutrality as advantageous as durable. At the same time, His Majesty agreed by the said treaty that articles necessary for the construction and repair of vessels should not be deemed contraband. In a word, the concessions on the part of Spain for cementing a sincere union between both nations were such, that the treaty was received throughout the United States with enthusiasm, and with the most evident marks of general approbation. In these circumstances, the King, my master, who had so efficaciously advanced the interests of America, promised himself, by the effect of a good correspondence, as sacred among nations as between individuals, that the United States at least would not contribute to the injury of Spain. What should be the surprise [*admiracion*] of His Majesty on knowing that this country had contracted engagements with England prejudicial to his rights, and to the interests of his subjects, nearly at the same time in which, with so much liberality, he was giving to the United States the most striking proofs of the most sincere friendship.

Upon the whole, the King, my master, well persuaded that England, in her treaty with America, had *surprised* the good faith of the Federal Government, reserved to himself to make, on a proper opportunity, the necessary representations; not doubting but that the equity of the United States would place Spain, in relation to other Powers, upon that footing of equality, without which the neutrality adopted by America would exist only in appearance, and be purely nominal; but experiencing, since the declaration of the war against Great Britain, injuries and evils which he had foreseen from the moment he was informed of the English Treaty, he finds himself under the necessity of anticipating this step, and therefore has ordered me to make to this Government, through you, the following observations:

By the 15th article of the treaty concluded between His Majesty and the United States, it is stipulated that the subjects of the King, and the American citizens, may navigate with their vessels and cargoes freely to all the ports, except such as are declared blockaded, making the neutral flag secure the goods which they may have on board, so that they cannot be seized, even though they should belong to an enemy. His Majesty hastened with pleasure to adopt a principle so useful to humanity, although for the reasons hinted above it was to operate more advantageously to the American citizens than to his subjects. His Majesty ought to have expected, on the part of the American Government, dispositions equally friendly, and as their adoption would not prove injurious to those Powers who should establish them, that this should form a general rule in all their engagements of a like nature; but, unfortunately, the 17th article of the English Treaty has dissipated this agreeable hope: for, it not only permits English vessels to take and carry into port those of America, upon the arbitrary ground of suspicion, but also to take and seize an enemy's property or merchandise found under the American flag. In short, the principle, *that free ships make free goods*, was then destroyed; and His Majesty is reduced to the disadvantageous situation of seeing the property of his subjects seized with impunity, under the safeguard of neutrality, whilst a state of war requires that his squadrons and ships should respect English property on board of American vessels. Can it then be supposed, with good faith, that the King intended voluntarily to go into a stipulation, the observance of which should require from his subjects nothing but detriment and injury? An adherence to the principle adopted by the King implicitly leads him to a reciprocity complete in all its circumstances.

Nor are the injuries to Spain, arising out of the 18th article of the treaty with Great Britain, less palpable. From it, like the preceding, arise great losses to the American navigation; but the damages which the subjects of the King, and his royal service experience, are still of much greater consideration. By that article, England and the United States agree, that timber for ship building, tar, rosin, copper in sheets, sails, hemp, cordage, and, generally, whatever may serve directly to the equipment of vessels, shall be declared contraband. In the 16th article of the treaty with Spain, after enumerating those articles which should be deemed such, it is stipulated, that all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sailcloth, anchors, wood of all kinds, and all other things proper for the construction and repair of vessels, shall be looked upon as articles of free commerce. What, then, is the consequence of these contradictory stipulations? Is it not abandoning to England the exclusive commerce of naval stores? And is it not giving her, in a maritime war like the present, a powerful arm, which she uses to the injury of Spain, whilst the latter must suffer from avarice, or the high price of an article to her so absolutely necessary? You will say in reply, that Spain entered voluntarily into these stipulations; but could it ever have been expected that America would have made, almost at the same moment, such, on her part, as should cause the King, my master, to repent of his generosity and great beneficence.

In the preamble to the Spanish Treaty, its object is said to be for the mutual advantage and reciprocal utility of both countries. I leave you to determine what advantages either Spain or America can derive from the 15th and 16th articles of their treaty, whilst those of the 17th and 18th of the English Treaty remain in full force.

Thus far I have represented merely the injury done to the interests of Spain; but I shall now state to you a point in which her rights are essentially concerned—I mean the navigation of the Mississippi.

The just ground upon which Spain refused to acknowledge the mutual and illegal cession which England made to the United States, in the 8th article of the treaty of 3d of September, 1783, of the free navigation of the Mississippi to the ocean; the necessity in which America has found herself of recurring to a special treaty with Spain for obtaining it; and, above all, the tenor of the 4th article of the said treaty, in which it is agreed that the free navigation of the said river to the ocean belongs *exclusively* to the subjects of the King, and to the citizens of the United States, had given His Majesty reason to believe that the Federal Government, by this stipulation, annulled, as illegal, the claim which it had made with England, as to this point, in the 8th article of the treaty of 1783. But His Majesty has seen, with equal surprise, that the United States not only pretend to confirm that right to England, by the 3d article of their Commercial Treaty, but that they have, since the conclusion of that with Spain, in which the navigation of the Mississippi is confined *exclusively* to the Spaniards and Americans, agreed to the explanatory article signed here by yourself and the English Chargé des Affaires, Mr. Bond, on the 4th of May, 1796, in which it is declared, "that no other stipulation or treaty concluded since by either of the contracting parties, with any other Power or nation, is understood in any manner to derogate from the right to the free communication and commerce guarantied by the 3d article of the treaty to the subjects of His Britannic Majesty."

The King, my master, finds so much the more difficulty in reconciling this stipulation concerning the navigation of the Mississippi, in article 3d, of the English Treaty, confirmed by the explanatory article of the 4th of May, with the 4th article of that with Spain, as, on examining the original right of England, none is found to exist, and the United States alone hold that which Spain ceded in the said article of the treaty with them. In order to convince you of this, let us examine the stipulations of former treaties, from which I give the following extract:

By the 6th article of the preliminary treaty made on the 3d November, 1762, between France and Great Britain, and by the definitive treaty signed on the 10th of February, 1763, it is stipulated that all that part of Louisiana situated on the east of the Mississippi, excepting New Orleans and its dependencies, should belong to Great Britain.

By the 8th article of the provisional treaty concluded between the United States of America and Great Britain, on the 30th November, 1782, and the definitive treaty signed on the 3d of September, 1783, it is stated that the navigation of the Mississippi, from its source to the ocean, shall for ever remain and be free to the subjects of Great Britain and the citizens of the United States.

By the preliminary articles of the treaty concluded between Spain and England, and the definitive treaty signed on the 3d of September, 1783, Great Britain ceded to Spain all East and West Florida, which two provinces were the only territory that that nation had remaining in this part of the continent.

In the 5th article, in which this cession is stipulated, not a single word is said relative to the navigation of the Mississippi, nor do the other articles say anything on the subject.

When England signed these preliminary articles with the United States of America, in 1782, Great Britain still held the right to East and West Florida, because *then* she had not ceded *for ever* those provinces to Spain, as is proved afterwards by the treaty of 1783, and without the least mention therein of the Mississippi.

Therefore, England having ceded East and West Florida in 1783, and not having reserved the right to the navigation of the Mississippi, of course lost it entirely when she made Spain mistress of the two banks.

The only right which the United States had in the navigation of that river was founded on the stipulations derived from England; but having changed their political existence by the declaration of their independence, and having, by this act, separated their interests from those of Great Britain, the liberty of navigating the Mississippi

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Majesty agreed it should be done—and this is the literal sense of my words.

In the sixteenth line of the same page, speaking of the advantages arising to the American citizens from the principle that free ships shall make free goods, it is said in the translation, that this stipulation *promised a neutrality as advantageous as durable*, when in my memorial I say, *that the Americans*, for reasons therein assigned, *would promise themselves a neutrality as advantageous as durable.*

In page 47, it is said, *whilst a "state of war" requires that his squadrons and ships should respect English property on board of American vessels*; the sense of my words is quite different; *whilst it may be required of his squadrons and ships to respect English property on board of American vessels.*

In the thirty-seventh line of the same page, it is said, *whilst the latter must suffer from "avarice," or the high price of an article to her so absolutely necessary.* My words are: *whilst the latter may suffer from the "want" or high price of an article, &c.*

There are several other passages where the language is materially altered; but, as the sense is preserved, I shall not trouble you about them: I shall only take the liberty to observe, that, had you been pleased to have sent me the translation previous to its publication, I could have corrected it, and saved you the trouble of this letter. As the translation of my memorial has appeared in the newspapers, I shall, through the same channel, publish this letter, in order to have these mistakes removed.

I have the honor to be, with great respect, sir, your most obedient servant,

LE CHEVALIER D'YRUJO.

TIMOTHY PICKERING, Esq.

did not follow to the United States, but by a special treaty which has just been concluded between Spain and this country.

So far good; how can the United States, without the consent of Spain, cede to England the right of navigating the Mississippi, which is granted only to themselves? And in virtue of what privilege can the Federal Government give the navigation of this river to a nation who has renounced all her rights through the medium of solemn treaties, and who not only does not hold a single port, but also does not possess a single inch of land on its banks?

This simple exposition, in conjunction with the opinion of all jurists, that the navigation of rivers naturally belongs to him who possesses the two banks, evidently manifests the injury done to the rights of Spain in the 3d article of the English Treaty, and the explanatory article signed on the 4th of May, 1796.

The King of Spain, desirous of preserving the best harmony and friendship with this country, as protector of the interests of his subjects, has ordered me to represent to this Government what I have just mentioned; and His Majesty, relying upon the equity of his demands, hopes that the United States, animated by the same sentiments, will come to a composition which, without injuring the American citizens, shall insure the happiness of his subjects, and guard the rights of his sovereignty.

I, with pleasure, embrace this opportunity of renewing my wishes to serve you, and that God may preserve your life many years.

Your most obedient servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq.,
Secretary of State.

No. 17.

Letter from the Secretary of State to the Minister of His Catholic Majesty, dated

DEPARTMENT OF STATE,
Philadelphia, May 17, 1797.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, which has been laid before the President of the United States. It contains three subjects of complaint, as arising out of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain.

1. That the principle, that free ships make free goods, is thereby destroyed; the 17th article not only permitting English vessels to take and carry into port those of America, upon the arbitrary ground of suspicion, but also to take and seize enemies' property or merchandise found under the American flag.

2. That, by the 18th article of that treaty, timber for ship building, tar, rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, are declared contraband.

3. That, by the 3d article of that treaty, and the explanatory article added thereto, the United States have ceded and confirmed to Great Britain the right of navigating the river Mississippi; a right which you say the United States themselves acquired only by virtue of their treaty with Spain.

Your letter also contains various intimations, which, in connexion with these three topics of complaint, it will be proper for me to notice.

It is very true, that our treaty with Spain was received throughout the United States with satisfaction and general approbation, because it closed a dispute which had been pending many years between the two countries, by His Catholic Majesty's acceding to the claims of the United States (which they deemed founded in right) to the free navigation of the Mississippi, from its source to the ocean, and to their southern boundary line as described in the Treaty of Peace of 1783, between the United States and Great Britain. We were also satisfied with the engagement of His Catholic Majesty to compensate our mercantile citizens for the losses they had sustained by the capture of their vessels and cargoes by the subjects of His Majesty, during the late war between Spain and France. All these were acts of substantial justice, which were necessarily approved by every upright mind. All the other stipulations of the treaty between the United States and His Catholic Majesty were wholly voluntary, and perfectly reciprocal; so that neither of the two contracting parties could say that they had granted or received a favor. I make this observation, because of the numerous intimations in your letter, that, by these other stipulations, benefits and advantages had been granted by His Catholic Majesty to the United States, without receiving from them any equivalent; intimations for which we see no foundation. To instance in the articles which constitute the two first subjects of your complaint.

1. Free ships shall make free goods. It is impossible that the two contracting parties should ever have conceived that this rule, as between themselves, could have any operation, except when one was at war and the other at peace. The United States being in the latter situation, have a right to carry in their vessels goods of the enemies of Spain, without being liable on that account to capture. On the other hand, if the United States were at war, and Spain at peace, her subjects would have a right to transport in their vessels the goods of our enemies, free from capture by the armed vessels of the United States. And thus this stipulation is exactly equal on both sides.

2. Ship timber and naval stores are, by the law of nations, contraband of war. But the United States and Spain, for their mutual benefit, agreed to consider them as free goods, in order that either party, remaining at peace, might safely continue its commerce in those articles, even by carrying them to the enemies of the other. And thus this rule will operate equally, like the former.

You compare the liberal stipulations in these two articles with those of a contrary nature in the treaty between the United States and Great Britain, and ask, what should be the surprise [*admiracion*] of His Catholic Majesty on knowing

of the latter engagements? After remarking that, if those stipulations were liberal on the part of Spain, they were alike liberal on the part of the United States, seeing they were perfectly reciprocal; permit me to say, that the engagements with Great Britain do not appear to offer any cause for "surprise" on the part of his Catholic Majesty, because His Majesty had seen, during the whole course of the American war, how steadily Great Britain persisted, in opposition to the demands of all the maritime Powers, to maintain her claims, under the law of nations, to capture enemies' property, and timber, and naval stores, as contraband, in neutral ships. His Majesty had also seen, in the present war, in which he was for a time a party with Great Britain against France, that Great Britain continued to avow and practise upon the same principles. And with such a perfect knowledge of the principles and conduct of Great Britain, and while she was still engaged in the war with a Power which she strenuously endeavored to deprive of timber and naval stores, and whose mercantile shipping was greatly reduced, could His Catholic Majesty expect that Great Britain would relinquish her legal rights to a nation (the United States) which abounded in materials for building and equipping ships, and whose vessels, adapted to the carrying trade, traversed every sea, and visited every quarter of the globe? You seem to imagine there is the more reason for "surprise," because, as you say, the engagements between the United States and Great Britain were contracted "nearly at the same time"—"almost at the same moment," with our stipulations with his Catholic Majesty. But allow me to bring to your recollection the periods when these different treaties were formed. That with Great Britain was concluded on the 19th day of November, 1794; that with Spain on the 27th October, 1795. Further, the treaty with Great Britain was published in Philadelphia on the first day of July, 1795, almost four months befor the treaty with His Catholic Majesty was concluded, and nearly ten months before it received his ratification, at which time (Spain and the United States being then at peace with all the world) it does not appear that His Catholic Majesty found the smallest difficulty in giving his final sanction to his treaty with the United States, on account of their prior treaty with Great Britain. Moreover, Mr. Thomas Pinckney, who negotiated the treaty with Spain, being privy to the whole negotiation with Great Britain, and perfectly acquainted with every article of the British Treaty, it is hardly to be doubted that he communicated to the Prince of Peace every information concerning it which had any relation to his negotiation with Spain. The mode of proceeding in the cases of captures of American vessels, is precisely the same in both treaties, and the most material expressions in the 7th article of the British Treaty are copied into the 21st of the treaty with Spain.

I am now to consider your third complaint—that relating to the navigation of the Mississippi.

You enter into an examination of the right of the United States to this navigation, and draw this conclusion, that their right is derived solely from the cession of His Catholic Majesty by the 4th article of his treaty with the United States. Hence you are induced to ask, "How can the United States, without the consent of Spain, cede to England the right of navigating the Mississippi, which is granted only to themselves?" If, sir, your statement was correct, there could be no question in the case. If the right of the United States to the navigation of the Mississippi *originated* in their treaty with Spain, which was concluded on the 27th of October, 1795, it requires no argument to prove that they could not have granted the right of that navigation to Great Britain on the 19th of November, 1794.

But I might deny that the United States *ever* granted the right of navigating the Mississippi to Great Britain. A recurrence to the treaties, to which you refer, will prove that she possessed that right by the peace of 1763, and that she has never formally relinquished it. I do not, indeed, conceive the inquiry essential to the subject of your present complaint; but, as you have thought fit to go into it, you will allow me to follow you.

By the definitive treaty of peace concluded the 10th of February, 1763, France, then possessed of Louisiana, ceded to Great Britain all her possessions on the east side of the Mississippi, except the town and island of New Orleans. And it was likewise stipulated "that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole length and breadth, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth." The people of the United States being then subjects of the King of Great Britain, they of course participated in the right of navigating the river Mississippi, and by the 8th article of the provisional treaty between the United States and Great Britian, concluded the 30th of November, 1782, and the definitive treaty of peace concluded the 3d of September, 1783, this right was confirmed, it being therein stipulated that "the navigation of the river Mississippi, from its source to the ocean, shall for ever remain free and open to the subjects of Great Britain and the citizens of the United States.

By the definitive Treaty of Peace between Spain and Great Britain, concluded the 3d of September, 1783, the latter ceded to Spain "East Florida, as also West Florida;" but the river Mississippi, as you observe, is not even mentioned in the treaty. What is the just inference from this circumstance, the United States need not decide. Doubtless Great Britain conceived it important to hold a right to the navigation of it, and all parties, at that time, certainly supposed that parts of her territories joined its eastern side, and probably no one can now say they do not. But however this silence with regard to the navigation of the Mississippi, in the treaty between Spain and Great Britain, may be construed; whether the latter, by not reserving, is to be considered as re-

linquishing her right to it; or by not expressly relinquishing, is to be understood to retain it, it is proper to consider the nature and effect of the stipulations on this subject, between her and the United States.

When peace was made between the two Powers in 1783, both were entitled to the free navigation of the Mississippi, and both desiring to preserve this right, they mutually stipulated for its continuance; but neither is pledged to maintain it for the other, though each is bound not to interrupt the other in the exercise of that right. The Treaty of London, concluded on the 19th of November, 1794, contains, as to this point, no new grant on either side; but their respective rights are recognised, it being declared in the third article, that "the river Mississippi shall, according to the Treaty of Peace, be entirely open to both parties." Had this declaration been wholly admitted, the right of Great Britain to the navigation of the Mississippi would have been neither increased nor diminished. But because the fourth article of the subsequent treaty with Spain excited some apprehensions in Great Britain, that it might countenance an attempt to exclude her from the navigation of the Mississippi, the explanatory article which you mentioned was formed, declaring, that no stipulations in any treaty subsequently concluded by either party, can be understood to derogate from the rights of free intercourse and commerce secured by the said third article to the subjects of His Britannic Majesty, and to the citizens of the United States. The fourth article of our treaty with Spain received its peculiar form with the design that it might not derogate from the prior stipulations of the United States with Great Britain. And this, as I shall presently show you, was perfectly understood by the Government of Spain. And let me assure you, that the Federal Government no more seeks the excuse than it merits the imputation, "that England, by her treaty with America, had surprised its good faith."

In discussing their respective projects of a treaty, it appears that the Prince of Peace, on the part of Spain, proposed that Mr. Pinckney, on the part of the United States, should enter into a stipulation which would have gone to the exclusion of Great Britain from the navigation of the Mississippi. To this project Mr. Pinckney returned the following answer:

Extract from the "Notes on the project of a Convention proposed by His Excellency the Prince of Peace, September 25, 1795."

The words "alone" and "exclusively" should be omitted; for Spain could scarcely confide in the good faith of the United States, or in the convention which she is about to conclude with them, if they agreed to an article which would be an infraction of a treaty previously concluded: for, by the Treaty of Peace between the United States and Great Britain, concluded in 1783, it is stipulated that the navigation of the river Mississippi shall continue free to the subjects of Great Britain and to the citizens of the United States."

Here, sir, you see that the Federal Government, far from "giving His Catholic Majesty (as you suggest) reason to believe that they had annulled, as illegal, the claim which they had made with England as to this point, in the eighth article of the treaty of 1783," expressly declared that the attempt would be a violation of the good faith of the United States pledged to Great Britain in that treaty.

To get rid of the embarrassment, the particular form of expression which we find in the fourth article of the treaty with Spain was adopted. You will observe, sir, that this, like every other treaty, contains, generally, the joint stipulations of the contracting parties. Such is the stipulation of the United States and Spain in the beginning of the fourth article: "It is likewise agreed that the western boundary of the United States which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said States to the completion of the thirty-first degree of latitude north of the equator." Then follows the clause respecting the navigation of the Mississippi. "And His Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth, from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention." Here Spain is the sole party to the excluding cause. And the twenty-first article of the treaty presents a similar instance of a joint and separate stipulation. The two contracting parties jointly agree on the mode of adjusting the claims of American citizens for the losses they had sustained from the capture of their vessels by the subjects of Spain: and then "His Catholic Majesty undertakes to cause the same to be paid." Now it might with as much propriety be affirmed that the United States are by this clause bound to contribute (and equally with His Catholic Majesty) to those payments, as be inferred from the declaration of His Catholic Majesty singly, in the fourth article, relative to the exclusive navigation of the Mississippi, that the United States have thereby engaged to exclude from it the subjects of Great Britain.

The simple fact is, that the United States were contending with Spain for the free navigation of the Mississippi for themselves; and by this clause in the fourth article of the treaty their claim was admitted. Any declaration of His Catholic Majesty alone, to exclude other nations, was to them quite immaterial.

Thus, sir, I have answered to all your complaints, and, I hope, satisfactorily. The United States, equally with His Catholic Majesty, are desirous of preserving the best harmony between the two countries; and the American Government will always be disposed to adopt any proper measures for that end.

I have the honor to be, &c.,

TIMOTHY PICKERING.

The Chevalier de Yrujo,
Envoy Extraordinary, &c.

No. 18.

Copy of a letter from General Pinckney to the Secretary of State, dated

Paris, *February* 1, 1797.

Dear Sir: The day after I had enclosed my last of the 24th ultimo, (No. 5) intelligence was received that Bonaparte had obtained a most brilliant victory in Italy; that he had made twenty-three thousand Austrian prisoners, killed and wounded six thousand, and had taken sixty pieces of cannon, and twenty-four standards; and the day after the arrival of this news, the following letter was written to me by Mr. De la Croix:

The Minister of Foreign Affairs to Mr. Pinckney, Anglo-American.

Paris, *the 6th Pluviose,*
Sixth year of the French Republic, one and indivisible.

The Executive Directory has charged me to make known to you, that not having obtained special permission to reside at Paris, you are amenable to the law which obliges foreigners to quit the territory of the Republic. I had the honor of informing you near two months ago, by the principal Secretary of my department, of the intentions of the Government in this respect. I cannot dispense with notifying you of them to-day. Receive, sir, &c.

CH. DE LA CROIX.

To which I returned the following answer:

To the Minister of Exterior Relations.

Paris, *7th Pluviose*, 1797.

Citizen Minister: I did not receive, until 3 o'clock to-day, your note in date of the 6th inst., informing me that the Directory had charged you to acquaint me, that not having obtained particular permission to reside at Paris, I was subject to the law which obliged strangers to quit the territory of the Republic. I intimated to you some time since, by the Secretary General of your department, and by Major Rutledge, my Secretary, that I deemed a notification of this sort, in writing, from you necessary, previous to my departure. Having now received it, I shall, without delay, prepare to go, and, in the meanwhile, will be obliged to you for the necessary passports for myself and family, with our baggage, to quit the Republic, in my way to Holland. Accept citizen Minister, &c.

CHARLES C. PINCKNEY.

I should have made some observation on being termed Anglo-American, but, on inquiry, I found it was customary to call all my countrymen so, to distinguish us from the inhabitants of St. Domingo and the other French West India islands. I have received my passports, and shall, in two days, set out for Amsterdam. I know not what has occasioned this determination of the Directory after having permitted me to remain here so long a time from their refusal to acknowledge me. You will judge whether the answer of the Senate and the House of Representatives to the President's Speech, and the late successes in Italy have not concurred to occasion it. Mr. De la Croix assured Major Rutledge, that he acted by the express orders of the Directory in this particular, and not from himself.

Your letter of the 26th of November, with the duplicate of your letter of the same month, (the original of which has not reached me) I received the 29th ultimo, and am happy to find that Mr. Adet's disorganizing manœuvres have been treated by my countrymen in the manner they deserved, and that his attempts to divide has tended to unite them. I most ardently wish that we would banish all party distinctions and foreign influence, and think and act only as Americans, for all parties in this country unite in thinking that we ought to act as if we were altogether their dependents, and indebted to them solely, and not to our own exertions for our liberty and independence. Hence our treaty with Great Britain is here generally execrated, and our having any kind of commercial connexion with that country, even if the treaty had not been made, would, I believe, have been disliked. They wish to destroy the trade of Great Britain, and they look upon us as one of her best customers; and, to obtain their object, they care not what we suffer. I shall write to you again as soon as I arrive at Amsterdam. Please to direct me, under cover, to our bankers there, and be assured I am, &c.

CHARLES C. PINCKNEY.

Col. Pickering, *Secretary of the U. S.*

TRIPOLI.

[Communicated to the Senate, May 26, 1797.]

United States, *May* 26, 1797.

Gentlemen of the Senate:

I lay before you, for your consideration and advice, a treaty of perpetual peace and friendship between the United States of America and the Bey and subjects of Tripoli, of Barbary, concluded, at Tripoli, on the 4th day of November, 1796.

JOHN ADAMS.

Treaty of Peace and Friendship between the United States of America and the Bey and Subjects of Tripoli, of Barbary.

Article 1. There is a firm and perpetual peace and friendship between the United States of America and the Bey and subjects of Tripoli, of Barbary, made by the free consent of both parties, and guarantied by the most potent Dey and Regency of Algiers.

Art. 2. If any goods belonging to any nation, with which either of the parties is at war, shall be loaded on board of vessels belonging to the other party, they shall pass free, and no attempt shall be made to take or detain them.

Art. 3. If any citizens, subjects, or effects, belonging to either party, shall be found on board a prize vessel taken from an enemy by the other

party, such citizens or subjects shall be set at liberty, and the effects restored to the owners.

ART. 4. Proper passports are to be given to all vessels of both parties, by which they are to be known. And considering the distance between the two countries, eighteen months, from the date of this treaty, shall be allowed for procuring such passports. During this interval the other papers, belonging to such vessels, shall be sufficient for their protection.

ART. 5. A citizen or subject of either party having bought a prize vessel, condemned by the other party, or by any other nation, the certificates of condemnation and bill of sale shall be a sufficient passport for such vessel for one year; this being a reasonable time for her to procure a proper passport.

ART. 6. Vessels of either party, putting into the ports of the other, and having need of provisions or other supplies, they shall be furnished at the market price. And if any such vessel shall so put in, from a disaster at sea, and have occasion to repair, she shall be at liberty to land and re-embark her cargo without paying any duties. But in no case shall she be compelled to land her cargo.

ART. 7. Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her people; no pillage shall be allowed; the property shall remain at the disposition of the owners; and the crew protected and succored till they can be sent to their country.

ART. 8. If a vessel of either party should be attacked by an enemy, within gun-shot of the forts of the other, she shall be defended as much as possible. If she be in port she shall not be seized on, or attacked, when it is in the power of the other party to protect her. And when she proceeds to sea, no enemy shall be allowed to pursue her from the same port, within twenty-four hours after her departure.

ART. 9. The commerce between the United States and Tripoli; the protection to be given to merchants, masters of vessels, and seamen; the reciprocal right of establishing Consuls in each country; and the privileges, immunities, and jurisdictions, to be enjoyed by such Consuls, are declared to be on the same footing with those of the most favored nations respectively.

ART. 10. The money and presents demanded by the Bey of Tripoli, as a full and satisfactory consideration on his part, and on the part of his subjects, for this treaty of perpetual peace and friendship, are acknowledged to have been received by him previous to his signing the same, according to a receipt which is hereto annexed, except such part as is promised, on the part of the United States, to be delivered and paid by them on the arrival of their Consul in Tripoli; of which part a note is likewise hereto annexed. And no pretence of any periodical tribute of further payments is ever to be made by either party.

ART. 11. As the Government of the United States of America is not, in any sense, founded on the Christian religion; as it has in itself no character of enmity against the laws, religion, or tranquillity, of Mussulmen; and, as the said States never entered into any war, or act of hostility against any Mahometan nation, it is declared by the parties, that no pretext, arising from religious opinions, shall ever produce an interruption of the harmony existing between the two countries.

ART. 12. In case of any dispute, arising from a violation of any of the articles of this treaty, no appeal shall be made to arms; nor shall war be declared on any pretext whatever. But if the Consul, residing at the place where the dispute shall happen, shall not be able to settle the same, an amicable reference shall be made to the mutual friend of the parties, the Dey of Algiers; the parties hereby engaging to abide by his decision. And he, by virtue of his signature to this treaty, engages for himself and successors to declare the justice of the case, according to the true interpretation of the treaty, and to use all the means in his power to enforce the observance of the same.

Signed and sealed at Tripoli, of Barbary, the 3d day of Junad, in the year of the Hegira 1211—corresponding with the 4th day of November, 1796, by

JUSSOF BASHAW MAHOMET, *Bey.*
MAMET, *Treasurer.*
AMET, *Minister of Marine.*
SOLIMAN KAYA.
GALEL, *General of the Troops.*
MAHOMET, *Commander of the City.*
AMET, *Chamberlain.*
ALLY, *Chief of the Divan.*
MAMET, *Secretary.*

Signed and sealed at Algiers, the 4th day of Argill, 1211—corresponding with the 3d day of January, 1797, by

HASSAN BASHAW, *Dey,*

And by the agent Plenipotentiary of the United States of America,

JOEL BARLOW.

FRANCE.

[Communicated to the Senate, May 31, 1797.]

UNITED STATES, *May* 31, 1797.

Gentlemen of the Senate:

I nominate General Charles Cotesworth Pinckney, of South Carolina, Francis Dana, Chief Justice of the State of Massachusetts, and General John Marshall, of Virginia, to be jointly and severally Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

After a mature deliberation on the critical situation of our relations with France, which have long engaged my most serious attention, I have determined on these nominations of persons to negotiate with the French Republic, to dissipate umbrages, to remove prejudices, to rectify errors, and adjust all differences, by a treaty between the two Powers.

It is, in the present critical and singular circumstances, of great importance to engage the confidence of the great portions of the Union in the characters employed, and the measures which may be adopted. I have, therefore, thought it expedient to nominate persons of talents and integrity, long known and intrusted in the three great divisions of the Union, and, at the same time, to provide against the cases of death, absence, indisposition, or other impediment, to invest any one or more of them with full powers.

JOHN ADAMS.

SPAIN.

[Communicated to Congress, June 13, 1797.]

REPORT of the Secretary of State to the President of the United States, of the proceedings of Andrew Ellicott, Esq., Commissioner for running the boundary line between the United States and East and West Florida.

DEPARTMENT OF STATE, *June* 10, 1797.

The Secretary of State respectfully reports to the President of the United States the substance of the information received the 8th instant, from Andrew Ellicott, Esq., the Commissioner of the United States appointed to run the boundary line between their territory and His Catholic Majesty's colonies of East and West Florida.

Although Mr. Ellicott left Philadelphia in September, 1796, to proceed, by the Ohio and Mississippi rivers, to the Natchez, the place appointed by the Treaty with Spain, at which the Commissioners of the two Governments were to meet, yet, owing to the lowness of the waters of the Ohio, he did not reach its mouth until the 19th of December; two days after which, both the Ohio and Mississippi were almost frozen over. On the 21st of January the ice began to give way, and their store-boat arriving on the 28th, they proceeded the 31st for the Natchez. On the 21st of February, Mr. Ellicott received a letter (No. 1) from His Catholic Majesty's Governor, Gayoso de Lemos, dated at the Natchez, the 17th of February, mentioning the information he had received of his approaching arrival, attended by a military guard and some woodsmen, and desiring that the troops might be left about the mouth of Bayou Pierre, assigning for his reason that, thereby, every unforeseen misunderstanding between the troops of the two Powers would be prevented. With this request, from views of accommodation, Mr. Ellicott complied. Bayou Pierre is about sixty miles above the Natchez.

On the 24th of February, Mr. Ellicott reached the Natchez, and immediately by a letter acquainted Governor Gayoso of his arrival. The Governor, on the same day, returned an answer, (No. 2.) The day following they had an interview, and fixed on the 19th of March to proceed down the river to Clarkesville, near which place it was supposed the line would commence. The Monday following, February 27th, Mr. Ellicott wrote a letter (No. 3) to the Baron de Carondelet, His Catholic Majesty's Governor General of Louisiana, and the Commissioner named by the Court of Spain, for ascertaining the boundary line, to inform him of his arrival at the Natchez, as the Commissioner of the United States. The Baron's answer, (No. 4) dated March 1st, was received the 9th, and on the same day Governor Gayoso waited on Mr. Ellicott, and informed him that the Baron, in consequence of interesting concerns below, had declined to attend, and that the whole business had devolved on him. Mr. Ellicott expressed his satisfaction, because he expected that he, Governor Gayoso, would immediately be ready to proceed. The Governor answered: "No time shall be lost; but I fear I shall not be ready by the 9th; and, although the Baron declines acting, on account of the business which demands his constant attention at Orleans, he is, nevertheless, desirous of having an interview with you; and, for that purpose, has ordered a galley to be fitted up for your use and accommodation to New Orleans." Mr. Ellicott considered that the third article of the treaty with Spain required the Commissioners for running the boundary line to meet at the Natchez; and that being then at his post, it was his duty to remain there until the Spanish Commissioner should be ready to proceed with him to the place where the line should commence; and, therefore, he declined the Baron's invitation.

On the 27th of February, Mr. Ellicott encamped at the upper end of the town of Natchez, about a quarter of a mile from the fort occupied by the Spanish troops; and, two days after, hoisted the flag of the United States. Upon this he received a verbal message from Governor Gayoso, by his aid, Major Minor, desiring the flag might be taken down, which Mr. Ellicott declined doing. The request was not repeated. Here Mr. Ellicott began his astronomical observations, and found the hill on which he was encamped to be in latitude 31 degrees 33 minutes 46 seconds, or about 39 miles north of the south boundary of the United States.

In this situation Mr. Ellicott was told alarming stories about the unfavorable disposition of the Indians, under an idea that the United States were meditating their destruction. The whole settlement was for some days swarming with them, and they frequently went about his camp with drawn knives. For his own safety he frequently issued provisions to them. Thus critically circumstanced, he, on the 11th of March, wrote to Governor Gayoso the letter, (No. 5) to which he received the answer, (No. 6.) But, in the mean time, Mr. Ellicott had sent an express to the commanding officer of his escort (consisting only of twenty-five men) which, in compliance with the Governor's first request, he had left sixty miles up the river, to come down directly to the Natchez; and being determined not to countermand this order, he, on the 13th, wrote to Governor Gayoso the letter No. 7, proposing Bacon's landing, about a mile below his camp, for the station of his escort; but before this letter was sent, he had an interview with the Governor,

who undertook to prove the propriety and necessity of the whole party from the United States going down the river to Clarke's place, and closed his reasoning, by observing that, if the escort did land at the Natchez, he should consider it as an insult offered to the King, his master. Mr. Ellicott then telling the Governor that he should send him immediately an answer, in writing, observed, that the desire which was constantly manifested to draw him from that place (the Natchez) appeared very singular, as it was designated in the late treaty between His Catholic Majesty and the United States, as the place of meeting for the Commissioners; and, therefore, that he should reject every proposition that was intended to draw him from his present situation, until the Commissioner and surveyor on behalf of the Crown of Spain were ready to proceed to business. To which the Governor replied, "Sir, you either mistake my meaning, or I have expressed myself very badly. I do not want you to leave this place; but, on the contrary, I am desirous for you to take up your residence in my house; you will live there much more comfortably than in a tent." Mr. Ellicott said that his tent was much more agreeable than a palace; for, in his camp he enjoyed an independence characteristic of the nation he had the honor to represent. The next morning Mr. Ellicott sent his letter, No. 7, and the same day received the Governor's answer, No. 8, expressing his entire satisfaction with Mr. Ellicott's sentiments, as uniformly agreeing with his own, in everything which could combine the mutual interests of the two nations.

The evening following, (March 15th,) Mr. Ellicott's arrived at the landing, and the next day went down to the place he had proposed for their station.

The officer of the escort having found in the settlement a number of deserters from the American army, took them up. This occasioned some verbal communications between Governor Gayoso and Mr. Ellicott, the former desiring the deserters might be dismissed. Mr. Ellicott thereupon proposed this arrangement: That such deserters from the Army of the United States as came into that country and took the protection of the Spanish Government, prior to the time fixed by the treaty for the evacuation of the posts, should, for the present, remain unmolested; but that such as had come to that country since that time, should be liable to be taken and detained.

About the time Mr. Ellicott's escort arrived, the principal part of the artillery was taken out of the fort and carried to the landing, and every appearance made of a speedy evacuation; but, on the 22d of March, great industry was used in carrying cannon back to the fort, which were immediately remounted. This gave great alarm to the inhabitants of the district, who generally manifested a desire of being declared subjects of the United States, and at once to renounce the Spanish jurisdiction. In order to quiet the minds of the inhabitants, and to be able to give them some reasons for the Governor's conduct, which now began to be considered as hostile to the United States, Mr. Ellicott, on the 23d of March, wrote the letter No. 9, which was followed by a note, No. 10, to which he received the Governor's answer, No. 11. This answer, containing information that the important business of running the boundary line should soon be commenced, and an assurance that nothing could prevent the religious compliance with the treaty, Mr. Ellicott expressed his satisfaction in his letter to the Governor, No. 12.

It being now reported that the American troops would be down in a few days, the Governor sent, by his aid, to Mr. Ellicott, an open letter from the Governor, directed to Capt. Pope, who, it was said, commanded those troops, informing him that, for sundry reasons, it would be proper, and conducive to the harmony of the two nations, for himself and the detachment under his command, to remain at or near the place where the letter should meet him, until the posts should be evacuated; and, as every preparation was making for that purpose, the delay would be but for a few days, when he would be happy to see them at the Natchez. This proposal to Captain Pope, the Governor, in his letter, No. 13, desired Mr. Ellicott to second. Upon reading the letter, Mr. Ellicott observed to Major Minor, that it was impossible for him to join in the Governor's request to Captain Pope, as it was well known to him (Mr. Ellicott) that, instead of evacuating the posts, they were making them more defensible. However, Mr. Ellicott said he would write a letter to the officer commanding the detachment, and requested Major Minor, (as he was to be the bearer of the Governor's letter to the Walnut Hills,) to take charge of it; to which he had no objection. This letter is No. 14.

On the 28th of March, the Governor issued the proclamation No. 15, bearing the date of March 29th, and another, No. 16, bearing the same date, with the avowed object of quieting the minds of the inhabitants; but they produced a contrary effect. As soon as the Governor discovered this, he requested two gentlemen of the settlement to inform Mr. Ellicott that he, the Governor, had received directions from the General-in-chief, the Baron de Carondelet, to have the artillery and military stores expeditiously removed from the forts, which were immediately to be given up to the troops of the United States, upon their arrival. Great pains were taken to inculcate this report, but it did not remove suspicions. In order, therefore, to obtain a direct explanation, Mr. Ellicott, on the 31st of March, wrote to the Governor the letter No. 17, enclosing two paragraphs, No. 18, of an address he had received from a number of respectable inhabitants of the district. The Governor's answer, No. 19, of the same date, confirmed every suspicion, as it contained an explicit declaration that his General had given him positive orders to suspend the evacuation of the posts until the two Governments should determine whether the works were to be left standing, or to be demolished, and until, by an additional article to the treaty, the real property of the inhabitants should be secured; agreeably to his proclamations, in which the Governor thought proper to tell the inhabitants

that negotiations were on foot between His Catholic Majesty and the United States, for the adjustment of that and other matters. It may not be improper to remark that no such negotiation has existed, and that this is the first time that these objections to the evacuation of the posts have been heard of. This peremptory declaration of Governor Gayoso requires no comment.

Mr. Ellicott says, that with the exception of about eight persons, including some officers, all the inhabitants of the Natchez district, (within the limits of the United States,) are desirous of coming under their jurisdiction, and to have a Government established there, similar to that Northwest of the river Ohio. My inquiries enable me to add, that the population amounts to near four thousand souls.

Mr. Ellicott further informs, that he has not only reason to believe, but is certain that many grants for lands in that district have been given out by the officers of the Government of Louisiana, since the ratification of the late treaty, and that their surveyors are now executing the surveys.

On the 14th of April, when Mr. Ellicott was folding up his despatches, he received from Governor Gayoso the letter No. 20, of that date, complaining of the enlistment of persons in that district, as an infringement of the rights of His Catholic Majesty, and requesting that the persons enlisted might be discharged. To which Mr. Ellicott immediately returned the answer No. 21, observing that the matter required investigation, but assuring Governor Gayoso that he would be careful neither to infringe the rights of the subjects of His Catholic Majesty, nor willingly suffer those of the citizens of the United States to be infringed.

The bearer of Mr. Ellicott's despatches informs me that, before he left the Natchez, they had heard that two gunboats were preparing at New Orleans to bring up reinforcements; and, since his arrival, I have received information which, connected with this detail of facts, is entitled to belief, that, about the 10th of May, three large boats, full of troops, besides a party by land, set off from New Orleans for the Natchez. It was added, for the purpose of driving off the Continental troops that had taken possession, agreeably to the late treaty.

TIMOTHY PICKERING.

JUNE 12, 1797.

I have just received from the Secretary of War two letters, (which I have numbered 22 and 23,) dated the 18th of December, 1796, from the officer of His Catholic Majesty commanding the post at New Madrid, one addressed to the late General Wayne, and the other to Lieutenant Taylor, whom the General sent thither with letters to obtain information relative to the delivery of the posts occupied by His Catholic Majesty's troops within the territory of the United States; by which it appears that the evacuation of those posts was at that time proposed to be deferred, merely because the water of the Mississippi was so low as to render the transport of artillery, &c., very difficult, and the navigation dangerous.

TIMOTHY PICKERING.

No. 1.

Manuel Gayoso de Lemos to the Honorable A. Ellicott.

NATCHEZ, *February* 17, 1797.

SIR: Some gentlemen that left you at the mouth of the Ohio have informed me of your approaching arrival here, and that, to attend you on your commission, you bring a military guard and some woodsmen. It is with pleasure that I propose myself the satisfaction of seeing you here, and to make your acquaintance. Though I do not conceive that the least difficulty will arise respecting the execution of the part of the treaty in which you are an acting person; yet, as we are not prepared to evacuate the posts immediately, for want of the vessels that I expect to arrive soon, I find it indispensable to request you to leave the troops about the mouth of Bayou Pierre, where they may be provided with all their necessaries, which you can regulate on your arrival here. By this means, every unforeseen misunderstanding will be prevented between His Majesty's troops and those of the United States; besides, it is necessary to make some arrangements previous to the arrival of the troops, on which subject I shall have the honor of entertaining you when we meet.

I embrace this opportunity to assure you of the satisfaction I feel in being appointed to act in concert with you, though your first interview is to be with the General-in-chief of this province. I have the honor to be, &c.,

M. GAYOSO DE LEMOS.

The Hon. A. ELLICOTT.

No. 2.

Baron de Carondelet to the Honorable A. Ellicott.

NATCHEZ, *February* 24, 1797.

SIR: By your favor of this day, delivered to me by Mr. Nolan, I learn with pleasure your arrival at this post, in the character of Commissioner in behalf of the United States, to ascertain the boundaries between the territories of His Most Catholic Majesty and the said United States. I have the honor to be, &c.,

BARON DE CARONDELET.

No. 3.

Hon. Andrew Ellicott to the Baron de Carondelet.

NATCHEZ, *February* 27, 1797.

SIR: It is with pleasure I embrace this opportunity of informing you of my safe arrival at this place, as Commissioner in behalf of the United States, for ascertaining the boundaries between the territories of His Most Catholic Majesty and those of the United States.

The polite manner in which I have been received at the posts on the Mississippi, now in possession of His Most Catholic Majesty, demands my thanks and gratitude, and am in hopes that a similar conduct will be observed on our part. I have the honor to be, &c.,

ANDREW ELLICOTT.

The Baron DE CARONDELET.

No. 4.

Baron de Carondelet to the Hon. A. Ellicott.

NEW ORLEANS, *March* 1, 1797.

DEAR SIR: I have received, with great satisfaction, your friendly letter of the 27th of February last; in consequence of which, I congratulate you on your arrival in this country in the character of Commissioner on the part of the United States, to run the dividing line between the territories of His Most Catholic Majesty and the United States. You likewise did me the favor to mention with what kindness and attention you were received at the different posts, as well as by the whole Government under my direction; and, from the general principles of your nation, I have no doubt but the same conduct will be observed on the part of the United States. God guard you, most excellent, sir.

BARON DE CARONDELET.

ANDREW ELLICOTT, Esq.

No. 5.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 11, 1797.

MY DEAR SIR: The conduct of the Indians yesterday and last night, owing principally to their constant state of intoxication, renders it absolutely necessary, in my opinion, to have recourse to my military escort for protection. The discipline of our army is such, that you may rest assured none of the inconveniences mentioned in your first communication to me are to be apprehended from the escort being stationed at this place on our part. And, as the attendance of the guard forms a part of the treaty now carrying into effect between His Most Catholic Majesty and the United States, which I am authorized to declare will be observed by the nation I have the honor to represent with good faith and punctuality, I must request the favor of you to withdraw your objections against my escort joining me at this place as soon as possible. I am, &c.

ANDREW ELLICOTT.

His Excellency,
MANUEL GAYOSO DE LEMOS.

No. 6.

Manuel Gayoso de Lemos to the Hon. A. Ellicott.

NATCHEZ, *March* 12, 1797.

MY DEAR SIR: This morning I had the pleasure to receive your amicable communication, dated yesterday. I give you my sincere thanks for having established this form of intercourse, as it will make our business more easy, and, indeed, it is more conformable to the sincere friendship we have contracted.

In answer to your said letter, I will remark, that such conduct of the Indians is not customary here; I foresaw that it would happen, from the moment you showed a desire of having your colors flying, before all the transactions were terminated; knowing the Indians as well as I do, this was the reason of the objections I offered the moment I saw it hoisted, for otherwise I know it very well, that it is frequently used by the representatives of any nation in a foreign country; it is even done in Spain by foreign Consuls. I am sorry you should have experienced any inconvenience from this particular circumstance, and that urged by such effects to wish to have by you your escort. I have not the least objection that it should be called from its actual station; but as it is my duty, and that I am answerable for the tranquillity of the country that is intrusted to my charge, I must propose to you a method that will answer every good and satisfactory purpose. Had not you been unluckily stopped on your voyage to this country, you would have had immediately the General of the province here, to begin the operation of demarking the divisory line between the territories of His Catholic Majesty and those of the United States of America. He had every necessary preparation to attend to the business; but since the time he had a right to expect the Commissioners of the United States, the war with England has taken place, and his cares thereby increased, yet he expected to have had it in his power to come to meet you at Daniel Clarke's, Esquire, which place is near the point of the 31 degrees; but he has found it impossible, as it would oblige him to make too long an absence from New Orleans; therefore it is myself that will have the honor to accompany you on that important commission, on behalf of His Catholic Majesty. This is the moment when I am in want of every individual thing, both for my person, and for the attendants of the commission, though the Geometer, and other officers that are to be employed, are already on their way from New Orleans, and will stop at Clarksville, where I shall go myself as soon as my equipage arrives from the capital; but this will inevitably take some time, therefore the plan that I wish to arrange with you, will be to make Loftus's Cliffs our point of re-union. This place is a short distance from Clarksville, and it is a very healthy situation; there I will send everything concerning the Spanish commission; and that will be the most convenient place to establish, for a while, your head-quarters, under your military escort. By adopting this measure, you will have your people together, and the most distant disagreeable occurrence avoided, as I am positively confident that some would happen by the conjunction here, as you propose. It is true, that by the treaty an escort is supposed, and even recommended to each commission, but it is to be on the line, and not at a distance from it, where it would interfere with other business; therefore, I feel sensibly hurt that it is out of my power to consent to the landing of the troops in this place, though I have not the least objection on their going directly to Loftus's Cliffs.

I have given the most positive orders to prevent the Indians getting liquor; and to their interpreter I have given the strictest charge to be always in sight, and to-morrow I expect that they will remove to some distance from hence. I have the honor to be, &c.,

M. GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 7.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 13, 1797.

MY DEAR SIR: Your favor of yesterday was handed to me in good time, which would have been answered sooner, had not the storm last night prevented me from writing in my tent. Your letter, as well as many circumstances which have come to my knowledge, contain fresh proofs of your desire to promote good order and harmony in this part of the country. But, sir, I cannot suppose that any inconvenience could possibly arise, or the peace of this settlement be disturbed, by the arrival and landing of the escort which I left at Bayou Pierre: if I did suppose the contrary, I trust that I should be one of the last persons to propose the measure. In my opinion, the escort which accompanied me is as much bound to observe good order in this country as the troops of His Catholic Majesty. This is not an opinion of the day; it has uniformly been mine ever since I left the seat of our Government: in consequence of which, immediately upon entering the Mississippi, I issued a standing order that, when any of our party, the military included, should be at any place where the jurisdiction was exercised by His Catholic Majesty, the laws and usages of that Government should be observed and submitted to in the most pointed manner. The escorts, by the spirit of the treaty, are intended for our mutual protection against straggling hostile Indians, and the preservation of our stores. This appears to be their whole business.

As I hope that mere punctilios may never interrupt our friendship, and the conduct of the Indians having become more peaceable since the night before last, I am less anxious for the escort's being stationed at my present encampment: I would, therefore, to prevent any disturbance or misunderstanding, propose that the officer who commanded the escort which accompanied me to Bayou Pierre, be directed to proceed down the river to Bacon Landing, from whence he may come to this place and procure such necessaries as he may be in want of for the ensuing season.

As this is the place designated by the treaty for our meeting, and making our arrangements for carrying on the business, I conceive there would be an impropriety in my leaving it till your Excellency is ready to join me in fixing the first point of latitude. I am, &c.

ANDREW ELLICOTT.

NOTE.—The last two paragraphs were added after a private conversation with the Governor.

No. 8.

Manuel Gayoso de Lemos to the Hon. A. Ellicott.

NATCHEZ, *March* 14, 1797.

MY DEAR SIR: I do myself the pleasure to acknowledge the reception of your favor, dated of yesterday, and am very happy to find that our sentiments uniformly agree in everything that can combine the mutual interests of our nations; and I pledge you my honor and friendship, that every step of my conduct shall be guided by this principle, impressed in me by my duty, and by the very particular attachment I have for you. I have the honor to be, &c.,

M. GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 9.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 24, 1797.

MY DEAR SIR: The remounting of the cannon at this place at the very time when our troops are daily expected down to take possession of it, the insolent treatment which the citizens of the United States have received at the Walnut Hills, and the delay in the business upon which I came, concur in giving me reasons to suppose, that the treaty will not be observed with the same good faith and punctuality by the subjects of His Catholic Majesty as it will by the citizens of the United States. I hope your Excellency will give such an explanation of the above, as to remove my doubts and apprehensions, which I am afraid have been too justly excited. I am, &c.,

ANDREW ELLICOTT.

His Exc'y M. GAYOSO DE LEMOS.

No. 10.

March 23, 1797.

Mr. Ellicott's compliments to his friend Governor Gayoso, and wishes to be informed, whether the following information which he received this day, "that all the works at the Chickasaw Bluffs have been either demolished or carried to the opposite side of the river, and that every exertion is making at the Walnut Hills to put that post in a state of defence," be correct?

No. 11.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esquire.

NATCHEZ, *March* 23, 1797.

MY DEAR SIR: I have just now received your communication of this day, by which I am sorry to find the construction you put on the storing of the ammunitions that came from the Walnut Hills in this fort. I have no other place to put them in, for it would be imprudent to leave them exposed in an insecure place at a time when the Indians might take advantage of us, if they found that in the present circumstances we acted without the necessary precautions; at the time you see me conducting ammunitions to the fort, you will likewise see as many go out of it for the Arkansas, to reinforce that post, which will now be exposed to the incursions of the Osage Indians,

who in the last season pillaged the white hunters of that country.

I am entirely unacquainted with any ill treatment that the citizens of the United States should have received at the Walnut Hills: if you mean the execution of the orders of the General-in-chief of this province, to demolish that post, it was in consequence of our treaty with the Indians, that they might have no just reason to complain of our conduct: but, since I have been informed of their unsettled disposition, I have sent counter orders to suspend everything that might injure the actual state of those fortifications; and, in such circumstances, shall not move anything else until the arrival of the American troops, that are daily expected.

For the unavoidable detention that has been experienced in beginning the line, you know the reasons; but they shall soon be removed, as Lieutenant Colonel Guillemard is far on his way up, and, at his arrival, this important business shall be begun.

I do assure you that there is nothing that can prevent the religious compliance of the treaty, though I might observe that the conduct of some persons that seem to affect an immediate interest with the United States is such, as to occupy my attention. I request that you will be so kind as to take such measures as to suppress untimely expressions, that can only tend to disturb the tranquillity of the public, of which I am solely answerable for the present.

As I was finishing this, Mr. Gillespie brought to me your note, inquiring if the works at the Bluffs had been destroyed or removed to the other side of the river?

What I have already said concerning our treaty with the Indians, I suppose, has guided the General of this province to take that step. I really do not know whether they are destroyed, or not. I give you my word that I did not know what was to be done there; and it is only by Baron Bastrop that I learn that that post would soon be evacuated: but as this is a thing that only regards the General of the province, I cannot account for it, nor can I say more on the subject, as all the orders proceed from him—that post being entirely out of my jurisdiction. My dear sir, &c.,

M. GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 12.

Andrew Ellicott, Esq., to His Excellency Manuel Gayoso de Lemos.

NATCHEZ, *March* 24, 1797.

MY DEAR SIR: It is with pleasure I acknowledge the receipt of your Excellency's very satisfactory letter of yesterday. You may rest assured that I have, and shall continue to discountenance every measure, and the propagation of any opinion, which may have a tendency to disturb the good order and harmony of this settlement. I shall close this, with requesting that the Commandant at the Walnut Hills be directed to treat the citizens of the United States with politeness when they stop at that post, as a contrary conduct may be attended with disagreeable consequences on a river which both nations have an equal right to navigate. I am, &c.,

ANDREW ELLICOTT.

His Exc'y M. GAYOSO DE LEMOS.

No. 13.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esq.

NATCHEZ, *March* 25, 1797.

MY DEAR SIR: By every report you are acquainted with the confirmation of everything I have told you concerning our business. You know that Lieutenant Colonel Guillemard will be here very soon, and that immediately we shall proceed to the running of the line. But as nothing but friendly arrangements are to guide our conduct, it is necessary to avoid every shadow of compulsion. By the contents of my letter to Captain Pope, you will see my reasons; therefore, I request that you will join a couple of lines, to avoid any more writing.

I am surrounded by many people who have business, this being court day, though I have tried to disembarrass myself, but cannot wait upon you.

I am, &c.,

M. GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 14.

Andrew Ellicott, Esq., to Lieutenant Pope.

NATCHEZ, *March* 25, 1797.

DEAR SIR: This will be handed you by Major Minor, a friend of mine, an officer in the service of His Catholic Majesty; your polite attention to him will be considered as a particular favor conferred upon me. By order of Governor Gayoso, his letter to you of this day has been shown to me; his request for you and the troops under your command to remain for an indefinite time above this place, appears to me a very extraordinary one; sufficient time has already been given by the United States for the evacuation of all the posts on the east side of the Mississippi, above the 31st degree of north latitude; and from the troops of His Catholic Majesty carrying up and remounting the cannon at this place, I cannot pretend to say that an evacuation is really intended in any reasonable time. From this circumstance, I should conclude that the sooner you are here the better. However, as I have no control over the destination of the troops of the United States, except my own escort, I shall take it for granted that your instructions are sufficiently pointed to direct your conduct. Please to accept of my sincere wishes for the safe and speedy arrival of yourself and troops at this place; and am. &c.,

ANDREW ELLICOTT.

Lieutenant POPE.

No. 15.

Don Manuel Gayoso de Lemos, Brigadier in the royal armies, Governor Military and Civil of Natchez and its Dependencies, &c.

Whereas the political situation of this country offers a large field to busy and malignant minds to disturb the tranquillity of its inhabitants, it is therefore my duty, in the continuation of that vigilance which I have constantly exerted, not only to promote the happiness of every individual of this Government, but likewise to support their interest, and secure their tranquillity, that I step forth to warn the public against being led by their innocent credulity against any measure that may be productive of ill consequences, and frustrate all the advantages they have a right to expect; and by the present I assure to them, if they continue as they have always done, with strict attachment to the welfare of His Catholic Majesty's Government, from which will depend the following favorable events, viz: His Majesty has offered to support the rights of the inhabitants to the real property; and until that is ascertained, I am bound to keep possession of this country, as likewise until we are sure the Indians will be pacific.

Contrary to the general expectation, the same indulgence that until now protected the inhabitants in distress will be continued during His Majesty's sovereignty in this country; and this being the season in which the planters are employed in preparing for an ensuing crop, none shall be disturbed from that important object on account of their depending debts. The misconstruction of what is the enjoyment of the liberty of conscience is hereby positively explained to be, that no individual of this Government shall be molested on account of religious principles, and that they shall not be hindered in their private meetings; but no other public worship will be allowed but that generally established in all His Majesty's dominions, which is the Catholic religion.

These important objects, that until now have not been published, though resolved, I acquaint the public with, apprehensive of the dangerous insinuation of several persons that have made it their business to dazzle the public with false notions, to serve their own purpose, in the speculation of lands that are lawfully held by all the inhabitants of this Government: therefore, I firmly rely that no person will deviate from the principles of adhesion to our Government, until the negotiations that are now on foot between His Majesty and the United States of America are concluded, and thereby the real property of the inhabitants secured.

Given under my hand and the seal of my arms, and countersigned by the Secretary of this Government, by H. M. at the Government House, Natchez.

M. GAYOSO DE LEMOS.
JH. VIDAL.

MARCH 29, 1797.

No. 16.

Whereas the alarming circumstances that prevailed for a while in this Government obliged me to circulate proclamations, wherein I warned the people of their immediate danger: now, that these troubles have subsided, I cannot but publish my approbation, and applaud that upright sense of duty that the inhabitants have shown to the laws of our gracious Sovereign, by seconding his representative, the right they have so justly acquired of being considered the most loyal subjects of His Majesty. In my last publication I mentioned that, until the real property should be secured to the inhabitants, this country should be considered in the same situation as before, as likewise while the pacific diposition of the Indians was not ascertained. I find it my duty to explain that a negotiation is now carrying on to secure the right of the said real property. As that right cannot be secured but by an additional article to the late treaty, and until that article is officially communicated to me, I am bound to keep possession of the country, and continue to its inhabitants the same indulgence and the same anxious protection as until now. The negotiations with the Indians will produce the same effects, as it is impossible for His Majesty to leave unprotected so many of his faithful subjects, and expose other settlements to the revengeful disposition of discontented Indians. These important objects are of the greatest moment to every person in this Government; their interest and allegiance to His Majesty binds them to keep steady in their principles of loyalty, until, by the definite arrangements of both nations, a change takes place. Being informed that some persons are apprehensive that violent measures will be taken against those that seemed pleased with the prospects of becoming citizens of the United States, I declare that such a notion is unfounded, as likewise the suspicion that individuals would be prevented from moving to any part they please, either within His Majesty's dominions or elsewhere, as it is notorious that no such obstacle was ever offered to anybody, it being contrary to one of the greatest prerogatives that are enjoyed by His Majesty's subjects.

D. MAN. GAYOSO DE LEMOS.

MARCH 29, 1797.

No. 17.

Andrew Ellicott, Esq. to his Excellency Manuel Gayoso de Lemos.

NATCHEZ, *March* 31, 1797.

MY DEAR SIR: I was last evening addressed by a number of respectable inhabitants of the district of Natchez. They are very much alarmed for their situation, in consequence of having expressed their pleasure, since my arrival at this place, in speedily becoming citizens of the United States. Your proclamation of the 28th instant, they conceived, renders that event doubtful. They have, therefore, from considerations of personal safety, and to avoid the insults which many of them have experienced from one or more officers of a small grade in this district, called upon me to use my influence with your excellency to grant them, and all others who incline to leave this country, the privilege of disposing of their properties, and passports to enable them to reach the frontiers of such States as

they may be inclined to move to. I have now stated the substance of their application. and assure your excellency, from the respectability of the applicants, it is a subject in which I feel myself interested, and to which I request your excellency's attention.

Ever since I arrived in this district, I have uniformly recommended to the inhabitants a quiet submission to the Government now in force, at the same time they have been in the most explicit manner assured that the period would not be far distant when the jurisdiction of the United States would be extended to them. But they are not satisfied; they have their suspicions; and it is your excellency alone that can quiet them. Let the cannon and military stores be again taken out of the fort; withdraw your objections to the arrival of the American troops; and their apprehensions will subside. I do not pretend to say that their apprehensions are well founded; it is possible they are not; but your objection to my escort's being stationed with me; your hauling back and remounting the cannon at this place; your dispatching Major Minor to delay the arrival of the troops of the United States at this post, added to your excellency's proclamation, however well meant, have had a contrary effect by increasing their fears.

I have enclosed two paragraphs of the address which was handed to me last evening. I am. &c.

ANDREW ELLICOTT.

His Excellency Manuel de Gayoso.

No. 18.

Many whose ideas of allegiance had been preponderant from the treaty until the time of your arrival at this place, thought themselves at full liberty to announce their sentiments in any way that might not affect the operations of peace and good order in society. But the result is a melancholy contrast to the construction. Some have been already torn away from the bosom of agricultural life, and conveyed to prison with every indignant epithet that malevolence could invent. Scouts are crossing the country in various directions, breathing threats of vengeance against those who had unguardedly thrown aside the mask of duplicity; and a number are waiting with solicitude the moment of their fate.

There are many in this country to whose exertions America is much indebted for her political existence. We call upon you in the name of such; we call upon you in the name of every friend to that emblem of peace and science which has been recently diplayed to us; to stand forth with a confidence suitable to the dignity of your commission, and demand of the Governor passports, with leave for all such as would dispose of their property, and avail themselves of a change of situation by withdrawing to the United States.

No. 19.

His Excellency M. Gayoso de Lemos to A. Ellicott, Esq.

Natchez. *March* 31, 1797.

My Dear Sir: I have just now received your favor of this day, in which you informed of the application of several respectable inhabitants of this Government to you, requesting your interposition to facilitate to them a privilege that they never ceased enjoying. and in which consists the greatest liberty of a Spaniard. There is not one single instance of our Government having made opposition to a person's selling his property, and leaving the country, whenever they called for a passport; and, as our system is not altered, I shall not refuse the same privilege to any person that may apply for it.

I am sorry to find that those persons who have addressed you have imposed upon your credulity and goodness, in making use of remonstrances proper to make sensation on the feelings of a good citizen of the United States; but there is not a word of truth in what they have advanced. I have not taken notice of the satisfaction that some persons have expressed on the prospect of becoming citizens of the United States, nor has anybody been apprehended for it, nor have I issued any order for such a purpose, but against Mr. Green, sr., who had made his escape, conscious of the criminality of his conduct, which is notorious; and, indeed, in all the extent of this Government, there is but one single individual confined, and that is for a criminal proceeding. There is not a single patrol out in search of any one; nor, just at this moment, do I find occasion for it; but if I should, I would employ every means in my power to suppress disorder, and to keep the peace of the country, as I have always done.

I doubt not of the assurances you please to give me of the good advice you have uniformly given to the people, it being comformable to the character of a gentleman, whose object is another than that of interfering in the matters of Government.

My proclamation I found absolutely necessary to calm the minds of the people, stating to them the true situation of the political arrangements between His Majesty and the United States, which does not dissolve the treaty, but requires an essential explanation, not only with regard to the points alluded to in my proclamation, but likewise, as I am authorized to declare to you, that the General of this province finds himself under the necessity to consult His Majesty concerning the manner in which the posts are to be evacuated; as it appears, by General Wayne's communication to him, that he expects that the posts will be delivered with the buildings standing as they are; and, by the treaty, we conceive that the posts are to be demolished before we leave them; and as such interpretation of the true meaning of the treaty, either one way or the other, might produce unnecessary ministerial contests, my General has given me positive orders to suspend the evacautions of the posts until the matter shall be amicably settled between the two Courts. In the meanwhile, if the troops of the United States, that are daily expected. arrive, they shall be received at Nogales in the most friendly and hospitable manner, as is due to a nation with whom we are at perfect peace, and with whom we wish to keep the most perfect harmony.

I flatter myself you will do me the justice to acknowledge the propriety of my conduct in obeying the superior order of my General, who is actuated by the principles of the strictest honor in supporting the interest of His Majesty intrusted to him.

The uniform good harmony that we have reciprocally promised to each other will subsist; and it will not be only our duty, but our glory, to banish every shadow of misunderstanding which is wrongfully interpreted by the public, without any more foundation than assisted those that tried to persuade you of wrongs that they never suffered.

I am, &c.

M. GAYOSO DE LEMOS.

Hon. Andrew Ellicott.

No. 20.

His Excellency M. Gayoso de Lemos to A. Ellicott, Esq.

Natchez, *April* 14, 1797.

My Dear Sir: I am informed that the officer commanding your escort has enlisted several persons resident of this Government, which, being against the laws of nations, I cannot pass unnoticed; it being an infringement on the sovereignty of the King, my master, and a disregard of the authority residing in me.

I cannot persuade myself that it was done intentionally, nor thinking that it could give the most remote offence; but, as the matter is of a most delicate nature, I request you to give the necessary orders that the men so enlisted may be discharged, and delivered to Major Minor, whom I commission for this purpose.

The object of the escort not being to raise men in this country, while under His Catholic Majesty's dominion, I request of you likewise to give the most precise and positive orders to the officers of the troops, or to whom it may appertain, to discontinue such proceedings, or anything that may injure the immunity of the King's dominions, or his royal rights.

The most perfect harmony and friendship subsisting between His Catholic Majesty and the United States of America, the same being recommended in the most particular manner to the individuals of both nations, it would be unaccountable if we, that have had the honor to be distinguished by our appointments, did not promote this friendly reciprocity, which not only consists in a hospitable and polite intercourse, but guarding and keeping to one another the prerogatives and privileges that are due.

Enclosed I have the honor of transmitting to you a list of the men that to my knowledge have been recruited, or suffered to be recruited, in this Government, by the officer commanding your escort. I have the honor to be, &c.

M. GAYOSO DE LEMOS.

The Hon. Andrew Ellicott.

No. 21.

A. Ellicott, Esq. to his Excellency M. Gayoso de Lemos.

Natchez, *April* 14, 1797.

Dear Sir: Your excellency's favor of this date was handed to me by Major Minor; but the request it contains is of so general and important a nature, and affecting so deeply the privileges of the citizens of the United States, that I must take a short time to investigate its ultimate tendency, as a part if not all the persons named in your excellency's list cannot, by any construction of the late treaty, or the laws of nations, be considered as the subjects of His Catholic Majesty. You may rest assured that, having in view the sacred and honorable principles which are the basis of that Government I have the honor to serve, and by which treaties are considered the most sacred of all obligations, I will be careful, neither to infringe the rights of the subjects of His Catholic Majesty, nor willingly suffer infringement of those of the citizens of the United States. I am, &c.

ANDREW ELLICOTT.

His Ex'cy M. Gayoso de Lemos.

No. 22.

Lieutenant Colonel Charles de Hault de Lassus to Major Anthony Wayne.

New Madrid, (on the Mi.,) *December* 18, 1796.

Sir: Lieutenant Taylor has delivered to me your excellency's letter, dated Detroit, October 19, 1796, and, according to your intention, I have acquainted him with the orders I have received from the Governor General of this province, respecting the Treaty of Friendship, Navigation, and Limits, between the United States of America and the King my master. I here enclose a copy of my letter to him, wherein I hope you will find sufficient and satisfactory information. As Lieut. Taylor has, according to his instructions, determined to return from here without going any further down, I am about sending immediately an express to New Orleans, with your excellencey's letter to the Governor General of Louisiana; I will think myself happy if I have succeeded in complying with your intentions. I have the honor to be, &c.

C. DE HAULT DE LASSUS,
Lieut. Col. in His Catholic Majesty's service, &c.

Maj. Gen. Anthony Wayne,
Com'g Army U. S. A.

No. 23.

Lieutenant Colonel Charles de Hault de Lassus to Lieutenant Taylor.

New Madrid, (on the Mi.,) *December* 18, 1796.

Sir: According to his excellency, Major General Wayne's desire, I have the honor to inform you of my having received, from the Governor General of this province, information respecting the ratification of the Treaty of Friendship, Navigation, and Limits, between the King my master and the United States of America. You have seen, in his letter which I have read to you, that I have orders not to prevent, in the least, the going down

the Mississippi of the Commissioners appointed on the part of the United States to fix the limits, and of the troops that were to accompany them; but, that in the mean time he orders me to tell them, that the evacuation of the posts cannot take place until the time of high waters. I will beg leave to observe to you, that although this is the affirmative answer that General Wayne speaks of, yet, as he says that the troops who are to take possession of the posts are now waiting at Fort Massac, their coming down the river immediately, that is, before the high waters, would be somewhat sooner than the Governor General of this province seems to expect, and somewhat contrary to Major General Wayne's own intentions, since he tells the Baron de Carondelet, in his letter, to appoint the most convenient time for the evacuation of the posts. I hope you will be so good as to make that observation to such officers as are in possession of General Wayne's orders respecting the taking possession of the posts, and, at the same time, to make them sensible of the convenience it will be, to both the Americans and the Spaniards, to wait for a more proper season for the transport of artillery, baggage, provisions, &c. which could not be moved, at this present time, without much trouble and risk, on account of the river being so remarkably low as to render its navigation very dangerous. I have the honor to be, &c.

C. DE HAULT DE LASSUS,
Lt. Col. in H. C. M. service, &c.

To Lieutenant TAYLOR.

SPAIN, GREAT BRITAIN, AND FRANCE.

[Communicated June 22, 1797.]

DEPARTMENT OF STATE, *June* 21, 1797.

SIR: I have the honor to lay before you a report respecting the depredations committed on the commerce of the United States since the 1st of October, 1796, as far conformable to the resolve of the House of Representatives of the 10th instant as the materials in my possession would admit. The number of captures will give a tolerably correct idea of the extent of our losses, and the documents will show the nature of the depredations, and the causes or pretences for which they have been committed.

I am, with the greatest respect, &c.

T. PICKERING, *Sec'ry of State.*

The PRESIDENT *of the U. S.*

Report of the Secretary of State respecting the depredations committed on the commerce of the United States, since the 1st of October, 1796.

American vessels have been captured since the 1st of October, 1796 by the armed vessels of Spain, Great Britain, and France. Of captures by Spanish cruisers, one was of the polacre Independence, Captain Robertson, laden wholly on account of the United States with stores for Algiers, in pursuance of the treaty with that regency. She was taken on the sixteenth of February last, at the entrance of the straits of Gibraltar, and carried into Cadiz The polacre's papers were perfectly clear; among others, she had a special passport under the hand of the President of the United States, and the great seal thereof, declaring the vessel to be the property of two citizens of the United States, (whose names were inserted in the passport,) and that the cargo was wholly the property of the United States, and destined for Algiers. She had, also, the passport of the Dey. The General of the Marine had cleared the polacre and cargo; but the owners of the privateer appealed to the tribunal at Madrid, and on the 31st of March there had been no decision known at Cadiz.

There have probably been a number of captures by Spanish cruisers, although not particularly specified; the Consul of the United States in one of the ports of Spain having informed that, almost daily, American vessels were taken and brought in by French and Spanish privateers.

Captures and losses by British cruisers, the Secretary presumes, have not been numerous; for the citizens of the United States having, these three years past, been accustomed to look up to the Government for aid in prosecuting their claim, it is not to be doubted that, generally, these cases have been reported to the Department of State. An abstract of such as have been communicated is annexed.

In order to present a clearer view of French depredations, it will be necessary to notice the rules which she has prescribed to her cruisers and tribunals.

As applicable to captures made since last October, the decree of the Executive Directory of the 2d of July, 1796, merits the first attention. It announces that the conduct of France towards neutrals will be regulated by the manner in which they should suffer the English to treat them. At Malaga and Cadiz, the French consuls have interpreted this decree to authorize the capture and condemnation of American vessels for the single circumstance of their being destined to a British port. But its fullest effect has been produced in the West Indies, whose seas swarm with privateers and gun-boats, which have been called forth by the latitude allowed to their depredations by the indefinite terms of that decree, and the explanatory orders of the agents of the Directory at Guadaloupe and St. Domingo. Two of these decrees have been already communicated to Congress,* and it may be only requisite here to refer to them.

At Guadaloupe an order was issued by Victor Hugues and Lebas, dated the 1st of February last, (13th Nivose, 5th year,) authorizing the capture and condemnation of all neutral vessels bound to certain enumerated ports, which, it is pretended in the decree, were delivered up to the English, and are occupied and defended by emigrants; and, also, of such vessels as should be cleared out generally for the West Indies. This decree refers to and enforces a decree of the 24th of December, 1796, (4th Nivose last,) issued in conformity with the

*In the report of the Secretary of State, dated the 27th of February, 1797.

decree of the Executive Directory of the 2d July, 1796, so far as it is not departed from by that decree of the 27th of February last. The decree of the 24th December has not been received at the Department of State; but it is supposed to direct the confiscation of the cargoes of neutral vessels, bound to or from British ports, occupied by them before the present war. For it appears that, whilst they have confiscated both vessel and cargo in cases which fall within the scope of the decree of the 1st of February, they have spared the vessel, and confiscated only the cargo, where she had been bound to or from such acknowledged British port.

The agents of the Directory at Cape François, by their decree of the 27th November last, direct the capture and bringing into port of *American* vessels bound to or from British ports, there to remain until it should be further ordered. This further order was afterwards issued, as will appear by the copy of the condemnation of the ship Pattern, of New York; by which it will be seen that, like the Consuls at Malaga and Cadiz, they interpret the decree of the Executive Directory of the 2d of July last, as authorizing the condemnation of American vessels merely because bound to or from a British port.

To the foregoing succeeded the decree of the Executive Directory of the 2d March last, which has been communicated to Congress during the present session. That copy of the decree was taken from a newspaper, and is now found to be imperfect. A translation from the decree, as officially published by the Directory, is annexed to this report. Although we do not yet know what is its operation, yet it cannot fail to produce very great vexation and loss to the American commerce; the documents it requires to prevent confiscation not having been before declared indispensable, or demanded, and no time being allowed for the vessels of the United States to provide themselves therewith.

Besides these several decrees, and others which, being more limited, the former have superseded, the old marine ordinances of France have been revived, and enforced with severity, both in Europe and the West Indies. The want of, or informality in, a bill of lading; the want of a certified list of the passengers and crew; the supercargo being by birth a foreigner, although a naturalized citizen of the United States; the destruction of a paper of any kind soever; and the want of a sea-letter, have been deemed sufficient to warrant a condemnation of American property, although the proofs of the property were indubitable.

The West Indies, as before remarked, have exhibited the most lamentable scenes of depredation. Indeed, the conduct of the public agents and of the commissioned cruisers there has surpassed all former examples. The American vessels have not only been captured under the decrees before mentioned, but when brought to trial in the French tribunals, the vessels and cargoes have been condemned, without admitting the owners, or their agents, to make any defence.

This seems to be done systematically, and for the obvious purpose of insuring condemnations. By this monstrous abuse in judicial proceedings, frauds, and falsehoods, as well as flimsy and shameless pretexts, pass unexamined and uncontradicted, and are made the foundation of sentences of condemnation.

The persons also of our citizens have been beaten, insulted, and cruelly imprisoned; and, in the forms used towards prisoners of war, they have been exchanged with the British for Frenchmen. American property going to, or coming from, neutral or even French ports, has been seized; it has even been forcibly taken when in their own ports, without any pretence, or no other than that they wanted it. At the same time, their cruisers are guilty of wanton and barbarous excesses, by detaining, plundering, firing at, burning, and distressing American vessels.

Official papers to prove the very numerous depredations on our commerce, and the atrocities and abuses attending the capture and condemnation of our vessels and cargoes, by French cruisers and tribunals, not having been publicly called for, few have been received. Of former claims for injuries committed since the beginning of 1793, and of which a report was made to the House of Representatives on the 27th of February last, a very small proportion had been satisfied; and for a considerable time no payments had been obtained. Under this distant and discouraging prospect of obtaining compensation, the citizens, suffering by more recent French depredations, have generally omitted to present accounts of their losses; and they have, in many cases, had no opportunity of getting the evidence of the condemnations, which are attainable before the tribunals of other nations; the mock trials, as before observed, being very often carried on, and sentences of condemnation pronounced in the absence of the American owner, master, or supercargo.

Such documents as the Department of State is possessed of concerning these depredations are annexed; and to them is added a concise abstract of the cases. These support the principal facts above stated, and show the nature of French depredations. To supply, in some measure, the want of official papers, an examination has been made of two newspapers published in Philadelphia, the Gazette of the United States, and the Philadelphia Gazette, from the 1st of July, 1796, to the present time. Between the 1st of July, and the 1st of October, few captures were made, the decree of the Directory, of July the 2d, not being in general operation until October. This examination was chiefly made prior to the call of the House of Representatives for a report on this subject, with a view to ascertain the number of French captures, and the circumstances attending them; and the result of the whole is annexed. It is regretted that the time did not permit a re-examination of those papers, to ascertain likewise the captures made by the British cruisers. The editors of those two gazettes agree in saying that no great attention was paid to the subject for the purpose of inserting accounts of all the captures which were published in the various other newspapers; yet the number collected exceeds three

hundred, of which but few escape condemnation. The evidence arising from the multiplied and concurrent publications of these facts in the newspapers, some of them certified by the American masters of the captured vessels, cannot fail of producing a conviction of the reality of the evils represented.

There have been frequent accounts of attempts to effect condemnations by bribing the officers and seamen of our vessels to swear falsely; but it was reserved to these times, when offered bribes were refused and threats despised, to endeavor to accomplish the object by torture. This was inflicted by a French privateer. The evidence of the fact appears in the protest of Captain William Martin, master of the ship Cincinnatus, of Baltimore, in which he is supported by the testimony of his mate and one of his seamen. A copy of the protest is annexed, together with an extract of a letter from Mr. King, Minister of the United States in London, who examined Captain Martin's thumbs, and says the marks of the torturing screws will go with him to his grave. All which is respectfully submitted.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *June* 21, 1797.

No. 1.

Abstract of two cases of capture made by British cruisers, of vessels belonging to citizens of the United States, since 1st October, 1796, and wherein documents have been received at the Department of State; also a copy of a memorandum, filed by Samuel Smith, Esq., relating to captures made by the British, of vessels in the property of which he was concerned.

NOTE.—No documents accompany the two cases of capture above mentioned, they having been sent to London in order that compensation might be obtained for the damage suffered.

The schooner St. Patrick, Robert Gardner, master, belonging to Thomas Stagg, jr., Thomas Snell, and Joseph Foulke, all native citizens of the United States, the two former residing at New York, and the latter at Curacoa, as agent of the partnership of which he was a member.

31st July, 1796, she sailed from New York, bound to Curacoa, then a colony of the States of Holland, being allies of Great Britain, with a cargo of provisions and dry goods, the property of the said owners of the vessel.

18th of August she arrived at the place of her destination, and delivered her cargo to the said Foulke, who shipped on board her, in return, a cargo of hides and goat skins, besides five thousand dollars in cash, the property of the said owners of the vessel.

About the 1st September following, she sailed for New York.

About the 15th of the same month, she was captured by his Britannic Majesty's ship of war Topaze, Captain Church, in company with the Thisbe, Captain Oaks, and the Thetis, Captain Cochran, and was by them sent for Bermuda, where she arrived on the 22d.

Proceedings were duly commenced against her in the Court of Vice Admiralty; and on the 4th November the Judge thereof decreed that the vessel and cargo should be restored; certified probable cause for the capture, and ordered the claimant to pay the taxed costs of the court. The captors appealed, and the master appealed for costs and damages.

The schooner Lively, John Clarke, master, belonging to John Gardner, jr., of the city of Philadelphia.

She was captured and carried into Martinico, where the cargo, (except ten casks of nails which were condemned as contraband,) as well as the vessel, was acquitted by the Court of Vice Admiralty, on the 27th of February.

List of captured vessels belonging to the Messrs. Smiths, &c., of Baltimore, deposited in the office of the Department of State, by General Smith, June 17, 1797.

The ship James, John Smith, master, laden by Samuel and John Smith, and S. Smith and Buchanan, with a cargo of flour, 2,260 barrels, which cost thirty thousand two hundred and fifty dollars, sailed from Baltimore the 1st December last; was captured by two French frigates and sent into Guadaloupe; the supercargo was imprisoned for several days, but afterwards released and permission given to sell his cargo, which, thus sold, produced only $23,576.

On learning the ship James was captured, we immediately despatched our schooner William, Francis Smithwich, master, (then laden and about to sail for Jacmel, with a cargo which cost four thousand dollars,) for Guadaloupe, with such letters to the supercargo as we supposed would be useful. The William was captured off Guadaloupe by the British, and sent into Martinique; after a short detention she was released, but immediately after leaving Martinique, lost both masts in a squall, was then obliged to put into St. Croix to refit, and from thence having learned that the James was released, proceeded to Cape François, where she disposed of her outward cargo, and took an order on Jacmel for a load of coffee which she received, and on her voyage home was taken by the Hind British sloop-of-war, and sent into Jeremie, about the 13th of May; from Jeremie she was sent to Port-au-Prince for trial, where she was waiting the arrival of the Judge at our last accounts, dated 18th May. The captain writes that he had on board 100,000 lbs. coffee, the value of which is about $22,000.

The brig Gratitude, James Clifton, master, laden at New York, by Mr. Archibald Gracie, on account, and by order of Samuel and John Smith, John Hollins, and S. Smith and Buchanan, sailed from thence about the 1st March last, with a cargo of beef and pork, which cost nine thousand nine hundred and thirty-eight dollars and thirty-six cents, bound to Cape François. Off Fort Dauphin was boarded by the Ceres, British frigate, and sent under convoy to the Mole, where permission being refused for her to proceed elsewhere, the supercargo was compelled to sell the cargo at public sale, where it produced only six thousand

four hundred and fifty-one, leaving a loss of three thousand four hundred and twelve dollars, and sixty-four cents.

The brig Abeona, Isaac Isaacs, master, laden by Samuel and John Smith, John Hollins, and S. Smith and Buchanan, with a cargo of sundries, bound to Cape François, was boarded by the British frigate Ceres, Captain Newman, and sent by her to the Mole, where, as in the case of the Gratitude, her cargo was sold at public vendue, except such part as was said to be inadmissible at an English port, and these were ordered to be taken back to America. The sales at vendue amounted to seven thousand nine hundred and forty-seven dollars, twenty-five cents; the candles and soap not permitted to be landed, cost eight hundred and fifty dollars; the cost of the cargo, when it left Baltimore, was thirteen thousand three hundred and twenty-eight dollars. The Abeona, returning from the Mole to Baltimore, was captured by a French privateer, and sent into Jean Rabel; Captain Isaacs went to the Cape and got her released; but before he could return to Jean Rabel, his brig had been cut out by the British, and sent to the Mole. Captain Isaacs went on to the Mole to claim his vessel; the soap and candles, before declared inadmissible, were taken out at the Mole, and the brig sent down to Jamaica for trial. Captain Isaacs rose upon the prize master, and arrived yesterday with the brig.

The cargo cost from hence -	$13,328 00
The sales at vendue - - - -	7,947 25
Loss - - - - - - - -	$5,380 75

The brig Fell's Point, Captain Creighton, sailed from Baltimore in March, with a cargo of flour, &c., the property of Samuel and John Smith, John Hollins, and S. Smith and Buchanan, bound to Cape François, was boarded by the British, sent to the Mole, where her cargo would not sell; it was put into store, and the brig has returned with produce, for a small advance made by the house with whom the business was left. This cargo cost sixteen thousand five hundred and thirty-six dollars and twenty-nine cents.

The brig Fanny, Captain Richard Fisher, laden with flour, on account of Samuel and John Smith, John Hollins, and S. Smith and Buchanan, sailed from Baltimore for Cape François, in March; was boarded by the British, and sent to the Mole; from the Mole, as his cargo would not sell at any price, Captain Fisher obtained permission to proceed to Jeremie, where, he writes, his cargo was equally unsaleable. This cargo cost nine thousand six hundred dollars.

The schooner Sally, laden with coffee, on account of John Hollins, and S. Smith and Buchanan, sailed from Petit Guave, about the 15th May, bound to Baltimore; was captured by the British, and sent into Jeremie; from Jeremie she was ordered to Port-au-Prince, where, at the last accounts, she was waiting the arrival of the Judge. The exact value of this cargo is not known—it is estimated at twenty-two thousand dollars.

The ship Sidney, Captain James Parker, laden at Surinam, with coffee, sugar, and cotton, on the account of Samuel and John Smith, and S. Smith and Buchanan, on her passage to Baltimore, was captured about the 12th April past and sent into St. Kitts, by the Portland, of Antigua, a British privateer. The only letter received from Captain Parker, is dated 15th April; he had only just reached St. Kitts, and did not know what would be her fate. Of this cargo no duplicate invoice has been received; its probable value is about one hundred thousand dollars.

No. 2.

Decree of the Executive Directory.

12TH VENTOSE, *March* 2, 1797, *5th year.*

The Executive Directory, having considered the law of the 9th of March, 1793, which, stating that the flags of neutral Powers not being respected by the enemies of the French Republic, and all the rights of nations being violated to its prejudice, the French people can therefore no longer fulfil, towards those Powers in general, the wish which they have so often manifested, and which they will constantly form, for the full and entire freedom of commerce and navigation, among other regulations, ordains:

1. That French ships of war and privateers may stop and bring into the ports of the Republic neutral ships which shall be found laden, in whole or in part, with merchandise belonging to enemies.

2. That merchandise belonging to the enemies shall be declared good prize, and be confiscated to the benefit of the captors.

3. That, in all cases, the neutral ships shall be released as soon as the unlading of the merchandise seized shall be effected; that the freight of it shall be paid at the rate which shall have been stipulated by the freighters, and that a just indemnity shall be granted in proportion to the time of their detention, by the tribunals whose duty it is to take cognizance of the validity of prizes.

4. That these tribunals shall be obliged, moreover, three days after their decision, to furnish a copy of the inventory of the merchandise to the Minister of Marine, and another copy to the Minister of Foreign Affairs.

5. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have effect as soon as the enemy Powers shall have declared free and not seizable, though destined for the ports of the Republic, merchandises laden on board of neutral ships, which shall belong to the Government or citizens of France.

Having likewise considered the law of the 27th of July, 1793, which, confirming that of the 9th May preceding, before repealed, ordains that it shall have its full and entire execution; and that, consequently, all other regulations to the contrary are, and remain, abrogated; which abrogation evidently comprehends the law of the first of the same month, by which the vessels of the United States of America had been excepted from the

law of the 9th of May, conformably to the fifteenth article of the treaty of the 6th of February, 1778.

Having also considered the 7th article of the law of the 13th Nivose, 3d year, (3d or 4th of January, 1795,) which enjoins on all the agents of the Republic, on all commanders of the armed force, and on all officers, civil and military, to cause to be respected and observed, in all their acts, the treaties which unite France to the neutral Powers of the Old Continent, and to the United States of America; and adds, that no infringement shall be made of those treaties, and that all regulations which are contrary thereto, are annulled.

Considering that this last law does not derogate from that of May 9th, 1793, except in favor of those neutral Powers whose treaties, now subsisting with the French Republic, are contrary to its regulations; that it is consequently of importance, for the information as well of commanders of the armed force of the Republic, and of vessels commissioned by it, as of the tribunals appointed to decide on the validity of prizes, to take measures for preventing them from supposing either that treaties exist which never have taken place, or from considering, as in force, treaties concluded for a determinate time, which has expired; or that they ought to execute according to the letter, treaties which have been modified since their conclusion; that to this last class particularly belongs the Treaty of Amity and Commerce concluded on the 6th of February, 1778, between France and the United States of America; that, in fact, by the second article of this treaty, France and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party; and that it is added by the same article, that this other party shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional; that thus the regulations stipulated in favor of England by the Treaty of Amity, Commerce, and Navigation, concluded at London the 19th of November, 1794, between that Power and the United States of America, are deemed to have been stipulated in favor of the French Republic itself, and, consequently modify, in those points which are contrary thereto, the treaty concluded on the 6th of February, 1778; that, agreeably to these regulations, the French Government declared, by its decrees of the 14th and 28th of Messidor, 4th year, (2d and 16th of July, 1796) as it is again obliged to do at this time, that it will use the just measures of reciprocity, which it had a right to exercise in this respect, in everything which is connected with the circumstances of the war, as well as with the political, commercial, and maritime interests of the French Republic; that, consequently, it is necessary to ascertain, by reconciling the treaties of the 6th of February, 1778, and of the 19th of November, 1794, whatever is doubtful concerning the cases in which this right of reciprocity may be exercised.

Considering that there have arisen, very recently, concerning the manner of proving the property of vessels and merchandise pretended to belong to neutrals, doubts, and contests, which would never have taken place if the ancient regulations relative to this matter had been better known; that it is consequently of importance to bring again into view these regulations, and cause to be executed the 5th article of the law of the 14th of February, 1793, which shall be continued in force.

After having heard the Ministers of Justice, of the Marine, and of the Colonies, decree as follows:

Article 1. The Commissioners of the Executive Directory, near the civil tribunals of the departments, shall take care, that, in the contests about the validity of maritime captures, no judgment shall be given which is founded on the 7th article of the law of the 13th of Nivose, 3d year (3d or 4th of January, 1795) without the Minister of Justice having been previously consulted, conformably to the third article of the law of the 8th of Floreal, 4th year (27th of April, 1796) relative to the treaties, by virtue of which, neutrals might claim an exemption by means of the first of these laws, from the execution of that of 9th of May, 1793.

Art. 2. The Minister of Justice shall consequently examine, whether the treaties appealed to are yet in force, or whether they have been modified since their conclusion: he shall, for this purpose, be furnished by the Minister of External Relations, with all the documents which he shall have need of, and shall make a report thereof to the Executive Directory, as is prescribed by the law of the 8th of Floreal, 4th year.

Art 3. The Executive Directory reminds all French citizens, that the treaty made on the 6th of February, 1778, between France and the United States of America, has, according to the terms of the second article, been modified of full right, by that which was made at London on the 19th of November, 1794, between the United States of America and England; consequently,

1. According to the 17th article of the treaty of London, of the 19th of November, 1794, transcribed here below, (*a*) all merchandise of the enemy, or merchandise not sufficiently proved to be neutral, laden under the American flag, shall be confiscated; but the vessel on board of which it shall be found shall be released and restored to the owner. It is enjoined on the Commissaries of the Executive Directory, to accelerate, by all the means in their power, the decision of contests which shall arise, either on the validity of the prize cargo, or on the freights and demurrage.

2. According to the 18th article of the treaty of London of the 19th November, 1794, transcribed here below, (*b*) to the articles declared *contraband* by the 24th article of the treaty of the 6th of February, 1778, are added the following articles:

Timber, for ship building, pitch, tar, and rosins, copper in sheets, sails, hemp, and cordage, and everything which serves directly or indirectly for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they

shall be destined, or attempted to be carried to the enemy.

3. According to the 21st article of the Treaty of London, of the 19th of November, 1794, transcribed here below (*c*) every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation making a part of the crew of enemy ships, shall, by that act alone, be declared a pirate, and be treated as such, without being allowed in any case to allege that he was forced to it by violence, menaces, or otherwise.

4. Conformably to the law of the 14th of February, 1793, the regulations of the 21st October, 1744, and of the 26th July, 1778, concerning the manner of proving the property of neutral ships and merchandise, shall be executed according to their form and tenor.

Every American ship shall, therefore, be a good prize, which shall not have on board a list of the crew in proper form; such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty.

5. It is enjoined on the commissaries of the Executive Directory to call down the rigor of the tribunals on the fraudulent manœuvres of every ship owner calling himself a neutral, whether an American, or any other nation, on board of whose ship there shall be found, as has been many times practised in the present war, either blank sea-papers, although signed and sealed, or blank papers in the form of letters, containing the signatures of individuals, or double passports, or sea-letters which indicate different destinations of the vessel, or double invoices, bills of lading, or sea-papers of what kind soever, which assigns to the whole or part of the same merchandise different owners, or different destinations.

6. By means of the regulations of the present decree, that of the 9th of Frimaire last, (29th of Nov., 1796,) concerning freights and demurrage, is repealed so far as relates to the demurrage olny.

7. The present decree shall be inserted in the journal of the laws.

The Ministers of the Marine and of the Colonies, of Justice, and of Foreign Relations, are charged with the execution of it, in their respective departments.

REWBELL, *President.*
LAGARDE, *Secretary General.*

(*a*) Art. 17. "It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port, and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder, without any impediment. And it is agreed that all proper measures shall be taken to prevent delay, in deciding the cases of ships or cargoes so brought in for adjudication; and in the payment or recovery of any indemnification, adjudged or agreed to be paid to the masters or owners of such ships."

(*b*) Art. 18. "In order to regulate what is in future to be esteemed contraband of war, it is agreed, that, under the said denomination shall be comprised all arms, &c., as also timber for ship-building, tar, or rosin,* copper in sheets, sails, hemp, and cordage, and generally, whatever may serve directly† to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy."

(*c*) "Art. 21. "It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act, from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party, and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties respectively shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen, having such commission‡ or letter of marque, as a pirate."

Malaga, 3*d Frimaire, 5th year of the French Republic one and indivisible.*

Permit me, Mr. Consul, to reply in the French language; it will cause less delay, and the sense will be more precise.

The French Republic does and will know how to cause neutrality to be respected by its ships of war, and by her privateers, upon every point in which neutral Powers cause the same to be respected by the English. The Rover and the Nancy are detained not under frivolous pretexts, but because, according to the ordinances which serve as a rule to the French privateers, they have, more or less, come within the confiscating clause, especially the Rover. You are not ignorant that French merchants have an indirect interest in these vessels; therefore, I cannot be deceived in my opinion by my attachment to fellow-citizens, since in this circumstance they are Frenchmen opposed to Frenchmen.

You ask me what papers an American commercial vessel should have on board to avoid running the same risk. I conceive that every merchant

* The decree of the Directory says "pitch, tar, and rosins." [Brais, goudron, et résines.]

† The decree says, "directly *or indirectly*."

‡ The decree of the Directory declares, that, not only those Americans who take commissions of the enemies of France, but all American seamen making part of the crew of their enemies' vessels, shall be treated as pirates, even though compelled by force to serve in such ships.

should, in this respect, consult the ordinances of the Powers at war, relative to privateers, &c. Doubtless you will perceive that I can but imperfectly extract in a letter the ordinances of France on this subject; that it would be unfair to exact from me a task more complete than the means which I point out.

I shall only observe, because the observation in my opinion has escaped many of the merchants of this place, that the vessels should have a signed bill of lading of the whole cargo, containing her destination and names of the owners; and that in case transfers and changes in the cargo are to take place, which require unsigned bills of lading, to be signed only when the cargo shall be in a definitive state, these unsigned bills of lading are insufficient, and there should be others signed, containing the cargo, such as it is, before their arrival at the place of transfer; without which, the cargo would be liable to be detained and confiscated. should it not be otherwise pointed out, as well as the destination, &c. in some bill, manifest, or charter party, in proper form, and signed, and on board the vessel. I shall add, that there should not be an board either captain, officer, supercargo, or agent, of an enemy's country; that they should not tear nor suppress any paper; that the vessel should be furnished with a passport, or paper proving the property of the vessel, &c.; that upwards of two-thirds of the crew should belong to the neutral country; that she ought to have proofs of the neutrality of the vessel and cargo; in a word, that in the present circumstances, she should not come from, nor even be destined to an enemy's ports; the latter case exposing her likewise to confiscation, according to the proceedings of the English marine, &c. &c.

I repeat that this short enumeration is necessarily incomplete; that it is given only from the respect I have for you, and that it will be proper to recur to the ordinances, regulations, decrees, and arrêts of the French Government. They are so interesting to maritime commerce, that they should be familiar to all those who follow it. I pray you, sir, to be persuaded of my attachment.

CHAMPRE.

To the Consul *of the U. States.*

[Nos. 3, 4, 5, and 6, consist of copies of documents, remaining in the Department of State, relative to American vessels captured or condemned by the French, since 1st October, 1796.]

SPAIN.

[Communicated to Congress, July 3, 1797.]

ADDITIONAL REPORT

Of the Secretary of State to the President of the United States, of the proceedings of the officers of His Catholic Majesty in relation to the posts occupied by his troops within the limits of the United States, the boundary line, and other matters therewith connected.

Department of State, *July* 3, 1797.

On Thursday last, the 29th of June, I received further despatches from Andrew Ellicott, Esq., the Commissioner of the United States at the Natchez, dated the 10th of May last, of which an extract and copies, numbered 1, 2, and 3, are subjoined. By these it appears that a new motive has been assigned by the Commander-in-Chief, Baron de Carondelet, and Governor Gayoso, for still retaining the possession of the post of the Natchez and the Walnut Hills, and for strengthening the fortifications, viz: to guard against an attack by the British from Canada. This motive being derived from information communicated to the Baron de Carondelet by the Chevalier de Yrujo, the Minister of His Catholic Majesty to the United States, it appears necessary again to bring before the President my correspondence with the Spanish and British Ministers on that subject. These papers are numbered 4, 5, 6, 7, 8, and 9.

Although the Minister declared he had just reasons for suspecting an expedition from Canada was preparing by the British against the upper post of Louisiana, yet he never mentioned a single fact or reason on which his suspicion was founded. From all the existing circumstances, I ever believed the suspicion to be groundless. And the note of Mr. Liston, the British Minister, of the 19th of last month, declares that no such expedition has been, or is intended, by the British Government.

On the 16th of March last, by the President's direction, I inquired of the Minister of His Catholic Majesty whether the Spanish troops had been withdrawn, agreeably to the treaty, from the territory of the United States; and if not, what orders or measures for withdrawing them had been taken. To this the Minister answered, on the 17th of April, that not having for some months heard from the Baron de Carondelet, he was "deprived of any information touching the steps taken for the execution of the treaty." Nevertheless he had previously informed the Baron de Carondelet of his suspicions of a projected expedition from Canada; for on the 1st of May it is offered by Governor Gayoso, as a new reason for continuing to hold the post. These two letters are numbered 10, 11.

On the 24th of June last, the Minister of His Catholic Majesty wrote me the letter numbered 12, in which he undertakes to give the substance of two letters from the Baron de Carondelet, and which about a week before he had orally translated to me from Spanish originals. These letters (as appears by the detail of them now given by the Minister) exhibited divers complaints against Mr. Ellicott, whose conduct is assigned as the cause of an alleged misunderstanding between him and Governor Gayoso; and of the delay in commencing the running of the boundary line.

One article, however, the Minister has omitted in his recital. The Baron de Carondelet complained, among other things, that Mr. Ellicott had not given him notice of his arrival at the Natchez, as the Commissioner on the part of the United States for running the boundary line between their territories and those of Spain. I was astonished at this complaint, as I had then lying on my table a copy of Mr. Ellicott's letter to the Baron, dated the 27th of February, only three days after Mr. Ellicott's arrival at the Natchez, announcing his

arrival as the Commissioner of the United States for the object above expressed, and two copies of the Baron's answer, dated at New Orleans, the 1st of March, one of the original Spanish, and the other translated in English, acknowledging the receipt of Mr. Ellicott's letter, and "congratulating him on his arrival in that country in the character of Commissioner on the part of the United States, to run the dividing line between the territories of His most Catholic Majesty and the United States." I immediately presented those copies to the Minister, in whom the repugnance of fact to assertion excited the natural sensation; but soon recollecting himself, he made this apology for the Baron, that he supposed he did not consider Mr. Ellicott's letter as official! This letter, and the translation of the Baron's answer, have been already laid before Congress and published. I now subjoin the copy of the Baron's answer in Spanish, No. 13.

The facts I have here stated relative to the complaint of the Baron de Carondelet, which the Spanish Minister has omitted in his detail, appeared to me important to be laid before you, to be considered together with the other complaints which the Minister has recited. As to the complaint that Mr. Ellicott "attempted to get possession of the Natchez fort by surprise, and that the Governor Gayoso has in his power documents which evidently prove the intention of that attempt," I have examined the two gentlemen who brought Mr. Ellicott's despatches, and they declare that they never heard of such an attempt being made or intended by Mr. Ellicott, and that far from exciting dissatisfaction to the Spanish Government, in the minds of the inhabitants at the Natchez, he uniformly recommended patience and submission, until the Spanish jurisdiction should be withdrawn.

Upon a view of the whole correspondence now and before submitted to the President, it appears that the Governors of His Catholic Majesty on the Mississippi have, on various pretences, postponed the running of the boundary line, and the withdrawing of his troops from the posts they occupied within the territory of the United States; that, after repeated overtures, promises, and appearances of commencing the execution of the treaty between the two nations, in both those respects, their conduct demonstrates that for an indefinite period they mean to avoid doing either; that there is but too much reason to believe Mr. Ellicott's suspicions well founded, that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty to prepare them for a rupture with the United States, those suspicions corresponding with other intelligence recently received by the Secretary of War and by me. Mine is by a private letters from Colonel Sargent, the Secretary of the Territory Northwest of the river Ohio, of which an extract, No. 14, is annexed.

Whether this plan of exciting the Indians to direct hostilities against the United States has been contemplated and promoted by any of our own citizens, it may be difficult to say; but that one or more of those citizens have proposed and taken measures to detach the southern Indians from the interest of the United States, and to destroy the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace, is certain. The evidence of this important fact will be laid before you by the Secretary of War. The evidence having a reference to the British Minister and his Government, I took the liberty of addressing to him a letter, dated the 1st instant, No. 15, to which I received the answer, No. 16.

As closely connected with this business, I lay before you the copy of my letter No. 17, dated the 27th of April last, to Charles Jackson, Esquire, the District Attorney of Georgia, reciting a passage in a letter from the Spanish Minister dated the 21st of April, declaring his positive knowledge that the English had made propositions to General Clarke of Georgia, to obtain his influence in that State, in conjunction with some persons who might make a diversion or serious attack against Florida. By Mr. Jacksons's answer, from which an extract, No. 18, is herewith presented, it appears that after diligent inquiry, he could not find any person that knew anything of the business, or that entertained a belief of the kind; and that from General Clarke's known violent antipathies to the English, and other circumstances, he doubted the truth of the report altogether.

On the 30th ult. I received a letter from General Pinckney, dated the 9th of May, which contains the latest intelligence from him, and seems proper to accompany the other papers now laid before you. His letter, No. 15, therein referred to, has not yet come to hand. All which is respectfully submitted.

TIMOTHY PICKERING.

No. 1.

Extract of a letter from Andrew Ellicott, Esq., Commissioner of the United States, to the Secretary of State, dated

Natchez, *May* 10, 1797.

Sir: Since my despatches by Mr. Knox, the whole of the Spanish commission for the purpose of running the boundary lines between the territory of His Catholic Majesty, and that of the United States has arrived; but notwithstanding this circumstance, I see no appearance of getting to business in any reasonable time; various pretences are resorted to by the Baron de Carondelet and Governor Gayoso to justify the delay; but the true reason, I am well persuaded, has never yet been made known to myself, or to the inhabitants of the district of Natchez, who are generally very uneasy, and many of them consider their situations as desperate if not supported in a few months by the United States.

As the arrival of the whole Spanish commission produced no effect favorable to our business, I expected that of Lieutenant Pope with a detachment of about forty troops, which happened on the 24th of last month, would make some change for the better; in this I have been disappointed.

Additional laborers were set to work in the fort, and several more pieces of artillery mounted.

On the first of this month, I received a letter from Governor Gayoso, a copy of which, with the answer, you will find enclosed.

On Sunday last, the fort at this place was reinforced by about forty men, and a company of grenadiers are on their way, and hourly expected to join them. Yesterday Mr. Gillimard, the Spanish surveyor, an engineer, and several other military officers, with a boat load of intrenching tools, left this place for the Walnut Hills, where the works are to be immediately put into a complete state of defence. The laborers who were employed, by the direction of Governor Gayoso, to go on the line, are now ordered to the Walnut Hills, to assist in repairing the fortifications.

If the Court of Madrid has any design of carrying the late treaty with the United States into effect, the conduct of the Baron de Carondelet and Gov. Gayoso is to me altogether inexplicable; all their measures have the appearance of approaching hostility; and from some information which I have lately received from a source to which I cannot avoid giving a degree of credit, but a short period will elapse before we shall be ordered to leave this place, if not the country. I have, in a former communication, mentioned my suspicions, that an undue influence has been exercised over the Indians to prepare them for a rupture with the United States, and to awe into a quiet submission the inhabitants of this district who are at their mercy. I am very sorry that no circumstance has yet occurred to make me change this opinion.

Immediately upon Mr. Pope's arrival, he was joined by Ensign M'Clary, who commands my escort, which consists of about thirty-seven men, and all encamped with me. We now make a respectable appearance—the men are in good health, and well clothed, and the strictest discipline is observed by the whole camp. Lieutenant Pope has hitherto conducted himself in such a manner as to give general satisfaction to the neighboring inhabitants, without incurring the displeasure of the present Governor, or his officers, and at the same time steadily supported the honor of the United States; but he has unfortunately been indisposed almost ever since his arrival.

I am, sir, with great esteem. &c.,

ANDREW ELLICOTT.

SECRETARY OF STATE, *United States.*

No. 2.

Manuel Gayoso de Lemos to the Honorable Andrew Ellicott.

NATCHEZ, *May* 1, 1797.

SIR: I have the honor to acquaint you, that the Commander-general of this province desires me to inform you that His Majesty's Envoy in the United States has given him the intelligence of an attack proposed against our part of the Illinois, by the British from Canada; and as such an expedition cannot take place without passing through the territory of the United States, said Envoy did officially communicate what was necessary, to the Secretary of State of the United States, requiring that convenient orders should be issued to have their territory respected and provide for their own safety, which we doubt not but the United States will acquiesce to, in consequence of the treaty and the good harmony that subsists between the United States of America and His Majesty.

The said Commander-general of this province, in consequence of the foregoing information, finds himself under the necessity of putting in a state of defence several points of this river, and particularly Nogales,* to cover Lower Louisiana, in case the British should succeed in their project against Illinois, for which purpose a convenient force shall be sent to Nogales, to repair and defend that post, which, far from being against the interest of the United States of America, will, in case of being agreed to, leave the military posts in that state of defence which it may be found.

As this is a powerful reason in addition to those that offered before to suspend the evacuation of these posts and of running the line; as our attention is entirely drawn towards the defence of the province, the said Commander-general orders me to pass to you this official communication, and, in consequence of the unavoidable delay, to repeat to you, in his name, the proposal of remaining here to go down to Lower Louisiana; or, as he thinks might be preferable, to remove to Villa Gayoso, where there are sufficient buildings to accommodate you; this insinuation being an effect of the desire we have to show every degree of consideration as a proof of our disposition to improve the friendship between our nations, assuring you that in any part that you should determine to remove to, or stay, the Commander-general will facilitate every conveniency in his power for your satisfaction. I have the honor to be, &c., M. GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 3.

Andrew Ellicott to His Excellency Manuel Gayoso de Lemos.

NATCHEZ, *May* 2, 1797.

SIR: Your Excellency's favor of yesterday is now before me, but as it principally concerns the commanding officer of the troops of the United States in this quarter, who, I presume, will give you a satisfactory answer, it will therefore be unnecessary for me to make any remarks upon it.

In a former communication you were apprized of my determination to remain at this place until we proceed to running of the line, or recalled by the Executive of the United States. I am, &c.,

ANDREW ELLICOTT.

His Exc'y M. GAYOSO DE LEMOS.

No. 4.

PHILADELPHIA, *March* 2, 1797.

SIR: Three days ago I declared to you the just reasons which I had for suspecting that an expedition was preparing on the lakes, on the part of

* Walnut Hills.

the English, the object of which is to attack Upper Louisiana, and take by surprise the posts of St. Louis and New Madrid. The proofs which I have since been able to obtain confirm me in my suspicion that the English troops who meditate this *coup-de-main*, intend to descend the Mississippi by *Fox River*, *Ouisconsin*, or by the Illinois or other parts of the territory of the United States. I suppose the Government of this country too jealous of its rights to suffer so scandalous a violation of its territory; but having always in view the interests of the King my master, and the security of his possessions in this part of the world, in his name I request, sir, that in virtue of the information cited, this Government may take the measures necessary for preventing the passage of foreign troops, of what description soever, over its territory. An undertaking in which are united the dignity of the United States, and the security of the possessions of a friendly nation, assures me beforehand that the Administration of this country will take the measures which shall be most adapted to this end.

With these reasons. I offer myself to your disposal, and pray God to preserve you many years.

Your most obedient humble servant,

CHARLES M. DE YRUJO.

TIMOTHY PICKERING, Esq.

No. 5.

Timothy Pickering to the Chevalier de Yrujo, Minister Plenipotentiary of His Catholic Majesty.

DEPARTMENT OF STATE. *March* 11, 1797.

SIR: I have laid before the President of the United States your letter of the 2d instant, mentioning your suspicions, that an expedition is preparing on the lakes, on the part of the English: the object of which is to attack Upper Louisiana. and to take by surprise the posts of St. Louis and New Madrid; and that, to accomplish this object, the English troops intend to pass by the routes you mention, or by other parts of the territory of the United States: and you request their Government to take the necessary measures to prevent such a violation of their territory.

First remarking, that the Government of the United States possess no information, nor the knowledge of any circumstances indicative of such a design as that you suspect, I have the honor to assure you that, true to the principles of an impartial neutrality to which the United States have hitherto invariably adhered, their Government will be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue those measures which shall appear proper and expedient for that end. I am, with great respect, &c., TIMOTHY PICKERING.

The Chevalier DE YRUJO.

No. 6.

The Chevalier De Yrujo to the Secretary of State.

PHILADELPHIA, *April* 21, 1797.

SIR: Whilst I possess new reasons for believing that it is intended to carry into effect the expedition against Upper Louisiana, on the part of the English, by violating the territory of the United States, as was manifested to you in my letter of the 2d March last, I must add, that I know to a certainty that the English have made propositions to General Clarke of Georgia, in order to avail themselves of his influence in that State, together with some other persons, for making a diversion or serious attack against Florida; and as, by your letter of the 11th of the last month, you assure me that the United States would take the necessary measures for causing their neutrality to be respected, I do not doubt that in consequence of this my information, the Executive Government will take the proper steps, in order that Georgia also should not infringe the laws of neutrality to the injury of the possessions of the King my master.

I embrace this opportunity to renew to you my wishes to serve you, and that God may preserve your life many years.

Your most obedient servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq.

No. 7.

Timothy Pickering to the Chevalier de Yrujo, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty.

DEPARTMENT OF STATE,
Philadelphia, April 28, 1797.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, repeating your suspicions that it is intended to carry into effect an expedition, on the part of the English, against Upper Louisiana, through the territory of the United States; and adding that you know to a certainty that the English have made propositions to General Clarke, in Georgia, to obtain his influence in that State, with a view to a diversion or serious attack against Florida.

To the first point I have the honor to answer that, although this Government is still destitute of any knowledge of facts or circumstances indicating that an expedition on the part of the English against Upper Louisiana has been projected, yet, desirous of living on terms of amity with our neighbors, on one side and the other, agreeably to subsisting treaties, I have communicated to the Minister of His Britannic Majesty, for the information of his Government, the suspicions you have expressed of an intended expedition against Upper Louisiana, and the declaration of the President of the United States, that he cannot consent that either should march troops through the territory of the United States to attack the other. The sense of the American Government being thus declared beforehand, we cannot presume that a measure will be undertaken which cannot be prosecuted without a violation of our neutral rights.

With regard to the project of an expedition by the British against Florida, the aid of General Clarke, and of persons whom he might influence, I have to inform you that orders have been forwarded to the District Attorney of Georgia. to inquire into the fact as stated by you, and if discovery

should be made of designs to violate our neutral duties, and especially of forming an expedition against the territories of His Catholic Majesty from the territories of the United States, to take the most proper and effectual measures for frustrating such designs; and if the same should be manifested by any overt acts, to cause the offenders to be arrested and brought to condign punishment.

I have the honor to be, &c.,

TIMOTHY PICKERING.

The Chevalier DE YRUJO,
Envoy Extraordinary, &c.

No. 8.

Timothy Pickering to Robert Liston, Esquire, Envoy Extraordinary, &c., of His Britannic Majesty.

DEPARTMENT OF STATE,
Philadelphia, April 28, 1797.

SIR: The Minister of His Catholic Majesty, early in March last, represented to this Government his suspicions that an expedition was preparing on the Lakes, on the part of the English, whose object was an attack on the Spanish posts in Upper Louisiana, by a route through the territory of the United States, and requested the Government to take measures necessary to prevent such a violation of their territory.

In answer to the Spanish Minister, after the remark that the Government of the United States had no knowledge of any circumstances indicative of the design he suspected, he was assured that, true to the principles of an impartial neutrality, to which the United States have hitherto invariably adhered, their Government would be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue the measures which should appear proper and expedient to that end.

His Catholic Majesty's Minister having lately renewed his representation, declaring that he had recent ground to believe that it is intended to carry into effect the expedition before mentioned against Upper Louisiana, through the territory of the United States, I am directed by the President of the United States to make to you this communication, and to declare that, desirous of living on terms of amity with their neighbors, on one side and the other, agreeably to subsisting treaties, he cannot consent that either should march troops through the territory of the United States, to attack the other.

The sense and motives of the American Government being thus expressed, I doubt not the same will be duly respected on the part of the British Government; and without judging whether suspicions of His Catholic Majesty's Minister are or are not founded, I am persuaded that the declaration now made will be considered as a proof of our good will, by preventing the great expense of preparations for an enterprise which cannot be prosecuted without occasioning a violation of the neutral rights or duties of the United States. I have the honor to be, &c.

TIMOTHY PICKERING.

ROBERT LISTON, Esq.

No. 9.

PHILADELPHIA, 29th *June*, 1797.

R. Liston presents his respects to Colonel Pickering, Secretary of State:

When you first mentioned to me the suspicions expressed by the Spanish Minister respecting an expedition supposed to be preparing on the Lakes, with a view to attack the Spanish posts in Louisiana, I took the liberty of observing to you that I had no knowledge of any such preparations, and did not believe that they existed.

I have since requested information on the subject from the Governor General of Canada, and from His Majesty's Secretary of State, and I have authority to assure you that no expedition of the nature of that alluded to has been, or is, intended by the British Government. Indeed, the impropriety of violating the neutral territory of the United States is an objection of sufficient magnitude to induce the King's Ministers to reject any such plan, were it suggested to them.

No. 10.

DEPARTMENT OF STATE, *March* 16, 1797.

SIR: The second article of the treaty between the United States and His Catholic Majesty, stipulated "that, if there should be any troops, garrisons, or settlements, of either party in the territory of the other, (according to the boundaries fixed by the same article) they should be withdrawn from the said territory within the term of six months after the ratification of that treaty, or sooner if it were possible." The United States have no troops, garrisons, or settlements, within the territory of His Catholic Majesty. We do not know whether those of His Catholic Majesty within the United States' territory at the time the treaty above mentioned was made, have been since withdrawn. I am, therefore, directed by the President to inquire, and do request you to inform me, what is the fact; and, if those troops, &c., have not been withdrawn, what orders or measures for their withdrawing have been taken. It is now near eleven months since the ratification and exchange of the treaty took place. I have the honor to be, &c.,

TIMOTHY PICKERING.

The Chevalier DE YRUJO,
Minister Plenipotentiary, &c.

No. 11.

PHILADELPHIA, *April* 17, 1797.

SIR: Although I received, in due time, the letter which you did me the honor to write to me on the 16th ultimo, an indisposition, from which I am not yet altogether recovered, prevented me from replying to the inquiry you make relative to the evacuation of the Spanish posts within the new line of demarcation of limits. I now take up my pen to inform you that several months have elapsed since I have received a letter from the Baron de Carondelet, and, of course, I am deprived of any information touching the steps taken for the execution of the treaty.

I offer myself to your disposal, praying God to preserve your life many years. Your most obedient servant,

C. M. DE YRUJO.

TIMOTHY PICKERING, Esq.

No. 12.

PHILADELPHIA, *June* 24, 1797.

Eight or ten days ago, I made known to you the information which I had received from the Baron de Carondelet, relative to the occurrences at the Natchez, between the Governor, Don Manuel Gayoso de Lemos, and the Commissioner of the United States, Mr. Ellicott; and being desirous, at this time, to avoid all equivocation as to the substance of those letters, I have determined to communicate it to you in writing.

By the 2d article of the treaty with Spain, it is stipulated that the garrisons which are found above the line of demarcation agreed on, shall be withdrawn. Setting out, then, with this principle, it appears that the first operation ought to be to draw this line, in order to know which were the garrisons which were to be withdrawn, according to the article cited; and, although the Natchez and some other Spanish posts are probably situated above the said line of demarcation, the formality and delicacy which one Government owes to another required that Mr. Ellicott should not pretend to take possession of the territory until the said demarcation should be made, and the more so, as he had been informed officially that the Spanish engineer, M. Guillemard, was already on his way to fulfil this part of his commission.

Mr. Ellicott, not attending to these just observations, immediately began to wound the feelings of the Spanish commander, by hoisting the American flag on a territory which would not belong to the United States till after having jointly made the astronomical observations for ascertaining the course of the line. Not content with this, he began to exercise an authority which was unlawful, for the same reasons, to wit: that of recruiting for the United States in a place which was then under the jurisdiction of the Spanish Government.

These imprudences, which can admit of no excuse, gave rise to a personal resentment, from which there is little to hope with respect to harmony between those Commissioners in future.

In these circumstances, the Governor General of the province, the Baron de Carondelet, made known the just doubts which he had about the delivery of the posts, since, in the 2d article, it is not stipulated that they were to be given up, and it seems that it could never have been the intention of His Catholic Majesty to deliver up any fortifications on which he had expended great sums of money, and which, through political vicissitudes, might, perhaps, be one day prejudicial to his subjects. In this situation, prudence required that the decision of this doubtful point should be left to the two Governments; but Mr. Ellicott, adding imprudence to imprudence, and with a pretext which a quarrel between some drunken Chickasaws and the people of his company afforded him, not only violated a territory then Spanish, by desiring to excite the inhabitants by all imaginable means, but also carried his zeal so far as to attempt to get possession of the fort of the Natchez by surprise. Governor Gayoso says he has in his power documents which prove evidently the intention of this attempt. Such conduct was little calculated to produce the spirit of harmony so necessary in such circumstances, and obliged Governor Gayoso, when he discovered such hostile intentions, to take, on his part, measures necessary for his defence.

This is the true state of things, by which it clearly appears that the inconsiderate conduct of Mr. Ellicott is the only cause of the disagreement at the Natchez; the more so, as the Spanish commanders declared to him that, while the two Governments were deciding on the doubt which occurred to the Baron de Carondelet, about the delivery of the posts, the drawing of the line of demarcation might be begun, when M. de Guillemard, who had already departed from New Orleans for the Natchez, should arrive.

If, in this situation of the business, the commanders changed their ideas or their measures, it could only proceed from the imprudent conduct of Mr. Ellicott. The Baron de Carondelet, desirous of observing religiously the treaty, so far as was not inconsistent with his duty, seeing the personal resentment which exists between Mr. Ellicott and Governor Gayoso, desires that there may be sent to command the detachment of American troops on that frontier, a man of judgment and prudence, who, in such delicate circumstances, shall act with moderation, which is of so much importance to the two Governments.

This is what I have had the honor of communicating verbally to you, sir, in my last conference, and I repeat it now, recommending more particularly that there should be sent, on the part of the United States, to that frontier, a person of prudence and sound judgment, leaving to Mr. Ellicott the technical part only: for, while he acts as principal, it is to be feared that we shall not see the agents of the two Governments, which are interested, proceed with that union and harmony which is ever important to us.

I repeat, sir, my wishes of obliging you, and that our Lord may preserve your life many years.

Your most obedient servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq., &c.

No. 13.

NUEVA ORLEANS, 1 *Marzo*, 1797.

MUI SENOR MIO: He recibido con mucha satisfacion la apreciable de V. S. de 27 Febrero pasado en que se serve participarme su arrivo a esa plaza con el caracter ne Comisario por los Estados Unidos de America para la demarcacion de limites entre los territorios de S. M. C. y los de los dichos Estados.

Me causa igualmente la mayor complacencia el testimonio que V. S. me da de la corbanidad

y atenciones que ha recivido de los comandantes de las fuertes, quienes han correspondido a los intenciones del gobierno, a mis ordenis, y a los principios generales de la nacion; y no dudo que en qualquiera oportunidad encontraran los Espanides igual y reciproca correspondencia de parte de los ciudadanos de los Estados Unidos. Dios &c. Beni. de V. S. Su mas a^o^t. serv.

EL BARON DE CARONDELET.

Don. ANDREW ELLICOTT.

No. 14.

Extract of a letter from Winthrop Sargent, Esq., Secretary of the Government of the Northwestern Territory to the Secretary of State, dated

CINCINNATI, *June* 3, 1797.

General Wilkinson sending off an express, I seize the occasion to transcribe for you some paragraphs from a Western letter.

"The Spaniards are reinforcing their upper posts on the Mississippi considerably. General Howard, an Irishman, in the quality of Commander-in-chief, with upwards of three hundred men, arrived at St. Louis, and is employed in erecting very formidable works. It likewise appears, through various channels, that they are inviting a great number of Indians of the territory to cross the Mississippi, and, for this express purpose, Mr. Larromie, an officer in the pay of the Crown, made a tour through all this country last Fall, since which time several Indians have been sent on the same errand, and generally furnished with plenty of cash to defray their expenses."

"A large party of Delawares passed down White river, about the 6th of May, on their way to the Spanish side, bearing the national flag of Spain sent them from St. Louis."

"They (the Spaniards) have, above the mouth of the Ohio, on the Mississippi, several row galleys with cannon."

No. 15.

DEPARTMENT OF STATE,

Philadelphia, July 1, 1797.

SIR: Your note of the 19th of the last month, alluding to the suspicions expressed by the Spanish Minister, respecting an expedition suggested to be preparing at the Lakes, against the Spanish posts in Louisiana, I laid before the President of the United States, who received great satisfaction from your assurance that no such expedition has been or is intended by the British Government.

Will you permit me to inquire whether you can give any information concerning any other project of an expedition against any part of the dominions of Spain adjacent to the territory of the United States, where or from whence any co-operation was contemplated? I am aware of the delicacy of this inquiry; but the frankness of your verbal answer, formerly, relating to the alleged expedition from Canada, and the assurances in your note above mentioned, lead me to hope that you will not deem the present inquiry improper, and the proofs you have uniformly given of respect to the rights and interests of the United States, authorize the further hope that you will feel yourself at liberty to communicate any information you may possess, which, on this occasion, may concern their tranquillity and welfare; and I beg you to be assured that it is on this ground only that I would make the inquiry. I will add, however, that it is not the result of suspicion, but of information, (in which your name is introduced) that some project of the kind has been contemplated, and that the means disposed to carry it into execution could not but be highly detrimental to the United States. I have the honor to be, &c. T. PICKERING.

ROBERT LISTON, Esq., *Envoy &c.*

No. 16.

R. Liston presents his respects to Colonel Pickering, Secretary of State:

I have had the honor of receiving your letter of yesterday. In the course of last Winter some persons did actually propose to me a plan for an attack on the Floridas and the other possessions of His Catholic Majesty adjoining to the territories of the United States.

The general outline of the project was, that the expedition should be undertaken by a British force sent by sea, and seconded by a number of men resident within the limits of the United States, who, I was assured, would be willing to join the King's standard, if it were erected on the Spanish territory.

I informed the projectors that I could not give any encouragement to a plan of this nature; and I particularly stated two objections to it—the impropriety of any measure that tended to a violation of the neutrality of the United States, and the inhumanity of calling in the aid of the Indians, a circumstance hinted at in the conversation that had taken place on the subject.

I conceived it to be my duty, however, to mention the business in my correspondence with my superiors; and I lately received an answer, acquainting me that His Majesty's Ministers did not think proper to give any countenance to the project. The two objections above alluded to, (which I had of course insisted on in my report,) are stated sufficient reasons for its rejection.

You must allow me, sir, to decline entering into any further particulars. On the one hand because, although I have all along suspected that the persons who proposed the plan to me might not improbably be employed by the enemies of Great Britain to endeavor with sinister views to insinuate themselves into my confidence, yet, as these my surmises may be false, I should not be justified in betraying the secrets of men who may have meant me well; and, on the other hand, because, however loose the principles of these speculators may have been on the subject of the law of nations, (as it regards the duties of neutrality,) none of them in their intercourse with me ever expressed sentiments that were in any degree hostile to the interests of the United States.

PHILADELPHIA, *July* 2, 1797.

No. 17.

DEPARTMENT OF STATE,

Philadelphia, April 27, 1797.

SIR: This week I received your letter expressing your acceptance of the office of District Attorney for Georgia. I was gratified by the information; and hope your health may be re-established and enable you to continue to hold and exercise it.

Within a few days, the Spanish Minister, the Chevalier d'Yrujo, has written me as follows:

"I know to a certainty, that the English have made propositions to General Clarke, of Georgia, in order to obtain his powerful influence in that State, in conjunction with some persons, who might make a diversion or serious attack against Florida; and, I doubt not that, in consequence of this, my advice, the Executive Government will take suitable steps for effectually preventing the rights of neutrality being infringed by Georgia, to the prejudice of the possessions of the King my master."

His letter has been laid before the President of the United States, by whose direction I have now to desire you immediately to inquire into the fact asserted by the Spanish Minister; and, if any discovery shall be made of designs to violate our neutral duties, and especially of forming an expedition against the territories of His Catholic Majesty, from the territory of the United States, in defiance of their laws, and particularly of the act of Congress for the punishment of crimes against the United States, passed on the 5th June, 1794, that you will take the most proper and effectual measures for frustrating such designs; and if the same shall be manifested by any overt acts, to cause the offenders to be arrested and secured, that they may be brought to condign punishment. Independently of the aid, which, if necessary, you will require of the Governor of Georgia, the commanding officer of the federal troops in that State will be directed by the Secretary of War to afford you all the assistance in his power.

I shall be obliged by your acknowledging the receipt of this letter, and by a communication of the result of your inquiries into the subject of it. I am, sir, with great respect, &c.

TIMOTHY PICKERING.

CHARLES JACKSON, Esq., *Dis. Att'y, &c.*

No. 18.

Extract of a letter from Charles Jackson, Esq., District Attorney of Georgia, to the Secretary of State, dated,

SAVANNAH, *May* 22, 1797.

SIR: Your letter of the 27th ultimo, I had the honor to receive some few days past. It has remained unanswered until the present moment, that I might enable myself to ascertain whether or not the suspicions entertained by the Spanish Minister, respecting General Clarke, as expressed in your letter, were well founded. I have made diligent inquiry, and cannot find any person here that knows anything of the business, or that entertains a belief of the kind. Clarke was concerned in a former expedition against the Floridas, in conjunction with the French, and it is possible from this circumstance, that he is again suspected. He is a man of strong passions, of warm partialties for the French, and violent antipathies to the English. From these circumstances, and from the matter being unknown to the citizens here, I am led to doubt the truth of the report altogether. It might not be improper to add, that he is far from being the man of influence suggested by the Spanish Minister. But should it happen, contrary to my expectation, that Clarke should be daring enough to attempt a violation of the laws of the Union, by accepting a commission, as has been mentioned, no exertions shall be wanting on my part to bring him to punishment, and, should it be necessary, I shall direct the Marshal to call to his aid the federal troops. But I have no doubt, on my own part, but the civil authority has sufficient strength in this State to carry into effect the laws of the Union.

No. 19.

ROTTERDAM, *May* 9, 1797.

DEAR SIR: Although in the postscript to the original and quadruplicate of No. 15, forwarded to-day, I have mentioned the latest intelligence; yet, as I find that the schooner Mary, of Boston, Captain Hall, is to sail from this port to-morrow, I beg leave to mention again, that a summary of some of the articles of the preliminaries of the Treaty of Peace between France and the Emperor arrived here this morning. "The Emperor cedes Beligum to the French Republic; he recognises the independence of the Republic of Lombardy; he admits the extension of the French boundaries, to the limits prescribed by their Constitution and laws." Therefore, the Meuse, and not the Rhine, is to be the boundary. Bonaparte's flanks and rear were threatened when the preliminaries were agreed upon. The Austrians had recovered the Tyrol, Friuli, and Trieste."

I received accounts to-day that the Juliana, from Norfolk, in Virginia, is taken and carried into Havre, and that the Juno, Rainbow, and Charlotte, all three from Charleston, and the Hebe, from Savannah, are captured and carried into Nantz, and, in all probability, will be condemned for want of a *role d'equipage*, certified by a public officer, agreeably to the regulations prescribed by France.

I enclosed you in No. 15, (the original of which I sent by Captain Simpson, of the Republican, via Baltimore, the duplicate by Captain Goodrich, of the Lydia, via New York; the triplicate by Captain Harrington, of the Eliza, to Philadelphia,) and the quadruplicate to the care of Mr. King; copies of Citizen Merlin's letter to Mr. Skipwith, Consul General at Paris, in which he says that when we become just and grateful, and break our incredible treaty with England, France will desist from her present conduct with respect to us. I refer you to the copies transmitted as above, for the particulars of this curious letter. It is now published as official in the *Redacteur*.

Major Mountflorence informs me by the letter

received to-day, "that he had drawn a reply to it, but that it had been judged not proper to be sent; but that, in lieu thereof, it had been proposed to inform the Minister by a short note, that persisting in the former reclamations, and not authorized by the Government of the United States to enter into a formal diplomatic discussion on the subject therein mentioned, a copy of this letter of the 4th Floreal, (April 21,) should be transmitted to our Secretary of State." I remain, with great respect, &c., CHAS. C. PINCKNEY.

Col. PICKERING, *Secretary of State.*

REPORT

Of the Secretary of War to the President of the United States, accompanying the Message of July 2, 1797

WAR OFFICE, *June* 20, 1797.

The Secretary of War has the honor respectfully to report to the President of the United States the annexed extracts of letters from Brigadier General Wilkinson and Lieutenant Colonel Hamtramck, relative to certain causes which may have affected the disposition of the Indians on the Western frontiers; also extracts of despatches to Brigadier General Wilkinson and Captain Guion, respecting the conduct to be observed by the latter officer, on his arrival at the Natchez and Walnut Hills, with copies of a correspondence between His Excellency Manuel Gayoso de Lemos and Lieutenant Piercy Pope, of the corps of artillerists and engineers, and commandant of the advanced guard of the troops of the United States, destined to take possession of those posts, which exhibit the reasons that had prevented his receiving them.

The Secretary further reports a copy of a letter from William Blount, Senator from the State of Tennessee, (the original of which is believed to be in his handwriting,) addressed to James Carey, Interpreter to the Cherokee nation, and assistant to the Indian factory at Tellico, in Tennessee, who had received it, and which had since come to the hands of the principal of that factory.

JAMES McHENRY.

No. 1.

Extract of a letter from the Secretary of War to Brigadier General James Wilkison, dated

"WAR OFFICE, *June* 9, 1797.

"Yesterday the Secretary of State received letters from Mr. Ellicott, by which it would appear that scruples on the part of Governor Gayoso had retarded the evacuation of the posts.

"These scruples or objections are, 1st: That, in his opinion, the forts ought to be demolished. 2d: That he thought it necessary to continue his force in that quarter till the claims of Spanish subjects to lands should be adjusted by negotiation.

"As to the first, our officer may be instructed to agree to the demolition of the works, if insisted on. As to the second, he will assure the Governor that he is authorized to say that no person shall be disturbed in his possession or property, till an opportunity has been afforded to apply to Congress, and that they may rely upon their claims being adjusted upon the most equitable principles.

"It is to be presumed, that on receiving these explanations, the Spanish garrisons will be withdrawn. If, however, contrary to expectation, this should not happen, our officer is to take a secure position, but not so near them as to give any cause to the Spanish garrisons to apprehend insult or injury."

No. 2.

Extract of a letter from the Secretary of War to Captain Isaac Guion, commanding a detachment of the troops of the United States, destined for the Natchez.

"WAR OFFICE, *June* 10, 1797.

"I enclose you a duplicate of my letter to Brigadier General Wilkinson, of yesterday's date, for your government, in case he should have left Fort Washington, or by any accident be prevented from communicating to you the contents.

"Having a perfect reliance on your prudence and judgment, I cannot doubt but your command will prove satisfactory to yourself, and advantageous to the United States."

No. 3.

Extract of a letter from the Secretary of War to Captain Isaac Guion, dated

WAR OFFICE, *June* 15, 1797.

"Should this despatch find you, where I expect it will, at the Natchez, and the Spanish garrison still in possession of the works at that place, you will be pleased to lose no time in communicating to the commanding officer there, the enclosed copy of a Message (June 12, 1797) from the President of the United States to Congress, and to the inhabitants of Natchez, its contents, that both may be fully possessed of the intentions of Government. You will also inform the Spanish commandant that you are instructed to pay the strictest attention to the engagements the United States have entered into by the treaty with His Catholic Majesty:—to permit the demolition of the works; to use your utmost endeavors to preserve a continuance of the pacific dispositions of the Indians within our limits towards the subjects of His Catholic Majesty, or his Indians; and to prevent their commencing hostilities (of which there is no appearance) against either, conformably to the fifth article of the said treaty. That you flatter yourself, after these candid assurances, that you will have the immediate pleasure to announce to the President a full compliance with the treaty on the part of the commander of His Catholic Majesty's forces within the United States."

No. 4.

Extract of a letter from Brigadier General James Wilkinson to the Secretary of War, received 22d instant.

FORT WASHINGTON, *June* 2, 1797.

"Lieutenant Col. Howard, of the regiment of Louisiana, an accomplished Irishman, has arrived

at St. Louis with four hundred regular troops; he is strengthening the works of that place, and organizing the militia; and I have information, through a confidential channel, that it was determined, as early as September last, not to give up the posts on the Mississippi."

No. 5.

Extract of a letter from Brigadier General James Wilkinson to the Secretary of War, received 22d instant, dated

FORT WASHINGTON, *June* 4, 1797.

"Letters from all quarters announce the discontents and menacing aspect of the savages; two white men have been recently murdered on the Ohio, below the Cumberland, and the savages beyond the Mississippi, and those who pass Massac, make no hesitation to avow their purpose of war; the Shawnese, at the old Tawa towns, are our nearest neighbors—they profess friendship, but are making no preparations for a crop, which is a certain indication of their intention to change ground.

"The enclosed extract of a letter from Colonel Hamtramck is corroborated by information from Kaskaskias, St. Vincennes, and Massac.

"At the same time, Colonel Howard is strengthening his works at St. Louis, and organizing the militia, who are taken into pay at nine dollars per month."

No. 6.

Extract of a letter from Lieutenant Colonel Hamtramck to Brigadier General James Wilkinson, dated

DETROIT, *May* 21, 1797.

"The departure of the fourth regiment, and now the artillery, makes us very weak; it has reduced our guards from officer's guards to non-commissioned officer's, and our strength does not admit of three relieves.

"I have had, for a long time past, a large number of Indians; I do not know well their intentions, but I think it would be prudent not to weaken the garrison more than it is; and I am pretty sure that both the French and the Spaniards have emissaries among the Indians. I have it from indubitable authority, that a large belt from the Spaniards is now travelling through the different nations."

No. 7.

Extract of a letter from Lieutenant Piercy Pope to the Secretary for the Department of War, received 29th June, dated

CAMP, *May* 9, 1797.

SIR: I arrived at the Walnut Hills on the 13th of last month. Previous to my arrival at that place, orders were lodged with the commandant of that post not to suffer my troops to come any lower down until further orders. At this I remained for eight or ten days, when I received a letter from Governor Gayoso, informing me that he should be happy to see myself and detachment arrive. I immediately embarked all my troops, and moved on to Natchez, at which place I arrived the 24th April, was received extremely well, and everything appeared to go perfectly right for several days; the evacuation appeared to be going on with great life, when, all at once, the military stores were immediately ordered back, their troops busily engaged all night taking back and remounting the cannon. This kind of conduct, I assure you, appeared and still appears strange; they are strengthening the garrison here, detachments of troops daily arriving; the whole of which are, both day and night, working and fortifying themselves; I cannot say against what. Reinforcements are daily going up to the Walnut Hills, for no other purpose but strengthening that place. The militia is ordered to be embodied—this, however, is a report, though I believe a very just one, which has alarmed the inhabitants extremely, who are respectable and numerous. I am also informed, this evening, that what is called the Mexican regiment are now on their way to garrison this place and the Walnut Hills. There have been several attempts made to draw on the Indians upon my troops. I have fully ascertained this fact, and demanded of the Governor to have a principal actor immediately brought to punishment, or sent out of the country. He has been sent for, and is now on board of one of the galleys, which is now about descending the river.

No. 8.

Don Manuel Gayoso de Lemos to Lieutenant Pope.

NATCHEZ, *March* 25, 1797.

SIR: By Mr. Philip Minor I am informed that you was preparing to come down the Mississippi to take possession of the posts on the east bank of this river, to the north of 31 degrees latitude. Not long ago, Gen. Wayne sent a message to Baron Carondelet, General-in-chief of this province, inquiring when it would be convenient and agreeable to him to order the said posts to be evacuated. His excellency the Baron has answered, and the answer cannot yet have produced the determination you have taken to anticipate the time appointed. Depending on the friendly arrangements that the two Generals had entered into, neither Nogales or this place is yet evacuated, though the necessary steps are taken to verify it within one month; therefore, I request that you will encamp your troops in the first convenient place on either bank of this river, nigh the place where this may be delivered to you, by my adjutant, Captain Stephen Minor. I shall with pleasure see your condescension, as this will be a proof of the good harmony that subsists between our nations, which is more particularly recommended to us by the King. The presence of the troops of the United States, while the evacuation of this place is carrying on, would have an appearance of compulsion, which would not be decent to the decorum due to his Catholic Majesty, when so intimately allied to the United States of America.

As soon as the military stores are embarked, I shall do myself the honor to acquaint you with it, and then will be very happy to see you here, and

to be personally acquainted with you. I am, with the highest consideration, sir, &c.

M. GAYOSO DE LEMOS.

Captain POPE.

No. 9.

Don Manuel Gayoso de Lemos to Lieutenant Pope.

NATCHEZ, *April* 1, 1797.

SIR: Since I addressed you by Major Minor, I have received orders from his Excellency Baron Carondelet, General-in-chief of this province, to suspend the evacuation of the posts within my jurisdiction, until our Court has settled with the United States of America some difficulties, which can be levelled only by our respective Ministers. The perfect peace and harmony subsisting between the two nations do not allow us to doubt but we shall shortly receive intelligence concerning the results of this suspension. It is my duty to inform you of this circumstance, and at the same time to offer you any assistance that you may be in need of at the Walnut Hills, and give you every proof of our disposition to keep up a good understanding and sincere friendship with the United States.

Notwithstanding I have already given the necessary orders to the commandant of that post to prepare convenient accommodations for your troops, I reiterate them by this opportunity; being anxious that you may meet with every possible conveniency at that place. I am, with consideration, sir, &c.

M. GAYOSO DE LEMOS.

PIERCY S. POPE, Esq.
Commanding Officer, Walnut Hills.

No. 10.

Lieutenant Pope to Captain Burguard, Commanding Officer, Walnut Hills.

WALNUT HILLS, *April* 13, 1797.

SIR: I have this morning, with attention, perused two letters from Governor Gayoso, mentioning a message from General Wayne to Baron Carondelet, General-in-chief of this province, to know when it would be convenient to him to have the posts evacuated. I could not know or anticipate the answer to General Wayne's message; but on my arrival at Fort Massac, was informed by the commanding officer at that place that the posts were ready to be evacuated. Agreeably to my orders, and in consequence of this information, I am now coming forward with my detachment, for the purpose of taking possession of the lowest post on the Mississippi—the Natchez post.

It is my wish, as well as that of the United States, to promote harmony and a friendly exchange of good offices between the United States and the subjects of His Most Catholic Majesty. I am, with respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding U. States' troops, Mississippi.

Captain BURGUARD.
Commanding Officer, Walnut Hills.

No. 11.

Lieut. Piercy S. Pope to Don Manuel Gayoso de Lemos.

WALNUT HILLS, *April* 15, 1797.

SIR: Your letter of the 25th of March, and the other of the 1st instant, were both delivered me by the commanding officer at Nogales yesterday. I was extremely sorry that my indisposition was such as prevented an answer. I am not acquainted with the circumstance of General Wayne having sent a message, inquiring when it would be convenient to evacuate the posts. I am unacquainted with the answer to this inquiry, nor did I anticipate the time appointed for their delivery; for the first information received by me on this subject was at Fort Massac, which, together with my orders of instruction, induced me to suppose a delay for receiving the posts would be improper. I have, agreeably to your request, encamped my troops on the east side of the Mississippi, immediately above Nogales. I assure you it is with pleasure I have to acknowledge the polite treatment and attention my troops have received, since their arrival at this place, from the commandant; and rest assured that nothing shall be wanting on my part to cultivate that present interesting harmony which is between the two nations. Nothing will give me more pleasure than to be personally acquainted with you, when convenience will permit. I am, with the highest respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding U. States' troops, Mississippi.

No. 12.

Don Manuel Gayoso de Lemos to Lieut. Piercy S. Pope.

NATCHEZ, *April* 17, 1797.

SIR: By the commandant of that post I am informed of your arrival there, with the troops under your command; and he has also sent me the letter that you wrote to him, acknowledging the reception of my two.

The particular reasons that, for the present, have suspended the evacuation of the posts, do not affect the treaty in any other respect; and these will soon be settled between His Catholic Majesty and the United States of America, they being of a nature that only wants an explanation: therefore, it has been my most earnest wish to keep the settlements in peace and quiet until that political change takes place.

As I expected you might come down before an information of this incident could reach you, I provided the most convenient barracks that I could for your troops at that post, wishing to show the United States the greatest attention to their troops; and, in consequence of this disposition, having conferred with the Hon. Andrew Ellicott, we have agreed that you should remove to this place, to encamp in its vicinity, where you may be assisted with everything more conveniently. By this opportunity, I forward the correspondent orders to the commandant of that post, who will do everything necessary to facilitate and expedite your descent, which I hope will be speedy, as I flatter myself with the prospect of much satisfaction in forming your acquaintance. I have the honor to be, &c.

M. GAYOSO DE LEMOS.

P. S. POPE, Esq.

No. 13.

Don Manuel Gayoso de Lemos to Lieut. Piercy S. Pope.

NATCHEZ, *May* 1, 1797.

SIR: I have the honor to acquaint you that the Commander General of this province desires me to inform you that His Majesty's Envoy in the United States has given him the intelligence of an attack proposed against our part of the Illinois by the British, from Canada; and as such an expedition cannot take place without passing through the territory of the United States, said Envoy did officially communicate what was necessary to the Secretary of State of the United States, requiring that convenient orders should be issued to have their territory respected and provided for their own safety; which we doubt not but the United States will acquiesce to, in consequence of the treaty and the good harmony that subsist between the United States of America and His Majesty.

The said Commander General of this province, in consequence of the foregoing information, finds himself under the necessity of putting in a state of defence several points of this river, and particularly Nogales, to cover Lower Louisiana, and in case the British should succeed in their projects against Illinois; for which purpose a convenient force shall be sent to Nogales to repair and defend that post, which, far from being against the interest of the United States of America, will, in case of being agreed to, leave the military post in that state which it may be found.

As this is a powerful reason, in addition to those that offered before, to suspend the evacuation of these posts, and of running the line, as our attention is entirely drawn towards the defence of the province, the said Commander General orders me to pass to you this official communication; and, in consequence of the unavoidable delay, to repeat to you, in his name, the proposal of remaining here, to go down to Lower Louisiana, or as he thinks might be preferable, to remove to Villa Gayoso, where there are sufficient buildings to accommodate both you and your troops; this insinuation being an effect of the desire we have to show every degree of consideration, as a proof of our disposition to improve the friendship between our nations, assuring you that, in any part that you should determine to remove or stay, the Commander General of this province will facilitate every conveniency in his power for your satisfaction. I have the honor to be, &c.

M. GAYOSO DE LEMOS.

Captain P. S. POPE.

No. 14.

Lieut. Piercy S. Pope to Don M. Gayoso de Lemos.

CAMP, *May* 2, 1797.

SIR: Your letter of yesterday was delivered me by your Adjutant, Capt. S. Minor. The Governor General has, as appears from your letter to me, requested that I should be informed of a proposed attack, on your part of the Illinois country, by the British force of Canada, and that such an expedition cannot take place without passing through the territory of the United States. I have not a doubt but that the United States have made such arrangements as will secure to them the respect due the nation; and that, at the same time, every preparation has been made to carry into effect, with firmness the late treaty between His Most Catholic Majesty and the United States.

The second part of your letter more particularly concerns me, as a longer delay of the evacuation of the Walnut Hills and Natchez I cannot possibly consider in any other light than an indirect violation of the late treaty.

The landing of any troops for the purpose of fortifying or reinforcing Nogales, or any other post, above a due east and west line, to be drawn 33 min. and 46 sec. south of Mr. Ellicott's present encampment will be highly improper, and no doubt considered as a direct attack on the honor of the United States, as well as the liberties of the citizens, and an invasion of a part of our territory; there being no war between the United States and Great Britain, the latter Power would have every reason of complaint, should such a measure be suffered. I now proceed to the third and last part of your letter, and cannot suppose the reasons offered for a longer detention of the posts within the United States, and running the line, sufficient. The fortifying or remaining in force against your enemies within the territory of the United States, when holding the opposite side of the Mississippi, where you may, with equal ease, oppose your enemies, may be productive of disagreeable consequences to both our nations.

I have the honor to return you my sincere thanks for your friendship and polite attention to myself and troops, and, at the same time, to inform you that my present eligible situation supersedes the necessity of a removal. I am, with due respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding U. States' troops, Mississippi.

No. 15.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope, dated

NATCHEZ, *May* 3, 1797.

SIR: Yesterday, by Lieutenant John McClary, I received your answer to my communication of the day before. I am sorry to find the construction you give to such an official communication, which leaves no room of doubt.

The project of an attack from the British in Canada is positive; and, in consequence thereof, it is the duty of the Commander General of this province to oppose it by every means in his power, though the probability is that they will not be able to carry their plan into execution, as we rely on the friendship of the United States, who certainly will not voluntarily permit such an armed force to pass through their territory, to attack the do-

minions of His Majesty; but as, when such an expedition was proposed, the British knew very well that to accomplish it they must necessarily pass through the territory of the United States, they have certainly had it in view either to pass the posts by surprise, or some other combination that secured to them the means of reaching Illinois. It is to prevent the effect of such an event that the said Commander General takes every measure to obstruct their success at their first approach, or a continuance of it, if fortune should favor them in Upper Louisiana.

We are far from acting in a manner so as to alter the good understanding that happily subsists between our nations. Political reasons have caused a suspension of the evacuation of these posts—reasons that are to be settled Ministerially, and that are out of my line to controvert. My duty is to comply with the superior orders of my General-in-chief, which are positively to keep the best harmony with you, and attend to every other object concerning the safety of this province.

There is no reason to apprehend that the treaty between the United States of America and His Majesty will not take place in every point; the delay, experienced with regard to one part of it, is not a violation of the treaty, and is only referred to the regular Ministerial procedure, which, when settled, will be exactly complied with; in the meanwhile, no alteration can take place, nor can any part of His Majesty's dominions be considered alienated, delivered in a solemn and regular manner; and, until that period, the dominion of His Majesty does not cease.

The communication that the Commander General of this province has ordered me to impart to you, is a striking proof of the good understanding that he is desirous to cultivate, by informing you of an important circumstance that concerns both our nations, without expecting that you would offer any objections to the indispensable dispositions that he finds necessary for the safety of the province.

As your answer is of a nature that requires the immediate communication of it to my General-in-chief, I request you to inform me further, if you have positive orders to make the objections that you have signified to me, as it must necessarily influence the conduct of the King my master towards the United States of America; and as, likewise, this is a necessary step to justify that I have not been negligent in requiring this important intelligence. I have the honor to be, &c.,

M. GAYOSO DE LEMOS,
Brig. Gen. and Governor of Natchez.

Lieut. PIERCY SMITH POPE.

No. 16.

Lieutenant Piercy S. Pope to Don Manuel Gayoso de Lemos, dated

CAMP, *May* 5, 1797.

SIR: I received your letter by Captain Minor, requesting of me to be informed whether I had positive orders for the objections I made in reply to your letter of the 1st instant. I have no official information from the United States of any pending negotiations that respects the late treaty, and consequently have every reason to suppose that the United States consider the treaty carried into effect, as far as respects the evacuation of the posts on the east side of the Mississippi, above the 31st degree north latitude, and therefore conclude that any reinforcements, or additional works will have a tendency to disturb that harmony which at present happily prevails between the two nations, and which I am directed to cultivate.

You told me yesterday that you had received information from a gentleman, that I intended to attack the garrison at this place. I now request that you will discover the author, that he may have it in his power to acquit himself of this assertion, or be brought to that just tribunal a crime of so heinous a nature merits as the informer has been guilty of. I am, &c.,

PIERCY S. POPE, *Lieut. Artillery,*
Commanding U. States' troops, Mississippi.

No. 17.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope, dated

NATCHEZ, *May* 6, 1797.

SIR: I received your letter, dated the 5th inst., delivered me by Lieutenant John McClary, in reply to mine of the 3d, by which, and by your conferences, I am persuaded of your disposition to cultivate that good harmony that is justly due to our nations. On my part, I pledge my honor to you that I shall invariably continue considering you, not only as I do every individual of your nation, but yet more particularly under the sacred view of its representatives, as likewise every person under your command, and under the direction of the Hon. Andrew Ellicott.

I do assure you, likewise, that my conduct shall be such as not to merit the reflection of your nation, nor expose mine to any contest on account thereof, being answerable by my duty, and by my honor, to act with such propriety as will justify me in my public capacity.

With regard to the person that gave the information that, in my familiar conversation, I communicated to you, he must be despised, and others discountenanced both by you and me, as our situations are sacred, and only subject to the alterations unanimously agreed upon by our nations. I have the honor to be, &c.,

M. GAYOSO DE LEMOS.

No. 18.

COL. KING'S IRON WORKS,
April 21, 1797.

DEAR CAREY: I wished to have seen you before I returned to Philadelphia, but I am obliged to return to the session of Congress, which commences on the 15th May.

Among other things that I wished to have seen you about, was the business of Captain Chisholm mentioned to the British Minister last Winter, at Philadelphia.

I believe, but am not quite sure, that the plan then talked of will be attempted this Fall, and, if it is attempted, it will be in a much larger way than then talked of; and if the Indians act their part, I have no doubt but it will succeed. A man of consequence has gone to England about the business, and if he makes the arrangements as he expects, I shall myself have a hand in the business, and probably shall be at the head of the business on the part of the British. You are, however, to understand, that it is yet not quite certain that the plan will be attempted, yet you will do well to keep things in a proper train for action in case it should be attempted, and to do so will require all your management; I say, will require all your management, because you must take care, in whatever you say to Rogers, or anybody else, not to let the plan be discovered by Hawkins, Dinsmoor, Byers, or any other person in the interest of the United States or Spain.

If I attempt this plan, I shall expect to have you and all my Indian country and Indian friends with me; but you are now in good business, I hope, and you are not to risk the loss of it by saying anything that will hurt you until you again hear from me. Where Captain Chisholm is, I do not know; I left him in Philadelphia in March, and he frequently visited the Minister, and spoke upon the subject; but I believe he will go into the Creek nation by way of South Carolina or Georgia. He gave out he was going to England, but I did not believe him. Among things that you may safely do, will be to keep up my consequence with Watts, and the Creeks and Cherokees, generally, and you must by no means say anything in favor of Hawkins, but as often as you can, with safety to yourself, you may teach the Creeks to believe he is no better than he should be. Any power or consequence he gets will be against our plan. Perhaps, Rogers, who has no office to lose, is the best man to give out talks against Hawkins. Read the letter to Rogers, and if you think it best to send it to him, put a wafer in it, and forward it to him by a safe hand, or perhaps you had best send for him to come to you, and speak to him yourself respecting the state and prospect of things.

I have advised you, in whatever you do, to take care of yourself; I have now to tell you to take care of me too, for a discovery of the plan would prevent the success, and much injure all the parties concerned. It may be that the Commissioners may not run the line as the Indians expect or wish, and, in that case, it is probable the Indians may be taught to blame me for making the treaty.

To such complaints against me, if such there are, it may be said by my friends, at proper times and places, that Doublehead confirmed the treaty with the President, at Philadelphia, and received as much as five thousand dollars a year, to be paid to the nation over and above the first price; indeed, it may with truth be said, that though I made the treaty, that I made it by the instructions of the President; and, in fact, it may with truth be said, that I was by the President instructed to purchase more land than the Indians would agree to sell. This sort of talk will be throwing all the blame off me upon the late President, and, as he is now out of office, it will be of no consequence how much the Indians blame him. And, among other things that may be said for me is, that I was not at the running of the line, and that if I had been, it would have been run more to their satisfaction. In short, you understand the subject, and must take care to give out the proper talks to keep up my consequence with the Creeks and Cherokees. Can't Rogers contrive to get the Creeks to desire the President to take Hawkins out of the nation; for if he stays in the Creek nation, and gets the good will of the nation, he can and will do great injury to our plan; when you have read this letter over three times, then burn it. I shall be at Knoxville in July or August, when I will send for Watts, and give him the whiskey I promised him. I am, &c.,

WILLIAM BLOUNT.

A Letter to Timothy Pickering, Esq., Secretary of State, from the Chevalier de Yrugo, Minister Plenipotentiary of his Catholic Majesty, &c., dated

PHILADELPHIA, *July* 11, 1797.

SIR: Your additional report to the President of the United States of the proceedings of the officers of the King of Spain, in relation to the posts and the running of the boundary line, which I find published in all the newspapers, obliges me to trouble you with this letter. If your discussion of facts had been as correct and impartial as there was reason to expect, I should not have been under the necessity of undertaking this task; but the construction which you are pleased to put upon every act of the Spanish officers in general, and especially upon those in which I am personally concerned, compels me to observe upon several expressions, which I have noticed in your said report.

You begin, sir, with saying, "that although I had declared I had just reasons for suspecting an expedition from Canada was preparing by the British against the upper parts of Louisiana, yet I never had mentioned a single fact or reason on which my suspicion was founded." In my letter of the 2d of March, I pointed out to you the probable route which the expedition would take, and in our conference of the 27th of February, I gave you information that a corps of 350 men had been raised at Montreal, and marched towards the lakes, where, after the evacuation of the American forts, there was no ostensible object for them. I also told you that I knew that the British agents had treated with some of the Indian nations in that country, concerning the intended expedition, and I added, that I had received those advices from a person who might be depended on, who had seen those new levies passing through Johnstown, on their way to the Westward. But, even supposing that I had not entered into any particulars, even supposing that my in-

formation at that period was not complete, yet did not the interest and dignity of this Government—did not its friendly connexion with Spain, require that it should have taken every proper means to prevent the attempt we were threatened with, by giving suitable orders to General Wilkinson, or to the commanding officers of the military force on those frontiers? The absolute silence in this particular of the documents which accompany the report of the Secretary of War, your never having communicated to me any determinate disposition on this point, as you do in your answer to my letter, which in the publication is marked No. VII, afforded me sufficient grounds to fear that these precautions were omitted. You add, sir, with a degree of candor difficult to be conceived, that from my not having given to you detailed information respecting the expedition, and from the answer which you received on the 19th ultimo, from the British Minister, you believed my suspicions to be groundless. Is it possible, that any one will candidly imagine, that if the English intended to violate the territory of the United States, in order to effect a *coup de main*, they would be as ingenuous in answering, as you were in asking their Minister the question?

I shall not enter into all the observations which suggest themselves to my mind, from your having communicated to Mr. Liston the contents of my letters. I expected that the American Government would have watched his motions, and taken the means which I have already mentioned to prevent the success of a similar enterprise; but I never could have imagined that you would have given to the British Minister a piece of advice, which might enable him to alter his plan, by letting him know that the former one was discovered. By the line of conduct which you have pursued in this business, I am convinced that had I communicated to you more particular details respecting this transaction, you would, with the same good natured frankness, have given information of them to Mr. Liston.

But, if you did believe that asking this question of the British Envoy was the most efficacious means to prevent the violation of the neutrality of the United States, and the invasion of the Spanish territory, let me ask why you was so remiss in this measure, that although I had communicated this project to you, verbally, on the 27th of February, and on the 2d of March, in writing, yet, in a matter obviously so urgent, you only wrote to the British Envoy on the 20th of April; that is, *two months* afterwards?

I shall not quit this subject, without taking the liberty of making to you one observation which is intimately connected with it. By the date of the letter I have just mentioned, it evidently appears that I gave you advice of this intended expedition on the second of March, and that three days before, I had given you the same information verbally. I imagined from your known attention to business, and the importance of the subject, that you would have submitted it immediately to the consideration of the President of the United States. On the 9th of March, I had the honor of speaking to Mr. Adams, at his lodgings at Francis's Hotel, and mentioned this subject as a matter that I supposed him already fully informed of; and it was with no small surprise I heard him say, that *he knew nothing about it.* I produced the map, which I had in my pocket-book, and he listened with great attention to all that I had to say to him. It was no doubt to this conference with Mr. Adams, that I was indebted to your answer of the 11th of the same month. I shall entirely abstain from putting any construction upon the reasons which induced you to omit making this communication to the President; but they must have been very powerful motives which could oblige you to remain so long silent on a matter of such importance.

You say, in the third paragraph of your report, that on your asking me what measures Spain had taken in order to carry into execution that part of the treaty which relates to the withdrawing the *garrisons*, I answered you, on the 17th of April, that I had been for some months without receiving letters from the Baron, and consequently, "was entirely ignorant of the steps which had been taken for the execution of the treaty." From this expression, which, in order to draw attention, you place between inverted commas, you insinuate an inference which in my opinion is very far from being true, when you add immediately afterwards: "Nevertheless, he had previously informed the Baron of his suspicions of a projected expedition." What is this to prove, sir? That the Baron indeed had received my letter; but not that I had received his. The irregularity and uncertainty of navigation easily shows that your logic on this point is extremely false.

In the 5th paragraph, after giving an account of my letter of the 24th ultimo, and of its object, you observe that I have omitted to mention among the other complaints of the Baron, that of Mr. Ellicott's not having given him notice of his arrival at Natchez. Permit me, sir, to represent to you, that you have entirely mistaken what I had the honor of telling you on that occasion, for I simply mentioned, not as a complaint, but as a mere observation, that the Baron, in the *rigor*, might not have considered Mr. Ellicott as an American Commissioner, for not having given him on his arrival *official notice* of his appointment, having merely informed him of it in the way of a confidential communication. You cannot be ignorant, sir, that there are certain requisite formalities when nations treat with one another of their mutual concerns, which are not required between individuals. The Baron, when he speaks in this manner, clearly points out his meaning, that besides the confidential letter, the communication of which you consider as so important, no doubt he expected another official one, including his commission, authority, or some other document, to ascertain the identity of the person, and the object of his mission. When, on my arrival in this country, I had not yet presented my credentials to the President, although I had delivered to you a copy of them, you might, in the *rigor*, not have recognised me as the Envoy

Extraordinary of the King, my master, for want of having complied with that necessary requisite of the established etiquette. I do not mean to say, that in the present case it was absolutely necessary to go through a similar formality; nor did the Baron mention this but as a mere matter of observation, which was not to affect the object in question; although you, thinking that it affords you a victorious argument, are pleased to give to this circumstance an importance which it does not deserve. Besides, sir, I might observe to you, that when, after a mixed and desultory conversation upon various subjects, I had collected and methodized my ideas, and committed them to writing, your answer and observations ought to have been confined to the written communication, clothed with all the necessary formalities; but neither do I wish to make of this an object of discussion.

The proof which you give in the sixth paragraph of your report, to show that it is not certain that Mr. Ellicott intended to get possession of Natchez by surprise, and that for that purpose he had endeavored to gain over the inhabitants, is merely negative. From your examination of the two persons you mention, you had very little to expect: the circumstance alone of their being the bearers of Mr. Ellicott's despatches, points out that they were both in his confidence; and it may be presumed, without temerity, that being his friends, or employed under his orders, they would hardly make a denunciation that might be prejudicial to him. Governor Gayoso declares that he has proofs of the fact in his power. I shall not fail to apply to him for them, and perhaps I may one day speak to you more positively on this business.

After having discussed the history of these transactions with all the force and accuracy which result from these observations, you assure, with a very ill-grounded confidence, that upon a view of the whole, it appears that His Majesty's Governors on the Mississippi, have, on various pretences, postponed the running of the boundary line and the evacuation of the posts. But I appeal to that candor which you have so generously shown to the British Minister, that you may tell me whether it can be called a pretence, that the Baron de Carondelet, who was entrusted with the safety of Louisiana, refused to carry into execution a pretension that was not stipulated for by treaty? By the second article, it is only agreed that the garrison shall be withdrawn; and, as I had the honor of representing to you, in my letter of the 24th ultimo, it is not to be presumed that it could ever have been the intention of His Catholic Majesty to deliver up fortifications, which, besides that they have cost him considerable sums of money, may, by the effect of political vicissitudes, be one day prejudicial to his subjects. If not to do what was not stipulated for, and the execution of which would be contrary to the interests of Spain, is a pretence, we must confess that it is a very plausible one.

With respect to the line of demarcation, it appears by the correspondence and letters of the Baron de Carondelet, which are in my possession, that although he entertained the same doubts which were suggested by Governor Gayoso, respecting the posts, yet he was consenting that the astronomical observations should be begun upon, for which purpose the engineer, Mr. de Guillemand, had already arrived at the Natchez, with all the instruments and apparatus. Such was the situation of things when my communications respecting the intended expedition got to hand; from that moment imperious necessity, and the great principle of self-defence, made His Catholic Majesty's officers turn their thoughts to objects of a more urgent nature. Mr. Blount's letter, and the late detected conspiracy, evince how far their conduct in this respect was necessary; and you, sir, possessed as you were of all the facts, when you laid the facts before the President, ought to have been one of the last to have stigmatized the motive with the epithet of *pretexts*. So palpable an attempt to make groundless and unfair impressions on the public mind, is well calculated to defeat its own ends, and appears still more extraordinary when we consider that the American Government is in every way anxious, by its own confession, to maintain peace and harmony with Spain.

Nor do your ill-founded insinuations stop here. Sentiments and expressions still more violent flow from that same hasty pen. You say, in another part, "that there is but too much reason to believe Mr. Ellicott's suspicions well founded, that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty, to prepare them for a rupture with the United States." Fortunately, sir, you have told us the source whence you derived all these dreadful conjectures of your's; otherwise, perhaps, the weight and authority which your high official character stamps upon whatever you write or say, might make an undue impression on the public. You acknowledge, sir, it was a private letter of Mr. Sargent's (Secretary of the Northwestern Territory) that gave rise to your surmises. We shall now see what the letter says:

Extract of a letter from Winthrop Sargent, Esq., Secretary of the Northwestern Territory, to the Secretary of State, dated

"CINCINNATI, *June* 3, 1797.

"General Wilkinson sending off an express, I seize the occasion to transcribe for you some paragraphs from a Western letter:

"The Spaniards are reinforcing their upper posts on the Mississippi considerably. General Howard, an Irishman, in quality of Commander-in-chief, with upwards of three hundred men, is arrived at St. Louis, and employed in erecting very formidable works.

"It likewise appears, through various channels, that they are inviting a great number of Indians of the territory to cross the Mississippi, and for this express purpose, Mr. Lorromie, an officer in the pay of the Crown, made a tour through all this country last Fall, since which time several Indians have been sent on the same errand, and

generally furnished with plenty of cash to defray their expenses.

"A large party of Delawares passed down on White river about the 6th of May, on the Spanish side, bearing the national flag of Spain, some of them from Saint Louis.

"They (the Spaniards) have, above the mouth of the Ohio, on the Mississippi, several row-galleys, with cannon."

Now, sir, what inference can be drawn from that letter? Why, that the Spaniards have fortified San Luis, and availed themselves of every means of defence that the country afforded! But let me ask you, sir, against whom it is that they were thus preparing to defend themselves? Surely the documents which you have laid before the President, and the momentous business which now engages the attention of Congress, and agitates the public at large, afford a complete and satisfactory answer.

I mentioned to you in my letter of the 2d of March, that the object of the British was to attack Upper Louisiana, and take San Luis and New Madrid by surprise. It will not be questioned but that prudence required of us, at that juncture, to fortify the threatened points. This, sir, was all we did, and this, sir, you knew many months past; and yet Mr. Sargent's letter, which, in substance, says no more, fills you all at once with fears and self-created apprehensions, and makes you declare in the face of the American people, "that the Spanish officers are exciting the Indians to a rupture with us." No one will say that preparations for our self-defence were not necessary on our part. The assurance given you by the British Minister, with all the appearance of a confidential communication, but without any signature, did not inspire the servants of His Catholic Majesty with the same blind confidence which it produced in you. We know from daily experience how religiously the British nation observes the rights of neutrality. Witness the American sailors; witness the Republic of Genoa, in whose port they attacked and made prize of the French frigate La Modeste as she lay at anchor there; witness the inhabitants of Trinidad, when the British, though then in amity with them, entered their capital with drums beating and colors flying, in pursuit of a few French who had taken refuge there. These, and other instances of the sort, too numerous to be recapitulated, make us less credulous on the score of Great Britain's respect for the rights of neutrality than you appear to have been.

As to those tender considerations which actuated the British Minister to reject the plan on account of the inhumanity of calling in the aid of the Indians, I did expect that such vague, unauthenticated declarations would have been appreciated as they deserved by you, sir, who fought in the glorious cause of American Independence, who witnessed the humanity of their conduct in the course of that war, and who cannot be ignorant of what has happened since.

Your ascribing hostile views to the preparations for our self-defence, cannot, sir, have been matter of much surprise to me, after having heard a certain member of Congress, who is known to be the organ of the will of the Administration, declare, in that House, that he ascribed to the same motives the preparations we were making for the defence of Florida, though, probably, he was not ignorant at the very time, of their real object. Thus, then, sir, according to your mode of reasoning, and that of the gentleman I have just alluded to, though we were certain of being attacked, and though we were not certain that the American Government had taken the proper measures for protecting its neutrality, yet we were to adopt no measures for our defence, but tamely suffer His Majesty's forts and possessions to be taken, and all this for fear of creating ill-founded suspicions in your minds.

If you have not been very successful, sir, in the solidity of your reasonings, you appear not to be more so in the method of following them. After having denounced us to the whole American nation as stirring up the Indians against the United States, and preparing them for a rupture, you fall into the most glaring inconsistency in the following paragraph:

"Whether this plan of exciting the Indians to direct hostilities against the United States, has been contemplated and promoted by any of our own citizens, it may be difficult to say; but that one or more of those citizens have proposed and taken measures to detach the Southern Indians from the interests of the United States, and to destroy the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace, is certain."

I again appeal here, sir, to your generous candor. How is it possible to reconcile such evident contradictions? On the one hand the Spanish officers are those who excite the Southern Indians against the United States, and, on the other, you quickly follow, presuming, with sufficient foundation in my opinion, that it may be some citizens of the United States. But although you might entertain any doubts yourself on the subject, which I am sure no person in America will, after reading Mr. Blount's letter, did not this very same doubtful case and uncertainty, require, in your situation, more circumspect language? And if even in this case you appear to have gone beyond what sound policy, the tranquillity and interest of the United States required, how much more unjust are your insinuations against Spain, when the public possess, in Mr. Blount's letter, a document by which they can see, that if the manœuvres with the Indians were not favorable to the United States, they were precisely combined to attack the Spaniards From this method of reasoning of yours, it appears as if the Spaniards were, jointly with Mr. Blount, stirring up the Indians to attack themselves.

Respecting the last article of your report, I have only to observe, that although you have constantly assured me that Government had not the least information respecting the subject of my representations, and although the letter of Mr. Jackson, of Georgia, appears to coincide with your ideas, nevertheless time has shown that I have complied with my duty by not reposing on such assurances. The plot is discovered, and nobody any longer doubts that the expedition was to have taken place.

After having followed you, step by step, through the various points of your report to the President, I shall make a short compendium on such as arise from this letter; from which it results,

1. That on the 27th of February, I gave you sufficient particulars respecting the intended expedition, to have attracted the attention of this Government.

2. That, although to this verbal communication, I added another in writing, on the 2d of March, the President had not the least knowledge of it on the 9th of the same month, and that, without doubt, you must have had very powerful motives to prevent you from communicating it to him.

3. That it does not appear by the documents presented by the Secretary of War, that Government had given orders to the military commanders to cause the territory and neutrality of the United States to be respected.

4. That you made to the English Minister a communication, which, in my opinion, you ought not, and that even if you thought it necessary, you delayed doing it for two months, that is, from the 27th of February to the 28th of April, although it respected a most urgent and important object.

5. That the Baron de Carondelet could very well have received my letters, without its necessarily following that his had come to hand.

6. That the Baron did not represent Mr. Ellicott's not writing to him officially as a complaint, but as an observation, and that in fact, he never has done it on those terms.

7. That the proofs you allege to exculpate Mr. Ellicott, respecting his intentions of taking the Fort of Natchez by surprise, are purely negative.

8. That it is not merely *pretences*, but very powerful reasons, which have impeded the evacuation of the posts, and the running of the boundary line.

9. That the insinuations with which you are willing to persuade the American people that our arming is directed against them, are unjust as well as unfounded, as by Mr. Blount's letter it is clearly demonstrated to be a precaution for the mere purpose of defence.

10. That you evidently contradict yourself, when on one hand you are pleased to attribute to us the movements of the Indians, and in the very next paragraph you show it might proceed from American citizens, as it actually does according to Mr. Blount's letter, and that he acted with the knowledge and intelligence of the very same British Minister, in whose private notes, without signature, and perhaps not of his own hand-writing, you place such implicit confidence.

11. That although, in all your official communications, you have always manifested to me that the American Government knew of nothing which indicated any foundation for my suspicions, Mr. Blount's letter clearly proves that I was perfectly in the right.

I have thus fulfilled a very disagreeable duty. Always desirous to contribute to strengthen the bands of friendship which unite Spain and America, and to which their situation, their wants and resources, invite them, I have seen with the most profound grief, that the language and tenor of your communication to the President, is not, in my opinion, calculated to promote so desirable an object to us all. For my part, although I shall leave nothing undone, to cement the union and harmony with a nation which I respect; neither shall I ever suffer the interests of the King, my master, in any case whatever, to be sacrificed to an unjust partiality.

I pray God to preserve you many years.

Your most obedient humble servant,

CARLOS M. DE YRUJO.

[For the Secretary of State's reply to this letter, (dated the 30th of August) see page 3199, *post*.]

Correspondence between James Monroe and Timothy Pickering, Secretary of State.

From Mr. Monroe to the Secretary of State.

PHILADELPHIA, *July* 6, 1797.

SIR: It was my wish, after the receipt of your letter of the 22d of August last, announcing my recall, to repair home without delay. But, as I did not receive that letter till some time in November, nor obtain my audience for taking leave of the French Government, till the first of January following, it was impossible for me to sail before the Spring, without hazarding a Winter's passage, and to which I did not wish to expose my family. This explains the cause why I did not render myself here at a much earlier period.

I postponed my reply to that letter till my arrival, because I deemed it more suitable, for many reasons, to answer it in my own country than from a foreign one. I think proper, however, to call your attention to the subject of that letter, with a view to justify myself against any imputations that have been, or were intended to be, raised against me by the measures it announced.

I observe by that letter, that although you found this measure, principally, on the ground taken in that of the thirteenth of June preceding, yet you intimate there were other concurring circumstances which had weight in deciding the Executive in its favor. The object of this, therefore, is to request of you a statement of what those circumstances were, that, correctly knowing, I may distinctly answer them. To the suggestions contained in yours of the 13th of June, I shall likewise make such further reply as appears now to be necessary.

I request this statement as a matter of right, and upon the principle, that although the Executive possesses the power to censure and remove a public Minister, yet it is a power which ought to be exercised according to the rules of justice;

which rules are too well defined by the principles of our Government to require illustration here. I make this request, therefore, in a confidence that you will comply with it as soon as you can with convenience. With due respect, &c.

From the same to the same.

PHILADELPHIA, *July* 8, 1797.

SIR: Upon leaving Paris I committed my letter-book to the care of Mr. Prevost, and after his departure, of Mr. Skipwith, sealed up for General Pinckney in case he arrived whilst either of those gentlemen was there, to furnish him with such light upon our affairs as he did not derive from your department when he left this. I had previously given General Pinckney copies of some papers which he found necessary upon his first arrival. So that, in a possible case, I trust, your wish was fulfilled in possessing him with such documents as have been, or may be necessary for some time to come. I think proper, however, to suggest the propriety of such a complete copy being furnished from your office as you seem to deem necessary for our representative at Paris; since, when I arrived here, no paper whatever was furnished me by my predecessor, either of his own correspondence, of Mr. Jefferson's, or Dr. Franklin's, I have thought it my duty to state to you how I found and left this business, to enable you to make such disposition therein, according to the rules of your department, as is thought suitable.

I shall be absent from this city till Thursday next, at which time I shall be happy to receive an answer to the letter I had the pleasure to write you yesterday. Yours, &c.

From the same to the same.

PHILADELPHIA, *July* 15, 1797.

SIR: I think proper to apprize you of my return to this city, and to request the favor of an answer to my letter of the 6th instant. I am, with due respect, &c.

From the Secretary of State to Mr. Monroe.

DEPARTMENT OF STATE,
Philadelphia, July 17, 1797.

SIR: I duly received your letters of the 6th and 8th instant, the latter stating the disposition you had made of letters and papers relating to your mission to the French Republic, for the use of your successor. Your intended absence, as mentioned in your letter of the 8th, and the pressure of public business on the eve of the departure of our Minister for Europe, induced the delay of an answer to this time.

The request contained in your letter of the 6th was unexpected. It is easy to conceive that the President of the United States may be possessed of facts and information which would not only justify, but require the recall of a foreign Minister, or the dismission of an officer at home, although they should not furnish ground for a legal investigation. When the tenure of public offices (that of the Judges excepted) was deliberately and confidently placed in the pleasure of the President of the United States, it certainly was not contemplated to test the propriety or expediency of particular acts of that pleasure or discretion by a formal trial or a public discussion. These remarks, I trust, exhibit satisfactory reasons why I cannot undertake to comply with your request. I am, sir, &c.

From Mr. Monroe to the Secretary of State.

PHILADELPHIA, *July* 19, 1797.

SIR: I have been favored with yours of the 17th instant, and answer it without delay.

If you supposed that I would submit in silence to the injurious imputations that were raised against me by the Administration, you were mistaken. I set too high a value upon the blessing of an honest fame, and have too long enjoyed that blessing, in the estimation of my countrymen, to suffer myself to be robbed of it by any description of persons, and under any pretence whatever.

Nor can I express the astonishment which the present conduct of the Administration excites in my mind; for I could not believe, till it was verified by the event, after having denounced me to my country as a person who had committed some great act of misconduct, and censured me for such supposed act, by deprivation from office, that when I called upon you for a statement of the charge against me, with the facts by which you support it, I should find you disposed to evade my demand, and shrink from the inquiry. Upon what principle does the Administration take this ground, and what are its motives for it?

Do you suppose, or contend, that the power committed to the Executive by the Constitution, to remove and censure a public Minister, or any other public servant, has authorized it so to do without a sufficient cause? or that the Executive is not accountable to the public and the party injured, for such an act, in like manner as it is accountable for any and every other act it may perform by virtue of the Constitution? Upon what principle is a discrimination founded, which presumes restraints, in certain cases, against the abuse of Executive power, and leaves that power without restraint in all other cases? And how do you designate, or where draw the line between these two species of power so opposite in their nature and character? This doctrine is against the spirit of our Constitution, which provides a remedy for every injury. It is against the spirit of elective Government, which considers every public functionary as a public servant. It becomes the meridian of those countries only where the monarch inherits the territory as his patrimony, and the people who inhabit it are his slaves.

That the right to censure and remove a public officer was delegated to the Executive, with peculiar confidence, is a motive why it should be exercised with peculiar care; for the more confidential the trust which is committed to a public functionary, in a responsible station, the greater circumspection should be used in the discharge of it. It was not intended thereby to dispense with the principles of justice, or the inalienable rights of freemen in favor of Executive pleasure. On the contrary it was expected that that pleasure would be exercised with discretion, and that those principles and rights would be invariably observed. It is an incompetent recompense to a person who has been injured by the Executive, to be told that the Constitution permits the injury, if the power entrusted was thereby abused and the principles of the Constitution violated. And it is an unbecoming measure in the Administration to defend, by the argument of power, what it cannot justify at the tribunal of reason and justice.

I have been injured by the Administration, and have a right to redress. Imputations of misconduct have been by it raised against me, and I have a right to vindicate myself against them. I have invited you to state and substantiate your charges, if you have any, and I repeat again the invitation. You suggest, that you have facts and information which warrant this procedure. Let me know them, as likewise your informers, that I may be able to place this act of the Executive, and my own conduct, in the light in which they respectively merit to stand.

The situation of the United States has become, in many respects, a very critical one; and it is of importance that the true cause of this crisis be distinctly known. You have endeavored to impress the public with a belief that it proceeded in some respect from me. Why, then, do you evade the inquiry? Is it because you know that the imputation was unjust, and wish to avoid the demonstration of a truth you are unwilling to acknowledge? Or, that you fear a discussion, which may throw light upon a topic heretofore too little understood? I am, with due respect, &c.

From the same to the same.

JULY 19, 1797.

Mr. Monroe presents his compliments to Col. Pickering. He wishes to revise his correspondence in the Department of State, and for that purpose will thank him for the assignment of a chamber in his office, with the aid of a clerk, for a few days, till he can run through it. He hopes an answer to this immediately, if convenient.

From the same to the same.

PHILADELPHIA, *July* 24, 1797.

Mr. Monroe requests to know of Col. Pickering whether, and when, he is to expect an answer to his letter of the 19th instant, as likewise to his note of the same date.

From the Secretary of State to Mr. Monroe.

PHILADELPHIA, *July* 24, 1797.

Col. Pickering informs Mr. Monroe that his absence last week, and engagements previous to the departure of the President, for Boston, prevented an answer to Mr. Monroe's letter of the 19th, and his note of the same date, which, however, Mr. Monroe may expect to-morrow.

From the Secretary of State to Mr. Monroe.

DEPARTMENT OF STATE,
Philadelphia, July 24, 1797.

SIR: I have read attentively your letter of the 19th instant, but discover in it no argument to induce a change of the opinion expressed to you in my letter of the 17th.

I understand you to contend that every Minister of the United States who is recalled, and every other public officer who is removed from office by the Executive of the United States, has a right to demand, and be informed of the reasons and motives for the recall or removal. In all cases, except that of the Judges, it has been established, from the time of organizing the Government, that removals from offices should depend on the pleasure of the Executive power; and you know that with the above exception, the commissions of all officers, civil and military, appointed by the President with the advice and consent of the Senate, explicitly declare that they hold their offices "during the pleasure of the President of the United States." Hence I conclude that a compliance with your request might form an improper, inconvenient, and unwise precedent.

In my letter of the 17th, I remarked that "it is easy to conceive that the President of the United States may be possessed of facts and information which would not only justify, but require the recall of a foreign Minister, or the dismission of an officer at home, although they should not furnish ground for a legal investigation."

For instance: communications might be received entitled to credit, but under restrictions which would not permit a disclosure. While to admit the principle you contend for, would be to shut the door to intelligence of infidelity in public officers; especially in diplomatic agents, who, residing in foreign countries, are removed from the immediate observation of their own Government.

Again, the want of confidence, from whatever cause it may arise, is a good reason for changing a diplomatic agent. If he is found, on experience, to be deficient in judgment, skill, or diligence, or if circumstances inspire a reasonable doubt of the sincerity of his views, he cannot with prudence be continued; for it is essential that there should be full confidence in him. A diplomatic agent, although his official communications have a fair appearance, may hold intimate and improper correspondence on political subjects, with men known to be hostile to the Government he represents, and whose actions tend to its subversion. He may even, from mistaken views of the interests of his own country, countenance and invite a conduct in another, derogatory from its dignity, and injurious to those interests.

The foregoing are cases in which the necessary confidence of a Government must be abated or destroyed; and yet the circumstances might be

such as could not prudently be brought to a formal discussion. More may be imagined to establish the principle that, in regard to various public officers, it is essential that there should be a discretion to remove, without an obligation to assign reasons. In the case of a diplomatic character, they apply with extraordinary force.

It is not true that removal from office necessarily implies actual misconduct. It may merely imply a want of ability. Or, in respect to a Minister, it may imply only a change in political affairs which demands, or renders expedient for the public good, the substitution of a different character.

Still another instance may be mentioned in which a demand like yours could not be complied with. A President of the United States may on good grounds, which he reserves to himself, remove a public officer previous to his retiring from office; in which case no officer in the succeeding Administration could possibly assign the motives to the removal.

These reasons, I conceive, are sufficient to justify the determination taken in my letter of the 17th instant; and render unnecessary a particular examination of your observations, or answer to your numerous questions. There is no disposition to treat you or any other man with injustice, but the Government cannot, for the sake of indulging your sensibility, sacrifice a great national principle.

I will conclude with one remark. I agree with you that the President, in using that *pleasure* with which the Constitution has invested him for the removal of public officers, is bound to exercise it with discretion; but I deny that he is bound on every occasion to explain and justify his conduct to the individual removed from office; which, beside other objections, would expose the Executive to perpetual altercations and controversies with the officers removed.

In answer to your *note* of the 19th instant, I inform you that the revision of your correspondence with the Department of State, which you request, may take place, with the aid of a clerk, when it shall suit your own convenience.

I am, with due respect, &c.

From Mr. Pickering to Mr. Monroe.

PHILADELPHIA, *July* 25, 1797.

SIR: It has been deemed improper, for the reasons assigned in my official letters, to attempt an official explanation of the reasons and motives which influenced the late President, in terminating your functions as the Minister Plenipotentiary of the United States to the French Republic. This I shall not venture to do, in any capacity. But it is in my power, as an individual citizen, to communicate the considerations which induced me, last Summer, when called upon by the President, in the line of my office, to advise that this measure should be taken. If in this form my sentiments will give you any satisfaction, and you desire to receive them, they shall be furnished.

I have conversed with Mr. McHenry and Mr. Lee on this subject; and in the like form you may receive their sentiments respectively. Mr. Wolcott being absent, I can say nothing in respect to him. I am, with due respect, &c.

From Mr. Monroe to the Secretary of State.

PHILADELPHIA, *July* 30, 1797.

SIR: I have received, and attended to your official letter of the 24th, and your private one of the 25th instant, and shall now reply to both.

Permit me to premise that in any discussion which has or may take place between us, I have not, nor shall I consider you in any other than your official character; having yet to learn what your pretensions are to confidence as an individual citizen, or the weight which your opinions ought to have as such, especially in the present case.

I think proper now to observe that when I called upon you for an explanation of the motives of the Administration in making this attack upon me, it was not with a view to derive any information for myself. I have been too long and too well acquainted with the political conduct, principles, and views of the Administration, not to know what its motives were in that respect, without any aid from you. Indeed, knowing what my own conduct was, and what your views are, of which a series of facts and circumstances leaves no doubt on my mind, I had no expectation of obtaining from you anything like a candid answer. On the contrary, I expected an evasive one, dealing in hints and inuendos, thrown out to divert the mind from the true object of inquiry. Nor have I been disappointed in my expectation, for I am persuaded that no impartial person can read your several letters upon this subject, without entertaining the same opinion of them.

I expected even a disguise of the real motive, and by every possible artifice which interest or ingenuity could suggest, because I knew the real motive could not be avowed; and such I am persuaded will be the opinion of every impartial person who, after reading your letters, traces the true motive, by a correct analysis of those facts and circumstances to which I allude.

I called upon you in that spirit of candor which I have always observed towards the Administration, and others, and to give you an opportunity to justify your conduct by your own arguments, and thereby place it in the light you wished it to stand. But this you have refused to do, and for reasons the most extraordinary. In calling upon you, then, I have acted consistently with my own principles; and, in refusing to comply, you have taken a ground for which the Administration is responsible.

I forbear to discuss again the solidity of that principle which supposes every public officer of the United States (the Judges excepted) a menial servant to the President, a principle which, if established, banishes from the bosom of every such officer all regard for country, every noble and

patriotic sentiment, and makes him dependent, not upon the integrity and propriety of his own conduct, but upon the personal favor of his superior. If such were the case, what confidence could the people of America repose in any public functionary, since, after he gets into office, whatever may have been his character before, he sinks into a machine, and ceases to be a watchful sentinel over the public rights and interests? If such were the case, the principles and practice of our free Government are departed from, and the most slavish doctrines of the most slavish Governments are introduced in their stead. And that such must be the case is obvious, if the Executive can exercise the *discretion* you speak of, in the *pleasurable* manner you contend for, and without accounting for any of its acts or the motives of them, in any case, to the party injured, the public, or any person whatever. This doctrine merits the attention of the people of America, because it is a pernicious one. They have provided, in the Constitution they have adopted, a suitable mode for the appointment of public officers, and which supposes a due regard to be paid to the characters of those who are appointed, and with a view that they may be faithfully served. They pay, too, their public officers, President and all, liberally, and ought to be faithfully served. They have likewise provided for, and wish a supervision of the superior over the inferior, but I trust it is their intention that the merits and character of the latter should be estimated by the standard of his integrity and public services, and not by the whim, caprice, or any less worthy motive of those above him.

Nor shall I discuss the solidity of the principle, or the policy of the practice, you have adopted, of opening a door in your office for the reception of *spies* and *informers*, to whose communications, it appears, implicit faith is given, although their names, their characters, and even the purport of their denunciations be withheld.

This practice is of great antiquity, and is now in use in the despotic Governments of Europe, but I hoped never to see it transplanted to this side of the Atlantic, especially in the degree to which you extend it.

I dismiss these topics from view, because they are only incidental to the main object of inquiry, and involve principles in which I am not interested, otherwise than in common with every other American citizen. I have noticed them, however, that their tendency may be correctly understood.

But I think proper to make a few comments upon the hints and inuendos contained in your letter of the 24th, and with a view to place them, and your conduct in making them, in their true light.

You suggest many cases, which, provided they existed, you say would justify the Executive in the removal and censure of a public Minister or other officer; such, for example, as a "defect of judgment, skill, or diligence; the want of confidence in him by the Administration; his holding improper correspondence with men known to be hostile to the Government he represents, and whose actions tend to its subversion; his countenancing and inviting, from a mistaken view of the interest of his own country, a conduct in another derogatory from, and injurious to, those interests," &c. The existence of any of these cases, you say, would justify the removal of any public Minister.

It is not my intention to contest with you abstract principles, because I will readily admit that if a public officer be *incompetent* to the duties of his office, whether it proceed from want of judgment, skill, or diligence; if he be the *tool* or *partisan* of another country against the *honor* and *interest* of his own; or be *associated with foreigners* of any description whatever, or with the *agents* or *creatures* of foreign Powers, in promoting any plan of *conspiracy* against, *insurrection* in, or *disorganization* of his own country, that, in any and every such case, such officer, whether he be employed at *home* or *abroad*, ought to be dismissed and disgraced, or, rather, severely punished; for disgrace upon those who are capable of committing such enormities is no punishment at all. But do you mean to apply any of these imputations to me? If so, why not avow it and present your proof? Would it not be more manly so to do, than to deal in inuendo and insinuation, which, without making you responsible for any charge, are perhaps intended to be understood as such? Or do you hope that we shall take these inuendos for facts, without your declaring them to be so, or producing any testimony to support them? This might perhaps promote your views in the present case, but would certainly not promote the cause of truth.

With respect to the clamor which is so incessantly raised (and of which you seem disposed to avail yourself in the present instance) of danger to the Government from the exercise or freedom of opinion in debate and writing, or of your insinuation that I had improper correspondence with any such persons, it is one which merits no reply. I have no correspondent, in whom I repose confidence, who has not given, at least, as strong proof of his attachment to good Government and good order, and who is not as much interested (perhaps much more so) in the preservation of those blessings, as yourself, or any of those who make the loudest clamor on that subject. Nor have I had a communication with any person or persons, whilst employed abroad, or at any other time, of a public nature, but with a view to preserve the Government and the Union entire; always seeking to counteract the disuniting, disorganizing, projects of those who secretly wish to subvert them. Do you know of any correspondence of mine, exhibiting an opposite character, or having an opposite tendency? If you do, produce it; and then we will discuss this point further. But till then I shall consider this inuendo, like the others, as being thrown out only to obscure the subject, and divert the mind from the true object of inquiry.

And upon the point of confidence between the Administration and myself, with respect to the period of its commencement and termination on both sides, (if indeed it ever existed on their's in

the view in which I had reason to believe it did,) with the cause which created and destroyed it, I shall say but little, at present, because it is a very important one, and requires to be more fully illustrated than the nature of this communication will admit of. This point involves in it the whole policy of the Administration, in my mission and recall, and will, I think, when fully understood, tend essentially to illustrate the conduct, principles, and views of the Administration during this great and interesting crisis of human affairs. I think proper, however, to observe here, that whatever may be the opinion of the world as to the merits of the Administration, in these respects, or of its conduct towards me, through the whole of my mission, I can show, in the most satisfactory manner, that my political character and principles, whilst a member of the American Senate, and whilst Minister Plenipotentiary of the United States with the French Republic, were always the same; and that in both stations, and throughout every vicissitude of our affairs, it was the constant and laborious effort of my life to preserve peace, harmony, and perfect amity, between the two Republics. I can show, too, that those efforts had produced, and were still producing, a good effect, of which the Administration had full knowledge, at the very moment when it endeavored to impress the public with a belief that I had failed to do my duty. The Administration may, perhaps, find it hereafter expedient to explain why I was invited to accept that mission, and confided in at that time, and why that confidence was withdrawn afterwards. Were my political character and principles less known in the former stage than in the latter? I presume not; for at the time when I was invited to accept this mission to the French Republic, I was a member of the Senate of the United States, and had acted with such decision upon all topics which came before that body as to leave no doubt with any one what my political principles were. Was there any particular object in view, depending anywhere at the former period, and which my appointment to the French Republic might then promote? And did the accomplishment of that object produce a change in the policy of the Administration towards that Republic? and of what nature was that object? I suggest these ideas incidentally, only, and without meaning to go fully into them.

So much I have thought proper to say, in reply to the hints and inuendos contained in your letter of the 24th, and which, I presume, will fully explain your motives in making them. I will now proceed to another point of more importance in the present inquiry.

The change in the political situation of the United States is too obvious and interesting not to attract the attention and excite the sensibility of even those who are the least observant. A few years past, the name of America was a venerable name in the catalogue of nations. It commanded the respect and drew the sympathetic attention of all Powers and of all men. Her commerce and her agriculture flourished, hand in hand, and her people were happy. Beloved by her ancient friends, there was no cloud in the political horizon to darken her prospects. A coalition of tyrants, it is true, whose avowed object it was to extirpate liberty from off the face of the globe, excited uneasiness for a while; soon however the strong and potent arms of Republicanism crushed its efforts and averted the storm. But what a reverse has now taken place! and when will the catastrophe end? Our national character has not only already greatly declined, and our commerce and agriculture greatly suffered, but we are on the point of being involved in a war with our ancient and deserving ally, now become a Republic, after our own example, and on the side of the remnants of that same coalition which was lately armed against the liberties of the world. Strange and almost incredible event, indeed! By what means has this change been produced? Much has been said and done by the Administration, not simply to exculpate itself from all blame in that respect, but to criminate others; and when called upon to state and substantiate its charges, what has been the result? Let your letters show.

It is now time to close this subject, and to bring into view an important question which must be decided on. Has the Administration performed its duty to its country in those great concerns, and acquitted itself to the public as it ought to have done? In my judgment it has not. Might we not have avoided this crisis and all the evils which led to it by other and obvious measures, more consistent with our national honor and interest, and without exposing ourselves to any real danger whatever? In my judgment we might. In this latter view, the subject acquires new importance, and is entitled to more particular attention.

You will readily perceive that our fellow-citizens, in general, are deeply interested in the several points in discussion between us, to whom it likewise belongs to estimate your's and my conduct; and I now think proper to inform you that it is my intention to carry the subject before that enlightened and impartial tribunal, with all the lights which I possess.

I am, with due respect, &c.

From Mr. Monroe to the Secretary of State, July 31, 1797.

Mr. Monroe requests Col. Pickering to inform his colleagues that the evident impropriety of his having any communication, otherwise than with the Administration itself, upon an act for which he holds the Administration responsible, precludes his receiving from them, as individual citizens, any information whatever respecting the motives which governed them in the case referred to. He declines this with the greater pleasure, because the course he finds it necessary to adopt, for the communication and development of this subject, generally, offers to those gentlemen, as individual citizens, an opportunity to communicate the motives of their conduct in that case to the community at large, through which channel only can he attend to them.

COMMERCE OF THE UNITED STATES.

[Reported December 26, 1797.]

The Committee to whom was referred that part of the President's Speech which relates to the Protection of Commerce and the Defence of the Country, beg leave to report, in part, of the subjects which, under this authority, require their attention:

That the unauthorized depredations which interrupt the commerce of the United States are rendered more extensively destructive to certain regulations which originated with the act of June the 5th, 1794, made in addition to the act for the punishment of certain crimes against the United States. That act prohibits, among other things, the fitting and arming, within the United States, any ship or vessel with intent to employ the same in the service of any foreign Prince or State, for hostile purposes. The instructions immediately afterwards given by the Executive to carry that law into full effect, appears in a letter from the Department of War, circulated to the Governors of the several States, under date of July 21, 1794, a copy of which is herewith submitted. The committee would more especially refer to that part of the letter which prohibits citizens from arming their vessels, unless in some special cases, reserved for the decision of the President.

The alarming increase of injurious depredations since occurring, gave rise to attempts by our citizens to arm their vessels, and when refused permission, to very earnest claims of their right. And the question was submitted to the Treasury Department, and answered therefrom, by a circular letter to the collectors of the customs, under date of April 8, 1797; a copy of which is herewith submitted. It is thereby directed that the sailing of armed vessels, not *bona fide* destined to the East Indies, be restrained, until otherwise ordained by Congress. It is understood that the exception has been since extended in favor of vessels bound to the coast of Africa. This restraint appears to have originated on the part of the Executive of the United States, solely in the wish to prevent collusions with the Powers at war, contravening the act before mentioned, and not from any doubt of the policy and propriety of permitting our vessels to employ means of defence while engaged in a lawful foreign commerce.

Your committee are of opinion that Legislative provisions ought to be established in lieu of the Executive directions herein referred to. The law before mentioned has not provided for any examination, or directed to any circumstance or stipulations by which the case of the lawful equipment of a vessel of the United States may be distinguished from that of an unlawful arming for hostile purposes. From this defect has arisen the necessity, if there be any, of the existing restraint which has operated to render the vessels of the United States defenceless against every attack, however lawless and unauthorized, and an easy prey to the most inconsiderable force. It is observable, also, that the exceptions from this restraint, admitted in favor of vessels undertaking for a voyage to the East Indies, or to the coast of Africa, are without any guard upon the conduct of those vessels abroad, and that these pretences may be falsely assumed with impunity.

Upon these considerations the committee have prepared a bill, as supplementary to the act of June, 1794, providing against abuses which may be attempted or practised under color of equipping vessels for defence, in case that right should be generally exercised by the citizens of the United States.

All which is submitted, by order of the committee.

War Department, *July* 21, 1794.

Sir: Some doubts having arisen in several of the States as to the circumstances of equipment in any vessel belonging to the belligerent nations, which may be deemed an unlawful increase, or augmentation of force, it has been judged advisable, in order that a uniform principle may prevail upon the subject, to give the following explanations:

The mounting additional guns, or changing or altering the calibre or size of the guns, in any manner whatever; the making of new gun carriages, or the cutting of new port holes in any part of a vessel, are each adjudged to be an unlawful augmentation of force, and therefore to be prevented.

This construction had its full operation upon the British letter of marque ship Jane, which arrived in the port of Philadelphia in the month of July, 1793. New gun carriages were made, additional guns mounted, which had been brought in the hold of said vessel, and new port holes were cut in her sides and stern. Each and every one of these acts being deemed unlawful, she was obliged to reland the new gun carriages, dismount the additional guns, and dismantle, and effectually close up the new port holes.

Although this rule has been hitherto considered as applicable to the belligerent Powers only, yet, in order to prevent any abuse or national responsibility from the subjects of other neutral nations, fitting out or equipping vessels in our ports, for the use of one of the warring nations, it is extended to all vessels belonging even to neutrals.

The United States being also a neutral nation, the vessels of their citizens, in most cases, do not require to be armed; the arming such vessels, therefore, raises a presumption that it is done with a hostile intent, and contrary to the prohibitions of the act of Congress. Some special cases, indeed, may occur, in which arming may be proper and necessary, but these cases ought always to be well examined and ascertained, lest they should cover collusions with some of the belligerent Powers. To guard against such an abuse, no vessel, belonging to any citizen of the United States, is to be permitted to be armed, and to sail, until all circumstances concerning her shall have been transmitted to the President, and his decision thereon made known.

I have the honor to transmit, herein enclosed,

a new rule as to the sailing of vessels of war of the belligerent nations from the United States, and also an act entitled "An act in addition to an act for the punishment of certain crimes against the United States." I am, sir, your obedient servant,

H. KNOX.

His Excellency the Governor of ———.

Circular to the Collectors of the Customs.

TREASURY DEPARTMENT,
April 8, 1797.

SIR: The depredations to which the commerce of the United States is at present exposed have given rise to a question which, being of general concern, is therefore made the subject of a circular communication.

The question is, whether it be lawful to arm the merchant vessels of the United States for their protection and defence, while engaged in regular commerce?

It is answered, that no doubt is entertained that defence, by means of military force, against mere pirates and sea rovers, is lawful. The arming of vessels *bona fide* engaged in trade to the East Indies is, therefore, on account of the danger from pirates, to be permitted, as heretofore; but, as the arming of vessels destined for European or West India commerce raises a presumption that it is done with hostile intentions against some one of the belligerent nations, and may cover collusive practices inconsistent with the act of Congress of June, 1794, unless guarded by provisions more effectual than have been hitherto established, it is directed that the sailing of armed vessels, not *bona fide* destined to the East Indies, be restrained, until otherwise ordained by Congress.

Information has been received that some vessels are arming by strangers for the purpose of capturing the vessels of the United States. The utmost vigilance on the part of the collectors to prevent the progress of this evil is enjoined; where there is reasonable ground to believe that vessels are equipped for the purpose of being employed against the commerce of this country, they are to be arrested, and the circumstances stated to this Department. I am, very respectfully, sir, your obedient servant.

OLIVER WOLCOTT.

SPAIN.

[Communicated to Congress, January 23, 1798.]

REPORT of the Secretary of State to the President of the United States.

DEPARTMENT OF STATE, *Jan.* 22, 1798.

In observance of your directions, I have revised the communications from Mr. Ellicott, the Commissioner of the United States at the Natchez, since my report of the 3d of July last, which, with the documents therein referred to, you, on the same day, laid before Congress; and now respectfully submit to you a statement of whatever appears therein to be material.

The last letter from Mr. Ellicott, of which a communication was made to Congress, bore date the 10th of May last. His next, dated the 27th of that month, I received the 24th of August. In this he mentions that reinforcements were sent from New Orleans to the post at Walnut Hills, and that repairs were made on the fort at the Natchez. That he had received very satisfactory accounts from both the Chickasaws and Choctaws that, for more than eight months past, they had been tampered with by the Spanish agents and traders, to prevent the late treaty between His Catholic Majesty and the United States from being carried into effect, though Mr. Ellicott thinks, without success. On the 11th of May, he wrote to Governor Gayoso, desiring a definitive answer as to the time he would be ready to proceed to the determination of the boundaries between the two nations, as specified in the treaty, to which he received an unsatisfactory answer. On the 16th he addressed to Governor Gayoso a retrospective view of their correspondence, and of that with Lieutenant Pope, exhibiting the repeated promises and demonstrations of running the boundary line and evacuating the posts; the nonperformance of those promises, and the varied pretences for the delay. To this detail of unfulfilled engagements and contradictory measures, the Governor answered Mr. Ellicott on the 17th, "that he should not trouble him with justifying the motives which had caused some disagreement in his (the Governor's) communications;" adding, however, that "they were far from being sincere."

In his next letter, dated the 4th of June, Mr. Ellicott mentions that "the citizens of the United States, who are trading on the Mississippi, are frequently treated with great insolence at the Spanish posts, and their property taken for the use of His Catholic Majesty, when wanted, and always at a reduced price." He instances the case of a Mr. McCluny, from whom a large quantity of flour was thus taken at the Walnut Hills; and of Francis Baily, who was compelled to receive as cash, in payment for goods sold, a species of paper which was passing at a discount of twelve per cent.

With this letter Mr. Ellicott transmitted a copy of a proclamaion by the Baron de Carondelet, Governor General of Louisiana, bearing date at New Orleans the 24th of May, and ordered to be published. In order to dissipate reports which had alarmed the inhabitants of the Natchez, the Baron therein declares "that the suspension of the demarcation of the limits, and the evacuation of the forts, which will be comprehended on the other side of the line, is, at present, only occasioned by the imperious necessity of securing Lower Louisiana from the hostilities of the English, who, (he says,) without regard to the inviolability of the territory of the United States, have set on foot an expedition against Upper Louisiana, which they cannot, however, attack, without traversing the aforesaid territory." But he suggests that, if they made themselves masters of the Illinois country, they would then attack Lower Louisiana. The fabulous expedition of the English from Canada

is thus made the pretence for the non-execution of the treaty on the part of Spain. "We have thought proper (says the Baron) to put the post of Walnut Hills in a respectable but provisional state of defence, until the United States, informed of these motives, by the Minister Plenipotentiary of His Majesty, to whom we have communicated them, provide against these inconveniences; and, by taking the proper steps to cause the territory to be respected, shall put in our power to fulfil, without danger, the articles of the treaty concerning limits."

In this proclamation, the information of the English expedition is represented as having been communicated by the Baron de Carondelet to the Spanish Minister in the United States; but, in his next proclamation, one week afterwards, (May 31st,) he sets forth that he had received, from that Minister, information of the expedition from Canada, and, therefore, "had judged it necessary, for the safety and tranquillity of Lower Louisiana, to suspend the evacuation of the post of Natchez, and of the Walnut Hills." And, as early as the first of May, Governor Gayoso, in a letter to Mr. Ellicott, published with the other documents laid before Congress at the last session, assigns the information, before that day, received by the Baron from the Spanish Minister, of the above pretended expedition as the reason for holding the posts, and putting them in a state of defence, particularly the Walnut Hills. In the same proclamation (of which a copy, No. 1, is annexed) the Baron affects to consider the march of a detachment of American troops from the Ohio to the State of Tennessee, while it has been intimated, as he says, to the militia of Cumberland, to hold themselves ready to march at the first notice, as an evidence of a hostile attack intended, even by the United States, on Louisiana.

The pretences for holding the posts in question, and delaying to run the boundary line, having varied from time to time, it may be proper to present them in one view.

In the month of March.

1st. That it was uncertain whether the forts, when evacuated, were to be demolished or left standing.

2d. That it was necessary to secure the real property to the inhabitants. And both these points, it was said, must be adjusted by a negotiation between the two Governments of Spain and the United States, prior to the evacuation of the posts.

3d. That they must be retained until the Spanish officers were sure the Indians would be pacific.

On the 24th of May.

4th. The English expedition from Canada, which could not proceed without violating the territory of the United States.

But, in the proclamation of this date, the putting of the principal post, that of the Walnut Hills, in a state of defence was declared to be only provisional, and until the United States should cause their territory to be respected.

5th. On the 31st of May, the Baron's second proclamation repeats the same pretence, the English expedition, and adds a new one, that the United States were marching troops, and preparing the militia to take the Spanish dominions by surprise. Further motives are also assigned—anterior menaces by the Commissioner, Mr. Ellicott, and of Lieutenant Pope, and the expected rupture between the United States and France. And new conditions are now mentioned to be performed by the United States, viz: that they should, as a necessary evidence that they have no hostile intentions against the Spanish provinces, either leave the post of the Natchez, or the Walnut Hills, in possession of Spain, as "the only bulwark of Lower Louisiana to stop the course of the British;" or give to the Spaniards "security against the article of the treaty with Great Britain, which exposes Lower Louisiana to be pillaged and destroyed down to the capital. Then (says the Baron) we will deliver up the said posts, and lay down our arms, which they (the United States) have forced us to take up, by arming their militia in time of peace, and sending a considerable body of troops by roundabout ways to surprise us."

Pretences more frivolous, or more unfounded and unwarrantable, were perhaps never urged as reasons to excuse a violation of the faith of treaties. Never, perhaps, was conceived a more absurd idea, than that of marching troops from the Ohio to the State of Tennessee, and thence to the Natchez, in the whole, a tedious, difficult and expensive route of many hundred miles, chiefly through a wilderness; when, if the United States had any hostile views, they had only to collect their troops to the Ohio, and suffer them to be floated down that river and the Mississippi, almost without labor, with great expedition, and at small expense, to the country to be attacked. But the suggestion is as false as it is absurd.

Neither does any article of the treaty between the United States and Great Britain, (the Baron doubtless means the treaty of 1794,) nor the explanatory article of 1796, give to Great Britain any new right respecting the navigation of the Mississippi, and consequently do not expose, more than it was before exposed, Lower Louisiana to be pillaged and destroyed by the British. But this question having been fully discussed in my letter of the 17th of May last, to the Spanish Minister, and his reasoning demonstrated (as I conceive) to be utterly unfounded, it would be a waste of time to add any further observations upon it.

If the posts of the Natchez and Walnut Hills "are the only bulwarks of Lower Louisiana, to stop the course of the British," as the Baron asserts, and if, therefore, Spain is justifiable in holding them, she may retain them, without any limitation of time, for her security in any future war, as well as in that which now exists. But this, like all the other reasons which have been before advanced, is merely ostensible. The true reason is doubtless developed by the Baron in his proclamation of the 31st of May. The expectation of an "immediate rupture between France, the intimate ally of Spain, and the United States."

The Spanish Minister having resumed this subject in his letter to me of the 11th of July, his own printed translation of it, and of my answer of the 8th of August, are hereto annexed, together with his letter of the 19th of August, acknowledging the receipt of that answer, and his two subsequent letters of the 9th of October and 21st of November. With the last, it seems proper to lay before you a paper, signed "Verus," which appeared in the Aurora, printed by Benjamin Franklin Bache, on the morning of the 23d, containing, in substance, his letter of the 22d, which I received the preceding evening, and some additional expressions which the Minister himself deemed too gross to be addressed to the Government under his proper signature; but which, under the circumstances here mentioned, must necessarily be ascribed to him.

In his next letter, Mr. Ellicott gives an account of an insurrection of the inhabitants of the Natchez. A minute detail of the circumstances which gradually tended to produce this event, he says, would fill a volume. The following relation is extracted from his letter of June 27th: "The delay (says he) on the part of the Spaniards, to carry the late treaty between His Catholic Majesty and the United States into effect, gave great uneasiness, which was daily increased by the Spaniards reinforcing and repairing the fort at this place and the Walnut Hills. The people considered those preparations as a determination on the part of Spain to retain the country, notwithstanding the late treaty. A disposition was frequently manifested to resist the laws of Spain; but they were, nevertheless, submitted to without a direct opposition, until Friday the 9th instant, when a Mr. Hannan, a preacher among the Baptists, was taken on some trivial pretence, and confined by his legs in a small building within the fort. This was considered as an attack upon the privileges of the citizens of the United States, (Mr. Hannan being one,) and a determination, at all events, to enforce the laws, civil and religious, of Spain, with rigor. Under this impression the inhabitants flew to arms, and the Governor and the principal officers of Government took refuge in the fort. Thus, in less than ten hours, by an unnecessary exertion of power, the authority of the Governor was confined to the small compass of the fort."

Saturday, the 10th, the opposition to the Spanish Government had extended almost over the district. Sunday, the 11th, a number of enterprising opposers of the Spanish Government called upon Lieutenant Pope and myself, and declared their determination of commencing hostilities, in consequence of the imprisonment of Mr. Hannan, and a proclamation of the Baron de Carondelet (that of the 31st of May before mentioned) which they considered as a declaration of war against the United States: To oppose them directly would have put an end to our influence in the country; and to encourage them, in my opinion, would have been improper, as the United States had not extended their jurisdiction to this district. I, therefore, on my part, resolved to do neither; but, to divert their attention from immediate acts of hostility, proposed to them, to make a formal declaration of their being, by the late treaty, citizens of the United States, that they might have some claim to protection; but at the same time not to lose sight of their personal safety, and act on the defensive only. This had the effect I expected. On the evening of Monday, the 12th, Mr. Pope and myself received a verbal message from Governor Gayoso, by his Adjutant, Major Minor, to the following purport: "Gentlemen, Governor Gayoso requests the favor of an interview with you, all as private gentlemen: the interview to be without the fort, to see if some plan cannot be devised to quiet the present disturbance in the country." To this message I replied, that "I had no objection to the proposed interview; that I approved of peace, and would join in any measures for that purpose, consistent with the honor and safety of the people, who generally considered themselves citizens of the United States." Mr. Pope's answer was very different, and to the following effect: "You will please to inform Governor Gayoso that I will not agree to the interview, nor have any correspondence with him but what shall be official; and I will repel, by force, any attempts that are made to imprison those who claim the privileges of being citizens of the United States." As the message was jointly to Mr. Pope and myself, and Mr. Pope would not attend, I informed Major Minor that I should not attend alone. All my address was now exerted to avert the storm, and bring it to a favorable issue; and I could see no mode so likely to answer the purpose, as measures apparently decided. Under this impression, about ten o'clock in the evening, after Major Minor had been with us, I entered my approbation to a letter, written by Mr. Pope, to a large number of the inhabitants of this district, assembled at a Mr. Belt's, about nine miles from this place.* On the morning of the 13th, I

* This letter from Lieutenant Pope has since been transmitted by Col. Anthony Hutchins, of the Natchez, to the Department of State, and is as follows:

"NATCHEZ CAMP, *June* 12, 1797.

"*Fellow-citizens of the district of Natchez:*

"Having received information that a number of you will be collected at my friend Belt's, in conformity to an indirect invitation sent to you for that purpose, I have now positively to make the declaration to you that I have made this evening to Governor Gayoso, that I will at all hazards protect the citizens of the United States from every act of hostility; I mean all such as reside north of the thirty-first degree of north latitude, or within thirty-nine miles due north of the Natchez. I now, therefore, call on you, in the most solemn manner, to come forward and assert your rights, and you may rely on my sincere co-operation to accomplish that desirable object.

"I shall expect your assistance to repel any troops or hostile parties that make an attempt to land for the purpose of reinforcing this garrison, or other purposes detrimental to the inhabitants of this country.

"PIERCY S. POPE,
"*Commanding U. S. troops, Natchez.*"

From the present alarming situation of this country I fully approve of Captain Pope's letter of this date to his fellow-citizens assembled at Mr. Belt's.

ANDREW ELLICOTT,
Commissioner United States.

June 12, 1797.

received a letter (No. 2) from Governor Gayoso, to which I immediately returned an answer (No. 3.) The ensuing evening, about eleven o'clock, I received a verbal message, by Mr. George Cochran, contractor for the United States at this post, from Governor Gayoso, requesting a private interview with me at the house of Mr. Cochran, (which is in the neighborhood of the fort,) at nine o'clock the next morning: to this I had no objection, as I supposed the object of the interview was to fall upon some plan of an accommodation. The next morning, being the 14th, I met Governor Gayoso, according to his request. He appeared much agitated at first, but soon became calm, and we entered upon the subject of the tumult in the country: he was desirous to know upon what terms the people would be willing to disperse. I proposed the outlines of an accommodation, to which he acceded. In order to prevail on Mr. Pope to consent to an interview with Governor Gayoso, I spoke to Mr. Cochran and several other of his friends, whose influence prevailed, and the interview took place at the Government house, about five o'clock in the afternoon; when, after some discussion, the Governor proposed the terms (No. 4) on which he was willing to accommodate with the people: Mr. Pope had some objections, but at length withdrew them. On Wednesday morning the Governor published the proclamation (No. 5) founded in part upon the terms which were agreed upon at our interview. But this proclamation had not the desired effect; in some places it was torn to pieces. The words "candid repentance" rendered the whole obnoxious. The people considered themselves not only citizens of the United States, but supporting a virtuous and honorable cause; and, therefore, in no need of "repentance." As soon as I discovered that the proclamation had no effect, I gave the information to the Governor's Adjutant, Major Minor. The business now put on a very serious aspect, and hostilities appeared inevitable. By this time the opposition to the Spanish Government had assumed some form; a number of respectable militia companies had elected their officerr, and were ready to take the field. Friday, the 16th, it was agreed that a meeting of the principal inhabitants of the district should be held at Mr. Belt's on Tuesday, the 20th. In the mean time both sides continued their preparation. Companies of militia were forming and organizing in the country; and the Governor exerted himself by strengthening and reinforcing the fort. He called to his aid every person who would join him, either through attachment or fear: he was, nevertheless, too weak to attempt any offensive operations. On Saturday, the 17th, at about ten o'clock at night, a Spanish patrol fell in with a patrol from our camp, and fired upon it: the fire was returned, but I believe that there was no damage done. On Sunday evening, the 18th, I received a verbal message from the Governor, by his Adjutant, Major Minor, requesting a private interview with me the next morning, at the house of his Adjutant, to which I consented without any hesitation. The next morning he left the fort and rode by a circuitous route to the Adjutant's place, where I joined him. Our conversation immediately turned upon the state of the country; he assured me that he was very desirous of coming upon some terms of accommodation; and as he understood that I intended to attend the meeting the next day at Mr. Belt's, he requested that I would be so good as to use my influence to bring about a compromise. I told him that was my object; and that a plan had already been agreed upon by Col. Hutchins and myself, to check, and finally put an end to the present disturbance; but no terms could now be expected that were not honorable for the people: they had felt their strength, and would only agree to return home by being admitted to enjoy a state of neutrality, so far as it respected military operations, till the late treaty between His Catholic Majesty and the United States should be carried into effect. To this privilege I thought them entitled; but to go further would be impolitic, and probably attended with ruin to individuals, if not to the district. As the Governor did not appear dissatisfied with my observations, I took it for granted he would agree to a qualified neutrality. On Tuesday, the 20th, I attended the meeting at Mr. Belt's, which was large and respectable.

Here it was concluded that a committee should be appointed to take the situation of the country into consideration, and make arrangements with the Governor for restoring peace and tranquillity; which arrangements should, as a greater security to the people, be ratified by the Governor General, the Baron de Carondelet. Seven gentlemen were accordingly elected as the committee, and Mr. Pope and myself were requested, by the same meeting, unanimously to attend with them. The committee immediately wrote a note to the Governor, informing him of their election; to which the Governor returned a polite reply, expressing his happiness that this salutary measure was adopted: "On Wednesday, the 21st, the committee met and proceeded to business; and, after much deliberation, and several interviews with the Governor, the propositions, (No. 6,) on the 22d, were agreed to, and confirmed by the parties. On the same day, Mr. Pope and myself presented the Governor our engagement, (No. 7,) to co-operate with the committee, in preserving peace and good order in the country. On the 23d, the Governor's proclamation, (No. 8,) embracing the four propositions, was published, which gave general satisfaction, and once more restored tranquillity to the district. Thus ended this tumult without a single act of violence having been committed during the suspension of the Government and laws, for the space of two weeks. From the Baron de Carondelet's proclamation of the 31st of May, it would appear that I had menaced the Spanish Government of Louisiana. This is wholly a misrepresentation, and calculated to answer the worst of

purposes. Ever since I came into this country I have been a cultivator of peace and harmony between the Spanish and American Governments, for which I have been frequently censured by many citizens of the United States, who have come on to this place since the ratification of the late treaty between the United States and the King of Spain. But, when the late tumult began, I could not hesitate as to the part I should take; and, in taking the part I did, peace was my main object. If my endeavors have had the least share in bringing about the honorable compromise between the Governor and the people, I shall think myself amply rewarded for the trouble and anxiety I have experienced on that occasion."

The agreement between the committee and Governor Gayoso was, in due time, ratified by the Governor General, the Baron de Carondelet.

Mr. Ellicott, in his letter of September 12th, (which was received the 16th of November,) mentions that Governor Gayoso had succeeded the Baron de Carondelet as Governor and General-in-Chief of Louisiana, and gone to New Orleans, and had committed the government of the Natchez district to Major Stephen Minor.

His communications relative to the Choctaw nations, show their friendly dispositions towards the United States, and determination to remain at peace. It appears that there is an unhappy dissension among the inhabitants of the Natchez; one party blaming, and the other decidedly justifying, the conduct of Mr. Ellicott, as uniformly calculated to maintain the tranquillity and happiness of the settlement. At the head of the former is Colonel Anthony Hutchins.

Mr. Ellicott pointedly denies the charge of the Spanish Minister, that he intended to get possession of the Natchez fort by surprise; of which the Minister, said Governor Gayoso, possessed the proofs; and, far from evading an inquiry, desires Governor Gayoso to furnish the Minister with all the evidences he possesses to substantiate the charge.

In his next letter, dated the 24th of September, Mr. Ellicott encloses a resolution (No. 9,) of the permanent committee manifesting their confidence in him, and requesting him to represent the present situation of the district to the President of the United States, and also all the measures which, from his knowledge of the circumstances of the country, acquired by his residence there, he shall deem to be conducive to its future welfare, "in the event of the late treaty between His Catholic Majesty and the United States being carried fully into effect."

Mr. Ellicott has accordingly expressed his opinion, founded on very cogent reasons, that the form of government established for the Northwestern Territory will be the most proper for the Natchez district; with the exception of slaves, which was admitted when the same form of government was given to the territory south of the river Ohio, now the State of Tennessee. His information in this letter respecting the titles to the lands held in that country by the inhabitants, will be useful when the introduction of a government there, under the authority of the United States, shall be contemplated.

By the communications in this despatch, it appears that the permanent committee, which are considered as an important part in the present administration of the affairs of the Natchez district, were chosen freely by the inhabitants, assembled with the consent of the Governor, and that they have his approbation for their steady zeal, in promoting the peace of the country.

On the 28th of November I received Mr. Ellicott's letter of the 7th of October, at which time no change had taken place in affairs at Natchez.

He encloses the copy of a letter from Governor Gayoso, dated at New Orleans, the 14th of September, in answer to one from Mr. Ellicott of the 6th, in which he referred to the representations of the Spanish Minister, in his letter to me of the 24th of June last, (which, with other documents, was laid before Congress on the 3d of July,) criminating Mr. Ellicott's conduct at the Natchez; particularly that he intended to possess himself of the Natchez fort by surprise; and desired the Governor to furnish the Minister with those proofs which the Minister had asserted to be in his possession. In the Governor's answer of September 14th, he says to Mr. Ellicott: "I am sure the proofs in my possession, that the Chevalier de Yrujo refers to, are the remainder of the copies of your letters to me, which he then had not, but long before this must have received. You may be assured I never made any other construction upon your expressions than that which may be conceived by every person in the United States."

In the same letter, of September 6th, Mr. Ellicott says: "So far as I can judge at present, all the obstacles which occasioned the delay on your part, in ascertaining the boundary lines between His Catholic Majesty's provinces of East and West Florida, and the territory of the United States, are now removed; I, therefore, wish to be informed when you can, with convenience, proceed to the running of the lines above mentioned."

The Governor, in his answer of the 14th, says: "Those difficulties which alternately have caused a suspension in the execution of that part of the treaty between His Majesty and the United States, in which we have the honor to be concerned, subsist yet; and the conduct of the Spanish officers is completely justified to the world by the publication of Mr. Blount's letter, and the correspondence between the Secretary of State and Mr. Liston. Until the King, my master, has those assurances which are necessary from the United States to secure the safety of this province, you cannot reasonably expect that I should be authorized to act in a different manner than hitherto. As soon as I receive orders, removing the present obstacles, I shall cheerfully proceed to the running of the boundary lines."

To this Mr. Ellicott replied, and recited the obstacles to the execution of the treaty, which, at different times, had been presented by the Spanish Governors, and which he conceived to be completely removed by the declaration of the President in his Message to Congress on the 12th of

June, the uniform conduct of the United States in respect to the Indian nations, and the exhibition of facts respecting the pretended expedition of the English from Canada, and the navigation of the Mississippi.

Mr. Ellicott's next letter is dated at the Natchez, the 27th of October, and was received the 5th instant. He says that country "is in great confusion," owing to the intrigues which have produced two parties among the people. He adds: "Congress, at their last session, by not coming to any decision relative to this territory, has weakened the interest of the United States among the inhabitants more than you can conceive. It has been artfully propagated, from that circumstance, that the treaty, in all probability, will not be carried into effect, and the country remain as heretofore, under the jurisdiction of His Catholic Majesty;" which belief is producing its natural consequences.

He represents the permanent committee as unwearied in their endeavors to promote peace and good order, and the character of its members as among the first in that country for respectability; which is confirmed by the certificate (No. 10) of the temporary Governor, Major Minor; which also shows that they are acknowledged as an authorized body by the Spanish Government.

His next letter is dated at the Natchez, the 14th of November, and was received the 4th instant. He details the different facts and circumstances which have led him to think that designs are carrying on in the district unfavorable to the interests of the United States.

Colonel Anthony Hutchins presented to the temporary Governor an application dated the 9th of August, setting forth that, although the inhabitants in general, in their present state of neutrality, are well disposed, and submit "to the presiding authority and the prevailing laws, that are now executed with mildness;" yet, conceiving and firmly believing that the treaty between the United States and Spain will be carried into effect, "and that there is more than a probability that the United States will avail themselves of the claim of dominion to the 31st degree of north latitude; under which consideration they conceive it expedient to appoint a man of some abilities, with the appellation of agent, to address Congress on important occasions, and that there may be also a committee of safety, who may correspond with such agent, and, from time to time, communicate to him the sense and will of the people;" he, therefore, "in behalf of a very respectable number of the inhabitants of the Natchez, and, at their request, solicits for permission that elections may be held in the several districts within that province, and in the town of Natchez, to elect such agent and such committee of safety and correspondence, on the second of September," in the manner described by Colonel Hutchins in his application. This required that the alcaldes (or justices) should hold the election, or, in their default, certain assistants, whom he names; and that the alcaldes and assistants should not be eligible; it also proposed to admit as voters all the inhabitants settled and residing in the district who were "not less than eighteen years of age."

To this request of Colonel Hutchins, the temporary Governor acceded, as appears by his act (No. 11) dated the 16th of August.

"Immediately upon this being made public, (says Mr. Ellicott,) it excited considerable alarm, and was generally considered, by the well disposed inhabitants, as an artful measure, calculated to divide the people between the two committees, which, if effected, would, in all probability, end in a breach of the neutrality by one or other of the parties, and thereby produce the re-establishment of the Spanish Government." Under this impression, six of the ten subdivisions of which this district is composed, protested against the election; of course there were but four elections held agreeably to the permission. Among the reasons assigned in the protests against this proposed election, were these: "Because (say the protestors) we dread the effect of such a precedent, which appears to us to involve the seeds of anarchy, and an open contempt in the authority vested in the committee, our only legal representatives." "Because, by the mode of election, not less than thirty of our most intelligent and respectable citizens are rendered incompetent to serve either as the said agent or in the committee." "Because it is calculated to introduce a direct innovation in the principles of election, by admitting to the privilege of voting, persons of the age of eighteen." And "because neither the powers of the agent nor committee are properly defined."

Mr. Ellicott states that the four persons elected in the other four subdivisions, "with Col. Hutchins at their head," proceeded to business. Afterwards, another member was added by the nomination of ten voices in one subdivison, and a sixth was appointed by the subscription of fewer than thirty persons. The committee, thus constituted, produced a very long "petition and memorial," addressed to the "House of Representatives of the United States in Congress assembled," of which Mr. Ellicott has transmitted a copy, but of which it does not seem necessary to anticipate the presentation to Congress by the agent to whom it may, for that purpose, be committed. One object of the memorial seems to be to criminate the conduct of the American Commissioner, Mr. Ellicott, and the commander of the troops, Captain Pope. But proofs accompany Mr. Ellicott's communication, that this part of the long memorial was concealed from many who subscribed it, and other testimonies in vindication of those officers. The exhibition of these documents, I have thought, might also be suspended until the "petition and memorial" were presented to Congress. It may, however, be proper to remark, that the memorial, as well as the proceedings of the regularly appointed permanent committee, view the actual establishment of a government at the Natchez, under the authority of the United States, as to take place only when its present state of neutrality shall cease; that is, when the Spanish jurisdiction shall be withdrawn. But, as this may happen when Congress is not in session, and,

if in session, much time must elapse in the ordinary course of doing business, before the form of government proper to be introduced at the Natchez may be agreed on; considering, also, the further lapse of time before it can be organized and put in operation, in a country so remote from the seat of the General Government, it appears highly expedient that the subject should now be taken up, and the necessary arrangements made, to prevent the inconveniences and mischiefs which may result from leaving a population of five thousand persons, for any length of time, without the powers of government.

It remains for me to make a few remarks on the letters of the Spanish Minister, of the 9th of October and 21st of November.

The principal object of the former appears to be to introduce some evidence to show that Mr. Ellicott and Lieutenant Pope had conducted, towards the Spanish Government, in a manner irregular, provoking, insulting, and, in some degree, hostile. He adduces, as proofs, the documents enclosed in his letter, and numbered from one to six.

The declaration that Governor Gayoso had positive advice that, in the camp of Lieutenant Pope, scaling ladders and arms were preparing, having for their object an assault on the Natchez fort, is perfectly new. I have never received an intimation of it from any other quarter. Besides, this charge rests only on "positive advice," not positive proof, and is, doubtless, without any proof.

Governor Gayoso, in his letter of the 13th of June, to Lieutenant Pope, says, he is informed that some of the inhabitants intended to attack the fort, and, at his instigation, and asks whether he had stirred up the people to take the fort? or incited them to other hostile acts? To each of which questions Lieutenant Pope positively answers, no. To similar questions put to Mr. Ellicott, he also peremptorily answers in the negative. The documents which the Minister himself has furnished contain these questions and answers, and should have prevented the insinuations here noticed.

The other charge, in the same paragraph, that Mr. Ellicott and Lieutenant Pope, discouraged, by the firmness and vigilance of Governor Gayoso, from attempting to take the fort at the Natchez and Nogales (Walnut Hills) by force or surprise, they availed themselves of some profligate people to excite an insurrection, is alike void of foundation. The rise, progress, and issue of the insurrection is satisfactorily exhibited in Mr. Ellicott's letter of June 27th, from which copious extracts have been hereinbefore given. And, with respect to the fort at Walnut Hills, they could never have entertained the remotest idea of taking it in one way or the other, its situation being about one hundred miles from the Natchez, up the Mississippi, and its garrison composed of a force probably two or three times superior to that under the command of Lieutenant Pope.

The Minister considers, as an insult to the Spanish Government, the following expression of Mr. Ellicott, in his letter of the 13th of June, to Governor Gayoso: "The people cannot with propriety be censured for recurring to that conduct which will ultimately secure their felicity." "This (says he) is clearly an indirect attack upon the Spanish Government, as unjust as improper, on the part of an agent of a friendly nation."

It may be pertinent here to remark that, when Mr. Ellicott was commissioned as the agent of the United States, nothing less was expected than that he would be obliged to enter upon a tedious controversy with the Spanish officers, on subjects really foreign to the business of his mission—that of running the boundary line between the territories of the two nations. If, after waiting several months to begin that operation; if, after being repeatedly promised that it should very soon be commenced; if, after repeated violations of these promises, and others relative to the evacuation of the forts, and procrastinations resting on a succession of pretences frivolous, unreasonable, and unfounded, Mr. Ellicott should have felt some irritation, and been provoked to some indiscreet acts, it would not be surprising. Whether, however, any part of his conduct merits the character of indiscretion, may be determined by the documents now and formerly exhibited; for he has not sought concealment.

But if the inhabitants thought what Mr. Ellicott expressed, that a change from the jurisdiction of Spain to that of the United States "would ultimately secure their felicity," it may be accounted for by a few facts, which will justify both one and the other.

It is well known that the inhabitants of the Natchez district consist chiefly of persons who were formerly British subjects, and their descendants, and emigrants from the United States. All these, born and educated under forms of government so essentially different from that of an absolute monarchy, and, especially in all criminal and civil causes, accustomed to a mode of trial peculiarly dear to the inhabitants of England and of the United States, and which the Constitutions of the latter have so formally and scrupulously guarantied—the trial by jury; the inhabitants also being nearly all Protestants, and, in the United States, persons of all persuasions enjoying the most perfect religious as well as civil liberty, they could not be indifferent to, it is impossible that they should not prefer, a jurisdiction which would perfectly secure to them both their civil and religious rights. I need not remark that, under the Spanish Government, trial by jury is unknown, and, at the Natchez, the Governor was the legislator and the judge, and regulateed and restrained their civil and religious rights. As an instance, might be cited Governor Gayoso's proclamation of the 29th of March, 1797, numbered 15, in the documents which were laid before Congress on the 12th of June last. By that act he suspends the collection of debts, and restrains, to private meetings, the exercise of any other than the Catholic religion. These are his words: "This being the season in which the planters are employed in preparing for an ensuing crop, none shall be disturbed from that

important object on account of their depending debts." "Liberty of conscience is hereby explained to be, that no individual of this Government shall be molested on account of religious principles, and they shall not be hindered in their *private meetings;* but no other public worship will be allowed but that generally established in all His Majesty's dominions, which is the Catholic religion.

The Minister also complains that Mr. Ellicott and Mr. Pope interfered in political matters; because they engaged themselves to co-operate with the committee appointed to preserve the peace, and to obtain the due execution of justice, and approved of the propositions presented to Governor Gayoso. But a recurrence to the foregoing narrative, extracted from Mr. Ellicott's letter of the 27th of June, and the documents he refers to, will show that both were requested to interfere, and that they were called on by the Governor to be consulted on the means of putting an end to the insurrection, and that the result of that consultation was a plan of accommodation—a proposal of measures which (as asserted in another document not before quoted*) "through the influence of Mr. Ellicott and Captain Pope, were adopted."

A few words on the Spanish Minister's letter of the 21st of November, will conclude this report.

Referring to his letter of the 6th of May, and to my answer of the 17th, (which are among the documents laid before Congress, on the 17th of May,) he says: "His Catholic Majesty has not observed, in the said answer from you, any reason to induce him to change his opinion concerning the injuries resulting to his subjects, from the stipulations of the English Treaty, compared with those of the treaty with Spain, as well on the subject of the articles of contraband, as on the principle adopted in ours, 'that free ships shall make free goods,' &c.

"But what has most astonished His Majesty, and confirmed him in the justice of his pretensions, is what you have said, in your answer, with regard to the navigation of the Mississippi."

It is much to be regretted that difficulties should be raised, and persevered in, on questions so plain and easy to decide. Without entering again into a particular discussion of this subject, a single fact, which, on the 17th of May, I supposed probable, and which I am now authorized to assert, is sufficient to obviate all the objections and arguments which have been adduced by the Spanish Minister. It is this: That when the treaty between the United States and Spain was negotiated by Mr. Pinckney with the Prince of Peace, the latter was furnished with an entire copy of the treaty of amity, commerce, and navigation, between the United States and Great Britain; consequently it is, to the last degree, preposterous for the Spanish Government now to complain that the treaty with Great Britain rejected the principle that "free ships made free goods," or that it extended the list of contraband. With a perfect knowledge of the articles of the British treaty, on these points, if the Spanish Government had any objections to make, that was the time; and to have refused to enter into different stipulations with the United States; but having, notwithstanding, voluntarily entered into them, it cannot now offer and insist on such objections, without a manifest departure from the principles of candor and good faith.

The same observations will apply to the question concerning the navigation of the Mississippi.

In the first place, the Spanish Government, when its treaty of peace with Great Britain was concluded at Paris, on the 3d of September, 1783, by which West Florida was ceded to Spain, well knew that, by the provisional treaty between Great Britain and the United States, concluded at Paris the 30th of November, 1782, the articles of which constituted the definitive treaty of peace between these two Powers—it was stipulated that "the navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States." And yet even this stipulation, which was inviolably binding on the United States, by the provisional articles before mentioned, nine months before West Florida was ceded to Spain, is now strangely objected to by the Spanish Minister, and as a reproach to the United States!

In the next place, when our treaty with Spain was concluded, on the 27th of October, 1795, the Spanish Government possessed the like perfect knowledge, that eleven months preceding, viz: on the 19th of November, 1794, in the treaty of amity, commerce, and navigation, between the United States and Great Britain, the above stipulation of 1782 and 1783 was recognised in these words: "The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties." And, on this occasion, the Spanish Government did object; it wished the United States to enter into a mutual stipulation with Spain for the purpose of *excluding* Great Britain from the navigation of the Mississippi: but the Minister of the United States explicitly refused to do it; and, in writing, assigned the reason: that it would violate the good faith of the United States previously pledged to Great Britain: and the Spanish Government gave up this objection, or the Minister of the United States would not have concluded the treaty. How truly astonishing it is, after all this, that the United States should be reproached for the stipulation with Great Britain, respecting the navigation of the Mississippi! And as having thereby *offended* and *insulted* Spain! And how long is our patience to be abused by such unfounded charges?

But although the Chevalier de Yrujo, in his argument upon this point, refers alike to our treaty of peace with Great Britain, in 1783, to our treaty of amity, commerce, and navigation, in 1794, and to the explanatory article of the latter, concluded on the 4th of May, 1796; yet, in the end, as if conscious that his observations, as applied to the two former, were impertinent, he confines his

* Letter from George Cochran to the Permanent Committee, in October.

charge to the latter, and says that "His Catholic Majesty has just motives for being offended with the *explanatory article*, signed on the 4th of May, 1796." But neither does this explanatory article contain any new stipulation. It recognises the principle that a subsequent treaty cannot annul any stipulation of a prior treaty, and declares that the subjects of His Britannic Majesty, and the citizens of the United States, and the Indians, dwelling on either side of the boundary line between the two Powers, "shall remain at full liberty freely to pass and repass, by land or inland navigation, into the respective territories and countries of the contracting parties, on either side of the said boundary line; and freely to carry on trade and commerce with each other, *according to the stipulations of the said third article of the treaty of amity, commerce, and navigation*:" Thus recurring to, and resting upon, the treaty of November 19, 1794; which, as above observed, the Chevalier himself finally abandoned, as affording no cause of complaint, and without which the explanatory article itself would be a nullity.

TIMOTHY PICKERING.

No. 1.

The Proclamation of Baron de Carondelet.

NEW ORLEANS, *May* 31, 1797.

The Government being informed, by His Majesty's Ambassador to the United States of America, that an expedition assembled on the Lakes was intended to attack the Illinois, has judged necessary, for the surety and tranquillity of Lower Louisiana, to suspend the evacuation of the posts of Natchez and the Walnut Hills, being the only posts that cover it; the possession of which will put the English in a situation to disturb and ravage the country, in case they render themselves masters of Upper Louisiana with so much more facility, as by an article of the treaty concluded posteriorly with Great Britain the United States acknowledge that the English may freely navigate and frequent the posts belonging to the said States, situated on the rivers in general, lakes, &c., being a manifest contradiction with the treaty concluded with Spain, which it appears to annul; because, by this, the United States acknowledge that no other nation can navigate upon the Mississippi without the consent of Spain.

Notwithstanding the legitimacy of these motives, the suspension has been represented to the Congress of the United States with all the necessary veracity, and intimated by our orders to the commissary of limits, as well as to the commandant of the detachment of American troops now at Natchez. We are now informed that a detachment of the Army of the United States, cantoned on the Ohio, are on their way by Holstein towards Natchez, while the militia of Cumberland are intimated to hold themselves ready to march at the first notice.

These hostile dispositions can naturally only concern these provinces, because the United States are in peace with all the savages. The anterior menaces of the commissary of limits and the commandant of the detachment of Americans now at Natchez—the immediate rupture (if the American gazettes are to be believed) already effected between France, our intimate ally, and the United States—engage us to be on our guard to defend our property with that valor and energy which the inhabitants of these provinces have manifested on all occasions, with the advantage and superiority which a knowledge of our local situation will procure, and with that confidence which right and justice inspires. If the Congress of the United States had no hostile intention against these provinces, they will either leave the post of Natchez, or the Walnut Hills, the only bulwarks of Lower Louisiana to stop the course of the British, or if that they give us security against the article of the treaty with Great Britain which exposes Lower Louisiana to be pillaged and destroyed down to the capital, we will then deliver up the said posts, and lay down our arms, which they have forced us to take up by arming their militia in time of peace, and sending a considerable body of troops by round-about ways to surprise us.

No. 2.

Governor Gayoso de Lemos to Andrew Ellicott, Esq.

NATCHEZ, *June* 13, 1797.

SIR: By repeated information, and by every appearance, it seems past a doubt that a number of the inhabitants of this Government, subjects of His Majesty, are at present in a state of rebellion, with the hostile design of attacking this fort.

I am informed that yesterday several of the said insurgents were riding through the country soliciting subscribers to a list that already contained the names of several persons who declared themselves citizens of the United States of America, though they are actually under oath of allegiance to His Majesty, and under whose dominion and protection they have lived and enjoyed the benefits thereof, and the bearers of this list declare themselves commissioned by you for that purpose.

I cannot prevail upon myself to believe that you have either authorized or encouraged such proceedings, as a conduct of that nature would unavoidably produce the most disagreeable and fatal misunderstanding between our nations, and the total destruction of this district.

Therefore I request you to give me such a positive answer as will enable me to inform the Commander General of this province for the intelligence of His Majesty of the part you take in these transactions. And should you take such an active part as it is represented you do, from this moment I protest, in the name of the said Commander General, against such conduct, and make you answerable for the fatal consequences that may ensue. I repeat the request of a positive answer on this subject. I have the honor, to be, &c.

M. GAYOSO DE LEMOS.

HON. ANDREW ELLICOTT.

No. 3.

Andrew Ellicott, Esq., to Governor Gayoso de Lemos.

NATCHEZ, *June* 13, 1797.

SIR: In order to answer your letter of this day, that (from the spirit of it) denies the existence of that principle which has been the object of a long train of discussion between us, I must refer to your letter dated the 12th of March last. In that letter you admit not only that Daniel Clarke's will be about the point of demarcation, but that the commissioner of His Catholic Majesty would, in all probability, meet me at that place. As the treaty itself was a fact notorious, so likewise ought to be all the transactions attending it, either in direct performance or open violation.

The people, therefore, became acquainted with those circumstance that were the result either of my observations or the acquiescence of the Spanish Government. They were matters that involved their felicity, and could not from duty or decency be withheld. If on the present occasion the people have thought proper to act in conformity to the intelligence received, which intelligence had the combined sanctions of the agents of both Governments for its support, is my agency to be ascribed, or my conduct to be called to account, with regard to the effects? A little inquiry into the human heart would have enabled you, sir, to have discovered a more powerful cause than any operation of mine on the present occasion. The people considered themselves citizens of the United States; they had a right to consider themselves so, and they have lately come forward individually to express their wishes and intentions.

After this short detail of what is the real cause of the present disturbance, I might flatter myself with a complete acquittal on your part, did not the first paragraph of your last letter compel me to form a different conclusion. On what principle do you still retain the idea that the citizens of this country are subjects of His Catholic Majesty? Is there not a compact deliberately entered into by the two nations to the contrary of your opinion? Have not you acknowledged me to be the agent of the United States to carry that compact into effect? And have you not repeatedly pledged your word to co-operate with me in that desirable object? Here I might with propriety ask, "What human assurances could have gone further than those that have been made on your part? Do all solemn obligations between nations depend upon chance or caprice? Or is there such a principle universally acknowledged among different nations as the law of nature and nations?" If your Excellency admits that there is such a principle as national law, I assert that the inhabitants of this country cannot be considered as anywise subjects of the Spanish Monarchy. If you deny the existence of the principle, I have only to observe that the people cannot, with propriety, be censured for recurring to that conduct which will ultimately secure their felicity.

I have thus far proceeded by way of argument in answer to your communication, from the whole of which you will readily infer a very natural conclusion that the delay on your part in carrying the late treaty into effect, added to the invariable nature of the human heart, has produced the evils of which you complain.

But since you demand a positive reply to the general question, whether I am concerned in measures destructive of His Catholic Majesty's interest, or in an attempt to attack the fort, I give you my honor that I am not. You have assisted me in confirming the sentiment that this territory belongs to the United States; and I do now, therefore, on the part of the said United States, as their agent, most solemnly and pointedly protest against the landing of any troops, or the reparation of any fortifications in this territory above the 31st degree of north latitude, as I shall consider all such conduct as a violation of the treaty, and an immediate attack upon the honor and dignity of my country.

I shall now finally observe that, from your verbal message by your adjutant, Major Minor, I expected that you Excellency would have proposed some scheme of accommodation that would have been consistent with the justice and sentiment of the countries we have the honor to serve.

Should you have any proposals to make for an accommodation, I assure you that I feel every wish to enter into a discussion for that purpose. I am, &c.

A. ELLICOTT.

No. 4.

Statement of the principles on which I find myself disposed, according to my duty, to put in practice for the tranquillity of the country.

1st. That all the people in general, now collected or who are collecting in bodies, shall disperse and return to their farms, and continue peaceably their domestic business.

2d. That, by so doing, it is warranted to them that they shall not be prosecuted for the present disturbance.

3d. That, as an explanation, to banish some doubtful apprehensions that perhaps have given rise to the present disturbance, I assure the public there are no preparations against them; that the detachment of troops coming up the river is not intended for this place, and are to proceed to their destination; nor have I ordered any troops from Nogales to reinforce me.

4th. That no Indians have been called, that no roads have been or shall be stopped.

5th. That there is no war declared between His Catholic Majesty and the United States; on the contrary, it is the intention of His Majesty to continue the best harmony between the two nations; in consequence thereof I have not the least idea of acting in a hostile manner against any force or persons belonging to the United States; and whilst this good intelligence subsists between the two nations, no alteration shall be made on these principles; on the contrary, I shall employ my greatest exertions to make every resident of this Government as happy as possible; further I declare that they shall not be imbodied as militia

but against an invasion of this country, and, if military bodies shall be wanted out of this district, they shall only be formed by volunteers.

M. GAYOSO DE LEMOS.

NATCHEZ, *June* 14, 1797.

No. 5.

Don Manuel Gayoso de Lemos, Brigadier in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c.

NATCHEZ, *June* 14, 1797.

Whereas the confusion in which the country is at present involved threatens the entire destruction of its inhabitants; it is our duty to employ every means to save them from certain ruin, which will be inevitable if they do not listen to the salutary advice which the voice of humanity dictates to our constant attention to the welfare of every individual of this Government; lenity in its greatest extent accompanies the obedience that is required, and general forgiveness will be the fruit of a candid repentance, and the exact compliance with the following conditions:

From the day after the publication of the present proclamation, all persons collected in bodies, or are collecting for any purpose not sanctioned by us, will immediately disperse, and every individual retire to the place of his residence, attend to his farm, or other occupation, in a peaceable manner, and consider himself in the same light as before the present disturbance, never to assemble again upon the same principles as the present, nor consider themselves as bound to do it, when called upon similar purposes, whilst under the Government and laws of His Majesty.

Any persons who from attachment to the Government and laws of His Majesty, and with a view to prevent the impending calamity, should have assembled in bodies, are likewise to disperse.

No person shall ever be upbraided on account of his differing in opinion with any other, which, when not carried to excess, is allowed to every man, when it is not injurious to the Government, and consequently to the community in general.

By so complying a general forgiveness is warranted to every person who has been concerned in the present disturbance, and no inquiry shall be made for their names.

It has been represented to us that the present commotion has partly arisen from the following apprehensions:

That a war might be actually declared between His Majesty and the United States of America.

That forces were accumulating here to treat with rigor those inhabitants who have manifested a partiality for the Government of the United States, and that the Indians had been called upon for their assistance.

That the roads and water communications were stopped; and that the inhabitants were to be compelled to imbody into military corps.

To banish these unfounded apprehensions, and finally tranquillize the minds of the people, we do hereby assure them that no war exists between His Majesty and the United States; but on the contrary the most friendly intercourse is recommended to both nations. No forces are accumulating here, and those for Nogales are for the sole purpose of opposing an actual enemy. No Indians have been called. No interruptions have or shall be put to land or water communications; and under the present situation of this country, no corps of militia shall be formed; but if any should be wanted, out of the district, volunteers only shall be called for, except in case of an invasion, either by water or by land within the extent of this Government; in which case natural defence and general safety admits of no exceptions.

The alcaldes in each district, or persons commissioned for the purpose of promulgating this proclamation, are hereby ordered to make it public with all possible expedition, that it may produce the desirable good effect.

Given under my hand and the seal of my arms, and countersigned by the Secretary of this Government.

M. GAYOSO DE LEMOS.
J. VIDAL.

No. 6.

Don Manuel Gayoso De Lemos, Brigadier General in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c.

NATCHEZ, *June* 22, 1797.

SIR: The following propositions being unanimously agreed to by us the underwritten, (being a committee appointed by a very numerous and respectable meeting of the inhabitants of this district,) and A. Ellicott, a citizen and Commissioner of the United States, and P. S. Pope, commanding the United States troops on the Mississippi, are submitted to your excellency, with a request that you may accede to and transmit a copy of the same to the Baron de Carondelet, and obtain his concurrence, in order to restore tranquillity to this district.

1st. The inhabitants of the district of Natchez, who, under the belief and persuasion that they were citizens of the United States, agreeably to the late treaty, have assembled and imbodied themselves, are not to be prosecuted or injured for their conduct on that account, but to stand exonerated and acquitted.

2d. The inhabitants of the Government aforesaid above the 31st degree of north latitude, are not to be imbodied as militia, or called upon to aid in any military operation, except in case of an Indian invasion, or for the suppression of riots during the present state of uncertainty, owing to the late treaty between the United States and His Catholic Majesty not being fully carried into effect.

3d. The laws of Spain, in the above district, shall be continued, and, on all occasions, be executed with mildness and moderation, nor shall any of the inhabitants be transported as prisoners, out of this Government, on any pretext whatever; and, notwithstanding the operation of the law aforesaid, is hereby admitted, yet the inhabitants

shall be considered to be in an actual state of neutrality during the continuance of their uncertainty, as mentioned in the second proposition.

4th. The committee aforesaid do engage to recommend it to your constituents, and to the utmost of our power endeavor to preserve the peace and promote the due execution of justice.

We are your most obedient and humble servants,

A. HUTCHINS,
BERNARD LINTOT,
ISAAC GAILLARD,
CATO WEST,
WILLIAM RATLIFF,
GABRIEL BENOIST,
JOSEPH BERNARD.

Don Manuel Gayoso de Lemos, Brigadier General in the Royal Armies of Spain, Governor Military and Political of Natchez and its Dependencies, &c.

GOVERNMENT HOUSE,
Natchez, June 22, 1797.

I do hereby accede to the foregoing propositions established and agreed upon for the purpose of re-establishing the peace and tranquillity of this country; and that it may be constant and notorious, I sign the present, under the seal of my arms, and countersigned by the Secretary of this Government.

M. GAYOSO DE LEMOS.

By his Excellency's command.

JH. VIDAL.

No. 7.

JUNE 22, 1797.

We, the under written, do engage to co-operate with the committee appointed by a numerous and respectable meeting of the inhabitants of the district of Natchez, to preserve the peace and to obtain the due execution of justice, and do hereby approve of the propositions presented Governor Gayoso by the said committee, and acceded to by him.

A. ELLICOTT,
Citizen and Commissioner of the U. S.
P. S. POPE,
Commanding U. S. troops on the Miss.

No. 8.

Don Manuel Gayoso de Lemos, Brigadier General in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c.

NATCHEZ, *June* 22, 1797.

Whereas the threatening calamities to which the inhabitants of this district have been lately exposed, did awake the zeal of every individual, and rouse them to seek the most efficacious means of re-establishing good order and that tranquillity which, for many days, was lost; the good sense of a number of the inhabitants dictated to them the necessity of a convention, in which they chose persons of the most notorious probity and intelligence as a committee to co-operate with us towards the re-establishment of the public peace and tranquillity; and the members of the said committee having met at Natchez, after due deliberations and consultations, stated and presented us the following propositions, in the terms and form here expressed, to wit. [Then follow the propositions No. 6.]

Being always desirous of promoting the public good, we do join in the same sentiment with the committee, by acceding to their propositions in the manner following. [See the propositions No. 6.]

M. GAYOSO DE LEMOS.
JOSEPH VIDAL, *Secretary.*

No. 9.

COMMITTEE ROOM,
September 14, 1797.

SIR: The many proofs that the committee has of your desire to contribute to the welfare of this country, encourage it to request of you the service mentioned in our first resolve of yesterday, of which it encloses you a copy. I have the honor to be, sir, &c.,

JOSEPH BERNARD,
Chairman.

The Hon. ANDREW ELLICOTT, Esq.

1. *Resolved*, That the 5th resolve of the 29th ultimo be rescinded, and that Mr. Ellicott, whose inclination for the interest and happiness of this country we have a convincing proof of, in his former communications to the General Government, published since, and now in our hands, and who, from his residence for several months amongst us, is well acquainted with the circumstances of this country, be requested to represent our present situation to his excellency the President of the United States, and likewise all the measures which he shall deem to be conducive to the future welfare of this country, in the event of the late treaty between His Catholic Majesty and the United States being carried fully into effect.

G. BENOIST, *Secretary.*

No. 10.

Don Stephen Minor, Captain in the Royal Armies, Aid, Major, and Governor *pro tem.* of the Natchez and its Dependencies, &c.

I do certify that Colonel Peter Bryan Bruin, Daniel Clark, Joseph Bernard, Frederick Kimball, Gabriel Benoist, Isaac Gaillard, Philander Smith, Roger Dixon, and William Ratliff, Esquires, members of the permanent committee, duly elected by the people at large, under the sanction of Government, are the true and sole representatives of the inhabitants of this Government, and that faith is due to their proceedings as such, as also to the representations they may make in behalf of the public in all cases.

In testimony whereof, I have hereunto set my hand and affixed my seal at Government House, Natchez, this sixteenth day of September, one thousand seven hundred and ninety-seven.

STEPHEN MINOR.

No. 11.

Stephen Minor, Esq., Captain in the Royal Armies, and Governor of the Natchez for the time being.

AUGUST 16, 1797.

It being the undeniable and inalienable right of freemen, to assemble in an orderly and peaceable manner for the purpose of consulting and deliberating on their mutual interest, no opposition shall be made by the officers of His Catholic Majesty to any assembly, whether partial or general, of the inhabitants residing in this district, if conducted upon the principles of good order and decorum.

I do, therefore, hereby grant permission for the assemblies or meetings required in this address, to take place on the day appointed and in manner recommended. STEPHEN MINOR.

[No. 12 is a letter from the Chevalier de Yrujo, Minister Plenipotentiary of His Catholic Majesty, to Timothy Pickering, Esq. Secretary of State; dated July 11, 1797, which the reader will find at page 3154, *ante*.]

No. 13.

Mr. Pickering, Secretary of State, to the Chevalier de Yrujo, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty to the United States of America.

DEPARTMENT OF STATE.

Philadelphia, August 8, 1797.

SIR: I duly received your letter of the 11th of the last month, to which my other engagements have till this time prevented an answer.

My additional report to the President of the United States, on the 3d of July, in relation to Spanish affairs, has offended you, and is mentioned as the cause of your writing to me on the 11th. If, sir, I were now to make the just remarks and recriminations which your letter obviously suggests, I am afraid you would be still more offended. I am not sure, indeed, that I can possibly frame an answer that will escape your displeasure; but I shall endeavor that it be expressed not in a style indecorous, unusual, and unbecoming a diplomatic correspondence, while it contains a fair exposition of facts and arguments, in opposition to errors and actual misrepresentations.

In respect to your suspicions of an expedition preparing on the lakes by the British, for an attack upon Upper Louisiana, I have said that you never mentioned a single fact or reason on which your suspicions were founded. In contradiction to this assertion, you say that "in our conference on the 27th of February, you gave me information that a corps of three hundred and fifty men had been raised at Montreal, and marched towards the lakes, where, after the evacuation of the American posts, there was no ostensible object for them;"—"that you knew that the British agents had treated with some of the Indian nations in that country concerning the intended expedition; and that you added that you had received those advices from a person who might be depended on, who had seen these new levies passing through Johnstown, on their way to the westward." To this, sir, I answer, that I have not the slightest recollection that you mentioned either of these circumstances; that the Secretary of War happened to come into my office while we were conversing, at which you expressed your satisfaction, and repeated your suspicions: and he says you then mentioned no fact or reason as the ground thereof; and that, when I mentioned the subject to the President, (certainly within ten or twelve days after this conference,) I perfectly remember making to him this remark: That in your letter of March 2, you said you had three days before declared to me the just reasons you had for suspecting that the English were preparing the expedition in question; whereas, you had offered me no reason at all. Hence, I am obliged to conclude that you might have held such a conversation with some other person, and by mistake have applied it to me. The English raising three hundred and fifty men, marching them through Johnstown, and tampering with the Indians to promote the expedition, were circumstances which appeared perfectly new to me when I received your letter of the 11th instant. I remember, also, that the conference ended by your saying you would write to me on the subject; which evidently implied that your written representation was to be the basis of any act of mine or of the Government. In that letter, sir, if you possessed any grounds for your suspicions, you ought to have stated them; for, contrary to the opinion you have now expressed, I have no hesitation in saying that the Government of the United States was not bound to take notice of the vague and unsupported suspicions, of any Minister; at least, not to incur expense by its military arrangements, to prevent an imaginary expedition, such as was the object of yours. When you made a formal statement of your suspicions, but without any fact to show that they were founded; when the Government of the United States possessed no other information, nor the knowledge of any circumstances indicative of the expedition; and when in itself, it appeared destitute of even the shadow of probability; it was an act of complaisance to assure you that it "would be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue those measures which should appear proper and expedient for that end." What these measures should be, and when to be taken, the Government itself would judge.

It was an act of greater complaisance, when, on the 21st of April, you renewed the declaration of your suspicions, but still without assigning any reasons, for the Government to resolve on, and to communicate to you, what you are pleased to allow to be a "determinate disposition on this point."

In the next sentence, as in many others, you misrepresent my expressions, and misunderstand my meaning. I do not say that "from your not having given me detailed information respecting the expedition, and from the answer which I received from the British Minister on the 19th of June, I believed the expedition to be groundless:" but, after

remarking that you never mentioned a single fact or reason to support your suspicions, I say, "From all the existing circumstances, I ever believed the suspicion to be groundless." If proofs had existed, you would have produced them; for although intrigues and conspiracies for the purpose of a military expedition may long be concealed, yet the preparations for an expedition (and such, you suggested, were making) must be visible to many, especially "on the lakes," where every movement for such a design would be unusual, and, therefore, attract the more attention; and satisfactory proofs of such preparations would have been attainable: but you produced none.

Another material circumstance I must notice. That the troops of the United States were stationed at Niagara, on the Miami, at Detroit, and Michilimackinack; and consequently, in situations well calculated to protect our territory, as to discover, or get information of, any warlike preparations so considerable as such an expedition would require; and the officers commanding on these stations could not have failed to communicate such discoveries or information to the Department of War: yet no such communications were made.

But it was also well known that they had not on the lakes a force adequate to the enterprise in question. I considered also the great difficulties that would attend the transportation of troops, equipage, provisions, cannon, and stores, by either of the routes suggested; if either could have been taken without violating the territory of the United States.

These were circumstances abundantly sufficient to discredit naked suspicions; and the declaration of Mr. Liston, in his note of the 19th of June, was mentioned only as confirming the justness of the opinion which I had at first formed in March, and which I continued to entertain, of your suspicions. I might add that, at that early period, Mr. Liston assured me that he had no knowledge of such an expedition; and his inquiries of the Governor General of Canada, of the British Secretary of State, have enabled him positively to assert, in the above note, that no such expedition was ever intended. And this fact repels your suggestions that I had been "remiss" in not doing, for two months, what on my own principles, was proper to have been done. But you think I ought not to have communicated your suspicions of this expedition to the British Minister, although "his motions were to be watched." You think, on the contrary, that the President should "have given suitable orders to General Wilkinson, or to the commanding officer of the military force on those frontiers," but have kept a perfect silence towards the British—have let them complete their preparations, (if any had been making) and collect their army on the lakes—have let them move forward, until they should enter upon the United States; and, seeing the President could not know beforehand whether they would prosecute their march by "Fox River and Ouisconsin, or the Illinois," we may suppose your ideas of the "suitable orders" to the military to be, that, at a great expense, the troops of the United States should be drawn into that country and divided into corps, to be posted on those rivers, to have fought the British army, and thus have defeated the enterprise. Sir, this is not the only instance in which, after having desired the American Government to do some act interesting to your own, you have then presumed to dictate how it should be done.

"But (you say) you never could have imagined that I would have given to the British Minister a piece of advice which might enable him to alter his plan, by letting him know that the former one was discovered." And what, sir, was the plan of the British, to defeat which you desired the American Government to interfere? Why, according to your suspicions, it was to march an army through the territory of the United States against Upper Louisiana. If, then, the communication of your suspicions to Mr. Liston would induce him to "alter his plan," it would, by a word or a letter, instead of an army, defeat the expedition: for it was not possible it should go forward except through the Territory of the United States; and, consequently, the communication, instead of disappointing, would have perfectly accomplished what you requested.

In your 5th paragraph, you are pleased to mention what you consider as another omission of duty, that, although, on the 2d of March, you wrote your suspicions, and, three days before, you mentioned them verbally, yet, on the 9th, I had not laid the matter before the President. I will take the trouble to show with how little reason you have made this remark. The 2d of March was the day next preceding the dissolution of Congress; and, at the close of a session, the President is overwhelmed with business that cannot be postponed. On the 3d, the then President's term of office expired. On the 4th, the inauguration of the succeeding President was celebrated. The 5th of March was Sunday. The five following days were not unoccupied; and, on the 11th of March, the answer to your letter of the 2d was given. And, although you attach much importance to your suspicions, the details I have given prove that they were then destitute of probability, that they were, in fact, unfounded, and consequently of no importance; that as such I then justly considered them; and, therefore, needed no "very powerful" motives to remain silent five days.

I cannot but regret that my reasoning is so often not understood. When reciting my inquiry, whether the posts occupied by the troops of Spain within the territory of the United States had been evacuated, and your answer that, not having for some months heard from the Baron de Carondelet, you "were deprived of any information touching the steps taken for the execution of the treaty:" I put these last words between inverted commas, not, as you say, "in order to draw attention," but because they were an exact quotation from the translation of your letter. And when I added, in my report, "nevertheless he (the Minister of His Catholic Majesty) had previously informed the Baron de Carondelet of his suspicions of a projected expedition from Canada;" it was

not to prove either that the Baron had received your letters, or that you had received his; but, as that very information was assigned by the Baron as a reason for still retaining and reinforcing the post, the obvious conclusion was, that you wrote and transmitted to him the information with that view; and hence, that instead of disclaiming all knowledge on the subject, candor should have induced you to answer me, that, although you had not received any late letters from the Baron, and therefore you could not say what steps had actually been taken for the evacuation of the posts, yet that, on account of the suspected expedition from the lakes, of which you have informed the Baron, you presumed (or you advised and probably you did advise) that he would still hold possession of them, "to cover Louisiana." This "logic," sir, I hope, is intelligible, and, at any rate, not "extremely false."

I cannot omit noticing your observations on the 5th paragraph of my report. If, as you were obliging enough to promise, you had favored me with copies of the Baron de Carondelet's two letters, (of which you undertook to give me an oral but literal translation,) instead of their "substance," I might have been more correct in reciting his assertion, that Mr. Ellicott had not given him notice of his arrival at the Natchez, as the Commissioner of the United States for running the boundary line. Whether this was a "complaint," or an "observation," as you choose to call it, every reader of your letter will see to be of no consequence. But whether the assertion was founded or unfounded, was material; seeing, in the same letter, Mr. Ellicott is charged with having "carried his zeal so far as to attempt to get possession of the fort of the Natchez by surprise;" and an assertion follows that "Governor Gayoso says he has in his power documents which prove evidently the intention of this attempt." This accusation against Mr. Ellicott I considered as injurious, not to him only, but to the Government; for which, in the character of Commissioner, he was appointed to act. If other circumstances induced me to doubt its correctness, the other complaint or "observation," which I knew to be unfounded, could not but increase my doubts. It was important, therefore, and my duty, to present them together to the President's notice. I have not "entirely mistaken" this matter. In my report to the President, I did not undertake to recite what you "mentioned," but what you translated from the Baron de Carondelet's letters; you repeated the charge in question; and it was not till then that I handed you the copies of the Baron's and Mr. Ellicott's correspondence, showing the repugnance of fact to assertion, and it was then that you blushed, as I had before been astonished. And your remark, afterwards, was what I have stated in my report, "that you supposed the Baron did not consider Mr. Ellicott's letter as official." You then made no distinction between a "complaint" and an "observation," nor used the phrase "in the rigor," nor any other qualifying words, except those which are stated in my report.

Besides, the Baron had no right to expect any other evidence of Mr. Ellicott's appointment than his letter, until they should meet for the purpose of commencing the business of their appointments, when, of course, they would mutually exhibit their commissions. And, from the Baron's answer, of the 1st of March, it is plain that he expected no other notice: for he therein recognises Mr. Ellicott as the Commissioner of the United States.

In the last sentence of your paragraph on this subject, you say "that when, after a mixed and desultory conversation upon various subjects, you had collected and methodized your ideas, and committed them to writing, my answer and observations ought to have been confined to the written communication." This observation, sir, is inaccurate. It may, however, be applied to a former part of your letter.

You say that, in our conference on the 27th of February, you mentioned to me the raising of three hundred and fifty men at Montreal; that your informer saw them pass through Johnstown, and that you knew the British agents had treated with some of the Indian nations concerning an expedition preparing on the Lakes. But, in your letter of the 2d of March, in which you were "to collect and methodize your ideas" on the subject of your suspicions, you do not introduce one of those suspicions; of course, on your own principles, I ought, if they ever had been mentioned, to have considered them as nullities.

In the eighth paragraph of your letter, you observe, that my proof obtained from Mr. Ellicott's messengers, that he did not attempt to get possession of the Natchez fort by surprise, is merely negative. I offered it only as such. But the negative testimony of two men of good characters against a fact which they were likely to be acquainted with, if it existed, and whose existence other circumstances rendered improbable, and the assertion of which is mingled with assertions, by the same person, of other facts, of which some, or even one, is known to be unfounded, merits consideration. There is, however, further evidence applicable to this case. In the letter dated at the Natchez, the 5th of May, from Lieutenant Pope to Governor Gayoso, you will see that the Governor had made the like accusation against the Lieutenant. "A gentleman had informed him (the Governor) that the Lieutenant intended to attack the garrison at that place." Lieutenant Pope, justly hurt by the groundless assertion, desires that the informer may be named, and required to acquit himself of his assertion, or be punished as a false accuser. The Governor answers the next day, speaks of the information as communicated to Lieutenant Pope in familiar conversation; and adds, that the informer was to be despised. Yet, from the pointed manner in which Lieutenant Pope made the demand, it is evident that the information was presented to him as a serious accusation. After this detail, will it not be conjectured that the Governor's "documents" respecting Mr. Ellicott's "attempt," are of a piece with his "familiar conversation" with Lieutenant Pope concerning his "intended attack?"

In the ninth paragraph of your letter you say that, "after having discussed the history of these transactions with all the force and accuracy which result from these observations, I assure, with a very ill-grounded confidence, that, upon a view of the whole, it appears that His Majesty's Governors on the Mississippi have, on various pretences, postponed the running of the boundary line, and the evacuation of the posts." I must here also complain of misrepresentation. I did not, in my report, draw my conclusions from the history of these transactions, that is, of the transactions which you have previously mentioned in your letter, and which I have already noticed in this answer, but "upon a view of the whole correspondence then and before submitted to the President." This correspondence I will now examine, to see whether the causes assigned by the Spanish Governors for postponing the running of the boundary line and evacuating the posts, merit the name of *reasons*, or of *pretences*.

Governor Gayoso, being informed of Mr. Ellicott's descending the Mississippi, wrote to him on the 17th of February, desiring him to leave his escort at Bayou Pierre, sixty miles above the Natchez. Yet the treaty prescribed a military escort on each side to attend the Commissioners in running the boundary line; and the Natchez, as the place of their first meeting. The chief reason offered for this request was, that, if the troops of the two nations were brought together, "misunderstandings" might arise between them. Yet the treaty required their coming together to attend the Commissioners when they were jointly running the boundary line. And the only reason the Governor assigned for not evacuating the posts was, "the want of vessels," but which he expected would soon arrive.

On the 25th of February, Governor Gayoso and Mr. Ellicott fixed on the 19th of March, to proceed down the river to Clarkesville, near which it was supposed the boundary line would commence.

On the 9th of March, Governor Gayoso informed Mr. Ellicott that the Baron de Carondelet could not attend the running of the line, in person, and that the whole business had devolved on him, the Governor; but he feared he should not be ready by the 19th. And then he endeavored to draw Mr. Ellicott from his proper station at the Natchez, by proposing a visit to the Baron at New Orleans.

March 12th, the Governor again endeavored to draw Mr. Ellicott from the Natchez, and recommended Loftus's Cliffs, near Clarksville, as the point of reuniting; and by way of inducement, said the geometer, and other officers, to be employed on the boundary line, would stop at Clarkesville.

On the 15th of March, the principal part of the artillery was taken out of the fort, and every appearance made of a speedy evacuation; but on the 22d they were carried back to the fort, and immediately remounted. A similar movement took place at the latter end of April, after the arrival of Lieutenant Pope and his troops at the Natchez. "The evacuation (says he) appeared to be going on with great life; when, all at once, the military stores were ordered back, their troops busily engaged all night taking back and remounting the cannon." Here he very naturally expresses his surprise: "This kind of conduct (says he) appeared and still appears strange."

March 23d, the Governor mentions that orders had been given by the General-in-chief of the province to demolish the post at the Walnut Hills, because their treaty with the Indians required it; but as he (Gayoso) had since been informed of their unsettled dispositions, he had sent counter orders to prevent the fortifications being injured; suggesting, at the same time, that the moving of the stores, &c., was suspended only until the arrival of the American troops to take possession of the post.

In this letter the Governor informs Mr. Ellicott that Lieutenant Colonel Guillemard was far on his way up; and, on his arrival, the running of the boundary line should begin. The Governor adds this assurance, "that there is nothing that can prevent the religious compliance with the treaty."

On the 28th and 29th of March, Governor Gayoso issued two proclamations, both bearing date the 29th, taking new ground for retaining the post, viz: until the right of the inhabitants to the real property is ascertained. The Governor is pleased to say that a negotiation was then carrying on between the King of Spain and the United States to secure to the inhabitants of the Natchez the right to their real property; that that right could not be secured but by an additional article to the late treaty; and that he should keep possession of the country until that article should be officially communicated to him; and until they were sure that the Indians would be pacific. This last reason particularly warrants my assertion, that the Governors meant for an indefinite period to avoid an evacuation of the posts: for, while a tribe of Indians existed in that quarter, the Governors could not be sure that they would be pacific. And, as to their real property, seeing the great body of the inhabitants appear not to desire the patronage of the Spanish Government to secure it, as the Government of the United States must be at least as anxious as that of Spain to protect the inhabitants in their rights, when become citizens of the United States, I believe there can be no difficulty in deciding whether this is a reason, or a pretence. Besides, the negotiation mentioned by the Governor about the real property of the inhabitants, has never existed, nor even been proposed, or hinted, either to or by the Government of the United States. I hope, therefore, it will not be deemed harsh, or unbecoming, in a letter of this kind, to say that this motive for suspending the evacuation of the posts—that a negotiation was then on foot to secure the real property of the inhabitants—does not merit the title even of a *pretence*.

So soon as the Governor discovered that his proclamations, instead of quieting the minds of its inhabitants, produced a contrary effect, he sent two gentlemen of the settlement to inform Mr.

Ellicott that he, the Governor, had received directions from the Baron de Carondelet to have the artillery and military stores expeditiously removed from the forts, which were to be given up to the troops of the United States immediately on their arrival. As this information did not remove suspicions, Mr. Ellicott wrote the Governor on the 31st of March, stating divers circumstances which still kept those suspicions alive. The Governor answered, on the same day, in direct contradiction to the information given by the gentlemen, his agents, to Mr. Ellicott, and confirming the declarations made in his proclamations. He added also a new motive for retaining the posts, viz: that the treaty left it doubtful whether, when the posts should be evacuated, the works were to be left standing, or to be demolished; concerning which the Governor General found himself obliged to consult His Catholic Majesty, and had given the Governor positive orders to suspend the evacuations of the posts until the matter should be amicably settled between the two Governments.

On the 1st of May another motive is assigned for retaining the posts. The Envoy of His Catholic Majesty in the United States had informed the Governor General of an attack proposed against the Spanish part of Illinois (the upper part of Louisiana) by the British from Canada, and, therefore, the posts at the Walnut Hills and the Natchez must be kept for the defence of Lower Louisiana.

This last motive is also offered as a reason why the running of the boundary line is postponed; as all their attention was drawn towards the defence of the province, against an invasion which, as I have already shown, was never contemplated.

To all these facts, I have to add the declaration of General Wilkinson, in his letter of June 2d, to the Secretary of War: "I have (says he) information through a confidential channel, that it was determined, as early as September last, not to give up the posts on the Mississippi." If this information be correct, no other proof is necessary to show, that all the reasons, from time to time suggested, for not evacuating the posts, were mere pretences.

I have here brought into one view the most material facts relating to the question between us, which are scattered throughout the reports made by me to the President of the United States, on the 10th of June and 3d of July, and by the Secretary of War on the 30th of June, and the documents accompanying them, as they have been published. And, from this brief recital, it evidently appears, as I have said in my report, "That the Governors of His Catholic Majesty, on the Mississippi, have, on various pretences, postponed the running of the boundary line, and the withdrawing of his troops from the posts they occupied within the territory of the United States; and that, after repeated overtures, promises, and appearances of commencing the execution of the treaty between the two nations, in both these respects, their conduct demonstrates that, for an indefinite period, they meant to avoid doing either."

You controvert this conclusion only on one ground. You say that the treaty stipulated merely that the Spanish garrisons should be withdrawn, not that fortifications which might one day be prejudicial to the King's subjects should be delivered up: and hence you infer that the necessity, urged by the two Governors, of delaying to withdraw the garrisons until this question is decided between the two Governments, is not a pretence, but a substantial reason. Here I must observe, that the Governors had already demolished the post at the Chickasaw bluff: and it appears in the foregoing recital, that they were going to demolish the post at the Walnut Hills; and the reason assigned is, that the treaties with the Indians required the demolition: and the Governor Gayoso assigns but one motive for suspending that operation, that he had been informed of the unsettled disposition of the Indians; yet, afterward, this reason (that their treaties with the Indians required the demolition of the posts) is forgotten, and their destruction, or their delivery, with all the fortifications and other works standing, is, by the Governors, made to depend entirely on the issue of a negotiation between the Governments of Spain and the United States! Can any further proof be wanting to justify me in calling this a pretence? But you seem to rely on this, your construction of the treaty, relative to the posts: you have urged it in your letter to me of the 24th of June, and, therefore, I will consider it.

The second article of the treaty having described the boundaries between the territories of the United States and Spain, thus proceeds, "And it is agreed, that if there should be any troops, garrisons, or settlements of either party, in the territory of the other, according to the above mentioned boundaries, they shall be withdrawn from the said territories within the term of six months after the ratification of this treaty, or sooner, if it be possible; and that they shall be permitted to take with them all the goods and effects which they possess." But to justify your retention of the posts, you say that the demarcation of the boundary line should precede the withdrawing of the garrisons: yet you suppose it probable, and His Catholic Majesty's Governors well know, that the Chickasaw bluff, the Walnut Hills, and the Natchez, are within the territory of the United States.

Governor Gayoso speaks of the boundary line as being near Clarkesville, a place many miles below the Natchez; and he also knew the result of Mr. Ellicott's astronomical observations on the spot, which ascertained the Natchez to be about thirty-nine miles north of the south boundary of the United States.

There being, then, not a shadow of doubt with respect to the position of these posts, that they are all within the territory of the United States, there was no necessity previously to run and mark the boundary line; which, besides, if set about in good earnest, it would take at least a year to accomplish, through a wilderness of many hundred miles in extent; and, therefore, it never could have been contemplated as necessary, to precede the evacuation of the posts, which was to be

effected in six months, or sooner, if possible. Yet fifteen months have elapsed, and you still keep possession.

But you suggest that it is at least doubtful, whether, by the treaty, it was intended to leave the fortifications standing when the garrison should be withdrawn. You say, "It is not to be presumed that it could ever have been the intention of His Catholic Majesty to deliver up fortifications, which, besides that they had cost him considerable sums of money, may, by the effect of political vicissitudes, be one day prejudical to his subjects." I feel much reluctance to attempt the refutation of a construction so obviously erroneous. It is probably the first time that, to withdraw, or retire from a place, has been imagined to intend its destruction. Yet, at the formation of the treaty, the demolition of the posts had been intended, it would assuredly have been expressed. But, doubtless, the idea never occurred, until it was found convenient to make it a pretence for holding the posts. The phrases "to withdraw a garrison," to evacuate a post or country, have as determinate a meaning as any in the English language; and their meaning is ascertained by frequent use in treaties; and to destroy a country, or a fortified place, from which it was stipulated to "withdraw" an army or a garrison, would be such an act of barbarism as ought never to take place among civilized nations. One of the latest treaties made by the United States (that with Great Britain) has the same phrase. "His Majesty will 'withdraw' all his troops and garrisons from all posts and places within the boundary lines assigned by the Treaty of Peace to the United States. This evacuation shall take place on or before the first day of June, 1796." And these expressions are used in the same treaty as equivalent to "the delivery of the said posts." The British Treaty was, in this manner, accordingly carried into effect; the British troops were withdrawn, and the works left standing. The British officers were even careful not to expose the works to accidental destruction; for, as the American troops did not reach the posts by the first of June, small British guards were left to preserve the works from injury until the American troops arrived.

By the treaty concluded at Versailles the 3d of September, 1783, between Great Britain and Spain, it was agreed, "That the King of Great Britain should cause East Florida *to be evacuated* three months after the ratification of that treaty, or sooner, if it could be done." The evacuation took place, but no demolition of fortifications.

In the preliminary articles of peace between England, France, and Spain, signed the 3d of November, 1762, it was stipulated, "that as soon as possible after the ratification of these preliminaries, France should evacuate Cleves, Wesel, and Guelders, and generally all the countries belonging to the King of Prussia." Were those places demolished, or the country laid waste, when the troops withdrew? Or were there any subsequent negotiations to remove any doubts on the subject?

But I have dwelt too long on a point which really required no elucidation.

On this, as well as on another occasion, you have thought fit to upbraid me with showing to the British Minister a degree of candor and confidence which you insinuate he does not deserve, and which you seem to think I have withheld from you. Yet, sir, all the declarations made to me by that Minister, verbally, and in writing, touching the points in controversy between you and me, have been verified. As I have already said, you declared to me that you had just reasons for suspecting that an expedition was preparing on the lakes by the English, in order to attack Upper Louisiana. The British Minister, in the first instance, assured me that he had no knowledge of it; and his subsequent inquiries enabled him further to assure me, that no such expedition had been, or was intended by the British Government. And I have, in another place, offered other reasons which confirm the truth of these assurances. Yet you tell me, that the assurance given me by the British Minister, but without any signature, did not inspire the servants of His Catholic Majesty with the same blind confidence which it produced in me. I shall take no other notice of this remark, than to put you right in point of fact. The note of the British Minister, containing the assurance to which you refer, is not "without a signature:" This (like other official notes from that Minister,) has his signature—his name written with his own hand—at the head of it.

You declared to me "that you knew to a certainty that the English had made propositions to General Clarke, of Georgia, in order to avail themselves of his influence in that State, together with some other persons, for making a diversion, or serious attack against Florida." The British Minister informed me, that although he knew nothing of General Clarke, or his expedition from Georgia, a proposition had been made to him (the British Minister) for an expedition against the Floridas; but that he told the projector that he had no power to authorize it; and besides, that there were, among other objections to the plan, two of great weight—one, that the Indians were to be employed, the other, that it would violate the neutral rights of the United States. The British Minister has since shown me an original letter from Lord Grenville, dated the 8th of last April, in which he informs the Minister, that if there were no other objections to the plan, the two mentioned by him, viz: that it could not be executed without employing the Indians, and without violating the rights of the United States, would be sufficient to induce the British Government to reject it. This proves, sir, that Mr. Liston's declarations on this point, were not "vague and unauthentic," as you pronounce them, but in strict conformity with truth.

As to General Clarke, of Georgia, the British Minister declared he had never even heard of him; and the extract of the letter from Mr. Jackson, the district attorney of Georgia, respecting General Clarke, and any expedition forming there, in

behalf of the English against the Floridas, will incline every candid inquirer at least to doubt whether such a project has ever been proposed to him. We shall afterwards see that Mr. Blount's plot does not appear to have any connexion with an expedition under General Clarke.

Thus, you see, sir, that I have not blindly placed a confidence in the British Minister; for aught that has yet appeared, he was entitled to the credit he has received.

I return to your letter. You mention your communications to the Baron de Carondelet respecting the intended expedition from Canada; from that moment, you say, imperious necessity, and the great principle of self defence, made His Catholic Majesty's officers turn their thoughts to objects of a more urgent nature than running the boundary line. And here you introduce "Mr. Blount's letter, and the late detected conspiracy, as evincing how far their conduct in this respect was necessary." It is wonderful, sir, that you should attempt to make it be believed that Mr. Blount's letter and the late detected conspiracy had any connexion with the expedition which you suggested was preparing on the lakes of Canada, against Upper Louisiana. All that is yet discovered of Mr. Blount's project or conspiracy, proves that it was to have been formed in one of the States south of the river Ohio; and that it was destined against the Floridas, and perhaps Lower Louisiana. I therefore feel myself, for this and the other reasons before exhibited, still warranted in considering the suspected Canada expedition among the pretexts for delaying to evacuate the posts, and to run the boundary line; and, consequently, that your charge, that I have in this instance "palpably attempted to make groundless and unfair impressions on the public mind," is alike unfounded and unbecoming your public character to suggest.

In your next paragraph, you thus address me: "Nor do your ill founded insinuations stop here; sentiments and expressions still more violent flow from that same hasty pen." This passage is in perfect correspondence with the general strain of your letter. Whether your charge is correctly made is now to be examined.

I am ready to confess that my report, thus stigmatized, was, from the pressure of business, written in haste; but a revision of it satisfies me, nevertheless, that it is not inaccurate in its statements.

You quote the passage in my report which has called forth this reproach; it is in these words: "That there is but too much reason to believe Mr. Ellicott's suspicions well founded; that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty, to prepare them for a rupture with the United States." And then you say, that I mention the source of these "dreadful conjectures," to be a private letter from Mr. Sargent, Secretary of the Northwestern Territory. Here you are extremely incorrect, as usual, when you undertake to recite my conclusions, and the facts and circumstances upon which they are formed. It is from "a view of the whole correspondence" referred to in my reports of the 10th of June and 3d of July, on the intelligence received by the Secretary of War, and the private letter from Colonel Sargent, that I drew the conclusion you have quoted.

Mr. Ellicott formed his suspicions on the spot, from what was passing before him; and he is not a careless or undiscerning observer.

General Wilkinson says, "letters from all quarters announce the discontents and menacing aspect of the savages; two white men have been recently murdered on the Ohio, below the Cumberland; and the savages beyond the Mississippi, and those who pass Massac, make no hesitation to avow their purpose for war." And then he refers to a letter from Colonel Hamtramck, who commands the United States troops at Detroit, in which the Colonel says: "I am pretty sure that both the French and Spaniards have emissaries among the Indians. I have it from indubitable authority, that a large *belt* (by which is meant a speech) from the Spaniards is now travelling through the different nations;" meaning the nations within the Territories of the United States.

Colonel Sargent writes, it is true, a private letter, but it is to a public officer; and his situation as Secretary, and Governor for the time, of the Northwestern Territory, would render it his duty to be vigilant for its safety; and his character vouches for the accuracy of his information; and you do not question the truth of any part of his statement.

After mentioning that the Spaniards were reinforcing their upper posts on the Mississippi, that upwards of three hundred men had arrived at St. Louis, and were erecting formidable works, he adds, "it likewise appears, through various channels, that they are inviting a great number of Indians of the Territory (meaning of the United States Northwest of the Ohio) to cross the Mississippi: and for this express purpose, Mr. Loramie, an officer in the pay of the Crown, made a tour through all this country last Fall; since which time, several Indians have been sent on the same errand, and generally furnished with plenty of cash to defray their expenses." "A large party of the Delawares passed down White river about the 6th of May, on their way to the Spanish side, bearing the national flag of Spain, sent them from St. Louis."

Lieutenant Pope, in his letter of May 9, to the Secretary of War, says: "There have been several attempts made to draw on the Indians upon my troops. I have fully ascertained this fact, and demanded of the Governor to have a principal actor immediately brought to punishment, or sent out of the country. He has been sent for, and is now on board of one of the galleys which is now about descending the river." And, sir, if you inquire, you will find that this "principal actor" (Rapelje, by name) was one of Governor Gayoso's agents.

These, sir, are the grounds on which I expressed the opinion, that there was but too much reason to believe Mr. Ellicott's suspicions well founded; that the officers of Spain had exercised an

undue influence over the Indians, to prepare them for a rupture with the United States.

This detail, sir, strikingly shows how little you have understood, and how entirely you have misrepresented my reasoning on this subject. I leave you to reconcile your reflections on the British Minister and his nation, for their inhumanity in employing the Indians in the American war, with your justification of the Spanish officers at this time, in securing the aid of the Indians in your war with the British. "The Spaniards, you say, have fortified St. Louis, and availed themselves of every means of defence which the country afforded;" meaning by the ingenious expression, every means of defence which the country afforded, the employing of the Indians.

You are pleased next to charge me, in your customary style, with "falling into the most glaring inconsistency," because I remark, that, although "it may be difficult to say, whether this plan of exciting the Indians to direct hostilities against the United States has been contemplated and promoted by any of our own citizens, yet it is certain, that one or more of those citizens have proposed and taken measures to detach the Southern Indians from the interests of the United States, and to destroy the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace."

Having quoted this passage from my report, you ask, "how is it possible to reconcile such evident contradictions? On one hand, the Spanish officers are those who excite the Southern Indians against the United States, and on the other, you quickly follow presuming, with sufficient foundation, in my opinion, that it may be some citizens of the United States." Allow me, sir, to ask in my turn, how it was possible for you not to see that here there is no contradiction? Is it not very possible that the Spanish officers might be courting the Chickasaws, who live above the Natchez, with large presents, and be preparing the Choctaws, who dwell along the Natchez district, and the Delawares, Shawanese, Miamies, and other tribes dwelling in the Territory Northwest of the Ohio, for war against the United States, while Mr. Blount and his agents were detaching the Southern tribes of Cherokees and Creeks from the interests of the United States, and eventually to aid the British in an enterprise against the Floridas? The Cherokees and Creeks, you might have seen, were the only Indian nations mentioned in Governor Blount's letter. And is it not very possible, if these two nations should thus be led to war against the Spanish possessions, that they might *not* be excited to *direct* hostilities against the United States? And therefore, that although Mr. Blount might contemplate the former, he might abstain from the latter? And is not, then, my cautious manner of speaking of this latter perfectly correct.

I am happy to arrive at your last observation. And I wish it was not, like the rest, exceptionable and incorrect. These are your words: "Respecting the last article of your report, I have only to observe that, although you have constantly assured me that Government had not the least information respecting the subject of my representations, and, although the letter of Mr. Jackson, of Georgia, appears to coincide with your ideas, nevertheless time has shown that I have complied with my duty by not reposing on such assurances. The plot is discovered, and nobody any longer doubts the expedition was to have taken place."

The expression that "you complied with your duty in not reposing on such assurances" may mean that you thought the assurances *deceitful*, and, therefore, not meriting belief. Perhaps you did not intend this. Perhaps you meant no more than that the Government had been "remiss" in its duty in not pursuing, with eagerness, the trains of your various suspicions. But I must show you that here, as in all other instances, your criminations are void of foundation in either point of view.

The last article of the report respects General Clarke, of Georgia, of whom you said "you knew of a certainty that the English had made propositions, in order to avail themselves of his influence in that State, with some other persons, for making a diversion or serious attack against Florida;" and you add that "you do not doubt that, in consequence of your information, the Executive Government will take the proper steps that Georgia also should not infringe the laws of neutrality." Here you confine your requests to Georgia, that she might not infringe the laws of neutrality; and my letter to Charles Jackson, Esq., the district attorney of that State, shows that the Government took prompt measures to defeat the project of General Clarke and his associates, if such a project existed. I suppose none did exist. You acknowledge that the letter from Mr. Jackson coincides with my ideas. Your "certain knowledge" of an intended expedition in favor of the English from Georgia, against Florida, under General Clarke, you have never supported by a shadow of evidence. If you possessed any evidence of the fact, it would be easy to produce it. What you call your "certain knowledge" could rest only on information, or the testimony of others, which might be as false, or as vague, and inconclusive, as the information about the Canada expedition, which I hope I have proved to your conviction never to have existed, even in idea. Yet you declared to me that you had "just reasons for suspecting that an expedition was preparing on the lakes;" and, hence, how can I avoid concluding that your "certain knowledge" in one case, like your "just reasons" in the other, were without a sufficient foundation?

But you say "the plot is discovered, and nobody any longer doubts that the expedition was to have taken place." Strange remark! Just the reverse of it should have been made: for, although there is a discovery of Mr. Blount's plot, its extent is by no means ascertained; and, far from nobody doubting, probably everybody doubts whether the projected expedition was to have taken place. It was not to be undertaken but in conjunction with a British force; and, on the proposal of the expedition to the British Government, it was totally rejected. Even Mr. Blount, who, if the project was adopted, expected to be at the head of it, ven-

tures no further than to say he believed that the plan would be attempted, but, if attempted, that it would not be till the "Fall;" and, consequently, your zeal in March and April, for which, at the expense of decency towards the American Government, you take to yourself so much credit, had then no just object. This zeal of yours is displayed in the information you gave to the Baron de Carondelet, in March or April, of the expedition supposed to be preparing in Canada against Upper Louisiana: yet, you would now attempt to justify this zeal by the plot of Mr. Blount, although this plot and the Canada expedition were wholly distinct and unconnected.

I shall conclude this long letter with your eleven positions, which you state with as much serious formality as if they were all of them important, and all of them supported by facts or just reasoning; but the details I have given demonstrate that these positions are either unfounded, or simple propositions of not the smallest consequence.

These are your positions addressed to me in your own words—

"1st. That, on the 27th of February, I gave you sufficient particulars, respecting the intended expedition, to have attracted the attention of this Government."

Answer. I have offered reasons to prove that you gave me no particulars, but only mentioned your suspicions, and that you promised to give me your representations in writing; for which, of course, it was proper for me to wait.

"2. That, although to this verbal communication I added another in writing on the 2d of March, the President had not the least knowledge of it on the 9th of the same month; and that, without doubt, you must have had very powerful motives to prevent you from communicating it to him."

Answer. I have accounted for the delay in a satisfactory manner. I have shown that I had abundant reason to conclude your suspicions to be wholly unfounded, and for attaching no sort of consequence to them. The event demonstrates that I was right; and that, instead of very powerful motives, none were needed for a delay of only four or five days, or for a much longer period; and that to notice your naked suspicions at all was not an act of necessity, but of complaisance. I might, with justice, complain of your delay to answer my letter of the 16th of March, on a subject of very high importance to the United States—I mean the evacuation of the posts. I will not say that you were negligent, or "remiss;" but I will say that, for a whole month, you omitted to give me your short and unsatisfactory answer. The indisposition which you assign as the cause of the delay did not prevent you from writing on other subjects, nor long from going abroad.

"3. That it does not appear, by the documents presented by the Secretary of War, that Government had given orders to the military commanders to cause the territory and neutrality of the United States to be respected."

Answer. I have shown that none were necessary to be given.

"4. That you made to the English Minister a communication which, in my opinion, you ought not; and that, even if you thought it necessary, you delayed doing it for two months—that is, from the 27th of February to the 28th of April, although it respected a most urgent and important object."

Answer. On the 28th of April I informed you, by letter, that I had communicated to the British Minister your suspicions of an expedition preparing by the English against Upper Louisiana; and as, for upwards of two months, you expressed no dissatisfaction on account of this communication, I might well conclude you did not think it improper: nay, in your letter of July 11, which I am now answering, you refer, with apparent approbation, to this very communication, connected with the declaration which accompanied it to the British Minister, that the President could not consent to the march of any troops, either British or Spanish, through the territory of the United States; and you consider it as a "determinate disposition" of the American Government on this point. I have also shown that, admitting this communication to Mr. Liston to be proper, I did not delay doing it for two months, nor two weeks, although it respected at best but an *imaginary* project.

"5. That the Baron de Carondelet could very well have received my letters, without its necessarily following that his had come to hand."

Answer. I have shown that you did not understand my reasoning on this point; which went to prove that your answer of the 17th of April to my letter of the 16th of March, about the evacuation of the posts, was wanting in candor.

"6. That the Baron did not represent Mr. Ellicott's not writing to him officially as a *complaint*, but as an *observation*, and that in fact he never has done it on those terms."

Answer. I have shown that whether the Baron's assertion should have been called a *complaint* or an *observation* is perfectly immaterial; I meant to show it was *unfounded*, and this you yourself admit.

"7. That the proofs you allege to exculpate Mr. Ellicott respecting his intentions of taking the fort of Natchez by surprise are purely negative."

Answer. I offered them only as negative proofs. Yet when complaint or assertion against Mr. Ellicott was known and acknowledged not to be true, the *negative* testimony of gentlemen likely to be well informed, would be deemed sufficient to bring another, and in its nature very improbable, complaint or assertion of the same person into discredit.

"8. That it is not merely *pretences*, but very powerful reasons which have impeded the evacuation of the posts, and the running of the boundary line."

Answer. The point of view in which I have now exhibited the conduct of the Spanish Governors relative to the evacuation of the posts, and the running of the boundary line, I should suppose might convince you that the causes which they have offered for the delay are mere *pretences*:

the American citizens, to whom you have appealed, have been convinced only by reading the printed documents, without any comments.

"9. That the insinuations with which you are willing to persuade the American people that our arming is directed against them, are unjust as well as unfounded, as by Mr. Blount's letter it is clearly demonstrated to be a precaution for the mere purpose of defence."

Answer. The grounds of my suggestions, which you call "insinuations," are detailed in this letter, and embrace too many facts and circumstances to be abridged: permit me to desire you to review them. I shall only repeat, that nothing is more certain than that Mr. Blount's letter has not the remotest reference to the suspected Canada expedition, which is your only pretence for reinforcing the posts in Upper Louisiana; for calling the Indians to your aid; for holding the posts at the Natchez and Walnut Hills; and for delaying to run the boundary line.

"10. That you evidently contradict yourself, when on one hand you are pleased to attribute to us the movements of the Indians, and in the very next paragraph you show it might proceed from American citizens, as it actually does, according to Mr. Blount's letter; and that he acted with the knowledge and intelligence of the very same British Minister, in whose private notes, *without signature, and perhaps not of his own hand-writing*, you place such implicit confidence."

Answer. I have shown that there is not a shadow of contradiction in my observations on this subject; and your assertions to the contrary must proceed only from your not understanding them. You say that Mr. Blount acted in this matter with the knowledge and intelligence of the British Minister. This is not likely to be true. It is in proof, by other evidence than the British Minister's notes, that he did not and could not authorize the projected expedition against the Floridas; and particularly that one of his strong objections against it was, that it contemplated the employing of the Indians; although he thought it proper to submit the project to the consideration and decision of his Government. Nobody, therefore, will believe that he authorized Mr. Blount, or was even privy to his measures, for preparing the Indians for war. Besides, Doctor Romayne, who may be presumed to be well acquainted with Mr. Blount's plot, suggests that it is not the project offered to Mr. Liston by Chisholm. These are his words: "Mr. Blount is totally unknown to Mr. Liston, *and so are all his views*." And there is a passage in Mr. Blount's letter which countenances the Doctor's assertion, and indicates that, although Chisholm and Blount had some communications with each other, yet that their views were not precisely the same. Mr. Blount, in his letter to Carey, says: "Where Captain Chisholm is, I do not know. I left him in Philadelphia in March, and he frequently visited the Minister and spoke upon the subject; but I believe he will go into the Creek nation, by way of South Carolina or Georgia. He gave out that he was going to England, *but I did not believe him*." These last words afford a pretty strong proof that they were not acting wholly in concert. Probably Mr. Blount endeavored to persuade Chisholm that he would co-operate in the prosecution of *his* scheme; while at the same time he might have another of his own, or in concert with Doctor Romayne, and stand ready, in the event of things, to make his advantage of either—whichever should offer the best prospect of success. Doctor Romayne, you see, says that Mr. Blount is totally unknown to Mr. Liston. But it is well known that Mr. Blount was your frequent guest and intimate companion, and that he was on this intimate footing with you during the whole time that you were representing to the Government your suspicions of British expeditions. Yet, after the discovery of the conspiracy was made public, you formally requested the American Government to punish him for so scandalous a crime. But seeing Mr. Blount was a citizen of the United States, and not a subject of Spain, it would have been decent in you to have left him with his own Government without interposing your advice. But especially when you knew that the President had laid his letter before Congress, and the two Houses were deliberating on the modes of punishing him; when the investigation had proceeded so far that a committee of the Senate had reported a resolution to expel Mr. Blount from the Senate, and a committee of the House had reported a resolution that he should be impeached for high crimes and misdemeanors: for you then to interfere was singularly improper; and it was such an ostentatious display of zeal as, under all the known circumstances, suggests more than one interpretation.

"11. That although, in all your official communications, you have always manifested to me that the American Government knew of nothing which indicated any foundation for my suspicions, Mr. Blount's letter clearly proves that I was perfectly in the right."

Answer. This remark is perfectly inconsequential: for your communications exhibited your suspicions of projected expeditions only from Canada and Georgia; and I have shown that Mr. Blount's letter had no relation to either.

I thought I had reached the end of your criminations: but in your concluding paragraph you accuse me of an "unjust partiality;" meaning, no doubt, towards the British Minister and his nation. The details I have given in this letter, I trust will abundantly prove that this charge is as unfounded as it is indecent. Those details verify the representations of the conduct of certain Spanish officers which are given in my report of the 3d of July to the President. If the truth has excited any unpleasant sensations, those only are to blame whose injurious acts obliged me plainly to declare it. Instead of this task, I should have been happy to execute the grateful office of stating to the President the good faith and amicable manner in which the officers of His Catholic Majesty had executed the Treaty of Friendship, Limits, and Navigation, between our two nations.

You think, also, that my report to the President is not calculated to strengthen the bonds of

friendship which unite Spain and America. Friendship, sir, cannot subsist without mutual confidence; and confidence springs from sincerity. But the proceedings of the Spanish officers, which are the subject of this correspondence, have shaken the confidence of the Government and of the citizens of the United States; and my report to the President only exhibits a summary of those proceedings; or, rather, the plain and obvious conclusions from the authentic facts and circumstances detailed in the documents, then and before presented to his view. And I dare venture to say, that every independent American has from the same premises drawn the same conclusions.

Nothing, sir, will give truer satisfaction to the Government and citizens of the United States than to see such a change in the proceedings of the Spanish officers as will restore confidence. The change would be easy and the effect certain. Let them withdraw their troops and garrisons from the territories of the United States. Let them commence and prosecute the running of the boundary line. Let them cease to stop, control, or regulate the passage of our citizens on the Mississippi, seeing these have a right to navigate it with perfect freedom. And let them cease to send agents or emissaries among the Indians residing within the territories of the United States. When they shall do these things, (and the good faith of His Catholic Majesty pledged in the treaty renders their doing them an indispensable duty,) then we shall forget what is past; our confidence will return; and with it that beneficial intercourse and those friendly acts by which neighbors may promote each other's interests, welfare, and happiness. And for such a state of things, whatever you may have imagined to the contrary, no one more ardently wishes, and, on its arrival, no one will more seriously rejoice than your obedient servant,

TIMOTHY PICKERING.

No. 14.

NEW YORK, *August* 19, 1797.

SIR: The day before yesterday, the 17th, your letter of the 8th instant was received at my house at Philadelphia, and yesterday, the 18th, it came to my hands at this city. I avail myself of the first opportunity to acknowledge the receipt of this your answer to my letter of the 11th of July last, and as the examination of its contents would lead us to an endless discussion, I confine myself to mention to you, that when I had the honor of giving you the first notice relative to the projected expedition against Louisiana, with all the particulars referred to in my said letter, you were *alone* in your cabinet; that two days after I went to speak to you on another subject, and having there met the Secretary of War, Mr. McHenry, I embraced the opportunity of speaking anew concerning it; and if then I spoke in general terms, it was doubtless to avoid the repetition of what I had communicated so shortly before. As it appears that you have forgotten this circumstance, it is not extraordinary that it should have escaped your memory in like manner with all the particulars of my first conference, mentioned in my above cited letter.

I offer myself to your disposition, and hope that God will preserve you many years. Your most obedient servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq.,
Secretary of State.

No. 15.

PHILADELPHIA, *October* 9, 1797.

SIR: When the King my master appointed me his Envoy Extraordinary to the United States of America, immediately after having made with them a treaty the most liberal and generous,* I flattered myself that the principal exercise of my functions would be to give and receive repeated proofs of the union and friendship so intimate by the bands of that treaty. Instead of those flattering expectations, judge of my feelings on seeing them entirely vanished, and finding in that convention, which I trusted would forever have united us, the origin of disagreement and contention, unfortunately too well founded on our part.

I have before made known to you the just motives which determined the Spanish commandants of Louisiana to suspend in part the entire execution of the treaty, as no injury to the United States would accrue from a short delay; and it might occasion great injury to the security of the possessions of the King to abandon certain posts, which, under present circumstances, would leave Louisiana open to the attacks of the English, and exposed to the effects of the evil intention of some citizens of the United States. I have also heretofore shown to you that the American agents at the Natchez, far from contributing to preserve that union and harmony which is so suitable to the two nations, conducted themselves in a manner highly imprudent; and even that I had reason to believe that they intended to obtain possession of the fort by surprise. The last advices which I have received from those parts, and the documents I herewith transmit to you, appear to me to prove it in such manner, that I cannot but consider those suspicions as being very well founded.

For some time past the conduct, in this respect, of the commandant of the American troops, Mr. Piercy Smith Pope, and at first of Mr. Andrew Ellicott, has been irregular, provoking, and, in some degree, hostile. The commandant, Don Manuel Gayoso, had positive advice that, in the camp of said Pope, a great number of ladders were making, and that arms (armas blancas) were preparing, evincing by these preparations their determination to assault the fort. The firmness and vigilance of the Governor, Don Manuel Gayoso, appears to have induced them to alter their intentions, and being well persuaded that the forts of *Nogales* and the Natchez could not be taken, either by force or surprise, they availed themselves of some profligate people to foment an insurrection, which it appears was to have taken effect on the 12th of June, and which the prudence and preponderance of the wealthy inhabitants were alone capable effectually to stop.

The official letters of Mr. Piercy Smith Pope and Mr. Andrew Ellicott, numbered 3 and 4, and the documents 5 and 6, evidently show the part which both of them took in that popular commotion, however they may pretend to deny it; since, assuredly, nothing of this kind would have happened if they had not assumed, without any authority whatever, to treat of and determine some points and discussions of a political nature, foreign to their commission, with a publicity and arrogance calculated to compromit the two Powers, explaining themselves without candor, and with intent to lead astray the populace on the principal point of the difficulty which had occasioned a wish on both sides for an explanation of the doubts which arose respecting the treaty.

If their conduct has been provoking and insulting, their language towards the Spanish Government has not been less so. Mr. Andrew Ellicott, in his letter of the 13th of June, to Don Manuel Gayoso, says: "To embrace the means which will finally assure to them their happiness, cannot be censured;" (alluding to the change of the people of the Natchez from the dominion of the King my master to that of the United States;) this is clearly an indirect attack upon the Spanish Government, as unjust as improper on the part of an agent of a friendly nation.

The document number 5, signed by Mr. Ellicott and Piercy Smith Pope, dated the 13th June, evidences, by the manner in which it is written, their intentions to deceive the public. At that time, and even since, they neither had, nor could have, just ground for officially speaking of an approaching rupture between the United States and Spain; yet you will see, that they speak of it as a thing at hand, and almost inevitable, relying only on the preparations for self-defence made in some forts on the banks of the Mississippi, and which they knew to be in consequence of the intended expedition of the English.

The whole tenor of their correspondence, and particularly the document number 6, leaves no doubt that these agents have interfered in political matters utterly foreign to their commission, engaging themselves to co-operate with the committee appointed to obtain the due execution of justice, and approving of the propositions presented to Governor Gayoso.

The repeated declarations you have made to me, that the intention and desire of the United States are to preserve peace and a good understanding with Spain, leave me no room to doubt that the scandalous and insulting conduct of Mr. Ellicott at first, and finally of Captain Piercy Smith Pope, is purely arbitrary, without any other guide than their passions and individual interests; and, at the same time, I can do no less than to apply to you, in the name of the King my master, in order that, for such repeated insults, there may be given to us due satisfaction, as necessary to Spain as becoming for the United States. God preserve you many years. Your most obedient and humble servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq.,
Secretary of State.

The documents referred to in the preceding letter are—

No. 1. Governor Gayoso's letter of June 13, to Mr. Ellicott. This is the same with the document No. 2, before inserted. See page 3192.

No. 2, A. Governor Gayoso's letter to Lieutenant P. Pope, of June 13.

No. 3, A. Lieutenant Pope's answer of the same date.

No. 4. Mr. Ellicott's answer to Governor Gayoso, of June 13. This is the same as the document No. 3, before inserted. See page 3193.

No. 5, A. Advice from Mr. Ellicott and Lieutenant Pope, to the people, to remain quiet.

No. 6. Their approbation of the articles of pacification between Governor Gayoso and the inhabitants. This is the same as the preceding document No. 7. See page 3197.

No. 2—A.

Governor Gayoso to Captain Pope.

NATCHEZ, *June* 13, 1797.

SIR: From repeated information of which I am possessed, it appears certain (and the conduct of some of the inhabitants of this Government equally manifest it) that a number of the subjects of His Majesty meditate and intend to rise and hostilely attack the fort, unmindful of the oath of fidelity which they have taken, and of the benign protection which the Government has dispensed to them for many years, and declaring themselves, as it is said, citizens of the United States of America. It is also further asserted, that they do it by your instigation, and that they have in their possession a paper in which you give authority to them in their rebellious designs, and by which you promise them your protection, and to furnish them the means of putting them into execution.

I cannot persuade myself that you would act in so unlawful a manner as to be the promoter and an active party in an insurrection which will inevitably terminate in a rupture between the two nations, and the total ruin of this district and its inhabitants: wherefore, I pray you to inform me positively whether such is, or is not, your intention, in order that I may notify it to the Commandant General of this province, that it may be communicated to His Majesty. And if you persist in the same opinion, from this moment I protest solemnly, in the name of my said Commandant General, against a conduct so irregular, mak-

* Although you only characterize as *just* the stipulations of the treaty with Spain, I will take the liberty of observing, that, abstractedly from the points which I touched in my letter of the 6th May, the Spanish sovereignty over the Natchez being in right of conquest at the period of the peace of 1783, if the United States obtained this possession by a voluntary convention, they owe it only to the *generosity* of Spain,

ing you responsible for the fatal consequences which may flow it.

I repeat the request to you to give me a categorical answer on this subject, and I have the honor to be, with consideration, sir, your most obedient servant,

MANUEL GAYOSO DE LEMOS.

No. 3—A.

Lieutenant Pope to Governor Gayoso.

CAMP AT THE NATCHEZ,
June 13, 1797.

SIR: I have received your letter of this date, in answer to which I must avail myself of anterior occurrences. Did you not, shortly after my arrival here, positively give it to be understood that you intended to evacuate this post, as being within the territory of the United States? In attending to your first correspondence, I presume you cannot impute to me the charge of inconsistency and impropriety. If your Government feels the necessity of breaking its engagements, and if, on this very account, the people become irritated against it, as I have not been the first promoter of the deceit, so I am as little responsible for the event. I consider myself as the person appointed by my Government to take possession of the post of the Natchez: you admitted it in the beginning, and I, consequently, have a right to sustain it. It is not surprising that the citizens of the United States have chosen me to defend their right. After reflecting maturely on every part of the question, it is surprising that you should yet consider the people of the Natchez as subjects of His Catholic Majesty. But you appear to me to request that I should give you positive answers to general questions.

Have you endeavored to instigate the people of this country to act hostilely against the interests of His Catholic Majesty? Have you stirred up the people to take the fort? or, have you moved or incited them to other hostile objects?

To each of these questions I answer positively, no; but as commandant of the troops of the United States at the lower posts, I must assure you, that the landing of any troops, or the repairing of the fortifications of the territory in question, will be considered as an attack upon the dignity and the honor of my country, and I shall conceive myself bound by duty to act conformably to my present sentiments. I cannot, nevertheless, as far as respects myself, omit informing you, that any agreement upon just principles will meet my approbation.

PIERCY SMITH POPE,
Com'dt of U. S. troops on the Miss.
Senor DON M. GAYOSO DE LEMOS.

No. 5—A.

Copy of a paper which was circulated.

NATCHEZ, *June* 13, 1797.

We, the subscribers, have no knowledge of our country being now at war; but from the hostile preparations which the officers of His Catholic Majesty are making in these parts, we are induced to believe that war is not very distant, and until the commencement of hostilities against the United States, those who consider themselves citizens thereof will respect all descriptions of persons and things.

ANDREW ELLICOTT,
Commissioner of the U. S.
PIERCY SMITH POPE,
Com'dt of U. S. troops on the Miss.

No. 16.

The Chevalier de Yrujo to the Secretary of State.

PHILADELPHIA, *Nov.* 21, 1797.

SIR: Although the answer which you gave to the letter I had the honor of writing to you on the 6th of May last, excited in me all the observations which I shall now present to you in this, wishing, upon the whole, that the interests of America would induce its Administration to adopt the conciliatory mode which I proposed to you, that of giving to the American Plenipotentiaries going to Paris the necessary instructions for adjusting the differences with Spain, I at that time abstained from entering into a reply; which, although well founded, might not, perhaps, contribute so much to the good intelligence between Spain and the United States as the idea which I then suggested to you, and have just now mentioned. The lively desire which I have had, and still have, not to see interrupted the harmony between these two nations, has caused me to view with regret, after several weeks silence, your disappointment in supposing that the reasons upon which your answer is founded were sufficient to convince His Catholic Majesty of the impartiality and good faith of the United States on this point. My suspicions have been verified, and your expectations are entirely frustrated by the late order that I have just received from the King my master.

His Catholic Majesty has not observed in the said answer from you, any reason to induce him to change his opinion concerning the injuries resulting to his subjects from the stipulations of the English Treaty, compared with those of the Treaty with Spain, as well on the subject of the articles of contraband, as on the principle adopted in ours, "that free ships should make free goods," &c.

But what has most astonished His Majesty, and confirmed him in the justice of his pretensions, is what you have said in your answer with regard to the navigation of the Mississippi. I am ordered, therefore, on a review of the whole, to make to this Government, through you, the following observations:

When the Secretary of State, Mr. Jefferson, on the 15th of May, 1793, wrote to Mr. Ternant, then the Minister Plenipotentiary of France, reclaiming the English ship Grange, captured at the mouth of the river Delaware by the frigate L'Ambuscade, belonging to the Republic, he accompanied his letter with the opinion of Mr. Randolph, Attorney General of the United States, in which the right of reclamation was, among other reasons, founded on the following:

"That the whole of its descent to the Atlantic ocean is covered on each side by the territory of the United States: that from tide water to the distance of about sixty miles from the Atlantic ocean, it is called the river Delaware.

"That its mouth is formed by the capes Henlopen and May; the former belonging to the State of Delaware in property and jurisdiction; the latter to the State of New Jersey.

"That the Delaware does not lead from the sea to the dominions of any foreign nation.

"The corner stone of our claim is, that the United States are proprietors of the lands on both sides of the Delaware, from its head to its entrance into the sea.

"A river, considered merely as such, is the property of the people through whose lands its flows, or of him under whose jurisdiction that people is." *Grot.* b. 2, c. 2, § 12.

"Rivers might be held in property, though neither where they rise, nor where they discharge themselves, be within our territory, but they join both, or the sea. It is sufficient for us that the larger part of water, that is, the sides, is shut up in our banks, and that the river, in respect of our land, is itself small and insignificant." *Grot.* b. 2, c. 3, § 7. And *Barbegroe** in his note subjoins that neither of those is necessary.

"Rivers may be the property of whole States." *Puff.* b. 2, c. 3, § 4. "To render a thing capable of being appropriated, it is not strictly necessary that we should enclose, or be able to enclose it within artificial bounds, or such as are different from its own substance; it is sufficient if the compass and extent of it can be any way determined. And, therefore, *Grotius* hath given himself a needless trouble when, to prove rivers capable of property, he useth this argument, that although they are bounded by the land at neither end, but united to the other rivers or the sea, yet it is enough that the greater part of them, that is, their sides, are enclosed." *Puff.* b. 4, c. 5, § 3.

"When a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, and rivers." *Vattel*, b. 1, c. 22, § 266.

"Congress, too, have acted on these ideas, when, in their collection of laws, they ascribe to a State the rivers wholly within that State.

"The gulfs and channels, or arms of the sea, are, according to the regular course, supposed to belong to the people with whose lands they are encompassed." *Puff.* b. 4, c. 5, § 8.

"These remarks may be enforced by asking, What nation can be injured in its rights by the Delaware being appropriated to the United States? And to what degree may not the United States be injured on the contrary ground? It communicates with no foreign dominion."

What a multitude of consequences may be drawn from the application of these principles, established by the American Administration four years ago, with regard to the navigation of the Mississippi! The powerful arms held therein by Spain for obstructing this navigation, her not having made use of them, and her having insisted in a manner so explicit and positive that the citizens of the United States alone should have a right to the advantages of this river, are a convincing and incontestable proof of the good faith and upright intentions of Spain. But the privilege of the citizens of the United States to navigate the said river to the ocean not being now doubted, let us quit this point, in order to treat alone of that which regards the right acknowledged to England by the American Administration for the enjoyment of its advantages.

What does Spain wish or desire? That the American citizens alone, of all the foreign nations, should enjoy the privilege of this navigation. What does the American Administration wish or desire? That it should not be the American citizens alone who should reap the advantages of it. From this difference of pretensions, it would appear that Spain defends the interests of America more than the Administration itself.

You say in your answer to me of the 17th of May, "But I might deny that the United States ever granted the right of navigating the Mississippi to Great Britain. A recurrence to the treaties to which you refer, will prove that she possessed that right by the peace of 1763; and that she has never formally relinquished it." In another paragraph of the same letter you add, "By the definitive Treaty of Peace concluded the 3d of September, 1783, the latter ceded to Spain East Florida, as also West Florida; but the river Mississippi, as you observe, is not even mentioned in the Treaty. What is the just inference from this circumstance the United States need not decide. Doubtless Great Britain conceived it important to hold a right to the navigation of it, and all parties at that time certainly supposed that parts of her territories joined its Eastern side, and probably no one can now say they do not."

If it be certain that the United States never have granted to England the right of navigating the Mississippi to the ocean, it is notwithstanding very evident that they have acknowledged it with every solemnity, as appears by the treaty of 1783, by that of commerce, and lastly by the explanatory article, signed on the 4th of May, 1796. How then could you say to me, "What is the just inference from this circumstance, the United States need not decide?" Have they not decided as positively, as favorably for England, by acknowledging the claim to an unjust right? Which of the principles established by the officers of the Administration, in relation to the Delaware, in the case of the ship Grange, will apply to England in relation to the Mississippi? For instance, is its source in the British dominions? Does it run through their provinces or discharge itself in their possessions? But you say that when, by the treaty of 1783, England ceded to Spain East and West Florida, she did not make mention of the Mississippi; but the Attorney General of the United

* Meaning *Barbeyrac*.

States established in the case of the Grange, the principle of *Vattel*, that "when a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, rivers;" of course when Great Britain ceded East and West Florida, she likewise ceded the lands, lakes, and rivers, the right of which she might have held in the said possessions. By the principle established by you that she had not expressly renounced it, having made no mention of the rivers Apalachicola, Mobile, or Alabama, and others, the United States might believe themselves in like manner authorized to recognise the navigation in favor of England, because they are not mentioned in the treaty. France also might claim the navigation of the Mississippi, since in the act of cession to Spain of New Orleans, she did not expressly renounce the navigation of this river. By this same principle the United States might suppose themselves authorized to recognise to France the right of navigating the river St. Lawrence. The case is absolutely similar. France does not hold an inch of land on its borders; England does not possess a thumb's breadth on those of the Mississippi. The river St. Lawrence neither has its source, runs through, nor empties in, the possessions of France. The Mississippi neither has its origin, runs through, nor empties in, the dominions of England. France once had the right of navigating the river St. Lawrence, because she had possessions on its borders. England also once enjoyed the right to the navigation of the Mississippi, because she had possessions on its margins. In the cession of Canada, no mention is made of the river St. Lawrence, although it speaks of islands. Nor is the Mississippi named in the cession of the Floridas. The case, then, is absolutely similar. If the United States, although they did not grant, should acknowledge to France the right of navigating the river St. Lawrence, would not England, with infinite reason, consider herself as justly offended? Why, therefore, when the United States acknowledge to England a right as unjust, with regard to Spain, as prejudicial to the American citizens, should not Spain look upon herself as offended and insulted? I repeat the text of *Vattel*, "When a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, rivers."

Afterwards, touching the subject whether the possessions border on the Mississippi, or not, you add, "and probably no one can now say they do not." I can assure you they do not. The late discoveries of McKenzie, and the best map that has hitherto been published of North America, in London, about eighteen months ago, by A. Arrowsmith, evidence that the true origin of the Mississippi is in the White Bear Lake, and that from that point its waters do not touch any English territory. If other testimony were necessary, I should not seek it abroad. At Milford, in Connecticut, there now lives Mr. Peter Pond, who has been employed seventeen years in the service of the Hudson Bay Company; has passed over and examined all those regions; has been at the same origin of the Mississippi, that is, at White Bear Lake, and has formed a valuable map, which he now preserves in manuscript, and which confirms that the English have not a foot of land on the borders of the Mississippi.

Having, therefore, in my opinion, completely confuted the most essential part of the answer which you gave to my said letter of the 6th May, and having proved to demonstration the just motives which His Catholic Majesty has for being offended with the explanatory article signed by you and Mr. Bond, on the 4th of May, 1796, it only remains for me to ask you, in the name of the King my master, whether the United States contemplate, or not, the performance of the above mentioned treaty in this particular?

I tender you my services, and hope that the Lord may preserve you many years. Your most obedient servant,

CARLOS M. DE YRUJO.

T. Pickering, Esq., *Secretary of State.*

No. 17.

[for the aurora.]

To the Native American:

The punctuality with which I have answered the letters you addressed to the Chevalier de Yrujo, and the defence you have taken on yourself, as well of Mr. Pickering as of the interests of Great Britain, authorize me in directing this letter to you, and imposes on you the obligation of answering it. Previous to my entering on the principal object of it, permit me, sir, to make a few observations.

Since our correspondence has ceased, the King of Great Britain and his Council have declared that they should not consider in England, as American citizens, those who have been naturalized since the acknowledgment of our independence. This tyrannical declaration, contrary to all the principles of natural right, acknowledged by the first publicists, which, as it injures a great number of individuals in this country, and wounds, at the same time, the sacred right of its sovereignty, I expected would have excited in you, sir, that fervent zeal with which you have appeared to defend the interest of the United States in the dispute respecting the delivery of the posts and the line of demarcation with the Spaniards. From whence, then, arises this silence? Are you ignorant of the effects of this determination which extends the oppression of Great Britain to the very wilds of America? Can you be ignorant that the three-fifths of that active and valuable class of citizens which export the produce of the country, equip the ships which carry the American flag to the extremities of the earth, and which supports our fisheries, in the perfect confidence and security of being protected by that Government to whom they have sworn allegiance, are thereby entirely thrown on the mercy of England? And do you not foresee that its immediate consequence is authorizing the British ships of war hereafter to seize the crews of our vessels under the appearance of a right? Where, then, is this zeal of yours, which resounded in every gazette, when the

subject in question was merely a momentary suspension of a part of the treaty with Spain, although this nation had the most powerful motives for so doing? What has become of the phalanx of scribblers, at whose head you appeared, with Fenno and the mighty Porcupine, to defend vigorously the rights of America? Surely, neither you nor any other person whatever will pretend to deny, or even express a doubt, that the above-mened declaration of the British Monarch does not violate them in a most unjust and hostile manner. From whence, then, so much noise and clamor when treating of the affairs in dispute with Spain? And from whence arises that servile silence in a Native American, when the question is to defend his country against the tyranny of England? This difference of conduct confirms my suspicions of your being a mere British hireling, who has assumed a respectable title in order the more easily to deceive the good faith and candor of your readers; but fortunately you have completely unmasked yourself, and the public may now judge the degree of faith and confidence to be placed in your productions. But to return to the affairs of Spain.

In my former letters I think I evidently proved the injustice of your attacks against Spain and its Ministers. I think I have sufficiently shown that the projects of Blount, and the intended expedition of the English against the possessions of His Catholic Majesty, have justified the retention of the posts, as the most imminent danger might have arisen by their delivery. I shall now endeavor to give fresh proofs of our Administration's not acting towards Spain with that equity, justice, and honor, which a sound policy requires, and which certainly appertains to a nation that calls itself neutral, and affects to be strictly so.

Ever since exterior commerce and navigation, which is its consequence, have influenced in politics, mercantile connexions have been considered the links which unite most one nation with another. Those mercantile relations consist in mutual wants and reciprocal means of satisfying them. From such evident principles, it results that there exists few nations which would and ought to establish a more intimate connexion than the United States and Spain. Our flour, plank, timber, pitch, and the articles of salt provisions, can always find a sure and advantageous market in His Catholic Majesty's dominions, both in Europe and America: on the other hand, the wine, brandies, oil, and fruits of Spain, the coffee and sugar of her colonies, are articles we are in want of. Behold here the basis of a perfect union and friendship, which open an extensive field for speculation with mutual advantage. His Catholic Majesty made the first step towards the union, by concluding with the United States a very liberal treaty, established on the principles of sound policy; and when we ought to have expected that our Administration would endeavor to tighten the bands of friendship with a nation from whom so many advantages would have accrued, it signed on the 4th of May, 1796, only a few months after concluding a treaty with Spain, an explanatory article to that part of the English Treaty which regards the navigation of the Mississippi, acknowledging to the English a right to the said navigation. In order to convince every impartial American of the injustice of this proceeding, I shall not seek in any foreign text for arguments on which to ground mine. The principles established by the officers of the United States three or four years ago, will be the basis of my observations.

When the Secretary of State, Mr. Jefferson, wrote on the 15th of May, 1793, to M. de Ternant, then Minister Plenipotentiary of France, claiming the British ship Grange, taken at the entrance of the Delaware, by the French frigate l'Ambuscade, he communicated to him the opinion of the Attorney General of the United States, in which, among others, he founded his claim on the following reasons:

"That the whole of its descent (the river Delaware) to the Atlantic ocean is covered on each side by territory of the United States.

"That from tide-water to the distance of about sixty miles from the Atlantic ocean, it is called the river Delaware.

"That its mouth is formed by the Capes Henlopen and May; the former belonging to the State of Delaware, in property and jurisdiction: the latter to the State of New Jersey.

"That the Delaware does not lead from the sea to the dominions of any foreign nation.

"The corner stone of our claim is, that the United States are proprietors of the land on both sides of the Delaware, from its head, to its entrance into the sea.

"A river, considered merely as such, is the property of the people through whose land it flows, or of him under whose jurisdiction that people is." *Grot.* b. 2. c. 2. § 12.

"Rivers might be held in property, though neither where they rise nor where they discharge themselves be within our territory, but they join to both, or the sea. It is sufficient for us that the larger part of water (that is, the sides) is shut up in our banks, and that the river, in respect of our land, is itself small and insignificant." *Grotius*, b. 2. c. 3, § 7; and *Barbegroe*, in his note, subjoins that neither of those is necessary.

"Rivers may be the property of whole States." *Puff.* b. 3, c. 3, § 4.

"To render a thing capable of being appropriated, it is not strictly necessary that we should enclose it, or be able to enclose within artificial bounds, or such as are different from its own substance; it is sufficient if the compass and extent of it can be any way determined: and, therefore, *Grotius* has given himself a needless trouble when, to prove rivers capable of property, he useth this argument—that, although they are bounded by the land at neither end, but united to the other rivers, or the sea, yet it is enough that the greater part of them (that is, their sides) are enclosed." *Puff.* b. 4, c. 5, § 3.

"When a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, rivers." *Vattel*, b. 1, c. 22, § 266.

"Congress, too, have acted on these ideas, when, in their collection of laws, they ascribe to a State the rivers wholly within that State.

"The gulfs and channels, or arms of the sea, are, according to the regular course, supposed to belong to the people with whose lands they are encompassed." *Puff.* b. 4, c. 5, § 8.

"These remarks may be enforced by asking, what nation can be injured in its rights by the Delaware being appropriated to the United States? And to what degree may not the United States be injured on the contrary ground? It communicates with no foreign dominion."

Now, Mr. *Native American*, what a multitude of consequences could we not draw by an application of these principles (established by our Administration four years ago) to the subject respecting the navigation of the Mississippi! What powerful arms was it not in the hands of Spain to have refused us this navigation! Not to have made use of them, and her insisting, in an explicit and positive manner, that the citizens alone of the United States should have a right to the advantages of this river, evidently proves her good faith and sound intentions. But, as the right which the Americans have to navigate this river to the very ocean is no longer doubtful, let us quit this topic, and treat only of that with respect to the right acknowledged by our Administration in favor of England to these advantages.

What does Spain wish for, or desire? That, of all foreign nations, the Americans alone should enjoy the privilege of this navigation. And what is the wish and desire of our Administration? That the citizens of America should not be the only people to enjoy its advantages. From this it evidently results that the King of Spain is the defender of the interests of America, and that our Administration, instead of promoting it, has meanly sacrificed it to England. Impartial Americans, who love your country with more sincerity than the *Native American*, to whom I address this letter, let your attention rest awhile on the present subject, and you will evidently see I do not exaggerate, when I tell you that, in this respect, our Administration has basely sacrificed our advantages by their unjust partiality to Great Britain. In order to make this more evident, examine the answer given by Mr. Pickering on the 17th of May, to the Chevalier de Yrujo's letter of the 6th of the same month; in it you will see that the Secretary of State of a neutral nation, precisely in a moment when this Administration is taxed of being unjustly partial to England, instead of effacing this impression by a line of conduct strictly neutral, takes upon himself to defend the cause and interests of Great Britain. Mr. Pickering, attacked by the strength of the Chevalier de Yrujo's arguments, says: "But I might deny that the United States ever granted the right of navigating the Mississippi to Great Britain; a recurrence to the treaties to which you refer, will prove that she possessed that right by the peace of 1763, and that she has never formally relinquished it." In another paragraph of the same letter, he says: "By the definitive Treaty of Peace between Spain and Great Britain, in 1783, the latter ceded to Spain East Florida, as also West Florida; but the river Mississippi, as you observe, is not even mentioned in the treaty. What is the just inference from this circumstance, the United States need not decide. Doubtless, Great Britain conceives it important to hold a right to the navigation of it; and all parties at that time certainly supposed that parts of her territories joined its eastern side, and probably no one can now say they do not." Mr. *Native American*, if it be true that the United States never granted the right of navigating the Mississippi as far as the ocean to Great Britain, can you, or any other person who knows how to read, pretend to deny that, if they did not grant it, they solemnly acknowledged it, as appears by the treaty of 1783, the unfortunate Treaty of Commerce, and, lastly, by the explanatory article, signed the 4th of May, 1796? How, then, can Mr. Pickering presume to say, "what is the just inference from this circumstance, the United States need not decide?" Has it not been positively decided in favor of Great Britain, by acknowledging and confirming an unjust right thereto? Which of the principles established by the officers of Government, respecting the Delaware, in the affair of the Grange, can be applied to England, with respect to the Mississippi? Does it take its rise in her dominions? Does it run through her territories, or does it empty itself in her possessions? However, Mr. Pickering says that, when by the definitive Treaty of Peace of 1783, England ceded East and West Florida, no mention was made of the Mississippi. Mr. *Native American*, the Attorney General has established the principle of *Vattel*, that, when a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, and rivers. Of course when Great Britain ceded East and West Florida, it equally ceded the lands, lakes, and rivers, to which it had a right in the said provinces. By this same principle of Mr. Pickering, as no mention was made of the rivers Apalachicola, Mobile, or Alabama, and others, the United States might, with as much propriety, suppose themselves authorized to recognise a right to their navigation in favor of Great Britain.

France might equally claim a right to the navigation of the Mississippi, as, in the act of ceding New Orleans to Spain, she does not expressly renounce the navigation of said river. On the very same principle, the United States might suppose themselves authorized to recognise a right to France to the navigation of the river St. Lawrence: the case is identically the same. France has not an inch of land on its banks: England has not a spot on those of the Mississippi. The river St. Lawrence neither takes its rise, nor runs, nor empties itself in the possessions of France; the Mississippi neither rises, nor runs, nor empties itself in the dominions of Great Britain. France *had once* a right to the navigation of the river St. Lawrence, because she had possessions on its banks; England, likewise, *had once* a right to the navigation of the Mississippi, because she had possessions on its borders. In the cession of

Canada, no mention is made of the river St. Lawrence, although mention is made of its islands: in the cession of the Floridas, no mention is likewise made of the Mississippi. Thus, then, I repeat, the case is identically the same. Now, Mr. *Native American*, if the United States were to *require or acknowledge*, although they did not *grant*, to France a right to navigate the river St. Lawrence, would not England, with great reason, be highly offended? Would she not look upon this act of the United States as an outrage? If so, why should not Spain look upon herself as grossly injured by the acknowledgment of a right as injurious to the subjects of Spain as it is to the citizens of America? I again repeat the quotation of Vattel: "When a nation takes possession of a country, in order to settle there, it possesses everything included in it, as lands, lakes, rivers." Mr. Pickering, continuing in the language and style of an advocate for Great Britain, instead of using that which becomes the Secretary of State of a nation which calls itself neutral, speaking whether the English possessions touch on the Mississippi or not, adds, "and probably no one can now say they do not." I, Mr. *Native American*, can assure you *they do not;* and if Mr. Pickering had been attentive to the progress of geography, and was even acquainted, as it is his duty, at least with that of his own country, he would know, as well as I, *that they do not.* The last discoveries of McKenzie, and the map published in London eighteen months ago by Mr. A. Arrowsmith, fully prove the origin of the Mississippi to be in the *White Bear Lake;* and that, from this point, its course does not run through any British possession. If it were necessary to produce any new testimony in addition to the foregoing, I would not seek it among foreigners. At Milford, in Connecticut, there actually lives a Mr. Peter Pond, who was employed seventeen years in the service of the Hudson Bay Company: he has gone over and examined particularly all those regions. He has been at the very source of the Mississippi, namely, the *White Bear Lake*, and has made out a valuable map, which he yet preserves in manuscript, and which confirms that the English have not a foot of land on the Mississippi. With these proofs, Mr. *Native American*, (notwithstanding Mr. Pickering's doubts, which are, perhaps, voluntary,) I think I can safely assure you *they do not.*

Mr. *Native American*, the prosperity of the United States depends on peace, and peace on a strict neutrality; let us be just, and we shall be respected. *Honesty is the best policy;* and surely the contents of my former letter, as well as those of the present one, evidently prove that our Administration has neither acted with justice or honesty towards Spain. The clamors respecting the momentary suspension of the least essential part of the treaty have been incessant, when, in reality, at the very moment Spain held out a friendly and liberal hand to us, we have repaid this act of generosity with ingratitude, *recognising to her enemy a claim to a pretended and unjust right.* The friendship of Spain ought to be dear to us, as from a good understanding with her may result a commercial treaty, which would, at the same time, vivify and supply her colonies, and open an extensive field for the prosperity of our navigation and commerce. The unjust proceeding of the Administration is not surely the method of obtaining an object we ought all anxiously to wish for. If the Administration acts with justice and equity, it is the duty of every good American to support it; but I observe, with much regret, that many of my fellow-citizens daily confound the *Ministers*, or the *Administration*, with *Government*, and think they support the latter, when, in fact, they support the Administration. If Ministers, animated either by the spirit of party, or by other views, proceed in their measures with injustice, it is necessary to attack the *Administration*, in order to support the *Government:* for the Administration can, in many instances, be as much the enemy of the Government as merchants are often the greatest enemies of commerce.

I hope, Mr. *Native American*, you will be pleased to favor me with an answer on the different points contained in this letter, as I shall look on your silence to be an implicit confession of the impossibility you find therein. Although the various subjects contained herein are susceptible of greater elucidation, I have adhered solely to the most prominent points, in order to facilitate your answer, and that the public may thoroughly investigate the subject.

VERUS.

No. 18.

The Secretary of State to the Chevalier de Yrujo.

DEPARTMENT OF STATE,
Philadelphia, January 20, 1798.

SIR: As your letters of the 9th October and 21st of November last contained no new matter of any consequence, and a fresh discussion of the points in dispute would require, on my part, only a recurrence to arguments formerly and conclusively urged, the general impression on my mind was, that it would not be necessary to give them a formal reply, whatever notice it might be proper to take of them in a report to the President of the United States. Nevertheless, I will now trouble you with a few observations.

A consideration of the papers heretofore laid before Congress, relative to the affairs on the Mississippi, of others since received from thence, in conjunction with your letter of the 9th of October, and its enclosures, convinces me that the conduct of Mr. Ellicott and Lieutenant Pope has been neither "scandalous" nor "insulting" towards the Spanish officers in that country; and that if any undue zeal or intemperance has been manifested by either, in maintaining the just rights of the United States, the measures adopted by those officers to evade the execution of the treaty between the United States and Spain have been the cause. It is by this course of conduct in the Spanish officers that the King their master has been dishonored, and not by the actions of the officers of the United States. I may, doubtless, be justified in saying, that their detention of the

posts, and delays to run the boundary lines, have been unauthorized by the King. It is certain that neither of those Spanish officers has ever intimated an order from their Government as a warrant or an apology for their proceedings.

In your letter of the 21st of November, you recur to the several topics of your letter of the 6th of May, 1797, but exhibit no new argument on the points really in dispute. You barely mention the subject of the articles contraband of war, and the principle that free ships make free goods. The stipulations of the United States on these points, in their treaty of 1794, with Great Britain, were fully justified in my answer of the 17th of May, to your letter of the 6th. If anything further were necessary, I would say (what I then mentioned as not to be doubted) that the Spanish Government voluntarily entered into the different stipulations with the United States when it possessed full knowledge of our stipulations in the commercial treaty with Great Britain, having in its hands the treaty itself, and having also ratified its treaty with the United States six months afterwards, which the Spanish Government would have been justified in refusing had there been any deception—any want of good faith, on these points, on the part of the United States; but of which not a shadow of proof can be adduced.

The same observations apply to the other subject of your letter—the navigation of the river Mississippi—but with greater force: for, as I showed in my letter of the 17th of May, when the Prince of Peace proposed a mutual stipulation to exclude the British from the navigation of the Mississippi, Mr. Pinckney rejected it, and explicitly, because it would violate the faith of the United States, previously pledged to Great Britain; and the projected article of the Prince of Peace was altered accordingly. Yet, you now introduce those previous stipulations as subjects of complaint against the United States! It is true you also mention the subsequent explanatory article of the 4th of May, 1796, which is added to the Treaty of Amity, Commerce, and Navigation, of 1794, with Great Britain; but it is equally true that this contains no new stipulation, that it recognises the principle that no subsequent treaty can make void prior engagements, (and, therefore, that this explanatory article of 1796 cannot, in the smallest degree, affect the prior treaty of 1795 with Spain,) and that British subjects, the citizens of the United States, and the native Indians, shall enjoy full liberty of passage, intercourse, and commerce, with each other, "*according to the stipulations of the third article of the Treaty of Amity, Commerce, and Navigation.*" So that this explanatory article goes not beyond, but is positively confined within, the limits of the third article of the treaty of 1794; which, preceding, in order of time, the treaty with Spain by more than eleven months, and being, also, at the conclusion of the Spanish Treaty, perfectly well known to its Government, it cannot, consequently, afford to Spain the slightest ground of complaint.

I pass unnoticed your lengthy quotation from the opinion of Mr. Randolph, Attorney General of the United States in 1793, and your observations upon it; because neither one nor the other touch the essential point in dispute between us.

As to the question in the last paragraph of your letter, I am authorized to say that the United States are not concerned to vindicate the claim of Great Britain to the navigation of the river Mississippi. What was said on this subject of my letter of the 17th of May, was in consequence of your having entered into an examination of the British title to this navigation; and I said, expressly, that I did not conceive it essential to the subject we were then discussing: I merely followed you. Our stipulation amounts only to this, that the United States shall not obstruct the navigation of the river by British subjects. If Great Britain demands and obtains it, or if Spain admits her claim, as she has reserved the right to do, in the 4th article of her treaty with the United States, the latter cannot oppose it; and if the British vessels and boats do navigate the Mississippi, we are bound to admit them into our ports on the eastern bank of that river. Whether this admission would be advantageous or injurious to the United States, it belonged to them only to judge; they have not asked, nor will they have occasion to ask, Spain to be the guardian of their rights and interests on the Mississippi: they only desire, in this respect, that she would faithfully perform her own engagements sanctioned by a solemn treaty.

I am, sir, &c.,

TIMOTHY PICKERING.

The Chevalier De Yrujo,
Envoy Extraordinary, &c.

No. 19.

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. Ellicott, dated

Department of State,
July 14, 1797.

"On the 8th of June I received by Mr. Knox your despatches dated the 14th of April, which were laid before Congress on the 12th of June, and on the 29th of June I received, by Captain Hunter, your despatches dated the 10th of May, which on the 3d of July were also laid before Congress, together with the despatches from Captain Pope to the Secretary of War. These communications to Congress appear in the enclosed pamphlets.

"With respect to the important business with which you are charged, the repeated promises, followed by as often repeated failures to enter upon it, by the Spanish Governors, with other circumstances, afford too much reason to believe that there is an intention to postpone it. Nevertheless, the President is of opinion, and directs that you should remain at the Natchez, and always hold yourself in readiness to commence the running of the boundary line between the territories of the United States and of His Catholic Majesty. You will endeavor, in concert with Governor Gayoso, or other proper officer of His Catholic Majesty, to fix a time when this work of ascertaining the boundary line shall commence.

This endeavor may be renewed as often as you shall think fit. Great care should be used to give no just cause of offence to the Spanish Government. What will be the final result of its measures is uncertain; but, if war should follow, it will be of the last importance that the United States should not be the aggressors. The President, therefore, desires that your conduct should be perfectly guarded, moderate, and prudent."

No. 20.

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. Ellicott, dated

Department of State,
Philadelphia, August 30, 1797.

Your expresses, Mr. Bean and Mr. Robins, arrived here on the 24th instant, and delivered me your two letters of June 27th. The same day I received your letters of May 27th and June 4th and 5th.

The Baron de Carondelet's proclamation of the 24th of May, enclosed in your letter of June 4th, abandons almost all the former pretences for retaining the posts, which he says "is occasioned only by the imperious necessity of securing Lower Louisiana from the hostilities of the English, who have set on foot (without regard to the inviolability of the territory of the United States) an expedition against Upper Louisiana." By my former despatches, covering the printed reports and documents, you will have seen that this expedition had never any existence. This is more fully shown in my letter of the 8th instant to the Chevalier de Yrujo, now enclosed. And my answer to him about the navigation of the Mississippi, and the articles of our treaties with Great Britain concerning it, also among the printed documents, demonstrates that in those stipulations we have not departed from the strictest line of good faith towards Spain; that we have granted nothing, in respect to the navigation of the Mississippi, to Great Britain; and that the ideas of the United States, entertained on that subject, were perfectly known and understood by the Government of Spain, when our treaty with Spain was concluded; and that there is nothing contradictory between the two treaties, the British and Spanish.

As, therefore, the Baron de Carondelet has not a shadow of foundation to suspect an expedition by the British against Upper Louisiana; as the American Government has formally declared to the British Minister, for the information of his Government, that we will suffer the march of neither British nor Spanish troops through our territory, for the purpose of hostility of one against the other; as, finally, the British themselves (as you will see in Mr. Liston's letter among the printed documents) declare they had never formed such a plan of an expedition, and acknowledged that its execution would violate our territorial rights; for these reasons, on the principles of his proclamation, the Baron ought immediately to evacuate the posts and territory of the United States.

These observations will also apply to the Baron's proclamation of the 31st of May, in which, however, he takes somewhat new ground. What "security" can the United States give, or, rather, what will the Baron deem a "security" against a descent of the English by the Mississippi?

If the facts and assurances already stated and given, on the part of the United States, do not satisfy, nothing can.

With respect to any hostile intentions of the United States towards Spain, as intimated by the Baron in this last proclamation, nothing is more unfounded. The march of the troops to Tennessee, from the Ohio, is for the sole purpose of establishing a force in that country, to restrain the inhabitants, or other citizens, from aggressions against the Cherokees, and especially to prevent a forced settlement, which was threatened, on the Indian lands; and any orders to the Cumberland militia to hold themselves in readiness, can be only for the object of preventing encroachments on the Indian lands, and to preserve peace. If we meditated an attack against the Spaniards on the Mississipi, we should certainly contemplate an easier route than by a wilderness of many hundred miles in extent, through which the transportation of stores and provisions would be impracticable; or of such extreme difficulty and boundless expense, as folly alone would attempt.

I have now only to notice the general commotion at the Natchez, among the inhabitants, against the Spanish Government, which seems to have been quieted very much by your prudent management. This line of conduct, caution, prudence, moderation, so as by all means to avoid the possibility of a charge of aggression against the United States, you will see, in my letter of the 14th of July, was specially enjoined by the President. And a perseverance in the same course, I trust, will eventually issue in a peaceable adjustment of the disputes now subsisting, respecting the posts, the country where they are situated, and the navigation of the Mississippi. The pacific views of the United States, and their good faith, are not to be doubted; and it is clear, as demonstration can make it, that the Baron has nothing to apprehend from the British from Canada: and, consequently, that he has now no cause or pretence for retaining the posts, or for delaying to run the boundary line."

GREAT BRITAIN.

[Communicated to Congress, February 3, 1797.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received from our Minister at London two acts of the Parliament of Great Britain; one passed on the 4th of July, 1797, entitled "An act for carrying into execution the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States of America;" the other passed on the 19th day of July, 1797, entitled "An act for regulating the trade to be car-

ried on with the British possessions in India, by the ships of nations in amity with His Majesty." These acts have such connexions with the commercial and political interests of the United States, that it is proper they should be communicated to Congress. I have accordingly transmitted copies of them with this Message.

JOHN ADAMS.

UNITED STATES, *February* 2, 1798.

Anno Tricesimo Septimo Georgii III. Regis.

An act for regulating the trade to be carried on with the British possessions in India, by the ships of nations in amity with his Majesty. [19th July, 1797.]

Whereas by an act passed in the twelfth year of the reign of His late Majesty King Charles the Second, entitled an act for the encouraging and increasing of shipping and navigation, it was enacted that, from and after the first day of December, one thousand six hundred and sixty, and from thenceforward, no goods or commodities shall be imported into, or exported out of, any lands, islands, plantations, or territories to His Majesty belonging, or in his possession, or which may hereafter belong unto or be in the possession of His Majesty, his heirs, and successors, in Asia, Africa, and America, in any other ship or ships, vessel or vessels, than such as do truly and without fraud belong unto the people of England or Ireland, dominion of Wales, or the town of Berwick upon Tweed, or are the built of, and belonging to, any of the said lands, islands, plantations, or territories, as the proprieters and right owners thereof, and whereof the master and three-fourths of the mariners, at least, are English, under certain penalties and forfeitures therein mentioned: and whereas it is expedient that the ships and vessels of countries and States in amity with His Majesty, should be allowed to import goods and commodities unto and to export the same from the British territories in India, subject to certain restrictions and regulations:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, and during the continuance of the exclusive trade of the United Company of Merchants of England, trading to the East Indies, and during the term for which the possessions of the British territories in India is secured to the said United Company, it shall and may be lawful for the ships and vessels of countries and States in amity with His Majesty, to import into and export from the British possessions in India, such goods and commodities as they shall be permitted to import into and export from the said possessions by the directors of the said company, who are hereby directed to frame such regulations, for carrying on the trade to and from the said possessions and the countries and States in amity with His Majesty, as shall seem to them most conducive to the interest and prosperity of the said British possessions in India, and of the British empire; and no ship or vessel belonging to any of the subjects of States or countries in amity with His Majesty shall be liable to seizure, confiscation, or forfeiture, or other penalty, for exporting from or importing into the said British possessions in India, any goods or commodities, the importation or exportation of which, respectively, shall be permitted by the said regulation, anything in the hereinbefore recited act of the twelfth year of the reign of King Charles the Second, to the contrary notwithstanding: *Provided, always,* That it shall not be lawful for the directors of the said United Company to frame any regulations for the conduct of the said trade, which shall be inconsistant with any treaty or treaties which shall have been or may be entered into by His Majesty, his heirs, and successors, and any country or State at amity with His Majesty, or which may be inconsistent with any act or acts of Parliament which have been passed for the regulation of the trade and commerce of the said British territories in India.

II. *And be it further enacted,* That all such regulations as shall be framed by the said court of directors for carrying on the trade to and from the British possessions in India, and the countries and States in amity with His Majesty, shall be, and they are hereby, directed to be subject to the superintendence, direction, and control of the board of commissioners for the affairs of India, in the same manner as all acts, operations, and concerns, which anywise relate to or concern the civil and military governments and revenues of the British territories and acquisitions in the East Indies now are.

III. *And be it further enacted,* That it shall not be lawful for any general court of proprietors to alter or change, or to direct, or order, or authorize the altering or changing any resolution of the court of directors, or to rescind, revoke, suspend, or vary the same, in so far as the same relates to the intercourse of foreign nations in amity with His Majesty and the British territories in India.

An act for carrying into execution the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States of America. [4th July, 1797.]

Whereas a Treaty of Amity, Commerce, and Navigation, has been concluded between His Majesty and the United States of America: and whereas by the eleventh article of the said treaty, it is agreed between His Majesty and the United States of America, that there should be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations, and on the conditions specified in the following articles of the said treaty; and whereas, by the fifteenth article of the said treaty, it is further agreed, that no other or higher duties shall be paid by the ships or merchandise of the one party, in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations; nor shall any other

or higher duty be imposed in one country on the importation of any articles the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties, respectively, which shall not equally extend to all other nations:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in his present Parliament assembled and by the authority of the same, That it shall and may be lawful to import into this kingdom, directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated, and registered according to law, or in ships built in the countries belonging to the United States of America, or any of them, or in ships taken by any of the ships or vessels of war belonging to the Government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the Government of the said United States, and condemned as lawful prize in any court of admiralty of the said United States, of which condemnation proof shall be given to the satisfaction of the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, and any three or more of them, in that part of Great Britain called Scotland, and owned by the subjects of the said United States, or any of them, and whereof the master and three-fourths of the mariners, at least, are subjects of the said United States, any goods, wares, or merchandise, the growth, production, or manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations hereinafter mentioned; any law, custom, or usage, to the contrary in anywise notwithstanding.

II. *And be it further enacted,* That all such goods, wares, and merchandise, imported into Great Britain, either in such ships, or in British built ships, owned, navigated, and registered according to law, (except such goods, wares, and merchandise as are hereinafter particularly enumerated or described,) shall, and may be entered and landed, upon payment of such duties of customs and excise, and no higher, as are payable on goods, wares, and merchandise of the like denomination or description, upon their importation into this kingdom, in British built ships, from any other foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different foreign countries, then upon payment of the lowest duties which by our law are required to be paid on the importation, in British built ships, of any such goods, wares, or merchandise, from any foreign country, according to the schedule, and tables marked A, D, and F, annexed to an act, passed in the twenty-seventh year of His Majesty's reign, entitled "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the public revenue; for permitting the importation of certain goods, wares, and merchandise, the produce of the European dominions of the French King, into this kingdom; and for applying certain unclaimed moneys, remaining, in the exchequer for the payment of annuities on lives, to the reduction of the national debt;" or by any other laws in force, passed subsequent to the said act, touching the duties contained in the said schedule and tables marked A, D, and F, subject also, when imported in American ships, to the countervailing duties imposed by this act.

III. And, in order to encourage and promote the trade from the United States to this kingdom, *Be it further enacted,* That any pig iron, bar iron, pitch, tar, turpentine, rosin, pot ash, pearl ash, mahogany, masts, yards, and bowsprits, being the growth, production, or manufacture of the said United States, and all staves, and unmanufactured goods and merchandise whatsoever, which are not prohibited by law to be imported from any foreign country, being the growth or production of the said United States, shall or may be imported in British or American ships, owned and navigated as hereinbefore required, upon payment of such duties of customs and excise, as are payable on the like goods, wares, and merchandise, when accompanied with the certificates required by law upon their importation into this kingdom, in British built ships, from any British island or plantation in America, notwithstanding such goods, wares, or merchandise, may not be accompanied with the certificates heretofore required by law, subject also, when imported in American ships, to the countervailing duties imposed by this act.

IV. *Provided always, and be it further enacted,* That, upon the importation into Great Britain from the said United States of America, of wheat, wheat meal or flour, rye, barley, beer or bigg, oats, oatmeal, peas, beans, Indian corn, and maize, the duties to be paid thereon, respectively, shall be regulated and ascertained according to the prices of wheat, rye, barley, beer or bigg, peas, beans, oats, and oatmeal, in the manner set forth and specified in the table marked D, in an act passed in the thirty-first year of His Majesty's reign, entitled "An act for regulating the importation and exportation of corn, and the payment of the duty on foreign corn imported, and of the bounty on British corn exported;" anything contained in this act to the contrary notwithstanding.

V. *And be it further enacted,* That all oil made from fish, or creatures living in the sea, and blubber, whale fins, and spermaceti, being the produce of the fisheries carried on by the people of the said United States of America, may be imported from the countries of the said United States into this kingdom, in British or American ships, owned and navigated as hereinbefore required, upon payment of such duties of customs as are payable

on the like goods and merchandise, upon their importation into this kingdom, in British built ships, from countries not under the dominion of His Majesty, subject also, when imported in American ships, to the countervailing duties imposed by this act.

VI. *And be it further enacted*, That any tobacco, being the growth or production of any of the territories of the said United States of America, may be imported in British or American ships, owned and navigated as hereinbefore required, upon payment of the same duties of customs and excise, as tobacco imported by British subjects, from any British colony or plantation in America, is, or may hereafter be, subject to; and that any snuff, being the production or manufacture of any of the said territories, may be imported, in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of Europe, imported from Europe is, or hereafter may be, subject to, and may be warehoused and again exported; such tobacco and snuff to be subject, respectively, nevertheless, to all and singular the regulations, restrictions, penalties, and forfeitures, relating to the importation and exportation thereof, or in any other respect relating thereto, of an act, made and passed in the twenty-ninth year of the reign of his present Majesty, entitled "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and another act, passed in the thirtieth year of his present Majesty's reign, entitled "An act to explain and amend an act, made in the last session of Parliament, entitled 'An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;' or of any other act since made relating thereto, subject also, when imported in American ships, to the countervailing duties imposed by this act: *Provided, always*, That such tobacco shall be accompanied with a manifest, as by law required.

VII. *And be it further enacted*, That any rice, being the growth or production of any of the territories of the United States of America, which shall be imported directly from thence into any of the ports of Great Britain, in manner before mentioned, may, upon the importer paying down, in ready money, the duty of eight pence the hundred weight, being part of the duties now payable on the importation of rice, be landed and warehoused, except as hereinafter provided, under the joint locks of His Majesty and the importer, in such warehouses as shall be approved of for that purpose by the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, or any three or more of them, in that part of Great Britain called Scotland, or by the collector and comptroller of His Majesty's customs of the respective ports into which such rice shall be imported, upon the importer's own bond for payment of the remainder of the duties due and payable for such rice within eighteen months, according to the net weight and quantity of such rice at the time it shall be so landed: *Provided, always*, That, upon the importation of any such rice into the ports of London, Bristol, Portsmouth, Cowes, Liverpool, Lancaster, Falmouth, Poole, Whitehaven, Hull, Greenock, and Port Glasgow, or either of them, in the manner herein before expressed, the importer shall be at liberty to enter and land the same, without payment of any duty whatever, upon condition that such rice shall be warehoused under the joint locks of His Majesty and the importers, in such warehouse or warehouses as shall be approved of for that purpose by the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, or any three or more of them in that part of Great Britain called Scotland, or by the collector and comptroller of His Majesty's customs of the respective ports where such rice shall be imported: And that every expense attending such warehousing shall be borne by the said importers; and that such importer or importers, or his or their known servant, shall from time to time, at all seasonable hours, as occasion may require, have free access to such warehouses, in the presence of some proper officer of the customs, for the purpose of skreening and shifting the rice, to prevent it receiving damage; and that if any rice, which shall be so imported from the territories of the said United States into any of the ports above mentioned respectively, and warehoused as aforesaid, shall be taken out of the warehouses, wherein the same shall be secured under the joint locks of His Majesty and the importers as aforesaid, for home consumption, the full duties due and payable by law, upon the importation of such rice into this kingdom for home consumption, and also, when imported in American ships, the countervailing duty imposed by this act shall, previously to its being taken out of such warehouses, be paid to the collector of His Majesty's customs at the port where such rice shall be so warehoused; but that such importer, if he intends to export such rice, shall have liberty to export the same from such warehouses respectively, under the same regulations under which such rice might be exported by law immediately before the passing of this act, without payment of any duty whatever: Provided that the exportation of any such rice, hereafter to be warehoused under the authority of this act, be made within the said space of eighteen months; but if not exported within that period, that the full duties payable by law, and also when imported in American ships, the countervailing duty imposed by this act shall be paid for the same, and not be afterwards drawn back; and that if any rice, which shall have been imported into any port of this kingdom, not herein before specially named, and shall have been warehoused upon the importer's bond, in manner aforesaid, shall within the time herein before mentioned, be taken out of the warehouse wherein it shall have been so secured, to be exported directly from thence, the bond entered into for the payment of the said duties thereon shall be discharged and cancelled by debenture or debentures, made out and passed in the usual manner, for the quantity or quantities of rice duly exported; and if any

rice imported into any port of this kingdom, not herein before specially named and warehoused in manner aforesaid, shall be taken out of any such warehouse for home consumption, the remainder of the duties due and payable by law, and also, when imported in American ships, the countervailing duty by this act imposed, shall, previously to its being taken out of such warehouse, be paid to the collector of His Majesty's customs at the port where such rice shall be so warehoused. Provided, that if any rice warehoused under the authority of this act shall remain in such warehouse beyond the period of eighteen months, upon which the full duties due and payable by law shall not have been paid, then in such case the same shall and may be sold for the duties, in like manner, and under the same rules, regulations, and restrictions, as any other goods are now directed by law to be sold for the duties, and the produce applied in like manner as is directed by an act, passed in the twelfth year of the reign of her late Majesty Queen Anne, entitled "An act for encouraging the tobacco trade."

VIII. *Provided always, and be it further enacted*, That nothing herein contained shall be construed to prevent the importation of rice and other articles, without payment of any duty whatever, by virtue of an act passed in the present session of Parliament, entitled "An act to prohibit the exportation of corn, meal, flour, and potatoes, and to permit the importation of corn and other articles of provision, for a limited time, in any ships whatever, without payment of duty," and in the manner in the said act mentioned during the continuance thereof.

IX. *And be it further enacted*, That all goods, wares, and merchandise, so imported from the United States of America, shall, upon the exportation thereof to any foreign country, be entitled to the same drawbacks as are or may hereafter be by law allowed upon the exportation of goods, wares, and merchandise, of the like denomination and description, when exported to any foreign country; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares, and merchandise, exported from this kingdom to the territories of the United States, or any of them, as are or may hereafter be allowed by law upon the exportation of goods, wares, or merchandise, of the like denomination or description, to any of the islands, plantations, or colonies, belonging to the Crown of Great Britain in America.

X. *And be it further enacted*, That there shall be allowed and paid the same drawbacks upon the exportation of any sort of foreign hemp, or foreign iron, exported from this kingdom to any British colony or plantation in America, and to the territories of the United States of America, or any of them, as are or may hereafter be allowed by law upon the exportation of the like sort of hemp, or iron, to other foreign parts.

XI. And whereas by the said fifteenth article of the treaty before mentioned the British Government reserves to itself the right of imposing such duty as may be adequate to countervail the difference of duty not payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels, be it therefore enacted, by the authority aforesaid, that, from and after the fifth day of January, one thousand seven hundred and ninety-eight, there shall be raised, levied, collected and paid, to and for the use of His Majesty, his heirs and successors, on the importation into this kingdom of the goods, wares and merchandise, hereinafter mentioned or described, being of the growth, production, or manufacture of any of the territories of the United States of America, and imported directly thence in American ships or vessels, owned and navigated, as by this act is required, the following additional duties of customs, that is to say: on the importation of any such goods, wares, and merchandise, as aforesaid, (except tobacco, and other articles, for which provision is hereinafter made,) an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law, on the importation into this kingdom of the like goods or merchandise, from any of the said United States, in British built ships or vessels; on the importation of any such pig iron, bar iron, potash, pearlash, in manner aforesaid, an additional duty, at and after the rate of ten pounds per centum, on the produce and amount of the several duties of customs due and payable by law on the importation into this kingdom of any such goods from any British colony or plantation in America, when not accompanied with the certificates required by law; on the importation, in manner aforesaid, of any such pitch, tar, turpentine, rosin, mahogany, masts, yards, and bowsprits, and unmanufactured goods and merchandise as aforesaid, (wood, staves, and tobacco excepted,) an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law on the importation of any such goods into this kingdom, from any British colony or plantation in America; on the importation in manner aforesaid, of any such unmanufactured wood and staves, an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law, on the importation of any such goods into this kingdom from any part of Europe, not within His Majesty's dominions, in British built ships or vessels; on the importation, in manner aforesaid, of any oil made from fish, or creatures living in the sea, and blubber, whale fins, and spermaceti, being the produce of the fisheries carried on by the people of the said United States, and imported directly from thence into this kingdom in American ships or vessels, owned and navigated as by this act required, an additional duty, at and after the rate of ten pounds per centum, on the produce and amount of the several duties of customs due and payable by law on the importation of any such goods into this kingdom from countries not under the dominion of His Majesty; on the importation, in manner aforesaid, of any such tobacco so imported, an additional duty of customs, at

and after the rate of one shilling and sixpence for every hundred pounds weight of such tobacco.

XII. *Provided always*, That nothing in this act contained shall extend, or be construed to extend, to charge or impose the duty of ten pounds per centum by this act imposed on certain goods and merchandise imported into this kingdom from the said United States in American ships, on the produce or amount of the respective duties of five pounds per centum, and of ten pounds per centum, granted His Majesty by an act made in this present session of Parliament, entitled "An act for granting to His Majesty certain duties of customs on goods, wares, and merchandise, imported into, exported from, or brought and carried coastwise within Great Britain, except wine, and except coals when brought or carried coastwise; and for applying the money to a use by virtue of an act, passed in the last session of Parliament, entitled 'An act for the reduction of the drawbacks and bounties now allowed on the exportation of sugar, towards defraying the increased charge occasioned by any loan granted, or stock created, by any act or acts passed in the last session of Parliament.'"

XIII. *Provided always*, That if any goods or merchandise so imported from the United States of America shall be permitted, by virtue of any act or acts of Parliament in force at the time of such importation, to be secured in warehouses, without the payment of the duties due on the importation thereof, then, and in such case, the additional duties of customs, by this act imposed, shall not be payable, unless and until such goods shall be taken out of such warehouse for the purpose of being used or consumed in this kingdom.

XIV. *Provided always*, That nothing in this act contained shall extend, or be construed to extend, to repeal or anywise alter the duties of package, scavage, balliage, or portage, or any other duties payable to the mayor and commonalty and citizens of the city of London, or to the Lord Mayor of the said city for the time being, or to any other city or town corporate within the kingdom of Great Britain, or to repeal, or anywise alter any special privilege or exemption to which any person or persons, bodies politic or corporate, is or are now entitled by law, but the same shall be contined as heretofore.

XV. *And be it further enacted*, That such of the duties of customs and excise by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the respective commissioners of the customs and excise in England for the time being, and such thereof as shall arise in that part of Great Britain called Scotland shall be under the management of the respective commissioners of the customs and excise in Scotland for the time being.

XVI. *And be it further enacted by the authority aforesaid*, That the duties of customs and excise, and the drawbacks of the duties of customs and excise upon, for, or in respect of the several goods, wares, or merchandise by this act imposed and allowed, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, and allowed, in such and the like manner, and in or by any or either of the means, ways, or methods by which the former duties of customs and excise, and drawbacks of duties of customs and excise upon goods, wares, or merchandise in general, and also by any or either of the special means, ways, or methods respectively, by which the former duties of customs and excise, and drawbacks of duties of customs and excise, upon goods, wares, or merchandise of the same sorts or kinds respectively, were, or might be managed, ascertained, levied, raised, collected, answered, paid, recovered, and allowed, and the goods, wares, or merchandise, so by this act respectively made liable to the payment of or chargeable with duties of customs and excise, or so entitled to drawback of duties of customs and excise, upon the importation thereof into, or exportation thereof from, Great Britain, or on any other account whatever, shall be and the same are hereby made subject and liable to all and every the conditions, regulations, rules, restrictions, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures, respectively, to which the like goods, wares, or merchandise, respectively, were subject and liable by any act or acts of Parliament in force on and immediately before the passing of this act respecting the revenues of customs and excise, except where any alteration is expressly made by this act; and all and every pain, penalty, fine, or forfeiture, of any nature or kind whatever, for any offence whatever committed against or in breach of any act or acts of Parliament in force, on and immediately before the passing of this act, made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained (unless where expressly altered by this act) shall and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution for and in respect of, the several duties of customs and excise and drawbacks of duties of customs and excise hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act.

XVII. And whereas, by the said fifteenth article of the treaty before mentioned, it is further agreed that the British Government does reserve to itself the right of imposing on American vessels, entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America: and whereas it is thought expedient, for the present, to exercise the power reserved in the said article so far only as relates to imposing a tonnage duty on American ships entering the ports of His Majesty's dominions in Europe, equal to the excess of the duty payable in the ports of the United States by British ships, beyond that which is payable by American ships entering the same ports: *Be it therefore enacted*, That, from and

after the fifth day of January, one thousand seven hundred and ninety-eight, there shall be raised, levied, collected, and paid, unto and for the use of His Majesty, his heirs, and successors, a tonnage duty at and after the rate of two shillings of good and lawful money of Great Britain, for each and every ton burden of every ship or vessel belonging to the inhabitants of the United States of America, coming or arriving within the limits of any port of Great Britain; and that the tonnage of every such ship or vessel shall, in case of any doubt or dispute as to the same, be ascertained by admeasurement, in the mode and manner directed by an act passed in the twenty-sixth year of His present Majesty's reign, entitled "An act for the further increase and encouragement of shipping and navigation."

XVIII. *And be it further enacted by the authority aforesaid* That it shall and may be lawful to and for any officer or officers of His Majesty's customs to stop and detain every ship or vessel, liable to the payment of the said duty, until the said duty is paid as aforesaid; and, in case payment thereof shall not be made for the space of three calendar months after the arrival of such ship or vessel at any port in this kingdom, it shall and may be lawful to and for the commissioners of His Majesty's customs in England and Scotland, respectively, or any three or more of them, to cause such ship or vessel, and her masts, apparel, and furniture, to be sold publicly to the best bidder, and the produce thereof to be applied, first, to the charges that shall arise by such detention and sale; next, to the said duty imposed by this act, and the overplus to be paid to the proprietor of such ship or vessel, or other person duly authorized by such proprietor to receive the same.

XIX. *And be it further enacted by the authority aforesaid*, That the tonnage duty hereby imposed shall be paid into the hands of the proper officer of His Majesty's customs, at the respective ports or places where such duty shall become due and payable, and such duty shall be under the management of the commissioners of His Majesty's customs in England and Scotland, respectively.

XX. And to the intent that the said duty may be answered and paid, *Be it further enacted by the authority aforesaid*, That no officer of His Majesty's customs whatever, or his deputy, or clerk, at any of the said ports or places in Great Britain, where such duty shall become due and payable, shall, from and after the said fifth day of January, one thousand seven hundred and ninety-eight, take or receive any entry outwards, cocket or report outwards, for any ship or vessel liable or subject to the said duty, nor shall such ship or vessel be suffered or permitted to depart from any such port or place until the said duty shall be paid, pursuant to the directions of this act, to the respective collectors or other principal officers of His Majesty's customs authorized to receive the same, and until the respective master or owner of any such ship or vessel, subject to the payment of such duty, shall show to such respective officer a receipt for the same.

XXI. *And be it further enacted*, That all the moneys from time to time arising by the several new and additional duties by this act imposed as aforesaid, (the necessary charges of raising and accounting for the same, respectively, excepted,) shall from time to time be paid into the receipt of His Majesty's exchequer at Westminster, and the said money, so paid in as aforesaid, shall be carried to and made part of the consolidated fund.

XXII. And whereas, by the thirteenth article of the said treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, it is, among other things, provided, that the vessels belonging to the citizens of the United States of America shall be admitted and hospitably received in all the seaports and harbors of the British territories in the East Indies, and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the exportation or importation, respectively, to and from the said territories, shall not be entirely prohibited: *And it is further provided*, That the said trade shall be carried on under the regulations contained in the said article; and it is expressly agreed that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen, and that such regulations shall be adopted by both parties as shall from time to time be found necessary to enforce the due and faithful observance of the above recited stipulation: *Be it therefore enacted*, That it shall and may be lawful for the ships belonging to the citizens of the United States to carry on the said trade to the British territories in the East Indies, and to import into and export from the said territories all articles of which the importation or exportation, respectively, to or from the said territories, shall not be entirely prohibited, in the manner, and with the privileges and advantages, and subject to the restrictions and regulations contained and expressed in the said thirteenth article of the said treaty of amity, commerce, and navigation, any law to the contrary notwithstanding; and, particularly, notwithstanding any provisions contained in an act passed in the twelfth year of the reign of His late Majesty King Charles the Second, entitled "An act for the encouraging and increasing of shipping and navigation."

XXIII. *And be it further enacted*, That all acts or engagements entered into by the subjects of the United States or of His Majesty, in pursuance of the said thirteenth article, shall be deemed and taken to be lawfully done, provided the same shall have been done or entered into, since the final ratification of the said treaty; and provided the same might have been done and entered into, agreeably to the said thirteenth article, any law to the contrary notwithstanding; and the same shall be deemed, and taken to be, in all respects, and to all intents and purposes whatsoever, as if the same had been done, entered into, or had taken place, subsequent to the passing of this act, any prohibi-

tion to the contrary notwithstanding; and no penalty, forfeiture, or disability, of any kind or nature whatsoever, shall be incurred or sued for, for or on account of any such acts or engagements.

XXIV. And whereas by the ninth article of the said treaty, it was agreed that British subjects, who then held lands in the territories of the said United States, and American citizens, who then held lands in the dominions of His Majesty, should continue to hold them according to the nature and tenure of their respective States and titles therein, and might grant, sell, or devise the same to whom they should please, in like manner as if they were natives, and that neither they nor their heirs or assigns should, so far as might respect the said lands, and the legal remedies incident thereto, be regarded as aliens: *Be it therefore enacted by the authority aforesaid*, That all lands, tenements, and hereditaments, in the Kingdom of Great Britain, or the territories and dependencies thereto belonging, which, on the said twenty-eighth day of October, one thousand seven hundred and ninety-five, (being the day of the exchange of the ratification of the said treaty between His Majesty and the United States,) were held by American citizens, shall be held and enjoyed, granted, sold, and devised, according to the stipulations and agreements contained in the said article, any law, custom, or usage, to the contrary notwithstanding.

XXV. *Provided always*, That nothing herein contained shall extend, or be construed to extend, to give any right, title, or privilege, to any person, not being a natural born subject of this realm, which such person would not have been entitled to, if this act had not been made, other than, and except such rights, titles, and privileges, as shall be necessary for the true and faithful performance of the stipulations in the said article contained, according to the true intent and meaning thereof, or to give to any person, not being either a natural born subject of this realm, or a citizen of the said United States, any right, title, or privilege, to which such person would not have been entitled if this act had not been made.

XXVI. And whereas by the said treaty it is further agreed, that His Majesty and the United States, on mutual requisitions by them respectively, or by their respective Ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other, provided that this shall only be done on such evidence of criminality as, according the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed, and that the expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive: *Be it enacted by the authority aforesaid*, That in case requisition shall at any time be made, in pursuance of, and according to, the said article, for the delivery of any person charged with murder or forgery, committed within the jurisdiction of the said United States, it shall be lawful for one of His Majesty's principal Secretaries of State, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace, and other magistrates and officers of justice, to govern themselves accordingly, and to be aiding and assisting in apprehending the person so charged, and committing such person, for the purpose of being delivered up to justice, according to the provisions in the said article; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons charged with offences against the laws of this Kingdom, to examine, upon oath, any person or persons touching the truth of such charge, and upon such evidence as, according to the laws of this Kingdom, would justify the apprehension and commitment for trial of the person so charged, if the offence wherewith he shall be so charged had been committed in this Kingdom; and it shall be lawful for such justice of the peace, or other persons having power to commit, as aforesaid, to commit the person so charged to His Majesty's jail, there to remain, until delivered pursuant to such requisition, as aforesaid, and thereupon it shall be lawful for one of His Majesty's Secretaries of State, by warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized by the said United States to receive the person so committed, and convey such person to the dominions of the said United States, to be tried for the offence with which such person shall be so charged; and, if the person so charged shall escape out of any custody to which he shall be committed as aforesaid, it shall be lawful to retake such person in the same manner as any person charged with any offence against the laws of this Kingdom may be retaken upon an escape, so that such person so charged as aforesaid, may be effectually delivered up to justice, according to the true intent and meaning of the said article of the said treaty.

XXVII. *And be it further enacted*, That this act shall continue in force so long as the said treaty between His Majesty and the United States of America shall continue in force, and no longer.

[The following documents, explanatory of the Treaty with Great Britain, and of the acts of Parliament laid before Congress by the preceding Message, are added to those communicated by the President.]

Mr. King to the Secretary of State.

LONDON, *June* 12, 1797.

SIR: I had the honor to state to you, in a former letter, that a bill was soon to be brought into Parliament, making the commercial provisions required by our treaty. Such a bill has been introduced into the House of Commons; and, an abstract of it having been sent to me from Lord Grenville's office, I sent his Lordship a note, with sundry observations upon the regulations proposed to be established concerning our trade and navigation, and requesting his Lordship to confer with

me upon the subject before the bill should be discussed in the House of Commons.

I enclose a copy of the abstract, note, and remarks. In my conference with Lord Grenville, I briefly recapitulated the objections which had occurred against the provision of the bill. His Lordship received them with great candor, and observed that the details of the treaty, as well as the proposed regulations, being out of his mind, he could not speak with confidence, or conclusively, respecting them, that, in respect to the requisition that our ships trading to Great Britain should be American built, or prize vessels, and navigated by at least three-fourths American seamen, he said it was conformable to the analogous provisions in all former cases, and that this provision existed under the commercial treaty with France, concluded in 1786. I observed that it was impracticable to discriminate, in certain cases, American built from foreign built ships, since all vessels owned on a certain day, in the year 1789, had been registered as American ships; that, though the greatest part, indeed, nearly all of these ships were American built, yet there were a few foreign built, and that a discrimination was impracticable. His Lordship replied that he did not imagine that, in practice, there would be any difficulty experienced from this regulation. I repeated, in detail, the objections to the bill, on account of the omission of a revision corresponding with that part of the fifteenth article of the treaty which it has been supposed authorizes us to import into Great Britain, in American vessels, the productions of every country, without being confined to those of America; I said the article, in this respect, was in the face of the navigation act, but that we could understand it in no other light. His Lordship answered that he could not, at that time, make any reply on that point, but expected very soon to be able fully to discuss it.

His remarks respecting the countervailing duty were of a similar nature. He said they were desirous of preserving the present footing of the trade, as far as they could consistently with their treaties with other nations, and that he believed that the variations would be very immaterial; that a table was preparing which would exhibit, at one view, the present footing of the trade, and likewise the variations that would take place by the imposition of the countervailing duty; that, till such a view was before him, he could not, with any advantage, speak concerning the manner of executing the right reserved to them by the treaty.

His Lordship said there was a distinction between the light money collected in England, and the tonnage duty levied in America; the former was private property, and the latter was a public revenue; besides, that the British lights were useful to our commerce, not only with England, but also with other neighboring nations, while our lights were of advantage only in our trade.

I replied that the object of the parties was, to give an equal and fair competition to their respective ships in their trade with each other; that it was of no importance, and, in reference to that equality, that there was no difference whether the imposition was for private or public purposes. Nor did we maintain our light-houses at less expense from the circumstance of their being, from our local position, almost exclusively beneficial to the ships that resorted to our ports; that the right, under the treaty, to impose a tonnage duty on American ships, must be decided by the fact whether British ships, resorting to the American ports, now pay a greater duty per ton than American ships pay which resort to British ports.

Lord Grenville said, that in the equalization of tonnage duties, under former treaties, the light duties had never been included in the compensation, and that it might affect their whole system to consider them as a branch of their public revenue

I replied that, in order that their system might not be disturbed, perhaps it might be agreed that they should impose the proposed duty of two shillings sterling per ton on American vessels, to balance the difference of tonnage duties in the American ports; and that we should impose two shillings sterling per ton on British ships, to balance the difference of light money in the British ports. Lord Grenville answered, that the subject was not then so distinctly in his possession as to enable him to pursue the conversation with advantage.

Concerning the India trade his Lordship said that he saw no objection to insert a clause in the bill, or to introduce a new bill, giving to the India company a right to permit the American ships to take freights from India to China, and likewise from India to Europe, leaving the subject in the discretion of the local Government of India; and that it was likewise proper that the bill should contain a clause, making valid insurances on American ships, which had been made in England since the conclusion of the treaty. In respect to the doubt which has been started in the case of the American ship Argonaut, Collect, master, whether the trade from America to the British territories in India must not be direct, Lord Grenville said he did not think there would be any difficulty on that point. Our conference ended with Lord Grenville saying that, as soon as he should receive the necessary information and documents on this subject, he would converse with me further.

I ought to observe to you that no certain inference results from this conversation; Lord Grenville having commenced it by saying that he was not prepared to speak conclusively on any point.

With perfect respect, &c., RUFUS KING.

[The following is the abstract, transmitted by Lord Grenville to Mr. King, and the remarks of Mr. King thereon, referred to in the preceding despatch.]

ABSTRACT.

SECTION 1. Any goods, wares, and merchandise, the produce and manufacture of the United States, which are not prohibited by law to be imported from foreign countries, may be imported directly into this Kingdom, subject to the duties hereafter mentioned, in American built ships, or American prize ships, owned by the subjects of the said United States, and navigated by a master and three-fourths at least Americans.

2. American produce or manufactures, (except as hereafter enumerated,) to pay the same duties of customs and excise as if imported from any other foreign country in British ships. And where different duties are imposed upon importation from different foreign countries, then upon the lowest of such duties in tables A, D, and F, in the consolidation act. If imported in American ships, then subject also to the countervailing duties imposed by this act.

3. Pig iron, bar iron, pitch, tar, turpentine, rosin, potash, pearlash, masts, yards, bowsprits, and unmanufactured wood and staves, imported, without any certificate, to pay the same duties as if imported in British-built ships, from the British Plantations, with certificates subject, also, if imported in American ships, to the countervailing duties imposed by this act.

4. Oil, blubber, whale fins, and spermaceti, may be imported on the same duties as if imported in British-built ships from foreign countries, subject likewise to the countervailing duties imposed by this act.

REMARKS.

SECTION 1. The ships belonging to the people and inhabitants of the United States consist of American built and foreign built ships. This section establishes a discrimination. American built ships, belonging to Americans, may trade to Great Britain; ships not built in America, though owned by Americans, may not trade to Great Britain, unless they are prize ships. It is not plain that the treaty permits this discrimination to be made. The expressions in the 14th article are, "the people and inhabitants of the two countries, respectively, shall have liberty freely and securely, &c., to come with their ships and cargoes to the lands, cities, &c., within the dominions and territories aforesaid, to enter into the same, &c., subject as to what respects this article to the laws of the respective countries." This limitation is supposed to regard the prohibition of, and the duties upon, particular commodities, and not to refer to the quality of the ships, nor the manner in which they shall be navigated, whether navigated by subjects or foreigners. The section seems to be liable to objection, not only on account of the discrimination of native built from foreign built ships, but also in respect to the regulation that three-fourths of the crew of American ships should be Americans—regulations adopted by Great Britain, in their system, but not required by the United States. A third objection to the section is, that it confines the American trade with Great Britain to goods, wares, and merchandise, of the growth and manufacture of the United States, contrary to a clause of the 15th article of the treaty, that permits the importation, by American vessels, of any article (whether the production or manufacture of the United States or otherwise) that may be imported by the ships of any other country.

SECTIONS 2, 3, 4, 5, 6, 7, 8. These sections appear to change, in several instances, the footing on which the American trade now stands; and this to its disadvantage. At this time any unmanufactured goods and merchandises, the importation of which is not prohibited by law, (except tobacco, fish oil, whale fins, and spermaceti, which are subject to other regulations,) and any pig iron, bar iron, pitch, tar, turpentine, rosin, potash, pearlash, indigo, masts, yards, and bowsprits, the growth or production of the United States, may be imported on the footing specified in the third section. All other goods and merchandise, (except tobacco, snuff, and rice,) not above enumerated; and also fish oil, whale fins, and spermaceti; being of the growth, production, or manufacture of the United States, may be imported on the footing specified in the second section.

Tobacco, snuff, and rice, will remain upon the same footing on which they now stand.

These changes will yield little or no advantage to the British revenue; they will affect, disadvantageously, the course of business which, from

5. Tobacco may be imported on the same duties as from a British colony; and snuff upon the same duty as when imported from Europe, subject to the regulations of the 29th George III., and 30th George III., and to the countervailing duty.

6. Rice may be landed and warehoused upon paying 8*d.* the cwt., and giving bond for the remainder of the duties within eighteen months: Provided that, in the port of London, and other enumerated ports, it may be landed and warehoused without paying any duty, with liberty to export the same within eighteen months; or, if taken out for home consumption, upon paying the duty payable thereon.

A saving of the temporary provision bill, which admits certain articles duty free.

7. Goods, &c., exported from the United States, entitled to the same drawbacks, when exported from Great Britain to any foreign country, as the like goods are entitled to on exportation to any other foreign country, by law; and goods exported to the United States, entitled to the same drawbacks and bounties as if exported to the British colonies.

8. The same drawback upon the exportation of foreign hemp and iron to any British colony, or to the United States, as is now, or may hereafter be, allowed by law, upon the exportation thereof to other foreign ports.

9. From and after the 5th of January, 1798, goods, &c., the growth, produce, or manufacture of the United States of America, imported into this country, directly from the said States, in American ships, to be subject to the following additional duties of customs, viz:

10. All goods, &c., except tobacco and other articles for which provision is made hereafter, ten per cent. on the amount of the duties of customs, payable on such articles when imported from the United States in British ships.

11. Pig iron, bar iron, pot and pearl ash, ten per cent., on the amount of the duties of customs payable on the said articles imported from any British colony or plantation in America, when not accompanied with the certificates required by law.

12. Pitch, tar, turpentine, rosin, masts, yards, and bowsprits, ten per cent., on the amount of the custom duties payable on these articles when imported from any British colony or plantation in America.

13. Unmanufactured wood and staves, ten per cent. on the duties of customs payable on such goods, imported from any part of Europe not within His Majesty's domains, in British ships.

14. Oil, blubber, whale fins, and spermaceti, the produce of American fisheries, ten per cent. on the duties of customs payable on the like articles, on importation from countries not under the dominion of His Majesty.

15. Tobacco, 18*d.* per hundred lbs. weight.

16. This act not to be construed to impose this additional duty of ten per cent. on the duties of five per cent., and ten per cent. granted to His Majesty, by an act of the present session, on certain practice, has become, in some degree, habitual; they regard a subject of detail and intricacy in which alterations, for slight causes, should be avoided; they, moreover, afford occasion for misrepresentation and misunderstandings; added to which, the early period at which the commercial regulations of the treaty must again come under examination, and the mutual interest of the parties that the most impartial and liberal views should prevail on that occasion, may lead, at least, to a doubt whether any change of the existing state of the trade between Great Britain and the United States, will be a measure of prudence, in reference to future and more important arrangements on that subject.

Sections 9 to 20, both inclusive. These sections are liable to objections; the right to impose a countervailing duty is clear; the policy, under existing circumstances, of exercising this right, merits, perhaps, consideration.

Most of the commodities imported into Great Britain by American ships are raw materials, and of importance to the manufactures, to the navigation, and to the marine of England; the policy of England has hitherto been, to obtain these articles in the cheapest and most easy manner: this countervailing duty, though disadvantageous to the American, will enhance the price of raw materials to the manufacturer of England; it will also change the present footing of the American trade, and be liable to the inconveniences that may arise from such change.

Besides, the object which alone can be in view in the imposition of this countervailing tax, may be defeated, after the expiration of two years subsequent to the peace: it is only for that term that the American Government are restrained from increasing the existing difference of duties on goods imported into the United States in American and British ships; the British Government can countervail only the now existing difference; the American Government cannot increase this difference at any time before the expiration of two years after the peace; but, afterwards, they may increase the difference; and the British Government will have no right to countervail such augmentation. It may be added that, admitting the policy to be as clear as the right, still it is not obvious that the manner of imposing this countervailing duty is warranted by the treaty. The right reserved, is to countervail, by an adequate

tain goods (except wine and coals) exported from, or brought, and carried coastwise within Great Britain.

17. This additional duty of ten per cent. not to be paid on goods permitted to be imported from the United States, to be warehoused, until, and unless, such goods are taken out of the warehouse to be consumed in this Kingdom.

18. This act not to exempt from duty any articles in American ships, which, by any law now in force, may be imported without payment of duty only upon condition of their being brought in British ships, unless such goods are particularly exempted from duty by this act.

19. Proviso to save the duties of package, scavage, balliage, or porterage, or other duties payable to the city of London, or other corporation, and to save also special privileges and exemptions belonging to any private persons or bodies politic.

20. All the duties imposed by this act, placed under the respective Commissioners of Excise and Customs in England or Scotland. All these duties and drawbacks, as well as all penalties and forfeitures arising from this act, subjected to the rules and regulations already provided by law in such cases respectively.

21. A tonnage duty of 2*s.* to be paid by American ships arriving in Great Britain, such tonnage to be ascertained by admeasurement, according to statutes 26th George III, ch. 60.

22. Officers of the customs may detain ships, and, after the space of three months, such ships may be sold for paying such tonnage duty.

23. The produce of such tonnage duties to be under the management of the Commissioners of the Customs in England and Scotland; and no such ship is to be suffered to clear out until the master shall have produced a receipt for the payment of the tonnage duty.

duty, the difference of duty payable on goods imported into the United States by American and British ships: the thing to be countervailed is not a given sum, but a ratio, or proportion; the rule is simple, and its application should be so likewise. Instead of imposing ten per cent. upon the duties payable on American goods imported from America in British ships, which it is conceived would be a rule in itself simple, as well as simple in its operation, these sections, in some cases, impose ten per cent. upon the duties payable on goods imported from the United States by British ships; in others, ten per cent. upon the duties payable on similar goods imported from British colonies, without certain certificates; in others, ten per cent upon the duties payable on similar goods imported from British colonies; in others, including certain articles of wood, the duty on which will amount to a prohibition, ten per cent. on the duties payable on similar goods imported in British ships from any part of Europe, not under the British dominions; in others, including the important article of fish oil, already subject to a very heavy duty, ten per cent. upon the duties payable on similar goods imported from countries not under the British dominions; and, in the case of tobacco, a specific sum, not a proportion of duty, of 18*d.* per hundred.

It is possible that this mode of executing the countervailing right may be the least burdensome to the American commerce; but, as the standards referred to are various and unknown, it may be, likewise, that this manner of executing the right will be found to be injurious; it seems certain that it will be obscure to the Americans. Besides, a plain, simple, as well as an equitable mode of imposing this countervailing duty may be devised. Why, then, resort to one that is, at least, to one of the parties, obscure, complex, and concerning the equity of which it can only be an affair of conjecture.

Sections 21, 22, 23. These sections propose to levy 2*s.* per ton on American ships, under that clause of the 15th article of the treaty reserving to Great Britain a right to impose, on American vessels in Europe, a tonnage duty, to equal that impost on British vessels within the United States. The object of the treaty was to put upon an equal footing the ships of the two countries in their trade and intercourse with each other. This was equitable; and if a difference of imposition exist, it should be countervailed; the propriety of the tax, then, depends on the fact, whether British vessels, trading to the American ports, do pay higher tonnage duties than American vessels, trading to British ports, pay; the coast of America is very extensive; and, from one extreme to the other, is lighted at a great expense; there is no duty or tax collected from ships under the name of light money; the only tax or duty is called a tonnage duty, which amounts to 2*s.* 3*d.* sterling per ton on foreign ships; this tax, together with one of the same denomination, but less in amount, paid by American ships, is paid with all other taxes into the General Treasury, and stands

appropriated, in common with them, for the payment of annuities, and the various objects of public expenditure, including the building and support of light-houses, beacons, buoys, &c. In the ports of Great Britain the duties paid on the tonnage of foreign ships, for light money, and other objects, vary; and, indeed, from the rights of different cities and corporations it is not easy to ascertain, with precision, the extent of these demands upon foreigners in their commerce with Great Britain. In Liverpool and Bristol, as well as in London, there are taxes, incident to navigation, which are levied in a double or some increased ratio upon foreign ships; in all cases the British light money is double upon foreign ships. The lights of St. George's channel, on foreign ships, amount to 10*d.* per ton; in the English channel, to 2*s.* 4*d.* per ton; and the Northern lights, to 8½*d.* per ton; and American ships, touching for orders, and bound up channel as far as Amsterdam, pay all the channel lights; and if to the northward of Amsterdam, they pay the channel and northern lights; and it is understood that this duty is exacted for the passage, up and down, whether the vessel returns down channel, goes north-about, or never returns. Thus, on an American vessel of 200 tons burden, the duty for channel lights is £23 6*s.* 8*d.*, and for northern lights £7 1*s.* 8*d.*, making £30 8*s.* 4*d.*; which, taken for both passages up and down, makes £60 16*s.* 8*d.*, or 6*s.* 1*d.* per ton. If the American ship falls into. St. George's channel, and afterwards pursues her voyage up the English channel, which is not uncommon, she pays for the lights in St. George's channel, which amount to 10*d.* per ton; which, added to 6*s.* 1*d.* gives a tonnage duty of 6*s.* 11*d.* paid by American ships, and amounting, on a ship of 200 tons, to £69 3*s.* 4*d.*, which is £34 11*s.* 8*d.* more than is paid by a British ship of the same tonnage: Provided that British ships pay for the passage, upand down, otherwise the difference against the American ship will be £49 15*s.* 10*d.*

24. Money arising from the duties imposed by this act to be paid into the Exchequer, and to be made part of the consolidated fund.

25. Lands, &c., holden by American citizens on the 28th of October, 1795, shall be enjoyed, granted, &c., according to the stipulations and agreements in the 9th article of the treaty.

26. Proviso, that this shall not extend to give to persons, not being natural born subjects, other privileges, &c., than such as are necessary for the foregoing purpose.

27. In case of requisition, according to the 27th article of the treaty, His Majesty's Secretary of State is to require justices of the peace, &c., to apprehend persons charged with murder or forgery, committed within the United States, and to proceed in the examination, and commit to jail the same as if such crime had been committed in this kingdom; and to order the persons so apprehended and committed to be delivered to any person authorized from the United States to receive them into custody.

Or thus: A British and American ship, for the advantage of all the lights on the American coast,

in their inward and outward passage, pay a tonnage duty, viz:

A British ship of 200 tons -	*St'g*, £22	10*s.*
An American, of like tonnage, -	2	10
Difference - - - -	£20	00

A British and American ship for the advantage of the lights in St. George's Channel, the English Channel, and for the Northern Lights, pay a tonnage duty, viz:

British ship of 200 tons, for a single passage - - -	£19	7*s.*	6*d.*
American ship, of the same tonnage, double passage - -	69	3	4
	£19	15	10

Or, if the British ship pays two, or double passages, then thus:

British ship - - -	£34	11*s.*	8*d.*
American do. - - -	69	3	4
Difference - - -	£34	11	8

This is stating the question in the strongest manner against the American ships. If, instead thereof, an average statement could be made, especially if, in addition to the heavy tax for the support of lights which foreign ships pay, the local and corporate duties are taken into the account, it is confidently believed that a result would appear unfavorable (if not in the extreme above stated) to the American navigation. The conclusion is against the proposed tonnage duty of 2*s.* per ton, on American vessels. It is true that few British vessels are at present employed in the trade between Great Britain and the United States. This may be satisfactorily accounted for, without recourse to an opinion that it proceeds from the tonnage duty imposed by the United States.

28. American ships may trade to and from the British territories in the East Indies, subject to the restrictions contained in the 13th article of the treaty, and notwithstanding the Navigation Act, 12th Charles II., sec. 22.

29. All acts or engagements done or entered into by American or British subjects, in pursuance of the 13th article of the treaty, since the final ratification of the treaty, and in conformity thereto, shall be deemed, to all intents and purposes, as if they had been done or entered into, subsequent to the passing of this act.

30. This act to continue as long as the treaty, and no longer.

Sec. 28. The American cargoes for the India market consist of wines, usually taken on board in the outward passage at Madeira, and various other articles, sometimes collected in America, and frequently purchased on the outward passage in England and elsewhere. This was the footing on which the trade stood when the treaty was made. The object of the treaty, in this respect, was, to convert a favor into a right. A question has been started, whether the trade from the United States to India must not be direct in the outward, as well as in the return passage. It is of importance to the security of this branch of the American commerce, that no doubts should exist on this point; and, as from a careful examination of the article there does not appear to be any reason to doubt the intentions of the parties, it is to be wished that expressions may be used in the proposed bill which shall remove all questions on this point.

The American vessels which take on board goods in the British territories in India are required to return direct to America; but it never has been understood that the voyage must be direct from America to such British territories. Should

such a construction be attempted, it would defeat, in a very considerable degree, the benefit of the article. The footing of sufferance on which the trade stood before the treaty would be preferable.

Previous to the treaty, American vessels sometimes obtained freights from the British territories in India to China. It is believed that such freights are still occasionally obtained by the Danes and Swedes; and, likewise, that the ships of these nations obtain permission of the British local Government in India, to take freights from India to different parts of Europe.

It would be a very satisfactory measure to the American merchants, if, by a clause in the proposed act of Parliament, these advantages, which are gratuitously enjoyed by the Swedes and Danes, might likewise be enjoyed by the Americans, in such cases as the competent authority in India should allow.

All that is desired on this head is, that the treaty may not be construed to incapacitate the Americans from enjoying, by favor, those advantages which, by favor, are occasionally granted to other neutral and friendly merchants.

Mr. King to the Secretary of State.

London, *July* 4, 1797.

Sir: In a further conference with Lord Grenville, respecting the bill for carrying into effect the treaty with us, and the remarks that I sent him on that subject, his Lordship stated to me the following observations upon these remarks, which had been made by the Board of Trade:

"Section 1st. The object of this clause of the bill is to equal (as far as respects the United States) the 3d section of 12th Charles II., c. 18; by which the trade with Asia, Africa, and *America*, is confined to British built ships only.

"It is conceived that the discrimination complained of is clearly comprehended under the words "subject always, as to what respects this article, (that is, article 14,) to the laws and statutes of the two countries respectively;" which words cannot be supposed to relate exclusively to duties and prohibitions; no mention whatever being made of duties or prohibitions in any part of the article.

"The expression *their ships*, on which this objection is grounded, is to be found in most of the commercial treaties concluded by Great Britain, particularly in those with Russia and France. But no idea was ever entertained, either here or in Russia, or in France, that by such a stipulation, the French were exempted from the provisions of the eighth section of the Act of Navigation; and no deviation from the spirit or letter of that act can be supposed to be intended by either party, except where it is expressed in the most unequivocal words.

"The general principle of the bill (with a variety of exceptions in favor of America) is to put America upon the footing of the most favored *European* nation. The regulations respecting the build of European ships, and the persons by whom they are navigated, apply, more or less, to the trade of every European nation. There seems, therefore, no room to complain that they are applied to America. It may further be observed that this restriction has been established by the Orders in Council, by which the trade has hitherto been regulated; and that, under this restriction, the trade has annually increased, and is now carried on entirely in American bottoms.

"The third objection arises from the accidental omission of the words "from thence," in the copy of the abstract. Those words are in the Order of Council, and will be in the act. The restriction upon the American trade is no more than a restriction of the *indirect* importation of goods, the growth, produce, or manufacture of America; a restriction which applies, in all *material* articles, to every European nation. All European articles, the importation of which is not confined by the Act of Navigation to British ships, or ships of the build of the country, from whence such articles are brought, or has been since exempted from the operation of that act by particular provisions, will remain free to American ships, in common with all others.

"The extended interpretation, given by the remark to one of the clauses of the 15th article, is inadmissible. In the first place, that clause, connected with what precedes it, evidently applies only to the articles, and not to the manner in which they are brought. In the next, the interpretation would completely defeat, by a side wind, the whole principle of the Act of Navigation, and cannot, therefore, be supposed to have been intended."

Sections 2, 3, 4, 5, 6, 7, 8. By all these sections the importation of all American articles, in *Brit-*

ish ships, is intended to be left precisely upon the same footing in which it stood by the Orders in Council, from which the words of the proposed act are nearly taken. These have been now acted upon without difficulty for many years, and are clearly understood, both here and in America. It is to be hoped, therefore, that no occasion is given for misrepresentation or misunderstanding, at least in this part of the bill.

"It is true that non-enumerated unmanufactured goods and merchandise, which were importable under the Orders in Council on the British plantation duties would be importable, by this act, on the duties payable by the most favored nation. The difference is not believed to be material, because the chief articles of that sort are specified in the next section, and are thereby made importable on the British plantation duties; and because there are but few articles, besides those specified, which pay less duty, or are duty free, when imported from a British plantation. There will, however, be no objection to restore non-enumerated unmanufactured goods and merchandise to the footing on which they stood by the Orders in Council; and the bill will be brought into the House of Commons upon that principle.

"All the material articles of the American trade, which might, according to the treaty, have been subjected to the heavy duties now payable on many of them by the most favored nation, are put upon a par with the same articles from British colonies, and pay either a very low duty, or no duty at all. Among the latter are pot and pearl ashes, bar and pig iron, and most articles of wood.

"Indigo was omitted among the enumerated articles, as the insertion of it was stated by the officers of the customs to be superfluous; it being importable, under certain regulations, from all countries, duty free.

"The general stipulation respecting duties in the treaty is, that the duties on American articles shall not be higher than are, or shall be, payable on the like articles from any other foreign country; and the provisions of the former sections prove that this country is sensible of the principles of policy stated in the remark.

"According to the treaty, such further duty may also be imposed as may be (not equal to, but) adequate to countervail the difference of duty on the importation of European and Asiatic goods into the United States, in British and American vessels. The object of retaining such a right was by no means to check American trade, but to protect British navigation, on the same principle on which America has protected her own; and the manner in which it is now proposed to be exercised will be found, upon examination, liberal; never exceeding, and, in most cases, falling within the limits prescribed by the treaty.

"The interpretation given to the last clause of the 15th article is far from clear or admissible; but, even if it were true that, at the period referred to, the American Government might increase the now subsisting difference between the tonnage and other duties on British and American ships, it is also true that the British Government might exercise their right of imposing duties on American articles, in any ships, and countervailing duties on such articles in American ships to its full extent; and that both countries might experience much inconvenience from such a conduct. But it may be hoped that both countries are too sensible of their mutual interest to engage in this kind of commercial hostility; and the manner in which the British Government proposes, at present, to exercise its rights, is perfectly remote from such idea.

"The mode of imposing the countervailing duty is stated to be obscure, and another more simple is proposed.

"Had the right of imposing duties been exercised to its full extent by one general clause subjecting American articles to no higher duties than those payable on similar articles from any other foreign country, obscurity would have been avoided; a countervailing duty (in addition to such duties) of ten per cent. on their amount might have been imposed. The rule would have been simple in itself; and simple in its operation; but the most material articles of the American commerce would have been exposed to heavy, and, in many instances, insupportable burdens. All the apparent obscurity and complexity of these provisions, which, however, will be found, upon examination, to be sufficiently intelligible, arises from the desire on the part of the Government of this country of favoring the American commerce in its most important branches.

"The rule proposed in the remark is not indeed (nor could it be expected that it should be) that rule which is above stated as the most simple. But it is suggested that ten per cent. should be imposed upon the duties payable on American goods imported from America in British ships. It will be found, upon examination, that this is exactly what is done in all cases to which such a rule is applicable.

"Section 10 applies this rule to all the articles included in section 2. Section 14 applies it to the articles included in section 4. Section 11 relates to bar and pig iron, pot and pearl ash.

"These articles are generally subject to duty, but, when imported from the British plantations, with certificates, are duty free.

"By section 3, these articles, when imported from the United States in British ships, are put upon the same footing as if imported from the British plantations, with certificates, and are therefore duty free.

"As the imposition of 10 per cent. upon nothing is impossible, it is imposed upon the amount of the duty payable on importation from the British plantations without certificates.

"This duty on pot and pearl ash is about 2*s.* 4*d.* per cwt.; the ten per cent. will be about 2½*d.*

"This duty on pig iron is about 5*s.* 9*d.* per ton; the ten per cent. will be about 6½*d.* per ton.

"This duty on bar iron is about £3 1*s.* 9½*d.* per ton; the ten per cent, about 5*s.* 7½d.

"These will be the only duties payable on these articles, even when imported in American ships; whereas the duties which might have been imposed, consistently with the treaty, would have been,

on pig iron above, £31 10*s.* per cwt. ad valorem; and on bar iron, above £3 7*s.* per ton.

"The importation of iron from America consists almost entirely of pig iron, on which the proposed duty is merely nominal.

"Section 13 relates to unmanufactured wood and staves, upon which no duty is payable when imported from the British plantations. The imposition of 10 per cent., on the proposed principle, was here also impossible; and the 10 per cent. is therefore imposed upon the lowest duties on wood and staves imported from foreign countries, that is, when so imported in British ships. American unmanufactured wood and staves, as well as the articles in section 11, will, therefore, pay nothing when imported in British ships; and when imported in American ships, only one-tenth part of the duty payable on the same articles when imported from any other country in British ships.

"This can hardly be conceived to be, in any instance, a prohibitory duty. It will, in fact, be, upon most articles, little more than nominal. The duties paid by the wood of other countries, amounted, last year, to about £350,000; of which America paid no part whatever.

"Section 12. These articles are in no case duty free. They do not, therefore, require the same special provision with the articles included in section 11. But the rule proposed in the remark is exactly applied to them.

"Section 15. The proposed additional duty on tobacco imported in American ships is 18*d.* per 100 lbs. weight.

"The present custom-house duty on British plantation tobacco, imported in British ships, is 6*d.* per pound, *i. e.* 50*s.* per 100 pounds weight; the ten per cent. upon this would be 5*s.* It is not necessary to observe how far the adoption, in this case, of a specific sum, instead of a proportion of a duty, is favorable both to American commerce and navigation.

"If the proposed tax upon American commodities, even when imported in American vessels, is conceived to be a heavy burden, it is desired that the duties now payable in America upon all articles of British commerce, should be compared with those which, after passing the proposed bill, will be payable in Great Britain upon all articles of American commerce. A glance of the eye over such a comparative table would supersede the necessity of further argument upon this head.

"It should, however, be observed, that the rate of custom duties has, of late, been considerably increased in America. On comparing the tax table of August, 1790, with the bill which commenced on the last day of March, 1795, (subsequent to the date of the treaty,) it will be found that the duties on all the articles of British trade have been raised in different proportions, varying from the addition of one-third, to the addition, in many instances, of a tax equal to the original duty. The difference of duty, on importing the same articles in British or American ships, has indeed still been only ten per cent.; but it is evident that this ten per cent., when calculated upon a larger sum, imposed, in fact, a heavier burden; and, if a literal interpretation were to be insisted upon, might be argued, "to increase the then subsisting difference between the duties payable on the importation of any articles in British or American vessels;" which increase is particularly provided against in the fifteenth article.

"Sections 21 to 26. The doubt implied in the remarks on these sections, whether the tonnage duty proposed to be levied on American ships is within the stipulation of the treaty, rests upon a supposition (which cannot be admitted) that the contracting parties were ignorant of the difference then existing in the light, and other duties, payable in British ports by British or American vessels. That difference was, in fact, notorious to both parties; and, notwithstanding that the right reserved is expressly to impose a tonnage duty equal to (not "adequate to countervail," as expressed in another part of the same article) that which shall be payable by British vessels in America.

"It might further be stated that light-house duties, or tolls, never have been considered, as yet, in the negotiation or construction of any treaty of commerce, as public duties; they are, in truth, not so: they are of service to many foreign ships which never enter a British port, and they are so various, according to the different voyages made by different ships coming into our ports, that any attempts to calculate any countervailing duty, with a reference to these tolls, would be deficient, if not impracticable.

"The right reserved by the treaty is not, however, proposed to be exercised to its full extent, as the intended tonnage duty of 2*s.* per ton, is not equal to the tonnage duty payable in America by British ships, but to the difference between the duty payable in America on British and American ships.

"The light duties on all ships vary in the different ports of Great Britain, each ship being charged for the toll of such lights only as she passes; but no tolls are collected in any of the outports by the corporation of Trinity House, except the light duties. In London, American and other ships, besides the toll to the several lights, pay a duty of about 8*d.* per ton, (under the denomination of Trinity duties) for the buoys and beacons, which are very numerous.

"The tolls for the benefit of the lights are, in general, double on American and other foreign ships to what British ships pay.

"With respect to the light duties on American ships passing up St. George's channel, the English channel, and the northern lights, the following is an accurate statement of the light duties paid by an American ship of 200 tons, and a British ship of the same burden, viz:

	£.	s.	d.
An American ship of 200 tons, passing through the English channel to London, pays			
to the numerous lights on the coast -	10	16	8
And, on her return - - -	10	16	8
Which is 1*s.* 1*d.* per ton, each way.			
If the same ship proceeds to the Baltic, the additional lights amount to -	4	1	3

Which is less than 5*d.* per ton, and is payable

for the single passage; but the same ship passes the northern lights on her back passage, without any additional charge.

	£. s. d.
An American ship of 200 tons, from America to Liverpool or Bristol, pays, for lights - - -	5 00 00
And thence to America - - -	5 00 00
Which is 6*d.* per ton each way.	
A British ship of 200 tons, from London to America, pays - - -	5 16 08
From America to London - -	5 16 06
Which is 7*d.* per ton each way.	
A British ship of 200 tons, from Liverpool or Bristol to America, pays	2 10 00
Which is 3*d.* per ton each way.	

On a supposition that an American ship performs the after-mentioned voyage, which rarely happens (it may be said never) she pays for 200 tons in the following proportion to a British ship, viz:

	American. £. s. d.	*British.* £. s. d.
From America to Bristol -	5 00 00	2 10 00
Bristol to London -	10 16 3	5 16 8
London to the Baltic	4 1 3	3 4 7
For her return to America -	15 16 8	8 6 8
Northern lights not charged for, the back passage.		
	£35 14 7	19 17 11

"So that an American ship of two hundred tons would pay £35 14*s.* 7*d.* (not £69 3*s.* 4*d.* as stated in the remarks) for a voyage from America to Liverpool or Bristol, from thence to London, from London to the Baltic, and home to America.

"A British ship, for the same voyage, would pay £19 17*s.* 11*d.*

"In the course of the above voyage a ship passes, and has the benefit of thirty-six lights; every one of which leads her clear of the most dangerous sands, shoals, or rocks; and American ships always avoid the payment of lights for their passage through the English Channel, if bound to a foreign port, by not entering a British port, unless bound there to deliver, or forced in by distress of weather; and then they only pay for such lights as they receive benefit from; and although American ships pay their light duties for the passage up and down the channel, yet if such ships do not pass all the lights, in the several channels, which they have paid for, either by not returning down channel, going north about, or never returning, the duties they paid for the several lights they have not passed are returned to them.

"Section 28. Nothing can be further from the intention of this country than any idea of so construing the treaty as to incapacitate the Americans from enjoying by favor, the advantages which are granted occasionally, by favor, to other friendly and neutral merchants. Nothing in the section can have any such effect. It does no more than permit American ships to carry on the trade as stipulated by the treaty.

"The intercourse which neutral ships have been allowed to enjoy with the British territories in India, though sanctioned by custom, appears, by some late decisions in our own courts of justice, to be contrary to law: and it will be necessary to make some general legislative provision upon that subject. The directors of the East India Company will then be legally authorized to give directions for the admission of neutral ships, subject to such regulations as they may think proper: provided, only, that they are not inconsistent with any act of Parliament for regulating their trade, nor with any treaty.

"By the proposed clause, the intercourse stipulated by the treaty is exempted from the discretion of the directors, and put upon the footing of right. With respect to all other intercourse, American ships will be capable of profiting, in common, with others, of such advantages as may be granted by favor."

From the tenor of these observations, it was evident that most of the points were so far settled as to leave little hope of alteration. I, however, insisted upon the equity of the objection against the tonnage duty, as well in my conference with Lord Grenville, as with a subsequent one that I had with Lord Liverpool. The answer was, that their light duties were not a branch of revenue; that the terms of the treaty left no room for construction; and that, independent of their desire to encourage their own navigation, the balancing of their light duties against our tonnage duties would constitute a precedent that would operate to their disadvantage in their future treaties with other nations. I concluded the discussion, on this head, by observing that it was reasonable to suppose, that the parties did intend to put their navigation upon an equal footing, in their intercourse with each other; that it was plain that this equality would not exist under the proposed tonnage duty, and that there remained no other mode of correcting the inequality, but by our Government's imposing and collecting a duty under the denomination of light money.

Light-houses in Europe are generally supported by a duty, imposed, for that special purpose, upon all ships, and the duty is commonly double upon foreign ships. I have not discovered that these tolls, or duties, have ever been included in the computation frequently made in the adjustment or equalization of the taxes imposed by different nations upon the ships which enter their ports.

These duties are not considered as a branch of revenue; from the manner in which our tonnage duty is levied, collected, and paid, it is deemed to be a branch of our revenue, though a considerable portion of the amount of the duty is annually applied to support our light-houses, beacons, buoys, &c.

It merits consideration, not only in reference to this country, but likewise as it respects the similar duties of other European nations, whether we ought not to impose, in like manner with them, a particular and adequate duty upon all ships for the support of our light-houses.

In these conferences I urged, but without success, the objection that I had before made against the full countervailing duty upon fish oils; as the

countervailing right was not exercised in its full extent in respect to tobacco and rice, I suggested the policy of a small additional duty only, to the very high duties already imposed upon this article. I was answered, that in tobacco and rice we were not rivals, but that in the whale fishery we were so; that, even against high duties, large quantities of our spermaceti oil, and occasionally cargoes of our brown oil, were sold in England, and that our skill and situation gave us great advantage over others in this branch of industry.

My efforts have been more successful in respect to our trade to India. A clause was added to the bill, giving it a retrospective operation from the time of the exchange of the ratifications of the treaty, by which the insurances which had been made here upon our ships in that trade will become legal. Another clause which had been added to protect such of the British officers against suits as, after the conclusion of the treaty and before the passage of the bill, had seized American ships trading to India, was rejected. This clause had been inserted in the bill with a special reference to the capture, by Lord Keith, at the Cape of Good Hope, of the ship Argonaut, Collect, master; its rejection leaves the remedy in full force, as well against the underwriters as against Lord Keith.

I found, in the course of these conferences, that our construction of the 13th article of the treaty, in respect to the outward voyage to India, would be admitted by this Government; and that we have a right, under that article, to go to India from England, Madeira, or any other country, and with productions collected and taken on board at any place, instead of being confined to a direct voyage from America to India; a construction of the article that the East India Company have endeavored to establish.

I likewise found the greatest readiness to put us upon as good a footing as any other nation in the trade which, by favor, may be carried on with India. A late decision in Westminster Hall had shown, that the trade hitherto carried on by foreigners with the British possessions in India, was against the navigation act: a bill has, therefore, been brought into Parliament, vesting in the directors of the East India Company a power to permit such trade under such regulations as may be judged advisable. These regulations will be principally for the purpose of preventing British subjects carrying on a trade under foreign flags; our ships, by this bill, will have an equal right with those of other nations in amity with Great Britain, to share in the coasting trade of India, in the freightage from India to China, and from India to Europe, the restrictions and limitations in our treaty notwithstanding.

The East India Company have opposed this bill, though I have good reason to be satisfied that they have done so, not from an aversion to our participation in the trade, but from an apprehension that British capital and British subjects would engage in it, to the injury of the company's monopoly.

The bill for carrying the American treaty into effect has passed into a law.

The bill permitting the ships of nations in amity with Great Britain to trade to the British possessions in India, under certain regulations, is before Parliament, and will probably pass into a law. (See page 3239.)

I annex copies of sundry papers which have passed between the Court of Directors and the Board of Control, respecting as well this bill as that which has passed into a law for carrying into effect the American treaty.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Papers referred to in the preceding letter:

J. Anstruther to Mr. Inglis.

LINCOLN'S INN, 31*st May*, 1797.

SIR: A case has lately occurred in the Court of King's Bench respecting the trade of foreigners to India, which renders some law upon the subject necessary. An action was brought upon a policy on the cargo of an American ship loaded in the British territories in India. Lord Kenyon held, that it was against the act of navigation for foreigners to export from, or import into the British territories in India, any goods whatever; and therefore nonsuited the plaintiff. If this decision be right, a Danish, or Swedish, or American ship, loading her cargo in India, is liable to be seized and confiscated, and some law must be passed to set the matter right.

The attention of the Board of Trade was called to the point by the American Minister. They sent the subject to the Board of Control, who thought the proper mode of remedying the evil was, to put the trade under the regulation of the East India Company. By their directions, I have prepared the accompanying act, to be submitted to the Court of Directors. I have the honor to be yours, &c.

J. ANSTRUTHER.

HUGH INGLIS, Esq.

Mr. Dundas to Mr. Inglis.

WHITEHALL, 14th *June*, 1797.

SIR: I have received your letters enclosing two clauses which are wished to be inserted in the bills now pending in Parliament, one for carrying into effect the treaty with America, the other for regulating the trade to be carried on with India by the ships of nations in amity with Great Britain.

These subjects are closely connected together, and I shall shortly give you my reasons why I would deem it very impolitic to bring either of those propositions under discussion. I do not think Parliament would agree to adopt them; and, therefore, all the unpopularity likely to arise from the discussion would attach on the East India Company alone.

First, with regard to the clause respecting the American intercourse with India, I think the clause

goes beyond the terms of the treaty; for I can discover no words in it to justify the proposition that the Americans are bound to go directly from America without touching at any other port; and therefore it would be most impolitic indeed to attempt, at the request of the East India Company, to make the situation of the American trade to India more severe than settled by a solemn and well considered treaty. Besides, it is well worthy the consideration of the East India Company, if it is not more impolitic to relax from the rigor of the American treaty, as it now stands, than to endeavor to draw it straighter than the terms of that treaty warrant. If a more extensive mode of trading to India is permitted to other nations in amity with Great Britain, the Americans, whose amity with us is at least as desirable as that of any other nation, would probably consider themselves hardly dealt with if they were to be kept in a worse state of intercourse with India than that which has been, and I think, probably will be, continued to other nations in amity with us.

This leads me to observe upon the clause proposed to be inserted in the other bill, relative to the intercourse of other nations in amity with us. Upon this subject it cannot fail to strike you, on the first view of it, that you are avowedly, by this clause, rendering more unfavorable to other nations the trade to India, than has, in fact, and in practice, been exercised by them. Surely the Court of Directors cannot think this is the moment when it can be thought right to excite the jealousy of other nations respecting our Indian pre-eminence; the reverse must be our conduct; and in proportion as we may be obliged to hold up our rights of sovereignty in that country, exactly in the same proportion must we convince other nations of the liberality of our commercial principles. In truth, the bill now brought forward puts the trade of other nations more under the check and control of the East India Company than it has hitherto in practice been; and, under such circumstances, it would, in my opinion, be most unwise to avow, by a proposition coming from them, that they intend, in the execution of it, to be more illiberal and rigorous than heretofore.

So far, with regard to the manner in which the proposition may operate on the feelings of foreign nations; but I would submit to the serious consideration of the East India Company, how far they would be wise, from considerations nearer home, to bring forward or to agitate such a proposition.

The manifest tendency of what you propose, if it has any effect at all, is to throw a difficulty in the way of the export of the produce and manufactures of this country. If the East India Company, in virtue of their monopoly, and the capital they poseses, not only in Britain but in India, are not able, by a wise and economical commercial system, to secure to themselves the export trade from Great Britain to India, against any competition with any foreign nation whatever, it is a confession at least unnecessary to bring forward, and one which the representatives of the commercial and manufacturing interests of G. Britain will not feel disposed to countenance, by lending their aid to render it more difficult for other nations to make British produce or manufactures part of their assortments to the Indian market. I have uniformly been of opinion, and always will remain so, that the East India Company must maintain their monopoly, not merely by legislative regulations and restrictions, which on such a subject will always prove to be unavailing and ineffectual, but by the exercise of a judicious and well devised system of commercial policy.

I have the honor to be, sir, your most obedient humble servant,

HENRY DUNDAS.

East India Company's Report, sent to Mr. Dundas, with the clauses alluded to in his letter to Mr. Inglis.

AT A COMMITTEE OF LAW-SUITS,
June 9, 1797.

"Pursuant to reference of court of 31st ultimo, the committee, with the assistance of the counsel and solicitor, took into consideration a letter from John Anstruther, Esq. enclosing draught of a bill proposed to be brought into Parliament for permitting ships of countries and States, in amity with His Majesty, to import into, and export from, the British possessions in India, with such regulations as may be made by the Court of Directors.

The committee also considered a clause in an act, now before the House of Commons, applicable to the 13th article of the treaty with the United States of America, (so far as relates to their trading to and from the East Indies;) and, having very maturely deliberated thereon, they are of opinion that it is necessary, on the part of the Company, and for the preservation of their interest, and of the general interests of this country, and to secure to it, as far as possible, the carrying trade, that all ships and vessels of countries and States, in amity with His Majesty, should be restrained from importing goods and commodities of the growth, produce, and manufacture of the British territories, into any port or place in the East Indies, being part of the British possessions, without having first landed such goods and commodities in the country or territory to which such ship shall truly, and *bona fide*, belong; and, also, that they should be restrained from importing into any port or place whatever, any goods or commodities exported by them from the British territories in the East Indies, otherwise than to the ports of the country to which such ship shall actually belong.

"Which is submitted to the court."

Clause proposed by the East India Company to be added to the American bill.

"Provided always, that nothing in this act shall extend, or be construed to extend, to authorize any citizen of America to carry on any trade, otherwise than directly from some port in America to the said British territories in India; and from the said British territories in India to some port in America; anything herein contained to the contrary notwithstanding."

N. B. A similar clause *mutatis mutandis* was proposed to be added to the foreign trade bill.

FRANCE.

[Communicated to Congress, February 5, 1798.]

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

I have received a letter from his excellency Charles Pinckney, Esq., Governor of the State of South Carolina, dated on the 22d of October, 1797, enclosing a number of depositions of witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer, belonging to Cape François or Monte Christo, called the Vertitude, or Fortitude, and commanded by a person of the name of Jordon, or Jourdain, and particularly upon an English merchant ship named the Oracabissa, which he first plundered, and then burned, with the rest of her cargo of great value, within the territory of the United States, in the harbor of Charleston, on the 17th day of October last; copies of which letter and depositions, relative to the same subject, received from the collector of Charleston, are herewith communicated.

Whenever the channels of diplomatic communication between the United States and France shall be opened, I shall demand satisfaction for the insult, and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States, and such foreigners as have a right to enjoy their peace and the protection of their laws within their limits, in that, as well as in some other harbors, which are equally exposed.

JOHN ADAMS.

UNITED STATES, *Feb.* 5, 1798.

Letter from Governor Pinckney to the President of the United States.

CHARLESTON, *October* 22, 1797.

SIR: I have the honor to submit to your consideration the enclosed affidavits respecting the English ship Oracabissa, burnt on Tuesday last within the bar of this harbor, by a privateer, said to be called the Vertitude, commanded by a Captain Jourdain, and belonging to Cape François; also of the capture of the ship Pallas, belonging to this port, and the Mary, of Savannah. By an examination of these affidavits, you will find this was a very glaring and wanton violation of the neutrality of the United States, and such as will require their serious attention. The distance from this city to the place where the act was committed prevented our interfering in time. As soon as I received intelligence of it from the British Consul, I ordered an armed force from Fort Johnson to proceed to the Oracabissa, to protect her, while within our harbor and the jurisdictional line of the United States, from seizure, depredation, or insult; but the cutter was not able to get down before the ship was destroyed, and the privateer had put to sea, and proceeded beyond the limits of the United States, where she captured the Pallas and the Mary the next day. As I am convinced these violations of our neutrality within our harbors and limits cannot be countenanced by the French Government, but are generally committed by vessels not commissioned, or which proceed contrary to their instructions, I have considered it my duty to transmit them to you for your determination, and have requested the collector to forward copies to the proper department. The trade of this city being extremely important to the revenue of the United States, and much exposed, from its southern situation, to cruisers from the Floridas, Bahamas, and the West Indies, British as well as French, (for they have both lately captured a number of our vessels,) I conceive it would be proper that a revenue cutter of at least twenty guns should be equipped for the use of this port, and for the protection of the neutrality of the United States within our jurisdictional line, until the establishment of a general peace, which, I trust, will soon take place; and that all our differences with the French Republic will be honorably and amicably adjusted.

I have the honor, &c.

CHARLES PINCKNEY.

STATE OF SOUTH CAROLINA, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me the said notary, Jonathan Story, master of the ship Oracabissa, of London, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that on his voyage from Jamaica, loaded with sugar and rum, bound for London, he met with severe gales of wind, by which he lost his main and mizen masts, and sprung a leak; that being in great distress off the harbor of Charleston, the British Consul, having had information of his situation, sent six or seven men to assist him, and enable him to get over the bar, and up to Charleston, to repair the said vessel; that, after several days lying at anchor off the bar, on Friday evening, the thirteenth of this instant, October, he got over the bar with the said ship, and came to anchor in Five Fathom Hole, in the harbor of Charleston aforesaid; the wind being contrary, he could not proceed up to the city; that, on Monday evening, the sixteenth of said month, about sun-down, he saw a small armed schooner come over the bar, and came to anchor to the north-northwest of said ship, but showed no colors; that immediately after the said armed schooner weighed anchor, and came close up under their starboard quarter, and came to anchor; ordered him to hoist out his boat, but on his answering his boat was stove, they sent their boat, with an officer and four or five armed men, with pistols and cutlasses, took forcible possession of

said ship Oracabissa, ordered the deponent, with his papers, on board the said schooner, and carried him and one man on board, and sent the boat, with four or five armed men, on board the said ship; that, when he got on board, he perceived two carriage guns, but the small arms were concealed from him; that he asked the name of the said schooner, and the Captain's name, but they refused to inform him; one of the men said she came from Cape François, and was a French privateer; that, as soon as the boat went the second time with men on board, he saw them begin to plunder the vessel and cargo, and continued to do so till eight o'clock on Tuesday morning; that they brought as much rum and sugar of the cargo, and the rigging and sails of the vessel, as they could stow in the said privateer; that at nine o'clock they cut the said ship Oracabissa's cables, and set her on fire in four several places, to wit—fore, main, and after hatchway, and in the gun room; the ship then drifted on the breakers, near the shore; after which, the Captain of the said privateer told him he had fifty men on board, but would not tell him his name, or the vessel's name; also said that the Captain of a British frigate had burned a privateer he commanded in Hampton Roads, and for that reason he burned the ship, but could he have carried her off, he would have done it; that the deponent received part of his clothes in a bag, and received no personal bad treatment, himself or crew; immediately after, the privateer weighed anchor, got over the bar, and went into Stono Inlet, and landed him with fifteen men on the beach, being the whole number on board the ship when taken at anchor in the harbor of Charleston, contrary to the laws of neutrality and of nations; that they got to Mr. Taylor's, who treated them very kind, and in a friendly manner.

JONATHAN STORY.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charleston, this 18th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

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STATE OF SOUTH CAROLINA, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Michael Delany, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he is a branch pilot belonging to Charleston; that on this morning A. M. as he was conducting the brig Hannah, of Charleston, Captain Daniel Bythewood, into harbor, this 17th instant, at a quarter past nine o'clock, he discovered the British ship Oracabissa on fire, from her stern to the main hatch; but, being then about four miles distant from her, he cannot be more particular; that, at the time he first discovered the fire, there were no colors flying that he could perceive, but in a few minutes after he saw colors flying at the fore-topmast head, but could not distinguish of what nation

MICHAEL DELANY, his ⋈ mark.

Captain Daniel Bythewood being also duly sworn agreeably to law, deposeth that, on this morning, about a quarter past nine o'clock, being in the brig Hannah, of Charleston, under his command, as he was crossing the bar of Charleston, having Michael Delany, a branch pilot, on board, he saw a large ship dismantled, and at anchor in Five Fathom Hole, within the bar and harbor of Charleston; he saw the smoke and flames issuing from the said ship from her stern to the main hatchway; that when he first discovered the smoke he perceived no colors, but afterwards saw colors flying at the fore-topmast head, but could not distinguish to what nation they belonged.

DANIEL BYTHEWOOD.

Mr. John Colhoun being also duly sworn agreeable to law, deposeth that, on yesterday the sixteenth of this instant, October, about half past one o'clock P. M., he went on board the British ship Oracabissa, in Five Fathom Hole, commanded by Captain Story, with provisions sent by His Britannic Majesty's Consul for the captain and men on board, the said ship having lost her main and mizen masts, being in distress from severe gales, and a great leak which kept one pump going; about half past two, being at dinner with the captain, one of the seamen came and informed him there was a picaroon coming in, he had better be on his guard for fear of an attack, when the captain asked the deponent to go out and look at the said picaroon, which he did, and was of opinion, with the seamen and pilot, that the said picaroon or privateer was an enemy's vessel; that the seamen wanted to fire at her; but, by the advice of the deponent, the captain forbad it, but got the six-pounder in order to defend the vessel if she was attacked; the said picaroon came over the bar, passed the ship, and came to an anchor between her and the light-house; soon after, the said picaroon weighed anchor and came to N. N. W., at between two and three miles distance, about five o'clock; the deponent left the ship and proceeded to Charleston in a whale boat, with two negroes; that he rowed close under the stern of the said picaroon or schooner privateer to endeavor to find out what she was; that he hailed her and asked from whence she came, to which answer was made in bad or broken English, from Savannah, and also desired the deponent to come on board, to which he refused; he then asked him if he was a pilot, he answered, no; but would send him one if he wanted one; to this the same voice asked what ship that was, to which he replied, Ay! ay! He then rowed towards the ship to put them on their guard, on which the said picaroon weighed anchor and endeavored to cut him off from the ship, but he hailed the ship and told them to take care, at which time the said schooner fired a shot

at him; he then ordered the sail set, and stood for the light-house, at which time he received a second shot, and was chased until he got into shoal water; they then fired a third shot, but were obliged to desist chasing, and, proceeding to the ship, came to anchor about a mile from her stern; he then proceeded to Charleston, and about nine o'clock informed the British Consul of the above particulars.

JOHN COLHOUN.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charleston, this 17th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

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STATE OF SOUTH CAROLINA, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me the said notary, Mr. Shadrach Turner, of Charleston, a pilot, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare that, on Monday, the 16th instant, he was sent on board the British ship Oracabissa, Captain Story, who lay at anchor in Five Fathom Hole, within the bar and harbor of Charleston, in distress, to relieve the pilot who had been on board several days and was sick; that about three o'clock a small French schooner privateer came over the bar and came to anchor to the northward of the said ship; that seeing a boat go from the ship, in which Mr. Colhoun was, the privateer got under way and chased her until she got into Light-house creek, then run up under the stern of the said ship, and came to anchor on her starboard quarter, hailed her, and asked from whence she came, and was answered from Jamaica, and came there in distress; they then ordered the captain to lower his boat down, and come on board; he answered the boat was stove; on which the privateer hoisted his boat out, and sent a lieutenant and another officer with two men on board, who took forcible possession of the ship as a prize to said privateer, and sent the captain with his papers on board her, and afterwards sent several more men on board to assist in pumping, who began to plunder the vessel, and continued to do so all night, sent sugar, rum, cordage, and sails on board the said schooner, as much as could be stowed, till eight o'clock in the morning of the 17th, when they sent Captain Story on board the ship to get his clothes, and see they had taken none; that between eight and nine all the people were sent on board the privateer, and at nine o'clock they set her on fire in several places, and cut her cables; she then drifted on the Folly Breakers, with her colors flying; they then got under way, and stood over the bar and into Stono Inlet, where all the people were landed but the deponent, whom they kept on board, having first proposed to land them on Light-house Island, but the deponent informed them it could not be done with safety; that they lay in Stono all the night; that yesterday morning they got out and bore down on the ship Pallas and ship Betsey, who were bound for Charleston; they took the Pallas and let the Betsey go, and sent the deponent on board her, in which vessel he got up to Charleston this morning; that when he was on board the privateer the captain showed him his commission, in which the said schooner is called the Vertitude, and the captain, Jordon, of Monte Christo; that he was well treated on board.

SHADRACH TURNER.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charleston, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

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STATE OF SOUTH CAROLINA, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, William Minott, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he was employed by Benjamin Moodie, Esq., His Britannic Majesty's Consul in this city, to go on board the British ship Oracabissa, Captain Story, who was in great distress, having lost her main and mizen mast, and sprung aleak; that, on the 9th day of this instant, October, he, with six more men, went from this city, and got on board said vessel, then about three leagues over the bar; that they came to anchor that evening, and on Friday, the 13th, the ship got over the bar of Charleston, and came to anchor in Five Fathom Hole, the wind being contrary could not proceed for the city; that the ship continued at anchor till Monday afternoon, about three o'clock, when a small armed schooner privateer came over the bar, and came to anchor about north of the ship; that a little before sundown the said schooner weighed anchor, and came close along side said ship and dropped anchor; that she had no colors up. They ordered the captain of the ship to hoist out his boat and come on board with his papers, who answered the boat was stove; they then sent him their boat with an officer and four or five armed men, who took forcible possession of the vessel, and carried the captain, with his papers, and the boatswain, on board the privateer, and detained them, and sent the boat again with more men on board the ship; that they immediately began to plunder the cargo and vessel, and continued to carry sugar, rum, coffee, cordage, and sails, all night, with all

the other articles they could carry; that, on the morning of Tuesday, the 17th, about nine or ten o'clock, they set the said ship Oracabissa on fire in three places that he saw; cut both cables, by which she drifted on the Folly Breakers, close by the light-house shore; that the deponent was informed the said privateer was called the Adventure, from Cape François, Captain Jordon; they then took the deponent, Captain Story, and all the men on board of the ship on board the privateer, got under way and over the bar, then run into Stono Inlet, where they landed all the people except Mr. Turner, the pilot, whom they carried away. WILLIAM MINOTT.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charleston, the 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

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State of South Carolina, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Daniel Allen, master of the ship Flora, of Providence, in the State of Rhode Island, who being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he sailed from Turk's Island on the 10th day of this instant, October, bound for Charleston, in the State of South Carolina; that he arrived at the bar on yesterday, the 18th instant, and on this morning got over the bar, when a small French privateer schooner came along side, and obliged him to haul his wind and return over the bar at a very considerable risk, having no pilot on board. After he got over the bar, the said privateer obliged him to take six men belonging to the brig Mary on board his vessel, when they permitted him to proceed over the bar and up to the city, where he arrived about 11 o'clock this day, the 19th instant.

DANIEL ALLEN.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charleston, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL, *Q. U. Not. Pub.*

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State of South Carolina, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and Notary Public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Thomas Pierson, first mate, Robert Glaister, second mate, Alexander Jordon, and Benjamin Jeffries, seamen, on board the ship Pallas, of Charleston, who being severally duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that they sailed on board the said ship Pallas from Port Glasgow, commanded by Captain John Hunter, loaded with coals and dry goods, American property, and bound for Charleston, in the State of South Carolina, aforesaid, on Monday, the 12th day of August last, being all natives of the United States; that they arrived in said ship off the bar of Charleston on Monday, the 16th of this instant, October; that on Wednesday, the 18th, about 12 o'clock, they were in ten fathams water, N. N. W. of the Charleston light-house, about six leagues from the land, when a small schooner, a French privateer, which they were informed was called the Fortitude, commanded by Captain Jordon, carrying two six-pounders, came up, having then an English jack flying, and ordered them to hoist out the boat, and the captain to come on board, and bring his papers with him; that being some time getting, the privateer sent her boat along side, and an officer with armed men came on board, and forcibly took Captain Hunter, two men, and a boy, on board the privateer, and sent more men on board the ship, took possession of her as a prize to the said privateer, put the deponents, with four more of the crew, and two passengers, on board the ship Mary, of Hamburg, leaving Captain Hunter, two men, and a boy, on board the Pallas; that the officer who was put on board the said ship Pallas said he would carry her to Cape François, in St. Domingo; that the ship Mary got over the bar of Charleston this morning, and landed them in the city about 11 o'clock this day.

THOMAS PIERSON,
ROBERT GLAISTER,
ALEXANDER GORDON,
BENJ. JEFFRIES, his ⋈ mark.

In testimony whereof, I, the said notary have hereunto set my hand and affixed my seal of office, at Charleston, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

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State of South Carolina, *city of Charleston:*

By John Mitchell, Esq., Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Ithamar Haskin, second mate, Thomas Davis, Isaac Sanford, John Clark, and Thomas Smith, seamen on board the brig Mary, of Savannah, in the State of Georgia, who being duly sworn on the Holy Evangelists of Almighty

God, did depose, testify, and declare, that they sailed on board the said brig Mary, of Savannah, in Georgia, commanded by Francis Lightborne, from Savannah aforesaid, bound for London; that they and each of them are native Americans; that they arrived at London, and on the 7th day of July last, being loaded with porter and dry goods, they sailed in said vessel under the command of the said Captain Lightborne; John Stafford, first mate, and a boy; having a long passage, they did not arrive on the coast of America till Wednesday morning, the 18th instant, October; they made the land near Charleston harbor in sixteen fathoms water; that about eight o'clock in the night of the same day, being in eight fathoms water, about three leagues from the land and light-house of Charleston, a small French privateer schooner, carrying two guns and several swivels, came along side the said brig, hailed her, and ordered the captain with his papers to come on board, which he did. They detained the captain and two men, and sent an officer with eight men on board the said brig, who took forcible possession of her as a prize to said privateer; that this morning the deponents were put on board the ship Flora, of Providence, State of Rhode Island, who brought them to Charleston, South Carolina, and landed them about eleven o'clock; the said Captain Lightborne, John Stafford, the mate, and the boy, being put on board the said brig Mary, whom the prize-master declared he would carry to Cape François, in St. Domingo, where he said she came from and belonged to, but never hoisted any colors during the whole time.

ITHAMAR HASKIN,
THOMAS DAVIS, his ⋈ mark.
ISAAC SANDFORD,
JOHN CLARK,
THOMAS SMITH, his ⋈ mark.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charleston, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL,
Q. U. Notary Public.

GREAT BRITAIN.

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[Communicated to the House of Representatives, February 19, 179

Gentlemen of the House of Representatives:

In the report of the Secretary of State, and the documents herewith transmitted, will be found such information as is in our possession, of the losses recovered by the citizens of the United States, under the treaty made with Great Britain, which are now presented to the House of Representatives in compliance with their request, in their resolution of the first of this month.

JOHN ADAMS.

United States, *Feb.* 18, 1798.

Department of State,
February 16, 1798.

The Secretary of State respectfully presents, as directed, the annexed papers, exhibiting, pursuant to a resolve of the House of Representatives of the first instant, "a statement of the losses recovered by the citizens of the United States, under the treaty made with Great Britain;" and, as far as he possesses information, "specifying those cases which have actually been decided in the Court of Appeals."

Document A contains a schedule of the cases of costs and damages which, in order to save the delay and expense attending their prosecution before the judiciary tribunals, were referred, by the consent of the American and British Governments, to the decision of Sir William Scott, the King's Advocate General, and Doctor John Nicholl, the advocate retained on the part of the United States. The annexed extract of a letter from Mr. Bayard, the American agent, dated 28th February, 1797, and marked A A, will show how advantageously to the claimants this class of cases was settled by the referees. The sums awarded were paid on the 28th of last July.

Document B contains a list of the causes in which, on the 29th of last July (the date of the latest communication upon the subject) restitution had been decreed by the Board of Commssioners appointed to carry into effect the 7th article of the Treaty of Amity, Commerce, and Navigation with Great Britain; and document C contains such cases wherein the amount of the awards had been paid at the time mentioned, being all that were then due. It is proper to add, that, in a letter from the American Commissioners, dated the 29th of July, 1797, they intimate that, "except some more cases of capture, under the orders of 1795, for taking vessels loaded with provisions, there is very little prospect of any other being in a state to come before the Commissioners, till the term of eighteen months, from the commencement of their business, shall have expired. Every cause, in which the parties were furnished with the necessary evidence, had been decided; and they trusted, that almost every principle of importance, or liable to contest, had been settled and determined, until the question should be agitated, if any should ever be made, of their right to judge on cases not decided by the Commissioners of Appeal, after the said term of eighteen months is elapsed."

The Department of State is not in possession of documents from which any tolerably accurate or comprehensive statement can be made of the decision decreeing restitution, or reversing sentences of condemnation, which have actually taken place in the High Court of Admiralty and Court of Appeals in prize causes; but owing to the multiplicity of business which, in time of war, accumulates upon them, and to the small space of time allotted for the sittings of the latter, there is reason to believe that no great despatch has been given to the decision of the American causes depending therein. Document D contains such as

have been extracted from the imperfect papers, with which the Department of State is furnished in relation to that subject.

TIMOTHY PICKERING.

To the PRESIDENT *of the United States*:

[The schedules, or lists, being merely the names of the vessels and the amounts awarded, are omitted.]

TUNIS.

[Communicated to the Senate, Feb. 21, 1798.]

Gentlemen of the Senate:

Having received the original treaty concluded between the United States and the Government of Tunis, I lay it before the Senate of the United States, whether they advise and consent to its ratification.

JOHN ADAMS.

UNITED STATES, *Feb.* 21, 1798.

To all whom these presents shall come or be made known:

Whereas the underwritten David Humphreys hath been duly appointed Commissioner Plenipotentiary, by letters patent under the signature of the President and seal of the United States of America, dated the 30th day of March, 1795, for negotiating and concluding a Treaty of Amity and Commerce with the most excellent and illustrious Lord the Bey and Supreme Commander of the State of Tunis: whereas in conformity to the necessary authority committed to him therefor he did constitute and appoint Joel Barlow an agent in the business aforesaid: and whereas the annexed treaty was, in consequence thereof, agreed upon, in the manner and at the time therein mentioned, through the intervention of Joseph Stephen Famin, invested with full powers for the said purpose:

Now know ye, that I, David Humphreys, Commissioner Plenipotentiary, aforesaid, do approve and conclude the said treaty and every article and clause therein contained, reserving the same, nevertheless, for the final ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

In testimony whereof I have signed the same with my name and affixed thereto my seal, at the city of Madrid, this 14th day of November, 1797.

DAVID HUMPHREYS.

GOD IS INFINITE.

Under the auspices of the greatest, the most powerful, of all the Princes of the Ottoman nation, who reign upon the earth, our most glorious and most august Emperor, who commands the two lands and the two seas, Selim Kan the Victorious, son of the Sultan Moustafa, whose realm may God prosper until the end of ages, the support of Kings, the seal of justice, the Emperor of Emperors:

The most illustrious and most magnificent Prince Hamouda Pacha Bey, who commands the Odgiak of Tunis, the abode of happiness, and the most honored Ibrahim Dey, and Soliman, Aga of the Janissaries, and chief of the Divan, and all the elders of the Odgiak, and the most distinguished and honored Adams, President of the Congress of the United States of America, the most distinguished among those who profess the religion of the Messiah, of whom may the end be happy.

We have concluded between us the present treaty of peace and friendship, all the articles of which have been framed by the intervention of Joseph Stephen Famin, French merchant residing at Tunis, Chargé d'Affairs of the United States of America, which stipulations and conditions are comprised in twenty-three articles, written and expressed in such a manner as to leave no doubt of their contents, and in such way as not to be contravened.

ARTICLE 1. There shall be a perpetual and constant peace between the United States of America and the magnificent Pacha, Bey of Tunis: and also a permanant friendship, which shall more and more increase.

ART. 2. If a vessel of war of the two nations shall make prize of an enemy vessel, in which may be found effects, property, and subjects of the two contracting parties, the whole shall be restored: the Bey shall restore the property and subjects of the United States, and the latter shall make a reciprocal restoration; it being understood on both sides, that the just right of what is claimed shall be proved.

ART. 3. Merchandise belonging to any nation which may be at war with one of the contracting parties, and loaded on board of the vessels of the other, shall pass without molestation, and without any attempt being made to capture or detain it.

ART. 4. On both sides, sufficient passports shall be given to vessels, that they may be known and treated as friendly; and, considering the distance between the two countries, a term of eighteen months is given, within which term respect shall be paid to the said passports, without requiring the *congé* or document, (which at Tunis is called testa,) but after the said term the *congé* shall be presented.

ART. 5. If the corsairs of Tunis shall meet at sea with ships of war of the United States having under their escort merchant vessels of their nation, they shall not be searched or molested; and in such case the commanders shall be believed upon their word, to exempt their ships from being visited, and to avoid quarantine; the American ships of war shall act in like manner towards merchant vessels escorted by the corsairs of Tunis.

ART. 6. If a Tunisian corsair shall meet with an American merchant vessel, and shall visit it with her boat, she shall not exact anything, under pain of being severely punished; and, in like manner, if a vessel of war of the United States shall meet with a Tunisian merchant vessel, she shall observe the same rule. In case a slave shall take refuge on board an American vessel of war, the Consul shall be required to cause him to be restored; and if any of their prisoners shall escape

on board of the Tunisian vessels, they shall be restored; but if any slave shall take refuge in any American merchant vessel, and it shall be proved that the vessel has departed with the said slave, then he shall be returned or his ransom shall be paid.

ART. 7. An American citizen having purchased a prize vessel from our Odgiak, may sail with our passport, which we will deliver for the term of one year, by force of which our corsairs, which may meet with her, shall respect her; the Consul, on his part, shall furnish her with a bill of sale, and, considering the distance of the two countries, this term shall suffice to obtain a passport in form; but after the expiration of this term, if our corsairs shall meet with her without the passport of the United States, she shall be stopped and declared good prize, as well the vessel as the cargo and crew.

ART. 8. If a vessel of one of the contracting parties shall be obliged to enter into a port of the other, and may have need of provisions and other articles, they shall be granted to her without any difficulty, at the price current of the place; and if such a vessel shall have suffered at sea, and shall have need of repairs, she shall be at liberty to unload and reload her cargo, without being obliged to pay any duty.

ART. 9. If, by accident, and by the permission of God, a vessel of one of the contracting parties shall be cast by tempests upon the coasts of the other, and shall be wrecked or otherwise damaged, the Commandant of the place shall render all possible assistance for its preservation, without allowing any person to make any opposition; and the proprietor of the effects shall pay the costs of salvage to those who may have been employed.

ART. 10. In case a vessel of one of the contracting parties shall be attacked by an enemy under the cannon of the forts of the other party, she shall be protected and defended as much as possible; and when she shall set sail, no enemy shall be permitted to pursue her from the same port, or any other neighboring port, for forty-eight hours after her departure.

ART. 11. When a vessel of war of one of the parties shall enter a port of the other, she shall be saluted by the forts, and shall return the salute, gun for gun, neither more nor less. But there shall be given by the parties, respectively, a barrel of powder for every gun which shall be required for the salute.

ART. 12. When citizens of the United States come with the dependencies of Tunis, to carry on commerce, the same respect shall be paid them as the merchants of other nations enjoy; and if they choose to establish themselves within our ports, no opposition shall be made; and they shall be free to avail themselves of such interpreters as they may judge necessary, without any opposition thereto, in conformity with the usages of other nations; and if any Tunisian subject shall establish himself within the dependencies of the United States, he shall be treated in the same manner. If a Tunisian subject shall freight an American vessel and load her with merchandise, and he shall afterwards wish to unlade it or ship the same on board of another vessel, we will not permit him, until the matter shall be decided by merchants, who shall make an award thereon, which shall be conclusive. No captain shall be detained against his will in port, except in the case of our ports being shut for the vessels of all other nations; which may extend to merchant vessels, but not to those of war. The subjects or citizens of the two nations shall be protected by the Government or Commandants of the places where they may be, and not by the other authorities of the country. In case the Government of Tunis shall have need of an American vessel for its service, the captain shall freight his vessel, and the freight shall be paid to him according to the agreement of the Government, without his being allowed to refuse.

ART. 13. If among the crews of merchant vessels of the United States, there shall be found subjects of our enemies, they shall not be made slaves, on condition that they do not exceed a third of the crew: and when they do exceed a third, they shall be made slaves; the present article only concerns the sailors, and not the passengers, who shall not be, in any manner, molested.

ART. 14. The citizens of the United States of America, who shall transport into the kingdom of Tunis the merchandise of their country, in the vessels of their nation, shall pay three per cent. duty. Such as may be laden by such citizens under a foreign flag coming from the United States, or elsewhere, shall pay ten per cent. duty. Such as may be laden by foreigners on board of American vessels, coming from any place whatever, shall also pay ten per cent. duty. If any Tunisian merchant wishes to carry merchandise of his country, under any flag whatever, into the United States of America, and on his own account, he shall pay three per cent. duty.

ART. 15. It shall be free for the citizens of the United States to carry on what commerce they please in the kingdom of Tunis, without any opposition, and they shall be treated like the merchants of other nations; but they shall not carry on commerce in wine, nor in prohibited articles; and if any one shall be detected in a contraband trade, he shall be punished according to the laws of the country. The Commandants of posts and castles shall take care that the captains and sailors shall not load prohibited articles; but if this should happen, those who shall not have contributed to the smuggling shall not be molested nor searched, no more than the vessel and cargo, but only the offender, who shall be demanded to be punished. No captain shall be obliged to receive merchandise on board of his vessel, nor to unlade the same, against his will, until his freight shall be paid.

ART. 16. The merchant vessels of the United States which shall cast anchor in the road of the Goulette, or any other port of the kingdom of Tunis, shall be obliged to pay the same anchorage for entry and departure which French vessels pay, to wit: seventeen piasters and an half, money of Tunis, for entry, if they import merchandise, and the same for departure, if they take away a cargo; but they shall not be obliged to pay anchorage if

they arrive in ballast, and depart in the same manner.

ART. 17. Each of the contracting parties shall be at liberty to establish a Consul in the dependencies of the other; and if such Consul does not act in conformity with the usages of the country, like others, the Government of the place shall inform his Government of it, to the end that he may be changed and replaced; but he shall enjoy, as well for himself, as his family and suite, the protection of the Government; and he may import, for his own use, all his provisions and furniture without paying any duty; and if he shall import merchandise, which shall be lawful for him to do, he shall pay duty for it.

ART. 18. If the subjects or citizens of either of the contracting parties, being within the possessions of the other, contract debts, or enter into obligations, neither the Consul nor the nation, nor any subjects or citizens thereof, shall be in any manner responsible, except they or the Consul shall have previously become bound in writing; and, without this obligation in writing, they cannot be called upon for indemnity or satisfaction.

ART. 19. In case of a citizen or subject of either of the contracting parties dying within the possessions of the other, the Consul or the Vekil shall take possession of his effects, (if he does not leave a will,) of which he shall make an inventory, and the Government of the place shall have nothing to do therewith; and, if there shall be no Consul, the effects shall be deposited in the hands of a confidential person of the place, taking an inventory of the whole, that they may eventually be delivered to those to whom they of right belong.

ART. 20. The Consul shall be the judge in all disputes between his fellow-citizens or subjects, as also between all other persons who may be immediately under his protection; and in all cases wherein he shall require the assistance of the Government where he resides to sanction his decisions, it shall be granted to him.

ART. 21. If a citizen or subject of one of the parties shall kill, wound, or strike a citizen or subject of the other, justice shall be done according to the laws of the country where the offence shall be committed. The Consul shall be present at the trial; but if any offender shall escape, the Consul shall those in no manner responsible for it.

ART. 22. If a dispute or law suit on commercial or other civil matters shall happen, the trial shall be had in the presence of the Consul, or of a confidential person of his choice, who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations.

ART. 23. If any difference or dispute shall take place concerning the infraction of any article of the present treaty, on either side, peace and good harmony shall not be interrupted until a friendly application shall have been made for satisfaction; and resort shall not be had to arms therefor, except where such application shall have been rejected; and if war be then declared, the term of one year shall be allowed to the citizens or subjects of the contracting parties to arrange their affairs, and to withdraw themselves with their property.

The agreements and terms above concluded by the two contracting parties shall be punctually observed, with the will of the Most High. And for the maintenance and exact observance of the said agreements, we have caused their contents to be here transcribed, in the present month of Rebia Elul, of the Hegira one thousand two hundred and twelve, corresponding with the month of August, of the Christian year one thousand seven hundred and ninety-seven.

The AGA SOLIMAN'S
signature and seal.
IBRAHIM DEY'S
signature and seal.
The BEY'S
signature and seal.

Extract of a letter from Joel Barlow, Esquire, to Colonel David Humphreys, dated

ALGIERS, *May* 23, 1797.

"The peace of Tunis is concluded, as I am confidently informed by Mr. Famin. The sickness of the First Secretary of State has prevented its being enregistered, signed, and sent me. It is on the footing of note No. 3, which I sent you by Captain O'Brien. I shall, at a proper time, send you copies of all my letters on this subject, to convince the Executive I could do no better."

[The note No. 3, above referred to, does not appear among the papers transmitted by Colonel Humphreys: but in Captain O'Brien's journal of his mission to Tunis, to negotiate, in conjunction with Mr. Famin, a peace with that regency, there are three notes of the terms of peace; the first, proposed by the Bey, containing military and naval stores, estimated at sixty-eight thousand five hundred and fifty dollars, but which would cost much more; also, fifty thousand dollars in cash, and in presents twenty-two thousand, in the whole one hundred and forty thousand five hundred and fifty dollars. Captain O'Brien having rejected these terms, proposed others containing military and naval stores to the amount of twenty-nine thousand three hundred and fifty dollars, estimated, as before, much under the real cost to the United States, and cash and presents the same as proposed by the Bey, the whole amount, one hundred and one thousand three hundred and fifty dollars. These terms were rejected by the Bey, who then offered the following as definitive:]

TERMS No. 3.

Determined terms of Hamouda, Bashaw of Tunis, to make a peace with the United States of America.

26 guns, 12-pounders, carriages complete for sea.
14 guns, 8-pounders, do.
12,000 balls from 4 to 24 lbs.
250 quintals of gunpowder.
50 quintals of musket powder.
20 keels 52 feet long each.
500 knees, oak.

200 forked knees.
60 masts fit for vessels from 36 guns to 12: four different sizes.
300 oars, 34 feet long each.
800 oak plank from 3 to 27½ inches, from 12 to 16 feet.
5,000 pine boards, 3 inches, 1 foot broad, 12 and 16 feet long.
300 pieces ranging timber, pine, 9, 10, 11, and 12 inches.
10 cables of 14 inches, 110, 120 fathoms each.
10 cables of 12 do.
15 hawsers, from 6, 7, 8 inches.
600 quintals Swedish iron in bars.
200 barrels of pitch.
200 barrels of rosin.
200 barrels of tar.
40 quintals of match rope.

[The above called]

Regalia, supposed amount in dollars,	35,000
Peace, cost in money, - - -	50,000
Peace presents, - - - -	12,000
Consuls' presents, - - - -	4,000
Sackatappa, or secret service, - -	6,000
Total amount in dollars, - -	107,000

Extract of a letter from Colonel Humphreys to the Secretary of State, dated at

MADRID, *November* 14, 1797.

"I have the honor to transmit to you herewith the original treaty lately concluded between the United States and Tunis, for the consideration of the Executive. And I cannot refrain from recommending, at the same time, to the favorable notice of Government, the persevering, intelligent, and honorable conduct of Mr. Joseph Stephen Famin, in the management of this tedious and difficult negotiation."

DEPARTMENT OF STATE,
February 21, 1798.

The foregoing extracts from Mr. Barlow's and Colonel Humphrey's letters, and from Captain O'Brien's journal, are truly made.

TIMOTHY PICKERING.

IN SENATE, FEBRUARY 28, 1798.

Mr. BINGHAM, from the committee to whom was referred the consideration of the Treaty with the Bay of Tunis, made the following report:

That a peace with the Bey of Tunis, after a variety of difficulties, and a tedious negotiation, has been at length concluded on the following terms, viz:

In money - - - -	$50,000
In naval stores, called regalia -	35,000
In peace presents - - -	12,000
In Consuls' presents - -	4,000
In sackatappa, or secret service money - - - -	6,000
	107,000

The greatest portion of which, it is supposed, has already been disbursed through the medium of a temporary loan, obtained on account of the United States.

The committee further report the following resolution:

Resolved, That the Senate do advise and consent to the ratification of the Treaty of Peace and Friendship between the United States of America and the Bey and Government of Tunis, concluded in the month of August, 1797, on condition that the fourteenth article of the said treaty, which relates to the duties on merchandise, (to be reciprocally paid by the citizens and subjects of the said parties, in their respective ports) shall be suspended.

That it be recommended to the President of the United States to enter into a friendly negotiation with the Bey and Government of Tunis, on the subject of the said article, so as to accommodate the provisions thereof to the existing treaties of the United States with other nations.

AMERICAN SEAMEN.

Report of the Secretary of State to the House of Representatives of the United States, communicated March 1, 1798.

DEPARTMENT OF STATE,
February 27, 1798.

In obedience to their resolve of the 29th of November last, (which was received on the 29th instant) the Secretary of State lays before the House of Representatives an abstract of all the returns of registered American seamen, and of the protests and returns respecting impressed seamen, since the 17th of February, 1797, (the date of his last report,) transmitted to him by the Collectors of the different ports, pursuant to the directions of the act for the relief and protection of American seamen; and copies or abstracts of such communications from the agents employed by virtue of the said act, in foreign ports, as have been received.

To these the Secretary adds sundry important communications, on the same subject, from Mr. King, the Minister of the United States at London.

TIMOTHY PICKERING.

[Here follows a list of names of impressed American seamen, from the protests of masters of vessels, and from returns made by the Collectors of the different ports.]

Communications from David Lenox, Esquire, Agent for procuring the release of impressed American Seamen, in Great Britain.

LONDON, *July* 1*st*, 1797.

SIR: The letter which I had the honor to write you the 12th instant, would inform you of my arrival here, and of an arrangement being in contemplation, which had for its object a more direct line than had hitherto been practised, of affording relief to our unfortunate seamen, who might be

impressed or detained on board His Britannic Majesty's fleet; this has been effected, and applications in future are to be made by me, through Mr. Nepean, first secretary to the Admiralty. By the former mode, applications went from our Minister to Lord Grenville, by him they were referred to the Lords of the Admiralty, and they gave directions to a secretary to be forwarded to the commanders of the different ships; by this circuitous route, no doubt can be entertained that many omissions took place, and that to this cause may be attributed the many cases of our seamen to which no kind of attention has been paid: these will appear by the abstract lately sent you by Mr. King. I am preparing to make a renewal of all these cases, the result of which I will have the honor to transmit to you when I shall have it in my power. Since my arrival I have made application for eleven seamen, among whom there appeared no recent instance of impressment, except in the case of two men who were picked up here by a press-gang; one of them was liberated on my interference, the other is yet detained on the supposition of his being a British subject. I find considerable difficulties will often arise from defects in our laws with respect to seamen. By act of Congress, of the 14th April, 1792, the Consuls are authorized, in certain cases, to allow twelve cents per diem to our seamen; but I find the relief from this provision has been small indeed. The same law obliges masters of vessels to take on board seamen on the application of Consuls, but this has seldom been enforced; and Mr. Johnson, Consul at this port, has informed me that such applications have been very generally treated with contempt; however, I have requested him to renew the trial when cases shall occur, having no kind of doubt in my own mind, that on proof being sent to America, the penalty would be recovered, and an example or two would, in my opinion, have a good effect. My experience does not yet furnish me with sufficient grounds to point out all the defects of our laws on this subject; but Mr. King has a thorough knowledge of the business, and, I have been informed, has given every information; I shall, however, take the liberty to convey from time to time such ideas as may occur to me in the course of my official communications.

In compliance with my instructions, I have opened a correspondence with all the American Consuls in the different European ports, and have informed them of my establishment here. With respect to that part which refers to my visiting "those ports and places which are the principal scenes for impressing or detaining American seamen," Mr. King is of opinion with me, that no good would result from it, for the commanders of vessels would not allow me, as matter of right, to go on board their ships; if, however, I find that any good can be expected, I will certainly make the attempt. That part which respects protections to our seamen, I much fear cannot be accomplished; I have seen the correspondence between Mr. King and Lord Grenville on this subject, and there appear unsurmountable difficulties on their part; I shall, however, attempt at least, to establish a form which may protect our seamen once discharged from future impressment, but even this I find liable to objections, and I believe the fact is they are afraid to trust us. I have had great assistance from Mr. King since my arrival in arranging my business; and, from the general disposition I have found in every person with whom I have had to confer, I have reason to hope that I shall be able to conduct the business with which I am entrusted, with benefit to my country and satisfaction to myself.

I have the honor to be, &c.

LONDON, *July 17th*, 1797.

SIR: Since I had the honor to write you the 1st instant, (copy of which is enclosed) nothing of consequence has occurred in my official situation. On the 12th instant I renewed an application for all seamen who appeared, from documents in my possession, to be still detained on board His Britannic Majesty's fleet; and I now do myself the honor to forward you a copy of it. I beg leave, however, to observe that, I have reason to believe some of these men may have been discharged; yet, as it does not appear with certainty, I conceived it my duty to include the whole. As these men are now deprived of every kind of proof of their citizenship, and it is a pretext for their being detained, I would suggest the propriety of some general publication to urge their friends to forward me the best proof in their power: those who can be furnished with extracts from church registers, attested by a notary, and certified by a British Consul, will be the best, and such as I conceive will soon put it in my power to restore them to their country and friends: where this is impracticable, the best that can be obtained. My applications for impressed seamen now amount to twenty-six, and eight have applied to me who have been discharged; of these I keep a regular register, extracts from which I shall forward at stated periods.

I have the honor to be, with great respect, sir, your most obedient servant,

D. LENOX.

The Hon. TIMOTHY PICKERING, Esq.

[Accompanying, is a list of the names of Impressed Seamen.]

In all, two hundred and eighty-seven seamen, who appear, from documents in my possession, not to have been discharged on the application of Mr. King, and one hundred and fourteen on the application of Mr. Pinckney; making, in the whole, four hundred and one.

Mr. Lenox begs leave to remark, that there appears, in several instances, the same name, but as it is possible different persons may be meant, he conceives it his duty to mention them, but in doing this, he hopes no improper motive will be imputed to him.

D. LENOX,
Agent for the relief and protection of American seamen.

LONDON, *July* 12, 1797.

Abstract of the communications from Silas Talbot, Esq. Agent in the West Indies for procuring the release of impressed American seamen; to which are annexed copies of several of his letters, and the letters of Mr. Henry Craig, his Agent at Martinique.

On the 2d September, 1796, he arrived at Barbadoes; but finding nothing there to claim his official attention, he proceeded for Martinique, and arrived at Fort Royal on the 28th of the same month. Here he had an interview with Admiral Sir Hyde Parker, in which he explained to him the object of his mission. The Admiral appeared altogether unaccommodating, and observed that, if he released any seamen who might be claimed, he must have unequivocal proof of their citizenship, and that he would not, in any case, receive their own attestation. By Admiral Parker he was referred to Admiral Harvey, who appeared perfectly well-disposed; and, before Mr. Talbot left his ship, the latter assured him he was willing to enter into an inquiry, on the most liberal footing, and that all Americans should be released from the ships under his immediate command. Mr. Talbot having written to him on the 4th and 11th of October, requesting, among other things, liberty to visit the British ships of war in port, with the view of ascertaining such among the crews as were Americans, he returned for answer, "that, on the arrival of such of His Majesty's ships and vessels which were under his immediate command, every necessary inquiry should be made on the circumstance stated by Mr. Talbot, in respect to the impressing and detaining of seamen being subjects of the American States; and, in such cases, orders would be given for their immediate discharge; that he might rest assured that the most positive orders would be given to the captains and commanders of the King's ships and vessels not to impress American seamen, and to pay due regard to the protections with which they may be furnished." With respect to the request to be permitted to visit the British ships, for the purpose of examining their crews, he referred Mr. Talbot to the Commander-in-Chief, Sir Hyde Parker; but, on the 11th of October, Mr. Talbot had written to Sir Hyde, requesting him to cause an inquiry to be made for impressed Americans, and to respect their protections. On the next day, Sir Hyde answered him, declining to proceed "upon such slight grounds," requiring him to "identify particular men," and "produce incontestable proof that the individual is a citizen of America, upon which he should determine how to act;" and informing him that, "agreeably to his request, he should issue orders that no American seamen should be impressed, and that due regard should be paid to the protection of all American seamen." From this answer, connected with the verbal conference he had before had with Sir Hyde, Mr. Talbot deemed it useless to renew with him the request to be permitted to search for Americans among the crews of the fleet.

On the 20th of October, 1796, Mr. Talbot writes, from St. Pierre, Martinique, that he had received good information that, after his departure, a number of Americans were released from the ships of war lying at Fort Royal Bay the 14th preceding, and that they had also been paid off. The number he had not ascertained, but three of them were from Admiral Parker's ship.

On the 7th of November, 1796, he writes from, Antigua, that he had been on board of the Bull Dog, commanded by Captain Ryves, who treated him with great politeness, and showed him Admiral Harvey's orders for releasing five Americans, who were on board the ship, with which orders he said he intended to comply, and to pay them their wages and prize-money.

Mr. Talbot intending to go to Jamaica, and deeming it of great consequence to have an agent under him permanently residing at Martinique, which is the usual resort of all vessels appointed to watch and protect the Leeward Islands and a part of the continent, on the 12th of November, 1796, he appointed Mr. Henry Craig, an American, formerly of Baltimore, for that purpose, but without assigning him any emolument; as Mr. Craig was willing, through motives of attachment to his country, to undertake, without reward, the fulfilment of this service.

A copy of his letter, dated at St. Kitts, the 19th November, 1796, is annexed, marked No. 1.

On the 22d December, 1796, he writes from Kingston, Jamaica, that he had had an interview with Admiral Bligh, at Fort Royal, who received him with politeness, told him that, if he could find any impressed Americans on board the vessels then in port they should be discharged, and sent his Captain (Rutherford) with him on board the several vessels. But, previous to their leaving the Admiral's ship, Mr. Talbot informed him that he had the names of two Americans who were on board his ship. The Admiral immediately ordered them to be called into the cabin. When they came in, they produced certificates, from the Collector of the State of Georgia, that they had sworn before him that they were citizens of the United States; but, on account of their distance from home, the regular proof could not be obtained; which was deemed insufficient, and they were ordered back to their duty. From the Resource Mr. Talbot procured the release of two Americans. He afterwards went on board a tender, which had, a few days before, impressed three men from on board an American brig. The Captain of the tender refusing to deliver them up, Captain Rutherford took them to the Admiral. One of the men was an American, the second a Swede, and the third an Italian. It was with considerable difficulty the Admiral was prevailed upon to restore the American, as the protection with which he was furnished was from a notary public, in which kind of evidence of citizenship he said he could place no faith. The Swede was given up without the least hesitation. The Italian having entered, the Admiral thought he should have his choice to stay in the King's service or enter again the American brig. Mr. Talbot consenting to this, the man chose the former. From the Mermaid he procured the release of one seaman. On going on board the Quebec, the Captain refused to see him, and he was obliged to leave her without effecting anything. Having received information of

three more Americans being on board the Resource, he applied to the Captain for their release, who denied that he had any such men on board. Mr. Talbot now addressed himself to Admiral Bligh, to whom he related the manner in which he had been treated on board the Quebec, and the refusal of the Captain of the Resource to deliver up the three Americans; whereupon, the Captains of both those vessels were sent for, together with the men he wanted to see, and two of them were released.

A copy of his letter, dated at Cape Nicholas Mole, January 21, 1797, is annexed, marked No. 2,

On the 28th January, 1797, he enclosed to Sir Hyde Parker a list of impressed American seamen, partly collected by himself, and partly furnished by the Department of State, accompanied by such proofs of the citizenship of some of them as he was possessed of, and requested their release. In many cases Mr. Talbot believed the proof to be complete. Nevertheless, nothing was done in consequence of it; and on the 3d March following Sir Hyde wrote him that "in no one instance have proofs been produced, relative to the names of those you have been pleased to style citizens of America, sufficient to authorize me to discharge the individuals from His Majesty's service."

On the 4th March, 1797, Mr. Talbot writes from the Mole of St. Nicholas, that, for the two months he had been at St. Domingo, he had heard only of one real American being impressed, and he had not a protection; and that only one neutral subject had been impressed at that port, who had not been given up since his arrival.

Copies of his letters of April 22, May 7, July 4, October 17, November 9, and December 12, 1797, are annexed, marked respectively from No. 3 to No. 8, inclusively.

A letter from Mr. Henry Craig, the agent at Martinique, dated February 2, 1797, and an extract from another, dated September 16, 1797, are annexed, marked respectively Nos. 9 and 10.

No. 1.

BASSETERRE, (ST. CHRIST'RS.)
November 19, 1796.

SIR: I left Antigua the 16th, and the next day landed at Nevis, where I tarried one day, and then hired a small vessel to bring me to this island.

I have not yet had time to see the Commander-in-Chief, as he lives at the distance of twelve miles from this place, where is the metropolis of the island.

There is not, at this time, any men-of-war at this island or at Nevis; but, perhaps, some may return into port before I leave the place.

Previous to my leaving Antigua I had an interview with Captain Metford, who is the commanding officer of the four ships that are now lying at English Harbor, at Antigua. The Commodore (as he is generally styled) told me that he had, some time since, received Admiral Harvey's orders to discharge every American, if any were on board his ship, and that similar orders from the Admiral had been received by the several Captains under his immediate command. He gave me his word that there was not one American left on board his ship, and said that he had no reason to think but that the order had been strictly complied with on board the other ships; but, for greater certainty, and agreeably to my desire, he said he would immediately make an inquiry on board each ship, and, if any Americans were found on board, (which he believed would not be the case,) they should be discharged.

I have good reason to believe, sir, that the business relative to our seamen among the Windward Islands is now on a good footing; as I find that Admiral Harvey has sent forth his orders to the captains and commanders of His Majesty's ships and vessels of war, in every direction, to release all Americans which they may have on board, and not to impress any of them in future. The commander of a tender named Lady Bickerton, which is in the impress service, told me, on board the Bickerton, that his orders were not to impress any American. I am confident that there has not been one American impressed since my arrival at Martinique, unless it may have been done by some of the ships at distant stations, which might not at the time have received the Admiral's orders on that subject. But, with all the inquiry I have been able to make, I have not heard of one that has been disturbed. I shall embrace the first opportunity of a passage to Jamaica.

I have the honor to be, sir, your obedient, humble servant,

SILAS TALBOT.

Hon. T. PICKERING,
Secretary of State.

ST. NICHOLAS MOLE, (ST. D.)
January 21, 1797.

SIR: My last letter to you, dated at Kingston, Jamaica, the 22d December, will fully explain every circumstance of note relative to my mission, after leaving the island of St. Christopher's. For want of a direct opportunity, the letter alluded to, and a duplicate thereof, I put into the hands of a merchant in Kingston, to be forwarded to America, in different vessels. I took passage and sailed from Jamaica, the first of this month, in a vessel bound to Port-au-Prince, Major General Forbes, the Commander-in-Chief of His Majesty's land forces at this island, keeps his head-quarters. The object of my going to Port-au-Prince was to see the General; but it so happened that, at the moment of my arrival there, the General was embarking for this place. Being thus disappointed, I procured another passage to this port, where I arrived the 18th instant. Soon after landing, I went to pay my respects to the Major General. But I have not as yet had time to prepare my business to lay before Admiral Sir Hyde Parker, therefore have nothing very material to communicate.

The law requires me to render an account of all impressments and detentions whatever of our seamen to the Executive of the United States, and I make no doubt but that it may have been thought

strange that no particular information of that kind has come to hand from me. But it is impossible for me to obtain the information in question, unless the several masters of the American vessels comply with the law, on their part, in that of forwarding to me protests in cases where their men have been impressed, and which has never been the case but in one instance, and that since my last to you.

So many and so different have been the modes of giving our seamen protection, that it is not to be wondered at if the British officers should be mistrustful of their authority or validity.

Protections have been given, and many are still produced, from judges of the several courts, notary publics, justices of the peace, mayors of cities, Secretaries of the individual States and of the United States, Consuls abroad, Governors of the several States, and lastly from the several collectors. The act authorizing the collectors, under certain restrictions, to give protections, does not have the salutary effect which was probably contemplated by Congress.

In short, I am inclined to think that it has done more hurt than good; because it has destroyed all respect for former protections; and the act requires such kind of proof to be made to the collectors as is frequently impossible for seamen to procure, in case they sail from any port in America, distant from the place of their nativity; for instance, suppose a man was born in New Hampshire, but sails out of Philadelphia, or some other Southern port; in which case it is very likely he cannot produce to the collector such evidence as the law requires to enable him to obtain his protection, and therefore he ventures again and again with his old notary public's protection, or no protection at all, until at last he is impressed, and in that case the difficulty is great in obtaining his release, and perhaps insurmountable. If application is made for his discharge, and his protection offered as a proof of his citizenship, His Majesty's officers will very probably say, that, as your Congress have adopted a new mode of giving out protections, and requiring a proof of citzenship first to be produced, it affords to us a conviction that the old protections ought not to be respected, which they say have been fraudulently obtained in more than four thousand instances. But while I am stating the difficulty in obtaining protections, agreeably to the last act, for that part of our seamen who sailed out of ports distant from the place of their nativity, yet I do not wish to be understood as recommending any change in the mode of obtaining them, because every such alteration would tend to destroy their credibility. But if any mode could be devised to prohibit the masters of American vessels from shipping any American citizens without protections, agreeably to the late act of Congress, it surely would be of great service. For it is much easier to prevent the evil in question, than to remedy it by any attempt to restore the unfortunate prisoners to their liberty. If masters were by law prohibited, under a heavy penalty, from carrying American citizens to sea without proper protections, all such of our seamen as could not obtain a protection, in a distant port from the place where they were born or naturalized, they would, in a short time, for want of employ, return to the place of their nativity, and then suitable protections might be had; because they could undoubtedly produce the necessary proof required by law. I am aware that a measure of this kind would occasion some little trouble to a number of that class of our citizens; but it would be, in my opinion, infinitely better for them and the United States, that they should be thus restrained, than to be detained on board ships-of-war.

To convince you, sir, how necessary it is to restrain this thoughtless class of our citizens, permit me to observe that, at this day, it is not uncommon to find our vessels in these ports, the crews of which are absolutely born in the American States, and yet not one of them can produce a protection of any sort; and parts of the crews of other vessels are frequently found in like predicament—which shows that this useful class of our citizens ought to be taken care of, since they will not take care of themselves.

I am, sir, with perfect respect, your humble servant,

SILAS TALBOT.

No. 3.

KINGSTON, (JAMAICA,)
April 22, 1797.

SIR: In my last letter, dated March 4, I informed you of all that passed between Admiral Sir Hyde Parker and myself at the Mole, relative to the detention of American seamen, and of my determination to leave that place and to repair to Jamaica, for the purpose of endeavoring to relieve our seamen, by writs of *habeas corpus*.

In pursuance of that plan of removing the Americans from ships-of-war, I left Cape St. Nicholas Mole the 5th of March, and arrived at Kingston the 8th of the same month. There were then lying at Port Royal several ships-of-war, and in a few days more came in, making in all nine sail—namely, the Canada, Hermione, Experiment, Ambuscade, Proselyte, La Tourterelle, Jamaica, Renommé, Laurel, and Montego Bay. Having already, and when at St. Domingo, made application, first to the Captain, and then to Admiral Sir H. Parker, to have five Americans discharged that were detained on board the Hermione, and being refused by both, I did not hesitate to apply for a writ of *habeas corpus* to serve on Captain Pigot, of the Hermione, and at the same time obtained the like writs for the Captains of the Renommé and La Tourterelle, for one American on board each ship. The writs were served, and the men produced before the Judge that granted the writ. The King's Solicitor opposed their being released, but the Judge discharged all of them. Having now free access to those men that were discharged, I learned that there were still four Americans on board the Hermione. I therefore applied and obtained another writ, and had it served on the Captain, and the four men were also discharged. Having now obtained a discharge for nine that were on board the Hermione, the other Captains began to be somewhat alarmed, as I supposed, and

they gave out that I need not take out writs against them, for that they would discharge all the Americans upon my application, and giving proof of their citizenship. Being informed of this, I went down to Port Royal for the purpose of visiting all the ships in port; and in the first place I attempted to go on board the Canada, of seventy-four guns, commanded by Commodore Bowen; but on my approaching the ship, they on board ordered me to keep off, and they did not then suffer me to come alongside. From the Canada they asked me what I wanted; I answered that I had business with the Commodore: they said he was not on board; I then requested of them to be so kind as to inform me where I might find him: they answered, at the dockyard: on which I thanked them, and then went on shore at the dockyard, where I found the Commodore, and introduced myself to him, and made known my business. He was perfectly polite to me, and immediately asked me to go on board the Canada with him: I accepted of the invitation, and after we were on board, the men that I wanted to see were ordered into the cabin; and after examination, the Commodore agreed to discharge all of them, they being six in number, and I am confident there were not any more on board that ship. During my stay every politeness was shown to me by the Commodore, and he insisted on my coming on board the next day to dine with him, adding that he was going to have a party on board at dinner, it being the 12th of April, which is the day that Admiral Rodney gained a victory over the French fleet, and which day is much celebrated at this island. Finding him so importunate, I engaged and dined with him accordingly.

Some days after my visit on board the Canada, I went on board the Montego Bay, and the Captain of that vessel, after some conversation, gave me up all the Americans that he had on board, they being six in number. In two or three days after I went on board the La Tourterelle and the Renommé, and was well treated by the Captains of those vessels; but I could not prevail on them to release the Americans on board their ships, alleging that they could not do it without Sir Hyde Parker's orders; and that if I would write to him on the subject, and they would willingly join with me in my representation. I told them candidly that I could not think of applying to Sir Hyde for the release of the men in question; and I put the question to them whether they would release the men: they answered, that they were not warranted in doing it. I then took leave; and again had recourse to writs of *habeas corpus*, and by that means eleven men were brought before the Chief Judge, and ten of them were discharged: in one case we failed in evidence. Yesterday I went on board the Proselyte and Jamaica, and was perfectly well received by the Captains of those ships; and they released all the men that I applied for. The whole number that I have caused to be discharged from his Britannic Majesty's ships-of-war, in this quarter, since the date of my last to you, are forty-seven, and whose names are contained in the enclosed list. I have received a letter from Mr. Henry Craig, my assistant agent at Martinique. He informs me that he has obtained the discharge of forty-three Americans: he does not mention their names, but states the names of the American vessels that they had been taken out of, and the number so impressed from each vessel. If we add the number released to the Windward to the number so set at liberty here, as before mentioned, it will make in the whole ninety men.

I shall enclose you a copy of Messrs. Farmer and Monroe's account for transacting the legal business, by which you will be able to form an opinion of the propriety of pursuing the mode of taking out writs where the men cannot be removed otherwise.

I find that the whole amount of my account against the United States, up to this day, is about five hundred dollars.

I have and shall continue to be as economical as possible; but there is no moving or living here without very great expense: and so many of our men have been discharged of late, that there is not a sufficient number of American vessels to employ all of them immediately, so that some expense will accrue for their support. There are also a few Americans here that have been left on shore sick, and they are now in a miserable condition: all of whom implore assistance from me.

Soon after my arrival in Jamaica, I was informed that a letter that was directed to you, and found on board Captain Latimore, had been lodged in the Admiralty office; I therefore made application for it and obtained a copy of the letter, a duplicate of which is herewith enclosed.

I have the honor to be, &c.

SILAS TALBOT.

Hon. T. Pickering, Esq.
Secretary of State.

[Here follows a list of forty-seven American seamen released.]

No. 4.

Kingston, (Jamaica,) *May*, 7, 1797.

Sir: I have the pleasure to acknowledge the receipt of your favor, dated March the 10th. The approbation you have been pleased to express of my conduct, in the mission which I have been honored with, affords me the highest satisfaction; and happy shall I be if my constant exertions may continue to meet your concurrence.

In my letter to you of the 22d of last month was enclosed a list of Americans that I had caused to be released since my arrival at this island. Since the date of which, I have obtained a discharge for eight more of our citizens, the names of whom shall be inserted at the bottom.

The business I am here intrusted with is perplexing beyond description, and requires all the fortitude and patience which I am capable of exercising. To the unspeakable difficulty I have almost daily to encounter with His Majesty's naval officers, (many of whom are not the most pleasant nor the most reasonable beings,) I have great trouble with our seamen. Their applications to me are incessant, and I am employed both by night and day. It seems as if nearly one-half of our

seamen come out from America without protections. When they arrive in these seas, then their fears come on them; and those that escape, being impressed before they land, will not fail to apply to me for a protection the moment their foot is on shore, and my quarters are almost continually surrounded with them; and if they are denied a protection from me for want of proof, that same fear will urge their repeated applications, until I am almost sickened with their importunity.

I have the honor to be, &c. S. TALBOT.

No. 5.

Kingston, (Jamaica,) *July* 4, 1797.

Sir: My letters of 22d April and 7th of May last will have informed you of my having recourse to writs of *habeas corpus* to release our seamen from British ships-of-war, and of the number so released by that means; to which five more may now be added, that have been in like manner discharged, making up the number of sixty in all.

I have now to inform you that there is a total stop put to all the effectual means that I have been able to devise for the release of our citizens so impressed, and, from the appearance of things, I am of the opinion that no more seamen will be discharged during the time that Admiral Sir Hyde Parker may have the command in these seas.

Admiral Sir Hyde having gained information that my applications to the civil authority of this island to obtain the release of such American citizens as were found to be detained on board His Majesty's ships-of-war, had been attended with some success, he immediately issued a general order to all captains and commanders of ships and vessels-of-war, directing them not to obey any writ of *habeas corpus*, nor suffer any man to leave their ships in consequence of any such writ. Since the above-mentioned order was issued, writs have been obtained against Captain Elphinstone, of the Tartar frigate, to produce three Americans, named in the writ, before the Chief Justice; and against Captain Foster, of the Albicore, to produce four, and also against Captain Otway, of the Ceres frigate, to produce twenty Americans, in like manner, before the Chief Justice. All those writs were served, but no one of them was obeyed. Attachments against the said Captains have been ordered by the court, and a writ of attachment against Captain Otway was taken out fifteen days since. But the Marshal has not been able, as he says, to serve it on Captain Otway; and from all that I can learn, there is not any probability that he will serve the writ; so that the law in this island, it seems, cannot be administered to the relief of American citizens, who are held in British slavery, many of whom, as they write to me from on board Captain Otway's ship, have been brought to the gangway and whipped for writing to their agent to try to get them discharged.

It is thought that the Admiral has wrote to the Governor of this island on the foregoing subject, as it is a fact that the Governor has so far interfered in the business, as to hold several conferences with the Chief Justice on the business, the result of which is not known to me. The officers of the navy now consider themselves above the law, and they yesterday came up into Kingston harbor, in the day time, and impressed considerable numbers of Americans, and took them down to Port Royal, notwithstanding they were furnished with protections. Their petitions and letters reach me daily, and I am sorry to say, that I cannot render them the services they request of me, relative to obtaining their discharge.

I have the honor to be, sir, your most obedient, humble servant, SILAS TALBOT.

Hon. T. Pickering, Esq.
Secretary of State.

No. 6.

Kingston, (Jamaica,) *Oct.* 17, 1797.

Sir: In my last to you, of the 4th July, I mentioned the total stop that was put to the release of our seamen in this quarter, from British ships-of-war, by means of an order from Admiral Sir Hyde Parker, to the commanders of ships and vessels of war. I now enclose, for your information, a copy of the order alluded to in said letter. There has not, however, been any very considerable cause of complaint, on account of impressing our seamen, for more than two months past, at this island. I have lately received a letter, under date of the 5th August, from Mr. Henry Craig, my assistant at Martinique, by which it appears that Admiral Harvey continues well disposed towards us. Mr. Craig's letter contains the following paragragh: "I am happy to inform you that I have been extremely fortunate in obtaining the release of many American sailors from British armed vessels; and, indeed, in all cases where there was any probable cause to suppose that the person claimed was a citizen of the United States, they have been immediately released; and in all applications to Admiral Harvey, I have found the most cordial good wishes towards the Americans. We have several times petitioned for a convoy to protect the American trade through the islands, which was always readily granted."

I am under the necessity of drawing a bill of exchange, of this date, for one thousand dollars, in favor of James Kent, Esquire, of New York, which I trust you will be pleased to honor, at sight, and place to account of my salary. Having expended something more on the public account than the amount of one thousand dollars, already received, I shall be obliged to draw for one thousand dollars more, so soon as I can find an opportunity to dispose of such a draft.

I have the pleasure to be, with great respect and esteem, sir, your obedient humble servant,

SILAS TALBOT.

Hon. T. Pickering,
Secretary of State U. S.

By Sir Hyde Parker, Knight, Vice Admiral of the Red, and Commander-in-Chief of His Majesty's ships and vessels employed at and about Jamaica.

Whereas the discharging of men from His Majesty's ships and vessels under my command, in

consequence of writs of *habeas corpus*, is attended with the utmost inconvenience, and disadvantageous to the public service committed to my care, you are hereby required and directed never in future to discharge any man from the ship you command, in consequence of any writ of *habeas corpus*, till such writ is referred to me as Commander-in-Chief, (a rule observed by all the Judges in England,) and my orders given in consequence thereof.

Given on board the Queen, Cape Nichola Mole, May 8, 1797.

H. PARKER.

To the Captains, &c., of all H. M. ships, &c.

By command of the Vice Admiral,

P. OSBORN.

N. B. This order to be kept in the storekeeper's office.

No. 7.

Extract of a letter from Silas Talbot, to the Secretary of State, dated

KINGSTON, (JAMAICA,) *Nov.* 9, 1797.

As to our seamen, I have not heard that any of them have been detained since my last. Some few have been laid hold of, but, on producing their protections from me, they were immediately released. It is to be wished that they all might come out provided with suitable protections, because, in that case, I think they would not be interrupted in their lawful employ.

No. 8.

KINGSTON, (JAMAICA,) *Dec.* 12, 1797.

SIR: Nothing of moment has occurred in this quarter of the West Indies, relative to our seamen, since my last to you, nor have I heard of one American seaman being impressed out of any vessel for the space of some months past. There was, however, not long ago, two of our men taken, when on shore, at some sailor quarters, in company with a number of British seamen, and carried on board the Maidstone frigate. On my receiving the information, I went to Captain Matthews, who commands that ship, and who was then on shore. After an explanation with the Captain, I requested of him to release the said men, to which he readily consented, and he gave me his word that the men should be discharged on his going on board. The Maidstone sailed the next day, but whether the men were discharged I cannot say, nor was it easily to be ascertained, as the said men did not belong to any particular vessel, but were stragglers unknown to me personally, and myself unknown to them, as I suppose.

While I reflect, sir, with pleasure on the check that is put to impressing our seamen, and the total discharge of all that were formerly on board Admiral Harvey's division to windward; yet I feel great anxiety for those impressed a long time since, and who are still detained on board ships-of-war, that compose Admiral Parker's squadron on this station, more especially as there is not any appearance of probability of their being released, so long as Admiral Parker has the command in these seas. If Sir Hyde should be ordered off from this station, and the command devolve upon Admiral Bligh, I have reason to expect that in such case perfect justice would be done to our representations on the subject in question. Nor is it less distressing when we contemplate the hardship, the cruel and inhuman manner our seamen are frequently treated by the French. Every little while some of those of our unfortunate men are coming in like straggling soldiers after a battle and defeat, some of whom, when taken, are stripped naked, drubbed, and then put into a small boat to make the shore or perish in the sea; and some are retaken by British ships and brought in; others make their escape by one means or another; but in all cases they are miserably poor, both in purse and appearance.

I have the honor to be, with great respect, &c.

SILAS TALBOT.

HON. T. PICKERING, Esq.
Secretary of State U. S. A.

No. 9.

MARTINIQUE, *February* 2, 1797.

SIR: Having been appointed by Colonel Talbot resident agent for the relief of impressed American citizens, I now take the liberty to enclose you Captain Inchbald Goodrich's protest against Captain Newman of the Ceres frigate.

On the 22d ultimo the Ceres anchored in this bay, at three o'clock, A. M., and commenced a severe impress among the shipping in this harbor, In this business they collected about 100 men, 50 of whom were Americans. I waited on Captain Newman, and urged the necessity of my seeing the men examined, which he finally agreed to, and they were all released, those named in the protest excepted.

I have written to Colonel Talbot at Jamaica, where the Ceres is stationed, and have no doubt but he will procure their release.

I have the honor to be yours, respectfully.

HENRY CRAIG.

THE SECRETARY OF STATE.

No. 10

Extract of a letter from Mr. Henry Craig, dated 16th September, 1797, to the Secretary of State.

When Colonel Talbot was in this colony, he requested, that, in order to carry the views of Government into effect, I would accept of the appointment of the resident agent for the relief of American seamen, who were impressed or in any way destitute of the necessaries of life.

This being the rendezvous of the British navy, and my general acquaintance with the officers of that department, induced me to accept of this undertaking, hoping that I should be enabled to alleviate the distress of my unfortunate countrymen; nor have I been disappointed, having released more than one hundred from the different ships on this station.

I have always found the most decided compliance in Rear-Admiral Harvey to release any person who had any pretensions to citizenship of the United States.

Extracts from the correspondence of Rufus King, Esq. Minister Plenipotentiary of the United States at London.

Extract of a letter from Mr. King to Mr. Pickering, Secretary of State, dated

LONDON, *September* 8, 1796.

"Mr. Trumbull's appointment as the fifth commissioner in the capture questions has prevented his acceptance of the agency for the relief and protection of our seamen. His duties must devolve on me for the present.

"A practice has obtained among our Consuls to grant certificates of citizenship, or protections, as they are called, to our seamen; and I am informed that they have been efficacious in securing those who possessed them from impressment. Some abuses were unavoidable, and it is said have been discovered; in consequence of which, these Consular certificates have in some instances been disregarded; and in a late conference with Lord Grenville, he asked me whether our laws, or the President's instructions, gave to our Consuls authority to grant these certificates—observing that it was not within the ordinary functions of Consuls to issue documents of this nature. I told his Lordship that I would inquire concerning the authority of our Consuls, and give him an answer. As the practice of granting these certificates is not peculiar to our Consuls, but common with the Consuls of other nations, and as our sailors are frequently found here without certificates of citizenship, whereby they are exposed to impressment, I cannot take upon myself to instruct our Consuls to discontinue the practice, though I should find no positive law or instruction that authorizes it."

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. King, dated

OCTOBER 26, 1796.

"The general and uniform practice of our Consuls to give certificates of citizenship, or protections, to our seamen, may I think be very well considered as sanctioned by our Government, by implication, if it has not been done explicitly. The practice is certainly necessary, and is strikingly proper in cases where the Consul's interference has procured the release of our impressed seamen; for without such certificates they would be instantly exposed to a repetition of the evil. Besides, multitudes of our seamen have gone abroad without protections, or they have lost them; but still they were not to be abandoned; and who, in foreign countries, have it in their power so well to ascertain their citizenship as our Consuls? The measure was natural and necessary; and hence was practised by the Consuls of other nations as well as our own."

Extract from the instructions of David Lenox, Esq. agent under the act for the relief and protection of American seamen, residing in Great Britain, dated

MARCH 24, 1797.

"That our seamen, once relieved, may not be again exposed to impressment, they should be furnished with certificates, in a form which the British officers and impress-gangs will respect. On this head you will consult the Minister of the United States at London, by whom a recognition of the form by the British Government and a corresponding instruction to their officers may, if judged necessary, be obtained; observing, however, that although this kind of certificates is to be invariably respected, certificates of other kinds are not thereby to be disparaged."

[The same instruction was given to Mr. Trumbull, and a similar one to Mr. Talbot in 1796.]

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *April* 13, 1797.

It was before my arrival that Lord Grenville had expressed to Mr. Pinckney a dissatisfaction with the practice of granting protections to American seamen by our Consuls.

Before I received your opinion on this subject, Lord Grenville had written me a letter, in which this branch of the Consular power is denied, and notice given to us that the practice must be discontinued. A copy of this letter and of mine transmitting it to our several Consuls, I had the honor to send you with my letter of the 10th of December. Previous to the communication of this resolution of the British Government, it had been notified to Mr. Pinckney that all applications for the discharge of American seamen, impressed into the British service, must in future come through the American Minister, instead of coming from the American Consuls, as had been customary. One consequence of this regulation has been, that the subject in all its details has come under my observation, and its importance, I confess, is much greater than I had supposed it. Instead of a few (and those in many instances equivocal) cases, I have, since the month of July past, made application for the discharge, from British men-of-war, of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number, eighty-six have been ordered by the Admiralty to be discharged; thirty-seven more have been detained as British subjects or as American volunteers, or for want of proof that they are Americans; and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer—the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made, in consequence of my applications.

It is certain that some of those who have applied to me are not American citizens, but the exceptions are in my opinion few, and the evidence, exclusive of certificates, has been such as in most cases to satisfy me that the applicants were real

Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay and bounty, though in some instances they have been in service more than two years. As the applications for my aid seemed to increase, after the suspension of the Consular power to grant protections, (owing to the exposed situation of our seamen, in consequence of the denial of this power,) I judged it advisable, though I saw little prospect of any permanent agreement, to attempt to obtain the consent of this Government, that, under certain regulations, our Consuls should again be authorized to grant certificates of citizenship to our seamen. My letter to Lord Grenville and his answer you have enclosed. I likewise send you the copy of another letter, to which I have received no answer, that I wrote to Lord Grenville, in order to expose the inconsistency with the laws and principles of British allegiance of a rule by which acknowledged Americans are detained in the British service.

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LONDON, *December* 10, 1796.

DEAR SIR: My letter of the 8th September has given you information of what passed between Lord Grenville and me respecting the authority of our Consuls to grant protections to seamen.

On the 3d of November I received the following letter from his lordship on that subject:

"DOWNING STREET, *Nov.* 3, 1796.

"SIR: The Consuls of the United States, residing in His Majesty's dominions, have, for some time past, been in the habit of granting to seafaring persons certificates under their Consular seal, purporting that the bearers of them are citizens of the United States, and as such liable to be called upon for the service of their own country, and that they are therefore not to be interrupted or molested by any persons whatever. I have reason to believe that these certificates have frequently been granted on very slight and insufficient evidence, and in a great number of cases to persons who were in fact British seamen.

"But, independently of this abuse, I am under the necessity of representing to you, on the part of His Majesty's Government, the insuperable objections which apply to the principle of a jurisdiction in this respect, assumed and exercised within His Majesty's dominions by the Consuls of a foreign nation. And I must remark to you, that the impropriety of a proceeding so much out of the ordinary line of the Consular functions, and so liable to be abused for the worst purposes, is very much aggravated by the unwarranted assumption of a power in the Consuls to administer oaths to His Majesty's subjects and others resident within these realms, concerning the matter of the said certificates.

"I had the honor of writing to Mr. Pinckney upon this subject, on the 13th of July last, requesting that he would inform me whether the Consuls of the United States are in any manner authorized or instructed by their own Government to grant such certificates; and, in such case, whether any and what rule of evidence or discretion is prescribed to them for their guidance in a duty of so difficult and delicate a nature.

"I apprehend that Mr. Pinckney's departure prevented his answering my letter; but as I am persuaded that no such authority can in fact have been given, the frequent instances of this practice which have lately come within my knowledge, oblige me now to request that you will have the goodness to notify to the Consuls that they are in future to abstain from a proceeding which far exceeds the limits of their office, which is neither sanctioned by the law and usage of nations, nor by any treaty between the two countries, and the continuance of which must be considered as an act on their part injurious to the authority of the King's Government. The earnest desire which I feel to avoid even the appearance of a misunderstanding between the two Governments, leads me to prefer this mode of notification, rather than to take any manner of signifying it to them, more directly. And I avail myself, with pleasure, of this opportunity to assure you of the high consideration and esteem with which I have the honor to be, &c.,

"GRENVILLE."

I thought it proper to communicate this letter to our Consuls, which I did by copies, accompanied with the following letter:

LONDON, *November* 18th, 1796.

SIR: Enclosed I send you a copy of a letter from Lord Grenville to me, respecting the consular jurisdiction. Hitherto I have not had leisure to consider the subject in the manner I wish to do, previous to the return of an answer. It has however appeared to me advisable to transmit to you a copy of the letter, in order that you should be informed of the decision of this Government on the points to which it refers. I am at present inclined to believe that the administration of oaths by our Consuls, in these or any other cases, to British subjects, is neither necessary nor proper. The other point is more doubtful, as well as much more important, as it regards the security of our navigation and seamen. As we have no convention with this nation, defining the consular powers, they must be ascertained by the law of nations. General usage is evidence of this law, and some of its rules are to be found only in the existence of such usage. I have not discovered anything explicit on the question in any work of reputation, and I shall be obliged to you to inquire, and as early as convenient to inform me, what is the practice on this subject of the Consuls of other Powers resident in this nation. If you can procure and send me copies of similar certificates issued by the Consuls of other nations, if such certificates are granted by any of them, I desire you to do so: though I would not be understood as giving a settled opinion on this point, I ought not to omit observing to you, that neither our laws respecting Consuls, nor the late law for the relief and protection of American seamen, give to our Consuls any

authority to grant certificates of citizenship, and I have seen no instruction from the Executive that authorizes it. If the power exists, it must be derived from the law of nations. This Government denies that it can be deduced from that source, and notifies to us that we must abstain from the exercise of the power, since the same is deemed to be repugnant to the jurisdiction, and a continuance thereof will be considered as injurious to the authority, of the King's Government.

With great respect, I have the honor to be sir, your obedient and faithful servant,

RUFUS KING.

I do not consider myself authorized to instruct our Consuls in this, or in any other instance. In cases in which they ask my advice, I readily give it according to my views of their privileges, and of the public welfare. So far as I have been informed, the Consuls do not think it prudent, since this communication from Lord Grenville, to grant any more protections; and, in consequence thereof, I am frequently applied to by seamen on that subject.

I did not approve of that part of the late law for the relief and protection of seamen, which authorizes the collectors to grant protections. It appeared to me to be a measure of questionable policy; and I apprehend it has placed our seamen in a worse instead of a better situation, than that in which they were before.

One great evil of this regulation is, that every seaman who is without a certificate, and every one who has a certificate from any other officer than a collector, is considered as not having been able to procure a certificate from the collector, and is treated here as a British subject. The law ought to be repealed; or, what under present circumstances would be better, it might be amended by requiring every seaman who is a citizen, to prove the same in a safe and satisfactory manner, and to procure a certificate thereof, from the collector. Another amendment should be added, to prohibit every other person except the collectors from granting certificates to seamen.

At present it is optional with a seaman to procure or not to procure a certificate of citizenship, or to procure it from the collector, or from any other officer. Hence these certificates are granted in a variety of forms on different degrees of proof, and by almost every grade of magistrates; and the consequence thereof has been that they are all in some sort disregarded.

RUFUS KING.

—

Rufus King, Esq., Minister, &c., to Lord Grenville.

GREAT CUMBERLAND PLACE,
January 28, 1797.

MY LORD: I have the honor to send your lordship the copy of a law of the United States, for the relief and protection of American seamen, likewise the copy of an instruction given by the President to the collectors of the several districts, which supplies an omission in this law, and prescribes the evidence on which alone certificates of citizenship may be granted by such collectors; and also a copy of the first section of the law of the United States, prescribing an uniform rule of naturalization. I flatter myself that your lordship will perceive in these documents, the care and caution that the American Government have observed, in order that those only who are justly entitled, should obtain certificates of American citizenship. It is not my present purpose to enter into an examination of the precise limits of the consular jurisdiction and functions, which your lordship conceives do not extend to give a right to the American consuls to grant certificates of citizenship to the seamen of that nation, who come, or are brought within His Majesty's dominions; I think it, however, my duty to observe, that on careful inquiry I find it to have been the ancient practice of the Consuls of the maritime nations, resident within His Majesty's dominions, *ex officio*, to grant certificates of this kind; and that this practice is still, as I am informed, pursued by the Consuls of Denmark, Sweden, and Portugal, and probably by those of other nations. I ought also to add, that, from the best examination I have been able to give the subject, I cannot but be of opinion, with becoming deference for the statements of His Majesty's Government, that, under proper regulations, the exercise of this power is both an important, and especially between America and Great Britain, the most material portion of the consular rights. I make this observation, my lord, not to invite a discussion of the question, but for the sole purpose of precluding any inference that might result from its not having been made on this occasion.

The object of this communication is to represent to your lordship, that, in consequence of the relations of peace and friendship subsisting between America and Great Britain, which give, and of the fourteenth article of the treaty lately concluded between them, which confirms, to the people and inhabitants of the United States a right securely to resort to, and to reside in, His Majesty's European dominions, great numbers of American citizens, and especially of the class which compose the seamen engaged in the American navigation, are from time to time arriving within, and, in the prosecution of their lawful concerns, frequenting His Majesty's said European dominions; many of them have no certificates of citizenship, in some instances having omitted to obtain the same within the United States; and in others, the certificates which had been so obtained having, by the casualties of seafaring lives, been destroyed, these seamen, who cannot easily be distinguished, by language or manners from those of Great Britain, are, while employed on board American ships and on shore, daily seized, and contrary to their will, impressed into His Majesty's service, to the manifest injury of their personal rights, and to the material detriment and disadvantage of the American navigation and commerce. So long as our Consuls were in the practice of granting protections to American seamen, these injuries and inconveniences were less frequent and more easily remedied. The laws of the United States authorize, but do not *compel*, their seamen to take out certificates of citizenship within the United States; and the prac-

tice is not uncommon that they omit to obtain such certificates, and place their dependence upon the assistance of the Consuls, in case of interruption in any of the ports of His Majesty's European dominions.

Some few irregularities, it is possible, may unintentionally have happened in the granting of protections by the American Consuls, as no precise instructions for the regulation of their conduct, in this respect, have heretofore been given to them. To avoid similar irregularities in future, and to afford the protection which is indispensably due to the American seamen within His Majesty's European dominions—

I have the honor to submit to your lordship the following propositions:

1. That the American Consuls shall hereafter grant certficates of citizenship, in the form prescribed in the enclosed law, to such American seamen, as shall prove themselves entitled to receive the same.

2. In order that no persons, except those who are so entitled, should receive such certificates, that an instruction similar to, and founded upon, that given by the President to the collectors should be given by me to the several American Consuls, for the government of their conduct.

3 That instructions should be given by the proper department of His Majesty's Government, to His Majesty's naval officers, to respect such certificates issued by the American Consuls.

Convinced of the disposition of His Majesty's Government to remove effectually, and as fast as possible, every cause of inquietude and discontent between the two countries and to strengthen the good understanding and friendship which subsist between them, I persuade myself that your lordship will see no objection sufficiently weighty to prevent the early adoption of these propositions, which appear to me, my lord, to be essential to the security of the commerce and navigation of my country.

I cannot express to your lordship, in language too strong, my thorough conviction of the importance of this subject to the mutual harmony of the two countries, which it is my earnest desire should be uninterrupted and perpetual; nor can I cease to entertain the expectation that His Majesty's Government will, with as little delay as possible, meet the overtures of the United States, and proceed to those mutual discussions, which, it is believed, must lead to the permanent settlement of principles and rules, by which the seamen belonging to the respective nations may in all situations hereafter, be known and distinguished.

This done, the regulations that I have now the honor to submit to your lordship's consideration will cease to be necessary.

With high consideration, I have the honor to be, my lord, &c.,

RUFUS KING.

DOWNING STREET, *March 27th*, 1797.

SIR: I have the honor of acknowledging the receipt of your letter of the 28th of January last. The desire of obtaining the most accurate information on the subject to which it relates, and the unavoidable pressure of other business, have prevented me from answering it at an earlier period.

It is, I am persuaded, unnecessary for me, on this occasion, to repeat the assurances which you have so frequently received of the sincere desire of His Majesty's Government to cultivate the strictest harmony and good understanding with the United States, or to express the concern which I must thence necessarily feel at any subject on which an essential difference of opinion may be likely to exist. Under this impression, I have considered the proposals, contained in your letter, relative to the discharge from His Majesty's service of seamen alleged to be American citizens, and I can, with the most perfect truth, assure you, that I have done so with every disposition to overlook difficulties of small importance, and to soften and smooth the way, as far as could depend on me, for the adjustment of the business in question, on terms mutually satisfactory, and with a spirit of conciliation and friendship.

But I am under the necessity of representing to you that those proposals appear to be liable to very great, and, as I fear, insurmountable difficulties; and that it seems scarcely possible for the King's Government to accede to any arrangement grounded on such a basis, without risking the total sacrifice of that on which depends the whole maritime force of Great Britain.

I mention the importance of the subject, in order that you may be satisfied that the difficulties raised upon your proposals, do not rest upon light or trivial considerations; and that if the question is, in some points of view, highly interesting to the feelings of individuals, and to the general conduct of Government in the United States, it is, on other considerations, one in which the highest interests of the King's dominions are essentially concerned.

If it were possible at once to find an obvious and indisputable mode of ascertaining whether a seaman is really a subject of His Majesty's dominions, or a citizen of the United States, certainly the King's Government would not hesitate to accede to any regulations for applying that rule in the easiest, most expeditious, and most effectual manner. But you must be sensible that while the laws of Great Britain render all British sailors liable to be called upon to serve in defence of their country, individuals, who may be desirous of exempting themselves from this duty, will too frequently endeavor to protect themselves under the pretence that they are American citizens; and that for this purpose they will derive very great facilities from the similarity of language, habits, and manners. The frequency of such attempts will naturally be increased by the circumstances in which America still finds herself, and in consequence of which a large proportion of the merchant ships of the United States now is, and must for many years continue to be, navigated by foreign seamen and particularly by British.

If therefore any rule is to be laid down by the consent of the two Governments for ascertaining, by a sort of *prima facie* evidence, who are the

persons to whom exemption shall be allowed on the ground of their being citizens of the United States, it must reasonably be expected by Great Britain, that such rule (though it could never be free from all objection, and certain in its application to every possible case) should, however, contain such general outlines of security as to afford a just foundation for the practice to be observed on a point of so much importance.

I am sorry to be obliged to say, that the proposals which you have been instructed to make on this head, not only do not fully answer this description, but that they do not appear to me to afford any security against the utmost extent and greatest possible latitude of abuse, and that a practice founded on these proposals would not differ at all in its effect and consequences, though in name and appearance it might, from a resolution to discharge at once every British seamen on his own assertion, that he is an American citizen.

With this view, I must request you to consider in detail the provisions of the act of Congress, and of the subsequent instructions respecting the certificates of citizenship which it is now proposed to allow the Consuls of the United States to grant, with the intention that full faith shall be given to such documents so framed; and I would willingly appeal to your own candor, whether any Government could ever consent that, even in matters of internal regulation, any point of national concern, however trifling, should rest on a foundation of no better security than that which is now proposed as the only safeguard against evasions already so frequently practised, and which may prove so extensive in their operation, and so dangerous in their consequences.

I must first observe, that the act does not in any manner specify the nature of the proof on which these certificates are to be granted; although some provisions on this subject are therein expressly referred to as being contained in the act, and as making the indisputable condition of granting the certificate. The insertion of those provisions is indeed so essential to the whole of the subject-matter which is in question, that the omission precludes all possibility of judging of the policy, or justice, or efficacy, of the law.

The President of the United States has indeed, in order to supply this deficiency, prescribed by his instructions, certain rules for the conduct of the officers of the Federal Government in respect of this act; but these instructions (supposing them in other respects adequate to their professed object) cannot even, with the utmost respect to the authority from which they proceed, be considered as having equal force, or affording to foreign nations equal security with those provisions which, according to the tenor of the act now in question, ought to be contained in the body of the act itself. It would by no means be my wish to raise or to discuss any doubtful question on the respective powers or functions of the component parts of a foreign Government, and if I err in the little I am about to say on this subject, your knowledge will at once enable you to correct any mistake into which I may be led. But when in a new case the supreme legislative power of that Government does, in the very first provision it makes on the subject, announce its regulations on this point as a matter of legislative enactment, it is impossible for other Governments, deeply interested in these regulations, to avoid, at least, inquiring how far, under the want of such enactment, any rules for the same purpose are likely to be effectually enforced by the sanction of any other authority; and to this remark I have only to add, that such a doubt will be found to apply with peculiar force to a case where no penalties have been, or as it is conceived could, under that sanction, be provided as a restraint on frauds, though carried to any extent. But the objections to the regulations themselves are still more important; so that even if the President's instructions were made law by any future act of Congress, or if a power now unquestionably exists, or should hereafter be expressly created in the Executive Government of the United States to provide such regulations, and to enforce them by adequate penalties, we should still be compelled to say that they were insufficient for the object of affording to Great Britain that security against fraud which must be a principal object of her intention in any final settlement of this business.

The evidence which is required by those instructions, as a foundation for granting the certificates of citizenship, is such as would not be admitted in any other case of the most trifling civil or political right. Such evidence would not even afford a reasonable presumption of the fact of birth, residence, or naturalization, and still less do the instructions hold out any adequate security that the person to whom even this proof applies, shall be the same with him who may be described in the certificate, or with him who may afterwards become the bearer of it.

Thus in the first and most simple case to which the President's instructions relate, a British sailor might apply to the collector of the customs at Boston for a certificate of citizenship, and support his application either by an extract of a pretended register of births in Georgia, or any other distant State, purporting to be certified by the proper officer of some religious society there, and supported by an affidavit that the applicant is the person mentioned in the extract, or merely by an affidavit that the applicant was born in Georgia, and on this ground the certificate is to be granted of necessity, and without farther inquiry.

The extract of such a register, and the signature thereto as described above, are so easily fabricated, and the fabrication is so impossible to be detected, that they can evidently give no security against fraud, and accordingly they are dispensed with in the instruction itself, which in express terms required the certificate to be granted on the simple affidavit of birth

On this affidavit, therefore, the whole rests. It is not precisely specified in the instruction, whether the custom-house officer is himself to administer this oath, or whether he is to admit (as I imagine the practice is) any affidavit said to be sworn

by a credible witness and before a magistrate of the United States, both perhaps residing at the distance of many hundred miles from the collector to whom the affidavit is produced, and the names of both being equally unknown to him. In the latter supposition he is, of course, wholly unable to verify the identity of the claimant, or the authenticity of the paper, or the signature; or, indeed, the existence either of the magistrate or the witness. But even if all these were duly ascertained, or if the affidavit is to be sworn before the custom-house officer himself, the fact of birth will still rest on the deposition of one person only, and that taken without adverse parties, and with no interest or means in the person before whom it is sworn to detect a falsehood. And when the certificate has in this manner, and on these grounds, been granted, not the smallest security is provided that the person obtaining it shall not immediately transfer it into other hands, and if he pleases, apply again to the same or another collector for another similar certificate to be granted to him on the same grounds; so that putting an extreme case, five hundred such papers granted one day, in strict conformity to the instructions, might the very next day be transferred to the whole crew of a British man-of-war. I have instanced this, because it is the first, the simplest, and the least objectionable, of all the cases supposed in the instructions of the President; but if you will apply the same examination to the others, it cannot fail to strike you how utterly inadequate all these provisions are to the discovery of truth, or the prevention of fraud. It is a great additional difficulty in all these cases, that it is not required by the law for the relief and protection of American seamen, that the certificate should distinguish, or in any manner specify, the grounds upon which it is granted. Where so much latitude is open for abuse, even this restriction, inadequate as it is to the total prevention of frauds, might, in some degree, have operated to check them; but even this is omitted, and instances have already occurred to prove by fact what was naturally to be foreseen, that no faith whatever is due to certificates granted under the act in question.

To such an extent are the frauds already arrived, that very recently I have had occasion to be acquainted with the circumstances of a case, in which a seaman described in a certificate, granted by a collector in the United States, to be an American seaman and citizen, has since been proved to be a native of North Britain, and to have gone to America, for the first time, no longer ago than in the month of July, 1794.

I am further under the necessity of remarking, that both the laws in question and the President's instructions include some cases (particularly with regard to the subjects of other Powers settling within the United States) to the principles of which this Government cannot accede. No British subject can, by such a form of renunciation as that which is prescribed in the American law of naturalization, divest himself of his allegiance to his sovereign. Such a declaration of renunciation, made by any of the King's subjects, would, instead of operating as a protection to them, be considered as an act highly criminal on their part; and, as in the proposed certificates there is no specification which can show what are the grounds of the protection claimed, it cannot be known whether, even supposing all the facts unquestionably true, the person to whom it was granted may not still be a British subject, liable, as such, to be called upon to serve his country, and incapable of receiving protection from any foreign State. I have hitherto reasoned on these provisions as applicable to the certificates granted by collectors in the United States; but it cannot escape your penetration and judgment, that every one of the objections before stated apply with additional force to the proposal of certificates to be granted by the Consuls of the United States resident in Europe, who can hardly be supposed, in any single instance, to possess the means of investigating or ascertaining any one disputed point. And it is difficult to conceive how any such Consul, if desirous of acting honestly in discharge of a duty of such high importance, could satisfy his own conscience as to the grounds on which he is to affirm and to certify to others a matter of fact, respecting which he can have so little cause or means of knowledge.

With respect to the practice which may have been adopted by the Consuls of the foreign Powers residing in His Majesty's dominions, of granting such certificates to individuals of their respective nations, you, sir, must be sensible that the circumstance of language alone, independent of many other means of knowledge which do not exist as with respect to America, are, in a very great degree, if not wholly, sufficient to guard against deception in those cases; but in regard to British seamen, and those of the United States, the similarity of language, manners, and habits, and the undeniably large proportion of the American navigation which is carried on by British sailors, must, as I have already mentioned, present such difficulties as to render it impossible for such a trust to be correctly exercised to the satisfaction of either Government.

For the reasons which I have here stated, the force of which I am confident no candid mind can dispute, I am under the necessity of declining, on the part of His Majesty's Government, to accede to the propositions contained in your letter. If any other proposals can be made less liable to objection, they will be considered with candor and liberality. It is not expected that, on so difficult and delicate a business, arrangments can at once be brought forward wholly free from all objections, or such as to supersede the necessity of frequent revisal, improvement, and addition, in order to meet the different means of evasion that may be resorted to; but it is certainly not too much to ask that the rules adopted in the first instance shall at least afford some security against the most extensive and the most dangerous consequences to the maritime power and safety of Great Britain. In the course of what I have said in this letter, I have adverted to two very material defects in the present system, both which might, as I think, be remedied by the Legislature of the United States.

The first is the want of adequate penalties to enforce, in all the parties concerned, the strictest attention to prevent frauds in applying for and granting these certificates; the second is the inserting, in the body of the certificate, the nature and particulars of the proof on which it is granted. I am far from thinking that, even with these additions, the system would still be such as could admit of the adoption of your proposal; but I have mentioned these as improvements which have occurred to me. It is probable that your own knowledge of the subject may enable you to suggest others, or that there may occur to the Government of the United States means of removing or lessening the objections here stated.

In the mean time, you may be assured that those facilities will be continued to you which you have hitherto experienced, in all your applications to His Majesty's Government, for the release of seamen alleged to be American citizens; and that every representation from you on that subject will be investigated with the utmost promptitude, and with those friendly dispositions, for the sincerity and effect of which I can with confidence appeal to your own experience since you have resided in this country.

I have the honor to be, sir, your most obedient, humble servant, GRENVILLE.

GREAT CUMBERLAND PLACE,
November 30th, 1796.

MY LORD: I have the honor to return the letter addressed to John Maxwell from his wife, which your lordship some time since transmitted to me, as containing evidence of improper conduct on the part of the American Consul at Bristol. I sent this letter to Mr. Vanderhorst, the Consul referred to, with a request that he would furnish such explanations relative to this case as should be in his power. From the communications I have received from Mr. Vanderhorst, extracts from which I take the liberty to enclose for your lordship's information, I flatter myself that it will appear that the unfavorable inferences which have been drawn from this letter, respecting the conduct of Mr. Vanderhorst, are not well founded.

In your lordship's letter of the 21st of September, in answer to my application for the discharge of Maxwell, an American citizen, impressed and detained on board His Majesty's ship Sandwich, the reason assigned against his discharge is "that he is married and settled at Bristol;" and I understand that the orders of the Lords Commissioners of the Admirality for the discharge of American seamen usually contain a proviso, that the discharge is not to operate in favor of any person who has entered on board any of His Majesty's ships, or who is married or settled within any of His Majesty's dominions. Without admitting or contesting, on this occasion, the rule of English law, that a subject cannot divest himself of his natural allegiance, I take the liberty to request your lordship's attention to the diversity of practice, so much to the disadvantage of the American citizens, that prevails in the application of this rule.

If Great Britain requires the acquiescence of foreign nations in this law, so far as regards the requisition of her subjects married and settled abroad, or voluntarily engaged in foreign service, is she not bound, in like manner to observe it herself, in respect to the subjects of foreign Powers, under similar circumstances, in her service, or within her dominions? If to the demand of a foreigner in her service, by the nation to which he belongs, Great Britain answers that such foreigner cannot be delivered, because he has voluntarily engaged to serve His Majesty, or is married, or settled within His Majesty's dominions, is she not bound by her own principles to admit the validity of the same answer from such foreign nation, when she requires the surrender of British subjects found in a similar predicament in the service or within the territory of such foreign nation? Justice, which is always impartial, furnishes the proper answer to these questions.

Admitting, then, that the voluntary contract of an American citizen to serve on board a British ship, or the marriage or settlement of such citizen within His Majesty's dominions, is the foundation of a right in His Majesty's Government to refuse the requisition of the United States of America that such citizen should be discharged from His Majesty's service, do we not thereby establish a principle that at once condemns and puts an end to the practice of His Majesty's naval officers, in entering American ships in search of, and for the purpose of impressing British seamen, since all seamen found on board such ships are there of choice, and by voluntary contract, to serve in the American employ?

But if neither of these circumstances can be considered as justly giving a right to His Majesty's Government to refuse the discharge of American citizens, does it not result that the usual proviso connected with the orders for the discharge of such citizens, and which is assigned as a reason against the discharge of John Maxwell, is without any just foundation, and consequently operates to the disadvantage and injury of the American citizens?

With the highest consideration and esteem, I have the honor to be, my lord, your lordship's obedient and very humble servant,

RUFUS KING.

FRANCE.

[Communicated to Congress, April 3, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

In compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit, to both Houses, those instructions to, and despatches from, the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my message of the 19th of March last, omitting only some names, and a few expressions, descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

UNITED STATES, *April* 3, 1798.

Letters of Credence for Messrs. Pinckney, Marshall, and Gerry, Envoys to France.

John Adams, President of the United States of America, to the Executive Directory of the French Republic.

CITIZENS DIRECTORS: Desirous of terminating all differences between the United States of America and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which, from the commencement of their political connexion, until lately, have so happily subsisted; I have nominated, and, by and with the advice and consent of the Senate of the United States, appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, distinguished citizens of these States, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing the great objects above mentioned: Wherefore, I pray you, Citizens Directors, to give full credence to what they, and each of them, shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French Republic.

Given under my hand and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the independence of the United States the twenty-second.

JOHN ADAMS.

By the President of the United States:
T. PICKERING, *Sec'y of State.*

Full powers to Messrs. Pinckney, Marshall, and Gerry Envoys to France.

John Adams, President of the United States of America, to all whom these presents shall concern—Greeting:

Know ye, that, for the purpose of terminating all differences between the United States of America and the French Republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing especial trust and confidence in the integrity, prudence, and abilities, of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, citizens of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, hereby giving and granting to them, and any and each of them, full power and authority, and also a general and special command, for, and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies, of the French Republic, being furnished with the like full powers, whether separately, or jointly, and with them to treat, consult, and negotiate, of and concerning all claims, and all matters and causes of difference, subsisting between the United States and the French Republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other the dominions of the French Republic: and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the independence of the United States of America the twenty-first.

JOHN ADAMS.

By the President of the United States:
T. PICKERING, *Sec'ry of State.*

Instructions to Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esqrs., Envoys Extraordinary and Ministers Plenipotentiary from the United States of America to the French Republic.

DEPARTMENT OF STATE, *July* 15, 1797.

GENTLEMEN: It is known to you, that the people of the United States of America entertained a warm and sincere affection for the people of France, ever since their arms were united in the war with Great Britain, which ended in the full and formal acknowledgment of the independence of these States. It is known to you that this affection was ardent, when the French determined to reform their Government, and establish it on the basis of liberty; that liberty in which the people of the United States were born, and which, in the conclusion of the war above mentioned, was finally and firmly secured. It is known to you that this affection rose to enthusiasm, when the war was kindled between France and the Powers of Europe, which were combined against her for the avowed purpose of restoring the monarchy; and everywhere vows were heard for the success of the French arms. Yet, during this period, France expressed no wish that the United States should depart from their neutrality. And while no duty required us to enter into the war, and our best interests urged us to remain at peace, the Government determined to take a neutral station: which being taken, the duties of an

impartial neutrality became indispensably binding. Hence the Government early proclaimed to our citizens the nature of those duties, and the consequences of their violation.

The Minister of France, Mr. Genet, who arrived about this time, by his public declarations, confirmed the idea that France did not desire us to quit the ground we had taken. His measures, however, were calculated to destroy our neutrality and to draw us into the war.

The principles of the proclamation of neutrality, founded on the law of nations, which is the law of the land, were afterwards recognised by the National Legislature, and the observance of them enforced by specific penalties in the act of Congress, passed the 5th of June, 1794. By these principles and laws the acts of the Executive, and the decisions of the Courts of the United States were regulated.

A Government, thus fair and upright in its principles, and just and impartial in its conduct, might have confidently hoped to be secure against formal official censure; but the United States have not been so fortunate. The acts of their Government in its various branches, though pure in principle and impartial in operation, and conformable to their indispensable rights of sovereignty, have been assigned as the cause of the offensive and injurious measures of the French Republic. For proofs of the former, all the acts of the Government may be vouched; while the aspersions so freely uttered by the French Ministers, the refusal to hear the Ministers of the United States specially charged to enter on amicable discussions on all the topics of complaint, the decrees of the Executive Directory and of their agents, the depredations on our commerce, and the violences against the persons of our citizens, are evidences of the latter. These injuries and depredations will constitute an important subject of your discussions with the Government of the French Republic; and for all these wrongs you will seek redress.

In respect to the depredations on our commerce, the principal objects will be, to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compensation. As to the first, the 7th article of the British, and the 21st of the Spanish Treaty, present approved precedents to be adopted with France. The proposed mode of adjusting those claims, by Commissioners appointed on each side, is so perfectly fair, we cannot imagine that it will be refused. But when the claims are adjusted, if payment in specie cannot be obtained, it may be found necessary to agree, in behalf of our citizens, that they shall accept public securities, payable with interest at such periods as the state of the French finances shall render practicable. These periods you will endeavor as far as possible to shorten.

Not only the recent depredations, under color of the decrees of the Directory of the 2d of July, 1796, and the 2d of March, 1797, or under the decrees of their agents, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, should be put in this equitable train of settlement. To cancel many or all of the last mentioned claims, might be the effect of the decree of the Executive Directory of the 2d of March last, reviving the decree of the 9th of May, 1793; but this being an *ex post facto* regulation, as well as a violation of the treaty between the United States and France, cannot be obligatory on the former. Indeed, the greater part, probably nearly all, the captures and confiscations in question have been committed in direct violation of that treaty or of the law of nations. But the injuries arising from the capture of enemies' property, in vessels of the United States, may not be very extensive; and if for such captured property the French Government will, agreeably to the law of nations, pay the freight and reasonable demurrage, we shall not, on this account, any further contend. But of ship timber and naval stores taken and confiscated by the French, they ought to pay the full value; because our citizens continued their traffic in those articles, under the faith of the treaty with France. On these two points we ought to expect that the French Government will not refuse to do us justice: and the more, because it has not, at any period of the war, expressed its desire that the commercial treaty should in these respects be altered.

Besides the claims of our citizens for depredations on their property, there are many arising from express contracts made with the French Government or its agents, or founded on the seizure of their property in French ports. Other claims have arisen from the long detention of a multitude of our vessels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French Government, and, in some, perhaps in most, of the cases, small payments towards indemnifications have been made: the residue still remains to be claimed.

All these just demands of our citizens will merit your attention. The best possible means of compensation must be attempted. These will depend on what you shall discover to be practicable in relation to the French finances. But an exception must be made in respect to debts due to our citizens by the contracts of the French Government and its agents, if they are comprehended in any stipulation; and an option reserved to them, jointly or individually, either to accept the means of payment which you shall stipulate, or resort to the French Government, directly, for the fulfilment of its contracts.

Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty.

You are not, however, to renounce these claims of our citizens, nor to stipulate that they may be assumed by the United States as a loan to the French Government.

In respect to the alterations of the commercial treaty with France, in the two cases which have

been principal subjects of complaint on her part, viz: enemies' property in neutral ships, and the articles contraband of war; although France can have no right to claim the annulling of stipulations at the moment when, by both parties, they were originally intended to operate: yet, if the French Government press for alterations, the President has no difficulty in substituting the principles of the law of nations, as statied in the 17th and 18th articles of our commercial treaty with Great Britain, to those of the 23d and 24th articles of our commercial treaty with France; and, in respect to provisions and other articles not usually deemed contraband, you are to agree only on a temporary compromise like that in the 18th article of the British Treaty, and of the same duration. If, however, in order to satisfy France, *now she is at war*, we change the two important articles before mentioned, then the 14th article of the French Treaty, which subjects the property of the neutral nation found on board enemies' ships to capture and condemnation, must of course be abolished.

We have witnessed so many erroneous constructions of the treaty with France, even in its plainest parts, it will be necessary to examine every article critically for the purpose of preventing, as far as human wisdom can prevent, all future misinterpretations. The kind of documents necessary for the protection of the neutral vessels should be enumerated and minutely described; the cases in which a sea-letter should be required may be specified; the want of a sea-letter should not of itself be a cause of confiscation, where other reasonable proof of property is produced; and, where such proof is furnished, the want of a sea-letter should go no further than to save the captor from damages for detaining and bringing in the neutral vessel. The proportion of the vessel's crew which may be foreigners should be agreed on. Perhaps it will be expedient to introduce divers other regulations conformably to the marine laws of France. Whenever these are to operate on the commerce of the United States, our safety requires that, as far as possible, they be fixed by treaty. And it will be desired to stipulate against any *ex post facto* law or regulation, under any pretence whatever.

Great Britain has often claimed a right, and practised upon it, to prohibit neutral nations carrying on a commerce with her enemies which had not been allowed in time of peace. On this head, it will be desirable to come to an explicit understanding with France, and, if possible, to obviate the claim by an express stipulation.

Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the same things, it will be desirable to have it explicitly stipulated that the conduct of an enemy towards the neutral Power, shall not authorize or excuse the other belligerent Power in any departure from the law of nations or the stipulations of the treaty; especially that the vessels of the neutral nation shall never be captured or detained, or their property confiscated or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually invested by land or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. And no commercial right whatever should be abandoned which is secured to neutral Powers by the European law of nations.

The foregoing articles being those which the French Government has made the ostensible grounds of its principal complaints, they have naturally been first brought into view. But the proposed alterations and arrangements suggest the propriety of revising all our treaties with France. In such revision, the first object that will attract your attention is the reciprocal guaranty, in the 11th article of the treaty of alliance. This guaranty we are perfectly willing to renounce. The guaranty by France of the liberty, sovereignty, and independence of the United States, will add nothing to our security; while, on the contrary, our guaranty of the possessions of France in America will perpetually expose us to the risk and expense of war, or to disputes and questions concerning our national faith.

When Mr. Genet was sent as the Minister of the French Republic to the United States, its situation was embarrassed, and the success of its measures problematical. In such circumstances, it was natural that France should turn her eye to the mutual guaranty; and, accordingly, it was required, in Mr. Genet's instructions, to be "an essential clause in the new treaty," which he was to propose, and on the ground "that it nearly concerned the peace and prosperity of the French nation, that a people whose resources increase beyond all calculation, and whom nature has placed so near their rich colonies, should become interested, by their own engagements, in the preservation of those islands." But, at this time, France, powerful by her victories, and secure in her triumphs, may less regard the reciprocal guaranty, with the United States, and be willing to relinquish it. As a substitute for the reciprocal guaranty and renunciation of the same territories and possessions that were subjects of the guaranty and renunciation in the 6th and 11th articles of the treaty of alliance. Such a renunciation on our part would obviate the reason assigned in the instruction to Mr. Genet before cited, of future danger from the rapidly growing power of the United States. But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it.

The existing engagement is of that kind which, by writers on the law of nations, is called a general guaranty; of course the *casus fœderis* can never occur except in a defensive war. The nature of this obligation is understood to be that, when a war really and truly defensive exists, the engaging nation is bound to furnish an effectual and adequate defence, in co-operation with the Power attacked: whence it follows that the nation may be required, in some circumstances, to bring forward its whole force. The nature and extent of the succors demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty. There is always hazard of doing too much or too little, and, of course, in being involved in involuntary rupture.

Specific succors have the advantage of certainty, and are less liable to occasion war. On the other hand, a general guaranty allows a latitude for the exercise of judgment and discretion.

On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money, or quantity of provisions, at the option of France; the provisions to be delivered at our own ports in any future defensive wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year, during any such wars. The reciprocal stipulation on the part of France may be to furnish annually the like sum of money, or an equivalent in military stores and clothing for troops, at the option of the United States, to be delivered in the ports of France.

Particular caution, however, must be used in discussing this subject, not to admit any claims on the ground of the guaranty, in relation to the existing war; as we do not allow that the *casus fœderis* applies to it. And if the war should continue after your arrival in France, and the question of the guaranty should not be mentioned on her part, you may yourselves be silent on the subject, if you deem it most prudent.

It will be proper here to notice such articles of the Treaty of Amity and Commerce between the United States and France, as have been differently construed by the two Governments, or which it may be expedient to amend or explain.

Art. II. The assent of the United States, in their treaty with Great Britain, to the doctrine of the law of nations respecting enemies' property in neutral ships, and ship timber and naval stores, and, in some cases, provisions, as contraband of war, the French Government has chosen to consider as a voluntary grant of favors, in respect to commerce and navigation, to Great Britain, and that, consequently, the same favors have become common to France. This construction is so foreign from our ideas of the meaning and design of this article, it shows the necessity of reviewing all the articles, and however clear they may appear, of attempting to obviate future misconstructions, by declaratory explanations or a change of terms.

Art. V. France has repeatedly contended that the imposition of fifty per cent. per ton, on French vessels arriving in the United States, is contrary to the fifth article of the treaty. The arguments in support of this pretension are unknown; but it is presumed to be unfounded. The reciprocal rights of laying "duties or imposts of what nature soever," equal to those imposed on the most favored nations, and without any other restrictions, seems to be clearly settled by the 3d and 4th articles. The 5th article appears to have been intended merely to define or qualify the rights of American vessels in France. It is, however, desirable that the question be understood, and all doubt concerning it removed. But the introduction of a principle of discrimination between the vessels of different foreign nations, and in derogation of the powers of Congress to raise revenue by uniform duties on any objects whatever, cannot be hazarded. The naturalization of French vessels will, of course, be considered as inadmissible.

Art. VIII. The stipulation of doing us good offices, to secure peace to the United States with the Barbary Powers, has never yet procured us any advantage. If, therefore, the French Government lays any stress on this stipulation, as authorizing a claim for some other engagement from us in favor of France, it may be abandoned; and especially if its abrogation can be applied as a set-off against some existing French claim.

Art. XIV. If the alterations already proposed are made in the 23d or 24th articles, then the 11th article, as before observed, must be abolished.

Art. XVII. The construction put on this article by the Government of the United States is conceived to be reasonable and just, and is, therefore, to be insisted on. The tribunals of the respective countries will consequently be justified in taking cognizance of all captures made within their respective jurisdictions, or by illegal privateers; and those of one country will be deemed illegal which are fitted out in the country of the other remaining neutral; seeing to permit such arming would violate the neutral duties of the latter.

It will be expedient to fix explicitly the reception to be given to public ships of war of all nations. The French Ministers have demanded that the public ships of the enemies of France, which at any time, and in any part of the world, had made prize of a French vessel, should be excluded from the ports of the United States, although they brought in no prize with them. In opposition to this demand, we have contended that they were to be excluded only when they came in with French prizes. And the kind of asylum to be afforded in all other circumstances is described in Mr. Jefferson's letter to Mr. Hammond, dated the 9th of September, 1793, in the following words: "Thus, then, the public ships of war of both nations (English and French) enjoy a perfect equality in our ports; first, in cases of urgent necessity; second, in cases of comfort or convenience; and third, in the time they choose to continue." And such shelter and accommodation are due to the public ships of all nations, on the principle of hospitality among friendly nations.

It will also be expedient explicitly to declare that the right of asylum stipulated for the armed vessels of France, and their prizes, gives no right to make sale of their prizes.

But when prize ships are so disabled as to be incapable of putting to sea again, until refitted, and when they are utterly disabled, some provision is necessary relative to their cargoes. Both cases occurred last year. The Government per-

mitted, though with hesitation and caution, the cargoes to be unloaded, one of the vessels to be repaired, and part of the prize goods sold to pay for the repairs, and the cargo of the vessel that was found unfit even to go to sea again, was allowed to be exported as prize goods, even in neutral bottoms. The doubts on these occasions arose from the 24th article of the British Treaty, forbidding the sale of the prizes of privateers, or the exchanging of the same in any other manner whatever. But, as French prizes were entitled to an asylum in our ports, it was conceived to be a reasonable construction of it, to allow of such proceedings as those above mentioned, to prevent the total loss of vessels and cargoes. The 25th article of the British Treaty demands attention; as it is therein stipulated that no future treaty shall be made that shall be inconsistent with that or the 24th article. Another doubt arose, whether the British Treaty did not, in good faith, require the prohibition of the sale of prizes made by the national ships of France, as well as of those made by her privateers, especially seeing our treaty with France gave her no right to sell any prizes whatever; but, upon the whole, it was conceived that the United States having been allowed the sale of such prizes, and the prohibition in the 24th article of the treaty being distinctly pointed against the sale of the prizes of privateers, it was thought proper to permit the former practice to continue, until the Executive should make and publish a prohibition of the sale of all prizes, or that Congress should pass a prohibitory law.

Art. XXII. If, in new modelling the treaty with France, the total prohibition of the sale of prizes in the ports of the party remaining neutral should not be agreed on, at least the right of each Power to make, at its pleasure, such prohibition, whether they are prizes of national ships or privateers, should be acknowledged, for the reason more than once suggested—to prevent a repetition of claims upon unfounded constructions—such as, under the present article, that a prohibition to an enemy of either party is a grant to the other of the thing forbidden.

Art. XXIII and XXIV. These have been already considered, and the alterations proposed have been mentioned.

There have been so many unjust causes and pretences assigned for capturing and confiscating American vessels, it may, perhaps, be impossible to guard against a repetition of them in any treaty which can be devised. To state the causes and pretences that have been already advanced by the Government of France, its agents, and tribunals, as the grounds of the capture and condemnation of American vessels and cargoes, would, doubtless, give pain to any man of an ingenuous mind, who should be employed on the part of France to negotiate another treaty, or a modification of the treaties which exist. It is not desired, therefore, to go further into detail on these matters than shall be necessary to guard, by explicit stipulations, against future misconstructions, and the mischiefs they will naturally produce.

Under pretence that certain ports were surrendered to the English by the treachery of the French and Dutch inhabitants, Victor Hugues and Lebas, the special agents of the Executive Directory, at Guadaloupe, have declared that all neutral vessels bound to or from such ports, shall be good prize.

Under the pretence that the British were taking all neutral vessels bound to or from French ports, the French agents at St. Domingo, (Santhonax and others,) decreed that all American vessels to or from English ports should be captured; and they have since declared such captured vessels to be good prize. The French Consuls in Spain have, on the same ground, condemned a number of American vessels, merely because they were destined to, or coming from, an English port.

Under the pretence that sea-letters or passports prescribed by the commercial treaty, for the mutual advantage of the merchants and navigators of the two nations, to save their vessels from detention and other vexations, when met with at sea, by presenting so clear a proof of the property, are an indispensable document to be found on board, the French confiscate American vessels destitute of them, even when they acknowledge the property to be American.

Because horses and their military furniture, when destined to any enemy's port, are, by the 24th article of the Commercial Treaty, declared contraband, and as such, by themselves, only liable to confiscation, Hugues and Lebas decreed all neutral vessels, having horses or any other contraband goods on board, should be good prize; and they accordingly condemned vessels and cargoes.

The ancient ordinances of the French Monarchs required a variety of papers to be on board neutral vessels, the want of any one of which is made a cause of condemnation; although the 25th article of the Commercial Treaty mentions what certificate shall accompany the merchant vessels and cargoes of each party, and which, by every reasonable construction, ought to give them protection.

It will therefore be advisable to guard against abuses by descending to particulars: to describe the ship's papers which shall be required, and to declare that the want of any other shall not be a cause for confiscation: to fix the mode of manning vessels as to the officers, and the proportion of the crews who shall be citizens; endeavoring to provide, in respect to American vessels, that more than one-third may be foreigners. This provision will be important to the Southern States, which have but few native seamen.

The marine ordinances of France will show what regulations have been required to be observed by allied as well as neutral Powers in general, to ascertain and secure the property of neutrals. Some of these regulations may be highly proper to be adopted; while others may be inconvenient and burdensome. Your aim will be, to render the documents and formalities as few and as simple as will consist with a fair and regular commerce.

Art. XXV and XXVII. These two articles should be rendered conformable to each other.

The 27th says that, after the exhibition of the passport, the vessel shall be allowed to pass without molestation or search, without giving her chase, or forcing her to quit her intended course. The 25th requires that, besides the passport, vessels shall be furnished with certain certificates, which, of course, must also be exhibited. It will be expedient to add, that, if in the face of such evidence, the armed vessel will carry the other into port, and the papers are found conformable to treaty, the captors shall be condemned in all the charges, damages, and interest thereof, which they shall have caused. A provision of this nature is made in the 11th article of our treaty with the United Netherlands.

Art. XXVIII. The prohibited goods here mentioned have no relation to contraband, but merely to such as, by the laws of the country, are forbidden to be exported. Yet, in the case of exporting horses from Virginia, which no law prohibited, in the Winter of 1706, this article was applied by the French Minister to horses, which, by the French Treaty, are contraband of war. And a letter from the Minister to Victor Hugues and Lebas, informing them that the American Government refused to prevent such export of horses by the British, is made one ground for their decree above mentioned.

Art. XXX. The vessels of the United States, ought to be admitted into the ports of France in the same manner as the vessels of France are admitted into the ports of the United States. But such a stipulation ought not to authorize the admission of vessels of either party into the ports of the other, into which the admission of all foreign vessels shall be forbidden, by the laws of France and of the United States, respectively. With this restriction, the principles of the 14th article of the treaty with Great Britain afford a liberal and unexceptionable precedent. A restriction like that here referred to, will be found in the first paragraph of the third article of the British Treaty.

The commerce to the French colonies in the East and West Indies will, doubtless, be more or less restricted, according to the usage of other European nations. Yet, on account of the disarranged condition of the French navigation, probably a larger latitude of trade with their colonies will be readily permitted for a term of years; and, perhaps, the mutual advantages thence resulting will be found so great as to induce, afterwards, a prolongation of that term, to which the course of habit or business may contribute.

While, between the United States and France, there shall subsist a perfect reciprocity in respect to commerce, we must endeavor to extend our trade to her colonies to as many articles as possible. Of these, the most important are provisions of all kinds, as beef, pork, flour, butter, cheese, fish, grain, pulse, live stock, and every other article serving for food, which is the produce of the country, horses, mules, timber, planks, and wood of all kinds, cabinet ware, and other manufactures of the United States; and to obtain, in return, all the articles of the produce of those colonies, without exception, at least to the value of the cargoes to those colonies.

There have been different constructions of the Consular Convention. The French have contended for the execution of their consular decisions, by the marshal or other officer of the United States; and their Minister of Justice has formally stated in a report to the Minister of Foreign Affairs, that the judicial sentences of the American Consuls in France will be executed by certain officers of justice in that country. The legal opinion of the law officers of the United States, which the Government has adopted, opposes such a construction. The French have also contended that deserters from French vessels ought to be apprehended by the judicial officers of the United States, upon other evidence than the original shipping paper, or *rôle d'équipage*; whereas, the district judges have insisted that the Consular Convention requires the original *rôle* to be produced. This claim was lately reviewed by the Consul General of the French Republic. The correspondence, on this occasion, will be joined to the other documents which accompany these instructions.

The United States cannot consent to the erecting of foreign tribunals within their jurisdiction. We consider the judicial authority of Consuls, as described in the Consular Convention, to be voluntary, not compulsory, in the country where they reside; and that their decisions, if not obeyed by the parties, respectively, must be enforced by the laws of their proper country; and such a provision, you will see, has been made in France, where a penalty of fourteen hundred livres is imposed on the citizen who refuses obedience to consular decision in a foreign State.

The Consular Convention will expire in about four years; and if any great difficulties arise in settling the terms of a new one, that which exists must take its course; but if the French Government should be silent on the subject of the Consular Convention, silence may be observed on your part.

The ports of the United States being frequented by the vessels of different belligerent Powers, it became necessary to regulate the times of their sailing. The President, therefore, adopted what was understood to be the received rule in Europe; and ordered that, after the sailing of a vessel of one of the belligerent Powers, twenty-four hours should elapse before an armed vessel of an enemy should set sail. This rule has not been duly respected by the armed vessels of France and Great Britain.

As the tranquillity of the United States requires that no hostile movements be commenced within their jurisdiction, and the interests of commerce demand an entire freedom to the departure of vessels from their ports, it may be expedient expressly to recognise the above-mentioned rule.

It will also be expedient to agree on the extent of territorial jurisdiction on the seacoast, and in what situations bays and sounds may be said to be land-locked, and within the jurisdiction of the sovereign of the adjacent country.

On the supposition that a treaty will be nego-

tinted to alter and amend the treaties which now exist between France and the United States, the following leading principles, to govern the negotiation, are subjoined:

1. Conscious integrity authorizes the Government to insist, that no blame or censure be directly, or indirectly, imputed to the United States. But, on the other hand, however exceptionable in the view of our own Government, and in the eyes of an impartial world, may have been the conduct of France, yet she may be unwilling to acknowledge any aggressions, and we do not wish to wound her feelings, or to excite resentment. It will, therefore, be best to adopt, on this point, the principle of the British Treaty, and "terminate our differences in such manner, as, without referring to the merits of our respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding."

2. That no aid be stipulated in favor of France during the present war.

3. That no engagement be made inconsistent with the obligations of any prior treaty.

4. That no restraint on our lawful commerce with any other nation be admitted.

5. That no stipulation be made, under color of which tribunals can be established within our jurisdiction, or personal privileges claimed by French citizens incompatible with the complete sovereignty and independence of the United States, in matters of policy, commerce, and government.

It will be expedient to limit the duration of the treaty to a term of from ten to twenty years. Such changes in the circumstances of the two parties are likely to happen within either of those periods, as to give one or both good reason to desire a change in the conditions of the treaty. From this limitation may be excepted such articles as are declaratory of a state of peace, or as are intended to regulate the conduct of the two nations at the commencement of, or during a state of, war, or which are founded in morality and justice, and are, in their nature, of perpetual obligation. Of this kind may be considered the tenth article of the treaty with Great Britain; which, therefore, may very properly be introduced into the treaty with France.

Finally, the great object of the Government being to do justice to France and her citizens, if in anything we have injured them; to obtain justice for the multiplied injuries they have committed against us, and to preserve peace; your style and manner of proceeding will be such as shall most directly tend to secure these objects. There may be such a change of men and measures in France, as will authorize, perhaps render politic, the use of strong language in describing the treatment we have received. On the other hand, the French Government may be determined to frustrate the negotiation, and throw the odium on this country; in which case, anything like warmth and harshness would be made the pretext. If things remain in their present situation, the style of representation will unite, as much as possible, calm dignity with simplicity, force of sentiment with mildness of language, and be calculated to impress an idea of inflexible perseverance, rather than of distrust or confidence.

With these instructions you will receive the following documents:

1. The printed state papers, containing the correspondence between the Secretary of State and the French Minister, Mr. Genet.

2. The letter, dated January 16th, 1797, from the Secretary of State, to General Pinckney, and the documents therein referred to, in which all the known complaints of the French Government, since the recall of Mr. Genet, are exhibited and discussed.

3. A report from the Secretary of State to the House of Representatives, dated the 27th of February, 1797, exhibiting the state of American claims which had been presented to the French Government, (but few of which had been satisfied) together with some further information relative to the depredations by the officers and people of that nation on the commerce of the United States.

4. A report made by the Secretary of State to the President of the United States, on the 21st of June, 1797, and by him laid before Congress on the 22d.

5. Certain original depositions, protests, and other papers, relative to the French spoliations on the commerce, and personal insults and injuries to the citizens of the United States.

6. The documents laid before the House of Representatives, the 17th of May, 1797, relative to General Pinckney's mission to Paris, and comprehending some papers relative to the capture and condemnation of American vessels by the French.

7. The correspondence with the French Consul General, Létombe, relative to the Consular Convention.

TIMOTHY PICKERING,
Secretary of State.

DEPARTMENT OF STATE,
April 3, 1798.

The names designated by the letters W, X, Y, Z, in the following copies of letters from the Envoys of the United States to the French Republic, are, in the originals, written at full length, in ciphers. For the same reason that single letters are thus taken to designate certain persons named in the letters, other words descriptive of them are omitted.

TIMOTHY PICKERING.

Despatches from the Envoys to the Secretary of State.

No. 1.

PARIS, *October* 22, 1797.

DEAR SIR: All of us having arrived at Paris, on the evening of the 4th instant, on the next day we verbally, and unofficially, informed the Minister of Foreign Affairs therewith, and desired to know when he would be at leisure to receive one of our secretaries with the official notification.

He appointed the next day, at two o'clock, when Major Rutledge waited on him with the following letter:

CITIZEN MINISTER: The United States of America being desirous of terminating all differences between them and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which, from the commencement of their political connexion until lately have so happily subsisted, the President has nominated, and, by and with the advice and consent of the Senate, has appointed us, the undersigned, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing these great objects. In pursuance of such nomination and appointment, and with such view, having come to Paris, we wish, Citizen Minister, to wait on you at any hour you will be pleased to appoint, to present the copy of our letters of credence; and whilst we evince our sincere and ardent desire for the speedy restoration of friendship and harmony between the two Republics, we flatter ourselves with your concurrence in the accomplishment of this desirable event. We request you will accept the assurances of our perfect esteem and consideration.

CHARLES C. PINCKNEY.
JOHN MARSHALL.
ELBRIDGE GERRY.

PARIS, *October* 6.

To this letter the Minister gave a verbal answer, that he would see us the day after the morrow, (the 8th,) at one o'clock. Accordingly, at that hour and day, we waited on the Minister at his house, where his office is held, when, being informed he was at home, the Secretary General of the department told Major Rutledge that the Minister was obliged to wait on the Directory, and requested that we would suspend our visit till three o'clock; at which hour we called. The Minister, we found, was then engaged with the Portuguese Minister, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the Minister perused and kept. He informed us "that the Directory had required him to make a report relative to the situation of the United States with regard to France, which he was then about, and which would be finished in a few days, when he would let us know what steps were to follow." We asked if cards of hospitality were in the meantime necessary? He said they were, and that they should be delivered to us; and he immediately rung for his secretary and directed him to make them out. The conversation was carried on by him in French, and by us in our own language.

The next day cards of hospitality were sent to us and our secretaries, in a style suitable to our official character.

On Saturday, the 14th, Major Mountflorence informed General Pinckney that he had had a conversation with Mr. Osmond, the private and confidential secretary of the Minister of Foreign Affairs, who told him that the Directory were greatly exasperated at some parts of the President's Speech at the opening of the last session of Congress, and would require an explanation of them from us. The particular parts were not mentioned. In another conversation on the same day, the secretary informed the Major that the Minister had told him it was probable we should not have a public audience of the Directory till such time as our negotiation was finished; that probably persons might be appointed to treat with us, but they would report to him, and he would have the direction of the negotiation. The Major did not conceal from Mr. Osmond his intention to communicate these conversations to us.

In the morning of October the 18th, Mr. W., of the house of ———, called on General Pinckney and informed him that a Mr. X, who was in Paris, and whom the General had seen, * * * * * was a gentleman of considerable credit and reputation, * * * * * and that we might place great reliance on him.

In the evening of the same day, Mr. X. called on General Pinckney, and after having sat some time, * * * * * whispered him that he had a message from M. Talleyrand to communicate when he was at leisure. General Pinckney immediately withdrew with him into another room; and when they were alone, Mr. X. said that he was charged with a business in which he was a novice; that he had been acquainted with M. Talleyrand, * * * * * and that he was sure he had a great regard for [America] and its citizens; and was very desirous that a reconciliation should be brought about with France; that, to effect that end, he was ready, if it was thought proper, to suggest a plan, confidentially, that M. Talleyrand expected would answer the purpose. General Pinckney said he should be glad to hear it. M. X. replied that the Directory, and particularly two of the members of it, were exceedingly irritated at some passages of the President's Speech, and desired that they should be softened, and that this step would be necessary previous to our reception. That, besides this, a sum of money was required for the pocket of the Directory and Ministers, which would be at the disposal of M. Talleyrand; and that a loan would also be insisted on. M. X. said if we acceded to these measures, M. Talleyrand had no doubt that all our differences with France might be accommodated. On inquiry, M. X. could not point out the particular passages of the Speech that had given offence, nor the quantum of the loan, but mentioned that the douceur for the pocket, was twelve hundred thousand livres, about fifty thousand pounds sterling. General Pinckney told him, that his colleagues and himself, from the time of their arrival here, had been treated with great slight and disrespect; that they earnestly wished for peace and reconciliation with France; and had been entrusted by their country with very great powers to obtain these ends on honorable terms; that, with regard to the propositions made, he could not even consider of them before he had communicated them to his colleagues; that, after he had done so, he should

hear from him. After a communication and consultation had, it was agreed that General Pinckney should call on M. X. and request him to make his propositions to us all: and, for fear of mistake or misapprehension, that he should be requested to reduce the heads into writing. Accordingly, on the morning of October 19, General Pinckney called on M. X., who consented to see his colleagues in the evening, and to reduce his propositions to writing. He said his communication was not immediately with M. Talleyrand, but through another gentleman in whom M. Talleyrand had great confidence. This proved afterwards to be M. Y.

At six in the evening, M. X. came and left with us the first set of propositions, which, translated from the French, are as follows: "A person who possesses the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would result from the re-establishment of the good understanding between the two nations, proposes to employ all of his influence to obtain this object. He will assist the Commissioners of the United States in all the demands which they may have to make from the Government of France, inasmuch as they may not be contradictory to those which he proposes himself to make, and of which the principal will be communicated confidentially. It is desired that, in the official communications, there should be given a softening turn to a part of the President's Speech to Congress, which has caused much irritation. It is feared that in not satisfying certain individuals in this respect, they may give way to all their resentment. The nomination of Commissioners will be consented to on the same footing as they have been named in the treaty with England, to decide on the reclamations which individuals of America may make on the Government of France, or on French individuals. The payment which, agreeably to the decisions of the Commissioners, shall fall to the share of the French Government, are to be advanced by the American Government itself. It is desired that the funds which, by this means, shall enter again into the American trade, should be employed in new supplies for the French colonies. Engagements of this nature, on the part of individuals reclaiming, will always hasten, in all probability, the decisions of the French Commissioners; and, perhaps, it may be desired that this clause should make a part of the instructions which the Government of the United States should give to the Commissioners they may choose. The French Government desires, besides, to obtain a loan from the United States; but so that that should not give any jealousy to the English Government, nor hurt the neutrality of the United States. This loan shall be masked by stipulating, that the Government of the United States consents to make the advances for the payment of the debts contracted by the agents of the French Government with the citizens of the United States, and which are already acknowledged, and the payment ordered by the Directory, without having been yet effectuated. There should be delivered a note to the amount of these debts. Probably this note may be accompanied by ostensible pieces, which will guarantee to the agents the responsibility of the United States, in case any umbrage should cause an inquiry. There shall also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs." The person of note mentioned in the minutes, who had the confidence of the Directory, he said, before us all, was M. Talleyrand. The amount of the loan he could not ascertain precisely, but understood it would be according to our ability to pay. The sum which would be considered as proper, according to diplomatic usage, was about twelve hundred thousand livres. He could not state to us what parts of the President's Speech were excepted to, but said he would inquire and inform us He agreed to breakfast with Mr. Gerry the morning of the 21st, in order to make such explanations as we had then requested, or should think proper to request; but, on the morning of the 20th, M. X. called, and said that M. Y., the confidential friend of M. Talleyrand, instead of communicating with us through M. X. would see us himself and make the necessary explanations. We appointed to meet him the evening of the 20th at seven o'clock, in General Marshall's room. At seven, M. Y. and M. X. entered; and the first mentioned gentleman, being introduced to us as the confidential friend of M. Talleyrand, immediately stated to us the favorable impression of that gentleman towards our country—impressions which were made by the kindness and civilities he had personally received in America. That impressed by his solicitude to repay these kindnesses, he was willing to aid us in the present negotiation by his good offices with the Directory, who were, he said, extremely irritated against the Government of the United States, on account of some parts of the President's Speech, and who had neither acknowledged nor received us, and consequently have not authorized M. Talleyrand to have any communications with us. The Minister therefore could not see us himself, but had authorized his friend M. Y. to communicate to us certain propositions, and to receive our answers to them; and to promise, on his part, that if we would engage to consider them as the basis of the proposed negotiation, he would intercede with the Directory to acknowledge us, and to give us a public audience. M. Y. stated to us, explicitly and repeatedly, that he was clothed with no authority; that he was not a diplomatic character; that he was not * * * * he was only the friend of M. Talleyrand, and trusted by him; that, with regard to himself, he had * * * * and he earnestly wished well to the United States. He then took out of his pocket a French translation of the President's Speech, the parts of which, objected to by the Directory, were marked, agreeably to our request to M. X., and are contained in the exhibit A. Then he made us the second set of propositions, which were dictated by him and written by M. X. in our presence, and delivered to us, and which, translated from the French, are as follows: "There is demanded a formal disavowal in writing, declaring that

the speech of the citizen President Barras did not contain anything offensive to the Government of the United States, nor anything which deserved the epithets contained in the whole paragraph. Secondly, reparation is demanded for the article by which it shall be declared, that the decree of the Directory there mentioned did not contain anything contrary to the treaty of 1778, and had none of those fatal consequences that the paragraph reproaches to it. Thirdly, it is demanded that there should be an acknowledgment, in writing, of the depredations exercised on our trade by the English and French privateers. Fourthly, the Government of France, faithful to the profession of public faith which it has made not to intermeddle in the internal affairs of foreign Governments with which it is at peace, would look upon this paragraph as an attack upon its loyalty, if this was intended by the President. It demands, in consequence, a formal declaration that it is not the Government of France, nor its agents, that this paragraph meant to designate. In consideration of these reparations the French Republic is disposed to renew with the United States of America a treaty which shall place them reciprocally in the same state that they were in 1778. By this new treaty, France shall be placed, with respect to the United States, exactly on the same footing as they stand with England, in virtue of the last treaty which has been concluded between them. A secret article of this new treaty would be a loan to be be made by the United States to the French Republic; and, once agreed upon the amount of the loan, it would be endeavored to consult the convenience of the United States with respect to the best method of preventing its publicity."

On reading the speech, M. Y. dilated very much upon the keenness of the resentment it had produced, and expatiated largely on the satisfaction he said was indispensably necessary as a preliminary to negotiation. "But, said he, gentlemen, I will not disguise from you that this satisfaction being made, the essential part of the treaty remains to be adjusted; il faut de l'argent—il faut beaucoup d'argent;" *you must pay money, you must pay a great deal of money.* He spoke much of the force, the honor, and the jealous republican pride of France; and represented to us strongly the advantage which we should derive from the neutrality thus to be purchased. He said that the receipt of the money might be so disguised as to prevent its being considered as a breach of neutrality by England; and thus save us from being embroiled with that Power. Concerning the twelve hundred thousand livres little was said; that being completely understood, on all sides, to be required for the officers of Government, and, therefore needing no further explanation. These propositions, he said, being considered as the admitted basis of the proposed treaty, M. Talleyrand trusted that, by his influence with the Directory, he could prevail on the Government to receive us. We asked whether we were to consider it as certain, that, without a previous stipulation to the effect required, we were not to be received. He answered that M. Talleyrand himself was not authorized to speak to us the will of the Directory, and consequently could not authorize him. The conversation continued until half after nine, when they left us; having engaged to breakfast with Mr. Gerry the next morning.

October the 21st, M. X. came before nine o'clock; M. Y. did not come until ten: he had passed the morning with M. Talleyrand. After breakfast the subject was immediately resumed. He represented to us, that we were not yet acknowledged or received; that the Directory were so exasperated against the United States, as to have come to a determination to demand from us, previous to our reception, those disavowals reparations, and explanations, which were stated at large last evening. He said that M. Talleyrand and himself were extremely sensible of the pain we must feel in complying with this demand; but that the Directory would not dispense with it; that, therefore, we must consider it as the indispensable preliminary to obtain our reception, unless we could find the means to change their determination in this particular; that if we satisfied the Directory in these particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them precisely on the same footing with England; whether, he said, our full powers were really and substantially full powers, or, like those of Lord Malmesbury, only illusory powers; that, if to this demand our answer should be affirmative, then France would consent that commissioners should be appointed to ascertain the claims of the United States in like manner as under our treaty with England; but from their jurisdiction must be withdrawn those which were condemned for want of a *rôle d' équipage;* that being a point on which Merlin, while Minister of Justice, had written a treatise, and on which the Directory were decided. There would, however, be no objection to our complaining of these captures in the course of the negotiation; and if we could convince Merlin by our reasoning, the Minister would himself be satisfied with our so doing. We required an explanation of that part of the conversation, in which M. Y. had hinted at our finding means to avert the demand concerning the President's Speech. He answered, that he was not authorized to state those means, but that we must search for them and propose them ourselves. If, however, we asked his opinion as a private individual, and would receive it as coming from him, he would suggest to us the means which, in his opinion, would succeed. On being asked to suggest the means, he answered, *money;* that the Directory were jealous of its own honor and of the honor of the nation; that it insisted on receiving from us the same respect with which we had treated the King; that this honor must be maintained in the manner before required, unless we substituted, in the place of these reparations, something, perhaps more valuable, that was money. He said, further, that if we desired him to point out the sum which he believed would be satisfactory, he would do so. We requested him to proceed; and he said that there were thirty-two millions of florins, of Dutch inscriptions, worth

ten shillings in the pound, which might be assigned to us at twenty shillings in the pound; and he proceeded to state to us the certainty that, after a peace, the Dutch Government would repay us the money; so that we should ultimately lose nothing, and the only operation of the measure would be, an advance from us to France of thirty-two millions, on the credit of the Government of Holland. We asked him whether the fifty thousand pounds sterling, as a *douceur* to the Directory, must be in addition to this sum. He answered in the affirmative. We told him that, on the subject of the treaty, we had no hesitation in saying that our powers were ample; that, on the other points proposed to us, we would retire into another room, and return in a few minutes with our answer.

We committed immediately to writing the answer we proposed, in the following words: "Our powers respecting a treaty are ample; but the proposition of a loan, in the form of Dutch inscriptions, or in any other form, is not within the limits of our instructions; upon this point, therefore, the Government must be consulted; one of the American Ministers will, for the purpose, forthwith embark for America; provided the Directory will suspend all further captures on American vessels, and will suspend proceedings on those already captured, as well where they have been already condemned, as where the decisions have not yet been rendered; and that where sales have been made, but the money not yet received by the captors, it shall not be paid until the preliminary questions, proposed to the Ministers of the United States, be discussed and decided:" which was read as a verbal answer, and we told them they might copy it if they pleased. M. Y. refused to do so; his disappointment was apparent; he said we treated the money part of the proposition as if it had proceeded from the Directory; whereas, in fact, it did not proceed even from the Minister, but was only a suggestion from himself, as a substitute to be proposed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him that we understood that matter perfectly; that we knew the proposition was in form to be ours; but that it came substantially from the Minister. We asked what had led to our present conversation? And General Pinckney then repeated the first communication from M. X., (to the whole of which that gentleman assented,) and we observed that those gentlemen had brought no testimonials of their speaking anything from authority; but that, relying on the fair characters they bore, we had believed them when they said they were from the Minister, and had conversed with them, in like manner, as if we were conversing with M. Talleyrand himself; and that we could not consider any suggestion M. Y. had made as not having been previously approved of; but yet, if he did not choose to take a memorandum in writing of our answer, we had no wish that he should do so; and further, if he chose to give the answer to his proposition the form of a proposition from ourselves, we could only tell him that we had no other proposition to make, relative to any advance of money on our part; that America had sustained deep and heavy losses by French depredations on our commerce, and that France had alleged so [many] complaints against the United States, that on those subjects we came fully prepared, and were not a little surprised to find France unwilling to hear us; and making demands upon us which could never have been suspected by our Government, and which had the appearance of our being the aggressing party. M. Y. expressed himself vehemently on the resentment of France; and complained that, instead of our proposing some substitute for the reparations demanded of us, we were stipulating certain conditions to be performed by the Directory itself; that he could not take charge of such propositions; and that the Directory would persist in its demand of those reparations which he at first stated. We answered that we could not help it; it was for the Directory to determine what course its own honor and the interests of France required it to pursue; it was for us to guard the interest and honor of our country. M. Y. observed that we had taken no notice of the first proposition, which was to know whether we were ready to make the disavowal, reparations, and explanations, concerning the President's Speech. We told him that we supposed it to be impossible that either he, or the Minister, could imagine that such a proposition could require an answer; that we did not understand it as being seriously expected; but merely as introductory to the subjects of real consideration.

He spoke of the respect which the Directory required, and repeated that it would exact as much as was paid to the ancient kings. We answered that America had demonstrated to the world, and especially to France, a much greater respect for her present Government than for her former monarchy: and that there was no evidence of this disposition which ought to be required, that we were not ready to give. He said that we should certainly not be received; and seemed to shudder at the consequences. We told him, that America had made every possible effort to remain on friendly terms with France—that she was still making them, that if France would not hear us, but would make war on the United States, nothing remained for us but to regret the unavoidable necessity of defending ourselves.

The subject of our powers was again mentioned; and we told him that America was solicitous to have no more misunderstandings with any Republic, but especially with France; that she wished a permament treaty, and was sensible that no treaty could be permanent, which did not comport with the interests of the parties; and, therefore, that he might be assured, that our powers were such as authorized us to place France on equal ground with England, in any respects in which an equality might be supposed to exist at present between them, to the disadvantage of France. The subject of the *rôle d'équipage* was also mentioned; and we asked what assurance we could have, if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make

should be observed. M. Y. said that he did not assert the principle of changing treaties by municipal regulations; but that the Directory considered its regulation concerning the *rôle d'équipage* as comporting with the treaty. We observed to him, that none of our vessels had what the French termed the *rôle d'équipage*, and that if we were to surrender all the property which had been taken from our citizens in cases where their vessels were not furnished with such a *rôle*, the Government would be responsible to its citizens for the property so surrendered; since it would be impossible to undertake to assert that there was any plausibility in the allegation that our treaty required a *rôle d'équipage*.

The subject of disavowals, &c., concerning the President's Speech was again mentioned; and it was observed that the Constitution of the United States authorized and required our President to communicate his ideas on the affairs of the nation; that, in obedience to the Constitution, he had done so; that we had not power to confirm or invalidate any part of the President's Speech; that such an attempt could produce no other effect than to make us ridiculous to the Government and to the citizens at large of the United States; and to produce, on the part of the President, an immediate disavowal and recall of us, as his agents; that, independent of this, all America was acquainted with the facts stated by the President; and our disavowing them would not change the public sentiment concerning them.

We parted with mutual professions of personal respect, and with full indications on the part of M. Y. of his expectation that we should immediately receive the threatened letter.

The nature of the above communication will evince the necessity of secrecy; and we have promised Messrs. X. and Y. that their names shall, in no event, be made public.

We have the honor to be, &c.

C. C. PINCKNEY,
J. MARSHALL,
E. GERRY.

P. S. October 27, 1797. The definitive articles of peace are signed between the French Republic and the Emperor. The particulars you will find in the public prints. The Portuguese Minister is ordered to quit France, as the treaty with Portugal has not yet been ratified by the Queen. The treaty itself is declared by the Directory to be void. Since our arrival in Paris the Tribunal of Cassation has rejected Captain Scott's petition complaining of the condemnation of his vessel by the Civil Tribunal for the want of a *rôle d'équipage*. Mr. * * * * in behalf the owners of the American vessels, who have appealed in the last resort to the Tribunal of Cassation, informs, that notwithstanding all the arguments * * * * made use of * * * * to put off the hearing of the Rosanna, as a diplomatic case, till the issue of our negotiations is known, that case is set down for hearing, and will come on the 29th or 30th instant. The same * * * * also says that it is obvious that the tribunal have received instructions from the officers of the Government to hasten their decisions, and that it was hardly worth while to * * * * for all our petitions in cassation would be rejected. Our advocates * * * * decline giving their sentiments on this subject * * * * under an apprehension of committing themselves.

Col. PICKERING, *Secretary U. S.*

Paragraphs of the President's Speech, referred to in letter No. 1, under title of Exhibit A.

I. With this conduct of the French Government it will be proper to take into view the public audience given to the late Minister of the United States, on his taking leave of the Executive Directory. The Speech of the President discloses sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities against the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a colonial spirit of fear, and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

II. The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country; nevertheless, there is reason to believe that the Executive Directory passed a decree on the 2d of March last, contravening, in part, the Treaty of Amity and Commerce of 1778, injurious to our lawful commerce, and endangering the lives of our citizens. A copy of this decree will be laid before you.

III. While we are endeavoring to adjust all our differences with France, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs, render it my indispensable duty to recommend to your consideration effectual measures of defence.

IV. It is impossible to conceal from ourselves, or the world, what has been before observed, that endeavors have been employed to foster and establish a division between the Government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary. But to repel, by decided and united councils, insinuations so derogatory to the honor, and aggressions so dangerous to the constitution, union, and even independence of the nation, is an indispensable duty.

Answer of M. Barras, President of the Executive Directory, to the Speech of Mr. Monroe, on taking leave, to which the Speech of the President of the United States refers.

Mr. Minister Plenipotentiary of the United States of America: By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants; moreover, the French Republic hopes that the successors of Columbus, Ramhiph,* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, sir, that, like them, we adore liberty; that they will always have our esteem; and that they will find in the French people republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected.

As to you, Mr. Minister Plenipotentiary, you have combated for principles; you have known the true interests of your country: depart with our regret. In you we give up a representative to America, and retain the remembrance of the citizen whose personal qualities did honor to that title.

No. 2.

PARIS, *November* 8, 1797.

DEAR SIR: We now enclose you, in thirty-six quarto pages of cipher, and in eight pages of ciphered exhibits, the sequel to the details commenced in No. 1, dated the 22d of last month, and have the honor to be, &c.

C. C. PINCKNEY.
J. MARSHALL.
E. GERRY.

Col. PICKERING.

OCTOBER 27, 1797.

About twelve we received another visit from M. X. He immediately mentioned the great event announced in the papers, and then said, that some proposals from us had been expected on the subject on which we had before conversed: that the Directory were becoming impatient, and would take, a decided course with regard to America, if we could not soften them. We answered, that on that subject we had already spoken explicitly, and had nothing further to add. He mentioned the change in the state of things which had been produced by the peace with the Emperor, as warranting an expectation of a change in our system; to which we only replied, that this event had been expected by us, and would not, in any degree, affect our conduct. M. X. urged, that the Directory had, since this peace, taken a higher and more decided tone with respect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations should aid them, or be considered and treated as their enemies. We answered, that such an effect had already been contemplated by us, as probable, and had not been overlooked when we gave to this proposition our decided answer; and further, that we had no powers to negotiate for a loan of money; that our Government had not contemplated such a circumstance in any degree whatever: that if we should stipulate a loan, it would be a perfectly void thing, and would only deceive France, and expose ourselves. M. X. again expatiated on the power and violence of France: he urged the danger of our situation, and pressed the policy of softening them, and of thereby obtaining time. The present men, he said, would very probably not continue long in power, and it would be very unfortunate if those who might succeed, with better dispositions towards us, should find the two nations in actual war. We answered, that if war should be made on us by France, it would be so obviously forced on us, that, on a change of men, peace might be made with as much facility as the present differences could be accommodated. We added, that all America deprecated a war with France; but that our present situation was more ruinous to us than a declared war could be; that at present our commerce was plundered unprotected; but that if war was declared, we should seek the means of protection. M. X. said, he hoped we should not form a connexion with Britain; and we answered, that we hoped so too; that we had all been engaged in our Revolutionary war, and felt its injuries; that it had made the deepest impression on us: but that if France should attack us, we must seek the best means of self-defence. M. X. again returned to the subject of money: Said he, you do not speak to the point; it is money: it is expected that you will offer money. We said that we had spoken to that point very explicitly: we had given an answer. No, said he, you have not: what is your answer? We replied, it is no; no; not a sixpence. He again called our attention to the dangers which threatened our country, and asked, if it would not be prudent, though we might not make a loan to the nation, to interest an influential friend in our favor. He said we ought to consider what men we had to treat with; that they disregarded the justice of our claims, and the reasoning with which we might support them; that they disregarded their own colonies, and considered themselves as perfectly invulnerable with respect to us; that we could only acquire an interest among them by a judicious application of money, and it was for us to consider, whether the situation of our country did not require that these means should be resorted to. We observed, that the conduct of the French Government was such as to leave us much reason to fear, that should we give the money, it would effect no good purpose, and would not produce a just mode of thinking with respect to us. Proof of

*Probably intended for Raleigh.

this must first be given us. He said, that when we employed a lawyer, we gave him a fee, without knowing whether the cause would be gained or not; but it was necessary to have one, and we paid for his services, whether those services were successful or not: so, in the present state of things, the money must be advanced for the good offices the individuals were to render, whatever might be the effect of those good offices. We told him there was no parallel in the case; that a lawyer, not being to render the judgment, could not command success; he could only endeavor to obtain it; and consequently, we could only pay him for his endeavors; but the Directory could decide on the issue of our negotiation. It had only to order, that no more American vessels should be seized, and to direct those now in custody to be restored, and there could be no opposition to the order. He said, that all the members of the Directory were not disposed to receive our money: that Merlin, for instance, was paid from another quarter, and would touch no part of the douceur which was to come from us. We replied, that we had understood that Merlin was paid by the owners of the privateers; and he nodded an assent to the fact. He proceeded to press this subject with vast perseverance. He told us that we paid money to obtain peace with the Algerines, and with the Indians; and that it was doing no more to pay France for peace.

To this it was answered, that when our Government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article; that the whole nation knew it, and was prepared to expect it as a thing of course; but that in treating with France, our Government had supposed, that a proposition, such as he spoke of, would, if made by us, give mortal offence. He asked if our Government did not know, that nothing was to be obtained here without money? We replied, that our Government had not even suspected such a state of things. He appeared surprised at it, and said, that there was not an American in Paris who could not have given that information. We told him, that the letters of our Minister had indicated a very contrary temper in the Government of France; and had represented it as acting entirely upon principle, and as feeling a very pure and disinterested affection for America. He looked somewhat surprised; and said briskly to General Pinckney: Well, sir, you have been a long time in France and in Holland; what do you think of it? General Pinckney answered, that he considered M. X. and M. Y. as men of truth, and, of consequence, he could have but one opinion on the subject. He stated, that Hamburg, and other States of Europe, were obliged to buy a peace, and that it would be equally for our interest to do so. Once more he spoke of the danger of a breach with France, and her power, which nothing could resist. We told him that it would be in vain for us to deny her power, or the solicitude we felt to avoid a contest with it; that no nation estimated her power more highly than America, or wished more to be on amicable terms with her; but that one object was still dearer to us than the friendship of France, which was our national independence: that America had taken a neutral station: she had a right to take it: no nation had a right to force us out of it: that to lend a sum of money to a belligerent Power, abounding in everything requisite for war but money, was to relinquish our neutrality, and take part in the war; to lend this money, under the lash and coercion of France, was to relinquish the Government of ourselves, and to submit to a foreign Government imposed upon us by force: that we would make at least one manly struggle before we thus surrendered our national independence: that our case was different from that of one of the minor nations of Europe; they were unable to maintain their independence, and did not expect to do so: America was a great, and, so far as concerned her self-defence, a powerful nation—she was able to maintain her independence; and must deserve to lose it if she permitted it to be wrested from her; that France and Britain had been at war for near fifty years of the last hundred, and might probably be at war for fifty years of the century to come; that America had no motives which could induce her to involve herself in those wars; and that if she now preserved her neutrality and her independence, it was most probably that she would not in future be afraid, as she had been for four years past—but if she now surrendered her rights of self-government to France, or permitted them to be torn from her, she could not expect to recover them, or to remain neutral in any future war. He said that France had lent us money during our Revolutionary war, and only required that we should now exhibit the same friendship for her. We answered, that the cases were very different; that America solicited a loan from France, and left her at liberty to grant or refuse it: but that France demanded it from America, and left us no choice on the subject. We also told him that there was another difference in the cases; that the money was lent by France for great national and French objects; it was lent to maim a rival and an enemy whom she hated; that the money, if lent by America, would not be for any American objects, but to enable France to extend still further her conquests. The conversation continued for nearly two hours; and the public and private advance of money was pressed and re-pressed in a variety of forms. At length M. X. said that he did not blame us; that our determination was certainly proper, if we could keep it; but he showed decidedly his opinion to be that we could not keep it. He said that he would communicate, as nearly as he could, our conversation to the Minister, or to M. Y. to be given by him to the Minister; we are not certain which. We then separated. On the 22d of October, M. Z. a French gentleman of respectable character, informed Mr. Gerry, that M. Talleyrand, Minister of Foreign Relations, who professed to be well disposed towards the United States, had expected to have seen the American Ministers frequently in their private capacities; and to have conferred with them individually on the object of their mission; and had

authorized M. Z. to make this communication to Mr. Gerry. The latter sent for his colleagues; and a conference was held with M. Z. on the subject; in which General Pinckney and General Marshall expressed their opinions, that not being acquainted with M. Talleyrand, they could not, with propriety, call on him; but that, according to the custom of France, he might expect this of Mr. Gerry, from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d, and with M. Z. called on M. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the first introduction, M. Talleyrand began the conference. He said that the Directory had passed an arrêt, which he offered for perusal, in which they had demanded of the Envoys an explanation of some parts, and a reparation for others, of the President's Speech to Congress, of the 16th of May: he was sensible, he said, that difficulties would exist on the part of the Envoys relative to this demand; but that by their offering money, he thought he could prevent the effect of the arrêt. M. Z. at the request of Mr. Gerry, having stated that the Envoys have no such powers, M. Talleyrand replied, they can in such case take a power on themselves; and proposed that they should make a loan. Mr. Gerry then addressed M. Talleyrand distinctly in English, which he understood, and stated, that the uneasiness of the Directory resulting from the President's Speech was a subject unconnected with the objects of the mission: that M. Barras, in his speech to Mr. Monroe, on his recall, had expressed himself in a mannner displeasing to the Government and citizens of the United States; that the President, as the Envoys conceived, had made such observations on M. Barras's speech as were necessary to vindicate the honor of the United States; that this was not considered by our Government as a subject of dispute between the two nations; that having no instructions respecting it, we could not make any explanations or reparations relating to it; and that M. Talleyrand himself was sufficiently acquainted with the Constitution of the United States, to be convinced of the truth of these observations. Mr. Gerry further stated, that the powers of the Envoys, as they conceived, were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty; or, if necessary, form a new one; that the United States were anxiously desirous of removing all causes of complaint between themselves and France, and of renewing their former friendship and intercourse, on terms which should be mutually honorable and beneficial to the two nations; but not on any other terms; that as to a loan, we had no powers whatever to make one; that if we were to attempt it, we should deceive himself and the Directory likewise, which, as men of honor, we could not do; but that we could send one of our number for instructions on this proposition, if deemed expedient, provided that the other objects of the negotiation could be discussed and adjusted; that as he had expressed a desire to confer with the Envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained, which he conceived corresponded with his own in the particulars mentioned. M. Talleyrand, in answer said, he should be glad to confer with the other Envoys individually, but that this matter about money must be settled directly, without sending to America; that he would not communicate the arrêt for a week; and that if we could adjust the difficulty respecting the Speech, an application would nevertheless go to the United States for a loan. A courier arriving at this moment from Italy, and M. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and desired M. Z. to repeat to Mr. Gerry what he, M. Talleyrand, had said to him. Mr. Gerry then returned to his quarters with M. Z. took down the particulars of this interview, as before stated, sent for Gens, Pinckney and Marshall, and read it to them in the presence of M. Z. who confirmed it. Generals Pinckney and Marshall then desired M. Z. to inform M. Talleyrand that they had nothing to add to this conference, and did not wish that the arrêt might be delayed on their account.

October 29.

M. X. again called upon us. He said, M. Talleyrand was extremely anxious to be of service to us, and had requested that one more effort should be made to induce us to enable him to be so. A great deal of the same conversation which had passed at our former interviews was repeated. The power and the haughtiness of France was again displayed to us. We were told that the destruction of England was inevitable; and that the wealth and arts of that nation would naturally pass over to America, if that event should find us in peace. To this observation we replied, that France would probably forbid America to receive them, in like manner as she had forbid Switzerland to permit the residence, in its country, of a British Minister. We told him, also, that we were sensible of the value of peace, and therefore sought it, unremittingly, but that it was real peace we sought for, and real peace only which could be desirable.

The sum of his proposition was, that if we would pay, by way of fees, (that was his expression,) the sum of money demanded for private use, the Directory would not receive us: but would permit us to remain at Paris as we now were; and we should be received by M. Talleyrand, until one of us could go to America and consult our Government on the subject of the loan. These were the circumstances, he said, under which the Minister of Portugal had treated. We asked him if, in the meantime, the Directory would order the American property, not yet passed into the hands of the privateersmen, to be restored? He said, explicitly, that they would not. We asked him, whether they would suspend further depredations on our commerce? He said they would not: but M. Talleyrand observed, that on this subject we could not sustain much additional injury; because the Winter season was approaching, when few

additional captures could be made. We told him that France had taken violently from America more than fifteen millions of dollars, and treated us, in every respect, as enemies, in return for the friendship we had manifested for her; that we had come to endeavor to restore harmony to the two nations, and to obtain compensation for the injuries our countrymen had sustained; and that, in lieu of this compensation, we were told, that if we would pay twelve hundred thousand livres, we might be permitted to remain in Paris; which would only give us the benefit of seeing the plays and operas of Paris for the Winter, that we might have time to ask from our country to exhaust her resources for France, whose depredations would be continued. He again stated, that by this procedure we should suspend a war; and that perhaps in five or six months power might change hands.

We told him that what we wished to see in France was a temper sincerely friendly to the United States, and really disposed to do us justice; that if we could perceive this, we might not so much regard a little money, such as he stated to be usual, although we should hazard ourselves by giving it; but that we saw only evidences of the most extreme hostility towards us; war was made upon us so far as France could make it in the present state of things; and it was not even proposed, that on receiving our money this war should cease; we had no reason to believe that a possible benefit could result from it; and we desired him to say that we would not give a shilling, unless American property unjustly captured was previously restored, and further hostilities suspended; and that, unless this was done, we did not conceive that we could even consult our Government concerning a loan; that if the Directory would receive us and commence negotiations, and anything occurred which rendered a consultation of the Government necessary, one of us would return to America for that purpose. He said that, without this money, we should be obliged to quit Paris; and that we ought to consider the consequences: the property of the Americans would be confiscated, and their vessels in port embargoed. We told him that, unless there was a hope of a real reconciliation, these evils could not be prevented by us; and the little delay that we might obtain would only increase them; that our mission had induced many of our countrymen to trust their vessels in the ports of France; and if we remained at Paris, that very circumstance would increase the number; and, consequently, the injury which our countrymen would sustain, if France could permit herself so to violate her own engagements and the laws of nations. He expressed a wish, that M. Y. should see us once more. We told him that a visit from M. Y., as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we should stipulate advances of money, without previously establishing a solid and permanent reconciliation, he might save himself the trouble of the application, because it was a subject we had considered maturely, and on which we were immoveable. He parted with us, saying, if that was the case, it would not be worth while for M. Y. to come. In the evening, while General Pinckney and General Marshall were absent, M. Y. and M. X. called, and were invited by Mr. Gerry to breakfast with us the next morning.

October 30.

Immediately after breakfast the subject was resumed. M. Y. spoke without interruption for near an hour. He said that he was desirous of making a last effort to serve us, by proposing something which might accommodate the differences between the two nations; that what he was now about to mention, had not, by any means, the approbation of the Directory; nor could M. Talleyrand undertake further than to make from us the proposition to the Directory, and use his influence for its success; that, last week, M. Talleyrand could not have ventured to have offered such propositions; but that his situation had been very materially changed by the peace with the Emperor; by that peace he had acquired, in a high degree, the confidence of the Directory, and now possessed great influence with that body; that he was also closely connected with Bonaparte and the Generals of the Army in Italy, and was to be considered as firmly fixed in his post, at least for five or six months; that, under these circumstances, he could undertake to offer, in our behalf, propositions which, before this increase of influence, he could not have hazarded. M. Y. then called our attention to our own situation, and to the force France was capable of bringing to bear upon us. He said that we were the best judges of our capacity to resist, so far as depended on our own resources, and ought not to deceive ourselves on so interesting a subject. The fate of Venice was one which might befall the United States. But, he proceeded to observe, it was probable we might rely on forming a league with England. If we had such a reliance it would fail us. The situation of England was such as to compel Pitt to make peace on the terms of France. A variety of causes were in operation, which made such an effect absolutely certain. To say nothing of the opposition in England to the Minister and to the war, an opposition which the fears of the nation would increase; to say nothing of a war against England which was preparing in the north—an army of one hundred and fifty thousand men, under the command of Bonaparte, spread upon the coast of France, and aided by all the vast resources of his genius, would, most probably, be enabled to invade England; in which event their Government would be overturned. But should this invasion not be absolutely effected, yet the alarm it would spread through the nation, the enormous expense it must produce, would infallibly ruin them, if it was to be continued, and would drive them to save themselves by a peace; that, independent of this, France possessed means which would infallibly destroy their Bank and their whole paper system. He said he knew very well it was generally conjectured that Bonaparte would not leave Italy, and the army which had conquer-

ed under him, and which adored him; he assured [us that] nothing could be more unfounded than the conjecture; that Bonaparte had for more than ten days left Italy for Rastadt, to preside over the Congress which was formed for adjusting the affairs of the empire. He said that Pitt himself was so confident of the absolute necessity of peace, that, after the naval victory over the Dutch, he had signified his readiness to treat on the same terms which he had offered before that action. We could not then rely on the assistance of England. What, he asked, would be our situation, if peace should be made with England before our differences with France would be accommodated? But, he continued, if even England should be able to continue the war, and America should unite with her, it would not be in our power to injure France. We might, indeed, wound her ally, but if we did it would be so much the worse for us. After having stated the dangers attending us, if we should engage in the war, he proceeded to the advantages we might derive from a neutral situation, and insisted at large on the wealth which would naturally flow into our country from the destruction of England. He next proceeded to detail the propositions which are, in substance, in the paper annexed, marked A, except that he insisted that we should engage to use our influence with our Government for the loan. He stated, expressly, that the propositions were to be considered as made by us; that M. Talleyrand would not be responsible for the success of any one of them; he would only undertake to use his influence with the Directory in support of them. The proposition, he said, concerning a suspension of hostilities on the part of France, was one which proceeded entirely from himself; M. Talleyrand had not been consulted upon it, and he could not undertake to say that that gentleman would consent even to lay it before the Directory. The propositions for an advance to the Government of France of as much money as was due from it to our citizens on contract and as might be determined to be due for vessels improperly captured and condemned, was, he said, indispensable, unless we made that, it was unnecessary to make any other: for the others would not be received. He expatiated on the vast advantages we should derive from delay; it was, he said, absolutely to gain our cause. He returned to the danger of our situation and the policy of making with France any accommodation which France would assent to. Perhaps, said he, you believe that, in returning and exposing to your countrymen the unreasonaness of the demands of this Government, you will unite them in their resistance to those demands; you are mistaken; you ought to know that the diplomatic skill of France, and the means she possesses in your country, are sufficient to enable her, with the French party in America, to throw the blame which will attend the rupture of the negotiations on the Federalists, as you term yourselves, but on the British party, as France terms you; and you may assure yourselves this will be done. He concluded with declarations of being perfectly disinterested, and declared that his only motives for speaking thus freely, were his friendship for M. Talleyrand, and his wish to promote the interests and peace of the United States. We told him that the freedom with which he had spoken, and which was agreeable to us, would induce us to speak freely also: and for once to accompany our view of the present state of things with a retrospect of the past; that America was the only nation upon earth which felt and had exhibited a real friendship for the Republic of France; that among the empires round her which were compelled to bend beneath her power and to obey her commands, there was not one which had voluntarily acknowledged her Government, or manifested for it, spontaneously, any mark of regard. America alone had stepped forward and given the most unequivocal proofs of a pure and sincere friendship, at a time when almost the whole European world, when Austria, Germany, Prussia, Russia, Spain, Sardinia, Holland, and Britain, were leagued against France; when her situation was, in truth, hazardous, and it was dangerous to hold even friendly intercourse with her, America alone stood forward and openly and boldly avowed her enthusiasm in favor of the Republic, and her deep and sincere interest in its fate. From that time to the present, the Government and people of the United States have uniformly manifested a sincere and ardent friendship for France, and have, as they conceive, in no single instance, given to this Republic just cause of umbrage; if they have done so, they wish it to be pointed out to them. After the determination of France to break off all intercourse with them, they have sent three Envoys Extraordinary to endeavor to make such explanations as might produce reconciliation; these Envoys are prepared to investigate, and wish to investigate any measures which may have given any offence, and are persuaded that they can justify the conduct of their Government. To this distant, unoffending, friendly Republic, what is the language and the conduct of France? Wherever our property can be found, she seizes and takes it from us; unprovoked, she determines to treat us as enemies, and our making no resistance produces no diminution of hostility against us; she abuses and insults our Government, endeavors to weaken it in the estimation of the people, recalls her own Minister, refuses to receive ours, and when extraordinary means are taken to make such explanations as may do away misunderstandings, and such alterations in the existing relations of the two countries as may be mutually satisfactory, and may tend to produce harmony, the Envoys who bear these powers are not received; they are not permitted to utter the amicable wishes of their country, but, in the haughty style of a master, they are told that, unless they will pay a sum to which their resources scarcely extend, that they may expect the vengeance of France, and, like Venice, be erased from the list of nations; that France will annihilate the only free Republic upon earth, and the only nation in the universe which has voluntarily manifested for her a cordial and real friendship! What impression must this make on the mind of America, if, without provocation, France was determined to make war upon us, unless we purchased peace? We could not easily believe that even our money would save us; our independence would never cease to give offence, and would always furnish a pretext for fresh demands. On the advantages of neutrality it was unnecessary to say anything; all the efforts of our Government were exerted to maintain it, and we would never willingly part with it. With respect to a political connexion with Britain, we told him that America had never contemplated it. Whether the danger he represented that Government to be in was or was not real, we should not undertake to decide. Britain, we believed, had much reason to wish for peace, and France had much reason to wish for peace also; if peace already existed it would not change the course America would pursue. M. Y. manifested the most excessive impatience; he interrupted us and said: 'This eloquent dissertation might be true; America might have manifested, and he believed had manifested great friendship for France, and had just complaints against her; but he did not come to listen to those complaints. The Minister would, on our request, make for us certain propositions to the Directory; he had stated them to us, and all the answer he wished was, yes or no; did we or did we not, solicit the Minister to make the propositions for us? We told him that, without going further into the discussion, we chose to remark one or two things; they were, that the existing treaty gave to France certain advantages, which were very essential; that, especially, the American coast afforded a protection near two thousand miles in extent to the prizes made by France on her enemies, and refused that protection to the prizes taken from her; that she might be assured that in case of war these advantages would be lost forever. We also told him we were convinced that France miscalculated on the parties in America; that the extreme injustice offered to our country would unite every man against her. M. X. informed us that M. Talleyrand would not consent even to lay this proposition before the Directory, without previously receiving the fifty thousand pounds, or the greater part of it. M. Y. left in writing his propositions, and we returned the answer annexed, and marked B.

NOVEMBER 1.

It was at length agreed that we should hold no more indirect intercourse with the Government.

NOVEMBER 3.

M. X. called on us, and told General Pinckney and General Marshall, (Mr. Gerry not being within,) that M. Y. wished once more to see us. We answered, that we should at any time be glad to see M. Y. as a private gentleman; but that if his object was only to repeat his propositions for money, it was perfectly unnecessary to do so; because, on that subject, it was impossible for us to change the answer we had already given. We told him further, that we considered it as degrading our country to carry on further such an indirect intercourse as we had for some time submitted to, and had determined to receive no propositions, unless the persons who bore them had acknowledged authority to treat with us. He said, that perhaps M. Y. might have written powers from the Minister, and we replied, that if he had we should receive his communications with pleasure. He spoke of a probable peace with England, and having requested us to be at home in the afternoon, left us.

About three o'clock he came, and, after some conversation, in which we repeated in substance what is stated above, he showed us a paper, which he said was a copy of a letter prepared for us by M. Talleyrand, requesting an explanation of part of the President's Speech, and which he said would be sent, unless we came into the propositions which had been made us. We wished to take a copy of it which he declined permitting, saying he was forbidden to allow it. We spoke of the letter coming to us as a measure we had no expectation of preventing; and he said he could not understand that we wished it delayed. To which we answered, that the delay of a few days could not be desired, unless a hope existed that the Directory might become more friendly to our country. He said that intelligence had been received from the United States, that if Colonel Burr and Mr. Madison had constituted the mission, the differences between the two nations would have been accommodated before this time. He added, as a fact he was not instructed to communicate, that M. Talleyrand was preparing a memorial to be sent out to the United States, complaining of us as being unfriendly to an accommodation with France. We replied to his intelligence from the United States, that the Minister's correspondents in America took a good deal on themselves, when they undertook to say how the Directory would have received Colonel Burr and Mr. Madison; and that with respect to the memorial of M. Talleyrand, it would not be easy for him to convince our countrymen that the statements we should make were untrue: if, however, we were confident that our conduct would be condemned, M. Talleyrand might be assured that the fear of censure would not induce us to deserve it: but that we should act in a manner which our own judgments and consciences would approve of; and we trusted we should be supported by the great body of candid and honest men. In this conversation we again stated, that America had taken a neutral position; that she had faithfully sought to preserve it; that a loan of money to one of the belligerent Powers was directly to take part in the war; and that to take part in the war, against her own judgment and will, under the coercion of France, was to surrender our independence.

Exhibit A, enclosed in the Envoys' letter, No. 2, dated November 8, 1797.

I. The American Envoys shall remain here for six months, in the same manner, and upon the same footing, with regard to etiquette, as did M. D'Aranjo, the Envoy of Portugal.

II. There shall be named a commission of five members, agreeably to a form to be established, for the purpose of deciding upon the reclamations of the Americans, relative to the prizes made on them by the French privateers.

III. The American Envoys will engage that their Government shall pay the indemnifications, or the amount of the sums already decreed to the American creditors of the French Republic, and those which shall be adjudged to the claimants by the Commissioners. This payment shall be made under the name of an advance to the French Republic, who will repay it in a time and manner to be agreed upon.

IV. One of the American Envoys shall return to America, to demand of his Government the necessary powers to purchase, for cash, the thirty-two millions of Dutch rescriptions, belonging to the French Republic, in case the Envoys should conclude a treaty which shall be approved by the two nations.

V. In the interval, the definitive treaty shall proceed for the termination of all differences existing between the French Republic and the United States, so as that the treaty may be concluded immediately on the return of the deputy.

VI. The question of the *rôle d'équipage* shall remain suspended until the return of the deputy, and the Commission shall not pronounce upon any reclamation where this point shall be in question.

VII. During the six months granted for the going and returning of the deputy, hostilities against the Americans shall be suspended, as well as the process for condemnation before the tribunals; and the money of the prizes already condemned, in the hands of the civil officers of the nation, shall remain there without being delivered to the privateers-men, until the return of the deputy.

Exhibit B, received with the Envoys' letter, No. 2, dated November 8, 1797.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States cannot avoid observing the very unusual situation in which they are placed, by the manner in which they are alone permitted to make communications on the objects of their mission. They are called upon to pledge their country to a very great amount, to answer demands which appear to them as extraordinary as they were unexpected, without being permitted to discuss the reason, the justice, or the policy, on which those demands are founded, and not only without assurances that the rights of the United States will, in future, be respected, but without a document to prove that those to whom they are required to open themselves without reserve, and at whose instance they are called on to sacrifice so much, are empowered, even by the Minister, to hold any communication with them. Yet, such is the anxious and real solicitude of the Envoys to seize any occasion which may afford a hope, however distant, of coming to those explanations which they so much wish to make with this Republic, that they pass over the uncommon and informal modes which have been adopted, and will only consider the propositions themselves.

I. The Ministers of the United States will permit no personal considerations to influence their negotiations with the French Republic. Although they expected that the extraordinary means adopted by their Government to reconcile itself to that of France would have been received with some degree of attention, yet they are too solicitous to enter upon the important and interesting duty of their mission, to permit themselves to be restrained by forms or etiquette.

II. On this article, it is believed, there can be no disagreement.

III. This article, as explained, would oblige the United States to advance, not to their own citizens, but to the Government of France, sums equivalent to the depredations made by the corsairs of the Republic on the American commerce, and to the contracts made with their citizens by France; and this advance, instead of benefitting the citizens of the United States, would leave them precisely what they now are, the creditors of the French Republic. The more extensive the depredations, and the more considerable the contracts uncomplied with, the more would the Government of France receive from the United States. Independent of there objections, the Ministers of the United States cannot engage to assume, in any form, the debts due from France to their fellow-citizens; they have no such power.

IV. If the negotiations be opened, and the propositions for a loan, or any other propositions, exceeding the powers of the Ministers, be made, the Government of the United States will be consulted thereon with expedition.

V. This or any proposition having for its object the claims of the two nations on each other, or an accommodation of differences, will be embraced with ardor by the Ministers of the United States.

VI. It cannot escape notice, that the question of the *rôle d'équipage* may involve in it every vessel taken from the United States; the Ministers, however, consider it, and wish to take it up, as a subject of negotiation.

VII. On this article it is only to be observed that the season of the year is such as probably to render a return within six months, of the Envoy, who might sail to the United States, impracticable. Provision should be made for such an event.

If the difficulties attending the propositions for a loan, and a compensation for past injuries be such as to require time for their removal, the Ministers of the United States propose that the discussions on the relative situation of the two countries may commence in the usual forms; that the relation to each other may be so regulated as to obviate future misunderstandings; and that the adjustment of the claims of the citizens of the United States, whose vessels have been captured, may be made after a decision on the point first mentioned.

No diplomatic gratification can precede the ratification of the treaty.

No 3.

PARIS, *November* 27, 1797.

DEAR SIR: On the 11th instant we transmitted the following official letter to the Minister of Foreign Affairs:

"PARIS, *November* 11,

"*in the 22d year of American independence.*

"CITIZEN MINISTER: The undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, had the honor of announcing to you, officially, on the 6th of October, their arrival at Paris, and of presenting to you, on the 8th, a copy of their letters of credence. Your declaration at that time, that a report on American affairs was then preparing, and would in a few days be laid before the Directory, whose decision thereon should, without delay, be made known, has hitherto imposed silence on them. For this communication they have waited with that anxious solicitude which so interesting an event could not fail to excite, and with that respect which is due to the Government of France. They have not yet received it; and so much time has been permitted to elapse, so critical is the situation of many of their countrymen, and so embarrassing is that of the undersigned, both as it respects themselves and the Government they represent, that they can no longer dispense with the duty of soliciting your attention to their mission.

"The United States, Citizen Minister, at an epoch which evinced their sincerity, have given incontestable proofs of their ardent friendship, of their affection, for the French Republic. These were the result, not of her unparalleled prowess and power, but of their confidence in her justice and magnanimity; and in such estimation was the reciprocity of her friendship held by them, as to have been a primary object of national concern. The preservation of it was dear to them, the loss of it a subject of unfeigned regret, and the recovery of it, by every measure which shall consist with the rights of an independent nation, engages their constant attention. The Government of the United States, we are authorized to declare, has examined, with the most scrupulous justice, its conduct towards its former friend. It has been led to this by a sincere desire to remove, of itself, every just cause of complaint; conceiving that, with the most upright intentions, such cause may possibly exist; and although the strictest search has produced no self-reproach, although the Government is conscious that it has uniformly sought to preserve with fidelity its engagements to France, yet, far from wishing to exercise the privilege of judging for itself, on its own course of reasoning, and the lights in its own possession, it invites fair and candid discussion; it solicits a reconsideration of the past; it is persuaded its intentions, its views, and its actions, must have been misrepresented and misunderstood; it is convinced that the essential interests of both nations will be promoted by reconciliation and peace; and it cherishes the hope of meeting with similar dispositions on the part of the Directory.

"Guided by these sentiments, the President of the United States has given it in charge to the undersigned to state to the Executive Directory the deep regret which he feels at the loss or suspension of the harmony and friendly intercourse which subsisted between the two Republics, and his sincere wish to restore them; to discuss candidly the complaints of France, and to offer frankly those of the United States. And he has authorized a review of existing treaties, and such alterations thereof as shall consist with the mutual interest and satisfaction of the contracting parties.

"This task the undersigned are anxious to commence; and truly happy will they be, if their exertions can in any degree contribute to restore that friendship, that mutual interchange of good offices, which it is alike their wish and their duty to effect between the citizens of the two Republics.

"The undersigned pray you, Citizen Minister, to present this communication to the Executive Directory, and to receive the assurances of their most perfect consideration.

"CHARLES C. PINCKNEY,
"J. MARSHALL,
"ELBRIDGE GERRY.

"To the MINISTER OF FOREIGN AFFAIRS,
of the French Republic."

No answer having been given to it on the 21st instant, we requested Major Rutledge to wait on the Minister, and inquire of him whether we might expect an answer. He replied that he had submitted our letter to them, and that they would direct him what steps to pursue, of which we should be informed. We have not, however, hitherto received any official intimation relative to this business. We are not yet received; and the condemnation of our vessels, for want of a *rôle d'équipage*, is unremittingly continued. Frequent and urgent attempts have been made to inveigle us again into negotiation with persons not officially authorized, of which the obtaining of money is the basis. But we have persisted in declining to have any further communication relative to diplomatic business with persons of that description; and we mean to adhere to this determination. We are sorry to inform you that the present disposition of the Government of this country appears to be as unfriendly towards ours as ever, and that we have very little prospect of succeeding in our mission. We have the honor to be, &c.,

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING.

No. 4.

PARIS, *December* 24, 1797.

DEAR SIR: We have not yet received any answer to our official letter to the Minister of Foreign Affairs, dated the 11th of last month, and mentioned in No. 3; but reiterated attempts have been made to engage us in negotiation with persons not officially authorized; and you will find, by the exhibits marked A, B, and C, herewith

sent, some important information relative to the views and intentions of the French Government with respect to ours. We are all of opinion that, if we were to remain here for six months longer, without we were to stipulate the payment of money, and a great deal of it, in some shape or other, we should not be able to effectuate the objects of our mission, should we be even officially received; unless the projected attempt on England was to fail, or a total change take place in the persons who at present direct the affairs of this Government. In this situation of matters, we are determined, by the 10th of next month, should they remain as they are, to transmit another letter to the Minister, representing, as far as may be expedient, the views of our Government. We have the honor to be, &c.,

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. Pickering, *Secretary of State.*

Exhibit A, enclosed in the Envoys' letter No. 4.

On the 14th of December, M. X. called on me, in order, as he said, to gain some information relative to some lands in * * *, purchased by * * *, for whom * * *. Soon afterwards, General Marshall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, said General Marshall. I am glad of it, said M. X., for I wished to meet all of you gentlemen, to inform you that M. Y. had another message to you from M. Talleyrand. I immediately expressed my surprise at it, as M. Talleyrand, M. Y., and he, all knew our determination to have no further communication on the subject of our mission with persons not officially authorized. He replied that determination was made six weeks ago; and it was presumed that we had changed our opinion. I said that I had not, and I did not believe that my colleagues had. At that moment Mr. Gerry entered the room, and I privately acquainted him with the object of M. X's visit. General Marshall, Mr. Gerry, and myself, then withdrew into another room, and immediately agreed to adhere to our former resolution. M. X. was then called in; when I acquainted him in a few words, with our determination; and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated since our arrival.

On the 20th of December, a lady, who is well acquainted with M. Talleyrand, expressed to me her concern that we were still in so unsettled a situation; but, adds she, why will you not lend us money? If you would but make us a loan, all matters would be adjusted; and, she added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the situation of the two countries at that period and the present, and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand; we think it more delicate that the offer should come from you; but M. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan; and I know that he has mentioned it to two or three others; and that you have been informed of it; and I will assure you that, if you remain here six months longer, you would not advance a single step further in your negotiations without a loan. If that is the case, I replied, we may as well go away now. Why that, possibly, said she, might lead to a rupture, which you had better avoid; for we know we have a very considerable party in America, who are strongly in our interest. There is no occasion to enter into a further detail of the conversation. I have only noted this part of it as expressive of what I believe (as far as relates to the loan and a party in America in their favor) to be the sentiments of the French Government with regard to us.

C. C. PINCKNEY.

December 21, 1797.

Exhibit B, enclosed in the Envoys' letter No. 4.

[*Extract from General Marshall's Journal.*]

December 17, 1797. I stepped into Mr. Gerry's apartment, where I saw M. Y. He expressed his regret at having been disabled to dine with us at M. de Beaumarchais' by an inveterate tooth-ache. He then asked me whether I had seen M. de Beaumarchais lately? I told him not since he dined with us; and that he had left us, much indisposed. He then observed that he had not known until lately that I was the advocate for that gentleman in his cause against the State of Virginia; and that M. de Beaumarchais, in consequence of that circumstance, had expressed sentiments of high regard for me. I replied, that M. de Beaumarchais' cause was of great magnitude, and very uncertain issue; and, consequently, that a portion of the interest he felt in it would very naturally be transferred to his advocate. He immediately said (low and apart) that M. de Beaumarchais had consented, provided his claim could be established, to sacrifice fifty thousand pounds sterling of it, as the private gratification which had been required of us; so that the gratification might be made without any actual loss to the American Government. I answered, that a gratification on any terms, or in any form, was a subject which we approached with much fear and difficulty, as we were not authorized by our Government to make one; nor had it been expected that one would be necessary: that I could not undertake to say whether my colleagues would consent to it, in any state of things; but I could undertake to say no one of us would consent to it, unless it was preceded or accompanied by a full and entire recognition of the claims of our citizens, and a satisfactory arrangement on the objects of our mission. He said it was in the expectation of that event only that he mentioned it. We parted; and I stated the conversation to General Pinckney, who was disinclined to any stipulation of the sort, and considered it as a renewal of the old reprobated system of indirect unauthorized negotiation.

Having been originally the counsel of M. de Beaumarchais, I had determined, and so I had informed General Pinckney, that I would not, by my voice, establish any agreement in his favor; but that I would positively oppose any admission of the claim of any French citizen, if not accompanied with the claims of the American citizens for property captured and condemned for want of a *rôle d'équipage.* My reason for conceiving that this ought to be stipulated expressly was a conviction that, if it was referred to commissioners, it would be committing absolutely to chance as complete a right as any individuals ever possessed. General Pinckney was against admitting the claim at any rate.

After my return, Mr. Gerry came into my room, and told me that M. Y. had called on him, to accompany him on a visit to M. Talleyrand; that he proposed seeing M. Talleyrand, and returning the civility of the dinner; and endeavoring to bring about some intercourse between him and us.

December 18. General Pinckney and Mr. Gerry met in my room; and Mr. Gerry detailed to us the conversations mentioned in our public letter. The proposition relative to the claim of M. de Beaumarchais is entirely different from my understanding of it, in the very brief statement made to me by M. Y. We resolved that we would rigidly adhere to the rule we had adopted, to enter into no negotiation with persons not formally authorized to treat with us. We came also to the determination to prepare a letter to the Minister of Foreign Relations, stating the object of our mission, and discussing the subjects of difference between the two nations, in like manner as if we had been actually received; and to close the letter with requesting the Government to open the negotiation with us, or to grant us our passports.

Exhibit C, enclosed in the Envoys' letter No. 4.

December 13. Mr. Gerry accidentally calling on General Pinckney, found M. X., and was soon informed that his object was to obtain another interview between the Ministers and M. Y. on the affairs of their mission. General Marshall happening also to be there, we retired into another room, and immediately agreed to adhere to our former determination, not to have any more informal communications. M. X. having been called in, General Pinckney briefly communicated our determination: and Mr. Gerry observed that he was much hurt by this proposition; that the Ministers had already proceeded further in this mode of communication than, perhaps, they could justify; that they had refused six weeks ago to renew it; and that some regard ought to be paid to their feelings, which had been sufficiently mortified; that the proposition was disrespectful to the Envoys, as it betrayed a belief that they had lost the sense of their dignity, and were, indeed, incompetent to their office; that, had there been but one Envoy Extraordinary, he ought to have had an audience in a few days; and that, for three to remain between two and three months in this situation was too humiliating, too debasing, for any nation to submit to it; that, for his own part, had he been sent to any other nation in Europe, with two other Envoys, he would not have consented to have remained in such a state ten days; that, knowing the great desire of the Government and nation of the United States to be at peace with France, he had, with his colleagues, submitted to this indignity, at the risk of the severe censure of the former. Having also inquired of M. X. at what time M. Talleyrand could be seen, the former said he would inquire of M. Y., who, on the 16th, in the evening, sent, in Mr. Gerry's absence from his lodgings, a billet, as follows: "M. Y. has the honor to present his respects to Mr. Gerry, and to inform him that he will have the honor to wait on him to-morrow morning, at ten o'clock, to go together to the Minister of Foreign Relations. He is, with respect," &c. On the morning of the 17th, M. Y. came in while Mr. Gerry was at breakfast, not having received an answer to his note; and Mr. Marshall coming in, M. Y. took him aside, and conferred with him a considerable time; after which, the former and the rest of the family left the room: and M. Y. and Mr. Gerry being together, Mr. Gerry told him that his object in seeing M. Talleyrand was to return a civility, by requesting him to fix a day for dining with Mr. G. who intended to invite his colleagues; by this interview to promote, if possible, a better understanding between the Minister and the American Envoys. And Mr. G. also proposed to confer with the Minister on the disagreeable situation the Envoys were in, and to state to him some reports which appear to be founded, respecting a proposition before the Directory for sending off all Americans in a short period; but Mr. Gerry added that he could not hear a word on the subject of a mission, or the preliminaries to a negotiation, as the Envoys had determined unanimously against any informal communications on the subject. M. Y. in answer, said that Mr. Marshall had just heard him on a subject of this kind, and that we might consider it, as he did, merely as a conversation between ourselves. He then stated that two measures, which M. Talleyrand proposed, being adopted, a restoration of friendship between the Republics would follow immediately: the one was a gratuity of fifty thousand pounds sterling, the other a purchase of thirty-two millions of the Dutch rescriptions; that, as to the first, M. de Beaumarchais had recovered, in a cause depending in Virginia, between that State and himself, one hundred and forty-five thousand pounds sterling; that there was an appeal from the judgment; that he would sign an act to relinquish forty-five thousand pounds, if the whole should be finally recovered, leaving only one hundred thousand pounds for himself; that the forty-five thousand pounds might accrue to the United States, who would, in that case, lose but a small part of the fifty thousand pounds; that the purchase of sixteen millions of rescriptions would amount to but one million three hundred and thirty-three thousand [pounds,] six shillings and eight pence sterling, which, with an interest of five per cent., would be certainly paid by the Government of Holland to the United States, and leave them without any loss; that more

than half the sum may now be hired in Holland, on the credit of the rescriptions, and an easy arrangement be made for payment, by short instalments, which might be obtained also by a loan; that it was worthy the attention of the Envoys to consider whether by so small a sacrifice they would establish a peace with France, or whether they would risk the consequences; that, if nothing could be done by the Envoys, arrangements would be made forthwith to ravage the coasts of the United States by frigates from St. Domingo; that small States, which had offended France, were suffering by it; that Hamburg, and other cities in that quarter, would, within a month or two, have their Governments changed; that Switzerland would undergo the same operation; and that Portugal would probably be in a worse predicament; that the expedition against England would be certainly pursued; and that the present period was the most favorable, if we wished to adopt any measure for a pacification. Mr. Gerry, in answer, said that, if the French were disposed to pursue with vengeance the United States, they might, perhaps, ravage their coasts, and injure them in this way, but they never could subdue them: the measure he thought utterly impracticable, even if attempted by France and her allies. To which M. Y. assented. Mr. Gerry observed, further, that the ravages alluded to would undoubtedly closely connect the United States and Great Britain, and prevent the former from returning to the friendship which they have ever had for France; that, as to the propositions, he should express no opinion on them; that his situation, and that of his colleagues, was extremely difficult; that the Directory were exclusively prejudiced against the Government of the United States, and considered them as the friends of Great Britain; that, if the Envoys could have an opportunity of being heard, they could remove such impressions, and show that the Government were the friends of France as much as of Great Britain; but that the Envoys were now in the most painful situation; that they were treated, in the eyes of all Europe, and of the American Government and nation, with the utmost contempt, and were submitting to indignities which they could not reconcile to their feelings, or justify to their constituents. M. Y. said that the observations were just, but that the American Envoys had not experienced worse treatment than other Ministers, nor indeed as bad; that the Envoy of Portugal was again ordered to depart; and that but little ceremony was observed to the Envoys in general. M. Y. and Mr. Gerry then took a ride to M. Talleyrand's bureau, who received them politely; and after being seated, Mr. Gerry observed to M. Talleyrand, in English, slowly, that M. Y. had stated to him that morning some propositions as coming from M. Talleyrand, respecting which Mr. Gerry, could give no opinion; that his object at this interview was to request of him information whether he would fix a time for taking a dinner with Mr. Gerry, at which he proposed to invite his colleagues; that he wished for more frequent interviews of some kind or other between himself and the Envoys, conceiving that many imaginary difficulties which obstructed the negotiation would vanish by this means, and that those which were real would be surmounted; that, conceiving the delicate part which the Minister of France had to act at this time, he did not wish M. Talleyrand to accept the invitation, if it would subject him to inconveniences; that he wished to speak on another subject, and it was painful to him to acknowledge that the precarious situation of the Envoys was such, as to render it impossible for them to take measures for decent arrangements; that, a short time since, he had supposed measures were taking a favorable turn, but that lately he had received, from various quarters, information of a report made by the Minister of the Interior, and under the consideration of the Directory, for sending all Americans from Paris in twenty-four hours; that he could not be responsible for the truth of the information, but it appeared to him, as well from the various quarters from which it came, as from the intelligence of the persons who gave it, to be highly probable; that, if this was the case, it was unnecessary for the Directory, as he conceived, to pass any *arrêt*, as it respected the Envoys, for that they would depart from Paris whenever it was hinted as the wish of the Directory; that, for his own part, he should feel more at ease, until we were received, to reside in a city of some other nation than that of France; and to return to Paris on notice that the Directory were disposed to open the negotiation. M. Talleyrand appeared to be very uneasy at this declaration, but avoided saying a word on it. He said that the information M. Y. had given me was just, and might always be relied on, but that he would reduce to writing his propositions, which he accordingly did; and after he had shown them to Mr. Gerry, he burnt the paper. The substance was as follows. [See No. 1, below]

He then said that he accepted of the invitation; that he would dine with him the *decade* after the present, in which he was engaged.

Mr. Gerry did not repeat all that he had said to M. Y., having no doubt he would communicate the whole to M. Talleyrand; and after expressing a friendship for the French Republic, and a warm desire to renew the former attachment of the two Republics, which M. Talleyrand warmly reciprocated, Mr. Gerry bade M. Talleyrand adieu, leaving with him M. Y.

No. 1.

That the Envoys should come forward generally, and say:

"France has been serviceable to the United States, and now they wish to be serviceable to France. Understanding that the French Republic has sixteen millions of Dutch rescriptions to sell, the United States will purchase them at par, and will give her further assistance when in their power.

"The first arrangement being made, the French Government will take measures for reimbursing the equitable demands of America arising from prizes, and to give free navigation to their ships in future."

FRANCE.

[Communicated to Congress, May 4, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to Congress copies of all the communications from our Envoys Extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses.

JOHN ADAMS.

No. 6.

PARIS, *February* 7, 1798.

DEAR SIR: We transmit to you, in this enclosure, our last letter to the Minister of Foreign Relations. Though dated the 17th ult., it was not, on account of the time taken to translate so long a letter, delivered till the 31st. In our communications here, although we have, agreeably to your instructions, written in our own language, we have at the same time taken the precaution, lest our meaning should be misrepresented or misunderstood, to accompany them with an accurate translation. We have not yet received any answer to this communication, and should no notice be taken of it in a few days, we shall apply in a more explicit manner for our passports.

The councils have passed the decree mentioned in No. 5, as having been recommended by the Directory, to capture and condemn all neutral vessels laden in part, or in whole, with the manufactures or productions of England, or its possessions. We enclose you the official copy of the report on that subject, and shall represent to this Government the injustice and injury which it must inevitably occasion us.

We have the honor to be, &c.

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING,
Secretary of the United States.

To the Minister of Foreign Affairs of the French Republic.

CITIZEN MINISTER: The undersigned, Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, have been hitherto restrained, by the expectation of entering on the objects of their mission in the forms usual among nations, from addressing to the Executive Directory, through you, those explanations and reclamations with which they are charged by the Government they represent. If this expectation is to be relinquished, yet the unfeigned wish of the United States to restore that harmony between the two Republics, which they have so unremittingly sought to preserve, renders it the duty of the undersigned to lay before the Government of France, however informal the communication may be deemed, some considerations, in addition to those heretofore submitted, relative to the subsisting differences between the two nations.

Openly and repeatedly have France and America interchanged unequivocal testimonials of reciprocal regard. These testimonials were given by the United States, with all the ardor and sincerity of youth. It is still believed that, on the part of France, they were likewise the offspring of real esteem. They were considered on the other side of the Atlantic as evidencing a mutual friendship, to be as durable as the Republics themselves. Unhappily the scene is changed, and America looks round in vain for the ally or the friend. The contrast, both of language and of conduct, which the present so avowedly exhibits to a portion of the past, has been repeatedly attributed by France to a disposition alleged to exist in the Government of the United States, unfriendly to this Republic, and partial towards its enemies.

That Government, astonished at a reproach so unfounded in fact, so contradicted by its declarations and its conduct, could scarcely consider the charge as serious, and has ever cherished the hope that a candid review of its conduct, founded on the documents and aided by the arguments with which the Executive Directory has been furnished, would have rescued it from the injurious suspicion. This hope seems not to have been realized. The undersigned, therefore, deem it proper to precede their application for that justice which they claim from France, by an effort to remove the cause which is alleged to have produced the injuries of which they complain. With this view, they pray the attention of the Executive Directory to a serious and candid reconsideration of the leading measures adopted by the Government of the United States, and they persuade themselves that, however various and multiplied the channels may be through which misinformation, concerning the disposition of that Government, may have been received, yet this reconsideration must remove unfounded prejudices, and entirely exculpate the American nation from an accusation it knows to be unfounded, and believes to be supported by no single fact.

When that war, which has been waged with such unparalleled fury, which, in its vast vicissitudes of fortune, has alternately threatened the very existence of the conflicting parties, but which, in its progress, has surrounded France with splendor, and added still more to her glory than to her territory; when that war first involved those nations with whom the United States were in habits of friendly intercourse, it became incumbent on their Government to examine their situation, their connexions, and their duties. America found herself at peace with all the belligerent Powers; she was connected with some of them by treaties of amity and commerce, and with France by a treaty of alliance also. These several treaties were considered with the most serious attention, and with a sincere wish to determine, by fair construction, the obligations which they really imposed. The result of this inquiry was a full conviction that her engagements by no means bound her to take part in the war, but left her so far the mistress of her own conduct as to be at perfect liberty to observe a system of real neu-

trality. It is deemed unnecessary to analyze those treaties, in order to support the propriety of this decision, because it is not recollected ever to have been questioned, and is believed not to admit of doubt.

Being bound by no duty to enter into the war, the Government of the United States conceived itself bound by duties the most sacred to abstain from it. Contemplating man, even in a different society, as the natural friend of man, a state of peace, though unstipulated by treaty, was considered as imposing obligations not to be wantonly violated.

These obligations, created by the laws of nature, were in some instances strengthened by solemn existing engagements, of which good faith required a religious observance.

To a sense of moral right, other considerations of the greatest magnitude were added, which forbade the Government of the United States to plunge them unnecessarily into the miseries of the bloody conflict then commencing. The great nations of Europe, either impelled by ambition or by existing or supposed political interests, peculiar to themselves, have consumed more than a third of the present century in wars. Whatever causes may have produced so afflicting an evil, they cannot be supposed to have been entirely extinguished, and humanity can scarcely indulge the hope, that the temper or condition of man is so altered as to exempt the next century from the ills of the past. Strong fortifications, powerful navies, immense armies, the accumulated wealth of ages, and a full population, enable the nations of Europe to support those wars in which they are induced to engage, by motives which they deem adequate, and by interests exclusively their own. In all respects different is the situation of the United States; possessed of an extensive unsettled territory, on which bountiful nature has bestowed, with a lavish hand, all the capacities for future legitimate greatness, they indulge no thirst for conquest, no ambition for the extension of their limits. Encircled by no dangerous Powers, they neither fear nor are jealous of their neighbors, and are not, on that account, obliged to arm for their own safety. Separated from Europe by a vast and friendly ocean, they are but remotely, if at all, affected by those interests which agitate and influence this portion of the globe. Thus circumstanced, they have no motive for a voluntary war; on the contrary, the most powerful considerations urge them to avoid it. An extensive and undefended commerce, peculiarly necessary to a nation which does not manufacture for itself, which is, and for a long time to come will be, almost exclusively agricultural, would have been its immediate and certain victim. The surplus produce of their labor must have perished on their hands, and that increase of population so essential to a young country, must, with their prosperity, have sustained a serious check. Their exertions, too, would not have been considerable, unless the war had been transferred to their own bosom.

Great as are the means and resources of the United States for self-defence, it is only in self-defence that those resources can be completely displayed. Neither the genius of the nation, nor the state of its finances, admit of calling its citizens from the plough, but to defend their own liberty and their own firesides. How criminal must have been that Government which could have plunged its constituents into a war, to which they were neither impelled by duty nor solicited by interest; in which they committed so much to hazard, in which they must suffer, in order to act efficiently, and could only display their energy in repelling invasion! But motives still more powerful than the calamities of the moment have influenced the Government of the United States.

It was, perhaps, impossible to have engaged voluntarily in the existing conflict, without launching into the almost boundless ocean of European politics; without contracting habits of national conduct, and forming close political connexions, which must have compromitted the future peace of the nation, and have involved it in all the future quarrels of Europe. A long train of armies, debts, and taxes, checking the growth, diminishing the happiness, and perhaps endangering the liberty of the United States, must have followed the adoption of such a system. And for what purpose should it have been adopted? For what purpose should America thus burden herself with the conflicts of Europe? Not to comply with any engagements she has formed; not to promote her own views, her own objects, her own happiness, or her own safety; but to move as a satellite around some greater planet, whose laws she must of necessity obey. In addition to these weighty considerations, it was believed that France would derive more benefit from the neutrality of America than from her becoming a party in the war.

The determination, then, of the Government of the United States to preserve that neutral station in which the war found them, far from manifesting a partiality for the enemies of France, was only a measure of justice to itself and to others, and did not even derogate from that predilection for this Republic which it has so repeatedly expressed and displayed. Having avowed this determination, increased motives of honor and of duty commanded its faithful observance. It is not a principle which remains now to be settled, that a fraudulent neutrality is no neutrality at all, and that the nation which would be admitted to its privileges, must also perform the duties it enjoins. Had the Government of the United States, declaring itself neutral, indulged its partialities by granting favors unstipulated by treaty to one of the belligerent Powers, which it refused to another, it could no longer have claimed the immunities of a situation of which the obligations were forgotten; it would have become a party to the war as certainly as if war had been openly and formally declared, and it would have added to the madness of wantonly engaging in such a hazardous conflict, the dishonor of insincere and fraudulent conduct; it would have attained, circuitously, an object which it could not plainly avow or directly pursue, and would have tricked the people of the

United States into a war which it could not venture openly to declare.

It was matter of real delight to the Government and people of America, to be informed that France did not wish to interrupt the peace they enjoyed.

The undersigned have been induced to rest upon this first necessary and decisive step, taken by their Government, although its propriety may not be controverted, from a conviction, that if the right of the United States to observe a fair and honest neutrality be established, the general charges of an unfriendly disposition, made against them by France, must be relinquished, because the facts, by which those charges are supported, will be found to have grown inevitably out of that situation.

This measure was accompanied by another, which, in repelling so astonishing a charge as partiality for the enemies of France, deserves to be noticed. Soon after the Government of the United States had notified to its citizens the duties which its neutrality enjoined, Mr. Genet, the first Minister from this Republic, arrived at Philadelphia; although his conduct had been such as to give cause for serious alarm; although before he was even acknowledged as a Minister, or had reached the authority which could inspect his credentials, he had assumed the functions of the Government to which he was deputed, yet that Government resolved to see in him only the representative of a Republic, to which it was sincerely attached, gave him the same warm and cordial reception which he had experienced from its citizens, without a single exception, from Charleston to Philadelphia. The then situation of France deserves to be remembered.

While the recollection adds, Citizen Minister, to the glory with which your nation is encircled, it establishes the sincerity of the United States.

The most formidable combination the world had ever seen threatened the extermination of this Republic. Austria, Germany, Prussia, Britain, Spain, Holland, and Sardinia, were in arms against France, and Russia was leagued in the coalition. Nor was this all. The Republic, distracted by internal divisions, contained numerous enemies within its own bosom, and a considerable portion of its proper force was arrayed against itself. In such a state of things, the most sanguine might fear, and the most ardent hesitate. Confident in their strength, and relying on success, the coalesced Powers sought to arm, in their cause, the residue of the world, and deemed it criminal to acknowledge the sovereignty of the Republic. The nations of Europe, even those who had not entered into the contest, were either themselves unwilling to acknowledge this sovereignty, or were deterred by fear from doing so. Had the partialities of America been against France, this example would have been followed. According to the rules of ordinary calculation, the measure would have been safe, and consequently a Government, feeling the attachments now so unjustly attributed to that of the United States, would have indicated those attachments by its adoption. Far from pursuing such a system, the United States, unawed by the strength of the coalition, received with open arms the Minister of this Republic, acknowledged with enthusiasm the Government which had deputed him, overlooked his extraordinary attacks on their sovereignty, and manifested a cordial friendship for his nation, and a sincere wish for its success.

Scarcely were the first ceremonies of his reception over, when Mr. Genet displayed a disposition to usurp and exercise within the United States, the choicest and most important duties and powers of sovereignty. He claimed the privileges of arming and embodying the citizens of America within their own territory, to carry on from thence expeditions against nations with whom they were at peace; of fitting out and equipping, within their limits, privateers, to cruise on a commerce destined for their ports; of erecting within their jurisdiction an independent judiciary, and of arraigning their Government at the bar of the people. The undersigned will not ask in what manner France would have treated any foreign Minister who should have dared so to conduct himself towards this Republic? But in what manner would the American Government have treated such a Minister, if the representative of a nation it viewed with coldness or even indifference? In what manner would it have treated him, had he been the representative of any other nation than France? No man acquainted with that Government can doubt how these inquiries ought to be answered. From the Minister of France alone could this extraordinary conduct be borne with temper. To have continued to bear it, without perceiving and feeling its extreme impropriety, would have been to have merited the contempt as well of France as of the other Powers of the earth. The Government of the United States did feel it; but far from transferring to his nation that resentment which such conduct could not fail to excite, it distinguished strongly between the Government and its Minister, and the representations it made were in the language of a friend afflicted, but not irritated, by the injuries it complained of. The recall of that Minister was received with universal joy, as a confirmation that his whole system of conduct was attributable only to himself, and not even the publication of his private instructions could persuade the American Government to ascribe any part of it to this Republic.

At the same time the exertions of the United States to pay up the arrearages of their debt to France, which had been unavoidably permitted to accumulate, their disinterested and liberal advances to the sufferers of St. Domingo, thrown suddenly upon them, without provisions or money, whose recommendation was, that they were Frenchmen and unfortunate; the perseverence with which they apologized for and ascribed any occasional injuries they sustained to the force of circumstances; the interest which they continued openly to take in all the fortunes of this Republic, manifested partialities of a very different sort from those which have been so unjustly attributed to them.

At this period, too, a great principle was brought into discussion, the dispassionate consideration of which is essential to the fair estimate of the charges made by France against the Government of the United States. The property of French citizens was taken by British cruisers and ships of war, out of American bottoms, and the American Government submitted to the practice. The propriety of submitting to it depends entirely on the naked right of the captors, under the existing circumstances of the case, to exercise such a power. The circumstances were these: In the Treaty of Commerce made between France and the United States in February, 1778, it was stipulated, in substance, that neither party should take out of the vessels of the other the goods of its enemy, but that the character of the bottom should be imparted to its cargo. With England the United States had made no stipulation on the subject.

It follows, then, that the rights of England, being neither diminished nor increased by compact, remained precisely in their natural state, and were to be ascertained by some pre-existing acknowledged principle.

This principle is to be searched for in the law of nations. That law forms, independent of compact, a rule of action by which the sovereigns of the civilized world consent to be governed. It prescribes what one nation may do without giving just cause of war, and what, of consequence, another may and ought to permit, without being considered as having sacrificed its honor, its dignity, or its independence.

What, then, is the doctrine of the law of nations on this subject? Do neutral bottoms of right, and independent of particular compact, protect hostile goods? The question is to be considered on its mere right, uninfluenced by the wishes or the interests of a neutral or belligerent Power.

It is a general rule, that war gives to a belligerent Power a right to seize and confiscate the goods of his enemy. However humanity may deplore the application of this principle, there is, perhaps, no one to which man has more universally assented, or to which jurists have more uniformly agreed. Its theory and its practice have unhappily been maintained in all ages. This right, then, may be exercised on the goods of an enemy wherever found, unless opposed to some superior right. It yields by common consent to the superior right of a neutral nation to protect, by virtue of its sovereignty, the goods of either of the belligerent Powers, found within its jurisdiction. But can this right of protection, admitted to be possessed by every Government within its mere limits, in virtue of its absolute sovereignty, be communicated to a vessel navigating the high seas?

It is supposed that it cannot be so communicated; because the ocean being common to all nations, no absolute sovereignty can be acquired in it. The rights of all are equal, and must necessarily check, limit, and restrain each other. The superior right, therefore, of absolute sovereignty, to protect all property within its own territory, ceases to be superior when the property is no longer within its own territory, and may be encountered by the opposing acknowledged right of a belligerent Power to seize and confiscate the goods of his enemy. If the belligerent permits the neutral to attempt, without hazard to himself, thus to serve and aid his enemy, yet he does not relinquish the right of defeating that attempt whenever it shall be in his power to defeat it. Thus it is admitted that an armed vessel may stop and search at sea a neutral bottom, and may take out goods which are contraband of war, without giving cause of offence, or being supposed in any degree to infringe neutral rights. But this practice could not be permitted within the rivers, harbors, or other places of a neutral, where its sovereignty was complete. It follows, then, that the full right of affording protection to all property whatever, within its own territory, which is inherent in every Government, is not transferred to a vessel navigating the high seas. The right of a belligerent over the goods of his enemy within his reach, is as complete as his right over contraband of war; and it seems a position not easily to be refuted, that a situation that will not protect the one, will not protect the other. A neutral bottom, then, does not, of right, in cases where no compact exists, protect from his enemy the goods of a belligerent Power.

To this reasoning, the practice of nations has conformed, and the common understanding of mankind seems to have assented. *Vattel*, b. 3. § 115, says, positively, "that effects belonging to an enemy, found on board a neutral ship, are seizable by the rights of war."

Vattel is believed to be supported by the most approved writers on the same subject. It is deemed unnecessary to multiply citations on this point, because France herself is supposed to have decided it. In her maritime ordonnance of the year 1744, which is considered as having been in force in 1778, enemy goods in neutral bottoms, generally, are declared liable to seizure and confiscation. From the operation of this rule are excepted the vessels of Denmark and the United Provinces, to whom special treaties secured the exception. In the ordonnance, too, of the 26th July, 1778, the first article of which is considered as forbidding the cruisers of France to stop and bring into port neutral vessels, having on board the goods of an enemy, a power is reserved to revoke the privilege granted to neutrals by that article, if the enemy should not grant the same privilege within six months from the publication of that regulation. This clearly indicates a conviction that the exemption from the capture of the goods of an enemy, which should be found on board the vessel of a neutral Power, not having stipulated such exemption by treaty, was a privilege granted by the ordonnance, and that the mere revocation of the ordonnance would abolish the privilege, and restore the ancient rule. It will not be contended that France continued in a long course of practice and of legislation opposed to her own opinion of the law of nations. It must, then, be considered as the opinion of France that,

under that law, neutral bottoms afford no protection to the goods of an enemy. This principle thus admitted to have been established, is supposed by some to have been changed by the Armed Neutrality. A new law of nations, it is contended, was introduced by that confederation. But who were the parties to that federation, and what was its object? The Northern maritime Powers of Europe united to protect, by force, in their own bottoms, during the then existing war, the goods of either and of all the belligerent Powers. The compact in its own nature was confined with respect to its object and its duration. It did not purport to change, nor could it change permanently and universally, the rights of nations not becoming parties to it. It did indeed hold forth the promise of future, more permanent, and more general engagements for the same object, but such engagements were never formed. How, then, can this temporary and partial convention be considered as altering, radically and generally, principles which have been universally adopted, and in the modification of which all have an interest? Would France herself admit that a combination, such as that which constituted the Armed Neutrality, may rightfully change the law of nations, and establish a new code of universal obligation? It is believed that no nation on earth would more perseveringly oppose such an invasion of its sovereignty.

There seems, then, to be no solid ground for maintaining that the general law of nations has been at all varied by the Armed Neutrality.

It remains to inquire whether the treaties between France and the United States pledge either nation to assert and establish the principle that free bottoms make free goods.

The Treaty of Amity and Commerce, concluded the 6th February, 1778, stipulates reciprocally for the right of trading with, and protecting the goods of, the enemy of either party in the vessels of the other, and in turn surrenders its own goods found in the vessels of an enemy, but it contains no clause imposing on either party the duty of extending the principle, or of supporting its application to other nations. The stipulations of that treaty are negative as well as affirmative. They specify as well the disabilities intended to be created, and the duties to be imposed, as the privileges designed to be granted. Had it been intended that either nation should have been bound to maintain this principle in its intercourse with others, or should have been in any degree incapacitated from prosecuting freely that intercourse, without the previous admission of the principle, a stipulation to that effect would have been made. No such stipulation having been made, the parties cannot be presumed to have intended it. Indeed, it would have been madness in the United States, under their actual circumstances, to have formed such an agreement. There being no express stipulation to this effect, it cannot be supposed to have been implied. Nations forming a solemn compact, which ought to regulate their conduct towards each other, which is to be resorted to as the standard for adjusting their differences, do not leave to implication such delicate and important points. Indeed, if a great principle not mentioned is permitted to be implied, the object of a written agreement, which is itself to evidence all the obligation it creates, is totally defeated. But who is to make the implication, and to what extent is implication to be allowed? It is very easy to perceive, that the doctrine of implying in contracts stipulations never formed, would destroy all certainty of construction, and open a boundless field of controversy to the contracting parties.

It results from the very nature of a contract which affects the rights of the parties, but not of others, and from the admission of a general rule of action, binding independent of compact, which may be changed by consent, but is only changed so far as that consent is actually given, that a treaty between any two nations must leave to all others those rights which the law of nations acknowledges; and must leave each of the contracting parties subject to the operation of such rights. For the truth of this position, believed to be so clear in itself, and which it is supposed the history of all Europe will illustrate, the ordonnance of 1744, already quoted, is considered as furnishing an unequivocal authority. By that ordonnance the law of nations is applied to all those neutrals with whom France had not stipulated that the equality of their bottoms should be imparted to their cargoes, while those with whom such stipulations had been made are exempted from the application of the law.

The desire of establishing universally the principle that neutral bottoms shall make neutral goods, is, perhaps, felt by no nation on earth more strongly than by the United States. Perhaps no nation is more deeply interested in its establishment. It is an object they keep in view, and which, if not forced by violence to abandon it, they will pursue in such manner as their own judgment may dictate as being best calculated to attain it; but the wish to establish a principle is essentially different from a determination that it is already established. The interests of the United States could not fail to produce the wish: their duty forbid them to indulge it when deciding on a mere right. However solicitous America might be to pursue all proper means, tending to obtain for this principle the assent of all or any of the maritime Powers of Europe, she never conceived the idea of obtaining that consent by force.

The United States will only arm to defend their own rights: neither their policy nor their interests permit them to arm, in order to compel a surrender of the rights of others. These and other considerations, which have been submitted to the Government of France, produced, on the part of the United States, a decision, that their bottoms could not of right protect the goods of a belligerent Power from an enemy not bound to respect the principle. This decision was founded on the most perfect conviction that it was enjoined by the law of nations; and that good faith, respect for truth, and for the duties of an upright and honest judgment, rendered it indispensable.

This conviction remains unshaken. If those articles, which still appear conclusive to the American Government, have not the same operation on the judgment of France, they must at least be sufficient to evince the sincerity with which that Government has acted, and to prove that its conduct, in this respect, was produced by a sense of duty, and not by any partiality for a nation against which it was, at that time, considerably irritated by other causes.

The undersigned, Citizen Minister, rely too implicitly on your candor and discernment, to apprehend that you will estimate improperly the motives which, on this essential point, have influenced and guided the United States.

The early decision of the American Government on this subject was immediately avowed, openly and amply supported by Mr. Jefferson, the then Secretary of State, in his letter to Mr. Genet, dated the 24th July, 1793; and in his letter to Mr. Morris, dated 16th August in the same year. The arguments which those letters contain, were supposed to have satisfied the Government of France, since its Ministers in the United States no longer controverted the principle they supported. Indeed, those arguments appeared too conclusive to permit a doubt concerning the success which would attend them.

In August, 1794, when Mr. Monroe, the then Minister of the United States to this Republic, was received into the bosom of the Convention, France obviously did not consider the acknowledgment of this established principle of the law of nations as indicating a partiality towards her enemy. The language used on the occasion could only have been used to the Minister of a nation whose friendship was valued, and whose conduct had evinced the sincerity of its professions. It was then declared "that the sweetest, the frankest fraternity united in effect the two Republics," and that "their union would be forever indissoluble." These declarations, made long after America had avowed its neutrality, and had avowed its acquiescence, under the principle that a belligerent Power, unrestrained by particular treaty, may of right take out of the bottoms of a neutral the goods of its enemy, demonstrate that neither that neutrality nor that acquiescence induced the want of a proper regard for France. The Government of the United States still cherishes the hope that this true and fair estimate then made of its conduct, may be soon resumed by a nation, whose friendship it has assiduously and unremittingly cultivated by all those means which good faith and justice could permit it to use.

After the discussion of this interesting question was supposed to have been closed, and France was believed to have been entirely content with that system in which the United States found themselves bound to persevere, some complaints were made, not against the principles adopted by the Government, but against the application of those principles to particular cases, supposed not to come within them. The neutrality of the United States could not permit prize to be made of those vessels belonging to nations with whom they were at peace, within their jurisdiction, or by privateers fitted out in their own ports. Regulations to this effect were necessarily made; and to enforce the observance of those regulations was a duty not to be dispensed with. The right of one of the belligerent Powers to obtain the release of a vessel, captured under such circumstances, was as sacred as the right of the captor to a vessel taken on the high seas, and which, according to the usages of war, was lawful prize. The United States were bound to respect the rights of both. To do so, it was necessary to examine the facts; for which purpose, a tribunal, in which both parties might be fairly heard, was unavoidable. Some complaints were made of particular vexations, and each complaint has heretofore been particularly attended to. It is believed to be unnecessary to review these several cases, because the undersigned are entirely persuaded that explanations already given, must have been completely satisfactory. Should any of them be still considered as furnishing subject for complaint, the undersigned will proceed to its investigation, with the most sincere desire to attain truth, and to redress the wrong, if any has been committed.

During this period, the causes of complaint against France, on the part of the United States, were by no means inconsiderable. Their commerce was not exempt from depredations, believed to be entirely unwarrantable, made upon it by the cruisers of this Republic.

On the 9th of May, 1793, the National Convention passed a decree relative to the commerce of neutrals—the first article of which is in these words: "The French ships of war and privateers may stop and bring into the ports of the Republic such neutral vessels as are loaded, in whole or in part, either with provisions belonging to neutrals, and destined for enemy's ports, or with merchandise belonging to enemies." In consequence of the remonstrances of the American Minister, the Convention, on the 23d May, declared "that the vessels of the United States are not comprised in the regulations of the decree of the 9th May." On the 28th of the same month, the Convention repealed the decree of the 23d; on the 1st July, they re-established it; on the 27th July, it was again repealed. Under the decree of the 9th May, the vessels of the United States were captured, brought into the ports of France, and their cargoes disposed of. Could this decree, Citizen Minister, be regarded otherwise than as infringing the laws of nations, the rights of neutrals, and the particular engagements subsisting between France and the United States?

When, on the 8th of June, in the same year, the British Government issued a similar order, its injustice produced a ferment throughout America, indicating strong dispositions immediately to oppose its execution by force. The letter of Mr. Jefferson, the then Secretary of State, to the Minister Plenipotentiary of the United States at London, dated the 7th September, 1793, and remonstrating against the order of the 5th June, contains so much justness of sentiment and strength of argument, as to have been quoted by your predecessor, in his letter to Mr. Monroe of the 9th March, 1796.

It cannot escape you, Citizen Minister, that the arguments of Mr. Jefferson, concerning the order of the 8th June, apply conclusively to the decree of the 9th May; and that to them are to be added, those arguments which are to be drawn from the hardship of being absolutely compelled, without any alternative, to part with the cargoes in France, and those also which are drawn from the duties imposed by an express and solemn treaty.

Nothing can demonstrate more conclusively the real temper of the United States, than the difference between the reception given to the decree of the Convention of the 9th May, and that which was given to the order of the British Cabinet of the 8th June.

A large number of American vessels, too, were for a long time detained at Bordeaux, very much to the injury of the owners, without assigning a motive for such detention, or putting it in the power of the Government to conjecture the cause of a measure, which so deeply affected the interest of their fellow-citizens—these and other embarrassments were experienced, but they could not diminish the attachment of the United States to France. In the midst of them, prayers were offered up, through the whole extent of the American continent, for the success of this Republic. The Government, feeling the same sentiment, displayed it, at least as far as was compatible with the decent deportment required from a nation not a party in the war, and professing neutrality. Such would not have been the conduct of a Government and people, in secret unfriendly to France.

Very strong and just resentments were at that time inspired by the hostile conduct of Britain. The instructions of June, 1793, whereby American vessels, laden with provisions for France, were brought into the ports of Britain, there to sell such cargoes, or to give security to sell them in other ports in amity with England, and the still more offensive order of November the 6th, in the same year, whereby vessels laden with the produce of a French colony, or carrying provisions to such colony, were ordered to be brought in for adjudication; added to the pre-existing causes of mutual irritation, had produced such a state of things, as to render it obvious that the injuries complained of by America must be entirely done away, or that war was the inevitable consequence.

This state of things was not so altered by the order of the 8th of January, 1794, revoking that of the sixth of November, 1793, as to promise a different result. But as a nation preferring peace to war will ever make a peaceful demand of reparation for injuries sustained, before that reparation is sought by the sword; and as the policy of America has ever been, "to pursue peace with unremitting zeal, before the last resource, which has so often been the scourge of nations, and could not fail to check the advanced prosperity of the United States, was contemplated," an Envoy Extraordinary was deputed to His Britannic Majesty. "Carrying with him a full knowledge of the existing temper and sensibility of his country, it was expected that he would vindicate its rights with firmness, and cultivate peace with sincerity."

Truly desirous, as the American Government was, of preserving peace with Britain, its determination was unalterable, not to preserve it, nor to receive compensation for injuries sustained, nor security against their future commission, at the expense of the smallest of its engagements to France. Explicit and positive instructions to this effect were given to Mr. Jay, and those instructions were freely communicated to the Minister of this Republic, then at Philadelphia. The negotiation of the American Envoy terminated in a treaty in many respects desirable to the United States.

But, however desirable its objects might be, the Government of the United States would not have hesitated to reject them, had they been accompanied with any stipulation violating or weakening its engagements to France. But it has been able to discern no such stipulation; the twenty-fifth article of that treaty guards the rights of this Republic by the following clause: "Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns or States." The treaty with France being a "former and existing public treaty," and it being thus provided that nothing contained in the treaty with Britain "should be construed or operate contrary to it," the Government of the United States did not apprehend that the treaty with Britain could be considered as affecting its relations to France. But such was its attention to its ally, that the instrument was, previous to its ratification, submitted to the consideration of the Minister of this Republic, who was invited to communicate freely to the Government of the United States such observations upon it as he might judge proper. Mr. Adet, in a letter addressed to Mr. Randolph, dated 12th Messidor, 3d year of the French Republic, (30th June, 1795,) expresses his sense of this procedure in the following words: "this frank measure is to me a sure guaranty of the friendship of the American Government towards France, and of the fidelity with which it always marks its conduct towards a faithful ally." He then stated those reflections to which the reading of the treaty had given birth. The articles which relate to enemy goods in neutral bottoms are mentioned without a comment. He contended, that the list of contraband was swelled, and that the 23d, 24th, and 25th articles of the treaty with Britain, ceded to that Power advantages inconsistent with the previous cessions to France. This letter was answered by Mr. Randolph, on the 6th of July following, who proves, that no article was enumerated in the list of contraband, in the treaty between the United States and Britain, which was not of that description, previous to its formation, and independent of it; noticed briefly the subject of enemy goods in neutral bottoms; and demon-

strated, that the objections of Mr. Adet to the 23d, 24th, and 25th articles were entirely founded on a misconstruction of them. This misconstruction was so apparent, that Britain has never claimed it, nor would the American Government ever have admitted it. The letter of Mr. Randolph closes the subject of enemy contraband, and of enemy property taken out of neutral bottoms, with a paragraph, to which, Citizen Minister, your attention is solicited: "Hitherto, however, (says he) I have spoken upon principles of right. Upon any other principles, and more especially upon those of hardship and injury to a friend, it shall be a topic of the negotiation now opening between us. With the temper which will pervade the whole of it, I cannot doubt that some modification may be devised, and it may be separated from the general treaty, so as not to be delayed by it."

It was then apparent, that the Government of the United States, actuated by that friendship which transcends the line of strict obligation, was willing, gratuitously, to release her ally from those stipulations of a former treaty, which, in the course of events, were deemed to operate unfavorably to her. This readiness to concede, marked that friendship the more strongly, as the situations in which the two nations found themselves could not have been unforeseen, but was the very situation for which the article provides. The answer of Mr. Randolph concludes, with requesting an opportunity to remove any remaining doubts, should there be such, by further explanations: no remaining doubts were stated, and therefore, as well as for its contents, the letter was believed to be entirely satisfactory to Mr. Adet, and it was hoped, that this Government, as well as that of America, would consider the treaty with Britain as an accommodation desirable by the United States, and not disadvantageous to France.

It is not easy to express the chagrin felt by the American Government on learning that, in this treaty, the United States were supposed to have "knowingly and evidently sacrificed their connexions with this Republic, and the most essential and least contested prerogatives of neutrality." With the firmness of conscious integrity, the United States aver, that they have never knowingly sacrificed or impaired their connexions with this Republic, nor the prerogatives of neutrality, but that they have, according to their best judgment, invariably sought to preserve both.

The undersigned will endeavor faithfully to state the impressions of the Government they represent on this interesting subject. The objections made to this treaty by your predecessor in office, in his note to Mr. Monroe, dated 19th of Ventose, 4th year of the French Republic, one and indivisible (9th March, 1796) are:

1st. That the United States, besides having departed from the principles established by the armed neutrality, have given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime Powers.

2d. That they have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England, to create blockades in the colonies, and even in France, by the force of a bare proclamation.

Mr. Adet, in his letter to Mr. Pickering, dated 25th Brumaire, 5th year of the French Republic, one and indivisible, (15th November, 1796,) has repeated the same objections, and has been pleased also to superadd some observations relative to the formation of such a treaty generally, and the circumstances attending its negotiation, in terms not to have been expected by the first, and almost only voluntary friend of the Republic.

These having been the only specific objections officially made to the treaty with Britain, by the Government of France, either in Paris or in Philadelphia, are necessarily supposed to be the only objections which have occurred.

They have often been discussed on the part of the United States, but that discussion will be renewed, because, although the undersigned may be unable to suggest any argument not heretofore urged, they cannot resist the hope, that an attentive reconsideration of those arguments may give them a success which has not yet attended them.

The first objection may be supposed to consist of two parts. 1st. The abandonment of the principle, that neutral bottoms make neutral goods; an objection rather insinuated than expressed; and 2dly, the addition to the catalogue of contraband.

1st. On the first part of the objection, it is observable, that the statements of the late Minister of Exterior Relations, and of Mr. Adet, seem to admit, but certainly do not controvert the position, that, previous to the formation of the Armed Neutrality, a belligerent Power could rightfully take out of the bottoms of a neutral the goods of its enemy. This position is believed to be incontrovertible; some of the arguments in support of it have been already detailed, and it is deemed unnecessary to repeat or to add to them. To this principle of the Armed Neutrality, with a departure from which the United States seem to be impliedly charged, the note of M. de la Croix does not assign any obligation whatever; nor does he appear to consider it as having been engrafted by that Confederation on the law of nations. On this point Mr. Adet has not been more explicit. He seems to have been content with vague insinuations, and not to have been willing to commit himself by a direct averment, that, in consequence of the Armed Neutrality, the law of nations on this subject is changed. The undersigned are unwilling to combat, at length, a proposition not positively advanced, which they deem so clearly indefensible, and will therefore refer to the brief observation already made respecting it.

It may not, however, be improper here to notice, that, in February, 1778, when the treaty between France and the United States was entered into, the Armed Neutrality had not been formed; of consequence, the state of things on which that treaty operated, was regulated by the law of nations, as it clearly existed previous to the formation of the Armed Neutrality. It is supposed to be admitted that, according to that state of things, neutral bottoms could afford no protection to the goods of an enemy. The stipulation, then, of the article of that treaty was understood, at the time, by the contracting parties, to form an exception to a general rule, which would retain its obligations in all cases where it was not changed. If, then, the contracting parties had designed to impose on each other the necessity of extending this exception to other nations, so as to convert it into a general rule, they would have expressed this intention in their contract: not having expressed it, they must be considered as intending that this exception should form a rule as between themselves, while the general rule should govern as with other nations who had not consented to change it.

It is also worthy of observation that, when this treaty was made, the United States were at war, and France at peace with Britain. In this state of things, which might have continued, had not war been declared, or hostilities commenced by England, the bottoms of France would have protected, from American cruisers, English property, while they would not have protected from British cruisers American property. This was the necessary result of that state of things under which the treaty was formed: America had consented to it; and neither could or would have complained.

It is also to be noticed that, before the negotiation with England had commenced, the Government of the United States had openly avowed that opinion on this subject, which its best judgment dictated. This opinion, perfectly unconnected with that negotiation, was known by all to form and regulate the basis of its conduct. The letters from Mr. Jefferson, already quoted, had stated to the world the perfect conviction of the United States, that, by the law of nations, a belligerent Power, not restrained by particular treaty, might rightfully take out of the bottoms of a neutral the goods of its enemy; as well as their determination, that they could not, and ought not to oppose the exercise of this right. The right having been clearly and unavoidably admitted, and the determination to acquiesce under its exercise having been avowed openly, Mr. Jay could only solicit its surrender. Had no treaty been formed, or had that treaty omitted to mention the principle, the right would still have existed, would still have been acknowledged, and would still have been exercised. The treaty does not, in fact or in impression, cede a new privilege; it regulates the exercise of one before existing, and before acknowledged to exist. The harsh means of exercising this right, which are given by the law of nations, are modified and softened by the treaty, and this is the only effect which the article on this subject has produced; it was the only motive, and it was a sufficient motive for introducing it.

The second branch of this objection seems more to be relied on, and comes forward in a more decisive shape; it is, that the United States have abandoned the limit given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with a greater part of the maritime Powers.

The limits of contraband is supposed to have been extended, by inserting in the catalogue, naval stores, and timber for ship building.

To estimate rightly a charge so warmly made, it becomes indispensable to ascertain whether these articles are, independent of treaty, by the law of nations contraband of war: on this simple point seems to rest the verity of the accusation.

It is regretted that those who have averred the negative, have not been pleased to furnish authorities in support of the opinion they advanced. Such authorities would have been considered with candor, and any conviction they might have produced would have been freely acknowledged. But no such authorities are furnished, and it is believed that none exist.

America, solicitous to confine as much as possible, by common consent, the list of contraband, but determined, however she might oppose its enlargement, not to attempt its diminution by force, was under the necessity of examining the subject, and of ascertaining the line of partition between the rights of neutrals and of belligerent Powers.

As guides in such a search she could only take the most approved writers on the law of nations. These are believed to class timber for ship building, and naval stores for the equipment of vessels, among articles admitted to be contraband of war. *Vattel*, [b. 3. c. 7, sect. 112,] defines contraband goods to be "commodities particularly used in war: such are arms, military and *naval stores*, *timber*,* horses, and even provisions in certain junctures, where there are hopes of reducing the enemy by famine." The treaty between France and Denmark, concluded in 1742, places tar, rosin, sails, hemp, cordage, masts, and timber for ship-building, on the catalogue of contraband: and *Valin*, in his Commentary on the Marine Ordinances of France, [vol. 2, page 264.] says that "of right these articles are now contraband, and have been so from the commencement of the present century." In conformity with these opinions has been that of America: and if the law of nations was understood by the most approved jurists, she has not erred.

But the modern public law of nations, and modern treaties, are said to have established a different rule. If the modern public law of nations has changed the principle, such change is yet unknown to the United States. It is much to be wished that more full and satisfactory information had been given in support of an opinion, a difference on which is alleged to have produced consequences so extremely calamitous.

It is not averred that the Armed Neutrality has

* For ship building.

constituted this modern public law. It is supposed that this cannot be averred, because France will never admit the right of a Confederacy, whatever may be its power, to impose the law on those who are not parties to it. It is supposed, also, that this cannot be averred for another reason. The members of the Armed Neutrality had not themselves agreed upon the articles which should be deemed contraband. Russia, the Power originating that celebrated, though short-lived compact, published in 1780 the principles on which she would maintain the commerce of her subjects: one of these was, that the articles of contraband should be regulated by the 10th and 11th articles of her Treaty of Commerce with Great Britain.

Afterwards, Denmark entered into a convention with Russia for maintaining generally the principles agreed upon; but on the subject of contraband, in particular, Denmark adopted as the rule, by which to be governed, her Treaty of Commerce with Great Britain, concluded the 10th of July, 1670, in the third article of which, contraband goods are described to be "any provisions of war, as soldiers, arms, machines, cannon, ships, or other things, of necessary use in war." But by a convention concluded at London, on the 4th of July, 1780, between Great Britain and Denmark, to explain the Treaty of Commerce of 1670, between the two Powers, "timber, for ship building, tar, rosin, copper in sheets, sails, hemp, and cordage, and generally whatever serves directly for the equipment of a vessel, unwrought iron and fir planks excepted," are declared to be contraband.

Denmark having, in her convention with Russia, adopted her treaty with England, made in 1670, as declaratory of those articles which she should consider as contraband, and having, by her explanatory agreement with England, substituted a particular enumeration of articles, for a general description of them, not as an amendment, but as an explanation of the treaty of 1670, has taken a different rule, in the very compact referred to as establishing a modern public law of nations, from that taken by Russia. The rule of Denmark classes among contraband precisely the same articles which are enumerated as such in the treaty between the United States and Britain, and which are only found in that enumeration, because it is believed that the law of nations has unquestionably so placed them. Sweden and Holland, too, in acceding to the Armed Neutrality, adopt their own treaties as the rule by which they will respectively be guided. There was, then, even among the parties to this agreement no fixed law of contraband. Had the Potentates of Europe designed to establish permanently and generally the principles of the Armed Neutrality, the war which originated that convention would not have terminated without some general agreement concerning it: the efforts of Sweden to obtain a Congress for examining and terminating the different concerns, both of the Powers at war and of the neutral States, could not have proved entirely abortive.

No argument then can be drawn from the Armed Neutrality in support of the position, that the modern public law of nations, relating to contraband, has been abandoned by the United States. No modern public law having been formed, the rule remains unchanged; and, at the present moment, as well as when the treaty with France was formed, is believed to ordain as contraband the articles enumerated as such in the treaty with Britain.

But it is alleged that, in this treaty, the United States have abandoned the limits given to contraband by their treaties with all other nations, and even by those of England with a greater part of the maritime Powers.

It is true that the United States, desirous of liberating commerce, have invariably seized every opportunity which presented itself to diminish or remove the shackles imposed on that of neutrals. In pursuance of this policy, they have on no occasion hesitated to reduce the list of contraband, as between themselves and any nation consenting to such reduction. Their pre-existing treaties have been with nations as willing as themselves to change the old rule; and, consequently, a stipulation to that effect being desired by both parties, has been made without difficulty. Each contracting party is deemed to have an equivalent for the cession made, in the similar cession it receives from the party with whom it contracts. Neither requires of the other, as an additional consideration, that it shall propagate by the sword the principles which form the basis of their private agreements, and force unwilling nations to adopt them; nor that it should decline to regulate by treaty its interests with any other nation which should refuse to accede to them; as little could either suppose that its particular contract contained anything obligatory on others, or was capable of enlarging or diminishing their rights. The treaties of the United States, then, with other nations can only establish the limits of contraband, as between the contracting parties, and must leave that subject, with nations not parties to the contract, to the law which would have governed had such particular stipulations never been made. According to the existing state of things, when the negotiations between the United States and Great Britain were opened, naval stores and timber for ship-building were, as between America and Britain, contraband of war; they would have retained this character had the treaty never been made; they would have retained it had the treaty contained no provision on the subject. The United States were truly desirous of excluding them from the list, but Britain was unwilling to do so. Had the United States possessed the means of coercion, their established policy, founded on the basis of justice, and their own peculiar situation, forbid a resort to these means for any other purpose than the defence of their own rights, or a compliance with their own engagements. It was not a case in which force would have been deemed justifiable; and the object, being unattainable by mutual consent, was unavoidably relinquished for the moment. Yet it is proper to enumerate the articles which were before contraband, and which continued to be so, because that enumeration notified to the merchants of the United States the hazard which their commodities would encounter on the seas; and because, also, it prevents those vexatious altercations, which might otherwise have been produced by the efforts of one party to swell, and of the other to reduce the list.

If, on the refusal of Britain to substitute any other rule concerning contraband, in the place of that established by the law of nations, France finds herself in a situation to be injured by an observance of her engagements with the United States, it is not the treaty with Britain, but that with France which has produced this situation. This was foreseen when that treaty was entered into, and did not prevent it. The stipulation concerning contraband was formed when France was at peace, and America at war; although that state of things did not long continue, yet its continuance was by no means deemed impossible. Notwithstanding this, the Government of the United States has manifested a willingness to change this stipulation, as well as that which respects enemies' property in neutral bottoms, so soon as France complained of them: of this the letter from Mr. Randolph to Mr. Adet, already quoted, affords conclusive testimony.

It appears, then, on examining this objection to the treaty between the United States and Britain, that it has not added to the catalogue of contraband a single article; that it has ceded no privilege; has granted no right; and that it has not changed, in the most minute circumstance, the pre-existing situation of the United States in relation either to France or to Great Britain. Notwithstanding these truths, the Government of the United States has hastened to assure its former friend that, if the stipulations between them be found oppressive in practice, it is ready to offer up those stipulations a willing sacrifice at the shrine of friendship.

In vain will you search in this procedure for "a known and evident sacrifice on the part of the United States, of their connexions with this Republic, and of the most essential and least contested prerogatives of neutrality." In vain will you search for evidence of their "having given to England, to the detriment of their first allies, the most striking mark of an unbounding condescension; by abandoning the limits given to contraband by the law of nations; by their treaties with all other nations; and even by those of England with the greater part of the maritime Powers."

The United States feel these reproaches, as conscious innocence feels the imputation of guilt.

2dly. It is also alleged that "the United States have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England to create blockades, in our colonies, and even in France, by the force of a bare proclamation."

The objections to this article shall be considered according to its letter, and according to its operation.

The objectionable words are: "and, whereas, the difficulty of agreeing on the precise cases in which alone provisions and other articles, not generally contraband, may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise: It is further agreed, that whenever any such articles so becoming contraband, according to the existing law of nations, shall, for that reason, be seized, the same shall not be confiscated; but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the Government, under whose authority they act, shall pay, to the masters or owners of such vessels, the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention."

The admissions contained in this clause, are—

1st. That provisions are not generally contraband; and, 2dly, that they are sometimes contraband.

An effort was made to establish the precise cases in which alone they should be subject to seizure; but America would only consent to consider them as contraband in the case of an effective blockade, siege, or investment of a place; while, on the part of England, this strict interpretation of the rule was not admitted: but it was contended that provisions became contraband, when there were reasonable hopes of reducing the enemy by famine. In this opposition of sentiment, to what have the United States consented? "To extend the denomination of contraband even to provisions?" "To acknowledge tacitly the pretensions raised by England to create blockades in your colonies, and even in France, by the force of a bare proclamation?" "To secure to the English alone the carriage of meals?" "In a word, to have commerce only with England?" Reconsider the words themselves, and it will require no comment to prove how inapplicable to them are these assertions. The clause complained of, having stated the admission and the difficulty already mentioned, proceeds to say: "It is further agreed that whenever any such articles, so becoming contraband, according to the laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified.

It is too clear to admit of contestation, that this clause does not declare provisions to be contraband, or admit of their seizure in any other case than where, "according to the existing law of nations, they should become contraband:" in such case the right to seize them is not given by this article, but it is admitted by France and by all the world, to exist independent of treaty. In such case they would have been seized had this stipulation never been entered into, and would have been confiscated also. The only alteration which is by the letter of the clause produced in the law of nations, is to exempt from confiscation goods

which under that law would have been subject to it.

But it has been suspected to have an object and an operation in practice different from its letter. It has been suspected to cover a design to admit substantially certain principles, with respect to blockades, which, in theory, are denied.

Incapable of duplicity, America, with the pride of conscious integrity, repels this insinuation, and courts an investigation of the facts on which it is founded.

The Government of the United States, and that of Britain, having construed the law of nations differently, in this respect, each would have acted upon its own opinion of that law: the privateers of England would have seized as contraband any goods deemed such in their courts of Admiralty; and the Government of the United States would have reclaimed such goods, and would have supported the demand in such a manner as its own judgment dictated. This procedure is not changed. The right to make such reclamation has not been relinquished, nor has the legality of the seizure, in any other case than that of an attempt to enter a place actually invested, been in any degree admitted.

It is true, that the British Government renewed the order concerning provisions about the time of the ratification of this treaty: but it is not less true, that the Government of the United States manifested a firm resolution to submit to no such construction, and remonstrated so seriously against it as to produce a revocation of the order. Nor is this all: claims for provisions seized in cases of a mere proclamation-blockade have been actually made, and have been actually decided in favor of the claimants. The British Government has acquiesced under such decisions by paying the sums awarded. These sums were not limited to a reasonable profit on the price of the commodity seized, but were regulated by its price at the port of destination, and consequently the actual as well as avowed principle of such decisions was, that the goods seized had not become contraband "according to the existing law of nations."

The intention of the Government then, and the practice under the article, are in direct opposition to these injurious suspicions, the indulgence of which has produced such pernicious effects. It is even believed that the decision on this subject will be one step toward the establishment of that principle for which America has never ceased to contend. It is also believed, and has ever been believed, that the article objected to would have a necessary tendency to increase, and did, in fact, increase the quantity of provisions imported from America into France and her colonies. The American commerce, being entirely in the hands of individuals, is consequently conducted by them according to their own views of particular advantage: they will unquestionably endeavor to supply the highest market, unless restrained from doing so by other considerations which render it unadvisable to attempt such a supply. In their calculations, the risk of reaching the market is too important an item to be passed over or forgotten. Every diminution of this risk adds to the number of those who will attempt the supply: and consequently a knowledge that the voyage, should it even fail by the seizure of the vessel, would yet be profitable, must increase the number of those who would make it.

It is plain, then, that this article admits the seizure of provisions in no situation where they were not before seizable; and encourages their transportation to France, and her colonies, by diminishing the risk of such transportation.

It is also complained of, that this treaty has not, "as all treaties do, pointed out particularly the cases of the effective blockade of a place," as alone forming an exception to the freedom of provisions.

Articles in a treaty can only be inserted by consent. The United States, therefore, can never be responsible for not having inserted an article to which the other contracting party would not assent. They may refuse to make any change in the existing state of things prejudicial to themselves or to other Powers; and they have refused to make any such change. But it is not in their power to insert, as by common consent, an article, though merely declaratory of a principle which they considered as certainly existing, and which they mean to support, if such common consent be unattainable. All that can be done, in such case, is to leave the principle unimpaired, reserving entirely the right to assert it. This has been done; the principle has been left unimpaired, and has been since successfully asserted.

The United States are at all times truly solicitous to diminish as much as possible the list of contraband. It is their interest, in common with all other nations whose policy is peace, to enlarge, so far as they can be enlarged, the rights of neutrals. This interest is a sure guaranty for their using those means which they think calculated to effect the object, and which a just regard to their situation will permit. But they must be allowed to pursue the object, in such manner as may comport with that situation. While they surrender no actual right, in preserving which there is a common interest; while they violate no pre-existing engagement (and these they have not surrendered or violated,) they must judge exclusively for themselves how far they will or ought to go in their efforts to acquire new rights, or establish new principles. When they surrender this privilege, they cease to be independent, and they will no longer deserve to be free. They will have surrendered into other hands the most sacred of deposites—the right of self-government; and instead of the approbation, they will merit the contempt of the world.

Those parts of the treaty between the United States and Britain, which have been selected by France as injurious to her, have been now examined. The undersigned are too well convinced that they in no degree justify the enmity they are alleged to have produced, not to rely on a candid reconsideration of them as a sure mean of removing the impressions they are supposed to have made.

Before this subject is entirely closed, one other objection will be noticed. The very formation of a Commercial Treaty with England seems to be reprobated as furnishing just cause of offence to France; and Mr. Adet has permitted himself to say: "It was a little matter only to allow the English to avail themselves of the advantages of our treaty: it was necessary to assure these to them by the aid of a contract, which might serve at once as a reply to the claims of France, and as peremptory motives for refusals; the true cause of which it was requisite incessantly to disguise to her under specious pretexts. Such was the object of Mr. Jay's mission to London; such was the object of a negotiation enveloped from its origin in the shadow of mystery, and covered with the veil of dissimulation."

Passing over this extraordinary language, the undersigned, being only desirous of producing accommodation by the exhibition of truth, will consider the opinion which is obliquely hinted, and the fact which is directly averred.

The practice of forming commercial treaties is so universal among other nations, having any commercial intercourse with each other, that it seems unnecessary to discuss their utility. The right to form these treaties has been so universally asserted and admitted, that it seems to be the inseparable attribute of sovereignty, to be questioned only by those who question the right of a nation to govern itself, and to be ceded only by those who are prepared to cede their independence.

But the prosperity of the United States is, in a peculiar degree, promoted by external commerce. A people almost exclusively agricultural have not within themselves a market for the surplus produce of their labor, or a sufficient number and variety of articles of exchange to supply the wants of the cultivator: they cannot have an internal, which will compensate for the loss of an external commerce. They must search abroad for manufactures, and for many other articles which contribute to the comfort and convenience of life, and they must search abroad also for a market for that large portion of the productions of their soil which cannot be consumed at home. The policy of a nation thus circumstanced must ever be to encourage external commerce, and to open to itself every possible market for the disposition of its superfluities, and the supply of its wants. The commercial and manufacturing character and capacities of England must turn into that channel a considerable portion of the commerce of any nation under the circumstances of the United States. It is a market too important and too valuable to be voluntarily closed; in consequence, a considerable portion of their commerce has taken that direction, and a continual solicitude has been manifested to regulate and secure it by contract. To abolish this commerce, or to refuse to give it permanence and security by fair and equal stipulations, would be a sacrifice which no nation ought to require, and which no nation ought to make. In forming her Treaty of Amity and Commerce with the United States, France claimed no such prerogative. That treaty declares the intention of the parties to be, "to fix in an equitable and permanent manner the rules which ought to be followed relative to the correspondence and commerce, which the two parties desire to establish between their respective countries, States, and subjects;" and that they have judged that the said end could not be better obtained than by taking for the basis of their agreement the most perfect equality and reciprocity; and by carefully avoiding all of those burdensome preferences which are usually sources of debate, embarrassment, and discontent; by leaving also each party at liberty to make, respecting commerce and navigation, those interior regulations which it shall find most convenient to itself; and by founding the advantages of commerce solely upon reciprocal utility, and the just rules of free intercourse; reserving withal to each party the liberty of admitting at its pleasure other nations to a participation of the same advantages." The treaty itself contains no stipulations in any degree contradictory to these declarations of the preamble, or which could suggest a suspicion that under those declarations we concealed a wish to abridge the sovereignty of the United States with respect to treaties, or to control their interests with regard to commerce. In forming a commercial treaty with Britain, therefore, in which no peculiar privilege is granted, the Government of the United States believed itself to be transacting a business exclusively its own, which could give umbrage to none, and which no other nation on earth would consider itself as having a right to interfere in. There existed, consequently, no motive for concealing from or declaring to France, or any other Power, that the negotiations of Mr. Jay might or might not terminate in a commercial treaty. The declaration, therefore, was not made, nor is it usual for nations, about to enter into negotiations, to proclaim to others the various objects to which those negotiations may possibly be directed. Such is not, nor has it ever been the practice of France. To suppose a necessity or a duty on the part of one Government thus to proclaim all its views, or to consult another with respect to its arrangements of its own affairs, is to imply a dependence, to which no Government ought willingly to submit. So far as the interests of France might be involved in the negotiation, the instruction given to the negotiator were promptly communicated. The Minister of this Republic was informed officially that Mr. Jay was instructed not to weaken the engagements of the United States to France. Further information was neither to have been required or expected, indeed, that which was given furnished reason to suppose that one of the objects of the negotiation with Great Britain was a commercial treaty. Why, then, such unnecessary and unmerited sarcasms against a cautious and unoffending ally? Those objects which she pursued were such as an independent nation might legitimately pursue, and such as America never had dissembled, and never deemed it necessary to dissemble her wish to obtain. Why should an effort be made to impress France with an opinion that Mr. Jay was not authorized to negotiate a commercial

treaty with Britain, when the fixed opinion of America had ever been, that France could not be and ought not to be dissatisfied with the formation of such a treaty? Why should the Minister of France have been informed officially that Mr. Jay was especially instructed not to weaken the engagements of the United States to France, if it was intended to convince that Minister that his powers did not extend to subjects in any degree connected with those engagements? To what purpose should the Government of the United States have practised a deception deemed by itself totally unnecessary, and which its utmost efforts could not long continue? It requires an equal degree of folly and vice to practise an useless fraud which must inevitably and immediately be detected, and the detection of which must expose its authors to general infamy, as well as to the enmity of those on whom the fraud had been practised. These considerations ought to have produced some hesitation concerning the fact. The testimony in support of it ought to have been very positive and very unexceptionable before it received implicit faith. It should have been very clear that there was no mistake, no misunderstanding concerning the information communicated before the charge was made in such terms as the Minister of France has been pleased to employ. But the testimony is believed to be satisfactory, that the Government of the United States has not endeavored to impress on France any opinion on this subject which the fact of the case did not warrant. The declaration of Mr. Randolph, made July 8th, 1795, is full on this point. It is in these words: "I never could with truth have informed the French Minister that the mission, as set forth in the President's Message to the Senate, contemplated only an adjustment of our complaints; if by this phrase it be intended to exclude commercial arrangements. I could have no reason for saying so, since the French Republic could have nothing to do with our commercial arrangements, if they did not derogate from her rights. It could have answered no purpose when so short a time would develop the contrary. I never did inform the French Minister as is above stated.

"The only official conversation, which I recollect with Mr. Fauchet upon this subject, was when I communicated to him, with the President's permission, that Mr. Jay was instructed not to weaken our engagements to France. Neither then nor at any other time in official or unofficial conversation, did I ever say to him that nothing of a commercial nature was contemplated, or that nothing but the controversies under the old treaty and the spoliations were contemplated.

"Mr. Fauchet sometime ago said to me that he understood from what I said, that Mr. Jay was not authorized to treat of commercial matters. I told him that he misunderstood me; no letter has ever passed upon this subject."

If, then, Mr. Randolph did give Mr. Fauchet the information contended for, it is plain that he never was authorized to do so; but the considerations already detailed render it infinitely more probable that Mr. Fauchet has misunderstood Mr. Randolph, than that Mr. Randolph has misinformed Mr. Fauchet.

The undersigned have taken, they trust, a correct view of the leading and influential measures adopted by the Government of the United States. They have endeavored to state, with plainness and with candor, the motives which have occasioned the adoption of those measures, and the operation they are believed to have. They have shown that, if America is to be reproached with partialities, irreconcileable with her neutral situation, it is not by France that those reproaches ought to be made. They have been induced to take this review by a hope, which they cannot relinquish without regret, that it may contribute to efface impressions which misrepresentation may have made, and to take from the intentions and conduct of the Government they represent, that false coloring which unfriendly pencils have so profusely bestowed upon them. They are anxious still to cherish the hope that, by exposing frankly and sincerely the sentiments which have hitherto guided their nation, they may restore dispositions on the part of France, compatible with the continuance of those sentiments.

Complaints have been made that in the application in particular cases of those general principles which the neutral situation of the United States rendered indispensable, inconveniences and vexations which were unavoidable have been sometimes sustained. These complaints have been separately and fully discusssed.

The undersigned persuade themselves that the explanations which have been given respecting them, if not entirely satisfactory, have yet been such as to prove the good faith and upright intentions which have never ceased to direct the conduct of the United States.

If, notwithstanding this good faith and the purity of these intentions, the difficulty of their situation has in any case produced even an involuntary departure from those principles by which they profess to be guided, they are ready to consider that case, and to repair any fault which may inadvertently have been committed. With these dispositions on their part, with this consciousness of having never ceased to merit the friendship and esteem of the French nation, with a conviction that a temperate and thorough view of the past cannot fail to remove the prejudices not warranted by facts, the United States have relied confidently on the justice of France for a discontinuance and reparation of those serious and heavy injuries which have been accumulated on them.

Desirous of establishing, not the dependence of a weak on a powerful nation, but that real and cordial friendship, the willing and spontaneous offering of generous minds, which can only be lasting when evidenced to be mutual, and can only be preserved when bottomed on reciprocal justice, the undersigned will now represent with candor and frankness the well-founded complaints with which they are charged.

These complaints consist—

Of claims uncontroverted by the Government of France, but which remain unsatisfied, and

Of claims founded on captures and confiscations, the illegality of which has not yet been admitted.

In the first class of cases are arranged—

1stly. Those whose property has been seized under the decree of the National Convention of the 9th May, 1793.

2dly. Those who are entitled to compensation in consequence of the long detention of their vessels at Bordeaux, in the years of 1793 and 1794.

3dly. The holders of bills and other evidences of debts due, drawn by the colonial administrations in the West Indies.

4thly. Those whose cargoes have been appropriated to public use without receiving therefor adequate payment; and

5thly. Those who have supplied the Government under contract with its agents, which have not yet been complied with on the part of France.

These well-founded claims of American citizens, thus originating in voluntary and important supplies, in the forcible seizure of valuable property, accompanied with promises of payment, and in injurious detentions, constitute a mass of debt which the justice and good faith of the French Government cannot refuse to provide for, and which is too considerable to be unnoticed by that of the United States. The undersigned are instructed to solicit your attention to this subject, and they would persuade themselves that they do not solicit in vain. So many circumstances concur to give force to the application, that they leave it to your Government, in the confidence that no additional representations can be necessary.

They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences.

On the 14th Messidor, 4th year of the French Republic, one and indivisible, (July 2d, 1796,) the Executive Directory decreed, "that all neutral or allied Powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them." This decree, in any point of view in which it can be considered, could not fail to excite in the United States the most serious attention. It dispenses at once, as they conceive, with the most solemn obligations which compact can create, and consequently asserts a right on the part of France to recede at her discretion from any stipulations she may have entered into. It has been demonstrated that Governments may by contract change, as between themselves, the rules established by the law of nations, and that such contract becomes completely obligatory on the parties, though it can in no manner affect the rights of others; yet, by this decree, allies with whom such stipulations exist, are to be treated without regard to such stipulations, in the same manner as they are treated by others, who are bound by a different rule. This, as it respects the United States, is the more unfriendly, because a readiness has been manifested on their part so to modify by consent their treaty with France, as to reinstate the rules established by the law of nations.

The general terms too, in which this decree is conceived, threatened but too certainly the mischiefs it has generated, and the abuses which have been practised under it. Neutrals are to be treated as they shall permit the English to treat them. No rule extracted from the practice of England is laid down which might govern the cruisers of France, or instruct the vessels of neutrals. No principles are stated, manifesting the opinion entertained of the treatment received from England, which might enable a neutral to controvert that opinion, and to show that the English were not permitted to treat its flag as was supposed by the Government of France. To judge from the decree itself, from any information given concerning it, or from the practice under it, those who were to be benefited by its abuse were to decide in what manner it should be executed; and the cruiser who should fall in with a valuable vessel had only to consult his rapacity, in order to determine whether an English privateer, meeting a vessel, under similar circumstances, would capture and bring her into port. Multiplied excesses, and accumulated vexations could not but have been apprehended from such a decree, and the fact has realized every fear that was entertained concerning it. It has been construed even in Europe to authorize the capture and condemnation of American vessels, for the single circumstance of their being destined for a British port. At no period of the war has Britain undertaken to exercise such a power. At no period of the war has she asserted such a right. It is a power which prostrates every principle of national sovereignty, and to which no nation can submit without relinquishing at the same time its best interests and sacrificing its dearest rights. This power has been exercised by France on the rich and unprotected commerce of an ally, on the presumption that that ally was sustaining the same injuries from Britain, at a time when it is believed that the depredations of that nation had ceased, and the principle of compensating for them had been recognised.

In the West Indies similar depredations have been experienced. On the 1st of August, 1796, the special agents of the Executive Directory to the Windward Islands, decreed that all vessels loaded with contraband, should be seized and confiscated for the benefit of the captors.

On the 7th Frimaire, 5th year of the French Republic, one and indivisible, (27th November, 1796,) the commission, delegated by the French Republic to the Leeward Islands, resolved that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony, American vessels bound to English ports, or coming from the said ports.

On the 19th Pluviose, 5th year of the French Republic, one and indivisible, (February 1st, 1797,) Victor Hugues and Lebas, the special agents of the Executory Directory to the Windward Islands, passed a decree, subjecting to capture and confiscation neutral vessels destined for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are said to be Martinico, St. Lu-

cie, Tobago, Demarara, Berbice, Essequibo, Port-au-Prince, St. Mark's, L'Archaye, and Jeremie. The decree also subjects to capture all vessels which have cleared out for the West Indies generally.

The undersigned will not detain you, Citizen Minister, for the purpose of proving how directly and openly these decrees violate both the law of nations and the treaty between France and the United States.

They have been executed on the officers and crews of the captured vessels in a manner by no means calculated to mitigate their rigor.

The decree of the 14th of Messidor was soon followed by another, which has spared but little of the American commerce, except what has fortunately escaped the pursuit of the cruisers of France. On the 12th Ventose, 5th year, (2d March, 1797,) the Executive Directory, considering the Treaty of Amity, Commerce, and Navigation, concluded at London, the 19th of November, 1794, between the said United States and England, as containing concessions of privileges to Britain which, under the treaty of February, 1778, might be enjoyed by this Republic also, proceeds to modify the treaty between France and the United States, by declaring enemies' goods, in American bottoms, liable to capture and confiscation; by enlarging the list of contraband, and by subjecting to punishment, as a pirate, any American citizen holding a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of the enemies's ships. The decree next proceeds to exact from Americans, papers which had been made necessary to establish the neutrality of foreign vessels generally, by the ordinance of the 26th July, 1778, but which had never been considered as applying to the United States, which required papers their vessels could not be supposed to possess, and which the treaty between the two nations was supposed to have rendered unnecessary.

The basis taken by the Executive Directory, on which to rest their modification of the treaty of the 6th of February, 1778, is, that by the treaty of the 19th of November, 1794, particular favors in respect of commerce and navigation have been granted to England.

It has been demonstrated, that no particular favors in respect of commerce or navigation, have been granted to England. That treaty has been shown only to recognise, regulate, and moderate the exercise of rights before possessed, and before openly acknowledged to be possessed; rights which France and America had reciprocally ceded to each other, without requiring, as a condition of the cession, that either should compel England to form a similar stipulation.

But to admit for a moment that the treaty with England might be considered as stipulating favors not before possessed, yet the American Government did not so understand that treaty, and had manifested a disposition to modify, by common consent, its relations with this Republic, in such manner as to reinstate a rule, which has been voluntarily changed. It cannot but be sincerely regretted, because it seemed to indicate an unfriendly temper, that France has deemed it more eligible to establish by force, in opposition to her treaty, a principle which she deemed convenient, than to fix that principle on the fair basis of mutual and amicable agreement.

But the clause, under which these modifications are justified, is in these words: "The Most Christian King and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional." If these stipulations unequivocally amounted to the grant of favors, still the grant is not gratuitous. The concessions on the part of the United States are made on condition of similar concessions on the part of Britain. If, therefore, France chooses to consider them as modifications of the treaty of 1778, she can only do it by granting the reciprocal condition: on this supposition, she has either of the rules at her election, but she cannot vary from the first without a compact on her part to grant the reciprocal stipulation. Such a compact is in the nature of a national treaty.

But the rules laid down in the decree of the 12th Ventose, 5th year (March 2, 1797) as founded on the 17th, 18th, and 21st articles of the treaty of the 19th November, 1794, are materially variant from those articles. To demonstrate this, it is only necessary to contrast the rules of the decree with the articles of the treaty on which those rules are said to be founded.

Articles of the Treaty of the 19th of November, 1794, as quoted by the Directory.

"Art. xvii. It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port, and if any property of an enemy should be found on board such vessels, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners or masters of such ships."

Rules established by the arrêt of the Directory.

"Rule i. According to the seventeeth article of the Treaty of London, of the nineteenth of November, 1794, all merchandise of the enemy, or merchandise not sufficiently proved to be neutral, laden under the American flag, shall be confiscated, but the vessel on board of which it shall be found, shall be released and restored to the owner. It is enjoined on the Commissaries of the Executive Directory, to accelerate, by all the means in

their power, the decision of contests which shall arise either on the validity of the prize-cargo, or on the freight and demurrage."

According to the article, when *on just suspicion* of having on board enemy's property, or of carrying to the enemy contraband of war, a vessel shall be brought into port, that part *only* which belongs to the enemy shall be made prize; according to the article, then, the fact whether the property does or does not belong to an enemy, is to be fairly tried. The party who would establish the fact, must prove it. The captor must show the justice of the suspicion on which the capture or detention was founded. The burden of the proof rests on him. If, in truth and in fact, the property does not belong to an enemy, or is not proved to belong to an enemy, it must be discharged. But the rule pursues a different course. The rule declares, that merchandise of the enemy, or not sufficiently proved to be neutral, ladened under the American flag, shall be confiscated. The burden of the proof is shifted from the captor to the captured. The question to be tried is not solely whether the merchandise be in fact the property of an enemy, but also whether it be sufficiently proved to be neutral. The sufficiency of this proof is to be ascertained, not by general and satisfactory testimony, not by the great principles of truth, and the common understanding of mankind, but by the exhibition of certain papers demandable at the will of one of the parties, and not in the possession of the other. This may be a regulation which France chooses to establish, but certainly it is a regulation essentially variant from the article it professes to resemble.

"Art. xviii. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket-rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, head-pieces, cuirasses, halberds lances, javelins, horse-furniture, holsters, belts, and generally all other implements of war; as also timber for ship-building, tar, or rosin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron, and fir plank, only excepted."

"Rule ii. According to the 18th article of the Treaty of London, of the 19th of November, 1794, to the articles declared contraband by the 24th article of the Treaty of the 6th of February, 1778, are added the following articles: Timber for ship-building, pitch, tar, and rosin, copper in sheets, sails, hemp, and cordage, and everything which serves directly or indirectly for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they shall be destined or attempted to be carried to the enemy."

The immense number of articles which may serve indirectly for the armament and equipment of vessels are made contraband by the rule of the Directory, though they are not so by the article it professes to cite.

"Art. xxi. It is likewise agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State enemies to the party; nor shall the enemies of one of the parties be permitted to invite or endeavor to enlist in their military service any of the subjects or citizens of the other party, and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties, respectively, shall accept any foreign commission, or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission, or letters of marque, as a pirate."

"Rule iii. According to the 21st article of the Treaty of London, of the 19th of November, 1794, every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of enemies' ships, shall, by that act, be declared a pirate, and treated as such, without being allowed, in any case, to allege that he was forced to do it by violence, menaces, or otherwise."

The Government of the United States has never formed a treaty comprehending an article in any degree similar to this rule. It has never assented to such stipulations as they relate to its own citizens, or required them as they relate to those of other Powers. The difference between the article and the rule requires no comment. Nor will the rule be commented on. The undersigned will only observe that the article is by no means uncommon, but is to be found in most treaties of amity and commerce. The 21st article of the treaty with France, the 19th of the treaty with the United Provinces, the 23d of the treaty with Sweden, and the 20th article of the treaty with Prussia, contain similar stipulations. It is not easy to conceive a reason why it should not also be inserted in a treaty with England, or why its insertion should give offence to France.

But the fourth rule of the decree is, in its operation, the most extensive and the most seriously destructive. That rule declares that, "conformably to the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 26th of July, 1778, concerning the manner of proving the property of neutral ships and merchandise, shall be executed according to their form and tenor.

"Every American ship shall, therefore, be a good prize which shall not have on board a list of the crew in proper form, such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty."

This rule requires that American ships and merchandise, in order to prove the property to be American, shall exhibit certain papers, and especially a rôle d'équipage, which are required of neutrals generally by the particular marine ordinances of France, recited in the decree of the Directory. But France and America have entered into a solemn treaty, one object of which was to secure the vessels of either party, which might be at peace, from the cruisers of the other which might be engaged in war. To effect this object, the contracting parties have not referred each other to the particular statutes or ordinances of either Government, but have enumerated the papers which should be deemed sufficient. They have done more. They have prescribed the very form of the passport which should establish the neutrality of the vessel, and prevent her being diverted from her course. The 25th and 27th articles of the treaty between the two nations, which are quoted by the Directory, and are considered by the undersigned as conclusive on this subject, are in these words:

"ART. XXV. To the end that all manner of dissensions and quarrels may be avoided and prevented on the one side and on the other, it is agreed that, in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with sea-letters or passports, expressing the name, property, and bulk, of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the said ship really and truly belongs to the subjects of one of the parties, which passports shall be made out and granted according to the form annexed to this treaty; and they shall likewise be recalled every year, that is, if the ship happens to return home in the space of a year. It is likewise agreed that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound, that so it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship set sail, in the accustomed form; and if any one shall think it fit or advisable to express, in the said certificates, the person to whom the goods on board belong, he may freely do so."

"ART. XXVII. If the ships of the said subjects, people, or inhabitants, of either of the parties, shall be met with, either sailing along the coasts, or on the high seas, by any ship of war of the other, or by any privateers, the said ships of war or privateers, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship, which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in this present treaty; and the ship, when she shall have showed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It will be admitted that the two nations possess the power of agreeing that any paper in any form shall be the sole document, demandable by either from the other, to prove the property of a vessel and cargo. It will also be admitted, that an agreement so made becomes the law of the parties, which must retain its obligation.

Examine, then, the words of the compact, and determine by fair construction what will satisfy them.

The 25th article states substantially the contents of a paper, which is termed a sea-letter or passport, and which "it is agreed that in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with." To what purpose are they to be furnished with this sea-letter or passport? The article answers, "To the end that all manner of dissension and quarrels may be avoided and prevented on one side and the other: "That it may appear thereby that the ship really and truly belongs to the subjects of one of the parties."

But how will the passport "prevent and avoid all manner of dissensions and quarrels on one side or the other," if ordinances, both prior and subsequent to the treaty, are to be understood as controlling it, and as requiring other papers not contemplated in the public agreement of the two nations? How is it to appear from the passport, "that the ship really and truly belongs to the subjects of one of the parties," if it is denied that the passport is evidence of that fact, and contended that other papers, not alluded to in the treaty, shall be adduced to prove it?

But the 27th article is still more explicit. It declares that when a merchant ship of one of the parties shall be visited by the ships of war or privateers of the other, "the commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in the present treaty, and the ship, when she shall have showed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." What is it that shall prove the property of the vessel? The treaty answers, the passport. But the decree of the Directory requires in addition certain other papers, perfectly distinct from the passport. The treaty declares that "the ship, when she shall have showed" (not the rôle d'équipage, or any other paper, required by the particular ordinances of either nation, but) "such passports, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." Yet the vessels of America, after exhibiting "such passport," are not "free and at liberty to pursue their voyage; they are "molested;" they are "chased;" they are "forced to quit their intended course;" they are captured and confiscated as hostile property.

It is alleged that the form of the passport, which is annexed to the treaty, manifests that certain acts were to be performed by the person to whom the passport is delivered, and that such person ought to prove the performance of those acts.

But the treaty, far from requiring such proof, absolutely dispenses with it. The treaty declares that the passport shall itself evidence the property of the vessel, and secure it from molestation of any sort. By consent of the parties, then, the passport is evidence of all that either party can require from the other. Neither the right to give such consent, nor the obligation of a compact formed upon it, can, as is conceived, ever be denied, nor can the form of the passport, whatever it may be, change the compact.

But let the words of the model be examined. They are: "A tous ceux qui ces présentes verront: soit notoire que faculé et permission a été accordée à ——— maitre ou commandant du navire appellé ——— de la ville de ——— de la capacité de ——— tonneaux ou environ, se trouvant présentement dans le port de ——— qu'après que son navire a été visité, et avant son depart il prêtera serment entre les mains des officiers de la marine, que le dit navire appartient à un ou plusieurs sujets de ——— dont l'acte sera mis à la fin des présentes; de même qu'il gardera les ordonnances et réglemens maritimes, et remettra une liste signée et confirmée par témoins, contenant les noms et surnoms, less lieux de naissance, et la demeure des personnes composant l'équipage de son navire, et de tous ceux qui embarqueront, lesquels il ne recevra pas à bord sans connoissance et permission des officiers de marine; et dans chaque port ou hâvre, il montrera la présente permisssion aux officers et juges de marine."

It is material to observe that the model requires the oath concerning the property of the vessel to be annexed to the passport, but does not require any other certificate, or the annexation of any paper whatever. Why this difference? It is a solemn proof of that for which the article stipulates, and therefore the model expresses that the evidence of this fact shall be annexed, but it does not require the production of the evidence of any other fact.

It seems, then, to be demonstrated that the sea-letter or passport, a model of which is annexed to the treaty, is, by solemn agreement, to be received by each party as conclusive testimony that the vessel producing such passport is the property of a citizen of the other, and is consequently to continue her voyage without molestation or hindrance.

But let it be supposed that the treaty on this subject was less conclusive, and that its stipulations had been ambiguously expressed; yet it is certain that it has been uniformly understood by both parties, as the undersigned have expounded it, and that neither France nor the United States, previous to the decree complained of, considered the vessels of either nation, producing the passport agreed on, as liable to capture for want of a rôle d'équipage.

For more than four years after her treaty with the United States France was engaged in a war with Britain, and in the course of that time it was never suggested that a rôle d'équipage was necessary for the protection of an American vessel. It does not weaken the argument that the United States were also parties to the war. The principle assumed is, that, without the production of the papers required by the decree, the vessel does not appear to be, and cannot be considered as, American property. If this principle be correct, it would not cease to apply, because the United States were engaged in the war. Was America even engaged in the war on the part of France, a British vessel carrying American colors would not be secured by the flag she bore. It would be necessary to prove by her papers, or other admissible testimony, that the vessel was American property. If this fact cannot appear without a rôle d'équipage while the United States are at peace, neither could it appear without the same evidence if the United States were parties to the war.

About four years of the present war had also elapsed before this construction of the treaty, at the same time so wonderful and so ruinous, had disclosed itself. In the course of that time the ports of France were filled with the vessels of the United States. Very many of them sailed under contracts made for the Government itself by its Ministers in Philadelphia. No one of them possessed a rôle d'équipage; no one of them was considered on that account as being liable to condemnation. Indeed, in some instances, vessels have been captured and discharged although this paper was not among those belonging to the ship.

Such a long course of practice appears to have evidenced, unequivocally, the sense of France on this subject.

It is too apparent to be questioned for a moment, that, on the part of the United States, no suspicion had ever been entertained that such a paper could have been required. A rôle d'équipage could have been obtained with as much facility as that passport for which the treaty stipulates. Could it have been imagined that American vessels incurred the possible hazard of being retarded only one day in a voyage for want of such paper, it would, in every instance, have been supplied. No vessel would have sailed without it.

Your own mind, Citizen Minister, will suggest to you, with irresistible force, the extreme hardship of thus putting a new construction on a long existing contract, or of giving a new and unexpected extension to ancient municipal regulations, and of condemning thereby vessels taken on the high seas for want of a paper not known to be required, when they sailed out of port. If a rôle d'équipage was really considered by France as necessary evidence of any fact, the establishment of which was deemed essential, common usage, and those plain principles of justice which all nations should respect, indispensably require that the regulations should first be made known to a neutral and friendly nation by other means than by the capture

and confiscation of its property. If this measure had been announced to the Government of the United States before it had been put in practice, and American vessels had sailed without a rôle d'équipage, they would have taken upon themselves the hazard of such a procedure. But in a moment when the ocean is covered with peaceful merchantmen, pursuing a just and lawful commerce, to bring into sudden operation a measure which had never before been applied to them, which had for so many years slept unheard of, and, by the force of this regulation, to confiscate unguarded property which had been trusted to the seas, under the faith of solemn and existing treaties, and without a conjecture that this, more than any other formula, would have been required, is to impose on unoffending individuals a ruin from which no wise precautions, no human foresight, could possibly have protected them.

On this subject, then, the undersigned appeal with confidence to the justice and equity of the French Government.

But could it be conceded for a moment that the Executive Directory might rightfully modify the treaty of France with the United States by that of the United States with Britain, and might rightfully require a rôle d'équipage in order to establish the neutrality of a vessel, for want of which the vessel might be confiscated, yet, the cargo being proved to be neutral, ought to be safe.

According to the law of nations the goods of an enemy, found on board the ship of a friend, are liable to capture; and the goods of a friend, found on board the ship of an enemy, are safe. The United States and France have consented to change this rule as between themselves. They have agreed that the goods of an enemy found on board the vessels of either party shall be safe, and that the goods of either, found on board the vessel of an enemy, shall be liable to capture. The one part of this rule is in consequence of and dependent on the other. The one part cannot, on any principle of justice, be abandoned while the other is maintained.

In their treaty with England the United States retain unchanged the principle of the law of nations. If France modifies her treaty in this respect by that of England, she ought to take the principle entire. If, in conformity to the treaty between the United States and England, France claims the right of taking enemy's property found on board an American ship, then, in conformity with that treaty, also, France ought to spare American property found on board an enemy's ship. If, therefore, this extraordinary position could be maintained, that an American ship without a rôle d'équipage becomes the ship of an enemy, still the cargo, being proved to be the property of a friend, ought, on the principle of modifying the treaty between the two nations with that of England, to have been restored to the owners.

The result of these regulations has been the most extensive and universal devastation of the American commerce. Not only vessels bound to and from the enemies of France, but vessels bound to and from her allies, and to and from her own ports, have been seized and confiscated.

The inevitable consequence has been, that direct commerce between the two nations is almost annihilated, and that the property of American citizens has been taken to a much larger amount than would have been possible in a state of actual war.

Yet the Government of the United States wishing, if it be possible, to avoid even defensive measures, has sought assiduously and unremittingly, though hitherto without success, for such peaceful and amicable explanations as might do away existing animosities, and restore between the two Republics that harmony which it so truly desires.

America has accustomed herself to perceive in France only the ally and the friend. Consulting the feelings of her own bosom, she has believed that between Republics an elevated and refined friendship could exist, and that free nations were capable of maintaining for each other a real and permanent affection. If this pleasing theory, erected with so much care, and viewed with so much delight, has been impaired by experience, yet the hope continues to be cherished that this circumstance does not necessarily involve the opposite extreme. It is believed that there exists no sufficient cause for solid and permanent enmity between France and the United States, but that, on the contrary, the interests of both would be promoted by that friendly intercourse which a reciprocal observance of the great and immutable principles of justice would certainly establish and can alone preserve. Under this impression America resists the opinion that the present state of things has grown out of a digested system to which France designs to adhere. She wishes, and she endeavors to persuade herself, that temporary causes, which too often produce effects a sound and just policy must reprobate, connected with a misconstruction of the conduct of her Government, as well as of the motives on which it has acted, may have occasioned those very serious aggressions of which she complains. She recedes, therefore, even under the pressure of these aggressions, slowly and with difficulty from the attachments she has formed. So intertwined with every ligament of her heart have been the cords of affection which bound her to France, that only repeated and continued acts of hostility can tear them asunder.

The Government of the United States, therefore, still searches the means of terminating peaceably, and in a manner which ought to be mutually satisfactory, the calamities of the moment, and of averting the still greater calamities which may be reserved for the future. Not even the discouraging and unusual events which had preceded the present effort to negotiate, could deter that Government from repeating its endeavors for the preservation of amity and peace. Three citizens of the United States have been deputed as Envoys Extraordinary and Ministers Plenipotentiary to the French Republic. Their instructions authorize and direct them to review the existing treaties between the two nations, and to

remove, by all proper means, the inequalities which have grown out of the stipulations of those treaties, in consequence of the refusal of England to adopt the principles they contain. They are also directed to give fair and complete explanations of the conduct of the Government they represent; to state fully and truly the heavy injuries which their fellow-citizens have sustained; and to ask, from the equity of a great and magnanimous Republic, that compensation for those injuries which, we flatter ourselves, their justice will not refuse, and their liberal policy will not hesitate to give.

Bringing with them the temper of their Government and country, searching only for the means of effecting the objects of their mission, they have permitted no personal considerations to influence their conduct, but have waited, under circumstances beyond measure embarrassing and unpleasant, with that respect which the American Government has so uniformly paid to that of France, for permission to lay before you, Citizen Minister, these important communications with which they have been charged.

Perceiving no probability of being allowed to enter, in the usual forms, on those discussions which might tend to restore harmony between the two Republics, they have deemed it most advisable, even under the circumstances of informality which attend the measure, to address to your Government, through you, this candid review of the conduct, and this true representation of the sentiments and wishes, of the Government of the United States. They pray that it may be received in the temper with which it is written, and considered as an additional effort, growing out of a disposition common to the Government and people of America, to cultivate and restore, if it be possible, harmony between the two Republics. If, Citizen Minister, there remains a hope that these desirable objects can be effected by any means which the United States have authorized, the undersigned will still solicit, and will still respectfully attend, the development of those means.

If, on the contrary, no such hope remains, they have only to pray that their return to their own country may be facilitated; and they will leave France with the most deep-felt regret that neither the real and sincere friendship, which the Government of the United States has so uniformly and unequivocally displayed for this great Republic, nor its continued efforts to demonstrate the purity of its conduct and intentions, can protect its citizens, or preserve them from the calamities which they have sought, by a just and upright conduct, to avert.

The undersigned pray you, Citizen Minister, to accept the assurances of their perfect respect and consideration.

C. C. PINCKNEY,
J. MARSHALL,
E. GERRY.

PARIS, *Jan.* 27, 1798:
In the 22d year of American independence.

Translated extract from the Bulletin des Lois, No. 178, printed at Paris, and enclosed with the quadruplicate of the Envoys' letter, No. 6.

Law relative to vessels laden with English merchandise, of the 29th Nivose, 6th year, (*18th Jan.*, 1796.)

The Council of Ancients, adopting the reasons for the declaration of urgency, which precedes the resolution hereinafter contained, approves the act of urgency.

Here follows the tenor of the declaration of urgency, and of the resolution of the 22d Nivose, (11th January, 1798.)

The Council of Five Hundred, after having heard the report of a special committee upon the message of the Executive Directory, of the 15th Nivose, (4th January,) relative to English merchandise;

Considering that the interest of the Republic demands the most prompt measures against all vessels which may be loaded therewith;

Declares that there is urgency.

The Council, after having declared the urgency, resolves as follows:

ART. I. The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo; in consequence, every vessel found at sea, loaded in whole or in part with merchandise the production of England or of her possessions, shall be declared good prize, whoever the owner of these goods or merchandise may be.

ART. II. Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French Republic, except in case of necessity; in which case she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

ART. III. The present resolution shall be printed.

BOULAY, (of la Meurthe,) *Presid't.*
GUILLEMARDET, } *Secretaries.*
ROEMERS, }

After a second reading, the Council of Ancients APPROVES the above resolution. The 29th of Nivose, sixth year of the French Republic, (18th January, 1798.)

MARRAGON, *President.*
ET. LAVEAUX, }
KAUFFMANN, } *Secretaries.*
MENUAU, }
MERIC, }

The Executive Directory orders that the above law shall be printed, executed, and that it shall be sealed with the seal of the Republic.

Done at the National Palace of the Executive Directory, the 29th Nivose, sixth year of the French Republic, one and indivisible, (18th January, 1798.)

For a true copy:

P. BARRAS, *President.*

By the Executive Directory:
The Sec'y Gen., LAGARDE.
And sealed with the seal of the Republic.

GREAT BRITAIN.

[Communicated to the Senate, May 29, 1798.]

Gentlemen of the Senate:

An article explanatory of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, has been signed by the Plenipotentiaries of the two Powers, which I now submit to the Senate for their consideration.

JOHN ADAMS.

UNITED STATES, *May* 29, 1798.

Explanatory Article.

Whereas, by the twenty-eighth article of the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States, signed at London on the 19th November, 1794, it was agreed, that the contracting parties would, from time to time, readily treat of and concerning such further articles as might be proposed, that they would sincerely endeavor so to form such articles as that they might conduce to mutual convenience, and tend to promote mutual satisfaction and friendship and that such articles, after having been duly ratified, should be added to, and make a part of that treaty: and whereas difficulties have arisen with respect to the execution of so much of the fifth article of the said treaty as requires that the Commissioners appointed under the same should, in their description, *particularize* the latitude and longitude of the source of the river which may be found to be the one truly intended in the Treaty of Peace between His Britannic Majesty and the United States, under the name of the river St. Croix, by reason whereof it is expedient that the said Commissioners should be released from the obligation of conforming to the provisions of the said article in this respect; the undersigned being respectively named by His Britannic Majesty and the United States of America, their Plenipotentiaries, for the purpose of treating of, and concluding such articles as may be proper to be added to the said treaty, in conformity to the above-mentioned stipulation, and having communicated to each other their respective full powers, have agreed and concluded, and do hereby declare, in the name of His Britannic Majesty and of the United States of America, that the Commissioners appointed under the fifth article of the said treaty shall not be obliged to particularize, in their description, the latitude and longitude of the source of the river which may be found to be the one truly intended in the aforesaid Treaty of Peace, under the name of the River St. Croix, but they shall be at liberty to describe the said river in such other manner as they may judge expedient, which description shall be considered as a complete execution of the duty required of the said Commissioners, in this respect, by the article aforesaid. And, to the end that no uncertainty may hereafter exist on this subject, it is further agreed that, as soon as may be after the decision of the said Commissioners, measures shall be concerted between the Government of the United States and His Britannic Majesty's Governors or Lieutenant Governors in America, in order to erect and keep in repair a suitable monument, at the place ascertained and described to be the source of the said river St. Croix, which measures shall, immediately thereupon, and as often afterwards as may be requisite, be duly executed on both sides, with punctuality and good faith.

This explanatory article, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the Treaty of Amity, Commerce, and Navigation, between His Majesty and the United States, signed at London on the 19th day of November, 1794, and shall be permanently binding upon His Majesty and the United States.

In witness whereof, we, the said undersigned Plenipotentiaries of His Britannic Majesty and the United States of America, have signed this present article, and have caused to be affixed thereto the seal of our arms. Done at London, this fifteenth day of March, one thousand seven hundred and ninety-eight.

GRENVILLE, [SEAL.]
RUFUS KING. [SEAL.]

Mr. Pickering to Mr. King.*

DEPARTMENT OF STATE,
January 2, 1798.

SIR: The Commissioners for ascertaining the St. Croix boundary, under the fifth article of our Commercial Treaty with Great Britain, met a second time, in August last, at Boston, when the surveys of the two rivers in question not being completed, they again adjourned, to meet at Providence, in the State of Rhode Island, in June next.

Before this adjournment, they recommended an application, by the agents, to the respective Governments, to obtain an alteration in the fifth article to exempt them from the necessity of ascertaining the longitude and latitude of the *source* of the river which they shall find to be the St. Croix, intended in the Treaty of Peace. The application from James Sullivan, Esq., the agent of the United States, is in the following words:

"By the recommendation of the Commissioners, the agents apply to their respective Governments to procure, in the course of the ensuing Winter, an additional article to the Treaty of Amity, Commerce, &c., providing that the Commissioners shall not be obliged to ascertain the longitude and latitude of the source of the river which may be found to be the one truly intended in the Treaty of Peace, under the name of the St. Croix, but that they may describe the local situation of that source, and designate it in some other way and manner, as shall appear to them most expedient."

His remarks, and the observations of the Commissioners on this subject, you will find in the enclosed copy of his letters of the 20th August last. Mr. Webber and Mr. Wright, therein mentioned to have been appointed "to ascertain the latitude and longitude of the mouths of the rivers claimed by the respective Governments," have accomplished that service, as Mr. Sullivan advised me on the sixth of last month.

On consideration of the proposition of the Commissioners, the President has concluded to authorize you to negotiate the additional article suggested, and your powers for that purpose, are herewith transmitted. It will be desirable to have it done immediately, and ratified by His Britannic Majesty, that, on its arrival here, it may be laid before the Senate during the present session, and receive its final sanction from the President.

This adoption of the ideas of the Commissioners is, for the greater caution to prevent, hereafter, the possibility of a doubt of the validity of the "declaration" of the Commissioners, if they should omit to ascertain the latitude and longitude of the source of the St. Croix, by astronomical observations; for the fifth article does not explicitly require this mode of proceeding. The words are these: "The said Commissioners shall, by a declaration under their hands and seals, decide what river is the River St. Croix, intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and its source." Now, as the latitude and longitude of the mouth of the St. Croix will be fixed by astronomical observations, and as the course of it thence to its source, will be ascertained by actual survey, the position of that source, as to its latitude and longitude, would seem to be ascertained with adequate precision, and rendered capable of being particularized by the Commissioners. If, besides, they give, agreeably to the article, "a description of the river" to its source, this source can, at any future time, be certainly found, as the point from which the line of boundary is to be drawn, "due north to the Highlands," according to the Treaty of Peace; and this would accomplish the object of the treaty. Nevertheless, if the British Government deem the proposed additional article to be necessary or expedient, (and it may be so to remove all scruples from the minds of the Commissioners,) you will negotiate the same accordingly.

I have the honor to be, &c.,
TIMOTHY PICKERING.

Extract of a letter from Mr. King to the Secretary of State.

FEBRUARY 7, 1798.

"Concerning the St. Croix boundary, I send you copies of the papers that have passed between Lord Grenville and me. His lordship is in the country, and I shall not again hear from him before the sailing of the packet."

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE,
February 2, 1798.

MY LORD: I have the honor to send enclosed to your lordship a copy of my full powers on the part of the United States to agree to, and conclude, an additional article to our Treaty of Amity, Commerce, and Navigation, which shall leave the Commissioners acting under the fifth article thereof at liberty to ascertain and describe the true river St. Croix, without particularizing the latitude and longitude of the source of that river. I also take the liberty of sending enclosed a copy of a letter written by order of the Commissioners to Colonel Pickering upon this subject.

It is desirable, if an additional article shall be concluded, that it should be done in season to be laid before the Senate of the United States in their present session. I shall be ready to confer with your lordship upon this subject at any time that you will have the goodness to name.

With perfect consideration and respect, I have the honor to be, my lord, your lordship's obedient and very humble servant,

RUFUS KING.

Rt. Hon. Lord GRENVILLE, &c.

Mr. Grenville to Mr. King.

DOWNING STREET,
February 5, 1798.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, on the subject of the article which the Commissioners of the two countries, appointed under the fifth article of the late treaty, have recommended to be added to that treaty. His Majesty's Ministers having already received a communication to the same effect through Lieutenant Governor Carleton, I had been honored with the King's commands for writing to His Majesty's Minister in the United States on the subject; and I have the honor to enclose you a copy of the despatch which I wrote to him on the 9th of last month.

It seems to me that, both for the reason there stated of the greater facility of local information to be procured in America, and also in order to avoid the embarrassment which might result from any difference of detail in the agreement which might be concluded on this subject, here and in America, if the negotiation were to be carried on at the same time in both countries, it will be better to wait for the answer from Mr. Liston, before we proceed to any conclusion. But if you see any reason for wishing a different course to be pursued, I shall very willingly accede to it, and in that case should request to know your ideas on the particulars mentioned in my despatch to that gentleman, the copy of which is herewith enclosed.

I have the honor to be, sir, your most obedient humble servant,

GRENVILLE.

RUFUS KING, Esq., &c.

* Referred to in Mr. King's letter to Lord Grenville, page 3417.

Lord Grenville to Mr. Liston.

DOWNING STREET, *Jan.* 9, 1798.

SIR: I send you enclosed copies of a despatch to the Duke of Portland from Lieutenant Governor Carleton, and of two letters from Mr. Chipman therein referred to.

With regard to the article which the last-mentioned gentleman and the agent of the United States recommend to be added to the Treaty of Amity, Commerce, and Navigation, as explanatory of the fifth article, it does not appear advisable to conclude it exactly on the principles which the agents have suggested.

Those gentlemen, and the Commissioners themselves, do not seem to have fully adverted to the extreme importance of ascertaining, with the utmost accuracy, the precise point which is to be called the source of that river, which shall be determined to be the river St. Croix intended by the Treaty of Peace; with a view to obviate the difficulties and disputes which might hereafter arise from the common case of many forks and branches, nearly of equal magnitude, which are usually found near the source or head of considerable rivers; and this is more particularly deserving attention, because, by the second article of the treaty of 1783, the northeastern boundary of the United States is described as commencing from the northwestern angle of Nova Scotia, viz: that "angle which is formed by a line drawn due north from the source of St. Croix river to the Highlands," &c. Any doubt or uncertainty, as to the precise spot of that particular spring or river-head, which is to be considered as the real source of the river, would affect this important boundary not less essentially than the eastern one, which alone appears to have been the contemplation of the agents, at the period of their making the recommendation in question.

Those gentlemen, and the Commissioners, being on the spot, are unquestionably best able to decide on the degree of accuracy which it is practicable to attain, in a matter of this nature: but its great importance cannot be too strongly stated. The difficulties alleged by them, as to the ascertainment of the latitude and longitude of the source by astronomical observation, are of considerable weight, particularly as any inaccuracy in the astronomical observations (such as are, perhaps, to be expected, when made in a country so difficult of access, and where there are no ascertained points to refer to) would create, instead of removing uncertainty and disputes.

It seems, therefore, right, that the Commissioners should be released from the obligation imposed upon them by the terms of the fifth article of the treaty, if the possibility of future doubt and dispute can be as effectually guarded against by any other mode of proceeding as by that which is prescribed in the article.

The course of proceeding which apppears the least liable to objection, and the most conformable to the spirit of the treaty, would be, that the latitude of the mouth of the rivers, which form the subject of the present controversy, should be ascertained with the utmost practicable accuracy, and by actual observation; that the surveys of the rivers should be prosecuted, by the persons employed in them, until they shall have ascertained the respective sources of the various springs and small branches in which the principal branch of each river terminates; and that these surveys shall be laid down on maps to be delivered to the Commissioners; that the map of the river determined to be the real St. Crox should be annexed to the declaration of the Commissioners, and that such declaration shall specify the longitude and latitude of the mouth, and shall describe which of the spring-heads, marked on the map, is to be considered as the source of the true river St. Croix, and that such declaration shall be considered as conclusive, and shall release the Commissioners from the necessity of particularizing the longitude and latitude of the source of the river. In order, however, to avoid any dispute hereafter, the two Governments should further agree to proceed, without delay, to erect, at their joint expense, and at the place designated as the source of the true river St. Croix, a durable monument; which, from the facility of finding the rough materials for such a building in those regions, it is presumed, could be easily executed; and, in order to prevent its being defaced or destroyed, proper surveyors should be appointed, by the two Governments, to visit it, together, once in the course of every three years, and should direct the necessary repairs to be made at the joint expense of the two Governments.

It is His Majesty's pleasure, that you should submit these suggestions to the American Ministers, and to Lieutenant Governor Carleton, to whom a copy of this despatch will be forwarded by the first opportunity; and if no objections to them are offered, you will consider yourself authorized to conclude, in virtue of your general full powers, an additional article on these principles, which shall embrace the two objects of exonerating the Commissioners from the necessity of a strict compliance with the letter of the article, and of providing a permanent and definite boundary between His Majesty's possessions and those of the United States. The mode of expressing this article, and the regulation of any details not inconsistent with the general objects herein-before stated to you, are left to yourself, and to the American Ministers; but it will certainly be desirable that nothing shall finally be concluded until after you shall have consulted Lieutenant Governor Carleton, and the Commissioners and agents appointed under the fifth article of the Treaty of Amity, Commerce, and Navigation; who, being most conversant with the subject, are the best qualified to point out the most certain modes of precluding any further ambiguity. I am, &c.,

GRENVILLE.

ROBERT LISTON, Esq.

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *Feb.* 5, 1798.

MY LORD: I have had the honor to receive your lordship's letter of this date, concerning the St. Croix boundary; and, for the reasons that have occurred to your lordship, it also appears to me that it would be more advantageous that the additional article should be formed and concluded in America than here. The only motive of any importance in favor of the negotiation of the article is the saving of time.

By the enclosed copy of a letter that I have received from Colonel Pickering,* your lordship will observe, that the latitude and longitude of the mouths of the two rivers have already been ascertained, and there is reason to expect that the surveys will also be completed before the meeting of the Commissioners in June, when they might be able to finish their business, if they shall have been freed from the necessity of ascertaining, experimentally, the latitude and longitude of the source of the true St. Croix.

If the article, for this purpose, is concluded and ratified here, and sent to Philadelphia, it may be ratified and exchanged there before June; the other course will require more time, and will not, I apprehend, allow the Commissioners to finish the business at their next meeting.

With perfect consideration, I have the honor to be, your lordship's obedient and very humble servant,

RUFUS KING.

Rt. Hon. LORD GRENVILLE.

Mr. King to Mr. Pickering.

LONDON, *March* 15, 1798.

DEAR SIR: As the wind is unfavorable for the sailing of the American ships from Spithead, I take the chance of overtaking them, by sending, under cover, to our Consular Agent at Portsmouth this letter, with the original explanatory article that I have concluded with Lord Grenville. We executed four copies; two of them, with their original ratifications, will be sent by Lord Grenville to Mr. Liston, with an instruction to exchange them with you, when the President shall have ratified the same on our part. I will send you a copy of Lord Grenville's powers by the next opportunity, there not being time to copy them in season for this.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

SECRETARY OF STATE, &c.

FRANCE.

[Communicated to Congress, June 5, 1798.]

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

I now transmit to both Houses the communications from our Envoys at Paris, received since the last, which have been presented by me to Congress.

JOHN ADAMS.

UNITED STATES, *June* 5, 1798.

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* See page 3412.

PARIS, *March* 9, 1798.

DEAR SIR: Agreeably to what we represented to you in our No. 6, we prepared a letter to the Minister of Foreign Affairs, on the subject of the late law, authorizing the capture of neutral vessels, on board of which any productions of Great Britain or its possessions should be laden, showing how incompatible such law was with the rights of neutral nations and the treaty between France and America, its direct tendency to destroy the remaining commerce of our country, and the particular hardships to which it would subject the agricultural as well as commercial interests of our countrymen, from the peculiar situation of the United States. We added, that, under existing circumstances, we could no longer resist the conviction that the demands of France rendered it entirely impracticable to effect the objects of our mission; and that, not being permanent Ministers, but Envoys Extraordinary, with full power for particular purposes, we deemed it improper to remain longer in France, after the impossibility of effecting those purposes had been demonstrated. Before, however, we took this measure, and explicitly demanded our passports, we deemed it expedient to desire Major Rutledge to call on Mr. Talleyrand, on the 19th ultimo, to know if he had any communication to make to us in consequence of our letter dated the 17th, and delivered the 31st of January. To this Mr. Talleyrand replied, that he had no answer to make, as the Directory had not taken any order on the subject, and when they did, he would inform us of it. Still being anxious to hear explicitly from Mr. Talleyrand himself, before we sent our final letter, whether there were no means within our powers of accommodating our differences with France on just and reasonable grounds, we wrote to him on the 27th of February, soliciting a personal interview on the subject of our mission: he appointed the 2d of March following. You will find in the exhibit A, herewith enclosed, what passed on that occasion. On the 4th instant, we requested another interview. We have detailed, in the latter part of the same exhibit, for your information, the substance of that conversation. From these accounts, you may observe that the views of France, with regard to us, are not essentially changed since our communications with its unofficial agents in October last.

We have the honor to be, with the greatest respect, your most obedient humble servants.

CHARLES C. PINCKNEY.
J. MARSHALL,
E. GERRY.

Colonel PICKERING,
Secretary of the United States.

A.

MARCH 2.

At three o'clock we waited on Mr. Talleyrand, and were almost immediately introduced to him. General Pinckney commenced the conversation, by saying that our Government and ourselves

were extremely anxious to remove the subsisting difference between the two Republics; that we had received many propositions through Mr. Y. to which we had found it impracticable to accede; and that we had now waited on him for the purpose of inquiring whether other means might not be devised which would effect so desirable an object. The Minister replied, that, without doubt, the Directory wished very sincerely, on our arrival, to see a solid friendship established between France and the United States, and had manifested this disposition by the readiness with which orders for our passports were given; that the Directory had been extremely wounded by the last speech of General Washington, made to Congress when about to quit the office of President of the United States, and by the first and last speech of Mr. Adams; that explanations of these speeches were expected and required of us. General Pinckney expressed his surprise that the speech of General Washington was complained of; and said, this was a new complaint. Mr. Talleyrand merely observed that the Directory was wounded at it, and proceeded. He said that the original favorable disposition of the Directory had been a good deal altered by the coldness and distance which we had observed; that, instead of seeing him often, and endeavoring to remove the obstacles to a mutual approach, we had not once waited on him. General Pinckney observed that, when we delivered him our letters of credence, he informed us that the Directory, in a few days, would decide concerning us; and that when the decision was made he would communicate it to us; that this had, for some time, suspended any procedure on our part. He answered, that this related only to our public character, and not to private visits. General Pinckney said that, on an application made by his secretary for a passport for an American under his care, he was told that he must apply to the office of police, for that America had no Minister in France since the recall of Mr. Monroe. The Minister said, that was very true, and then proceeded to say, that the Directory felt itself wounded by the different speeches of Mr. Washington and Mr. Adams, which he had stated, and would require some proof, on the part of the United States, of a friendly disposition, previous to a treaty with us. He then said that we ought to search for, and propose some means which might furnish this proof; that if we were disposed to furnish it there could be no difficulty in finding it; and he alluded very intelligibly to a loan. He said he had had several conferences with Mr. Gerry on this subject, who had always answered that we had no power. Mr. Gerry said that he had stated other objections; that he had particularly urged that it would involve us in a war with Great Britain. He made no reply: and General Pinckney observed, that a loan had repeatedly been suggested to us, but that we had uniformly answered that it exceeded our powers. Mr. Talleyrand replied, that persons at such a distance as we were from our Government, and possessed, as we were, of the public confidence, must often use their discretion, and exceed their powers for the public good; that there was a material difference between acting when instructions were silent, and doing what was particularly forbidden; that if, indeed, a loan was positively forbidden, we might consider ourselves as incapable of making one: but if, as he supposed was the case, (he looked the question,) our instructions were only silent, that it must be referred to us to act in a case not provided for, according to the best of our judgment, for the public good; that, in almost all the treaties made during the Revolution, the negotiators had exceeded their powers, although the Government appointing them was at no considerable distance. He particularized the treaty with Prussia, and several others. General Pinckney told him that our powers did not extend to a loan, and, perhaps, might forbid it. The Minister still urged the difference between an express prohibition and mere silence. He then proceeded to state that the principal objection on the part of our Government to a loan must be, that it would draw us out of the neutral situation in which we wished to continue; that there were various means of evading this: first, the secrecy of France, which might be relied on; and, secondly, means of disguising the loan might be devised, which would effectually prevent its being considered as an aid during the present war; that, if we were truly and sincerely desirous of effecting the thing, we should experience no difficulty in finding the means. He again stated a proposition of this sort, on our part, as being absolutely necessary to prove that the Government was not about entering into a treaty with persons of a temper hostile to it. Mr. Gerry, not well hearing Mr. Talleyrand, who spoke low, asked him to explain himself with respect to the proposition which he had alluded to, supposing it to be a new one; and he answered, that one of them was secrecy; but that there were, besides, various ways which might easily be suggested to cover the loan, as an immediate one, by limiting the time of advancing it to distant instalments. Mr. Gerry observed that Dutrimond had suggested that a loan was proposed to be made, payable after the war, and in supplies to St. Domingo. Mr. Talleyrand signified that that might be one of the means used, and said that, if we were only sincere in our wish, it would be easy to bring about the end. General Marshall told Mr. Talleyrand that, if the Ministers of the United States had manifested any unwillingness to take all proper measures to reconcile the two Republics, or any indifference on the subject, they had very badly represented the feelings and wishes of their Government; that the Government of the United States was most sincerely desirous of preserving the friendship of France, and had, in his opinion, unequivocally manifested that desire, by having deputed us under the extraordinary circumstances attending our mission, and by having so long patiently borne the immense loss of property which had been sustained; that we had endeavored, according to the best of our judgment, to represent, truly, this disposition of our Government: but that we understood that France would consider nothing as an evidence of friendship but an act

which would transcend and violate our powers, and at the same time operate the most serious injury to our country; that neutrality, in the present war, was of the last importance to the United States, and they had resolved faithfully to maintain it; that they had committed no act voluntarily which was a breach of it, and could do nothing in secret, which, if known, would justly arrange them among the belligerent Powers; that, in the present state of things, if America was actually leagued with France in the war, she should only be required to furnish money; that we had neither ships-of-war nor men to be employed in it, and could, consequently, as a belligerent Power, only be asked for money; that, therefore, to furnish money was, in fact, to make war, which we could by no means consent to do, and which would absolutely transcend our powers, being an act altogether without the view and contemplation of our Government when our mission was decided on; that, with respect so supplies to St. Domingo, no doubt could be entertained that our merchants would furnish them very abundantly, if France would permit the commerce; and a loan, really payable after the close of the war, might then be negotiated. Mr. Talleyrand again marked the distinction between silence of instructions and an express prohibition, and again insisted on the necessity of our proving, by some means which we must offer, our friendship for the Republic. He said he must exact from us, on the part of his Government, some proposition of this sort; that, to prove our friendship, there must be some immediate aid, or something which might avail them; that the principles of reciprocity would require it. General Pinckney and General Marshall understood him, by this expression, to allude to the loan formerly made by France to the United States. Mr. Gerry, at the time, thought he alluded to the treaty to be made, and said all treaties should be founded in reciprocity, and then asked him whether a loan was the ultimatum of this Government. Mr. Talleyrand did not give a direct answer to the question: he said, as he was understood, that the Government insisted on some act which would demonstrate our friendly disposition towards, and our good wishes for, the Republic; this once done, he said the adjustment of complaints would be easy: that would be matter of inquiry; and if France had done us wrong, it would be repaired: but that if this was refused, it would increase the distance and coldness between the two Republics. The conversation continued in this style until four o'clock, when we took our leave, and agreed to meet in the evening.

In the course of it, and in reply to some observations of Mr. Talleyrand respecting the proofs of friendship required by France, General Pinckney observed that our being here was a mark of the friendly disposition of our Government, and that while we were here the Government had passed a decree for seizing neutral vessels having on board any articles coming out of England; which, in its operation, would subject to capture all our property on the ocean. Mr. Talleyrand replied that this was not particular to us, but was common to all the neutral Powers. At another time, in answer to his demand of some mark of our friendship, General Marshall observed that we considered the mutual interest of the two nations as requiring peace and friendship, and we relied on finding sufficient motives in the interest of France to preserve that friendship, without forcing us to an act which transcended our powers, and would be so injurious to our country. As we were taking our leave, Mr. Talleyrand again noticed our not visiting him, and said that he conceived our not having had an audience from the Directory ought not to have prevented it. General Marshall told him that our seeing the Directory or not, was an object of no sort of concern to us; that we were perfectly indifferent with regard to it; but that we conceived that until our public character was in some degree recognised, and we were treated as the Ministers and Representatives of our Government, we could not take upon ourselves to act as Ministers, because, by doing so, we might subject ourselves to some injurious circumstance to which we could not submit. He said that was very true, but that we might see him as private individuals, and discuss the objects of difference between us.

We requested of Mr. Talleyrand another interview, at such hour as might be convenient to him, on the 6th instant. He answered that he would receive us at half-past eleven: at which hour we attended him.

Immediately after our arrival at his office we were introduced to the Minister, and General Pinckney stated that we had considered, with the most serious attention, the conversation we had had the honor of holding with him a few days past; that the propositions he had suggested appeared to us to be substantially the same with those which had been made by Mr. X. by Mr. Y. and also to Mr. Gerry, with an intention that they should be communicated to his colleagues; that we considered it as a proposition that the United States should furnish aid to France, to be used during the present war; that, though it was unusual to disclose instructions, yet we would declare to him that, in addition to its being a measure amounting to a declaration of war against Great Britain, we were expressly forbidden by our instructions to take such a step.

The Minister said, in the tone of a question, he supposed our instructions were to do nothing which would amount to a departure from our neutrality.

General Pinckney said that we were so instructed, and that they were still more particular. Mr. Talleyrand then proceeded to argue that it would be no departure from neutrality to stipulate a loan payable after the war, and spoke of it clearly as admitting of application to immediate use. He said a good deal of the secrecy with which the transaction might be clothed, and observed, further, that a loan payable after the war would be a proof of our faithful observance of the duties of neutrality, since it would be considered as proving that we had rejected propositions for an immediate loan. General Marshall replied, that we thought differently; that, in our opinion, any act on the part of the American Government,

on which one of the belligerent Powers could raise money for immediate use, would be furnishing aid to that Power, and would be taking part in the war. It would be, in fact, to take the only part which in the existing state of things, America could take. This was our deliberate opinion and, in addition to it, we considered our instructions as conclusive on this point.

He observed that we had claims on the French Government for property taken from American citizens. Some of those claims were probably just. He asked, if they were acknowledged by France, whether we could not give a credit as for the payment—say for two years? We answered that we could. He then insisted that it was precisely the same thing; that by such an act we should consent to leave in the hands of France funds to which our citizens were entitled, and which might be used in the prosecution of the war. General Pinckney said there was a difference between the cases; that such prizes were now actually in the power of the French, without our consent; we could not prevent it or get them out; but the granting or not granting a loan was in our own power. He repeated his observation, and Gen. Marshall said that the property for which money was due to American citizens from the French Government, was taken into the possession of that Government without any co-operation on the part of the United States. No act of any sort was performed by our Government which, in any degree, contributed to place those funds in the hands of France, nor was there any consent towards it; but in the case proposed, the act would be the act of the Government; the Government would itself place funds in the hands of France, and thereby furnish means which might be employed in the prosecution of the war. This was the distinction between the cases, and, in a question of neutrality, it appeared to us to be all-important. The Minister then proceeded to state the case of our assuming the debt of our citizens, and of paying the money in that manner; but General Pinckney and Mr. Gerry told him we were positively forbidden to assume the debt to our own citizens, even if we were to pay the money directly to them. He seemed surprised at this. General Pinckney observed that, contrary to usage, we had deemed it proper, in the existing state of things, to state candidly our powers to him, that he might know certainly that we could not secretly, or under any disguise whatever, make a loan which might be used during the war. Mr. Talleyrand said he must resume his position that there was a difference, which he must insist upon, between a loan payable immediately and a loan payable in future; and he still insisted there was no difference between a loan payable in future and a credit for the money which might be due to our citizens. Mr. Gerry observed that his colleagues had justly stated the distinction between the debt which will be due to the citizens of the United States from France, in case of her recognising the claims which we shall make in their behalf, and a debt which might arise from a loan by the Government of the United States to that of France during the war. The one is the result of an arrest of their property without their consent; the other would be a voluntary act of the Government of the United States, and a breach of their neutrality. There is an additional objection to the latter; if the United States should make such a loan, it would give too much reason to suppose that their Government had consented, in a collusive manner, to the capture of the vessels of their citizens, and had thus been furnishing France with supplies to carry on the war. Our instructions are express not to stipulate for any aids to France, either directly or indirectly, during the war. With respect to a secret stipulation, a loan cannot be made without an act of the Legislature; but if the Executive were adequate to it, we have had an instance of an injunction of secrecy on members of the Senate, on an important subject, which one of the members thought himself warranted in publishing in the newspapers, and of frequent instances of secrets which have otherwise escaped; secrecy, in this instance, might therefore be considered, if the measure was in itself admissible, as being impracticable. General Marshall observed that we had considered the subject with great solicitude, and were decidedly of opinion that we could not, under any form, make a loan which could be used during the war; that we could not tell what our Government would do if on the spot, but were perfectly clear that, without additional orders we could not do what France requested. Mr. Gerry observed that the Government and Nation of the United States, as well as ourselves, were earnestly solicitous to restore friendship between the two Republics; that, as General Marshall had stated, we could not say what our Government would do if on the spot; but if this proposition met the wishes of the Government of France, General Marshall and himself had agreed immediately to embark for the United States, and lay before our Government the existing state of things here, as it respected our nation, to enable them to determine whether any, and what, other measures on their part were necessary. M. Talleyrand made no observation on this proposition, but inquired whether we expected soon to receive orders. Mr. Gerry mentioned an answer he had received to a letter sent by him in November; and General Marshall stated that our first despatches were sent on board two vessels at Amsterdam, on the 28th of November, from which Mr. Talleyrand could form as just an idea as we could when an answer might be expected; but he did not think it probable one would arrive before a month to come. General Marshall told him we knew that our Government had not received our despatches on the 8th of January, and we could not tell when they might be received. He asked whether our intelligence came through England? General Marshall answered that it did not; and General Pinckney said that American papers as late as the 8th of January mentioned the fact.

There was some conversation about the time when these instructions might be expected, and General Marshall suggested a doubt whether our Government might give any instructions. He

asked, with some surprise, whether we had not written for instructions? and we answered that we had not; and Mr. Gerry said that we had stated facts to our Government, and conceived that nothing more was necessary. General Pinckney observed that the Government, knowing the facts, would do what was proper, and that our applying or not applying for instructions would not alter our conduct. Mr. Talleyrand then inquired whether we had not sent any one to the United States. Gen. Pinckney said no; and Mr. Gerry added that, soon after our arrival we had made propositions to send one of our number, which were not accepted. And General Marshall further added, that those who had communicated with us had told us we should be ordered out of France immediately; and we had supposed that we should be ordered out before our letters could reach the Government. Mr. Gerry then observed that the Government of France must judge for itself; but that it appeared to him that a treaty on liberal principles, such as those on which the Treaty of Commerce between the two nations was first established, would be infinitely more advantageous to France than the trifling advantages she could derive from a loan. Such a treaty would produce a friendship and attachment on the part of the United States to France, which would be solid and permanent, and produce benefits far superior to those of a loan, if we had power to make it. To this observation Mr. Talleyrand made no reply. We parted without any sentiment delivered by the Minister on the subject of our going home to consult our Government.

As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately, to receive the instructions of our Government, if that would be agreeable to the Directory; if it was not, we would wait some time, in the expectation of receiving instructions.

FRANCE.

[Communicated to Congress, June 18, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I now transmit to Congress the despatch, No. 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office on Thursday, the 14th day of this month.

JOHN ADAMS.

UNITED STATES, *June* 18, 1798.

No. 8.

PARIS, *April* 3, 1798.

DEAR SIR: We herewith transmit you a copy of the letter written to us by the Minister of Foreign Affairs, dated the 28th Ventose, (18th March,) and purporting to be an answer to our memorial of the 17th of January.

We also send you in this enclosure a copy of our reply, which has been presented this morning. As soon as we certainly know what steps the French Government mean to pursue in consequence of this reply, you shall be informed of them.

We remain, &c. C. C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING, *Secretary U. S.*

The Minister of Foreign Relations of the French Republic to Messrs. Charles Cotesworth Pinckney, J. Marshall, and E. Gerry.

The undersigned, Minister of Foreign Relations of the French Republic, has laid before the Executive Directory the memorial which the Commissioners and Envoys Extraordinary of the United States of America have transmitted to him, under date of the 28th Nivose last, (17th January, 1798,) and it is in execution of the intentions of the Directory, which desires to convince the United States of the true dispositions which animate it with respect to them, that the undersigned communicates to the Commissioners and Envoys Extraordinary the following observations:

The first thing which must excite attention, in the memorial of the Commissioners and Envoys Extraordinary, is the method which they have thought proper to pursue in the exposition and in the discussion of the points which are in dispute between the two States. The Executive Directory, animated with dispositions the most conciliatory, and penetrated with the interests which should draw the two nations together, as well as eager to concur in the well known wish of the two people to maintain a perfect intimacy, had reason to expect that the Envoys would have brought, in the name of their Government, dispositions entirely similar, and a temper previously prepared by the same views and the same desires. What must be, after this, the surprise of the Executive Directory, when the undersigned rendered it an account of a memorial in which the Commissioners and Envoys Extraordinary, reversing the known order of facts, have aimed to pass over, as it were in silence, the just motives of complaint of the French Government, and to disguise the true cause of the misunderstanding which is prolonged between the two Republics! So that it would appear, from that exposition, as partial as unfaithful, that the French Republic has no real grievance to substantiate, no legitimate reparation to demand, whilst the United States should alone have a right to complain—should alone be entitled to claim satisfaction.

The designs which have induced a preference of this course to every other have not escaped the Executive Directory; and it is as well from a just sentiment of the dignity of the Republic, whose interests are confided to it, as to provide eventually against the views which may be contemplated by such conduct, that it has charged the undersigned to dispel these empty appearances, which, indeed, cannot exist when facts shall be re-established, and the true intentions of the Directory shall be solemnly made to appear, in opposition to those which can be attributed to it only gratuitously, and by taking advantage of its silence.

An incontestable truth, and one which has been entirely passed over in the memorial of the Commissioners and Envoys Extraordinary, is, that the priority of grievances and complaints belonged to the French Republic; that these complaints and these grievances were as real as numerous, long before the United States had the least grounded claim to make, and, consequently, before all the facts, on which the Envoys rest with so many details, had existed.

Another truth, not less incontestable, is, that all the grievances which the Commissioners and Envoys Extraordinary exhibit, with the exceptions which the undersigned was ready to discuss, are a necessary consequence of the measures which the prior conduct of the United States had justified on the part of the French Republic, and which its treaties with the said United States authorized in certain cases, which it depended upon the General Government of the Union to create or not to create.

It would be foreign to the purpose to enter into an enumeration of the complaints which the French Government had room to make against the Federal Government, since the commencement of the war, excited against the French Republic by a Power jealous of its prosperity and its regeneration. These details are contained in the numerous official communications, made at Philadelphia by the Ministers of the Republic, and have been recapitulated by the predecessor of the undersigned in a note addressed, under date of the 19th Ventose, in the 4th year, (9th March, 1796.) to the Minister Plenipotentiary of the United States at Paris, and very particularly detailed in the official note of Citizen Adet, dated at Philadelphia, on the 25th Brumaire, in the 5th year, (15th November, 1796.) Complaint was made in the above note of the inexecution of the treaties concluded in 1778, in the only clauses in which France had stipulated some advantages, in return for the efforts which she engaged to make for the common benefit, and against the insults offered to the dignity of the French Republic.

In fact, from the commencement of the war, the American tribunals have claimed the right to take cognizance of the validity of prizes, carried into the ports of the United States by French cruisers. It has resulted from this pretension, contrary to the letter of the Treaty of Commerce of 1778, that the property of citizens of the Republic has been unjustly detained, and that French cruising has been totally discouraged in the American seas, against an enemy who revived the most barbarous laws of that mode of warfare, to destroy and insult the American commerce, even under the eyes of the Federal Government.

That Government did not confine itself to favor the enemies of the French Republic in a point so essential, a point on which, in truth, some abuses might arise, but which the French Government manifested itself disposed to prevent; it even went so far as to permit enemy's vessels, contrary to the literal meaning of the above treaty, to put into the ports of the United States, after having captured the property or ships belonging to French citizens. Soon afterward a national corvette, at anchor in the port of Philadelphia,* was seized by order of the Government, and this arrest was afterward extended even to her commander. The American tribunals, in like manner, arrested the person of the ex-Governor of Guadaloupe, for acts of his administration; and it was necessary that the Executive Directory should threaten to make reprisals, to put this affair in the course prescribed by the law of nations.

During the whole space of time which has been just reviewed, the French Government made fruitless efforts to induce the Government of the United States to procure, for the agents of the Republic, the legal means of carrying into effect the clauses of the Consular Convention of 1788, which granted to our navigation and commerce privileges, whose principle was consecrated by the treaties of 1778; and nothing could ever be obtained, in this respect, but fruitless references to the tribunals. In general, all matters which, with intentions sincerely conciliatory, should have been terminated by means of negotiation, were habitually referred to the Judicial authorities; and these, whether they were or were not subject to a secret influence, in the end either deprived the Republic of rights founded upon treaties, or modified their exercise as suited the system of the Government.

Such was the true state of things in the month of August, 1795, the period when the ratification of the Treaty of Amity, Navigation, and Commerce, signed at London in the month of November preceding, between the United States and Great Britain, filled the measure of the grievances of the Republic.

What had, until then, been the conduct of the French Government toward the United States? The undersigned, in order to contrast it with that of the said States, will content himself with recalling facts, which cannot, however, have been forgotten.

Occupied with the most pressing cares in Europe, the Republic did not direct her attention to the United States; but in order constantly to give them new proofs of the most sincere friendship and interest, she left it to her agents amicably to discuss with the Federal Government the controversies which have just been sketched, and which, had they been handled on both sides in the true spirit of conciliation, could not have altered their good understanding to the present degree. The Republic was hardly constituted, when a Minister was sent to Philadelphia, whose first act was to declare to the United States that they would not be pressed to execute the defensive clauses of the Treaty of Alliance, although the circumstances, in the least equivocal manner, exhibited the *casus fœderis*. Far from appreciating this conduct, the American Government received it as the acknowledgment of a right; and it is in this spirit, also, that the Commissioners and Envoys Extraordinary have met this question in the beginning of their memorial. The Minister of the Republic at Philadelphia, having given uneasiness

* Seizure of the Cassius, in August, 1795.

to the American Government, was readily recalled, even with circumstances of extreme rigor. His successor carried to the United States every desirable reparation, as well as declarations the most friendly and sincere.

Nothing equals the spirit of conciliation, or rather of condescension, in which his instructions were drawn, relatively to all the points which caused any uneasiness in the Federal Government. The Citizen Adet again enforced, in the name of the National Convention, those expressions of good will; and that assembly itself received, with the effusion of an unbounded confidence and security, the new Minister, whom the President of the United States sent to it, with the apparent intention of sincerely corresponding with the dispositions which the Republic had not ceased to profess.

What might appear incredible is, that the Republic, and her alliance, were sacrificed at the moment when she thus redoubled her regards for her ally; and that the corresponding demonstrations of the Federal Government had no other object but to keep her, as well as her Government, in a false security. And yet it is now known that, at this very period, Mr. Jay, who had been sent to London solely, as it was then said, to negotiate arrangements relative to the depredations committed upon the American commerce by the cruisers of Great Britain, signed a Treaty of Amity, Navigation, and Commerce, the negotiating and signing of which had been kept a profound secret at Paris and at Philadelphia. This treaty was avowed to our Minister Plenipotentiary only at the last extremity; and it was communicated to him only for form's sake, and after it had received the ratification of the Senate. When the agents of the Republic complained of this mysterious conduct, they were answered by an appeal to the independence of the United States, solemnly sanctioned in the treaties of 1778—a strange manner of contesting a grievance, the reality of which was demonstrated by the dissimulation to which recourse was had—an insidious subterfuge, which substitutes for the true point of the question a general principle, which the Republic cannot be supposed to dispute, and which destroys by the aid of a sophism, that intimate confidence which ought to exist between two allies, and which, above all, ought to exist between the French Republic and the United States.

If it be difficult to find in this conduct what ought to be expected from a friend, what must be thought of the treaty itself, and of its provisions? This treaty is now known to all Europe; and the small majority by which it passed the two Houses, as well as the multitude of imposing wishes which were expressed by the nation against such an act, bear honorable testimony in favor of the opinion which the French Government has adopted concerning it. The undersigned will not repeat, with respect to this treaty, what his predecessor has said of it in his note of the 19th Ventose, before cited, and in that of the 19th Messidor following, nor what the Minister Plenipotentiary of the Republic at Philadelphia has set forth, at great length, in his official note of the 25th Brumaire. He will content himself with observing, summarily, that, in this treaty, everything having been calculated to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the Federal Government having in this act made to Great Britain concessions, the most unheard of; the most incompatible with the interests of the United States; the most derogatory to the alliance which subsisted between the said States and the French Republic; the latter was perfectly free, in order to avoid the inconveniences of the Treaty of London, to avail itself of the preservative means with which the law of nature, the law of nations, and prior treaties, furnished it.

Such are the reasons which have produced the decrees of the Directory, of which the United States complain, as well as the conduct of its agents to the West Indies. All these measures are founded on the 2d article of the treaty of 1778, which requires that, in matters of navigation and commerce, France should always be, with respect to the United States, on the footing of the most favored nation. The Executive Directory cannot be arraigned, if, from the execution of this eventual clause, some inconveniences have resulted to the American flag. As to the abuses which may have sprung from that principle, the undersigned again repeats that he was ready to discuss them in the most friendly manner.

From this faithful exposition of facts, which have progressively led to the present misunderstanding between the two States, it results, as the undersigned has said in the beginning of this answer, that the priority of grievances belongs to the French Republic; and that such of its measures as may have occasioned the complaints of the United States, are, with some exceptions, the natural consequence of a state of things, which it depended upon them to create or not to create.

If the undersigned should terminate the existence of the grievances of the Republic with the Treaty of London, he would imperfectly fulfil his task; it is his duty to carry his views further. From the moment that the treaty in question was put into execution, the Government of the United States seemed to think itself freed from the necessity of keeping any measures with the Republic: notwithstanding the reiterated assurance which had been given to its Ministers, that the treaty would in no respect change the pre-existing state of neutrality of the United States, notice was given in the course of the year 1796 to the French cruisers, that they could no longer, as had been until then practised, be permitted to sell their prizes in the ports of the United States. This decision was rendered by the Federal Court of Justice, and founded upon the treaty between the United States and Great Britain.

The newspapers, known to be under the indirect control of the Cabinet, have, since the treaty, redoubled the invectives and calumnies against the Republic and against her principles, her magistrates, and her Envoys. Pamphlets, openly paid for by the Minister of Great Britain, have repro-

duced, in every form, those insults and calumnies without a state of things so scandalous having ever attracted the attention of the Government, which might have repressed it. On the contrary, the Government itself was intent upon encouraging this scandal in its public acts. The Executive Directory has seen itself denounced in a Speech delivered by the President in the course of the month of May last (O. S.) as endeavoring to propagate anarchy and division within the United States. The new allies which the Republic has acquired, and who are the same that contributed to the independence of the Americans, have been equally insulted in the official correspondences which have been made public, or in the newspapers. In fine, one cannot help discovering, in the tone of the Speech and of the publications which have been just pointed out, a latent enmity which only waits an opportunity to break out.

Facts being thus established, it is disagreeable to be obliged to think that the instructions, under which the Commissioners have acted, have not been drawn up with the sincere intention of obtaining pacific results; because, far from proceeding in their memorial upon some avowed principles and acknowledged facts, they have inverted and confounded both, so as to be enabled to impute to the Republic all the misfortunes of a rupture, which they seem willing to produce by such a course of proceeding. It is evident that the desire plainly declared of supporting, at hazard, the Treaty of London, which is the principal grievance of the Republic, of adhering to the spirit in which this treaty was formed and executed, and of not granting to the Republic any of the means of reparation which she has proposed through the medium of the undersigned, have dictated those instructions. It is equally evident that no hesitation is made in sacrificing to these strange sentiments those which the treaties of 1778, and the recollection of the circumstances in the midst of which they were concluded, ought to inspire.

The remote consequences of such conduct have not escaped the attention of the Directory. It is desired, while nothing is omitted to prolong the misunderstanding, and even to augment it, to throw upon the Republic all the odium, in the view of America and of Europe. It is sought to justify, by delusive appearances, the prejudices with which the name of the Republic is surrounded at pleasure, and the system of exasperation and alienation which is pursued in relation to it, with the most strange obstinacy. It is finally wished to seize the first favorable occasion to consummate an intimate union with a Power, towards which a devotion and partiality is professed, which has long been the principle of the conduct of the Federal Government.

The intentions which the undersigned here attributes to the Government of the United States are so little disguised, that nothing seems to have been neglected at Philadelphia to manifest them to every eye. It is, probably, with this view, that it was thought proper to send to the French Republic persons whose opinions and connexions are too well known to hope from them dispositions sincerely conciliatory. It is painful for the undersigned to be obliged to make a contrast between this conduct and that which was pursued towards the Cabinet of St. James's, under similar circumstances. An eagerness was then felt to send to London Ministers well known for sentiments corresponding with the object of their mission. The Republic, it seems, might have expected a like deference; and if the same propriety has not been observed with respect to it, it is exceedingly probable that it is to be attributed to the views above alluded to by the undersigned.

It is impossible to foresee whither such dispositions may lead. The undersigned does not hesitate to believe, that the American nation, like the French nation, sees this state of things with regret, and does not consider its consequences without sorrow. He apprehends that the American people will not commit a mistake concerning the prejudices with which it has been desired to inspire them against an allied people, nor concerning the engagements which it seems to be wished to make them contract to the detriment of an alliance, which so powerfully contributed to place them in the rank of nations, and to support them in it; and that they will see in these new combinations the only dangers their prosperity and importance can incur.

Penetrated with the justice of these reflections and their consequences, the Executive Directory has authorized the undersigned to express himself with all the frankness which becomes the French nation. It is indispensable that, in the name of the Directory, he should dissipate those illusions with which for five years the complaints of the Ministers of the Republic have been incessantly surrounded at Philadelphia, in order to weaken, calumniate, or distort them. It was essential, in fine, that, by exhibiting their sentiments in an unequivocal manner, he should clear up all the doubts, and all the false interpretations, of which they might be the object.

It is, therefore, in order to smooth the way of discussions, that the undersigned has entered into the preceding explanations. It is with the same view that he declares to the Commissioners and Envoys Extraordinary, that, notwithstanding the kind of prejudice which has been entertained with respect to them, the Executive Directory is disposed to treat with that one of the three, whose opinions, presumed to be more impartial, promise, in the course of the explanations, more of that reciprocal confidence which is indispensable.

The undersigned flatters himself that this overture will not meet, on the part of the Commissioners and Envoys Extraordinary, with any serious difficulty. It is still more natural to hope it, because, by the tenure of their powers, the said Commissioners and Envoys Extraordinary are authorized to negotiate jointly or separately; so that nothing but the desire of preventing any accommodation could produce any objection against this measure; which, moreover, is only pointed out to the Commissioners themselves, in order that nothing may here bear an unfavorable appearance, and which evidently has no other object than to assure to the negotiation an happy issue, by avoiding, at the outset, everything which may on either side awaken, in the course of this negotiation, sentiments calculated to endanger it.

The undersigned hopes that the Commissioners and Envoys Extraordinary will soon enable him to inform the Executive Directory of their determination. Whatever this determination may be, the undersigned flatters himself that the explanations into which he has entered will have placed the subjects in dispute in their true light, and may eventually serve to dissipate, in the eyes of all impartial men, the unfavorable impression which it might be endeavored to fix upon the intentions of the French Republic and its Government. He concludes by renewing to the Commissioners and Envoys Extraordinary the assurance of his consideration.

CH. MAU. TALLEYRAND.

PARIS, *28th Ventose, 6th year*, (*18th March*, 1798.)

The Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic to the Minister of Exterior Relations.

CITIZEN MINISTER: Your letter of the 28th Ventose, (18th March,) in answer to a memorial of the undersigned, dated 17th January, was received the day after its date, and has been considered with the most respectful attention.

In that memorial, the undersigned, without furnishing cause for reproach, might have limited themselves to a statement of the numerous and well founded complaints of the nation they represent. They have been induced to extend their observations to other subjects, by that sincere desire to re-establish harmony and mutual confidence between the two Republics which the Government of the United States has never ceased to feel and to express. Supposing that those misrepresentations, to which human actions and human sentiments must ever continue to be exposed, might have impressed on the mind of the French Government, occupied with the great and interesting events of Europe, the unfounded suspicion of partiality, on the part of America, for the enemies of France, the undersigned cherished the hope that a complete review of the conduct of their Government, accompanied with a candid and thorough investigation of the real principles on which that conduct was founded, by removing prejudices, might restore the sentiments which the United States have ever sought, and still seek to preserve.

In taking this review, it was obvious that a minute discussion of every particular fact might incumber the examination with details which previous explanations had rendered unnecessary, and therefore it was confined to those leading measures of which the particular cases were the necessary result. The undersigned, however, declared, and still declare, that if the Government of the United States has given just cause of complaint to that of France, in any case, they are ready to consider, and to compensate the injury. That negotiation, the opening of which they have for nearly six months unremittingly solicited and patiently attended, would, if entered upon, demonstrate the sincerity of this declaration.

Still animated by the same spirit which has dictated all their efforts to approach this Republic, still searching to remove unfavorable impressions, by a candid display of truths, and a frank manifestation of the principles which have really governed the United States, and still endeavoring thereby to facilitate the restoration of harmony between two nations which ought to be the friends of each other, the undersigned will lay before you the result of their reflections on your letter of the 28th Ventose.

Whatever force you may please to allow to their observations, the relative situation of the two Republics, it is hoped, will not fail to convince you that they proceed from the most perfect conviction of their justice. You contend, Citizen Minister, that the priority of complaint is on the side of France, and that those measures, which have so injured and oppressed the people of the United States, have been produced by the previous conduct of their Government.

To this the undersigned will now only observe, that if France can justly complain of any act of the Government of the United States, whether that act be prior or subsequent to the wrongs received by that Government, a disposition and a wish to do in that case what justice and friendship may require, is openly avowed, and will continue to be manifested.

Your complaints against the United States may be classed under three heads:

1st, The inexecution of their treaties with France.

2dly, The Treaty of Amity, Commerce, and Navigation, formed with Great Britain.

3dly, The conduct of their Government since that treaty.

If the undersigned shall be disappointed in their hope to convince you that on no one of these points can their Government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention with which it has ever acted, will be complete and satisfactory. This being proved, and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which they must yet hope will be acceptable to France.

1st, The inexecution of the treaties between the United States and France. Under this head, you complain, first, that, from the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly, That, against the textual sense of the treaty, the Government has permitted the ships of the enemy to come into their ports, after having

captured property or vessels belonging to French citizens.

3dly. That it has ordered the arrest of a national corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the captain commandant.

4thly, The refusal to provide the means to execute the Consular Convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States by French cruisers.

You have not been pleased to state a case in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the Government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th of August, 1793, which letter was laid before the French Government, declares "that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation, on its enemies.

"These questions belong, of common usage, to the Sovereign of the captor, and, whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the Consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet of the 29th of May, 1795, says: "As to prizes made by legal cruisers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our Treaty of Commerce imports) from examining into their lawfulness."

Mr. Monroe, in his letter to your predecessor, of the 15th of March, 1796, says: "You will observe I admit the principle, if a prize was taken upon the high seas, and by a privateer fitted out within the Republic or its dominions, that, in such case, our courts have no right to take cognizance of its validity. But is any case of this kind alleged? I presume none is or can be shown."

But the United States have deemed it an indispensable duty to prevent, so far as they could prevent, the practice of hostility against nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their Government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our courts can take no cognizance of questions, whether vessels held by them as prizes are lawful prizes or not; that this jurisdiction belongs exclusively to their Consulates here, which have been lately erected by the National Assembly into complete Courts of Admiralty.

"Let us consider first what is the extent of the jurisdiction which the Consulates of France may rightfully exercise here. Every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession. The United States and France have, by their Consular Convention, given mutually to the Consuls jurisdiction in certain cases especially enumerated. But that Convention gives to neither the power of establishing complete Courts of Admiralty within the territory of the other, nor even of deciding the particular question of prize or not prize. The Consulates of France, then, cannot take judicial cognizance of those questions here.

"Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promises to correct the error of the Consul at Charleston, of whom, in my letter of the 15th, I had complained as arrogating to himself that jurisdiction; though, in his subsequent letters, he has thought proper to embark in the errors of his Consuls.

"The real question is, whether the United States have not a right to protect vessels within their waters, and on their coasts. The Grange was taken within the Delaware, between the shores of the Jerseys and of the Delaware State, and several miles above its mouth. The seizing of her was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up.

"The William is said to have been taken within two miles of the shores of the United States. When the Admiralty declined cognizance of the case, she was delivered to the French Consul, according to my letter of June 25th, to be kept until the Executive of the United States should examine into the case, and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence, on behalf of the captors, as to the place of capture; yet, to this day, it has never been done. The brig Fanny was alleged to be taken within five miles from our shore; the Catherine within two miles and an half. It is an essential attribute of the jurisdiction of every country to preserve peace and punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation to cut away any of our own from the wharves of Philadelphia, and to choose to call it a prize, would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters, or on the shores of the United States, the right of redressing it is still the same; and humbled, indeed, would be our condition, were we obliged to depend for that on the will of a foreign Consul, or on any negotiation with diplomatic agents. Accordingly, this right of protection within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation, and denied to none; and, if the property seized be yet within their power, it is their right and duty to redress the wrong themselves.

"France herself has asserted the right in herself, and recognised it in us, in the 6th article of our treaty, where we mutually stipulate that we will, *by all the means in our power*, (not by negotiation,) protect and defend each other's vessels and effects in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia, and Sweden, have recognised it also in treaties with us; and, indeed, it is a standing formule inserted in almost all the treaties of all nations, and proving the principle to be acknowledged by all nations."

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that gentleman resumes this subject, and Mr. Fauchet, in answer, says: "The Admiralty Courts have always ceded to the entreaties of our enemies for their intervention in prize causes; in truth, frequently and almost constantly, by using the double plea of which you spoke to me, that is to say, by arguing either of seizure within the jurisdictional line of the United States, or of armament or augmentation of armament of the capturing vessels in their ports. On this subject, sir, you request me to specify a circumstance where a prize was arrested which did not come under that denomination, and you take the trouble to establish that they have a right to intervene in every case that can be brought under those heads. In the first place, sir, I never have, at least to my recollection, contested the right of your courts, or of the Government, to interfere in matters of the nature of those you mention."

It would seem to be incontestable, that the principle asserted by the United States, which indeed is an unquestionable principle, has been admitted in its utmost latitude by France. It is believed that in the execution of this principle, the Government and tribunals have only been guided by a sense of duty and the obligations of justice. If in any case that can be selected, wrong has unintentionally been committed, that wrong has grown inevitably out of the situation of the United States, and of the conduct of persons they have been unable to control, and will with readiness be corrected.

2dly. That, against the textual sense of the treaty, the Government has permitted the ships of the enemy to come into their ports, after having captured property or vessels belonging to French citizens.

It is to be regretted that you have not been pleased to state some particular case, if the case be founded on a fact, which has been manifested in this permission; or if it be founded in principle, the precise difference between the construction given by the President of the United States to the article of the treaty of the 6th of February, 1778, relative to this subject, and that for which you may contend. For the want of such a guide, the undersigned may discuss unnecessary points, without giving you complete satisfaction on that which in your mind may constitute the real difficulty.

The 17th article is in these words: "It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the Admiralty or other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers, or other officers of those places, search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible." Do you contend, Citizen Minister, that this article ought to be rigidly construed according to its letter? If you do, it becomes necessary to ascertain what are the disabilities to which its letter really subjects the vessels belonging to the enemies of France. They are, 1st. That no shelter or refuge shall be given in the ports of the United States to the ships of war or privateers belonging to the enemy, *which shall have made prize* of the subjects, people, or property of France. 2dly. That if such ships of war or privateers shall come in, being forced by stress of weather or the danger of the seas, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

The letter of the article does not exclude generally the ships of war belonging to the enemy, but those only *which have made prize* of the subjects, people, or property of France. That the vessel shall have made a prize is a part and an essential part of the description. Whether the vessel be or be not within this description is a fact, the ascertainment of which must precede the measures to be taken in consequence of that fact. When the fact shall have been ascertained, the letter of the article denies refuge or shelter to the ship of war or privateer, but not to the prize which may have been made. You well know, Citizen Minister, that if the letter of the article is to be set up against its spirit, when the former is most favorable to the views of France, the letter must still be adhered to, though it should counteract those views. The situation of the United States bound them to observe, between the belligerent Powers, an exact neutrality, in all cases where their previous treaties had not stipulated advantages or imposed disabilities.

They could not refuse to one belligerent Power those rights of ordinary hospitality which were enjoyed by others, which the common usages of nations permit, and which were forbidden by no particular treaty. Such refusal would have been

manifestly partial, and a plain departure from that neutral position in which the United States found themselves, and which good faith, integrity, and their best interests impelled them religiously to maintain. Thus circumstanced, it was the duty of the Government to give its true construction to a treaty granting advantages to one of the belligerent Powers, and imposing disabilities on another. In searching for this true construction, its best judgment ought to be exercised, and the dictates of that judgment ought to be obeyed. The United States have done so. They have refused shelter in their ports to the prizes made on the French Republic, or to the ships of war belonging to the enemy and accompanying such prizes.

They have permitted ships of war, not bringing prizes with them, to remain in their ports, without instituting tribunals to inquire whether such ships have at any time captured French citizens or French property. The reasoning on which this decision was founded, and which appears to the undersigned to have been conclusive, will not now be repeated. It has been detailed in several letters from the Secretary of State of the United States to the Minister of France in Philadelphia. The undersigned will only observe, that the construction supposed to be just, and for that reason actually put upon the article, is believed to be more favorable than the literal construction to the interests of France.

Ships of war which have made prizes on this Republic, if they enter the ports of the United States without such prizes, ought, indeed, under the letter of the article, to be ordered to depart, as soon as the fact can have been ascertained; but the prizes themselves are permitted to remain in safety. By the actual construction, a ship of war entering without a prize, is permitted to remain, but all shelter is refused to a ship of war which is accompanied by a prize, and also to the prize itself. It would seldom happen that a ship of war not driven in by stress of weather, or the danger of the seas, would wish to continue in port longer than the time which would unavoidably be consumed in ascertaining the fact of her having made a prize, but it must often happen that a prize now excluded from the ports of the United States, would find shelter in them if the literal construction of the treaty should be adopted.

This exposition given by the United States to this article was made known in 1793—France has never signified a wish that the literal construction throughout should be pursued. This strengthens the opinion entertained by the undersigned, that the rule on this subject, so early established by the American Government, is considered by the Republic as more favorable to its interests, than a rule conforming entirely to the letter of the article.

3dly. "The Government of the United States has ordered the arrest of a national corvette* anchored in the port of Philadelphia, and the arrestation has been extended to the captain commandant."

The undersigned beg leave to state the case which is the foundation of this complaint. In the statement itself they trust will be found a complete justification of the conduct of the United States.

The Cassius, under the name of "Les Jumeaux," was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of Les Jumeaux, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon, and brought them to bear on the cutter in which the militia, about forty in number, were embarked. Their force being inadequate to the enterprise, they retired with an intention to return the next day with a reinforcement. They did so, but Les Jumeaux had sailed and gone to sea. The agent, Mr. Guenet, by whom Les Jumeaux had been fitted out, was tried at the Circuit Court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in Les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to "Le Cassius," and on a cruise she took a schooner called the William Lindsay, belonging to Messrs. Yard and Ketland, of Philadelphia—Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding the Cassius, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the Cassius in the District Court, and caused the captain to be arrested. Soon after, the Supreme Court being in session, Captain Davis's counsel applied for and obtained a prohibition to the District Court to stop its proceedings, by which the suits, both against him and Le Cassius, were defeated. The prohibition was granted on this principle, that the trial of prizes, taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and, consequently, that its vessels of war and their officers are not liable to process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French Government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on the information of Mr. Ketland to be issued from the Circuit Court, by which Le Cassius was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruise and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armament. Mr. Adet complained that the process was taken out of the Circuit Court, because, as he alleged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year; whereas the District Court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the Circuit Court had jurisdiction, and exclusively of the District Court. The Government of the United States had no part in originating this prosecution; and the District Attorney, in behalf of the United States, took measures, at each term of the Circuit Court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The court adjourned until next day to consider of it: and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the corvette or her captain would have escaped?

4thly. The refusal to provide the means to execute the Consular Convention of the 14th November, 1788.

As you have not selected the particular parts of this convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr. Monroe of the 19th Ventose 4th year (9th March, 1796) complains 1st. That the clause granting to French Consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested is rendered ineffectual, because the Judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting, in the tribunals of both Powers, copies certified by the Consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the Consuls:

2dly. That the Judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the original roll of the crew.

It is very justly observed by Mr. Jefferson in his letter to Mr. Morris, which has been already cited, that "every nation has, of natural right, entirely and exclusively, all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to Judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, "to define and establish in a reciprocal and permanent manner the functions and privileges of Consuls and Vice Consuls."

It is to be expected, then, as well as from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a foreign Government, that no power is to be implied, and that it possesses no capacity which is not expressly given to it. To ascertain, then, the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article, which is in these words; "All differences and suits between the subjects of His Most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the Most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels of their nations, shall be determined by the respective Consuls and Vice Consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country, civil or military, shall interfere therein, or take any part whatever in the matter; and the appeals from the said Consular sentences shall be carried before the tribunals of France or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing Consular judgments. If, therefore, the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The Consular authority in a foreign country is usually either voluntary or enforced by the laws of the nation to which the Consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or otherwise. Upon this idea it was sufficient to stipulate a permission of the jurisdiction in exclusion of the courts of the country; on any other idea, it would have been necessary to have stipulated explicitly, and perhaps in detail, the manner in which its sentences should be executed. To accede to the demands of France would be to erect in a foreign country complete courts of justice with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce could not, in the nature of things, be confined to foreigners alone, the citizens of the country must often be neces-

* Le Cassius.

sary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction granted by the article is only of French Consuls over French citizens in the United States, and reciprocally of American Consuls over the citizens of the United States in France. This would be to extend, by implication, the authority of a foreigner over persons not contemplated by the treaty as subject to it. The article declares, too, "that no officer of the country, civil or military, shall interfere therein, or take any part in the matter." But sheriffs, marshals, and their deputies, or any other persons appointed by, and acting under, the laws of the country, are "officers of the country," and consequently cannot aid in the execution of Consular decisions, because they are expressly forbidden "to interfere therein or take any part whatever in the matter."

But was it meant that the laws should give Consuls the power to appoint such Executive officers of their own nation? Should it be conceded that a person so appointed could not be considered as an officer of that nation by virtue of, and according to, those laws he held his office, still we find no such thing in the convention. On the contrary, in the case of deserters from vessels, mentioned in the 9th article, whom the Consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, Judges, and officers, competent" to make the arrests, meaning the courts, Judges, and officers of the country where the Consuls reside. In addition to this, if power could be given to Consuls to appoint officers to execute their decisions, these officers must, of course, have their fees of compensation, to be paid by one or other of the parties. But the article giving the jurisdiction declares that the Consular judgments shall be "without costs."

The second complaint is, that the Judges of the United States have required the exhibition of the original roll of the crew as the testimony which would authorize the issuing of a mandate, to apprehend a French mariner charged as a deserter. The right to require these mandates is founded entirely on the 9th article of the Consular Convention.

That declares "that the Consuls and Vice Consuls shall address themselves to the courts, Judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel, or ship's roll, that those men were part of the said crews; and on this demand so proved (saving, however, where the contrary is proved) the delivery shall not be refused."

It would be an idle waste of time to attempt to prove to you, Citizen Minister, that the register of the vessel, or ship's roll, is not a copy of that paper, or that a copy does not satisfy a law which peremptorily requires the exhibition of the original. Your predecessor has thought proper to refer to the 5th article of that instrument; but a slight perusal of that article will convince you, Citizen Minister, that it does not apply to the case. When the Judges of the United States determined that the mandate of arrest could not be issued on the exhibition of a "copy of the register of the vessel or ship's roll," they did not so decide for the purpose of giving effect to the system of the Government, but because the treaty was clearly understood by them positively to require the presentation of the original.

The undersigned regret, Citizen Minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her Judges, and your justice would have spared the insinuations concerning them which have closed this part of your letter.

The undersigned will now consider what you have stated with respect to the Treaty of Amity, Commerce, and Navigation, formed with Great Britain.

You complain, Citizen Minister, in very strong terms, of the deception alleged to have been practised with respect to the objects of Mr. Jay's mission to London, and also of the contents of the treaty which that mission produced. You are pleased to observe that it was then said that Mr. Jay had been sent to London only to negotiate arrangements relative to the depredations committed on the American commerce by the cruisers of Great Britain.

By whom, Citizen Minister, was this said? not by the President in his Message to the Senate, announcing the nomination of Mr. Jay; nor by the then Secretary of State, in communicating to Mr. Fauchet the subject of that mission. The documents with respect to this assertion have been stated, and have been fully commented on. It has been fully demonstrated that the American Government did not seize this occasion to practise a deception so unnecessary, so foreign to its well known character, and which could produce only mischief to itself. As you have in no degree weakened the testimony which is relied on as disproving this allegation, or produced any sort of evidence in support of it, the undersigned cannot but mingle some degree of surprise with the regrets they feel at seeing it repeated, accompanied with the charge of that "dissimulation," of which all who examine well the conduct of the Government of the United States will so readily pronounce it to be incapable. You also criminate the secrecy which attended this negotiation. To this complaint, when formerly insisted on, it was answered, that so much of it as was material to this Republic was immediately communicated to her Minister; and that she had no right to inquire further, or to be dissatisfied that other objects were not disclosed; that it is not the practice of France, nor of any other nation, to communicate to others the particular subjects of negotiation which may be contemplated; and that no nation could be independent, which admitted itself to be accountable to another, for the manner in which it might judge proper to regulate its own concerns, on points in which that other was not interested; or which was bound to give previous

intimation of every article, which might be inserted in a treaty, formed on the avowed principle of leaving in full force all pre-existing engagements. This reasoning is answered only by terming it a "sophism," "an insidious subterfuge." May not any reasoning, on any subject, be answered in the same manner? But can such an answer impair its force? Without doubt, Citizen Minister, the Government of the United States, when it informed France that the negotiations of Mr. Jay would not in any respect weaken its engagements to this Republic, would have added, that they might eventually extend to a commercial treaty, if it had been supposed that the omission to give such information could really be considered as a breach of legitimate obligation, or as an evidence of diminished friendship. The information was most probably not given because it was unusual, and because it could neither be considered as proper, as necessary, or as material. The undersigned trust that the painful and unavailing discussions on this subject, rendered so unpleasant by the manner in which it has been treated, will never again be renewed.

Passing to the treaty itself, you say that the small majority by which it was sanctioned in the two Houses of Congress, and the number of respectable voices raised against it in the nation, depose honorably in favor of the opinion which the French Government has entertained of it. But you must be sensible, Citizen Minister, that the criterion, by which you ascertain the merits of the instrument in question, is by no means infallible, nor can it warrant the inference you draw from it. In a Republic, like that of the United States, where no individual fears to utter what his judgment or his passions may dictate, where an unrestrained press conveys alike to the public eye the labors of virtue and the efforts of particular interests, no subject which agitates and interests the public mind can unite the public voice, or entirely escape public censure. In pursuit of the same objects a difference of opinion will arise, in the purest minds, from the different manner in which those objects are viewed: and there are situations in which a variety of passions combine to silence the voice of reason, and to betray the soundest judgments. In such situations, if the merit of an instrument is to be decided, not by itself, but by the approbation or disapprobation it may experience, it would surely be a safer rule to take as a guide the decision of a majority, however small that majority may be, than to follow the minority. A treaty, too, may be opposed as injurious to the United States, though it should not contain a single clause which could prejudice the interests of France. It ought not to be supposed that a treaty would for that reason be offensive to this Republic.

Had you been pleased to state any objections to this instrument drawn from the compact itself, the undersigned would have given to those objections the most serious and respectful consideration. But it is supposed that you adopt, without adding to, the complaints made by your predecessor and by Mr. Adet, when you observe that you will not repeat what they have said. These complaints have been amply discussed in the memorial the undersigned had the honor to transmit you, bearing date 17th of January. It is believed to have been demonstrated that the stipulations complained of do not in the most remote degree wound the interests of France, affect the pre-existing engagements of the United States, or change their situation in relation to the belligerent Powers. Such, incontestably was, and is, the opinion of the American Government, and in this opinion only, would the treaty have been agreed to. As no one of the arguments which have at various times been urged on this subject, on the part of the United States, has ever yet been noticed, the undersigned deem unnecessary any attempt to re-urge or to strengthen them. You say that you will content yourself "with observing, summarily, that in this treaty everything having been provided to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the Federal Government having, in this act, made to Great Britain concessions the most unheard of, the most incompatible with the interests of the United States, and the most derogatory from the alliance which existed between the said States and the French Republic, the latter was perfectly free to avail itself of the preservatory means with which it was furnished by the laws of nature and of nations, and by its anterior treaty, for the purpose of parrying the inconveniences of the Treaty of London. Such are the reasons which have determined the arrêts of the Directory of which the United States complain, as well as the conduct of its agents in the Antilles." But you have not shown a single provision "which turns the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England." You have not shown a single concession "incompatible with the interests of the United States," or "derogatory from their alliance with France."

It is considered as having been demonstrated that this treaty leaves the neutrality of the United States, with respect both to France and England, precisely in its former situation, and that it contains no concessions which are either unusual, or derogatory from their alliance with this Republic. But, if in forming this judgment the American Government has deceived itself, still it ought to be remembered that it has ever manifested a readiness to place France on the same footing of England, with respect to the articles complained of.

You suppose that the second article of the treaty between France and the United States justifies the arrêts, of which the latter Power complains: but that article only entitles either of the contracting parties to a participation of any particular favor in respect of commerce or navigation, which might thereafter be granted by the other to other nations, on allowing the same compensation, if the concession was conditional. It has never been pretended to extend to pre-existing rights held and exercised under the law of nations, and barely recognised by any subsequent treaty. If this could be insisted on, still it was shown incon-

testably, by the undersigned, that the arrêt particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty, and in its most noxious article, that requiring a rôle d'équipage, has no relation to it. This all-essential circumstance you have not been pleased to notice; and it is with infinite regret the undersigned observe that the discussions at which you hint are to be limited to the abuses of the principle established by the arrêt, and not extended to the compatibility of the principle itself, with justice, the laws of nations, or existing treaties.

It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, would avail but little, since the vast mass of American property captured by the cruisers, and condemned by the courts of France, has been found in vessels not furnished with a rôle d'équipage.

The undersigned have been minute in their attention to every syllable you have uttered on this interesting subject, because it has been often considered as having given cause of just irritation to France, and they are sincerely desirous of probing to the bottom every subject which may have assumed that complexion. Their wish is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquishment of such as are not well founded, and the admission of those which have a real existence.

The third head of your complaints relates to the conduct of the Government of the United States since their treaty with England.

You observe that, as soon as the treaty in question had been put in execution, the Government of the United States seemed to think itself dispensed from the observance of any measures towards this Republic, and you adduce in support of this general observation:

1st. The refusal to permit in the ports of the United States the sale of prizes made by French cruisers.

2dly. The invectives and calumnies against the French Government, its principles, and its officers, contained in certain journals and pamphlets published in the United States, &c.

3dly. The Speech of the President to Congress in May last.

1st. The Government of the United States does not permit the sale in their ports of prizes made upon England by the cruisers of France.

The fact is admitted. To erect it into an offence, it becomes necessary to prove that this measure violates either the engagements or the neutrality of the United States. Neither is attempted. To show that it violates neither, had this been rendered necessary, would by no means have been deemed an arduous task. It will now only briefly be observed, that the 17th article of the treaty of commerce of the 6th of February, 1778, which alone relates to this subject, so far from stipulating for the sale of prizes in the ports of either nation, limits itself to a declaration, that the captors shall have liberty to bring them into port, free from duties, arrests, and searches, and to depart with them to the places expressed in their commissions, thereby evidently contemplating the then existing regulations of this nation. France has manifested her own opinion on this subject, in her treaty with Great Britain of the 26th of September, 1786. The 16th article of that treaty declares, "that it shall not be lawful for foreign cruisers who shall not be the subjects of one or the other Crown, and who shall have a commission from any Prince or State, enemies of the one or the other, to arm their vessels in the ports of one or the other of the said two kingdoms, *to sell there what they shall have taken, or to change the same in any manner whatever.*" In a war with England, then, France being neutral, the cruisers of the United States are forbidden to sell their prizes in the ports of this Republic. The 17th article of the treaty of February, 1778, being reciprocal, France has pronounced her decision, that it does not give her cruisers a right to sell their prizes in the ports of America. If this right had been given by the treaty of February, 1778, that between the United States and England could not be construed to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality must manifest a partiality for one of the belligerent Powers, must accord favors not stipulated by pre-existing treaties to one, which it refuses to the other. This is not even alleged in the present instance. Far from permitting British cruisers to sell, in the United States, prizes they have made on the French, they are not even allowed to bring them into port. A candid consideration of this subject will prove that the withdrawal of a favor, the grant of which manifested so strongly the attachments of the United States, far from justifying the resentments which have been expressed in consequence of it, can only be attributed to the solicitude of the American Government to render perfectly unexceptionable its observance of that neutrality which it professes to maintain. It has been shown unequivocally to have been the opinion of the contracting parties that the Treaty of Commerce of the 6th of February, 1778, did not give to either, being at war, a right to sell its prizes in the ports of the other being at peace. It is not pretended that this is one of the rights accruing, without a special stipulation, under the laws and usages of nations.

It is not, then, a right at all. If granted, it is a voluntary favor. But a voluntary favor essential in the prosecution of the war, if granted by a neutral to one belligerent Power, and of necessity refused to the other, affords to that other at least a more plausible pretext for complaint than has been given by any other act of the Government of the United States. What, in such a situation, would have been the language of France? Would this Republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports, as a voluntary favor, the sale of prizes made on French citizens, while the same favor was of necessity denied to the cruisers of France?

It is believed that such a use of neutrality would not be permitted, and the undersigned felicitate

themselves and their country that the Government they represent has never intentionally given to this Republic any cause of dissatisfaction, as serious as this would have been. You will not fail to observe, Citizen Minister, that this heavy accusation, when analyzed, is nothing more than the refusal of a mere favor on the part of the American Government, the grant of which might have been dangerous to itself, might have drawn it from that neutral station which it is its duty to observe, and which favor France had previously, in the most explicit terms, declared its determination not to grant under similar circumstances to the United States.

2dly. Your second allegation is, "that the journals known to be indirectly under the control of the Cabinet have redoubled their invectives and calumnies against the Republic, its magistrates, and its envoys; and that pamphlets openly paid for by the Minister of Great Britain have reproduced, under every form, those insults and calumnies, without having ever drawn the attention of the Government to a state of things so scandalous, and which it might have repressed."

The genius of the Constitution, and the opinions of the people of the United States, cannot be overruled by those who administer the Government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the Government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied; perhaps it is a shoot which cannot be stripped from the stalk without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the Government to suppress whatever calumnies and invectives any individual may choose to offer to the public eye; or to punish such calumnies and invectives, otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured. Without doubt this abuse of a valuable privilege is matter of peculiar regret when it is extended to the Government of a foreign nation. The undersigned are persuaded it never has been so extended with the approbation of the Government of the United States. Discussions respecting the conduct of foreign Powers, especially on points respecting the rights and interests of America, are unavoidably made in a nation where public measures are the results of public opinion; and certainly do not furnish cause of reproach; but it is believed that calumny and invective have never been substituted for the manly reasoning of an enlightened and injured people, without giving pain to those who administer the affairs of the Union. Certainly this offence, if it be deemed by France of sufficient magnitude to be worthy of notice, has not been confined to this Republic. It has been still more profusely lavished on its enemies, and has even been bestowed with an unsparing hand on the Federal Government itself. Nothing can be more notorious than the calumnies and invectives with which the wisest measures and the most virtuous characters of the United States have been pursued and traduced. It is a calamity incident to the nature of liberty, and which can produce no serious evil to France. It is a calamity occasioned neither by the direct nor indirect influence of the American Government. In fact that Government is believed to exercise no influence over any press. You must be sensible, Citizen Minister, with how much truth the same complaint might be urged on the part of the United States. You must know well what degrading and unworthy calumnies against their Government, its principles, and its officers, have been published to the world by French journalists and in French pamphlets; that Government has even been charged with betraying the best interests of the nation, with having put itself under the guidance of, nay more, with having sold itself to, a foreign Court. But these calumnies, atrocious as they are, have never constituted a subject of complaint against France. Had not other causes, infinitely more serious and weighty, interrupted the harmony of the two Republics, it would still have remained unimpaired, and the mission of the undersigned would never have been rendered necessary.

3dly. You complain of the Speech of the President made to Congress in May last. It denounces, you say, the Executive Directory, as searching to propagate anarchy and division in the United States. The Constitution of the United States imposes on the President this important duty: "He shall from time to time give to the Congress information of the state of the Union." It having been deemed proper to recall the Minister from the United States to this Republic, and to replace him by a citizen, the objects of whose mission, as expressed in his letters of credence, were "to maintain that good understanding which, from the commencement of the alliance, had subsisted between the two nations; and to efface unfavorable impressions, banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." The President of the Directory addressed the recalled Minister in the following terms: "In presenting to-day to the Executive Directory your letters of recall, you give to Europe a strange spectacle. France, rich in her liberty, surrounded with the train of her victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of its ancient tyrants. The French Republic hopes, moreover, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous good

will of the French people with the crafty caresses of certain perfidious persons, who meditate to bring them back to their ancient slavery. Assure, Mr. Minister, the good American people that, like them, we adore liberty; that they will always have our esteem, and that they will find in the French people that republican generosity which knows as well how to grant peace as to cause its sovereignty to be respected."

The change of a Minister is an ordinary act for which no Government is accountable to another, and which has not heretofore been "a strange spectacle" in France, or in any other part of Europe. It appears to be a measure not of itself calculated to draw on the Government making such change the strictures or the resentments of the nation to which the Minister is deputed. Such an effect, produced by so inadequate a cause, could not fail to command attention, while it excited surprise.

This official speech, addressed by the Government of France to that of the United States, through its Minister, charges that Government with condescensions to the suggestions of its ancient tyrants, speaks of the crafty caresses of certain perfidious persons who meditate to bring back the successors of Columbus, Raleigh, and Penn, to their ancient slavery, and desires the Minister to assure, not his *Government*, but the *good people* of America, that they will always have the esteem of France, and that they will find in the French people that republican generosity which knows as well how to grant peace as to cause its sovereignty to be respected.

That a Minister should carry any assurances from a foreign Government to the people of his nation is as remarkable as the difference between the manner in which his Government and his people are addressed. His Government are charged with condescension to the suggestions of the ancient tyrants of his country, but the people are considered as loving liberty, and they are to be assured of the perpetual esteem of France. This esteem they are to weigh against the crafty caresses of those perfidious persons who mediate to bring them back to their former slavery.

When this Speech, thus addressed directly to the Government and people of the United States, in the face of Europe and the world, came to be considered in connexion with other measures; when it came to be considered in connexion with the wide spreading devastation to which their commerce was subjected, with the cruel severities practised on their seamen, with the recall of the Minister of France from the United States, and the very extraordinary manner in which that recall was signified by him both to the Government and people, with the refusal even to hear the messenger of peace, deputed from the United States for the sole purpose of conciliation, it could not fail to make on the American mind a deep and serious impression. It was considered as a fact too important to be held from Congress, by that department of the Government, which is charged with the duties of maintaining its intercourse with foreign nations, and of making communications to the Legislature of the Union. The President, therefore, did communicate it in the following words: "With this conduct of the French Government, it will be proper to take into view the public audience given to the late Minister of the United States on his taking leave of the Executive Directory. The Speech of the President discloses sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

"I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not be soon forgotten; they have inflicted a wound in the American breast. It is my sincere desire, however, that it may be healed."

It is hoped that this communication will be viewed in its true light; that it will no longer be considered as a denunciation of the Executive Directory, but as the statement of an all-important fact by one department of the American Government to another, the making of which was enjoined by the duties of the highest obligation.

The undersigned have now, Citizen Minister, passed through the complaints you urge against the Government of the United States. They have endeavored to consider those complaints impartially, and to weigh them in the scales of justice and of truth. If any of them be well founded, France herself could not demand more readily than America would make reparation for the injury sustained. The President of the United States has said, "If we have committed errors, and these can be demonstrated, we shall be willing to correct them; if we have done injuries, we shall be willing, on conviction, to redress them." These dispositions on the part of the Government have been felt in all their force by the undersigned, and have constantly regulated their conduct.

The undersigned will not resume, Citizen Minister, the painful task of re-urging the multiplied injuries which have been accumulated on their country, and which have been in some degree detailed in their memorial of the 17th January last. They cannot, however, decline to remonstrate against a measure which has been announced

since that date. The Legislative Councils of the French Republic have decreed that,

"1st. The condition of ships, in every thing which concerns their character as neutrals or enemies, shall be determined by their cargo; consequently, every vessel found at sea, laden in whole or in part with merchandise coming out of England, or its possessions, shall be declared good prize, whoever may be the proprietors of such commodities or merchandise.

"2dly. No foreign vessel, which in the course of its voyage shall have entered into an English port, shall be admitted into any port of the French Republic, but in the case of necessity; in which case, such vessel shall be obliged to depart from such port so soon as the cause of entry shall have ceased."

This decree too deeply affects the interests of the United States to remain unattended to by their Ministers. They pray you, therefore, Citizen Minister, to receive their respectful representations concerning it.

The object of the decree is, to cut off all direct intercourse between neutrals and Great Britain, or its possessions, and to prevent the acquisition, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labor, for those articles which may supply its wants or administer to its comfort, is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests, and providing for its own welfare. When any two nations shall choose to make war on each other, they have never been considered, nor can they be considered as thereby authorizing themselves to impair the essential rights of those who may choose to remain at peace. Consequently, these rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral Power, whatever nations may be involved in a war.

The right of a belligerent to restrain a neutral from assisting his enemy by supplying him with those articles which are defined as contraband, has been universally submitted to; but to cut off all intercourse between neutrals and an enemy; to declare that any single article which may have come from possessions of an enemy, whoever may be its owner, shall of itself be sufficient to condemn both vessel and cargo, is to exercise a control over the conduct of neutrals, which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so it might be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral Powers, which would often interrupt the business of a large portion of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war.

It essentially affects the internal economy of nations, and deranges that course of industry which they have a right to pursue, and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so pernicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practice.

France, therefore, will perceive that neutral Governments, whatever may be their disposition towards this Republic, are impelled by duties of the highest obligation, to remonstrate against a decree, which at the same time invades their interests and their independence, which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the Treaty of Amity and Commerce, of the 6th of February, 1778, is in these words: "It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with the Most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy beforementioned, to neutral places, but also from one place, belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince, or under several. And it is hereby stipulated, that free ships shall also give a freedom to goods, and that everything shall be deemed to be free and exempt, which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either—contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemy."

The two nations, contemplating and providing for the case when one may be at war, and the other

at peace, solemnly stipulate and pledge themselves to each other, that, in such an event, the subjects or citizens of the party at peace may freely trade with the enemy of the other, may freely sail with their ships, in all manner of security, to and from any port or place belonging to such enemy. Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, Citizen Minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the decree of the councils opposes itself to the treaty between France and United States.

In addition to the hitherto unceded rights of a sovereign and independent sovereign, in addition to the right stipulated by contract, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive, and unsettled country, the labor of the United States is not yet sufficient for the full cultivation of its soil, and, consequently, but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported, in exchange for provisions and for the raw materials which are the growth of the country, and which its inhabitants are accustomed to raise.

It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which their population and their real interests have engaged them. An agricultural cannot suddenly, and at will, become a manufacturing people—the United States cannot instantaneously, on the mere passing of a decree, transfer to the manufacturer of articles heretofore imported such a portion of their labor as will, at the same time, furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is, therefore, scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess, in common with others, to search for and choose the best markets, it is believed that the supplies they need could with difficulty, in the actual state of the world, be completely furnished, without the aid of England and its possessions. It is not pretended that France manufactures, at present, for foreign consumption, nor do the undersigned suppose that there exists a market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded. A variety of other considerations, and especially the difficulties individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great Britain.

If, then, the decree complained of shall be executed on American vesssels, it can only increase grievances already but too considerable, and transfer the carriage of English manufactures, for American consumption, from their own to British bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine, by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore sought to give their own vessels that portion of their own carrying trade, which would otherwise be enjoyed by British merchants.

You have made some general animadversions on the Government of the United States, which the undersigned feel themselves bound briefly to notice.

You have charged that Government with giving instructions not in the sincere intention of arriving at pacific results, and yet the undersigned have offered to change those clauses in the treaty of 1778 which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that Government with omitting nothing to prolong and augment the misunderstanding between the two Republics; but does not the fact that the undersigned are now in Paris furnish persuasive evidence to the contrary?

You have charged it with searching to justify, by deceitful appearances, the prejudices with which it surrounds at pleasure the name of the Republic, and the system of exasperation and separation pursued in this respect with the strangest obstinacy. But has not this Republic, in terms the most cordial, been again and again entreated to enter into a candid investigation of the mutual complaints of the two nations? Have not these entreaties been unnoticed, whilst the Ministers deputed to make them have remained unaccredited?

You have charged with wishing to seize the first favorable occasion for consummating an intimate union with a Power, towards which a devotion and partiality are professed which have long constituted the principle of the conduct of the Federal Government; but whilst no devotion or partiality has been expressed for any nation except France, have not the United States made, and are they not still making, the most extraordinary efforts to restore the broken relations between the two Republics?

In a letter discussing the important interests of two great nations, the undersigned are unwilling to introduce what relates personally to themselves.

This unwished for task has been rendered a duty, by ascribing to them opinions and relations which exist in imagination only, and by adducing those supposed opinions and relations as proofs of an indisposition, on the part of the Government which has deputed them, towards that accommodation which has been sought so unremittingly though all those difficulties and impediments with which the pursuit has been embarrassed.

You are pleased to add, that these intentions are so little disguised "that nothing seems to have been neglected at Philadelphia, to manifest them to every eye. It is probably with this view that it has been judged proper to send to the French Republic persons whose opinions and relations are too well known to hope from them dispositions sincerely conciliatory."

The opinions and relations of the undersigned are purely American, unmixed with any particle of foreign tint.

If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States, on principles promoting the interests of both, and consistent with the independence of the latter.

It requires no assurance to convince, that every real American must wish sincerely to extricate his country from the ills it suffers, and from the greater ills with which it is threatened; but all who love liberty must admit that it does not exist in a nation which cannot exercise the right of maintaining its neutrality. If "opinions and relations," such as these, are incompatible with "dispositions sincerely conciliatory," then indeed has the Federal Government chosen unfit instruments for the expression of its pacific disposition.

You contrast the conduct observed by the United States, under analogous circumstances, towards the Cabinet of St. James's, with that which is observed towards this Republic. You say that, on that occasion, there was a solicitude to send to London Ministers well known to possess sentiments conformable to the objects of their mission; that the Republic has a right to count upon a similar deference; and that if a like attention has not been observed with respect to it, it is too probable that it must be attributed to the views already indicated.

If, unfortunately, the cases shall exhibit a contrast, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their Government, otherwise than by the superior attention manifested towards this Republic, and never shown to any other nation, in deputing to it, with ample powers, three Envoys Extraordinary and Ministers Plenipotentiary from the three great divisions of the United States. The Ministers sent to the Cabinet of St. James, greatly deserved the confidence of their country, but they did not possess sentiments more conformable to the objects of their mission than those deputed to this Republic. They did not wish more ardently to effect reconciliation; nor is it believed that any person who could have been deputed to that Cabinet, would have submitted to greater sacrifices in order to obtain it. Had their application for compensation for past injuries, and security against their future commission, been only met by requisitions, a compliance with which would involve their nation in ills, of which war perhaps might not be the most considerable; had all attempts to remove unfavorable impressions failed, and all offers to make explanations been rejected; can it be believed, that other Ministers (the first having been ordered out of the nation) would have waited six months unaccredited, soliciting permission to display the upright principles on which their Government had acted, and the amicable sentiments by which it was animated?

The undersigned are induced, Citizen Minister, to pray your attention to these plain truths, from a conviction that they manifest unequivocally the friendly temper of the Federal Government, and the extreme reluctance with which the hope of an accommodation with France would be relinquished.

The undersigned observe, with infinite regret, that the disposition manifested to treat with the Minister who might be selected by this Government, is not accompanied with any assurances of receding from those demands of money, heretofore made the considerations on which alone the cessation of hostility on American commerce, could be obtained; to which the undersigned have not the power to accede; with which the United States would find it extremely difficult to comply; and a compliance with which would violate that faith pledged for the observance of neutrality; and would involve them in a disastrous war, with which they have no concern. Nor do you answer to the applications which have been made for compensation to the citizens of the United States, for property which shall be proved to have been taken contrary to the law of nations and existing treaties, otherwise than that you are willing to discuss cases where there has been a departure from certain principles, which principles, in fact, involve almost every case.

You have signified, Citizen Minister, that the Executive Directory is disposed to treat with one of the Envoys, and you hope that this overture will not be attended, on the part of the undersigned, with any serious difficulty. Every proposition of the Executive Directory is considered with the most minute and respectful attention.

The result of a deliberation, on this point, is that no one of the undersigned is authorized to take upon himself a negotiation, evidently entrusted by the tenor of their powers and instructions to the whole; nor are there any two of them who can propose to withdraw themselves from the task committed to them by their Government, while there remains a possibility of performing it.

It is hoped that the prejudices, said to have been conceived against the Ministers of the United States, will be dissipated by the truths they have stated.

If in this hope they shall be disappointed, and it should be the will of the Directory to order passports for the whole, or any number of them, you will please to accompany such passports with letters of safe conduct, which will entirely protect, from the cruisers of France, the vessels in which they may respectively sail, and give to their persons, suite, and property, that perfect security to which the laws and usages of nations entitle them.

They pray you, Citizen Minister, to receive the renewal of their assurances of profound respect and consideration.

CHARLES C. PINCKNEY.
JOHN MARSHALL.
ELBRIDGE GERRY.

FRANCE.

[Communicated to Congress, June 21, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

While I congratulate you on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter, received by him, from Mr. Gerry, the only one of the three who has not received his congé. This letter, together with another, from the Minister of Foreign Relations to him, of the 3d of April, and his answer of the 4th, will show the situation in which he remains, his intentions and prospects.

I presume that, before this time, he has received fresh instructions (a copy of which accompanies this message) to consent to no loans, and therefore the negotiation may be considered at an end.

I will never send another Minister to France without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

UNITED STATES, *June* 21, 1798.

PARIS, *April* 16, 1798.

MY DEAR SIR: This I expect you will receive by my colleague, General Marshall, who carries with him the last letter of M. Talleyrand, to the American Envoys, and their answer. On the day when we sent the answer, I received a letter from the Minister, a copy of which, and my answer, is enclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them. Indeed, I expected my passport with my colleagues, but am informed that the Directory will not consent to my leaving France: and to bring on an immediate rupture, by adopting this measure, contrary to their wishes, would be in my mind unwarrantable. The object of M. Talleyrand, you will perceive, was to resume our reciprocal communications, and again to discuss the subject of a loan. I thought it best in my answer not merely to object to this, but to every measure that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear sir, to support your Admisistration, and have brought myself into a predicament,* which you must assist me to extricate myself from, by appointing some others to supply the places of myself and colleagues, if a further progress in this business should be found practicable. I have only a moment to add my best respects to your lady, and my assurances of the most sincere and respectful attachment, my dear sir, of yours sincerely,

E. GERRY.

The PRESIDENT *of the United States.*

* I allude to my painful residence here as a political cipher.

The Minister of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French Republic.

PARIS, *14th Germinal*, (*3d April*, 1798.)
6th year of the French Republic, one and indivisible.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventose last, and the obstacle which their known opinions have interposed to the desired reconciliation, to quit the territory of the Republic. On this supposition, I have the honor to point out to you the 5th or the 7th of this decade, to resume our reciprocal communications upon the interests of the French Republic and the United States of America.

Receive, I pray you, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *April* 4, 1798, (*Germinal* 15, *an* 6.)

I had the honor, Citizen Minister, of receiving your letter of the 14th Germinal the 3d instant, and Mr. Deutrement, who delivered it, informed me that it was intended to be shown to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have entrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you requested, and the relative conferences, and to yourself our decisions thereon; regretting, at the same time, the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as, by the tenor of your letter, it is now expected that they will quit the territory of the French Republic, it will be impossible for me to be the medium of, or to take, any measures which will be painful to my colleagues, or not to afford them all the assistance in my power; and it would be, moreover, inconsistent with the line of conduct which you well know, Citizen Minister, I have uniformly observed for removing the unfavorable impressions which existed on the part of this Government against them. Indeed, in our last letter, there is a conditional application for passports, which, as it appears to me, supersedes the necessity of a hint to them on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe conduct for the vessel, in which he and his suite may take passage for the United States, to determine whether he shall embark from France or Great Britain, but the unfortunate situation of General Pinckney, with respect to the critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, Citizen Minister, the 5th or 7th of this decade for me to resume (reprendre) our reciprocal communications upon the interests of the French Republic and of the United States. The reciprocal communications which we have had were such only as I have alluded to in the beginning of this letter, unless your proposition, accompanied with an injunction of secrecy for me to treat separately, is considered in this light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being in my individual capacity unauthorized to give them an official stamp. Nevertheless, every measure in my power, and in conformity with the duty I owe my country, shall be zealously pursued, to restore harmony and a cordial friendship between the two Republics. I had the honor of calling on you last evening for the purpose of making this communication verbally, but, as you were absent, to prevent misconceptions, I have thought it best to reduce it to writing.

Accept, I pray you, Citizen Minister, assurances of my perfect esteem and respect.

E. GERRY.

To Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers Plenipotentiary from the United States of America to the French Republic.

DEPARTMENT OF STATE,
Philadelphia, March 23, 1798.

GENTLEMEN: On the 4th instant came to hand your first despatches since your arrival at Paris; these were your numbers 1, 4, and 5; and on the 6th instant, your numbers 2 and 3 were received. On the 5th, your number 5, dated the 8th of January, and a translation of the message of January 4th from the Directory to the Council of Five Hundred, were laid before Congress. In this letter you "repeat, that there exists no hope of your being officially received by that Government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenor of your communications, and we trust that soon after the date of your number 5, you closed your mission by demanding passports to leave the territories of the French Republic.

An official copy of your letters of credence having been delivered to the Minister for Foreign Affairs, and by him laid before the Directory, they were sufficiently informed of the great objects of your mission; and, considering that you were an extraordinary delegation from an independent nation, you had a right to expect a prompt and respectful reception. The fair and honorable views of the American Government, which dictated your appointment and your powers, entitled you to expect the early appointment of a commission, by the French Government, with equal powers, to negotiate on all matters in controversy between them. Had the French Government been influenced by similar views, the object of your mission would long since have been accomplished, to the advantage and peace of both nations. But instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect.

Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions; yet, actuated as you were with an ardent desire to preserve peace, which you knew would be so grateful to your country, and having for this object manifested unexampled patience, and submitted to a series of mortifications; as you also proposed to make one more direct attempt, subsequent to the date of your last letter, to draw the French Government to an open negotiation; there is a bare possibility that this last effort may have succeeded; the President, therefore, thinks it proper to direct:

1. That if you are in treaty with persons duly authorized by the Directory, on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negotiation is or is not conducted with candor on the part of the French Government; and if you shall have discovered a clear design to procrastinate, you are to break off the negotiation, demand your passports, and return. For you will consider that suspense is ruinous to the essential interests of your country.

2. That if, on the receipt of this letter, you shall not have been received, or, whether received or not, if you shall not be in treaty with persons duly authorized by the Directory, with full and equal powers, you are to demand your passports and return.

3. In no event is a treaty to be purchased with money, by loan or otherwise. There can be no safety in a treaty so obtained. A loan to the Republic would violate our neutrality; and a douceur to the men now in power might by their successors be urged as a reason for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprize you, that a motion has been made in the Senate, and will doubtless be repeated in the House of Representatives, to desire the President to lay before them your communications; and he will probably be under the necessity of doing it; only withholding the two names which you promised should in no event be made public. I have the honor to be, &c.

TIMOTHY PICKERING.

EMIGRANTS FROM THE WEST INDIES.

[Communicated to Congress, June 27, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received a letter from his Excellency Thomas Mifflin, Governor of Pennsylvania, enclosing some documents which I judge it my duty to lay before Congress without loss of time.

As my opinion coincides entirely with that of his Excellency the Governor, I recommend the subject to the consideration of both Houses of Congress, whose authority alone appears to me adequate to the occasion. JOHN ADAMS.

UNITED STATES, *June* 27, 1798.

PHILADELPHIA, *June* 27, 1798.

SIR: I think it proper to inform your Excellency that, on the evacuation of Port-au-Prince by the British troops, a very great number of French white men and and negroes were put on board of transports and sent to America. Some of the vessels, I understand, made an attempt to land their passengers at Charleston; two have arrived at this port, and it is said that the remainder of the fleet may be daily expected in some of our harbors. To prevent, as far as I can, the obvious danger from such an importation at this crisis, I have determined, with the advice of the Attorney General, and other State officers, to prohibit the landing of any French negroes, arriving at the port of Philadelphia in vessels under the circumstances which I have stated; but the limited jurisdiction of Pennsylvania, the facility with which our regulations may be evaded, by disembarking the negroes in any adjacent State, and, perhaps, the necessity of extending the prohibition to white men, induce me to submit the subject to your consideration, and to request such a co-operation of the Federal authority as your Excellency may deem expedient for the general safety. I have added to this communication copies of the documents containing the information that I have received. I have the honor to be, with perfect consideration and respect, sir, your Excellency's most obedient, humble servant,

THO. MIFFLIN.

To his Excellency JOHN ADAMS, Esq.,
President of the United States.

HEALTH OFFICE, *June* 26, 1798.

SIR: I am directed by the Board of Managers of the Marine and City Hospitals of the port and city of Philadelphia to transmit to you, for the information of the Governor, the enclosed resolution of the board, and a copy of the letter therein mentioned. I am, sir, yours, very respectfully,

WILLIAM JONES, *President.*

A. J. DALLAS, Esq., *Secretary of the Commonwealth of Pennsylvania.*

HEALTH OFFICE, *June* 26, 1798.

At a meeting of the Board of Managers of the Marine and City Hospitals of the port and city of Philadelphia, the President read a letter addressed to him, from David Pinkerton, a passenger in the ship Josephus, from Jeremie, now under quarantine, containing important information respecting the great influx of people from the West Indies; whereupon,

Resolved, That the President be requested to transmit a copy of said letter to the Secretary of the Commonwealth, for the information of the Governor.

By order of the board of managers:

WILLIAM JONES, *President.*

SHIP JOSEPHUS, FORT MIFFLIN,
June 26, 1798.

SIR: Doctor Hall has this day communicated to us the resolution of the Board of Health respecting passengers from the West Indies; I think it would be highly proper for the Government, at this critical moment, not even to admit the landing of any French passengers whatever in the United States; there, no doubt, are some men of principle among them, but be assured that the far greatest part of those already arrived are fully ripe for any turn which we take with respect to France. There has a great many gone to the Southern States, and many were preparing to come with the next fleet. I think I should not be far wrong in saying they will exceed four thousand souls; many without any funds, and some with a considerable number of slaves, that have all been trained to arms, and have them with them, and attached to their master's interests: if any measures could be had for sending them away, it would greatly add to the security of our country. With esteem, I am your obedient servant,

DAVID PINKERTON.

Captain WILLIAM JONES.

FRANCE.

[Communicated to Congress, January 18, 1799.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The communication relative to our affairs with France, alluded to in my address to both Houses, at the opening of the session, is contained in the sheets which accompany this. A report of the Secretary of State, containing some observations on them, will be sent to Congress on Monday.

JOHN ADAMS.

UNITED STATES, *January* 18, 1799.

Letter from the Secretary of State to Mr. Gerry, dated

JUNE 25, 1798.

SIR: By the instructions, dated the 23d of March, which, agreeably to the President's directions, I addressed to Generals Pinckney and Marshall and yourself, and of which six sets were transmitted—one by a despatch-boat sent on purpose, and some of which doubtless reached you during the last month,—you will have seen that it was expected that all of you would have left France long before those instructions could arrive, and which were transmitted rather from abundant caution than necessity, seeing no probability or hope existed that you would accomplish the object of your mission. The respect due to yourselves and to your country irresistibly required that you should turn your backs to a Government that treated both with contempt—a contempt not diminished, but aggravated, by the flattering but insidious distinction in your favor, in disparagement of men of such respectable talents, untainted honor, and pure patriotism, as Generals Pinckney and Marshall, and in whom their Government and their country reposed entire confidence; and especially when the real object of that distinction was to enable the French Government, trampling on the authority and dignity of our own, to designate an Envoy with whom they would condescend to negotiate It is, therefore, to be regretted that you did not concur with your colleagues in demanding passports to quit the territories of the French Republic some time before they left Paris.

General Marshall has arrived, and delivered to the President your letter of April 16th, with its enclosures; all which were on the 21st instant laid before Congress, accompanied by a Message, in which the President declares the negotiation at an end, and that "he will never send another Minister to France, without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation."

It is presumed that you will consider the instructions of the 23d of March, before mentioned, as an effectual recall; lest, however, by any possibility, those instructions should not have reached you, and you should still be in France, I am directed by the President to transmit to you this letter, and to inform you that you are to consider it as a positive letter of recall.

I am, respectfully, sir, &c.

TIMOTHY PICKERING.

Mr. Gerry's Communications.

NANTASKET ROAD, *Oct.* 1, 1798.

SIR: I have the honor to inform you of my arrival here this morning in the brigantine Sophia Captain Geddes, from Havre, but last from Portsmouth in Great Britain; and to enclose copies of my letters to yourself of the 12th and 13th of May last, Nos. 1 and 2; of the correspondence between Mr. Talleyrand, the French Minister of Foreign Affairs, and myself, numbered according to the respective dates, from 3 to 28 inclusively; of an *arrêt* enclosed in his last letter, No. 29; of my letter to Mr. Hautval, and his answer, Nos. 30 and 31; of my letter to Mr. King, our Minister at London, and an extract to Dr. Tazewell, the bearer thereof, Nos 32 and 33; also the substance of a conference with the Dutch Minister a day or two before I left Paris, No. 34; and an anoymous publication "on the President's communication" of our despatches, said to have issued from the French office of foreign affairs, No. 35.

When I left the United States in August, 1797, the citizens, in general, appeared to be earnestly desirous of a reconciliation with France, on terms consistent with the honor, interest, and welfare, of the two Republics: these, being free from claims and controversies in regard to territory, boundaries, and many matters which embroil States, and from competitions relative to their productions, manufactures, and commerce, had a mutual and manifest interest in the renewal of their commercial and friendly intercourse with each other. Nature seemed to have entitled the United States, in their remote situation, to the peaceable pursuit of their industry, by means whereof, in its various branches, their wealth and power were rapidly increasing; and to an exemption from the conflicts of Europe, which, involving them, would check their population, drain their resources, and insure their poverty. On a candid investigation, then, of the causes of the unhappy differences between the two Governments, on a disposition to correct errors, to which all Governments are more or less liable, and on their mutual resolution to reciprocate justice, the success of the mission was conceived to depend; and as this temper marked the plan of pacification adopted by the Government of the United States, there was a rational prospect of success.

Soon after our arrival in Paris, the scene was changed, and the hope of a reconciliation being diminished, the necessity of harmony in the United States was proportionably increased, as the only means for preserving their welfare and independence at home, their rights and respectability abroad. In case of a war, there was every reason to believe that they would be able to defend themselves against any nation or coalition that could be formed against them; whilst their citizens should consider the Government, chosen by themselves, as the pole-star of their salvation; should rally round its standard, when raised for their defence; should rise superior to foreign intrigues, always expert in fomenting divisions, and often aided by popular elections, legislative debates, and clashing opinions and interests; and should promote unanimity, by toleration amongst themselves. Nevertheless, the critical state of our affairs required that France should not be furnished with pretexts for charging the American Government or Ministers with neglect of means for obtaining a reconciliation.

When the Minister of Foreign Affairs, in October last, unauthorized by the Executive Directory, as Mr. Y. had informed the Envoys, to have any communications with them, had expressed a desire to see them in their private capacities, I was opposed to a compliance individually, not from considerations of etiquette, which had no weight in my mind, but because it would infer in me a separate agency in matters wherein I was but jointly authorized. To prevent, however, the imputation of a failure of the negotiation, then daily expected, to the United States, I submitted to the measure, was unsuccessful in my attempts

to make it general, and was thereby subjected to a series of embarrassments.

The particular attentions of the Minister to me, lest they should be invidious, were in every instance but two declined, and in one of these I yielded to importunity: preferences I viewed as a source of division.

The second conference which I held with the Minister, being on the 17th of December, and his propositions to the Envoys were published with their despatches. Their answer, which was unanimously in the negative, was delivered by me to his Secretary. Mr. Y. had expected it, and expressed a surprise that the Secretary had applied for it.

On the 4th of February, the Minister, by order of the Executive Directory, proposed that I should treat separately. The circumstances thereof, and of my refusal, are generally detailed in the correspondence enclosed.

The Minister afterwards desired me, by his Secretary, to communicate to the other Envoys his proposition for a loan subsequent to the war, which he soon relinquished. On this subject, our first instructions were silent; the last were explicit, and necessary to determine my judgment.

In consequence of his letter to the Envoys, of the 28th Ventose, (18th of March,) the Minister renewed his proposition for me to treat separately, and again received a negative answer. He then proposed that I should remain at Paris until the sense of the Government could be obtained; declaring, as before, that an immediate rupture would be the consequence of my departure. To have left France, under such circumstances, was a measure which I could not justify. The power of declaring war was not entrusted with the Supreme Executive of the United States, much less with a Minister; and to have thus provoked it would, in my mind, have been tantamount to a declaration thereof. Indeed, to have plunged the nation into a war suddenly, even if it was inevitable, appeared to me, in other respects, unwarrantable. Congress, who alone had the right to adopt this measure, might, by such premature step, have been defeated in their previous arrangements, and subjected to other manifest inconveniences; and the Executive might have been placed on ground less advantageous for forming alliances, &c.: whereas, my detention at Paris gained time, if this was requisite, and could not procrastinate a declaration of war, if the United States were prepared for it. Other considerations had their weight. France, at that time, was making very formidable preparations, with a professed design *to overthrow the British Government;* and such were the exertions and enthusiasm of her citizens, armies, and administration, as to spread a general alarm throughout Great Britain. It was evident, then, to common observation, that, should France succeed, she would acquire, by the powerful navy and resources of Britain, such strength as to be able to give law to Europe, and to regions more remote; and it was rational to suppose that a coalition would be formed of such European Powers as were not in the interest or under the influence of France, to put an end to the war, by offering their mediation, and declaring their intention to oppose the Power which should refuse it. The temporizing negotiations at Rastadt had this aspect. Moreover, the internal affairs of France were in an agitated state, and threatened civil commotions. If, then, on the one hand, a new coalition against France, a change in her Government, or even a successful resistance on the part of Great Britain, had happened, a favorable opportunity would have presented itself to the United States for obtaining of her a just and advantageous treaty; and this would have been lost by a previous rupture in consequence of my departure. If, on the other hand, Great Britain, unaided, had fallen, the United States would have been in a much better condition at peace than in war with the most formidable Power the world had exhibited. In such an event, they could have had but small hopes of resisting France; and it might have been deemed madness in them even to have attempted it. For these reasons, I thought it my indispensable duty to remain a short time at Paris.

The tenor of our instructions, the last as well as the first, shows that the Government did not anticipate the proposition for treating separately, and made no provision for such an event. The French Minister has uniformly insisted that I had power to treat; because, in the instrument, he saw that the Envoys had a separate and joint authority. If the position could be established, it would authorize a foreign Government, at pleasure, to reduce the number of a commission consisting of two or more members, and thus to deprive the constituting Government of the joint abilities of its Ministers; or absurdly to insist on a separate negotiation with each Minister, and to choose from their several treaties that which should best answer its purpose: besides, in case of the misconduct of Ministers, their Government has a right to expect information thereof, and an opportunity of substituting others in their stead; but I trust that the arguments stated in the correspondence enclosed are sufficient to show that the power to treat did not exist; or, if it did, that I was justified, under existing circumstances, in refusing to exercise it.

On the 3d of April, I received the Minister's note No. 3; and, apprehending that he proposed to draw me into a negotiation, notwithstanding my resolution to the contrary, I sent him an answer on the 4th of April, (No. 4,) to which he made no reply.

On the 20th of April, considering the unpleasant situation in which I was placed, detached from the other Envoys, destitute of power to negotiate, irreconcileable to an application for it, and even to an acceptance of it, if offered, I addressed to the Minister the letter No. 5, urged him to come forward with propositions for a reconciliation, and to release me from my confinement.

At our next interview, on the 28th of April, the Minister informed me that he could not comply with my proposals, not knowing the views of the United States in regard to a treaty. To remove this obstacle, I gave the information, and in it the

fullest extent to the claims of the American citizens against France, but I was silent with respect to the guarantee of the 11th article of the Treaty of Alliance, and to what relates to the Barbary Powers; and left it with him, in the first instance, to provide for a liberal commerce to the French colonies in the East and West Indies, and to express the views of France in regard to the proposed treaty. We afterwards conferred on the necessity of sending a French Minister to the United States; and he promised to deliver me, within three or four days, the project of a treaty. On the evening of the 12th May, Mr. Humphreys arrived, and delivered me your letter of the 23d March, which, the next morning, was deciphered. Our Government could not then have been apprized of the new state of affairs; but, as it had signified "that suspense was ruinous," I thought myself authorized to give immediate information to the Minister of Foreign Affairs that I should return to America in the Sophia, as soon as she could be fitted for sea, and that it was necessary to expedite the measures we had contemplated for effecting a treaty. The Executive Directory, as well as the Minister, had, it was said, during the three preceding weeks, been indispensably occupied by the new elections; and these being finished, they could now proceed on American affairs. Had the latter required more time than I had allotted for them, I was determined to have detained the Sophia a short period, rather than to have defeated the proposed arrangements. This I considered as my duty; for, whilst the Government manifested, in their instructions, a just indignation at the treatment which their Envoys had received, it evinced a disposition to peace, and, as far as I could judge, the same temper now existed on the part of France.

On the 24th May, the Minister sent the principal Secretary of his bureau, to inform me that his Government did not wish to break the British Treaty, but expected in the new treaty such provisions as would indemnify France, and put her on a footing with that nation. To this I answered that the information gave me pleasure; that it was impossible for the United States, by violating that treaty, to become perfidious; that the treaty itself was an evidence of their good faith, inasmuch as it contained a provision "that it should not be construed or operate contrary to former and existing public treaties with other Sovereigns or States;" that if in its construction or operation France had sustained injuries, still she was sure of redress by the provisions thereof, as well as by her own treaty with the United States, and that the latter insured to her an extension of favors, in regard to commerce and navigation, if any such had been granted to Great Britain.

He said there was a second point, which respected the claims of American citizens on the French Republic; that, if the latter should not be able to pay them, when adjusted, and the United States would assume and pay them, France would reimburse the amount thereof. To this I answered, that the measure was impossible, but, that the claim might be adjusted, funded, and made transferrable by France, and be redeemed, pursuant to such stipulations as might be agreed on between the two Governments.

He then stated a third point, which respected the Consular Convention. I answered, that perhaps it would be best, as its duration would be short, to let it expire. But if the present war should soon terminate, and commerce revive in France, it may be well to revise it, in order to prevent further disputes respecting the evidence for apprehending deserters, the judicial officers for issuing warrants, and the mode of executing Consular decisions, stating, at the same time, that foreign tribunals could never be admitted within the jurisdiction of the United States. The Secretary reported the conference, and informed me, the next morning, that the Minister would send me his answer, in writing, in a few days.

On the 26th May I had a conference with the Minister, the substance of which is stated in my letter No. 24. Having pressed, on this, as well as on former occasions, the necessity of sending a Minister to the United States, he now readily acceded to it; this would have enabled France to relax from any stipulations which she might have urged there, but which might be found by her Minister in the United States to endanger the treaty.

In this state were affairs on the 27th May, when I was called on by one of the city gazettes, which announced the publication of our despatches, to deny their authenticity. Having reason to suppose that the result of this new embarrassment, if not pacific, would be very violent, I prepared for the event, being obliged to abide the consequences.

On the 30th May, I received from the Minister his letter No. 6, and returned, for answer, No. 7. In this I repeated what was published in our despatches, that X and Y had not produced a document of any kind for authorizing their conference with us. I was not disposed to accuse or exculpate the French Government or Minister. The latter had disavowed the intriguers, as they were styled, and they, in their conferences with us, had declared that they were not authorized by the Government. The matter was, therefore, left with the public, as it had been referred to their tribunal.

On the 1st June, the Minister sent me his letter No. 8, and I desired to know of the bearer why application was again made to me for the names of the intriguers, when they could be otherwise ascertained. He answered, that he believed, by the exertions of the bureau and of the police of the city, the names were discovered, and he mentioned them to me. But, he added, that matters had become very serious; that the Directory expected something from me in confirmation of this discovery, that this was the use which would be made of my letters; and that the Minister did not wish for any declaration from me but what should be perfectly consistent with truth. I assured him that no extremity should produce from me any other declaration, and sent the Minister my letter No. 10. In this I guarded against the publication, on my authority, of the names thus communicated and did justice to certain individuals who, being suspected, were nevertheless innocent.

On the 7th June the publication No. 35 appeared,

in the *Redacteur*. In this, contrary to assurances received, I was made to act a very conspicuous part, and was attacked under a thin veil of insidious compliments: the cause thereof was the detail, in the despatches, of my particular conferences. The next day I prepared a letter to the Minister for detecting the artifices, and correcting the abuses of that curious performance. But having considered that it might open a door to altercation and delay, if not defeat the great object in view, or produce a mere disavowal of the anonymous publication, which afterwards was made in No. 21, I suppressed the letter, and on the 10th June addressed to him No. 13. In this, availing myself of the pacific declaration contained in the strictures, I urged the expedition of pacific measures as a requisite to their success.

On the 11th June I received from the Minister No. 14, in which, as he had informed my Secretary, he revived the disagreeable subject of the despatches; and he concluded by formally demanding whether I was in a situation to treat. Every circumstance concurred now to prove that the despatches had excited the resentment of the Minister against the Government, as well as myself, and had changed his plan in regard to the United States.

On the 13th of June I answered that letter, by No. 15; and, on the 20th, received a reply, No. 16. In this, the Minister, in lieu of the proposed plan of a treaty, presented a general plan of negotiation, notwithstanding, as he stated it, "my persevering to think my powers were inadequate," and "the most irritating provocations;" by the first "point" of this plan, a door would have been open to endless altercations respecting the supposed abuse of the French Government, by private writings, public acts of the United States, official letters, and the despatches of the Envoys: by the second point, the sense of the treaties was to be fixed, and the rights flowing therefrom were to be established; and, by the third point, the damages of deviations from the treaties were to be examined: he then stated that "very general instructions were necessary for the negotiations, and proposed that I should apply for them. Very general, indeed, must the instructions have been, to have negotiated on such a plan as this; and it was impossible to view it in any other light than that of an evasion of the arrangements proposed. It was easy to have pointed out the misinterpretations and misrepresentations, as well as the impolicy of the plan; but I was under the necessity of avoiding this, or of entering into a formal negotiation. To allure me into it was probably the object of the Minister: for soon afterwards he invited me to discuss, in writing, some articles of the second point. In my answer, therefore, of the 22d of June, (No. 17,) I merely observed that, "if he conceived a reconciliation would be best promoted by his mode only, I sincerely wished it success."

On the 29th of June, I received the Minister's letter No. 19; in which, after relaxing from the first point of his general plan, and suggesting that the third would not meet with much difficulty, as soon as the second should be amicably adjusted, he, for the first time, proposed that I should discuss in writing some articles of the treaty comprised under the second point. Nearly three months had then elasped since I had declared I could only confer with him informally on the objects of the mission; nearly two months since he was informed of the views of the United States in regard to a treaty, and had promised to come forward in a few days with the project thereof; and six weeks since I had apprized him of my intention to embark in the Sophia. As then a compliance with his wishes would have given a sanction, not only to his departure from the plan we had agreed on for forming an arrangement, but also to the measure adopted by his Government, of accrediting, at pleasure, the whole or a part only of a commission; and as I had frequently demanded my passport, by letters, as well as by my Secretary, I passed in silence his proposition for discussion, as a measure he well knew was inadmissible, and urged, in my letter of the 1st of July, No. 20, in a more decided tone, the demand for the passport, &c.

On the 5th July, not having received an answer to my last, I called on the Minister, to know the cause of his detaining my passport, and to give him an opportunity, before my departure, of removing the obstacles to a plan of pacification. He began by observing that, in a note accompanying his last letter, he had stated two points respecting the Consular Convention, expecting that I would discuss them, as he had done, but I had not taken any notice of them; that I had said I had no powers. He had powers; and, of consequence, I should not compromit my State, whilst he would compromit his; that I might take the discussion to the United States, and my Government might judge of it; that when my colleagues were here, the Government could not treat with them; that when they were sent off, it was ready to treat with me; that, although I had no powers, I might send for them; or, remaining there, might give my Government an opportunity of sending other Ministers, if I did not choose to proceed in the business; that in this there would be no responsibility on my part; that there were but a few points for discussion, which might soon be finished; and that, if a war was the consequence of my leaving the country, it would be chargeable to me. To which I replied, that the last proposition of the Directory for me to treat, was one which I had before rejected; that, in April last, he knew I would only *confer* on the subjects of the mission, and made no objection to the measure; that, on the 29th June, after my baggage was on board, and I was ready to embark, he first proposed a discussion in *writing* of the articles of the treaty; that I considered this, however qualified, as a formal mode of negotiation, which I had uniformly declined; that, had he brought forward, as he had proposed, the plan of a treaty, and in it comprised the articles which I had stated, we might have passed on it expeditiously, and might have made it acceptable to both Governments; that the most important parts might have been first considered, and, if not adjusted, might have precluded the necessity of passing on the rest; that, in addition to the objection already stated to his mode, it commenced with the Consular Convention, which would soon expire; that, should we agree on this, and on the lesser points of the commercial treaty, he may reserve to the last the weighty articles thereof; and, failing in these, we might waste several months by a fruitless *negotiation;* that, should we unite in all the points which he has suggested, his mode of discussion would require several months; that the loss of time, by these or other means, might compromit the Government of the United States, and myself likewise; that, if a war should be the consequence of his departing from the plan we had agreed on for obtaining a treaty, he would be chargeable as the cause of it. The Minister said, the mode he had proposed was generally adopted by France. I replied, the other was not unusual, and, in the present case, was preferable, if not indispensable. He observed that the notes which I had lent him, respecting the views of the United States, were informal. I answered it was true, but that I would remove that difficulty. He then proposed the 7th of July for another interview; but afterwards put it off till the ninth. On the 6th I reduced the notes to form, for constituting a part of the treaty.

On the 9th of July I called on the Minister, and he inquired whether I had received his letter of that morning. I answered in the negative, and desired to know the contents. He replied, a discussion of two other points of the Consular Convention, on which I want your opinion in writing. I informed him that I had stated the views of the United States without discussion, and expected the same of him on the part of France; that when this was done, I would proceed to a conference on each point, but not to an epistolary discussion; that such a mode would require, of diligent negotiation, three months, and with his official engagements, double that time. He said, no; that it would not require as much time as I had conceived; that there were at most but six other points. On your side, I replied, but many on ours. He answered "*pas d'avantage*" none besides. I said that I was glad to hear it; but to such a discussion as he proposed, I should prefer treating effectually. Some of the conversation was repeated which we had on the 7th, and I renewed my demand for the passport. He answered, that my refusal to discuss must first be given in writing, and we parted. This is the substance of the two interviews.

On the same day I received the letter mentioned at the interview, No. 21, dated the 18th Messidor, (6th July,) in which, speaking of his general plan in No. 16, he says, "but it is not sufficient to send these propositions to your Government; they are only the basis of discussions, necessary on each question of detail, the solution of which we ought to find;" although in the last mentioned number he had said in reference to them. "I am persuaded that you will transmit to your Government exact documents: it will be *its* province to take the best measures for accomplishing a speedy reconciliation." In the letter first mentioned, the Minister also observes, "I have apprized you that it would be inconvenient to charge with this discussion a Minister Plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more serious, and I do not conceal from you, that I fear new incidents." The fact was, as I ascertained to my satisfaction, that, after the arrival of the despatches and other intelligence from the United States, the Executive Directory apprehended, if a Minister was sent there, that he would not be accredited; and that overtures, or any plan unaccompanied by a Minister, would meet a similar fate.

On the 10th July, in my letter, No. 22, I refused an epistolary discussion; and demanded a definite answer to my application for a passport and other documents.

On the 15th July I received the Minister's letter of the 24th Messidor, (the 12th July,) No. 23, in which he appeals to me for the truth of his assertion, "that, if nothing had prevented me from pursuing with him the examination of the grievances which separate the two countries, we should have needed nothing more than their respective ratifications." Before the arrival of the despatches of the Envoys, the Minister appeared to me sincere and anxious to obtain a reconciliation. He had proposed, by his secretary, an assumption of the debts due to American citizens, which I rejected; but he had made no other proposition of a loan whatever, and never renewed that. Indeed, his views in general, as far as I could then ascertain them, were liberal in regard to a treaty. It is, nevertheless, impossible for me to determine whether we should have united in opinion on every point of dispute between the Republics. I had a full expectation that, by the middle of June at farthest, we should have agreed on the plan of a treaty; and that a French Minister would have been sent to America for completing it. I was likewise informed of the candidate. But after the arrival of the despatches, although the Minister, in the name of the Executive Directory, declared that they persevered in their pacific intentions, he, probably for the reasons stated in explaining No. 21, abandoned the plan we had at first agreed on, substituted a general plan of negotiation, discussed some articles thereof in *writing*, and insisted, contrary to stipulations, on my answering him in the same mode. At this period, a reconciliation being quite problematical, one of his objects evidently was to prepare materials for a manifesto, in the event of a war, to show that it was a matter of necessity, and not of choice. He says, "that after the arrival of the Sophia, I was disposed to depart; till that time, he had never conceived that I had a design to embark, *before we should have agreed on the definitive articles to be ratified by my Government.*" Before and after the arrival of the Sophia, I had announced my intention to embark early in June; conceiving that the arrangements might be made by that period. I had no design, however, of departing before they were completed: provided, there should have been no reason to doubt of the Minister's disposition, or of the success of our endeavors for obtaining a reconciliation. His general conduct would have been the criterion of

the first, and our progress in this business of the last point; but having abandoned our original plan, he has not given me an opportunity to judge effectually of either.

On the 20th of July, I sent the Minister No. 24, and received on the 22d, his reply, No. 25. In this he declines a contest in regard to the facts stated by me in No. 24, which I was ready to support: he complains of my proposition for lopping from any future negotiation every preliminary of a loan, and of explanations upon speeches; and refers to his letter of the 30th of Prairial, No. 16, to prove that this step was unnecessary. But, although the first point of his plan in that letter is silent on these demands, they might, as I conceived, be hereafter revived, and were, for this reason, brought again into view: by these means they were effectually renounced.

The Minster having, the day before I left Paris, *published his letter*, No. 23, rendered necessary the publication of my answer, No. 24, and the note, No. 26, as a preliminary thereto.

On the 8th of August I received at Havre, the Minister's letter, No. 27, to which No. 28 is an answer: the former contained the arrêt No. 29; and his desire to send it by the Sophia probably produced the official impediments which for several days, prevented her sailing. The Minister is unwilling to admit that the arrêt was the effect of my representations: I believe there is no doubt of the fact; but it is a matter of little consequence.

Nos. 30 and 31 will show that Mr. Hautval, in his letter to the Minister, relative to our first interview, committed some errors and candidly corrected them.

Nos. 32 and 33 require no explanation.

No. 34 will show the object of the Dutch Minister in his conference with me, and requires no comment. I was before informed that this gentleman, if requested, would interpose his good offices, but did not think it proper to make the application.

No. 35 has already been the subject of some general remarks.

To No. 9 a verbal answer was sent by the Minister, that the letters and despatches therein mentioned "had never reached the Government."

On the 26th of July, I left Paris; and, from the best information which I could obtain relative to the disposition of the Executive Directory, (for I never had any direct communication with them) they were very desirous of a reconciliation between the Republics. Every impediment to my departure had been adopted by the French Minister: and he would have prevented it, had he succeeded in his plan of an epistolary discussion. His object was, as I conceived, to gain time for ascertaining whether the United States were then disposed to a treaty; of this he manifested doubts, being persuaded that their resentment was too great to admit of it. He seemed also to apprehend that, in consequence of the incredible exertions of Great Britain, and the unequivocal evidence she had given of her ability to defend herself, they were inclined to avenge their injuries by an alliance with her; and that, should France come forward with overtures, or the plan of a treaty, she would fail therein, and compromit her honor. I was, nevertheless, of opinion that, should France be just and liberal in her measures, the Government of the United States would still meet her on the ground of accommodation. My judgment was the result of their instructions: for I had never received any other official intelligence since my departure from America; I have, therefore, uniformly inculcated that sentiment.

Having been thus in a situation wherein, amidst a series of events, each has been productive of fresh embarrasments, I have invariably pursued what to me appeared the honor, interest, and welfare, of my country, and been guided by the sense of the Government, as far as I could ascertain it.

If the door is still open to peace, the establishment of it must be a happy event to the United States, as it will exempt them from calamities, which, notwithstanding delusive appearances, will, with short intervals, probably continue, for half a century, to exhaust and depopulate Europe.

But, if the national pulse beats high for war, and the wise and constitutional councils of the United States, shall consider it as the only safe and honorable alternative, may that Omnipotent Being, who controls events, protect them; and may they commence the war with ardor, continue it with vigor, and terminate it with glory. That this will be the issue there can be no doubt, whilst the American Republic shall choose UNION for her MOTTO; and profiting by the misfortunes of other nations, shall be convinced that *discord will insure dependence, and concord independence in war and peace.*

I shall probably, when at leisure, give you some other details of less consequence, and, in the interim, remain, sir, with much esteem and respect, your very humble servant,

E. GERRY.

TIMOTHY PICKERING, Esq.,
Secretary of State.

No. 1.

PARIS, *May* 12, 1798.

SIR: Being informed that Messrs. Prince and Brownfield, who expected to sail in the same ship with General Marshall, are yet at Bordeaux, I embrace the only favorable opportunity which has occurred since his departure, to enclose you a copy of a note, which I received from M. Talleyrand, Minister of Foreign Relations, dated the 14th Germinal, (April 3d,) of my answer of the 4th of April, and of my letter of the 20th of the same month, being the day after General Pinckney left Paris. I had intended to have sent Dr. Tazewell, who is now in my family as secretary, with my despatches to our Government, that no time might be lost in obtaining from it such arrangements for supplying my place as might have enabled me, immediately on his return, to leave France; but the measure is become unnecessary, by the prospect which I have of being able soon to embark for the United States, with the acquiescence of this Government.

The decision of the Executive Directory with respect to my colleagues, after we had obtained what we had been informed, in our first conference with Mr. Bellamy, was impracticable, a joint interview with the Minister of Foreign Relations, and, after the latter had seemed disposed to suspend matters until we could obtain from our Government an answer to our letters, was not less perplexing than surprising; and their proposition to treat with me separately was inadmissible. It was a proposition to which I had given my negative above a month before, when made to me, under an injunction of secrecy, by the Minister of Foreign Relations. I was then informed that an immediate rupture would be the result of my departure from France; and the same communication being again made, with information that, if I was determined not to negotiate separately, this Government would be satisfied with my residence here, until the Government of the United States could take their measures, I consented to this, from public considerations solely: for every private one was opposed to it. In my embarrassed situation, not losing sight of the great object of our mission, a reconciliation with this powerful Republic, I have taken a position, by which I mean to ascertain, if possible, without compromitting the Government of the United States or myself, the ultimate views of France with respect to them. It would have been impossible for me, under existing circumstances, to have consented to a separate negotiation, had the provision been made in our powers and instructions: for two of my colleagues, one from the Southern, and the other from the Middle States, having been sent back, I could have had no prospect of forming a treaty which would have given general satisfaction to my country; and I could never have undertaken any negotiation without that prospect. It is therefore incumbent on me to declare that, should the result of my present endeavors present to our Government more pleasing prospects, it is, nevertheless, my firm determination to proceed no further in this negotiation. The want of time and health preventing further communications at present,

I have the honor to remain, sir, with great esteem and respect, your most obedient, &c.

E. GERRY.

To the SECRETARY OF STATE.

No. 2.

PARIS, *May* 13, 1798.

DEAR SIR: I have the honor to inform you that the brigantine Sophia arrived at Havre the 11th instant; and last evening, at the moment of enclosing my despatches to you of yesterday, Mr. Humphreys delivered me your letter of instructions of the 23d of March, which shall be duly observed. The arrival of this vessel is a fortunate circumstance for me, and I shall embark in her for the United States, in lieu of taking my passage, as I had proposed, in one of the American merchantmen, now in the ports of France. The ultimate views of this Government, which their Minister has promised in writing in a few days, shall be obtained if possible. I am, sir, &c.

E. GERRY.

To the SECRETARY OF STATE.

No. 3

The Minister of Exterior Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French Republic.

PARIS, 14*th Germinal, April* 3, 1798
6th year of the French Republic.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations which the end of my note of the 28th of last Ventose [18th March, 1798] presents, and the obstacle which their known opinions have induced to the desired reconciliation, to quit the territory of the Republic. In this supposition I have the honor to point out to you the fifth or the seventh of this decade, to resume our reciprocal communications upon the interests of the French Republic and the United States of America.

Receive, I pray you, &c.,

CH. MAU. TALLEYRAND.

No. 4.

PARIS, *April* 4, 1798.
(*Germinal* 15*th, an* 6.)

I had the honor, Citizen Minister, of receiving your letter of the 14th Germinal, (the 3d instant,) and Mr. Deutrement, who delivered it, informed me that it was intended to be shown to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have entrusted the affairs of the Embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative conferences, and to yourself our decisions thereon; regretting, at the same time, the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as, by the tenor of your letter, it is now expected that they will quit the territory of the French Republic, it will be impossible for me to be the medium of, or to take, any measures which will be painful to my colleagues, or not to afford them all the assistance in my power; and it would be, moreover, inconsistent with the line of conduct which you well know, Citizen Minister, I have uniformly observed, for removing the unfavorable impressions which existed on the part of this Government against them. Indeed, in our last letter, there is a conditional application for passports, which, as it appears to me, supersedes the necessity of a hint to them on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe conduct, for the vessel in which he and his suite may take passage for the United States, to determine whether he shall embark from France or from Great Britain; but the unfortunate situation of General Pinckney, with respect to the

critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, Citizen Minister, the fifth or seventh of this decade for me to resume (reprendre) our reciprocal communications, upon the interests of the French Republic and of the United States. The reciprocal communications which we have had were such only as I have alluded to in the beginning of this letter, unless your proposition, accompanied with an injunction of secrecy, for me to treat separately, is considered in that light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp. Nevertheless, every measure in my power, and in conformity with the duty I owe to my country, shall be zealously pursued to restore harmony and cordial friendship between the two Republics. I had the honor of calling on you last evening, for the purpose of making this communication verbally; but, as you were absent, to prevent misconceptions, I have thought it best to reduce it to writing.

Accept, I pray you, Citizen Minister, the assurances of my perfect esteem and respect.

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

No. 5.

Paris, *April* 20, 1798.
(1 *Floreal, an* 6.)

Citizen Minister: My colleagues having been under the necessity of departing from Paris, have left me in the most painful situation, as it respects themselves, the Government and nation, which I had the honor with them to represent, and my personal circumstances. The alternatives presented to my choice were the continuance of my residence here, or an immediate rupture on my departure; I have chosen the former, prompted by every consideration of the duty I owed my country.

The object of this Government, in my remaining here, as announced in your official note of the 14th Germinal, (3d April,) was "to resume our reciprocal communications on the interests of the French Republic and of the United States." My answer informed you that "I could only confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp." This, then, I consider as the line of conduct well understood to be observed on my part; and, in the present state of affairs, Citizen Minister, I flatter myself that propositions for terminating all differences for the restoration of harmony and friendship, and for the re-establishment of commerce between the United States and France will be promptly made on the part of the latter; that they will be such as, corresponding with the justice and magnanimity of this great nation, and with sound policy, will insure success; that I shall have an opportunity of soon embarking for the United States, and presenting them to my Government for their consideration; and that all further depredations on our commerce, by the French cruisers, will, in the interim, be prohibited. If, in forming this arrangement, I can render any services, you may be always sure of my immediate and cheerful co-operation.

Measures like these will at once extinguish those coals of discord which, kindled into a flame, must be destructive of the respective interests of the two Republics; will not only restore but increase, if possible, their former confidence, and terminate in a competition for excelling each other in mutual acts of generosity and kindness.

In any event, Citizen Minister, I flatter myself it will not be thought necessary for me to remain long in France, as the state of my family and affairs requires my immediate return to the United States; and as their Consul General will continue his residence here, which, pending negotiation, will answer every political purpose.

I pray you, Citizen Minister, to accept the assurances of my most perfect esteem and regard,

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

No. 6.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

Paris, 11*th Prairial*,
6*th year of the Republic*, (*May* 30, 1798.)

I communicate to you, sir, a London Gazette, of the 26th of last Floreal, [May 15, 1798.] You will therein find a very strange publication. I cannot observe, without surprise, that intriguers have profited of the insulated condition in which the Envoys of the United States have kept themselves, to make proposals and hold conversations, the object of which was evidently to deceive you.

I pray you to make known to me immediately the names denoted by the initials W. X. Y. and Z., and that of the woman who is described as having had conversations with Mr. Pinckney upon the interests of America. If you are averse to sending them to me in writing, be pleased to communicate them confidentially to the bearer.

I must rely upon your eagerness to enable the Government to fathom those practices, of which I felicitate you on not being the dupe, and which you must wish to see cleared up. Accept the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 7.

Paris, *May* 31, 1798.

Your letter, Citizen Minister, of the 11th Prairial, [30th May,] and the gazette to which it re-

fers, were delivered to be by Mr. ——; the latter contains the whole of the informal negotiations communicated by the Envoys to their Government, and the letter states that certain intriguers have made propositions and held conversations with the Envoys, the object of which was evidently to deceive them. You have, therefore, desired me to communicate their names. If any of those persons were unauthorized to act, or, having definite powers, have exceeded them, they certainly have abused this Government and the Envoys likewise; but I am incompetent to judge of these points, as they did not produce, to my knowlege, credentials or documents of any kind.

The publications referred to are sufficient to show the delicate situation I am in with respect to the names of the persons, and are marked with such circumstances as to enable you, I flatter myself, to investigate the subject without insisting on any communications on my part.

To free, however, some innocent persons from suspicions which are said to have embarrassed them, I have no objection to declare that three of the persons were foreigners, and that the fourth acted merely as a messenger and linguist.

You will observe, Citizen Minister, how extremely averse the Envoys were from such an informal mode of proceeding, by their answer of October the 30th, to certain propositions previously made to them; that, on the 1st of November, they agreed to put an end to such an intercourse; and that they carried into effect their resolution, notwithstanding the reiterated attempts made afterwards to defeat it. They conceived it nevertheless to be their duty to make a communication of the whole to their Government.

Accept, Citizen Minister, the assurances of my perfect esteem.

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

No. 8.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

Paris, 13*th Prairial*, 6*th year*,
(*June* 1, 1798.)

I have received, sir, your letter of yesterday. You inform me, 1st, that the gazette presented contains all the informal negotiations communicated by the Envoys to their Government; 2d, that the persons referred to have not produced, to your knowledge, any authority, any document of any kind whatever, to accredit themselves; 3d, that three of the individuals mentioned (that is to say, in the order in which I have placed them, W. X. Y.) are foreigners, and the fourth (that is to say Z.) acted only as messenger and interpreter.

Although I perceive your repugnance to naming those individuals, I must earnestly request you to yield it to the importance of the object. Be pleased, therefore, 1st, either to give me their names in writing, or communicate them confidentially to the bearer; 2d, to name the woman whom Mr. Pinckney mentions; 3d to tell me whether any of the citizens attached to my service, and authorized by me to see the Envoys, told them a word which had the least relation to the disgusting proposition which was made by X. and Y. to give any sum whatever for corrupt distribution. Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 9.

Paris, *June* 1. 1798.

Citizen Minister: Being officially informed that sundry letters for General Marshall, Mr. Murray, our Minister at the Hague, Mr. Bourne, our Consul at Amsterdam, the house of Lange & Bourne, and myself, captured in the American ship Farmer, some time since, and sent to Rotterdam, were, by order of Mr. Delacroix, transmitted to Paris, in pursuance of the instructions he received from this Government, and having made several unsuccessful efforts to recover these despatches, permit me to request your assistance for obtaining them without further delay.

Accept, Citizen Minister, the assurances of my perfect esteem and respect.

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

No. 10.

Paris, *June* 3, 1798,
(*Prairial* 15, *an* 6.)

Citizen Minister: Mr. —— has delivered me your letter of the 13th Prairial, wherein, after recapitulating a part of mine, of the 31st of May, you request me immediately to submit to the importance of the object, and, 1st, to give you, in writing, or communicate confidentially to him, the names of those persons designated by the letters W. X. Y. Z.; 2dly, to name the woman quoted by Mr. Pinckney; 3dly, to inform you whether any of the citizens attached to your employments, and authorized by you to see the Envoys, have said one word which had the least relation to the shocking proposition which has been made by X. and Y., for us to deliver any sum whatever for a corrupt distribution.

With respect to the persons designated by X. Y. Z., I will enclose you their names under my hand and seal, on your assuring me that they shall not be published on my authority, although the measure does not appear to me necessary for their discovery; and Z., as he informs me, has made himself known to you. But W. never having spoken to me a word relative to X., or to any part of our communications, the manifest impropriety of my giving hearsay information will, I presume, apologize for omitting it.

I cannot give you the name of any lady, for no one has made any political communications to me since my arrival in Paris.

In regard to the citizens attached to your em-

ployments, and authorized by you to see the Envoys on your official communications, I do not recollect a word from any of them which had the least relation to the proposition made by X. and Y. in their informal negotiations to pay money for corrupt purposes. Accept, &c.,

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS
of the French Republic.

No. 11.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 16*th Prairial, 6th year,*
(*4th June*, 1798.)

Your letter of yesterday, sir, has just been handed to me. You may render to me, in perfect confidence, the names you mention to me, under your hand and seal. I assure you that they shall not be published as coming from you. Receive, sir, the assurance, &c.,

CH. MAU. TALLEYRAND.

No. 12.

PARIS, *June* —, 1798,
Prairial, —, 6 *an.*

The names of the persons designated in the communications of the Envoys Extraordinary of the United States to their Government, published in the "Commercial Advertiser" of the 11th of April last, at New York, are as follows:

X., is Mr. ——.*
Y., is Mr. Bellamy.
Z., is Mr. Hautval.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS,
of the French Republic.

No. 13.

PARIS, *June* 10, 1798.

CITIZEN MINISTER: Having been informed by my secretary, on the 7th, that you proposed to write to me the beginning of this decade, I have impatiently expected, but not yet received your communications.

The arrival of the newspapers, containing the despatches of the Envoys to the Government of the United States, after embarrassing and detaining me a fortnight, has produced a publication, wherein it is declared that this Republic "will never cease to manifest her dispositions to live in peace with America."

If this declaration really is, as it appears to be, official and expressive of the sense of this Government, and is followed by a system of policy superior to unimportant considerations, permanent friendship may soon be established between the two Republics.

When it is considered that nine months have elapsed since the arrival in Paris of the Ministers who were charged with this important negotiation, and six weeks since the departure of two of them; when this delay, and a series of the most unfortunate events, have inevitably produced alarming apprehensions, on the part of the Government and citizens of the United States, that France is hostile towards them, and waits only for a favorable opportunity to evince it; when France herself, in the publication mentioned, has declared that her enemies flatter themselves with the hope of exciting in the United States a war against her; when in this belief she must be convinced that, in such a critical state of affairs, events are too rapid to admit of delay; when such is the decision and ability of this Government, in some of its most important negotiations, as to require but a few days to complete them; I flatter myself that such an arrangement on the part of this Government will speedily be made, as will manifest its amicable dispositions towards the United States, quiet the apprehensions of their Government, open, on a liberal system, the channels of their commerce with this country, and afford them a well-grounded assurance of a speedy and happy issue to their efforts of peace.

The brigantine Sophia, Henry Geddes, master, in which I mean immediately to embark, is national property; but, nevertheless, subject, as is represented, to detention by the embargo at Havre; I must request, therefore, an order for exempting her from this prohibition.

My passport, and the letter of safe conduct for the vessel, are not yet received. Accept, I pray you, &c.,

E. GERRY.

To the MINISTER of FOREIGN AFFAIRS
of the French Republic.

No. 14.

The Minister of Exterior Relations of the French Republic to Mr. Gerry, Envoy of the United States.

PARIS, 22 *Prairial, 6th year,*
(*June* 10, 1798.)

You could hitherto have remarked, sir, in my letters of the 11th, 13th, and 16th of this month, nothing but my eagerness to fathom the dark intrigue therein referred to, and to discover its ramifications. All further explanation, in this respect, would be beneath the dignity of the French Government.

But I will not preserve the same silence on the intention manifested by the Message of the President of the United States to the Legislature, of the 14th Germinal, (April 3d, 1798,) by the nature of the documents adduced as pertaining to the basis of a negotiation, by the rapid publicity given to this strange collection, by the concealments made of the official communications. That intention is too well perceived in France and

* Mr. Gerry has inserted the proper name of X. in this document, as given to Mr. Talleyrand; but the person designated by X. not having (like Y.) avowed himself, the promise made by the Envoys to him and Y., "that their names should in no event be made public," is still obligatory on the Executive in respect to X., and therefore his name is omitted.

T. PICKERING.

America to require a development. It is sufficient to repel the rumor so injuriously spread of the hostile dispositions of France; I will, therefore, refer myself to the note addressed to the Envoys on the 20th of last Ventose, (March 18, 1798.) I doubt not that they will have promptly forwarded it to the President of the United States; and I must believe that, as soon as it shall be made public, it will efface from the minds of the American people the ill-founded uneasiness which they have been made to entertain. As to the French Government, superior to all the personalities, to all the manœuvres of its enemies, it perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries. I confirm it to you anew. The French Republic desires to be restored to the rights which its treaties with your Government confer upon it, and through those means it desires to assure yours. You claim indemnities; it equally demands them; and this disposition being as sincere on the part of the Government of the United States, as it is on its part, will speedily remove all the difficulties.

It remains for me to ask you, sir, whether you are at length in a situation to proceed towards this important object. Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 15.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *June* 13, 1798.

I have received, Citizen Minister, your letter of the 22d Prairial, (10th June,) wherein, after informing me that all further explanation, respecting the dark intrigue in question, will be below the dignity of the French Government, you say that you will not keep the same silence upon the intention manifested in the Message of the President of the United States to the Legislature, the 14th Germinal, (3d April;) in the nature of the pieces produced, as forming part of a negotiation; in the rapid publicity given to this strange collection; and in the concealment of official communications, by which, in the subsequent part of your letter, you allude to your note to the Envoys, of the 28th Ventose, (18th March last.)

If the wishes and interests of the two Republics call loudly for an accommodation of their differences, (and of this the Government of France, as well as that of the United States, appears to be convinced,) is not a restoration of friendship between them one of the most direct means for accomplishing that desirable object? And is it not altogether neglected? The unfounded prejudices against the President of the United States, in regard to his Message, will be manifest by comparing it with his official duty, designated by the Constitution, and also by referring to the dates of your note and of his Message; whereby it will appear that the latter was but sixteen days later than the former, and that it was impossible that the President could have received your note, or concealed it from the public. The Government of the United States, pure in its principles, just in its objects, and wise in its councils, is also superior to all personalities; and I wish these may forever cease; for sure I am that, from such a source, no good, but infinite injuries, may result to the two Republics. You conceive that your note, which was duly transmitted by the Envoys to the Government, when published, will efface from the minds of the American people their unfounded inquietude. Of this I can form no judgment; but, before you addressed that note to the Envoys, the proposition therein contained had been made to me to treat separately, and I had stated that the measure was in itself impolitic, and, as it respected myself, impossible.

I have, nevertheless, contrary to my wishes and interests, complied with your subsequent proposition for remaining here to prevent a rupture. I have been happy, since, by your repeated assurances that this Government was sincerely disposed to reconcile all differences between the two countries, and probably would soon make an arrangement adequate to the object. Indeed, I had great reason to hope that I should have been furnished with a copy of it before my leaving Paris, and I earnestly wished it, lest the disappointment which might result from my return to the United States without it, should produce unhappy effects; but the vessel in which I am to embark being ready for sea, waits only for my arrival at Havre, with the requisite documents for the voyage.

The sincerity of the disposition of the Government of the United States to meet this Government on the ground of the existing treaties between the two countries, and to do justice to France, as well as to receive it from her, is too evident to admit, for a moment, of the least doubt; but I again repeat that I have no powers to enter on the negotiation. Nevertheless, the proposed arrangement might be made by this Government, and a Minister be sent to America to complete it; as it is of little consequence to either in which nation the negotiation is concluded, but of great importance to both that it should terminate in an immediate accommodation, and in the restoration of their friendship. I presume that in this our wishes are alike sincere and ardent, and that the magnanimous policy of this Government to persevere in the intention to reconcile with sincerity all the differences between the two countries, will have a speedy and happy effect. Accept, Citizen Minister, the assurances of my perfect respect.

E. GERRY.

No. 16.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 30*th Prairial, 6th year,*
(*June* 18*th*, 1798.)

I have received, sir, your answer of the 27th of this month, to my letter of the 22d. You take the trouble to observe to me that my note of the 28th

Ventose, (18th March, 1798.) could not have made a part of the documents communicated by the President of the United States on the 14th Germinal, (April 3d, 1798.) Do me the justice to believe that I have not committed this mistake.

You persist in thinking that your powers and your instructions do not permit you to proceed to the conciliating of the differences between our two Republics. You even announce to me, positively, your departure for the United States in the vessel which your Government has despatched to Havre. I should have presumed that, after having received and transmitted to Philadelphia my note of the 28th Ventose, that one of the Envoys, whose impartial dispositions appeared to promise a reconciliation, would wait at Paris for further instructions and powers, if he had need of them. It even appears to me that these documents cannot now be long in reaching you, provided your Government is as averse to a rupture as you assure me. The part you take tends to give room to conjecture that the vessel arrived at Havre has only brought you orders similar to the acts of which I complained on the 22d of this month.

Nevertheless, sir, such is the sincerity of the assurances which I have given you in the name of the Executive Directory, on the 28th Ventose, and which I have since repeated to you, notwithstanding the most irritating provocations, that I do not hesitate to explain myself to you as if you were in a situation to receive my overtures.

All negotiation between France and the United States must essentially rest upon three principal points.

1st. Frank and amicable declarations concerning certain circumstances which malevolence has, and may yet, misrepresent.

It is utterly false, notwithstanding the public and private insinuations which have been made in private writings and in solemn acts, that the French Government has ever sought to detach the people of the United States from the Constitution they have given to themselves. It has complained of the American Government, but to the Government itself. Justice demanded that it should render homage to the sympathy of a free people for the cause of liberty, and it did not go further.

The Secretary of State, Mr. Pickering, has inserted in his public letter to Mr. Pinckney, (of the 16th of January, 1797,) assertions against the good faith of France in the negotiations of 1782, which have no other foundations than the interested communications of the English negotiator. It is a long time that this insidious weapon, forged by the enemies of France, has been used in the dark.

It is of importance to the two countries to understand each other equally concerning the true value of several documents published as emanating from the French Government, and of the private acts of certain agents, whom it has disavowed. In effect, it is only by destroying all the germs of distrust that a good understanding can reappear, and continue hereafter without being obscured.

2d. Fixing the meaning of several articles of the treaties between the two countries, and the absolute enjoyment of the rights which flow from them.

Long before the war, the 9th and 12th articles of the convention of the 14th of November, 1788, the first relative to deserters, and the second relative to the jurisdiction of the Consuls, were a continual source of altercations. They have become completely null by interpretations foreign to their manifest intent. It is necessary to perfect them.

By the 6th article of the Treaty of Alliance, France has renounced the Bermudas, New Brunswick, Nova Scotia, Cape Breton, Canada; in other words, it has renounced the procuring for itself of one of the ports, which would have been so necessary for it to possess for the protection of its sugar islands. It devoted, in preference, the effort of its arms to the defence of the United States. It was understood that it should find proportionate advantages in their ports. One of these advantages is found implicitly in the 17th article of the Treaty of Commerce of the same day. The French ships, public and private, may freely enter into the American ports with the prizes which they may take. The ships, public and private, of the enemies of France, who may have taken prizes from it, shall not, on the contrary, have any asylum in those ports. Such is the literal sense, such is the intended sense. Does good faith permit a distinction between the vessels of the enemies of France, who leave their prizes without the port, and those who come in with them? Can it be decided that the latter only should be excluded, without evidently violating the clause of the treaty which is the most important to France? Can it be invalidated by subsequent engagements? Doubtless not.

In virtue of the same 17th article, no authority whatever of the United States is permitted to interfere with the prizes taken by French ships, public and private. The captains are only bound to show their commissions, because it is necessary to be able to distinguish the pirate from authorized vessels. It is also lawful to demand the release of a prize taken within the extent of the jurisdiction, that is to say, within the reach of cannon shot. But what abuse, what vexations, what odious chicanery have flowed from the deviation from the meaning of the article? The Government of the United States has rejected the precautions suggested to remedy the evil. Experience has shown that without those precautions the article is illusory.

The United States permitted the sale of French prizes until Prairial, 4th year (May or June, 1796.) At this period the Supreme Court decreed the revocation of this advantage, in virtue of the 24th article of the treaty with Great Britain. The 27th article, nevertheless, adds, that that treaty shall, in no respect, alter those which the United States may have previously contracted. But the liberty enjoyed by the French vessels of war of selling their prizes is derived from the 17th and 22d articles of the Treaty of Commerce of the

6th February, 1778. The 17th article would be of little value, if it were confined to the right of asylum. The 22d article would be mere surplusage, if it did not declare a right for the French and an interdiction for their enemies. Great Britain obtained a similar right only on condition that it should be without force in all cases wherein France should be interested. When the United States concluded their treaty with Holland, in October, 1782, the memory of the treaty of 1778 was not yet weakened, and the exclusive privilege of the 22d article of the latter is formally acknowledged in the 22d article of the former.

The same 22d article of the treaty of 1778 must be appealed to against the refusal given to French vessels of war to make any change of their armament in the United States. If the desire to prevent the disorders of which the American Government complained, induced the Committee of Public Safety, in the beginning of the second year, to cause all original armament in the name of the Republic, in the United States, to be stopped, it did not intend that the abandonment of a doubtful pretension should carry with it that of an explicit right.

In the 23d and 24th articles, France and the United States have agreed that the neutrality of the flag should determine that of the cargo, and have contracted the too extended catalogue of contraband merchandise. It would have been pleasing to the Republic to see in general prevalence, a system conformable with sound justice, and which it flatters itself one day to extend. But how could the obligation remain reciprocal between it and the United States, when there no longer remained a parity of situation.

The English Government has abused the liberality of France to her injury, since the commencement of 1793, and has not even spared American cargoes bound to French ports. Principles, contrary to those which influence the Republic, have been consecrated since, in the 17th and 18th articles of the Treaty of London. It is doubtless a forced concession on the part of the United States, who, until then, made it their glory, in all their treaties, to aim at the liberty of the seas; but finally, it is a concession made by them in favor of England. France ought to enjoy it, in virtue of the second article of the Treaty of Paris: its regrets cannot render it insensible to its rights.

It ought, in virtue of this second article, which renders immediately common to it every favor accorded by the United States to any nation whatever, to claim some other parts of the Treaty of London.

3d. The impartial examination of the damages which have resulted from the deviation from the treaties of 1778.

The treaties which bind the two nations have been insensibly rendered insignificant by sophistical interpretations. The clearest clauses have been finally denied. The American Government has never paid regard to the successive complaints of the Ministers Plenipotentiary of the Republic. It has never admitted them to enter into conference on this subject. It has always taken upon itself to decide; although in every reciprocal contract, neither party possesses the exclusive right of interpretation. After having exhausted itself in representations, the French Government was obliged to cause its complaints to be unfolded for the last time, on the 25th Brumaire, fifth year, (November, 1796.) Stripped of the advantages which the most sacred, the most liberal treaty assured to it, it has been forced, in order to bring the United States back to their obligations to France, to imitate the conduct which England pursued previously to the Treaty of London.

That Court moderated its measures after its object was accomplished: the present complaints of the United States might have been prevented, if those of the French Government had been attended to. The complaints which the United States now make are, in fine, only the consequence of a state of things which has cost the French Republic and its citizens the most considerable damages. The French Government, nevertheless, has not ceased to offer the exact justice which it demands. It has never refused, and never will refuse, to enter into discussion upon every proper subject.

I have given, sir, to these three points a large development. We are very near an agreement, when we really desire it on both sides, and when we candidly admit the state of the question. You see the negotiators require very general instructions, in order to obviate the inconveniences which are prolonged even until now. I believe, to fix the meaning of our treaties, it will be proper to draw up a declaration concerning it, to be hereafter obligatory upon the two parties, and considered as making part of the original acts; a declaration which, that it may have the force of law, should be established by the ratifications which the Constitutional forms respectively require.

The United States are placed in that happy unconnected state, which makes them, doubtless, set a particular value upon the clauses of their treaties, relative to their commerce and navigation. It is the effect of the long neutrality which they have the hope of maintaining. But France, although firmly determined, since it has become a Republic, to live in peace with all nations, cannot flatter itself with escaping the scourge which periodically torments Europe; and prudence requires that it preserve the rights which treaties secure to it, in neutral ports, in time of war. With this double view, the American negotiators digested the Treaty of Commerce of 1778. Although it be reciprocal upon the whole, some provisions are more specially applicable to the fixed position of the United States; and others have allusion only to the eventual position of France. The latter has made great sacrifices for the independence of the former. France has stipulated few advantages—advantages which do not in any respect injure the United States, and the lawfulness of which no foreign nation can contest. The French Republic will never renounce them.

It is now in the power of the United States to realize the dispositions which you manifest in their name. The prudence of your connexions in

France has preserved you from the prejudices which it is difficult not to contract, when one is less on his guard against foreign and domestic intrigues. I persuade myself that you will transmit to your Government only accurate documents. It will belong to it to pursue the best measures to effect a prompt reconciliation; and I ardently desire that they may correspond with the wish of the Executive Directory.

I continue, however, to think that, instead of returning to the United States, it would be preferable that you should ask for the instruments necessary to the negotiation. Nothing could more accelerate the drawing together of those ties, which the French Republic and the true Americans have regretted to see relaxed. Your presence at Paris, if the powers, which must be supposed to be on the road, should soon arrive, may momently accomplish the object which we both ambitiously pursue.

Your departure, on the contrary, will give a new activity to the plots laid for precipitating the two countries into measures which are as repugnant to their inclination as to their interests.

The French Government being, besides, penetrated with the same sentiments, which you testify, will hereafter wait for what may be addressed to it, and with pleasure will behold you as the organ. Accept, sir, the assurances of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 17.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *June* 22, 1798.

I received, Citizen Minister, on the evening of the 20th instant, your letter of the 30th Prairial, (18th of June,) in answer to mine of the 13th. You say you have not made the mistake respecting your letter of the 28th Ventose. I am not disposed to impute to you a mistake, if you have not made it; although I think that your letter will warrant the construction I gave it: be this as it may, justice requires that the President of the United States should be free from the imputation of having concealed official communications, when he had published all which it was possible for him to have received.

You should have presumed, as you state, that, after having received and transmitted to Philadelphia your note of the 28th Ventose, (the 18th of March,) I would wait at Paris for instructions, and further powers, if necessary. But I had a right to expect, from what had passed between us before the arrival of the brigantine Sophia, and, indeed, after it, that I should have received, for the consideration of the Government of the United States, propositions on the part of this Government for reconciling the differences and restoring friendship between the two Republics; that I should, ere this, have been on my passage to the United States; and that a French Minister would have been sent to Philadelphia to complete the negotiation.

I accordingly informed you, before the arrival of the brigantine, that I should embark for America in June; and, after her arrival, that I should take my passage in her, as soon as she could be fitted for the sea.

You have stated, and developed three points, on which you conceive the negotiation between France and the United States ought essentially to rest. Your letter on this subject I will carefully communicate to my Government; and if, after the voluminous official discussions, on the part of each of the Republics, of the subjects in dispute between them, you conceive that a reconciliation will be best promoted by this mode only, I sincerely wish it success.

You say that France, in her treaty with the United States, has stipulated few advantages, which in no wise injure them, and the legality of which cannot be contested by any foreign nation. You then add, that the French Government will never renounce them.

The Government of the United States never desired of France a renunciation of any right, to which she is entitled by their existing treaties; in construing some parts of these, the two Governments have different opinions: but this is not unusual between nations; and when they are amicably disposed, and governed by the principles you have justly laid down, that neither party has the right of exclusive interpretation, they are generally successful, if direct measures fail, in adjusting their disputes by arbitration: this mode has been successfully adopted by the United States with other nations.

My connexions in France, Citizen Minister, have neither preserved me from, nor subjected me to prejudices. I am governed by my own principles; those, you may be assured, will always prompt me, in the discharge of my duty, to present to my Government exact documents and statements of facts.

It is impossible for me to apply to the Government for the necessary instruments to conduct the negotiation. On the other hand, should such a proposition be made to me, I should certainly, under existing circumstances, decline it. Nevertheless, I again assure you, that it will give me the greatest pleasure, if, by any other means, I can contribute to a just and honorable accommodation of the differences between the two Republics.

My return to the United States, which is indispensable, cannot, as I conceive, be attended with the effect you mention; more especially as the connexion between the two countries will be still kept up by their respective Consuls. Accept, Citizen Minister, the assurances of my perfect respect.

E. GERRY.

No. 18.

Mr. Gerry to the Minister of Foreign Relations of the French Republic.

PARIS, *June* 25, 1798.

CITIZEN MINISTER: I am again under the necesity of applying for necessary documents to enable me to return to the United States; and as you cannot be insensible of the manifest disadvantages on my part resulting from the delay of them, I presume that they are now in readiness. Accept my assurances of esteem and respect.

E. GERRY.

No. 19.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, *9th Messidor, 6th year,*
(*June* 27, 1798.)

In answering, sir, your letter of the 4th of this month, (22d June, 1798,) I regret that I am obliged to recur to the first paragraph. I complained that the publications made at Philadelphia on the 19th Germinal, (8th April, 1798,) did not contain all that your Government then knew. You supposed that I alluded to my note of the 28th Ventose, (18th March,) which could not, however, have reached the President. I begged you not to attribute that mistake to me. You appear to adhere to your interpretation. From respect to your sincerity, of which I cannot doubt, I will surmount my repugnance to minute digressions, and will point out to you that one of the concealments which is the most striking.

I have been furnished from the United States with the clearest proofs, supported even by articles extracted from the American papers, of the knowledge which subsisted there before Germinal, (before the 21st of March,) of the objections of the Executive Directory to any negotiation with two of the Envoys, and of its express desire of treating with you. In effect, I early testified to you these dispositions; and the declaration on this subject, inserted in my note of the 28th Ventose, (18th March,) was only the official expression of a thing already comprehended as well at Philadelphia as at Paris.

For the rest, sir, let us hereafter pass over these useless episodes, and let not our communications further bear the tint of recriminations. Those who are truly impartial, will, perhaps, discover a degree of generosity in this proposition coming from my side.

Let us seriously resume our explanations. It is for facts to prove the reality of the intentions professed on both sides. My last letter attested to you very forcibly those of the Executive Directory. You do not allow those of the President of the United States to be doubted. How, then, happens it that, after having received propositions, wherein everything is combined for a frank and prompt conciliation, you in some sort shut the door against all future advance?

You seem to insinuate that these propositions have long been delayed. They could not have been made until after the departure of your colleagues; the first open negotiations upon the differences which subsist between the two countries take their date only since that recent period: nothing was entered upon as long as the three Envoys were present: one alone manifested a temper of reconciliation. Afterwards, some time was necessary to unite the views you suggested with the determination the Executive Directory has made, to place the respective interests in front. I did not, above all, partake in your opinion concerning the utility of your carrying the overtures of the French Government personally to Philadelphia; and I never thought it advantageous to send thither a Minister Plenipotentiary from the Republic before the happy issue of the negotiations commenced. I was, nevertheless, about to transmit the result of my reflections in the beginning of Prairial, (between the 20th and the last of May,) when the incident happened, which for a momen suspended the principal object. I do not see what delay I could have prevented. I am mortified that circumstances have not rendered our progress more rapid, and it is in order to accelerate it, as well as to obviate every new casualty, that I have pressed you in my last letter to remain at Paris.

Did you not come here, sir, to establish friendship between the two Republics, and determined to spare nothing to attain this end, as desirable to the United States as to France? Do not the full powers given to the Envoys authorize them to negotiate separately? Is it after what has passed at Philadelphia that you can withdraw yourself? Ought you to do so when the French Government, superior to all resentments, and never listening to anything but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement? I have invited you to request promptly new powers, if you thought you stood in need of them, and they were not on their passage. You answer, that this step *is for you impossible*, and *that you would, besides, under existing circumstances, decline taking upon yourself the conducting of the negotiation*, if it was confided to you. I cannot reconcile this language with the avowed object of your voyage to France, with your full powers, with your attachment to your country, with the assurances you do not cease to give of the sincerity of your Government.

I commend these observation to you, sir. Reflect on the possible consequences of your departure, and judge for yourself, whether he who truly wishes for peace ought to consent to it.

Let us continue more and more to advance the work we have entered upon. I may almost venture to say that it is your duty. The propositions which I have made to you embrace three points.

The first will take but little time, and may be postponed.

The third will doubtless experience no difficulty on either side, after the second shall be amicably settled.

It is to the second, therefore, that we should first attend; and it is so much the more important, as it embraces the source of all our differences. A calm and candid discussion will successively clear up every article of them. I do not see that the voluminous discussions which have been entered into at Philadelphia have shed any light upon it. They have rather contributed to set up the passions in the seat of reason. Ours shall always be followed by a conclusion either in the cessation or

admission of the right reclaimed. It is necessary, in order to effect the act declaratory of the meaning of our treaties. As to the eventual arbitrament of a third Power, I do not know whether the United States have sometimes had recourse to it. The French Republic has never experienced the want of it; and I am persuaded, that, on this particular occasion, it will readily come to an understanding with the United States, if they are determined to be just towards it, as it desires to be towards them.

Let us begin with the ninth article of the Consular Convention of the 14th November, 1788. I annex a note upon the difficulties its execution meets with in the ports of the United States. It shall be followed by similar notes, upon each of which we will endeavor to come to an agreement.

Accept, sir, &c.

CH. MAU. TALLEYRAND.

Note upon the 9th article of the Convention between France and the United States, of the 14th November, 1788.

The beginning of this article declares, "that the Consuls and Vice Consuls may cause to be arrested the captains, officers, mariners, sailors, and all other persons, being part of the crews of the vessels of their respective nations, who shall have deserted from the said vessels, in order to send them back and transport them out of the country. For which purpose the said Consuls and Vice Consuls shall address themselves to the courts, judges, and officers *competent*." Before 1792 it frequently happened that the judges, acting under the authority of the individual States, have pretended that they were incompetent. On the 14th April, 1792, an act of Congress declared that the district judges, acting under the authority of the United States, should be *competent*. All the judges of the individual States have since thought themselves justified in declining to render their aid; but as there are many more ports in the United States than district judges, and as they do not even always reside at a port, the French Consuls and Vice Consuls have often been unable to hinder desertion, to the great detriment of the vessels of their nation. The Consuls of the United States do not experience those difficulties in the ports of the Republic. Reciprocity, as well as the meaning of the article, require that it should be declared "that all the officers of justice having power to order the arrest of mariners, shall be considered competent, and as such bound to comply with the request of the Consuls, in the manner and in the cases stipulated."

The article proceeds, "and shall demand the said deserters in writing, proving, by an exhibition of the registers of the vessel or ship's roll, that those men were part of the said crews."

The mariners have often waited till the departure of their vessel to desert, and have afterwards not only braved the authority of the Consul, but served to debauch other crews. It has often been sufficient for them to go from one port to the nearest neighboring port to be secure from all pursuit. The Consul being no longer able to produce the roll with ease, or not having it in his power to detach it from the vessel, where it should remain, is no longer admitted to make a claim. He in vain produces a copy of the roll made in chancery and duly authenticated; no faith is ascribed to it, notwithstanding the tenor of the first paragraph of the 5th article of the convention; it is maintained that the original roll is necessary; and thus the spirit of an important stipulation is destroyed by the ambiguity attributed to the letter. It would be requisite to declare "that, by register or ship's roll, not only the original is understood, but every authentic copy or extract, certified to be conformable to the original, by a judge of the country, before the departure of the vessel, and that this extract or copy shall have, in all the ports of the respective Powers, the same force with the original for three months."

CH. MAU. TALLEYRAND,
The Minister of Exterior Relations.

PARIS, *9th Messidor, 6th year.*

No. 20.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *July* 1, 1798.

I have received, Citizen Minister, on the 11th, your letter of the 9th Messidor, (27th of June,) but without an answer to mine of the 25th of June, or the documents therein demanded for my voyage to America. You say, "they have furnished you from the United States with the most clear proofs, supported even by articles extracted from the American papers of the knowledge which they had there before Germinal (20th of March) of the objections of the Executive Directory to any negotiation with two of the Envoys, and of its formal desire to treat with me." Admitting this, it does not prove to my mind that the President of the United States had received official communications and concealed them; but it is a convincing proof that the information of these facts must have been sent from hence to the United States, when secrecy respecting them, imposed on me previously to their communication, was strenuously insisted on.

You have made what you consider a generous proposition, that our communications should not be tinged with any more recriminations: is the subsequent part of your letter altogether free from them? My silence on the abuse offered to the Government of the United States, its Envoys in general, and myself in particular, in an anonymous, but apparently official publication of the 7th of June, must afford you unequivocal evidence that I had already adopted the measure you have proposed.

It is inconceivable to me that, being without powers to negotiate, my return to the United States, after such long notice, can be supposed in any degree to close the door to subsequent steps for a reconciliation. The door has always been and still is open, on the part of the Government of the United States. It is impossible for any Government to exceed it in the moderation and justice of its measures towards France, or in its

perseverance and patience to execute them; but it having failed in two attempts, will not France make one effort to obtain a reconciliation between the two Republics? Consider the disagreeable predicament in which the Government of the United States has been involuntarily placed, and it is conceived you cannot fail to see the propriety and policy of this measure.

I have, in my last letter, stated to you truly what I conceived was well understood between us, respecting my return to the United States with the overtures of France, and her sending a Minister there to complete the negotiation. How we could misunderstand each other on these points is to me incomprehensible. Be this as it may, it is not very material who is to be the bearer of the propositions, if they are such as can be accepted by the United States.

You inquire whether I am not come to establish friendship between the two Republics, and determined to spare no pains to attain this desirable object? Judge yourself, Citizen Minister, whether I have not faithfully discharged my duty in this respect.

You ask whether I am not authorized to treat separately? Had my colleagues relinquished their office, been recalled, or by physical means been disqualified to act, my powers would have been adequate to a separate negotiation, and I would have entered on it without delay. As matters are circumstanced, I have no such powers. You differ from me in opinion on this subject, but I must abide by my own judgment.

You declare that France, superior to all resentment, and only listening to justice, manifests a zeal to conclude a treaty solid and mutually satisfactory. Be assured, Citizen Minister, that the United States will with ardor meet such a disposition on the part of France; and that it cannot fail of success, if accompanied with a suspension of the long and ruinous depredations on our commerce, and with proper arrangements for a negotiation.

In my last letter you will perceive that, having particularly referred to the mode adopted by the United States with other nations, I could only allude to that of deciding, by Commissioners, disputes which could not be adjusted by direct means. You have misconceived my intention, if you supposed it extended to the eventual arbitration of a third Power.

My frequent applications for a passport, letter of safe conduct for the vessel, and her exemption from the embargo at Havre, have been altogether unnoticed. I hope you will not, by the continuance of this unusual mode of conduct, render an explanation of it immediately necessary.

Accept, Citizen Minister, the assurances of my perfect respect. E. GERRY.

No. 21.

The Minister of Exterior Relations to Mr. Gerry.

PARIS, 18*th Messidor*, (*July* 6, 1798)
6th year of the French Republic.

I have received, sir, your answer of the 13th of this month to my letter of the 9th. I will not conceal from you that this kind of correspondence gives me the more pain as it injures the progress of our business.

It is clear that *before Germinal* (before 21st of March) the intentions of the Executive Directory could not be known at Philadelphia but by communication from Paris; but I attest that they did not proceed either from the French Government, or its agents, or from any one whatever, to my knowledge.

In the meantime, let us admit the gratuitous supposition that you make upon this subject. Is it, therefore, less true that my overtures to treat with you were known in the United States, when it was there declared that France refused all negotiation?

You tell me that the United States having been twice baffled in their attempts, it belongs to France to make an effort in order to effect a reconciliation between the two Republics. What name, therefore, do you give to the indefatigable zeal which I manifest to smooth all the difficulties, and bring about an honorable accommodation? It is a genuine effort, sir, the merit of which might be better appreciated. What, on the other hand, are the two attempts of the United States? I know of no other mission on their part, in consequence of the declaration made at Philadelphia, on the 25th Brumaire, 5th year, (November 15, 1796.) than that confided jointly and separately to Messrs. Pinckney, Marshall, and yourself. I will not retrace the causes which have prevented the Envoys collectively from attaining the most complete success; but I will affirm that they are foreign to the French Government, and that, in any state of the cause, it depends upon you to fulfil the expectation of the two countries.

You deny, sir, that there was some generosity on my part in proposing to you to banish hereafter from our communications all useless episodes, and especially no longer to give a place in them to recriminations. This is another episode; but, since you force me to it, it is necessary that I should explain myself more fully. If, now and then, some anonymous publications, of a nature disagreeable to the American Government, have crept into the French papers, it would not become it to complain. For a long time, certain papers of the United States, the editor of one of which is the printer of the Senate, daily spread abroad the most atrocious calumnies, the most injurious insinuations, the most base reflections, upon the French people, their institutions, their Government, their legislators, the heads of their Executive, their Ministers, their agents, their glorious defenders. Yes, those same warriors, who respect their enemies, receive the most ignominious appellations among a friendly people for whom many have combated. Nay, more; within the very walls of the national representation of the United States how many deeply insulting speeches have been and yet are delivered! Nothing is spared in order to endeavor to degrade the French Republic in the opinion of the American people; and the silence of your Government leaves an open field

to this torrent of invectives, whilst scarcely now and then a word of reply escapes, notwithstanding our vigilance, from the indignation of some French citizen. Is it not repeated in the United States that the Executive Directory expels negotiations in order to wait an opportunity of carrying the war there? This odious assertion has been credited; and your Government, which ought to know that such a thought was never conceived, opposes no corrective to the impression which it is calculated to make. Whatever may be your opinion of it, sir, it is generous to stifle all the sentiments which arise in abundance on reading your public papers, and even the debates of your Legislature upon the subject of France. And yet, until the two Governments shall be so far reconciled as to concert the means of remedying these abuses, it is expedient that those who are to treat upon the interest of the two nations adopt a conciliatory language, and hereafter avoid what may give rise to painful recollections. I repeat to you, that it is my desire; that I will set the example; that I am impatient to abjure reproaches; and that I insist that this point may be well understood.

This is the last time I shall yield to these digressions, which ought to be as disagreeable to you as they are to me.

You have not transmitted to me any opinion, sir, upon the note annexed to my letter of the 9th of this month. I have delayed until now sending you the following ones. I flatter myself that the long conference which I have had with you will have produced some modification of the resolution in which you might appear to persevere. I therefore recommend to your attention two fresh notes, one upon the twelfth article, and the other upon the sixteenth article, of the Convention of the 14th November, 1788. They contain everything which it is important to explain, at present, in relation to this act. We will immediately after proceed to the treaties of February, 1778. You desired that I might send you some propositions. I did so on the 30th Prairial, (18th June,) and you should have had them sooner, had it not been for the incident which has happened. I have therein traced the plan of the negotiation. I have therein pointed out generally the intentions of France. I have therein entered into an engagement to discuss every proper subject. I have assured you that the Executive Directory would render to the United States that justice which it expects itself. I have excluded nothing which we can suggest, on either side, to strengthen still more the good understanding between our two Republics.

But it is not enough to transmit these propositions to your Government; they are only the foundation of the necessary discussions upon every question of detail of which we ought to find the solution. The reconciling of the different points upon which we will have fixed our ideas will form the act to be drawn up. I do not think that we could come to conclusions in any other manner. It even appears to me that there will be an evident loss of time, if, in this state of things, this discussion is adjourned. I have already given you to understand that it would be inconvenient to give it in charge to a Minister Plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more important, and I will not conceal from you that I should fear fresh incidents.

I therefore urge you more pressingly than ever, sir, whilst I refer to what I have already written to you on this subject, to postpone your departure, and to attend quickly to the discussions which I urge. I know that you are not of the same opinion with me, with respect to the validity of your full powers; but reflect that, in any case, you can in nothing bind your Government, which has reserved the right of ratifying.

I will add that, in the situation in which you stand, it is contrary to all usage to depart, without notifying that you have received an order therefor; that the usage on the contrary is, when a doubt is raised upon the full powers, the Envoy waits the decision of his Government, without breaking off the negotiation. Receive, sir, the assurance of my perfect consideration.

C. M. TALLEYRAND.

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[Exterior Relations.]

Note upon the twelfth article of the Convention between France and the United States, of the 14th November, 1788.

This article has been executed in France in its literal meaning, and in its implicit meaning; that is to say, that all the differences between the citizens of the United States in France have been left to the decision of their Consuls, and that the sentences of the latter have been executed when coercion was necessary, in the same manner, and by the same officers of justice, as the sentences of the French tribunals.

Nothing has been changed, in this respect, since the establishment of the Republican form of Government, notwithstanding the jealousy which is peculiar to it, and which the judiciary authorities of every country possess in general.

It has been judged, as to the literal meaning, that the jurisdiction given to the Consuls of the United States over their countrymen was not in any respect optional. The twelfth article does not declare in effect that all the differences may be determined, &c., which would imply only a power in persons of the nations to sue before their Consuls, and a power in the latter to admit or decline. It declares, formally, that all differences shall be determined, &c., which implies a reciprocal obligation upon the persons of the nation and their Consuls. This obligation is confirmed by the last paragraph, which pronounces an absolute interdiction upon the territorial officers, civil or military, to interfere, in any manner whatever, and consequently obliges the persons of the nation to apply to their Consuls, and the Consuls to decide their differences.

It has been judged, as to the implied meaning, that the stipulation being express, mutual, and guarantied by the public faith, included within it the engagement to give it effect. It would have been ridiculous to put the citizens of the United States in France under the necessity of referring,

exclusively, their differences to their Consuls, and the necessity of taking them up, as the only competent judges, without intending the execution of the sentences. But this execution can proceed only from the territorial power which disposes of the force.

It has finally been judged, that this kind of jurisdiction was not, in any respect, repugnant to the local sovereignty, because its admission was mutually agreed upon; that it did not stand in competition with the French tribunals, because it did not embrace objects common to them; that it did not abridge the territorial rights, because it extended only to foreigners.

There has been no reciprocity on the part of the United States, wherein this question has been viewed under a different aspect, and the French Government has constantly received complaints upon this subject. In 1792, attention seemed to be paid to the representations which it caused to be made. An act of Congress of the 14th April, of that year, declares, "that in all cases wherein, by any article of the Convention, the Consuls of France are entitled to aid in the execution of any order, the Marshals of the District Courts of the United States, or their deputies, should be the officers competent, and should give their aid according to the tenor of the stipulations." The same act having provided, in the preceding paragraphs, for the execution of the seventh and ninth articles of the Convention, that which has been just cited is applicable only to the twelfth article, the last of the three which were foreseen, and the only one wherein an order might be issued. But soon afterwards the officers designated eluded this provision.

Since that time, some courts in the United States have declared that they would not take cognizance of actions at law between Frenchmen. These actions have been sustained in other courts, notwithstanding the remonstances of the defendants. On the other hand, the Consuls of the Republic decided in vain upon the differences submitted to their judgment. One while the justice of the country was refused, by arguing from the tenor of the twelfth article; at another time the Consular jurisdiction was palsied, by arguing from its pretended silence; and sometimes it was entirely forgotten.

It is of pressing importance to put an end to these uncertainties, which are discouraging to the French merchants, and embarrassing to their Government, whose protection they claim.

The twelfth article of the Convention between France and the United States gives to the Consuls a judiciary authority over their countrymen, to the exclusion of the respective tribunals. This authority is not optional; it does not derogate from the rights of sovereignty of either Republic; it is founded on a reciprocal agreement; it is conformable with the principles asserted by the most enlightened writers upon public law; it meets with no opposition in France, and it ought to be faithfully facilitated in the United States.

The French Government will not insist upon a particular mode of executing the sentences of the Consuls in the United States. It asks only the express recognition of the implied meaning of the twelfth article, and a promise to provide for it fully at the next session of Congress, in the manner most consonant with the forms used in the country.

C. M. TALLEYRAND,
Minister of Exterior Relations.

Paris, 18*th Messidor* 6*th year*,
(*July* 6, 1798.)

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[Exterior Relations.]

Note upon the sixteenth article of the Convention between France and the United States, of the 14th November, 1788, and general observations.

Paris, 18*th Messidor* 6*th year*,
(*July* 6, 1798.)

This article declares that the convention shall be fully and completely executed during the space of twelve years, to be reckoned from the day of the exchange of the ratifications.

The exchange took place in January, 1790, and the term appointed will expire in January, 1802.

It will be proper, before that period, to set about the revision of the convention. Many articles require it. The French Republic will show itself less jealous of the privileges of the Consuls than of the stipulations useful to its merchants and navigators. The United States will doubtless be guided by the same laudable views. Two Republics will the more readily agree on this subject, as they are founded upon the same principles.

But it is possible that, on the one side or the other, the parties may not be prepared at the time fixed for the intended negotiation; that more experience may be desired; or that they may not even agree as to the best system to be adopted. The French Government proposes that it be declared, "that, on account of the events which have prevented a judgment upon the effect of the present convention, it shall be prolonged for six years after the expiration of the twelve first years, if it be not renewed in the interval."

The French Government also proposes, "that, in all quotations of any article of the convention, the denomination of *French Citizen* be submitted for that of *subject*; and the words *French Republic* be placed in the stead of *Most Christian King*, *Most Christian Majesty*.

C. M. TALLEYRAND,
Minister of Exterior Relations.

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No. 22.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

Paris, *July* 10, 1798.

Citizen Minister: I received, on the 9th instant your letter of the 6th, being the 18th Messidor, and shall briefly reply to it.

You inform me that the communication of the intentions of the Executive Directory, sent to Philadelphia before Germinal, the 20th of March, did not proceed from the French Government, its agents, or any person whatever, to your knowledge:

and I affirm that it did not directly, or indirectly, proceed from me.

The rumor then must have been vague, and could not have merited the attention of the President of the United States, much less could I have authorized his formal communication thereof to Congress.

The two attempts of the United States to obtain a reconciliation between the Republics, to which I referred in my last, were those of the mission of a Minister to efface unfavorable impressions, banish suspicions, and restore cordiality between them, and afterwards, of the three Envoys, whose powers were more extensive. I made no allusions to your conduct, and with respect to my own, have done everything incumbent on me.

You complain that certain newspapers of the United States, one of which has for its editor the printer of the Senate, calumniate daily the French people, their institutions, Government, legislators, and others. The Envoys, in their letter to yourself, of the third of April, have discussed this subject so fully as to leave nothing further necessary to be said thereon.

You also complain of some speeches of the national representation of the United States, degrading the French Republic in the opinion of the American people, and of the silence of our Government thereon. The Constitution of the United States expressly provides that the Senators and Representatives, for any speech or debate in either House, shall not be questioned in any other place. So essential is the freedom of debate to each House, as to be sacredly preserved by the Constitution, and to be above the control of every other department of Government. The Government of the United States, on their part, pay no regard to offensive speeches in foreign Legislatures, well knowing that, however amicably disposed Governments may be towards each other, such a mode of conduct must be productive of perpetual sources of discord between them.

And now, having replied, Citizen Minister, to your observations, on these subjects, I assure you that nothing can be more disagreeable to me than such discussions. I did not give rise to them, and here I shall terminate them.

On the 27th of June, about six weeks after I had demanded my passport, and when my baggage was on board the Sophia, you sent me a note containing some remarks on the Consular Convention, and expected a formal discussion of them: to this, without powers, I should not have consented at any time; I have repeatedly refused it; and must adhere to my determination.

You conclude by observing that, in my situation, which is that of an unaccredited Minister, it is contrary to all usages to depart, without notifying that I have received orders therefor; and that, on the contrary, it is customary, when a doubt arises upon full powers, to wait the decision of the Government of which one is the Envoy, without breaking the negotiation. On my part there has been no doubt of a want of powers, and there has not been any negotiation; there cannot, then, be a rupture of it by my departure. I am to judge of the necessity of demanding my passport. I now renew my demand of it, and the other documents necessary for the voyage, and request a definite answer.

Accept, Citizen Minister, the assurances of my perfect consideration. E. GERRY.

No. 23.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

MINISTRY OF FOREIGN RELATIONS,
24th Messidor, (*July* 12, 1798.)

As long as I could flatter myself, sir, with fulfilling the wish of the Executive Directory, by endeavoring with you to re-establish the good understanding between the French Republic and the United States, I used my efforts, both in our conferences and in my correspondence with you, to smooth the paths, to establish the basis, to enter on the business, and to convince you of the utility of your presence at Paris. It is in your character of Envoy of the American Government that I received you and wrote to you; it depended upon yourself to be publicly received by the Executive Directory. Without partaking in your opinion with respect to the change which the departure of Messrs. Pinckney and Marshall might produce in the full powers, wherein I have read that you have been authorized to treat separately, it appeared to me that, in the hypothesis even in which you placed yourself, you ought to refer the question to your Government and in the interval fix with me, by a calm and friendly discussion, all the questionable points of our differences.

This proceeding was the more natural, as, setting aside the premature knowledge which your Government had of the offer to treat with you, after the departure of your colleagues, my note, of the 28th Ventose, (18th of March) which must have reached Philadelphia about the end of Floreal (May 19) left no more doubt upon this subject. It comprehends three subjects perfectly distinct. It begins by rectifying, with the dignity which becomes the French Government, the statement of grievances of the United States, drawn up by their Envoys in the inverted order of facts, on the 28th Nivose preceding, (17th January.) It next points out the reasons which prevented the negotiation from being carried on with the Envoys collectively. It finally declares, solemnly, the conciliatory dispositions of the Executive Directory; its express desire of renewing, between the two countries, the ties of their former friendship; and the intention to treat with you. A declaration so explicit was made only to furnish the President of the United States with an infallible means of accommodation. It was a pledge of peace that might be taken up. I presumed you could not be long in receiving analogous instructions, and even other powers, if they were necessary; or that at least if you had announced to the President a wish to return to America, another Envoy would come to consummate the happy work, which we should have had the satisfaction to prepare.

With such well grounded hopes were mingled considerations upon the inconveniences of your departure. I have given you to understand that, notwithstanding the assurances you have given me, nobody would believe that it was owing solely to your inclination, to a thorough conviction of the invalidity of your powers, or to a wish to see the care of the negotiation confided to other hands. I have conversed with you respecting the conjectures which it would give rise to; on the means it would furnish the British Cabinet, which spares nothing to draw France and the United States to extremities, from which it calculates to derive the sole profit; and on the suspicions even which the French Government would be made to conceive. I endeavored to make you see into its possible consequences. The happening of several circumstances has already retarded the reconciliation of the two Republics. It may be permitted to him, who sincerely wishes for peace, to fear new ones. These views, for which I shall ever honor myself, induced me to resist, as much as I could, the desire you manifested of quitting France. You decisively insist upon it in your letter of the 22d of this month, (10th July.) The Executive Directory has consequently authorized me to send you the passports which you request, for yourself and the vessel which awaits you at Havre. You will find them enclosed.

May your return to the United States, and the communication of what has passed between us, since you have solely represented your Government, remove there the injurious opinion of hostile intentions of the part of France: you have often repeated to me, since you pressed your departure, that if you could not treat here as an Envoy, your good offices in the United States should not be spared as a citizen. You have it not in your power to render to the two countries a more signal service, than by contributing to make their political and commercial relations accord with their inclination and interest. Assure your Government that the Executive Directory perseveres in the intention of conciliation with sincerity, the differences which have arisen between the French Republic and the United States, as soon as an opportunity for that purpose shall be sincerely presented. If it be really true that the dispositions of your Government correspond therewith, let it give a proof of it, and you may answer beforehand for the success.

You cannot dissemble, sir, that if nothing prevented you from pursuing with me the examining and reconciling of the grievances which divide the two countries, we should not long stand in need of anything but the respective ratifications.

Who will doubt of the sincerity of the French Government, when it shall be known that, for nearly three months every pressing solicitation came from me, and that, faithful to the engagements I have made in my note of the 28th Ventose, (18th March) I have been the first seriously to press the negotiation after the departure of Messrs. Pinckney and Marshall? It will not be said, I hope, that the refusal to treat with them is a refusal of conciliation, because this refusal was accompanied with a promise to treat with you, and your full powers presented you as separately authorized.

I shall incessantly appeal to that document, because it is the foundation of the opinion which the Government must have formed; and even admitting that you were tied down by secret restrictions, I could not in my mind oppose what I did not know, on account of the credence due to the ostensible power.

Yes, sir, when scarcely informed of the departure of Messrs. Pinckney and Marshall, I endeavored, in every conference I afterwards had with you, to demonstrate to you the urgency, the propriety, and the possibility of an active negotiation. I collected your ideas; they differed from my own; I endeavored to reconcile them, and I was about to transmit some propositions to you, when a packet from your Government arrived at Havre. You then appeared to be preparing to depart. Until then I never supposed you entertained the design of embarking before we had come to an agreement upon the definitive articles to be ratified by your Government. A few days afterwards, I received some despatches from Philadelphia, the contents of which for a moment gave a new course to my correspondence with you. On the 22d Prairial, (10th June) I notified you that the dispositions of the Executive Directory were the same, and I prayed you to inform me, whether you were finally in a situation to negotiate. On the 30th Prairial, (18th June) I transmitted to you a complete plan of the negotiations. On the 9th Messidor, (27th June) I sent you my first note for discussion upon one of the points of our treaties, which are unexecuted in the United States. You declined answering it. It is necessary, however, to be agreed upon the details in order to arrive at the conclusions. On the 18th Messidor, (6th July) I sent you two others. In vain I accompanied these documents with the most cordial invitation rapidly to run over with me this series of indispensable discussions upon all our grievances. You have not even given me an opportunity of proving what liberality the Executive Directory would use on the occasion. You never wrote, in fact, but for your departure. And it is the French Republic, which is accused in the United States with not wishing for peace. Perfidious instigators will insinuate that it never wished it. I will, therefore, ascend to the period when the first symptoms of discontent manifested themselves, that is to say, to the arrival of the Minister Genet at Philadelphia in Prairial of the 1st year. An universal joy burst forth in the United States at the declarations he was charged to make. He then expressed the friendly and generous intentions of the French Government, which, powerful in the national energy, forbore to claim aid from its allies. Some of his measures soon afterwards gave umbrage. They were the effect of a zeal badly adapted to local circumstances, and unfortunately still worse interpreted. The President caused his complaints concerning them to be made in France at the close of the same year. The committee of pub-

lic safety immediately rendered satisfaction; and other agents arrived at Philadelphia in the beginning of Ventose, 2d year: their instructions will bear the utmost publicity; not to interfere in any party matter; to respect the Government; to prompt it to maintain its neutrality with vigor; to repress all armaments which might endanger it; to maintain the rights secured to France by its treaties; such is the substance of them; such also were the instructions given to the Minister Adet, who succeeded them in the 3d year. Surely nothing can be more pacific. Nevertheless, the rights of France are insensibly forgotten; the most important clauses of its treaties are rendered insignificant; its vessels experience the most discouraging vexations; England sports with impunity with the neutrality of the United States, which to France, who is too confident in it, becomes a source of loss. A transaction clandestinely negotiated ends by consecrating, to the detriment of a friendly nation, the pretensions of its implacable enemy. After that time, nothing has passed between the American Government which the representations thwart, and the Ministers Plenipotentiary of the Republic, who could not avoid making them, but a correspondence gradually increasing in asperity. The French Government never interferes in them: it reposes upon the hope, that their own interest would lead the United States to perceive that England was drawing them within its vortex. Far from taking an hostile attitude, it affects indifference in order to show itself patient with dignity. The crowd of complaints which it receives obliges it finally to change this line of conduct. It causes its grievances to be declared on the 25th Brumaire, 5th year, (November 15, 1796) and in order to produce a negotiation, too long delayed, it draws from the treaties of Paris and London the most suitable means of hastening it. It is animated by no hostile intention. In order to obtain from the United States some degree of justice, it places them in a situation to be obliged to demand an arrangement themselves. Let us now see whether it has rejected any honorable propositions.

Mr. Pinckney had departed before the declaration of the 25th Brumaire (November 15, 1796) which suspended the customary relations. He came to succeed Mr. Monroe, and, like him, to explain and palliate the conduct of the United States, without any special power for the negotiation demanded by France. He could not be received, because he was not in a situation to fulfil the conditions required, upon the presumption of political connexions. The President of the United States thought it his duty to call an extraordinary meeting of the Legislature. I shall not review the opening speech, nor the turn which the debates took in that session. But I will say, that the impression, which resulted therefrom, at Paris, was unfavorable previous to the arrival of the Envoys; that this circumstance alone raised an obstacle, which ought to have been foreseen at Philadelphia; that the Envoys themselves, unwilling to comprehend the natural effect of this kind of provocation, have contributed to render the impression more durable. It has finally, however, yielded to the primitive desire of a sincere reconciliation. You find a proof of it in the very expedient suggested of treating with you separately; for a Government hostilely disposed would not have taken the delicate course which guards its honor and fulfils its pacific intentions.

You have given me to understand, sir, that it would have been well had the Executive Directory supported the declarations which I have made to you in its name, by a change in the measures which affect the commerce of the United States.

I might answer you, that your Government might have also secured its object by restoring at first the French Republic to the rights which flow from its treaties. But let us exact less rigidly and be more equitable towards each other. Although the measures of France are no more than the consequence of those of the United States, you must have remarked; that, in my propositions of the 30th Prairial (18th June) the intention of the Executive Directory is, that the respective pretensions may be collaterally examined and adjusted. It intends to place, in a single act, a durable monument of the future friendship of the two Republics, and the justice which they owe to each other, and no idea of false glory enters its mind. On taking leave of you, sir, I have supposed that I owed you a testimony of my esteem: it consists altogether in the unreservedness with which I have just spoken to you, and in the expression of the regret which your departure, under the present circumstances, gives me. Receive the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

P. S. of the 27th Messidor, (July 15, 1798.)

A circumstance, sir, of infinite importance, has delayed the despatching of this letter. I do not know how it happens that at every step towards a reconciliation a cause of irritation intervenes, and that the United States always give rise to it. Some days since different advices were successively received by the Executive Directory. It seems that, hurried beyond every limit, your Government no longer preserves appearances. A law of the 7th of last month authorizes it to cause every French vessel of war to be attacked, which may have stopped, or intended to stop American vessels. A resolution of the House of Representatives suspends, from the 13th of this month, all commercial relations with the French Republic and its possessions. Several plans of a law have been proposed for banishing the French and sequestrating French property.

The long suffering of the Executive Directory is about to manifest itself in the most unquestionable manner. Perfidy will no longer be able to throw a veil over the pacific dispositions which it has never ceased to manifest.

It is at the very moment of this fresh provocation, which would appear to leave no honorable choice but war, that it confirms the assurances which I have given you on its behalf. In the present crisis, it confines itself to a measure of

security and self-preservation, by laying a temporary embargo on American vessels, with a reserve of indemnities, if there be occasion for them. It is yet ready, it is as much disposed as ever, to terminate, by a candid negotiation the differences which subsist between the two countries. Such is its repugnance to consider the United States as enemies, that, notwithstanding their hostile demonstrations, it means to wait until it be irresistibly forced to it by real hostilities.

Since you will depart, sir, hasten, at least, to transmit to your Government this solemn declaration.

CH. MAU. TALLEYRAND.

No. 24.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *July* 20, 1798.

CITIZEN MINISTER: I received, on the 27th Messidor, (15th July) your letter of the 24th (the 12th of July) on which permit me to make some observations.

You allege that, in the United States, the French Republic is accused of not wishing for peace, and to show that it was always desirous thereof, you recur to the arrival of Mr. Genet in America. Far from accusations of any kind, I wish to cultivate harmony between the two Governments, as the solid basis of peace. From that epoch, to the departure from the United States of Mr. Adet, the correspondence of the Secretaries of State of the United States, with the French Ministers in America, and the American Ministers in France, contains the history to that time, of the unhappy differences between the two Republics, and evinces the sincere desire of the Government of the United States, amidst the inevitable embarrassments resulting from the convulsive state of Europe, to preserve harmony and friendship with the French Republic, and to perform, with scrupulous attention, the duties of neutrality. If, by any unfortunate events, France had sustained injuries during that term, still the manifest disposition of the Government of the United States to justice and moderation, was a sure pledge of redress.

When Mr. Monroe was recalled, a Minister was sent to supply his place, and you say, "he could not be received, because he was not in a situation to fulfil the conditions necessary for the renewal of the political connexions." Had he been received, he could have applied for other powers if necessary; nothing is more usual. The application, which you have so strenuously urged on my part, must have been for the renewal of powers annulled by the act of sending away the other Envoys; surely, then, your arguments would have applied with much more force to the case of a Minister, whose powers were only supposed inadequate to the objects of his mission. The act of rejecting this Minister, accompanied with circumstances of high displeasure on the part of the Government of the French Republic, could not fail to wound deeply the Government of the United States, and to produce observations on such an important event. Let the cause and effect be buried in oblivion: the remembrance thereof cannot promote harmony. This you will readily accede to, when you consider the amicable and attentive conduct immediately adopted by the American Government, in sending three Envoys Extraordinary with adequate powers to effect a reconciliation and a renewal of a commercial intercourse between the Republics.

From the arrival of the Envoys at Paris to the departure of two of them, the objects of their mission were defeated by insuperable bars arising from demands of loans, which, violating the neutrality of the United States, would have involved them in immediate war, and of procuring reparations for the observations hinted at. Towards the end of that period, after imposing on me secrecy, you stated the embarrassments and dissatisfaction of the Executive Directory, on account of the opinions and conversations of my colleagues, its determination not to treat with them, and its desire to negotiate with me; and you added, that my departure would produce an immediate rupture. Astonished as I was at this communication, I informed you that I had no powers to treat separately; the measure was impossible; and that had my powers been adequate, a treaty made under such circumstances could never be ratified by my Government. You differed from me, we reasoned on the subject, and each adhered to his opinion. I urged in vain the unreasonableness of admitting prejudices against my colleagues, without informing them of the causes thereof, the good effect in removing these, which might result from such information, and the necessity of making known to them all that had now passed between us. You held me to the promise of secrecy, adding that, if I would negotiate, we could soon finish a treaty, for the Executive Directory were not in the habit of spending much time about such matters. You desired another interview, in which, after a discussion of the subject, I confirmed and adhered to my determination. In this state affairs remained for some time, and I flattered myself with the hope that, failing in the proposition for negotiating with me separately, your next would be to accredit the three Envoys; in such an event the secrecy mentioned would have been proper. This expectation was strengthened by the two subsequent interviews which they had with you; and you may judge of my surprise on the receipt of your letter of the 28th Ventose, (18th of March,) containing a refusal to treat with two of the Envoys, and renewing the proposition to treat with me. Finding that I was the person alluded to, and that all hopes of our being jointly accredited were at an end, I again refused, in the most positive terms, to negotiate separately: another proposition was then made, that, to prevent a rupture, I should remain here till information could be sent to my Government of the events. Embarrassing as such a state was, I submitted to it, rather than to bring on a war. You afterwards sent me your note of the 14th Germinal, (3d April,) proposing that I should resume our reciprocal

communications upon the interests of the French Republic and the United States. To this I replied on the 4th of April, "that I could only confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp." The day after the departure from Paris of the last of my colleagues, I again addressed you, and quoting the above paragraph, informed you that this I considered as the line of conduct well understood to be observed on my part; to this you made no objection, verbally or by writing, and thus acquiesced in it. Had you not, I should have immediately demanded my passport.

At one of our first interviews, after that letter, you stated a difficulty in adopting the plan proposed by my letter of the 20th of April, from your not being informed of the wishes of the Government of the United States in regard to a treaty: these were so reasonable that I thought it best to communicate them to you; and, according to your own opinion, since expressed, they would require little or no time for discussion; nothing can exceed them for moderation or justice. Believing that you were seriously disposed to bring forward the plan of a treaty, for the consideration of the Government of the United States, and being also convinced that the subject thereof had been so fully discussed, and was so well understood, as not to require much time to accomplish it, I informed you that I should embark for America in June, and although you objected to it in the first instance, you afterwards appeared to be fully convinced of the necessity of it, promised to digest the plan proposed without delay, and to send it to me for examination. I conferred with you, at different times, on the expediency of sending a Minister to Philadelphia to complete the negotiation, and you promised to consider of it. At length the Sophia arrived, and a few days afterwards you informed me that I might make myself quite easy, that France did not wish a war with the United States; that she had no thoughts of it; that the American affairs were before the Executive Directory, and that everything would be arranged to my wishes. I again stated the necessity of sending a Minister to America to complete the negotiation. You said you would propose one to the Executive Directory. This I could not suppose was for the purpose you have since stated, of residing there after the ratification of the treaty.

Thus were matters circumstanced until the arrival of the gazettes, containing the despatches of the Envoys to their Government, which gave more than a momentary turn to your correspondence with me. When I informed you that I should embark in the Sophia, as soon as she could be fitted for sea, there was still time to finish the plan of the treaty, and to send it by me, if expedient. You desired me to remain here; I told you my return was indispensable, and gave you no other reason. I thought that sufficient. You conceive it depended on me to be publicly received by the Executive Directory; but our opinions are different on this point. A Government sends three Envoys to treat with another Government; this rejects two of them, and proposes to treat with the third. Candor must admit, I think, that the latter cannot accept the proposal without transferring, in this instance, the Executive authority of his Government, who would only have nominated three Envoys to the foreign Government, who would have appointed one of them. You say that if my powers are altered by the departure of my colleagues, yet, on my own hypothesis, I ought to have referred the question to my Government, and in the interim to have fixed with you, by a calm and amicable discussion, all the contentious points of our differences. If my Government, as you repeatedly have asserted, was apprized before the 20th of March of the proposition to treat with me separately, it is evident that it was not disposed to send me new powers; for the Sophia sailed on the 28th of that month, and knowing this, you still urged me to make the application. I have been always ready, and had you come forward with the project of a treaty, would have entered into a calm and amicable conference with you on every part of it; but not into a formal epistolary discussion, which was not proposed till some time after I was ready to embark, was only relative to the Consular Convention, which will soon expire, was contrary to my stipulation relative to conferences, in which you acquiesced, and would have required months to be completed.

You were the first, you affirm, to press seriously the negotiation: you will agree with me that the merit would have been greater had the measure itself been feasible.

You frequently remind me of your exertions, which I am disposed as much as possible to appreciate, regretting at the same time their circuitous direction. On my part, I think you will be convinced that everything has been done which circumstances herein truly detailed would admit.

It is with pleasure I learn that the Executive Directory is still ready, and is as much disposed as ever to terminate, by a liberal negotiation, the differences which subsist between the two countries.

This disposition has always existed on the part of the Government of the United States. A negotiation, then, if set on foot free from all propositions of loans and explanations of speeches, to be held, if necessary, in a city of some neutral nation, and providing for a decision by three or five Commissioners, of all points which may not be determined by direct negotiation, would still be accompanied, in my opinion, with success; but having no authority, I cannot make the proposition. A preliminary measure appears to be requisite, in which the dignity of this Government is as deeply concerned as the interest of the United States. The depredations, outrages, and cruelties, committed on our commerce and citizens, in the West Indies and on our coasts, by French privateers, some of which, it is said, have no commissions, are perhaps seldom paralleled among civilized nations. It is said that this Government has not been early apprized of these events, which have been a great source of irritation in the United States, and a principal cause of the repressive measures adopted by them. A recall of the commissions of the privateers, and restraining them by severe penalties to the proper objects of capture, cannot fail to have a happy effect.

You claim a promise of my good offices as a private citizen in America. These shall not be wanting to represent truly every measure of this Government, and to render successful all such as may be well adapted to effect a reconciliation. This is all that can be expected of me, and the duty which I owe to my country will require it.

And now, Citizen Minister, having given you a testimony of my esteem, such as results from a frank and candid conduct, I bid you adieu, wishing sincerely a speedy renewal of amity and commerce between the two Republics.

Accept, Citizen Minister, the assurances of my perfect consideration.

E. GERRY.

No. 25.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, *4th Thermidor*, (*July* 22, 1798.)
6th year of the French Republic, one and indivisible.

Allow me, to sir, to confine myself to the two last paragraphs of your answer of the 2d of this month to my letter of the 24th Messidor, (July 12.) Easy as it may be to rectify those which go before, it would be to enter uselessly into the circle of digressions. It is my duty to feel what is the state of things you think due to your Government, and this consideration would be alone sufficient to me if I set a less valuation upon conciliation.

You repeat to me that the Government of the United States has always been disposed to terminate amicably the differences which subsist between the two Republics. This fresh assurance, at a time when hostile demonstrations have just been made, could not but temper their effect. But let then a frank, candid, and truly amicable act, speedily realize those dispositions. Far from entering into the answers of the President to the addresses which have been presented to him from different parts of the United States, whatsoever they may be, I would fain behold in his expressions nothing but a political expedient. I do not thence judge less favorably of the true intentions which you profess in his name, and I would not have engaged you to warrant the success of the first proof which he will render of them, if the Executive Directory, which was ready to receive you, had not made a fixed determination upon the subject. A negotiation may therefore be resumed even at Paris, where I flatter myself you have observed nothing but testimonies of esteem, and where every Envoy who shall unite your advantages cannot fail to be well received. Moreover, I know not, sir, why you tell me that it would be requisite to lop from this negotiation every preliminary respecting a loan, and explanations on the subject of the speeches delivered. Be pleased to read over again the propositions which I transmitted to you on the 30th Prairial, (June 18,) they contain all the ideas of the French Government; and you will not find in them a word which justifies your recurring to those two questions. An odious intrigue had got possession of them; the dignity of the French Government could not permit this mixture, and it did not wish that views as pure as its own should be associated therewith hereafter. As to the preliminary measures which you suggest, sir, the Government has already anticipated your desire. By information which it has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West Indies, and on their coasts. Do it the justice to believe that it needs only to know the facts, to disavow all acts contrary to the laws of the Republic and its own decrees. A remedy is preparing for it, and orders will soon arrive in the West Indies calculated to cause everything to return within its just limits, until an amicable arrangement between France and the United States shall re-establish them respectively in the enjoyment of their treaties.

This period, sir, cannot be too near at hand. I do not cease to regret that you should refuse yourself the accelerating of it, by yielding to circumstances, persuaded, as I ever am, that you were fully authorized.

Accept my wishes for your happy passage, and the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 26.

Mr. Gerry to the Minister of Exterior Relations.

PARIS, *July* 25, 1798.

Mr. Gerry having seen in the *Redacteur* of this morning the publication of a letter to him from the Minister of Foreign Affairs of the French Republic, dated the 24th Messidor, (12th of July,) requests him to order a just translation of the answer dated the 20th of July, to be also published. Mr. G. being on the eve of his departure from Paris, presumes the Minister will readily comply herewith, to prevent partial and undue impressions against him in his absence.

No. 27.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 16*th Thermidor*, (*Aug.* 3, 1798.)
6th year of the French Republic, one and indivisible.

Presuming, sir, that you have not yet embarked, I address to you a decree of the Executive Directory, wherein you will find a part of the measures which I announced to you the 4th of this month. Its solicitude will not be confined to that. Neutrals, in general, will have reason soon to be convinced of its firm attachment to the principles to

which it is desirous that all the maritime nations might agree. It depends upon the United States, in particular, to cause every misunderstanding immediately to disappear between them and the French Republic.

Accept, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 28.

HAVRE, *August* 8, 1798.

At the moment of my embarcation, Citizen Minister, I have the honor of receiving your letter of the 16th Thermidor, (3d August,) with the arrêt of the Executive Directory of the 13th, both of which shall be communicated to the Supreme Executive of the United States immediately after my arrival there.

Accept, Citizen Minister, the assurance of my perfect respect.

E. GERRY.

The MINISTER OF FOREIGN AFFAIRS
of the French Republic.

No. 29.

Extract from the Registers of the Deliberations of the Executive Directory.

PARIS, 13*th Thermidor*, (*July* 31, 1798.)
6th year of the French Republic.

The Executive Directory having heard the report of the Minister of Marine and the Colonies:

Considering that information recently received from the French colonies and the continent of America leave no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the Republic relative to cruising and prizes.

Considering that foreigners and pirates have abused the latitude allowed at Cayenne, and in the West Indian islands, to vessels fitted out for cruising, or for war and commerce, in order to cover with the French flag their extortions, and the violation of the respect due to the law of nations, and to the persons and property of allies and neutrals; Decrees—

ART. 1. Hereafter no letters of marque, authorizations, or permissions, to fit out vessels either for cruising, or for war and commerce, shall be issued in the colonies of America, but by the special agents of the Directory themselves, who shall not delegate that power to any one: they shall exercise it only in favor of owners of vessels whose principles and responsibility are well known to them; and they shall be bound to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st October, 1793, (O. S.)

ART. 2. All letters of marque, authorizations, or permissions, granted in the colonies of America by the particular agents of the Executive Directory, and all other agents, civil and military, under their orders, to fit out vessels either for cruising, or for war and commerce, shall be considered as not having been done, after the thirtieth day from the publication of the present decree in the said colonies.

ART. 3. All agents and other deputies in the neutral possessions, appointed to decide there upon the validity of prizes taken by the French cruisers, and who shall be suspected of having a direct or indirect interest in the vessels fitted out for cruising, or for war and commerce, shall be immediately recalled.

ART. 4. The special agents of the Executive Directory at Cayenne, St. Domingo, and Guadaloupe, shall studiously take care that the interests and property of vessels belonging to neutrals or allies, be scrupulously respected; and they shall in no case bargain for their cargoes but by mutual consent, and to the full and entire satisfaction of the contracting parties.

ART. 5. The said special agents of the Executive Directory, the commanders of all vessels of the Republic, the Consuls, Vice Consuls, and all others invested with powers for that purpose, shall cause to be arrested and punished, conformably to the laws, all those who shall contravene the provisions of the present decree, which shall be printed in the bulletin of the laws, and with the execution of which the Ministers of Foreign Relations, and of the Marine and the Colonies, are charged.

For a true copy, as the President of the Executive Directory:

MERLIN.

By the Executive Directory, as the Secretary General:

TREILHARD.

For a true copy: The Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

By the Minister: The Secretary General,
PAGANES.

No. 30.

PARIS, *June* 9, 1798.

SIR: In your letter to the Minister of Foreign Affairs, of the 13th Prairial, published in the Bien Informé of this day, you have deviated in some points, not very material, from the statement communicated by the Envoys of the Government of the United States respecting a conference which I had with the Minister aforesaid on the 22d of October last, viz: that I requested the interview, instead of the Minister, and that I met him twice on this communication, whereas I saw him but once. I wish, therefore, you would revise the statement referred to, and inform me whether it is not, to the best of your memory, literally true; it is precisely the same, without changing a word, which we communicated to my colleagues. I am, sir, &c.,

E. GERRY.

Mr. HAUTEVAL.

No. 31.

PARIS, *the 22d Prairial, 6th year,*
(*June* 10, 1798.)

SIR: I have received the letter which you did me the honor to write to me yesterday, relative to that which I deemed it my duty to write to the Minister of Exterior Relations, on the 13th of this month, and which the Government caused to be printed.

It is not at all astonishing that my memory may not have served me with precision upon a subject which passed more than six months ago, and of which I have not taken notes. I undertook merely to repeat with exactness the essential heads, which I believe I have done.

I, indeed, recollect that, having been together at the Minister's and not having met him, I left our names with his porter; that, having returned there the next day alone, he expressed to me his regret at not having been at home when you called there the day before, and charged me to tell you that he would receive you with a great deal of pleasure, on a day he assigned to me. The appointment, therefore, proceeded from the Minister, and not from your request, as I have said in my letter; but the matter appears to me to be of little consequence.

The second error which you remind me of having committed, is that of having separated into two conferences what passed in one. On every occasion when I have had the pleasure to see the Minister, I have always conversed with him on matters relating to the negotiations with the United States of America, the success of which I have never ceased anxiously to desire. In my letter I might be mistaken in some details; but you, sir, could not, having immediately taken a written note of what had just passed between the Minister, yourself, and me. I regret that I had not the pleasure to see you before I transmitted my letter to the Minister. By communicating it to you, I should have rectified the two slight errors which crept into it; but I was constrained by the occasion, and was very far from thinking that it would be printed.

I shall ever be anxious to render homage to the truth, and to seize occasions of assuring you of my respectful attachment. I have the honor to be, &c.,

L. HAUTEVAL.

TO MR. GERRY,
Envoy of the U. S. of America, Paris.

No. 32.

PARIS, *July* 16, 1798.

DEAR SIR: Some part of the last instructions of the Secretary of State of the United States to the Envoys, and to Mr. Humphreys, who brought the despatches, induces me to think, that, in the precarious state of our affairs with France, you may have conditional instructions, which may require particular information of what respects the existing state of affairs here. I have, therefore, thought it best to enclose, in the most perfect confidence, by my secretary, Mr. Tazewell, the documents necessary to attain this object, and contained in the schedule annexed, for your use only. If you have not received such instructions, your prudence will dictate the necessity of observing the most profound secrecy, pending any subsequent measures which may take place for restoring friendship between the two Republics.

I shall leave Paris for Havre as soon as possible, and expect on my arrival there to embark immediately for the United States. Be assured that I remain, &c.,

E. GERRY.

Mr. KING, *Minister Plenipotentiary of the United States, at London.*

Schedule enclosed in a letter to Mr. King.

Letters from Mr. Gerry to the Minister of Foreign Affairs:

No. 1—April 4.	No. 2—April 20.
No. 3—May 31.	No. 4—June 3.
No. 5—June 10.	No. 6—June 13.
No. 7—June 22.	No. 8—July 1.
No. 9—July 10.	No. 10—July 20.

To Mr. Pickering:

No. 1—May 12.	No. 2—May 13.

Letters from the Minister to Mr. Gerry:

No. 1—Germinal	14, April 3.
No. 2—Prairial	11, May 30.
No. 3—Prairial	13, June 1.
No. 4—Prairial	22, June 10.
No. 5—Prairial	30, June 18.
No. 6—Messidor	9, June 27.
No. 7—Messidor	18, July 6.
No. 8—Messidor	24, July 12.
No. 9—Thermidor	4, July 22.

No. 33.

Extract of Mr. Gerry's letter to Dr. Tazewell, as far as relates to Mr. King, Minister of the United States at London.

MIGNON, *July* 27, 1798.

DEAR SIR: The despatches for Mr. King are to be delivered to him by yourself; in the interim, you will please not to let them be put out of your possession, or communicated to any one.

No. 34.

Substance of a conference with the Dutch Minister the 25th July, 1798.

Just before dinner, the Dutch Minister called on me, and said he had received from Mr. Talleyrand a printed copy of his letter to me, dated 24th Messidor, (12th July,) that the Dutch Government took a friendly part in the disputes between France and the United States, and that he came to offer his services, and the mediation of his Government, who had authorized and instructed him on this head.

I answered, that the conduct of Mr. Talleyrand,

in publishing his letter to me, had an hostile appearance; that, if a mediation could be supposed necessary, it must be offered to the Government of the United States; I had no authority to accept it; that, if the Government of France was sincere in its declaration, made through M. Talleyrand, its Minister, all that was wanting was to open a negotiation: for he had expressed a desire to show, by treaty, how well disposed France was to put an end to these disputes; that the Government of the United States was so reasonable and just in its demands that it could not fail to evince a good disposition to a reconciliation; that the etiquette of setting on foot a negotiation appeared, at present, to be the only embarrassment, more especially as the principal obstruction to a negotiation had ceased, this Government having relinquished all claims of loans and reparations on account of the President's Speeches; that, as the United States had been twice defeated in sending Ministers to Paris, the Government might not be disposed to send them a third time; and, that, if the French Government would propose some city in a neutral nation, as a place for opening a new negotiation, or, which would be better, would send a Minister to the United States, I did not doubt it would succeed; that this was a mere matter of opinion: for I had no instructions on the subject; neither was I informed whether my Government had or had not formed an alliance with any other nation, as had been frequently reported. The Dutch Minister answered that the proposal of a mediation must go to the Government, and inquired, in that case, if I would stay at Paris: I answered no, it was not necessary: neither did I conceive the propriety of offering, at this period, a mediation: the proper mode of settling disputes was, in the first instance, by treaty; if, in any points, this should fail, still there were other means besides the mediation of a third Power, which might be adopted; but that, if his Government wished to make the proposition, I would carefully transmit it to the Government of the United States.

He said that Mr. Talleyrand, who had styled his letter a pacific manifesto, and had sent a printed copy to each foreign Minister, had no hostile intention in publishing it; but considered it as a friendly measure. I answered, we then had different views of the subject. I then showed the answer to that letter, which the Dutch Minister read. I thought it necessary, for the information of his Government, to make to him the communication mentioned.

No. 25.

Upon the communications made by the President of the United States to the American Congress, on the 14th Germinal, 6th year, (April 3, 1798.)

The American and English papers have lately resounded with the publication of the most strange communications, which the Envoys of the United States have thought it their duty to make to their Government. It is, with respect to those Envoys, a deplorable monument of credulity and contradictions: and it is, with respect to that Government, a provocation still more deplorable.

It is requisite, by the evidence of facts and the very words of the Envoys themselves, to show their inconceivable error. It is requisite, by the force of reason and the mere sentiment of the happiness of the two Republics, to answer to the provocation so visibly suggested by the British Government.

That Government, indeed, after so many and such ridiculous efforts against the French Republic, endeavors to organize corruption around it. Grown desperate on account of so many glorious treaties of peace which the latter has concluded, it has flattered itself, by its peculiar perfidies, to rekindle the former wars in Europe, and to excite against it a new war in America; but all this system of British corruption shall be exposed and confounded; and the American people shall know the height of the precipice to which they are urged by the servile friends of their former oppressors.

For a long time the French Republic complained, and certainly it had a right to do so, against the inexecution of the most important parts of the convention of 1788, concluded between France and the United States. The maritime hostilities were soon followed by the most aggravating injuries. It was in vain that the Republic made a sacrifice of armaments, which might compromit the American neutrality.

The most legitimate of its armaments was soon after contested. The French vessels experienced a thousand vexations. Their prizes were no longer under the protection of the treaties. The courts of justice arrogated a jurisdiction over them; lengthy and ruinous chicaneries discouraged the captors; the French ports in the two worlds were soon declared to be blockaded by British proclamations; the vessels which departed from them were stopped on a loose suspicion of being enemies' property; those which carried provisions thither were turned back. On the other hand, the British ships of war entered the ports of the United States, after seizing French property or property claimed to be such. By degrees they became stationary there, and made of them military stations, whence they attacked both the French and Americans in connexion with France. The Republic, however, confined itself to appealing to its treaties with the United States, and to pressing their Government to cause their own neutrality to be respected. They answered it with a treaty clandestinely negotiated and concluded with Great Britain.

Does this treaty, however, secure the neutrality of the United States? No. It renders the presence of the English forces in their ports lawful; it gives to England rights which, in the midst of war, ameliorate its situation to the prejudice of France and its colonies; it sacrifices the generous principles established, in favor of the liberty of the seas, in former treaties.

France makes complaints; the American Government eludes, and wanders from them; it multiplies official notes without approaching the main point of the question. Reparations are demanded; they are not made. It speaks of nothing but wrongs experienced by the United States; it skips over those which it makes France suffer; the treaty of 1778 is rendered more and more insignificant; and the last blows are struck at the French cruisers in the American seas, by the prohibition to sell their prizes. The Republic is under the necessity, in order to manifest its too long suspended sentiment, and bring about a negotiation, to appropriate to itself the same clauses of the English treaty. At length the United States, sensible only to the disagreeable consequences which have resulted therefrom to themselves, appeared to wish a reconciliation.

Three Commissioners have been sent for that end to the French Republic: two of them, General Pinckney and Mr. Marshall, manifesting against France prejudices brought from America, or imbibed from the nature of the connexions which they lost no time in forming here; and the third, Mr. Gerry, announcing more impartially, and manifesting himself more disposed to lend a favorable ear to everything which might reconcile the two Republics.

From this ill-suited union, which disclosed dispositions not very conciliatory, there must needs result, and there has, in fact, resulted, a crooked and embarrassed career, on the part of those Commissioners; hence, in their constant aversion to do what might reconcile, their eagerness to write what might disgust.

At first, they manifested a desire to be acknowledged; but explanations of some expressions, evidently insulting to the Republic, which were contained in the opening Speech of the President of the United States, were demanded from them as a previous condition. They did more than to refuse; and had recourse to groundless recriminations. Soon afterwards a willingness appeared to spare them the embarrassment of the disavowals; and in order to detach them from England, and to restore, in a small degree, the balance so strongly inclined in favor of that Power, by the last treaty, it was wished that an unequivocal proof of attachment to our cause, which so recently was their own, might be obtained from them: it suited the finances to exchange, at that period, for specie, some Batavian inscriptions at gradual instalments: the Minister of Foreign Relations gave them to understand, that their offering to purchase a certain quantity of them would be considered as a friendly act. They said, they did not possess the power; and they showed that they had not the will. To come at some accommodation, some friendly explanation, frequent communications with the Minister of the Exterior were necessary. The latter complained, publicly, that he did not see them; and they avowed that he caused them to be often informed of this reproach; but two of the Commissioners, shielding themselves under ceremony, refused to comply with the desire. Mr. Gerry, at length, resolved to go; spoke twice with the Minister; and, whether from embarrassment in explaining himself, or fear of compromitting himself, he said but little, and did not venture to decide on anything.

In the mean time the Envoys thought themselves bound to transmit to the President of the United States a very voluminous account of their negotiation. Of what, then, could this account be composed? It was necessary to fill it with despicable manœuvres of all the intriguers, who, seeing the Commissioners charged with the most important interests, secluding themselves from the Government with which they ought to treat, hastened to gather round them, and infatuated them with the idea of their credit, and the opinion of their importance.

One of these intriguers appears to have grounded himself on some acquaintance which, as a foreigner, having a recommendation, he had succeeded in obtaining with the Minister: another, (and it is the one who is the most active,) grounds himself solely upon the acquaintance which he had with the first intriguer; for he declares that he does not even know the Minister. Such, moreover, is the situation of the man, whoever he may be, who is placed at the head of this Department, that he is obliged to receive and listen to many persons who are far from having any share in his confidence; and he has no means of preventing the abuse they may make, in his absence, of the most insignificant visits, of which they avail themselves, as suits their interest, with men of no experience.

In the publication which the American Government has made of the report of its Envoys, these persons, without being avowed, are designated each by a letter. The Minister, impatient to know their names, demanded them with importunity, and finally obtained the communication, which he immediately handed to the proper authority. It will be learned, with pleasure, that they are foreigners; and it will be readily believed that they did justice to themselves by hastening to quit the territory of the Republic. Only one of those letters, Z., designates a Frenchman, who hastened to declare himself.* The language he held is irreproachable: he is represented as having sometimes served as interpreter; but it is clearly seen that he interpreted none but honorable propositions.

As to the foreigners who are seen figuring in this negotiation, it appears that the object of their whole intrigue was to obtain from the Americans a sum of one million two hundred thousand livres, to be distributed for corrupt purposes. Hence begin and end all the bustle, all the conversations, all the proceedings, minutely detailed in the report of the Envoys.

It will be forever inconceivable that men, authorized to represent the United States near the French Republic, could have been for an instant deceived by manœuvres so evidently counterfeit, and that there should exist a temptation to convert the error in this respect into bad faith.

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* See his letter printed at the end of these reflections.

What? Three men are sent Envoys from America to France to negotiate there a reconciliation between the two Republics: embarrassed in a preliminary matter, they cannot at once confer with the Minister as Commissioners; but they have a thousand ways of seeing him as individuals, either at his own house or elsewhere; and two of them constantly refuse all the facilities which are offered to them.

This is not all: we see them present the details of their negotiation, as if persuaded that the disgusting propositions, which they say were made to them, were addressed by a man clothed with the confidence of the Government; and, nevertheless, in the course of their recital, they suffer an avowal to escape, that they several times suspected these clandestine communications, and that they finally decided to reject them for the future. Mr. Gerry even declares positively, that these meddlers did not produce any authority or any documents of any kind whatever.† At the same time, they continued to decline the direct communications, which were offered to them continually by the Minister. Is not all this a labyrinth of contradictions?

And when we examine by what a series of intermediate persons they thought to approach the Minister, whom it was so easy to them to consult immediately, is it not rendered impossible for us to think that they have seriously adopted the consequences of their recital?

Here it is a lady known to be connected with Mr. Pinckney, who holds with him the most innocent discourse, which has been repeated to him from one end of France to the other: *lend us* (says she to him one day) *money in our war; we lent it to you in yours:* and a conversation thus simple is taken up by Mr. Pinckney, who finds it necessary to write everything, and to poison everything; it is mysteriously sent by him to his Government, as if it had any relation to the clandestine propositions made by the intriguers: thus minute is distrust! Thus is prejudice led astray in its reasonings! In this manner are the politics of some men a pest to social intercourse!

There is one W., whom we have not succeeded in discovering, who introduces to General Pinckney one X., a very hasty fellow, who says he is charged with a message from the Minister; who, being soon afterwards pressed to answer whether he is personally known to him, is forced to say no; but that he has the propositions which he made from Y., who, he says, had connexions with the Minister; and, nevertheless, when they want to intrust Y. with the negative answer to his proposition for one million two hundred thousand livres, he declined being charged with it, and is compelled to avow, through a kind of shame, and at the risk of discrediting the part he was playing, that the proposition did not come from the Directory, nor even from the Minister; and that it came solely from him, Y., who was desirous of saving the Envoys the mortification of the disavowals. If these same men have afterwards held a different language, was it not natural for the Envoys forever to mistrust their reports; and, above all, to endeavor to reach the source? They have not done so. How can this conduct be reconciled either with reason or good faith?

In the same report they manifest themselves desirous of informing their Government, with the utmost detail, of everything which passed in relation to their commission; and while, with such a scrupulous care they collect so many absurdities and miserable puerilities, they are silent upon the official communications, which the persons employed in the Office of Exterior Relations had with them on behalf of the Minister. It is, without doubt, because those communications, agreeing with the few which the Minister himself made, were pure, upright, and calculated to do honor to the French Government. It was part of their plan to pass them over in silence. The others, so suspicious in their origin, were defamatory in their object. They had the utmost impatience to make them known.*

They had just presented a voluminous memorial setting forth their pretended grievances. They well knew that the Minister was about to address a note to them in answer, which ought to have formed one of the authentic documents of the negotiation, and which, in fact, was sent to them in the month of Ventose last, (March 19.) They hastened to publish everything that evidently did not come from the Minister, and which they endeavored to impute to him, in order, doubtless, to weaken thereby the very different impression which must have been produced by the note, wherein everything breathes a sincere desire to conciliate.

This group of facts presents such a tissue of incongruities and contradictions, that the mind is lost in it. One is at a loss to specify with precision the reproaches to be made to the American Envoys. But it is very evident that they have been most strangely deceived, if they did believe, and that they are most perfidious, if they did not believe what they relate. [In the expression of these reproaches which escape from indignation, it is requisite to hasten to except Mr. Gerry, who, doubtless, may have been deceived both by the foreign intriguers, and, perhaps, also, by his very colleagues, but to whom no suspicion of bad faith or insincerity can attach.]

Now, what could be the secret motive which caused such puerile communications to be circulated with so much eclat? How, then, can they justify the pompous affectation by which the American people has been prepared to hear them? How can we conceive that it was hoped to render the farce more imposing by fasts and public prayers?

† See at the end, his first answer to the Minister.

* See in the second letter of Mr. Gerry, dated 15th Prairial, June 3, 1798, which follows these reflections, the express declaration of Mr. Gerry, that, in the course of the negotiations, he saw persons employed by the office of Exterior Relations, and the justice he does them, of never having uttered a word which had the least relation to propositions, such as the intriguing foreigners X. and Y. appeared to have made.

Doubtless, a great object caused them to hazard the holding up as discoveries of the greatest importance, the incoherent prating of two intriguers, who were foreigners with respect to France. Perhaps it was supposed that the citizens of the United States would judge of the French Government by these caricatures, and that the French Government would be sensible to such a marked provocation. The effect of the outrage was calculated from the malignity of the intention, and not from the littleness of the means.

In one word, they flattered themselves with exciting indignation instead of pity. They wished for war; and they wished that insulted France might declare it against a people whose cause she defended, and that it might be restored by her to the arms of England.

By that war, the British Cabinet would gain an ally who would labor for its interest, second its projects upon the French and Spanish colonies, and retard the moment of its humiliation; by that war, too, the British Government would accelerate the execution of a favorite plan, of which it has never lost sight.

It is known that, since it despaired of reuniting to the Triple Crown the States whose independence it was obliged to acknowledge, it aspired, at least to prejudice them in favor of limited monarchy; that it endeavored to fortify, by the similarity of Constitutional forms, the habits common to the English and American people; and that it took care to keep, for a long time, one of the sons of George III., in the vicinity of the United States. Can it then be true, that, to the disgrace of the human mind, many citizens of the United States should be found who are seriously reconciled to the English form of Government? Can, it then, be true, that men, called by the public confidence to the head of the Government of the United States, have written in favor of the British Constitution, merely to prepare its adoption in their own country? Can it be true, that a thirst for honors, greediness of wealth, and a desire of perpetuating power, have already ripened this conspiracy against liberty?

If this ought to be no longer considered as a suspicion, all is explained. War is necessary in order to raise troops and obtain supplies: an unnatural war against old friends, against brothers, against republicans, is more especially necessary. It is necessary that this war should excite civil commotions, shock every idea of morality, and rouse to resistance the true sons of America; and pretences will arise in abundance for stigmatizing with sedition the honorable defenders of principles, and for substituting a monarchical in the room of a representative Government.

It would be hereafter unnecessary to dissemble. Such are the criminal practices of the English Cabinet. Such is the blind propensity of a Government which it influences; and it is the French Republic, which sacrificed the blood and fortune of its citizens in the cause of liberty; it is the French Republic that is instigated to strike the fatal blow! But, superior to the influence of her resentments, she will be actuated by nothing but the happiness of the two Republics, and she will appeal to the whole universe to judge of the sincerity of the dispositions which she has never ceased, and which she will never cease, to manifest, for living in peace with America.

P. S It is of extreme importance to lay before the public the letters written to Mr. Gerry, Envoy of the United States, by the Minister of Exterior Relations as soon as this strange publication came to his knowledge; and it is of equal importance to know the answers given by Mr. Gerry. Both are as follow. [*See the preceding numbers* 6, 7, 8, 10, 11.]

NOTE.—The names were in fact sent to the Minister, who immediately deposited them in the proper place.

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[The following letter of the citizen, designated by the letter Z. it is not less essential to publish.]

13th Prairial, 6th year,
(*June* 1, 1798)

TO THE MINISTER OF EXTERIOR RELATIONS:

Mr. Gerry having communicated to me the letter which you yesterday wrote to him, by which you expressly desire that he may make known to you the persons meant by the letters W. X. Y. Z., in the correspondence of the American Envoys, printed in a public paper of the United States of America, dated April 12, (O. S.)

My sensibility must be much affected on finding myself, under the letter Z., acting a part in company with certain intriguers, whose plan it doubtless was to take advantage of the good faith of the American Envoys, and make them their dupes. Finding myself implicated in this affair, and wishing to remove my uneasiness respecting the disagreeable impressions, and the consequence which the publication of your letter to Mr. Gerry might produce, I thought it my duty to hasten to you, and pray you, Citizen Minister, to be pleased to declare, in writing, that, in the conferences I had with those gentlemen, I pursued the communications which you authorized me to make to them, in the manner I shall state below.

In the beginning of last Brumaire, (October 22, 1797,) having been to pay my respects to the Citizen Minister of Exterior Relations, and, the conversation turning upon the United States of America, he expressed to me his surprise that none of the Americans, and especially the new Envoys, ever came to his house; that this was not the way to open a negotiation, the success of which they had more reason than we to wish; that he would receive them individually with great pleasure, and particularly Mr. Gerry, whom he had known at Boston. Knowing my friendly connexions with Mr. Gerry, he charged me to impart to them what he had said. I accordingly waited on Mr. Gerry, who, having sent for his colleagues, I communicated to them the conversation I had had with the Citizen Minister.

Messrs Pinckney and Marshall declined waiting on the Minister upon the ground of ceremony; but as the same reason did not apply to Mr. Gerry, it was agreed that he should go the next day, and

that I should accompany him, Mr. Gerry at that time not being able to express himself in French. The next day we went; but not finding the Minister at home, Mr. Gerry requested him to appoint a time for an interview, which was fixed for a few days after. We attended accordingly, and, after the usual compliments, Mr. Gerry having expressed to the Minister his desire to see harmony and a good understanding re-established between the two Republics, the Minister answered him that the Directory had made a determination not to treat with them, unless they previously made reparation for some parts of the President's Speech at the opening of Congress, and gave an explanation of some others; that he could not delay but for a few days communicating this determination officially to them; that, until then, if they had any propositions to make, which could be agreeable to the Directory, he would communicate them with alacrity; that considering the circumstance, and the services of the same kind which France had formerly rendered to the United States, the best way would be for them to offer to make a loan to France, either by taking Batavian inscriptions for the sum of fifteen or sixteen millions of florins, or in any other manner. Mr. Gerry, after having replied in a polite, but evasive manner to the first article, added, on the subject of the loan, that their powers did not extend so far, but that he would confer with his colleagues upon the subject. It is to be observed that, as the Minister spoke nothing but French, I repeated in English to Mr. Gerry what he had said to him, and that, although certain that he very well understood the answers of Mr. Gerry, I repeated them to him in French. We took our leave of the Minister who had just received a courier, and he charged me on parting to repeat to Mr. Gerry and his colleagues what he had said to us. Accordingly I repeated to Messrs. Pinckney and Marshall, in the presence of Mr. Gerry, the conversation which we had had with the Minister.

A few days afterwards Mr. Gerry requested me to accompany him again on a visit to the Minister, and having repeated to him the extreme desire he felt to see the most perfect union re-established between the two nations, he resorted to the insufficiency of their powers, and proposed, in the name of his colleagues and himself, that one of them should immediately depart for America with the propositions which the French Government might make. The Minister answered that it would require six months to have an answer, and that it was of importance to have a speedy determination; that he was extremely desirous to have frequent communications with them individually and amicably. This course appearing to him to be the best adapted to come at the issue of a speedy negotiation, he therefore lamented that he had yet had no communication with them.

Such, Citizen Minister, as far as my memory serves me, are the particulars of the only two conferences at which I was present. I shall add that no person has had a greater desire than myself to see this negotiation succeed.

Health and respect, HAUTEVAL.

MR. SKIPWITH'S COMMUNICATIONS.

To the Secretary of State of the United States of America.

PARIS, *August* 4, 1798.

SIR: I have the honor to send you enclosed the official copy of an arrêt of the Executive Directory of the French Republic, concerning the French privateers in the West Indies, which was transmitted to me by the French Minister of Foreign Affairs. I have the honor to be, sir, &c.

FULWAR SKIPWITH.

PARIS, *August* 8, 1798.

SIR: Having had the honor of transmitting to you three official copies of the arrêt of the Directory, of the 13th Thermidor,* concerning their privateers in the West Indies, the present is merely to enclose you a copy of a letter which I yesterday received from the Minister of Foreign Relations, on the subject of that arrêt. I have the honor to be, sir, &c.

FULWAR SKIPWITH.

To the SECRETARY OF STATE.

The Minister of Exterior Relations to Citizen Skipwith, Consul General of the United States of America.

PARIS, 19 *Thermidor*, (*August* 6, 1798.)
6th year of the French Republic.

CITIZEN: You will have seen in No. 961 of the Redacteur, a copy of a decree made by the Directory, in order to cause the privateers to return within the rules and limits whence they ought never to have departed.

By this measure foreign Powers will be convinced that the Executive Directory, when informed of the abuses which may be directed against them, takes every pains to stop them, and to prevent their return.

You will doubtless see in the intention and the acts of the Directory cause for feeling a security with respect to the commerce of your fellow-citizens, so long as it shall be confined within just bounds.

I wish, citizen, that, for the good of the two countries, the conduct of the Federal Government may correspond with that of the Directory. In this supposition, the friendly relations of the two people would be soon re-established.

C. M. TALLEYRAND.

Fulwar Skipwith, Consul General for the United States near the French Republic, to Timothy Pickering, Esquire, Secretary of State of the United States.

CONSULATE GENERAL OF THE U. S.,
PARIS, *August* 22, 1798.

SIR: With a copy of a letter I have just received from the Minister of Foreign Affairs, I have the honor, under cover thereof, to transmit to you copies of two letters which have been officially communicated to me from the Minister of Marine to all principal civil and military officers, at the different ports of this Republic, concerning the safety and protection of American citizens in general, and those seamen in particular who were detained or are in confinement at those ports. Agreeably to the intimations contained in the Minister's letter to me, I have this day made application to the Minister of Police in favor of the American seamen, who, by means of one of the public authorities at L'Orient, had been arrested as Englishmen, and are at present confined at Orleans as prisoners of war. In a few days I expect to obtain their liberation, and shall procure their passage home.

I have likewise the pleasure of forwarding to you an official copy of an arrêt of the Directory for raising the embargo, imposed by Government on all vessels belonging to the United States in the ports of this Republic.

I deem it my duty to observe that, from informal communications which I have recently and repeatedly had with some of the best informed individuals of the Government on the subject of American vessels and property, now under trial before the different tribunals of this Republic, I have derived such information of the present disposition and intentions of the Directory, as to be satisfied myself that they will, ere long, endeavor to provoke in the Legislature a revision of their maritime laws, and that such a system will be organized as will secure the most important rights of neutrality upon the seas: this pleasing event is generally expected, and will, I am persuaded, arrive before this can reach you. Though many of the late arrêts of the Directory have certainly encouraged the tribunals in the most pernicious applications of existing laws in regard to neutral property captured and brought in for adjudication, yet it may not be unimportant to remark to you, sir, that the Directory, however well disposed, cannot change the conduct of the tribunals in regard to American and other neutral vessels now before them, without legislative interference; and that, owing to particular circumstances, it appears evidently that some time is necessary for them to prepare and dispose that body to alter some laws and make others, which shall cause the tribunals and privateers to respect neutrals in general, and the flag of the United States in particular: but from the present manifest dispositions and endeavors of the Directory to produce that end, I am happy to add, that the tribunal of cassation, before whom appeals have been made on most of the American property condemned in France, appear disposed to procrastinate pronouncing upon them until the sentiment of the Legislature shall be declared upon the laws which are operating against their success. I have the honor to be, &c.

FULWAR SKIPWITH.

The Minister of Foreign Relations to Mr. F. Skipwith.

PARIS, 3*d Fructidor*, (*August* 20, 1798.)
6th year of the French Republic.

I send you, sir, copies of two letters written by the Minister of Marine to all the principal officers, civil and military, of the ports of the Republic. Their contents will prove to you the attention of the Government to remedy the abuses committed against its intentions.

With respect to the persons detained in the civil prisons of Orleans, because they are not possessed of papers to prove that they are not English, and who claim to be Americans, be pleased to call upon the Minister of General Police, to whose functions belong all the measures of safety. The Minister of Marine informs me that he has transmitted their petition to him, and I am going to write to him myself, in order to request him to admit your declaration in their favor, in the absence of other proofs. Receive, sir, the assurance of my consideration.

CH. MAU. TALLEYRAND.

Copy of a Circular Letter, written by the Minister of Marine and the Colonies, to all the principal officers of the Ports, civil and military, on the 29th Thermidor, 6th year, (16th August, 1798.)

Our political situation with regard to the United States, citizen, not having, as yet, undergone any change which can affect the respect due to neutral nations, I no not think I have need to remind you that no injury should be done to the safety and liberty of the officers and crews of any American vessel found to be in order, and that the same conduct ought to be observed towards all passengers and other citizens of the United States furnished with the necessary passports or protections. You will be pleased to use a vigilant attention, that the intentions of the Government, in this respect, may be pursued by all those under you, and when any of them has departed from them you will do justice upon the complaints which may be addressed to you, after ascertaining their validity.

The Minister of Marine and of the Colonies,
E. BRUIX.

For a true copy,
The Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

Copy of the Circular Letter written by the Minister of Marine and the Colonies to the Agents of the Marine in the Ports of the Republic.

PARIS, *the 24th Thermidor*,
6th year, (*11th August*, 1798.)

I observe, citizen, by the correspondence of the greater part of the administrators of the ports, that the embargo recently laid upon the American vessels has occasioned the detention of the crews. The intentions of the Government were very badly understood, when a measure was adopted which, in the first place, hazards the safety of these vessels, and, in the second place, appears to place us in a hostile attitude with respect to the United States; whilst the acts of the Government evince, on the contrary, that it desires a good understanding between the two Republics. I therefore charge you, citizen, immediately upon the receipt of this, to order the discharge of all the Americans who

* 31st July, 1798—the arrêt here referred to.

may have been considered as prisoners of war, in consequence of the embargo of their vessels. You will be pleased to render me a prompt account of the execution of this order.

The Minister of Marine and the Colonies,
E. BRUIX.

For a true copy,
The Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

Copy of a Decree. Extract from the Register of the Decrees of the Executive Directory, of the 29th Thermidor, 6th year of the French Republic, one and indivisible, (16th August, 1798.)

The Executive Directory considering that, notwithstanding the hostile manifestations of the Government of the United States, which have occasioned a momentary embargo upon their vessels, it must be believed that, unless abandoned to the passions of the British Cabinet, that Government, faithful to the interests of the American nation, will take measures conformable to the pacific dispositions of the French Republic, after it shall receive a confirmation of them; and, wishing to pursue the friendly and fraternal habits of France toward a people whose liberty it defended,

Decrees as follows:

Art. 1. The embargo laid upon the American vessels shall be immediately raised.

Art. 2. The Minister of Marine and of the Colonies is charged with the execution of the present decree, which shall not be printed.

For a true copy, as President of the Executive Directory,
MERLIN.

By the Executive Directory, as Secretary General,
J. M. R. LEPEAUX.

For a true copy, the Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

FRANCE.

[Communicated to Congress, January 21, 1799.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

According to an intimation in my Message of Friday last, I now lay before Congress a Report of the Secretary of State, containing his observations on some of the documents which attended it.

JOHN ADAMS.

United States, *Jan.* 21, 1799.

Department of State,
January 18, 1799.

The Secretary of State respectfully submits the following report of the transactions relating to the United States and France, since the last communications to Congress on that subject.

TIMOTHY PICKERING.

To the President *of the United States.*

Report of the Secretary of State on the transactions relating to the United States and France, since the last communication to Congress on that subject.

The points chiefly meriting attention are the attempts of the French Government—

1. To exculpate itself from the charge of corruption, as having demanded a *douceur* of fifty thousand pounds sterling (222,000 dollars) from the pockets of the Directors and Ministers, as represented in the despatches of our Envoys;

2. To detach Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation; and

3. Its design, if the negotiation failed, and a war should take place between the United States and France, to throw the blame of the rupture on the United States.

1. The despatches of the Envoys published in the United States and republished in England, reached Paris toward the last of May; and on the 30th of that month, the French Minister, Mr. Talleyrand, affecting an entire ignorance of the persons designated by the letters W. X. Y. and Z.—calling them intriguers, whose object was to deceive the Envoys—writes to Mr. Gerry, and "prays him immediately to make known to him their names."

Mr. Gerry in his answer of the 31st, wishes to evade Mr. Talleyrand's request; and with reason, for he and his colleagues had "promised Messrs. X. and Y. that their names should in no event be made public." Mr. Gerry, in his letter of October 1, in noting the repetition of Mr. Talleyrand's request for those names, states as an objection to giving them up "that they could be otherwise ascertained;" and that Mr. Talleyrand's messenger, admitting the fact that they were already known, immediately mentioned their names. Mr. Gerry, nevertheless certified in writing the names X. Y. and Z.; with the reserve "that they should not be published on his authority:" and besides formally certifying to Mr. Talleyrand the names of his own private agents, added, that "they did not produce, to his knowledge, credentials or documents of any kind." "Credentials" in writing were certainly not to be expected to be produced by agents employed to make corrupt propositions: but Mr. Gerry had Mr. Talleyrand's own assurance that Mr. Y. was acting by his authority. It is recited in the Envoys' despatches, and upon Mr. Gerry's own report to his colleagues, that, on the 17th of December, 1797, Mr. Y. "stated to him that two measures which Mr. Talleyrand proposed being adopted, a restoration of friendship between the Republics would follow immediately; the one was a gratuity of fifty thousand pounds sterling; the other a purchase of thirty-two millions of Dutch rescriptions;" and after conversing on these topics, Mr. Gerry and Mr. Y. rode to Mr. Talleyrand's office, where "Mr. Gerry observed to Mr. Talleyrand that Mr. Y. had stated to him that morning some propositions as coming from Mr. Talleyrand, respecting which Mr. Gerry could give no opinion;" and, after making some other observations, Mr. Talleyrand answered "that the

information Mr. Y. had given him (Mr. Gerry) was just, and might always be relied on." This declaration stamps with the Minister's authority all the communications made by Mr. Y. to the Envoys. And Mr. Y. himself, who is Mr. Bellamy, of Hamburg, in his public vindication declares, that "he had done nothing, said nothing, and written nothing, without the orders of Citizen Talleyrand." The same may be asserted in regard to Mr. X., for he first introduced Mr. Y. to the Envoys; and his separate communications were substantially the same with those of Y.; and both together were present with the Envoys when the communications were more than once repeated.

It also deserves notice, that, in stating the preliminary demands of the French Government, the private agents, X. and Y., and the Minister, use a similar language. The agents declare that the Directory are extremely irritated at the Speech of the President, and require an explanation of some parts of it, and reparation for others; that this must give pain to the Envoys, but the Directory would not dispense with it: and that as to the means of averting the demand concerning the President's Speech, the Envoys must search for them, and propose them, themselves. Being asked to suggest the means, the answer is "money"—the purchase of the Dutch rescriptions, and fifty thousand pounds sterling, as a *douceur* to the Directory."

The Minister told the Envoys that the Directory were wounded by the President's Speech; and, in his conversation with Mr. Gerry on the 28th of October, said "the Directory had passed an arrêt, which he offered for perusal, in which they had demanded of the Envoys an explanation of some parts, and a reparation for others, of the President's Speech to Congress of the 16th of May, 1797; that he was sensible that difficulties would exist on the part of the Envoys relative to this demand; but that by their offering money he thought he could prevent the effect of the arrêt. Mr. Z., (the "interpreter,") at the request of Mr. Gerry, having stated that the Envoys have no such powers, Mr. Talleyrand replied, they can in such case take a power on themselves; and proposed that they should make a "loan." But this "loan," as will presently appear, did not mean the "money," which would "prevent the effect of the arrêt." Mr. Gerry then making some observations on the powers of the Envoys—that they "were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty, or, if necessary, form a new one;" added, "that as to a loan, they had no powers whatever to make one, but that they could send one of their number for instructions on this proposition, if deemed expedient:" "That as he [Mr. Talleyrand] had expressed a desire to confer with the Envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained." "Mr. Talleyrand, in answer said, he should be glad to confer with the other Envoys, individually, but that this matter about the "money" must be settled directly with out sending to America; that he would not communicate the arrêt for a week; and that if he could adjust the difficulty respecting the Speech, an application would nevertheless go to the United States for a loan." Now this matter of the money that must be settled directly, could only refer to the *douceur;* for a loan in the purchase of millions of Dutch rescriptions, or in any other form, could only be the subject of a stipulation to be afterward fulfilled by the United States; but the *douceur* of fifty thousand pounds sterling was a sum within the immediate reach of the Envoys; for their credit would certainly command it: in fact a mercantile house had offered to answer their draughts; and this Mr. Talleyrand unquestionably well knew; for it was a member of the same house who first introduced the Minister's agent, Mr. X., to General Pinckney, in the manner stated in the Envoys' despatches. A collateral evidence that, in "this matter of the money that must be settled directly," Mr. Talleyrand referred only to the *douceur*, arises from this circumstance: The very next day, (October 29th,) Mr. X. called on the Envoys and said, "Mr. Talleyrand was extremely anxious to be of service to them, and had requested that one more effort should be made to induce us to enable him to be so." After a great deal of the same conversation which had passed at former interviews had been repeated, the Envoys say—"the sum of his proposition was, that if we would pay by way of fees (that was his expression) the sum of money demanded for private use, the Directory would not receive us, but would permit us to remain at Paris as we now were; and we should be received by Mr. Talleyrand, until one of us could go to America and consult our Government on the subject of a loan."

Although the Envoys' despatches, and the facts and circumstances hereinbefore stated, cannot leave a doubt that X., as well as Y. and Z., was well known to Mr. Talleyrand, it will not be amiss to add, that on the 2d of December, X., Y., and Z., dined together at Mr. Talleyrand's, in company with Mr. Gerry; and that after rising from the table, the money propositions, which had before been made, were repeated, in the room and in the presence, though, perhaps, not in the hearing, of Mr. Talleyrand. Mr. X. put the question to Mr. Gerry in direct terms, either "whether the Envoys would now give the *douceur*," or "whether they had got the money ready." Mr. Gerry, very justly offended, answered positively in the negative, and the conversation dropped.

Mr. Z., who has avowed himself to be Mr. Hauteval, was the person who first made known to the Envoys the Minister's desire to confer with them individually on the objects of their mission. He it was who first introduced Mr. Gerry to Mr. Talleyrand, and served as the interpreter of their conversations; and in his letter to Mr. Talleyrand, at the close of Mr. Gerry's document, No. 35, he announces himself to be the agent of the Minister, to make communications to the Envoys.

Mr. Hauteval declares "his sensibility must be much affected on finding himself, under the letter

Z., acting a part in company with certain intriguers, whose plan, he says, it doubtless was to take advantage of the good faith of the American Envoys, and make them their dupes;" yet this person, the avowed agent of the French Minister, apparently so anxious to screen himself from the suspicion of an agency in soliciting the bribe required by Mr. Talleyrand, did himself urge a compliance with that corrupt proposition.*

The sensation which these details irresistibly excite is that of astonishment at the unparalleled effrontery of Mr. Talleyrand, in demanding of Mr. Gerry the names of X., Y., and Z., after Y. had accompanied him on a visit to the Minister, with whom the conversation detailed in the printed despatches then passed, and who then assured Mr. Gerry "that the information Mr. Y. had given him was just, and might always be relied on;" after Z. had in the first instance introduced Mr. Gerry to the Minister, and served as their mutual interpreter, and when the conversation between them had also been stated in despatches; and after X., Y., and Z., had all dined together with Mr. Gerry at Mr. Talleyrand's table, on rising from which X. and Y. renewed the proposition about the money! The very circumstance of Mr. Talleyrand's being continued in office after the account of these intrigues had been published to the world is a decisive proof that they were commenced and carried on with the privity and by the secret orders of the Directory. It was to accomplish the object of these intrigues that the American Envoys were kept at Paris unreceived six months after their credentials had been laid before the Directory; and it was only because they were superior to those intrigues, and that no hopes remained of wheedling or terrifying them into a compliance, that two of them were then sent away, and with marks of insult and contempt.

2. The fact that the French Government attempted to inveigle Mr. Gerry into a separate negotiation will not be questioned: at first, it was made privately, and under an injunction of secrecy toward his colleagues; it was afterward plainly insinuated by the Minister, in his letter of the 18th of March, 1798, in which he tells the Envoys that the Executive Directory are disposed to treat with one of the three, and that one he openly avowed, in his letter of the 3d of April, to be Mr. Gerry. The pretence for selecting him was, that his "opinions, presumed to be more impartial, promised, in the course of the explanations, more of that reciprocal confidence which was indispensable." But when before had their "opinions" been stated as a justifiable ground for rejecting the Ambassadors of Peace? Ambassadors, too, of established probity, whose characters were of the first distinction in their own country, and whose demeanor toward the Government to which they were deputed was decent and respectful; who had, with a frankness which the candor of their instructions warranted, communicated the important points which they contained; and who, unremittingly, and with the most anxious solicitude, entreated that the negotiations might be commenced. What more proper or more honorable qualities ought Ministers deputed to negotiate with a foreign nation to possess? But why should a foreign Government question the opinions of the Ambassadors sent to negotiate with it on subjects of difference between the two nations? If wisely chosen, and faithful to the interests of their own country, they must of course possess different opinions from the Government to which they are sent, the differing opinions maintained by the two nations on their respective rights and interests being the cause and objects of the negotiation. A Government really disposed to treat on fair principles would never object to the opinions of foreign Ambassadors. It would receive them, and appoint its own Ministers, with proper powers to treat with them, propose its terms, and receive those offered, and discuss both; and, if then they could not agree, put an end to the negotiation. The French Government did not wish to negotiate, it desired to impose a treaty on the United States. To this practice it had been accustomed towards the minor Powers in Europe, whom it had subjected to its will; and it expected equal submission from the United States. Hence Mr. Talleyrand's secret declaration to Mr. Gerry, "that if he would negotiate, they could soon finish the treaty, for the Executive Directory were not in the habit of spending much time about such matters." Hence the objections to General Pinckney and General Marshall. They manifested a discernment superior to the intrigues of the French Government, and an invincible determination not to surrender the honor, the interest, or the independence of their country. It was necessary, then, to get rid of them; and seeing that neither despair of negotiating nor studied indignities could induce them to quit their posts, passports were sent them to quit France. It was with difficulty that General Pinckney could obtain permission to stay two or three months for the recovery of his sick daughter, to whom an immediate voyage would probably prove fatal. Unembarrassed by the presence of these Envoys, the French Government, if it really desired a treaty on any terms, hoped to prevail on Mr. Gerry to negotiate separately, although from the first overture he declined, and continued to decline it. But, after the expulsion of his colleagues, it hoped by its seductive arts to prevail over his scruples, and gain his consent to terms which, while they were present, would be rejected; or at all events to retain him, with the semblance of negotiating, regularly or informally, and thus keep the United States in the torpor of indecision, without preparation for offence or defence. Unfortunately, Mr. Gerry was induced, by the threats

* Extract of a letter, dated June 15th, 1798, from Mr. King, Minister of the United States in London, to the Secretary of State:

"Colonel Trumbull, who was at Paris soon after the arrival there of the Commissioners, has more than once informed me that Hauteval told him that both the *douceur* and the *loan* were indispensable, and urged him to employ his influence with the American Commissioners to offer the *bribe* as well as the *loan*."

of immediate war against the United States, to separate from his colleagues, and stay in Paris—threats which, viewed with their motives, merited only detestation and contempt. Four or five months before, the threats of immediate orders to quit France, and the terrors of war in its most dreadful forms, had been held up to all the Envoys, to frighten them into a compliance with the groundless, unjust, and corrupt demands of the French Government. Those threats had not been executed, and the unworthy purposes for which they had been uttered had been obvious. Happily for the United States, the character of the French Government, as delineated in the official despatches of all the Envoys, and the knowledge of its conduct towards other countries whose Governments it had overturned, and whose people, in the names of Liberty and Equality, it had enslaved, so operated as not to leave us exposed to all the evils which suspense was calculated to produce. Mr. Gerry, indeed, resisted all the arts of the French Minister to entice him into a formal negotiation after that Government had driven his colleagues from Paris—a negotiation which in its nature would have been a surrender of our independence, by admitting a foreign Government to choose for us the Minister who should represent our country, to treat of our important rights and interests, which that Government had itself violated and deeply injured.

The Directory and their Minister, Mr. Talleyrand, hoped and expected that General Pinckney and General Marshall would voluntarily have quitted France, after the Minister's letter of the 18th of March, in which he made the offensive distinction between them and their colleague, Mr. Gerry, on the pretence that his "opinions" were more "impartial" than theirs. Accordingly, Mr. Talleyrand, in his letter to Mr. Gerry of the 3d of April, says, "I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations which the end of my note of the 18th of March last presents, to quit the territory of the Republic." Yet Mr. Talleyrand had given them neither passports nor letters of safe conduct! The fact is, the French Government wished to avoid the odium of sending them away, and the blame of a rupture, which Mr. Talleyrand predicted would be the consequence; while it was privately intimated to them that they must leave the country. The Minister's conduct on this occasion towards General Marshall, (as detailed in his journal,) was particularly marked with indignities. When it was observed to Mr. Talleyrand, that this was not the manner in which a foreign Minister ought to be treated. Mr. Talleyrand replied that General Marshall was not a foreign Minister, but was to be considered as a private American citizen, and must obtain his passport, like others, through the Consul. To this it was answered, that General Marshall was a foreign Minister,* and that the French Government could not deprive him of that character, which was conferred upon him, not by Mr. Talleyrand, but by the United States; and though the Directory might refuse to receive or to treat with him, still his country had clothed him with the requisite powers, which he held independently of France; that if he was not acceptable to the French Government, and, in consequence thereof, it was determined to send him away, still he ought to be sent away like a Minister; that he ought to have his passports, with letters of safe conduct, which would protect him from the cruisers of France. Mr. Talleyrand replied, that if General Marshall wished for a passport, he must give in his name, stature, age, complexion, &c., to the American Consul, who would obtain a passport for him; that with respect to a letter of safe conduct, it was unnecessary, as no risk from the cruisers would be incurred. The result of these conversations was a plain demonstration of the intention of the Minister, that, in consequence of his intimation at the close of his letter of the 18th of March, that the "opinions" of two of the Envoys were not agreeable to the Government of France, Generals Pinckney and Marshall should appropriate to themselves the character which the Minister had drawn generally. The Envoys, aware of this snare, in their answer of the 3d of April, to the intimation that "the Directory was disposed to treat with one of the Envoys," declare to the Minister, "that no one of the Envoys was authorized to take upon himself a negotiation evidently entrusted to the whole," and "that no two of them could propose to withdraw themselves from the task committed to them by their Government, while there remained a possibility of performing it;" but that if "it should be the will of the Directory to order passports for the whole or any number of them," it was desired that such passports might be accompanied with letters of safe conduct, to protect them against the cruisers of France.

These endeavors of the French Government, whether real or affected, to draw Mr. Gerry into a separate negotiation, constitute the substance of the correspondence between him and Mr. Talleyrand. They appear to merit consideration in several points of view.

1. Because, if real, it was only in the hope and expectation that by intrigues and terrors the French Government might influence Mr. Gerry to enter into a formal treaty, on the terms which he and his colleagues had repeatedly rejected as incompatible with the interest, honor, and independence of their country. For at this time Mr. Talleyrand had not renounced the demands of loans and a douceur as the indispensable preliminaries of a treaty. Accordingly, we see Mr. Talleyrand, in his letter of the 3d of April to Mr. Gerry, propose "to resume their reciprocal communications upon the interests of the French Republic and the Uni-

* On the 9th of October, 1797, the day after the Envoys had delivered to the Minister a copy of their letter of credence, "cards of hospitality were sent to them and their secretaries, in a style suitable to their official character." And, in the Minister's letter to them of the 18th of March, 1798, he calls them "the Commissioners and Envoys Extraordinary of the United States of America."

ted States of America." And, in his letter of July 12th to Mr. Gerry, having mentioned the arrival at Havre of a packet, the Sophia, from the American Government, he says, "until then I never supposed you entertained the design of embarking before we had come to an agreement upon the definitive articles to be ratified by your Government." 2. Because, if that Government had so far succeeded, it would have insisted on its ratification by the President and Senate, on the ground constantly taken by Mr. Talleyrand, that the powers of the Envoys being several as well as joint, Mr. Gerry, when alone, even after the French Government had ordered his colleagues to leave France, were adequate to the formation of the treaty; and that, therefore, the public faith would be violated, if it were not ratified. 3. Because, under such circumstances, the French Government doubtless calculated at least on a division of the public opinion in the United States in favor of the ratification of such a treaty; by means of which it might enforce the ratification, or effect still greater mischiefs. 4. But these endeavors to draw Mr. Gerry into a formal negotiation are chiefly remarkable because they were persevered in during nearly five months, against his constant, direct, and positive refusals to treat separately; Mr. Talleyrand asserting, and Mr. Gerry denying, the competency of his powers.

We have seen the Envoys, from the 6th of October, 1797, the date of their first letter to the French Minister, to the 3d of April, 1798, when their last was delivered to him, expressing their earnest desire to enter upon and prosecute the great business of their mission; we have seen them during that long period patiently enduring neglect and indignities, to which an ardent zeal to re-establish harmony and peace could alone induce freemen to submit; we have seen them, while held in suspense—neither received nor rejected—yielding to the importunities of private agents of the French Government, and hearing and discussing their propositions, insulting as they were, in the hope that when these should be shown to be utterly inadmissible, others, founded in reason and equity, and in the usual course of diplomatic negotiation, might be brought forward. Doubtless, they also wished, when their astonishment at the first overtures had subsided, by listening still longer to such dishonorable propositions, to ascertain the true character of the French Government. We have seen them, after waiting five weeks, from the presentation of a copy of their letters of credence, entirely unnoticed, "solicit an attention to their mission," and soliciting in vain. Thus denied an official hearing, they hoped, by an unusual step, to excite the attention of that Government. They determined to transmit to the Minister a letter representing the views of their own Government in relation to the subjects in dispute with France. This letter, dated the 17th, was delivered the 31st of January, 1798. Waiting near a month without an answer, and "still being anxious to hear explicitly from Mr. Talleyrand himself, before they sent their final letter, whether there were no means within their powers of accommodating our differences with France, on just and reasonable grounds, on the 27th of February they desired "a personal interview on the subject of their mission;" and afterwards a second interview. They remark on what passed at these meetings, "that the views of France, with regard to the United States, were not essentially changed since their communications with its unofficial agents in the preceding October."

At length they received Mr. Talleyrand's letter of the 18th March, 1798, in answer to theirs of the 17th of January. The Minister's letter represented the complaints of France; as usual, charging the American Government with the inexecution of the treaties with France; with dissimulation; insinuating that our tribunals were subject to a secret influence; holding up the British Treaty as replete with evil and injury, and "the principal grievance of the Republic;" accusing the American Government of a wish to seize the first favorable occasion to consummate an intimate union with Great Britain, and suggesting that a devotion and partiality to that Power have long been the principle of the conduct of the Federal Government.

To this letter of the French Minister, the Envoys sent their reply on the 3d of April. This reply and their former letter detect the sophisms and erroneous statements of the Minister; expose his naked assertions; refute his arguments; repel his calumnies; and completely vindicate the fidelity, the justice, and, as a neutral Power, the impartiality of the Government of the United States; and, at the same time, exhibit the weighty and well-founded complaints of the United States against the French Republic.

Hitherto, instead of a desire to obtain a reconciliation, we can discover in the French Government only empty professions of a desire to conciliate, while it haughtily refused to receive our Envoys, and, during six months, disregarded their respectful and ardent solicitations to negotiate, and after one of them, whom it induced to remain in France, had declared that "he had no powers to treat separately, that the measure was impossible," then the Directory expelled the other two!

If now we survey Mr. Gerry's individual correspondence, we shall find no solid evidence of any change in the disposition of the French Government.

In his first letter to Mr. Gerry, Mr. Talleyrand's artifice is visible. He addresses him as "Envoy Extraordinary of the United States of America to the French Republic;" and proposes to him to "resume their reciprocal communications." Mr. Gerry, apprehending that the Minister intended to draw him into a negotiation, repeats what he had often before declared, that for him to treat separately was impracticable, and that he can only confer with him informally.

On the 20th of April, Mr. Gerry addresses a letter to the Minister, and presses him to come forward with propositions for terminating all differences, restoring harmony, and re-establishing commerce between the two nations. He receives no answer. On the 28th he confers with the Minister, who says he cannot make propositions, because he does not know the views of the United States in regard to a treaty. Mr. Gerry gives him the information. He then promises, in three or four days, to deliver Mr. Gerry the project of a treaty. This promise was never performed. On the 12th of May, the new instructions of March 23d, sent by the Sophia packet, reached Mr. Gerry; and he gave immediate notice to the Minister that he should return to America in the Sophia, as soon as she could be fitted for sea.

"On the 24th of May, the Minister sent his principal secretary to inform Mr. Gerry that his Government did not wish to break the British Treaty, but expected such provisions as would indemnify France, and put her on a footing with that nation." Yet that treaty had been made, by the French Government, its chief pretence for those unjust and cruel depredations on American commerce, which have brought distress on multitudes, and ruin on many of our citizens; and occasioned a total loss of property to the United States of probably more than twenty millions of dollars, besides subjecting our fellow-citizens to insults, stripes, wounds, torture, and imprisonment. And Mr. Talleyrand, in his letter of the 18th March to the Envoys, declared that treaty to be "the principal grievance of the Republic." But now, instead of breaking that treaty, France desires to be put on the same footing. This the United States would at any time have done, and the Envoys were now explicitly instructed to do; and seven months before, all the Envoys, in their conversation with Mr. Bellamy, (Y.,) the confidential and authorized agent of the French Minister, told him "that he might be assured that their powers were such as authorized them to place France on equal ground with England, in any respect in which an inequality might be supposed to exist at present between them, to the disadvantage of France."

The secretary also mentioned the claims of the American citizens on the French Republic. He said if the latter should be unable to pay them, when adjusted, and the United States would assume and pay them, France would reimburse the amount thereof. This has the semblance of candor; but, on the 4th of March, when the Envoys were in conference with Mr. Talleyrand, and they disclosed their principal instructions, "General Pinckney and Mr. Gerry told him they were positively forbidden to assume the debts to our own citizens, even if we were to pay the money directly to them." And doubtless it was because the proposition was already known to be inadmissible that it was now renewed.

The secretary and Mr. Gerry had also some unimportant conversation about the Consular Convention. And it is plain that the whole object of the secretary's visit was to amuse, by keeping alive Mr. Gerry's hopes of some pacific arrangements.

On the 26th of May, Mr. Gerry had a conference with the Minister, pressing on this, as on former occasions, the necessity of sending a Minister to the United States, with powers to negotiate; to which, he says, the Minister acceded; but afterwards explained himself to mean a Minister to reside there after the ratification of the talked of treaty.

Such are the proceedings of the French Government by its Minister, Mr. Talleyrand, before the arrival of the printed despatches of the Envoys. We discover nothing but a proposition for treating with Mr. Gerry alone, which he had repeatedly declared to be impossible; and on terms which Mr. Gerry himself, as well as the other Envoys, had long before pronounced to be utterly inadmissible, because directly repugnant to their instructions. We shall now see, by an examination of Mr. Gerry's subsequent communications, that the publication of the Envoys' despatches, far from causing a discontinuance of negotiations with him, or any change in the disposition of the French Government more unfriendly to the United States, incomparably greater zeal for negotiating was exhibited afterwards than before.

On the 30th of May, the Minister announces to Mr. Gerry the publication of the Envoy's despatches. In his letter of the 27th of June, he says this incident only, "for a moment, suspended the principal object"—the negotiation with Mr. Gerry; and in his letter of June 10th, he declares, that "the French Government, superior to all the personalities, to all the manœuvres of its enemies, perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries." On the 18th of June the Minister sends him a plan for conducting the negotiations; for the first time states the "three points," on which he says, "all negotiations between France and the United States must essentially rest;" and "gives (what he calls) a large development" of them; concluding by pressing him to remain at Paris, to accelerate the negotiation; "the drawing together of those ties which the French Republic and the true Americans have regretted to see relaxed."

On the 27th of June, the Minister again writes to Mr. Gerry, and, in language the most importunate, such as had never before been used, urges him not to withdraw, "when the French Government, superior to all resentments, and never listening to anything but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement." The Minister even observes that the first of the "three points," mentioned in his preceding letter, (respecting amicable declarations about mutual recriminations,) might be postponed; that the third, (about the examination of reciprocal damages,) would doubtless experience no difficulty on either side, after the second should be amicably settled; that it was to the second, therefore, they should first attend—it being so much the more important, as it embraced the source of all the differences between the two nations. And on the 22d of July, the Minister renounces all demands of "loans and explanations on the subject of speeches;" and even affects to be hurt that Mr. Gerry should have mentioned them; although both he and his private agents had, before, so long and so obstinately persevered in demanding them of the Envoys, as the indis-

pensable preliminaries to a negotiation. And doubtless it is partly owing to the publication of their despatches, thereby exposing to the world those shameless demands, with the scandalous proposition of the douceur, that they are now relinquished.

In adducing these circumstances to show the increased zeal of the French Government since the publication of the despatches, to negotiate on its differences with the United States, it is not to be understood that they afford a shadow of evidence of its sincerity. But as professions, verbal or written, furnish the only ground on which Mr. Gerry could form his opinion, that "before the arrival of the despatches of the Envoys, the Minister was sincere and anxious to obtain a reconciliation," much more professions stronger, and more importunate, afterwards made, afford proportionably higher evidence of sincerity. But the present details demonstrate that all those professions were merely ostensible. In the Minister's last mentioned letter, after saying that his "second point" (to fix the meaning of the treaties between the two countries) was most important, "as it embraced the source of all the differences," and that to this they should first attend: he purposely passes by the most interesting questions which it involves, and sends Mr. Gerry a note on the Consular Convention, of all possible subjects in difference the most insignificant, as it would have expired by its own limitation in two years and a half, within which time the commerce of France, judging from its present state of annihilation, would probably not furnish a single ship to visit the ports of the United States. In his next letter, dated July 6th, he pursues his speculations on the Consular Convention, and sends Mr. Gerry two more notes upon it, complaining that he had not transmitted to him his opinion upon his first note, and recommending the two last to his attention, although Mr. Gerry had repeatedly and positively declined a formal discussion, such as the Minister now urged in writing. Mr. Gerry states, also, that this first note of the Minister on the Consular Convention was sent to him six weeks after he had demanded his passport, and when his baggage was actually on board the Sophia!

In a word, the more clearly the impossibility of entering on a formal negotiation appeared, the more was it pressed by the French Minister. Mr. Gerry, in his letter to Mr. Talleyrand, of July 20th, as justly as pointedly exposes the boasted zeal of the Minister. "You was the first, you affirm, to press seriously the negotiation; you will agree with me that the merit would have been greater had the measure itself been feasible." Again he says to the Minister, "you frequently remind me of your exertions, [to negotiate,] which I am disposed as much as possible to appreciate, regretting, at the same time, their circuitous direction."

From this detail of facts, the following are the necessary conclusions:

That, by the exclusive attentions of the Minister to Mr. Gerry, the French Government intended to excite the jealousy of his colleagues, to promote dissensions between them, to separate him from them, and to induce him to remain in France, expecting either to seduce him into a formal negotiation of a treaty, on terms exclusively advantageous to France, and injurious and dishonorable to the United States; or, failing in this, to hold the United States in suspense, and prevent any measures for our security, in the event of a war; while we, amused and deluded by warm, but empty professions of the pacific views and wishes of France, and by "informal conferences," might wait in spiritless torpor, hoping for a peaceful result; and that, by this course of proceeding, this ostentatious display of zeal to adjust differences, and restore harmony and a friendly intercourse between the United States and France, the French Government intended, in case of a rupture, to throw the blame on the former.

It is necessary to make a few observations on the decree of the Executive Directory of the 31st July, 1798.

This decree was sent after Mr. Gerry to Havre, and he supposes that the official impediments which, for several days, prevented his sailing, are to be ascribed to the Minister's desire of sending the decree by him. The Minister introduces it as "a part of the measures which he had announced to Mr. Gerry on the 22d of July." In his letter of that date, to Mr. Gerry, the Minister says: "By information which the Government has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West Indies, and on their coasts. Do it the justice to believe that it needs only to know the facts, to disavow all acts contrary to the laws of the Republic, and its own decrees. A remedy is preparing for it, and orders will soon arrive in the West Indies, calculated to cause everything to return within its just limits." This "remedy" is the decree of the 31st of July.

1. The first article of this decree confines to the special agents of the Directory the right of issuing commissions to cruisers, and requires these to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st of October, 1793. Although the injunction to conform to all the laws of the Republic relative to cruising was ominous, as the laws most recently promulgated and best known were themselves the sources of the depredations and evils of which we complained, yet, not imagining that a decree, introduced with so much solemnity, of which one copy was sent to Mr. Gerry, another to the American Consul General, at Paris, and a third to Mr. Létombe, late Consul General of France, all to be communicated to the Executive of the United States, and all of which have been received, could be a mere parade of words, I was disposed to conclude that the law of the 1st of October, 1793, to which all cruisers were especially enjoined to conform, might contain regulations that would afford some relief from French depredations. By the favor of Mr. Létombe, I obtained a copy of that law, and to my astonishment, found

its object, conformably to its title, was "To determine the mode of dividing prizes made by French vessels on the enemies of the Republic."* And the only restriction in this lengthy law of six-and-forty articles, imposed on the individuals, officers, and all others composing the crews of their armed vessels, is, "that they shall not sell, beforehand, their eventual shares of prizes."

2. The second article declares that all commissions granted by the agents, in the French colonies in America, to fit out vessels for cruisers, or for war and commerce, shall be void in thirty days after the publication of the decree in those colonies.

It has been supposed that, by this regulation, the agents may gather a fresh harvest of fees for new commissions; and that this would be its only effect. The agents, however, had before taken care of this; they had been accustomed to limit the duration of privateers' commissions, and if they continued to cruise after their expiration, such privateers should have been considered as destitute of commissions, and, consequently, if they made any captures, as pirates. But the agents knew their interest better; they did not punish the piratical captors; they did not declare their captures void, and restore the property to the neutral owners; but, declaring such captors to have no title to the captured vessels and cargoes, took the whole to themselves. A remarkable instance occurred in the last year, in the case of the East India ship New Jersey, belonging to Philadelphia, to redeem which, the owners have paid to General Hedouville, special agent of the Executive Directory, in St. Domingo, upwards of two hundred thousand dollars in cash. Whether, any and what portion of such prize-money goes into the chest of the Republic, I am not informed.

3. The third article declares that all agents, and other deputies, in the neutral possessions, appointed to decide there on the validity of prizes taken by the French cruisers, and who shall be suspected of having a direct or indirect interest in the cruisers, shall be immediately recalled.

It is remarkable that this article, apparently designed to correct the monstrous abuse of public officers sitting in judgment in their own causes, should be limited to such of the French agents, and their deputies, as were appointed to reside in neutral places. I do not know that an instance of the kind exists: for, although the French privateers, and their prizes, find asylums in the Swedish and Danish islands, yet the papers are carried thence to Guadaloupe, and there the captured vessels receive their doom, under the superintendence of another special agent of the Executive Directory, Victor Hugues. And even the captured American vessels carried into the West India ports of Spain and Holland do not there receive sentence: these cases are decided by the agent, or his deputies, or other French tribunals, established in the island of St. Domingo, frequently, if not generally, in the absence of the masters and supercargoes. The French agents and judges find no difficulty in this mode of proceeding, justice being administered with more facility and despatch when only one of the parties is present at the trial, especially when the agents, or other judges, are interested in the privateers; and this the present decree impliedly allows, the penalty of "recall" being applicable, as above suggested, to such agents only as reside in neutral places, if any such there be.

It is also remarkable that this decree, which was to give the United States a proof of the justice of the French Government, (a Government, Mr. Talleyrand says, "never listening to anything but justice") and of its desire of a reconciliation with the United States, should be limited to the West Indies, when as great, if not as numerous abuses were practised by French agents and tribunals in Europe, and even France itself, as in her remote possessions. This, too, many of our citizens well know. For captures and condemnations are not the less abuses, because made under the color of municipal laws and decrees which directly violate treaties, the law of nations, and the plainest principles of justice. At present I shall only mention that, in a report made by Major Mountflorence, Chancellor of the American Consulate at Paris, to General Pinckney, in December, 1796, and which was laid before Congress in May, 1797, he states, "That the tribunals of commerce in every port of France take cognizance, in the first instance, of every matter relative to captures at sea;" and "these tribunals (he adds) are chiefly composed of merchants, and most of them are, directly or indirectly, more or less interested in the fitting out of privateers; and therefore are often concerned in the controversies they are to determine upon."

4. The fourth article requires the special agents of the Executive Directory at Cayenne, St. Domingo, and Guadaloupe, studiously to take care that the interests and property of vessels belonging to neutrals and allies be scrupulously respected.

We have too long witnessed the studious and scrupulous care of these gentlemen respecting the property of neutrals and allies, and experienced its ruinous consequences; and as the same laws which authorized that "care" remain in force, and with a fresh injunction of a strict conformity to them, we can expect only a continuance of the same abuses.

5. The fifth article enjoins the special agents of the Executive Directory, Consuls, and all others invested with powers for that purpose, to cause to be arrested and punished all who shall contravene the provisions of the present decree. Unfortunately, these special agents, Consuls, and their deputies, are themselves the aggressors, and justify their proceedings under the laws of the Republic and the decrees of the Executive Directory.

This analysis of the present decree manifests its futility; and, with some remarks on its preamble,

* "Décret de la Convention Nationale, du 1 8bre 1793, l'an 2d de la république Française, que détermine le mode de repartition des prises faites par les vaisseaux Français sur les ennemis de la république."

will demonstrate it to be a bold imposture, intended to mislead the citizens of the United States into a belief that the French Government was going to put an end to the depredations of French cruisers on American commerce, while the means proposed are so gross as to be an insult on our understandings.

The preamble to the decree sets forth, "that information, recently received from the French colonies and the continent of America leaves no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the Republic relative to cruising and prizes;" and "that foreigners and pirates have abused the latitude allowed at Cayenne and the West India islands to vessels fitted out for cruising, or for war and commerce, in order to cover with the French flag their extortions, and the violation of the respect due to the law of nations, and to the persons and property of allies and neutrals." And Mr. Talleyrand, in one of his letters before noticed, dated the 22d of July last, speaks of this information as having been "just received."

But what has been more notorious than French depredations on neutral, and especially on American commerce, in violation of treaties and the law of nations? These have been coeval with the existing war in Europe; but were multiplied under the loose decree of the Executive Directory, passed the 2d of July, 1796, declaring, that "the flag of the French Republic will treat neutral vessels, either as to confiscation, to searches, or to capture, in the same manner as they shall suffer the English to treat them."

This decree committed the whole commerce of neutrals, in the first instance, to the rapacity of French privateers, and then to the discretion of their agents, Consuls, and tribunals. These had only to say, truly or falsely, that the English treated neutrals in any given way, and then they were to treat them in the same manner. Accordingly we have seen Santhonax and Raimond, Commissioners of the French Government in St. Domingo, in their adjudication of an American vessel, on the 10th of January, 1797, declare, "that the resolution (or decree) passed by the Executive Directory, on the 2d of July, 1796, prescribes to all the armed vessels of the Republic, and the armed vessels belonging to individuals, to treat neutral vessels in the same manner as they suffer the English to treat them;" and "that it is in consequence of the above resolution of the Executive Directory, and in consequence of the manner in which the English Government in the Antilles treats neutral vessels, that the Commission passed their resolution of the 7th of January, by which they declare all neutral vessels bound to or from English ports, to be legal prize." From these facts, and the tenor of the decree itself, we can form but one conclusion, that it was framed in such indefinite terms on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression and vexation.

But without waiting for this decree, the Commissioners of the French Government at St. Domingo began their piracies on the commerce of the United States; and, in February, 1797, wrote to the Minister of Marine, (and the extract of the letter appeared in the official journal of the Executive Directory of the 5th of June.) "That, having found no resource in finance, and knowing the unfriendly dispositions of the Americans, and to avoid perishing in distress, they had armed for cruising, and that already eighty-seven cruisers were at sea; and that for three months preceding the administration had subsisted, and individuals been enriched, with the product of those prizes." "That the decree of the 2d of July was not known by them until five months afterwards. But (say they) the shocking conduct of the Americans, and the indirect knowledge of the intentions of our Government, made it our duty to order reprisals, even before we had received the official notice of the decree." "They felicitate themselves that American vessels were daily taken, and declare that they had learnt, by divers persons from the continent, that the Americans were perfidious, corrupt, the friends of England, and that, therefore, their vessels no longer entered the French ports, unless carried in by force."

After this recital, before the Council of Five Hundred, Pastoret makes the following remarkable reflections:

"On reading this letter we should think that we had been dreaming; that we had been transported into a savage country, where men, still ignorant of the empire of morals and of laws, commit crimes without shame and without remorse, and applaud themselves for their robberies, as Paulus, Æmilius, or Cato, would have praised themselves for an eminent service rendered to their country. Cruisers armed against a friendly nation! Reprisals, when it is we ourselves who attack! Reprisals against a nation that has not taken a single vessel of ours! Riches acquired by the confiscation of the ships of a people to whom we are united by treaties, and whom no declaration of war had separated from us." "The whole discourse of the agents may be reduced to these few words: 'Having nothing wherewith to buy, I seize: I make myself amends for the property which I want, by the piracy which enriches me; and then I slander those whom I have pillaged.'" "This is robbery, justified by selfishness and calumny." Yet Santhonax, one of these "robbers," and the chief of those directorial agents, continued in office, and, going a few months afterwards from St. Domingo to France, was received as a member into one of the Legislative Councils.

Pastoret also adverts to a letter from Merlin, then Minister of Justice, and now a member of the Executive Directory, to Mr. Skipwith, Consul General of the United States, which also appeared in the Journal of the Directory, and quotes the following passage: "Let your Government break the inconceivable treaty which it concluded on the 19th of November, 1794, with our most implacable enemies, and immediately the French Republic will cease to apply in its own favor the regulations in that treaty, which favor England to the injury of France, and I warrant you that

we shall not see an appeal to those regulations, in any tribunal, to support unjust pretensions." "Have I (says Pastoret) read this rightly? Unjust pretensions! Could it be possible that they should thus have been characterized by the Minister who is himself their agent and defender?"

After all, this "inconceivable British Treaty" was itself but a pretext to countenance the "unjust pretensions," as Merlin himself calls them, used by the French Government in its tribunals, for the purpose of condemning American vessels. The details I have already given prove it. I beg leave to adduce other evidence. It is the testimony of Mr. Barlow, an American by birth, but for several years past a citizen of France, a man of acknowledged discernment and talents, devoted to the French Republic, and intimate with their leading men. Mr. Barlow has long resided at Paris, and cannot have mistaken the views of the French Government, nor the motives of its conduct. Mr. Barlow's letter, dated at Paris, the first of March, 1798, to his brother-in-law, Mr Baldwin, has doomed the writer to infamy: yet when it describes the principles and conduct of the French Republic, it merits attention. He says, "that act of submission to the British Government, commonly called Jay's Treaty, is usually considered, both by its friends and enemies, as the sole cause, or at least the great cause, of the present hostile disposition towards the United States. This opinion (says he) is erroneous." He then proceeds to an enumeration of a variety of matters, which, he says, have influenced the conduct of France. But the most provoking, and the most unpardonable of all the offences of the United States against France, was, fortunately, not an act of the Government, but an act of the people. The freemen of the United States, "the true Americans," dared to exercise their independent rights, and contrary to the wishes of the French Government and the endeavors and practices of its Minister Adet, elected Mr. Adams to the office of President. Mr. Barlow's observations on this event further develop the character and the principles of that Government. He says, "when the election of Adams was announced here, it produced the order of the 2d March,* which was meant to be little short of a declaration of war;" "the Government here was determined to fleece you of your property to a sufficient degree to bring you to a feeling in the only nerve in which it was presumed your sensibility lay, which was your pecuniary interests." And what was this "feeling" to produce? The answer is obvious—*Submission to the will of the French Government.* The mystery of French politics is here unveiled.

* It will be recollected that this is the decree of the Executive Directory, ordering the capture and condemnation of American vessels, not having a *rôle d' équipage*, that fruitful source of plunder to Frenchmen, and of ruin to American citizens: and which also declared all American seamen, making a part of the crew of enemies' ships, even when put on board of them by force, to be *pirates*, and directed them to be treated as such.

The United States did not submit. Hence the non-reception of her Envoys, and their haughty treatment; hence the insulting demands of tribute as a preliminary even to their reception; and hence the expulsion of two of them from France.

But to return to the decree of the Executive Directory of the 31st of July last.

I have already shown that the mass of depredations on the commerce of the United States, under the French flag, of which we so justly complain, are not those committed, as the Directory, in their preamble, insinuate, by "foreigners and pirates," but by French armed vessels commissioned by the Government or its agents; or whether commissioned or not, whose acts in capturing American vessels receive the sanction of French Consuls, of French tribunals, and of the special agents of the Directory. I have shown that the laws of France and the Directorial decrees are themselves the sources of those violations of treaties and the laws of nations, which have caused such immense losses to the citizens of the United States. And to the proofs already offered, that the information of such aggressions and abuses, particularly in the West Indies, and on the coast of America, was not, as the preamble suggests, but "recently received." I may add that their "special agents" authorized those depredations and violations of the law of nations, by decrees assuming the laws of the Republic, or the acts of the Executive Directory, for their bases; by decrees printed and published, and undoubtedly from time to time reported by those agents to the Directory itself. Further, these outrages on the American commerce have for years past been the theme of every tongue, and filled columns in our newspapers; those newspapers which Mr. Barlow says the Office of Foreign Affairs (at Paris) regularly receives." I will conclude this point with the testimony of Mr. Létombe, late Consul General of the French Republic, and still residing in Philadelphia. He has long since, and repeatedly assured me, that he collected all those accounts of depredations and outrages committed by French privateers, and transmitted them to his Government at Paris.

In relation to the depredations and outrages committed by the French on the commerce of the United States, I have said that as great, if not as numerous abuses were practised by the French in Europe, and even in France itself, as in her remote possessions, and that this fact was but too well known to our citizens, who had felt severely their effects. Among these we have seen the case of the ship Hare, Captain Hayley; but never in all its disgusting features. With this I will close my observations on the preamble of the Directorial decree of the 31st July.

Extract of a letter from Rufus King, Esq., Minister of the United States in London, dated September 3, 1798, to the Secretary of State of the United States.

"The pretence for this arrêt [the decree of the Directory of July 31st] is of a piece with the vindication of Talleyrand respecting X. Y. and Z., and the justice and sincerity of the Directory

should be ascertained, not by their word, but by the following contemporaneous fact:

"Hayley, an American citizen, master of the American ship Hare, lying in the port of London, laden with a rich cargo, the property of Americans, and bound to New York, went with my passport from London to Paris, where, in a personal interview, not with the agents of the Minister of Marine, but with the Minister himself, he disclosed his plan of bringing the ship Hare and her cargo into France, and to enable him to receive the profits of the fraud, without risking the punishment of piracy, he demanded and received from the Minister of Marine, a commission naming him the commander of a privateer that did not exist; with which in his pocket, he returned to London, and soon after carried the ship Hare and her cargo as a prize into France.

"The ship and cargo were both claimed by the American owners, and, upon the unveiling of this infamous proceeding before the lower tribunals, the judges hesitated, and finally refused to sanction so unheard of a fraud; though, instead of restoring the property to its lawful owners, they, on some frivolous pretence, adjudged both ship and cargo to be good prize to the nation. Lately, the tribunal in the last resort, upon the appeal of Hayley, has reversed the judgment of the lower court, and "decreed the ship and cargo to be condemned as good prize to this renegado."

"If a transaction more grossly corrupt and infamous has occurred in the West Indies, I have not heard of it; and yet with this case of unequalled infamy and corruption before them, sanctioned by the highest tribunals of the nation, the Directory expect to amuse us with a disavowal of the conduct of a few subaltern agents in a remote part of their dominions!!!"

Besides the communications from Mr. Gerry, I have received from Fulwar Skipwith, Esq., Consul General of the United States at Paris, three letters dated the 4th, 8th, and 22d of August, copies of which and of the papers therein referred to, are herewith presented, excepting the decree of July 31st, which appears among the communications from Mr. Gerry. Mr. Skipwith's letter of August 22d, with its enclosures, was delivered to me by Doctor Logan. I had previously received the original, which had been brought over by Mr. Woodward of Boston.

Doctor Logan having been the bearer of the last mentioned communications from the French Government, and his embassy having not only engaged the attention of the public, but been made the subject of debate in Congress, I trust it will not be deemed improper to introduce into this report some circumstances respecting it.

On the 12th of November the doctor came to me at Trenton. He advanced with eagerness and handed me the packet from Mr. Skipwith. On examining its contents, I told the Doctor that I already possessed the same papers. I made some remarks on the decree of the Directory of the 31st of July, to show that it was only ostensible and illusory, and that it would not give any relief to the commerce of the United States. The Doctor, not contesting my arguments or opinion, said that more was intended to be done, but that the Directory could not accomplish it of themselves, seeing it depended on the laws which the Legislative councils alone could change. I answered, that this was easy to be done; that as the Directory, on the 18th Fructidor (September 4th, 1797) had garbled the two councils, and banished some, and dismissed others of the best members, all who were firmly opposed to their views; and, as on the new elections to supply the vacancies and the new third of the councils, the Directory sent home every new member who was not agreeable to them, everybody must see that the Directory had but to declare its will, and it would be obeyed. The Doctor said, that the Directory was very well disposed towards the United States, and desired a reconciliation; that they would promote a revision of the laws in regard to privateering, so as to put the rights of neutral nations on a just footing, but that it would take some time to bring this about, "the people concerned in privateering having gained a very great influence in the two councils!"——!——! Is it necessary to inquire how this "very great influence" has been obtained? Are the leading members owners of privateers? Or do they receive their shares of prize money from those who are? Do the Legislative councils really act independently of the Directory? Or does the same "influence" actuate both? The printed despatches of our Envoys, under the date of October 29, 1797, state, on the information of Mr. Talleyrand's private agent X, that Merlin, one of the members, and now or late President of the Directory, was to receive no part of the *douceur* demanded of the Envoys, because he was paid by the owners of privateers; and in respect to the loan then demanded, on which subject it was suggested that one of the Envoys should go to America to consult the Government, the Envoys "asked Mr. X. if, in the meantime, the Directory would order the American property not yet passed into the hands of the privateers' men, to be restored? He said explicitly that they would not. The Envoys asked him whether they would suspend further depredations on our commerce? He said they would not; but Mr. Talleyrand observed, that on this subject we could not sustain much additional injury, because the winter season was approaching, when few additional captures could be made." Here we see our Envoys inquiring, not whether the two councils would suspend those depredations, but whether the Directory would do it; and Mr. Talleyrand's agent X., without intimating that the Directory wanted power, or that they could only "endeavor to provoke in the Legislature a revision of their maritime laws," answered, peremptorily, that the Directory would not suspend the depredations. The truth is, that it was an act of the Directory alone, (their decree of the 2d of March, 1797,) which authorized and produced more extensive depredations on the commerce of the United States than any other decree or law of the French Republic. To effect a repeal of that decree, no application to the Legislative councils could be

necessary. They could also have repealed another of their own decrees, that of the 2d of July, 1796, which subjected neutral property, and particularly that of American citizens, to the discretion of their Consuls and cruisers in the European seas, as well as of their privateers and agents in the West Indies, and on which these agents have founded other numerous decrees, which have occasioned those shocking depredations and abuses there and on the coast of the United States, which the Directory, by their decree of the 31st of July last, affect to restrain.

When the Executive Directory wished to enlarge the field of depredations on neutral commerce, and on the 4th of January, 1798, proposed to the two councils the project of the iniquitous law "to declare to be good prize every vessel and her cargo, to whomsoever belonging, if any part of the cargo came from England or her possessions," there was a ready obedience. "The Directory thinks it urgent and necessary to pass the law." The plan of a decree is reported to the Council of Five Hundred on the 11th, and "urgency" being declared, is immediately and unanimously adopted. It goes to the Council of Ancients, that council approves the act of "urgency;" and on the 18th of January, the project of the Directory becomes a law.

This law was necessary for the French Government; so many American vessels had been entrapped by the Directory's decree of March 2d, 1797, requiring the rôle d'équipage, that the residue were now generally provided with that paper: some new pretext was therefore requisite for "fleecing" the people of the United States of their property, and an ordinance of one of the Kings of France, made near a century past, having declared lawful prize the vessels and their cargoes in which was found English merchandise belonging to enemies," the Directory declare that the provisions of this ordinance ought to be extended, to comprehend the vessels and cargoes of friends; that is, of allied and neutral nations. The Directory knew that the United States, whose inhabitants were chiefly cultivators, required a greater supply of English manufactures than any other neutral country of equal population; and those manufactures, too, were, from the course of American commerce, combined with almost all our mercantile operations, and pervaded entirely our great coasting trade. Hence, it is evident that this law was chiefly aimed at them.

It will be remembered also that this law was passed while our three Envoys were at Paris, where they had passed three months unheeded by the French Government, except by its indignities, and where they had in vain solicited to be heard on the just claims of our citizens, plundered and ruined under the former decrees of the Republic. This time was preferred in order to add insult to injury. The Envoys had firmly resisted her demands of loans and *douceurs*, and when speaking of their country, dared to intimate that it was independent. It was therefore requisite, on the French system, to "chastise," as well as to "fleece" it.

In closing this subject, it will be proper to notice an assertion of Mr. Talleyrand, in a conversation with the Envoys on the 2d March, 1798. In reply to some observations of his respecting the proofs of friendship required by France from the United States, General Pinckney observed, "that the Envoys being in France was a proof of the friendly disposition of our Government; and that while they were there, the French Government had passed a decree for seizing neutral vessels having on board any article coming out of England, which, in its operation, would subject to capture all our property on the ocean." Mr. Talleyrand replied, "That this was not particular to us, but was common to all the neutral Powers." This assertion of Mr. Talleyrand is not true. Although the decree, in its terms, is general, and applicable to all the neutral Powers, yet, in its operation, it was not designed to be, and has not been so applied; it has not touched a vessel of Prussia. The motives to this exemption are obvious. France wished not, by irritating Prussia, to add so powerful a nation, and one so near at hand, to the number of her enemies, while her peace with Austria remained precarious. But this exemption of Prussian vessels from the operation of a general law merits particular notice. It demonstrates that there exists in the French Republic a dispensing power; a power above the laws; a power which can prevent their execution: and it is alike demonstrable, that this sovereign controlling power can exist, and in fact does exist, in the Executive Directory. It might then, if the Directory desired it, be exercised in the exemption of American as well as Prussian vessels; but the Directory do not desire it; we have not yet been sufficiently "fleeced" and "chastised."

Mr. Skipwith's letter of the 4th of August enclosed the decree of the Executive Directory already noticed, passed the 31st of July, respecting French depredations in the West Indies, and on the coast of the United States. His letter of the 8th of August enclosed Mr. Talleyrand's letter to him of the 6th, respecting that decree, in which it is plain that the Minister supposes the world, and particularly the United States, will be amused by that illusory device, and imagine that it was intended to stop abuses, and give security to neutral commerce.

Mr. Skipwith's letter of the 22d of August covers another letter from Mr. Talleyrand, dated the 20th of August, in which he encloses copies of two letters from the Minister of Marine, respecting American seamen who had been imprisoned. When, in July last, an embargo was laid on the American merchant vessels in the ports of France, the agents of the marine took out their crews, and threw them into prison; thus hazarding the loss of the vessels, and injuring the men by confinement, and the bad provisions of their jails. These seamen were ordered to be released. The other letter from the Minister of Marine required that no injury should be done to the safety and liberty of the officers and crews of American vessels found to be in order, nor to passengers and

other citizens of the United States having passports and protections.

The same letter from Mr. Skipwith enclosed the copy of a decree of the Directory, passed the 16th of August, for taking off the embargo, laid a month before on American vessels.

The decree itself occupies but two lines; but its preamble is extended, for the purpose of insulting the Government of the United States, when an act of common justice was done to some of their citizens: by insinuating that the Government was "abandoned to the passions of the British Cabinet." This, however, is but the repetition of a calumny familiar in French diplomacy, respecting other nations as well as our own. Barras, President of the Directory, in his valedictory address to Mr. Monroe, declared that "France would not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants;" professing, at the same time, great esteem for the American people." Mr. Adet had before charged the American Government with a "perfidious condescension to the English;" and after making his last communications to the Government, he, by their immediate publication under his orders, appealed from the Government to the people of the United States. Yet Mr. Talleyrand says, that the French Government has indeed "complained of the American Government, but to the Government itself;" meaning to have it understood, though carefully avoiding the expression, that it had complained to the Government alone. With the like sophistry he attempts to evade our well-founded allegations, that the French Government has made reproachful and injurious distinctions between the Government and people of the United States, endeavoring to separate the latter from the former. He says, "it is utterly false, notwithstanding the public and private insinuations which have been made, in private writings and in solemn acts, that the French Government has ever sought to detach the people of the United States from the Constitution they have given themselves." Such a charge against the French Government has not, that I know, ever been made by the American Government; but we have accused them, and truly, with endeavors to detach the people of the United States from the Government chosen by themselves to administer that Constitution: and this the Minister does not attempt to deny. The Directory would perhaps be contented that the people should retain the forms of "the Constitution they have given themselves;" and to which they are attached, provided they would elect to administer it men devoted to France, and ready to obey the intimations of her will. And because the people have not been thus obsequious, but have dared to make a different election, the French Government has expressed its "terrible" resentment;" Mr. Barlow has assured us, in the passage already cited from his letter, that for this single act of the people of the United States, in exercising freely their right of election, the Directory passed a decree "which was meant to be little short of a declaration of war;" by which it was determined to fleece the people of their property:" certainly in expectation that, by touching their feeling in that "nerve," they would be induced, in order to save their property, to submit implicitly to the Government of France. Failing in this attempt, the French Government made another, in the decree of the 18th of January, 1798, which, though general in its terms, I have shown to have been levelled directly and chiefly at the commerce of the United States. And this at the time, (as I have before remarked,) when three Envoys Extraordinary were waiting, month after month, and most respectfully soliciting to be heard, and to enter on the discussion of all the subjects of difference between the two countries; and among these, on the French depredations on our commerce. Yet, Mr. Talleyrand has the confidence to assert, and to Mr. Gerry too, one of those Envoys, that the French Government "never refused and never will refuse to enter into discussion upon every proper subject." Does the Minister mean that those depredations are not "a proper subject of discussion?" Yes, with respect to a vast proportion of them. Mr. Y., his private agent, explicitly told our Envoys, that the condemnations of vessels for want of the *rôle d' équipage* were not to be questioned; "that being a point on which Merlin, while Minister of Justice, had written a treatise, and on which the Directory were decided."

It is fit here to recollect another and a peremptory refusal of the French Government, "to enter into discussion" upon the subjects of difference between France and the United States.

General Pinckney, appointed the Minister Plenipotentiary of the United States to the French Republic, went to Paris in the Autumn of 1796. There was at first, (as in the case of the Envoys Extraordinary in 1797,) a show of receiving him: but soon the scene was changed; and he was not only refused a hearing, but after bearing a thousand indignities, ordered to leave France; but the predecessor of Mr. Talleyrand, Charles de la Croix, in a letter to Mr. Monroe, intended to be communicated to General Pinckney, declared, (being specially charged to do so by the Directory, and Mr. de la Croix repeated the declaration to General Pinckney's secretary,) "that it will not acknowledge nor receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it." To this resolution we have seen the Directory adhere; and we have also seen, in the demands it made to our Envoys Extraordinary, as the indispensable preliminaries to any negotiation, what is meant by a "redress of grievances," prior to the reception of a Minister from America: it consisted in a *douceur* for the pocket of the Directors and Ministers; in the purchase at par of thirty-two millions of Dutch securities, then worth but half that sum; and in loans as immense and indefinite as their depredations on our commerce.

The same letter from the French Minister de la

Croix to Mr. Monroe, affords another proof of the aim and endeavors of the French Government to separate the people from the Government of the United States. In the sentence next following the above quoted passage, Mr. de la Croix says, "I pray you to be persuaded, Citizen Minister, that this determination having become necessary, allows to subsist between the French Republic and the American people the affection founded upon former benefits and reciprocal interests."

If I were to allow myself to make any further reflections on the conduct of France towards the United States, it would be to illustrate the truth of Mr. Barlow's assertion, "that the French Government determined to fleece us." If the French Government "listened (as Mr. Talleyrand says it does) to nothing but justice," and really desired a reconciliation, it would have proposed to fix some measure of satisfaction for the injuries it said it had received. Or, if too proud to propose to us, at least it would have prescribed to itself some limit to reprisals: or, at any rate, it would not have spurned us from its presence, when we respectfully presented ourselves, sought a reconciliation, and offered to make a just satisfaction for every injury we had committed. And if, (as Mr. Talleyrand asserts,) "the French Government has not ceased to offer the exact justice it demands," it would also have permitted us to state our claims. But it would have been so easy to ascertain all the damages we had done; and their amount would have been so small, even if we agreed to pay for all English, Spanish, and Dutch vessels brought by the French cruisers into our ports, while all those nations were at war with France; a few of which the justice of the Federal Courts, in vindication of the sovereignty of the United States, rescued from the hands of the French Consuls, agents and privateers' men; and if to that amount we also added ten times the value of the miserable corvette Le Cassius, a vessel which had been unlawfully fitted out for war in the United States, but which has been the burden of every note, from Adet's, in 1795, to de la Croix's and Talleyrand's, in 1796 and 1798, the amount of the whole, it was known, would be so small, the French Government did not choose to have it ascertained; for then the injuries done by the French to the commerce of the United States must also have been examined and adjusted; and when adjusted, payment must have been made or stipulated; but in this, the French Government doubtless thought "it would find only a real disadvantage;" the amount of its own demands deducted from those of America would hardly seem to have diminished the latter.

Such a mutual adjustment would also have been accompanied with a settlement of all questions and disputes about the construction of treaties, and all other subjects of difference: but in this, also, the French Government, upon its own system, "would have found a real disadvantage." For it would have vastly reduced the field for privateering in the European seas; and in the West Indies it would have been nearly annihilated: for there, for every vessel taken from the enemies of France, her cruisers have probably captured twenty belonging to the United States. But the French Government, by always abstaining from making specific demands of damages; by refusing to receive our Ministers; by at length proposing to negotiate in a mode which it knew to be impracticable, with the person who had no powers, and who, therefore, constantly refused to negotiate; and thus, wholly avoiding a negotiation, it has kept open the field for complaints of wrongs and injuries, in order, by leaving them undefined, to furnish pretences for unlimited depredations. In this way "it determined to fleece us." In this way it gratified its avarice and revenge—and it hoped also to satiate its ambition. After a long series of insults unresented, and a patient endurance of injuries, aggravated in their nature and unexampled in their extent, that Government expected our final submission to its will. Our resistance has excited its surprise, and as certainly increased its resentment. With some soothing expressions, is heard the voice of wounded pride. Warmly professing its desire of reconciliation, it gives no evidence of its sincerity; but proofs in abundance demonstrate that it is not sincere. From standing erect, and in that commanding attitude requiring implicit obedience—cowering, it renounces some of its unfounded demands. But I hope we shall remember "that the tiger crouches before he leaps upon his prey."

TIMOTHY PICKERING.

To the PRESIDENT *of the United States.*

FRANCE.

[Communicated to the Senate, February 18, 1799.]

Gentlemen of the Senate:

I transmit to you a document which seems to be intended to be a compliance with a condition mentioned at the conclusion of my Message to Congress, of the 21st of June last.

Always disposed and ready to embrace every plausible appearance of probability of preserving or restoring tranquillity, I nominate William Vans Murray, our Minister resident at the Hague, to be Minister Plenipotentiary of the United States to the French Republic.

If the Senate shall advise and consent to his appointment, effectual care shall be taken in his instructions that he shall not go to France without direct and unequivocal assurances from the French Government, signified by their Minister of Foreign Relations, that he shall be received in character; shall enjoy the privileges attached to his character by the law of nations; and that a Minister of equal rank, title, and powers, shall be appointed to treat with him, to discuss and conclude all controversies between the two Republics by a new treaty.

JOHN ADAMS.

FEBRUARY 18, 1799.

The Minister of Exterior Relations to Citizen Pichon, Secretary of Legation of the French Republic near the Batavian Republic.

PARIS, *the 7th Vendemiaire, 7th year of the French Republic, &c.*

I have received successively, citizen, your letters of the 23d and 27th Fructidor, (8th and 13th of September.) They afford me more and more reason to be pleased with the measure you have adopted to detail to me your conversations with Mr. Murray. These conversations, at first merely friendly, have acquired consistency, by the sanction I have given to them by my letter of the 11th Fructidor. I do not regret that you have trusted to Mr. Murray's honor a copy of my letter. It was intended for you only, and contains nothing but what is conformable to the intentions of Government. I am thoroughly convinced that, should explanations take place with confidence between the two Cabinets, irritation would cease—a crowd of misunderstandings would disappear—and the ties of friendship would be the more strongly united, as each party would discover the hand which sought to disunite them.

But I will not conceal from you that your letters of the 2d and 3d Vendemiaire, just received, surprise me much. What Mr. Murray is still dubious of has been very explicitly declared, even before the President's Message to Congress, of the 3d Messidor (21st of June) last, was known in France. I had written it to Mr. Gerry, namely, on the 24th Messidor and 4th Thermidor; I did repeat it to him before he set out; a whole paragraph of my letter to you, of the 11th Fructidor, of which Mr. Murray has a copy, is devoted to develope still more the fixed determination of the French Government. According to these bases, you were right to assert that, whatever Plenipotentiary the Government of the United States might send to France, to put an end to the existing differences between the two countries, would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation.

I cannot persuade myself, citizen, that the American Government need any further declarations from us to induce them, in order to renew the negotiations, to adopt such measures as would be suggested to them by their desire to bring the differences to a peaceable end. If misunderstandings on both sides have prevented former explanations from reaching that end, it is presumable that those misunderstandings being done away, nothing henceforth will bring obstacles to the reciprocal dispositions. The President's instructions to his Envoys at Paris, which I have only known by the copy given you by Mr. Murray, and received by me the 21st Messidor, (9th of July,) announce, if they contain the whole of the American Government's intentions, dispositions which could only have added to those which the Directory has always entertained; and, notwithstanding the posterior acts of that Government, notwithstanding the irritating and almost hostile measures they have adopted, the Directory has manifested its perseverance in the sentiments which are deposited both in my correspondence with Mr. Gerry, and in my letter to you of the 11th Fructidor, and which I have herein before repeated in the most explicit manner. Carry, therefore, citizen, to Mr. Murray those positive expressions, in order to convince him of our sincerity, and prevail upon him to transmit them to his Government.

I presume, citizen, that this letter will find you at the Hague; if not, I ask it may be sent back to you at Paris.

Salute and fraternity.

C. M. TALLEYRAND.

[Communicated to the Senate, February 25, 1799.]

Gentlemen of the Senate:

The proposition of a fresh negotiation with France, in consequence of advances made by the French Government, has excited so general an attention, and so much conversation, as to have given occasion to many manifestations of the public opinion, from which it appears to me that a new modification of the embassy will give more general satisfaction to the Legislature and to the nation, and perhaps better answer the purposes we have in view.

It is upon this supposition, and with this expectation, that I now nominate Oliver Ellsworth, Esq., Chief Justice of the United States; Patrick Henry, Esq., late Governor of Virginia; and William Vans Murray, Esq., our Minister resident at the Hague; to be Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, with full powers to discuss and settle, by a treaty, all controversies between the United States and France.

It is not intended that the two former of these gentlemen shall embark for Europe until they shall have received from the Executive Directory assurances, signified by their Secretary of Foreign Relations, that they shall be received in character; that they shall enjoy all the prerogatives attached to that character by the law of nations; and that a Minister or Ministers of equal powers shall be appointed and commissioned to treat with them.

JOHN ADAMS.

UNITED STATES, *February* 25, 1799.

RECEIPTS AND EXPENDITURES OF THE UNITED STATES.

Commencing on the first day of April, 1796, and ending on the thirty-first of March, 1797.

[Published by order of the House of Representatives.]

TREASURY DEPARTMENT, *June* 14, 1797.

SIR: I am desired by the Committee of Ways and Means to reply to the following questions:

1. Whether there will be any, and what, probable surplus or deficiency of revenue during the present year, and generally what is likely to be the state of the revenue the current year?

2. What prospect there is of obtaining a loan to defray the extra expenses of the present session; to what amount, and on what terms of interest and reimbursement; whether the said loan can be obtained by pledging the faith of the United States to reimburse the said loan within a given period, without pledging specific funds?

3. How much remains due to the bank at present, and how many shares remain unsold?

As relates to the first point of inquiry, I transmit a statement of the receipts and expenditures of the United States for one year prior to the first day of April last, with a statement of the appropriations remaining unsatisfied at the close of the said period. From these documents the committee will see that the revenue has been progressively increasing. It has been often observed, and is now repeated, that no certain judgment can be formed of the permanent amount of the revenue from imports and tonnage. The high prices of produce and labor in the United States, and the insecurity of property in most foreign countries, have certainly contributed to render the revenue from commerce much more productive than it would otherwise have been. How long and to what degree similar causes will operate is uncertain. In some of the principal ports the quantity and value of imports are understood to have diminished this season.

The statement of unsatisfied appropriations does not exhibit all the charges which will be incurred for the objects therein designated. The grants for completing the frigates and for the Military Establishment are inadequate. A considerable amount of stock was remitted to Europe, as a fund for defraying the Barbary expenses, and for discharging an instalment of the Dutch debt, which remains unsold, and which it is very desirable to redeem. The expenses of foreign intercourse will increase. On a general view of the subject, I am therefore of opinion that new revenues ought to be established for every new expense which may be incurred.

No provision has been made for discharging the sums which may be awarded pursuant to the sixth article of the treaty with Great Britain. It is conceived that measures ought to be immediately adopted for preventing any increase of permanent debt for this object.

On the second point, my opinion is that no attempt ought to be made to raise money without pledging sufficient funds, both for the payment of interest and reimbursement of principal. With a pledge of adequate funds, the public credit may be employed with advantage, and to a considerable extent. It is conceived that the public interest would not be promoted by specifying any other condition in the law than that any loan which may be authorized shall be refunded in at least five years, or sooner, at the option of the Government.

To the third question, I reply that the loan had of the Bank of New York has been discharged, and that, after the proceeds of certain shares of bank stock lately sold on credit shall have been applied, the sum due and to become due to the Bank of the United States will be reduced to about four millions seven hundred and fifty thousand dollars. The number of bank shares remaining unsold is two thousand two hundred and twenty.

I have the honor to be, very respectfully, sir, your obedient servant,

OLIVER WOLCOTT, *Secretary of the Treasury.*

Hon. WILLIAM SMITH, Esq., *Chairman of the Committee of Ways and Means.*

DR.

For amount of expenditures during the said period, under the following heads, viz:

Civil Department	$479,419 77
Annuities and grants	3,005 54
Mint establishment	21,038 81
Military Department	1,380,669 37
Naval Department	298,073 26
Fortification of ports and harbors	15,745 97
Military pensions	98,912 24
Diplomatic department	87,816 86
Support and erection of light-houses	59,439 04
Contingent charges of Government	6,232 03

Receipts and Expenditures of the United States.

Interest on the domestic debt, and reimbursement of the six per cent. stock, bearing a present interest - - - - - - - -	$2,998,019 15	
Reimbursement of the six per cent. stock, out of moneys arising from debts due the United States, under the late Government - -	10,274 38	
		3,008,293 53
Interest on domestic loans - - - - - - - - -		333,529 50
Dutch debt - - - - - - - - - -		1,244,988 63
Debt due to foreign officers - - - - - - - -		11,232 31
Spanish Treaty - - - - - - - - - -		5,030 00
British Treaty - - - - - - - - - -		10,555 54
Treaties with the Mediterranean Powers - - - - - - -		134,670 00
Treaty with the Indians - - - - - - - - -		9,500 00
Trading-houses with the Indians - - - - - -	$10,000 00	
Trade with the Indians - - - - - - - -	21,000 00	
		31,000 00
Protection of American seamen - - - - - - - - -		6,000 00
Demands for unclaimed merchandise - - - - - - - -		50 78
Miscellaneous claims - - - - - - - - - -		59,270 32
Treaty with Algiers - - - - - - - - - -		24,000 00

Temporary Domestic Loans.

Bank of the United States, in payment of the following loans, viz:

August 18 and December 31, 1796. In full payment of the loan of $524,500, made under the act "for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned," bearing an interest of five per cent. per annum, dated May 2, 1792 - - - - - - -	$300,000 00	
On account of a loan of $2,000,000, made in pursuance of "An act for incorporating the subscribers to said bank," and paid agreeably to an act of May, 31, 1796, entitled "An act making provision for the payment of certain debts of the United States" - - - -	400,000 00	
On account of a loan of $800,000, made in pursuance of "An act for the reimbursement of a loan authorized by an act passed the 21st February, 1795" - - - - - - - -	200,000 00	
On account of a loan of $2,000,000, made in pursuance of "An act authorizing the loan of $2,000,000," passed the 18th December, 1794 -	300,000 00	
Bank of New York, in full of a loan made of said bank, at five per cent. per annum, under an act of the 20th May, 1794 - - -	200,000 00	
		1,400,000 00
Balance in the hands of the Treasurer, on the 1st April, 1797, was - -	685,490 74	
From which deduct warrants remaining unpaid on that day, which are charged as expenditures in this statement - - - -	8,866 22	
The balance subject to warrants the 1st April, 1797, therefore was -	- -	676,624 54
		$9,405,098 04

CR.

By balance in the hands of the Treasurer, March 31, 1796 - -	$392,146 93	
Deduct warrants drawn on him before the 1st April, 1796, which remained unpaid that day - - - - - - - -	12,264 22	
Balance subject to warrants, 1st April, 1796 - - - -		$379,882 71
For amount of receipts into the Treasury from duties on merchandise and tonnage, viz:		
In the quarter ending 30th June, 1786 - - - -	1,680,128 25	
Do. do. 30th September, 1796 - - -	1,823,011 26	
Do. do. 31st December, 1796 - - -	1,786,966 30	
Do. do. 31st March, 1797 - - - -	1,434,176 06	
		6,824,271 87
From duties on spirits distilled in the United States, and on stills; on sales at auction; on licenses for selling wines and spirituous liquors by retail; on carriages for the conveyance of persons; on refined sugar, and on snuff and snuff-mills, viz:		

Receipts and Expenditures of the United States.

In the quarter ending 30th June, 1796 - - - -	97,161 95	
Do. do. 30th September, 1796 - - -	125,729 43	
Do. do. 31st December, 1796 - - -	132,949 47	
Do. do. 31st March, 1797 - - - -	142,108 58	
		$497,939 43
From the postage of letters—		
In the quarter ending 30th June, 1796 - - - -	12,149 57	
Do. do. 30th September, 1796 - - -	28,000 00	
Do. do. 31st December, 1796 - - -	14,000 00	
Do. do. 31st March, 1797 - - - -	12,000 00	
		66,149 57
From dividends on capital stock in the Bank of the United States—		
Due 30th June, 1796 - - - - - -	80,000 00	
Due 31st December, 1796 - - - - - -	45,440 00	
		125 440 00
From fees on letters patent—		
In the quarter ending 30th June, 1796 - - - -	330 00	
Do. do. 30th September, 1796 - - -	480 00	
Do. do. 31st December, 1796 - - -	210 00	
Do. do. 31st March, 1797 - - - -	330 00	
		1,350 00
From fines, forfeitures, and penalties, in the quarter ending 31st March -		220 00
From sales of public lands—		
In the quarter ending 31st December, 1796 - - -	4,836 13	
Do. do. 31st March, 1797 - - - -	34,100 00	
		38,936 13
From cents and half cents coined at the Mint—		
In the quarter ending 30th June, 1796 - - - -	2,923 70	
Do. do. 30th September, 1796 - - -	300 00	
Do. do. 31st December, 1796 - - -	3,790 70	
Do. do. 31st March, 1797 - - - -	4,165 10	
		11,179 50
From funds arising from 6 per cent. stock, loaned and purchased from the Bank of the United States—		
In the quarter ending 30th June, 1796 - - - -	26,750 00	
Do. do. 31st December, 1796 - - -	16,050 00	
		42,800 00
From the sale of 2,160 shares in the Bank of the United States, in pursuance of "An act making provision for the payment of certain debts of the United States" - - - - - - - -		1,080,000 00
From a loan made under "An act making provision for the payment of certain debts of the United States" - - - - - -		320,000 00
From the sale of the revenue cutter Virginia - - - -		738 00
From the payment of balances which originated under the late Government, in the quarter ending 30th June, 1796, from Rufus King, on account of balance due by the late John Alsop, and others	2,871 15	
Ed. Carrington, late Deputy Quartermaster General, for public property sold - - - - - -	629 34	
	3,500 49	
In the quarter ending 30th September, from the trustees in behalf of Thomas Huggins, deceased, late Commissary of Purchases in the State of Maryland - -	1,178 25	
In the quarter ending 31st March, 1797, from D. Jenifer, for clothing delivered him at Yorktown, Virginia -	66 67	
Edward Carrington, late Quartermaster General for property sold - - - - - - - -	1,287 36	
	1,344 03	
		6,032 77
For repayments in the quarter ending 30th June, 1796, from Samuel A. Otis, balance of moneys advanced him for paying the compensations due the Senators of the United States - - - - - -		4,088 55
In the quarter ending 30th September, 1796, from John Jay, late Envoy to the Court of Great Britain, balance due by him - - -		496 09
In the quarter ending 31st March, 1797, from J. Neufville, Commissioner of Loans, South Carolina, balance due by him as agent for paying invalids - - - - - - - - -		2,941 82

From Jonathan Dayton, Speaker of the House of Representatives, balance of moneys advanced for the compensation of the members of said House - - - - - - - - -	$2,611 60	
		7,526 24
		9,405,098 04

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT, *Register's Office, June* 13, 1797.

A Statement of the balances remaining unexpended of the following appropriations, on the 31*st of March*, 1797, *viz:*

Appropriation for the Military Department - - - - - -	$996,228 11
Do. for the Naval Department - - - - - - -	146,629 42
Do. for the Civil Department - - - - - - - -	524,246 47
Do. for paying annuities and grants - - - - - - -	3,881 54
Do. for the light-house establishment - - - - - - -	46,647 63
Do. for discharging miscellaneous claims - - - - - -	41,066 45
Do. for defraying the expense of foreign intercourse - - - - -	76,745 90
Do. for defraying any expenses which may arise in carrying into effect the Treaty with the King of Great Britain - - - - -	70,252 46
Do. do. Dey and Regency of Algiers - - - - -	96,246 63
Do. do. King of Spain - - - - - -	13,653 00
Do. do. Certain Indian tribes - - - - - -	12,600 00
Do. do. Mediterranean Powers - - - - -	451,500 40
Do. for fortifying the ports and harbors of the United States - -	23,415 58
Do. for defraying the contingent expenses of Government - - -	15,662 18
Do. for defraying the expenses of prosecuting the claims of certain citizens for property captured by the belligerent Powers - - - -	50,000 00
Do. for establishing trading houses with Indian tribes - - - -	156,000 00
Do. for unclaimed merchandise - - - - - - -	1,172 65
Do. for the relief and protection of American seamen - - - -	24,000 00
Do. for paying pensions due to invalids of the United States - -	129,233 20
Do. for the Mint establishment - - - - - - -	23,595 98
Do. for discharging the debts due to foreign officers - - - - -	98,611 77
Amounting in the whole to - - - - -	3,001,288 37

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *June* 13, 1797.

SINKING FUND.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That no purchases of the Debt of the United States have been made since the date of the last report to Congress, on the sixteenth day of December, one thousand seven hundred and ninety-six; and that the sums heretofore purchased amount to two millions three hundred and seven thousand six hundred and sixty-one dollars and seventy-one cents, for which there have been paid, in specie, the sum of one million six hundred and eighteen thousand nine hundred and thirty-six dollars and four cents, as will more particularly appear from the document hereto annexed, marked A.

That, exclusive of certain reimbursements to the Bank of the United States, which were reported to Congress on the 25th of January, one thousand seven hundred and ninety-seven, the following sums have been applied towards the discharge of the Principal Debt of the United States, during the present year:

1st. To the second instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," passed on the third day of March, one thousand seven hundred and ninety-five, and the act in addition thereto, passed on the twenty-eighth day of April, one thousand seven hundred and ninety-six, became payable on the first day of January, one thousand seven hundred and ninety-seven, the sum of— $641,674 76

2d. To the payment of a loan, obtained of the Bank of New York, pursuant to the act, entitled "An act making provision for the payment of certain debts of the United States," passed on the thirty-first day of May, one thousand seven hundred and ninety-six -	$320,000 00	2d. The proceeds of eighty thousand dollars of the six per cent. stock, authorized to be constituted by the act before mentioned, which have been sold and placed in the Treasury, as will appear by the proceedings of the accounting officers of the Treasury, herewith transmitted, marked C, showing the dates and particulars of the said sales - - - - - -	$70,000 00
3d. To the payment of part of a loan obtained of the Bank of the United States, pursuant to an act, entitled "An act making further appropriations for the Military and Naval Establishments, and for the support of Government," passed on the third day of March, one thousand seven hundred and ninety-five - - - - - -	260,000 00	3d. The interest fund, or the sums which accrued upon the stock purchased and vested in the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the documents hereto annexed, marked D - -	89,159 57
4th. To the payment of part of a loan had of the Bank of the United States, pursuant to an act, entitled "An act authorizing a loan of two millions of dollars," passed on the eighteenth day of December, one thousand seven hundred and ninety-four - - - - - -	300,000 00	4th. The fund arising from the payment of debts, which originated prior to the present Constitution of the United States, also particularly stated in the document marked D - - - - - - -	10,274 38
5th. To the payment of premiums which fell due in the present year, on the loan of two millions of guilders, obtained in Holland on the ninth day of March, one thousand seven hundred and eighty-four, being two hundred thousand guilders, estimated at forty cents per guilder - - - - - -	80,000 00	5th. The funds arising from established revenues, and appropriated for the reduction of the debts of the United States, being for the period, and in reference to the objects, contained in this report -	1,527,980 81
6th. To the payment of the instalment of one million of guilders in Holland, which fell due the present year, pursuant to a contract, dated June the eleventh, one thousand seven hundred and eighty-two, estimated at forty cents per guilder	400,000 00	Making, in the whole, a sum equal to the reimbursements before mentioned - - - - - -	2,001,674 76
Amounting, in the whole, to -	2,001,674 76		

The Secretary has not yet received official information that the instalment last mentioned has been actually discharged, but he considers the fact as certain, as it is known that sufficient remittances had reached Amsterdam, and that the Commissioners had engaged that the reimbursement should be effected on the first day of September last.

The payments before enumerated have been made out of the following funds:

1st. The proceeds of six hundred and twenty shares of the capital stock of the Bank of the United States, belonging to the United States, which have been sold, in pursuance to the act, entitled "An act making provision for the payment of certain debts of the United States," the proceeds of which have been placed in the Treasury, as appears from the proceedings of the accounting officers, herewith transmitted, marked B, showing the dates and particulars of the said sales - - - - - - - $304,260 00

The growing produce of the interest funds, the receipts for sales of lands in the Northwestern Territory, together with the sums received and expected from established revenues, are estimated by the Secretary as sufficient for the reimbursement of two instalments of loans heretofore obtained of the Bank of the United States, which will fall due at the close of the present year, amounting to four hundred thousand dollars, and to the reimbursement of the third instalment of the six per cent. stock, bearing a present interest; a statement of the amount and application of the said funds will be exhibited to the Board with the next report.

All which is most respectfully submitted, by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Nov.* 30, 1797.

COLLECTION OF DUTIES ON IMPORTS AND TONNAGE.

[Communicated to the House of Representatives, January 25, 1798.]

The Secretary of the Treasury respectfully reports to the House of Representatives:

That, in obedience to their resolution, passed on the 2d day of February, 1797, he has prepared the system, herewith transmitted, for enabling the

House more readily to comprise, in one act, the various laws now in force for regulating the collection of duties on goods, wares, and merchandise, imported into the United States; including, also, a plan for the establishment of new districts on the rivers Ohio and Mississippi, and on the northern boundary of the United States, as required by the resolution of the 23d of May, 1796.

The proposed system includes or relates to the whole or some part of the following acts of Congress, viz:

An act to provide more effectually for the collection of duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, passed on the 4th day of August, 1790.

An act making further provision for the payment of the debts of the United States, passed on the 10th of August, 1790.

An act to provide for the unlading of ships or vessels, in case of obstruction by ice, passed on the 7th of January, 1791.

An act giving effect to the laws of the United States within the State of Vermont, passed on the 2d day of March, 1791.

An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits, imported from abroad, and laying others in their stead; and, also, upon spirits distilled within the United States, and for appropriating the same, passed on the 3d March, 1791.

An act relative to the rix dollar of Denmark, passed on the 3d of March, 1791.

An act making further provision for the collection of the duties by law imposed on teas, and to prolong the term for the payment of duties on wines, passed on the 3d of March, 1791.

An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein, passed on the 16th of February, 1792.

An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned, passed on the 2d of May, 1792.

An act concerning the duties on spirits distilled within the United States, passed on the 8th day of May, 1792.

An act regulating foreign coins, and for other purposes, passed on the 9th of February, 1793.

An act for repealing the several impost laws of the United States, so far as they may be deemed to impose a duty on useful beasts imported for breed, passed on the 27th of February, 1793.

An act supplementary to the act, entitled an act to provide more effectually for the collection of the duties imposed by law, on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels, passed on the 2d of March, 1793.

An act for extending the benefit of drawback and terms of credit in certain cases, and for other purposes, passed on the 4th day of June, 1794.

An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas, passed on the 5th day of June, 1794.

An act laying certain duties upon snuff and refined sugar, passed on the 5th day of June, 1794.

An act laying additional duties on goods, wares, and merchandise, imported into the United States, passed on the 7th day of June, 1794.

An act supplementary to the several acts imposing duties on goods, wares, and merchandise, imported into the United States, passed on the 29th of January, 1795.

An act making further provision in cases of drawbacks, passed on the 29th of January, 1795.

An act relative to the compensations of certain officers employed in the collection of the duties of impost and tonnage, passed on the 14th of February, 1795.

An act supplementary to the act, entitled an act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels, passed on the 26th of February, 1795.

An act making further provision relative to the revenue cutters, passed on the 6th of May, 1796.

An act in addition to an act, entitled an act supplementary to the act, entitled an act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels, passed on the 27th of May, 1796.

An act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage, passed on the 3d day of March, 1797.

An act for raising a further sum of money by additional duties on certain articles imported, and for other purposes, passed on the 3d of March, 1797.

An act laying additional duty on salt imported into the United States, and for other purposes, passed on the 8th day of July, 1797.

The Secretary observes, that, to obviate inconveniences which have been experienced, he has taken the liberty to introduce the forms of oaths, and of certain official documents necessary to be known or observed by merchants, consignees, and masters of vessels, and which it appears to be expedient to establish by law. Certain other amendments or additions to the laws now in force, which have appeared to be advisable, are written in the italic character, for the purpose of being more readily distinguished and particularly considered by the House.

That part of the resolution of February 2d, 1797, which requires the Secretary to report a tariff of duties, is in the course of execution, and will be transmitted as soon as possible.

All which is respectfully submitted by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Jan.* 24, 1798.

[NOTE. The plan herein proposed is omitted in this compilation; being the same as the act of the 2d March, 1799, which was based upon this report.]

DUTIES ON SPIRITS.

[Communicated to the House of Representatives, February 14, 1798.]

The Committee of Ways and Means, who were instructed to inquire and report, by bill or otherwise, whether any, and, if any, what alterations are necessary, in the several acts imposing duties on spirits distilled within the United States, so far as the said acts regard the entry of stills, having carefully considered the subject, submit to the House the following report:

The first provision respecting the entries of this kind, is contained in the 25th section of the act of March 3, 1791, for laying duties on spirits distilled within the United States; but that provision went no further than to require "that every distiller, within three days before beginning to distill, should make a particular entry, in writing, at the nearest office of inspection, if within ten miles, of every house, building, or place, and of each vault, cellar, and apartment, within the same, in which it should be intended to carry on the business of distilling, or to keep any spirits distilled;" and this entry was to be made on the first day of July, in that year, or three days after, by persons who might be distillers at that period.

The business remained in this situation no longer than till the 8th of May, 1792, when an act was passed, entitled "An act concerning the duties on spirits distilled within the United States," the second section of which provides that there shall be an office of inspection in every county, at which every person keeping a still shall make an annual entry of it, in the month of June, and every person bringing a still into the county, shall enter it within thirty days. This entry, besides describing each still, and its capacity, is to specify the place where, and the person in whose possession it is, and the purpose, whether use or sale, for which it is intended. Where a still is removed, the entry is also to specify the place from whence it is brought.

On this footing the matter now stands. These annual entries are said to be complained of by the owners of stills, as very inconvenient; more especially in places where a considerable number of small stills are kept by the owners of orchards, merely for the purpose of distilling their own fruit, which frequently fails, so that the stills often remain unemployed for two or three years successively, and sometimes longer.

It has been ascertained, to the satisfaction of the committee, that inconveniences of this kind are felt and complained of in many parts of the country; and to remove them is understood to have been the object of moving the resolution which gives rise to this report. The committee were of opinion that, if they could be removed without endangering the revenue, it was desirable to do so.

With a view to obtain more perfect information on this subject, they had a conference with the Secretary of the Treasury, respecting the object of the provisions contained in the act of May the 8th, 1792, and the danger to the revenue that might be apprehended from such alterations as would obviate the inconveniences now said to exist. The result of the conference was a decided opinion, on the part of the Secretary, that no alteration ought to be made in the present regulations. The annual entry he considers as very important, and even essential, for enabling the Treasury Department to keep a proper check and control over the collectors of the revenue, who, being thus obliged to furnish a regular and full account of the stills in their respective districts, at a time when the money arising from the duties has not yet come into their hands, and when, consequently, they are under less temptation to fraud, may more easily be detected, should they afterwards attempt to practise it.

The committee, however, with due deference to so respectable an authority, are of opinion, that all the valuable objects of this regulation may be attained, without the annual renewal of entries. By directing that every still, upon being brought into a county, shall be entered, and that this entry shall be renewed as often as the still is removed, or its situation altered; and by requiring that these different entries shall state all such circumstances respecting the introduction, situation, or removal of the still, as may be judged important to be known, they suppose that the Treasury Department may be furnished with all the information that can be obtained by the present mode, while the inconveniences of making an annual entry may be avoided. They, therefore, pursuant to the power given them by the House, herewith report a bill, containing such alterations of the law, in this respect, as they have deemed it advisable to adopt.

DUTIES ON STAMPS.

[Communicated to the House of Representatives, February 14, 1798.]

The Committee of Ways and Means, who were instructed to inquire whether any, and what, alterations may be necessary in the law, entitled "An act laying duties on stamped vellum, parchment, and paper," having bestowed a further consideration on the subject, beg leave to present the following additional report:

Three amendments to the act in question have been deemed advisable by the committee; the first, relative to a deduction in favor of persons who may purchase stamps to a certain amount; the second, respecting the price of the paper directed to be stamped and distributed by the Treasury Department; and the third, relating to debentures and certificates for drawbacks.

The first of these amendments was suggested by the Secretary of the Treasury, in his letter to the committee, which is annexed to their former report on this subject. He recommends that the supervisors and inspectors of the revenue be authorized to make a deduction of ten per cent. in favor

of persons who might purchase stamps to the amount of twenty dollars or upwards; and this provision, he supposes, would produce three good effects: First, to facilitate the distribution of stamps, by encouraging shop-keepers and traders, in remote parts of the country, to purchase them for sale; secondly, to bring the revenue more speedily and more directly into the Treasury, by encouraging the purchase of stamps, in considerable quantities, from the supervisors and inspectors immediately, instead of their being purchased one or two at a time, as they may be wanted for use, from the collectors, or their agents; and thirdly, to render the accounts more simple, by diminishing the number of agents which the Treasury Department may find it necessary to employ, for effecting a sufficient distribution of stamps.

The committee are of opinion that the prospect of these beneficial effects, from the measure proposed, is sufficiently certain to warrant its adoption; but they do not deem it necessary to make the deduction so great as the Secretary has recommended. A less sum than ten per cent. would, in their opinion give sufficient encouragement to the purchase of stamps for retail. Seven and one-half per cent. is the sum which they have considered as most proper, in every view of the subject.

It has appeared to them, however, that the allowance ought not to be made to the officers employed in the collection of the revenue. It will be their duty to distribute stamps on account of the Government, and at the amount of the duty imposed by law. This distribution is absolutely necessary, in order to check the retailers, who might, otherwise, make a monopoly of the stamps in remote parts of the country, and compel the people to purchase them at a price far above the duty; and it would be liable to great impediments, and might, in many instances, be wholly defeated, if the persons employed in it were allowed to be retailers, at the same time, on their own account.

As to the power of making this deduction, the committee are of opinion that it ought to extend to the supervisors and inspectors, and no further. To extend it to collectors, who are very numerous, and must, moreover, be employed in distributing stamps on account of the Government, would expose it to great abuse; and to confine it to the supervisors alone, would render it almost nugatory.

And they are further of opinion, that the deduction should be extended to those who bring paper to be stamped, as well as to those who purchase paper already stamped. This will encourage persons, who, in the course of their business, have frequent occasion for stamps, to bring blank forms, and get them stamped; whereby, in addition to the general advantages expected from the measure, there will be a saving to the Government, of the expense of paper, in case the ideas of the committee, on the second head of amendments, should be adopted.

As to this second head, the amendment proposed by the committee applies to the sixteenth section of the act, which provides, that the Treasury Department "shall take care that the several parts of the United States shall, from time to time, be sufficiently furnished with vellum, parchment, and paper, stamped or marked as aforesaid, so that the citizens thereof may have it in their election to buy the same of the officers or persons employed in and about the execution of this act, at the usual or most common rates above the said duty, or to bring their own vellum, parchment, or paper, to be marked or stamped as aforesaid."

This expression, "the usual or most common rates above the said duty," must apply, as the committee conceives, to the price of the material on which the stamp is placed; which price, of consequence, the Secretary of the Treasury, according to the construction of the act, as it now stands, would be obliged to demand, in addition to the duty, from the individuals purchasing stamps. This they understand to be the construction put on it by the Secretary himself. They are, however, of opinion, that the apportionment of this price will be attended with much embarrassment and uncertainty; and that, as the price of paper, and consequently the price of stamps, must constantly fluctuate, its exaction may have a tendency to render the operation of the act disagreeable and inconvenient. These disadvantages, they suppose, cannot be counterbalanced by the mere saving of the price of paper. It would be far better, in their opinion, to consider this as a charge against the Government, and to distribute the stamps without any addition to the rate of duty.

They do not, however, conceive that the amendment in question ought to be extended to other materials besides paper. The use of parchment and vellum, in stamps, will, probably, be very circumscribed; and persons who wish to use it, will, for the most part, be so situated, as to admit of their bringing their own materials to be stamped, without inconvenience.

Under the third and last head, the committee beg leave to remark, that the duty imposed by the act in question, on debentures and certificates of drawback, appears to them to be much too high, and to be laid in such a manner as to operate very unequally. All debentures or certificates for sums under five hundred dollars, pay one dollar on the stamp; all above five hundred, and under two thousand dollars, pay two dollars; and all above two thousand, pay three dollars. By the paper A, annexed to this report, and containing a list of the debentures granted at the custom house of Philadelphia, within a very short period, it appears that far the greatest number of debentures are for sums under 500 dollars, and that a very great proportion is for small sums; many being for five dollars, and a great number for less than twenty. To exact a duty of one dollar on a drawback of five or ten dollars, and to demand, at the same time, only three dollars for a person who receives a drawback of three, four, or five thousand, appears to the committee to be contrary to every just principle of taxation.

In considering of the best manner of applying a remedy to this defect in the law, two plans have been suggested: First, to adopt a new scale of stamps for debentures; and secondly, to authorize

the collectors to retain an amount per centum, on drawbacks, in lieu of stamps.

To the first, it is objected, that, to increase the number of stamps, so as in any considerable degree to equalize the duty, would greatly increase the expense and delay of carrying the act into effect; while, after all that could be done, the object would be but imperfectly obtained. For these reasons, the committee are of opinion that the other mode is to be preferred.

By the papers marked B, C, D, and E, which are annexed to this report, and the three first of which were communicated to the committee by the Secretary of the Treasury, it appears that two-fifths per centum, in addition to the one per centum now retained by law, would probably be equal, or very nearly so, to the amount of duty to be expected from the stamps on debentures and certificates of drawback. The tax, in this way, would be perfectly equal in its operation, and would be collected with the utmost ease and exactness; in addition to which advantages, this regulation would free the merchants from the embarrassment and inconvenience of procuring stamps, and the Government from the expense of providing them.

In conformity with these views of the subject referred to them, and pursuant to the powers given by the resolution which makes the reference, the committee herewith present a bill containing the amendments recommended in this report.

[The statements referred to are omitted.]

INTERNAL REVENUES.

[Communicated to the House of Representatives, February 23, 1798.]

TREASURY DEPARTMENT,
February 21, 1798.

SIR: I have the honor to transmit, herewith, sundry documents prepared by the late Commissioner of the Revenue, to satisfy the resolution of the House of Representatives, passed on the 6th of January, 1797, by which the Secretary of the Treasury is required "to lay before Congress, within ten days after the commencement of each session, such a statement of the internal revenues as will ascertain, with precision, the nett product thereof, and the expense of collection; also, a list of all the officers employed in that service, and the compensations allowed to each of them."

These papers were received by me, within the time limited by the resolution of the House, and if I had been satisfied that the representations therein contained were accurate, they would have been immediately transmitted. In consequence, however, of an intimation which I have received, that the motives which occasioned the delay may not otherwise be understood, I have, on reflection, supposed it to be my duty to make the communication at this time, though in an imperfect form, and to avail myself of the occasion, through you, to assure the House of Representatives that, though it has not always been in my power punctually to execute their instructions, the omission has never been owing to any want of exertion, or perfect deference for their authority. I have the honor to be, very respectfully, sir, your obedient servant,

OLIVER WOLCOTT.

The Honorable the SPEAKER
of the House of Representatives.

TREASURY DEPARTMENT,
Revenue Office, November 30, 1797.

SIR: The present session of Congress having commenced on the twenty-second instant, I have availed myself of the time which that circumstance afforded, to receive and procure additions of authentic information, which could be introduced into the following report, with the necessary certainty. It is now transmitted to you, in a form as perfect as it has been in my power to give to it. I have the most particular satisfaction in remarking, that the aggregate of the revenues under the superintendence of this office considerably exceeds the sum in the report and estimate of 1796, and that held out by my communications to you at the commencement of the late extraordinary session of the Legislature. I am, sir, your most obedient servant.

TENCH COXE,
Commissioner of the Revenue.

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT,
Revenue Office, November 29, 1797.

A Report concerning the revenues arising from stills and spirits distilled in the United States; sales at auction, mills and machinery for manufacturing snuff, domestic refined sugar, carriages for the conveyance of persons, and licenses to retail wines and foreign distilled spirits.

A circular instruction was transmitted to the supervisors of the revenue, immediately on the receipt of the order of the House of Representatives, of the sixth day of January last. The attention of those officers, respectively, was directed to the materials for a statement extending to the several details of that order, and they were made acquainted with the future annual duty of the like nature, which it created. Copies of this instruction were also transmitted for all the inspectors of surveys in the several districts, the next class of officers, as is the practice in important cases. On the rising of the Legislature, a second notice was given in another circular letter. The last communication was unnecessary in some of the districts, but it was indispensable in a few, and was expressed, for that reason, in very serious terms. Special communications were subsequently made, and particularly in one instance, at the time when the President issued his proclamation of March last, convening the Legislature, in an extraordinary session.

It was conceived, in this office, that, in the resolution of the 6th day of January last, the House of Representatives contemplated only the ordinary sessions of Congress. Yet the early date of that order, the exertions which had been previously made by a great part of the revenue officers, and very urgent and serious applications to some, who had been unpunctual and irregular, had possessed the Commissioner of a large proportion of materials for a general statement, at the commencement of the extraordinary session of the Legislature, on the 15th of last May. These materials affording sufficient certainty as far as they went, though in one or two instances very irregularly, it appeared proper to digest them into a report, which it was endeavored to render as complete, as circumstances admitted, within ten days of the first meeting of Congress, that the documents might not be delayed, if occasion should require them, and particularly if they should appear to be expected within the time prescribed by the order of the House. As soon as it was understood that the annual reports were not expected but at the ordinary sessions, occasion was taken to renew the applications for all the deficient returns, by a third circular letter to the supervisors, of the 27th of May, an extract from which is annexed. The substance of all the documents prepared at the last session, with additional materials received since, is contained in this report. It is proper to remark, that much the greater part of the amounts of revenue in the accompanying statements, I. to VIII. are abstracted from the returns of the supervisors, and nearly all the remainder are founded upon the official returns of the inspectors and collectors. The sources of information are equally certain, but the returns of the supervisors alone are regular in the Treasury settlements. The small part, which is in any wise irregular, is particularly pointed out. No use, whatever, has been made of estimates of the gross product of the revenues, inserted in the columns of the statements I. to VIII. which are now transmitted.

In the last report concerning the internal revenues from this office, transmitted by the Secretary of the Treasury, on the 5th of March, 1796, to the House of Representatives, the statement of the tax upon spirits and stills, of the 3d of that month, was made up for the year ending with June, 1795; because, those for the other five internal taxes, which were originated in the year 1794, were confined, by necessity, to the year ending with September, 1795, that being the only complete year of these last five, which had then elapsed. The gross amount of all those six revenues, as appears in the 17th and 18th columns of the general statement K. at the end of that report, was 528,481 dollars and thirty-one and a half cents, including the estimated sums. It will be satisfactory to the Legislature to know that the supervisors' returns, with a few, as authentic, from inspectors and collectors, relative to that year, heretofore received or exhibited, have not only confirmed the full amount of the gross revenue, but have established it at 536,805 dollars and thirty-three cents. To elucidate this, a summary statement is hereto subjoined. In addition to this excess, it is confidently believed that the United States, having now the assistance of a law officer in Kentucky, a further part of the sum expected from thence, will yet be received. A return from one valuable division, for both years, and some supplements of less importance in the district of Pennsylvania, are, likewise, yet to be obtained. This retrospect, by furnishing a more complete view of a former year, affords an opportunity of the comparison with the year now to be returned, and tends to exhibit the course which these revenues have now generally, though not universally, taken. It is a matter of the most cordial satisfaction, that time has confirmed the aggregate sum, which was represented, by the last return of this office, as likely to arise from these taxes in 1794—5: for the public resources are not a subject on which to raise expectations, even innocently erroneous. It is, however, necessary to observe that there is, in some places, too much reason to affirm, that the public service was not well performed in that year. This conviction has led to the proper exertions for discovering deficiencies and collecting arrears.

The returns comprised in this report are,

No. 1. Of the domestic spirit and still tax, for the year ending with June, 1796.

No. 2. Of the auction tax for the year ending with September, 1796.

No. 3. Of the snuff mill tax, for the year last mentioned.

No. 4. Of the refined sugar tax, for the same year.

No. 5. Of the carriage tax, for the same year.

No. 6. Of the tax upon licenses to retail wines and foreign distilled spirits, for the same year.

No. 7. Being a collection of the respective amounts of the foregoing returns, in a general statement of those six revenues.

No. 8. A list of the revenue officers, with their compensations, so far as the materials are possessed at the Treasury.

No. 9. Being a summary re-statement of the gross revenues, previously exhibited, in paper K. of the report, transmitted in March, 1796, so far as then ascertained.

The gross revenue from spirits distilled in the United States, from domestic materials, and from stills, for the year ending with 30th June, 1796, agreeably to statement I, in this report, is 890,838 dollars and sixty-seven cents, exclusively of the further sums yet to be received, which are principally from Ohio and Pennsylvania. It remains to be manifested, what will be the effect of law assistance in the Kentucky survey of the former district; but it has been confidently expected that it would produce material consequences, not only upon the revenue of the year now current, but in regard to the arrears due, for the two preceding, to which this report and that of March, 1796, respectively relate. In consequence of the resignation of the late Supervisor of Ohio, a new officer was appointed, who only received his commission in July last. Since that date, time sufficient to obtain returns, or certain information from him, has not yet elapsed. It is believed, however, that the proper exertions are making by that officer. In the fourth or western survey of Pennsylvania, the inspector with his collectors have ascertained a gross revenue, for each of two years, superior to the estimates which have been last made. But, though a considerable amount of duty has been also ascertained in other surveys of the district, and large sums of money have been paid,* yet there have been great deficiencies of regularity, punctuality, and exertion, even in the current year. A course of very strict and particular attention has been applied from this office, to effect the necessary amendment in the exceptionable points. Measures of a nature so serious as to insure much of that amendment, have been already adopted, and, however painful, will be steadfastly pursued till the object shall be accomplished. It is, nevertheless, just and proper to observe, that a part of the evils which have occurred are to be ascribed, in some measure, to the late or present state of the laws, and to other causes not under the control of the revenue officers. The removals of delinquent collectors, suits against some, and a number of penalties for which proceedings have been terminated or instituted, have already had some effect in laying the foundation of a better execution, and in indemnifying the United States for loss of revenue.

The precariousness and excessive price of fruit, the continued high prices of grain, and the vast importations of wines, of foreign distilled spirits, and of beer, are very material to a just estimation of this part of the revenue service. They are necessary to a well informed judgment upon the due productiveness of the internal spirit tax, and they tend to show the payers of the excise the great contributions of the domestic consumers of foreign liquors. Authentic notes of them are, therefore, given.† It will be remembered, however, that there are considerable exportations of those commodities, with the benefit to drawback of all the duty but one per centum.

The importation of molasses is, also, of considerable importance to an accurate view of this subject, being the sole raw material used by many great distillers. The insular and continental sugar colonies, which do not manufacture this article into distilled spirits, belonging to belligerent Powers, the citizens of the United States are almost the only purchasers that can offer for it. Hence the quantity of molasses was increased in 1795, and the interference of spirits distilled in the United States, from that commodity, with spirits distilled from domestic materials, has been proportionally increased.*

1. The gross revenue arising from spirits distilled from foreign materials was, in the year ending with June, 1795, by the returns heretofore received, $145,224 54. For the following year, ending with June, 1796, which is now first returned, it proves to be $227,346 22. This augmentation appears to be principally owing to the increased importation of molasses, which has been already noticed. It is probable, too, that the very large importations of brown sugar,† and the near approach of the prices of molasses and of that article, may have occasioned a proportion of molasses greater than common to be used in distillation.

The drawbacks of the domestic spirit tax, are believed to relate, as well to exportations in the preceding year, as to those in 1795–'96. By the postponements of drawback settlements, which regularly took place under the laws prior to January, 1795, they were always delayed until the return of the certificate of landing abroad; and the drawbacks after March, 1795, were settled by certificates of debenture, at the moment of exportation, under the act of January, 1795. Hence the allowances of two years were brought, in a considerable degree, into the returns of one.

2. The tax upon sales at auction, for the first year of that revenue, ending with September, 1795, was $36,285 and one-fourth of a cent, as now appears from all the supervisors' returns received at this time. No part of that sum is grounded upon estimate. The returns of the supervisors, for the second year of that tax, now to be reported, amount to $43,169 49. A single quarter of Massachusetts is not upon regular abstract, but upon an informal statement, which is defective in regard to one survey, the inspector not having made a return. It appears, therefore, that this tax has increased, and in a majority of the districts. The largest proportion of augmentation occurs in Pennsylvania. The fluctuations of commerce, it is believed, but perhaps some other causes, have diminished the auction tax in two of the districts. The business of both of these have been made objects of revisory scrutinies. Measures of that nature have, heretofore, produced additions to the amount of revenue. There are yet also to be received several quarterly returns from some of the least productive districts.

3. The tax upon mills and machinery for the manufacture of snuff, is placed, by the suspending act of June 1st, 1796, in such a situation as to

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* The Supervisor of Pennsylvania has paid over to the Treasury, within one year preceding the date of this report, $88,479 and 10 cents, arising from all the six revenues. The further sum of $5,000 is held ready for public draughts, making in all $93,479 10.

† The importations in 1795, were—

1. Of foreign distilled spirits, 5,204,802 gallons, paying a duty of - - -	$1,495,313 56
2. Of beer, ale, and porter, 364,499 gallons, duty - - - -	29,370 56
3. Of wines, paying by the gallon, 2,716,857 gallons, duty - -	662,350 33
4. Of wines, paying by value 499,359 dollars and 49 cents, paying a duty at 40 per centum - - -	202,994 10

* The importation of molasses in 1795, was 4,237,965 gallons, paying a duty of $127,770 36. In 1794, it was 3,476,906 gallons.

† 59,507,723 pounds of brown sugar were imported in the year 1795.

render it less productive of gross revenue for the year ending with September, 1796, than it would otherwise have been, because entries, after that day, ceased to be required. A return, exhibiting all that has occurred under this head of revenue, will be found in this report. The apparent amount of that tax, for the year ending with September, 1796, is $17,124 80, which is the whole sum that it became regular to secure by bond. But, as the duty was suspended four months before the returned year expired, a proportionate deduction from the duty contained in the return, has been thought to require consideration, though there has not yet been made any legislative provision to that end. Nothing has yet been allowed under the second section of the act of the 3d day of March, 1797, nor have there been more than two applications for the relief it provides.

There is, also, a small sum of duty on snuff manufactured in 1794–'95, which was not demandable until the time of removal in 1795–'96.

4. The tax upon sugar refined in the United States, has increased in every district wherein the manufacture is established, but most in New York and Pennsylvania. It was only $43,742 10, in the year ending with September 1795, but returns of the supervisors, to the amount of $63,752 30, have been rendered for the year ending with September, 1796. It may be useful to state that the importation of foreign loaf sugar amounted, in the year 1795, to no more than 43,233 pounds, and of foreign lump sugar, in the same year, it was only 405 pounds, yielding, together, a duty of $3,918 51. The drawbacks allowed upon domestic refined sugar, during a year, ending with September, 1796, appear to be $23,169 69, a considerable part of which is conceived to be for exportations made in the preceding year. From the mode then pursued in that operation, at the custom-houses, the drawback of the domestic refined sugar tax did not appear in the Treasury settlements prior to February, 1796, to any greater amount than $176 10, for the year ending with September, 1795. It is certain, therefore, that the drawbacks allowed in the year ending with September, 1796, as now stated, must have relation to both years. The adjustment, by a certificate of debenture, was adopted in April, 1795. The estimate of this tax, made by a committee of the House of Representatives, in 1794, was only $50,000. If the drawbacks be averaged upon the two years, there will appear, for 1795–'96, a larger amount of revenue than was expected by that committee.

5. The tax upon carriages for the conveyance of persons, for the first year of that revenue, ending with September, 1795, has been established at $43,873 67, by returns actually received. No part of this sum depends upon estimate. But the returns of the supervisors for the second year of that tax, which is at the same rates of duty as the first, do not yet exceed $40,876. A defalcation, therefore, of nearly seven per cent. from the amount of the first year's revenue, appears at present. It will be observed, that much the greatest part of this defalcation has occurred in Maryland, Pennsylvania, Delaware, New Jersey, and New York—that is, in the Middle States; though Georgia has fallen off the most in proportion. Symptoms have occurred, in several quarters, of effects from this duty, of the nature of those produced by sumptuary taxes, which may assist in accounting for the difference. It is feared, however, that the collection was, in some places, defective. It is possible that the measures which have been taken to procure some additional returns, will produce information of more revenue, as was the case in regard to the preceding year. This, it is understood, will be the case in the first survey of Pennsylvania, but the inspector's supplementary return has not yet been rendered to the supervisor. It will be remembered that, at the return of March, 1796, the delay of the judiciary decision upon the carriage tax was expected to diminish that revenue for the year now returned; and, although contrary to that expectation, the produce of the tax is greater in Virginia and North Carolina, than in the preceding year, it is not so in Maryland, in part of which the Constitutional question is understood to have excited some attention. In that district, there was a change of supervisor, a circumstance which always subjects the new officer to material disadvantage for a time. Four quarterly returns of this tax are yet to be received from Ohio, and one from Tennessee and North Carolina. These two last will probably be small, and those from Ohio not considerable.

6. The tax upon licenses to retail wines and foreign distilled spirits, is greater in its product than in the former year ending with September, 1795. It was, for that year, $58,683 83, but is augmented, by returns received at present, to $63,463 68, for the year ending with September, 1796. No district would appear to have fallen off materially, if a proportionate estimate were to be added for North Carolina, from which one quarterly return is yet to be received. The increase is divided among several districts. The States which yield the least of this revenue, in proportion to their population, will be observed to be those which, distilling considerably from fruit and grain, contribute most largely to the revenue from spirits, and have, at the same time, many counties so situated as not to be yet capable of obtaining foreign spirits by water carriage. The manufactory of malt liquors being the most extensive in some of those States, must also contribute there, to keep down the product of this tax. A quarterly abstract is also wanting from Tennessee, and four are deficient from Ohio. Irregular information, of additional revenue from this source, in the first survey of Pennsylvania, amounting to $760, has also been received.

7. The gross amount of all those revenues which have been noticed under the six preceding heads, for the years 1794–'95, has been raised to $536,808 33, excluding estimates and the sums yet expected from Ohio and Pennsylvania. The gross amount of the same revenues for the year 1795–'96, considerably exceeds that of the year last reported, being $647,065 70. To this will also be

added the moneys yet to be received for some of those taxes from both surveys of Ohio, from four divisions in the first, second, and third surveys of Pennsylvania, from three divisions of New Jersey, from one survey of Massachusetts, from Tennessee and from North Carolina.

The contingent expenses of stationery, marking instruments, advertisements, and notifications, certain copies of, and extracts from, the laws, and postages of letters and packets, are grounded upon distinct supervisors' returns from New Hampshire, Connecticut, Maryland, Virginia, South Carolina, Georgia, and Tennessee. For North Carolina, they are taken at a medium of the two last years, which are returned, because the supervisor has made his report for 1796–'97. For Vermont, they are estimated, being so bleaded with other things in the supervisor's return, as not to be capable of distinct exhibition. For Massachusetts, New York, New Jersey, Pennsylvania, and Delaware, they are upon estimate. From Ohio, there is so little information of the revenue arising, that a statement of the expenses cannot be made, the commissions being all at fixed rates per centum on the moneys actually collected. For Rhode Island district, they are obtained from the supervisor's accounts current.

The postages of packets and letters, among the revenue officers in the districts, form a very considerable part of the contingent expenses. Of the amount of that charge, the United States are ultimately the receivers, through the medium of the post office, excepting the allowances to the officers of that department.

The present supervisors of several of the districts came into office so recently as to subject them, respectively, to material inconveniences and impediments. The same observation may be applied to several of the inspectors of surveys.

8. The list of the officers of the revenue exhibits, in most instances, the names of those persons who were employed in this branch of the public service on the 30th day of June, 1796. From a part of the districts, the returns are for June, 1797. The names are taken from reports of the supervisors, except in the case of Ohio, whose collectors' names are obtained from other official documents.

The compensations of the officers are taken from the reports of the supervisors, so far as they have rendered them, excepting a few instances, as grounded on estimate. The supervisor of South Carolina has reported the salaries and the rates only of the commissions for collecting, and other compensations for specific services. He has omitted the total amount of each officer's compensation, that is, the value of the supervisorship, inspectorship, and collectorships, respectively, which, it is conceived, the House of Representatives had in contemplation. The supervisors of Pennsylvania and Ohio have not made any return whatever of the officers' compensations, nor does it appear that either of the inspectors of the former district have made a report upon that subject to him.

TENCH COXE.

COMPENSATION OF OFFICERS OF THE REVENUE.

[Communicated to the House of Representatives, April 18, 1798.]

The Secretary of the Treasury, in obedience to two resolutions of the House of Representatives, passed on the 28th of November and 11th of December, 1797, referring to his consideration the memorials of Jonathan Jackson, Supervisor of the Revenue for the district of Massachusetts, and Abel Whitney, Collector of the revenue in the 14th division of the second survey, in the same district, respectfully submits the following report:

The memorialists represent that the compensations now allowed to them, under the acts of the President of the United States, are incompetent; and they severally pray that provision for a suitable augmentation may be made by Congress.

The Secretary has investigated the pretensions of the memorialists, and finds them to be highly meritorious; but he is unable to discover any principle by which they can, consistently with public policy, be discriminated from the claims of other officers of the revenue. Believing, however, that a revision of the compensations generally is expedient, he respectfully submits a succinct view of existing arrangements, respecting the internal revenue, the funds allowed by law for defraying the expenses of collection, and the principles by which compensations have been regulated in the acts of the President.

The several classes of officers for collecting the internal revenues of the United States have been denominated supervisors of the revenue, inspectors of surveys, collectors of divisions, and auxiliary officers.

The districts of the supervisors are co-extensive with the several States, except that the Northwestern Territory and the State of Kentucky constitute one revenue district, by the name of Ohio district. The districts of New Hampshire, Rhode Island, Connecticut, Vermont, New York, New Jersey, Delaware, Tennessee, and Georgia, have not been divided into surveys of inspection. In all these districts, the duties of inspectors of surveys are performed by the supervisors.

In the district of Massachusetts, three surveys of inspection have been established; in Pennsylvania, four; in Maryland, three; in Virginia, six; in Ohio, two; in North Carolina, five; in South Carolina, three. The duties of an inspector for one survey in each of the districts of Maryland, North Carolina, South Carolina, and Ohio, are, however, performed by the respective supervisors.

The supervisors of districts and inspectors of surveys are appointed by the President of the United States, with the advice and consent of the Senate.

The power of appointing collectors of the revenue and auxiliary officers, and of defining the extent of their divisions, has been committed to the supervisors. In the estimate for the distribution of compensations, the following number was con-

templated for each district. The number actually employed, at present, is not accurately known; but it is understood to be, in most of the districts, less considerable than was contemplated by the said arrangement, viz:

In New Hampshire, three collectors, and six auxiliary officers.

In Massachusetts, thirteen collectors, and fourteen auxiliary officers.

In Rhode Island, two collectors, and three auxiliary officers.

In Connecticut, six collectors, and four auxiliary officers.

In Vermont, three collectors, and six auxiliary officers.

In New York, eight collectors, and fifteen auxiliary officers.

In New Jersey, eight collectors, and six auxiliary officers.

In Pennsylvania, sixteen collectors, and eleven auxiliary officers.

In Delaware, three collectors, and three auxiliary officers.

In Maryland, fifteen collectors, and ten auxiliary officers.

In Virginia, forty-two collectors, and forty-three auxiliary officers.

In Ohio, eight collectors, and five auxiliary officers.

In Tennessee, three collectors, and three auxiliary officers.

In North Carolina, twenty-five collectors, and twenty-six auxiliary officers.

In South Carolina, eighteen collectors, and thirty auxiliary officers.

In Georgia, six collectors, and six auxiliary officers.

Making, in the whole, the proposed number of one hundred and seventy-nine collectors, and one hundred and ninety-one auxiliary officers for the United States. By a return presented to the House of Representatives, on the 21st of February last, it appears that, on the 1st of July, 1796, there were employed in all the districts two hundred and fifty-one collectors, and sixty-nine auxiliary officers. No general return, to a later period, can be now prepared.

The officers before mentioned are compensated in the following manner:

1st. The supervisors are allowed the following annual salaries:

The supervisor of Virginia, - -	$1,350
The supervisor of Pennsylvana, -	1,200
The supervisors of Massachusetts, New York, Maryland, North Carolina, and S. Carolina, - - - - - - -	1,000
The supervisors of Connecticut and Ohio,	700
The supervisors of Rhode Island and New Jersey, - - - - - - -	600
The supervisors of New Hampshire, Vermont, Delaware, Tennessee, and Georgia,	50

In addition to which salaries, the supervisors receive the following emoluments:

In New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Virginia, and South Carolina, a commission of one per centum on the gross amount of the revenue collected in their several districts from spirits distilled therein from foreign materials. In Connecticut and North Carolina, one and a half per centum, and in the other districts two per centum, on the like revenue.

In the districts of Vermont, Delaware, Georgia, and Tennessee, a commission of two per centum upon the gross revenue from spirits distilled in the United States from domestic materials and from stills, and in the other districts a commission of one and a half per centum on the like revenue.

The supervisors of all the districts are allowed for preparing, stamping, and distributing, among the inspectors, one cent for every certificate to accompany foreign or domestic spirits, wines, or teas, actually issued in the surveys and ports of their respective districts, and a commission of one half of one per centum on the duties arising from retailers' licenses, sales at auction, refined sugar, and carriages.

2d. The inspectors of surveys receive the following annual salaries:

In the districts of Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina, five hundred dollars each.

In the district of Ohio, four hundred and fifty dollars.

The said inspectors also receive a commission of one per centum on the gross revenue arising from spirits distilled in their surveys from foreign materials, except the inspectors of the first and second surveys of North Carolina, who receive a commission of two per centum on the like revenue. A commission of one and a half per centum on the gross revenue arising from spirits distilled from domestic materials and from stills, except the inspectors of the first and second surveys of North Carolina, who receive two per centum on the said revenue. All the inspectors receive a commission of one quarter of one centum on the gross revenue arising in their surveys from retailers' licenses, sales at auction, refined sugar, and carriages.

The inspectors of surveys, and such of the supervisors as perform the same duties, receive two cents and a half for each certificate signed by them, to accompany domestic distilled spirits, and one cent for each certificate to accompany foreign distilled spirits.

3d. The collectors of the revenue receive, on the gross revenue arising in their divisions, from spirits distilled from foreign materials, three per centum. On the gross revenue arising from spirits distilled from domestic materials, and from stills, six per centum, and on the revenue from retailers' licenses, and from sales at auction, one and three quarters per centum, and on the revenue from carriages and refined sugar four per centum. They are likewise allowed for measuring and marking each still under the capacity of one hundred gallons, sixty cents, and for each still above one hundred gallons, seventy-five cents; for marking each cask of domestic distilled spirits, and for issuing and countersigning a certificate to accompany the same, two and a half cents, and

for every cask which they respectively gauge, six cents.

The supervisors are authorized to distribute to a number of collectors, in their respective districts, not exceeding the number hereinbefore mentioned, a medium allowance of eighty dollars, yearly, in addition to their other emoluments.

4th. To the auxiliary officers, not exceeding in each district the number hereinbefore mentioned, the supervisors may allow, yearly, a medium sum of thirty dollars each. The allowances, under the head of contingent expenses, comprise printing, stationery, postage, and marking instruments. Nothing is allowed for clerk hire, office rent, fuel, or travelling expenses, except for journeys on special occasions, by the direction of the Treasury.

If the owners of carriages do not make entry, and pay the duties thereon, the collectors may demand, for their own use, twenty-five per centum, in addition to the said duties, for the extra trouble of collection. No other fees or compensations are demandable of individuals by the officers of the revenue.

The acts of Congress provide the following funds, out of which the before mentioned compensations are made:

By the act, entitled "An act concerning the duties on spirits distilled within the United States," passed on the 8th day of May, 1792, a sum not exceeding - -	$70,000 00
By the act, entitled "An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, teas, and wines," passed on the 5th of June, 1794, which act has been continued, and will remain in force until the end of the present session of Congress, - - -	23,333 33
In addition to the general funds before named, the President is authorized to allow, for the expenses of collecting the duties on carriages, and on refined sugar, five per centum on the product of the said duties, which, being estimated on one hundred and four thousand five hundred and forty-two dollars and thirty cents, is - -	5,227 11
And of the duties on licenses to retailers and sales at auction, two and one-half per centum, which, computed on one hundred and six thousand nine hundred and thirty-three dollars and seventeen cents, being the last estimated product of the said duties, is - -	2,673 32
Making, in the whole, the sum of	$101,233 76

By the documents which were presented to the House, on the 21st of February last, it appears that the compensations of the officers of the internal revenue, for one year, may be estimated at - - - - $85,033 37

And that the contingent expenses amounted to - -	7,051 57
Making, in the whole, -	$92,084 94

But, though it appears from this statement that the whole of the appropriated fund has not been expended, yet, as several of the items upon which the fund has been calculated are uncertain, while a considerable proportion of the expense is permanent, it has been deemed unsafe to increase the scale of compensation, from an apprehension that the limitations prescribed by law might be exceeded.

The following is a view of the duties which are performed by the several classes of officers:

The auxiliary officers are generally appointed to aid such of the collectors whose divisions consist of more than one county. Their duties are principally to receive entries of stills and carriages, and to issue retailers' licenses. Small sums, for duties on carriages and licenses, pass through their hands to the collectors. In some of the districts, the supervisors have allowed the collectors to appoint the auxiliary officers, and to reward them out of their own compensations.

The collectors are, however, the principal receivers of the revenue from the people, which they pay over to the inspectors of surveys, or to the supervisors, in those districts which have not been subdivided into surveys of inspection. The accounts of the collectors follow the course of their remittances; their accounts are directed to be rendered in detail, exhibiting the names of the persons from whom, the objects upon which, and the sums collected.

The inspectors of surveys receive, examine, and state the accounts of the collectors, which they digest into general returns, and which are transmitted, with the moneys received from collectors, to the supervisors of the respective districts.

The supervisors correspond with the Treasury, and with the inspectors and collectors of the districts; they alone account with the Treasury, and their returns exhibit, in detail, all the particulars which are contained in the accounts of the collectors.

It is found requisite that the accounts should exhibit the course of business, even in minute particulars, as the subjects of revenue are continually varying in every district, survey, and division, and because the nature of the system admits of no other check than that arising from a connected series of accounts.

A general idea of the detail contained in the accounts of the internal revenue appears necessary to enable the House to decide on the subject of compensations.

1st. The duties on spirits distilled from foreign materials, and generally the duties on all spirits distilled in large stills, in cities, towns, and villages, are ascertained on the quantities of spirits removed, for which duties credits are allowed. The accounts, therefore, exhibit the names of the contributors, the quantities of spirits distilled and removed, the quantities remaining on hand, the

It is proposed that the direct tax be assessed to individuals in the following manner:

I. On dwelling-houses, to be distributed into nine classes, and taxed uniformly in each class.

II. On slaves, to be taxed uniformly.

III. On lands, to be taxed at such a rate ad valorem in each State, as, with the sums assessed on houses and slaves, will produce the entire amount of the sums apportioned to the respective States.

It being proposed to tax dwelling-houses and slaves by uniform rules, an estimate of the sums which may be assessed on these objects, appears to be important.

I. *Of Dwelling-Houses.*—The number of free persons in the United States, in the year 1790, was 3,231,631. The number, at present, may be estimated at four millions. It is computed that there is a dwelling-house for every seven persons: of course, that there are about five hundred and seventy thousand dwelling-houses in the United States.

It is proposed by this bill, as reported, to exempt from specific taxation, all houses, with the lots on which they are erected, not exceeding two acres, in any case, of which the value is less than two hundred dollars. It is important to ascertain what would be the probable effect of an exemption of this nature, and it is much to be regretted that the public documents afford no certain data for a calculation. After a due consideration of information recently obtained, it, however, appears probable, that a much more considerable number of houses would be exempted than was contemplated by the committee. Owing to the great number of settlements which have been lately formed, and the moderate value of land, in large districts of the United States, it is not unlikely that two hundred and twenty thousand houses would be included in the exemption. As houses are believed to be the most certain and eligible objects of taxation to which resort can be had; as inconveniences might arise from an exemption in favor of what, probably, is the most numerous description of houses in some parts of the country; and as, in new settlements, dwelling-houses of small value ought not to be considered as indications of poverty, the following classification, which is somewhat different from that reported, is respectfully submitted, to wit:

First class. To comprise all houses and lots not exceeding two acres, on which the same are erected, exceeding eighty dollars in value, and not exceeding two hundred dollars.

Second class. To comprise all houses and lots exceeding in value two hundred dollars, and not exceeding six hundred dollars.

Third class. To comprise all houses and lots exceeding in value six hundred dollars, and not exceeding twelve hundred dollars.

Fourth class. To comprise all houses and lots exceeding in value two hundred dollars, and not exceeding two thousand dollars.

Fifth class. To comprise all houses and lots exceeding in value two thousand dollars, and not exceeding four thousand dollars.

Sixth class. To comprise all houses and lots exceeding in value four thousand dollars, and not exceeding six thousand dollars.

Seventh class. To comprise all houses and lots exceeding in value six thousand dollars, and not exceeding ten thousand dollars.

Eighth class. To comprise all houses and lots exceeding in value ten thousand dollars, and not exceeding twenty-five thousand dollars.

Ninth class. To comprise all homes and lots exceeding twenty-five thousand dollars.

Notwithstanding it is proposed to assess a tax on all houses exceeding the value of eighty dollars, yet a considerable number would still remain exempted. It is probable, however, that, if the above-mentioned rule of classification should be adopted, five hundred thousand houses would be included.

The following estimate of the number of houses of each class, and rate of assessment, are submitted to the committee:

1st class, 150,000 houses, at 50 cents each - - - - -	$75,000
2d class, 200,000 houses, at $1 50 each	300,000
3d class, 100,000 houses, at $3 00 each	300,000
4th class, 30,000 houses, at $6 00 each	180,000
5th class, 10,000 houses, at $12 00 each	120,000
6th class, 5,000 houses, at $20 00 each	100,000
7th class, 3,000 houses, at $30 00 each	90,000
8th class, 1,500 houses, at $60 00 each	90,000
9th class, 500 houses, at $120 00 each	60,000
Estimate of the product of the proposed tax on houses - - -	$1,315,000

II. *Of Slaves.*—A tax of two millions of dollars apportioned to the aggregate number of free persons in the United States, and to two-fifths of the number of slaves, according to the census, would be as follows:

Proportion of 3,231,631 free persons - - - - -	$1,770,635 43
Proportion of 418,619, being three-fifths of the number of slaves -	229,364 57
Total - - -	$2,000,000 00

The number of slaves in the United States has, probably, increased since the time when the census was taken; but, as it will doubtless be deemed advisable to exempt certain descriptions, especially the aged and infirm, it will not be safe to calculate on a greater number than six hundred thousand taxable slaves. A tax of thirty-eight cents on each slave, may be calculated to produce $228,000. This sum nearly corresponds with the ratio of assessment to slaves, according to the Constitution, which may be presumed to afford a rule equally equitable in respect to individuals.

III. *Of Lands.*

According to the preceding estimate, the tax on houses, as proposed, would produce - - -	$1,315,000
And the tax on slaves - -	228,000
Leaving to be raised by an assessment ad valorem, upon lands, the sum of - - - -	457,000
Amount of the proposed tax -	$2,000,000

The sum proposed to be assessed on lands will be found to be less, in proportion to other objects, than would be payable in most of the States, if State systems should be adopted. It must also appear to be a tax really moderate, when the immense value of that species of property in the United States is duly considered. The variety of the principles upon which the State assessments have been formed, precludes, however, the possibility of an estimate of the probable rate of assessment in the different States.

To facilitate the receipt of the tax into the Treasury; to exemplify the operation of the law upon the different objects of taxation; to diminish the risk of collection; and render the burden as light as possible to individuals; it is proposed that the proportions to be laid on houses and slaves should be immediately assessed and passed to the credit of the respective quotas of States. While these parts of the tax are in a course of collection, arrangements can be made for taking a valuation of the lands, and apportioning the balances, to be collected as a second instalment of the proposed tax.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT.

Hon. ROBERT GOODLOE HARPER,
Chairman Com'tee Ways and Means.

EXPENDITURES OF THE EXECUTIVE DEPARTMENTS.

[Communicated to the House of Representatives, July 5, 1798.]

The committee appointed to inquire and report, by bill or otherwise, "whether any, and what, alterations are necessary in the various acts establishing the Executive Departments, so far as relates to the manner of distributing the moneys appropriated for each, and settling their accounts," having attentively considered the subject, and conferred with the heads of those Departments in which it was supposed that an alteration might be necessary, beg leave to present to the House, as the result of their inquiries, the following report:

The first of the now existing Executive Departments, established under the Government of the United States, was the Department of War. The act for erecting this Department, passed on the 7th of August, 1789, directs that the head of it, the Secretary, "shall perform and execute such duties as shall, from time to time be entrusted to him by the President of the United States, agreeably to the Constitution, relative to military commissions, or to the land or naval forces, ships or warlike stores of the United States, or to such other matters respecting military or naval affairs, as the President of the United States shall assign to the said Department;" but no provision was made by this act, respecting the disbursement of moneys, for the use of this Department, or the settlement of its accounts.

On the 2d of September, 1789, the act for establishing the Treasury Department was passed. This Department, as established by the act in question, was solely a department of finance; a department for improving, superintending, and collecting, the public revenue: adjusting the accounts of public expenditure, and paying out the public moneys pursuant to appropriations by law.

To the Secretary of the Department were assigned the duties of digesting and preparing plans, for the improvement and management of the revenue, and the support of the public credit; of superintending the collection of the revenue; of deciding on the forms of keeping and stating accounts and making returns; of granting warrants for moneys to be issued from the Treasury, pursuant to appropriations by law; of conducting the sale of public lands; of reporting to either House of Congress, on subjects referred to him, or appertaining to his office; and of performing all such services, respecting the finances, as he might be directed to perform. Under the superintendence of this chief officer, the duties incident to the general objects of the Department are divided into four classes, and assigned to the Comptroller, the Auditor, the Register and the Treasurer.

The War Department being, therefore, a department solely of expenditure, and the Treasury a department of collection and account, it would seem to have been the natural and proper course, that all sums appropriated by law for the Department of War, should be drawn out of the Treasury, by the head of that Department, and expended solely under his direction. He would then have remained exclusively responsible for the expenditure, not only as to its objects, but as to its amount; he would not only have judged what was necessary for the use of his Department, in every various branch of the service, but he would have procured all the supplies; and the accounts, in their minutest details, would have remained under his control. The Secretary of the Treasury would have had no concern with the War Department, further than to give warrants for the moneys appropriated for its use, and to take care that these warrants did not exceed the appropriations. The amount of those warrants being an acquittal to the Treasury Department, would have constituted a charge against the Secretary of War; and the accounts of their expenditure, made under his sole direction, and finally adjusted by the Auditor and Comptroller of the Treasury, would have furnished his acquittal. Thus the responsibility of each department, as well as its operations and accounts, would have been distinct and entire.

This course, however, was not adopted. On the contrary, the duties of the two Departments, relative to the expenditure of moneys for the military and naval service, were blended together in practice; but the part allotted to each was not very

precisely defined. It may however, be generally stated that all contracts for rations, clothing, and magazine supplies, were made at the Treasury, while all expenditures for other objects remained under the direction of the Secretary of War.

On this footing the business continued till the 8th of May, 1792, when an act was passed "for making alterations in the Treasury and War Departments."

By this act, the office of "Accountant for the War Department" is created; and the Accountant is charged "with the settlement of all accounts relative to the pay of the Army; the subsistence of officers; bounties to soldiers; the expenses of the recruiting service; and the incidental and contingent expenses of the Department."

The act then goes on to make provisions to the following effect:

1st. That all contracts and purchases for supplying the Army with provisions, clothing, supplies in the Quartermasters' department, military stores, Indian goods, and all supplies or articles for the use of the Department of War, be made under the direction of the Treasury Department.

2d. That all expenditures for the pay of the Army; the subsistence of officers; bounties of soldiers; the expenses of the recruiting service; and the incidental and contingent expenses of the Department of War; shall be made in pursuance of warrants from the Secretary of War, out of moneys previously ordered for the use of the said Department, by warrants from the Treasury.

Hence it results, that the expenditures for the War Department fall under two general divisions: those for supplies of all kind, and those for services and contingent expenses.

The expenditures of the first class, instead of being directed by the Secretary of War, and accounted for by him, are under the management of the Treasury Department, the Secretary of which is converted into an agent of the Department of War, for this purpose. The business is conducted in the following manner: The Secretary of War informs the Secretary of the Treasury, by letter, what supplies are necessary for the Department of War, of what nature, when wanted, and, in some instances, where to be delivered; and also furnishes the necessary samples, patterns, forms, and models. The Secretary of the Treasury is then bound to comply with the demand of the War Department, to the extent of appropriations which have been made by law, and the Purveyor of Public Supplies, whose office was instituted by a subsequent act, is the organ of execution, under his direction.

Two modes of procuring those supplies are in use at the Treasury: contract and purchase.

Contracts are, also, of two descriptions: the larger, such as those for clothing and provisions, which are executed by the Secretary of the Treasury himself, and distinct accounts of which are opened in the public books; and the smaller, such as those of occasional supplies, which are concluded by the Purveyor, and comprised in the general settlement of his accounts.

Purchases of supplies, when they can be effected at the seat of Government, are made by the Purveyor; and this is his chief employment. For purchases in the country, and for procuring occasional supplies at military and recruiting posts, the Secretary of the Treasury employs the agency of the supervisors and the collectors of the customs.

The accounts of the Purveyor and all agents and contractors, for procuring or furnishing supplies, are settled at the Treasury, without any agency or interference of the War Department. They pass first under the examination of the Auditor, who reports them to the Comptroller, and his decision on them is final.

When supplies are procured and delivered, according to the requisitions of the War Department, they become, from that time, subject to the disposal of the Secretary of War, and the duty and responsibility of the Secretary of the Treasury are at an end.

The second class of expenditures in the Department of War, those for services and contingent expenses, including the pay of the Army, subsistence of officers, bounties, recruiting, protection of the frontiers, &c., are made under the sole direction of the Secretary of War. The money for these objects is drawn out of the Treasury, in the following manner:

The Secretary of War addresses a letter to the Secretary of the Treasury, requesting an advance of money to the Treasurer of the United States, in his capacity as treasurer for the War Department. This letter specifies the sum wanted, and the head of appropriation under which it is to be applied. The Secretary of the Treasury complies with this request, to the extent of the appropriations which have been made by law. A warrant for the proper sum, signed by the Secretary, countersigned by the Comptroller, and recorded by the Register, is drawn on the Treasurer of the United States, in favor of himself, as treasurer for the War Department. The warrant being paid, the amount is charged to the War Department, in the books of the Treasury, and from that time remains subject to the disposal of the Secretary of War, who draws it out, as occasions may require, by warrants signed by himself, and countersigned by the Accountant.

An account of all these warrants is kept by the Accountant, and to him all the accounts for the expenditure of the moneys drawn under them, are rendered in the first instance. He adjusts these accounts, and reports them, like all other accounts of public expenditure, to the Auditor of the Treasury. From him they pass to the Comptroller, whose decision on them is final.

In this last branch, therefore, of the expenditures of the Department of War, the agency, control, and responsibility of that Department, are complete, and the accounts are susceptible of a clear and distinct division and adjustment. The Secretary of War draws from the Treasury the moneys appropriated by law, expends them, and accounts for them. In this expenditure and account, the Accountant of the Department is his agent, and his accounts being made up and stated

by the Accountant, are submitted, with his vouchers, to the Auditor and Comptroller of the Treasury, and by them finally settled, like the accounts of all other persons entrusted with public money. The Secretary of the Treasury has no further concern in the business than to pay out, to the Secretary of War, the moneys appropriated by law for that Department. Here is a perfect and entire responsibility in each: in one, that the public money is paid out of the Treasury, according to law; in the other, that, when paid out, it is expended according to law.

But in the other great branches of these expenditures, those which relate to stores and supplies of all kinds, for the use of the Military Department, there is a divided, and, consequently, an imperfect responsibility, and an incomplete interfering agency. The Secretary of War judges what supplies or stores are necessary; but, instead of directing them to be procured, and drawing money out of the Treasury to pay for them, he informs the Secretary of the Treasury that they are wanted, and he must procure them. Thus the first officer is responsible for the necessity of the supplies, and the second for their price, quality, and due delivery. The moneys appropriated for the War Department are expended by the Secretary of the Treasury; and he is converted, as far as respects these expenditures, into a subordinate agent of the Department of War. The supplies are purchased for one purpose, and charged to the corresponding head of appropriation. When placed in the public stores, they are found useful for another purpose, and accounted for under another head. The Secretary of War, who uses them, does not know to what account they are charged; and the Secretary of the Treasury, who purchases and charges them, does not know for what purpose they are used. Hence must result an endless confusion and uncertainty in the accounts, and it becomes difficult, if not impossible, to ascertain what expenses are incurred for any particular branch of the military service. The Secretary of War cannot be responsible for the expenditure of the moneys appropriated for his Department, since he does not know at what rate the necessary supplies are procured. Neither can he be responsible for the due performance of the service, for it does not depend upon him to take care that the supplies are procured, either in due time, in the necessary quantities, or of a proper quality. On the other hand, the Secretary of the Treasury cannot be responsible for the due execution of the public service, since it does not depend upon him to cause the supplies which have been procured to be properly used.

The Secretary of the Treasury, moreover, being thus employed in duties which belong to another department, may be prevented, by the burdensome nature of those duties, from applying himself, with proper effect, to the peculiar objects of his own; which are the superintendence, improvement, and collection, of the public revenue—duties sufficiently extensive and important to occupy, exclusively, the attention of any one person.

All the observations which have been made, with respect to the Department of War, apply with equal force to the Department of the Navy, the duties of which were originally committed to the War Department, and are still subject to the provisions of the act of May 8th, 1792. The extensive operations which may be expected in this Department, and the great increase of public business which is likely to result, from the actual state of public affairs, will, it is apprehended, add greatly to the inconveniences resulting from the present organization.

These inconveniences the committee suppose may be removed, or greatly obviated, by adopting a new arrangement, with respect to expenditures for supplies, and placing them on the same footing with the expenditures for services. They propose, also to establish the office of Accountant in the Department of the Navy; to place the Purveyor of Public Supplies under the direction of the Navy and War Departments, and to direct that the moneys appropriated for those Departments be accounted for, under such separate heads of appropriation, as will give a clear view of the amount expended in each branch of the public service.

In this manner the duties and the responsibility of each Department will be rendered distinct and entire, each will be confined within its proper sphere, and the accounts of public expenditure will be kept with order, precision, and clearness.

In conformity to these ideas, and pursuant to the power given to them by the House, the Committee herewith report a bill containing the regulations which they think it expedient to adopt.

VALUATION OF LAND AND DWELLING-HOUSES.

[Communicated to the House of Representatives, January 21, 1799.]

The Committee of Ways and Means, instructed, by a resolution of the 9th instant, to inquire and report, by bill or otherwise, whether any, and what, amendments are necessary to be made in the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States," have attended carefully to that subject, and agreed to the following report; which they beg leave to submit to the consideration of the House:

The attention of the committee has been particularly directed to two parts of the act under which, as far as they have been able to learn, the difficulties yet standing in the way of its execution have arisen: that which relates to the duty and compensation of assessors, and that respecting the description of dwelling houses.

As to the first, it appears that, although proper persons have, in several States, been prevailed on to act as assessors, at the present rate of compensation, yet instances have occurred in important and extensive districts, where it has been found impossible to procure proper assessors on account

of the smallness of the compensations; and that this difficulty may be apprehended, perhaps in an increased degree, in some States where the appointment of assessors, as far as is now known, has not yet been attempted. The committee have been able to perceive no other remedy for it, than to authorize the Secretary of the Treasury, under the direction of the President, to increase the compensations of assessors, in those cases where he may find it necessary—so, however, as that no assessor, principal or assistant, shall receive more than two dollars per day, in the whole; and this measure they recommend to the House.

It further appears, that difficulty and delay arise from the want of a provision for clerks to the principal assessors, whose duty, in the execution of the law, is very important, and must often require a degree of skill in accounts, not always possessed by persons otherwise perfectly well qualified for that office. The committee, therefore, conceive that a clerk ought to be allowed to each principal assessor, his compensation not to exceed one dollar per day while actually employed, and his accounts to be settled like those of the assessors, by the Board of Commissioners.

The committee also find, that some inconveniences have already been experienced from the shortness of time allowed to principal assessors for receiving appeals, and that more may be probably expected. This time, as fixed by the act, is fifteen days, and the Commissioners have no power to extend it in any case. Such a power the committee suppose it would be proper to give them.

It has also been suggested, that the time allowed by the act for the assistant assessors to make their returns, which is thirty days, is too short, and ought to be extended; or, at least, that the Commissioners ought to be vested with a power to extend it; but, this idea has been rejected by the committee, for reasons detailed in a letter from the Secretary of the Treasury, which is annexed to this report, and whereto they beg leave to refer.

Under the second head, the description of dwelling-houses, the committee find that the provision of the law which requires that the lists to be delivered by individuals to assistant assessors, shall contain "the number and dimensions of windows" in every dwelling-house, has given rise to much discontent in several parts of the country, and to considerable consequent embarrassment in obtaining the lists. This discontent has proceeded, in part, from the trouble which people find in measuring their windows, and in a much greater degree, from an apprehension, among the country people, that this return of windows was intended as the ground-work of a window tax. Wholly unfounded as this apprehension is, it has produced already embarrassing effects. The return of the number and dimensions of windows in each dwelling-house was required in order to furnish the Commissioners, who are to judge of the valuations in the last resort, with as many and as certain criterions as possible, for guiding their judgment, in respect to dwelling-houses, which it is absolutely impossible for them to inspect individually; and it was conceived that the number and dimensions of the windows in a dwelling-house, would, in general, afford a pretty just criterion of its value. But further inquiry and consideration have induced the committee to believe, that any information to be obtained from these returns, will be far less useful in guiding the judgment of the Commissioners, than was at first supposed; since the number and size of the windows varies so much, according to taste, situation, fashion, and other circumstances; while the inconveniences resulting from the measure are real and considerable. They are, therefore, of opinion, that so much of the act as requires that each list shall, in respect to dwelling-houses, contain the "number and dimensions of windows," ought to be repealed.

Pursuant to these ideas, the committee have prepared a bill, which they herewith present to the House.

TREASURY DEPARTMENT,
January 18th, 1799.

SIR: On the subject of that part of your letter of the 11th instant, relating to the "Act providing for the valuation of lands and dwelling-houses, and the enumeration of slaves," I have the honor to observe,

1st. That the appointments of Commissioners and assessors, under the act above mentioned, appear not to have been accepted in any part of the United States with a view to emolument. By appealing to the patriotism of the country, men of talents and respectability have generally been found, who are willing to discharge the duties enjoined by the law. Some delays were experienced in consequence of the sickness in the cities, and by resignations of a number of the gentlemen who were first named as Commissioners; the vacancies are now presumed to be all filled by persons who will serve; and great progress has been made in the valuations in most of the States. The greatest delays have arisen in the distant States of Kentucky, North Carolina, South Carolina, and Georgia.

So far as information has been received, the appointments of assessors are understood to have been well filled; but there are several parts of the country, though of comparatively small extent, where obstacles, apparently insurmountable, have been experienced from the insufficiency of the compensations. From the most Southern States, no information of the appointment of assessors has been yet received, and great difficulties are represented as likely to arise in that quarter. It, therefore, appears to be expedient to appropriate a sum of money, subject to the disposal of the President, to be applied in augmenting the compensations in such cases as he shall judge necessary and expedient.

2d. The period of thirty days will, in most cases, be sufficient for taking the lists of individuals, and delivering them to the principal assessors; and some time ought to be prescribed, within which the business should be performed. It is, however, understood, that the doings of the assessors will be valid, though not performed within thirty days; and that they will be entitled to compensation for such time as may be really necessary, and during which they may be diligently employed. The Commissioners will judge, according to the circumstances of each case, whether the penalty imposed by the seventeenth section has, or has not, been incurred, and will be governed accordingly.

3d. The direction in the 9th section, requiring a particular description of dwelling-houses, and other buildings, particularly in respect to the number and dimensions of windows, has occasioned considerable discontent; the unpopularity and labor occasioned by the necessity of this detail, has been already encountered in the Eastern States; but as much remains to be done in the Middle and Southern States, as the popular objections are represented to be very embarrassing to the assessors, particularly in Pennsylvania, it is respectfully suggested to be expedient to vary the law, so as to require no other than a general description of dwelling-houses, and other buildings, with their value.

4th. The term of fifteen days appears to be sufficient, as a general rule, for the purpose of receiving appeals; and the time for determining them is deemed to be discretionary, under the direction of the Commissioners. No objection, however, occurs against vesting an authority to prolong the time for receiving appeals in special cases.

I apprehend greater difficulties from the trouble and expense which will attend the calculation of the sums to be paid by individuals, according to the act imposing a direct tax, than from any cause whatever; and I fear that, in some quarters of the country, they will greatly retard the final execution of the law. If it shall be thought expedient to attempt a reconsideration and revisal of the act, and it shall be agreeable to the committee, I will particularly explain my sentiments on this subject.

For the purpose of general information in respect to the details of the valuations, I have the honor to enclose copies of two circular letters to the Commissioners, dated the 7th of August, and 8th of September, 1798.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT.

The Hon. R. G. HARPER, Esq.,
Chairman Committee of Ways and Means.

MINT.

[Communicated to Congress, Jan. 31, 1799.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

I have received a report from the Director of the Mint, on the state of the business committed to his superintendence, and a statement of the coinage of the Mint of the United States, for the year 1798, which it is proper to lay before Congress.

JOHN ADAMS.

JANUARY 31, 1799.

To the President of the United States:

The Director of the Mint thinks it his duty to review his annual report on the state of the business committed to his superintendence, for the information of the Government.

With pleasure he refers the President to the enclosed returns of issues of the several species of coin from the Mint, since the first of January, 1798; during which time the coinage has been stopped near three months, occasioned by the late calamitous fever, and the decay of some of the machinery. Yet, by these returns, it will appear that the coinage of gold amounts, in value, to 205,610 dollars; that of silver, to 330,291 dollars; and that of copper, to 9,797 dollars; in the whole, amounting to 545,698 dollars; exceeding, in value, nearly double what has ever been coined at the Mint in any one preceding year, and increases the whole amount of the coinage, since the commencement of the business, in October, 1794, to 483,245 dollars, in gold; 792,643 dollars, 75 cents, in silver; and 41,004 dollars, 74 cents, in copper; amounting, in the whole, to 1,316,893 dollars, 49 cents.

From information the Director has received, he has no doubt but there will be a full supply of silver bullion for the ensuing year, at the present establishment of the Mint; and the frequent deposites of gold, give him encouragement to suppose a proportionate supply of that precious metal will be kept up. The present arrangement, with regard to copper coin, will enable the Director, during the course of the next Summer, to supply any demand that is likely to be made for cents, and at present there are a considerable number on hand.

The Director cannot, with propriety, close this report, without mentioning that, during the last Summer, a scheme was discovered for robbing the Mint, by persons out of it, in concert with a person employed in the Mint; and although the offenders have been detected, prosecuted, and punished, yet it fully justifies the observations heretofore offered to the President, on the unprotected state of the Mint, to which the Director begs leave to refer.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, *Director.*

MINT OF THE UNITED STATES,
January 3, 1799.

Statement of the Coinage at the Mint of the United States, for the year 1798.

GOLD COINS.			
7,974	Eagles - -	$79,740	
24,867	Half Eagles -	124,335	
614	Quarter Eagles -	1,535	
			$205,610
SILVER COINS.			
329,536	Dollars - -	$327,536	
27,550	Dimes - -	2,755	
			330,29

COPPER COINS.

979,700 Cents - - -	9,797
	$545,698

BENJAMIN RUSH.

MINT OF THE UNITED STATES,
Treasurer's Office, Jan. 3, 1799.

EQUALIZATION OF THE DUTIES ON IMPORTS FROM INDIA.

[Communicated to the Senate, February 28, 1799]

The Secretary of the Treasury, to whom was referred, by order of the Senate of the United States, on the 24th of May, 1798, the petition of William Gray, Jr. and other merchants of the State of Massachusetts, respectfully submits the following report:

The petitioners are merchants concerned in trade between the United States and the British East Indies; the stock exported by them from the United States consisted principally of Spanish milled dollars; these dollars were invested, at Calcutta, in merchandise, at the rate and exchange of two hundred and fifteen sicca rupees for one hundred Spanish dollars. By the 40th section of the collection law, passed on the 4th of August, 1790, the *rupee of Bengal*, by which the *sicca rupee*, a coin of India, is supposed to have been intended, is valued at fifty-five and a half cents, in money of the United States.

The Collector of the Customs at Salem required the petitioners to exhibit the original cost of the merchandise imported by them, in *sicca rupees*, to which he added twenty per cent., pursuant to the direction in the 39th section of the collection law, and upon this amount of rupees, reduced to money of the United States, at the rate of fifty-five and a half cents per rupee, the *ad valorem* duty of twelve and a half per cent. has been demanded.

The petitioners represent the value of the rupee, as declared in the collection law, to be excessive; and as the goods imported by them were in fact purchased with Spanish dollars, they request that they may allowed to exhibit the cost of the said goods in dollars, and to pay duties accordingly. They further represent, that this indulgence has been granted in some ports of the United States, and that they have been injured by the unequal construction of the law in different officers.

The Secretary has examined the subject, and is satisfied that the petition contains a candid statement of all the facts within the knowledge of the petitioners.

The following is an illustration of the mode of calculation adopted by the collector, and also of the proposed substitute.

1st. By the rule adopted by the collector, the Spanish dollars were reduced to rupees, at the current market value; or, as in the case stated in the petition, 100 dollars were valued, in rupees, at *R.* 215 00

To which 20 per cent. was added, according to the 39th section of the collection law, or - - - 43 00

R. 258 00

The above sum of 258 rupees, reduced to money of the United States, at fifty-five and a half cents per rupee, is equal to - - - - $143 19

Upon which a duty of twelve and a half per cent. being computed, produced to the revenue, for the proceeds of 100 dollars, invested in merchandise, at the exchange of 215 rupees per 100 dollars, the sum of - - 17 90

2d. But the rule suggested by the petitioners would give the following result:

Original investment, in dollars, -	100 00
To which add twenty per cent. according to the 39th section of the collection law, - - - -	20 00
	$120 00

The rate of duty, at twelve and a half per cent. computed on 120 dollars, would give to the revenue only - 15 00

The question under consideration is important, both to the revenue and to the merchants: for if the principles assumed by the petitioners are correct, an excess, amounting to nearly one-fifth of the legal duties, has been demanded.

The Secretary, in the course of his inquiries on this subject, has ascertained the following facts:

1st. That *dollars* are not considered as *money* in Bengal, and that the price is variable; that, of late, dollars have been worth from 212 to 215 sicca rupees per 100 dollars.

2d. That there are various kind of money known in India, under the general denomination of *rupees;* of which the sicca rupee, a real coin, is understood to be the standard.

3d. That, by assays at the Mint of the United States, the extrinsic value of the sicca rupee, when compared with money of the United States, is found to be forty-seven cents.

4th. That the *current rupee* is an *ideal* money of *account*, the value of which is sixteen per cent. *below* that of the *sicca rupee*.

5th. That the accounts of the East India Company are kept in *current* rupees; that formerly, invoices sent to the United States were made out in the same currency, but that, latterly, invoices are made out in sicca rupees, it having been understood that the duties imposed by the laws of the United States were granted with reference to that description of money.

6th. That bills of exchange on London, payable from six to fifteen months after sight, have of late years been negotiated at Bengal, at various rates, from two shillings to two shillings and sixpence sterling, per *current* rupee.

7th. That the pagoda of India is valued, in the collection law, at one dollar and ninety-four cents,

whereas, the intrinsic value of this coin is found, by assays at the Mint, to be no more than one dollar and seventy cents.

The Secretary is of opinion that, notwithstanding the rupee and pagoda of India are estimated above their intrinsic value, when compared with coins of the United States, yet, that the rule now established cannot be *inequitable*, because it is from its nature *invariable*, and must at all times subject merchants, who purchase of the same quality, at one price, in India, to the payment of the same amount of duties in the United States. If these coins should be estimated at a less value than at present, no other consequence would follow than a reduction of the present established rates of duties, which, considering the nature of the trade, cannot be deemed excessive.

The rule suggested by the petitioners, of considering the value of *our money, or even of foreign money*, in the *United States*, as the criterion for determining the cost of merchandise in *foreign countries*, appears to be inadmissible; gold and silver, when exported, can be considered in no other right than as *merchandise*, without subverting that principle of the revenue laws which has established foreign currencies, or moneys of account, as the criteria for computing the duties *ad valorem*. The consequences of an abandonment of this principle might, on some occasions, exceedingly embarrass commerce, by causing a sudden exportation of the specie capital of the country; at any rate, the revenue would fluctuate with the course of exchange and the variations of the prices of our exports in foreign markets.

The Secretary finds that a few entries were admitted at New York, on which the invoice prices of India merchandise were computed in dollars; the mistake was, however, soon discovered, and corrected. As, therefore, the petitioners will, in future, have nothing to apprehend from an unequal opereration of the law, the Secretary is of opinion that the interposition of the Legislature, in this case, is not expedient.

All which is respectfully submitted.

OLIVER WOLCOTT.

TREASURY DEPARTMENT, *February* 27, 1799.

REPORT

From the Secretary of the Treasury, of the sums necessary to be appropriated for the service of the year 1799.

The Secretary of the Treasury respectfully reports to the House of Representatives of the United States that, for the service of the year 1799, the following appropriations, as detailed in the estimates herewith transmitted, appear to be necessary:

For the Civil List, or the support of Government, including the contingent expenses of the several Departments and offices, the sum of		$504,206 83
For defraying the compensation of clerks in the several Loan Offices, and for books and stationery as heretofore allowed by temporary acts of Congress, the last of which will expire at the close of the present year, - - - -		13,000 00
For the payment of annuities and grants, - - - - - -		1,603 33
For the support of the Mint Establishment, - - - -		13,300 00
For the expenses of intercourse with foreign nations, including a sum of twenty thousand dollars, estimated as being requisite for the relief of destitute seamen, and exclusive of the annual appropriation of forty thousand dollars, authorized by the act of March 19th, 1798, - - - - -		53,000 00
For the payment of expenses incident to the treaties with Great Britain, Spain, and the Mediterranean Powers, - - - -		187,500 00
For the support of light-houses, beacons, buoys, and public piers,		44,281 08
For the ordinary contingent expenses of Government, - - -		20,000 00
For establishing trading-houses with the Indians, being the amount unexpended of a former appropriation, which will expire at the close of the present year, - - -		110,000 00
For satisfying miscellaneous claims and expenses, including an additional estimate for the purposes of the act of June 17th, 1798, respecting Loan Office and Final Settlement Certificates, &c., - -		19,000 00
For the Military Department, viz:		
The support of the Army, including pay, rations, clothing, hospital, ordnance, Quartermaster, and Indian expenses; the defensive protection of the frontiers, and contingencies, agreeably to the estimate of the Secretary of War, -	$4,202,005	
From which may be deducted the sum appropriated by the act of July 16th, 1798, towards defraying the expenses under the act to augment the Army of the United States, - - -	900,000	
Leaving to be provided for, -		3,302,005 00
For the payment of Military pensions, - - - - -		93,400 00
For the Navy Department, pursuant to the estimate of the Secretary of the Navy, viz:		
For completing the ships ordered to be built by acts of Congress,		671,504 24
Arms and Military stores, - -		233,000 00
Contingencies and casualties, -		100,000 00
The expense of maintaining the present Naval Establishment, including the Marine Corps, for an entire year, is computed at two mil-		

lions four hundred and twenty thousand one hundred and eighty dollars and fifteen cents, but, as the whole number of ships will not be in service more than six months of the year 1799, the sum required for that year is estimated at no more than - - -	1,862,112 42
For the support of eight revenue cutters during the year 1799,	117,591 92
Total amount, - - -	2,984,208 59
From which sum is deducted a balance of former appropriations, applicable to the purposes stated in the foregoing estimate, - -	823,887 14
Leaving to be provided for the sum of	2,160,321 45
Making in the whole - -	$6,531,612 69

The funds out of which appropriations may be made for the purposes before mentioned, are—

1st. The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1799, which sum is, by law, annually reserved for the expense and support of Government.

2d. The surplus of revenue and income, which may accrue to the end of the year 1799, after satisfying the objects for which appropriations have been heretofore made; and,

3d. The proceeds of the loans which may be negotiated on the credit of the United States, pursuant to either or both of the acts of Congress, passed on the 16th of July, 1798; the one, entitled "An act to enable the President of the United States to borrow money for the public service," and the other, entitled "An act making certain appropriations, and to authorize the President to obtain a loan on the credit of the direct tax."

The Secretary respectfully observes, that the expenses of the revenue cutters have been hitherto defrayed, by the Collectors of the Customs, out of the proceeds of the duties on imports and tonnage, and charged in their accounts as expenditures incident to the collection of the said revenue. Several of the cutters now in service are, however, well calculated for co-operating with larger ships for the defence of the sea-coast and of commerce, and, while so employed, order and economy will be promoted by an arrangement for subjecting the expenditures to the control of the Navy Department. On this ground the expediency of an appropriation for defraying the expenses of several of the said cutters, is submitted.

The Secretary also transmits a statement of the receipts and expenditures of the United States for the year prior to the first day of October last, being the latest period to which an account can be prepared.

All which is most respectfully submitted by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *Dec.* 22, 1798.

OUTSTANDING CERTIFICATES.

The Secretary of the Treasury, in obedience to the order of the House of Representatives, of the 14th December, 1797, respectfully submits the following Report:

That, according to the best estimate which can be formed, after a careful revision of former communications to Congress, and on examination of the public records, it appears that the following sums were barred by the operation of the fourteenth section of the act passed on the 3d day of March, 1795, entitled "An act making provision for the support of public credit, and for the redemption of the Public Debt."

In Loan Office certificates, bearing interest on a nominal capital of $43,500, the specie value of which is estimated at - -	$27,935 00
In Loan Office certificates, bearing interest on the specie value - -	147,105 53
In final settlement certificates, of all kinds - - - -	96,206 69
In indent of interests of all kinds -	70,052 18
The amount of arrearages of interest prior to January 1, 1791, on the certificates aforesaid, which, by the funding act of August 4, 1790, were liable to become three per cent. stock, are computed at - -	164,000 00
Making, in the whole, the sum supposed to be barred by the act of March 3, 1795 - - -	505,299 40

But though the public accounts exhibit the sums aforesaid as being outstanding, there is reason to believe that the amount which would be claimed, if the act of limitation should be suspended, is much less considerable. The accounts of the Treasury comprising transactions of great extent, in various offices, and for a period of twenty years, cannot, in these particulars, be pronounced to be entirely free from errors. Considerable allowances ought also to be made for the loss and destruction of certificates by accidents, during so long a period. This is to be inferred, no less from the nature of the case, than from observations upon the course of business at the Treasury. The amount of the principal certificates funded in the year 1795, was only $71,524 59, and in the year 1796, no more than $37,335 01.

The Loan Office certificates were issued under well devised checks and precautions, and it is not known that they have ever been successfully counterfeited. Of the indents of interests, by far the greatest part were printed on paper manufactured for that sole purpose, of which no counterfeits have appeared.

The sums in the final settlement certificates are all expressed in manuscript writing. These sums have frequently been altered in a manner to defeat every scrutiny, except that arising from a comparison with the original marginal checks. The arrangements made at the Treasury are such, that forgeries can almost always be detected; but

an examination to preclude any considerable risk, would be tedious, and require great care and attention.

The Secretary having stated such facts respecting the certificates in question, as he conceives most likely to be influential in favor of a repeal of the act of limitation, attempts with diffidence to fulfil the remaining duty enjoined upon him. He, however, submits the following observations to the indulgence of the House of Representatives.

1. That it was an important principle in the establishment of the system for the reduction of the public debt, to ascertain its possible extent.

2. That the proposition to the creditors was in itself reasonable, and conducive alike to public information and individual security, and that the propriety of the measure, as a general rule, cannot now be questioned, without innovating upon a system which was deliberately established.

3. That without impairing the general rule, a mode of relief can be devised for all such cases, of accident or misfortune, as on principles of equity ought to be deemed exceptions.

4. That a general repeal of the act of limitation, at this time, would operate as a revival of claims, which, for a year past, have had no legal validity.

But if, on a consideration of all circumstances, a repeal of the act of limitation, in respect to certificates and indents, shall be deemed proper, the Secretary, with a view to prevent the inconveniences which would result from a further increase of that description of capital stock, which is in a train of reimbursement, respectfully submits the following propositions to the consideration of the House:

1. That an appropriation of money be made, sufficient to discharge the principal of the Loan Office and final settlement certificates, with the interest thereon since January, 1791, and also the principal of the unfunded or registered debt credited in the books of the Treasury and Loan Office; and that it be declared by law that interest on the debts aforesaid shall cease from and after the ——— of ———.

2. That the creditors be allowed to receive the arrearages of interest on the debts aforesaid, prior to January, 1791, in funded three per cent. stock, or to receive certificates for said arrearages of interest, as debts hereafter to be provided for by Congress.

3. That an appropriation be made to satisfy such balances as shall be allowed on settlements at the Treasury, of transactions during the late war, and that hereafter, no certificates of unfunded or registered debt be issued.

4. That a time be limited by law, after which credits on the books of the Treasury for transactions during the late war, which, according to the course of the Treasury, have hitherto been discharged by issuing certificates of registered debt, shall be barred and declared void, unless claimed by the proper creditors, or their legal representatives.

The amount of the unfunded or registered debt now credited in the public books, is about eighty-five thousand dollars. This sum is due to about five hundred and seventy-five creditors, of whom more than five hundred and forty are creditors for sums under two hundred dollars each. The trouble of calculating dividends and keeping the accounts, would at least be saved, if the propositions submitted shall be adopted by Congress.

All which is respectfully submitted by

OLIVER WOLCOTT,
Secretary of the Treasury.

TREASURY DEPARTMENT, *January* 8, 1798.

ORGANIZATION OF THE ARMY.

[Communicated to Congress, Dec. 31, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

A Report of the Secretary of War, made to me on the 24th of this month, relative to the Military Establishment, I think it my duty to transmit to Congress, and recommend to their consideration.

JOHN ADAMS.

December 31, 1798.

The Secretary of War respectfully reports to the President of the United States:

That there are several subjects, which, in his opinion, will deserve the attention of Congress, to render the Military Establishment more manageable and systematic; and procure to it the means of future improvement.

It is not presumed that Congress will think it prudent to relinquish any of the measures of security which have been so wisely adopted; nor need it be observed, that any relaxation in these may frustrate their object, by affording arguments of weakness or irresolution. It may be true, that some late occurrences have rendered the project of invasion by France improbable, or more remote; yet only considering the rapid vicissitudes, at all times, of political and military events; the extraordinary fluctuations which have been peculiarly characteristic of the still subsisting contest in Europe; and the more extraordinary position of most of the principal nations of that quarter of the globe; it can never be wise to vary our measures of security, with the continually varying aspect of European affairs. On the contrary, a very obvious policy dictates to us, a strenuous endeavor, as far as may be practicable, to place our safety out of the reach of the casualties which may befall the contending parties, and the Powers more immediately within their vortices. Paying due respect to this state of things; regarding the overthrow of a large portion of Europe as not entirely chimerical, and standing as it were in the midst of falling empires, it will be our prudence to cultivate a spirit of self-dependence, and endeavor, by unremitting vigilance and exertion, under the blessing of Provi-

dence, to hold the scales of our destiny in our own hands. In offering these preliminary observations, the Secretary presents nothing new to the President; most, if not all of them have received, directly or impliedly, in his communications to Congress, his deliberate sanction and authority.

Circumstanced as the United States now are, the progress of public danger may render an extension of military preparations indispensable, and a proper organization for the troops of the United States extremely beneficial.

In proportion as the policy of the country is adverse to extensive military establishments, it ought to be our care to render the principles of our military system as perfect as possible; our endeavor, to turn to the best account, such force as we at any time may have on foot, and to provide an eligible standard for the augmentations to which particular emergencies may compel a resort.

In these views it is conceived the organization of our military force would be much improved, by modelling it according to the following plan:

1. That a regiment of infantry, composed as at present of two battalions, and each battalion of five companies, consist of one colonel; two majors, a first and second; one adjutant, one quartermaster, and one paymaster, each of whom shall be a lieutenant; one surgeon, and two surgeon's mates; ten captains; ten first lieutenants and ten second lieutenants, besides the three lieutenants above mentioned; two cadets, with the pay and emoluments of sergeants; two serjeant majors; two quartermaster sergeants; two chief musicians, first and second, twenty other musicians, forty sergeants, forty corporals, and nine hundred and twenty privates.

2. That a regiment of dragoons consist of ten troops, making five squadrons, and the following officers and men, viz: one colonel; two majors, a first and second; one adjutant, one quartermaster, and one paymaster, each of whom shall be a lieutenant; one surgeon, and two surgeon's mates; ten captains; ten first, and ten second lieutenants, besides the three lieutenants above mentioned; five cadets, with the pay and emoluments of sergeants; two sergeant majors; two quartermaster sergeants; two chief musicians, first and second; ten other musicians; forty sergeants; forty corporals; and nine hundred and twenty privates. The privates, including to each troop one saddler, one blacksmith, and one boot-maker.

3. That a regiment of artillery consist of four battalions; each battalion of four companies, and of the following officers and men, viz: one colonel; four majors; one adjutant, one quartermaster, and one paymaster, each of whom shall be a lieutenant; one surgeon and two surgeon's mates; sixteen captains; sixteen first and sixteen second lieutenants, besides the three lieutenants above mentioned; thirty-two cadets, with the pay and emoluments as at present established; four sergeant majors; four quartermaster sergeants; sixty-four sergeants; sixty-four corporals; one chief musicians, and ten other musicians; and eight hundred and ninety-six privates, including to each company eight artificers.

The principal reasons for this organization will be briefly suggested and explained.

1st. It will be observed, that the proposed proportion of men to officers in the infantry and cavalry is considerably greater than by the present establishment. This presents, in the first place, the advantage of economy. By the proportional decrease of the officers, savings will result in their pay, subsistence, and the transportation of their baggage; and the last circumstance, by lessening the impediments of an army, is also favorable to the celerity of its movements.

2d. The command of each officer will become more respectable. This will be an inducement to respectable men to accept military appointments, and it will be an incentive to exertion among those who shall be engaged, by upholding that justifiable pride, which is a necessary ingredient in the military character. A company will then admit of an eligible sub-division into platoons, sections, and demi-sections, each of a perfect front.

3d. Each battalion will be of the size judged proper for a manœuvring column in the field, and it is that portion of an army which in the most approved system of tactics is destined to fulfil this object. A battalion, according to the best judges, sanctioned by experience, ought neither to be too unwieldy for rapid movements, nor so small as to multiply too much the sub-divisions, and render each incapable, either of a vigorous impulse or resistance.

4th. The proportion of officers to men ought not to be greater than is adequate to the due management and command of them. A careful examination of this point will satisfy every judge, that the number now proposed will be adequate to both. And it is illustrated by the expectation, that our fundamental orders, in conformity with those of the nations of Europe generally, ought to place our infantry in three ranks, to oppose to an enemy who shall be in the same order, an equal mass for attack or defence.

But it is not intended to recommend a present augmentation of the number of rank and file, to the proposed standard. It is only wished that it may be adopted provisionally, as that of the war establishment.

The regiments which have been authorized may continue, in this respect upon the footing already prescribed; leaving the actual augmentation to depend on events which may create a necessity for the increase of our force.

The other alterations recommended, have relation rather to systematic propriety, than to very important military effects.

1st. The term lieutenant colonel, in our present establishment, has a relative signification, without anything, in fact, to which it relates: it was introduced during our revolutionary war to facilitate exchanges of prisoners, as our then enemy united the grade of colonel with that of general. But the permanent forms of our military system ought to be regulated by principle, not by the

changeable and arbitrary arrangement of a peculiar nation. The title of colonel, which has greater respectability, is more proper for the commander of a regiment, because it does not, like the other, imply a relation having no existence.

2d. The term ensign is changed into that of lieutenant, as well because the latter, from usage, has additional respectability, offering an inducement to desirable candidates, as because the former, in its origin, signified a standard bearer, and supposed that each company had a distinct standard.

This in practice has ceased to be the case, and, for a variety of good reasons, a standard of colors to each battalion of infantry is deemed sufficient. This standard is intended to be confided to a cadet, in whom it may be expected to excite emulation and exertion. The multiplication of grades, inconvenient in exchanges, is thus avoided.

In the cavalry it is proper to allow a standard to each squadron consisting of two troops, and hence it is proposed to have five cadets to a regiment.

3d. The nature of the artillery service being constantly in detachment, renders it proper to compose a regiment of a greater number of battalions than the other corps. This our present establishment has recognised. But there is now a want of uniformity which leads to disorderly consequences; one regiment being composed of four battalions, the other of three. The same organization ought to be common to all. The diminution of the number of the musicians, while it will save expense, is also warranted by the peculiar nature of the artillery service. They answer in this corps few of the purposes they are applied to in the infantry.

Existing laws contemplate, and with good reason, that the aids of general officers (except of the commander-in-chief) shall be taken from the regiments; but they do not provide, that when so taken, their places in the regiment shall be supplied by others. It is conceived, that this ought to be the case. The principles of the establishment suppose, for example, that three officers to a company of a given number, are the just and due proportion. If, when an officer is taken from a company to fill one of the stations alluded to, his place be not filled by another, so that the number of officers to a company may remain the same, it must follow that the company will be deficient in officers. It is true, that the number of a company is continually diminishing, but it diminishes in officers as well as men; and it is known that the proportion is varied. Practice, in every institution, ought to conform to principle, or there will result more or less of disorder. An army is, in many respects, a machine, of which the displacement of any of the organs, if permitted to continue, injures its symmetry and energy, and leads to disorder and weakness. The increase of the number of rank and file, while it strengthens the reasons for replacing the officers, who may be removed, will more than compensate, in point of economy, for the addition of officers by the substitution. This may be submitted to the test of calculation. But though the place of an officer, in his regiment, ought to be supplied upon any such removal, he ought not to lose his station in the regiment, but ought to rank and rise as if he had continued to serve in it.

I should do injustice to this subject, if I did not acknowledge that this plan of organization had received the full and unequivocal approbation of the Commander-in-chief, Lieutenant General Washington.

The annexed schedule (A) will show in one view the difference between the present and the proposed establishment.

The provision that aids-de-camp and officers of inspection shall be drawn from the line of the Army, is not restricted as to grade. There ought to be such a restriction. The aids of major generals ought not to be taken from a rank superior to that of captain, nor those of the brigadiers from a rank superior to that of first lieutenant. The rank from which inspectors may be taken, ought, in like manner, to be limited; those of brigades to the rank of captain; those of divisions to that of major. This will guard against the multiplication of superior grades by removals to fill such stations.

The two companies which it is proposed to add to the actual number of the cavalry, it is desirable should be raised immediately. If this is agreed to, they might receive the denomination of hussar companies—a description of cavalry extremely serviceable in an army.

It is incidentally noticed that the act of last session, augmenting the dragoon corps to eight companies, and assigning to it a lieutenant colonel and other officers, to constitute it a regiment, has not provided a surgeon or mate. This omission will require attention.

If there shall be occasion for the actual employment of military force, a corps of riflemen will be for several purposes extremely useful. The eligible proportion of riflemen to infantry of the line may be taken at a twentieth. It is submitted whether a specific provision to this effect will not be proper in arranging the Army for a war establishment.

The only provision for the appointment of a quartermaster general is to be found in the act of the 28th May, authorizing the President to raise a provisional army, which limits his rank and emoluments to those of lieutenant colonel. This provision is conceived to be entirely inadequate for a war establishment. The military duties of the officer are of a nature to render it of the first importance in an army; demanding great and peculiar abilities, and a character every way worthy of trust. Accordingly, it is the general practice, founded upon very substantial reasons, to confide it to an officer of high military rank. The probability is that, without a similar arrangement on our part, we shall not be able to command a fit character, and, in taking one of inferior pretensions, we shall subject the service to disadvantages out of all proportion to any objections which may be supposed to militate against the conferring of such rank. It is feared that an ap-

pointment under such a provision, will only create embarrassment should there be real necessity for military exertions, and that the alternative must be either to leave the army destitute of so necessary an organ, or to give it one likely, in the progress of things, to prove unequal to the task. A new provision on this subject appears absolutely indispensable.

The Secretary does not discover, in any of the acts, the necessary provisions for the appointment of hospital officers, or a hospital establishment. As military hospitals are indispensable to an army, especially in time of war, it is respectfully suggested that provision on the subject ought to be made by law, and that the regulations to be found in the resolutions of the old Congress, more particularly in those under date of September 30, 1780, and 3d of January, 1782, as containing the faithful result of much experience, may afford some important lights respecting this department.

The certain consequences of disregarding so essential a measure, in the event of war, and the encampments of our army, will be a train of diseases which must cut off a large proportion of our troops.

It is deeply to be lamented that a very precious period of leisure was not improved towards forming, among ourselves, engineers and artillerists; and that, owing to this neglect, we are in danger of being overtaken by war, without a competent number of characters of this description. To form them suddenly is impracticable. Much previous study and experiment are essential. If possible to avoid it, a war ought not to find us unprovided. What has been done to facilitate this object, and the perfection of our artillery, will be seen by the annexed extract of a letter from the Secretary, marked B, to the Chairman of a Committee of the House of Representatives, for the Protection of Commerce and the Defence of the Country, taken in connexion with the act providing for raising of the corps of artillerists and engineers, with the act to augment the Army of the United States, and for other purposes, passed the 16th of July, 1798. What has resulted from the latter act will make the subject of a particular report. In the meanwhile, it is conceived to be advisable to endeavor to introduce from abroad at least one distinguished engineer, and one distinguished officer of artillery. They may be sought for preferably in the Austrian, and next in the Prussian armies. The grade of colonels, with adequate pecuniary compensations, may attract officers of a rank inferior to that grade in those armies, who will be of distinguished abilities and merit. But in this, as we know from past experience, nothing is more easy than to be imposed upon; nothing more difficult than to avoid imposition; and that, therefore, should the measure be sanctioned by a law, it will be requisite to commit the business of procuring such characters to some very judicious hand, under every precaution that can put him upon his guard.

It is also suggested that an inspector of fortifications is much wanted. In case of a Legislative provision on this subject, the officer may be either drawn from the corps of artillerists and engineers, or it may be left discretionary with the President to choose him where he pleases. If, however, the choice is to be restricted to that corps, it will be proper that, on withdrawing him from it, his place in the corps should be filled by an officer of the same grade.

It will be easily imagined that, without such an officer, the service may essentially suffer. To obviate this, the Department of War has always found it necessary to employ a person, who has been paid out of the contingencies, for performing that and some other duties of a military nature.

The importance of a faithful representation of the real state of the fortifications, public buildings, and barracks, the qualifications of the commandants of forts, the police they observe, and the degree of attention they bestow on the works, magazines, and the like, can stand in no need of comment.

It is further submitted whether it will not be proper, and conduce to the improvement of artillery, to enlarge the field from which to select a fit character inspector of artillerists. As the law now is, the inspector must be chosen from the corps of artillerists and engineers, and would require one of its most experienced officers, all whose services are indispensable to the corps itself.

It has been observed by the officers of the Army that the public would save by the measure, and more satisfaction be given to the soldiers generally, if a regulation was adopted to insure his clothing should be fitted to the soldier. It cannot fail to happen that clothing, made at a distance from the Army, will, in numerous instances, be ill fitted to the person to whom it is issued. This is an inconvenience, as it respects appearance, comfort, and ease, and causes the soldier to be careless of his dress. It of course merits consideration, and whether it will not be remedied by making provision by law for the necessary alteration at the cost of the soldier. As there are always to be found tailors in the Army, the alterations may be made there during the seasons of inactivity, and moderate compensations may be established, to be deducted out of the pay of the soldiers. The tailors, who, when so employed, will be exempted from military duty, will be satisfied with very small allowances; and the soldiery will, from the best information I can obtain, prefer this expense to the inconveniences of wearing clothes that do not fit them.

Another point no less deserving of particular attention is the composition of the ration of provisions. It was in the last session augmented beyond all former examples. It is not recollected that the ration which was allowed during the war with Great Britain was found insufficient by troops once formed to military habits, and acquainted with the best methods of managing their provisions. The present ration, estimating by price, is understood to be greater than the ration in that war by above fifty per cent. This is evidently a very important augmentation; various disadvantages attend it; a great increase of expense; additional difficulties in furnishing, under all circumstances, the stipulated allowance, consequently a multiplication of the possible causes of discontent, murmurs, and perhaps even mutiny; the necessity of a greater number of wagons for transportation, and of course the extension of this always serious source of embarrassment to military operations.

The quantity of spirituous liquor, which is a component part of the ration, is so large as to endanger, where they might not before exist, habits of intemperance, alike fatal to health and discipline. Experience has repeatedly shown that many soldiers will exchange their rum for other articles, which is productive of the double mischief of subjecting those with whom the exchange is made to the loss of what is far more necessary, and to all the consequences of brutal intoxication.

These and such considerations have induced the Secretary to cause to be inserted in the contracts made under his orders, a proviso, "that if the quantities of the component articles of a ration shall be reduced by law, the price to be allowed therefor shall be proportionably reduced." And in the article of enlistment, a proviso that the soldier is to accept such ration as is or shall be established by law.

It is well understood that, the increase having been once made, a change is delicate; but it is believed to be indispensable, and that the temporary evils of a change can bear no proportion to the permanent and immense evils of a continuance of the error.

It may not perhaps be advisable to bring back the ration to the standard of the late war, but to modify it in some respects differently, so as not materially to affect the aggregate expense.

For example, it may consist of eighteen ounces of bread or flour, or an equivalent in rice or Indian meal, when flour cannot be obtained; one pound and a quarter of fresh beef, or one pound of salted beef, or three-quarters of a pound of salted pork; salt, when fresh meat is issued, at the rate of two quarts, and candles at the rate of one pound and a half, for every hundred rations.

With regard to liquor, it may be best to exclude it from being a component part of the ration, allowing a discretion to commanding officers to cause it to be issued in quantities not exceeding half a gill per day, except on extraordinary occasions.

Vinegar also ought to be furnished, when to be had, at the rate of two quarts, and soap at the rate of two pounds, per hundred rations; but this ought to depend on circumstances, and ought not to make part of the established ration.

There are often difficulties in furnishing articles of the latter description, and the equivalent in money is frequently rather pernicious than beneficial. Where there is a contract, the promise of such articles is apt to prove more beneficial to the contractor than to any other person. He commonly so manages it that the substitute is not a real equivalent

But it need not be remarked, that whatever is to be done in this respect, must be so conducted as not to infract the conditions on which the old troops now in service were enlisted.

The act which authorizes to raise twelve regiments of infantry and six troops of dragoons, provides that they shall be kept in service during the continuance of the existing differences between the United States and the French Republic, if not sooner discharged. Upon the disbanding of these troops, it is to be presumed by far the greatest number of both officers and men will find themselves at a considerable distance from their homes. The same thing also happens to officers on the Establishment, whose age or time of life, or scanty fortune, does not permit of their continuance in the Army, as well as to privates serving on the frontiers, whose engagements are successively expiring. These have or will have to travel to their respective places of residence, at their own expense, if no provision is made by Congress to meet the case. This, to many of them, must be, and is, an extreme hardship; especially when it is considered, that the profession of arms, however important to the country, and noble in itself, is so far from furnishing to the officers, even of the highest grades, the means of making a tolerable provision, out of the savings of their pay, for the future support of themselves and families in advanced old age, or when their services may be dispensed with by the public, that it requires them to observe the greatest economy to be able to proceed in their career, and defray the expense of their necessary wants.

In the English service, the officer, when disbanded, receives half-pay; the private soldier in the cavalry has his horse, and an allowance for his sword, with fourteen days' pay to carry him home; the infantry have likewise fourteen days pay granted them for the same purpose.

It is respectfully suggested, whether it would not comport with justice, and have a tendency to encourage men to enter into the Army, if a provision was made for an allowance to each officer and soldier, on quitting the service, or, being disbanded, equivalent to the expense he must incur in returning home.

The act authorizing the President of the United States to raise a provisional army is too important to the peace and safety of the Union not to require from Congress such a matured revision as may render it effectual to the purposes for which it was framed.

The first section, by which the President was vested with the power to raise ten thousand troops, has expired by its own limitation.

It is conceived advisable, and founded on the soundest policy, that the power to raise such troops as are contemplated by this clause should be extended at least to twenty thousand. To be on safe ground, our preparations and supplies ought to contemplate an army of fifty thousand men.

The act in question contemplates also an auxiliary force, under the denomination of volunteer companies, who shall be armed, clothed, and equipped, at their own expense.

It is highly pleasing to mention, that sufficient evidence has appeared that the patriotism of our independent citizens will not shrink from this measure of defence—the number of volunteer compa-

nies which have offered their services being already considerable.

As it may be questioned whether the act enables the President to appoint all appropriate officers to these companies, when organized into regiments, brigades, and divisions, it is desirable that such power should be expressly given.

A specific provision for the pay and rations to volunteers during the days it may be necessary to assemble them in bodies in each year, for the purpose of general discipline and manœuvres, would be very beneficial.

To form effective soldiers at this moment, and at so light an expense to the public, must be looked upon as an object of great national concern, especially when we take into view the difficulty of getting men trained to arms, in time of actual war.

The value of those patriotic bands of volunteers, who destine themselves to the front of danger, is inappreciable. If well instructed and disciplined, they will, in the event of sudden invasion, be of immense utility and importance. Besides the direct effects of their own exertions in resisting the enemy, till they can be succored by the regular force, if at a distance, the militia rallying to them would derive from their example and countenance additional courage and perseverance. They would, thus disciplined, and aided by the regular force, though small, give a consistency and stability to our first efforts, of which these would otherwise be destitute, and would tend powerfully to prevent great, though perhaps partial, calamities.

It is impossible to contemplate the duties of the office of Inspector General, without perceiving that their due discharge will require the exercise of extraordinary skill and labor, and that the existing law has assigned no compensation whatever for the exercise of this skill and labor.

In the case of officers taken from the line to perform the specific duties of assistant inspectors, quartermasters, &c., we find the law has made a specific allowance. The principle applies, with augmented force, to the Inspector General, who has not only to create regulations, but to superintend their execution, in addition to his duties as a general officer.

To discharge, with effect, the duties of his office, he must make frequent journeys from one part of the army to another, when it is encamped in different and distant places. It must be conceived that the expenses of such journeys must quickly eat out the narrow allowance of a Major General. If filled by a man of talents, without a fortune to meet such expenses, he must either compromit his reputation, and that of the Government, by not producing the results to be expected from his department, or he must ruin himself in performing services for which there is no adequate compensation. The precedent of the last war establishes the propriety of an extra allowance for the extra services and expenses of this officer; and it would be infinitely more agreeable, and less embarrassing to the Department of War, that the latter, or his expenses on journeys from one part of the army to another, should be settled at a fixed allowance by law, instead of being chargeable to the contingencies of the War Department. A further arrangement is necessary to give full effect to the Inspector General's department. During our war with Great Britain, this officer was allowed secretaries in addition to aids as Major General. It is thought that one secretary to the present officer is indispensable.

It is proper, before closing this reference, to mention a circumstance intimately connected with our military system.

Owing to the increase of the Naval and Military Establishments, the business of Purveyor of Public Supplies has been so augmented as to require for the War Department, alone, the exclusive and uninterrupted service of such an officer.

It seems to be improper that the Head of the War Department should be obliged to employ himself in any other manner in the purveyorship, than merely to make requisitions for articles wanted; to prescribe the quantities, the time and places of delivery; and that the whole responsibility for the execution of the order should rest upon the Purveyor. A Secretary of War will always find ample employment in the general superintendence and direction of the great operations of his department: if a portion of his time is to be occupied in the details of lesser concerns, it is morally certain that the greater must languish or suffer.

Besides these duties, the Purveyor should be charged exclusively with the disposing of all returns from the Indian factories, corresponding with these, keeping all accounts, and conducting all concerns relative to them, under the direction of the Secretary.

He might also be the agent and organ to procure the means of transportation for all supplies sent from the seat of Government or elsewhere, to the army agents or quartermasters, to arsenals and distant places of deposite.

The Secretary takes leave to recapitulate, for the purpose of presenting, in a concise view, the propositions respectfully recommended to attention by the foregoing observations.

1. A new modification of the military, so as to admit of an increase of numbers to the companies and regiments, in case of war, an alteration in the denomination of certain grades, and a perfect uniformity of arrangements in the corps of the same species of troops.

2. Regulations to preserve to the companies and regiments their competent number of officers, in cases where any are taken from the line to act as aids-de-camp, inspectors, paymasters, quartermasters, &c.

3. To designate the grades from which aids-de-camp and officers of inspection may be taken, in order to prevent the multiplication of the higher grades.

4. To add to the existing establishment two companies of horse, to be denominated and act as hussars; and a surgeon and mates to the regiment of cavalry.

5. To include in the arrangement for the War Establishment a proportion of riflemen, estimated at one-twentieth of the whole number of infantry.

6. An alteration in the provision for a Quartermaster General, to insure the procurement of a fit

character to execute the duties of this important office.

7. A provision for an Hospital department for the Army.

8. A power to procure from abroad one distinguished engineer, and also an officer of artillery, and suitable appointments for the same.

9. To provide for the appointment of an Inspector of Fortifications.

10. That the choice of an Inspector of Artillery be left at large.

11. A provision for altering and fitting the clothing issued to the soldiers.

12. An alteration in the ration to be issued to the troops.

13. A provision for the reasonable expenses of officers and soldiers in returning to their homes, when disbanded, or incapacitated by age or sickness for further service.

14. A revival and extension of the power to raise a provisional army.

15. A specific provision for the appointment of appropriate officers for the volunteer companies that are or may be accepted, when formed into regiments, brigades, or divisions; and for pay and rations to such volunteers, for those days in every year that it may be necessary to assemble them in bodies, for the purpose of discipline and training.

16. A further provision for the extra services and expenses of the Inspector General, and to allow him, besides his aids, one secretary.

17. The employment of a Purveyor of Public Supplies, exclusively for the War Department.

All which the Secretary has the honor most respectfully to submit.

JAMES McHENRY.

WAR DEPARTMENT, *Dec.* 24, 1798.

A.

A REGIMENT OF INFANTRY.

Present Establishment.

1 lieutenant colonel commandant,
2 majors,
1 adjutant, } to be taken from the line.
1 paymaster, }
1 quartermaster, }
1 surgeon,
2 surgeon's mates,
10 captains,
10 lieutenants,
10 ensigns,
1 sergeant major,
1 quartermaster sergeant,
2 senior musicians,
40 sergeants,
40 corporals,
20 musicians,
600 privates.

Proposed Establishment.

1 colonel,
2 majors,
1 adjutant, } to be lieutenants, and in addition to the lieutenants hereinafter mentioned.
1 paymaster, }
1 quartermaster, }
1 surgeon,
2 surgeon's mates,
10 captains,
10 first lieutenants,
10 second lieutenants,
2 cadets,
2 sergeant majors,
2 quartermaster sergeants,
2 senior musicians,
20 musicians,
40 sergeants,
40 corporals,
920 privates.

REGIMENT OF DRAGOONS.

Present Establishment.

1 lieutenant colonel commandant,
2 majors,
1 adjutant, } to be taken from the line.
1 paymaster, }
1 quartermaster, }
No surgeon or mate provided by law.
8 captains,
16 lieutenants,
8 cornets,
1 sergeant major,
1 quartermaster sergeant,
32 sergeants,
32 corporals,
8 farriers,
8 saddlers,
8 trumpeters,
416 dragoons.

Proposed Establishment.

1 colonel,
2 majors,
1 adjutant, } to be lieutenants, and in addition to the lieutenants hereinafter mentioned.
1 paymaster, }
1 quartermaster, }
1 surgeon,
2 surgeon's mates,
10 captains,
10 first lieutenants,
10 second lieutenants,
5 cadets,
2 sergeant majors,
2 quartermaster sergeants,
2 chief musicians,
40 sergeants,
40 corporals,
10 musicians,
10 saddlers,
10 blacksmiths,
10 boot-makers,
890 privates.

A REGIMENT OF ARTILLERY,

Present Establishment.

FIRST REGIMENT.

1 lieutenant colonel commandant,
4 majors,
1 adjutant, } to be taken from the line.
4 adjutants and paymasters, }
1 surgeon,
4 surgeon's mates,
16 captains,

32 lieutenants,
32 cadets,
64 sergeants,
64 corporals,
32 musicians,
160 artificers,
672 privates.

Proposed Establishment.

1 colonel,
4 majors,
1 adjutant, } to be lieutenants, and in addition to the lieutenants
1 quartermaster, } hereinafter mentioned.
1 paymaster, }
1 surgeon,
2 surgeon's mates,
16 captains,
16 first lieutenants,
16 second lieutenants,
32 cadets,
4 sergeant majors,
4 quartermaster sergeants,
64 sergeants,
64 corporals,
1 senior musician,
10 musicians,
128 artificers,
768 privates.

B.

Extract of a letter from the Secretary of War to the Hon. Samuel Sewall, Chairman of the Committee of Defence, &c., dated

"WAR DEPARTMENT, *June* 28, 1798.

"3d. The act providing for raising and organizing a corps of artillerists and engineers, and the act to provide an additional regiment of the same, both enjoin the procurement, at the public expense, of all necessary books, instruments, and apparatus, for the benefit of the said respective regiments.

"The Secretary, without designing to derogate from the merits of the officers appointed to the corps established by the acts cited, feels it his duty to suggest that other and supplementary means of instruction, to the books and instruments to be provided, appear to be absolutely indispensable to enable them to acquire a due degree of knowledge in the objects of their corps. It is certain that the best faculties and inclinations for the arts and sciences cannot be unfolded and applied to useful purposes, when proper encouragement and assistance have been denied or neglected.

"The art of fortification is connected with so many others, is of such extent, and its operations dependent on, and affected by, circumstances so infinitely varied, that it is impossible any man can be rendered master of it by experience alone. Besides, the knowledge acquired by experience is often the result of our own faults, and acquired by a heavy, and, it may be, in this art, disastrous expense to the public.

"It is certainly to be wished, that more attention had been paid to this subject, and that past recommendations had found a favorable access to the ear of Congress.

"If the present moment does not admit of carrying into effect all that is desirable, and ought, under different circumstances, to be done, to create a body of quartered and scientific engineers, it may, notwithstanding, be advisable to advance towards this point by such measures as are compatible with our present situation.

"The knowledge of certain arts and sciences is absolutely necessary to the artillerist and engineer; such are arithmetic, geometry, mechanics, hydraulics, and designing.

"Without a knowledge of arithmetic, an officer cannot calculate the expense incurred, or to be incurred, on any work, or any subject whatever.

"Without that of geometry, he cannot form a just plan or chart, regulate the design of a fortification, with its lines and angles, trace it upon the ground it is to occupy, nor estimate and measure the solidity and surface of its several parts.

"Without that of mechanics, he will not be able to appreciate the proportion of the machines used in war, the dimensions of carriages for artillery, nor to augment or diminish the force of the several kinds of machines when it may be necessary.

"Without that of designing, he will not have it in his power to give plans and profiles of works, nor to exhibit the topography of the environs of a work, or any part of a country.

"Without that of hydraulics, he will not be qualified to conduct water from one place to another, or to sustain and elevate it when there may be a necessity in sieges, or other military operations, for so doing.

"It is therefore submitted, whether provision ought not to be made for the employment of three or four teachers of the enumerated sciences, to be attached generally to the two corps of artillerists and engineers, and obligated to give instructions and lessons, at such times, places, and under such regulations, as the President may direct.

"The employment of teachers would give the intended effect to the provision of the laws, for the appointment of two cadets to each company. It was supposed that these cadets would form a nursery, from which qualified officers might be drawn to fill vacancies, &c.; but it must occur, that without proper masters to teach them the sciences, necessary to the engineer and artillerist, this nursery can produce no valuable plants.

"It is also submitted, whether it might not be proper to augment the pay of cadets to nine dollars per month, with two rations. This would excite their emulation, give them a consideration above sergeants, and enable them to appear in a more respectable dress.

"It is with infinite regret the Secretary is obliged to mention that the ordnance of our country is by no means in a situation to command respect. That part of it was collected during a season of difficulty and necessity, from different

countries, and consequently, the guns are, many of them, essentially defective, and those of the same class differ in length, weight, and caliber. The variance in these particulars occasions much trouble and inconvenience, in providing appropriate ammunition, stores, apparatus, and carriages, besides subjecting the military service to injurious delays, and the fatal consequences which might result from ammunition and implements being supplied, which, in time of need, will be found not adapted to the piece.

"As there is no established standard, it has also happened, from a defect of knowledge in our founders, or some other cause, that most of the cannon that have been cast within, or on account of the United States, are defective in very essential points, and exhibit varieties in those cast at the same furnace, and of the same class, with those procured from abroad.

"It is important that some arrangement should be immediately adopted, calculated to give efficacy to a proper system, and correct these evils. It is not enough that the President determine upon the size, weight, dimensions, and calibers of the different kinds of cannon, either to be made, or imported into the United States, for their use, unless an inspector of artillery can be appointed, to see that all regulations appertaining to the ordnance department be executed and observed with exactitude.

"We cannot presume that contracts, however carefully made, and conditioned, or even a national foundry, will produce cannon conformable to a given specific standard for each class, so long as the United States are without an officer of skill to inspect, and receive, or reject them.

"I cannot conceive any appointment more necessary to our military undertakings, and infant Navy, than an inspector of artillery, and I must flatter myself that the committee will feel as I do upon this occasion.

"They will not, I am persuaded, imagine that it can be possible for a Secretary of War, to discharge the duties of his appointment, and, at the same time, to visit foundries, examine all kinds of ordnance, direct the dimensions of gun carriages and implements, order the proper moulds for casting shot, shells, &c., review and decide upon the qualities of every different production, and point out the means of remedying existing defects, and generally perform all the other duties attached to the office of inspector of artillery.

"The Secretary indulges the hope, that the committee will recommend, and the wisdom of Congress think proper to create, in the Department of War, the office of inspector of artillery, with a salary adequate to its nature and importance, and calculated to obtain a person qualified to fill it. On this important head he takes leave further to mention, that other countries owe the excellency of their ordnance to the establishment of such an officer, and that in England, particularly, and at a late day, the appointment of a scientific and experienced inspector has given a perfection to their ordnance never before known."

BREVET RANK.

[Communicated to the House of Representatives, February 4, 1799.]

Mr. Dwight Foster, from the Committee of Claims, to whom was referred the petition of Moses White, with the report of the former Secretary of the Treasury thereon, made the following report:

That the object of the petitioner was to obtain a settlement and allowance of his account against the United States, for services and expenditures on behalf of the public during the war.

The powers vested by law in the officers of the Treasury Department are competent to adjust and settle most of the items mentioned in the account of the petitioner; and, since his petition was originally referred to the Secretary of the Treasury, those items have been considered, and partially adjusted by the proper officers. The committee are therefore of opinion, that with respect to that part of the petitioner's account, it would not be expedient or proper for the Legislature to interfere; but the item of the greatest magnitude, and of most importance to the petitioner, which is a claim for additional pay as Aid-de-camp to Brigadier General Moses Hazen, from the first of August, 1781, to November 3, 1783, not having been expressly authorized by an act of Congress, has not been allowed in the settlement of the account.

With respect to this part of the petitioner's claim, the committee report, that by the act of Congress of the 21st of June, 1775, the Commander-in-chief was allowed three, and each Major General two Aids-de-camp, whose pay and rank were established by subsequent resolutions. By a resolution of Congress on the 30th of March, 1776, each Brigadier General, when on command, was empowered to appoint a Brigadier Major; and, by another resolution, on the first day of July, in the same year, a Brigadier General, acting in a separate department, was allowed an Aid-de-camp.

On the 27th day of May, 1778, it was provided, "that the Brigade Major should be appointed as heretofore by the Commander-in-chief, or commander in a separate department, out of the Captains in the brigade to which he should be appointed;" and by a resolution of that date, the additional pay of Aids-de-camp and of Brigade Majors was established. Upon the 28th of June, 1782, so much of the act of the 27th day of May, as relates to the additional pay given to Captains and subalterns, acting as Aids-de-camp and Brigade Majors, was repealed, and, on the same day, Congress resolved "that there should be such additional pay and emoluments to the pay of Captains and subalterns, serving as Aids-de-camp to Major Generals or Brigadier Generals, and to Brigade Majors, as should make their pay and emoluments equal to the pay and emoluments of a Major in the line of the Army."

By a resolution of Congress, on the 29th day of June, 1781, General Hazen was "appointed a Brigadier in the Army of the United States, by brevet." It appears by a certificate from General Hazen, that the petitioner acted as his Aid-de-camp during the time for which he prays compensation.

The only doubt which appears to have arisen respecting the propriety of allowing this claim, is understood to have been because General Hazen held the rank of Brigadier by brevet commission only.

Although brevet officers were not entitled to any additional pay in consequence of their brevet promotion, yet it gave them conditional rank. When on command of mixed corps, or on courts martial, they took rank with the youngest officer of the grade to which they were promoted; hence, in the local command of his own regiment, General Hazen had no additional rank; but on command, &c., he took rank as the youngest Brigadier. With respect to the circumstance of his receiving no additional pay, in consequence of the appointment, the committee conceive it will not apply to the question now under consideration. If a Brigadier held the rank and command, whether he was a volunteer, or held it by courtesy, or received no pay, they apprehend, by established custom, he was entitled to his staff officers, and they to the customary allowance for their services.

The Secretary of the Treasury, in his report on this part of the petitioner's claim, states that he had not been able "to discover any resolution of Congress by which the claim could be decided; but that there were precedents in practice in favor of it as applied to Brigadiers by commission; that if this practice were to govern, the circumstance of a brevet appointment would not, in the opinion of the Secretary, constitute a ground of difference to the prejudice of the petitioner, inasmuch as the Brigadier is understood to have the actual command of a brigade at the time; in which case, the principles of service, with regard to an Aid-de-camp, would apply as fully to him as to the Brigadier by commission."

The committee concur with the Secretary of the Treasury in the opinion above expressed, and think that the petitioner ought to receive compensation for his services as Aid-de-camp; they therefore submit to the consideration of the House the following resolution, viz:

Resolved, That in the adjustment of the account of Moses White, late a Captain in the Army of the United States, the accounting officers of the Treasury be, and they are hereby, directed to credit and allow the account of the said Moses White, for his additional pay and emoluments as an Aid-de-camp, during the time he acted in that capacity to Brigadier General Moses Hazen, upon the same principles which have heretofore prevailed in the settlement of accounts of officers acting as Aids-de-camp to Brigadier Generals in the line of the Army.

VESSELS OF WAR.

Letter from the Secretary of the Navy to the Chairman of the Committee on the Naval Establishment, with sundry estimates relative to the expense of building and equipping certain vessels of war for the service of the United States.

NAVY DEPARTMENT, *Dec.* 29, 1798.

SIR: I have given to the inquiries you have done me the honor, as chairman of a committee of the House of Representatives, to make of me, all the consideration my desire to comply promptly with the wishes of the committee would permit; and now proceed, with great diffidence, to submit the result.

The protection of our coast; the security of our extensive country from invasion, in some of its weaker parts; the safety of our important commerce, and our future peace, when the maritime nations of Europe war with each other, all seem to demand that our naval force should be augmented—so much augmented, indeed, as to make the most powerful nations desire our friendship, the most unprincipled respect our neutrality. The peaceful character of America will afford to the world sufficient security that we shall not be easily provoked to carry war into the country of an enemy; and it well becomes the wisdom of America to provide a cheap defence to keep it from our own.

Twelve ships of 74 guns, as many frigates, and twenty or thirty smaller vessels, would probably be found (our geographical situation and our means of annoying the trade of the maritime Powers considered) a force sufficient to insure our future peace with the nations of Europe. It would not, perhaps, be hazarding too much to say that, had we possessed this force a few years ago, we should not have lost, by depredations on our trade, four times the sum necessary to have created and maintained it during the whole time the war has existed in Europe. If we do not profit by experience, and put ourselves in a situation to resent insult, and punish aggression, nothing is more likely than that in less than half a dozen years another occasion may be presented for a repetition of the same mortifying observation. In another and still more interesting view of this subject, mutual safety was a leading motive, and must ever remain a strong cement, of our Union. Whether this security can be afforded, unless we are able to command our own coast; and whether the Union of all the States can be long preserved without it, are questions which merit the most serious and attentive consideration of American legislators. I forbear to dwell on this fruitful, perhaps delicate topic.

However, to attend to our more pressing concerns: We cannot feel entirely secure that we are not to be exposed to great calamities from the ambition or animosity of France, until a considerable addition be made to our naval force. If twelve ships of 74 guns, are added to our navy, an

invasion of any part of our country would be rendered so difficult, that it would scarcely be attempted; for it is not possible to conceive that France could promise herself any advantage by an invasion of this country, equal to the enormous expense, and still more enormous risk, if we should be so prepared to resist her. She would be obliged to employ more than double the number of ships of equal force, to convoy her armies, provisions, and stores, and to keep the communication open between her armies and her own country. France can calculate, and will calculate, the loss and probable gain of her enterprises. When she finds that she cannot deceive us; that she cannot arm our citizens to carry on her work of subjugation—(insolent and unfounded expectation!)—that we are determined on manly resistance; and that we take vigorous measures to put ourselves in a proper posture of defence—even France, with all her pride, and all her heroism, will consult her interest and avoid war with America; and, like other nations, she will discover that it will not only be just, but politic, to indulge us in our favorite wish of preserving peace with all the world.

Thus, then, in whatever view the subject is considered, whether our object be to prevent invasion, to protect our commerce, to obtain a speedy and proper peace, to maintain peace hereafter, or by affording security to every part of our country, to guard against the long train of ills which must result from disunion; the wisest, cheapest, and most peaceable means of obtaining the end we aim at, will be prompt and vigorous measures for the creation of a navy, sufficient for defence, but not for conquest.

The United States are doubtless able to bear any expense necessary for their present safety and their future tranquillity. No country increases so fast in population and resources, and no country can incur a debt with such an absolute certainty of discharging it, without laying new burdens on the people. Our revenue, arising from the impost and other sources, must increase in proportion to the increase of population; and, as the increase of the latter is certain, no country ever had less to fear from the consequences of incurring any debt necessary for defence and safety.

On the subject of procuring ships of 74 guns, we probably have it in our option to buy them or to build them. The former will be the most expeditious mode of procuring them, but the latter, if the pressure of our affairs will admit, will be the most honorable, and the most advantageous for our country. If we buy them from a foreign nation, it is not to be expected that we shall be able to obtain those of the best quality; and the sum given for them will not be kept at home, and distributed among our own citizens, but will operate against us, like an unfavorable balance of trade. My own idea is, that we certainly ought to build the vessels, in preference to purchasing them; that immediate measures should be taken to secure all the necessary timber; but that the President should be authorized to obtain, as the exigency of our affairs may require, twelve ships of 74 guns, by purchase or otherwise. If it should be found necessary to procure them sooner than they can be built, the timber may be preserved, by docking, until those purchased decay, or for a century, if it should not be sooner wanted.

The estimates herewith will show the expense of building and equipping twelve ships of 74 guns, and six brigs or schooners to mount not exceeding eighteen guns. The latter would be highly useful in scouring the West Indies, and we have not a sufficient proportion of vessels of this size. Three of the largest of the 24-gun ships might be converted into frigates of 32 guns. The whole annual expense of maintaining the Navy would then be - - - $5,383,540 06

The annual expense of the existing navy is - - - 2,434,261 10

The difference would be the annual expense of the proposed addition - - - - - 2,949,278 96

In times of peace a small proportion of this sum would be sufficient to keep the ships in a state of preservation.

Every material article for the building and equipment of ships of war, copper excepted, and probably copper also, may be procured the growth or manufacture of our own country. It is true that we have heretofore used cordage made of hemp of foreign growth, and imported canvass; and these articles constitute, if wear and tear be included, one-third of the expense of building, equipping, and refitting our vessels of war. But manufactories of canvass have been heretofore established in the Eastern States, and with proper public encouragement may be revived, and made to supply at least the public demand: and it is most certain that any quantity of hemp can be raised on the Ohio and Mississippi, the Susquehanna, the Potomac, James river, and other parts of the United States, if the growers of it are assured of a ready market, and at a price less than that given for imported hemp: though if the prices of cordage and canvass, the entire growth and manufacture of the country, should be found at first a little dearer than the imported, the good policy of paying the difference to our own citizens, to render ourselves independent of foreign countries for articles so essential to our defence, cannot for a moment be doubted.

Timber can at present be had in almost every part of the United States; but in the greatest abundance, and of the best quality, on the Chesapeake bay, and the waters which empty into it—and in the Southern States. The live oak of Georgia is thought to be almost indispensable in the construction of our largest ships, to be used in those parts most subject to decay; but the white oak of the Chesapeake is not greatly inferior. It is, however, highly desirable to use the live oak of Georgia as long as it can be obtained, more especially in the ships built eastward of the Chesapeake—and by a proper mixture of this timber with that of the

growth of the country, good vessels may be built in every part of our country.

The islands on the coast of Georgia, on which the live oak is found, are supposed to be more healthy than the main land near the coast—they are also thought to be very important for the production of cotton; hence this valuable timber is becoming scarce everywhere convenient to water transportation. Two methods suggest themselves for obtaining supplies, beyond the immediate demand: To buy one or two of the most valuable islands, and cause the timber to be preserved for the future uses of the Navy: or to purchase the timber as the islands are cleared by the owners, and have it transported to the places fixed on for building our ships, and docked until it will be wanted. With respect to a purchase, the lands are held at prices greatly beyond what was the supposed value of them, a few years ago; and it is believed they have become less valuable for public purposes, in consequence of the efforts which have been made, and are daily making, to clear them for cultivation.

On the subject of other kinds of timber, possibly when it is seen by the citizens that it is worth preserving, it may be sufficient to trust in a great degree to their attention to private interest, for the preservation of a quantity equal to the public demand. It would, however, be but provident to expend one hundred thousand dollars, in a way to secure enough of the white oak and yellow pine, both of which are indispensable in the construction of good vessels, to last the public, in aid of supplies from individuals, for ages—$100,000 could be so laid out; and I believe the expenditure would be judicious.

No extraordinary means are necessary to be used for procuring naval and military stores, except the articles of hemp, canvass, and copper. Cannon can be made in many of the States equal to any that could be obtained from foreign countries, also muskets and bayonets, pistols, swords, boarding pikes, and indeed every other article necessary for ships of war.

Although copper mines are found in many parts of the country, yet the certain means of procuring present supplies will be by importation. The enterprising spirit of the merchants has heretofore furnished enough for the public demand, and may be trusted for future supplies, so far as may be necessary for the ships now contemplated to be added to our navy. It is to be presumed that before more ships are wanted, and possibly before any that may now be authorized, are in a state to require the copper, means may be devised for obtaining it in the United States.

Docks will be highly necessary in repairing our ships, to avoid the tedious, expensive, and sometimes dangerous operation of heaving down. They can undoubtedly be made in the Eastern States, where the tides rise very considerably: probably in New Hampshire, Massachusetts, or Rhode Island. Whether they can be made with equal advantage, or to answer valuable purposes, to the southward of Rhode Island or New York, I cannot form any accurate judgment, from any information I possess: though it would unquestionably be a great public advantage to have a dock near the entrance into the Chesapeake bay, and another still further South, if circumstances will admit. Docks for repairing ships ought to be convenient to the sea, and yet not easily accessible to any enemy. Yards for building the ships, where large quantities of materials would be deposited, (the destruction of which would always be an object with an enemy,) should be, according to the opinion of Mr. Humphreys, a gentleman of considerable science, and experience in naval architecture, "in the vicinity of a commercial city, for the convenience of procuring able workmen—within the reach of good white oak timber—in fresh water, where timber may be deposited without danger from the worm; on a river running east and west, or nearly so, with a high bank, and where the harbor is secure from freshets, and stormy weather; out of the reach of an enemy; and near a good stream of water, 18 or 20 feet higher than the surface of the river, for the convenience of making lock docks, sawing timber, and for many other valuable uses."

Perhaps the most expeditious mode of building ships immediately wanted, will be to set them up in several different places, and by such means avail ourselves of the resources of different parts of the country. I am by no means certain that this method will not also be most economical under present circumstances, and with little seasoned timber in the country: and it will certainly distribute more equally among all the States, the advantages which may arise from supplying the materials and the labor. But the subject being new, I am not possessed of sufficient information to state, with precision, where these ought to be. At a future time, when the pressure may be less, and our experience greater, two or three places, uniting the greatest number of advantages, may be fixed on for building all the large ships of the United States.

The mode heretofore pursued for obtaining naval stores, for the ships in public service, has been to get such supplies on the spot, as could be procured on moderate terms by the agent for building or equipping the ship—sending from Philadelphia, or elsewhere, such articles only, as could not be so supplied. Until it can be ascertained, what places should be selected for permanent building yards, no great inconvenience will result from pursuing the mode already adopted, for supplying the naval stores. Deposites of masts, to supply quickly vessels which may come in dismasted, will be made at Boston, and Norfolk—measures indeed have already been taken for this purpose—and like deposites must be made at New York or Rhode Island; other articles required by vessels in distress, can generally be had in those places, and in our other commercial cities.

The business of naval armaments being new in this country, and complicated, it is impossible, in this early stage, to devise a perfect system on the subject. Every day's experience will add to the stock of knowledge possessed by the country; and it may be best for the public interest that the Congress, at their present session, should rely a little more on Executive discretion than may hereafter be necessary. At the present session, it may be expedient and sufficient that the President be authorized to procure, by purchase or otherwise, 12 ships of 74 guns, and six brigs or schooners to mount not exceeding 18 guns; to take measures for procuring and depositing in docks of fresh water and in places of safety such quantity of live-oak timber, proper for ships of 74 guns and frigates, not exceeding in the whole such parts of the frames of twelve 74-gun ships, and as many frigates, as may be deemed essential to be of this species of timber; to cause to be laid out in securing other kinds of timber for the future uses of the Navy, a sum not exceeding 100,000 dollars: and to cause not exceeding three docks to be erected for the convenience of repairing ships. For so much of these objects as can be accomplished before the next session of Congress, an appropriation of 1,200,000 dollars, with a promise of further appropriations, may be sufficient.

I have suggested no plan for the encouragement of the manufacture of sail cloth. This subject will be better understood in Congress. A certainty of sale, as already observed, will be encouragement enough for the growers of hemp.

I shall take the liberty to lay before you in a few days, such alterations in the rules for the government of the Navy, as have been suggested by some of the most experienced captains, with my own observations.

I have the honor to be with great respect and esteem, sir, your obedient servant.

BENJAMIN STODDERT.

Cost of building and equipping a seventy-four gun ship, of 1,620 tons, exclusive of military stores, $342,700.

Annual expense of a seventy-four gun ship, per estimate, is $216,941.

The following estimates accompanied the above letter of the Secretary of the Navy.

Amount of cost of building and equipping a seventy-four gun ship, of 1,620 tons, exclusive of military stores—

Live-oak timber	$40,000
White oak and pine, &c.	30,000
Labor	85,100
Cables, rigging, cordage, &c.	32,400
Smith's work	30,400
Anchors	3,200
Marling	5,500
Sail-maker's bill, two suits, including canvass	16,200
Joiner's bill, including stuff	7,800
Carver's bill	1,620
Rigger's bill	2,240
Tanner's bill	700
Painter's bill	3,240
Cooper's bill	4,860
Blockmaker's bill	3,240
Boatbuilder's bill	1,620
Plumber's bill	2,430
Ship chandlery	9,720
Turner's bill	1,215
Copper bolts	10,960
Sheathing, copper, nails, &c.	17,440
Woollens for sheathing	1,215
Contingencies	31,600
	$342,700

Estimate of pay and rations of the officers and crew of a ship of war of seventy-four guns—complement 650 men, for twelve months.

Per month.	*Per annum.*	*Rations per day.*
Commander, at $75	$900	6
Five lieutenants, at $40	2,400	15
Two lieutenants of marines, at $30	720	4
Sixteen midshipmen, at $19	3,648	16
Three master's mates, at $20	720	6
One surgeon, at $50	600	2
Three surgeon's mates, at $30	1,080	6
One clerk, at $25	300	1
One carpenter, at $20	240	2
Eight carpenter's mates, at $10	1,824	8
One boatswain, at $20	240	2
Four boatswain's mates, at $19	912	4
Two yeomen of gun room, at $18	432	2
One gunner, at $20	240	2
Eighteen quarter-gunners, at $18	3,888	18
One chaplain, at $40	480	2
Ten quartermasters, at $18	2,160	10
Two gunner's mates, at $19	456	2
One armorer, at $18	216	1
One steward, at $18	216	1
One cooper, at $18	216	1
One sailmaker, at $20	240	2
One cockswain, at $18	216	1
Two masters-at-arms, at $18	216	1
One cook, at $18	216	1
	22,776	116
Two hundred and eighty able seamen, at $17	57,120	
One hundred and twenty ordinary seamen, at $12	24,480	
Sixty three boys, at $8	6,048	
Fifty marines	3,720	
Total pay	$114,144 00	
One hundred and sixteen rations per day, amounts to 42,340 for twelve months	11,885 20	
	$126,029 20	

Estimate of provisions for six hundred and fifty men, for twelve months.

503 barrels beef, at $13	$6,539 00
503 barrels pork, at $17	8,551 00
1,982 gallons molasses, at 75 cents	1,486 50
234 cwt. rice, at $4	936 00
3,136 lbs. butter, at 15 cents	470 40
24,375 lbs. cheese, at 12 cents	2,925 00
1,082 lbs. candles, at 20 cents	396 40
2,811 gallons vinegar, at 30 cents	843 30
390 bushels beans, at 80 cents	312 00
14,056 gallons rum, at $1	14,056 00
2,346 lbs. soap, at 13 cents	304 98
86 barrels flour, at $8	688 00

80 barrels Indian meal, at $4 - -	320 00
1,660 cwt. of bread, at $3 33 - -	5,533 33
225 gallons lamp oil, at $1 - -	225 00
1,186 bushels of potatoes, at 50 cents -	593 00
287 cwt. salt fish, at $6 - -	1,722 00
	$45,911 91

RECAPITULATION.

Pay and subsistence - - -	$126,029 20
Provisions - - - -	45,911 91
Medicines and hospital stores - -	5,000 00
Contingencies - - - -	40,000 00
	$216,941 11

Amount of cost for building and equipping a ship of war of eighteen guns.

Tradesmen's bills.	*Per ton.*	*300 tons.*
Shipwright's bills -	$44 00	$13,200 00
Cables, rigging, and cordage	18 00	5,430 00
Smith's bill - -	12 00	3,600 00
Anchors - -	2 00	600 00
Masting - -	3 00	900 00
Sailmakers and canvass, two suits - -	8 25	2,475 50
Joiner's bill, including stuff	2 25	675 00
Carver's bill - -	1 00	300 00
Rigger's bill - -	2 00	600 00
Tanner's bill - -	0 33	100 00
Painter's bill - -	1 00	300 00
Cooper's bill - -	1 75	525 00
Blockmaker's bill -	1 50	450 00
Boatbuilder's bill -	0 67	200 00
Plumber's bill -	1 00	300 00
Ship chandlery -	4 50	1,350 00
Turner's bill -	0 40	120 00
Sheathing copper, nails, and rudder braces -	12 00	3,600 00
Woollen for sheathing	0 75	225 00
Contingencies, such as ballast, stores, camboose, rum, wharfage, porterage, superintending, &c. - -	26 00	7,800 00
Military stores, -	20 00	6,000 00
Total amount -	$162 40	$48,720 50

Estimate of the proposed addition to the Navy.

The annual expense of a 74 gun-ship, per estimate, is $216,941 11—12 will therefore amount to - -	$2,603,293 32
The annual expense of a brigantine of 18 guns, per estimate, is $51,989 16—6 will therefore amount to -	211,934 60
Extra annual expense attending converting three ships of 24 guns into 32-gun frigates - - -	34,051 04
Amount of proposed addition - -	$2,949,278 96
Annual expense of the existing establishment - - - -	2,434,261 10
	$5,383,540 06

EVIDENCE IN CASES OF CONTESTED ELECTIONS.

[Communicated to the House of Representatives, December 15, 1797.]

The committee to whom were recommitted certain resolutions respecting the mode of taking evidence in cases of contested elections, with instructions to take the matter of those resolutions generally into their consideration, and report their opinion thereon to the House, having carefully examined the subject, made the following report:

The subject contemplated by these resolutions naturally presents itself under two points of view: the inconveniences resulting from the want of permanent regulations, and the difficulties which stand in the way of their establishment.

These inconveniences have been felt and complained of from the commencement of the Government till the present day; and they must continually augment with the natural increase of those causes which give rise to contests in elections, while their pressure will become more and more heavy as the progress of population on the frontiers shall add new and more remote districts to the Union. They have been so frequently experienced, and are so universally admitted, that a particular enumeration of them does not appear necessary.

These inconveniences, the committee suppose, may, in a very considerable degree, be avoided by the establishment of some permanent regulations respecting evidence in cases of contested elections. As to the difficulties which oppose themselves to the adoption of such regulations, they have been considered by the committee under a two-fold point of view: first, as respects the powers of one House of Representatives to establish rules binding upon future Houses; and, secondly, as respects the propriety of permitting the other branches of the Legislature to interfere, even in the most indirect manner, in the trial of contested elections for the House of Representatives, to which the sole decision, in such cases, is referred by the Constitution.

It is said that if resolutions merely are adopted, they can last no longer than the House which made them, and, consequently, cannot be permanent. It is said that such resolutions, even could they be permanent, could confer no power to compel the attendance of witnesses before the persons authorized to take examinations, without which the whole process would be imperfect and ineffectual; and that this object cannot be accomplished without a law. It is said that to pass a law, by the consequences of which the decision of contested elections might be effected, would be to give the other branches of the Legislature a control over objects which the principles of the Constitution, no less than its express directions, require to be confined exclusively to the House itself. It is said, in fine, that such a law, even if permitted by the Constitution, would be ineffectual, because it could enact no sanctions under which the admission of testimony, taken pursuant

to its directions, could be enforced on any future House of Representatives.

Upon a careful review of these various objections, it has appeared to the committee that the most proper and most effectual method of establishing permanent regulations on this subject, if not the only practical method, would be to pass a law for that purpose; nor do they consider as well founded the objections which are urged against that measure.

The Constitution does, indeed, provide that "each House shall be the judge of elections, returns, and qualifications of its own members." But the committee conceive that to pass a law for the object in question, far from admitting the other branches of the Legislature to a participation in the peculiar powers of the House, would be, in effect, to call in the aid of the whole Legislature for enabling the House to exercise those powers in a manner more complete and effectual.

As to the objection that such a law could enact no sanctions by which the admission of testimony, taken in pursuance of its provisions, could be enforced on any future House of Representatives, the committee do not consider it as of sufficient weight to prevent the adoption of the measure, even the utility of which they do not suppose would be in any considerable degree diminished by this objection.

The proper and the only necessary functions of such a law would be to prescribe the mode in which testimony should be taken, and to grant powers for compelling the attendance of witnesses. Whether testimony thus obtained should be admitted in any particular case, or whether further testimony should be required, must depend on the decision of that House before which such case should come for discussion; and it would be in the power of each House, at the commencement of its first session, to adopt a rule declaring that, in all cases of contested elections to come before it, testimony taken pursuant to such law should be received. This, it is presumable, would be done, and would gradually grow into a constant and well known regulation, to which all persons engaged in contested elections might with safety conform. It would still be in the power of each House to refrain from passing such a resolution, and to reject the testimony; but it ought not to be presumed that, when the mode should have been perfected by experience, and become generally known, testimony fairly taken in conformity to it would be rejected. On the contrary, there would be a strong and well-founded presumption that such testimony would be received; and this presumption, joined to the aid which the law would afford in compelling witnesses to attend, would enable persons concerned in contested elections to come at first duly prepared for the trial, while the Constitutional rights of each House would be saved by its power to adopt or reject the rule for the admission of the testimony.

To adopt this rule at the beginning of each Congress, before it should be known to what particular cases it was intended to apply, would, moreover, preclude those inconveniences which result from the discussion of general principles in connexion with particular cases.

Conformably to these ideas, the committee recommend that a law be passed prescribing the mode in which, and the persons before whom, testimony in cases of contested elections for this House shall be taken, and giving power to compel the attendance of witnesses for that purpose. The details of this law, they apprehend, will appear best in a bill; but, not being authorized to report in that form, they forbear at present to enter into those details, and confine themselves to the following resolutions, which they present for the consideration of the House, to wit:

Resolved, That it is expedient to make provision, by law, for taking evidence in contested elections for the House of Representatives, and for compelling the attendance of witnesses in such cases.

Resolved, That the committee have leave to bring in a bill pursuant to the foregoing resolution.

DEBTORS OF THE UNITED STATES.

[Communicated to the House of Representatives, January 4, 1798.]

The Committee of Commerce and Manufactures, to whom was referred the petition of William Bell, made the following report:

That he is confined in the jail of the city and county of Philadelphia, at the suit of the United States, on a custom-house bond executed by him for duties on goods imported by one Joseph Rittenhouse, who, as he says, induced him to become principal in the bond, contrary to his intentions. This circumstance, (on which, together with his poverty and good character, the petitioner relies for relief,) is not a sufficient ground for the interposition of legislative aid; for the committee believe that, whether principal or surety only, he is bound to pay the debt.

But having been well informed that the petitioner was extremely poor, they directed their inquiries to the operation of the act for the relief of persons imprisoned for debt, passed the 28th May, 1796, supposing the provisions of that law were competent to the petitioner's relief. On inquiry, however, they found that various opinions were entertained, by different judicial officers of the United States, on the subject; some of them construing the law to extend to debtors of the United States, others confining it solely to the case of individuals. In order to obtain the most precise information on this point, the committee directed a letter to be written to the Attorney General of the United States, which, with his answer, are annexed to this report.

Upon consideration of all the circumstances stated in this report, your committee think it would not be advisable to pass any law explanatory of the act before cited, until a judicial decision of the Supreme Court shall make it ne-

cessary; nor can they recommend any special interference in a law of individual insolvency.

They are therefore of opinion that the petitioner cannot obtain the relief he desires, and that he have leave to withdraw his petition.

SIR: I am directed by the Committee of Commerce and Manufactures to request your opinion on the construction of the act of Congress "for the relief of persons imprisoned for debt," passed the 28th of May, 1796. The point they wish to have determined is, whether the relief contemplated by this act can be extended to persons imprisoned in civil causes, at the suit of the United States. You will much oblige the committee by giving your opinion of the true construction of the law, and also by mentioning such decisions thereon as have come to your knowledge; it having been intimated to the committee that different determinations have taken place on this subject by the judges of different districts.

I am, sir, with great respect, your obedient servant,

EDWARD LIVINGSTON.

The ATTORNEY GENERAL
of the United States.

PHILADELPHIA, *December* 21, 1797.

SIR: I have considered the question proposed in the letter which I had the honor to receive from you as chairman of the Committee of Commerce and Manufactures, bearing date the 29th of November.

It is my opinion that the act for the relief of persons imprisoned for debt, passed on the 28th day of May, 1796, extends as well to persons imprisoned in civil causes, at the suit of the United States, as to other prisoners in civil causes.

In Great Britain, the King in some instances is not bound by the general words of a statute, unless he be expressly named. These instances are where his prerogative would be impaired or divested by the general words; and the correct rule is that general words, in an act of Parliament, bind the King, though not expressly named; unless his prerogative is touched, and all his other rights are to be no more favored than the rights of his subjects. For this let me refer you to 8 Mod. 8, King *vs.* Bishop of Armagh; Dyer, 250; Cro. Eliz. 500; 2 Inst. 191.

Every statute for the advancement of justice, &c., shall bind the ordinary right of the King, by general words, as well as the right of the subject. —2 Inst. 681; 5 Rep. 14; 11 Rep. 66. The right of the King to arrest the body of his debtor, till his debt is paid, is of the ordinary kind; the like right is possessed by the subject also. The same reason exists, in both cases, for this proceeding. But the King is entitled to priority of payment, which is a part of his prerogative, and founded on the preference due to the public treasury before any private interest; yet to discharge a debtor from jail, who has no sort of property, cannot interfere with this prerogative. In such a case there can be no priority in payment, because there is nothing to be paid. Thus, if this reasoning be just, an act of Parliament, similar to the act of May 28, 1796, would bind the King, though not expressly named. It is true the bankrupt laws of England, though the words are general, do not bind the King, and for this reason—that the debtor's estates, after assignment, are to be applied to all creditors alike, which distribution would interfere with the King's *prerogative* right of priority; and his prerogatives, as I have before remarked, cannot be abridged but by express words. This is not like our insolvent law, which can operate in no case where the debtor has any property of greater value than thirty dollars, or sufficient to pay the debt for which he is imprisoned.

Again, it may be observed that a statute in some cases binds the King, though not named.—2 Inst. 142, 169. And, if in any case, surely the general words of a statute in favor of personal liberty ought to bind the King, though not named.

The statute 32 Hen. VIII. chap. 28, binds the King, though not named, because its object is to suppress wrong, and give a speedier remedy.—2 Inst. 681. *A fortiori*, a statute in favor of releasing from perpetual imprisonment an insolvent citizen, ought to bind, by its general words, the sovereign as well as the subject.

These arguments, if used on a question of this sort in Great Britain, would, in my judgment, be decisive there; and they seem to me to have even more weight when applied in this country, where a priority of payment has been established by law, and not considered as a right belonging to the United States as a sovereign prerogative. If the sovereign power of the United States possess certain rights different from the rights of individual citizens, they must be of a nature essential to the care or promotion of the public good. Surely it will not be contended that the right to imprison forever an insolvent debtor is of this kind. Our law gives to the United States a priority of payment before other creditors; but, construing the act of the 28th May, 1796, to include the United States as well as individuals within its general words, does not interfere with their right of priority, as has been already shown; nor does it interfere with any right of sovereignty vested in the United States, or any right essential or contributory to the national good, which they should possess.

I have been the more full upon this subject because I have heard of one instance where an adjudication contrary to this opinion has been given. I have been told that Judge Peters, in the case of one Rittenhouse, who was a prisoner in a civil cause at the suit of the United States, refused to administer the oath of an insolvent to him, on the ground that the act did not bind the United States they not being expressly named in it. It is probable the subject was not investigated at that time. However that may be, for the reasons before stated, I cannot concur in opinion with the learned judge.

I beg leave to refer the committee to a report of the Attorney General on Mackey's petition to Congress, in the Winter of 1796, which suggested

the act of 28th May, 1796, as containing some observations connected with the subject now under consideration. I have the honor to be, sir, your most obedient, humble servant,

CHARLES LEE.

TO EDWARD LIVINGSTON, Esq.,
Chairman Com. of Com. & Man.

P. S. The foregoing I submitted to the District Attorney for Pennsylvania, whose opinion deserves much respect; and it becomes my duty to mention that we do not concur. By *mandamus* the law may be settled in February.

REVISION OF THE ACT FOR THE RELIEF OF PERSONS IMPRISONED FOR DEBT.

[Communicated to Congress, January 18, 1798.]

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

A representation has been made to me by the Judge of the Pennsylvania District of the United States, of certain inconveniences and disagreeable circumstances which have occurred in the execution of the law passed on the twenty-eighth day of May, one thousand seven hundred and ninety-six, entitled "An act for the relief of persons imprisoned for debt," as well as of certain doubts which have been raised concerning its construction. This representation, together with the report of the Attorney General on the same subject, I now transmit to Congress for their consideration, that, if any amendments or explanations of that law should be thought advisable, they may be adopted.

JOHN ADAMS.

UNITED STATES, *January* 18, 1798.

PHILADELPHIA, *January* 8, 1798.

SIR: From motives of humanity towards the objects of the act of Congress, entitled "An act for the relief of persons imprisoned for debt," I have, under several disagreeable circumstances, endeavored to carry that law into effect; but I find it deficient in many essential provisions. It is doubtful whether the district judge is vested with judicial powers, or those of a bankrupt commissioner. It should seem that judicial authority was not intended, as I can hardly suppose Congress meant to commit any part of the judiciary authority of the United States into a situation so inefficient and degrading. The proceedings are to be had within the walls of a prison, and *the judge is to certify them to the jailer.* In this district, where contracts are numerous, complicated, and extensive, it is impracticable to do business with propriety and effect in a jail. No record of the transactions is directed when the judge himself acts, though the law requires the commissioners appointed by him to return their doings to the District Court. The judge has no authority to order the prisoner to be brought into a more fit and convenient place, nor to punish contempts or enforce orders; and if it be, as it appears, an extrajudicial transaction, it is doubtful whether persons, other than the debtor, taking false oaths, before either the judge or commissioners, can be punished for perjury. These are not all the defects of this law, but they are sufficient to show that it wants revision and correction.

There are some persons in the debtors' apartment of the city and county of Philadelphia confined under process of the District Court for debts to the United States. I have been (after due investigation at the time, as the liberty of a citizen was in question) and am now of opinion, that debtors to the United States are not relievable under the act before mentioned. These debtors have been a long time confined. One of them before the last Winter session of Congress. A learned law officer conceives that I ought to consider them as objects of the law; but another, whose opinion he is *reminded by his duty to mention as deserving respect*, does not concur with him. He proposes, instead of legislative explanations, that the question should be examined by *mandamus*. In the meantime these unhappy prisoners are the victims to a delay, which a few words in law would long ago have remedied, and will now further prevent. I mention this barely to show that the law is at least doubtful on this point. In my motives for executing this law, I choose to forget all questions about Constitutional authority to compel a judge to perform extrajudicial authority.

The marshal of the district represents to me that there is no provision made for fuel and other necessaries for poor debtors confined by process of the courts of the United States. Witnesses are also confined in jail, to insure their appearance to give testimony, and suffer for want of provision adequate to their support.

I have deemed myself bound to make this representation to you, that no imputation may lie on me, if persons confined under the process of the courts of the United States suffer and continue in prison for want of provision for their release or support. I have the honor to be, with sincere respect, your obedient servant,

RICHARD PETERS,
Judge Penn. District of U. S.

The PRESIDENT OF THE UNITED STATES.

PHILADELPHIA, *January* 10, 1798.

SIR: I have attentively considered the letter of the Judge of the United States for the District of Pennsylvania, dated the 8th instant, relative to the act of Congress, entitled "An act for the relief of persons imprisoned for debt," which he thinks deficient in many particulars.

1. He states it as doubtful whether the act vested judicial power in the judge relative to the discharge of insolvents, and assigns for the reason of the doubt that the law requires the proceedings to be had in the jail, and certified to the jailer. This reason creates no doubt in my mind, for judicial authority may be exercised in any place appointed by law, and the certificate to the jailer is requisite to inform him whether the prisoner

may be discharged as an insolvent, or is to remain in custody.

2d. The complaint against the law in requiring the judge to go to the jail, and there to execute the business, is well founded. It is unnecessarily degrading and troublesome, and must be very disagreeable. The act should be amended, by authorizing the judge to issue his warrant commanding the jailer to bring the prisoner before him, at some certain time and place to be named in the warrant, and authorizing any parties interested to obtain subpœnas for witnesses from the clerk of the court, requiring their attendance to give testimony then and there. Also in the great cities of Philadelphia, New York, Boston, Baltimore, and Charleston, the judge of the district should have power to appoint two commissioners to do this kind of business, when it shall be inconvenient to the district judge, by reason of other judicial occupations, absence, sickness, or other inability, to act.

3d. It is objected that the act does not require a record of the transactions when the judge himself acts. Certainly the proceedings ought to be recorded in the district court by the clerk of that court, whether done before the judge of the district court or commissioners, and so I understand the law as it now is; for though it does not expressly direct the judge, when he acts, to return his doings to the district court, yet it is implied, from the nature of a court of record, that whatever is judicially done by the court shall be recorded. However, this may be made plainer by an amendment.

4th. It is doubted whether witnesses taking false oaths *before the commissioners* are punishable for perjury; and considering the expressions of the act of Congress respecting perjury, there seems good cause for this doubt.

5th. It is represented that no provision is made for supplying necessaries to poor persons confined under execution as debtors, or confined as witnesses, to insure their appearance to testify. This defect should be supplied.

6th. A difference of opinion is entertained whether the act before mentioned comprehends debtors to the United States or not. On this question, and on this alone, a committee of Congress applied lately to me for my opinion, which I sent, and of which I take the liberty to transmit the enclosed copy. As I think the fewer the laws the better, if competent to the purpose of society, I deem it advisable to avoid every unnecessary multiplication of legislative acts. If this was the only objection or doubt in the law now under consideration, it might wait for a judicial decision in the Supreme Court; but, as in other respects the law is capable of essential amendments, it will be best that the attention of Congress be called to the whole subject. With perfect respect, I have the honor to remain, sir, your most obedient, humble servant,

CHARLES LEE.

The President of the United States.

RELIEF OF IMPRISONED DEBTORS.

[Communicated to the House of Representatives, February 26, 1798.]

Mr. N. Smith, from the committee appointed to inquire into the expediency of making alterations in the act for the relief of persons imprisoned for debt, made the following report:

That, in their opinion, the said act ought to be so amended as to extend its provisions in express terms to persons imprisoned in civil causes at the suit of the United States; also, that the several District Judges ought to be authorized to issue their warrants, commanding the jailors to bring the prisoners before them at such time and place as they shall think proper to appoint, for the purpose of executing the business assigned them by the said act; and in case of prisoners confined in the cities of Philadelphia, New York, Boston, Baltimore, and Charleston, the judges ought to be empowered to appoint two commissioners to do the business under the said act, when it shall be inconvenient for the judges to attend on the said business by reason of other judicial duties, absence, sickness, or inability. Your committee are also of opinion that provision ought to be made by law for the support of poor prisoners during their confinement, previous to taking the oath provided for them by the said act.

REVISION OF CERTAIN ACTS.

[Communicated to the House of Representatives, April 25, 1798.]

Mr. Otis, from the committee to whom were referred two resolutions of the 27th of March last, to consider if any, and what, alterations ought to be made in an act entitled "An act for the relief of persons imprisoned for debt;" and also in an act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," made the following report:

That, in the opinion of the committee, the relief afforded by law to persons imprisoned for debt, at the suit of individuals, should be extended to those who may be imprisoned for debts due to the United States; and, accordingly, submit the bill accompanying this report.

Upon the second resolution the committee are of opinion that no debtor to the United States should be discharged from imprisonment upon any judgment but with the approbation of the Secretary of the Treasury; and they have inserted in the aforesaid bill a provision for this object.

This bill, if adopted, will embrace all the private petitions that were submitted to the committee, except that of James Greenleaf. This petitioner is confined upon mesne process, and prays that the benefit of the act for the relief of persons imprisoned for debt may be extended to such persons prior to the recovery of final judgment; but the committee are of opinion that an innovation of this nature cannot be made with propriety or convenience, unless by means of a uniform system of bankruptcy; they therefore recommend that said Greenleaf have leave to withdraw his petition.

INDEMNITY TO ESTATE OF GEN. GREENE.

[Communicated to the House of Representatives, February 14, 1798.]

The Committee of Claims, to whom were recommitted the petition of Henry Hill, and the several reports thereon, "with instructions to report a statement of the facts relative to the demands against which the United States have indemnified General Greene, as surety for John Banks," having investigated and had the same under consideration, now present, as the result of their inquiries, the following report:

The transaction in which the claim in question originated took place as long ago as the month of December, 1780; at which time Joseph Clay, then paymaster for the Southern Army, paid to Major Burnett, aid-de-camp to General Greene, and by his orders, the sum of $37,200 in bills of exchange, for specie.

Pursuant to General Greene's direction, Major Burnett lodged those bills in the hands of Charles Pettit, Esq., of Philadelphia, who was then assistant Quartermaster General under Gen. Greene.

A part of the bills, amounting to $9,800, Mr. Pettit delivered to Mr. Morris, then Superintendent of Finance, who accounted for that sum; the remaining $27,400 were sold by Mr. Pettit. They produced $19,516 18-90ths in money, of which he paid $10,903 84-90ths to Major Burnett for the use of General Greene, by whom it has been accounted for. The balance, amounting to $8,612 24-90ths remained in the hands of Mr. Pettit, who retained it as public money, in payment of a balance which he alleged to be due to him from the public in the Quartermaster's department. In this manner he has always declared himself ready to account for it, and the committee find it actually charged to the Quartermaster General, in an account between that department and the United States, which was stated by Mr. Burrall, the late Commissioner, on the 1st of May, 1789, but has not yet been finally closed.

The Treasury Department, at that time under the direction of Mr. Morris, viewed this transaction in a different light from Mr. Pettit; regarding Major Burnett as a principal in the business, they opened an account against him, in which he was charged with the whole amount of bills received from Mr. Clay, and credited, not for the whole amount as delivered by him to Mr. Pettit, but for the sum paid by Mr. Pettit to the Superintendent of Finance, and to General Greene; thus the balance of $8,612 24-90ths, retained by Mr. Pettit, stood on the books of the Treasury as a charge against Major Burnett.

Not long afterwards Major Burnett formed a co-partnership in trade with John Banks, and sundry other persons, under the firm of Hunter, Banks, and Co.

It was with John Banks, a partner in this house, that General Greene, in the Fall of the year 1782, and in pursuance of authority from the Department of War, concluded a contract for supplies of clothing for the troops under his command. Banks contracted on behalf of the house, and the supplies for completing the contract were purchased on credit by the contractors from certain British merchants in Charleston.

Soon afterwards proposals were made by John Banks, on behalf of the same house, for the supply of provisions for the Southern Army, for which General Greene had also been authorized by the Superintendent of Finance to contract. These proposals, the urgent necessities of the service compelled General Greene to accept, and the new contract for this object was concluded on the 15th of February, 1783. In this contract Banks alone appeared, and the accounts at the Treasury were opened in his name, but it is fully understood that he acted on behalf of the house of Hunter, Banks, and Co.

It soon appeared that the engagements of the house, under this last contract, were beyond their means. They were pressed for payment by the merchants from whom the goods for completing their first contract had been purchased, and who insisted that the funds of the house should be applied solely to the discharge of their demands, unless new and satisfactory security should be given. This security the house was unable to find, and the funds in question, the only means whereby they had the least chance of completing their second contract, were thus locked up.

In the dilemma, they had recourse to General Greene, who, in order to set free their funds, and enable them to furnish the Army with provisions, became surety for them to sundry persons, and in a large amount. The bonds whereby this security was given were executed about the 8th of April, 1783.

As a counter security for himself, General Greene exacted from Banks, who represented the house throughout the whole transaction, an engagement that the moneys to become due from the United States, under the contract, should be applied solely and exclusively to the discharge of those debts for which he had thus become responsible; and the more effectually to insure the performance of this engagement, authority was given by Banks to James Warrington, one of those creditors, and agent for the others, to receive those moneys in Philadelphia, as they should become due. He accordingly did receive $27,000 under this authority from Mr. Pettit, in Philadelphia, who was the agent of Banks, and drew the money from the Treasury as it became due under the contract. Some payments, but to a much smaller amount, were likewise made in the same manner to other creditors of this description. It does not appear that the above-mentioned engagement was ever reduced to writing, or assumed the shape of a formal contract; nor is it known to have been made at the time when General Greene became security; but there is no doubt of its having been considered and represented by the house as a stipulation, not only with General Greene, but also with their creditors; and that they gave their agent, Mr. Pettit, instructions to conform to it by paying the contract money in discharge of those debts, with a statement of which they also furnished him. Banks, however, was far from observing

this engagement; for a considerable part of the funds in question were diverted by him into other channels.

When the account of Banks under this contract for the supply of provisions came to be settled with his agent, Mr. Pettit, at the Treasury of the United States, the Superintendent of Finance, Mr. Morris, considered Major Burnett as one of the contractors; and finding him charged in the books of the Treasury with the balance of $8,612 24, which Mr. Pettit had formerly retained out of the proceeds of the bills brought from the Southward by Burnett, in 1780, he insisted on placing that sum to the debit of the contract account. This he did upon the principle that this money was due to the United States by Burnett, one of the contractors, and ought, therefore, to be deducted out of the sums due from the United States under the contract of the house whereof Burnett was a partner.

Mr. Pettit, on the other hand, contended that the bills placed in his hands by Major Burnett, in pursuance of General Greene's orders, were public property, in the transmission of which from Mr. Clay to him, Burnett ought to be regarded merely as the messenger of General Greene, and that the money arising from these bills being public money, he, as Assistant Quartermaster General, had a right to retain and account for them in that department; so that no charge could justly be made on this account against Major Burnett; nor did he admit that if the charge against Burnett was just, his private debts to the public could be set off against the claims of Banks, who alone appeared in the contract, and in whose name, individually, the contract account had been opened and kept at the Treasury.

However doubtful the last of these points may be, the committee, upon full consideration, are clearly of opinion that Mr. Pettit was right as to the first, and that the balance in question ought never to have been charged to Major Burnett. He manifestly acted as the mere agent of General Greene in transmitting those bills of exchange from the hands of Mr. Clay to Mr. Pettit; and if it was proper to open any account against him at the Treasury for this transaction, he ought to have been charged with the bills as received from Mr. Clay, and credited with them as delivered to Mr. Pettit, and then the account would have been balanced and closed.

If the committee are right in supposing that Major Burnett ought not to have been charged with this balance, which Mr. Pettit had retained, and was willing to account for, it follows that no foundation existed for the charge against Banks in the contract account. The Superintendent of Finance, however, settled the account in his own way; and this balance, with interest, amounting in the whole to $9,786 81, was charged to Banks; but the propriety of this decision was never admitted, either by the latter or by his agent. The settlement took place, partially, on the 31st of December, 1783, and the above-mentioned charge was made; on the 30th of March following, the account was finally closed. Upon this settlement, and after charging Banks with the balance in question, there was a balance against him of $2,715 88. From this statement it appears, in a manner satisfactory to the committee, that the United States have been twice credited with this sum of $8,768 81; first in the Quartermaster General's Department, and secondly in the contract account of John Banks, to whom, they are of opinion, it was improperly charged in the settlement of December, 1783. This error, they conceive, ought to be corrected by placing the sum in question to his credit on that day; so that, instead of a balance against him of $2,715 88, there would be a balance in his favor of $7,052 83, for which sum the United States must, of course, be considered as indebted to him on the 31st of December, 1783. But, as the account was closed at the Treasury under the former Government, and as the present Treasury Department have adopted a rule that no such accounts shall now be opened, this error cannot be corrected without the aid of Congress.

It is this sum of $7,052 83, contended to have thus become due from the United States to John Banks on the 31st of December, 1783, that is now claimed by Henry Hill, as the attorney in fact of James Miller, who rests his claim on an assignment from Banks. The assignment, a copy of which is subjoined to this report, bears date on the 7th day of April, 1784. From the paper itself, as well as from an explanatory letter from Charles Pettit, Esq. to Mr. Hill, which is also subjoined, it appears clearly to include the above-mentioned sum. By a certificate from the late Auditor of the Treasury, which is also annexed, it appears that, in the Winter of 1789-90, this assignment was produced to him by Mr. Hill, in support of his claim against the United States for the balance in question. The reasons why the claim could not be admitted at the Treasury have already been stated.

About the time of this assignment, the house of Hunter, Banks, & Co. failed, and Banks soon after died insolvent. Those creditors of the house to whom General Greene had given security brought suits against his estate, and his legal representatives applied to Congress for relief and indemnity. This application was made by the petition of General Greene's widow, on the 4th of March, 1790. A bill granting the indemnity was introduced and read a first time on the 5th day of April, 1792.

On the 4th of April, 1792, while this measure was still depending, Mr. Hill presented a petition to Congress, stating his claim against the United States under John Banks, and praying that no act which might be passed for the relief of General Greene's estate might be so framed as to impair his claim. This petition was referred to a committee, who reported favorably on the 10th of April, 1792, and their report was referred to the Committee of the Whole House, who then had under consideration the bill above mentioned. With this matter thus before it, the House proceeded, on the same day, to pass the bill.

This bill, which passed into a law on the 27th of the same month, contained the following clause: "Provided, also, that the said executors shall make over and assign to the Comptroller of the Treasury and his successors, for the use of the United States, all mortgages, bonds, covenants, or other counter securities whatsoever, now due, which were obtained by the said General Greene, in his lifetime, from the said Banks & Co., on account of his being surety for them as aforesaid, to be paid for in the name of the said executors, for the use of the United States."

On the 8th of November, 1792, James Warrington, as attorney in fact for Joseph Blachford, one of the creditors of John Banks, presented a petition to Congress, stating the balance due, as above mentioned, from the United States to Banks, and praying that it might be paid to him in satisfaction of the debt of his principal. This petition was referred to a committee, who reported on the 1st of February following. After reciting the circumstances of the case, they recommend the following resolution: "*Resolved*, That the accounting officers of the Treasury cause the sum of $9,768 81, charged to John Banks on the 31st day of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to such other person as, in their opinion, shall be justly chargeable therewith." This resolution was adopted on the 20th of February, 1793. A bill was brought in and passed, and sent to the Senate, at the same session; but the Senate adjourned without acting upon it, and, of course, it was lost.

James Warrington took no further steps in the business; but, on the 16th of December, 1793, Henry Hill, in behalf of himself and other creditors of John Banks, presented a petition to the House, stating that such a bill had passed the House at a former session, and praying that a similar bill might be passed for the benefit of those entitled under Banks. This petition was referred to a committee, who reported favorably on the 7th of January, 1794. No proceedings, however, appear to have been had on the report till the 22d of January, 1795, when it was referred to the Committee of Claims. That committee made a favorable report on the 26th of May, 1796, which was referred to the Committee of the Whole House, but not further acted upon during that session.

On the 9th of December, 1796, the report last mentioned was again referred to a Committee of the Whole House, who, on the 14th of the same month, were discharged from the further consideration thereof, and it was recommitted to the Committee of Claims. On the 13th of January, 1797, that committee again made a favorable report, which was again the subject of the last recommitment.

These various reports, which are to be found on the files of the House, uniformly recommend the passing of a law similar to the bill actually passed by the House on the petition of James Warrington, and the effect of which would be to correct the error committed by the Treasury in the settlement of Banks's contract account on the 31st of December, 1783, by placing the aforementioned balance to his credit on that day; those legally entitled to this balance under Banks might then obtain it, either by application at the Treasury, or by judicial decision, in case of controversy.

On the 14th of March, 1796, while these proceedings on Mr. Hill's application were had, a second petition was presented to Congress, by the representatives of General Greene, praying for relief and indemnification against others of Banks's creditors, to whom he had become surety in the manner and for the purposes already stated. In consequence of this petition, an act was passed on the 1st of June following, granting the relief prayed for, and containing the following proviso:

"The said executors shall make over to the Comptroller of the Treasury and his successors, for the United States, all property, mortgages, bonds, covenants, and other counter securities whatsoever, if such there are, which were obtained by General Greene, in his life-time, from the said John Banks and partners, or either of them, and causes of action on account of his being surety for them as aforesaid; to be paid for in the name of the said executors, for the use of the United States."

It appears that, under these two acts, the following sums have been paid out of the Treasury of the United States, in discharge of debts originally contracted by Hunter, Banks, & Co., for which General Greene became surety:

Under the first act, - - -	$27,504 15
Under the second, - - -	20,000 00
Total, - - - - - -	$47,504 15

for which sum the committee apprehend there can be no doubt that the United States may justly consider themselves as the creditors of Hunter, Banks, & Co.

The debt of Harris and Blachford having been one of those for which General Greene was bound, and against which his estate has been indemnified, it is to be remarked that, had the bill which was founded on the petition of James Warrington been enacted and the money contemplated by it been paid to Warrington, that money would have gone in discharge of so much of the debt due from Hunter, Banks, & Co. to Harris and Blachford, and, of course, would have reduced by so much the sum for which the United States became responsible by virtue of the second act of indemnity for General Greene's estate; but whether, in case that bill had passed into a law, the said money would have been paid to Warrington or to Henry Hill, by virtue of his assignment, the committee cannot decide.

The facts here stated appear in the various reports and other documents, respecting this business, which are now on the files of the House; but as the papers are numerous and detached, the committee, instead of merely referring to them, have thought best to form a connected statement of those facts which appear to be material.

This they now present, and hope it is so full as to avoid the necessity of any further research, and that it may furnish all the information requisite or guiding the House in its decision.

The engagement by John Banks to General Greene and his creditors, that the money which should become due to him on the contract should be applied to the payment of the debts for which General Greene was surety, having been long previous to the negotiation under which the petitioner claims, it appears to the committee that those who claim under General Greene and said creditors have clearly the best right to all moneys which may remain due on said contract account; and that the United States having indemnified the estate of General Greene for the engagements entered into by him as aforesaid, all right to this money which was in General Greene, on the said creditors, whose debts they have paid, must be considered as vested in the United States.

Indeed, laying aside the consideration of the order by John Banks to apply the contract money to the payment of those debts, the committee conceive that, as the debt which the United States owed to John Banks was not assignable in its original nature, or made so by any subsequent agreement of the United States, they are entitled to retain it in part payment of the debt which has since become due to them from John Banks.

Whereupon the committee submit, for the consideration of the House, the following resolution, to wit:

Resolved, That the accounting officers of the Treasury cause the sum of $9,768 81, charged to the contract account of John Banks on the 31st day of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to the accounts of such other person as, in their opinion, shall be justly chargeable therewith; and that they charge the said contract account with all such sums as have been paid by the United States, to indemnify the estate of General Greene for debts by him paid, or secured to be paid, of the said John Banks, or of John Banks & Co.

CHARLESTON, *April* 7, 1784.

I, John Banks, by these presents, do make and constitute James Miller my assignee in and to what money and other profit which shall be found due to me upon the result of final adjusting and settlement of the within account between Charles Pettit and me: hereby constituting and appointing the said James Miller in my full right and place of the premises, for now and ever, with power to uplift, discharge, and pursue for the same, transact thereanent, and to do everything I might have done myself before granting this assignation; which assignation I bind and oblige myself, my heirs, and executors, to warrant to the said James Miller, his heirs and executors, from all facts and deeds done and to be done by me or my aforesaids prejudicial thereto.

In witness whereof, I have hereunto set my hand and seal this 7th day of April, one thousand seven hundred and eighty-four.

JOHN BANKS.

Test:

DANIEL MUNROE.

PHILADELPHIA, *Jan.* 16, 1798.

SIR: The account you left me, dated Charleston, April 7, 1784, signed John Banks, purporting to be an account current between me and the said John Banks, and stating a balance in his favor of $16,119 11, with an assignment on the back of it, transferring the right to receive the balance to Mr. James Miller, was presented to me in or about the year 1784, and the balance demanded by the said Mr. Miller, or by you as his transferee, to whom I paid such balance as appeared to be due from me to Mr. Banks. But the balance so paid was, to the best of my remembrance, not more than between fifteen and sixteen hundred dollars, owing to several items in the account subsisting between us, which do not appear in the account above described and alluded to.

Mr. Banks was the contractor for supplying the Southern army with provisions, and as he was to receive payments from the Treasury, in Philadelphia, at stated periods after furnishing accounts of the issues of provisions, he authorized me, by power of attorney, to receive the money for him. On sending forward the accounts, he usually debited me with the amount. I passed the money to his credit when I received it. Hence a difference appeared in our respective accounts, as some deductions were occasionally made at the Treasury from his demands. One of the most material of the items which occasioned the variance arose from a charge made by the Superintendent of Finance for a balance said to be due from Major Burnett, amounting, with interest charged upon it, to $9,768 81. I refused in behalf of Mr. Banks, to admit this as a charge against him as contractor. But it was said that Major Burnett was his partner, and that Mr. Banks and he might settle the matter. I persisted in opposing the charge, as well for the reason above suggested, that Mr. Banks alone was the contractor, as by denying that such balance was due from Major Burnett. But the Superintendent, having the power in his own hands, stopped the money out of the contract accounts, of which I gave early notice to Mr. Banks.

The balance claimed from Major Burnett arose from public bills of exchange transmitted from General Greene to me for sale, of which Major Burnett was the bearer; but this transaction was previous to his connexion in business with Mr. Banks, or even an acquaintance with him. The balance arising from the sale of the bills was retained in my hands by permission of General Greene, and credited as so much public money in the account of the then late Quartermaster General's Department, and accounted for accordingly in the settlement of General Greene's accounts as Quartermaster General. So that neither Major Burnett nor Mr. Banks remain chargeable with it by the United States. I am, respectfully, sir, your most obedient servant,

CHARLES PETTIT.

PHILADELPHIA, *Jan.* 26, 1798.

I certify that Henry Hill, Esq., of Philadelphia,

attended at the office of the Auditor of the Treasury, in the Winter of the year 1789–'90, and presented to me his claim against the United States for a balance due on a contract with John Banks, and assigned by him to James Miller, with vouchers.

OLIVER WOLCOTT, *late Auditor of the Treasury.*

Charles Pettit, Esq., in account current with John Banks.

DR.

Dates.		Names.		Dolls. 90ths.	£	s.	d.
July,	1783,	To Turnbull's draught on Turnbull & Co., - -		50 00	11	13	4
"	"	To arrearages in February, - -	$1 348 46				
"	"	To arrearages in March, - - -	3,245 46				
"	"	To warrant for April issues, - -	20,854 60				
"	"	To account for May and June issues,	35,787 22				
				61,235 84	14,288	7	8
Dec.	"	To issues in July, - - - - -	$7,344 13	7,344 13	1,713	12	8
"	"	To bill of General Greene on R. Morris, at sight, -		200 00	46	13	4
"	"	To bill of General Greene on R. Morris, at sight, -		200 00	46	13	4
"	"	To bill on J. Pierce, in favor of Colonel Kosciusko,		64 00	14	18	8
"	"	To bill on J. Pierce, in favor of Captain Cairns, -		12 00	2	16	0
"	"	To two bills on J. Pierce, in favor of John Hurt, -		56 00	13	1	4
"	"	To two bills on J. Pierce, in favor of Ben. Williams,		13 48	3	3	1
				69,175 55	16,140	19	5
		To balance per contra, - - - -		$16,119 11	£3,761	2	10

Charles Pettit, Esq., in account current with John Banks.

CR.

Dates.		Names.		Dolls. 90ths.	£	s.	d.
Oct.	30, 1783,	By balance per your estimate of this date, - -		31,697 00	7,395	19	4
"	"	By sum paid Mr. Warrington, - -	$729 60				
"	"	By sum paid Mr. Collet, - - -	1,122 00				
"	"	By sum paid H. & B. Blachford, -	2,370 30				
"	"	Commission, - - - - - -	42 00				
				4,264 00	994	18	8
"	"	By Captain Burrows, - - - - - - -		200 00	46	13	4
"	"	By Lewis Morris, - - - - - - -		300 00	70	0	0
"	"	By Thomas Elliot, for draught at 30 days, - -		233 19	54	7	6
Jan.	27, "	By Major Butler's bill, at 30 days, - - -		280 63	65	10	0
Feb.	7, "	By John McQueen's bill, at 30 days, $642 48, or -		642 70	150	0	0
"	"	By Lieutenant Hamilton, clothier general, due him,		16,747 33½	2,507	14	8
"	"	By General Greene, due on public account, - -		4,691 33⅓	1,094	13	1
				53,056 44	12.379	16	7
		Balance, - - - - - - - -		16,119 11	3,761	2	10
				$69,175 55	£16,140	19	5

Mr. James Miller, in his letter of September 11, 1792, to Mr. H. Hill, says, Mr. Pettit convinced him that the balance was only about $9,600.

(Errors excepted.)

JOHN BANKS.

CHARLESTON, *April* 7, 1784.

NEW EMISSION BILLS.

[Communicated to the House of Representatives, February 28, 1798.]

Mr. Dwight Foster, from the Committee of Claims, to whom were referred the petitions of Joseph Ball, William Henderson, W. and F. Constable, Samuel Ward, and Nathaniel Prime; and of Jeremiah Allen, John Marston, Joseph Ward, Daniel Austin, and William Dana, for themselves and others, holders of bills of credit issued pursuant to a resolution of Congress of the 18th of March, 1780, commonly called "new emission bills," made the following report:

That a statement of the case of the holders of bills of this description is contained in a report of the accounting officers of the Treasury, made on the 24th day of December, 1795, in pursuance of an act entitled "An act relative to claims against the United States, not barred by any act of limitation, and which have not been already adjusted," in the words following, to wit:

"Class 8. The claims of this class are founded on bills of credit commonly called bills of the new emissions, issued on the funds of individual States, pursuant to an act of Congress of the 18th of March, 1780. The following clause of the said act shows in what event the United States were to become answerable for the payment of these bills: 'that the said new bills issue on the funds of individual States for that purpose established, and be signed by persons appointed by them; and that the faith of the United States be also pledged for the payment of the said bills, in case any State on whose funds they shall be emitted, should, by the events of war, be rendered incapable of redeeming them.'

"The interest accruing on them was to have been paid by the United States annually, if called for, in bills of exchange on Europe, and the amount charged to the States respectively. It does not appear, however, that any such payments were made.

"It is understood that the several States concerned have passed laws providing for the redemption of their respective portions of this money, and it is presumable that the far greater part thereof has been redeemed accordingly. The bills for which payment is now claimed are chiefly of those issued by the States of New Hampshire, Massachusetts, and Rhode Island.

"This species of paper has never been considered as forming any part of the debt of the United States."

In the various arrangements which have been made since the establishment of the present Government, relative to the debt of the United States, no provision has ever been made for these bills: they appear, from the face of them, to be evidences of debt against the States individually who had issued them, and could not be provided for by the United States, without raising a charge against those States; and it was reasonably to be presumed that the States concerned would make such provision as the justice and equity of the case required.

The Secretary of the Treasury, in his report of the 16th of January, 1795, recommended that such of these bills as had been exhibited at the Treasury, in pursuance of the act entitled "An act relative to claims against the United States not barred by any act of limitation, and which had not been already adjusted," amounting to the sum of $90,574 should be provided for by taking the principal sum of them, without interest, on loan at five per cent., payable quarter-yearly, redeemable at the pleasure of the United States, and payable in thirty years; he remarks "that the resolutions of Congress, and the endorsement upon those bills, engage the absolute promise of the United States for the payment of the interest indefinitely, and their eventual guaranty of the principal, in case any State on whose funds the bills should be emitted, should, by the events of war, be rendered incapable to redeem them; which is, in effect, though not in form, an absolute guaranty of the principal; for the United States are bound to pay the interest perpetually till that is discharged.

"Good faith demands that the United States should supply the omissions of the States which issued the bills, by providing, themselves, at least for the interest upon them; but it is not as easy to pronounce on what terms they ought to be provided for.

"On their face, and according to the unrevoked resolutions of Congress, they are of specie value equal to their nominal amount, bearing five per cent. interest.

"But it is known that they were issued by different States at different inferior values fixed by previous laws.

"The true nature of the contract, therefore, and the true equity of the case, are, from these circumstances, involved in some question."

The proposition of the Secretary on this subject was not adopted by Congress.

It is a fact notorious that these bills sunk in the same vortex of depreciation with the old Continental bills, and, while they continued to circulate, were generally of the ratio of forty of the old for one of the new.

This unfortunate depreciation, which operated upon all the paper money, notes, and certificates, issued during the war, necessitated the United States to adopt principles relative to them, which cannot apply in cases of ordinary contract; the States, individually, have assumed similar privileges; and, in making provision for the bills in question, in some instances have considered them as a depreciated currency.

The committee are informed that all the States who issued bills of this description have already made provision for their redemption, either at their nominal amount, or at a certain rate of depreciation, except the State of Rhode Island; and they think it is fairly to be presumed that the States have made as liberal a provision as the nature of the case demanded.

The United States have once made allowances to the several States in settlement of their accounts for the supplies for which those bills were

issued; should they make any further provision, they must consider the several States as indebted to them for the amount of such provision.

From an attentive consideration of all the circumstances of this case, which the committee have endeavored fully to examine and present to the view of the House, they are of opinion that it will not be expedient for Congress to make any provision for the payment of said bills; they, therefore, recommend that the petitioners, respectively, have leave to withdraw their petitions.

LOST CERTIFICATES.

[Communicated to the House of Representatives, March 9, 1798.]

Mr. Dwight Foster, from the Committee of Claims, to whom were referred the memorials and petitions of George P. Frost, Charles Jackson, Gaseaway Watkins, George Read, Thomas Underwood, Jabez Hall, Grove Pomeroy, Alexander Roxburg, and Philip Bush, made the following report:

That these petitioners severally seek to obtain renewals or compensation for loan office certificates, final settlements, and quartermasters' certificates, land warrants, and lottery tickets, which they allege they once possessed, and which are severally stated to be accidentally lost or destroyed.

The resolutions of Congress of the 10th of May, and of the 18th of July, 1780, provided for the renewal of loan office certificates destroyed through accident, and prescribed the terms on which such certificates might be renewed.

By the act of Congress of the 24th of April, 1794, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions," the provisions in case of loan office certificates were extended to final settlements; and further regulations were made respecting the renewal of certificates of each of those descriptions. By the same law it was expressly enacted, that all claims for the renewal of such certificates should be forever barred and precluded from settlement or allowance, unless the same should be presented at the Treasury on or before the 1st day of June, 1795.

No provision appears to have been made, at any time, by the United States, for the renewal of quartermasters' certificates, land warrants, or lottery tickets.

A great number of applications, similar to those contained in the petitions now under consideration, have been heretofore made to Congress, both before and since the passage of the act above mentioned.

That committee do not find that provision has, in any instance, been made, other than by the general regulations and law above referred to.

At the last session of the last Congress, a select committee was appointed for the express purpose of considering and reporting on a motion then made relative to a provision, by law, under specific restrictions, for the renewal of destroyed certificates of certain descriptions.

The committee made a report againt the measure proposed.

It was justly stated by them, "that most of the cases where certificates of the public debt are said to have been destroyed, took place before the passing of the said act of the 24th of April, 1794, and probably a great proportion of them before the passing of the said resolution of the 10th of May, 1780; from which circumstance, as well as the nature of the subject, it would be extremely difficult, if not impossible, at this time, to guard against fraud and imposition, should further provision be made for renewing them." That committee further stated, "that they could not find stronger reasons in favor of keeping in force the statutes of limitation, in relation to any class of claims, than to that contemplated in the resolution referred to them; they were, therefore, of opinion that the House ought not to agree to the same." That report was considered, and, after a full and deliberate discussion, was agreed to by the House.

The committee do not find any reasons which will apply with more force, if so powerfully, in favor of provision being made for quartermasters' certificates, land warrants, and lottery tickets, than for the other kinds of certificates.

Precedents have been already thus established by authority, which the committee feel themselves bound to respect.

They apprehend the House would not adopt principles in these cases different from those which influenced on former like occasions; and thereupon they respectfully submit, as their opinion, that the several petitions aforesaid ought not to be granted.

INVALID PENSIONS.

[Communicated to the House of Representatives, March 26, 1798.]

Mr. Dwight Foster, from the Committee of Claims, to whom was referred a motion in the following words, to wit: "*Resolved*, That a committee be appointed to inquire whether any, and if any what, amendments ought to be made in the acts respecting invalid pensioners," having examined the several laws relative to that subject, and taken the same into consideration, submit the following report:

As early as the 26th day of August, 1776, Congress adopted resolutions by which commissioned and non-commissioned officers and private soldiers in the army, commanders, commission and warrant officers, marines, and seamen, of any of the vessels of war or armed vessels belonging to the United States, wounded or disabled in the service, were, under the restrictions and limitations expressed in said resolutions, to be placed on the pension list, and provided for at the public expense.

At various periods afterwards, in the course of

the war, we find Congress making divers provisions and arrangements for the officers and troops of the United States, as well those wounded and disabled as others.

Upon the 7th June, 1785, some time after peace had been established and the army disbanded, the subject appears to have been particularly under the consideration of Congress. Divers resolutions regulating claims to military pensions, and allowing officers to return their commutation, were then adopted. Among others which passed on that day, we find the following, which are selected as designating the principles on which grants of this kind were made, to wit:

Resolved, That it be and it is hereby, recommended to the several States to make provision for officers, soldiers, or seamen who have been disabled in the service of the United States, in the following manner:

1. A complete list shall be made out by such person or persons as each State shall direct, of all the officers, soldiers, or seamen, resident in their respective States, who have served in the Army or Navy of the United States, or in the militia in the service of the United States, and have been disabled in such service, so as to be incapable of military duty, or of obtaining a livelihood by labor. In this list shall be expressed the pay, age, and disability of each invalid; also the regiment, corps, or ship to which he belonged; and a copy of the same shall be transmitted to the office of the Secretary of War, within one year after each State shall pass a law for this purpose; and a like descriptive list of the invalids resident in the respective States shall, from year to year, be annually transmitted to the office of the Secretary of War.

2. No officer, soldier, or seaman shall be considered as an invalid or entitled to pay, unless he can produce a certificate from the commanding officer or surgeon of the regiment, ship, corps, or company in which he served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony, setting forth his disability, and that he was thus disabled while in the service of the United States.

3. That all commissioned officers within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military duty, or of obtaining a livelihood, be allowed a yearly pension equal to half of their pay, respectively; and all commissioned officers, as aforesaid, who shall not have been disabled in so great a degree, be allowed a yearly pension, which shall correspond with the degree of their disability compared with that of an officer wholly disabled; that all non-commissioned officers and privates within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military or garrison duty, or of obtaining a livelihood by labor, be allowed a sum not exceeding five dollars per month; and all non-commissioned officers and privates, as aforesaid, who shall not have been disabled in so great a degree, be allowed such a sum as shall correspond with the degree of their disability compared with that of a non-commissioned officer or private wholly disabled.

4. That each State appoint one or more persons of suitable abilities to examine all claimants, and to report whether the person producing a certificate setting forth that he is an invalid, be such in fact, and, if such, to what pay he is entitled; and thereupon the persons appointed to make such inquiry, shall give to the invalid a certificate, specifying to what pay he is entitled, and transmit a copy to the person who may be appointed by the State to receive and record the same.

5. That each State be authorized to pay to the commissioned officers, non-commissioned officers, and privates, the sum or sums to which they shall be respectively entitled, agreeably to the beforementioned certificates; the said payments to be deducted from the respective quotas of the States for the year on which they shall be made: *Provided*, That no officer who has accepted his commutation for half-pay shall be entered on the list of invalids, unless he shall have first returned his commutation.

Upon the 14th of September, 1786, to remedy inconveniences experienced by some officers applying for pensions, who had sold their commutation certificates, Congress resolved "that invalid officers be permitted to return their commutation in other securities of the United States, where they have parted with their own, provided the same shall be of equal amount, and bearing the same interest." Upon the 12th of July, 1787, a further provision was made "that all officers in the line of the late army entitled to pensions in pursuance of the acts of Congress in that behalf made, should, previous to the receipt of such pension, deposite with the proper officers appointed to discharge the same in the State in which they reside, a certificate from the Commissioner of Army Accounts, purporting that no balance was due from the claimants to the United States."

The last important regulation made by Congress, under the old Government, relative to the invalid establishment, was on the 11th of June, 1788, On that day Congress resolved, "that each State should have credit in its general account with the United States for such sums as became due to invalids before the 1st day of January, 1782, and which had been, or should be paid to them by the State; and for such sums as became due to invalids before the said 1st day of January, 1782, inclusive, to the 1st day of January, 1788, and which had been, or should be paid to them by any State, the State should have credit in the existing specie requisitions of Congress; and for sums that might so become due after January, 1788, and be paid by any State, the State should have credit in the specie requisitions of Congress which might thereafter be made."

They further resolved, that no person should be entitled to a pension as an invalid, who had not, or should not, before the expiration of six months from that time, make application therefor, and produce the requisite certificates and evidence to entitle him thereto.

That limitation took effect on the 11th day of December, 1788.

After the adoption of the present Constitution, during the first Congress, acts were passed providing for certain individuals, and for the discharge of the arrears of pensions due to officers, non-commissioned officers, and soldiers, and assuming, from the 4th day of March, 1789, the payment of the pensions certified by the several States.

By the act passed on the 23d of March, 1792, the operation of the acts of limitation of claims for invalid pensions were so far suspended, that all persons who had become invalids, in the service of the United States, during the war, might apply for pensions for the space of two years from the time of passing the act, and, under certain restrictions, might be placed on the pension list.

On the 28th of February, 1793, an act passed, repealing, in part, that of March the 23d, 1792, and allowing two years from the said 28th of February, 1793, for the application of invalids, under certain restrictions, expressed in said act. By virtue of the last mentioned law a large number of individuals have been placed on the list, and are now in the receipt of pensions, according to the several rates ascertained by the examining physicians, appointed by the district judges, pursuant to said law.

In the year 1795, sundry claimants for pensions having made application for arrears, the subject was referred to the Committee of Claims, and was brought into the view of Congress by a report from that committee on the petition of Joab Stafford. The reasoning contained in that report against an allowance of arrears, appears to the committee to have been well founded, and to have merited the sanction given it by Congress.

The extracts which follow evince, in some measure, the principles which induced the passing of the law of the 21st of February, 1795.

"The pensioners claim an original promise of Government, founded on the principles of justice, that all persons who should become invalids, under certain circumstances, should receive pensions in nature of a maintenance, and that such maintenance, both from the terms and nature of the promise, should commence at the period of their becoming invalids, or when their full pay ceased. They suppose Government ought to adopt the same rule of construction, when contemplating this promise, as a court of justice would adopt, were it in the power of the claimants to bring the question before such court; and that the laws of the United States have, by repealing the limitation acts, revived the original promise in all its extent; and that the very circumstance of their being placed on the pension list, precludes the necessity of any further proof or argument that they are entitled to arrears.

"The committee are of opinion, that this act of the 28th February, 1793, is not a repeal of any limitation act, so as to revive any former act respecting invalid pensioners; and that all persons claiming under this law are allowed a pension from the time they prove an existing disability, but can, by the law, claim no arrears. In point of equity, if maintenance is the meaning of this pension, because the invalid is rendered incapable of labor, it is some proof that, antecedent to the applications under the existing law, the applicants were able to procure a maintenance, or they would have applied before, when so many opportunities offered. And although the committee, who reported on the returns of invalids last session of Congress, supposed, and the Legislature, by accepting and passing the law they reported, confirmed the supposition, that the most strict construction of that part of the law now in force which directs that a good and sufficient reason shall be given why application was not antecedently made, ought not to be given against the invalids as to future maintenance; yet, it is clear, a more strict construction is justifiable in reference to arrears.

"The excuses for most of these persons are merely those of inconvenience, on their part, to have applied sooner; certainly, if they could not have procured a maintenance, they would have been excited to a more early attention. Add to this, that a considerable proportion of the sum of these arrears will be given to commissioned officers. There is a manifest reason why they did not apply sooner, as they were obliged, in all instances of admission on the pension list, to return commutation, if they had received it. The arrears of a full pension will now purchase the commutation to be returned, and leave a handsome sum over; which, in fact, will place the officer in a situation to receive what he has accepted as an equivalent to half-pay for life, and, in addition, a pension equal to half-pay for life, which, in effect, is placing him on full pay, whereas no pension is to exceed half-pay. In addition, no proper rule can be adopted to ascertain the ratio of arrears, as the present inability, in almost all instances, must have increased with the age of the invalid, and many concurring accidents, which would render it unjust that the present monthly allowance should be the ratio for arrears; and unless a tribunal be established for that purpose, no other ratio can be adopted."

By the last-mentioned law, entitled "An act supplementary to the act concerning invalids," it was enacted "that the right any person then had, or might thereafter acquire, to receive a pension, by virtue of the act passed on the 28th day of February, 1793, entitled "An act to regulate the claims to invalid pensions," should be considered to commence at the time of his completing his testimony before the district judge, or commissioners, pursuant to the said act; and that nothing should be allowed to any invalid of the description aforesaid, by way of arrears of pension, antecedent to the date of his completing his testimony, as aforesaid; and that the pensions allowed under the said act should be continued to the respective pensioners, during the continuance of their disability."

It was also further enacted, "that no commissioned officer who had received commutation of half-pay, should be paid a pension as an invalid, until he should return his commutation into the Treasury of the United States, except where spe-

cial provision had been made, in particular cases for allowing pensions on the return only of certain portions of the commutation."

Upon examination of the testimony taken before the district judges and commissioners, pursuant to the act of the 28th of February, 1793, it was found that the examining physicians, in many instances, had neglected to ascertain the ratio of disability, and, consequently, that the applicants could not be placed on the list. To relieve those individuals, a resolution was passed on the 18th of April, 1796, providing that new returns should be made by the examining physicians, specifying the ratio of disability, that the proper order might be taken thereon by Congress.

Pursuant to that resolution, additional numbers have been already provided for, and the committee expect more will yet be returned, and entitled to be placed on the list.

The preceding pages contain a general view of the regulations adopted by the United States on this subject.

The committee think the provisions heretofore made for admission of claims of this nature have been as extensive as the principles of justice, equity, or good policy required; and that it would not be expedient to make any alteration in the existing laws.

LOSS ON BULLION.

[Communicated to the Senate, July 9, 1798.]

The committee to whom was referred a bill, entitled "An act for the relief of John Vaughan," with an instruction to make a particular report, report thereon:

That the petitioner, John Vaughan, solicits indemnification for the loss he sustained, in consequence of various deposites of bullion in the Mint of the United States, for the purpose of being converted into coin.

That the law establishing the Mint determined the value of standard silver which was to be issued in the shape of coin, which was to form an invariable measure of exchange, by becoming the circulating medium of the United States, and was fixed at the rate of 1,485 parts fine silver to 179 of alloy; the consequence of an arbitrary and sudden deviation from this standard, as it affects the political economy of the country, by its operation on the value of property, is irrelative to the present question; it is, however, a fact, that Mr. Rittenhouse, the first Director of the Mint, departed from the provisions of the law, which fixed the intrinsic value of the coin, and raised the standard, by mixing in the coinage of silver an over proportion of fine metal. His successor, Mr. Dessaussure, "impressed (as he observes) with the weighty sanction of Mr. Rittenhouse's authority," persevered in this deviation, on a presumption that the law would be altered, and be made to accommodate to the change they had introduced. The succeeding Director of the Mint, Mr. Boudinot, aware of the extent of his responsibility, refused to sanction the errors of his predecessors, and ordered that the coinage should conform to the precise terms of the law.

In consequence of the system adopted by the two former directors, during whose administration Mr. Vaughan made his deposites, he received a less number of coins of a determinate value than by law he was entitled to, considering the quantity of standard bullion he had deposited; and the difference in the relative proportion of fine metal introduced into the legal and the assumed standards constitutes the foundation, and determines the extent of his claim.

In order to encourage the manufacture of the precious metals into coin, for the purpose of providing a national medium of exchange, the faith of the United States was pledged that, on the deposite of bullion at the Mint, coins should be delivered, free of expense, at a fixed rate; any operation which deprives the depositor of the quantity he may claim violates a contract, and does him a wrong; for which wrong he is entitled to a remedy by application to the United States.

The committee, therefore, recommend that the bill entitled "An act for the relief of John Vaughan" should pass without amendment.

MINT OF THE UNITED STATES,
April 20, 1798.

DEAR SIR: Agreeably to your request, I have caused the books and files of the Mint to be carefully searched, and have compared them with the petition of Mr. John Vaughan referred to me by you. This was necessary before I could with propriety give a just statement of facts, as his petition relates to transactions previous to my appointment.

There is no evidence arising from the books or files of the Mint, by which it can appear that any coins have ever been issued from the Mint, but of the standard appointed by law. The report of the chief coiner, who has been in the Mint from its first commencement, is, that the then director ordered all the coin to be made agreeably to the standard; but that the then assayer insisted that so great an alloy would prevent the rolling of the silver, and that the pure silver should be increased to 10oz. 16dwts. instead of 10oz. 14dwts. 4 5-13 grs. which was the legal standard.

When the present director came into office, he understood this had been done, which led him to issue an order strictly to adhere to the legal standard, leaving the consequences with the Legislature.

The assayer, who it was said had made the alteration, died very suddenly, immediately after the present director coming into office, so that he had no opportunity of examining into the reasons or principles of not adhering to the legal standard.

But to judge properly of the justice of Mr. Vaughan's petition, it will be necessary to analyze his complaint. It is not that he did not receive his whole quantity of silver deposited in the Mint, but that the officers had not mixed so great a quantity of alloy with it, as was directed by law, by which the coin was purer than necessary, and of course the quantity lessened.

The act of Congress of April 2, 1792, does certainly direct the standard of the United States to contain 1,485 parts of the pure silver to 179 parts alloy, to be formed of copper. It also appoints five commissioners, consisting of the Chief Justice of the United States, the Secretary of State, Secretary of the Treasury, Comptroller of the Treasury, and the Attorney General, to attend at the Mint on the second Monday in February, in every year, to try the coin previously issued during the year. If they find it agreeably to the standard appointed by law, or within 144 parts of it, (which is termed the remedy,) the officers are to be discharged; but, if not, they are to report to the President, and the officers guilty of the offence are to be removed from office.

The commissioners did meet on the days appointed by law, and on assaying the reserved pieces of all the coins, previously issued from the Mint, they found them all within the remedy appointed by law, and of course, discharged the officers concerned in the coinage. These commissioners, being the proper jurisdiction appointed by law, are the sole judges of the business; and they having on actual experiment determined the coinage to have been legal, it must be conclusive in this business.

If the former assayer did really decrease the quantity of alloy, (which seems to be probable,) I cannot conceive any principle on which he could have acted, consistent with common prudence, but that of its being within the remedy provided by law, as a latitude given to his direction. This idea is strengthened by the addition to the fine silver, contended to have been added, so as to raise the standard af 10oz. 14dwts. 4 5-13 grs. equal to 10oz. 16dwts., which is within the smallest fraction equal to the 144 parts given by law as the remedy. However this conduct may discover a want of prudence, yet it was strictly legal, although it is pretty evident that the original design of the law was to guard against accidental errors, and not wilful ones. But even if the petitioner's complaints were ever so well founded, he could in justice only require permission to prosecute the assayer's bond for his own use, as it would be very unreasonable to make the Government liable for every officer's violation of his trust. On the same principle that the petitioner is entitled to redress from Government, every depositor to the amount of upwards of $300,000 is entitled to equal justice. The extent of this claim must therefore appear rather extravagant. I ought not to omit the fact, that the deposite of 31,014oz. made by Mr. Cox, was made by him, not as a public officer, but as the private agent of Mr. Vaughan, who employed him for that purpose, and indemnified the Mint, by an express agreement, against all losses occasioned by such agency; and, therefore, if he deposited that sum under a false standard, Mr. Vaughan must abide by the consequences of his misconduct.

With regard to the claim of the petitioner for the delay attending the coinage of his deposite of January, 1795, with those following, I conceive it is not well founded. The Mint began its operations under great disadvantages, in October, 1794; these were increased by the first deposite, being that of the Bank of Maryland, of upwards of 90,000oz. of very base silver, yet by law was entitled to the first payment. Mr. Vaughan made his deposite the seventh in order, and therefore was necessarily postponed according to law; yet, from his urgent necessity for the money, and his silver being of purer quality, both the Bank of Maryland and that of North America, who were entitled to the priority, consented to his taking their place in part; and accordingly he received, on the 4th, 5th, and 7th of March following, $20,000; April 2d, 7th, 21st, 28th, and 30th, $34,000; 8th, 12th, 17th, and 20th of June, 24,000; and so on, till the several deposites were paid, although these different payments were comprised in single warrants, which, from the dates being at the time the warrants were signed, makes it appear as if the petitioner had lain out of his deposite till the date of the warrant. On the whole, the payments were made to the petitioner with less delay than could have been expected under the disadvantage of the petitioner being the seventh depositor.

On the whole, therefore, I cannot discover that the petitioner has any solid foundation for the support of his complaint.

I have the honor to be, with very great respect, dear sir, your obedient, humble servant,

ELIAS BOUDINOT,
Director of the Mint.

The Hon. Mr. FOSTER.

To all whom it may concern:

MINT OF THE UNITED STATES,
Treasurer's Office, July 12, 1798.

I do hereby certify, that John Vaughan, by himself, and by the agency of the Bank of the United States, did, between the first of January, 1795, and 21st November of the same year, inclusive, lodge in the Mint of the United States, for coinage, bullion which contained two hundred and thirty thousand eight hundred and eighty-eight ounces ten penny-weights of standard silver, agreeably to the statement by him annexed to his petition to the Senate and House of Representatives, which, by examination, has been found to agree with the books of the Mint; the whole of which silver was assayed by the late Albion Cox, assayer to the Mint.

NATH. THOMAS,
Clerk to the Treasurer.

Standard silver, 230,888oz. 10dwts.

Silver Bullion. No. 16.

MINT OF THE UNITED STATES,
Treasurer's Office, July 9, 1795.

I acknowledge to have received from John Vaughan, of Philadelphia, merchant, silver bul-

lion, weighing eleven thousand seven hundred and nineteen ounces and five penny-weights, to be assayed and coined, and for which, according to the value of standard silver therein contained, silver coins of the United States are to be delivered to the said John Vaughan, agreeably to law and the usage of the Mint.

NICHOLAS WAY, *Treasurer.*

Gross weight 11,719oz. 5dwts.

TREASURER'S OFFICE, *July* 11, 1795.

By the assayer's return, the above-mentioned deposite is found to contain twelve thousand and sixty ounces and six penny-weights of standard silver, and is, therefore, equal in value to thirteen thousand nine hundred and fifteen dollars and seventy-three cents.

NICHOLAS WAY, *Treasurer.*

Standard weight12,060oz. 6dwts.

Value $13,915 73.

PHILADELPHIA, *July* 11, 1798.

The standard weight was 10.16 as formerly used in the Mint, which is at the rate of 9 parts fine to 1 part alloy.

Since the present Director's administration, the legal standard has been adopted, 1,485 fine to 179 alloy.

On assaying the pieces that were reserved out of the coinages made from the bullion deposited by Mr. Vaughan and others, it was found that they were rather above the standard, 10.16, which Mr. Cox had in use.

JOSEPH RICHARDSON.
Assayer of the Mint.

ALTERATIONS PROPOSED TO THE POST OFFICE LAWS.

[Communicated to the House of Representatives, January 8, 1799.]

GENERAL POST OFFICE,
Philadelphia, Jan. 8, 1799.

SIR: In compliance with the resolution of the House of Representatives of the 14th of June last, I have the honor to lay before them—

First. The draught of an act for establishing the Post Office, with a report explanatory of the alteration of the former acts upon that subject, and of the amendments now offered, with a view of rendering the system more complete.

Secondly. The draught of an act relative to the post roads, in which the establishment of several new post roads, and the alteration and discontinuance of others is proposed, with remarks on a number of petitions, and a relation of the motives for the establishment of the new roads, and the discontinuance or alteration of others.

And lastly. A report on the petition of Ezekiel Williams.

The regulations relative to the General Post Office and the establishment of post roads have hitherto been comprehended in one act, but no advantage is derived from the connexion of them; the latter is subject to frequent increase and alteration, is very lengthy, and is of no use to any part of the Department, other than the General Post Office, while the former affects every person employed in it, and ought to be furnished to them as little encumbered as possible. On that account, I have deemed it most useful to present the business to Congress in separate acts.

I have the honor to be, with great respect, sir, your obedient servant,

JOSEPH HABERSHAM,
Postmaster General.

The Hon. the SPEAKER
of the House of Representatives.

Remarks respectfully submitted to Congress, by the Postmaster General, on the project of "An act to establish the Post Office of the United States," made out conformably to a resolution of the House of Representatives, passed the 14th of March, 1798.

The first section proposes that the Post Office shall be under the direction of a Postmaster General, and points out some of his principal duties. Among other things, it authorizes him to appoint an Assistant, a Solicitor, a first clerk, a book-keeper, and such other clerks as may be found necessary to enable him to perform the duties required of him in the General Post Office.

It has often been imagined that the duties of the Postmaster General were very trifling and simple, even so much so, that some have considered it rather a sinecure, than an office of business; it is presumed that mistake has chiefly arisen from not duly attending to the subject, and, from that cause, such a very small allotment of services as has been hitherto provided was made for the performance of its duties. In other countries, it has been considered an object of more importance, and its execution has been more liberally provided for. The Post Office of Great Britain is now under the direction of two Postmasters General, a Secretary, a Surveyor, and a Comptroller, besides the necessary clerks; the letter office of London is in some measure connected with it, but it is managed by head clerks, and a great number of ordinary clerks. That office superintends the other General Post Offices in Scotland, Ireland, and the provinces; exclusive of that superintendence, it is supposed from the best information that can be obtained, that its duties are not so great as those of the General Post Office here, the post roads there not comprehending half so many miles, and the post offices not being two-thirds so numerous, as those in this country. The Post Office in Scotland, (under the British Post Office,) is managed by a Postmaster General, a Secretary, a Solicitor, and an Accountant, besides clerks; the post roads in Scotland hardly extend two thousand miles, and there are only one hundred and eighty post offices. If experience has shown the Governments of those countries that such an arrangement is there necessary to the due execution of

the business of the General Post Office, it is believed that no one can suppose that the General Post Office here, which superintends nearly eight hundred post offices, and the transportation of the mail over post roads that extend more than sixteen thousand miles, can be easily or duly managed by one Postmaster General, an assistant, and the help he can obtain from an allowance too scanty for the employment of four good clerks. The most material parts of the duty have indeed been performed so as to keep the business in motion, but it is believed that all the smaller duties have not been properly performed since the first extension of the post roads under the present form of Government. On the first establishment of the General Post Office, under the former Constitution, a Postmaster General, and an assistant, were provided for its superintendence; then, and for many years afterward, the whole number of post offices did not amount to sixty, and the post roads did not extend two thousand miles: one clerk was then also employed. With only the additional aid of three clerks, the same provision has been continued to this time, although the duties have been gradually increased to more than seven fold.

These circumstances are mentioned, that the alteration might not appear extravagant; the Postmaster General has no disposition to enjoy the emolument the office affords him without rendering his constant services, and no wish to add the least unnecessary expense. It appears to him that additional provision is absolutely necessary in the present state of the office, and that there will be constant employ for all those who are proposed.

In a business so diffusive as the services to be performed in the General Post Office, it is not easy to detail the particulars. The transportation of the mail over post roads that extend sixteen thousand miles, which have many different branches and connexions, and are divided into many small contracts, to be performed at a great distance from the General Post Office, is a considerable object. Notwithstanding large penalties are provided for failures and delays, and much caution is used to contract only with good men, many failures and delays will happen; some through unavoidable causes, and others, the negligence of contractors; on this subject, a multitude of letters are written by those interested in the regular conveyance of the mail; they require answering, and the performance of the contractors requires also to be constantly examined; to this, also, must be added the malconduct of those who contract, or who are employed by contractors; and where so many are employed in a toilsome service, it must be expected that many letters must be written on such subjects. It can hardly be supposed that, where seven hundred postmasters are appointed, that there must not be many vacancies to be supplied, especially where the emoluments to be derived from the office are so inconsiderable as they are at a large proportion of the post offices of the United States; and it is a fact that the establishment of new offices, and the appointment of new postmasters, with attending to complaints, receiving resignations, and making due inquiries for that purpose, is almost sufficient to engross the attention of one person. The business of receiving postmasters' accounts, four times a year, calling upon them when negligent, and commencing suits when they cannot be otherwise obtained, obtaining their balances in such an extensive country, and prosecuting them for delinquencies, paying contractors, obtaining vouchers, is very considerable. After the accounts are obtained, they are to be examined, the errors corrected, and the postmasters informed of them; they are to be entered in books, and particular accounts of the receipts and expenditures in the Department are to be made out and rendered to the Treasury. More than ten thousand dead letters are to be opened and inspected every quarter; those which have valuable contents are to be returned to the writer, when he can be found, and if not found, registered and filed. The making out contracts, bonds, &c., for carrying the mail, advertisements, receiving and deciding upon proposals, is another considerable business. The contractors and postmasters amount together to between eight and nine hundred, who are regular correspondents, four times a year, relative to their accounts, balances, and pay, beside their letters relative to the alteration of the arrangements, questions concerning construction of the law, and explanation of instructions. A multitude of letters are also received on subjects relating to the Post Office, from individuals in all parts of the Union. To all these must be added, a great variety of incidents and particulars, such as supplying postmasters with blanks and keys, the riders with portmanteaus and locks, which must, of necessity, be attached to a business so diffusive.

On a due consideration of the various duties of the office, it is imagined that it will be found that the additional assistance proposed cannot be dispensed with. The existing act leaves the duties of the assistant and clerks to be designated by the Postmaster General; and, as the business of the office may vary, it seems proper still to leave the duties of those to be employed in the General Post Office, to be thus designated. The present situation of the business requires the following arrangement:

The Postmaster General to superintend the business generally; to direct the principal arrangements for carrying the mail; to establish post offices; appoint postmasters; inform them in questions relating to the law and their duty; and attend to the exterior correspondence of the office.

The Assistant to keep the moneys of the General Post Office, obtain the balances due from postmasters, pay the contractors and mail carriers, and other expenses; answer the correspondence relating to money and accounts, attend to keeping the accounts, and prepare them to render to the Treasury. The assistant has likewise occasionally to travel the post road, and exercise the powers of the Postmaster General, in case of stoppages of the mail, and thefts committed at post offices.

The Solicitor to commence suits when accounts are not duly rendered, and for the recovery

of balances; to be particularly employed relative to transportation of the mail, in making the subordinate arrangements for its carriage, advertisements, contracts, bonds, obtaining and keeping accounts of its arrival and departure from all parts of the roads, noting and exacting penalties for delays and failures, and answering letters relating to the mail.

A first clerk to be employed in examining accounts, to aid in obtaining them, with their balances, from delinquents, by preparing accounts for suit, notifying postmasters of corrections in their accounts and to assist the Solicitor in making out contracts, &c.

A book-keeper, to keep the books of the General Post Office, and aid the assistant in making out draughts, accounts current, &c.

One clerk to open and examine dead letters, register and return to the writer such as have valuable contents, and have custody of them when the writer cannot be found, and occasionally attend to other business.

One clerk to assist in examining accounts, and copying the assistant's letters.

One clerk to copy and register letters.

This section is copied chiefly from the third and fourth sections of the act of 1794; and, excepting in the before-mentioned respects, is not materially altered.

Section 2 requires all persons employed to take an oath for the faithful performance of duty: the oath is copied from the former act. Postmasters and contractors, notwithstanding they are expressly forbidden by the act, and by their instructions, frequently employ persons in the care of the mail, who are not sworn, and it has been construed by some of the courts that no person who has not taken the oath prescribed could be considered as legally *employed*, so as to subject such person to the penalties of the 16th section of the act of 1794. There does not appear to be any such great difference in the scale of crime, and none in the injury to the public, whether the person who violates the law be *sworn or not*, so that in one case a person who has been sworn might be punished with death, while another person, not sworn, but employed in the same manner in other respects, should be subject only to prosecution, as for a simple breach of trust, for committing the same crime. On that account this section provides that persons employed shall be subject to all penalties for violations of the law, whether they have taken or not the oath prescribed.

Section 3 provides a penalty for obstructing the passage of the mail. This section is copied from the 5th of the act of 1794, without alteration.

Section 4. This section prescribes the manner of advertising for contracts to carry the mail, and is but little varied from the 5th section of 1794. That section requires the Postmaster General to advertise "the penalty or penalties for non-performance of the stipulations." As those penalties would make the advertisements long and expensive, if all of them are recited, it seems sufficient to recite only the leading penalties in the advertisement, noting at the same time that proper penalties for other deviations would be stipulated: that part has, therefore, been omitted in this section. The next alteration extends the time of lodging the contract with the Comptroller, from thirty to ninety days. If the contractors all came to the General Post Office and brought their sureties along with them, the business is so calculated, that a man desirous of contracting only sends forward his proposals and recommendations to the General Post Office, where, after they are decided upon, the contracts and bonds are made out, and sent to the postmaster living nearest to the proposer, who attends to the execution, and decides upon the sufficiency of sureties; by this means the contracts are obtained on more reasonable terms, and there is generally competition and opportunity of choice in several proposers for the same route, which would not be the case if a man was obliged to travel seven or eight hundred miles, to propose for, or to complete a contract. In consequence of this arrangement, however, it frequently happens that a contract is not returned to the General Post Office for several months after it is completed, and cannot be lodged with the Comptroller so soon after its execution as the former act directs.

The Postmaster General is here required to lodge a duplicate of the contract; the former act directs the original to be lodged with the Comptroller: it always has been supposed that this was provided in that act by mistake, as the Comptroller has nothing to do relative to the performance of the contract, or any of its stipulations; and the contract ought, without doubt, to be in possession of that person who is to see that it is performed, and who is to prosecute in cases of failures. A certified duplicate is supposed to be sufficient to answer any purpose intended by lodging it with the Comptroller.

Section 5. This regards the hours of attendance to be required at the Post Offices, and is copied, without alteration, from the 7th section of the act of 1794.

Section 6. This section merely provides for the compensation of the persons to be employed in the General Post Office. No alteration is proposed so far as respects the Postmaster General; but an augmentation of the assistant's pay appears to be expedient, on account of the great increase of his duties, and the decrease of the value of money. On the first organization of the Post Office, his salary was rated at two-thirds of that allowed to the Postmaster General; the former act places it at only half that allowance. While the salaries of some of the chief clerks, who, on the first establishment of the present Government, received only eight hundred dollars, have been raised to seventeen and eighteen hundred dollars, the assistant's, who at the same time received a thousand dollars, has been increased only to twelve hundred, while his duties have been increased as much as those of any other officer, perhaps, under the Government of the United States. No reason is perceived why the services of those employed in this office should be so penuriously provided for. I have in this section proposed that the

assistant's salary should be sixteen hundred dollars a year, which is only at the same rate that is allowed to the accomptants in the War and Navy Offices.

It is supposed that a proper person cannot be found to do the duty of the Solicitor for a less compensation than is proposed for him.

Several years since, by the employment of ordinary clerks, at a less rate than five hundred dollars a year, provision was made to increase the compensation of those employed in services that required good clerks; that cannot now be done, as no tolerable clerk can be obtained for a less sum than five hundred dollars; on that account, specific sums are proposed for a first clerk and book-keeper. In all offices where there is much detail, it is necessary to give such salaries as will induce clerks to account on the service as in some measure permanent; in this office no clerk has become properly acquainted with the duties required of a first clerk and book-keeper under two or three quarters.

The former act restricted the Postmaster General to the appointment of a certain number of clerks; as so little unnecessary expense could be incurred in this way, it did not seem proper to continue that restriction, particularly as the business of the office is so rapidly increasing.

Section 7. This section relates to the rates of letter postage.

The 9th section of the former act establishes nine different rates of postage for different distances. Such a number of different rates renders the business of rating and marking letters embarrassing, and often occasions mistakes, especially as that business is generally required to be done with great expedition, a very considerable part of the letters to be mailed being dropped into the office the last moment allowed for receiving them, which is but a short time previous to that fixed for the departure of the mail. To facilitate that business, and to render it less subject to mistakes, they are now reduced to six. In order to do this, and reduce some of the higher rates of postage, by extending them over greater distances, without, at the same time, reducing the revenue, it has been necessary to make a small increase in the lowest rates. By the rates proposed, the postages of all letters carried over one hundred and fifty miles, and less than six hundred and fifty miles, are something reduced, and most of the postages of those conveyed under one hundred miles are increased. The lowest rate under the former act was six cents, which, considering the trouble of carrying, marking, rating, mailing, and accounting for the letter, seems too small, particularly since money has been so much reduced in value; it has now, therefore, been raised to eight cents. The advance on the low postages is so small, that the alteration will hardly be noticed, and a postage of twelve-and-a-half cents, or under, is so inconsiderable, that it is freely paid, but in all cases above that sum, it seems something of an object, and it then begins to be called money. It has been an object, in making this arrangement, to regulate it so as not to reduce the revenue. A complete examination of the operation of the new rates could not be made without taking more time than could be spared at this office but by examination at several of the principal offices, it appears that the new rates will produce a small addition to the revenue.

In England, they have only three rates of postage, four pence, five pence, and six pence sterling, equal to eight, ten, and twelve cents. The greatest distance from one post office to another there, is about three hundred and sixty miles, and within *that* extent, they have only three rates for different distances; but, under the former act, we have seven rates within that distance.

The rates of postage, by water, are now made the same as those by land, except that no packet is to be charged with more than triple postage. Under the former act, the postage of a single letter, by water, was only eight cents, for any distance, which was too small to defray the expense of establishing packets.

The former section left doubts as to the meaning of the words single, double, and packet; they are so expressed here, as to render them certain.

No restriction was made in the former act upon the weight of packets that should be received to be sent by post, In consequence of which, in a few instances, large and inconvenient packages have been sent in the mail, which those to whom they have been directed have refused to take up, on account of the expense. It is therefore proposed to leave it discretionary with the postmaster to receive or reject such as weigh more than three pounds.

Section 8. This section increases the rate on ship letters, received by private vessels, from four to six cents. Two cents of the former rate was paid to the master of the ship, and only two cents of the residue went to the Post Office; this, owing to the number of dead letters, and the commissions of postmasters, it is supposed, rather brings the office in debt, than produces any advantage to the revenue; and as the rate is so very trifling, it seems that the small advance proposed might be made without being objectionable.

It is also proposed to charge the letters, which are destined to be conveyed by post, only with two cents in addition to the ordinary postage—the ordinary postage being deemed high enough.

Sections 9, 10, 11, 12, and 13, are copied from the former act, without alteration.

Section 14. This section provides a punishment for those who, being employed in the Department of the Post Office, shall interrupt the safety of correspondence, and is copied from the sixteenth section of the former act, without alteration, excepting in the second penalty, where it is proposed to substitute corporal punishment in place of the punishment by death.

That punishment is so contrary to the present humane regulations and mild policy of the laws of the separate States, and so shocking to the humane sentiments generally prevalent in this country, that it is hoped the substitute may be adopted. Death is indeed an awful and dreadful punishment; the greatest that man can inflict: and

ought to be provided, perhaps, only, as the last resource to the safety and well-being of society—in cases only of crimes the most aggravated, and where the enormity or repetition leaves no hope of a reform in the criminal; or those who have committed treason, murder, or crimes against personal safety little short of them—crimes which show such an utter depravity as renders it unsafe to have them again mingle with society. In the present case, it is not necessary to examine whether a man has a right to inflict that penalty for crimes of a higher cast; it is enough to know that those ideas very considerably prevail among the people in this country, and that the laws where that punishment is provided for such cases, cannot be executed. Such is certainly the fact, and so scrupulous and determined are a great number in that particular, that they will rather neglect their duty, and violate their oaths, than in any manner aid in detecting or convicting such criminals; and so generally is that the case, that although there have been a number of thefts committed on the mail by those employed, and robberies by others, in various parts of the country, and although the villains have been known, and in some instances apprehended, it has been impossible, in any case, with clear proof, to bring them to punishment. The law, in fact, in these respects, from the severity of the punishment, has become useless; and villains, relying on the public humanity, violate it with impunity. It has often been said, and it seems with much truth, that the certainty of the execution of a severe punishment has a much more powerful influence in the prevention of crimes, than laws which provide the greatest; because the criminal, in all countries, has some hope when the punishment is very great, and the crime not the most atrocious, of escape, through the humanity of the public agents, jurors, witnesses, judges, and the pardoning power; but where the punishment is severe, but not so much so as greatly to outrage the feelings of humanity, no such hope can prevail. It is therefore to be wished that a severe punishment, and one which will not at the same time much outrage the prevailing sentiments of justice, or tempt those to whom the execution of the laws are entrusted, or the people at large, to favor escapes, may be provided. Such a one is the substitute supposed to be. That kind of corporal punishment proposed has, of late, been indeed opposed by some as impolitic, considering it to destroy the criminal's hope of retrieving an honest fame, and thence tending to fix his depravity. But others do not believe that experience shows it to have that effect; and if it did, there does not seem to be any other punishment consonant to the general policy of our laws, adequate to the prevention of such crimes. The public jails of the United States are not calculated for penitentiary employments; and even if they were, such punishment seems too trivial, compared with the crime. From the number of respectable, but unfortunate debtors, with which the public jails are crowded, imprisonment has almost ceased to be a scandal. To prevent crimes so easily committed, and so injurious to the public interest, as those under consideration, no punishment promises to be so efficient as the one proposed. Those who have hitherto violated this part of the law, have been young men, having some education, and respectable connexions, to whom the punishment proposed would be more terrible in itself and consequences, than death; and from which they would have no hope to escape, through the humanity of those entrusted with the execution of the laws; and from thence, it is believed, it would have a much more powerful effect in preventing the commission of those crimes, which is the object of the law.

Sec. 15. This section also substitutes corporal punishment for the punishment by death, in the case of robbing the mail; and extends the punishment to stealing of the mail, which was too feebly provided for before. It is doubtless an object to render correspondence as safe as possible: the security of it is of great importance to Government, and essential to an extensive commerce; on these accounts, it has been deemed necessary to increase the punishment for stealing the mail, and to extend penalties to other abuses.

Sec. 16. This section is copied from the 18th section of the former act, and relates to the advertising of letters, and the disposing of those which may become dead.

Section 17. This section relates to free letters, and comprises a list of all public officers who are now entitled to receive and send their letters free.

Section 18. This section provides a penalty for the abuse of the privilege of franking. That abuse has been carried so far in England that several acts and regulations have been found necessary to be made to prevent it, and, in this country, its frequency already demands provision.

Section 19, relates to printers' exchange papers, and is the same as the twenty-first section of the former act.

Section 20. This section relates to newspapers, and comprises the 22d section of 1794 and the 6th section of the act of 1797.

No other regulation to insure the safety of the carriage of newspapers than what was before provided has yet been hit upon. Indeed, the failures which have been hitherto complained of have generally happened in cases where the papers were to be conveyed a great distance in the mail; and the failure is to be attributed to the damp state in which the papers are too frequently put up, the rains and wet they may meet with in their passage, and the jolting they receive in the carriage. By these means the wrappers become defaced or worn out, and no new direction can be given them, as the papers themselves hardly ever have a particular direction. If printers were to give every paper a particular direction, when the packets become worn out and broken, the postmasters could repack and direct them: of this several printers have been informed, but they do not choose to take the trouble. In some cases, when a long rain occurs, even that could not be done, as many of the papers are so much damaged and defaced as to become illegible. Letters having proper directions, being more compact, and written on finer paper, are not so subject to injury, and rarely, if ever, fail from that cause.

It is not believed that the safety and regularity with which letters pass in the mail is at all owing to any greater care in the postmasters or the carriers of the mail. The portmanteaus and bags used in both cases are made of leather, lined with oil-cloth, and secured by locks; both letters and papers are first put into painted bags, and then into the portmanteau: it does not seem that other precautions can properly be used for saving those newspapers from wet and from wear, which are carried on horseback, than are already taken. The papers, in many cases, are omitted or misdirected by the printers; one of them particularly, who has been the most clamorous on that subject, has had that business done very negligently, and has often attributed miscarriages to the Post Office, when they arose wholly from his own inattention. No material alteration is, therefore, proposed in this section, except that of authorizing the Postmaster General to require those who receive newspapers to pay the amount of one quarter's postage in advance. In many parts of the United States, there is very little copper coin, so that it is almost impossible to make so small change as a cent, or a cent-and-a-half, and it is very troublesome also to make such change, where it can be done, at larger offices; the trouble of charging each is also as much as the postages are worth, and it is still more to collect them when they are credited; so that some postmasters complain that they do not receive fifty per cent. of the postages, and others have resigned on that account. The amount of one quarter's postages on a weekly paper, if not sent out of the State, is only thirteen cents—so small that it is presumed that no person would complain of any hardship in the regulation.

Section 21. This section provides for the compensation of postmasters, and is copied from the fifth section of the act passed in 1797.

On an attentive consideration of this subject, it does not appear that any better arrangement can be made, or any satisfactory alteration. The rates of commission indeed appear large on the first hundred and three hundred dollars collected; but, when it is considered from what small sums the postmaster's accounts arise, that a very large proportion of the mails do not amount to half-a-dollar; that every postmaster has as well to pack, rate, and enter, in his accounts, and, in a bill, the amounts of every mail, as to deliver the letters and receive the price; and that the commission is allowed only on half the postages of the letters that pass through his hands, and into his accounts: so that, instead of thirty, twenty-five, twenty, and eight, he in fact, receives only fifteen, twelve-and-a-half, ten, and four per cent. on the gross amount of postages contained in his accounts; it is really not an extravagant per centage. The rate cannot be estimated by the rate of profit of factors and commission merchants: for among them the sale of a single piece of goods, which occasions them no more trouble perhaps than the receiving, despatching, and accounting for, of a single mail, will produce more than many of the post offices in half a year.

As the rates now stand, several of the postmasters, who receive from three to twelve hundred dollars a year for their services, complain that the compensation is inadequate to the trouble. Although it does not seem necessary to increase the compensation at any post office, it is certainly, in many cases, but barely adequate to the labor required, and ought by no means to be reduced.

The only alteration proposed in this section is an allowance of twenty cents to each postmaster for every monthly return he shall make of the arrival and departure of the mails at his office. Postmasters at the two extremes of every route contracted for are required to keep a register of the arrivals and departures of the contractors, at their offices, which are to be returned to the General Post Office monthly. It is of great importance to have this duty regularly and properly performed, as, without such returns, it is impossible for the Postmaster General to know whether a contractor performs his contract. At the unproductive offices, where such extremes sometimes occur, little attention is paid to this duty; and, as the compensation they receive is of no consideration, they cannot be compelled to do it promptly; it is also a trouble not common to postmasters, and it therefore seems expedient to make that small allowance.

Section 22. Difficulties have frequently occurred in suing bonds and delinquent postmasters, from the manner which has, until lately, been adopted, in describing the person to whom the obligation is made. From that cause, it is now necessary to prosecute bonds made to a former Postmaster General, and to sue for debts arising in his time in the individual name of the person who acted as Postmaster General. It is therefore proposed to authorize the carrying on of such suits in the name of "the Postmaster General of the United States."

The rules of the common law also require that the original accounts should be produced in support of suits for the recovery of balances; but the Post Office act directs them to be deposited in the Office of the Treasury, from whence they cannot be withdrawn; it therefore appears necessary that certified copies of postmasters' accounts should be admitted as evidence in such cases, there being no other means by which their balances can be properly established.

Section 23. A number of instances have occurred where those persons to whom the appointment of postmaster has been tendered have immediately entered upon the duties of the office without giving a bond, and several months have elapsed before a proper person to do the business could be found and qualified. When these persons refuse or neglect to render their accounts, there is no means of compelling them, in some districts, but by a suit in equity, which is troublesome in its management, tedious, and expensive; and, in other districts, but by an action of account, which, by being seldom resorted to, is little less difficult. A penalty is therefore proposed in this section, and a

form of action prescribed to do away those difficulties. Besides the instances above mentioned, other cases have occurred, where, the postmaster having died, his clerk, or assistant, has conducted the office for several months, either before the Postmaster General received information of it, or before he could appoint another in the place of the deceased.

Sections 24, 25, 26, and 27, are copied from the former act, without alterations.

Section 28. In some instances, from the great distance of the delinquent or criminal from the place appointed for holding the courts of the United States, it will amount to a double punishment in expense and loss of time, to prosecute him before them; and it is desirable, particularly when the smaller offences or delinquencies occur, to prosecute at as little expense to the public and individuals as can be conveniently done. It would, for instance, be a severe punishment upon a ferryman at Pittsburg, who might incur a penalty of five or ten dollars by a wilful delay in crossing the mail, to bring him all the way from Pittsburg to Philadelphia for trial. On this account, it is proposed to authorize the Judiciary of the several States to try offences under this act.

Section 29. This section is provided merely to accelerate the proceedings on suits: it is well known that, in some of the States, they are extremely dilatory.

Section 30. This section only repeals the former acts, and provides for the prosecution of offences under them.

JOS. HABERSHAM,
Postmaster General.

General Post Office,
Philadelphia, January 8, 1799.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE FIFTH CONGRESS, BEGUN AND HELD AT PHILADELPHIA, MAY 15, 1797.

AN ACT to prevent citizens of the United States from privateering against nations in amity with, or against the citizens of the United States.

Be it enacted, by the Senate, and House of Representatives, of the United States of America in Congress assembled, That if any citizen or citizens of the United States, shall, without the limits of the same, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out, or arming, any private ship or vessel of war, with intent that such ship or vessel shall be employed to cruise or commit hostilities, upon the subjects, citizens, or property, of any Prince or State with whom the United States are at peace, or upon the citizens of the United States or their property, or shall take the command of, or enter on board of, any such ship or vessel for the intent aforesaid, or shall purchase an interest in any vessel so fitted out and armed, with a view to share in the profits thereof, such person or persons, so offending, shall, on conviction thereof, be adjudged guilty of a high misdemeanor, and shall be punished by a fine not exceeding ten thousand dollars, and imprisonment not exceeding ten years: And the trial for such offence, if committed without the limits of the United States, shall be in the district where the offender shall be apprehended or first brought.

Sec. 2. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason, or any piracy defined by a treaty or other law of the United States.

JONATHAN DAYTON,
Speaker of the House of Representatives.

THOMAS JEFFERSON,
Vice President of the United States, and President of the Senate.

Approved, June 14, 1797.

JOHN ADAMS,
President of the United States.

An Act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof.

Be it enacted, &c., That it shall not be lawful to export from the United States, any cannon, muskets, pistols, bayonets, swords, cutlasses, musket-balls, lead, bombs, grenados, gunpowder, sulphur, or saltpetre, but the exportation of all the aforesaid articles is hereby prohibited, until to the end of the next session of Congress, and no longer.

Sec. 2. *And be it further enacted*, That any of the aforesaid articles, excepting such of them as may constitute a part of the equipment of any vessel which, during the continuance of this prohibition, shall be found on board of any vessel in any river port, bay, or harbor, within the territory of the United States, put on board with an intent to be exported from the United States, shall be forfeited; and in case the value thereof shall amount to one hundred dollars, the vessel on board of which the same shall be seized, together with her tackle, apparel, and furniture, shall also be forfeited: *Provided, nevertheless*, That nothing in this act shall be construed to prohibit the removal or transportation of any of the articles aforesaid, from one port to another port, within the United States, in any vessel having a license as a coasting vessel, the master, agent, or owner of which shall have given bond, with one or more sufficient sureties, to the collector of the district from which such vessel is about to depart, in a sum double the value of such vessel, and of such of the said articles as may be laden on board of her, that the said articles shall be relanded and delivered in some port of the United States; or, to prevent the exportation of any of the above articles on public account, under the direction of the President of the United States.

Sec. 3. *And be it further enacted*, That if any of the articles aforesaid shall, contrary to the prohibitions of this act, be exported from the United States, the vessel in which the same shall have been exported, together with her tackle, apparel, and furniture, shall be forfeited, and the captain or master of such vessel, knowingly offending in the premises, shall be liable to indictment; and, upon conviction, shall forfeit and pay a sum not exceeding one thousand dollars, which shall be distributed in like manner as is hereinafter provided as to other forfeitures incurred under this act.

Sec. 4. *And be it further enacted*, That it shall be the duty of the custom-house officers, and of all persons employed in the collection of the revenue, to attend to the execution of this law, and all forfeitures and penalties incurred under it, and not otherwise directed to be prosecuted and re-

covered, shall be sued for, prosecuted, and distributed in like manner as is provided in the act, entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels."

SEC. 5. *And be it further enacted*, That all brass cannon, muskets, and firelocks, with bayonets suited to the same, pistols, swords, cutlasses, musket-balls, lead, and gunpowder, which shall be imported into the United States from any foreign country, within the term of one year, and all sulphur and saltpetre which shall be so imported within the term of two years from and after the passing of this act, shall be free of duty, anything in any former law to the contrary notwithstanding.

Approved, June 14, 1797.

An Act to provide for the further defence of the ports and harbors of the United States.

Be it enacted, &c., That, for fortifying certain ports and harbors of the United States, there be appropriated a sum not exceeding one hundred and fifteen thousand dollars.

SEC. 2. *And be it further enacted*, That the said appropriation shall be paid and discharged out of the surplus of the revenue and income beyond the appropriations heretofore charged thereon.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, empowered to authorize any of the States which were found indebted to the United States, on a settlement of the accounts between them and the respective States, to expend under his direction the sums respectively due from them in fortifying their ports and harbors; and the sums which may be so expended shall be passed to the credit of the said States on account of the balances found and reported by the Commissioners for settling the accounts between the United States and the individual States, to be due from the said States to the United States. Provided the said States shall and do cede to the United States the lands and places on which such fortifications shall be so erected, in cases where the lands are the property of such States.

Approved, June 23, 1797.

An Act authorizing a detachment from the Militia of the United States.

Be it enacted &c., That the President of the United States be, and is hereby, authorized to require of the Executives of the several States, to take effectual measures, at such time as he shall deem necessary, to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, the following proportions, respectively, of eighty thousand effective militia, officers included, to wit: from the State of Tennessee, eight hundred and six; from the State of Georgia, one thousand three hundred and thirty-four; from the State of South Carolina, three thousand five hundred and thirty-five; from the State of North Carolina, seven thousand two hundred and sixty-eight; from the State of Kentucky, one thousand five hundred and forty-two; from the State of Virginia, eleven thousand one hundred and fifty; from the State of Maryland, five thousand two hundred and sixty-two; from the State of Delaware, one thousand one hundred and sixty-eight; from the State of Pennsylvania, ten thousand six hundred and ninety-six; from the State of New Jersey, four thousand two hundred and eighty-six; from the State of New York, seven thousand nine hundred and twenty-three; from the State of Vermont, two thousand one hundred and fifty; from the State of Connecticut, five thousand eight hundred and sixty; from the State of Rhode Island, one thousand six hundred and twenty-six; from the State of Massachusetts, eleven thousand eight hundred and thirty-six; from the State of New Hampshire, three thousand five hundred and fifty-eight.

SEC. 2. *And be it further enacted*, That the President may, if he judges expedient, authorize the Executives of the several States to accept any independent corps of cavalry, artillery or infantry, as part of the detachments aforesaid, provided they shall voluntarily engage as corps in the service.

SEC. 3. *And be it further enacted*, That the said militia shall not be compelled to serve a longer time, in any one tour, than three months, after their arrival at the place of rendezvous; and that, during the time of their service, the commissioned officers shall be entitled to the same pay and rations that are allowed, by law, to officers of the same rank on the Military Establishment of the United States; and the noncommissioned officers, musicians, and privates, shall receive the pay and allowance for clothing, established by an act, entitled "An act to regulate the pay of the noncommissioned officers, musicians, and privates of the militia of the United States, when called into actual service, and for other purposes."

SEC. 4. *And be it further enacted*, That this act shall continue and be in force, for the space of one year from the passing thereof, and from thence to the end of the next session of Congress, and no longer.

Approved, June 24, 1797.

An Act, in addition to an act, entitled, "An act concerning the registering and recording of ships and vessels."

Be it enacted, &c., That no ship or vessel which has been or shall be registered, pursuant to any law of the United States, and which hereafter shall be seized, or captured and condemned, under the authority of any foreign Power, or that shall by sale become the property of any foreigner or foreigners, shall, after the passing of this act, be entitled to, or capable of receiving, a new register, notwithstanding such ship or vessel should afterwards become American property; but that all such ships and vessels shall be taken and considered, to all intents and purposes, as foreign vessels: *Provided*, That nothing in this act contained shall extend to, or be construed to affect, the person or persons owning any ship or vessel at the time of the seizure or capture of the same, or shall prevent such owner, in case he regain a property in such ship or vessel, so condemned, by purchase or otherwise, from claiming and receiving a new register for the same as he might or could have done if this act had not have been passed.

Approved, June 27, 1797.

An Act directing the appointment of agents in relation to the sixth article of the Treaty of Amity Commerce and Navigation, between the United States and Great Britain.

Be it enacted, &c., That the President of the United States be and hereby is authorized, by and with the advice and consent of the Senate, to appoint a proper person to act in behalf of the United States, under the direction of the Attorney General, in relation to such claims as may be made against the United States, before the Commissioners appointed to carry into effect the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States of America and His Britannic Majesty. And it shall be the duty of the Attorney General to counsel such agent, and to attend before the said Commissioners, whenever any questions of law or fact to be determined by them shall render his assistance necessary.

SEC. 2. *And be it further enacted*, That the Attorney General be, and is hereby, authorized to employ such agents, in different parts of the United States, as the business before the said Commissioners, in his opinion, shall make necessary, to be paid according to their services, at such rate as the President of the United States shall direct.

SEC. 3. *And be it further enacted*, That, during the continuance of the service to be performed under this act, the Attorney General shall be entitled to an additional compensation of six hundred dollars per annum; and the person hereby directed to be appointed, to a compensation at the rate of two thousand dollars per annum.

SEC. 4. *And be it further enacted*, That, for enabling the President of the United States to defray the expenses to be incurred under and by this act, a sum not exceeding ten thousand dollars be, and hereby is, appropriated, to be paid out of the money not otherwise appropriated.

Approved, June 30, 1797.

An Act providing a Naval Armament.

Be it enacted, &c., That the President of the United States be and he is hereby empowered, should he deem it expedient, to cause the frigates United States, Constitution, and Constellation, to be manned and employed.

SEC. 2. *And be it further enacted*, That there shall be employed on board each of the ships of forty-four guns, one captain, four lieutenants, two lieutenants of marines, one chaplain, one surgeon, and two surgeon's mates; and in the ship of thirty-six guns, one captain, three lieutenants, one lieutenant of marines, one surgeon, and one surgeon's mate.

SEC. 3. *And be it further enacted*, That there shall be employed in each of the said ships the following warrant officers, who shall be appointed by the President of the United States, to wit: one sailing-master, one purser, one boatswain, one gunner, one sailmaker, one carpenter, and eight midshipmen; and the following petty officers, who shall be appointed by the captains of the ships, respectively, in which they are to be employed, viz: two master's mates, one captain's clerk, two boatswain's mates, one coxswain, one sailmaker's mate, two gunner's mates, one yeoman of the gun room, nine quarter gunners, (and for the two larger ships two additional quarter gunners,) two carpenter's mates, one armorer, one steward, one cooper, one master-at-arms, and one cook.

SEC. 4. *And be it further enacted*, That the crews of each of the ships of forty-four guns shall consist of one hundred and fifty seamen, one hundred and three midshipmen and ordinary seamen, three sergeants, three corporals, one drum, one fife, and fifty marines; and that the crew of the ship of thirty-six guns shall consist of one hundred and thirty able seamen and midshipmen, ninety ordinary seamen, two sergeants, two corporals, one drum, one fife, and forty marines, over and above the officers hereinbefore mentioned.

SEC. 5. *And be it further enacted*, That the pay and subsistence of the respective commissioned and warrant officers be as follows: a captain, seventy-five dollars per month, and six rations per day, a lieutenant, forty dollars per month, and three rations per day; a lieutenant of marines, thirty dollars per month, and two rations per day; a chaplain forty dollars per month, and two rations per day; a sailing-master forty dollars per month, and two rations per day; a surgeon fifty dollars per month, and two rations per day; a surgeon's mate thirty dollars per month, and two rations per day; a purser forty dollars per month, and two rations per day; a boatswain twenty dollars per month, and two rations per day; a gunner twenty dollars per month, and two rations per day; a sailmaker twenty dollars per month, and two rations per day; a carpenter twenty dollars per month, and two rations per day.

SEC. 6. *And be it further enacted*, That the pay to be allowed to the petty officers, midshipmen, seamen, ordinary seamen, and marines, shall be fixed by the President of the United States: *Provided*, That the whole sum to be given for the whole pay aforesaid shall not exceed fifteen thousand dollars per month, and that each of the said persons shall be entitled to one ration per day.

SEC. 7. *And be it further enacted*, That the ration shall consist of, as follows: Sunday, one pound of bread, one pound and a half of beef, and a half pint of rice; Monday, one pound of bread, one pound of pork, half a pint of peas or beans, and four ounces of cheese; Tuesday, one pound of bread, one pound and a half of beef, and one pound of potatoes, or turnips, and pudding; Wednesday, one pound of bread, two ounces of butter, or in lieu

thereof six ounces of molasses, four ounces of cheese, and half a pint of rice; Thursday, one pound of bread, one pound of pork, and half a pint of peas or beans; Friday, one pound of bread, one pound of salt fish, two ounces of butter, or one gill of oil, and one pound of potatoes; Saturday, one pound of bread, one pound of pork, half a pint of peas or beans, and four ounces of cheese; and there shall also be allowed one half pint of distilled spirits per day, or in lieu thereof one quart of beer per day to each ration.

Sec. 8. *And be it further enacted*, That the officers, non-commissioned officers, seamen, and marines, belonging to the Navy of the United States, shall be governed by the rules for the regulation of the Navy heretofore established by the resolution of Congress of the twenty-eighth of November, one thousand seven hundred and seventy-five, as far as the same may be applicable to the Constitution and laws of the United States, or by such rules and articles as may hereafter be established.

Sec. 9. *And be it further enacted*, That the appointment of the officers to the frigates may be made by the President alone, in the recess of the Senate; and their commissions, if so appointed, shall continue in force till the advice and consent of the Senate can be had thereupon at their next meeting which may happen thereafter.

Sec. 10. *And be it further enacted*, That the seamen and marines shall not be engaged to serve on board the frigates for a period exceeding one year; but the President may discharge the same sooner, if in his judgment their services may be dispensed with.

Sec. 11. *And be it further enacted*, That if any officer, non-commissioned officer, marine, or seaman, belonging to the Navy of the United States, shall be wounded or disabled while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States: *Provided always*, That the rate of compensation to be allowed for such wounds or disabilities to a commissioned or warrant officer shall never exceed, for the highest disability, half the monthly pay of such officer at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, marines, and seamen, shall never exceed five dollars per month: *And provided also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

Sec. 12. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, if circumstances should hereafter arise which in his opinion may render it expedient to increase the strength of the several revenue cutters, so that the number of men employed do no not exceed thirty marines and seamen to each cutter; and cause the said revenue cutters to be employed to defend the seacoast, and repel any hostility to their vessels and commerce, within their jurisdiction, having due regard to the duty of the said cutters in the protection of the revenue.

Sec. 13. *And be it further enacted*, That the compensations established by the first section of the act passed on the sixth day of May, one thousand seven hundred and ninety-six, entitled "An act making further provision relative to the revenue cutters," be, and the same is hereby, continued and confirmed, on the terms and conditions of the said act, to the mariners and marines who are or may be employed as aforesaid.

Sec. 14. *And be it further enacted*, That this act shall continue in force for the term of one year, and from thence to the end of the then next session of Congress, and no longer.

Approved, July 1, 1797.

An Act to ascertain the time for the next meeting of Congress, and to repeal the act heretofore passed for that purpose.

Be it enacted, &c., That after the end of the present session, the next meeting of Congress shall be on the second Monday of November, in the present year.

Sec. 2. *And be it further enacted*, That the act entitled "An act to alter the time for the next meeting of Congress," passed on the third day of March last, be, and the same is hereby, repealed.

Approved, July 1, 1797.

An Act for reviving and continuing suits and process in the Circuit Court for the District of North Carolina.

Whereas, a sufficient quorum of Judges did not attend to hold the Circuit Court for the District of North Carolina, for the purpose of doing business in June term, one thousand seven hundred and ninety-seven, in consequence whereof certain provisions are now become necessary and expedient, to prevent a failure of justice in the said court:

Be it therefore enacted, &c., That it shall and may be lawful for the District Judge of the State of North Carolina to direct the clerk of the said court to issue such process, for the purpose of causing persons to be summoned to serve as jurymen at the said court, at the term to commence the thirtieth day of November next, as has been before issued by the clerk of the said court, for the like purpose, returnable to June term, one thousand seven hundred and ninety-seven; that the persons ordered by the said process to be summoned for the said purpose shall be ordered to be summoned in the same proportion, and from the same counties, as those persons who were ordered to be summoned for the like purpose, by process returnable at June term, one thousand seven hundred and ninety-seven. *Provided*, That if it shall appear expedient to the said District Judge that a different time of notice shall be prescribed than that hitherto prescribed, he may cause such other time of notice to be directed to be given as to him shall appear most conducive to justice, and convenient to the persons to be summoned. And the marshal is hereby directed to execute the said process so to be issued; and the persons who shall be legally summoned to attend as jurymen, in consequence thereof, are hereby required to attend

the said court, under the like penalties for disobedience, as if the said process had been ordered to be issued by the said court, in the ordinary method of proceeding; and the marshal and the persons who shall attend as jurymen, in virtue of the said process, so to be issued, shall be entitled to the like allowances for their services, respectively.

Sec. 2. *And be it further enacted*, That all suits and proceedings, of what nature or kind soever, which have been commenced in the said court, and not finished, shall be proceeded on at the ensuing term, in the same manner, and to the same effect, as if the said circuit court had been regularly held for the purpose of business in June term, one thousand seven hundred and ninety-seven, and continuances had been regularly entered of all suits and proceedings in the said term in which they were depending, in the usual manner of proceeding, as the case may be.

Sec. 3. *And be it further enacted*, That all writs and other process sued out of the clerk's office of the said circuit court, according to the accustomed method, bearing test in November term, one thousand seven hundred and ninety-six, or June term, one thousand seven hundred and ninety-seven, shall be held and deemed of the same validity and effect as if the term of June, one thousand seven hundred and ninety-seven, had been regularly held by a judge or judges competent to do business, and continuances in respect to suits or other process returnable to the last mentioned term, had been regularly entered.

Approved, July 5, 1797.

An act to continue in force to the end of the next session certain acts, and parts of acts, of limited duration.

Be it enacted, &c., That all laws of the United States, and parts of laws now in force, and which, by the terms of their limitation, will expire with the end of this session of Congress, shall be, and hereby are, continued in force, until the end of the next session.

Approved, July 5, 1797.

An Act laying duties on stamped vellum, parchment, and paper.

Be it enacted, &c., That, from and after the thirty-first day of December next, there shall be levied, collected, and paid, throughout the United States, the several stamp duties following, to wit: For every skin or piece of vellum, or parchment, or sheet or piece of paper, upon which shall be written or printed any or either of the instruments or writings following, to wit: Any certificate of naturalization, five dollars; any license to practice or certificate of admission, enrollment or registry of any counsellor, solicitor, attorney, advocate, or proctor, in any court of the United States, the sum of ten dollars; any grant or letters patent, under the seal or authority of the United States, except for lands granted for military services, four dollars; any exemplification or certified copy of any such grant or letters patent, two dollars; any charter party, bottomry, or respondentia bond, one dollar; any receipt or other discharge for or on account of any legacy left by any will or other testamentary instrument, or for any share or part of a personal estate divided by force of any statute of distributions, the amount whereof shall be above the value of fifty dollars, and shall not exceed the value of one hundred dollars, twenty-five cents; where the amount thereof shall exceed the value of one hundred dollars, and shall not exceed five hundred dollars, fifty cents; and for every further sum of five hundred dollars, the additional sum of one dollar; any policy of insurance or instrument in nature thereof, whereby any ships, vessels, or goods going from one district to another in the United States, or from the United States to any foreign port or place, shall be insured, to wit: if going from one district to another in the United States, twenty-five cents; if going from the United States to any foreign port or place, when the sum for which insurance is made shall not exceed five hundred dollars, twenty-five cents; and when the sum insured shall exceed five hundred dollars, one dollar; any exemplification, of what nature soever, that shall pass the seal of any court, other than such as it may be the duty of the clerk of such court to furnish for the use of the United States, or some particular State, fifty cents; any bonds, bills, single or penal, foreign or inland bill of exchange, promissory note, or other note for the security of money, according to the following scale, viz: on all bonds, bills, single or penal, foreign or inland bill of exchange, promissory note, or other note, above twenty dollars, and not exceeding one hundred dollars, ten cents; above one hundred dollars, and not exceeding five hundred dollars, twenty-five cents; above five hundred dollars, and not exceeding one thousand dollars, fifty cents; above one thousand dollars, seventy-five cents: *Provided*, That if any bonds or notes shall be payable at or within sixty days, such bonds or notes shall be subject to only two-fifth parts of the duty aforesaid: *And provided*, That notes issued by any of the banks now established, or which hereafter may be established within the United States, shall be subject to a duty according to the following scale, viz: On all notes not exceeding fifty dollars, at the rate of three-fifths of a cent for every dollar; above fifty dollars, and not exceeding one hundred dollars, fifty cents; above one hundred dollars, and not exceeding five hundred dollars, one dollar; above five hundred dollars, two dollars; any protest, or other notarial act, twenty-five cents; any letter of attorney, except for invalid pensions, or to obtain or sell warrants for land granted by the United States as bounty for military services performed in the late war, twenty-five cents; any certificate or debenture for drawback of customs or duties for less than five hundred dollars, one dollar; any certificate or debenture for five hundred dollars, and not exceeding two thousand dollars, two dollars; and on every certificate or debenture for more than two thousand dollars, three dollars; any note or bill of lading for any goods or merchandise to be exported, if from one district to another district of the United States, not being in

the same State, ten cents; if to be exported to any foreign port or place, twenty-five cents; any inventory or catalogue of any furniture, goods, or effects, made in any case required by law, (except in cases of goods and chattels distrained for rent or taxes, and goods taken in virtue of any legal process by any officer.) fifty cents; any certificate of a share in any insurance company, or any certificate of a share in the Bank of the United States, or of any State, or other bank, above twenty dollars, and not exceeding one hundred dollars, ten cents; above one hundred dollars, twenty-five cents; and for any certificate for every such share under twenty dollars, at the rate of ten cents for one hundred dollars; and the same for any less sum of the amount of the shares expressed in such certificate: *Provided*, That nothing in this act contained shall extend to charge with a duty any legacy left by any will or other testamentary instrument, or any share or part of a personal estate, to be divided by force of any statute of distribution which shall be left to, or divided amongst, the wife, children, or grandchildren of the person deceased intestate, or making such will or testamentary instrument, or any recognizance, bill, bond, or other obligation or contract, which shall be made to, or with the United States, or any State or for their use respectively.

Sec. 2. *And be it further enacted*, That in respect to any stamp on any of the notes of the banks now established, or which hereafter may be established within the United States, it shall be lawful for the Secretary of the Treasury to agree to an annual composition for the amount of such stamp duty, with any of the said banks, of one per centum on the amount of the annual dividend made by such banks to their stockholders respectively.

Sec. 3. *And be it further enacted*, That all deeds and writings whatsoever, for the payment of any sum of money, upon the contingency of the loss of any ship, or goods, laden or to be laden on board of any ship, or of damage thereto, shall be construed and adjudged to be policies of assurance, within this act chargeable with the several rates of duty hereinbefore mentioned.

Sec. 4, *And be it further enacted*, That when any vessel, or any goods or merchandise, laden or to be laden on board of any vessel, shall be insured, a policy, duly stamped, shall be issued or made out within the space of three days at furthest; and the insurer or insurers neglecting to make out such policy or policies, within the time aforesaid, shall forfeit the sum of twenty dollars for every such neglect or offence; and all promissory notes, or other security made for assurance or insurances of ships, goods, or merchandise, at sea, or going to sea, in lieu of a policy, are hereby declared void.

Sec. 5. *And be it further enacted*, That every deed, instrument, note, memorandum, letters, or other writing, between the captain or master, or owner of any ship or vessel, and any merchant, trader, or other person, in respect to the hire or freight of such ship or vessel, for conveyance of any money, goods, wares, merchandise, or effects, laden or to be laden on board such ship or vessel, shall be deemed and adjudged to be a charter-party.

Sec. 6. *And be it further enacted*, That every receipt for any sum of money paid in whole or in part of any legacy or share of personal estate, distributed as aforesaid, in the cases in which a duty is hereby charged, shall express therein the true sum which shall have been so paid; in default of which, as well the person or persons by whom the same shall have been paid, as the person or persons by whom the same shall have been received, shall severally forfeit and pay the sum of twenty dollars: And every receipt in full shall be deemed, for the purpose of charging the duties hereby laid, to be for the entire sum of such legacy or share of personal estate, unless it shall be made to appear that all such part thereof as may not be expressed in such receipt in full, was, previous thereto, paid, and upon a receipt or receipts, duly marked or stamped, according to the directions of this act.

Sec. 7. *And be it further enacted*, That every counsellor, solicitor, attorney, proctor, or advocate, who hath been or shall be admitted, enrolled, or registered, in any court of the United States, before he shall, at any time after the said thirty-first day of December next, prosecute, carry on, or defend any action, suit, or proceeding, in any court of the United States, shall take out a certificate of such admission, enrollment, or registry, from the clerk or prothonotary of the court granting such admission; which certificate shall be written on a piece of vellum, parchment, or paper, stamped according to the directions of this act; and such clerk or prothonotary shall make entry of such admission, enrollment, or registry, in a book to be by him kept for that purpose, to which any person may, at reasonable times, have access, without fee or reward: for which certificate and entry, there shall be paid to such clerk or prothonotary, by the supervisor of the revenue for the district wherein such court shall be held, the sum of twenty-five cents.

Sec. 8. *And be it further enacted*, That the receiving a certificate as aforesaid in any one of the courts of the United States, for any one of the said offices, shall be a sufficient admission in all the courts of the same, for that or any other of the said offices, so far as relates to the payment of the duties imposed by this act; anything herein contained to the contrary notwithstanding.

Sec. 9. *And be it further enacted*, That the several duties aforesaid shall be levied, collected, received, and accounted for, by and under the immediate direction and management of the supervisors and inspectors of the revenue, and other officers of inspection, subject to the superintendence, control, and direction, of the Treasury Department, according to the respective authorities and duties of the officers thereof.

Sec 10. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause to be provided so many marks and stamps differing from each other as shall correspond with

the several rates of duty aforesaid; that is to say, one mark or stamp for each distinct rate of duty; with which marks and stamps respectively shall be marked or stamped all vellum, parchment, or paper, upon which shall be written or printed all or any of the several instruments, writings, matters and things hereinbefore enumerated and charged, according to the nature and description of each of the said instruments, writings, matters and things as are hereinbefore specified and described; which said several marks and stamps shall be notified by a public notification, or advertisement, to be issued by the Secretary of the Treasury, and inserted in at least one newspaper printed in each State, and in the Territory Northwest of the Ohio, and for not less than three months before the said thirty-first day of December next, to the end that all persons may have due notice thereof; and which said marks and stamps, or any of them, shall or may be altered or renewed from time to time, as the said Secretary of the Treasury shall think fit, so as like public notification thereof be made, for a term not less than three months, before such new stamps or marks shall begin to be used.

Sec. 11. *And be it further enacted*, That the supervisors of the revenue are hereby empowered and required forthwith, upon demand to them or any of them, made by any person or persons, to stamp or mark any quantities or parcels of vellum, parchment, or paper, (he or they paying to the supervisors of the revenue, respectively, the respective duties hereby directed to be paid for the same, to stamp and mark the same accordingly,) without any other fee or reward; which stamp or mark shall be a sufficient discharge for the several and respective duties hereby granted upon the said vellum, parchment, or paper, which shall be so stamped or marked.

Sec. 12. *And be it further enacted*, That if any supervisor of the revenue shall fix any such mark or stamp to any vellum, parchment, or paper, upon such request or demand as aforesaid, before the several and respective duties thereupon charged by this act shall be duly answered and paid, or secured to be paid, he shall, for every such offence, forfeit his office, together with the sum of five hundred dollars.

Sec. 13. *And be it further enacted*, That if any person or persons shall write or print, or cause to be written or printed, upon any unstamped vellum, parchment, or paper, (with intent fraudulently to evade the duties imposed by this act, any of the matters and things for which the said vellum, parchment, or paper, is hereby charged to pay any duty,) or shall write or print, or cause to be written or printed, any matter or thing, upon any vellum, parchment, or paper, that shall be marked or stamped for any lower duty than the duty by this act payable, such person so offending shall, for every such offence, forfeit the sum of one hundred dollars; and in case any clerk, officer, or person, who, in respect of any public office or employment, is or shall be authorized or instructed to make, write, or print, any deeds, instruments, or writings, by this act charged to pay a duty, as aforesaid, shall be guilty of any fraud, or practice, to defraud or deprive the United States of any duty by this act payable, by making, writing, or printing, any such deed, instrument, or writing, or causing the same to be made, written, or printed, upon vellum, parchment, or paper, not marked or stamped according to this act, (or upon vellum, parchment, or paper, marked or stamped with any mark or stamp which he shall know to be counterfeited,) or by writing or printing any such deed, instrument, or other writing, upon vellum, parchment, or paper, that shall be marked or stamped for a lower duty as aforesaid, every such clerk, officer, or person, so guilty, and being thereof lawfully convicted, shall, instead of the penalty aforesaid, forfeit and pay the sum of five hundred dollars; and if an officer of the United States shall, in addition thereto, forfeit his office and be disabled to hold or enjoy the same for the future; and if any deed, instrument, or writing whatsoever, by this act charged with the payment of a duty, as aforesaid, shall, contrary to the true intent and meaning thereof, be written or printed, by any person or persons whomsoever, upon vellum, parchment, or paper, not marked or stamped according to this act, or upon vellum, parchment, or paper, marked or stamped for a lower duty than ought to be paid upon the same, then, and in every such case, there shall be paid to the United States, for their use, over and above the duty herein before charged thereupon, for stamping every such deed, instrument, or writing, the sum of ten dollars; and no such deed, instrument, or writing, shall be pleaded or given in evidence in any court, or admitted in any court to be available in law or equity, until it shall be stamped as aforesaid. And the supervisors, respectively, are hereby enjoined and required, upon payment or tender of the said duty and sum of ten dollars unto any of them, to mark or stamp the said vellum, parchment, or paper, with the mark or stamp that shall be proper for such deed, instrument, or writing, respectively; and if any person or persons whatsoever shall counterfeit or forge any stamp or mark, to resemble any stamp or mark which shall be provided or made in pursuance of this act, or shall counterfeit or resemble the impression of the same upon any vellum, parchment, or paper, thereby to defraud the United States of any of the duties hereby granted, or shall utter, vend, or sell, any vellum, parchment, or paper, with such counterfeit mark or impression thereupon, knowing such mark or impression to be counterfeited; or shall privately or fraudulently use any stamp or mark directed or allowed to be used by this act, in relation to the duties hereby laid, with intent to defraud the United States of any of the said duties, then every such person so offending, being thereof convicted in due form of law, shall be judged guilty of a misdemeanor, and be subject to be fined in any sum not exceeding one thousand dollars, and to be imprisoned for any term not exceeding seven years.

Sec. 14. *And be it further enacted*, That, from and after the thirty-first day of December, no bank now established, or which shall be hereafter established, which shall not have compounded for the duty hereby required, shall issue any bank bill or

promissory note, unless upon paper duly stamped; and whereon the respective duties shall have been paid; and if the officer of any such bank, or any person or persons employed therein, shall thereafter issue any bill or note, not duly stamped as aforesaid, he or they shall forfeit and pay a fine equal to the value of the bill or note so issued.

SEC. 15. *And be it further enacted*, That every person who shall be employed for the marking or stamping of vellum, parchment, or paper, as aforesaid, before his acting in the marking or stamping of the said vellum, parchment, or paper, shall take the following oath or affirmation, "I [insert here the name of the person] do solemnly swear [or affirm, as the case may be] that I will, according to the best of my knowledge and skill, faithfully, honestly, and carefully execute the trust reposed in me, and will truly mark or stamp all vellum, parchment, or paper, which I shall be required or directed to mark or stamp, and will render a true and exact account thereof to the proper officer or officers, and will faithfully account for all moneys which I shall receive therefor."

SEC. 16. *And be it further enacted*, That the said supervisors of the revenue, officers, and other persons to be employed by them, shall, from time to time, for the better execution of their several duties and trusts, observe and execute such directions as they respectively shall, from time to time, receive from the Department of the Treasury; which Department shall take care that the several parts of the United States shall, from time to time, be sufficiently furnished with vellum, parchment, and paper, stamped or marked as aforesaid, so that the citizens thereof, may have it in their election to buy the same of the officers or persons to be employed in and about the execution of this act, at the usual or most common rates above the said duty, or to bring their own vellum, parchment, or paper, to be marked or stamped as aforesaid.

SEC. 17. *And be it further enacted*, That, as often as any alteration or renewal shall be made of or in the mark or stamps before in use, or any of them, it shall be lawful for all persons who shall, at that time, have in their custody or possession any vellum, parchment, or paper, marked with any mark or stamp which shall be so altered or renewed, and upon which any of the matters or things hereby charged shall not have been written or printed, at any time within the space of sixty days after the intention of renewing or altering shall be notified as aforesaid, to bring or send such vellum, parchment, or paper, unto some office of inspection; and the officer of inspection, to whom they shall be brought or sent, is hereby required to deliver, or cause to be delivered, unto the several persons who shall so bring and deliver any quantity of vellum, parchment, or paper, the like quantity of vellum, parchment, or paper, and as good in quality, stamped with such new stamp or mark, without demanding or taking, directly or indirectly, for the same, any money or other consideration whatsoever. And in case any person shall neglect or refuse, within the time aforesaid, to bring or cause to be brought and delivered unto some officer of inspection any such vellum, parchment or paper, the same is hereby declared to be of no other effect or use than if it had never been marked or stamped; and all matters and things which shall, after that time, be written or printed thereon, shall be of no other effect than if they had been written or printed on vellum, parchment, or paper, not marked or stamped. And all persons who shall write or print any of the matters or things hereby charged, on such vellum, parchment, or paper, after the said time, shall forfeit and suffer as herein before is enacted for persons writing or printing on vellum, parchment, or paper, not marked or stamped.

SEC. 18. *And be it further enacted*, That all and every the officer and officers who shall be concerned in the levying, collecting, and receiving, the duties arising by this act, shall keep a separate and distinct account thereof, and shall pay or remit the same, as speedily as may be after it shall be received, according to the orders of the Department of the Treasury.

SEC. 19. *And be it further enacted*, That it shall be lawful for the President of the United States to cause such sum and sums of money to be expended and paid, from time to time, for salaries, compensations, and other incidental charges, as shall be necessary in and for the receiving, collecting, levying, or managing, of the said duties, so as that the whole amount thereof shall not exceed five per centum of the gross total product of the said duties.

SEC. 20. *And be it further enacted*, That all fines, penalties, and forfeitures, which shall be incurred by virtue of this act, shall be sued for and recovered in the name of the United States, or of the supervisor of the revenue, within whose district any such fine, penalty, or forfeiture, shall have been incurred, by bill or information, in any Circuit or District Court of the United States, or in any court of either of the said States; one half thereof to the use of the persons who, if an officer of inspection, shall first discover; if other than an officer of inspection, shall first inform, of the cause whereby any such fine, penalty, or forfeiture, shall have been incurred, (except in the cases in which a different disposition thereof may have been herein before made,) and the other half to the use of the United States.

SEC. 21. *And be it further enacted*, That this act shall continue and be in force for and during the term of five years, and from thence to the end of the next session of Congress, and no longer.

Approved, July 6, 1797.

An Act to revive and continue in force, for a limited time, an act entitled "An act authorizing the transfer of stock standing to the credit of certain States.

Be it enacted, &c., That the several provisions of the act entitled "An act authorizing the transfer of the stock standing to the credit of certain States," passed the second day of January, one thousand seven hundred and ninety-five, be and they are hereby revived and continued in force until the fourth day of March, one thousand seven hundred and ninety-nine, and no longer.

Approved, July 6, 1797.

An Act in addition to the law of the United States, concerning Consuls and Vice Consuls.

Be it enacted, &c., That in case it be found necessary for the interest of the United States that a Consul be appointed to reside at Algiers, the President be authorized to allow him an annual salary, not exceeding four thousand dollars.

Approved, July 6, 1797.

An Act for allowing full mileage to the members of the Senate and House of Representatives of the United States.

Be it enacted, &c., That at the present extraordinary meeting and session of Congress, the respective members of the Senate and House of Representatives shall be entitled to receive a full allowance of mileage, any law to the contrary not withstanding.

Approved, July 6, 1797.

An Act laying an additional duty on salt imported into the United States, and for other purposes.

Be it enacted, &c., That, from and after the thirtieth day of September next, there shall be levied, collected and paid upon all salt imported into the United States, in ships or vessels of the United States, in addition to the duty of twelve cents now payable by law, eight cents per bushel; and on all salt which, after the said thirtieth day of September, shall be imported into the United States, in ships or vessels not of the United States, the like additional duty of eight cents, and ten per centum thereon.

SEC. 2. *And be it further enacted*, That all drawbacks and allowances now authorized by law, in relation to the existing duty on salt imported into the United States, shall apply to the additional duty laid by this act; and that, in addition thereto, there shall be allowed and paid upon provisions salted within the United States, except upon dried fish, upon the exportation thereof to any foreign port or place as follows, viz: on pickled fish at the rate of twelve cents per barrel, and on other provisions at the rate of ten cents per barrel; and from and after the first day of January next there shall be an addition of thirty-three and a third per centum to the allowances now respectively granted to ships or vessels employed in the bank or other cod-fisheries, and in the terms provided by an act entitled "an act concerning certain fisheries of the United States and for the regulation and government of the fishermen employed therein," and during the continuance of the said act.

SEC. 3. *And be it further enacted*, That the act entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels," shall extend to and be in full force for the collection of the additional duty laid by this act, and generally for the execution thereof, as fully and effectually, as if every regulation, restriction, penalty, provision, clause, matter, and thing therein contained had been herein inserted and re-enacted.

SEC. 4. *And be it further enacted*, That this act shall continue in force for two years, and from thence unto the end of the next session of Congress, and no longer.

Approved July 8, 1797.

An Act authorizing a loan of money.

Be it enacted, &c., That the President of the United States be, and he is hereby, empowered to borrow, on the credit of the United States, a sum not exceeding eight hundred thousand dollars, at an interest not exceeding six per centum per annum, reimburseable at the pleasure of the United States, or at such period as may be stipulated by contract, not exceeding five years from the time of obtaining the loan, to be applied to such public purposes as are or may be authorized by law, and to be repaid out of the revenues accruing to the end of the present year and such further revenues as have been, or may be provided during the present session of Congress; and it shall be lawful for the Bank of the United States to lend the said sum.

SEC. 2. *And be it further enacted*, That in case the existing revenues of the United States, together with such further revenues as have been, or may be provided, during the present session, shall be insufficient to discharge and reimburse the said loan, the faith of the United States is hereby pledged to make such further provision therefor as may be necessary.

Approved, July 8, 1797.

An Act making additional appropriations for the support of Government for the year one thousand seven hundred and ninety-seven.

Be it enacted, &c., That, for the expenditure of the civil list; for the support of light-houses; for the expenses of foreign intercourse; for certain expenses in relation to the military and naval establishments; and to satisfy certain miscellaneous demands; the following sums be respectively appropriated, that is to say:

For the compensations granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of two months, seventy-seven thousand three hundred and eighty-nine dollars and sixty-six cents.

For the expenses of fire-wood, stationery, printing work, and all other contingent expenses of the two Houses of Congress, six thousand five hundred dollars.

For printing the laws of the present session, one thousand and fifty dollars.

For making good the allowance to clerks employed in the Department of State, agreeably to law, two hundred and sixty-nine dollars and seventy cents.

For the salary of an additional clerk in the Department of State, to perform the duties of an accountant, and when not so employed, to do the ordinary services of a clerk, eight hundred dollars.

For defraying the expenses of foreign intercourse, for the year one thousand seven hundred and ninety-seven, beyond the appropriations heretofore authorized by law, sixty thousand five hundred dollars.

For defraying any advances incidental to the intercourse of the United States with the Mediterranean Powers, to be applied under the direction of the President of the United States, and according to his discretion, a sum not exceeding forty-five thousand dollars.

For the salaries of two extra clerks in the office of the accountant of the War Department, eight hundred dollars.

For completing and equipping the frigates United States, Constitution, and Constellation, two hundred thousand dollars.

For the pay and subsistence of the officers and crews of the said frigates, one hundred thousand dollars.

For the extra expenses authorized by law, during the present session in relation to the revenue cutters, ten thousand dollars.

For the repairs and fabrication of arms and cannon carriages, thirty-nine thousand dollars.

For completing the six months' pay, and subsistence of the officers discharged under the act of the third of March, one thousand seven hundred and ninety-seven, two thousand five hundred and eighty dollars.

For the hospital department, five thousand dollars.

For making good a deficiency arising from the balance of moneys of various appropriations being carried to the credit of the "surplus fund," in pursuance of the sixteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, viz: for erecting a light-house on the headland of Cape Hatteras, and a lighted beacon on Shell Castle Island, in the harbor of Ocracock, in the State of North Carolina, forty-four thousand dollars.

For enabling a remittance to the commissioners of the Dutch loans at Amsterdam, in payment for a quantity of saltpetre, seventeen thousand and thirty-one dollars, and eighty-nine cents.

For repaying the Bank of the United States a sum advanced upon certain Treasury bills, drawn upon collectors of the revenue of the United States, in North Carolina, five thousand one hundred and fifty dollars.

For the payment of the commissioner of loans, for the State of Rhode Island, on account of two clerks who were employed in the year one thousand seven hundred and ninety-six, fifty-four dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the surplus of revenue and income beyond the appropriations heretofore charged thereon, to the end of the present year.

Approved, July 10, 1797.

ACTS OF THE SECOND SESSION OF THE FIFTH CONGRESS.

An Act to postpone for a limited time the commencement of the Duties imposed by the act, entitled "An act laying duties on stamped vellum, parchment, and paper."

Be it enacted, &c., That so much of the act, entitled an "An act laying duties on stamped vellum, parchment, and paper," as directs that the duties imposed by that act shall be levied, collected, and paid "from and after the thirty-first day of December next," shall be, and the same hereby is, repealed; and that the duties aforesaid shall be levied, collected, and paid, from and after the thirtieth day of June next, and not sooner; to which last-mentioned day, all notices, certificates, and other matters or things, directed by the said act, and having respect to the commencement or collection of the said duties, or any of them shall relate.

Approved, December 15, 1797.

An Act making certain partial appropriations for the year one thousand seven hundred and ninety-eight.

Be it enacted, &c., That the sum of one hundred thousand dollars shall be, and the same hereby is, appropriated towards defraying the expenses during the year one thousand seven hundred and ninety-eight, of the Quartermaster's and Indian Departments, of the defensive protection of the frontiers, of bounties, and of the contingent charges of the War Department; and a like sum towards defraying the expenses, during the said year, of the subsistence of the officers, non-commissioned officers and privates of the Army of the United States.

Sec. 2. *And be it further enacted*, That the sum of fifty-two thousand dollars be, and the same hereby is, appropriated for paying and discharging such awards as have been or may be made pursuant to the seventh article of the Treaty of Amity, Commerce, and Navigation between the United States and Great Britain, in favor of British subjects, whose property has been captured within the jurisdiction of the United States, or by vessels armed or fitted out therein.

Sec. 3. *And be it further enacted*, That the aforesaid sums shall be paid and discharged out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, January 15, 1798.

An Act to prescribe the mode of taking evidence in cases of contested elections for Members of the House of Representatives of the United States, and to compel the attendance of witnesses.

Be it enacted, &c., That where any person, from and after the passing of this act, shall intend to contest an election for any member or members of the House of Representatives of the United States, or to support any such election so intended to be contested, and shall be desirous of obtaining testimony respecting such election, it shall be lawful for such person to make application to any judge of the Courts of the United States, or to

any chancellor, justice, or judge, of a superior or county court, or court of common pleas, of any State, or to any mayor, recorder, or intendant, of a town or city, who shall thereupon issue his warrant or summons, directed to all such witnesses as shall be named to him by such applicant, or his agent duly authorized for that purpose, and requiring the attendance of such witnesses before him, at some convenient time and place, to be expressed in the warrant, in order to be then and there examined, in the manner hereinafter provided, touching the subject-matter of the aforesaid application.

Sec. 2. *And be it further enacted*, That every such witness, as is above mentioned, shall be duly served with such warrant, by a copy thereof being delivered to him, or her, or left at his or her usual place of abode; and that such service shall be made a convenient time before the day on which the attendance of such witness is required, which time the magistrate issuing the warrant is hereby authorized and required to fix, for each witness, at the time of issuing it, having respect to the circumstances of such witness, and the distance of his or her residence from the place of attendance.

Sec. 3. *And be it further enacted*, That any person being summoned in the manner above directed, and refusing or neglecting to attend pursuant to such summons, unless in case of sickness or other unavoidable accident, shall forfeit and pay the sum of twenty dollars, to be recovered, with costs of suit, by the party at whose instance the warrant of summons was issued, and for his use, by action of debt in any court or before any other tribunal of the United States, or any State, having jurisdiction to the amount of such penalty.

Sec. 4. *And be it further enacted*, That the magistrate issuing the aforesaid warrant of summons, shall, at the time of issuing it, cause to be made out, under his hand, and delivered to the said applicant, or his agent authorized as aforesaid, a notification directed to the opposite party, stating the time and object of the aforesaid application, the name of the applicant, and the time and place fixed for the examination of the witnesses; which notification the said applicant, or his agent as aforesaid, shall cause to be served on the said opposite party, by delivering to him, or leaving at his usual place of abode, a copy thereof, a convenient time before the day fixed for the aforesaid examination; which time the magistrate granting the said notification shall fix, at the time of granting it, having respect to the distance of the said party's place of residence from that appointed for the examination; which examination shall not be proceeded in, unless proof be made, by affidavit in writing, of the due service of such notification, or unless the party on whom such service is hereby directed to be made, shall attend at the time and place aforesaid, by himself or his agent duly authorized, and consent to the said examination; which consent shall be certified by the magistrate.

Sec. 5. *And be it further enacted*, That all witnesses who shall attend, pursuant to the said summons, and all other witnesses who shall be produced at the time and place aforesaid, by either of the parties, or their or either of their agents duly authorized, shall then and there be examined on oath or affirmation, by the magistrate who issued the warrant of summons aforesaid, or, in case of his absence, by any other such magistrate as is authorized by this act to issue such warrant, touching all such matters and things respecting the election about to be contested, as shall be proposed by either of the parties aforesaid, or by their or either of their agents duly authorized; the testimony given on which examination, together with the questions proposed by the parties aforesaid, or their agents, or either of them, to the witnesses respectively, the said magistrate is hereby authorized and required to cause to be reduced to writing, in his presence, and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively: after which, he shall transmit the said testimony, duly certified under his hand, covered and sealed up, to the Clerk of the House of Representatives of the United States, for the time being, together with a copy of the warrant of summons and notification issued in that behalf, and the original affidavit proving the service of such notification.

Sec. 6. *And be it further enacted*, That in case any judge, justice, chancellor, mayor, recorder, or intendant, as is aforesaid, to whom the application herein mentioned shall be made, shall, by reason of sickness, necessary absence, or unavoidable accident, be rendered unable to attend at the time and place fixed for the examination aforesaid, it shall be lawful for him to certify the matter, and the proceedings had by him in that behalf, to any other magistrate of any of the descriptions aforesaid; which said magistrate, thereupon, shall be, and hereby is, authorized to attend at such time and place, and to proceed touching the said examinations, in all respects, as the magistrate issuing the warrant of summons might have done, by virtue of this act.

Sec. 7. *And be it further enacted*, That where no such magistrate as is herein authorized to receive applications as aforesaid, and proceed upon them, shall reside within any district for which an election about to be contested shall have been held, it shall be lawful to make such application to any two justices of the peace residing within the said district, who are hereby authorized, in such case, to receive such application, and jointly to proceed upon it in the manner herein before directed.

Sec. 8. *And be it further enacted*, That every witness attending by virtue of such warrant of summons as is herein directed to be issued, shall be allowed the sum of twenty-five cents for each day's attendance, and the further sum of five cents for every mile necessarily travelled in going and returning; which allowance shall be ascertained and certified by the magistrate taking the examination, and shall be paid by the party at whose instance such witness was summoned: And such witness shall have an action for the recovery of the said allowance, before any court or magistrate having competent jurisdiction, ac-

cording to the laws of the United States, or of any State, in which action the certificate of the magistrate taking the said examination shall be evidence.

Sec. 9. *And be it further enacted*, That each judge, justice, chancellor, mayor, recorder, intendant, and justice of the peace, who shall be necessarily employed, pursuant to the directions of this act, and all sheriffs, constables, or other officers, who may be employed to serve any of the warrants of summons or notifications herein provided for, shall have and receive from the party, at whose instance such service shall have been performed, such fee or fees as are or may be allowed for similar services in the States wherein such service shall be rendered, respectively.

Sec. 10. *And be it further enacted*, That this act shall continue and be in force until the end of the first session of the sixth Congress, and no longer.

Approved, January 23, 1798.

An Act to amend the several acts for laying duties on spirits distilled within the United States, and on stills.

Be it enacted, &c., That from and after the passing of this act, it shall be lawful for all owners of stills within the United States, which shall have been duly entered according to law, to make their election at any time of the year, both as to the rate of duty which they may choose to pay for the employment of their said stills, whether for a year, or for such other shorter period as may be allowed by law; and, also, as to the time of commencing such employment.

Approved, January 29, 1798.

An Act supplementary to the act, entitled "An act regulating Foreign Coins, and for other purposes."

Be it enacted, &c., That the second section of an act, entitled "An act regulating foreign coins, and for other purposes," be, and the same is hereby, suspended, for and during the space of three years from and after the first day of January, one thousand seven hundred and ninety-eight, and until the end of the next session of Congress thereafter, during which time the said gold and silver coins shall be and continue a legal tender, as is provided in and by the first section of the act aforesaid; and that the same coins shall thereafter cease to be such tender.

Approved, February 1, 1798.

An Act directing the Secretary of War to place certain persons on the pension list.

Be it enacted, &c., That the Secretary for the Department of War be, and he is hereby, directed to place on the pension list of the United States the several persons herein after named, who have been returned as pension claimants by the judges of the several districts, pursuant to the act of Congress passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions," at the rates and proportions annexed to the names of the said persons respectively, that is to say:

Of the district of New Hampshire: Joseph Goodrich, a private, half a pension; Joseph Patterson, a private, half a pension; Cæsar Barnes, a private, one-third of a pension.

Of the district of Connecticut: John Downs, a sergeant, a full pension; Obadiah Perkins, a lieutenant, one-fourth of a pension.

Of the district of Vermont: Joseph Tyler, a private, half a pension; Peter Rider, a corporal, half a pension; Isaac Webster, a sergeant, half a pension; Ephraim Wilmarth, a sergeant, two-thirds of a pension.

Of the district of New York: Stephen Kellogg, a private, a full pension; Garret Oblenis, a private, half a pension; William Scott, a major, a full pension; Finley Stewart, a batteau man, three-fourths of a pension; Godfrey Sweet, a private, a full pension; Thomas Ward, a corporal, a full pension.

Of the district of New Jersey: Minne L. Vorheis, a private, half a pension; Samuel Hull, a sergeant, two-thirds of a pension.

Of the district of Pennsylvania: Robert Wilson, an ensign, one-fourth of a pension.

Of the district of Delaware: Nelce Jones, a corporal, half a pension.

Of the district of Maryland: Philip Casson, a lieutenant, a full pension.

Of the district of Virginia: Joshua Davidson, a dragoon, three-fourths of a pension; Jonathan Dyer, a private, a full pension.

Of the district of North Carolina: Daniel McKissick, a captain, half a pension; Ithamar Singletary, a private, one-fourth of a pension; William Simpson, a private, half a pension; Joseph Wasson, a private, a full pension.

Of the district of Georgia: Herman Bird, a private, one-half of a pension; Thomas Greer, a private, one-half of a pension; John Guthrie, a private, one-half of a pension; Alexander Irvine, a lieutenant, one-half of a pension; Henry Kerr, a captain, one-half of a pension; John Lindsay, a major, a full pension; Hugh Lawson, a captain, one-half of a pension; James Lewis, a lieutenant, one-half of a pension; John Ramsay, a private, one-half of a pension; John Trent, a captain, one-half of a pension; Presley Thornton, a corporal, one-half of a pension.

Sec. 2. *And be it further enacted*, That the pensions allowed by this act shall be estimated at the same rates, receivable on the same conditions, and payable in the same manner in all respects, as directed in like cases by the act of the twentieth day of April, one thousand seven hundred and ninety-six, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named, on the pension list."

Approved, February 2, 1798.

An Act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians.

Be it enacted, &c., That a sum not exceeding twenty-five thousand eight hundred and eighty dollars, be appropriated to defray the expense of such treaty or treaties, as the President of the

United States shall deem expedient to hold with the Indians: *Provided*, Nothing in this act contained shall be construed to admit an obligation, on the part of the United States to extinguish, for the benefit of any State or individual citizen, Indian claims to any lands lying within the limits of the United States, and that the compensation to be allowed to any of the Commissioners appointed, or who may be appointed, for negotiating such treaty or treaties, shall not exceed, exclusive of travelling expenses, the rate of eight dollars per day, during the time of actual service of such Commissioner.

Sec. 2. *And be it further enacted*, That the sum aforesaid shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, February 27, 1798.

An Act to provide for the widows and orphans of certain deceased officers.

Be it enacted, &c., That the provisions for widows and orphans of commissioned officers of troops of the United States, contained in the first section of the law passed on the seventh day of June, one thousand seven hundred and ninety-four, entitled "An act, in addition to the act making further and more effectual provision for the protection of the frontiers of the United States," be, and the same are hereby, extended to the widows and orphan children of commissioned officers of the troops of the United States, and of the militia, who have died by reason of wounds received since the fourth day of March, one thousand seven hundred and eighty-nine, in the actual service of the United States: *Provided*, applications shall be made within two years after the end of the present session of Congress.

Approved, March 14, 1798.

An Act for the erection of a light-house, and placing buoys at the several places therein mentioned.

Be it enacted, &c., That as soon as the jurisdiction of so much of the head-land of Eaton's neck, on Nassau island, in the State of New-York, as the President of the United States shall deem sufficient and most convenient for the purpose of erecting a light-house, and its appurtenances, shall have been ceded to the United States, it shall be the duty of the Secretary of the Treasury to provide, by contract, which shall be approved by the President of the United States, for building a light-house thereon, and furnishing the same with all necessary supplies; and also for the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of building the said light-house; and the President is hereby authorized to make the said appointments.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be authorized and directed to cause to be placed, six buoys on the shoals called the east and west banks, and the middle ground, near Sandy Hook, off the harbor of New York, and two buoys on the north and south points of Goat island, near the entrance of the harbor of Newport, in the State of Rhode Island; and, also, to cause to be placed such number of buoys as may be necessary for the security of the navigation in and near the harbor of Nantucket, in the State of Massachusetts.

Sec. 3. *And be it further enacted*, That there be appropriated and paid, out of the moneys arising from the duties on imports and tonnage, a sum not exceeding thirteen thousand two hundred and fifty dollars, for the purposes aforesaid.

Approved March 14, 1798.

An Act providing the means of intercourse between the United States and foreign nations.

Be it enacted, &c., That the President of the United States shall be, and he hereby is, authorized to draw from the Treasury of the United States a sum not exceeding forty thousand dollars, annually, to be paid out of the moneys arising from the duties on imports and tonnage, for the support of such persons as he shall commission to serve the United States in foreign parts, and for the expense incident to the business in which they may be employed: *Provided*, That, exclusive of an outfit, which shall, in no case, exceed the amount of one year's full salary to the Minister Plenipotentiary, or Chargé des Affaires, to whom the same may be allowed, the President shall not allow to any Minister Plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses; nor a greater sum, for the same, than four thousand five hundred dollars per annum to a Chargé des Affaires; nor a greater sum, for the same, than one thousand three hundred and fifty dollars per annum to the secretary of any Minister Plenipotentiary.

Sec. 2. *And be it further enacted*, That in all cases where any sum or sums of money have issued or shall hereafter issue from the Treasury, for the purposes of intercourse or treaty with foreign nations, in pursuance of any law, the President shall be, and he hereby is, authorized to cause the same to be duly settled annually with the accounting officers of the Treasury in manner following, that is to say: by causing the same to be accounted for specifically, in all instances wherein the expenditure thereof may, in his judgment, be made public; and by making a certificate or certificates, or causing the Secretary of State to make a certificate or certificates of the amount of such expenditures as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

Sec. 3. *And be it further enacted*, That for defraying the expenses of intercourse between the United States and foreign nations, during the year one thousand seven hundred and ninety-eight, there be further appropriated, in addition to the aforesaid sum of forty thousand dollars, and out of any moneys in the Treasury of the United States, not otherwise appropriated, the sum of twenty-eight thousand six hundred and fifty dollars.

Sec. 4. *And be it further enacted*, That the act

passed on the first day of July, in the year one thousand seven hundred and ninety, entitled "An act providing the means of intercourse between the United States and foreign nations," and the act passed on the ninth day of February, in the year one thousand seven hundred and ninety-three, entitled "An act to continue in force for a limited time and amend the act, entitled 'An act providing the means of intercourse between the United States and foreign nations," shall be, and they are hereby, repealed.

SEC. 5. *And be it further enacted*, That this act shall be and remain in force until the end of the first session of the sixth Congress, and no longer.

Approved, March 19, 1798.

An Act making appropriations for the support of Government for the year one thousand seven hundred and ninety-eight, and for other purposes.

Be it enacted, &c., That for the expenditure of the civil list; for the support of Consuls to the coast of Barbary; for the support of the mint establishment, light-houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-eight; and to satisfy certain miscellaneous claims stated in the report of the Secretary of the Treasury, of the eighth day of December, one thousand seven hundred and ninety-seven, together with the incidental and contingent expenses of the several Departments, and the officers thereof, the following sums be, respectively, appropriated, that is to say: for the compensations granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of six months continuance, one hundred and ninety thousand one hundred and seventy-five dollars.

For the expense of fire-wood, stationery, printing work, and all other contingent expenses of the two Houses of Congress, thirteen thousand dollars.

For the compensations granted by law to the Chief Justice, Associate Judges, District Judges, and Attorney General, forty-four thousand nine hundred dollars.

For defraying the expense of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties, and likewise for defraying the expenses of prosecution for offences against the United States, and for safe-keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that Department, nine thousand one hundred and sixty-two dollars and thirty-four cents.

For incidental and contingent expenses in the said Department, six thousand five hundred and eighty dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eight thousand eight hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Secretary of the Treasury. five hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office. eleven thousand eight hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Treasurer, clerks, and other persons employed in his office, four thousand six hundred and fifty dollars.

For expense of fire-wood, stationery, printing, rent, and all other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, eleven thousand nine hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the Auditor's office, seven hundred and fifty dollars.

For compensation to the Commissioner of the Revenue, clerks, and persons employed in his office, five thousand five hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, fifteen thousand six hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, two thousand dollars, and five hundred dollars for a clerk.

For compensation to the secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand seven hundred and thirty dollars and sixty-six cents.

For expense of fire-wood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stating and printing the public accounts for the year one thousand seven hundred and ninety-eight, one thousand dollars.

For defraying the expense incident to the removal of the books and records of the Treasury Department, and for the rent of a house for several of the officers near Gray's Ferry, on the Schuylkill, during part of the Summer of the year one thousand seven hundred and ninety-seven, four hundred and fifty-four dollars and forty-one cents.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eight thousand one hundred dollars.

For expense of fire-wood, stationery, printing, rent, and other contingent expenses of the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, seven thousand seven hundred and fifty dollars.

For contingent expenses in the office of the Acountant of the War Department, six hundred dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain-carriers, axe-men, and other persons employed in carrying into effect the surveys to be made by the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," in addition to former appropriations, eight thousand dollars.

For compensation to the Governor, Secretary, and Judges of the Territory Northwest of the river Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, printing patents for land, and other contingent expenses in the said Territory, three hundred and fifty dollars.

For the payment of sundry pensions granted by the late Government, one thousand one hundred and thirteen dollars and thirty-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty-seventh of February, one thousand seven hundred and ninety-three, seven hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, one thousand dollars.

For the compensations to Consuls to Barbary Powers, for six months, the former appropriation being for one year, five thousand dollars.

For compensation to the following officers of the Mint: the director, two thousand dollars; the treasurer, one thousand two hundred dollars; the assayer, one thousand five hundred dollars; the chief coiner, one thousand five hundred dollars; the melter and refiner, one thousand five hundred dollars; the engraver, one thousand two hundred dollars; three clerks, at five hundred dollars each, one thousand five hundred dollars.

For the wages of persons employed at the different branches of melting, refining, coining, carpenter's, millwright's, and smith's work, including the sum of eight hundred dollars per annum allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, six thousand dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies of the establishment of the Mint, five thousand seven hundred dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, and for occasional improvement in the construction of lanterns, and of the lamps and materials used in them, including an allowance for the increased number of light-houses, and for the advanced price of spermaceti oil, thirty-six thousand dollars.

For the balance carried to the "surplus fund" of an appropriation for building a light-house near the entrance of Georgetown harbor, in the State of South Carolina, five thousand dollars.

For the additional expense estimated as necessary for erecting the said light-house, two thousand dollars.

For the payment of Nicholas Fish, supervisor of the revenue for the district of New York, so much short of an appropriation for the purchase of land at Montauk Point, in the State of New York, for the purpose of erecting a light-house thereon, two hundred and fifty-five dollars and twelve cents.

For the purchase of presses, the engraving of dies, and other expenses incident to the preparations made, and to be made, for executing the act, entitled "An act laying duties on stamped vellum, parchment, and paper," passed the sixth day of July, one thousand seven hundred and ninety-seven, nine thousand dollars.

For the expense incurred by the committee of the House of Representatives on the impeachment of William Blount; for the compensation of the members, and for incidental charges, as estimated by the chairman of the committee, two thousand six hundred and twenty-six dollars.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," together with so much as may be necessary of the proceeds of the duties on imports, and the tonnage of ships and vessels, and the duties on domestic distilled spirits and stills, which shall accrue until the close of the present year.

SEC. 3. *And be it further enacted*, That there shall be, and hereby is, further appropriated, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated, the following sums, to wit:

For the payment of awards by the Commissioners appointed in pursuance of the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, relative to the debts due by citizens of the United States to British subjects, three hundred thousand dollars.

For defraying the extraordinary expenses of ascertaining the river St. Croix, under the fifth article of the said treaty, twelve thousand dollars.

For defraying the extraordinary expense of running and marking the boundary line between the territories of the United States and Spain, twelve thousand dollars.

Approved, March 19, 1798.

An act to amend an act, entitled "An act laying duties on stamped vellum, parchment, and paper."

Be it enacted, &c., That whenever any person, other than officers employed in collecting the revenue of the United States, shall apply to any supervisor or inspector of the said revenue, at the office of such supervisor or inspector, for the purchase, at one time, of any quantity of vellum, parchment, or paper, stamped and marked in the manner directed by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," the whole amount of the duties on which quantity shall be ten dollars, or upwards, such supervisor or inspector shall be, and hereby is, authorized and required to deliver to such person such quantity of vellum, parchment, or paper, stamped as aforesaid; the said person paying down the amount of the said duties, after deducting therefrom seven and one-half per centum on such amount; which deduction the said supervisor or inspector is hereby authorized and required to allow.

Sec. 2. *And be it further enacted*, That whenever any stamped vellum or parchment shall be applied for, and delivered, in the manner aforesaid, the said purchaser, in order to become entitled to the aforesaid deduction, shall pay to the said supervisor, or inspector, in addition to the amount of the said duties, a reasonable rate for and on account of the price of the said vellum or parchment, which rate the Secretary of the Treasury is hereby authorized and required to fix, as nearly as may be, according to the actual cost of those articles.

Sec. 3. *And be it further enacted*, That whenever any person, other than officers employed in the collection of the revenue of the United States, shall bring any vellum, parchment, or paper, to be stamped in the manner directed by the aforesaid act, in any quantity, at one time, the whole amount of the duties for stamping which shall be ten dollars, or upwards, the officer stamping such vellum, parchment, or paper, pursuant to the directions of the said act, shall be, and hereby is, authorized and required to make to such person, the same allowance and deduction on the amount of the said duties, as is directed by the first section of this act, to be made in the cases therein mentioned.

Sec. 4. *And be it further enacted*, That the stamped paper, required by the aforesaid act to be furnished to the citizens of the United States by the Treasury Department, shall be furnished at the rate of duty provided by that act, without any additional charge on account of the price of paper, or any other expense, anything in the said act to the contrary notwithstanding; and that all paper for the purposes aforesaid, shall be furnished at the expense of the United States, by the Secretary of the Treasury Department, who is hereby authorized to employ, annually, a sufficient sum for that purpose, and for the necessary purchase of vellum and parchment, out of any moneys in the Treasury of the United States not otherwise appropriated: *Provided always*, That nothing herein contained, shall be so construed as to require the Treasury Department to furnish any stamped vellum, or parchment, without an additional charge for the price of those materials, over and above the duty on the stamp; which price, in all cases where stamped vellum or parchment shall be furnished, the Secretary of that Department is hereby authorized and required to fix, as nearly as may be, according to the actual cost of those articles, respectively.

Sec. 5. *And be it further enacted*, That so much of the aforesaid act as relates to stamp duties on "any certificate or debenture for drawbacks of customs or duties," shall be, and the same is hereby, repealed; and that in lieu of the said stamp duties, one-fourth per cent. on the amount of all drawbacks, allowed by law, on the exportation of goods, wares, and merchandise, imported, shall be retained for the use of the United States, by the collectors paying such drawbacks; and in addition to the sum of one per cent. directed to be so retained by the act, entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandises, imported into the United States, and on the tonnage of ships or vessels."

Approved, March 19, 1798.

An Act declaring the consent of Congress to an act of the Commonwealth of Massachusetts.

Be it enacted, &c., That the consent of Congress be, and hereby is, granted and declared to the operation of an act of the Legislature of the Commonwealth of Massachusetts, made and passed the second day of February, one thousand seven hundred and ninety-eight, entitled "An act to incorporate Tobias Lord, Oliver Keating, Thatcher Godard, and others, for the purpose of keeping in repair a pier, at the mouth of Kennebunk river, and to grant them a duty for reimbursing the expense of erecting the same."

Approved, March 27, 1798.

An Act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer.

Be it enacted, &c., That the consent of Congress be, and is hereby, granted and declared, to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, entitled "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the State aforesaid to collect a duty of

one cent per ton on all vessels coming into the district of Baltimore, from a foreign voyage, for the purposes in said act intended.

Sec. 2. *And be it further enacted*, That this act shall be in force for one year from the passing thereof, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, March 27, 1798.

An Act for an additional appropriation to provide and support a Naval Armament.

Be it enacted, &c., That there be, and there hereby is, appropriated a further sum, not exceeding one hundred and fifteen thousand, eight hundred and thirty-three dollars, to complete, and equip for sea, with all convenient speed, the frigates the United States, the Constitution, and the Constellation; and a further sum, not exceeding two hundred and sixteen thousand six hundred and seventy-nine dollars, for the pay and subsistence, for the term of one year, of the officers and crews which are, or shall be, engaged in the service of the United States, on board the said frigates, in addition to the sums heretofore appropriated for those purposes, respectively, remaining unexpended; also, a sum, not exceeding sixty thousand dollars, to defray the wear, losses, expenditures of ammunition, and other current and contingent expenses of the Naval Armament; also a sum not exceeding two thousand two hundred dollars, to defray the salaries of persons having charge of the navy yards at Norfolk, New York, and Portsmouth; and for the rents of the same.

Sec. 2. *And be it further enacted*, That the sums hereby appropriated shall be paid and discharged out of the surplus revenue and income of the current year not before appropriated.

Approved, March 27, 1798.

An Act to continue in force the fifth section of an act entitled "An act in addition to the act, entitled 'An act to establish the Post Office and Post Roads within the United States."

Be it enacted, &c., That the fifth section of the act, entitled "An act in addition to the act, entitled 'An act to establish the Post Office and post roads within the United States," which section will expire on the thirty-first day of March, one thousand seven hundred and ninety-eight, shall be, and the same is hereby, continued in force to the third day of March next.

Approved, March 28, 1798.

An Act to continue in force, for a limited time, a part of an act, entitled "An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas."

Be it enacted, &c., That the thirteenth section of the act passed on the fifth day of June, one thousand seven hundred and ninety-four, and entitled "An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas," be, and the same hereby is, continued in force until the end of the first session of the sixth Congress.

Approved, April 7, 1798.

An Act for the relief of the refugees from the British provinces of Canada and Nova Scotia.

Be it enacted, &c., That, to satisfy the claims of certain persons claiming lands under the resolutions of Congress of the twenty-third of April, one thousand seven hundred and eighty-three, and the thirteenth of April, one thousand seven hundred and eighty-five, as refugees from the British provinces of Canada and Nova Scotia, the Secretary of the Department of War be, and is hereby, authorized and directed to give notice in one or more of the public papers of each of the States of Vermont, Massachusetts, New York, New Hampshire, and Pennsylvania, to all persons having claims under the said resolutions, to transmit to the War Office, within two years after the passing of this act, a just and true account of their claims to the bounty of Congress.

Sec. 2. *And be it further enacted*, That no other persons shall be entitled to the benefit of the provisions of this act, than those of the following descriptions, or their widows and heirs, viz: first, those heads of families, and single persons, and not members of any such families, who were residents in one of the provinces aforesaid, prior to the fourth day of July, one thousand seven hundred and seventy-six, and who abandoned their settlements, in consequence of having given aid to the United Colonies or States, in the Revolutionary war against Great Britain, or with intention to give such aid, and continued in the United States, or in their service, during the said war, and did not return to reside in the dominions of the King of Great Britan prior to the twenty-fifth of November, one thousand seven hundred and eighty three; secondly, the widows and heirs of all such persons as were actually residents, as aforesaid, who abandoned their settlements, as aforesaid, and died within the United States, or in their service, during the said war; and, thirdly, all persons who were members of families at the time of their coming into the United States, and who, during the war, entered into their service.

Sec. 3. *And be it further enacted*, That the proof of the several circumstances necessary to entitle the applicants to the benefits of this act may be taken before a Judge of the Supreme or District Court of the United States, or a Judge of the Supreme or Superior Court, or the first justice or first judge of the Court of Common Pleas or County Court of any State.

Sec. 4. *And be it further enacted*, That, at the expiration of fifteen months from and after the passing of this act, and from time to time thereafter, it shall be the duty of the Secretary for the Department of War to lay such evidence of claims as he may have received before the Secretary and Comptroller of the Treasury, and with them, proceed to examine the testimony, and give their judgment what quantity of land ought to be allowed to the individual claimants, in proportion to the

degree of their respective services, sacrifices, and sufferings, in consequence of their attachment to the cause of the United States; allowing to those of the first class a quantity not exceeding one thousand acres, and to the last class a quantity not exceeding one hundred—making such intermediate classes as the resolutions aforesaid and distributive justice may in their judgment require, and make report thereof to Congress. And in case any such claimant shall have sustained such losses and sufferings, or performed such services for the United States, that he cannot justly be classed in any one general class, a separate report shall be made of his circumstances, together with the quantity of land that ought to be allowed him, having reference to the foregoing ratio: *Provided*, That, in considering what compensation ought to be made by virtue of this act, all grants, except military grants, which may have been made by the United States, or individual States, shall be considered as the just value thereof, at the time the same were made, respectively, either in whole or in part, as the case may be, a satisfaction to those who may have received the same: *Provided, also*, That no claim under this law shall be assignable until after report made to Congress, as aforesaid, and until the said lands be granted to the persons entitled to the benefit of this act.

Sec. 5. *And be it further enacted*, That all claims, in virtue of said resolutions of Congress, which shall not be exhibited, as aforesaid, within the time by this act limited, shall forever thereafter be barred.

Approved, April 7, 1798.

An Act for an amicable settlement of the limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to appoint three commissioners, any two of whom shall have power to adjust and determine, with such commissioners as may be appointed under the legislative authority of the State of Georgia, all interfering claims of the United States and that State, to territory situate west of the river Chatahooche, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina; and also to receive any proposals for the relinquishment or cession of the whole or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof.

Sec. 2. *And be it further enacted*, That all the lands thus ascertained as the property of the United States shall be disposed of in such manner as shall be hereafter directed by law; and the nett proceeds thereof shall be applied to the sinking and discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the Territory Northwest of the river Ohio.

Sec. 3. *And be it further enacted*, That all that tract of country bounded on the west by the Mississippi, on the north by a line to be drawn due east from the mouth of the Yazoo to the Chatahooche river; on the east by the river Chatahooche, and on the south by the thirty-first degree of north latitude, shall be, and hereby is, constituted one district, to be called the Mississippi Territory: and the President of the United States is hereby authorized to establish therein a Government, in all respects similar to that now exercised in the Territory Northwest of the Ohio, excepting and excluding the last article of the ordinance made for the Government thereof by the late Congress, on the thirteenth day of July, one thousand seven hundred and eighty-seven, and, by and with the advice and consent of the Senate, to appoint all the necessary officers therein, who shall respectively receive the same compensations for their services, to be paid in the same manner as is by law established for similar officers in the Territory Northwest of the river Ohio; and the powers, duties, and emoluments, of a Superintendent of Indian Affairs, for the Southern department, shall be united with those of Governor: *Provided, always*, That if the President of the United States should find it most expedient to establish this Government in the recess of Congress, he shall nevertheless have full power to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the session of Congress next ensuing the establishment of the Government.

Sec. 4. *And be it further enacted*, That the Territory hereby constituted one district for the purpose of Government, may, at the discretion of Congress, be hereafter divided into two districts, with separate Territorial Governments in each, similar to that established by this act.

Sec. 5. *And be it further enacted*, That the establishment of this Government shall in no respect impair the right of the State of Georgia, or of any person or persons, either to the jurisdiction or the soil of the said Territory; but the rights and claims of the said State, and all persons interested, are hereby declared to be as firm and available, as if this act had never been made.

Sec. 6. *And be it further enacted*, That, from and after the establishment of the said Government, the people of the aforesaid Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages, granted to the people of the Territory of the United States Northwest of the river Ohio, in and by the aforesaid ordinance of the thirteenth day of July, in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last-mentioned Territory.

Sec. 7. *And be it further enacted*, That, from and after the establishment of the aforesaid Government, it shall not be lawful for any person or persons to import or bring into the said Mississippi Territory, from any port or place without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves; and that every person so offending, and being thereof convicted before any court within the said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported

or brought the sum of three hundred dollars—one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and that every slave so imported or brought shall thereupon become entitled to and receive his or her freedom.

Sec. 8. *And be it further enacted*, That the sum of ten thousand dollars be and hereby is appropriated, for the purpose of enabling the President of the United States to carry into effect the provisions of this act; and that the said sum be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, April 7, 1798.

An Act to continue in force the act, entitled "An act prohibiting, for a limited time, the exportation of arms and ammunition, and for encouraging the importation thereof."

Be it enacted, &c., That the first, second, third and fourth sections of the act, entitled "An act prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof," be and are hereby continued in force for one year from and after the present session of Congress, and from thence to the end of the next session of Congress thereafter, and no longer.

Sec. 2. *And be it further enacted*, That the fifth section of the said act, except so much thereof as relates to the importation of sulphur and saltpetre, be and is hereby continued in force for one year from and after the fourteenth day of June next, and from thence to the end of the next session of Congress thereafter, and no longer; and that so much of the said fifth section as relates to the importation of sulphur and saltpetre be and is hereby continued in force for one year, from and after the fourteenth day of June, in the year of our Lord one thousand eight hundred, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, April 7, 1798.

An Act authorizing an expenditure, and making an appropriation, for the reimbursement of moneys advanced by the Consuls of the United States, in certain cases.

Be it enacted, &c., That the Secretary of State be, and hereby is, authorized, under the direction of the President of the United States, to reimburse such reasonable advances of money as have been made, or, during the present year, shall be made, by the Consuls of the United States, in making and supporting the claims of American citizens to captured property, before the tribunals of foreign countries; or for the relief of sick and destitute seamen in foreign countries, beyond the sum already allowed by law for that purpose.

Sec. 2. *And be it further enacted*, That for the purposes aforesaid there be, and hereby is, appropriated a sum not exceeding thirty thousand dollars, which shall be paid from any moneys which may be in the Treasury, not otherwise appropriated.

Approved, April 18, 1798.

An Act supplementary to an act, entitled "An act authorizing a loan for the use of the city of Washington, in the District of Columbia; and for other purposes therein mentioned."

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to cause to be loaned to the commissioners appointed under the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," the sum of one hundred thousand dollars, fifty thousand of which shall be advanced in the present year, and the remaining fifty thousand shall be advanced in the year one thousand seven hundred and ninety-nine; at an interest of six per cent. per annum, to be computed upon each instalment, from the time it shall be advanced; which sum of one hundred thousand dollars is declared to be in full of the moneys which the said commissioners are now authorized to borrow, under the direction of the President of the United States, by virtue of the act, entitled "An act authorizing a loan for the use of the city of Washington, in the District of Columbia; and for other purposes therein mentioned."

Sec. 2. *Be it further enacted*, That the sum herein authorized to be borrowed shall be reimbursed by instalments of one-fifth part of said loan, and the interest thereon, commencing in the year one thousand eight hundred and five, and continuing annually thereafter till the whole shall be repaid; and all the lots in the city of Washington, now vested in the said commissioners, or in trustees, in any manner, for the use of the United States, and now remaining unsold, excepting those set apart for public purposes, shall be, and are hereby declared and made chargeable with the repayment of the sums which shall be advanced, in pursuance of this act, and the interest accruing thereon, and shall be disposed of in the manner, and under the regulations, prescribed by the act herein last mentioned.

Sec. 3. *And be it further enacted*, That the sum of fifty thousand dollars for the present year, and of fifty thousand dollars for the next succeeding year, be, and hereby are, appropriated for the purposes aforesaid, out of any money in the Treasury of the United States, not otherwise appropriated.

Approved, April 18, 1798.

An Act to provide an additional armament for the further protection of the trade of the United States, and for other purposes.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized and empowered, to cause to be built, purchased, or hired, a number of vessels, not exceeding twelve, nor carrying more than twenty-two guns each, to be armed, fitted out, and manned, under his direction.

Sec. 2. *And be it further enacted*, That the number and grade of the officers to be appointed for the service of the said vessels, shall be fixed by the President of the United States, as well as the number of men, of which the respective crews shall be composed, who, as well officers as sea-

men and marines, shall receive the same pay and subsistence, be entitled to the same advantages and compensations, be governed by the same rules and regulations, and be engaged for the same time, and on the same conditions, as by an act of the United States, passed the first of July, one thousand seven hundred and ninety-seven, entitled "An act providing a naval armament," is ascertained and established, as fully, as if the particular provisions of that act, having reference thereto, were herein inserted at large. *Provided always, and be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause the term of enlistment of the seamen and marines to be employed in any vessel of the United States, to be extended beyond one year, if the vessel should then be at sea, and until ten days after such vessel shall arrive in some convenient port of the United States thereafter; anything contained in this act, or in the act entitled "An act providing a Naval Establishment," to the contrary notwithstanding.

Sec. 3. *And be it further enacted*, That the officers of the aforesaid vessels may, during the recess of the Senate, be appointed and commissioned by the President alone.

Sec. 4. *And be it further enacted*, That the sum of nine hundred and fifty thousand dollars be and are hereby appropriated, out of any moneys in the Treasury of the United States, beyond the appropriations that may heretofore have been charged thereon for the purpose of carrying the objects of this act into effect.

Approved, April 27, 1798.

An Act to provide an additional regiment of artillerists and engineers.

Be it enacted, That an additional regiment of artillerists and engineers shall and may be engaged by voluntary enlistments, to serve for the term of five years, unless sooner discharged, and to be organized as follows; that is to say: There shall be one lieutenant colonel commandant; one adjutant; one surgeon; and three battalions, each to consist of one major; one adjutant and paymaster; one surgeon's mate; and four companies, of one captain, two lieutenants, two cadets with the pay, clothing, and rations of a sergeant; four sergeants; four corporals; forty-two privates, sappers and miners; ten artificers to serve as privates; and two musicians in each company.

Sec. 2. *And be it further enacted*, That the additional regiment which shall be raised pursuant to this act, shall be considered as a part of the Military Establishment of the United States, for the time being; and the commissioned officers, non-commissioned officers, privates, artificers, and musicians, who shall engage in the said regiment, shall be entitled to the same bounty, pay, and allowance, respectively, according to their correspondent ranks, as are, or shall be, by law, authorized and provided for the other parts of the same establishment, and shall be governed by the same rules and articles of war, and shall be armed and accoutred, in such manner as the President of the United States shall direct, and shall and may be employed by him in detachments, or otherwise, in the field, or the fortifications upon the seacoast, as, in his opinion, the public service shall require.

Sec. 3. *And be it further enacted*, That the Secretary of War shall provide, at the public expense, under the direction of the President of the United States, all necessary books, instruments, and apparatus, for the use and benefit of the said regiment.

Approved, April 27, 1798.

An Act for erecting light-houses, and placing buoys and stakes at the places therein mentioned.

Be it enacted, &c., That as soon as a cession shall be made by the State of Virginia to the United States, of the jurisdiction over a tract of land proper for the purpose, the Secretary of the Treasury be, and he is hereby, authorized to provide, by contract, to be approved by the President of the United States, for building a light-house on Old Point Comfort, in the said State, and to furnish the same with all necessary supplies; and also to agree for the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of the same; and that the President be authorized to make the said appointments; and also, that the Secretary of the Treasury be authorized to cause six buoys to be placed near the entrance of Portland harbor, in the State of Massachusetts, at such places as, in his opinion, will best secure the navigation of the said port; and to cause the channel of Warren river, from Narraganset Bay to the port of Warren, in the State of Rhode Island, to be staked out and distinctly marked.

Sec. 2. *And be it further enacted*, That there be appropriated and paid, out of the moneys arising from imports and tonnage, the sum of three thousand and fifty dollars, for the purposes aforesaid.

Approved, April 27, 1798.

An Act to establish an Executive Department, to be denominated the Department of the Navy.

Be it enacted, &c., That there shall be an Executive Department under the denomination of the Department of the Navy, the chief officer of which shall be called the Secretary of the Navy, whose duty it shall be, to execute such orders as he shall receive from the President of the United States, relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as all other matters connected with the Naval Establishment of the United States.

Sec. 2. *And be it further enacted* That a principal clerk, and such other clerks as he shall think necessary, shall be appointed by the Secretary of the Navy, who shall be employed in such manner as he shall deem most expedient. In case of vacancy in the office of the Secretary, by removal or otherwise, it shall be the duty of the principal clerk to take the charge and custody of all the books, records, and documents of the said office.

Sec. 3. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized and empowered, immediately after he shall be appointed, and shall enter upon the duties of his office, to take possession of all the records, books, and documents, and all other matters and things appertaining to this department, which are now deposited in the office of the Secretary of War.

Sec. 4. *And be it further enacted*, That there shall be allowed to the Secretary of the Navy, an annual salary of three thousand dollars, payable quarter yearly at the Treasury of the United States, and the respective clerks in the office of the said department, shall receive the same compensations and be subject to the same regulations, as are provided by an act, supplemental to the act, establishing the Treasury Department, and for a further compensation to certain officers, in the offices of the other Executive Departments.

Sec. 5. *And be it further enacted*, That so much of an act, entitled, "An act to establish an Executive Department, to be denominated the Department of War," as vests any of the powers contemplated by the provisions of this act, in the Secretary for the Department of War, shall be repealed, from and after the period when the Secretary of the Navy shall enter on the duties of his office.

Approved, April 30, 1798.

An Act to authorize certain officers and other persons to administer oaths.

Be it enacted, &c., That the President of the Senate, the Speaker of the House of Representatives, a Chairman of a Committee of the Whole, or a chairman of a select committee of either House, shall be empowered to administer oaths or affirmations to witnesses, in any case under their examination.

Sec. 2. *And be it further enacted*, That if any person shall wilfully, absolutely, and falsely swear or affirm, touching any matter or thing material to the point in question, whereto he or she shall be thus examined, every person so offending, and being thereof duly convicted, shall be subjected to the pains, penalties, and disabilities, which, by law, are prescribed for the punishment of the crime of wilful and corrupt perjury.

Approved, May 3, 1798.

An Act supplementary to the act providing for the further defence of the ports and harbors of the United States.

Be it enacted, &c., That a sum not exceeding two hundred and fifty thousand dollars, in addition to the sums heretofore appropriated, remaining unexpended, shall be, and is hereby appropriated, and shall and may be paid out of any moneys not before appropriated, to make and complete, at the discretion of the President of the United States, the fortifications heretofore directed for certain ports and harbors, and to erect fortifications in any other place or places as the public safety shall require, in the opinion of the President of the United States; and which other fortifications he is hereby authorized to cause to be erected, under his direction, from time to time, as he shall judge necessary.

Sec. 2. *And be it further enacted*, That where any State, which was found indebted to the United States, by the report of the Commissioners for settling the accounts between the United States and the individual States, shall, with the approbation of the President of the United States, proceed to finish or complete any fortifications heretofore commenced by such State, for the defence of any port or harbor within the same, or shall, under the direction of the President of the United States, make and erect any additional fortifications, pursuant to the act, entitled "An act to provide for the further defence of the ports and harbors within the United States," as well the previous expenditures made since the twentieth day of March, one thousand seven hundred and ninety-four, which shall be approved by the President of the United States, as the expenditures which have been, or which shall be directed by him, shall be allowed and credited to such State, on account of the balance found and reported as aforesaid: *Provided*, That no expenditure exceeding the balance found and reported against the respective State, shall be allowed as aforesaid; and provided, that the fortifications for which the whole or any part of the expenditure, shall be so allowed and credited as aforesaid, with their privileges and appurtenances, shall be, and shall be declared and established as the property of the United States, while maintained by them.

Sec. 3. *And be it further enacted*, That these words of the said act, entitled "An act for the further defence of the ports and harbors of the United States," that is to say, "*Provided*, That the States shall and do cede to the United States, the lands or places on which such fortifications shall be so erected, in cases where the lands are the property of such States," shall be, and the same are hereby, repealed.

Approved, May 3, 1798.

An Act to enable the President of the United States to procure cannon, arms, and ammunition; and for other purposes.

Be it enacted, &c., That a sum not exceeding eight hundred thousand dollars shall be, and hereby is appropriated, and shall and may be paid out of any moneys not before appropriated, under the direction of the President of the United States, to purchase as soon as may be, a sufficient number of cannon; also, a supply of small arms, and of ammunition and military stores, to be deposited, and used, as will be most conducive to the public safety and defence, at the discretion of the President of the United States.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, in case he shall find it impracticable to procure by purchase, with certainty and despatch proportionate to the necessities of the pub-

lic service, the cannon and arms hereby required, and any considerable part thereof shall be likely to be deficient, to take, by lease, for a term of years, or by sale in fee, to the United States, one or more suitable place or places where cannon or small arms may be advantageously cast and manufactured, and shall and may there establish foundries and armories for the manufacture of the same respectively, and shall cause suitable artisans and laborers to be there employed for account of the United States; and shall and may appoint one or more persons to superintend the said works under the direction of the Department of War. And an account of the expenditures which shall be incurred in forming and employing these establishments, and of the cannon and arms which shall be cast and manufactured therein respectively, shall be laid before the Congress of the United States at their next session, and annually thereafter, so long as the same shall be continued.

SEC. 3. *And be it further enacted*, That the sum of one hundred thousand dollars shall be and hereby is appropriated, and shall be paid out of any moneys not before appropriated, for the hire, purchase, and employ of the said foundries and armories, respectively, in case such establishments shall be found necessary, as hereinbefore provided.

Approved, May 4, 1798.

An Act to authorize the President of the United States to cause to be purchased, or built, a number of small vessels, to be equipped as galleys, or otherwise.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized, if the same shall appear to him necessary for the protection of the United States, to cause a number of small vessels, not exceeding ten, to be built or purchased, and to be fitted out, manned, armed and equipped as galleys, or otherwise, in the service of the United States, the officers and men to be on the same pay, and to receive the same subsistence, as officers of the same rank and men are entitled to in the Navy of the United States.

SEC. 2. *And be it further enacted*, That the said officers shall be appointed and commissioned by the President of the United States, alone, during the recess of the Senate; and the said galleys or vessels shall be stationed in such parts of the United States as he may direct.

SEC. 3. *And be it further enacted*, That there be appropriated for the purpose aforesaid, the sum of eighty thousand dollars, out of any moneys in the Treasury, not otherwise appropriated.

Approved, May 4, 1798.

An Act directing the payment of a detachment of militia, for services performed in the year one thousand seven hundred and ninety-four, under Major James Ore.

Be it enacted, &c., That the proper accounting officers be, and they are hereby, authorized to settle the acounts of the militia who served on an expedition commanded by Major James Ore, against the lower Cherokee Indians, in the year one thousand seven hundred and ninety-four; and that the same be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, May 8, 1798.

An Act to continue in force a part of an act respecting the compensation to the officers and mariners of the revenue cutters.

Be it enacted, &c., That the first section of an act passed the sixth day of May, one thousand seven hundred and ninety-six, entitled "An act making further provision relative to the revenue cutters," be, and the same is hereby continued in force to the end of the next session of Congress.

Approved, May 8, 1798.

An Act to revive and continue in force the act respecting the compensation of clerks, and for other purposes.

Be it enacted, &c., That the act passed on the thirteenth day of May, one thousand seven hundred and ninety-six, entitled "An act to regulate the compensation of clerks," be, and the same is hereby, revived and continued in force until the first day of January next.

SEC. 2. *And be it further enacted*, That, to the aggregate of compensation for clerks in the present year, as fixed pursuant to the aforesaid act, there shall be added, during the present year, the following sums, to wit: In the War Department, one thousand six hundred dollars, for such additional clerks as the Secretary of that Department shall think fit; in the Treasury Department, three thousand dollars, for enabling the Comptroller and Auditor to employ such clerks as may be necessary in adjusting and settling the accounts which originated under the Government of the United States, prior to the fourth day of March, one thousand seven hundred and eighty-nine.

SEC. 3. *And be it further enacted*, That the sum of one hundred dollars be allowed and paid, for the year one thousand seven hundred and ninety-eight, to each of the principal and engrossing clerks in the office of the Secretary of the Senate, and of the Clerk of the House of Representatives; also, the like sum to the Sergeant-at-Arms of the House of Representatives, and to each of the Doorkeepers and Assistant Doorkeepers of the two Houses of Congress, in addition to the compensation heretofore allowed them by law.

SEC. 4. *And be it further enacted*, That the aforesaid sums, together with the sum of two hundred dollars additional allowance for a clerk in the Mint, granted by the aforesaid act, shall be paid out of the sum of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States."

Approved, May 14, 1798.

An act to amend the act entitled "An act to amend and repeal, in part, the act entitled 'An act to ascertain and fix the Military Establishment of the United States."

Be it enacted, &c., That the Brigadier General who is now, or may hereafter be, in the service of the United States, be, and he hereby is, to choose his brigade major and inspector, or either of them, from the commissioned officers in the line of the army; and that so much of the second section of the act entitled "An act to amend and repeal, in part, the act entitled 'An act to ascertain and fix the Military Establishment of the United States," as confines the choice of brigade major and inspector to the captains and subalterns of the line, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That the accounting officers of the Treasury shall allow to Major Cushing the monthly pay, rations, forage, and allowances for the same, as established by law, for an inspector, during the time he has acted in said capacity by appointment of General Wilkinson.

Approved, May 22, 1798.

An Act authorizing the President of the United States to raise a Provisional Army.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized, in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign Power, or of imminent danger of such invasion discovered, in his opinion, to exist, before the next session of Congress, to cause to be enlisted, and to call into actual service, a number of troops, not exceeding ten thousand non-commissioned officers, musicians, and privates, to be enlisted for a term not exceeding three years; each of whom shall be entitled to receive a bounty of ten dollars, one-half on enlisting, and the other half on joining the corps to which he may belong.

SEC. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to organize, with a suitable number of Major Generals, and conformably to the Military Establishment of the United States, the said troops into corps of artillery, cavalry, and infantry, as the exigencies of the service may require; and, in the recess of the Senate, alone to appoint the commissioned officers. The appointment of the field officers to be submitted to the advice and consent of the Senate, at their next subsequent meeting. The commissioned and non-commissioned officers, musicians, and privates, raised in pursuance of this act, shall be subject to the rules and articles of war, and regulations for the government of the army, and be entitled to the same pay, clothing, rations, forage, and all other emoluments, bounty excepted, and in case of wounds or disability, received in service, to the same compensation as the troops of the United States are by law entitled.

SEC. 3. *Be it further enacted*, That, in addition to the aforesaid number of troops, the President is hereby empowered, at any time within three years after the passing of this act, if in his opinion the public interest shall require, to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, who shall be armed, clothed, and equipped at their own expense, and whose commissioned officers the President is hereby authorized to appoint; who shall be liable to be called upon to do military duty at any time the President shall judge proper, within two years after he shall accept the same; and when called into actual service, and while remaining in the same, shall be under the same rules and regulations, and shall be entitled to the same pay, rations, forage, and emoluments of every kind, excepting bounty and clothing, as the other troops to be raised by this act.

SEC. 4. *And be it further enacted*, That in case any such volunteer, while in actual service, and in the line of his duty, sustains any damage, by injury done to his horse, arms, or equipage, or by loss of the same, without any fault or negligence on his part, a reasonable sum, to be ascertained in such manner as the President shall direct, shall be allowed for each and every such damage or loss.

SEC. 5. *And be it further enacted*, That whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who, being commissioned as Lieutenant General, may be authorized to command the armies of the United States, and shall be entitled to the following pay and emoluments, viz: two hundred and fifty dollars monthly pay, fifty dollars monthly allowance for forage, when the same shall not be provided by the United States, and forty rations per day, or money in lieu thereof at the current price, who shall have authority to appoint, from time to time, such number of aids not exceeding four, and secretaries not exceeding two, as he may judge proper, each to have the rank, pay, and emoluments of a lieutenant colonel.

SEC. 6. *And be it further enacted*, That whenever the President shall deem it expedient, he is hereby empowered, by and with the advice and consent of the Senate, to appoint an Inspector General with the rank of Major General, and the Major Generals and Inspector General shall each be entitled to the following pay and emoluments, viz: one hundred and sixty dollars monthly pay, twenty dollars monthly allowance for forage, when the same is not provided by the United States, and fifteen rations per day, or money in lieu thereof at the current price; and shall be, and they are hereby, authorized to appoint two aids, each of whom shall have the rank, pay, and emoluments of a major. And at the time aforesaid, the President is further empowered, by and with the advice and consent of the Senate, to appoint an Adjutant General, who shall have the rank, pay, and emoluments of a brigadier general. And the President is hereby authorized alone to appoint, from time to time, when he shall judge proper, assistant inspectors to every separate portion of the army, consisting of one or more divisions, who shall be deputy adjutant generals thereof, respectively, and who shall be taken from the

line of the army, and allowed, in addition to their pay, eight dollars per month; and likewise to appoint inspectors and sub-inspectors to each brigade and corps of every description, at his discretion, taking them from the line of the army, and they shall each receive, while acting in said capacity, an additional pay of six dollars per month.

SEC. 7. *And be it further enacted*, That in case the President shall judge the employment of a quartermaster general, physican general, and paymaster general, or either of them, essential to the public interest, he is hereby authorized, by and with the advice and consent of the Senate, to appoint the same accordingly, who shall be entitled to the rank, pay, and emoluments which follow, viz: quartermaster general, the rank, pay, and emoluments of a lieutenant colonel; physician general and paymaster general, each the pay and emoluments of a lieutenant colonel: *Provided*, That in case the President shall judge it expedient to appoint a commander of the army, an inspector general, adjutant general, quartermaster general, physician general, and paymaster general, or either of them, in the recess of the Senate, he is hereby authorized to make any or all of said appointments, and grant commissions thereon, which shall expire at the end of the next session of the Senate thereafter.

SEC. 8. *And be it further enacted*, That the laws of the United States, respecting the regulations and emoluments of recruiting officers: punishment of persons who shall procure or entice a soldier to desert, or shall purchase his arms, uniform, clothing, or any part thereof; and the punishment of every commanding officer of any ship or vessel who shall receive on board his ship or vessel as one of his crew, knowing him to have deserted, or otherwise carry away any soldier, or refuse to deliver him up to the orders of his commanding officer; and the law respecting the oath or affirmation to be taken by officers, non-commissioned officers, musicians, and privates; and respecting the inserting of conditions in the enlistments; and all other laws respecting the Military Establishment of the United States, excepting in such cases where different and specific regulations are made by this act, shall be in force and apply to all persons, matters, and things within the intent and meaning of this act, in the same manner as they would were they inserted at large in the same.

SEC. 9. *And be it further enacted*, That the commander of the army, inspector general, adjutant general, quartermaster general, physician general, and paymaster general, and the general, field, and commissioned officers who may be appointed by virtue of this act, shall respectively continue in commission during such term only as the President shall judge requisite for the public service, and that it shall be lawful for the President to discharge the whole or any part of the troops, which may be raised or accepted under the authority of this act, whenever he shall judge the measure consistent with the public safety.

SEC. 10. *And be it further enacted*, That no commissioned or staff officer, who shall be appointed by virtue of this act, shall be entitled to receive pay or emoluments until he shall be called into actual service, nor for any longer time than he shall continue therein: *Provided*, Nothing in this section shall be construed to prevent captains and subalterns from receiving pay and emoluments while employed in the recruiting service: *And, provided also*, That no enlistment shall take place by virtue of this act after three years from the passing thereof.

SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at his discretion, upon the request of any militia corps, established by law in any State, disposed to inform themselves in the use of artillery, or the Executive of any State, in behalf of such corps, to suffer to be loaned to them such pieces, not exceeding two to any one corps of the field artillery of the United States, as may be most conveniently spared, to be taken, removed, and returned, at the expense of the party requesting; who are to be accountable for the same, and to give receipts accordingly.

SEC. 12. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized when, under his orders, any portion of the militia, or any volunteer corps, shall be called forth and engaged in the actual service of the United States, to suffer to be loaned, at the request of the Executive of the State from which such militia shall be called forth, or of such volunteer corps, appearing to be unavoidably deficient, a supply of field artillery, arms, and accoutrements from the arsenals of the United States, as the case may require; proper receipts and security being given to be accountable to return the same, the accidents of the service excepted.

SEC. 13. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to cause to be purchased and procured a quantity of caps, swords, or sabres, and pistols with holsters, not exceeding what may be sufficient for four thousand cavalry, and to be deposited in the parts of the United States where he shall deem it most convenient, for the supply of any corps of cavalry which shall be called into the actual service of the United States, and which the President of the United States may loan upon the terms and the like receipts, to be accountable as hereinbefore provided. And for this purpose, and towards defraying the expenses which may be necessarily incurred before the next session of Congress, in executing the other purposes of this act, a sum not exceeding two hundred thousand dollars, shall be, and is hereby, appropriated, and shall and may be paid at the Treasury, under the orders of the President of the United States, out of any money not already appropriated.

SEC. 14. *And be it further enacted*, That the private soldiers who are, and who shall be, enlisted and employed in the service of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests for any debt or contract. And whenever any soldier shall be arrested, whether by mesne process or in execution, contrary to the intent hereof, it shall be the duty of the Judge of the

District Court of the district in which the arrest shall happen, and of any Justice of the Supreme Court of the United States, and of any court or judge of a State, who, by the laws of such State, are authorized to issue writs of habeas corpus, respectively, on application by any officer of the corps in which such soldier shall be engaged, to grant a writ of habeas corpus returnable before himself; and, upon due hearing and examination, in a summary manner, to discharge the soldier from such arrest, taking common bail, if required, in any case upon mesne process, and commit him to the applicant, or some other officer of the same corps.

Approved, May 28, 1798.

An Act more effectually to protect the commerce and coasts of the United States.

Whereas armed vessels sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coast, in violation of the law of nations, and treaties between the United States and the French nation: Therefore,

Be it enacted, &c., That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and, also, to retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel.

Approved, May 28, 1798.

An Act providing for the relief of persons imprisoned for debts due to the United States.

Be it enacted, &c., That any person imprisoned upon execution issuing from any court of the United States, for a debt due to the United States, which he shall be unable to pay, may, at any time after commitment, make application, in writing, to the Secretary of the Treasury, stating the circumstances of his case, and his inability to discharge the debt; and it shall thereupon be lawful for the said Secretary to make, or require to be made, an examination and inquiry into the circumstances of the debtor, either by the oath or affirmation of the debtor, (which the said Secretary, or any other person by him specially appointed, are hereby authorized to administer,) or otherwise, as the said Secretary shall deem necessary and expedient, to ascertain the truth; and upon proof being made to his satisfaction, that such debtor is unable to pay the debt for which he is imprisoned, and that he hath not concealed, or made any conveyance of his estate, in trust, for himself, or with an intent to defraud the United States, or deprive them of their legal priority, the said Secretary is hereby authorized to receive from such debtor, any deed, assignment, or conveyance of the real or personal estate of such debtor, if any he hath, or any collateral security, to the use of the United States; and upon a compliance by the debtor with such terms and conditions as the said Secretary may judge reasonable and proper, under all the circumstances of the case, it shall be lawful for the said Secretary to issue his order, under his hand, to the keeper of the prison, directing him to discharge such debtor from his imprisonment under such execution, and he shall be accordingly discharged, and shall not be liable to be imprisoned again for the said debt; but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then, or at any time afterwards, belong to the debtor.

SEC. 2. *And be it further enacted*, That if any person shall falsely take an oath or affirmation under this act, he shall be deemed guilty of perjury, and be subject to the pains and penalties provided in the third section of an act, entitled "An act for the relief of persons imprisoned for debt."

SEC. 3. *And be it further enacted*, That the benefit of this act shall not be extended to any person imprisoned for any fine, forfeiture, or penalty, incurred by a breach of any law of the United States, or for moneys had and received by any officer, agent, or other person, for their use.

Approved, June 6, 1798.

An Act supplementary to an act, entitled "An act for the relief of persons imprisoned for debt."

Be it enacted, &c., That any person imprisoned upon process issuing from any court of the United States in any civil action, against whom judgment has been, or shall be recovered, shall be entitled to the privileges and relief provided by an act, entitled "An act for the relief of persons imprisoned for debt," under the regulations and restrictions of the same act, after the expiration of thirty days from the time such judgment has been, or shall be, recovered, though the creditor should not, within that time, sue out his execution, and charge the debtor therewith.

Approved, June 6, 1798.

An Act respecting Loan Office and final settlement certificates, indents of interest, and the unfunded or registered debt, credited in the books of the Treasury.

Be it enacted, &c., That so much of the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed the third day of March, one thousand seven hundred and ninety-five, as bars from settlement or allowance, certificates, commonly called Loan Office and final settlement certificates, and indents of interest, be, and the same is hereby, suspended for the term of one year, from and after the passing of this act; a notification of which temporary suspension of the act of limitation shall be published by the Secretary of

the Treasury, for the information of the holders of the said certificates, in one or more of the public papers in each of the United States.

Sec. 2. *And be it further enacted*, That on the liquidation and settlement of such of the said certificates and indents of interest, as may be presented at the Treasury, pursuant to this act, the creditors shall be allowed to receive certificates of funded three per cent. stock of the United States, equal to the said indents, and the arrearages of interest due on their said certificates, prior to the first day of January, one thousand seven hundred and ninety one.

Sec. 3. *And be it further enacted*, That the principal sums of the said Loan Office and final settlement certificates, with the interest thereon, since the first day of January, one thousand seven hundred and ninety-one, shall and may be discharged, after liquidation at the Treasury, by the payment of interest and reimbursement of principal, equal to the sums which have been payable thereon, if the said certificates had been subscribed, pursuant to the acts making provision for the debts of the United States, contracted during the late war, and by the payment of other sums, equal to the market value of the remaining funded stock which would have been created by subscriptions as aforesaid; which market value shall be determined by the Comptroller of the Treasury.

Sec. 4. *And be it further enacted*, That the sum of twenty thousand dollars shall be, and hereby is, appropriated for the purposes aforesaid, to be paid out of any moneys in the Treasury not otherwise appropriated.

Sec. 5. *And be it further enacted*, That, from and after the passing of this act, it shall not be lawful for the officers of the Treasury to issue, or cause to be issued, any certificates of registered or unfunded debt; and that, to satisfy such claims for services, or supplies, furnished or done prior to the establishment of the present Constitution of the United States, as shall be allowed according to law, and the course of settlement at the Treasury, there be appropriated a sum not exceeding twenty thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.

Sec. 6. *And be it further enacted*, That the Commissioners of the Sinking Fund shall be, and they are hereby, required to reimburse, or cause to be reimbursed, the principal sums of the unfunded or registered debt of the United States, credited on the books of the Treasury, and Commissioners of Loans; and that they cause a notification to be published, informing the creditors, generally, of the said reimbursement, and that interest on the said debts will cease at the expiration of six months after the date of the said notification; and that a sum not exceeding ninety thousand dollars be appropriated for the reimbursement of the debts aforesaid, out of any moneys in the Treasury, not otherwise appropriated.

Sec. 7. *And be it further enacted*, That it shall be lawful for the creditors of the unfunded or registered debt aforesaid, to receive certificates of funded three per cent. stock, equal to the arrearages of interest due to them, respectively, prior to the first day of January, one thousand seven hundred and ninety-one; and on the requisition of each or any of the said creditors, the proper officers of the Treasury are hereby required to issue, or cause to be issued, the said certificates of funded three per cent. stock accordingly.

Approved, June 12, 1798.

An Act making appropriations for the Military Establishment, for the year one thousand seven hundred and ninety-eight, and for other purposes.

Be it enacted, &c., That, for the support of the Military Establishment for the year one thousand seven hundred and ninety eight, the pay and subsistence of the officers and men; bounties and premiums; the clothing, hospital, ordnance, quartermaster's and Indian departments; the defensive protection of the frontiers; the contingent expenses of the War Department, and the payment of military pensions, the sum of one million four hundred and eleven thousand seven hundred and ninety-eight dollars, (including the sum of two hundred thousand dollars already appropriated on account,) be, and hereby is, appropriated; that is to say;

For the pay of the Army of the United States, the sum of two hundred and sixty-four thousand eight hundred and twenty-four dollars.

For the subsistence of the officers of the Army, the sum of forty thousand six hundred and sixty-one dollars.

For the subsistence of the non-commissioned officers and privates, the sum of two hundred and forty-seven thousand one hundred and seventy-eight dollars.

For forage, the sum of fifteen thousand eight hundred and sixteen dollars.

For equipments for one company of cavalry, two thousand one hundred and forty dollars.

For horses for the cavalry to replace those which may die or become unfit for service, the sum of four thousand five hundred dollars.

For clothing, the sum of eighty-three thousand and fifty dollars.

For bounties and premiums, the sum of thirty-eight thousand dollars.

For the hospital department, the sum of ten thousand dollars.

For the ordnance department, the sum of forty-three thousand dollars.

For the quartermaster's department, the sum of two hundred and twenty-four thousand dollars.

For the Indian department, the following sums, that is to say:

For the payment of annuities to the Six Nations, Chickasaws, Cherokees, and Creeks, the sum of fourteen thousand dollars.

For the expenses attending the transportation of goods for the above mentioned annuities, the sum of nine thousand dollars.

For promoting civilization, and pay of temporary agents, the sum of fifteen thousand dollars.

For rations to Indians at the different military posts, and within their respective nations, the sum of twenty thousand dollars.

For building a grist and saw mill for the use of the Stockbridge Indians, agreeably to a treaty, in one thousand seven hundred and ninety-four, three thousand dollars.

For contingent expenses for presents to Indians on their visits to the seat of Government, and expenses attending their journeys, and during their stay in Philadelphia, the sum of ten thousand dollars.

For the defensive protection of the frontiers of the United States, including the erection and repair of forts and fortifications, the sum of sixty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special purposes, advertising and apprehending deserters, printing, for purchasing of maps, and other contingent expenses, the sum of twenty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions, from the 5th of March, one thousand seven hundred and ninety-eight, to the fourth day of March, one thousand seven hundred and ninety-nine, the sum of one hundred and two thousand and sixty-seven dollars and seven cents.

For the construction and repair of certain vessels on the lakes, in the service of Government, and the pay and subsistence of the officers and crews of the same, sixteen thousand seven hundred dollars.

For making good a deficiency in the appropriations for the subsistence of the non-commissioned officers and privates of the Army of the United States, for the year one thousand seven hundred and ninety-seven, the sum of one hundred and fourteen thousand one hundred and sixty-seven dollars and ninety-five cents.

For making good a deficiency in the appropriation for the expense of the quartermaster's and Indian departments; the defensive protection of the frontiers, bounties, and all other contingent expenses of the War Department, for the year one thousand seven hundred and ninety-seven, the sum of fifty-four thousand six hundred and ninety-four dollars.

Sec. 2. *And be it further enacted*, That the appropriations hereinbefore made, shall be paid and discharged out of the surplus of the revenue and income beyond the appropriations heretofore charged thereon, to the end of the present year.

Approved, June 12, 1798.

An Act to suspend the commercial intercourse between the United States and France, and the dependencies thereof.

Be it enacted, &c., That no ship or vessel, owned, hired, or employed, wholly or in part, by any person resident within the United States, and which shall depart therefrom after the first day of July next, shall be allowed to proceed directly, or from any intermediate port or place, to any port or place within the territory of the French Republic, or the dependencies thereof, or to any place in the West Indies, or elsewhere, under the acknowledged government of France, or shall be employed in any traffic or commerce with, or for any person resident within the jurisdiction, or under the authority of the French Republic. And if any ship or vessel, in any voyage thereafter commencing, and before her return within the United States, shall be voluntarily carried, or suffered to proceed to any French port or place as aforesaid, or shall be employed as aforesaid, contrary to the intent hereof, every such ship or vessel, together with her cargo, shall be forfeited, and shall accrue, the one half to the use of the United States, and the other half to the use of any person or persons, citizens of the United States, who shall inform and prosecute for the same; and shall be liable to be seized, prosecuted, and condemned in any circuit or district court of the United States which shall be holden within or for the district where the seizure shall be made.

Sec. 2 *And be it further enacted*, That after the first day of July next, no clearance for a foreign voyage shall be granted to any ship or vessel, owned, hired, or employed, wholly or in part, by any person resident within the United States, until a bond shall be given to the use of the United States, wherein the owner or employer, if usually resident or present, where the clearance shall be required, and otherwise his agent or factor, and the master or captain of such ship or vessel for the intended voyage, shall be parties, in a sum equal to the value of the ship or vessel, and her cargo, and shall find sufficient surety or sureties, to the amount of one half the value thereof, with condition that the same shall not, during her intended voyage, or before her return within the United States, proceed, or be carried, directly or indirectly, to any port or place within the territory of the French Republic, or the dependencies thereof, or any place in the West Indies, or elsewhere, under the acknowledged government of France, unless by distress of weather, or want of provisions, or by actual force and violence, to be fully proved and manifested before the acquittance of such bond; and that such vessel is not, or shall not be employed during her intended voyage, or before her return as aforesaid, in any traffic or commerce with or for any person resident within the territory of that Republic, or in any of the dependencies thereof.

Sec. 3. *And be it further enacted*, That, from and after due notice of the passing of this act, no French ship or vessel, armed or unarmed, commissioned by or for, or under the authority of the French Republic, or owned, fitted, hired, or employed by any person resident within the territory of that Republic, or any of the dependencies thereof, or sailing or coming therefrom, excepting any vessel to which the President of the United States shall grant a passport, which he is hereby authorized to grant in all cases where it shall be requisite for the purposes of any political or national intercourse, shall be allowed an entry, or to remain within the territory of the United States, unless driven there by distress of weather, or in want of provisions. And if, contrary to the intent hereof, any such ship or vessel shall be found within the

jurisdictional limits of the United States, not being liable to seizure for any other cause, the company having charge thereof shall be required to depart and carry away the same, avoiding all unnecessary delay; and if they shall, notwithstanding, remain, it shall be the duty of the collector of the district, wherein, or nearest to which such ship or vessel shall be, to seize and detain the same, at the expense of the United States; *Provided*, That ships or vessels which shall be *bona fide* the property of, or hired or employed by citizens of the United States shall be excepted from this prohibition until the first day of December next, and no longer; *And provided*, That in the case of vessels hereby prohibited which shall be driven by distress of weather, or want of provisions, into any port or place of the United States, they may be suffered to remain under the custody of the collector there, or nearest thereto, until suitable repairs or supplies can be obtained, and as soon as may be thereafter shall be required and suffered to depart; but no part of the lading of such vessel shall be taken out or disposed of, unless by the special permit of such collector, or to defray the unavoidable expense of such repairs or supplies.

Sec. 4. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer.

Sec. 5. *Provided, and be it further enacted*, That if, before the next session of Congress, the Government of France, and all persons acting by or under their authority, shall clearly disavow, and shall be found to refrain from the aggressions depredations, and hostilities which have been, and are by them encouraged and maintained against the vessels and other property of the citizens of the United States, and against their national rights and sovereignty, in violation of the faith of treaties, and the laws of nations, and shall thereby acknowledge the just claims of the United States to be considered as in all respects neutral, and unconnected in the present European war, if the same shall be continued, then and thereupon it shall be lawful for the President of the United States, being well ascertained of the premises, to remit and discontinue the prohibitions and restraints hereby enacted and declared; and he shall be, and is hereby authorized to make proclamation thereof accordingly: *Provided*, That nothing in this act contained, shall extend to any ship or vessel to which the President of the United States shall grant a permission to enter or clear; which permission he is hereby authorized to grant to vessels which shall be solely employed in any purpose of political or national intercourse, or to aid the departure of any French persons, with their goods and effects, who shall have been resident within the United States, when he may think it requisite.

Approved, June 13, 1798.

An Act supplementary to and to amend the act, entitled "An act to establish an uniform rule of Naturalization, and to repeal the act heretofore passed on that subject.

Be it enacted, &c., That no alien shall be admitted to become a citizen of the United States, or of any State, unless, in the manner prescribed by the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," he shall have declared his intention to become a citizen of the United States five years, at least, before his admission, and shall, at the time of his application to be admitted, declare and prove, to the satisfaction of the court having jurisdiction in the case, that he has resided within the United States fourteen years, at least, and within the State or Territory where or for which such court is at the time held, five years, at least, besides conforming to the other declarations, renunciations, and proofs, by the said act required, anything therein, to the contrary hereof, notwithstanding: *Provided*, That any alien, who was residing within the limits, and under the jurisdiction of the United States, before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may, within one year after the passing of this act; and any alien who shall have made the declaration of his intention to become a citizen of the United States, in conformity to the provisions of the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," may, within four years after having made the declaration aforesaid, be admitted to become a citizen, in the manner prescribed by the said act, upon his making proof that he has resided five years, at least, within the limits, and under the jurisdiction of the United States: *And provided, also*, That no alien, who shall be a native citizen, denizen, or subject of any nation or State with whom the United States shall be at war, at the time of his application, shall be then admitted to become a citizen of the United States.

Sec. 2. *And be it further enacted*, That it shall be the duty of the clerk, or other recording officer, of the court before whom a declaration has been, or shall be, made, by any alien of his intention to become a citizen of the United States, to certify and transmit to the office of the Secretary of State of the United States, to be there filed and recorded, an abstract of such declaration, in which, when hereafter made, shall be a suitable description of the name, age, nation, residence, and occupation, for the time being, of the alien; such certificate to be made, in all cases, where the declaration has been or shall be made, before the passing of this act, within three months thereafter; and, in all other cases, within two months after the declaration shall be received by the court: And, in all cases hereafter arising, there shall be paid to the clerk, or recording officer as aforesaid, to defray the expense of such abstract and certificate, a fee of two dollars; and the clerk or officer to whom such fee shall be paid or tendered, who shall refuse or neglect to make and certify an abstract, as aforesaid, shall forfeit and pay the sum of ten dollars.

Sec. 3. *And be it further enacted*, That in all cases of naturalization heretofore permitted, or which shall be permitted, under the laws of the United States, a certificate shall be made to, and

filed in, the office of the Secretary of State, containing a copy of the record respecting the alien, and the decree or order of admission by the court before whom the proceedings hereto have been, or shall be, had: And it shall be the duty of the clerk, or other recording officer of such court, to make and transmit such certificate, in all cases which have already occurred, within three months after the passing of this act; and, in all future cases, within two months from and after the naturalization of an alien shall be granted by any court competent thereto: And, in all future cases, there shall be paid to such clerk, or recording officer, the sum of two dollars, as a fee for such certificate, before the naturalization prayed for shall be allowed: And the clerk or recording officer, whose duty it shall be to make and transmit the certificate aforesaid, who shall be convicted of a wilful neglect therein, shall forfeit and pay the sum of ten dollars, for each and every offence.

Sec. 4. *And be it further enacted*, That all white persons, aliens, (accredited foreign ministers, consuls, or agents, their families and domestics, excepted,) who, after the passing of this act, shall continue to reside, or who shall arrive, or come to reside in any port or place within the territory of the United States, shall be reported, if free, and of the age of twenty-one years, by themselves, or being under the age of twenty-one years, or holden in service, by their parent, guardian, master, or mistress, in whose care they shall be, to the clerk of the district court of the district, if living within ten miles of the port or place in which their residence or arrival shall be, and, otherwise, to the collector of such port or place, or some officer or other person there, or nearest thereto, who shall be authorized, by the President of the United States, to register aliens: And report, as aforesaid, shall be made in all cases of residence, within six months from and after the passing of this act, and, in all after cases, within forty-eight hours after the first arrival or coming into the territory of the United States; and shall ascertain the sex, place of birth, age, nation, place of allegiance or citizenship, condition or occupation, and place of actual or intended residence within the United States, of the alien or aliens reported, and by whom report is made. And it shall be the duty of the clerk, or other officer or person, authorized, who shall receive such report, to record the same in a book to be kept for that purpose, and to grant to the person making the report, and to each individual concerned therein, whenever required, a certificate of such report and registry; and whenever such report and registry shall be made to, and by any officer or person authorized as aforesaid, other than the clerk of the district court, it shall be the duty of such officer, or other person, to certify and transmit, within three months thereafter, a transcript of such registry, to the said clerk of the district court of the district in which the same shall happen; who shall file the same in his office, and shall enter and transcribe the same in a book, to be kept by him for that purpose. And the clerk, officer, or other person authorized to register aliens, shall be entitled to receive, for each report and registry, of one individual, or family of individuals, the sum of fifty cents, and for every certificate of a report and registry the sum of fifty cents, to be paid by the person making or requiring the same, respectively. And the clerk of the district court, to whom a return of the registry of any alien shall have been made, as aforesaid, and the successor of such clerk, and of any other officer or person authorized to register aliens, who shall hold any former registry, shall and may grant certificates thereof, to the same effect as the original register might do. And the clerk of each district court shall, during one year from the passing of this act, make monthly returns to the Department of State, of all aliens registered and returned, as aforesaid, in his office.

Sec. 5. *And be it further enacted*, That every alien, who shall continue to reside, or who shall arrive, as aforesaid, of whom a report is required as aforesaid, who shall refuse or neglect to make such report, and to receive a certificate thereof, shall forfeit and pay the sum of two dollars; and any justice of the peace, or other civil magistrate, who has authority to require surety of the peace, shall and may, on complaint to him made thereof, cause such alien to be brought before him, there to give surety of the peace and good behaviour during his residence within the United States, or for such term as the justice or other magistrate shall deem reasonable, and until a report and registry of such alien shall be made, and a certificate thereof, received as aforesaid; and in failure of such surety, such alien shall and may be committed to the common jail, and shall be there held, until the order which the justice or magistrate shall and may reasonably make, in the premises, shall be performed. And every person, whether alien, or other, having the care of any alien or aliens, under the age of twenty-one years, or of any white alien holden in service, who shall refuse and neglect to make report thereof, as aforesaid, shall forfeit the sum of two dollars, for each and every such minor or servant, monthly, and every month, until a report and registry, and a certificate thereof, shall be had, as aforesaid.

Sec. 6. *And be it further enacted*, That in respect to every alien, who shall come to reside within the United States after the passing of this act, the time of the registry of such alien shall be taken to be the time when the term of residence within the limits, and under the jurisdiction of the United States, shall have commenced, in case of an application by such alien, to be admitted a citizen of the United States; and a certificate of such registry shall be required, in proof of the term of residence, by the court to whom such applications shall and may be made.

Sec. 7. *And be it further enacted*, That all and singular the penalties established by this act shall and may be recovered in the name, and to the use, of any person who will inform and sue for the same, before any judge, justice, or court, having jurisdiction in such case, and to the amount of such penalty, respectively.

Approved, June 18, 1798.

An Act to amend the act, entitled "An act providing a Naval Armament," and the act entitled "An act to authorize the President of the United States to cause to be purchased or built a number of small vessels, to be equipped as galleys, or otherwise."

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized, when he shall think fit, to increase the strength of any revenue cutter, for the purposes of defence, against hostilities near the sea coast, to employ on board the same, at his discretion, not exceeding seventy marines and seamen; anything in the act, entitled "An act providing a naval armament," to the contrary hereof notwithstanding.

SEC. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to fix the degree of rank, and the rate of pay and subsistence, not exceeding what is allowed upon the naval establishment, which shall be granted and allowed to the officers who shall be duly commissioned in the service of the United States on board of any small vessel or galley, which shall be fitted out under his orders, pursuant to the act, entitled "An act to authorize the President of the United States to cause to be purchased, or built, a number of small vessels, to be equipped as galleys, or otherwise;" anything therein, to the contrary hereof, notwithstanding.

Approved, June 22, 1798.

An Act to extend the privilege of franking letters and packets to the Secretary of the Navy.

Be it enacted, &c., That all letters and packets to or from the Secretary of the Navy, shall be received and conveyed by post, free of postage, under the like restrictions and limitations as are provided respecting letters and packets to or from the heads of the other departments of the Government, by the nineteenth section of the act, entitled "An act to establish the Post Office and Post Roads within the United States."

Approved, June 22, 1798.

An Act supplementary to, and to amend the act, entitled "An act authorizing the President of the United States to raise a provisional army.

Be it enacted, &c., That the companies of volunteers, and the members of each company, who shall be duly engaged and accepted by the President of the United States, and organized with proper officers commissioned by him, pursuant to the third section of the act, entitled "An act authorizing the President of the United States to raise a provisional army," shall submit to, and observe, such rules of training and discipline, as shall be thought necessary to prepare them for actual service; and which rules the President of the United States is hereby authorized to make and establish; and all such companies and volunteers are hereby exempted, until their discharge, or during the time of their engagement, as aforesaid, from all militia duty which is or shall be required by the laws of the United States, or of any State, and from every fine, penalty, or disability, which is or shall be provided to enforce the performance of any duty or service in the militia.

SEC. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized, by and with the consent of the Senate, or by himself in the recess of Congress, pursuant to said act, to appoint and commission, as soon as he shall think it expedient, such and so many field officers as shall be necessary for the organizing and embodying in legions, regiments, or battalions, any volunteer companies who shall engage, and shall be accepted, as aforesaid; and such field officers shall have authority, accordingly, to train and discipline such volunteer companies, pursuant to the rules therefor, which shall be established, as aforesaid: *Provided*, That no officer or volunteer, who shall be appointed, engaged, or employed, in any training or discipline, as aforesaid, shall be considered as in the pay of the United States, until called into actual service.

SEC. 3. *And be it further enacted*, That the President of the United States may authorize the sale, at a reasonable rate, sufficient to indemnify the United States, to any company of volunteers who shall be accepted as aforesaid, of such pieces of artillery, small arms, and accoutrements, to be delivered from the public arsenals, as shall be found necessary for the equipment and training of such volunteers, or may loan the same to them upon the receipts of their respective officers, to be accounted for, or returned, at the expiration of their engagement, or other discharge: And of such sales or loans, the necessary accounts shall be kept in the War Department, and the money accruing by any sale shall be paid into the Treasury of the United States; and the same shall be, and is hereby, appropriated for the purchase of other artillery, arms, and accoutrements, as the President of the United States shall direct.

SEC. 4. *And be it further enacted*, That the President of the United States may proceed to appoint and commission, in the manner prescribed by the said act, such and so many of the officers authorized thereby for the raising, organizing, and commanding the provisional army of ten thousand men, as, in his opinion, the public service shall more immediately require; anything which may be supposed in the said act, to the contrary hereof, notwithstanding: *Provided*, That the officers who shall be so appointed shall not be entitled to any pay, subsistence, or other emolument, by reason of such commission, until they shall be respectively employed in the actual service of the United States: *And provided*, That the further raising of the said army shall not be authorized otherwise than as by the said act is provided.

Approved, June 22, 1798.

An Act concerning Aliens.

Be it enacted, &c., That it shall be lawful for the President of the United States, at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the Government thereof, to depart out of the territory of the United States, within such time as shall be expressed in such order; which order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the marshal or other person to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a license from the President to reside therein, or, having obtained such license, shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States. *Provided always, and be it further enacted*, That if any alien, so ordered to depart, shall prove to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States for such time as he shall judge proper, and at such place as he shall designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties, to the satisfaction of the person authorized by the President to take the same, conditioned for the good behaviour of such alien during his residence in the United States, and not violating his license, which license the President may revoke, whenever he shall think proper.

SEC. 2. *And be it further enacted*, That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof, any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested and sent out of the United States such of those aliens as shall have been ordered to depart therefrom, and shall not have obtained a license as aforesaid, in all cases where in the opinion of the President, the public safety requires a speedy removal. And if any alien, so removed or sent out of the United States by the President, shall voluntarily return thereto, unless by permission of the President of the United States, such alien, on conviction thereof, shall be imprisoned so long as, in the opinion of the President, the public safety may require.

SEC. 3. *And be it further enacted*, That every master or commander of any ship or vessel, which shall come into any port of the United States after the first day of July next, shall, immediately on his arrival, make report in writing to the collector or other chief officer of the customs of such port, of all aliens, if any, on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation, and a description of their persons, as far as he shall be informed thereof; and, on failure, every such master and commander shall forfeit and pay three hundred dollars, for the payment whereof, on default of such master or commander, such vessel shall also be holden, and may by such collector or other officer of the customs be detained. And it shall be the duty of such collector, or other officer of the customs, forthwith to transmit to the office of the Department of State true copies of all such returns.

SEC. 4. *And be it further enacted*, That the Circuit and District Courts of the United States, shall respectively have cognizance of all crimes and offences against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States issued in pursuance or by virtue of this act.

SEC. 5. *And be it further enacted*, That it shall be lawful for any alien who may be ordered to be removed from the United States by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States, by any alien, who may be removed, as aforesaid, shall be, and remain subject to his order and disposal, in the same manner, as if this act had not been passed.

SEC. 6. *And be it further enacted*, That this act shall continue and be in force for and during the term of two years from the passing thereof.

Approved, June 25, 1798.

An Act to authorize a grant of lands to Stephen Monot, and others, inhabitants of Galliopolis, therein named.

Be it enacted, &c., That it shall be the duty of the Surveyor General of the Northwestern Territory, to survey one thousand two hundred acres of land, beginning on the bank of the Ohio river, at the lower corner of a tract surveyed pursuant to an act of Congress, entitled "An act to authorize a grant of land to the French inhabitants of Galliopolis, and for other purposes therein mentioned," and running thence down the said river, along the courses thereof, six hundred and forty poles, when reduced to a straight line, thence extending back from the river and parallel to the lower line of the said grant, so far as to include the quantity aforesaid. And the said Surveyor General shall by lines, plainly marked upon trees, divide the said tract into eight equal parts or lots, having each, as nearly as may be, an equal front on the river, and designated by progressive numbers, marked on the corners thereof. And the Surveyor General, when the said lots are laid off and numbered as aforesaid, shall distribute or assign the same, by lot, to Stephen Monot, Lewis Anthony Carpentier, Lewis Vimont, Francis Valton, Lewis Philip, A. Fichon, Anthony Maguet, Margaret G. C. Champaigne, wife of Peter A. Laforge, and Maria I. Dalliez, wife of Peter Luc, and to their heirs, being inhabitants of Galliopolis, who were

prevented from obtaining their proportion of the land granted by the act aforesaid. The said Surveyor General shall also make out a fair plat of the said tract, and shall designate thereon the said lots, marked each with the name of the person to whom the same shall have been assigned by lot as aforesaid, which plat, with a certificate of the bounds of the said tract and lots and courses, he shall record in his office, and return a copy thereof to the Secretary of State to be filed in his office.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized and empowered to issue letters patent in the usual form, thereby granting to the persons above named, and to their heirs, the said tract of land, to be held by them and their heirs in severalty, in lots designated, numbered, and marked, as aforesaid.

SEC. 3. *And be it further enacted*, That nothing in this act shall be taken or considered in any manner to affect the claims of the persons herein named against any person or persons, for or by reason of any contracts heretofore made by them, but that the same contracts shall be and remain in the same state as if this act had not passed.

Approved, June 25, 1798.

An Act to authorize the defence of the merchant vessels of the United States against French depredations.

Be it enacted &c., That the commander and crew of any merchant vessel of the United States, owned wholly by a citizen or citizens thereof, may oppose and defend against any search, restraint or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid, by the commander or crew of any armed vessel sailing under French colors, or acting, or pretending to act by, or under the authority of the French Republic; and may repel by force any assault or hostility which shall be made or committed, on the part of such French, or pretended French vessel, pursuing such attempt, and may subdue and capture the same, and may also retake any vessel, owned as aforesaid, which may have been captured by any vessel sailing under French colors, or acting, or pretending to act, by or under authority from the French Republic.

SEC. 2. *And be it further enacted*, That whenever the commander and crew of any merchant vessel of the United States shall subdue and capture any French, or pretended French armed vessel, from which an assault or other hostility shall be first made, as aforesaid, such armed vessel, with her tackle, appurtenances, ammunition, and lading, shall accrue, the one half to the owner or owners of such merchant vessel of the United States, and the other half to the captors: and being brought into any port of the United States, shall and may be adjudged and condemned to their use, after due process and trial, in any court of the United States, having admiralty jurisdiction, and which shall be holden for the district into which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof accordingly, and at their discretion; saving any agreement which shall be between the owner or owners, and the commander and crew of such merchant vessel. In all cases of re-capture of vessels belonging to citizens of the United States, by any armed merchant vessel aforesaid, the said vessels, with their cargoes, shall be adjudged to be restored, and shall, by decree of such courts as have jurisdiction in the premises, be restored to the former owner or owners, he or they paying, for salvage, not less than one eighth, nor more than one half of the true value of the said vessels and cargoes, at the discretion of the court, which payments shall be made without any deduction whatsoever.

SEC. 3. *And be it further enacted*, That after notice of this act, at the several custom-houses, no armed merchant vessel of the United States shall receive a clearance or permit, or shall be suffered to depart therefrom, unless the owner or owners, and the master or commander of such vessel for the intended voyage, shall give bond, to the use of the United States, in a sum equal to double the value of such vessel, with condition, that such vessel shall not make or commit any depredation, outrage, unlawful assault, or provoked violence upon the high seas, against the vessel of any nation in amity with the United States, and that the guns, arms, and ammunition, of such vessel shall be returned within the United States, or otherwise accounted for, and shall not be sold or disposed of in any foreign port or place; and that such owner or owners, and the commander and crew of such merchant vessel, shall, in all things, observe and perform such further instructions in the premises, as the President of the United States shall establish and order, for the better government of the armed merchant vessels of the United States.

SEC. 4. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to establish and order suitable instructions to, and for, the armed merchant vessels of the United States, for the better governing and restraining the commanders and crews who shall be employed therein, and to prevent any outrage, cruelty, or injury, which they may be disposed to commit; a copy of which instructions shall be delivered by the collector of the customs to the commander of such vessel, when he shall give bond as aforesaid. And it shall be the duty of the owner or owners, and commander and crew, for the time being, of such armed merchant vessel of the United States, at each return to any port of the United States, to make report to the collector thereof, of any rencounter which shall have happened with any foreign vessel, and of the state of the company and crew of any vessel which they shall have subdued or captured; and the persons of such crew or company shall be delivered to the care of such collector, who, with the aid of the marshal of the same district, or the nearest military officer of the United States, or of the civil or military officers of any State, shall take suitable care for the restraint, preservation, and comfort, of such persons, at the expense of the United States, until the pleasure of the President of the United States shall be known concerning them.

SEC. 5. *And be it further enacted*, That this act shall continue and be in force for the term of one year, and until the end of the next session of Congress thereafter.

SEC. 6. *Provided, and be it further enacted*, That whenever the Government of France, and all persons acting by, or under their authority, shall disavow, and shall cause the commanders and crews of all armed French vessels to refrain from the lawless depredations and outrages hitherto encouraged and authorized by that Government against the merchant vessels of the United States, and shall cause the laws of nations to be observed by the said armed French vessels, the President of the United States shall be, and he is hereby, authorized to instruct the commanders and crews of the merchant vessels of the United States to submit to any regular search by the commanders or crews of French vessels, and to refrain from any force or capture to be exercised by virtue hereof.

Approved, June 25, 1798.

An Act to punish frauds committed on the Bank of the United States.

Be it enacted &c., That if any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid or assist in falsely making, altering, forging, or counterfeiting, any bill or note issued by order of the President, Directors, and Company of the Bank of the United States, and signed by the President, and countersigned by the cashier thereof, or any order or check on the said cashier or corporation, for the payment of money, with intention to defraud the said corporation, or any other body politic or person, or shall utter or publish, as true, any false, altered, forged or counterfeited bill or note, issued by order of the President, Directors, and Company of the Bank of the United States, and signed by the President, and countersigned by the cashier thereof, or any order or check on the said cashier or corporation, for the payment of money, with intention to defraud the said corporation, or any other body politic or person, knowing the same to be falsely altered, forged, or counterfeited, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted, according to the due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: *Provided*, That nothing herein contained shall be construed to deprive the courts of the individual States of jurisdiction under the laws of the several States over the offences declared punishable by this act.

Approved, June 27, 1798.

An Act in addition to the act more effectually to protect the commerce and coasts of the United States.

Be it enacted, &c., That all such armed vessels as may be seized, taken, and brought into any port of the United States, in pursuance of the act, entitled "An act more effectually to protect the commerce and coasts of the United States," with the apparel, guns, and appurtenances of such vessels, and the goods and effects which shall be found on board the same, shall be liable to forfeiture and condemnation, and may be libelled and proceeded against in the District Courts of the United States, for the district into which the same may be brought: *Provided*, That such forfeiture shall not extend to any goods or effects, the property of any citizen or person resident within the United States, and which shall have been before taken by the crew of such captured vessel.

SEC. 2. *And be it further enacted*, That whenever any vessel, the property of, or employed by any citizen of the United States, or person resident therein, or any goods or effects belonging to any such citizen or resident, shall be recaptured by any public armed vessel of the United States, the same shall be restored to the former owner or owners, upon due proof, he or they paying and allowing, as and for salvage, to the recaptors, one-eighth part of the value of such vessel, goods, and effects, free of all deduction and expenses.

SEC. 3. *And be it further enacted*, That whenever any armed vessel, captured and condemned, as aforesaid, shall have been of superior or equal force to the public armed vessel of the United States by which such capture shall have been made, the forfeiture shall be and accrue wholly to the captors; and, in other cases, one-half thereof shall be to the use of the United States, and the residue to the captors. And all salvage which shall be allowed and recovered upon any vessel, goods, or effects, recaptured and to be restored, as aforesaid, shall belong wholly to the officers and crew of the public armed vessel of the United States by which such recapture shall be made; and the court before whom any condemnation shall be had, as aforesaid, shall and may order the sale of the vessel, goods, and effects, condemned, to be made at public auction, upon due notice by the marshal of the district in which the same shall be: And all expenses of condemnation and sale being deducted from the proceeds, the part thereof which shall accrue to the United States, shall be paid into the public treasury, and the residue, and all allowances of salvage as aforesaid, shall be distributed to and among the officers and crews concerned therein, in the proportions which the President of the United States shall direct.

SEC. 4. *And be it further enacted*, That it shall be lawful for the President of the United States to cause the officers and crews of the vessels so captured, and hostile persons found on board any vessel, which shall be recaptured, as aforesaid, to be confined in any place of safety within the United States, in such manner as he may think the public interest may require, and all marshals and other officers of the United States are hereby re-

quired to execute such orders as the President may issue for the said purpose.

Approved, June 28, 1798.

An Act making an appropriation for the expenses incident to the new regiment of artillerists and engineers, during the year one thousand seven hundred and ninety-eight.

Be it enacted, &c., That the sum of eighty-eight thousand dollars be, and the same hereby is, appropriated for the pay, subsistence, clothing, forage, bounties, quartermaster's supplies, and all contingent expenses, during the year one thousand seven hundred and ninety-eight, of the regiment of artillerists and engineers to be raised for the service of the United States, pursuant to an act, entitled "An act to provide an additional regiment of artillerists and engineers:" The said sum of eighty-eight thousand dollars to be paid out of any unappropriated money in the Treasury of the United States.

Approved, June 28, 1798.

An Act supplementary to the act, entitled, "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes."

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized to accept, in behalf of the United States, of the proposals of any persons who shall offer and undertake to complete, provide, and deliver, to the use, and upon the credit of the United States, on terms in his opinion advantageous or convenient, any vessel or vessels, now building, or to be built, within the United States, of a model and size which he shall approve, and armed and equipped, or suitable to be armed for the public service: And, upon the delivery of the vessel or vessels, according to such proposals, or to the acceptance of the President of the United States, he may cause proper certificates, or other evidence of the debt or other obligation of the United States incurred thereby, to be made and given at the Treasury Department, and which shall be there registered, to the use and benefit of the persons concerned: *Provided*, That not more than twelve vessels, in addition to those already authorized, shall and may be procured, by virtue hereof: *And provided*, That not more than six per cent. per annum shall be allowed for any credit which shall be given under this act. And all certificates of debt shall be redeemable at the will of Congress.

Sec. 2. *And be it further enacted*, That the vessels authorized by the act, entitled "An act to provide an additional armament for the further protection of the trade of the United States, and for other purposes," and those which shall be authorized by this act, shall be procured and accepted according to the following rates, as nearly as may be; that is to say: six of them not exceeding eighteen guns each, and twelve of them not less than twenty, or exceeding twenty-four guns each, and six not less than thirty-two guns each; and the guns for each vessel, to be of such caliber and weight of metal, as the President of the United States shall approve, anything in the said former act, to the contrary hereof, notwithstanding.

Sec. 3. *And be it further enacted*, That the President of the United States may, at his discretion, accept of any vessel armed and equipped, or suitable to be armed, of a model, size, and force, proper for the public service, which any State, body politic or corporate, citizen or citizens of the United States, shall voluntarily offer and give, for the use of the United States, to increase the naval armament.

Sec. 4. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to determine and direct, according to the rate of each vessel which shall be furnished or accepted, in pursuance of this act, the rank, pay, and subsistence, of the commissioned and warrant officers, who shall be appointed thereto; and the number of men to be engaged, and the pay to be allowed them, not exceeding the proportionable grades and allowances which are or shall be authorized by law for the Navy of the United States. And all officers of the said Navy, according to their respective ranks, shall be appointed in the manner prescribed by the act, entitled "An act to provide a naval armament."

Sec. 5. *And be it further enacted*, That the President of the United States may, at his discretion, increase or vary the quotas of seamen, landsmen, and marines, to be employed on board the frigates, and may permit a proportion of boys for them, and the other vessels of the Navy of the United States, according to the exigencies of the public service.

Approved, June 30, 1798.

An Act providing arms for the Militia throughout the United States.

Be it enacted, &c., That there shall be provided, at the charge and expense of the Government of the United States, thirty thousand stand of arms, which shall be deposited by order of the President of the United States, at suitable places, for the purpose of being sold to the Governments of the respective States, or the militia thereof, under such regulations, and at such prices, as the President of the United States shall prescribe.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause all or any part of the arms herein directed to be provided and deposited for sale, which shall, at any time, remain unsold, to be delivered to the militia, when called into the service of the United States, proper receipts and security being given for the return of the same.

Sec. 3. *And be it further enacted*, That the moneys arising from such sales shall be paid into the Treasury of the United States, and the amount received shall be annually reported to Congress.

Sec. 4. *And be it further enacted*, That, for the purpose of carrying this act into effect, the

President of the United States shall be, and he is hereby, authorized to draw from the Treasury of the United States, a sum not exceeding four hundred thousand dollars, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved, July 6, 1798.

An Act respecting Alien Enemies.

Be it enacted, &c., That whenever there shall be a declared war between the United States and any foreign nation or Government, or any invasion, or predatory incursion, shall be perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or Government, and the President of the United States shall make public proclamation of the event, all natives, citizens, denizens, or subjects, of the hostile nation or Government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed, as alien enemies. And the President of the United States shall be and he is hereby authorized, in any event as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable, as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security, their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom; and to establish any other regulations which shall be found necessary in the premises and for the public safety: *Provided*, That aliens resident within the United States, who shall become liable as enemies, in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed for the recovery, disposal, and removal of their goods and effects, and for their departure, the full time which is or shall be stipulated by any treaty, where any shall have been between the United States and the hostile nation or Government of which they shall be natives, citizens, denizens, or subjects; and, where no such treaty shall have existed, the President of the United States may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

Sec. 2. *And be it further enacted*, That after any proclamation shall be made as aforesaid, it shall be the duty of the several courts of the United States, and of each State, having criminal jurisdiction, and of the several judges and justices of the courts of the United States, and they shall be, and are hereby, respectively authorized, upon complaint against any alien, or alien enemies, as aforesaid, who shall be resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President of the United States shall and may establish in the premises, to cause such alien or aliens to be duly apprehended and convened before such court, judge, or justice; and after a full examination and hearing on such complaint, and sufficient cause therefor appearing, shall and may order such alien or aliens to be removed out of the territory of the United States, or to give sureties of their good behaviour, or to be otherwise restrained, conformably to the proclamation or regulations which shall and may be established as aforesaid, and may imprison, or otherwise secure such alien or aliens, until the order which shall and may be made, as aforesaid, shall be performed.

Sec. 3. *And be it further enacted*, That it shall be the duty of the marshal of the district in which any alien enemy shall be apprehended, who, by the President of the United States, or by order of any court, judge, or justice, as aforesaid, shall be required to depart, or to be removed, as aforesaid, to provide therefor, and to execute such order, by himself or his deputy, or other discreet person or persons to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President of the United States, or of the court, judge, or justice ordering the same, as the case may be.

Approved, July 6, 1798.

An Act to declare the Treaties heretofore concluded with France, no longer obligatory on the United States.

Whereas, the Treaties concluded between the United States and France have been repeatedly violated on the part of the French Government; and the just claims of the United States, for reparation of the injuries committed, have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations, have been repelled with indignity: And whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

Be it enacted &c., That the United States are, of right, freed and exonerated from the stipulations of the treaties, and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.

Approved July 7, 1798.

An Act further to protect the commerce of the United States.

Be it enacted &c., That the President of the United States shall be, and is hereby, authorized to instruct the commanders of the public armed vessels which are, or which shall be, employed in the service of the United States, to subdue, seize, and take any armed French vessel, which shall be found within the jurisdictional limits of the

United States, or elsewhere, on the high seas, and such captured vessel, with her apparel, guns, and appurtenances, and the goods or effects which shall be found on board the same, being French property, shall be brought within some port of the United States, and shall be duly proceeded against, and condemned as forfeited; and shall accrue, and be distributed, as by law is or shall be provided, respecting the captures which shall be made by the public armed vessels of the United States.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized to grant to the owners of private armed ships and vessels of the United States, who shall make application therefor, special commissions, in the form which he shall direct, and under the seal of the United States; and such private armed vessels, when duly commissioned, as aforesaid, shall have the same license and authority for the subduing, seizing, and capturing any armed French vessel, and for the re-capture of the vessels, goods, and effects of the people of the United States, as the public armed vessels of the United States may, by law have; and shall be, in like manner, subject to such instructions as shall be ordered by the President of the United States, for the regulation of their conduct. And the commissions which shall be granted, as aforesaid, shall be revocable at the pleasure of the President of the United States.

Sec. 3. *Provided, and be it further enacted*, That every person, intending to set forth and employ an armed vessel, and applying for a commission, as aforesaid, shall produce in writing, the name, and a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, the number of the crew, and the name of the commander, and the two officers next in rank, appointed for such vessel; which writing shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions to be by him transmitted to the Secretary of State.

Sec. 4. *And provided, and be it further enacted*, That before any commission, as aforesaid, shall be issued, the owner or owners of the ship or vessel for which the same shall be requested, and the commander thereof, for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of seven thousand dollars; or if such vessel be provided with more than one hundred and fifty men, then in the penal sum of fourteen thousand dollars; with condition that the owners, and officers and crews who shall be employed on board of such commissioned vessel, shall and will observe the treaties and laws of the United States, and the instructions which shall be given them for the regulation of their conduct; and will satisfy all damages and injuries which shall be done or committed contrary to the tenor thereof by such vessel, during her commission, and to deliver up the same when revoked by the President of the United States.

Sec. 5. *And be it further enacted*, That all armed French vessels, together with their apparel, guns, and appurtenances, and any goods or effects which shall be found on board the same, being French property, and which shall be captured by any private armed vessel or vessels of the United States, duly commissioned, as aforesaid, shall be forfeited, and shall accrue to the owners thereof, and the officers and crews by whom such captures shall be made; and on due condemnation had, shall be distributed according to any agreement which shall be between them; or in failure of such agreement, then by the discretion of the court before whom such condemnation shall be.

Sec. 6. *And be it further enacted*, That all vessels, goods, and effects, the property of any citizen of the United States, or person resident therein, which shall be re-captured, as aforesaid, shall be restored to the lawful owners, upon payment by them, respectively, of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned, or by the decree of any court of the United States having maritime jurisdiction, according to the nature of each case: *Provided*, That such allowance shall not be less than one-eighth, or exceeding one half of the full value of such re-capture, without any deduction. And such salvage shall be distributed to and among the owners, officers, and crews of the private armed vessel or vessels entitled thereto, according to any agreement which shall be between them; or in case of no agreement, then by the decree of the court who shall determine upon such salvage.

Sec. 7. *And be it further enacted*, That before breaking bulk of any vessel which shall be captured, as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such capture shall be brought into some port of the United States, and shall be libelled and proceeded against before the district court of the same district; and if, after a due course of proceedings, such capture shall be decreed as forfeited in the district court, or in the circuit court of the same district in the case of any appeal duly allowed, the same shall be delivered to the owners and captors concerned therein, or shall be publicly sold by the marshal of the same court, as shall be finally decreed and ordered by the court; and the same court, who shall have final jurisdiction of any libel or complaint of any capture as aforesaid, shall and may decree restitution, in whole or in part, where the capture and restraint shall have been made without just cause, as aforesaid; and if made without probable cause, or otherwise unreasonably, may order and decree damages and costs to the party injured, and for which the owners, officers, and crews of the private armed vessel or vessels, by which such unjust capture shall have been made, and also such vessel or vessels, shall be answerable and liable.

Sec. 8. *And be it further enacted*, That all French persons and others, who shall be found

acting on board any French armed vessel, which shall be captured, or on board of any vessel of the United States, which shall be re-captured, as aforesaid, shall be reported to the collector of the port in which they shall first arrive, and shall be delivered to the custody of the marshal, or of some civil or military officer of the United States, or of any State in or near such port; who shall take charge for their safe keeping and support, at the expense of the United States.

Approved, July 9, 1798.

An Act limiting the time within which claims against the United States, for credits on the books of the Treasury may be presented for allowance.

Be it enacted, &c., That all credits on the books of the Treasury of the United States, for transactions during the late war, which, according to the course of the Treasury, have hitherto been discharged by issuing certificates of registered debt, shall be forever barred and precluded from settlement or allowance, unless claimed by the proper creditors, or their legal representatives, on or before the first day of March, in the year one thousand seven hundred and ninety-nine. And the Secretary of the Treasury is hereby required to cause this act to be published in one or more of the public papers of each State.

Approved, July 9, 1798.

An Act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States.

Be it enacted, &c., That, for the purpose of making the valuations and enumerations hereinafter directed, there shall be, and are hereby designated and established, the following divisions, to wit:

The State of New Hampshire shall contain five divisions, as follows: The first division to consist of the county of Rockingham; the second division to consist of the county of Stafford; the third division to consist of the county of Hillsborough; the fourth division to consist of the county of Cheshire; and the fifth division to consist of the county of Grafton.

The State of Massachusetts shall contain nine divisions, as follow: The first division to consist of the counties of Hancock, Washington, and Lincoln; the second division to consist of the counties of York and Cumberland; the third division to consist of the county of Essex; the fourth division to consist of the counties of Suffolk and Norfolk; the fifth division to consist of the county of Middlesex; the sixth division to consist of the counties of Bristol, Plymouth, Barnstable, Duke's county, and Nantucket; the seventh division to consist of the county of Worcester; the eighth division to consist of the county of Hampshire; and the ninth division to consist of the county of Berkshire.

The State of Rhode Island shall contain three divisions, as follow: The first division to consist of the counties of Newport and Bristol; the second division to consist of the counties of Washington and Kent; and the third division to consist of the county of Providence.

The State of Connecticut shall contain five divisions, as follow: The first division to consist of the counties of Hartford and Tolland; the second division to consist of the counties of New Haven and Middlesex; the third division to consist of the counties of New London and Windham; the fourth division to consist of the county of Fairfield; and the fifth division to consist of the county of Litchfield.

The State of Vermont shall contain five divisions, as follow: The first division shall consist of the counties of Windham and Windsor; the second division to consist of the counties of Bennington and Rutland; the third division to consist of the counties of Orange and Caledonia; the fourth division to consist of the counties of Addison and Chittenden; and the fifth division to consist of the counties of Franklin, Orleans, and Essex.

The State of New York shall contain nine divisions, as follow: The first division to consist of the counties of Suffolk, Queen's, King's, and Richmond; the second division to consist of the city and county of New York; the third division to consist of the counties of Westchester, Rockland, Orange, and Ulster; the fourth division to consist of the counties of Duchess and Columbia; the fifth division to consist of the counties of Renselaer and Schoharie, and the city and county of Albany; the sixth division to consist of the counties of Washington, Clinton, and Saratoga; the seventh division to consist of the counties of Montgomery, Oneida, and Herkemer; the eighth division to consist of the counties of Delaware, Otsego, and Chenango; and the ninth division to consist of the counties of Tioga, Onandago, Steuben, and Ontario.

The State of New Jersey shall contain five divisions, as follow: The first division to consist of the counties of Bergen, Essex, and Middlesex; the second division to consist of the counties of Sussex and Morris; the third division to consist of the counties of Hunterdon and Somerset; the fourth division to consist of the counties of Burlington and Monmouth; and the fifth division to consist of the counties of Gloucester, Cumberland, Salem, and Cape May.

The State of Pennsylvania shall contain nine divisions, as follow: the first division to consist of the city and county of Philadelphia; the second division to consist of the counties of Delaware, Chester, and Lancaster; the third division to consist of the counties of Montgomery and Bucks; the fourth division to consist of the counties of Berks and Dauphin; the fifth division to consist of the counties of Northampton, Wayne, and Luzerne; the sixth division to consist of the counties of York, Cumberland, and Franklin; the seventh division to consist of the counties of Northumberland, Lycoming, and Mifflin; the eighth division to consist of the counties of Bedford, Somerset, and Huntingdon; and the ninth division to con-

sist of the counties of Westmoreland, Allegany, Washington, Greene, and Fayette.

The State of Delaware shall contain three divisions, as follow: The first division to consist of the county of Newcastle; the second division to consist of the county of Kent; and the third division to consist of the county of Sussex.

The State of Maryland shall contain seven divisions, as follow: The first division to consist of the counties of St. Mary's, Charles, and Calvert; the second division to consist of the counties of Montgomery and Prince George's, (including the city of Washington;) the third division to consist of the counties of Anne-Arundel, (including the city of Annapolis,) and Baltimore, (including the city of Baltimore;) the fourth division to consist of the counties of Washington, Frederick, and Allegany; the fifth division to consist of the counties of Harford, Cecil, and Kent; the sixth division to consist of the counties of Queen Anne's, Caroline, and Talbot; and the seventh division to consist of the counties of Somerset, Dorchester, and Worcester.

The State of Virginia shall contain eleven divisions, as follow: The first division to consist of the counties of Frederick, Berkeley, Shenandoah, Rockingham, Augusta, Rockbridge, Bath, and Botetourt; the second division to consist of the counties of Hampshire, Brooke, Hardy, Pendleton, Harrison, Monongalia, Ohio, and Randolph; the third division to consist of the counties of Greenbrier, Kenhawa, Montgomery, Wythe, Grayson, Washington, Russell, and Lee; the fourth division to consist of the counties of Patrick, Franklin, Henry, Bedford, Pittsylvania, Campbell, and Halifax; the fifth division to consist of the counties of Charlotte, Prince Edward, Buckingham, Cumberland, Powhattan, Amelia, Nottaway, Lunenberg, and Mecklenberg; the sixth division to consist of the counties of Chesterfield, Dinwiddie, Brunswick, Greensville, Sussex, and Prince George; the seventh division to consist of the counties of Surrey, Southampton, Isle of Wight, Nansemond, Norfolk, and Princess Anne; the eighth division to consist of the counties of Hanover, Henrico, New Kent, Charles City, James City, Matthews, Gloucester, York, Warwick, Elizabeth City, Accomack, and North Hampton; the ninth division to consist of the counties of Caroline, King and Queen, Essex, King William, Middlesex, Lancaster, Northumberland, Richmond, Westmoreland, and King George; the tenth division to consist of the counties of Stafford, Culpepper, Fairfax, Fauquier, Loudon, and Prince William; and the eleventh division to consist of the counties of Spottsylvania, Orange, Madison, Louisa, Fluvanna, Goochland, Albemarle, and Amherst.

The State of Kentucky shall contain five divisions, as follow: The first division to consist of the counties of Madison, Lincoln, Garrard, Mercer, Washington, and that part of the county of Franklin which lies on the south side of the Kentucky river; the second division to consist of the counties of Nelson, Shelby, Jefferson, Bullitt, and Hardin; the third division to consist of the counties of Green, Logan, Christian, and Warren; the fourth division to consist of the counties of Mason, Fleming, Bracken, Campbell, Harrison, and Bourbon; and the fifth division to consist of the counties of Fayette, Woodford, Scott, Clark, Montgomery, and that part of Franklin county which lies on the north side of the Kentucky river.

The State of North Carolina shall contain seven divisions, as follow: The first division to consist of Edenton district; the second division to consist of Newbern district; the third division to consist of Halifax district; the fourth division to consist of Hillsborough district; the fifth division to consist of Salisbury district; the sixth division to consist of Morgan district; and the seventh division to consist of Wilmington and Fayette districts.

The State of Tennessee shall contain three divisions, as follow: The first division to consist of the district of Washington; the second division to consist of the district of Hamilton; and the third division to consist of the district of Mero.

The State of South Carolina shall contain five divisions, as follow: The first division to consist of the districts of Charleston and Georgetown; the second division to consist of the districts of Cambden and Cheraw; the third division to consist of the districts of Pinckney and Washington; the fourth division to consist of the district of Ninety-six; and the fifth division to consist of the districts of Orangeburg and Beaufort.

The State of Georgia shall contain three divisions, as follow: The first division to consist of the counties of Chatham, Bryan, Liberty, McIntosh, Glynn, Cambden, and Effingham; the second division to consist of the counties of Washington, Montgomery, Scriven, Burke, Richmond, Jefferson, Warren, and Columbia; and the third division to consist of the counties of Hancock, Wilkes, Greene, Elbert, Oglethorpe, Jackson, and Franklin.

And where any new county shall have been, or hereafter may be formed, within any State, out of any one or more of the counties composing any one of the aforesaid divisions, such new county shall be considered as part of such division; and if such new county shall have been, or hereafter shall be formed out of counties lying in different divisions, then the commissioners to be appointed in pursuance of this act shall determine to which of such divisions it shall belong.

Sec. 2. *And be it further enacted*, That the said commissioners shall, before they enter on the discharge of the duties enjoined by this act, take and subscribe, before some competent magistrate, an oath or affirmation, truly, faithfully, and impartially to discharge their trust; in default of taking which oath or affirmation, before entering on the discharge of the duties aforesaid, the party failing shall forfeit and pay two hundred dollars for the use of the United States, to be recovered in any court having competent jurisdiction, with costs of suit.

Sec. 3. *And be it further enacted*. That there shall be one commissioner appointed for each of said divisions, who shall reside within the same; and if the appointment of said commissioners, or any number of them, shall not be made during the present session of Congress, the President of the United States shall be, and is hereby, empowered to make such appointment during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Sec. 4. *And be it further enacted*, That the commissioners for each State shall, immediately, or as soon as may be, after their appointment, convene in a general meeting, at such time and place as shall be appointed and directed by the commissioners for each State, first named and qualified according to this act; and a majority of the commissioners, so convened, shall have power to adjourn to such time and place as they shall judge proper, and a majority of the commissioners to be appointed in each State according to this act, when convened according to rules to be adopted at their first meeting, shall, and are hereby declared to be a board competent to transact and discharge any business or duties enjoined by this act.

Sec. 5. *And be it further enacted*, That the said commissioners, when convened as aforesaid shall and may appoint a suitable person to be their clerk, who shall hold his office at the pleasure of the said commissioners, whose duty it shall be to record and preserve all rules, proceedings, and documents of the said commissioners, and who shall take an oath or affirmation diligently and faithfully to discharge his trust; which oath or affirmation either of the said commissioners is hereby authorized to administer; and in default of taking such oath or affirmation, previous to entering on the duties of the said appointment, or on failure to record diligently and truly all or any rules or proceedings of the said commissioners, or to furnish transcripts or copies thereof, when directed by the said commissioners, or required by the Secretary of the Treasury, in writing, such clerk shall be discharged from office, and shall forfeit and pay one hundred dollars, to be recovered for the use of the United States, with costs of suit, in any court having competent jurisdiction.

Sec. 6. *And be it further enacted*, That it shall be the duty of the said commissioners to cause to be recorded and noted the names of such of the said commissioners as shall attend any general meeting; as also the periods of their attendance, respectively; and if any commissioner shall fail to attend such general meeting, and shall not transmit, or cause to be transmitted, to the said commissioners at their said meeting, or that next subsequently holden, an excuse for such absence, which shall, by a majority of the commissioners then present, be accepted as satisfactory and reasonable, such commissioner, so failing as aforesaid, shall, for every day which he may be absent during such meeting, forfeit and pay ten dollars, to be recovered for the use of the United States, with costs of suit, in any court having competent jurisdiction; or to be deducted from the compensation as hereafter established for the said commissioner: and a transcript from the records of the said commissioners, certified by their clerk, by which it shall appear that any commissioner has failed to attend a general meeting, and to transmit, or cause to be transmitted, an excuse, which shall have been accepted as satisfactory and reasonable, as aforesaid, shall, and the same is hereby declared to be conclusive and legal evidence that the penalty aforesaid has been incurred.

Sec. 7. *And be it further enacted*, That the commissioners of each State, convened as aforesaid, shall be, and hereby are, authorized and empowered to divide their respective States into a suitable and convenient number of assessment districts, within each of which they shall appoint one respectable freeholder, to be principal assessor, and such number of respectable freeholders to be assistant assessors, as they shall judge necessary for carrying this act into effect: *Provided*, That the Secretary of the Treasury shall be, and hereby is, authorized to reduce the number of assessment districts in any State, or the number of assistant assessors in any district, if either shall appear to him to be too great; and each assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some commissioner to be appointed by virtue of this act, the following oath or affirmation, to wit: "I, A. B., do swear or affirm that I will, to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for [naming the assessment district,] without favor or partiality, and that I will do equal right and justice, in every case in which I shall act as assessor:" and a certificate of such oath or affirmation shall be delivered to the commissioner of the district for which such assessor shall have been appointed; and every assessor, acting in his said office, without having taken the said oath or affirmation, shall forfeit and pay, for the use of the United States, one hundred dollars, to be recovered, with costs of suit, in any court having competent jurisdiction.

Sec. 8. *And be it further enacted*, That the commissioners for each State, convened, as aforesaid, shall be, and hereby are, authorized and required to establish all such regulations, as to them, or a majority of them, shall appear suitable and necessary for carrying this act into effect; which regulations shall be binding on each commissioner and assessor, in the performance of the duties enjoined by or under this act; and also to frame instructions for the said assessors, informing them, and each of them, of the duties to be by them respectively performed under this act: Pursuant to which regulations and instructions, the said commissioners shall, jointly or severally, direct and cause the said assessors, and each of them, to inquire after and concerning all lands, dwelling-houses, and slaves, in their respective assessment districts, by reference to any records or documents, and to any lists of assessment taken under the laws of their respective States, and by all other lawful ways and means; and to value and enumerate the said dwelling-houses, lands, and slaves, in the manner following, to wit: Every dwelling-house above the value of one hundred dollars, with the out houses thereto appurtenant, and the lot on which

such dwelling-house and out houses are erected, not exceeding two acres, in any case, shall be valued at the rate such dwelling-house, with the lot and appurtenances aforesaid, are worth in money, with a due regard to situation. All lands and town lots, except lots on which dwelling-houses above the value of one hundred dollars, with their appurtenances, are erected, as aforesaid, shall be valued by the quantity, either in acres or square feet, as the case may be, at the average rate which each separate and entire tract or lot is worth in money, in due relation to other lands and lots, and with reference to all advantages, either of soil or situation, and to all buildings and other improvements of whatever kind, except dwelling-houses above the value of one hundred dollars, and the out houses appurtenant thereto. And all slaves, whether negroes, mulattoes, or mestizoes, above the age of twelve, and under the age of fifty years, shall be enumerated in the assessment district in which they may, respectively, be kept or employed at the time of the enumeration, except such as from fixed infirmity, or bodily disability, may be incapable of labor: *Provided*, That all property, of whatever kind, coming within any of the foregoing descriptions, and belonging to the United States, or any State, or permanently exempted from taxation by the laws of the State wherein the same may be situated or possessed, shall be exempted from the aforesaid valuation and enumeration.

Sec. 9. *And be it further enacted*, That, for the purpose of making the aforesaid valuations and enumerations, the assessors to be appointed in each assessment district, in pursuance of this act, shall be, and hereby are, authorized and required to distribute their respective assessment districts, by mutual agreement, into such number of divisions as they shall deem convenient, not exceeding the number of assistant assessors appointed for each district; after which, they shall, severally, proceed, without delay, through their respective divisions, and, in general, through every part of their respective assessment districts, and shall require all persons owning or possessing any dwelling-houses, lands, or slaves, or having the care or management thereof, to deliver separate written lists, specifying in one list the dwelling-houses, in another the lands, and in a third the slaves, owned, possessed, or superintended by them, respectively, in each and every assessment district of the State, or of any other State, designating the State, county, parish, township, or town, as the case may be, where the property lies; and making separate lists, as aforesaid, for the property in each; and the said lists shall specify, in respect to dwelling-houses, their situation, their dimensions or area, their number of stories, the number and dimensions of their windows, the materials whereof they are built, whether wood, brick, or stone, the number, description, and dimensions of the out houses appurtenant to them, and the names of their owners or occupants; and, in respect to lands, the said lists shall specify the quantity of each separate tract or lot, the number, description and dimensions of all wharves and buildings thereon, except dwelling-houses above the value of one hundred dollars, and the out houses appurtenant thereto; the name of the owner or occupant; and the quantity of land such owner or occupant may claim, as entitled to exemption under this act, with the circumstances whereon the claim rests; and, in respect to slaves, the said lists shall specify the number above the age of twelve, and under the age of fifty years, owned or possessed by, or under the care of, each person, with the name of such person.

Sec. 10. *And be it further enacted*, That, if any person, as aforesaid, shall not be prepared to exhibit a written list, when required, and shall consent to disclose the particulars of any and all lands, dwelling-houses, and slaves, as aforesaid, then, and in such case, it shall be the duty of the assessor to make such list, which, being distinctly read and consented to, shall be received as the list of such person.

Sec. 11. *And be it further enacted*, That if any person shall deliver or disclose to any assessor, appointed in pursuance of this act, and requiring a list or lists, as aforesaid, any false or fraudulent list, with intent to defeat or evade the valuation or enumeration hereby directed to be made, such person so offending, and being thereof convicted before any court having competent jurisdiction, shall be fined in a sum not exceeding five hundred dollars, nor less than one hundred dollars, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration of such persons' property, shall, in all such cases, be made, as aforesaid, upon lists, according to the form above described, to be made out by the assessors, respectively; which lists the said assessors are authorized and required to make, according to the best information they can obtain, and for the purpose of making which, they are hereby authorized to enter into and upon all and singular the premises, respectively; and from the valuations and enumerations so made, there shall be no appeal.

Sec. 12. *And be it further enacted*, That the lists, aforesaid, shall be taken with reference to the first day of October next; and the commissioners, aforesaid, shall prescribe a time to the assessors of assessment districts, within which time the said lists shall be taken and delivered to the principal assessor, to be named for that purpose, in each assessment district; which time shall not be more than thirty days from the time of receiving their precepts or warrants. And all lists of property taken with reference to any other assessment district than that in which the owner or possessor resides, shall be immediately transmitted to the commissioner superintending the district, and from him to the principal assessor of the district within which such property is situated.

Sec. 13. *And be it further enacted*, That in case any person shall be absent from his place of residence at the time an assessor shall call to receive the list of such person, it shall be the duty of such assessor to leave at the house or place of residence of such person a written note or memorandum,

requiring him to present to such assessor the list or lists required by this act, within ten days from the date of such note or memorandum.

Sec. 14. *And be it further enacted*, That if any person, on being required or notified, as aforesaid, shall refuse or neglect to give such list or lists, as aforesaid, within the time required by this act, it shall be the duty of the assessors, for the assessment district within which such person shall reside, or of some two or more of them, and they, or some two or more of them, are hereby authorized and required to enter into and upon the lands, dwelling-houses, and premises of such person so neglecting or refusing, and to make, according to the best information which they can obtain, and, on their own view, such list or lists of the lands, dwelling-houses, and slaves of such person, as are required by this act; which lists, so made and subscribed by such assessors, shall be taken and reputed as good and sufficient lists of the lands, dwelling-houses, and slaves of such person, under, and for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or absence from home, for the whole period from the leaving of such notification, to the expiration of the said ten days, shall, moreover, forfeit and pay the sum of one hundred dollars, to be recovered, with costs of suit, in any court having competent jurisdiction; one moiety to the use of the assessors for the assessment district in which such person shall reside, and the other moiety to the use of the United States.

Sec. 15. *And be it further enacted*, That whenever there shall be, in any assessment district, any dwelling-houses, lands, or slaves, not owned or possessed by any person or persons within such district, and no list of which shall be transmitted to the principal assessor of such district, in the manner provided by this act, it shall be the duty of the assessors for such district, or some one or more of them, and they, or some one or more of them, are hereby authorized and required to enter into and upon all such dwelling-houses, lands, and lots, and to make lists of the same, respectively, after the form prescribed by this act, and also to make lists of all slaves, as aforesaid; which lists, being subscribed by the said assessor or assessors, shall be taken and reputed as good and sufficient lists of such lands, dwelling-houses, and slaves, under and for the purpose of this act.

Sec. 16. *And be it further enacted*, That the assessors, after collecting the said lists of lands, dwelling-houses, and slaves, shall proceed to value and assess the same, in a just proportion, according to this act, and shall arrange and class the said lands, dwelling-houses, and slaves, in three general lists; the first of which lists shall exhibit in alphabetical order, the names of all proprietors and possessors, where known, of lots and tracts of land in such assessment district, with the quantity and valuation of each lot and tract, and the whole valuation of the lands belonging to, or possessed by, any one person; the second list shall exhibit, in alphabetical order, the names of all proprietors and possessors of dwelling-houses, above the value of one hundred dollars, with the description and valuation of each dwelling-house, and the appurtenances, and the quantity of land valued therewith, according to this act; and the third list shall exhibit, in alphabetical order, the names of all persons owning, possessing, or having the care of any slaves, with the number of slaves, as aforesaid, owned by, or under the care of each person: And the forms of the said lists shall be devised and prescribed by the Department of the Treasury.

Sec. 17. *And be it further enacted*, That if any assessor shall fail to perform any duty assigned by this act, within the time prescribed in his precept, warrant, or other legal instructions, not being prevented therefrom by sickness, or other unavoidable accident, every such assessor shall be discharged from office, and shall moreover forfeit and pay two hundred dollars, to be recovered for the use of the United States, in any court having competent jurisdiction, with costs of suit.

Sec. 18. *And be it further enacted*, That immediately after the valuations and enumerations shall have been completed, as aforesaid, the principal assessor in each assessment district, shall, by written notifications, to be publicly posted up, in at least four of the most public places in such district, advertise all persons concerned, of the place where the said lists, valuations, and enumerations may be seen and examined; and that during fifteen days after the publication of the notifications, as aforesaid, appeals will be received and determined by him, relative to any erroneous or excessive valuations or enumerations by the assessor.

Sec. 19. *And be it further enacted*, That it shall be the duty of the principal assessor, in each assessment district, during fifteen days after the date of public notification, to be made as aforesaid, to submit the proceedings of the assessors, and the lists by them received or taken, as aforesaid, to the inspection of any and all persons who shall apply for that purpose: And the said principal assessors are hereby authorized to receive, hear, and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessors: *Provided always*, That the question to be determined by the principal assessor, on an appeal respecting the valuation of any lands or dwelling-houses, shall be, whether the valuation complained of, be, or be not, in a just relation or proportion to other valuations in the same assessment district.

Sec. 20. *And be it further enacted*, That all appeals to the principal assessors, as aforesaid, shall be made in writing, and shall specify the particular cause, matter or thing, respecting which a decision is requested, and shall, moreover, state the ground or principle of inequality or error complained of, by reference to some one or more valuations of lands or dwelling-houses in the same assessment district; and in all cases to which reference may be made in any appeal, as aforesaid, the principal assessor shall have power to re-examine and equalize the valuations as shall appear just and equitable; but no valuation shall

be increased, without a previous notice of at least five days to the party interested, to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling of the party, by such assessor as the principal assessor shall designate for that purpose.

SEC. 21. *And be it further enacted*, That immediately after the expiration of the time for receiving, hearing, and deciding on appeals, and within such period as shall be prescribed by the commissioners aforesaid, the principal assessor and other assessors of each assessment district, shall make out, subscribe, and transmit to the commissioner superintending the district, exact copies, certified under their hands, of all lists respectively taken by them, or either of them, as aforesaid, together with three abstracts of their proceedings; one of which abstracts shall exhibit a summary view of the valuations of all lands, and another abstract shall exhibit a summary view of the valuations of all dwelling-houses, and a third abstract shall exhibit a summary view of the enumeration of all slaves, as aforesaid, in each district; the forms of which abstracts shall be established and prescribed by the Department of the Treasury.

SEC. 22. *And be it further enacted*, That the commissioners, as aforesaid, shall have power, on consideration and examination of the abstracts to be rendered by the assessors, as aforesaid, and of the lists aforesaid, to revise, adjust and vary, the valuations of lands and dwelling-houses in any assessment district, by adding thereto, or deducting therefrom, such a rate per centum as shall appear to be just and equitable: *Provided*, That the relative valuations of the different lots or tracts of land, or dwelling-houses, in the same assessment district, shall not be changed or affected: *Provided nevertheless*, That if manifest error or imperfection shall appear in any of the said abstracts, the commissioners shall and may require of the assessors, that the said abstracts be explained and corrected, and shall and may remove from office, any and all of the said assessors, and otherwise proceed against them according to this act; and if necessary, in the opinion of a majority of the commissioners, convened in a general meeting, a new valuation may be directed, and after such valuation shall have been completed and confirmed, in the manner prescribed by this act, the said commissioners shall cause the aforesaid abstracts and lists to be transmitted to the Secretary of the Treasury; in default of which, they shall severally forfeit and pay, for the use of the United States, two hundred dollars, to be recovered with costs of suit, in any court having competent jurisdiction.

SEC. 23. *And be it further enacted*, That the said commissioners, as aforesaid, shall and may direct the principal assessors of each assessment district, to register and record the lists, valuations, and enumerations, made by the assessors, as aforesaid; and to add to, or deduct from the valuations of the lands and dwelling-houses of each individual, such a rate per centum as shall be determined by the commissioners, as aforesaid.

SEC. 24. *And be it further enacted*, That after the valuations, enumerations, and records thereof, shall have been completed, according to this act, it shall be lawful for the supervisors of districts comprehending but one survey of inspection, and the inspectors of surveys in districts comprehending more than one survey of inspection, with the concurrence of the supervisors of such districts, to depute one skilful and fit person, in each assessment district, to be surveyor of the revenue; and every surveyor of the revenue, so appointed, shall give bond with surety, in a sum not less than five hundred nor more than two thousand dollars, for the diligent and faithful execution of his office, and shall take and subscribe an oath or affirmation, truly, faithfully, and impartially, to discharge the duties enjoined by this act; and a certificate of the said oath or affirmation, with the said bond, shall be transmitted to, and lodged in the office of the supervisor of the district.

SEC. 25. *And be it further enacted*, That it shall be the duty of the surveyors of the revenue to receive and safely preserve the records of the lists, valuations, and enumerations hereinbefore mentioned: And the said surveyors shall keep true and exact accounts of the valuation of the lands and dwelling-houses belonging to each and every individual, distinguishing each tract, lot, and dwelling-house. And whenever any lands or dwelling-houses, included in the said valuation, shall be alienated, or in any way transferred, it shall be the duty of the surveyor of the revenue for the district, if a dwelling-house, or entire tract or lot has been alienated, to charge the amount of the valuation thereon to an account with the purchaser, and to credit the account of the person disposing of the same; and whenever a tract of land, lot, or dwelling-house, shall be divided by sale or partition, the said surveyor shall, by entry and view of the said land or dwelling-house, or by other lawful ways and means, inform himself of the relative value of the different parts of the original tract, or lot, or dwelling-house, so divided, and shall apportion the value of the entire tract, or lot, or dwelling-house, as shall be just and equitable, and shall enter and record the same in manner aforesaid. And whenever, and so often as a new dwelling-house shall be erected and inhabited, after the first day of October next, or any dwelling-houses or lands, which, at the time of making the said valuation, shall be exempted from taxation by the laws of the State where the same shall be situated, shall cease to be so exempted, the said surveyors shall and may, in their respective districts, proceed to value and assess the same, in like manner, and on the principles hereinbefore prescribed, in respect to valuations of dwelling-houses and lands, and shall add the same to the valuations to be made by assessors as aforesaid. And whenever, and so often as any dwelling-house shall be destroyed or damaged by fire, or other accident, it shall be lawful for the surveyors to cancel the valuations thereon, if such house be wholly destroyed; or, if such house be merely damaged or impaired, to reduce the valuation thereon, to such sum as shall be just and equitable: *Provided*, That no change of the valuation of any dwelling-house, shall be valid, until the same shall have been approved by the inspector of the survey, or the supervisor of the district, if comprehending but one survey of inspection.

SEC. 26. *And be it further enacted*, That it shall be the duty of the surveyors of the revenue, whenever they shall receive precepts or warrants for that purpose, from the inspectors of surveys, or the supervisors of districts comprehending but one survey of inspection, to enumerate any and all slaves in their respective districts above the age of twelve and under the age of fifty years, except such as from fixed infirmity, or bodily disability, may be incapable of labor, as aforesaid, and to report the number thereof, as also the number of houses, with the valuations, thereof, respectively, and the valuation of any and all lands, and also to compute and state the taxes which may be due and payable by each and every individual; and to deliver true and correct lists thereof, to the persons who may be appointed to receive the same.

SEC. 27. *And be it further enacted*, That the said surveyors of the revenue shall, at all times, submit the inspection of their books and records to the supervisors and inspectors of the internal revenues of the United States, or to any person authorized and deputed by the Secretary of the Treasury for that purpose; and shall, moreover, grant and certify copies or transcripts therefrom, to any persons who shall apply for the same, and who shall, previously, tender or pay the fees hereafter allowed and established therefor.

SEC. 28. *And be it further enacted*, That the following compensations shall be allowed to the commissioners, clerks, and assessors, aforesaid, for services to be performed under this act.

To each commissioner, one hundred and fifty dollars, in addition to an allowance of three dollars per diem, for each and every day, in going to, attending at, and returning from any general meeting of the said commissioners, or in visiting the several assessment districts, in pursuance of any resolution of the said commissioners.

To each clerk of the commissioners, a compensation for the time they may be employed, not exceeding the rate of five hundred dollars per annum.

To each assessor, other than principal assessors, one dollar and fifty cents per diem, for every day employed in collecting lists; and also one dollar per diem for every day employed in arranging the said lists, and making the valuations and enumerations.

To each principal assessor, one dollar and fifty cents for every day employed in receiving and arranging lists, and hearing appeals, and in recording the lists, valuations, and enumerations, aforesaid, and corresponding with commissioners; and, in addition to the said allowances and compensations, the said commissioners and assessors shall be allowed their necessary and reasonable charges for books and stationery: and the accounts of the assessors shall be certified by, and presented to the commissioners, in the name of the principal assessor of each assessment district, who shall be responsible to the other assessors. And the accounts of the assessors and commissioners in each State, shall be presented at the Treasury, for adjustment, in the name of some one of the commissioners, to be designated for that purpose, by the other commissioners, who shall distribute the sums payable to the principal assessors, aforesaid: *Provided*, That no allowance shall be made to the assessors, other than for the expense of books and stationery, until it shall be ascertained and certified to the satisfaction of the commissioners, that the services directed by this act, have been performed. And all letters or packets to or from any commissioner, appointed under this act, shall, within the limits of the State for which such commissioner is appointed, be conveyed by post, free of postage.

SEC. 29. *And be it further enacted*, That the surveyors of the revenue shall be allowed the following compensations, for services to be performed under this act: For recording each and every transfer of the valuation of every entire tract of land, or dwelling-house, twelve-and-a-half cents: For apportioning each and every valuation of a tract of land, lot, or dwelling-house, and recording the same, in consequence of any division or partition thereof, fifty cents for every division of the original tract, lot, or dwelling-house: For viewing each and every dwelling-house, in consequence of an application for the reduction of a valuation, and for recording the proceeding thereon, one dollar: For every official certificate, except such as may be required by the Treasury Department, or the supervisors, inspectors, or collectors of the revenue, twenty-five cents. And the compensations aforesaid, shall be paid by the party or parties applying for such reduction, record, exoneration, or apportionment.

SECT. 30. *And be it further enacted*, That for the purpose of defraying the expenses incident to the valuations and enumerations directed by this act, there be appropriated the sum of one hundred and fifty thousand dollars, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, July 9, 1798.

An Act to regulate and fix the compensations of the officers employed in collecting the internal revenues of the United States, and to insure more effectually the settlement of their accounts.

Be it enacted, &c., That, in lieu of the compensations now established, there shall, from and after the first day of July, instant, be allowed, for the collection of the internal duties which have been heretofore imposed by law, the respective compensations following, to wit:

To the supervisor of the district of Virginia, an annual salary of one thousand three hundred and fifty dollars.

To the supervisor of the district of Pennsylvania, an annual salary of one thousand two hundred dollars.

To each of the supervisors of Massachusetts, New York, Maryland, North Carolina, and South Carolina, an annual salary of one thousand dollars.

To each of the supervisors of Connecticut and Ohio, an annual salary of seven hundred dollars.

To each of the supervisors of Rhode Island and New Jersey, an annual salary of six hundred dollars.

To each of the supervisors of New Hampshire, Vermont, Delaware, Tennessee, and Georgia, an annual salary of five hundred dollars.

SEC. 2. *And be it further enacted*, That the following sums shall be allowed to the supervisors for clerk hire, in their respective offices, to wit:

To the supervisors of Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina, eight hundred dollars per annum, each.

To the supervisors of New Hampshire, Rhode Island, Connecticut, New Jersey, and Georgia, four hundred dollars per annum, each.

To the supervisors of Vermont, Delaware, Ohio, and Tennessee, three hundred dollars per annum, each.

SEC. 3. *And be it further enacted*, That the supervisors shall severally be allowed, in addition to the salaries aforesaid, the same commissions on the product of all the internal duties heretofore imposed and collected in their respective districts, as have been heretofore allowed under the authority of the President of the United States.

SEC. 4. *And be it further enacted*, That the inspectors of surveys now established under the authority of the President of the United States, in the several districts, not being also supervisors, shall each be allowed an annual salary of five hundred dollars.

SEC. 5. *And be it further enacted*, That each of the inspectors, not being also a supervisor, shall, in addition to the salary aforesaid, and to the commissions heretofore allowed to them by the President of the United States, be allowed two hundred dollars per annum for clerk hire in their respective offices.

SEC. 6. *And be it further enacted*, That the collectors of the revenue shall be allowed a commission of six per centum on the product of all the internal duties heretofore imposed, and by them respectively received; except that, in the districts of Massachusetts and Rhode Island, a commission of four per centum, only, shall be allowed to the said collectors, upon the amount of duties arising from spirits distilled from foreign materials.

SEC. 7. *And be it further enacted*, That it shall be lawful for the supervisors of districts, to apportion and allow to such of the collectors of the revenue and auxiliary officers, as, for the execution of the public service, it shall appear to them really necessary so to compensate, yearly salaries, not exceeding the medium rate of eighty dollars to the collectors of the revenue actually employed, nor exceeding the medium rate of thirty dollars to the auxiliary officers actually employed, nor exceeding the sums following, in the respective districts, to wit: In New Hampshire, four hundred and twenty dollars; in Massachusetts, one thousand four hundred and sixty dollars; in Rhode Island, two hundred and fifty dollars; in Connecticut, six hundred dollars; in Vermont, four hundred and twenty dollars; in New York, one thousand and ninety dollars; in New Jersey, eight hundred and twenty dollars; in Pennsylvania, one thousand six hundred and ten dollars; in Delaware, three hundred and thirty dollars; in Maryland, one thousand five hundred dollars; in Virginia, four thousand six hundred and fifty dollars; in Ohio, seven hundred and ninety dollars; in Tennessee, three hundred and thirty dollars; in North Carolina, two thousand seven hundred and eighty dollars; in South Carolina, two thousand three hundred and forty dollars; and in Georgia, six hundred and sixty dollars.

SEC. 8. *And be it further enacted*, That the supervisors shall be allowed, for preparing, stamping, and distributing, among the inspectors, one cent for every certificate to accompany foreign or domestic spirits, wines, or teas, actually issued in the surveys and ports of their respective districts; that the inspectors of surveys, and such of the supervisors as perform the same duties, shall be allowed two cents-and-one-half for each certificate signed by them, and issued to accompany domestic distilled spirits, and one cent for each certificate signed by them, and issued to accompany foreign distilled spirits; that the inspectors of the revenue for ports, shall be allowed one cent-and-one-half, for every certificate issued in their ports, respectively, to accompany foreign distilled spirits, and two cents-and-one-half, for every certificate to accompany wines or teas; and to the deputies of such inspectors, the sum of two cents-and-one-half for every cask or package of foreign distilled spirits, wines, or teas, by them marked according to law, and returned to their respective principals; and for gauging wines, whereon the duties are payable according to the value thereof, six cents for every cask actually gauged; and that the collectors of the revenue shall be allowed for measuring and marking, according to law, each still under the capacity of one hundred gallons, sixty cents; and for each still of the capacity of one hundred gallons, or more, seventy-five cents; and for marking each cask of domestic distilled spirits, and for issuing and countersigning a certificate to accompany the same, two-and-one-half cents, and for every cask which they respectively gauge, or cause to be gauged, six cents.

SEC. 9. *And be it further enacted*, That it shall be lawful, this act notwithstanding, for the collectors of the revenue to demand of individuals the fee or extra compensation authorized by the seventh section of the act passed on the twenty-eighth day of May, one thousand seven hundred and ninety-six, entitled "An act laying duties upon carriages for the conveyance of persons, and repealing the former act for that purpose;" in the manner and on the conditions thereby prescribed.

SEC. 10. *And be it further enacted*, That, from and after the first day of July, instant, it shall be the duty of the several officers employed, or to be employed, in collecting the internal revenues of the United States, to keep accurate accounts of their official emoluments and expenditures, and

the same to transmit annually, on the last day of December, to the Commissioner of the Revenue; abstracts of which accounts shall, annually, be laid before Congress, by the Secretary of the Treasury.

SEC. 11. *And be it further enacted*, That the necessary expenses of procuring books, stationery, printed forms, certificates, and other documents, necessary for the collection of the internal revenues, shall and may be allowed to the supervisors, inspectors, and collectors, of the revenue, in the settlement of their accounts. And all letters and packets to and from the said supervisors and inspectors of the revenue, on business of their respective offices, shall be received and conveyed by post, free of postage.

SEC. 12. *And be it further enacted*, That the supervisors of districts, inspectors of surveys, and collectors of the revenue, shall, within three months after being thereto required, give bonds with sureties, for the true and faithful execution of their respective offices, and settlement of their accounts, according to law, in manner following, to wit: The supervisors of Massachusetts, New York, Pennsylvania, and Virginia, in the sum of twenty-five thousand dollars, each; the supervisors of New Hampshire, Rhode Island, Connecticut, New Jersey, Maryland, North Carolina, and South Carolina, in the sum of fifteen thousand dollars, each; and the supervisors of Vermont, Delaware, Ohio, Tennessee, and Georgia, in the sum of ten thousand dollars, each; and the inspectors of the several surveys, in the sum of ten thousand dollars, each; which bonds shall be severally approved by the Comptroller of the Treasury, and shall be filed in his office, to be by him put in suit for the benefit of the United States, upon any breach of the conditions thereof; and the collectors of the revenue shall severally give like bonds, with sureties, in a sum not less than three thousand dollars; which bonds shall be approved by the supervisors of the respective districts, and shall be filed in their offices, to be by them put in suit, upon any breach of the conditions thereof.

SEC. 13. *And be it further enacted*, That all suits on bonds, taken in pursuance of this act, shall be instituted and determined in the manner prescribed by the act, passed on the third day of March, one thousand seven hundred and ninety-seven, entitled "An act to provide more effectually for the settlement of accounts between the United States, and receivers of public money;" and in all suits instituted against an inspector of any survey, or collector of the revenue, transcripts from the books of the supervisor of the proper district, or copies of any papers, or other documents relating to the accounts of such inspector or collector, duly authenticated, under the seal of the said supervisor, shall have equal validity, and be entitled to the same credit which would be due to the original papers, if produced in open court, subject, nevertheless, to the condition mentioned in the second section of the act before recited.

SEC. 14. *And be it further enacted*, That the bond of any supervisor or other officer of the revenue, who shall neglect or refuse, for more than six months, to make up, and render to the proper officer, his accounts of all duties collected or secured, pursuant to such forms and regulations as have been, or shall be prescribed, according to law, or to verify such accounts on oath or affirmation, if thereto required, or to pay over the moneys which shall have been collected, shall be deemed forfeited, and judgment thereon shall and may be taken at the return term, on motion to be made in open court, by the Attorney of the United States, unless sufficient cause to the contrary be shown to, and allowed by the court: *Provided always*, That the writ of process, in such case, shall have been executed at least fourteen days before the return day thereof.

SEC. 15. *And be it further enacted*, That the amount of all debts due to the United States by any supervisor or other officer of the revenue, whether secured by bond or otherwise, shall, and hereby is declared to be a lien upon the lands and real estate of such supervisor or other officer of the revenue, and their sureties, from the time when a suit shall be instituted for recovering the same; and for want of goods and chattels, or other personal effects of such supervisor or other officer of the revenue, and their sureties, to satisfy any judgment which shall or may be recovered against them, respectively, such lands and real estates may be sold at public auction, after being advertised for at least three weeks, in not less than three public places in the proper district, survey, or division, and in one newspaper printed in the country, if any there be, at least six weeks prior to the proposed time of sale; and for all lands and real estate sold in pursuance of the authority aforesaid, the conveyances of the marshals, or their deputies, executed in due form of law, shall afford a valid title against all persons claiming under such supervisor, or other officer of the revenue, or their sureties, respectively.

SEC. 16. *And be it further enacted*, That, from and after the first day of July, instant, so much of any law or laws as authorizes the President of the United States, to fix or vary the compensation of the officers employed in the collection of the internal revenues, or limits the yearly sums to be allowed to them, be, and the same is hereby repealed.

Approved, July 11, 1798.

An Act for establishing and organizing a Marine Corps.

Be it enacted, &c., That, in addition to the present Military Establishment, there shall be raised and organized a corps of marines, which shall consist of one major, four captains, sixteen first lieutenants, twelve second lieutenants, forty-eight sergeants, forty-eight corporals, thirty-two drums and fifes, and seven hundred and twenty privates, including the marines who have been enlisted, or are authorized to be raised, for the naval armament; and the said corps may be formed into as many companies or detachments as the President of the United States shall direct, with a proper distribution of the commissioned and non-commissioned

officers and musicians to each company or detachment.

SEC. 2. *And be it further enacted*, That the pay and subsistence of the said officers, privates, and musicians, shall be as follows, to wit: to a major, fifty dollars per month, and four rations per day; to a captain, forty dollars per month, and three rations per day; to a first lieutenant, thirty dollars per month, and three rations per day; to a second lieutenant, twenty-five dollars per month, and two rations per day; and to the non-commissioned officers, privates, and musicians, conformably to the act, entitled, "An act providing a naval armament," as shall be fixed by the President of the United States: and the President of the United States shall be and is hereby authorized to continue the enlistment of marines until the said corps shall be complete; and, of himself, to appoint the commissioned officers, whenever, in the recess of the Senate, an appointment shall be necessary. And the enlistments, which shall be made by virtue hereof, may be for the term of three years, subject to be discharged by the President of the United States, or by the ceasing or repeal of the laws providing for the naval armament. And if the marine corps, or any part of it, shall be ordered by the President to do duty on shore, and it shall become necessary to appoint an adjutant, paymaster, quartermaster, sergeant major, quartermaster sergeant, and drum and fife major, or any of them, the major or commandant of the corps is hereby authorized to appoint such staff officer or officers, from the line of subalterns, sergeants, and music, respectively, who shall be entitled, during the time they shall do such duty, to the same extra pay and emoluments which are allowed by law to officers acting in the same capacities in the infantry.

SEC. 3. *And be it further enacted*, That the detachments of the corps of marines, hereby authorized, shall be made in lieu of the respective quotas of marines, which have been established or authorized for the frigates, and other armed vessels or galleys, which shall be employed in the service of the United States: and the President of the United States may detach and appoint such of the officers of this marine corps, to act on board the frigates, and any of the armed vessels of the United States, respectively, as he shall, from time to time, judge necessary; anything in the act "providing a naval armament," to the contrary hereof, notwithstanding.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, privates, and musicans, aforesaid, shall take the same oath, and shall be governed by the same rules and articles of war, as are prescribed for the Military Establishment of the United States, and by the rules for the regulation of the Navy, heretofore, or which shall be established by law, according to the nature of the service in which they shall be employed, and shall be entitled to the same allowance, in case of wounds or disabilities, according to their respective ranks, as are granted by the act "to ascertain and fix the Military Establishment of the United States."

SEC. 5. *And be it further enacted*, That the non-commissioned officers, musicians, seamen, and marines, who are or shall be enlisted into the service of the United States, and the non-commissioned officers and musicians, who are or shall be enlisted into the Army of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests for any debt or contract.

SEC. 6. *And be it further enacted*, That the marine corps, established by this act, shall, at any time, be liable to do duty in the forts and garrisons of the United States, on the sea coast, or any other duty on shore, as the President, at his discretion, shall direct.

Approved, July 11, 1798.

An Act establishing an annual salary for the Surveyor of the port of Gloucester.

Be it enacted, &c., That there be allowed to the surveyor of the port of Gloucester, in the State of Massachusetts, the yearly salary of two hundred and fifty dollars, to commence from the last day of March, in the year of our Lord one thousand seven hundred and ninety-seven.

Approved, July 14, 1798.

An Act, in addition to the act, entitled, "An act for the punishment of certain crimes against the United States."

Be it enacted, &c., That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the Government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the Government of the United States, from undertaking, performing, or executing, his trust or duty; and if any person or persons, with intent as aforesaid, shall counsel, advise, or attempt to procure, any insurrection, riot, unlawful assembly or combination, whether such conspiracy, threatening, counsel, advice, or attempt, shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months, nor exceeding five years; and, further, at the discretion of the court, may be holden to find sureties for his good behaviour in such sum, and for such time, as the said court may direct.

SEC. 2. *And be it further enacted*, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious, writing or writings against the Government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said Government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States; or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States, or to resist, oppose, or defeat any such law or act; or to aid, encourage, or abet, any hostile designs of any foreign nation against the United States, their people or Government, then such persons, being thereof convicted, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

SEC. 3. *And be it further enacted*, That if any person shall be prosecuted, under this act, for the writing or publishing any libel, aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter contained in the publication charged as a libel. And the jury, who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

SEC. 4. *And be it further enacted*, That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: *Provided*, That the expiration of the act shall not prevent or defeat a prosecution and punishment of any offence against the law, during the time it shall be in force.

Approved, July 14, 1798.

An Act to lay and collect a direct tax within the United States.

Be it enacted, &c., That a direct tax of two millions of dollars shall be, and hereby is, laid upon the United States, and apportioned to the States, respectively, in the manner following:

To the State of New Hampshire, seventy-seven thousand seven hundred and five dollars thirty-six cents and two mills.

To the State of Massachusetts, two hundred and sixty thousand four hundred and thirty-five dollars thirty one cents and two mills.

To the State of Rhode Island, thirty-seven thousand five hundred and two dollars, and eight cents.

To the State of Connecticut, one hundred and twenty-nine thousand seven hundred and sixty-seven dollars and two mills.

To the State of Vermont, forty-six thousand eight hundred and sixty-four dollars eighteen cents and seven mills.

To the State of New York, one hundred and eighty-one thousand six hundred and eighty dollars seventy cents and seven mills.

To the State of New Jersey, ninety-eight thousand three hundred and eighty-seven dollars twenty-five cents and three mills.

To the State of Pennsylvania, two hundred and thirty-seven thousand one hundred and seventy-seven dollars seventy-two cents and seven mills.

To the State of Delaware, thirty thousand four hundred and thirty dollars seventy-nine cents and two mills.

To the State of Maryland, one hundred and fifty-two thousand five hundred and ninety-nine dollars ninety-five cents and four mills.

To the State of Virginia, three hundred and forty-five thousand four hundred and eighty-eight dollars fifty-six cents and five mills.

To the State of Kentucky, thirty-seven thousand six hundred and forty-three dollars ninety-nine cents and seven mills.

To the State of North Carolina, one hundred and ninety-seven dollars ninety-six cents and five mills.

To the State of Tennessee, eighteen thousand eight hundred and six dollars thirty-eight cents and three mills.

To the State of South Carolina, one hundred and twelve thousand nine hundred and ninety-seven dollars seventy-three cents and nine mills.

And to the State of Georgia, thirty-eight thousand eight hundred and fourteen dollars eighty-seven cents and five mills.

SEC. 2. *And be it further enacted*, That the said tax shall be collected by the supervisors, inspectors, and collectors of the internal revenues of the United States, under the direction of the Secretary of the Treasury, and pursuant to such regulations as he shall establish, and shall be assessed upon dwelling-houses, lands, and slaves, according to the valuations and enumerations, to be made pursuant to the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," and in the following manner: Upon every dwelling-house which, with the out-houses appertenant thereto, and the lot whereon the same are erected, not exceeding two acres in any case, shall be valued in manner aforesaid, at more than one hundred, and not more than five hundred dollars, there shall be assessed, in the manner herein provided, a sum equal to two-tenths of one per centum on the amount of the valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than five hundred, and not more than one thousand dollars, there shall be assessed a sum equal to three-tenths of one per centum on the amount of the valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than one thousand, and not more than three thousand dollars, there shall be assessed a sum equal to four-tenths of one per centum on the amount of the valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than three thousand, and not more than six thousand dollars, there shall be assessed a sum equal to one-half of one per centum on the amount of valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than six, and not more than ten thousand dollars, there shall be assessed a sum equal to sixth-tenths of one per centum on the amount of the valuation; upon every

dwelling-house, which shall be valued as aforesaid, at more than ten, and not more than fifteen thousand dollars, there shall be assessed a sum equal to seven-tenths of one per centum on the amount of the valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than twenty thousand dollars, there shall be assessed a sum equal to eight-tenths of one per centum on the amount of the valuation; upon every dwelling-house, which shall be valued as aforesaid, at more than twenty, and not more than thirty thousand dollars, there shall be assessed a sum equal to nine-tenths of one per centum, on the amount of the valuation; and upon every dwelling-house, which shall be valued as aforesaid, at more than thirty thousand dollars, there shall be assessed a sum equal to one per centum on the amount of the valuation.

And upon every slave which shall be enumerated, according to the act aforesaid, there shall be assessed fifty cents.

And the whole amount of the sums so to be assessed upon dwelling-houses and slaves, within each State, respectively, shall be deducted from the sum hereby apportioned to such State, and the remainder of the said sum shall be assessed upon the lands within such State, according to the valuations to be made pursuant to the act aforesaid, and at such rate per centum as will be sufficient to produce the said remainder: *Provided*, That no part of said tax shall be assessed upon such lands or dwelling-houses, and slaves, as, at the time of passing this act, are especially exempted from taxes, by the laws of the States respectively.

Sec. 3. *And be it further enacted*, That the aforesaid assessments shall be made by the supervisors of the several districts within the United States, respectively, and pursuant to instructions from the Secretary of the Treasury; which instructions the said Secretary shall be and is hereby authorized and required to issue to such supervisors, or any of them, so soon as the valuations and enumerations directed to be made by the aforesaid act shall have been completed in the State to which such supervisor belongs. And the said tax shall become due and payable from and after the expiration of three months after the instructions aforesaid shall have been received by the supervisors respectively: *Provided*, That if, on making the assessments as aforesaid, it should appear that the sums so to be assessed on houses and slaves within any State will exceed the sum hereby apportioned to such State, the supervisor shall be and hereby is authorized and required to deduct, from the sums so to be assessed on houses, such rate per centum as shall be sufficient to reduce the whole amount of the said assessments to the sum apportioned to such State as aforesaid.

Sec. 4. *And be it further enacted*, That the said supervisors shall be, and hereby are, authorized and required to appoint such and so many suitable persons in each assessment district within their respective districts, as may be necessary for collecting the said tax, and shall assign to them, respectively, their collection districts therein; which persons shall be collectors within their respective collection districts, and shall collect the said tax, under the direction of the supervisors, respectively, and according to the regulations and provisions contained in this act, or to be established pursuant thereto.

Sec. 5. *And be it further enacted*, That as soon as the aforesaid assessment shall have been completed, the said supervisors shall, by special warrants under their hands, respectively, cause the surveyors of the revenue within their respective districts, to make out lists containing the sums payable according to such assessments for every dwelling-house, tract, or lot of land, and slave, within each collection district, respectively; which lists shall contain the name of the proprietor or occupant of each dwelling-house, tract, or lot of land, and slave, within the collection district, or of the person having the care or superintendence of them, or any of them, where such proprietor, occupant, or superintendent is known, and the whole sum payable by each person within the said district, distinguishing what is payable for dwelling-houses, what for slaves, and what for lands. And where there are lands, slaves, or dwelling-houses, within any collection district, not owned or occupied by, or under the care or superintendence of, any person resident therein, there shall be a separate list of such lands, dwelling-houses, and slaves, specifying the sums payable for each, and the names of the proprietors or superintendents, respectively, where known.

Sec. 6. *And be it further enacted*, That each of the collectors, to be appointed as aforesaid, shall be furnished by the surveyor of the revenue for the assessment district within which he shall have been so appointed, with one or more of the said lists, signed and certified by such surveyor. And each collector, on receiving a list as aforesaid, shall subscribe three receipts; one of which shall be given on a full and correct copy of such list, and the other two on aggregate statements thereof, exhibiting the number and valuation of dwelling-houses, the number of slaves, and the amount of the valuation of lands in such collection district, with the amount of the taxes assessed thereon. And the list first mentioned, and receipt, shall remain in the office of the surveyor of the revenue, and shall be open to the inspection of any person who may apply to inspect the same; and the aggregate statements and receipts aforesaid shall be transmitted to the inspector of the survey, and one of them shall be by him transmitted to the supervisor of the district.

Sec. 7. *And be it further enacted*, That each collector, before receiving any list, as aforesaid, for collection, shall give bond, with one or more good and sufficient sureties, in at least double the amount of the taxes assessed on the collection district for which he may be appointed; which bond shall be payable to the United States, with condition for the true and faithful discharge of the duties of his office, according to law, and particularly for the due collection and payment of all moneys assessed upon such district.

Sec. 8. *And be it further enacted*, That the

aforesaid tax shall be and remain a lien upon the lands, and other real estate, and all slaves, of the individuals who may be assessed for the same, during two years after the time when it shall become due and payable according to this act; and the said lien shall extend to each and every part of all tracts or lots of land, or dwelling-houses, which shall be valued according to the aforesaid act, notwithstanding the same may have been divided or alienated, in part, unless an apportionment of the valuation thereof shall have been made and recorded, pursuant to the aforesaid act, prior to the time when the collection lists shall have been stated, in the manner herein before described.

Sec. 9. *And be it further enacted*, That each of the said collectors shall, immediately after receiving his collection list, advertise, by notifications, to be posted up in at least four public places in each collection district, that the said tax has become due and payable, and the times and places at which he will attend to receive the same; and, in respect to persons who shall not attend, according to such notifications, it shall be the duty of each collector to apply at once at their respective dwellings, within such district, and there demand the taxes payable by such persons; and if the taxes shall not be then paid, or within twenty days thereafter, it shall be lawful for such collector to proceed to collect the said taxes, by distress and sale of the goods, chattels, or effects of the persons delinquent as aforesaid, with a commission of eight per centum upon the said taxes, to and for the use of such collector: *Provided*, That it shall not be lawful to make distress of the tools or implements of a trade or profession, beasts of the plough necessary for the cultivation of improved lands, arms, or the household utensils, or apparel necessary for a family.

Sec. 10. *And be it further enacted*, That, except as aforesaid, all goods, chattels, and personal effects whatever, being or remaining on lands subject to the said tax, and all grass, or produce of farms, standing and growing thereon, shall and may be taken and sold for the payment of the said tax, under such regulations as have been or may be made for the sale of goods or effects taken and sold by distress: *Provided*, That nothing herein contained shall invalidate or impair any contract or agreement between any landlord, tenant, or other person, relative to the payment of taxes.

Sec. 11. *And be it further enacted*, That in respect to lands, dwelling-houses, and slaves, which shall not be owned by, or in the occupation, or under the care or superintendence, of some person within the collection district where the same shall be situated or found at the time of the assessment aforesaid, the said collectors, respectively, upon receiving lists of such lands, dwelling-houses, or slaves, in manner aforesaid, shall transmit copies of such lists, certified under their hands, respectively, to the surveyors of the revenue for the assessment districts, respectively, within which the persons owning, or having the care and superintendence of such lands, dwelling-houses, or slaves, may reside, if such persons be known, together with a statement of the amount of taxes assessed as aforesaid upon such dwelling-houses, lands, or slaves, respectively, and a notification to pay, or cause to be paid, the said taxes to the said collectors, respectively, within thirty days after such notification shall be served as is hereinbefore provided; which copies, statements, and notifications, the surveyors receiving the same, respectively, shall cause to be personally served on the aforesaid persons, respectively, or left at their usual places of abode; and shall cause an affidavit thereof, by the person leaving or serving the same as aforesaid, with the time of such service or leaving, to be immediately transmitted to the aforesaid collector: and if such persons, being notified in manner aforesaid, shall not, within sixty days thereafter, pay the said taxes to the collector of the collection district where the said lands, dwelling-houses, or slaves, shall be situated, or transmit to him a receipt for the said taxes, in the manner herein provided, then the said collector shall proceed to collect the said tax, by distress and sale, as is herein directed: and if the persons owning or having the care and superintendence of any such lands, dwelling-houses, or slaves, shall not be known, then the aforesaid electors shall cause the said copies, statements, and notifications, to be published for sixty days in four gazettes of the State, if there be so many; after which publication, if the said taxes shall not be paid, the said collectors shall proceed to collect the same by distress and sale in the manner herein provided.

Sec. 12. *Provided always, and be it further enacted*, That if any person owning, or having the superintendence or care of any dwelling-houses, lands, or slaves, in a collection district other than that in which he resides, and being served with such copy, statement, and notification, as is aforesaid, shall, within sixty days thereafter, pay the said taxes to the collector of the collection district within which he resides, and transmit a receipt therefor to the collector sending the said copy, statement, and notification, such receipt shall be a discharge to the said last mentioned collector for the said taxes, and he shall thereupon forbear to collect them; and the collector giving such receipt shall become chargeable with the said taxes, and shall account therefor in the final settlement of the accounts of his collection.

Sec. 13. *And be it further enacted*, That when any tax assessed on lands or houses, shall have remained unpaid for the term of one year, the collector of the collection district within which such land or houses may be situated, having first advertised the same for two months, in six different public places within the said district, and in two gazettes in the State, if there be so many, one of which shall be the gazette in which the laws of such State shall be published by authority, if any such there be, shall proceed to sell, at public sale, and under the direction of the inspector of the survey, either the dwelling-house, or so much of the tract of land, (as the case may be,) as may be necessary to satisfy the taxes due thereon; together with costs and charges, not exceeding at the rate of one per centum, for each and every month the said tax shall have remained due

and unpaid. *Provided*, That in all cases, where any lands or tenements shall be sold as aforesaid, the owner of the said lands or tenements, his heirs, executors, or administrators, shall have liberty to redeem the same at any time within two years, from the time of sale, upon payment, or tender of payment, to the collector for the time being, for the use of the purchaser, his heirs, or assignees, of the amount of the said taxes, costs, and charges, with interest for the same, at the rate of twelve per cent. per annum; and upon payment, or tender of payment, as aforesaid, such sale shall be void. And no deed shall be given in pursuance of any such sale, until the time of redemption shall have expired.

Sec. 14. *And be it further enacted*, That the supervisors of the respective districts shall keep true and exact accounts of all taxes due and payable in each collection district, and shall charge the amount thereof to the collectors of such districts, respectively: And the said collectors shall, at the expiration of every month after they shall, respectively, commence their collections, in manner aforesaid, render to the supervisor of the district, or the inspector of the survey within which the said collections shall respectively be made, a full and true account of the collections made by them, respectively, within the month, and pay over to the said supervisor or inspector the moneys by them respectively collected within the said term: And if any such collector shall fail or neglect to account and pay over, as aforesaid, at any of the periods above prescribed, such collector shall forfeit and pay three hundred dollars, to be recovered to the use of the United States, with costs of suit, in any court having competent jurisdiction: And where any moneys shall have been paid, as aforesaid, to the inspector of a survey, by any collector, the receipt of such inspector shall be allowed to such collector, in the final settlement of his accounts with the supervisor of the district.

Sec. 15. *And be it further enacted*, That each of the said collectors shall complete the collection of all sums assigned to him for collection, as aforesaid, and shall account for, and pay over the same to the supervisor of the district, within one year and one month from and after the time when the said tax shall have become due and payable, in manner aforesaid; and if any collector shall fail so to collect, account, and pay over, it shall be the duty of the supervisor of the district, and he is hereby authorized and required, to issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes imposed on the district of such collector, and the sums, if any, which have been paid; and the said marshal shall himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector: and for want of goods, chattels, or effects, aforesaid, sufficient to satisfy the said warrant, the same may be levied on the person of the collector, who may be committed to prison, there to remain until discharged in due course of law. And furthermore, notwithstanding the commitment of the collector to prison, as aforesaid, or if he abscond, and goods, chattels, and effects, cannot be found, sufficient to satisfy the said warrant, the said marshal, or his deputy, shall and may proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects, of the surety or sureties of the delinquent collector.

Sec. 16. *And be it further enacted*, That the amount of the sums committed to any collector, for collection as aforesaid, shall, and the same are hereby declared to be a lien upon the lands and real estate of such collector, and his sureties, until the same shall be discharged according to law; and for want of goods and chattels, or other personal effects of such collector, or his sureties, sufficient to satisfy any warrant of distress issued pursuant to the preceding section of this act, the lands and real estate of such collector, and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county, if any there be, prior to the proposed time of sale, may and shall be sold by the marshal or his deputy; and for all lands and real estate sold, in pursuance of the authority aforesaid, the conveyances of the marshals, or their deputies, executed in due form of law, shall afford a valid title against all persons claiming under the delinquent collectors, or their sureties aforesaid; and all moneys that may remain of the proceeds of such sale, after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

Sec. 17. *And be it further enacted*, That it shall be lawful for the supervisors of the respective districts, at any time, for good and sufficient cause, to dismiss or discharge each or any collector from office, and to commit the collection of any part of the said tax remaining uncollected to a new collector; and immediately upon such dismission, and after a notification thereof, in at least two public places in the collection district, by the supervisor or the surveyor of the revenue for the district, on his behalf, the powers of the collector so dismissed shall cease and terminate: and if any collector, so dismissed, shall wilfully refuse or neglect to surrender his collection list, and to render a true account of all moneys collected, and to pay over the same, according to the directions of the supervisor, each and every such collector shall forfeit and pay a sum not exceeding four thousand dollars, with costs of suit, to be recovered to the use of the United States, in any court having competent jurisdiction: *Provided*, That nothing herein contained shall be construed to impair the responsibility of any collector, or his sureties, arising under the foregoing provisions of this act.

Sec. 18. *And be it further enacted*, That each and every collector, who shall exercise, or be guilty of any extortion or oppression, under color

of this act, or shall demand other or greater sums than shall be authorized by law, shall be liable to pay a sum not exceeding three hundred dollars, to be recovered by and for the use of the party injured, with costs of suit, in any court having competent jurisdiction; and each and every collector shall, if required, give receipts for all sums by them collected, and retained, in pursuance of this act.

Sec. 19. *And be it further enacted*, That for collecting the said tax, there shall be allowed and paid the following sums, and no more, to be retained by the several officers hereinafter mentioned, in the final settlement of their accounts, respectively; that is to say, to each supervisor, one-half per centum on the whole amount of the moneys by him received and accounted for, under and by virtue of this act; to every inspector, one-fourth per centum on the whole amount of the moneys to be by him received and accounted for as aforesaid; and to every collector, five per centum on the whole amount of the moneys by him to be received and accounted for, as aforesaid: *Provided*, That no collector shall receive the said allowance, for, or in respect to any sum for which a warrant of distress shall have been issued by him; and *Provided also*, That no collector who shall refuse or neglect to render, according to this act, any monthly account of moneys by him received, as aforesaid, or to pay over the same, as is hereby directed, shall be entitled to, or receive the said allowance, upon all or any of the moneys by him collected, within the month for which he shall so refuse or neglect to account and pay over as aforesaid.

Sec. 20. *And be it further enacted*, That there shall be allowed to the surveyors of the revenue respectively, to be paid by the supervisors respectively, and exhibited in their accounts, as part of the charge of the said collection, for preparing collection lists, and computing the taxes payable for each individual, at the rate of one dollar for every hundred taxables contained in any such list.

Sec. 21. *And be it further enacted*, That a separate account shall be kept at the Treasury of the United States of all moneys to be collected and received by virtue of this act; distinguishing the several amounts received from dwelling-houses, from slaves, and from lands, within each State, and also distinguishing the amount received in each State from each separate description of dwelling-houses, paying the same rate per centum.

Approved, July 14, 1798.

An Act to augment the Army of the United States, and for other purposes.

Be it enacted, &c., That, from and after the passing of this act, each regiment of infantry in the Army of the United States shall consist of one lieutenant colonel commandant, two majors, one adjutant, one paymaster, one quartermaster, one surgeon, two surgeon's mates, ten captains, ten lieutenants, ten ensigns, one sergeant major, one quartermaster sergeant, two senior musicians, forty sergeants, forty corporals, twenty musicians, and six hundred privates; and that the several regiments of infantry, now in the service of the United States, be augmented accordingly: *Provided, always*, That the President of the United States may, in his discretion, appoint and distribute such additional number of surgeon's mates, and for such length of time, as the exigencies of the service may require.

Sec. 2. *And be it further enacted*, That the President of the United States be and he is hereby authorized to raise, in addition to the present Military Establishment, twelve regiments of infantry, and six troops of light dragoons, to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged; and the said six troops, together with the two troops of dragoons now in service, shall be formed into a regiment, and there shall be appointed thereto one lieutenant colonel commandant, two majors, one adjutant, one paymaster, one quartermaster, one sergeant major, and one quartermaster sergeant, whose pay and emoluments, as well as those of the cornets, respectively, shall be the same as are by law allowed to officers of the same grades in the infantry.

Sec. 3. *And be it further enacted*, That there shall be two major generals, with two aids-de-camp each; one inspector general, with the rank, pay, and emoluments of a major general, and two aids-de-camp; three brigadier generals, in addition to the present establishment; two assistant inspectors, (who shall be taken from the line of the Army;) one adjutant general, with one or more assistant or assistants, to be taken from the line of the Army; and four chaplains.

Sec. 4. *And be it further enacted*, That the major generals, respectively, shall be entitled to one hundred and sixty-six dollars monthly pay, with twenty dollars allowance for forage monthly, and for daily subsistence fifteen rations, or money in lieu thereof at the contract price; the adjutant general shall be entitled to the rank, pay, and emoluments of a brigadier general; each chaplain to the pay and emoluments of a major; the aids-de-camp and assistant inspectors shall each be entitled to twenty-four dollars monthly, in addition to their pay in the line, and to four rations of provisions each for their daily subsistence; and whenever forage shall not be furnished by the public, ten dollars per month in lieu thereof.

Sec. 5. *And be it further enacted*, That each non-commissioned officer, private, and musician, who shall hereafter be enlisted for the Army of the United States, shall be able-bodied, and of a size and age suitable for the public service, according to the directions which the President of the United States shall and may establish; and shall be entitled to a bounty of twelve dollars; but the payment of four dollars thereof shall be deferred until he shall have joined the Army; and each commissioned officer, who shall be employed in the recruiting service, shall be entitled to receive for each such non-commissioned officer and private, and for each efficient musician duly enlisted and mustered, the sum of two dollars.

Sec. 6. *And be it further enacted*, That the monthly pay of the non-commissioned officers, musicians, and privates, in the Army of the United

States, from and after the fifth day of August next, shall be as follows: cadets, ten dollars and two rations per day; sergeant majors and quartermaster sergeants, ten dollars; senior musicians, eight dollars; sergeants, eight dollars; corporals, seven dollars; musicians, six dollars; privates, five dollars. Artificers to the infantry and artillery, and farriers and saddlers to the dragoons, shall be allowed each the monthly pay of ten dollars. That every non-commissioned officer, private, and musician, shall receive daily the following rations of provisions, to wit: one pound and a quarter of beef, or three-quarters of a pound of pork, eighteen ounces of bread or flour, a gill of rum, brandy, or whiskey; and at the rate of two quarts of salt, four quarts of vinegar, four pounds of soap, and one pound and a half of candles, to every hundred rations.

Sec. 7. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to appoint a number, not exceeding four, teachers of the arts and sciences necessary for the instruction of the artillerists and engineers, who shall be entitled to the monthly pay of fifty dollars and two rations per day.

Sec. 8. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates, raised by virtue of this act, shall take and subscribe the oath or affirmation prescribed by the law, entitled "An act to ascertain and fix the Military Establishment of the United States," and they shall be governed by the rules and articles of war, which have been or may be established by law, and shall be entitled to the legal emoluments in case of wounds or disabilities, received while in actual service, and in the line of duty. And in the recess of the Senate, the President of the United States is hereby authorized to appoint all the regimental officers proper to be appointed under this act, and likewise to make appointments to fill any vacancies in the Army, which may have happened during the present session of the Senate.

Sec. 9. *And be it further enacted*, That there shall be appointed an inspector of the artillery, taken from the line of artillerists and engineers, who shall be allowed thirty dollars per month in addition to his pay in the line, and four rations of provisions for his daily subsistence; and whenever forage shall not be furnished by the public, he shall be allowed ten dollars per month instead thereof.

Approved, July 16, 1798.

An Act for the relief of sick and disabled seamen.

Be it enacted, &c., That, from and after the first day of September next, the master or owner of every ship or vessel of the United States, arriving from a foreign port into any port of the United States, shall, before such ship or vessel shall be admitted to an entry, render to the collector a true account of the number of seamen that shall have been employed on board such vessel since she was last entered at any port in the United States, and shall pay to the said collector, at the rate of twenty cents per month for every seaman so employed; which sum he is hereby authorized to retain out of the wages of such seaman.

Sec. 2. *And be it further enacted*, That, from and after the first day of September next, no collector shall grant to any ship or vessel whose enrolment or license for carrying on the coasting trade has expired, a new enrolment or license before the master of such ship or vessel shall first render a true account to the collector, of the number of seamen, and the time they have severally been employed on board such ship or vessel, during the continuing of the license which has so expired, and pay to such collector twenty cents per month for every month such seamen have been severally employed, as aforesaid; which sum the said master is hereby authorized to retain out of the wages of such seamen. And if any such master shall render a false account of the number of men, and the length of time they have severally been employed, as is herein required, he shall forfeit and pay one hundred dollars.

Sec. 3. *And be it further enacted*, That it shall be the duty of the several collectors to make a quarterly return of the sums collected by them, respectively, by virtue of this act, to the Secretary of the Treasury; and the President of the United States is hereby authorized, out of the same, to provide for the temporary relief and maintenance of sick or disabled seamen, in the hospitals or other institutions now established in the several ports of the United States, or in ports where no such institutions exist, then in such other manner as he shall direct: *Provided*, That the moneys collected in any one district shall be expended within the same.

Sec. 4. *And be it further enacted*, That if any surplus shall remain of the moneys to be collected, by virtue of this act, after defraying the expense of such temporary relief and support, that the same, together with such private donations as may be made for that purpose, which the President is hereby authorized to receive, shall be invested in the stock of the United States, under the direction of the President; and when, in his opinion, a sufficient fund shall be accumulated, he is hereby authorized to purchase or receive cessions or donations of ground or buildings, in the name of the United States, and to cause buildings, when necessary, to be erected as hospitals for the accommodation of sick and disabled seamen.

Sec. 5. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to nominate and appoint, in such ports of the United States as he may think proper, one or more persons, to be called Directors of the Marine Hospital of the United States, whose duty it shall be to direct the expenditure of the fund assigned for their respective ports, according to the third section of this act; to provide for the accommodation of sick and disabled seamen, under such general instructions as shall be given by the President of the United States for that purpose, and also subject to the like general instructions to direct and govern such hospitals as the President may direct to be built in the respective ports; and that the said directors shall hold their offices during the pleasure of the President, who is authorized to fill up all vacancies that may be occasioned

by the death or removal of any of the persons so to be appointed; and the said directors shall render an account of the moneys received and expended by them, once in every quarter of a year, to the Secretary of the Treasury, or such other person as the President shall direct; but no other allowance or compensation shall be made to the said Directors, except the payment of such expenses as they may incur in the actual discharge of the duties required by this act.

Approved, July 16, 1798.

An Act for erecting a light-house at Gay Head, on Martha's Vineyard, and for other purposes.

Be it enacted, &c., That, as soon as the jurisdiction of such land at Gay Head, on the western part of Martha's Vineyard, in the State of Massachusetts, as the President of the United States shall deem sufficient, and most proper for the accommodation of a light-house, shall have been ceded to the United States, it shall be the duty of the Secretary of the Treasury to provide by contract, which shall be approved by the President, for building a light-house thereon, and for furnishing the same with all necessary supplies; and, also, to agree for the salaries and wages of the person or persons who may be appointed by the President, for the superintendence of the same; and the President is hereby authorized to make the said appointments.

Sec. 2. *And be it further enacted*, That, as soon as such land, at the New Inlet of Cape Fear river, in the State of North Carolina, as the President of the United States shall deem sufficient and most proper whereon to erect a lighted beacon, shall have been ceded to the United States, together with the jurisdiction thereof, it shall be the duty of the Secretary of the Treasury to provide, by contract, for erecting a lighted beacon thereon; and also for placing a buoy in the inlet aforesaid, and for furnishing the same with all necessary supplies.

Sec. 3. *And be it further enacted*, That, for the purpose aforesaid, and also for the payment of such sum as shall be found due to the commissioners of pilotage of the port of Savannah, in the State of Georgia, for erecting a beacon, and placing sundry buoys at the said port, on a settlement of their accounts at the Treasury, there be appropriated, out of any moneys in the Treasury, not otherwise particularly appropriated, the sum of five thousand seven hundred and fifty dollars: *Provided, always*, That no payment shall be made for erecting the said beacon until the land whereon the same has been erected, together with the jurisdiction thereof, shall have been ceded to the United States, agreeable to law, and in like manner as has been done in other cases.

Approved, July 16, 1798.

An Act to enable the President of the United States to borrow money for the public service.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized to borrow, on behalf of the United States, from the Bank of the United States, which is hereby authorized to lend the same, or from any other body or bodies politic or corporate, or from any person or persons, and upon such terms and conditions as he shall judge most advantageous for the United States, a sum not exceeding five millions of dollars, in addition to the moneys to be received in the Treasury of the United States from taxes, for making up any deficiency in any appropriation heretofore made by law, or to be made during the present session of Congress; and defraying the expenses which may be incurred, by calling into actual service any part of the militia of the United States, or by raising, equipping, and calling into actual service, any regular troops or volunteers, pursuant to authorities vested or to be vested in the President of the United States by law: *Provided*, That no engagement nor contract shall be entered into which shall preclude the United States from reimbursing any sum or sums borrowed at any time after the expiration of fifteen years from the date of such loan.

Sec. 2. *And be it further enacted*, That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriations heretofore charged upon them by law, shall be and hereby is pledged and appropriated for paying the interest of all such moneys as may be borrowed, pursuant to this act, according to the terms and conditions on which the loan or loans, respectively, may be effected: and also for paying and discharging the principal sum or sums of any such loan or loans, according to the terms and conditions to be fixed as aforesaid: and the faith of the United States shall be and hereby is pledged to establish sufficient permanent revenues for making up any deficiency that may hereafter appear in the provisions for paying the said interest and principal sums, or any of them, in manner aforesaid.

Sec. 3. *And be it further enacted*, That the sums to be borrowed, pursuant to this act, shall be paid into the Treasury of the United States, and there separately accounted for; and that the same shall be and hereby are appropriated in manner following: first, to make up any deficiency in any appropriation heretofore made by law, or to be made during the present session of Congress; and, secondly, to defray the expenses which may be incurred before the end of the next session of Congress, by calling into actual service any part of the militia of the United States, or by raising, equipping, and calling into actual service, any regular troops or volunteers, pursuant to authorities vested or to be vested in the President of the United States by law.

Approved, July 16, 1798.

An Act to suspend, for a further time, the duties upon the manufacture of snuff within the United States, and the drawbacks upon the exportation thereof.

Be it enacted, &c., That all such parts of any laws, heretofore passed, as impose duties upon mills and implements employed in the manufacture of snuff, or allow drawbacks upon the exportation of snuff manufactured within the United States, shall be, and the same hereby are, suspended until

the end of the first session of the sixth Congress of the United States.

Approved, July 16, 1798.

An Act to make a further appropriation for the additional naval armament.

Be it enacted, &c., That the sum of six hundred thousand dollars shall be, and hereby is, appropriated, to enable the President of the United States to cause to be built and equipped three ships or vessels, to be of a force not less than thirty-two guns each, and of the dimensions and model which he shall deem most advantageous for the public service, as part of the additional naval armament authorized by law.

Sec. 2. *And be it further enacted*, That the timber and other materials belonging to the United States, proper for building and equipping the ships or vessels aforesaid, remaining in their several dock-yards, and elsewhere, may be employed, under the direction of the President of the United States, in effecting the purposes of this act, or may be othewise disposed of, as he shall think best. And the sum hereby appropriated shall be paid out of any unappropriated money in the Treasury.

Approved, July 16, 1798.

An Act in further addition to the act, entitled "An act to establish the judicial courts of the United States."

Be it enacted, &c., That the judges of the supreme court, and of the several district courts of the United States, and all judges and justices of the courts of the several States, having authority, by the laws of the United States, to take cognizance of offences against the Constitution and laws thereof, shall respectively have the like power and authority to hold to security of the peace, and for good behaviour, in cases arising under the Constitution and laws of the United States, as may or can be lawfully exercised by any judge or justice of the peace of the respective States, in cases cognizable before them.

Approved, July 16, 1798.

An Act making certain appropriations, and to authorise the President to obtain a loan on the credit of the direct tax,

Be it enacted, &c., That there shall be, and there hereby are, appropriated, the following sums, that is to say, towards defraying the bounties, pay, and other expenditures, which shall and may accrue, in the augmentation of the Army of the United States, pursuant to the act, entitled "An act to augment the Army of the United States, and for other purposes," the sum of nine hundred thousand dollars; and, in addition to the sums heretofore appropriated for such fortifications as the President of the United States shall cause to be erected or completed, the further sum of seventy-five thousand dollars; and for the further expenses of the commissioners appointed pursuant to the treaty between the United States and Spain, and for the extraordinary expenses of making and running certain boundary lines required by the same, in addition to the former appropriations, the sum of twenty-five thousand dollars, to be paid from any moneys which shall be in the Treasury of the United States, not already appropriated.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to borrow of the Bank of the United States, who are hereby enabled to lend the same, or of any other corporation, person or persons, the sum of two millions of dollars, upon the credit, and in anticipation of, the direct tax, laid and to be collected within the United States; which tax shall be, and is hereby, pledged for the re-payment of any loan which shall be obtained thereon, as aforesaid; and the faith of the United States shall be, and is hereby, pledged to make good any deficiency: *Provided*, That the interest to be allowed for such loan shall not exceed six per centum per annum; and that the principal shall be reimbursed at the pleasure of the United States.

Approved, July 16, 1798.

An Act to alter and amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments.

Be it enacted, &c., That there shall be in the Department of the Navy, an officer to be denominated Accountant of the Navy, who shall be charged with the settlement of all accounts for moneys advanced and stores issued or distributed by or under the direction of the Secretary of the Navy, and who shall report, from time to time, all such settlements as shall have been made by him for money advanced or issued, for the inspection and revision of the accounting officers of the Treasury. And the compensation of the said accountant shall be a yearly salary of one thousand six hundred dollars. And all letters and packages to and from said accountant, by mail, shall be free of postage.

Sec. 2. *And be it further enacted*, That the Treasurer of the United States shall disburse all such money as shall have been previously ordered for the use of the Department of the Navy, by warrants from the Treasury, which disbursements shall be made pursuant to warrants from the Secretary of the Navy, countersigned by the accountant.

Sec. 3. *And be it further enacted*, That all purchases, and contracts, for supplies or services for the military and naval service of the United States, shall be made by or under the direction of the chief officers of the Departments of War and the Navy, respectively, and all agents or contractors for supplies or services as aforesaid, shall render their accounts for settlement to the accountant of the proper department for which such supplies or services are required, subject nevertheless to the inspection and revision of the officers of the Treasury in manner before prescribed.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Purveyor of Public Supplies, to execute all such orders as he may from time to time receive from the Secretary of War or Secretary of the Navy, relative to the procuring and providing of all kinds of stores and supplies; and shall render his accounts relative thereto to the accountants of the proper departments, which accounts shall be subject to the inspection and revision of the officers of the Treasury, as aforesaid.

Sec. 5. *And be it further enacted*, That the provisions of the act passed on the eighth day of May one thousand seven hundred and ninety-two, entitled "An act making alterations in the Treasury and War Departments," and the act passed on the twenty third day of February, one thousand seven hundred and ninety-five, entitled "An act to establish the office of Purveyor of Public Supplies," so far as the same are repugnant to the provisions of this act, be, and the same are hereby, repealed.

Sec. 6. *And be it further enacted*, That all contracts to be made, by virtue of this act, or of any law of the United States, and requiring the advance of money, or to be in any manner connected with the settlement of public accounts, shall be deposited in the office of the Comptroller of the Treasury of the United States, within ninety days after their dates, respectively.

Approved, July 16, 1798.

An Act making certain additional appropriations for the year one thousand seven hundred and ninety-eight.

Be it enacted, &c., That for the compensation of clerks to the commissioners of loans, and an allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expenses of the several loan officers, for and during the year one thousand seven hundred and ninety-eight, there shall be, and hereby is, appropriated the sum of thirteen thousand dollars.

Sec. 2. *And be it further enacted*, That for the expenses incident to the Navy Department, for and during the present year, including the compensation of the Secretary of the Navy, his clerks, and persons employed in his office, with the contingent expenses of the Department, there shall be, and hereby is, appropriated the sum of six thousand two hundred and fourteen dollars and seventy-two cents.

Sec. 3. *And be it further enacted*, That for the expenses incident to the office of the Accountant of the Navy Department, for and during the present year, including the compensation of the Accountant, his clerks, and persons employed in his office, with all contingent expenses thereof, there shall be, and hereby is, appropriated the sum of two thousand and forty-five dollars and nine cents.

Sec. 4. *And be it further enacted*, That for the additional expenses incident to the present session of Congress, for printing, stationery, and other contingencies, there shall be, and hereby are, appropriated the following sums, viz: for the Senate one thousand dollars; for the House of Representatives four thousand dollars.

Sec. 5. *And be it further enacted*, That for repaying to the Bank of the United States, a sum advanced upon bills drawn by the Treasury of the United States, in favor of the cashier of the said Bank, upon the supervisor of the district of New Hampshire, and protested, there shall be, and hereby is, appropriated the sum of five thousand five hundred and six dollars.

Sec. 6. *And be it further enacted*, That the aforesaid appropriations shall be paid out of the sum of six hundred thousand dollars, reserved by the act "making provision for the debts of the United States."

Approved, July 16, 1798.

An Act authorizing the grant and conveyance of a certain lot of ground to Elie Williams.

Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, authorized to contract with Elie Williams, for the sale of a certain lot of ground, twenty perches in length, and sixteen perches in breadth, situate in the town of Cincinnati, in the Territory Northwest of the Ohio, it being the same lot on which certain buildings were erected by the said Elie Williams and Robert Elliot, deceased, when contractors for supplying the western army with provisions.

Sec. 2. *And be it further enacted*, That on payment into the Treasury of the United States of such sum or sums of money as shall have been agreed upon between the said Elie Williams and the Secretary of the Treasury, as the price of the above-mentioned lot, the President of the United States be, and he is hereby authorized, to grant a patent for the same, to the said Elie Williams, his heirs or assigns.

Approved, July 16, 1798.

An Act to amend the act entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof."

Be it enacted, &c., That the provision for giving bond and finding sufficient surety or sureties for vessels bound on foreign voyages, as required in the second section of the act, entitled, "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," shall extend no further, than to obligations to the amount of the value of the vessels respectively, and to a sum in addition thereto equal to one third of the value of the cargo. *Provided*, That in no case the surety or sureties shall be answerable for more than ten thousand dollars, any thing in the act above-mentioned to the contrary notwithstanding.

Approved, July 16, 1798.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State be, and he hereby is, authorized and directed to cause to be printed a number of copies, not exceeding ten thousand, of the instructions to the Envoys Extraordinary and Ministers Plenipotentiary of the United States, to the French Republic, and of all the despatches hitherto received from them, and which have been communicated by the President of the United States to both Houses of Congress, and to cause the same to be distributed, gratis, throughout the United States, and particularly in such parts thereof, wherein the dissemination of information, through the medium of newspapers, is the most obstructed.

Approved, June 22, 1798.

ACTS OF THE THIRD SESSION OF THE FIFTH CONGRESS.

An Act for the punishment of certain crimes therein specified.

Be it enacted, &c., That if any person, being a citizen of the United States, whether he be actually resident, or abiding within the United States, or in any foreign country, shall, without the permission or authority of the Government of the United States, directly or indirectly, commence, or carry on, any verbal or written correspondence or intercourse with any foreign Government, or any officer or agent thereof, with an intent to influence the measures or conduct of any foreign Government, or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or defeat the measures of the Government of the United States; or if any person, being a citizen of, or resident within the United States, and not duly authorized, shall counsel, advise, aid or assist in any such correspondence, with intent, as aforesaid, he or they shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months, nor exceeding three years: *Provided always*, That nothing in this act contained shall be construed to abridge the right of individual citizens of the United States to apply, by themselves, or their lawful agents, to any foreign Government, or the agents thereof, for the redress of any injuries in relation to the person or property which such individuals may have sustained from such Government, or any of its agents, citizens, or subjects.

Approved, January 30, 1799.

An Act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.

Be it enacted, &c., That from and after the third day of March next, no ship or vessel owned, hired, or employed, wholly, or in part, by any person resident within the United States, and which shall depart therefrom, shall be allowed to proceed directly, or from any intermediate port or place, to any port or place within the territory of the French Republic, or the dependencies thereof, or to any place in the West Indies, or elsewhere, under the acknowledged Government of France, or shall be employed in any traffic or commerce with or for any person resident within the jurisdiction, or under the authority of the French Republic. And if any ship or vessel, in any voyage thereafter commencing, and before her return within the United States, shall be voluntarily carried or suffered to proceed to any French port or place, as aforesaid, or shall be employed, as aforesaid, contrary to the intent hereof, every such ship or vessel, together with her cargo, shall be forfeited; and shall accrue, the one half to the use of the United States, and the other half to the use of any person or persons, citizens of the United States, who will inform and prosecute for the same; and shall be liable to be seized, and may be prosecuted and condemned, in any circuit or district court of the United States, which shall be holden within or for the district where the seizure shall be made.

Sec. 2. *And be it further enacted*, That from and after the passing of this act, no clearance for a foreign voyage shall be granted to any ship or vessel, owned, hired, or employed, wholly or in part, by any person resident within the United States, until a bond shall be given, to the use of the United States, wherein the owner or employer, if usually resident or present where the clearance shall be required, and otherwise his agent or factor, and the master or captain of such ship or vessel, for the intended voyage, shall be parties, in a sum equal to the value of the ship or vessel, and to one-third of the value of her cargo, and shall find sufficient surety or sureties to the amount of one-half of the amount of the principal sum, with condition that the same shall not, during her intended voyage, or before her return within the United States, proceed or be carried, directly or indirectly, to any port or place within the territory of the French Republic, or the dependencies thereof, or any place in the West Indies, or elsewhere, under the acknowledged Government of France, unless by actual force and violence, to be fully proved and manifested before the acquittance of such bond, and that such vessel is not, and shall not be, employed, during her intended voyage, or before her return, as aforesaid, in any traffic or commerce, with or for any person resident within the territory of that Republic, or in any of the dependencies thereof: *Provided*, That in no case the surety or sureties shall be answerable for more than ten thousand dollars.

Sec. 3. *And be it further enacted*, That, from and after the said third day of March, no French ship or vessel, armed or unarmed, commissioned by or for, or under the authority of the French Republic, or owned, fitted, hired, or employed by any person resident within the territory of that Republic, or any of the dependencies thereof, or sailing or coming therefrom, (excepting as is hereinafter excepted,) shall be allowed an entry, or to remain within the territory of the United States, unless driven thither by distress of weather or in want of provisions. And if, contrary to the intent hereof, any such ship or vessel shall be found within the jurisdictional limits of the United States, not being liable to seizure for any other cause, the company having charge thereof shall be required to depart and carry away the same, avoiding all unnecessary delay; and if they shall, notwithstanding, remain, it shall be the duty of the collector of the district wherein, or nearest to which, such ship or vessel shall be, to seize and detain the same, at the expense of the United States: *Provided*, That, in case of vessels hereby prohibited, which shall be driven by distress of weather, or want of provisions, into any port or place of the United States, they may be suffered to remain under the custody of the collector there, or nearest thereto, until suitable repairs or supplies can be obtained; and as soon as may be thereafter, shall be required and suffered to depart; but no part of the lading of such vessel shall be taken out, or disposed of, unless by the special permit of such collector, to defray the unavoidable expense of such repairs or supplies.

Sec. 4. *Provided, and be it further enacted*, That, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order, to remit and discontinue, for the time being, the restraints and prohibitions aforesaid, either with respect to the French Republic, or to any island, port, or place belonging to the said Republic, with which a commercial intercourse may safely be renewed; and also to revoke such order, whenever, in his opinion, the interest of the United States shall require; and he shall be, and hereby is, authorized to make proclamation thereof accordingly.

Sec. 5. *And be it further enacted*, That it shall be lawful for the President of the United States to give instructions to the commanders of the public armed ships of the United States, to stop and examine any ship or vessel of the United States on the high sea, which there may be reason to suspect to be engaged in any traffic or commerce contrary to the true tenor hereof; and if, upon examination, it shall appear that such ship or vessel is bound or sailing to any port or place within the territory of the French Republic or her dependencies, contrary to the intent of this act, it shall be the duty of the commander of such public armed vessel, to seize every ship or vessel engaged in such illicit commerce, and send the same to the nearest port in the United States; and every such ship or vessel, thus bound or sailing to any such port or place, shall, upon due proof thereof, be liable to the like penalties and forfeitures as are provided in and by the first section of this act.

Sec. 6. *And be it further enacted*, That whenever any ship or vessel, owned wholly or in part, or employed by any citizen or citizens of the United States, and coming from any port or place within the territory of the French Republic, or the dependencies thereof, which has arrived within any port or place of the United States since the first day of December last past, or which shall hereafter arrive, hath been, or hereafter shall be, seized and detained by virtue of this act, or of an act, entitled "An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof," it shall be lawful for any person claiming such ship or vessel, to prefer his petition to the judge of the district in which such seizure shall be made, setting forth the circumstances of his case, and to pray that the same ship or vessel, and her cargo, may be restored; and the said judge shall thereupon inquire, in a summary manner, into the circumstances of the case, first causing reasonable notice to be given to the attorney of the United States for such district, and to the collector of the district by whom such seizure or detention hath been or shall be made, that each may have an opportunity of showing cause against the prayer of such petition; and shall cause the facts which shall appear upon such inquiry, to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury; and if it shall appear to his satisfaction, that such ship or vessel was captured or driven into such port or place by distress of weather, or want of provisions, or was unavoidably detained and delayed by some embargo, arrest, capture, contrary winds, or other unavoidable casualty, without any fault, wilful negligence, or intention to evade the provisions of the act before mentioned, or of this act, in any such claimant, the Secretary of the Treasury shall order the restoration of said vessel and cargo to such claimant, upon such terms and conditions as he may deem reasonable and just; otherwise, and in all cases wherein such petition shall not be presented, every ship or vessel that has arrived since the said first day of December from any port or place in the French Republic, or the dependencies thereof, or which shall hereafter arrive within any port or place of the United States, unless driven by stress of weather or want of provisions, shall be liable to be prosecuted and condemned in the same manner, and to the same uses, as are provided in and by the first section of this act; and like proceedings shall also be had, and like forfeitures incurred, as are herein provided, with respect to vessels coming from France, and the dependencies thereof, in all cases when any ship or vessel shall arrive in any port or place of the United States, from any port or place with which all commercial intercourse shall be prohibited by proclamation, according to the intent of this act.

Sec. 7. *Provided, and be it further enacted*, That nothing in this act contained, shall extend to any ship or vessel to which the President of the United States shall grant a permission to enter or to clear; which permission he is hereby authorized to grant to vessels which shall be solely employed in any purpose of political or national intercourse, or to aid the departure of any French persons, with their goods and effects, who shall have been resident within the United States, when he may think requisite.

Sec. 8. *And be it further enacted* That this act shall continue and be in force until the third day of March, in the year one thousand eight hundred.

Approved, February 9, 1799.

An Act respecting balances reported against certain States, by the commissioners appointed to settle the accounts between the United States and the several States.

Be it enacted, &c., That if any State against which a balance was reported by the commis-

sioners appointed to settle the accounts between the United States and the several States, shall, on or before the first day of April, one thousand eight hundred, by a legislative act engage to pay into the Treasury of the United States, within five years after passing such legislative act, or to expend, within the time last mentioned, in erecting, enlarging or completing any fortifications for the defence of the United States at such place or places, the jurisdiction whereof having been, previously to such expenditure, ceded by such State to the United States, with reservation that process civil and criminal issuing under authority of such State, may be served and executed therein, and according to such plan or plans as shall be approved by the President of the United States, a sum in money, or in stock of the United States, equal to the balance reported as aforesaid, against such State, or to the sum assumed by the United States in the debt of such State, such payment or expenditure, when so made, shall be accepted by the United States, as a full discharge of all demands on account of said balance; and the President of the United States shall be, and hereby is, authorized to cause credit to be given to such State on the books of the Treasury of the United States accordingly: *Provided however*, That no more than one-third part of the whole payment or expenditure that may be made by any such State shall be made in three per cent. stock, nor more than one-third part of the remaining two thirds shall be made in deferred stock; *And provided also*, That any such State may obtain a discharge, as aforesaid, by the payment or expenditure of a sum of money, sufficient in the opinion of the Secretary of the Treasury, to purchase, at market price, the different species of stock, the payment or expenditure of which would be accepted as a full discharge, as aforesaid.

Sec. 2. *Provided always, and be it further enacted*, That if any such State, as aforesaid, shall have expended since the establishment of the present Government of the United States, any sum of money in fortifying any place since ceded by such State to the United States, or which may be so ceded, within one year after the passing of this act, such expenditure having been ascertained and proved to the satisfaction of the Secretary of the Treasury, shall be taken and allowed as part of the expenditure intended by this act.

Approved, February 15, 1799.

An Act to authorize the reimbursement of moneys expended in rendering aid to sick and destitute American seamen, in foreign countries.

Be it enacted, &c., That the Secretary of State be, and hereby is, authorized, under the direction of the President of the United States, to reimburse such reasonable advances of money, as have been made, or, during the present year, may be made, by the Consuls of the United States in affording relief to sick and destitute American seamen, in foreign countries, or in aiding them to return to their homes, beyond the sum allowed by law for that purpose.

Approved, February 19, 1799.

An Act to amend an act, entitled "An act giving effect to the laws of the United States within the district of Tennessee."

Be it enacted, &c., That any person who shall commit an offence against the laws of the United States, on the east side of Cumberland mountain, within the district of Tennessee, shall not be held to answer at the court at Nashville, or any other place, on the west side of said mountain, and that any person who shall commit an offence against the laws of the United States on the west side of said mountain, within the said district, shall not be held to answer, at the court at Knoxville, or any other place, upon the east side of said mountain; but that all persons who shall commit offences against the laws of the United States (within the said district) shall be held to answer in the court on that side of the said mountain, where such offence shall have been committed.

Sec. 2. *And be it further enacted*, That any suits which shall be brought by the United States, in the district court of Tennessee, against any person residing on the east side of said mountain, shall not be returned to the court at Nashville, on the west side of the said mountain, and that any suits which shall be brought by the United States, against any person residing upon the west side of said mountain, shall not be returned to the court at Knoxville, on the east side of the said mountain. But that all suits which shall be brought by the United States, against any person or persons, residing on the respective sides of the said mountain, shall be returned to the court, on that side of the shall mountain, where the defendant or defendants said reside, or be found at the time of bringing such suit or suits.

Sec. 3. *And be it further enacted*, That the western foot of Cumberland mountain shall be the boundary, dividing the jurisdiction of the eastern, from the western side of said mountain.

Sec. 4. *And be it further enacted*, That all suits which may be brought as aforesaid, shall be proceeded upon to final judgment in the court wherein such suit or suits shall have been originally returned, and it shall be the duty of the clerk for the district of Tennessee, to keep two separate dockets, for the purposes aforesaid—one for the court at Nashville, and one for the court at Knoxville: *Provided*, That nothing in this act shall be so construed, as to prevent writs of execution issued from either of the said courts being executed on the person or property of the defendant or defendants, in any part of the district of Tennessee, in the same manner as if this act had never been made.

Approved, February 19, 1799.

An act appropriating a certain sum of money to defray the expense of holding a treaty or treaties with the Indians.

Be it enacted, &c., That a sum not exceeding twenty-five thousand dollars, be appropriated to defray the expense of such treaty or treaties as the President of the United States shall deem expedient to hold with the Indians: *Provided*, nothing in this act contained shall be construed to admit an obligation on the part of the United States to extinguish, for the benefit of any State or individual citizen, Indian claims to any lands lying within the limits of the United States; and that the compensation to be allowed to any of the Commissioners appointed, or who may be appointed, for negotiating such treaty or treaties, shall not exceed, exclusive of travelling expenses, the rate of eight dollars per day, during the time of actual service of such Commissioner.

Sec. 2. *And be it further enacted*, That the sum aforesaid shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, February 19, 1799.

An Act fixing the pay of the captains and commanders of ships and vessels of war of the United States

Be it enacted, &c., That all the vessels in the service of the United States, mounting twenty guns and upwards, be commanded by captains; those not exceeding eighteen guns (except galleys, which are to be commanded, as heretofore provided by law) by masters or lieutenants, according to the size of the vessel, to be regulated by the President of the United States.

Sec. 2. *And be it further enacted*, That the pay of captains commanding ships of thirty-two guns and upwards, be one hundred dollars per month, and eight rations per day; of captains commanding ships of twenty and under thirty-two guns, seventy-five dollars per month, and six rations per day; of a master commandant, sixty dollars per month, and five rations per day; and of lieutenants, who may command the smaller vessels, fifty dollars per month, and four rations per day.

Sec. 3. *And be it further enacted*, That whenever any officer, as aforesaid, shall be employed in the command of a squadron, on separate service, the allowance of rations to such commanding officer shall be doubled during the continuance of such command, and no longer, except in the case of the commanding officer of the navy, whose allowance, while in service, shall always be at the rate of sixteen rations per day.

Approved February 25, 1799.

An Act making appropriations for defraying the expenses which may arise in carrying into effect certain treaties between the United States and several tribes or nations of Indians.

Be it enacted, &c., That for the purpose of defraying the expenses which may arise in carrying into effect the following treaties, viz: A treaty made and concluded with the Creeks, at the city of New York, on the seventh day of April, one thousand seven hundred and ninety, and a further treaty with the said Creeks, made and concluded at Colerain, in the State of Georgia, on the twenty-ninth of June, one thousand seven hundred and ninety-six: A treaty made and concluded with the chiefs and warriors of the Six Nations, on the eleventh of November, one thousand seven hundred and ninety-four: An agreement made and entered into with the chiefs of the Chickasaw nation, in Philadelphia, on the fifteenth July, one thousand seven hundred and ninety-four, to pay to the said nation goods to the amount of three thousand dollars annually: And the treaty made and concluded at Tellico, with the Cherokee tribe or nation, on the second day of October, one thousand seven hundred and ninety-eight; and a treaty of Holston, mentioned in the same: The money arising under the revenue laws of the United States, which have been heretofore passed, and not already appropriated to any other purpose, that is to say, so much thereof as may be necessary, be, and is hereby, pledged and appropriated for the payment of the annuities stipulated as aforesaid, to be paid to the said Indian tribes or nations, and to continue so pledged and appropriated so long as the said treaties and agreement shall be in force. And that a further sum of ten thousand dollars, out of the money aforesaid, be, and hereby is, appropriated to defray the cost of transportation, and other contingent charges which may arise from the payment of said annuities, according to the stipulations made and entered into with the aforesaid nations, tribes, or Indians.

Approved February 25, 1799.

An Act respecting quarantines and health laws.

Be it enacted, &c., That the quarantines and other restraints, which shall be required and established by the health laws of any State, or pursuant thereto, respecting any vessels arriving in, or bound to, any port or district thereof, whether from a foreign port or place, or from another district of the United States, shall be duly observed by the collectors, and all other officers of the revenue of the United States, appointed and employed for the several collection districts of such State, respectively, and by the masters and crews of the several revenue cutters, and by the military officers who shall command in any fort or station upon the seacoast; and all such officers of the United States shall be, and they hereby are, authorized and required, faithfully to aid in the execution of such quarantines and health laws, according to their respective powers and precincts, and as they shall be directed from time to time by the Secretary of the Treasury of the United States. And the said Secretary shall be, and he is hereby authorized, when a conformity to such quarantines and health laws shall require it, and in respect to vessels which shall be subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries: *Provided*, that nothing herein shall enable any State to collect a duty of tonnage or impost, without the consent of the Congress of the United States thereto: *And provided*, that no part of the cargo of any vessel shall, in any case, be taken out, or unladen therefrom, otherwise than as by law is allowed, or according to the regulations hereinafter established.

Sec. 2. *And be it further enacted*, That when,

by the health laws of any State, or by the regulations which shall be made pursuant thereto, any vessel, arriving within a collection district of such State, shall be prohibited from coming to the port of entry or delivery by law established for such district, and it shall be required or permitted by such health laws, that the cargo of such vessel shall or may be unladen at some other place within or near to such district, the collector authorized therein, after due report to him of the whole of such cargo, may grant his special warrant or permit for the unlading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws shall permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, reasonably judge expedient for the security of the public revenue: *Provided*, That in every such case, all the articles of the cargo so to be unladen shall be deposited at the risk of the parties concerned therein, in such public, or other warehouses or inclosures, as the collector shall designate, there to remain under the joint custody of such collector, and of the owner or owners, or master, or other person having charge of such vessel, until the same shall be entirely unladen or discharged; and until the goods, wares, or merchandise, which shall be so deposited, may be safely removed, without contravening such health laws; and when such removal may be allowed, the collector having charge of such goods, wares, or merchandise, may grant permits to the respective owners or consignees, their factors or agents, to receive all goods, wares, or merchandise, which shall be entered, and whereof the duties accruing shall be paid or secured, according to law, upon the payment by them of a reasonable rate of storage; which shall be fixed by the Secretary of the Treasury for all public warehouses and inclosures.

Sec. 3. *And be it further enacted*, That there shall be purchased or erected, under the orders of the President of the United States, suitable warehouses, with wharves and inclosures, where goods and merchandise may be unladen and deposited, from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any State as aforesaid, at such convenient place or places therein, as the safety of the public revenue, and the observance of such health laws may require.

Sec. 4. *And be it further enacted*, That when, by the prevalence of any contagious or epidemical disease, in or near the place by law established, as the port of entry for any collection district, it shall become dangerous or inconvenient for the collector and the other officers of the revenue employed therein, to continue the discharge of their respective offices at such port, the Secretary, or, in his absence, the Comptroller of the Treasury of the United States, may direct and authorize the removal of the collector, and the other officers employed in his department, from such port, to any other more convenient place, within, or as near as may be, to such collection district, where such collector and officers may exercise the same authorities, and shall be liable to the same duties, according to existing circumstances, as in such lawful port or district; and of such removal, public notice shall be given as soon as may be.

Sec. 5. *And be it further enacted*, That it shall be lawful for the judge of any district court of the United States, within whose district any contagious or epidemical disease shall at any time prevail, so as, in his opinion, to endanger the life or lives of any person or persons confined in the prison of such district, in pursuance of any law of the United States, to direct the marshal to cause the person or persons confined as aforesaid, to be removed to the next adjacent prison where such disease does not prevail, there to be confined, until he, she, or they may safely be removed back to the place of their first confinement; which removals shall be at the expense of the United States.

Sec. 6. *And be it further enacted*, That, in case of the prevalence of a contagious or epidemical disease at the seat of Government, it shall be lawful for the President of the United States to permit and direct the removal of any or all the public offices to such other place or places, as, in his discretion, shall be deemed most safe and convenient for conducting the public business.

Sec. 7. *And be it further enacted*, That, whenever, in the opinion of the chief justice, or in case of his death, or inability, of the senior associate justice of the Supreme Court of the United States, a contagious sickness shall render it hazardous to hold the next stated session of the said court at the seat of Government, it shall be lawful for the chief or such associate justice, to issue his order to the marshal of the district within which the Supreme Court is by law to be holden, directing him to adjourn the said session of the said court to such other place within the same, or an adjoining district, as he may deem convenient; and the said marshal shall thereupon adjourn the said court, by making publication thereof in one or more public papers printed at the place by law appointed for holding the same, from the time he shall receive such order, until the time by law prescribed for commencing the said session. And the district judges shall, respectively, under the same circumstances, have the same power, by the same means, to direct adjournments of the district and circuit courts within their several districts, to some convenient place within the same, respectively.

Sec. 8. *And be it further enacted*, That the act, entitled "An act relative to quarantine," passed in the first session of the fourth Congress of the United States, shall be, and the same is hereby, repealed.

Approved, February 25, 1799.

An Act for the augmentation of the Navy.

Be it enacted, &c., That, under the orders of the President of the United States, and in addition to the naval armament already authorized by law, there shall be built within the United States, six

ships-of-war, of a size to carry, and which shall be armed with not less than seventy-four guns, each; and there shall be built or purchased within the United States, six sloops-of-war, of a size to carry, and which shall be armed with, eighteen guns, each, or not exceeding that force; all which ships and vessels shall be procured, manned, and employed, as soon as may be, for the service of the United States: And, in part of the necessary expenditures to be incurred herein, a sum not exceeding one million of dollars, shall be, and is hereby, appropriated, and shall be paid out of any moneys which shall be in the Treasury of the United States, not otherwise appropriated.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to augment, at his discretion, the force of any ship or vessel, now in the service, or building for the service of the United States, by allowing an additional number of guns and men therein, beyond the established rate, and according to the respective size and capacity of such ship or vessel: And a sum not exceeding thirty-five thousand dollars shall be, and is hereby, appropriated, to defray the expense of such augmentation, and shall be paid out of any moneys which shall be in the Treasury of the United States, not otherwise appropriated.

Sec. 3. *And be it further enacted*, That the President of the United States shall be, and is hereby, authorized to place on the naval establishment, and employ accordingly, all or any of the vessels, which, as revenue cutters, have been increased in force, and employed in the defence of the seacoast, pursuant to the act, entitled "An act providing a naval armament; and, thereupon, the officers and crews of such vessels may be allowed, at the discretion of the President of the United States, the pay, subsistence, advantages, and compensations, proportionably to the rates of such vessels, and shall be governed by the rules and discipline which are, or which shall be, established, for the Navy of the United States.

Approved, February 22, 1799.

An Act authorizing the establishment of docks.

Be it enacted, &c., That two docks, for the convenience of repairing the public ships and vessels, be erected in suitable places, under the direction of the President of the United States, and that the sum of fifty thousand dollars be appropriated towards effecting this object, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, February 25, 1799.

An Act authorizing the purchase of timber for naval purposes.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized to direct a sum not exceeding two hundred thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, to be laid out in the purchase of growing or other timber, or of lands on which timber is growing, suitable for the Navy, and to cause proper measures to be taken to have the same preserved for the future uses of the Navy.

Approved, February 25, 1799.

An Act to alter the stamp duties imposed upon foreign bills of exchange and bills of lading, by an act, entitled "An act laying duties on stamped vellum, parchment, and paper;" and further to amend the same.

Be it enacted, &c., That, from and after the thirty-first day of March next, the duties imposed by an act, entitled "An act laying duties on stamped vellum, parchment, and paper," upon foreign bills of exchange and bills of lading, shall cease and determine; and from and after the said thirty-first day of March next, there shall be levied and paid throughout the United States, the several stamp duties following, to wit: On every skin or piece of vellum, or parchment, or sheet or piece of paper, on which shall be written or printed any or either of the instruments following, to wit: Any foreign bill of exchange, draught, or order, for the payment of money in any foreign country, twenty cents; any note or bill of lading, or writing, or receipt, in the nature thereof, for any goods or merchandise to be exported, if from one district to another district of the United States, not being in the same State, four cents; if to be exported to any foreign port or place, ten cents; any policy of assurance, or instrument in nature thereof, other than those specified in the above recited act, when the sum for which insurance is made shall not exceed five hundred dollars, twenty-five cents; and when the sum insured shall exceed five hundred dollars, one dollar. And the said duties shall be chargeable upon each and every bill of exchange and bill of lading, without respect to the number contained in a set.

Sec. 2. *And be it further enacted*, That, from and after the said thirty-first day of March, it shall not be lawful for any supervisor, or other person employed for the stamping of vellum, parchment, or paper, to stamp any foreign bill of exchange, draught, or order, for the payment of money in any foreign country, after the same shall be written or drawn. And, if any person or persons, from or after the said thirty-first day of March, shall presume to write or draw, or cause to be written or drawn, any such foreign bill, draught, or order, or any duplicate or triplicate thereof, before the vellum, parchment, or paper, on which the same shall be drawn, shall be duly stamped, or shall sell, loan, endorse, or remit any such foreign bill, draught, or order, unless every duplicate, triplicate, and other bill of the same tenor and date, which shall be drawn, or intended to be drawn, shall be first duly stamped; then, and in every such case, the person or persons so offending, shall, for each offence, forfeit and pay a sum, not exceeding one hundred dollars, according to the nature and aggravation of the offence.

Sec. 3. *And be it further enacted*, That if any person or persons, at any time after the said thirty-

first day of March next, shall knowingly and fraudulently write or engross, or cause to be written or engrossed, the whole or any part of any bond, bill, instrument, or other writing whatsoever, in respect whereof any duty is payable by the acts of Congress, or any of them, on the whole or any part of any piece of vellum, parchment, or paper, whereon there shall have been before written any other bond, bill, instrument, or other writing, in respect whereof any duty was payable by the said acts, or either of them, before such vellum, parchment, or paper, shall have been again marked or stamped, according to the said acts; or shall fraudulently erase or scrape out, or cause to be erased or scraped out, the name or names of any person or persons, or any sum, date, or other thing written in such bond, bill, instrument, or writing, or fraudulently cut, tear, or get off, any mark or stamp from any piece of vellum, parchment, or paper, or part thereof, with intent to use such stamp or mark for any writing or thing, in respect whereof any duty shall be payable by virtue of the said acts, or either of them, that then, so often, and in every such case, every person, so offending, shall, for every such offence, forfeit the sum of two hundred dollars, and costs of suit.

Sec. 4. *And be it further enacted*, That if any writings, matters, and things, in respect whereof any of the said duties shall be payable, and which shall be engrossed or written, after the said thirty-first day of March next, shall be written at a distance from the stamps or marks which shall, in pursuance of the said acts, or any of them, be placed on the vellum, parchment, or paper, whereupon the same shall be written or engrossed, with intent fraudulently to evade the duties imposed by the said acts, or any of them, the person who shall write or engross, or cause to be written or engrossed any such writing, matter, or thing, contrary to the tenor and true meaning hereof, shall, for every such offence, forfeit the sum of one hundred dollars, and full costs of suit.

Sec. 5. *And be it further enacted*, That the duties imposed by this act shall be levied and collected in the same manner, and by the same persons, and under the same regulations, fines, penalties, and forfeitures, which are provided in and by the acts of Congress now in force, respecting the duties on stamped vellum, parchment, and paper. And the said fines, penalties, and forfeitures, shall be sued for and recovered, in the same manner, and to the same uses, as are provided in the said acts.

Sec. 6. *And be it further enacted*, That no duties shall be levied or collected upon any bonds required in any case by the laws of the United States, or of any State, upon legal process, or in any judicial proceeding, or for the faithful performance of any trust or duty; anything in the above recited act to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That the supervisors shall be severally allowed upon all stamp duties, and upon all fines accruing thereupon, which shall be collected and accounted for by them, respectively, the commissions following, to wit: Upon all duties collected from persons other than officers of the revenue, and upon all fines, a commission of four per centum; upon all duties received from officers of the revenue, or which are collected and duly accounted for by the said officers, a commission of one per centum; and that the inspectors of surveys, not being also supervisors, shall, severally, be allowed upon all stamp duties, and upon all fines accruing thereupon, which shall be collected and accounted for by them, respectively, a commission of one and an half per centum. And the allowances aforesaid shall extend to the duties and fines which have been heretofore, or may be hereafter, collected and accounted for, in manner aforesaid, in pursuance of the act, entitled "An act laying duties upon stamped vellum, parchment, and paper," as well as to all duties and fines authorized by this act.

Approved, February 28, 1799.

An Act concerning French citizens that have been, or may be, captured and brought into the United States.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to exchange or send away from the United States to the dominions of France, as he may deem proper and expedient, all French citizens that have been, or may be, captured and brought into the United States, in pursuance of the act, entitled "An act in addition to the act more effectually to protect the commerce and coasts of the United States."

Approved, February 28, 1799.

An Act for providing compensation for the marshals, clerks, attorneys, jurors, and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes.

Be it enacted, &c., That, from and after the passing of this act, the compensation to the several officers hereinafter mentioned, shall be as follows, to wit: to the marshals of the several districts of the United States, for the service of any writ, warrant, attachment, or process, issuing out of any courts of the United States, two dollars; and in case there be more than one person named in the said writ, warrant, attachment, or process, then, two dollars for each person so named; for his travel out in serving each writ, warrant, attachment, or process, aforesaid, five cents per mile, to be computed from the place of service, to the court where the writ or process shall be returned; and if more persons than one are named therein, the travel shall be computed from the court to the place of service which shall be the most remote, adding thereto the extra travel which shall be necessary to serve it on the other; for each bail bond, fifty cents; for actually summoning witnesses or appraisers, each fifty cents; for every commitment or discharge of a prisoner, fifty cents; for every proclamation in the Admiralty, thirty cents; for sales of vessels, or other property, and for receiving and paying the money, for any sum under five hundred dollars, two and one half per cent.; for any larger sum, one and one quarter per cent.

upon the excess; for summoning each grand and other jury, four dollars: *Provided*, That in no case shall the fees for summoning jurors, to any one court, exceed fifty dollars; and in those States where jurors, by the laws of the State, are drawn by constables, or other officers of corporate towns or places, by lot, the marshal shall receive, for the use of the officers employed in summoning the jurors and returning the venire, the sum of two dollars, and for his own trouble in distributing the venire, the sum of two dollars; for attending the supreme or circuit court, five dollars per day; and for attending the district court, where such court has the powers and cognizance of a circuit court, five dollars per day; and for attending the district courts in other cases, four dollars per day, and at the rate of ten cents per mile, for his travel from the place of his abode to either of the said courts; for all other services, not herein enumerated, except as shall be hereafter provided, such fees and compensations as are allowed in the supreme court of the State where such services are rendered: And the annual sum of two hundred dollars as a full compensation for all extra services, shall be allowed to each marshal for the districts of Tennessee, Kentucky, New Hampshire, Vermont, and Maine.

Sec. 2. *And be it further enacted*, That when a deputy marshal, who shall be duly appointed by the marshal of any district, shall reside and be more than twenty miles from the place where the district judge of such district shall reside and be, the oath of office required of such deputy, before he enters on the discharge thereof, may be administered and taken by and before any judge or justice of any State court within the same district, or before any justice of the peace, having authority therein, and being certified by him, to the said district judge, shall be as effectual as if administered or taken before such district judge.

Sec. 3. *And be it further enacted*, That the compensation to the clerk of the Supreme Court of the United States, shall be as follows, to wit: for his attendance in court, ten dollars per day, and for his other services, double the fees of the clerk of the Supreme Court of the State in which the Supreme Court of the United States shall be holden. To the clerks of circuit and district courts, in each State respectively, the same fees as are allowed in the supreme court of the said State, with an addition thereto of one-third of said fees, and five dollars per day for his attendance at any circuit or district court, and at the rate of ten cents per mile for his travel from the place of his abode to either of said courts; and in case a clerk of a court of the United States perform any duty which is not performed by the clerks of the State, and for which the laws of the State make no provision, the court in which such service shall be performed shall make a reasonable compensation therefor. And in all cases of admiralty jurisdiction, the clerk of the district court shall be allowed the same fees as are prescribed by the second section of an act, passed the first day of March, one thousand seven hundred and ninety three, entitled "An act to ascertain the fees in admiralty proceedings in the district courts of the United States, and for other purposes."

Sec. 4. *And be it further enacted*, That the compensation to the attorneys of the respective districts of the United States shall be as follows, to wit: for each day which any such attorney shall necessarily attend on business of the United States, during the session of any district or circuit court, five dollars; for travelling from the place of his abode to such court, ten cents per mile; and such fees, in each State, respectively, as are allowed in the supreme court thereof; and in the district courts, his stated fees, in the cases hereinmentioned, shall be as follows, to wit: for drawing interrogatories, five dollars; for drawing and exhibiting libel, claim, or answer, six dollars; and for all other services in any one cause, six dollars. And the annual sum of two hundred dollars, as a full compensation for all extra services, shall be allowed and paid by the United States, to each district attorney for the districts of Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, Delaware, Virginia, North Carolina, Georgia, Kentucky, and Tennessee.

Sec. 5. *And be it further enacted*, That for all services in criminal cases performed by the attorney for the district of Virginia, and for which no fees are allowed by law for similar services in the courts of that State, he shall be allowed such sum or sums as the court in which the same is rendered shall consider a reasonable compensation therefor.

Sec. 6. *And be it further enacted*, That the compensation to jurors and witnesses, in the courts of the United States, shall be as follows, to wit: to each grand and other juror, for each day he shall attend in court, one dollar and twenty-five cents; and for travelling, at the rate of five cents per mile, from their respective places of abode to the place where the court is holden, and the like allowance for returning; to the witnesses summoned in any court of the United States, the same allowance as is above provided for jurors.

Sec. 7. *And be it further enacted*, That the respective courts of the United States shall appoint cryers for their courts, to be allowed the sum of two dollars per day; and that the marshals be, and they are hereby, authorized to appoint such a number of persons, not exceeding three, as the judges of their respective courts shall determine, to attend upon the grand and other jurors, and for other necessary purposes, who shall be allowed for their services the sum of two dollars per day, to be paid by, and included in the accounts of, the marshal, out of any money of the United States in his hands.

Sec. 8. *And be it further enacted*, That if any informer on a penal statute, and to whom the penalty, or any part thereof, if recovered, is directed to accrue, shall discontinue his suit or prosecution, or shall be nonsuited in the same, or if, upon trial, judgment shall be rendered in favor of the defendent, unless the informer be an officer of the United States, he shall be alone liable to the clerks, marshals, and attorneys, for the fees of

such prosecution; but if such informer be an officer, whose duty it is to commence such prosecution, and the court shall certify there was reasonable ground for the same, then the United States shall be responsible for such fees.

SEC. 9. *And be it further enacted*, That the third section of an act, passed on the eighth day of May, one thousand seven hundred and ninety-two, entitled "An act for regulating process in the courts of the United States, and for providing compensations for the officers of said courts, and for jurors and witnesses;" and the second section of an act, passed on the first day of June, one thousand seven hundred and ninety-six, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensations to jurors and witnesses in the courts of the United States," be, and they are hereby, repealed.

Approved, February 28, 1799.

An Act to amend the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States."

Be it enacted, &c., That so much of the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," as requires that the lists to be delivered in pursuance of the ninth section thereof, shall specify, in respect to dwelling-houses, "the number and dimensions of their windows," shall be, and hereby is, repealed.

SEC. 2. *And be it further enacted*, That the commissioners under the said act, for each State respectively, shall be, and hereby are, authorized to extend the time thereby allowed for receiving appeals by the principal assessors, and also the time so allowed for returning lists by the assistant assessors in all cases where the said commissioners shall deem such an extension necessary, and for such time as they shall think expedient, and that so much of the twentieth section of the abovementioned act, as requires all appeals to be made in writing, be, and it is hereby, repealed.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury shall be, and hereby is, authorized and empowered, under the direction of the President of the United States, to augment, in cases where he may find it necessary, the compensations fixed for principal and assistant assessors, by said act, so, however, as that no principal or assistant assessor shall, in any case, receive more than two dollars per day, which additional compensations shall be subject to the same rules of settlement as are established by the aforesaid act, respecting the compensations therein fixed for principal and assistant assessors.

Approved, February 28, 1799.

An Act altering the time of holding the district court in Vermont.

Be it enacted, &c., That the session of the district court for the district of Vermont, by law appointed to be holden at Rutland in said district on the first Monday of May, annually, shall hereafter be holden at Rutland in said district on the second Monday of May, annually.

SEC. 2. *And be it further enacted*, That all process which shall have been issued, and all recognizances returnable, and all suits and other proceedings which have been continued to the said district court on the first Monday of May next, shall be returned and held continued to the said court on the second Monday of May next.

Approved, February 28, 1799.

An Act to regulate the collection of duties on imports and tonnage.

Be it enacted &c., That the State of New Hampshire shall be one district, to be called the district of Portsmouth, of which the town of Portsmouth shall be the sole port of entry, and the towns of New Castle, Dover, and Exeter, ports of delivery only; but all ships or vessels, bound to or from either of the said ports of delivery, shall first come to, enter, and clear at Portsmouth; and a collector, naval officer, and surveyor, for the said district, shall be appointed, to reside at Portsmouth; and the authority of the officers of the said district shall, for the purposes of this act, extend to the northern boundary line of the said State of New Hampshire, adjoining to the British colony of Lower Canada.

SEC. 2. *And be it further enacted*, That in the State of Massachusetts there shall be twenty-two districts and ports of entry, to wit: Newburyport, Ipswich, Gloucester, Salem, and Beverly, as one; Marblehead, Boston, and Charlestown, as one; Plymouth, Barnstable, Nantucket, Edgartown, New Bedford, Dighton, York, Biddeford, and Pepperelborough, as one; Portland and Falmouth, as one; Bath, Wiscasset, Penobscot, Frenchman's Bay, Machias, Passamaquoddy, and Waldoborough.

To the district of Newburyport shall be annexed the several towns, or landing places, of Amesbury, Salisbury, Haverhill, and Newbury, which shall be ports of delivery only; and a collector, naval officer, and surveyor, for the district, shall be appointed to reside at Newburyport.

To the district of Gloucester shall be annexed the town of Manchester, as a port of delivery only; and a collector and surveyor shall be appointed for the district, to reside at Gloucester.

To the district of Salem and Beverly shall be annexed the town or landing place of Danvers, as a port of delivery only; and a collector, naval officer, and surveyor, for the district, shall be appointed, to reside at Salem, and a surveyor to reside at the town of Beverly.

To the district of Marblehead shall be annexed the town of Lynn, as a port of delivery only; and a collector for the district shall be appointed, to reside at Marblehead.

To the district of Boston and Charlestown shall be annexed the towns or landing places of Medford, Cohasset, Hingham, and Weymouth, as ports of delivery only; and a collector, naval officer, and surveyor, for the district, shall be appointed, to reside at Boston.

To the district of Plymouth shall be annexed the several towns or landing places of Scituate, Duxbury, and Kingston, as ports of delivery only; and a collector for the district shall be appointed, to reside at Plymouth.

To the district of Barnstable shall be annexed the several towns or landing places of Sandwich, Falmouth, Hardwich, Wellfleet, Provincetown, and Chatham, as ports of delivery only; and a collector for the district shall be appointed, to reside at Barnstable.

In the district of Nantucket, the port of Nantucket shall be the sole port of entry and delivery; and a collector for the district shall be appointed, to reside at Nantucket.

In the district of Edgartown, a collector for the district shall be appointed, to reside at Edgartown.

To the district of New Bedford shall be annexed Westport, Rochester, and Wareham, as ports of delivery only; and a collector for the district shall be appointed, to reside at New Bedford.

To the district of Dighton shall be annexed Swansey, Somerset, Freetown, Berkeley, and Taunton, as ports of delivery only; and a collector for the district shall be appointed, to reside at Dighton.

To the district of York shall be annexed Kittery and Berwick, as ports of delivery only; and a collector for the district shall be appointed, to reside at York.

To the district of Biddeford and Pepperelborough shall be annexed Scarborough, Wells, Kennebunk, and Cape Porpoise, as ports of delivery only; and a collector for the district shall be appointed, to reside at Biddeford.

To the district of Portland and Falmouth shall be annexed North Yarmouth, Brunswick, Freeport, and Harpswell, as ports of delivery only; and a collector and surveyor shall be appointed for the district, to reside at Portland.

To the district of Bath shall be annexed Hallowell, Pittstown, Topsham, Georgetown, and Brunswick, as ports of delivery only; and a collector for the district shall be appointed, to reside at Bath.

To the district of Wiscasset shall be annexed the town of Boothbay, as a port of delivery only; and a collector for the district shall be appointed, to reside at Wiscasset.

To the district of Penobscot shall be annexed Frankfort, Bluehill, Hampden, and Deer Island, as ports of delivery only; and a collector for the district shall be appointed, to reside at Castine; which shall be the port of entry for the said district.

To the district of Frenchman's Bay shall be annexed Union River, as a port of delivery only; and a collector for the district shall be appointed, to reside at Frenchman's Bay.

For each of the districts of Machias and Passamaquoddy, shall be appointed a collector, to reside at the said ports of Machias and Passamaquoddy, respectively.

To the district of Waldoborough shall be annexed the towns of Bristol, Nobleborough, Warren, Thomaston, Cushing, and Cambden; also that part of a place called Ducktrap, which lies between the towns of Cambden and Northport, as ports of delivery only; and a collector for the district shall be appointed, to reside at Waldoborough, and a surveyor, to reside at Thomaston.

The district of Ipswich shall include the town of Ipswich, as a port of entry only; and a collector for the district shall be appointed, to reside at Ipswich.

The district of Newburyport shall include all the waters and shores from the State of New Hampshire to the north line of Ipswich.

The district of Gloucester shall include all the waters and shores in the towns of Gloucester and Manchester.

The district of Salem and Beverly shall include all the shores and waters within the towns of Beverly, Salem, and Danvers.

The district of Marblehead shall include all the waters and shores within the towns of Marblehead and Lynn.

The district of Boston and Charlestown shall include all the waters and shores within the counties of Middlesex, Suffolk, and Norfolk.

The district of Plymouth shall include all the waters and shores within the county of Plymouth, excepting the towns of Wareham and Rochester.

The district of Barnstable shall include all the waters and shores within the county of Barnstable.

The district of Nantucket shall include the island of Nantucket.

The district of Edgartown shall include all the waters and shores within the county of Duke's county.

The district of New Bedford shall include all the waters and shores within the towns of New Bedford, Dartmouth, Westport, Rochester, and Wareham, together with all the islands within the county of Bristol.

The district of Dighton shall include all the waters and shores on Taunton river, and in the town of Rehoboth.

The district of Waldoborough shall include all the waters and shores from the middle of Damarascotty river, to the southwardly side of the town of Northport.

The collectors of the several districts within that part of the State of Massachusetts, eastward of New Hampshire, shall, from time to time, agree upon a divisional line between their respective districts, and transmit the same to the Comptroller of the Treasury; and such districts, so agreed upon, shall include all the waters, shores, and islands within the same, and all the lands adjoining to the British colonies of New Brunswick and Lower Canada, within the eastern part of the State of Massachusetts aforesaid. And in case of disagreement between any of the said collectors concerning such divisional line, the President of the United States shall determine the same.

SEC. 3. *And be it further enacted*, That in the

State of Rhode Island and Providence Plantations, there shall be two districts, to wit: the district of Newport and the district of Providence. The district of Newport shall comprehend all the waters, shores, bays, harbors, creeks, and inlets, from the west line of the said State, all along the seacoast; and northward, up the Narragansett bay, as far as the most southerly point of Warwick Neck, and from thence nearly a northeast course, to the south end of Rumstick Point, at high water mark, and shall include the several towns, harbors, and landing places, at Westerly, Charlestown, South Kingston, North Kingston, East Greenwich, and all that part of Warwick southward of Warwick Neck, and also the towns, harbors, and landing places, of Barrington, Warren, Bristol, Tiverton, Little Compton, and all the towns, harbors, and landing places, of the island of Rhode Island, James Town, Prudence, New Shoreham, and every other island and place within the said State, southward of Warwick Neck and Rumstick Point.

The district of Providence shall comprehend all the waters, shores, bays, harbors, creeks, and inlets, within the State of Rhode Island, northward of a line running nearly a northeast course from the south end of Warwick Neck to the south end of Rumstick Point at high water mark, including only the waters bounded by the east and west shores of said Rumstick Point and Warwick Neck, leading up the bay of the port of Providence. The town of Newport shall be the sole port of entry in the said district of Newport; and a collector, naval officer, and surveyor, for the district, shall be appointed, to reside at the said town of Newport: and North Kingston, East Greenwich, Barrington, Warren, Bristol, and Pawcatuck river in Westerly, shall be ports of delivery only; and a surveyor shall be appointed, to reside at each of the ports of North Kingston, East Greenwich, Warren, Bristol, and Pawcatuck river; and the surveyor to reside at Warren shall be surveyor for the port of Barrington. The town of Providence shall be the sole port of entry in the said district of Providence; and Patuxet, in the same district, shall be a port of delivery only; and a collector, naval officer, and surveyor, shall be appointed, to reside at Providence, and a surveyor shall be appointed, to reside at Patuxet.

Sec. 4. *And be it further enacted*, That in the State of Connecticut there shall be four districts, to wit: New London, New Haven, Fairfield, and Middletown. The district of New London shall extend from the east line of the said State of Connecticut to the east line of the town of Lyme, and shall include the several towns or landing places of Norwich, Stonington, and Groton, as ports of delivery only; and New London to be the sole port of entry; and a collector and surveyor for the district shall be appointed, to reside at New London; and a surveyor, to reside at Stonington.

The district of New Haven shall extend from the west line of the district of New London, westerly to Oufatumnick river, to which shall be annexed the several towns, or landing places, of Guildford, Branford, Milford, and Derby, as ports of delivery only; and New Haven shall be the sole port of entry; and a collector and surveyor for the district shall be appointed, to reside at New Haven.

The district of Fairfield shall include all the ports and places in the said State of Connecticut west of the district of New Haven, to which shall be annexed the several towns or landing places of Norwalk, Stratford, Stamford, and Greenwich, as ports of delivery only; Fairfield shall be the sole port of entry; and a collector for the district shall be appointed, to reside at Fairfield.

The district of Middletown shall include the several towns and landing places of Lyme, Saybrook, Killingsworth, Haddam, East Haddam, Middletown, Chatham, Weathersfield, Glastenbury, Hartford, East Hartford, Windsor, and East Windsor, of which Middletown shall be the sole port of entry; and the other towns and landing places, before named, shall be ports of delivery only; and a collector and surveyor shall be appointed, to reside at Middletown; and a surveyor shall be appointed, to reside at Hartford, and another, to reside at Saybrook.

Sec. 5. *And be it further enacted*, That in the State of New York there shall be six districts, to wit: Sagg Harbor, on Nassau or Long Island, the city of New York, the city of Hudson, Champlain, Oswego, and Niagara.

The district of Sagg Harbor shall include all the bays, harbors, rivers, and shores, within the two points of land which are called Oyster-pond Point, and Montauk Point; and a collector for the district shall be appointed, to reside at Sagg Harbor, which shall be the only port of entry and delivery in the said district.

The district of the city of New York shall include all such part of the coasts, rivers, bays, and harbors of the said State, as are not included in other districts of the said State, especially the several towns or landing places of New Windsor, Newburgh, Poughkeepsie, Esopus, Kinderhook, and Albany, as ports of delivery only; and a collector, naval officer, and surveyor for the district, shall be appointed, to reside at New York, which shall be the sole port of entry for the district; and a surveyor at the city of Albany: and the President of the United States is authorized, if he judge it expedient, to appoint one other surveyor, to reside at such other place in the said district as he shall appoint.

The district of Hudson shall include all the waters and shores of the said city; and a collector shall be appointed for the said district, to reside at the said city of Hudson, which shall be the sole port of entry and delivery.

The district of Champlain shall include all such shores and waters of Lake Champlain, and the rivers connected therewith, as lie within the said State of New York; and the said district shall extend westwardly along the northern boundary line of the said State, unto the place where said line is bounded by the river St. Lawrence; and the President of the United States is hereby authorized to appoint such place within the said district to be a port of entry and delivery, as he shall judge expedient; and a collector shall be appointed, to reside at the port of entry which may be established within the said district; and the President is also authorized, if he shall judge proper, to appoint not exceeding two surveyors, to reside at such place as he may judge expedient to constitute ports of delivery only.

The district of Oswego shall include all the shores and waters of the river St. Lawrence, from the place where said river is intersected by the forty-fifth degree of northern latitude, and all the shores and waters of Lake Ontario, and the rivers and waters connected therewith, lying within the jurisdiction of the United States, and within the State of New York, to the eastward of the west bank of Genesee river; and a collector shall be appointed, who shall reside at or near Oswego, at such place as the President of the United States shall appoint to be the port of entry for the district; and the President of the United States is authorized to appoint not exceeding three surveyors, to reside at such places within the said district as he shall judge proper, and to constitute each or either of such places to be ports of delivery only.

The district of Niagara shall include all the shores and waters of Lake Ontario and Lake Erie, and the rivers connected therewith, lying within the jurisdiction of the United States, and within the State of New York, to the westward of the west bank of Genesee river; and a collector shall be appointed who shall reside at Niagara, which shall be the sole port of entry for the district; and the President of the United States is authorized to appoint, not exceeding two surveyors, to reside at such places within the said district as he shall judge proper, and to constitute each or either of such places to be ports of delivery only.

Sec. 6. *And be it further enacted*, That the State of Vermont shall constitute one district, which shall include all such shores and waters of Lake Champlain, and the rivers connected therewith, as lie within the said State, and shall also extend along the northern boundary line of the said State, adjoining to the British colony of Lower Canada; and the President of the United States is authorized to appoint such place within the said district, to be the sole port of entry, as he shall judge proper; and a collector shall be appointed to reside thereat; and the President of the United States is also authorized, if he judge it expedient, to establish not exceeding two places as ports of delivery only, and to appoint surveyors for each, or either of said places, at his discretion: *Provided, nevertheless*, That the President of the United States may, whenever he shall judge it expedient, and for the interest of the United States, erect the northern boundary line of the said State, adjoining the British colony of Lower Canada, or so much thereof as he may think proper, into a separate district, and appoint a collector, to reside at such port of entry and delivery as may be established by the President within the same.

Sec. 7. *And be it further enacted*, That in the State of New Jersey there shall be five districts, to wit: Perth Amboy, Burlington, Bridgetown, Great Egg Harbor and Little Egg Harbor, which shall severally be ports of entry. The district of Perth Amboy shall comprehend all that part of the State of New Jersey, known by the name of East New Jersey, (that part excepted which is hereafter included in the district of Little Egg Harbor,) together with all the waters thereof, heretofore within the jurisdiction of the said State; in which district the towns, or landing places of New Brunswick, Middletown Point, Elizabeth Town, and Newark, shall be ports of delivery only; and a collector for the district shall be appointed, to reside at Perth Amboy, and a surveyor, to reside at New Brunswick.

The district of Burlington shall comprehend that part of the said State known by the name of West New Jersey, which lies to the eastward and northward of the county of Gloucester, with all the waters thereof heretofore within the jurisdiction of the said State, in which district the landing place of Lamberton shall be a port of delivery only, and a collector shall be appointed for the district, to reside at Burlington, which shall be the port of entry for the district.

The district of Bridgetown shall comprehend the counties of Gloucester, Salem, Cumberland, and Cape May, (such parts of the county of Gloucester and Cape May as shall be hereinafter included in the district of Great Egg Harbor excepted,) and all the waters thereof heretofore within the jurisdiction of the said State; and the town of Salem and Port Elizabeth, on Maurice river, shall be ports of delivery only; and a collector for the district shall be appointed, to reside at Bridgetown, which shall be the port of entry for the district.

The district of Great Egg Harbor shall comprehend the river of Great Egg Harbor, together with all the inlets, bays, sounds, rivers, and creeks, along the seacoast, from Brigantine inlet to Cape May; and a collector for the district shall be appointed, to reside at Somers Point, on the said river of Great Egg Harbor.

The district of Little Egg Harbor shall comprehend all the shores, waters, bays, rivers, and creeks, from Barnegat inlet to Brigantine inlet, both inclusively; and the town of Tuckerton shall be the sole port of entry for the said district; and a collector for the same shall be appointed, to reside at Tuckerton.

Sec. 8. *And be it further enacted*, That in the State of Pennsylvania, there shall be two districts, to wit: Philadelphia and Presque Isle; the district of Philadelphia shall include all the shores and waters of the river Delaware, and the rivers and waters connected therewith, lying within the State of Pennsylvania; and the city of Philadelphia shall be the sole port of entry and delivery for the same; and a collector, naval officer, and surveyor for the district, shall be appointed, who shall reside at the city of Philadelphia.

The district of Presque Isle shall include all the shores and waters of Lake Erie, and the rivers and waters connected therewith, lying within the

jurisdiction of the United States and the State of Pennsylvania; and a collector for the said district shall be appointed, who shall reside at Presque Isle.

SEC. 9. *And be it further enacted*, That the State of Delaware shall be one district, and the borough of Wilmington shall be the only port of entry, to which shall be annexed New Castle and Port Penn, as ports of delivery only; and a collector for the district shall be appointed, to reside at the said port of Wilmington.

SEC. 10. *And be it further enacted*, That in the State of Maryland there shall be ten districts, to wit: Baltimore, Chester, Oxford, Vienna, Snowhill, Annapolis, Nottingham, Nanjemoy, Georgetown, and Havre-de-Grace.

The district of Baltimore shall include Patapsco river, Turkey Point, Spes Utiæ Island, and all the waters and shores on the west side of Chesapeake bay, from the mouth of Magetty river, which shall not be included in the district of Havre-de-Grace; and a collector, naval officer, and surveyor for the district shall be appointed, to reside at Baltimore, which shall be the sole port of entry.

The district of Chester shall include Chester river, and all the waters and shores on the eastern side of Chesapeake bay, from the south side of Elk river to the north side of the Eastern bay and Wye river, inclusive; in which Georgetown, on Sassafras river, shall be a port of delivery only, and a collector for the district shall be appointed, to reside at Chester, which shall be the sole port of entry.

The district of Oxford shall include all the waters and shores on the eastern side of Chesapeake bay, from the north side of Wye river, and the Eastern bay, to the south side of Great Choptank river, inclusive; and Cambridge shall be a port of delivery only; and a collector for the district shall be appointed, to reside at Oxford, which shall be the sole port of entry.

The district of Vienna shall include all the waters and shores on the eastern side of Chesapeake bay, from the south side of Great Choptank river, to the south side of Hooper's straits, Hayne's Point, and Wicomico river, inclusive; and Salisbury shall be a port of delivery only; and a collector for the district shall be appointed, to reside at Vienna, which shall be the sole port of entry.

The district of Snowhill shall include all the waters and shores on the seacoast, from the north line of Virginia, to the south line of Delaware, together with all the waters and shores on the eastern side of Chesapeake bay, from the south side of Wicomico river to the south side of Pocomoke river, inclusive, so far as the jurisdiction of the said State of Maryland extends; to which Sinnipuxent shall be a port of delivery for West India produce only; and a collector for the district shall be appointed, to reside at Snowhill, which shall be the sole port of entry.

The district of Annapolis shall include Magetty river, and all the waters and shores from thence to Drum Point, on Patuxent river; and a collector for the district shall be appointed, to reside at Annapolis, which shall be the sole port of entry and delivery for the same.

The district of Nottingham shall include all the waters and shores on the west side of Chesapeake bay, to Drum Point, on the river Patuxent, together with the said river, and all the navigable waters emptying into the same to which Benedict, Lower Marlborough, Town Creek, and Sylvey's Landing, shall be annexed as ports of delivery only; and a collector for the district shall be appointed, to reside at Nottingham, and a surveyor at Town Creek; and Nottingham shall be the sole port of entry.

The district of Nanjemoy shall include all the waters of the Potomac within the jurisdiction of the State of Maryland, from Point Look Out to Pomonky creek, inclusive, to which Cedar Point, Saint Mary's, and Lewellensburgh shall be annexed as ports of delivery only; and a collector for the district shall be appointed, to reside at Nanjemoy; also a surveyor, to reside at each of the towns of Saint Mary's and Lewellensburgh; and Nanjemoy shall be the sole port of entry.

The district of Georgetown shall include all the waters and shores from Pomonky creek, on the north side of Potomac river, to the head of the navigable waters of the said river, within the jurisdiction of the State of Maryland, to which Digges's Landing and Carrolsburgh shall be annexed as ports of delivery only; and a collector for the district shall be appointed, to reside at Georgetown, which shall be the sole port of entry.

The district of Havre-de-Grace shall include all the waters and shores of the Chesapeake bay, above Turkey Point and Spes Utiæ Island to the south side of Elk river, inclusive, and a collector for the district shall be appointed, to reside at Havre-de-Grace, which shall be the sole port of entry for the same.

SEC. 11. *And be it further enacted*, That in the State of Virginia there shall be eleven districts, to wit: Hampton, as one port; Norfolk and Portsmouth, as one port; Bermuda Hundred and City Point, as one port; Yorktown, Tappahannock, Yeocomico river, including Kinsale, Dumfries, including Newport, Alexandria, Folly Landing, Cherrystone, and South Quay. The authority of the officers at Hampton shall extend over all the waters, shores, bays, harbors, and inlets between the south side of the mouth of York river, along the west shore of the Chesapeake bay, to Hampton, and thence up the northern side of James river, to the east side of Chickahominy river; and a collector for the district shall be appointed, to reside at Hampton, which shall be the sole port of entry.

To the district of Norfolk and Portsmouth shall be annexed Suffolk and Smithfield, as ports of delivery only; and the authority of the officers of the district shall extend over all the waters, shores, bays, harbors, and inlets, comprehended within a line drawn from Cape Henry to the mouth of James river, and thence up the south side of James river to Hood's, inclusively, and up Elizabeth river to the highest tide water thereof; and Norfolk and Portsmouth shall be the sole port of entry; and a collector, naval officer, and surveyor for the district shall be appointed, to reside at Norfolk; also a surveyor, to reside at each of the ports of Suffolk and Smithfield.

To the district of Bermuda Hundred, or City Point, shall be annexed Richmond, Petersburg, and Manchester, as ports of delivery only; and a collector and surveyor shall be appointed for the said district, to reside at Bermuda Hundred, or City Point, which shall be the sole port of entry; also a surveyor for Petersburg, to reside thereat; and a surveyor for Richmond and Manchester, to reside at Richmond; and the authority of the officers of the said district shall extend over all the waters, shores, bays, harbors, and inlets, comprehended between Hood's, on the southern side of James river, and the highest tide water on James and Appamatox rivers, and on the northern side of James river, from the highest tide water to the eastern bank of Chickahominy river.

To the district of Yorktown shall be annexed West Point and Cumberland, as ports of delivery only; and a collector for the district shall be appointed, to reside at Yorktown, which shall be the sole port of entry; also a surveyor for the two ports of delivery, to reside at West Point; and the authority of the officers of the said district shall extend over all the waters, shores, bays, harbors, and inlets, comprehended between the point forming the south shore of the mouth of Rappahannock river, and the point forming the south shore of the mouth of York river, and thence up the said river to West Point, and thence up Pamunkey and Mattapony rivers to the highest navigable waters thereof.

To the district of Tappahannock shall be annexed Urbanna, Port Royal, and Fredericksburg, including Falmouth, as ports of delivery only; and a collector for the district shall be appointed, to reside at Tappahannock, which shall be the sole port of entry; also a surveyor for each of the ports of Urbanna, Port Royal, and Fredericksburg; and the authority of the officers of the said district shall extend over all the waters, shores, harbors, bays, and inlets, comprehended between Smith's Point, at the mouth of the Potomac river, and the point forming the south shore of the mouth of Rappahannock river, and thence up the last-mentioned river to the highest tide water thereof.

The district of Yeocomico River, including Kinsale, shall extend from Smith's Point, on the south side of Potomac river, to Boyd's Hole, on the same river, including all the waters, shores, bays, harbors, creeks, and inlets along the south shore of Potomac river to Boyd's Hole, aforesaid; and Yeocomico, including Kinsale, shall be the sole port of entry; and a collector for the district shall be appointed, to reside on Yeocomico river.

The district of Dumfries, including Newport, shall extend from Boyd's Hole to Cockpit Point, on the south side of Potomac river; and a collector for the district shall be appointed, to reside at Dumfries, which shall be the sole port of entry; and the authority of the officers of this district shall extend over all the waters, shores, bays, harbors, creeks, and inlets, comprehended between Boyd's Hole and Cockpit Point, aforesaid.

For the district of Alexandria shall be appointed a collector and surveyor, to reside at Alexandria, which shall be the sole port of entry; and the authority of the officers of the said district shall extend over all the waters, shores, bays, harbors, creeks, and inlets, on the south side of the river Potomac, from the last-mentioned Cockpit Point, to the highest tide water of the said river.

For the district of Folly Landing shall be appointed a collector, who shall reside at Accomac Court-House, and whose authority shall extend over all the waters, shores, bays, harbors, and inlets, of the county of Accomac.

For the district of Cherrystone shall be appointed a collector to reside at Cherrystone, whose authority shall extend over all the waters, shores, bays, harbors, and inlets, comprehended within Northampton county.

For the district of South Quay a collector shall be appointed to reside thereat, whose authority shall extend over all the waters, shores, bays, harbors, and inlets, in that part of the State of Virginia to the southward of the district of Norfolk, and not included in the said district, comprehended within the limits of the State.

SEC. 12. *And be it further enacted*, That, in the State of North Carolina, there shall be five districts, viz: One to be called the district of Wilmington, and to comprehend all the waters, shores, bays, harbors, creeks, and inlets, from Little river inlet, inclusive, to New river inlet, inclusive. The town of Wilmington shall be a port of entry and delivery, and there shall be a collector, naval officer, and surveyor, to reside at the said town of Wilmington. Another district, to be called the district of Newbern, which shall comprehend all the waters, shores, bays, harbors, creeks, and inlets, from New river inlet, inclusive, to Ocracoke inlet, inclusive, together with that part of Pamlico sound which lies southward and westward of the shoal projecting from the mouth of Pamlico river, towards the Royal Shoal, and southward of the said Royal Shoal; that the town of Newbern shall be a port of entry and delivery, and the towns of Beaufort and Swansborough shall be ports of delivery only; and there shall be a collector appointed for the district, to reside at Newbern, and a surveyor, to reside at Beaufort, and one at Swansborough. And it shall be lawful for the President of the United States, if he shall judge it expedient, and for the interest of the United States, to establish a port of delivery at Shell Castle or Beacon Island, near Ocracoke inlet, and to appoint a surveyor to reside thereat. Another district, to be called the district of Washington, which shall comprehend all that part of Pamlico sound not included in the district of Newbern, as far north as the Marshes; the town of Washington shall be the sole port of entry and delivery; and a collector for the district shall be appointed, to reside within the same. Another district, which shall be called the district of Edenton, and to comprehend all the waters, bays, harbors, creeks, and

inlets, from the Marshes, inclusive, northward and westward, except those included in the district of Camden; the town of Edenton shall be a port of entry and delivery, and Hertford, Murfreesborough, Princeton, Winton, Bennet's Creek, Plymouth, Windsor, and Skewarky, ports of delivery; and a collector for the district shall be appointed, to reside at the town of Edenton, and a surveyor at each of the ports of Hertford, Winton, Bennet's Creek, Plymouth, Windsor, and Skewarky; and one at Murfreesborough, for said port, and for Princeton. Another district, which shall be called the district of Camden, and to comprehend North river, Pasquotank, and Little rivers, and all the waters, shores, bays, harbors, creeks, and inlets, from the junction of Currituck and Albemarle sounds to the northern extremity of Blackbay; and Plankbridge, on Sawyer's creek, shall be the port of entry and delivery, and Nixonton, Indian Town, Newbiggin Creek, Currituck Inlet, Pasquotank River Bridge, ports of delivery: and a collector for the district shall be appointed, to reside at Plankbridge, on Sawyer's Creek, and a surveyor at each of the ports of Nixonton, Indian Town. Currituck Inlet, Pasquotank River Bridge, and Newbiggin Creek; and that the authority of the several officers of each district shall extend over all the waters, shores, bays, harbors, creeks, and inlets, comprehended within each district. *Provided*, That all ships or vessels, intending to proceed to Plymouth, Windsor, Skewarky, Winton, Bennet's Creek Bridge, Murfreesborough or Princeton, shall first come to and enter at the port of Edenton; and provided, also, that any vessels coming in at Ocracoke Inlet, that may be under the necessity of employing lighters before they pass the Royal Shoal, may be at liberty to enter at any port of entry connected with the waters of said inlet, to which such vessels are bound; and that any vessel coming in at said inlet in ballast, for the purpose of loading without the Royal Shoals, shall be at liberty to enter at any port of entry connected with the waters of said inlet.

Sec. 13. *And be it further enacted*, That, in the State of South Carolina, there shall be three districts, to wit: Georgetown, Charleston, and Beaufort, each of which shall be a port of entry. The district of Georgetown shall include the shores, inlets, and rivers, from the boundary of North Carolina to the point of Cape Romain: The district of Charleston shall include all the shores, inlets, and rivers, from Cape Romain to the Combahee river, inclusive; and the district of Beaufort shall include the shores, inlets, and rivers, from Combahee river to Back river, in Georgia, comprehending all the shores, inlets, and harbors, formed by the different bars and sea-islands lying within each district, respectively; and a collector, naval officer, and surveyor, shall be appointed, to reside at Charleston, and a collector at each of the other ports.

Sec. 14. *And be it further enacted*, That, in the State of Georgia, there shall be five districts, to wit: Savannah, Sunbury, Brunswick, St. Mary's, and Hardwicke, each of which shall be a port of entry. The district of Savannah shall include Savannah river, and all the waters, shores, harbors, rivers, creeks, bays, and inlets, from the said river to the north point of Ossabaw island and Great Ogechee rivers, inclusive; and a collector, naval officer, and surveyor, shall be appointed for the said district, to reside at Savannah.

The district of Sunbury shall comprehend all the waters, shores, harbors, rivers, creeks, bays, and inlets, south of the north point of Ossabaw island and Great Ogechee river, exclusive, and north of the south point of Sapelo island, inclusive, except such part as is hereafter described as appertaining to the district of Hardwicke; and a collector for the said district shall be appointed, to reside at Sunbury.

The district of Brunswick shall comprehend all the waters, shores, harbors, rivers, creeks, bays, and inlets, from the south point of Sapelo island, exclusive, to the south point of Jekyl island, inclusive; Fredericka shall be a port of delivery only; and a collector for the district shall be appointed, to reside at Brunswick.

The district of St. Mary's shall comprehend all the waters, shores, harbors, rivers, creeks, bays, and inlets, from the south point of Jekyl island, exclusive, to St. Mary's river, inclusive; and a collector for the said district shall be appointed, to reside at St. Mary's.

And, in each of the said districts, it shall be lawful for the collector to grant a permit to unlade at any port or place within the district, and to appoint, or put on board any ship or vessel for which a permit is granted, one or more inspectors, as may be necessary for the security of the revenue.

The district of Hardwicke shall include all the waters, shores, bays, harbors, creeks, and rivers, between the south point of Ossabaw island, and the south point of Warsaw island; and, in the said district, the town of Hardwicke shall be the only port of entry, and a collector for the said district shall be appointed, to reside at Hardwicke.

Sec. 15. *And be it further enacted*, That, in the State of Kentucky, there shall be one district, which shall include all the waters, shores, and inlets of the rivers Ohio and Mississippi, and the rivers and waters connected therewith, lying within the jurisdiction of the United States and the said State; and a collector shall be appointed, to reside at Louisville, which shall be the sole port of entry and delivery, for the said district, of any goods, wares, and merchandise, not the growth or manufacture of the United States: *Provided, nevertheless*, That it shall be lawful for the President of the United States, whenever he shall judge it expedient, and for the interest of the United States, to establish a separate district, which shall include all the waters, shores, and inlets, of the river Mississippi, within the jurisdiction of the United States, and the said State of Kentucky, and also the shores and waters on the south side of the river Ohio, from the mouth thereof to the east bank of Cumberland river, with the rivers and waters connected with the Mississippi and Ohio, within the

limits aforesaid, and within the State aforesaid; and to appoint a collector, to reside at such port of entry and delivery as may be established within the same.

Sec. 16. *And be it further enacted*, That, in the State of Tennessee, there shall be one district, which shall include all the waters, shores, and inlets, of the river Mississippi, and other navigable rivers and waters, lying within the jurisdiction of the United States, and within the said State; and a collector shall be appointed, who shall reside at Palmyra, which shall be the only port of entry or delivery, within the said district, of any goods, wares, and merchandise, not the growth or manufacture of the United States: *Provided, nevertheless*, That the President of the United States may, whenever he shall judge it expedient, and for the interest of the United States, erect the shores, waters, and inlets, of the river Mississippi, lying within the jurisdiction of the United States, and within the State of Tennessee, into a separate district, and appoint a collector, to reside at such port of entry and delivery as may be established within the same.

Sec. 17. *And be it further enacted*, That, in the Territory of the United States Northwest of the river Ohio, there shall be six districts, to wit: Erie, Detroit, Michilimackinac, Massac, Illinois, and Ohio.

The district of Erie shall include all the waters, shores, and inlets, of Lake Erie, within the jurisdiction of the United States, and the rivers and waters connected therewith, from the west line of the State of Pennsylvania unto the west bank of the Miami of Lake Erie, including said river; and the President of the United States is authorized to establish such place at or near Sandusky, or on the said river Miami, to be the port of entry, as he shall judge expedient, and also to establish not exceeding two other places, to be ports of delivery only; and a collector shall be appointed, to reside at the port of entry, and surveyors to reside at such ports of delivery as may be established as aforesaid.

The district of Detroit shall include all the waters, shores, and inlets, of the Lakes Erie, St. Clair, and Huron, within the jurisdiction of the United States, and the rivers and waters connected therewith, to the westward of the river Miami aforesaid, unto the island of Michilimackinac; and a collector shall be appointed, to reside at Detroit, which shall be the sole port of entry for the district; and the President of the United States is authorized, if he shall deem it expedient, to establish not exceeding two ports of delivery within the said district, and to appoint surveyors to reside thereat.

The district of Michilimackinac shall include the island of that name, the adjoining lands ceded to the United States by the Indian nations at the Treaty of Greenville, and all the waters, shores, and inlets, to the westward and northward of the Lakes Michigan and Superior, and the rivers, waters, shores, and lakes, connected therewith, lying within the jurisdiction of the United States, unto the northern and northwestern boundaries thereof. And the President of the United States is authorized to establish such place at or near Michilimackinac to be the port of entry for the district, as he shall deem expedient; and, also, to establish not exceeding three other places, within the said district, to be ports of delivery only; and a collector shall be appointed, to reside at the port of entry, and surveyors, to reside at the ports of delivery, which may be established as aforesaid.

The district of Massac shall include the lands relinquished and ceded to the United States by the Indian nations, at the Treaty of Greenville, in August, one thousand seven hundred and ninety-five, lying near the confluence of the rivers Ohio and Mississippi, and shall extend from thence to the mouth of the river Ohio, on the northern side of the said river, and up the river Ohio to the eastern side of the river Wabash, including the said river, with all the waters, shores, and inlets, connected with the rivers Ohio and Wabash, within the boundaries aforesaid. And such place at or near Fort Massac, as the President of the United States shall designate for that purpose, shall be the sole port of entry for the district, and a collector shall be appointed, to reside thereat; and it shall be lawful for the President of the United States, if he shall judge expedient, to establish not exceeding two places at or near the river Wabash, to be ports of delivery only, and to appoint surveyors to reside thereat.

The district of Illinois shall include all the waters, shores, and inlets, of the river Mississippi, above the mouth of the river Ohio, within the jurisdiction of the United States, and also the river Illinois, with the rivers, shores, and waters, connected therewith; and a collector shall be appointed to reside at such place as the President of the United States shall designate, to be the port of entry, and not exceeding two surveyors to reside at such places as the President shall see fit to establish as ports of delivery only.

The district of Ohio shall include all the waters, shores, and inlets, of the river Ohio, on the northern side, with the rivers, shores, and waters, connected therewith, lying to the eastward of the district of Massac, as before described; and a collector shall be appointed, to reside at such place as the President of the United States shall designate, at or near the confluence of the Great Miami river and the river Ohio, which place shall be the sole port of entry or delivery for the district.

And there shall be a district on the river Mississippi, south of the State of Tennessee, which shall include all the waters, shores, and inlets, of the river Mississippi, and other navigable rivers and waters connected therewith, lying within the jurisdiction of the United States, and south of the said State; and it shall be lawful for the President of the United States, to designate a proper place, to be the port of entry and delivery within the same, and to appoint a collector to reside thereat.

And in case the appointment of the several collectors and surveyors for the new districts or ports established, or authorized to be established hereby,

shall not be made during the present session of Congress, the President of the United States may, and he is hereby empowered to make such appointments during the recess of the Senate, by granting commissions, which shall expire at the end of their next session; but new appointments shall not be necessary to be made to any of the offices heretofore established.

Sec. 18. *And be it further enacted*, That it shall and may be lawful to make entry of any ship or vessel, which shall arrive from any foreign port or place within the United States, or of the cargo on board such ship or vessel, elsewhere than at one of the ports of entry hereinbefore established, nor to unlade the said cargo, or any part thereof, elsewhere than at one of the ports of delivery herein established. *Provided always*, That every port of entry shall be also a port of delivery; *And provided further*, That none but ships or vessels of the United States shall be admitted to unlade at any other than the ports following, to wit: Portsmouth, in New Hampshire; Portland and Falmouth, New Bedford, Dighton, Salem and Beverly, Gloucester, Newburyport, Marblehead, Nantucket, Boston and Charlestown, Plymouth, Bath, Frenchman's bay, Wiscasset, Machias, and Penobscot, in the State of Massachusetts; Newport and Providence, in the State of Rhode Island and Providence Plantations; New London and New Haven, in the State of Connecticut; New York, in the State of New York; Perth Amboy and Burlington, in the State of New Jersey; Philadelphia, in the State of Pennsylvania; Wilmington, Newcastle, and Port Penn, in the State of Delaware; Baltimore, Annapolis, Vienna, Oxford, Georgetown on Potomac, Chestertown, Town Creek, Nottingham, Nanjemoy, Digges's Landing, Snowhill, and Carrolsburg, in the State of Maryland; Alexandria, Kinsale, Newport, Tappahannock, Port Royal, Fredericksburgh, Urbanna, Yorktown, West Point, Hampton, Bermuda Hundred, City Point, Rockett's Landing, Norfolk, and Portsmouth, in the State of Virginia; Wilmington, Newbern, Beaufort, Washington, Edenton and Plankbridge, in the State of North Carolina; Charleston, Georgetown, and Beaufort, in the State of South Carolina; and in either of the ports of Savannah, Sunbury, Brunswick, Fredericka, and St. Mary's, in the State of Georgia; or to make entry in any other district than in the one in which they shall be so admitted to unlade. *And provided, lastly*, That no ship or vessel arriving from the Cape of Good Hope, or from any place beyond the same, shall be admitted to make entry at any other than the ports following, to wit: Portsmouth, in the State of New Hampshire: Boston and Charlestown, Newburyport, Salem, and Beverly, Marblehead, Gloucester, Portland and Falmouth, in the State of Massachusetts; Newport and Providence, in the State of Rhode Island and Providence Plantations; New London and New Haven, in the State of Connecticut; New York, in the State of New York; Perth Amboy, in the State of New Jersey; Philadelphia, in the State of Pennsylvania; Wilmington, in the State of Delaware; Baltimore, Annapolis, and Georgetown, in the State of Maryland; Alexandria, Norfolk, and Portsmouth, in the State of Virginia; Wilmington, Newbern, Washington, and Edenton, in the State of North Carolina; Charleston, Georgetown, and Beaufort, in the State of South Carolina; and Sunbury, and Savannah, in the State of Georgia. *Provided*, That nothing herein contained shall prevent the master or commander of any ship or vessel from making entry with the collector of any district in which such ship or vessel may be owned, or from which she may have sailed on the voyage from which she shall then have returned. *Provided also*, That if the President of the United States shall see fit to establish a port of delivery at Shell Castle, or Beacon Island, near Ocracoke inlet, and to appoint a surveyor to reside thereat, it shall be the duty of the master or commander of every ship or vessel coming in at Ocracoke inlet, and intending to unlade her cargo, or any part thereof, at any port connected with the waters of the said inlet, to come to at the port of delivery which may be established as aforesaid, and there exhibit like reports and manifests, and perform all other duties required by this act of masters of vessels when arriving at a port of entry in the United States; but no duties shall be paid or secured at the said port of delivery: and the surveyor who may be appointed to reside at the said port of delivery shall, in addition to other powers and duties granted and prescribed to surveyors by this act, superintend the unlading and discharge of all goods, wares, and merchandise from the vessels in which the same may be imported, into the lighters or coasting vessels, which may be employed in the transportation of said goods, wares, and merchandise, to any port of entry or delivery connected with the said Ocracoke inlet; and all goods, wares, or merchandise, which shall be so unladen into lighters or coasting vessels, shall and may be secured with the necessary locks, or fastenings, or under the seal of the said surveyor, and shall be accompanied with permits, describing the said goods, wares, and merchandise, the vessel in which imported, the persons to whom belonging, and the port of entry or delivery to which destined. And the masters or commanders of all lighters or coasting vessels who shall receive goods, wares, or merchandise, to be transported as aforesaid, shall give triplicate receipts, describing the casks or packages, containing the same; and in case any goods, wares, or merchandise, transported under permits, and for which receipts shall have been given as aforesaid, shall not be transported and delivered to the collector or surveyor of the port of entry or delivery, to which the same shall be consigned by the permits aforesaid, the dangers of the seas and unavoidable accidents only excepted, or if any lock, fastening, or seal, placed on the said goods, wares, or merchandise, shall be broken or destroyed, the lighter or vessel employed in transporting the same shall be forfeited, and the master thereof shall forfeit and pay a sum not exceeding five hundred dollars, with costs of suit. And it shall be the duty of the surveyor, who may be appointed to reside at the port of Shell Castle or Beacon Island, to endorse on the original manifests of vessels

arriving at said port, all deliveries which may be made as aforesaid, to the masters of lighters or coasting vessels as aforesaid; which manifests shall be exhibited to the collector of the interior port of entry, to which such vessels may be destined, where like entries shall be made and like proceedings had, as are required by the general regulations and provisions of this act.

Sec. 19. *And be it further enacted*, That the master or commander of every ship or vessel bound to a port of delivery only, in any of the following districts, to wit: Portland and Falmouth, except the ports of North Yarmouth, Freeport, and Harpswell; Bath, except the ports of Georgetown and Brunswick; Newburyport, New London, except the port of Stonington; Middletown, except the ports of Lyme, Saybrook, Killingsworth, Haddam, and East Haddam; Norfolk and Portsmouth, Bermuda Hundred, or City Point, Yorktown, Tappahannock, except the port of Urbanna, or Edenton, shall first come to, at the port of entry of such district, with his ship or vessel, and there make report and entry in writing, and pay, or secure to be paid, all legal duties, port fees and charges, in manner provided by this act, before such ship or vessel shall proceed to her port of delivery; and that any ship or vessel bound to a port of delivery in any district, other than those above mentioned, or to either of the ports of delivery above mentioned, may first proceed to her port of delivery, and afterwards make report and entry within the time by this act limited; and the master of every vessel arriving from a foreign port, or having goods on board, of which the duties have not been paid or secured, and bound to any port on the Connecticut river, shall take an inspector on board at Saybrook, before proceeding to such port; and if any master of a ship or vessel shall proceed to a port of delivery, contrary to the directions aforesaid, he shall forfeit and pay five hundred dollars, to be recovered with costs of suit; that the master or commander of any ship or vessel, bound to any district in Connecticut, through, or by the way of Sandy Hook, shall, before he pass by the port of New York, and immediately after his arrival, deposite with the collector for the district of New York, a true manifest of the cargo on board such ship or vessel; if bound to the district of Hudson, shall, before he pass by the port of New York, and immediately after his arrival, deposite with the collector thereof a like manifest; if bound to the district of Burlington, shall, before he pass by the port of Philadelphia, and immediately after his arrival, deposite with the collector thereof a like manifest; if bound to the district of Nottingham, shall, before he pass by the port of Town Creek, and immediately after his arrival, deposite with the surveyor of said port, a like manifest; if bound to the district of Tappahannock, shall, before he pass by the port of Urbanna, and immediately after his arrival, deposite with the surveyor of that port, a like manifest; if bound to the district of Bermuda Hundred and City Point, shall, on his arrival in Hampton Road, or at Sewall's Point and immediately after such arrival, deposite with the collector of Norfolk and Portsmouth, or with the collector of the port of Hampton, a like manifest; and if bound to the district of South Quay, shall, before he pass by the port of Edenton, and immediately after his arrival, deposite with the collector of the port of Edenton a like manifest; and the said collectors and surveyors, respectively, shall, after registering the manifests, transmit the same, duly certified to have been so deposited, to the officer with whom the entries are to be made; and the said collectors and surveyors, respectively, may, whenever they judge it to be necessary for the security of the revenue, put an inspector of the customs on board any ship or vessel as aforesaid, to accompany the same until her arrival at the first port of entry or delivery, in the district to which such ship or vessel may be destined; and if the master or commander of any ship or vessel shall neglect or omit to deposite a manifest in manner aforesaid, or shall refuse to receive an inspector of the customs on board, as the case shall require, he shall forfeit and pay five hundred dollars, to be recovered with costs of suit, one half for the use of the officer with whom such manifest ought to have been deposited, ~~and the~~ other half to the use of the collector of the district in which the said ship or vessel may be bound; *Provided*, That if the manifest shall, in either of the above cases, have been previously delivered to any officer of the customs, pursuant to the provisions hereinafter to be made in that behalf, the depositing of a manifest as aforesaid shall not be necessary.

Sec. 20. *And be it further enacted*, That all officers and persons to be appointed pursuant to this act, before they enter upon the duties of their respective offices, shall severally take and subscribe an oath or affirmation, diligently and faithfully to execute the duties of their said offices, respectively, which oath or affirmation shall be of the form and tenor following, to wit:

I (A. B.) having been appointed (collector or other officer, as the case may be,) of the (district or port of,) (do solemnly, sincerely, and truly (swear or affirm,) that I will diligently and faithfully execute the duties of the said office of —— and will use the best of my endeavors to prevent and detect frauds in relation to the duties imposed by the laws of the United States; I further (swear or affirm) that I will support the Constitution of the United States.

(Sworn or affirmed,) and subscribed, this —— day of ——, before me, ——.

And the oath or affirmation aforesaid, if taken by a collector, may be taken before any magistrate authorized to administer oaths within the district to which he belongs; but if taken by another officer, shall be taken before the collector of his district; and being certified under the hand and seal of the person by whom the same shall have been administered, shall, within three months thereafter, be transmitted to the Comptroller of the Treasury; in default of taking of which oath, or transmitting a certificate thereof, the party failing shall forfeit and pay two hundred dollars, to be recovered with costs of suit in any court of

competent jurisdiction, to the use of the United States.

SEC. 21. *And be it further enacted*, That the several officers of the customs shall respectively perform the duties following, to wit: At such of the ports to which there shall be appointed a collector, naval officer, and surveyor, the collector shall receive all reports, manifests, and documents, to be made or exhibited on the entry of any ship or vessel, according to the regulations of this act; shall record, in books, to be kept for that purpose, all manifests; shall receive the entries of all ships or vessels and of the goods, wares, and merchandise imported in them; shall, together with the naval officer, where there is one, or alone, where there is none, estimate the amount of the duties payable thereupon, endorsing the said amount upon the respective entries; shall receive all moneys paid for duties, and take all bonds for securing the payment thereof; shall grant all permits for the unlading and delivery of goods; shall, with the approbation of the principal officer of the Treasury Department, employ proper persons as weighers, gaugers, measurers, and inspectors, at the several ports within his district; and also, with the like approbation, provide, at the public expense, store-houses for the safe keeping of goods, and such scales, weights, and measures, as may be necessary; the naval officer shall receive copies of all manifests and entries, and shall, together with the collector, estimate the duties on all goods, wares, and merchandise, subject to duty, (and no duties shall be received without such estimate,) and shall keep a separate record thereof, and shall countersign all permits, clearances, certificates, debentures, and other documents, to be granted by the collector; he shall also examine the collector's abstracts of duties, and other accounts of receipts, bonds, and expenditures, and if found right, he shall certify the same.

The surveyor shall superintend and direct all inspectors, weighers, measurers, and gaugers, within his port; and shall, once every week, report to the collector, the name or names of such inspectors, weighers, gaugers, or measurers, as may be absent from, or neglect to do, their duty, shall visit or inspect the ships or vessels which arrive therein, and shall make a return, in writing, every morning, to the collector, if any, at the port where he resides, of all vessels which shall have arrived from foreign ports or places the preceding day, specifying the names and denominations of the vessels, the masters' names, from whence arrived, whether laden or in ballast, whether belonging to the United States, or to what other nation belonging, and if American vessels, whether the masters thereof have or have not complied with the law, in having the required number of manifests of the cargo on board, agreeing, in substance, with the provisions made necessary by this act, and shall have power, and is hereby required, to put on board each of such vessels, one or more inspectors, immediately after their arrival in his port: the surveyor shall also ascertain the proof, quantities, and kinds of distilled spirits imported, rating such spirits according to their respective degrees of proof, as defined by the laws imposing duties on spirits; he shall likewise examine and ascertain the quality, kind, and quantity, of all wines imported; also the quantity and kind of all teas and sugars imported; and shall grant certificates for the said spirits, wines, and teas, and make returns thereof, in manner hereafter provided. He shall also examine whether the goods imported in any ship or vessel, and the deliveries thereof, agreeably to the inspector's returns thereof, correspond with the permits for landing the same; and if any error or disagreement appear, he shall report the same to the collector and to the naval officer, if any there be. The surveyor shall also superintend the lading, for exportation, of all goods entered for the benefit of any drawback, bounty, or allowance, and shall examine and report whether the kind, quantity, and quality of the goods, so laden on board any vessel for exportation, correspond with the entries and permits granted therefor: he shall also, from time to time, and particularly on the first Mondays in January and July, in each year, examine and try the weights, measures, and other instruments, used in ascertaining the duties on imports, with standards to be provided by each collector, at the public expense, for that purpose; and where disagreements or errors are discovered, he shall report the same to the collector, and obey and execute such directions as he may receive for correcting thereof, agreeably to the standards aforesaid; and the said surveyor shall, in all cases, be subject to the direction of the collector. And at ports to which a collector and surveyor only are assigned, the said collector shall solely execute all the duties in which the co-operation of the naval officer is requisite, at the ports where a naval officer is appointed; which he shall also do in case of the disability or death of the naval officer, until a successor is appointed, unless there is a deputy duly authorized, under the hand and seal of the naval officer, who, in that case, shall continue to act, until an appointment shall take place. And, at the ports to which a collector only is assigned, such collector shall solely execute all the duties in which the co-operation of the naval officer is requisite, as aforesaid; and shall also, as far as may be, perform all the duties prescribed to the surveyors at the ports where such officers are established. And at the ports to which surveyors only are assigned, every such surveyor shall perform all the duties hereinbefore enjoined upon surveyors; and shall also receive and record the copies of all manifests which shall be transmitted to him by the collector; shall record all permits granted by such collector, distinguishing the gauge, weight, measure, and quality, of the goods specified therein, and shall take care that no goods be unladen or delivered, from any ship or vessel, without a proper permit for that purpose. And at such ports of delivery only to which no surveyor is assigned, it shall be lawful for the collector of the district, occasionally, and from time to time, to employ a proper person or persons, to do the duties of a surveyor, who shall be entitled to the like compensa-

tion with inspectors, during the time they shall be employed. And the said collectors, naval officers, and surveyors, shall, respectively, attend, in person, at the ports to which they are respectively assigned; and shall keep fair and true accounts and records of all their transactions, as officers of the customs, in such manner and form as may, from time to time, be directed by the proper department, or officer having the superintendence of the collection of the revenue of the United States; and shall, at all times, submit their books, papers, and accounts, to the inspection of such persons as may be appointed for that purpose; and the said collector shall, at all times, pay to the order of the officer, who shall be authorized to direct the payment thereof, the whole of the moneys which they may, respectively, receive by virtue of this act, (such moneys as they are otherwise, by this act, directed to pay only excepted,) and shall, once in every three months, or oftener if they shall be required, transmit their accounts, for settlement, to the officer or officers whose duty it shall be to make such settlement; and if any collector, naval officer, or surveyor, shall omit to keep fair and true accounts, as aforesaid, or shall refuse to submit, forthwith, their books, papers and accounts, to inspection, as aforesaid; or if any collector shall omit or refuse to render his accounts for settlement, for a term exceeding three months after the same shall have been required by the proper officer, in each and every such case, the delinquent officer shall forfeit and pay, for the use of the United States, one thousand dollars, to be recovered, with costs of suit.

SEC. 22. *And be it further enacted*, That every collector, naval officer, and surveyor, in cases of occasional and necessary absence or sickness, and not otherwise, may, respectively, exercise and perform their several functions, powers, and duties, by deputy, duly constituted under their hands and seals, respectively, for whom, in the execution of their trust, they shall, respectively, be answerable: that, in case of the disability or death of a collector, the duties and authorities vested in him shall devolve on his deputy, if any there be, at the time of such disability or death, for whose conduct the estate of such disabled or deceased collector shall be liable; and in defect of a deputy, the said authorities and duties shall devolve upon the naval officer of the same district, if any there be; and if there be no naval officer, upon the surveyor of the port, appointed for the residence of such disabled or deceased collector, if any there be, and, if none, upon the surveyor of the port nearest thereto, and within the said district. And in every case of the disability or death of a surveyor, it shall be lawful for the collector of the district to nominate some fit person to perform his duties, and exercise his authorities; and the authorities of the persons who may be empowered to act in the stead of those who may be disabled or dead, shall continue until successors shall be duly appointed, and ready to enter upon the execution of their respective offices.

SEC. 23. *And be it further enacted*, That no goods, wares, or merchandise, shall be brought into the United States, from any foreign port or place, in any ship or vessel, belonging in the whole or in part to a citizen or citizens, inhabitant or inhabitants, of the United States, unless the master, or person having the charge or command of such ship or vessel, shall have on board a manifest or manifests, in writing, signed by such master or other person, containing the name or names of the port or ports, place or places, where the goods in such manifest or manifests mentioned, shall have been respectively taken on board, and the port or ports, place or places, within the United States, for which the same are respectively consigned or destined, particularly noting the goods, wares, and merchandise, destined for each port or place, respectively, and the name, description and build, of such ship or vessel, and the true admeasurement or tonnage thereof, the port or place to which such vessel belongs, with the name or names of each owner, according to the register of the same, together with the name of the master, or other person having the charge or command of such ship, or vessel, and a just and particular account of all the goods, wares, and merchandise, so laden or taken on board, whether in packages or stowed loose, of any kind or nature whatsoever, together with the marks and numbers, as marked on each package, and the number or quantity and description of the packages, in words at length, whether leaguer, pipe, butt, puncheon, hogshead, barrel, keg, case, bale, pack, truss, chest, box, band-box, bundle, parcel, cask, or package, of any kind or sort, describing the same by its usual name or denomination; together with the name or names, of the person or persons to whom the same are respectively consigned, agreeably to the bills of lading signed for the same, unless when the said goods are consigned to order, when it shall be so expressed in the said manifest or manifests; together with the name or names of the several passengers on board the said ship or vessel, distinguishing whether cabin or steerage passengers, or both, with their baggage, specifying the number and description of packages belonging to each respectively, together with an account of the remaining sea stores if any. And the form of a manifest for goods and merchandise, imported in a vessel of the United States, shall be as follows, to wit:

Report and manifest of the cargo laden on board of the [here insert the denomination and name of the vessel] whereof, [insert the master's name] is master, which cargo was taken on board at [here insert the port or ports, place or places, at which the cargo was laden] burden —— tons, built at ——, in the State of ——, and owned by —— merchants at —— [inserting the tonnage, where built, by whom owned, and the place or places of residence, as particularly detailed in the certificate of registry) as per register granted at —— [here insert the port or place] the [here insert the day of the month, and year when granted] and bound for [here insert the name of the port or place where bound to.]

Marks.	Number, inclusive.	Packages and cont'ts.	By whom shipped.	To whom consigned, or if to order.	Place of consignee's residence.	Ports of destination.

Returned Cargo.

[If any articles of the outward cargo are brought back, they are to be detailed, specifying by whom shipped outward, and to whom consigned inward.]

Return of passengers and of packages belonging to them respectively.

[Here insert the names of the passengers, and whether cabin or steerage passengers, with the description and number of packages containing their baggage, or the tools or implements of a mechanical trade.]

Vessel and cabin stores.

[Here detail what are remaining.]

And if merchandise shall be imported, destined to be delivered in different districts or ports, the quantities and packages so destined to be delivered shall be inserted in successive order in the manifest as aforesaid; and all spirits, wines, and teas, constituting the whole or any part of the cargo of any vessel, shall also be inserted in successive order, distinguishing the ports to which the same may be destined, and the kinds, qualities, and quantities thereof; and if merchandise shall be imported by citizens or inhabitants of the United States, in vessels other than the United States, the manifests shall be of the form, and shall contain the particulars aforesaid, except that said vessels shall be described in the manner following, viz:

Report and manifest of the cargo laden on board the [here insert the denomination and name of the vessel and the port to which she belongs] whereof [here insert the master's name, and whether or not master during the voyage] burden [here insert the nation where built] bound to [here insert the port or ports of destination] which cargo was taken on board at [here insert the port or ports where laden.]

Sec. 24. *And be it further enacted*, That if any goods, wares, and merchandise, shall be imported or brought into the United States in any ship or vessel whatever, belonging in the whole or in part to a citizen or citizens, inhabitant or inhabitants of the United States, from any foreign port or place, without having a manifest or manifests on board, agreeably to the directions in the foregoing section, or which shall not be included or described therein, or shall not agree therewith, in every such case the master, or other person having the charge or command of such ship or vessel, shall forfeit and pay a sum of money equal to the value of such goods, not included in such manifest or manifests, and all such merchandise, not included in the manifest, belonging or consigned to the master, mate, officers, or crew of such ship or vessel, shall be forfeited: *Provided always*, That, if it shall be made appear to the satisfaction of the collector, naval officer, and surveyor, or to the major part of them, where those officers are established at any port, or to the satisfaction of the collector alone, where either of the other of the said officers are not established, or to the satisfaction of the court in which a trial shall be had concerning such forfeiture, that no part of the cargo of such ship or vessel had been unshipped, after it was taken on board, except such as shall have been particularly specified and accounted for, in the report of the master or other person having the charge or command of such ship or vessel, and that the manifests had been lost or mislaid, without fraud or collusion, or that the same was or were defaced by accident, or incorrect by mistake, in every such case the forfeiture aforesaid shall not be incurred.

Sec. 25. *And be it further enacted*, That every master or other person, having the charge or command of any ship or vessel, belonging in the whole or in part to a citizen or citizens, inhabitant or inhabitants, of the United States, laden with goods as aforesaid, and bound to any port or place in the United States, shall, on his arrival within four leagues of the coast thereof, or within any of the bays, harbors, ports, rivers, creeks, or inlets thereof, upon demand, produce the manifest or manifests, in writing, which such master or other person is required as aforesaid to have on board his said ship or vessel, to such officer or officers of the customs, as shall first come on board his said ship or vessel, for his or their inspection, and shall deliver to such officer or officers a true copy or copies thereof, (which copy or copies shall be provided and subscribed by the said master or other person having the charge or command of such ship or vessel,) and the officer or officers, to whom the original manifest or manifests shall have been so produced, shall respectively certify upon the back thereof, that the same was or were produced, and the day and year on which the same was or were produced, and that such copy or copies as aforesaid was or were to him or them delivered, and by them examined with the original manifest; and shall likewise certify upon the back of such copy or copies, the day and year on which the same was or were delivered, and shall forthwith transmit such copy or copies to the respective collectors of the several districts, to which the goods by such manifest or manifests shall appear respectively to be consigned; and that the said master, or other person, so having the charge or command of any such ship or vessel, shall, in like manner, produce to the officer or officers of the customs who shall first come on board such ship or vessel, upon her arrival within the limits of any district of the United States, in which the cargo, or any part thereof, is intended to be discharged or landed, for his or their inspection, such manifest or manifests as aforesaid; and shall also deliver to him or them a true copy or copies

thereof, (such copy or copies also to be provided and subscribed by the said master or other person having the charge or command of such ship or vessel,) the production of which said manifest or manifests, and the delivery of which said copy or copies thereof, shall also be certified by the said officer or officers of the customs who shall so first come on board the said ship or vessel, on her arrival within the limits of any such district, upon the back of the said original manifest or manifests, with the particular day and year when such manifest or manifests was or were produced to such officer or officers, and when he or they so received the said copy or copies thereof; and such officer or officers is and are hereby required forthwith to transmit, or cause to be transmitted, the said copy or copies of the said manifest or manifests to the collector of that district; and the said master, or person, having the charge or command of the said ship or vessel, shall afterward produce and deliver the said original manifest or manifests so certified to the said collector; and when any manifest shall be produced, upon which there shall be no certificate from any officer of the customs as before mentioned, the master or commander producing the same shall be required to make oath, or affirmation, that no officer has applied for, and that no endorsement has taken place on any manifest of the cargo of such vessel: *Provided always*, That nothing herein contained shall be construed to require such master, or other person, having the charge or command of such ship or vessel, the delivery of more than one copy of each manifest to the officer or officers aforesaid, who shall first come on board of such ship or vessel, within four leagues of the coast of the United States aforesaid, and one other copy to such officer or officers as shall first come on board within the limits of any district, for which the cargo of such ship or vessel, or some part thereof, shall be consigned or destined, or shall be construed to require the delivery of any such copy to any other officer; but it shall be sufficient in respect to any such other officer, to produce and show to him the said original manifest or manifests, and the certificate or certificates thereupon; and the form of the certificate aforesaid, to be endorsed on an original manifest, shall be as follows, to wit:

I (A. B.) certify that the within manifest was this day produced to me as the original manifest of the cargo on board the [insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port last from.] In witness whereof, I have hereunto signed my name, this ——— day of ———.

And the form of the certificate aforesaid, to be endorsed on the copy of a manifest, shall be as follows, to wit:

I (A. B.) certify that I have examined the within manifest, produced to me this day as a copy of the original manifest of the cargo on board the [insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port last from] with the original, and find the same to agree. In witness whereof, I have hereunto signed my name, this ——— day of ———.

Sec. 26. *And be it further enacted*, That if the master or other person having the charge or command of any ship or vessel, laden as aforesaid, and bound to any port or place in the United States, shall not upon his arrival within four leagues of the coast thereof, or within the limits of any district thereof, where the cargo of such ship or vessel, or any part thereof, is intended to be discharged, produce such manifest or manifests as are heretofore required, in writing, to the proper officer or officers upon demand thereof, and also deliver such copy or copies thereof as aforesaid, according to the directions of this act, in each case, or shall not give an account of the true destination of such ship or vessel, which he is hereby required to do, upon request of such officer or officers, or shall give a false account of such destination, in order to evade the production of the said manifest or manifests, the said master or other person having the charge or command of such ship or vessel, shall forfeit for every such neglect, refusal, or offence, a sum not exceeding five hundred dollars; and if such officer or officers first coming on board, in each case, within the distance or limits aforesaid, shall neglect or refuse to certify on the back of such manifest or manifests, the production thereof, and the delivery of such copy or copies respectively, as are hereinbefore directed to be delivered to such officer or officers; every such officer so neglecting or refusing shall forfeit and pay the sum of five hundred dollars. And the officer or officers who may apply to the master or person having charge or command of any such ship or vessel, respecting any of the provisions in this and the foregoing sections, and who shall not receive full satisfaction therein, are hereby required to make a return in writing of the name of the vessel and master so offending in any or all of the particulars required, immediately, or as soon after as possible, to the collector of the district to which such ship or vessel shall be considered to be bound.

Sec. 27. *And be it further enacted*, That if, after the arrival of any ship or vessel, so laden with goods as aforesaid, and bound to the United States, within the limits of any of the districts of the United States, or within four leagues of the coast thereof, any part of the cargo of such ship or vessel shall be unladen for any purpose whatever, from out of such ship or vessel as aforesaid, before such ship or vessel shall come to the proper place for the discharge of her cargo, or some part thereof, and shall be there duly authorized by the proper officer or officers of the customs to unlade the same, the master or other person having the charge or command of such ship or vessel, and the mate, or other person next in command, shall respectively forfeit and pay the sum of one thousand dollars, for each such offence, and the goods, wares, and merchandise, so unladen and unshipped, shall be forfeited and lost, except in the case of some unavoidable accident, necessity, or distress of weather; of which unavoidable accident, necessity, or distress, the master or other person having the charge or command of such ship or vessel, shall give notice to, and together with two or more of

the officers or mariners (of which the mate or other person next in command shall be one) on board such ship or vessel, shall make proof upon oath before the collector, or other chief officer of the customs of the district within the limits of which such accident, necessity, or distress, shall happen, or before the collector or other chief officer of the first district of the United States, within the limits of which such ship or vessel shall afterwards arrive, if the said accident, necessity, or distress, shall have happened not within the limits of any district, but within four leagues of the coast of the United States, which oath the said collector, or other chief officer, is hereby authorized and required to administer.

Sec. 28. *And be it further enacted*, That if any goods, wares, and merchandise, so unladen from on board any such ship or vessel, shall be put or received into any other ship, vessel, or boat, except in the case of such accident, necessity or distress, as aforesaid, to be notified and proved as aforesaid, the said master or other person having the charge or command of any such ship, vessel, or boat, into which the said goods, wares, or merchandise, shall be so put and received, and every other person aiding and assisting therein, shall forfeit and pay treble the value of the said goods, wares, or merchandise, and the ship, boat, or vessel, in which they shall be so put, shall be forfeited and lost.

Sec. 29. *And be it further enacted*, That if any ship or vessel which shall have arrived within the limits of any district of the United States, from any foreign port or place, shall depart, or attempt to depart from the same, unless to proceed on her way to some more interior district to which she may be bound, before report or entry shall have been made by the master or other person having the charge or command of such ship or vessel, with the collector of some district of the United States, the said master or other person having such charge or command, shall forfeit and pay the sum of four hundred dollars; and it shall be lawful for any collector, naval officer, surveyor, or commander of any of the cutters hereinafter mentioned, to arrest and bring back, or cause to be arrested and brought back, such ship or vessel, to such port of the United States to which it may be most conveniently done. *Provided*, That if it shall be made to appear by the oath of the said master, or other person having the charge or command of such ship or vessel, and of the person next in command, or other sufficient proof to the satisfaction of the collector of the district, within which such ship or vessel shall afterwards come, or to the satisfaction of the court in which the prosecution for such penalty may be had, that the said departure or attempt to depart, was occasioned by distress of weather, pursuit or duress of enemies, or other necessity, the said penalty shall not be incurred.

Sec. 30. *And be it further enacted*, That within twenty-four hours after the arrival of any ship or vessel, from any foreign port or place, at any port of the United States established by law, at which an officer of the customs resides, or within any harbor, inlet, or creek thereof, if the hours of business at the office of the chief officer of the customs at such port will permit, or as soon thereafter as the said hours will permit, the master, or other person having the charge or command of such ship or vessel, shall repair to the said office, and shall make report to the said chief officer, of the arrival of the said ship or vessel; and within forty-eight hours after such arrival, shall make a further report in writing, to the collector of the district, which report shall be in the form, and shall contain all the particulars required to be inserted in a manifest, as the case may be; and the said master, or person having the charge or command of any such ship or vessel, shall declare to the truth of such report or manifest, as the same ought to be in conformity to this act; which declaration shall be on oath or solemn affirmation, before the collector of the district, in the manner and form following, to wit:

I (A. B.) do solemnly, sincerely, and truly, swear (or affirm) that the report and manifest subscribed with my name, and now delivered by me to the collector of the district of [insert the name of the district] contains, to the best of my knowledge and belief, a just and true account of all the goods, wares, and merchandise, including packages of every kind and nature whatsoever, which were on board the [insert the denomination and name of the vessel] at the time of her sailing from the port of [here insert the name of the port or place the vessel last sailed from] or which have been laden or taken on board at any time since, and that the packages of the said goods are as particularly described as in the bills of lading, signed for the same by me, or with my knowledge; that I am at present, and have been during the voyage, master of the said vessel, [or insert, if otherwise, specifying how long he has been master] that no package whatsoever, or any goods, wares, or merchandise, have been unladen, landed, taken out, or in any manner whatever removed from on board the said [insert denomination and name of the vessel] since her departure from the said port of [insert the name of the last port she sailed from] except such as are now particularly specified and declared in the abstract or account herewith, and that the clearance and other papers, now delivered by me to the collector, are all that I now have, or have had, that any way relate to the cargo of the said vessel. And I do further swear (or affirm) that the several articles specified in the said manifest, as the sea stores for the cabin and vessel, are truly such, and were bona fide put on board the said [insert the denomination and name of the vessel] for the use of the officers, crew, and passengers thereof, and have none of them been brought, and are not intended, by way of merchandise, or for sale, or for any other purpose, than above mentioned, and are intended to remain on board for the consumption of the said officers and crew. I further swear (or affirm) that if I shall hereafter discover, or know of any other or greater quantity of goods, wares, and merchandise, of any nature or kind whatsoever, than are contained in the report and manifest, subscribed and now delivered by me, I will, immediately and without de-

lay, make due report thereof to the collector of the port or district of [here insert the port or district entering at] and I do likewise swear (or affirm) that all matters whatsoever in the said report and manifest expressed, are to the best of my knowledge and belief just and true. (The following addition to the oath or affirmation is to be inserted in cases where the manifests shall not have been certified by some officer of the customs in manner provided.) I further swear (or affirm) that no officer of the customs has applied for an inspection of the manifest of the cargo on board the said vessel, and that no certificate or endorsement has been delivered to me on any manifest of such cargo. So help me God. Signed A. B.

Sworn (or affirmed) before me, this ——— day of ———. C. D., *Collector.*

And the master, or other person having the charge or command of any ship or vessel, having on board distilled spirits, wines, or teas, shall within forty-eight hours after his arrival as aforesaid, whether the same be at the first port of arrival of such ship or vessel, or not, shall, in addition to the requirements before mentioned, report in writing to the surveyor or officer acting as inspector of the revenue of the port at which he shall so arrive, the foreign port or place from which he last sailed, the name of his vessel, his own name, the burden and denomination of such ship or vessel, and whether a ship or vessel of the United States, or to what other nation belonging, together with the quantity and kinds of spirits, wines, and teas, on board of the said ship or vessel, particularizing the number of casks, vessels, cases, or other packages, containing the same, with their marks and numbers, as also the quantity and kind of spirits, wines, and teas, on board such ship or vessel, as sea-stores, on pain of forfeiting and paying the sum of five hundred dollars, and of the loss of the spirits so omitted; and the form of said report shall be as follows, to wit:

Report of distilled spirits, wines, and teas, imported in the [here insert the name and denomination of the vessel] built in [here insert where built in the United States, or to what foreign nation belonging] burden [here insert the tonnage of the vessel] whereof [here insert the name of the master] from [here insert the foreign port from which the vessel last sailed] bound to [here insert the port or ports to which destined in the United States.]

Marks.	Number of casks, chests, and packages, inclusive.	Descrip'n of casks, chests and packages, inclusive.	Kinds and qualities of spirits, wines, and teas.	Estimated gallons of spirits, of each kind.	Estimated gall's of wines, of each kind.	Estimated pounds of teas, of each kind.	To whom consigned.	Where consigned.

Sea-stores, consisting of spirits, wines, and teas.

[Here insert the quantities particularly.]

Signed A. B., *Master of* ———.

To ——— ———,

Inspector of Revenue for port of ———.

And if the said master, or other person having the charge or command of any ship or vessel, shall neglect or omit to make the said reports, or either of them, (other than that required to be made to the surveyor or inspector of revenue as aforesaid,) and the declaration or declarations, or to take the said oath as required, or shall not fully comply with the true intent and meaning of this section, as the case may be, he shall, for each and every offence, forfeit and pay the sum of one thousand dollars.

Sec. 31. *And be it further enacted*, That it shall not be necessary for the master, or person having the charge or command of any ship or vessel of war, or of any ship or vessel employed by any prince, or state, as a public packet for the conveyance of letters and despatches, and not permitted by the laws of such prince or state to be employed in the transportation of goods, wares, or merchandise, in the way of trade, to make such report and entry as aforesaid.

Sec. 32. *And be it further enacted*, That it shall be lawful for any ship or vessel to proceed with goods, wares, or merchandise, brought in her, and which shall, in the manifest first delivered to any officer receiving the same, be reported as destined or intended for any foreign port or place, from the district within which such ship or vessel shall first arrive, to such foreign port or place, without paying or securing the payment of any duties upon such of the said goods, wares, or merchandise, as shall be actually re-exported in the said ship or vessel, accordingly, anything herein contained to the contrary notwithstanding: *Provided, always*, That the said master, or person, having the charge or command of the said ship or vessel, shall first give bond, with one or more sureties, in a sum equal to the amount of the duties upon the said goods, wares, or merchandise, as the same shall be estimated by the collector and naval officer of the port where the said report shall be made, to the satisfaction of the said collector, with condition that the said goods, wares, or merchandise, or any part thereof, shall not be landed within the United States, unless due entry thereof shall have been first made, and the duties thereupon paid, or secured to be paid, according to law; which bonds shall be taken for the same periods, and cancelled in like manner, as bonds hereinafter directed to be given for obtaining drawbacks of duties; and the form of the said bonds shall be as follows, to wit:

Know all men by these presents, That we [here insert the name of the master of the vessel, and the name or names of the sureties] are held and firmly bound unto the United States of America, in the sum of —— to be paid to the said United States: for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated this —— day of ——, in the —— year of the independence of the United States, and in the year of our Lord one thousand ——.

Whereas the following described packages of goods, wares, and merchandise, [here insert the marks, numbers, denomination, and number of packages and contents, as far as may be, and, if articles in bulk, the quantity and quality] imported into the district of —— in the [insert the denomination and name of vessel] whereof [insert name] is master, from [insert port or place where from] on the [insert date of vessel's entry] as per report and manifest then delivered by the said master, are now about to be exported and conveyed in the said [insert denomination and name of vessel] to the port of [insert name of the port intended for] and whereas the duties that would have become due on the said goods, wares, and merchandise, had the same been unladen here, and not so exported, would have amounted to the aforesaid sum of ——.

Now, therefore, the condition of this obligation is such, That if the above bounden —— shall and do, within —— months from the date hereof, produce to the collector of this district the certificates required by law, that the said enumerated [packages of merchandise, or articles in bulk as the case may be,] have been exported to and landed at the aforesaid port of —— or at any other port or place without the limits of the United States, or if neither the whole, nor any part of the said goods, wares, and merchandise, shall be landed within the limits of the said United States, until due entry thereof shall have been first made, and the duties thereon paid or secured to be paid according to law, then the above obligation to be void, otherwise to be and remain in full force and virtue.

Sealed and delivered in the presence of ——.

Provided, nevertheless, That such bond shall not be required in respect to the goods on board of any ship or vessel which shall have put into the United States from necessity, to be made to appear in manner herein after prescribed. And the collector receiving such bonds, or any other bonds taken upon the exportation of merchandise entitled to drawback, is hereby required and enjoined, immediately after the time when, by the conditions of the same, they ought to be cancelled, to put the same in suit; provided the necessary proof shall not have been produced, or further time granted therefor by the Comptroller of the Treasury.

Sec. 33. *And be it further enacted*, That it shall be lawful for any ship or vessel in which any goods, wares, or merchandise, shall be brought into the United States, from any foreign port or place, and which shall be specified in the manifest, verified on oath or affirmation, before the collector of the port in which such ship or vessel shall first arrive, to be destined for other districts, to proceed with the same from district to district within the United States, in order to the landing or delivery thereof, and the duties on such of the said goods only as shall be landed in any district shall be paid or secured to be paid within such district.

Sec. 34. *And be it further enacted*, That, before any ship or vessel shall depart from the district in which she shall first arrive for another district (provided such departure be not within forty-eight hours after her arrival within such district) with goods, wares, or merchandise, brought in such ship or vessel from a foreign port or place, the duties whereof shall not have been paid or secured, the master, or person having the charge or command of such ship or vessel, shall obtain from the collector of the district from which he shall be about to depart (who is hereby required to grant the same) a copy of the report and manifest made by such master, or other person having the charge or command of such ship or vessel, certified by the said collector, to which copy shall be annexed a certificate of the quantity and particulars of the goods which shall appear to him to have been landed within his district, or of the quantity and particulars of the goods which remain on board, and upon which the duties are to be paid, or secured to be paid, in some other district.

The form of which certificate shall be as follows:

District of ——, port of ——.

These are to certify, that the within is a true copy of the report and manifest of the cargo of the [insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port where from] entered at this port the [insert the day and month of entry] as exhibited on [oath or affirmation] by the said master: that no part of the said cargo, as expressed in such manifest, hath been unladen or landed at this port; [or as the case may require;] that there hath been unladen and landed at this port, and the duties paid or secured to be paid on the following articles, [or] that all the said cargo as expressed in the said manifest hath been duly entered and landed in this district according to law, except the following articles [here enumerate the marks, numbers, packages, and contents, or if articles in bulk, the quantities, whether landed or remaining on board, as the case may require] and that bond hath here been entered as the law directs for the delivery of the [insert the whole or remaining part, as the case may require] of the said cargo, at the [insert the port and district of destination.]

Witness our hands and seals, this —— day of. ——.

A. B., *Collector.*
C. D., *N. Officer.*

And within twenty-four hours after the arrival of such ship or vessel within any other district, the said master, or person having the charge or command of such ship or vessel, shall make report or entry, to or with the collector of such other district, producing and showing the said certified copy of his said first report, together with a certificate from each collector of any other district, within which any of the goods, wares, or merchandise, brought in such ship or vessel, shall have been before landed; of the quantity and particulars of such goods wares, or merchandise, as shall have been so landed in each district, respectively; except in the State of Georgia, where such report shall be made within forty-eight hours: *Provided, always*, That the master or person having the charge or command of the said ship or vessel shall first give bond, with one or more sureties, to the satisfaction of the collector of the district within which the said ship or vessel shall first arrive, in a sum equal to the amount of the duties on the residue of the said goods, according to such estimate as the said collector shall form thereof, with condition that the said residue of such goods shall be duly entered and delivered in such other district or districts of the United States for which the same shall have been reported to be destined.

And the form of the said bond shall be as follows:

Know all men by these presents, that we [here insert the name of the master of the vessel, and the name or names of the sureties] are held and firmly bound unto the United States of America, in the sum of —— to be paid to the said United States; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals; dated this —— day of —— in the —— year of the Independence of the United States, and in the year of our Lord one thousand ——.

Whereas the following goods, wares, and merchandise [here insert the marks, number, denomination and number of packages and contents, as far as may be, or if articles in bulk, the quantity and quality] imported into the district of —— in the [insert the denomination and name of vessel] whereof [insert name] is master, from [insert name of port, &c.] on the [insert date of vessel's entry] as per report and manifest then delivered by the said master; are now intended to be exported and conveyed in the said [insert the denomination and name of the vessel] to the district [insert the district or districts where intended to be sent] and whereas the duties that would have become due on the said goods, wares, and merchandise, had the same been unladen, would have amounted to the aforesaid sum of ——.

Now, therefore, the condition of this obligation is such, that if the above bounden —— shall and do, within six months from the date hereof, produce to the collector of this district the certificates required by law, that the said enumerated (packages of merchandise, or other articles in bulk as the case may be,) have been duly entered and delivered at the aforesaid district of —— or any other port or district of the United States, then the above obligation to be void, otherwise to be and remain in full force and virtue.

Sealed and delivered in the presence of ——.

And the said bond shall be cancelled or discharged, within six calendar months from the date thereof, by the production of a certificate or certificates from the collector or collectors of the district or districts for which the said goods shall have been reported, testifying the due entry and delivery of the said goods in such district or districts, or upon due proof to the satisfaction of the collector by whom the said bond shall have been taken, and to the naval officer of such port (if any) that such entry and delivery were prevented by some unavoidable accident or casualty, and that if the whole, or any part of the said goods, shall not have been lost, that the same have been duly entered and delivered within the United States.

And the form of the certificate aforesaid shall be as follows:

District of ——, port of ——.

These are to certify, that there have been unladen and landed at this port, from on board the [insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert district and port where from] the following packages of merchandise [here detail the several packages with their respective denominations, their marks and numbers, and if any articles in bulk, the quantities delivered] for which the duties have been [paid or secured] at the aforesaid port of [insert the port.]

Witness our hands and seals this — day of ——.

A. B., *Collector.*
C. D., *N. Officer.*

And if the master, or other person having the charge or command of any such ship or vessel, shall fail by his neglect or fault to obtain the said copy of his said report, from the collector of the district from which he shall be so about to depart, or of any certificate which he ought to obtain as aforesaid, or shall neglect to produce and show the same to the collector of any other district, to which the said ship or vessel shall afterwards proceed, within the time for that purpose herein before specified, he shall forfeit and pay, for every such neglect or omission, five hundred dollars.

Sec. 35. *And be it further enacted*, That, in addition to the provisions and requirements aforesaid, it shall be the duty of each and every master, or other person having the charge or command of any ship or vessel, arriving from any foreign port or place, having on board distilled spirits, wines, or teas, other than sea stores, intended to be transported from one port in the United States to another port in the said United States, whether in the same or in different districts, previous to the departure of such ship or vessel from the port at which she shall first arrive, to apply to the surveyor or officer acting as inspector of the revenue for the port, for a certificate of the quantity and particulars of such spirits, wines, or teas, as shall have been certified, or reported to him to have been imported in such ship or vessel, and of the quantity and particulars of such spirits, wines, or teas, as shall appear to have been landed out of such ship at such port; which certificate the surveyor or inspector of the revenues shall forthwith grant, and the master, or person having the charge or command of such ship or vessel, shall, within twenty-four hours after her arrival at the port to which she shall be bound, deliver the said certificate to the surveyor, or person acting as inspector of the revenue of such last mentioned port; and if such ship or vessel shall proceed from one port to another within the United States, with the whole or any part of the spirits, wines, or teas, brought in her as aforesaid, without having first obtained such certificate, or if within twenty-four

hours after her arrival at such other port, the said certificate shall not be delivered to the surveyor or inspector as aforesaid, the master, or person having the charge or command of the said ship or vessel shall, in either case, forfeit the sum of five hundred dollars, and the spirits, wines, or teas, on board her shall be forfeited and may be seized.

And the form of the said certificate shall be as follows:

District of ——, *Office of Inspection for the port of* ——.

I certify that the within is a true copy of the report made to me of distilled spirits, wines, and teas, imported in the [insert the name and denomination of the vessel] built in [here insert where built in the United States, or to what foreign nation belonging] burden [here insert the tonnage of the vessel] whereof [here insert the name of the master] from [here insert the foreign port from which the vessel last sailed] bound to [here insert the port or ports to which destined in the United States;] that no part of the said spirits, wines, or teas, hath been unladen or landed at this port [or as the case may require;] that there have been landed at this port, in pursuance of permits for that purpose, the following quantities, to wit: [here insert the marks, number, description of packages, casks, chests, kinds and quantities of all spirits, wines, and teas, landed at the port of inspection, agreeably to the form prescribed for the report] and no other or greater quantities than are above expressed, [or] that all the said spirits, wines, and teas, have been duly landed in this district, except the following, the duties whereof are to be paid or secured to be paid in the district of [insert the district of destination, and enumerate the marks, numbers, description of casks, chests or other packages, kinds and quantities of all spirits, wines, and teas, which remain on board.]

Witness my hand the day and year aforesaid.

A. B., *Inspector of the Revenue for the port of* ——.

And each and every surveyor, or officer acting as inspector of the revenue, for any port at which a ship or vessel may arrive with a certificate as aforesaid, shall certify in manner aforesaid all deliveries of spirits, wines, or teas, made at their respective ports, which certificate shall be annexed to the certificate granted at the port of original importation.

Sec. 36. *And be it further enacted*, That the owner or owners, consignee or consignees, of any goods, wares, or merchandise on board of any such ship or vessel, or in case of his, her, or their absence or sickness, his, her, or their known agent or factor, in his, her, or their names, within fifteen days after the report of the master, or person having the charge or command of such ship or vessel, to the collector of the district for which such goods, wares, or merchandise, shall be destined, shall make entry thereof in writing with the said collector, and shall in such entry specify the vessel and master's names in which, and the port or place from whence, such goods, wares, or merchandise, were imported, the particular marks, numbers, denomination and prime cost, including charges of each particular package or parcel whereof the entry shall consist, or if in bulk, the quantity, quality, and prime cost, including charges thereof, particularly specifying the species of money in which the invoices thereof are made out; and shall also produce to the said collector and naval officer (if any) the original invoice or invoices of the said goods, wares, or merchandise, or other documents received in lieu thereof, or concerning the same, in the same state in which they were received, with the bill or bills of lading for the same; which invoices shall be signed by the persons in the offices of the collector and naval officer who shall have compared and examined the same; and the said entry or entries shall, as the nature of the case will admit or require, be agreeably to the form following, to wit:

Entry of Merchandise imported by [insert the name of the importer or consignee] in the [insert the name and denomination of the vessel, and master's name] from [insert the place from which arrived——insert date of entry.]

Marks.	Numbers, inclusive.	Packages and contents.	Quantity, per invoice, of articles not subject to specific duties.	Value of articles subject to specific duties.	Value subject to 10 per centum ad valorem.	Value subject to 12½ per centum ad valorem.	Value subject to 15 per centum ad valorem.	Value subject to 20 per centum ad valorem.	Value subject to 40 per centum ad valorem.	Amount of free goods.	Charges not subject to duty.	Total amount, per invoice.

Provided, That the form before mentioned shall and may be varied and adapted to any alterations which may be made in the rates of duties upon goods, wares, and merchandise, hereafter to be imported into the United States. And the entry or entries to be made by any importer, consignee, or agent, as aforesaid, shall be verified by the oath or affirmation of the person making the same, the form of which oath or affirmation shall, as the case may require, be as follows, to wit:

District of ——, *port of* ——.

I [here insert the name of the person making the entry] do solemnly, sincerely, and truly, swear (or affirm) that the entry now subscribed with my name, and delivered by me to the collector of [insert the name of the district] contains a just and true account of all the goods, wares, and merchandise, imported for sale, or intended to be landed in this district, for me or on my account, or on account of any house of trade or partnership in which I am concerned, in this district, or which actually came consigned to me, or to any house of trade or partnership in which I am concerned, or [if the entry be made by an agent] imported by, or consigned to [insert the name of the person or firm for whom entry is made] and intended for sale or to be landed in this district, in the [insert the name and denomination of the vessel] whereof [insert the name of the master] is master from [insert the name of the port from which the vessel arrived] that the said entry contains a just and true account in [insert the denomination of money in which the invoices and entry are made] of the cost thereof, including all charges; that the invoice or invoices and bill or bills of loading now produced by me are the true, genuine, and only invoices and bills of loading by me received, of the said goods, wares, and merchandise, imported or consigned as aforesaid, and the only invoices by which I have been charged, or for which I am to account, and that the said invoices and bills of loading are in the actual state in which they were received by me, and that I do not know of any other invoices or account of the said goods, wares, or merchandise, different from what is or are here produced: I do further swear [or affirm] that if I hereafter discover any other or greater quantity of goods, wares, or merchandise, than is contained in the entry aforesaid, or shall receive any invoice of the whole or any part thereof, other, in quantity, quality, and price, than has been now exhibited, I will immediately and without delay report the same to the collector of this district: I also swear (or affirm) that nothing has been concealed or suppressed in the entry aforesaid, whereby to avoid the just payment of the duties imposed by the laws of the United States, and that all matters are justly and truly expressed therein, according to my best knowledge and belief. So help me God.

Sworn [or affirmed] this —— day of —— before A. B., Collector.

Provided, That, whenever any entry shall be made with the collector of any district, of merchandise imported into the United States subject to duty, by any agent, factor, or person, other than the person to whom they belong, or to whom they are ultimately consigned, it shall be the duty of the collector to take a bond with surety from such agent, factor, or person, (other than the bond or for securing the duties, in the penal sum of one thousand dollars,) with condition that the bona fide owner or consignee of such goods, wares, or merchandise, shall, on or before the first day of payment stipulated in the bond or bonds for securing the duties, deliver, or cause to be delivered, to the said collector, a full and correct account of the said goods, wares, and merchandise, imported by him, or for him, on his own account, or consigned to his care, in the same manner and form as required by this section in respect to an entry previous to the landing of any merchandise; which account shall be verified as in the case of an entry, by a like oath or affirmation, to be taken and subscribed before any judge of the United States, or the judge of any court of record of a State, or before a collector of the customs of the same or some other district; and in case of the payment of the duties at the time of entry, by any factor or agent, on the goods, wares, or merchandise, entered by him, the condition of the bond aforesaid shall be to produce the account of the proper owner or consignee, verified in manner as before directed, within ninety days from the date of such bond.

And the form of the said bond shall be as follows, to wit:

Know all men by these presents, that we [here insert the names of principal surety or sureties] are held and firmly bound unto the United States of America, in the sum of one thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Witness our hands and seals this —— day of —— one thousand seven hundred and ninety——.

Whereas the above bounden —— has this day duly entered at the custom-house of —— and [paid or secured to be paid, as the case may be] the duties on sundry goods, wares, and merchandise, imported in the [insert the denomination and name of the vessel] whereof [insert name] is master, from [insert port or place where from] as particularly enumerated in the entry thereof, made and subscribed by the said —— in behalf of [insert the name or names of the person or persons, actual owners or consignees] bearing equal date herewith.

The condition of this obligation therefore is such, that if the said bounden —— shall, on or before the —— deliver or cause to be delivered to the collector of the customs for the district of [insert name of the district where the bond is taken] a full and correct account from the said [insert name of the actual owner or consignee] of the aforesaid merchandise imported by him on his own account, or consigned to his care, verified by the oath of the said —— being the proper owner or consignee, in manner and form as would be required if he were personally present, taken before any judge of the United States, or of a court of record of a State, or before the collector of any other district, then this obligation shall be null and void, otherwise it shall be and remain in full force and virtue.

Sealed and delivered in the presence of ——.

Provided, always, That where the particulars of any goods, wares, or merchandise, shall be unknown, in lieu of the entry herein before directed to be made, an entry thereof shall be made and received according to the circumstances of the case, the party making the same declaring upon oath all that he or she knows or believes concerning the quality and particulars of the said goods, wares, and merchandise, and that he or she hath no other knowledge or information concerning the same; which entry, as well the first as the last, shall be made in writing, and shall be subscribed by the party making the same, if the proper owner or consignee, in their own name, or if by an agent, factor, or person other than such owner or consignee, in his or their names, as agents or factors for such owner or consignee: *Provided*, That in every case in which the entry of any goods, wares,

or merchandise shall be imperfect, for want of invoices, bills of loading, or for any other cause, it shall be the duty of the collector to take the said goods, wares, and merchandise, into his custody, until the quantity, quality, or value thereof, as the case may require, can be ascertained, in manner hereafter directed and prescribed.

Sec. 37. *And be it further enacted*, That every importer of distilled spirits, wines, or teas, or person to whom distilled spirits, wines, or teas, are consigned, shall make a separate and additional entry thereof, specifying the name of the vessel and master in which, and the place from whence, such spirits, wines, or teas, were imported, together with the quantity and quality thereof, and a particular detail of the chests, casks, or vessels, containing the same, with their marks and numbers; which entry shall be subscribed by the person making the same, for himself, or in behalf of the persons for whom such entry is made; and shall be certified by the collector before whom the same is made, as being a true copy, and conformable to the general entry before directed, in respect to all distilled spirits, wines, and teas, therein contained; which entry thus certified shall be transmitted to the surveyor or officer acting as inspector of the revenue for the port where it is intended to commence the delivery of such spirits, wines, or teas, so entered, or any part thereof: And every permit granted by such collector and naval officer, where any, for the unlading of said spirits, wines, or teas, or any part thereof, shall, previous to such landing or unlading thereof, be produced to the said officer of inspection, who shall record or register in proper books the contents thereof, and shall endorse thereupon the word, "*inspected*," the time when, and his own name; after which, he shall return the said permit to the person by whom it shall have been produced, and then, and not otherwise, it shall be lawful to land the spirits, wines, or teas, therein specified; and if the said spirits, wines, or teas, shall be landed without such endorsement upon the permit granted for that purpose, the master, or other person having the charge or command of the ship or vessel from which the same shall have been so landed, shall for every such offence forfeit and pay the sum of five hundred dollars, and the spirits, wines, or teas, so landed, shall be forfeited.

Sec. 38. *And be it further enacted*, That all distilled spirits, wines, and teas, shall be landed under the inspection of the surveyor, or other officer acting as inspector of the revenue for the port, and such of the inspectors of the customs as shall be deputed by him for that purpose, and not otherwise, on pain of forfeiture thereof, for which purpose the said officer or officers shall at all reasonable times attend; *Provided*, That this shall not be construed to exclude the inspection of any officer of the customs, as now or heretofore practised.

Sec. 39. *And be it further enacted*, That the officers of inspection of any port where distilled spirits, wines, or teas, shall be landed, shall, upon the landing thereof, and as soon as the casks, chests, vessels and cases, containing the same, shall be inspected, gauged or measured, brand or otherwise mark, in durable characters, the several casks chests, vessels, and cases, containing the same, and the said marks shall express the number of casks, chests, vessels, or cases, whether of spirits, wines, or teas, marked by each officer, respectively, in each year, in progressive numbers for each of the said articles; also the port of importation, the name of the vessel, and the surname of the master; also each kind of spirits, wines, or teas, for which different rates of duty are or shall be imposed, the number of gallons in each cask or case, if spirits or wines; the rate of proof, if spirits, and the number of pounds weight, if teas; also the name of the surveyor or chief officer of inspection for the port, and the date of importation; of all which particulars the chief officers of inspection shall keep fair and correct accounts, in books to be provided for that purpose.

Sec. 40. *And be it further enacted*, That the surveyor or chief officer of inspection as aforesaid, within the port or district in which the said spirits, wines, or teas, shall be landed, shall give to the proprietor, importer, or consignee, thereof, or his or her agent, a certificate, to remain with him or her, of the whole quantity of the said spirits, wines, or teas, which shall have been so landed; which certificate, besides the quantity, shall specify the name of such proprietor, importer, consignee, or agent, and of the vessel from on board which the said spirits, wines, or teas, shall have been landed, and of the marks of each cask, chest, vessel, or case, containing the same; which certificate shall be of the form following, to wit:

District of ——, *Inspector's office*,
No. ——, *port of* ——.

I certify, that [here insert the name of the proprietor, importer or consignee] imported into this district on the [here insert the date of importation] in the [here insert the name of the vessel, and whether of the United States or foreign, and the name of the master] from [here insert the place from which imported, the number of, and whether casks, chests, vessels, or cases] of [here insert whether spirits, wines, or teas, and the kind of each] marked as per margin [insert in the margin the marks and numbers, if any, at the time of importation] which [here insert whether casks, chests, vessels, or cases] have been marked as follows [here insert the marks of the inspector of the port] containing [here insert the quantity of spirits, wines, or teas] according to returns made to this office.

A. B., *Inspector.*

Sec. 41. *And be it further enacted*, That the surveyor, or chief officer of inspection as aforesaid, shall, in addition to the general certificate aforesaid, give to the proprietor, importer, or consignee, of any distilled spirits, wines, or teas, or his or their agent, a particular certificate, which shall accompany each cask, chest, vessel, or case, of distilled spirits, wines, or teas, wherever the same may be sent, within the limits of the United States, as evidence that the same have been lawfully imported; and which certificate shall be of the form following, to wit:

No. ——, *district of* ——, *port of* ——.

I certify, that there was imported into this district on the [here insert the date of importation] by [here insert the name of the proprietor, importer, or consignee] in the [here insert the name of the vessel, the surname of the master, and whether a vessel of the United States or a foreign vessel] from [here insert the place from which imported] one [here insert whether cask, chest, vessel, or case, by the proper name] of [here insert whether spirits, wines, or teas, and the kind of each] numbered and marked as per margin, [the marks of the inspector to be inserted in the margin] containing [here insert the number of gallons and rate of proof, if spirits, or gallons, if wines, or the number of pounds weight nett, if teas.]

A. B., *Supervisor.*

Countersigned by C. D., *Inspector.*

Sec. 42. *And be it further enacted*, That the supervisors of the several districts shall provide blank certificates, under such checks and devices as shall be prescribed by the proper officers of the Treasury, and shall number, sign, and deliver the same to the officers who may perform the duties of inspectors of the revenue, for the several ports in their respective districts; which blank certificates shall be filled up and countersigned by the inspectors of the revenue aforesaid, who shall be accountable therefor to the supervisors; and the said inspectors shall make regular and exact entries of all certificates which shall be granted as aforesaid, as particularly as therein described.

Sec. 43. *And be it further enacted*, That the proprietor, importer, or consignee, or his or her agent, who may receive said certificates, shall, upon the sale or delivery of any of the said spirits, wines, or teas, deliver to the purchaser or purchasers thereof, the certificate or certificates which ought to accompany the same, on pain of forfeiting the sum of fifty dollars for each cask, chest, vessel, or case, with which such certificate shall not be delivered. And if any casks, chests, vessels, or cases, containing distilled spirits, wines, or teas, which by the foregoing provisions ought to be marked and accompanied with certificates, shall be found in the possession of any person, unaccompanied with such marks and certificates, it shall be presumptive evidence that the same are liable to forfeiture; and it shall be lawful for any officer of the customs or of inspection to seize them as forfeited; and if, upon the trial in consequence of such seizure, the owner or claimant of the spirits, wines, or teas, seized, shall not prove that the same were imported into the United States according to law, and the duties thereupon paid or secured, they shall be adjudged to be forfeited.

Sec. 44. *And be it further enacted*, That, on the sale of any cask, chest, vessel, or case, which has been or shall be marked, pursuant to the provisions aforesaid, as containing distilled spirits, wines, or teas, and which has been emptied of its contents, and prior to the delivery thereof to the purchaser, or any removal thereof, the marks and numbers which shall have been set thereon by or under the direction of any officer of inspection shall be defaced and obliterated in the presence of some officer of inspection or of the customs, who shall, on due notice being given, attend for that purpose, at which time the certificate which ought to accompany such cask, chest, vessel or case, shall also be returned and cancelled: And every person who shall obliterate, counterfeit, alter, or deface, any mark or number placed by an officer of inspection upon any cask, chest, vessel, or case, containing distilled spirits, wines, or teas, or any certificate thereof; or who shall sell or in any way alienate or remove any cask, chest, vessel, or case, which has been emptied of its contents, before the marks and numbers set thereon pursuant to the provisions aforesaid shall have been defaced or obliterated, in presence of an officer of inspection as aforesaid; or who shall neglect or refuse to deliver the certificate issued to accompany the cask, chest, vessel, or case, of which the marks and numbers shall have been defaced or obliterated in manner aforesaid, on being thereto required by an officer of inspection or of the customs, shall for each and every such offence forfeit and pay one hundred dollars, with costs of suit.

Sec. 45. *And be it further enacted*, That, in order to ascertain what articles ought to be exempt from duty, as the sea-stores of a ship or vessel, the master or other person having the charge or command of any ship or vessel shall particularly specify the said articles, in the report or manifest to be by him made, designating them as the sea-stores of such ship or vessel; and in the oath to be taken by such master, or other person, on making such report in manner before prescribed, he shall declare that the articles so specified as sea-stores are truly such, and are not intended by way of merchandise or for sale: whereupon the said articles shall be free from duty. *Provided, always*, That if it shall appear to the collector to whom such report and manifest shall be made and delivered, together with the naval officer where there is one, or alone where there is none, that the quantities of the said articles, or of any part thereof, so reported as sea-stores, are excessive, it shall be lawful for the said collector, jointly with the naval officer, or alone, as the case may be, in his or their discretion, to estimate the amount of the duty on such excess, which shall be forthwith paid by the said master or other person having the charge or command of such ship or vessel, to the said collector, on pain of forfeiting the value of such excess: And if any other or greater quantity of articles are found on board such ship or vessel as sea-stores than are specified in such entry, or if any of the said articles shall be landed without a permit first obtained from the collector and naval officer of the port (where any) for that purpose, all such articles as are not included, as aforesaid, in the report or manifest delivered on oath or affirmation, as aforesaid, by the master or other person having the charge or command of such ship or vessel, or which shall be landed without such permit as aforesaid, shall be forfeited, and may be seized; and the master, or person having the command of such ship or vessel, shall moreover forfeit and pay treble the amount or value of the articles so omitted or landed.

SEC. 46. *And be it further enacted*, That from and after the thirtieth day of June next, the wearing apparel, and other personal baggage, and the tools or implements of a mechanical trade only, of persons who arrive in the United States, shall be free and exempted from duty; and to ascertain what articles ought to be exempted, according to the true intent and meaning of the provision aforesaid, it is directed that due entry thereof, as of other goods, wares, and merchandise, but separate and distinct from that of any other goods, wares, and merchandise, imported from a foreign port or place, shall be made with the collector of the district in which the said articles are intended to be landed, by the owner or owners thereof, or his, her, or their agent, expressing the persons by whom or for whom such entry is made, and particularizing the several packages, and their contents, with their marks and numbers; and the person or persons who shall make the entry, shall take and subscribe an oath or affirmation before the said collector, as the case may require, in manner following, to wit:

District of ——, ss., *port of* ——:

I [here insert the name of the person making the entry] do solemnly, sincerely, and truly swear (or affirm) that the entry subscribed by me and hereto annexed, contains, to the best of my knowledge and belief, a true and just account of the contents of the several [here insert whether chests, cases, or packages,] mentioned in the said entry, imported in the, [here insert the name of the vessel and master's name,] from [here insert the port from which arrived,] and that they contain no goods, wares, or merchandise, whatever, other than the wearing apparel and other personal baggage, (or if the case require,) and the tools of the trade of [here insert what mechanical trade,] all of which are the property of [here insert to whom belonging, and family, as the case may require,] who has or have arrived (or, as the case may require,) who is or are shortly expected to arrive in the United States; and are not directly or indirectly imported for any other person or persons, or intended for sale. So help me God.

And in case the party shall be other than the owner of the said articles, he or she shall give bond, with one or more sureties to the satisfaction of the said collector, in a sum equal to what would be the amount of the duties on the said articles, imported subject to duty; the form of which bond shall be as follows:

Know all men by these presents, that we, [here insert the names of the principal and sureties,] are held and firmly bound unto the United States of America, in the sum of ——, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals. Dated the —— day of ——, in the —— year of the independence of the United States, and in the year of our Lord one thousand ——.

Whereas the above-named —— has this day, for and in behalf of ——, exhibited an entry, subscribed with his name, of the following packages of wearing apparel and othe articles, as being exempted from duty, [here insert the number and description of packages, together with their marks and numbers,] and has made oath before the collector of the district of ——, that the said articles are the property of the said ——, that they are truly and *bona fide* intended for the sole use of himself and family, [as the case may require,] and are not directly or indirectly imported for any other person, or intended for sale:

Now, therefore, the condition of this obligation is such, that if the said —— shall, within one year from the date hereof, take and subscribe the oath prescribed by law in such case, before the said collector, or if the said oath, duly authenticated, shall be produced to the said collector, agreeably to the true intent and meaning of the said law, then this obligation to be void, or else to remain and be in full force and virtue.

Sealed and delivered in the presence of ——

And on compliance with the conditions aforesaid, and not otherwise, a permit shall and may be granted for landing the said articles: *Provided, nevertheless*, That whenever the collector and naval officer (if any) shall think proper so to do, they may and are hereby authorized, in lieu of the provisions and directions before mentioned, to direct the baggage of any person arriving within the United States, to be examined by the surveyor of the port, or an inspector of the customs, and to make a return of the same; and if any articles shall be contained therein, which in their opinion ought not to be exempted from duty, according to the true intent and meaning of this act, due entry shall be made therefor, and the duties thereon paid or secured to be paid: *And provided*, That whenever any article or articles, subject to duty, according to the true intent and meaning of this act, shall be found in the baggage of any person arriving within the United States, which shall not, at the time of making entry for such baggage, be mentioned to the collector before whom such entry is made by the person making the same, all such articles so found shall be forfeited, and the person in whose baggage they shall be found, shall moreover forfeit and pay treble the value of such articles.

SEC. 47. *And be it further enacted*, That on any goods, wares, or merchandise, of the growth or manufacture of the United States, which may have been exported to some foreign port or place, and brought back to the said States, and upon which no drawback, bounty, or allowance, has been paid, no duty shall be demanded. *Provided*, That the regulations hereinafter prescribed for ascertaining the identity of such goods, wares, or merchandise, be observed and complied with.

SEC. 48. *And be it further enacted*, That report and entry of goods, wares, or merchandise, returned as aforesaid, shall be made as in other cases of goods, wares, and merchandise, imported from a foreign port or place; and proof, by oath or affirmation of the person or persons having knowledge of the facts, shall be made to the satisfaction of the collector of the district with whom such entry

shall be made, jointly with the naval officer, if there be a naval officer, or alone, if there be no naval officer, that the said articles had been exported from the United States, as of the growth, produce, or manufacture of the same, and of the time when, by whom, in what ship or vessel, and for what port or place, they were so exported; the form of which oath or affirmation shall be as follows:

District of ——, ss., *port of* ——:

I, A. B., do solemnly, sincerely, and truly swear (or affirm, as the case may be) that the several articles of merchandise, mentioned in the entry hereto annexed, are, to the best my knowledge and belief, truly and *bona fide* of the growth, product, or manufacture, of the United States, (as the case may be,) and that they were truly exported and imported, as therein expressed, and that no drawback, bounty, or allowance, has been paid or thereon, or any part thereof. So help me God.

Sworn to, A. B.

And if the collector, who may receive the entry aforesaid, shall be other than the collector of the district from which the said articles shall have been exported, a certificate of the latter shall be produced to the former, testifying the exportation thereof, the form of which shall be as follows:

District of ——, *port of* ——:

This is to certify that there were cleared out at this port on the [insert the day of clearance,] in the [insert the denomination and name of the vessel,] whereof [insert the name] was master, for [insert the port or place for which cleared,] the following articles of merchandise, [here enumerate the number of packages, their denominations, marks, and numbers, together with their contents,] on which no drawback, allowance, or bounty, has been paid or admitted.

A. B., *Collector*,
C. D., *Naval Officer*.

Whereupon a permit shall and may be granted for landing the same. *Provided*, That if the said certificate cannot be immediately produced, and if the proof otherwise required shall be made, a bond shall and may be given in the following form, with one or more sureties, to the satisfaction of the collector of the district, within which the said articles are intended to be landed, in a sum equal to what the duties would be on the said articles, if they were not of the growth, product, or manufacture, of the United States:

Know all men, by these presents, that we, [insert the name of the principal and sureties,] are held and firmly bound unto the United States of America, in the sum of ——, to be paid to the said United States; for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this —— day of ——, in the —— year of the independence of the United States, and in the year of our Lord one thousand seven hundred and ninety ——.

Whereas —— has this day made entry at the custom-house of the port of ——, of the following articles, viz: [here particularize the packages, marks, numbers, and contents,] as per entry by him subscribed, and has likewise sworn (or affirmed) before the collector of the said port, that the said articles are of the growth, product, or manufacture, of the United States, and that they were exported from the district of ——, in the ——, whereof —— was master, on or about the ——; and whereas the duties on the aforesaid articles, if of foreign growth or importation, would amount to the aforesaid sum of ——.

The condition, therefore, of this obligation is such, that if the above bounden —— do, within six months from the date hereof, produce, or cause to be produced, to the collector of the district of ——, a certificate under the hand and seal of the collector (and naval officer, if any) of the aforesaid port of ——, of the said articles having been actually exported from thence, as herein set forth, subject to no drawback, bounty, or allowance, then this obligation to be void and of no effect, otherwise it shall be and remain in full force and virtue.

Sealed and delivered in the presence of ——.

And upon receiving a bond as aforesaid, it shall be lawful for the said collector, and naval officer, where any, to grant a permit for landing of the said articles in like manner as if the said certificate had been produced; and in default of such certificate being produced, within the time limited in such bond, the collector taking the same is required and enjoined to enforce the payment thereof, as in the case of other bonds taken for duties on goods, wares, and merchandise imported into the United States.

SEC. 49. *And be it further enacted*, That all oaths or affirmations to be taken, upon making of any of the reports or entries, or respecting any of the acts herein mentioned, whether by the master or other person having the charge or command of any ship or vessel, or the owner or consignee of any goods, wares, or merchandise, his or her factor or agent, or by any other person, shall be administered by the collector, or officer to or with whom report or entry shall be made, and shall be reduced to writing, and subscribed by the person swearing or affirming, and also by the person administering the said oaths or affirmations. And the collector jointly with the naval officer, or alone where there is none, shall, according to the best of his or their judgment or information, make a gross estimate of the amount of the duties on the goods, wares, or merchandise, to which the entry of any owner or consignee, his or her factor or agent shall relate, which estimate shall be endorsed upon such entry, and signed by the officer or officers making the same. And the amount of the said estimated duties having been first paid, or secured to be paid, pursuant to the provisions of this act, the said collector shall, together with the naval officer, where there is one, or alone where there is none, grant a permit to land the goods, wares, and merchandise, whereof entry shall have been so made, and then, and not before, it shall be lawful to land the said goods; and all permits shall specify, as particularly as may be, the goods to be delivered,

namely, the number and description of the packages, whether trunk, bale, chest, box, case, pipe, hogshead, barrel, keg, or any other packages whatever, with the mark and number of each package, and as far as circumstances will admit, the contents thereof, together with the names of the vessel and master, in which, and the place from whence they were imported; and no goods, wares, or merchandise, shall be delivered by any inspector or other officer of the customs, that shall not fully agree with the description thereof in such permit: And the form of all permits for the purposes aforesaid, and for deliveries from the public stores, shall be as follows:

Port of ——.

To the inspectors of the port (or) the keeper of the public store (as the case may require.)

We certify, that [insert the name of the actual owner or consignee] has paid (or) secured to be paid (as the case may be) the duties on merchandise contained in the following packages, in conformity to the entry thereof of this date, which merchandise was imported in the [insert the denomination and name of the vessel, master's name, and the port from which arrived] permission is accordingly hereby given to land (or) deliver the same, viz: [here particularly insert the mark, number, and denomination of each package, and as far as may be, their contents, noting those articles that are to be either weighed, gauged, or measured.]

A. B., *Collector.*
C. D., *Naval Officer.*

Sec. 50. *And be it further enacted*, That no goods, wares, or merchandise, brought in any ship or vessel from any foreign port or place, shall be unladen or delivered from such ship or vessel, within the United States, but in open day, that is to say, between the rising and setting of the sun, except by special license from the collector of the port, and naval officer of the same, where there is one, for that purpose, nor at any time without a permit from the collector, and naval officer, if any, for such unlading or delivery; and if any goods, wares, or merchandise, shall be unladen or delivered from any such ship or vessel, contrary to the direction aforesaid, or any of them, the master or person having the charge or command of such ship or vessel, and every other person who shall knowingly be concerned, or aiding therein, or in removing, storing, or otherwise securing the said goods, wares, or merchandise, shall forfeit and pay, each and severally, the sum of four hundred dollars for each offence, and shall be disabled from holding any office of trust or profit under the United States, for a term not exceeding seven years; and it shall be the duty of the collector of the district, to advertise the names of all such persons in a newspaper, printed in the State in which he resides, within twenty days after each respective conviction; and all goods, wares, or merchandise, so unladen or delivered, shall become forfeited, and may be seized by any of the officers of the customs; and where the value thereof, according to the highest market price of the same, at the port or district where landed, shall amount to four hundred dollars, the vessel, tackle, apparel, and furniture, shall be subject to like forfeiture and seizure.

Sec. 51. *And be it further enacted*, That no goods, wares, or merchandise, brought in any ship or vessel, from any foreign port or place, requiring to be weighed, gauged, or measured, in order to ascertain the duties thereupon, shall, without the consent of the proper officer, be removed from any wharf, or place, upon which the same may be landed or put, before the same shall have been so weighed, gauged, or measured, and if spirits, wines, teas or sugars, before the proof, or quality, and quantity thereof is ascertained and marked thereon, by or under the direction of the proper officer for that purpose; and if any such goods, wares, or merchandise, shall be removed from such wharf or place, unless, with the consent of the proper officer had and obtained, before the same shall have been so weighed, gauged, or measured, and if spirits, wines, teas, or sugars, before the proof or quality and quantity, shall have been so ascertained and marked, the same shall be forfeited, and may be seized by any officer of the customs or inspection.

Sec. 52. *And be it further enacted*, That all goods, wares, or merchandise, of which entry shall have been made incomplete, or without the specification of particulars, either for want of the original invoice or invoices, or for any other cause, or which shall have received damage during the voyage, to be ascertained by the proper officers of the port or district in which the said goods, wares, or merchandise, shall arrive, shall be conveyed to some warehouse or storehouse, to be designated by the collector, in the parcels or packages containing the same, there to remain with due and reasonable care, at the expense and risk of the owner or consignee, under the care of some proper officer, until the particulars, cost, or value, as the case may require, shall have been ascertained either by the exhibition of the original invoice or invoices thereof, or by appraisement, at the option of the owner, importer or consignee, in manner hereafter provided, and until the duties thereon shall have been paid, or secured to be paid, and a permit granted by the collector for the delivery thereof. And for the appraisement of goods, wares, and merchandise, not accompanied with the original invoice of their cost, or to ascertain the damage thereon received during the voyage, it shall be lawful for the collector, and upon request of the party, he is required to appoint one merchant, and the owner, importer, or consignee, to appoint another, who shall appraise or value the said goods, wares, or merchandise, accordingly, which appraisement shall be subscribed by the parties making the same, and be verified on oath or affirmation before the said collector; which oath or affirmation shall be in the form following, to wit:

We [insert the names of the persons] appointed by the collector of [here insert the name of the port or district] and [here insert the name or names of the importer or importers] to ascertain the contents, and appraise the value of the merchandise contained in the several packages described in the within or annexed entry or account, do solemnly, sincerely and truly swear (or affirm) that the several articles detailed in the annexed appraisement, subscribed with our names, contains a full and true account of all the merchandise whatsoever contained in the several packages mentioned in such entry or account, and that the several prices by us affixed to each article are, to the best of our skill and judgment, the true and actual value or cost thereof, at the place of exportation. So help us God.

And in respect to articles that have been damaged, during the voyage, as aforesaid, whether subject to a duty ad valorem, or which are chargeable with a specific duty, either by number, weight, or measure, the appraisers as aforesaid shall, in like manner, ascertain and certify, to what rate or per centage the said goods, wares, or merchandise, are damaged, and the rate or per centage of damage, so ascertained and certified, shall be deducted from the original amount, subject to a duty ad valorem, or from the actual or original number, weight, or measure, on which specific duties would have been computed: *Provided*, That no allowance for the damage on any goods, wares, and merchandise, that have been entered, and on which the duties have been paid, or secured to be paid, and for which a permit has been granted to the owner or consignee thereof, and which may, on examining the same, prove to be damaged, shall be made, unless proof to ascertain such damage shall be lodged in the custom-house of the port or place where such goods, wares, or merchandise, have been landed, within ten days after the landing of such merchandise. And every person who shall be appointed to ascertain the damage during the voyage, of any goods, wares, or merchandise, shall take and subscribe an oath or affirmation in the following form, to wit:

We [insert the names of the persons] appointed by the collector of the district of [insert the name of the district] and [insert the name or names of the owner or owners, consignee or consignees] to ascertain and appraise the damage sustained on merchandise imported by [insert the name or names of the importer or importers] in the [insert denomination and name of the vessel] whereof [insert the name] is master, from [insert the port or place from which imported] do solemnly, sincerely, and truly swear (or affirm) that we have carefully examined the several packages hereafter enumerated and described, and find the several articles of merchandise, as particularly detailed, contained in the said packages, to have received as we believe, during the voyage of importation, and that the allowance, by us made for such damage, is to the best of our skill and judgment, just. So help us God.

Sec. 53. *And be it further enacted*, That it shall be lawful for the collector of any district at which any ship or vessel may arrive, and immediately on her first coming within such district, and for the surveyor of any port where such ship be, to put and keep on board such ship or vessel, while remaining within such district, or in going from one district to another, one or more inspectors, to examine the cargo, or contents of such ship or vessel, and to superintend the delivery thereof, or of so much thereof as shall be delivered within the United States, and to perform such other duties, according to law, as they shall be directed by the said collector or surveyor, to perform for the better securing the collection of the duties: *Provided*, That collectors only shall have power to put on board ships or vessels, inspectors to go from one district to another; and the said inspector or inspectors shall make known to the person having the charge or command of such ship or vessel, the duties he or they, is or are, so to perform; and shall suffer no goods, wares, or merchandise, of any kind or nature whatsoever to be landed or unladen, or otherwise taken or removed from such ship or vessel, without a permit, in writing, from the collector of the port, and naval officer thereof, where any, first had and granted for that purpose; and the inspector aforesaid shall enter in a book, to be by him or each of them kept according to such a form as shall be prescribed or approved by the collector, the name or names of the person or persons in whose behalf such permits are granted, together with the particulars therein specified, and the marks, numbers, kinds, and description, of the respective packages, which shall be unladen pursuant thereto, and shall keep a like account in the said book, of all goods, wares, and merchandise, which, not having been entered within the time limited by this act, or for some other cause, have been sent to the store or warehouse, provided for the reception of such goods, wares, or merchandise: which book shall be delivered to the surveyor, in the month of January in every year, for his inspection, and immediately after such inspection, be transmitted by the surveyor, with such observations as he may think necessary thereon, to the collector, to be deposited in his office. And it shall be the duty of the said inspector or inspectors, to attend to the delivery of the cargo or cargoes under their care, at all times when the unlading or delivery of goods, wares, and merchandise, is lawful, particularly from the rising 'till the setting of the sun on each day, Sundays and the Fourth day of July in each year excepted; for which purpose they shall constantly attend and remain on board the vessel or vessels, the deliveries from which they are to superintend, or at any other stations where their inspection is necessary: And said inspector or inspectors shall not quit such stations or places, without the leave of the surveyor of the port first had and obtained for that purpose, who shall appoint another inspector, (if he shall judge it necessary,) to supply the place of such inspector or inspectors, during his or their absence; and any inspector who shall neglect or in any manner act contrary to the duties hereby enjoined, shall, for the first offence, forfeit and pay the sum of fifty dollars; and, for the second offence, shall be displaced, and be incapable of holding any station of trust or profit under the revenue laws of the United States, for a term not exceeding seven years. And no inspector or inspectors shall perform any other duties or

service, on board any ship or vessel, the superintendence of which is committed to him or them, for any person or persons whatever, other than what is required by this act, under the penalty of being disabled from acting any longer as an inspector of the customs; and the wages or compensation of such inspector or inspectors, as may proceed from one district to another, shall be defrayed by the master or person having charge or command of the ship or vessel committed to his or their care; and every inspector or other officer of the revenue, while performing any duty on board any ship or vessel, not in a port of the United States, discharging her cargo, shall be entitled to receive from the master of such ship or vessel, such provisions and accommodations as are usually supplied to passengers, or as the state and condition of such ship or vessel will admit, on receiving therefor fifty cents per diem; and any master of any ship or vessel, who shall refuse provisions and reasonable accommodations as aforesaid, shall forfeit and pay one hundred dollars.

SEC. 54. *And be it further enacted*, That it shall be lawful for all collectors, naval officers, surveyors, inspectors, and the officers of the revenue cutters, hereinafter mentioned, to go on board of ships and vessels, in any port of the United States, or within four leagues of the coast thereof, if bound to the United States, whether in or out of their respective districts, for the purposes of demanding the manifests aforesaid, and of examining and searching the said ships or vessels; and the said officers respectively shall have free access to the cabin and every other part of a ship or vessel; and if any box, trunk, chest, cask, or other package, shall be found in the cabin, steerage, or forecastle of such ship or vessel, or in any other place, separate from the residue of the cargo, it shall be the duty of the said officer to take a particular account of every such box, trunk, chest, cask, or other package, and of the marks and numbers thereof, if any there be, and a description thereof, and, if he shall judge proper, to put a seal or seals on every such box, trunk, chest, cask, or other package; and such an account and description shall be by him forwarded without delay to the collector of the district to which such ship or vessel is bound. And if, upon her arrival at the port of her entry, the boxes, trunks, chests, casks, or other packages so described, or any of them, shall be missing, or if the seals put thereon be broken, the master or commander of such ship or vessel shall forfeit and pay for every such box, trunk, chest, cask, or other package, so missing, or of which the seals shall be broken, the sum of two hundred dollars. And it shall also be lawful for the inspectors who may be put on board of any ship or vessel, (and they are hereby required and enjoined so to do,) to secure after sunset in each evening, or previous to their quitting the ship or vessel, the hatches and other communications with the hold of such ship or vessel, or any other part thereof he or they may judge necessary, with locks or other proper fastenings, which locks or other fastenings shall not be opened, broken, or removed, until the morning following, or after the rising of the sun, and in the presence of the inspector or inspectors, by whom the same shall have been so affixed, except by special license from the collector of the port, and naval officer thereof, if any, for that purpose first had and obtained. And if the said locks or other fastenings, or any of them, shall be broken or removed, during the night, or before the said rising of the sun, or without the presence of the said inspector or inspectors, or without such license first had and obtained, or if any goods or packages shall be clandestinely landed, notice thereof shall be immediately given by the inspector or inspectors, to the collector and naval officer of the district, port, or place, where the vessel may be; and the master, or other person having the charge or command of any such ship or vessel, shall, for each or every of the offences aforesaid, forfeit and pay the sum of five hundred dollars.

SEC. 55. *And be it further enacted*, That, when the delivery of goods, wares, and merchandise, from on board of any ship or vessel, shall have been completed, copies of the accounts or entries, which shall have been kept or made thereof, by the officer or officers who shall have been charged with the said deliveries, shall be returned to the collector and naval officer of the same, if any there be, within three days after such delivery hath been completed, if at the port where such officer or officers reside, and if at any other port, as soon as the nature of the case will admit, not exceeding fifteen days; and the accounts or entries to be returned as aforesaid, shall comprise all deliveries made pursuant to permits as aforesaid, and all packages or merchandise sent to the public stores; also each and every package remaining on board such ship or vessel, for the purpose of being exported therein, to a foreign port or place, or to some other district of the United States. And the returns of the inspectors, to be made as aforesaid, shall be according to the following form, namely:

Return of merchandise, unladen under my inspection, pursuant to permits for that purpose, from on board the [insert the names of the vessel and master] from [insert the port from which the vessel arrived.]

When delivered, or sent to store.	Dates of permits.	Marks.	Numbers.	Description of packages.	Contents.	To whom delivered, or whether sent to store, or remaining on board.	Remarks.

And the returns to be made as aforesaid, shall be signed by the inspectors respectively, under whose superintendence the deliveries shall have been made; and, after examination, and being found correct, said returns shall be countersigned or certified by the surveyor of the port, if any there be, at the port where the deliveries have been made; and the said returns shall be transmitted by him to the naval officer, if any there be, who shall compare the same with the manifests and entries in his possession; and if any difference shall appear, the particulars thereof shall be noted by endorsement on the said returns, and if no difference shall appear, it shall be so noted by like endorsements, and transmit the same to the collector of the district; and, on being returned to the collector, it shall be by him compared with the manifests and entries of such goods, wares, or merchandise, which shall have been made by the owner or owners, consignee, or consignees, or his or their factor or agent; and if any difference shall appear, the same shall be noted by endorsement on such manifests, specifying the particulars thereof; and if no difference shall appear, it shall be noted by like endorsement that the delivery hath corresponded with the entry or entries thereof; which endorsement or memorandum shall, in each case, be subscribed by the officer by whom such comparison shall have been made.

SEC. 56. *And be it further enacted*, That if, at the expiration of fifteen working days, after the time within which the report of the master, or person having the charge or command of any ship or vessel, so required to be made to the collector of a district as aforesaid, there shall be found on board any goods, wares, and merchandise, other than shall have been reported for some other district, or some foreign port or place, the said inspector or inspectors shall take possession thereof. *Provided*, That with the consent of the owner or consignee of any goods, wares, or merchandise, or with the consent of the owner or master of the vessel in which the same may be imported, the said goods, wares, or merchandise, may be taken possession of, at any time, after five days' notice to the collector of the district. And all goods, wares, or merchandise, taken as aforesaid, shall be delivered pursuant to the order of the collector of the district; for which a certificate or receipt shall be granted, in the following form:

District of ——, *port of* ——:

I certify that there has been received into store, from on board the [insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port or place where from] the following merchandise, to wit: [here enumerate the several packages, their denominations, marks, and numbers, and if articles in bulk, the quantity] lodged by [insert the name] inspector, under whose care the said vessel was unladen.

A. B.

And the said goods shall be kept with due and reasonable care, at the charge and risk of the owner or owners thereof, for the term of nine months, and if, within that time, no claim be made for the same, the said collector shall procure an inventory of the said goods and an appraisement thereof, to be made and to be verified, on oath or affirmation, by two or more reputable merchants, before the said collector, and to remain with him; and said collector shall afterwards cause the said goods to be sold at public auction (previously causing the same to be advertised in one or more of the public newspapers, printed at or nearest to the port or place where the sale is to be, for the space of one month,) and retaining the duties thereon, agreeably to such inventory and appraisement, and all charges thereon, shall pay the overplus, if any there be, into the Treasury of the United States, there to remain for the use of the owner or owners, who shall, upon due proof of his, her, or their property, be entitled to receive the same; for which purpose the collector shall transmit with the said overplus a copy of the inventory, appraisement, and account of sales, specifying the marks, numbers, and descriptions of the packages sold, their contents, the name of the vessel, and master in which, and of the port or place from whence they were imported, and the time when, and the name of the person or persons to whom the said goods were consigned in the manifest; and the receipt or certificate of the collector shall exonerate the master or person having the charge or command of any ship or vessel, in which such goods, wares, and merchandise, were imported, from all claim of the owner or owners thereof: *Provided*, That nothing herein contained shall be understood to prohibit the sale of such quantities of goods, stored as aforesaid, as may be necessary to discharge the duties thereon, at the time or times when such duties shall become due and payable. *And provided*, That where any entry shall have been duly made of such goods, the same shall not be appraised; and that where such goods are of a perishable nature, they shall be sold forthwith; *Provided further*, That the said limitation of fifteen days shall not extend to ships or vessels laden with salt or coal; but if the said master or owner of any such ship or vessel, so laden with salt or coal, requires a longer time to discharge her cargo, the wages, or compensation of the inspector, for every day's attendance, exceeding the said fifteen days, shall be paid by the said master or owner—and thereupon, the collector is hereby authorized and required to allow such longer time as in his judgment he may think necessary to discharge such cargo, not exceeding fifteen days. And if by reason of the delivery of the cargo, in several districts, more than the said term of fifteen working days shall in the whole be spent therein, the wages or compensation of the inspector or inspectors who may be employed on board of any ship or vessel, in respect to which such term may be so exceeded, shall, for every day of such excess, be paid by the said master or owner; and it shall be the duty of such inspectors, previously to the clearance of such ship or vessel, to render an exact account to the collector, of all such compensations as shall have been paid, or shall be due and payable by such master or owner.

SEC. 57. *And be it further enacted*, That if any package whatever, which shall have been reported as aforesaid, shall be wanting, and not found on board such ship or vessel, or if the goods, wares, and merchandise, on board such ship or vessel, shall otherwise not agree with the report or manifest delivered by the master or other person having the charge or command of any such ship or vessel, in every such case the master, or other person having such charge or command, shall forfeit and pay the sum of five hundred dollars: *Provided nevertheless*, That if it shall be made appear to the satisfaction of the collector, naval officer, and surveyor, or to the major part of them, where those officers are established at any port, or to the satisfaction of the collector alone, where neither of the said others is established, or, in case of trial for the said penalty, to the satisfaction of the court, that no part whatever of the goods, wares, or merchandise, of such ship or vessel, has been unshipped, landed, or unladen, since it was taken on board, except as shall have been specified in the said report, or manifest, and pursuant to permits as aforesaid, or that the said disagreement is by accident, or mistake, in such case the penalty aforesaid shall not be inflicted; but in all cases as aforesaid the master, or person having the charge or command of any ship or vessel, shall be required and shall make a post entry or addition to the report or manifest by him delivered, of any and all goods, wares, or merchandise, omitted to be included and reported in such manifest; and it shall not be lawful to grant a permit to unlade any such goods, wares, or merchandise, so omitted, before such post entry, or addition to such report or manifest, has been made.

SEC. 58. *And be it further enacted*, That the following allowances shall be made for the draughts and tare of the articles subject to duty, by weight, on the importation and exportation thereof, that is to say—for draught on any quantity of one hundred weight, or one hundred and twelve pounds, one pound—on any quantity above one and not exceeding two hundred weight, two pounds—on any quantity above two, and not exceeding three hundred weight, three pounds—on any quantity above three, and not exceeding ten hundred weight, four pounds—on any quantity above ten, and not exceeding eighteen hundred weight, seven pounds—on any quantity above eighteen hundred weight, nine pounds.

For tare on every whole chest of bohea tea, seventy pounds; on every half chest, thirty-six pounds; on every quarter chest, twenty pounds; on every chest of hyson or other green teas, the gross weight of which shall be seventy pounds; or upwards, twenty pounds; on every box of other tea, not less than fifty, or more than seventy pounds, gross, eighteen pounds; if eighty pounds, gross, twenty pounds; and from eighty pounds gross and upwards, twenty-two pounds; which tares shall include rope, canvass, and other coverings; on all other boxes of tea, according to the invoice or actual weight thereof; on coffee in bags, two per cent.; in bales, three per cent.; in casks, twelve per cent.; on sugar other than loaf sugar in casks, twelve per cent.; in boxes, fifteen per cent.; in bags or mats, five per cent.; on cocoa in casks, ten per cent.; in bags, one per cent.; on pimento in casks, sixteen per cent.; in bags, three per cent.; on cheese in hampers or baskets, ten per cent.; in boxes, twenty per cent.; on candles, in boxes, eight per cent.; on chocolate, in boxes, ten per cent.; on cotton, in bales, two per cent.; in seroons, six per cent.; on glauber salts, in casks eight per cent.; on indigo in barrels, twelve per cent.; in other casks, fifteen per cent.; in seroons, ten per cent.; in bags or mats three per cent; on nails in casks, eight per cent.; on pepper in casks, twelve per cent.; in bales, five per cent.; in bags, two per cent.; sugar-candy in boxes, ten per cent.; segars in casks or boxes, eighteen per cent.; soap in boxes, ten per cent.; shot in casks, three per cent.; twine in casks, twelve per cent.; in bales, three per cent.; on all other goods according to the invoice thereof, or actual weight; *Provided always*, That where the original invoices of any of the said articles, are produced, at the time of making entry for such articles, and the tare or tares appear therein, it shall be lawful for the collector and naval officer, where there is one, if they see fit, with the consent of the importer or importers, consignee or consignees, to estimate the said tare or tares, according to such invoice, but if not determined at the time of entry, the tare or tares as above shall be granted and allowed.

SEC. 59. *And be it further enacted*, That there be an allowance of two per cent. for leakage on the quantity which shall appear by the gauge to be contained in any cask of liquors, subject to duty by the gallon; and ten per cent. on all beer, ale, and porter in bottles; and five per cent. on all other liquors in bottles, to be deducted from the invoice quantity, in lieu of breakage; or it shall be lawful to compute the duties on the actual quantity to be ascertained by tale at the option of the importer, to be made at the time of entry.

SEC. 60. *And be it further enacted*, That if any ship or vessel from any foreign port or place, compelled by distress of weather, or other necessity, shall put into any port or place of the United States, not being destined for the same, and if the master, or other person having the charge or command of any such ship or vessel, together with the mate or person next in command, shall, within twenty-four hours after her arrival, make protest in the usual form, upon oath or affirmation, before a notary public or other person duly authorized, or before the collector of the district, where the said ship or vessel shall so arrive, who is hereby empowered to administer the same, setting forth the cause, or circumstance of such distress, or necessity, which protest, if not made before the collector, shall be produced to him, and to the naval officer, (if any there be,) and a copy thereof lodged with him or them. And the master, or other person aforesaid, shall also, within forty-eight hours after such arrival, make report in writing to the said collector, of the said ship or vessel and her cargo, as is directed hereby to be done in other cases. And if it shall be made appear to the said collector, by the certificate of the wardens of the port, or other officers usually charged with, and accustomed to ascertain

the condition of ships or vessels arriving in distress, if any such there be, or by the certificate of any two reputable merchants, to be named for that purpose by the said collector, if no such wardens, or other officers duly qualified there be, that there is a necessity for unlading the said ship or vessel, the said collector and naval officer (where any) shall grant a permit for that purpose, and shall appoint an inspector or inspectors to oversee such unlading, who shall keep an account of the same, to be compared with the report made by the master, or other person having the charge or command of such ship or vessel; and all goods, wares, and merchandise, so unladen, shall be stored under the direction of the said collector, who, upon request of the master or person having the charge or command of such ship or vessel, or of the owner or owners thereof, shall, together with the naval officer, where there is one, and alone where there is none, grant permission to dispose of such part of the said cargo as may be of a perishable nature (if any there be) or as may be necessary to defray the expenses attending such ship or vessel, and her cargo; *Provided*, That entry shall be made therefor, and the duties thereon as in other cases shall be first paid, or secured to be paid; *And provided*, That in case the delivery of the cargo do not agree with the report thereof, made by the master or other person having the charge or command of such ship or vessel, and if the difference, or disagreement be not satisfactorily accounted for, in manner prescribed by this act, the master, or other person having the charge or command of such ship or vessel, shall be liable to such penalties as in other like cases are by this act prescribed. And the said goods, wares, and merchandise, or the remainder thereof, which shall not be disposed of as aforesaid, may afterwards be reladen on board the said ship or vessel, under the inspection of the officer who superintended the landing thereof, or other proper person; and the said ship or vessel may proceed with the same to the place of her destination, free from any other charge than for the storing and safe keeping of the said goods, and fees to the officers of the customs as in other cases.

SEC. 61. *And be it further enacted*, That the ad valorem rates of duty upon goods, wares, and merchandise, at the place of importation, shall be estimated by adding twenty per cent. to the actual costs thereof, if imported from the Cape of Good Hope, or from any place beyond the same; and ten per cent. on the actual cost thereof, if imported from any other place or country, including all charges; commissions, outside packages, and insurance, only excepted.

That all foreign coins and currencies shall be estimated at the following rates: each pound sterling of Great Britain, at four dollars and forty-four cents; each livre tournois of France, at eighteen and a half cents: each florin or guilder of the United Netherlands, at forty cents; each mark banco of Hamburg, at thirty-three and one-third cents; each rix dollar of Denmark, at one hundred cents; each rial of plate, and each rial of vellon, of Spain, the former at ten cents, the latter at five cents each; each milree of Portugal, at one dollar and twenty-four cents; each pound sterling of Ireland, at four dollars and ten cents; each tale of China, at one dollar and forty-eight cents; each pagoda of India, at one dollar and ninety-four cents; each rupee of Bengal, at fifty-five cents and one-half; and all other denominations of money, in value, as near as may be, to the said rates, or the intrinsic value thereof, compared with money of the United States: *Provided*, That it shall be lawful for the President of the United States to cause to be established fit and proper regulations for estimating the duties on goods, wares, and merchandise, imported into the United States, in respect to which the original cost shall be exhibited in a depreciated currency, issued and circulated under authority of any foreign Government.

SEC. 62. *And be it further enacted*, That all duties on goods, wares, or merchandise imported, shall be paid, or secured to be paid, before a permit shall be granted for landing the same; and where the amount of such duty on goods imported in any ship or vessel, on account of one person only, or of several persons jointly interested, shall not exceed fifty dollars, the same shall be immediately paid; and if it exceed that sum, shall, at the option of the importer or importers, be paid, or secured to be paid, by bond, if on articles the produce of the West Indies, (salt excepted,) the one-half in three, and the other half in six, calendar months; on salt, in nine calendar months; on Madeira and all other wines, in twelve calendar months; on all goods, wares, or merchandise (other than wines, salt, and teas, imported from Europe) one-third in eight, one-third in ten, and one-third in twelve calendar months; and all goods, wares, and merchandise, other than wines, salt, and teas, imported from any other place than Europe and the West Indies, one-half in six months, one-quarter in nine months, and the other quarter in twelve months, from the date of each respective importation; which bond or bonds shall include one or more sureties, to the satisfaction of the collector of the district where the said duties shall accrue; and on teas imported from China or Europe, it shall be at the option of the importer or importers (to be determined at the time of making entry therefor) either to secure the duties thereon, on the same terms and stipulations as on other goods, wares, and merchandise imported, or to give his, or her, or their bond to the collector of the district where any such teas shall be landed, in double the amount of the duties thereupon, with condition for the payment of the said duties in two years from the date of such bond; which bond shall be accepted by such collector, without surety, upon the terms following, that is to say: the teas, for the duties whereof such bond shall be accepted, shall be deposited at the expense and risk of the said importer or importers, in one or more storehouse or storehouses, as the case may require, to be agreed upon between the said importer and the inspector, or other officer of inspection of the revenue, for the port where the said teas shall be landed; and, upon every such storehouse, the said inspector, or officer of inspection, shall cause to be

affixed two locks, the key of one of which locks shall be kept by such importer, his or her agent, and the key of the other of which locks shall be kept by such inspector, or by such other person as he shall depute or appoint in his behalf, whose duty it shall be to attend at all reasonable times, for the purpose of delivering the said teas out of the said storehouse or storehouses; but no delivery shall be made of any of the said teas without a permit, in writing, under the hand of the collector of the port and naval officer of the same, where such tea is landed; and in order to the obtaining of such permit, it shall be necessary that the duties upon the teas, for which the same shall be required, be first paid, or secured to be paid, to the said collector in the manner following, that is to say: the said party or parties shall give bond with one or more surety or sureties, to the satisfaction of the said collector, in double the amount of the duties upon the quantity of teas in each case to be delivered, with condition for the payment of the said duties, if the same shall not exceed one hundred dollars, in four months; if it shall exceed one hundred dollars, and not exceed five hundred dollars, in eight months; or, if the same shall exceed five hundred dollars, in twelve months:

Provided, always, That the time to be allowed for the payment of the duties upon any parcel of teas to be delivered, shall not be such as to extend the credit for such duties beyond the term of two years, originally allowed upon the depositing of the said teas: *And, provided*, That if the duties on any parcel of teas, which shall have been deposited as aforesaid, shall not have been paid, or secured to be paid, in manner last specified, within the term of two years, according to the condition of the obligation, to be first given to the collector of the district within which the same shall have been landed, it shall be the duty of the said collector to cause so much of the said teas as may be necessary, to be sold at public auction, and retaining the sum which shall not have been so paid, or secured to be paid, of the said duties, together with the expenses of safe-keeping and sale of the said teas, shall return the overplus, if any, to the owner or owners thereof, his, her, or their agent or lawful representative; and the amount of each bond or bonds, taken for the duties on any teas delivered, after a deposite as aforesaid, shall be endorsed immediately on the original bond given by the importer or importers of the said teas, specifying the date, quantity, and quality of the teas delivered, the amount of duty secured thereon, by whom, and the term of payment: *And, provided*, That it shall be lawful for the collector, in lieu of sureties, as required on any bond given for securing the duties on any goods, wares, and merchandise imported, to accept of a deposite of so much of the said goods, as shall, in his judgment, be sufficient security for the amount of the duties for which the bond shall have been given, and the charge of safe-keeping and sale of the goods so deposited, which shall be kept by the said collector, with due and reasonable care, at the expense and risk of the party or parties on whose account they have been so deposited, until the sum specified in such bond shall have become due; at which time, if such sum shall not be paid, so much of the said deposited goods as may be necessary, shall be sold at public sale, and the proceeds thereof, after deducting the charges of safe-keeping and sale thereof, shall be applied to the payment of such sum, rendering the overplus arising on such sale, and the residue of the goods so deposited, if any there be, to the person or persons by whom such deposite shall have been made, or to his, her, or their agent, or lawful representative; and all bonds directed to be given by virtue of this, or any other act, for moneys or duties to be paid, or services to be performed for the United States, shall be taken in the name of the United States of America: *Provided, nevertheless*, That no person whose bond has been received, either as principal or surety, for the payment of duties, or for whom any bond has been given by an agent, factor, or other person, in pursuance of the provisions herein contained, and which bond may be due and unsatisfied, shall be allowed a future credit for duties until such bond be fully paid or discharged. And to prevent frauds arising from collusive transfers, it is hereby declared, that all goods, wares, or merchandise, imported into the United States, shall, for the purposes of this act, be deemed and held to be the property of the persons to whom the said goods, wares, or merchandise may be consigned, any sale, transfer or assignment, prior to the entry and payment, or securing the payment, of the duties on the said goods, wares, and merchandise, and the payment of all bonds then due and unsatisfied by the said consignee, to the contrary notwithstanding. And the form of the bond to be taken for securing the payment of duties, shall be as follows:

Know all men by these presents, that we, [here insert the name of the importer or consignee, or, if by an agent, the name of such agent, and of the importers or consignees, and the sureties, their place of abode, and occupation,] are held and firmly bound unto the United States of America, in the sum of ——, to be paid to the said United States; for the payment whereof, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals; dated this —— day of ——, in the —— year of the independence of the said United States, and in the year of our Lord one thousand ——.

The condition of this obligation is such, that if the above bounden [here insert the principal, or agent for such principal, and the sureties] or either of them, or either of their heirs, executors, or administrators, shall, and do, on or before the —— day of —— next, well and truly pay, or cause to be paid, unto the collector of the customs for the district of —— for the time being, the sum of —— or the amount of the duties to be ascertained as due, and arising on certain goods, wares, and merchandise, entered by the above bounden [insert the name of the importer or consignee, or agent for such importer or consignee,] as imported in the ——, —— master, from ——, as per entry, dated ——, then the above obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered in presence of ——.

SEC. 63. *And be it further enacted*, That the duties imposed by law on the tonnage of any ship or vessel shall be paid to the collector, at the time of making entry of such ship or vessel; and it shall not be lawful to grant any permit or to unlade any goods, wares, or merchandise whatever, from any such ship or vessel, until the said tonnage duty is first paid. And the register, or other document in lieu thereof, together with the clearance and other papers, granted by the officers of the customs to such ship or vessel at her departure from the port or place from whence she may have arrived, (Mediterranean passports excepted,) shall, previous to such entry, be produced to the collector, with whom such entry is to be made, and shall remain in his office; and, on the clearance of such ship or vessel, the register and other documents shall be returned to the master or owner of such ship or vessel.

SEC. 64. *And be it further enacted*, That to ascertain the tonnage of any ship or vessel, the surveyor, or such other person as shall be appointed by the collector of the district to measure the same, shall, if the said ship or vessel be double decked, take the length thereof from the fore part of the main stem, to the after part of the stern post, above the upper deck, the breadth thereof at the broadest part above the main wales, half of which breadth shall be accounted the depth of such vessel, and shall then deduct from the length, three fifths of the breadth, multiply the remainder by the breadth, and the product by the depth, and shall divide this last product by ninety-five, the quotient whereof shall be deemed the true contents or tonnage of such ship or vessel. And if such ship or vessel be single decked, the said surveyor or other person, shall take the length and breadth as above directed, in respect to a double decked ship or vessel, shall deduct from the said length, three fifths of the breadth, and taking the depth from the under side of the deck plank to the ceiling in the hold, shall multiply and divide, as aforesaid, and the quotient shall be deemed the tonnage of such ship or vessel.

SEC. 65. *And be it further enacted*, That where any bond for the payment of duties shall not be satisfied on the day it may become due, the collector shall, forthwith, and without delay, cause a prosecution to be commenced for the recovery of the money thereon, by action or suit at law, in the proper court having cognizance thereof; and in all cases of insolvency, or where any estate in the hands of the executors, administrators, or assignees, shall be insufficient to pay all the debts due from the deceased, the debt or debts due to the United States, on any such bond or bonds, shall be first satisfied; and any executor, administrator, or assignees, or other person, who shall pay any debt due by the person or estate from whom, or for which, they are acting, previous to the debt or debts due to the United States from such person or estate being first duly satisfied and paid, shall become answerable in their own person and estate, for the debt or debts so due to the United States, or so much thereof as may remain due and unpaid; and actions or suits at law may be commenced against them for the recovery of the said debt or debts, or so much thereof as may remain due and unpaid, in the proper court having cognizance thereof: *Provided*, That in all cases in which suits or prosecutions shall be commenced, for the recovery of duties or pecuniary penalties prescribed by the laws of the United States, the person or persons against whom process may be issued, shall and may be held to special bail, subject to the rules and regulations which prevail in civil suits, in which special bail is required: *And provided, also*, That if the principal in any bond, which shall be given to the United States for duties on goods, wares, or merchandise, imported, or other penalty, either by himself, his factor, agent, or other person for him, shall be insolvent, or if such principal being deceased, his, or her estate and effects, which shall come to the hands of his or her executors, administrators, or assignees, shall be insufficient for the payment of his or her debts, and if in either of the said cases, any surety on the said bond or bonds, or the executors, administrators, or assignees, of such surety, shall pay to the United States the money due upon such bond or bonds, such surety, his or her executors, administrators, or assignees, shall have and enjoy the like advantage, priority, or preference, for the recovery and receipt of the said moneys out of the estate and effects of such insolvent, or deceased principal, as are reserved and secured to the United States; and shall and may bring and maintain a suit or suits upon the said bond or bonds in law or equity, in his, her, or their own name or names, for the recovery of all moneys paid thereon. And the cases of insolvency mentioned in this section, shall be deemed to extend as well to cases in which a debtor not having sufficient property to pay all his or her debts, shall have made a voluntary assignment thereof, for the benefit of his or her creditors, or in which the estate and effects of an absconding, concealed, or absent debtor, shall have been attached by process of law, as to cases in which an act of legal bankruptcy shall have been committed. And where suit shall be instituted on any bond for the recovery of duties due to the United States, it shall be the duty of the court, where the same may be pending, to grant judgment at the return term, upon motion, unless the defendant shall, in open court, the United States' attorney being present, make oath or affirmation that an error has been committed in the liquidation of the duties demanded upon such bond, specifying the errors alleged to have been committed, and that the same have been notified in writing to the collector of the district, prior to the commencement of the return term aforesaid; whereupon, if the court be satisfied, that a continuance until the next succeeding term, is necessary for the attainment of justice, and not otherwise, a continuance may be granted until next succeeding term, and no longer. And on all bonds upon which suits shall be commenced, an interest shall

be allowed at the rate of six per cent. per annum, from the time when said bonds become due, until the payment thereof.

SEC. 66. *And be it further enacted*, That if any goods, wares, or merchandise, of which entry shall have been made in the office of a collector, shall not be invoiced according to the actual cost thereof, at the place of exportation, with design to evade the duties thereupon, or any part thereof, all such goods, wares, or merchandise, or the value thereof, to be recovered of the person making entry, shall be forfeited; and in every case in which the said collector shall suspect that any such goods, wares, or merchandise, are not invoiced at a sum equal to that for which they have usually been sold in the place or country from whence they were imported, it shall be the duty of such collector to take the said goods, wares, or merchandise into his possession, and retain the same with due and reasonable care, at the risk and expense of the owner or owners, consignee or consignees thereof, until their value at the time and place of importation shall be ascertained, by two reputable merchants, to be chosen and appointed as in the case of damaged goods, or goods not accompanied with an invoice, and until the duties arising, according to such valuation, shall be first paid, or secured to be paid, as required by this act in other cases of importation: *Provided*, That in case of a prosecution for the forfeiture aforesaid, such appraisement shall not be construed to exclude other proof upon the trial, of the actual and real cost of the said goods at the place of exportation.

SEC. 67. *And be it further enacted*, That it shall be lawful for the collector, naval officer, or other officer of the customs, after entry made of any goods, wares, or merchandise, on suspicion of fraud, to open and examine, in the presence of two or more reputable merchants, any package or packages thereof, and if, upon examination, they shall be found to agree with the entries, the officer making such seizure and examination shall cause the same to be re-packed, and delivered to the owner or claimant forthwith; and the expense of such examination shall be paid by the said collector, or other officer, and allowed in the settlement of their accounts; but if any of the packages so examined, shall be found to differ in their contents from the entry, then the goods, wares, or merchandise, contained in such package or packages, shall be forfeited; *Provided*, That the said forfeiture shall not be incurred, if it shall be made appear, to the satisfaction of the collector and naval officer of the district where the same shall happen, if there be a naval officer, and if there be no naval officer, to the satisfaction of the said collector, or of the court in which a prosecution for the forfeiture shall be had, that such difference proceeded from accident or mistake, and not from an intention to defraud the revenue.

SEC. 68. *And be it further enacted*, That every collector, naval officer, and surveyor, or other person, specially appointed by either of them for that purpose, shall have full power and authority to enter any ship or vessel, in which they shall have reason to suspect any goods, wares, or merchandise, subject to duty, are concealed, and therein to search for, seize, and secure, any such goods, wares, or merchandise; and if they shall have cause to suspect a concealment thereof in any particular dwelling-house, store, building, or other place, they, or either of them, shall, upon proper application, on oath, to any justice of the peace, be entitled to a warrant to enter such house, store, or other place, (in the day time only,) and there to search for such goods; and if any shall be found, to seize and secure the same for trial; and all such goods, wares, and merchandise, on which the duties shall not have been paid, or secured to be paid, shall be forfeited.

SEC. 69. *And be it further enacted*, That all goods, wares, or merchandise, which shall be seized by virtue of this act, shall be put into, and remain in, the custody of the collector, or such other person as he shall appoint for that purpose until such proceedings shall be had, as by this act are required, to ascertain whether the same have been forfeited or not; and if it shall be adjudged that they are not forfeited, they shall be forthwith restored to the owner or owners, claimant or claimants thereof; and if any person or persons shall conceal or buy any goods, wares, or merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum double the amount or value of the goods, wares, or merchandise, so concealed or purchased.

SEC. 70. *And be it further enacted*, That it shall be the duty of the several officers of the customs to make seizure of, and secure, any ship or vessel, goods, wares, or merchandise, which shall be liable to seizure by virtue of this or any other act of the United States, respecting the revenue, which is now, or may hereafter be, enacted, as well without as within, their respective districts.

SEC. 71. *And be it further enacted*, That if any officer or other person, executing, or aiding, or assisting, in the seizure of goods, shall be sued or molested for anything done in virtue of the powers given by this act, or by virtue of a warrant granted by any judge or justice, pursuant to law, such officer or other person may plead the general issue, and give this act and the special matter in evidence; and if, in such suit, the plaintiff is nonsuited, or judgment pass against him, the defendant shall recover double costs; and in actions, suits, or informations to be brought, where any seizure shall be made pursuant to this act, if the property be claimed by any person, in every such case the *onus probandi* shall lie upon such claimant. And if any person shall forcibly resist, prevent, or impede any officer of the customs or their deputies, or any person assisting them, in the execution of their duty, such person so offending shall, for every such offence, be fined in a sum not exceeding four hundred dollars. And if any master, or other person, having the charge or command of any ship or vessel coming into, or arriving at, any port or place within the United States, shall obstruct or hinder, or shall be the cause or means of any obstruction or hindrance, with such an intent,

to any officer of the customs or revenue, in going on board such ship or vessel, for the purpose of carrying into effect any of the revenue laws of the United States, he shall forfeit, for every such offence, a sum not exceeding five hundred dollars, nor less than fifty dollars; but the *onus probandi* shall lie on the claimant only where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had.

SEC. 72. *And be it further enacted*, That the weighers, gaugers, and measurers employed in the service of the revenue, shall, within three days after any vessel is discharged, make returns of the articles by them, respectively, weighed, gauged, or measured, out of such vessel; and the form of the return to be made by the weighers, respectively, shall be as follows:

Return of [here insert the number of packages and contents] weighed from on board the [here insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port or place from which arrived.]

Date of vessel's entry.	To whom consigned as per permit.	Marks.	Numbers.	Packages.	Contents and quality.	Weight.	Tare, as allowed by law.	Tare, as marked on the packages.	Amount of draughts.

DISTRICT OF ——, *Port of* ——,

A. B. *Weigher.*

And the form of the return to be made by the gaugers, respectively, shall be as follows:

Return of [here insert the number of casks and packages] gauged from on board the [here insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port or place from which arrived.]

Date of vessel's entry.	To whom consigned as per permit.	Marks.	Numbers.	Casks or packages.	Contents and quality, as marked by the inspector of the revenue.	Gauge.	Wantage.	What casks empty, or taken to fill up others.

DISTRICT OF ——, *Port of* ——,

C. D., *Gauger.*

And the form of the return to be made by the measurers, respectively, shall be as follows:

Return of the [here insert salt or coal, as the case may be,] measured from on board the [here insert the denomination and name of the vessel] whereof [insert the name] is master, from [insert the port or place from which arrived.]

Date of vessel's entry.	To whom consigned per permit.	Number of bushels, in words at length.	Quality, whether salt or coal.	Average weight of salt per bushel.

DISTRICT OF ——, *Port of* ——,

E. F., *Measurer.*

And the said returns shall be made by the weighers, gaugers, and measurers, in books to be prepared by them for that purpose, and kept in the custom-houses.

SEC. 73. *And be it further enacted*, That every collector, naval officer, and surveyor, shall cause to be affixed, and constantly kept in some public and conspicuous place of his office, a fair table of the rates of fees and duties demandable by law, and shall give a receipt for the fees he shall receive, specifying the particulars, whenever required so to do; and in case of failure therein, shall forfeit and pay one hundred dollars, to be recovered, with costs, in any proper court having cognizance thereof, to the use of the informer; and if any officer of the customs shall demand or receive any greater or other fee, compensation, or reward, for executing any duty or service required of him by law, he shall forfeit and pay two hundred dollars for each offence, recoverable in manner aforesaid, for the use of the party aggrieved. And if any inspector, gauger, weigher, or measurer, shall receive any gratuity, fee, or reward, for any services performed by virtue of this act, other than is by law allowed, or if any gauger, weigher, or measurer, employed as such by the public, in the districts of Portsmouth, Salem and Beverly, Boston and Charlestown, Providence, New York, Philadelphia, Baltimore, Norfolk and Portsmouth, or Charleston, shall gauge, weigh, or measure, any article or articles, other than shall be directed by the proper officer in order to ascertain the duties to be received, or the drawbacks to be allowed thereon, or shall make a return of the weight, gauge, or measure, of any merchandise laden, or to be laden, on board any ship or vessel, for the benefit of drawback upon exportation, without having actually weighed, gauged, or

measured the same, as the case may require, after such merchandise shall have been notified to the collector, and entered for exportation, they shall, for the first offence, forfeit and pay the sum of fifty dollars; and for the second offence, shall forfeit two hundred dollars, and be discharged from the public service; and if any inspector, or other officer of the customs, shall certify the shipment of any merchandise entitled to drawback on exportation, without having duly inspected and examined the same, after he shall have received the permit for lading such merchandise, or, if the amount of such drawback shall be estimated, according to weight, gauge, or measure, until such merchandise shall first be weighed, gauged, or measured, as the case may require, he shall be subject to the like forfeitures, and be discharged from the public service.

Sec. 74. *And be it further enacted*, That all duties and fees to be collected shall be payable in money of the United States, or in foreign gold and silver coins, at the following rates, that is to say: the gold coins of Great Britain and Portugal, of the standard prior to the year one thousand seven hundred and ninety-two, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of France, Spain, and the dominions of Spain, of the standard prior to the year one thousand seven hundred and ninety two, at the rate of one hundred cents for every twenty-seven grains and two-fifths of a grain of the actual weight thereof; Spanish milled dollars, at the rate of one hundred cents for each dollar, the actual weight whereof shall not be less than seventeen pennyweights and seven grains, and in proportion for the parts of a dollar; crowns of France, at the rate of one hundred and ten cents for each crown, the actual weight whereof shall not be less than eighteen pennyweights and seventeen grains, and in proportion for the parts of a crown: *Provided*, That no foreign coins shall be receivable which are not by law a tender for the payment of all debts, except in consequence of a proclamation of the President of the United States, authorizing such foreign coins to be received in payment of the duties and fees aforesaid.

Sec. 75. *And be it further enacted*, That a drawback of duties, as prescribed by law, shall be allowed and paid on all goods, wares, or merchandise, imported into the United States, in respect to all such goods, wares, and merchandise, whereupon the duties shall have been paid, or secured to be paid, as within twelve calendar months after payment made, or security given, shall be exported to any foreign port or place, other than the dominions of any foreign State immediately adjoining to the United States, either from the district of original importation, or from certain other districts; and all duties, drawbacks, and allowances which shall be payable, or allowable, on any specific quantity of goods, wares, or merchandise, shall be deemed to apply in proportion to any greater or lesser quantity: *Provided*, That no goods, wares, and merchandise imported, shall be entitled to a drawback of the duties paid, or to be secured thereon, unless the duties so paid or secured thereon shall amount to fifty dollars at least; nor unless they shall be exported in the original casks, cases, chests, boxes, trunks, or other packages, in which they were imported, without diminution or change of the articles which were therein contained, at the time of importation, in quantity, quality, or value, necessary or unavoidable wastage or damage only excepted: *Provided always*, That it shall be lawful for the exporter or exporters of any liquors in casks, coffee in casks, or other packages, cocoa in casks, or other packages, or any unrefined sugars, to fill up the casks or packages out of other casks or packages included in the same original importation, or into new casks, or packages corresponding therewith, to be marked and numbered as the original casks or packages, in case the original casks or packages shall, in the opinion of the officer appointed to examine the same, be so injured as to be rendered unfit for exportation, and in no other case: *Provided further*, That the filling up or change of package be done under the inspection of a proper officer, appointed for that purpose by the collector and naval officer, where any, of the port or place from which such liquors, coffee, or unrefined sugars are intended to be exported; and the drawback on articles so filled up, or of which the packages have been changed, shall not be allowed without such inspection. And where articles are imported in bulk, they shall be exported in the packages, if any, in which they were landed; for which purpose the officer delivering the same shall return the packages they may be put into, if any, with their marks and numbers, and they shall not be entitled to drawback, unless exported in such packages, which shall be deemed the packages of original importation, nor unless they fully agree with the return made by the said officer; and in respect to distilled spirits, wines, or teas, the certificates issued by the inspector of the revenue for such spirits, wines, or teas, shall be given up, and the drawback shall not be allowed on any such spirits, wines, or teas, as do not agree on examination with the certificates so given up.

Sec. 76. *And be it further enacted*, That, in order to entitle the exporter or exporters of any goods, wares, or merchandise, to the benefit of the said drawback, or allowances, he or she shall, previous to putting or lading the same on board of any ship or vessel for exportation, give twenty-four hours notice at least to the collector of the district from which the same are about to be exported, of his, her, or their intention to export the same, (unless in the case of distilled spirits, when six hours notice shall be deemed sufficient,) and shall make entry in writing of the particulars thereof, and of the casks, cases, chests, boxes, and other packages or parcels containing the same, or of which the same shall consist, and of their respective marks, numbers, and contents; and, if imported articles, the name of the ship or vessel and master's name, in which the person or persons, for or by whom, and the place or places from which they were imported; also the district into which the said goods, wares, or merchandise, were imported, if

other than the district from which they are intended to be exported: And the form of the said entry shall be as follows:

Entry of merchandise intended to be exported by [here insert the name or names] on board of the [insert the denomination and name of the vessel] whereof [insert the name of the master] is master, for [insert the port or place to which destined] for the benefit of drawback, which were imported into the district of [insert the district of original importation] by [insert the name of the importer] in the [insert the denomination and name of the vessel] from [insert the foreign port or place whence they were imported] and brought into the district on the [insert the date of the vessel's entry] in the [insert the denomination and name of the vessel and master] from [insert the port from whence they arrived.]

Marks.	Numbers.	Packages and contents.	Net cost of ad valorem articles as having paid duties.	Tare and draft, as allowance for leakage.	Weight or gauge.

And in respect to the said imported articles, proof shall be made to the satisfaction of the collector and naval officer, where there is any naval officer, by the oath of the person or persons (including the exporter or exporters,) through whose hands the said articles shall have passed, according to the best of their knowledge and belief, respecting the due importation of the said articles according to law, and in conformity to such notice of their identity, and of the payment, or securing the payment of the duties thereupon: *Provided*, That if through actual sickness or absence of the importer or other person, through whose hands the said goods, wares, or merchandise, intended to be so exported may have passed, and not otherwise, the proof required of them, or either of them shall and may be accepted of from their known agent, factor, or the person who usually transacts their business: And the said collector shall direct the surveyor, where any, to inspect or cause to be inspected, the goods, wares, or merchandise, so notified for exportation, and if they shall be found to correspond fully with the notice and proof concerning the same, the said collector, together with the naval officer, if any there be, shall grant a permit for lading the same on board of the ship or vessel named in such notice and entry, as aforesaid; which lading shall be performed under the superintendence of the officer by whom the same shall have been so inspected; and the said exporter or exporters shall likewise make oath that the said goods, so noticed for exportation, and laden on board such ship or vessel, previous to the clearance thereof, or within ten days after such clearance, are truly intended to be exported to the place whereof notice shall have been given, and are not intended to be relanded within the United States, otherwise the said goods, wares, and merchandise, shall not be entitled to the benefit of drawback. And the form of the direction to the surveyor of the port, where any, or to the officer who may inspect the said goods; and the permit for lading the said goods for exportation, shall be as follows:

District of ——, *port of* ——.

The surveyor will cause the articles specified in [insert the name of the person making entry] entry to be examined, and if found to agree exactly therewith, will have them [weighed, gauged, or measured, as the case may require] and then permit the same to be laden on board the [insert the denomination and name of the vessel, and the master's name] master, for [insert the port of destination] for benefit of drawback.

A. B., *Collector.*
C. D., *Naval Officer.*

To the Surveyor of the Port of ——.

And in cases where the persons making entry, as aforesaid, are the persons by whom the goods, wares, or merchandise, intended to be exported, were originally imported into the United States, the said entry shall, after the landing of the said goods, be verified in manner following, to wit:

I [insert the name] do solemnly, sincerely and truly swear (or affirm) that the articles specified in the above, or annexed entry, were imported by me [or consigned to me, as the case may be] in the [insert the denomination and name of the vessel] whereof [insert the name] was master, from [insert the name of the port or place where from] that they were duly entered by me at the custom-house of this port, and the duties paid, [or secured to be paid thereon, as the case may be] that they are the same in quantity, quality, package [and value, if articles paying an ad valorem duty] as at the time of importation, necessary or unavoidable wastage or damage only excepted, and are now actually laden on board the [insert denomination and name of the vessel] whereof [insert the name] is master; and that they are truly intended to be exported by me in the said vessel, to the port of [insert the name of the port or place] and are not intended to be re-landed within the limits of the United States. So help me God.

And the oath, or affirmation, to be taken by the importer, when goods are sold, to be exported by another person, shall be as follows:

I, [insert the name,] do solemnly, sincerely, and truly swear (or affirm) that the articles specified in the above or annexed entry, as imported by, [or consigned to me, as the case may be,] were truly imported by or consigned to me in the [insert denomination or name of the vessel] whereof [insert the name] is master, from [insert the port or place,] that they were duly entered by me at the custom house of ——, and the duties thereon paid, [or secured to be paid, as the case may be,] that they were the same in quantity, quality, package, necessary or unavoidable wastage or

damage only excepted, [and value, if articles paying an ad valorem duty,] at the time of sale or delivery to [insert the name of the person or persons to whom sold or destined] as at the time of importation. So help me God.

And the oath, or affirmation, to be taken where goods are exported by a person other than the importer, shall be as follows:

I, [insert the name,] do solemnly, sincerely, and truly swear (or affirm) that the articles specified in the above or annexed entry, were purchased by me, of [insert the name of the person or persons from whom purchased] that they are now actually laden on board of the [insert the denomination and name of the vessel] whereof [insert the name] is master, and were at the time of such lading, and are now the same in quantity, quality, package, necessary or unavoidable wastage or damage only excepted, [and value, if articles paying an ad valorem duty,] as at the time of purchase, that they are truly intended to be exported by me, in the said vessel, to the port of [insert the name of the port or place] and are not intended to be relanded within the limits of the United States. So help me God.

And the oath or affirmation to be taken by any other person than the importer or exporter of the merchandise, who may have bought and sold the same, or in whose possession the same may have been, shall be as follows:

I, [insert the name,] do solemnly, sincerely, and truly swear (or affirm) that the articles of merchandise specified in this entry, were purchased by me from [insert the name of the person from whom purchased] and were sold by me to [insert the name of the person to whom sold] and that they were not, to the best of my knowledge or belief, altered, or in any respect changed, in quantity, quality, value, or package, necessary or unavoidable wastage or damage only excepted, while in my possession, or from the time of said purchase until the time of said sale. So help me God.

Sec. 77. *And be it further enacted*, That the districts from which goods, wares, or merchandise may be exported, subject to drawback, be only the districts of original importation, and those ports at which vessels from the Cape of Good Hope, or from any place beyond the same, are permitted to make entry: *Provided, nevertheless*, That such goods, wares, or merchandise, as are imported into a district other than the one from whence they are to be exported, shall not be entitled to drawback, unless they shall be accompanied with a certificate from the collector of the district, and naval officer of the same, if any there be, into which they were originally imported, specifying the marks, numbers, and descriptions, of the casks, or other packages, with the names of the master and vessel in which, the time when, and the place from whence they were imported, and where the articles are subject to duty, by weight, measure, or gauge, the quantity thereof; and where they are articles subject to duty ad valorem, the nett amount of each package, on which duty has been paid, or secured to be paid; and in all cases the amount of the duties paid, or secured to be paid thereon, and by whom, and the names of the vessel and master, in which they are shipped from such district, and by whom; and in order to entitle any one to such certificate, he, she, or they, shall make out an entry of all such goods, wares, and merchandise, specifying the marks, numbers, and descriptions of the casks or packages, and their contents, the names of the master and vessel in which, the time when, by whom, and the place from which, they were imported, the names of the master and vessel in which they are intended to be laden, and district in the United States to which they are destined; and shall, moreover, prove the truth of such entry, in like manner as is before required, for goods, wares, and merchandise, exported from a district of original importation: which requisites being complied with, and the collector and naval officer, if any there be, satisfied therewith, they shall grant such certificate; and such goods, wares, or merchandise, shall be entered with the collector of the district into which they shall be brought from the port or place of their original importation, by the person or persons so importing them, or to whom they may be consigned, specifying the names of the master and vessel in which, and the district from whence they are imported, together with the particulars of the packages, their marks, numbers, and their contents, and shall obtain a permit for the same previous to the landing or unlanding thereof; and any goods, wares, or merchandise, landed without such entry being made, and permit obtained, shall not be entitled to be exported, subject to drawback.

And the form of an entry of goods to be transported coastwise, for the purpose of being exported from another district, for the benefit of drawback, shall be as follows:

Entry of merchandise intended to be shipped by [insert the name or names] on board the [insert the denomination and name of vessel] whereof [insert the name] is master, for [insert the port and district where bound] to be exported from thence for the benefit of drawback, which were imported into this district on the [insert the date of the vessel's entry in which they were imported] by [insert the name of the importer] in the [insert the denomination and name of the vessel, and master's name] from [insert the name of the foreign port or place.]

Marks.	Numbers.	Packages and contents.	Cost of articles paying duty ad valorem.	Weight or gauge.	Tare and draught, or allowance for leakage.

And the form of a certificate for the transportation coastwise, of goods intended to be exported to another district, to be granted in pursuance of the entry aforesaid, shall be as follows:

District of ——, *port of* ——.

We certify, that the merchandise hereinafter specified, which are now shipped by ——, on board the ——, of ——, master, bound for the port of ——, were duly imported into this district, on the —— day of ——, by ——, in the ——, of ——, master, from ——, and the duties thereon paid, or secured to be paid, according to law.

Tare allowed.	Marks.	Numbers.	Packages, contents, value, and rates of duty collected or secured.	Amount of duties.
			Here insert each package in detail, the contents, quality, and value, if articles subject to duties ad valorem, with the rates of duty collected or secured, as the case may require.	

The amount of duties, paid or secured, being —— dollars.

A. B., *Collector.*
C. D. *Naval Officer.*

And the form of an entry for goods arriving coastwise, accompanied with a certificate as aforesaid, for the purpose of obtaining a drawback, shall be as follows:

Entry of merchandise transported coastwise, for [insert the name or names of the consignee] in the [insert denomination and name of the vessel] whereof [insert the name] is master, from [insert the name of the port or district] for the purpose of being exported from the district of [insert the district in which they are to be unladen] for the benefit of drawback; which were imported in the district of [insert the district of original importation] on the [insert the date of importation] by [insert the importer's name] in the [insert the denomination and name of the vessel, and master's name, from [insert the foreign port or place from whence imported.]

Marks.	Numbers.	Packages.	Contents.

And, on making the said entry, an oath or affirmation shall be taken, which shall be of the form following, to wit:

I, [insert the name,] do solemnly, sincerely, and truly swear [or affirm] according to the best of my knowledge and belief, that the entry by me subscribed is just and true, that the merchandise therein mentioned have been duly imported and the duties thereupon paid, or secured to be paid, according to law.

And the form of a permit for unlading goods transported coastwise, with a certificate as aforesaid for the purpose of obtaining a drawback, shall be as follows:

Port of ——

Permit [insert the name of the person making entry] to land from on board the [insert denomination and name of vessel, and name of master] master from [insert the port and district from which arrived, and the number of packages and contents, with their marks and numbers, agreeably to entry] having been brought coastwise from thence, for the purpose of being exported from this district, for the benefit of drawback.

A. B., *Collector.*
C. D., *Naval Officer.*

To the Surveyor of the port of ——.

Sec. 78. *And be it further enacted*, That when any goods, wares, or merchandise, subject to drawback, shall be entered for exportation from any other district than the one into which they were originally imported, the person intending to export the same, besides producing the certificate hereinbefore directed, shall give the same notice, and make entry in like manner, and the goods, wares, and merchandise, therein expressed, shall undergo the same examination, and shall be laden on board under regulations, in all respects conformable to what is required by law, relative to goods, wares, and merchandise, entitled to drawback, and intended to be exported from the place of original importation.

Sec. 79. *And be it further enacted*, That all goods, wares, and merchandise, duly imported into either of the districts of Philadelphia, New York, and Baltimore, or into the ports of Boston and Providence, which shall be transported in part by water, and in part by land conveyance, from the port of Philadelphia, by the way of Burlington, Bordenton, Lamberton, or New Brunswick and South Amboy, to New York; or from the port of New York, by the way of South Amboy, New Brunswick, or Lamberton, Bordentown, or Burlington, to Philadelphia; or from the port of Philadelphia, by the way of Wilmington, Newport, Christiana Bridge, New Castle, Port Penn, or Appoquinimink and Elkton, Frenchtown, or Bohemia, to Baltimore; or from the port of Baltimore, by the way of Elkton, Bohemia, or Frenchtown, and Port Penn, Appoquinimink, Newcastle, Christiana Bridge, Newport or Wilmington, to Philadelphia, and which being imported into Philadelphia, shall be exported from Baltimore or New York, or being imported into Baltimore or New York, shall be exported from Philadelphia, or shall be transported by land conveyance, from Boston to Providence, by the post road, or from Providence to Boston by the same road, and which being imported into Boston, shall be exported from Providence, or being imported into Providence, shall be exported from Boston; shall be entitled to the benefit of a drawback of the duties, upon exportation to any foreign port or place

under the same provisions, regulations, restrictions, and limitations, as if the said goods, wares, and merchandise, were transported coastwise from one to another of the said districts, and also upon the conditions following, to wit: That due entry shall be made with the collector of the district, from which it shall be intended to transport any goods, wares, or merchandise, as aforesaid, in like manner as is required in respect to the transportation thereof coastwise, in pursuance of this act; and the said collector shall cause the goods, wares, and merchandise, so entered, to be inspected and marked in durable characters, by an officer of the customs, with the name of the said officer, and the date on which such inspection shall be made; and shall grant a permit for the transportation thereof, as aforesaid, therein designating the route, and expressing the marks, numbers, and contents, of each chest, bale, box, or other package, and all other particulars required by this act, to be inserted in a certificate, for the transportation coastwise, of goods entitled to drawback, and shall and may, whenever he may deem the same necessary for the security of the revenue, cause each chest, bale, box, or other package, so permitted to be transported, to be secured with proper fastenings or under the seal of his office; and upon the arrival of any goods, wares, or merchandise, transported under a permit as aforesaid, and within twenty-four hours thereafter, report and entry shall be made to the collector of the district, as in the case of goods transported coastwise, pursuant to this act, at which time the permit aforesaid shall be surrendered, and the goods, wares, or merchandise, shall be inspected and compared therewith; and, on being found to agree, shall be entitled to drawback, on the exportation thereof to a foreign port or place, and not otherwise. And if any goods, wares, or merchandise, so permitted to be transported as aforesaid, shall be transported by any other route than that expressed in the permit to be granted as aforesaid, or shall not be accompanied with the said permit, or if due entry shall not be made, at the port of arrival, as above required, and if the permit, granted as aforesaid, shall not be surrendered, or if the said goods, wares, and merchandise, shall be unpacked, or the contents, or any part thereof, changed before entry and inspection at the port of arrival, as above required, or if any mark, fastening, or seal, placed thereon by direction of any officer of the customs, shall be defaced or broken, in each and every such case the goods, wares, or merchandise, in respect to which such omission or wrong doing shall happen, or the value thereof, shall be forfeited, and recovered of the person or persons making default in either of the cases aforesaid.

Sec. 80. *And be it further enacted*, That for all goods, wares, or merchandise, entitled to drawback, which shall be exported from the district into which they were originally imported, the exporter or exporters shall be entitled to receive from the collector of such district, a debenture or debentures, for the amount of the drawback, to which such goods, wares, or merchandise, are entitled, payable at the same time or times, respectively, on which the duties on the said goods, wares, or merchandise, shall become due. And it shall be the duty of the said collector to discharge such debentures out of the product of the duties arising on the importation of the goods exported as aforesaid.

Provided, That in respect to any goods, wares, or merchandise, on which the whole or any instalment of the duties shall have been paid prior to an entry for exportation, the debenture for the amount of the drawback of such duties as shall have been paid, shall be made payable in fifteen days, to be computed from the time of signing the bond, to be given as hereinafter directed. *And provided*, That all debentures shall be issued and made payable to the original importer or importers of the goods, wares, and merchandise, entered for exportation, whenever the same shall be requested, in writing, by the exporter or exporters, and not otherwise.

And where any goods, wares, or merchandise, are exported from any other district than the one into which they were originally imported, it shall be the duty of the collector of such district, together with the naval officer thereof, where there is one, to grant to the exporter or exporters a certificate, expressing that such goods, wares, and merchandise, were exported from such district, with the marks, numbers, and descriptions, of the packages and their contents, the names of the master and vessel in which, and the port to which they were exported, and by whom, and the names of the vessel and master in which they were brought, and by whom shipped at the district from whence they came, and the amount of the drawback to which they are entitled; and such certificate shall entitle the possessor thereof to receive from the collector of the district with whom the duties on the said goods were paid, or secured to be paid, a debenture or debentures, for the amount of the drawback expressed in the said certificate or certificates, payable at the same time, and in like manner, as is herein directed for debentures on goods, wares, or merchandise, exported from the port or place of original importation: *Provided, nevertheless*, That the collector aforesaid may refuse to grant such debenture or debentures, in case it shall appear to him that any error has arisen, or any fraud has been committed; and in case of such refusal, if the debenture or debentures claimed shall exceed one hundred dollars, it shall be the duty of the said collector to represent the case to the Comptroller of the Treasury, who shall determine whether such debenture or debentures shall be granted or not. *And provided always*, That in no case of an exportation of goods shall a drawback be paid, until the duties on the importation thereof shall have been first received.

And the form of a certificate to be granted on the exportation to a foreign port, of goods, wares, or merchandise, from a district other than the district into which such goods were originally imported, shall be as follows:

District of ——, *port of* ——:

We hereby certify that the merchandise hereinafter specified, which were imported into the

district of ——, on the —— of ——, by ——, in the —— of —— master, from ——, and landed in this district, in the month of ——, out of the ——, of —— master from ——, (having been previously entered at this office, by ——,) have been exported hence by ——, in the ——, belonging to ——, master, bound for ——, having been previously inspected and (weighed, gauged, or measured, as the case may require,) and that the said ——, with ——, both of ——, have entered into a bond in pursuance of the laws in that case made and provided.

Marks.	Numbers.	Packages, contents, and rates of duties.	Amount of duties.
		Here insert, in detail, the packages exported, their quality and contents, the value, if articles subject to duties *ad valorem*, the tare, if articles on which tare is allowed, and the rates of duties.	

Nett amount of drawbacks payable, —— dollars and —— cents.

A. B., *Collector*,
C. D., *Naval Officer*.

And the form of the debentures to be issued as aforesaid, shall be as follows:

No. ——, *district of* ——, *port of* ——;
Debenture for ——.

In pursuance of law, I hereby certify that the sum of [here insert the amount] will be due from the United States of America, payable at this office, to [here insert the name of the exporter, or his known agent or attorney,] or order, on the [here insert the time when payable,] for drawback or duties on merchandise imported by [here insert the name of the importer and the denomination and name of the vessel in which they were imported,] and exported by the said [here insert the name of the exporter.] Provided the duties arising on the importation of the said merchandise shall have been discharged prior to the said time.

A. B., *Collector*.

Countersigned, C. D., *Naval Officer*.

And for the purpose of maintaining the credit of the said debentures, it is hereby declared, that the debentures to be issued as aforesaid shall be assignable by delivery and endorsement of the parties, who may receive the same; and in all cases where payment shall be refused by the collectors of the districts where the said debentures were granted, in consequence of the non-payment of the duties which accrued on the importation of the goods for which such debentures were issued, for a longer time than three days after the same shall have been due and payable, said refusal to be proved in the same manner as in the case of non-payment of bills of exchange, it shall be lawful for the possessor or assignee of any debenture, upon which payment has been refused as aforesaid, to institute and maintain, in the proper circuit or district court of the United States, a suit against the person to whom such debenture was originally granted, or against any endorser thereof, whereby to recover the amount of such debenture, with interest, at the rate of six per centum per annum, from the time when the same became due and payable. And in all suits for the recovery of money upon debentures issued by the collectors of the customs as aforesaid, it shall be the duty of the court in which such suits shall be pending, to grant judgment at the return term, unless the defendant or defendants shall, in open court, exhibit some plea, on oath or affirmation, by which the court shall be satisfied that a continuance, until the next succeeding term, is necessary to the attainment of justice; in which case, and not otherwise, a continuance until the next term may be granted.

Sec. 81. *And be it further enacted*, That, before the receipt of any debenture, in case of exportation from the district of original importation, and in case of exportation from any other district, before the receipt of any such certificate, as is herein before required to be granted, the person applying for such debenture or certificate shall, previous to such receipt, and before the clearance of the vessel in which the merchandise were laden for exportation, or within ten days after such clearance, give bond, with one or more sureties, to the satisfaction of the collector, who is to grant such debenture or certificate, as the case may be, in a sum equal to double the amount of the sum for which such debenture or certificate is granted, conditioned, that the said goods, or any part thereof, shall not be re-landed in any port or place within the limits of the United States, and that the said exporter or exporters shall produce, within the time herein limited, the proofs and certificates required of the said goods, wares, and merchandise, having been delivered without the limits aforesaid.

And the form of the bond aforesaid shall be as follows:

Know all men by these presents, that we —— of the —— of —— are held and firmly bound to the United States of America, in the sum of —— for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Witness our hands and seals, this —— day of —— one thousand ——.

Whereas the following merchandise has been duly imported into the United States, to wit: [here particularize the person or persons by whom the several articles were imported, the denomination and name of the vessel, master's name, from whence into what district, and when imported, together with the marks, numbers, description of, and number of packages, with their contents] which said merchandise hath been re-shipped by the above bounden ——, in order to export the same in the —— of —— master, now in the port of —— and bound for ——.

The condition of this obligation therefore is such, that if the aforesaid recited merchandise, or any part thereof, be not relanded in any port or place within the limits of the United States, and

if the certificates and other proofs required by law of the delivery of the same at the aforesaid port of —— or at any port or place without the limits of the United States, as aforesaid, shall be produced at this office, within —— from the date hereof, then this obligation shall be null and void, but otherwise to remain in full force and virtue.

Sealed and delivered in the presence of ——.

That all bonds which may be given for any goods, wares, or merchandise, exported from the United States, and on which any drawback of duties or allowance shall be payable, in virtue of such exportation, shall and may be discharged, and not otherwise, by producing within one year from the date thereof, if the exportation be made to any port of Europe or America, or within two years if made to any part of Asia or Africa, a certificate under the hand of the consignee at the foreign port or place to whom the said goods, wares, and merchandise, shall have been addressed, therein particularly setting forth and describing the articles so exported, their marks, numbers, description of packages, the number thereof, and their actual contents, and declaring that the same have been received by them, from on board the vessel, specifying the names of the master and vessel, from which they were so received, and where such goods, wares, or merchandise, are not consigned or addressed to any particular person at the foreign port or place to which the ship or vessel is destined, or may arrive, but where the master or other person on board such ship or vessel may be the consignee of such goods, wares, or merchandise, a certificate from the person or persons to whom such goods, wares, and merchandise, may be sold or delivered by such master or other person, shall be produced to the same effect as that required if the person or persons receiving the same were originally intended to be the consignee or consignees thereof. And, in addition to the certificate aforesaid, it shall be necessary to produce a certificate under the hand and seal of the consul or agent of the United States residing at the said place, declaring either that the facts stated in the certificate of such consignee, or other person aforesaid, are to his knowledge true, or that such certificate is deserving of full faith and credit; which certificates of the consignee or other person, and consul or agent, shall, in all cases, as respects the landing or delivery of the said goods, wares, or merchandise, be confirmed by the oath or affirmation of the master and mate, if living, or in case of their death, by the oath or affirmation of the two principal surviving officers of the ship or vessel in which the exportation shall be made; and in all cases where there shall be no consul or agent of the United States residing at the said place of delivery, the certificate of the consignee, or other person herein before required, shall be confirmed by the certificate of two reputable American merchants residing at the said place; or if there are no such American merchants, then by the certificate of two reputable foreign merchants, testifying that the several facts stated in such consignee or other person's certificate, are, to their knowledge, just and true, or that such certificate is, in their opinion, worthy of full faith and credit; which certificate shall also be supported by the oath or affirmation of the master and mate, or other principal officers of the vessel, in manner as before prescribed, which oath or affirmation of the said master and mate, or other principal officers, shall, in all cases, when taken at a foreign port or place, be taken and subscribed before the consul or agent of the United States, residing at such foreign port or place, if any such consul or agent reside thereat.

And in cases of loss by sea, or by capture or other unavoidable accident; or when, from the nature of the trade, the proofs and certificates before required are not and cannot be procured, the exporter or exporters shall be allowed to adduce to the collector of the port of exportation such other proofs as they may have, and as the nature of the case will admit; which proofs shall, with a statement of all the circumstances attending the transaction, within the knowledge of such collector, be transmitted to the Comptroller of the Treasury, who shall have power to allow a further reasonable time for obtaining the proofs aforesaid; or if he be satisfied with the truth and validity of the proofs adduced, to direct the bond or bonds of such exporter or exporters to be cancelled: *Provided*, That if the amount of such bond shall not exceed the penal sum of two hundred dollars, the collector, with the naval officer where there is one, and alone where there is none, may, pursuant to such rules as shall be prescribed by the Comptroller of the Treasury, admit such proof as may be adduced; and if they deem the same satisfactory, cancel such bond accordingly.

And the form of the certificate of a consignee, declaring the delivery of merchandise at a foreign port, shall be as follows:

I, [A. A., or we B. B. and C. C.,] of the [city or town] of —— [merchant or merchants, and copartners in trade] do hereby certify that the goods or merchandise, herein after described, have been landed in this [city, town, or port] between the —— and —— days of —— from on board the —— of —— whereof G. G. is at present master, viz: [here insert the particular articles delivered, in manner following, as the case may require, namely:

A. B. No. 1. *a* 10. ten hhds. } Containing 14,000
C. D. Nos. 3, 6, 9, 15, 4 tierces } pounds of coffee.
E. F. No. 14, 18, 22, 25, 27, 30, 33, 36. Eight hogsheads, containing 10,000 pounds of brown sugar.
G. H. No. 21 *a* 30. Ten chests, containing 700 weight of hyson tea.
I. K. 7, 16, 19. Three bales, containing 150 pieces of nankeen—

which, according to the bills of lading for the same, were shipped on board the —— at the port of —— in the United States of America, on or about the —— day of —— and consigned to [me or to us] by —— of —— aforesaid merchant [or by the master of the said ——.]

Given under [my or our] hands, at the city of —— this —— day of ——.

And the form of the oath or affirmation of the principal officers of a vessel, confirming the land- of merchandise at a foreign port, shall be as follows:

Port of ——.

We, G. E. master, and H. H. mate, of the —— of —— lately arrived from the port of —— in the United States of America, do solemnly [swear or affirm] that the goods or merchandise enumerated and described in the preceding certificate, dated the —— day of —— and signed by A. A., of the city of —— merchant, were actually delivered at the said port, from on board the said —— within the time specified in the said certificate.

Sworn or affirmed at the city of ——, before me, this —— day of ——.

And the form of a verification of the delivery of merchandise at a foreign port, to be executed by a consul or agent of the United States, shall be as follows:

I, M. M. [consul or agent] of the United States of America, at the city of —— do declare that the facts set forth in the preceding certificate, subscribed by A. A, of the said city, merchant, and dated the —— day of —— are to [my knowledge just and true, or are in my opinion just and true, and deserving full faith and credit.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of my office, at ——, this —— day of ——.

M. M., *Consul.*

And the form of a verification of the delivery of merchandise, to be executed by American or foreign merchants, as the case may require, shall be as follows:

We ——, residing in the city of ——, do declare that the facts stated in the preceding certificate, signed by —— of the said [city] merchant, on the —— day of ——, are [to our knowledge just and true, or are in our opinion just and true, and worthy of full faith and credit.] We also declare that there is [no consul or other public agent for the United States of America, or American merchants, as the case may require] now residing at this place.

Dated at the city of ——, this —— day of ——.

R. S.
T. L.

And it shall be lawful for the consuls or agents of the United States, residing at the foreign ports, to demand twenty-five cents for administering each oath or affirmation aforesaid, and one dollar for granting each certificate as aforesaid; and if any consul or agent shall demand other or greater fees, than are allowed as aforesaid, his bond shall be forfeited.

Sec. 82. *And be it further enacted*, That if any goods, wares, or merchandise, entered for exportation, with intent to draw back the duties, or to obtain any allowance given by law on the exportation thereof, shall be landed within any port or place within the limits of the United States, as aforesaid, all such goods, wares, or merchandise shall be subject to seizure and forfeiture, together with the ship or vessel from which such goods, wares, or merchandise, shall be landed, and the vessels or boats used in landing the same; and the persons concerned therein shall, on indictment and conviction thereof, suffer imprisonment for a term not exceeding six months; and for discovery of frauds, and seizure of goods, wares, or merchandise, relanded contrary to law, the several officers, established by this act, shall have the same powers, and in case of seizure, the same proceedings shall be had, as in case of goods, wares, and merchandise, imported contrary to law.

Sec. 83. *And be it further enacted*, That on all pickled fish of the fisheries of the United States, exported therefrom, there be allowed and paid a bounty of thirty cents per barrel; and on all provisions salted within the United States (dried fish excepted) there be allowed and paid a bounty of twenty-five cents per barrel, to be paid by the collector of the district from which the same shall be so exported, without any deduction or abatement: *Provided always*, That in order to entitle the exporter or exporters of such pickled fish or salted provisions to the benefit of of such bounty or allowance, the said exporter or exporters shall make entry with the collector and naval officer of the district, from whence the said pickled fish or salted provisions are intended to be exported; and shall specify in such entry the names of the master and vessel in which, and the place where such provisions or fish are intended to be exported, together with the particular quantity of each, whether pickled fish or salted provisions, and the species thereof; and proof shall be made to the satisfaction of the collector of the district from which such articles are intended to be exported, and of the naval officer thereof, where any, that the same, if fish, are of the fisheries of the United States; if salted provisions, that they were salted within the United States; and no entry shall be received as aforesaid, of any pickled fish or salted provisions, which have not been inspected and marked, pursuant to the inspection laws of the respective States, where inspection laws are in force, in regard to any pickled fish or salted provisions; and the casks containing such fish or provisions, shall be branded with the words "for bounty," with the name of the inspector, or packer, the species and quantity of the fish contained therein, and the name of the port of exportation; and the collector of such district shall, together with the naval officer, where there is one, grant an order or permit for an inspector to examine the pickled fish or salted provisions, or both, as expressed in such entry, and if they correspond therewith, and the said officer is fully satisfied that they are, if fish, of the fisheries of the United States, or if provisions, salted therein, to lade the same agreeably to such entry on board the ship or vessel therein expressed; which lading shall be performed under the superintendence of the officer examining the same, who shall make returns of the quantity and quality of pickled fish or salted provisions so laden on board, in virture of such order or permit, to the officer or officers granting the same. And the said exporter, or exporters, when the lading is completed, and after returns thereof have been made, as above directed, shall make oath, or affirmation, that the pickled fish, or salted provisions, expressed in such entry, and then actually laden on board the ship or vessel as therein expressed, are truly and bona fide, if pickled fish, of the fisheries of the United States, if salted provisions, salted therein; that they are

truly intended to be exported as therein specified, and are not intended to be re-landed within the limits of the United States; and shall also give bond in double the amount of the duty, bounty, or allowance to be received, with one or more sureties to the satisfaction of the collector of the port or place from which the said pickled fish, or salted provisions, are intended to be exported, conditioned that the same shall be landed and left at some foreign port or place without the limits aforesaid; which bonds shall be cancelled at the same periods, and in like manner as is provided in respect to bonds given on the exportation of goods, wares, or merchandise, entitled to drawback of duties: *Provided always*, That the said bounty or allowance shall not be paid until at least six months after the exportation of such pickled fish, or salted provisions, to be computed from the date of the bond, and until the exporter or exporters thereof shall produce to the collectors with whom such outward entry is made, such certificates, or other satisfactory proof, of the landing of the same as aforesaid, as is heretofore made necessary for cancelling the bonds given on the exportation of goods entitled to drawback as aforesaid: *And provided also*, That the bounty or allowance as aforesaid, shall not be paid unless the same shall amount to ten dollars at least upon each entry.

And the form of entry, required to be made as aforesaid, shall be as follows:

Entry of [salted provision or pickled fish, or both, as the case may be,] intended to be exported for the benefit of bounty, by [insert the name of the exporter,] in the [insert the name and denomination of the vessel,] whereof [insert the name of the master] is master, bound for [insert the port of destination.]

Marks as branded on the casks.	Number of barrels.	Description or species of fish or provisions.	Quality.

And the oath or affirmation to be taken by the exporter or exporters of pickled fish, or salted provisions, shall be in manner following:

District of ——:

I [insert the name] do solemnly, sincerely, and truly swear (or affirm) to the best of my knowledge and belief, that the [salted provisions or pickled fish, or both, as the case may be,] designated in the annexed entry, dated ——, and subscribed with my name, have not been imported from any foreign port or place, but are truly and *bona fide* [if provisions] salted provisions, cured within the limits of the United States, [or if fish] pickled fish of the fisheries of the United States; that they are now actually laden on board the [insert the denomination and name of the vessel,] whereof [insert the name] is master, and are to be exported to [insert the place of destination,] and are not intended to be landed in the limits of the United States. So help me God.

And the form of the bond, to be executed as aforesaid, shall be as follows, to wit:

Know all men by these presents, that we ——, are held and firmly bound unto the United States of America, in the sum of ——, to be paid to the said United States; for the payment whereof, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, dated the —— day of ——, in the —— year of the independence of the United States, and in the year of our Lord ——. The condition of this obligation is such, that, whereas the above bounden —— hath entered at the custom-house of the port of —— the following merchandise [here insert the number of packages, with their contents, together with their marks and numbers,] for the purpose of being exported for the benefit of bounty, in the [insert denomination and name of vessel,] whereof [insert name] is master, for [insert name of the place,] as per entry thereof made and subscribed by the aforesaid ——, on the —— day of ——; which merchandise has been laden under the superintendence of A. B., an inspector of the customs for the port of ——, as per return thereof annexed to said entry; which merchandise is now actually on board the said ——, now laying in the port of ——, for the purpose of being exported as aforesaid.

Now, therefore, if the said merchandise shall not be re-landed within the limits of the United States, but shall be duly exported to the ——, or any other port or place, without the limits aforesaid, then this obligation to be void and of no effect, otherwise it shall remain and be in full force and virtue.

Sealed and delivered in the presence of ——.

Sec. 84. *And be it further enacted*, That if any goods, wares, or merchandise, of which entry shall have been made in the office of a collector, for the benefit of drawback or bounty upon exportation, shall be entered by a false denomination, or erroneously as to the time when, and the vessel in which, they were imported, or shall be found to disagree with the packages, quantities, or qualities, as they were at the time of original importation, except such disagreement as may have been occasioned by necessary or unavoidable wastage or damage only, and except also in cases where permission shall have been obtained according to law, to alter or change the quantities or packages thereof, all such goods, wares, or merchandise, or the value thereof, to be recovered of the owner or person making such entry, shall be forfeited. *Provided*, That the said forfeiture shall not be incurred, if it shall be made appear to the satisfaction of the collector and naval officer of the district, if there be a naval officer, and if there be

no naval officer, to the satisfaction of the said collector, or of the court in which a prosecution for the forfeiture shall be had, that such false denomination, error, or disagreement, happened by mistake or accident, and not from any intention to defraud the revenue.

Sec. 85. *And be it further enacted*, That in all cases where a ship or vessel shall be prevented by ice from getting to the port or place, at which her cargo is intended to be delivered, it shall be lawful for the collector of the district in which such ship or vessel may be obstructed, to receive the report and entry of such ship or vessel, and with the consent of the naval officer (where there is one) to grant a permit or permits for unlading or landing the goods, wares, and merchandise imported in such ship or vessel, at any place within his district, which shall appear to him most convenient and proper: *Provided always*, That the report and entry of such ship or vessel, and her cargo, or any part thereof, and all persons concerned therein, shall be under the subject of the same rules, regulations, restrictions, penalties, and provisions, as if the said ship or vessel had arrived at the port of her destination, and had there proceeded to the delivery of her cargo.

Sec. 86. *And be it further enacted*, That no officer of the customs, or other person employed under the authority of the United States, in the collection of the duties imposed by law on goods, wares, or merchandise, imported in the United States, and on the tonnage of ships or vessels, shall own, either in whole or in part, any ship or vessel, or act as agent, attorney, or consignee for the owner or owners of any ship or vessel, or of any cargo or lading on board the same; nor shall any officers of the customs, or other person employed in the collection of the duties as aforesaid, import, or be concerned directly or indirectly in the importation of any goods, wares, or merchandise, for sale, into the United States, on penalty that every person so offending, and being thereof convicted, shall forfeit and pay the sum of five hundred dollars.

Sec. 87. *And be it further enacted*, That so much of the twelfth section of an act, entitled "An act making alterations in the Treasury and War Departments," as restricts all officers of the United States, employed in the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels, from buying or disposing of the funds or debts of the United States, or of any State, be repealed.

Sec. 88. *And be it further enacted*, That if any officer of the customs shall, directly or indirectly, take or receive any bribe, reward, or recompense, for conniving, or shall connive at any false entry of any ship or vessel, or of any goods, wares, or merchandise, and shall be convicted thereof, every such officer or other person shall forfeit and pay a sum not less than two hundred nor more than two thousand dollars for each offence; and any person giving or offering any bribe, recompense, or reward, for any such deception, collusion, and fraud, shall forfeit and pay a sum not less than two hundred dollars, nor more than two thousand dollars, for each offence; and, in all cases where an oath or affirmation is by this act required, from a master, or other person, having the command of a ship or vessel, or from an owner or consignee of any goods, wares, or merchandise, his, her, or their factor, or agent, and, generally, whenever an oath or affirmation is required from any person or persons, whatsoever, by virtue of this act, if the person so swearing, or affirming, shall swear or affirm falsely, such person shall, on indictment and conviction thereof, be liable to the same pains and penalties prescribed for persons convicted of wilful and corrupt perjury.

Sec. 89. *And be it further enacted*, That all penalties, accruing by any breach of this act, shall be sued for, and recovered with costs of suit, in the name of the United States of America, in any court competent to try the same; and the trial of any fact, which may be put in issue, shall be within the judicial district in which any such penalty shall have accrued, and the collector, within whose district the seizure shall be made, or forfeiture incurred, is hereby enjoined to cause suits for the same to be commenced without delay, and prosecuted to effect; and is, moreover, authorized to receive from the court within which such trial is had, or from the proper officer thereof, the sum or sums so recovered, after deducting all proper charges to be allowed by the said court, and, on receipt thereof, the said collector shall pay and distribute the same, without delay, according to law, and transmit quarter-yearly to the Treasury an account of all moneys by him received for fines, penalties, and forfeitures, during such quarter. And all ships or vessels, goods, wares, or merchandise, which shall become forfeited in virtue of this act, shall be seized, libelled, and prosecuted as aforesaid, in the proper court having cognizance thereof: which court shall cause fourteen days' notice to be given of such seizure and libel, by causing the substance of such libel, with the order of the court thereon, setting forth the time and place appointed for trial, to be inserted in some newspaper, published near the place of seizure, and also by posting up the same in the most public manner, for the space of fourteen days, at or near the place of trial; for which advertisement a sum not exceeding ten dollars shall ed paid: And proclamation shall be made in such manner as the court shall direct; and if no person shall appear and claim any such ship or vessel, goods, wares, or merchandise, and give bond to defend the prosecution thereof, and to respond the cost in case he shall not support his claim, the court shall proceed to hear and determine the cause according to law; an upon the prayer of any claimant, to the court, that any ship or vessel, goods, wares, or merchandise, so seized and prosecuted, or any part thereof, should be delivered to such claimant, it shall be lawful for the court to appoint three proper persons to appraise such ship or vessel, goods, wares, or merchandise, who shall be sworn in open court for the faithful discharge of their duty; and such appraisement shall be

made at the expense of the party on whose prayer it is granted; and, on the return of such appraisement, if the claimant shall, with one or more sureties, to be approved of by the court, execute a bond in the usual form of the United States, for the payment of a sum equal to the sum at which the ship or vessel, goods, wares, or merchandise, so prayed to be delivered, are appraised, and, moreover produce a certificate from the collector of the district wherein such trial is had, and of the naval officer thereof, if any there be, that the duties on the goods, wares, and merchandise, or tonnage duty on the ship or vessel, so claimed, have been paid, or secured in like manner, as if the goods, wares, or merchandise, ship, or vessel, had been legally entered, the court shall, by rule, order such ship or vessel, goods, wares, and merchandise, to be delivered to the said claimant, and the said bond shall be lodged with the proper officer of the court, and if judgment shall pass in favor of the claimant, the court shall cause the said bond to be cancelled; but, if judgment shall pass against the claimant, as to the whole, or any part of, such ship or vessel, goods, wares, or merchandise, and the claimant shall not within twenty days thereafter pay into the court, or to the proper officer thereof, the amount of the appraised value of such ship or vessel, goods, wares, or merchandise, so condemned, with the costs, judgment shall and may be granted upon the bond on motion in open court, without further delay. And when any prosecution shall be commenced, on account of the seizure of any ship or vessel, goods, wares, or merchandise, and judgment shall be given for the claimant or claimants; if it shall appear to the court before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the said court shall cause a proper certificate or entry to be made thereof, and in such case the claimant or claimants shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to action, suit, or judgment, on account of such seizure and prosecution: *Provided*, That the ship or vessel, goods, wares, or merchandise, be, after judgment, forthwith returned to such claimant, or claimants, his, her, or their agent or agents: *And provided*, That no action or prosecution shall be maintained in any case under this act, unless the same shall have been commenced within three years next after the penalty or forfeiture was incurred.

Sec. 90. *And be it further enacted*, That all ships or vessels, goods, wares, or merchandise, which shall be condemned by virtue of this act, and for which bond shall not have been given by the claimant, or claimants, agreeably to the provisions for that purpose in the foregoing section, shall be sold by the marshal or other proper officer of the court in which condemnation shall be had, to the highest bidder, at public auction, by order of such court, and at such place as the court may appoint, giving at least fifteen days' notice, (except in cases of perishable goods,) in one or more of the public newspapers of the place where such sale shall be; or if no paper is published in such place, in one or more of the papers published in the nearest place thereto; for which advertising, a sum not exceeding five dollars shall be paid. And the amount of such sales, deducting all proper charges, shall be paid, within ten days after such sale by the person selling the same, to the clerk, or other proper officer of the court, directing such sale, to be by him, after deducting the charges allowed by the court, paid to the collector of the district in which such seizure or forfeiture has taken place, as hereinbefore directed.

Sec. 91. *And be it further enacted*, That all fines penalties, and forfeitures, recovered by virtue of this act, and not otherwise appropriated, shall, after deducting all proper costs and charges, be disposed of, as follows: one moiety shall be for the use of the United States, and be paid into the Treasury thereof, by the collector receiving the same; the other moiety shall be divided between, and paid in equal proportions to, the collector and naval officer of the district, and surveyor of the port, wherein the same shall have been incurred, or to such of the said officers as there may be in the said district; and in districts where only one of the aforesaid officers shall have been established, the said moiety shall be given to such officer: *Provided, nevertheless*, That, in all cases where such penalties, fines, and forfeitures, shall be recovered in pursuance of information given to such collector, by any person other than the naval officer or surveyor of the district, the one half of such moiety shall be given to such informer, and the remainder thereof shall be disposed of between the collector, naval officer, and surveyor or surveyors, in manner aforesaid: *Provided, also*, That, where any fines, forfeitures, and penalties, incurred by virtue of this act, are recovered in consequence of any information given by any officer of a revenue cutter, they shall, after deducting all proper costs and charges, be disposed of as follows: one-fourth part shall be for the use of the United States, and paid into the Treasury thereof, in manner as before directed; one-fourth part for the officers of the customs, to be distributed as hereinbefore set forth; and the remainder thereof to the officers of such cutter, to be divided among them agreeably to their pay: *And provided, likewise*, That, whenever a seizure, condemnation, and sale of goods, wares, or merchandise, shall take place within the United States, and the value thereof shall be less than two hundred and fifty dollars, that part of the forfeiture which accrues to the United States, or so much thereof as may be necessary, shall be applied to the payment of the cost of prosecution: *And be it further provided*, That if any officer, or other person entitled to a part or share of any of the fines, penalties, or forfeitures, incurred in virtue of this act, shall be necessary as a witness on the trial for such fine, penalty, or forfeiture, such officer, or other person, may be a witness upon the said trial; but in such case he shall not receive, nor be entitled to, any part or share of the said fine, penalty, or forfeiture, and the part or share to which he otherwise would have been entitled, shall revert to the United States.

Sect. 92. *And be it further enacted*, That, except into the districts hereinbefore described on the northern, northwestern, and western boundaries of the United States, adjoining to the dominions of Great Britain, in Upper and Lower Canada, and the districts on the rivers Ohio and Mississippi, no goods, wares, or merchandise, of foreign growth or manufacture, subject to the payment of duties, shall be brought into the United States from any foreign port or place in any other manner than by sea, nor in any ship or vessel of less than thirty tons burden, agreeably to the admeasurement hereby directed for ascertaining the tonnage of ships or vessels; nor shall be landed or unladen at any other port than is directed by this act, under the penalty of seizure and forfeiture of all such ships or vessels, and of the goods, wares, or merchandise, imported therein, landed, or unladen in any other manner. And no drawback of any duties on goods, wares, or merchandise, of foreign growth or manufacture, shall be allowed, on the exportation thereof from any district of the United States, otherwise than by sea, and in vessels not less than thirty tons burden.

Sec. 93. *And be it further enacted*, That the master or person having the charge or command of any ship or vessel bound to a foreign port or place, shall deliver to the collector of the district from which such ship or vessel shall be about to depart, a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear, or affirm, to the truth thereof; whereupon the said collector shall grant a clearance for such ship or vessel and her cargo, but without specifying the particulars thereof in such clearance, unless required by the said master, or other person, having the charge or command of such ship or vessel so to do. And if any ship or vessel, bound to a foreign port or place, shall depart on her voyage to such foreign port or place, without delivering such manifest, and obtaining a clearance as hereby required, the said master, or other person having the charge or command of such ship or vessel, shall forfeit and pay the sum of five hundred dollars for every such offence.

And the form of the report and manifest, to be delivered as aforesaid, shall be as follows:

Report and manifest of the cargo, laden at the port of ——, on board the ——, master, bound for ——, port ——.

Marks.	Numbers.	Packages, or articles in bulk.	Contents or quantities.	Value at the port of exportation.

And the oath or affirmation, to be taken by the master or commander of the ship or vessel, as aforesaid, shall be as follows:

District of ——.

I [insert the name] master or commander of the [insert the denomination and name of the vessel] bound from the port of [insert the name of the port or place sailing from] to [insert the name of the place or port bound to] do solemnly, sincerely, and truly swear, (or affirm, as the case may be,) that the manifest of the cargo on board the said [insert denomination and name of the vessel] now delivered by me to the collector of this district, and subscribed with my name, contains, according to the best of my knowledge and belief, a full, just, and true account, of all the goods, wares, and merchandise, now actually laden on board the said vessel, and of the value thereof; and if any other goods, wares, or merchandise, shall be laden or put on board the said [insert denomination and name of vessel] previous to her sailing from this port, I will immediately report the same to the said collector. I do also swear (or affirm) that I verily believe the duties on all the foreign merchandise therein specified have been paid or secured, according to law, and that no part thereof is intended to be relanded within the United States, and that if, by distress or other unavoidable accident, it shall become necessary to reland the same, I will forthwith make a just and true report thereof to the collector of the customs of the district wherein such distress or accident may happen. So help me God.

And the form of a clearance, to be granted to a ship or vessel on her departure to a foreign port or place, shall be as follows:

District of, ——, ss.; *port of* ——.

These are to certify all whom it doth concern, that ——, master or commander of the ——, burden —— tons, or thereabouts, mounted with —— guns, navigated with —— men, —— built, and bound for ——, having on board ——, hath here entered and cleared his said vessel, according to law.

Given under our hands and seals, at the custom-house of ——, this —— day of ——, one thousand ——, and in the —— year of the independence of the United States of America:

Provided, Anything to the contrary notwithstanding, that the collectors and other officers of the customs, shall, and they are hereby directed to, pay due regard to the inspection laws of the States in which they may respectively act, in such manner, that no vessel having on board goods liable to inspection, shall be cleared out until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States do or may require to be produced to collectors, or other officers of the customs: *And, provided*, That receipts for the payment of all legal fees which shall have accrued on any ship or vessel, shall, before any clearance is granted, be produced to the collector or other officer aforesaid.

Sec. 94. *And be it further enacted*, That the

importer or importers of any horses, cattle, sheep, swine, or other useful beasts, imported into the United States for the purpose of breed, shall make entry for such horses, cattle, sheep, swine, or other useful beasts, as in the case of other goods, wares, or merchandise, and obtain a permit for landing the same; and shall likewise make oath or affirmation, that they are actually imported for the purpose above-mentioned; and any horses, cattle, sheep, swine, or other beasts, landed, without the provisions above-mentioned being fully complied with, shall be subject to seizure and forfeiture.

Sec. 95. *And be it further enacted*, That all matters directed, by this act, to be done to, or by, the collector of a district, or by the naval officer thereof, shall and may be done to, and by, the person who, in the cases specified in this act, is or may be authorized to act in the place or stead of the said collector, or of the said naval officer.

Sec. 96. *And be it further enacted*, That whenever an oath is required by this act, persons conscientiously scrupulous shall be permitted to affirm.

Sec. 97. *And be it further enacted*, That the President of the United States be empowered, for the better securing the collection of the duties imposed on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels, to cause to be built and equipped so many revenue cutters not exceeding ten, as may be necessary to be employed for the protection of the revenue, the expense whereof shall be paid out of the product of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

Sec. 98. *And be it further enacted*, That there shall be to each of the said revenue cutters, one captain, or master, and not more than three lieutenants or mates, first, second, and third, and not more than seventy men, including non-commissioned officers, gunners, and mariners. And the Secretary of the Treasury is hereby authorized to cause contracts to be made for the supply of rations for the officers and men of the said revenue cutters: *Provided*, That the said revenue cutters shall, whenever the President of the United States shall so direct, co-operate with the Navy of the United States, during which time, they shall be under the direction of the Secretary of the Navy, and the expenses thereof shall be defrayed by the agents of the Navy Department.

Sec. 99. *And be it further enacted*, That the officers of the said revenue cutters shall be appointed by the President of the United States, and shall respectively be deemed officers of the customs, and shall be subject to the direction of such collectors of the revenue, or other officers thereof, as from time to time shall be designated for that purpose. They shall have power and authority, and are hereby required and directed, to go on board all ships or vessels which shall arrive within the United States, or within four leagues of the coast thereof, if bound for the United States, and to search and examine the same, and every part thereof, and to demand, receive, and certify, the manifests herein before required to be on board certain ships or vessels, and to affix and put proper fastenings on the hatches and other communications with the hold of any ship or vessel, and to remain on board the said ships and vessels until they arrive at the port or place of their destination. It shall likewise be the duty of the master or other person having at any time the command of any of the said revenue cutters, to make a weekly return to the collector or other officer of the district under whose direction they are placed, of the transactions of the cutter under their command, specifying therein the vessels that have been boarded, their names and descriptions, the names of the masters, and from what port or place they last sailed, whether laden or in ballast, whether ships or vessels of the United States, or to what other nation belonging, and whether they have the necessary manifest or manifests of their cargoes on board, and generally all such matters as it may be necessary for the collectors or other officers of the customs to be made acquainted with; and the officers of the said cutters shall likewise execute and perform such other duties, for the collection and security of the revenue, as from time to time shall be enjoined and directed by the Secretary of the Treasury, not contrary to law, and the provisions herein before contained.

Sec. 100. *And be it further enacted*, That the President be, and he is hereby, authorized to cause other revenue cutters to be built or purchased, in lieu of such as are or shall from time to time become unfit for further service; and to cause such as are so become unfit for further service to be sold at public auction, and the proceeds of such sales to be paid into the Treasury of the United States. And the expense of purchasing other cutters, as aforesaid, as well as all future expenses of building, purchasing, or repairing, revenue cutters, shall be paid out of the product of the duties on goods, wares, or merchandise, imported into the United States, and on the tonnage of ships or vessels.

Sec. 101. *And be it further enacted*, That the collectors of the respective districts may, with the approbation of the Secretary of the Treasury, provide and employ such small open row and sail boats, in each district, together with the number of persons to serve in them, as shall be necessary for the use of the surveyors and inspectors in going on board of ships or vessels, and otherwise, for the better detection of frauds; the expense of which shall be defrayed out of the product of the duties.

Sec. 102. *And be it further enacted*, That the cutters and boats, employed in the service of the revenue, shall be distinguished from other vessels by an ensign and pennant, with such marks thereon as shall be prescribed and directed by the President of the United States; and in case any ship or vessel liable to seizure or examination shall not bring to, on being required, or being chased by any cutter or boat having displayed the pennant and ensign prescribed for vessels in the revenue service, it shall be lawful for the captain, master or other person, having command of such cutter or boat, to fire at or into such vessel which shall not bring to, after such pennant and ensign shall

be hoisted, and a gun shall have been fired by such cutter or boat as a signal; and such captain, master, or other person, as aforesaid, and all persons acting by or under his directions, shall be indemnified from any penalties, or actions for damages for so doing; and if any person shall be killed or wounded by such firing, and the captain, master, or other person, aforesaid, shall be prosecuted or arrested therefor, such captain, master, or other person, shall be forthwith admitted to bail. And if any ship, vessel, or boat, not employed in the service of the revenue, shall, within the jurisdiction of the United States, carry or hoist any pennant or ensign prescribed for vessels in the service aforesaid, the master or commander of the ship or vessel so offending shall forfeit and pay one hundred dollars.

Sec. 103. *And be it further enacted*, That no beer, ale, or porter, shall be brought into the United States by sea from any foreign port or place, except in casks or vessels, the capacity whereof shall not be less than forty gallons, beer measure, or in packages containing not less than six dozen bottles, on pain of forfeiture of the said beer, ale, or porter, and the ship or vessel in which the same shall be brought; nor shall any refined lump or loaf sugar be imported into the United States, from any foreign port or place, by sea, except in ships or vessels of one hundred and twenty tons burden and upwards, and in casks or packages containing each not less than six hundred pounds weight; nor shall any distilled spirits (arrack and sweet cordials excepted) be imported or brought into the United States, except in casks or vessels of the capacity of ninety gallons, wine measure, and upwards, nor in casks or vessels which have been marked pursuant to any law of the United States, on pain of forfeiture of the said refined lump and loaf sugar, and distilled spirits, imported contrary to the provisions herein described, together with the ship or vessel in which they shall be so imported: *Provided*, That nothing contained in this act shall be construed to forfeit any spirits for being imported or brought into the United States in other casks or vessels, as aforesaid, or the ship or vessel in which they shall be brought, if such spirits shall be for the use of the seamen on board such ship or vessel, and shall not exceed the quantity of four gallons for each seaman.

Sec. 104. *And be it further enacted*, That, for the purpose of conforming this act to certain stipulations contained in treaties made and ratified under the authority of the United States, it is hereby declared that it shall at all times be free to British subjects, and also to the Indians dwelling on either side of the boundary line of the United States, as settled by the Treaty of Peace, freely to pass and repass, by land or inland navigation, into and from the territories of the United States, and to navigate all the lakes, rivers, and waters, thereof, and freely to carry on trade and commerce with the citizens of the United States: *Provided*, That nothing herein contained shall be construed to justify the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea; and all goods and merchandise, the importation of which into the United States shall not be wholly prohibited, shall and may freely, for the purposes of commerce, be brought into the same, in manner aforesaid, by British subjects, from the territories of the King of Great Britain, in America; and such goods and merchandise shall be subject to no higher or other duties than are or shall be payable by the citizens of the United States, on the importation of the same in American vessels into the Atlantic ports of the United States: and all goods, not prohibited to be exported from the United States, may, in manner aforesaid, be carried out of the United States into the territories aforesaid.

Sec. 105. *And be it further enacted*, That no duty shall be levied or collected on the importation of peltries brought into the territories of the United States, nor on the proper goods and effects, of whatever nature, of Indians, passing or re-passing the boundary line aforesaid, unless the same be goods in bales or other large packages unusual among Indians, which shall not be considered as goods belonging bona fide to Indians, nor be entitled to the exemption from duty aforesaid. And no higher or other tolls or rates of ferriage than what are or what shall be payable by citizens of the United States shall be demanded of British subjects, and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying places within the territories of the United States, for the purpose of being immediately re-embarked, and carried to some other place or places: *Provided*, That this last mentioned exemption from duty shall extend only to such goods as are carried in the usual and direct road across such portages and carrying places, and are not attempted to be in any manner sold or exchanged during their passage across the same. And it shall be lawful for citizens of the United States, and for all other persons, to import any goods or merchandise, of which the importation shall not be entirely prohibited, into the districts which are or may be established on the northern and northwestern boundaries of the United States, and on the rivers Ohio and Mississippi, in vessels or boats of any burden, and in rafts or carriages of any kind or nature, whatsoever.

Sec. 106. *And be it further enacted*, That all vessels, boats, rafts, and carriages, of what kind and nature soever, arriving in the districts aforesaid, containing goods, wares, or merchandise, subject to duties, on being imported into any port of the United States, shall be reported to the collector, or other chief officer of the customs at the port of entry, in the district into which they shall be so imported; and such goods shall be accompanied with like manifests, and like entries shall be made by the persons having charge of any vessels, boats, rafts, and carriages, aforesaid, and by the owners or consignees of the goods, wares, and merchandise, laden on board the same; and the powers and duties of the officers of the customs shall be exercised and discharged in the districts last mentioned, in like manner as is hereinbefore directed and prescribed in respect to goods, wares, and merchandise, im-

ported into the United States, in vessels from the sea; and generally, all importations as aforesaid shall be subject to like regulations, penalties, and forfeitures, as in other districts, except as is hereinafter specially provided.

Sec. 107. *And be it further enacted*, That when any goods, wares, or merchandise, subject to duties, shall be imported into any of the districts before mentioned, and which shall be reported as being destined to be carried over any of the portages or carrying places within the territories of the United States, for the purposes of being immediately re-embarked, and carried to some other port or place, it shall be the duty of the owner or consignee of the goods, wares, or merchandise, intended to be transported, as aforesaid, to make entry thereof as particularly as is hereinbefore directed and prescribed in respect to the like goods, wares, and merchandise, when entered for the payment of duties; and, moreover, specifying in such entry the route, portage, and carrying place, by and over which it is intended to transport the same; which entry shall be verified on oath or affirmation in manner following:

District of ——, *port of* ——.

I [here insert the name of the person making the entry] do solemnly, sincerely, and truly, swear (or affirm) that the entry now subscribed with my name, and delivered by me to the collector of [insert the name of the district] contains a just and true account of all the goods, wares, and merchandise, contained in the several packages therein mentioned; that they are brought into this district solely for the purpose of being carried and transported by the way of [here insert the portage or carrying place] with intention of being immediately re-embarked and carried without the limits of the United States; and are not intended, directly or indirectly, to be sold, exchanged, or consumed, within the limits of the United States. And I do further swear (or affirm) that if I shall hereafter know or discover that the whole or any part of the said goods, wares, or merchandise, shall have been sold, alienated, exchanged, or consumed, within the limits of the United States, I will immediately report the same, with the circumstances thereof, truly, to the collector of this district. So help me God.

Sec. 108. *And be it further enacted*, That the collector who shall receive any entry, as aforesaid, shall cause due examination, inspection, and search, to be made, in like manner as is hereinbefore prescribed in respect to importations made in vessels arriving by the sea, or intended to be exported from the United States; and, being satisfied therewith, shall thereupon grant a certificate or protection for the said goods, wares, or merchandise, which shall accompany the same, and which certificate or protection shall be of the form following, to wit:

District of —— *ss., port of* ——.

It is hereby certified, that [here insert the name of the person making entry] has made entry in this office, according to law, of the following merchandise [here insert the particulars of the packages and merchandise, and the several marks, numbers, and contents, thereof, as in the entry] and has made oath that the said merchandise are intended to be transported by the route of [here insert the portage or carrying place] to [here insert the proposed place of re-embarkation] for the purpose of being transported without the limits of the United States. Now, therefore, this certificate is to serve as a protection for the said merchandise, during the transportation thereof by the route aforesaid: *Provided*, That the said merchandise, or any part thereof, are not and shall not be unpacked, alienated, sold, or consumed, within the limits of the United States, or be transported by any other route than is above specified, in either of which cases the said merchandise may be seized and forfeited, this certificate and protection notwithstanding.

As witness my hand and seal the day and year above mentioned. A. B., *Collector.*

And no certificate as aforesaid shall be in force for any term exceeding six months from the date thereof.

Sec. 109. *And be it further enacted*, That if any person having the charge, or being concerned in the transportation of any goods, wares, or merchandise, entered as aforesaid, for the purpose of being transported across any of the portages or carrying places within the limits of the United States, and to be delivered without the limits thereof, shall, with intent to defraud the revenue, break open or unpack any part of the said merchandise, or shall sell, exchange, or consume the same, or with like intent shall break or deface any seal or fastening, placed thereon by any officer of the revenue, or if any person whatever shall deface, alter, or forge any certificate, granted for the protection of merchandise transported as aforesaid, each and every person so offending, shall forfeit and pay five hundred dollars, and shall be imprisoned not less than one nor more than six months, at the discretion of the court before which such person shall be convicted.

Sec. 110. *And be it further enacted*, That nothing contained in this act shall be construed to exempt the master or owners of vessels from making and subscribing any oaths or affirmations required by any laws of the United States, not immediately relating to the collection of the duties on the importation of goods, wares, and merchandise, into the United States.

Sec. 111. *And be it further enacted*, That in cases where the forms of official documents, as prescribed by this act, shall be substantially complied with and observed, according to the true spirit, meaning, and intent thereof, no penalty or forfeiture shall be incurred by a deviation therefrom; and the officers of the Department of the Treasury, according to their respective powers and duties, shall and may, from time to time, prescribe additions to the said forms, for the purpose of adapting the same to any alterations which may be made to the rates of duties on the importation of goods, wares, and merchandise, and on the tonnage of ships and vessels, and for the better collection and payment of the said duties: *Provided however*, That it shall not be competent for the said officers to prescribe any form or regulations incompatible with or contravening the special provisions of this act.

Sec. 112. *And be it further enacted*, That, from and after the thirtieth day of June next ensuing, the act of Congress passed on the fourth day of August, in the year one thousand seven hundred and ninety, entitled "An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels," and also all other acts or parts of acts, coming within the purview of this act, shall be repealed, and thenceforth cease to operate, except to the continuance of the officers appointed in pursuance of the said act or parts of acts; except also as to the recovery and receipt of such duties on goods, wares, and merchandise, and on the tonnage of ships or vessels, as shall have accrued; and as to the payment of drawbacks, bounties, and allowances, upon the exportation of goods, wares, and merchandise, and as to the recovery and distribution of fines, penalties, and forfeitures, which shall have been incurred before and on the said day; subject nevertheless, in respect to the collection of duties, to the alterations contained and expressed in the present act.

Approved, March 2, 1799.

An Act to establish the compensations of the officers employed in the collection of the duties on imports and tonnage, and for other purposes.

Be it enacted, &c., That every collector, naval officer, and surveyor, employed in the collection of the duties on imports and tonnage, shall, within three months after he enters upon the execution of his office, give bond, with one or more sufficient sureties, to be approved of by the Comptroller of the Treasury of the United States, and payable to the said United States, with condition for the true and faithful discharge of the duties of his office according to law, that is to say: the collector of Philadelphia and New York, in the sum of sixty thousand dollars, each; the collector of Boston and Charlestown, forty thousand dollars; the collectors of Baltimore and Charleston, thirty thousand dollars, each; the collector of Norfolk and Portsmouth, fifteen thousand dollars; the collectors of Portsmouth, in New Hampshire, of Salem and Beverly, Wilmington, in the State of Delaware, Annapolis, Georgetown, in Maryland, Bermuda Hundred and City Point, Alexandria, Wilmington, Newbern, and Edenton, in the State of North Carolina, Newport and Providence, in the State of Rhode Island and Providence Plantations, ten thousand dollars, each; the collectors of Newburyport, Gloucester, Marblehead, Plymouth, Nantucket, Portland, and Falmouth, New London, New Haven, Fairfield, Perth Amboy, Yorktown, Dumfries, Washington, Camden, Georgetown, (South Carolina,) Beaufort, and Savannah, five thousand dollars, each; the collectors of Hudson, Middletown, and Waldoborough, four thousand dollars, each; and all the other collectors in the sum of two thousand dollars, each; the naval officers of the ports of Boston and Charlestown, New York, Philadelphia, Baltimore, Charleston, ten thousand dollars, each; and all other naval officers, in the sum of two thousand dollars, each: the surveyors of the ports of Boston and Charlestown, New York, Philadelphia, Baltimore, and Charleston, five thousand dollars, each; and all the other surveyors, in the sum of one thousand dollars, each: which bonds shall be filed in the office of the said Comptroller, and be, by him, severally, put in suit for the benefit of the United States, upon any breach of the condition thereof.

And all bonds to be hereafter given, shall be of the form following, to wit:

Know all men by these presents, that we ——, are held and firmly bound unto the United States of America, in the full and just sum of —— dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves, jointly, and severally, our joint and several heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this —— day of —— one thousand ——

The condition of the foregoing obligation is such, that, whereas the President of the United States hath, pursuant to law, appointed the said —— to the office of ——, in the State of ——.

Now, therefore, if the said —— has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office, according to law; then the above obligation to be void and of none effect, otherwise it shall abide and remain in full force and virtue.

Sealed and delivered in the presence of ——.

Provided, That in cases where bonds have been already given, according to the directions aforesaid, new bonds shall not be required.

Sec. 2. *And be it further enacted*, That, from and after the last day of March next, and in lieu of the fees and emoluments heretofore established, there shall be allowed and paid for the use of the collectors, naval officers, and surveyors, appointed and to be appointed in pursuance of law, the fees following, that is to say, to each collector, for every entrance of any ship or vessel of one hundred tons burden and upwards, two dollars and an half; for every clearance of any ship or vessel of one hundred tons burden and upwards, two dollars and an half; for every entrance of any ship or vessel under the burden of one hundred tons, one dollar and an half; for every clearance of any ship or vessel under one hundred tons burden, one dollar and an half; for every post entry, two dollars; for every permit to land goods, twenty cents; for every bond taken officially, forty cents; for every permit to load goods for exportation, which are entitled to drawback, thirty cents; for every debenture or other official certificate, twenty cents; for every bill of health, twenty cents; for every official document, (registers excepted,) required by any merchant, owner or master of any ship or vessel not before enumerated, twenty cents; and where a naval officer is appointed to the same port, the said fees shall be equally divided between the collector and the said naval officer, the latter paying one-third of the expense

of the necessary stationery, and of the rent of an office to be provided by the collector, at the place assigned for his residence, and as conveniently as may be for the trade of the district—except the expense of fuel, office rent, and necessary stationery for the collectors of the districts of Salem and Beverly, Boston, and Charlestown, the cities of New York, Philadelphia, and Charleston, the towns of Baltimore, Norfolk, and Portsmouth, which shall be paid three-fourths by the said collectors, and the other fourth by the respective naval officers in those districts; and all fees shall, at the option of the collector, be either received by him or by the naval officer, the party receiving to account monthly with the other for his proportion or share thereof: *Provided*, That all fees, arising on the exportation of any goods, wares, or merchandise, on which drawbacks are allowed, shall be equally shared among the collector, naval officer, and surveyor, where there are such officers at the port where the fees are paid, to be accounted for monthly, by the collector or naval officer who shall receive the same; and where there is no naval officer, such fees shall be divided equally between the collector and the surveyor, who may have been concerned in attending to such exportation, and the surveyors shall pay their proportion of the expenses of stationery and printing. To each surveyor, for the admeasurement, and certifying the same, of every ship or vessel of one hundred tons and under, one cent per ton; for the admeasurement of every ship or vessel above one hundred tons, and not exceeding two hundred tons, one hundred and fifty cents; for the admeasurement of every ship or vessel above two hundred tons, two hundred cents; for all other services by this act to be performed by such surveyor, on board any ship or vessel of one hundred tons or upwards, having on board goods, wares, or merchandise subject to duty, three dollars; for the like services on board any ship or vessel of less than one hundred tons burden, having on board goods, wares, or merchandise subject to duty, one and an half dollar; on all vessels not having on board goods, wares or merchandise subject to duty, two-thirds of a dollar. All which fees shall be paid by the master or owner of the ship or vessel in which the said services shall be performed, to the surveyor by whom they shall be performed, if performed by one only, for his sole benefit—but if performed by more than one, to him who shall have the first agency, to be divided in equal parts between him and the other or others by whom the said services shall also be performed. To each inspector there shall be allowed, for every day he shall be actually employed in aid of the customs, a sum not exceeding two dollars; and for every other person that the collector may find it necessary and expedient to employ, as occasional inspectors, or in any other way in aid of the revenue, a like sum, whilst actually so employed, not exceeding two dollars for every day so employed, to be paid by the collector out of the revenue, and charged to the United States: *Provided*, That the services performed by occasional inspectors, shall be particularly detailed in the accounts to be transmitted to the Treasury, and certified as to the necessity as well as performance of such services, by the naval officer or surveyor of the district, if any such officers there are. To the measurers, weighers or gaugers, respectively, to be paid monthly by the collector out of the revenue, and charged to the United States, for the measurement of every one hundred bushels of grain, thirty cents; for the measurement of every one hundred bushels of salt, according to the weight established by law for the payment of duties thereon, fifty cents; for the measurement of every one hundred bushels of coal, sixty cents; for the weighing of every one hundred and twelve pounds, and marking every cask, box or package, weighing more than two hundred pounds each, except sugar, coffee, pepper, pimento, and indigo, in bales, bags, mats, cannisters or seroons, with the weight in durable characters, in the districts of Pennsylvania, New York, Boston and Charlestown, and Baltimore, one cent and a quarter; in the district of Norfolk, one cent and an half; and in the other districts, two cents; for the gauging and marking every cask, to be marked, in durable characters, with his own name, and the quantity, eight cents; for computing the contents of and marking cases containing distilled spirits and wines, three cents per case; for actually counting the number of bottles of cider, beer, ale, perry, or porter, contained in any cask or other package or packages, one cent per dozen; and in proportion for any greater or lesser quantity; and the allowances aforesaid shall be deemed to include a compensation for making returns of the goods or merchandise weighed, gauged, and measured, specifying the quality as well as quantity; and there shall be allowed to the surveyors or inspectors of the revenue for ports, the sum of one cent and one-half for every certificate to accompany foreign distilled spirits, and two cents and one-half for every certificate to accompany wines and teas, issued within their ports respectively; and to the deputies of the inspectors aforesaid, the sum of two cents and one-half for every cask or package of foreign distilled spirits, wines, or teas, by them marked and returned to their respective principals, and for gauging wines, whereon the duties are payable according to the value thereof, six cents for every cask actually gauged. There shall moreover be allowed to the several officers hereafter mentioned, the following allowances and per centage: To the collectors of the district of New York, one-quarter per cent.; to the collector of the district of Boston and Charlestown, and to the collectors of the districts of Baltimore and Philadelphia, one-half per cent.; to the collectors of the districts of Charleston, Salem, and Norfolk, seven-eighths of one per cent.; to the collectors of the districts of Alexandria and Savannah, one per cent.; to the collector of the district of Newburyport, one and one-quarter per cent.; to the collectors of the districts of Portsmouth, Portland, Newport, Providence, and New Haven, one and one-half per cent.; to the collectors of the districts of Georgetown (in Maryland) and Marblehead, two and one-half per cent.;

to the collectors of the districts of New London, Biddeford, Bath, and Wiscasset, two per cent.; and to the collectors of all other districts, three per cent., on all moneys by them, respectively, received, on account of the duties arising on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels. And, in addition to the allowances above mentioned, there shall be allowed and paid annually, the sums following, to wit: To the collectors of St. Mary's, Passamaquoddy, Vermont, Champlain, and to the collectors of the several districts comprising the northern and western boundaries of the United States, and the river Ohio, two hundred and fifty dollars each; to the surveyors in the several districts comprising the northern and western boundaries of the United States, and the river Ohio, two hundred dollars each; to the surveyor of Shell Castle or Beacon Island, one thousand dollars; to each of the collectors of the district of Wilmington, (in Delaware,) Annapolis, Havre-de-Grace, Chester, (in Maryland,) Gloucester, South Quay, Yeocomico, Tappahannock, Newbern, Edenton, Camden, Wilmington, (in North Carolina,) Nanjemoy, Ipswich, York, Washington, Bermuda Hundred, the sum of two hundred and fifty dollars; to each of the collectors of the districts of Oxford, Vienna, Sagg Harbor, Nottingham, Hampton, Yorktown, Dumfries, Folly Landing, Cherrystone, Beaufort, Brunswick, and Hardwich, the sum of two hundred dollars; to each of the collectors of the districts of Perth Amboy, Portsmouth, Hudson, Plymouth, Barnstable, Nantucket, Edgarton, New Bedford, Dighton, Penobscot, Frenchman's Bay, Machias, (Newport,) Middletown, Fairfield, Burlington, Bridgetown, Great Egg Harbor, Little Egg Harbor, Snow Hill, Georgetown, (in South Carolina,) Sunbury, Marblehead, New Haven, and Georgetown, (in Maryland,) the sum of one hundred and fifty dollars; to each of the collectors of Biddeford, Bath, and Wiscasset, one hundred dollars; to the naval officer of the district of Portsmouth, two hundred dollars; to each of the naval officers of the districts of Newburyport, Salem, Newport, Providence, Wilmington, (in North Carolina,) and Savannah, the sum of one hundred and fifty dollars; to each of the surveyors of Salem, Portsmouth, Newburyport, Gloucester, Bristol, Warren, East Greenwich, North Kingston, St. Mary's, Suffolk, Smithfield, Richmond, Petersburg, Fredericksburg, Wilmington, Beaufort, and Swansborough, the sum of two hundred and fifty dollars; to each of the surveyors of Newport, Providence, Thomastown, Beverly, New Haven, Middletown, Hartford, Saybrook, Albany, Hudson, Lewellensburg, Portland, Pawcatuck, Patuxet, New London, Stonington Town Creek, Bermuda Hundred, West Point, Urbanna, Port Royal, Alexandria, Windsor, Hertford, Plymouth, Skewarky, Murfreesborough, Bennet's Creek, Winton, Nixonton, Newbiggen Creek, Pasquotank River, Indian Town, Currituck Inlet, Savannah, and New Brunswick, (in New Jersey,) the sum of one hundred and fifty dollars; to each of the surveyors of such ports of delivery as may be hereafter established by the President of the the United States, and for whom other annual compensations are not hereby provided, a sum not exceeding two hundred and fifty dollars. And it shall be the duty of the respective collectors, naval officers, and surveyors, to keep accurate accounts of all fees and official emoluments received by them; also, of all expenditures, particularizing their expenditures for rent, fuel, stationery, and clerk hire, and to transmit, annually, within forty days after the last day of December, an account, as aforesaid, verified on oath or affirmation, to the Comptroller of the Treasury, who shall annually, lay an abstract of the same before Congress; and if any collector, naval officer, or surveyor, shall omit or neglect to keep an account as aforesaid, or to transmit the same, verified as aforesaid, he shall forfeit and pay a sum not exceeding five hundred dollars, for the use of the United States.

Sec. 3. *And be it further enacted*, That the compensations of the commissioned officers of the revenue cutters, shall be as follows, to wit: To a captain or master, fifty dollars per month, and the subsistence of a captain in the army of the United States; to a first lieutenant or mate, thirty-five dollars per month; to a second lieutenant or mate, thirty dollars per month; to a third lieutenant or mate, twenty-five dollars per month; and to every lieutenant or mate, the subsistence of a lieutenant in the army of the United States; and the pay of the non-commissioned officers, gunners, and mariners employed in the said cutters, shall, from time to time, be established and varied by the President of the United States, not exceeding twenty dollars per month, with such rations as are or shall be allowed in the naval service of the United States.

Sec. 4. *And be it further enacted*, That whenever a collector shall die or resign, the commissions to which he would have been entitled, on the receipt of all duties bonded by him, shall be equally divided between the collector resigning, or the legal representative of such deceased collector, and his successor in office, whose duty it shall be to collect the same, and, for this purpose, all the public or official books, papers, and accounts of the collector resigning or deceased, shall be delivered over to such successor.

Approved, March 2, 1799.

An Act for the government of the Navy of the United States.

Be it enacted, &c., That the following rules and regulations be adopted and put in force for the government of the navy of the United States:

Article 1. The commanders of all ships and vessels belonging to the United States, are strictly required to show in themselves a good example of honor and virtue to their officers and men, and to be very vigilant in inspecting the behaviour of all such as are under them, and to discountenance and suppress all dissolute, immoral, and disorderly practices, and also such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same, according to the usage of the sea service.

2. The commanders of the ships of the United States having on board chaplains, are to take care, that divine service be performed twice a day, and a sermon preached on Sundays, unless bad weather, or other extraordinary accidents prevent.

3. Any person who shall be guilty of profane swearing, or of drunkenness, if a seaman or marine, shall be put in irons until sober, and then flogged, if the captain shall think proper; but, if an officer, he shall forfeit two day's pay, or incur such punishment as a court martial shall impose, and as the nature and degree of the offence shall deserve.

4. No commander, for any one offence, shall inflict any punishment upon a seaman or marine beyond twelve lashes upon his bare back with a cat of nine tails, and no other cat shall be made use of on board any ship of war, or other vessel, belonging to the United States. If the fault shall deserve a greater punishment, he is to apply to the Secretary of the Navy, the commander in chief of the Navy, or the commander of a squadron, in order to the trying of him by a court martial; and in the mean time he may put him under confinement.

5. The commander is never by his own authority to discharge a commission or warrant officer, nor to punish or strike him, but he may suspend or confine him, and shall report the case to the Secretary of the Navy, or commandant of a squadron, as soon as he arrives in port, if at sea, or if in port, in ten days, in order that a court martial may decide on the offence.

6. The officer who commands by accident in the captain or commander's absence (unless he be absent for a time by leave) shall not order any correction but confinement, and upon the captain's return on board, he shall then give an account of his reasons for so doing.

7. The captain is to cause the articles of war to be hung up in some public place of the ship, and read to the ship's company once a month.

8. Whenever a captain shall enter or enlist a seaman, he shall take care to enter on his books, the time and term of his entering, in order to his being justly paid.

9. The captain shall, before he sails, make return to the Secretary of the Navy a complete list of all his officers and men, with the time and terms of their entering, and during his cruise or station, shall keep a true account of the desertion or death of any of them, and of the entering of others, and after the expiration of the time for which they were entered, and before any of them are paid off, he shall make return of a complete list of the same, including those who shall remain on board his ship.

10. The men shall, at their request, be furnished with slops that are necessary, by order of the captain, and the amount delivered to each man shall be regularly returned by the purser, so that the same be stopped out of his pay.

11. All officers not having commissions or warrants, (or appointed commission or warrant officers for the time being,) are termed petty, or inferior officers.

12. Whenever any inferior officer, seaman, or other person, be turned over into the ship of a commander other than the one with whom he entered, he is not to be rated on the ship's books, in a worse quality, or lower degree or station, than he served in the ship he was removed from; and for the guide of the captain, he is to demand from the commander of the ship from which such person or persons were turned over, a list, under his hand, of his or their names, and the quality in which he or they served.

13. Any officer, seaman, or other person, entitled to wages or prize money, may have the same paid to his assignee, provided the assignment be attested by the captain and the purser; but the captain or commander of every vessel in the service of the United States, is to discourage his crew from selling any part of their wages or prize money, and never to attest the letter of attorney until he is satisfied that the same is not granted in consideration of money given for the purchase of wages, or shares of prize money.

14. When any officer, or other person dies, the captain is forthwith to have his name entered on the books of the ship, in order to the wages being forthwith paid to his executors or administrators.

15. A convenient place shall be set apart for the sick or hurt men, to which they are to be removed with their hammocks and bedding when the surgeon shall advise the same to be necessary, and some of the crew shall be appointed to attend them, and keep the place clean; cradles, and buckets with covers, shall be made for their use if necessary.

16. All ships furnished with fishing tackle, being in such places where fish is to be had, the captain is to employ some of the company in fishing: the fish to be daily distributed to such persons as are sick, or upon recovery, provided the surgeon recommend it, and the surplus, by turns, amongst the messes of the officers and seamen, gratis, without any deduction of their allowance of provisions on that account.

17. It is left to the discretion of commanders of squadrons, to shorten the allowance of provisions, according to the exigence of the service, taking care that the men be punctually paid for the same; the like power is given to captains of ships acting singly, where it is deemed necessary; and if there should be a want of pork, the captain is to order three pounds of beef to be issued in lieu of two pounds of pork.

18. If any ships of the United States shall happen to come into port in want of provisions, the warrant of the commander of the squadron, or of a captain, where there is no commander of a squadron present, shall be sufficient to procure the supply of the quantity wanted, from the agent or navy agent at such port.

19. The captains are frequently to cause to be inspected the condition of the provision, and if the bread proves damp, to have it aired upon the quarter deck, and other convenient places, and in case of the pickle being leaked out of the flesh casks, he is to have new pickle made, and put therein, after such casks are repaired.

20. The captain shall cause the purser to secure the clothes, bedding, and other things, of such persons, as shall die, or be killed, to be delivered to their executors, or administrators.

21. All papers, charter-parties, bills of lading, passports, and other writings whatsoever, found on board any ship or ships which shall be taken, shall be carefully preserved and the originals sent to the court of justice for maritime affairs, appointed or to be appointed for judging concerning such prize or prizes; and if any person or persons shall wilfully or negligently destroy, or suffer to be destroyed, any such paper or papers, he or they so offending shall forfeit his or their share of such prize or prizes, and suffer such other punishment as they shall be judged by a court martial to deserve; and if any person or persons shall embezzle, or steal, or take away, any cables, anchors, sails, or any of the ship's furniture, or any of the powder, arms, ammunition, or provisions, of any ship belonging to the United States, or of any prize taken by a ship or ships, aforesaid, or maltreat or steal the effects of any prisoner, he or they so offending shall suffer such punishment as a court martial shall order.

22. When in sight of any ship, ships, or other vessels of the enemy, or at such other times as may appear necessary to prepare for an engagement, the captain shall order all things in his ship in a proper posture for fight, and shall, in his own person, and according to his duty, heart on and encourage the inferior officers and men to fight courageously, and not behave themselves faintly, or cry for quarters, on pain of such punishment as the offence shall appear to deserve for his neglect.

23. Any captain, officer, or other person, who shall not exert himself, or who shall basely desert his duty or station in the ship, and run away while the enemy is in sight, or in time of action, or shall entice others to do so, shall suffer death, or such other punishment as a court martial shall inflict.

24. Any officer, seaman, marine, or other person, who shall disobey the orders of his superior, or begin, excite, cause, or join in, any mutiny, or sedition, in the ship to which he belongs, or in any other ship or vessel in the service of the United States, on any pretence whatsoever, shall suffer death, or such other punishment as a court martial shall direct; and further, any person in any ship or vessel belonging to the service aforesaid, who shall utter any words of sedition and mutiny, or endeavor to make any mutinous assembly, on any pretence whatsoever, shall suffer such punishment as a court martial shall inflict.

25. None shall presume to quarrel with or strike his superior officer, on pain of such punishment as a court martial shall order to be inflicted.

26. If any person shall apprehend he has just cause of complaint, he shall quietly and decently make the same known to his superior officer, or to the captain, as the case may require, who shall take care that justice be done him.

27. There shall be no quarrelling or fighting between shipmates on board any ship belonging to the United States, nor shall there be used any reproachful and provoking speeches, tending to make quarrels and disturbances, on pain of imprisonment, or of such punishment as the captain, or a court martial, shall judge proper to inflict.

28. If any person shall sleep upon his watch, or negligently perform the duty which shall be enjoined him to do, he shall suffer such punishment as the captain or a court martial shall inflict.

29. All murder shall be punished with death.

30. All robbery and theft not exceeding twenty dollars, shall be punished at the discretion of the captain, and above that sum as a court martial shall inflict.

31. Any master of arms, or other person of whom the like duty may be required, refusing to receive such prisoner or prisoners, as shall be committed to his charge, or having received them shall suffer him or them to escape, or dismiss them without orders from his captain, the commander-in-chief of the navy, or the commander of a squadron, for so doing, shall suffer in his or their stead, as a court martial shall order and direct.

32. The captains, officers, and others, shall use their utmost endeavors to detect, apprehend, and bring to punishment, all offenders, and shall at all times readily assist all officers and others appointed for that purpose, in the discharge of such duty, when it is required, on pain of being proceeded against and punished by a court martial at discretion.

33. If any officer whatsoever, mariner, marine, soldier, or other person, belonging to any ship or vessel of war in the service of the United States, shall give, hold, or entertain intelligence, to or with any enemy or rebel, without leave from the Government, commander-in-chief, or in case of a single ship, from his captain, every such person so offending, and being thereof convicted by the sentence of a court martial, shall be punished with death.

34. If any letter or message from an enemy or rebel be conveyed to any officer, mariner, marine, or other person, belonging to any ship or vessel in the service of the United States, and the person as aforesaid shall not within twelve hours, having opportunity so to do, acquaint his superior or commander-in-chief with it; or if any superior officer, being acquainted therewith, shall not, in convenient time, reveal the same to the commander in chief, commander of a squadron, or other proper officer, appointed to take cognizance of such offence, every such person so offending, and being convicted thereof, by the sentence of a court martial, shall be punished with death, or such other punishment, as the nature and degree of the offence shall deserve, and according to the sentence of a court martial.

35. All spies, and all persons whatsoever who shall come, or be found, in the nature of spies, to bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any captain, officer, mariner, marine, or other person in the fleet, to betray his trust, being convicted of any such offence, by the sentence of a court martial, shall be punished with death, or such other punishment, as the nature and degree of the offence shall deserve, and the court martial shall impose.

36. No person in a fleet, or in a single ship or vessel, shall supply an enemy or rebel with stores, money, victuals, arms, ammunition, or any kind of stores, directly or indirectly, upon pain of death, or such other punishment as a court martial shall think fit to impose, and as the nature and degree of the crime shall deserve.

37. Every person in or belonging to any ship or vessel in the service of the United States, who shall desert or run away with any vessel or boat, to the enemy or otherwise, or with any effects of the United States, whatsoever, or yield up the same cowardly or treacherously, shall suffer death, or such other punishment as a court martial shall inflict.

38. The officers and seamen, &c. of all ships appointed for convoy and guard of merchantmen, shall diligently attend upon that charge without delay, according to their instructions, and whosoever shall be faulty therein, shall be punished as a court martial shall direct.

39. If any captain, commander or other officer of any ship or vessel in the service of the United States, shall receive or permit on board his vessel any goods or merchandise, other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods and merchandise of vessels which may be in distress or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for the proper owner, without legal orders from the Naval Department, every person so offending being convicted thereof, by the sentence of a court martial, shall be cashiered, and be forever afterwards rendered incapable to serve in any place or office in the navy service of the United States.

40. There shall be no wasteful expense of any powder, shot, ammunition, or other stores, in the vessels belonging to the United States, nor any embezzlement thereof, but the stores and provisions shall be carefully preserved, upon pain of such punishment to be inflicted upon the offenders, abettors, buyers, and receivers, as shall be by a court martial found just in that behalf.

41. Every person in the Navy who shall unlawfully burn or set fire to any kind of public property, not then appertaining to an enemy, pirate, or rebel, being convicted of any such offence, by the sentence of a court martial, shall suffer death.

42. Care shall be taken in steering and conducting every ship belonging to the United States, so that through wilfulness, negligence, or other defaults, no ship be stranded or hazarded, upon pain that such as shall be found guilty therein, be punished as the offence, by a court martial, shall be judged to deserve.

43. Every officer or other person in the Navy who shall knowingly make or sign a false muster, or procure the making or signing thereof, or shall aid or abet in the same, shall be cashiered and rendered incapable of further employment in the navy service of the United States, and shall forfeit all the pay and subsistence money due to him.

44. Every person guilty of mutiny, desertion, or disobedience to his superior officer on shore, acting in the proper line of his duty, shall be tried by a court martial, and suffer the like punishment for every such offence, as if the same had been committed at sea, on board any ship or vessel of war in the service of the United States.

45. If any person, belonging to any ship or vessel of war in the service of the United States, shall, when on shore, on duty, or otherwise, plunder, abuse, or maltreat any inhabitant, or injure his property in any way, such person shall be punished as a court martial shall direct.

46. All faults, disorders, and misdemeanors, which shall be committed on board any ship belonging to the United States, and which are not herein mentioned, shall be punished according to the laws and customs in such cases at sea.

47. No court martial, to be held or appointed by virtue of this act, shall consist of more than thirteen, nor less than five persons, to be composed of such commanders of squadrons, captains, and sea lieutenants, as are then and there present, and as are next in seniority to the officer who presides; but no lieutenant shall sit on a court martial held on a captain, or a junior lieutenant on that of a senior.

48. Every member of a court martial shall take the following oath: "I, A. B., do swear that I will well and truly try and impartially determine the cause of the prisoner now to be tried, according to the rules of the Navy of the United States. So help me God." Which oath shall be administered by the president to the other members, and the president himself shall be sworn by the officer next in rank; and as soon as the above oath shall have been administered, the president of the court is required to administer to the judge advocate, or person officiating as such, an oath in the following words: "I, A. B., do swear that I will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court martial, unless thereto required by an act of Congress. So help me God." And all witnesses, before they be admitted to give evidence, shall take the following oath: "I, A. B., do swear that the evidence I shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help me God."

49. The sentence of a court martial for any capital offence shall not be put in execution until it be confirmed by the commander-in-chief of the fleet. And it shall be the duty of the president of every court martial to transmit to the commander-in-chief of the fleet, and to the head of the Navy Department, every sentence which shall be given, with a summary of the evidence and proceedings thereon, as soon as may be.

50. The commander-in-chief of the fleet, for the time being, shall have power to pardon and remit any sentence of death, in consequence of any of the aforementioned articles.

Sec. 2. *And it is hereby further enacted*, That if any person in the navy service, being called upon to give evidence at any court martial, shall refuse to give his evidence upon oath, or shall prevaricate in his evidence, or behave with contempt to the court, it shall and may be lawful for such court

martial to punish such offender by imprisonment, at the discretion of the court; such imprisonment, in no case, to continue longer than three months; and that all and every person and persons, who shall commit any wilful perjury in any evidence or examination upon oath at such court martial, who shall corruptly procure or suborn any person to commit such wilful perjury, shall and may be prosecuted in any of the courts of the United States, by indictment or information. And all and every person, lawfully convicted upon any such indictment or information, shall be punished with such pains and penalties as are inflicted for the like offences by the laws therein provided.

Sec. 3. *And it is hereby further enacted by the authority aforesaid*, That in all cases where the crews of the ships or vessels of the United States shall be separated from their vessels, by the latter being wrecked, lost, or destroyed, all the command, power, and authority, given to the officers of such ships or vessels, shall remain and be in full force as effectually as if such ship or vessel was not so wrecked, lost, or destroyed, until they shall be regularly discharged from the service of the United States, or removed into some other of its said ships, or until a court martial shall be held to inquire into such loss of the said ship or vessel; and if, upon inquiry, it shall appear by the sentence of the court martial, that all or any of the officers, seamen, marines, and others, of the said ship or vessel, did their utmost to preserve, get off, or recover, the said ship or vessel, and, after the loss thereof, did behave themselves obediently to their superior officers, according to the discipline of the Navy, and the said articles and orders hereinbefore established, then all the pay and wages of the said officers and seamen, or such of them as shall have done their duty as aforesaid, shall continue and go on, and be paid to the time of their discharge or death; and every such officer or seaman, who, after the wreck or loss of his said ship or vessel, shall act contrary to the discipline of the Navy, or the articles herein before established, or any of them, shall be sentenced by the said court martial, and be punished, as if the ship to which he did belong was not so wrecked or destroyed.

Sec. 4. *And be it further enacted*, That all the pay and wages of such officers and seamen of any of the ships of the United States as are taken by the enemy, and, upon inquiry at a court martial, shall appear by the sentence of the said court to have done their utmost to defend the ship or ships, and, since the taking thereof, to have behaved themselves obediently to their superior officers, according to the discipline of the Navy, and the said articles and orders, hereinbefore established, shall continue and go on as aforesaid, until they be exchanged and discharged, or until they shall die, whichever may first happen: *Provided always*, That persons flying from justice shall be tried and punished for so doing.

Sec. 5. *And be it further enacted*, That all captured national ships or vessels of war shall be the property of the United States; all other ships or vessels, being of superior force to the vessel making the capture, in men or in guns, shall be the sole property of the captors; and all ships or vessels of inferior force shall be divided equally between the United States and the officers and men of the vessels making the capture.

Sec. 6. *And be it further enacted*, That the produce of prizes taken by the ships of the United States, and bounty for taking the ships of the enemy, be proportioned and distributed in the manner following, to wit:

1. To the captain, actually on board at the time of taking any prize, being other than a public or national vessel, or ship of war, three-twentieths of that proportion of the proceeds belonging to the captors.

2. If such captain or captains be under the immediate command of a commander-in-chief, or commander of a squadron, having a captain on board, such commander-in-chief, or commander of a squadron, to have one of the said twentieth parts, and the captains taking the prize, the other two-twentieth parts.

3. To the sea lieutenants and sailing master, two-twentieths.

4. To marine officers, the surgeon, purser, boatswain, gunner, carpenter, master's mate, and chaplain, two-twentieths.

5. To midshipmen, surgeon's mates, captain's clerk, clergyman or schoolmaster, boatswain's mates, gunner's mates, carpenter's mates, ship's steward, sailmaker, master at arms, armorer, and cockswain, three-twentieths.

6. Gunner's yeoman, boatswain's yeoman, quartermasters, quarter gunners, cooper, sailmaker's mates, sergeant of marines, corporal of marines, drummer and fifer, and extra petty officers, three-twentieths.

7. To seamen, ordinary seamen, marines, and boys, seven-twentieths.

8. Any officer on board, having more posts than one, is only entitled to the share belonging to his superior office, according to the regulations aforesaid.

9. Whenever one or more ships of the United States are in sight, at the time of any one or more other ships as aforesaid are taking a prize or prizes, or being engaged with an enemy, and they shall all be so in sight, when the enemy shall strike or surrender, they shall share equally, according to the number of guns and men on board of each ship so in sight; but no privateer or armed ship, being in sight of a national ship of war, at the taking of any prize, shall be entitled to any share in such prize or prizes.

10. Commanders of ships of war taking any prize, are to transmit, as soon as possible, to the Naval Department, a true list of the officers and men actually on board at the taking of such prize, inserting therein the quality of every person's rating; and the Department aforesaid is to examine the said list by the ship's muster book, to see their agreement, and is to grant certificates of the truth of such list transmitted, in order that the agents appointed by the captors, make payment of the shares, agreeably to this act.

11. In order to define the rights and privileges

of commanders-in-chief, commanders of squadrons, and captains, in relation to captures: No commander-in-chief, or commander of a squadron, shall be entitled to receive any share of prizes taken by the ships-of-war of the United States that are not put under his immediate command, nor of such prizes as may have been taken previous to such ship's being placed under his command, and until they have acted under his immediate orders; nor shall a commander-in-chief, or commander of a squadron, returning home from any station where he had the command, have any share in prizes taken by ships left on such station, after he has got out of the limits of his said command.

12. Captains, sailing especially under orders from the Navy Department, are clearly to be understood as acting separately from any superior officer.

13. The bounty given by the United States, on any national ship-of-war, taken from the enemy and brought into port, shall be for every cannon mounted, carrying a ball of twenty-four pounds, or upward, two hundred dollars: For every cannon carrying a ball of eighteen pounds, one hundred and fifty dollars; for every cannon, carrying a ball of twelve pounds, one hundred dollars; and for every cannon, carrying a ball of nine pounds, seventy-five dollars; for every smaller cannon, fifty dollars; and for every officer and man taken on board, forty dollars; which sums are to be divided agreeably to the foregoing articles.

Sec. 7. *And be it further enacted*, That, for the ships or goods belonging to the citizens of the United States, or to the citizens or subjects of any nation, in amity with the United States, if retaken from the enemy within twenty-four hours, the owners are to allow one-eighth part of the whole value for salvage, if after twenty-four hours, and under forty-eight, one-fifth thereof, if above that, and under ninety-six hours, one-third part thereof, and if above that, one-half; all of which is to be paid, without any deduction whatsoever, agreeably to the articles hereinbefore mentioned.

Sec. 8. *And be it further enacted*, That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for his own life, and the life of his wife, if a married man, at the time of receiving the wound, one-half his monthly pay.

Sec. 9. *And be it further enacted*, That all the money accruing, or which has already accrued, from the sale of prizes, shall be and remain forever a fund for the payment of the half-pay to the officers and seamen who may be entitled to receive the same; and, if the said fund shall be insufficient for this purpose, the public faith is hereby pledged to make up the deficiency: But, if it should be more than sufficient, the surplus shall be applied as Congress may hereafter direct by law, to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as may not be disabled, who may merit by their bravery, or their long and faithful services, the gratitude of their country.

Sec. 10. *And be it further enacted*, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive all such sums as the United States may be entitled to, for the sale of prizes, and to invest the same, and the interest arising therefrom, in such of the six per cent. or other stock of the United States, as a majority of them from time to time shall determine to be most advantageous; and it shall be the duty of the said commissioners to lay before Congress, every year, in the first week of their annual meeting, a minute and correct statement of their proceedings, in relation to the management of said fund.

Sec. 11. *And be it further enacted*, That no rules or regulations made by any commander-in-chief, or captain, in the service of the United States, for the stationing, designating of duty, and government of the fleet, or any of the crews of any ship-of-war, shall be at variance with this act, but shall be strictly conformable thereto; and that every commander-in-chief and captain, in making private rules and regulations, and designating the duty of his officers, shall keep in view also the custom and usage of the sea service most common to our nation.

Approved, March 2, 1799.

An Act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-nine.

Be it enacted, &c., That, for the expenditure of the Civil List, including the contingent expenses of the several departments and officers; for defraying the compensations of clerks in the several loan offices, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the support of light-houses, beacons, buoys, and public piers; for the contingent expenses of Government; for establishing and maintaining trading houses with the Indians, and for satisfying certain miscellaneous claims and expenses, the following sums be, respectively, appropriated, that is to say:

For the compensations granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of six months' continuance, one hundred and ninety thousand one hundred and seventy-five dollars.

For the expense of fire-wood, stationery, printing work, and all other contingent expenses of the two Houses of Congress, thirteen thousand five hundred dollars.

For the compensations granted by law to the chief justice, associate judges, district judges, and attorney general, district attorneys, and marshals, forty-seven thousand three hundred dollars.

For defraying the expense of clerks of courts, jurors, and witnesses, in aid of the funds arising from fines, forfeitures, and penalties; and likewise for defraying the expenses of prosecution for offences against the United States, and for safe-keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eleven thousand and fifty dollars.

For expense of stationery, printing, translating of foreign languages, allowance to persons employed in receiving and transmitting passports and sea-letters, in the office of the Secretary of the Treasury, eight hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand seven hundred dollars.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, eleven thousand nine hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Auditor, seven hundred and fifty dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, five thousand eight hundred and fifty dollars.

For expenses of fire-wood, stationery, printing, rent, and all other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and persons employed in his office, six thousand one hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, two thousand dollars; and five hundred dollars for a clerk.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand seven hundred and thirty dollars and sixty-six cents.

For the expense of fire-wood and candles in the several offices of the Treasury Department. (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stating and printing the public accounts for the year one thousand seven hundred and ninety-nine, (including an increase of two hundred dollars, in consequence of an extension of the revenue and expenditures,) one thousand two hundred dollars.

For defraying the expense incident to the removal of the books and records of the Treasury Department, from Philadelphia to Trenton, during part of the Summer of the year one thousand seven hundred and ninety-eight, including the extra expenses of the several officers, clerks, and messengers, in each office, four thousand four hundred dollars.

For compensations to the several loan officers, thirteen thousand two hundred and fifty dollars.

For the expense incident to the removal of the Loan office of Pennsylvania, from Philadelphia, during part of the Summer of the year one thousand seven hundred and ninety-eight, including the extra expenses of the clerks in the said office, one hundred and seventy-eight dollars and seventy cents.

For compensations to the clerks to the Commissioners of Loans, and an allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expenses of the several loan officers, thirteen thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, eleven thousand three hundred dollars.

For incidental and contingent expenses in the said department, eight thousand five hundred dollars.

For the expense incident to the removal of the Department of State, from Philadelphia to Trenton, during part of the Summer of the year one thousand seven hundred and ninety-eight, including the extra expenses of the Secretary for the department, the clerks, and messengers therein, four hundred and forty-one dollars and thirty-five cents.

For compensations to the following officers of the Mint: The director, two thousand dollars; the treasurer, one thousand two hundred dollars; the assayer, one thousand five hundred dollars; the chief coiner, one thousand five hundred dollars; the melter and refiner, one thousand five hundred dollars; the engraver, one thousand two hundred dollars; one clerk, at seven hundred dollars; and two at five hundred dollars each, one thousand dollars.

For the wages of persons employed at the different branches of melting, refining, coining, carpenters', millwrights', and smiths' work, including the sum of eight hundred dollars per annum, allowed to an assistant coiner and die-forger, who also oversees the execution of the iron-work, seven thousand dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies of the establishment of the Mint, six thousand three hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand four hundred and fifty dollars.

For expense of fire-wood, stationery, printing, rent, and other contingent expenses, in the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand eight hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For the expense incident to the removal of the War Department, from Philadelphia to Trenton, during part of the Summer of the year one thousand seven hundred and ninety-eight, including the extra expenses of the Secretary for the department, the Accountant, clerks, and messengers, in each office, three thousand two hundred and twenty-two dollars and forty-three cents.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand and fifty-five dollars.

For the expense of fire-wood, stationery, printing, rent, and all other contingencies, in the office of the Secretary of the Navy, two thousand eight hundred and fifty dollars.

For expense of removing the Department of the Navy, from Philadelphia to Trenton, during part of the Summer of the year one thousand seven hundred and ninety-eight, including the extra expenses of the clerks and messengers in the offices of the Secretary and Accountant for the Department, four hundred and twenty-seven dollars and forty-eight cents.

For compensation to the Accountant of the Navy, clerks and persons employed in his office, nine thousand two hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For compensation to the keeper of the Navy store, and his assistant; laborers employed in the store, porterage, and store rent, three thousand eight hundred dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain-carriers, axe-men, and other persons employed, stationery, and other contingent expenses, in the Surveyor General's department (in addition to former appropriations) nine thousand five hundred and nineteen dollars.

For compensation to the Governor, Secretary, and Judges, of the Territory Northwest of the Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, printing patents for land, office rent, and other contingent expenses, in the said Territory, three hundred and fifty dollars.

For compensation to the Governor of the Mississippi Territory, and for discharging the duties of Superintendent of Indian Affairs, during part of the year one thousand seven hundred and ninety-eight, one thousand three hundred and two dollars and nineteen cents.

For compensation to the Secretary of the Mississippi Territory, and for discharging the duties of Secretary during part of the year one thousand seven hundred and ninety-eight, four hundred and eighty-eight dollars and thirty-three cents.

For compensation to three Judges of the Mississippi Territory, during part of the year one thousand seven hundred and ninety-eight, one thousand four hundred and forty-eight dollars and thirty-six cents.

For compensation to the Governor, Secretary, and Judges, of the Mississippi Territory, for the year one thousand seven hundred and ninety-nine, five thousand one hundred and fifty dollars.

For the expenses of stationery, office rent, printing patents for land, and other contingent expenses of the Government of the Mississippi Territory (including eight months of the year one thousand eight hundred and ninety-eight) five hundred and eighty three dollars and thirty-three cents.

For the discharge of such miscellaneous demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, one thousand dollars.

For the payment of sundry pensions granted by the late government, nine hundred and fifty-three dollars and thirty-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty-seventh of February, one thousand seven hundred and ninety-three, three hundred and seventy-five dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, and for occasional improvement in the construction of lanterns, and lamps, and materials used in them, including an allowance for the increased number of light-houses, forty-four thousand two hundred and eighty-one dollars and eight cents.

For defraying the contingent expenses of the Government, (the amount of former appropriations unexpended being carried to the credit of the surplus fund,) twenty thousand dollars.

For the establishment and maintenance of trading-houses with the Indians, (the balance unexpended of a former appropriation being carried to the credit of the surplus fund,) one hundred and ten thousand dollars.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, eight thousand nine hundred and fifty dollars.

For expense of fire-wood, stationery, printing, rent, and other contingent expenses, in the office of the Postmaster General, two thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars reserved by the act "making provision for the debt of the United States, together with so much as may be necessary of the proceeds of the duties on imports, and the tonnage of ships and vessels, and the duties on domestic distilled spirits and stills, which shall accrue until the close of the present year.

Approved, March 2, 1799.

An Act respecting distillers of Geneva.

Be it enacted, &c., That the proprietor or possessor of any distillery situated in any place other than a city, town, or village, and employed solely in the distillation of geneva, where such proprietor or possessor shall employ in such distillery any one still whose capacity shall exceed eight hundred gallons, from materials the growth or produce of the United States, may, at his or her option, be charged with and pay duty on the quantity of spirits thereat distilled, at the same rates, according to the proof thereof, as are now chargeable on such spirits distilled in cities, towns, and villages, subject to the same regulations, provisions, penalties, and forfeitures, as are established for securing and collecting the duties on other domestic distilled spirits.

Approved, March 2, 1799.

An Act to regulate the Medical Establishment.

Be it enacted, &c., That, in the Medical Establishment of the United States, there shall be the following officers: a physician general, who shall be charged with the superintendence and direction of all military hospitals, and generally of all medical and chirurgical practice or service concerning the Army or Navy of the United States, and of all persons who shall be employed in and about the same, in camps, garrisons, and hospitals. An apothecary general, and one or more deputies, who shall be charged with the safe-keeping and delivery of all medicines, instruments, dressings, and other articles, for the use of the hospital and army. A purveyor, who shall be charged with providing medicines, stores, and whatsoever else may be necessary in relation to the said practice or service. A competent number of hospital surgeons, who shall be liable to serve in the field, and who shall have the immediate charge and direction of such military hospitals as may be committed to their care respectively. A suitable number of hospital mates, who are to observe the directions of the hospital surgeons, and shall diligently perform all reasonable duties required of them for the recovery of the sick and wounded.

Sec. 2. *And be it further enacted*, That each military hospital shall have a steward, with a competent number of nurses and other attendants; which steward shall be charged with the procuring of such supplies as may not otherwise be furnished, and with the safe-keeping and issuing of all supplies.

Sec. 3. *And be it further enacted*, That the said physician general, hospital surgeons, purveyor, and apothecary, and apothecary's deputy or deputies, shall be appointed as other officers of the United States; that the said mates and stewards shall be appointed by the authority and at the direction of the said physician-general, subject to the eventual approbation and control of the President of the United States, and shall be removable by the authority of the said physician general; and that the surgeon of each hospital shall appoint, employ and fix the compensations of the nurses and other attendants of such hospital, subject to the control of the said physician general, or the hospital surgeon of senior appointment, with a separate army, or in a separate district.

Sec. 4. *And be it further enacted*, That, as often as the regimental sick will not suffer by the employing of regimental surgeons or mates in the temporary or other hospitals of the United States, the physician general, or the hospital surgeon of senior appointment with a separate amy, or in a separate, district with the consent of the general and commander-in-chief, or the officer commanding a separate army, may require the attendance of such surgeons or surgeons' mates, as in his opinion can be with safety so withdrawn from their regiments.

Sec. 5. *And be it further enacted*, That it shall be the duty of the physician general, with two or more hospital surgeons, to frame a system of directions relative to the description of patients to be admitted into the hospitals; to the means of promoting cleanliness in the hospitals; to the prevention of idleness, skulking, and gambling, in the hospitals; to the prevention of the spread of infectious distempers in the camps and hospitals, and the government of nurses, and all others charged with the care of the sick in camps or hospitals, subject in the first instance to the approbation and revision of the commander-in-chief, the commander of a separate army, or in a separate district, as the case may be, and eventually to the approbation and control of the President of the United States: *Provided, always*, That the said directions having received the sanction of the commander-in-chief, or the commander of a separate army, shall be operative and remain in full force, unless altered or annulled by the President of the United States.

Sec. 6. *And be it further enacted*, That the compensations of the said several officers shall be as follows: Of the physician general, one hundred dollars pay per month, and fifty dollars per month, which shall be in full compensation for forage, rations, and travelling expenses; of the purveyor, one hundred dollars pay per month, in full compensation for his services and all expenses; of the apothecary general, eighty dollars per month, and thirty dollars per month in full compensation for forage, rations, and all expenses; of each of his deputies, fifty dollars pay per month, and sixteen dollars per month, in full compensation for forage, rations, and all expenses; of each hospital surgeon, eighty dollars pay per month, and forty dollars per month, in full compensation for forage, rations, and all expenses; of each mate, thirty dollars pay per month, and twenty dollars per month, in full compensation for forage, rations, and all expenses; of each steward, twenty-five dollars pay per month, and eight dollars per month, in full compensation for forage, rations, and all expenses. *Provided*, that none of the officers aforesaid shall be entitled to any part of the pay or emoluments aforesaid, until they shall respectively be called into actual service.

Sec. 7. *And be it further enacted*, That, for the accommodation of the sick of the Army and Navy of the United States, the physician general and

hospital surgeon of senior appointment, with the approbation of the general commanding the army within the district where he shall be, shall have power to provide temporary hospitals; and the physician general, with the approbation of the President of the United States, shall have power to provide and establish permanent hospitals.

SEC. 8. *And be it further enacted*, That all the said officers and others shall, as touching their several offices and duties, be liable to the rules and regulations for the government and discipline of the army; and shall be bound to obey, in conformity with law and the usage and customs of armies, the orders and directions of the chief military officers of the respective armies, and within the respective districts in which they shall respectively serve and be.

SEC. 9. *And be it further enacted*, That the physican general, or, in his absence, the senior medical officer, with the approbation of the commander-in-chief, or commanding officer of a separate army, be, and hereby is, authorized and empowered, as often as may be judged necessary, to call a medical board, which shall consist of the three senior medical officers then present, whose duty it shall be to examine all candidates for employment or promotion in the hospital department, and certify to the Secretary at War the qualifications of each.

Approved, March 2, 1799.

An Act making additional appropriations for the year one thousand seven hundred and ninety-nine.

Be it enacted, &c., That the following additional appropriations for the year one thousand seven hundred and ninety-nine, shall be, and are hereby, made; that is to say:

For further expenses in carrying into effect the fifth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, twenty-five thousand dollars.

For the salaries, office-rent, clerk-hire, and contingencies, of the commissioners under the sixth article of the said treaty, and for the salary of their secretary, sixteen thousand dollars.

For enabling the President of the United States to defray the expenses which have been and may be incurred under the act passed June the thirtieth, one thousand seven hundred and ninety-seven, entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty, of Amity, Commerce and Navigation, between the United States and Great Britain," a sum not exceeding ten thousand dollars, in addition to the sum already appropriated for that purpose.

For the salaries of the commissioners, under the seventh article of the said treaty, sixteen thousand six hundred and sixty-six dollars and sixty-seven cents.

For the salaries, clerk-hire, office-rent, and other contingencies of the two agents residing in England, on business relative to the said seventh article, nine thousand eight hundred and thirty-three dollars and thirty-three cents.

For further expenses in carrying into effect the Treaty of Amity, Navigation, and Limits, between the United States and Spain, twenty thousand dollars.

For making good deficiencies in former appropriations for carrying into effect the engagements of the United States with the Mediterranean Powers, two hundred thousand dollars.

For satisfying claims, other than for registered debt, which may be allowed at the Treasury of the United States, pursuant to the act, entitled "An act respecting loan office and final settlement certificates," (in addition to former appropriations) the sum of thirty thousand dollars.

For the expenses of intercourse with foreign nations during the present year, in addition to the sum of forty thousand dollars appropriated by law for that purpose, the sum of twenty-one thousand dollars.

For the contingent expenses of intercourse with foreign nations, the sum of seventy-eight thousand seven hundred dollars.

For the reimbursement of such reasonable advances of money, as have been, or during the present year may be, made by the consuls of the United States, in affording relief to sick and destitute American seamen in foreign countries, or in aiding them to return to their homes, twenty thousand dollars.

For the expenses already arisen, or which during the present year may be incurred, for the support and safe-keeping of persons captured in French ships and vessels, eighteen thousand dollars.

SEC. 2. *And be it further enacted*, That the President of the United States shall be, and hereby is, authorized to cause to be paid to certain subjects of Algiers and Tunis the damages sustained by them from the capture or loss of certain merchandise freighted on board of vessels sailing under the flag of the United States; and that fifty-one thousand nine hundred and eighty-seven dollars be appropriated for that purpose.

SEC. 3. *And be it further enacted*, That the President of the United States shall be, and hereby is, authorized and empowered to cause to be paid to the master and owner of the armed ship Niger, such costs and damages as have been or may be awarded against the United States, pursuant to the decree of the circuit court of the United States for the district of Virginia, for the capture and detention of the said ship by the Constitution frigate; and that eleven thousand dollars be appropriated for that purpose.

SEC. 4. *And be it further enacted*, That the said appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, March 2, 1799.

An Act to amend the act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen."

Be it enacted, &c., That the fourth section of an act, entitled, "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen" be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That all the lands set apart by the first section of the above mentioned act, which shall remain unlocated on the first day of January, in the year one thousand eight hundred and two, shall be released from the said reservation, and shall be at the free disposition of the United States, in like manner as any other vacant territory of the United States. And that all warrants or claims for lands on account of military services, which shall not, before the day aforesaid, be registered and located, shall be forever barred.

Approved, March 2, 1799.

An Act in addition to an act, entitled, "An act for the more general promulgation of the laws of the United States."

Be it enacted, &c., That the Secretary of State shall, as soon as conveniently may be, after he shall receive any order, resolution, or law, passed by Congress, cause the same to be published at least in one of the public newspapers printed within each State; and whenever, in any State, the aforesaid publication shall be found not sufficiently extensive for the promulgation thereof, the Secretary of State shall cause such orders, resolutions, and laws, to be published in a greater number of newspapers printed within such State, not exceeding three in any State.

SEC. 2. *And be it further enacted*, That, in addition to the number of copies of the laws now required to be printed, at the end of every session of Congress, there shall be printed, under the direction of the Secretary of State, five thousand copies; one copy whereof he shall cause to be delivered to each of the judges of the courts of the United States; one copy to the clerks of the said court, respectively, for the use of the said courts; and one copy to each of the district attorneys and marshals of the United States: the rest to be furnished according to the rule for apportioning representatives to the several States, and sent to the Executive thereof, to be by them distributed according to the usage of the States, respectively, as to their own laws, or according to such laws of the States, respectively, as may be provided for the purpose.

SEC. 3. *And be it further enacted*, That the Secretary of State shall cause a copy of the Constitution of the United States, and of the amendments which have been made thereto, to be added to each copy of the laws of the present session of Congress, which is to be printed.

SEC. 4. *And be it further enacted*, That so much of the second section of the act, entitled "An act to provide for the safe-keeping of the acts, records, and seal of the United States," as relates to the publishing the laws, orders, resolutions, and votes, passed by Congress, in the public newspapers, be, and the same is hereby, repealed.

Approved, March 2, 1799.

An Act giving eventual authority to the President of the United States to augment the Army.

Be it enacted, &c., That it shall be lawful for the President of the United States, in case war shall break out between the United States and a foreign European Power, or in case imminent danger of invasion of their territory by any such Power, shall, in his opinion, be discovered to exist, to organize and cause to be raised, in addition to the other military force of the United States, twenty-four regiments of infantry, a regiment and a battalion of riflemen, a battalion of artillerists and engineers, and three regiments of cavalry, or such part thereof as he shall judge necessary; the non-commissioned officers and privates of which to be enlisted for a term not exceeding three years, and to be entitled each to a bounty of ten dollars—one half to be paid at the time of enlistment, and the remainder at the time of joining the regiment to which they may belong.

SEC. 2. *And be it further enacted*, That the President of the United States be authorized, whenever it shall appear to him expedient, if during the session of the Senate, with their advice and consent, if, in their recess, alone, to appoint and commission all officers for the said troops, agreeably to the rules and regulations prescribed by law for the military establishment: *Provided*, That the general and field officers who may be appointed in the recess of the Senate shall, at the next meeting thereof, be nominated and submitted to them for their advice and consent.

SEC. 3. *And be it further enacted*, That the officers, non-commissioned officers, and privates, of the troops which may be organized and raised pursuant to this act, shall be entitled to the like pay, clothing, rations, forage, and other emoluments, and to the like compensation in case of disability, by wounds or otherwise, incurred in the service, as the officers, non-commisioned officers, and privates, of other troops of correspondent denominations, composing the Army of the United States; and with them shall be subject to the rules and articles of war, and to all other regulations for the discipline and government of the army; *Provided*, That no officer, except captains and subalterns who may be employed in the recruiting service, shall be entitled to any pay, or other emolument, until he shall be called into actual service.

SEC. 4. *And be it further enacted*, That the laws of the United States respecting the regulations and emoluments of recruiting officers, punishment of persons who shall procure or entice a soldier to desert, or shall purchase his arms, uniform, clothing, or any part thereof, and the punishment of every commanding officer of every ship or vessel who shall receive on board his ship or vessel, as one of his crew, knowing him to have deserted, or otherwise carry away any soldier, or refuse to deliver him up to the orders of his commanding officer; and the law respecting the oath or affirmation to be taken by officers, non-commisioned officers, musicians, and privates; and respecting the insertion of conditions in the enlistments; and all other laws respecting the Military Establishment of the United States, excepting in such cases where different and specific regulations are made by this act, shall be in force, and apply to all persons, matters, and things, within the intent and meaning of

this act, in the same manner as they would were they inserted at large in the same.

SEC. 5. *And be it further enacted*, That it shall be lawful for the President of the United States, at his discretion, to discharge the whole or any part of the troops which may be raised by virtue of this act, whenever he shall think fit.

SEC. 6. *And be it further enacted*, That the President of the United States be authorized to organize all such companies of volunteers as have been or shall be accepted by him, pursuant to the act, entitled "An act authorizing the President of the United States to raise a provisional army," into regiments, brigades, and divisions, and to appoint all officers thereof, agreeably to the organization prescribed by law for the Army of the United States. And the said volunteers shall not be compelled to serve out of the State in which they reside, a longer time than three months after their arrival at the place of rendezvous.

SEC. 7. *And be it further enacted*, That it shall be lawful for the President of the United States to call forth and employ the said volunteers in all cases, and to effect all the purposes for which he is authorized to call forth and employ the militia by the act, entitled, "An act to provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for these purposes."

SEC. 8. *And be it further enacted*, That it shall not be lawful for the President of the United States, to accept a greater number of the said volunteers in any of the States, or territories of the United States, than is hereinafter apportioned to them respectively, viz: To New Hampshire, three thousand; to Massachusetts, ten thousand; to Rhode Island, one thousand; to Vermont, two thousand; to Connecticut, five thousand; to New York, seven thousand; to New Jersey, five thousand; to Pennsylvania, ten thousand; to Delaware, one thousand; to Maryland, five thousand; to Virginia, ten thousand; to Kentucky, one thousand; to North Carolina seven thousand; to Tennessee, one thousand; to South Carolina, four thousand; to Georgia, fifteen hundred; to Northwestern Territory one thousand; and to Mississippi Territory, five hundred.

SEC. 9. *And be it further enacted*, That for the execution of this act, if it shall be found necessary to carry it, or any part of it, into effect, there be appropriated the sum of two millions of dollars, and that the President be authorized to borrow, on behalf of the United States, the said sum, or so much thereof as he shall deem necessary, (which the Bank of the United States is hereby empowered to lend,) and upon such terms and conditions as he shall judge most advantageous to the United States. *Provided*, That such terms and conditions shall not restrain the United States from paying off the sum which may be borrowed, after the expiration of fifteen years.

SEC. 10. *And be it further enacted*, That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriations heretofore charged upon them by law, shall be, and hereby is, pledged and appropriated for paying the interest of all such moneys as may be borrowed pursuant to this act, according to the terms and conditions on which the loan or loans, respectively, may be effected; and also for paying, by discharging the principal sum or sums of any such loan or loans, according to the terms and conditions to be fixed as aforesaid.

SEC. 11. *And be it further enacted*, That the powers, by the first and second sections of this act, vested in the President of the United States, shall cease at the expiration of the session of Congress next ensuing the present, unless they shall be, by some future law, continued in force for a longer time.

Approved, March 2, 1799.

An Act providing for the security of bail in certain cases.

Be it enacted, &c., That in all cases where a defendant, who hath procured bail to respond the judgment in a suit brought against him in any of the courts of the United States, shall afterwards be arrested in any district of the United States, other than that in which the first suit was brought, and shall be committed to a jail, the use of which shall have been ceded to the United States for the custody of prisoners, it shall be lawful for and the duty of any judge of the court, in which the suit is depending, wherein such defendant had so procured bail as aforesaid, at the request and for the indemnification of the bail, to order and direct that such defendant be held in the jail to which he shall have been committed a prisoner in the custody of the marshal, within whose district such jail is, and upon the said order, duly authenticated, being delivered to the said marshal, it shall be his duty to receive such prisoner into his custody, and him safely to keep, and the marshal shall thereupon be chargeable, as in other cases, for an escape. And the said marshal thereupon shall make a certificate under his hand and seal, of such commitment, and transmit the same to the court from which such order issued; and shall also, if required, make a duplicate thereof, and deliver the same to such bail, his or their agent or attorney, and upon the said certificate being returned to the court which made the said order, it shall be lawful for the said court, or any judge thereof, to direct that an exoneretur be entered upon the bail piece where special bail shall have been found, or otherwise to discharge such bail, and such bail shall thereupon accordingly be discharged.

SEC. 2. *And be it further enacted*, That the marshal, or his deputy, serving such order as aforesaid, shall therefor receive the same fees and allowances as for the service of an original process, commitment thereon to the jail, and the return thereof.

SEC. 3. *And be it further enacted*, That in every case of commitment as aforesaid, by virtue of such order as aforesaid, the person so committed shall, unless sooner discharged by law, be holden in jail until final judgment shall be rendered in the suit in which he procured bail as aforesaid, and sixty days thereafter, if such judgment shall be rendered against him, that he may be charged in execution, which may be directed to and served by the marshal in whose custody he is. *Provided always*, That nothing in this act contained shall effect any case wherein bail has been already given.

Approved, March 2, 1799.

An Act to authorize the sale of certain lands between the Great and Little Miami rivers, in the Territory of the United States Northwest of the river Ohio; and for giving a pre-emption to certain purchasers and settlers.

Be it enacted, &c., That any person or persons who, before the first day of April, in the year one thousand seven hundred and ninety-seven, had made any contract, or contracts, in writing, with John Cleves Symmes, for the purchase of lands between the Great and Little Miami rivers, which are not comprehended in his patent, dated the thirtieth day of September, one thousand seven hundred and ninety-four, shall be entitled to a preference, in purchasing of the United States, all the lands so contracted for, at the price of two dollars an acre, to be paid to the Treasurer of the United States, as follows: one-third part of the purchase-money, on or before the first day of September next; one third part in one year from the said first day of September; and the remaining third part in two years from the said first day of September; which two last payments shall be secured in the manner pointed out and directed by the act, entitled "An act for providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river." And that, upon each payment, the same evidences of purchase and title shall be given to the purchasers, respectively, as to purchasers under the said recited act.

SEC. 2. *And be it further enacted*, That each and every person, claiming the benefit of this act, shall, on or before the first day of September next, give notice, in writing, to the Secretary of the Treasury, or to the Surveyor General, that they claim the right of pre-emption, by this act offered, and do assent to the terms of sale established by this act. And if any person shall neglect to give the said notice, or shall fail in making the first payment, as before directed, all right of pre-emption shall cease and become void; and the lands shall be surveyed and sold agreeably to the directions of the before-recited act.

SEC. 3. *And be it further enacted*, That the Surveyor General shall, as soon as may be, after the receipt of the notice aforesaid, lay off and survey the said lands, agreeably to the directions of the said recited act, unless the said lands have been heretofore surveyed and laid off by the said contractors or settlers; in which case the Surveyor General shall survey the outlines of such tract, or tracts, so as to ascertain the contents, and shall cause the same to be recorded and deposited, as in and by the said recited act, is directed for the plats and surveys made under that act.

SEC. 4. *And be it further enacted*, That it may be lawful for the Secretary of the Treasury to credit the said purchasers with such reasonable sum or sums of money as have been expended in surveying the said land; provided the same does not exceed the sums allowed by the United States to their own surveyors for the like services.

SEC. 5. *And be it further enacted*, That the evidences of the public debt of the United States shall be receivable in payment for the said lands agreeably to the directions of an act, entitled "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States."

Approved, March 2, 1799.

An Act in addition to "An act for the relief of sick and disabled seamen."

Be it enacted, &c., That the President of the United States shall be, and he hereby is, authorized to direct the expenditure of any moneys which have been or shall be collected by virtue of an act, entitled, "An act for the relief of sick and disabled seamen," to be made within the State wherein the same shall have been collected, or within the State next adjoining thereto, excepting what may be collected in the States of New Hampshire, Massachusetts, Rhode Island, and Connecticut; anything in the said act contained to the contrary thereof, notwithstanding.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy shall be, and he hereby is, authorized and directed to deduct, after the first day of September next, from the pay thereafter to become due, of the officers, seamen, and marines, of the Navy of the United States, at the rate of twenty cents per month, for every such officer, seamen, and marine, and to pay the same quarter-annually to the Secretary of the Treasury, to be applied to the same purposes, as the money collected by virtue of the abovementioned act is appropriated.

SEC. 3. *And be it further enacted*, That the officers, seamen, and marines, of the Navy of the United States, shall be entitled to receive the same benefits and advantages, as by the act abovementioned are provided for the relief of the sick and disabled seamen of the merchant vessels of the United States.

Approved, March 2, 1799.

An Act authorizing an augmentation of the Marine Corps.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized to cause the marine corps in the service of the United States to be augmented, by the appointment and enlistment of not exceeding two first lieutenants, six second lieutenants, eight surgeons, one hundred and seventy privates, and eighteen drums and fifes, who shall be respectively allowed the same pay, bounty, clothing, and rations, and shall be employed under the same rules and regulations

to which the said marine corps are or shall be entitled and subject.

Approved, March 2, 1799.

An Act to augment the salaries of the officers therein mentioned.

Be it enacted, &c., That in lieu of the salaries heretofore allowed by law to the officers of the Government of the United States, herein mentioned, the following annual compensations be, and are hereby, granted to the said officers respectively, from the commencement of the present year; that is to say:

The Secretary of State, five thousand dollars:

The Secretary of the Treasury, five thousand dollars:

The Secretary of War, four thousand five hundred dollars:

The Secretary of the Navy, four thousand five hundred dollars:

The Attorney General, three thousand dollars:

The Comptroller of the Treasury, three thousand five hundred dollars:

The Treasurer, three thousand dollars:

The Auditor of the Treasury, three thousand dollars:

The Commissioner of the Revenue, three thousand dollars:

The Register of the Treasury, two thousand four hundred dollars:

The Accountant of the War Department, two thousand dollars:

The Accountant of the Navy Department, two thousand dollars:

The Postmaster General, three thousand dollars:

And, the Assistant Postmaster General, one thousand seven hundred dollars. Which sums, shall be respectively paid, quarterly, at the Treasury of the United States.

Sec. 2. *And be it further enacted*, That this act shall continue in force for three years, and no longer.

Approved, March 2, 1799.

An Act to erect a Beacon on Boon Island.

Be it enacted, &c., That the Secretary of the Treasury, under the direction of the President of the United States, be authorized, as soon as may be, to cause a beacon, or monument, to be erected on a ledge of rocks, called Boon Island, on the seacoast of the District of Maine; and that the sum of four hundred dollars be appropriated for the same, out of any moneys in the Treasury not otherwise appropriated.

Approved, March 2, 1799.

An Act to regulate and fix the compensation of clerks.

Be it enacted, &c., That the Secretaries of the Treasury, State, War, and Navy Departments, shall be, and hereby are, authorized and empowered to vary the compensations heretofore established for clerks in their respective departments, in such manner as the services to be performed shall, in their judgment, require: any thing in any former act to the contrary notwithstanding. *Provided always*, that the whole amount of compensations for clerks, in the said departments, respectively, shall not exceed the following sums; that is to say: For the Department of State, five thousand nine hundred and fifty dollars: For the Treasury Department, forty-two thousand six hundred and twenty dollars and thirty-four cents; that is to say: in the office of the Secretary of the Treasury, five thousand eight hundred and thirty-nine dollars and eighty-one cents; in the office of the Comptroller of the Treasury, nine thousand and sixty-seven dollars and eight cents; in the office of the Auditor of the Treasury, eight thousand eight hundred and ten dollars and ninety-three cents; in the office of the Treasury of the United States, two thousand eight hundred and seventeen dollars and forty-five cents; in the office of the Commissioner of the Revenue, two thousand eight hundred and forty-three dollars and six cents; and in the office of the Register of the Treasury, thirteen thousand two hundred and forty-two dollars and one cent: For the Department of War, fifteen thousand three hundred and forty dollars; that is to say: in the office of the Secretary of the said Department, six thousand three hundred and forty dollars; in the office of the Accountant of the said Department, eight thousand five hundred dollars; and in the office of the Purveyor of Public Supplies, five hundred dollars: For the Department of the Navy, eleven thousand one hundred dollars; that is to say, in the office of the Secretary of the Department of the Navy, four thousand two hundred dollars; and in the office of the Accountant of the Navy Department, six thousand nine hundred dollars.

Sec. 2. *And be it further enacted*, That the Postmaster General of the United States shall be, and hereby is, authorized and empowered to appoint such number of clerks in his office as he shall judge proper, and to apportion and vary their compensations in such manner as the services to be rendered by each, shall, in his judgment, require: *Provided always*, That the whole amount of compensations for clerks in the said office, shall not exceed the sum of four thousand two hundred and fifty dollars, annually; which sum shall be paid quarterly, out of the revenues of the Post Office.

Sec. 3. *And be it further enacted*, That the Director of the Mint shall be, and hereby is, authorized to allow to one of the clerks employed in his office, the sum of two hundred dollars per annum, in addition to the salary of five hundred dollars, heretofore established for the clerks in the said office.

Sec. 4. *And be it further enacted*, That there shall be allowed to the Secretary and Accountant of the Navy Department respectively, in the settlement of their accounts, the following sums for deficiencies in the provisions made by law for their clerks during the year one thousand seven hundred and ninety-eight; that is to say, to the said Secretary, eight hundred and eighty-seven dollars and twenty-nine cents; and to the said

Accountant, one hundred and eighty-eight dollars and thirty-two cents.

Sec. 5. *And be it further enacted*, That there shall be allowed to the Commissioners of Loans in the States of Massachusetts and New York, respectively, not exceeding five clerks, at the rate of five hundred dollars per annum each; to the Commissioner of Loans in the State of Connecticut, not exceeding two clerks, at the rate of four hundred dollars per annum each; to the Commissioners of Loans in the States of Pennsylvania, Virginia, and South Carolina, respectively, not exceeding two clerks, at the rate of five hundred dollars per annum each; the aggregate of the compensations for clerks employed by either of the said Commissioners, to be apportioned among them at his discretion: And that there be annually allowed in lieu of clerk hire, to the Commissioner of Loans in the State of New Hampshire, three hundred and fifty dollars; to the Commissioner of Loans in the State of Rhode Island, four hundred dollars; to the Commissioner of Loans in the State of New Jersey, three hundred dollars; and to the Commissioner of Loans in the State of Maryland, two hundred and fifty dollars.

Approved, March 2, 1799.

An Act to revive and continue in force certain parts of the "Act for the relief and protection of American seamen," and to amend the same.

Be it enacted, &c., That the first, second, and third sections of the act, entitled "An act for the relief and protection of American seamen," shall be, and hereby are, revived and continued in force for one year.

Sec. 2. *And be it further enacted*, That the Secretary of State shall be, and hereby is, required to lay before Congress, within ten days after the commencement of each ordinary session, an annual statement, containing an abstract of all the returns made to him by the collectors of the different ports, pursuant to the said act, and of the communications received by him, from the agents employed by virtue of the same in foreign countries.

Approved, March 2, 1799.

An Act making appropriations for the support of the Naval Establishment for the year one thousand seven hundred and ninety-nine.

Be it enacted, &c., That for the support of the Naval Establishment of the United States, during the year one thousand seven hundred and ninety-nine, there shall be, and hereby is, appropriated, the sum of two millions one hundred and two thousand three hundred and eighty-four dollars and forty-one cents, including the sum of eight hundred and twenty-three thousand eight hundred and eighty-seven dollars and fourteen cents, being the balance unexpended at the commencement of that year, of former appropriations for the Naval Department: That is to say,

For the pay of the officers of the Navy of the United States, the sum of three hundred and five thousand nine hundred and eighty-two dollars.

For the subsistence of the officers of the Navy, the sum of one hundred and eighty-five thousand, five hundred and forty-four dollars and nineteen cents.

For the pay of the seamen, the sum of six hundred and seventy-two thousand nine hundred and ninety dollars.

For provisions, the sum of four hundred and thirty-one thousand seven hundred and twenty-six dollars and thirty cents.

For contingent expenses (including waste of military stores) the sum of three hundred and forty-five thousand eight hundred dollars.

For the expense of medicines, hospital stores, &c., the sum of forty-two thousand seven hundred and fifty dollars.

For the support of the revenue cutters, the sum of one hundred and seventeen thousand five hundred and ninety-one dollars and ninety-two cents.

Sec. 2. *And be it further enacted*, That for the support of the marine corps during the year one thousand seven hundred and ninety-nine, there be, and hereby is, appropriated the sum of two hundred and thirty-seven thousand seven hundred and eighty-eight dollars and thirty-eight cents: That is to say,

For pay and rations for the said corps, the sum of one hundred and seventy-nine thousand seven hundred and ninety-eight dollars.

For clothing, the sum of twenty-nine thousand five hundred and ninety-four dollars and eighty-seven cents.

For military stores, the sum of twenty-five thousand nine hundred and fifty-one dollars and fifty-one cents.

For contingent expenses, the sum of four hundred and twenty dollars.

For bounties and premiums, the sum of two thousand and twenty-four dollars.

Sec. 3. *And be it further enacted*, That for completing the vessels now building, the purchase of arms and military stores for the same, and for contingent expenses relative thereto, the sum of one million four thousand five hundred and four dollars and twenty-four cents, shall be, and hereby is, appropriated.

Sec. 4. *And be it further enacted*, That the aforesaid appropriations shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, March 2, 1799.

An Act to establish the Post Office of the United States.

Be it enacted, &c., That there be established at the seat of Government of the United States, a General Post Office, under the direction of a Postmaster General. The Postmaster General shall appoint an assistant, and such clerks as may be necessary for performing the business of his office. He shall establish post offices and appoint postmasters at all such places as shall appear to him expedient, on the post roads that are or may be established by law; he shall give his assistant

the post masters, and all other persons whom he shall employ, or who may be employed in any of the departments of the General Post Office, instructions relative to their duty; he shall provide for the carriage of the mail on all post roads that are or may be established by law, and as often as he, having regard to the productiveness thereof, and other circumstances, shall think proper; he may direct the route or road where there are more than one between places designated by law for a post road, which route shall be considered the post road; he shall obtain from the postmasters their accounts and vouchers for their receipts and expenditures once in three months, or oftener, with the balances thereon arising in favor of the General Post Office; he shall pay all expenses which may arise in conducting the post office, and in the conveyance of the mail, and all other necessary expenses arising on the collection of the revenue and management of the General Post Office; he shall prosecute offences against the Post Office Establishment; he shall, once in three months, render to the Secretary of the Treasury a quarterly account of all the receipts and expenditures in the said department, to be adjusted and settled as other public accounts; he shall also superintend the business of the department in all the duties that are or may be assigned to it: *Provided*, That in case of the death, resignation, or removal from office, of the Postmaster General, all his duties shall be performed by his assistant, until a successor shall be appointed and arrive at the General Post Office to perform the business.

Sec. 2. *And be it further enacted*, That the Postmaster General and all other persons employed in the General Post Office, or in the care, custody, or conveyance of the mail, shall, previous to entering upon the duties assigned to them, or the execution of their trusts, and before they shall be entitled to receive any emolument therefor, respectively, take and subscribe the following oath or affirmation, before some magistrate, and cause a certificate thereof to be filed in the General Post Office: "I, A. B., do swear (or affirm, as the case may be) that I will faithfully perform all the duties required of me, and abstain from everything forbidden by the laws in relation to the establishment of the Post Office and post roads within the United States." Every person who shall be in any manner employed in the care, custody, conveyance, or management, of the mail, shall be subject to all pains, penalties, and forfeitures, for violating the injunctions, or neglecting the duties required of him by the laws relating to the establishment of the Post Office and post roads, whether such person shall have taken the oath or affirmation above prescribed or not.

Sec. 3. *And be it further enacted*, That if any person shall knowingly and wilfully obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage carrying the same, he shall upon conviction for every such offence pay a fine not exceeding one hundred dollars: And if any ferryman shall, by wilful negligence or refusal to transport the mail across any ferry, delay the same, he shall forfeit and pay for each half hour that the same shall be so delayed, a sum not exceeding ten dollars.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Postmaster General to give public notice, in one or more of the newspapers published at the seat of Government of the United States, and in one or more of the newspapers published in the State or States where the contract is to be performed, for at least six weeks before entering into any contract for carrying the mail, that such contract is intended to be made, and the day on which it is to be concluded, describing the places from and to which such mail is to be conveyed, the time at which it is to be made up, and the day and hour at which it is to be delivered. He shall, moreover, within ninety days after the making of any contract, lodge a duplicate thereof, together with the proposals which he shall have received respecting it, in the office of the Comptroller of the Treasury of the United States: *Provided*, That no contract shall be entered into for a longer term than four years.

Sec. 5. *And be it further enacted*, That every postmaster shall keep an office, in which one or more persons shall attend, at such hours as the Postmaster General shall direct, for the purpose of performing the duties thereof, and all letters brought to any post office half an hour before the time of making up the mail at such office, shall be forwarded therein; except at such post offices where, in the opinion of the Postmaster General, it requires more time for making up the mail, and which he shall accordingly prescribe, but this shall in no case exceed one hour.

Sec. 6. *And be it further enacted*, That no fees or perquisites shall be received by any person employed in the General Post Office on account of the duties to be performed by virtue of his appointment.

Sec. 7. *And be it further enacted*, That the following rates of postage shall be charged on all letters and packets (excepting such as hereinafter exempted) conveyed by the post of the United States, viz:

For every letter composed of a single sheet of paper, conveyed not exceeding forty miles, eight cents.

Over forty, and not exceeding ninety miles, ten cents.

Over ninety, and not exceeding one hundred and fifty miles, twelve and an half cents.

Over one hundred and fifty, and not exceeding three hundred miles, seventeen cents.

Over three hundred, and not exceeding five hundred miles, twenty cents.

Over five hundred miles, twenty-five cents.

And for every double letter, or one composed of two pieces of paper, double those rates; and for every triple letter, or one composed of three pieces of paper, triple those rates; and for every packet composed of four or more pieces of paper, or other thing, and weighing one ounce avoirdupois, quadruple those rates; and in that proportion for all greater weight: *Provided*, That no packet of letters conveyed by the water mails shall be charged with more than quadruple postage, unless the same shall actually contain more than four distinct letters. No postmaster shall be obliged to receive, to be conveyed by mail, any packet which shall weigh more than three pounds.

Sec. 8. *And be it further enacted*, That every letter or packet brought into the United States, or carried from one port therein to another, in any private ship or vessel, shall be charged with six cents, if delivered at the post office where the same shall arrive, and if destined to be conveyed by post to any other place, with two cents added to the ordinary rates of postage.

Sec. 9. *And be it further enacted*, That if any postmaster, or other person, authorized by the Postmaster General to receive the postages of letters, shall fraudulently demand or receive any rate of postage, or gratuity, or reward, other than is provided by this act, for the postage of letters or packets, on conviction thereof, he shall forfeit for every such offence, one hundred dollars, and be rendered incapable of holding any office or appointment under the United States.

Sec. 10. *And be it further enacted*, That no ship or vessel arriving at any port within the United States, where a post office is established, shall be permitted to report, make entry, or break bulk, until the master or commander shall have delivered to the postmaster all letters directed to any person or persons within the United States, which, under his care or within his power, shall be brought in such ship or vessel, except such as are directed to the owner or consignee of the ship or vessel, and except also such as are directed to be delivered at the port of delivery to which such ship or vessel may be bound. And it shall be the duty of the collector, or other officer of the port empowered to receive entries of ships or vessels, to require from every master or commander of such ship or vessel, an oath or affirmation, purporting that he has delivered all such letters, except as aforesaid.

Sec. 11. *And be it further enacted*, That the postmasters to whom such letters may be delivered, shall pay to the master or commander, or other person delivering the same, except the commanders of foreign packets, two cents for each letter or packet, and shall obtain from the person delivering the same, a certificate specifying the number of letters and packets, with the name of the ship or vessel, and the place from whence she last sailed; which certificate, together with a receipt for the money, shall be, with his quarterly accounts, transmitted to the Postmaster General, who shall credit him with the amount.

Sec. 12. *And be it further enacted*, That if any person, other than the Postmaster General, or his deputies, or persons by them employed, shall be concerned in setting up or maintaining any foot or horse post, stage wagon, or other stage carriage, on any established post road, or from one post town to another post town, on any road adjacent or parallel to an established post road, or any packet boat or other vessel, to ply regularly from one place to another, between which a regular communication by water shall be established by the United States, and shall receive any letter or packet, other than newspapers, magazines, or pamphlets, and carry the same by such foot or horse post, stage wagon, or other stage carriage, packet boat, or vessel, excepting only such letter or letters as may be directed to the owner or owners of such conveyance, and relating to the same, or to the person to whom any package or bundle in such conveyance, is intended to be delivered; every person so offending shall forfeit, for every such offence, the sum of fifty dollars: *Provided*, That it shall be lawful for any person to send letters or packets by a special messenger.

Sec. 13. *And be it further enacted*, That the deputy postmasters, and other agents of the Postmaster General, shall duly account and answer to him for all way letters which shall come to their hands; and, for this purpose, the post riders, and other carriers of the mail, receiving any way letter or letters, (and it shall it be their duty to receive them, if presented more than two miles from a post office,) shall deliver the same, together with the postage, if paid, at the first post office to which they shall afterwards arrive, where the postmaster shall duly enter the same, and specify the number, and rate or rates in the post bill, adding to the rate of each way leter, one cent, which shall be paid by the postmaster to the mail carrier from whom such way letter shall be received. And that letters directed to persons living between post offices may be delivered, and the postage thereof duly collected, it shall be the duty of the carriers of the mail to take charge of and deliver all such letters, as shall, for that purpose, be committed to them, by any postmaster, and collect the postage thereof, which shall be paid over to such postmaster on demand. And for every letter so delivered, the mail carrier delivering the same shall be allowed to demand and receive two cents to his own use, besides the ordinary postage. And if any postmaster, or other agent of the Postmaster General, shall neglect so to account, he or they so offending shall, on conviction thereof, forfeit, for every such offence, a sum not exceeding fifty dollars: *Provided*, That no mail carrier shall make such deliveries at any place not on the post road: *Provided, also*, That the receipt and delivery of letters on the way, between the post offices, shall not be required of the mail carriers in cases where, in the opinion of the Postmaster General, the time or manner of carrying the mail, or the speed of conveyance, is incompatible with such receipts and deliveries.

Sec. 14. *And be it further enacted*, That if any person employed in any of the departments of the General Post Office, shall unlawfully detain, delay, or open any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which are intended to be conveyed by post, or if any such person shall secrete, embezzle, or destroy any letter or packet entrusted to him as aforesaid, and which shall not contain any security for, or assurance relating to, money, as hereinafter described, every such offender, being thereof duly convicted, shall, for every such offence, be fined not exceeding three hundred dollars, or imprisoned not exceeding

six months, or both, according to the circumstances and aggravations of the offence. And if any person employed as aforesaid, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and are intended to be conveyed by post, containing any bank note, or bank post bill, bill of exchange, warrant of the Treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to, payment of moneys, or any bond or warrant, draught, bill, or promissory note whatsoever, for the payment of money; or if any such person, employed as aforesaid, shall steal or take any of the same out of any letter, packet, bag, or mail of letters, that shall come to his possession, he shall, on conviction for any such offence, be publicly whipped not exceeding forty stripes, and be imprisoned not exceeding ten years. And if any person, who shall have taken charge of the mail of the United States, shall quit or desert the same, before his arrival at the next post office, every such person so offending shall forfeit and pay a sum not exceeding five hundred dollars for every such offence. And if any person concerned in carrying the mail of the United States, shall collect, receive, or carry any letter or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars.

Sec. 15. *And be it further enacted*, That if any person shall rob any carrier of the mail of the United States, or other person entrusted therewith, of such mail, or of part thereof, such offender or offenders shall, on conviction, be publicly whipped, not exceeding forty lashes, and be imprisoned not exceeding ten years; and if convicted a second time of a like offence, he or they shall suffer death. Or if, in effecting such robbery of the mail, the first time, the offender shall much wound the person having the custody thereof, or put his life in jeopardy by the use of dangerous weapons, such offender or offenders shall suffer death. And if any person shall attempt to rob the mail of the United States, by falling upon the person having custody thereof, shooting at him or his horses, or threatening him with dangerous weapons, and the robbery is not effected, every such offender, on conviction thereof, shall be punished by whipping, not exceeding thirty lashes, or with imprisonment, not exceeding two years, or with both, according to the discretion of the court before whom such conviction is had. And if any person shall steal the mail, or shall steal or take from or out of any mail, or from or out of any post office, any letter or packet, or if any person shall take the mail, or any letter or packet therefrom, or from any post office, whether with or without the consent of the person having custody thereof, and shall open, embezzle, or destroy any such mail, letter or packet, the same containing any article of value, or evidence of any debt, due, demand, right, or claim, or if any person shall, by fraud or deception, obtain from any person having custody thereof, any mail, letter, or packet, containing any article of value, or evidence thereof, such offender or offenders, on conviction thereof, shall be whipped, not exceeding thirty lashes, or imprisoned, not exceeding two years, or both, at the discretion of the court before whom such conviction is had. And if any person shall take any letter or packet, not containing any article of value or evidence thereof, out of a post office, or shall open any letter or packet which shall have been in a post office, or in the custody of a mail carrier, before it shall have been delivered to the person to whom it is directed, with design to obstruct the correspondence, to pry into another's business, or secrets, or shall secrete, embezzle, or destroy any such mail, letter, or packet, such offender, upon conviction, shall pay for every such offence a sum not exceeding one hundred dollars. *Provided also, and be it further enacted*, That every person who shall be imprisoned by a judgment of court under the 14th and 15th sections of this act, shall be kept at hard labor during the period of such imprisonment.

Sec. 16. *And be it further enacted*, That the postmasters shall, respectively, publish, at the expiration of every three months, or oftener, when the Postmaster General shall so direct, in one of the newspapers published at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in their respective offices, or, instead thereof, shall make out a number of such lists, and cause them to be posted at such public places in their vicinity, as shall appear to them best adapted for the information of the parties concerned; and at the expiration of the next three months, shall send such of the said letters, as then remain on hand as dead letters, to the General Post Office, where the same shall be opened and inspected; and if any valuable papers or matter of consequence shall be found therein, it shall be the duty of the Postmaster General to return such letter to the writer thereof, or cause a descriptive list thereof to be inserted in one of the newspapers published at the place most convenient to the supposed residence of the owner, if within the United States; and such letter, and the contents, shall be preserved, to be delivered to the person to whom the same shall be addressed, upon payment of the postage, and the expense of publication. And if such letter, with its contents, be not demanded by the person to whom it is addressed, or the owner thereof, or his lawful agent, within two years after the advertisement thereof as aforesaid, the said contents shall be applied to the use of the United States, until the same shall be reclaimed by the proprietor thereof. The manner of such applications to be specially stated by the Postmaster General to the Secretary of the Treasury.

Sec. 17. *And be it further enacted*, That letters and packets to and from the following officers of the United States, shall be received and conveyed by post, free of postage: Each postmaster, provided each of his letters or packets shall not exceed half an ounce in weight, each member of the

Senate and House of Representatives of the Congress of the United States, the Secretary of the Senate and Clerk of the House of Representatives, provided each letter or packet shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and twenty days after such session; the President of the United States; Vice President; the Secretary of the Treasury; Comptroller; Auditor; Register; Treasurer; Commissioner of the Revenue; Supervisors of the Revenue; Inspectors of the Revenue; Commissioners for direct taxes; Purveyor; the Secretary of War; Accountant of the War Office; the Secretary of State; the Secretary of the Navy, and Accountant of the Navy; the Postmaster General; Assistant Postmaster General: and they may all receive their newspapers by post, free of postage: *Provided*, That the members of the Senate and House of Representatives, Secretary of the Senate, and Clerk of the House of Representatives, shall receive their newspapers free of postage only during any session of Congress, and twenty days after the expiration of the same: *And provided*, That no letter or packet from any public officer shall be conveyed by post, free of postage, unless he shall frank the same, by writing his name and office on the outside of such letter or packet, and until he has previously furnished the postmaster of the office where he shall deposite the same, with a specimen of his signature; *Provided, also*, That all letters and packages to and from George Washington, late President of the United States, shall continue to be received and conveyed by post, free of postage.

Sec. 18. *And be it further enacted*, That if any person shall frank letters other than those written by himself, or by his order, on the business of his office he shall, on conviction thereof, pay a fine of ten dollars: *Provided*, That the Secretary of the Treasury, Secretary of State, Secretary of War, Secretary of the Navy, and Postmaster General, may frank letters or packets on official business, prepared in any other public office, in the absence of the principal thereof. And if any person having the right to receive his letters free of postage, shall receive enclosed to him any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post office, marking thereon the place from whence it came, that it may be charged with postage. And if any person shall counterfeit the hand-writing or frank of any person, or cause the same to be done in order to evade the payment of postage, each person so offending shall pay for every such offence fifty dollars.

Sec. 19. *And be it further enacted*, That every printer of newspapers may send one paper to each and every other printer of newspapers within the United States, free of postage, under such regulations as the Postmaster General shall provide.

Sec. 20. *And be it further enacted*, That all newspapers conveyed in the mail shall be under cover, open at one end, and charged with a postage of one cent each, for any distance not more than one hundred miles, and one and an half cents for any greater distance: *Provided*, That the postage of a single newspaper, from any one place to another in the same State, shall not exceed one cent.; and that the Postmaster General may make such regulations as to require those who receive newspapers by post, to pay always the amount of one quarter's postage in advance.

If any person employed in any department of the Post Office shall improperly detain, delay, embezzle or destroy any newspaper, or shall permit any other person to do the like, or shall open or permit any other to open any mail or packet of newspapers, not directed to the office where he is employed, he shall, on conviction thereof, forfeit a sum not exceeding fifty dollars for every such offence. And if any other person shall open any mail or packet of newspapers, or shall embezzle or destroy the same, not being directed to himself, or not being authorized to receive and open the same, he shall, on conviction thereof, pay a sum not exceeding twenty dollars for every such offence. And if any person shall take or steal any packet, bag, or mail of newspapers from or out of any post office, or from any person having custody thereof, such person shall, on conviction, be imprisoned, not exceeding three months for every such offence, to be kept at hard labor, during the period of such imprisonment.

If any person shall enclose or conceal a letter or other thing, or any memorandum in writing, in a newspaper, or among any package of newspapers, which he shall have delivered into any post office, or to any person for that purpose, in order that the same may be carried by post, free of letter postage, he shall forfeit the sum of five dollars for every such offence: and the letter, newspaper, package, memorandum, or other thing, shall not be delivered to the person to whom it is directed, until the amount of single letter postage is paid for each article of which the package shall be composed.

No newspapers shall be received by the postmasters, to be conveyed by the post, unless they are sufficiently dried and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers which are enclosed for subscribers, and the number for printers.

The Postmaster General, in any contract he may enter into for the conveyance of the mail, may authorize the person with whom such contract is to be made, to carry newspapers, magazines, and pamphlets, other than those conveyed in the mail.

When the mode of conveyance, and the size of the mails will admit of it, magazines and pamphlets may be transported in the mail at one cent a sheet, for any distance not exceeding fifty miles; at one cent and a half for any distance over fifty and not exceeding one hundred miles; and two cents for any greater distance.

Sec. 21. *And be it further enacted*, That the Postmaster General be authorized to allow to the postmasters, respectively, such commission on the moneys arising from the postages of letters and packets as shall be adequate to their respective services and expenses: *Provided*, That the said commission shall not exceed thirty per cent. on

the first hundred dollars collected in one quarter; and twenty-five per cent. on a sum over one hundred, and not more than three hundred; and twenty per cent. on any sum over four hundred and not exceeding two thousand dollars; and eight per cent. on any sum collected, being over two thousand four hundred dollars; except to the postmasters, who may be employed in receiving and despatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars in one quarter; and excepting to the postmasters, at offices where the mail is regularly to arrive between the hours of nine o'clock at night and five o'clock in the morning; whose commission on the first hundred dollars, collected in one quarter, may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the postmasters, respectively, a commission of fifty per cent. on the moneys arising from the postages of newspapers, magazines, and pamphlets; and to the postmasters, whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the postmaster himself; and each postmaster, who shall be required to keep a register of the arrival and departure of the mails, shall be allowed ten cents for each monthly return which he makes thereof to the General Post Office.

Sec. 22. *And be it further enacted*, That if any postmaster, or other person, authorized to receive the postages of letters and packets, shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due at the end of every three months, it shall be the duty of the Postmaster General to cause a suit to be commenced against the person or persons so neglecting or refusing; and if the Postmaster General shall not cause such suit to be commenced within six months from the end of every such three months, the balances due from every such delinquent shall be charged to, and recoverable from, the Postmaster General.

That all suits which shall be hereafter commenced for the recovery of debts or balances due to the General Post Office, whether they appear by bond or obligations made in the name of the existing, or any preceding Postmaster General, or otherwise, shall be instituted in the name of the "Postmaster General of the United States."

That certified copies, under the seal of the General Post Office, of the accounts current of the several postmasters, after the same shall have been examined and adjusted at that office, shall be admitted as evidence in all suits brought by the Postmaster General for the recovery of balances or debts due from postmasters, and in like manner copies of such accounts current as are lodged in the office of the Register of the Treasury, certified by the Register under the seal of his office, shall be admitted as evidence.

Sec. 23. *And be it further enacted*, That if any postmaster, or other person, who shall receive and open, or despatch mails, shall neglect to render accounts thereof, for one month after the time, and in the form and manner prescribed by law, and by the Postmaster General's instructions conformable therewith, he shall forfeit double the value of the postages which shall have arisen at the same office, in any equal portion of time previous or subsequent thereto; or in case no accounts shall have been rendered at the time of trial of such case, then such sum as the court and jury shall estimate equivalent thereto, to be recovered by the Postmaster General in an action on the case.

Sec. 24. *And be it further enacted*, That all pecuniary penalties and forfeitures incurred under this act, shall be, one half for the use of the person or persons informing and prosecuting for the same, and the other half to the use of the United States.

Sec. 25. *And be it further enacted*, That it shall be lawful for the Postmaster General to make provision, where it may be necessary, for the receipt of all letters and packages intended to be conveyed by any ship or vessel beyond sea, or from any port in the United States, to another port therein; and the letters so received, shall be formed into a mail, sealed up, and directed to the postmaster of the port to which such ship or vessel shall be bound. And for every letter or packet so received, there shall be paid, at the time of its reception, a postage of one cent, which shall be for the use of the postmasters respectively receiving the same. And the Postmaster General may make arrangements with the postmasters in any foreign country, for the reciprocal receipt and delivery of letters and packets through the post offices.

Sec. 26. *And be it further enacted*, That the postmasters, and the persons employed in the transportation of the mail, shall be exempt from militia duties, and serving on juries, or any fine or penalty for neglect thereof.

Sec. 27. *And be it further enacted*, That letter carriers shall be employed at such post offices as the Postmaster General shall direct, for the delivery of letters in the places respectively where such post offices are established; and for the delivery of each such letter, the letter carrier may receive of the person to whom the delivery is made, two cents: *Provided*, That no letter shall be delivered to such letter carrier for distribution, addressed to any person who shall have lodged at the post office a written request that his letters shall be detained in the office. And for every letter lodged at any post office, not to be carried by post, but to be delivered at the place where it is to be so lodged, the postmaster shall receive one cent of the person to whom it shall be delivered.

Sec. 28. *And be it further enacted*, That all causes of action arising under this act may be sued, and all offenders against this act may be prosecuted, before the justices of the peace, magistrates, and other judicial courts of the several States, and of the several Territories of the United States, they having competent jurisdiction by the laws of such States or Territories, to the trial of claims and demands of as great value, and of prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary, shall take cognizance thereof, and proceed to judgment and execution, as in other cases.

Sec. 29. *And be it further enacted*, That in all suits for causes arising under this act, the court shall proceed to trial, and render judgment the first term after such suit shall be commenced: *Provided always*, That whenever service of the process shall not have been made twenty days, at least, previous to the return day of such term, the defendant shall be entitled to one continuance, if the court, on the statement of such defendant, shall judge it expedient: *Provided also*, That if the defendant in such suits shall make affidavit that he has a claim against the General Post Office, not allowed by the Postmaster General, although submitted to him conformable to the regulations of the post office, and shall specify such claim in the affidavit, and that he could not be prepared for the trial at such term for want of evidence, the court in such case, being satisfied in those respects, may grant a continuance until the next succeeding term.

Sec. 30. *And be it further enacted*, That it shall be the duty of the Postmaster General to report, annually, to Congress, every post road which shall not, after the second year from its establishment, have produced one third of the expense of carrying the mail on the same.

Sec. 31. *And be it further enacted*, That from and after the last day of April next, the several clauses and provisions, excepting the first and second sections thereof, of an act, entitled "An act to establish the Post Office and post roads within the United States," and the several clauses, provisions, and sections of an act (excepting the first and second sections thereof) entitled, "An act in addition to an act, entitled 'An act to establish the Post Office and post roads within the United States," approved the third of March, one thousand seven hundred and ninety-seven, shall be, and the same are hereby, repealed: *Provided*, That nothing herein contained shall be construed to exonerate any person who shall not have performed the duty, or who shall have violated any of the prohibitions contained in the said acts, from suits or prosecutions; but as to all bonds, contracts, debts, demands, rights, penalties, punishments, which have been made, have arisen, or have been incurred, or which shall be made, arise, or be incurred previous to the first day of May next, the said acts shall have the same force and effect as though this act had not been made: *Provided also*, That the Postmaster General, deputy postmasters, contractors for carrying the mail, and others employed under the aforesaid acts, shall continue to hold their several offices, appointments, and trusts, until they are otherwise removed; anything herein contained that might be construed to the contrary notwithstanding; and also the bonds which they, or either of them, have or may give for the faithful execution of their several duties and offices, shall continue to have the same force and effect, to all intents and purposes, after the said first day of May next, as though this act had not been made.

Approved March 2, 1799.

An act making appropriations for the support of the Military Establishment, for the year one thousand seven hundred and ninety-nine.

Be it enacted, &c., That for the support of the Military Establishment of the United States, for the year one thousand seven hundred and ninety-nine; the pay and subsistence of the officers and men; bounties and premiums; the clothing, hospital, ordnance, quartermaster's, and Indian departments; the defensive protection of the frontiers; the contingent expenses of the War Department, and the payment of military pensions, the sum of one million five hundred and forty-seven thousand seven hundred and nineteen dollars, be and hereby is appropriated; that is to say:

For the pay of the Army of the United States, the sum of four hundred and forty-five thousand two hundred and twenty-four dollars.

For the subsistence of the officers of the army, fifty-six thousand three hundred and seventy-six dollars.

For the subsistence of the non-commissioned officers and privates, the sum of three hundred and seventy-one thousand seven hundred and eighty-nine dollars.

For forage, the sum of seventeen thousand one hundred and sixty dollars.

For equipments for one company of cavalry, two thousand one hundred and forty dollars.

For horses for the cavalry, to replace those which may die, or become unfit for service, the sum of four thousand five hundred dollars.

For clothing, the sum of one hundred and twenty-seven thousand four hundred and fifty dollars.

For bounties and premiums, the sum of five thousand dollars.

For the hospital department, the sum of twelve thousand dollars.

For the ordnance department, the sum of eighty-one thousand one hundred and eighty dollars.

For the quartermaster's department, the sum of two hundred thousand dollars.

For the Indian department, the following sums, that is to say:

For promoting civilization among the Indian tribes, and pay of temporary agents, the sum of fifteen thousand dollars.

For the expense attending the running of the line of demarcation between the Indian territory and the United States, including the pay of commissioners, surveyors, and assistants, the sum of four thousand dollars.

For contingent expenses for presents to Indians, on their visits to the seat of Government, expenses attending their journeys, and during their stay at the seat of Government, the sum of ten thousand dollars.

For rations to Indians at the different military posts, and within their respective nations, the sum of twenty-two thousand five hundred dollars.

For the defensive protection of the frontiers of the United States, including the erection and repair of forts and fortifications, the sum of sixty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special

purposes, advertising and apprehending deserters, printing, purchasing of maps, and other contingencies, the sum of twenty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions, from the fifth day of March, one thousand seven hundred and ninety-nine, to the fourth day of March, one thousand eight hundred, the sum of ninety-three thousand four hundred dollars.

Sec. 2. *And be it further enacted*, That, for the additional Army of the United States, the following sums, including the sum of nine hundred thousand dollars, already appropriated on account, be, and are hereby, respectively, appropriated, that is to say:

For the pay and subsistence of the officers, non-commissioned officers, and privates, the sum of one million six hundred thousand four hundred and forty-three dollars:

For forage, the sum of forty-five thousand four hundred and seventy-eight dollars:

For bounties and premiums, the sum of one hundred and thirty-five thousand and sixteen dollars:

For clothing, two hundred and forty one thousand one hundred dollars:

For the expense of horses and equipments for the dragoons, the sum of fifty-eight thousand seven hundred and ninety-three dollars:

For the hospital department, the sum of forty thousand dollars:

For the Quartermaster's department, the sum of six hundred thousand dollars:

For contingent expenses, the sum of twenty thousand dollars.

Sec. 3. *And be it further enacted*, That the foregoing appropriations shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, March 2, 1799.

An act vesting the power of retaliation, in certain cases, in the President of the United States.

Be it enacted, &c., That, on information being given to the President of the United States, proving satisfactorily to him that any citizen of the United States who shall have been or may be found on board any vessel of war of either of the Powers at war with the French Republic, and who shall be impressed or forced by violence or threats to enter on board such vessel, hath suffered death, or hath received other corporal punishment, or shall be imprisoned with unusual severity, by order of the Executive Directory of the French Republic, or of any officer or agent acting under their authority, in pursuance of any decree of the said Directory, or law of the French Republic; it shall be lawful for the President of the United States, and he is hereby empowered and required, to cause the most rigorous retaliation to be executed on any such citizens of the French Republic as have been or hereafter may be captured in pursuance of any of the laws of the United States.

Approved, March 3, 1799.

An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

Be it enacted, &c., That the following boundary line, established by treaty between the United States and various Indian tribes, shall be clearly ascertained, and distinctly marked, in all such places as the President of the United States shall deem necessary, and in such manner as he shall direct, to wit: beginning at the mouth of the Cayahogo river, on Lake Erie, and running thence up the same to the portage between that and the Tuscaroras branch of the Muskingum; thence, down that branch to the crossing-place above Fort Lawrence; thence westwardly to a fork of that branch of the Great Miami river, running into the Ohio, at or near which fork stood Laromie's store, and where commences the portage between the Miami of the Ohio, and Saint Mary's river, which is a branch of the Miami, which runs into Lake Erie; thence a westwardly course to Fort Recovery, which stands on a branch of the Wabash; thence southwestwardly in a direct line to the Ohio, so as to intersect that river opposite the mouth of Kentucky or Cuttawa river; thence down the said river Ohio, to the tract of one hundred and fifty thousand acres, near the rapids of the Ohio, which has been assigned to General Clarke, for the use of himself and his warriors; thence around the said tract, on the line of the said tract, till it shall again intersect the said river Ohio; thence down the same, to a point opposite the high lands or ridge between the mouth of the Cumberland and Tennessee rivers; thence southeastwardly on the said ridge, to a point from whence a southwest line will strike the mouth of Duck river; thence still eastwardly on the said ridge, to a point forty miles above Nashville; thence northeast, to Cumberland river; thence up the said river, to where the Kentucky road crosses the same; thence to the Cumberland mountain, at the point of Campbell's line; thence in a southwestwardly direction along the foot of the Cumberland mountains to Emery's river; thence down the same to its junction with the river Clinch; thence down the river Clinch to Hawkins's line; thence along the same to a white oak, marked "one mile tree;" thence south fifty-one degrees west, three hundred and twenty-eight chains, to a large ash tree on the bank of the river Tennessee, one mile below Southwest Point; thence up the northeast margin of the river Tennessee (not including island) to the Wild Cat rock below Tellico blockhouse; thence in a direct line to the Militia Spring near the Maryville road leading from Tellico; thence from the said Spring to the Chilhowee mountain, by a line so to be run, as will leave all the farms on Nine-mile creek to the northward and eastward of it, and to be continued along the Chilhowee mountain until it strikes Hawkins's line; thence along the said line to the Great Iron mountain; and from the top of which a line to be continued in a southeastwardly course to where the most southern branch of Little river crosses the divisional line to Tugaloo river; thence along the South Carolina Indian boundary, to and over the Ocunna mountain, in a southwest course to

Tugaloo river; thence in a direct line to the top of Currahee mountain, where the creek line passes it; thence to the head or source of the main south branch of the Oconee river, called the Appalachee; thence down the middle of the said main south branch and river Oconee, to its confluence with Oakmulgee, which forms the river Altamaha; thence down the middle of the said Altamaha, to the old line on the said river; and thence along the said old line to the river Saint Mary's: *Provided, always*, That if the boundary line between the said Indian tribes and the United States shall, at any time hereafter, be varied by any treaty which shall be made between the said Indian tribes and the United States, then all the provisions contained in this act shall be construed to apply to the said line so to be varied, in the same manner as said provisions apply by force of this act to the boundary line hereinbefore recited.

Sec. 2. *And be it further enacted*, That if any citizen of, or other person resident in, the United States, or either of the territorial districts of the United States, shall cross over or go within the said boundary line to hunt or in anywise destroy the game, or shall drive or otherwise convey any stock of horses or cattle to range on any lands allotted or secured by treaty with the United States to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months.

Sec. 3. *And be it further enacted*, That if any such citizen or other person shall go into any country which is allotted or secured by treaty, as aforesaid, to any of the Indian tribes south of the river Ohio, without a passport first had and obtained from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may from time to time authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned not exceeding three months.

Sec. 4. *And be it further enacted*, That if any such citizen or other person shall go into any town, settlement, or territory, belonging or secured by treaty with the United States to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punishable, if committed within the jurisdiction of any State, against a citizen of the United States; or unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall also, when property is taken or destroyed, forfeit and pay to such Indian or Indians to whom the property taken and destroyed belongs, a sum equal to twice the just value of the property so taken or destroyed. And if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value, shall be paid out of the Treasury of the United States: *Provided, nevertheless*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction, by any force or violence.

Sec. 5. *And be it further enacted*, That if any such citizen, or other person, shall make a settlement on any lands belonging, or secured, or granted, by treaty with the United States, to any Indian tribe, or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees, or otherwise, such offender shall forfeit all his right, title, and claim, if any, he has, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, whereupon he shall make a settlement, or which he shall survey, or attempt to survey, or designate any of the boundaries thereof, by marking trees or otherwise, and shall also forfeit a sum not exceeding one thousand dollars, and suffer imprisonment, not exceeding twelve months. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary, to remove from lands belonging, or secured by treaty, as aforesaid, to any Indian tribe, any such citizen or other person, who has made or shall hereafter make, or attempt to make, a settlement thereon: And every right, title, or claim forfeited under this act, shall be taken and deemed to be invested in the United States, upon conviction of the offender, without any other or further proceeding.

Sec. 6. *And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement, or territory, belonging to any nation or tribe of Indians, and shall there commit murder, by killing any Indian or Indians belonging to any nation or tribe of Indians in amity with the United States, such offender, on being thereof convicted, shall suffer death.

Sec. 7. *And be it further enacted*, That no such citizen, or other person, shall be permitted to reside at any of the towns, or hunting camps, of any of the Indian tribes as a trader, without a license under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall authorize to grant licences for that purpose: Which superintendent, or person authorized, shall, on application, issue such license, for a term not exceeding two years, who shall enter into bond, with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, conditioned for the true and faithful observance of such regulations and restrictions as are or shall be made for the government of trade and intercourse with the Indian tribes: And the superintendent, or person issuing such license, shall have full power and authority to recall the same, if the person so licensed shall transgress any of the regulations or restrictions provided for the government of trade and intercourse with the Indian tribes; and shall put in suit such bonds as he may have taken, on the breach of any condition therein contained.

SEC. 8. *And be it further enacted*, That any such citizen or other person, who shall attempt to reside in any town or hunting camp of any of the Indian tribes, as a trader, without such license, shall forfeit all the merchandise offered for sale, to the Indians, or found in his possession, and shall, moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days.

SEC. 9. *And be it further enacted*, That if any such citizen, or other person, shall purchase or receive of any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry or cooking utensil, of the kind usually obtained by the Indians, in their intercourse with white people, or any article of clothing, except skins or furs, he shall forfeit a sum not exceeding fifty dollars, and be imprisoned not exceeding thirty days.

SEC. 10. *And be it further enacted*, That no such citizen, or other person, shall be permitted to purchase any horse of an Indian, or of any white man in the Indian territory, without special license for that purpose; which license, the superintendent, or such other person as the President shall appoint, is hereby authorized to grant, on the same terms, conditions, and restrictions, as other licenses are to be granted under this act: And any such person, who shall purchase a horse or horses, under such license, before he exposes such horse or horses for sale, and within fifteen days after they have been brought out of the Indian country, shall make a particular return to the superintendent or other person from whom he obtained his license, of every horse purchased by him as aforesaid; describing such horses by their color, height, and other natural or artificial marks, under the penalty contained in their respective bonds. And every such person, purchasing a horse or horses, as aforesaid, in the Indian country, without a special license, shall, for every horse thus purchased, and brought into any settlement of citizens of the United States, forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding thirty days. And every person, who shall purchase a horse, knowing him to be brought out of the Indian territory by any person or persons not licensed as above to purchase the same, shall forfeit the value of such horse.

SEC. 11. *And be it further enacted*, That no agent, superintendent, or other person, authorized to grant a license to trade, or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse, to or from any Indian, excepting for and on account of the United States. And any person offending herein, shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation, or tribe of Indians, within the bounds of the United States, shall be of any validity, in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution: And it shall be a misdemeanor in any person, not employed under the authority of the United States, to negotiate such treaty or convention, directly or indirectly, to treat with any such Indian nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months: *Provided, nevertheless*, That it shall be lawful for the agent or agents of any State, who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to and adjust with the Indians, the compensation to be made, for their claims to lands within such State, which shall be extinguished by the treaty.

SEC. 13. *And be it further enacted*, That in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States to cause them to be furnished with useful domestic animals, and implements of husbandry, and with goods or money, as he may judge proper, and to appoint such persons, from time to time, as temporary agents, to reside among the Indians, as he shall think fit: *Provided*, That the whole amount of such presents, and allowance to such agents, shall not exceed fifteen thousand dollars per annum.

SEC. 14. *And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall come over or across the said boundary line, into any State or territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage, upon any such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose; who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe, to which such Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding eighteen months, then it shall be the duty of such superintendent, or other person authorized as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken as shall be proper to obtain satisfaction for the injury: And in the meantime, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party injured, an eventual indemnification: *Provided always*, That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of

this act, by seeking, or attempting to obtain, private satisfaction or revenge by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That nothing herein contained shall prevent the legal apprehension or arresting, within the limits of any State or district, of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen, or destroyed, by any such Indian, out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

SEC. 15. *And be it further enacted*, That the superior courts in each of the said territorial districts, and the circuit courts, and other courts of the United States of similar jurisdiction in criminal causes, in each district of the United States, in which any offender against this act shall be apprehended, or, agreeably to the provisions of this act, shall be brought for trial, shall have, and are hereby invested with full power and authority to hear and determine all crimes, offences, and misdemeanors, against this act; such courts proceeding therein, in the same manner, as if such crimes, offences, and misdemeanors, had been committed within the bounds of their respective districts; and in all cases, where the punishment shall not be death, the county courts of quarter sessions in the said territorial districts, and the district courts of the United States, in their respective districts, shall have, and are hereby invested with, like power to hear and determine the same, any law to the contrary notwithstanding; and in all cases where the punishment shall be death, it shall be lawful for the Governor of either of the territorial districts, where the offender shall be apprehended, or into which he shall be brought for trial, to issue a commission of oyer and terminer to the superior judges of such district, who shall have full power and authority to hear and determine all such capital cases, in the same manner as the superior courts of such district have in their ordinary sessions; and when the offender shall be apprehended or brought for trial into any of the United States, except Kentucky, it shall be lawful for the President of the United States to issue a like commission to any one or more judges of the Supreme Court of the United States, and the judge of the district, in which such offender may have been apprehended, or shall have been brought for trial; which judges, or any two of them, shall have the same jurisdiction in such capital cases, as the circuit court of such district, and shall proceed to trial and judgment, in the same manner as such circuit court might or could do. And the district courts of Kentucky and Maine shall have jurisdiction of all crimes, offences, and misdemeanors, committed against this act, and shall proceed to trial and judgment, in the same manner as the circuit courts of the United States.

SEC. 16. *And be it further enacted*, That it shall be lawful for the military force of the United States, to apprehend every person who shall, or may, be found in the Indian country over and beyond the said boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of this act, and him or them immediately to convey, in the nearest, convenient, and safe route, to the civil authority of the United States, in some one of the three next adjoining States or districts, to be proceeded against in due course of law: *Provided*, That no person apprehended by military force, as aforesaid, shall be detained longer than five days after the arrest, and before removal. And all officers and soldiers, who may have any such person or persons in custody, shall treat them with all the humanity which the circumstances will possibly permit; and every officer and soldier who shall be guilty of maltreating any such person, while in custody, shall suffer such punishment as a court martial shall direct: *Provided*, That the officer having custody of such person or persons, shall, if required by such person or persons, conduct him or them to the nearest judge of the supreme or superior court of any State, who, if the offence is bailable, shall take proper bail, if offered, returnable to the district court next to be holden in said district, which bail the said judge is hereby authorized to take, and which shall be liable to be estreated as any other recognizance for bail in any court of the United States; and if said judge shall refuse to act, or the person or persons fail to procure satisfactory bail, then the said person or persons are to be proceeded with according to the directions of this act.

SEC. 17. *And be it further enacted*, That if any person, who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territorial districts of the United States such offender may be there apprehended and brought to trial, in the same manner, as if such crime or offence had been committed within such State or district; and it shall be the duty of the military force of the United States, when called upon by the civil magistrate, or any proper officer, or other person duly authorized for that purpose, and having a lawful warrant, to aid and assist such magistrate, officer, or other person, authorized, as aforesaid, in arresting such offender, and him committing to safe custody for trial, according to law.

SEC. 18. *And be it further enacted*, That the amount of fines, and duration of imprisonment, directed by this act as a punishment for the violation of any of the provisions thereof, shall be ascertained and fixed, not exceeding the limits prescribed, in the discretion of the court, before whom the trial shall be had; and that all fines and forfeitures, which shall accrue under this act, shall be one half to the use of the informant, and the other half to the use of the United States: except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

SEC. 19. *And be it further enacted*, That nothing in this act shall be construed to prevent any trade

or intercourse with Indians living on lands surrounded by settlements of the citizens of the United States, and being within the ordinary jurisdiction of any of the individual States; or the unmolested use of a road from Washington district to Mero district, and of the navigation of the Tennessee river, as reserved and secured by treaty; nor shall this act be construed to prevent any person or persons travelling from Knoxville to Price's settlement, (so called) provided they shall travel in the trace or path which is usually travelled, and provided the Indians make no objection; but if the Indians object, the President of the United States is hereby authorized to issue a proclamation, prohibiting all travelling on said trace, after which, the penalties of this act shall be incurred by every person travelling or being found on said trace, within the Indian boundary, without a passport.

SEC. 20. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause to be clearly ascertained, and distinctly marked, in all such places as he shall deem necessary, and in such manner as he shall direct, any other boundary lines between the United States and any Indian tribe, which now are, or hereafter may be, established by treaty.

SEC. 21. *And be it further enacted*, That this act shall be in force from and after the third day of March, one thousand seven hundred and ninety-nine, and shall continue in force the term of three years; and, so far as respects the proceedings under this act, it is to be understood that the act, entitled "An act to amend an act, entitled 'An act giving effect to the laws of the United States within the district of Tennessee,'" is not to operate. And all disabilities which have taken place, shall continue and remain; and all penalties and forfeitures that have been incurred, may be recovered; and all prosecutions and suits which may have been commenced, may be prosecuted to final judgment, under the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers; which act expires, by its own limitation, on the third day of March, one thousand seven hundred and ninety-nine, in the same manner as if the said act was continued in force.

Approved, March 3, 1799.

An Act authorizing the President of the United States to fill certain vacancies in the Army and Navy.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized to make appointments to fill any vacancies in the army and navy which may have happened during the present session of the Senate.

Approved, March 3, 1799.

An Act for the better organizing of the troops of the United States, and for other purposes.

Be it enacted, &c., That the troops heretofore authorized, and which hereafter may be authorized, to be raised, shall be composed and organized as follows, to wit: A regiment of infantry shall consist of one lieutenant-colonel commandant, two majors, first and second, one adjutant, one quartermaster, and one paymaster, each being a lieutenant, one surgeon, and two surgeon's mates, ten captains, ten first and ten second lieutenants, besides the three lieutenants before-mentioned, ten cadets, two sergeant-majors, two quartermaster sergeants, two chief musicians, first and second, twenty other musicians, forty sergeants, forty corporals, and nine hundred and twenty privates; which, together, shall form two battalions, each battalion of five companies. A regiment of cavalry shall consist of one lieutenant-colonel commandant, two majors, a first and second, one adjutant, one quartermaster, and one paymaster, each being a lieutenant; one surgeon and two surgeon's mates, ten first and ten second lieutenants, besides the three lieutenants before-mentioned, ten cadets, two sergeant-majors, two quartermaster sergeants, two chief musicians, first and second, ten other musicians, forty sergeants, forty corporals, and nine hundred and twenty privates, including ten saddlers, ten blacksmiths, and ten bootmakers; which, together, shall form five squadrons, each squadron of two companies. A regiment of artillery shall consist of one lieutenant-colonel commandant, four majors, one adjutant, one quartermaster, and one paymaster, each being a lieutenant, one surgeon, and two surgeon's mates, sixteen captains, thirty-two lieutenants, besides the three lieutenants before mentioned, thirty-two cadets, four sergeant-majors, four quartermaster sergeants, sixty-four sergeants, sixty-four corporals, one chief musician, ten other musicians, eight hundred and ninety-six privates, including one hundred and twenty-eight artificers; which, together, shall form four battalions, each battalion of four companies: *Provided, always*, That the number of privates raised, and to be raised, for the regiment of cavalry and the regiments of infantry heretofore authorized, shall not exceed the number, respectively, for which provision hath been heretofore made by law; nor shall the battalion of riflemen, nor the two additional troops of cavalry, authorized by this act, be raised, until further provision shall be so made, unless war shall break out between the United States and some European Prince, Potentate, or State, in which case it shall be lawful for the President of the United States, at his discretion, to cause the said regiments, or any of them, to be severally completed to their full establishment.

SEC. 2. *And be it further enacted*, That every ensign and cornet in the regiments heretofore appointed shall be denominated hereafter second lieutenants.

SEC. 3. *And be it further enacted*, That the officers, non-commissioned officers, and privates hereinafter mentioned, who now are, or at any time hereafter may be, in the actual service of the United States, shall be entitled to, and shall receive the following compensations, to wit: a major general, one hundred and sixty-six dollars per month, and fifteen rations of provisions per day, or an equivalent in money, and when forage

shall not be furnished by the United States, the further sum of twenty dollars per month; a brigadier general, one hundred and four dollars per month, twelve rations per day, or an equivalent in money, and sixteen dollars per month for forage, when not furnished as aforesaid; a lieutenant-colonel commandant, seventy-five dollars per month, six rations per day, or an equivalent in money, and twelve dollars for forage, when not furnished as aforesaid; a major of artillery or cavalry, each fifty-five dollars per month, four rations per day, or an equivalent in money, and ten dollars per month for forage, when not furnished as aforesaid; a major of infantry, fifty dollars per month, four rations per day, or an equivalent in money, and ten dollars per month for forrage, when not furnished as aforesaid; a captain of cavalry, forty dollars per month, three rations per day, or an equivalent in money, and eight dollars per month for forage, when not furnished as aforesaid; a captain of artillery and infantry, forty dollars per month, and three rations per day, or an equivalent in money; a first lieutenant of cavalry, thirty dollars per month, two rations per day, or an equivalent in money, and six dollars per month for forage, when not furnished as aforesaid; lieutenants of artillery, each, thirty dollars per month, and two rations per day, or an equivalent in money; a second lieutenant of cavalry, twenty-five dollars per month, two rations per day, or an equivalent in money, and six dollars per month for forage, when not furnished as aforesaid; a first lieutenant of infantry, thirty dollars per month, and two rations per day, or an equivalent in money; a second lieutenant of infantry, twenty-five dollars per month, and two rations per day, or an equivalent in money; a regimental surgeon, forty-five dollars per month, three rations per day, or an equivalent in money, and ten dollars per month for forage, when not furnished as aforesaid; a surgeon's mate, thirty dollars per month, two rations per day, or an equivalent in money, and six dollars per month for forage, when not furnished as aforesaid; a regimental paymaster, quartermaster, and adjutant, in addition to their pay in the line, each ten dollars, and six dollars per month for forage, when not furnished as aforesaid; a cadet of cavalry, ten dollars per month, two rations per day, or an equivalent in money, and six dollars per month for forage, when not furnished as aforesaid; all other cadets, ten dollars per month, and two rations per day, or an equivalent in money; a sergeant-major and a quartermaster-sergeant, each, ten dollars per month; a chief musician, eight dollars per month; a sergeant, eight dollars per month; a corporal, seven dollars per month; a musician, six dollars per month; an artificer to the infantry and artillery, a farrier, saddler, and boot-maker to the dragoons, each ten dollars per month; a private soldier, five dollars per month, and to each of the said non-commissioned officers and privates, one ration of provisions per day.

SEC. 4. *And be it further enacted*, That all non-commissioned officers, artificers, privates, and musicians, who are and who shall be enlisted, and the non-commissioned officers, artificers, privates, and musicians, of the militia or other corps, who at any time may be in the actual service of the United States, shall be, and they are hereby exempted, during their term of service, from all personal arrests for any debt or contract. And whenever any non-commissioned officer, artificer, private, or musician, shall be arrested, whether by mesne process, or in execution, contrary to the intent hereof, it shall be the duty of the judge of the district court of the United States and of any court or judge of a State, who, by the laws of such State, are authorized to issue writs of habeas corpus, respectively, on application by an officer, to grant a writ of habeas corpus returnable before himself: and upon due hearing and examination in a summary manner, to discharge the non-commissioned officer, artificer, private, or musician, from such arrest, taking common bail, if required, in any case upon mesne process, and commit him to the applicant, or some other officer of the same corps.

SEC. 5. *And be it further enacted*, That each non-commissioned officer, private, artificer, and musician, who shall hereafter be enlisted for the Army of the United States, shall be able bodied, and of a size and age suitable for the public service, according to the directions which the President of the United States shall and may establish, and shall be entitled to a bounty of twelve dollars; but the payment of four dollars thereof shall be deferred untill he shall have joined the Army: And each commissioned officer who shall be employed in the recruiting service, shall be entitled to receive, for each such non-commissioned officer, and private, and artificer, and for each sufficient musician, duly enlisted and mustered, the sum of two dollars, the same being in full compensation for his extra expenses in the execution of this service.

SEC. 6. *And be it further enacted*, That when any officer shall be detached from a regiment, to serve as an aid to a general officer, or as assistant or other inspector, or as an assistant to the quartermaster general, by whatsoever name, or as an assistant to the adjutant general, by whatsoever name, the place of such officer in his regiment shall be supplied by promotion or new appointment, or both, as may be requisite; but the officer detached shall nevertheless retain his station in his regiment, and shall rank and rise therein, in the same manner as if he had not been detached.

SEC. 7. *And be it further enacted*, That no officer shall be appointed as the inspector of a division, who, when appointed, shall be of a rank higher than that of major, or as the inspector of a brigade, who, when appointed, shall be of a rank higher than that of captain, or as the aid of a major general, who, when appointed, shall be of a rank higher than that of captain, or as the aid of a brigadier general, who, when appointed, shall be of a rank higher than that of first lieutenant, or as the quartermaster of a division, who, when appointed, shall be of a rank higher than that of captain, or as the quartermaster of a brigade, who, when appointed, shall be of a rank higher than that of

first lieutenant, or as an assistant to the adjutant general, who, when appointed, shall be of a rank higher than that of captain.

SEC. 8. *And be it further enacted*, That in the ordinary arrangement of the army, two regiments of infantry or cavalry shall constitute a brigade, and shall be commanded by a brigadier general; two brigades, a division, and shall be commanded by a major general. *Provided always*, that it shall be in the discretion of the commanding general, to vary this disposition, whenever he shall judge it proper; and provided also, that this act shall not render it necessary to appoint any greater number of general officers than have been heretofore authorized by law, sooner than in the opinion of the President, the military service of the United States shall require it.

SEC. 9. *And be it further enacted*, That a commander of the army of the United States shall be appointed and commissioned by the style of "General of the armies of the United States," and the present office and title of lieutenant general shall thereafter be abolished.

SEC. 10. *And be it further enacted*, That there shall be a quartermaster general of the army of the United States, who shall be entitled to the rank, pay, emoluments and privileges of a major general.

SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at his discretion, to organize, officer, and raise a battalion of riflemen, to consist of the same number of officers and men, and to be entitled to the same pay and emoluments, whatsoever, as a battalion of infantry of the line.

SEC. 12. *And be it further enacted*, That to any army of the United States, other than that in which the quartermaster general shall serve, there shall be a field officer, and who, in addition to his other emoluments, shall be entitled to fifty dollars per month, which shall be in full compensation for his extra services and travelling expenses; but the provisions of this act are not to affect the present quartermaster general of the army of the United States, who, in case a quartermaster general shall be appointed by virtue of this act, is to act as deputy quartermaster general, and shall hereafter have the rank of lieutenant colonel; and that to every division of an army, there shall be a division quartermaster, who, in addition to his other emoluments, shall be entitled to thirty dollars per month, which shall be in full compensation for his extra services and travelling expenses; and that to every brigade there shall be a brigade quartermaster, who, in addition to his other emoluments, shall be entitled to twenty-four dollars per month, which shall be in full compensation for his extra services and travelling expenses; each of which officers shall be chosen by the quartermaster general, from among the regimental officers.

SEC. 13. *And be it further enacted*, That to any army of the United States, other than that in which the inspector general shall serve, there shall be a deputy inspector general, who shall be a field officer, and who, in addition to his other emoluments, shall be entitled to fifty dollars per month, which shall be in full compensation for his extra services and travelling expenses; and that to every division of an army there shall be a division inspector, who, in addition to his other emoluments, shall be entitled to thirty dollars per month, which shall be in full compensation for his extra services and travelling expenses; and that to every brigade there shall be a brigade inspector, who, in addition to his other emoluments, shall be entitled to twenty-four dollars per month, which shall be in full compensation for his extra services and travelling expenses: each of which officers shall be chosen by the inspector general from among the regimental officers—the deputy inspector general to be in every case approved by the general commanding the army to which he shall be annexed.

SEC. 14. *And be it further enacted*, That the adjutant general of the army shall be, *ex officio*, assistant inspector general, and that every deputy inspector general shall be, *ex officio*, deputy adjutant general, and shall perform the duties of adjutant general in the army to which he shall be annexed.

SEC. 15. *And be it further enacted*, That the paymaster general of the armies of the United States, shall always quarter at or near the headquarters of the main army, or at such place as the commander-in-chief shall deem proper; and that to the army on the western frontiers and to detachments from the main army intended to act separately for a time, he shall appoint deputy paymasters, who shall account to him for the money advanced to them, and shall each give a bond in the sum of fifteen thousand dollars, with sufficient sureties for the faithful discharge of their duties, respectively, and take an oath faithfully to execute the duties of their offices; and the several regimental paymasters shall also give bond in the sum of five thousand dollars with one or more sufficient sureties, and take an oath as aforesaid for the faithful discharge of the duties of their offices respectively; and that the paymaster general shall receive eighty dollars per month, with the rations and forage of a major, in full compensation for his services and travelling expenses; and the deputy, in addition to his pay and other emoluments, thirty dollars per month, in full compensation for his extra services and travelling expenses.

SEC. 16. *And be it further enacted*, That every major general of the army of the United States shall be entitled to two aids, to be chosen by himself, each of whom, in addition to his pay and other emoluments in his regiment, shall receive twenty-four dollars per month, and ten dollars per month for forage, when not furnished as aforesaid; and that every brigadier general of the said army shall be entitled to one aid, to be chosen by himself, who, in addition to his pay and other emoluments in his regiment, shall receive twenty-four dollars per month, and ten dollars per month for forage when not furnished as aforesaid.

SEC. 17. *And be it further enacted*, That the President of the United States be authorized to engage and appoint, distinct from the officers of the corps of artillerists and engineers, two engineers, with the rank of lieutenant colonel, and to stipulate and allow to them respectively, such compensations as he shall find necessary and expedient.

SEC. 18. *And be it further enacted*, That an inspector of fortifications shall be appointed, whose duties shall be assigned by the Secretary of War under the direction of the President of the United States, that the compensation to be allowed to the said inspector, if selected from the corps of artillerists and engineers, in full for his extra services and travelling expenses, shall, besides his pay and emoluments in the corps, be thirty-five dollars per month, and if he shall not be an officer in the artillery or army, he shall, in full compensation for his services and expenses, be allowed the sum of seventy-five dollars monthly, and be entitled to the rank of major in the army of the United States, and in case the said inspector shall be chosen from the corps of artillerists and engineers or army of the United States, his place therein shall be supplied by promotion or a new appointment or both, as may be requisite; but he shall, nevertheless, retain his station in the said corps or army, and shall rank and rise therein, in the same manner as if he had never been appointed to the said office of inspector.

SEC. 19. *And be it further enacted*, That a ration of provisions, shall henceforth consist of eighteen ounces of bread or flour, or when neither can be obtained, of one quart of rice or one and an half pound of sifted or bolted Indian meal, one pound and a quarter of fresh beef, or one pound of salted beef, or three quarters of a pound of salted pork, and when fresh meat is issued, salt at the rate of two quarts for every hundred rations, soap at the rate of four pounds, and candles at the rate of a pound and a half for every hundred rations. *Provided always*, that there shall be no diminution of the ration to which any of the troops now in service may be entitled by the terms of their enlistment.

SEC. 20. *And be it further enacted*, That every non-commissioned officer, private, artificer, and musician of the artillery and infantry, shall receive annually, the following articles of uniform clothing, to wit: one hat, one coat, one vest, two pair of woollen and two pair of linen overalls, four pair of shoes, four shirts, four pair of socks, one blanket, one stock and clasp, and one pair of buckles.

SEC. 21. *And be it further enacted*, That suitable clothing be provided for the dragoons, adapted to the nature of the service, and conformed as near as may be to the value of the clothing allowed to the infantry and artillery.

SEC. 22. *And be it further enacted*, That it shall be lawful for the commander-in-chief of the army, or the commanding officer of any separate detachment or garrison thereof, at his discretion, to cause to be issued, from time to time, to the troops under his command, out of such supplies as shall have been provided for the purpose, rum, whiskey, or other ardent spirits, in quantities not exceeding half a gill to each man per day, excepting in cases of fatigue service, or other extraordinary occasions, and that whensoever supplies thereof shall be on hand, there shall be issued to the troops vinegar at the rate of two quarts for every hundred rations.

SEC. 23. *And be it further enacted*, That it shall be lawful for the commanding officer of each regiment, whenever it may be necessary, to cause the coats, vests, and overalls, or breeches, which may, from time to time, be issued to and for his regiment, to be altered and new made, so as the better to fit them to the persons respectively for whose use they shall be delivered; and for defraying the expense of such alteration, to cause to be deducted and applied out of the pay of such persons a sum or sums not exceeding twenty-five cents for each coat, eight cents for each vest and for each pair of overalls or breeches.

SEC. 24. *And be it further enacted*, That it shall be lawful for the Secretary of War, to cause to be provided, in each and every year, all clothing, camp utensils, and equipage, medicines, and hospital stores, necessary for the troops and armies of the United States for the succeeding year, and for this purpose to make purchases, and enter, or cause to be entered into, all necessary contracts or obligations for effecting the same.

SEC. 25. *And be it further enacted*, That whenever any officer or soldier shall be discharged from the service, except by way of punishment for an offence, he shall be allowed his pay and rations, or an equivalent in money, for such term of time as shall be sufficient to travel from the place where he receives his discharge to the place of his residence, computing at the rate of twenty miles to a day.

SEC. 26. *And be it further enacted*, That there shall be allowed to the inspector general, in addition to his allowance as major general, and in full compensation for extra services and expenses in the execution of his office, the sum of fifty dollars per month, and that he shall be allowed a secretary, to be appointed by himself, with the pay and emoluments of a captain.

Approved, March 3, 1799.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives be authorized and directed to subscribe, on such terms as they may deem eligible, for the use of the Senate and House of Representatives, for four hundred copies of the Journals of Congress, which are proposed to be published by Richard Folwell; and such number of copies of deficient volumes of the sets now in print, as may be necessary to complete the same.

Approved, March 2, 1799.

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passed - - - - - 2217
a bill to amend the act regulating grants of lands for military services, and for the Society of United Brethren, received and committed - - - - 2234
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Merchant vessels, a bill to authorize the defence of, against French depredations, received - 579
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